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HOUSE OF REPRESENTATIVES—*Thursday, July 13, 1978*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Create in me a clean heart, O God; and renew a right spirit within me.—Psalms 51: 10.

Eternal God, our Father, in our prayer we would be still and know that Thou art God. Even so the world rushes through our minds, the needs of our Nation plague us, the desires of our people come upon us and at times we are driven to distraction wondering what to do. In the stillness of this moment of prayer help us to get hold of ourselves, to think calmly, to plan wisely, and to begin this day with firm purpose to do our best—our very best—for our country and for our people. Grant us eyes to see the call of truth, open our ears to hear the appeal of love, open our hearts to see the glory of Thy presence, and open our hands to do our work cleanly and courageously for Thee and our country. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 10929. An act to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 10929) entitled "An act to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes," disagreed to by the House; request a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. JACKSON, Mr. CANNON, Mr. MCINTYRE, Mr. HARRY F. BYRD, JR., Mr. NUNN, Mr. CULVER, Mr. HART, Mr. TOWER, Mr. THURMOND, Mr. GOLDWATER, Mr. SCOTT, and Mr. BARTLETT to be the conferees on the part of the Senate.

KEMP-ROTH TAX PLAN: A 6-YEAR TRIP TO A TRILLION DOLLAR DEBT

(Mr. VANIK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. VANIK. Mr. Speaker, as we move into the warm days of the summer, fantasy takes over. The Roth-Kemp plan for the gradual dissolution of the Federal Government is the most dangerous fantasy of all. It provides exciting, massive reductions in Federal taxation—no reduction in Federal expenditures and no compensating alternative sources of revenue. The cost of the Roth-Kemp proposal is simply tacked on to the deficit and the Federal debt where it ferments into explosive inflation—the universal kingpin of all taxation.

From projections made by the staff of the Joint Committee on Taxation, the Treasury cost of the Roth-Kemp plan would be $21 billion in fiscal 1979, $58 billion in 1980, $105.7 billion in 1981, $138.1 billion in 1982, and $164.6 billion in 1983, only 5 years from now.

If there is no bonanza of new tax revenues and current levels of other taxes are maintained, the Federal deficit would be propelled to $68 billion in fiscal 1979, $95 billion in fiscal 1980, $110.7 billion in fiscal 1981, $103.1 billion in 1982, and $100.6 billion in 1983.

Assuming other current levels of taxation are maintained, the Roth-Kemp plan would boost the Federal debt to $837 billion in fiscal 1979, $901 billion in fiscal 1980, $952.7 billion in fiscal 1981, $954.1 billion in 1982, and $964.6 billion in 1983. Within 6 years, the Roth-Kemp plan would bring America to a trillion dollar Federal debt. Tables prepared by the staff of the joint committee follow:

INDIVIDUAL AND CORPORATE TAX REDUCTION UNDER KEMP-ROTH

[In billions of dollars]

	1979	1980	1981	1982	1983
Calendar year:					
Individual	27.4	63.8	112.3	134.7	161.7
Corporate	4.0	6.6	9.6	10.5	11.5
Total	31.4	70.4	121.9	145.2	174.2
Fiscal year:					
Individual	19.2	52.8	97.7	128.0	153.6
Corporate	1.8	5.2	8.0	10.1	11.0
Total	21.0	58.0	105.7	138.1	164.6

Note: Assuming a Jan. 1, 1979, effective date and change in withholding—compare to present law.

Source: Prepared by the staff of the Joint Committee on Taxation.

END OF FISCAL YEAR PROJECTIONS OF PUBLIC DEBT SUBJECT TO LIMIT

[In billions of dollars]

	Fiscal year—				
	1979	1980	1981	1982	1983
1. With no tax legislation	808	836	830	785	705
(a) Deficit or surplus	−40	−28	6	45	80
2. With Vanik-Pickle	816	843	847	816	800
(a) Deficit or surplus	−47	−37	−5	31	64
3. With administration cuts	829	885	911	907	875
(a) Deficit or surplus	−61	−56	−26	4	32

Note: Deficit at end of fiscal year 1978 estimated $768,000,000,000. Assumes no change in budget totals other than 3 alternative tax patterns; no change in economic activity estimated. Deficit and public debt estimates assume off-budget agency financing needs of $13,000,000,000 in fiscal year 1979, $14,000,000,000 in fiscal year 1980, $15,000,000,000 in fiscal year 1981, $16,000,000,000 in fiscal year 1982 and $16,000,000,000 in fiscal year 1983.

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

PERMISSION FOR SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Buildings and Grounds of the Committee on Public Works and Transportation may be permitted to sit on today, July 13, 1978, during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PRIVILEGES OF THE HOUSE

Mr. McDONALD. Mr. Speaker, I rise to a question of the privileges of the House, and I send to the desk a privileged resolution (H. Res. 1267), and ask for its immediate consideration.

The Clerk read the resolution as follows:

Resolved, That Andrew Young, United States Ambassador to the United Nations, be impeached.

MOTION TO TABLE OFFERED BY MR. WRIGHT

Mr. WRIGHT. Mr. Speaker, I move to lay the resolution on the table.

The SPEAKER. The question is on the motion to table offered by the gentleman from Texas (Mr. WRIGHT). The motion to table is a privileged motion.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. McDONALD. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 293, nays 82, not voting 57, as follows:

[Roll No. 539]

YEAS—293

Addabbo	Brinkley	Danielson
Akaka	Brodhead	Davis
Alexander	Brooks	Delaney
Ambro	Broomfield	Dellums
Ammerman	Brown, Mich.	Dent
Anderson, Calif.	Brown, Ohio	Derrick
Annunzio	Broyhill	Derwinski
Applegate	Buchanan	Dicks
Aspin	Burke, Calif.	Dodd
AuCoin	Burke, Mass.	Downey
Baldus	Burlison, Mo.	Drinan
Baucus	Burton, Phillip	Duncan, Oreg.
Beard, R.I.	Carney	Duncan, Tenn.
Bedell	Carr	Early
Benjamin	Carter	Eckhardt
Bennett	Cavanaugh	Edgar
Bevill	Chisholm	Edwards, Ala.
Biaggi	Clay	Edwards, Calif.
Bingham	Cleveland	Emery
Blanchard	Cochran	English
Blouin	Cohen	Erlenborn
Boggs	Collins, Ill.	Ertel
Boland	Conable	Evans, Del.
Bolling	Conte	Evans, Ind.
Bonior	Corman	Fary
Bonker	Cornell	Fascell
Bowen	Cornwell	Findley
Brademas	Cotter	Fish
Breckinridge	Coughlin	Fisher
	D'Amours	Fithian
	Daniel, Dan	Flippo
	Daniel, R. W.	Flood
	Devine	Florio
	Dickinson	Flowers
	Dornan	Ford, Mich.
	Eilberg	Ford, Tenn.
	Gibbons	Forsythe
	Goldwater	Fowler
	Hagedorn	Frenzel
		Fuqua
		Gammage
		Gaydos
		Gephardt
		Giaimo
		Gilman
		Ginn
		Glickman
		Gonzalez
		Gore
		Gradison
		Grassley
		Green
		Gudger
		Hall
		Hamilton
		Hanley
		Hannaford
		Harkin
		Harris
		Harsha
		Hawkins
		Hefner
		Heftel
		Hightower
		Holland
		Hollenbeck
		Holtzman
		Howard
		Hubbard
		Hughes
		Hyde
		Jacobs
		Jeffords
		Jenrette
		Johnson, Calif.
		Johnson, Colo.
		Jones, N.C.
		Jones, Okla.
		Jones, Tenn.
		Jordan
		Kastenmeier
		Kazen
		Kemp
		Keys
		Kildee
		Kostmayer
		Krebs
		LaFalce
		Leach
		Lederer
		Lehman
		Levitas
		Lloyd, Calif.
		Lloyd, Tenn.
		Long, Md.
		Luken
		Lundine
		McClory
		McCloskey
		McCormack
		McFall
		McHugh
		McKay
		Maguire
		Mahon
		Markey
		Marks
		Marlenee
		Martin
		Mathis
		Mattox
		Mazzoli
		Meeds
		Metcalfe
		Meyner
		Michel
		Mikulski
		Mikva
		Milford
		Miller, Calif.
		Mineta
		Minish
		Mitchell, Md.
		Moffett
		Mollohan
		Moorhead, Pa.
		Moss
		Murphy, Ill.
		Murphy, Pa.
		Murtha
		Myers, Gary
		Myers, Michael
		Natcher
		Neal
		Nedzi
		Nichols
		Nolan
		Nowak
		Oakar
		Oberstar
		Obey
		Ottinger
		Panetta
		Patten
		Patterson
		Pattison
		Pease
		Pepper
		Perkins
		Pettis
		Pickle
		Pike
		Poage
		Preyer
		Price
		Pritchard
		Quayle
		Quie
		Quillen
		Railsback
		Regula
		Reuss
		Richmond
		Rinaldo
		Risenhoover
		Roberts
		Roe
		Rogers
		Roncalio
		Rooney
		Rose
		Rosenthal
		Rostenkowski
		Roybal
		Ruppe
		Russo
		Ryan
		Sarasin
		Schroeder
		Selberling
		Sharp
		Shipley
		Sikes
		Simon
		Skelton
		Slack
		Smith, Iowa
		Solarz
		Spellman
		Spence
		St Germain
		Staggers
		Stanton
		Stark
		Steed
		Steers
		Steiger
		Stockman
		Stokes
		Stratton
		Studds
		Thompson
		Thornton
		Traxler
		Treen
		Trible
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vanik
		Vento
		Volkmer
		Walgren
		Walker
		Wampler
		Watkins
		Waxman
		Weaver
		Weiss
		Whalen
		White
		Whitley
		Whitten
		Wilson, C. H.
		Wilson, Tex.
		Wirth
		Wright
		Wylie
		Yates
		Yatron
		Young, Mo.
		Zablocki
		Zeferetti

NAYS—82

Abdnor	Hammer-schmidt	O'Brien
Andrews, N. Dak.	Hansen	Pressler
Archer	Hillis	Rhodes
Armstrong	Holt	Robinson
Ashbrook	Horton	Rousselot
Badham	Huckaby	Rudd
Bafalis	Ichord	Runnels
Bauman	Ireland	Satterfield
Burgener	Kelly	Sawyer
Burleson, Tex.	Kindness	Schulze
Butler	Lagomarsino	Sebelius
Cederberg	Latta	Shuster
Chappell	Lent	Skubitz
Clawson, Del	Livingston	Smith, Nebr.
Coleman	Lott	Snyder
Collins, Tex.	Lujan	Stangeland
Corcoran	McDonald	Stump
Crane	McEwen	Symms
Cunningham	Madigan	Taylor
	Marriott	Vander Jagt
	Miller, Ohio	Waggonner
	Mitchell, N.Y.	Walsh
	Montgomery	Whitehurst
	Moore	Wiggins
	Moorhead, Calif.	Wilson, Bob
	Mottl	Wydler
	Myers, John	Young, Fla.

NOT VOTING—57

Anderson, Ill.	Evans, Ga.	Mann
Andrews, N.C.	Fenwick	Moakley
Ashley	Flynt	Murphy, N.Y.
Barnard	Foley	Nix
Beard, Tenn.	Fountain	Pursell
Beilenson	Fraser	Rahall
Breaux	Frey	Rangel
Brown, Calif.	Garcia	Rodino
Burke, Fla.	Goodling	Santini
Burton, John	Guyer	Scheuer
Byron	Harrington	Sisk
Caputo	Heckler	Teague
Clausen, Don H.	Jenkins	Thone
Conyers	Kasten	Tsongas
de la Garza	Krueger	Winn
Diggs	Le Fante	Wolff
Dingell	Leggett	Young, Alaska
Edwards, Okla.	Long, La.	Young, Tex.
Evans, Colo.	McDade	
	McKinney	

Messrs. STEERS, BONKER, TUCKER, DUNCAN of Tennessee, and TREEN changed their vote from "nay" to "yea."

Mr. CHAPPELL and Mr. BOB WILSON changed their vote from "yea" to "nay."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

THE MATTER OF ANDREW YOUNG, U.S. AMBASSADOR TO THE UNITED NATIONS

(Mr. RONCALIO asked and was given permission to address the House for 1 minute.)

Mr. RONCALIO. Mr. Speaker, I do not ask permission to revise and extend my remarks. I want them to appear in the RECORD exactly as stated.

Let us keep a bit of reason, my dear colleagues, on this occasion. Andy Young did not say that America's jails are filled with hundreds or maybe thousands of political prisoners. He said that after all, in our prisons there are also hundreds or maybe thousands of people, and I quote: "I would call political prisoners." There is a vast difference.

He has two examples to show that there have been occasions in the past decade when we have, indeed, imprisoned people, if not for political purposes, at least without benefit of due process.

I think this occasion is a good one to bring on a self-examination, my dear colleagues.

Bobbie Burns said:

> Oh wad some power the giftie gie us
> To see oursels as others see us!
> It wad frae monie a blunder free us,
> An' foolish notion.

Why are we posturing and pontificating so much about human rights without evenhandedly calling attention to such violations among our allies and our friends?

Does anyone believe that all is well with human rights in the Philippine Islands? Does anyone believe that the poor and impoverished in Guatemala were treated fairly last month when they were asked to come to a meeting, and when they came, the police shot them down like dogs?

The Jesuits were driven out of Honduras for even suggesting so much as reform and justice in the government of that country.

Are these what we call human rights?

What about the oppression of those we have supported whose first guise was to repress communism, only to end up with a government as bad as communism?

Mr. Speaker, I believe we ought not to be carried away by the Andy Young statement. I think he will survive this as he has other statements.

Mr. Speaker, I have an abiding belief that America's best interests as well as those of all Africans, black and white, will be best served if Andy Young can be continued in his present role.

AMBASSADOR YOUNG COMMENDED FOR HIS HONESTY

(Mr. STARK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STARK. Mr. Speaker, I want to rise to commend Andrew Young for an honesty that this House and the other body could well emulate. There are, indeed, political prisoners in the United States—in the literal sense, as with the Wilmington Ten, who rest now in jail in North Carolina; and in the more prospective sense that over the rest of this year and next year there will be thousands of black, Hispanic, and other minority youths who will go to jail because we failed politically to provide them with the opportunities that they need for education and jobs and health.

It is our obsession with building weapons and our willingness to cut domestic, people-oriented programs that create the political prisoners that Andy Young was referring to.

If we can let a Nixon and a Kissinger and a Schlesinger and a Helms go untried for their lies to us concerning their murderous involvement in Vietnam, and yet prosecute and imprison people with Federal money for shoplifting and other silly violations, I think we have to recognize our political failing.

REQUEST FOR COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE TO SIT FOR 1 HOUR TODAY DURING 5-MINUTE RULE

Mr. STAGGERS. Mr. Speaker, I ask unanimous consent that the Committee on Interstate and Foreign Commerce be permitted to sit for 1 hour this morning during the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from West Virginia?

Mr. COLLINS of Texas. Mr. Speaker, I object.

The SPEAKER. More than the required amount having arisen, objection is heard.

JUDICIARY COMMITTEE SHOULD ACT ON AMBASSADOR YOUNG'S ALLEGATIONS

(Mr. HYDE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I voted to table the resolution of impeachment because I think it is the wrong way to go. I think that the Judiciary Committee ought to invite Mr. Young to appear before it and to document his astonishing and shocking charge that, in his opinion, we may have thousands of political prisoners in this country.

Then, immediately following his appearance and his documentation, Mr. Griffin Bell ought to be invited to respond, and then Mr. Drew Days, the head of the Civil Rights Division of the Justice Department, because if half of what Andy Young said is true, it is outrageous, and this President and this Justice Department ought to do something about it. On the other hand, if Ambassador Young is wrong, we stand embarrassed before the whole world and that situation cannot be permitted to continue.

So, I think we ought to get to the bottom of the facts first, and then we may properly make a judgment as to whether Mr. Young is an appropriate Ambassador from this country to the rest of the world at the U.N.

PRESIDENT SHOULD CALL FOR ANDY YOUNG'S RESIGNATION

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, this Nation is in dire need of leadership, and for too long the administration has had too many contradicting voices, policies, and opinions. We have a President now who tells us that the trial of the two dissidents in the Soviet Union is a deplorable matter which all nations of the world should condemn.

Yet, we have our Ambassador to the United Nations who does not endorse that view, but says that we should not be getting so shocked because we have hundreds of political prisoners in this country.

How long do we have to put up with statements from one who no longer represents a narrow constituency in Georgia, but who now holds a prestigious position, to speak for all the American people? The administration has got to be shocked and embarrassed, as I am, to have him speak for all of us.

As far as I am concerned, there is no need for an impeachment resolution or proceeding if the President would just take a firm hold on the reins of his administration and call for Andy Young's resignation. In my opinion, he does not have any other alternative.

ANDREW YOUNG: WHERE DOES RESPONSIBILITY LIE?

(Mr. WIGGINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WIGGINS. Mr. Speaker, it is tragic that this House should once again even speak of the possibility of impeaching an official in the executive branch.

I am quite convinced that the case has not yet been made for the impeachment of Ambassador Young. However, on the procedural vote as to whether we should debate that issue for at least 1 hour, I voted against the motion to table.

It seems to me that there are several points that need to be made in advance of any discussion of impeaching Ambassador Young.

First. Where does the responsibility lie? I suggest that the responsibility for the conduct of Ambassador Young rests with the President of the United States. If we are to heap criticism on Mr. Young, we should perforce heap that same criticism on that individual who maintains Mr. Young in office and fails to supervise his conduct.

Second. What should be done? There is a precedent. Not many months ago a general of the U.S. Army spoke out contrary to Presidential policy. He was recalled to Washington and shortly thereafter fired. It would be appropriate, it seems to me, for Ambassador Young to be recalled to Washington promptly to determine if he is capable of articulating American policy even if contrary to his private views. If that is impossible, the President either should remove Ambassador Young from office or accept the political responsibility for tolerating his continued presence as a spokesman for the administration. If Ambassador Young is not removed from office or brought under proper control by the President, it may in that unhappy event be necessary for the Congress to consider impeachment, not against Ambassador Young, but against the one ultimately responsible for the harm being visited upon our country.

CONCERN AND SHOCK AT STATEMENTS BY ANDREW YOUNG

(Mr. JOHN T. MYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JOHN T. MYERS. Mr. Speaker, I share the concern and shock with not only the Members of this body but also by other people throughout the Nation at the statement allegedly made by our United Nations Ambassador. Of course everyone is entitled to his own opinion, but speaking as the Ambassador of the United States to the United Nations goes much beyond one's personal opinion, especially as that statement was made as the Ambassador is attending and representing the United States at a United Nations meeting in Geneva.

I share with the previous speaker the feeling that I was alarmed last night, reading the report, but I was sure this morning's newspaper would reflect that the President of the United States would call Mr. Young in to talk to him. The President did that when he reprimanded and caused to resign General Singlaub just a few months ago when he too made just a personal opinion. General Singlaub's statement was not a derogation of anyone or in violation of this administration's position at that particular time but because he had expressed his opinion in a press conference, similar to what our Ambassador to the United Nations has done in this instance.

I was amazed that the President has not called Mr. Young back to his office. I am sure that by tomorrow morning that call will be made and we may hear Mr. Young's views.

WILMINGTON TEN AND JOAN LITTLE ARE NOT POLITICAL PRISONERS

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, I want to rise on behalf of the people of North Carolina to protest the remarks of our colleague, the gentleman from California (Mr. STARK), with reference to his comments on the "Wilmington Ten."

As the House knows, the "Wilmington Ten" have recently had their excessive sentences reduced by the Governor of our State, but it needs to be pointed out that they are not political prisoners. They were not tried and convicted for political activity or for their political beliefs. They were tried and convicted of conspiracy to fire bomb an ethnic store. They have become since then a political group, but their conviction arose out of their action in inciting a riot against the people of Wilmington, N.C., which culminated in the fire bombing of a store of a Greek-American. I would insist that there is no civil right or political right to fire bomb.

There are other people who suggest that another political prisoner of the courts of North Carolina is Joan Little. I would say also that Miss Little is not a political prisoner. Long before she became a political topic she was convicted of robbery. As for the murder trial, I would remind the Members that she was not convicted by a jury of North Carolinians. She was acquitted on the grounds of self-defense. And the charge with respect to her is equally absurd because she is in prison not because of the celebrated death of her jailer, but because of a much earlier conviction.

As for Andrew Young, I agree with my other colleague, the gentleman from California (Mr. WIGGINS).

Ambassador Young is freely entitled to his personal views and should not be impeached for it; rather he should resign or be fired for dereliction of duty.

For his foolish statements supporting Cuban stabilization by force of the people of Africa; for his rash and disruptive accusations against so many of our allies; for representing the views not of the President or of the U.S.A. but of the Organization for African Unity; for his misrepresentations he should either resign or be fired by the man who appointed him. Otherwise, he will continue to be an albatross around the neck of this administration.

CONGRESS HAS VOTED TO APPLY A GAG RULE TO ITSELF WITH RESPECT TO ANDREW YOUNG

(Mr. COLLINS of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COLLINS of Texas. Mr. Speaker, the situation that has developed over Andrew Young, I think, is one of the most unfortunate situations and one of the most unfortunate days in the history of the Congress, because what we have done today is to put a gag rule on the Congress. It was not the Speaker who did it. Congress itself did it.

We refused to bring up and discuss among ourselves here on the floor of the Congress a statement that was made to the press; which was not in the best interests of our country; and which did not reflect the true spirit of this country. But when any one of us speaks in the well of the Congress he can say anything he wants to, but when anyone speaks as our Ambassador, who represents, supposedly, the entire United States, he must speak with consideration, he must speak with factual knowledge.

What we did today, we tabled and refused to bring up for open discussion a subject that is of the utmost importance to the United States.

This is a dark day for the Congress when we refuse to face the facts and openly discuss them.

KLAN MENTALITY VERSUS ANDY YOUNG

(Mr. MITCHELL of Maryland asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Speaker and my colleagues, I visited the Wilmington Ten in the prison in North Carolina. They are political prisoners. They are so listed by Amnesty International. But that is not what I want to talk about. I want to talk about the recent reports on the Ku Klux Klan in the State of Maryland, the alleged conspiracy to firebomb my house. That represents a strange mentality. But I think if I were a part of that death squad of 10 in the Ku Klux Klan in Maryland, I would think that way. If I were a Klansman, I would think this way: How do you hold black people in check? What are the techniques by which you can do this? If I were a Klansman, I would say let us seize every opportunity to discredit, smear and attack any black person in high position for anything that he or she might allegedly say. I would say "Let us attack Ambassador Young."

Let us seize that opportunity.

If I were a Ku Klux Klansman I would say, "Let us go after Pat Harris," the Secretary of HUD, and by special action of that Congress get a legislative veto against HUD that discredits it.

If I were a Klansman, and I repeat, if I were a Klansman, I would say let us go into the SBA and eliminate those three black persons who have top jobs, and remove them for any superficial cause.

If I were a Klansman I would take every opportunity possible to discredit the black people in our Nation by attacking any black person who dares to say anything that is not consistent with the mentality of a Ku Klux Klansman.

ALLEGED REMARKS MADE BY U.N. AMBASSADOR YOUNG

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, along with many of my colleagues and I believe most Americans around this country, I am deeply distressed at the remarks attributed to our U.N. Ambassador Andrew Young. His remarks, if correctly conveyed by the news media, certainly show a lack of understanding of our system of justice. And for anyone in this country to draw a parallel, even by implication, between the Russian system of justice and our system of justice in America is unbelievable. But for our U.N. Ambassador, who serves as spokesman for this country, and, indeed, the entire free world to say so, is unforgivable. These remarks, if true, are the crowning blow in a series of blunders by Mr. Young and they are not in the best interests of our country and I think he should resign.

ALLEGED REMARKS BY U.N. AMBASSADOR YOUNG

(Mr. HUGHES asked and was given permission to address the House for 1 minute and revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker and my colleagues, I had not intended to take the well of the House today, but I think our colleague, the gentleman from Illinois, HENRY HYDE, a member of the Committee on the Judiciary, put his finger on the problem with the impeachment resolution.

I have listened to the speakers today very attentively discussing the remarks that were attributed to Andrew Young—the remarks Andrew Young allegedly made—and we could spend an hour in here debating what was allegedly said. But we do not have the facts and this was a resolution of impeachment which would go directly from here to the Senate, without a hearing of any kind. There would be no opportunity for specific charges or rational debate.

If you feel as strongly as I do about it, then we should proceed, as has been suggested, to get the facts, so that we can act properly on the subject. If in fact Andrew Young made those remarks to the media then it was indeed an unfortunate expression of his personal opinion, unbecoming to our Ambassador to the UN.

I hope the President will take immediate steps to remedy our Ambassador's prospensity to speak personally, if not loosely on matters that affect our national interests. Should the President not reach such an understanding or should the Ambassador feel that he is unable to properly discharge his duties and responsibilities as our country's representative to the world community, then he should resign that office.

LET ANDREW YOUNG NAME ONE NAME

(Mr. DORNAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN. Mr. Speaker, I think what we need from the very active mouth of Ambassador Andrew Young is the name, the specific proper name of one single solitary American political prisoner so as to bring into focus more clearly the thousands of political prisoners Mr. Young contends are unjustly held here in the United States.

I challenge the gentleman from California (Mr. STARK) to also come up with one single name of a political prisoner in this country, other than the controversial Wilmington Ten. I believe the gentleman from North Carolina (Mr. MARTIN) has just adequately responded to the Wilmington issue. What focused world opinion on the tragic and ugly apartheid in South Africa was that one name came to light, Steve Biko, where we could grieve for the death of one brave young hero and attack police brutality which crushed one human being.

It was the great mass murderer Stalin himself who said that the death of millions means nothing, but that the death of one man can be tragic. Well, that ugly and offensive half truth makes a point. Unfortunately you must move most people to feeling or action by pointing to individual horrors. Hence, the world attention to the Soviet kangaroo trials of Ginzburg and Scharansky.

Andrew Young has taken the back of his hand and cracked Mrs. Ginzburg and Mrs. Scharansky across the face by giving the vicious, Communist, so-called judges in Russia the ability to hide behind a smokescreen of lies, courtesy of an American U.N. Ambassador.

What made the TV series "Roots" so impelling was that one man's name came forward to move our consicence, Kunta Kinte. Even though it was a fictitious name it was symbolic for millions of murdered human beings. You could see one strong black man in the prime of youth being put into chains, and the focus of that tragedy ripped at our hearts. Well, Ambassador Young and Mr. STARK give us a name.

What brought the German holocaust to ghastly focus after the nightmarish concentration camps were ripped open? Was that the name of one young girl, Ann Frank, screamed out to the world to be remembered. This frail teenagers name came to symbolize the memory of 6 million murdered Jews.

If this country is the stinking pesthole of political oppression that some Members seem to think it is, filled with not several but thousands of political prisoners, then I defy Mr. Stark—I challenge him to give us names other than the Wilmington Ten. Show us one bona fide political prisoner, and I will rally to his side. I will picket as a U.S. Congressman and demonstrate to get that maligned and innocent prisoner freed. The gentleman from California (Mr. STARK) and Ambassador Young owe an apology to those suffering wives of Soviet dissidents, particularly the heroic Mrs. Ginzburg fighting so magnificently for her beloved husband right there in the belly of the dragon, the kangaroo courts of Communist Russia.

ANDREW YOUNG HAS ERRED

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, perhaps too much has already been said, but Andrew Young is my brother, and I love him. I testified in his confirmation hearings and I meant every word I said. But I sincerely believe my brother has erred and done wrong.

When he was in this House, we all deeply admired the way he represented the city of Atlanta and his district, black and white, ably and well. When he spoke, he spoke for them and for them all. He related to his colleagues of the Black Caucus and the rest of us with friendship and with understanding and with sensitivity, and he did so well.

Now he is our Ambassador to the United Nations. It is his job to speak for the American people and for the President. And my brother has erred. I believe he has poorly served the cause which he has led with courage and ability all the years of his life, from his youth up, because Scharansky and Ginzburg and the rest are fighting the same battle for human rights that Andrew Young fought in this country. In the timing of his remarks and in the context, he has disserved terribly his country and the cause to which he has given his life.

Without any question, the soulless, repressive Government of the Soviet Union will callously use Ambassador Young's remarks as a cruel weapon against the Ginzburgs, the Scharanskys, and all the others for whom they have struggled at such great cost.

The SPEAKER. The time of the gentleman has expired.

ANDREW YOUNG HAS ERRED

(Mr. FISH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FISH. Mr. Speaker, I yield to the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Speaker, many months ago, perhaps the price of his friendship I went in private to Andrew Young and expressed my concern to him that his remarks, however, loosely interpreted, were hurting him—him and the job I know he can do for our country.

I went to President Jimmy Carter and expressed my concern to him as the responsible part for getting his act together and his administration together on foreign policy. I now call upon Jimmy Carter and Andrew Young to get themselves together and to review what Andrew Young has said yesterday, and to decide together if they cannot find a way for Andrew Young to fulfill his high ability, and with the wonderful ability I know he has, to begin to speak for our country and for the President in a way that reflects credit and not discredit upon us and upon him.

ANDREW YOUNG—PRESIDENT CARTER'S RESPONSIBILITY

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, I was not going to speak on this, but I think two things must be said. Our colleague, the gentleman from Maryland (Mr. MITCHELL) attacked the legislative veto vote on the HUD that we had here a couple of weeks ago as a racist vote. The gentleman said that was the way a Klansman would operate.

I would say for those who will read this record that we have applied a legislative veto to every legislative authorization bill that has come along. It has nothing to do with racism. It has to do with bureaucracy and the proper role of Congress vis-a-vis that bureaucracy.

Mr. Speaker, I agree with the gentleman from California (Mr. WIGGINS) that the responsibility for Andy Young is with Mr. Carter, the President of the United States. I think he should call in Mr. Young and take appropriate action.

Mr. Young appeared before the Committee on International Relations some months ago and in answer to a question I asked as to how we were to know whether he was speaking for himself or for the President of the United States, and in furtherance of U.S. policy, he said:

> You will know when I don't speak for the President when the President rebukes me.

The President has not done so until now. The President has made a mistake and he had better get control of the situation.

THE BURDEN OF PAPERWORK IN EDUCATION

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ASHBROOK. Mr. Speaker, in a few minutes we will be returning to the bill, H.R. 15. Yesterday we had a lot of talk about paperwork.

I would like to include with these remarks a poll that was taken of all the principals in the country about key problems in education. Very high on the list was paperwork and, surprisingly enough, three times in three different places in this poll the burden of paperwork was the one of the many issues of the principals in all of the elementary and secondary schools throughout the country.

The thing that shocked me and, as a matter of fact, was most interesting in its revelation is that problems of discipline in the schools were not even one-tenth as significant to principals as the burden of paperwork.

Mr. Speaker, I hope we take a look at that as we go into the bill, H.R. 15. The table follows:

Serious Problems in the Schools: Survey of Secondary School Principals by National Institute of Education/National Association of Secondary School Principals

Percent Responding Problem Is "Serious" or "Very Serious" *

	Percent
Too much paperwork in complying with Federal requirements	42.4
Student apathy	40.9
Parents' lack of involvement in school matters	40.4
Parents' lack of interest in student's progress	36.3
Too much paperwork in complying with State requirements	35.7
Student absenteeism (entire day)	35.0
Student's cutting classes	30.2
School too small to offer a wide range of courses	26.1
Not enough guidance counselors	20.1
Too much paperwork in complying with District requirements	20.0
Teachers' lack of commitment or motivation	15.1
Teachers absenteeism	14.0
Teacher union specifications	12.2
Implementing Federal or State requirements for equal opportunity (e.g., desegregation, employment)	11.4
Inadequate instructional materials	10.3
School too large to give students enough personal attention	9.9
State-imposed curriculum restrictions	8.8
Student disruptiveness	7.0
District office interference with principal's leadership	6.9
Teacher turnover	6.7

* No other single problem mentioned was rated as serious or very serious by as many as 5 percent of principals surveyed.

EDUCATION AMENDMENTS OF 1978

Mr. PERKINS. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 15) to extend for 5 years certain elementary, secondary, and other education programs.

The SPEAKER. The question is on the motion offered by the gentleman from Kentucky (Mr. PERKINS).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 15, with Mr. DUNCAN of Oregon in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Wednesday, July 12, 1978, all time for general debate had expired and title I, had been considered as having been read and open to amendment at any point.

Are there further amendments to title I?

AMENDMENT OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KILDEE: On page 100, at the end of section 133(b): "Such standards will be developed only after widespread consultation and hearings with practicing State and local agency evaluators, and the Commissioner's standards will reflect the input of these groups."

On page 100, strike out section 133(c) and insert in lieu thereof the following:

"The Commissioner shall consult with State and local educational agencies in order to provide for jointly sponsored objective evaluation studies of programs and projects assisted under this title within a State."

Mr. KILDEE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KILDEE. Mr. Chairman, I have consulted with the minority, and it is my understanding that they accept this amendment.

This amendment guarantees that the standards and evaluations under this section be developed only after consultation with and input from the State and local education agencies.

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. KILDEE. Yes; certainly I will yield to the chairman of the committee.

Mr. PERKINS. Mr. Chairman, I accept the gentleman's amendment.

As I understand the amendment, it simply requires that the Federal Government consult more with State and local personnel in developing title I evaluation programs. To my way of thinking, this is a good approach and betters the legislation.

Therefore, Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. KILDEE).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. PRESSLER

Mr. PRESSLER. Mr. Chairman, I offer two amendments, and I ask unanimous consent that they may be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. PRESSLER: Page 56, line 19, insert immediately before the semicolon the following: "unless a longer period of time is provided by the State educational agency due to exceptional circumstances in accordance with regulations established by the Commissioner."

Page 57, line 1, insert "(other than material contained in a student's file, the confidentiality of which is protected by section 438 of the General Education Provisions Act)" immediately after "complaint".

The CHAIRMAN. Is there objection to the request of the gentleman from South Dakota (Mr. PRESSLER) that the amendments be considered en bloc?

There was no objection.

The CHAIRMAN. The gentleman from South Dakota (Mr. PRESSLER) is recognized for 5 minutes in support of his amendments.

Mr. PRESSLER. Mr. Chairman, I have offered two amendments with respect to section 38 of title I in the Elementary and Secondary Education Act.

The complaint resolution procedures outlined in H.R. 15 are intended to provide thorough inquiry into, and prompt and definite resolution of, each complaint that is made on behalf of children that are eligible to participate in the title I program.

I believe it is appropriate and necessary for some means to be available to insure that local title I programs are properly serving educationally deprived children. However, I believe we need the following changes in H.R. 15.

First, given the nature of some of the complaints that are raised regarding title I, and the limited staffing of schools in small towns and rural areas in States like South Dakota, the 30-day deadline to investigate and resolve complaints contained in H.R. 15 is inadequate. I urge that the following amendment be adopted which will enable the Senate Educational Agency to allow a longer period of time when it is necessary due to certain circumstances facing a local educational agency:

On page 56, line 19, insert immediately before the semicolon the following: "unless a longer period of time is provided by the State educational agency due to exceptional circumstances in accordance with regulations established by the Commissioner.

Second, I am concerned that the language of H.R. 15 does not clearly protect the privacy rights of the student during this complaint resolution process. H.R. 15 requires that all correspondence or other written communications concerning the complaint be kept in a central file, accessible to all parties. I believe we need to clarify that this central file should not include material contained in a student's file that is protected by the confidentiality provisions of section 438 of the General Education Provisions Act. I do not believe we can assume that the privacy rights of the student will be protected unless H.R. 15 is amended as follows:

On page 57, line 1, insert "(other than material contained in a student's file, the confidentiality of which is protected by Section 438 of the General Education Provisions Act)" immediately after complaint.

Thank you for your consideration of these amendments.

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. PRESSLER. I yield to the chairman of the committee.

Mr. PERKINS. Mr. Chairman, let me say to the distinguished gentleman from South Dakota (Mr. PRESSLER) that I see no objection to the amendments. These amendments set a more flexible time rule for processing complaints and forbid disclosure of information on particular children in contravention of the Buckley amendments.

Mr. Chairman, we accept the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from South Dakota (Mr. PRESSLER).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. EILBERG

Mr. EILBERG. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. EILBERG: Page 104. line 14, insert after "Commissioner shall" the following: ", in accordance with section 554 of title 5, United States Code,".

Page 106, beginning on line 6, strike out "and opportunity for a hearing to any State educational agency," and insert in lieu thereof "to any State educational agency and opportunity for a due process hearing on the record,".

Page 106, beginning on line 20, strike out "Pending the outcome of any proceedings under this subsection," and insert in lieu thereof "In the case of a substantial and continuing violation,".

Page 111, line 4, strike out "final", and on line 5, strike out the period and insert in lieu thereof "or of any officer or panel authorized by the Commissioner to make such determinations;".

Page 111, line 18, insert immediately before the semicolon the following: "and of audit determinations made by any officer or officers prior to a final audit determination by the Commissioner.

Mr. EILBERG (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes in support of his amendment.

Mr. EILBERG. Mr. Chairman, I have been in close consultation with the Office of Education about my amendment. Together, we have worked out three changes in my original amendment. These changes make the bill consistent. I ask unanimous consent that I be allowed to make three corrections in my amendment.

The CHAIRMAN. The gentleman from Pennsylvania (Mr. EILBERG) asks unanimous consent to modify his amendment.

Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The amendment offered by the gentleman from Pennsylvania (Mr. EILBERG), as modified, is as follows:

Delete the amendment to page 104, line 14. Insert, in lieu thereof an amendment to page 364, line 21.

Page 364, line 21, insert after "regulation" the following. "in conformance with the rules relating to hearings in title 5, United States Code, sections 554, 556, and 557.

Page 106, beginning on line 6, strike out "and opportunity for a hearing to any State educational agency," and insert in lieu thereof "to any State educational agency and opportunity for a due process hearing on the record pursuant to section 451(e) of the General Education Provisions Act,".

Page 366, line 6, insert the following after the period: "The Board shall return to the Commissioner for such action as he deems appropriate any final audit determination which, in the judgment of the Board, contains insufficient detail to identify with particularity those expenditures which are not allowable. Unless the Board determines that a final audit determination lacks sufficient detail, the burden shall be upon the State or local educational agency to demonstrate the allowability of expenditures disallowed in the final audit determination."

Mr. EILBERG. Mr. Chairman, this amendment is intended to establish legal protections for educational agencies alleged to have misspent funds under the Elementary and Secondary Education Act.

At the outset, let me say, Mr. Chairman, that I favor strong enforcement and timely audits of the title I program. In order to have a well-run program, HEW must be able to monitor the way title I funds are being spent.

But at the same time, we must provide some legal protection to the State and local educational agencies which are being audited. Unfortunately, full legal protection does not exist at the present time.

State and local educational agencies have encountered problems in resolving disputes with the Office of Education. To a large extent, these problems are the result of the way in which HEW conducts its audits.

Specifically, State and local educational agencies are often denied access to documents relevant to the audit. Further, under present practice, at the hearing the States have no right to question those auditors who reviewed the State program. Additionally, there is no power to subpena witnesses nor take depositions from involved parties.

Mr. Chairman, because the Audit Hearing Board does not follow either Federal civil procedure or the Administrative Procedure Act, it is necessary to place in the law wording to insure that States have the due process hearing to which they are entitled.

Another problem standing in the way of due process is the fact that under the committee bill, the Commissioner of Education can withhold funds from an accused party pending a final decision of the Audit Hearing Board. As a lawyer, I feel that this procedure represents an unfair assumption of guilt.

My amendment would change the language of the bill to provide that the Commissioner can only withhold funds after a substantial and continuing violation has been documented.

Finally, I would remind my colleagues that the purpose of an audit should be to point out problems in the implementation of a program. That is to say, audits should be corrective, not punitive. To achieve this corrective effect, States and local educational agencies should be notified of all audit decisions so that they can avoid the mistakes made by other school districts.

H.R. 15 already provides that summaries of relevant court decisions be distributed to State and local agencies as part of the policy manual for implementation of title I. I propose to add to the committee bill a provision to include summaries of HEW audit panel decisions in this policy manual.

Mr. Chairman, my amendment will insure that State and local educational agencies will receive fair and equitable treatment in the HEW audit procedure, and I hope my colleagues will support this amendment.

Mr. PERKINS. Mr. Chairman, will the distinguished gentleman yield to me?

Mr. EILBERG. I will be happy to yield to the committee chairman.

Mr. PERKINS. Mr. Chairman, as I understand the gentleman's amendment, he has already worked this out with the Office of Education, and they have agreed to an amendment of this kind. It does provide us due process, and the funds may only be withheld in cases of substantial and continuing violations of the law.

It is my further understanding that the amendment would also require the publication of all audit findings and determinations prior to the final determination by the Commissioner.

I agree with the objective the gentleman is trying to achieve; namely, a full and fair hearing before a final audit determination is made. I also agree that all audit findings ought to be widely publicized so that everyone will know what the rules are.

Mr. Chairman, this is a good amendment, and we accept it on this side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. EILBERG), as modified.

The amendment, as modified, was agreed to.

AMENDMENT OFFERED BY MR. BUCHANAN

Mr. BUCHANAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BUCHANAN: On page 41, line 16, insert after the word "children" the phrase "in all eligible attendance areas".

Mr. BUCHANAN. Mr. Chairman, this amendment simply clarifies, I believe, the intent of the committee, and it tightens our effort to make sure that, in the selection process, the needs of all educationally deprived children are considered.

One of the good features of the new reorganization of the ESEA statute is that it makes explicit, for the first time, the requirement for an assessment of the educational needs of children during the planning process for title I projects. This is a crucial step in designing good programs, and when it is well done, both raises the quality of the local project and greatly reduces the chances of later difficulties in complying with the program regulations. The needs assessment is designed to insure that district program officials know which children are educationally disadvantaged, and what their particular educational problems are.

Many districts have been performing some kind of needs assessment for several years now. But one of the difficulties that reports uncover is that districts tend to assess the needs of only those children who have previously participated in title I programs, or are in grades or schools that have previously been served by title I. In particular, the

very serious needs of students in junior high and senior high grades often unnoticed, even though they are attending title I eligible schools.

The National Institute of Education reported recently that less than 1 percent of students in the secondary grades receive assistance from the Elementary and Secondary Education Act. This is true despite the rising concern throughout the country with problems of basic literacy and minimum competency in the high schools.

It is not the policy of USOE or the wish of the committee, that districts should be told how and where and on what ages or grades of students title I money should be spent. Local officials and parents can and should use their own discretion on this matter. But it does make sense to do this with as much information as possible. This amendment encourages a careful and thorough needs assessment of all eligible students when program planning is being done, and I urge your support for it.

Mr. Chairman, I will not belabor the point, if the chairman and the ranking minority member will accept the amendment.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. BUCHANAN. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, we think the gentleman's amendment is constructive and, therefore, we accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. BUCHANAN).

The amendment was agreed to.

AMENDMENTS OFFERED BY MR. CORRADA

Mr. CORRADA. Mr. Chairman, I offer three amendments, and I ask unanimous consent that they may be considered en bloc with respect to title I.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. CORRADA: On page 106, revise section 136(a) to read as follows:

"SEC. 136. (a) WITHHOLDING.—Whenever the Commissioner, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there has been a failure to comply substantially with any assurance set forth in the application of that State approved under section 52 or 101, the Commissioner shall notify the agency that further payments will not be made to the State under this title (or, in his discretion, that the State educational agency shall reduce or terminate further payments under this title to specified local educational agencies or State agencies affected by the failure) until he is satisfied that there is no longer any such failure to comply. Until he is so satisfied, (1) no further payments shall be made to the State under this title, or (2) payments by the State educational agency under this title shall be limited to local educational agencies and State agencies not affected by the failure, or, (3) payments to particular local educational agencies shall be reduced, as the case may be. Where partial payments to a local educational agency are continued under this subsection, the expenditure of those payments shall be subject to such conditions as the Commissioner deems appropriate in light of the failure which led to the partial withholding. Pending the outcome of any proceedings under this subsection, the Commissioner may suspend payments to such agency, after such agency has been given reasonable notice and opportunity to show cause why such action should not be taken.

On page 108, in section 136(c) of title I, insert the following between lines 5 and 6: "In any case in which a State educational agency desires to enter into a compliance agreement, but alleges that full compliance with the requirements of this title is genuinely not feasible until a future date, the Commissioner shall hold a hearing at which that agency shall have the burden of demonstrating that immediate compliance is not feasible. The Commissioner shall provide an opportunity for parents, their representatives, and other interested parties to participate in that hearing. If the Commissioner determines, on the basis of all the evidence presented to him, that immediate compliance is genuinely not feasible, he shall make written findings to that effect before entering into such a compliance agreement with that State educational agency.

Page 232, line 11, insert the following new subsection:

"3(A) the Commissioner shall reserve from the amount not reserved pursuant to clause 3 of this paragraph such amounts as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 732."

Mr. CORRADA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Puerto Rico?

There was no objection.

The CHAIRMAN. The Chair is informed that one of the gentleman's amendments goes beyond title I. Is it the intention of the gentleman to ask unanimous consent for the consideration of these amendments en bloc, in spite of the terms of the rule?

Mr. CORRADA. Yes, Mr. Chairman.

Mr. PERKINS. Mr. Chairman, notwithstanding the fact that the amendments go beyond title I and throughout the bill, it is the same amendment and, therefore, I ask unanimous consent that they be considered en bloc at this time.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. CORRADA. Mr. Chairman, the title I, ESEA statute and regulations currently provide for two main enforcement mechanisms at the Federal level: First, the withholding of title I funds from a State or local educational agency when a violation is discovered; and second, the repayment of misspent funds after an audit or review has been conducted. The withholding authority currently in effect is rarely used, because of the difficulty in discovering violations at the time they occur, and the fact that the withholding provision only provides for the termination of a State or local district's entire title I program allocation.

The repayment authority following an audit has been usd in the last couple of years on a number of occasions, and has been an effective measure to insure some accountability in the title I programs. In the past 2 years, approximately 30 audit determinations have been appealed to the title I Audit Hearing Board, an internal, impartial hearing board to resolve audit determinations disputes between the Office of Education and State educational agencies. Approximately one-third of these cases have reached final resolution and have required repayment.

While this audit resolution process has provided an efficient and equitable mechanism for dealing with some compliance situations, it is not adequate to remedy all enforcement problems. It only deals with compliance situations after they occur, and results in repayment which may take State and local money away from the children the title I program was designed to serve. The audit resolution process has been shortened in the last few years to improve efficiency, but it still takes a number of years to have an audit finding resolved and restitution made.

The proposed amendments would provide a battery of enforcement tools that solve the problems with the existing audit repayment and withholding authority, by giving flexibility to the Commissioner to fit an appropriate remedy to the particular enforcement problem. It avoids some of the shortcomings of the current remedies.

Briefly, the amendments would do the following:

First, make clear that when a district is found to be out of compliance, the Commissioner need not withhold all its title I payments, but rather that there is the option to withhold only that portion that relates to the noncompliance.

Second, permit a compliance agreement to be entered into—and payments to continue or resume—even though full compliance cannot be reached until a future date. This authority is intended to be used rarely, and is subject to the State educational agency demonstrating at a hearing—in which parents, their representatives, and other interested parties may participate—that immediate compliance is genuinely not feasible. Proposed legislative history discusses the limited circumstances under which this authority is intended to be used.

Third, add authority to the General Education Provisions Act that would permit the Commissioner, in effect, to grant back to a State or local agency up to 75 percent of the funds that have been recovered from that agency after an audit exception. These funds would be treated as additional program funds, except that the Commissioner could impose conditions on their use designed to focus their expenditure on the population that was adversely affected by the misexpenditure that led to the audit exception.

The more flexible authority proposed here allows a remedy to be designed to fit the particular situation, is more likely to be used, and is more likely to benefit the children involved in the title I program.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, I would like to call the attention of my colleagues in the California delegation to the amendments being offered by the gentleman from Puerto Rico (Mr. CORRADA). These amendments are essential to school districts in California because of the potential impact of proposition 13 on local school budgets. If the State and local school districts are unable to fulfill maintenance of effort requirements of title I in 1980, they will face the loss of millions of dollars in Federal funds. Proposition 13 is clearly an extraordinary situation in that it restricts the amount of revenue which local districts can raise. These amendments would insure that an agreement can be worked out to save those Federal funds for the districts until dislocations caused by proposition 13 can be worked out. It also makes clear that if the local effort is reduced, Federal funds will be reduced in a proportionate amount rather than eliminated entirely. Perhaps most importantly it will permit the establishment of a mechanism whereby local school districts may make desirable cutbacks without being unnecessarily punished.

I personally feel this is a perfect illustration of why we need to go to noncategorical, block grants for Federal education programs, as proposed in the amendment to this bill being offered by our colleague from Ohio (Mr. ASHBROOK). However, failing that route, we still need to protect the funding for these programs in California, and as cochairman of the California delegation task force on proposition 13, I would urge my colleagues in the delegation to vote for the amendments.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I yield to the distinguished chairman of the committee.

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Chairman, these amendments have to do with the situation developed down in Puerto Rico. However, it applies to the whole country.

Mr. Chairman, as I understand the gentleman's amendments, they would make more flexible the authority of the Commissioner to deal with States and local school districts allegedly improperly using funds. This would be accomplished by permitting a school district to continue to receive its funds only reduced by the amount it is allegedly misspending, by requiring a full public hearing at the local level for compliance agreements with school districts, and by permitting up to 75 percent of misused funds to be paid back to a local school district on the condition that these funds be used pursuant to a specially approved plan.

I accept these amendments since they will provide a more flexible system for withholding funds than exists now and since they will assure that these funds are eventually used for disadvantaged students. Presently, a school district's total grant is withheld if it is allegedly in violation of the law. And if an audit finding is upheld, the district must pay back all of its funds to the Federal Treasury.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Puerto Rico (Mr. CORRADA).

The amendments were agreed to.

AMENDMENTS OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer amendments.

The Clerk read as follows:

Amendments offered by Mr. QUIE: Page 43, line 20, insert immediately after the phrase "at least once every three years" the following: ", in accordance with the evaluation schedule promulgated by the Commissioner under section 133(b)(2),".

Page 100, strike out lines 3 through 6 and insert in lieu thereof the following:

"(b) Evaluation Standards and Schedule. The Commissioner shall (1) develop and publish standards for evaluation of program or project effectiveness in achieving the objectives of this title, and (2) develop, in consultation with representatives of State educational agencies and local educational agencies, a schedule for conducting evaluations under section 34(f) designed to ensure that evaluations are conducted in a representative sample of the local educational agencies in any State each year.

Mr. QUIE (during the reading). Mr. Chairman, one of the amendments I am offering goes on into another part of the bill. Therefore, I ask unanimous consent that the amendments be considered en bloc, and that they be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. QUIE. Mr. Chairman, when ESEA came up for reauthorization at 1973, the committee faced the nearly impossible task of assessing and improving a most important program in the face of an almost total absence of concrete information about what the program did, or how well it worked. Evaluations from States and from local projects were often sporadic, of poor quality, and did not address the crucial question of whether children were actually benefiting from the program's services.

To remedy this, the 1974 legislation called for several changes in evaluation. We required a comprehensive study of the operation of title I, the development of improved evaluation designs, and the provision of large amounts of high quality technical assistance to State and local program staffs.

These efforts were amply rewarded. State and local program staff and parents have invested enormous amounts of time and energy toward improving the evaluation of local projects. The committee entered this reauthorization period with a wealth of sound program information. There is now solid evidence that at the local level, improvements in evaluation were accompanied by genuine improvements in the title I programs, and greater success for title I children. We can be proud of this.

H.R. 15, expresses, throughout, a shared desire on the part of the Congress, program officials at all levels, parents, to obtain a steady flow of accurate, comparable and timely information. It also expresses a shared desire on the part of Federal, State, and local officials to reduce the administrative burden and paperwork accompanying the Federal programs. These two goals are not in conflict, and both can be achieved if we do our work carefully.

Unfortunately, the bill as it stands now is likely to create confusion rather than coordination of these goals. In several places the bill calls for annual reports of program effectiveness, especially from Federal and State levels. On the other hand, it requires local districts to evaluate their projects at least once every 3 years. It should be self-evident that these provisions will mesh only if the local evaluations are conducted according to a sensible schedule.

The amendment that I am offering here provides that such a reporting schedule will be developed jointly by Federal, State, and local representatives. The object of this schedule will be to provide for minimum local burden and maximum program information. It does not change any of the existing provisions, it just makes sense out of them . It will insure that we neither exacerbate the alarming paperwork problem nor settle for second rate evaluations.

I also hasten to add that this schedule would in no way preclude other means of simplifying and speeding the administration of title I. A separate section of this bill provides funds to State educational agencies for experimenting with a variety of improved ways of managing Federal grants, such as centralized data analysis. All these things can work together if we will only take the trouble to think ahead. If we fail to do so, the existing provisions could inadvertently produce a nightmare of conflicting regulations of the very type we are trying so hard to eliminate. This is a simple, commonsense amendment, and I urge you to give it your support.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, as I understand the gentleman's amendment, it requires the Commissioner of Education to develop standards and a schedule for evaluations of title I so that local evaluations will be scientifically sound. As I further understand it, the amendment does not affect the new provision for local evaluations once every 3 years instead of every year as presently required.

I have no problem with the amendment since it simply seeks to insure good local evaluations and does not affect our new provision reducing local paperwork.

Mr. Chairman, we accept these amendments. We think they are good amendments.

Mr. QUIE. I thank the chairman of the committee.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota (Mr. QUIE).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 16, line 8, strike out "needs of educationally deprived children" and insert it lieu thereof "needs of children in the following order of priority: (1) educationally deprived children from low-income families, (2) educationally deprived children who are not from low-income families, (3) children who are not educationally deprived but are from low-income families, and (4) children who are neither educationally deprived nor from low-income families".

Mr. QUIE. Mr. Chairman, the purpose of this amendment is to try and establish some policy of the order in which we reach children, students in schools where there is more money than is necessary to take care of students who are both economically disadvantaged and educationally disadvantaged.

As the Decima studies indicate, there are about 43 percent of the students who are economically disadvantaged, who are also educationally disadvantaged. Decima studies also indicate that 35 percent of the title I money is being used for students who are neither low income or educationally disadvantaged. The reason why I offer the amendment in the statement of policy rather than later on in the legislation is that it would be difficult to administer in the requirement that they designate aid to be given on each student because the local school officials know who the educationally disadvantaged are. They are well known by all the teachers and by the tests. They do not now know who is low income. I know that in the early part of the program they are supposed to do a visual check and determine whether they are low income or not, but I do not know how a teacher looks at a student and determines whether he is or not.

However, I do think that it is unwise that a little better than a third of title I goes for those students we never intended at all. In the statement of policy schools should look at that in the administration of the program so that they have the opportunity to make decisions so that the program would be beneficial primarily to those who are both low income and educationally disadvantaged. That is the reason why I put the amendment in the statement of policy.

I think we have to start making some of those judgments ourselves on what we think is the policy of the legislation. Originally, when this legislation started in the 1960's, many people thought it was really general aid to education, and they were going to use it for that purpose. Evidently, many people have the same feeling now.

In this bill we made some corrections in the legislation so that in target schools, the districts take into consideration low-income students, and schools that are substantially more educationally disadvantaged with reference to the target schools. We also give the authority to allocate money between schools in accordance with the number of educationally disadvantaged children that actually are there. In setting policy schools have to follow as the policy of the Federal Government, that they do follow this order:

First, those that have the double disadvantage, both economically and educationally disadvantaged; second, for those who are educationally disadvantaged; third, for those who are economically disadvantaged but not educationally disadvantaged; and last, if they have enough money to go all the way, to give those that are neither educationally disadvantaged or low income.

Mr. Chairman, I urge adoption of my amendment.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment offered by the distinguished gentleman from Minnesota (Mr. QUIE).

Presently children are counted on the basis of objective poverty data and funds go down to the local school districts, in fact to the building, on that basis to serve disadvantaged youngsters. There is no way to carry out the gentleman's amendment unless we have a survey of income in that building. I do not think any of us wants to go to this method.

When the money gets down to the building, the way it is handled under the present law, any disadvantaged children within that school will receive the benefit of these services—all of them, regardless of their income status, will all receive the benefit of these services if they are disadvantaged.

In other words, objective poverty data are used down to the building level only, and no means test or income surveys are used within the building to determine eligibility for services.

I think if we get to using any kind of income survey to determine eligibility within the building, that we will be doing some harm. I think it is useless and unnecessary paperwork. I do not think the Members want to add this extra paperwork at this time in a proposal of this type.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman, I thank the chairman for yielding.

I think he has hit it right on the head. Our good colleague, the gentleman from Minnesota, had just introduced, and we adopted, an amendment that reduces paperwork, here he has an amendment that will create an infinite amount of paperwork. I was just going through some of the provisions of title I. They are going to have to be compared back to what this amendment proposes, and we will have all these income provisions and a host of other complications.

The amendment does not read, as the gentleman from Minnesota said, where they "may" look at these four provisions. What we are doing is mandating, and creating a formula that who knows how someone, somewhere, in some office is going to interpret.

We are going to create massive paperwork problems with this amendment. We would do the gentleman from Minnesota in his campaign a disservice if we adopted his amendment.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Minnesota.

Mr. QUIE. Do not worry about my campaign in this regard.

Let me ask the chairman what he thinks should be the priorities of assistance to students in schools: Who should have the first priority?

Mr. PERKINS. I personally feel the most needy, the poorest of the poor are the ones entitled to the first priority. But here the money is already down to that school building and we have children who are disadvantaged educationally or educationally deprived for one reason or another, regardless of income. They certainly are also the beneficiaries of title I funds. I think that is the way it should be.

But in the event that there are not adequate funds—but we have managed to take care of everybody that has been educationally deprived within that building after the funds for the economically disadvantaged reach that building. I think that we do not want any requirement now to take a survey of income data from these other children, and so forth, in that school system. I think it would be much more harmful and interrupt the good work that we are presently receiving from the way the funds get down to this local school district.

Mr. QUIE. If the gentleman will yield further, as I hear it, the gentleman is saying the first priority should be this.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. PERKINS) has expired.

(On request of Mr. QUIE, and by unanimous consent, Mr. PERKINS was allowed to proceed for 2 additional minutes.)

Mr. QUIE. Mr. Chairman, if the gentleman will yield further, the gentleman has as his first priority the poorest of the poor, and the second priority is that the services go to those educationally disadvantaged, and only after those are served would we go to the nonpoor and noneducationally disadvantaged.

Mr. PERKINS. Let me say we are presently serving all that we possibly can within the building regardless of their financial status where they are educationally deprived.

That is the present policy if we can take care of every one of them we take care of every one of them today.

Mr. QUIE. Mr. Chairman, if the gentleman will yield further, if that is the case that we are serving all of those who are educationally deprived, what about the Decima study that indicates that 30 percent of the money is going for those who are neither poor nor disadvantaged? Does that mean we have too much money in title I?

Mr. PERKINS. No, it does not. We are only serving about 50 percent of the children in the Nation that we should be

serving with title I funds. What I am saying is that in this particular school building where we have a lot of children who are educationally deprived, and meet the requirements, the funds have gone into that school building. That we serve everyone we possibly can regardless of their financial standing where they are in need of special education and compensatory educational programs in order to catch up.

Mr. QUIE. Mr. Chairman, if the gentleman will yield still further, if we are only providing services for 50 percent of those who need it and 30 percent of the money is going for those who do not need it, what does the gentleman think we should do to make certain that the money goes to those who are not being served now?

Mr. PERKINS. I would disagree with the gentleman's hypothesis that the gentleman stated. All of this money that goes into a particular school area is needed, and it goes there in accordance with the formula or it would never have gotten there in the first place.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. QUIE and by unanimous consent, Mr. PERKINS was allowed to proceed for 2 additional minutes.)

Mr. PERKINS. So I disagree with your hypothetical statement.

Mr. QUIE. Mr. Chairman, if the gentleman will yield further, I do not understand. Is the gentleman saying he does not agree with the Decima study that 30 percent of the money is going to those who are neither poor nor educationally deprived?

Mr. PERKINS. No, I do not agree with that statement at all.

Mr. QUIE. The gentleman does not agree with that study?

Mr. PERKINS. No.

Mr. QUIE. That is interesting because it was the U.S. Office of Education that commissioned the study. It was their study, and those who are administering the program say that that is the case.

Mr. PERKINS. I think the National Institute of Education has the best study, that showed the money was going for the poor people and that it was being used efficiently and not wasted.

Mr. SIMON. Mr. Chairman, if the gentleman will yield, if I might quote from the final paragraph of the Decima study, the reported statement to the subcommittee, that final paragraph says: "The title I funds have been more effective than other sources of compensatory education funds in discriminating between targeted and nontargeted students."

Frankly, I do not disagree with the kind of priorities that our colleague, the gentleman from Minnesota (Mr. QUIE) suggests, but to put them in the statute and then to have someone in Smithville, Minn., or in Illinois, or Kentucky, all of a sudden deciding these are the students we can help, these are the ones we cannot, and that you belong in category A and you belong in category B, among the students in a particular schoolroom—and there are people out there who are going to do precisely that—I think that is a mistake.

The dialog we have had here on what priorities ought to be well funded is fine, but to create a new mountain of paperwork, a new type of segregation of students out there, I think that is a mistake.

I know that is not the intention of the gentleman from Minnesota (Mr. QUIE) but that is what will happen.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. SIMON, and by unanimous consent, Mr. PERKINS was allowed to proceed for 1 additional minute.)

Mr. QUIE. Mr. Chairman, if the gentleman will yield still further, yes, if there is money, but, what bothers me the most are the parents who cannot do this, whose children are lost in school, whose children are behind in school and who are not able to secure title I funds. That is the reason I would vote for the additional money for title I. That is the reason I want to see it expanded. But it really bothers me that we do not have enough money and that, according to the Decima study 30 percent of the money is going to those who are not poor or who are not educationally disadvantaged, when other parents are seeking those funds to take care of their children.

Mr. PERKINS. The only way that could be done, in my opinion, would be to have a survey of income, and I think it would be very devastating to come forward with it since title I is working so well, and to add this provision at this time.

Mr. Chairman, I am opposed to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: On page 44, line 20, between the words "Teacher" and "Participation" add the words "And School Board".

On page 44, line 22, add a comma after the word "title" and add the following new language: "and school boards or comparable authority responsible to the public with jurisdiction over the schools,".

Mr. ASHBROOK. Mr. Chairman, the purpose of my amendment is to increase public accountability and local control over Federal education programs funded under title I. It would accomplish that goal by providing for greater school board participation in these programs.

My amendment would make the local school board an active participant in the planning and evaluation process of title I programs. The board would have guaranteed input into the operation of projects funded under this title.

This is only proper. The school board, after all, is responsible to the public for the operation of our schools. They should have some say in how programs are run.

I urge your support for more local control. I urge your support for my amendment.

Mr. PERKINS. Mr. Chairman, will the distinguished gentleman from Ohio yield to me?

Mr. ASHBROOK. I yield to the distinguished gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

First, let me state that the gentleman has, in my judgment, offered a realistic amendment and a constructive one. We are certainly glad to accommodate him in accepting this amendment. As I understand the gentleman's amendment, it would require that school boards as well as teachers be involved in planning local title I programs. I myself have no problem with the gentleman's amendment. I think it is constructive, and I would urge all of my colleagues to accept the amendment.

Mr. ASHBROOK. Mr. Chairman, I thank the Chairman for that statement. I am certainly glad it is on the record, because I have an idea it might be the only instance today where my good friend, the gentleman from Kentucky, will be able to make that statement. I am sure some of the controversial amendments I will offer later will not meet approval of the majority side.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 32, strike line 24 through line 3, page 33, and amend to read as follows:

"(B) the number of low income children counted under section 11(c) in the school districts of local educational agencies in such county exceeds the percentage which 5,000 low income students is to the total number of students aged five to seventeen in the 50 most populous counties in the country in the previous fiscal year."

Mr. ASHBROOK. Mr. Chairman, the amendment I am offering would provide more equity in the distribution of funds under the concentration grant provision contained in section 22. Passage of my amendment would insure that we would not be creating first-class and second-class school districts.

Regrettably, H.R. 15's concentration grant provision would only benefit 1,609 of the 3,142 counties in the country. The amendment which I am proposing would benefit 3,134 counties, all but 8 counties in the country.

Section 22 as now written only provides aid to those school districts which have at least 5,000 low-income children or have more than 20 percent low-income children. Four States would receive 42 percent of the funds under section 22 even though they have only 26 percent of the title I children in the country. These four States are California, Illinois, New York, and Texas.

However, I should point out to my colleagues from these four States that they should not be deceived by these numbers. In every one of these States, the number of counties which would qualify for aid is significantly smaller under the committee bill than it would be under my amendment. What this means is that only those congressional districts encompassing urban areas or very poor rural areas tend to benefit from the committee bill before us today.

Under my amendment, every congressional district in the country would receive some aid. For example, in California only 26 of 58 counties qualify under H.R. 15. In Illinois, it is even worse. Only 18 of 102 counties qualify. In New York, only 16 of 62, and in Texas, 194 of 254.

In addition to the problem with respect to these large States, 30 small-to-medium States get a far smaller proportion of the funds than their proportion of title I children. These 30 States would receive only 12½ percent of the funds even though they have had 19 percent of the title I children. I might note, for example, that New Hampshire receives nothing under the bill while Wyoming and Vermont receive $5,000 or less. My own State of Ohio would gain $1 million under this amendment, far less than the gains in many other States but the important fact is that the number of counties in Ohio qualifying would go from 21 to all 88.

I would also point out that the figures in the committee bill are entirely arbitrary. There is nothing magic about 5,000 students or 20 percent of the enrollment being poor. I am sure every Member here today can identify school districts in their own congressional district which might not qualify, because the percentage or number does not meet the criteria in section 22.

The amendment which I am offering is quite simple. It would allow any district to qualify if it has 5,000 low-income children or a percentage equivalent to the percentage that 5,000 students is of the total enrollment in the 50 largest counties in the country.

I seek unanimous consent to include with my statement a list of those counties and the percentage which 5,000 students equals of the total number of students in those counties.

I urge my colleagues to support this important amendment.

50 LARGEST COUNTIES ON BASIS OF 1970 CENSUS, USING 5-17 POPULATION AS CRITERION

County	5,000/5-17 total	5-17 population (1970)
1. Los Angeles	.30	1,651,878
2. Cook	.37	1,367,526
Puerto Rico	.58	856,500
3. Wayne	.72	690,177
4. Kings	.85	587,085
5. Harris	1.06	471,775
6. Philadelphia	1.13	442,073
7. Cuyohoga	1.17	427,808
8. Nassau	1.26	397,061
9. Orange	1.27	392,636
10. Allegheny	1.28	391,623
11. Queens	1.32	378,475
12. Middlesex	1.43	348,787
13. Dallas	1.45	345,870
14. Suffolk	1.52	329,370
15. Bronx	1.53	327,049

50 LARGEST COUNTIES ON BASIS OF 1970 CENSUS, USING 5-17 POPULATION AS CRITERION—Continued

County	5,000/5-17 total	5-17 population (1970)
16. San Diego	1.58	316,272
17. Santa Clara	1.73	288,739
18. Erie, N.Y.	1.75	285,635
19. King, Wash.	1.76	283,965
20. Dade	1.78	280,660
21. St. Louis	1.91	262,205
22. Milwaukee	1.92	260,995
23. Oakland, Mich.	1.92	259,982
24. Maricopa, Ariz.	1.94	257,119
25. Alameda	2.01	248,150
26. Hennepin	2.08	240,409
27. Hamilton, Ohio	2.10	238,199
28. New York	2.11	236,806
29. Bexor	2.13	234,417
30. Baltimore City	2.25	222,470
31. Bergen	2.26	221,627
32. Essex	2.27	220,651
33. Westchester	2.36	211,472
34. Marion, Ind.	2.39	209,609
35. Franklin, Ohio	2.40	208,320
36. Hartford	2.45	204,206
37. Fairfield, Conn.	2.45	203,749
38. Shelby, Tenn.	2.55	195,787
39. Macomb, Mich.	2.63	190,007
40. Tarrant, Tex.	2.69	186,070
41. Jefferson, Ky.	2.70	185,428
42. San Bernardino	2.74	182,331
43. New Haven	2.75	182,073
44. Monroe, N. Y.	2.82	177,192
45. Prince Georges	2.87	174,235
46. Sacramento	2.90	172,366
47. Jefferson, Ala.	2.96	169,009
48. Honolulu	3.06	163,186
49. Jackson, Mo.	3.10	161,501
50. Essex, Mass.	3.11	161,006
Total average (50 counties)	1.981	

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I do not think we should lose sight of the fact that the $400 million that is recommended by the administration was for the larger cities of the country, the ghetto areas, where there happens to be much poverty. If we undertake to dilute these funds any further, we are going to just weaken the whole program to the extent that it may become ineffective if we scatter funds throughout the United States, as the gentleman from Ohio (Mr. ASHBROOK) wants us to do.

Naturally, I would benefit more under the amendment of the gentleman from Ohio (Mr. ASHBROOK); but to my way of thinking, that is not the question. These funds have been suggested by the President for a specific purpose, to concentrate on poverty in our schools and on the educationally deprived in our schools in the worst areas of the country. Then if we undertake to dilute these funds in such a way that they are going to become ineffective, we will just not accomplish the purpose of title I.

We might as well come in here and offer a general aid to education bill or something of that type, but in my judgment, if the Ashbrook amendment were to be adopted, it would never be funded anyway.

I do not think we want to get ourselves in a position of doing harm to those people in this country who need this money the most. Those who need it the most are the disadvantaged in the large ghetto areas of the country and the large cities of this country.

That is not all that was intended by the President when he proposed this concentration program or by the committee when it adopted the program. The President has already proposed an increase of over $200 million in the regular title I grants, which would mean increased title I allocations for everyone in the country. This is just one aspect of the program, and the purpose of adding a concentration program on top of this is to target more funds on areas that have the greatest need, that is, poor, urban, and rural areas.

These poor urban and rural areas are defined in H.R. 15 as those with separate and unique problems which make it more difficult for them to even support a basic program. Concentrations of poor have a negative effect on an individual program and require more intensive attention to overcome.

Costs of education are higher in our major city districts, and the title I aid which poor rural districts get per pupil is generally lower than that of other districts. This is not the case with most of the title I school districts which have either low or moderate concentrations of poor children.

Furthermore, Mr. Chairman, the administration has stated in a letter to me that if an amendment such as this is accepted, it will not even request funds for this new program, since the amendment would change it so drastically. I feel this amendment would totally destroy the concept of targeting this new money on those most in need and would deprive our poorest areas of much needed extra aid.

Let me say that the 5,000 requirement of poor children within a county, or if 20 percent of the children within the county are poor, means this: That means that we are trying to do something for those groups that are in need. If we destroy that 5,000 requirement within a county or the requirement of 20 percent of the pupils within the county we do great harm to the targeting, and again I say we should not dilute this program any further.

Mr. Chairman, I would hope that all the Members will vote against this particular amendment.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, what the gentleman from Ohio (Mr. ASHBROOK) is getting at, I think, is a basic unfairness in the formula for concentration. In any of the school districts that have fewer than 5,000 low-income children, they have to have 20 percent in order to qualify, and what the gentleman from Ohio (Mr. ASHBROOK) talked about is the 5,000 as a percent of the total in the 50 most populated counties.

Let us look at what actually exists in the percentage of low-income students in a county. Let us take Hennepin County, Minn., as an example. While the 5,000 is only 2 percent of the number of students within the county, the number of poor kids under the formula amounts to 5¼ percent. That means that in Minnesota the other counties, other than the ones that have more than 5,000, have to have 20 percent poor children. Hennepin County, under the 5,000, qualifies, even though it only has 5¼ percent.

Let us take Los Angeles County. The total number of students counted as low

income under the formula is 14,000. They would not qualify unless we had the 5,000 figure in there. Under the 20-percent requirement, they would not qualify.

Wayne County has 16 percent poor children. They would not qualify either.

Kings County in New York would not have any problem at all. Thirty-two percent of the students are low income. So, they would not have a problem.

Philadelphia would not have a problem either. Twenty-two percent of the students are poor.

In Allegheny County, however, there they are only 9.7 percent, and they qualify.

Middlesex County, 11.5 percent.

We always bring up Westchester County, and it is recognized there are poor students in Westchester County, but they only amount to 7 percent of the total, not the 20 percent.

What the gentleman from Ohio (Mr. ASHBROOK) is saying is that if you go to that low a percentage by the 5,000-population figure, why do we not use that for all of the counties in the United States. If it is fair for the most populous ones, it ought to be fair for the less populous ones; because a poor child in any county needs remedial help.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I thank the gentleman for yielding.

Mr. Chairman, I find it quite interesting that in the previous debate, our good friend, the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS), was using this precise argument regarding the gentleman's amendment.

Mr. QUIE. Mr. Chairman, when you look at the distribution of students in a large, populous county, it is no more of a concentration to have them over a large area in that number in the lower percentage than it is in a less populous county; because if you have 100 schools in one county or one school in another it seems to me that it depends on the number that are in each school.

If the concentration was on the number of students in each school, it would be a different situation. But it goes by county rather than each school.

Therefore, I think the amendment would be wise. All it would really do is, allocate money according to the number of poor students that actually exist in the school districts and in the schools.

Mr. FORD of Michigan. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, at the outset I would like to acknowledge with thanks the efforts that the gentleman from Minnesota (Mr. QUIE) put forth during consideration of this legislation to bring about what I consider to be major steps toward national equity in the distribution of all of the funds in the bill.

But once again, as the gentleman from New York (Mr. WEISS) has reminded us several times, we are talking about a portion of the total of what we considered in the committee. We are not talking here about the primary distribution formula in the Elementary and Secondary Education Act. We are talking about new dollars that President Carter has advocated that we spend this year in a specific way. He said that he is willing to increase his budget and ask for funds to add onto all of the basic formulas an additional pot of money to be aimed specifically at those areas which have an unusually high concentration of low-income children in attendance in their schools.

Mr. Chairman, at the risk of helping the gentleman's campaign in Minnesota, it is pretty obvious he is talking for rural Minnesota and not for Minneapolis or St. Paul. And it is pretty obvious that the gentleman from Ohio has forgotten that he has cities like Cincinnati, Cleveland, and Toledo in his State.

It is very interesting, when you look at the figures of the gentleman from Ohio (Mr. ASHBROOK), you will find that both Minnesota and Ohio appear to get more money out of the concentration formula by the Ashbrook amendment. But it is kind of interesting that, while the State of Ohio as a totality would receive $1 million more than it does under the committee bill—that is, the State of Ohio, when measured against other States, would receive $1 million more—just two cities, Cleveland and Cincinnati, will lose more than $2.5 million under the gentleman's amendment.

As a result, two of the cities within the State would lose 2½ times as much as the rest of the State would gain.

Mr. Chairman, we are not talking about additional dollars in the Ashbrook amendment. We are talking about just passing them out in a different way.

When one looks at the statement, he finds the same thing. Interestingly, Minnesota does gain as a State vis-a-vis the other States. However, when one looks at Minneapolis and Hennepin County. he discovers that the amount of money they would get is cut in half.

Mr. Chairman, that is the whole point with respect to this part of the bill. The reason that this kind of dramatic dislocation occurs, when one looks at the total State population and then looks at selected parts of that population, is that the formula in the bill is designed to target these extra dollars on top of the regular formula toward that part of the State that has the greatest need when using the basic formula to make that measurement. In a State with a large rural population, the very poor population will attract most dollars. The lowest income level part of the State, whether it be in the center cities or in the rural areas, will attract these dollars.

If we break it down by counties within the State, we will find what happens—and here I must make a confession that I am speaking against my own interests. It is very obvious that in my State of Michigan, we would take money out of Detroit and take money out of northern Michigan and rural Michigan, and put it into my suburban district under this amendment. If we had done nothing in the committee to adjust the formula, so that school districts like mine would get, in my opinion, a little better shake than they were getting in the past I would probably support this amendment out of pure selfishness. However, that would be shortsighted on my part, because the few dollars that I could pick up under the Ashbrook amendment would be wiped out if we abandoned this very carefully put together formula which tries to deal with all segments of the population and all areas of the country with a certain equity.

Mr. Chairman, if we pull out a major component like this concentration formula and destroy it, as the Ashbrook amendment would, then we have really pulled out a centerpiece or a keystone of the arch of the agreement we have developed.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(On request of Mr. ASHBROOK and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I thank the gentleman for yielding.

I certainly can agree that there are honest differences of opinion on this subject. The gentleman is ably presenting his own point of view. He always has.

However, Mr. Chairman, the gentleman keeps talking about the money these counties will or will not get. We are debating an initial program so there is no loss of money to any one at this point. My objective is to have the program start out fairly. Therefore, they have not lost any money in this amendment. I know about cities like Cincinnati and Cleveland and their problems and their ability to get money.

Mr. Chairman, I have just one question. In my own State, by the breakdown, in Butler County, which is represented by my colleague, the gentleman from Ohio (Mr. KINDNESS), the percentage of low-income children is 8.7. They have 5,186 children falling into that low-income area. Richland County has almost 1 full percent more, but they only add up to 3,251, so they are not qualified.

Mr. Chairman, I would ask my friend and colleague—and he is my friend; we have battled many times, but I know he wants to be fair—What is the equity in telling Butler County, because they have 5,186, that they can get aid, but Richland County, with 1 percent more, but the total adds up to only 3,251, is not going to qualify?

Mr. FORD of Michigan. Mr. Chairman, may I first say to my friend, the gentleman from Ohio (Mr. ASHBROOK), that when I am talking about the winning and losing under the formula, I am following the path he set with his "Dear Colleague" letter, which enclosed his chart entitled, "States To Benefit by Amendment." I am countering that, and I intend to put both charts in the RECORD at the appropriate time. Mine is entitled, "Selected Cities Losing by Amendment":

STATES TO BENEFIT BY ASHBROOK AMENDMENT

State	Money		County dispersion	
	Present bill	As amended	Present bill	As amended
Alabama	10,139,000	10,618,000	66	67 (T)
Alaska	472,000	693,000	18	28 (29)
Arkansas	4,935,000	6,070,000	66	75 (T)
Colorado	1,796,000	3,256,000	23	62 (63)
Delaware	605,000	929,000	1	3 (T)
Georgia	9,164,000	11,298,000	133	159 (T)
Idaho	23,000	857,000	3	44 (T)
Indiana	2,291,000	4,477,000	4	92 (T)
Iowa	131,000	3,286,000	5	99 (T)
Kansas	833,000	2,756,000	14	105 (T)
Kentucky	6,559,000	8,077,000	95	120 (T)
Maine	194,000	1,415,000	3	16 (T)
Minnesota	2,001,000	4,992,000	23	87 (T)
Missouri	5,640,000	6,665,000	56	115 (T)
Montana	203,000	1,215,000	16	56 (57)
Nebraska	729,000	1,970,000	30	91 (93)
Nevada	152,000	424,000	1	16 (17)
New Hampshire	0	521,000	0	10 (T)
New Mexico	2,664,000	3,266,000	27	31 (32)
North Carolina	8,475,000	12,095,000	76	100 (T)
North Dakota	252,000	1,048,000	20	53 (T)
Ohio	9,612,000	10,617,000	21	88 (T)
Oklahoma	3,218,000	4,628,000	51	77 (T)
Oregon	1,445,000	3,378,000	5	36 (T)
Pennsylvania	16,835,000	17,311,000	20	67 (T)
Rhode Island	1,202,000	1,243,000	1	5 (T)
South Carolina	6,770,000	8,049,000	39	46 (T)
South Dakota	526,000	1,401,000	37	67 (T)
Tennessee	8,494,000	9,463,000	85	95 (T)
Utah	727,000	1,139,000	3	29 (T)
Vermont	5,000	606,000	2	14 (T)
Virginia	5,360,000	8,954,000	81	134 (T)
Washington	3,004,000	3,980,000	9	39 (T)
West Virginia	2,540,000	4,178,000	41	55 (T)
Wisconsin	3,045,000	5,716,000	13	72 (T)
Wyoming	2,000	493,000	1	23 (T)

SELECTED CITIES LOSING BY AMENDMENT DIFFERENCE BETWEEN ALLOCATIONS UNDER HOUSE AND TWO PERCENT ALTERNATIVE, TITLE I, ESEA FORMULA—SIMULATED ALLOCATIONS—FISCAL YEAR 1979

[Dollars in thousands]

State and district/county name	House I, no minimum	2 percent alternative
Alabama:		
Birmingham (Jefferson)	$2,402.3	$1,458.3
Mobile	1,546.1	1,028.2
Arkansas: Little Rock (Pulaski)	741.6	578.3
Arizona: Phoenix Union High (Maricopa)	2,558.8	1,480.7
California:		
Los Angeles	21,668.2	12,539.1
Oakland (Alameda)	2,706.0	1,567.9
San Francisco	1,510.2	1,013.9
San Diego	3,423.4	1,981.1
Colorado: Denver	1,261.2	871.3
Florida: Miami (Dade)	3,438.7	1,989.9
Georgia: Atlanta (Fulton)	2,063.3	1,283.9
Indiana: Indianapolis (Marion)	1,336.1	809.0
Illinois: Chicago (Cook)	18,542.0	10,730.0
Kentucky: Louisville (Jefferson County)	1,476.9	908.9
Louisiana: New Orleans (Orleans Parish)	3,516.1	2,118.3
Massachusetts: Boston (Suffolk)	3,068.4	1,900.5
Maryland: Baltimore City	5,259.8	3,077.5
Michigan: Detroit (Wayne)	11,246.1	6,508.0
Minnesota: Minneapolis (Hennpin)	1,206.3	709.1
Missouri: St. Louis City	617.5	357.4
New Jersey:		
Jersey City (Hudson)	1,886.4	1,242.1
Newark (Essex)	4,266.8	2,506.2
New York:		
Buffalo (Erie)	2,749.7	1,591.2
New York City (Queens, Bronx, Manhattan, Richmond, Kings)	43,647.7	25,500.6
Ohio:		
Cincinnati (Hamilton)	1,968.8	1,160.6
Cleveland (Cuyahooga)	3,579.3	2,071.3
Oklahoma: Oklahoma City	998.6	674.6
Pennsylvania:		
Philadelphia	9,717.6	5,623.4
Pittsburgh (Allegheny)	3,796.9	2,197.2
Tennessee: Memphis City (Shelby)	3,407.5	2,017.5
Texas:		
Dallas	2,999.8	1,735.9
Houston (Harris)	4,734.8	2,740.0
Wisconsin: Milwaukee	2,845.2	1,646.5

We have done a computer run on the gentleman's amendment, and we can show the Members of the House, city by city, exactly what it costs to redistribute the money in the way the gentleman from Ohio (Mr. ASHBROOK) would have it redistributed.

More importantly, Mr. Chairman, we have to keep in mind that this is clearly a program which is going to give rural poor and city poor an advantage in the distribution over suburban poor.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. WEISS and by unanimous consent Mr. FORD of Michigan was allowed to proceed for 3 additional minutes.)

Mr. FORD of Michigan. It is important that we bear in mind that this is exactly what this one part of the bill intends to do. We take care of other groups in other places.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I appreciate the gentleman yielding to me.

Mr. Chairman, I understand the importance of what the gentleman from Michigan is saying, and I associate myself with his remarks. The one point I think could be made here is, what is the magic in the criteria on the basis of the 50 largest cities? Why should it not be on the basis of the 10 largest cities, or the 25 largest cities, or the 40 largest cities?

I will tell the Members why. It is a marriage of convenience, getting it low enough so that it can be distributed politically attractive.

I think the point made by the gentleman from Michigan (Mr. FORD) with regard to concentration is a good one. Where we have 5,000 students, or a high enough percentage, we solve these problems, but when we disperse them on the basis of smaller concentrations or districts, the problems are substantially different.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from New York.

Mr. WEISS. Mr. Chairman, I appreciate the gentleman yielding to me. I wonder if we ought not to make note of the fact that because of the adoption of the Blouin-Jeffords amendment, a number of the concerns which were expressed by the gentleman from Ohio (Mr. ASHBROOK) have been addressed to an even greater extent than his amendment would.

For example, Wyoming would be increased, under this formula from $2,000, to $493,000, but under the Blouin-Jeffords formula, it would go to $1 million. Vermont, from $606,000 under Ashbrook to $1 million under Blouin-Jeffords. Nevada in the same way from $424,000, to $1 million and Alaska from $693,000, to $1 million. Eleven other rural States have been similarly benefited.

So, it seems to me that many of the concerns expressed by the gentleman from Ohio clearly have been taken care of by the well thought out amendment offered by Mr. JEFFORDS and Mr. BLOUIN. Beyond that, I would like to make some comment on another point well made by the gentleman from Michigan, Alabama, for example, is supposed to gain between $500,000 and $800,000, under this amendment but Birmingham would lose $800,000 and Mobile, Ala., would lose almost $500,000. St. Louis would lose $100,000. Oklahoma City would lose $300,000. Philadelphia would lose $4 million. Pittsburgh would lose $1 million. Memphis, Tenn., would lose $1.3 million. The same situation would prevail as to every major city in the country.

The CHAIRMAN. The time of the gentleman from Michigan has again expired.

(At the request of Mr. ASHBROOK and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 2 additional minutes.)

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I I thank my colleague for yielding to me. I think the thing we are all in agreement on in throwing these figures around, is that this does not make a lot of sense. We all use figures, computer printouts, and I am glad the gentleman is going to put his in the RECORD also. I think we ought to fairly present what is going to happen.

In addition, Mr. Chairman, my colleague from Minnesota (Mr. VENTO) indicated the question, why not use the 10 largest cities? I will tell him very simply why. It would make almost everyone qualify because, if we take the 10 largest cities, we are only talking about getting up and having 2 percent of the total. I was trying to make it average out at 2 percent, but if we use the 10 largest cities, they would qualify on 5,000, or 1 percent total poverty. So, at least we ended up by using the top 50 cities. which I think makes it more equitable. But, if we will do it on the 10 largest, it would make every district in the country qualify.

Mr. BUCHANAN. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Alabama.

Mr. BUCHANAN. Mr. Chairman, I want my colleagues to know that as an act of pure statesmanship, having nothing to do with the fact that I represent Birmingham, Ala., which will lose substantially under the gentleman's amendment, I am going to stand by this formula and vote for the gentleman's amendment, although it costs my State a half million dollars.

Our compromise was not perfect, but it is at least less worse than might have been, and I think it is reasonably good national legislation.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, if we start off with the premise that this formula comes close to being as perfect as possible then we do see that there are cities that will lose money. It seems to me that the situation either in the school or the whole school district is what we ought to deal with. So, if one county qualifies even though there is no possibility of 5 percent, while another county has qualified with 20 percent, we start out with what is basically on unfair basis.

That is what bothers me. What is magic about 5,000 low income students is beyond me.

Mr. BLOUIN. Mr. Chairman, I rise in opposition to the amendment.

Very briefly and in response to the comments of the gentleman from Minnesota, if we were talking about this being the basic funding for elementary and secondary education, his point would be well taken. However, we are talking about a small part—$400 million—to be concentrated on top of everything else in those areas that have the greatest need.

If he or the gentleman from Ohio were to present an amendment to establish some kind of general revenue funding, general revenue sharing by the school districts on the basis of enrollment across the board, essentially what the 2 percent would be anyway, I think I would find myself in favor of it. It was in that position at the subcommittee level.

But when we are adding a new program on a base program that has a great deal more money involved, and when the purpose is to help concentrate, then I think we ought not to kid ourselves. We are eliminating concentration, and we will be trying to spread the $400 million so thin as to accomplish nothing in terms of the goal of this whole section of the act.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Illinois.

Mr. SIMON. I would simply concur. We have to remember where we started from. This started out as a program for the urban areas. It was at my request in the subcommittee that we added the 20 percent, so in those rural areas where there is a heavy concentration of poor they would be eligible, but this is designed as one small part of a total package for the urban areas.

I concur with my colleague, the gentleman from Iowa, that we should defeat the amendment and move on. We have worked out a reasonably balanced package.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, in the committee we were trying to work out the concentration problem. The gentleman from Illinois was proposing another formula. I think that also is a more equitable way.

If I recall correctly, the bill came in from the administration with requirements for 5,000 and 20 percent low-income students.

However, what the gentleman from Illinois was attempting to do was to make certain that the 5,000 only applied when it was 10 percent or more of the population. That failed in the committee, because there was recognition in the committee that the 5,000 was a very low percentage in many of the counties.

As the gentleman from Ohio indicates 5,000 students may be less than 1 percent of a county's school age population. Three-tenths of 1 percent qualifies in some counties. The committee bill attempts to concentrate the money in a relatively few districts.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I believe the gentleman from Minnesota is incorrect in that, because it came in with a 5,000 figure and I have some rural areas where we have real pockets of poverty which would be totally ineligible under the bill as it came into the subcommittee. I suggested the 20-percent figure and I am pleased it was accepted.

Mr. EILBERG. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The gentleman from Ohio proposes that any county with 2 percent of the population living below the poverty level be eligible for funds under the concentration formula defined in part C. I submit that the gentleman's amendment would destroy the intent and impact of part C, which is to provide additional assistance to local educational agencies in counties with especially high concentrations of children from low income families.

Part C is a vitally needed addition to the current title I program. The amendment offered by the gentleman from Ohio would do serious damage to the concept and implementation of part C by taking badly needed funds from impoverished areas and redirecting these Federal moneys to areas with little concentration of low income students.

Let me give you an example of what would happen in Pennsylvania if the Ashbrook amendment is accepted. Under the committee version of H.R. 15, 20 counties in Pennsylvania are eligible to receive funds under the concentration formula. If we were to operate under the distribution formula proposed by the gentleman from Ohio, all 67 counties in Pennsylvania would be eligible for the special funds. I think you will agree, Mr. Chairman, that if every county in the State receives these special funds, the concept of concentrated funds is rendered meaningless.

We have to remember that these funds are intended for school districts with high concentrations of poverty-level children. Specifically, the intent of the concentration funds is to help inner-city and rural school districts achieve educational parity with wealthier districts.

Under the formula proposed by the gentleman from Ohio, school districts in 98 percent of the counties in the Nation would qualify for concentration funds. Therefore, if the Ashbrook amendment is approved, concentration funds would go to almost all school districts. In many cases, the amount of Federal aid would be so small as to be inconsequential. In fact, in some instances, the cost of completing the forms required to qualify for these funds would be greater than the funds themselves.

Mr. Chairman, commonsense tells us that, if more school districts get concentration funds, the school districts that really need the additional money will not get as much as they need.

For example, Philadelphia would suffer a great deal under the formula proposed in this amendment. While the Commonwealth of Pennsylvania would receive an additional $500,000, areas of dense poverty such as Philadelphia, would lose nearly one-half of their concentration funds because the money would be so widely distributed.

In Philadelphia, we have been working hard to upgrade our inner-city schools. And we have had a good deal of success.

Since 1974, in each grade from kindergarten through 12th grade, we have had a consistent and systematic reduction in the number of children scoring below the 16th percentile in standard achievement tests. In 1974, 40 percent of the title I children scored below the 16th percentile. Now, in 1978, we have reduced the number to 29 percent of the title I students scoring below the 16th percentile.

I think you will agree, Mr. Chairman, that these figures represent significant progress. If this rebuilding process is to continue, we need the additicnal funds that will come from the newly created part C of title I. The Philadelphia school district would receive approximately $9.7 million in concentration funds. These funds are earmarked for schools in which individual achievement has been stunted by severe poverty. The Ashbrook amendment would slash concentration funds for Philadelphia to $5.6 million, draining a much needed $4.1 million from the Philadelphia schools.

Pittsburgh, the second largest poverty area in Pennsylvania, would face a similar reduction in assistance. Under the funding formula proposed by the gentleman from Ohio, concentration funds for the Pittsburgh school district would be cut from $3.8 million to $2.2 million.

Mr. Chairman, the Ashbrook amendment is appealing—but in a deceptive sense.

A great number of school districts would get additional Federal funds. A great many Members of Congress would have more Federal dollars flowing into their district.

But, in the final analysis, this amendment would destroy the concept of concentration funds, and would be an educational disaster for poverty-stricken areas desperately in need of the extra money.

● Mr. LEHMAN. Mr. Chairman, I strongly oppose the Ashbrook amendment and plan to vote against it. Dade County, which includes most of my district, would lose on estimated $1.4 million.

The committee studied the problems of school districts which have high concentrations of poor children, and it was shown that children in these districts require more intensive remedial help since poverty has a negative effect on individual achievement.

With this in mind, the committee agreed to provide supplemental grants to school districts with large concentrations of poor children. I urge my colleagues to support the committee's recommendation and reject the Ashbrook amendment.

By spreading the limited concentration funds around, many of the small rural counties appear to benefit from this amendment. In reality, it is nothing more than a false promise. If the amendment is adopted, the committee's proposal for supplemental grants will be a concentration provision in name only and may never be funded at all. The administration is already on record stating that it will not propose funding for this section if the committee's intent is negated.

Twelve of Florida's 67 counties would lose funds outright. Another 30 would lose as much or more than they would gain if the amendment is adopted and the program never funded. In fact, all but 10 of Florida's 67 counties stand to lose if the House approves the amendment.

I urge each of my colleagues to carefully consider just what the impact of this amendment will be on his or her district and then to vote against it.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote, and, pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Mr. ASHBROOK. Mr. Chairman, may I withdraw my point of order that a quorum is not present and just ask for a recorded vote?

The CHAIRMAN. The Chair will state that the Chair has already recognized the absence of a quorum and the House may not proceed with its business until a quorum is assembled.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The CHAIRMAN. The pending business is the demand of the gentleman from Ohio (Mr. ASHBROOK) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments to title I?

If not, the Clerk will read.

The Clerk read as follows:

TITLE II—AMENDMENT TO TITLE II OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

EXTENSION OF AUTHORITY

SEC. 201. (a) Section 201(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1983".

(b) Section 204(b) of such Act is amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1983".

(c) Section 202(a) of such Act is amended by inserting "the Northern Mariana Islands," after "the Virgin Islands," each place it appears.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that title II be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to seek a point of clarification regarding the requirements which State compensatory education programs must meet in order to qualify for title I funds made available under the new special incentive grants provision contained in subpart 2 of part A of title I of H.R. 15.

It is my understanding that State compensatory education programs must meet a number of requirements before funds for these programs can be used to create matching title I funds for the State.

I strongly support the use of these requirements which are contained in section 41(b) of the bill.

Through these requirements, Mr. Chairman, we can insure that the new incentive grant provision will encourage the growth of State compensatory education programs and therefore increase the amount of compensatory education services to the title I target population.

However, Mr. Chairman, I would like to clarify the meaning of one of these criteria, namely, section 41(b)(1) which requires that all children participating in the State compensatory education programs are educationally deprived.

Specifically, Mr. Chairman, does the phrase, "educationally deprived" include children of limited or non-English speaking ability?

I believe that the inclusion of limited or non-English speaking children is wholly consistent with the intent of the special incentive grant provision.

Clearly, Mr. Chairman, these students are not performing at grade level, and are therefore educationally deprived.

In addition, Mr. Chairman, I believe that this interpretation is consistent with other provisions of title I which are designed to encourage the growth of State compensatory education and bilingual education programs. An example, Mr. Chairman, is the exemption for certain special State programs from the title I comparability requirement which has been in place since 1974 and is contained in section 41(a)(1)(D) of H.R. 15.

Mr. Chairman, I would appreciate it if you could clarify this matter for me.

Mr. PERKINS. Mr. Chairman, if the gentleman will yield, my understanding of section 21 of title I as amended by H.R. 15 is that it is meant to encourage States to spend their own funds for compensatory education for disadvantaged children. These compensatory programs should be available to all children—those who are simply educationally disadvantaged as well as those who are educationally disadvantaged due to difficulty in understanding English.

I do not believe, however, that State programs of bilingual education should also qualify as regular compensatory education programs. It would seem to me that those programs are somewhat differently oriented than regular compensatory programs and, therefore, must be treated differently.

But, again, I want to emphasize that that provision of the bill is meant to encourage State compensatory programs regardless of which children participate in those programs. In other words, children would be accorded services as they are under title I.

Mr. MILLER of California. Mr. Chairman, I thank the gentleman.

The CHAIRMAN. Are there amendments to title II? If not, the Clerk will read.

The Clerk read as follows:

TITLE III—AMENDMENT TO TITLE III OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

EXTENSION OF AUTHORITY

SEC. 301. (a) Section 301(b) of the Elementary and Secondary Education Act of 1965 is amended by striking out "October 1, 1979" each place it appears and inserting in lieu thereof "October 1, 1983".

(b) Section 305(c) of the Act is amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1983".

(c) Section 309(c) of the Act is amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1983".

(d) Section 302(a) of such Act is amended by inserting "the Northern Mariana Islands," after "the Virgin Islands," each place it appears.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent

that title III be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there amendments to title III?

AMENDMENTS OFFERED BY MR. MOTTL

Mr. MOTTL. Mr. Chairman, I offer two amendments to title VIII and I ask unanimous consent that they may be considered en bloc and out of order and printed in the RECORD.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. MOTTL: On page 242, line 3, strike "Commissioner" and insert in lieu thereof "state".

On page 242, strike out the sentence beginning on line 25 and terminating on page 243 at line 3, and insert in lieu thereof a new sentence to read as follows: "Grants awarded under this section may be used by applicants to either continue to implement their ongoing educational proficiency plans, or to implement new plans, including the provision of supplementary instruction to be provided to students who fail the examinations."

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. MOTTL. Mr. Chairman, I would certainly like to express my deep appreciation to the chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS), and also to the ranking minority member, "Governor" QUIE.

The two amendments that I am offering basically do these two things:

First of all, it assures that the States are the bodies that choose which subjects are to be tested.

This amendment is needed to alleviate State concerns of too much Federal intrusion about what subjects would be tested under the competency testing program.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. MOTTL. I yield to the gentleman from Kentucky, the distinguished chairman of the committee.

Mr. PERKINS. Mr. Chairman, first let me compliment the distinguished gentleman from Ohio (Mr. MOTTL) for offering the amendment in further clarification of the provisions he offered in committee to this section. It has always been the policy of the Committee on Education and Labor to make sure that the States are the ones which administer the law, without any Federal control. That is just what the gentleman's amendment here does. It assures that States with ongoing minimum competency programs will be eligible for assistance to improve those programs, and that it will be the States themselves and not the Federal Government which determine what tests will be given.

Mr. Chairman, there is no objection to the amendments on this side of the aisle, and we accept them.

Mr. MOTTL. I thank the gentleman.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. MOTTL. Yes, I yield to the distinguished gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I thank the gentleman from Ohio (Mr. MOTTL) for the amendments he is offering. I think they are good substitute amendments which will improve the bill, and I accept them.

Mr. MOTTL. Mr. Chairman, I thank the gentleman.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. MOTTL. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I simply want to compliment the gentleman from Ohio (Mr. MOTTL) for his leadership in this area.

He is touching on something which many people believe is a major problem, and through his amendments we may be able to produce something which really has an impact.

Mr. Chairman, while I am on my feet, if I may have the attention of the gentleman from Minnesota (Mr. QUIE) for 1 minute, I just want to correct an earlier statement.

Earlier I said that the bill came in with 5,000 and 20 percent. I was incorrect. I had seen an earlier draft. My staff called my attention to the fact that in the initial draft which I received, the figure was 5,000, and I requested that the 20 percent be inserted. When it came into the committee, it was 5,000 and 20 percent, as the gentleman had suggested, and he was correct and his staff member was correct.

Mr. QUIE. Mr. Chairman, if the gentleman will yield further, I rather suspected that may have been the case before anyone looked at it. I thought the gentleman had seen it and that perhaps it was at the request of the administration that the 20 percent was put in there.

The gentleman is right. The first time it was 4,000 and 20 percent; and after the efforts made by the gentleman in the committee to have it set at 5,000, it had to go to the 20 percent. It really was the right thing that the gentleman was trying to do.

Mr. ASHBROOK. Mr. Chairman, will the gentleman yield?

Mr. MOTTL. I yield to the gentleman from Ohio.

Mr. ASHBROOK. Mr. Chairman, I certainly want to take the time to signally commend my friend and colleague, the gentleman from Ohio (Mr. MOTTL), for his work in this area.

In a bill which encompasses almost 400 pages there are many matters which are of varying degrees to importance. Any one item may be important to some particular person advocating it but nationally it may be of minor importance.

I think what the gentleman from Ohio has done is of overall National importance. I am glad it is going to be a part of this bill in whatever shape it takes at the end.

Mr. MOTTL. Mr. Chairman, I thank the gentleman from Ohio (Mr. ASHBROOK).

I would especially like to thank the gentleman from Minnesota (Mr. QUIE) and the gentleman from Illinois (Mr. SIMON) for their help in these two sections, sections 813 and 814. I think these two sections are extremely important to the educational system of the United States and will certainly help to enable our educational community to get back to the basics.

Mr. Chairman, I ask at this time that we adopt the amendments en bloc.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. MOTTL).

The amendments were agreed to.

The CHAIRMAN. Are there further amendments to title III?

If not, the Clerk will read.

The Clerk read as follows:

TITLE IV—AMENDMENTS TO TITLE IV OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

GUIDANCE AND COUNSELING

SEC. 401. (a)(1) Section 401(a)(1) of the Elementary and Secondary Education Act of 1965 is amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1983".

(2) Section 401(b)(1) of such Act is amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1983" and by striking out "$350,000,000" and inserting in lieu thereof "$450,000,000".

(3) Section 401(d) of such Act is amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1983".

(b) Section (c) of section 401 of such Act is amended to read as follows:

"(c)(1) There are authorized to be appropriated $80,000,000 for obligation by the Commissioner during the fiscal year ending September 30, 1980, and such sums as may be necessary for obligation by the Commissioner during each of the succeeding fiscal years ending prior to October 1, 1983, for the purpose of making grants under part D of this title.

"(2) Notwithstanding the provisions of subsections (a)(1) and (b)(1) and paragraph (1) of this subsection—

"(A) no funds are authorized to be appropriated pursuant to any of of such subsections or paragraph for any fiscal year unless appropriations for that fiscal year are made pursuant to both such subsections and to such paragraph; and

"(B) no funds are authorized to be appropriated pursuant to subsections (a)(1) and (b)(1) for the fiscal year which is the first fiscal year for which appropriations are made under this subsection unless the amount appropriated for such fiscal year pursuant to this subsection is at least equal to $18,000,000; and, thereafter, no funds are authorized to be appropriated pursuant to subsections (a)(1) and (b)(1) for any fiscal year unless the amount appropriated for that fiscal year pursuant to this subsection is at least equal to the amount appropriated the preceding fiscal year."

(c)(1) Section 402 of such Act is amended—

(A) in the first sentence of subsection (a)(1) by striking out "subsections (a) or (b), or both" and inserting in lieu thereof "subsection (a), (b), or (c), or all or any of such subsections";

(B) in the second sentence thereof by striking out "part B or part C, or both," and inserting in lieu thereof "the appropriate parts";

(C) in the first sentence of subsection (a)(2) by striking out "both" and inserting in lieu thereof "part D, as the case may be" and by striking out "(a) and (b)" and inserting in lieu thereof "(a), (b), and (c)"; and

(D) in subsection (b), by striking out "or C" and inserting in lieu thereof "C, or D as the case may be".

(2) Section 403 of such Act is amended—

(A) in subsection (a)(2), by striking out

"and C" and inserting in lieu thereof "C, and D";

(B) by striking out paragraph (7) of subsection (a) and redesignating paragraphs (8) through (11) as paragraphs (7) through (10), respectively;

(C) in paragraph (7)(A), as so redesignated, by striking out "section 401" each place it appears and inserting in lieu thereof "sections 401(a) and 401(b)" in each instance and by inserting "the Northern Mariana Islands," after "the Virgin Islands,"; and

(D) in subsection (b), by striking out paragraph (5) thereof.

(3) Section 405 of such Act is amended by striking out "and C" and inserting in lieu thereof "C, and D".

(d) Section 421 is amended by—

(1) striking out "; and" at the end of paragraph (2) of subsection (a) and inserting in lieu thereof a period and by striking out paragraph (3) of such subsection; and

(2) in subsection (b) by striking out "and so much of title III as relates to testing, counseling, and guidance,".

(e) Title IV is further amended by inserting at the end thereof the following new part:

"PART D—GUIDANCE, COUNSELING, AND TESTING PROGRAM

"SEC. 451. (a) The Commissioner shall carry out a program of making grants to the States to support guidance and counseling activities in the States for—

"(1) State leadership and supervisory services in the fields of guidance, counseling, and testing; and

"(2) comprehensive guidance, counseling, and testing programs in elementary and secondary schools throughout the State, including such serviecs as—

"(A) elementary and secondary school counseling,

"(C) supervision and leadership services at the local level,

"(D) program planning and development,

"(E) special guidance and counseling programs suited to meet the special needs for such programs by persons who are disadvantaged,

"(F) a program of testing students in elementary and secondary schools, and

"(G) evaluation of such programs.

"(b) In addition to the activities described in subsection (a) the State educational agency may enter into contracts and make grants to State and local educational agencies, to institutions of higher education, and to private nonprofit organizations to assist them in conducting institutes, workshops, and seminars designed to improve the professional guidance qualifications of teachers and counselors in State and local educational agencies and nonpublic elementary and secondary school systems. Such programs may include (1) opportunities for teachers and guidance counselors in such agencies and systems to obtain experience in business and industry, the professions, and other occupational pursuits, (2) for the purpose of such improvement, such programs, services, or activities which bring individuals with experience in such pursuits into schools as counselors or advisors for students, and which bring students into the workplaces of such pursuits to acquaint students with the nature of the work, and (3) programs which training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and which improve supervisory services in the field of guidance and counseling which provide training for supervisory and technical personnel in such agencies and systems having responsibilities for guidance and counseling, and which improve supervisory services in the field of guidance and counseling.

"(c) Of the sums allotted to any State for any fiscal year for the purposes of this part, not to exceed 7½ per centum shall be available for the purpose described in clause (1) of subsection (a).

"(d) The Commissioner shall establish or designate an administrative unit within the Education Division for purposes of—

"(1) carrying out provisions of this part;

"(2) providing information regarding guidance and counseling as a profession, guidance and counseling activities of the Federal Government, and, to the extent practicable, activities of State and local programs of guidance and counseling; and

"(3) advising the Commissioner on coordinating guidance and counseling activities included in all programs which he is authorized to carry out, and, to the extent he deems practicable, how such activities may be coordinated with other programs of the Federal Government and State and local guidance and counseling programs.".

STATE LAWS

SEC. 402. (a) Section 403(a)(5) of the Elementary and Secondary Education Act of 1965 is amended by inserting after "described in section 421," the following: "except that the State educational agency shall insure that each local educational agency, in making that determination, has adopted appropriate procedures, including periodic consultation with teachers, librarians, media specialists, and other professional staff in the schools, and private school officials, to coordinate the selection of instructional equipment and materials under this part with curricula being carried out in the schools of that agency, and".

(b) Paragraph (7) of section 403(a) of such Act (as redesignated by section 401(c)(2)(B) of this Act) is amending by striking out "$50,000" each place it appears and inserting in lieu thereof "$75,000".

(c) Section 403(a) of such Act is amended by striking out "and" at the end of paragraph (9) (as redesignated by section 401(c)(2)(B) of this Act), by striking out the period at the end of paragraph (10) as so redesignated and inserting in lieu thereof a semicolon, and by adding at the end thereof the following:

"(11) sets forth the means by which the State will make information and technical assistance available to private nonprofit school officials who desire to arrange for children in those schools to participate in Federal elementary and secondary education programs; and

"(12) sets forth a comprehensive plan for the coordination of Federal and State funds for training activities for educational personnel in the State including preservice and inservice training, which plan shall be developed with the involvement of teachers, professional associations, institutions of higher education, and other interested individuals.".

(d) Section 403(b)(1)(A) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" at the end of division (ii), by striking out the semicolon at the end of division (iii) and inserting in lieu thereof ", and", and by adding after such division the following:

"(iv) school librarians, personnel involved in operating media programs in local schools, and guidance counselors;".

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 403. Section 406 of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

"SEC. 406. (a)(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this title or which serves the area in which a program or project assisted under this title is located who are enrolled in private nonprofit elementary and secondary schools, such agency, after consultation with the appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment including the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such service, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this title.

"(2) If no program or project is carried out under part B in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in such district are provided with services and materials under such part to the extent that would have occurred if the local educational agency had received funds under this title.

"(b) Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this title for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual children and other factors which relate to such expenditures. When funds available to a local educational agency under this title are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance areas, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

"(c)(1) The control of funds provided under this title and title to materials, equipment, and property repaired, remodeled, or constructed therewith shall be in a public agency for the uses and purposes provided in this title, and a public agency shall administer such funds and property.

"(2) Services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which in the provision of such services is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this title shall not be commingled with State or local funds.

"(d) If a State is prohibited by law from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Commissioner shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e)(1) If the Commissioner determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, he may waive such requirements and shall arrange for the provision of services to such children through arrangements

which shall be subject to the requirements of this section.

"(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Commissioner may withhold from the allocation of the affected State or local educational agency the amount he estimates would be necessary to pay the cost of those services.

"(f) Any determination by the Commissioner under this section shall continue in effect until the Commissioner determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) When the Commissioner arranges for services pursuant to this section, he shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this title.

"(h) The Commissioner shall not take any final action under this section until the State educational agency and local educational agency affected by such action have had an opportunity, for at least forty-five days after receiving written notice thereof, to submit written objections and to appear before the Commissioner or his designee to show cause why that action should not be taken.".

USE OF BOOKS AND EQUIPMENT

SEC. 404. Section 421(a) of the Elementary and Secondary Education Act of 1965 is amended—

(1) by inserting immediately before the semicolon at the end of paragraph (1) the following: ", which materials shall be used for instructional purposes only"; and

(2) by inserting immediately before the semicolon at the end of paragraph (2) the following: ", which equipment and materials shall be used for instructional purposes only".

USE OF INNOVATION FUNDS

SEC. 405. (a) Section 431(a) of the Elementary and Secondary Education Act of 1965 is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and", and by adding after such paragraph the following:

"(5) for developing and implementing model plans to demonstrate effective means of improving school management and fully coordinating all the Federal, State, and local resources available in a school in a manner designed to meet the individual needs of every child in such school.".

(b) Section 431 of such Act is further amended by adding at the end thereof the following new subsections:

"(c)(1) Funds available to the States under this part * * * section 403) for the purpose of encouraging innovation and improvement in compensatory education efforts. Such efforts may include but need not be limited to the following:

"(A) programs of grants to local educational agencies for summer bridge programs which provide students with continued academic improvement and stimulation during the summer months in order to preserve and increase the academic progress of such students in regular school year programs;

"(B) programs of parent education which enable parents to better contribute to their children's academic progress by such means as the conducting of parent education or parenting programs which promote partnership between parents and teachers and help parents develop the skills necessary to motivate and assist such children;

"(C) programs that provide retraining to improve the skills of teachers and other education personnel to enable such personnel to meet better the specific educational needs of the children served by such personnel; and

"(D) programs to develop educational materials for use by children in the home to improve student achievement in the basic skills.

"(2) Each State shall ensure that not less than 50 per centum of those funds appropriated for any fiscal year which exceed the amount appropriated for this part for the fiscal year ending September 30, 1979, will be used for the purposes of programs described in paragraph (1).

"(d) Funds may be provided to a local educational agency under this part for a particular activity for a period of not to exceed five fiscal years (excluding any period for which such agency received a planning grant for such activity), subject to the availability of appropriations for this part for each fiscal year. The amount provided to a local educational agency for any activity under this part shall decline after the third year, in accordance with criteria prescribed by the Commissioner, in order to ensure that successful practices developed with assistance under this part will be adopted and supported as part of the regular program of such agency.".

CONFORMING AMENDMENT

SEC. 406. Section 301 of the National Defense Education Act of 1958 is amended by striking out "September 30, 1979" and inserting in lieu thereof "September 30, 1983".

REPEAL

SEC. 407. Part D of title III of the Education Amendments of 1976 is repealed.

EFFECTIVE DATE

SEC. 408. The amendments and repeals made by this title shall take effect October 1, 1979.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that title IV be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENTS OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer amendments.

Mr Chairman, the amendments go also to title VI, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. QUIE: Page 131, after line 20, insert the following new subsection and redesignate the following subsections accordingly:

"(C) that not less than five per centum of the funds received pursuant to section 401(b) should be allocated for the purposes of subsections (6) and (7) of section 431 (a)."

Page 141, strike out lines 8 and 9 and insert in lieu thereof the following: "thereof a semicolon, and by adding after such paragraph the following:".

Page 141, strike out line 15 and insert in lieu thereof "school;" and insert after such line the following:

"(6) for early childhood and family education programs for children not yet enrolled in kindergarten programs and below age 6 for activities related to the identification of potential barriers to learning, the education of parents in child development, home-based programs, and referral services; and

"(7) programs of education on parenthood for students in secondary schools.".

Page 172, line 20, redesignate subsection (c) as subsection (d) and insert immediately before such line the following new subsection:

"(c) Funds provided under this section may also be used to fund early childhood and family education programs for children below kindergarten age. Such programs may include—

"(1) the identification of potential barriers to learning;

"(2) education of parents in child development, including education of parenthood programs for secondary school students; and

"(3) home-based programs of early childhood and family education."

Page 192, line 23, strike out "and" at the end of paragraph (10), on page 192, line 2, strike out the period at the end of paragraph (11) and insert in lieu thereof "; and" and after line 2 insert the following:

"(12) early childhood and family education grants for programs operated by State and local education agencies and public and private, non-profit agencies or organizations for children below age 6 which may include identification of potential barriers to learning, education of parents in child development, family services, education for parenthood programs and referral services.

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota that the amendments be considered notwithstanding the terms of the rule, and be considered en bloc?

There was no objection.

Mr. QUIE. Mr. Chairman, I offer a series of three amendments en bloc to H.R. 15. These three amendments would add somewhat similar language to the provisions of title IV regarding innovative programs to that section of the Special Projects Act dealing with early childhood programs and to the community education program. Both of these latter provisions are in title VI of H.R. 15. I seek unanimous consent to have these three amendments considered en bloc.

For several years Minnesota has had a very successful program of early childhood and family education. That program has been specifically designed to provide funding for some pilot and demonstration projects directed toward children who have not yet entered kindergarten and are below age 6.

The amendments which I offer would provide authority under the various titles which I have cited to identify potential barriers to learning, to educate parents in child development, to provide programs in the home of child development, and to support education programs on parenthood for students in secondary schools. Also eligible for support would be referral services which would enable these programs to reach out and direct participants to other sources of Federal, State, and local funding which might be of assistance.

The concept and thought behind this program has come primarily from my fellow Minnesotan, Jerry Hughes who is

the chairman of the State senate education committee. Senator Hughes is an acknowledged national authority in this field, having presented many papers on this subject and having served as a Bush fellow at the childhood and government project at the University of California in 1975. The concept of the program is based on the notion that learning begins at birth, that parents are the most important teachers of young children, and that early learning in the home is crucial. Statistics tell us that by the time the average child reaches the sixth grade, he or she will have spent only 7 percent of their time in the classroom and prior to kindergarten that percentage may be much lower, even zero. As Senator Hughes stated in a speech earlier this year before the American Education Finance Association meeting in Denver:

Studies in the early development of children have also indicated that the most lasting gains have come as a result of inhome intervention programs . . . a school does make a substantial difference . . . but the most effective and lasting effects on children are those that come as a result of efforts to utilize and build on his home environment . . .

In the pilot programs which have been operative in Minnesota, activities have included discussion groups for parents, education of the individual parent in the home, programs for children including supervised play and learning activities, coordination with libraries and other learning programs outside of the school, and programs for adolescents exploring childhood and parenthood. Perhaps as important as this list of activities is the fact that each program is different; each meets local needs and interests; and each is designed by an advisory committee of parents working with the sponsoring agency.

The amendments which I offer would permit activities of the type which I have described to be carried on in these several programs. The amendments would also require that 5 percent of the funds available under title IV, part C of ESEA would be specifically utilized for this purpose and would provide funding of more than $9 million. In the other two programs, I would expect that local groups, including schools, social service agencies, Head Start sponsors, church groups, or industry organizations might wish to avail themselves of the opportunity to submit proposals containing programs of this sort as a major component of community education and preschool programs.

I urge the adoption of my amendments.

Mr. PERKINS. Mr. Chairman, will the distinguished gentleman from Minnesota yield?

Mr. QUIE. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, first let me state that I very carefully went through the series of amendments, and I certainly see no objection to any of them. As I understand the gentleman's amendments, the first set of amendments earmarks at least 5 percent of each State's innovative funds for early childhood and family education programs, and for programs of parenthood education in high schools. The second set of amendments expands the authority for national level innovative programs to include funding of the same types of programs.

Mr. Chairman, these are good amendments, and I would urge all of my colleagues to accept them. I personally accept them, and recommend that they be adopted.

Mr. QUIE. I thank the chairman for his support.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota (Mr. QUIE).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. BLOUIN

Mr. BLOUIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLOUIN: Page 131, immediately after line 7 insert the following:

(C) in the third sentence thereof by inserting "(including not more than $75,000 for administration)" immediately after "amounts necessary".

Page 131, lines 8 and 13, redesignate the succeeding subparagraphs accordingly.

Mr. BLOUIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. BLOUIN. Mr. Chairman, this amendment merely allows the Bureau of Indian Affairs to utilize up to $75,000 for the administration of this title. Currently, they receive no funding for administration, as they do in the case of title I.

The need for this amendment was brought to my attention by the Office of Education in an informal discussion we had recently as to the lack of administrative funds for these programs. As a result, they are being seriously hampered in title IV.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I will be happy to yield to the chairman of the committee.

Mr. PERKINS. Mr. Chairman, first let me state that the distinguished gentleman from Iowa (Mr. BLOUIN), along with the gentleman from Minnesota (Mr. QUIE), have made an indepth study of Indian affairs in the country, perhaps the most thorough study that has ever been made by the U.S. Congress, in the last year and a half. As I understand the amendment, it grants up to $75,000 a year to the Bureau of Indian Affairs for the administration of the library and learning resources and innovation programs under title IV of the Elementary and Secondary Education Act.

Since the Bureau of Indian Affairs has clearly not monitored the use of these funds adequately up to the present. I can see the need for this provision and therefore, Mr. Chairman, we accept the amendment and hope that it will be adopted.

Mr. BLOUIN. I thank the chairman.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to my colleague, the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, as I understand the amendment, I think it is a good amendment and will certainly help the program for the Indians, and I support it.

Mr. BLOUIN. I thank the gentleman from Minnesota.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. BLOUIN).

The amendment was agreed to.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the early childhood and family education amendment. I have long supported this concept. In fact, I introduced legislation (H.R. 10364) which would establish pilot programs of early childhood and family education on a national level.

This proposal is designed to strengthen families and assist parents. Intellectual, physical, social, and emotional growth occur rapidly from birth to age 5. During these important years, the parents are the first and most significant teachers.

This amendment is based on a program with a proven record of success. Minnesota lawmakers recognized the connection between child development and effective parenting and enacted a series of pilot early childhood and family education programs in 1974. As a member of the Minnesota House of Representatives education aids subcommittee I can certify the wisdom of this initiative. This program began with 12 pilot programs and in 4 years has increased to 50 programs.

In March of 1977 an evaluation of these pilot programs was submitted to the Minnesota Council on Quality Education. It concluded,

These are outstanding demonstration programs—carefully conceived, diligently implemented and enthusiastically received by program participants. As full time evaluators we see a large variety of programs. It is rare, in our experience, to find a group of programs of such generally high caliber. We conclude this evaluation with a strong sense that these are deserving of greater public attention.

It is my opinion that on the basis of Minnesota's highly successful experience with early childhood and family education pilot programs it is time for the Federal Government to also become involved. The first step we can take is to approve this amendment.

As State Senator Jerome Hughes, an acknowledged leader in Minnesota in the field of early childhood education and chairman of the Minnesota Senate education committee, stated before a house subcommittee—

We now know that a child's education and character begin to develop in the prenatal period. Further the basic growth which takes place before age six, when formal education normally begins, is at least as important as the development which occurs after age six. Certainly these findings point out a tremendous need for early childhood education, as

well as prenatal education for the family. Motivation and early education have up to now been a product of early home life. This means that, although the child's early character may very well be affected by his parents love, the motivational and educational base he must acquire to successfully continue his education may not be provided because his parents lack the knowledge to deal with it. Perhaps the answer here is two-fold. The child must be provided early educational experiences. The family must also be instructed in family life in child raising, as well as in the basic approaches necessary to deal with early physical, mental and social needs of the child.

The education commission of the States produced a report entitled "The Role of the Family in Child Development." This report stated:

The responsibilities and skills required in caring for young children take young parents by surprise. Guiding the development of a young child from a helpless infant to a mature adult is a complex and unrelenting task, and the pleasure of having children can be overshadowed by the feelings of inadequacy, insecurity concerning child rearing methods and the lack of outside resources for advice, support, help and temporary relief from the continuous responsibilities of parenthood.

This clearly speaks to the need for programs to assist parents. Early childhood and family education programs could include such services as:

Center-based family education;

Home-based family education;

Center-based programs for young children;

Health screening and referral, primarily for learning disabilities;

Library loans of learning materials designed for parents; and

Adolescent participation in preparenting education.

I suggest that the difficulties of parenthood are magnified by the rapidly changing, highly mobile society we have today. There are few areas in which this Government can provide a more valuable and important service to its citizens than in assisting them to become the most enlightened and well informed parents possible.

In conclusion, I would like to quote from Vice President WALTER MONDALE:

The easiest people to ignore in American society are children. They usually accept being cheated with equanimity. They don't strike, they are just there.

The CHAIRMAN. There being no further amendments to title IV, the Clerk will read.

The Clerk read as follows:

TITLE V—AMENDMENT TO TITLE V OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

EXTENSION OF AUTHORITY

SEC. 501. (a) Sections 501(b), 521(b), and 531(b) of title V of the Elementary and Secondary Education Act of 1965 are each amended by striking out "October 1, 1979" and inserting in lieu thereof "October 1, 1983".

(b) Sections 502(a), 522(a), and 531(c)(1) of such Act are each amended by inserting "the Northern Mariana Islands," after "American Samoa," each place it appears.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that title V be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

There being no amendments to title V, the Clerk will read.

The Clerk read as follows:

TITLE VI—ESTABLISHMENT OF A NEW TITLE VI OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

AMENDMENT

SEC. 601. Title VI of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"TITLE VI—MISCELLANEOUS EDUCATIONAL PROGRAMS

"PART A—NATIONAL READING AND MATHEMATICS IMPROVEMENT PROGRAM

"STATEMENT OF PURPOSE

"SEC. 601. It is the purpose of this part to provide financial assistance to the States to enable them—

"(1) to provide financial assistance for (A) projects designed to strengthen reading and mathematics instruction in elementary and secondary grades, (B) projects for the development and enhancement of necessary skills of instructional and other educational staff for reading and mathematics programs, (C) projects to establish measurable objectives for reading and mathematics programs and to assess progress toward those objectives, (D) projects to develop the capacity of preelementary school children for reading and mathematics or to establish or improve preelementary school programs in language arts and reading and mathematics, or (E) projects to promote literacy among youth and adults;

"(2) to develop comprehensive programs to improve reading and mathematics proficiency and instruction in reading and mathematics in the elementary and secondary schools of the State;

"(3) to provide State leadership in the planning, improving, execution, and evaluation of reading and mathematics programs in elementary and secondary schools; and

"(4) to arrange for and assist in the training of special reading and mathematics personnel and specialists needed in programs assisted under this part.

"ALLOTMENTS TO STATES

"SEC. 602. (a)(1) From the sums appropriated pursuant to section 609(a) for each fiscal year which are available for carrying out this section and section 603, the Commissioner shall reserve such amount, but not in excess of 1 per centum of such sums, as he may determine, and shall apportion such amount to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part. Of the remainder of such sums, he shall allot an amount to each State which bears the same ratio to the amount available for allotment as the number of school age children (aged 5 to 17, inclusive) in each such State bears to the total number of such children in all the States, as determined by the Commissioner on the basis of the most recent satisfactory data available to him. The allotment of a State which would be less than $50,000 under the preceding sentence shall be increased to $50,000, and the total of the increases thereby required shall be derived by proportionally reducing the allotments to the remaining States under the preceding sentence, but with such adjustmens as may be necessary to prevent the allotments to any such remaining States from being reduced to less than $50,000.

"(2) For the purpose of this section the term 'State' includes the District of Columbia and the Commonwealth of Puerto Rico.

"(b) The amount allotted to any State under subsection (a) for any fiscal year which the Commissioner determines will not be required for that year shall be available for reallotment from time to time, on such dates during that year as the Commissioner may fix, to other States in proportion to the amounts originally allotted among those States under subsection (a) for that year, but with the proportionate amount for any of the other States being reduced to the extent it exceeds the sum the Commissioner estimates the local educational agencies of such State need and will be able to use for that year; and the total of these reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amount reallotted to a State under this subsection from funds appropriated pursuant to section 609(a) for any fiscal year shall be deemed part of the amount allotted to it under subsection (a) for that year.

"AGREEMENTS WITH STATE EDUCATIONAL AGENCIES

"SEC. 603. (a) Any State which desires to receive grants under section 602 shall, through its State educational agency, enter into an agreement with the Commissioner, in such detail as the Commissioner deems necessary, which—

"(1) designates the State educational agency as the sole agency for administration of the agreement;

"(2) provides for the establishment of a State advisory council on reading and mathematics, appointed by the State educational agency which shall be broadly representative of the educational resources of the State and of the general public, including persons representative of—

"(A) public and private nonprofit elementary and secondary school children,

"(B) institutions of higher education,

"(C) parents of elementary and secondary school children, and

"(D) areas of professional competence relating to instruction in reading and mathematics,

to advise the State educational agency on the formulation of a standard of excellence for reading and mathematics programs in the elementary and secondary schools and on the preparation of, and policy matters arising in the administration of, the agreement (including the criteria for approval of applications for assistance under such agreement) and in the evaluation of results of the program carried out pursuant to the agreement;

"(3) describes the reading and mathematics programs in elementary and secondary schools for which assistance is sought under section 602 and this section and procedures for giving priority to reading and mathematics programs which are already receiving Federal financial assistance and show reasonable promise of achieving success;

"(4) sets forth procedures for the submission of applications by local educational agencies within that State, including procedures for an adequate description of the reading and mathematics programs for which assistance is sought under section 602 and this section, and including a requirement that each such application shall set forth a reading and mathematics program which meets the requirements of subsection (f);

"(5) sets forth criteria for achieving an equitable distribution of that part of the assistance under section 602 and this section which is made available to local educational agencies pursuant to the second sentence of subsection (b) of this section, which criteria shall—

"(A) take into account the size of the population to be served, beginning with preschool, the relative needs of pupils in different population groups within the State for the program authorized by this part, and the financial ability of the local educational agency serving such pupils,

"(B) assure that such distribution shall include grants to local educational agencies having high concentrations of children with low reading or mathematics proficiency, and

"(C) assure an equitable distribution of funds among urban and rural areas;

"(6) sets forth criteria for the selection or designation and training of personnel (such as reading or mathematics specialists and administrators of reading programs) engaged in programs assisted under section 602 and this section, including training for private elementary and secondary school personnel, which shall include qualifications acceptable for such personnel;

"(7) provides for the coordination and evaluation of programs assisted under section 602 and this section;

"(8) provides for technical assistance and support services for local educational agencies participating in the program;

"(9) makes provision for the dissemination to the educational community and the general public of information about the objectives of the program and results achieved in the course of its implementation;

"(10) provides for making a report, at least once every three years, and such other reports, in such form and containing such information, as the Commissioner may reasonably require to evaluate the effectiveness of the program and to carry out his other functions under this part;

"(11) provides that not more than 5 per centum of the amount allotted to the State under section 602 for any fiscal year may be retained by the State educational agency for purposes of administering the agreement;

"(12) provides that programs assisted under section 602 and this section shall be of sufficient size, scope, and quality so as to give reasonable promise of substantial progress toward achieving the purposes of this part; and

"(13) provides that Federal funds expended under the program will supplement the level of State and local funds that would be available for such programs in the absence of Federal assistance, and in no event will supplant such State and local funds.

"(b) Grants for projects to carry out the purposes of section 602 and this section may be made to local educational agencies (subject to the provision of subsection (e) relating to the participation of private elementary and secondary school pupils), institutions of higher education, and other public and nonprofit private agencies and institutions. Not less than 60 per centum of the amount allotted to a State under section 602 for any fiscal year shall be made available by the State for grants to local educational agencies within that State.

"(c) The Commissioner shall enter into an agreement which complies with the provisions of subsection (a) with any State which desires to enter into such an agreement.

"(d) The Commissioner's final action with respect to entering into an agreement under subsection (a) shall be subject to the provisions of section 207 of this Act relating to judicial review.

"(e) The provisions of section 40 of this Act relating to the participation of children enrolled in private elementary and secondary schools shall apply to programs assisted under section 602 and this section.

"(f) Each application by a local educational agency within a State for assistance under section 602 and this section shall be developed in conjunction with teachers and building administrators in such district and set forth a reading and mathematics program which provides for—

"(1) diagnostic testing designed to identify pre-elementary, elementary, and secondary school children with reading and mathematics deficiencies, including the identifications of conditions which, without appropriate other treatment, can be expected to impede or prevent, or to continue to impede or prevent, children from learning to read or to do mathematics;

"(2) planning for and establishing comprehensive reading and mathematics programs which address the needs of all students and which utilize, in a coordinated fashion at the local educational agency and school building level, resources from all Federal, State, and local sources and which involve teachers, administrators, and parents in the development of the comprehensive programs;

"(3) reading instruction for elementary and secondary school pupils whose reading and mathematics achievement is less than that which would normally be expected for pupils of comparable ages and in comparable grades of school;

"(4) to the extent practicable, preservice training programs for teaching personnel including teacher-aides and other ancillary educational personnel, and in-service training and development programs, where feasible, designed to enable such personnel to improve their ability to teach students to read or to do mathematics;

"(5) participation of the school faculty, and students in reading and mathematics related activities which stimulate an interest in reading and mathematics and are conducive to the improvement of reading and mathematics skills, and parent participation in the development and implementation of such activities;

"(6) local educational agency school board participation in the development of programs;

"(7) periodic testing in programs for elementary and secondary school children on a sufficiently frequent basis to measure accurately reading and mathematics achievement, and for programs for preelementary school children a test of reading and mathematics proficiency at the conclusion, minimally, of the first-grade program into which the nursery and kindergarten programs are integrated;

"(8) publication of test results on reading and mathematics performance by grade level, and where appropriate, by school, without identification of performance of individual children;

"(9) availability of test results on reading and mathematics performance on an individual basis to parents or guardians of any child being so tested;

"(10) participation on an equitable basis by children enrolled in nonprofit private elementary and secondary schools in the area to be served (after consultation with the appropriate private school officials) to an extent consistent with the number of such children whose educational needs are of the kind the program is intended to meet;

"(11) the use of bilingual education methods and techniques to the extent consistent with the number of elementary and secondary school-age children in the area served by a reading and mathematics program with limited English language skills;

"(12) to the extent practicable, appropriate involvement of leaders of the cultural and educational resources of the area to be served, including institutions of higher education, nonprofit private schools, public and private nonprofit agencies such as libraries, museums, educational radio and television, and other cultural and education resources of the community; and

"(13) assessment, evaluation, and collection of information on individual children by teachers during each year of a preelementary program, to be made available for teachers in the subsequent year, in order that continuity for the individual child not be lost.

"(g) In addition to the grants authorized in subsection (f), the State educational agency may also make grants to support activities designed to enlist the assistance of parents working with schools to improve the skills of their children in reading, mathematics, and oral and written communication. Activities that may be supported under this section include—

"(1) the development and dissemination of materials that parents may use in the home to improve their children's performance in those skills;

"(2) the encouragement of closer contacts between parents and teachers to improve the coordination between learning experiences in the home and those in school;

"(3) planning for, developing, and improving centers accessible to parents to provide materials and professional guidance, including volunteers, for parents who desire to assist in the instruction of their children; and

"(4) the demonstration of training programs for parents who desire to develop new skills to complement the instruction their children receive in school.

"READING ACADEMIES

"SEC. 604. (a) The Commissioner is authorized to make grants to and to enter into contracts with State and local educational agencies, institutions of higher education, community organizations and other nonprofit organizations, having the capacity to furnish reading assistance and instruction to in-school as well as out-of-school youths and adults who do not otherwise receive such assistance and instruction.

"(b) Grants made and contracts entered into under this section shall contain provisions to assure that such reading assistance and instruction will be provided in appropriate facilities to be known as 'reading academies'. Grants and contracts under this section shall not be made or entered into with respect to any application of a local educational agency unless the State educational agency of the State in which that local educational agency is located has received notice of that application and has had a reasonable opportunity for comment thereupon.

"STATE LEADERSHIP AND TRAINING PROJECTS

"SEC. 605. The Commissioner is authorized to enter into agreements pursuant to this section with State educational agencies for the carrying out by such agencies of leadership and training activities designed to prepare personnel throughout the State to conduct projects which have been demonstrated in that State or other States to be effective in overcoming reading and mathematics deficiencies. The activities authorized by this section shall be limited to—

"(1) assessments of need, including personnel needs, relating to reading and mathematics problems in the State,

"(2) inservice training for local reading and mathematics program administrators and instructional personnel, and

"(3) provision of technical assistance and dissemination of information to local educational agencies and other appropriate nonprofit agencies.

"NATIONAL IMPACT READING AND MATHEMATICS PROGRAM

"SEC. 606. The Commissioner is authorized to carry out, either directly or through grants or contracts, activities (1) to develop, demonstrate, or evaluate improved means of providing instruction to children, youths, and adults in reading and mathematics, (2) to disseminate information relating to activities carried out under this part, and (3) to estab-

lish programs for lending or selling books to children, youth, and adults.

"INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION

"SEC. 607. (a) The Commissioner is authorized (1) to enter into a contract with a private nonprofit group or public agency (hereinafter in this section referred to as the 'contractor'), which has as its primary purpose the motivation of children to learn to read and to support and promote the establishment of reading motivational programs which include the distribution of inexpensive books to students, and (2) to pay the Federal share of the cost of such programs.

"(b) This contract shall provide that—

"(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as 'subcontractors') under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to preelementary, elementary, or secondary school children;

"(2) funds made available by the Commissioner to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1);

"(3) the contractor will meet such other conditions and standards as the Commissioner determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide technical assistance in furtherance of the purposes of this section.

"(c) The Commissioner shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless he determines that the contractor or the subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) For purposes of this section—

"(1) the term 'nonprofit', when used in connection with any organization, means an organization no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual;

"(2) the term 'Federal share' means, with respect to the cost of books purchased by local private nonprofit group, organization, or public agency for a program in a locality for distributing such books to school children in that locality, 50 per centum of the cost to such agency or group or organization for such books for such program; except when such nonprofit group, organization or public agency has within the two years preceding its application for assistance, received Federal funds under a program to benefit migrant and seasonal farmworkers in which the Federal share was 100 per centum. In that case, the term 'Federal share', under this section, shall mean 100 per centum of the cost to such agency or group or organization for such books that are distributed to the children of migrant and seasonal farmworkers;

"(3) the term 'preelementary school' means a day or residential school which provides preelementary education, as determined under State law, except that such term does not include education for children who have not attained three years of age;

"(4) the term 'elementary school' has the same meaning as provided in section 801(c) of the Elementary and Secondary Education Act of 1965; and

"(5) the term 'secondary school' has the same meaning as provided in section 801 (h) of the Elementary and Secondary Education Act of 1965.

"EVALUATION

"SEC. 608. (a) The Commissioner shall submit an evaluation report to the Committee on Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives not later than February 1 of 1980, 1982, and 1984. Each such report shall—

"(1) contain a statement of specific and detailed objectives for the programs assisted under the provisions of this part;

"(2) include a statement of the effectiveness of the programs in meeting the stated objectives, measured through the end of the preceding fiscal year;

"(3) make recommendations with respect to any changes or additional legislation deemed necessary or desirable in carrying out the programs;

"(4) contain a list identifying the principal analyses and studies supporting the major conclusions and recommendations contained in the report; and

"(5) contain an annual evaluation plan for the programs through the ensuing two succeeding fiscal years for which the budget was transmitted to Congress by the President, in accordance with section 201(a) of the Budget and Accounting Act, 1921.

"(b) From the sums appropriated pursuant to section 609 for any fiscal year, the Commissioner may reserve such amount, not in excess of 1 per centum of such sums, as he deems necessary for evaluation, by the Commissioner or by public or private nonprofit agencies, of programs assisted under this part.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 609. (a) There are authorized to be appropriated to carry out the provisions of sections 602 and 603 of this part $93,000,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years.

"(b) There are authorized to be appropriated to carry out the provisions of section 604, relating to reading academies, $10,000,000 for the fiscal year ending September 30, 1979, and for each of the succeeding fiscal years ending before October 1, 1983.

"(c) There are authorized to be appropriated to carry out the provisions of section 605, relating to State leadership and training projects, $15,000,000 for the fiscal year ending September 30, 1979, $20,000,000 for the fiscal year ending September 30 1980, $25,000,000 for the fiscal year ending September 30, 1981, and $30,000,000 for each of the fiscal years ending September 30 of 1982 and 1983.

"(d) There are authorized to be appropriated to carry out the provisions of section 606, relating to national impact reading and mathematics programs, $20,000,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years.

"(e) There are authorized to be appropriated to carry out the provisions of section 607, relating to inexpensive book distribution programs for reading motivation, $9,000,000 for the fiscal year ending September 30, 1979, and for each of the following four fiscal years. Under such conditions as the Commissioner determines to be appropriate, not to exceed 10 per centum of the amounts appropriated for each fiscal year shall be available for a contract from the Commissioner to the contractor designated under section 607 for technical assistance under subsection (b)(3) of section 607 to carry out the provisions of such section.

"ACCEPTANCE OF GIFTS

"SEC. 610. Notwithstanding the provisions of section 408(a)(3) of the General Education Provisions Act, the Commissioner may accept on behalf of the United States, gifts or donations made with or without conditions of services, money or property (real, personal, or mixed; tangible or intangible) made for any activities authorized to be carried out by such agency under the authority of this part.

"PART B—SPECIAL PROJECTS

"PURPOSE

"SEC. 621. It is the purpose of this part to authorize special projects—

"(1) to experiment with new educational and administrative methods, techniques, and practices;

"(2) to meet special or unique educational needs or problems;

"(3) to place special emphasis on national education priorities; and

"(4) to disseminate information to State and local educational agencies.

"GRANTS AND CONTRACTS

"SEC. 622. (a) The Secretary and the Commissioner are authorized, during the period from October 1, 1979, through September 30, 1983, to make grants to, and enter into contracts with, State and local educational agencies, other public and private agencies, organizations and institutions, and individuals to carry out the purposes of ths part, except that no grant may be made under this part to other than a public or nonprofit private agency, organization, or institution, or to an individual under section 629.

"(b) No grant or contract shall be awarded under this part to a State or local educational agency unless the Secretary determines that in designing the proposal for which application is made, the needs of children in nonprofit private elementary and secondary schcols have been taken into account through consultation with private school officials; and, to the maximum extent feasible, and consistent with the number of such children in the area to be served who have the educational needs the proposal is intended to address, those children will be provided an opportunity to participate in the proposed activity on a basis comparable to that provided for public school children.

"AUTHORIZED ACTIVITIES

"SEC. 623. In carrying out the purposes of this part the Secretary and the Commissioner shall award grants or contracts to eligible entities for each of the activities set forth in sections 624 through 631. Funds available to the Secretary and the Commissioner under this part which are not used for those activities may be used for grants or contracts that the Secretary or the Commissioner determines will accomplish one or more of the purposes of this part as set forth in section 621. The Commissioner shall, in addition to the sums reserved pursuant to sections 628 (c), 630(c), and 631, reserve for purposes of section 626, not less than $5,000,000 from the amount appropriated for purposes of this part for each fiscal year.

"ARTS IN EDUCATION

"SEC. 624. The Secretary shall carry out a program to encourage and assist State and local educational agencies and other public and private agencies, organizations, and institutions to establish and conduct programs in which the arts are an integral part of elementary and secondary school curricula. In addition, activities carried out under this section may include arrangements with the John F. Kennedy Center for the Performing Arts and other public and private cultural organizations, agencies, and institutions, including museums, libraries, and theaters, to achieve the purpose of this section. In addition, the Secretary shall carry out a program for the purpose of identifying, developing, and implementing model projects or programs in all the arts for handicapped persons through arrangements made with the National Committee of the Arts for the Handicapped.

"METRIC EDUCATION

"SEC. 625. The Secretary shall carry out a program to encourage educational agencies and institutions to prepare students, as part of the regular educational program, to use the metric system of measurement. Activities assisted under this section may include—

"(1) the development, demonstration, improvement, or adaptation of programs of education in the use of the metric system;

"(2) training educational personnel to carry out programs in the use of the metric system;

"(3) the development and dissemination of instructional materials for use in metric education programs; and

"(4) other activities that will encourage and assist students to learn the use of the metric system.

For the purposes of this section, the term 'metric system of measurement' means the International System of Units as established by the General Conference of Weights and Measures in 1960 and interpreted or modified for the United States by the Secretary of Commerce.

"CONSUMER EDUCATION

"SEC. 626. (a) (1) There shall be within the Office of Education an Office of Consumers' Education (hereafter in this section referred to as the 'Office') which shall be headed by a Director of Consumers' Education (hereafter in this section referred to as the 'Director') who, subject to the management of the Commissioner, shall have responsibility for carrying out the provisions of this section.

"(2) The Director shall be appointed by the Commissioner in accordance with the provisions of title 5 of the United States Code relating to appointments to the competitive service.

"(b) (1) (A) The Commissioner shall carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, and other public and private agencies, organizations, and institutions (including libraries) to support research, demonstration, and pilot projects designed to provide consumer education to the public, except that no grant may be made other than to a nonprofit agency, organization, or institution.

"(B) Funds appropriated for grants and contracts under this section shall be available for such activities as—

"(i) the development of curricula (including interdisciplinary curricula) in consumer education;

"(ii) dissemination of information relating to such curricula;

"(iii) in the case of grants to State and local educational agencies and institutions of higher education, for the support of education programs at the elementary and secondary and higher education levels; and

"(iv) preservice and inservice training, programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to teach in subject matter areas associated with consumer education.

In addition to the activities specified in the first sentence of this paragraph, such funds may be used for projects designed to demonstrate, test, and evaluate the effectiveness of any such activities, whether or not assisted under this section. Activities pursuant to this section shall provide bilingual assistance when appropriate.

"(C) Financial assistance under this subsection may be made available only upon application to the Commissioner. Applications under this subsection shall be submitted at such time, in such form, and containing such information as the Commissioner shall prescribe by regulation and shall be approved only if it—

"(i) provides that the activities and service for which assistance is sought will be administered by, or under the supervision of, the applicant;

"(ii) describes a program for carrying out one or more of the purposes set forth in the first sentence of subparagraph (B) which holds promise of making a substantial contribution toward attaining the purposes of this section;

"(iii) sets forth such policies and procedures as will insure adequate evaluation of the activities intended to be carried out under the application;

"(iv) sets forth policies and procedures which assure that Federal funds made available under this section for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this section, and in no case supplant such funds;

"(v) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section; and

"(vi) provides for making an annual report and such other reports, in such form and containing such information, as the Commissioner may reasonably require and for keeping such records, and for affording such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

Applications from local educational agencies for financial assistance under this section may be approved by the Commissioner only if the State educational agency has been notified of the application and been given the opportunity to offer recommendations.

"(2) Federal assistance to any program or project under this subsection, other than those involving curriculum development, dissemination of curricular materials, and evaluation, shall support up to 100 per centum of the cost of such program including costs of administration; contributions in kind are acceptable as local contributions to program costs.

"(c) Each recipient of Federal funds under this section shall make such reports and evaluations as the Commissioner shall prescribe by regulation.

"CAREER EDUCATION AND YOUTH EMPLOYMENT

"SEC. 627. In order to achieve the purposes of the Career Education Incentive Act, the Secretary may support activities—

"(1) to study the relationship of work to academic and intellectual achievement;

"(2) to develop ways to improve achievement in basic educational skills through work experience;

"(3) to enhance job opportunities for youths by coordinating educational activities with youth employment activities, particularly those carried out by the Secretary of Labor under part C of title III and title VIII of the Comprehensive Employment and Training Act of 1973;

"(4) to encourage educational agencies and institutions to develop means to award academic credit for competencies derived from work experience; and

"(5) to provide technical assistance, information, training, and other assistance to eligible entities to develop programs to enable students more readily to make the transition from school to work.

"PRESCHOOL PARTNERSHIP PROGRAMS

"SEC. 628. (a) The Commissioner is directed to establish, in cooperation with the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare, a program of cooperative pilot projects between local educational agencies and Project Head Start, as authorized by the Headstart-Follow Through Act, which will provide a smoother and more successful transition to formal schooling for certain preschool-aged children, and thereby improve their long-term achievement in elementary school.

"(b) Projects established under this program will be designed to achieve the purposes of subsection (a) by—

"(1) providing to a limited number of children aged three to four, inclusive, of low-income families and to their parents, families, or guardians a program of educational services including instruction, counseling, and testing, to be conducted primarily in the child's home;

"(2) providing to children and adults who have participated in the services described above, during the following year appropriate educational services, testing, and counseling, to be primarily conducted on the premises of an elementary school; and

"(3) providing a coordinated program of testing and assessment, along with such other evaluation procedures as the Commissioner and the Assistant Secretary shall deem appropriate, designed to assess the achievement of children during their participation in the program and subsequently at the end of each of the first two years of formal schooling.

"(c) Not less than 10 per centum of the funds appropriated pursuant to section 632 shall be made available for purposes of this section.

"SMALL GRANTS FOR LOCAL IMPROVEMENTS IN ELEMENTARY AND SECONDARY EDUCATION

"SEC. 629. The Secretary is authorized to make grants not in excess of $25,000, to teachers, administrators, other educational personnel, and parent organizations to assist in the development or demonstration of innovative methods or techniques which would contribute to the solution of educational problems, and that otherwise would carry out one or more of the purposes of this part. Any grant to an individual who is employed by a local educational agency shall be made only if the Secretary determines that the agency has had an opportunity to comment on the proposal and will cooperate with the grantee in carrying out the proposed activity.

"POPULATION EDUCATION

"SEC. 630. (a) The Commissioner is authorized, from the sums appropriated for purposes of this part, to carry out a program of making grants to, and contracts with, institutions of higher education, State and local educational agencies, research organizations, and other public and private agencies, organizations, and institutions to implement a program of population education in elementary and secondary schools.

"(b) Funds available for grants and contracts under subsection (a) shall be available for such activities as—

"(1) preservice and inservice training programs and projects (including fellowship programs, institutes, workshops, symposiums, and seminars) for educational personnel to prepare them to incorporate population concepts into a broad array of subject fields such as geography, history, science, biology, social studies, and home economics;

"(2) development and dissemination of teacher and student education, training, and instructional materials, including the identification, evaluation, improvement, and adaptation of existing curriculums and educational materials;

"(3) research support to develop curriculum content and to evaluate programs and materials for the purpose of widespread dissemination;

"(4) in the case of grants to State and local educational agencies, the support of population education programs at the elementary and secondary educational levels; and

"(5) projects which demonstrate, test, and evaluate the effectiveness of the activities (delineated in paragraphs (1) through (4) of this subsection) whether or not assisted under this section.

Programs assisted pursuant to clauses (2) and (3) shall be carried out in cooperation with State and local educational agencies.

"(c) Not less than 10 per centum of the sums appropriated for the purposes of this part shall be expended for the activities authorized under subsection (b) of this section. Applications for grants and contracts under this section shall be submitted at such time, in such form, and contain such information as the Commissioner shall prescribe.

"(d) The National Institute of Education is directed to establish a clearinghouse on population education for the purpose of evaluating, cataloguing, and disseminating teacher and student materials on population. For the purposes of carrying out this subsection, the Commissioner is authorized to transfer to the National Institute of Education sums not to exceed $500,000.

"DISSEMINATION OF INFORMATION

"SEC. 631. The Commissioner shall use at least 5 per centum of the funds appropriated under this part to collect, analyze, and disseminate information carried out under part A of this title and under part C of title IV, including information as to which of those activities have been successful in improving the achievement of students in the basic skills. At least 70 per centum of the funds available under this section shall be used to disseminate that information to State and local educational agencies through the National Diffusion Network.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 632. There are authorized to be appropriated for the purposes of this part such sums as may be necessary for the fiscal year ending September 30, 1980, and for each of the three succeeding fiscal years.".

"PART C—GIFTED AND TALENTED CHILDREN

"SHORT TITLE; PURPOSE

"SEC. 641. (a) This part may be cited as the 'Gifted and Talented Children's Education Act of 1978'.

"(b) The Congress hereby finds and declares that—

"(1) the Nation's greatest resource for solving critical national problems in areas of national concern is its gifted and talented children,

"(2) unless the special abilities of gifted and talented children are developed during their elementary and secondary school years, their special potentials for assisting the Nation may be lost, and

"(3) gifted and talented children from economically disadvantaged families and areas often are not afforded the opportunity to fulfill their special and valuable potentials, due to inadequate or inappropriate educational services.

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 642. (a) The Commissioner is authorized to make grants to local educational agencies for the planning, establishment, and improvement of special educational programs for gifted and talented children at the preschool, elementary, and secondary levels.

"(b) Of the funds appropriated under this part, 55 per centum thereof shall be allocated to this section to be used in the following manner:

"(1) One-half of such funds shall be used for projects which propose innovative and promising approaches to meeting the special educational needs of gifted and talented children.

"(2) One-half of such funds shall be used for projects which are directed toward identifying and serving the special educational needs of gifted and talented children who are economically disadvantaged.

"(c) No grant or contract awarded under this section shall have a duration in excess of five years.

"GRANTS TO STATE EDUCATIONAL AGENCIES

"SEC. 643. (a) The Commissioner is authorized to make grants to State educational agencies in order to assist them in the planning, development, operation, and improvement of programs, including the inservice training of personnel, designed to meet the special educational needs of gifted and talented children at the preschool, elementary, and secondary levels.

"(b) Of the funds appropriated under this part, 30 per centum shall be used for activities authorized under this section.

"(c) No grant or contract awarded under this section shall have a duration in excess of three years.

"RESEARCH AND DEMONSTRATION

"SEC. 644. (a) The Commissioner is authorized to make grants to State or local educational agencies, institutions of higher education, and other public or private agencies and organizations to conduct research and demonstrations relating to the education of gifted and talented children. To the maximum extent possible, the Commissioner and the Director of the National Institute of Education shall cooperate in the funding and operation of such research and demonstrations, using the funds made available for this section pursuant to subsection (c).

"(b) The Commissioner is authorized to make grants or contracts to public or private agencies, organizations, or institutions which together or singly constitute a clearinghouse to disseminate information about programs, services, resources, research, methodology, and media materials for the special education of gifted and talented children.

"(c) Of the funds appropriated under this part, 15 per centum shall be used for the purpose of this section.

"ELIGIBILITY OF INDIAN TRIBES

"SEC. 645. Notwithstanding any other provision of law, any Indian tribe which operates any school for its children shall be deemed to be a local educational agency for the purposes of section 642 of this part.

"DEFINITION

"SEC. 646. For the purposes of this part, 'gifted and talented' means children and, where applicable, youth, who are identified at the preschool, elementary, or secondary level as possessing demonstrated or potential abilities that give evidence of high performance capability in areas such as intellectual, creative, specific academic, or leadership ability or in the performing and visual arts, who by reason thereof, require special educational services.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 647. For the purpose of carrying out this part, there are hereby authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1979, $15,000,000 for the fiscal year ending September 30, 1980, $20,000,000 for the fiscal year ending September 30, 1981, and $25,000,000 for each of the fiscal years ending September 30 of 1982 and 1983.

"PART D—WOMEN'S EDUCATIONAL EQUITY

"SHORT TITLE; PURPOSE

"SEC. 651. (a) This part may be cited as the 'Women's Educational Equity Act of 1978'.

"(b)(1) The Congress hereby finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society.

"(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972.

"(c) As used in this part, the term 'Council' means the National Advisory Council on Women's Educational Programs.

"GRANT AND CONTRACT AUTHORITY

"SEC. 652. (a) The Commissioner is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, and individuals, including student and community groups, for activities designed to achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. These activities may include—

"(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

"(A) the development and evaluation of curricula, textbooks, and other educational materials related to educational equity;

"(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

"(C) research and development activities designed to advance educational equity;

"(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to insure educational equity;

"(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

"(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

"(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed two years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972, and other special activities designed to achieve the purposes of this part.

Not less than 75 per centum of funds used to support activities covered by paragraph (2) shall be used for awards to local educational agencies.

"(b) For each fiscal year, the Commissioner shall use $15,000,000 from the funds available under this part to support activities described in paragraph (1) of subsection (a). Any funds in excess of $15,000,000 available under this part shall be used to support activities described in paragraph (2) of subsection (a).

"APPLICATION; PARTICIPATION

"SEC. 653. (a) A grant may be made and a contract may be entered into under this part only upon application to the Commissioner, at such time, in such form, and containing or accompanied by such information as the Commissioner may prescribe. Each such application shall—

"(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

"(2) describe a program for carrying out one or more of the activities set forth in section 652 which holds promise of making a substantial contribution toward attaining the purposes of this part; and

"(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application;

"(b) Nothing in this part shall be construed as prohibiting men and boys from

participating in any programs or activities assisted under this part.

"SMALL GRANTS

"SEC. 654. In addition to the authority of the Commissioner under section 652, the Commissioner shall carry out a program of small grants (as part of the grant program administered under section 652(a)(1)), not to exceed $25,000, each, in order to support innovative approaches to achieving the purposes of this part; and for that purpose the Commissioner is authorized to make grants to public and private nonprofit agencies and to individuals.

"CRITERIA AND PRIORITIES

"SEC. 655. The Commissioner shall establish criteria and priorities for awards under this part to ensure that available funds are used for those purposes that most effectively will achieve the purposes of this part. Those criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

"NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

"SEC. 656. (a) There is established in the Office of Education a National Advisory Council on Women's Educational Programs. The Council shall be composed of—

"(1) seventeen individuals, some of whom shall be students, and who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals, broadly representative of the general public who, by virtue of their knowledge or experience, are versed in the role and status of women in American society;

"(2) the staff Director of the Civil Rights Commission;

"(3) the Director of the Women's Bureau of the Department of Labor; and

"(4) the Director of the Women's Action Program of the Department of Health, Education, and Welfare. The Council shall elect its own Chairperson from among the members indicated in paragraph (1).

"(b) The term of office of each member of the Council appointed under paragraph (1) of subsection (a) shall be three years, except that—

"(1) the members first appointed under such clause shall serve as designated by the President, six for a term of one year, five for a term of two years, and six for a term of three years; and

"(2) any member appointed to fill a vacancy occurring prior to the expiration of the term for which his or her predecessor was appointed shall be appointed for the remainder of such term.

"(c) The Council shall—

"(1) advise the Secretary, Assistant Secretary, and the Commissioner on matters relating to equal educational opportunities for women and policy matters relating to the administration of this part;

"(2) make recommendations to the Commissioner with respect to the allocation of any funds pursuant to this part, including criteria developed to ensure an appropriate geographical distribution of approved programs and projects throughout the Nation;

"(3) recommend criteria for the establishment of program priorities;

"(4) make such reports as the Council determines appropriate to the President and the Congress on the activities of the Council; and

"(5) disseminate information concerning the activities of the Council under this part.

"(d) The provisions of part D of the General Education Provisions Act shall apply with respect to the Council established under this subsection.

"REPORT

"SEC. 657. The Commissioner is directed, at the end of each fiscal year, to submit to the President and the Congress and to the Council a report setting forth the programs and activities assisted under this part, and to provide for the distribution of this report to all interested groups and individuals, including the Congress, from funds authorized under this part. After receiving the report from the Commissioner, the Council shall evaluate the program and projects assisted under this part and include such evaluation in its annual report.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 658. For the purposes of carrying out this part there are authorized to be appropriated $80,000,000 for the fiscal year ending September 30, 1980, and each of the three succeeding fiscal years.

"PART E—COMMUNITY SCHOOLS

"SHORT TITLE

"SEC. 661. This part may be cited as the 'Community Schools and Comprehensive Community Education Act of 1978'.

"STATEMENT OF FINDINGS AND POLICY

"SEC. 662. (a) The Congress finds that—

"(1) the school is a primary institution for the delivery of services and may be the best instrument for the coordination of frequently fragmented services including benefits obtained by energy savings and parental involvement in the delivery of such services;

"(2) community education promotes a more efficient use of public education facilities through an extension of school buildings and equipment; and

"(3) as the primary educational institution of the community, the school is most effective when it involves the people of that community in a program to fulfill the educational needs of individuals of the community.

"(b) It is the purpose of this part—

"(1) to provide educational, recreational, cultural, and other related community services, in accordance with the needs, interests, and concerns of the community through the expansion of community education programs;

"(2) to coordinate the delivery of social services to meet the needs and preferences of the residents of the community served by the school; and

"(3) to provide for a research and development emphasis in community education which can contribute to an improved formulation of Federal, State, and local policy.

"DEFINITION OF COMMUNITY EDUCATION PROGRAM

"SEC. 663. For the purpose of this part, a 'community education program' means a program in which a public building, including but not limited to, a public elementary or secondary school, is used as a community center operated by a local educational agency in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, health care, cultural, and other related community services for the community that the center serves in accordance with the needs, interests, and concerns of that community.

"STATE PROGRAMS FOR COMMUNITY EDUCATION

"SEC. 664. (a) The Commissioner is authorized to make grants to State educational agencies in accordance with the provisions of this part, to pay the Federal share of the cost of planning, establishing, expanding, and operating community education programs.

"(b) There are authorized to be appropriated to carry out the provisions of subsection (a) of this section $55,000,000 for the fiscal year ending September 30, 1979, $72,000,000 for the fiscal year ending September 30, 1980, $90,000,000 for the fiscal year ending September 30, 1981, $72,000,000 for the fiscal year ending September 30, 1982, and $55,000,000 for the fiscal year ending September 30, 1983.

"ALLOTMENT

"SEC. 665. (a) (1) From the funds appropriated pursuant to section 664, the Commissioner shall allot not more than 1 per centum among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and Bureau of Indian Affairs schools according to their respective needs.

"(2) From the remainder of such sums the Commissioner shall allot to each State an amount which bears the same ratio to such remainder as the population of the State bears to the population of all States except that no State shall receive less than $50,000 in any fiscal year. For the purpose of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(b) The portion of any State's allotment under subsection (a) for a fiscal year which the Commissioner determines will not be required for the period such allotment is available, for carrying out the purposes of this part, shall be available for reallotment from time to time on such date during such period as the Commissioner may fix, to other States in proportion to the original allotment to such States under subsection (a) for such year, but with such proportionate amount for any of each other States being reduced to the extent it exceeds the sum which the Commissioner estimates will be needed in such State and will be used for such period for carrying out applications approved under this part, and the total of such reduction shall be similarly reallotted among the States whose proportionate amounts are not so reduced. Any amount reallotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (a) for such year.

"USE OF COMMUNITY EDUCATION PROGRAMS FOR NON-FEDERAL CONTRIBUTION IN CERTAIN FEDERAL PROGRAMS

"SEC. 666. (a) Notwithstanding any other provision of law any State or local public agency may use the fair value of any community service program asisted under this part as part or all of the non-Federal contribution required under any program set forth in subsection (b) of this section, if—

"(1) a portion of any program set forth in subsection (b) is implemented in any building conducting a community education program assisted under this part; and

"(2) there is a necessary relationship between such portion of the program set forth in subsection (b) and any element of the community education program assisted under this part.

"(b) Programs to which subsection (a) applies are—

"(1) the Public Health Service Act,

"(2) the Head Start-Follow Through Act,

"(3) title XX of the Social Security Act, relating to child care and day care services,

"(4) the youth employment demonstration programs authorized under the Comprehensive Employment and Training Act of 1973,

"(5) the Older Americans Act of 1965,

"(6) the Vocational Education Act of 1963,

"(7) the Adult Education Act,

"(8) title I and title X of the Higher Education Act of 1965, relating to community services and continuing education programs and community college programs,

"(9) titles I through IX of the Economic Opportunity Act of 1964,

"(10) the Legal Services Corporation Act,

"(11) Safe Streets and Omnibus Crime Control Act of 1968,

"(12) science education programs assisted under the National Science Foundation Act of 1950, and

"(13) such other community service programs as the Commissioner deems appropriate.

"USE OF FUNDS

"SEC. 667. Payments made under this part to any State educational agency and to any local educational agency, either directly by the Commissioner under section 669 or in accordance with a State plan approved under section 668, may be used by such State and local educational agencies for the Federal share of the cost of planning, establishing, expanding, and operating community education programs including—

"(1) educational, cultural, recreational, health care, and other related community services whether or not in the form of formal courses;

"(2) activities making the school or other public facility and equipment available for use by individuals and groups in the community;

"(3) preventive health, dental care, and nutrition;

"(4) special programs for particular target groups such as older persons;

"(5) services designed to eliminate the high incidence of suspension, expulsion, and other disciplinary action involving chronically maladjusted students;

"(6) services for students who withdraw from school before completing secondary school requirements regardless of age or time of withdrawal;

"(7) services for mentally or physically handicapped individuals, or other health impaired individuals;

"(8) rehabilitation purposes of juvenile and adult offenders;

"(9) training programs to institutions of higher education for the purpose of assisting full-time training for personnel who are engaged in or who intend to engage in community education programs;

"(10) specialized high schools or schools within schools organized around particular interests such as the arts, or using flexible scheduling and summer learning programs to take into account special needs of students, or creating interrelationships between secondary schools and such community resources as museums, cultural centers, and institutions of higher education; and

"(11) development of means to use technology to improve the relationship between the school, the home, and community resources such as libraries, museums, and cultural centers.

"STATE PLAN

"SEC. 668. (a) Any State desiring to participate in the program authorized by this part shall submit through its State educational agency to the Commissioner a plan, in such detail as the Commissioner deems necessary. Each such plan shall provide satisfactory assurance—

"(1) that payments made under this part will be used for community education programs described in section 667, and, to the extent practicable, such payments will be used to expand community education programs of the schools of local educational agencies within the State;

"(2) that there will be developed, after consultation with the appropriate State agencies, for a ten-year plan for the coordination of education programs with all relevant community services;

"(3) that 80 per centum of the amounts received by the State from its allotment will be distributed among local educational agencies within the State with due regard for such factors as the size of the population to be served by the community education program of the local educational agency;

"(4) that community education programs assisted under this part will, to the extent feasible, serve all age groups within the community including preschool children, children and youth in school, out of school youths, adults, and senior citizens as well as groups in the community with special needs for community education program services such as individuals with limited speaking ability, mentally and physically handicapped individuals, and other health impaired individuals;

"(5) that the community education program will include procedures for the systematic and effective identification and documentation of the needs and concerns of the community;

"(6) that the community education program will provide for the identification and use, to the fullest extent possible, of educational, cultural, recreational, health care, and other resources outside the school and other public facilities (including the services of volunteers) and will contain provisions to encourage the use of cooperative arrangements with public and private agencies to make the maximum use of existing resources within the community;

"(7) the community education program will contain provisions to assure the active and continuous involvement on an advisory basis of institutions, groups, and individuals in the community to be served by the program and the active and continuous involvement of parents of school children in the planning, development, and implementation of programs;

"(8) that the State educational agency will provide procedures for submitting applications by local educational agencies within that State for payments under this part, for approval by the State educational agency, including appropriate procedures to assure that the State educational agency concerned will not disapprove an application of any local educational agency without notice and opportunity for a hearing;

"(9) that the State will pay from non-Federal sources the remaining cost of carrying out the State plan;

"(10) that the State educational agency from the funds received by it under section 664 for any fiscal year will reserve an amount not to exceed 5 per centum of such funds for the administration of the State plan and providing technical assistance to local educational agencies and 10 per centum for the conduct of conferences and dissemination activities among local educational agencies within the State and other community service agencies, the coordination between local educational agencies, community colleges, and other institutions of higher education in the State with respect to the coordination of the delivery of social services with particular emphasis on the application of section 666 and the training as described in section 667(9); and

"(11) that effective procedures will be adopted to evaluate the effectiveness of the community education programs assisted under this part (including where possible payments made directly under section 669).

"(b) The Commissioner shall approve a State plan which meets the requirements of subsection (a), and he shall not finally disapprove a State plan except after reasonable notice and opportunity for a hearing to the State educational agency.

"GRANTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 669. (a)(1) The Commissioner is authorized to make grants to local educational agencies for the Federal share of the cost of planning, establishing, expanding, and operating community education programs including any use described in section 667, whenever the Commissioner determines that, pursuant to an application filed under subsection (b), that the community education program for which application is made under subsection (b) holds reasonable promise of success and is in substantial compliance with the requirements of section 668(a) (4), (5), (6), (7), and (9).

"(2) No grant may be made under this subsection unless an application is made to the Commissioner at such time, in such manner, and containing or accompanied by such information, as the Commissioner may reasonably require.

"(b)(1) The Commissioner is authorized to make grants to nonprofit private organizations to encourage the use of school facilities and other facilities eligible to receive assistance under this part for the efficient and coordinated delivery of community services set forth in section 666(b) through contractual arrangements with the local educational agency concerned.

"(2) No grant may be made under the provisions of this subsection unless an application is made to the Commissioner at such time, in such manner and containing or accompanied by such information, as the Commissioner may reasonably require.

"(c) There are authorized to be appropriated $10,000,000 for each of the fiscal years 1979, 1980, 1981, 1982, and 1983 to carry out the provisions of this section.

"NATIONAL CONFERENCES

"SEC. 670. (a) In order to implement more fully the coordinated delivery of social services set forth in section 666(b) in the community education program setting, the Assistant Secretary is authorized and directed to hold not less than two national conferences on community education in an urban, suburban, and rural setting and prepare and publish a publication of the proceedings of such conferences in consultation with the heads of other agencies concerned with the delivery of social services.

"(b) There are authorized to be appropriated for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983, $1,000,000 to carry out the provisions of this section.

"RESEARCH AND EVALUATION

"SEC. 671. (a) Notwithstanding the second sentence of section 405(b)(1) of the General Education Provisions Act, the National Institute of Education shall in accordance with the terms and conditions of section 405 of such Act, carry out a program of research to examine the impact of the community education program and to conduct an evaluation of such program. The evaluation shall include the nature and quality of parental involvement, the quality of the delivery of services under the community education program, the incidence of vandalism and school violence, the effectiveness of the relationship between the schools and other community agencies in identifying and delivering community services to children in the schools, and in delivering community services set forth in section 666(b), and the effectiveness of the needs assessment set forth in section 666 in improving the community education program priorities.

"(b) In carrying out the provisions of subsection (a) the National Institute of Education is authorized and directed to use comparison models involving different kinds of community education programs and to prepare and submit a final report of the research and evaluation activities under this section not later than January 1, 1982.

"(c) There are authorized to be appropriated $1,000,000 for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, to carry out the provisions of this section.

"ADMINISTRATION

"SEC. 672. (a) The Commissioner shall establish or designate a clearinghouse to gather and disseminate information received from community education programs, including but not limited to, information regarding new programs, methods to encourage community participation, methods of formulating and conducting assessment, and methods of coordinating community education programs with other community services, with particular emphasis upon the coordination

of delivery of community services described in section 666(b). The Commissioner is authorized to contract with public and private agencies or organizations to establish and operate the clearinghouse.

"(b)(1) There is established, subject to part D of the General Education Provisions Act, in the Office of the Commissioner, a Community Education Advisory Council (referred to in this section as the 'Advisory Council') to be composed of eleven members. The members of the Advisory Council shall be appointed by the Secretary.

"(2) A majority of the members of the Advisory Council shall be individuals experienced in the operation of community education programs and the training of such individuals. The Council shall include representatives from various disciplines involved in providing services in community school programs.

"(3) Appointments to the Advisory Council shall be completed within three months after enactment of this part. Individuals serving in any predecessor community education advisory council may be appointed under this subsection.

"(4) The Commissioner shall make available to the Advisory Council such staff, information, and other assistance as it may require to carry out its activities.

"(5) The Advisory Council shall advise the Commissioner on policy matters relating to the interests of community schools and the community education program authorized by this part.

"(6) The Advisory Council shall advise the National Institute of Education with respect to the education of community education programs. The Council shall present to Congress a complete and thorough assessment of the programs and operation of this part for each fiscal year.

"(c) (1) There are authorized to be appropriated for the fiscal year 1979 and for each fiscal year ending prior to October 1, 1983, $500,000 to carry out the provisions of subsection (a) of this section.

"(2) There are authorized to be appropriated for the fiscal year 1979 and for each succeeding fiscal year ending prior to October 1, 1983, $500,000 to carry out the provisions of subsection (b) of this section.

"(d) The program authorized by this part shall be under the authority of the Executive Deputy Commissioner for Educational Programs.

"FEDERAL SHARE

"SEC. 673. (a) The Federal share of the cost of the State plan approved under section 667 shall be 80 per centum for the fiscal year 1979, 70 per centum for the fiscal year 1980, 50 per centum for the fiscal year 1981, 30 per centum for the fiscal year 1982, and 20 per centum for the fiscal year 1983.

"(b) The Federal share of the cost of applications of local educational agencies and nonprofit organizations approved under section 668 shall be 90 per centum for the fiscal year 1979, 90 per centum for the fiscal year 1980, 80 per centum for the fiscal year 1981 and each of the two succeeding fiscal years.

"PART F—SPECIAL PROJECTS IN THE BIOMEDICAL SCIENCES FOR SECONDARY SCHOOL STUDENTS FROM AN ECONOMICALLY DISADVANTAGED BACKGROUND

"FINDINGS AND PURPOSE

"SEC. 681. It is the purpose of this part to—

"(1) introduce secondary students from an economically disadvantaged background to the challenges, opportunities, and needs of serving in communities which have a need for professionals trained in the biomedical sciences and which have an underrepresentation of individuals from such a disadvantaged background serving as medical professionals;

"(2) motivate and educate these students to successfully pursue careers in the biomedical sciences;

"(3) develop academic, cognitive, and communicative skills in these students;

"(4) rectify disadvantages resulting from foreign language barriers; and

"(5) instill awareness and concern in these students for the health of their families and communities;

by offering such students an intensive academic program in mathematics, the sciences, English, and study skill development, with experiences in laboratory and health care delivery settings, and frequent exposure to individuals trained, or receiving training, in the biomedical sciences.

"DEFINITIONS

"SEC. 682. For the purposes of this part:

"(1) The term 'applicant' means an institution which has made application under section 685 for assistance under this part.

"(2) The term 'biomedical science' means a field relevant to the study of human biology, and includes chemistry, biology, medicine, dentistry, osteopathy, optometry, podiatry, pharmacy, and public health.

"(3) The term 'full participant' means, with respect to a project conducted in an academic year, a student who has participated satisfactorily in the project for not less than one hundred hours in the academic year.

"(4) The term 'project' means a project funded under this part.

"(5) The term 'public secondary school system' means secondary schools operated by a local educational agency or a secondary school operated predominantly for Indian children and operated by, or receiving financial assistance from, the Department of the Interior.

"(6) The term 'school of biomedical science' means an institution of higher education which provides training leading to a doctorate or master's degree in a biomedical science.

"(7) The term 'student from an economically disadvantaged background' means an individual from a family which had, during the preceding year, an income equal to 50 per centum or less of the National median income for families of comparable size and (A) who is enrolled in good standing in the ninth, tenth, eleventh, or twelfth grade, and (B) whose access to higher educational opportunity in the biomedical sciences is significantly limited due to the income of the individual's family.

"(8) The term 'talented student from an economically disadvantaged background' means a student from an economically disadvantaged background who has demonstrated such proficiency or potential as will enable the student, after satisfactory participation in a project, to undertake successfully a course of study in a biomedical science at an institution of higher education. Such proficiency or potential shall be determined in such a manner that (A) a student from a non-English-speaking background is not penalized for the student's lack of proficiency in English, and (B) due notice is taken of cultural and linguistic biases inherent in traditional testing methods.

"(9) The term 'target student' means, with respect to a project offered in an academic year in cooperation with a secondary school system or systems, a talented student from an economically disadvantaged background who is enrolled in the school system or systems in the academic year—

"(A) in the ninth or tenth grade, or

"(B) in the eleventh or twelfth grade and who has participated satisfactorily in a project (or in a program comparable to a project) for not less than one hundred hours during the student's enrollment in the ninth or tenth grade in a school system.

"PROJECTS FOR ECONOMICALLY DISADVANTAGED STUDENTS

"SEC. 683. (a) The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education for the purpose of offering projects to educate, motivate, and encourage students from an economically disadvantaged background to pursue training at the undergraduate and graduate levels in the biomedical sciences.

"(b) The Commissioner, in his selection among applications meeting the requirements for approval under section 685, shall (1) give priority to each such qualified application that proposes the offering of a program not previously offered, (2) give special consideration to each such qualified application that proposes the offering of a project to students enrolled in secondary schools located in a health manpower shortage area (designated under section 332 of the Public Health Service Act) or in a rural area, and (3) take into account the location where the project is proposed to be offered to assure that projects are offered in a diversity of geographic settings.

"(c) The amount of money to be provided, under any grant or contract entered into for a project, for all its expenses (other than special expenses approved by the Commissioner for its summer program offered pursuant to section 684(a)(10)) for a single fiscal year may not exceed an amount equal to $2,400 for each talented student from an economically disadvantaged background who was a full participant in the project in the academic year ending in that fiscal year.

"PROJECT ACTIVITIES

"SEC. 684. (a) Each project funded under this part shall—

"(1) except as provided in subsection (b), extend over a multiyear grant or contract period of at least five academic years;

"(2)(A) be carried out in cooperation with a public or private nonprofit secondary school system, or with a combination of such systems, that is located in the area in which the applicant is located and that has a relatively high proportion, as determined by the Commissioner, of students from an economically disadvantaged background enrolled in the secondary schools in such system, and (B) involve in a formal role in policymaking decisions in the project an individual who is employed at an administrative level, no lower than principal or dean, in a secondary school with target students who are participating in the project;

"(3) be conducted, to the extent feasible, in a manner which does not conflict with a student's participation in extracurricular activities of the school in which he is enrolled;

"(4) provide that not less than one hundred talented students from an economically disadvantaged background, who are enrolled in the ninth grade in such public school system or systems in each academic year in which the project is offered, are full participants in the project in such academic year;

"(5) provide for validation of the participation of a target student in such project by a science teacher or the parent or guardian of such student;

"(6) make arrangements to use in such project—

"(A) the research and other facilities and personnel of schools of biomedical science located in the area in which such project is offered;

"(B) the special knowledge of individuals from economically disadvantaged backgrounds who live in the area in which such project is offered and who are employed in the biomedical sciences;

"(C) the expertise of teachers in secondary schools and institutions of higher education located in the area in which such project is offered; and

"(D) the talents and experience of other groups located in the area in which such project is offered, such as parent-teacher associations, foundations, civic groups, and professional organizations, which would further the goals of such project;

"(7) expose target students to professionals trained in the biomedical sciences and to the resources of the biomedical sciences, including those described in paragraph (6), and such other academic and health-related experiences as are designed to—

"(A) inform and educate such students to the challenges, opportunities, and needs of serving in the biomedical science professions;

"(B) educate and motivate such students to pursue successfully careers in the biomedical sciences;

"(C) cultivate the development of academic, cognitive, and communication skills in such students; and

"(D) instill awareness, concern, and information in such students for the health of their families and communities;

"(8)(A) provide counseling to target students who are participating in the project, and to individuals who were such students and who were full participants in an academic year, on the range of opportunities available in the biomedical sciences upon completion of high school, college, and professional training, and on the financial and other prerequisites to pursue such opportunities, and (B) inform parents of participating students of the goals and structure of the project and provide opportunities for the involvement of these parents in the project;

"(9) provide for the offering for target students, by a school of biomedical science during each academic year of such project, of a course or courses which—

"(A) are in one or more of the biomedical sciences,

"(B) encompass at least one hundred hours of classroom, laboratory, and fieldwork experience, and

"(C) use the facilities of such school, including laboratories, libraries, classrooms, audiovisual equipment, conference and meeting rooms, and other necessary facilities;

"(10) provide for the offering—

"(A) in the summer following each academic year of the project, and

"(B) for each individual who was a target student and a full participant in the project in the previous academic year,

of a summer program of at least six weeks' duration and involving such academic study and other activities as promote the purposes of this part; and

"(11) provide for the following (through qualitative assessments by a student's teachers and professors and through documentation of a student's cumulative grade point average in high school, scholastic aptitude test scores, acceptances to colleges and universities, and grade point average and major pursued during attendance at a college or university) of each individual who was a target student and a full participant in the project in an academic year in which the project is offered, to evaluate the impact of the project on the careers pursued by former participants in the project.

"(b) The Commissioner may not provide funds under this part to an institution for a project (other than for the part of the project described in subsection (a)(11) during an academic year (hereinafter in this subsection referred to as the 'project year') occurring after the second academic year of the project unless—

"(1) the number of target students who were enrolled in the tenth grade and were full participants in the project in the academic year preceding the project year is not less than 50 per centum of the number of target students who were enrolled in the ninth grade and were full participants in the project in the second academic year preceding the project year; and

"(2) not less than 50 per centum of the particular target students who were enrolled in the tenth or eleventh grade and were full participants in the project in the second academic year preceding the project year also were full participants in the project during the academic year preceding the project year.

"APPLICATIONS

"SEC. 685. (a) Any institution desiring assistance under this part shall make application therefor in accordance with the provisions of this part and other applicable law and with regulations of the Commissioner promulgated for the purposes of this part. The Commissioner shall approve an application under this part only if he determines that the project for which the application seeks assistance—

"(1) will be operated by the applicant and that the applicant will carry out such project in accordance with this part; and

"(2) will provide for the activities described in section 684(a).

"(b) In approving an application for assistance under this title, the Commissioner shall ensure that there is cooperation and cordination of efforts among the projects, including the exchange of materials and information among such projects.

"USE OF FUNDS

"SEC. 686. (a) Funds appropriated to carry out projects under this part may be used to cover all or part of the cost of establishing and carrying out projects, including the cost of stipends, allowances, travel, and subsistence expenses (in such amounts as may be determined in accordance with regulations of the Commissioner) to target students during their participation in a summer program offered pursuant to section 684(a)(10).

"(b) Each target student who is participating on an essentially full-time basis in a project during the academic year may be paid a stipend in an amount not in excess of $30 per month, except in exceptional cases as determined by the Commissioner.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 687. (a) For the purpose of carrying out projects under this part, there are authorized to be appropriated $40,000,000 for the fiscal year ending September 30, 1979, and such sums as may be necessary for each of the four succeeding fiscal years.

"(b) From the funds appropriated pursuant to subsection (a), an amount not to exceed 5 per centum thereof shall be used for the purpose of conducting evaluations of the projects authorized under this part.

"(c) Sums appropriated pursuant to this section shall remain available for expenditure and obligation on or before September 30, 1983.

"PART G—ETHNIC HERITAGE PROGRAM

"STATEMENT OF POLICY

"SEC. 691. In recognition of the heterogeneous composition of the Nation and of the fact that in a multiethnic society a greater understanding of the contributions of one's own heritage and those of one's fellow citizens can contribute to a more harmonious, patriotic, and committed populace, and in recognition of the principle that all persons in the educational institutions of the Nation should have an opportunity to learn about the differing and unique contributions to the national heritage made by each ethnic group, it is the purpose of this part to provide assistance designed to afford to students opportunities to learn about the nature of their own cultural heritage, and to study the contributions of the cultural heritages of the other ethnic groups of the Nation.

"ETHNIC HERITAGE STUDIES PROGRAMS

"SEC. 692. The Commissioner is authorized to make grants to, and contracts with, public and private nonprofit educational agencies, institutions, and organizations to assist them in planning, developing, establishing, and operating ethnic heritage studies programs, as provided in this part.

"AUTHORIZED ACTIVITIES

"SEC. 693. Each program assisted under this part shall—

"(1)(A) develop curriculum materials for use in elementary or secondary schools or institutions of higher education relating to the history, geography, society, economy, literature, art, music, drama, language, and general culture of the group or groups with which the program is concerned, and the contributions of that ethnic group or groups to the American heritage; or

"(B) disseminate curriculum materials to permit their use in elementary or secondary schools or institutions of higher education throughout the Nation; or

"(C) provide training for persons using, or preparing to use, curriculum materials developed under this part; and

"(2) cooperate with persons and organizations with a special interest in the ethnic group or groups with which the program is concerned to assist them in promoting, encouraging, developing, or producing programs or other activities which relate to the history, culture, or traditions of that ethnic group or groups.

"APPLICATIONS

"SEC. 694. (a) Any public or private nonprofit agency, institution, or organization desiring assistance under this part shall make application therefor in accordance with the provisions of this part and other applicable law and with regulations of the Commissioner promulgated for the purposes of this part. The Commissioner shall approve an application under this part only if he determines that—

"(1) the program for which the application seeks assistance will be operated by the applicant and that the applicant will carry out such program in accordance with this part;

"(2) such program will involve the activities described in section 693; and

"(3) such program has been planned, and will be carried out, in consultation with an advisory council which is representative of the ethnic group or groups with which the program is concerned and which is appointed in a manner prescribed by regulation.

"(b) In approving applications under this part, the Commissioner shall insure that there is cooperation and coordination of efforts among the programs assisted under this part, including the exchange of materials and information and joint programs where appropriate.

"ADMINISTRATIVE PROVISIONS

"SEC. 695. (a) In carrying out this part, the Commissioner shall make arrangements which will utilize (1) the research facilities and personnel of institutions of higher education, (2) the special knowledge of ethnic groups in local communities and of foreign students pursuing their education in this country, (3) the expertise of teachers in elementary and secondary schools and institutions of higher education, and (4) the talents and experience of any other groups such as foundations, civic groups, and fraternal organizations which would further the goals of the programs.

"(b) Funds appropriated to carry out this part may be used to cover all or part of the cost of establishing and carrying out the programs, including the cost of research materials and resources, academic consultants, and the cost of training of staff for the purposes of carrying out the purposes of this part. Such funds may also be used to provide

stipends (in such amounts as may be determined in accordance with regulations of the Commissioner) to individuals receiving training as part of such programs, including allowances for dependents.

"NATIONAL ADVISORY COUNCIL

"SEC. 696. (a) There is hereby established a National Advisory Council on Ethnic Heritage Studies consisting of fifteen members appointed by the Secretary who shall be appointed, serve, and be compensated as provided in part D of the General Education Provisions Act.

"(b) Such Council shall, with respect to the program authorized by this part, carry out the duties and functions specified in part D of the General Education Provisions Act.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 697. For the purpose of carrying out this part, there are authorized to be appropriated $15,000,000 for each of the fiscal years ending prior to October 1, 1983. Sums appropriated pursuant to this section shall, notwithstanding any other provision of law unless enacted in express limitation of this sentence, remain available for expenditure and obligation until the end of the fiscal year succeeding the fiscal year for which they were appropriated.".

CONFORMING AMENDMENTS

SEC. 602. (a) (1) Title VII of the Education Amendments of 1974 is repealed.

(2) Section 425(a) of the General Education Provisions Act is amended by inserting immediately after "1965," the following: "and in the case of national reading and mathematics improvement programs provided for in part A of title VI of the Elementary and Secondary Education Act of 1965,".

(b) (1) Section 402(b) (3) (C) of the Education Amendments of 1974 is repealed.

(2) Effective October 1, 1978, sections 404 and 405 of such Amendments are repealed.

(3) Effective October 1, 1979, sections 403, 406, 408, and 409 of such Amendments are repealed.

(c) Effective October 1, 1979, the Special Projects Act is repealed.

(d) Effective October 1, 1978, title IX of the Elementary and Secondary Education Act of 1965 is repealed.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that title VI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MR. BIAGGI

Mr. BIAGGI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BIAGGI: Page 217, line 20, strike out the close quotation marks and the period thereafter and insert immediately after such line the following new part:

"PART H—SPECIAL GRANTS FOR SAFE SCHOOLS

"PURPOSE

"SEC. 699A. The purpose of this part is to provide financial assistance to aid local educational agencies throughout the Nation to meet special needs incident to providing security for children, employees, and facilities in elementary and secondary schools by reducing and preventing crimes against them and to encourage the reporting of crimes comitted in schools to local law enforcement agencies.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 699B. There is authorized to be appropriated $15,000,000 for the fiscal year ending September 30, 1979, and such sums as may be necessary for each of the four succeeding fiscal years to carry out this part.

"ALLOTMENTS TO LOCAL EDUCATIONAL AGENCIES

"SEC. 699C. (a) Within 180 days after the date of enactment of the Education Amendments of 1978, the Commissioner shall identify and report to the Congress the 15 local educational agencies which have the highest incidence of crime in the schools served by such agency.

"(b) The sums appropriated to carry out this part for a fiscal year shall be allotted by the Commissioner among the local educational agencies identified pursuant to subsection (a) in a manner which gives consideration to the following criteria:

"(1) the need for assistance, taking into account such factors as—

"(A) the reported incidences of violent crimes committed against students, faculty, or other school personnel or officials;

"(B) the extent and impact upon elementary and secondary education of crime in the schools of the district to be served;

"(C) the financial need of such local educational agency;

"(D) the expense and difficulty of effectively carrying out a plan described in section 699D(a) in such school district; and

"(E) the degree to which measurable deficiencies in the quality of public education afforded in such district exceed those of other school districts within the States;

"(2) the degree to which the plan described in section 699D(a), and the program or project to be assisted, are likely to effect a decrease in crime in the schools;

"(3) the degree to which a local educational agency has developed administrative guidelines encouraging the reporting to local law enforcement agencies of all crimes committed in schools under their jurisdiction; and

"(4) the degree to which employees of the local educational agency report crimes committed in schools to local law enforcement agencies.

"APPLICATION

"SEC. 699D. (a) A local educational agency may receive a grant under this part for any fiscal year only upon application therefor approved by the Commissioner, with the consent of the appropriate State educational agency, upon the Commissioner's determination that the local educational agency has adopted and is implementing, or will, if assistance is made available to it under this part, adopt and implement, a plan to reduce crime and increase the safety and security of the students, employees, and facilities of its elementary and secondary schools through programs and projects designed to carry out the purpose of this part, including—

"(1) the provision of additional professional or other staff members (including staff members specially trained in problems incident to crime control) and the training and retraining of staff for schools which are affected by such a plan;

"(2) provision of information to parents and other members of the general public incident to the development or to the implementation of such plan;

"(3) the adoption of administrative guidelines so that school officials are encouraged to report all crimes occurring in school or in school buildings to local law enforcement agencies;

"(4) planning and evaluation activities;

"(5) acquisition, installation, modernization, or replacement of appropriated equipment and supplies;

"(6) minor alterations of school plants and facilities; and

"(7) other specially designed programs or projects that meet the purpose of this part.

"(b) The Secretary shall promulgate such regulations as may be necessary to provide for the suspension of funding under this part to any local educational agency which the Secretary determines has not complied with the requirement of subsection (a) (3).

Conform the table of contents accordingly.

Mr. BIAGGI (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BIAGGI. Mr. Chairman, as a member of the House Education and Labor Committee, I rise to offer this amendment to H.R. 15. My amendment provides a modest first-time Federal commitment of funds to local education agencies to help control the problems of school violence and vandalism.

Let me start by admitting that this amendment has already been the product of compromise. I have lowered my sights considerably from my initial bill proposal, H.R. 180, which would have established a full-scale national program on school violence and vandalism prevention. I took these steps in the hopes of at least gaining passage, and learning from this pilot program.

My amendment calls upon the Commissioner of education to determine within 180 days those 15 local educational agencies with the highest incidents of reported crime. It is my intention to have these figures derived from the most recent school year, so as to safeguard against complaints which have been registered that LEA's would attempt to greatly inflate their crime statistics to gain funds under this bill. I stress again that the Commissioner will be using past figures, not present or future.

Once determined, $15 million will be made available under this bill to these LEA's for the purpose of establishing or maintaining school safety plans. Consideration in the awarding of funds will be given to such factors as—the reported incidents of violent crimes committed—the extent and financial impact of crime upon elementary and secondary education and of course—the financial needs of the agency.

Let me discuss what the funds can be used for. A few of my colleagues have referred to this as "the Biaggi hardware amendment." Let me stress that I am not advocating that the funds under this amendment be used to convert schools into fortresses. My amendment lists seven suggested uses of funds, only two of which discuss so-called "hardware." Let me cite the specific language—"to acquire, install, modernize or replace appropriated equipment and supplies and (make) minor alterations of school plants and facilities."

Funds from my amendment can also be used for hiring of additional staff—including those specially trained in problems incident to crime control—and the ongoing training of staff which are affected by such a plan. Does this translate into providing armed guards for our

schools? I think not. This provision, like all others in my amendment, provide a range of suggested uses of funds—allowing flexibility on the local level to make these determinations.

This language would allow flexibility to a school district to hire personnel according to their needs, such as—retraining school officials in leadership skills—training of existing school staff to adapt to a school safety plan—or even the hiring of professional guidance personnel to work with troubled youngsters before they commit crimes. These are among the ways funds from my amendment could be used. To interpret this amendment as a "hardware-armed guard" amendment is the height of narrowness.

For those local educational agencies which have school safety plans already underway, my amendment could be used to augment programs and services, as well as to disseminate information to parents and other interested parties in the community to gain additional support.

School authorities should be encouraged to report crimes to local law enforcement agencies. For too long, schools have been considered sacrosanct entities from the problems of crime. To the contrary, we have shockingly learned that many schools are mere extensions of the street as far as crime is concerned. Yet there remain many school administrators who still live in the ivory tower—who feel the problem cannot happen in their school. They are wrong. By failing to report crime, they are inviting continuation and expansion. Jerry Morris, assistant director of the AFT's educational issues department said:

> There are many administrators who do not want to publically recognize the problem of school disruption or accept responsibility for handling it. When buck-passing takes place, it is usually passed to the teachers.

I consider my amendment a reasonable and sensible first-step approach to this enormous national problem. Hopefully, it could be a catalyst for a comprehensive and coordinated national strategy to reduce school crime. I have chosen the ESEA bill as my vehicle for a very simple reason. This bill authorizes $45 billion over 5 years in new funds for elementary and secondary education. We presently spend some $60 billion annually on education. I propose we spend an additional $15 million to make our schools safe for learning for students and teachers.

Most of my colleagues are familiar with the school crime problem. Let me briefly cite some statistics.

According to Senator BAYH's Subcommittee on Juvenile Justice, school vandalism costs this Nation $600 million a year.

According to the December 1977 report of the National Institute of Education—25 percent of all schools are subject to vandalism in any given month. Another 6,700 schools they describe as having "serious problems with crime."

Again, according to NIE—about 11 percent or 2.4 million secondary school students have something stolen in a given month. Another 282,000 report being attacked in 1 month.

In my home city of New York, some 11,462 criminal incidents were reported in the 1976–77 school year. These included 2,420 assaults—2,340 larcenies and 858 bomb threats and arson-type fires.

Earlier this year, the first murder of a student was recorded in New York City.

The costs associated with school crime are staggering localities around the Nation. New York City last year spent $5.5 million in local funds for school security. In 1974–75, Los Angeles spent more than $7 million at a time they already had a $40 million deficit. The Chicago school system incurred more than $3 million in property losses in 1974—and spent some $6 million for school security programs and guards. This is a tremendous burden. Federal assistance is needed.

Much of what my amendment proposes is consistent with the recommendations of the NIE study. It does not advocate any one solution as much as it does not identify any one cause of the problem.

A dear colleague letter has been circulated by Ms. CHISHOLM and Mr. ANDREWS, a communication which greatly misinterprets my amendment. Let me quote one portion of the letter. The Biaggi amendment * * * "focuses on the symptons which are acts of violence and vandalism rather than the real problem which is the alienation of young people that results in violence and vandalism." We cannot deal with all aspects of the problem in this legislation but we can deal with the mandate of making our elementary and secondary schools safe from crime. We can deter the criminal of tomorrow before he brings new climates of fear into our schools. There may be time to advance some new comprehensive social program to reduce alienation—but the time is long overdue for us to reduce the crime problem in our schools. Let me emphasize that point. I am a former police officer from the city of New York. I recognize criminals—I recognize the fact that the criminal element in our schools is among the most vicious and serious imaginable. I am aware that 68 percent of the robberies and 50 percent of the assaults upon children age 12 to 15 occur in school. I am aware that there were some 100 murders in American schools in 1974–75. Talk about symptoms—the rapid escalation of school crime is symptomatic of a startling increase in overall juvenile crime. Do we ignore or perhaps study the problem further—or do we try to deter? This is the essence of my amendment—it is a tool of deterence. I recognize troubled youngsters—they can be helped. However, I also recognize hardened criminals, whether they be 12 or 80. The system must respond to both.

Mr. Chairman, let me further refute the argument that there have been no hearings on this amendment. The fact is there have been no less than 10 different House and Senate hearings and reports on school crime since 1971 to 1978. Several of these were specifically held on legislation from which this amendment was devised. All in all I believe this issue has received sufficient analysis and review. I will insert the list of hearings at the end of my statement.

U.S. Congress. House. Committee on Education and Labor. General Subcommittee on Education.

The Safe Schools Act. Hearings, 92d Cong., 1st sess., on H.R. 3101 and H.R. 10641. Washington, U.S. Govt. Print. Off., 1972. 200 p.

Hearings held in New York, N.Y., Sept. 17, 1971, and Boston, Mass., Oct. 22, 1971.

U.S. Congress. House. Committee on Education and Labor. General Subcommittee on Education.

Safe Schools Act. Hearing, 93d Cong., 1st sess., on H.R. 2650. Feb. 26, 1973. Washington, U.S. Govt. Print. Off., 1973. 100 p.

U.S. Congress. House. Committee on Education and Labor. Subcommittee on Elementary, Secondary, and Vocational Education.

Safety and violence in elementary and secondary schools.

Hearings, 94th Cong., 1st sess. June 18 and 19, 1975. Washington, U.S. Govt. Print. Off., 1975. 228 p.

U.S. Congress. Senate. Committee on the Judiciary. Subcommittee to Investigate Juvenile Delinquency.

Challenge for the third century: education in a safe environment—final report on the nature and prevention of school violence and vandalism. Washington, U.S. Govt. Print. Off., 1977. 102 p.

U.S. Congress. Senate. Committee on the Judiciary. Subcommittee to Investigate Juvenile Delinquency.

School violence and vandalism. Hearings, 94th Cong., 1st sess., pursuant to S. Res. 72, section 12. Apr. 16 and June 17, 1975. Washington, U.S. Govt. Print. Off., 1976. 599 p.

U.S. Congress. Senate. Committee on the Judiciary. Subcommittee to Investigate Juvenile Delinquency.

School violence and vandalism. Hearing, 94th Cong., 1st sess., pursuant to S. Res. 72, section 12. Washington, U.S. Govt. Print. Off., 1976. 1074 p.

U.S. Congress. Senate. Committee on the Judiciary. Subcommittee to Investigate Juvenile Delinquency in the United States.

Our Nation's schools—a report card: "A" in school violence and vandalism. Washington, U.S. Govt. Print. Off., 1975. 39 p.

Oversight hearing on safe school study. Hearing before the Subcommittee on Economic Opportunity of the Committee on Education and Labor, House of Representatives, Ninety-fifth Congress, Second Session. Hearing held in Washington, D.C., January 24, 1978.

Survival in schools once meant merely passing examinations. Today, survival in American schools means escaping from the thousands of criminals who roam the hallways and playgrounds with unrestricted disease, terrorizing students and teachers alike. When students can carry knives and other weapons as easily as books into schools, there is something radically wrong. We must begin to form the Federal, State and local coalition to combat school crime. I urge adoption of my amendment as a start.

Let me close by adding, Mr. Chairman, that my amendment is supported by the American Federation of Teachers and the California State Department of Education and District of Columbia Superintendent of Schools, Vincent Reid.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I will be delighted to yield to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I would like to see if I correctly understand the gentleman's amendment. As I understand it, the amendment would authorize $15 million a year for grants to 15 of the Nation's school districts most afflicted by school crime. These funds could be used for hiring additional personnel, or for any other activity carrying out a local plan to improve safety in the schools. A school district will be encouraged to report all crimes occurring in the schools to the local law enforcement officials if they wish to receive funds.

My question to the gentleman from New York (Mr. BIAGGI) is whether the schools that apply for the funds will have to make application through their State boards, or will they make the application for funds directly to the Office of Education, and if there will be any strings attached so far as Federal control is concerned, or does the amendment read so that it will be entirely the responsibility of the local school system to cooperate with the local policemen and local personnel to do something about the violence? Will it be done by local personnel or will the Federal Government supervise it?

The CHAIRMAN. The time of the gentleman from New York (Mr. BIAGGI) has expired.

(By unanimous consent, Mr. BIAGGI was allowed to proceed for 5 additional minutes.)

Mr. BIAGGI. Mr. Chairman, it is not the intent of the amendment, or the maker of this amendment, that there be any Federal strings. The intent is that this be done on a local basis, and they can operate with complete autonomy so that in the end they will be in a better position to present an end product to us in the Congress so that in the future we will be able to, if it is feasible, propose a national program. It is really for the purpose of providing a basis for the Members of Congress to deal with a problem that we have been talking about and never have taken that first step to determine what can be done. We do not have the answers. We feel the answers will better be found in these local areas.

Mr. BLOUIN. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Iowa.

Mr. BLOUIN. I thank the gentleman for yielding.

I would like to commend the gentleman for his amendment. I think it is an approach worth trying and certainly is something that will reap benefits far in excess of any costs related to it. I think it ought to be approved.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Kansas.

Mr. GLICKMAN. I thank the gentleman for yielding.

I am a little confused. It is my understanding that 15 school districts will be picked for this pilot study?

Mr. BIAGGI. Yes.

Mr. GLICKMAN. And these will be the 15 school districts with the highest incidence of crime?

Mr. BIAGGI. Yes, among other considerations. There are a number of considerations.

Mr. GLICKMAN. But let me ask the gentleman something. As I understand it, one of the main considerations is that they are going to be the 15 highest school crime districts in the country.

Mr. BIAGGI. The incidence of crime will be a very prime consideration in making determinations, but I can see where it should not be exclusive in that regard. We should talk and think in terms of at least one district outside of the major metropolises so that we can determine and assess properly the cause of vandalism in these areas.

Mr. GLICKMAN. I will admit to the gentleman that school vandalism is very serious, but I submit to the gentleman that vandalism and crime affects every school district of the United States. I believe it may be more severe in suburban and metropolitan areas, but this amendment is geared to just those areas, and because of the vandalism and crime in schools everywhere, this is an inappropriate way to go. I think it deserves a much more comprehensive approach than the gentleman's amendment offers. While I think it is a well-intentioned amendment, I urge that it be defeated.

Mr. BIAGGI. I would like to respond to the gentleman. I responded initially that the vast majority of the districts would be in the high-incidence areas, but to have a complete picture we certainly should have at least one district in an area away from the high-incident rate. I could not agree with the gentleman more when he says it should be more comprehensive, and ultimately when the reports are available to us after this 1 year's experience, then on the basis of those findings we will deal with the possibility of promulgating more comprehensive and nationwide legislation.

Mr. GLICKMAN. It is my understanding, if the gentleman would yield further, that the greatest increases in school crime and school vandalism are not occurring in the high urban areas but are occurring in the middle-sized school districts throughout this country. I just think that the program needs to be more comprehensive in terms of a pilot program.

Mr. BIAGGI. I would like to make one additional comment which is that I would like to have it more comprehensive. I say this amendment provides a modest significant first step.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from Ohio.

Mr. MOTTL. I thank the gentleman for yielding.

I would like to compliment the gentleman from New York for his outstanding amendment. I know that in the greater Cleveland area we have a serious problem of crime and vandalism in the school system, and, hopefully, Cleveland would be one of the pilot program areas.

The chairman of the full committee, the gentleman from Kentucky (Mr. PERKINS), was nice enough to give us some hearings on this issue. We had some distinguished people from the Cleveland area testify before our subcommittee, and they demonstrated at that time that there is a need for the Federal Government to get into a partnership with the State and local governments in this area. I would like to associate myself with the remarks of the gentleman from New York and compliment him for his outstanding amendment. Hopefully, the committee will adopt the amendment.

Mr. BIAGGI. I thank the gentleman.

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. BIAGGI. I yield to the gentleman from New York, who himself is the author of a school violence bill.

Mr. BINGHAM. Mr. Chairman, I thank the gentleman for yielding and for these comments.

As my colleague from New York knows, I have been very much involved in the problem of crime in the schools for a number of years. I was involved in getting a study of State schools enacted into law, along with other Members of the committee.

The CHAIRMAN. The time of the gentleman from New York (Mr. BIAGGI) has expired.

(At the request of Mr. BINGHAM, and by unanimous consent, Mr. BIAGGI was allowed to proceed for 2 additional minutes.)

Mr. BINGHAM. Mr. Chairman, if the gentleman will yield further, the big problem has been to get the Congress to move with action. Studies are not enough. We know what the problem is. While there might be some differences of opinion as to details of the gentleman's proposal, it is a concrete proposal. It puts the Congress into the position of taking some action against this very serious problem.

Mr. Chairman, I commend the gentleman from New York for the amendment and I am glad to support it.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. BINGHAM. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, does the gentleman have a bill that is drafted along these lines?

Mr. BIAGGI. I had a bill originally, H.R. 180; but in order to enable the Congress to accept at least the notion of a first step, I have modified it substantially and I took this vehicle to amend it.

The bill is more comprehensive, but I am satisfied that after 1 year's experience in these 15 districts, Members of Congress will be in a better position to act more intelligently with relation to a nationwide comprehensive program.

Mr. MARLENEE. Mr. Chairman, have there been hearings on this bill?

Mr. BIAGGI. No. We did not have a hearing on my bill, but we have had hearings on school violence on 10 different occasions in the House and in the

Senate. There are any number of reports, ranging from 1971 to 1978.

Mr. MARLENEE. Mr. Chairman, I thank the gentleman for yielding.

Mrs. CHISHOLM. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the amendment proposed by my good colleague from New York. While I certainly agree that violence and vandalism pose a serious problem to our Nation's schools, I do not believe that this amendment proposes solutions which will be positive or meaningful.

This amendment calls upon the U.S. Commissioner of Education to identify the 15 school districts with the highest incidences of reported crime. Then the $15 million would be divided among these schools to implement school security programs. Although there are over 16,000 local educational agencies nationwide, only 15 would be eligible for these grants—this is not an effort with a national scope. The range of activities outlined in this amendment is limited at best. Hiring of security personnel, installation of alarm systems, building fences, or other security devices are all encouraged in this amendment.

I think that it is important to note that the problems of school violence and vandalism are not limited to the big city schools. According to the National Institute of Education "Safe School Study," the cost of school vandalism is actually higher in suburban schools than in big city schools. Any Federal initiative must incorporate solutions which can be applied to problems in all of our Nation's schools, not just money for equipment and security devices for the big cities.

Briefly some other problems involve the requirement that in order to receive a grant under this program, a school must undertake procedures to require the reporting of every offense to the local police. I believe that this will not only encourage schools to inflate their figures for violence and vandalism in order to be eligible for such a grant, but that it would also represent a major regression in our efforts to remove youths from the juvenile justice system. Extensive involvement of the police in our schools would not ameliorate the educational problems which lead to disruptive behavior, but instead condemn a large segment of young people to the juvenile justice system.

Further, this amendment does not take into consideration existing authority within the Office of Juvenile Justice and Delinquency Prevention (OJJDP) in the Law Enforcement Assistance Administration (LEAA). Last year, in reauthorizing the Juvenile Justice and Delinquency Prevention Act, Congress mandated a three-pronged focus on the problems of school-based delinquency. One of the reasons I believe my good friend Congressman BIAGGI feels the need to offer such an amendment is the lack of evidence that OJJDP is moving on this area. The inability of the Office of Juvenile Justice to implement programs at the local level is a serious one. According to data provided to me by LEAA, over fiscal years 1976, 1977, and 1978 we have appropriated some $131 million for State grants to reduce delinquency, but as of May, only $18 million had actually been expended by the States for programs. The other major section of juvenile justice expenditures falls under the special emphasis category, which includes provisions mandated by Congress to promote alternative education programs to reduce school delinquency, programs which focus on the possible correlation between learning disabilities and delinquency, and other technical assistance efforts to reduce school-based delinquency. Over the same 3 year period from 1976 to 1978, the Office of Juvenile Justice was appropriated $64 million, and yet only some $8 million has actually been expended. Rather than authorize additional expenditures, I believe that this Congress ought to focus on the administrative quagmire in the Office of Juvenile Justice which is delaying the timely issuance of guidelines for programs so desperately needed by our people.

Finally, this amendment was not even considered by the Education and Labor Committee during its extensive deliberations over the Elementary and Secondary Education Act. There have been no hearings on this, and I believe it would be unwise to enact such an amendment with such far-reaching implications without deeper consideration. IKE ANDREWS, chairman of the Education and Labor Subcommittee on Economic Opportunity, which has jurisdiction over juvenile delinquency, has held hearings on school violence and vandalism, and I believe we should look to their recommendations prior to the passage of new authorizing legislation. For all of these reasons, I strongly urge the rejection of this amendment at this time.

The CHAIRMAN. The time of the gentlewoman from New York (Mrs. CHISHOLM) has expired.

(On request of Mr. BIAGGI, and by unanimous consent, Mrs. CHISHOLM was allowed to proceed for 1 additional minute.)

Mr. BIAGGI. Mr. Chairman, will the gentlewoman yield?

Mrs. CHISHOLM. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, the gentlewoman from New York (Mrs. CHISHOLM) makes reference to the fact that the amendment mandates reporting all crime, and from the initial amendment that was to be offered, that conclusion would be accurate, except that as a result of some of the objection I heard about that provision, I have modified the amendment to eliminate the term, "mandate," and to include the term to "encourage" the officials to report crime.

The fact of the matter is that it would have no impact on these 15 districts, because it deals retroactively rather than prospectively. I understand the liability of the prospective approach, because that would encourage school officials to inflate their crime figures in order to qualify for funds, and that is not the intent.

What we are dealing with is retroactive reporting so that the Commission of Education can accurately assess the incidence of crime in the past and not be subjected to that potential inflation.

Mr. Chairman, I thank the gentlewoman for her concerns in this area, and I share them.

Mrs. CHISHOLM. Mr. Chairman, I thank the gentleman from New York (Mr. BIAGGI) very much.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. BIAGGI).

The question was taken; and on a division (demanded by Mr. BIAGGI) there were—ayes 14; noes 10.

So the amendment was agreed to.

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The clerk read as follows:

Amendment offered by Mr. JEFFORDS: Page 218, immediately after line 14 insert the following new section:

ENVIRONMENTAL EDUCATION

SEC. 603. (a) Section 3(b)(2) of the Environmental Education Act of 1965 is amended—

(1) by striking out "and" at the end of subparagraph (F) and by striking out the period at the end of subparagraph (G) and inserting in lieu there of "; and"; and

(2) by inserting immediately after subparagraph (G) the following:

"(H) establishing prize contests in the elementary and secondary schools in the area of energy, the emphasis to be placed upon stimulating new thinking about ways to better understand and solve the energy crisis.".

(b) Section 7 of such Act is amended by adding at the end thereof the following: "For each such fiscal year, not more than $500,000 of such amount shall be available for the purposes of section 3(b)(2)(H).".

Conform the table of contents accordingly.

Mr. JEFFORDS. Mr. Chairman, I am offering an amendment which I hope will help to stimulate awareness and provide an incentive for our young people to become actively involved in solving the energy crisis. We know from the educational activities that occurred during the Sunday events across the Nation this past May that there is a genuine interest on the part of teachers in the elementary and secondary schools to do something in their curriculums to increase awareness and the involvement of their students in the energy future of the Nation.

If we are going to switch to other fuels, to promote conservation, to develop a genuine involvement of the younger generation in this regard, then I believe it appropriate to have more Federal leadership in this area than we have had in the past.

This amendment would set up prize contests, to be administered by the State education level with modest Federal funding. The type of contest—be it design and model building, graphics or written

essay projects, would be up to the State authorities to conceive. The Secretary of HEW has the discretion to provide up to half a million dollars annually for this function and distribute it among the States in any equitable way that he feels fit.

I ask the support of my colleagues in helping provide more credible national leadership in stimulating the educational system to get the younger generation involved in this effort in a constructive way.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Chairman, as I understand it, the gentleman's amendment has already been adopted by the Senate committee in enacting the bill extending the Environmental Education Act. Since the Senate committee has folded its amendments to that act into the companion bill to H.R. 15, I believe that the gentleman is simply trying to protect the House rights in conference through offering this amendment today. Therefore, I accept the amendment.

Mr. JEFFORDS. I thank the gentleman.

Yes, we did bring that amendment over to the Senate side. It was offered by the distinguished senior Senator from Vermont. They liked it and they put it in, just as the gentleman said. That is the reason I am offering it here. I think it is an excellent opportunity to get teachers to encourage our young people to become involved in the problems of the energy crisis and to help find solutions to it. It was inspired by Sun Day activities. I had the emotional experience of climbing Cadillac Mountain on that day with the sixth graders of the Bar Harbor School. This was at 4 a.m. so that we could watch the sunrise. This is the point where the Sun first touches the United States. Their interest and enthusiasm inspired me as did their teacher's dedication. This amendment is an appropriate response. I urge your support.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CUNNINGHAM: On page 171, strike all of section 628 and renumber the following sections accordingly.

Mr. CUNNINGHAM. Mr. Chairman, my amendment does strike part of the bill. I do it with a certain amount of reluctance because it is obvious, in going through the bill and also the report, that the full committee and the subcommittee have done a lot of work to try to address many of the problems which impact education in the United States; and I always question anyone's attempting to change that balance.

However, in this one instance, I am going to ask for consideration of striking the mandating of a new program at the local levels. While I understand and appreciate the direction at which the effort is aimed, I question whether we, at the Federal level, want to mandate onto a locally elected school board a new program.

Mr. Chairman, there are several things in this particular section dealing with preschool training that I frankly find many parents taking umbrage at and even some educators. Therefore, I think that when the Federal Government goes ahead and mandates the establishment of a program and mandates entrance to a child's home, while the motivation in trying to increase the transition from preschool to school is admirable, the vehicle is too broad. The kind of program is something that can totally be implemented through local school boards, and it is on that basis, Mr. Chairman, that I would ask favorable consideration of my amendment.

Mr. PERKINS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first, let me state that the gentleman from Pennsylvania (Mr. GOODLING), I think the membership knows, is a very conservative, realistic, good Member of this body. He studied preschool programs, considerably before he offered the amendments in the full committee. I regret that the gentleman from Pennsylvania (Mr. GOODLING) is absent today because I know that if he were here, he would be on the floor opposing the amendment.

Mr. Chairman, we do not have adequate preschool programs in this country today. This was an amendment which the gentleman from Pennsylvania (Mr. GOODLING) offered in committee. It authorizes funds for programs to bring closer together preschool and school programs. I do not know of a better purpose for which an amendment could be offered, and it would be my hope that the membership of this body would oppose the amendment just offered and vote it down.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I join with the gentleman from Kentucky, the chairman of the committee, in his opposition to the amendment.

Going back to when Head Start began, there has been controversy between those in education, in the school districts, with respect to Head Start programs. The amendment of the gentleman from Pennsylvania (Mr. GOODLING) was extremely good because now it will require that there be cooperation between the Commissioner of Education and the Assistant Secretary of Human Development, who is the person who supervises the Head Start program.

Also, Mr. Chairman, the research has indicated that there have been substantial results in Home Start, the programs within the home. Therefore, in the portion of the Goodling amendment where he does require that a portion of the actual instruction, counseling, and testing be conducted primarily in homes, I believe that was a wise move. Also, research and study have indicated that the one-to-one relationship which exists in the home is more productive many times and that when done on a group basis there is not the same sustained benefit from the program.

Mr. Chairman, from the experience which the gentleman from Kentucky (Mr. PERKINS) and I have had over the years in trying to bring peace between the two groups and also to have what they have learned lead on to further benefit for preschool students, I think this is a good amendment.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Washington.

Mr. CUNNINGHAM. I appreciate the chairman's yielding.

Mr. Chairman, what both gentlemen said is absolutely true. These are admirable programs.

My main point is that these are programs that can be implemented right now under local determination and should not be mandated by the Federal Government through the head of a bureaucracy. These elected school boards are responsible to a local constituency, and we should leave them alone so that they can address the needs that all of us have concerning the education of our children.

Mr. PERKINS. Mr. Chairman, let me say to the gentleman that we are not mandating anything here. We are just making funds available for those who may want to apply, if the gentleman reads the section correctly.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I think that the observation made by the gentleman from Kentucky (Mr. PERKINS) is very precise. These programs are of a cooperative, voluntary type, open to applicants who may want to take advantage of them.

Mr. Chairman, I heartily endorse the committee's efforts and the efforts of the chairman and the ranking minority member in this regard.

I think this should be the priority place we are spending pilot education dollars. It has been demonstrated time and again in research and analysis that this is the focus where we can significantly attain a real achievement for the dollars we are putting into education. This is the focus where we should be moving and initiating actions. We are no longer dealing with the former quantitative problems in education. Preschool education and early childhood ought to really start receiving our constructive attention.

I commend the chairman and members of the committee for their insight in this subject. I ask for defeat of this amendment which would delete the provision in the legislation for pilot preschool programs aimed at facilitation of preschool Head Start and formal early childhood education programs.

Mr. CUNNINGHAM. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Washington.

Mr. CUNNINGHAM. If I have misunderstood the language, I certainly would agree with the gentleman, but my reading on page 171 says, and reads very specifically, that the Commissioner is directed to establish—if that is not mandating, I frankly am somewhat perplexed.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(At the request of Mr. CUNNINGHAM and by unanimous consent, Mr. PERKINS was allowed to proceed for 2 additional minutes.)

Mr. CUNNINGHAM. It also goes on and says specifically, on page 172, that the services, including instruction, counselling, and testing, to be conducted primarily in the child's home. Now, again I suggest to the distinguished chairman that this is mandating, and this is a program which we can adopt at the local level because, certainly, the goals of smoothing the transition between preschool and school are admirable. The mandating is what precipitates the amendment.

Mr. PERKINS. It is a partnership program, which the language states, but the local district must apply for the funds to establish it. Let us read it carefully. Section 628(a) says:

> The Commissioner is directed to establish, in cooperation with the Assistant Secretary for Human Development of the Department of Health, Education, and Welfare, a program of cooperative pilot projects between local educational agencies and Project Headstart, as authorized by the Headstart-Follow Through Act, which will provide a smoother and more successful transition to formal schooling for certain preschool-aged children.

Now, the Head Start-Follow Through Act provides that the local agencies must apply for these funds, and there is nothing there that is mandating anyone to apply. The purpose is to assist children to improve their long-term achievement in elementary schools.

Mr. CUNNINGHAM. If the chairman will yield further, would the chairman not agree that basically what he is stating in this section could be implemented at the local level without this section, if the various parties agree to it?

Mr. PERKINS. It could be, but unless the Federal Government, the Office of Education, provides the incentive for these preschool cooperation programs, the chances are they will not be funded.

We are just trying to do something through a cooperative effort, as the language states, through the Federal Government and the local educational agency or the local people in trying to do something for the preschool child.

The CHAIRMAN. The time of the gentleman from Kentucky has again expired.

(At the request of Mr. QUIE and by unanimous consent, Mr. PERKINS was allowed to proceed for 2 additional minutes.)

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, perhaps at this time we ought to point out to the gentleman from Washington that there has been some bad blood between the people in Head Start and the local school people. The Head Start people began, many of them, by thinking that something was wrong with the teachers and welfare workers, and that they ought to take people who had not had any experience at all to do Head Start—a sort of antiestablishment feeling. The people in the establishment figured they were kind of off-beat individuals and they were not too cooperative either. Later on, as enrollments started dropping off in schools, some people started proposing the Head Start program, and some people even transferred over to it. Mr. Albert Shanker of the American Federation of Teachers indicated he would like to do that. Then some people figured that a way to get teachers who had lost their jobs in the schools new jobs was through the Head Start programs.

We need somebody to bring schools and Head Start programs together in a cooperative venture to enable the children to progress in school later on. All this says is: You work out a cooperative program so we can show it to other people in the country so they can see how it worked in these pilot programs.

Mr. PERKINS. The gentleman from Minnesota is exactly right, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. CUNNINGHAM).

The amendment was rejected.

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ASHBROOK: Page 186, line 9, strike out "PART E—COMMUNITY SCHOOLS" and everything that follows through line 24 on page 201, and redesignate the remaining parts accordingly.

Mr. ASHBROOK. Mr. Chairman, we could cut $350 million in authorizations from this bill by cutting out this program which is absolutely peripheral, at best, to the central purpose of the schools. "Community education program" is defined as:

> A program in which a public building, including, but not limited to, a public elementary or secondary school, is used as a community center operated by a local educational agency in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide education, recreational, health care, cultural, and other related community services for the community that the center serves in accordance with the needs, interests, and concerns of that community.

One authority on community schools, Donald C. Weaver, who wrote "Community Education—A Cultural Imperative," defined it this way:

> Community Education is an attempt to marshall all the educational resources within the community to create a laboratory for the management of human behavior.

Now, I do not want to spend Federal tax dollars "to create a laboratory for the management of human behavior." I think Federal money for schools should help improve the education of children.

But it just so happens that in fiscal 1977 the Office of Education did spend $4 million for an elementary-secondary education program called "Community Schools." Could anyone guess how much paperwork this generated? I could not. But the National Center for Education Statistics gave our committee an estimate of 54,000 man-hours. So at a very modest estimate of $10 an hour, it costs the schools $1 to get $7.40. By contrast, it costs the schools (figuring $10 an hour) $1 in paperwork to get $6,347 in impact aid.

Any community which wants to use its schools as community centers, and some do so now, can do it without a dime of Federal money or a line of Federal regulations.

We should vote to perform a service here in accordance with the needs, interests, and concerns of our taxpaying constituents and strike this from the bill. It is simply a totally unnecessary extravagance for the Federal Government to use limited tax money for this sort of purpose, which should be solely the concern or interest of a local school board.

Mr. KILDEE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the concept of community education was established by a fiscal conservative, Charles S. Mott, a founder of General Motors, who saw the tremendous underutilization of one of the most common buildings in America, the neighborhood school.

Community education has brought both the school into the community and the community into the school. Because of its proximity to the people it serves, the school can be a major vehicle for coordinating and delivering many fragmented services in a comprehensive manner to individuals in need of assistance. Whether it be in cooperating with existing agencies in bringing needed services into the school or initiating new services, the school can become a "one-stop shopping center for many social and community services."

In many communities, the community school has demonstrated its ability to improve the quality of life for the total community, preschool through senior citizens.

This demonstrated ability has been reflected at the Federal level. The final report of the Senate Subcommittee to Investigate Juvenile Delinquency sighted community education as an approach for reducing school violence and vandalism. Dr. Mary F. Berry, Assistant Secretary for Education, stated before the Select Committee on Population:

> . . . we can add to the responsibilities of the already existing school plant by using education facilities for other social service programs, such as health or recreation.
>
> This is already being done in some communities, and the results are positive. The Congress recognized the validity of the concept in 1974, when it passed the Community Schools Act.

Dr. Berry went on to add:

> There is pending legislation sponsored in the House by Congressman Kildee and in the

Senate by Human Resources Committee Chairman Williams that would dramatically increase our effort here.

This is but a sample of the increasing awareness that people have with regard to the possibilities and potential of community education.

Mr. Chairman, we do have in many States a solid commitment to community education because they do recognize the role community education plays. We can see it right here in Washington, D.C. We can see it in many places where there have been civil disturbances and civil violence, and we note that the one building that was not disturbed, the one building that was not damaged, the one building that indeed was protected by the people in that community was the community school, a school that had adopted the community school concept, that had literally taken the school into the community and the community into the school.

Why, you may ask, should there be Federal involvement? Because, like in many programs, the money is not there to start up these programs. This will help expand this concept of community education into many communities that do not have them at the present time.

As a matter of fact, if you look at the funding, we start out with a $55 million authorization and go up to $72 million and then it decreases as the local school districts begin to start these programs up and assume greater responsibility. But they do need the start-up money. If we are to spread this concept of community education we should aid and help them use those buildings that are already existing so as to provide a totality of services in conjunction with other agencies.

We have seen in my State a tremendous cooperation between the other agencies providing these services to the people.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was rejected.

AMENDMENT OFFERED BY MRS. HOLT

Mrs. HOLT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. HOLT: On page 197, insert after line 4 the following paragraph:

"(3) No grant may be made to a local education agency to plan, direct, or operate any program or activity that is being conducted in that community by another public agency, unless the general local government expresses formal agreement after consultation with affected local or state agencies."

Mrs. HOLT. Mr. Chairman, we all endorse maximum possible use of schools for community activities, when such uses do not impede the education mission of the schools. Such cooperative use of school facilities has been achieved in many communities across the land.

I should note that in both of the Maryland counties I represent, public education authorities have made schools available for a considerable variety of community activities. I am pleased by this trend and encourage its advancement.

However, the community schools section of H.R. 15 goes far beyond the cooperative sharing of facilities that we would like to encourage.

It would allow local education agencies to use Federal funds to duplicate and compete with public services already offered in the same area by State and local agencies. As this legislation is presently written, it promises great discord and conflict, and waste of taxpayers' money.

The legislation would authorize local education agencies to plan, direct, and operate a broad range of public services, including recreation programs, health care, social services, rehabilitation of offenders, libraries, and other activities for the public at large.

To some degree, the local school district could become a rival of the county or municipal government or State agency responsible for providing such services to the community.

It is important to remember that education is one of many public services offered by government, but in this legislation education becomes a government offering many services. It is a fundamental and far-reaching change in governmental structure at the State-local level, and I am advised that the House Education and Labor Committee did not consider these implications.

The elected officials of the general local government are the most competent body to determine what public services are needed in any locality, and how those services to be coordinated and delivered. We have too often seen four agencies in the same area—trying to do the same thing.

My amendment recognizes this primary role of general local government, while preserving the spirit of the "Community Education" legislation. It reads:

No grant may be made to a local education agency to plan, direct, or operate any program or activity that is being conducted in that community by another public agency, unless the general local government expresses formal agreement after consultation with affected local or State agencies.

Mr. Chairman, if the House is interested in preventing duplication, conflict, and waste of public funds, it will adopt my amendment.

I am pleased that the National Association of Counties has endorsed my amendment. I quote from the letter that NACO sent to all members of this House:

The letter is as follows:

NATIONAL ASSOCIATION OF COUNTIES,
Washington, D.C., June 19, 1978.

DEAR MEMBER: On behalf of the National Association of Counties (NACo)*, I urge you to support an amendment to be offered by Congresswoman Marjorie Holt (R-Md.) to the "Community Schools" section of H.R. 15. The amendment would ensure that public services delivered by and in schools would not conflict or duplicate existing services (health, social services, recreation, youth development) provided by counties and cities.

In order to maximize use of tax dollars, NACo strongly supports partnerships between county governing boards and school boards to further the delivery of human services in public schools. However, the services delivered by schools should complement local delivery systems; these services should not conflict with or be duplicative of services provided by local general purpose governments.

County elected officials urge you to support the Holt amendment to H.R. 15 to be offered on the House floor this week.

Respectfully,

FRANCIS B. FRANCOIS,
Councilman, Prince George's County, Md., and Second Vice President, National Association of Counties.

Mr. Chairman, I urge adoption of this amendment.

Mr. ASHBROOK. Mr. Chairman, will the gentlewoman yield?

Mrs. HOLT. I yield to the gentleman from Ohio.

Mr. ASHBROOK. I appreciate the gentlewoman's yielding. Of course, as she well knows, I offered an amendment a few moments ago to strike this section. That did not appear to be the will of this body. I would say if we are to have the community school concept, your amendment would do it a great service, and I think it would be much more reasonable for it to be adopted since it would pressure local government prerogatives.

Mrs. HOLT. I thank the gentleman for his comments.

AMENDMENT OFFERED BY MR. KILDEE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MRS. HOLT

Mr. KILDEE. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. KILDEE as a substitute for the amendment offered by Mrs. HOLT: On page 197, insert after line 4, the following new paragraph:

"(3) No grant may be made to a local education agency to plan, direct, or operate any program or activity that is being conducted by another public agency unless the Commissioner determines collaboration exists between the Local Education Agency and the public agency conducting such program or activity."

Mr. KILDEE. Mr. Chairman, I want to commend the gentlewoman from Maryland (Mrs. HOLT) for her efforts with me to work out a compromise. She has been open and of good will on this. We were not able to arrive at exact language, however, but she has been extremely cooperative.

I think there are some defects in her

*NACo is the only national organization representing the 3,000 county governments in America. Its membership includes urban, suburban, and rural counties joined together for the common purpose of strengthening county government to meet the needs of all Americans. By virtue of a county's membership, all its elected and appointed officials become participants in an organization dedicated to the following goals: improving county government; serving as the national spokesman for county government; acting as a liaison between the nation's counties and other levels of government; and achieving public understanding of the role of counties in the federal system.

amendment, and I offer this amendment as a perfecting amendment to the gentlewoman from Maryland's amendment. In some States before a community education program could be instituted by an LEA, a formal agreement would have to be signed by perhaps the State, county, and city government. This would be true of a local program, for example, were administered in part by all three governments. This could create an impossible and very difficult situation. In many localities where the school board is an independent agency this would allow State, county, or city government to veto the actions of a local school board by saying, no, they would not approve formally this program. I do not think we want to encourage that.

My substitute amendment for the amendment offered by the gentlewoman from Maryland would assure that duplication of services would not take place and that collaboration between agencies would exist but would not hamper the independence or initiative of the local education agency.

A study made recently by Dr. Malcolm Young of the Developmental Associates for the U.S. Office of Education of Community School Programs looked into this question of cooperation between the community schools and the local agencies to see whether we were creating problems or not. He concludes that really we were actually building greater cooperation. I know that is the case in my State where community education started, and I have seen it in other places where we have built cooperation rather than minimize cooperation. Dr. Young in his report, which will be finalized next week, indicates that most of the community people said that the level of cooperation between agencies and the schools had increased as a result of the community education programs.

He cited specific ways in which the community education program had helped to strengthen the programs in other agencies through this cooperation. Dr. Young said that five categories of agencies were contacted to see whether the strengthening of the cooperation did, indeed, take place. In addition to the schools, these five groups were contacted: the Department of Parks and Recreation; the Agency on Aging; the Community College; the Health Service; and the Human Resource Agency.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. KILDEE. I am happy to yield to the gentlewoman.

Mrs. HOLT. Mr. Chairman, I want to commend the gentleman for working with me. I think we both realize that there has been an oversight here in trying to make the best use of the schools; but I fail to see why the gentleman thinks that the general local government cannot do this. I cannot see how my amendment would bring the State and everybody else in there to make the decision. If we put it right back in the hands of the Commissioner of Education, we are going right back to the wording of the original bill.

I feel that this is an important point. In my counties we have an outstanding recreation program, for instance, and I think that the local governing body there would have the ability to recognize whether it is a viable program and who should be making or providing these services for the people.

Mr. KILDEE. Mr. Chairman, the only problem we find and do find in some instances is that some local unit of government could veto a program of the local education agency and, therefore, thwart this.

There is, unfortunately, human nature being what it is, in some instances some rivalry. We find out after the community education program starts that we build cooperation more than diminish the cooperation; but in the beginning, very often other agencies fear competition. History has shown this experience to be the case; but they could very well not certify the approval for the Commissioner, and therefore, the program could not be funded.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. KILDEE) has expired.

(At the request of Mrs. HOLT, and by unanimous consent, Mr. KILDEE was allowed to proceed for 2 additional minutes.)

Mrs. HOLT. Mr. Chairman, will the gentleman yield further?

Mr. KILDEE. I am happy to yield to the gentlewoman.

Mrs. HOLT. Mr. Chairman, cannot that decision be made better at the local level? Would not there be a proliferation or a multiplicity of applications for grants if it were made by the Commissioner of Education? Does not the local representative of the people in the community have the interest of the people most closely at heart and, therefore, would be able to make that decision more validly?

Mr. KILDEE. The thing that is difficult, I think, in the gentlewoman's amendment, and mine merely perfects the gentlewoman's amendment, is because of fear of competition we will have for many years initially a veto over the schools offering these services. What we want to do is really utilize these buildings and, as I said in my opening remarks, bring the community to the school and the school to the community.

Mrs. HOLT. Mr. Chairman, if the gentleman will yield further, will we have a veto over the schools except where there was a viable program? This is the whole point of my amendment, to make certain that those good recreation programs being carried out in most of the districts of the country would not be duplicated by school systems who jealously want to provide the same kind of service. I think that the local governing body can make that decision.

Mr. KILDEE. In every instance I have seen, once the community school concept is started, we find this cooperation. Before it starts, the fear of competition exists.

Mr. ASHBROOK. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Michigan (Mr. KILDEE) as a substitute for the amendment offered by the gentlewoman from Maryland (Mrs. HOLT).

I will not take the 5 minutes, but I think what we have just heard is probably the classic argument between local and Federal control. My good friend, the gentleman from Michigan (Mr. KILDEE) indicated that the one mistake that our colleague, the gentlewoman from Maryland (Mrs. HOLT) was making was the fact that they could have these squabbles at the local level, possibly even preventing the establishment of a community school in some area.

Of course, they can have these squabbles at the local level, but I do not think that is in any way comparable to the squabbles that take place at the Federal level.

Just a few weeks ago, for example, I pointed out on the floor the fact that a battle is going on in HEW right now on the creation of a Department of Education. There are 156,000 people there. They have divided up on sides. Most of the armies that have marched on the face of the Earth are not the size of the bureaucratic armies that are now fighting and squabbling over the implementation of the President's proposal for a Department of Education over there in HEW.

There are scores of areas that we could show of problems at the Federal level and squabbles, difficulties, and arguments between the AFT, the NEA, NIE and between the Office of Education and HEW. To put the onus on local government is a great mistake.

I think the amendment offered by our colleague, the gentlewoman from Maryland (Mrs. HOLT), makes great sense, and if we have any trust whatsoever in local government, we should defeat the substitute amendment offered by the gentleman from Michigan (Mr. KILDEE) and support the amendment offered by our colleague, the gentlewoman from Maryland (Mrs. HOLT), because it is the classic battle between local and Federal control.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Kildee substitute.

Mr. Chairman, the Kildee substitute seeks to accomplish what the gentlewoman from Maryland (Mrs. HOLT) is seeking to accomplish by requiring that no grant could be made in that program for any services being conducted by another local public agency unless the commissioner determines that collaboration exists between those agencies.

The Holt amendment seeks to accomplish the same result by forbidding any funds from being used under that program to provide a service already being provided by another public agency unless there is a written agreement among all the agencies.

Mr. Chairman, I support the Kildee amendment since it is more flexible than the Holt amendment and recognizes that a wide variety of situations exists locally, and that an absolute rule cannot always be applied. The Kildee substitute is more flexible, it is less cumbersome, and I feel

it should be substituted for the Holt amendment.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, as I understand the difference between the amendments, the amendment that has been offered by the gentlewoman from Maryland (Mrs. HOLT) is in essence making the decision right here. It is making the decision that if a local agency has been involved, first, it will forever have a veto power over the community school program. In other words, the decision would be made here in the Congress at the Federal level rather than permitting a cooperative-type agreement in terms of a community education program based on the Kildee approach.

So this is not a classic fight between Federal control and local or State control. It is a classic local fight or a turf fight perhaps over a community education program offered in a larger school district, a district which may be a larger political subdivision and contain many smaller political subdivisions which have independent recreational programs.

Hopefully, there would be cooperation in the school programs, but the last thing we want to do is at the Federal level to say that "We know it is your turf, and we will make that decision here in Washington." Then whatever makes sense back home, they have forever to live within that framework.

Mr. Chairman, I rise in support of the Kildee substitute. I think the Kildee substitute takes the proper approach, and I hope the House sees the wisdom of that approach.

Mr. PERKINS. Mr. Chairman, I thank the gentleman for his contribution.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Holt amendment.

Mr. Chairman, the question is: Should the U.S. Commissioner of Education make the determination of whether or not a duplication of service, or should it be made by the unit of local government?

In a way, this is similar to the battle that exists in training programs between vocational education officials and the local communities in CETA. It has been my feeling, although the law does not provide for it, that if a vocational education program is being operated they should have the voice as to whether a duplicate program is established. I know that situation exists in Minnesota. On one side of the highway there is a program that exists in vocational education and now two new CETA programs have been established across the highway.

If the Commissioner of Education in this case and the Secretary of Labor in that case were consistent in everything that is going on in every local community, it would be different.

The only one who really know what is going on in the local community are the people who are there.

It seems to me what the Holt amendment says is that that general unit of local government makes a determination as to whether a duplication exists. In the local area, the program that already exists, must work with the community education program. It is only if the schools want to run a program that is a duplicate of the one in the park's department that they would have to work it out with the park's department.

I would suggest that is where the decision ought to be made—at the local level, rather than by the Commissioner. If they cannot get together in a community, they do not get the money. I think that ought to be a pretty strong incentive for them to get together and work it out.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. KILDEE) as a substitute for the amendment offered by the gentlewoman from Maryland (Mrs. HOLT).

The question was taken; and on a division (demanded by Mrs. HOLT) there were—ayes 23, noes 19.

RECORDED VOTE

Mrs. HOLT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 197, noes 195, not voting 40, as follows:

[Roll No. 540]

AYES—197

Addabbo	Eilberg	Mineta
Akaka	Ertel	Minish
Ambro	Evans, Ind.	Mitchell, Md.
Ammerman	Fary	Moakley
Anderson, Calif.	Fascell	Moffett
	Fenwick	Mollohan
Annunzio	Fisher	Moorhead, Pa.
Applegate	Fithian	Moss
Aspin	Flood	Motti
AuCoin	Florio	Murphy, Ill.
Baldus	Foley	Murphy, N.Y.
Baucus	Ford, Mich.	Murphy, Pa.
Beard, R.I.	Ford, Tenn.	Murtha
Bedell	Fowler	Myers, Gary
Beilenson	Fuqua	Myers, Michael
Benjamin	Garcia	Natcher
Biaggi	Gaydos	Nedzi
Bingham	Gephardt	Nix
Blanchard	Gore	Nolan
Blouin	Hamilton	Nowak
Boggs	Hanley	Oakar
Bolling	Hannaford	Oberstar
Bonior	Harkin	Obey
Bonker	Harrington	Ottinger
Brademas	Harris	Panetta
Breckinridge	Hawkins	Patten
Brodhead	Heftel	Patterson
Brooks	Holland	Pattison
Brown, Calif.	Hollenbeck	Pease
Burke, Calif.	Holtzman	Pepper
Burke, Mass.	Howard	Perkins
Burlison, Mo.	Hughes	Price
Burton, John	Jacobs	Reuss
Burton, Phillip	Johnson, Calif.	Richmond
Byron	Jones, Tenn.	Rinaldo
Carney	Jordan	Roe
Carr	Kastenmeier	Rogers
Cavanaugh	Keys	Roncalio
Chisholm	Kildee	Rooney
Clay	Kostmayer	Rosenthal
Collins, Ill.	Krebs	Rostenkowski
Conyers	LaFalce	Roybal
Corman	Lederer	Russo
Cornell	Lehman	Scheuer
Cornwell	Levitas	Schroeder
Delaney	Lloyd, Calif.	Seiberling
Dellums	Long, La.	Sharp
Dent	Long, Md.	Shipley
Dicks	McCormack	Simon
Diggs	McFall	Sisk
Dingell	McKay	Skelton
Dodd	Markey	Slack
Downey	Mazzoli	Solarz
Drinan	Meeds	St Germain
Duncan, Oreg.	Meyner	Staggers
Eckhardt	Mikulski	Stark
Edgar	Mikva	Steed
Edwards, Calif.	Miller, Calif.	Steers
Stokes	Van Deerlin	Whalen
Stratton	Vanik	Wirth
Studds	Vento	Wright
Thompson	Volkmer	Yates
Traxler	Walgren	Yatron
Tucker	Waxman	Young, Tex.
Udall	Weaver	Zablocki
Ullman	Weiss	Zeferetti

NOES—195

Abdnor	Gibbons	Moorhead, Calif.
Andrews, N. Dak.	Gilman	Myers, John
Archer	Ginn	Neal
Armstrong	Glickman	Nichols
Ashbrook	Goldwater	O'Brien
Ashley	Gonzalez	Pettis
Badham	Gradison	Pickle
Bafalis	Grassley	Pike
Barnard	Green	Poage
Bauman	Gudger	Pressler
Beard, Tenn.	Hagedorn	Preyer
Bennett	Hall	Pritchard
Bevill	Hammer-schmidt	Quayle
Boland	Hansen	Quie
Bowen	Harsha	Quillen
Brinkley	Heckler	Railsback
Broomfield	Hefner	Regula
Brown, Mich.	Hightower	Rhodes
Brown, Ohio	Hillis	Risenhoover
Broyhill	Holt	Roberts
Buchanan	Horton	Robinson
Burgener	Hubbard	Rose
Burleson, Tex.	Huckaby	Rousselot
Butler	Hyde	Rudd
Carter	Ichord	Runnels
Chappell	Jeffords	Ruppe
Clausen, Don H.	Jenrette	Ryan
	Johnson, Colo.	Santini
Clawson, Del	Jones, N.C.	Sarasin
Cleveland	Jones, Okla.	Satterfield
Cochran	Kazen	Sawyer
Cohen	Kelly	Schulze
Coleman	Kemp	Sebelius
Collins, Tex.	Kindness	Shuster
Conable	Lagomarsino	Sikes
Conte	Latta	Skubitz
Corcoran	Leach	Smith, Iowa
Cotter	Lent	Smith, Nebr.
Coughlin	Livingston	Snyder
Crane	Lloyd, Tenn.	Spence
Cunningham	Lott	Stangeland
D'Amours	Lujan	Stanton
Daniel, Dan	Luken	Steiger
Daniel, R. W.	Lundine	Stockman
Davis	McClory	Stump
Derrick	McCloskey	Symms
Derwinski	McDade	Taylor
Devine	McDonald	Treen
Dickinson	McEwen	Trible
Dornan	McKinney	Vander Jagt
Duncan, Tenn.	Madigan	Waggonner
Early	Maguire	Walker
Edwards, Ala	Mahon	Walsh
Edwards, Okla.	Marks	Wampler
Emery	Marlenee	Watkins
English	Marriott	White
Erlenborn	Martin	Whitehurst
Evans, Del.	Mathis	Whitley
Findley	Mattox	Whitten
Fish	Michel	Wiggins
Flippo	Milford	Wilson, Bob
Flowers	Miller, Ohio	Wydler
Forsythe	Mitchell, N.Y.	Young, Alaska
Frenzel	Montgomery	Young, Fla.
Gammage	Moore	Young, Mo.
Giaimo		

NOT VOTING—40

Alexander	Frey	Rangel
Anderson, Ill.	Goodling	Rodino
Andrews, N.C.	Guyer	Spellman
Breaux	Ireland	Teague
Burke, Fla.	Jenkins	Thone
Caputo	Kasten	Thornton
Cederberg	Krueger	Tsongas
Danielson	Le Fante	Wilson, C. H.
de la Garza	Leggett	Wilson, Tex.
Evans, Colo.	McHugh	Winn
Evans, Ga.	Mann	Wolff
Flynt	Metcalfe	Wylie
Fountain	Pursell	
Fraser	Rahall	

The Clerk anncunced the following pairs:

On this vote:

Mr. Rangel for, with Mrs. Spellman against.
Mr. Ranhall for, with Mr. Teague against.
Mr. Le Fante for, with Mr. Breaux against.

Messrs. SATTERFIELD, VANDER JAGT, STOCKMAN, McKINNEY, HORTON, EDWARDS of Alabama, FLOWERS, DAVIS, MAGUIRE, BUCHANAN, D'AMOURS, CARTER, and BROWN of Michigan changed their vote from "aye" to "no."

Messrs. PATTEN, KOSTMAYER, and LEDERER changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Maryland (Mrs. HOLT) as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title VI?

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 166, strike out line 8 and everything that follows through line 3 on page 167 and conform the table of contents accordingly.

Mr. CRANE. Mr. Chairman, as our resident wit in this city, Mark Russell, has observed, if I believed in centigrade, I would have been born in Belgrade. To be somewhat more serious, I have introduced this amendment because of a great concern over the metric education policies that we are currently pursuing in this country. The program is voluntary, to be sure, and yet there is a great deal of misunderstanding in the business community, in our educational institutions, and on the part of most Americans over that fact. In fact, a GAO study, which has not yet been published, indicates that only 18 percent of the total population in this country realizes that we are dealing with a voluntary program. I think more important is the fact that an overwhelming majority of all Americans are opposed to metrication.

It seems to me that we in this Congress have very recently had the experience of hastily acting to prevent a multimillion-dollar costly conversion of our highway signs from the customary to metrication. That is just the beginning of the kinds of problems we are apt to encounter in this effort to aggressively promote and further inculcate the idea that the Nation is going metric. In Great Britain they have gone metric and they are in the process right now of trying to dump the system because the public objects to it.

In addition, metrication provided great opportunities for consumer ripoffs in that country, and the GAO study will indicate that similar problems can be encountered here in the United States; for example, on one side of the street a carpet salesman is advertising carpeting at a price per square meter. Across the street there is a seeming discount because the carpet salesman is offering it on the basis of a square yard. Already we have some evidence that the same phenomenon has occurred here in the conversion process in bottles and cans.

In addition to that, there is an enormous cost to be anticipated in the conversion to metric with a lot of household appliances, automobiles, and various other products that are going to require the maintenance of extensive inventories over a period of years until the Nation has actually made the full conversion.

Now, among those overwhelming majority of Americans who are opposed to this conversion are many of our good friends within the AFL–CIO. Certainly people in the building trades know what kinds of costs are involved in the proposed conversion to metric.

Many eminent educators and prestigious institutions of higher learning have urged upon the Government and our school systems, the advantages to be gained by utilizing a simple system of weights and measures to which all nations might subscribe. A universal system of weights and measures has its advantages, but practical considerations have made the successful attainment of it, at best, an elusive goal.

I seriously question whether it is in the best interests of the schoolchildren of this country to totally educate them for a future that may never exist or at least only partially. I cannot conceive of the likelihood that today, tomorrow or at any time in the foreseeable future that the United States will totally adopt the metric system.

Today there are 13 States that now teach metric measurements predominantly while 23 have set target dates between 1978 and 1982 for total metric education. I question whether we are doing our young people a service by educating them primarily in a system that meets with apathy and opposition from a large portion of our populace.

The simplicity of the metric system and its widespread acceptance in a major part of the world demands thoughtful and intelligent consideration. However, I am convinced the course we are presently following is not the one that is in accordance with the intent of Congress as stated in Public Law 94–168.

The General Accounting Office has been studying the progress and problems of the metrication drive in the United States for 2 years. I have had several briefings on this self-initiated study but their report to Congress is not due for release until some time in the fall. Since this objective and authoritative agency will at that time reveal many startling facts, I feel commonsense should tell us all not to authorize any funds for metric education at this time.

The education of our children is not an area in which we should casually experiment for the metric training will have far reaching implications on their career aptitude and skills. We must exercise restraint for a relatively short period of time and await the outcome of the GAO report. Mr. Chairman, after the release of that report, if the committee deems it worthwhile to pursue once more such a program, I would welcome a subsequent measure which we might discuss in light of new facts and figures. Now is not the time to make such a far-reaching decision and I am concerned that some States may have gone too far already.

Incidentally, the U.S. Metric Board appropriation request was scheduled to be marked up by the full committee this week. The Metric Board also wants to be involved in the metric education process to the tune of approximately $675,000. Here we have a perfect example of duplication and overlap by two agencies in an area which to begin with is objectionable to a majority of the people in this country. At this point, I remind my colleagues that I will move to strike the appropriation for the Metric Board when the supplemental appropriation is brought to the floor.

Furthermore, I will advise all the Members this week of the bill which I will introduce to amend the Metric Conversion Act of 1975. This will address the overall issue of forcing metric conversion on the public and private sectors of this country.

Mr. Chairman, we all know the story from Genesis where the Lord confused the universal language proposed by the citizens of Shinar and, I must say, that I am not the least bit concerned if other nations go metric while we remain customary in many areas of our society. There is a good chance this is exactly what will happen and that is what this amendment is all about—let us not fool our children and tell them something definitely is going to happen when that something is very doubtful.

I hope you will all support me on this amendment.

Mr. PERKINS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Illinois (Mr. CRANE) proposes to delete the provision authorizing the metric education program which has an appropriation of only $2 million. That is all that has ever been appropriated, and this amendment would just delete it altogether.

I personally feel this way. I do not know how long this country may be in the process of converting to the metric system, but we should have a little money set aside for this purpose; we should have some money for the local school agencies that want to make application, even though it may be only for an instructor in the metric system or to bring someone in to teach the children something about it. The money can be used in different ways.

I think it would be foolish of us here today to strike the entire provision concerning metric education. Some people think the metric system is just around the corner, and that the time will soon come when we go to that system. I do not know. Anyway, it is good for the schoolchildren of this country to know something about the metric system, and I do not think that they should be deprived of that opportunity.

The Members may say, "Well, why don't the local educational agencies do this?" The local educational agencies could, of course, do it, but this is the incentive for doing it. I do not think that we want to destroy the incentive

for the local educational agencies to make applications for a little funding for the teaching of the metric system in this country.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I thank the chairman of the committee for yielding, and I simply wish to say I concur in his remarks.

I want to commend my colleague, the gentleman from Illinois (Mr. McCLORY), who has pioneered in trying to help us come into a world where we are going to have to deal with the metric system.

As the amendment was introduced, my colleague, the gentleman from Michigan (Mr. FORD) jokingly referred to the amendment as the one "sponsored by the Flat Earth Society." He said it in jest, of course.

But here we are in a world where one out of every five jobs in this Nation is dependent on foreign sales. We have manufacturers who now have to put two different kinds of measurements on things that we produce. That is in and of itself inflationary; it is in and of itself discouraging exports. It does not make sense that we should not say to the Commissioner of Education:

Let us encourage our young people to find out what this metric system is all about.

Mr. Chairman, I hope the amendment will be defeated, as it richly deserves to be.

Mr. CRANE. Mr. Chairman, will the chairman of the committee yield to me?

Mr. PERKINS. Yes; I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, I would like to remind my good friend and colleague, the gentleman from Illinois (Mr. SIMON), that we in this country represent the biggest market for the entire world, and we are the biggest exporter in the world. It seems to me if there are merits to anyone making a conversion, there is a great deal of merit for the other countries to convert to our system, and that is true because of the add-on cost of making this conversion here in the United States.

So why should we inflict that kind of burden and additional cost on our own consumers rather than letting others absorb that kind of cost?

Mr. SIMON. Mr. Chairman, will the gentleman yield so I may reply?

Mr. PERKINS. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I would simply point out to my colleague, the gentleman from Illinois (Mr. CRANE), that the balance of trade right now is not in our favor. We are the ones who are going to have to be selling our products elsewhere. We are going to have to be doing a great deal more of it in the future. This is not going to happen tomorrow, but we had better prepare for that kind of a world.

Mr. McCLORY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it would be most unwise to delete this language, as my distinguished colleague, the gentleman from Illinois (Mr. CRANE), would have us do.

I might say that in the very county that the gentleman and I share in our respective districts in Illinois we saw the genesis of the whole program of a voluntary conversion to the metric system of weights and measures. That is where the idea was born. It is our constituents who have really generated the program, and it has been going on for many years.

The program which this amendment would eliminate is one to provide a greater understanding of the metric system. It should be recalled that the Metric Conversion Act of 1975 began with a thorough study by the National Bureau of Standards. Thereafter, we received a report and recommendations, and then finally we enacted legislation which would provide simply for a voluntary program of conversion to the metric system.

We happen now to be the only industrialized nation in the world which has either not converted to metric or which is not undertaking an active program of metric conversion.

I just returned from Canada a few days ago, and I found there that they have moved much more rapidly than we have, and in a very orderly and a very coordinated and progressive way, in this field.

Since this touches the subject of education, I would like to explain that we should put ourselves in the place of the young students who are going to benefit from this program.

Let me point out to the Members that the young people are much more aware than the Members of this House seem to be of the importance of a metric conversion program. As I say, it is largely a voluntary program.

Just night before last I attended a seminar on metric conversion at Gallaudet College. We should recall that Gallaudet College is that great institution for the deaf in our city, and it is undertaking a study under the very provisions of this legislation which the amendment would strike. The seminar which was sponsored under the provisions of this legislation reviewed the subject of metric conversion for the benefit of the deaf people of this community and of the colleges. The sponsors of the seminar brought together persons from around the country who understand the metric system and who understand the pros and cons and the net advantages which are provided to the deaf by utilization of this metric system.

May I say that with regard to deaf persons, the advantages of metrication, of dealing in units which are in multiples of 10, are so far superior to the traditional system under which we have labored so long. We can recognize the benefits which these handicapped people will gain as a result of this system.

May I say that one of the great manufacturing companies of this country, which is a constituent of my distinguished colleague, the gentleman from Illinois (Mr. CRANE), International Harvester Co., in Libertyville, Ill., has already retooled, in order to construct their machinery and equipment, their farm equipment, to help in our balance of payments, so that they can export this equipment overseas and compete with the nations which are demanding that this equipment be designed according to metric standards.

May I just add this: The European Common Market, beginning in January 1979, is requiring—is requiring—that all imports be provided in terms of metric standards.

So all this does is to provide an educational program on the pros and cons, the simplicity of this system, the utility of it, the advantages of it, the greater opportunity for communication which it provides opportunities for greater international understanding, and for enhancing the educational values of our country.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. McCLORY. I yield to the gentleman from Illinois.

Mr. CRANE. I thank the gentleman for yielding.

On the question of voluntarism, the problem is that only 18 percent of the Nation, according to the GAO study, understands that this is a voluntary program. I think, when we put into effect this positive stamp of approval by Congress, we are reinforcing in the public's minds the idea that it is mandatory.

Mr. McCLORY. I do not know of any published GAO study. I would say that the problem we are confronted with right now is the problem of a delay in establishing a metric conversion board, for which President Ford and Carter must both assume responsibility. The board members were just confirmed a couple of weeks ago. They are the ones who, it seems to me, should provide the mechanism for a coordinated voluntary program.

Mr. CRANE. If the gentleman will yield further, is the gentleman saying that we should wait for the metric board? And is the gentleman agreeing with my amendment that we should strike this particular section of this bill?

Mr. McCLORY. No. What I am saying is, to assist the metric board with regard to coordinating educational programs we should have this capability within our system of education. We should bring some coordinated efforts into the educational system, because I think all of the States in some form or other have provided for voluntary programs in metrication, but they should be coordinated. And it seems to me that this authority for metric education would provide that opportunity.

Mr. RUDD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment to strike the metric program from H.R. 15.

If there is one thing that most Americans do not want or need, it is another expanded Federal effort to promote U.S. conversion to the metric system—espe-

cially by using school children as the instruments for social and economic change.

I realize that this provision to spend taxpayer dollars for metric education is not being presented as a promotional or propaganda effort.

But let us be honest about how this provision will be implemented.

The existing Federal metric effort, brought into being by the Metric Conversion Act of 1975, is heavily dominated by organizations and vested interests that favor and promote the metric system to replace our own traditional system of weights and measures.

One of these groups, the American National Metric Council, already has three members of its own Board of Directors on the newly created U.S. Metric Board.

The Metric Council's president, Dr. Malcolm O'Hagan, has just been appointed by the U.S. Metric Board as its full-time executive director.

The American National Metric Council is a private organization that openly advocates using the Nation's schools as vehicles to promote and facilitate metric conversion by the United States regardless of our people's wishes in the matter.

This provision to provide taxpayer dollars for so-called "metric education" is therefore a plum for the disciples of metric conversion, who are ready to apply for lucrative Federal grants to promote the adoption of their curriculum materials and films by local school systems throughout the country.

There is no doubt that the metric promoters of the American National Metric Council—working through their directors who are now U.S. Government metric advocates on the Federal Metric Board—will want to work in close coordination with Federal education officials who would implement this provision of H.R. 15 to make sure that every effort is made to use this "metric education" program as a tool for social and economic change via metric conversion.

I believe that the Federal Government is already promoting too much of this social engineering through our Nation's schools, at the expense of good basic education.

If people at the State and local level want to find or adopt metric education materials for use in the schools, such materials are already available without Federal funds or involvement.

A Federal metric education grant program of this kind will only encourage hard-pressed school districts to reorient their programs in order to qualify for additional Federal funds.

This could become another "new math" fiasco, which will lead schools further away from the kind of basic education that needs more attention, not less.

I urge adoption of this amendment offered by the gentleman from Illinois (Mr. CRANE).

We should delete this unnecessary Federal metric promotion program through our Nation's schools, and save taxpayer dollars for more worthwhile programs that the public really wants.

Mr. PERKINS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close within 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was made will be recognized for 40 seconds each.

The Chair recognizes the gentleman from Illinois (Mr. MCCLORY).

Mr. MCCLORY. Mr. Chairman, rising in opposition to the amendment, I want to call attention to the current issue of American Way magazine, which is the publication of American Airlines, in which there is an article entitled, "Relax—Metrication Is Here to Stay."

Mr. Chairman, we should realize that metric education should be part of our educational system and, consequently, should be part of the educational programs which we are providing in this legislation.

I find that young people recognize the simplicity of the metric system, the simplicity of understanding metric measurements, and the benefits that can come from it.

Therefore, Mr. Chairman, I think educationally it is extremely important that we retain provision in this bill, and that we encourage coordinated programs of metric education in the school systems of our Nation.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. Mr. Chairman, I rise in opposition to the amendment and in support of our NATO allies.

Mr. Chairman, our NATO allies use the metric system. We do not want to turn our back on our NATO allies during these perilous times.

(By unanimous consent, Mr. SYMMS yielded his time to Mr. CRANE.)

(By unanimous consent Mr. SIMON yielded his time to Mr. MCCORMACK.)

The CHAIRMAN. The Chair recognizes the gentleman from Alabama (Mr. BUCHANAN).

Mr. BUCHANAN. Mr. Chairman, I rise in oposition to the amendment. All this program seeks to do is to prepare students to use the metric system of measurement. Whether the United States ever switches to such a system or not, if we are going to educate students to communicate with and successfully deal with the rest of the civilized world, and especially go anywhere at all in science, this is something students need to know. It is useful knowledge, valuable knowledge, without which it would be very hard to achieve anything in science with or without a switch on the part of our country to such a system.

Mr. Chairman, I urge defeat of the amendment.

(By unanimous consent, Mr. ROUSSELOT yielded his time to Mr. CRANE.)

(By unanimous consent, Mr. PERKINS yielded his time to Mr. MCCORMACK.)

The CHAIRMAN. The Chair recognizes the gentleman from Washington (Mr. MCCORMACK).

Mr. MCCORMACK. Mr. Chairman, I rise in opposition to the amendment. I find it appalling that we should be faced at this time with an amendment to strike an educational program to provide the students of the United States with a working understanding of the metric system. We have quite recently implemented a new law creating a metric board to assist this country in conversion to the metric system. It must seem ironic that, having passed a bill to assist the people of this country in conversion to the metric system, the Congress should have before it an amendment that would deprive the students of the United States of an adequate education on metrication.

I consider it important that every nation in the world, except for four tiny nations and the United States, are now on the metric system, and that our Armed Forces, our sciences, and most of our industry are on metric or going metric rapidly.

Accordingly, it would be unthinkable for us to say now that our students should be deprived of this opportunity, or that we should not encourage them to study the metric system.

Mr. Chairman, we all cheered when the British abandoned their monetary system of sixpence and shillings and converted to a decimal system. Now the world looks at us and says:

> United States, you are supposed to be the leaders. What are you doing, using this system of inches, feet, rods, miles, acres, yards, pounds, ounces, liquid ounces, quarts, barrels, etc.?
>
> When will you, the people of the United States, abandon this anachronism?

Clearly, Mr. Chairman, we are in the metric age. We should recognize it, and should not be trying to deprive our children of a thorough, working understanding of the metric system.

The CHAIRMAN. The Chair recognizes the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Chairman, I think the gentleman from Washington misunderstands the nature of my amendment and what its impact would be. He suggests that this would, in effect, deprive students of the opportunity to learn the metric system. That opportunity has existed for years. Metric has been taught for years and in certain professions is essential. We have had a dual system, and will continue to have a dual system.

My amendment has nothing to do with denying people an opportunity to learn the metric system, but I think we have to recognize that the overwhelming majority of Americans are not, over any foreseeable period of time, going to be making any such conversion and—most importantly—are totally opposed to making such a conversion.

This was brought out dramatically when we had the bill up on conversion of highway signs, and the brouhaha it created led the House to guarantee that we would not waste money for conversion when there was such overwhelming public opposition to doing so.

So, I would suggest that we will, first, only confuse our students by preparing

them to enter a world they will not see in the United States; second, impose enormous cost to the taxpayers unnecessarily; and third, not interfere with International Harvester's opportunity to make the conversion if it is in their interests, and I am happy to know that it will be beneficial to them. I applaud them.

Finaly, I think we have to recognize that this particular program is one that was adopted by our NATO ally, Great Britain, and is in the process right now of being rejected by the British. They had the same kind of experience we have had in the United States. So, I would only counsel the gentleman from California (Mr. BURTON) that when he wants to support our NATO allies, he should recognize that they are divided also.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. CRANE).

The question was taken; and on a division (demanded by Mr. CRANE) there were—ayes 13, noes 48.

So the amendment was rejected.

The CHAIRMAN. There being no further amendments to title VI, the Clerk will read.

The Clerk read as follows:

TITLE VII—BILINGUAL EDUCATION

DEFINITIONS AND ELIGIBILITY

SEC. 701. (a) Title VII of the Elementary and Secondary Education Act of 1965 is amended by striking out "of limited English-speaking ability" wherever it occurs in such title and by inserting in lieu thereof "with limited English language skills".

(b) Section 702(a) of such title is amended—

(1) by striking out "and" at the end of clause (4);

(2) by inserting "and children whose primary language is English" immediately before "benefit" in clause (5) and by striking out the period at the end of such clause and inserting in lieu thereof a semicolon; and

(3) by adding after such clause (5) the following new clauses:

"(6) children with limited English language skills have a high dropout rate and low median years of education; and

"(7) research and evaluation capabilities in the field of bilingual education need to be strengthened,".

(c) Section 703 of such title is amended—

(1) in subsection (a)(1) by striking out "limited English-speaking ability" and inserting in lieu thereof "limited English language skills";

(2) in subsection (a)(1), by striking out ", and" at the end of clause (A) and inserting in lieu thereof a semicolon, by inserting "and" at the end of clause (B), and by inserting immediately after such clause (B) the following:

"(C) and in the case of American Indian students, individuals who come from environments where a language other than English has had a significant impact on their level of English language skills, as further defined by the Commissioner by regulations,";

(3) in subsection (a)(1) by striking out "have difficulty speaking and understanding instruction in the English language" and by inserting in lieu thereof "have difficulty speaking, reading, writing, or understanding the English language at their appropriate age and grade levels. Children shall be considered to be proficient in English when they can speak, read, write, and understand English at a level comparable to other children at their appropriate age and grade levels.";

(4) in subsection (a)(4)(A)(i)—

(A) by striking out "progress effectively through the educational system" the first place it appears and inserting in lieu thereof "achieve competence in the English language";

(B) by inserting immediately after "cultural heritage of such children" the following: "and of other children in American society"; and

(C) by inserting "and secondary" after "elementary";

(5) in subsection (a)(4) by amending subparagraph (B) to read as follows:

"(B) Participation in programs funded under this title designed expressly for the purpose of promoting English language skills in children with limited English language skills shall be limited to such children. In programs funded under this title which are not expressly designed to promote proficiency in English the enrollment of children shall, to the extent possible, reflect the enrollment in that school of children both with and without and limited English language skills.";

(5) in subsection (a)(4) by amending subparagraph (E) to read as follows:

"(E) An application for a program of bilingual education shall—

"(i) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of children with limited English language skills, in accordance with criteria prescribed by the Commissioner.

"(ii) be accompanied by any comments such council may have on the application, and

"(iii) contain assurances that after the application has been approved, the applicant will provide for the continuing consultation with and participation by a committee of parents, teachers, and other interested individuals (of which a majority shall be parents of children with limited English language skills) which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served";

(6) by inserting at the end of subsection (a)(4) the following new subparagraph:

"(F) Parents of children participating in a program of bilingual education shall be informed of the instructional goals of the program and the progress of their children in such program."; and

(7) in subsection (a)(8), by striking out "the program" and inserting in lieu thereof "any programs within the Office of Education directly involving bilingual education activities serving persons with limited English language skills, such as the program".

PROGRAM ADMINISTRATION

SEC. 702. (a)(1) Section 721(b) of such title is amended by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting immediately following paragraph (1) the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), funds shall be available under this part for a program of bilingual education at a school or group of schools for no more than five fiscal years, except that projects and activities for which funds were available prior to October 1, 1978, may continue to receive assistance under this part through September 30, 1983. The amount made available for the third, fourth, or fifth year of any such project or activity funded under this part for any fiscal year beginning after September 30, 1978, shall be reduced in accordance with criteria established by the Commissioner designed to ensure the gradual assumption by the applicant of the costs or projects and activities assisted under this title.

"(B) In the case of a local educational agency which shows adequate progress in meeting the goals of this title and which demonstrates a clear fiscal inability to carry on a program in such a school or group of schools, the Commissioner shall waive the requirements of subparagraph (A) if—

"(i) there is a continuing presence of a substantial number of students with limited English language skills in a program under this title in such school or group of schools;

"(ii) there has been a recent, substantial increase in the number of students with limited English language skills who have enrolled in such program; or

"(iii) there is an obligation of the local educational agency in which such school or group of schools is located to initiate compliance with an order of a court of the United States or of any State respecting services to be provided for those children, or a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided for those children.".

(2) Section 721(b)(3)(C) (as redesignated by paragraph (1)) is amended—

(A) by inserting ", including only those personnel who are proficient in the English language," after "available personnel"; and

(B) by striking out ", and" at the end of the clause (i) and by inserting immediately before the semicolon at the end of clause (ii) the following: "; and (iii) that the program includes a plan for evaluation consistent with guidelines developed by the Commissioner".

(b) Clause (B) of section 721(b)(3) of such title (as redesignated by subsection (a) of this section) is amended by striking out "the Commissioner determines that not less than 15 per centum of the amount paid to the applicant for purposes of such programs shall be expended" and inserting in lieu thereof "the applicant shall expend adequate funds for purposes of such programs".

(c) Section 721(b)(3) of such title (as so redesignated) is further amended by striking out "and" at the end of clause (C), by striking out the period at the end of the clause (D) and inserting in lieu thereof a semicolon, and by inserting after clause (D) the following:

"(E) the Commissioner determines that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program of bilingual education on a regular basis that will be of sufficient size, scope, and quality to promise significant improvement in the education of children with limited English language skills, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

"(F) the program of bilingual education for which assistance is sought will (i) serve those children most in need of assistance under this title, (ii) provide measurable goals for determining when those children no longer need such assistance, and (iii) provide, from State and local sources, for necessary followup services to sustain the achievement of those children after they have left the program;

"(G) Federal funds made available for the project or activity will be so used as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children with limited English language skills and in no case to supplant such State and local funds, except that nothing in this subparagraph shall (i) prohibit the use of funds made available under this title to enable the applicant to carry out activi-

ties not previously paid for out of non-Federal funds, to comply with an order of a court of the United States or of any State respecting services to be provided for those children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided for those children, or (ii) authorize any priority or preference to be assigned by the Commissioner to the funding of such activities under this title; and

"(II) the applicant demonstrates that, to the extent possible, personnel recruited and employed to carry out projects and activities under this title are bilingual, but nothing in this title shall be interpreted as encouraging or requiring the hiring or retention of personnel who are not as proficient in English as personnel employed to carry out the regular program of such applicant.".

(d) Section 721 of such title is further amended by adding at the end thereof the following new subsections:

"(d) Programs of bilingual education under this title in the Commonwealth of Puerto Rico may also make provision for serving the needs of students of limited proficiency in Spanish.

"(e)(1) An application of a local educational agency for assistance under this title may cover a period of from one to three years. A new application shall be required for any assistance under this title for years subsequent to such period. The Commissioner shall base the decision as to the length of time for which an application will be approved on—

"(A) the severity of the problems addressed by the program for which assistance is being sought;

"(B) the nature of the activities proposed in the application;

"(C) the likely duration of the problems addressed by the application; and

"(D) such other criteria, established by the Commissioner, as will assure the most effective use of the available funds in achieving the purposes of this title.

"(2) If the Commissioner approves an application of a local educational agency under the title for a period covering more than one fiscal year, no subsequent application shall be required from such agency in any fiscal year during such period unless the agency proposes to carry out, in any such fiscal year, activities not included in the approved application. However, payments to any such agency for any fiscal year subsequent to the first fiscal year for which the application has been approved shall be made only if—

"(A) sufficient appropriations are available for making payments in each such subsequent fiscal year;

"(B) the Commissioner determines that the agency is not ineligible for assistance under this title in each subsequent fiscal year; and

"(C) the agency demonstrates, by such means as the Commissioner may prescribe, that satisfactory progress is being made toward achieving the objectives of the program for which assistance has been made available under this title.".

(e) Section 722 of such title is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) From the sums appropriated pursuant to section 702(b), the Commissioner is authorized to make payments to elementary and secondary schools operated or funded by the Bureau of Indian Affairs to carry out programs of bilingual education for Indian children on reservations served by such schools.

"(c) The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Commissioner, by September 30, 1980, an assessment of the needs of Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.) and an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.".

(f) Section 723(a)(1)(A)(II) of such title is amended by inserting "counselors," immediately after "administrators,".

(g) Section 723(a)(2) of such title is amended by—

(1) striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983"; and

(2) striking out "Committee on Labor and Public Welfare" and inserting in lieu thereof "Committee on Human Resources".

(h) Section 723(a) of such title is further amended by redesignating paragraph (5) as paragraph (8) and by adding after paragraph (4) the following new paragraphs:

"(5) The Commissioner shall undertake an ongoing longitudinal study of the impact of recipients of such fellowships on the field of bilingual education, and shall disseminate research undertaken by recipients of such fellowships.

"(6) Any person receiving assistance under this subsection shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to the training of teachers and related personnel of bilingual education, as further determined by the Commissioner through regulations. The Commissioner may waive this requirement in extraordinary circumstances.

"(7) The Commissioner shall issue regulations specifying such activities as shall constitute training under this section and section 721(b)(2)(B).".

(i) Section 723(b) of such title is amended by—

(1) in clause (1) thereof, by inserting "and private nonprofit organizations" after "community colleges" and by striking out the semicolon and inserting thereof "or a State educational agency; and"

(2) striking out "; and" after clause (2) and inserting in lieu thereof a period, and

(3) striking out clause (3).

PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS

SEC. 703. Section 721 of such title is further amended by adding at the end thereof the following new subsection:

"(f) If the Commissioner determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children with limited English language skills enrolled in nonprofit, nonpublic schools, as required by paragraph (2)(C)(ii) of subsection (b), the Commissioner shall—

"(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements, or

"(2) reduce the amount of the grant to such applicant by the amount which is required for the Commissioner to arrange (such as through a contract with a nonprofit, nonsecular agency, organization, or institution) to assess the needs of those children in the area to be served for a program of bilingual instruction and to carry out such a program for those children.".

APPROPRIATIONS, ADMINISTRATION

SEC. 704. (a) Section 702(b) of such title is amended to read as follows:

"(b)(1) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated $200,000,000 for the fiscal year ending September 30, 1979; $250,000,000 for the fiscal year ending September 30, 1980; $300,000,000 for the fiscal year ending September 30, 1981; $350,000,000 for the fiscal year ending September 30, 1982; and $400,000,000 for the fiscal year ending September 30, 1983.

"(2) There are further authorized to be appropriated to carry out the provisions of section 721(b)(3) $12,000,000 for the fiscal year ending September 30, 1979; $14,000,000 for the fiscal year ending September 30, 1980; $16,000,000 for the fiscal year ending September 30, 1981; and such sums as may be necessary for each of the two succeeding fiscal years.

"(3) From the sums appropriated under paragraph (1) for any fiscal year, the Commissioner shall reserve $16,000,000 of that part thereof that does not exceed $70,000,000 for training activities carried out under section 721(a)(3), and shall reserve for those activities not less than 20 per centum of that part thereof which is in excess of $70,000,000.".

(b) Section 731(b)(1) of such title is amended to read as follows:

"(b)(1) The Office shall be headed by a Director of Bilingual Education, appointed by the Commissioner, to whom the Commissioner shall delegate all of his delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Commissioner.".

(c) Section 731(c) of such title is amended by striking out "not later than November 1, 1976, and February 1, 1978", by striking out "President a" and inserting in lieu thereof "President an annual", and by adding at the end thereof the following: "The Commissioner shall conduct a study on the extent of the need for these programs in the Commonwealth of Puerto Rico, and shall report the results thereof, together with recommendations, to the President and Congress, in the first annual report submitted, pursuant to this subsection, more than ninety days after the date of enactment of the Education Amendments of 1978.".

(d) Section 731 of such title is further amended by adding at the end thereof the following new subsections:

"(d) The Commissioner shall, within six months after the date of the enactment of the Education Amendments of 1978 develop and publish in the Federal Register (1) models for programs of bilingual education which may include suggested teacher-pupil ratios, teacher qualifications, and other factors affecting the quality of instruction offered, and which shall represent a variety of types of such programs, and (2) models for the evaluation of such programs as to the progress made by participants therein in attaining English language skills.

"(e)(1) The Secretary, in consultation with the Council, shall prepare and, not later than September 30, 1980, submit to the Congress and the President a report identifying the approximate number of children with limited English language skills in the Nation, by language and by State.

"(2) By September 30, 1980, the Secretary shall develop methods for identifying children with limited English language skills who are in need of bilingual education programs.

"(3) By September 30, 1980, the Secretary shall develop evaluation and data gathering models, which take into account linguistic and cultural differences of the child, which consider the availability and the operations of State programs for such children, and shall include allowances for variables which are applicable to programs under this title such as pupil-teacher ratios, teacher qualifications, length of the program, hours of instruction, percentage of children in the

classroom who are English dominant and the percentage who have limited English language skills.

"(f) In order to maximize Federal efforts aimed at serving the educational needs of children with limited English language skills, the Commissioner shall coordinate and closely cooperate with other programs administered by the Office of Education, including such areas as teacher training, program content, research, and curriculum. The Commissioner's annual report under subsection (c) shall include demonstration that such coordination has taken place.

"(g) The Commissioner shall ensure that the Office of Bilingual Education is adequately staffed to effectively discharge the provisions of this title.".

(e) Section 732(a) of such title is amended—

(1) by striking out "three members" and inserting in lieu thereof "two members";

(2) by inserting after "methods and techniques." the following: "The Council shall also include at least two parents of students whose language is other than English and at least one State educational agency representative and one member at large."; and

(3) by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1983".

SUPPORTIVE SERVICES AND ACTIVITIES

SEC. 705. (a) Section 742(c) of such title is amended by redesignating clauses (2) and (3) as clauses (4) and (5), respectively, and by inserting the following after clause (1):

"(2) conduct research, development, and evaluation activities designed to improve the means by which teachers are trained for programs of bilingual instruction, and disseminate the results of those activities;

"(3) conduct research, development, and evaluation activities into the effectiveness of taking account of the cultural heritage of children as a means of improving the achievement of children with limited English language skills, and disseminate the results of those activities;".

(b) Section 742(c) is further amended by adding at the end thereof the following: "Materials developed pursuant to paragraph (4) shall be of comparable quality as those provided in classrooms for English dominant children. In such development the availability of materials already in existence in private and public sources shall be taken into account, and special attention shall be given to those language groups for whom private organizations are unlikely to develop such materials.".

(c) Section 742(e) of such title is amended to read as follows:

"(e) There are authorized to be appropriated, for the purpose of carrying out this section, $20,000,000 for fiscal year 1979, and such sums as may be necessary for each of the four succeeding fiscal years.".

TRANSFER OF EMERGENCY SCHOOL AID ACT BILINGUAL PROGRAMS

SEC. 706. Title VII of the Elementary and Secondary Education Act of 1965 is further amended by adding at the end thereof the following new part:

"PART D—CONTINUED BILINGUAL EDUCATION ASSISTANCE

"ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES ELIGIBLE UNDER THE EMERGENCY SCHOOL AID ACT

"SEC. 751. (a) (1) The Commissioner, from funds appropriated under subsection (c), shall carry out a program to meet the needs of minority group children (as such term is defined for purposes of the Emergency School Aid Act) who are from an environment in which a dominant language is other than English and who, because of language barriers and cultural differences, do not have equality of educational opportunity. The Commissioner shall, for the fiscal year ending September 30, 1979, allot to each local educational agency an amount which bears the same ratio to such funds as the amount such agency received under section 708(c) of the Emergency School Aid Act for the fiscal year ending September 30, 1978, bears to the total amount of funds available under such section. For such allotment the Commissioner is authorized to make grants to and contracts with—

"(A) private nonprofit agencies, institutions, and organizations to develop curricula, at the request of one or more local educational agencies which are eligible for assistance under section 706 of the Emergency School Aid Act designed to meet the special educational needs of minority group children who are from environments in which a dominant language is other than English, for the development of reading, writing, and speaking skills, in the English language and in the language of their parents or grandparents, and to meet the educational needs of such children and their classmates to understand the history and cultural background of the minority groups of which such children are members;

"(B) local educational agencies which are eligible for assistance under such section 706 for the purpose of engaging in such activities; or

"(C) local educational agencies which are eligible to receive assistance under such section 706, for the purpose of carrying out activities to implement curricula developed under clauses (A) and (B) or curricula otherwise developed which the Commissioner determines meets the purposes stated in clause (A).

In making grants and contracts under this paragraph, the Commissioner shall assure that sufficient funds remain available to provide for grants and contracts under clause (C) of this paragraph for implementation of such curricula as the Commissioner determines meet the purposes stated in clause (A) of this paragraph. In making a grant or contract under clause (C) of this paragraph the Commissioner shall take whatever action is necessary to assure that the implementation plan includes provisions adequate to ensure training of teachers and other ancillary educational personnel.

"(2) (A) In order to be eligible for a grant or contract under this subsection—

"(i) a local educational agency must establish a program or project committee meeting the requirements of subparagraph (B), which will fully participate in the preparation of the application under this subsection and in the implementation of the program or project and join in submitting such application; and

"(ii) a private nonprofit agency, institution, or organization must (I) establish a program or project board of not less than ten members which meets the requirements of subparagraph (B) and which shall exercise policymaking authority with respect to the program or project, and (II) have demonstrated to the Commissioner that it has the capacity to obtain the services of adequately trained and qualified staff.

"(B) A program or project committee or board, established pursuant to subparagraph (A), must be broadly representative of parents, school officials, teachers, and interested members of the community or communities to be served, not less than half of the members of which shall be parents and not less than half of the members of which shall be members of the minority group the educational needs of which the program or projects is intended to meet.

"(3) All programs or projects assisted under this subsection shall be specifically designed to complement any programs or projects carried out by the local educational agency under section 706 of the Emergency School Aid Act. The Commissioner shall insure that programs of Federal financial assistance related to the purposes of this subsection are coordinated and carried out in a manner consistent with the provisions of this subsection, to the extent consistent with other law.

"(b) All programs or projects assisted under subsection (a) shall be part of a program of bilingual-bicultural education.

"(c) There are authorized to be appropriated to carry out subsection (a) $10,000,000 for the fiscal year ending September 30, 1979, $15,000,000 for the fiscal year ending September 30, 1980, $20,000,000 for the fiscal year ending September 30, 1981, $25,000,000 for the fiscal year ending September 30, 1982, and $30,000,000 for the fiscal year ending September 30, 1983.".

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the title VII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MR. MOTTL

Mr. MOTTL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr MOTTL: Section 721(b)(3)(F) on page 225, on line 15 after "assistance" insert the following: *"Provided*, That if any child is enrolled in a bilingual program funded under this act, for two years, that child will be considered as having achieved English language proficiency unless an individual evaluation establishes the need for continued services;".

Mr. MOTTL. Mr. Chairman, this amendment is an attempt to solve a problem that has plagued bilingual education in recent years. Many recent studies and one reported in the July 12, 1978, Washington Post shows that up to 75 percent of the students in bilingual programs are not in need of bilingual services and in fact would be expected to do better in a regular classroom. The primary reason that this phenomenon is occurring is the lack of evaluation of the success or failure of bilingual programs to achieve the stated goals and a second cause for this failure is that the Federal program has not been specific enough as to what its goals will actually be.

The committee bill has attempted to remedy this situation with two proposals, both of which I support. First was a proposal by the administration to limit the number of years a bilingual program could be operated by a school or a group of schools. The committee amended this proposal to allow schools with continuing needs to remain eligible for Federal funds after the 5-year limitation expires. I also support this provision because the true nature of the problem is not that individual schools continue to run programs but that individual students remain in bilingual programs when there is no longer a demonstrated need for these services.

To remedy that situation, the committee included the requirement that applications to be funded must, "provide measurable goals for determining when those children no longer need such assistance." I also strongly support this provision in the bill.

My amendment, however, will give local education agencies the time frame under which they must evaluate children to determine whether services continue to be needed. My amendment will not—I would strongly oppose such an amendment if it sought to eliminate one child who is in need of services from the program. What it does is to simply require that the measurable goals for determining the need for services, evaluate a child after 2 years in a program. Again, if after 2 years through the use of objective criteria the local education agency determines a continuing need for an individual child, that child would remain in the bilingual program.

What I am seeking to end is the current situation where extremely limited resources are squandered through use on children who do not need a bilingual program. It seems to me that the clear intent of the Congress is that bilingual education be a transitional program designed to teach English to children without English language skills so that these children can compete successfully in the regular classroom and, indeed, in the society itself.

I would also point out that the amendment provides no new requirement upon the local education agencies since the committee bill already mandates them to provide measurable goals. My amendment simply establishes a time frame similar, if you will, to genuine goals and timetables. No one will be required to learn English within 2 years and no local education agency would be penalized through loss of funds if children did not learn English within 2 years.

I believe that the bilingual program is a necessity for millions of children in our society. For a short period of time they need the additional service that this program is designed to provide. But we are all aware we do not have billions of additional dollars to put into the bilingual program. Given that fact of life we must make the existing program and the extremely limited resources as efficient as possible and my amendment attempts to do just that.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. MOTTL. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, as I understand the gentleman's amendment, it permits the child to remain in a bilingual program in a classroom for 2 years only, and the only way that the child can remain beyond 2 years is for the instructor to say that the child needs further training and then he can remain beyond the 2 years. Am I correct?

Mr. MOTTL. That is correct, Mr. Chairman.

Mr. PERKINS. Mr. Chairman, I personally see no objection to that amendment.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. WEISS, and by unanimous consent, Mr. MOTTL was allowed to proceed for 3 additional minutes.)

Mr. WEISS. Mr. Chairman, would the gentleman yield?

Mr. MOTTL. Certainly I yield to my distinguished colleague, the gentleman from New York, Mr. WEISS.

Mr. WEISS. Mr. Chairman, I would ask is it the gentleman's position that the only function and the only purpose of the bilingual educational program is to have facility in the use of the English language and that, in fact, the gentleman does not consider the utilization of the bilingual programs as a maintenance of the culture and the heritage of the children as being a valid use of the program?

Mr. MOTTL. I think that is also a good purpose, but the prime purpose, in my opinion, would be to teach those children the basics in the English language so they can secure a job after they graduate from the secondary school, or if they want to go on with higher education they can compete in the classroom there.

Mr. WEISS. But is it not a fact that the amendment that the gentleman has offered does have as its exclusive function to provide for English language facility and that once that is demonstrated the child no longer qualifies?

Mr. MOTTL. What it does, it mandates after 2 years that that educational agency looks at that child. If there is an additional need for the bilingual program it will continue but if there is not the child goes into the English-speaking classroom where he belongs. What has happened is that there has been a waste of billions of dollars in this program because evidently we have not forced upon the local educational agency a criteria or an evaluation process that after whatever period of time, be it 2 years or 3 years, they are mandated to take a look at that child to see if there is need for additional instruction in the bilingual courses.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. WEISS, and by unanimous consent, Mr. MOTTL was allowed to proceed for 2 additional minutes.)

Mr. WEISS. Mr. Chairman, if the gentleman will yield further, would the gentleman's amendment require, then, that there be an individual student by student evaluation as to continued eligibility for a child in that program?

Mr. MOTTL. No; we have criteria set forth in this amendment that it will be done only after 2 years.

Mr. WEISS. That is right, but at the end of those 2 years would it require an individual child by child evaluation and determination?

Mr. MOTTL. Yes; I think if the agency is on the ball, so to speak, they will continually look to see if that child needs additional bilingual courses.

Mr. WEISS. Mr. Chairman, if the gentleman will yield further, the reason that I have concern is that in an effort to achieve a worthwhile end, the gentleman again is going to impose the kind of paperwork and reporting requirements which will end up with the money being spent for reporting purposes and evaluation purposes and not being spent for what it was intended, which is how to teach children to speak and read and write English. So it seems to me that I would have to oppose the amendment because I think that it is not sufficiently thought through to make sure that in fact it would achieve what the gentleman wants it to achieve.

Mr. MOTTL. Mr. Chairman, I think I should read a statement offered by Albert Shanker, president, American Federation of Teachers, who gave this statement to our subcommittee on September 27, 1977. I will quote just a couple of paragraphs, if I may.

ESEA VII. The AFT has long taken the position that federal and state bi-lingual efforts should be transitionary in nature and designed to help non-English speaking children achieve enough skills in the English language so that they can participate in the regular school program. Recent studies seem to indicate that much of what is currently offered as bi-lingual education goes in a different direction. Up to three-quarters of the children in such programs are there because of a surname or ethnic background rather than any difficulty in speaking or reading the English language.

We feel that this problem must be addressed in any extension of the bi-lingual program, to be neutral is not enough because of the pressures that develop on the community-level. To keep ethnic surnamed children in bi-lingual education whether or not they need the services is a serious mistake and a waste of scarce dollars. Some groups see this program as an opportunity to have the federal government fund a non-English school system, others as a method of establishing a Bicultural school system. We would suggest the following approach. A time limit—possibly 2 years—should be established for the termination of services to any child in the program unless an individual evaluation is undertaken and the child is found to have need for instruction in English. We know of no other way to assure the existence of a transitionary program. As long as there is no time limit there will be pressure upon the parents of such children to keep them in the program simply because the more children enrolled in the program, the easier it is to maintain the staff and facilities.

Mr. Chairman, I certainly urge the adoption of this amendment.

Mr. CORRADA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I am opposed to any initiative which would limit the time a child can participate in a bilingual education program. Limiting the time a child stays in the program again bears no relationship whatsoever to an educational standard. What may apply to one child may not apply to another. There are currently 255,000 children in the United States under this program. The gentleman's amendment would provide that there would be an individual evaluation of these $255,000 children mandated by the Congress of the United States 2 years from the day of enactment of this law. I believe that this is unprecedented and that there is nowhere else in the system of education in this Nation a mandate by Congress that the children have to be examined to determine exactly where

they stand in terms of their educational improvement.

I would like to state that we are concerned that a child fully utilize the educational opportunity offered by a bilingual education program so that he or she cannot just get by in the English-only classroom, but effectively participate in the English-only classroom.

If a child who is yet unprepared and needs additional development in English skills should remain in the program for more than 2 years, he should, and I believe that it is haphazard and quite a great complication to submit 255,000 children to this examination 2 years from today and expend Federal money on this, when the local agency should be the one to judge when the child is ready to be pulled out of the bilingual program.

Mr. Chairman, I am not advocating an indefinite stay in a bilingual program, but a sufficient timespan to develop the necessary bilingual skills. Two years is patently not enough time. This is not an educational yardstick, but an arbitrary limit which will work against the educational development of a child in need of such special education.

Mr. Chairman, I urge defeat of the amendment.

Mr. ROYBAL. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from California.

Mr. ROYBAL. Mr. Chairman, I would like to commend the gentleman from Puerto Rico for the remarks the gentleman has made. The gentleman is addressing himself to a very important point; that is, that under the amendment of the gentleman from Ohio a child-by-child evaluation would have to take place. Now, this would be sufficient, perhaps, if bilingual education throughout the country were equal. if one could actually stipulate to the fact that all teachers of bilingual education are actually qualified to teach bilingual education. This happens not to be the truth. The truth of the matter is that HEW at the present time is development techniques that would make it possible for teachers teaching bilingual classes to actually be qualified to teach these classes. That is something that is being developed. I join the gentleman from Puerto Rico in his belief that another bureaucracy will be added.

The amendment also assumes that anyone can learn a foreign language in 2 years. I am sure the Members of this House did not become attorneys in 2 years. They did not get a degree in 2 years. It is very difficult to limit anyone to a particular time of learning.

Mr. Chairman, therefore, I oppose the amendment.

The CHAIRMAN. The time of the gentleman from Puerto Rico (Mr. CORRADA) has expired.

(At the request of Mr. PHILLIP BURTON, and by unanimous consent, Mr. CORRADA was allowed to proceed for an additional 2 minutes.)

Mr. PHILLIP BURTON. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Chairman, I would like to join my distinguished colleague from California (Mr. ROYBAL) in commending the gentleman from Puerto Rico (Mr. CORRADA) now in the well for the gentleman's statement of position. I fully support it.

I would like further to associate myself with the remarks of the gentleman from California (Mr. ROYBAL).

Mr. CORRADA. Mr. Chairman, I would like, since I have 1 additional minute, to state that we have already in this bill provided for a 5-year limitation on the funding of any program, subject to certain limited conditions and waivers, which did not exist before.

Furthermore, we have provided measurable goals for determining when children no longer need assistance, and in that sense we have strengthened the program.

Mr. SIMON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I have two concerns; one is not directly connected with the amendment, but, unfortunately, we were marking up in the Budget Committee at the same time we were marking this up in the full Education and Labor Committee. In the subcommittee we made clear that students whose primary language is English could participate in order for an intercultural exchange to be taking place.

I am not sure, as I read the bottom of page 220, that we have not negated some of the things we did in the subcommittee.

My other reason for opposing the amendment—and this is as has been pointed out by my colleague, the gentleman from Puerto Rico (Mr. CORRADA)—is that we have already tightened up on this.

My colleague, the gentleman from Ohio (Mr. MOTTL), has brought some innovation into this bill, particularly in the area of basic education, and I commend him for that, and it may be that he is right in this instance but we do not know. I would be happy to have my colleague correct me on this, but as far as we know, there is no measurement suggested by anyone to indicate that 2 years is the right period. It may be 3 years, it may be 1 year, and I think it would be arbitrary of us and unwise on our part simply to come along and say that 2 years is the period and we will cut it off at 2 years.

So much as I am reluctant to oppose my colleague, the gentleman from Ohio (Mr. MOTTL), I think we would be wiser at this point to defeat this amendment, and then we can see how this tightening-up process works that we have inserted into the legislation and go on from there.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the distinguished gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding.

I am puzzled, because it seemed to me, under questioning by the chairman of the committee, our colleague, the gentleman from Kentucky (Mr. PERKINS), that the answer of the author of this amendment was that bilingual education will not stop after 2 years, but that after 2 years an evaluation of the children will be made to see whether or not they need more; and if it is shown that they need more, they will get more. Is that not so?

Mr. SIMON. I do not want to speak for my colleague, the gentleman from Ohio (Mr. MOTTL), but I think that is what he stated. I think the question is this: Do we want to have this massive evaluation and a massive file of Federal paperwork?

Mrs. FENWICK. Mr. Chairman, every child is an individual. I am an honorary Puerto Rican, so I think I can speak a little more strongly than some others here, and I wish the gentleman from Pennsylvania (Mr. DENT) were here. He speaks so well on this subject.

The children in this country of ours must learn English. They have to learn it well. We cannot condemn them to a partial learning. They will never become president of General Motors or President of the United States if they cannot speak English properly. They must learn it well.

Mr. SIMON. Mr. Chairman, I concur completely with my colleague, the gentlewoman from New Jersey, in that.

But I do think our question is this: How do we effectively do that? And do we want to create a mountain of paperwork at the end of 2 years when 3 years might be the right period?

Mrs. FENWICK. Mr. Chairman, I do not think that the creation of a mountain of paperwork is necessary. If a child is able to function with the rest of the children in the class and they are bilingual, we do not need all that paperwork. The point is that these are individual children. There is no paperwork necessarily attached to it; they do not have to report every time to Washington.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the chairman of the committee.

Mr. PERKINS. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close within 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

Mr. SISK. Mr. Chairman, reserving the right to object, there is a rather important issue involved here, let me say to my colleague, the gentleman from Kentucky (Mr. PERKINS), and I am somewhat inclined to support the amendment. First, however, I would like to discuss this with my colleagues, particularly the gentleman from California (Mr. ROYBAL). I think we are afforded a unique opportunity to discuss this subject, and I would hope the gentleman would not seek to cut off debate at this time.

Therefore, Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. BIAGGI. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. BIAGGI. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I am somewhat perplexed and, like the gentlewoman from New Jersey (Mrs. FENWICK), puzzled. My position is rather personal in this matter.

There is a great deal of merit, I believe, to the amendment and also to the concerns of my colleagues who oppose the amendment.

I have two grandchildren. They were born in Puerto Rico. I love them dearly. I am also concerned with their futures. I want them to be able to speak English. I want them to be assisted by the bilingual program, but I do not want them to be victimized by the bilingual program.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(On request of Mr. BIAGGI, and by unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. BIAGGI. Mr. Chairman, if the gentleman will yield further and if I may continue, I am fearful that there is a constituency for the bilingual program that deals in connection with job opportunity rather than the effectiveness of the educational instrument that this program was designed to be.

I voted for the bilingual program, for its extension, and its expansion, as far as funding was concerned, but I do not want it to be converted from a constructive instrument into one that will victimize people in the initial stages of their life so that they will carry that burden thereafter when they are required to go out into the real world and deal on a 1-to-1 basis with people who speak English in a proficient fashion.

Mr. SIMON. Mr. Chairman, if I may respond to the gentleman from New York, I concur completely. I think the question here is not do we teach the English language and teach it well and give them the opportunity—we concur in that, whether we are from New Jersey, Ohio, or Illinois or wherever we are from—but I think the question is: Do we just arbitrarily take a 2-year period and say, "This is it"?

I do not see any basis for taking that 2-year period. We have already in the subcommittee and in the full committee tightened this thing up, so that at the end of 5 years the school is going to lose its assistance unless it can prove a necessity because of new people moving in.

That 5-year period may be able to be cut down to 3 or 2. But to just pick a figure out of the hat, without having any educational data and basis for doing it, is imprudent on our part.

Mr. BIAGGI. If the gentleman will yield further, I will say that when I went to school I lived in a ghetto area with people of various ethnic origins, and some of my classmates spoke English very poorly. They had foreign accents and language limitations.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(On request of Mr. BIAGGI and by unanimous consent, Mr. SIMON was allowed to proceed for 1 additional minute.)

Mr. BIAGGI. But after a short period of time, being immersed into the total English atmosphere, they were speaking English on an equal basis with those who were born here.

Mr. Chairman, what I am concerned about, really, is the thrust to perpetuate a program simply because of the job opportunities it provides, with no concern for the actual beneficial impact on the student.

Mr. SIMON. Mr. Chairman, if I may respond, I will say that the other problem that my colleague from New York has touched upon is that in fact some of these opportunities are not opportunities, but we are creating in some school systems segregated classes where young people are just speaking with each other in one language, whether it is Spanish, Vietnamese, or Chinese, rather than that mix that you have described. And that is why my earlier remarks are important, because I hope that in the conference committee we can get this thing modified as we had it in subcommittee, to make clear that we ought to encourage our English language students to be in those classes so that you can have the interplay. I could not agree more with the thrust of what my colleague says. I do not think this is the wise way to do it, just to arbitrarily pick a figure and move in that direction. It may be that a year from now I will be back here and I will say that my colleague was right, that 2 years is all right; but I think we should have some valid data on which to base this before we do it.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am somewhat troubled by this amendment, but at the same time I also think that you have to try to maybe cut under a little bit of the rhetoric here and see what is being done and what we have done in the past.

Mr. Chairman, as I understand the gentleman's amendment, it says that at the end of 2 years we shall provide a review of those students who are currently enrolled in bilingual education, to see whether or not they ought to continue in bilingual education, whether or not they have made progress, and whether or not they ought to be—I guess the term may be used—mainstreamed, or whether they should continue in that educational program.

The opponents of the amendment—and I am not sure yet how I am going to vote on it—have argued that we ought not to arbitrarily come along and have a massive Federal mandate to individualize this educational program and to scrutinize whether or not these children are making progress.

I remember the Education for the Handicapped Act by which we require an individualized educational program for every child. Somehow I rather believe that perhaps if we got the schools to pay attention once in every 2 years to an individual child, a form of progress might result.

I know of lawsuits that were brought in my district on the question of bilingual education, and nobody screened these children and how they were chosen for a bilingual class.

In the first place, I suggest that there may have been a little bit of an element of racism in suggesting that everybody with a Spanish surname had to be in a bilingual education class and could not speak English. Consequently, I am not so sure that the trauma which surrounds this amendment is all that necessary because maybe what we really want is local educational agencies to do the job and to look at the children as individuals and to evaluate whether or not they are making progress and whether or not the purpose of the program is being carried out. I do not think that is so difficult.

Mr. Chairman, I think that perhaps if more school districts, more teachers, and more principals evaluated children to see whether or not they were making progress, a lot of the rhetoric that we hear about the waste of Federal moneys and the fact that programs do not work would be eliminated. In that case, maybe they would have to say, "You have to stay in this program." Or maybe they would have to say, "You do not have sufficient command of either the language or other subjects to move on to another class." Maybe then education would start.

Mr. Chairman, I think we ought not to react to this amendment along sort of traditional lines because this in a lot of ways may be of benefit to those students.

Mr. Chairman, I do not think, if I understand the amendment correctly, that it is one—and I put some emphasis on the "one"—to deny to children the opportunity to participate in our society and to learn in their native language the subject matters which they have to learn.

I think the suggestion by the gentleman from Illinois (Mr. SIMON)—I know he made it in the subcommittee and I thought it was in the bill also—that we have English students allowed to participate so that there is a dialog and so that there is an enhancement of that learning proposition under which the program is designed to be carried out is a good one. However, I do not think a 2-year evaluation is so bad. Further, if it is a little arbitrary, what happens? One says to the students, "You have to continue in the program."

If it is for 3 years, one may say to another student that he or she has to continue for that period.

Consequently, Mr. Chairman, I am not so sure that this is such a terrible amendment in terms of really carrying out the mandate of bilingual education to make sure that those children are not trapped in those programs which may work with young people. Many times children are categorized, and they can never get out of that category, so they are kept in these programs.

Mr. Chairman, let me suggest that in all school districts children who need bilingual education are not exactly smiled upon, so it is a way to avoid the

kids who may be a little more troublesome because they need special attention. As a result, the student finds that he or she spends 6 or 7 years in bilingual education when, in fact, if attention was paid, perhaps it would be 1½ or 2 years.

The CHAIRMAN. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. MILLER of California. Mr. Chairman, I suggest that perhaps the Members have to weigh this matter for themselves. Nonetheless, perhaps there is an element of protection for the student in this amendment, just as there is an element of protection for the student in the Education for the Handicapped Act, where we make the schools sit down and evaluate and tell us what they are going to do with that child's future which is going to be for the benefit of that child.

I also suggest that in some cases, certainly, considering the 75 days of hearings I have attended on this legislation, that may be a unique experience for both the school and the child.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. MOTTL. Mr. Chairman, I would just like to compliment the gentleman from California (Mr. MILLER) for his perceptive analysis of the amendment.

I want to assure him that the author of the amendment has no intention to shut off anybody who needs a bilingual program. I want him to continue it. However, let us evaluate, for the pupil's best interest, whether he needs to stay in the bilingual program or not.

Mr. SISK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I appreciate the committee chairman's foregoing a motion to cut off time for debating this amendment.

There is a very substantial issue here.

I well remember that when we first authorized Federal support for bilingual education, my good friend, the gentleman from California (Mr. ROYBAL), was working on that matter. I was involved, as were a number of others. I have supported it; I supported funds for it.

But, it seems to me that unfortunately too many people in too many places have lost track of what we had in mind, and lost the point at issue. It was my understanding, and my support was predicated on the fact that what we were attempting to do was to make these youngsters more proficient in the English language in the quickest possible way. I was concerned because we had youngsters coming out of homes where they spoke only Spanish or some other language, and in order to teach that child the normal 3 hours or anything else, in fact, it became necessary to have bilingual teachers, to have people who could, through the use of multiple languages, communicate with the child and make it possible for the child to communicate with his fellow students as well as with the teacher.

Once that line of communication has been established, then as far as I am concerned, I do not want to spend one single dime on further teaching that child in connection with some other tongue other than English.

I think it is terribly important that we keep in mind that the purpose of the bilingual program is to make youngsters proficient in the English language. If that is not the intent of the program, and if we are veering off somewhere else to deal in culture or trying to create a bilingual society, then God forbid that I want to be any part of that action.

I have no particularly strong feelings about the amendment. I am somewhat inclined to support the amendment offered by my colleague from Ohio because I think it is fair to evaluate. It may be that one child, as my friend from Illinois indicated earlier, only needs 1 year of very comprehensive training, and then he could pick up and go on English. Others may need as much as 3 or 4 years. I think there has to be an evaluation.

Mr. Chairman, I would like to yield to my colleague from California (Mr. ROYBAL) for his comments on what I felt to be the intent of bilingual education at the time, some years ago, when we initiated the program.

Mr. ROYBAL. Mr. Chairman, the gentleman is correct. As the author of the first bilingual I can confirm the fact that it was the intent of the legislation to use the language of the home as a vehicle for the learning of English. That very clearly meant that the language of the home—any of the 68 languages now used under bilingual education—can be used as the vehicle for the learning of English so that the individual could progress faster by knowing what things are in his language, and then getting the English equivalent.

I realize that bilingual education is under attack. I realize it is being criticized, but let us look at the facts. The facts are that education, in general, is being criticized. Does that mean that because there is some criticism of education any place, that we are going to only limit it to 2 years, or knock it out altogether?

The thing to do, I believe, if the gentleman would continue to yield, is to correct the inequities that now exist within the system, because the end result as based upon actual studies clearly indicate that a student does make a tremendous amount of progress as is evidenced by the fact that students taking bilingual education in Maine and in Canada are, in fact, making great progress. They are fluent not only in English, but in the language of the home.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent Mr. SISK was allowed to proceed for 2 additional minutes.)

Mr. ROYBAL. The study upon what this amendment is based is not recognized by the Department of Health, Education, and Welfare. It is not recognized by the Language Institute. In fact it is very much criticized by the Institute, that pointed out that the study was not adequately done, nor did they go to areas such as my district where bilingual education is a tremendous success, not only in the Spanish language but also in Japanese and Korean and other languages that the youngsters may speak at home. The 2-year limitation is not realistic.

Mr. SISK. I thank my colleague. He and I agree on about 95 percent. I may very well come down in support of the amendment on the basis that it is my understanding it is not intended to cut it off in 2 years but that we are talking about some type of evaluation and not intending to let them go on indefinitely. I want it pinpointed toward those areas of need. On that basis, Mr. Chairman, I think I probably will support the amendment. But I do think this is a substantial issue that the Congress needs to speak to in connection with what the future of bilingual education is in this country.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I share completely the thoughts expressed by the gentleman from California (Mr. MILLER) with respect to this amendment.

At first it struck me as something that I would be compelled to vote against under all circumstances, and then it began to sound like it was not all that unreasonable, and then I think I finally ended up in the position to which the gentleman from California (Mr. MILLER) carried himself during his discourse, and that is on balance, when we look at all the facets of the amendment and the problem it tries to reach, that it is not the right way to do it, and for those reasons it is not a good amendment.

The gentleman from Vermont (Mr. JEFFORDS), I understand, will be offering an amendment to this same section in a few moments, which I believe I can support and which I believe will accomplish what the gentleman from Ohio seeks to accomplish, and I think that it will do it in a neater way by leading us closer to what the law would have been but for the change that is in this bill.

I am intrigued by some of the discussion today about what the purpose of bilingual education was, because one of the difficulties we have had ever since we started writing the bilingual education acts and components of bilingual education, is the wide variety of impressions carried by the people exposed to the program, the people teaching in the schools, and the people here in the Congress. I have heard a number of different views about what the purpose of bilingual education is, and they are all at least partly right.

For example, we started out with the idea that has been expressed here that we ought to help a child raised in a household where the principal language was not English to learn and use the English language as rapidly as possible

so that he can progress in school. We soon learned, as we looked at it, that there was a second dimension to the problem, and that was that if the child had already advanced in a foreign language and was, say, at the 5th grade level and taking music and math and others that did not have a linguistic peculiarity to them, that the child fell behind in education if he could not be exposed to teachers who could communicate with him because the teachers spoke only one language.

Then we expanded the concept, so that if in one part of the day we were trying to help the child read and write and speak in English as soon as possible and as well as possible, we did not take the child out of the school program but we tried to continue him in the balance of the school program using the language he could understand.

In 1976, I believe it was, we added bilingual components to vocational education and adult education and a whole flock of special programs for the express purpose of making it possible to teach someone something in a language other than English, because the objective of that course was not only to teach the person to speak English but to teach him over the short haul a particular subject matter.

The thing that bothers me about this amendment, however, is that it uses an arbitrary 2 years. Those of us who have lived with the bilingual program since it was first started would have to say honestly to the Members that we do not know how long it takes for any given language.

Please, please, do not continue to discuss the subject as if the bilingual programs were all Spanish-English. In the Detroit public school system they are now dealing with 41 languages. The law in the State of Michigan, through the wisdom of our legislature, following some Supreme Court decisions, states that if you have 15 or more children in a school who speak any particular language other than English, you must have a bilingual program for them.

In the Detroit public schools we have the biggest Chaldean-speaking school population of any place in the country, or in the world, I guess, outside of Gibraltar. Also in the Detroit schools, seven Arabic languages are used. They print mathematics instructions for ordinary mathematics in the Detroit school system simultaneously, I might say, by computer, in 17 different languages, in order to comply with the requirements of the State law. So this is not just simply one language, but we do take the child and try to move him from Chaldean to English. I do not know how difficult it is because I would not recognize the sound of Chaldean if I heard it spoken. I do have some idea about what it means for the Spanish-speaking people because I have a Spanish-speaking wife and I have had some experience with her younger siblings, and what has happened as they have come into the English-speaking community and I have noticed that they have adapted very readily, and it may be that you could do this with a 2-year-old, based on the experience we have had with them. I know that a Spanish-speaking child born in Texas would probably run through the program in 2 years, but we do know that a Spanish-speaking child of high school age before coming here from Puerto Rico is not going to be able to move that rapidly, but we know that the younger children can do it more quickly.

Finally, we have been talking about the length of the program. I have had time to discuss this, and I have discussed it with the gentleman from Minnesota (Mr. QUIE) that if you say that no child will be in the program for more than 2 years until they are evaluated, what you are really saying to the school is that each child will be in the program for 2 years before being evaluated, and then what you are doing is creating a minimum instead of a maximum. And the guarantee is that the child will go into the bilingual program and not leave that program in less than 2 years, because they do not have to test them, and they will continue in the program for 2 years before they test them or evaluate them under this amendment.

Under the amendment to be offered by the gentleman from Vermont (Mr. JEFFORDS), it would put the schools under a continuing obligation to provide the bilingual program only if they need it.

I would suggest that we vote against this amendment and support the Jeffords amendment.

Mr. PERKINS. Mr. Chairman, I wonder if we can come to some understanding as to a conclusion of the debate on this matter? I ask that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky (Mr. PERKINS)?

Mr. GONZALEZ. Mr. Chairman, reserving the right to object, I would hope, and I express the hope, that the distinguished chairman, the gentleman from Kentucky (Mr. PERKINS) would modify the 5-minute limitation so as to give us a little bit more time. I would suggest at least 15 minutes.

Mr. PERKINS. Let me say to the distinguished gentleman from Texas (Mr. GONZALEZ) that we have spent about 24 hours on this amendment in the committee. Also we have a substitute amendment here that is agreed to and it will be offered either by the gentleman from Puerto Rico (Mr. CORRADA) or the gentleman from California (Mr. MILLER) so that right now I will yield to the gentleman from California (Mr. MILLER) for the purpose of offering the substitute amendment.

The CHAIRMAN. The Chair will state that the gentleman cannot yield to another Member for the purpose of offering an amendment.

Does the gentleman withdraw his request?

Mr. PERKINS. Mr. Chairman, I withdraw my request on the time limitation.

AMENDMENT OFFERED BY MR. MILLER OF CALIFORNIA AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MOTTL

Mr. MILLER of California. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of California as a substitute for the amendment offered by Mr. MOTTL: Section 721(b)(3)(F) on page 225, on line 15 after "assistance" insert the following: "*Provided*, That if any child is enrolled in a bilingual program funded under this act, for two years, that child shall have an individual evaluation establishing the need for continued services;".

Mr. MILLER of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. MILLER of California. Mr. Chairman, the substitute that I am offering reads as follows:

Provided, that if any child is enrolled in a bilingual program funded under this act for two years, that child shall have an individvual evaluation establishing the need for continued services.

This is an effort to strike the ground where we can preserve the review that I talked about in my remarks, and the concern of the gentleman from Ohio (Mr. MOTTL), the gentleman from New York (Mr. BIAGGI), and others that we make sure that those individuals who are enrolled in these programs are in fact benefiting from these programs, and that there is, in fact, a need to continue these children in these programs so that the resources can be used properly.

I think it also reflects properly the concerns of the gentlemen from Puerto Rico, New York, Texas, and California that we not establish a procedure by which children are removed from the program. Then we have got to come back and establish the need to put the child back in the program. So I think what we are saying here, quite properly, is that these children ought to undergo a full-scale evaluation of the need to continue these services, and if that need is not there, we will then have a record by which we can audit those children's being there or not being there. We will have a record as to their proficiency.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I thank the gentleman for yielding.

I would just like to point out that one of the things that we have, it seems to me, overlooked in this discussion is that beyond the ability of Spanish-speaking in this case, or foreign students to learn the English language, these programs have helped human relationships among students and the appreciation of non-Spanish-speaking students of Spanish-speaking students' culture, et cetera, and that factor cannot be measured. I think

when we limit something in this kind of calculated way, we are forgetting why these programs exist.

In my city of Cleveland they are successful, and the school board has been able to measure the students' progress, and so forth, individually. They are not ostracized. They are put in integrated classes in community schools, and I feel that we are really making a big mistake by these kinds of limitations, because human relationships and the ability of people to get along are just as important as the ability to speak English.

Mr. MILLER of California. I thank the gentlewoman. I would respectfully submit that this amendment in no way would affect that part of those programs, because I think we are all well aware—certainly those people on the Committee on Education and Labor are well aware—of what the spinoff benefits are to the community at large, and nobody is about to trade those out. But we have also a very sincere responsibility to make sure that we are benefiting those children for which the program was designed and that we do not spread our resources so terribly thin, and that we do make sure that those children who are able to move on do move on so we can concentrate our efforts.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from Ohio.

Mr. MOTTL. I appreciate the gentleman's yielding.

I think the amendment offered by the gentleman from California is a constructive amendment. I would accept the substitute amendment and, hopefully, we will have unanimous support of the amendment.

Mr. MILLER of California. I thank the gentleman.

Mr. GONZALEZ. Mr. Chairman, I move to strike the requisite number of words.

I fail to see any substantial difference in the impact as reflected in the version just read by the gentleman from California (Mr. MILLER) as compared to the amendment offered by the gentleman from Ohio (Mr. MOTTL) except in the flimflammery of words. In the first amendment there is a stated legislative presumption that 2 years is adequate time in which to obtain proficiency in that course of study for which purposes the bilingual program has been established. If the first amendment, as the chairman has said, was considered in the committee that long, why was it not accepted by the committee?

Second, the second amendment or the amendment to the amendment was written here on the floor a few minutes ago. It still, although it does not state that it is a legislative presumption, in effect sets up a presumption of 2 years, a magic number of 2 years.

I believe that the main thrust of either one of these amendments is to gut the program, such as it has been developed up to now.

The bilingual program as such is not a simplistic, uniform, monolithic type of structural program that exists in identical form from New York State to Texas, to California, to Connecticut. Rather, it reflects the complexity of the problem we are trying to resolve through the approach and the recognition on the part of the Congress of a national bilingual education program.

Therefore, I feel that both from a point of substance, as well as procedure, that both of these amendments should be rejected. I think the amendment offered by the gentleman from California in no way really changes the thrust.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. GONZALEZ. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, let me say to my distinguished colleague, the gentleman from Texas, that in my judgment this amendment in no way hampers the bilingual education program. For the past several years the funding has increased many times over and we have tried to increase the authorizations every time that we have considered this subject matter before the Committee on Education and Labor.

I just cannot visualize that we would eliminate anyone from the bilingual classes after 2 years, but that is quite different from an evaluation after 2 years.

I think, really, it would not hurt to have an evaluation every year and if that child needs 10 years in bilingual studies to become proficient in English, I think that child should remain there until that day arrives.

I want to state to my distinguished colleague that in no way will I be a party to ever jerking the rug out from under a bilingual student that needs that type of training. I think the gentleman from Minnesota (Mr. QUIE) will verify what I have stated, that we have broadened the program, made it much larger and are presently spending many times as much money as we were 10 years ago.

Mr. GONZALEZ. Mr. Chairman. I thank the distinguished chairman. It reinforces the point I am trying to make. I compliment the chairman and I compliment the present committee and past committees within the past 11 years that have recognized the need for this program and have enhanced it and have enlarged it; but I fail to understand, in view of that record, this type of amendment, whether we intend to or not, will have the net effect of detrimentally impacting the current phase of the program.

The CHAIRMAN. The time of the gentleman from Texas (Mr. GONZALEZ) has expired.

(By unanimous consent, Mr. GONZALEZ was allowed to proceed for 1 additional minute.)

Mr. GONZALEZ. Mr. Chairman, I believe that anybody who is conversant with the intricacies of the field in the various demographic and socially differentiated sections of the country will recognize that we have made tremendous progress in this respect. We have had some of the most innovative programs that I have ever seen in education in my part of the State. It has not failed, but benefited the entire social structure of our area. We have moved away from the days where we used a steamroller cultural technique in the very worthy project of trying to Americanize our citizens.

But we used the steamroller approach. When I first went to school, I did not know a word of English. We had no such thing as a bilingual program, and I had to stay in what they called the "low first" for 1 whole year.

However, we had an entirely different type of social problem at that time. The types of problems we confront today in 20th-century America are quite different. Our problem is not that we become bilingual but that we keep from being half lingual.

Mr. QUIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, it seems to me that we ought to move ahead and adopt the Miller of California substitute for the Mottl amendment and then adopt the Mottl amendment, as amended by the Miller of California substitute.

As we look at the studies, they show that only one-third of the students now enrolled in bilingual programs were in limited language skills. We have got to direct our funding to those areas where it is needed by our constituents.

Mr. Chairman, I think the amendment is a good one, and I urge the House to adopt it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MILLER) as a substitute for the amendment offered by the gentleman from Ohio (Mr. MOTTL).

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MOTTL), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there further amendments to title VII?

AMENDMENT OFFERED BY MR. JEFFORDS

Mr. JEFFORDS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. JEFFORDS: Page 220, line 5, strike all after "language" to the end of the sentence, and insert a period after "language".

Page 220, line 8, strike all after the word "English" through line 9, and insert a period after "English.".

Mr. JEFFORDS. Mr. Chairman, I feel that I have to speak out against a part of the bilingual education program in H.R. 15 that I fear not only will distort the best intentions of that program, but which will have effects far beyond bilingual education—reaching to every child and classroom in the Nation.

In committee several members were concerned that the existing definition of "limited English speaking" in title VII was too narrow. So, the definition was expanded to include reading, writing, and understanding as well as speaking English. That was good.

But then, the committee adopted an amendment saying that a child would

be considered "proficient"—and therefore ready to "graduate" from a bilingual class—only when she or he could "speak, read, write, and understand English at a level comparable to other children at their appropriate age and grade level." The authors of that amendment meant well, of course, but I do not believe that they understood the undesirable consequences that would ensue.

First, it will mean that far fewer bilingual children will be able to participate in these programs, and many of the kids who need bilingual education services the very most will be excluded. The definition makes it almost impossible to graduate anyone from the program. Limiting the number of children who can participate in bilingual education defeats the purpose of the program; $81 million has been recommended for grants to local school districts in the fiscal year 1979 budget and appropriations bill. The usefulness of these limited funds will be severely curtailed if children are retained in bilingual programs beyond the time when they need bilingual services. Right now, only about 250,000 children out of an estimated 3.5 million who need services are reached by title VII programs. Further limiting the number of children served by these programs appears to be an irresponsible limitation on our educational aid efforts.

Second, it will classify most bilingual children by implication as "incompetent" and "deficient" long after they have developed enough skills to operate in an English-speaking classroom. By definition, half of all the children in the United States will never be as good at English skills as the other half.

In short, in the guise of "doing what is best for the children," this definition sanctions the segregation of bilingual children for long periods, it sets unreasonably difficult exist standards for participating children, and it then ties up the small existing pot of money so that it is nearly impossible to serve any new schools.

But in case that does not convince you, let me point out that this definition does not just affect students who need bilingual programs. It will also affect your own children—and mine.

How? Here is how testing experts and administrators say the definition would be implemented. First, the Office of Education will need to hire a panel of experts to agree on what it means to be able to read, write, speak, and understand English adequately. Then, assuming the experts can agree, they will invent a scale for each of these skills in each grade level where bilingual children may be found. Then, OE will test a whole lot of nonbilingual children to find out exactly what "children at their appropriate age and grade level" can do. This process will be repeated for every grade. Then, OE will develop a single test which embodies all of these estimates. The result will be that we will know what the Federal Government means by being proficient in speaking, reading, writing, and understanding English at any particular age and grade level.

But by then, friends, a monster will have been created. Because the Federal Government will have done the one thing we all agree should not be done under any circumstances: created a single standard, a single test, at every grade level, sanctioned by the Federal Government, which purports to measure basic skills.

Now, I am not ready for that, and I do not think most of you are either. I want bilingual children to have the best instruction we can give them; I want them to have a fair chance at school and in life; I want all kids to have some solid knowledge of basic skills, and I want the high school diploma to mean something. But I cannot accept doing that in a way which may well have profound, disruptive effects on an entire educational system. Therefore, I urge you to join me in supporting this amendment, a change which will serve only to strengthen the educational impact of bilingual education programs.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the committee chairman.

Mr. PERKINS. Mr. Chairman, as I understand the gentleman's amendment, it would modify the committee's expanded definition for eligibility to participate in bilingual programs by deleting the phrase "at their appropriate age and grade levels." If the Jeffords amendment is adopted, it is my understanding that eligibility for participation will still be expanded from the current law's requirement that children have difficulty in speaking English to a broader definition which includes children who have difficulty speaking, reading, writing, or understanding English.

I accept the amendment.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. JEFFORDS. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I think this is a necessary amendment, and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Vermont (Mr. JEFFORDS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VII?

AMENDMENT OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIMON: On page 220, line 25 after the word "children" insert ", unless there is a determination by the local school unit that bringing a minority of students whose primary language is English will be of substantial assistance in promoting English language skills.".

Mr. SIMON. Mr. Chairman, what I am trying to do with this amendment is to bring the bill back into a situation similar to its status when it left the subcommittee.

In the full committee, an amendment was adopted, apparently, that said you cannot get into a bilingual program, into a class, unless your primary language is Spanish, Vietnamese, or whatever it might be, and you have no ability in English.

We know, from every study that has been made—and I just had a conversation a few moments ago with my colleague, the gentlewoman from New Jersey (Mrs. FENWICK), in which she pointed out how easily children absorb languages—that if you can pull some English language students into these classes so that these children learn from each other at recess, and every other opportunity, that that is the best possible way of teaching a language. This amendment recognizes that simple educational principle.

It is true that there are a great many schools which practice that now—really in violation of the law as it is right now. And in the subcommittee we decided, and properly so, that we would change the language so that we would bring the law in compliance with sound educational principles.

I offer this amendment as a means of doing that. I urge my colleagues to adopt the amendment.

Mr. QUIE. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman. The way the language reads now, in subsection (B), there are two provisions. The one that the gentleman from Illinois proposes to amend is that which pertains to pull-out programs. The second sentence is where you have the regular programs.

In that second sentence we require that you should have reflected an enrollment which reflects that in the school with respect to students both with or without English language skills. So in regular classrooms there ought to be both those with proficiency and those without proficiency.

However, in the pull-out program I do not see why we should be providing the money for students who already have proficiency in English, to pull them out for a period of time for those who do not have proficiency in English. That happens now. I think we should be specific. The pull-out program should be for those who do not have the proficiency. We are just diluting the program by the language in this amendment.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

Mr. Chairman, is it not true that I just asserted before that the most effective way for these students to learn is for this kind of interchange that you get? And if you are in an area that is largely of Spanish or Chinese origin, or whatever the situation might be, you may not have that kind of an interchange for any kind of a program. What we are trying to do is to leave that option there, an option that every study shows is sound pedagogy.

Mr. QUIE. The language that the bill now provides for "mainstreamed" programs, I will say to the gentleman from Illinois, exists in the second sentence. The first sentence is the one which pertains to the pullout program specifi-

cally for those limited English-speaking students for a part of the day. As time goes on, they ought to have less and less time in pullout programs. But when they are in that pullout portion you should not get paid for and involve students who already have English language proficiency, because then they lose their capability to deal with those students with the greatest needs.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment that the gentleman from Illinois offers makes eminently good sense. It squares with the reality we all know. We cannot say that the only way to teach children is by having a teacher stand at the front of the room to teach them English. We must recognize that probably at least an equal part of the learning would be accomplished if you have children who are facile in English participating in the classroom. Otherwise we are not taking full advantage of the very natural resource which is the other children who would, in fact, help the non-English-speaking children to learn.

Mr. Chairman, I hope we adopt the amendment because it makes good sense.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. SIMON).

The question was taken; and on a division (demanded by Mr. SIMON) there were—ayes 18, noes 17.

Mr. QUIE. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was agreed to.

Mr. KAZEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to find out from the distinguished chairman of the committee what amount of authorization this bill carries for bilingual education as compared to last year.

Mr. PERKINS. If the gentleman will yield, Mr. Chairman, we are presently spending about $135 million annually for bilingual education.

Mr. KAZEN. That was as of this last fiscal year, is that correct?

Mr. PERKINS. That is my recollection, about $135 million.

Mr. KAZEN. What is the authorization in this bill for the next fiscal year?

Mr. PERKINS. The authorization is somewhat increased, to $250 million.

Mr. KAZEN. To how much?

Mr. PERKINS. To $250 million.

Mr. KAZEN. It is increased by $100 million, Mr. Chairman?

Mr. PERKINS. Yes. I think that is correct. We will check it.

Mr. KAZEN. Yes; Mr. Chairman. I would like to get that figure.

Mr. PERKINS. It is $242 million for 1979 and $290 million for 1980.

Mr. KAZEN. Therefore, there is a $48 million increase, as I understand it?

Mr. PERKINS. Correct.

Mr. KAZEN. Mr. Chairman, what has the committee done in the way of giving instructions to HEW for regulations under the Lau decision?

Mr. PERKINS. Let me say to my distinguished colleague that I know that he has some problems in his district, and I feel the Office of Education has been derelict in not making funds available to certain local educational agencies in the gentleman's district.

I told the gentleman that I will be willing on any occasion to set up a hearing to make sure that we thrash out the differences between the gentleman's local schools and the Office of Education. The money is there, and it should be expended to improve bilingual education in this country. That is why the money is appropriated.

Mr. KAZEN. I appreciate the attitude of the chairman, but I have the same fear that some of my other colleagues, particularly my colleague, the gentleman from Texas (Mr. GONZALEZ), have about the amendments which have been adopted here today, simply because of the type of regulation that they pass downtown.

For example, under the Lau decision they say that the school district is responsible for providing adequate special programs for non-English-speaking children. HEW interprets that decision in one way, and the Texas Education Agency interprets it in another way.

I have about five school districts in my congressional district now whose money has been withheld.

Let me just give one example. The city of Eagle Pass on the Rio Grande is approximately 90 percent Mexican-American. Almost the entire school board membership is Mexican-American. The superintendent, the principals, and the vast majority of teachers are Mexican-American.

Yet the Department of HEW has told them that they do not have an adequate program, that they are shortchanging their children. Can you imagine that, that they are shortchanging the non-English-speaking children who are Mexican-Americans?

Mr. PERKINS. Let us get the gentleman's local people up here, and I will give the gentleman a hearing anytime. The Office of Education could be entirely wrong. The problem will be easily threshed out.

Mr. KAZEN. Those of us who come from that State believe in bilingual education and want to see it continue, but we want it to benefit the child in the particular locality. The same regulations that apply in the city of St. Louis or the city of New York do not apply to the city of Eagle Pass, because we have got different people who have different types of languages spoken which do not fit into the particular category of regulation that is passed by HEW nationwide. This is the thing that worries me about the type of amendment we just adopted.

Mr. PERKINS. Let me say to the gentleman that the amendment that was just recently adopted did not limit the student from participation in bilingual education for any number of years. It just provided that after a certain time an evaluation should be made.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(By unanimous consent Mr. KAZEN was allowed to proceed for 2 additional minutes.)

Mr. PERKINS. The other amendment, the Simon amendment, simply provided that English-speaking students should be in the classroom when it was determined that they could help out in assisting the students who could not speak the English language, to learn the English language more easily—to put it bluntly. So, I do not think any of the amendments that we have enacted here this afternoon will handicap the gentleman's bilingual educational program. I think it will help it, and there is no attempt to put any limitation on any child that needs bilingual education. I want to make that clear.

Mr. KAZEN. Mr. Chairman, what I would like to see the gentleman's committee do is to give instructions downtown to allow the local school districts to set up the criteria on this particular program, because those people know better than someone sitting with his feet up on the desk in Washington, D.C., trying to tell the people in New York City and the people in the Southwest that the same regulations should be applied when that is not the type of measuring stick that we should have for different localities and different types of students.

Mr. PERKINS. Now, will the gentleman yield further.

Mr. KAZEN. Certainly. I will be delighted to yield.

Mr. PERKINS. Let me say to the gentleman that we run across regulations that the Office of Education promulgates regularly that are completely unrealistic. I am just asking the gentleman to request a hearing, and I will see that it is set up. I will conduct the hearing myself, and we will get this situation straightened out within his area.

Mr. KAZEN. I thank the chairman.

The CHAIRMAN. Are there further amendments to title VII?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK Page 218, beginning with line 15, strike out "TITLE VII—BILINGUAL EDUCATION" and everything that follows through line 15 on page 240, and renumber the remaining titles accordingly.

Mr. ASHBROOK. Mr. Chairman, on June 23 of last year, I discussed an Office of Education preliminary report which admitted quite frankly that the bilingual education program was a complete failure, a failure which to date had cost taxpayers $500 million. As I predicted at the time, the liberal majority in this House immediately proceeded to increase funding for the program from $110 million to $135 million.

On Sunday, June 5, the CBS program "Sixty Minutes" included a segment called "Why Johnny Can't Read," which exposed the bilingual education farce mercilessly by showing it in action. In one classroom, a teacher who spoke almost no English was conducting a so-called bilingual education class entirely in Spanish. Across the hall, the teacher could speak English, but was scarcely doing so at all in the classroom.

To wrap up his conclusions, Mike Wallace ended the segment by referring to the Office of Education report I dis-

cussed in its preliminary form a year ago this month. Mr. Wallace pointed out that the report is now complete, and its conclusion remains that the now over $600 million we have spent on it to date has been wasted.

Mr. Chairman, the summary of findings of this report—which is labeled an "interim report"—are startling and bear out Mr. Wallace's contention. For example, the prime purpose of the program was to teach limited English speakers in their own language until they developed fluency in English. Yet listen to this finding from the summary. "Less than a third of the students in title VII classrooms were there because of their limited English-speaking ability." I might add that about a quarter of those students were not even of Hispanic origin. Here are some other findings on results:

Title VII Hispanic students showed no greater gains in English Language Arts than non-title VII Hispanic students;

Title VII Hispanic students who were judged to be Spanish monolingual by their teachers showed no gains in English Language Arts achievement as measured against national norms;

Title VII white non-Hispanic students showed a decline in English Language Arts; black students' relative standing stayed the same or showed a slight increase;

There were gains among all groups in computational skills in mathematics, but title VII classrooms found to be producing unusually effective results were using methods found to produce the same results in non-title VII classrooms;

Participation in title VII did not change student attitudes about school or school activities.

Let me simply quote from the report on some of the conclusions.

The interim results from the first year's data suggest that in terms of the goals of the ESEA title VII legislation—that of having students of limited English-speaking ability achieve competency in the English language—the projects which have been operating four to five years have not been generally effective.

All in all, there seems little doubt that most of the students in the title VII projects included in this evaluation generally were not performing in the English language at expected educational levels. This overall level of performance was not a result of large numbers of Spanish monolingual students being in the program. Rather, the majority of the students were classified by their teachers as being bilingual or English monolingual. While their present level of English proficiency suggests that additional instruction in the English Language Arts would be necessary to bring these students up to grade level in English proficiency, it is not evident from the current data of the Impact Study that title VII bilingual education as presently implemented should be considered the most appropriate approach for these students.

Mr. Chairman, what should be the response of the Congress to the admitted failure of a costly program it has authorized. Would it not be appropriate to refuse to extend the authorization?

The response of the Education and Labor Committee has been to authorize the appropriation of as much as $200 million for bilingual education for next year. The response of the House Committee on Appropriations has been to increase next year's actual appropriation for bilingual education to $150 million, which incidentally is the amount requested by President Carter. Mr. Chairman, this is an outrage.

But this is the bare beginning of the outrage. The bill we have before us, H.R. 15, authorizes $200 million for this same bilingual education for 1979, $250 million for 1980, $300 million for 1981, $350 million for 1982, and $400 million for 1983. Mike Wallace was very solemn when he announced that the $135 million bilingual education program for this year was a failure. Actually, the evaluation he reported discussed the program back to its beginning in 1969. This program has wasted $600 million to date, and we are about to vote on authorizing another $1½ billion for it.

Nor will that total of $2 billion, $100 million from 1969 through 1983 be the only cost of this bilingual education fiasco. The program is actually preventing children from learning English. Someday somebody is going to have to teach these young people to speak English, or else they are going to become public charges. Our educational system is finding it increasingly difficult today to teach English-speaking children to read their own language. When children come out of the Spanish-language schools or Choctaw-language schools which call themselves bilingual, how is our educational system going to make them literate in what will still be a completely alien tongue? The luckiest of these young people, in order to learn English, will put an added burden of enormous proportions on our already staggering public education system. Most of our victims of so-called bilingual education will remain unable to speak English, and will be unable to compete in the job market.

My amendment would strike all fund authorizations for title VII, bilingual education, after the current year.

I am asking my colleagues to defy President Carter and the liberal leadership, and to vote for the best interests of our taxpayers and the Nation's students including those with limited ability to speak English. To oppose this amendment will be to abdicate our constitutional function. This is a program which has failed, and everyone knows it has failed. If we blindly give it a steady increase in money over the next 5 years, how can those who vote for it even pretend that they have a real part in appropriating Federal funds? Those who oppose my amendment to strike title VII will be supporting this outrage in the teeth of all evidence, and purely in obedience to the administration and to pressure groups whose interest is politics, not the education of children.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I will be glad to yield to the gentleman from Kentucky.

Mr. PERKINS. First, Mr. Chairman, let me state that I oppose the gentleman's amendment. But, if I might, I would like to add on to what I told the gentleman from Texas before. This bilingual program does spell out new requirements under the Lau decision. This program simply grants funds to operate programs. HEW has regulations for the Lau decision, but those regulations are written and promulgated under the Civil Rights Act and the Supreme Court decision. Mr. Chairman, I would state that they have nothing whatever to do with this program.

Mr. PEPPER. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I take issue with the remarks of the distinguished gentleman from Ohio, the author of this amendment, that this bilingual education has been a failure. It is extensively employed in my district and my county, Dade County, Fla. We have something like 300,000 or 400,000 people of Latin American background, most of them of Cuban background, in our area. This bilingual education program is very meaningful to both the Anglos, as they call the rest of us, and to the people of Cuban or Latin background.

It is a burden upon the local school authorities to have to accommodate the children who are native to the Spanish language, but it is an enriching experience for both the children of Anglo background and of Latin background to be able to have these bilingual education programs operating in the schools.

The only trouble has been that there has been not enough money to put on as large a program as should have been provided for these people. I am pleased that we are authorizing in this bill about $50 million more than in the present year—a total for the new year of $250 million and the amount will increase the next year.

One other thing, Mr. Chairman. Now there is something like parity between the population of the United States and Latin America. My information is that by the year 2000 there will be 600 million people living in Latin America probably and about 300 million people living in the United States.

I wish I had had the opportunity as a child in school to have taken advantage of a bilingual education program. Latin America means a great deal to our country. It is one of the most powerful sources of aid for the future that our Nation has. When we teach our young people to speak Spanish and these Spanish background children to learn English, we are bringing about a better unity and understanding between the people of Latin origin and of our origin here in the United States and in the Western Hemisphere.

So this bilingual education program is a very meaningful program not only for the cause of education but in the promotion and preservation of democracy in our country and in the Western Hemisphere.

I hope the amendment will not be adopted.

Mr. GARCIA. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I would just like to speak very briefly on the amendment. Several things happened on this floor today in terms of the structure and evaluation of this particular program. I think one of the things we will find when we start to evaluate these pro-

grams in the way they should have been evaluated from the very beginning is that these programs contribute a great deal to Americans in this country.

One of the first languages I spoke was Spanish, and I can assure the Members that being Spanish speaking was a handicap that faced us for many, many years. The value of bilingual education is not limited to those of us on this floor who have a Spanish-speaking background but also those who speak many other languages as well. In the city of New York, for example, there are many Orientals, as there are on the west coast, in California, and certain other areas of the country.

The bilingual program has been probably the best educational program that has ever come through in the city of New York to bring youngsters to a parity that they should have reached the first day they entered school.

I think bilingual education is important, I think it is necessary, and I think this amendment should be defeated.

It is hard to believe that my colleague, who has so fervently advocated a more equitable distribution of Federal assistance to the educationally deprived, is now suggesting that Congress deny help to some of the most educationally disadvantaged children in this country: those who cannot speak or understand the language of instruction.

There are 3.5 million language minority children in this country. In a system where achievement at all levels of education is evaluated by comprehension in reading and by writing skills, it is clear that children with limited English language skills will not perform at the same level as their English-speaking counterparts. Statistics of the Office of Education reveal that in the northeast region, Hispanics score 18 percentage points below the Nation in social studies and 17 percentage points below the Nation in mathematics. They further show that French-speaking children score substantially below the Nation in social studies, math, and science. It is also a fact that over half of the Hispanic students drop out of school before the 12th grade. Language and cultural differences are major contributing factors in this gross underachievement of language minority children.

As a response to this overwhelming situation and in an attempt to correct some of the flaws of the educational system in dealing with the special needs of these children, Congress enacted the Bilingual Education Act.

Bilingual education is an important factor in the acculturation of language minority children who are different in some ways but nevertheless are Americans. It is important because it is a process that not only teaches language. It is the vehicle through which these children acquire culture, a feeling of self-worth as Americans and as Hispanics, and the motivation to continue the pursuit of knowledge and a better way of life.

If Congress is truly committed to the principles of equal opportunities to all Americans, then this amendment should be defeated.

Mr. ROYBAL. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) simply because I believe that his amendment, if passed, would definitely deprive a child of his or her constitutional rights.

Sometimes during the debate many reasons were given why this amendment should be passed. I think that one of the things that was cited was a report made by the American Institute of Research. Let us examine what that Institute actually did. They studied bilingual education in various sections of the country, I hope, and in 5 months finally made a determination. In other words, they looked at a problem once and 5 months later came back and again decided that the children were not learning sufficiently in a particular language therefore they determined that the program was ineffective.

The truth of the matter is that linguists do not learn a language in 5 months. The truth of the matter also is that most areas of this country, and foreign nations who use bilingual education, have come to the final determination that it takes 4 years of experience before one can make a true evaluation of the program itself.

This so-called report actually concentrated on two things: One, has the child in 5 months made sufficient progress in writing and in reading? And the answer was not to their satisfaction. But those who were making the survey did not take the time to make another determination, and that is whether that child had made any progress in the oral use of the language? They just ignored this altogether.

These facts were borne out by a study that was made later by another institute. The Institute of Linguistic Studies, pointed to the fact that no one can possibly come to such a conclusion in a study that is that short.

This amendment, based on the facts that were given the House during the debate, is not justified, and definitely deprive a child of his constitutional rights. I believe also that this matter is being debated and discussed by individuals who are not teachers, who do not know what the problems are in any particular community or what the teacher's problems are in a bilingual classroom. Nevertheless, we are putting into law certain restrictions that teachers must comply with.

I admit, Mr. Chairman, that there is some criticism with regard to bilingual education, just as we must admit that there is a great deal of criticism with regard to education in this country. That is a fact in every one of our districts and it is a fact in the country as a whole, yet the evidence is not sufficient to discontinue our educational system just as it is not necessary to discontinue bilingual education.

I firmly believe that bilingual education, if carefully evaluated, will prove to be successful. I have seen it in my district. I have seen it in other States. And I have seen it in other areas where they also use English-speaking children, to help them.

We just passed a little amendment a little while ago requesting that children fluent in English be involved in a bilingual classroom. This has been the practice right along in bilingual education.

Again, that is a clear indication that we are doing things here today that have already been put into practice and we, as legislators, are, all of a sudden, telling educators what to do with bilingual programs. I will stipulate to the fact that there is a problem but I still believe that there is a great deal that can and has to be done to solve that problem before we start destroying the program.

Mr. BIAGGI. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

Mr. Chairman, I rise in opposition to the gentleman's amendment. I admit that the bilingual education program may have its problems but I do not consider them of sufficient magnitude to take the extreme step of abolishing the program.

I believe the committee bill makes a number of important improvements in the bilingual program. We have mandated that each child receiving bilingual education must achieve a degree of competence in the English language. Further, an amendment I offered mandates that teachers selected for the program must themselves be proficient in English. This amendment was prompted by a startling edition of "60 Minutes" which showed bilingual education course in New York City where no English was spoken throughout.

We are a pluralist nation but at the same time we are all Americans. If we are seeking to permit those from other nations to assimilate more freely into the mainstream of society, the knowledge of English is absolutely essential. This is what the bilingual program is supposed to do and will do if H.R. 15 passes.

To send this program to its premature extinction would be wrong and unjust. We have addressed the problems in the programs—we will continue to monitor. This is the sounder approach and I urge defeat of the amendment. Let us also remember that the bilingual program is intended for all those from foreign stock whose principal language is other than English. The programs funded by the act should reflect diversity but should result in teaching English to all who take courses.

Mr. CORRADA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to strenuously oppose the gentleman's amendment. This is another attempt at a blunderbuss approach to education. If we simply ignore the problem, it will simply go away. But the fact is that we have 3.6 million children in this Nation whose language is not English, and who are being denied an equal educational opportunity because of the incongruity of our school system. This has been recognized by the Supreme Court, when in 1974 it issued its Lau against Nichols decision, proclaiming that these children indeed were entitled

to an education commensurate with their particular needs. The Federal program, title VII, only serves less than 10 percent of the eligibles, a scant 255,000 children in 67 languages.

My colleague apparently has chosen to ignore the fact that we spent 3 full days of markup on title VII, the same time we spent on title I, when many people thought we could summarily dispose of title VII in a couple of hours. We could not, in good conscience, undertake to simply support and expand title VII, without scrutinizing the program from top to bottom. We spent 4 months gathering as much information as possible, undertook a massive survey of grantees, educational organizations, and individuals connected with the field of bilingual education, to ascertain where we were, what our limitations are, and how, based on 10 years of experience we can improve title VII. I believe bilingual education is a valid methodology, which allows the child to acquire the requisite English skills, utilizing that which the child knows and understands. In 1965, title I of ESEA was launched as a bold initiative, an untried response to the grave educational problems created by the presence of large numbers of disadvantaged youngsters. Through years of experience and development, we have managed to make that program more responsive. Likewise, title VII arose as a response to a massive problem of underachievement, dropouts, and educational maladjustment due to language limitations.

All we have to do is look at the statistics to bear this out. "Children of Spanish origin or descent in grades 1 through 8 are more likely to be below grade level for their ages than are children with other European origins or Blacks," according to the Condition of Education, 1977. The U.S. Census Bureau has found that Puerto Ricans have a median number of years of schooling of 8.7 years. The median years of schooling for Chicanos is 8.8 years. The U.S. Commission on Civil Rights in 1974 pointed out that "By the time Mexican-American students have reached the 12th grade, the 60 percent who have not already dropped out—three out of every five are reading below the level acceptable for that grade. They are more than twice as likely to be required to repeat a grade as Anglo students and as much as seven times more likely than Anglos to be over age for their grade." This education situation has been described as a "national crisis" by Dr. Mary Berry, Assistant Secretary of HEW. It is indicative of an educational system which is failing to educate these children.

More than any other program, 15 million Hispanics view bilingual education as a barometer of this Nation's commitment to their needs. Hispanics, which now constitute the second largest minority in this Nation and in 15 years may be the largest minority, view education as the vehicle through which they can overcome social and economic limitations. But they are caught in a system that by and large is unresponsive to their needs. It is therefore imperative that the Federal Government continue to demonstrate its commitment, that it cares and serves their educational needs.

The results of title VII are mixed, yet I contend that much of the criticism is unwarranted. What we have is a schematic law, years of administrative opposition, and a recalcitrant educational system which in many instances is unwilling to accept bilingual education. We cannot expect that the frankly meager Federal involvement will solve the enormous problem overnight, when 90 percent still remain unserved, and 129,000 qualified teachers are needed, when the title VII office is meagerly staffed to oversee and monitor this program.

The AIR Report admittedly found some discrepancies in the program operation. Some can be taken care of through administrative monitoring, as in the case of insuring that programs identify and serve children who really need the program. But this study has been attacked for numerous deficiencies, which question its overall validity. The Center for Applied Linguistics has pointed out that on the one hand the study says that one-third of the students are in need of the program, and on the other hand it found that in general, the students scored in the bottom fifth on a standardized English test. There are basically four disturbing factors in the study: the soundness of the research design and methods used in the study, the utilization and interpretation of data, the validity of the conclusions reached, and the potential danger which exists in using such unreliable data to form our Federal education policy.

The pre-test and post-test comparison group design used in the AIR study is an unsophisticated evaluation approach for programs of this type. The design was faulty, yielding predictable results, offered no new knowledge, omitted important variables, and ignored important portions of the data base. Negative outcomes were thoroughly exploited, while the major study objectives of "identifying those educational practices which result in greater gains in student achievement" were ignored. The design of the study called for "contrasting the performance of the two groups of students not enrolled in such projects." The groups were compared with methods which did not establish the comparability of the two groups, and therefore the conclusions based on the assumption of comparability are questionable.

Multiple variables, such as language background, teacher qualifications, length of time in the program, type of program, were scantly considered. Pre-test and post-test time spans varied greatly. The study did determine that only 27 percent of the teachers held bilingual teaching credentials, which reiterates what we have held, that there is a dire need for qualified bilingual teachers.

Mr. Chairman, I would like to insert a news release by the Center for Applied Linguistics which shows in detail the glaring deficiencies of the AIR study.

Mr. Chairman, I want this program to work, to bridge the gap that separates our language minorities from the educational mainstream. It is for this reason that numerous measures were taken in the committee to make the program more effective and efficient, namely:

Provide for more effective parental involvement;

Provide for more coordination between title VII and other OE program;

Reduce paperwork by allowing multiple year applications;

Provide a flexible amount for training funds to insure their proper utilization, in lieu of a mandatory percentage;

Programs must show that they are serving those children most in need, provide measurable goals for determining when children no longer need such assistance, and show how the follow-up and sustaining of achievement will be provided for;

Provides that personnel must be bilingual;

Yearly reporting to Congress instead of every 2 years; and

Work or payback requirement of the fellowships for teacher training, to insure we are serving the intended goal of increasing qualified teachers.

The Commissioner shall determine what constitutes training, to insure that these funds are utilized for just that: Training;

The Commissioner is mandated to develop and publish models for bilingual programs and evaluation models. Each publication must contain a plan for evaluation;

The Secretary shall prepare and submit a report identifying the number of children in need of such services, by language and by State. He is also mandated to develop evaluation and data gathering models;

The Commissioner of Education is mandated to adequately staff the title VII office so it can effectively discharge and monitor all of these provisions;

Mandates that materials developed shall be of comparable quality to those utilized in mainstream classes, and provides incentives for those language groups which lack adequate curriculum materials; and

Finally, a greater emphasis is placed on research to improve the methodology utilized.

In sum, we have taken countless steps to make this program viable, and more effective, based on our experience. We cannot, in good faith, walk away from this educational problem, and shy away from our commitment. The alternative to not having a bilingual education program is the reversion to the same inflexible system which is currently abismally failing to serve the educational needs of languge minorities. I urge my colleagues to soundly defeat this amendment, and to defend the right of our language minorities to an equal educational opportunity.

CHALLENGE TO USOE FINAL EVALUATION OF THE IMPACT OF ESEA TITLE VII SPANISH/ENGLISH BILINGUAL EDUCATION PROGRAMS

ARLINGTON, VA.—The final USOE evaluation of Title VII programs conducted by the

American Institutes for Research (AIR), suggests that the program does not appear to have a significant impact on student achievement. This study provides little assistance in casting the problems confronting the Title VII program in comprehensive and operational terms. On the basis of this report, one is unable to decide to what extent the inadequacies of bilingual education are an artifact of measurement error, evidence of inherent limitations in production possibilities, a result of implementation problems, the result of slippage between treatment and goals, or the product of premature assessment. In short, this study does not permit us to generalize from the past experience with Title VII or even to specify the nature of the problems in theoretically fruitful terms. It avoids the reality that bilingual programs develop and exist in districts that differ markedly in terms of variability of linguistic needs, demographics, availability of well-trained teachers, adequate curricula, district commitment and level of politicization of constituencies. As a result of this, the report fails to distinguish between the effects of good programs and weak programs, and treats bilingual education as an undifferentiated uniform whole (despite AIR's own findings published in volume II of this study). Despite the opportunities to rectify the limitations of the study, all of the problems and shortcomings inherent in the Interim Report are present in the Final Report:

(1) The aggregation of Title VII and non-Title VII students who have received a variety of educational treatments and whose language abilities are extremely varied, effectively conceals the potential impact of bilingual education.

An examination of the Title VII Project Descriptions illustrates the vast site differences which are compounded by the varied social and political settings of the projects. The data analysis failing to take this into account, not surprisingly, found little relationship between educational outputs and achievement. It is evident that the grouping of disparate projects are unlikely to reveal such relationships when they exist. The tendency with this type of analysis is that the positive effects found with the good programs are cancelled out by the negative effects of the bad programs. To use Tallmade's analogy, the situation is something akin to evaluating all world-class athletes on a test of bowling. Not only might one find that Laura Baugh scored higher than Nadia Comaneci, but also, that on the average, world class athletes are really pretty mediocre performers.

(2) The unrealistically short period (approximately 5 months or less) between the pre-test and post-test administered to the students.

Serious limitations in the study are attributed to the fact that the average period between the pre- and post-testing is five months or less. It seems unrealistic to expect either the rate of improvement or the actual improvement to be evident over such a short time span. It could be argued that the expected incremental change would more clearly be seen over a longer period of time due to the nature of a bilingual classroom, where two languages are used as a means of communication. The institutionalization of the changes anticipated by this evaluation would be expected to occur over an extended period of time.

(3) The inappropriate use of the Comprehensive Test of Basic Skills (CTBS) to assess the English reading ability of limited English-speakers and monolingual Spanish-speakers who were just learning to read and write English.

The sole use of the CTBS to assess English reading ability is highly questionable particularly in the case of the bilingual-Spanish dominant monolingual Spanish-dominant children. Although these evaluated projects were in the fourth and fifth years of funding, the students in these classrooms varied in their length of project participation. Therefore, it is probable that the reading scores of monolingual Spanish-speakers and limited English-speakers who were recently placed in the bilingual classrooms would have negatively skewed the test results. The important issue here is the statistical aggregation of test scores without regard for in-group variation. It would be equivalent to giving the monolingual English-speaking students the Spanish-language *Prueba de Lectura* to assess their reading skills in an unknown language.

Also at issue is the divergence between project goals and those being assessed by this study. It seems highly probable that where the content of the tests (CTBS, *Prueba de Lectura*) did not reflect the content of the curriculum being used in the classrooms, the tests would be insensitive to whatever gains the curriculum might produce. The situation is exacerbated by the fact that students gain only a few raw score points on a total standardized test during the school year. If a given test is only tangentially relevant to a curriculum, even substantial gains may produce little effect on the total scores. It would appear logical that the most valid means of assessing the effects of a bilingual classroom would be to administer a test that measures what was taught. A review of the different projects indicates that they are stressing different subsets of the components of reading and math (in two languages), than those measured by the tests administered in the study. It seems unlikely that any single reading or math test would be a reliable measurement of the effects of the entire range of projects.

(4) The inappropriate use of a comparison group research design to contrast Title VII and non-Title VII projects.

The study sought to assess the impact of fourth and fifth year Title VII projects and to compare them with non-Title VII projects. Any pre-test is not an indication of how the students were doing before treatment, but at varying points during treatment. In order for an adequate comparison to be done between two groups, the groups must be equal and one group must receive an educational treatment which the other group does not. The Title VII and non-Title VII groups were never tested for comparability at onset of the study. It is possible that the two groups differed on the basis of cognitive development. Also, the groups differed in terms of language proficiency in English and Spanish before entering school. Thus the groups were not comparable on the most critical elements in evaluating a language program.

(5) The lack of a clear understanding of the term "limited English speaking ability" which is compounded by the unreliability of teacher assessment of students' language ability, particularly since the AIR Teacher Bilinguality Scale indicated that only 50 percent of the teachers were proficient in English and Spanish.

It is reported that generally less than one-third of the participating Hispanic students were considered by their teachers to be enrolled in Title VII classrooms because of their need for English instruction. It is concluded that these children are retained in bilingual programs for political reasons. A related finding of the study states that the children in the Title VII classrooms are performing at the 20th–30th percentile on the English CTBS (Comprehensive Test of Basic Skills), significantly below the national average. Clearly, there is a contradiction in these two findings: How can teachers make the claim that less than one-third of the students are in need of English if they are performing as reported? While the first finding taken by itself tends to suggest that the Title VII program is not delivering its services to the most needy population, i.e., less than 30 percent of the children are limited English-speakers: the second finding indicates that the children in the Title VII classes are performing well below the national norm and are unable to benefit from and compete in an English only classroom.

These findings also call attention to the fact that teacher assessments were used to categorize students by language groups. There is a large body of research which indicates the unreliability of teacher judgments as an indicator of students' language ability. The problem is compounded by the fact that only half of the teachers were proficient in both English and Spanish, as measured by the AIR Teacher Bilinguality Scale. Since the teachers' classification of students by language groups played such a pivotal role in the study, it tends to cast further doubt on the findings.

The Center for Applied Linguistics, established in 1959 with continuing support from the Ford Foundation, serves as an international resource center in language and linguistics. The Center is a non-profit organization devoted to the application of linguistic research to the solution of educational and social problems.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was rejected.

The CHAIRMAN. Are there further amendments to title VII? If not, the Clerk will read.

The Clerk read as follows:

TITLE VIII—AMENDMENTS TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

EXTENSIONS AND REPEALS

SEC. 801. (a) Sections 807(c) and 808(d) of the Elementary and Secondary Education Act of 1965 are each amended by striking "1979" and inserting in lieu thereof "1983".

(b) Effective October 1, 1978, sections 804 and 809 of the Elementary and Secondary Education Act of 1965 are repealed.

(b) Effective October 1, 1979, section 811 of the Elementary and Secondary Education Act of 1965 is repealed.

EDUCATIONAL PROFICIENCY STANDARDS

SEC. 802. Title VIII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end the following new sections:

"GRANTS TO IMPLEMENT EDUCATIONAL PROFICIENCY STANDARDS

"SEC. 813. (a) The Commissioner may make grants to any State educational agency (or to any local educational agency located in a State in which the State educational agency has not submitted an application for a grant under this section) to carry out any plan approved by the Commissioner in accordance with this section to assist students in achieving levels of educational proficiency compatible with basic standards established by such educational agency.

"(b)(1) Each applicant which desires to receive a grant under this section may submit an application to the Commissioner. Any such application shall be submitted in such form, and in accordance with such procedures, as the Commissioner shall require and shall contain an educational proficiency plan, as described in paragraph (2) of this subsection.

"(2) The educational proficiency plan referred to in paragraph (1) of this subsection—

"(A) shall contain a description of the educational proficiency standards established by the applicant for reading, writing, mathematics, and any other subject for which the Commissioner may require such standards;

"(B) shall contain a description of the programs designed to assist students in achieving levels of educational proficiency compatible with the standards described in subparagraph (A) of this paragraph;

"(C) may provide for the administration of examinations to students, at specified intervals or grade levels, to measure their reading, writing, or mathematical proficiency, or their proficiency in other subjects which the applicant considers appropriate for testing; and

"(D) shall contain the assurances of the applicant that any student who fails any examination provided for under subparagraph (C) of this paragraph shall be offered supplementary instruction in the subject matter covered by such examination.

"(c) The Commissioner shall award a grant to any applicant, in such amounts as the Commissioner considers appropriate, only if (1) the Commissioner approves the educational proficiency plan submitted by the applicant pursuant to subsection (b) of this section, and (2) the application submitted pursuant to such subsection satisfies all other requirements established by the Commissioner. Grants awarded under this section may be used by applicants to implement their educational proficiency plans, including the provision of supplementary instruction to be provided to students who fail the examinations.

"(d) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years.

"(e) For purposes of this section, the term 'applicant' means any State or local educational agency which submits an application under this section.

"(f) Nothing in this section shall authorize the Commissioner to impose tests on State educational agencies or local educational agencies, and no such agency shall be compelled in any way to apply for funds under this section.

"ACHIEVEMENT TESTING ASSISTANCE

"SEC. 814. (a) The Secretary shall, either directly or through grants to or contracts with State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions, assist State and local educational agencies to develop their capacity to conduct programs of testing the achievement in the basic skills of children in elementary and secondary schools. Activities that may be supported under this section include—

"(1) disseminating information to State and local educational agencies on the availability and uses of achievement tests;

"(2) training of and assistance to administrators, teachers, and other instructional personnel in the use of tests and test results; and

"(3) research and evaluation designed to determine improved means of assessing more accurately the achievement of children in basic skills and of diagnosing instructional needs.

"(b) Nothing in this section shall authorize the Secretary to develop specific tests or test questions.

"(c) There are authorized to be appropriated to carry out this section such sums as may be necessary for the fiscal year ending September 30, 1980, and for each of the three succeeding fiscal years.

"WAIVER OF REQUIREMENTS FOR CERTAIN JURISDICTIONS

"SEC. 815. (a) If the Commissioner determines that compliance with any of the requirements of this Act by Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands is impractical or inappropriate because of conditions or circumstances particular to any of such jurisdictions, he may waive any of those requirements upon the request of the State educational agency for such jurisdiction. At least thirty days prior to approving any such request for a waiver, the Commissioner shall publish in the Federal Register a notice of his intent to grant such a waiver and the terms and conditions upon which such a waiver will be granted.

"(b) Any waiver of requirements under this section shall be subject to such terms and conditions as the Commissioner deems necessary to carry out the purposes of this Act, including the submission by the jurisdiction concerned of a plan for the management of the funds provided under this Act in order to insure that those funds are used in a manner designed to achieve the purposes of this Act.

"REQUIREMENT OF FUNDING AUTHORITY

"SEC. 816. Notwithstanding any other provision of this Act, no authority to enter into contracts or to make payments under this Act shall be effective except to such extent or in such amounts as are provided in advance in appropriations Acts.".

DEFINITION OF STATE

SEC. 803. Section 801(j) of the Elementary and Secondary Education Act of 1965 is amended by inserting "the Northern Mariana Islands," after "American Samoa,".

Mr. CORRADA. Mr. Chairman, I have an amendment to title VII.

The CHAIRMAN. The gentleman's amendment comes too late.

Mr. CORRADA. Mr. Chairman, I ask unanimous consent to offer an amendment to title VII.

The CHAIRMAN. Is there objection to the request of the gentleman from Puerto Rico to return to title VII for the purpose of offering an amendment?

There was no objection.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. CORRADAS Page 232, line 11, insert the following new subsection:

"3(A) the Commissioner shall reserve from the amount not reserved pursuant to clause 3 of this paragraph such amounts as may be necessary, but not in excess of 1 per centum thereof, for the purposes of section 732."

Mr. PERKINS. Mr. Chairman, will the distinguished gentleman from Puerto Rico yield to me?

Mr. CORRADA. I yield to the distinguished chairman of the committee, the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding. We accept the amendment on this side, Mr. Chairman. The gentleman is simply asking to continue a provision in the current law which was inadvertently deleted in H.R. 15 to assure funding of the National Advisory Council on Bilingual Education. I am sure we all want to see the National Council funded, and I cannot think of any vote in this Chamber against the amendment. We accept the amendment.

Mr. CORRADA. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Puerto Rico (Mr. CORRADA).

The amendment was agreed to.

The CHAIRMAN. Are there amendments to title VIII? If not, the Clerk will read.

The Clerk read as follows:

TITLE IX—AMENDMENTS TO THE EMERGENCY SCHOOL AID ACT

APPROPRIATIONS

SEC. 901. Section 704 of the Emergency School Aid Act is amended to read as follows:

"APPROPRIATIONS

"SEC. 704. (a) The Assistant Secretary shall, in accordance with the provisions of this title, carry out a program designed to achieve the purpose set forth in section 702 (b). There are authorized to be appropriated for the purposes of this title, to be apportioned among the States in accordance with section 705, $155,000,000 for fiscal year 1980 and for each of the three succeeding fiscal years.

"(b)(1) There are further authorized to be appropriated for the purpose of this title such sums as may be necessary for fiscal year 1980 and each of the three succeeding fiscal years for special programs and projects under section 708 (a) and (c), and for evaluations under section 713. From the amount appropriated under this subsection for any fiscal year, the Assistant Secretary shall reserve $20,000,000 for the purpose of carrying out programs and projects described in section 708(a) (1) through (3).

"(2) From the sums appropriated pursuant to subsection (a), the Assistant Secretary shall reserve an amount equal to eight per centum thereof for the purposes of section 708(b).

"(c)(1) There are further authorized to be appropriated for the purpose of this title $7,250,000 and such additional sums as may be necessary for fiscal year 1980 and each of the three succeeding fiscal years for providing compensatory services to students who had previously received such services funded in whole or in part under title I of the Elementary and Secondary Education Act of 1965, but who are no longer receiving such services as a result of attendance area or enrollment changes under a plan implemented or ordered after August 21, 1974, which meets the requirements of section 706 (a)(1) (A), (B), (C), or (D) for eligibility for assistance under this title.

"(2) Funds made available under paragraph (1)—

"(A) shall not be used in any manner which would result in the isolation of the students described in such paragraph from other students in the school to which the students so described have been assigned by such plan; and

"(B) shall be used to establish compensatory education programs, not less than 30 per centum of the enrollment in which is such other students, except that—

"(i) if such school receives funds under provisions of this title other than this subsection, such funds shall be used to provide such services to such other students; or

"(ii) if such schol does not receive such funds, funds provided under this subsection may be used for such other students, not exceeding 30 per centum of the enrollment in such program.".

APPORTIONMENT

SEC. 902. Section 705 of the Emergency School Aid Act is amended to read as follows:

"APPORTIONMENT AMONG STATES

"SEC. 705. (a) From the sums appropriated pursuant to section 704(a) for any fiscal year,

the Assistant Secretary shall apportion to each State for grants and contracts within the State an amount which bears the same ratio to such sums as the number of minority group children aged five through seventeen, inclusive, in that State bears to the number of such children in all States, except that the amount apportioned to any State shall not be less than $100,000. The number of such children in each State and in all of the States shall be determined by the Assistant Secretary on the basis of the most recently available satisfactory data.

"(b)(1) The amount by which any apportionment to a State for a fiscal year under subsection (a) exceeds the amount which the Assistant Secretary determines will be required for that fiscal year for programs and projects within the State shall be available either—

"(A) for reapportionment to other States for which the amount so apportioned is insufficient for approvable programs or projects for that fiscal year, or

"(B) for special programs and projects under section 708(a),

whichever the Assistant Secretary determines will best achieve the purposes of this title. The Assistant Secretary shall distribute any amounts reapportioned among the States pursuant to clause (A) in proportion to the need of eligible applicants in each such State for approvable programs or projects.

"(2) The Assistant Secretary shall not fix a date for reapportionment, pursuant to this subsection, of any portion of any apportionment to a State for a fiscal year which date is earlier than one hundred and twenty days prior to the end of such fiscal year.

"(3) Notwithstanding the provisions of paragraph (1) of this subsection, no portion of any apportionment to a State for a fiscal year shall be available for reapportionment pursuant to this subsection unless the Assistant Secretary determines that the applications for assistance under this title which have been filed by eligible applicants in that State for which a portion of such apportionment has not been reserved (but which would necessitate use of that portion) are applications which do not meet the requirements of this title, as set forth in sections 706, 707, and 710, or which set forth programs or projects of such insufficient promise for achieving the purposes of this title stated in section 702(b) that their approval is not warranted.".

ELIGIBILITY

SEC. 903. (a) Section 706(a)(1) of the Emergency School Aid Act is amended—

(1) by inserting immediately before the semi-colon at the end of division (i) of clause (A) the following: "and which may, in addition, require educational activities in minority group isolated schools not affected by the reassignment of children or faculty under the plan in order to remedy the effects of illegal segregation";

(2) by striking out "; or" at the end of clause (D) and by insertnig in lieu thereof a period; and

(3) by striking out clause (E).

(b) Section 706(b) of such Act is repealed.

(c) Section 706(d)(1) of such Act is amended by inserting immediately before the period at the end thereof the following: ": *Provided*, That the Secretary may, notwithstanding the foregoing, grant such a waiver of ineligibility if the applicant is seeking assistance for activities related to the assignment of employees.".

AUTHORIZED ACTIVITIES

SEC. 904. Section 707 of the Emergency School Aid Act is amended to read as follows:

"AUTHORIZED ACTIVITIES

"SEC. 707. (a) The Assistant Secretary shall make sums appropriated under section 704(a) for any fiscal year available for programs and projects designed to meet educational needs that arise from the implementation of a plan described in section 706(a). Those programs and projects may include but are not limited to—

"(1) the training of school staff and local educational agency staff in the handling of problems incident to the implementation of a qualifying plan;

"(2) the provision of additional staff members (including teacher aides) to assist in meeting educational needs that arise from the implementation of the plan;

"(3) the development or acquisition of new curricula, methods, practices, techniques, or materials to support a program of instruction for children from all racial, ethnic, and economic backgrounds, including instruction in the language and cultural heritage of minority groups;

"(4) innovative educational activities, including extracurricular activities, which involve the joint participation of minority group children and other children;

"(5) community relations activities, including public information efforts, in support of the implementation of a qualifying plan;

"(6) planning, evaluation, dissemination, and other administrative activities directly related and necessary to other activities in the program or project;

"(7) repair or minor remodeling or alteration of existing school facilities (including the acquisition, installation, modernization, or replacement of instructional equipment) and the lease or purchase of mobile classroom units or other mobile education facilities, where necessary to carry out other activities in the program or project;

"(8) the provision of compensatory services to children who have received such services under title I of the Elementary and Secondary Education Act of 1965 but who are no longer eligible to receive those services as a result of attendance area changes under a qualifying plan;

"(9) activities to prevent or eliminate recurring or continuing problems resulting from the implementation of a qualifying plan;

"(10) planning to implement or carry out a plan of desegregation issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency, or otherwise requires the elimination or reduction of minority group isolation in such schools or which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools; and

"(11) in the case of an applicant implementing a court-ordered desegregation plan under section 706(a)(1)(A)(i), the conduct of educational activities in one or more minority group isolated schools which are not affected by the reassignment of children or faculty under the plan, where the activities have been required by the court to remedy the effects of illegal segregation.

"(b) In recruiting and hiring teacher aides to assist in carrying out a program or project under this section, the local educational agency shall give preference to parents of children affected by the implementation of a qualifying plan.".

SPECIAL PROGRAMS AND PROJECTS

SEC. 905. (a) Section 708 of the Emergency School Aid Act is amended to read as follows:

"SPECIAL PROGRAMS AND PROJECTS

"SEC. 708. (a) From the amount appropriated for any fiscal year under section 704(b), the Assistant Secretary is authorized to make grants to, and contracts with, State and local educational agencies, and other public and nonprofit agencies and organizations (or a combination of such agencies and organizations) for the purpose of carrying out activities which the Assistant Secretary determines will make substantial progress toward achieving the purposes of this title, including, but not limited to—

"(1) the planning for, design of, and conduct of programs in magnet schools;

"(2) the pairing of schools and programs with institutions of higher education and with businesses;

"(3) the development of plans for neutral site schools;

"(4) activities designed to meet the needs of minority group children with limited English language skills enrolled in the schools of a local educational agency eligible for assistance under section 706;

"(5) the development and production of integrated children's television programs of cognitive and effective educational value, as described in section 711; and

"(6) the conduct, in cooperation with one or more local educational agencies, of special programs for the teaching of standard mathematics to children eligible for services under this title through instruction in advanced mathematics by qualified instructors with bachelor degrees in mathematics, or the mathematical sciences from colleges or other institutions of higher education, or equivalent experience.

"(b) From the sums reserved pursuant to section 704(b)(2), the Assistant Secretary, in cases in which it would effectively carry out the purpose of this title stated in section 702(b) may assist by grant or contract any public or private nonprofit agency, institution, or organization (other than a local educational agency) in any State to carry out programs or projects designed to support the development or implementation of a plan described in section 706(a).

"(c)(1) From the amount available for the purposes of this section for each fiscal year, the Assistant Secretary shall carry out a program of making grants to State educational agencies, or other State agencies involved in or responsible for the desegregation of public elementary and secondary schools, to pay a portion of the cost of State activities related to—

"(A) planning (i) for the implementation of voluntary plans to eliminate or reduce minority group isolation in those schools, and (ii) to assess future needs and to develop further strategies to meet those needs;

"(B) providing technical assistance to encourage local educational agencies or groups of those agencies to develop or implement voluntary plans to eliminate or reduce minority group isolation in those schools; and

"(C) providing training for educational personnel involved in developing or carrying out a voluntary plan to eliminate or reduce minority group isolation in those schools.

"(2) The amount of assistance made available to a State under this subsection for any fiscal year shall be twice the amount of State funds expended in the preceding fiscal year for the activities listed in paragraph (1). The amount provided to a State under this section for any fiscal year shall not exceed—

"(A) 10 per centum of the amount apportioned to the State for that fiscal year under section 705, or

"(B) $500,000,

whichever is greater.

"(3) No grant may be made to a State under this subsection unless the application for that grant has been developed in consultation with teachers, educators, parents (including parents of minority group children), and representatives of the general public (including representatives of minority groups), of whom the proportion of minority group individuals shall be approximately the same as the proportion of minority group children en-

rolled in the elementary and secondary schools in the State.".

APPLICATIONS

SEC. 906. Section 710 of the Emergency School Aid Act is amended to read as follows:

"APPLICATIONS

"SEC. 710. (a) Any local educational agency desiring to receive assistance under this title for a fiscal year shall submit to the Assistant Secretary a notice of intention to do so within thirty days of the beginning of the previous fiscal year. Within thirty days of such submission, the Assistant Secretary shall notify the local educational agency of its eligibility or lack of eligibility for such assistance. If an agency is not eligible, it may apply within ten days for a waiver of ineligibility under section 706(d); and it shall be notified by the Assistant Secretary within twenty days of the approval or disapproval of such waiver. Within thirty days of such notice from the Assistant Secretary for an ineligible agency or within sixty days of notice of approval of eligibility for any other agency, the local educational agency shall submit to the Assistant Secretary an application containing only such information as is deemed necessary to determine approval of its application under this title. Such agency shall be notified by the Assistant Secretary of such approval or disapproval within thirty days of the submission of this application. Such application, together with all correspondence and other written materials relating thereto, shall be made readily available to the public by the applicant and by the Assistant Secretary. The Assistant Secretary may approve an application only upon a determination that such application—

"(1) has been developed—

"(A) in open consultation with parents, teachers and, where applicable, secondary school students, including at least one public hearing at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereupon, and

"(B) with the participation of a committee composed of parents of children enrolled in the applicant's schools, teachers and, where applicable, secondary school students, of which at least half the members shall be such parents, and at least half shall be persons from minority groups;

"(2) sets forth such policies and procedures as will insure that the program for which assistance is sought will be operated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B);

"(3) sets for such policies and procedures, and contains such information, as will insure that funds paid to the applicant under the application will be used solely to pay the additional cost to the applicant in carrying out the program described in the application;

"(4) contains such assurances and other information as will insure that the program for which assistance is sought will be administered by the applicant, and that any funds received by the applicant, and any property derived therefrom, will remain under the administration and control of the applicant;

"(5) provides that the plan with respect to which such agency is seeking assistance (as specified in section 706(a)(1)(A)) does not involve freedom of choice as a means of desegregation, unless the Assistant Secretary determines that freedom of choice has achieved, or will achieve, the complete elimination of a dual school system in the school district of such agency;

"(6) provides assurances that such agency will carry out, and comply with, all provisions, terms, and conditions of any plan, as described in section 706, upon which a determination of its eligibility for assistance under this title is based.

"(7) sets forth such policies and procedures, and contains such information, as will insure that funds made available to the applicant (A) under this title will be so used (i) as to supplement the level of funds that would, in the absence of such funds, be made available from non-Federal sources for the purposes of the program for which assistance is sought, and for promoting the integration of the schools of the applicant, and for the education of children participating in such program, and (ii) in no case, as to supplant such funds from non-Federal sources, and (B) under any other law of the United States will, in accordance with standards established by regulation, be used in coordination with such programs to the extent consistent with such other law, except that nothing in this clause shall prohibit the use of funds under this title for otherwise authorized activities required under a court-ordered plan described in section 706(a)(1)(A)(i);

"(8) provides that (A) to the extent consistent with the number of minority group children in the area to be served who are enrolled in private nonprofit elementary and secondary schools which are operated in a manner free from discrimination on the basis of race, color, or national origin, and which do not serve as alternatives for children seeking to avoid attendance in desegregated or integrated public schools, whose participation would assist in achieving the purpose of this title stated in section 702(b), provides assurance that such agency (after consultation with the appropriate private school officials) has made provision for their participation on an equitable basis, and (B) to the extent consistent with the number of children, teachers, and other educational staff in the school district of such agency enrolled or employed in private nonprofit elementary and secondary schools whose participation would assist in achieving the purpose of this title stated in section 702(b), such agency (after consultation with the appropriate private school officials) has made provisions for their participation on an equitable basis;

"(9) provides that the applicant has not reduced its fiscal effort per student or the aggregate expenditure for the provision of free public education for children in attendance at the schools of such agency for the fiscal year for which assistance is sought under this title to less than that of the second preceding fiscal year;

"(10) provides that the appropriate State educational agency has been given reasonable opportunity to offer recommendations to the applicant and to submit comments to the Assistant Secretary;

"(11) sets forth effective procedures, including provisions for objective measurement of change in educational achievement and other change to be effected by programs conducted under this title, for the continuing evaluation of programs under this title, including their effectiveness in achieving clearly stated program goals, their impacts on related programs and upon the community served, and their structure and mechanisms for the delivery of services, and including, where appropriate, comparisons with proper control groups composed of persons who have not participated in such programs or projects;

"(12) provides (A) that the applicant will make periodic reports at such time, in such form, and containing such information as the Assistant Secretary may prescribe, including, in the case of reports relating to performance, that the reports be consistent with specific criteria related to the program objectives, and (B) that the applicant will keep such records and afford such access thereto as—

"(i) will be necessary to insure the correctness of such reports and to verify them, and

"(ii) will be necessary to insure the public adequate access to such reports and other written materials; and

"(13) provides that the applicant, in developing the program or project for which it seeks assistance, has considered the need for compensatory services for children who received those services under title I of the Elementary and Secondary Education Act of 1965, but who are no longer eligible to receive those services as a result of attendance area changes under a qualifying plan.

"(b) No application under this section may be approved which is not accompanied by the written comments of a committee established pursuant to clause (2)(B) of subsection (a). The Assistant Secretary shall not approve an application without first affording the committee an opportunity for an informal hearing if the committee requests such a hearing.

"(c) In approving applications submitted under this title (except for those submitted under sections 708(b) and 713) the Assistant Secretary shall apply the following criteria:

"(1) the need for assistance based on the expense or difficulty of effectively carrying out a plan described in section 706(a) and the program or project for which assistance is sought;

"(2) the degree to which implementation of the plan described in section 706(a) has effected or will effect a decrease in minority group isolation in minority group isolated schools;

"(3) the recentness of the implementation of the plan described in section 706(a);

"(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title; and

"(5) the degree to which the plan described in section 706 involves to the fullest extent practicable the total educational resources, both public and private, of the community to be served.

"(d)(1) An application of a local educational agency for assistance under this title may cover a period of from one to five years. A new application shall be required for any assistance under this title for years subsequent to that period. The Assistant Secretary shall base the decision as to the length of time for which an application will be approved on—

"(A) the severity of the problems addressed by the program or project for which assistance is being sought;

"(B) the nature of the activities proposed in the application;

"(C) the likely duration of the problems addressed by the application; and

"(D) such other criteria, established by the Assistant Secretary, as will assure the most effective use of this title.

"(2) If the Assistant Secretary approves an application of a local educational agency under the title for a period covering more than one fiscal year, no subsequent application shall be required from that agency in any fiscal year during that period unless the agency proposes to carry out, in any such fiscal year, activities not included in the approved application. However, payments to any such agency for which the application has been approved shall be made only if—

"(A) sufficient appropriations are available for making payments in each such subsequent fiscal year; but such payments shall be made prior to any agency approval of funding requests from potential recipients applying subsequent to approved extended period applicants, unless the Assistant Secretary finds that the urgeficy of needs elsewhere requires a reduction of the level of support for approved extended period applicants;

"(B) the Assistant Secretary determines that the agency is not ineligible for assist-

ance under section 706(d) in each subsequent fiscal year; and

"(C) the agency demonstrates, in accordance with such rules as the Assistant Secretary may prescribe, that satisfactory progress is being made toward achieving the objectives of the program or project for which assistance has been made available under this title.

"(e) The Assistant Secretary shall not give less favorable considerable to the application of a State or local educational agency (including an agency currently classified as legally desegregated by the Secretary) which has voluntarily adopted a plan qualified for assistance under this title (due only to the voluntary nature of the action) than to the application of a local educational agency which has been legally required to adopt such a plan.

"(f) The Assistant Secretary may, from time to time, set dates by which applications shall be filed.

"(g) In the case of an application by a combination of local educational agencies for jointly carrying out a program or project under this title, at least one such agency shall be a local educational described in section 706(a) and any one or more of such agencies joining in such application may be authorized to administer such program or project.

"(h) No State shall reduce the amount of State aid with respect to the provision of free public education in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.".

MISCELLANEOUS AND CONFORMING AMENDMENTS

SEC. 907. (a)(1) Section 711 of the Emergency School Aid Act is amended by striking out subsection (a) and redesignating subsection (b) as subsection (a).

(2) Section 711 of such Act is further amended by adding at the end thereof the following new subsection:

"(b) Grants and contracts pursuant to subsection (a) may be made from funds available to carry out section 708(a) of this Act.".

(b) Section 712(b) of such Act is amended by adding at the end thereof the following new sentence: "Payments under this title for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year.".

(c) Section 712(c)(1) of such Act is amended—

(1) in the first sentence by striking out "or in the case of an application under section 708(c) would assist in meeting the needs described in that subsection"; and

(2) by striking out the last sentence thereof and inserting in lieu thereof "The Assistant Secretary shall pay the cost of such arrangements from such State's allotment or, in the case of an application under section 708(a), from the sums available to the Assistant Secretary under section 704(b) for the purpose of such section.".

(c) The first sentence of section 713 of such Act is amended to read as follows: "From the amount appropriated under section 704(b) for any fiscal year, the Assistant Secretary is authorized to reserve for the purposes of this section not to exceed 1 per centum of the amount appropriated under this title for such fiscal year.".

(d) Sections 714 and 716 of such Act are repealed.

(e) Section 717 of such Act is amended to read as follows:

"GENERAL PROVISIONS

"SEC. 717. The General Education Provisions Act shall apply to the program of Federal assistance authorized under this title. The Assistant Secretary shall have the authority vested in the Commissioner of Education by that Act with respect to such program.".

(f)(1) Section 720 of such Act is amended by striking out paragraphs (2) and (7) and by redesignating paragraphs (3), (4), (5), and (6) as paragraphs (2), (3), (4), and (5), respectively, and by redesignating paragraphs (8) through (17) as paragraphs (6) through (15), respectively.

(2) Section 720(8) of such Act (as so redesignated) is amended to read as follows:

"(8) The term 'minority group' refers to (A) persons who are American Indians and Alaskan Natives; Asians and Pacific Islanders; blacks, not of Hispanic origin; Hispanics; and Portuguese; and (B) (except for purposes of section 705), as determined by the Assistant Secretary, persons who are from environments in which the dominant language is other than English and who, as a result of language barriers and cultural differences, do not have an equal educational opportunity.".

(3) Section 720(14) of such Act (as so redesignated) is amended by striking out "section 708(a)" and inserting in lieu thereof "subsections (a) and (b) of section 708" and by inserting "the Northern Mariana Islands," immediately after "the Virgin Islands,".

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that title IX be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there amendments to title IX?

AMENDMENT OFFERED BY MR. ST GERMAIN

Mr. ST GERMAIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ST GERMAIN: On page 268, line 11, add "Franco-American" after "Hispanics".

Mr. ST GERMAIN. Mr. Chairman, the amendment I am offering on my behalf, joined by Mr. COHEN of Maine would amend section 720(9)(A) of the Emergency School Aid Act to include Franco-Americans—persons in whose family the dominant language is French—among the minority groups now listed as eligible for funding under the act.

Mr. Chairman, it has been determined that many of our Northern States along the Canadian border, particularly the New England States, are experiencing a severe problem in meeting the educational needs of French-Canadian children whose families have migrated into the area in considerable numbers. In my own congressional district, for example, the population of French origin maintains itself at approximately 20 percent. And, in the northern portion of my district, that figure jumps to a majority of 51 percent.

At one time, many of these children attended parochial schools where they were in a majority and where the programs were tailored to their special requirements. Recently, however, we have seen the closing of a number of these schools, and the resulting movement of a large number of French-Canadian children into the public school system.

Many of these students are handicapped in the sense that they are accustomed to a different culture and they do not speak English very well. The schools, by and large, are not equipped with the resources to help these students break through the barriers they now face, and they lack the funds to provide adequate programs in the near future.

Aside from burdening the existing structure in this manner, the occurrence of this phenomenon has fostered a well-founded concern among many that if counteracting measures are not taken very soon, the French language and culture in the area will be eclipsed if not extinguished entirely.

Local groups have sprung up to combat the problem. They are composed mainly of educators and civic-minded individuals. Already these people have done much in the way of studying the matter and making sound recommendations. Efforts have been made to solicit municipal support as well as obtain grants from such entities as the National Endowment for the Humanities. Great progress has already been made but more needs to be done. Much more.

The extension of the benefits of the Emergency School Aid Act to Franco-Americans would be a significant step toward facilitating the entry of these students into the public school system while at the same time bringing a halt to this extinction process. Funds provided under the act would enable school districts with large portions of Franco-American students to provide bilingual education programs, informational services, and community activities. They would encourage these students to maintain their French identity, to be knowledgeable in the history and traditions of the French people and to hold up their French heritage as a point of pride. Certainly, the opportunity to experience and learn about the French culture firsthand afforded to all students by the activities would prove beneficial to the entire community.

Mr. Chairman, there is no question that French-American citizens have played an important role in our country since its earliest days. And, being an American of French descent myself, I can attest to the overwhelming necessity of preserving this heritage as a national treasure. I have always been proud of the fact that I can still speak the mother tongue fluently. Throughout the years, particularly as an adult, I have found this ability to be a resource and an asset. I would like today's Franco-American schoolchildren to experience the same feeling someday but I am afraid that the prospects of that happening are severely diminished unless the Federal Government lends its aid.

At the discretion of the Secretary of Health, Education, and Welfare two Franco-American groups have already been identified as being eligible for funding under this act: those in Maine and those in New Hampshire. Further, during its consideration of this legislation, the other body included this language in its bill. Therefore, I urge the House to do the same.

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. ST GERMAIN. I would be delighted to yield to the distinguished gentleman.

Mr. PERKINS. Mr. Chairman, if I understand the gentleman's amendment correctly, it would modify the Emergency School Act in order to include Franco-Americans in the benefits of that program.

Senator HATHAWAY has already amended the Senate companion bill to include Franco-Americans. I have no problem with the amendment and I am sure we would like to go along with the gentleman and accept the amendment.

Mr. COHEN. Mr. Chairman, will the gentleman yield?

Mr. ST GERMAIN. I yield to the gentleman from Maine.

● Mr. COHEN. Mr. Chairman, the gentleman from Rhode Island (Mr. ST GERMAIN) and I propose to amend the definition section of the Emergency School Aid Act of include "Franco-American," based on legislation I first introduced in the 93d Congress.

It is only natural, representing as I do what may be the greatest concentration of Franco-Americans in any congressional district in the country, that I have been very active in Franco-American matters since entering Congress in 1973. Many of my colleagues may not be acquainted with the Franco-American situation in America, because certain historical and economic factors have tended to isolate these people in Louisiana and in the New England States. However, according to the 1970 U.S. Census, Franco-Americans constitute the sixth largest minority in America.

Furthermore, available evidence would also indicate that this minority is one of the most disadvantaged of the larger populations in New England and the United States. Among the nine largest of the self-identified ethnic origin groups examined in the current population survey of the U.S. Census compiled in March 1972, the Franco-American ranked only above the Spanish-American in terms of median income and education for the United States as a whole. According to a study done at the University of Maine at Portland, second generation Franco-Americans in New England ranked last among nine ethnic groups both in terms of education and income.

Yet, despite these statistics and the size of the Franco-American community, they have never been legally recognized as a minority even though ethnic groups much smaller in number have been. The effect has been to deny them participation in programs which could be vital to their success in our society. Therefore, my amendment, extends to Franco-Americans the same benefits afforded other minority groups under that act.

The Emergency School Aid Act was designed to deal with discrimination in our public schools. While Franco-Americans may not suffer from physical discrimination, they can be handicapped by a mental and spiritual discrimination which is far worse. We have discovered that mere physical integration is inadequate to remedy the discrimination suffered by the child who speaks and thinks in one language and is required to learn in another.

Ethnic students have special educational needs which have often impaired their ability to succeed in public schools. No longer can we assume that by providing a child with the same facilities, textbooks, teachers, and curriculum as other children, that the child enjoys an equal educational opportunity. If that child cannot understand the medium in which the material is taught, he is effectively excluded from the educational process and is a victim of fundamental discrimination.

Those of us who are fully matriculated into our monolingual, monocultural society find it hard to appreciate the problems which face the Franco-American or other ethnic groups. Educators know that exclusion from one's own cultural heritage and history, from one's language and community, can be so destructive to the self-confidence of a student that he gradually loses his ability to learn. Ethnic students must be able to relate their mother tongue to their personal identity, because language and the culture it carries are at the very core of a child's self-concept. Whole generations of children have been denied an effective education without which the chances for upward mobility of our society are effectively blocked.

While we in America profess that we no longer follow our former melting pot philosophy of cultural eradication, we must now move forward to a philosophy of cultural pluralism. How we answer the needs of the Franco-American and other ethnic groups is of prime importance. Officials within the Department of Health, Education, and Welfare alert to this situation have succeeded in including Franco-Americans in my State under the Emergency School Assistance Act by means of the discretionary authority of the Secretary. However, this progress can only be undertaken on a case-by-case basis, holding up much-needed programs for long periods of time.

Our amendment, at no extra cost to the program, allows Franco-Americans to participate equally with the Nation's other recognized ethnic groups in new school curricula of particular relevance and utility to the group, in training of professional staffs and teachers to help meet the specialized needs of Franco-Americans, and in formulating programs to bring cultural and ethnic relevance to community activities.

Mr. Chairman, the chairman of the distinguished subcommittee having jurisdiction over the legislation may recall that I testified to these very points when hearings were held on this subject. We are pleased to be joined in support for this amendment by Mr. ED BEARD and Mr. JEFFORDS, who are members of the chairman's committee.

Without this amendment we blatantly choose to ignore one of the country's largest ethnic groups. More importantly, however, we deny the Franco-American the tools afforded other groups in their quest for educational equality. I do not think that was the intention of the chairman or the committee, who should otherwise be complimented on their efforts to produce this bill. While my colleagues knowledgable of other ethnic groups may not be familiar with the Franco-Americans, they are familiar with their problems. Justice demands that the Franco-American have equal access to the educational opportunities provided other non-English-speaking groups.●

Mr. ST GERMAIN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Rhode Island (Mr. ST GERMAIN).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IX?

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: On page 246, line 16 insert immediately after "$20,000,000" "or 25 percent of such sums appropriated under this subtitle, whichever is greater,".

Mr. SEIBERLING. Mr. Chairman, in recent years, the distinguished chairman of the Committee on Education and Labor has inserted in the equivalent of this bill, and it is now law, provisions for funding magnet schools, neutral site schools, and paired schools, after a hearing on bills introduced by Senator JOHN GLENN and myself. Our thought was that we should pursue these approaches as alternative means of aiding school districts to improve the quality of education and facilitate efforts to reduce school segregation voluntarily.

The bill before us requires the Assistant Secretary to reserve $20 million for this purpose. While I appreciate the continued interest of the committee in this program, it seems to me that we should not have such a low ceiling on these programs, unless the appropriations for this and other programs covered by this portion of the bill are severely limited. Therefore, I am offering this amendment to provide a larger authorization in the event that appropriations permit.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I would be delighted to yield to the distinguished chairman.

Mr. PERKINS. Mr. Chairman, the gentleman and Senator GLENN came before the committee several years ago in connection with the emergency school aid legislation and spoke on behalf of magnet schools and we provided funding for those schools; but the funding really is inadequate in the bill.

This amendment reserves 25 percent of the special appropriation for the magnet schools. I think it is reasonable and justifiable. Therefore, we accept the amendment on this side of the aisle.

Mr. SEIBERLING. Mr. Chairman, I thank the gentleman and hope the ranking Member on the other side will see the wisdom of his decision.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title IX?

If not, the Clerk will read.

The Clerk read as follows:

TITLE X—IMPACT AID AMENDMENTS

GENERAL EXTENSIONS OF PUBLIC LAW 815

SEC. 1001. (a) Sections 3 and 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), are each amended by striking out "1978" and inserting in lieu thereof "1983".

(b) Section 15(15) of such Act is amended by striking out "1973–1974" and inserting in lieu thereof "1978–1979".

GENERAL EXTENSIONS OF PUBLIC LAW 874

SEC. 1002. (a) Section 2(a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "1978" and inserting in lieu thereof "1983".

(b) Section 3(b) of such Act is amended by striking out "1978" and inserting in lieu thereof "1983".

(c) Section 4(a) of such Act is amended by striking out "1978" and inserting in lieu thereof "1983".

(d)(1) Subparagraph (A) of the second paragraph (2) of section 305(a) of the Education Amendments of 1974 is amended by striking out "1978" and inserting in lieu thereof "1983".

(2) Subparagraph (B) of such paragraph (2) is amended by striking out "1978" and inserting in lieu thereof "1983".

(3) Subparagraph (C) of such paragraph (2) is amended by striking out "1978" and inserting in lieu thereof "1983".

(4) Subparagraph (D) of such paragraph (2) is amended by striking out "1978" and inserting in lieu thereof "1983".

ELIMINATION OF JURISDICTIONAL LIMITS ON LOCATIONS OF FEDERAL PROPERTY

SEC. 1003. (a) Section 3(b)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended to read as follows:

"(2) resided with a parent employed on Federal property, or".

(b) Section 3(d)(1)(B) of such Act is amended—

(1) by inserting "and" at the end of division (iii), and striking out "clauses (1) and (2)(A) of subsection (b), and" in division (iv) and inserting in lieu thereof "clauses (1) and (2) of subsection (b).", and

(2) by striking out division (v).

ABSORPTION

SEC. 1004. Subparagraph (A) of paragraph (2) of section 3(d) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is hereby repealed.

PAYMENTS FOR HANDICAPPED CHILDREN OF MILITARY PERSONNEL AND INDIANS

SEC. 1005. Section 3(d)(2)(C)(i) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "multiplied by 150 per centum." and inserting in lieu thereof "plus the cost of providing such children with a free appropriate public education in accordance with part B of the Education of the Handicapped Act in such agency minus the contribution to such cost made by funds received under such Act.".

PROVISIONS REGARDING HEAVILY IMPACTED SCHOOL DISTRICTS

SEC. 1006. (a) Section 3(d) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended—

(1) in paragraph (2)(B) thereof, by striking out "clause (1) of" each place it appears therein; and

(2) in the first sentence of such paragraph, by striking out "the Commissioner is authorized, to", and inserting in lieu thereof "the Commissioner shall".

(b)(1) Paragraph (2)(A) of section 5(c) of such Act is amended to read as follows:

"(A) to each local educational agency—

"(i) with respect to which the local contribution rate has been increased under paragraph (2)(B) of section 3(d), which equals 75 per centum of the amount to which such agency is entitled as computed under section 3(d) for such fiscal year; and

"(ii) described in clause (A) of section 3(d)(1), which equals 75 per centum of the amount to which such agency is entitled, as computed under section 3(d), with respect to a determination of the number of children under section 3(a) and section 3(b)(3) for such fiscal year;"

(2) Paragraph (2)(D) of such section 5(c) is amended by inserting after "section 3(b)" the following: "(Other than such children with respect to whom a payment is made under clause (A)(ii) of this paragraph)".

EARLY PAYMENTS ON THE BASIS OF ESTIMATES

SEC. 1007. Subsection (b) of section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2) Not later than thirty days after the beginning of any fiscal year the Commissioner shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a payment to such agency of not less than 75 per centum of the amount that such agency received during such preceding fiscal year.".

STATE EQUALIZATION

SEC. 1008. Section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new subparagraph:

"(C)(i) If a State desires to take payments under this section into consideration as provided in this paragraph for any fiscal year, that State shall, not later than sixty days prior to the beginning of such fiscal year, submit notice to the Commissioner of its intention to do so. Such notice shall be in such form and be accompanied by such information as to enable the Commissioner to determine the extent to which the program of State aid of that State is consistent with the provisions of subparagraph (A). In addition, such notice shall be accompanied by such evidence as the Commissioner finds necessary that each local educational agency in that State has been given notice of the intention of the State. If the Commissioner determines that the program of State aid of a State submitting notice under this subparagraph is consistent with the provisions of subparagraph (A), the Commissioner shall certify such determination to that State.

"(ii) Prior to certifying any determination under division (i) for any State for any fiscal year, the Commissioner shall give the local educational agencies in that State an opportunity for a hearing at which such agencies may present their views with respect to the consistency of the State aid program of that State with the provisions of subparagraph (A).

"(iii) The Commissioner shall not finally deny to any State for any fiscal year certification of a determination under division (i) without first giving that State an opportunity for a hearing.".

PUBLIC HOUSING CHILDREN

SEC. 1009. Section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first) Congress) is amended by striking out subsection (e) thereof.

HEARINGS

SEC. 1010. Section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new subsection:

"(g) Each local educational agency which is adversely affected or aggrieved by any action of the Commissioner under this title shall be entitled to a hearing on, and review of, such action in the same manner as if such agency were a person under the provisions of chapters 5 and 7 of title 5, United States Code.".

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 1011. (a) Section 6(a)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting after "(5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq.)." the following: "Personnel provided for under this subsection outside of the continental United States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia.".

(b) Section 6(c) of such Act is amended by striking out everything after "United States" and inserting in lieu thereof the following: "in a grade, position, or classification subject by policy and practice to transfer or reassignment to areas where English is the language of instruction in the schools normally attended by children of Federal employees. In any case where education is being provided under an arrangement made under this subsection, it shall be presumed that no local educational agency is able to provide suitable free public education for the children of eligible parents employed by the United States until the Commissioner determines, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.".

(c) Section 6(d) of such Act is amended by inserting at the end thereof the following: "The Commissioner shall ensure that funds provided under such arrangement or arrangements are expended in an efficient manner, and shall require an accounting of funds by such agency at least on an annual basis. The Commissioner shall further be provided with data relating to the quality and type of education provided to such children under such arrangement or arrangements.".

(d) Section 6 of such Act is further amended by adding at the end thereof the following new subsections:

"(g) The Commissioner shall ensure the establishment of an elective school board in schools assisted under this section. Such school board shall be composed of a minimum of three members elected by the parents of students in attendance at such school. The Commissioner shall, by regulation, establish procedures for carrying out such school board elections as provided in this subsection.

"(h) A school board established pursuant to subsection (g) shall be empowered to oversee school expenditures and operations, subject to audit procedures established by the Commissioner, and other provisions of this section.".

PROMPT CONSIDERATION FOR APPLICATIONS

SEC. 1012. (a) Section 7(d) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof a new sentence to read as follows: "In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.".

(b) Section 16(c) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended by adding at the end thereof a new sentence to read as follows: "In any case in which the Commissioner does not complete, within sixty days, all action

leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.".

DEFINITION OF LOCAL EDUCATIONAL AGENCY AMENDMENT

SEC. 1013. Effective October 1, 1979, section 403(6)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "free public education" and inserting in lieu thereof "free public elementary and secondary education through grade 12".

HANDICAPPED CHILDREN

SEC. 1014. Paragraph (10) of section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new sentence: "A child shall, for the purposes of section 3, be deemed to be in attendance at a school of a local educational agency if such child is determined to be federally connected under clause (1) or (2) of section 3(a) or under clause (1), (2), or (3) of section 3(b) for any fiscal year and if such child is attending a school other than a school of such agency because such child is handicapped (as defined in section 602(1) of the Education of the Handicapped Act) and if such agency makes a tuition payment on behalf of such child to such school for such fiscal year.".

USE OF AVERAGE DAILY MEMBERSHIP

SEC. 1015. Paragraph 10 of section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is further amended by adding at the end thereof the following new sentence: "Regulations promulgated by the Commissioner in accordance with clause (A) of this paragraph shall permit the conversion of average daily membership to average daily attendance for local educational agencies in States which reimburse local educational agencies based upon average daily membership and which do not require local educational agencies to keep records based on average daily attendance.".

DETERMINATION OF NUMBER OF CHILDREN

SEC. 1016. Section 5(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) the estimated increase, since the base year, in—

"(A) the number of children determined with respect to such agency under section 3(a)(2) of the Act of September 30, 1950, multiplied by 100 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated;

"(B) the number of children determined with respect to such agency under section 3(a)(1) of such Act multiplied by 90 per centum of such cost;

"(2) the estimated increase, since the base year, in—

"(A) the number of children determined with respect to such agency under section 3(b)(3) of such Act multiplied by 50 per centum of such cost; and

"(B) the number of children determined with respect to such agency under section 3(b)(1) and (2) of such Act multiplied by 45 per centum of such cost;".

CONSTRUCTION ARRANGEMENTS

SEC. 1017. Section 10(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by inserting ", leasing, renovating, remodeling, or rehabilitating" after "arrangements for constructing" and after "this section for constructing".

DISASTER ASSISTANCE

SEC. 1018. Section 16(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out the last sentence in the matter following paragraph (6).

EFFECTIVE DATES

SEC. 1019. The amendments made by this title shall be effective with respect to the fiscal year ending September 30, 1979, and subsequent fiscal years, except that the amendment made by section 1008 shall be effective upon the enactment of this Act and actions of the Commissioner of Education under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), during or with respect to the fiscal year September 30, 1978, shall be subject to the provisions of such amendment.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that title X be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PERKINS: Page 269, strike out line 24 and everything that follows through line 13 on page 270.

Page 270, line 15, redesignate section 1004 as section 1003 and strike out line 18 and everything that follows through line 2 on page 271.

Redesignate the succeeding sections and references thereto and conform the table of contents accordingly.

Mr. PERKINS. Mr. Chairman, the impact legislation was first enacted in 1950, and to my way of thinking it has worked wonderfully throughout the country. At the time of the enactment, the impact was so bad surrounding certain defense and military installations in the country and the overcrowding was so bad that the classrooms were entirely unfit for educational purposes.

We enacted a reconstruction program, and the construction for numerous years cost much more than the maintenance and operation program under section 815 in the 81st Congress.

But throughout the years the construction program has gone downhill because there was no necessity to continue to construct buildings throughout the impacted sections of the country. We have considered the impacted sections to be around military installations and defense installations. Those children who resided on the base and whose parents worked on the base were classified as "A" students. The "B" students were the ones whose parents lived off the base but worked on the base.

So this program in recent years has grown to some extent.

The amendment that I offer today does not cut back any program beyond what those local school districts are presently receiving, but it does cut some of the language that we placed in the bill, H.R. 15, this year. The amendment deletes increases of $215 million provided by the committee bill for impact aid.

These amendemnts, however, do not take any funds that are in a school district away from the district. I want to make that clear. We do not take any money away from the district.

These amendments return to current law as regards out-of-State and out-of-county children and as regards handicapped children. They also repeal the hold-harmless provision for losses due to the inclusion of public housing children for payments. The hold harmless provision included in the 1974 amendments relating to impact aid for losses and payments due to inclusion of public housing children is repealed.

This saves $150 million, and it takes a little increase from all of them. But this increase has not been funded for 2 years, so we do repeal it. The committee bill's inclusion of out-of-State children is eliminated, so the current law that bars payments for these children will be extended.

This saves $23 million of increase. It affects mostly Virginia, Maryland, and the District of Columbia.

The increased payments in the committee bill for handicapped children of military personnel and Indians is eliminated, but the current law is continued providing extra payments for these children. It saves $34 million, and it comes mostly from Virginia and Maryland, with some amounts coming from other places.

I do want to state that these amendments, all of them, not part of them, have been agreed to by the impacted representatives throughout the country.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. PERKINS) has expired.

(By unanimous consent, Mr. PERKINS was allowed to proceed for 1 additional minute.)

Mr. PERKINS. Mr. Chairman, inasmuch as we are not taking away any money from any school district where payments were made last year, I feel that the amendments are justifiable and should be adopted by the Committee in order to make sure that the bill is not vetoed by the administration. The administration is very much in favor of us going much farther than we are undertaking to go here, insofar as the impact legislation is concerned. But I think everybody has to be reasonable and, Mr. Chairman these are reasonable cutbacks.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. PERKINS) has expired.

(On request of Mr. HARRIS and by unanimous consent, Mr. PERKINS was allowed to proceed for 3 additional minutes.)

Mr. HARRIS. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Virginia.

Mr. HARRIS. I thank the gentleman for yielding.

Mr. Chairman, the first thing I want to do is to present my praise and my admiration for the work the gentleman has done on the committee, not only over the years, but this year, in trying to perfect a bill that is very important to education, and especially the work on title XX, and the number of hearings that the gentleman has had. The fact that the subcommittee actually had a hearing in my district I appreciate a great deal, and I would like to express on the floor here

how much I admire the work the gentleman is doing for the cause of education.

Mr. Chairman, I would like to express, though, my reservations about this amendment. I do think that the provision with respect to what we refer to as out-of-State fees is a necessary addition to the program and one which existed in the program before 1974. It does seem to me to be only fair, where you have jurisdictions where a State line is running right down the middle of an impacted area, that we not discriminate against that area simply because the student must cross over a State line or the head of the household must cross over that State line in going to work.

I wonder if the chairman would not comment on this, if perhaps this concession is completely necessary in order to avoid a veto, or if it would not be better to go back and take the committee bill as it came out of the committee.

Mr. PERKINS. Let me say to the gentleman that, insofar as State and county lines are concerned, we go back to the law as it presently is in effect, and we added amendments this year in committee to take care of out-of-State and out-of-county children. I can see some problems, insofar as the gentleman's own congressional district is concerned since my amendment delete the committee's amendments in that regard.

Mr. SIMON. Mr. Chairman, will the gentleman yield.

Mr. PERKINS. I yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

As the chairman knows, I am not a great enthusiast for part (B) on impact aid. I had some amendments, some of which now are included in what the gentleman has there, and I will not offer the other amendments. I will support the gentleman's amendment. I do hope that when we get to conference committee we will consider the possibility of an absorption amendment so that we can go back to the law as it is now on that first 2 percent, which will save another $42 million.

However, the amendment will save roughly $209 million to $215 million and is a step in the right direction.

I support the chairman's amendment.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. PERKINS) has expired.

(On request of Mr. MILLER of California and by unanimous consent, Mr. PERKINS was allowed to proceed for 3 additional minutes.)

Mr. MILLER of California. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from California.

Mr. MILLER of California. Mr. Chairman, I want to thank the gentleman for yielding, and I also thank him for the many hard hours he has put in in trying to work out a compromise position on a very tough political issue, that of impact aid.

As the chairman knows, I had an amendment prepared to strike the out-of-State payments because I do not believe that it can be justified, where a facility is located in another State and detracts nothing from the tax possibilities and capabilities of a State to support an educational system, and where, in fact, the people who are working in that Federal facility own homes and are paying taxes like every other homeowner in this country, that we ought to somehow subsidize the establishment of that educational system.

I think this is an effort on behalf of the chairman and others on this committee to maintain the integrity of the impact aid program because we know it has come under a constant barrage in the Committee on the Budget and in other committees around here, with some Members saying that this is not a proper payment because we cannot show the burden. I think clearly the out-of-State one is in that classification since one simply cannot show where the burden accrues in any district which would get the benefit of these Federal funds.

Mr. Chairman, I wholeheartedly support these efforts by the chairman to keep this program within control and to strike that balance between those districts in definite need of impact aid and those which have just been riding along for the benefit.

Again, I congratulate the chairman and ask the Members to fully support the chairman's amendment.

Mr. PERKINS. Mr. Chairman, let me thank the distinguished gentleman from California (Mr. MILLER) for being so helpful to all of the members on the Committee on Education and Labor, not only this year, but throughout the years.

I want to answer the gentleman from Virginia (Mr. HARRIS) a little further: This amendment does continue the hold-harmless provision for out-of-State children. Although it does also continue the present law barring payments for such children, the hold-harmless provision will help to ease the phaseout on the out-of-State children, so there will be some payments along that line.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, I want to commend the chairman of the committee for his amendment.

I will probably support the amendment of the gentleman from Illinois (Mr. SIMON), which he talked about, as well; but on this one I think the chairman does reach the most objectionable parts of the bill, those which have caused us the biggest difficulty in supporting impact aid in the past.

Mr. Chairman, while some people think we are cutting impact aid here, I think that unless we pass this amendment, we are going to be subjected to the same sort of criticism as we have heard throughout the years, that the amendments of 1974 reduce the aid substantially.

Mr. Chairman, I think even with respect to the handicapped children the amendment has more merit. It is easier for us to substantiate it than to substantiate what came out of the committee.

Again, I want to commend the chairman.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. PERKINS) has expired.

(On request of Mr. D'AMOURS and by unanimous consent, Mr. PERKINS was allowed to proceed for 2 additional minutes.)

Mr. D'AMOURS. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from New Hampshire.

Mr. D'AMOURS. I thank the chairman of the committee for yielding.

Although I am going to vote for the amendment, I want the chairman to know that I commend him for the extremely fine efforts he has made on behalf of the entire impact aid program. I think he is fighting on many fronts and that he has done a very commendable job.

However, I would like to note for the record, as the chairman stated earlier, this amendment does not affect only or event primarly Maryland, Virginia, and Washington, D.C. There are 2,500 students in New Hampshire who are going to be affected by this amendment. There are 23 in Iowa, some 2,000 in Kansas, Texas, and New Jersey, and others elsewhere.

Mr. Chairman, an impact aid child is an impact aid child, just as we said yesterday in opposing the amendment of the gentleman from Oklahoma (Mr. EDWARDS) that AFDC students ought to be counted wherever they are found and counted 100 percent.

Mr. Chairman, I am going to claim my own time later, but I do want to thank the chairman and I did want to make that statement.

Mr. PERKINS. Mr. Chairman, perhaps I should state that we are not starving, insofar as these amendments are concerned, any of the counties surrounding the D.C. area, Prince Georges and Montgomery Counties, or, in fact, Arlington County. Those counties will still receive, to my way of thinking, ample impact aid money.

● Mr. GILMAN. Mr. Chairman, I would like to take this opportunity to rise in support of H.R. 15, and more specifically in support of full funding for impact aid, an issue which has come under a great deal of scrutiny within the past several months as the discussion of the Elementary and Secondary Education Act progressed. The concept of impact aid is a sound one, and the practical aspects of impact aid have enabled many committees to survive—in fact, several of the communities in my district, the 26th District in New York, would be significantly threatened if impact aid were reduced.

Impact aid is relief to school districts which service the children of parents who are employed on Federal property, and this aid has relieved the burden of these school districts by freeing the residents of these towns from supporting singlehandedly the education of many extra students. The provision included in the present measure before us extends through fiscal year 1983 impact aid provisions which would expire at the end of fiscal year 1978, and increases the Fed-

eral assistance for education of the handicapped, thereby further benefiting those school districts bordering military installations and other Federal property.

The arguments against an increase in impact aid, which have been voiced by the administration, reflect shortsightedness, and would prove detrimental to our school districts. In my district alone, five school districts are receiving a total of $1,600,000. The breakdown for each of the school districts is as follows:

Cornwall	$80,808
Newburgh	249,497
Valley Central	49,462
Washingtonville	549,972
Highland Falls	670,974

It is crucial for the survival of these school districts surrounding military installations that the impact aid provision be accepted as it has been reported out in the original committee legislation. I urge my colleagues to join with me in supporting the committee language and in opposition to the Perkins amendment.●

Mr. HARRIS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, as I say, I think this is a good bill, and I very much regret having to oppose this amendment. But, I do not think it does adequate justice to the school districts that do have a great deal of problems with respect to Federal impact from both the civilian and the military standpoint. We had hearings in the District, and I know those members of the committee who saw our particular problems got a different view of exactly why we have this problem in education.

It is a district that has State lines, the District of Columbia, county lines, city lines running across it. One of the best examples I can give of the problem is that we may have an installation, for example, Cameron Station in Alexandria. People working at Cameron Station may live in Fairfax County, but because they work at Cameron Station their children get no credit for the fact that they are working on a Federal base which pays no property tax. At the same time, there will be those living in Alexandria whose parents are working at Fort Belvoir in Fairfax County. Because they work in Fairfax County, they get no credit in their school district for those people that are working at installations that are not paying property taxes.

In both cases, we have them crossing this line, and in both cases they get no credit under the schedule B because they are "out of the county." It works against both jurisdictions just because there is no change across that jurisdictional line.

I think it is unfortunate that we have the misunderstanding with regard to impact aid and its requirements and its needs. I think it is a mistake not to stick with the committee bill, and to go ahead and give credit for out-of-State and current credit for out-of-county children, as the committee bill applies. I think it is very important that we go ahead and continue Federal aid programs to education under impact aid for one particular reason; that is, because it is the one education program that does not immerse itself in all sorts of redtape and forms and requirements and what have you. It is the one form of aid that, when we authorize it, it goes to where it is needed, to the children.

It is not involved in the great jurisdiction or constituency of the bureaucracy in HEW that gets to send out forms and regulations and what have you and, therefore, it has a very limited constituency in that regard. But, what it does do is to get money down to where the kids need it, where we are actually using it for education.

It has a very important effect upon not only my district, but on a great many other districts in this country also, So, I urge the committee to reject this amendment and to stay with the committee bill, which I think provides the necessary amount of educational funds for the children across this Nation.

Mrs. SPELLMAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, following the gentleman from Virginia is an enviable position, because it then does not require a great many words. Most of the things I had intended to say, the gentleman from Virginia has said. I would like to associate myself with his remarks.

Frankly, I think the committee bill, as originally presented, is a fair compensation for the impact of the Federal presence on the school districts. I would urge my colleagues not to tinker with the fine tuning that went into the development of the impact aid provisions, and to oppose any actions or amendments which would change the formula which was provided by the Education Committee.

A great deal of time and effort went into trying to come up with a fair remuneration to the various jurisdictions which suffer the impact of the Federal presence and, indeed, it is a considerable impact. So I would echo the words of the gentleman from Virginia and ask that we oppose the amendment.

Mr. D'AMOURS. Mr. Chairman, I move to strike the requisite number of words, and rise in opposition to the amendment

Mr. Chairman, I think it is important that we remember that as originally conceived this program was intended to fund the so-called out-of-State B students. Somehow, in 1974 a geographic discrimination crept into this law, which the committee this year saw fit to rectify. The committee report, beginning on page 101, cites a number of valid reasons why they talk in terms of the fact that which we should reinstate out-of-State B's. In spite of the hold-harmless provisions, districts have had to cut programs.

In New Hampshire, in the city of Portsmouth, I know of three schools that are considering closing because of the impact of students from the so-called Portsmouth Naval Shipyard, which is on an island actually in Kittery, Maine, which is perhaps 300 yards from the schools in question.

The committee report talks about the complexity of regulations and calculations that the elimination of out-of-State B's has caused. We have application forms that have gone from 4 pages to 11 pages with 17 pages of explanatory notes.

The committee report talks in terms of the distinction between out-of-State B's and in-State B's as being artificial.

For all of these reasons, I think the committee was entirely proper and astute in the original bill they brought to us in recommending the restoration of out-of-State B's.

Mr. Chairman, the argument raised earlier by the gentleman from California (Mr. MILLER) and others that somehow because the facility is located in another State or in another county, the tax base has not been eroded to any measurable extent, well by gosh the bill takes that into consideration. We provide less funds for out-of-State B students, than for A students, practically one-half, because we recognize they have not eroded the tax base as much.

By this amendment we are effectively cutting out of the program 84,000 out-of-State B students but the out-of-county part of this amendment will affect another 197,000 students.

This is not only a Virginia or Maryland or D.C. bill. My standing here and taking the floor at this time demonstrates that. There are any number of States, such as New Hamphsire, which have a Federal installation which is separated perhaps by a river or by some arbitrary line from the school district. We are not going to be able to help these districts meet the educational needs of their students, but we would pay if they were in State and would have to travel 200 miles to get there. We have to recognize that many people locate out of State or out of county because of critical housing or other problems.

I think the original committee report is excellent. I think it is persuasive and I would hope the Members in voting on this question will consider the comment of the gentleman from Kentucky (Mr. PERKINS) that we are not really taking any money away from anybody because after all they have not had it for a couple of years. This is tantamount to telling people we ought not to raise the minimum wage because after all they have been living within that wage for a number of years. I do not think the analogy is fair. By this I do not mean any disrespect to the gentleman from Kentucky (Mr. PERKINS).

Mr. Chairman, by way of closing, I would again like to thank our distinguished chairman, the gentleman from Kentucky (Mr. PERKINS), for having done an excellent and creditable job and for having held to what he has been able to hold, given the administration's position and the position of others on this bill.

Mr. Chairman, I very strongly urge my colleagues to stick with the original committee bill and reject this amendment.

Mr. GIAIMO. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment of-

fered by the gentleman from Kentucky (Mr. PERKINS).

Mr. Chairman, I rise to inform my colleagues as to how this bill, H.R. 15, compares with the assumptions in the first budget resolution for fiscal year 1979.

The first budget resolution for the fiscal year provides for a very substantial increase above fiscal year 1978 levels for educational programs. Yet these relatively generous targets could be breached if the impact aid provisions in the original H.R. 15 bill, prior to this amendment, are enacted and fully funded.

This bill is an authorization bill, which means that the ultimate decisions as to program funding levels rightfully should be made in the appropriations process. But the budget implications of this bill cannot be ignored. The impact aid provisions of this bill are potential budget-breakers for two reasons. First, they do not assume modest impact aid reforms proposed by the President and assumed in the first budget resolution. Secondly, the new provisions follow the funding approach contained in current law, which prohibits the payment of noncontroversial sections of impact aid unless a substantial portion of entitlements for the more controversial sections are satisfied.

For these reasons I feel it to be appropriate to provide a budget perspective on this authorization bill assuming it is fully funded.

The first budget resolution assumes enactment of the President's modest impact aid proposal. This action would reduce impact aid by $76 million in budget authority below current law estimates. To compensate for this reduction in one education program, the President's budget and the resolution both include large increases in other education programs, including nearly $650 million for title I.

Mr. Chairman, H.R. 15 does not include the President's modest reform proposals. What is more, it adds new provisions to current impact aid law which would cost additional millions. In fact, some of the new provisions would reverse reforms enacted in 1974. Instead of reforming impact aid, Mr. Chairman, I submit we are going backward and increasing the inequities.

If we are to stay within the resolution target, either this bill cannot be fully funded, or other proposed increases in education programs, including increases for education of the handicapped and title I, among others, will suffer. If we do not stay within the resolution targets, we will increase the deficit and exacerbate current economic pressures.

This will not be an easy year to keep the budget deficit down. But if we begin to ignore the assumptions on which the resolution was based, first in one area, then in another and then in still others, we shall face the prospect of increasing our deficit from $50 billion to somewhere in the neighborhood of $60 billion in August, when we consider the second budget resolution.

For these reasons, then, Mr. Chairman, I personally intend to support this amendment offering a reduction of about $209 million from the original committee bill, which is offered by the chairman of the committee, the gentleman from Kentucky (Mr. PERKINS).

This is a step in the right direction, although it is not quite as far as I would like to have seen it go. I would have hoped to stay within the President's figures in his effort toward definite reform of the impact aid program. But, this being the best we can obtain, I want to congratulate the gentleman from Kentucky (Mr. PERKINS), the chairman of the committee, for agreeing to this amendment and, in fact, for offering the amendment.

I also wish to commend the gentleman from Michigan (Mr. FORD) because I know he has worked very diligently in trying to work out this procedure to keep the impact aid program $209 million less than it was in the original bill.

Of course, Mr. Chairman, I wish it had been more. I wish we had stayed with the President's amount, but we cannot get everything we wish for and I thank the gentleman. I intend to support this amendment.

AMENDMENT OFFERED BY MR. MICHEL TO THE AMENDMENT OFFERED BY MR. PERKINS

Mr. MICHEL. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. MICHEL to the amendment offered by Mr. PERKINS: Immediately after the words "page 271." add the following:

On page 274, strike out lines 1 through 4.

Mr. MICHEL. Mr. Chairman, first I want to say that I support the chairman's amendment that he is offering and which is currently pending, but I propose to improve it with my amendment. What I would do would be simply to restore the provisions of the current law regarding impact aid payments for public housing children.

Present law requires that the public housing funds be used for compensatory education and that such funds be granted at a level of 25 percent of entitlement under tier I, nothing under tier II, and the remainder under tier III. We have been funding impact aid for the most part through tier II, but very little under tier III, and this means that eligible school districts have been receiving public housing payments generally at 25 percent of entitlement, or around $80 million a year in total.

The committee bill removes these two criteria which means that the money would not be zeroed in any longer on the neediest children and that $110 million of additional public housing payments would be made now under tier II. This increase would more than double the current amount we are spending on public housing children and represents almost half of the estimated $235 million increase for impact aid contained in this bill.

Before the distinguished chairman of the Committee on the Budget leaves the Chamber, I want to make absolutely sure that he is also aware of the fact that this increase in this portion for public housing of $110 million was not in the gentleman's budget resolution, is not in the President's budget, and for that reason the same arguments that he made so persuasively in support of the chairman's amendment could very well be made in behalf of the amendment which I have offered to the chairman's amendment.

The basic purpose of impact aid is to compensate for loss of tax revenues to localities because of Federal installations. Low-rent public housing projects are not Federal installations. They are locally initiated and locally run. They are not Federal projects. They are not under Federal jurisdiction. They are merely federally subsidized. If we want to carry that argument to the extreme, then we would also base a subsidy for Federal day care centers, hospitals, mental health centers, community mental health clinics, cemeteries, public works projects, VA hospitals—you name it.

It was only within the last couple years that we have added this Category C. The chairman knows I vigorously opposed it at the time, it was first included in our HEW appropriation bill. Rather than go on compounding that problem now, we ought to hold to this year's level.

Frankly, on merit alone, we really ought to eliminate the entire public housing section in the interests of compromise, however, my amendment does not go that far. It simply says that we should neither expand nor contract the program, but stick with things as they are. On this basis, no district would lose any money, and most would achieve major overall gains, because the fact is that school districts are already receiving large special payments for most of these public housing children under the title I (Education for the Disadvantaged) program.

Funding for the title I program has been growing by leaps and bounds, and the increases most communities would receive under the committee bill's public housing provisions are just a drop in the bucket compared with the title I increases they will get under the amounts proposed in the President's budget and likely to be adopted.

Let me cite some examples in this regard. New York's public housing payment under the committee bill would increase by $27.8 million, while its total increase under title I over a 2-year period will go up by $95 million. For Chicago, the increase would be $4.5 million, compared with a title I gain of $31 million. The figures for Philadelphia are $3.4 million and $24 million respectively; for Los Angeles they are $1.8 million and $29 million; and for Cleveland, $853,000 and $7 million.

The fact is, in other words, that title I is accomplishing the objective of pouring money into local school systems, and expanding the impact aid public housing

money would simply represent a duplicative effort at a time when we cannot afford it.

Furthermore, this bill contains a number of changes in title I, including expanding the count of AFDC children from two-thirds to 100 percent and the new poverty concentration initiative, which will help big cities with public housing projects.

One of the rationales for impact aid is that Federal installations bring new children and new burdens into the educational system. This cannot be said of public housing children. First, as I have noted, low-rent public housing projects are not Federal installations. But, more importantly, public housing children would be living in the community in any case, because one eligibility requirement for public housing is that people have lived in the community prior to public housing tenancy. Even if these low-income people had to find private housing, it would have to be cheap and probably would not generate much local tax revenue anyway.

In conclusion, I should remind Members that the $110 million increase called for by the committee is not provided for in our congressional budget resolution, it is not contained in the President's budget, and it represents a direct overlap of title I.

Public housing children are not the same as regular impact aid children. They should not qualify a district for the same payments as regular impact aid children. Current law provides better educational opportunities for public housing children by requiring that impact aid funds received on their behalf be used for compensatory education.

Mr. Chairman, I urge adoption of my amendment.

Mr. FORD of Michigan. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we come again to a point where it is important that the Members understand that this amendment does not stand here to be examined by itself without regard to what has gone before and what is to come after. The principal amendment pending before us as offered by the gentleman from Kentucky (Mr. PERKINS) is the result of efforts by members of the committee in conversations with people showing concerns on all sides of the question to reach a reasonable, honorable compromise on levels of funding for the totality of the impact aid program that would come out closer to the Budget Committee's desires and to the administration's desires without doing violence to the principles that the committee adopted in constructing this legislation. I remind the Members again, as the gentleman from New York, Mr. WEISS, has put it to us, that this bill has to be considered with all of its parts in place, and all of these parts were considered in trying to work out equity between different kinds of populations in different parts of the country.

We have had the public housing category in impact aid for years. We were never able to get appropriations for it. The interesting thing was that no matter what kind of case you had, even Montgomery County, which used to be the whipping boy for everybody here, generally when you had impact aid up there were 10 Members that talked about the terrible enrichment that went to Montgomery County over here. We heard that for a long time. I never heard anybody say, as the gentleman who offered the amendment to the Perkins amendment say that you should not help a city that has Government public housing in that city paying no taxes, providing large numbers of children for the school district to educate with the cost of that education in the same way that we help the people living in Arlington County pay for their schools because their parents work in the Pentagon.

The gentleman from Illinois does not argue against the payment. The gentleman just says it ought to be a little different kind of payment, that we ought to keep the status quo.

Well, the status quo for most of the lifetime of this act in that category has been neglect. The preference by the Committee on Appropriations would be to rewrite our legislation every time the appropriation process is underway by picking and choosing which category of impact children they want to favor and which category of impact children they do not like.

A few years ago, in 1974 when we made a lot of other concessions in the last rewriting of the legislation before us today, the gentlewoman from Hawaii (Mrs. MINK) came up with the plan setting up a tier system and some people on the Committee on Appropriations have been rankled, the gentleman from Illinois in particular, ever since then, because the formulation of the gentlewoman from Hawaii (Mrs. MINK) of the tier system put them in the position where they could not pick and choose which children they wanted to give money to. The House in its wisdom in adopting the legislation, like the legislation before us today, makes that choice. What we have done now is move the public housing financing into the second tier, which means that after you vote and walk off this floor thinking you have voted to provide funds for a city that has large numbers of public housing children to educate those children, that you are not going to be fooled by an appropriations bill that says we will pay for children who live near a military base or whose parents work in our public buildings or even those in a distant city, but we will not pay for public housing children because we never believed in such payments in the first place.

Mr. Chairman, I am supporting the Perkins amendment. I am not happy that we came to this stage. I feel that the administration, now that we are going this far in representing their concerns, has an obligation to deal with us fairly and honestly here and in the other body to make sure this program is not further eroded or decreased.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(By unanimous consent, Mr. FORD of Michigan was allowed to proceed for an additional 2 minutes.)

Mr. FORD of Michigan. However, Mr. Chairman, if the Perkins amendment is amended by the Michel amendment, then all the negotiations that led to this compromise go out the window, because the quid pro quo for the give that is involved in the Perkins amendment is destroyed by the Michel amendment and we might just as well go back to the committee bill and make our fight there.

I suggest to the gentleman from Illinois that by attempting to take one too many bites out of the apple the gentleman may jeopardize the compromise we have worked out to cut $215 million from the committee bill.

When was the last time we saw this committee vote to cut $215 million out of a bill?

Mr. MICHEL. It has been a long time.

Mr. FORD of Michigan. Never. We have been fighting you for years for every nickel in the bill, and now we are offering you $215 million. But you want to take one more bite out of the apple, take one extra pork chop off the plate, and if you succeed, you are going to spoil what you already have. You should just take the $215 million and run like a burglar.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. FORD) has expired.

(On request of Mr. MICHEL, and by unanimous consent, Mr. FORD of Michigan was allowed to proceed for 1 additional minute.)

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. FORD of Michigan. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I simply want to tell the gentleman that I am maintaining a consistent position with the offering of my amendment.

Frankly, the only benefit I get in my district from the impacted aid section is for public housing. We have no military installation in our district.

We should not compound the problem we have manufactured for ourselves over a period of years around here by attempting to equalize the wrongs of the past.

My own personal feeling is that the only justification for impact aid was when we initially adopted it many, many years ago to provide payments in lieu of taxes where we build military installations. It has grown far beyond what it was originally intended for.

Mr. FORD of Michigan. Mr. Chairman, I will be watching the gentleman later on the matter of general aid when the gentleman from Ohio offers his general aid provision, because this impact aid program is the only general Federal aid we have now. Because of the gentleman's long record of opposition to passing money to school districts with no strings attached, as in the case of the impact aid provision, I will be interested

to have the gentleman's support when we try to defeat the amendment that will be offered by the gentleman from Ohio (Mr. ASHBROOK) a little later in the afternoon.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have had occasion during the course of the last couple of days to point out that the legislation which the Committee on Education and Labor brought to the floor is a balanced, equitable piece of legislation which tries, I think, successfully to provide for the needs of each of the regions of this country.

Impact aid is a very critical part of the orderly balance that has been achieved. The effort that the distinguished gentleman from Illinois (Mr. MICHEL) is making now to cut back on impact aid for the public housing sector, I think, jeopardizes very seriously the prospects of this legislation, were his amendment to carry.

The major argument in support of the increase in the payment rate that is in the legislation is that the payment-in-lieu-of-taxes subsidy—known as PILOT—that the local public housing authority provides the local government is insufficient to adequately cover the educational costs of low-rent housing children. Since the district cannot tax the property of a low-rent housing facility, the local housing authority makes a payment-in-lieu-of-taxes to the local governing body having jurisdiction over the facility. In 1977 this amounted to an average of $33 per unit to cover not only educational expenses but also fire, police, sanitation, and so forth. Thus, the $33 per unit is divided among a number of services.

Assuming that each unit has a family with a single school age child, then a maximum of $33 would be received by the school district, $33 per low-rent housing child, as a PILOT payment. To this would be added an average payment of $97 per pupil by the impact aid program for low-rent housing children in 1977, for a total of $130 per low-rent housing pupil. When compared to one-half of the 1977 national average per pupil expenditure of $650, the payment-in-lieu-of-taxes payments, plus impact aid payments for low-rent housing children, fall short by $520 per pupil. This difference must be made up by the local governing jurisdiction either from local property taxes or State aid, if any.

Although H.R. 15 would not entirely cover this difference of $520, it would add an estimated $127 per low-rent housing child. This would leave an average of $393 per child to be provided by the district.

So the localities that have the public housing units are not only not getting rich from this impact aid payment, they are still not by half meeting the cost and the burden of the low-rent housing facility.

I should say, getting down to the New York City situation, that what we are asking for in H.R. 15 is—and this is what H.R. 15 does—to treat public housing children like all other children eligible for impact aid. Currently, low-rent housing children are funded at 25 percent of their entitlement. H.R. 15 raises the level of this funding to the standard impact aid funding level of 57 percent.

The city of New York, for example, in the school year 1977–78 received some $17 million in Federal impact aid funds for public housing. The actual cost to the city, however, is almost $80 million in lost tax revenues.

While H.R. 15 does not fund low-rent public housing as fully as we would like, it does go a long way in reducing the inequities inherent in the current program.

Lost tax revenue due to public housing is similar to lost tax revenue due to the presence of a military base. The effect of the Michel amendment to dilute public housing in impact aid would discriminate between these two legitimate Federal activities. Once again, we find an amendment which is in violation of the intent of the program.

I should say, finally, Mr. Chairman, that what we are asking for, is fair and equal treatment. We are asking that the balance that was worked out in the committee not be jeopardized.

The CHAIRMAN. The time of the gentleman from New York (Mr. WEISS) has expired.

(On request of Mr. PERKINS and by unanimous consent, Mr. WEISS was allowed to proceed for 2 additional minutes.)

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I am pleased to yield to the distinguished gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I would like to associate myself with the remarks made by the distinguished gentleman from New York (Mr. WEISS) concerning the amendment to the amendment, cutting back on the public housing funding.

The funding in the present bill is reasonable. We all know that there is some shelter rent received in lieu of public housing. But that is entirely inadequate and does not in anywise compensate for the loss of taxes and does very little good. It does very little, so far as educating the children in public housing. We have the poor people living in public housing throughout the major cities of the country and in the rural areas of the country, and it would be a mistake, a bad mistake, for us to cut back on the funding of public housing occupants provided for in this bill.

Mr. Chairman, I would urge the House to vote against the amendment to the amendment, and I certainly want to thank the distinguished gentleman from New York (Mr. WEISS) for all the work he has done and his great speech on this subject.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MICHEL) to the amendment offered by the gentleman from Kentucky (Mr. PERKINS).

The amendment to the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. PERKINS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title X?

AMENDMENT OFFERED BY MR. KILDEE

Mr. KILDEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KILDEE: On page 280, immediately after line 5 insert the following new section:

NORTHERN MARIANA ISLANDS

SEC. 1019. (a) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is further amended by inserting "the Northern Mariana Islands," immediately after "American Samoa," each place it appears in sections 3(d)(3)(B)(iii), 3(d)(3)(C), 6(c), and 403(8).

(b)(1) Section 10(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended by inserting "American Samoa, the Northern Mariana Islands," immediately after "Guam,".

(2) Section 15(13) of such Act is amended by inserting "the Northern Mariana Islands," immediately after "American Samoa,".

Redesignate the following section and conform the table of contents accordingly.

Mr. KILDEE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. KILDEE. Mr. Chairman, this is a technical amendment which includes the Northern Marianas in this section of the bill.

I have discussed it with the minority, and I understand that they support it. I know our chairman supports it.

Mr. PERKINS. Mr. Chairman, we accept the amendment on this side.

AMENDMENT OFFERED BY MS. KEYS

Ms. KEYS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. KEYS: Page 272, line 19, insert "(a)" immediately after "SEC. 1008." and on page 273, immediately after line 24, insert the following new subsection:

(b) No State or local educational agency located therein shall, on the basis of noncompliance with standards established by regulations prescribed pursuant to section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), be required to make restitution of funds distributed to local educational agencies under such Act for the 1977–1978 school year if such State has an equalization program which, for the 1978–1979 school year, complies with such standards.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan (Mr. KILDEE).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title X?

Ms. KEYS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Kansas?

There was no objection.

Ms. KEYS. Mr. Chairman, this is a very simple amendment. Some of the final regulations, specifically the wealth neutrality regulations, were just signed and implemented this year, affecting impact aid funds.

Under the bill, my own State of Kansas could be required to pay back the impact aid funds for the 1977–78 school year, even though the State legislature has changed our equalization law to come into compliance for the 1978–79 school year. This amendment would prevent that.

I have spoken to the chairman of the committee and to the ranking minority member of the committee, and I understand they will accept the amendment.

Mr. PERKINS. Mr. Chairman, will the gentlewoman yield?

Ms. KEYS. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I want to thank the gentlewoman from Kansas for yielding to me.

As I understand it, the gentlewoman's amendment simply gives the State of Kansas a 1-year waiver on complying with the so-called equalization provisions of the impact aid law, since the State legislature has recently adopted amendments to the State school finance laws bringing the State next year into compliance with the Federal law.

I certainly want to compliment the distinguished gentlewoman from Kansas (Ms. KEYS) for her most useful work in looking after her constituency and for her contributions to education in general.

We certainly feel that the gentlewoman's amendment should be accepted, and we hope there is not a single vote against it in the Chamber.

Ms. KEYS. I thank the chairman.

Mr. QUIE. Mr. Chairman, will the gentlewoman yield?

Ms. KEYS. I am happy to yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, the gentlewoman from Kansas (Ms. KEYS) has talked to me about her amendments. I think they are good amendments, and we accept them.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Kansas (Ms. KEYS).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title X?

AMENDMENT OFFERED BY MR. CORRADA

Mr. CORRADA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CORRADA: Page 275, line 8, insert the following after the word "employees.": "Dependents of excepted service professional employees of the schools shall be eligible to attend the schools."

Mr. CORRADA. Mr. Chairman, this amendment has been urged by the Antilles Consolidated Education Association, an NEA affiliate in my district. The various amendments adopted with respect to making the section 6 program more effective and democratic were the result of hearings held last summer and in February of this year. With respect to eligibility to attend the Antilles Consolidated School, the committee adopted the criteria of transferability which takes care of the overwhelming majority of individuals currently enrolled in these schools. However, it leaves out the children of teachers at the school. Most teachers do send their children to the school, on account of their spouse's eligibility, but should there be a death or divorce, the teacher would no longer have such an entitlement. This amendment would correct this oversight, and I urge you to support it. It affects perhaps 50 children in a system that has over two thousand students, and only applies to the section 6 schools in Puerto Rico.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. CORRADA. I yield to the distinguished chairman of the committee, the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I want to thank the distinguished gentleman from Puerto Rico for yielding.

As I understand the gentleman's amendment, it simply extends to the children and teachers in the section 6 schools in Puerto Rico the right to attend such schools regardless of the marital status of teachers who are parents.

With that understanding, Mr. Chairman, we accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Puerto Rico (Mr. CORRADA).

The amendment was agreed to.

Mr. WIRTH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to express a special concern I have regarding section 813 of the Elementary and Secondary Education Act as it is proposed to be amended by H.R. 15. Section 813 would provide Federal funds to States to administer minimum competency testing in their schools. As you may know, Colorado has an "accountability clause" in its constitution which states that local school districts are autonomous and accountable only to their constituencies. They need not comply with any statewide plan administered by the State department of education. I would like to insure that a proportionate amount of Federal funding would be available under section 813 to local school districts in Colorado which may wish to develop their own methods for determining minimum competency standards.

Mr. PERKINS. Will the gentleman yield?

Mr. WIRTH. I would be happy to yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman. I understand that New Hampshire has an accountability clause in its State constitution similar to the one found in the constitution of Colorado.

It is the intent of the legislation before us today to institute the most effective and efficient system for competency testing possible. I would prefer to see each State administer its own testing program, however, we all recognize that in the cases of Colorado and New Hampshire this will not be possible.

In fairness, then Mr. Chairman, I believe the record should show that local school authorities may qualify for Federal funding to administer minimum competency tests in those States where constitutional provisions prevent statewide administration of the testing program.

Mr. CAVANAUGH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise today in support of title X—impact aid amendments, which include the extensions of Public Law 815 and Public Law 874. I would like to commend the committee for presenting us with a very realistic legislative approach to the problems created when a Federal project or activity causes an influx of persons into a community, resulting in an increased number of children to be educated.

The impact aid program now includes approximately 4,300 school districts in the Nation, of which approximately 100 are virtually prisoners of the Federal Government. The Second Congressional District of Nebraska, which I represent, is among the most heavily impacted in the country. The presence of Offutt Air Force Base, which includes the headquarters of the Strategic Air Command, is a welcome and highly regarded neighbor to the city of Bellevue. In order to provide quality education for the 6,659 children in the Bellevue School District who are eligible under title X of impact aid, the financial structure of the school district is tied inextricably to the provisions of this legislation. I cannot underestimate the critical importance of Federal assistance for this district. All staff, for example, have an addendum to their contracts that states that in the event that Federal funding is not provided in sufficient amounts, schools will close and contracts will be terminated immediately. This element of uncertainty is not common to their lightly impacted neighboring districts. Offutt Air Force Base occupies 18 percent of the land in the district, considerably lessening the opportunity for dedicating land to tax-generating commercial or private residential use.

Another indication of the burden that the base places on the district is that it ranks 295 of 296 unified Nebraska districts in assessed valuation per pupil. The 296th, incidentially, is also impacted—an Indian reservation. The Bellevue ratio of assessment to student is about $6,000, far below the State average of $22,000. The Second Congressional District of Nebraska has 12,294 students eligible under H.R. 15—title X, so the consequences of what transpires today is of pressing importance to me and to my constituents.

It is my understanding that amendments will be offered today on behalf of the administration to reduce and weaken the commendable actions of the Education and Labor Committee. Throughout the formulation of this legislation I have corresponded frequently with President Carter and members of his administration in unsuccessful attempts to dramatize the unfairness any reduction of the impact aid appropriation would cause

with school districts in my area. Under the guise of "reform," the administration has indicated that it fully intends to reduce or eliminate the very programs on which these school districts depend so heavily. It has been indicated that an amendment will be offered to reduce impact aid funds for non-military "B" children by one-sixth per year beginning in September, 1979. In the abstract and on its face, this appears to be a painless method of reducing expenditures. In the concrete, however, it means that my constituents will have to raise an additional $712,255 annually for the 3,046 non-military "B" children eligible under H.R. 15 amendments to impact aid, or approximately $255 per child.

It has also been announced that an amendment will be offered to allow all the "hold harmless" provisions enacted in 1974 to expire, except those protecting against military base closings. When these provisions were added in 1974, they were done so with the understanding and intent that school districts with historically high degrees of impaction would be protected against the diversion of funds for newer, more exotic Federal programs. I believe these protections are equally necessary and valid today, and will remain so throughout the period of the proposed extensions. Absent any evidence that such protection is no longer required for heavily impacted districts in smaller communities, I fail to see any justification for removing these hold-harmless provisions, and would encourage their rejection.

In conclusion, I strongly urge the support of this body for retention of the funding authorizations proposed by the committee, and opposition against any attempts to increase the burden of educational support in those areas infused with large numbers of Federal personnel.

The CHAIRMAN. Are there further amendments to title X?

If not, the Clerk will read.

The Clerk read as follows:

TITLE XI—INDIAN EDUCATION

PART A—ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES

AMENDMENT TO PUBLIC LAW 874

SEC. 1101. (a) Effective with respect to fiscal years beginning on or after the date of enactment of this Act, section 3(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof the following new subparagraph:

"(D)(i) The amount of the entitlements of any local educational agency under this section for any fiscal year with respect to children who, while in attendance at such agency, resided on Indian lands, as described in clause (A) of section 403(1), shall be the amount determined under paragraph (1) with respect to such children for such fiscal year multiplied by 125 per centum.

"(ii) Payments under this subparagraph shall be made only to local educational agencies which have, within one year after the date of enactment of this subparagraph, or, when local educational agencies are formed after such date of enactment, within one year after their formation, established such policies and procedures with respect to information received from Indian community as required by this subparagraph and which have made assurances to the Commissioner, at such time and in such manner as shall be determined by regulation, that such policies and procedures have been established. The Commissioner shall have the authority to waive this one-year limit for good cause.

"(iii) Each local educational agency shall establish such policies and procedures as are necessary to ensure that (I) Indian children claimed under subsection (a) will participate on an equal basis in the school program with all other children educated by the local educational agency; and (II) parents of Indian children claimed for Indian lands under subsection (a) and tribes having students served by a local educational agency have been consulted and involved in the planning, development, and operation of programs assisted under this application; and (III) parents of Indian children claimed from Indian land under this subparagraph and tribes having students served by a local educational agency have had an opportunity to make recommendations concerning the needs of such children and the ways the parents and tribe can assist the children in realizing the benefits to be derived from the educational programs, as well as to present their views concerning the educational program and parental participation; and (IV) that program plans and evaluations have been adequately disseminated to the parents of Indian children claimed for Indian lands under this subparagraph and to tribes having students served by a local educational agency and that such parties have had an opportunity to present their views with respect to the application.

"(iv)(I) Any tribe, or its designee, which has students in attendance in a local educational agency may file a complaint regarding any action of a local eductional agency taken pursuant to, or relevant to, the requirements of division (iii) of this subparagraph.

"(II) Such complaint shall be filed with the Commissioner, who, upon receipt of such complaint, shall, within ten working days—

"(aa) provide written notice to the local educational agency involved;

"(bb) designate a time and place for a hearing into matters relating to the complaint in a location convenient to both the tribe and the local educational agency, providing that, unless the Commissioner determines that there is a good cause to the contrary, the hearing location shall be in close proximity to the local educational agency involved; and

"(cc) appoint a qualified examiner from outside the Department and office to conduct said hearing.

"(III) The hearing shall be held within thirty days of the designation of an examiner and shall be conducted in such a manner that—

"(aa) a record of the proceedings is maintained; and

"(bb) the public is provided an opportunity to attend.

"(IV) The complaining tribe, or its designee, shall be entitled to present evidence and testimony in support of its complaint and may make recommendations to the hearing examiner concerning remedial actions which it deems proper. The local educational agency shall have a similar opportunity to present evidence and testimony and make recommendations. Each party to the hearing shall bear only their own costs in the proceeding.

"(V) Within thirty days of the completion of the hearing, the examiner shall make written findings of fact and recommendations regarding what action (if any) should be taken. Such findings and recommendations, along with the hearing record, shall be forwarded to the Commissioner.

"(VI) Within thirty days after the Commissioner has received the findings, recommendations, and record, the Commissioner shall review the material and make a determination, in writing, of—

"(aa) the appropriate remedial action, if any, to be taken by the local educational agency; and

"(bb) the schedule for completion of such action. The final determination of the Commissioner shall be subject to judicial review.

"(VII) In all actions under this division, the Commissioner shall have discretion to consolidate complaints involving the same tribe or local educational agency, wherever possible.

"(v) If the local educational agency rejects the determination of the Commissioner or if the remedy required is not undertaken within the time established, and the Commissioner determines that an extension of the time established will not effectively encourage the remedy required, a tribal council having students served by a local educational agency may elect to—

"(I) have such educational services provided by a school operated by the Bureau of Indian Affairs, or

"(II) operate a school for their own students under the provisions of title I of the Indian Self-Determination and Education Assistance Act, under contract with the Bureau of Indian Affairs.

"(vi) The Commissioner, in consultation with the Secretary of the Interior, shall, within one year of the date of enactment of this subparagraph, establish regulations to ensure an orderly and expeditious transition in cases where tribes exercise one of the elections described in division (v): *Provided*, That, in those cases where construction of, or modification of, facilities is necessary, the Bureau of Indian Affairs shall submit the appropriations request for funding and shall specify the need.

"(vii) Nothing in division (iv) or (v) shall be deemed to apply to those local educational agencies which have an elected school board a majority of the members of which are Indians.

"(viii) This subparagraph is based upon the special relationship between the Indian nations and the United States and nothing in it shall be deemed to relieve any State of any duty with respect to any citizens of that State.".

(b) Effective with respect to fiscal years beginning on or after the date of the enactment of this Act, section 5(c)(2) of such Act is amended by redesignating clauses (B) through (F) as clauses (C) through (G) and by adding after clause (A) the following new clause:

"(B) to each local educational agency which provides free public education for children who reside on Indian land, as described in clause (A) of section 403(1), which equals 75 per centum of of the amount to which such agency is entitled under section 3(d)(2)(D)(i);".

FUNDING PROVISION

SEC. 1102. (a) Except as provided in subsection (b), any supplemental program funds provided, pursuant to an appropriation under the Act of November 2, 1921, commonly referred to as the Snyder Act, for contracting under the Act of April 16, 1934, commonly referred to as the Johnson-O'Malley Act, for any fiscal year beginning on or after October 1, 1978, shall be allocated on the basis of the product of—

(1) the number of Indian students enrolled in public elementary and secondary education porgrams in each State,

multiplied by—

(2) the average per pupil expenditure in such State.

(b) Notwithstanding subsection (a), the amount used for purposes of clause (2) of subsection (a) shall not be less than 80 nor more than 120 per centum of the average per

pupil expenditure for the United States, except that, for any State in which civilian employees of the United States Government receive allowances under section 5941 of title 5, United States Code, such amount may exceed such average by the same percentage as the percentage of basic pay which is received by such employees as allowances under such section.

(c) For purposes of this section, average per pupil expenditures for a State or for the United States shall be determined in accordance with section 154(17) of the Elementary and Secondary Education Act of 1965.

PART B—BUREAU OF INDIAN AFFAIRS PROGRAMS

STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN IN BUREAU OF INDIAN AFFAIRS SCHOOLS

SEC. 1121. (a) The Secretary, in consultation with the Assistant Secretary of Health, Education, and Welfare for Education, shall, through the National Institute of Education and National Center for Education Statistics carry out such studies and surveys, making the fullest use possible of other existing studies, surveys, and plans, as are necessary to establish and revise standards for the basic education of Indian children attending Bureau schools or schools operated under contract with the Bureau. Such standards shall be established within eighteen months after the date of the enactment of this Act, shall be revised periodically as necessary, and shall apply to schools of the Bureau, and may also serve as a model for education programs for Indian children in public schools. In establishing and revising such standards, the Secretary shall take into account the special needs of Indian students.

(b) Such studies and surveys (1) shall be conducted in such a manner as to provide an opportunity for tribal governments and other organizations concerned with Indian interests to participate therein, (2) shall take into account such factors as the academic needs of such Indian children, local cultural differences characterizing such children, the type and level of language skills of such children, the geographical isolation of such children, and appropriate teacher-student ratios for such children, and (3) shall be directed toward the attainment of equal educational opportunity for such children.

(c) Not later than the beginning of the first school year which begins after the date of issuance of the standards for the basic education of Indian children established under subsection (a), but no less than six months following such date of issuance, the Bureau shall implement such standards in all schools operated by the Bureau. The Secretary, through contracting procedures, shall assist school boards of Indian-controlled schools under contract with the Bureau in the implementation of such standards, if such school boards request that the standards be implemented. The Secretary shall not refuse to enter into a contract with respect to any such school on the basis of an initial failure to meet such standards.

(d) The Secretary shall provide alternative or modified standards for the standards established under subsection (a), where necessary, so that the programs of each Bureau operated school shall be in compliance with the minimum standards required for accreditation of schools in the State where the school is located.

(e) The Secretary may provide alternative or modified standards for the standards established under subsection (a) as he deems appropriate, in order to take into account the needs of individual tribes, as expressed through the governing bodies of those tribes, if the academic standards are not lower than those established under subsections (a) and (d). The Secretary may also provide alternative or modified standards for the standards established under such subsections to take into account the needs of Indian controlled schools under contract with the Bureau, as expressed by their school boards, under the same restrictions.

(f) There are hereby authorized to be appropriated such sums as may be necessary, for academic program costs, in order to bring the schools referred to in subsection (a) up to the level required by the standards for the basic education of Indian children as required by subsections (a) and (d).

NATIONAL CRITERIA FOR DORMITORY SITUATIONS

SEC. 1122. (a) The Secretary, in consultation with the National Institute of Education or by contract, and in consultation with tribal governments, shall, within eighteen months after the date of enactment of this Act, conduct a comparative study of the costs applicable to boarding arrangements for Indian students provided directly by the Bureau or provided under contract with the Bureau, and shall establish, based on the results of such study, national criteria for such dormitory situations. Such criteria shall include requirements as to adult-child ratios, needs for counselors (including special needs related to off-reservation boarding arrangements), space, and privacy. Within one year after the date of establishment of the criteria under this section, the Secretary shall submit to Congress a detailed plan for meeting these criteria in all Bureau schools and Indian controlled schools under contract with the Bureau. Such plan shall include, but not be limited to, cost estimates for meeting such criteria, predictions for relative need for such boarding facilities in the future, and time lines for completion of the compliance plans.

REGULATIONS

SEC. 1123. The Secretary shall establish such regulations as are necessary to carry out sections 1121 and 1122 within eighteen months after the date of enactment of this Act.

STUDIES

SEC. 1124. Up to $1,000,000 of the sums appropriated under the Act of November 2, 1921, commonly referred to as the Snyder Act, for any fiscal year beginning after the effective date of this section may be used to carry out the studies conducted under section 1121(a) and section 1122.

FACILITIES CONSTRUCTION

SEC. 125. (a) The Bureau shall bring all schools, dormitories, and other facilities operated by the Bureau or under contract with the Bureau in connection with the education of Indian children into compliance with all applicable Federal or State health and safety standards, whichever provide greater protection, and with section 504 of the Vocational Rehabilitation Act (29 U.S.C. 31), except that nothing in this subsection shall require termination of the operations of any facility which does not comply with such provisions and which is in use on the date of the enactment of this subsection.

(b) The Bureau shall submit to Congress, and shall have published in the Federal Register, the system used to establish priorities for school construction projects. The Bureau shall also, at the time any budget for such construction is presented, cause to be printed in the Federal Register and included in the budget request a current list of all construction priorities.

(c) There are hereby authorized to be appropriated such sums as may be necessary to carry out subsection (a).

BUREAU OF INDIAN AFFAIRS EDUCATION FUNCTIONS

SEC. 1126. (a) The Secretary shall vest the functions of the Bureau with respect to the direction, supervision, and expenditure of Federal funds for the purpose of education in the Office of Indian Education Programs of the Bureau (hereinafter in this title referred to as the "Office") and the exercise of such functions shall be governed by the provisions of this Act, any other provision of law to the contrary notwithstanding. Nothing within this Act shall be construed as affecting, diminishing, or altering the authority of the Secretary in any way.

(b) The Director of the Office shall direct and supervise the operations of all personnel involved within the implementation of education through Bureau schools. Area offices of the Bureau, other than personnel with those offices who are under the control of the Director of the Office, shall not exercise any functions with respect to matters directly involving Indian education, except that education personnel located in such area offices, who are under the direction and supervision of the Director of the Office in accordance with the preceding sentence, shall provide necessary technical assistance to schools assisted by the funds described in subsection (a) of this section and shall coordinate the education functions of the Office with other services provided by the Bureau. Nothing in this Act shall be construed to require the provision of separate support services for Indian education. Functions relating to schools under contract with the Bureau shall be carried out directly by the Director of the Office.

(c) Education personnel located in Bureau agencies, who are under the direction and supervision of the Director of the Office in accordance with the first sentence of subsection (a), shall—

(1) monitor and evaluate education programs assisted by the funds described in subsection (a),

(2) provide assistance in connection with personnel actions relating to such programs, and

(3) provide technical and coordinating assistance in areas related to such programs such as procurement, contracting, budgeting, and curriculum.

However, in the case of board schools located off reservations operated by the Bureau, education personnel located in area offices of the Bureau shall provide such services, under the direction and supervision of the Director of the Office.

IMPLEMENTATION

SEC. 1127. Within six months after the date of the enactment of this Act, the Secretary shall establish and publish in the Federal Register the policies and procedures which are necessary to implement the transfer of functions made by section 1126 of this Act.

ALLOTMENT FORMULA

SEC. 1128. (a) The Secretary shall establish, by regulation adopted in accordance with section 1138, a formula for determining the minimum allotment necessary to sustain each Bureau or Indian-controlled contract school. Such formula shall take into consideration, but not be limited to considering, the following factors:

(1) the number of Indian students served and size of the school;

(2) special cost factors, such as—

(A) isolation of the school;

(B) need for special staffing, transportation, or educational programs; and

(C) food and housing costs; and

(3) the cost of providing academic services which are at least equivalent to those provided by public schools in the State in which the school is located.

(b) Notwithstanding any other provision of law, Federal funds administered by the Bureau and used to assist Bureau and Indian-controlled contract schools shall be allotted in accordance with the formula established under subsection (a), except that, in the case of any school which is located in a school district of a local educational agency which receives from Federal funds under other provisions of law an average payment per Indian child attending such school in

that district which is higher than the amount which would be received by such Bureau or Indian-controlled contract school under such formula for each Indian child attending such school, the payment to be received by that school under this section for each such child shall be equal to such average payment for an Indian child in public school in that district.

(c) The Secretary shall by regulation establish a fund in the Office which shall serve the purpose of providing funds in cases of emergencies or unforeseen contingencies in connection with Federal funds for the purpose of educational plans administered by the Bureau. Use of such fund shall be in the discretion of the Director of the Office, except that, in connection therewith, the Director shall consult with, and consider the recommendations of, the superintendents for education of the various agencies under the Bureau.

UNIFORM DIRECT FUNDING AND SUPPORT

SEC. 1129. (a)(1) Within six months after the date of enactment of this Act, the Office shall establish, by regulation adopted in accordance with section 1138, a system for the direct funding and support of all Bureau schools and all Indian-controlled contract schools. Such system shall allot funds, in accordance with section 1128, and shall provide each affected school with notification of its approximate allotment not later than the end of the school year preceding the year for which the allotment is to be made. Such system shall distribute funds on the basis of local financial plans which shall be prepared by local school administrators, and the local school board for each school shall have the authority to ratify or reject such financial plan, and expenditures thereunder, and, on its own determination or in response to the supervisor of the school, to revise such financial plan to meet needs not foreseen at the time of preparation of the financial plan. The supervisor of the school may appeal any such rejection to the superintendent for education of the Bureau agency, and the superintendent may, for good cause and in writing, sustain the recommendations of the supervisor. Each financial plan prepared for an Indian-controlled contract school shall be prepared in such a manner as to ensure local participation.

(2) The funds to be distributed under this section shall not be subject to the band analysis system of any tribe; however, nothing in this Act shall be construed as prohibiting the governing body of any tribe from stipulating that funds that are on the band analysis system shall augment the funds provided by this section.

(3) A local school board shall have financial plan authority under paragraph (1) unless the tribe affected (or, in the case of a school serving several tribes, all the affected tribes), by formal action of the tribal governing body, determines that such board shall not have such authority. In the case of such a determination, the Secretary shall investigate the causes of such determination and take such steps as may be necessary to remedy such causes.

(b) Funds for self-determination grants under section 104(a)(2) of the Indian Self-Determination and Education Assistance Act shall not be used for providing technical assistance and training in the field of education by the Bureau unless such services are provided in accordance with a plan, agreed to by the tribe or tribes affected and the Bureau, under which control of education programs will be transferred to such tribe or tribes within a specific period of time negotiated under such agreement.

(c) In the exercise of its authority under this section, a local school board may request technical assistance and training from the Director of the Office, and the Director shall, to the extent possible, provide such services, and make appropriate provisions in the budget of the Office for such services.

POLICY FOR INDIAN CONTROL OF INDIAN EDUCATION

SEC. 1130. It shall be the policy of the Bureau, in carrying out the functions of the Bureau, to foster Indian control of Indian affairs in all matters relating to education.

EDUCATION PERSONNEL

SEC. 1131. (a)(1) Chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to the classification of civil service employees, shall not apply to educators or to education positions (as defined in subsection (m)).

(2) Paragraph (1) shall take effect at the end of the 180-day period beginning on the date of the enactment of this Act.

(b)(1) Not later than the effective date of subsection (a)(2), the Secretary shall prescribe regulations to carry out this section. Such regulations shall govern—

(A) the establishment of education positions,

(B) the establishment of qualifications for educators,

(C) the fixing of basic compensation for educators and education positions,

(D) the appointment of educators,

(E) the discharge of educators,

(F) the entitlement of educators to compensation,

(G) the payment of compensation to educators,

(H) the conditions of employment of educators,

(I) the length of the school year applicable to education positions described in subsection (m)(1)(A),

(J) the leave system for educators, and

(K) such other matters as may be appropriate to carry out the purposes of this section.

(2)(A) In prescribing regulations to govern the appointment and qualifications of educators, the Secretary shall require—

(i) that lists of qualified and interviewed applicants for education positions be maintained in the agency and area offices of the Bureau; and

(ii) that a list of qualified and interviewed applicants for education positions be maintained in the Office from among individuals who have applied at the national level for an education position and who have expressed interest in working in an education position anywhere in the United States.

The name of any individual who applies at the national level for an education position and who indicates in such application an interest in working only in certain areas of the United States shall be forwarded to the area office for each area in which such individual expressed such an interest, and the name of that individual shall be maintained only on the list of qualified applicants for each such area maintained pursuant to clause (i).

(B) The Secretary may authorize the temporary employment in an education position of an individual who has not met the certification standards established pursuant to regulations, if the Secretary determines that failure to do so would result in that position remaining vacant.

(C) It shall not be a prerequisite to the employment of an individual in an education position at the local level that such individual's name appear on the national list maintained pursuant to subparagraph (A)(ii) or that such individual has applied at the national level for an education position.

(c)(1)(A) Subject to paragraphs (2) and (3)—

(i) educators employed in a school (other than the supervisor of the school) shall be hired by the supervisor of the school unless there are no qualified applicants available, in which case the vacant position shall be filled at the national level from the list maintained pursuant to subsection (b)(2)(A)(ii),

(ii) each school supervisor shall be hired by the superintendent for education of the agency office of the Bureau in which the school is located, and

(iii) educators employed in an agency office of the Bureau shall be hired by the superintendent for education of the agency office.

(B) Any individual who applies at the local level for an education position shall state on such individual's application whether or not such individual has applied at the national level for an education position in the Bureau. If such individual is employed at the local level, such individual's name shall immediately be forwarded to the Secretary, who shall, as soon as possible but in no event in more than thirty days, ascertain the accuracy of the statement made by such individual pursuant to the first sentence of this subparagraph. If the individual's statement is found to have been false, such individual, at the Secretary's discretion, may be disciplined or discharged. If the individual had applied at the national level for an education position in the Bureau, the appointment of such individual at the local level shall be conditional for a period of ninety days, during which period the Secretary may appoint a more qualified individual (as determined by the Secretary) from the list maintained at the national level pursuant to subsection (b)(2)(A)(ii) to the position to which such individual was appointed.

(2)(A) Before any individual is employed in an education position in a school by the supervisor of a school (or, with respect to the position of supervisor, by the appropriate agency superintendent for education), the local school board (as defined in section 1139(3)) for the school shall be consulted. Subject to subparagraph (B), a determination by the school board that such individual should or should not be so employed shall be followed by the supervisor (or with respect to the position of supervisor, by the agency superintendent for education).

(B)(i) The supervisor of a school may appeal to the appropriate agency superintendent for education any determination by the local board for the school that an individual be employed, or not be employed, in an education position in the school other than that of supervisor. Upon such an appeal, the agency superintendent for education may sustain the recommendation of the supervisor with respect to the employment of such individual if he determines, in writing, that there is good cause for such action.

(ii) The superintendent for education of any agency office of the Bureau may appeal to the Director of the Office any determination by the local school board for a school that an individual be employed, or not be employed, as the supervisor of the school. Upon such an apepal, the Director of the Office may sustain the recommendation of the agency superintendent with respect to the employment of such individual if he determines, in writing, that there is good cause for such action.

(3)(A) Before any individual may be employed in an education position at the agency level, the appropriate agency school board shall be consulted. Subject to subparagraph (B), a determination by such school board that such individual should or should not be so employed shall be adhered to by the agency superintendent for education.

(B) The superintendent for education of an agency office of the Bureau may appeal to the Director of the Office any determination by the agency school board that an individual be employed, or not be employed, in an education position in such agency office. Upon such an appeal, the Director of the Office may sustain the recommendation of the superintendent for education with respect to the employment of such individual

if he determines, in writing, that there is good cause for such action.

(4) Nothing in this subsection shall be construed as conferring upon local school boards authority over, or control of, educators.

(d)(1)(A) The supervisor of a Bureau school may discharge for cause (as determined under regulations prescribed by the Secretary) any educator employed in such school. Upon giving notice of discharge to an educator, the supervisor involved shall immediately notify the local school board for the school of such action, and the local school board shall have the right to appeal such action to the superintendent for education of the appropriate agency office of the Bureau and to the Director of the Office.

(B) Each local school board for a Bureau school shall have the right (i) to recommend to the supervisor of such school that an educator employed in the school be discharged, and (ii) to recommend to the superintendent for education of the appropriate agency Office of the Bureau and to the Director of the Office, that the supervisor of the school be discharged.

(2) The Secretary shall by regulation establish procedures to provide for the rapid and equitable resolution of grievances of educators relating to personnel practices, including cases involving the discharge of an educator.

(e) Notwithstanding any other provision of law, the local school board for a Bureau school shall have the authority, with respect to education positions in such school, to waive the preference required by law for appointment of Indians to positions related to Indian education.

(f) Subject to the authority of the Civil Service Commission to determine finally the applicability of chapter 15 of title 5, United States Code, to specific positions and employees in the executive branch, the Secretary shall—

(1) determine the applicability of such chapter to positions and employees in the Office; and

(2) establish the appropriate annual salary rate in accordance with this section for each such position and individual to whom such chapter is determined to be inapplicable.

(g)(1) The Secretary shall fix the basic compensation for educators and education positions at rates comparable to the rates in effect under the General Schedule for individuals with comparable qualifications, and holding comparable positions, to whom chapter 51 is applicable.

(2) Each educator employed in an education position in Alaska shall be paid a cost-of-living allowance equal to 25 percent of the rate of basic compensation to which such educator is entitled.

(3) The Secretary may pay a post differential on the basis of conditions of environment or work which warrant additional pay as a recruitment and retention incentive. Such a post differential may not exceed 25 percent of the rate of basic compensation.

(h) Any individual—

(1) who on the date of the enactment of this Act is holding a position which is determined to be an education position and who elects under a subsection (n)(2) to be covered under the provisions of this section, or

(2) who is an employee of the Federal Government or the municipal government of the District of Columbia and is transferred, promoted, or reappointed, without break in service, from a position under a different leave system to an education position,

shall be credited, for the purposes of the leave system provided under regulations prescribed pursuant to subsection (b)(1)(J), with the annual and sick leave to his credit immediately before the effective date of such election, transfer, promotion, or reappointment.

(i) Any annual leave remaining, upon separation from the service, to the credit of an individual within the purview of this section shall be liquidated in accordance with sections 5551(a) and 6306 of title 5, United States Code, except that leave earned or included under regulations prescribed pursuant to subsection (b)(1)(J) shall not be so liquidated.

(j) In the case of any educator who is transferred, promoted, or reappointed, without break in service, to a position in the Federal Government under a different leave system, the annual leave, and any other leave earned or credited under such regulations, which is to his credit immediately before such transfer, promotion, or reappointment, shall be transferred to his credit in the employing agency on an adjusted basis in accordance with regulations which shall be prescribed by the Civil Service Commission.

(k) An educator who voluntarily terminates employment with the Bureau before the expiration of the existing employment contract between such educator and the Bureau shall not be eligible to be employed in another education position in the Bureau during the remainder of the term of such contract.

(l) In the case of any educator employed in an education position described in subsection (m)(1)(A) who—

(1) is so employed at the close of a school year,

(2) agrees in writing to serve in such a position for the next school year, and

(3) is employed in another position during the recess period immediately preceding such next school year, or during such recess period receives additional compensation referred to in subsection (g)(2) or (g)(3),

section 5533 of title 5, United States Code, relating to dual compensation, shall not apply to such educator by reason of any such employment during such a recess period for any such receipt of additional compensation.

(m) For the purposes of this section:

(1) The term "education position" means a position in the Bureau the duties and responsibilities of which—

(A) are performed on a school-year basis principally in a school operated by the Bureau and involve—

(i) classroom or other instruction or the supervision or direction of classroom or other instruction;

(ii) any activity (other than teaching) which requires academic credits in educational theory and practice equal to the academic credit in educational theory and practice required for a bachelor's degree in education from an accredited institution of higher education; or

(iii) any activity in or related to the field of education notwithstanding that academic credits in educational theory and practice are not a formal requirement for the conduct of such activity; or

(B) are performed at the agency level of the Bureau and involve education-related programs of the Bureau;

but such term does not include the position of superintendent for education at the agency level of the Bureau.

(2) The term "educator" means an individual whose services are required, or who is employed, in an education position.

(n)(1) This section shall apply with respect to any individual hired after the effective date of subsection (a)(2) for employment in an education position and to the position in which such individual is employed. Subject to paragraph (2), the enactment of this title shall not affect any individual employed immediately before the effective date of subsection (a)(2) in an education position, such individual's appointment thereto, or such individual's right to receive the compensation attached to such position.

(2) Any individual described in the second sentence of paragraph (1) may, before the end of the five-year period beginning on the date of the enactment of this Act, make an election, which shall be irrevocable, to be covered under the provisions of this section.

MANAGEMENT INFORMATION SYSTEM

SEC. 1132. The Secretary shall establish within the Bureau, within one year after the date of the enactment of this Act, a computerized management information system, which shall provide information to all agency and area offices of the Bureau, and to the Office. Such information shall include—

(1) student enrollment;
(2) curriculum;
(3) staff;
(4) facilities;
(5) community demographics; and
(6) student assessment information.

BUREAU EDUCATION POLICIES

SEC. 1133. Within one hundred and eighty days after the date of the enactment of this title, the Office shall develop and submit to the field offices and agencies of the Bureau, the tribal governments, and the appropriate committees of the Congress a draft set of education policies, procedures, and practices for education-related actions of the Bureau. The Secretary shall, within one year after the enactment of this title, provide that such uniform policies, procedures, and practices shall be finalized and promulgated. Thereafter, such policies, procedures, and practices and their periodic revisions, shall serve as the foundation for future Bureau actions in education.

UNIFORM EDUCATION PROCEDURES AND PRACTICES

SEC. 1134. The Secretary shall cause the various divisions of the Bureau to formulate uniform procedures and practices with respect to such concerns of those divisions as relate to education, and shall report such practices and procedures to the Congress.

RECRUITMENT OF INDIAN EDUCATORS

SEC. 1135. The Secretary shall cause to be instituted within the Office a recruitment policy with respect to qualified Indian educators and a detailed plan to promote employees from within the Bureau. Such plan shall include opportunities for acquiring work experience prior to actual work assignment.

ANNUAL REPORT

SEC. 1136. The Secretary shall submit to each appropriate committee of the Congress a detailed annual report on the state of education within the Bureau and any problems encountered in the field of education during the year. Such report shall contain suggestions for improving the Bureau educational system and increasing local Indian control of such system.

EFFECT ON BUREAU FUNDING

SEC. 1137. Nothing in this Act shall be interpreted to deny the Bureau funding from any source of funding available prior to the date of enactment of this Act.

REGULATIONS

SEC. 1138. Regulations required to be adopted under section 1126 through 1136 of this Act shall be deemed rules of general applicability prescribed for the administration of an applicable program for the purposes of section 431 of the General Education Provisions Act and shall be promulgated, submitted for congressional review, and take effect in accordance with the provisions of such section.

DEFINITIONS

SEC. 1149. For the purpose of this part—

(1) the term "local educational agency" means a board of education or other legally constituted local school authority having administrative control and direction of free

public education in a county, township, independent, or other school district located within a State, and includes any State agency which directly operates and maintains facilities for providing free public education;

(2) the term "Commissioner" means the Commissioner of Education;

(3) the term "Secretary" means the Secretary of the Interior;

(4) the term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior;

(5) the term "local school board", when used with respect to a Bureau school, means a body which is elected by the parents of the Indian children attending the school or which is tribally appointed;

(6) the term "supervisor" means the individual in the position of ultimate authority at a school location; and

(7) the term "financial plan" means a program plan of services to be provided by each Bureau school.

PART C—INDIAN EDUCATION PROVISION

EXTENSION OF AUTHORIZATION

SEC. 1141.(a) Section 303(a)(1) of the Indian Elementary and Secondary School Assistance Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983".

(b) Section 314(d) of the Elementary and Secondary Education Amendments of 1966 (the Adult Education Act) is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1983".

(c) Section 422(c) of the Indian Education Act is amended by striking out "for the fiscal year ending June 30, 1975, and for each of the three succeeding fiscal years" and insertingg in lieu thereof "for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years".

(d) Section 810(g) of the Elementary and Secondary Education Act of 1965 is amended by striking out "July 1, 1978" and inserting in lieu thereof "October 1, 1983".

CULTURALLY RELATED ACADEMIC NEEDS

SEC. 1142. (a) Section 302(a) of the Indian Elementary and Secondary School Assistance Act is amended—

(1) by striking out "special educational needs of Indian students" and inserting in lieu thereof "special educational and culturally related academic needs of Indian students"; and

(2) by striking out "these special educational needs" and inserting in lieu thereof "these special educational or culturally related academic needs, or both".

(b) Section 304 of such Act is amended by striking out "special educational needs" each place it appears in paragraphs (1) and (2) and inserting in lieu thereof "special educational or culturally related academic needs, or both,".

DEMONSTRATION PROJECTS

SEC. 1143. Section 303 of the Indian Elementary and Secondary School Assistance Act is amended by adding at the end thereof the following new subsection:

"(c) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this title, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 per centum of the amount appropriated for payments on the basis of entitlements computed under subsection (a) for that fiscal year, for the purpose of enabling the Commissioner to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve education opportunities for Indian children, except that the Commissioner shall reserve a portion not to exceed 25 per centum of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.".

PARENT COMMITTEES

SEC. 1144. Section 305(b) of the Indian Elementary and Secondary School Assistance Act is amended—

(1) by inserting "(including persons acting in loco parentis other than school administrators or officials)" after "Indian children" in paragraph (2)(B)(i) and after "children participating in the program" in paragraph (2)(B)(ii);

(2) by inserting ", including the hiring of personnel," after "policies and procedures" in paragraph (2)(C); and

(3) by striking out the period at the end of paragraph (2)(C) and inserting in lieu thereof a semicolon and by adding at the end thereof the following new paragraph:

"(3) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable by-laws for the conduct of the program for which assistance is sought.".

TRIBAL SCHOOLS

SEC. 1145. Notwithstanding any other provision of law, any Indian tribe or organization which is controlled or sanctioned by an Indian tribal government and which operates any school for the children of that tribe shall be deemed to be a local educational agency for purposes of section 303(a) of the Indian Elementary and Secondary School Assistance Act (title III of Public Law 874, Eighty-first Congress) if each such school, as determined by the Commissioner, operated by that tribe or organization provides its students an educational program which meets the standards established under section 1121 for the basic education of Indian children, or is a school operated under contract by that tribe or organization in accordance with the provisions of the Indian Self-Determination and Education Assistance Act.

REVISION OF DEFINITION

SEC. 1146. Section 453(1) of the Indian Education Act is amended by striking out "or in the future" and by striking out "or second".

AMENDMENTS TO TITLE VIII OF THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

SEC. 1147. (a) Section 810(c)(1)(E) of the Elementary and Secondary Education Act of 1965 is amended by inserting "and gifted and talented Indian children" after "handicapped".

(b) Section 810(c)(1)(F) of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(F) early childhood programs, including kindergarten;".

(c)(1) Subsection (e) of section 810 of the Elementary and Secondary Education Act of 1965 is amended to read as follows:

"(e)(1) The Commissioner is also authorized to make grants to and contracts with public agencies, State educational agencies in States in which more than five thousand Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, Indian organizations, or to make contracts with private institutions and organizations, to establish, on a regional basis, information centers to—

"(A) evaluate programs assisted under this part, under the Indian Elementary and Secondary School Assistance Act, under section 314 of the Adult Education Act, and other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children, and to conduct research to determine those needs;

"(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 305(b)(2)(B)(ii) of the Indian Elementary and Secondary School Assistance Act in evaluating and carrying out programs assisted under this part, under such Act, and under section 314 of the Adult Education Act through the provision of materials and personnel resources; and

"(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children including information on successful models and programs designed to meet the special educational needs of Indian children.

"(2) Grants or contracts made pursuant to this subsection may be made for a term not to exceed three years (renewable at the end of that period subject to the approval of the Commissioner) provided that provision is made to insure annual review of the projects.".

(2) Section 810(b) of such Act is amended by striking out "Indian tribes, organizations, and institutions" and inserting in lieu thereof "Indian tribes, Indian organizations, and Indian institutions".

(d) Section 810(f) of the Elementary and Secondary Education Act of 1965 is amended by inserting "(1)" after "(f)", by redesignating clauses (1), (2), (3), and (4) as clauses (A), (B), (C), and (D) respectively, and by adding at the end thereof the following:

"(2) The Commissioner shall not approve an application for a grant under subsection (e) of this section unless he is satisfied that the funds made available under that subsection will be so used as to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds under this subsection, be made available by the State or local educational agency for the activities described in this subsection, and in no case will be used so as to supplant those funds.".

(e) Section 810(g) of the Elementary and Secondary Education Act of 1965 is amended by inserting "(1)" after "(g)" and by adding at the end thereof the following:

"(2) For the purposes of making grants under subsection (e) of this section there are hereby authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1983: *Provided*, That the sum of the grants made to State educational agencies under subsection (e) of this section shall not exceed 15 per centum of the sums appropriated.".

(f) Section 306(a) of the Indian Elementary and Secondary School Assistance Act is amended by inserting "estimated to be" after "equal to the amount".

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that title XI be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

The CHAIRMAN. Are there any amendments to title XI?

AMENDMENTS OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer amendments, and I ask unanimous consent that they be considered en bloc.

The CHAIRMAN. The Clerk will report the amendments.

The Clerk read as follows:

Amendments offered by Mr. QUIE: Page 286, line 16 strike out the word "Indian" and all that follows through line 17 and insert in lieu thereof "Indians age three

through grade twelve served in any school (except those who are enrolled in Bureau of Indian Affairs or sectarian operated schools) in".

Page 287, insert immediately after line 8 the following new section:

"BASIC EDUCATIONAL SUPPORT

"SEC. 1103. (a)(1) From sums already appropriated under the Act of November 2, 1921 (25 U.S.C. 13) and notwithstanding any other provision of law or any requirement of a grant or agreement relating to the timing of payments for basic support contracts or grants under the Act of April 16, 1934 (25 U.S.C. 452–457), the Secretary of the Interior shall make payments of any unexpended funds obligated for basic support contracts or grants under such Act of November 2, 1921 for fiscal year 1978 to any school that has received notification from the Department of the Interior of the award of such a contract or grant. Such payments shall be made in accordance with any aplicable condition of such contracts or grants other than conditions relating to the timing of payments.

"(2) The Secretary of the Interior shall make the payments referred to in paragraph (1) not later than thirty days after the date of the enactment of this Act. Saturdays, Sundays, and legal public holidays, as established by section 6103 of title 5, United States Code, shall not be considered as days for purposes of the preceding sentence.

"(b) Such sums as are needed under such Act of November 21, 1921 are authorized to be appropriated to provide funds for basic educational support to those public schools educating Indian students and whose total sum of Federal, State, and local funds is insufficient to bring the education of the enrolled Indian students to a level equal the level of education provided non-Indian students in the public schools in which they are enrolled where the absence of such support would result in the closing of schools or the reduction in quality of the education program afforded Indian students attending public schools.".

Conform the table of contents accordingly.

Page 312, line 20, insert "(1)" immediately after "(c)" and after line 25 insert the following new paragraphs:

(2) Section 423(a) of such Act is amended by striking out "June 30, 1975, and each of the three succeeding fiscal years" and inserting in lieu thereof "September 30, 1979, and each of the four succeeding fiscal years".

(3) Section 442(a) of such Act is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1983".

Page 315, strike out lines 22 through 25 and insert in lieu thereof the following:

DEFINITION STUDY

SEC. 1146. Section 453 of the Indian Education Act is amended by inserting "(a)" immediately after "Sec. 453." and by adding at the end thereof the following new subsection:

"(b) The Assistant Secretary of Education of the Department of Health, Education and Welfare shall, with the full participation of the Nation Institute of Education and National Center for Education Statistics, and in consultation with the National Advisory Council on Indian Education, the National Tribal Chairmen's Association, the National Congress of American Indians, the National Indian Education Association, the Coalition of Eastern Native Americans, and various representatives of Indian tribes without Federal recognition, supervise a thorough study and analysis of the definition of Indian contained in subsection (a) and submit a report on the results of such study and analysis to the Congress not later than October 1, 1979. Such study and analysis shall include but not be limited to—

"(1) an identification of the total number of Indian children being served under this title;

"(2) an identification of the number of Indian children eligible and served under each of the four clauses of such definition in such subsection;

"(3) an evaluation of the consequences of eliminating descendents in its second degree from the terms of such definition; or of specifying a final date by which tribes, bands, and groups must be recognized, or of both;

"(4) other options for changes in the terms of such definition and an evaluation of the consequences of such changes, together with supporting data;

"(5) recommendations with respect to criteria for use by the Commissioner under the rule making authority contained in clause (4) of such subsection."

Page 315, insert after line 25 the following new section:

DATA COLLECTION

SEC. 1147. Section 453 of the Indian Education Act is amended by inserting "(a)" after "Sec. 453." and by adding at the end thereof the following new subsections:

"(b) In establishing a child's eligibility for entitlement under Part A of this Act, the Commissioner shall request at least the following information on the student eligibility form:

"(1) the name of the tribe, band, or other organized group of Indians with which the applicant claims membership, along with the enrollment number establishing membership (where applicable), and the name and address of the organization which has updated and accurate membership data for such tribe, band or other organized group of Indians; or, if the child is not a member of a tribe, band, or other organized group of Indians, the student eligibility form shall bear the name, the enrollment number (where applicable) and the organization (and address thereof) responsible for maintaining updated and accurate membership role of any of the applicant's parents or grandparents, from whom the applicant claims eligibility;

"(2) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership are federally recognized;

"(3) the name and address of the parent or legal guardian;

"(4) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

"(5) any other information which the Secretary deems necessary to provide an accurate program profile."

Redesignate the succeeding sections and references thereto and conform the table of contents accordingly.

Page 315, insert after line 25 the following new section:

"PROGRAM MONITORING

"SEC. 1148. (a) The Commissioner shall establish a method of auditing on an annual basis a sample of not less than one-third of the total number of school districts receiving funds under Part A of the Indian Education Act, and shall report to the Congress his findings.

"(b) Any falsification of information provided on the local educational agency application for funds under Part A of such Act is punishable by impoundment of unused funds and an ineligibility for receiving any future entitlement under such Act.

"(c) Any falsification of information provided on the student eligibility form for funds under Part A of such Act is punishable by making that individual ineligible for receiving any future entitlement under the Act.".

Redesignate the succeeding sections and references thereto and conform the table of contents accordingly.

Mr. QUIE (during the reading). Mr. Chairman, I ask unanimous consent that the amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota that the amendments be considered en bloc?

There was no objection.

Mr. QUIE. Mr. Chairman, the first amendment which the reading clerk was reading is a technical amendment which allows students in previously private schools to continue to receive Johnson-O'Malley supplemental funds.

The second amendment provides for the immediate release of the remaining 50 percent of Johnson-O'Malley contracts for basic support for fiscal year 1978, and authorizes such sums as are necessary to provide the basic educational support in future years where the absence of those funds would result in the closing of schools or the reduction in quality of the education program afforded Indian students attending public schools.

The next amendment is one that is purely technical in nature, and should have been handled in committee. However, due to oversight on the part of the advisory group, it was overlooked. It is a simple extension of administrative provisions in title IV.

The next one is also the amendment that was going to be offered by the gentleman from Iowa (Mr. BLOUIN).

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Illinois.

Mr. SIMON. Does the gentleman from Iowa (Mr. BLOUIN) support all these amendments?

Mr. QUIE. He supports all of these amendments. Some of them are his and some of them are mine.

Mr. SIMON. I think most of us feel, with the gentleman from Minnesota (Mr. QUIE) and the gentleman from Iowa (Mr. BLOUIN) both supporting these amendments, they would be acceptable to most of us on the committee.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I would say to my distinguished friend, the gentleman from Minnesota, as I understand these amendments, they correct two oversights in the committee's markup on the education legislation. One of these amendments affects the National Advisory Council on Indian Education and the other amendment affects the Johnson-O'Malley program.

Mr. QUIE. And the other one is the study to be conducted on the definition of Indian which is used in title IV of Public Law 92–318. Three additional amendments are offered, all in connection with title IV, the Indian Education Act, which provide for a mechanism to establish a stronger data collection system on all students seeking eligibility under the act, the authority for the Secre-

tary of HEW to monitor program activity under title IV and a technical amendment which would strike from the definition of "Indian" under the act, unnecessary wording which did nothing to clarify the meaning.

Mr. PERKINS. We accept the amendments, Mr. Chairman.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Minnesota (Mr. QUIE).

The amendments were agreed to.

The CHAIRMAN. There being no further amendments to title XI, the Clerk will read.

The Clerk read as follows:

TITLE XII—AMENDMENTS TO THE ADULT EDUCATION ACT

PURPOSE; DEFINITIONS

SEC. 1201. (a) Section 302 of the Adult Education Act is amended to read as follows:

"STATEMENT OF PURPOSE

"SEC. 302. It is the purpose of this title to expand educational opportunities for adults and to encourage the establishment of programs of adult education that will—

"(1) enable all adults to acquire basic skills necessary to function in society,

"(2) enable adults who so desire to continue their education to at least the level of completion of secondary school, and

"(3) make available to adults the means to secure training that will enable them to become more employable, productive, and responsible citizens.".

(b) Section 303(b) of such Act is amended by inserting "lack sufficient mastery of basic educational skills to enable them to function effectively in society or" immediately after "(1)".

GRANTS TO STATES

SEC. 1202. (a) Section 304 of the Adult Education Act is amended by striking out "private nonprofit agencies" each place it appears and inserting in lieu thereof "by public or private nonprofit agencies, organizations, and institutions only if the duly constituted educational agency concurs".

(b) Section 304 of such Act is further amended by redesignating subsection (b) as subsection (a) and by adding at the end thereof the following new subsection:

"(b) Not more than 20 per centum of the funds granted to any State under subsection (a) for any fiscal year shall be used for the education of institutionalized individuals.".

ALLOTMENT; STATE PLANS

SEC. 1203. (a) Sections 303(g) and 305(a) of the Adult Education Act are each amended by inserting "the Northern Mariana Islands," immediately after "Pacific Islands,".

(b) Section 306 of such Act is amended to read as follows:

"STATE PLANS

"SEC. 306. (a) A State shall be eligible to receive its allotment under section 305 if—

"(1) it has on file with the Commissioner a general State application under section 435 of the General Education Provisions Act, and

"(2) it has submitted to the Commissioner at such times (not more frequently than once every three years), and in such detail, as the Commissioner shall prescribe a State plan meeting the requirements of subsection (b).

"(b) A State plan under this title shall—

"(1) set forth a program for the use of funds provided under this title to carry out the purposes stated in section 302 with respect to all segments of the adult population in the State, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults;

"(2) provide for the administration of the program by the State educational agency;

"(3) describe the procedures the State will use to ensure that in carrying out such program there will be adequate consultation, cooperation and coordination between the State educational agency and State manpower services councils and other agencies, organizations, and institutions in the State which operate employment and training programs or other educational or training programs for adults;

"(4) identify (A) the needs of the population of the State for services authorized under this title, (B) the other resources in the State available to meet those needs, and (C) the goals the State will seek to achieve in meeting those needs over the period covered by the plan;

"(5) describe the means by which the delivery of adult education services will be significantly expanded through the use of agencies, institutions, and organizations other than the public school system, such as businesses, labor unions, libraries, institutions of higher education, and community organizations;

"(6) describe the means by which representatives of business and industry, labor unions, public and private educational agencies and institutions, churches, fraternal and voluntary organizations, community organizations, State and local manpower and training agencies, and representatives of special adult populations, including residents of rural areas, residents of urban areas with high rates of unemployment, adults with limited English language skills, and institutionalized adults, and other entities in the State concerned with adult education have been involved in the development of the plan and will continue to be involved in carrying out the plan, especially with regard to the expansion of the delivery of adult education services through those agencies, institutions, and organizations;

"(7) describe the efforts to be undertaken by the State to assist adult participation in adult education programs through flexible course schedules, convenient locations, adequate transportation and meeting child care needs;

"(8) provide that such agency will make available not to exceed 20 per centum of the State's allotment for programs of equivalency for a certification of graduation from a secondary school;

"(9) provide that special emphasis be given to adult basic education programs except where such needs can be shown to have been met in the State;

"(10) provide that special assitance be given to the needs of persons with limited English language skills (as defined in section 703(a) of title VII of the Elementary and Secondary Education Act of 1965), by providing bilingual adult education programs in which instruction is given in English and, to the extent necessary to allow such persons to progress effectively through the adult education program, in the native language of such persons, carried out in coordination with programs of bilingual education assisted under such title and bilingual vocational education programs under the Vocational Education Act of 1963;

"(11) set forth the criteria by which the State will evaluate the quality of proposals from local agencies, organizations, and institutions; and

"(12) provide such further information and assurances as the Commissioner may by regulation require, including information regarding the extent to which the goals of the program have been achieved during the preceding three years.".

PAYMENTS

SEC. 1204. Section 307(a) of the Adult Education Act is amended to read as follows:

"PAYMENTS

"SEC. 307. (a) Except as provided in subsection (b), the Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to such State. The Federal share shall be 90 per centum of the cost of carrying out the State's program, except that with respect to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, the Federal share shall be 100 per centum.".

RESEARCH, DEVELOPMENT, DISSEMINATION, AND EVALUATION

SEC. 1205. Section 308 of the Adult Education Act is amended to read as follows:

"RESEARCH, DEVELOPMENT, DISSEMINATION, AND EVALUATION

"SEC. 308. (a) In addition to the responsibilities of the Director under section 405 of the General Education Provisions Act, the Director of the National Institute of Education shall directly, and through grants and contracts with public and private agencies, institutions and organizations, carry out a program—

"(1) to conduct research into problems in adult education;

"(2) to develop new and promising approaches and innovative methods which are designed to address those problems and which may have national significance or be of special value in promoting effective programs under this Act, including one-year grants to States to plan for the expansion of their systems for the delivery of adult education services;

"(3) to determine, using appropriate objective evaluation criteria, which projects and approaches funded under paragraph (2) and under section 309 of this Act have achieved their stated goals and are capable of achieving comparable levels of effectiveness at additional locations; and

"(4) to disseminate throughout the Nation information about those approaches or methods pertaining to adult basic education which are most effective, by—

"(A) establishing and operating a clearinghouse on adult education which shall collect, select, and disseminate to the public information pertaining to the education of adults, those approaches and methods of educating adults which are most effective, and ways of coordinating adult education programs with manpower and other education programs; and

"(B) utilizing the resources and procedures established by the Commissioner under section 422(a) of the General Education Provisions Act.

"(b) The Commissioner shall directly, and through grants and contracts with public and private agencies, institutions and organizations, evaluate the effectiveness of programs conducted under section 304 of this Act.

"(c) There are authorized to be appropriated for the purposes of this section $1,500,000 for the fiscal year ending September 30, 1980, $2,000,000 for the fiscal year ending September 30, 1981, and $3,000,000 for each succeeding fiscal year prior to October 1, 1983.".

GENERAL AMENDMENTS

SEC. 1206. (a) Section 309(1)(A) of the Adult Education Act is amended to read as follows:

"(A) design, plan, and establish innovative projects for the purpose of serving special populations or meeting special needs identified under section 306(b)(4) of this Act; or".

(b) Section 309A of such Act is amended to read as follows:

"REPORTING

"SEC. 309A. The Administrator of the National Center for Education Statistics, in consultation with the Commissioner, shall develop and implement a national adult education data reporting and accounting system, similar to the system authorized for vocational education by section 161 of the Vocational Education Act of 1963.".

(c) Section 310(b) of that Act is amended to read as follows:

"(b) For the purpose of making grants under this section there are authorized to be appropriated such sums as may be necessary for each fiscal year ending prior to October 1, 1983.".

(d) Section 311(b) of such Act is amended by striking out "1979" and inserting in lieu thereof "1984".

AUTHORIZATION OF APPROPRIATIONS

SEC. 1207. Section 313 of the Adult Education Act is amended to read as follows:

"APPROPRIATIONS AUTHORIZED

"SEC. 313. (a) There are authorized to be appropriated for the purposes of this Act, in addition to any amounts authorized under sections 308 and 310, $200,000,000 for the fiscal year 1979, and for each of the four succeeding fiscal years.

"(b) There are further authorized to be appropriated for each such fiscal year such sums, not to exceed 5 per centum of the amount appropriated pursuant to subsection (a) for that year, as may be necessary to pay the cost of the administration and development of State plans, and other activities required pursuant to this Act. The amount provided to a State under this subsection shall not be less than $50,000 for any fiscal year, except that such amount shall not be less than $25,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that title XII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky (Mr. PERKINS)?

There was no objection.

The CHAIRMAN. There being no amendments to title XII, the Clerk will read.

The Clerk read as follows:

TITLE XIII—ADMINISTRATIVE PROVISIONS

PART A—EQUALIZATION

DATA COLLECTION

SEC. 1301. Section 406 of the General Education Provisions Act is amended by adding at the end thereof the following new subsection:

"(i)(1) In addition to its other responsibilities, the National Center for Education Statistics shall, in consultation with the Office of Education, collect uniform data from the States on financing of elementary and secondary education. Each State receiving funds under the Elementary and Secondary Education Act of 1965 shall cooperate with the National Center in this effort.

"(2)(A) The National Center shall, in consultation with the Office of Education, publish by no later than September 30, 1979, and by no later than September 30 of each fiscal year thereafter, a composite profile of each State showing the degree to which each has achieved equalization of resources for elementary and secondary education among the school districts within the State. A summary of these profiles shall show this equalization among the States.

"(B) In compiling these profiles, the National Center shall list the degree of equalization both within and among the States according to the following standards:

"(i) the disparity in expenditures among school districts;

"(ii) the disparity from wealth neutrality; and

"(C) such other measures as the National Center considers appropriate, including a consideration of price differentials and pupil-teacher ratios.

"(3) There are authorized to be appropriated such sums as may be necessary for any fiscal year to assist the National Center in carrying out its responsibilities under this subsection.".

EQUALIZATION ASSISTANCE

SEC. 1302. Part C of the General Education Provisions Act is amended by inserting after section 426 the following new section:

"EQUALIZATION ASSISTANCE

"SEC. 426A. (a) The Commissioner is authorized from the sums appropriated pursuant to subsection (d) to make grants to States to assist in developing and implementing plans to revise their systems of financing elementary and secondary education in order to achieve a greater equalization of resources among school districts. Any State desiring to receive such a grant shall (1) submit an application approved by the State legislature for these funds, (2) provide that State funds will match the Federal funds on a dollar for dollar basis, and (3) show how these efforts build upon the knowledge gained through the plans developed pursuant to section 842 of the Education Amendments of 1974.

"(b) The Commissioner is authorized from sums appropriated pursuant to subsection (d) to (1) develop and disseminate models and materials useful to the States in planning and implementing revisions of their school financing systems, and (2) establishing temporary national and regional training centers to assist those involved in school finance to provide the level of expertise needed by the States in revising their financing systems.

"(c) The Commissioner shall (1) designate a unit within the Office of Education to serve as a national dissemination center for information on the State's efforts to achieve a greater equalization of resources for elementary and secondary education, and (2) develop an analysis of what has been learned through the use of funds available under section 842 of the Education Amendments of 1974 and disseminate the results of this analysis.

"(d) There are hereby authorized to be appropriated $4,000,000 for each of the fiscal years ending prior to September 30, 1983, for the purposes of this section.".

SCHOOL FINANCE

SEC. 1303. (a) In addition to its other responsibilities, the National Institute of Education shall conduct a study on the distribution of financial resources for elementary and secondary education among the States, among school districts within States, and among schools within school districts. Such study shall include—

(1) the collection of data, in conjunction with the National Center for Education Statistics under section 406(i) of the General Education Provisions Act, on the present state of the distribution of such financial resources;

(2) an analysis of the recent trends in the distribution of these resources including (A) an examination of recent court and State legislative developments, (B) case studies of States showing the greatest degree of equalization of resources in order to determine whether common elements exist leading to such equalization, and (C) special analyses of the effects of such recent trends on school districts in large urban areas and in poor rural areas and the effects of such trends on students who are members of minority groups, or who are economically and educationally disadvantaged or handicapped;

(3) an analysis of standards to measure inter-State, intra-State, and intradistrict equalization, including an examination of the standards showing disparities in expenditures, variations from fiscal neutrality, and weightings of classes of pupils; and applications of these standards to an illustrative number of States, school districts, and schools;

(4) an analysis of the impact of Federal and State categories programs on this distribution of resources and of the relationship between such Federal and State programs;

(5) recommendations for alternative Federal roles in the context of the total responsibility for financing schools among local, State, and Federal levels, including recommendations for changes in current Federal programs and suggestions for new Federal programs to promote greater equalization;

(6) an analysis of the impact of school finance equalization on the cost and quality of education programs, including particularly the quality of education programs in those districts recognized as educational leaders prior to equalization; and

(7) an analysis of the effects of finance equalization on curricular and extracurricular activities related to the arts, athletics, foreign languages, and other programs or activities of special value, or enrichment, or which especially serve the needs or talents of a limited sector of the preschool, elementary, or secondary school population.

(b) The Institute shall make interim reports to the President and to the Congress no later than December 31, 1979, and December 31, 1980, and shall make a final report thereto no later than December 31, 1981, on the results of this study conducted under this section. Any other provision of law, rule, or regulation to the contrary notwithstanding, such reports shall not be submitted to any review outside of the Institute before their transmittal to the Congress, but the President and the Commissioner of Education may make to the Congress such recommendations with respect to the contents of the reports as each may deem appropriate.

(c)(1) The Institute shall submit to the Congress, within one hundred and twenty days after the date of the enactment of this Act, a plan for its study to be conducted under this section. The Institute shall have such plan delivered to both Houses on the same day and to each House while it is in session. The Institute shall not commence such study until the first day after the close of the first period of thirty calendar days of continuous session of Congress after the date of the delivery of such plan to the Congress.

(2) For the purposes of paragraph (1)—

(A) continuity of session is broken only by adjournments of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the thirty-day period.

(d) Sums made available pursuant to section 133 of the Elementary and Secondary Education Act of 1965 shall be available to carry out the provisions of this section.

(e) For purposes of this section, the term "State" means each of the States, the District of Columbia, and the Commonwealth of Puerto Rico.

(f) The Assistant Secretary shall coordinate the activities carried out by the National Institute of Education under the authority of this section and by the National Center for Education Statistics under section 406(i) of the General Education Provisions Act and by the Office of Education under section 426A of such Act.

PART B—PAPERWORK CONTROL

SHORT TITLE

SEC. 1311. This part may be cited as the "Control of Paperwork Amendments of 1978".

GENERAL EDUCATION PROVISIONS ACT AMENDMENT

SEC. 1312. (a) Paragraph (3) of section 406(b) of the General Education Provisions Act is amended by inserting ", including State agencies responsible for postsecondary education," immediately after "local educational agencies".

(b) Section 406(g) of the General Education Provisions Act is amended to read as follows:

"(g)(1)(A)(i) In order to eliminate excessive detail and unnecessary and redundant information requests and to achieve the collection of information in the most efficient and effective possible manner, the Secretary and the Assistant Secretary shall, in accordance with the provisions of this subsection, coordinate through the National Center the collection of information and data acquisition activities of all Federal agencies, (I) whenever such activities request information from educational agencies or institutions, or (II) whenever the purpose of such activities is to request information needed for the management of or the formulation of policy related to Federal education programs.

"(ii)(I) There is hereby established, in the National Center, a unit for education data management. This unit shall be headed by an Assistant Administrator for Data Management who shall be placed in grade 17 of the General Schedule under section 5332 of title 5, United States Code. The function of such unit shall be to assist the Administrator in performing the duties prescribed in this subsection, and the Assistant Secretary shall assign sufficient staff to such unit to perform such function.

"(II) There is hereby established a Federal Education Data Acquisition Council, to consist of members appointed by the Secretary who shall represent the public and the major agencies which collect and use education data, including one representative each of the Office of Management and Budget and of the Office of Federal Statistical Policy and Standards. The members representing the public may be appointed for not more than three years. The Council shall advise and assist the Administrator with respect to the improvement, development, and coordination of Federal education information and data acquisition activities, shall review the policies, practices, and procedures of the Education Data Management Unit, and shall hear appeals from the decisions of the Administrator if the head of an aggrieved agency seeks to make such an appeal. In the case of any such appeal, the Council shall conduct an impartial hearing and shall render a final decision. The Council shall meet regularly during the year and shall be headed by an individual from an agency which has expertise in data collection but which undertakes no major data collection of education data.

"(B) For the purposes of this subsection, the term—

"(i) 'information' has the meaning given it by section 3502 of title 44, United States Code;

"(ii) 'Federal agency' has the meaning given it by section 3502 of the same title; and

"(iii) 'educational agency or institution' means any public or private agency or institution offering education programs.

"(C)(i) The National Center, through the education data management unit, shall review and coordinate all collection of information and data acquisition activities described in paragraph (1)(A)(i) of this subsection in accordance with procedures to be established by the Administrator, with the approval of the Secretary and the Assistant Secretary. Such procedures shall be designed in order to enable the Administrator to determine whether proposed collection of information and data acquisition activities are excessive in detail, unnecessary, redundant, ineffective, or excessively costly, and if so, to advise the heads of the relevant Federal agencies and to withhold approval of such proposed activities.

"(ii) No collection of information or data acquisition activity subject to such procedures shall be subject to any other review, coordination, or approval procedure outside of the relevant Federal agency except as hereinafter provided. The Administrator shall inform the Director of the Office of Management and Budget of all proposed collection of information and data acquisition activities subject to such procedures within a sufficient time in order to meet the notice deadline for comment prescribed by clause (C). If, within ten days of such notice, the Director indicates to the Administrator that a significant data acquisition policy issue is involved in any such collection of information or data acquisition activity, such activity shall be reviewable in accordance with the rules and regulations established pursuant to section 3509 of title 44, United States Code.

"(iii) The procedures established by the Administrator shall include a review of plans for evaluations and for research when such plans are in their preliminary stages in order to give advice to the heads of Federal agencies regarding the data acquisition aspects of such plans.

"(2)(A) The Administrator shall assist each Federal agency in performing the review and coordination required by this subsection and shall require of each agency a plan for each collection of information and data acquisition activity which shall include—

"(i) a detailed justification of how information once collected will be used;

"(ii) the methods of analysis which will be applied to such data;

"(iii) the timetable for the dissemination of the collected data; and

"(iv) an estimate of the man-hours required by each educational agency or institution to complete the requests and by Federal agencies to process the information, based upon previous experience with similar data or upon a sample of respondents.

"(B) In performing the review and coordination required by this subsection the Administrator shall assure that—

"(i) no information or data will be requested of any educational agency or institution unless that request has been approved and publicly announced by the January 1 immediately preceding the beginning of the new school year unless there is an urgent need for this information or a very unusual circumstance exists regarding it, but this restriction shall not apply in the case of research and evaluation studies which are mandated by Congress;

"(ii) sampling techniques, instead of universal responses, will be used wherever possible with a special consideration being given to the burden being placed upon small school districts, colleges, and other educational agencies and institutions;

"(iii) No change will be made in the information or data request after it has been initially approved under this subsection unless the change goes through the same approval process; and

"(iv) no request for information or data will be approved if such information or data exists in the same or a similar form in the automated indexing system required to be developed pursuant to paragraph (4).

"(C) Each educational agency or institution subject to a request under the collection of information and data acquisition activity, and their representative organizations, shall have an opportunity, during a thirty-day period before approval by the Administrator, to comment to the Administrator on the collection of information and data acquisition activity. The exact data instrument for each proposed activity shall be available to the public upon request during such comment period.

"(D) Nothing in this subsection shall be construed to interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provision of Federal law.

"(3) The Administrator shall, insofar as practicable, and in accordance with the provisions of this Act, provide educational agencies and institutions and other Federal agencies, pursuant to the requirement of subsection (f)(2)(A), with summaries of information collected and the data acquired by Federal agencies unless such data were acquired on a confidential basis.

"(4) The Administrator shall, insofar as practicable—

"(A) develop standard definitions and terms to be used by all Federal agencies in dealing with education related information and data acquisition requests;

"(B) develop an automated indexing system for cataloging all available data;

"(C) establish uniform reporting dates among Federal agencies for the information and data acquisitions required after review under this section;

"(D) publish annually a listing of Federal agencies and summaries of the amount of data requests resulting from each such agency and, for the programs administered in the Education Division, publish a listing annually of each such program with its appropriation and with the data burden resulting from such program; and

"(E) require the Federal agency proposing the collection of information or data acquisition activity to identify in its data instrument the legislative authority specifically requiring such collection, if any, and requre the responding educational agency or institution to make the same identification if it in turn collects such information or data from other agencies or individuals.

"(5) The Assistant Secretary shall submit a report to the Congress not less than once every three years, describing the implementation of this subsection. Such report shall contain recommendations for amendments to Federal laws which in the opinion of the Administrator and Assistant Secretary are imposing undue burdens on educational agencies and institutions, and such recommendations shall not be subject to any review by any Federal agency outside the Education Division.

"(6)(A) The Administrator is authorized to make grants from sums appropriated pursuant to this subsection to State educational agencies, including State agencies responsible for postsecondary education, for the development or improvement of their computer data systems.

"(B) Any State educational agency is eligible for a grant of funds under this subsection subject to the following conditions:

"(i) the agency agrees to use such funds for the development or improvement of its management information system and agrees to coordinate all data collection for Federal programs administered by the agency through such a system;

"(ii) the agency agrees to provide funds to local educational agencies and institutions of higher education for the development or improvement of management information systems when such grants are deemed necessary by the State educational agency; and

"(iii) the State agency agrees to take specific steps, in cooperation with the Administrator and with local educational agencies or institutions of higher education in the State, as appropriate, to eliminate excessive detail and unnecessary and redundant information requests within the State and to achieve the collection of information in the most efficient and effective possible manner so as to avoid imposing undue burdens on local educational agencies or institutions of higher education.

"(7) For the purpose of carrying out this subsection—

"(A) there are authorized to be appropriated for salaries and expenses $600,000 for the fiscal year ending September 30, 1979, $1,000,000 for the fiscal year ending September 30, 1980, and $1,200,000 for each of the fiscal years ending September 30, 1981, 1982, and 1983;

"(B) there are authorized to be appropriated for grants under paragraph (6) the sums of $5,000,000 for the fiscal year ending September 30, 1979, $25,000,000 for the

fiscal year ending September 30, 1980, and $50,000,000 for each of the fiscal years ending September 30, 1981, 1982, and 1983; and

"(C) the sums appropriated according to subparagraphs (A) and (B) shall be appropriated as separate line items.".

(c) Section 437 of the General Education Provisions Act is amended by striking out "the Commissioner" and by inserting in lieu thereof "the Administrator of the National Center for Educational Statistics".

APPLICATIONS

SEC. 1313. Subpart 2 of part C of the General Education Provisions Act is amended by adding immediately before section 431 thereof the following new section:

"APPLICATIONS

"SEC. 430. (a) Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this section, the Commissioner is authorized to provide for the submission of applications for assistance effective for two fiscal years under any applicable program with whatever amendments to such applications being required as the Commissioner determines essential.

"(b) The Commissioner shall, insofar as is practicable, establish uniform dates during the year for the submission of applications under all applicable programs and for the approval of such applications.

"(c) The Commissioner shall, insofar as is practicable, develop and require the use of—

"(1) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies pursuant to some objective formula, and such application shall be used as the single application for as many of these programs as is practicable;

"(2) a common application for grants to local educational agencies in applicable programs administered by State educational agencies in which the funds are distributed to such local agencies on a competitive or discretionary basis, and such application shall be used as the single application for as many of such programs as is practicable; and

"(3) a common application for grants to local educational agencies in applicable programs which are directly administered by the Commissioner, and such application shall be used as the single application for as many of these programs as is practicable.".

PART C—GENERAL ADMINISTRATIVE PROVISIONS

MISCELLANEOUS AMENDMENTS TO THE GENERAL EDUCATION PROVISIONS ACT

SEC. 1321. (a) Section 406(h) of the General Education Provisions Act is amended by striking out "October 1, 1978" both places it appears therein, and by inserting instead "October 1, 1983".

(b)(1) Section 408(a) of such Act is amended by inserting "or by delegation of authority pursuant to law" immediately after "vested in him by law".

(2) Section 408(a)(1) of such Act is amended by striking out "governing the manner of operation of" and by inserting in lieu thereof "governing the applicable programs administered by".

(3) Section 408(c) of such Act is amended by striking out "For the purposes of this section" and by inserting in lieu thereof "For the purposes of this title."

(c)(1) Section 412(b) of such Act is amended by striking out "ending prior to October 1, 1979,".

(2) Section 412(b) of such Act is further amended by insert "(1)" immediately after the subsection designation thereof and by inserting at the end of subsection (b) the following new paragraph:

"(2) Any funds under any applicable program which, pursuant to paragraph (1), are available for obligation and expenditure in the year succeeding the fiscal year for which they were appropriated shall be obligated and expended in accordance with—

"(A) the Federal statutory and regulatory provisions relating to such programs which are in effect for such succeeding fiscal year, and

"(B) any program plan or application submitted by such educational agencies or institutions for such program for such succeeding fiscal year.".

(d) Section 425(a) of such Act is amended by striking out "or (3)" and inserting in lieu thereof the following: "(3) ordering, in accordance with a final State audit resolution determination, the repayment of misspent or misapplied Federal funds, or (4)".

(e) Section 431A of that Act is amended to read as follows:

"MAINTENANCE OF EFFORT DETERMINATION

"SEC. 431A. (a) In prescribing regulations for carrying out the requirements of section 403(a)(10) of the Elementary and Secondary Education Act of 1965 and section 307(b) of the Adult Education Act, the Commissioner shall determine the amount so expended on the basis of per pupil or aggregate expenditures.

"(b) The Commissioner may waive, for one fiscal year only, the requirements of this section if he determines that such a waiver would be equitable due to exceptional and unforeseen circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency. In any case in which a waiver under this subsection is granted, the Commissioner shall reduce the amount of the Federal payment for the program affected for the current fiscal year in the exact proportion to which the amount expended (either on an average per pupil or aggregate basis) was less than the amount required by section 403(a)(10) of the Elementary and Secondary Education Act of 1965 or section 307(b) of the Adult Education Act. No level of funding permitted under such a waiver may be used as the basis for computing the fiscal effort required, under such sections, for years subsequent to the year covered by such waiver; such fiscal effort shall be computed on the basis of the level of funding which would, but for such waiver, have been required.

"(c) The Commissioner shall establish objective criteria of general applicability to carry out the waiver authority contained in this section.

"(d) This section shall be effective with respect to each requirement to which it applies, during the period which begins on the date of the enactment of the Education Amendments of 1978, and ends on the date of termination of the program to which the requirement applies. For purposes of the preceding sentence, a program shall be considered to terminate on September 30 of the fiscal year, if any, during which such program is automatically extended pursuant to section 414 of the General Education Provisions Act.".

CONFIDENTIALITY

SEC. 1322. Section 405 of the General Education Provisions Act is amended by adding at the end thereof the following new subsection:

"(k) The Secretary shall within ninety days of enactment of the Education Amendments of 1978 (1) publish standards designed to protect the confidentiality of persons in the collection, reporting, and publication of information obtained in the course of Federal educational research, evaluation, and data acquisition activities; and (2) publish proposed regulations under which the Assistant Secretary of Education, the Commissioner of Education, the Director of the National Institute of Education, or the Administrator of the National Center for Educational Statistics, may seek approval for protecting the confidentiality of educational agencies or institutions which voluntarily agree to participate in Federal research or evaluation projects designed to describe the implementation of, or assess the effectiveness of, existing Federal education programs or policies, or designed to help formulate new programs or policies, except that such regulations—

"(A) shall not apply to applications, records, evaluations, or reports regularly required from educational agencies or institutions for the management of, or in the formulation of policy related to, Federal education programs;

"(B) shall not apply to reports produced as a result of State or Federal monitoring, enforcement, or compliance reviews;

"(C) shall not apply to reports, data, and other information collected by the Office for Civil Rights in pursuing its responsibilities;

"(D) shall provide specific criteria, including the necessity of confidentiality to assure the reliability of study findings, defining the need for confidentiality against which the request of the Assistant Secretary, the Commissioner, the Director, or the Administrator shall be judged;

"(E) shall provide that the requesting education officer of the United States shall simultaneously publish the request, and its justification, and allow a period of thirty days for public comment upon the request before the Secretary may act upon it; and

"(F) shall include the general policies of each education officer of the United States regarding procedures to implement the Freedom of Information Act.".

TECHNICAL ASSISTANCE

SEC. 1323. Section 426 of the General Education Provisions Act is amended by redesignating subsection (c) as subsection (d) and by inserting immediately after subsection (b) the following new subsection:

"(c) In awarding contracts and grants for the development of curricula or related material, the Commissioner and the Director of the National Institute of Education shall—

"(1) encourage applicants to ensure that the curricula or materials will be developed in a manner conducive to later dissemination through ongoing consultations with publishers and others experienced in such dissemination;

"(2) permit applicants to include provisions for reasonable consultation fees; and

"(3) ensure that contracts for publication and dissemination of the curricula or materials are awarded competitively to those public and private organizations which can best assure that the curricula and materials will reach the target populations for which they were developed.".

STATE AND LOCAL ADMINISTRATION

SEC. 1324. (a) The General Education Provisions Act is further amended—

(1) by redesignating section 435 as section 409, by inserting such section (as so redesignated) immediately after section 408, and by deleting such section from its previous location;

(2) by redesignating section 437 (as amended by section 1312(b) of this Act) as section 406A, by inserting such section (as so redesignated) immediately after section 406, and by deleting such section from its previous location; and

(3) by striking out sections 434 and 436 and by inserting immediately after section 433 the following new subpart:

"Subpart 3—Administration of Education Programs and Projects by States and Local Educational Agencies

"STATE EDUCATIONAL AGENCY MONITORING AND ENFORCEMENT

"SEC. 434. (a) In the case of any applicable program in which Federal funds are made available to local agencies in a State through

or under the supervision of a State board or agency, the Commisioner may require the State to submit a plan for monitoring compliance by local agencies with Federal requirements under such program and for enforcement by the State of such requirements. The Commissioner may require such plan to provide—

"(1) for periodic visits by State personnel of programs administered by local agencies to determine whether such programs are being conducted in accordance with such requirements;

"(2) for periodic audits of expenditures under such programs by auditors of the State or other auditors not under the control, direction, or supervision of the local educational agency; and

"(3) that the State investigate and resolve all complaints received by the State, or referred to the State by the Commissioner, relating to the administration of such programs.

"(b) In order to enforce the Federal requirements under any applicable program the State may—

"(1) withhold approval, in whole or in part, of the application of a local agency for funds under the program until the State is satisfied that such requirements will be met; except that the State shall not finally disapprove such an application unless the State provides the local agency an opportunity for a hearing by an impartial hearing officer and such officer determines that there has been a substantial failure by the local agency to comply with any of such requirements;

"(2) suspend payments to any local agency, in whole or part, under the program if the State has reason to believe that the local agency has failed substantially to comply with any of such requirements; except that (A) the State shall not suspend such payments until fifteen days after the State provides the local agency an opportunity to show cause why such action should not be taken and (B) no such suspension shall continue in effect longer than sixty days unless the State within such period provides the notice for a hearing required under paragraph (3) of this subsection; and

"(3) withhold payments, in whole or in part, under any such program if the State finds, after reasonable notice and opportunity for a hearing before an impartial hearing officer, that the local agency has failed substantially to comply with any of such requirements.

Any withholding of payments under paragraph (3) of this subsection shall continue until the State is satisfied that there is no longer a failure to comply substantially with any of such requirements.

"SINGLE STATE APPLICATION

"SEC. 435. (a) Each State which desires to participate in programs authorized under—

"(1) title I of the Elementary and Secondary Education Act of 1965,

"(2) title IV of the Elementary and Secondary Education Act of 1965,

"(3) the Adult Education Act,

"(4) part B of the Education of the Handicapped Act,

"(5) part A of the Vocational Education Act of 1963,

"(6) the Library Services and Construction Act, or

"(7) any other applicable program designated by the Commissioner for the purposes of this section under which Federal funds are made available for use within the State, or for distribution to agencies or institutions within the State under the supervision of a State agency or board,

shall submit to the Commissioner a general application containing the assurances set forth in subsection (b). Such application may be submitted jointly for all programs covered by the application, or it may be submitted separately for each such program or for groups of programs. Each application submitted under this section must be approved by each official, agency, board, or other entity within the State which, under State law, is primarily responsible for supervision of the activities conducted under each program covered by the application.

"(b) An application submitted under subsection (a) shall set forth assurances, satisfactory to the Commissioner—

"(1) that each program will be administered in accordance with all applicable statutes, regulations, program plans, and applications;

"(2) that the control of funds provided under each program and title to property acquired with program funds will be in a public agency, or in a nonprofit private agency, institution, or organization if the statute authorizing the program provides for grants to such entities, and that the public agency or nonprofit private agency, institution, or organization will administer such funds and property;

"(3) that the State will adopt and use proper methods of administering each applicable program, including—

"(A) monitoring of agencies, institutions, and organizations responsible for carrying out each program, and the enforcement of any obligations imposed on those agencies, institutions, and organizations under law,

"(B) providing technical assistance, where necessary, to such agencies, institutions, and organizations,

"(C) encouraging the adoption of promising or innovative educational techniques by such agencies, institutions, and organizations,

"(D) the dissemination throughout the State of information on program requirements and successful practices, and

"(E) the correction of deficiencies in program operations that are identified through monitoring or evaluation;

"(4) that the State will evaluate the effectiveness of covered programs in meeting their statutory objectives, at such intervals (not less often than once every three years) and in accordance with such procedures as the Commissioner may prescribe by regulation, and that the State will cooperate in carrying out any evaluation of each program conducted by or for the Secretary or other Federal official;

"(5) that the State will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to the State under each program;

"(6) that the State will make reports to the Commissioner (including reports on the results of evaluations required under paragraph (4)) as may reasonably be necessary to enable the Commissioner to perform his duties under each program, and that the State will maintain such records, in accordance with the requirements of section 437 of this Act, and afford access to the records as the Commissioner may find necessary to carry out his duties; and

"(7) that the State will provide reasonable opportunities for the participation by local agencies, representatives of the class of individuals affected by each program, and other interested institutions, organizations, and individuals in the planning for and operation of each program, including the following:

"(A) the State will consult with relevant advisory committees, local agencies, interest groups, and experienced professionals in the development of program plans required by statute;

"(B) the State will publish each proposed plan, in a manner that will ensure circulation throughout the State, at least sixty days prior to the date on which the plan is submitted to the Commissioner or on which the plan becomes effective, whichever occurs earlier, with an opportunity for public comments on such plan to be accepted for at least thirty days;

"(C) the State will hold public hearings on the proposed plans if required by the Commissioner by regulation; and

"(D) the State will provide an opportunity for interested agencies, organizations, and individuals to suggest improvements in the administration of the program and to allege that there has been a failure by any entity to comply with applicable statutes and regulations.

"(c) Each general application submitted under this section shall remain in effect for the duration of any program it covers. The Commissioner shall not require the resubmission or amendment of that application unless required by changes in Federal or State law or by other significant changes in the circumstances affecting an assurance in that application.

"SINGLE LOCAL EDUCATIONAL AGENCY APPLICATION

"SEC. 436. (a) Each local educational agency which participates in an applicable program under which Federal funds are made available to such agency through a State agency or board shall submit to such agency or board a general application containing the assurances set forth in subsection (b). That application shall cover the participation by that local educational agency in all such programs.

"(b) The general application submitted by a local educational agency under subsection (a) shall set forth assurances—

"(1) that the local educational agency will administer each program covered by the application in accordance with all applicable statutes, regulations, program plans, and applications;

"(2) that the control of funds provided to the local educational agency under each program and title to property acquired with those funds, will be in a public agency and that a public agency will administer those funds and property;

"(3) that the local educational agency will use fiscal control and fund accounting procedures that will ensure proper disbursement of, and accounting for, Federal funds paid to that agency under each program;

"(4) that the local educational agency will make reports to the State agency or board and to the Commissioner as may reasonably be necessary to enable the State agency or board and the Commissioner to perform their duties and that the local educational agency will maintain such records, including the records required under section 437, and provide access to those records, as the State agency or board or the Commissioner deem necessary to perform their duties;

"(5) that the local educational agency will provide reasonable opportunities for the participation by teachers, parents, and other interested agencies, organizations, and individuals in the planning for and operation of each program;

"(6) that any applications, evaluation, periodic program plan or report relating to each program will be made readily available to parents and other members of the general public;

"(7) that in the case of any project involving construction—

"(A) the project is not inconsistent with overall State plans for the construction of school facilities, and

"(B) in developing plans for construction, due consideration will be given to excellence of architecture and design and to compliance with standards prescribed by the Secretary under section 504 of the Rehabilitation Act of 1973 in order to ensure that facilities constructed with the use of Federal funds are accessible to and usable by handicapped individuals; and

"(8) that the local educational agency has adopted effective procedures for acquiring and disseminating to teachers and administrators participating in each program significant information from educational research, demonstrations, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects.

"(c) A general application submitted under this section shall remain in effect for the duration of the programs it covers. The State agencies or boards administering the programs covered by the application shall not require the resubmission or amendment of such application unless required by changes in Federal or State law or by other significant change in the circumstances affecting an assurance in such application.".

(b) Part C of the General Education Provisions Act is further amended by inserting immediately after section 436 the following:

"Subpart 4—Records; Privacy; Limitation on Withholding Federal Funds

"RECORDS

"SEC. 437. (a) Each recipient of Federal funds under any applicable program through any grant, subgrant, contract, subcontract, loan, or other arrangement (other than procurement contracts awarded by an administrative head of an educational agency) shall keep records which fully disclose the amount and disposition by the recipient of those funds, the total cost of the activity for which the funds are used, the share of that cost provided from other sources, and such other records as will facilitate an effective audit. The recipient shall maintain such records for five years after the completion of the activity for which the funds are used.

"(b) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit examination, to any records of a recipient which may be related, or pertinent to, the grants, subgrants, contracts, subcontracts, loans, or other arrangements to which reference is made in subsection (a), or which may relate to the compliance of the recipient with any requirement of an applicable program.".

ENFORCEMENT

SEC. 1325. The General Education Provisions Act is amended by adding at the end thereof the following new part:

"PART E—ENFORCEMENT

"EDUCATION APPEAL BOARD

"SEC. 451. (a) The Commissioner shall establish in the Office of Education an Education Appeal Board (hereinafter in this part referred to as the 'Board') the functions of which shall be to conduct—

"(1) audit appeal hearings pursuant to section 452 of this Act,

"(2) withholding hearings pursuant to section 453 of this Act,

"(3) cease and desist hearings pursuant to section 454 of this Act, and

"(4) other proceedings designated by the Commissioner.

"(b) The members of the Board shall be designated by the Secretary, in consultation with the Assistant Secretary for Education and the Commissioner, and may include individuals who are officers or employees of the United States, as well as individuals who are not full-time employees of the Federal Government.

"(c) The Board shall be composed of not less than fifteen nor more than thirty members, of whom no more than one-third shall be officers or employees of the Department. The Secretary shall designate one of the members of the Board to be the Chairman of the Board.

"(d) For the purposes of conducting hearings as provided in subsection (a) the Chairman may appoint hearing panels of not less than three members of the Board, or the Chairman may designate the entire Board to sit as a panel for any case or class of cases. On any such panel—

"(1) the majority of members shall not be individuals in the full-time employment of the Federal Government,

"(2) the membership shall not include any individual who is a party to, or has any responsibility for, any particular matter assigned to that panel, and

"(3) the Chairman of the Board shall designate one member of each such panel to be the presiding officer.

"(e) The proceedings of the Board shall be conducted according to such rules as the Commissioner shall prescribe by regulation respecting—

"(1) the receipt of oral or written testimony,

"(2) notice of the issues to be considered,

"(3) the right to counsel,

"(4) intervention of third parties,

"(5) transcripts of proceedings, and

"(6) such other matters as may be necessary to carry out the functions of the Board.

"(f) If there has been established within the Department of Health, Education, and Welfare an appeal board which the Commissioner determines is capable of carrying out the functions of the Board established under this section, he may, with the approval of the Secretary, designate such Department appeal board to carry out the functions of this section.

"ADULT DETERMINATIONS

"SEC. 452. (a) Whenever the Commissioner determines that an expenditure not allowable under a program listed in section 435(a) of this title, or conducted under title VII of the Elementary and Secondary Education Act of 1965 or under the Emergency School Aid Act, has been made by a State or by a local educational agency, or that a State or local educational agency has otherwise failed to discharge its obligation to account for funds under any such program, the Commissioner shall give such State or local educational agency written notice of a final audit determination, and he shall at the same time notify such State or agency of its right to have such determination reviewed by the Board.

"(b) A State or a local educational agency that has received written notice of a final audit determination and that desires to have such determination reviewed by the Board shall submit to the Board an application for review not later than thirty days after receipt of notification of the final audit determination. The application for review shall be in the form and contain the information specified by the Board.

"(c) When a State or a local educational agency has submitted an application for review with respect to a final audit determination, no action shall be taken by the Commissioner to collect the amount determined to be owing until the Board has issued a final decision upholding the audit determination as to all or any part of such amount. The filing of such an application shall not affect the authority of the Commissioner to take any other adverse action against such State or agency under this part.

"(d) A decision of the Board with respect to an application for review under this section shall become final unless within sixty days following receipt by the State or by the local educational agency of written notice of the decision—

"(1) the Commissioner for good cause shown, modifies or sets aside the decision, in whole or in part, in which case the decision shall become final sixty days after such action by the Commissioner, or

"(2) the State or the local educational agency files a petition for judicial review as provided in section 455 of this Act.

"(e) A final audit determination by the Commissioner under subsection (a) with respect to which review has not been requested pursuant to subsection (b), or a final decision of the Board under this section upholding a final audit determination against a State or a local educational agency shall establish the amount of the audit determination as a claim of the United States which the State or the local educational agency shall be required to pay to the United States and which may be collected by the Commissioner in accordance with the Federal Claims Collection Act of 1966.

"(f)(1) Notwithstanding any other provision of law, the Commissioner may, subject to the notice requirements of paragraph (2), compromise any claim established under this section for which the initial determination was found to be not in excess of $50,000, where the Commissioner determines that (A) the collection of any or all of the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the claim has been corrected and will not recur.

"(2) Not less than forty-five days prior to the exercise of the authority to compromise a claim pursuant to paragraph (1), the Commissioner shall publish in the Federal Register a notice of his intention to do so. Such notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

"(g) No State and no local educational agency shall be liable to refund any amount expended under an applicable program which is determined to be unauthorized by law if that expenditure was made more than five years before that State or local educational agency is given the notice required by subsection (a).

"(h) The Secretary shall employ, assign, or transfer sufficient professional personnel to ensure that all matters brought before the Board may be dealt with in a timely manner.

"WITHHOLDINGS

"SEC. 453. (a) Whenever the Commissioner has reason to believe that any recipient of funds under any applicable program (other than a program to which regulations promulgated under section 497A of the Higher Education Act of 1965 apply), has failed to comply substantially with any requirement of law applicable to such funds, he shall notify such recipient in writing of his intention to withhold, in whole or in part, further payments under such program, including payments for State or local administrative costs, until he is satisfied that the recipient no longer fails to comply with such assurances or other terms.

"(b) The notification required under subsection (a) shall state (1) the facts upon which the Commissioner has based his belief and (2) a notice of opportuntiy for a hearing to be held on a date at least thirty days after the notification has been sent to the recipient. The hearing shall be held before the Board and shall be conducted in accordance with rules prescribed pursuant to section 451(c) of this Act.

"(c) Pending the outcome of any proceeding initiated under this section, the Commissioner may suspend payments to such a recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

"(d) The decision of the Board in any proceeding brought under this section shall become final unless within sixty days following receipt by the recipient of written notice of the decision—

"(1) the Commissioner for good cause shown, modifies, or sets aside the decision in whole or in part, in which case the decision as modified shall become final sixty days after such action by the Commissioner, or

"(2) the recipient files a petition for judicial review as provided in section 455 of this Act.

"CEASE AND DESIST ORDERS

"SEC. 454. (a) Whenever the Commissioner has reason to believe that any State or any local educational agency that receives funds under any applicable program has failed to comply substantially with any requirement of law applicable to such funds, in lieu of proceeding under section 453 of this Act, the Commissioner may issue and cause to be served upon such State or upon such local educational agency a complaint (1) stating the charges upon which his belief is based, and (2) containing a notice of a hearing to be held before the Board on a date at least thirty days after the service of that complaint.

"(b) The State or the local educational agency upon which such a complaint has been served shall have the right to appear before the Board on the date specified and to show cause why an order should not be entered by the Board requiring such State or such local educational agency to cease and desist from the violation of law charged in the complaint.

"(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Board. If upon that hearing the Board shall be of the opinion that the State or the local educational agency is in violation of any requirement of law as charged in the complaint, it shall make a report in writing stating its findings of fact and shall issue and cause to be served upon the State or the local educational agency an order requiring the State or the local educational agency to cease and desist from the practice, policy, or procedure which resulted in such violation.

"(d) The report and order of the Board shall become final on the sixtieth day following the date upon which the order of the Board was served upon the State or the local educational agency unless before that day the State or local educational agency files a petition for judicial review as provided in section 455 of this Act.

"(e) A final order of the Board under this section may be enforced, as determined by the Commissioner, by—

"(1) the withholding of any portion of the amount payable, including amounts payable for administrative costs, under the affected program to the State or the local educational agency against which the final order has been issued, or

"(2) the Commissioner certifying the facts to the Attorney General whose duty it shall be to cause appropriate proceeding to be brought for the enforcement of the order.

"JUDICIAL REVIEW

"SEC. 455. (a) Any recipient of funds under an applicable program that would be adversely affected by any action under section 452, 453, or 454 of this Act, and any State entitled to receive funds under a program listed in section 435(a) of this title whose application therefor has been disapproved by the Commissioner, shall be entitled to judicial review of such action in accordance with the provision of this section.

"(b) Any State, local educational agency, or other recipient entitled to judicial review under subsection (a) that desires such review of any action by the Commissioner or the Board qualifying for review under this section shall, within sixty days of that action, file with the United States Court of Appeals for the circuit in which that State, local educational agency, or other recipient is located a petition for review of such action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

"(c) The findings of fact by the Board, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Board to take further evidence, and the Board may thereupon make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(d) The court shall have jurisdiction to affirm the action of the Board or the Commissioner or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari for certification as provided in section 1254 of title 28, United States Code.".

ADVISORY COUNCIL CONSOLIDATION

SEC. 1326. Part D of the General Education Provisions Act is amended by adding at the end thereof the following new section:

"ADVISORY COUNCILS

"SEC. 450. Under regulations issued by the Commissioner, in a State with mandated parent advisory councils for State education programs which substantially meet the requirements and intent of Federal educational programs requiring parent advisory councils, a local education agency may provide for the consolidation of such parent advisory councils into a single school advisory council or a single district advisory council, to advise the school or district administration concerning appropriate State and Federal education programs. Such single school or district advisory council shall have as a majority of its members parents of the children eligible to be served and shall be composed of members elected by the parents. Such single school or district advisory councils shall, in accordance with section 35, section 703(a)(4)(E), and section 708(c)(3) of the Elementary and Secondary Education Act, be given responsibility by the local educational agency for advising the school or district in the planning for, and implementation and evaluation of, the school or district programs and projects being assisted by State or Federal education funds.".

CONFORMING AMENDMENT

SEC. 1327. Section 497A(a) of the Higher Education Act of 1965 is amended by striking out "or of section 434(c) of the General Education Provisions Act,".

PREPARATION OF CENSUS DATA

SEC. 1328. For the purpose of establishing a reliable statistical basis for the rendering of determinations under section 11(c) of the Elementary and Secondary Education Act of 1965, and for other purposes, the Secretary of Commerce shall take such steps as many be necessary to ensure that data developed from the 1980 decennial census will be available to the Secretary of Health, Education, and Welfare and to the Commissioner of Education identifying—

(1) family income by school district;

(2) parental education and occupation by school district; and

(3) the size of each cohort of children born within the same calendar year, by school district, separately identifying children aged five to seventeen, inclusive, and children aged zero to seventeen, inclusive.

GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS

SEC. 1329. There is hereby authorized to be appropriated $5,000,000 for the fiscal year ending September 30, 1979, and for each of the four succeeding fiscal years, for the purpose of providing general assistance to improve public education in the Virgin Islands.

TEACHER TRAINING ASSISTANCE

SEC. 1330. There is hereby authorized to be appropriated $2,000,000 for the fiscal year September 30, 1979, and for each of the four succeeding fiscal years for the purpose of assisting teacher training programs in Guam, American Samoa, the Virgin Islands, the North Mariana Islands, and the Trust Territory of the Pacific Islands. From the sums appropriated pursuant to this section the Commissioner of Education shall make grants and enter into contracts for the purpose of providing training to teachers in schools in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Commissioner may make grants to or contracts with any organization that he deems qualified to provide training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training.

EFFECTIVE DATES

SEC. 1331. The amendments made by sections 1321 and 1323 of this title shall be effective upon the enactment of this Act. The amendments made by section 1324 shall be effective with respect to appropriations for fiscal year 1980 and subsequent fiscal years. The amendments made by section 1325 shall be effective one hundred and twenty days after the enactment of this Act.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that title XIII be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MR. QUIE

Mr. QUIE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. QUIE: Page 375, after line 2 insert the following new section and renumber succeeding sections accordingly:

"AVAILABILITY OF EDUCATION REPORTS

"SEC. 1329. Any evaluation report or data or information collected in preparation of such report, which is paid for with appropriated funds, shall be made available, upon request, within 72 hours to the chairman and ranking minority member of the Committee on Education and Labor of the House of Representatives and of the Committee on Human Resources of the Senate."

Mr. QUIE. Mr. Chairman, the amendment which I offer to title XIII is intended to rectify a serious problem which has been brought to my attention in the last few weeks.

The problem centers on the clearance procedures which HEW has instituted in the last few months on reports and evaluation studies. Congressional committees have generally had a difficult time obtaining information from the bureaucracy in a timely fashion. However, since early this year it has become almost impossible to get reports out of HEW, apparently in some measure because those reports do not support administration legislative proposals.

For several months now I have been attempting to obtain a copy of a report which Congress mandated in the 1974 Education Amendments relating to updated information on the courts of low-income children. After repeated requests, I am now told that the report is being rewritten—I gather so as to better reflect current administration policy.

I believe that this manipulation of information, much of it requested by Congress, is reprehensible. If the facts con-

tradict the President's policy, so be it. Let us know. After all, all 535 of us in the two chambers in this building have been elected so that we can use our own judgments to arrive at conclusions that are best for the Nation, not just HEW.

The amendment which I have offered is tough. It requires HEW to deliver a copy of any evaluation report, data or information collected in preparation of such report within 72 hours of its request to the chairman and ranking minority member of the relevant committees in both chambers.

I do understand that my amendment may be viewed by some as being very, very tough. However, I view it as the legislative equivalent of hitting the donkey over the head with a 2 by 4: It will certainly get the attention of HEW. If there are better formulations, I will certainly consider them in conference. Right now I am convinced that without this amendment, problems will multiply and Congress will once again find itself waiting with tin cup in hand for some generous bureaucrat to come along and favor us with a few pence worth of helpful information.

I urge the enactment of my amendment.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, I wonder if the gentleman would be willing to change that 72 hours to perhaps 3 times 72, or 216 hours, or something like that. I think 72 hours is short. Make it a week. It is pretty much putting them under a strain to get the regulations over here from there, and it may contravene some other regulations.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. QUIE. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, with all due respect to the chairman, I would hope that the gentleman would consider an amendment but not consider extending the time.

Mr. QUIE. Make a suggestion.

Mr. FORD of Michigan. The experience, if the gentleman from Minnesota (Mr. QUIE) remembers, that we had last year was not very pleasant, when we knew of the existence of reports, which were paid for with several million dollars, but when we came right down to the bottom line and it was time to write the involved formulas, we could not get our hands on the reports. So for that reason I am happy to see the gentleman has offered this kind of amendment, but I think 72 hours for a report which is already written and just sitting on somebody's desk over there is time enough for HEW to get the reports up here.

I am not sure they always want to find a report which is already in existence. There are times when 1 day makes all the difference in the world if we are considering the entire markup of this bill in the subcommittee in 2 days. A week then would not have done us any good. So I hope the gentleman will not extend the time.

Mr. QUIE. I would say to the chairman of the committee that the experience that we have had has been with respect to these reports that are already written.

My information is that 72 hours is adequate time for them to get them up here. I think when those reports are available it is important that the committees of the Congress and the Members of the Congress receive them and that the administration should not be able to withhold them in order to rewrite them.

Mr. PERKINS. Mr. Chairman, will the gentleman yield again?

Mr. QUIE. Certainly I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I am just wondering how the gentleman would feel if he and I were down there in the Office of Education and we had to report something within 72 hours to the Congress, not knowing how many other bodies or how many other people we had to check it out with or who should know about the reports?

I thought that perhaps 7 days would be a reasonable time here.

Mr. QUIE. The problem that I had in my experience is that I just do not like to have them manipulate the reports. It is not a question of having to check with other people. These are public agencies. We are the Congress of the United States. We should have more opportunity than even the general public to receive it from them.

I was thinking for a while of even having it less than 72 hours, but I though 72 hours is certainly enough time for them to secure it. I would not mind adding another day to it if that would make the chairman feel better.

Mr. PERKINS. Let us make it 5 days.

Mr. QUIE. Let us make it 4 days.

Mr. PERKINS. We accept the modification of 4 days.

Mr. QUIE. Mr. Chairman, I ask unanimous consent that I may be permitted to modify my amendment by striking out 72 hours and inserting in lieu thereof 4 days.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota (Mr. QUIE)?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. QUIE) as modified.

The amendment, as modified, was agreed to.

The CHAIRMAN. Are there further amendments?

AMENDMENT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASHBROOK: Page 347, lines 4 and 9, redesignate subsections (d) and (e), as subsections (e) and (f), respectively, and after line 3 insert:

"(d) Section 419 of such Act is amended by redesignating subsection (c) thereof as subsection (d) and by inserting the following new subsection:

"(c)(1) The Comptroller General shall also monitor the performance of the Secretary in carrying out the functions assigned under section 417 of this Act, and particularly those under subsection (a)(1) of such section (relating to setting forth the goals and specific objectives in qualitative and quantitative terms for programs and projects assisted under an applicable program, and providing information on the progress being made to achieve such goals and objectives), and shall report to the appropriate committees of the House of Representatives and the Senate not later than March 1 of each year concerning such performance.

"(2) The report of the Comptroller General required by this subsection shall—

"(A) cover the reports required to be made not later than November 1 of the previous calendar year; and

"(B) evaluate the adequacy of such reports including a judgment as to whether the stated goals and objectives are appropriate and an evaluation of the means by which the Secretary assessed progress toward meeting such goals and objectives.

"(3) In carrying out the functions assigned under this subsection, the Comptroller General may each year select a representative sample of the programs for which the Secretary is required to file reports under section 417 of this Act, giving preference to those programs considered to be more important or involving larger expenditures of Federal funds."

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered by the gentleman from Ohio (Mr. ASHBROOK) be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. ASHBROOK. Mr. Chairman, section 417 of the General Education Provisions Act requires the Secretary of HEW to set forth specific goals and objectives, in qualitative and quantitative terms, for Federal education programs he administers. It also requires the Secretary to evaluate these programs and report to the Congress on progress made toward meeting their set goals and objectives.

Unfortunately, the U.S. Office of Education has balked at even setting goals and objectives required by law, let alone reporting on progress in meeting them. As a result, the General Accounting Office, which increasingly has been concerned with evaluating Federal education programs, has been unable to do this job effectively. In a report to the Congress of September 8, 1977—"Problems and Needed Improvements in Evaluating Office of Education Programs"—the Comptroller General documents OE's written refusal to carry out section 417. Their reasoning is interesting. OE told the GAO that it could not define program objectives in many cases because the "legislation fails to state a program's objectives with sufficient clarity." OE went on to state that:

Very often this failure of the legislation to be clear and precise on program objectives is the price paid through political compromise for getting the legislation passed at all.

I think OE was saying that if Congress knew what it was doing, we would not do it.

Section 419 of that act gives the Comptroller General authority to evaluate any Federal education program at the request of a congressional committee. The amendment proposed to that section would add the authority to monitor the performance of the Secretary of HEW in carrying out the mandates of section 417 and report GAO's findings to the appropriate committees of the Congress. This puts some teeth into the requirements of section 417 and should strengthen the hand of the Comptroller General in attempting to assure that Congress receives a proper evaluation of Federal education programs. If we are to continue to authorize the expenditure of billions of dollars annually for these purposes, we should at the very least insist upon thorough evaluation, including that of the independent arms of the Congress, the General Accounting Office. This could be a very effective first step toward improving the performance of Federal programs in education in carrying out the purposes intended by the Congress.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, we have no objection to the amendment. It would require the GAO to monitor HEW compliance with the legislative requirement that all Federal programs be evaluated in terms of their fulfilling the goals and objectives of the program. The amendment is a good amendment and I urge its adoption.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. ASHBROOK).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PHILLIP BURTON

Mr. PHILLIP BURTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PHILLIP BURTON: Page 376 insert the following new section and redesignate the following sections and references thereto accordingly:

"TELEVISION PROGRAM ASSISTANCE

"SEC. 1331. (a) The Secretary is authorized to make grants to and contracts with public and private agencies for the production, development, or distribution (or any combination thereof) of programs designed for television systems, whether broadcast or non-broadcast. At least one grant or contract under this section shall be for a proven instructional program which focuses on the specific learning needs of children and youth who need enrichment, compensatory, and bilingual education.

"(b) The Assistant Secretary for Education shall be responsible for the administration of this section and shall also conduct surveys, research, and evaluation studies which may assist in decisions to support pilots programs for full scale production.

Mr. PHILLIP BURTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PHILLIP BURTON. Mr. Chairman, this is the amendment relating to educational television. It has been cleared by both sides. I would urge its adoption. It is self-evident as to its thrust and importance.

Mr. PERKINS. Mr. Chairman, will the distinguished gentleman from California (Mr. PHILLIP BURTON) yield?

Mr. PHILLIP BURTON. I am happy to yield to the gentleman from Kentucky (Mr. PERKINS).

Mr. PERKINS. Mr. Chairman, this just provides authority to the Secretary of HEW to fund televising of bilingual educational programs out of the same funds that is already in the legislation. We certainly have no objection to it.

I urge its adoption.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PHILLIP BURTON. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, the gentleman from California (Mr. PHILLIP BURTON) talked to me about the amendment. I understand the program in California. It has already been approved and provision made for its authorization. If there is any problem we will recognize that in conference.

So I will accept the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PHILLIP BURTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ROBERT W. DANIEL, JR.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ROBERT W. DANIEL, JR.: Page 346, strike out lines 10 through 12 and insert in lieu thereof the following:

(3) Section 408 of such Act is further amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by inserting immediately after subsection (a) the following new subsection:

"(b) The administrative head of an education agency shall ensure that, in contracting under the authority of this section for the services of independent persons in the competitive review of grant applications, all such persons are qualified, by education and experience, to perform such services. The qualifications of such persons and the terms of such contracts, other than information which identify such person, shall be readily made available to the public.".

(4) Section 408(d) of such Act (as redesignated by paragraph (3) of this subsection) is amended by striking out "For the purposes of this section" and inserting in lieu thereof "For the purposes of this title".

Mr. ROBERT W. DANIEL, JR. (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I have seen the House too often reject amendments which were described by their patrons as "simple and noncontroversial" to so ordain mine. Let me merely describe the amendment I am proposing now as prudent, economical, responsible, and productive. Nothing more.

It is also readily understood and quickly explained, a cardinal virtue at this hour. My amendment would require that the heads of the various education agencies, when contracting for the services of consultants, "insure that * * * all such persons are qualified, by education and experience, to perform such services." Moreover, the qualifications of these consultants and the terms of their contracts, but not any personally identifiable information, would be a matter of public record. Hence, outside panelists whose evaluations of grant applications are secured with tax dollars—and whose criticisms may determine whether or not our school districts receive certain Federal funds—will have to be possessed of some minimal competency.

That is not, of course, asking a lot. One would hope, in fact, that an amendment of this nature would be unnecessary. To those unfamiliar with the Federal education apparatus, it would seem that $100-a-day fees would only be flowing to evaluators skilled in the subject area being evaluated. None of us would expect to see tax dollars purchasing, say, the critique of a remedial reading program by a semiliterate.

That, however, is precisely what has happened; it happened in my district and has reportedly happened in many of our colleagues' districts. A grant application evaluator with barely a preschool facility for writing has composed, for $100-a-day and expenses, a nonsensical, ungrammatical criticism of a proposed reading and math program in Hopewell, Va. This evaluator, in return for our tax dollars, has rendered a prosaic piece that rivals "Alice in Wonderland" for metaphor and poetic license, with a single failing: unlike Lewis Carroll, our HEW prodigy was indulging in neither satire nor fantasy.

Let me share with you an example or two of the supposed shortcomings of the proposed Hopewell reading and math program, as unveiled by this publicly funded consultant. Consider, for instance, this alleged problem with the Hopewell program: "There is no realistically promises that addresses the needs identified in the proposed program." A damning indictment, indeed. Worse yet, reported the HEW evaluator, the remedial program suffered this defect: "No specified services that can verify the emphasizes to an individual." And another thing, the critique insisted: "The objectivities did not specify to the quantifiable of the success of the proposed program." Small wonder that Hopewell's grant has been delayed, what with all those unspecified objectivities and unverified emphasizes.

Unfortunately, Mr. Chairman, Hopewell's experience with the grant application process is not unique: the Office of Education informs me that this same incompetent panelist reviewed applica-

tions last year from approximately 30 other localities. Among my colleagues in this Chamber now are undoubtedly some who, in the last few months, had education grant applications from their districts criticized by a taxpayer-subsidized consultant in search of "verified emphasizes." While the kind of federally funded inanity I have quoted is surely the exception rather than the rule, it should be ruled out. My amendment is an effort to do that.

My amendment does not, I would emphasize, tie HEW's hands. It is not so specific as to be inflexible, nor so threatening as to discourage citizen participation. Indeed, it was drafted with the aid of helpful, informed bipartisan counsel from the Education and Labor Committee. Unlike current law—eminently important and expensive law, affecting millions of dollars and thousands of school children across the country—it requires an in-house effort to screen out incompetent consultants. It stipulates that some qualifications must exist, in terms of education and experience, before grant application evaluators are hired. Moreover, it provides the committee and the Congress a clear oversight responsibility and the public, an opportunity to know what services their taxes are buying. Without undermining the Office of Education's administrative flexibility, and without threatening privacy invasion, my amendment requires that consideration be given to what qualifications merit the public purchase of a given panelist's services.

In short, I submit that with my amendment, the odds would be stacked against the unschooled and the semiliterate selling the public their observations on remedial reading programs. It avoids dictation to HEW of panelist choices, but mandates a procedure for weeding out the clearly unqualified. I urge my colleagues from both sides of the aisle, even those who, like me, know nothing of unspecified objective, to join in support of this competency amendment.

Mr. PERKINS. Mr. Chairman, will the gentleman yield to me?

Mr. ROBERT W. DANIEL, JR. I will be pleased to yield to the chairman. the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

As I understand the gentleman's amendment, it would require HEW to insure that persons who receive contracts to review grant applications must be qualified to perform such services. Naturally, we are all in favor of this amendment. We accept the amendment.

Mr. ROBERT W. DANIEL, JR. I appreciate the gentleman's support.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. ROBERT W. DANIEL, JR. I yield to the gentleman from Minnesota.

Mr. QUIE. I thank the gentleman for yielding.

This is a good amendment. We accept it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. ROBERT W. DANIEL, JR.).

The amendment was agreed to.

AMENDMENT OFFERED BY MS. HOLTZMAN

Ms. HOLTZMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Ms. HOLTZMAN: Page 375, insert the following new section after line 25:

COMPREHENSIVE STUDY OF EVALUATION Practices and Procedures

"SEC. 1331. The Commissioner of Education shall conduct a comprehensive study of evaluation practices and procedures at the national, State, and local levels with respect to federally-funded elementary and secondary educational programs and shall report to Congress within one year after the date of enactment of this Act with proposals and recommendations for the revision or modification of any part or all of such practices and procedures. Such proposals and recommendations shall include provisions—

(1) to ensure that evaluations are based on uniform methods and measurements;

(2) to ensure that integrity and independence of the evaluation process; and

(3) to ensure appropriate follow-up on the evaluations that are conducted."

Redesignate the following section and conform the table of contents accordingly.

Ms. HOLTZMAN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentlewoman from New York?

There was no objection.

Ms. HOLTZMAN. Mr. Chairman, I want to compliment the Committee on Education and Labor and especially the distinguished and able Chairman of the committee (Mr. PERKINS) for this very important bill on elementary and secondary education.

I am offering a modest but, I think, necessary and useful amendment. It simply would require the Commissioner of Education to review the present procedures for evaluation to see how they could be improved and to report back to Congress with his suggestions and recommendations within 1 year.

I am concerned that we try to get the most out of our education dollars. This is impossible without an effective evaluation process which allows us to learn from our mistakes and build on our successes.

At present, most federally funded programs in elementary and secondary schools must be evaluated, but the evaluation process is inadequate. There are no requirements for follow-up on evaluations—and many, including highly critical ones, are filed away or forgotten. The absence of any uniform procedures or standards makes it difficult to compare different education programs and permits the use of inadequate evaluations at the local and State level. Another problem is that many school districts select their own evaluators, who in order to obtain future contracts may be less than candid in their appraisals.

To improve education programs, we need honest, thorough, effective evaluations which are followed up.

My amendment calls on the Committee of Education to recommend ways of improving the integrity and effectiveness of evaluations. Without such evaluations we cannot be sure that our education dollars are as well spent as they should be.

Mr. PERKINS. Mr. Chairman, will the gentlewoman, Ms. HOLTZMAN, yield to me?

Ms. HOLTZMAN. I would be delighted to yield to the distinguished gentleman from Kentucky.

Mr. PERKINS. I thank the gentlewoman for yielding.

Let me say that in my judgment the gentlewoman's amendment is entirely appropriate and fitting at this place in the RECORD. It is something that should be required, appropriate evaluations, and we accept the amendment.

Mr. QUIE. Mr. Chairman, will the gentlewoman yield?

Ms. HOLTZMAN. I yield to the gentleman from Minnesota.

Mr. QUIE. I thank the gentlewoman for yielding.

I believe that the 1-year comprehensive study of the evaluation practices would be very beneficial to this committee, and I would be happy to accept the amendment.

Ms. HOLTZMAN. I thank the gentlemen for their comments.

Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New York (Ms. HOLTZMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PANETTA

Mr. PANETTA. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr PANETTA: Page 341, line 20, strike out "and"; on page 342, line 2, strike out the period and insert in lieu thereof"; and"; and insert immediately after line 2 on page 342 the following new subparagraph:

"(F) develop, in consultation with Federal, State, and local educational agencies, procedures whereby educational agencies and institutions are permitted to submit information required under any Federal education program to a single Federal or State educational agency.

Mr. PANETTA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PANETTA. Mr. Chairman, the amendment I am offering today is really quite simple but I feel it goes directly to the heart of what is wrong with so many of our Government programs, especially in the area of education, and that is, unnecessary paperwork. The reams of forms and redtape that are currently required by Federal education programs have literally tied many local educational agencies in knots, delaying

the delivery of services which are vital to the children of our communities.

I am sure that you, like me, have heard complaints from school administrators time and time again that filling out government forms is taking all their time and is extremely costly. As a matter of fact, in my district, many administrators are fed-up to the point of the total frustration with such programs. In my view, this attitude has got to be turned around. As Representatives we must make government a positive, rather than a negative force, in the lives of our constituents. Eliminating duplicative forms on the local level is one way to demonstrate to the public that we are listening to their concerns and that we can respond.

My amendment would direct the Administrator for the National Center for Education Statistics to develop new procedures whereby local agencies and institutions would be permitted to submit information to a single Federal or State agency and not admit duplicate forms to any level of government. It is my hope that this provision along with others contained in this section of the bill will facilitate the elimination of excessive and redundant information requests, thus allowing local educational agencies to pay attention to the more important business of educating our children.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, let me thank the distinguished gentleman from California (Mr. PANETTA) for yielding.

We are wholeheartedly in agreement with the purpose of this amendment. We are very much for it and accept the amendment on this side.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, from the gentleman's experience when the gentleman was heading OCR, this would enable even those reports to be given to that agency and if anyone wanted to hear further on them, they could contact that agency?

Mr. PANETTA. That is correct.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. PANETTA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CUNNINGHAM

Mr. CUNNINGHAM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CUNNINGHAM: Page 347, line 9 strike out "(e)" and insert in lieu thereof "(f)" and after line 8 insert:

(e) Such Act is further amended by inserting a new section, as follows:

"Definition of 'Parent'

"SEC. 441. As used in any statute authorizing any applicable program, the term 'parent' means natural parent, a person awarded custody of a child, adopted parent, or parent of a child born out of wedlock."

Mr. CUNNINGHAM. Mr. Chairman, I have shared this with both the chairman of the committee and also the ranking minority member. This language is simply taken from the current uniform child custody law. It is done in an attempt to have consistency with Federal law to that being adopted at the various State levels. Many of us, I know, have served in State legislatures and appreciate the fact it is important to let Federal law conform to State law, and vice versa.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the distinguished chairman.

Mr. PERKINS. Mr. Chairman, let me say to the distinguished gentleman from Washington, as I understand the amendment it sets a uniform definition for the term "parent" for all Federal education programs. That is a broad definition. Having just seen the amendment a little while ago, I am not sure of all its effects; but I do have a concern that maybe it affects the impact aid program in a way that we do not understand at this time, since funds under that program are distributed to children of federally connected parents. I am somewhat concerned that we may be unintentionally expanding or cutting back on that program through this amendment.

Another problem may be with the Indian programs. The committee bill includes a new definition of parent for the Indian Education Act. We are not sure whether this amendment expands or contracts that provision.

As far as I am concerned, the gentleman's amendment is very indefinite. I have some reservations about the amendment.

Mr. CUNNINGHAM. Mr. Chairman, I can appreciate that and I know the gentleman has a desire to address the problem uniformly. My problem is that there is a new Uniform Child Custody Act that is being adopted nationally. The problem that I have, not only within this bill, but other education bills and Federal law, is that there is no consistency in the definition of "parent."

Mr. PERKINS. The gentleman needs a uniform definition of the word "parent"?

Mr. CUNNINGHAM. Well, apparently there seems to be a concern, we all know what a parent is, but somehow we do not seem to be able to commit that definition to paper.

Mr. Chairman, I would strongly urge that the committee accept the amendment.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I would like to ask a couple questions. The gentleman's amendment appears to be two things that trouble me. The first one is that to have a Federal definition of "parent" sort of scarces me, because we are dealing with more than 50 different States and territorial systems.

Heretofore we have relied on the laws of the States to determine who the parent of the child was. We have a number of parent advisory provisions, we have the rights of parents to examine records, and so on. We have never found it necessary to have the Federal Government decide who the parent was; we have left that up to the States.

Mr. CUNNINGHAM. Mr. Chairman, if the gentleman would just let me interject, perhaps I can clarify it.

The Uniform Child Custody Act is being adopted by the States at the State level. I am sure the gentleman is aware that the problem is that the Federal definitions are various, and what I would strongly suggest is this:

No. 1, there are several definitions in the bill before us right now. The chairman of the committee referred to this, and if we would take a look at it, we would find in the impact legislation one definition under that title. If we go to Public Law 84-352, there is still another definition. Then if we take a look at the proposed House Resolution 2505, we would find still another definition.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield further?

Mr. CUNNINGHAM. I will yield in just a few seconds.

Mr. Chairman, it would just seem to me proper for us to go ahead and get in step with the definitions of the States. The States, mind you, are adopting this as the uniform definition.

Mr. FORD of Michigan. Mr. Chairman, if the gentleman will yield, I suggest that what the gentleman says he wants to do and what this amendment does are contradictory.

The CHAIRMAN. The time of the gentleman from Washington (Mr. CUNNINGHAM) has expired.

(On request of Mr. PERKINS, and by unanimous consent, Mr. CUNNINGHAM was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, the gentleman made reference to "parents." I suggest to the gentleman that if he examines the entire compendium of Federal education laws, he will find no definition of "parent" in this instrument. He will find many references to "parent," but what a parent is in Alaska is what Alaska says a parent is and what the Alaska school system says a parent is. What a parent is in Michigan or what a parent is in Washington is what our respective States say that word means.

We have never intended to inject ourselves into the role of defining that status for them.

Secondly, if in fact the States are adopting some kind of a uniform definition of "parent" for all purposes, including the relationship between a person and a child for eligibility to attend public schools, then that problem would take care of itself in those States that adopt the uniform act, and it would be traditional in those States that do not. But I would like to leave it up to them to continue doing this.

Furthermore, the gentleman has one serious problem here, in that he limits the definition of a "parent" to mean a "natural parent, a person awarded custody of a child,"—and I assume that

means the person currently having custody, not one having once been awarded custody, but having current custody of a child—"adopted parent, or parent of a child born out of wedlock."

Now, in my State the father of a child born out of wedlock is not a parent. I do not know how many other States have that kind of an anomaly, but it is the mother of an illegitimate child who puts the child in school, who makes the decisions, and who can raise the child for adoption and do all sorts of things. The father, since he has not been acknowledged to be the father under the law, really does not have any rights with respect to the child.

The gentleman adds a parent here that my State does not now consider to be a parent, but then he leaves out another class of people.

The CHAIRMAN. The time of the gentleman from Washington (Mr. CUNNINGHAM) has again expired.

(On request of Mr. FORD of Michigan, and by unanimous consent, Mr. CUNNINGHAM was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield further?

Mr. CUNNINGHAM. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, let me ask this question:

What about the situation where someone has a family tragedy and there are 2 or 3 children and the aunt and uncle are raising the children?

Normally, in most of our States the school system would consider those children to be residents of the household and not question their right to go to public school and receive funds under these programs. But the gentleman would make every school system question the households to determine whether the children being sent to school out of those households were children born out of wedlock, children who were adopted, or natural born children.

Aside from the paperwork and the problem involved of trying to establish that status as a condition precedent to the getting of Federal funds, there is a problem in that the gentleman leaves out a not uncommon situation where children who are none of these things to the people who are raising them are in fact attending public schools.

I just think, as the chairman of the committee feels, that, while we sympathize with the gentleman's attempt to simplify this definition for people in the country, the gentleman may complicate it.

Maybe we ought to hold hearings on it the next time around.

The CHAIRMAN. The time of the gentleman from Washington (Mr. CUNNINGHAM) has expired.

(On request of Mr. PERKINS, and by unanimous consent, Mr. CUNNINGHAM, was allowed to proceed for 1 additional minute.)

Mr. PERKINS. Mr. Chairman, if the gentleman will yield to me, I would just like to state that, with the modifications of the definitions by the gentleman, I am in a predicament where I do not know whether he really expands or limits the impacted aid program. I think I agree with the gentleman from Michigan (Mr. FORD) that we should hold some hearings. In view of the ambiguities, I would hope that the Members would not approve this amendment at this time because we really do not know what is in this amendment. Let the gentleman come before the committee at some future date, and we will give him a hearing and we will do the best we can with it at some future date.

Mr. CUNNINGHAM. Mr. Chairman, I have great respect for the committee and the chairman, and if I have some assurance that the committee will within the not-too-distant future address this problem of uniformity in defining this definition and a few others, I will ask unanimous consent to withdrew my amendment.

Mr. PERKINS. Mr. Chairman, I think the gentleman can get assurance from both myself and the gentleman from Minnesota (Mr. QUIE) that we will hold hearings on the problem.

Mr. CUNNINGHAM. Mr. Chairman, I ask unanimous consent to withdraw the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. Are there further amendments to title XIII?

AMENDMENT OFFERED BY MR. M'CLOSKEY

Mr. McCLOSKEY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCLOSKEY: On page 349 strike out the line 1 and everything that follows through line 17 on page 350 and insert in lieu thereof the following:

"(k)(1) The Department of Health, Education, and Welfare shall not disclose the identity of individual schools, local educational agencies, State educational agencies, or institutions or post-secondary education (as described in section 1202 of the Higher Education Act of 1965) which participate in any federally funded research study, funded in whole or in part through the Education Division of that Department, which necessitates an assurance of the confidentiality of identity in order to obtain the full and candid response of individuals participating in the study, if such study—

"(A) is limited to a specific sample or selection of such schools, agencies, or institutions;

"(B) is not required of such schools, agencies, or institutions by any statute or regulation pertaining to the Federal education program or programs which are the subject of such study for the purpose of any auditing, monitoring, or enforcement duty or procedure;

"(C) is based on the voluntary participation of such schools, agencies, or institutions; and

"(D) is conducted only after a notice describing and justifying the proposed study has been published in the Federal Register, for the purpose of obtaining public comment thereon, by the officer of the office or agency initiating the proposal, not less than thirty days prior to any action upon the proposal.

"(2) The provisions of this subsection shall terminate December 31, 1980."

Mr. McCLOSKEY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. PERKINS. Mr. Chairman, will the gentleman yield, in order to try to save a little time?

Mr. McCLOSKEY. I yield to the gentleman from Kentucky.

Mr. PERKINS. I thank the gentleman for yielding.

Mr. Chairman, let me say that I understand the gentleman from North Carolina (Mr. PREYER) is also interested in this amendment that the gentleman is offering at this time. As I understand the amendment, it would rewrite, in order to clarify, a provision in the committee bill forbidding the disclosure of information on institutions participating in Federal research and evaluation programs. As I further understand the amendment, it would include a termination date of January 1, 1980. Am I correct?

Mr. McCLOSKEY. The gentleman is correct. The amendment seeks to do what the committee has sought to do by instructions to the Secretary on the proposed regulations and standards. This would do it by law, but it would have a sunset provision of 3 years.

Mr. PERKINS. With that understanding, Mr. Chairman, I accept the amendment.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. McCLOSKEY. I yield to the gentleman from Minnesota.

Mr. QUIE. I thank the gentleman for yielding.

Mr. Chairman, I will let the amendment go through, but I just want the gentleman to know I have grave reservations about it. I think we may have gone to far in the bill itself, because the question of public schools not providing information for people to know, since we are opening up the Government, we are opening up the Congress, I think the people ought to know what is going on in schools, as well.

I will do it, but I will not make any promise about supporting it in conference.

Mr. McCLOSKEY. I understand the gentleman's reservation. What we sought to do in the amendment is write in the precise law of what we understood the Secretary was doing by regulation. The pages of regulations that would have been required to carry out the committee's mandate, in my judgment, would have burdened the Congress and the American people with so much committee work that it would be redundant. That is the purpose of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. McCLOSKEY).

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title XIII?

Mr. BADHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this time to bring to the attention of the body a situation which occurred in my district that has to do with this matter of educational administration, the administration and all

the wonderful things we attempt to do in this body with the administrative provisions of the Elementary and Secondary Education Act.

I take this time to point out to the Members some of the ridiculous things that do occur in the United States in our efforts to make things better and make things wonderful for all the children in the educational system of our land.

In my district, which is, I have to say modestly, a fairly sophisticated district within the United States, we have a situation where in our athletic system, which as the Members know, now must be all equal, male and female, due to the terms of this act that was passed many years ago, we have to have equal facilities for boys and girls, physical education and athletic programs and so forth.

An irate parent of a student in my district wrote to the school district and complained that his daughter on the swimming team did not receive a letter for her athletic prowess in swimming. He complained to the school district and ultimately to the office of HEW, the Civil Rights Enforcement Office in San Francisco. Correspondence and telephone calls went back and forth; and the Federal Government, through its minions in HEW, sent the following letter to my school district.

Mr. Chairman, I would like to read this letter into the RECORD at this time just to let the Members of this House know what we are paying for when we hire all these people to do all these things throughout this whole country.

The letter reads as follows:

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
San Francisco, Calif., June 22, 1978.

When replying, please refer to Control No. R9-78-0119.

Dr. NORMAN R. LOATS,
Deputy Superintendent, Newport-Mesa Unified School District, Newport Beach, Calif.

DEAR DR. LOATS: On June 14, 1978, in a telephone conversation with Ms. Helen Walsh, of my staff, you indicated that you planned to call the principal of Corona del Mar High School to request further action regarding the awarding of athletic letters to eligible female athletes. You said, essentially, that you were going to request that the principal announce to all students, that eligible female athletes should go to the athletic director and pick up their athletic letters. According to the complainant in this case, he is not aware of any such announcement being made at the high school, either June 14 or June 15. Furthermore, according to the complainant, June 15 was the last day of school. Because of this particular set of circumstances, in order to satisfy our legal obligations regarding this complaint, it now is necessary that we request certain information of the school district.

Based on a letter from Mr. Evans, the principal, to the complainant, it is our understanding that separate standards are applied in giving awards to male and female athletes. If female athletes, in 1976-1977 and 1977-1978, who would have been eligible to receive athletic letters (based on the standards applied to the boys), have now been awarded those letters, we will need only minimal information. Specifically, we will need the names, addresses and telephone numbers of all those athletes, in order that we may verify that they either received the letters or declined acceptance of them.

If the female athletes who were eligible to receive the letters, did not receive them, we will need more definitive information, in order that we may reach a final, legal determination regarding the complaint. Specifically we will need the following information:

1. For each athletic team offered at Corona del Mar High in 1976-1977 and 1977-1978, please provide the name and school grade of each student on each team. Indicate, for each year, whether they received a letter, certificate or neither. For each female athlete, please also provide the home address and phone number of the student. For each female who did not receive a letter, please also indicate if she would have been eligible to receive a letter based upon the standards used for boys. In addition, if any boys were eligible to receive letters but did not, please state who they were and explain why they didn't receive the award.

2. Please provide a written description of the school's policy on awarding letters and certificates to athletes, the eligibility standards for such awards, by sport and sex, and a written justification for why separate sex-based standards are used in determining the type of award athletes will receive.

3. Please indicate who set the policies and standards referred to above. And finally,

4. What changes, if any, are planned for 1978-1979, with regard to giving athletic awards?

We would appreciate it if you would respond to this information request within fifteen days from the receipt of this letter. We do realize that some of the information requested is confidential in nature and protected by the Privacy Act. However, please be advised that for the purposes of conducting investigations, this office is exempt from those provisions of the Privacy Act and eligible to receive the personal information that has been requested. Naturally, however, we must and do insure that all such personal data is protected from any unauthorized disclosure.

If you have any questions regarding this request, please feel free to contact Ms. Helen Walsh, of my staff, at (415) 556-7610.

Thank you for your cooperation.

Sincerely,

JOHN E. PALOMINO,
Education Branch Chief.

Mr. Chairman, I simply bring this to the attention of the House because I think it is high time that we knocked off some of the fatuity of the Federal bureaucracy and got down to education rather than filling out forms and doing paperwork and other meaningless nonsense.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I thank the gentleman for yielding.

I think the people at HEW should be commended for responding with such diligence to a complaint of one of the gentleman's constituents.

God forbid if the bureaucracy had been unresponsive. Then someone could have pointed a finger and said, "Here is a taxpayer who wants a response from HEW and does not get it."

In this instance they are diligently pursuing the complaint of one citizen; and if the rights of one citizen are abridged, all of our rights are abridged.

Mr. BADHAM. I thank the gentleman for really getting the point I am making. If this happened 220 million times, the paper-manufacturing industry would be well pleased.

Ms. OAKAR. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Chairman, I thank the gentleman for yielding.

The gentleman does not really object to girls who are interested in a viable sports program being treated in the same manner as boys would be, does he?

Mr. BADHAM. No, no, the gentlewoman missed my point. I am wholeheartedly in support of this. What I am saying is that it should not take reams of paper to do what can be handled by one telephone call, and was indeed handled in that manner. In the revision and extension of my remarks, if the gentlewoman will read them tomorrow, she will find that the sequel was that the whole thing was handled before HEW ever got into the act.

Ms. OAKAR. I thank the gentleman.

The CHAIRMAN. Are there any further amendments to title XIII?

AMENDMENT OFFERED BY MR. DENT

● Mr. DENT. Mr. Chairman, I rise to offer a committee-approved amendment to H.R. 15, in the form of a new title 14, relating to the formal establishment of a Defense dependents' education system. The amendment is jointly sponsored by myself and the gentleman from Illinois (Mr. ERLENBORN), the ranking minority member of the Subcommittee on Labor Standards. The subcommittee has historically had legislative jurisdiction within our full Committee on Education and Labor over the quality of education in Department of Defense schools and has for more than 10 years actively moved DOD schools to the point where this legislation is now possible.

Mr. Chairman, as I indicated earlier, this amendment was before the full committee for consideration and was approved by a vote of 31 to 4. It was approved as a substitute to H.R. 11808 and H.R. 9892, and emerges in final form as a measure that enjoys broad bipartisan support, as the gentleman from Illinois, Mr. ERLENBORN, will shortly attest. It is also supported by the Department of Defense and the Overseas Education Association, Inc., an affiliate of the National Education Association.

The amendment finally establishes a statutory basis and organization for a Federal educational apparatus that now includes 264 schools enrolling 151,000 students in 26 foreign countries. This has been the paramount recommendation of our committee since our first oversight inquiry of the overseas dependents' schools in 1965. It creates within the Department of Defense a Director of Education accountable to the Congress and extends to those students in the affected schools the benefits of the National School Lunch Act and the Child Nutrition Act. It, in essence, provides to those children of military personnel the same educational opportunities that are accorded our children in the United States.

The Department of Defense (DOD) school system has never operated under

a legislative mandate; its operational guidelines have come in the form of recommendations from the Congress, and over a long period of time. It was as late as 1976 that an administrative directive finally ordered the DOD to consolidate the management of and the responsibility for the school system under one office. The consolidation followed repeated congressional recommendations that such organization was a prerequisite for the quality education of dependents overseas.

Such lack of coordination results because DOD schools have not been separated from the military aspects of overseas bases; consequently, the priority accorded the school system has been low, and more often than not, the schools have been controlled by a military base commander rather than qualified, educational personnel. Congressional oversight, particularly by the Subcommittee on Labor Standards, has ended much of that neglected status, and it is with this legislation that the Congress hopes to finally implement a legislative mandate that the DOD provide a quality educational system for the 151,000 children of service people overseas. Needless to say, such a mandate is long overdue.

Mr. Chairman, it should be noted that the Carter administration has proposed the establishment of a Cabinet Department of Education. That recommendation contemplates inclusion of the DOD overseas dependents' schools into the new Department of Education. The amendment before us is entirely consistent with that proposal and in effect provides a more coherent entity for inclusion into a Department of Education than does the present informal structure. The chief purpose of this amendment is to establish a unified program for the quality education of minor dependents of military and civilian personnel overseas while the broader but correlative purpose of a Cabinet-level Department of Education is to insure equal educational opportunity and improved quality of education for all. It is anticipated that this amendment would not in any way interfere with or supplant the intent of the administration to create a Department of Education; the issues are separate, and it is the intent of the committee to keep them as such.

Finally, we would also take time to assure employees of the DOD school system that rights afforded them under existing labor-management obligations will not be abridged by this amendment. Indeed, it is not the intention of the committee that this legislation interfere with the Federal labor relations program as established under Executive Order 11491, as amended. For example, when this statute requires the Secretary of Defense or the Director of Dependents' Education to issue regulations or instructions prescribing educational goals and objectives or providing for a recertification program, it is assumed by the committee that the Defense Department and the Office of Dependents' Education will still carry out their obligation to negotiate with the appropriate employee organization in accordance with the Executive order. We are pleased that the legislation in its present form enjoys the support of the Overseas Education Association, Inc., an affiliate of the National Education Association representing American educators overseas.

Mr. Chairman, I hope this amendment will be adopted in order that we may finally give a statutory basis—and all that attends such recognition—to the huge and heretofore formless educational apparatus that is the DOD school system. It truly deserves that level of attention, as do its students and employees.

A section-by-section analysis of the amendment, which provides a more complete delineation of its provisions, follows:

SECTION-BY-SECTION ANALYSIS OF DENT AMENDMENT TO H.R. 15

PURPOSE

To establish a unified program for the education of minor dependents of military and civilian personnel overseas, to establish an Office of Dependents' Education in the Department of Defense to administer such program, and for other purposes.

Sec. 1401—Short Title.

"Defense Dependents' Education Act of 1978"

Sec. 1402—Establishment of Defense Dependents' Education System.

Requires that the Secretary of Defense establish and operate a "defense dependents' education system" that provides free public K–12 education for eligible dependents in overseas areas. This system is to provide high quality education to all while meeting the special needs of A) handicapped children, B) those in need of compensatory education, C) those interested in vocational education, gifted and talented individuals, and D) children of limited English-speaking ability. Eligible children of preschool age are to be provided a preschool program if one is not otherwise available, provided such funds are available.

Sec. 1403—Office of Dependents' Education.

(a) This section provides for the establishment and administration of an Office of Dependents' Education within the Department of Defense. A director of the office will be a civilian selected by the Secretary of Defense, and will report to the Assistant Secretary of Manpower, Reserve Affairs, and Logistics.

(b) The Secretary may carry out his functions under the Act, except the issuing of regulations, through the Director of the Office.

(c) The duties of the Director will include establishing personnel policies for system employees, preparing a budget for each fiscal year, and performing other functions required or delegated by the Secretary of Manpower, Reserve Affairs, and Logistics. The Director will have authority to transfer employees, establish local school advisory committees, and arrange inservice or other training programs.

(d) The Director is required to establish regional or area offices and must, within six months of this Act's enactment, file a report detailing the organizational structure, assignment of personnel, and personnel requirements of the Office of Dependents' Education. The Director must submit a report to Congress describing each subsequent reorganization of the Office.

Sec. 1404—Tuition Paying Students.

This section allows for the enrollment of non-eligible children where space is available in the education system, and requires that each such child be charged tuition which is at least sufficient to cover the average cost of enrollment. The Secretary may establish regulations which identify classes of children who shall be eligible to enroll in DOD schools where space is available. The Secretary may also by regulation establish priorities among these classes or waive tuition for the children in any such class.

Sec. 1405—Annual Educational Assessment.

The Director is required to establish procedures to assess the educational performance of the school system annually and make the results available to sponsors of children enrolled in the system, to Members of Congress and to professional employees in the school.

Sec. 1406—School Construction.

The President shall include separate budget requests for the construction of overseas facilities. Construction authority resides in the office of the Secretary in the person of the Director of Overseas Schools.

Sec. 1407—Dependents' Education in Overseas Area.

Where it is not feasible to provide defense dependents' school system services to eligible dependents in overseas areas, the Secretary of Defense may establish regulations to provide for the purchase of educational services from other schools. Also permits the Secretary of Defense to pay transportation allowances for dependent students enrolled in five-day and seven-day dormitories.

Sec. 1408—Eligibility for School Lunch.

This section amends the National School Lunch Act with a new section 22 that allows the overseas portion of the DOD school system to be classified as a State and that classifies the Office of Dependents' Education as a State educational agency. The section also amends the Child Nutrition Act of 1965 to include a new section 20 for the same purpose.

Sec. 1409—Allotment Formula.

The Director is given authority to establish by regulation a formula determining the minimum allotment of funds to each school in the DOD system. In addition, the provisions of P.L. 94–142 relating to the education of the handicapped are made specifically effective for DOD schools.

Sec. 1410—School Advisory Committees.

This section requires the Director to provide for the establishment of advisory committees for each school and for central advisory committees where more than one school is operated on a federal installation. Advisory committee members are elected and serve without pay. Membership of Committee does not include the military commander. It includes an equal number of representatives of sponsors of students, of employees in the school, and, when appropriate, a student.

Sec. 1411—Advisory Council.

This section makes provision for the establishment of a sixteen-member Advisory Council on Dependents' Education within the Department of Defense to be chaired by the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics. Representation on the DOD Advisory Council will also include the Secretaries of each of the military departments as well as the Chairs of the National Endowments for the Arts and for the Humanities. The Council is directed to meet at least four times annually.

Sec. 1412—Study of Defense Dependent's Education System.

A study of the entire defense dependents' education system is required by this section. The Director, in consultation with the Advisory Council on Dependents' Education, will design specifications for the study and select a contractor. The analysis is to be submitted directly to Congress within one year from the enactment of this Act and is to include comments and recommendations

of both the contractor and the Secretary of Defense. Also authorizes Director to conduct similar studies at his/her discretion, but not more than yearly.

Sec. 1413—Regulations.

Regulations to ensure efficient organization and operation of the education system are to be issued within 180 days from this Act's enactment.

Sec. 1414—Definitions.

This section defines, for the purposes of the Act, "eligible dependent", "sponsor", "overseas area", and "United States."

Sec. 1415—Effective Dates.

Except as specified in (b) below, the Act takes effect at the end of the 30 day period beginning on date of enactment.

(b)—Section 7(b) and amendments made by 7(c), 8(a) and 8(b) take effect on October 1, 1978.

In closing, it should be pointed out that technical changes were made in order by the committee when it adopted the amendment; those technical changes were made in section 1408 to facilitate the implementation of the extended coverage of the National School Lunch Act and the Child Nutrition Act.

Additionally, the amendment is in compliance with the Congressional Budget Act of 1974:

First. The committee has allocated moneys for this legislation and has indicated as such in its 302(b) report to the Speaker;

Second. Section 401(b)(1) compliance is reflected by the October 1, 1978 effective date;

Third. Section 401(b)(2) compliance is assured because the new entitlement created by the amendment does not exceed the allocation.

The Congressional Budget Office estimate of this amendment follows:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., May 24, 1978.

Hon. JOHN H. DENT,
Chairman, Subcommittee on Labor Standards, Committee on Education and Labor, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your letter of April 27, 1978, the Congressional Budget Office has prepared the attached cost estimate. We understand from discussions with your staff that the Defense Dependents' Education Act of 1978 will be offered as an amendment to H.R. 15, the Education Amendments of 1978.

Should the Committee so desire, we will be pleased to provide further detail on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

MAY 24, 1978.

1. Amendment title: Amendment to H.R. 15. An amendment to establish a unified program for the education of minor dependents of military and civilian personnel overseas and on certain military bases, to establish an Office of Dependents' Education in the Department of Defense to administer such program, and for other purposes.

2. Amendment status: As stated in the Committee Print of May 3, 1978 of the House Committee on Education and Labor.

3. Amendment purpose: This amendment defines the role and composition of what is now the Office of Dependent Schools in the Department of Defense. It provides new authorization for travel and transportation allowances for dependents attending DoD operated schools on a 7-day-a-week dormitory basis. It amends the National School Lunch Act (NSLA) and the Child Nutrition Act (CNA) of 1966 by defining the system of DoD overseas dependents' schools as a state for the purposes of the Acts.

4. Cost estimate:

[By fiscal years, in millions of dollars]

	1979	1980	1981	1982	1983
Function 050:					
New travel authority:					
Authorization level	.1	.2	.2	.2	.2
Estimated net cost	.1	.2	.2	.2	.2
Function 600:					
NSLA and CNA amendments:					
Authorization level	6.7	12.7	13.5	14.1	14.6
Estimated net cost	5.7	11.8	13.4	14.0	14.5
Total:					
Authorization level	6.8	12.9	13.7	14.3	14.8
Estimated net cost	5.8	12.0	13.6	14.2	14.7

5. Basis of estimate: It has been assumed that the amendment will take effect on 1 October 1978, that the authorized amounts will be appropriated in full and that the amendment does not affect authorizations for the existing dependents' schools system and structure.

The estimate is based on participation and population data supplied by the Department of Defense and CBO projections of meal and commodity costs. It has been assumed that this amendment does not authorize the funds necessary for DoD to participate as a state in the NSLA and CNA programs. The required level of such authorization is estimated (in millions of dollars) as follows: fiscal year 1979, 4.7; fiscal year 1980, 1.2; fiscal year 1981, 1.2; fiscal year 1982, 1.3; fiscal year 1983, 1.6.

7. Estimate comparison: No formal DoD estimate is available at this time.

8. Previous CBO estimate: None.

9. Estimate prepared by: Michael Miller (225-4844).

10. Estimate approved by:
C. G. NUCKOLS.
(for James L. Blum,
Assistant Director for Budget Analysis).●

AMENDMENT OFFERED BY MR. ERLENBORN

Mr. ERLENBORN. Mr. Chairman. I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ERLENBORN: Page 376, after line 8, insert the following new title:

TITLE XIV—OVERSEAS DEFENSE DEPENDENTS' EDUCATION

SHORT TITLE

SEC. 1401. This title may be cited as the "Defense Dependents' Education Act of 1978".

ESTABLISHMENT OF DEFENSE DEPENDENTS' EDUCATION SYSTEM

SEC. 1402. (a) The Secretary of Defense shall establish and operate a program (hereinafter in this title referred to as the "defense dependents' education system") to provide a free public education through secondary school for dependents in overseas areas.

(b)(1) The Secretary shall ensure that individuals eligible to receive a free public education under subsection (a) receive an education of high quality.

(2) In establishing the defense dependents' education system under subsection (a), the Secretary shall provide programs designed to meet the special needs of—

(A) the handicapped,

(B) individuals in need of compensatory education,

(C) individuals with an interest in vocational education,

(D) gifted and talented individuals, and

(E) individuals of limited English-speaking ability.

(3) The Secretary shall provide a developmental preschool program to individuals eligible to receive a free public education under subsection (a) who are of preschool age if a preschool program is not otherwise available for such individuals and if funds for such a program are available.

OFFICE OF DEPENDENTS' DEDUCTION

SEC. 1403. (a)(1) There is established within the Department of Defense an office to be known as the Office of Dependents' Education.

(2) The Office of Dependents' Education shall be headed by a Director of Dependents' Education (hereinafter in this title referred to as the "Director", who shall be a civilian and who shall be selected by the Secretary of Defense and shall report to the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics.

(b) Except with respect to the authority to prescribe regulations, the Secretary of Defense may carry out his functions under this Act through the Director.

(c) The Director shall—

(1) establish personnel policies, consistent with the Defense Department Overseas Teachers Pay and Personnel Practices Act, for employees in the defense dependents' education system,

(2) have authority to transfer professional employees in the defense dependents' education system from one position to another.

(3) prepare a unified budget for each fiscal year, which shall include necessary funds for construction and operation and maintenance of facilities, for the defense dependents' education system for inclusion in the Department of Defense budget for that year,

(4) have authority to establish, in accordance with section 1410, local school advisory committees,

(5) have authority to arrange for inservice and other training programs for employees in the defense dependents' education system, and

(6) perform such other functions as may be required or delegated by the Secretary of Defense or the Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics.

(d)(1) The Director shall establish appropriate regional or area offices for the Office of Dependents' Education in order to provide for thorough and efficient administration of the defense dependents' education system.

(2) Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Congress a report (A) describing the organization of the Office of Dependents' Education in accordance with paragraph (1), (B) describing the assignment of personnel to the central office of the Office of Dependents' Education and to such regional or area offices as are established pursuant to paragraph (1), and (C) detailing the personnel requirements of the defense dependents' education system. Whenever the Office of Dependents' Education is reorganized after the submission of

the report required under the preceding sentence, the Secretary of Defense shall submit an additional report to the Congress describing the reorganization.

(3) Subject to the approval of the Secretary of Defense, the Office of Dependents' Education is authorized to employ an appropriate number of civilian employees in its central office and such regional or area offices as are established pursuant to paragraph (1).

TUITION-PAYING STUDENTS

SEC. 1404. (a) Subject to subsection (b) and in accordance with regulations issued under subsection (c), the Director may authorize the enrollment in a school of the defense dependents' education system of a child not otherwise eligible to enroll in such a school if and to the extent that there is space available for such child in the school.

(b)(1) Except as otherwise provided under subsection (c), any child permitted to enroll in a school of the defense dependents' education system under this section shall be required to pay tuition at a rate determined by the Secretary of Defense, which shall not be less than the rate necessary to defray the average cost of the enrollment of children in the system under this section.

(2) Amounts received under paragraph (1) shall be available to the defense dependents' education system to assist in defraying the cost of enrollment of children in the system under this section.

(c) The Secretary of Defense may by regulation identify classes of children who shall be eligible to enroll in schools of the defense dependents' education system under this section if and to the extent that there is space available, establish priorities among such classes, waive the tuition requirement of subsection (b)(1) with respect to any such class, and issue such other regulations as may be necessary to carry out this section.

ANNUAL EDUCATIONAL ASSESSMENT

SEC. 1405. (a) The Director shall assess each year the performance of the defense dependents' education system in providing an education of high quality to children enrolled in the system. Such assessment may include the use of educational assessment measures and such other means as the Director determines to be suitable for assessing student performance.

(b) The results of each annual assessment under subsection (a) with respect to an individual enrolled in the defense dependents' education system shall be made available to the sponsor of such individual, and summary results of each such annual assessment shall be made available to Members of Congress and to professional employees in the system.

SCHOOL CONSTRUCTION BY THE DIRECTOR OF DEPENDENTS' EDUCATION

SEC. 1406. The President shall include in his budget for each fiscal year a separate request for funds for construction of school facilities by the Director.

SCHOOL SYSTEM FOR DEPENDENTS IN OVERSEAS AREAS

SEC. 1407. (a) The Secretary of Defense shall establish and operate a school system for dependents in overseas areas as part of the defense dependents' education system.

(b) Under such circumstances as he may by regulation prescribe, the Secretary of Defense may provide tuition to allow dependents in an overseas area where a school operated by the Secretary is not reasonably available to attend schools other than schools established under subsection (a) on a tuition-fee basis. Any school to which tuition is paid under this subsection to allow a dependent in an overseas area to attend such school shall provide an educational program satisfactory to the Secretary.

(c)(1)(A) Chapter 7 of title 37, United States Code, relating to allowances authorized for members of the uniformed services, is amended by adding after section 428 the following new section:

"§ 429. Travel and transportation allowances: minor dependent schooling

"Under regulations to be prescribed by the Secretary of Defense, a member of a uniformed service whose permanent station is outside the United States may be allowed transportation in kind for any minor dependent (or reimbursement therefor), or a monetary allowance in place of such transportation in kind, to a school operated by the Department of Defense under the Defense Dependents' Education Act of 1978 for dependents in overseas areas which is operated, and which such dependent attends, on a 5-day-a-week dormitory basis or on a 7-day-a-week dormitory basis. In the case of a dependent attending a school on a 5-day-a-week dormitory basis, the transportation in kind or allowance authorized by this section shall be for weekly trips to and from such school, and in the case of a dependent attending a school on a 7-day-a-week dormitory basis, such transportation in kind or allowances shall be for not less than three trips to and from such school during the school year.".

(B) The table of sections at the beginning of chapter 7 of title 37, United States Code, is amended by adding after the item relating to section 428 the following new item:

"429. Travel and transportation allowances; minor dependent schooling.".

ELIGIBILITY FOR SCHOOL LUNCH AND BREAKFAST PROGRAMS

SEC. 1408. (a) The National School Lunch Act is amended by adding at the end thereof the following new section:

"DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

"SEC. 22. (a) For the purpose of obtaining ing Federal payments and commodities in conjunction with the provision of lunches to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense, from funds appropriated for such purpose, the same payments and commodities as are provided to States for schools participating in the National School Lunch Program in the United States.

"(b) The Secretary of Defense shall administer lunch programs authorized by this section and shall determine eligibility for free and reduced-price lunches under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the National School Lunch Program under this section.

"(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is impracticable.

"(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section and for payment of the difference between the value of commodities and payments received from the Secretary of Agriculture and (1) the full cost of each lunch for each student eligible for a free lunch, and (2) the full cost of each lunch, less any amounts required by law or regulation to be paid by each student eligible for a reduced-price lunch.

"(e) The Secretary of Agriculture shall provide the Secretary of Defense with technical assistance in the administration of the school lunch programs authorized by this section.".

(b) The Child Nutrition Act of 1966 is amended—

(1) by inserting "and the Department of Defense" after "States" in the first sentence of section 4(a); and

(2) by adding at the end thereof the following new section:

"DEPARTMENT OF DEFENSE OVERSEAS DEPENDENTS' SCHOOLS

"SEC. 20. (a) For the purpose of obtaining Federal payment and commodities in conjunction with the provision of breakfasts to students attending Department of Defense dependents' schools which are located outside the United States, its territories or possessions, the Secretary of Agriculture shall make available to the Department of Defense from funds appropriated for such purposes, the same payments and commodities as are provided to States for schools participating in the school breakfast program in the United States.

"(b) The Secretary of Defense shall administer breakfast programs authorized by this section and shall determine eligibility for free and reduced-price breakfasts under the criteria published by the Secretary of Agriculture, except that the Secretary of Defense shall prescribe regulations governing computation of income eligibility standards for families of students participating in the school breakfast program under this section.

"(c) The Secretary of Defense shall be required to offer meals meeting nutritional standards prescribed by the Secretary of Agriculture; however, the Secretary of Defense may authorize deviations from Department of Agriculture prescribed meal patterns and fluid milk requirements when local conditions preclude strict compliance or when such compliance is highly impracticable.

"(d) Funds are hereby authorized to be appropriated for any fiscal year in such amounts as may be necessary for the administrative expenses of the Department of Defense under this section and for payment of the difference between the value of commodities and payments received from the Secretary of Agriculture and (1) the full cost of each breakfast for each student eligible for a free breakfast, and (2) the full cost of each breakfast, less any amounts required by law or regulation to be paid by each student eligible for a reduced-price breakfast.

"(e) The Secretary of Agriculture shall provide the Secretary of Defense with technical assistance in the administration of the school breakfast programs authorized by this section.".

ALLOTMENT FORMULA

SEC. 1409. (a) The Director shall by regulation establish a formula for determining the minimum allotment of funds necessary for the operation of each school in the defense dependents' education system. In establishing such formula, the Director shall take into consideration—

(1) the number of students served by a school and the size of the school;

(2) special cost factors for a school, including—

(A) geographic isolation of the school,

(B) a need for special staffing, transportation, or educational programs at the school, and

(C) unusual food and housing costs,

(D) the cost of providing academic services of a high quality as required by section 1402(b)(1); and

(3) the cost of providing academic services of a high quality as required by section 1402(b)(1); and

(4) such other factors as the Director considers appropriate.

(b) Any regulation under subsection (a) shall be issued, and shall become effective, in accordance with the procedures applicable to regulations required to be issued by the Department of Health, Education, and Welfare in accordance with section 431 of the General Education Provisions Act.

(c) The provisions of the Education for All Handicapped Children Act of 1975 shall apply with respect to all schools operated by the Department of Defense under this Act.

SCHOOL ADVISORY COMMITTEES

SEC. 1410. (a) (1) The Director shall provide for the establishment of an advisory committee for each school in the defense dependents' education system. An advisory committee for a school shall advise the principal or superintendent of the school with respect to the operation of the school, may make recommendations with respect to curriculum and budget matters, and, except as provided under paragraph (2), shall advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander. The membership of each such advisory committee shall include an equal number of representatives of sponsors of students enrolled in the school and of employees working at the school and, when appropriate, may include a student enrolled in the school.

(2) In the case of any military installation or overseas area where there is more than one school in the defense dependents' education system, the Director shall provide for the establishment of an advisory committee for such military installation or overseas area to advise the local military commander with respect to problems concerning dependents' education within the jurisdiction of the commander.

(b) Members of a school advisory committee established under this section shall be elected by individuals of voting age residing in the area to be served by the advisory committee. The Secretary of Defense shall by regulation prescribe the qualifications for election to an advisory committee and procedures for conducting elections of advisory committee members.

(c) Members of school advisory committees established under this section shall serve without pay.

ADVISORY COUNCIL ON DEPENDENTS' EDUCATION

SEC. 1411. (a) There is established in the Department of Defense an Advisory Council on Dependents' Education (hereinafter in this section referred to as the "Council"). The Council shall be composed of—

(1) the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics (hereinafter in this section referred to as the "Assistant Secretary"), who shall be the chairman of the Council;

(2) 12 individuals appointed by the Assistant Secretary, who shall be individuals versed by training or experience in the field of primary or secondary education and who shall include representatives of professional employee organizations, school administrators, sponsors of students enrolled in the defense deepndents' education system, and one student enrolled in such system; and

(3) a representative of each of—

(A) the Commissioner of Education, Department of Health, Education, and Welfare,

(B) the Director of the National Institute of Education, Department of Health, Education, and Welfare,

(C) the Director of the Educational Directorate of the National Science Foundation,

(D) the Chairman of the National Endowment for the Arts,

(E) the Chairman of the National Endowment for the Humanities, and

(F) the Secretaries of the military departments. The Director shall be the Executive Secretary of the Council.

(b) The term of office of each member of the Council appointed under subsection (a) (2) shall be three years, except that—

(1) of the members first appointed under such paragraph, four shall serve for a term of one year, four shall serve for a term of two years, and four shall serve for a term of three years, as determined by the Assistant Secretary at the time of their appointment, and

(2) any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. No member appointed under subsection (a) (2) shall serve more than two full terms on the Council.

(c) The Council shall meet at least four times each year. The functions of the Council shall be to—

(1) recommend to the Director general policies for operation of the defense dependents' education system with respect to curriculum selection, administration, and operation of the system,

(2) provide information to the Director from other Federal agencies concerned with primary and secondary education with respect to education programs and practices which such agencies have found to be effective and which should be considered for inclusion in the defense dependents' education system,

(3) advise the Director on the design of the study and the selection of the contractor referred to in section 1412(a) (2) of this title, and

(4) perform such other tasks as may be required by the Assistant Secretary.

(d) Members of the Council who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the Council or otherwise engaged in the business of the Council, be entitled to receive compensation at the daily equivalent of the rate specified at the time of such service for grade GS–18 in section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the Council away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(e) The Council shall continue in existence until terminated by law.

STUDY OF DEFENSE DEPENDENTS' EDUCATION SYSTEM

SEC. 1412. (a) (1) As soon as practicable after the date of the enactment of this Act, the Director shall provide for a comprehensive study of the entire defense dependents' education system, which shall include a detailed analysis of the education programs and the facilities of the system.

(2) The study required by this subsection shall be conducted by a contractor selected by the Director after an open competition. After conducting such study, the contractor shall submit a report to the Director not later than one year after the date of enactment of this Act describing the results of the study and giving its assessment of the defense dependents' education system.

(b) In designing the specifications for the study to be conducted pursuant to subsection (a) (1), and in selecting a contractor to conduct such study under subsection (a) (2), the Director shall consult with the Advisory Council on Dependents' Education established under section 1411 of this title.

(c) The Director shall submit to the Congress not later than one year after the date of the enactment of this Act the report submitted to him under subsection (a) (2) describing the results of the study carried out pursuant to subsection (a) (1), together with the recommendations, if any, of the contractor for legislation or any increase in funding needed to improve the defense dependents' education system. Notwithstanding any law, rule, or regulation to the contrary, such report shall not be submitted to any review before its transmittal to the Congress, but the Secretary of Defense shall, at the time of the transmittal of such report, submit to the Congress such recommendations as he may have with respect to legislation or any increase in funding needed to improve the defense dependents' education system.

(d) The Director may provide for additional studies of the defense dependents' education system to be conducted in accordance with the provisions of this section, but such studies shall not be conducted more frequently than once a year. A report of each such study shall be submitted to the Congress in accordance with subsection (c), and the second sentence of such subsection shall apply with respect to the transmission of each such report.

REGULATIONS

SEC. 1413. Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall issue regulations to carry out this title. Such regulations shall—

(1) prescribe the educational goals and objectives of the defense dependents' education system,

(2) establish standards for the development of curricula for the system and for the selection of instructional materials,

(3) prescribe professional standards for professional personnel employed in the system,

(4) provide for arrangements between the Director and commanders of military installations for necessary logistic support for schools of the system located on military installations,

(5) provide for a recertification program for professional personnel employed in the system, and

(6) provide for such other matters as may be necessary to ensure the efficient oganization and operation of the defense dependents' education system.

DEFINITIONS

SEC. 1414. For the purposes of this title:

(1) The term "dependent" means a minor individual—

(A) who has not completed secondary schooling, and

(B) who is the child, stepchild, adopted child, ward, or spouse of a sponsor, or who is a resident in the household of a sponsor who stands in loco parentis to such individual and who receives one half or more of his support from such sponsor.

(2) The term "sponsor" means—

(A) a member of the Armed Forces serving on active duty, or

(B) a civilian officer or employee of the Department of Defense paid from appropriated funds.

(3) The term "overseas area" means any area situated outside the United States.

(4) The term "United States", when used in a geographical sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States (excluding the Trust Territory of the Pacific Islands and Midway Island).

EFFECTIVE DATES

SEC. 1415. (a) Except as provided in subsection (b), this title shall take effect at the end of the thirty-day period beginning on the date of the enactment of this Act.

(b) Section 1407(b) and the amendments made by sections 1407(c), 1408(a), and 1408 (b) shall take effect on October 1, 1978.

Page 376, line 9, strike out "TITLE XIV" and insert in lieu thereof "TITLE XV".

Page 376, line 11, strike out "SEC. 1401." and insert in lieu thereof "SEC. 1501.".

Conform the table of contents accordingly.

Mr. ERLENBORN (during the reading). Mr. Chairman, I ask unanimous consent that further reading of the amendment be dispensed with and that it be printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. ERLENBORN. Mr. Chairman, I rise to offer this committee amendment on behalf of the gentleman from Pennsylvania (Mr. DENT). The amendment before us provides a statutory base for the operation of the overseas schools of the U.S. Department of Defense. This legislation is the product of several years of extensive study by the Education and Labor Committee and draws upon several GAO reports on the DOD schools.

The DOD schools have operated for more than 20 years without so much as a single word of statutory authorization. They continue to operate year by year on the basis of the annual appropriations bill for the Defense Department. For a school system which enrolls more children than all but the largest 10 school systems in the United States, it is amazing to me that they have been able to operate at all during that period of time.

After due consideration the committee has come to the conclusion that there is the need for legislation to govern the schools, and this amendment contains that language. From the viewpoint of parents and students, perhaps the two most important sections are those which provide for school advisory councils and make children in the DOD schools eligible for benefits under the National School Lunch and Child Nutrition Act. Particularly with the decline in the value of the dollar, the economic burden placed on families of servicemen to provide daily lunches for their children overseas has been inordinate.

It is not at all unusual for a child in one of the overseas schools to pay more than twice what would be paid in a school in this country. This amendment will help to equalize those costs.

In addition to these features, the legislation also creates an organizational structure for the schools, permits the enrollment of tuition-paying students, and authorizes transportation costs for those students who are enrolled in boarding schools. The amendment also requires the director to establish an allotment formula to support the schools, creates an advisory council to the Director of Dependents' Education, and calls for a thorough and comprehensive study of the dependents' education system, including the facilities which are available for the education of military children.

As I have indicated previously, I am very supportive of this legislation for two reasons. First, if we are to have a strong Armed Forces, it is essential that the important family services such as education be present and be recognized as being of high quality. Secondly, every child in the overseas schools will probably spend a majority of his or her school career in a school in the continental United States. It is, therefore, in the interest of all schools in the country which enroll these students to be certain that these students are adequately prepared and able to cope with the transition into local programs.

Finally, I would note that this amendments does not prejudge the question of a Department of Education. Although I am opposed to that Department, if the Congress so chooses the schools could be placed in that new Department with the language in the committee amendment providing the operative structure for the schools.

Mr. PERKINS. Mr. Chairman, will the distinguished gentleman from Illinois yield?

Mr. ERLENBORN. I will be happy to yield to my chairman.

Mr. PERKINS. Mr. Chairman, as I understand the amendment, it would establish a legislative framework for the operation of one of the largest school systems for American children in the world, namely, the Department of Defense overseas schools. This amendment, which is long overdue, was approved by the full Committee on Education and Labor on May 4 by a vote of 31 to 4.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. ERLENBORN. I will be happy to yield to the gentleman from Minnesota.

Mr. QUIE. Mr. Chairman, the chairman of the committee does speak correctly on support in the Committee on Education and Labor. I know how strongly the gentleman from Pennsylvania (Mr. DENT) feels about it as well. I thank the gentleman from Illinois for bringing the amendment up, and I do support it.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. ERLENBORN).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

TITLE XIV—EFFECTIVE DATES

GENERAL EFFECTIVE DATE

SEC. 1401. Except as otherwise specifically provided therein, the provisions of this Act and the amendments and repeals made by this Act shall take effect October 1, 1978.

Mr. PERKINS (during the reading). Mr. Chairman, I ask unanimous consent that further reading of title XIV be dispensed with and that it be printed in the RECORD and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

AMENDMENT OFFERED BY MR. PERKINS

Mr. PERKINS. Mr. Chairman, I offer an amendment.

The Clerk read as follow:

Amendment offered by Mr. PERKINS: On page 376 insert after line 13 a new section to read as follows:

"LIMITATION ON CONTRACTING AUTHORITY

"SEC. 1502. Notwithstanding any other provision of this Act, no authority to enter into contracts under this Act shall be effective except to such an extent or in such amounts as are provided in advance in appropriations acts."

Mr. PERKINS. Mr. Chairman, this amendment just clarifies that all contracting authority authorized under this act is subject to appropriations. The House Committee or the Budget has requested the adoption of this amendment.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Minnesota.

Mr. QUIE. This is a good amendment, and we agree to it on this side.

Mr. PERKINS. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Kentucky (Mr. PERKINS).

The amendment was agreed to.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. ASHBROOK: Strike out everything after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Education Assistance Act of 1978".

TITLE I—SCHOOL ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. There is hereby authorized to be appropriated $8,843,000,000 for the fiscal year ending September 30, 1979, $9,840,000,000 for the fiscal year ending September 30, 1980, $10,489,000,000 for the fiscal year ending September 30, 1981, and $11,137,000,000 for each of the fiscal years ending September 30, 1982, and September 30, 1983, for the purpose of carrying out this title.

USE OF APPROPRIATED FUNDS

SEC. 102. (a) Funds made available to the States under this title shall be used in accordance with State law for the improvement of elementary and secondary education (including pre-school education) within each State.

(b) Provision shall be made for the participation of children enrolled in private nonprofit elementary and secondary schools in accordance with the provisions of section 406 of the Elementary and Secondary Education Act of 1965 in effect on September 30, 1978.

ALLOTMENT TO STATES

SEC. 103. (a) From the sums appropriated pursuant to section 101, the United States Commissioner of Education shall first reserve an amount not to exceed one percent of those sums for distribution to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for such assistance. From the remainder of those sums he shall then allot to each State an amount which bears the same ratio to such remainder as the enrollment in elementary and secondary schools in the State bears to the total of such enrollment in all States, as determined by the Commissioner for the most recent year for which satisfactory data is available.

(b) For the purpose of this title the word "State" means the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

TITLE II—IMPACT AID AMENDMENTS

GENERAL EXTENSIONS OF PUBLIC LAW 815

SEC. 201. (a) Sections 3 and 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), are each amended by striking out "1978" and inserting in lieu thereof "1983".

(b) Section 15 (15) of such Act is amended by striking out "1973–1974" and inserting in lieu thereof "1978–1979".

GENERAL EXTENSIONS OF PUBLIC LAW 874

SEC. 202. (a) Section 2(a) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by striking out "1978" and inserting in lieu thereof "1983".

(b) Section 3(b) of such Act is amended by striking out "1978" and inserting in lieu thereof "1983."

(c) Section 4(a) of such Act is amended by striking out "1978" and inserting in lieu thereof "1983".

(d)(1) Subparagraph (A) of the second paragraph (2) of section 305(a) of the Education Amendments of 1974 is amended by striking out "1978" and inserting in lieu thereof "1983".

(2) Subparagraph (B) of such paragraph (2) is amended by striking out "1978" and inserting in lieu thereof "1983".

(3) Subparagraph (C) of such paragarph (2) is amended by striking out "1978" and inserting in lieu thereof "1983".

ABSORPTION

SEC. 203. Subparagraph (A) of paragraph (2) of section 3(d) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is hereby repealed.

PROVISIONS REGARDING HEAVILY IMPACTED SCHOOL DISTRICTS

SEC. 204. (a) Section 3(d) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended—

(1) in paragraph (2)(B) thereof, by striking out "clause (1) of" each place it appears therein; and

(2) in the first sentence of such paragraph, by striking out "the Commissioner is authorized, to", and inserting in lieu thereof "the Commissioner shall".

(b)(1) Paragraph (2)(A) of section 5(c) of such Act is amended to read as follows:

"(A) to each local educational agency—

"(i) with respect to which the local contribution rate has been increased under paragraph (2)(B) of section 3(d), which equals 75 per centum of the amount to which such agency is entitled as computed under section 3(d) for such fiscal year; and

"(ii) described in clause (A) of section 3(d)(1), which equals 75 per centum of the amount to which such agency is entitled, as computed under section 3(d), with respect to a determination of the number of children under section 3(a) and section 3(b)(3) for such fiscal year;"

(2) Paragraph (2)(D) of such section 5(c) is amended by inserting after "section 3(b)" the following: "(other than such children with respect to whom a payment is made under clause (A)(ii) of this paragraph)".

EARLY PAYMENTS ON THE BASIS OF ESTIMATES

SEC. 205. Subsection (b) of section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting "(1)" after "(b)" and by adding at the end thereof the following new paragraph:

"(2) Not later than thirty days after the beginning of any fiscal year the Commissioner shall, on the basis of any application for preliminary payment from any local educational agency which was eligible for a payment during the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a payment to such agency of not less than 75 per centum of the amount that such agency received during such preceding fiscal year.".

STATE EQUALIZATION

SEC. 206. (a) Section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new subparagraph:

"(C)(i) If a State desires to take payments under this section into consideration as provided in this paragraph for any fiscal year, that State shall, not later than sixty days prior to the beginning of such fiscal year, submit notice to the Commissioner of its intention to do so. Such notice shall be in such form and be accompanied by such information as to enable the Commissioner to determine the extent to which the program of State aid of that State is consistent with the provisions of subparagraph (A). In addition, such notice shall be accompanied by such evidence as the Commissioner finds necessary that each local educational agency in that State has been given notice of the intention of the State. If the Commissioner determines that the program of State aid of a State submitting notice under this subparagraph is consistent with the provisions of subparagraph (A), the Commissioner shall certify such determination to that State.

"(ii) Prior to certifying any determination under division (i) for any State for any fiscal year, the Commissioner shall give the local educational agencies in that State an opportunity for a hearing at which such agencies may present their views with respect to the consistency of the State aid program of that State with the provisions of subpaargraph (A).

"(iii) The Commissioner shall not finally deny to any State for any fiscal year certification of a determination under division (i) without first giving that State an opportunity for a hearing.".

(b) No State or local educational agency located therein shall, on the basis of noncompliance with standards established by regulations prescribed pursuant to section 5(d)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), be required to make restitution of funds distributed to local educational agencies under such Act for the 1977–1978 school year if such State has an equalization program which, for the 1978–1979 school year, complies with such standards.

PUBLIC HOUSING CHILDREN

SEC. 207. Section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out subsection (e) thereof.

HEARINGS

SEC. 208. Section 5 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new subsection:

"(g) Each local educational agency which is adversely affected or aggrieved by any action of the Commissioner under this title shall be entitled to a hearing on, and review of, such action in the same manner as if such agency were a person under the provisions of chapters 5 and 7 of title 5, United States Code.".

CHILDREN FOR WHOM LOCAL AGENCIES ARE UNABLE TO PROVIDE EDUCATION

SEC. 209. (a) Section 6(a)(2) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by inserting after "(5) the Performance Rating Act of 1950, as amended (5 U.S.C. 2001 et seq.)." the following: "Personnel provided for under this subsection outside of the continental United States, Alaska, and Hawaii, shall receive such compensation, tenure, leave, hours of work, and other incidents of employment on the same basis as provided for similar positions in the public schools of the District of Columbia.".

(b) Section 6(c) of such Act is amended by striking out everything after "United States" and inserting in lieu thereof the following: "in a grade, position, or classification subject by policy and practice to transfer or reassignment to areas where English is the language of instruction in the schools normally attended by children of Federal employees. Dependents of excepted service professional employees of the schools shall be eligible to attend the schools. In any case where education is being provided under an arrangement made under this subsection, it shall be presumed that no local educational agency is able to provide suitable free public education for the children of eligible parents employed by the United States until the Commissioner determines, after consultation with the appropriate State educational agency, that a local educational agency is able to do so.".

(c) Section 6(d) of such Act is amended by inserting at the end thereof the following: "The Commissioner shall ensure that funds provided under such arrangement or arrangements are expended in an efficient manner, and shall require an accounting of funds by such agency at least on an annual basis. The Commissioner shall further be provided with data relating to the quality and type of education provided to such children under such arrangement or arrangements.".

(d) Section 6 of such Act is further amended by adding at the end thereof the following new subsections:

"(g) The Commissioner shall ensure the establishment of an elective school board in schools assisted under this section. Such school board shall be composed of a minimum of three members, elected by the parents of students in attendance at such school. The Commissioner shall, by regulation, establish procedures for carrying out such school board elections as provided in this subsection.

"(h) A school board established pursuant to subsection (g) shall be empowered to oversee school expenditures and operations, subject to audit procedures established by the Commissioner, and other provisions of this section.".

PROMPT CONSIDERATION FOR APPLICATIONS

SEC. 210. (a) Section 7(d) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), is amended by adding at the end thereof a new sentence to read as follows: "In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.".

(b) Section 16(c) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended by adding at the end thereof a new sentence to read as follows: "In any case in which the Commissioner does not complete, within sixty days, all action leading to approval or disapproval of an application filed under this section, the Secretary of Health, Education, and Welfare shall assume responsibility for such approval or disapproval of such application and shall complete such action within ninety days of the filing of such application.".

DEFINITION OF LOCAL EDUCATIONAL AGENCY AMENDMENT

SEC. 211. Effective October 1, 1979, section 403(6)(A) of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by striking out "free public education" and inserting in lieu thereof "free public elementary and secondary education through grade 12".

HANDICAPPED CHILDREN

SEC. 212. Paragraph (10) of section 403 of the Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is amended by adding at the end thereof the following new sentence: "A child shall, for the purposes of section 3, be deemed to be in attendance at a school of a local educational agency if such child is determined to be federally connected under clause (1) or (2) of section 3(a) or under clause (1), (2), or 3(b) for any fiscal year and if such child is attending a school other than a school of such agency because such child is handicapped (as defined in section 602(1) of the Education of the Handicapped Act) and if such agency makes a tuition payment on behalf of such child to such school for such fiscal year.".

USE OF AVERAGE DAILY MEMBERSHIP

SEC. 213. Paragraph 10 of section 403 of the Act of September 30, 1950 (Pubic Law 874, Eighty-first Congress) is further amended by adding at the end thereof the following new sentence: "Regulations promulgated by the Commissioner in accordance with clause (A) of this paragraph shall permit the conversion of average daily membership to average daily attendance for local educational agencies in States which reimburse local educational agencies based upon average daily membership and which do not require local educational agencies to keep records based on average daily attendance.".

DETERMINATION OF NUMBER OF CHILDREN

SEC. 214. Section 5(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) the estimated increase, since the base year, in—

"(A) the number of children determined with respect to such agency under section 3(a)(2) of the Act of September 30, 1950, multiplied by 100 per centum of the average per pupil cost of constructing minimum school facilities in the State in which the school district of such agency is situated;

"(B) the number of children determined with respect to such agency under section 3(a)(1) of such Act multiplied by 90 per centum of such cost;

"(2) the estimated increase, since the base year, in—

"(A) the number of children determined with respect to such agency under section 3(b)(3) of such Act multiplied by 50 per centum of such cost; and

"(B) the number of children determined with respect to such agency under section 3(b)(1) and (2) of such Act multiplied by 45 per centum of such cost;".

CONSTRUCTION ARRANGEMENTS

SEC. 215. Section 10(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by inserting ", leasing, renovating, remodeling, or rehabilitating" after "arrangements for constructing" and after "this section for constructing".

DISASTER ASSISTANCE

SEC. 216. Section 16(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress), is amended by striking out the last sentence in the matter following paragraph (6).

NORTHERN MARIANA ISLANDS

SEC. 217. (a) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) is further amended by inserting "the Northern Mariana Islands," immediately after "American Samoa," each place it appears in sections 3(d)(3)(B)(iii), 3(d)(3)(C), 6(c), and 403(8).

(b)(1) Section 10(a) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended by inserting "American Samoa, the Northern Mariana Islands," immediately after "Guam,".

(2) Section 15(13) of such Act is amended by inserting "the Northern Mariana Islands," immediately after "American Samoa,".

EFFECTIVE DATES

SEC. 218. The amendments made by this title shall be effective with respect to the fiscal year ending September 30, 1979, and subsequent fiscal years, except that the amendment made by section 1008 shall be effective upon the enactment of this Act and actions of the Commissioner of Education under the Act of September 30, 1950 (Public Law 874, Eighty-first Congress), during or with respect to the fiscal year September 30, 1978, shall be subject to the provisions of such amendment.

TITLE III—MISCELLANEOUS PROVISIONS

GENERAL EFFECTIVE DATE

SEC. 301. Except as otherwise specifically provided therein, the provisions of this Act and the amendments and repeals made by this Act shall take effect October 1, 1978.

LIMITATION ON CONTRACTING AUTHORITY

SEC. 302. Notwithstanding any other provision of this Act, no authority to enter into contracts under this Act shall be effective except to such an extent or in such amounts as are provided in advance in appropriations acts.

Mr. ASHBROOK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ASHBROOK. Mr. Chairman, the substitute I have offered is easy to describe and easy to understand. The first point I make is that it does not affect the impact aid programs in any way whatsoever, except for those changes made by the bill itself as amended in the Committee of the Whole. The second point is that the substitute would not cut one penny from the authorizations in this bill. Second, neither H.R. 15 nor the substitute affects the Education of All Handicapped Children Act. In title I of ESEA grants are made to State institutions for the handicapped. To the extent that these provide elementary and secondary education, they could continue to receive funds under the Ashbrook substitute. The substitute authorizes impact aid, and then it authorizes a single grant to the States for purposes other than impact aid in the total amounts made available by the bill for purposes other than impact aid.

The critical difference is in how, and for what purpose, the money gets to the schools. H.R. 15 dispenses the money through 15 or so authorizations covering 35 to 40 separate programs, all of which are for very specific and most of which are for very narrow purposes. Each will have its own set of regulations, application forms, evaluation forms, reporting forms, and Federal bureaucrats to oversee its operation. Each will cost thousands or tens of thousands of hours of paperwork by teachers and administrators who should be spending the time and money teaching children. The total manhours of paperwork generated every year by these programs will easily exceed 5 million hours, according to estimates by the National Center for Education Statistics. The total cost in unnecessary Federal bureaucracy has not been estimated, but it would run into tens of millions of dollars.

By contrast—apart from impact aid—my substitute would authorize a single grant to the States for the purposes of assisting elementary and secondary education, including preschool education, in accordance with State law. The only requirement would be that arrangements be made for the equitable participation in the benefits of the grant by students attending nonpublic schools. This would be in accordance with the requirement already in ESEA, section 406, which requires the equitable participation of nonpublic schoolchildren in the programs financed with Federal funds, but authorizes the U.S. Commissioner of Education to make such arrangements in those States which are legally unable to do so, or which fail to do so. The allocation of these funds among the States would be on the basis of relative elementary and secondary school enrollments—probably the fairest method of all. Up to 1 percent of each appropriation would be reserved for allocation to outlying territories, and the District of Columbia and Puerto Rico would be treated as States.

Mr. Chairman, States and local school districts need money for schools. They need money for the basic operating costs of a good school program. In State after State, where property taxes have been the traditional mainstay of school finance, education is facing deep financial trouble. Yet in this massive bill, we are offering not help for education, but financial aid for specific kinds of education—many of which are peripheral to the main task of the schools, and some of which are downright trivial.

We say to the schools: "Here are all these little bundles of Federal money. They are yours if you know they exist and know how to apply for them and if you spend them on such things as 'arts in education,' 'metric education,' 'consumer education,' 'career education,' 'preschool partnership programs,' 'population education,' 'woman's education equity,' 'bilingual education,' 'Indian education,' 'adult education,' 'ethnic heritage studies,' school desegregation, and so forth." We say that to school boards worried about how they are going to keep the schools open and pay the teachers. We say that to teachers who are worried about having a job. We say that to parents who are desperately concerned that their children learn to read, write, and figure well enough to make their way in the world. We say that to taxpaying homeowners who are worried about how they are going to pay taxes based upon inflated property values from deflated incomes.

Oh sure, we also dole out some huge chunks of money just for the education of disadvantaged children and just for the education of handicapped children—which in fiscal 1977 required nearly 5 million man-hours of paperwork by State and local educators. I believe the State and local education agencies would do this job if we would simply give them the money without all the strings. I do not think the 1,167 pages in fine print, of Office of Education regulations add anything at all to American education. Instead, I think they are strangling it. And I will bet that most teachers, school administrators, and voters would agree with me.

In fact, I have here a survey of school principals conducted by NIE and the principals' association. It shows that the No. 1 concern of the principals as a "serious" or "very serious" problem in the schools was "too much paperwork in complying with Federal requirements"; 42.4 percent ranked this as serious or very serious, as compared with only 15.1 percent who gave that classification to "teachers' lack of commitment or motivation" and only 7 percent who listed student disruptiveness in that category; 35.7 percent ranked "too much paperwork in complying with State requirements" as a serious or very serious problem. In fact, among 20 listed concerns which over 5 percent of the principals thought was serious, 3 were paperwork required by Federal, State, and local governments and ranked 1st (Federal), 5th (State), and 10th (local district), all ahead of any problems with teachers or teacher unions, desegregation, or inadequate instructional materials, among others.

Now we have heard a lot about what H.R. 15 would do to cure the paperwork

disaster. Starting on page 335 of the bill is a section labeled "Paperwork Control." It would have the Secretary of HEW coordinate Federal information requests to the schools. This is a function already being performed by OMB and has been for years, without notable success—particularly with HEW itself. In addition, we have a Federal Commission on Paperwork attempting to do the same things. But H.R. 15 would establish a new Federal bureaucracy, a unit for data management headed by a GS-17 Assistant Administrator for Data Management. Just what we need. They will try to sort out unnecessary, redundant, and ineffective data requests. My substitute would eliminate any need for that—it would make most such requests unnecessary and redundant.

The fact is that almost all the paperwork is caused by the Congress itself in creating all of these special, narrow-purpose grants, each requiring its own applications, justifications, reviews, audits, et cetera, et cetera, et cetera, H.R. 15 is loaded with even more of these, and each will require more paperwork. No unit in HEW can undo what the Congress is doing. To claim that it will is a pure deceit. Title I of ESEA alone, to meet Federal reporting requirements, causes the States to collect forms from local school districts which each year costs local teachers and administrators 4,500,000 man-hours to fill out. That requirement is still in the law as extended by this bill. That is not my figure, by the way—it was given to our committee by the Administrator of HEW's National Center for Education Statistics.

So it all comes back to the Congress. School teachers and administrators, already swamped by other chores, agree that federally-generated paperwork is a massive, time-consuming, costly, generally unproductive headache.

But does this House agree. The Ashbrook substitute clearly and inescapably poses that issue. Do we trust our State legislatures, our elected school boards, our local teachers and school administrators, to determine the needs and set the priorities for education? Or do we think that we can do a better job of it here in Washington—with the assistance, of course, of over 4,000 bureaucrats in the education division of HEW? Do we really want to say that those who control the expenditure of 92 percent of all funds for elementary and secondary schools are incapable of wisely spending the 8 percent we appropriate for that purpose? That really is the issue. Those who believe that the greater wisdom lies in Washington will vote against my substitute. But the American people are becoming much more sophisticated politically, and sooner or later they are going to understand that issue and how and why their Representative in Congress voted on it.

Years ago we used to worry about Federal control of education. We thought it would come about through general Federal aid. Today we have all too much Federal control of education. But it came about in little increments, by adding one narrow-purpose grant program upon another. To get the money the schools had to add new programs, change their regular programs, commit their own resources in ways different from those which they would have chosen. So to a very large extent we have the 8 percent Federal tail wagging the whole dog—if educators will excuse my analogy.

Some of these programs are response to real needs; needs which to some extent were neglected 20 years ago. But times change, and the special needs of handicapped children or of disadvantaged children, for example, are a concern in virtually every State and locality. Virtually all schools would teach English to children who lack proficiency in it—in fact under the Lau decision of the U.S. Supreme Court they are required by law to do so. They do not need a Federal bilingual education program which does not work. Most of these special programs we have authorized are not responsive to real needs of the schools—they are responsive to special interest groups in and outside education. They are there as a result of the operation of what President Carter termed the "iron triangle" of special interest groups, the bureaucrats who run the programs, and a compliant Congress.

The Ashbrook amendment would effectively break up that "iron triangle" in education. It would strike at the heart of bureaucratic regulations, control, and waste which played so large a part in creating the taxpayer's revolt and the victory of proposition 13. The substitute is responsive to the mood of the voters and to the real needs of the schools. It would provide all the money in H.R. 15 without the strings, hence it would provide a great deal more aid for education in the form most useful to our schools. I urge its adoption.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. ASHBROOK. I yield to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the amendment by the gentleman from Ohio (Mr. ASHBROOK). I do not think it is necessary to dwell on the impact we have all felt from proposition 13. But I can tell you the message I got from the voters when I was home over the 4th of July; and I believe it is the same feeling that voters throughout the Nation are expressing. They do not want to cut back on essential services such as schools and public safety. However, they do want to eliminate waste and duplication and make delivery of those services more efficient and cost-effective.

Citizens in California do not resent the wise spending of money on their own children. Schools are among the most essential services offered by the Government and they are our hope for the future. They are also one of the few areas where citizens still feel they can have at least some impact on services, through their local school boards and State legislators.

And in my view, that is the most important feature of this amendment, because the thrust of this amendment is to return control to the local level. After all, it is the people's money we are talking about. That money does not come from some mysterious machine here in the basement of the Capitol. It does not come from the Federal bureaucrats across the street in HEW. It comes from the taxpayers. And when they see, for example, $307 per child going to Washington for one Federal education program and less than $250 per child coming back, they wonder why they had to pay $50 a child for some bureaucrat to mail back the money.

When you multiply that "leakage" by 48 million children, you get some idea why it costs $173 million a year just to administer these programs at the Federal level. Add onto that the money and time which State offices of education, county offices of education, local school districts, and the teachers themselves have to expend to fill out the forms required by those Federal bureaucrats, and you get some idea why teachers and taxpayers alike are pulling out their hair in frustration and flocking to the polls to vote for things like proposition 13.

In fact, a HEW study shows that last year the programs contained in this bill required 902,000 man-hours to fill out the Federal forms and 4.5 million man-hours to fill out the State forms required by Federal law—a staggering total of 5,412,000 man-hours just to process the paperwork required by this bill.

The amendment offered by my colleague would eliminate the vast majority of those wasted hours—during which not a single child is taught. It will drastically reduce the 1,167 pages of fine print regulations with which those people have to deal. And it will ultimately free literally tens of thousands of State and local school employees for productive work in the education system.

It will do all these things very simply by providing a single, "no-strings" block grant to the States, of the same amount of money authorized in this bill. In effect, it would eliminate some of the middlemen at the Federal level, the ones who skim $50 a child off the top of this money on it's round trip from the District to Washington and back.

This means that State and local school officials will regain control of their own programs—and of their time. It means that the public will regain effective control over what happens in their local schools. And it means, best of all, that more money will go to each child for actual teaching services, which is what we all want.

We have the opportunity, Mr. Chairman, with this amendment to do what the taxpayers have been telling us they want done: Give them back control of their Government, of their schools, and spend their money wisely and well. I do not see how we can vote to do otherwise.

Mr. PERKINS. Mr. Chairman, I oppose the Ashbrook substitute.

As I understand that amendment, it would quite simply consolidate all funds

available for Federal programs of elementary and secondary education under H.R. 15 except for impact aid into a single block grant to the States to be used "for the improvement of elementary and secondary education" within each State. I oppose this substitute for three principal reasons.

First, this amendment would wipe out in one fell swoop all the carefully constructed programs of aid to education targeted on special needs heretofore frequently neglected by States and local school boards. For example, under the Ashbrook substitute there would be no guarantee that one dollar of Federal funds would continue to be used for the education of the disadvantaged, nor would there be any guarantee that any guarantee that any funds would be used for the handicapped, for bilingual education or for the support of libraries.

Second, I oppose the substitute because it contains no provisions guaranteeing that Federal aid would be over and above what State and local governments are spending for education. The substitute contains no so-called maintenance-of-effort provision or any other provision guarding against substituting Federal dollars for State and local dollars. In other words, the substitute could very easily lead to less money being spent on education, with States and local governments simply reducing their tax effort and spending Federal dollars instead of their own dollars for education.

Third, I oppose the substitute because it holds out a false hope that redtape and complexity will be done away with without any guarantee that this will occur. Our experiences with other block grant programs, such as the law enforcement administration program, show that block grants frequently lead to as much redtape and complexity as narrower categorical programs. The General Accounting Office recently concluded a report showing this to be true.

Having said all this, I can still sympathize with the gentleman's concerns, and I would be more than pleased to join him in offering at any time a general aid to education program just as long as that program provided funds for education over and above our present programs.

I also sympathize with his arguments about too much paperwork in Federal programs, and I offered amendments to H.R. 15 which were adopted in committee seeking to cut back on this paperwork. These amendments include using 3-year instead of annual applications, doing away with many legislatively required reports, and establishing a single overall Federal agency to avoid duplicative paperwork. I believe that adopting those amendments is the way to get at the real problem.

Mr. QUIE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the distinguished gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Chairman, I thank the gentleman for yielding.

There is great dissent in America today about educational achievement. What we have done in the Federal Government with title I is to make money available for remedial programs for those who are unable to achieve through the normal experience of education. This program, while we may have some differences of opinion on how it works, has worked well. I think it has been a wise expenditure of money. I would like to see it continue.

Elementary and secondary education is a State role, a responsibility of the local community and a Federal concern. The Federal Government does have a concern primarily for disadvantaged children, for handicapped children, and for vocational education.

I think we ought to continue the support which the Federal government provides in those areas of major concern.

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, not trying to totally paraphrase Dr. King's remark that he had been to the mountain top, I have been to the battlefield of education. I served as a member and president of the school board in the largest region in the country, and I do not intend to vote for this amendment, but I think the ideas created in it do make some sense. What it amounts to is essentially a revenue sharing plan. I would like to ask the gentleman from Ohio (Mr. ASHBROOK) some questions because, while it is not going to pass, I am sure that the ideas may not pass.

First let me ask my colleague, as I understand the amendment the moneys would be given to the States to dispense as they deemed appropriate under their State laws, is that correct?

Mr. ASHBROOK. That is correct.

Mr. GLICKMAN. So, therefore, no more mandated target purposes contained in prior educational policies, specifically title I, would be maintained upon the States?

Mr. ASHBROOK. That is accurate, at least as far as the programs covered in H.R. 15. There are still many programs such as the handicapped program, and others, that would be continued.

Mr. GLICKMAN. This would mean, if it were legal under State law you could use the money for general educational purposes including salaries, reduction of property taxes or income taxes or whatever form of taxes actually are appropriate for education in order to spend these funds. They would have absolute discretion?

Mr. ASHBROOK. They would have absolute discretion. There would be some guidelines laid down by the Commission on Education, there is the requirement that private schools be taken into consideration, as they are now, but, with a few exceptions my colleague is precisely stating the facts.

Mr. GLICKMAN. While I cannot vote for it, because I do believe that the Federal guidelines and targets contained in the Federal program are clearly in the best interests of assisting the disadvantaged people in this country, but, at the same time, I do commend the gentleman because I have had some little experience with the Federal educational policy, and in a few instances have found that they are very hard to comprehend and sometimes found that they are very inconsistent and many times the money is not given for the children to be served, and that is the whole purpose in what we are doing here today.

Mr. ASHBROOK. Mr. Chairman, if the gentleman will yield further, I am very glad to see my friend the gentleman from New Jersey (Mr. THOMPSON) is on the floor, because I think for Mr. THOMPSON that this will be a very proud moment for him. When I first came to the Congress there was a Bailey-Thompson bill. The name was Cleveland M. Bailey, a former Representative from West Virginia, and the other name was FRANK THOMPSON, who was then a young, vigorous Congressman from New Jersey.

I think the gentleman from New Jersey (Mr. THOMPSON) should be very proud today, because he has been vindicated by the passage of 20 years. This is essentially the Bailey-Thompson bill of the late 1950's and early 1960's. At that time it was his child and I would assume now it is his grandchild, and I hope he is proud of it.

Mr. THOMPSON. Someone in the family ran off for a time.

Mr. ASHBROOK. Was it Mr. Bailey or Mr. THOMPSON?

Mr. THOMPSON. I do not know which. But, you know, I guess I have to disavow its great grand maternity. I do not know where she went for a while.

Mr. ASHBROOK. I thank my colleague. I figured he would be proud. This is really his bill.

Mr. THOMPSON. It has a familiar ring, I will say.

Mr. ASHBROOK. Mr. Chairman, I yield back the remainder of my time.

Mr. MICHEL. Mr. Chairman, I rise to support the amendment offered by Mr. ASHBROOK, for a single no-strings block grant covering all school aid programs except impact aid.

As Mr. ASHBROOK has pointed out, his amendment would not cut funds to schools. Indeed, it would mean more money, used more effectively, because his plan will eliminate the redtape and paperwork which cost the taxpayer so much and give so little.

The benefits of the Ashbrook proposal are self-evident. It eliminates bureaucratic complexity, and allows the States to spend the money as they see fit. Moreover, by passing such an amendment, we say not only to the educational bureaucracy here in Washington, but to bureaucrats in other agencies as well that the time has come for the people to reclaim what is rightfully theirs.

I have heard it argued that in eliminating Federal regulation for Federal tax dollars we in Congress are being irresponsible. It is argued that we have the positive duty to attach strings in or-

der to see to it that the money is used fairly, as it was intended.

I believe this argument raises an important point about our responsibilities. Can we discharge our duty to the taxpaper by voting to give tax dollars to the States without demanding that the States obey Federal regulation? My answer is "Yes." Let me tell you why.

Guidelines are useful only when, as the word suggests, they serve as a guide. When they become a maze, a labyrinth of endless twisting and turning, confusing and perplexing those who use them, guidelines cease to serve their original function. I will not repeat the horror stories we all have heard from schools in our districts. You know as well as I that paperwork and redtape and bureaucratic brainstorms have caused school administrators endless problems.

Federal guidelines for education have long since been transformed from aids to hindrances. But because they still carry that old reliable label "guidelines" we wish to keep them.

The same holds true if we use the word "regulation." The word implies some kind of direction, some sort of orderliness. But we know that Federal regulations for education have become so chaotic, so full of doubletalk and mysterious bureaucratic mumbo-jumbo that orderliness is the last thing we can expect from them. Yet, despite this, despite the cost of such regulations, we continue to demand them. Why? I will tell you why. Because that is the way we did it last year and the year before that and the year before that.

I sometimes wish the Congress were as conservative when it comes to spending money as it is in changing outmoded programs and procedures.

Inertia, not reason, governs much of the congressional attitude toward educational aid. The Ashbrook amendment gives us a chance to break with practices which may once have been useful but have long since become a burden. Our guidelines do not guide, our regulations make things less orderly, the costs go up, the bureaucracy increases. Why? For the simple reason that we have been doing it that way.

We have to have the courage to admit that the Congress simply has no good reason to continue to do what it has been doing for too many years, in too many areas.

Do you remember "Gulliver's Travels"? In that book, the tiny Lilliputians tied the giant Gulliver with many little strings and he could not break away. That is what the tiny minds of Washington bureaucracy have been doing to Americans with guidelines and regulations for too many years.

So I ask that you join me in supporting the Ashbrook amendment. Let us untie the enormous strength of the local and State educational systems. The only ones who have to fear such an unleashing are those who for all these years have been weaving the countless threads which by their accumulated weight, have tied down the American education system.

Mr. SYMMS. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to commend my colleague, JOHN ASHBROOK from Ohio, for his amendment in the nature of a substitute to H.R. 15, the ESEA amendments. Mr. ASHBROOK's substitute would send all the funds authorized for education directly back to States and localities. The States would receive a far greater allotment for education under Mr. ASHBROOK's bill than they would under H R. 15.

For instance, Federal funds to Idaho schools would almost be doubled under the Ashbrook formula and redtape could be virtually eliminated. The administration of the funds should be determined by State law, without Federal interference, and thousands of employees now supervising Federal educational programs could be freed for productive work in the education system.

Last year, Idaho received about $23 million in Federal education funds—$121 per student—with $8.9 million of that allocated through the Elementary and Secondary Education Act. Mr. ASHBROOK's substitute to the ESEA amendments would increase that aid to Idaho schools to $40.1 million in 1979 and $53.6 million in 1980.

Over the years as the size of the Federal education bureaucracy has grown, the State education systems have been losing authority over their own programs and the amount of aid going directly to education has decreased due to administrative salary expenses and all the additional individuals employed to file Federal reports.

With proposition 13 and similar measures being adopted in many States, it is important that all funds allotted to the States for education be used for that purpose, and not to pay professional bureaucrats.

Let us adopt the Ashbrook substitute and let the States run their own education systems.

Mr. BUCHANAN. Mr. Chairman, I move to strike the requisite number of words, and I rise in oposition to the amendment.

Mr. Chairman, I cannot agree with the effort of the gentleman from Ohio (Mr. ASBROOK) to substitute a single block grant, distributed according to school-age population, for the variety of categorical programs in H.R. 15.

One of the simplest reasons for not distributing the money as our colleague suggests is that the children who are the concern of this bill are not themselves distributed evenly among the States. The migrant population is a perfect example of this.

The most recent count of migrant children reported that the State of Florida had the equivalent of almost 30,000 migrant children. The State of New Jersey, with a similar sized population had only about 1,800 migrant children. Should these two States receive the same amount of money to assist migrant children?

Or look at the State of Texas. They have reported the full-time equivalent of 87,000 migrant children, while Illinois, a State of about the same size, has only about 1,600. It is inconceivable that money intended for migrant children should be given equally to these two States.

The same applies for bilingual education. The National Center for Education Statistics estimates that 21 percent of New York's school age population comes from non-English-speaking households, but in Mississippi the figure is only two-tenths of 1 percent. In New Mexico, 48.9 percent of the children come from non-English-speaking households, but in Montana, the figure is only 4.2 percent. Yet this amendment would take the money authorized for helping bilingual children and spread it evenly across the Nation. That is like trying to put out a kitchen grease fire by pointing your hose at the living room and dining room.

Believe me, I sympathize with the frustration with paperwork and regulations that may have motivated the gentleman's proposal. But this is not the solution. I urge the defeat of the Ashbrook amendment.

The CHAIRMAN. The question is on the amendment in the nature of a substitute offered by the gentleman from Ohio (Mr. ASHBROOK).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ASHBROOK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 79, noes 290, not voting 63, as follows:

[Roll No. 541]

AYES—79

Andrews, N. Dak.	Erlenborn	Marriott
Archer	Evans, Del.	Martin
Armstrong	Findley	Michel
Ashbrook	Forsythe	Milford
Badham	Gephardt	Miller, Ohio
Bafalis	Goldwater	Moore
Bauman	Grassley	O'Brien
Brinkley	Hagedorn	Quayle
Broomfield	Hall	Robinson
Brown, Ohio	Hamilton	Rousselot
Broyhill	Hammer-schmidt	Rudd
Burleson, Tex.	Hansen	Runnels
Butler	Holt	Ryan
Clausen, Don H.	Huckaby	Satterfield
Cleveland	Hyde	Schulze
Coleman	Ichord	Sharp
Collins, Tex.	Jones, N.C.	Shuster
Conable	Kelly	Smith, Iowa
Corcoran	Kemp	Stangeland
Cunningham	Kindness	Symms
Daniel, Dan	Lagomarsino	Taylor
Daniel, R. W.	Latta	Treen
Derwinski	Levitas	Vander Jagt
Devine	Livingston	Waggonner
Dickinson	Lujan	Walker
Edwards, Okla.	McDonald	Whitehurst
	McEwen	

NOES—290

Abdnor	Baldus	Boggs
Addabbo	Beard, R.I.	Boland
Akaka	Beard, Tenn.	Bolling
Ambro	Bedell	Bonior
Ammerman	Bellenson	Bonker
Anderson, Calif.	Benjamin	Bowen
Annunzio	Bennett	Brademas
Applegate	Bevill	Brodhead
Ashley	Biaggi	Brooks
Aspin	Bingham	Brown, Calif.
	Blanchard	Buchanan

Burgener	Howard	Poage
Burke, Calif.	Hubbard	Pressler
Burke, Mass.	Hughes	Preyer
Burlison, Mo.	Ireland	Price
Burton, John	Jacobs	Pritchard
Burton, Phillip	Jeffords	Pursell
Byron	Jenrette	Quie
Carney	Johnson, Calif.	Rahall
Carr	Johnson, Colo.	Regula
Carter	Jones, Okla.	Reuss
Cavanaugh	Jones, Tenn.	Rhodes
Chappell	Jordan	Richmond
Chisholm	Kastenmeier	Rinaldo
Clay	Kazen	Risenhoover
Cohen	Keys	Roe
Collins, Ill.	Kildee	Rogers
Conte	Kostmayer	Roncalio
Conyers	Krebs	Rooney
Corman	LaFalce	Rose
Cornell	Leach	Rosenthal
Cornwell	Lederer	Rostenkowski
Cotter	Leggett	Roybal
D'Amours	Lehman	Russo
Danielson	Lent	Santini
Davis	Lloyd, Calif.	Scheuer
Delaney	Lloyd, Tenn.	Schroeder
Dellums	Long, La.	Sebelius
Derrick	Long, Md.	Seiberling
Dicks	Lott	Shipley
Dingell	Luken	Sikes
Dodd	McClory	Simon
Dornan	McCloskey	Sisk
Downey	McCormack	Skelton
Drinan	McDade	Skubitz
Duncan, Oreg.	McFall	Slack
Duncan, Tenn.	McHugh	Snyder
Early	McKay	Solarz
Eckhardt	McKinney	Spellman
Edgar	Madigan	Spence
Edwards, Ala.	Maguire	St Germain
Edwards, Calif.	Mahon	Staggers
Eilberg	Markey	Stanton
Emery	Marks	Stark
English	Marlenee	Steed
Ertel	Mattox	Steers
Evans, Ind.	Mazzoli	Steiger
Fary	Meeds	Stockman
Fascell	Meyner	Stokes
Fenwick	Mikulski	Stratton
Fish	Mikva	Studds
Fisher	Miller, Calif.	Stump
Fithian	Mineta	Thompson
Flippo	Minish	Thornton
Flood	Mitchell, Md.	Traxler
Florio	Moakley	Trible
Foley	Mollohan	Tucker
Ford, Mich.	Montgomery	Udall
Ford, Tenn.	Moorhead, Calif.	Ullman
Fowler	Moorhead, Pa.	Van Deerlin
Frenzel	Murphy, Ill.	Vanik
Fuqua	Murphy, N.Y.	Vento
Garcia	Murphy, Pa.	Volkmer
Gaydos	Murtha	Walgren
Giaimo	Myers, Gary	Walsh
Gilman	Myers, John	Wampler
Ginn	Myers, Michael	Watkins
Glickman	Natcher	Weaver
Gonzalez	Neal	Weiss
Gore	Nedzi	Whalen
Gradison	Nix	White
Green	Nolan	Whitley
Gudger	Nowak	Whitten
Hanley	Oakar	Wilson, Tex.
Hannaford	Oberstar	Wirth
Harkin	Obey	Wright
Harris	Ottinger	Wydler
Harsha	Panetta	Wylie
Hawkins	Patten	Yates
Heckler	Patterson	Yatron
Hefner	Pattison	Young, Alaska
Heftel	Pease	Young, F.a.
Hightower	Pepper	Young, Mo.
Hillis	Perkins	Young, Tex.
Holland	Pettis	Zablocki
Hollenbeck	Pickle	Zeferetti
Holtzman	Pike	
Horton		

NOT VOTING—63

Alexander	Burke, Fla.	Evans, Colo.
Anderson, Ill.	Caputo	Evans, Ga.
Andrews, N.C.	Cederberg	Flowers
AuCoin	Clawson, Del	Flynt
Barnard	Cochran	Fountain
Baucus	Coughlin	Fraser
Blouin	Crane	Frey
Breaux	de la Garza	Gammage
Breckinridge	Dent	Gibbons
Brown, Mich.	Diggs	Goodling
Guyer	Moffett	Sawyer
Harrington	Moss	Smith, Nebr.
Jenkins	Mottl	Teague
Kasten	Nichols	Thone
Krueger	Quillen	Tsongas
Le Fante	Railsback	Waxman
Lundine	Rangel	Wiggins
Mann	Roberts	Wilson, Bob
Mathis	Rodino	Wilson, C. H.
Metcalfe	Ruppe	Winn
Mitchell, N.Y.	Sarasin	Wolff

Messrs. BEARD of Tennessee, MAHON, ABDNOR, SPENCE, and RISENHOOVER changed their votes from "aye" to "no."

Messrs. RYAN, LEVITAS, MARTIN, HALL, and RUNNELS changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Mr. ASHBROOK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, title XIII has some useful provisions to try to control the amount of paperwork—which has been described as the "paperwork disaster"—generated by the multiplicity of Federal education programs. But unfortunately, as long as we continue to add programs on top of programs, these provisions will be largely cosmetic. In fact, they already would duplicate functions assigned to OMB.

As I say, if we continue adding Federal program upon program—each with its applications, justifications, audits, reports, evaluations, and so forth, the title XIII paperwork control is unlikely to help much. If we adopted the Ashbrook substitute it would be totally unnecessary.

What does the paperwork control part beginning on page 335 of the bill do? Well, it directs the Secretary of HEW to coordinate the collection of education data among all Federal agencies. But this already is the function of OMB—and the biggest headache OMB has had is coordinating and controlling HEW data requests. So we are putting the fox in charge of the henhouse.

Then the bill comes up with the perfect bureaucratic answer. On pages 335 and 336 it establishes a special unit for education data management in the National Center for Education Statistics headed by a GS–17. It also establishes a Federal Education Data Acquisition Council to assist the Administrator of the National Center with respect to the improvement, development, and coordination of Federal education and data acquisition activities. Thus we set up a whole new bureaucracy to do what the old bureaucracy has been unable to do. The first thing it cannot do is undo the kind of legislation we have before us. We pile program upon program with the inevitable results. In title I of ESEA alone, reports required to be made by the law and collected by the States from local school districts take 4,500,000 man-hours each year to complete. Local teachers and administrators have to do this. They are swamped by it. But we still require it. We shall continue to require it under H.R. 15.

H.R. 15 does make some improvements. On pages 344–45 we authorize applications for assistance to be made for 2 fiscal years, rather than 1, if the Commissioner sees fit to authorize it. Then beginning on page 354 there is a provision for a single State application covering title I and 5 other programs—or 6 out of the 35 or 40 we authorize in this bill. That would help, except that the bulk of the paperwork is not found in the State application for grants, but in complying with the multitude of detailed requirements of the laws at the local level. In fact, just prior to the section on a single State application on page 352—is one on "State education agency monitoring and enforcement" which authorizes the Commissioner to require States to be even more meddlesome in overseeing administration of all these programs at the local level—as if local schools did not have enough troubles.

So, all in all, well meaning as these provisions are, they are something of a charade. I just do not believe that we need all these controls and regulations and requirements on Federal education grants which amount in total to only 8 percent of all expenditures on public elementary and secondary schools. I think State and local school boards who spend 92 percent of the money can manage the rest without Federal dictation. We will still have some categorical grant programs: Impact aid, education of handicapped children, and vocational education. But for the rest, why not trust our own educators and State and local people? That is the only sure cure for redtape and bureaucracy.

● Mr. DON H. CLAUSEN. Mr. Chairman, I supported the Ashbrook amendment. This amendment will introduce the block grant, or revenue sharing concept to Federal education assistance programs, by eliminating categorical grants and giving policy decisions back to teachers and local school administrators.

During recent meetings with the representatives of the educational community in my congressional district, I have discussed with teachers, administrators, and other officials, the possibility of moving toward a revenue sharing or block grant approach for the Federal contribution to local education.

I was amazed to hear the candid comments of those I talked with supported this concept and who are equally frustrated with the excessive paperwork, redtape and inflexibility of the education administrative bureaucracy. They are fed up with the categorical grant approach and feel that they have the competence, expertise, and sensitivity to make their own decisions and run their own programs.

At the same time they did not state the goals of the many categorical programs were unworthy. Rather, that the carrot and stick approach of the Federal Government encouraged the development of programs in their districts simply for the sake of receiving a share of the Federal money that has been si-

phoned off from their local tax roles. They were quick to point out that the Federal education effort does not recognize the diversity of needs that exist from one school district to another, from one region to another, or from urban areas to rural areas.

Their expression of discontent does not reflect a lessening of their commitment to equal opportunity, special education, or quality education. What I believe it says is that we waste too much time and money setting up elaborate management and information and reporting systems at the expense of our real goal—quality education. On paper, our Federal effort looks good—in reality, it is inefficient and counterproductive.

We cannot continue along our present course of a piecemeal approach of legislating nationally for every special interest group that presents us with an unsolved problem. Many of these problems could be solved locally, if we will give back to the people the financial capability to deal with the problems. Education is symbolic of the whole Federal grant system. There is far too much in the way of funds that are literally eaten up in duplicative and unnecessary administrative costs.

A new sense of direction is needed. We have a constitutional and moral obligation to maintain a decentralized system of education in America. The bloc grant and/or revenue sharing approach will free up the educators to do the kind of job they are capable of as we move toward our quality education goals and objectives.●

● Mr. LAFALCE. Mr. Chairman, today we are considering one of the most essential pieces of legislation to be considered by this Congress. I refer to the Elementary and Secondary Education Act amendments, H.R. 15. Contained in this bill are the programs and funding which can enable many of our youth to expand their vision and understanding and become better people, more able to take advantage of the opportunities which our society offers, and more able, in turn, to contribute to that society.

The funds which we authorize here represent a new commitment to education on the part of the Federal Government. President Carter has stated his strong support for elementary and secondary education programs, and the Congress has responded in like manner, proposing a bill with one of the greatest increases in funding of the last two decades. The variety of programs contained in the bill will reach large numbers of our schools and our children with a diversity of opportunities to learn and grow.

H.R. 15 provided another chance for Congress to review the formula under which it distributes Federal funds, and to revise that formula to more fully achieve the goals set out in the bill. The Elementary and Secondary Education Act makes the assumption that children from poor families need additional educational assistance in order to reach educational levels equivalent to those of their peers from more affluent backgrounds. When the last ESEA authorization bill was passed, several changes were made in the formula which were more political than proper, and which did not reflect the actual needs of children and schools. I am particularly pleased to see that the committee has seen fit to return to some of the elements of the pre-1974 formula which target this educational aid more closely to those areas where children are most in need.

One specific example of this is the counting of children in families which receive AFDC payments. Prior to 1974, all children in such families were included in the formula for purposes of allotting funds to States and school districts. In 1974, this full counting of AFDC children was reduced to two-thirds, based on the rationale that since AFDC payments brought the family above the poverty level, the children were not as much in need of educational assistance. The committee has seen fit this year to return to a full counting of children in families receiving AFDC payments. This is a wise decision, since the distinction between AFDC families and other poor families is largely artificial at least as far as it applies to educational needs of children. This change is also very beneficial to States such as New York which have large numbers of AFDC families and who offer liberal benefits under that program, thereby making more children ineligible for consideration under the present title I formula.

Another important change in the formula this year is the use of the survey of income and education population statistics over the 1970 census data. This survey has two advantages: First, it is more current that 1970 census data, thereby showing any recent population shifts and allowing the ESEA funds to be targeted to those areas most in need; and second, it is a more precise indicator of educational assistance needs than is simple population data gathered during a census, again making sure that the funds reach their intended destinations. Both of these elements are beneficial to the industrial Northeast which has higher concentrations of poor families as revealed in the SIE study.

When we make our commitment to education, recognizing its potential to open doors, we must also make a commitment to see that the assistance reaches those who need it most. Because of the tremendous increase in funding for such programs requested by President Carter, no school district should lose aid because of the formula changes, but those areas with the greatest need should realize significant gains. The challenge to the schools is to put these gains to optimum use.

Mr. Chairman, this is an excellent bill, and I urge all my colleagues to support it.●

● Mr. CONYERS. Mr. Chairman, today the House passed an amendment which provides local educational agencies with $15 million in Federal funds for school violence and vandalism programs. This amendment raises several serious implications for our Nation's educational system.

In May of last year, I expressed my concern to this body about the need to remove many of our youthful offenders from juvenile justice institutions. This amendment has the overall thrust of introducing additional children and youth into the criminal justice system. Since this amendment offers no guidelines for the use of these funds, each school district is left to develop its own standards. As indicated in section 699C (a), the funding criteria is totally based on "the incidence of reported crime in the schools." This provision gives school officials an incentive to inflate their crime reports to law enforcement personnel. For example, school fights, which were once handled by a vice principal's disciplinary action, could now be labeled assault and battery cases. The tragedy is that young people who would probably never encounter the criminal justice system could now be introduced to it, by educators. At a time when LEAA's Office of Juvenile Justice and Delinquency programs has stressed the need for diversionary programs, it seems incongruous that we should support a measure that would have the opposite effect.

While I share my colleagues' concern for violence in our Nation's schools, providing Federal dollars for security improvements is, at best, an attack on the symptom rather than addressing the real problem—the need for alternative approaches to educate all the Nation's youth, not just those who are easily reached by the present school systems.

Section 699A outlines the purpose of this amendment as providing "financial assistance to local educational agencies throughout the Nation." A $15 million provision for only 15 educational agencies is an expensive program and does not comply with the stated purpose of the amendment. Additionally, school properties are funded through local and State revenues, therefore the maintenance of these properties should also be supported by these revenues rather than creating a new dependence on Federal funds. The taxpayers of this Nation are sending us a clear mandate—Government must be more cost effective. I submit that programs to educate our children should be the first priority for Federal funds, not additional money to create detention centers out of the Nation's school yards. This amendment only encourages the Nation's teachers to dump problem students into the juvenile justice system rather than assisting them in their efforts to educate our youth through creative and innovative programs.●

● Mr. ASHLEY. Mr. Chairman, I am pleased to associate my remarks with those of the gentlewoman from Maryland in support of her amendment to H.R. 15 and I would like to take this opportunity to commend Mrs. HOLT for offering a proposal which is so clearly in the national interest.

This amendment spells out a policy of nonduplication of those services

offered by local education agencies and those already existing through the auspices of city, county or State agencies. I believe we all support the use of schools for community activities, but we must insure that schools and community agencies do not become competitors for clientele or funding. Adoption of this amendment would prevent such a situation, with its potential for waste of public funds, from arising.

Mr. Chairman, I urge adoption of the amendment.●

● Mr. AKAKA. Mr. Chairman, today the House of Representatives considers H.R. 15, the Elementary and Secondary Education Act Amendments of 1978.

I would like to take this opportunity to offer my support for this legislation. I am satisfied with virtually the entire bill, for it brings much needed additional funding to my State. The emphasis which both the administration and the Education and Labor Committee place on the basic skills of reading, writing, and mathematics, is commendable. This "return to basics" represents a rebirth of America's system of education. Perhaps quality education in the public school system now shall become a reality instead of a dream.

As a former title I coordinator, I am especially concerned with this portion of H.R. 15. My only dissatisfaction with the entire bill comes from this section: the formula change which substitutes the use of the 1976 survey of income and eduction (SIE), instead of the 1970 census, for the population estimate. This will result in a $32,000 loss for Hawaii—a loss which, though relatively small, will be felt.

I am extremely pleased with the new program to provide supplemental assistance to States with compensatory education programs. The qualifications for Federal assistance—$2 for every 1 State dollar—are clear and fair. Any liberalization of this section would result in a weakening of its thrust. Hawaii qualifies for the additional funding by virtue of its extensive compensatory education program. This includes the comprehensive school alienation program (CSAP), which provides additional services to youths aged 9 to 19 identified as dropouts or potential dropouts. Also funded by State compensatory education money is act 4, which is devoted to educational improvement projects for the children of Hawaiian home lands lessees. The intent of the incentive grant program is to encourage other States to develop compensatory education programs such as these. I oppose any weakening amendments which would make it easier for other States to qualify.

As a former teacher and principal, I can predict the reaction of educators to the provision in H.R. 15 which will permit 3-year applications for grants instead of annual applications. This will greatly reduce the amount of paperwork required for school districts and allow educators to concentrate on the real business of education.

Likewise, I admire the provision for increased parental involvement in title I programs. Such involvement is necessary so that a child's education will continue even when he or she leaves the school grounds. Of additional assistance in this area of continuity in education is the emphasis which H.R. 15 places on cooperation between Federal and State administrators. Such cooperation can only result in more effective programs for the students.

In Hawaii, the emphasis in education is on basic language skills and mathematics. Many of our children come from homes where little English is spoken, and it is left to the schools to compensate for this disadvantage. For this reason, I am especially pleased with the reauthorization of the national reading and mathematics program for 5 years, through 1983. The program which includes authorizations for grants and projects aimed at improving reading and mathematics achievement, will be administered by the State rather than by the Federal Government. I am certain State administrators will welcome this provision, for they, more than others, know where within the district, the needs are greatest. Another program which will now be State administered is the Special Projects Act.

I welcome the addition to title VIII of the new section on minimum competency standards. This section would authorize aid to States in developing standards by which a student's competency level may be tested. I have previously remarked on my State's emphasis on basic skills. Additional attention to the measurement or testing of these basic skills will be of great assistance to our students.

I believe that we all recognize the importance of the Emergency School Aid Act (ESAA) within our educational system. In Hawaii, ESAA dollars assist numerous minority students, and, as you well know, the needs of such minority students are great. Additionally, under ESAA, districts will be allowed to submit applications for grants of up to 5 years rather than 1 year. Again, this will reduce paperwork freeing administrators and teachers to develop more effective and far-reaching programs. For example, programers may now take the time to effect research into ways in which a child's cultural—minority—background can assist in his or her English language instruction. Bilingual education is of major importance in Hawaii and must be treated accordingly.

I applaud the defeat of the administration's impact aid proposals. Hawaii's need for these funds is great because of the number of Federal workers employed there. The increased aid to heavily impacted districts will most definitely assist in compensating my State for the cost of educating children of Federal workers. I support the expansion of public housing impact aid. Public housing children come from school districts with the greatest need for additional Federal aid. It has been said that there is a direct connection between large concentrations of public housing and the financial needs of the school district.

In a State where a large proportion of the population is immigrants, adult education assumes greater and greater importance. Increased emphasis on the flexibility of course offerings, location of classes, and logistics in terms of day care and transportation will be of enormous assistance to adult students in Hawaii. These students must not be forgotten: they, too, are in need of basic skills training.

I reiterate my support for H.R. 15 and urge prompt and favorable consideration.●

● Mr. FRENZEL. Mr. Chairman, despite a great affection for grant consolidation and/or block grants. I will vote against this amendment of the gentleman from Ohio (Mr. ASHBROOK).

I do support some sort of per pupil allocation directly to the LEA's, but also I believe that we have an obligation to work on specific educational problems, particularly those dealt with by title I relating to educational and economic disadvantage.

The programs I want kept separate, like, title I, are consolidated in this amendment, and some I would like to consolidate, like impact aid, are kept separate.

Therefore the amendment which sounds interesting in general description, is less meritorious on closer analysis. I urge that it be defeated, and the bill be promptly passed.●

● Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of H.R. 15, the Education Amendments of 1978. Enactment of this important piece of legislation will mean not only a 5-year extension of the Nation's major elementary and secondary education programs but an improved direction of these programs to those who are most in need. For example, the $6.3 billion authorized in H.R. 15 for title I compensatory education services for fiscal year 1979 provides financial assistance to State and local educational agencies for the schooling of approximately 5.9 million educationally deprived children in low-income areas. In my district in the heart of Chicago, title I funds the outstandingly successful child-parent centers which in 1976 were recognized by the Office of Education as one of 33 exemplary educational programs in the Nation. Without the child-parent centers, thousands of disadvantaged youngsters in Chicago would not get the special tutoring in verbal skills they so desperately need in order to get started in the world on a competitive basis. I have long worked to strengthen title I programs and am very pleased to see that these special services will be reauthorized through 1983.

The formula for allocating title I compensatory education moneys has been substantially revised by the House Education and Labor Committee from the 1974 amendments—Public Law 93-380. Although several floor amendments are expected to be offered in an attempt to change the formula, I believe the committee's proposal is the most effective in distributing the money to those areas most in need.

Under title I, funds are allocated to States on the basis of the number of poor children. Over the years, changes in the method of counting the poor have had a significant effect on the regional distribution of funds. Since 1974, for example, Congress has cut the amount of money available to certain Northeastern and Midwestern States, including Illinois, by counting only two-thirds of the children belonging to families receiving Aid to Families with Dependent Children (AFDC) for purposes of allocating funds. Among the changes adopted by the committee in this year's bill is a provision that would restore a full accounting of AFDC children for purposes of allocating funds. While this will have a marginal effect on Illinois, other changes will bring substantially more title I money into the Chicago area.

Following the recommendation of President Carter, and in recognition of the special problems of schools in economically deprived urban areas, the committee authorized an additional $400 million in title I money, of which Chicago is to receive $10 million.

Another important change made by the committee would distribute title I funds on the basis of the 1976 survey of income and education (SIE) instead of the 1970 census. This change was recommended after many experts had testified: first, that the 1970 census has become outdated for the purpose of determining who is and is not poor in 1978, and second, that SIE data provides a more reliable estimate of the number and distribution of children in poverty. In addition, the committee has decided to utilize the Department of Health, Education and Welfare's Measure of Poverty—50 percent of the national median income for a family of four—in place of the so-called Orshansky poverty index that has been used until now. The committee was of the opinion that this formula would result in a more equitable distribution of title I funds.

If these provisions are adopted when the House and Senate vote on H.R. 15, the State of Illinois would receive 22 percent more funds in fiscal year 1980 than it would under Public Law 93-380.

Other major Federal Programs are also amended through H.R. 15. In the title IV consolidated programs, the funding of guidance and counseling programs is separated out of the library and learning resources section and placed in its own section. The bilingual education program is amended to emphasize the need for careful program planning and to encourage greater Federal efforts to find appropriate models of effective teaching techniques. Changes are made in the Emergency School Aid Act to increase administrative flexibility at the Federal level and to require timely processing of local applications for assistance. A very important change has also been made in the adult education program to emphasize functional literacy.

Another innovation contained in H.R. 15 is a section providing aid to States to help them develop minimum competency tests and remedial courses in the basic skills. This provision, which is similar to legislation that I have introduced, H.R. 10508, makes it clear that State and local educational agencies, and not the Federal Government, are to specify the minimum standards to be met and the kinds of tests that can be used.

I am also gratified to see that Women's Educational Equity Act programs, have been provided with a separate authorization to advance the goal of educational equality for women.

H.R. 15 creates a new and long overdue program of grants to colleges and universities to establish after-school courses for economically disadvantaged youth to prepare them for premed courses at the college level. The purpose of the program is to increase the number of medical professionals from disadvantaged backgrounds. We are all aware of the critical health problems experienced by residents of rural areas and some parts of large cities which are exacerbated due to the lack of accessibility to physicians. H.R. 15 recognizes that the most obvious strategy for improving this situation is to train a large number of health professionals who would be the most likely to practice in medically underserved areas. Various studies confirm that the people most likely to go into practice in these areas are minorities, persons from low-income families, and persons who come from these areas themselves.

These and many other worthy programs too numerous to mention in this limited time will be brought to life through enactment of the education amendments of 1978.

I urge my colleagues to approve H.R. 15 without further delay for the purpose of providing these important educational enrichment programs to our children.●

The CHAIRMAN. Are there further amendments to title XV? If there are none, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. DUNCAN of Oregon, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 15) to extend for 5 years certain elementary, secondary, and other education programs, pursuant to House Resolution 1208, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the Committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. STEERS. Mr. Speaker, I demand a separate vote on the so-called Perkins amendment to title X.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Clerk will report the amendment on which a separate vote has been demanded.

The Clerk read as follows:

Amendment: Page 269, strike out line 24 and everything that follows through line 13 on page 270.

Page 270, line 15, redesignate section 1004 as section 1003 and strike out line 18 and everything that follows through line 2 on page 271.

Redesignate the succeeding sections and references thereto and conform the table of contents accordingly.

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. ASHBROOK

Mr. ASHBROOK. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. ASHBROOK. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. ASHBROOK moves to recommit the bill H.R. 15 to the Committeee on Education and Labor.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken by electronic device, and there were—yeas 350, nays 20, not voting 62, as follows:

[Roll No. 542]

YEAS—350

Abdnor	Bevill	Burlison, Mo.
Addabbo	Biaggi	Burton, John
Akaka	Bingham	Burton, Phillip
Ambro	Blanchard	Butler
Ammerman	Boggs	Byron
Anderson, Calif.	Boland	Carr
	Bolling	Carter
Andrews, N. Dak.	Bonior	Cavanaugh
	Bonker	Chappell
Annunzio	Bowen	Chisholm
Applegate	Brademas	Clausen, Don H.
Armstrong	Brinkley	
Ashley	Brodhead	Clay
Aspin	Brooks	Cleveland
Bafalis	Broomfield	Cohen
Baldus	Brown, Calif.	Coleman
Beard, R.I.	Brown, Ohio	Collins, Ill.
Beard, Tenn.	Broyhill	Conable
Bedell	Buchanan	Conte
Bellenson	Burgener	Conyers
Benjamin	Burke, Calif.	Corcoran
Bennett	Burke, Mass.	Corman

Cornell	Johnson, Colo.	Quayle
Cornwell	Jones, N.C.	Quie
Cotter	Jones, Okla.	Rahall
Coughlin	Jones, Tenn.	Regula
Cunningham	Jordan	Reuss
D'Amours	Kastenmeier	Rhodes
Daniel, R. W.	Kazen	Richmond
Danielson	Kemp	Rinaldo
Davis	Keys	Risenhoover
Delaney	Kildee	Robinson
Dellums	Kindness	Roe
Derrick	Kostmayer	Rogers
Derwinski	Krebs	Roncalio
Devine	LaFalce	Rooney
Dickinson	Lagomarsino	Rose
Dicks	Latta	Rosenthal
Diggs	Leach	Rostenkowski
Dingell	Lederer	Roybal
Dodd	Leggett	Runnels
Dornan	Lehman	Russo
Downey	Lent	Ryan
Drinan	Levitas	Santini
Duncan, Oreg.	Livingston	Scheuer
Duncan, Tenn.	Lloyd, Calif.	Schroeder
Early	Lloyd, Tenn.	Schulze
Eckhardt	Long, La.	Sebelius
Edgar	Long, Md.	Seiberling
Edwards, Ala.	Lott	Sharp
Edwards, Calif.	Lujan	Shipley
Edwards, Okla.	Luken	Shuster
Eilberg	McClory	Sikes
Emery	McCloskey	Simon
English	McCormack	Sisk
Erlenborn	McDade	Skelton
Ertel	McEwen	Skubitz
Evans, Del.	McFall	Slack
Evans, Ind.	McHugh	Smith, Iowa
Fary	McKay	Snyder
Fascell	McKinney	Solarz
Fenwick	Madigan	Spellman
Findley	Maguire	Spence
Fish	Mahon	St Germain
Fisher	Markey	Staggers
Fithian	Marks	Stangeland
Flippo	Marlenee	Stanton
Flood	Marriott	Stark
Florio	Martin	Steed
Foley	Mattox	Steers
Ford, Mich.	Mazzoli	Steiger
Ford, Tenn.	Meyner	Stockman
Fowler	Michel	Stokes
Frenzel	Mikulski	Stratton
Fuqua	Mikva	Studds
Garcia	Miller, Calif.	Stump
Gaydos	Mineta	Taylor
Gephardt	Minish	Thompson
Giaimo	Mitchell, Md.	Thornton
Gilman	Moakley	Traxler
Ginn	Mollohan	Trible
Glickman	Montgomery	Tucker
Goldwater	Moore	Udall
Gonzalez	Moorhead, Calif.	Ullman
Gore		Van Deerlin
Gradison	Moorhead, Pa.	Vander Jagt
Grassley	Murphy, Ill.	Vanik
Green	Murphy, N.Y.	Vento
Gudger	Murphy, Pa.	Volkmer
Hagedorn	Murtha	Waggonner
Hall	Myers, Gary	Walgren
Hamilton	Myers, John	Walker
Hammer-schmidt	Myers, Michael	Walsh
	Natcher	Wampler
Hanley	Neal	Watkins
Hannaford	Nedzi	Weaver
Harkin	Nix	Weiss
Harris	Nolan	Whalen
Harsha	Nowak	White
Hawkins	O'Brien	Whitehurst
Heckler	Oakar	Whitley
Heftel	Oberstar	Whitten
Hightower	Obey	Wilson, Bob
Hillis	Ottinger	Wilson, C. H.
Holland	Panetta	Wilson, Tex.
Hollenbeck	Patten	Wirth
Holtzman	Patterson	Wright
Horton	Pattison	Wydler
Howard	Pease	Wylie
Hubbard	Pepper	Yates
Huckaby	Perkins	Yatron
Hughes	Pettis	Young, Alaska
Hyde	Pickle	Young, Fla.
Ichord	Pike	Young, Mo.
Ireland	Pressler	Young, Tex.
Jacobs	Preyer	Zablocki
Jeffords	Price	Zeferetti
Jenrette	Pritchard	
Johnson, Calif.	Pursell	

NAYS—20

Archer	Bauman	Daniel, Dan
Ashbrook	Burleson, Tex.	Forsythe
Badham	Collins, Tex.	Hansen
Holt	Miller, Ohio	Satterfield
Kelly	Poage	Symms
McDonald	Rousselot	Treen
Milford	Rudd	

NOT VOTING—62

Alexander	Flowers	Moffett
Anderson, Ill.	Flynt	Moss
Andrews, N.C.	Fountain	Mottl
AuCoin	Fraser	Nichols
Barnard	Frey	Quillen
Baucus	Gammage	Railsback
Blouin	Gibbons	Rangel
Breaux	Goodling	Roberts
Breckinridge	Guyer	Rodino
Brown, Mich.	Harrington	Ruppe
Burke, Fla.	Hefner	Sarasin
Caputo	Jenkins	Sawyer
Carney	Kasten	Smith, Nebr.
Cederberg	Krueger	Teague
Clawson, Del	Le Fante	Thone
Cochran	Lundine	Tsongas
Crane	Mann	Waxman
de la Garza	Mathis	Wiggins
Dent	Meeds	Winn
Evans, Colo.	Metcalfe	Wolff
Evans, Ga.	Mitchell, N.Y.	

The Clerk announced the following pairs:

Mr. Gammage with Mr. Winn.

Mr. Carney with Mr. Andrews of North Carolina.

Mr. Rangel with Mr. Brown of Michigan.

Mr. Wolff with Mr. Crane.

Mr. Le Fante with Mr. Thone.

Mr. Breaux with Mrs. Smith of Nebraska.

Mr. Teague with Mr. Sawyer.

Mr. Moffett with Mr. Caputo.

Mr. AuCoin with Mr. Cederberg.

Mr. Baucus with Mr. Goodling.

Mr. Harrington with Mr. Guyer.

Mr. Jenkins with Mr. Kasten.

Mr. Fountain with Mr. Railsback.

Mr. Fraser with Mr. Quillen.

Mr. de la Garza with Mr. Wiggins.

Mr. Dent with Mr. Sarasin.

Mr. Krueger with Mr. Ruppe.

Mr. Gibbons with Mr. Anderson of Illinois.

Mr. Lundine with Mr. Burke of Florida.

Mr. Mann with Mr. Blouin.

Mr. Nichols with Mr. Cochran of Mississippi.

Mr. Mottl with Mr. Del Clawson.

Mr. Moss with Mr. Mitchell of New York.

Mr. Roberts with Mr. Tsongas.

Mr. Waxman with Mr. Barnard.

Mr. Alexander with Mr. Evans of Georgia.

Mr. Flowers with Mr. Hefner.

Mr. Mathis with Mr. Meeds.

Mr. Metcalfe with Mr. Evans of Colorado.

Mr. Flynt with Mr. Breckinridge.

So the bill was passed.

The result of the vote was announced as above recorded.

The title was amended so as to read: "A bill to extend and amend expiring elementary and secondary education programs, and for other purposes.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PURSELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed, H.R. 15.

The SPEAKER pro tempore (Mr. MOAKLEY). Is there objection to the request of the gentleman from Michigan?

There was no objection.

AUTHORIZING CLERK TO MAKE CLERICAL AND CONFORMING CORRECTIONS IN THE ENGROSSMENT OF H.R. 15

Mr. PURSELL. Mr. Speaker, I ask unanimous consent that, in the engrossment of the bill H.R. 15, the Clerk be authorized to correct section numbers, punctuation, references and cross references and the table of contents to reflect the actions of the House in amending the bill H.R. 15.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON H.R. 13467, SUPPLEMENTAL APPROPRIATIONS FOR FISCAL YEAR ENDING SEPTEMBER 30, 1978

Mr. MAHON, from the Committee on Appropriations, submitted a privileged report (Rept. No. 95–1350) on the bill (H.R. 13467) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. BURGENER reserved all points of order on the bill.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 13468, DISTRICT OF COLUMBIA APPROPRIATIONS

Mr. NATCHER, from the Committee on Appropriations, submitted a privileged report (Rept. No. 95–1351) on the bill (H.R. 13468) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes, which was referred to the Union Calendar and ordered to be printed.

Mr. BURGENER reserved all points of order on the bill.

REPORT BY SECRETARY OF TRANSPORTATION ON ALASKA RAILROAD—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, together with the accompanying papers, without objection, and referred to the Committee on Interstate and Foreign Commerce:

To the Congress of the United States:

I transmit herewith the annual report by the Secretary of Transportation on the operations and activities of the Alaska Railroad during fiscal year 1977, as required by the Alaska Railroad Enabling Act of March 12, 1914.

JIMMY CARTER.

THE WHITE HOUSE, *July 12, 1978.*

NINTH ANNUAL REPORT OF THE INDEPENDENT NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS AND THE NATIONAL HOUSING PARTNERSHIP—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Banking, Finance and Urban Affairs:

To the Congress of the United States:

I herewith transmit the Ninth Annual Report of the independent National Corporation for Housing Partnerships and The National Housing Partnership, as required by Section 908(a) of the Housing and Urban Development Act of 1968.

JIMMY CARTER.

THE WHITE HOUSE, *July 12, 1978.*

REPORT OF THE COMMODITY CREDIT CORPORATION FOR FISCAL YEAR ENDED SEPTEMBER 30, 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Agriculture:

To the Congress of the United States:

In accordance with the provisions of Section 13, Public Law 806, 80th Congress, I transmit herewith for the information of the Congress the report of the Commodity Credit Corporation for the fiscal year ended September 30, 1977.

JIMMY CARTER.

THE WHITE HOUSE, *July 12, 1978.*

WEEK'S FIRST SENTENCES IN SOVIET UNION SHOW NO JUSTICE OR MERCY

(Mr. BUCHANAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUCHANAN. Mr. Speaker, it is with profound shock, dismay, and sadness that I learned today of the first sentences of Helsinki watchers on trial this week: long-time human rights activists Aleksandr Ginzburg and Viktoras Petkus have been charged, convicted, and sentenced to exceedingly cruel and harsh terms of confinement, Ginzburg to 8 years of special regimen camp followed by 3 years exile and Petkus to 3 years of prison, 7 of camps, and 5 of exile. The chances of both men surviving such grim ordeals on the periphery of civilization are dreadful to contemplate since neither is young and Ginzburg is quite ill.

The House resolution appealing to the Soviet Government to exhibit compassion in dealing with these cases has apparently gone ignored. I am certain that my colleagues have seriously pondered what the Soviet leadership is trying to prove by treating its citizens—whose only "offense" was to attempt to monitor compliance with the humanitarian provisions of the Helsinki Accord—with such fierce severity. Surely the Soviet Government must know that such actions evoke nothing but shock and horror in world opinion, in all men who respect the code of human rights around the world.

I hope that my colleagues in the House will join me in protesting this deplorable and deeply distressing example of official Soviet contempt for human rights standards manifested in the outrageous sentencing of Aleksandr Ginzburg and Viktoras Petkus.

LEGISLATION CALLING FOR CLOSER COOPERATION BETWEEN U.S. AND OTHER NATIONS IN DEALING WITH INTERNATIONAL ECONOMIC PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 10 minutes.

● Mr. WHALEN. Mr. Speaker, yesterday, I reintroduced, with several additional cosponsors, two House concurrent resolutions which call for closer cooperation between the United States and other nations in dealing with international economic problems. These resolutions—originated by Senator JACOB JAVITS—recognize that due to the growing interdependence among nations, the economic performance of one country necessarily affects the well-being of other nations, both developed and less developed.

The first resolution urges the President to undertake discussion with the leaders of the world's industrialized nations. It is hoped that these talks would lead to a concerted, multinational approach in dealing with global economic problems, especially the international monetary pressures resulting from an overreliance on the dollar as a reserve currency.

The second resolution expresses the sense of Congress that the President, together with the heads of the Organization of Petroleum Exporting Countries—OPEC—and the industrialized nations, seek ways to establish an international capital pool for developing the world's poorest nations. This resolution takes into account the existence of surplus oil revenues which can be invested as soft loans to developing nations.

In conjunction, these resolutions offer the United States a starting point from which we may face the problems in the world economy and improve international development.

Treasury Secretary W. Michael Blumenthal, in an article appearing in the summer edition of Foreign Affairs magazine, states that:

> Today, with upwards of $350 billion of assets held by Americans in foreign countries and $275 billion or so held by foreigners in the United States, we are irretrievably linked to the world economy.

The Treasury Secretary, in concluding his article, notes:

> This is a world made up of separate nations . . . It is also a world that is shrinking fast, creating new interdependencies and new opportunities. How best can those two unshakable facts be reconciled? How can we profit from the benefits of our growing interdependencies while pursuing our separate national needs? This is the basic challenge to which nations must respond.

That challenge must be addressed now. Thus, I urge my colleagues to consider the two resolutions I introduced yesterday as one means by which we can begin to confront that challenge.

The texts of the resolutions follow:

H. CON. RES. —

Whereas leadership in today's international economy must evolve from a close cooperation between the United States and the other industrialized nations which is based on a sense of interdependence and acceptance of the pivotal nature of their economic performance for the well-being of the whole international economic system;

Whereas the recent disorders in the foreign exchange markets and decline of the value of the United States dollar reflect the concern of the international money markets about uncertainty regarding the actions of and decisions to be taken by the political leaders of the industrialized countries in addressing the major economic issues, particularly the dangers of inflation and structural unemployment;

Whereas the critical need exists for the United States to adopt a meaningful energy policy, measures to foster the international competitive position of United States exports in the international marketplace as well as appropriate monetary and fiscal policies;

Whereas the most recent joint program adopted by the United States and the Federal Republic of Germany to counter mounting speculation against the dollar in foreign exchange markets is but a short-term measure yet is designed to meet essentially long-term underlying structural problems facing the international monetary system;

Whereas such dislocations to the international monetary system could be overcome if the industrialized countries had an overall plan to share the responsibilities resulting from the present interdependence of the industrialized countries;

Whereas such a plan should seek to expand the international reserve role of the currencies of other industrialized countries to meet the problem caused by the exclusive reliance on the dollar as the key international monetary reserve asset;

Whereas it is recognized that such an overall plan could create severe dislocations in the short term to the international monetary system and to the dollar;

Whereas such short-term dislocations could be successfully countered by a coordinated intervention plan if a long-term approach were in place that would recognize the beneficial effect to the long-term health of the international monetary system of such a shift to a broader based reserve system;

Whereas unilateral actions, including capital controls and protectionist trade barriers, taken by individual governments, including the United States, to protect their currencies and insulate their economies from the negative effects of changes in currency relationships could force more and more countries to adopt similar restrictions with serious implications for continued international trade and economic growth;

Whereas these monetary issues are no longer amenable to solutions developed on a consultative ad hoc basis but rather require long-term solutions reflecting the interdependence of countries today;

Whereas it is essential that confidence be rebuilt in the multilateral approach to solutions to our international economic problems; and

Whereas the forthcoming Economic Summit to be held in July in Bonn provides the

immediate opportunity for the development of such a concerted, multilateral approach;

Whereas it is the growing consensus among the leaders of the other industrialized countries that, if these international initiatives are to succeed, the United States must take steps to put its own house in order: (i) by adopting a meaningful energy policy that will begin to cut United States dependence on imported oil and generate the required investment to spur new energy technology; (ii) by undertaking monetary and fiscal policies that recognize the deleterious effects of inflation on the United States domestic economy as well as on the international position of the dollar and, therefore, on the currencies of the other countries, and, (iii) by adopting a comprehensive program to improve the competitiveness of United States exports in international markets: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the Sense of the House that—

(1) the President recognize the severity of the international monetary crisis, which, if unchecked, has the potential of disrupting the domestic as well as international economy through a loss of confidence in the ability of governments to deal with the major economic issues of our time;

(2) the President undertake discussions culminating in the Economic Summit in July with the other industrialized countries with a view toward developing a closely coordinated approach to the grave international economic issues based on a sense of interdependence and mutual cooperation; and

(3) such an approach recognize the essentially structural problem facing the international monetary system caused by the exclusive reliance on the dollar as the key international monetary reserve asset and, consequently, should focus on a long-term solution to meet that problem.

H. CON. RES. —

Whereas many of the economic difficulties facing both developed and developing countries today are the legacy of the shock suffered by the world economy as a result of the massive escalation of oil prices since 1973, which continues to impose great burdens on the world economy;

Whereas the cost of oil imports continue to drain away important parts of the purchasing power of oil importing nations, chronically upsetting their international balance of payments, and requiring the continued borrowing of large amounts of capital;

Whereas economic growth has stagnated in many countries and the rise in the capital stock needed to increase productivity, raise standards of living, expand markets, and avoid inflationary bottlenecks is not occurring;

Whereas it is essential that the OPEC countries in surplus, because of their growing stake in the economies of the industrialized nations, be tied more intimately into the international economy and be asked to assume greater responsibility for its proper functioning;

Whereas the inability of major OPEC surplus countries to absorb their current account surpluses has resulted in their accumulation of a surplus aggregating approximately $175,000,000,000 in the last four years, with some projections of a surplus aggregating as high as $200,000,000,000 for at least the next five, if not double that figure in the next ten years;

Whereas the recycling of the surplus OPEC funds through a sophisticated and resourceful complex of financial intermediaries (largely commercial banks) may have served the investment needs for the OPEC surpluses, it has failed to generate the macroeconomic policies in the oil importing countries needed to restore efficiently the equivalent purchasing power to the importing countries, especially the developing countries;

Whereas the oil importing developing countries require productive investment in order to cover their oil import deficits and to complement the aid and investment of the developed countries in stimulating the noninflationary growth and the expansion of broader markets for goods and services which the international economy requires so urgently to deal with stagnation and inflation;

Whereas without the expansion of markets, whether in the developing or developed countries, it will be extremely difficult to counter the escalating demands of protectionist forces to limit imports into the United States as well as United States investment abroad by demonstrating that an open international system results in higher levels of United States employment and domestic economic activity than does a closed international system with protectionist barriers to the free flow of goods and capital;

Whereas it is essential that a mechanism be created to make available a part of the surpluses of the OPEC countries as capital investment for those developing countries, which would stimulate economic growth in these countries and expand demand for the exports of the industrialized countries;

Whereas such a capital pool would be available only to those developing countries which would engage to develop rational economic policies that recognize their responsibilities to the international economic system on a basis of self-help and mutual cooperation: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the House that—

(1) the President together with the leaders of other industrialized countries begin discussions with the leaders of the OPEC countries with a view toward establishing a $50,000,000 to $100,000,000,000 capital pool for productive investments in the developing countries on appropriate terms and conditions which will recognize the concerns of the surplus OPEC countries, the recipient developing countries, the developed countries, and the International Financial Institutions;

(2) the President consider the political and security implications of these proposals in his discussions with the leadership of such OPEC countries; and

(3) the governments of the industrialized countries take into consideration—under conditions mutually agreeable to both them and such OPEC countries—the concerns of the OPEC surplus countries regarding the sustained value of their funds invested in the capital pool and their need for liquid assets in the event of unforeseen economic emergencies.

THE FOREIGN INTELLIGENCE ELECTRONIC SURVEILLANCE ACT—TO MEET ALL OUR REAL NEEDS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. McCLORY) is recognized for 30 minutes.

Mr. McCLORY. Mr. Speaker, I have introduced H.R. 13442, the Foreign Intelligence Electronic Surveillance Act of 1978, in order to assure the American people that the President will not abuse his constitutional authority to engage in constitutional authority to engage in electronic surveillance for the purpose of obtaining foreign intelligence information.

From the time that electronic eavesdropping first became technically feasible up through the so-called Watergate period, electronic surveillance was at times used for other than valid Government purposes. While many justifications were given for this abusive activity, too often it was cloaked in a claim of national security. However, since the issuance by President Ford of Executive Order 11905 in 1976, and under President Carter's Executive Order 12036, foreign intelligence electronic surveillance—engaged in at the direction of the President—has in no way infringed on the legitimate privacy rights of American citizens.

Some have noted that while all is working well at the present time, a future administration could always modify or repeal existing guidelines. With this in mind—and so as to better assure the American public that their privacy rights are being protected—H.R. 13442 is proposed as a way of establishing strict, statutory restrictions on the use of foreign intelligence electronic surveillance while at the same time taking into account the valid needs of our intelligence agencies.

Mr. Speaker, my bill would prescribe procedures for the use of electronic surveillance within the United States to obtain information from foreign powers and their agents. While under the bill U.S. citizens could be targeted for foreign intelligence purposes, this could only be done if it is shown that he or she is acting clandestinely for or on behalf of a foreign power under circumstances that indicate such activities are contrary to the foreign policy or security interests of the United States. While such surveillance of U.S. citizens would be extremely rare, it must surely be understood that as a valid attempt for self-preservation our Government must be allowed to engage in electronic surveillance of any person—citizen or noncitizen alike—who is spying for a foreign power. It should be noted, however, that in the last 18 months only one U.S. citizen has been the subject of electronic surveillance: Ronald Humphrey who along with David Truong was convicted in a jury trial on May 19, 1978, on espionage and other charges relating to the transmittal of classified USIA documents to the Vietnamese Government.

Mr. Speaker, my bill recognizes that the Constitution reposes in the executive branch initial responsibility to protect our country from foreign aggression. It would establish carefully drafted procedures mandating that whenever a U.S. citizen is to be targeted to obtain foreign intelligence information a specific authorization must first come from the President, the Attorney General, and another senior executive branch official employed in the area of national security or defense who is appointed by the President by and with the advice and consent of the Senate. Or, if a noncitizen is to be targeted, authorization must come from the Attorney General and the above-mentioned senior executive branch official.

Mr. Speaker, the bill would also establish "minimization procedures" which would restrict the use of information relating to U.S. persons and require that information be destroyed unless it is necessary to valid foreign intelligence or law enforcement purpose.

Mr. Speaker, so as to deter any executive branch official who might contemplate misusing the procedures of this bill, H.R. 13442, would establish harsh criminal penalties and subject an offending official to civil liability for any knowing violation of its terms.

Mr. Speaker, finally—and most importantly—the bill requires that on a semiannual basis the Attorney General must fully inform the Permanent Select Committee on Intelligence and the Select Committee on Intelligence of the other body on the executive branch's use of foreign intelligence electronic surveillance. Certainly, as long as Congress insists on exercising its constitutional function of overseeing executive branch activities, in this area, as well as in others, abuses can and will be prevented.

Mr. Speaker, so that my colleagues might better understand this admittedly complex piece of legislation, I am appending to my remarks an analysis of H.R. 13442:

ANALYSIS OF H.R. 13442—FOREIGN INTELLIGENCE ELECTRONIC SURVEILLANCE ACT OF 1978

I. WHAT ACTIVITIES ARE COVERED

Generally, the bill covers all domestic electronic surveillance for foreign intelligence purposes where a warrant would be required for law enforcement purposes.

The bill would regulate—

(1) The intentional targeting by any means of electronic surveillance of international communications of U.S. persons in the U.S.

(2) All wiretapping conducted within the U.S.

(3) The intentional acquisition of wholly domestic radio communications where a warrant would be required for law enforcement purposes.

(4) The installation or use of a monitoring device in the U.S. to acquire information not transmitted by wire or radio, where a warrant would be required for law enforcement purposes (beepers, transponders, pen registers, T.V. surveillance).

II. WHO MAY BE SURVEILLED

"Foreign Power"

(1) A foreign government.

(2) A faction of a foreign government not substantially composed of U.S. persons.

(3) An entity openly acknowledged to be controlled by a foreign government.

(4) A group engaged in international terrorism.

(5) A foreign based political organization not substantially composed of U.S. persons.

(6) An entity directed and controlled by a foreign government.

"Agent of a Foreign Power"

(1) A non-U.S. person who—

(a) Acts in the U.S. an an officer, member, or employee of a foreign power.

(b) Acts for a country that engages in clandestine intelligence activities in the U.S. contrary to the interests of the U.S.

(2) Any person (including a U.S. person) who—

(a) Engages in clandestine intelligence activities for or on behalf of a foreign power.

(b) Engages in sabotage or terrorism.

(c) Aids, abets, or conspires with someone to engage in (a), (b), or (c).

A "U.S. Person" Is:

(1) A U.S. citizen or permanent resident alien (PRA).

(2) An unincorporated association composed substantially of U.S. citizens or PRAs unless it is a foreign power under (1), (2), or (3) above.

(3) A corporation incorporated in the U.S., unless it is a foreign power under (1), (2), or (3) above.

III. FOR WHAT PURPOSE

Only to acquire foreign intelligence information which is:

(1) Information necessary to certain defined security or foreign policy needs if information concerns U.S. persons;

(2) Information relating to such needs where the information concerns anyone else.

IV. HOW ELECTRONIC SURVEILLANCE MAY BE AUTHORIZED

A U.S. citizen may only be targeted for foreign intelligence electronic surveillance if a "surveillance certificate" is issued by the President, the Attorney General, and an executive branch official employed in the area of national security or defense who is confirmed by the Senate. A non-U.S. citizen may be targeted if a "surveillance certificate" is issued, under oath, by the Attorney General and an executive branch official as noted above.

V. CONTENTS OF A "SURVEILLANCE CERTIFICATE"

(1) The identity or description of the target of electronic surveillance.

(2) A certification that the target is a foreign power or an agent of a foreign power, and the basis for such certification.

(3) A certification that the facility to be surveilled is being or may be used by the target, and the basis for such certification.

(4) A statement of the minimization procedures.

(5) A statement that the purpose of the surveillance is to obtain foreign intelligence information.

(6) If the target is a United States person, a statement that the information sought cannot be reasonably obtained by normal investigation techniques.

(7) A statement of the period of time for which the surveillance is required to be maintained.

(8) A statement of the means by which the surveillance will be effected.

VI. MINIMIZATION PROCEDURES

Specific procedures designed to minimize the acquisition, retention, and dissemination of information concerning United States persons, consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information.

They shall include, where appropriate—

(1) Provisions for the destruction of unnecessary information.

(2) Provisions restricting how the information may be filed, retrieved, or disseminated.

(3) Provisions requiring the deletion of the identity of any United States citizen if the identity is not necessary to understand the foreign intelligence information.

(4) Provisions restricting who may approve the retention or dissemination of information including the identity of United States citizens,

(5) Provisions relating to internal review of the minimization process.

(6) Provisions requiring that a record be kept of how information concerning United States citizens is used or disseminated.

VII. PROCEDURES FOR AN AGGRIEVED PERSON TO CHALLENGE LEGALITY OF SURVEILLANCE OR OBTAIN DISCOVERY

(1) U.S. Court of Appeals (3 judge panel) will decide the matter if the government states that it does *not* intend to use the information obtained or derived from a foreign intelligence electronic surveillance. The proceeding is *in camera, ex parte,* and allows for disclosure to the defendant only where due process so requires.

(2) U.S. District Court (one judge) will decide the matter if the government concedes that it does intend to use such information. The proceeding is *in camera* and allows for disclosure to the defendant only where there is a reasonable question as to the legality of the surveillance and disclosure would likely promote a more accurate determination of such legality, or where such disclosure would not harm the national security.

If the surveillance is determined to be unlawful the judge must suppress the evidence or otherwise grant the motion in accordance with existing law.

If the surveillance is determined to be lawful, the judge must deny all motions.

VIII. MISCELLANEOUS PROVISIONS

(1) Congressional oversight.—Semiannual report to the House and Senate Intelligence Committees by the Attorney General who must fully inform the committees of all electronic surveillance under the bill.

(2) Emergency Surveillance.—

Only if the usual procedures cannot be followed.

48 hours without a surveillance certificate.

If the target is a United States citizen, the President must be immediately informed.

A surveillance certificate must be issued as soon as possible, even if the surveillance is terminated before the end of the 48-hour period.

If a surveillance certificate is not issued all information obtained from the surveillance must be destroyed.

(3) All records must be retained for 20 years.

(4) Provides for civil and criminal liability for violations of the bill's provisions.

(5) Authorizes testing, training, and electronic countermeasures without a surveillance certificate.

(6) Common Carriers.—,

Once electronic surveillance is authorized by the issuance of a surveillance certificate, the Attorney General may direct that common carrier assistance be furnished.

They cannot disclose the existence of the surveillance.

They are relieved from civil liability for all actions taken in conformity with a surveillance certificate.

IMPEACHMENT OF AMBASSADOR ANDREW YOUNG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

● Mr. DERWINSKI. Mr. Speaker, I oppose any resolution calling for the impeachment of our Ambassador to the United Nations, Mr. Andrew Young. I believe such a move is unnecessary and inappropriate.

The proper thing to do in this case is let the President retire Ambassador Young. Given the Ambassador's now well-established penchant for embarrassing this administration, I believe the President may soon be forced to take such action.

How much longer can the President afford to have a major foreign policy official say things that seriously undermine what everyone recognizes to be—at best—a very fragilely constructed foreign policy? How much longer can this administration keep aboard a man whose international perspective is that of an African rather than American diplomat? How can this administration expect to foster a credible human rights policy in Africa when its major spokesman on African affairs takes so little public heed of the wanton slaughter of missionaries in Southern Africa? Finally, how can the United States further its efforts to win better treatment of Soviet dissidents by the U.S.S.R. when its Am-

bassador to the U.N. claims we treat political dissidents no better?

Mr. Speaker, the answer to all of these questions is evident to all of us and, before much longer, the President may come to the same conclusion. Commonsense dictates the President take the action we hope to achieve by this resolution and, therefore, I see no need for this initiative at this time.●

CAPTIVE NATIONS WEEK 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the period of July 16–22 marks the 20th Observance of Captive Nations Week, and this is an occasion for all Americans, especially we in the Congress who represent a free people, to rededicate ourselves and renew our energies on behalf of the unfortunate millions who are living in wretched hopelessness under the shadow of communist tyranny.

Summit talks take place and are forgotten; the leaders of various nations sign agreements; but the fact remains that there are millions of human beings who daily must face brutalization of the spirit which is still so much a part of Communist rule.

This week of reflection is a time when we who enjoy the blessings of liberty should pause to consider the plight of those who do not. The observance of Captive Nations Week should be a time for both prayerful thoughtfulness and renewed determination.

So long as heroic people in the Captive Nations subscribe to the principles of true freedom, the spark will be kept alive—and one day it will take form and substance and the nations under captivity will throw off their bonds and become free. With this freedom, God grant that they cherish their added knowledge, born of their suffering under captivity, to truly provide themselves with the new safeguards which will provide protection for their future security in liberty.

Millions of Americans who trace their origin to the captive nations, and to other lands, join each year during this special week to express their hope and their support for policies which will free the captive nations. In Chicago, under the capable and energetic leadership of Chairman Viktors Viksnins, the week-long observance will begin on July 14 with the posting of Captive Nations Flags by the eternal flame at the Richard J. Daley Plaza. On July 15 a human rights rally will take place at the plaza and I look forward to being the guest speaker at this event.

President Jimmy Carter and Mayor Michael A. Bilandic, of Chicago, have signed proclamations to mark the 1978 Captive Nations Observance in Chicago, and copies of their proclamations follow:

CAPTIVE NATIONS WEEK, 1978

(A proclamation by the President of the United States of America)

By a joint resolution approved July 17, 1959 (73 Stat. 212), the Eighty-Sixth Congress authorized and requested the President to proclaim the third week of July in each year as Captive Nations Week.

For more than two hundred years our Nation has sustained the belief that national independence, liberty and justice are the fundamental rights of all people. Today we reaffirm our commitment to these principles. In particular, we pay tribute to those individuals and groups who demonstrate their attachment to these principles in their own country and throughout the world

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate the week beginning July 16, 1978, as Captive Nations Week.

I invite the people of the United States to observe this week with appropriate ceremonies and activities and to renew their dedication to the cause of all people who seek freedom, independence, and basic human rights.

In witness whereof, I have hereunto set my hand this eleventh day of July, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER.

CITY OF CHICAGO—PROCLAMATION

Whereas, our city's observance of Captive Nations Days will be July 14–15; and

Whereas, the observance is in accordance with exercises held nationally under Public Law 86–90; and

Whereas, at the Daley Center Plaza ceremonies will be held starting at 4:30 p.m. July 14; and

Whereas, at this location on July 15, ceremonies will be held starting at 9 a.m., with speaking, entertainment, and a parade of flags; and

Whereas, these events will be under the auspices of the Captive Nations Committee, of which Viktors Viksnins is chairman:

Now, therefore, I, Michael A. Bilandic, Mayor of the City of Chicago, do hereby proclaim July 14–15, 1978 to be Captive Nations Days in Chicago and urge all citizens to take cognizance of the special events arranged for this time.

Dated this 6th day of June, 1978.

MICHAEL A. BILANDIC,
Mayor.●

EPA TO BEGIN ECONOMIC IMPACT ANALYSES OF REGULATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

● Mr. LEVITAS. Mr. Speaker, as one Member of Congress who is often critical of the bureaucracy for their burdensome regulations and their lack of responsiveness to the people of this country, I think it is also important to commend those agencies which are trying to improve and to change their regulatory procedures by making them simpler, responsive and based on realistic data and optional approaches.

On July 3, the Washington Post ran an article which highlighted the steps that the Environmental Protection Agency is taking in examining their proposed regulations for potential economic impact. EPA is going even further than required by a recent executive order. The article says that EPA is examining all their future regulations with the public in mind. EPA will be monitoring its future regulations to see that they avoid unnecessary regulatory burdens, minimize paperwork, and sunset reporting requirements after 5 years if their continuation cannot be justified.

I have introduced legislation, H.R. 10257, to require all agencies to submit economic impact statements with their proposed regulations, but I would like to see other agencies follow EPA's lead in voluntarily taking these steps. I commend EPA for taking the initiative. There is much more to be done, but this is a hopeful step in the right direction and should be noted.

The article follows:

EPA TO ASSESS IMPACT OF RULES ON ECONOMY

(By Larry Kramer)

The Environmental Protection Agency will conduct an analysis of major newly-proposed regulations in an attempt to gauge the impact of those regulations on the economy.

EPA Deputy Administrator Barbara Blum said last week that although the EPA has always done extensive economic analyses in the past on major new regulations, the new policy "will extend that effort and insure that environmental goals will be achieved at the lowest possible cost."

The new policy is a response to a recent presidential order to all agencies calling for all agencies to do economic impact reports on proposed regulations and recent administration charges that environmental regulation is often inflationary and not cost-effective.

The new EPA policy which goes significantly further than the presidential order mandates, will call for an analysis of alternatives to any proposed regulations that: cost more than $100 million per year; add costs greater than 5 percent of product selling prices; increase energy use by 25,000 barrels of oil per day; or affect supply or demand of certain scarce materials.

"The most important aspect to this," according to EPA Assistant Administrator William Drayton, "is that we focus our limited resources on the most important regulations . . . those with the most impact. We are choosing priorities. Smaller regulations will be handled in a more expedited fashion."

The EPA has been one of the more aggressive agencies in implementing traditional management cost-effectiveness studies into its operations.

Under its new structure, the EPA gives lower level administrators more authority to develop alternative plans and suggestions before any new regulation proposal reaches the top levels for approval. Such proposals must now include the economic analysis.

The EPA said it is also attempting to "minimize" paperwork and the reporting burden it places on many companies.

According to last week's announcement, "EPA will establish a 'sunset' policy on reporting requirements contained in new regulations. This will terminate automatically those reports that cannot be justified after a set period, usually five years."●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. JOHNSON) is recognized for 5 minutes.

● Mr. JOHNSON of California. Mr. Speaker, I was unavoidably absent during rollcall No. 532, final passage of H.R. 12536, the National Parks and Recreation Act of 1978, due to a meeting at the White House with the President to discuss public works. I support the legislation and would have voted "yes" on final passage.●

MEANINGFUL ASSISTANCE FOR THE NATION'S FARMERS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. LAFALCE) is recognized for 5 minutes.

● Mr. LAFALCE. Mr. Speaker, a House/Senate conference committee recently reached agreement on H.R. 11504, the Agricultural Credit Assistance Act of 1978. I urge my colleagues to give this measure their full support when it is considered by the House in the very near future. The bill would authorize $4 billion in emergency credit for those farmers who require loan assistance to survive the economic upheavals which have afflicted many agricultural markets in the past few years, and represents one of the broadest and most meaningful responses to existing agricultural and rural conditions.

Title I of the bill contains a number of significant provisions. It would overhaul present Farmers Home Administration credit programs in two particular areas. First, it would raise the administration's mortgage loan ceiling from the existing $100,000 to $200,000 on Government-insured loans and $300,000 on federally guaranteed loans. Second, the current $50,000 ceiling on operating loans would rise to $100,000 for insured and $200,000 for guaranteed loans. These levels more accurately reflect today's market and price conditions than the old levels which were established in less turbulent and less inflationary times.

Title I also increases the authority for water and waste disposal grants by the Department of Agriculture from the existing annual $300 million ceiling to $500 million; and it raises the roof on the FMHA's rural development grants for industrial projects from 50 to 75 percent of project cost. This will substantially aid many rural communities which have experienced grave difficulties in laying down more modern, efficient and safe water and sewerlines. I have seen firsthand the tremendous results this program can accomplish in my own congressional district in western New York.

Title II is the emergency credit segment of the bill and is formulated expressly for farmers who are confronting bankruptcy or foreclosure. It would grant the Farmers Home Administration the authority to guarantee or insure loans for either total refinancing of farmers' debts, or principal and interest payments on those debts. It would also allow for additional loans for ongoing farm operations, while specifically prohibiting loans for the purchase of more land.

Under this program, individual farmers would be eligible for loans up to $400,000, but a $650,000 per borrower limit would be established for combined farm real estate and operating loans under this program and the other conventional Farmers Home Administration lending programs. Total loans under this provision of title II could reach $4 billion for the period ending May 15, 1980; and the funds in the insurance and guarantee sections would not come from the taxpayer, but rather from the private credit markets. Most importantly, this program will enable hundreds of farmers nationwide to hang onto their farms and stave off the threat of bankruptcy.

The bill had several other important new features which are worthy of attention and support. For the first time, it would extend eligibility for FMHA credit to family farm corporations, partnerships, and cooperatives; previously such credit assistance has been limited to individuals. It will also institute a long-needed small farmer loan program, targeted particularly to beginning and low-income farmers who have previously been unable to secure public or private credit.

Mr. Speaker, I believe that this bill will be an important step toward stabilizing conditions for the American farmer who has been battered during this decade by inflation and unstable markets. The preservation of the family farmers must be one of our most urgent national priorities, because they constitute the bedrock of our agricultural sector. If American agriculture is to continue to provide the American people with wholesome and bountiful foods and to be the granary for the whole world, more must be done for the family farmer. This bill assists that mission.●

A BILL TO PROTECT AN OPEN SANTA CRUZ HARBOR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, today I am introducing legislation to address a matter of urgent importance to the taxpayers of the Santa Cruz Port District and to fishermen and pleasure boaters all along the central California coast.

The severe shoaling problem which has occurred at the mouth of the Santa Cruz Harbor during the winter months has posed a very serious threat to this valuable resource and the many people who depend on its continued operation. The buildup of sand in the entrance channel has prevented passage of any vessels in or out of the harbor for weeks at a time. For the fishermen and others whose boats have been trapped in the harbor, the extended closures have resulted in severe financial hardship.

The complex legal and technical issues surrounding this matter have been a source of great confusion and frustration in the Santa Cruz area for a number of years. However, following extensive research and discussion with representatives of the U.S. Army Corps of Engineers, the port district and local navigation interests, I feel we have reached a solution that is acceptable to all of the parties involved with or affected by this facility. This last winter, tested by some of the heaviest seas and storms experienced in the area, the current dredging operation worked effectively to keep the harbor open.

The bill I am introducing would modify the navigation project at Santa Cruz for two purposes. First, it would provide for the full cost of operating and maintaining the sand bypass facility at the harbor to be paid by the United States. Although this amends the authorizing legislation, this new language does not deviate from the intent of the original authorization.

The 1958 legislation gave the Corps of Engineers the responsibility for maintaining the navigation features of the harbor. In addition, it was provided that if a permanent sand bypass facility was determined to be necessary, the United States would reimburse local interests for the cost of plant operation and maintenance up to a limit of $35,000 annually. At that time, this sum was considered sufficient to cover the full cost of maintaining an open channel.

However, the $35,000 figure was based on 1958 prices and on the district engineer's estimate of a shoaling rate of 25,000 cubic yards per year. In recent years, the actual shoaling rate has approached 150,000 cubic yards per year, and the estimated annual cost of operating a permanent sand bypass is between $500,000 and $1 million, a sum well beyond the capacity of the port district to support.

The corps is currently operating under a multiyear contract with a private firm for year round phased dredging of the harbor channel, and this contract is fully supported by yearly appropriations. My bill would not affect the corps' capacity to continue awarding such contracts in the future.

It would also have no effect on the port district's responsibility to cover 35.1 percent of the first cost of installing a permanent sand bypass if it is determined that such a facility is necessary. The bill would merely eliminate the local responsibility for yearly operation and maintenance costs for the system, an arrangement which is comparable to that for all other Federal channels on the west coast.

The second purpose of my bill is to provide the corps with the authority necessary to undertake dredging outside the original project boundaries, and to provide a grout filling for the existing harbor jetties in order to reduce the sand flow into the harbor mouth. The District Engineer's office in San Francisco has recommended that both of the measures be taken in order to reduce the amount of dredging necessary within the harbor channel itself.

Only recently, an aditional study by the Moffatt and Nichol Engineering firm confirmed the need for a stable and permanent answer for the harbor. This bill reflects the findings of that study as well as the views of both the Corps of Engineers and the port district. I believe it represents the best alternative for maintaining an open and viable harbor in Santa Cruz.

The following is a text of the proposal I have introduced:

H.R.—

A bill to modify the project for navigation in Santa Cruz Harbor, Santa Cruz, California, relating to operation and maintenance of the sand bypassing facility, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That the navigation project for Santa Cruz Harbor, Santa Cruz, California, authorized in Section 101 of the River and Harbor Act of 1958 (Public Law 85-500) is hereby modified to provide that 100 percent of the cost of operating and maintaining the sand bypassing facility authorized as part of such project shall be paid by the United States. In addition, such project is further modified to authorize the Secretary of the Army, acting through the Chief of Engineers, to construct an impermeable core within the existing jetties at such harbor, and to undertake such maintenance dredging outside the boundaries of the authorized project as may be necessary to prevent or mitigate shoaling, surge, and related problems in the harbor.

AFL/CIO AND UAW CHIEFS CRITICIZE CAPITAL GAINS CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. CORMAN) is recognized for 5 minutes.

● Mr. CORMAN. Mr. Speaker, proposals to reduce the maximum tax on capital gains are currently receiving a great deal of support. One proposed by Congressman STEIGER would give over $2 billion in tax relief to only 383,000 or .6 percent of all taxpayers, 80 percent of whom earn more than $200,000 annually. The same $2 billion applied to the bottom tax brackets could remove 10 million taxpayers, all earning less than $6,000, off the tax rolls entirely. The President recently received a letter from George Meany, president of the AFL/CIO pointing out the unfairness of cutting taxes on capital gains. I would like to insert this letter in the RECORD along with a statement issued by UAW President, Douglas Fraser, which also criticizes such tax relief.

AFL–CIO,
WASHINGTON, D.C., *June 28, 1978.*

The PRESIDENT,
The White House,
Washington, D.C.

Mr. PRESIDENT: American workers applaud your strong leadership in opposition to the proposed cut in capital gains taxes, which you correctly describe as a windfall for the rich.

Any reductions in capital gains taxes—which are already only half taxed—would only encourage speculators, while denying equity to the vast majority of taxpayers. We made that point in our letter last week to the members of the House Ways and Means Committee opposing the capital gains tax cut.

The benefits of such a cut would go principally to the wealthiest individuals, who already enjoy tax loopholes not available to average taxpayers. The proposal is little more than a continuation of the discredited "trickle-down" theory of economics, where the rich get richer and maybe someday a few crumbs will reach those at the lower economic rungs.

The AFL–CIO will continue to support the basic thrust of your tax-cut proposals, since they provide the most benefit to the most people, and we will work strongly to oppose any widening of the capital gains loophole.

Again, thank you for your forthright leadership on this vital issue.

Sincerely,

GEORGE MEANY,
President.

UAW PRESIDENT FRASER URGES CONGRESS TO REJECT LIBERALIZATION OF CAPITAL GAINS TAX

UAW President Douglas A. Fraser has issued the following statement:

"President Carter's strong opposition to liberalization of capital gains tax has the full support of the UAW. We are urging our members to contact their Congressional representatives and demand that the Steiger and Jones Amendments be rejected.

"Congress in recent weeks has turned its back on meaningful tax reforms that could have benefited millions of Americans. Instead, it appears to be seriously considering the undoing of the last decade's reforms.

"Many people in our country carry an unfair proportion of the tax burden, because a few don't carry their fair share.

"It is not the very rich, with their numerous loopholes and tax shelters, who need an even lighter tax load through capital gains liberalization.

"It is, instead, the great mass of the American public that needs relief through the equitable tax reform proposals this Congress refused to act upon."●

ANNOUNCEMENT AS TO VOTES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. DANIELSON) is recognized for 5 minutes.

● Mr. DANIELSON. Mr. Speaker, because of urgent business of the Judiciary Committee I was compelled to be absent from the floor of the House of Representatives during seven rollcall votes on Wednesday, June 28, 1978. I was busy as chairman of a subcommittee holding hearings in which out-of-town witnesses were testifying. None of these votes was significant. I announce how I would have voted had I been present:

Rollcall No. 500. The House agreed, by a vote of 378 yeas to 1 nay, to order a second on H.R. 11886, Veterans' Disability Compensation and Survivor Benefits Act of 1978. I would have voted "yea."

Rollcall No. 505. The House passed, by a vote of 400 yeas to 1 nay, H.R. 11886, amended, to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, and to increase the rates of dependency and indemnity compensation for their survivors. I would have voted "yea."

Rollcall No. 506. The House passed, by a vote of 385 yeas to 16 nays, H.R. 11888, to amend title 38, United States Code, to change the minimum disability rating a veteran must have in order to receive additional compensation for dependents from 50 per centum to 40 per centum. I would have voted "yea."

Rollcall No. 507. The House passed, by a vote of 398 yeas to 5 nays, H.R. 10173, amended, to amend title 38, United States Code, to improve the pension programs for veterans, and survivors of veterans, of the Mexican Border Period, World War I, World War II, the Korean conflict, and the Vietnam era. I would have voted "yea."

Rollcall No. 508. The House passed, by a vote of 386 yeas to 12 nays, H.R. 12841, amended, to prohibit the issuance of regulations on the taxation of fringe benefits. 386 yeas to 12 nays. I would have voted "yea."

Rollcall No. 509. The House passed, by a vote of 344 yeas to 54 nays, H.R. 12589, to authorize appropriation for fiscal year 1979 under the International Investment Survey Act of 1976. I would have voted "yea."

Rollcall No. 510. The House passed, by a vote of 385 yeas to 14 nays, H.R. 12874, as amended, to provide for an accelerated program of research, development, and demonstration of solar photovoltaic energy technologies leading to early competitive commercial applicability of such technologies to be carried out by the Department of Energy, with the support of the National Aeronautics and Space Administration, the National Bureau of Standards, the General Services Administration, and other Federal agencies. I would have voted "yea."●

TRIBUTE TO THE LATE JOHN D. ROCKEFELLER III

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. SCHEUER) is recognized for 5 minutes.

● Mr. SCHEUER. Mr. Speaker, I rise today to pay tribute to John D. Rockefeller III who met such an untimely demise early this week. With his tragic death, the United States, and indeed the whole world, has lost a great humanitarian. Mr. Rockefeller was a pioneer in the effort to increase public awareness of population issues. He spent much of his life working to help the nations of the world cope with the problems brought about by population growth. He served as Chairman of the U.S. Commission on Population and the American Future, as well as the Population Council, and in 1967 he received the Margaret Sanger Award "for the forceful and creative leadership" he provided to the cause of family planning and population.

I had the privilege, a few years ago, of serving under Mr. Rockefeller on the U.S. Population Commission. From that experience, I gained a deep respect and affection for him.

A shy and unassuming man, Mr. Rockefeller testified before the Select Committee on Population this past February, in what I believe was one of his last public appearances. In his testimony he showed his great compassion for the people of the world, and his lifelong dedication to the improvement of the quality of life for all. During our Committee's overview hearings, he eloquently expressed the views many of us share:

The realization is increasingly widespread that motivations in the population field are not negative and restrictive, but positive and constructive. The concern is not merely about numbers and fertility, but about human values and the quality of life . . . since the time of Malthus we have been conditioned to think in terms of numbers of people versus quantities of food. But this formulation equates people with animals and food with fodder. There is a third dimension . . . an aspect that touches the very essence of human life. This overlooked dimension concerns mankind's desire to live as well as to survive.

My words are haltingly inadequate to express my feelings on the passing of such a great and noble humanitarian

whose concerns so parallelled my own. John D. Rockefeller was an inspiration for all of us who care about the impact of population and the dignity and worth of an individual human life. We shall all miss him.●

IN THE MATTER OF ANDREW YOUNG, AMBASSADOR TO THE UNITED NATIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. MITCHELL), is recognized for 60 minutes.

Mr. MITCHELL of Maryland. Mr. Speaker, I took this special order on request of the caucus and other Members of the House, to hopefully undo some of the damage that was done this morning by the House when some of the Members sought to initiate impeachment proceedings against our Ambassador, Andrew Young.

Mr. Speaker, I could not live under a political system which prevented me from protesting against injustice. I could not live under a political system which prevented me from advocating on behalf of those who are depressed by that system. I could not live in a political system which in any way denigrated or denied basic human rights and prevented me from denouncing the political system for so doing.

Of course, I am concerned about violations of human rights in Chile, in Iran, in the Soviet Union and in any other countries of the world. Of course, I am concerned over the trials of Scharansky and Ginzburg. However, my concern for violations of human rights abroad should not blind me to violations of human rights at home. The fate of political prisoners in Iran should not, must not obscure the fact that there are and have been political prisoners in America. What I am saying here this evening is all that Ambassador Young said in his interview.

Even before this Congress had all the facts about Ambassador Young's interview, some misguided Members of Congress sought to initiate impeachment proceedings against our Ambassador to the United Nations. They did not even wait to ascertain the facts. What are the facts? I do not know them all but I do know some of them.

Ambassador Young gave an interview to Le Matin, a Socialist newspaper in Paris. During the course of the interview, which lasted about 1½ hours, Ambassador Young talked about the Scharansky-Ginzburg trials in a historical perspective. In essence what he said was that blacks and their white friends who protested racism in America in the 1930's, 1940's, 1950's, 1960's, were considered as dissidents and agitators are now considered heroes in the 1970's. He added that it is his hope and his belief that the Soviet dissidents of today will become the Soviet heroes of future years.

In a press statement made in Geneva today, Ambassador Young said:

A lengthy interview has been excerpted to give an erroneous impression of my views on the trial of Mr. Anatoly Scharansky.

Let me assure you that I am fully in accord with the strong statements condemning the persecution of Soviet dissidents issued by President Carter and Secretary Vance and have actively supported the movement for universal human rights and freedoms and especially the cause of Soviet Jewry from my earliest days in the U.S. Congress.

Nor have I ever equated the status of political freedom in the U.S. with that in the Soviet Union. I know of no instance in the U.S. where persons have received penalties for monitoring our government's position on civil or human rights.

Last June in Atlanta at a service of worship memorializing the Holocast, I met the younger brother of Mr. Scharansky and I was greatly impressed by the courage and determination he expressed toward the pursuit of full cultural and religious freedom in his country. He said that Soviet citizens wanted and needed strong reactions from all freedom-loving people and praised the human rights concerns that we expressed.

During his interview with Le Matin, Ambassador Young made many positive statements about life in the United States.

I ask of all of those in America, those in this Congress who are possessed of Ku Klux Klan mentalities what are your thoughts on the following situation in the Union of South Africa.

A trial of 18 black South Africans is currently in progress in Bethal, South Africa in the Eastern Transvaal for political acts connected with their efforts to resurrect the Pan African Congress and other political activities during the period of 1963 to 1978. The trial is closed except to journalists with passes signed by the commissioner of police. The trial has been going on since last December and will continue through the end of this year. Punishment in connection with these acts could range from jail sentences to execution. In all there are 66 such cases involving approximately 685 persons arrested for political acts. The ages of the defendants range from 20 to 65 years.

On March 20, 1978, a special application for attendance by representatives of the United States and Swedish Embassy of 1 day of the trial was denied. The U.S. Government has said nothing against the actions of the South African Government for this outrageous violation of human rights. Will the detractors of Ambassador Young speak out against this wickedness?

Stop sniping and shooting at Ambassador Young. Go back to your districts and fight the racism there. Go back to your districts and fight the racial prejudice there. Go back to your districts and fight the racial injustice in the administration of justice.

Andy Young has a fault. His fault is that he is an honest moral man who tries to speak truth to a world which in the main, is dishonest and immoral.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. I am delighted to yield to the gentleman from California.

Mr. DELLUMS. Mr. Speaker and Members of the House, I thank my distinguished colleague for yielding to me on this important special order.

I would like, first, to address the obvious question: Are there political prisoners in the United States?

Amnesty International, an organization with impeccable credentials, recently awarded a Nobel Peace Prize for work in the international community with respect to human rights, has now, at this very moment, adopted 16 cases that they could find within the framework of their definition of political prisoners; and five additional cases are at this very moment under study. Amnesty International is a very impeccable source, one recognized and supported by many of our colleagues on both sides of the aisle irrespective of their philosophical views or their ideological perspectives.

The second point I would like to make, Mr. Speaker, deals with the issue of human rights. Several years ago, the United Nations, the family of nations organization, established a code of human rights, in my estimation therein establishing the precedent for the notion that the issue of human rights transcends our national borders, therefore providing the opportunity, the responsibility, and the appropriateness of people, groups, and nations to stand up and challenge what they perceived to be violations of human rights irrespective of the nation that they are in.

Thus, it is a duty, a responsibility of those persons in this Nation who perceive violations of human rights anywhere in the world, including the Soviet Union, to stand up and challenge that injustice. It is equally fair that other nations in the world, including the Soviet Union, stand up and challenge the United States in the international community if, indeed, they perceive violations of human rights on the part of this country.

Mr. Speaker, that is an important notion, that we have established a precedent that human rights go far beyond our national borders, and so people have a right, a responsibility, and an obligation to challenge the insanity, the cruelty, and the oppression of people through the violating of human rights.

Third, to the issue of impeachment: Impeachment proceedings are an incredibly serious and important undertaking. One can impeach for high crimes, misdemeanors, and treason. I understand that very clearly, for my distinguished colleague, the gentleman from Michigan (Mr. CONYERS), and I were the very first people to call for the impeachment of Richard M. Nixon for high crimes and misdemeanors for mining the Port of Haiphong and bombing North Vietnam. We had a battery of attorneys provide us with legal documentation establishing our case with respect to that issue. We documented violations of international law, of the Hague Convention, violations of the Constitution of the United States, and finally, violations of a specific statute enacted by the U.S. Congress.

The point is, Mr. Speaker, we did not enter into that act frivolously.

I would suggest that that impeachment resolution did not have intellectual background. It did not have intellectual support. Indeed, I would submit that it was an insult to the intelligence of each and every single Member of the House of

Representatives. It was an insult to the Constitution of the United States. It had no validity whatsoever.

It was a statement that laid out various statements made by United Nations Ambassador Andrew Young, and therein lies a critical question. Is it treason for a citizen of the United States—even a public official—to render a point of view to any statement of his belief. Is it high crime and misdemeanor? I would suggest to those who propose the impeachment resolution, who define themselves as defenders of freedom and staunch opponents of totalitarianism, that by offering this impeachment resolution to the Members of the U.S. Congress as a privileged resolution, they were indeed in violation of their own principles, for we, it seems to me, have a profound obligation to fight with all the spirit and integrity that we can muster for the rights of human beings to express themselves under the first amendment to the Constitution.

That says that any citizen of America—it does not say nonpublic officials—any citizen of America has a right to free speech. So, Andrew Young exercised that.

It seems to me that there is no legal justification for offering a resolution of impeachment of Andrew Young.

Mr. BAUMAN. Mr. Speaker, I make a point of order against the last remarks made by the gentleman, and I demand that his words be taken down.

Mr. DELLUMS. Which points is the gentleman responding to?

Mr. BAUMAN. I would say to the Chair that the Chair well knows the precedents of the House to require Members to respect the motives of other Members.

Mr. DELLUMS. I am not challenging the motives. I am characterizing the resolution.

Mr. BAUMAN. I think by characterizing the Members of the House who sponsored the impeachment resolution to which the gentleman refers—which, by the way, was not the one that was called up this morning—he is questioning the motives of each of these Members.

Mr. DELLUMS. Mr. Speaker, I withdraw the term "madness."

Mr. BAUMAN. There were a number of other words.

Mr. DELLUMS. Mr. Speaker, I withdraw the term "madness" and "insanity." I can make my case without those two words.

Mr. BAUMAN. Mr. Speaker, I think the entire sentence is characterizing the motives of the Members.

Mr. DELLUMS. I point to the fact that sentence must go out. I can make my case without that.

The SPEAKER pro tempore. The Chair is hoping that all Members will proceed in order.

Mr. BAUMAN. Is my understanding correct that unanimous consent has been granted to withdraw those words from the RECORD?

The SPEAKER pro tempore. Without objection.

Mr. DELLUMS. Mr. Speaker, Members of the House, I would finally conclude with the statement made by a distinguished German philosopher many year ago, which goes like this:

When they came for the Jews, I did not stand up;

When they came for the Catholics, I did not stand up;

When they came for the workers, I did not stand up;

And when they came for me, there was no one left.

I do not stand in defense of Andrew Young. He is more than capable of defending himself. But, I stand in defense of Andrew Young's freedom as a citizen of the United States and a citizen of the world, who has a right to his human rights and a right to speak out in this Nation; for, if I do not stand up and fervently defend Andrew Young's freedom, then I would humbly submit, Mr. Speaker and Members of the House, that there will be no one to stand there for me when the attack comes for me.

So, I do not stand in defense of Andrew Young; I stand in defense of his freedom. I stand in defense of the Constitution, and I stand in defense of the responsibility of the House of Representatives to engage in whatever action we deem necessary, but let it be couched in reason, and let it be couched within the framework of the delicate rights that we have become accustomed to in this country; namely, the Constitution of the United States and the Bill of Rights which accompanies it.

Mr. MITCHELL of Maryland. I thank the gentleman from California for his statement.

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Speaker, I have had the privilege of knowing the U.N. Ambassador for 4 years. He has spoken to the people in my district and I think they were honestly impressed with his honesty and humanity and integrity.

I think I must disagree with his statement on political prisoners and pretty much disagree with his statement, but I too, like the gentleman from California and the gentleman from Maryland, pretty much disagree with the effort made in this body today to impeach somebody for something he said.

It seems to me wholly inappropriate, as the gentleman from California said, for this Congress to impeach a man for his beliefs, whether he is a U.N. Ambassador or just an individual person.

With respect to Andrew Young as a person, it is a shame that in America in the 20th century a man who has shown honesty and fairness with all people, be they press or others who might want to seek to exploit that honesty and that fairness, that he should suffer that kind of treatment for his statements.

It would be my hope he would remain as an American Ambassador and that this present body would not seek to condemn him for those statements. He has done much for the country and the U.N. and for his fellow men.

Mr. MITCHELL of Maryland. I thank the gentleman from New York for his views which I know are shared by a number of the Members of this House. A number of written statements on this special order have already been submitted for the RECORD.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I commend the gentleman from Maryland for taking this occasion to try to address the very unfortunate situation that results from words spoken this morning in this House.

I have known Andy Young ever since he became a Member of this House some years ago. Last year I was up at the United Nations with some other Members of Congress,and we had the privilege of sitting down with Andy and talking about international relations and other matters. We got onto the subject of President Carter's human rights crusade and the letters he had written to Mr. Sakharov and others who were being denied basic rights in Russia. We expressed some concern that in promoting the cause of human rights in that way in Russia the President might be creating obstacles for some other of his priorities, such as a new SALT agreement to try to get some kind of control over the terrible theat of nuclear destruction that hangs over the human race, destruction which would wipe out all human rights by wiping out all human beings.

Andy's response went something like this:

Well, I want to say that I am in complete accord with the President on this matter. We have discussed it. The Administration is of one mind on this. We feel that the Russian Government must face up to the fact that its own people are not going to tolerate the kinds of violations of basic human rights that are taking place in the Soviet Union. As far as I am concerned I think we must make them face up to that and the President is on the right track.

That came from Andy Young himself.

As for those who so glibly this morning took the well and spoke as though the things they read in the paper were correct, verified quotations, we have not had any affirmation from Ambassador Young as to the correctness of those remarks. How can one assume, without any further confirmation or any chance for rebuttal, that Mr. Young had made statements which implied that he did not sympathize with the position that our Government had taken with respect to the trials of dissidents in Russia.

I think it is important to set the record straight, as to what I know to be the position of Andrew Young. What was Andy trying to say? Those of us who served with Andy Young in this House know him as a person who all his life has spoken fearlessly his mind as he saw the truth. What he was trying to say was, yes, the Soviet Union has violated basic human rights.

But, let us also remember that we have human rights problems here at home. Is there anyone who would deny the truth of that? I am reminded of famous American diplomat, also an Ambassador, who said, in the late 19th century, when he heard someone toast "To our country right or wrong." The Ambassador stood up and said, "Let me correct that: To our country right or wrong: If right, to be kept right; if wrong, to be put right."

You and I know that Andrew Young is a man of integrity, honesty, and humanity, and that he shares that philosophy. He has done much to make America a better place and to make American ideals a reality for millions of people.

I think our President and our Government and we ourselves are right to condemn the Soviet Union for its inhumanity to its own people. But I think it is also right when we are taking the beam out of their eye, to consider also the mote in our own. And that is what I construe Andrew Young to have said.

I also must view with irony the words that were being spoken on the floor this morning. Some of the very same people who were condemning the Russians for punishing their own people for what they said were demanding the impeachment of Andrew Young for what he said. I ask you, is that not a bit of a double standard?

I happen to disagree, if Andy Young was correctly reported, with both his timing and failure to sense the way the media would play up portions of his remarks. They were certainly undiplomatic. But I also agree with his right to express his views. I hope that we who believe in the principles of freedom of speech and other basic human rights would remember that Andy Young is one American who has stood above almost everybody in this House in his defense of human rights both at home and abroad. I hope we will not forget it the next time someone starts tossing around irresponsible impeachment resolutions.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman for his statement. I will indicate a little later on that I had the opportunity to talk with Ambassador Young earlier this afternoon and he reaffirmed, in no uncertain terms, his commitment to the protection of human rights all around the world. I will speak to that a little bit later in my statement.

Mr. Speaker, I now yield to the distinguished gentleman from Ohio (Mr. STOKES).

Mr. STOKES. Mr. Speaker, I thank the gentleman from Maryland (Mr. MITCHELL) for yielding me this time. I rise to commend my colleague the gentleman from Maryland (Mr. MITCHELL) for taking this special order. I especially want to also commend the other Members, and the members of the Congressional Black Caucus, for participating in this special order.

Mr. Speaker, once again we find the American press jubilant over some remarks supposedly made by Ambassador Andrew Young which they report as:

. . . a remark which has touched off a storm of criticism in Washington.

Let us for a moment examine what the Ambassador said in order to ascertain what the criticism is about. In this morning's Washington Post in an article entitled "Remark by Young Draws Rebukes" it is reported that Ambassador Young said the following:

. . . after all, in our prisons there are also hundreds, maybe even thousands of people I would call political prisoners. Ten years ago I was sentenced myself in Atlanta for organizing a protest movement. And three years later I was in the Georgia legislature. It's true things don't change so quickly in the Soviet Union, but they do change there, too.

According to the article, the Ambassador also said:

While there is nobody in prison in the United States for criticizing the government, there are all varieties of political prisoners.

In support of this, Ambassador Young is alleged to have further said:

In the United States people can be in prison much more because they are poor than because they are bad. But that's a problem we are working on and one on which we are making great progress.

Now, Mr. Speaker, let us examine what the Ambassador said, for if his critics are contending that he lied, about what did he lie? If, on the other hand, it is the contention of his critics that he told the truth, but he just should not have told it right now, then we are confronted with an entirely different matter. Yet, Mr. Speaker, Ambassador Young's critics have yelled and screamed before as they are yelling and screaming now. But when the yells and screams die down, just as has been the case on every other occasion when the Ambassador has been criticized, no one has stepped forth to prove him wrong.

I remember when the hue, cry, and outrage went up over his having stated in an interview with Playboy magazine that Nixon and Ford were racists, not in the aggressive sense, but in that they had no understanding of the problems of colored peoples anywhere in the world.

Well, what is untrue about that? Here was Nixon who did not have a single black in his Cabinet, who had all black Congressmen individually listed on his enemies' list; who had no African foreign policy, and who spent the major part of his time dismantling all the poverty programs enacted by the Congress for minorities.

Here also was Gerald Ford, whom CONGRESSIONAL RECORDS will reflect had the job in Congress over a 25-year period of offering crippling and dismantling amendments to every piece of civil rights legislation ever passed by the Congress.

It was also Gerald Ford who might still be President had he not run his campaign for President on a strategy ignoring the black vote.

So, Mr. Speaker, this statement by the Ambassador quietly died down, because no one could refute the Ambassador.

The most comical criticism of the Ambassador came over the hue, cry and outrage which occurred when he said, "Great Britain had a history of racism."

Well, it was not Andrew Young who coined the phrase, "The sun never sets on the British Empire." England colonized people of color all over the world, from Asia to Africa to Hong Kong. I am certain that this is why that particular hue, cry and outrage simmered and died quietly.

Mr. Speaker, Ambassador Young is a very distinguished American, one who has paid the price and the dues in this country for whatever he says. No one can refute his statement that he has been in jail and has himself been a political prisoner in America. No one can deny that Dr. Martin Luther King and hundreds of civil rights activists in the sixties were jailed as political prisoners in America; and no one in his right mind can deny the ugly truth, which is that today, in America, there are jails full of the poor, a majority of whom are black. Many of those poor, Mr. Speaker, are innocent of any crime in the world, except that of being black and poor.

Mr. Speaker, the Amnesty International Report for 1977 verifies the statement of Ambassador Young that there are political prisoners in jails in America. Now, whether their figures agree with the figures of Ambassador Young as to the number of political prisoners in American jails is really not important. The fact is that this Nobel Peace Prize organization corroborates the Ambassador's basic premise. The tragedy which we cannot hide from the world, even by firing, muzzling, and gagging Ambassador Young, is that America does have political prisoners.

Mr. Speaker, I quote from the 1977 report of Amnesty International in the section entitled, "United States of America," where it says this:

The difficulty in identifying Prisoners of Conscience in the United States, which was referred to in the *Amnesty International Report 1975–1976* means that the number of adopted prisoners at any one time is unlikely to be large, but Amnesty International Research Department follows alleged cases of political imprisonment in the United States very closely and the number of adopted prisoners does not reflect the amount of time or the degree of attention given to this country.

In an attempt to solve the problems involved in identifying Prisoners of Conscience in a country where there is no overt political imprisonment, but where it is suspected that many people may be "framed" on criminal charges because of their political activities or ethnic origin, Amnesty International has, during the past year, tried to arrange for observers to attend trial in the United States whenever there is a possibility of imprisonment for political reasons.

Mr. Speaker, I expect that when the hue, the cry, and the outrage over Ambassador Young's latest remarks have died out, Ambassador Young will still be an Ambassador, America will still have political prisoners, but the candor, the honesty, and the forthrightness of an Andrew Young will have made all decent and honest Americans a little more proud of the fact that they are Americans.

Mr. Speaker, I thank the gentleman for yielding.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman very much for his statement.

Mr. Speaker, let me indicate what some of the facts are in this case. I do not know the law, but I know something about it. I know that Andrew Young gave an interview to a newspaper called Le Matin, a socialist newspaper in Paris. The interview lasted about 1½ hours.

During the course of the interview our Ambassador talked about the Scharansky and Ginzburg trials from an historical perspective. In essence, what he said was that blacks and their white friends who were considered the dissidents in the thirties, the forties, the fifties, and the sixties because they protested against

racism are now considered the heroes of America in the seventies.

He added that it was his hope and his belief that the Soviet dissidents of today will become the Soviet heroes of future years.

What in the name of God is wrong with saying that?

Mr. Young has issued a press statement today, and I will insert it into the RECORD at another time. In that press statement he is attempting to clarify the distortions, the deliberate distortions, of his remarks.

I asked earlier this morning—and I ask again this evening—all those in this country who are kind of caught up with a KKK mentality: What are your thoughts on the situation in South Africa where a trial of 18 blacks is now going on? It is going on in Lesotho in South Africa and East Transvaal.

These people are being tried simply because they sought to resurrect the Pan-African Congress. The trial is closed to journalists except to those with passes signed by the commissioner of police. The trial has been going on since last December and will continue through this year.

The punishment in these cases could range from jail sentences to executions. There are 66 cases involving approximately 685 persons arrested for political activities. The ages of the defendants range from 20 to 65 years old.

I ask all of those who were so anxious to impeach Ambassador Young, why are you not making angry demands, why are you not making angry statements about this kind of violation of human rights?

Ladies and gentlemen, Ambassador Young does have a fault, and unfortunately it is a very serious fault in these days and in these times. His fault, as I see it, is that he is an honest, moral man attempting to tell truths to a world which is in the main immoral and dishonest. That is his fault.

On the matter of timing, to those who ask, "Should he not have timed his statement better?" I argue back and say, "Truth has no constraints insofar as time is concerned."

If it is true now, if it were true yesterday, if it is true tomorrow, then let us say it, because that which is truth should not be constrained by time.

It is a funny thing, it is a very strange thing how those who are vilified in one moment, in 1 year, 1 hour, one period of service, are later recognized as the people or as the persons who gave a kind of decency to this Nation.

Mr. Speaker, I submit that somewhere down the line in the history of America people are going to recognize that Ambassador Young's morality, his truthfulness, his integrity, and his honesty—because that is what it is—may well have helped save this process that we consider to be so very near and dear to us—the democratic process.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield further?

Mr. MITCHELL of Maryland. Yes, I will yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Speaker, I think the gentleman from Maryland (Mr. MITCHELL) has made some extremely important points. There is no question that when Andy Young goes back into assemblages of the United Nations or other international bodies and testifies in behalf of human rights, the people there will listen to him, and he will be listened to all over the world, because they know that he does not follow a double standard.

He speaks of evil and injustice wherever it may arise. And while I think he may have overspoken himself in his description of political prisoners in the United States, who is in a position to cast the first stone?

We have our own problems. I will say that our governmental institutions, thanks to the wisdom of the Founding Fathers, are shaped to put themselves on the side of justice rather than injustice. But as long as there are human beings, with frailties, there is going to be injustice. But as long as there are men of courage and integrity like Andy Young to speak out, injustice will be fought and we can do something about it.

Mr. MITCHELL of Maryland. I thank the gentleman.

Mr. STOKES. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Ohio.

Mr. STOKES. I thank the gentleman for yielding.

Mr. Speaker, I know that recently the gentleman in the well, as chairman of the Congressional Black Caucus, accompanied the gentleman from California (Mr. DON EDWARDS) down to the jails in Wilmington, N.C., where the Wilmington 10 are and have been incarcerated for some amount of time. There are many of us who feel that this is probably America's most prominent case of political imprisonment. I wonder if the gentleman would care to make some comment on that case.

Mr. MITCHELL of Maryland. I certainly would.

Mr. Speaker, as we well know, Amnesty International has listed this as a prominent case of human rights, political prisoners in this situation.

And let me just tell the House that I went down to Triangle Prison, along with some other Members of Congress, and I talked to two young men there. One was Joe Wright, and I do not recall the other one's name. The sheer bitterness of those men was just overwhelming. One of them said to me, "If I had done something wrong, then I would not even scream about it, I would take this punishment. But I am in prison because I believed in an idea and an idea that I thought was really part of America's basic credo."

The other Members of Congress who went down with me wept, as I wept, because I felt absolutely hopelesss and futile to deal with an oppressive system which resulted in those men becoming political prisoners in America.

Mr. DELLUMS. Mr. Speaker, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Speaker, as the gentleman knows, several of our colleagues challenged the statement of Andrew Young with respect to the issue of political prisoners in this country, by stating that this blights the image of America in the world.

I would simply like to point out that President Carter himself has encouraged others to examine such human rights issues in America, stating in December 1977, the following:

> We welcome the scrutiny and criticism of ourselves as part of the normal dealings between nations.

Further quoting:

> It is important to acknowledge that we have some problems, says Drew S. Days, III, a black former civil rights lawyer, who is now Assistant Attorney General for Civil Rights. Earlier, in a speech to black attorneys in Alabama, Days was more expansive:
>
> The action of Amnesty International and the Soviet Union's awareness of human rights violations in this country means that further success in our own human rights campaign abroad may hinge on how forthrightly and firmly this Administration addresses such domestic problems.

The point is that members of this administration, including the President of the United States, have said that they welcome the scrutiny, they welcome the criticism, they welcome the evaluation. They have pointed out that where we can prove that our own skirts are not clean, then we have a profound obligation to address those issues.

I think that is an appropriate response to our colleagues who feel that the statements made by Andrew Young in some way blight America.

As the gentleman has said, "Truth is the light." It seems to me that this is what this whole issue hinges upon. The truth is that in this country we still have not guaranteed total human rights to all of our people.

Amnesty International defines us as a nation violative of human rights. The U.N. Committee on the Code of Human Rights has stated that the United States is in violation of human rights. The world already knows.

Mr. Speaker, the point is that citizens of the United States, through their Representatives, have a profound obligation to eradicate that blight.

Again, I thank the gentleman for yielding.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank my colleague, the gentleman from California (Mr. DELLUMS), for his remarks.

I do not think we ought to take special orders just for the sake of hearing ourselves talk. I think we should take special orders for instructive purposes. That is how I want to conclude my remarks in this special order. I would like to give some instructive directions to the Members of this House who were so hell-bent on attempting to impeach Ambassador Young.

I would simply say to them, Stop sniping and shooting at Andy Young. Instead, go back to your districts and fight the kind of racism that you find in your districts. I would say to those Members, instead of sniping and shooting at Andy Young, go back to your own districts and fight the kind of racial dis-

crimination and prejudice that you find in your own districts.

I would say to the Members of this body, go back to your districts; do not worry about Andrew Young, but go back to your districts and fight against the racial injustices found in the administration of justice within your own districts.

● Mrs. BURKE of California. Mr. Speaker, I wish to join my colleagues in noting the many significant contributions Andrew Young has made to American foreign policy during his tenure as Ambassador to the United Nations.

Over the past decade or more we have witnessed a growing, intense spirit of African Nationalism. Ambassador Young has been especially helpful in bridging the gap between the Government of the United States and emerging nations.

The role he has played in identifying and helping resolve causes of unrest throughout the continent of Africa and promoting the export of U.S. technology and economic aid to developing nations has served to enhance American prestige not only in Africa but throughout the world.

Progress in human relations and human justice is rarely made in the quiet of secluded retreats. Oftentimes it is made in full view of the national or world community. Mr. Young has been controversial, but given the dimensions of our day, I must say that is often constructive and helpful to U.S. interests both here at home and abroad.

It is frightening and indeed most unfortunate that remarks he allegedly made during an interview with a French newspaper have been over sensationalized.

The statements attributed to Mr. Young are not factually inaccurate. Their untimely release, however, is most unfortunate.

The Scharansky-Ginzburg trials are an abomination to the Helsinki Accords. They represent the cruelest form of repression and denial of basic human rights. That is why they have been deplored worldwide.

But there is also repression and tyranny in South Africa and elsewhere. These problems, too, need to be addressed. Ambassador Young has sought to address them.

His contributions can best be summed up in an article written by Columnist Marquis Childs in the May 30 edition of the Washington Post:

As American ambassador to the United Nations, Young has, in my memory, been far more active than anyone in that role. He has been continuously concerned with the brambles of the African thicket. He has called practically everybody racist, including the Swedes, to their considerable surprise, and the residents of Queens.

But how to grade this dedicated activist? Plus or minus? I have asked this question of several Western diplomats here at the United Nations, and they come down on the plus side. As one who did not wish to be identified by name put it:

You owe Ambassador Young a considerable debt. More than most Americans understand, he has developed a link with the Third World countries. Young has assured them of America's intentions as perhaps no one out of the conventional white establishment could have done. This is a distinct gain and one that, all things considered, is likely to stand you in good stead in the future."

That is what I heard from others. At times he is irritating. But his intensive efforts to avert bloody civil war and bring about a peaceful solution were given a B-plus if not an A on his report card.

I think of the frustration his predecessors—notably Adlai Stevenson—suffered in a role that has more often than not been show rather that substance. I feel that frustration will never trouble Young. And I feel, too, that out of his dedication to Carter he would not hesitate to resign if he considered himself an embarrassment to the president.

Andy Young is an asset to this country and his dedicated service is needed today more than ever.

As one of our colleagues put it—

If everyone of us in public office that makes a slip of the tongue or misstatement is impeached there will be very few left in this Congress or in the U.S. Gov't.●

Mr. CONYERS. Mr. Speaker, the uproar following Ambasador Andy Young's statement on American political prisoners, once again, reveals the dilemma of the Carter administration on the human rights issue. People who live in glass houses have to resist throwing stones. Too often, as in the Carter administration's campaign on global human rights violations, the stones take an ironic reverse bounce on the way to their targets, revealing glaring instances of hypocrisy. Andy Young's faux pas was to suggest another look, without self-righteous rhetoric, at abuses of the political rights of Americans analogous to the Soviet Union's persecution of dissidents.

For the record, Andy Young's remark about political prisoners in the United States was not new news. What made it fresh news was an interview with a Paris newspaper, covering a wide range of subjects, that reminded him of his previous statement. But this fact really is besides the point. Ambassador Young could have reiterated his statement that America is still a racist society. The resulting outcry from the administration and the right might have been less intense, but Mr. Young would have touched essentially the same nerve. Last November, Amnesty International, the London-based human rights organization, made a similar point. The group issued a list of 18 prisoners in American jails actually or probably incarcerated because of their political beliefs, including the Wilmington 10. If the definition of "political prisoners" includes all those who have been imprisoned unjustly, tens of thousands of blacks and poor people currently qualify.

It is obvious, to me at least, that this was the sense of Andy Young's remark. If he had made the same statement on any streetcorner in Atlanta, the meaning of the Ambassador's remark about American political prisoners would have been equally obvious, and either taken for granted or applauded. For anyone who has not lost a sense of American history, and especially the experience of blacks and minorities, right up to the present time, Andy Young's statement would produce no shockwaves. None of us like to have the Nation's "land of the free, home of the brave" image besmirched. But simply reading the morning paper each day revealing violations of constitutional and civil rights by the Nation's highest officials, the FBI and the CIA, hopefully by this time should have produced enough sobering realism among American citizens to prepare them for Andy Young's unusual candor. But apparently that is still not the case, which should increase our gratitude to Andy Young for continuing his unique role in educating the American public and their elected and appointed officials.

Hearing the truth about ourselves can be an extremely discomforting, even frightening, experience. This is especially so when it comes, as it rarely does, from one of the highest officials of government. Many Americans apparently still admire a former President who held on to his office through every conceivable form of subterfuge and lying. It is my hope that President Carter and the American people will have learned enough from the Watergate era to embrace the truth even though it hurts our pride.

● Mr. HAWKINS. Mr. Speaker, I am pleased to join in with my colleague, the Honorable PARREN J. MITCHELL, from Maryland, on addressing the matter of Andrew Young, the Chief U.S. Representative at the United Nations.

As a Member of this great deliberative body, I have had the opportunity of associating with many outstanding Americans. And what I have found in the course of my years here in this Congress, is a dedication to purpose and ideals, not exemplified everywhere on this Earth.

We have all fought long and hard on issues, on perspective, and on the values emanating from our differences in these areas.

We have succeeded, even in the most difficult times, in maintaining a tradition of respect and courtesy for those Members whose opinions and actions led them to make decisions at variance from our own decisions. This has been a first principle in our mutual endeavors, and I am proud to be associated with this kind of spirit.

Andrew Young, as a Member of this Congress, learned its rules well. And in my experiences with him, he always epitomized the best qualities of leadership and statesmanship that these halls can produce.

Today, he is in a different arena. In some ways it is a great deal tougher than being a Congressman from Georgia, but essentially, he is addressing the same problems we address; that is, attempting to provide the best assistance possible, in helping people (and nations) cope with, and finding solutions for their problems.

It is not an easy job. Nor is it always rewarding. In fact, many times it is the most thankless task imaginable.

Yet, it must be done, and Mr. Young is doing it in the same way he evidenced that fine capability of his in this Congress.

Unfortunately, his detractors continue to snap at his heels, deploring his style, his substance, his integrity, and his intelligence.

For all of this, Andy Young has helped pull this country out of a no-win policy in Africa, to a position in which practically every African door is open to our diplomats, to our business leaders, and

more importantly to our ideas, and ideals, and our influence.

A further strengthening of this view appeared in the June 20, 1977, edition of Encore magazine. The article noted:

James Pope, a high-ranking State Department Official, has praised Young for effecting a balance in U.S. relationships with Africa (previously Zaire was given favorite treatment); for easing the past Administration's hard-line approach toward the Soviet Union; and for making public some of what State Department officials were observing in private, such as the British effectiveness in working out a solution with Zimbabwe (Rhodesia). Pope credits the new Ambassador with "elevating African policy to a level of national debate and concern."

And further:

Thus on Africa policy—and, many feel, on Third World policy as a whole—Young has played an important role.

In the same view, on Friday, June 10, 1977, the editorial page of the Philadelphia Enquirer stated their evaluation of Mr. Young thusly:

Ambassador Young has changed black Africa's perception of the United States for the better. He has been such an effective spokesman that it would be hard to argue that he has damaged American interests in Africa or at the U.N.

But, if his critics want to debate the wisdom of the Administration's Africa policy, let them do that. Meanwhile, if they would listen very seriously to what the Ambassador is saying, they might not fret so much about how he says it; that he speaks candidly, albeit a little loosely.

Anyone can argue about Andy Young's style; but its his effectiveness that we need to be concerned about.

So far, he has been a master in cementing our relationship with the African continent; this was no easy task, especially after the Nixon-Ford years, and especially after the blunders created in the wake of the Kissinger "benign neglect" philosophy.

On this basis alone, he deserves our commendation.

I for one applaud his efforts and his achievements—and stand ready to support him in his efforts to bring better understanding between this Nation, and the other nations of the world.●

● Mrs. COLLINS of Illinois. Mr. Speaker, I rise in the strongest possible opposition to this blatant attempt to silence one of a most eloquent and courageous statesmen, Ambassador Andrew Young.

While I am not often surprised by the content of Ambassador Young's remarks on various subjects, since he is not one to understate the truth as he sees it, I am repeatedly shocked, and in this case, outraged by the arguments used by those who wish to discredit our former colleague and the ideals for which he stands. In this particular case, when the world community is sitting in judgment of yet another mockery of justice on the part of the Soviet authorities, we Americans—leaders of the free world—can hardly afford to rest on our laurels. Our own history is marred by a shameful legacy of enslavement of blacks and genocide against the Indians has in the past resulted the incarceration of many victims of our historical past. Yet how are we to confront these facts if we do not permit ourselves the courage to speak frankly against those evils?

That Ambassador Young has the courage to confront these realities openly—not as statements of policy, but as observations of fact, is something which we, as Americans, should welcome. Instead, some of us act like the fabled king who, upon hearing the bad news, orders the unfortunate messenger beheaded.

I urge my colleagues to oppose this grotesque resolution.●

● Mr. CLAY. Mr. Speaker, I am shocked beyond belief that this morning an attempt was made to impeach Ambassador Andrew Young by the distinguished Members of this august body.

I am even more appalled that 82 Members of this House revealed their profound ignorance by voting in favor of an impeachment resolution.

Of what—if anything—is Mr. Young guilty?

Supposedly, his statement a knowledging the well-known fact that America has political prisoners casts a shadow on the illustrious reputation we enjoy throughout the world. If his statement of fact is a blight on our posture, so be it.

Justification for impeachment perhaps would be in order if evidence proved Mr. Young to be in error. After all, truth is the best defense against slander.

I challenge any Member of this House to come forward with evidence to prove Mr. Young in error.

The truth is that America does have political prisoners. The truth is that America has thousands of political prisoners. The truth is that America has in the past, does now, and in all probability will continue to have political prisoners.

Might I ask my good colleagues how, in good conscience, can they ignore the history of protest and the conditions of tyranny under which protesters have been subjected.

What—may I ask—was the Chicago 5, the Wilmington 10, the Pendleton 14, Angela Davis. The list is endless.

I stand here as living proof that this country will not hesitate to jail a person for his or her political views. As a result of standing in front of the Jefferson Bank in St. Louis, exercising my constitutional right to peacefully petition for equality in employment, I was arrested in total disregard of my legal rights, tried by an incompetent, racist judge in a kangaroo court, and sentenced to 9 months in jail.

I served 116 days in a pigsty referred to as a city jail. Twenty other persons were selected out of 600 demonstrators and afforded the same treatment.

I praise Mr. Young for his candor and honesty. We have learned from recent past events that this country could use a lot more candor and honesty from our Government officials.

I decry those hypocrites who would close their eyes to the evils of racism and the injustices inherent in our judicial system.

America has for too long beat her breast and raised her voice proclaiming her liberal policies: Her "bring me your poor and hungry" attitude. But when there comes the opportunity to present the hard evidence to prove that this is the "land of the free and home of the brave" she strikes out like a wounded animal.

Mr. Chairman, I am not standing here today to renounce my allegiance to my country. But I am serving notice that I resolutely reject her self-righteous policy of failing to recognize her shortcomings.

We should be proud to have among our ranks a man of the caliber of Andrew Young. A man who does not flinch in the face of truth or cower at the onslaught of adversity.

If this body of the most powerful men and women in our country votes to impeach Mr. Young—then I offer that it will spell the end of a democratic society in this Nation.

Thank you.●

● Mr. RANGEL. Mr. Speaker, I rise in support of our distinguished U.N. Ambassador Andrew Young. It is deplorable that the U.S. Senator would take to the floor of the Senate and call for the impeachment of our Ambassador to the United Nations based upon remarks taken out of context. This is very regrettable since while Ambassador Young did say that the United States does have political prisoners, he also made the point that the United States responds much more quickly toward eliminating what is defined as political prisoners and that we do not exile or ostracize those individuals from participating in our society in the future.

To support Ambassador Young's contention that we in America do have political prisoners, one need only remember the persecutions of those who participated in the civil rights movement. On numerous occasions, the Reverend Martin Luther King was arrested for trying to integrate the South. In fact who can forget the courage of Mrs. Rosa Parks, who in December 1955 refused to move to the back of a bus in Montgomery, Ala., and was arrested for her political belief that she was as good as any white American who wished to ride that bus. Other leaders of the civil rights movement such as Medger and Charles Evers, Ralph Abernathy and even our current U.N. Ambassador were arrested for their political beliefs.

Some could say that Andrew Young has had first hand experience in what it is to be a political prisoner in America.

Even in more recent years, during the Vietnam War era the United States continued to jail those who disagreed with its policies. The trials of Daniel and Philip Berrigan, Dr. Benjamin Spock, the Reverend William Sloane Coffin, and the infamous trial of the Chicago 8 are further examples. Additionally thousands of protesters were illegally incarcerated during the May Day demonstrations of 1971.

Even today, we merely have to look at the pending cases of the Wilmington 10, the Charlotte 3, and the Indian trials at Wounded Knee.

It would be absurd for one to construe Ambassador Young's remarks as condoning the actions of the Soviet Union in their politically motivated trials of Anatoly Scharansky, Aleksandr Ginzburg, and Yuri Orlov, rather he was trying to point out that we in

the United States are not free of political repression. It is clear that the Soviet Union's oppressive actions are a coordinated effort to trample any dissent within its borders. Such outrages clearly defy natural and political rights of the Russian people. The Soviet Union's actions are those of a nation which fears and cannot tolerate dissent or truth.●

● Mr. DIGGS. Mr. Speaker, the criticisms made by Members of the House and the other body of Ambassador Andrew Young's remarks concerning the existence of political prisoners both in the United States and the Soviet Union are further evidence of the continued attacks on the Ambassador since he has taken his office at the United Nations.

In his position at the United Nations, Ambassador Young has taken a new and welcomed position on the necessity for more constructive and positive relations between the Uinted States and the nations of the Third World. He has become a spokesman for those who believe that the changing world order requires that the United States recognize a set of new power relationships and the increasing importance to our foreign policy objectives of the emerging nations of Africa. In his role at the United Nations, Ambassador Young has done more to inspire confidence between the United States and the Third World and lead in our negotiations with the countries of southern Africa to achieve majority rule by peaceful means than probably any other person.

For his forthright stand at the United Nations, Ambassador Young has already been the object of many attacks. Now he is under fire for a statement which many of us who have lived through the turmoil of the last 20 years of the civil rights struggle in this country cannot but regard as the truth. For what, we must ask ourselves, are political prisoners if not those who oppose a particular political system and the judicial structure which emerges from it? And is the history of political prisoners in this country not as old as the struggle for freedom itself?

Those who, in the quest for equality and justice under the law, opposed the massive structure of discriminatory legislation in this country and were jailed as a result, were they not political prisoners? It is ironic that Secretary Vance was Assistant Secretary of Defense during the Detroit riots over a decade ago and was symbolic of the Government's effort to punish those who dissented from an obnoxious system of justice.

And who can deny that in the United States of 1978 there are still political prisoners, those who continued to oppose a political system which fails to guarantee justice under the law to all, which fails to live up to the lofty principles enunciated in our Declaration of Independence and our Bill of Rights. The Wilmington 10 are only one group of political prisoners. Their case is well known because of the publicity that has surrounded it, but are there not hundreds and literally thousands of others whose cases never reach the public attention, are never covered by the press or by television? How many like the Wilmington 10 are incarcerated in jails throughout this country on misleading charges, such as disturbing the peace, resisting arrest and other euphemisms?

Ambassador Young continues to be the object of attacks by forces which are selective in their condemnation of injustice. Where were they when hundreds of black South Africans were jailed for their outspoken opposition to a system which denies them every basic right known to civilized man? Those who now call for Ambassador Young's impeachment are the same Members who opposed a resolution in this body less than a year ago condemning the South African Government for its crackdown on the forces of freedom and for its role in the death of Steve Biko.

If this administration's commitment to the cause of human rights is to have any validity, if it is to be taken seriously by our allies as well as our adversaries, then surely we must admit our own failings as well as our own achievements and, while lauding the latter, at the same time move to rectify the former. For millions of Americans who have long argued that this administration's commitment to human rights must begin at home, Ambassador Young's statement in Geneva is hardly a surprise.●

GENERAL LEAVE

Mr. MITCHELL of Maryland. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. STUDDS). Is there objection to the request of the gentleman from Maryland?

There was no objection.

SPECIAL ENDOWMENT INSURANCE PLAN FOR HOLDERS OF GI TERM INSURANCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Mississippi (Mr. MONTGOMERY) is recognized for 5 minutes.

● Mr. MONTGOMERY. Mr. Speaker, on June 14, the Subcommittee on Compensation, Pension, and Insurance, which I am honored to chair, conducted oversight hearings for the purpose of reviewing the VA insurance programs.

The subcommittee heard from one of our Members, the Honorable RICHARD T. SCHULZE, as well as from responsible officials of the Veterans' Administration and representatives of national service organizations. Others have submitted their views on a variety of issues.

In hearings relating to the VA insurance programs, invariably there is discussion about the high cost of term insurance premiums when veterans reach older ages.

I have repeatedly discussed this matter with the VA insurance staff and the committee has been concerned with the matter.

During the last 2 years, there have been a number of bills introduced seeking to provide some relief to veterans who have failed to convert to permanent insurance plans at younger ages and who now are facing ever-increasing term insurance premiums. These increased premiums come for many at a time when their income is limited to social security or other retirement benefits.

Some of the bills we have seen provide for freezing premium rates at a given age or waiving all future premiums when the amount of premiums paid equals the face value of the policy or waiving the further payment of premiums after a certain age.

All such proposals require substantial Federal subsidy. While the subsidies would benefit term policy holders, those who have converted to a permanent program (many at an older age with corresponding increased premiums) would be afforded no relief.

The Congress has addressed this question twice definitively—in 1965 the Modified Life at Age 65 Plan was provided; later, in 1972 the Modified Life at Age 70 Plan was established.

In these plans, the amount of protection was reduced by one-half on the insured's 65th or 70th birthday. However, the premiums remained the same. These plans have been very well accepted with more than 500,000 term insurance policy holders converting to one of the modified life policies.

With approximately 1,400,000 individuals still covered by term plans, it seems we must give further study to the problem.

Based upon these hearings and working with staff and the Veterans' Administration. we have developed a plan which I think provides us with a good starting point in granting some future relief to term policy holders. The proposal is identified as "Special Endowment at Age 96." This plan can be offered to the older term policy holders on attaining age 65. It is a plan similar to the plan devised for the U.S. Government life insurance term policy holders from World War I back in 1962.

It would appear that the design of this plan would provide a sufficiently low level premium rate to make it attractive to term policy holders. The proposal has the advantage of being actuarily sound thus eliminating the large subsidy that other plans would require.

I have today introduced a bill which would provide for this new type of policy; and in the not too distant future, I plan to schedule legislative hearings in order that the plan may be subjected to further study.

The subcommittee would be pleased to receive the comments from any Member of the House at that time.●

HEARINGS ON THE PRESIDENT'S URBAN INITIATIVES AND INTERSTATE LAND SALES LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. ASHLEY) is recognized for 5 minutes.

● Mr. ASHLEY. Mr. Speaker, the Housing and Community Development Subcommittee of the Banking, Finance, and Urban Affairs Committee will be holding hearings during the month of August on two separate matters that are currently pending before the subcommit-

tee. The first being proposed changes to the Interstate Land Sales Full Disclosure Act, and second the legislative proposals embodied in the President's urban policy message of last March as contained in three bills introduced by myself and the chairman of the full committee, my colleague from Wisconsin, Mr. REUSS.

On August 1, 2, and 3, the subcommittee will hold hearings to consider the recent regulatory changes proposed by HUD and statutory amendments proposed by the Department in H.R. 11265, the proposals embodied in the bill introduced by my colleague from New Jersey, Mr. MINISH, in H.R. 12574 and the proposal embodied in the bill introduced by Senator NELSON of Wisconsin in S. 3084. These hearings will begin each morning at 10 a.m. in room 2128 Rayburn House Office Building.

On August 8, 9, and 10, the subcommittee will be holding hearings on three bills, H.R. 12858, the Neighborhood Self-Help Development Act of 1978, H.R. 12859, the Livable Cities Act of 1978, and H.R. 12893, the State Community Conservation and Development Act of 1978. These three bills embody a series of proposals initiated by the President as part of his urban policy message. These hearings will also begin at 10 a.m. in room 2128 Rayburn House Office Building.

For further information concerning these hearings, please contact the staff of the subcommitte at 225–7054.●

NUCLEAR LIABILITY ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 5 minutes.

● Mr. WEISS. Mr. Speaker, I am today introducing legislation amending the Price-Anderson Act, the 1957 law limiting liability for a nuclear power plant accident. My bill would remove the act's $560 million compensation ceiling and would require all atomic plant licensees to arrange a combination of individual private policies and an industry-financed insurance pool to cover the balance of claims resulting from a nuclear incident.

I believe that the June 26 Supreme Court decision upholding the constitutionality of Price-Anderson requires prompt and affirmative congressional action to protect fully all potential victims of a nuclear disaster. Revoking the $560 million liability limitation, established 21 years ago and never subsequently adjusted for inflation, would also introduce a measure of economic realism to the nuclear industry. Under my legislation, the true costs of atomic energy generation would no longer be artificially deflated through an arbitrary and inequitable cutoff of claims payments.

At present, the $560 million figure is comprised of the amount of private coverage available to a particular plant (about $140 million on the average) and a formula, based on the number of plants in operation, which currently establishes a $310 million industry pool and a $110 million Federal guarantee.

My legislation would amend Price-Anderson in the following ways:

Stipulates that each licensee must obtain the maximum coverage available from private insurers;

Provides that in the event of an accident at a particular plant, this facility's insurance would be the first source of claim payments;

States that if the judgment against a given facility exceeds its private insurance coverage, the plant would then be liable up to the total of its assets;

Requires that if a court determines that the plant's assets are insufficient to meet the full judgment, the industry pool shall cover the balance of outstanding claims;

Mandates that pool participants shall contribute to the cost of the judgment according to a formula based on each licensee's generating capacity, its degree of risk, its total assets and other factors; and

Provides that should a court determine that a given plant cannot meet its proportional share to the pool, that plant would then become eligible for long-term Federal loans to be secured against the plant's assets;

Makes explicit that each licensee shall be liable for any incident at its facility resulting in injury to persons and/or damage to property; and

Waives the 20-year statutory limitation on claims resulting from a nuclear incident.

Unlike the Price-Anderson Act which mandates an automatic Federal subsidy for nuclear power insurance, my bill would entail use of Federal funds only in the event of a major catastrophe where victims' claims exceed a plant's private insurance coverage, a plant's total assets and the proportional contribution toward an industrywide pool. Even then, Federal moneys would be used only to provide interest-bearing loans.

If nuclear energy is indeed as safe as its proponents maintain, then the nuclear industry should be able to convince private insurers to write policies in excess of the current $140 million average amount. Atomic energy advocates should also be willing to back up their claims of a nearly infallible energy source by financing a pool to cover the costs from an accident which they regularly describe as "almost impossible."

Price-Anderson was enacted as a means of encouraging private industry to accelerate nuclear power development. That was 21 years ago, and since then more than 60 atomic powerplants have been activated in our Nation. The time has come for nuclear power either to stand or fall on its own merits. No other method of energy-generation enjoys a similar liability limitation, and Congress now has a clear duty to end this unfair underwritng of atomic power.

I urge my colleagues to join me in this effort.●

ANNOUNCEMENT OF HEARINGS ON ALLEGED NAZI WAR CRIMINALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. EILBERG) is recognized for 5 minutes.

● Mr. EILBERG. Mr. Speaker, I wish to announce that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary will hold 2 and possibly 3 days of public hearings on July 19, 20, and 21, 1978, to review activities of the U.S. Government regarding the admission, investigation, and prosecution of alleged Nazi war criminals in the United States. There will also be a discussion of the recent GAO report which I requested in January 1977 entitled "Widespread Conspiracy To Obstruct Probes of Alleged Nazi War Criminals Not Supported by Available Evidence—Controversy May Continue."

The hearings will be held in room 2237, Rayburn House Office Building, and commence at 9:30 a.m. starting Wednesday.

Testimony will be received from the General Accounting Office, former Immigration and Naturalization Service officials, and persons who acted in an official capacity as members of the Displaced Persons Commission of 1948 and administrators of the Refugee Relief Act of 1953, laws under which a number of these alleged war criminals entered the United States.●

LEGISLATION AMENDING AND SUPPLEMENTING ACREAGE LIMITATION AND RESIDENCY PROVISION OF FEDERAL RECLAMATION LAWS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

● Mr. UDALL. Mr. Speaker, I am today introducing H.R. 13473 at the request of the Department of the Interior. This bill would "amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented."

Decades of political involvement have revealed to me few issues so hotly contested as the present debate over the need to revise the Reclamation Law of 1902. It can hardly be denied that the enforcement of this law by the Bureau of Reclamation over the last 30 years has been lax. The farmers of the reclaimed valleys of the West came to the decision in many cases that the law might never be enforced. It is indeed unfortunate, Mr. Speaker, that those few reclamation projects that have so clearly violated both the letter and the spirit of the law have given the entire reclamation program a black eye.

It does not take an agronomist to realize what a success the reclamation program has proven. Formerly arid, unproductive, and desolate, the valleys in the West now bloom. The urgency this Government once felt that the West should be populated as rapidly as possible has subsided. But the social ramifications of providing a subsidy to those fortunate enough to irrigate their farms with water stored by the Bureau of Reclamation are as debatable as ever.

Mr. Speaker, literally dozens of bills have been introduced in the House that would amend the reclamation law. There is an overpowering diversity of opinion concerning the extent to which the law should be modernized. I am in the majority, I think, when I state that

the conditions prevalent in 1902 have changed sufficiently that we should update the reclamation law. But beyond this a thousand paths diverge as to how best the modernization might be effected.

The administration has strongly held beliefs that the principles of the reclamation law are as valid now as they ever were. It is appropriate for the chairman of the Committee on Interior and Insular Affairs to introduce the administration bill, and I do so to insure that all sides of this controversy will be heard.●

THE KEMP-ROTH-LAFFER FREE LUNCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado (Mr. WIRTH) is recognized for 5 minutes.

● Mr. WIRTH. Mr. Speaker, we have heard significant discussion about the Roth-Kemp tax-cut proposal. The proponents of this legislation have suggested that a parallel exists between their proposal and the so-called Kennedy tax cut of 1964. The following article by Walter Heller, the prime architect of the 1964 tax bill, carefully explodes the myth of a parallel between the two tax cuts.

For those of my colleagues in the House concerned with the rationale and history behind Roth-Kemp, this should be an interesting and useful analysis:

[From the Wall Street Journal, July 12, 1978]

THE KEMP-ROTH-LAFFER FREE LUNCH

(By Walter W. Heller)

Sound the trumpets and hear the heralds. There is, after all, such a thing as a free lunch! And it's not soft-headed liberals but hard-headed conservatives that bear the glad tidings.

More explicitly, it is Congressman Kemp and Senator Roth with their $114 billion tax cut bill—embraced as official GOP policy—who offer us this bonanza. On their silver platter, one finds a 33 percent or $98 billion, serving of individual income tax cuts and a garnish of $15.5 billion in corporate cuts, both to be phased in over the next three years.

And it won't cost us a thin dime. According to the Kemp-Roth June 1978 "Tax Cut News," their cuts "will increase the incentive to work, save and invest, resulting in higher economic growth, lower prices, more jobs and higher government revenue." And all this happens without budget cuts, the true believers tell us. Lunch is not only free, we get a bonus for eating it. P. T. Barnum, move over.

But ridicule is not reason. One must appraise the historical, quantitative and analytical foundations on which the Kemp-Roth structure is built.

Let's start with their assertion that "the Kennedy tax cut provides the best historical proof" that their tax cut will work. In the light of Congressman Kemp's flattering references to my paternal role in the 1964 tax cut, it may be a bit graceless to say quite flatly that he has been misled both as to the cause of the Kennedy tax cut's success and as to the Treasury's supposed goof in forecasting its revenue effects.

THE RECORD IS CRYSTAL CLEAR

First, as to "verdict of history" that the Kennedy tax cut ($12 billion-plus roughly equivalent to $36 billion today) achieved its success, to quote Mr. Kemp, "by increasing aggregate supply by increasing the reward to work and investment:" on the contrary, the record is crystal clear that it was its stimulus to demand, the multiplied impact of its release of over $10 billion of consumer purchasing power and $2 billion of corporate funds, that powered the 1964–65 expansion and restored a good part of the initial revenue loss.

By activating idle human and physical resources—reducing unemployment from 5.6 percent in January 1964 to 4.5 percent in July 1965 (when Vietnam escalation began) and boosting utilization rates in manufacturing—it drew on "aggregate supply" capacity that already existed. Inflation, which had been running at 1.4 percent befcre the tax cut, crept up to only 1.6 percent by the summer of 1965. The purchasing power punch of the tax cut was thus converted into higher sales volume, higher output, more jobs and more income, not into higher prices.

To give any credence to the Kemp-Roth thesis that the 1964 tax cut accomplished all this by unleashing incentives and triggering a great leap forward on the supply side, one would have to find a sudden bulge in productivity and GNP potential in the economic statistics for the mid-1960s.

No such bulge occurred. True, our 1962–1964 tax cuts were well-designed to boost investment and work incentives (via new investment credits, more liberal depreciation, a cut in top rates from 91 percent to 70 percent and so on). But these benign effects on the supply side work slowly, gradually tilting the productivity growth curve upward.

Estimates by Norman B. Ture that a Kemp-Roth tax cut would in a little more than a year generate huge investment increases, four million new jobs, $157 billion of added GNP and revenues exceeding pre-tax-cut levels stretch both credulity and facts. As Rudolph Penner of the American Enterprise Institute puts it. "There can't be two or three or four times more bang in a Kemp-Roth tax cut than we've had with any other."

Second, what about the great Treasury goof? Just one statement from the Roth-Kemp release will illustrate how far the facts have been stretched: "Although Kennedy's Treasury department estimated a six-year revenue loss of $89 billion, his tax cuts expanded the economy so much that revenues actually increased by $54 billion." To attribute to the 1962–64 tax cuts all the expansion and revenue increases experienced in 1963–68 boggles the mind. Among other things, it totally ignores (1) the huge (over-) stimulus of Vietnam expenditures and (2) four payroll tax rates and base increases in those years as well as $6 billion of revenues from the 1966 Tax Act.

Even more inexplicably, those who put the Kemp-Roth numbers together seized on a table the Treasury submitted to the House Banking Committee in 1968 to show what revenues would have been if (a) the economy had expanded as rapidly as it did but (b) no 1964 tax cut had been enacted. In contrast, the careful year-by-year comparison of Treasury revenue estimates and results they should have made shows a six-year net discrepancy of only $22 billion (partly by grace of compensating errors) rather than the $143 billion they assert. Those who did the staff work for Congressman Kemp and Sen. Roth have done them—and the cause of rational tax debate—a serious disservice.

Now, what about the other tax cuts cited by Kemp-Roth supporters as precedents for the supply explosion that their huge tax cut is supposed to set off?

—The Andrew Mellon tax cuts of the 1920s are brought forward as evidence. "As a result [of the Mellon cuts], the period 1921–29 was one of phenomenal economic expansion. . . ." At a time when only a few million Americans paid income taxes and federal spending was less than 5 percent of GNP (it was 3 percent in 1929), we are asked to believe that federal income tax cuts alone powered the growth of GNP from $70 billion in 1921 to $103 billion in 1929.

—Or take another favorite precedent, the 1948 tax cuts in West Germany to which the great German expansion is attributed. As Chief of Internal Finance in our Military Government in Germany in 1947–48, "I was there." The multiple sources of expansion were (1) a tough and successful currency reform, (2) removal of rationing and wage and price controls, (3) the Marshall Plan, (4) bountiful harvests, (5) a bountiful labor supply swollen by two million refugees from Eastern Europe and (6) tax reduction and reform. Yet the whole German "economic miracle" is attributed to tax cuts.

In short, the Kemp-Roth enthusiasts rely excessively on post hoc, ergo propter hoc reasoning and on a one-dimensional view of the world. Have they forgotten that there is more to life than economic life, and that there is more to economics than taxes?

Now, for a look at the "Laffer Curve," a diagram designed to show how tax changes can suppress or unleash incentives to work and invest and hence affect tax revenues. The tax cuts that are cited as "evidence" have just been explored. But let me go beyond this to look at the assertion that we are so far out on the Laffer Curve that tax cuts would release enormous tax-suppressed energies. Here I would simply echo the conclusion of Mr. William Fellner of AEI: "The U.S. is not yet at high enough tax rates to produce anything like the revenue explosion that Laffer is predicting." And I would agree with him that "where the U.S. economy is along such a curve is completely undocumented, unexplored and unknown."

Have tax pressures increased sharply since the mid-60s and perhaps brought us closer to the breaking point? Comparative figures assembled regularly by the OECD show total U.S. taxes at 27.3 percent of GNP in 1966 and 29.6 percent in 1976, hardly enough of an increase for tax cuts to trigger much bigger responses today than in the mid-60s. Besides, with top income tax rates at 50 percent and 70 percent instead of 91 percent, there is less tax disincentive to remove.

But let's move beyond the field of taxation and take another cut at it. Broadening our horizon to include the whole range of quantitative surveys and studies of responses to changes in after-tax rewards per unit of work, savings and investment, can we find any support for the Laffer-Kemp-Roth thesis?

First, as to savings, there is little aid and comfort in "Denison's Law." Edward F. Denison of Brookings has found that U.S. gross private domestic saving has for a century held very close to 16 percent of GNP (adjusted to a high employment level) year in and year out in the face of high taxes, low taxes or virtually no taxes. Contrary findings about the elasticity of the savings rate still fall short of the taxpayer response predicted by proponents of Kemp-Roth.

But what about labor supply elasticity? Don't the myriad studies of the responses of workers to increases or decreases in take-home pay lend some support to the Laffer thesis that big tax cuts would stimulate a big switch from leisure to work and thus sharply increase labor supply? No.

TWO CONFLICTING RESPONSES

The human animal has two quite conflicting responses to increase in take-home pay, from whatever source. Yes, the studies show some people working harder and longer as tax cuts or other income boosts make leisure and sloth more "expensive." But others respond to an income boost by taking out some of their gains in more leisure, that is, by working less hard to gain a given target income. In economic terms, the studies tell us that the income elasticity of labor supply is not very great either way, and it

is not clear whether it is, on net balance, negative or positive. So the Kemp-Roth advocates would once again look in vain for support of their belief that big tax cuts would cause a vast upsurge in labor supply.

To summarize, then, nothing in the history of tax cuts, econometric studies of taxpayer responses, or field surveys of incentives suggests that the effects of a big tax cut on the supply of output even begin to match its effects on the demand for output. A $114 billion tax cut in three years would simply overwhelm our existing productive capacity with a tidal wave of increased demand and sweep away all hopes of curbing deficits and containing inflation. Indeed, it would soon generate soaring deficits and roaring inflation.

One wonders whether these considerations are not beginning to generate some self-doubts, as they should, in the Kemp-Roth camp. Disarmingly, Laffer, as their "economic guru," recently told Newsweek: "There's more than a reasonable probability that I'm wrong. But . . . why not try something new?" Why not? One reason might be that in getting the Republican party on the Kemp-Roth hook, he may be leading it over the cliff.●

AMBASSADOR YOUNG'S LATEST GAFFE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BINGHAM) is recognized for 15 minutes.

● Mr. BINGHAM. Mr. Speaker, I am appalled by United Nations Ambassador Andrew Young's statement on the trials of Scharansky, Ginzburg, and others. Ambassador Young is reported to have said that "You cannot stop the world because of a trial no matter where it is and who it is." He also said that "there are hundreds, perhaps thousands of political prisoners in the United States," suggesting that the key difference between Soviet and U.S. political repression is merely one of degree.

I cannot condemn Ambassador Young's remarks strongly enough. I am especially outraged by the shocking inappropriateness of their having been uttered by this Nation's Ambassador to the world forum.

It is one thing for citizen Young or Reverend Young or civil rights leader Young or even Representative Young to point to the injustices which prevail in the United States and even to imply that our criminal justice system makes distinctions between those who are rich and those who are poor. It is quite another for Ambassador Young to say these things, especially on the very day the President and Secretary of State are trying to convince the Soviet leaders to retreat from their current wave of repression. It is no surprise that the Soviets seized on Young's remarks as evidence that the United States is a politically repressive State. Sad to say Ambassador Young's cavalier remarks makes it easier for the Soviets to withstand the storm of international criticism they have aroused through their prosecution of Scharansky and Ginzburg and others.

A year and a half in his post and Ambassador Young has yet to learn that what he says reflects on the entire administration. The President must convince the Ambassador that the administration can no longer afford his provocative and wild shooting from the hip. The President must make it clear that the Ambassador has embarrassed the administration on several occasions and that, despite his fine work in Southern Africa, he must either curb his verbal excesses or see his usefulness to the administration destroyed.●

CONSTITUENT POLL—SUMMER 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 15 minutes.

● Mr. COTTER. Mr. Speaker, for the readers of the RECORD, I would like to submit my annual poll which was recently mailed to residents of Connecticut's First District:

CONGRESSMAN BILL COTTER'S CONSTITUENT POLL—SUMMER 1978

LEGISLATIVE UPDATE * * * EMPLOYEE BENEFITS FACE THREAT FROM IRS

The free parking space you use at work and the lunch you eat at a company picnic may end up costing you money if the Internal Revenue Service is allowed to tax these and all other fringe benefits.

If they have their way, IRS officials will begin taxing all employee perquisites, commonly known as "perks", as an additional part of your gross income.

The IRS hit list will include each and every benefit provided by your employer: such as a free medical check-up, free tuition for spouses and children of university faculty, free magazines and other subscriptions, free parking on the company premises, Christmas gifts over $25, company parties, free use of recreational facilities, education in the form of on-the-job training and low or no-interest loans—just to mention a few.

The tax on benefits would be implemented as follows. Let's say you have a free parking space at work. The IRS would put a price on the space at about $30 a month or $360 a year and then add that figure to your taxable gross income. Thus you end up paying an income tax on the assessed value of the space. If two of you have a parking space, then double the figure.

The tax-writing House Ways and Means Committee has drafted legislation prohibiting the IRS from issuing new regulations on the taxability of fringe benefits before December 31, 1979.

I am responsible for two amendments in the bill affecting many Connecticut taxpayers. One will protect state troopers who received meal allowances in the past from being taxed retroactively, and the other will prohibit the IRS from collecting taxes on the subsidized portion of cafeteria meals eaten in a company lunch rom.

The Fringe Benefits Bill overwhelmingly passed the House and I expect the Senate to follow suit, but this legislation is only a temporary stopgap. The Chairman of the Ways and Means Committee has appointed me to a seven-member Task Force on Fringe Benefits which will study this issue in depth over the next 18 months. We will then make recommendations to the full Committee and Congress.

Frankly, I am skeptical about allowing the IRS to tax fringe benefits, because they exist for the mutual benefit of employee and employer. Perks are recognized around the world as an important ingredient in salary negotiations. One could actually say they help keep salaries down at a time when inflation is our number one enemy.

FIRST DISTRICT 1978 CONSTITUENT POLL

Dear Friend: It is once again time for my annual constituent poll. You can contribute to my work in Congress by answering these questions and mailing your response to my Washington office.

The results will be printed in the Congressional Record and reported to the press. I will also mail the results directly to you if you print your name and address in the space provided.

It is, of course, impossible to query you on all the issues, but I have tried to choose matters which are of immediate congressional concern. I look forward to seeing your responses.

Sincerely,

BILL COTTER,
Member of Congress.

FEDERAL DEFICIT

President Carter has proposed a $61 billion deficit for the next fiscal year. There is widespread concern about the economic impact of this deficit.

Which approach would you support on the deficit?

a. Cut government expenditures.
b. Reduce the size of the proposed tax cut.
c. Keep proposed deficit.

IMPORTS

Foreign competition has caused serious dislocation in some U.S. manufacturing industries, such as ball bearings, steel, shoes and textiles. Yet these foreign products do provide consumers with lower prices for these goods.

Do you favor increased tariffs and quotas on imports to protect American industry? Yes. No.

TAX REFORM

President Carter has proposed ending several federal tax deductions used by many taxpayers. The President believes that eliminating these deductions will simplify tax forms and allow a general rate reduction.

Where do you stand on these tax issues?

a. Remove the deduction for state and local tax. Yes. No.

b. Remove the deduction for personal property tax. Yes. No.

c. Cut by 50% the business deduction for meals and entertainment. Yes. No.

d. Remove the deduction for state and local gasoline tax. Yes. No.

e. Increase the level of medical expenses incurred (from 3% to 10% of adjusted gross income) before allowing a deduction. Yes. No.

CAPITAL GAINS

In 1969, taxes on investment held over a year were increased. And many investors blame those increases for a considerable reduction in capital formation. To stimulate the flow of venture capital and increase future year tax revenues and employment, these people support a proposal to tax all capital gains at the pre 1969 rate of 25%. Opponents deny these benefits and say only the wealthy will gain by the rollback.

Would you support a reduction in the present capital gains tax rate to encourage investment? Yes. No.

TUITION TAX CREDIT

The House of Representatives recently passed the long-debated tuition tax credit bill, but both the House and the Senate must concur on the specifics of tne bill before it becomes law.

a. Do you support a tuition tax credit for post-secondary vocational and college education? Yes. No.

a. Do you support a tuition tax credit for elementary and secondary education? Yes. No.

SOCIAL SECURITY

The new social security law has provided financial stability for the system until the year 2000. However the law significantly in-

creases the social security payroll tax in the 1980s and raises many questions of financing. Congress will take up the financing issues again next year. Which of the following recommendations do you think Congress should consider? (You may check more than one)

a. Raise the maximum retirement age.

b. Substitute some portion of the social security payroll tax with federal income tax dollars (general revenues).

c. Require state and federal workers to join the social security system.

d. Reduce social security disability and medicare benefits.

e. Dismantle the social security system and have workers provide their own retirement benefits, health care and disability insurance.

AIR BAGS

The U.S. transportation department has required all 1982 autos to be equipped with air bags, which will cost between $120 to $300 on each new car. Opponents say that DOT's studies show that air bags fails to inflate in 42% of known collisions. Supporters contend that air bags can avoid bodily injuries in a significant number of cases.

Do you favor reversing DOT's decision to install air bags in 1982? Yes. No.

EQUAL RIGHTS AMENDMENT

The Equal Rights Amendment for women has passed 35 states, Connecticut included. But the time limit for ratification by the necessary 38 states will run out in March 1979, unless an extension is granted.

Do you favor a seven year extension to provide more time for debate and consideration of this amendment? Yes. No.

FOREIGN POLICY

Korea: Do you favor withdrawal of 83,000 combat troops in South Korea? Yes. No.

Cuba: Cuba's Military presence in Africa has been interpreted by some as proof of Soviet influence and domination. However, others maintain that Cuba's intervention in Africa is evidence of Castro's commitment to the third world rather than of subordination to the Soviet Union.

In light of these interpretations, do you think it is in the best interest of our country to restore economic relations with Cuba? Yes. No.

NATIONAL HEALTH INSURANCE

President Carter is preparing his version of National Health Insurance. Which statement is closest to your views on this issue?

a. Have the federal government take over all health insurance. This program would replace all private insurance but would increase the federal budget by $180 billion. It would be financed by an increase in wage earners' payroll taxes.

b. Require private health plans to include catastrophic coverage while increasing federal programs to cover the health needs of the poor and elderly. The federal cost would be an additional $12 to $15 billion.

c. Keep the present system of private and government health insurance. Present costs for medicare and medicaid are $41.1 billion annually.●

SOVIETS SENTENCE GINZBURG AND PETKUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, the convictions of Aleksandr Ginzburg and Viktoras Petkus in the U.S.S.R. today on charges of "anti-Soviet agitation and propaganda" and contrary to any international standard of human rights and are an affront to human decency. They are a clear indication that the Soviet Union has no intention whatsoever of abiding by the human rights commitments it made in Helsinki nearly 3 years ago. Furthermore the sentences received by these two men—8 years in labor camp for Ginzburg and 3 years in prison, followed by 7 years in labor camp and 5 years in exile for Petkus—are unjustly severe especially in light of the fact that both men have already spent many years in the Soviet Gulag for their activities in support of human rights.

This action is but the latest in the well-orchestrated and systematic campaign of repression against those brave men and women in the U.S.S.R. who took it upon themselves to monitor their government's compliance with the Helsinki agreement. The crackdown—which began in June 1977 with the harsh convictions of two Ukranian Helsinki watchers, Mykola Rudenko and Oleksiy Tykhy, and has continued unabated since then—culminated in the trials this week of no less than five members and friends of the Helsinki Groups: Anatoly Shcharansky, Maria Slepak and Aleksandr Podrabinek as well as Ginzburg and Petkus. It is likely that these three others will also be dealt with in a similarly severe fashion and receive long sentences.

Certainly, the U.S.S.R. should know that these deplorable trials, convictions, and sentences will have serious repercussions in the United States and around the world. The fact is they do not care. They seem to be fearfully preoccupied with maintaining power through brutal control of the minds and bodies of their citizens. Standing on this inhumanity—they ask the world to join them in a quest for peace, détente, brotherhood, comradeship and other noble concepts. The world is and should be more than skeptical.●

THE TRIAL OF ANATOLY SCHARANSKY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. BURKE) is recognized for 5 minutes.

● Mrs. BURKE of California. Mr. Speaker, the current trial of Anatoly Scharansky for treason, I feel, violates the International Human Rights guarantees of the Helsinki agreement. The resolution (S. Con. Res. 95) adopted by the House yesterday, clearly exemplifies the disfavor this trial has with my colleagues and myself. Mr. Scharansky was jailed March 15, 1977, and in June of that year was charged with treason under article 64 of the Soviet criminal code. Those of us who share in the international concern for human rights see this trial as contrary to our goals. Mr. Scharansky applied for permission to emigrate to Israel to join his wife Avital and was denied on the grounds of national security. His discontent has snowballed to embody the displeasure of other Soviet activists and dissidents seeking freedom of belief and migration. A monitoring committee, set up to oversee and check the Soviet commitment to the Helsinki agreement, provided the arena through which Scharansky could voice his opinions and discontents with Soviet policy regarding human rights. Now, because of his efforts, Scharansky has been accused of being a spy for the United States and faces trial for treason.

When the Soviet Union signed the Helsinki agreement, they agreed to comply with its terms. The fact that the efforts of oversight of the agreement's provisions are repressed shows that the Soviets may have taken the terms of the agreement lightly. This is a source of displeasure to many people throughout the world. Good United States-Soviet relations depend on diplomatic decisions which honor and abide by agreements made by both states. Only in this way can both countries come closer to the goals of international tranquility. Agreements such as this are also important because compliance with them can gradually build more trust between our countries, thus improving international relations. The fact that the Soviet Union is trying Scharansky for treason, not only represents a violation of the Helsinki agreement, but also a step backward in international trust between our nations since Scharansky was accused of being a spy in his efforts only to check Soviet compliance with Helsinki's human rights provisions. These provisions are not only the goals of the United States, but should be those of the Soviet Union as well. Efforts to check their enforcement should not be viewed as treason, but should be heartily encouraged. It is a well-established fact that Anatoly Scharansky is not a spy for the United States. He only represents an element which is actively opposed to the repression of human rights in the Soviet Union.

Human rights provisions of the 1975 Helsinki agreement must be honored if we are to achieve the common international goals of human rights throughout the world.●

IMPACT AID AMENDMENTS TO H.R. 15

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

● Mr. HARRIS. Mr. Speaker, I am disappointed that another chapter in the perennial impact aid attacks may unfold again today in the House of Representatives. I understand that several amendments may be offered to weaken the program and reduce funds for children whose parents live in one county but work in another or across a State line.

The bill, H.R. 15, as reported to the House by the Committee on Education and Labor restored to the program as "eligibles" children whose parents work in another State, such as the Alexandria, Va., pupil whose parent works in Maryland or the District of Columbia. Additionally, the committee increased the entitlement rate, and thus the amount of funding, for the student whose parent lives in one jurisdiction and works in another.

It has been rumored today that an amendment will be offered to knock out

the "out-of-state B" students and reduce funds for the "out-of-county B" student. I cannot support such amendments.

Several points must be made. First, the program and the bill before us recognize degrees of impact of a Federal installation. The rate of compensation for an "A" child, one whose parents live and work on Federal property and thus pay no local property taxes, is higher than the rate of the "B" child, whose parent lives or works on Federal property. Thus, the formula measures degrees of Federal impact and the degree of Federal connection the student has. Quite simply, a school district does not receive as much money for a "B" child as for an "A" child.

Second, as the committee notes in its report, "Federal property in States and counties within commuting distance of a particular district attracts federally-connected children and thereby increases enrollments. In many cases, the federally connected families moved to these types of districts because of the unavailability of in-county housing, a situation for which neighboring districts should not be penalized."

Third, charges are made that funds for "A" children are justifiable, but funds for "B" children are not, because the parents of the "B" child is paying local property taxes and the "A" child's parents are not. This argument ignores the fact that half of a child's education is normally supported by property taxes on places of employment. In areas affected by Federal activities, where the Federal Government is the employer and paying no property taxes, these property taxes are lost to the school district. Thus, impact aid help is a real way to "replace" those property taxes lost because of the presence of tax-exempt Federal property.

Fourth, the Office of Education testified before the House committee that the different treatment of "B" students in the current law, and that apparently we will return to if these amendments are adopted, necessitates several complex calculations. The committee has said that the process of computing the amount schools will receive is further complicated because some properties are claimed by more than one school district, and thus are "in-county" for some and "out-of-county" for others. The impact aid program, quite frankly, has a notorious reputation for delay, because it has always been understaffed. The committee bill would have improved this calculation process, making it easier for Federal officials and in particular simpler for local school officials to work with.

Finally, Mr. Speaker, we have to face the fact that we are living in the 1970's and State and local jurisdictional lines often mean very little, especially in metropolitan areas like Washington, D.C. People who come to this area to work in, for example, HEW headquarters or the Pentagon, cannot afford to live in the city. All too frequently, this individual lives 30 or 40 miles away. We should not penalize that person by reducing school funds because the cost-of-living bars the family from living in the same jurisdiction in which he or she works.

WASHINGTON AREA SCHOOLS A SCAPEGOAT

Critics of impact aid have been pointing a finger at the school systems around the Nation's Capital for many years and charging that they are wealthy communities that do not need the money. There have been accusations of pork barrelling. What this argument ignores is why these funds go to these districts. These districts receive funds because the schools are heavily impacted by children of Federal employees, by the large amounts of Federal property taken off the local tax rolls, and importantly, because local citizens have carried the burden of financing their schools. For example, the cost of educating a student in 1978 in Fairfax County was $1,824, with $1,123—or 62 percent—of that amount coming from local taxes and $701 from all other sources of funding. Since the local contribution rate per child and the number of federally connected children are part of the funding program, these areas do receive an amount of impact aid funds. Ironically, then, these critics through these charges are penalizing local citizens for paying dearly out of their pockets for their children's education.

Impact aid has been in existence for 27 years and has been signed into law by Presidents Eisenhower, Kennedy, Johnson, Nixon, and Ford. I believe the program survives time and time again because it is basically sound—not because it is politically popular with a few wheeler-dealer Congressmen whose districts stand to gain. It is truly time to stop kicking this program around. I urge my colleagues to join me in supporting impact aid as improved and reported by the committee and to reject all weakening amendments.●

PERSONAL EXPLANATION

(Mr. MIKVA asked and was given permission to extend his remarks at this point in the RECORD).

● Mr. MIKVA. Mr. Speaker, I was off the floor on business on July 12, 1978, when the vote was taken on final passage of Senate Concurrent Resolution No. 95 (rollcall No. 534). Had I been present, I would have voted "aye."●

STATEMENT OF CHAIRMAN AL ULLMAN, COMMITTEE ON WAYS AND MEANS, WITH RESPECT TO THE RULE TO BE REQUESTED ON H.R. 10909, THE CLINICAL LABORATORY IMPROVEMENT ACT OF 1978

(Mr. ULLMAN asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. ULLMAN. Mr. Speaker, on March 24, 1978, H.R. 10909, the Clinical Laboratory Improvement Act of 1974, was reported to the House by the Committee on Interstate and Foreign Commerce. On July 12, 1978, the Committee on Ways and Means, to whom H.R. 10909 was also referred, favorably reported the bill.

I take this occasion to advise my Democratic colleagues as to the nature of the rule that I will request for consideration of H.R. 10909 on the floor of the House. The Committee on Ways and Means specifically instructed me to request the Committee on Rules to grant a modified open rule which would require that any amendments be germane and would require that such amendments be printed in the CONGRESSIONAL RECORD which would be available at least 48 hours prior to the time the bill is considered on the floor of the House of Representatives; would provide 1 hour of general debate, to be equally divided; and one motion to recommit with or without instructions.

We will request to be heard before the Committee on Rules as expeditiously as possible.●

ENDANGERED SPECIES—NOT ONLY A FISH

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, recent articles about the controversy involving TVA's Tellico Dam project, the snail darter and the Endangered Species Act have helped bring out the fact that much more is involved than the imminent extinction of a small fish. One such article by David Hess, appearing in the Akron Beacon Journal for July 2, 1978, makes very interesting reading.

Mr. Hess, who traveled to Tennessee and interviewed residents of the affected area, points out that, while the snail darter has gotten most of the publicity, there were other weighty reasons that caused environmentalists and others to oppose the dam. He found, for instance, that the dam would destroy thousands of acres of rich farmland, would wipe out the aboriginal burial sites of the Cherokee Indian Nation and would wreck one of the best trout streams east of the Mississippi.

The article points out that the new Chairman of TVA, S. David Freeman, was so impressed by the arguments that he ordered the staff to revaluate the rationale for building the dam and come up with possible alternatives. As Mr. Freeman puts it—

> It's not just the snail darter that's been discovered since the Tellico project was started . . . the nation is beginning to discover that prime farmland is also an endangered species whose value has gone up appreciably. The bottom lands in the proposed Tellico reservoir now owned by TVA contain some of the best farmland in Tennessee.

Mr. Hess also interviewed some of the local citizens who thought it was a shame to see "all that fine farmland going to waste . . . once it is destroyed, you can't recreate it. It's gone forever." Another local resident, a fisherman, said—

> There's the general opinion outside that this ain't nothin' but a big mudhole full of worthless minnows. Well, look at it. It's so beautiful it puts a lump in your throat.

Mr. Speaker, other articles recently have pointed out that most of the $116 million spent on the Tellico project so far have gone to purchase land and that if the project is abandoned and the land

resold, the proceeds to the TVA will probably surpass the entire original cost. It has also been pointed out that of hundreds of Federal water projects this is the only one that has actually been blocked by the Endangered Species Act. In other cases where there have been problems, they have been resolved by compromises or protective measures.

The Endangered Species Act was based on our recognition of the importance of preserving as much natural diversity as possible. This is not just to keep the world more interesting, though it will do that, but because we have learned from past experience that seemingly insignificant life forms can turn out to be enormously beneficial. Can we forget that penicillin was discovered as a by-product of ordinary bread mold? Whether or not the snail darter ever turns out to be significant, is not it worthwhile to consider the preservation of one of our remaining trout streams?

Mr. Speaker, the full text of Mr. Hess' article follows these remarks:

[From the Akron Beacon Journal, July 2, 1978]

TENNESSEE TURMOIL—FLAP OVER DAM IS NOT JUST FISH STORY

(By David Hess)

COYTEE SPRINGS, TENN.—Here in the cool riffles of the Little Tennessee River, the tiny snail darter goes about the serious business of perpetuating his finny race, sublimely indifferent to the uproar he has caused in the world of humans.

Along this part of the winding, clear-running river, the snail darter—all three inches of him—is king. No less an authority than the U.S. Supreme Court has proclaimed his right to occupy this refuge, unmolested by man's great public works such as the nearly completed Tellico Dam, seven miles downstream from his spawning grounds.

Ironically, while the snail darter has gotten most of the publicity, there were other, weightier reasons that led environmentalists and others to oppose the dam.

The dam, for instance, would flood thousands of acres of rich farmland. It would wipe out the aboriginal town-sites of the Cherokee Indian nation. It would wreck one of the best trout streams east of the Mississippi.

Such arguments so impressed S. David Freeman, the new chairman of the Tennessee Valley Authority (TVA), that he ordered his staff members to re-evaluate the rationale for building the dam. He also instructed them to come up by Aug. 10 with alternatives to filling the reservoir behind the dam.

"It's not just the snail darter that's been discovered since the Tellico project was started," Freeman said. "The nation is beginning to discover that prime farmland is also an endangered species whose value has gone up appreciably. The bottom lands in the proposed Tellico reservoir now owned by TVA contain some of the best farmland in Tennessee."

Freeman also pointed out that the valley is the ancestral land of the Cherokees. By reconstructing the ancient Cherokee town-sites, he said, TVA could lure thousands of tourists from the nearby Great Smoky Mountains National Park.

At first glance, the dispute over the darter and the dam seems absurd. Why should anyone care about a couple thousand minnows, weighed against the benefits of a $116 million dam and land development project?

The dispute, however, is more complicated than it looks.

It involves not only endangered animals but also the legitimate aspirations of poor people in the nation's economic backwaters.

And it involves the sometimes ruthless way that government institutions, like the TVA, run rough shod over individuals.

The snail darter controversy has sparked such intense debate, in part, because there is some truth and logic on both sides.

As dams go, the Tellico, about 30 miles south of Knoxville, is not an imposing structure. Its price tag of about $22 million is only a fraction of the entire cost of the TVA. It adds very little to the system's capacity to produce electricity, tame floods and enhance navigation.

Yet, in the three foothill counties—Loudoun, Monroe and Blount—the dam and its reservoir offered hope of an economic revival.

Charles Hall, a telephone company owner and mayor of Tellico Plains, said the unemployment rate in Monroe County is around 11 percent, nearly twice the national average. Per capita income in the three counties ranges from less than half to less than two-thirds the national average.

Between 1960 and 1970, the tri-county population actually declined. And it was mostly the young folks who were leaving.

With a declining population and tax base, the area has few resources to deal with its problems.

At Ball Play School in Monroe County, not a single junior high pupil passed the eighth grade achievement level for reading and arithmetic recently. Three out of five people in the county over 25 years of age never got beyond the fifth grade.

"Kids grow up here," said Dan Hicks, publisher and editor of the biweekly Observer in Madisonville, "without ever hearing a good piece of music, seeing a good play, or having ready access to good books."

Charles J. Lee, a Madisonville realtor, and his wife Judith, the county clerk, say the dam project could be the salvation of the local economy.

A reservoir, Lee said, "would allow the development of barge-served heavy industry behind the dam." Judith Lee said the delay and uncertainty over the dam since 1975—when the darter went on the endangered species list—already have led to the loss of two hot industrial prospects, a chemical company and a boat manufacturer.

Leon Harvey, an auto dealer and mayor of Madisonville, said a deep-water reservoir would "provide great opportunities for flat-water recreation and bring in more business for the area."

These folks are bitter about the environmentalists and upriver land owners who opposed the dam and reservoir.

"Nine out of 10 people opposed to this dam are professors at 'UT' (University of Tennessee in Knoxville) or scientists at Oak Ridge (the atomic energy lab) who haven't worked on a private payroll a day in their lives," Hall complained. "They live off our tax dollars. They come down here and want this river valley to be their playground. They don't care about the people here."

Mayor Harvey snorted at the snail darter, which, he said, "ain't even good for bait. We used to call them 'codmollies' and set them on the bait hooks. All they did was turn black and no real fish would bite them."

But other valley residents disagree.

Paul and Jackie Provost, who lease a 150-year-old home from the TVA across the river from Coytee Springs, remember the day the bulldozers came to clear the river bottom.

"They came through here like an invading army," Provost said. "They leveled everything in sight. It was a damn shame, ruining all that good timber. They just 'dozed big holes in the ground and pushed the felled trees into the holes and burned them."

"When I first heard about the lake," Jackie Provost said, "I thought it'd be awful nice. But after I saw what they were doing, and saw all that fine farmland going to waste, I thought it was an awful shame. . . . I hate to see nature go to waste. Once it's destroyed, you can't re-create it. It's gone forever."

Ben and Jean Ritchey farm 119 acres of valley land that has been acquired through condemnation by TVA. Only two or three acres of their farm would have been flooded by the reservoir. Yet TVA moved to acquire the entire farm.

The Ritcheys fought the condemnation and lost. But they are still hanging on to their homestead. They have refused to accept TVA's check for payment and are continuing to pay their county land taxes.

"TVA has treated the whole area as if it was their own private play pen, to overhaul and maul as they saw fit, and be damned to anything or anybody stood up to them or questioned their ways," Jean Ritchey said.

Another landowner, 'Miz' Nell McCall, 74, also has had her land condemned and taken over by TVA. Like the Ritcheys, she refused to leave the property and still lives in the tidy, white farmhouse that she and her late husband, Asa, shared for nearly 40 years before his death last year.

Only 1.5 acres of her 91-acre farm would have been flooded by the reservoir. But, again, TVA wanted the whole farm.

A TVA official told a Senate subcommittee last year that it took the 21,000 acres beyond the reservoir to promote industrial development.

"If you build an instant reservoir and leave the land in private ownership," said TVA's Lynn Seeber, "industrial sites get used up immediately because there's immediate demand for home sites and cabin developments.

The centerpiece of the TVA development project was to be a new town, called Timberlake.

When Congress refused to put up seed money for that project, however, the Boeing Corp., which had agreed to develop it, pulled out. Now Timberlake is a fading dream and much of the rationale for TVA's land seizure has largely vanished.

Miz McCall and the Ritcheys hope they can hang on until TVA changes course and gives the dispossessed landowners a chance to buy back their property.

Freeman, the new TVA chairman, has given them and the environmentalists reason for hope.

Though he said he won't make a decision until later, there is little doubt that Freeman is cool to the original TVA plan.

"TVA has steadfastly refused to evaluate any alternatives to the dam and reservoir approach," he said. "Conventional wisdom would suggest that since the dam has been largely built, the most economical solution would be to complete the project as planned. Everyone seems to be jumping to that conclusion. But I'm not at all sure."

The snail darter, he said, rates low on his "personal list" of priorities. His chief goal is "to create more jobs in East Tennessee. That should be our No. 1 priority, and I think that objective might very well be achieved with or without a reservoir."

Not long ago, David Scates, 34, a TVA draftsman, was traipsing the banks of the Little Tennessee, looking for Indian flint and arrowheads. As far as he could see up and down the river, the great trees had been felled and burned by TVA in its rush to complete the dam before the federal courts could halt the project.

"I came across this pile of old human bones," Scates said. "Those 'dozers had plowed up a Cherokee burial ground. They didn't even stop to cover them again. I work at TVA and I was ashamed. So I scooped a little hole and put them back to rest."

Scates and his fishing pal, Larry Crisp, of Knoxville, haunt the upper shoals of the river, as do hundreds of other fishermen, casting for the brown and rainbow trout that lurk in the cold, clear water. Both men

are officers of Trout Unlimited, a group opposed to the closing of the dam.

"People don't really understand that there are other ways to go than to fill up this valley with water," Crisp said. "There's the general opinion outside that this ain't nothin' but a big mudhole full of worthless minnows. Well, look at it. It's so beautiful it puts a lump in your throat." ●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. FLYNT (at the request of Mr. WRIGHT) for July 12 until further notice on account of illness.

Mr. RODINO (at the request of Mr. WRIGHT) for July 12 and 13 on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARLENEE), and to revise and extend their remarks and include extraneous material:)

Mr. WHALEN, for 10 minutes, today.
Mr. MARTIN, for 15 minutes, today.
Mr. MCCLORY, for 30 minutes, today.
Mr. KEMP, for 10 minutes, today.
Mr. CLEVELAND, for 5 minutes, today.
Mr. RAILSBACK, for 5 minutes, today.
Mr. DERWINSKI, for 5 minutes, today.

(The following Members (at the request of Mr. GEPHARDT, and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ for 5 minutes, today.
Mr. VANIK, for 10 minutes, today.
Mr. PEPPER, for 10 minutes, today.
Mr. LEVITAS, for 5 minutes, today.
Mr. JOHNSON of California, for 5 minutes, today.
Mr. LAFALCE, for 5 minutes, today.
Mr. PANETTA, for 5 minutes, today.
Mr. CORMAN, for 5 minutes, today.
Mr. DANIELSON, for 5 minutes, today.
Mr. SCHEUER, for 5 minutes, today.
Mr. MITCHELL of Maryland, for 60 minutes, today.
Mr. MONTGOMERY, for 5 minutes, today.
Mr. ASHLEY, for 5 minutes, today.
Mr. WEISS, for 5 minutes, today.
Mr. EILBERG, for 5 minutes today.
Mr. UDALL, for 5 minutes, today.
Mr. WIRTH, for 5 minutes, today.
Mr. BINGHAM, for 15 minutes, today.
Mr. COTTER, for 15 minutes, today.
Mr. REUSS, for 60 minutes, today.
Mr. FASCELL, for 5 minutes, today.
Mrs. BURKE of California, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. LEHMAN, to extend his remarks immediately preceding the vote on the second Ashbrook amendment in the Committee of the Whole today.

Mr. GILMAN, to extend his remarks immediately following those of Mr. PERKINS on impact aid in the Committee of the Whole today.

Mr. ASHBROOK, and to include extraneous material.

(The following Members (at the request of Mr. MARLENEE) and to include extraneous matter:)

Mr. MILLER of Ohio in four instances.
Mr. STOCKMAN in three instances.
Mr. CUNNINGHAM in two instances.
Mr. MICHEL in two instances.
Mr. DERWINSKI in nine instances.
Mr. EVANS of Delaware.
Mr. DICKINSON.
Mr. FRENZEL in eight instances.
Mr. SAWYER.
Mr. CARTER in three instances.
Mr. CONTE in two instances.
Mr. BUCHANAN.
Mr. STEERS in two instances.
Mr. COCHRAN of Mississippi.
Mr. GILMAN in two instances.
Mr. BADHAM in three instances.
Mr. MCCLORY in three instances.
Mr. HYDE in two instances.
Mr. DUNCAN of Tennessee.
Mr. KEMP in five instances.
Mr. DORNAN.
Mr. MARTIN in three instances.
Mr. WALSH.
Mr. EMERY.
Mr. VANDER JAGT.
Mr. STEIGER in two instances.
Mr. COHEN.
Mr. REGULA.
Mr. CRANE.
Mr. BURGENER.
Mr. MOORE.
Mr. LAGOMARSINO.

(The following Members (at the request of Mr. GEPHARDT) and to include extraneous material:)

Mr. ASHLEY in two instances.
Mr. BEILENSON in two instances.
Mr. GAYDOS in four instances.
Mr. ANDERSON of California in six instances.
Mr. GONZALEZ in six instances.
Mr. CARNEY in two instances.
Mr. OTTINGER.
Mr. MOTTL.
Mr. LAFALCE in two instances.
Mr. HARRINGTON in five instances.
Mr. STOKES in two instances.
Mr. EDGAR.
Mr. PATTISON of New York in two instances.
Mr. EDWARDS of California in four instances.
Mr. JACOBS.
Mr. HAMILTON.
Mr. BENNETT.
Mr. SIMON in five instances.
Mr. FUQUA.
Mr. FRASER in two instances.
Mr. LONG of Maryland.
Mr. RODINO.
Mr. SATTERFIELD.
Mr. DANIELSON.
Mr. LEGGETT.
Mr. DRINAN in two instances.
Mr. BRECKINRIDGE.
Mr. VANIK in two instances.
Mr. OBERSTAR.
Mr. ROGERS in five instances.
Mr. RYAN in two instances.
Mr. BONKER.
Mr. TSONGAS.
Mr. PEPPER in two instances.
Mr. STUDDS.
Mr. MOORHEAD of Pennsylvania.
Mr. MOAKLEY.
Mrs. SPELLMAN.
Mr. DODD in two instances.
Mr. ROYBAL.
Mr. LEHMAN.
Mr. KASTENMEIER in two instances.
Mr. ROSENTHAL.
Mr. RICHMOND.
Mr. RONCALIO.
Ms. HOLTZMAN.
Mr. WALGREN.
Mr. MCDONALD in five instances.
Mr. HAWKINS.
Mr. TEAGUE in two instances.

ADJOURNMENT

Mr. STOKES. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 43 minutes p.m.), the House adjourned until tomorrow, Friday, July 14, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4567. A letter from the president and chairman, Export-Import Bank of the United States, transmitting a statement describing a proposed transaction exceeding $60 million with Taiwan Power Company (Taipower), Republic of China, pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended; to the Committee on Banking, Finance and Urban Affairs.

4568. A letter from the chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-212, "To require certain State officials coming into the District of Columbia to register with the Chief of Police, and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4569. A letter from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting notice of a proposed interim final regulation governing the award of discretionary grants to build the statistical capabilities of State educational agencies, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4570. A letter from the Deputy Secretary of Energy, transmitting notice of a proposed change in a record system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4571. A letter from the Assistant Administrator for Legislative Affairs, Agency for International Development, Department of State, transmitting the justification for a proposed increase in the funding level of the agency's fiscal year 1978 program in Guyana, pursuant to section 653(b) of the Foreign Assistance Act of 1961, as amended (88 Stat. 1801); to the Committee on International Relations.

4572. A letter from the Acting Director of Congressional Affairs, Department of Energy, transmitting a report on private grievances and redress, covering the first and second quarters of fiscal year 1978, pursuant to section 21(c) of the Federal Energy Administration Act; to the Committee on Interstate and Foreign Commerce.

4573. A letter from the Administrator of General Services, transmitting a report on the building project survey for the Government Printing Office, Washington, D.C., pursuant to section 11(b) of the Public Buildings Act of 1959, as amended; to the

Committee on Public Works and Transportation.

4574. A letter from the Comptroller General of the United States, transmitting a report evaluating the operations of 14 selected health maintenance organizations (HRD–78–125, June 30, 1978), pursuant to section 1314 (a) of the Public Health Service Act, as amended (87 Stat. 932); jointly, to the Committees on Government Operations, Armed Services, Interstate and Foreign Commerce, and Ways and Means.

4575. A letter from the Comptroller General of the United States, transmitting a report on energy conservation (EMD–78–38, June 30, 1978); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, Public Works and Transportation, and Ways and Means.

4576. A letter from the Chairman, U.S. Nuclear Regulatory Commission, transmitting the 12th report on abnormal occurrences at licensed nuclear facilities, pursuant to section 208 of the Energy Reorganization Act of 1974; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 13385. A bill to provide for a temporary increase in the public debt limit (Rept. No. 95–1349). Referred to the Committee of the Whole House on the State of the Union.

Mr. MAHON: Committee on Appropriations. H.R. 13467. A bill making supplemental appropriations for the fiscal year ending September 30 1978, and for other purposes (Rept. No. 95–1350). Referred to the Committee of the Whole House on the State of the Union.

Mr. NATCHER: Committee on Appropriations. H.R. 13468. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes. (Rept. No. 95–1351). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BAUCUS:

H.R. 13449. A bill to amend the Congressional Budget Act of 1974 to require a budget surplus whenever the national unemployment rate drops below 4½ percent; to the Committee on Rules.

By Mr. CARR:

H.R. 13450. A bill to provide for payment of National Service Life Insurance benefits with respect to members of the Armed Forces who were killed in action during 1942 without having life insurance in effect and after the expiration of the period provided for gratuitous life insurance benefits for members of the Armed Forces; to the Committee on Veterans' Affairs.

By Mr. CRANE:

H.R. 13451. A bill to amend the Metric Conversion Act of 1975 to provide that the functions of the Federal Government with respect to the metric system shall be limited to coordinating the conversion to such system in areas or industries which desire it, and keeping the public informed thereon, without encouraging in any way the adoption or use of such system; to the Committee on Science and Technology.

By Mr. DEVINE (for himself, Mr. CHARLES WILSON of Texas, Mr. MANN, Mr. TAYLOR, Mr. ROBINSON, and Mr. WAGGONNER):

H.R. 13452. A bill to amend the Freedom of Information Act to improve the handling of classified information and investigatory records, to revise the deadlines for agency action and for other purposes; to the Committee on Government Operations.

By Mr. EVANS of Indiana:

H.R. 13453. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. FITHIAN (for himself, Mr. CAVANAUGH, Mr. BROWN of Ohio, Mr. SIMON, Mr. TRAXLER, Mr. OBERSTAR, Mr. STANGELAND, Mr. CEDERBERG, Mr. RAILSBACK, Mr. KINDNESS, Mr. PRICE, Mr. SKELTON, Mr. MADIGAN, Mr. PRESSLER, Ms. MIKULSKI, Mr. GUYER, Mr. BEDELL, Mr. BAUCUS, Mr. EVANS of Georgia, Mr. BALDUS, Mr. BOWEN, Mr. BROWN of Michigan, and Mr. HAMILTON):

H.R. 13454. A bill directing the Secretary of Agriculture to compile and publish certain information relating to the adequacy of transportation system to meet the needs of agriculture and rural development in the United States, and for other purposes; to the Committee on Agriculture.

By Mr. FITHIAN (for himself, Mr. NOLAN, Mr. GRASSLEY, Mr. HARKIN, and Mr. RISENHOOVER):

H.R. 13455. A bill directing the Secretary of Agriculture to compile and publish certain information relating to the adequacy of a transportation system to meet the needs of agriculture and rural development in the United States, and for other purposes; to the Committee on Agriculture.

By Mr. McEWEN (for himself and Mr. PATTERSON of California):

H.R. 13456. A bill to provide for the striking of national medals to commemorate the XIII Olympic Winter Games to be held in Lake Placid, N.Y., in 1980; to the Committee on Banking, Finance and Urban Affairs.

By Mr. MIKVA (for himself, Mr. COUGHLIN, Mr. GILMAN, Mr. HARRINGTON, Mr. THONE, and Mr. YOUNG of Alaska):

H.R. 13457. A bill to correct inequities in certain franchise practices, to provide franchisors and franchisees with evenhanded protection from unfair practices, to provide consumers with the benefits which accrue from a competitive and open market economy, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. MONTGOMERY:

H.R. 13458. A bill to amend title 38 of the United States Code, to permit the exchange of 5-year level premium term policies of National Service Life Insurance to special endowment at age 96 plans; to the Committee on Veterans' Affairs.

By Mr. MOTTL:

H.R. 13459. A bill to amend the Internal Revenue Code of 1954 to allow an individual to exclude from gross income the gain from the sale or exchange of one principal residence before such individual attains age 62 and any principal residence after such individual attains age 62; to the Committee on Ways and Means.

By Mr. PEPPER:

H.R. 13460. A bill to amend title XVIII of the Social Security Act to make coverage for mental illness available on the same basis as coverage for physical illness under medicare, and to provide coverage for certain psychologists' services under the supplementary medical insurance benefits programs; to amend title XVI of such act to deal more effectively with abuses involving SSI recipients with histories of mental illness in certain long-term care institutions, and for other purposes; jointly, to the Committees on Ways and Means, and Interstate and Foreign Commerce.

Mr. RICHMOND:

H.R. 13461. A bill to provide Federal assistance to screen those workers (and members of their families) exposed to asbestos who cannot otherwise receive the screening under a workman's compensation, health insurance, or other program; to the Committee on Education and Labor.

By Mr. STUMP (for himself, Mr. TREEN, Mr. WHITLEY, Mr. KEMP, Mr. GUYER, Mr. HARSHA, Mrs. SMITH of Nebraska, Mr. RUNNELS, and Mr. BOWEN):

H.R. 13462. A bill to remove residency requirements and acreage limitations applicable to land subject to reclamation law; to the Committee on Interior and Insular Affairs.

By Mr. WEISS:

H.R. 13463. A bill to amend the Atomic Energy Act of 1954 to modify certain statutory limitations on the amount of financial protection required with respect to nuclear incidents, to remove the statutory limitation on the aggregate liability for a single nuclear incident, to limit the financial obligations of the United States with respect to such incidents, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WEISS (for himself, Mr. BEDELL, Mr. DELLUMS, Mr. EDWARDS of California, Mr. EILBERG, Mr. GUYER, Mr. HARRINGTON, Mr. HEFTEL, Ms. HOLTZMAN, Mr. JENRETTE, Mr. MAGUIRE, Mr. MARKEY, Mr. MURPHY of Pennsylvania, and Mr. MINETA):

H.R. 13464. A bill to provide that ionization smoke detectors shall bear a label specifying that they contain radioactive materials; to the Committee on Interstate and Foreign Commerce.

By Mr. WEISS (for himself, Mr. MITCHELL of Maryland, Mr. OTTINGER, Mr. PATTERSON of California, Mr. RANGEL, Mr. SCHEUER, Mr. SIMON, Mr. SOLARZ, Mrs. SPELLMAN, Mr. STARK, Mr. STEERS, Mr. STUDDS, Mr. VENTO, Mr. WHITEHURST, and Mr. WOLFF):

H.R. 13465. A bill to provide that ionization smoke detectors shall bear a label specifying that they contain radioactive materials; to the Committee on Interstate and Foreign Commerce.

By Mr. YATRON (for himself, Mrs. COLLINS of Illinois, Ms. MIKULSKI, Mr. McEWEN, Mr. STARK, Mrs. SPELLMAN, and Mr. KEMP):

H.R. 13466. A bill to amend the Railroad Retirement Act of 1974 to eliminate the reduction of railroad retirement annuities by amounts payable as social security benefits in cases of persons who had current connections with the railroad industry, had at least 5 years of service, and had attained the age of 65 as of the effective date of such act; to the Committee on Interstate and Foreign Commerce.

By Mr. MAHON:

H.R. 13467. A bill making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes.

By Mr. NATCHER:

H.R. 13468. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1979, and for other purposes.

By Mrs. HECKLER:

H.R. 13469. A bill to amend title 38, United States Code, to establish within the Department of Medicine and Surgery of the Veterans' Administration an Office of Assistant Chief Medical Director for Geriatrics, Gerontology, and Extended Care, to establish

demonstration centers of geriatric and gerontological research, education, and clinical operations within the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

By Mr McDONALD:

H.R. 13470. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. ST GERMAIN (for himself, Mr. REUSS, Mr. MOORHEAD of Pennsylvania, Mr. GONZALEZ, Mr. MINISH, Mr. ANNUNZIO, Mr. HANLEY, Mr. FAUNTROY, Mr. PATTERSON of California, Mr. BLANCHARD, Mr. LAFALCE, Mr. DERRICK, Mr. HANNAFORD, Mr. D'AMOURS, Mr. PATTISON of New York, Mr. CAVANAUGH, Ms. OAKAR, Mr. GARCIA, Mr. STANTON, Mr. WYLIE, Mr. MCKINNEY, Mr. STEERS, and Mr. EVANS of Delaware):

H.R. 13471. A bill to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Federal Bank Examination Council, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ST GERMAIN (for himself, Mr. MITCHELL of Maryland, Mr. NEAL, Mrs. SPELLMAN, Mr. AUCOIN, Mr. TSONGAS, Mr. VENTO, Mr. BROWN of Michigan, Mr. HYDE, Mr. LEACH, Mr. HOLLENBECK, and Mr. GREEN):

H.R. 13472. A bill to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Federal Bank Examination Council, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. UDALL (by request):

H.R. 13473. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. VANIK:

H.R. 13474. A bill to amend the public debt limit; to the Committee on Ways and Means.

By Mr. FUQUA:

H.J. Res. 1061. Joint resolution proposing an amendment to the Constitution of the United States to provide that appropriations made by the United States shall not exceed its revenues, except in time of war or national emergency; and to provide for the systematic paying back of the national debt; to the Committee on the Judiciary.

By Mr. ROE:

H.J. Res. 1062. Joint resolution designating Sunday, September 17, 1978 as "National Family Day"; to the Committee on Post Office and Civil Service.

By Mr. LAGOMARSINO:

H. Con. Res. 666. Concurrent resolution expressing the sense of the Congress that decisions by the Civil Service Commission on applications for civil service retirement benefits should be made within 21 days; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

450. The SPEAKER presented a memorial of the Legislature of the State of Louisiana, relative to Federal recognition of the Choctaw Indian community of Louisiana; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. PRITCHARD introduced a bill (H.R. 13475) for the relief of Stewart John Sanders, which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

498. By the SPEAKER: Petition of the Southern Environmental Resources Conference, Council of State Governments, Atlanta, Ga., relative to the Water Resources Planning Act; to the Committee on Interior and Insular Affairs.

499. Also, petition of the Southern Environmental Resources Conference, Council of State Governments, Atlanta, Ga., relative to the National Commission on Air Quality; to the Committee on Interstate and Foreign Commerce.

500. Also, petition of the Southern Environmental Resources Conference, Council of State Governments, Atlanta, Ga., relative to the rare and endangered species program; to the Committee on Merchant Marine and Fisheries.

501. Also, petition of the Southern Environmental Resources Conference, Council of State Governments, Atlanta, Ga., relative to the Clean Water Act of 1977; to the Committee on Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1609

By Mr. GARY A. MYERS:

(Amendment to the amendment in the nature of a substitute by Mr. UDALL.)

—At the end of the amendment in the nature of a substitute add the following new section:

STUDY

SEC. 15. Within two years of the commencement of operation by any carrier subject to the provisions of this Act, the Secretary, in consultation with the Secretary of Energy and the Secretary of Transportation, shall study the nationwide impact of such carriers upon other common carrier modes of transportation. If the results of such study exhibit an undue financial advantage by such carriers nationwide over other common carrier modes of transportation, the Secretary shall study and recommend to Congress concepts to provide temporary financial relief for adversely affected common carrier modes of transportation.

H.R. 1609

By Mr. WEAVER:

(Amendment to the amendment in the nature of a substitute by Mr. UDALL.)

—Page 30 at the end of and after section 3 line 8, insert the following new section 4 and renumber the following sections accordingly:

ENERGY COMPETITION

"SEC. 4. Section 27 of the Act entitled "An Act to promote the mining of coal, phosphate, oil, oil shale, gas, and sodium on the public domain", approved February 25, 1920 (41 Stat. 437; 30 U.S.C. 184), is amended by adding at the end thereof the following new subsection:

"(m)(1) After December 31, 1979, no person, association, or corporation which, together with its affiliates, produces, refines, transports or markets at retail a daily worldwide average of at least one million six hundred thousand barrels of crude oil or the equivalent natural gas or products of petroleum refining, shall directly or indirectly take, or acquire control of, any lease, whether acquired directly from the Secretary under this Act or otherwise, under the provisions of this Act or the Act of August 7, 1947 (61 Stat. 913; 30 U.S.C. 351 et seq.), the Act of December 24, 1970 (84 Stat. 1566; 30 U.S.C. 1001 et seq.), or the Act of August 7, 1953 (67 Stat. 29; 43 U.S.C. 1331 et seq.); or locate or record any mining claim under chapter 6 of title XXXII of the Revised Statutes, as amended (30 U.S.C. 22 et seq.), and the Secretary shall not issue any such lease or recognize any such claim by any person, association, or corporation if such person, association, or corporation—

"(A) controls, or as a result of such lease or claim, would control, mineral deposits in two or more of the following classes:

"(i) coal, including hydrocarbons associated with coal, but excluding coal found as a small fraction of a deposit containing coal and other marketable minerals;

"(ii) oil or natural gas;

"(iii) geothermal steam; and

"(iv) uranium and other fissionable material; or

"(B) engages in two or more of the following:

"(i) owning or controlling deposits of, or producing petroleum or natural gas;

"(ii) refining petroleum;

"(iii) transporting by pipeline petroleum, products of petroleum, or natural gas; or

"(iv) marketing petroleum, products of petroleum refining, or natural gas; or

"(C) enters or participates in a joint venture with any other person, association, or corporation, which, with its affiliates, produces, refines, transports by pipeline, or markets at retail a daily worldwide average of at least one million six hundred thousand barrels of crude oil or the equivalent in natural gas or products of petroleum refining, unless such joint venture has been specifically approved and authorized by the Secretary by notice published in the Federal Register and is operated in accordance with such regulations as the Secretary may promulgate to ensure, protect, and promote competition.

"(2) The Secretary, in consultation with the Federal Trade Commission and the Attorney General, may conduct such hearings and require the submission of such information as he deems necessary to determine compliance with subsection (m) by any such person, association, or corporation.

"(3) For purposes of this subsection—

"(A) the term 'control' includes having or acquiring effective power or influence to deny to others the acquisition or use of a substantial portion of the materials or facility, whether such power or influence is actual or legal, and whether such power or influence may be exercised directly or indirectly, through ownership or control of stock or other securities, through affiliates, through representation on a board of directors or similar body, through interlocking directorates, through election of one or more officers, or through any stockholder, agency, trust, joint venture, lease, or contractual agreement or arrangement, or otherwise, but the fact that a contractual arrangement provides for

the supply of all or a portion of the requirements of a person, association, or corporation for a material or a reasonable time period shall not, in itself, be deemed to constitute control. Control shall be presumed to exist whenever any person, association, or corporation owns 10 per centum or more of the outstanding voting securities of another corporation or association.

"(B) the term 'affiliate' means another person, corporation, or association which controls, is controlled by, or is under common control with, such person, corporation, or association.".

"(4) Nothing in this subsection (m) shall be construed to limit, restrict, or otherwise prohibit or preclude any person, association, or corporation holding, prior to December 31, 1979, a valid existing lease or valid existing mining claim from exercising any right to extend such lease or from perfecting such mining claim."

H.R. 11392

By Mr. STOCKMAN:

—Beginning at page 77, line 5, strike all that appears through page 81, line 15.

H.R. 12163

By Mr. RUNNELS:

—On page 3, beginning immediately after item (h) insert on line 17 the following: "(i) Solar repowering project, Hobbs, Lea County, New Mexico, $660,000;".

SENATE—*Thursday, July 13, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. DICK CLARK, a Senator from the State of Iowa.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Almighty God, our heavenly Father, whose blessed Son came not to be ministered unto, but to minister; we beseech Thee to bless all in this place in every position great or small who, following in the steps of the Master, give themselves in service to their fellow men. Enable us all to do the work Thou givest us to do in truth, in beauty, and in righteousness, with singleness of heart, that we may worthily minister to the people of this Nation and the world. What we pray for us in this Chamber we pray for the President and all others in public service, in the name of Him who went about doing good. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 13, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DICK CLARK, a Senator from the State of Iowa, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. CLARK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. tomorrow.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Mr. President, I have no requirement for my time.

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) is recognized for not to exceed 15 minutes.

IMPLICATIONS OF THE FEDERAL BUDGET AND THE PUBLIC MOOD

Mr. HARRY F. BYRD, JR. Mr. President, on Tuesday, the Subcommittee on Taxation and Debt Management of the Senate Finance Committee, of which I am chairman, held hearings on the administration's request to increase the statutory debt ceiling of $752 billion.

The administration's figures were extremely discouraging.

According to Secretary of the Treasury Blumenthal's calculations, the Treasury will need to increase the debt ceiling to $851 billion by the end of fiscal year 1979.

This is an increase in our debt of $99 billion in a 14-month period.

This means that our debt will increase by more than $7 billion per month through the remainder of this fiscal year and fiscal year 1979.

This 14-month deficit of $99 billion is equal to the total cost of Government in 1965.

The rapid increase in our public debt dramatizes the inability of the Congress and the administration to get Government spending under control.

Mr. President, Government finance admittedly has no political sex appeal. Yet it affects every man, woman, and child in this country. I am convinced that we will not get the cost of living under control until we get the cost of Government under control.

There are concrete expressions throughout the country of the public's concern with Government spending.

The overwhelming approval by the voters in California of proposition 13 is one highly publicized example of the mood of the public.

In my judgment, that vote in California was directed as much toward the excesses of Washington, D.C., as it was toward the situation in California.

The economic implications of our current fiscal policy should also be clearly understood.

The subcommittee was fortunate to have Tuesday, as a witness, Dr. Raymond Saulnier, past Chairman of President Eisenhower's Council of Economic Advisers from 1956 to 1961 and professor emeritus of economics at Barnard College, Columbia University.

Dr. Saulnier's testimony clearly demonstrates the destructive effect on the economy of a Federal budget which has been continuously in deficit by huge amounts at record levels.

We are now in an economic situation in which unemployment has come down. At the same time inflation is running currently at double digit levels.

We are now in a period of increasingly high employment and are approaching full capacity utilization.

Huge budget deficits, now, when the economy is approaching a high level of production are a prescription for economic disaster.

Inflationary pressures have raised interest rates and we are encountering specific shortages of skilled labor and materials.

According to Dr. Saulnier our fiscal operations are pushing us toward a "credit crunch" which could be followed by another full-scale recession.

Dr. Saulnier predicts that there is no more than a 50–50 chance of avoiding this possibility and less than 50–50 if interest rates exceed 9½ percent.

Under current projected expenditure levels by the Office of Management and Budget and the first concurrent congressional budget resolution, Government spending will increase by 13 percent from 1977 to 1978 and by over 10 percent from 1978 to 1979.

This is foolhardy.

It will be extremely difficult to have a healthy and vibrant economy in the near future if we continue on our present spending course. There must be a sharp reduction in the rate of increase in spending.

Mr. President, during the committee hearings the Senator from Virginia and the Secretary of the Treasury discussed the Government's financial situation in some detail. I ask unanimous consent that the transcript of my colloquy with the Secretary of the Treasury be printed in the RECORD at this point, together with the text of the testimony of Dr. Saulnier, professor emeritus of economics at Barnard College, Columbia University.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HEARINGS BEFORE THE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT OF THE COMMITTEE ON FINANCE

STATEMENT OF MICHAEL BLUMENTHAL, SECRETARY OF THE TREASURY

Secretary BLUMENTHAL. Thank you, Mr. Chairman.

I appreciate the opportunity to appear before you on the three actions that we are requesting from the Congress in order to have the flexibility for the Treasury to proceed in its debt management requirement. I have a brief statement, prepared statement, which summarizes these three actions and I believe speaks for itself.

They relate first to the need as you have indicated, to raise the temporary debt limit to $771 billion by September 30th of this year and to $851 billion by September 30th of next year. That $851 relates to the budget resolution approved by the Congress of $849.1 billion.

The second action that we are requesting is to increase the authority for the Treasury to issue long term debt without regard to the four and a quarter percent limit from the present $27 billion to $37 billion. That is to enable us to continue to go into the market for long term debt when conditions are favorable for this investment. We have now issued about $23 billion compared to the $20 billion limit for this kind of debt that we are operating on from the Congress.

Third and finally, the Treasury would also renew its request that the ceiling of six percent on interest for savings bonds be lifted. We don't require that at the moment, but we would like to have that flexibility. It is a request that we made on a number of occasions in the past.

May I say in conclusion, Mr. Chairman, that I deplore as much as you do these increases in the debt limit and the continuing deficit in the Federal budget. I share with you the concern over this trend. In looking at the figures over the last several years, I share with you the concern that they are much too large. I am gratified that I believe we are making progress and the President's dedication to bringing the budget into balance is strong and firm and I believe that barring really major unforeseen investments that we will be able to be successful in the next years to achieve that.

Meanwhile the economy is doing reasonably well although the inflationary pressures are too high and it underlines to me the need to be very concerned and act very carefully on this debt limit. I can assure you we will do all we can to work in that direction.

I will be happy to answer any questions you may have.

Senator BYRD. As I read your statement, for the remaining two months of this current fiscal year the government will go into the hole by $19 billion during that period of time and then by an additional $80 billion for the upcoming fiscal year?

Secretary BLUMENTHAL. That is correct.

Senator BYRD. So in a period of 14 months the government will have increased the debt—operated at a deficit of $99 billion.

Secretary BLUMENTHAL. That is correct. In that calculation you are well aware of course, Mr. Chairman, that that does include the trust funds surplus.

Senator BYRD. That is right. Now, we want to get to that in a moment. For general operations of government, for the 14 month period of August and September of this year and going through September of next year the cost of operating the government will exceed by $99 billion the revenue which is to be received for that purpose, namely, general operations of government. That is correct, is it not?

Secretary BLUMENTHAL. It is in the definition that we use for this, yes.

Senator BYRD. The reason the deficit figure is different from the unified figure which is generally used by the Administration and by the press is that there is a surplus in the trust fund?

Secretary BLUMENTHAL. Correct.

Senator BYRD. As I read the surplus in the trust fund, in the current fiscal year there is a $12 billion surplus in the trust fund?

Secretary BLUMENTHAL. I have a number of $11.8.

Senator BYRD. $11.8. For simplicity we could round it off to $12. Then for the upcoming year there will be a surplus of $14 billion in the trust funds?

Secretary BLUMENTHAL. $14.6 actually.

Senator BYRD. Either year is more or less the same. Of that surplus you have a surplus of $6 billion in the unemployment trust fund. Is it not correct that that is money that is paid entirely by the employers?

Secretary BLUMENTHAL. That is correct.

Senator BYRD. There is no general revenue in there. It is paid entirely by the employers?

Secretary BLUMENTHAL. That is correct.

Senator BYRD. Why do you need to maintain that figure of $6 billion when unemployment is being reduced. Why do you need to keep such a large surplus?

Secretary BLUMENTHAL. We have to build up those funds in order to have them if and when they are needed, hopefully not for quite a while but the demands on it have been heavy in past times.

We are gratified that unemployment has been dropping but clearly it is necessary to rebuild those funds.

Senator BYRD. Then another large item in the trust fund surplus is $7 billion for federal employees retirement. There again there is no general taxation involved. That money is put up partially by the employees and partially by the government?

Secretary BLUMENTHAL. Yes.

Senator BYRD. So were it not for the $14.6 billion surplus in the trust fund, then the figure which is being publicized as the deficit figure, roughly $50 billion, would be that much higher. So the government will really have a deficit in the current fiscal year and in the upcoming year of approximately $65 billion, insofar as general operations of government is concerned leaving out the trust funds surplus?

Secretary BLUMENTHAL. For fiscal '79, Mr. Chairman, if we take the unified budget deficit of $48.5 billion and we add to it off budget for owing we get to a total borrowing from the public of $62 billion and I think that is probably the relevant figure. Actually it is $48 billion plus the deficit of off budget federal entities. Those are the two main deficit items. That gives us $61. $4 billion which is the extent to which the government is in the hole as I would put it.

Senator BYRD. But the fact is, as both of us agreed earlier, the fact is you are saying in your statement that the cost of operating the government, the general operations of government will exceed by $19 billion the revenues during the next two months and by $80 billion the revenues for the following 21 months?

Secretary BLUMENTHAL. Yes. That includes of course the cash balances, that includes the contingency reserve that we normally provide for and that is somewhat different from the actual deficit that we anticipate.

Senator BYRD. The Treasury may have different figures—and I don't have the precise figure in my head, but my guess is that there has never been a 14 month period in the history of our country where we have had a $99 billion increase in the national debt over that short period of time. If the Treasury had different figures, I will be glad to have them put in the record.

Secretary BLUMENTHAL. I don't have it for a 14 month period, Mr. Chairman. That may well be correct. I do know that the worst year from that point of view as a year was 1976. We had then a federal funds deficit of $68 billion. We had a unified budget deficit of $66 billion compared to $48.5 billion. Total borrowing from the public in 1976 was almost $83 billion. We are anticipating $62 billion in '79 so we compare favorably to '76 but to no other year.

But that is scant comfort. I don't mention that in order to praise our performance but rather that gives it on a year by year basis. You may well be right for that particular 14 month period, it is a record. I hope not but it may well be.

Senator BYRD. I think you are right. We can scarcely take comfort in being compared favorably with the worst year in history.

In mentioning the trust fund, it brings to mind social security of course. Senator Long, as Chairman of the Finance Committee, stated many times that he felt it would be very undesirable to finance social security benefits from the general funds or from what he called printing press money since there is no surplus in the Treasury and payments can be made only through what he called printing press money.

Could you give the Committee your view on that as to what would be the wisest and most appropriate approach?

Secretary BLUMENTHAL. There have been a number of suggestions that this year there be a change in the method of financing, that there be a reduction in social security taxes this year, that that be possibly made up with some general revenues. The Administration's position has been that that is not desirable at this time. I strongly support that. It is my view that if we take another look at social security financing in the future, that we should rely on raising the resources that we need through taxation unless there is some very special circumstances.

I think their information is that as we do that we need to look at not only the long term demands on the system but also the amount of benefits that are received, how they are increasing, the coverage—there are gaps in the coverage—and I would think if we look at the financing in the context of the demands on the system, the benefits that are received and the coverage, it would be my hope that we can try to do that without going to general revenue financing. But I am not really in a position to suggest at this time, Mr. Chairman, what the Administration would propose in the context of such a revenue. I am clear that we do not wish to change that and go to general revenue financing this year.

Senator BYRD. It seems to me the social security program is probably more important to more people than any other program in government. I feel we have a deep obligation to handle that program in a way that when individuals retire that there will be money available to take care of their retirement obligations. I assume you have no quarrel with Senator Long's description that if we do attempt to pay social security out of general revenues under existing conditions it would be in effect printing press money that we would be using?

Secretary BLUMENTHAL. Certainly as long as we have a deficit and we use general revenue in a period in which we are substan-

tially in deficit, some share of the general revenues are derived from this deficit financing. I think that is correct.

We recently published—one of the trustees as you know, together with the Secretaries of HEW and Labor—we recently published our report and we did indicate at the present time we consider the health of the social security fund to be adequate so that people are able to look with some assurance to these funds as being adequate to provide the resources to pay their benefits when the time comes for retirement. So we are in pretty good shape at the moment.

Senator BYRD. Had it not been for the action Congress took last year I assume these funds would be in a very adverse condition?

Secretary BLUMENTHAL. The Congress I think, after careful consideration, voted increases rather than going to general revenue financing. The President indicated he found that approach acceptable and that is the one we are operating under and it should not be lightly changed.

Senator BYRD. I feel the same way. I just think the program is so vitally important to so many people.

Let me read you a statement and see whether you might concur in it. "If the Federal Reserve takes the restraint off and lets the money be printed then, sure, there could be lower interest rates for a while but then there would be a terrible inflation and disaster." Would you comment on that statement?

I might say it was made by Chairman Miller of the Federal Reserve Board.

Secretary BLUMENTHAL. I think as a general statement that clearly is correct. In other words, the argument that Federal Reserve really does not need to worry about the degree to which credit is created and the restraints by the Federal Reserve under all circumstances are inflationary and therefore should be avoided clearly is only one side of the coin and I agree with the Chairman that in the longer run it would mean more inflation and probably or almost certainly a severe downturn in the end.

I think the question is not either/or but the question is to what degree the Federal Reserve acts to restrain credit and that is a very difficult problem for the members of that Board, for the Open Market Committee for the Chairman, and I don't suppose anybody suggest that they not restrain at all in a period. I guess it is the degree to which they do so that most of the debate is about.

Senator BYRD. And the degree to which they must do so depends to a great extent on the fiscal policies of government, does it not, and the extent of the deficits that will be created by the Federal Government?

Secretary BLUMENTHAL. I think there is no doubt, Mr. Chairman, that to the extent to which the government in a period of inflation exercises fiscal restraint, to that extent the economy will not overheat and to that extent it will be possible for the Federal Reserve obviously to follow more relaxed monetary policies.

If the Federal Government does not exercise fiscal restraint it puts additional pressure on monetary policies. For this reason President Carter, who well recognizes that has in fact ordered us to employ a policy of considerable fiscal restraint for fiscal '79 and fiscal '80 and we are as you know, actively at work implementing that policy.

Senator BYRD. The trouble with that is that facts show spending in this fiscal year for example, is increasing, has increased more than 12 percent. Twelve percent increase in government spending this fiscal year of 1978. The new budget calls for increase in spending of more than ten percent. I don't know whether you call that restraint or not. I don't think I could call it restraint.

Secretary BLUMENTHAL. I think an analysis, Mr. Chairman, of this budget, and of the mandated increases that are required, indicates the severe limitations on the Administration in moving very rapidly, as rapidly as we would all like, in order to get that spending number down. This relates to the fact that there are many programs voted by the Congress that are mandated and that require certain spending levels.

Actually spending has been reduced. The President is seeking to reduce it to the maximum extent possible in '79. We started off with a deficit figure that would have been around $60 billion. We are down to $48 and a half.

Senator BYRD. That is only because you reduced the tax reduction?

Secretary BLUMENTHAL. No.

Senator BYRD. You did not reduce spending.

Secretary BLUMENTHAL. Not only, Mr. Chairman. There has been also less spending than we anticipated. We have reduced our spending estimates. Really it is a combination of several factors. On the one hand the postponement and the reduction of the tax recommendations that we have made.

It is secondly the shortfall and the restraint on spending. It is third changes as to estimates, as to revenues that will be coming in so it is a combination of three or four different factors which together give us this lower figure of $48 and a half billion in the deficit. There is a fair amount of spending restraint in there.

Senator BYRD. Mainly it is coming from a postponement or reduction in the amount of taxes that you planned to reduce, presumably for the benefit of the taxpayers.

Secretary BLUMENTHAL. That is part of it. Let me give you one example, Mr. Chairman, of the kinds of problems that we run into. At a recent hearing before you which I appeared—this was in connection with the capital gains tax issue—you will recall that one of the members of the Committee raised with me the question that the travel costs of the Treasury had risen by a fair amount. I think he used the figure of roughly 20 percent. It was a rather large amount.

This shocked me and I went back after the hearing to investigate in some detail what the sources of this increase were because it seemed on the surface to be excessive. I found, Mr. Chairman, that most of that was due to the fact that the Congress had voted an increase in the mileage allowance so it was a mechanical calculation in effect derived from the fact that there was a cent and a half additional allowance for driving.

There had been voted an increase in the per diem allowance so people traveling no more than they did before were getting a greater per diem, reflecting the inflation. This is where inflation really has its impact.

In addition to which, of course, airline fares have grown up during this period and it was really not so much that we were traveling more or being in any way lavish in that part of our activity, it was merely that the changes that have been agreed to in the government caused this kind of increase.

This is a very disturbing factor, but it shows in a small way—this is a very small amount in overall terms—how difficult it is for us to control that.

Now, you can say that why don't you just travel less and try to make up the inflationary impact caused by higher car costs, travel costs, hotel, airlines and so forth. We are a service agency. The Internal Revenue Service, the Customs Service, performs important functions that, first of all, gain revenue and secondly are for the benefit of the average citizen. It provides advice on taxes, and is of assistance on various matters to our businessmen in exporting and facilitating the products that come in. If we try to restrict that service we hear from the Congress immediately as you well know, and we hear from the citizens and the taxpayers so we have to maintain—even if we don't increase it—the same level of service.

The same level of service causes these kinds of increases. It shows your concern about inflation is very very well founded, for only if we control inflation are we able to control these costs.

Senator BYRD. Inflation of course affects government adversely in many ways, just as it does the average citizen, but on the other hand, is it not correct the government gains from inflation in that for every one percent increase in inflation, the government gains the revenues of 1.6 percent. No one has an overall gain because it does have disadvantages to the government as you expressed there when you mentioned the travel cost.

Secretary BLUMENTHAL. On the one hand the government gains. On the other hand, the government loses, for many of the payments that the government makes are indexed. Apart from the kind of payments that you referred to, on travel are indexed and veterans payments and social security, and in a variety of ways, and government has to pay more for its salaries, and on balance I don't really believe anybody gains.

I think the government loses because inflation then also causes a downturn in economic activity and that is what causes our deficit to increase even more.

Senator BYRD. Everyone loses by inflation as I see it.

Secretary BLUMENTHAL. Absolutely.

Senator BYRD. It seems to me that inflation is the most dangerous problem facing our country today.

Secretary BLUMENTHAL. I agree.

Senator BYRD. I believe in looking forward rather than looking back. I realize that so far as what has been done in the past is concerned, that is water over the dam but I don't think we are going to improve things much if the government continues to accelerate its own spending at the rate of some 12 percent this year, and a minimum of ten percent next year. Another interesting aspect is that the national debt has doubled since 1972. That to me is an astonishing figure.

Of our total national debt, one half has been created in seven years and the other one half created in 150 years or whatever it might be, including fighting the War Between the States, the Spanish American War, World War I, World War II, the Korean War and most of the Vietnam War during that period of time.

I have read the speeches by various Administration officials about how interested the Carter Administration is in holding down spending and getting a balanced budget. But we are getting further and further away from a balanced budget. The deficits are accelerating. They are not decreasing.

Secretary BLUMENTHAL. That statement I hope we will be able to disprove, Mr. Chairman. I certainly fervently hope and expect so because we are reducing the deficit somewhat in 1979 over 1978. From the planning that is going on, I think I could say with virtual certainty that there will be a significant reduction in the deficit in fiscal 1980.

We are beginning to work on that and, of course, the President has said that he wishes to try to bring the budget to balance by 1981 and I certainly hope he will come reasonably close to that.

So that we are, at the moment, on the right track to get that down. And I think the increases in the deficit are excluded. That is not short of a very major disaster in the economy. I don't expect that to happen.

Senator BYRD. I think you might be correct in that you may not exceed the deficits of 1976, which was the all-time high. But except for that, you have a long way to go to get down to what the deficits were—to even what they were in the Johnson administration. And they were high.

Secretary BLUMENTHAL. The present 1979 unified budget deficit figure of 48.5 is somewhat lower than that of 1978, of 51.1, as we estimate it now.

Senator BYRD. It is close.

Secretary BLUMENTHAL. Close, but somewhat lower.

Senator BYRD. I think it is of some importance you are only doing that by taking advantage of the trust fund where the monies are being paid in for a specific purpose and cannot be used for the general operation of government. The large surplus being created in the trust funds are paid mainly by business which is paying into the unemployment fund, which has been built up to a big surplus now, and by Civil Service Retirement fund. You are using that to offset the tremendous increase in the deficit for the general operations of government.

Secretary BLUMENTHAL. I think you get here into the sort of definitional questions of what is the deficit figure that really measures the extent to which the Government is spending more than it is taking in.

I would say the correct figure to measure that is the unified budget deficit—that is the one I was referring to. One should add in the off-budget borrowing as well, and take those two together.

Senator BYRD. That is another how many billion?

Secretary BLUMENTHAL. 12.9 as compared to 11 in 1978. We have to be careful because we have changes in cash balances, and so forth, but essentially, it is 12.9 compared to 11. That has to be added in.

Senator BYRD. Maybe what happened in California will eventually be heard in Washington. It takes a little while for the news to travel 3,000 miles, I guess. I am hopeful that those individuals who are drawing up our next budget will go out to California. I just got back from California.

Secretary BLUMENTHAL. So did I, Mr. Chairman. Just yesterday.

Senator BYRD. I am sorry we didn't go together.

Secretary BLUMENTHAL. Everybody asked me out there whether the message was being heard, and I said I thought that it was. Everybody also asked me what the impact on the Federal budget of the Proposition 13 was likely to be, and whether we would find a way to give that money back to California.

I indicated that we were not really sure yet what it would be, but that it would mean some slight increase in revenues from California.

Senator BYRD. I was hoping you would say it would mean some reductions in spending by the Federal Government.

Incidentally, I think this is rather astonishing. The State of California just last week, when you and I were in California, passed the new budget and it has an actual dollar reduction for the first time in 17 years. It can be done. It can be done on a Federal level if the Congress and the President are so determined to do it. But it has to be done by both of them working together.

One can't do it without the cooperation and the help of the other.

Secretary BLUMENTHAL. Of course, they are in a somewhat more fortunate position in that they had an accumulated surplus that they can work off and they, I think, have an annual surplus that they can take into account.

Senator BYRD. They are in a much more fortunate position than the Federal Government. As a matter of fact, there is no State in the Union that is in as bad a financial condition as the Federal Government. Would you agree with that statement or not?

Secretary BLUMENTHAL. As measured by the deficit, that certainly is true.

Senator BYRD. And there is no city, including New York, that is in worse financial condition than the Federal Government.

Secretary BLUMENTHAL. If you take the deficit as a measure that is certainly true, but if you relate that deficit to other things, it is not quite as bad for the Federal Government.

In other words, if you take spending as a percentage of GNP, the President has, as you know, indicated that he wants to get that down to 21 percent of GNP.

We are moving in that direction. We are reducing that percentage. Even if you take taxes as a percentage of personal income, they are coming down somewhat, so we are improving our financial position.

I hope that that will be reflected in the kinds of buoyant economic activity that will enable us to get that deficit down and the budget into balance.

Senator BYRD. If taxes are coming down, I don't believe the public generally realizes it.

Secretary BLUMENTHAL. The public, understandably, feels that taxes are too high. They are too high in many ways. Sometimes people feel taxes are higher than they really are, but that is understandable, too.

I was at a town meeting, Mr. Chairman, in California and we discussed the tax legislation and one of the people in the town meeting suggested that there be a vote on whether taxes on business ought to be reduced within a $20 billion tax bill. And so, there was a vote, a show of hands on whether taxes on business ought to be reduced or taxes for individuals ought to be reduced, and it split very evenly.

Fifty percent of about 400 people there—50 percent wanted taxes on business reduced, 50 percent wanted taxes on individuals reduced. Then, I asked whether they wanted taxes on both reduced, and 100 percent raised their hands, including myself.

Everybody thinks taxes are too high and they want them all reduced. They don't necessarily want all the service reduced, so we do have a difficult problem to deal with.

Senator BYRD. I do believe, though, most people feel, maybe wrongly—I think rightly—that we have too much Government. Government is trying to do too many things for too many people, trying to get into too many matters that Government ought not to get into and as long as we continue doing that, then the deficit, the spending is going to increase.

It will either be financed by inflation or it will be financed by more taxes. It is the only way you can do it, isn't it?

Secretary BLUMENTHAL. That is correct. That is the general feeling.

Senator BYRD. You can do it through printing press money, but that, in effect, is doing it through inflation, is it not?

Secretary BLUMENTHAL. Yes, sir.

Senator BYRD. Let me ask you this: It has been estimated $45 billion in net new cash must be raised publicly during the second half of this year. As I understand it, this is the second largest cash borrowing by the Treasury, is that correct?

Is my understanding of that correct?

Secretary BLUMENTHAL. It is the second largest. The amount of borrowing in the second half of the year—the figure I remember is about $33 billion which is very large, also.

Senator BYRD. In any case, it is the second largest borrowing that Government has had to do in a six-months' period.

Secretary BLUMENTHAL. Right.

Senator BYRD. That, in itself, is not very encouraging, it seems to me.

Secretary BLUMENTHAL. That is right. It is of concern. I think we have to bear in mind that fortunately, the economy has been growing, is growing from year to year, and that therefore, the sources of funds are also increasing and therefore, while it is a large amount relating the credit demands of the Government to total credit demands, we are not really appreciably out of line with the previous year, and certainly, not with, again, that awful year of 1976.

So, we think it can be managed without any undue difficulty, but it is a large amount.

Senator BYRD. And I assume it is correct that the more the Government goes into the money market, the greater the pressure there is on interest rates.

Secretary BLUMENTHAL. That has to be related, Mr. Chairman, to the total supplies, total sources of funds available in the market and the total demands on it.

Actually, for 1978, the credit demands of the Federal Government, as a percentage of the total, are down over 1977, over 1976, and over 1975.

Let me give you the figures. In 1975, the Federal Government accounted for 38 percent of the total credit demands, 38.7. That dropped to 22.2 in 1976, 14.1 percent in 1977, and to, we estimate, 12.9 percent for the total year of 1978.

Now, those figures have to be interpreted somewhat because, obviously, total credit demands in 1975, a deep recession year, were much much lower than they are now. So, the private sector was not really that heavily in the market demanding credit.

Nevertheless, the direction in that regard has been encouraging and Federal Government credit demands, therefore, are not excessive in 1978, although the second half is greater than the first.

Senator BYRD. In the second half, you mentioned $33 billion. I assume that is new money that you are speaking of?

Secretary BLUMENTHAL. That is new money, that is right.

Senator BYRD. But then, is it not correct that on top of that, you would need another ten to 12 billion dollars for securities which will mature?

Secretary BLUMENTHAL. This includes refinancing, Mr. Chairman. It is the total financing requirements of the Federal Government. Refinancing and additional.

Senator BYRD. Is not the Treasury preparing to sell some $7 billion which will fall due either this month or in early August?

Secretary BLUMENTHAL. Mr. Chairman, I would like to correct that statement. There is an error here. You are quite right. The $33 billion is only new money. You are correct. The refinancing annually is about $175 billion. I don't have the exact number for the second half, so, obviously, that is only the new money.

Senator BYRD. Only the new money.

Secretary BLUMENTHAL. Yes.

Senator BYRD. Thank you. That is what I had thought.

I think one matter of concern—and it ties in with the need to increase the debt ceiling—is the fact that in one department of Government, the Inspector General of that department, HEW, on April 3rd of this year, issued a formal report in which he stated between $6.3 and $7.4 billion was misspent last year by HEW; misspent through waste, mismanagement and fraud. That is an official Government Report from the Inspector General of that one department. Yet—maybe I missed it—if it is available, I would like to put it in the record—I have not seen any administration official condemn that. You are closer to it than I am. Maybe you have seen and heard remarks that I have not heard, but I have not seen, in the public press, that any official has condemned it.

Secretary BLUMENTHAL. Mr. Chairman, I am not, at the moment, able to cite a public statement, although I am sure there have been some by the administration, and particularly by Secretary Califano.

I do know that the President and Secretary Califano are most concerned about inefficient use of these funds in HEW and that they are doing their best to correct whatever courses of inefficiencies exist.

I will be glad to get a statement on that.

Senator BYRD. Has the President made any public statement on that?

Secretary BLUMENTHAL. I am not aware.

Senator BYRD. Mr. Califano has, and it was a most interesting public statement. He said the Inspector General was not totally correct, that it was only $6 billion which was misspent through waste, mismanagement and fraud.

Secretary BLUMENTHAL. Did he say anything with regard to the $6 billion? I am sure he does not like it.

Senator BYRD. He did not indicate any affirmative action that he was taking to protect the taxpayers on that $6 billion? Incidentally, the Inspector General said the $6.3 to $7.4 was a conservative estimate. The only quarrel that Secretary Califano and the Inspector General seemed to have is a matter of whether it is a little more than $6 billion or $6 billion, but in any case, it is a huge amount of money. It is twice as much as all the taxpayers in the State of Virginia—the 12th largest State in the Union—pay in to your Treasury.

I must say that it is a discouraging thing when something like that happens and the administration in charge of the Government accepts it and says little or nothing in regard to it.

If you do run into any statements, I would be glad to have them inserted in the record.

Secretary BLUMENTHAL. I will.

Senator BYRD. Thank you very much, Mr. Secretary. I appreciate your being here today.

Secretary BLUMENTHAL. Thank you, Mr. Chairman.

TESTIMONY BY DR. RAYMOND J. SAULNIER

Mr. Chairman:

I appreciate this opportunity to appear before your committee on the question of raising the federal debt ceiling. It is obvious that an increase is needed: without knowing the Treasury's mind on how much this should be, I doubt that I would quarrel with what they ask for. But I have serious concerns about the fiscal policies that make another lifting necessary.

The root of the difficulty is that we have not fully appreciated the need for the federal government to balance what it spends into the economy with what it takes out in taxes. To put it differently, we have failed to appreciate the consequences of huge federal budget deficits, year after year, and especially when the inflation rate is high and the economy is operating at high levels of employment and production. This failure, which is part political but also part intellectual, is at the bottom of the inflation problem. And it is at the bottom of the recession risk that we face today. Accordingly, as you debate the perennial debt limit question I hope you will consider doing something to help put our fiscal affairs in better order. I will have a suggestion before I finish, but first let me state why I am disturbed at the present situation.

To put it simply, I believe we are on the edge of another fullscale credit crunch, and if it comes you can be sure it will be followed by another fullscale recession. There seems to me no more than a 50/50 chance we can avoid it. Three key points bear on these risks:

First, it is increasingly clear that for some months we have been closer to full utilization of productive resources, in any realistic sense of what that means, than has been commonly understood. Economywide averages of unemployment and capacity utilization serve more to mislead and invite complacency than to keep us informed and alert to trouble. It is specific shortages—skilled labor, materials, transportation facilities, etc.—that determine when and to what extent increases in overall demand will lead to inflation, and many such shortages are in the economy today. In other words, we have been much more vulnerable to an inflation speedup than has been commonly realized.

Second, for months we have been in the middle of a credit boom so huge as to guarantee faster inflation, yet little public notice has been taken of this. On the private side of the economy, extensions of consumer installment credit, net of repayments, reached $50 billion a year as a monthly average early in 1978, twice as high as in 1973. In mortgage credit, net extensions reached an annualized monthly volume between $80 and $90 billion, just short of twice their 1972–73 peak. The laggard was borrowing by business, but business has now joined the parade: outstandings of industrial loans made by commercial banks have recently been rising 30 percent a year.

Third, instead of helping to prevent this explosion of private credit from driving us into a credit crunch, federal fiscal operations have been helping push us into it. This happens, as we all know, when the federal budget is heavily in deficit. Consider the figures: in the first eight months of this fiscal year the federal government, in the unified budget, injected $49.7 billion more into the economy in spending than it took out in taxes. Obviously it had to borrow heavily to do this, thereby adding to credit demands. According to Federal Reserve estimates, the U.S. government raised funds in credit markets in the first quarter of 1978 at a seasonally adjusted annual rate just below $60 billion, about $2.5 billion more than in the first quarter of 1977. At the same time, there was a spectacular increase in borrowing by federally-sponsored credit agencies.

Putting public and private credit together, what we have is a fullscale credit boom, easily the match of 1972–73. And remember that 1972–73 was followed by severe recession.

Naturally, this vast expansion of credit is causing money supply to increase at a faster rate. And this faster increase of money supply has occurred side by side with faster inflation. The M1 money supply goes a bit under 8 percent annually in the second half of last year; this was already enough to guarantee inflation of at least 6 percent a year, but since March 1978 M1 has been rising at a 12 percent rate. Whether this causes inflation or merely permits it to happen can be left for theoretical discussion; what is relevant is that in a monetary environment of this kind you *get* inflation. If you flood the economy with money, whatever the reason for the flooding, you get inflation; and the bigger the flood, the bigger the inflation.

Similarly, it follows that in this monetary environment costs rise faster and faster and help accelerate price inflation. In the first quarter of 1978, compensation costs rose 14 percent per annum while productivity fell 3.6 percent. Labor cost per unit of output, which sooner or later is reflected in prices, rose at the nearly unbelievable rate of 18 percent. There must be nonrecurring aberrations in these figures, and it is true that the first quarter of 1978 was full of oddities we hope will not recur; but even allowing for these, the figures are scary to say the least.

So much for where we stand: in the middle of a credit boom, perhaps on the edge of a credit bust, with the federal government, however innocently, pushing us closer to the brink. The question is: What to do about it?

Obviously, the committee will want to recommend a higher debt ceiling, and the Congress should vote it. I will not attempt to say how much the increase should be. I have had the experience of being in government while we were bumping against the ceiling, and I can tell you it is very awkward. I assume Treasury will ask for all the room it needs, but I have difficulty believing that the deficit can be held to the $51.1 billion now being estimated for the full fiscal year when a shortfall of $49.7 billion has been reported for the first eight months alone. Furthermore, there are grounds for doubting that the fiscal 1979 deficit can be held to the official 1978 figure. In any case, you can be sure that deficits for the fiscal years 1979 and 1980 will be a lot bigger than $50 billion if the economy goes into recession later this year or next.

But estimating how much the ceiling should be lifted now is not what concerns me. What concerns me is the destructive effect on the economy of a federal budget continuously in deficit by huge amounts that remain at record levels even at high employment. Adjusting the ceiling up another notch will take care of the immediate problem, but Treasury will be back again. I hope the committee will do something now that will help make these future appearances less deplorable occasions.

The basic need is to bring budget deficits down by considerable amounts. And this is something only Congress can do. You cannot "leave it to the Fed" to cope with the inflationary consequences of a long series of high-employment deficits. If you leave it to the Fed, interest rates will go higher, the credit boom will become a credit bust, and we will drop again into recession. If this doesn't follow from the present credit boom—and I believe the chances of avoiding it are no better than 50/50—you can be sure there will be another crisis point later on. And you cannot leave the inflation problem to Mr. Strauss or to Mr. Bosworth. The answer is to start the corrective process here in Congress where budget deficits are hatched in decisions on spending and taxes.

Accordingly, when this committee proposes once more to lift the debt ceiling, as I anticipate it will, I hope you will say in the strongest and plainest language you can find that budget deficits must be reduced and ultimately eliminated. What we need is not a discussion of budget theory in the abstract; we need a proposal for getting from where we are to where we should be. I hope you will say that the way to do this is systematically and gradually—but not too gradually—to reduce the rate at which federal expenditures are increasing. The practical question for the committee is clear: how to define the proper spending rate and how to reach it.

It seems obvious that one should not try to do this by putting a limit on the deficit itself, although in some states the law requires that if a deficit occurs in a given year the governor must propose a budget for the following year that corrects it, even to come in before a fiscal period is finished with corrective proposals. For one thing, it is a mistake to assume that what is workable for one or more state governments is workable for the federal government. National economic stabilization requires not the jiggering of federal expenditures to meet revenues of the previous year but an expenditure trend that is steady and broadly in line with revenues when economic resources are employed as they have been in 1977–78.

Second, I am skeptical of proposals that would try to restrain federal spending by putting a limit on the amount the federal government can tax. Those who put their faith in this apparently believe that government can be relied on to limit expenditures to available revenues. This may work for state governments; unless the federal government underwrites anything they do, state governments and municipalities are brought up short in capital markets if their budget deficits are too big for too long. But the federal government is free of this restraint. It can always borrow, even if the money has to be freshly printed. All that will stop inflationary budgeting at the federal level—if it is not stopped by a self-imposed restraint on spending—is the trauma of hyperinflation.

Clearly, the sensible way to reduce deficits is to set limits on the increase of federal spending, and I suggest that you say so to the Senate Budget Committee. Speaking respectfully, I believe the budget committees of both houses and the economic aides

need to weigh more heavily than they have in the past the serious consequences for inflation, for the structure of the economy, and for the US position in the world, specifically for the US dollar, of operating the federal government with huge budget deficits when inflation is high and when economic resources are utilized at the 1977–78 rate.

We need a New Look in national economic policy. We need it not because of what happened in California, though there are messages in Proposition 13 for government at every level. We need it because the old look has put us in trouble. In particular, the budget committees of Congress need to take a more realistic view of the conditions under which demand pressures cause inflation to accelerate. And they should reassess their views on how to stimulate the economy to greater productivity and higher growth. It is time to abandon the belief that the way to do this is to increase federal spending; or that when the economy needs a lift, a bigger deficit is better than a smaller one. It is time to show faith in what the private side of the economy will do if the federal government operates within a budget broadly in balance. It is a question of business environment. Under interest rates that are lower than when federal deficits are huge, and with the outlook for lower inflation rates assurred, the enterprise system will provide the dynamism that yields higher productivity, higher growth and higher real income.

How much the rate of spending increase will need to be cut to balance the federal budget, and how long it will take, are questions that require careful calculation, but as a rough estimate I would say the present rate of increase in spending should be cut by about a third. This would mean cutting annual spending increases from the present 12 percent a year to something closer to 8 percent. It would bring the budget to balance in fiscal 1982 if revenues increase in the interim at their current 11 percent a year.

It is already late to be doing this. I do not say it should be done quickly, or that it can be done without complaint. But it had better be started. The occasion of lifting the debt ceiling would be a good time to start the process.

Mr. HARRY F. BYRD, JR. Mr. President, on another subject——

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that 5 minutes of my majority leader's time be transferred to the control of the Senator from Virginia.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. I thank the majority leader.

RHODESIA

Mr. HARRY F. BYRD, JR. Mr. President, I am greatly concerned at the attitude of our Government toward a settlement of the problems existing in the country of Rhodesia.

Some years ago, in 1966, the United States, through its President, acting unilaterally and without the approval of the Congress, put an embargo on all trade with Rhodesia.

The purpose was to force the downfall of the then existing Rhodesian Government and to turn that country over to black majority leadership.

Mr. President, this year the three moderate black leaders in Rhodesia and the Prime Minister, Ian Smith, worked out an internal settlement to this problem.

Under the proposal, elections will be held this year, and after December 31, 1978, Rhodesia will be governed by the black majority in that country.

This is what the United States has claimed it wanted done.

But what is the attitude of the American Government today?

The American policy in regard to Africa is being shaped by a few extremists in the State Department and by another extremist, the American Ambassador to the United Nations, Mr. Andrew Young.

The State Department today is insisting that the internal agreement worked out by the three black leaders of Rhodesia and Ian Smith, the Prime Minister, should not be permitted to go into effect unless Russian-oriented terrorist guerrilla leaders, operating from outside Rhodesia, are made a part of the government.

If the policies of those extremists in our State Department, the policy advocated by Ambassador Young, are carried out, I predict that Rhodesia will be the next nation to fall under the influence of Communist Russia.

It is rather interesting that Mr. Young, who is insisting that these Russian-oriented terrorist guerrilla leaders be forced into the Rhodesian Government, is the same Ambassador Young who yesterday in commenting on the Russian trial of political dissidents stated that the United States itself "has hundreds and perhaps thousands of political prisoners."

Ambassador Young is equating justice in the United States with justice in the Soviet Union.

I cannot conceive of a high American official making such a statement.

What Ambassador Young said is an insult to the United States. He owes an apology to the people of the United States.

In any case, it shows his view of Russian communism—just as did his assertion some months ago that the presence of Cuban troops, Cuba being a Russian satellite, in Angola was a stabilizing influence in Africa.

To get back to the Rhodesian matter, I have received a letter dated July 8, 1978, from the three ministers of the transitional Government of Rhodesia, Bishop Abel Muzorewa, the Reverend N. Sithole, and Senator Chief J. J. Chirau.

I want to read this letter to the Senate. But before doing that I point out that our State Department will not permit these men to come to our country to present their viewpoint. So this is one way, I suppose, to present the viewpoint of the three black leaders in Rhodesia.

The letter is dated July 8, 1978, datelined Salisbury, Rhodesia:

SALISBURY, RHODESIA,
July 8, 1978.

DEAR SENATOR: We are writing to thank you personally for the vote you exercised on 28 June in favour of revoking sanctions against this country, and to ask you to give us your support again when the question comes up a second time for debate in the United States Senate.

The agreement signed by our colleagues in the Government here in Salisbury on 3 March this year ensures an orderly and peaceful transition to a future State that will be non-racial in character, led by a black, or predominantly black, government, elected by everybody in the country who is over the age of 18.

It will be open to all political parties to seek the support of the voters in a free election at the end of the year. This includes the Patriotic Front of Robert Mugabe and Joshua Nkomo who have been repeatedly asked to abandon terrorism, to come home and to take part in a democratic election.

You may ask why there are two groups of people competing for power, the internal leaders and the Patriotic Front. Why do they not all leave it to the electorate to see who should be the leaders?

Let Mr. Mugabe tell you:

"Independence cannot be achieved through negotiation. The only solution is armed struggle." (21 July 1977)

Let Mr. Nkomo tell you:

"There shall be no elections in Zimbabwe because we are going to disrupt the elections and I can assure you of that because we are at war." (19 May 1978)

The fact is that neither Mr. Mugabe nor Mr. Nkomo believes he can win an election. They know they can only obtain power in the same way as many other African dictators, through the barrel of the gun.

Your vote can help us, help my colleagues in the Transitional Government, and help Rhodesia-Zimbabwe to become a democratic State. We have done here in this country everything that the United States Government was asking us to do before the last change in the Administration. In spite of that, the White House and the Department of State has, day after day, been seeking to destroy what we are trying to build up.

Your vote can encourage us by showing that a representative body with the stature of the United States Senate wants democracy to succeed, as succeed it undoubtedly can with your support.

Your vote can help materially by lifting sanctions, injecting new life into the economy and improving the quality of life of our people, white and particularly black.

Your vote can turn the tide in favour of democratic forces which are setting our country on the road to a democratic, pro-Western, anti-Communist multi racial society. You may not have this chance again. We want to ask you to vote in accordance with the gut feelings of all Americans that democratic institutions in the world should be fostered. We want to ask you to see that the movement which we have started in the Transitional Government is not stifled in its infancy.

We ask you to vote for sanctions to be lifted by the United States Government.

Yours sincerely,

This letter is signed by or on behalf of the three leaders of the transitional government in Salisbury, Rhodesia.

Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute remaining.

Mr. HARRY F. BYRD, JR. I yield back the remainder of my time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Pennsylvania is recognized for not to exceed 15 minutes.

S. 3284—FREE AND FAIR TRADE IN PROCUREMENT ACT OF 1978

Mr. HEINZ. Mr. President, today I am introducing, together with Senators

BAYH, ALLEN, ANDERSON, HATCH, and SCHWEIKER, the Free and Fair Trade in Procurement Act of 1978.

Mr. President, last March and April I chaired 3 days of hearings on the Buy American Act before the Governmental Affairs Subcommittee on Federal spending practices and open government. At that time I was concerned that, despite this congressional mandate, significant purchases of foreign goods are made with Federal funds. My concerns were not unfounded.

Witnesses told us at these hearings:

That 20,000 steelworkers have lost their jobs since last July because of steel imports.

That the Minnesota Highway Department let a $3.75 million contract for a bridge using Japanese steel where the next lowest bidder, who would use American steel, was only $30,000 higher, thanks to a Buy American Act which does not cover this 90-percent federally funded project.

Bethlehem Steel lost 45 jobs, because it lost a bid by $34,000 (less than 3 percent) to a firm which used Japanese steel to make rails for the Massachusetts Bay Transportation Authority under a UMTA grant.

That the buy national policies of other countries completely exclude competition from American firms. While French and Canadian firms have captured 67 percent of the American rail car market in 1976 for a total of $203 million (at least 80 percent federally funded), these countries do not allow American manufacturers to compete in their markets. If this situation continues, the American rail car industry may no longer exist 2 years from now jeopardizing over 50,000 jobs.

How foreign imports have worked to eliminate 3,200 jobs since 1970 in just one local of the International Union of Electrical Workers in Philadelphia, jobs which would have primarily gone to minorities and women.

How a French manufacturer boasted of selling to the U.S. Government below its cost of production.

Mr. President, this inquiry into the Buy American Act also revealed the significant benefits of that law to the U.S. economy and to Federal, State, and local tax treasuries. A study I commissioned from the Congressional Research Service concluded that a $1,000 procurement placed with an American rather than a foreign firm yields $1,700 in gross economic activity and $552 in new tax receipts for Federal, State, and local treasuries.

Based on the record of these hearings, then, it is clear that a preference in procurement for domestic goods is an important element of our fiscal policy. Such a preference stimulates economic activity and employment. This is the nature and purpose of the Buy American Act, passed in 1933.

But to some extent, that act has failed in its purpose. The cases of foreign goods purchased with Federal funds is gross evidence of that failure. When the subcommittee explored the reasons for that failure, two facts particularly stood out.

One is that free and fair trade does not exist in international government procurement. This is especially evidenced by restrictive buy-national policies and other nontariff barriers imposed by other nations which tend to completely exclude competition from American firms. Such practices include closed bidding systems, bureaucratic prejudice, and outright exclusion. A witness at our hearings told us how one Italian Government-owned company told him that if they ever needed to go outside Italy for their needs, they would let him know. Another company trying to break into the Japanese market was completely rebuffed. It is quite obvious that our own Buy American Act is minor compared to other nation's policies. The effect is that Federal funds are used to purchase foreign products, whereas domestic producers of similar products are excluded from competing abroad.

Evidence of other unfair trading practices was also presented at the hearings. It is probable, for example, that firms in other countries are dumping their products on the U.S. Government. Between June 1976 and October 1977, four federally funded bridges were built with Japanese steel at bids of up to 37 percent below domestic bids. It is inconceivable that Japanese producers are not dumping this steel at such predatory prices. In another case concerning a bid to supply electrical equipment to the Massachusetts Transportation Authority, one Japanese company actually accuses another of dumping. The firm accused of dumping had bid 23 percent lower than any of the other three companies who were all within 5 percent of each other.

We also have evidence that foreign goverment subsidized products are being purchased with Federal funds. Breda, an Italian manufacturer, is supplying subway cars to the Greater Cleveland Rapid Transit Authority. Breda is also owned by EFIM, an Italian state-owned holding company. As a member of EFIM, Breda therefore enjoys the following privileges: Lower risk due to its backing by the State, easier access to money markets, because of State loan guarantees, and reduced corporate taxes. Similarly, the French Government offers 14 tax and 8 nontax incentives to exporters which place American firms at a severe disadvantage in their own market.

Now the United States has laws on the books to protect domestic firms against such unfair trade practices. However, that brings me to the second fact revealed in the hearings—the U.S. Government presently has no way of insuring that Federal funds are not used to purchase unfairly traded goods. Because of the peculiarities of Government procurement, these unfair trade laws do not protect domestic firms against unfair foreign competition for Government contracts. Foreign firms can use almost any weapon in their arsenal to compete for Federal dollars and our own American firms can do little to defend themselves against predatory competition.

The nature of Government procurement is such that each bid is an independent event. A foreign firm is free to quote any price on a Government contract and remain almost immune from a dumping investigation, because of the near impossibility of proving a history of selling below cost. In fact, our procurement practices encourage the quoting of dumped prices, because of the emphasis on sealed bids. While the Federal Government should purchase at the lowest possible cost, it is grossly inconsistent with our trade policies to allow the purchase of dumped goods.

The Buy American Act was passed in 1933, when world trade was virtually at a standstill. Its loosely worded provisions provide only minimal guidance as to its ultimate meaning and significant latitude for interpretation. The law, then, has taken on far different meanings over the years to the point that present interpretation circumvents congressional intent. For example, Federal grants to States and localities are not covered under present interpretation of the Buy American Act though nothing in the law precludes their coverage. Another example is the definition of "domestic good." Today, up to 49.9 percent of a good purchased by the Federal Government can be foreign in origin and still be considered American even though the law states that a good, to be considered domestic, must be made from components "substantially all" mined, produced, or manufactured in the United States.

The need for a new law to replace the Buy American Act is therefore clear. Today, Mr. President, I am introducing the Free and Fair Trade in Procurement Act of 1978 to accomplish that. In addition to clearing up ambiguities arising from the present law, this bill, if passed, will do two things which directly attack the fundamental problems with the Buy American Act identified in the hearings.

First, the bill establishes a minimum price preference for domestic goods of 10 percent. This preference is, I believe, consistent with the fiscal purpose of Government procurement without being exclusionary. It provides American suppliers a basic edge over foreign suppliers which is needed to insure that American economic activity and employment will be stimulated by Federal procurement instead of unemployment and economic dislocation.

But far more importantly, this bill gives the Federal Government mechanisms which, I believe, will insure that it does not purchase unfairly traded goods. These mechanisms include:

Increased preferences from 30 to 40 percent for goods that have been found to be dumped, unfairly subsidized, or discriminated against by foreign governments.

Debarment from competition for Government contracts of firms who have been found to be competing unfairly under section 337 to the Tariff Act of 1930.

Debarment of firms who falsely certify that they are not providing goods to the Government at below their cost of production; that is, are not dumping—or that they are not in violation of U.S. antitrust laws.

Debarment of goods from countries which are nonsignatories to, or are violators of, any international government procurement code which may be

negotiated. Such a code is under consideration in the multilateral trade negotiations taking place at this time in Geneva.

It is about time that our unfair trade laws apply to Government procurement. These mechanisms will do that.

I would like to stress, as well, that this bill does not establish insurmountable barriers to free trade that many people feel a Buy American Act might do. On the whole it is much less onerous than other nations' buy-national policies. Indeed, the principal objective of this bill is to insure that free trade is a major element of our international trade policy. But that free trade must also be fair trade. The provisions of this bill are further incentives to free and fair trade. It is my hope that foreign firms seeking to sell their products to the Federal Government will see this bill not as a barrier but an incentive to compete for that business freely—and fairly. This bill, finally, is consistent with our Nation's objectives in the multilateral trade negotiations. If all nations compete on the same basis, as negotiated in the MTN, there is no reason why any of the bills mechanisms should ever be invoked.

Mr. President, I ask unanimous consent that the text of the bill and a section-by-section analysis be printed in the RECORD.

There being no objection, the bill and analysis were ordered to be printed in the RECORD, as follows:

S. 3284

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Free and Fair Trade in Procurement Act of 1978".

FINDING; PURPOSE

SEC. 2. (a) The Congress finds that—

(1) the United States is committed to free and fair international trade;

(2) consistent with national fiscal policies, this policy should be applied to all procurement with Federal funds;

(3) free and fair trade does not exist in international government procurement because of restrictive buy-national policies and other nontariff trade barriers over and above reasonable preferences consistent with national fiscal policies;

(4) the United States Government has no procedures to ensure that it purchases only freely and fairly traded foreign goods;

(5) the Buy-American Act of 1933 is inadequately implemented and outdated;

(6) purchases of foreign goods with Federal funds, in the absence of free and fair trade, has contributed to unemployment in this country which results in significant social costs;

(7) Government procurement is consistent with fiscal policy if one of its purposes is to stimulate economic growth; and

(8) Government procurement results in signficant returns in Federal, State, and local taxes which far outweigh the short-term increase in costs which may accompany a domestic preference in procurement.

(b) The purposes of this Act are—

(1) to provide a reasonable and fair minimum preference in Government procurement and procurement with Federal funds to domestic products and materials; and

(2) to provide an additional preference in Government procurement and procurement with Federal funds over foreign products and materials which are not freely and fairly traded.

DEFINITIONS

SEC. 3. For purposes of this Act—

(1) The term "Administrator" means the Administrator for Federal Procurement Policy.

(2) The term "construction" includes alteration and repair.

(3) The term "domestic material" means any unmanufactured article or material produced or mined in the United States.

(4) The term "domestic article" means any manufactured article at least 75 percent of the delivered price of which is attributable to—

(A) domestic materials,

(B) component items manufactured in the United States, and

(C) the cost of manufacture (including assembly, packaging, and delivery) in the United States.

For purposes of this paragraph, any material which is not produced or mined in the United States in sufficient quantity or of satisfactory quality and any component item which is not manufactured in the United States in sufficient quantity or of satisfactory quality, as determined under regulations prescribed by the Administrator, shall not be taken into account.

(5) The term "foreign material" means any unmanufactured article or material produced or mined outside the United States.

(6) The term "foreign article" means any article which is not a domestic article.

(7) The term "Federal agency" means any instrumentality of the Government of the United States (including the National Railroad Passenger Corporation and the Consolidated Rail Corporation), the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any possession of the United States.

(8) The term "Federal funds" means funds appropriated out of the Treasury of the United States.

(9) The term "United States", when used in a geographical sense, includes any Commonwealth, possession, or other territory subject to the jurisdiction of the Government of the United States.

PREFERENCE FOR DOMESTIC MATERIALS AND ARTICLES

SEC. 4. (a) Except as provided in section 7, in the procurement of materials and articles by Federal agencies or with Federal funds, only domestic materials and domestic articles shall be procured, unless—

(1) domestic materials or domestic articles of satisfactory quality are not available in sufficient quantity, as determined under regulations prescribed by the Administrator; or

(2) the cost of the domestic material or domestic article is excessive in comparison to the cost of similar foreign materials or foreign articles, as determined under section 8.

(b) Except as provided in section 7, every contract entered into by any Federal agency, or by any person or government if Federal funds are to be paid under the contract, for the construction of any public building or public work, shall require that only domestic materials and domestic articles shall be used in such construction, unless—

(1) domestic materials or domestic articles of satisfactory quality are not available in sufficient quantity, as determined under regulations prescribed by the Administrator; or

(2) the cost of the domestic material or domestic article is excessive in comparison to the cost of similar foreign materials or foreign articles, as determined under section 8.

(c) For purposes of subsection (a), materials or articles shall be considered to be procured with Federal funds only if 50 percent or more of all sums paid for such materials or articles are derived, directly or indirectly, from Federal funds. For purposes of subsection (b), Federal funds shall be considered to be paid under a contract only if 50 percent or more of all sums to be paid under such contract are derived, directly or indirectly, from Federal funds.

NONMEMBERS AND VIOLATORS OF INTERNATIONAL GOVERNMENT PROCUREMENT CODE

SEC. 5. (a) Except as provided in section 7, whenever the United States is a party to a multilateral international agreement prescribing a code for procurement by governments which are parties thereto—

(1) no material produced or mined in a foreign country which is not a party to such agreement or which the Administrator determines is in violation of such code, and no article manufactured in such a foreign country, may be procured by a Federal agency or with Federal funds (within the meaning of section 4(c)); and

(2) no such material or article may be used for the construction of any public building or public work under any contract entered into by a Federal agency, or by any person or government if Federal funds are to be paid under the contract (within the meaning of section 4(c)).

(b) Subsection (a) shall not apply to any material which is not produced or mined in the United States in sufficient quantity or of satisfactory quality or to any component item not manufactured in the United States in sufficient quantity or of satisfactory quality, as determined under regulations prescribed by the Administrator.

SUBCONTRACTS

SEC. 6. (a) Except as provided in section 7, each contract entered into for the procurement of any material or article by any Federal agency or with Federal funds (within the meaning of section 4(c)) shall specify that any subcontract thereunder for any materials or articles which accounts for 10 percent or more of the final delivered price of the procured material or article shall be subject to the requirements of section 4(a) and the restrictions of section 5.

(b) Except as provided in section 7, each contract entered into by a Federal agency, or by any person or government if Federal funds are to be paid under such contract (within the meaning of section 4(c)), for the construction of any public building or public work shall specify that any subcontract thereunder for any materials or articles which accounts for 10 percent or more of the total construction price shall be subject to the requirements of section 4(b) and the restrictions of section 5.

EXCEPTIONS

SEC. 7. Sections 4, 5, and 6 shall not apply to—

(1) contracts for the procurement of materials and articles for use outside the United States, contracts for the construction of public buildings or public works outside the United States, or subcontracts under such contracts; or

(2) any contract or subcontract if the procurement or use of domestic materials or domestic articles under such contract or subcontract is determined to be inconsistent with the public interest, under regulations prescribed by the Administrator, by the head of the Federal agency concerned or, if there is no Federal agency concerned, by the person specified by regulations prescribed by the Administrator.

DETERMINATION OF EXCESSIVE COST

SEC. 8. (a) The cost of a domestic material or domestic article shall be considered to be excessive, in comparison with a similar foreign material or foreign article which is freely and fairly traded, only if the cost of the foreign material or foreign article is less than the cost of the domestic material or domestic article by more than 10 percent.

(b) The cost of a domestic material or domestic article should be considered to be excessive, in comparison with a similar for-

eign material or foreign article which is not freely and fairly traded, only if the cost of the foreign material or foreign article is less than the cost of the domestic material or article by more than a percentage determined under regulations prescribed by the Administrator, which shall be not less than 30 percent nor more than 40 percent.

FREE AND FAIR TRADE

SEC. 9. (a) For purposes of this Act, a foreign material or foreign article is not freely and fairly traded if, with respect to such material or article—

(1) the Secretary of the Treasury has made public a finding under section 201 of the Antidumping Act, 1921 (19 U.S.C. 160);

(2) a countervailing duty is imposed under section 303 of the Tariff Act of 1930 (19 U.S.C. 1303); or

(3) action taken by the President under section 301 (a) of the Trade Act of 1974 (19 U.S.C. 2411 (a)) is in effect.

(b) For purposes of this Act, if a foreign material or foreign article is not freely and fairly traded under subsection (a), such foreign material or foreign article shall be considered not to be freely and fairly traded for a period or not less than three years beginning with the day on which it becomes a foreign material or foreign article which is not freely and fairly traded under such subsection.

UNFAIR IMPORT PRACTICES

SEC. 10. If the United States International Trade Commission determines that a person has violated section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), such person shall, in addition to any other penalty, not be eligible to be awarded any contract or subcontract entered into under authority of section 4 (a) (2) or (b) (2) for a period of three years from the date on which such determination becomes final.

CERTIFICATIONS BY CONTRACTORS SUPPLYING FOREIGN MATERIALS AND ARTICLES

SEC. 11. (a) No contract or subcontract for the procurement of foreign materials or foreign articles may be entered into under authority of section 4(a)(2), and no contract or subcontract for the construction of a public building or public work in which foreign materials or foreign articles will be used may be entered into under authority of section 4(b)(2), unless the contractor or subcontractor, as the case may be, certifies that he has been assured in writing by the foreign supplier of such materials or articles that (1) such materials or articles are not being supplied at below their cost of production and (2) such foreign supplier is not in violation of the antitrust laws of the United States.

(b) If the Administrator determines, after notice and hearing, that a person has falsely certified under subsection (a), such person shall, in addition to any other penalty, not be eligible to be awarded any contract or subcontract entered into under authority of section 4 (a) (2) or (b) (2) for a period of three years from the date on which such determination becomes final. The provisions of chapters 5 and 7 of title 5, United States Code, shall apply to proceedings under this subsection.

REGULATIONS

SEC. 12. The Administrator is authorized to issue such regulations as he determines necessary to carry out this Act.

AUTHORIZATION OF APPROPRIATIONS

SEC. 13. There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out this Act.

REPEAL OF "BUY AMERICAN ACT"

SEC. 14. Title III of the Act entitled "An Act making appropriations for the Treasury and Post Office Departments for the fiscal year ending June 30, 1934, and for other purposes", approved March 3, 1933 (41 U.S.C. 10a–10c), and section 663 of the National Military Establishment Appropriation Act, 1950 (41 U.S.C. 10d), are repealed.

EFFECTIVE DATE

SEC. 15. The provisions of this Act shall take effect on the date of its enactment, but sections 4 through 11, and the repeals made by section 14, shall apply only with respect to contracts entered into more than one year after the date of the enactment of this Act and subcontracts under such contracts.

FREE AND FAIR TRADE IN PROCUREMENT ACT OF 1978

SECTION-BY-SECTION ANALYSIS

Section 2: Findings and Purpose:

The Governmental Affairs Subcommittee on Federal Spending Practices and Open Government held three days of hearings in March and April, 1978, on the Buy American Act and its implementation. The testimony given at these hearings led to three major findings. The first was that federal procurement serves purposes other than merely to purchase the goods and services the government needs to operate. It also serves a fiscal purpose to stimulate employment and economic growth.

The second major finding was that where significant purchases of foreign goods are made with federal funds, there is strong evidence that those foreign goods are unfairly traded. Either the goods are being dumped (i.e., traded at less than fair market value) in the United States or that other countries discriminate against American producers.

The third major finding is related to the second. The Federal Government has no way of protecting itself against purchasing unfairly traded goods. Due to the peculiarities of government procurement, our fair trade laws do not apply to procurement.

Therefore, the purposes of this bill are two:

(1) To provide a minimal preference for domestic goods to account for the fiscal purpose of government procurement, and

(2) To provide the Federal Government a mechanism for ensuring that only freely and fairly traded goods are purchased with federal funds.

SECTION 3: DEFINITIONS

This section details the definitions of various terms used throughout the bill. Of particular importance are the definitions of domestic article and federal agency.

A domestic article has been defined to mean any final good delivered to the government 75 percent of the total delivered cost of which can be directly attributed to United States sources. That means that the cost of any good can include up to 25 percent foreign components and still be considered domestic. However, any component which is not available in the United States in sufficient quantity or quality will not be considered in determining whether the good is foreign or domestic.

Federal agency includes not only any instrumentality of the Federal Government (as defined in the U.S. Code) but also specifically includes AMTRAK and Conrail which are not presently covered by the Buy American Act.

SECTION 4: PREFERENCE FOR DOMESTIC MATERIALS AND ARTICLES

Section 4(a) establishes that with certain exceptions, only domestic articles or materials may be purchased with federal funds. Section 4(b) extends this same preference to construction contracts for public buildings and public works.

Section 4 also has the effect of extending this preference to any purchase by states and localities with at least 50 percent federal funding. That is any purchase by a state or locality 50 percent of the cost of which is funded with federal dollars, must be made from domestic sources.

This preference does not apply, however, if the product can not be obtained domestically in sufficient quality or quantity, or if the cost of the domestic good is considered excessive.

SECTION 5: NONMEMBERS AND VIOLATORS OF INTERNATIONAL PROCUREMENT CODE

A government procurement code has been the subject of multilateral negotiations for a number of years. The purpose of this code is to open up government procurement to worldwide competition. To further the goals of this code, Section 5 stipulates that no goods originating from non-signatories or violators of the code may be purchased.

SECTION 6: SUBCONTRACTS

This section extends the preference for domestic goods to subcontracts which form 10 percent or more of the total delivered price of the end product. There are certain products which are used in goods purchased with federal funds but which are never purchased by governments directly. The cost of such components are often less than 25 percent of the final delivered price. Therefore, under the definition of domestic article, these goods could always be purchased from foreign sources, whether or not they are fairly traded, with no preference for domestic suppliers.

This section, then, attempts to provide these kinds of suppliers with the same protections against unfair foreign competition in government procurement as suppliers of higher cost goods.

SECTION 7: EXCEPTIONS

Purchases for the procurement of goods to be used outside the United States and purchases inconsistent with the public interest are excepted from the provisions of the bill.

SECTION 8: DETERMINATION OF EXCESSIVE COST

As under the present Buy American Act, foreign goods may be purchased if the cost of similar domestic goods is excessive. This section, unlike the Buy American Act, however, defines the term excessive. The cost of a domestic good which is freely and fairly traded is considered excessive if the price of the foreign good is 10 percent less than that of the American good. This is the minimal preference to be afforded domestic goods to account for the fiscal purposes of government procurement.

If a foreign good is not freely or fairly traded in the world economy, the cost of the domestic good would be considered excessive only of the cost of the foreign good is from 30 percent to 40 percent cheaper. The Administrator for Federal Procurement Policy is directed to determine the exact differential which must be between those two points.

SECTION 9: FREE AND FAIR TRADE

This and the next two sections specify criteria for determining whether a good is freely or fairly traded. Rather than establishing new procedures for such determinations, the bill relies on existing trade laws. Under this section a good is presumed to be not freely or fairly traded if a dumping or counter-vailing duty has been imposed under section 201 of the Antidumping Act or section 303 of the Tariff Act of 1930 respectively. Similarly, a good is presumed to be not freely or fairly traded if the President finds that the country of origin discriminates against similar American products pursuant to section 301 of the 1974 Trade Act.

Also Section 9(b) specifies that goods shall be considered not freely or fairly traded for a definite period of three years from the date of such determination.

SECTION 10: UNFAIR IMPORT PRACTICES

If a potential contractor has been found by the International Trade Commission to

violate section 337 of the Tariff Act of 1930, he would be debarred from participating in any government procurement for a period of three years following such finding.

SECTION 11: CERTIFICATIONS BY CONTRACTORS SUPPLYING FOREIGN MATERIALS AND ARTICLES

In addition to Sections 9 and 10, a contractor is also required to certify that he is not providing goods to the Federal Government at below their cost of production (i.e., he is not dumping) and that he is not in violation of the antitrust laws of the United States. Any contractor who falsely certifies to that effect shall be debarred for a period of three years from any government procurement where Federal funds are spent.

SECTION 12: REGULATIONS

The Administrator for Federal Procurement Policy is authorized to administer the provisions of this bill.

Mr. HEINZ. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes remaining.

Mr. HEINZ. Mr. President, I yield back the remainder of my time.

NATIONAL CONSUMER COOPERATIVE BANK ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now proceed to the consideration of H.R. 2777, which the clerk will state by title.

The legislative clerk read as follows:

A bill (H.R. 2777) to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the producer and the consumer of needed goals, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing, and Urban Affairs with an amendment to strike all after the enacting clause and insert the following:

That this Act may be cited as the "National Consumer Cooperative Bank Act".

STATEMENT OF FINDINGS AND PURPOSE

SEC. 2. The economic and financial structure of this country in combination with the Nation's natural resources and the productivity of the American people has produced one of the highest average standards of living in the world. However, the Nation has been experiencing inflation and unemployment together with an increasing gap between producers' prices and consumers' purchasing power. This has resulted in a growing number of our citizens, especially the elderly, the poor, and the inner city resident, being unable to share in the fruits of our Nation's highly efficient economic system. The Congress finds that user-owned cooperatives are a proven method for broadening ownership and control of the economic organizations, increasing the number of market participants, narrowing price spreads, raising the quality of goods and services available to their membership, and building bridges between producers and consumers, and their members and patrons. The Congress also finds that consumer and other types of self-help cooperatives have been hampered in their formation and growth by lack of access to adequate cooperative credit facilities and lack of technical assistance. Therefore, the Congress finds a need for the establishment of a National Consumer Cooperative Bank which will make available necessary financial and technical assistance to cooperative self-help endeavors as a means of strengthening the Nation's economy.

TITLE I—NATIONAL CONSUMER COOPERATIVE BANK

CREATION AND CHARTER OF BANK

SEC. 101. There is hereby created and chartered a body corporate, the National Consumer Cooperative Bank, hereinafter referred to as the "Bank", as an instrumentality of the United States, and until otherwise provided, shall be a mixed ownership Government corporation. The Bank shall have perpetual existence unless and until its charter is revoked or modified by Act of Congress. The right to revise, amend, or modify the charter of the Bank is specifically and exclusively reserved to the Congress. The principal office of the Bank shall be in Washington, District of Columbia, and, for the purpose of venue, shall be considered a resident thereof. It shall make loans and offer its services throughout the United States, its territories and possessions, and in the Commonwealth of Puerto Rico. The Bank shall—

(1) encourage the development of new and existing cooperatives eligible for its assistance by providing specialized credit and technical assistance;

(2) maintain broad-based control of the Bank by its voting stockholders;

(3) encourage broad-based ownership, control, and active participation by members in eligible cooperatives;

(4) assist in improving the quality and availability of goods and services to consumers; and

(5) encourage ownership of its equity securities by cooperatives and others as provided in section 104, so that the date when all of the Bank's class A stock owned by the United States has been fully redeemed (the "Final Government Equity Redemption Date") occurs as early as practicable.

GENERAL CORPORATE POWERS

SEC. 102. The Bank shall have the power to make and service loans, commitments for credit, guarantees, furnish financially related services, technical assistance and the results of research, issue its obligations within the limitations imposed by section 107 in such amounts, at such times and on such terms as the Bank may determine, and to exercise the other powers and duties prescribed in this Act, and shall have the power to—

(1) operate under the direction of its Board of Directors;

(2) adopt, alter, and use a corporate seal, which shall be judicially noted;

(3) elect by its Board of Directors a president, one or more vice presidents, a secretary, a treasurer, and provide for such other officers, employees, and agents as may be necessary, and define their duties in accordance with regulations and standards adopted by the Board, and require surety bonds or make other provisions against losses occasioned by acts of employees;

(4) prescribe by its Board of Directors its bylaws not inconsistent with law, which shall establish the terms of office and the procedure for election of elective members; provide in a manner not inconsistent with this Act for the classes of its stock and the manner in which its stock shall be issued, transferred, and retired; and prescribe the manner in which its officers, employees, and agents are elected or selected, its property acquired, held and transferred, its loans, commitments, other financial assistance, guarantees and appraisals may be made, its general business conducted, and the privilege granted it by law exercised and enjoyed;

(5) enter into contracts and make advance, progress, or other payments with respect to such contracts, without regard to the provisions of section 3648 of the Revised Statutes;

(6) sue and be sued in its corporate name and complain and defend, in any court of competent jurisdiction, State or Federal;

(7) acquire, hold, lease, mortgage, or dispose of, at public or private sale, real and personal property and sell or exchange any securities or obligations, and otherwise exercise all the usual incidents of ownership of property necessary or convenient to its business: *Provided*, That any such acquisition or ownership of real property shall not deprive a State or political subdivision thereof of its civil or criminal jurisdiction in and over such property or impair the civil rights of the inhabitants of such property under Federal, State, or local laws;

(8) obtain insurance against loss in connection with property and other assets;

(9) modify or consent to the modification with respect to the rate of interest, time of payment of any installment of principal or interest, security, or any other term of any contract or agreement to which it is a party or has an interest pursuant to this Act;

(10) utilize and act through any Federal, State, or local public agency or instrumentality, or private agency or organization, with the consent of the agency or organization concerned, and contract with such agency, instrumentality, or organization for furnishing or receiving technical services and benefits of research, services, funds or facilities; and make advance, progress, or other payments with respect to such contracts without regard to section 3648 of the Revised Statutes;

(11) within the limitations of section 107, borrow money and issue notes, bonds and debentures or other obligations individually or in concert with other financial institutions, agencies or instrumentalities, of such character and such terms and conditions and at rates of interest as may be determined;

(12) issue certificates of indebtedness to its stockholders or members and pay interest on funds left with the Bank, and accept grants or interest free temporary use of funds made available to it;

(13) participate with one or more other financial institutions, agencies, instrumentalities, or foundations in loans or guarantees under this Act on terms as may be agreed upon;

(14) accept guarantees from other agencies for which loans made by the Bank may be eligible;

(15) establish one or more branch offices and one or more advisory councils in connection with any such branch offices, as may from time to time be authorized by the Board of Directors;

(16) buy and sell obligations of, or insured by, the United States or any agency or instrumentalities thereof, or securities backed by the full faith and credit of any such agency or instrumentality and, after the final Government Equity Redemption Date, make such other investments as may be authorized by the Board of Directors;

(17) approve the salary scale of officers and employees of the Bank, in accordance with regulations and standards adopted by the Board of Directors, without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but, except as otherwise provided in this Act, the General Schedule pay rates shall be applicable until all class A stock held by the Secretary of the Treasury has been retired; and

(18) have such other incidental powers as may be necessary or expedient to carry out its duties under this Act.

The stock or other securities or instruments issued by the Bank shall, to the same extent as securities which are the direct obligations of the United States, be "exempt securities" within the meaning of the laws administered by the Securities and Exchange Commission.

BOARD OF DIRECTORS

SEC. 103. (a) The Bank shall be governed by a Board of Directors (hereinafter referred to as the "Board") which shall consist of thirteen members. Subject to the provisions of subsection (b) of this section, all members of the Board shall be appointed by the President, with the advice and consent of the Senate, for terms of three years or until their successors have been appointed and qualified. The President shall appoint seven members of the Board from among the officers of the agencies and departments of the United States Government: *Provided*, That at any one time no more than one member shall be from any one agency or department. The remaining members shall be from the general public (and not from the officers or employees of the United States Government) but shall have extensive experience in the cooperative field representative of the following classes of cooperatives: (1) housing, (2) consumer goods, (3) low-income cooperatives, (4) consumer services, and (5) all other eligible cooperatives, and for these appointments the President shall consider nominees submitted by national associations of cooperatives. Any member appointed by the President may be removed at any time with or without cause by the President. If a vacancy occurs on the Board for any reason other than a resignation pursuant to subsection (b) of this section, a new member shall be appointed by the President to serve until the next annual meeting of the Bank, at which time the vacancy shall be filled for the remainder of the unexpired term by the President or the holders of class B and class C stock, as provided in this section 104.

(b) At the first annual meeting occurring after the time when the amount of paid-in capital of the Bank attributable to the shares of class B stock and class C stock equals or exceeds $3,000,000, three members of the Board appointed by the President from the general public shall resign. Similarly, when the amount of paid-in capital attributable to the shares of class B and class C stock equals or exceeds $10,000,000 the terms of the other three members appointed by the President from the general public shall terminate. An additional member of the Board designated by the President (who shall be a member who had been appointed by the President) shall resign at each of the annual meetings occurring after the time when the amount of paid-in capital attributable to the class B and class C stock equals or exceeds seven-thirteenths and eight-thirteenths of the total amount of paid-in capital of the Bank. As members of the Board resign in accordance with the foregoing provisions, the directorships vacated shall be deemed shareholder directorships and shall be filled by the holders of class B stock and class C stock in accordance with the provisions of subsection (c) of this section. Five remaining members of the Board appointed by the President shall resign on the Final Government Equity Redemption Date. Thereafter, one member of the Board shall continue to be appointed by the President from among proprietors of small business concerns, as defined under section 3 of the Small Business Act, which are manufacturers or retailers.

(c) At all elections of Directors by holders of class B stock and class C stock, nominations shall be made by the classes of eligible cooperatives specified in subsection (a). Vacant shareholder directorships shall be filled, whether by appointment or election, so that at any time when there are three or more shareholder directors on the board, there shall be at least one director representing each of the classes of housing cooperatives, low-income cooperatives, and consumer goods and service cooperatives. Each nominee for shareholder directorship of a particular class shall have at least three years experience as a director or senior officer in the class of cooperatives to be represented. No one class of cooperatives specified in subsection (a) shall be represented on the Board by more than three directors.

(d) When all five remaining members of the Board appointed by the President have resigned pursuant to subsection (b) of this section, their successors and the successors to shareholder directors shall thereafter be elected pursuant to such rules as the Board may from time to time prescribe in the bylaws of the Bank.

(e) No director shall be eligible to be elected for more than two consecutive full three-year terms. No officer of the Bank shall be eligible to serve simultaneously as a director on the Board of the Bank. The Bank shall give adequate advance notice to all voting stockholders of nominees and of the procedures for nominating other candidates. Each voting stockholder shall make the information required in this paragraph available to its members.

(f) The Board shall annually elect from among its members a chairman and vice chairman and select a secretary who need not be a member. The Board shall establish the policies of the Bank governing its funding, lending, and other financial and technical assistance, and shall direct the management of the Bank.

(g) The Board shall meet at least quarterly. Its meeting shall be open to members or representatives of all eligible cooperatives and other eligible organizations, as observers only, and to persons or representatives of groups who identify their interest in the Bank and who are invited to attend a meeting, subject to such rules as the Board may establish for the conduct of such meetings. Those rules shall include the manner of giving notice of meetings, the procedure for the conduct of meetings, the manner of submitting topics for the agenda, the allocation of time of presentations, and debate. The chairman, when sustained by the majority of the Board present, may adjourn the open meeting into an executive session on motion of the chairman, any Board member, or at the request of any applicant, borrower, officer, or employee when the matter under discussion involves an application, a loan, a personnel action, or other matter which might tend to impinge on the right of privacy of any person.

(h) Members of the Board appointed by the President from among the officers of the agencies and departments of the United States Government shall not receive any additional compensation by virtue of their service on the Board. Until the Final Government Equity Redemption Date, members of the Board appointed by the President from among the general public or elected by the holders of the class B and class C stock shall (1) receive compensation at a rate equal to the daily equivalent of the rate prescribed for grade GS–18 under section 5332 of title 5, United States Code, for each day that they are engaged in the performance of their duties on the Board, and (2) be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code, for each day that they are away from their homes or regular places of business in the performance of their duties on the Board.

CAPITALIZATION

SEC. 104. (a) The capital of the Bank shall consist of capital subscribed by borrowers from the Bank, by cooperatives eligible to become borrowers, by organizations owned and controlled by such borrowers, by foundations, trust or charitable funds, by public bodies, and by the United States. Beginning with the fiscal year ending September 30, 1979, the United States shall purchase class A stock and for that fiscal year there are authorized to be appropriated $100,000,000 for such purposes, and there are authorized to be appropriated for the next four succeeding fiscal years an amount not to exceed $200,000,000 in the aggregate. Any amounts so authorized but not appropriated or not utilized to purchase such stock of the Bank in any such fiscal year is authorized to be appropriated or reappropriated and so used in subsequent fiscal years.

(b) The capital stock of the Bank shall include class A, class B, and class C stock and such other classes with such rights, powers, privileges, and preferences of the separate classes as may be specified, not inconsistent with law, in the bylaws of the Bank. Class A preferred stock held by the United States shall be a preferred stock with first preference with respect to assets and dividends over all other classes of stock issued by the Bank. So long as any class A stock is outstanding, the Bank shall not pay any dividend on any other class of stock at a rate greater than the statutory dividend payable on the class A stock. Class B and class C stock shall be common stock with voting rights as provided for herein and shall be issued only to eligible borrowers and organizations controlled by such borrowers or organizations eligible to borrow, and shall be transferable only on the books of the Bank and then only to another eligible borrower. No holder of voting stock of the Bank shall be entitled to more than one vote regardless of the number of shares of stock of other classes held, except as provided in subsection (g) of this section.

(c) Class A stock with a par value of $100 per share shall be issued by the Bank to the Secretary of the Treasury on behalf of the United States in exchange for capital furnished pursuant to subsection (a) of this section. The holder of class A stock shall be entitled to dividends at a rate determined by the Secretary of the Treasury taking into consideration the average market yield, during the month preceding the close of each fiscal year, on outstanding marketable obligations of the United States of comparable maturity:

Provided, That until October 1, 1990, such dividends shall not exceed 25 per centum of gross revenues for the year less necessary operating expenses, including a reserve for possible losses. Such dividends shall be payable annually into miscellaneous receipts of the Treasury and shall be cumulative. Any such dividend payment may be deferred by the Board of Directors with the approval of the Secretary of the Treasury, but any dividend payment so deferred shall bear interest at the same rate as the rate at which dividends accumulate on the class A stock. Without the approval of the Secretary of the Treasury, the Bank shall not pay any dividend or distribution on, or make any redemption or repurchase of, any other class of stock at any time when the cumulative dividends on the class A stock shall not have been paid in full (together with any unpaid interest thereon). Upon any liquidation or dissolution of the Bank, the holder of class A stock shall be entitled to receive out of the assets of the Bank available for distribution to its stockholders, prior to any payment to the holders of any other class of stock of the Bank, an amount not less than the aggregate par value of all class A stock outstanding, plus all accrued and unpaid dividends accrued thereon to and including the date of payment (together with all unpaid interest thereon). The class A stock shall be redeemed and retired as soon as practicable consistent with the purposes of this Act (such redemp-

tion to be at a price equal to the par value of the class A stock so redeemed plus cumulative dividends accrued thereon to the date of redemption): *Provided*, That beginning on October 1, 1990, there shall be redeemed as a minimum with respect to each fiscal year a number of shares of class A stock having an aggregate par value equal to the aggregate consideration received by the Bank for the issue of its class B and class C stock during that fiscal year. Each such redemption shall take place not later than ninety days after the close of each fiscal year.

(d) Class B stock shall be held only by recipients of loans under section 105 of this Act, and such borrowers shall be required to own class B stock in an amount not less than 1 per centum of the face amount of the loan at the time the loan is made. Such borrowers may be required by the Bank to own additional class B or class C stock at the time the loan is made, but not to exceed an amount equal to 10 per centum of the face amount of the loan, or from time to time, as the Bank may determine. Such additional stock ownership requirements may be on the basis of the face amount of the loan, the outstanding balances, or on a percentage of interest payable during any year or any quarter thereof, as the Bank may determine will provide adequate capital for the operation of the Bank and equitable ownership thereof among borrowers.

(e) Class C stock shall be available for purchase and shall be held only by borrowers or by organizations eligible to borrow under section 105 of this Act or by organizations controlled by such borrowers, and shall be entitled to dividends in the manner specified in the bylaws of the Bank. Such dividends shall be payable only from income, and, until all class A stock has been retired, the rate of such dividends shall not exceed the rate of the statutory dividend on class A stock.

(f) Nonvoting stock of other classifications and other priorities may be issued at the discretion of the Board, to other investors, except that so long as any class A stock is outstanding, the Board shall not authorize or issue any class of stock, whether voting or nonvoting, that would rank prior or equal to the class A stock as to dividends or upon liquidation or dissolution.

(g) (1) The bylaws of the Bank may provide for more than one vote on the basis of—

(A) the amount of class B stock, class C stock, or both classes held, with such limitations as will encourage investments in class C stock;

(B) the amount of patronage of the Bank; and

(C) number of members in the cooperative.

(2) Such bylaws shall avoid—

(A) voting control of the Bank from becoming concentrated with the larger affluent or smaller less affluent organizations;

(B) a disproportionately larger vote in one or more of the groups of cooperatives referred to in section 103(c) of this Act; and

(C) the concentration of more than 5 per centum of the total voting control in any one class B or class C stockholder.

(h) The Bank may accept nonreturnable capital contributions on which no interest, dividend, or patronage refund shall be payable from associations, foundations, or funds or public bodies or agencies at the discretion of the Board. For the purpose of accepting such contributions, the Bank will be a governmental unit within the meaning of section 170(b)(1)(A)(v) of the Internal Revenue Code of 1954.

(i) After payment of all operating expenses of the Bank, including interest on its obligations, and after setting aside appropriate funds for reserves for losses, for cumulative dividends on class A stock and dividends on class C stock and for any redemption of class A stock in accordance with subsection (c), the Bank shall annually set aside the remaining earnings of the Bank for patronage refunds in the form of class B or C stock or allocated surplus in accordance with the bylaws of the Bank. After ten years from the date of issue of any such stock, or at such earlier time as all the Government-held stock is retired, patronage refunds may be made in cash, or partly in stock and partly in cash.

ELIGIBILITY

SEC. 105. (a) For the purpose of all titles of this Act, subject to the limitations of subsection (d) of this section, an eligible cooperative is an organization chartered or operated on a cooperative, not-for-profit basis for producing or furnishing goods, services or facilities, primarily for the benefit of its members or voting stockholders who are ultimate consumers of such goods, services, or facilities, or a legally chartered entity entirely owned and controlled by any such organization or organizations, if it—

(1) makes such goods, services or facilities directly or indirectly available to its members or voting stockholders on a not-for-profit basis;

(2) does not pay dividends on voting stock or membership capital in excess of such percentage per annum as may be approved under the bylaws of the Bank;

(3) provides that its net savings shall be allocated or distributed to all members or patrons, in proportion to their patronage, or shall be retained for the actual or potential expansion of its services or the reduction of its charges to the patrons, or for such other purposes as may be authorized by its membership not inconsistent with its purposes;

(4) makes membership available on a voluntary basis, without any social, political, racial, or religious discrimination and without any discrimination on the basis of age, sex, or marital status, to all persons who can make use of its services and are willing to accept the responsibilities of membership, subject only to limitations under applicable Federal or State laws or regulations;

(5) in the case of primary cooperative organizations restricts its voting control to members or voting stockholders on a one vote per person basis and takes positive steps to insure economic democracy and maximum participation by members of the cooperative including the holding of annual meetings and, in the case of organizations owned by groups of cooperatives, provides positive protections to insure economic democracy; and

(6) is not a credit union, mutual savings bank or mutual savings and loan association.

(b) No organization shall be ineligible because it produces, markets, or furnishes goods, services, or facilities on behalf of its members as primary producers, unless the dollar volume of loans made by the Bank to such organizations exceeds 10 per centum of the gross assets of the Bank.

(c) As used in this section, the term "net savings" means, for any period, the borrower's gross receipts, less the operating and other expenses deductible therefrom in accordance with generally accepted accounting principles, including, without limitation, contributions to allowable reserves, and after deducting the amounts of any dividends on its capital stock or other membership capital payable during, or within forty-five days after, the close of such period.

(d) An eligible cooperative which also has been determined to be eligible for credit assistance from the Rural Electrification Administration, the National Rural Utilities Cooperative Finance Corporation, the Rural Telephone Bank, the Banks for Cooperatives or other institutions of the Farm Credit System, or the Farmers Home Administration may receive the assistance authorized by this Act only (1) if the Bank determines that a request for assistance from any such source or sources has been rejected or denied solely because of the unavailability of funds from such source or sources, or (2) by agreement between the Bank and the agency or agencies involved.

(e) Notwithstanding any other provision of this section, a credit union serving predominantly low-income members (as defined by the Administrator of the National Credit Union Administration) may receive technical assistance under title II.

ANNUAL MEETING

SEC. 106. The Bank shall hold an annual meeting of its stockholders which shall be open to the public. At least 30 days' advance notice of the time and place of the annual meeting shall be given to all stockholders. Borrowers from the Bank shall also give notice of the meeting to their members, who shall be entitled to attend. At such meeting the Bank shall give a full report of its activities during the year and its financial condition and may present proposals for future action and other matters of general concern to borrowers and organizations eligible to borrow from the Bank. Members and representatives of borrowers may present motions or resolutions relating to matters within the scope of this Act and may participate in the discussion thereof and other matters on the agenda.

BORROWING AUTHORITY

SEC. 107. (a) The Bank is authorized to obtain funds through the public or private sale of its bonds, debentures, notes, and other evidences of indebtedness. Such obligations shall be issued at such times, bear interest at such rates, and contain such terms and conditions as the Board shall determine after consultation with the Secretary of the Treasury: *Provided, however*, That the amount of such obligations which may be outstanding at any one time pursuant to this section shall not exceed five times the paid-in capital and surplus of the Bank.

(b) The Bank is also authorized, but not required, and only so long as any of its class A stock is held by the Secretary of the Treasury, to issue its obligations to the Secretary of the Treasury, in amounts not to exceed in the aggregate such amounts as are provided in appropriations Acts and the Secretary of the Treasury may in his discretion purchase any such obligations. Each purchase of obligations of the Bank under this subsection shall be upon such terms and conditions as to yield a rate of return not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine any of the obligations of the Bank acquired by him under this subsection.

(c) The Bank may purchase its own obligations, and may provide for the sale of any such obligations through a fiscal agent or agents, by negotiation, offer, bid, syndicate sale, or otherwise, and may deliver such obligations by book entry, wire transfer, or such other means as may be appropriate.

(d) Obligations issued under this section shall not be guaranteed by the United States and shall not constitute a debt or obligation of the United States or any agency or instrumentality thereof other than the Bank.

LENDING POWERS

SEC. 108. (a) The Bank may make loans and commitments for loans under this subsection to any organization determined by the Bank to be eligible under the provisions of section 105 of this Act, and may purchase or discount obligations of members of such organizations if the Bank, to the exclusion of all other persons, entities, agencies, or jurisdictions, also determines that the applicant has or will have a sound organizational and financial structure, income in excess of its operating costs and assets in excess of its obligations, and a reasonable expectation of a

continuing demand for its production, goods, commodities, or services, or the use of its facilities, so that the loan will be fully repayable in accordance with its terms and conditions Commencing on October 1, 1983, the Bank shall not make any loan to a cooperative for the purpose of financing the construction, ownership, acquisition, or improvement of any structure used primarily for residential purposes if, after giving effect to such loan, the aggregate amount of all loans outstanding for such purpose would exceed 30 per centum of the gross assets of the Bank. The Board of Directors shall use its best efforts to insure that at the end of each fiscal year of the Bank at least 35 per centum of its outstanding loans are to—

(1) cooperatives at least a majority of the members of which are low-income persons, and

(2) other cooperatives, if the proceeds of such loans are directly applied to finance a facility, activity, or service that the Board finds will be used predominantly by low-income persons.

The Board shall adopt and publish in the Federal Register rules defining the term "low-income persons" for purposes of this subsection. The criteria to be applied and the factors to be considered by the Bank in making loans, loan commitments, purchases, discounts, and guarantees shall include an assessment of the impact of the loan on existing small businesses in the eligible organizations' business territory. The criteria and factors shall be stated in rules of the Bank which shall be published and made available to applicants and, upon request, to any other person or organization.

(b) Loans under this section shall be repayable in not more than forty years and, except for loans with final due date not longer than five years from the date of the loan, shall be amortized as to principal and interest. In setting the terms, rates, and charges, it shall be the objective of the Bank to provide the type of credit needed by eligible borrowers, at the lowest reasonable cost on a sound business basis, taking into account the cost of money to the Bank, necessary reserve and expenses of the Bank, and the technical and other assistance attributable to loans under this section made available by the Bank, but so long as the Bank makes loans from the proceeds of the sale of class A stock, the interest rate shall not be less than the rates generally prevailing in the area from other sources for loans for similar purposes and maturities, taking into consideration the cost to the borrower of required purchase of class B stock in the Bank. The loan terms may provide for interest rates to vary from time to time during the repayment period of the loan in accordance with the rates being charged by the Bank for new loans at such times. The proceeds of a loan under this subsection may be advanced by the borrower to its members or stockholders under circumstances described in the bylaws or rules of the Bank.

(c) Subject to section 102(13), the Bank may guarantee all or any part of the principal and interest of any loan made by any State or federally chartered lending institution to any borrower if such loan is to an organization that would be an eligible borrower from the Bank for a direct loan and is on terms and conditions (including the rate of interest) which would be permissible terms and conditions for such a direct loan. The Bank may impose a charge for any such guarantee. No loan may be guaranteed by the Bank if the income therefrom to the lender is excluded from such lender's gross income for purposes of chapter 1 of the Internal Revenue Code of 1954.

(d) Any loan guaranteed under subsection (c) shall be assignable to the extent provided in the contract of guarantee as may be determined by the Bank. The guarantee shall be uncontestable, except for fraud or misrepresentation of which the holder had actual knowledge at the time he acquired the loan. The Bank in lieu of requiring such lender to service such guaranteed loan until final maturity or liquidation, may purchase the loan for the balance of the principal and accrued interest thereon without penalty, if it determines that (1) the liquidation of the loan would result in the insolvency of the borrower or deprive the borrower of assets essential to its continued operation, and (2) the loan will be repayable with revision of the loan rates, terms, or payment periods or other conditions not inconsistent with loans made by the Bank under subsection (a) of this section, which revisions the lender or other holder of such guaranteed loan is unwilling to make.

(e) As long as any of the class A stock of the Bank is held by the Secretary of the Treasury, the aggregate amount of commitments by the Bank to make or guarantee loans shall not exceed such amounts as may be specified in annual appropriation Acts.

TAXATION

SEC. 109. Until the Final Government Equity Redemption Date, but not thereafter, the Bank, including its franchise, capital, reserves, surplus, mortgages, or other security holdings and income shall be exempt from taxation now or hereafter imposed by any State, county, municipality, or local taxing authority, but any real property held by the Bank shall be subject to any State, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

QUARTERS AND SPACE

SEC. 110. Until the Final Government Equity Redemption Date, space for the principal office and any branch offices of the Bank shall be provided by the General Services Administration. Thereafter, the Bank may lease, construct, or own quarters and provide for the space requirements of its principal and other offices.

REPORTS TO CONGRESS

SEC. 111. The Board of the Bank shall report annually to the appropriate committees of the Congress on the Bank's capital, operations, and financial condition and make recommendations for legislation needed to improve its services.

AUTHORIZATION

SEC. 112. In addition to appropriations specifically authorized in this Act, there are authorized to be appropriated $2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, ending September 30, 1980, and September 30, 1981, such sums as may be necessary: *Provided*, That none of these appropriated sums shall be used to retire any indebtedness of the Bank incurred pursuant to section 107 of this Act. Any sums so appropriated shall remain available until expended.

APPEALS

SEC. 113. (a) If an application for assistance under this Act is denied in whole or in part, the applicant shall be informed within thirty days in writing of the reasons for the denial or restriction.

(b) Any applicant for assistance under this Act receiving notice of denial or restriction of the application may, within thirty days of receipt of such notice, request the Board of Directors to review the application and notice of denial or restriction for a determination of whether the action of the Bank was correctly within the terms of the Act, the regulations, and the policy of the Board. The Board shall consider the request for review at its next meeting and promptly inform the applicant of its determination and the reasons therefor.

CONFLICT OF INTEREST

SEC. 114. The Board of Directors shall adopt and publish its own conflict of interest rules which shall be no less stringent in effect than the Federal Executive conflict of interest rules contained in Executive Order Numbered 11222 in prohibiting participation or action or the use of inside information for personal advantage on any matter involving a corporation, trust, partnership, or cooperative organization in which a board member, officer, or employee holds a substantial financial interest or holds a position as board member or senior officer, the activities of which organization might be relevant to, be competitive with, or be inconsistent with the objectives of any bank created under this Act. These rules shall require—

(1) each nominee for elected membership on the Board established under this Act to make public and file with the election official before the date of election a statement of his financial interest and position, if any, in such organizations; and

(2) each senior executive officer and appointed member of the Board to file with the appointing officer, before entering that office a statement of his financial interest and position, if any, in such organizations, which shall be available for inspection upon request.

The provision of this section shall remain in effect until the Final Government Equity Redemption Date.

EXAMINATION AND AUDIT

SEC. 115. Until the stock of the Bank held by the United States has been fully retired, the operations of the Bank shall be examined annually under the direction of an agency or instrumentality of the Federal Government designated by the President, including the General Accounting Office, and reports of such examination shall be forwarded to the Congress. The President shall, no later than the date that 66⅔ per centum of the class A stock is held by others than the Secretary of the Treasury, establish an Office of Supervision and Audit which shall be responsible for audits and examinations of the Bank, shall assure that the objectives of this title are carried out, and shall review and comment on the bylaws of the Bank and the general policies of the Bank and shall make an annual report to the Congress.

TITLE II—OFFICE OF SELF-HELP DEVELOPMENT AND TECHNICAL ASSISTANCE

ESTABLISHMENT

SEC. 201. (a) There is hereby established within the Bank an Office of Self-Help Development and Technical Assistance (hereinafter the "Office").

(b) The Office shall have a Director who shall be appointed by the President, with the advice and consent of the Senate, and who shall not be a member of the Board. Subject to review by the Board, the Director shall promulgate and publish in the Federal Register policies and procedures governing the operation of the Office.

AUTHORIZATION

SEC. 202. There are hereby authorized to be appropriated to the Office $10,000,000 for the fiscal year ending September 30, 1979, and for the next two succeeding fiscal years an aggregate amount not to exceed $65,000,000, for the purpose of making advances under section 203 of this Act. Any amounts appropriated to the Office shall be deposited by the Office in a separate account in the Bank (hereinafter the "Account"), and shall remain available until expended. Repayments of capital investment advances made pursuant to section 203(a) and interest supplement advances made pursuant to section 203(b) and payments of interest thereon pursuant to section 203(c), shall also be deposited in the Account. No other funds of the Bank shall be transferred into the

Account. The Account shall be used by the Office only as authorized in section 203.

CAPITAL INVESTMENTS AND INTEREST SUPPLEMENTS

SEC. 203. (a) The Office may make a capital investment advance out of the Account to any eligible cooperative, either in conjunction with or without a loan if the Office determines that—

(1)(A) the applicant's initial or supplemental capital requirements exceeds its ability to obtain such capital through a loan under section 108 or from other sources; or

(B) the membership of the applicant is, or will consist, substantially of low-income persons, as defined by the Board of Directors, or the applicant proposes to undertake to provide specialized goods, services, or facilities to serve their needs; and

(2) the applicant cannot obtain sufficient funds through a loan under section 108 or otherwise, and the applicant presents a plan which the Office determines will permit the replacement of a capital investment advance out of member equities within a period not to exceed thirty years.

(b) The Office may make advances out of the Account to pay all or part of the interest payable to the Bank or any other lender by an eligible cooperative applicant which the Office determines cannot pay a market rate of interest because it sells goods or services to, or provides facilities for the use of, persons of low income: *Provided,* That such advances will not exceed an amount equal to 4 per centum of the principal amount of the indebtedness of such applicant to the Bank or such other lender for any year in which the net income of the cooperative is insufficient to meet scheduled interest payments.

(c) Capital investment advances made by the Office pursuant to subsection (a) and interest supplement advances made by the Office pursuant to subsection (b) shall bear interest at a rate determined by the Board of Directors of the Bank, and the Board of Directors may authorize an interest rate applicable to such advances lower than the rate applicable to loans by the Bank pursuant to section 108.

ORGANIZATIONAL ASSISTANCE

SEC. 204. The Office shall make available information and services concerning the organization, financing, and management of cooperatives to best achieve the objectives of this Act and to best provide the means through which various types of goods, services, and facilities can be made available to members and patrons. The Office may enter into agreements with other agencies of Federal, State, and local governments, colleges and universities, foundations, or other organizations for the development and dissemination of such information, and services described in this title. The Office may make or accept grants or transfer of funds for such purposes.

INVESTIGATION AND REVENUES

SEC. 205. The Office may undertake investigations of new types of services which can more effectively be provided through cooperative not-for-profit organizations and make surveys of areas where the increased use of such organizations will contribute to the economic well-being of the community.

FINANCIAL ANALYSIS AND MARKET SURVEYS

SEC. 206. The Office may, at the request of any eligible cooperative, provide a financial analysis of the applicant's capital structure and needs and its cost of operations, survey the market for the goods or services the cooperative makes or desires to make available to its members or patrons or the users of its facilities.

DIRECTOR AND MANAGEMENT TRAINING AND ASSISTANCE

SEC. 207. The Office shall develop and make available, alone or in concert with other organizations, a program for training directors and staff of eligible cooperatives to improve their understanding of their responsibilities; the problems of and solutions for effective and efficient operation of their organizations or of cooperatives in general; and may by any means it deems appropriate, conduct membership studies, provide membership education programs, and programs for informing consumers and the general public of the advantages of cooperative action. Management supervision, review, and consultations shall be available from the Office to any eligible cooperative.

GOVERNMENT ASSISTANCE PROGRAMS

SEC. 208. The Office shall work closely with all United States Government agencies offering programs for which consumer cooperatives may be eligible to assure that information concerning all such programs is made available to eligible cooperatives.

AUTHORIZATION

SEC. 209. There are authorized to be appropriated to the Office $2,000,000 for the fiscal year ending September 30, 1979, and for each of the two succeeding fiscal years, such sums as may be necessary for the administration of this title. Any sums so appropriated shall remain available until expended.

FEES FOR SERVICES

SEC. 210. The Office may make the technical assistance services under this title available for such fees as it may establish, except that such services as the Office may determine may be made available without charge to eligible cooperatives depending on the nature of the services or on ability to pay. Any fees collected shall be accounted for separately and be available for expenses of the Office.

TITLE III—GENERAL PROVISIONS

AMENDMENTS TO EXISTING LAW

SEC. 301. (a) Section 201 of the Government Corporation Control Act (31 U.S.C. 856) is amended by redesignating paragraph (6) the second time it appears therein as paragraph (7), by striking out "and" immediately before "(9)" and by inserting ", and (10) the National Consumer Cooperative Bank" immediately before the period at the end thereof.

(b) Section 302 of the Government Corporation Control Act (31 U.S.C. 867) is amended by striking out "or" before "the Federal Land Banks" and inserting immediately after "the Federal Land Banks," the following: "or the National Consumer Cooperative Bank,".

(c) The second sentence of subsection (d) of section 303 of the Government Corporation Control Act (31 U.S.C. 868(d)) is amended by inserting "National Consumer Cooperative Bank," immediately before "Rural Telephone Bank".

SEC. 302. Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"(122) President, National Consumer Cooperative Bank.

"(123) Director, Office of Self-Help Development and Technical Assistance, National Consumer Cooperative Bank.".

The ACTING PRESIDENT pro tempore. The time for debate on this bill is limited to 2 hours, equally divided and controlled by the Senator from New Hampshire (Mr. MCINTYRE) and the Senator from Texas (Mr. TOWER), with 1 hour on any amendment in the first degree, except one to be offered by the Senator from Texas (Mr. TOWER) on which there shall be 2 hours, and with 30 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Mr. MCINTYRE. Mr. President, I ask unanimous consent that during the consideration of this bill the following staff members be granted privilege of the floor: William Weber, Tony Cluff, Ken McLean, Jerry Buchley, Lindy Marinaccio, Rob Tacklin, Howard Menell, Carolyn Jordan, Gary Welsh, Ed Engstrom, Ethan Siegel, Stu Simms, T. J. Oden, Bob Kabel, Steven Beck, and Ken Pierce of Senator LEAHY's staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCINTYRE. Mr. President, I am pleased that the Senate is today considering H.R. 2777, the National Consumer Cooperative Bank Act.

I originally introduced S. 1010, a companion bill to H.R. 2777, and was joined by 35 cosponsors. The bill reported by the Banking, Housing and Urban Affairs Committee and before the Senate today is in the nature of a substitute to H.R. 2777, which passed the House of Representatives on July 14 of last year.

President Carter, following an old bipartisan tradition of encouraging people to solve their own problems through cooperatives dating back to Teddy Roosevelt, has endorsed this legislation.

One reason this legislation has gained wide bipartisan support is that it is very much in tune with the times. It has great potential for saving consumers money—something we all want. Many Members of Congress believe history will point to this act as landmark legislation, just as they do to the act establishing the 60-year-old, highly successful cooperative Farm Credit System, after which this legislation is patterned. Similarly, the Federal Home Loan Bank System, the Federal Deposit Insurance Corporation, the Federal National Mortgage Association, and the Federal Savings and Loan Insurance Corporation, have all borrowed many of their successful features from the Farm Credit System.

This bank will provide a source of much-needed sound loans and technical assistance for groups of people in rural, urban, and suburban America who want to help themselves through consumer cooperatives rather than continually turning to Government for costly new programs and more costly Government regulations.

This bank will be financing organizations that are dedicated not only to serve the real needs and wants of their members, but also to obtain goods, services, and facilities at the lowest reasonable cost by finding every feasible way to cut expenses. That in itself is anti-inflationary—something we need a "lot more of."

Some groups want full service but better quality goods and services. Others are willing to do some of the work themselves and want to dispense with many of today's "frills" in merchandising. All types can use or form cooperatives.

Farmer cooperatives—those marketing farm products, those providing farm supplies, business, rural electric, telephone and financing services—have played an important role in helping American farmers become the most efficient in the world. Similarly, there are many examples of cooperatives which have been effective in helping consumers provide for their needs in such fields as housing, health care, and consumer

goods and other services. However, hearings before the Subcommittee on Financial Institutions amply demonstrated that many attempts by consumers to organize and operate cooperatives have failed, and the growth of those who have succeeded has been greatly slowed or hampered by the lack of an understanding source of sound credit and technical assistance, both of which have long been available to farmer cooperatives and other small businesses.

Farmers have long had the services provided by the cooperative Farm Credit System, Rural Electrification Administration, and Farmer Cooperative Service. Other small businesses have had similar services from the Small Business Administration. H.R. 2777 would fill the existing gap in comparable assistance for consumer cooperatives.

This bill is not a Government handout or subsidized Government loan program. It calls for a $300 million repayable investment in seed capital stock in the bank over a 5-year period. Cooperatives will replace this capital by buying stock as they borrow. The bank will obtain most of its loan funds from market investors without any Government guarantee. Sound loans will be made at market interest rates. A separate self-help development fund will be used to provide repayable equity capital to co-ops serving low-income consumers. The bill also provides for a highly important technical assistance function.

This bill will be particularly helpful in making it possible for low-income consumers in deteriorating rural and urban areas to solve many of their own problems. However, the need for a source of credit is general among all types of consumer cooperatives because most traditional commercial lenders do not understand the structure of cooperatives or the importance of the commitment of their members. From the standpoint of the success of the bank, it is also important that it have a good mix of business from well-established cooperatives, as well as newer ones.

Questions have been raised concerning the need for this National Consumer Cooperative Bank. The Senate and House hearings over the past 3 years have filled hundreds of pages with testimony as to the need for a bank for consumer cooperatives, testimony from representatives of farm and consumer cooperatives, consumer, senior citizen, labor and religious organizations, plus Members of the Senate and House. Numerous National, State, and local organizations have endorsed this legislation.

In 1933 when the farmers' banks for cooperatives were established, there was a long history of conventional lenders refusing to make loans to cooperatives. They usually said they only turned down loan applications from cooperatives only because of their weak financial condition—just as many bankers say today about consumer cooperatives.

Fortunately, today we do not need a pilot study to find out if a bank that is eventually owned by cooperatives will work. The Farm Credit System's Banks for Cooperatives provide us with a highly successful 45-year demonstration. Those banks' loss ratio is one-tenth of 1 percent, compared to the Small Business Administration's default rate of 6.5 percent on business loans. That demonstrates the difference between a Government loan program in which some borrowers do not worry about paying back the Government and a bank that is eventually to be owned by its users.

After the farmers' Banks for Cooperatives proved cooperatives were actually good risks, the more progressive commercial banks became interested in their loans. However, that was not universally the case. For example, the president of a large Florida city bank, after the Banks for Cooperatives had been in operation 20 years, looked over the loan portfolio of the Columbia Bank for Cooperatives and said he would not even consider more than one or two of its loans. It is interesting to note that the loan ratio of the Columbia Bank for Cooperatives was considerably lower than the business loan loss ratio for the Florida bank. The bank president just did not understand the strengths cooperatives have that may not always show on their financial statements.

The case today is much the same with consumer cooperatives. For example, it has been cited that the Puget Sound Group Health Cooperative was able to borrow from a commercial bank. That is true, now that it is providing prepaid health care to 200,000 people. But what is overlooked is that the original members of this cooperative had to mortgage their homes to get it started, that only after this cooperative had become a potent force in the community after 20 years of operation was it able to find a bank that would provide financing.

On the east coast, just in the last year, a long-established, large consumer cooperative located in a metropolitan area of over a million population finally found an adequate, reasonably priced, source of credit by going to a bank more than 100 miles away.

The need for this bill, Mr. President, has been largely demonstrated. The bill establishes two separate, but related entities—the National Consumer Cooperative Bank and, within the bank, the Office of Self-Help Development and Technical Assistance.

The bank is established as a mixed ownership Government corporation similar to the Bank of Cooperatives in the Farm Credit System to make and guarantee sound business loans to eligible consumer cooperatives.

The Office of Self-Help Development and Technical Assistance will provide technical assistance to consumer cooperatives, direct cooperatives to other programs of assistance for which they may be eligible and inform the public about consumer cooperatives. The Office will also administer the self-help development fund to enable fledgling and low-income consumer cooperatives to become eligible to borrow from the bank, primarily by making capital advances to such cooperatives and by providing interest subsidies on loans from the bank.

FINANCING THE BANK AND THE OFFICE OF SELF-HELP DEVELOPMENT

As with similar mixed ownership Government corporations, the bank will have capital base and market borrowing authority to provide funds for loans to consumer cooperatives.

While Government is to provide the initial capital in the bank, Government capital will eventually be retired by accumulated private capital invested by borrowers plus bank earnings. At that point, the final Government equity redemption date, the bank will become an entirely privately owned financial institution, with one Presidentially appointed member of the board of directors.

With respect to Government investment, the bill directs the Secretary of the Treasury to purchase class A stock and for that purpose there is authorized to be appropriated $100 million in fiscal year 1979 and up to $200 million for the succeeding 4 fiscal years.

The bill is designed to provide the Treasury with a fair return on its capital investment in the bank, to protect its investment, and to return such investment as quickly as practicable consistent with the flexibility needed to permit the bank to grow while meeting the demand for its services.

Most of the bank's lending funds will be obtained by selling securities to investors in the capital market. The total amounts may not exceed five times its paid-in capital and surplus and all issues of securities will only be made after consultation with the Secretary of the Treasury.

For the Office of Self-Help Development and Technical Assistance, there is authorized to be appropriated $10 million in fiscal year 1979 and an additional $65 million for the succeeding 2 fiscal years.

In addition, there is authorized to be appropriated for administrative expenses of both the bank and the office $2 million each in fiscal year 1979 and for each of the succeeding 2 fiscal years "such sums as may be necessary."

OPERATING PROGRAMS

The bank may make or guarantee loans on a sound business basis, at prevailing interest rates with terms up to 40 years, to consumer cooperatives operated on a nonprofit basis. Financial institutions are ineligible except that credit unions serving low-income persons will be eligible for technical assistance. To the extent the bank makes loans from Government capital, the interest rates charged shall not be less than prevailing market rates on comparable loans.

The Office of Self-Help Development and Technical Assistance will provide capital advances and interest subsidies to new or low-income cooperatives and technical and research assistance. Technical assistance programs will include market feasibility studies, analysis of a cooperative's capital structure and financial needs, training of a cooperative's board members and staff, and management counseling.

The technical assistance and training programs to be made available to all consumer cooperatives under the bill are of vital importance to the success of coopertive organizations which, while they may have enthusiastic members, do not always have adequate managerial resources. Such programs should be particularly useful in inner city or rural

areas where citizens have witnessed the departure of many business concerns.

The bill provides that the technical assistance activities will be administered, along with the self-help development program, from within the bank, instead of within a new or an existing Government agency. The centralization of these functions will avoid unnecessary duplication and promote more efficient implementation of the underlying purposes of the legislation.

FEDERAL INVOLVEMENT IN THE BANK

In order to provide adequate Government oversight of the bank's financial condition and activities during the period of Federal investment in the bank's capital stock, the bank's loans, guarantees, borrowings from the Treasury, and authorizations during such investment period are subject to the Federal budgetary and appropriations process as long as Government owns any capital stock in the bank.

While the bank will be established with Government "seed" capital, it is expected that the bank will fully repay the Government's investment and become totally cooperative-owned by making sound business loans and by attracting capital from eligible borrower cooperatives and others. The combination of Government and private involvement is designed to allow the bank to achieve financial stability and private ownership in a reasonable period of time. The bank's ownership structure, modeled after the Farm Credit System, is preferable to establishing another Government bureaucracy.

RECONCILING PRIORITIES

During hearings on the bill, numerous individuals and groups testified or submitted statements for the record. Many witnesses expressed concerns about the impact of the legislation on small business. Others, such as the administration, supported the concept of the bill but, because of budgetary fears, recommended that the Federal investment be decreased. The administration and others also suggested that the functions of the bank and the Office of Self-Help Development and Technical Assistance be consolidated into one organization instead of being spread among different agencies.

The bill as reported is generally the House-passed version with modifications addressing these and other concerns and various additional recommendations by the administration.

As a result of its consideration of the bill, the committee:

Reduced the total authorizations for the bank from $500 million to $300 million and for the Office of Self-Help Development and Technical Assistance from $250 to $75 million.

Reduced the borrowing authority of the bank from 10 times to 5 times paid in capital and surplus.

Replaced the authority to establish 12 regional banks with the authority to establish regional offices.

Established loan targets to insure that the bank's loans are not overconcentrated in housing cooperatives or underrepresented in low-income areas.

Placed the self-help development and technical assistance programs in the bank, rather than putting them in new or existing Federal agencies.

Made additional technical changes suggested by the administration.

The committee considered a proposal for a pilot study and loan program to be administered by the Department of the Treasury. The administration at one time endorsed this proposal, but as Treasury Assistant Secretary Altman testified:

> Our basic conclusion is that a program of loans and technical assistance makes sense that such a program would be most effectively administered by an independent bank.

The committee believes that the need for the National Consumer Cooperative Bank has been well documented and that a pilot study is inadequate, inappropriate and would result in unwarranted delay in establishing an independent, specialized credit facility.

Finally, the bill provides that, in addition to consumer cooperatives, other self-help organizations which produce, market or furnish goods, services, or facilities on behalf of their members may receive assistance from the bank as long as the dollar volume of loans to them does not exceed 10 percent of the gross assets of the bank at any one time. The fundamental purpose of this provision is to permit access to such organizations as handicraft, Indian, and mixed membership consumer-farmer organizations, which would technically not otherwise be eligible as consumer cooperatives for assistance from the bank. This bill aims to close the gap in self-help organization financing.

Mr. President, after considering the issues and alternative solutions to problems presented, the bill as reported represents a well-balanced approach to providing credit to consumer cooperatives through limited Government involvement, with due consideration to the special concerns of low-income persons and of small businesses.

Mr. President, I reserve the remainder of my time.

Mr. TOWER. Mr. President, I yield myself such time as I may consume.

Mr. President, I am opposed to enactment of the National Consumer Cooperative Bank Act of 1978 (H.R. 2777) as reported by the Committee on Banking, Housing and Urban Affairs.

I hesitate to oppose it, lest my opposition to this bill be misinterpreted as an expression of hostility toward consumer cooperatives. Nothing could be farther from the truth, and I certainly would hope that nothing that I say or do in connection with this legislation will be construed to be anticonsumer cooperatives or anticonsumer. I recognize the valuable contribution which consumer cooperatives have made to their members and the important role which they play in our Nation's economy.

But, that is not the issue here. The real issue is whether or not we ought to authorize the use of hard-earned taxpayers' dollars to establish a multimillion-dollar lending facility for consumer cooperatives at this time.

In order to clarify my position on this matter, I wish to point out that I intend to offer an amendment to this bill, at the appropriate point in the debate, that would establish a pilot lending and technical assistance program for consumer cooperatives, along with a thorough and comprehensive study of the needs of consumer cooperatives by an interagency task force of the Federal Government.

I recognize that pilot programs and studies are often greeted with a great deal of skepticism by those who more boldly propose Government programs on a much grander scale. But, pilot programs and well-thought-out studies often serve a very useful purpose. I certainly believe this is the case in this instance. What I am offering to the Senate is a rare opportunity to test a program, and study a problem, before committing millions of taxpayers' dollars to be used in establishing a new Government agency.

The proponents of this bill, of course, feel they are taking a constructive step in helping consumer cooperatives by proposing the establishment of a National Bank for Consumer Cooperatives. And that may well be. It remains to be seen, however, and I happen to feel that the pilot program and study of consumer cooperatives, which I intend to propose in the form of a substitute amendment, is a reasonable and constructive step to take in meeting the needs of not only consumer cooperatives but the American taxpayer as well. I, therefore, must oppose this legislation in its present form.

There are a number of reasons why I am opposed to this legislation, and I intend to take a few moments at this point to state them for the record.

It would establish a new Government entity at a time when the American public is expecting, and even demanding, greater economy in Government and a reduction in its influence and scope. The establishment of a National Bank for Consumer Cooperatives is completely out of step with the character of the times and the mood of the country. It reflects the outdated thinking of a bygone era when a seemingly easy solution for meeting the needs of a specialized segment of our economy was to create a new Government agency.

If we have learned anything in the last several years, it should have been that Government cannot be all things to all people. Yet, here we are again considering the establishment of another Government agency as an easy solution to a complex problem. In my opinion, it would be preferable to test the feasibility of making loans to consumer cooperatives, and using that experience to design a solution to the problem, before establishing a new Government entity to do so.

It would commit millions of hard-earned taxpayers dollars to establish a specialized lending facility for consumer cooperatives. Under this bill, the American taxpayer would be called on to finance the $300 million in seed capital needed to create the bank. In addition, the taxpayer would be required to finance another $75 million to establish

a self-help development fund to make loans to cooperatives at below-market rates. In addition, the Treasury is authorized to purchase obligations issued by the bank, adding another yet undetermined commitment of taxpayers' dollars to finance the bank's operations. This is inconsistent with efforts to reduce Federal spending and is particularly out of place at a time when the Federal deficit looms so large.

Loans from the bank would place small taxpaying businesses at a competitive disadvantage. Consumer cooperatives do not have to pay Federal income taxes on refunds paid to their customers. Obviously, it is to their advantage to make such refunds, since the customers of a cooperative are the members of the cooperative. Small businesses do not enjoy this advantage, unless they want to go broke making refunds to their customers. As one witness before the Financial Institutions Subcommittee noted:

> While small businesses are busy trying to earn enough money to support themselves, create jobs, and help finance the United States Government, cooperatives can reap the benefits of the marketplace without having to shoulder their fair share of the burden.

It is particularly ironic that the Federal Government is even considering the establishment of a national bank to make loans and grants to consumer cooperatives so that those same cooperatives can compete with the small businesses that provided the taxes to establish the bank.

The need for a specialized lending facility for consumer cooperatives has not been clearly established. Proponents of this bill have argued that the bank is needed because consumer cooperatives are unable to obtain financing from private sources. However, there are cooperatives that have been able to obtain financing from banks at reasonable terms, and there is every indication that many more would be able to if they had access to technical assistance in establishing accepted accounting practices and managerial techniques. The absence of technical assistance has undoubtedly prevented consumer cooperatives from obtaining the credit they need from private sources. If that is the case, and I certainly believe it is, it would be more appropriate to provide technical assistance to consumer cooperatives than it would be to establish a multimillion-dollar lending facility at the taxpayers' expense.

The bill is so loosely constructed that it could result in the use of taxpayers' dollars to assist persons who really do not need any assistance. Under the provisions of this bill, the bank could make loans to any organization chartered or operated on a cooperative, nonprofit basis, providing certain criteria are met. Those criteria are so open ended that the bank could make loans to cooperatives that service individuals with above-average incomes. While the bill does require that one-third of the bank's loans be made to cooperatives comprised of members with low incomes, the other two-thirds of the bank's resources could go to persons with high incomes. I do not believe this is what the proponents of this legislation intended, but it remains a real possibility. I do not believe this is a wise or appropriate use of the taxpayers' dollars.

I believe that it would be preferable to conduct a pilot lending and technical assistance program, on a reasonable scale, before proceeding to establish a new Government entity at the taxpayers' expense. In view of this, I must oppose this bill as now drafted.

Mr. BROOKE. Mr. President, today the Senate takes up H.R. 2777, the National Consumer Cooperative Bank Act.

As a cosponsor of this bill, I have worked in committee along with the distinguished chairman of our Subcommittee on Financial Institutions, Senator MCINTYRE, to secure its passage in committee. And I want to take this opportunity on behalf of the cooperative movement to thank the Senator from New Hampshire for his superlative leadership on this bill.

The Banking Committee held several days of hearings on consumer cooperative bank bills during the past few years and, based on the testimony of and evidence presented by witnesses about the difficulties cooperatives have experienced in obtaining loans, I believe that the case has been made for a Government-assisted credit facility such as the Cooperative Bank. And I believe that the Cooperative Bank, to be established with seed capital provided by the Federal Government, will be able to assist its eligible borrowers just as the farm credit system and the Small Business Administration have helped farmers and small businessmen to achieve financial stability and independence. Moreover, since the Federal Government's investment in the Cooperative Bank will be repaid as cooperatives purchase the bank's stock, the Government's involvement in the bank should not be long term.

The bill reported from our Banking Committee provides for a Cooperative Bank which will make market rate loans to cooperative organizations, issue debt obligations to the public to raise funds, provide capital financing and interest subsidy aid to low-income cooperatives through a self-help development fund, and assist cooperatives to gain administrative and managerial expertise through a technical assistance program. The Federal seed capital invested in the Cooperative Bank over a 5-year period would be $300 million, in the form of cumulative preferred stock.

As I have indicated, this capital investment would be paid back to the Federal Government as cooperative organizations which receive or are eligible to receive loans from the Cooperative Bank invest in the bank's common stock. Management of the Cooperative Bank would be directed by a 13-member board of directors, to be appointed initially by the President from among Government agencies and the general public and to be replaced by directors elected by the borrower cooperatives as the aggregate capital investments of cooperative groups in the Cooperative Bank increases.

The Cooperative Bank is directed to make loans to cooperatives at market rates of interest and, in order to be assured that the loan will be repaid, only to cooperatives which have or will have a sound financial structure and a continuing demand for their goods or services. In addition, the bank's Office of Self-Help Development and Technical Assistance, with $75 million in Federal funds, would provide capital investment advances and interest subsidies to low-income cooperatives whose members cannot contribute enough financial support to capitalize properly their cooperatives. The advances made by the Self-Help Office would bear interest and would be repaid as the relevant cooperative achieves financial stability. This office would also provide technical assistance to all cooperatives so that they might establish or increase their level of administrative sophistication. This program is very important to the success of cooperatives which, while having no lack of interest or enthusiasm among their members, need members with financial and administrative training and experience to assure the cooperatives' sustained vitality.

The bill reported by our Banking Committee provides a lower level of Federal funding for the Cooperative Bank than the level included in the House-passed bill or in the original Senate bill. While the amount of Federal funding is lower, I believe that it would allow the Cooperative Bank to achieve stability, serve the credit needs of its borrowers, and provide adequate training and technical assistance to cooperatives. The bill as reported differs from the House-passed bill in certain other respects. For example, the committee bill sets no time limit on the existence of the Cooperative Bank, whereas the House bill sets a 5-year limit, and the committee bill provides that handcraft cooperatives are covered, which the House bill did not clearly specify. However, both bills generally conform to the same purpose and scope.

With over thirty sponsors in the Senate, nine of whom are members of the Banking Committee, the Cooperative Bank bill has broad support. However, one concern that many Senators have is the impact of the Cooperative Bank on small businesses. A principal concern is that the Federal Government, by providing seed capital to the Cooperative Bank, is providing cooperatives with subsidized loans at the same time that income of cooperatives is virtually free from Federal taxation; whereas small businesses competing with such cooperatives have no such advantages. As a means of insuring that the interests of small businesses are protected, the Cooperative Bank bill requires that the Cooperative Bank, before it makes a loan, must assess the impact of each prospective loan on small businesses in the relevant market area. In addition, the committee voted to amend the House-passed bill in order to provide that a small business representative be appointed as one of the directors of the Cooperative Bank. I believe the loan criteria and small business director provisions are appropriate safeguards for small businesses and that they will help insure that the Cooperative Bank, in

assisting cooperative organizations, also takes into account the value of small businesses in serving consumer needs.

I can assure my colleagues that this bill was thoroughly considered in committee, and I hope that any weakening amendments offered on the floor will be rejected. This is a sound bill and I hope my colleagues will support it.

AMENDMENT NO. 3086

(Purpose: To provide for a pilot lending and technical assistance program for consumer cooperatives)

Mr. TOWER. Mr. President, to get it before the Senate, I call up my amendment No. 3086 in the nature of a substitute and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) for himself, Mr. PROXMIRE, Mr. GARN, and Mr. LUGAR proposes an amendment No. 3086.

Mr. TOWER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

"That Congress finds that user-owned cooperatives can contribute to an improved standard of living for their members and patrons. Congress also finds that consumer and other types of self-help cooperatives may have been hampered in their formation and growth by lack of access to adequate cooperatives credit facilities and lack of technical assistance. Therefore, Congress finds the need for the establishment of an Interagency Task Force on Cooperatives and of a pilot loan and technical assistance program for the purpose of determining the need for assistance for consumer cooperatives, and if such need is demonstrated, the most effective and appropriate means for structuring such assistance.

"SEC. 2. (a) The President is hereby authorized to create a temporary Interagency Task Force on Cooperatives, composed of officials of executive branch agencies.

"(b) The Task Force is directed to carry out a comprehensive study of the relationship of cooperatives to the economy and to ongoing Federal programs. Two years after the effective date of this Act, the Task Force shall submit to the President, for subsequent transmittal to Congress, a report of its findings and recommendations including a discussion of the following issues:

"(1) The report shall address the aggregate demand for financial assistance of cooperatives and the specific needs of cooperatives on an industry-by-industry basis;

"(2) The report shall address the relationship between cooperatives and the Federal Government, including, among other things, how cooperatives are affected by Federal agencies administering tax and antitrust programs, and citing specific financing needs of cooperatives that Government programs are directed to;

"(3) The report shall address how needs of cooperatives are currently being met by conventional private credit sources and such factors as exist that may make it difficult for cooperatives to obtain conventional credit;

"(4) The report shall address the effect which loans from a consumer cooperative bank would have on competition between consumer cooperatives and small, tax-paying, business firms; and

"(5) The report shall make specific recommendations on what additional Federal programs are necessary or appropriate to meet the needs of cooperatives, including the need for, feasibility and cost effectiveness of a consumer cooperative bank established as a permanent Government corporation. With respect to its recommendations concerning such bank, the report shall address experience under the program authorized by section 3 of this Act.

"(c) The Task Force is further directed to render any necessary technical assistance to the head of the agency which administers the program authorized by section 3.

"(d) The Task Force will expire after submission of its report to the President.

"SEC. 3. (a) There is hereby authorized to be conducted a pilot loan and technical assistance program for cooperatives in order to demonstrate the demand for and cost effectiveness of the concept of a consumer cooperative bank or other permanent Federal program in aid of cooperatives. The pilot loan and technical assistance program shall terminate two years after the effective date of this Act.

"(b) The President shall determine the appropriate agency to administer the pilot loan and technical assistance program.

"(c)(1) The head of the agency administering the pilot loan and technical assistance program is authorized to make loans and provide technical assistance to eligible cooperatives, defined as follows:

"(A) An organization chartered or operated on a cooperative, not-for-profit basis for producing or furnishing goods, services, facilities, primarily for the benefit to its members or voting stockholders who are ultimate consumers or a legally chartered entity entirely owned and controlled by such organization or organizations, if it—

"(i) makes such goods, services, or facilities directly or indirectly available to its members or voting stockholders on a not-for-profit basis;

"(ii) does not pay dividends on voting stock or membership capital in excess of such percentage per annum as may be approved by the head of the agency;

"(iii) provides that its net savings shall be allocated or distributed to member patrons, or to all patrons, in proportion to their patronage; or shall be retained for the actual or potential expansion of its services or the reduction of its charges to the patrons, or for such other purposes as may be authorized by the membership not inconsistent with its not-for-profit character;

"(iv) makes membership available on a voluntary basis, without any social, political, racial, or religious discrimination and without any discrimination on the basis of age, sex, or marital status, to all persons who can make use of its services and are willing to accept the responsibilities of membership, subject only to limitations under applicable Federal or State laws or regulations; and

"(v) restricts its voting control to members or voting stockholders on a one-vote-per-person basis in the case of primary organizations or with other protections to insure economic democracy in the case of organizations owned by groups of cooperatives.

No such organization shall be ineligible because it also produces, markets, or furnishes goods, services, or facilities for its members as primary producers; or

"(B) Any other institution chartered or operated in such a way as to enhance competitive market forces or to reduce the price spread between producers and the ultimate consumers of products or services, if—

"(i) its net savings accrue to the benefit of either the ultimate consumers or of the primary producers of goods, facilities, and services, rather than to those whose primary interest is in making a profit from the marketing, processing, handling, or transportation of goods or in making a profit from providing services to ultimate consumer or primary producers; and

"(ii) restricts its voting control to members or voting stockholders on a one vote per person basis in the case of primary organizations or with other protections to insure economic democracy in the case of organizations owned directly or indirectly by groups of self-help organizations.

"(2) However, no cooperative shall be eligible under subsection (c)(1) of this section if it has been determined to be eligible for financial assistance from the Rural Electrification Administration, the National Rural Utilities Cooperative Finance Corporation, Rural Telephone Bank, the Banks for Cooperatives or other institutions of the Farm Credit System, or if it is a credit union, mutual savings bank, or mutual savings and loan association.

"(d) Loans made under this Act shall be on such terms and conditions as the agency head shall prescribe, except that—

"(1) No loans shall be made unless the agency head is satisfied that credit is not otherwise available on reasonable terms and conditions or to any applicant that the agency head determines does not have a sound organizational and financial structure, income in excess of operating costs and assets in excess of obligations and a reasonable expectation of a continuing demand for its goods, commodities, or services, or the use of its facilities, so that the loan will be fully repayable in accordance with its terms and conditions.

"(2) Loans made shall bear interest at a rate not less than the rates generally prevailing in the area from other sources for loans for similar purposes and maturities.

"(3) All payments of principal and interest with respect to the loans shall be deposited to miscellaneous receipts.

"(4) Any such loans outstanding at the termination of the pilot program shall be transferred to the FFB to be held until maturity or until such time as a consumer cooperative bank is established when they can be sold to such bank at rates set by the Secretary of the Treasury, based on securities of comparable maturity.

"SEC. 4. There are authorized to be appropriated to the agency administering the pilot lending and technical assistance program $20,000,000 for fiscal year 1979, to remain available until the pilot loan and technical assistance program is terminated. Such appropriations are authorized to be used for making loans and providing technical assistance pursuant to section 3, including all attendant administrative expenses and for the costs, exclusive of salaries, of the study on cooperatives authorized by section 2."

Amend the title so as to read: "An Act to authorize a program for the study of the needs of consumer cooperatives and to create a pilot lending and technical assistance program for consumer cooperatives, and for other purposes.".

Mr. TOWER. Mr. President, since I have already characterized the amendment, I shall speak more on the amendment later, but for the time being I yield 15 minutes on the bill to my distinguished colleague from California, Senator HAYAKAWA.

The ACTING PRESIDENT pro tempore. The Senator from California is recognized.

Mr. HAYAKAWA. I thank the distinguished Senator from Texas.

Mr. President, I wish to speak in support of S. 1010, the National Consumer Cooperative Bank. I myself have been a member of the consumer cooperative movement since I joined that first co-

operative in 1937. It has been my privilege to witness at firsthand in the Midwest, especially Wisconsin and Illinois as well as in California, the efforts of consumers to run their own retailing enterprises with their own sources of funding and through their own voluntary efforts and the employment of skilled management. I might add they have done all of this without the help of Government.

This has been an enlightening experience and one, unfortunately, that too few Americans have been able to enjoy. The simple fact is that in few instances have organized consumers had the courage and tenacity to undertake their own retail businesses for themselves, or have even had the know-how to do so.

This wide and continuing gap in the fabric of American enterprise is one reason why I support the bill for a national consumer cooperative bank. The bank will provide not only initial funding through a mechanism that consumers eventually can own and control, but also technical assistance to consumers who are willing to take the big step toward becoming business owners.

As I said, my interest in consumer cooperatives goes back over 40 years. In 1945 I wrote:

> The consumer cooperative is a relatively new invention in human organization. So far as the majority of people in the United States are concerned, its merits are still a matter of debate. The demonstrations it has given of its powers have been as yet little publicized. Yet the time is not long distant when argument will no longer be necessary: its advantages will be obvious to everybody.

Since writing those words in 1945 the consumer cooperative has indeed proven itself. The Cooperative League of the United States estimates that today there are over 50 million members of cooperatives across the Nation. The cooperative movement has grown from the farm and rural electrification cooperatives of the thirties to include cooperatives in fields as varied as credit, consumer goods, housing, insurance, and health.

In my own State of California, the Consumer Cooperative of Berkeley has grown from about 3,750 members and annual sales of $1.3 million to 90,000 members and annual sales of $74 million.

The Co-op Bank is not targeted at any one region or economic group.

A co-op has been described thus: An enterprise which users, rather than outside investors, are in control. Its members work together to serve themselves rather than to make a profit by serving others. Returns go to member users, in proportion to their use. . . . Thus, a cooperative is like a club in which people voluntarily invest time, talent and money to accomplish mutual goals and then enjoy the benefits.

This type of enterprise obviously can be organized and its benefits enjoyed in rural communities, urban areas, and the suburbs in between.

Producer co-ops begun in the 1930's enabled many farmers and ranchers to weather the Depression years. It is estimated that the average American farmer today belongs to more than six co-ops—those for the purchase of supplies, gasoline and tires and auto and truck supplies, packaging and processing, marketing, and credit. Some of these producer co-ops are now as powerful as are some major corporations.

Residents of our cities and suburbs have begun to participate in the cooperative movement. Today's consumer cooperatives are providing housing, health care, consumer goods and services, and credit.

Self-help and initiative are American values. The Consumer Cooperative Bank bill is based on those values. Rather than consistently and simply oppose Government programs designed to solve other peoples' problems, I want to support those people willing to solve their own problems through their own initiative and plain hard work.

I hope that some of my colleagues here in the Senate have had a chance to look over a "Dear Colleague" letter which I have sent around. The letter was cosponsored by my good friends Senator JAVITS and Senator PEARSON and in it, we advanced some arguments against the type of restrictions which may be offered against this legislation today.

One of the amendments proposes to limit the bank to a "pilot project" to "study" the need for a National Consumer Co-op Bank. I quote from my letter:

> In 1936, hearings were held on a consumer cooperative bank bill in which many witnesses testified to the unwillingness of commercial banks to lend to cooperatives or to understand them. In the early debate over establishment of the Farm Credit System, opponents used similar arguments for a "study" of the need. Whereas the persons working with farmer cooperatives had no figures to prove the total need, there was ample evidence of farmers being turned down on loan requests. The usual reason given, just as today with consumer cooperatives, was that they were "not creditworthy." It was true then of the farm cooperatives that many were in relatively weak condition. However, since the institution of the Farm Credit System, the actual losses and provision for possible losses on loans made by the Bank for Cooperatives over the last forty years have amounted to less than one-tenth of one percent of the money loaned.

In other words, the idea of studying the need for a National Consumer Cooperative Bank is being subjected to the same arguments that were used in 1936.

Apparently, there will also be another proposal which echoes the concern of those who see cooperatives as a threat to small retail operations. Again, I quote from my letter:

> It is quite obvious to those who understand retailing in America, however, that cooperatives *are* small businesses, and that the primary competition for all small enterprises, including cooperatives, especially in the food field, is from large integrated food chains. Cooperatives, like other retailers, have suffered from this kind of competition. Even with assistance from the proposed bank, it is hardly conceivable that cooperatives in the retailing field will become a dominant force or one seriously threatening other small businesses in their area.

As our distinguished colleague from New Hampshire has pointed out, cooperatives provide Americans with a major chance to stand on their own feet and meet their own needs. It is for this reason that cooperatives have won the bipartisan support of our Nation's leaders in all walks of life.

I might add that we have something like 37 cosponsors of this bill. Mr. President.

I therefore urge my colleagues to join me in supporting the national consumer cooperative bank.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. TOWER. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time for same be charged to neither side.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Mr. James Locknev, of the Judiciary Committee staff, be allowed the privilege of the floor during the action and vote in this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HAYAKAWA. I ask unanimous consent that a member of my staff, Mr. Tom Carter, be accorded the privileges of floor for today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I make a similar unanimous consent request for Robert Kabel of my staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who yields time?

Mr. TOWER. Mr. President, I yield 20 minutes on the bill to the Senator from Indiana.

The PRESIDING OFFICER (Mr. ZORINSKY). The Senator from Indiana is recognized.

Mr. LUGAR. Mr. President, I rise to support the Tower amendment, but I want to do so by discussing the general philosophy and background of this bill.

Mr. TOWER. Mr. President, will the Senator yield?

Mr. LUGAR. I yield.

Mr. TOWER. I yield the Senator from Indiana such time as he may use out of my time on the bill.

Mr. LUGAR. I thank the Senator.

I wish to support the Tower amendment in the context of taking a look at where we are headed in this legislation, because it appears to me that although a good deal of sentiment and idealism surrounds the issue, there is a misunderstanding of objectives, at least I think on the part of many who have supported the cooperative movement in its various aspects in this country and likewise would like to support the ways in which people in the inner cities of this country might be served, in a retail fashion, presently.

I wish to cite, at the outset of this discussion, an article that appeared in the Washington Post of February 21, 1978,

discussing the Consumer Cooperative of Berkeley, cited already in this debate by the distinguished junior Senator from California.

The Consumer Cooperative of Berkeley is a very substantial operation. As a matter of fact, as the Washington Post article points out, it is spread across four Bay Area counties, deriving its strength from a Berkeley base, but owned and run by 92,000-member customers who pay $5 to join. It is run democratically, as all co-ops are, plowing its net savings back either in dividends to its members or back into the business.

I make the point with regard to the co-op in Berkeley because the Washington Post comment notes not only that it is a large business, but that until fairly recently it has also been a fairly profitable business, at least in terms of dollars. The results, in 1974, were net savings of $578,000. In 1975, it saved $308,000. Unfortunately, in 1976 it lost $121,900, and in the last year, 1977, the losses reached $359,000,600. In the last quarter, 7 of its 13 markets lost money.

One of the interesting aspects about the Consumer Cooperative of Berkeley, in addition to its size, the number of its members and the number of its markets, is that it has attracted attention and some favor or disfavor, depending on how one looks at it, because it makes social comments.

It makes comments, for instance, about the merchandise that is available. It closes in celebration of particular political days or events in California, if not nationally. In other words, it offers a lifestyle situation, quite apart from merchandise. So it is argued by proponents of this type of enterprise that the lifestyle of Americans could be enhanced if not only goods and services were available, but indeed comments on the goods and services—that if, through the closing of markets or the withholding of certain goods and services, social comments might be made, the lifestyles of all of us might be enhanced in some fashion.

One of the difficulties of the bill we are discussing today is not a first amendment question as to whether people ought to have the right to make comments on political issues with their own money. The problem we are getting into today is that the Federal Government may be asked to purchase stock of a bank that would make loans to consumer co-ops; and the proponents of the bill will argue that indeed the hope is that all of this will move off into the private market very rapidly, that the $100 million from the Federal Government that would come in immediately, and the $200 million down the trail during four subsequent years, at a maximum, might in due course be repaid and the entire situation move into the private market.

But there has to be established by the proponents of the bill some reason why the Federal Government should be involved in this particular type of banking business at all.

The distinguished floor manager, the Senator from New Hampshire, has suggested several reasons, and they are good ones. Essentially, the thought is that—leaving aside the Consumer Cooperative of Berkeley, which is demonstrably not a project that is of particular assistance to low-income citizens, and I have not chosen the Consumer Cooperative of Berkeley as an example simply to illustrate alternative lifestyles, but to make the point that consumer cooperatives generally in this country have moved to serve middle-class citizens, often fairly affluent middle-class citizens—consumer cooperatives have often flourished in university situations and in other situations where rather affluent people have been interested in making political comments. But in any event, the case is being made and has been made historically, as Senator HAYAKAWA mentioned, from the thirties onward, that low-income people in very difficult straits in this country have not been well served by regular market forces on occasion, either in terms of consumer outlets for goods and services, or the consumer outlets that they might have had have not been well served by the banking system.

The basic case for this bill has to rise or fall on whether credit is available in a nondiscriminatory fashion, and if credit is not available and the Federal Government—and all the taxpayers thus, of this country—see a social need, whether, in fact, this particular bill will meet that specific social need. The need, as I see it, being presented is that of low-income citizens—low-income citizens principally in the inner cities of this country, in which the supermarkets and the various outlets are not available in the same abundance as often is the case with shopping centers on the outskirts of our towns and cities, large and small.

I keep reiterating that point, Mr. President, because during the course of this debate the proponents of the bill, I believe, are going to have to argue in all sorts of directions, carrying water on several shoulders. The course of this debate, I think, will illustrate that most Americans are deeply concerned about the impact of the problem on inner city consumers. But the question needs to be raised—and this is why the Tower amendment is relevant with regard to a study—at this particular time in America's history, is it not a fact that the major problem of small businesses, small consumer businesses in inner cities in getting the money they require, is simply the financial risk to the lending institutions involved?

Indeed, in earlier testimony, the Assistant Secretary of the Treasury, Mr. Altman, indicated that in his judgment—and he now supports the legislation—I do not want to state where he comes out on this, but he mentions, at least, in the course of his testimony, that the problem is probably less that of discrimination against co-ops as a form of business than the fact that it is very difficult for many lending institutions to make loans to entities that do not appear to be likely to repay the loans.

In other words, the problem is not a question of making a loan to a co-op in the inner city, but it is a question of making a loan to anybody in certain inner-city consumer situations. Indeed, this is a predicament. The Federal Government has attempted to address it in part, of course, through the Small Business Administration. There is a recognition on the part of all of us in the Congress that certain small businesses, after they have tried the banking system of this country—they have at least gone to two banks and have been denied credit—may come to the Small Business Administration and, showing those rejections that the banking system cannot serve them due to the fact that they present great risk, under capitalization or other dilemmas, finally SBA might arrange for the proper guarantees to facilitate credit.

During the consideration of the bill by the Senate Committee on Banking, I suggested—and given the sequence of events today may in fact offer an amendment which suggests—that before a consumer co-op approaches a new federally financed bank it ought to at least indicate that the banking system will not offer credit. At least it ought to try a couple of times to see whether, in fact, credit is available. It may find that credit is not available. But that, it seems to me, is a parallel test to that already required by the Small Business Administration and one that ought to be tried out for size here.

One dilemma of the proponents of the bill in considering that situation is to say, "All right, if the small consumer co-op that wants to provide food, furniture, housing, or what have you, to inner-city residents fails to get the money, we are going to end up in the consumer bank with a number of loans to people who have been rejected once or twice."

As I recall, some have suggested that such would be relegated to second or third class citizenship with regard to credit purposes.

Once again, why are we even setting up a bank if, in fact, it is not on the premise that credit was not available elsewhere? Those who are suggesting this bank are, in fact, saying that whether or not credit is available, we simply take it as an article of faith that it is not available and, therefore, there need not even be this minimum attempt to shop around to see whether a loan can be established without going directly to the consumer bank to begin with.

Those in favor of the bill make an even more subtle point, in my judgment. They are saying, in essence, "We do not want this new consumer bank to be saddled with a lot of high risk loans As a matter of fact, we believe it ought to be a fairly profitable affair."

A profitable bank, as a rule, has a lot of first class commercial paper as part of its portfolio. It does not have a lot of high risk situations sitting around, certainly not a majority of them.

During the course of the debate today I may suggest to my colleagues that if, in fact, the burden of this bill is to help those who are poor, to help those who are in low income situations, impacted without too many other choices, we ought to say that. We ought to say that at least half—not all but just half—of the loans to be made by this new bank ought to be made to co-ops who have at least half of their membership who are low income.

Mr. President, to go through the arithmetic of that again, all I am suggesting is that in due course we ought to make certain, if we are going to have this

bank, that at least one-fourth of its loans actually reach poor people, which essentially is the reason being given for having the bill at all.

The argument is not an unfamiliar one to members of the Banking Committee because it was made at some length during the deliberations on this bill. I might indicate that in the case of the idea about at least half of the money going to co-ops who had at least half of their membership made up of low income citizens, that failed in the Banking Committee by a narrow majority. So did the idea that people who were attempting to get loans ought to try at least twice in the regular system. That failed by a very narrow majority, as I recall.

A third idea that I may want to advance, depending upon the Senate's feeling with regard to overall studies, which I think is a good idea, and which the Tower amendment proposes, is that in inner cities in America there are a lot of small businesses and most of them are struggling. They are people who have mortgaged everything they have to get capital to try to stay alive in a competitive situation. Larger entities often have left those neighborhoods, but they stayed. They are often one- or two-person operations, and sometimes not a whole lot larger than that.

What is the impact on those businesses that are in the inner cities of America right now if a new business comes on the block, one which has not made the rounds to find what kind of capital is available and under what terms it is available?

Capital to new small businesses in inner cities generally comes pretty slowly. There is certainly a case, Mr. President, for finding out how taxpaying small businesses in the inner city are to be helped. That truly is a mission, it seems to me, for this body.

Mr. President, the objective of this bill is to suggest that a new group might come on the block and might go to the new consumer co-op bank to obtain capital through a loan, without regard to the impact. The sponsors of the bill added additional language during committee consideration. They have suggested that among the criteria that the consumer bank might look at would be the impact on small businesses. Indeed, I would hope it would be. But it is also a fact, Mr. President, that given the enthusiasm of the movement, one can hardly anticipate that a bank dedicated to a consumer co-op situation is going to be the most sympathetic ear to small businesses already on the block in terms of this impact. What I would have thought, Mr. President, is that, as a part of this legislation, we required that before loans are made in inner city America we at least have the good grace to examine what is likely to happen to those people who are already struggling there to keep their doors open.

That seems to me to be a minimum consideration. I was surprised during the course of the committee consideration that, by a narrow margin, even that rather modest suggestion was shunted aside in the general enthusiasm of getting on with another bank and another system of finance in this country.

So, Mr. President, we are left with a very unusual paradox. On the one hand, there is a general argument being made that credit is not readily available to people who want to go into consumer co-ops which would serve many in America who are not well served. It is suggested, as a matter of fact, that that is a basic rationale for this bill. Indeed, I am not certain I can see any other Federal purpose to be served, why all the taxpayers of the country should be involved in another banking system unless, in fact, there are substantial failings of the current banking system and credit is not readily available.

The PRESIDING OFFICER. The Senator's 20 minutes have expired.

Mr. LUGAR. Mr. President, will the Senator yield me another 15 minutes on his amendment?

Mr. TOWER. I yield 15 minutes on the amendment.

Mr. LUGAR. I thank the Senator.

Mr. President, the question is, if, in fact, the focus is on this predicament of credit for those who have lower income in impacted areas, then it is a fair criterion, in my judgment, to say that the bill ought to say precisely that: At least half of the loans ought to go to people in co-ops which have a majority of their members who have low income. In fact, the bill does not say that.

Mr. President, without dragging in extraordinary evidence that is not relevant, in truth, to this narrow focus of trying to assist those who are poor in this country, the facts of life are that consumer cooperatives in many instances throughout the country are very big business, indeed, enormous businesses, involving tens of millions—on occasion, hundreds of millions—in sales. Indeed, there is this thought, Mr. President, that it will be mighty convenient to have an alternative system of banking available in this country dedicated to consumer co-ops, with a channel directly to businesses of very considerable size.

Those in favor of the bill say large business, large co-ops, would make the whole thing more profitable, more substantial, more likely to be able to stand on its feet, come hell or high water. Indeed, that is true. That is true of the portfolio of most banks. If, in fact, it makes loans to large customers who are profitable, as a rule, the bank does fairly well. But why the Federal Government should be involved in starting an alternative banking system of this sort is certainly not obvious, unless the loans are, in fact, going to go to those who are small, those who are poor, or at least, a substantial percentage thereof as a point of law, not as a sort of general supposition that the money might float in that direction.

Mr. President, I suggest that the Tower amendment, which offers a substantial study of modern America, is of the essence for at least two reasons: To establish what the credit deficiencies may be; and secondly, what the impact of attempting to remedy those deficiencies might be on small businesses of America that are already there. I speak today for many people in small business in America who see this particular bill as the most extraordinary threat to hit inner city small business during this particular session of Congress. They were not aware, Mr. President, that this bill was going to hit the floor today. They were not aware that the time for the fight had come. But let me say, Mr. President, they will be heard. The small businesses of America will be heard and they do not like this idea at all, unless there are some assurances that they are not going to be badly hurt by an alternative system of finance that they believe will finance competitors injurious to them.

They would say, furthermore, Mr. President, that if finance is to be available to their competitors, it had better not be on terms more favorable than the very difficult situations they often have.

Mr. President, it seems to me that the Tower amendment, which offers an alternative to action upon this bill today, is sensible in order to make certain that our focus is clear on the objectives of the credit, on who will be helped and hurt, and, I think, to enlighten people of America as to who is in this consumer co-op business. It will come, I think, as a great surprise to most Americans to find who is there and who the beneficiaries might be.

It seems to me that, prior to getting on with this legislation, at a minimum, in terms of safeguards to small business in this country, we need to make certain that small businesses will not be hurt and, to state it more affirmatively, that poor people in inner cities will be helped. It is all well and good to assert that that is bound to be the course of this bill, but, Mr. President, the Greenbelt Consumer Cooperative, familiar to many people in this general metropolitan area, is not establishing additional markets in inner-city Washington, D.C. Quite to the contrary, it has been disestablishing those markets, has been moving out, not moving in. If that be an example as to the sort of business that is to receive credit, Heaven help the inner-city dweller in the process.

It is even a case that I suppose could be made cynically by small businesses in this country that the beneficiaries of these consumer loans will, in fact, be large businesses operating in the suburbs; that the competition in the inner city may be very small indeed ultimately, given who actually gets the money, because the new bank will be so much about the business of making profits on its own that the social service objective, the idealism that impelled this whole business, is likely to have gone under fairly early on.

For these reasons, Mr. President, I suggest that my colleagues ought to take a good look at the Tower substitute. The Tower substitute does not deny the need of inner-city residents. It does not deny the fact that consumer cooperatives may play a very strong role in assisting inner-city residents in this country. It examines the conditions that are going to have to be present for a finely tuned instrument that helps the poor and, at the same time, does not decimate small businesses now serving in the inner cities of America.

Those are two important objectives that are worth taking time to finely tune.

The current bill in front of us does not finely tune anything and my suggestion is, Mr. President, that because of this, it has fatal flaws.

I hope that my colleagues will support the Tower amendment. In due course, if the Tower amendment meets with favor, I shall, of course, vote for it and be delighted to work with those who are moving ahead in the study to find how consumer cooperatives might serve with distinction within a great number of inner cities of America.

In the event the Tower amendment should fail, Mr. President, I shall seek recognition later in the debate to introduce three amendments that meet the central objectives that I have put forward in this discussion.

I yield the floor.

Mr. McINTYRE. Mr. President, I yield so much time as he may require to the distinguished majority whip, the Senator from California (Mr. CRANSTON), on the amendment.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, before addressing the pending amendment I want to say that I am a cosponsor and a strong supporter of H.R. 2777, the National Consumer Cooperative bill.

Cooperatives have a special place in the history of America, they go back to Benjamin Franklin and two other signers of the Declaration of the Independence, the Mayflower Pact and the Boston Tea Party. Cooperatives were a natural outgrowth of the need of individual entrepreneurs to improve production and maximize return in their life sustaining enterprises. These enterprises range from corn husking and quilting bees in the early 19th century to the large farm combines that we have today. The Farm Credit Administration Act of 1936 led the way for farm cooperatives by providing access to financial support, management and technical assistance through the Farmers Cooperative Service.

There are more than 3,000 cooperatives in the State of California, more than any other State. These facilities range from bookstores, credit unions, health plans, cheese stores, hardware stores, nutrition centers, and in general, whatever service a group of people decide that they collectively need to improve the quality of their lives.

They are improving the quality of the lives of many of the people I represent in California.

Increasingly the American consumer is letting it be known to those of us in public office that they are frustrated by their lack of control over their own lives, they are tired of big government and big businesses that are unsympathetic and unresponsive to their needs. Cooperatives, as self-help organizations are owned and managed by the people who derive the economic and other benefits from their operations. These benefits derived by members are directly related to the extent of the member's involvement, whether through purchases, production assistance or volunteer support of the cooperative.

My colleagues who oppose the bill do so on three premises:

First, we have no practical experience in assisting cooperatives, therefore more study is needed.

Second, these loans will give cooperatives a competitive advantage over small business,

Third, that it has not been proven that there is a lack of money available in the financial market for cooperatives.

The facts, I suggest, show otherwise. President Wilson in 1916 signed the Federal Farm Loan Act to establish the Federal Land Banks, the cornerstone of today's cooperative farm credit system.

Since that time farm cooperatives of all kinds have played a major role in making it possible for U.S. farmers to substantially increase their productivity. These farm co-ops have provided farmers and ranchers the latest research results and ways to translate those results into improved production techniques. We have the greatest farm production system in the entire world. How can it be said that we do not have enough practical experience in assisting cooperatives? Plainly, the fact is the opposite.

Second, will this bank hurt small businesses? I am concerned at my colleague's remark on this subject—cooperatives are small businesses. It is our intention to help them grow into larger businesses. We now provide Government assistance of all kinds to profitmaking small businesses through the Small Business Administration including various forms of subsidies to assist them in competing against large businesses. Low-interest loans and Government contracts are made available to them. Co-ops in general because they are not profitmaking ventures are not eligible for assistance from the Small Business Administration. They are not seeking such assistance, they want to pay their own way, and this bill will give them an opportunity to do just that. As an additional protection the bill requires the co-op bank board before lending to a co-op to assess the impact that the loan will have on other small business in the loan market area. So it is clear that we are concerned about small business here and I believe we have taken the necessary precautions in their interest.

Third, co-ops overwhelmingly testified as to the unavailability of funds for their projects. Banks in general historically have only been interested in financing profitmaking ventures, they have little or no expertise in assisting nonprofit self-help kinds of groups, and specially cooperatives.

The Treasury Department also testified to this fact before the committee.

It is obvious from the increasing members of new consumer cooperatives and from the continued success of long established cooperatives that countless people forming these cooperatives can help bring a sense of community to their neighborhoods, inner cities and depressed rural areas. I am convinced that this type of self-help program built on the cooperatives members own organization and hard work is far superior to much of the aimless aid that is foisted onto these areas from on high.

This bill will provide the seed money to start a bank to fill a gap that now exists in the financial markets regarding cooperatives. That is all consumers are asking for—seed money that will be repaid in full with interest to the Federal Government. We have provided seed money for lending institutions in South America, Asia, South Africa, and elsewhere. Certainly, it is not too much to ask to provide seed money for the American Consumers to help themselves.

Mr. President, for these reasons and many more, I support the bill and I oppose the amendment.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. I yield myself such time on the amendment as I may require.

Mr. President, I am offering this amendment today on behalf of Senators PROXMIRE, GARN, LUGAR, SCHMITT, and myself. This amendment, which is in the nature of a substitute for the bill, would authorize a 2-year study of consumer cooperatives by an interagency task force of the Federal Government and a pilot lending and technical assistance program for consumer cooperatives.

The amendment would create a temporary interagency task force on cooperatives. This task force would be comprised of officials of various Government agencies. The task force would address the following issues:

First, the demand for financial assistance by cooperatives and the specific needs of cooperatives on an industry-by-industry basis; second, the relationship between cooperatives and various Government programs, including tax and antitrust policies; third, the ability of consumer cooperatives to obtain conventional financing from private lenders and the factors that may make it difficult for cooperatives to obtain credit from private sources; and fourth, the effect which loans from a national bank would have on competition between consumer cooperatives and small businesses.

The task force would also be required to make recommendations regarding the establishment of a consumer cooperative bank. It would submit its finding, along with its recommendations, to the President and the Congress 2 years after its establishment.

This amendment would also authorize a 2-year pilot lending and technical assistance program for consumer cooperatives. Under this amendment, the Federal Government would provide loans and technical assistance to consumer cooperatives on a test basis in order to determine the most appropriate form of assistance to consumer cooperatives and whether or not a national bank for consumer cooperatives is actually needed.

Under this amendment, loans would be made only to consumer cooperatives which, first, cannot obtain credit elsewhere; second, have a sound organiza-

tional and financial structure; third, have income in excess of expenditures and assets in excess of obligations; and fourth, have a reasonable expectation of a continuing demand for their products and services.

No loans could be made to cooperatives receiving financial assistance from other Federal agencies, nor to credit unions or mutual thrift institutions. These loans would be made at a rate of interest no less than that prevailing in the cooperatives' market area from other sources of credit for similar purposes and maturities. Any loans outstanding at the end of the pilot program would be transferred to the Federal financing bank or to the consumer cooperative bank, if it is established.

There are a number of objectives I believe this amendment would accomplish. In the first place, it would help to determine the demand for financial and technical assistance by consumer cooperatives. It would also help to determine what type of financial or technical assistance would be the most helpful to consumer coperatives. It would also be helpful in determining whether or not technical assistance would allow consumer cooperatives to obtain credit from private lenders. Finally, it would be helpful in determining the ability of consumer cooperatives to handle financial and technical assistance from the Federal Government.

The experience gained under this pilot lending and technical assistance program would be useful if a national bank for consumer cooperatives is created at a later date, and it would allow the Federal Government to avoid mistakes it might otherwise make if it now establishes such a bank. The experience gained under the pilot program would also be useful in determining the effect which loans to consumer cooperatives would have in creating an unfair competitive advantage over small businesses, particularly small retailers.

The amendment I am offering would give the Federal Government the opportunity to answer a lot of unanswered questions about the need for a consumer cooperative bank.

We need to know whether or not technical assistance would help consumer cooperatives obtain private financing. If it would, we could save the American taxpayer a lot of money by not establishing the bank.

We need to know if there is sufficient demand for loans to justify the creation of a separate lending facility for consumer cooperatives. If there is not, then we could save the American taxpayer a lot of money by not establishing such a bank.

We need to know if loans to consumer cooperatives from the bank would give those cooperatives an unfair competitive advantage over small businesses. If it would, then we ought to know what we are doing and not guess about whether or not this will be in the longrun interest of the consumer.

We need to know if a national bank for consumer cooperatives is actually needed. If it is not, then we can save the taxpayers a lot of money if we do not create such a bank.

Without this amendment, we are legislating in the dark

I urge the adoption of the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. McINTYRE. I yield myself such time as I may require.

Mr. President, I oppose the amendment of the distinguished Senator from Texas. This amendment would seek to reduce this bill to a 2-year study, when the matter already has been well studied.

I call the attention of my colleagues to the need for this specialized, independent, financial institution to serve consumer cooperatives.

The growth and development of consumer cooperatives have been greatly hampered by the general unavailability of conventional credit and lack of technical assistance—both long available to farm co-ops and most recently to other types of small business. As a consequence, many potential cooperative groups have had to give up before even getting started. Many others have found it impossible to keep going.

Comparison of the growth of farm cooperatives with the growth of consumer cooperatives reflects the contribution to farm cooperatives of financing through the bank for cooperatives and technical and research assistance through farmer cooperatives services.

Rural electric cooperatives with adequate Government backed financing and technical assistance have successfully brought electric power to 98 percent of America's farms. When the program began in the 1930's, private utilities and others argued that farmers would not use enough electricity to make such service economically feasible. In contrast, rural electric cooperatives have been highly successful, with practically no losses on their loans.

Some of today's successful larger consumer goods cooperatives grew out of a wave of buying clubs that started in the years of the Great Depression. Many others tried to make the jump to small stores and then to supermarkets, when that became the general trend in the post-World War II years, but were unsuccessful because of the unavailability of loan funds and technical assistance.

Starting in the late 1960's, there has been a new wave of buying clubs with many attempts to expand services and take in more members. But like many of their ancestors of the 1930's, few are able to get financing and needed technical assistance. As a result, there are a growing number of frustrated groups of potential cooperative participants. The waiting lists of people to become members of housing cooperatives are long. Many groups wanting to start health care cooperatives can't get started.

The need for specialized, adequate financing for consumer cooperatives arises from the fact that most private lenders do not understand the organization and operation of consumer cooperatives.

Commercial bank and insurance company directors and loan committees are drawn to a large extent from profitmaking forms of our profit making system. They do not understand cooperative structure and strengths brought to them through member ownership and member participation. It is understandable that one accustomed to looking at a loan applicant's bankable securities and potential for profit has difficulty in converting his usual credit criteria to the potential of a nonprofit cooperative just being organized.

To a large extent, conventional commercial lenders have ignored the credit needs of cooperatives. Because of their lack of understanding of cooperatives, private lenders, even when they wish to be helpful, are not in a position to offer the needed advice and counsel normally provided to other borrowers.

These bankers always want to know, Mr. President, who is going to sign these notes.

Treasury Assistant Secretary Altman stated in the hearings to our committee, speaking in behalf of the administration:

> While some more established cooperatives have been able to obtain financing, most cooperatives have experienced difficulty in obtaining it. I might add, however, that in our judgment, it is more a function of the perceived credit risk by conventional lenders rather than outright discrimination or basic lack of understanding or will to understand the cooperative form of organization. * * * Our basic conclusion is that a program of loans and technical assistance to consumer cooperatives makes sense and that such a program would be most eeffctively administered by an independent bank.

Congress long ago provided for the establishment of credit and technical assistance programs for farm purchasing, marketing, business service, farm credit, rural electric, and rural telephone cooperatives. When Congress was considering setting up these highly successful programs, many businessmen and commercial bankers said they were not needed and predicted they would fail because the economically feasible needs were already being provided for by private business and private lenders. History has proven them wrong in all cases.

Congress also has recognized the specialized credit and technical assistance needs of small businesses by establishing the Small Business Administration. At the time, bankers claimed there was no tangible proof of need for the Government to establish SBA. However, hundreds of thousands of small businessmen have used SBA's technical assistance programs and have received billions of dollars of funding through its financing program.

In 1976 alone, SBA loaned almost $2 billion to small businesses, held many institutes, and distributed thousands of technical publications. No comparable assistance is currently available to consumer cooperatives.

The bill establishes an independent, mixed ownership financial institution rather than a continuing Government lending agency like the Small Business Administration. All of the initial seed capital is to be repaid to the U.S. Treasury from purchases of stock by borrowing cooperatives and accumulated earnings. Most of the funds loaned out to cooperatives will be borrowed from inves-

tors through sale of securities in the capital market. This approach will cost the taxpayer considerably less than any Government lending program, with its continuing need of appropriations.

As an independent financial institution, the bank eventually will be wholly owned and controlled by cooperatives which borrow or are eligible to borrow from it. Their continuing responsibility for its operations includes a firm commitment to invest in its shares, replacing the initial Government seed capital with their own investments. Since the continued ability of the bank to finance cooperatives will depend on its successful operation, member-borrowers will be particularly interested in helping it work efficiently. Such a program assures an institution fully responsive to the needs of the cooperatives that borrow from it, and speeding the repayment of the Government-owned capital. Experience with the Farm Credit Administration and other Government-sponsored financing programs bears this out.

Consumer cooperatives have special problems and special needs. For example, they need to develop well-informed and effective boards of directors, and to work constantly to improve member and staff understanding of their goals and objectives. In cooperatives, more people are involved in the policy-making process.

Consumer cooperatives, by their very nature, require a source of credit responsive to their potential needs. Essential to this institution is that it be operated by people who are responsive, and that they be held fully responsible for its successful operations.

This legislation is specifically and carefully designed to provide financing to these types of cooperatives as well, without duplicating or overlapping existing Government-sponsored programs. Specific provisions are included to make sure this does not happen in actual operations.

The proposed National Consumer Cooperative Bank is not a handout, giveaway, or a subsidy program. Only sound loans which have a reasonable expectation of being repaid are to be made. Interest rates charged borrowers will be at competitive rates.

The unfilled need for cooperative financing is a general one, whether in the area of health, housing, food, auto repair, eyeglass or other goods and services fields and regardless of the location—rural, urban, or suburban—or income levels of their members. However, financing and technical assistance will be particularly useful in improving services in deteriorating rural towns and inner cities.

In considering the need for giving the maximum help to cooperatives serving low-income members, the committee noted that a considerable portion of such financing, particularly in the early years, will come from the self-help development fund. Such loans will often start out as relatively small loans.

Mr. President, I urge the Senate to defeat the amendment offered by the distinguished Senator from Texas which, as I said initially, will reduce this bill to a mere 2-year study.

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McINTYRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. DECONCINI). Without objection, it is so ordered.

The Senator from New Hampshire is recognized.

Mr. McINTYRE. Mr. President, I ask for 5 minutes on the bill for the distinguished Senator from Wisconsin (Mr. NELSON). He and I will indulge in a colloquy concerning this legislation.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 5 minutes.

Mr. NELSON. Mr. President, will the Senator from New Hampshire yield for a question?

Mr. McINTYRE. I yield to the Senator from Wisconsin, the chairman of the Senate Small Business Committee.

Mr. NELSON. Mr. President, there has been a great deal of discussion of the impact of this legislation on small business. The Senator from New Hampshire serves with distinction on both the Senate Banking Committee and the Senate Small Business Committee. He shares my deep concern for the continued growth and development of small business. Is the Senator satisfied that small business will not be adversely affected by this legislation?

Mr. McINTYRE. I am completely satisfied, I am pleased to tell the chairman. We have had a great deal of study of the relationships between cooperatives and small businesses. Most of the cooperatives would surely qualify to be called small businesses. But, because of the uniqueness of cooperatives, it was the opinion of the committee that existing programs and agencies could not, and would not, satisfy the special needs of consumer cooperatives. The pending legislation does address their requirements.

However, as the Senator knows, there are several provisions in this legislation specifically to insure that small business interests are protected, and that they will not be directly adversely affected by the actions of the Bank. For example, one of the major criterion which the Bank must take into account before making any loans to cooperatives is an assessment of the impact of the loan on existing small business enterprises in the area. Furthermore, small businesses are to be represented on the Board of Directors of the Bank, even after the Bank becomes a completely private institution. This representation will insure a small business voice in the formulation of policies and procedures of the Bank.

Mr. NELSON. Under current law, the Small Business Administration administers the so-called 7(a) business loan program. Cooperatives are not now eligible to receive direct, participation, or guaranteed loans under that program, is that correct?

Mr. McINTYRE. The Senator is correct. Nor is that program expanded under this legislation.

One of the directions the subsection 7(a) program takes is toward assisting the small businessman in maximizing his profits. Cooperatives, on the other hand, have been referred to as "self-help organizations" which do not have that profit motive. Further, the technical assistance which SBA has available is not the type needed here.

Congress in the past has recognized that certain specific segments of our society may need specialized assistance. That is why we have the SBA in the first place. In the case of cooperatives, their particular need is similarly for credit and technical assistance. The Small Business Administration, which we both recognize as providing an invaluable resource for eligible small businesses, cannot provide cooperatives the type of assistance which the Banking Committee felt was essential to insure their growth and development. I know the Senator from Wisconsin shares my view that cooperatives have played, and should be encouraged to play, a vital role in providing assistance to consumers. I do not believe that they will be the constant direct competitors of small businesses as some have suggested.

Mr. NELSON. Is it the Senator's view that this legislation will neither alter, conflict, or undermine the existing programs of the SBA.

Mr. McINTYRE. Emphatically, yes.

Mr. NELSON. Of course, where SBA, or any other department or agency has resources which may be useful to cooperatives, the Bank or the Office of Self-Help Development and Technical Assistance will be able to call upon that agency for its input, will it not?

Mr. McINTYRE. It is our hope that the Office will be able to draw heavily upon the existing knowledge of many agencies, and that these agencies will generously share that accumulated knowledge. In fact, the Office is directed to seek out this information, and make it available to eligible cooperatives; and to direct coops toward these agencies.

Mr. NELSON. Mr. President, the Small Business Committee has approved legislation creating small business development centers. These local centers will be developing and operating programs that furnish small businesses with a broad range of advice, information and assistance. Certainly some of the work that these centers will undertake could be of great benefit to cooperatives as well.

Mr. McINTYRE. I agree completely with the chairman of the committee. Hopefully, that legislation will be quickly approved by the Congress so that small businesses, and maybe cooperatives, could tap that valuable resource.

Mr. NELSON. I thank the Senator for taking the time to clarify the points that have been raised in this colloquy, so that

the legislative record will be clear when the legislation passes.

Mr. McINTYRE. I am happy to have had this exchange with the distinguished chairman of the Small Business Committee.

Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO SET ASIDE THE PENDING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the pending business be set aside temporarily until the hour of 1:45 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, the following two matters have been cleared all around.

NORTH PACIFIC FISHERIES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 12637.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1–8, inclusive, and 11 to the bill (H.R. 12637) entitled "An Act to amend the North Pacific Fisheries Act of 1954."

Resolved, That the House agree to the amendment of the Senate numbered 9 to the aforesaid bill with the following amendment:

In lieu of the matter proposed to be inserted by the said amendment, insert: and (B) the adoption of regulations, which conform to the provisions of the convention, governing the incidental taking of marine mammals by Japanese fishing vessels within the fishery conservation zone, including, but not limited to, regulations which require the collection of biological material and data on all marine mammals incidentally taken within such zone and the use of such gear and fishing techniques as are determined to be feasible to reduce or eliminate such incidental taking

Resolved, That the House agree to the amendment of the Senate numbered 10 to the aforesaid bill with the following amendment:

Page 3, line 4 of the Senate engrossed amendments, strike out "porpoise", and insert: "porpoises"

Mr. LUGAR Mr. President, I would like to indicate that this matter has been cleared with the minority side, and we are in agreement.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the House amendments.

The motion was agreed to.

AK-CHIN INDIAN WATER RIGHT CLAIMS

Mr. ROBERT C. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1582.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1582) entitled "An Act relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States", do pass with the following amendment:

Strike out all after the enacting clause, and insert: That (a) the Congress hereby declares that it is the policy of Congress to resolve, without costly and lengthy litigation, the claims of the Ak-Chin Indian community for water based upon failure of the United States to meet its trust responsibility to the Indian people provided reasonable settlement can be reached.

(b) The Congress hereby finds and declares that—

(1) the Ak-Chin Indian community relies for its economic sustenance on farming, and that ground water, necessary thereto, is declining at a rate which will make it uneconomical to farm within the next few years;

(2) at the time of the settlement of the reservation, it was the obligation and intention of the United States to provide water to the Ak-Chin Indian Reservation, and such obligation remains unfulfilled;

(3) it is likely that the United States would be held liable for its failure to provide water and for allowing ground water beneath the reservation to be mined;

(4) there exists a critical situation at Ak-Chin in that there is no sufficient economically recoverable ground water beneath the reservation to sustain a farming operation until a permanent source of water suitable for irrigation on the reservation can be delivered;

(5) this Act is proposed to settle the Ak-Chin Indian Community's claim for water by meeting the emergency needs of the Ak-Chin community through construction of a well field and water delivery system from nearby Federal lands and by obligating the United States to meet the Ak-Chin community's needs for a permanent supply of water is a fixed amount to be available upon a date certain, in exchange for a release of all claims such community has against the United States for failing to act consistently with its trust responsibility to protect and deliver the water resources of the community; and

(6) it is the intention of this Act not to discriminate against any non-Indian landowners or other persons, but to fulfill the historic and legal obligation of the United States toward the Ak-Chin Indian community.

SEC. 2. (a) For the purposes of this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") shall undertake engineering and hydrological studies as may be necessary to determine whether there exists, on Federal lands near the Ak-Chin Indian Reservation, a source of ground water which could be taken, on an annual basis, for use in connection with any contract entered into pursuant to subsection (b) of this section, subject to the provisions in (c)(2). Such studies shall be completed and a report with respect thereto submitted to the Congress within twelve months after the date of the enactment of this Act.

(b) Within one hundred and eighty days following the submission to the Congress of the report referred to in subsection (a), the Secretary, if he determines that there exists a source of ground water which can be so taken on an annual basis, shall enter into a contract or other agreement with the Ak-Chin Indian community pursuant to which the Secretary shall agree, on behalf of the United States, to—

(1) furnish, subject to the provisions of clause (2) of subsection (c) of this section, to the Ak-Chin Indian community, commencing within sixty days following the completion of the necessary facilities under clause (2) of this subsection but in no event later than four years from the date of said contract, the delivery to the southeast corner of the lands comprising the Ak-Chin Indian Reservation, on an annual basis, of eighty-five thousand acre feet of ground water from nearby Federal lands covered by such studies;

(2) take such action as may be necessary to begin within sixty days following the date of such contract, to drill, construct, equip, maintain, repair, reconstruct, and operate a well field on such Federal lands, and to construct and maintain a delivery system, including canals, pumping stations and other appurtenant works, sufficient to provide for the delivery of such ground water from such Federal lands to the southeast corner of the lands comprising the Ak-Chin Indian Reservation.

(c)(1) The delivery of ground water under clause (1) of subsection (b) shall continue until augmented or replaced by the permament water supply required under section (3) to be delivered to the Ak-Chin Indian Reservation, except that the obligation to deliver ground water during any year shall be reduced for that year by an amount equal to the amount of surface water delivered to such community pursuant to such contract during such year.

(2) Notwithstanding the provisions of clause (1) of subsection (b) of this section, the Secretary, if he determines that pumping eighty-five thousand acre feet of ground water annually from nearby Federal lands to the Ak-Chin community would (a) not be hydrologically feasible or (b) diminish the ground water supply in the basin and thereby cause severe damage to other water users; may deliver a lesser amount.

(b) The Secretary is authorized to receive and consider any claims arising under this Act from water users other than the Ak-Chin Indian community for compensation for any losses or other expenses incurred by such users by reason of the enactment of this Act or actions taken thereunder.

(e) Notwithstanding any other provision of this Act, if the Secretary determines on the basis of studies conducted pursuant to subsection (a) of this section, that the pumping on an annual basis of any such ground water pursuant to clause (1) of subsection (b) of this section in excess of sixty thousand acre feet is not possible by reason of clause (2) of subsection (c), and the Ak-Chin Indian community does not agree to contract for a lesser amount, the Secretary shall report to the Congress an alternative plan for meeting the emergency needs of the Ak-Chin Indian community. Such alternative plan shall be submitted to the Congress within one hundred and eighty days following the submission of the report referred to in subsection (a).

SEC. 3. In addition, and as part of the con-

tract referred to in section 2(b) of this Act, the Secretary shall provide for, commencing as soon as possible, but in no event later than the expiration of the twenty-five-year period following the date of the enactment of this Act, the permanent delivery, on an annual basis, to the lands comprising the Ak-Chin Indian Reservation, of eighty-five thousand acre feet of water suitable for irrigation on the reservation.

SEC. 4. (a) As consideration on the part of the Ak-Chin Indian community for entering into any contract or agreement pursuant to section 2(b), the Ak-Chin Indian community shall agree to waive, in a manner satisfactory to the Secretary, any and all claims of water rights or injuries to water rights of the Ak-Chin Indian community, including both ground water and surface water from time immemorial to the present, which it might have against the United States, the State of Arizona or agency thereof, or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(b) As further consideration on the part of the Ak-Chin Indian community for entering into any contract or other agreement pursuant to section 2(b), the Ak-Chin Indian community shall agree to waive any and all claims of water rights or injuries to water rights, including both ground water and surface water, arising under the laws of the United States or the State of Arizona, which it might have in the future against any person, corporation, municipal corporation, or the State of Arizona or agency thereof.

(c) Notwithstanding the provisions of subsections (a) and (b) of this section, the community will not thereby waive any claims against the United States for breach, if any, of the contract referred to in section 2(b) of this Act. A failure to deliver water within the times specified in either sections 2(b) or 3 shall be deemed a breach of the contract. The measure of damages for any such breach shall be the replacement cost of water not delivered by the United States.

SEC. 5. There are authorized to be appropriated for the fiscal year ending September 30, 1979, the sum of $500,000, and the aggregate sum of $42,500,000 to be appropriated prior to the fiscal year ending September 30, 1983, for carrying out the purposes of section 2 of this Act. Notwithstanding any other provisions of this Act, no authorization to make payments under this Act, or to enter into contracts, shall be effective except to such extent or in such amounts as are provided in advance in appropriations Acts.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate concur in the amendment of the House of Representatives.

The motion was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION FOR A SENATE EMPLOYEE TO GIVE TESTIMONY

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. CULVER, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 511) authorizing Richard J. Asplund, an employee in the office of Senator CULVER, to give testimony in the case of State of Iowa ex rel. Richard Turner v. Planning Research Corporation, et al.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 511) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 511

Whereas in the case of State of Iowa *ex rel.* Richard Turner v. Planning Research Corporation *et al.*, now pending in the District Court of the State of Iowa in and for Polk County, counsel for the defendant has requested Richard J. Asplund, an employee in the office of Senator Culver, to appear for a deposition and to give testimony in such case: Now, therefore be it

Resolved, That by the privileges of the Senate no employee of the Senate may give testimony with respect to information secured in the performance of his official duties without consent of the Senate.

SEC. 2. When it appears that testimony of an employee of the Senate is needful for use in any court for the promotion of justice, the Senate will take such order thereon as will promote the ends of justice consistently with the privileges and rights of the Senate.

SEC. 3. Richard J. Asplund, an employee in the office of Senator Culver, is authorized to appear and give testimony in the case of State of Iowa *ex rel.* Richard Turner v. Planning Research Corporation *et al.* with respect to the matters pertaining to said corporation and to said case that are specified in the letter, dated June 28, 1978, to him from Kenneth W. Starr, an attorney representing Planning Research Corporation.

SEC. 4. The Secretary of the Senate shall transmit copies of this resolution to Kenneth W. Starr and to the District Court of the State of Iowa in and for Polk County.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. LUGAR. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements therein limited to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF HEALTH ACTIVITIES UNDER THE FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—MESSAGE FROM THE PRESIDENT—PM-199

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Human Resources:

To the Congress of the United States:

I transmit herewith the 1976 Annual Report of Health Activities under the Federal Coal Mine Health and Safety Act of 1969.

I recommend that the statutory reporting requirement for this report be changed from once every year to once every three years. HEW staff resources and time could be better spent on more research rather than on the preparation of annual reports of largely repetitious material. Basic information in this field has been known for some time, and new findings develop only slowly and infrequently. All of the information contained in this report is available to Congress during annual appropriations and oversight hearings, and HEW will inform Congress immediately of any scientific breakthrough in the field.

This report describes activities prior to the beginning of my Administration.

JIMMY CARTER.

The WHITE HOUSE, *July 13, 1978.*

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PELL, from the Committee on Rules and Administration, with an amendment and an amendment to the title:

S. 2. A bill to require authorizations of new budget authority for Government programs at least every five years, to provide for review of Government programs every five years, and for other purposes (together with additional views) (Rept. No. 95-981).

By Mr. PELL, from the Committee on Rules and Administration, without amendment:

S. Res. 504. A resolution authorizing additional expenditures by the Committee on Armed Services for routine purposes (Rept. No. 95-982).

S. Res. 513. An original resolution to pay a gratuity to Annabel Freeman D'Angelo, Kelly B. Beyer, and Casey K. Beyer.

S. Res. 514. An original resolution to pay a gratuity to Willie B. Hall.

By Mr. ABOUREZK, from the Select Committee on Indian Affairs, with amendments:

S. 3069. A bill to provide that members of the Sisseton-Wahpeton Sioux Tribe may request the Secretary of the Interior to acquire certain lands, and to provide that the tribe shall have a preference right to purchase certain lands held in trust by the United States for tribal members (Rept. No. 95-983).

By Mr. DECONCINI, from the Committee on the Judiciary, without amendment:

S. 3107. A bill to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy (Rept. No. 95-984).

By Mr. DECONCINI, from the Committee on the Judiciary, with an amendment:

S. 3100. A bill to improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes (Rept. No. 95-985).

By Mr. CRANSTON, from the Committee on Veterans' Affairs:

Special report pursuant to Section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95-986).

By Mr. HUDDLESTON, from the Committee on Agriculture, Nutrition, and Forestry, without amendment, with a preamble:

S. Res. 515. A resolution relating to the transportation crisis for farmers and shippers of agricultural commodities (Rept. No. 95-987). Referred to the Committee on Commerce, Science, and Transportation, by unanimous consent.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HEINZ (for himself, Mr. BAYH, Mr ANDERSON, Mr. SCHWEIKER, Mr. HATCH, and Mrs. ALLEN):

S. 3284. A bill to establish a reasonable and fair preference for domestic products and materials in Government procurement and in procuremert with Federal funds, and to promote free and fair trade in Government procurement of foreign products and materials; to the Committee on Governmental Affairs.

By Mr. TOWER (for himself, Mr. LUGAR, Mr. MORGAN, Mr. CLARK, Mr. BENTSEN, Mr. HAYAKAWA, Mr. PERCY, Mrs. ALLEN, and Mr. HELMS):

S. 3285. A bill to amend the Internal Revenue Code of 1954; to the Committee on Finance.

By Mr. MATHIAS:

S. 3286. A bill for the relief of Bedros Bastajian; to the Committee on the Judiciary.

By Mr. CURTIS:

S. 3287. A bill to amend the Internal Revenue Code of 1954 to provide that certain unitary hog confinement facilities be eligible for the investment tax credit; to the Committee on Finance.

By Mr. DOLE:

S. 3288. A bill to amend the Internal Revenue Code of 1954 to allow a retirement savings deduction for persons covered by certain pension plans; to the Committee on Finance.

By Mr. ROTH:

S. 3289. A bill to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain enclosures or structures used for the housing, raising, or feeding of poultry or their produce; to the Committee on Finance.

By Mr. RANDOLPH:

S. 3290. A bill to provide for the protection of the public health (including consumer patients) from unnecessary exposure to radiation; to the Committee on Human Resources.

By Mr. GRAVEL:

S. 3291. A bill to amend the Internal Revenue Code of 1954 to increase the percentage-of-compensation limitation on employee stock ownership plan contributions; to the Committee on Finance.

By Mr. ABOUREZK:

S. 3292. A bill to provide for deauthorizing the initial stage of the Oahe Unit, James Division, Missouri River Basin Project, South Dakota; to the Committee on Energy and Natural Resources.

By Mr. MELCHER (for himself, Mr. BURDICK, Mr. PAUL G. HATFIELD, and Mr. YOUNG):

S. 3293. A bill to provide that the Amtrak route system in effect on January 1, 1978, shall not be modified or restructured prior to October 1, 1979, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. ABOUREZK:

S. 3294. A bill to require the Secretary of the Interior to study the area near the Rocky Gorge Reservoir, and for other purposes; to the Committee on Energy and Natural Resources.

S. 3295. A bill to establish the Rocky Gorge National Environmental Center, and for other purposes; to the Committee on Environment and Public Works.

By Mr. TOWER (for himself, Mr. NUNN, Mr. SCHMITT, and Mr. MORGAN):

S. 3296. A bill to amend the Federal Trade Commission Act to provide for congressional review of each rule proposed by the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

By Mr. CLARK:

S. 3297. A bill to amend the Rural Development Act of 1972; to the Committee on Agriculture, Nutrition, and Forestry.

S. 3298. A bill to consolidate certain rural development functions of the Department of Housing and Urban Development and the Department of Commerce within the Department of Agriculture; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ (for himself, Mr. BAYH, Mr. ANDERSON, Mr. SCHWEIKER, Mr. HATCH, and Mrs. ALLEN):

S. 3284. A bill to establish a reasonable and fair preference for domestic products and materials in Government procurement and in procurement with Federal funds, and to promote free and fair trade in Government procurement of foreign products and materials; to the Committee on Governmental Affairs.

(The remarks of Mr. HEINZ when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. TOWER (for himself, Mr. LUGAR, Mr. MORGAN, Mr. CLARK, Mr. BENTSEN, Mr. HAYAKAWA, Mr. PERCY, Mrs. ALLEN, and Mr. HELMS):

S. 3285. A bill to amend the Internal Revenue Code of 1954; to the Committee on Finance.

● Mr. TOWER. Mr. President, I am joined today by eight of my colleagues in introducing a bill which would put an end to extensive tax litigation that has resulted from the Internal Revenue Service's attempt to deny the investment tax credit to structures designed and used for the housing, raising, or feeding of poultry and hogs, or their produce. The structures that are designed for these purposes should have been included in the investment tax credit.

When the investment credit was restored in the Revenue Act of 1971, the Senate Finance Committee in its accompanying report pointed out that Congress intended to include as qualifying section 38 property all "special use facilities". This term contemplates an enclosure the use of which is so closely related to the use of the equipment it houses that the structure clearly can be expected to be replaced when the property it houses is replaced. The Internal Revenue Service has refused to adopt the intention of Congress as expressed in that committee report to special use facilities, such as those housing a unitary system for raising poultry, even though the housing for such a system is far less of a structure than the one used as an example, and even though such a structure has no other practical use and is in fact abandoned when the equipment it houses is no longer in use. The Service has denied favorable tax treatment for a number of structures or enclosures which have uses and physical attributes indistinguishable, in the opinion of the committee, from the unitary system for raising hogs, such as the raising of poultry for food or egg production.

Because the Internal Revenue Service has not applied a standard commensurate with congressional intent, poultry raisers, for instance, are threatened with assessments for taking the investment credit intended to be available to them. Several small claims have already reached the Tax Court, whereupon the Service has given up. The one case involving poultry houses which has been passed upon in the Tax Court has resulted, rightfully, in a decision for the taxpayer. Yet the IRS will not concede the point. Thus, thousands of poultry raisers who were intended to be benefited by the Revenue Act of 1971 will be required to file suit, or if they do not know of the congressional intent, pay a tax they were not intended to pay.

Continued litigation is expensive and involved. This needless expenditure of time and money prompts the provision in the bill to make it effective for all taxable years ending on or after August 15, 1971. A comparable controversy over the application of the investment tax credit to motion picture films was ended by a provision in section 804 of the Tax Reform Act of 1976 that was made retroactive, and there is even more reason to do so in the present case because of the smaller amount involved and the relatively greater burden of the expense of litigation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

INVESTMENT TAX CREDIT FOR HOG PRODUCERS

● Mr. CLARK. Mr. President, I am pleased to join in cosponsoring S. 3285, a bill that would end a longstanding controversy with the Internal Revenue Service and permit hog producers to take full advantage of the 10-percent investment tax credit when they construct confinement facilities for their livestock.

The investment tax credit was designed to encourage businesses to invest in facilities and equipment that will be used to enhance industrial production in this country. To avoid misuse of the

tax credit and insure that the investments it stimulates relate directly to the production process, Congress prohibited use of the investment tax credit for buildings such as apartment houses, warehouses, and office buildings. But structures intimately related to the production of goods were intended to qualify for the investment tax credit. As the Senate Finance Committee explained in its report on the Revenue Act of 1971:

The term "building" is not intended to include a structure which houses property used as an integral part of a manufacturing or production activity.

Anyone who has any familiarity at all with hog production knows that the shell of the hog confinement facility is part and parcel of the entire confinement unit and that both are intimately related to the production process. The Senate Finance Committee recognized this and, in fact, in its 1971 report cited hog confinement units as examples of the kinds of so-called "buildings" that would qualify for the investment tax credit. But the IRS has refused to budge. Its auditors continue to disallow hog farmers the tax credits they are entitled to for investments in hog confinement facilities. I am told there have even been systematic audits of many of the tax returns of hog producers who have claimed the tax credit on these structures. In far too many cases, only farmers who have the time and money to appeal an initial Internal Revenue Service disallowance manage to get the tax credit they deserve.

Mr. President, these farmers have as much right as other businessmen to receive the investment tax credit. Since the IRS refuses to budge despite numerous efforts by congressional offices, the Farm Bureau, the National Pork Producers, the Iowa Pork Producers, and others to convince it of its error, and despite the 1971 clarification by the Senate Finance Committee that hog confinement facilities were to be eligible for an investment credit, I feel legislation is necessary. It is my hope that the Senate will act expeditiously on this measure to correct an inequity that has existed for too long.●

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3285

Be it enacted by the Senate and House of Representatives of the United States of America assembled, That section 48(a) of the Internal Revenue Code of 1954 (relating to section 38 property) is amended by adding at the end thereof the following new paragraph:

"(10) Certain special purpose agricultural structures. A structure specifically designed, constructed, and utilized for single purpose food production, including but not limited to production of eggs, poultry, and pork shall be treated as section 38 property."

SEC. 2. The amendment made by the first section of this act shall be effective for all taxable years ending on or after August 15, 1971.●

By Mr. DOLE:

S. 3288. A bill to amend the Internal Revenue Code of 1954 to allow a retirement savings deduction for persons covered by certain pension plans; to the Committee on Finance.

● Mr. DOLE. Mr. President, the enactment of the Employee Retirement Income Security Act of 1974 has contributed to the instability of many pension plans. The Senator from Kansas believes that every American should have the opportunity to provide for his retirement. However, because of inflation and burdensome Government regulation, it is increasingly apparent that many Americans will not have adequate benefits to provide for their later years.

Mr. President, I am introducing legislation today which seeks to encourage employees to remain in qualified pension plans and induce employers to maintain such plans.

LIRA

Mr. President, earlier this year I introduced S. 2462. Which would allow an individual who is presently a participant in a qualified retirement plan to establish a limited individual retirement account. S. 2462 is cosponsored by nine other Senators. The LIRA proposal is designed to assist low-income Americans and workers participating in low-benefit-pension plans.

Mr. President, under the current law, an employee who contributes to a profit-sharing, stock bonus, annuity plan, or other qualified pension plan receives no tax deduction. As a general rule, employer contributions to the plans are not taxed to the employee until there is a distribution or until the contributions are made available to the employee.

PLAN TERMINATION

Mr. President, recent reports, including a survey I did in Kansas, indicates an alarming increase in plan termination. In addition, the current structure of Federal pension regulation are discouraging the establishment of qualified plans. As a result, I believe that the American worker suffers.

QUALIFIED PLAN DEDUCTION

My proposal, which I introduced today, grants an employee, who is an active participant in a qualified pension plan, a deduction to the extent of the contribution to the plan, or to an IRA or in part to a qualified plan and in part to an IRA. The deduction allowed under my proposal is limited to the lesser of 10 percent compensation of $1,000. The deduction would be allowed from gross to adjusted gross income. A deduction will be allowed for either mandatory or voluntary contributions. If the plan does not permit employee contributions, the employee may contribute within the limits, to an individual retirement account.

Mr. President, I believe that my proposal is relatively straight-forward. It entails no burdensome regulations. I believe that it will be simple for the employer to easily report the deductible contributions to the employee.

EMPLOYER TREATMENT

Mr. President, under my proposal the employer will treat the amount of employee contributions which it must report to the employee as employer contributions except for purposes of determining the employer's deduction and for vesting purposes. Thus, the employee will be immediately and fully vested in his contributions. The employees ability to withdraw the contributions will be subject to the same rules that apply to other employer contributions.

Mr. President, I hope the Senate Finance Committee will soon address this proposal as well as S. 2462. It is of national importance that Congress assure our citizens, who have spent their careers in useful and productive work, adequate incomes upon retirement. The enactment of this legislation is a step in the right direction.

I ask unanimous consent that the text of my bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3288

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Internal Revenue Code of 1954 is amended as follows:

(a) DEDUCTION FOR CERTAIN EMPLOYEE RETIREMENT SAVINGS CONTRIBUTIONS.—

(1) IN GENERAL.—Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) is amended by redesignating section 221 as 222 and by inserting after section 220 the following new section:

"SEC. 221. DEDUCTION FOR CERTAIN EMPLOYEE RETIREMENT SAVINGS CONTRIBUTIONS.

"(a) DEDUCTION ALLOWED.—In the case of an eligible employee, described in subsection (c), there is allowed as a deduction amounts paid in cash for a taxable year by such individual for the benefit of himself—

"(1) to a plan described in section 401(a) which includes a trust exempt from tax under section 501(a),

"(2) to an annuity plan described in section 403(a),

"(3) to a qualified bond purchase plan described in section 405(a),

"(4) to an individual retirement account described in section 408(a), individual retirement annuity described in section 408(b), or for a retirement bond described in section 409, or

"(5) to a group retirement trust maintained by a labor organization described in section 501(c)(5) which is financed exclusively by assessments of employees who are members of such labor organization, which was established prior to January 1, 1974, and in which the assessments paid to the trust by any participant are 100% nonforfeitable.

"(b) LIMITATION AND RESTRICTIONS.—

"(1) MAXIMUM DEDUCTION.—The amount allowable as a deduction under subsection (a) to an eligible employee for any taxable year may not exceed an amount equal to 10 percent of the compensation includible in his gross income for such taxable year, or $1,000, whichever is less.

"(2) ADDITIONAL LIMITATION.—No deduction is allowed for any amount paid to an account, annuity, or for a bond described in paragraph (4) of subsection (a) except to the extent of the excess of the amount determined under subsection (b) over any amount paid to a plan described in paragraph (1), (2), or (3) of subsection (a).

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) ELIGIBLE EMPLOYEE.—For purposes of this section, the term "eligible employee" shall mean an individual who is an employee without regard to section 401(c)(1) and who is an active participant for any part of the taxable year in—

"(A) a plan described in section 401(a)

which includes a trust exempt from tax under section 501(a),

"(B) an annuity plan described in section 403(a), or

"(C) a qualified bond purchase plan described in section 405(a),

"(D) a group retirement trust maintained by a labor organization described in section 501(c)(5) which is financed exclusively by assessments of employees who are members of such labor organization, which was established prior to January 1, 1974, and in which the assessments paid to the trust by any participant are 100 percent nonforfeitable.

but not if such plan is established or maintained by the United States, by a State or political subdivision thereof or by agency or instrumentality of any of the foregoing.

"(2) REPORTS.—The Secretary shall promulgate regulations which prescribe the time and manner reports shall be filed by an employer receiving contributions deductible under this section and by any eligible employee making any such deductible contribution."

(2) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Section 62 (defining adjusted gross income) is amended by inserting after paragraph (13) the following new paragraph:

"(14) DEDUCTION FOR CERTAIN CONTRIBUTIONS.—The deduction allowed by section 221 (relating to certain employee retirement savings contributions)."

TAX TREATMENT OF CERTAIN DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—Subpart 9 of part I of subchapter D of chapter 1 (relating to retirement plans) by inserting after subsection (l) of section 414 the following new subsection:

"(m) DEDUCTIBLE EMPLOYEE CONTRIBUTIONS.—For purposes of this title other than for purposes of sections 404 and 411, any amount which an employer is required to report pursuant to regulations promulgated under subsection (c)(2) of section 221, with respect to an amount paid by an eligible employee, as defined in subsection (c)(1) of section 221, as an employee retirement savings contribution, shall be treated as an employer contribution."

(e) CONFORMING AMENDMENTS.—

(1) So much of section72(f) as precedes paragraph (1) thereof is amended to read as follows: "In computing, for purposes of subsection (c)(1)(A), the aggregate amount of premiums or other consideration paid for the contract, for purposes of subsection (d)(1), the consideration for the contract contributed by the employee, and for purposes of subsection (e)(1)(B), the aggregate premiums or other consideration paid, amounts which an employer is required to report, pursuant to regulations promulgated under subsection (c)(2) of section 221, with respect to an amount paid by an eligible employee, as defined in subsection (c)(1) of section 221, as a retirement savings employee contribution shall be excluded, and amounts contributed by the employer shall be included, but only to the extent that—".

(2) Section 414(h) (Tax Treatment of Certain Contributions) is amended by inserting after "any amount contributed" the following: "other than an amount described in subsection (m)".

(3) So much of section 4973(b) as follows paragraph (1)(A) thereof is amended to read as follows:

"(B) the amount allowable as a deduction under section 219, 220, or 221 for such contributions, and

"(2) the amount determined under this subsection for the preceding taxable year, reduced by the excess (if any) of the maximum amount allowable as a deduction under section 219, 220, or 221 for the taxable year over the amount contributed to the accounts or for the annuities or bonds for the taxable year and reduced by the sum of the distributions out of the account (for the taxable year and all prior taxable years) which were included in the gross income of the payee under section 408(d)(1).

For purposes of this subsection, any contribution which is distributed from the individual retirement account, individual retirement annuity, or bond in a distribution to which section 408(d)(4) applies shall be treated as an amount not contributed if such distribution consists of an excess contribution solely because of employer or employee contributions to a plan or contract described in section 219(b)(2) or by reason of the application of section 219(b)(1) (without regard to the $1,000 limitation) and only if such distribution does not exceed the excess of $1,500, $1,750, or $1,000, if applicable over the amount described in paragraph (1)(B)."

(d) EFFECTIVE DATE.—The amendments made by this Act shall apply to taxable years beginning after the date of the enactment of this Act.●

By Mr. ROTH:

S. 3289. A bill to amend the Internal Revenue Code of 1954 to clarify the application of the investment tax credit to certain enclosures or structures used for the housing, raising, or feeding of poultry or their produce; to the Committee on Finance.

INVESTMENT TAX CREDIT FOR POULTRY STRUCTURES

● Mr. ROTH. Mr. President, I am today introducing a bill to allow poultry producers to take advantage of the investment tax credit in the construction of structures designed and used for the housing, raising, or feeding of poultry and their produce.

This legislation will clarify the intent of Congress and end years of costly court battles. In 1971, the Senate Finance Committee attempted to make clear that the investment tax credit was to be allowed for the construction of specific farm structures. However, the Internal Revenue Service has denied the investment tax credit for poultry producers even though it has allowed the tax credit for other farmers, including hog farmers. The IRS continues to deny the investment tax credit for poultry farmers even though recent court decisions have ruled in favor of poultry producers.

I believe it is time to end the costly and endless court litigation and make clear to the IRS the intent of Congress.

The investment tax credit has been unfairly denied to poultry farmers by the IRS despite the court decision. If the IRS will not yield this point in light of the court ruling, the legislation I am introducing today will.

Enactment of this legislation could benefit nearly all of the 3,000 family farms where poultry growing now occurs in Delaware.

I believe the standard broiler and breeder houses in Delmarva meet the strict Treasury Department requirement for the investment tax credit. Each facility houses property which is an integral part of the production of chicken or eggs.

If enacted into law, this legislation will allow tax readjustments for construction that has occurred since 1971. In addition, this bill will be a strong incentive for new construction and increased production. This legislation will enable Delaware farmers to participate in the growth of the poultry market and maintain their share of the east coast fresh poultry market.

According to the Delmarva Poultry Institute, 400 to 500 new broilers will be needed in the next year. The year-round increased production income that would be generated by this legislation, as well as the revenue from the initial construction, will be a tremendous shot in the arm for the entire southern Delaware economy and will mean new jobs and increased income for thousands of Delawareans.●

By Mr. RANDOLPH:

S. 3290. A bill to provide for the protection of the public health (including consumer patients) from unnecessary exposure to radiation; to the Committee on Human Resources.

CONSUMER PATIENT RADIATION HEALTH AND SAFETY ACT OF 1978

● Mr. RANDOLPH. Mr. President, the Radiation Health and Safety Act of 1978 would significantly reduce unnecessary patient exposure to ionizing radiation with accompanying major improvements in the benefits to be derived from diagnostic and therapeutic radiation practices. Unnecessary radiation exposure now constitutes a hazard to public health of national import.

Radiation is unique—it cannot be detected by the senses of sight, touch, smell, hearing, or taste. Yet its use or abuse can save or destroy lives. Because of the inherent danger of that radiation, every patient, and I repeat, every patient, deserves a qualified operator.

The purpose of medical radiation exposure is to aid in the diagnosis and treatment of a clinical problem. Radiologic examinations are almost routine for patients desiring good medical practice. Similarly, nuclear medicine is being prescribed for about one-third of the patients being admitted to hospitals in the United States.

Thus over 90 percent of all human exposure to ionizing radiation is from such medical and dental uses. By comparison, less than 1 percent of the American consumer's exposure to radiation occurs from the normal operation of nuclear powerplants. Any reduction in unnecessary medical radiation exposure is thus significant, and practicable.

Since 1968, the American Society of Radiologic Technology has actively supported the enactment of Federal minimum standards for the education and training for radiologic technologists. In the judgment of the society, the American public is not adequately protected from the harmful effects of unnecessary medical radiation exposure. This will only occur when our Federal and State governments assure that the operators of radiologic equipment are appropriately qualified by virtue of training and experience.

Under the "electronic products legislation of 1968" (Public Law 90–602) significant steps have been taken to protect public health through the regulation of such electronic products as X-ray equipment. However, the use and abuse of

this equipment is determined by the operator.

The qualifications of the operator, not the prescribing physician, determine the quality of the radiologic service being paid for by the consumer-patient. Radiation is not emitted from regulated equipment, nor is the patient exposed to radiation, unless it is the will of the operator. But there are a substantial proportion of individuals in the work force, up to 57 percent, who have not met any formal requirements or demonstrated their competence to administer diagnostic X-rays to consumer-patients.

The underlying premise of the Radiation Health and Safety Act of 1978 is that medical practitioners have the primary responsibility for the provision of radiologic services; however, if the provision of such services is to be delegated they must be delegated to a qualified radiologic technologist.

The purpose of the bill is to encourage the application of potentially hazardous radiation to human beings by only licensed medical practitioners and State licensed radiologic technologists. This measure addresses the qualifications for licensure of radiologic technologists. It does not address requirements for the licensure of medical practitioners before they can administer potentially hazardous radiation to consumer-patients.

State licensure would eliminate totally incompetent technologists from the field. Such individuals deprive the consumer of the full benefits duly prescribed radiologic procedures, since the patient is being subjected to unnecessary risks.

The Conference of State Radiation Control Program Directors in 1974 voted to request the Congress and State legislatures to act on legislation requiring licensure of diagnostic X-ray equipment users. In addition, the 50 State associations affiliated with the American Society of Radiologic Technologists support Federal minimum standards of education and training of radiologic technologists.

In response, some 14 States have enacted legislation in this area. Clearly there now is a need for Federal leadership to provide some degree of uniformity through Federal minimum standards. Consumer-patients must be adequately protected regardless of where one resides. The Radiologic Health and Safety Act of 1978 preserves the primary role of this national program with the States. It also preserves the role of State legislatures to establish the criteria and standards to be used within their State for the accreditation of educational programs and for the licensure of radiologic technologists.

The best quality care possible should be provided with the maximum benefit at minimum risk to the consumer-patient. The Radiologic Health and Safety Act of 1978 recognizes the rights of all Americans in this regard. This legislation is needed to insure that all consumers of health care services, the patients, receive the most efficacious services that modern science is capable of delivering.

Similar legislation passed the Senate in the 93d and 94th Congresses. On both occasions the Senate approved provisions were dropped by the Senate-House conferees, because there were no comparable provisions in the House passed measures. But the need is still there to reduce unnecessary exposure of consumer-patients to radiation. The Radiation Health and Safety Act of 1978 is formulated to encourage State licensure of non-physician operators of diagnostic radiation equipment.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3290

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 101. This Act may be cited as the "Consumer-Patient Radiation Health and Safety Act of 1978".

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FINDINGS

SEC. 102. The Congress finds that—

(a) it is in the interest of the Nation's public health and safety to minimize exposure of the public to potentially hazardous radiation;

(b) while the use of radiologic procedures is essential in modern medicine, even the most advanced procedures will not adequately protect the health and safety of either the consumer-patient subjected to radiologic procedures or the individuals performing such radiologic procedures, including their progeny, unless the individuals performing such radiologic procedures are fully qualified by reason of education and experience in the operation of radiologic equipment or in the performance of radiologic procedures so as to avoid unnecessary consumer-patient and operator exposure to unnecessary radiation and to assure efficacious consumer-patient radiologic services;

(c) it is in the interest of public health to have an adequate and continuing supply of well educated radiologic technologists;

(d) consistent with Federal radiation protection guidance for diagnostic X-rays approved by the President on January 26, 1978, it is in the national interest and in the interest of public health and safety to assure that persons administering potentially hazardous radiation to consumer-patients are properly qualified as has been recommended by:

(1) the National Advisory Committee on Radiation to the Surgeon General in 1966;

(2) the Secretary's Task Force on Environmental Health and Related Problems in June 1967;

(3) the Surgeon General's Medical X-Ray Advisory Committee on Public Health Considerations in Medical Diagnostic Radiology in October 1967;

(4) the 1970 report of the Secretary to the Congress pursuant to the Radiation Control for Health and Safety Act of 1968;

(5) the National Academy of Sciences-National Research Council's Advisory Committee on the Biological Effects of Ionizing Radiations in November 1972; and

(6) the Conference of Radiation Control Program Directors in May 1974.

(e) that the protection of the public health and safety from unnecessary exposure to potentially hazardous radiation from all sources is the primary responsibility of State and local government; and

(f) any person who prescribes or administers radiologic procedures to consumer-patients, including at Federal facilities, should be required to demonstrate competence by reason of education, experience, and examination.

STATEMENT OF PURPOSES

SEC. 103. The purposes of this Act, which shall be carried out consistent with the maximum protection of public health from unnecessary exposure to radiation, are to—

(a) provide for the establishment of criteria and guidelines for the credentialling or licensure of all personnel administering radiation to consumer-patients;

(b) provide for the establishment of criteria and guidelines for use in accrediting programs for the education of radiologic technologists;

(c) provide for the formulation of criteria and guidelines applicable to all Federal agencies in the (1) establishment and execution of radiation protection programs and (2) formulation of radiation protection standards;

(d) insure that all Federal agencies administer programs carried out or funded by such agencies so as to further the purposes of this Act; and

(e) encourage State adoption and administration of programs for the accreditation of educational programs for the education of radiologic technologists and for the licensure of radiologic technologists.

DEFINITIONS

SEC. 104. Unless otherwise expressly provided, for the purposes of this Act the term:

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

(2) "dental practitioners" means licensable Doctors of Dentistry, who do or will prescribe or administer radiation to consumer-patients;

(3) "medical practitioners" mean licensable Doctors of Medicine, Osteopathy, or Chiropractic, who do or will prescribe or administer radiation to consumer-patients or for specified limited procedures, postgraduate physician trainees, such as interns and residents;

(4) "radiation" means ionizing and nonionizing radiation from such sources as consumer and commercial products, medical and dental radiation (including diagnostic X-rays), industrial applications, nuclear energy applications, and natural radiation;

(5) "radiologic technologist" means any

person, other than a medical or dental practitioner, who administers radiation to consumer-patients and includes, but is not limited to, medical radiologic technologists (including radiographers), dental radiologic technologists (including dental hygienists and dental assistants), radiation therapy technologists, and nuclear medicine technologists; and

(6) "Secretary" means the Secretary of Health, Education, and Welfare.

PART II. FEDERAL RADIATION PROTECTION GUIDELINES

PROMULGATION OF RADIATION PROTECTION GUIDELINES

SEC. 121. (a)(1) The Administrator shall, in accordance with Executive Order 10831 and Public Law 86-373 (42 U.S.C. 2021(h), promulgate Federal radiation guidance with respect to radiation matters directly or indirectly affecting public health. Such guidance shall contain information regarding (A) the sources of radiation exposure and (B) techniques, procedures and methods to minimize unnecessary and non-efficacious radiation exposure.

(2) Pursuant to paragraph (1), the Administration shall, in consultation with the Secretary and other affected Federal agencies, promulgate guidelines regarding medical and dental exposure to consumer-patients. Such guidelines shall be in a form so as to (A) facilitate the establishment of optimum techniques to minimize consumer-patient exposures, (B) eliminate inconsistency and the resultant need for retakes of diagnostic radiologic procedures, (C) eliminate unproductive screening programs, and (D) obtain the optimum diagnostic information with minimum consumer-patient exposure.

(b) Within 18 months of enactment, the Administrator shall promulgate criteria and guidelines with respect to—

(1) the application of diagnostic X-rays to consumer-patients;

(2) the therapeutic application of radiation to consumer-patients; and

(3) the application of radiation to consumer-patients in the treatment of disease, such as nuclear medicine applications.

(c) The Administrator shall review and, as appropriate, revise guidelines promulgated by him pursuant to this section.

PART III. ESTABLISHMENT OF STATE PROGRAMS FOR THE CONTROL OF RADIOLOGIC SERVICES

RECOMMENDED MINIMUM RADIATION PROTECTION STANDARDS FOR ACCREDITATION

SEC. 131. (a) Not later than December 31, 1980, the Secretary shall promulgate voluntary minimum standards for the accreditation of educational institutions conducting education programs in radiologic services. Such standards shall distinguish between programs for the education of (1) radiologic technologists, (2) medical or dental practitioners (3) dental hygienists, and (4) dental assistants.

(b) The Secretary may authorize appropriate professional organizations to certify such accreditation as consistent with the purposes of this section if he determines that such organization will adhere (and is continuing to adhere) as a basis for certification to the minimum standards issued pursuant to this section. For the purposes of such accreditation, the Secretary shall, to the maximum extent practicable, consistent with the purposes of this Act, utilize organizations recognized by the Commissioner of Education for such purposes. Provided, however, that the Secretary shall find such organization is not continuing to adhere to such standards.

(c) The Secretary shall review and, as appropriate, revise the standards promulgated by him pursuant to this section.

RECOMMENDED MINIMUM STANDARDS FOR LICENSURE FOR RADIOLOGIC TECHNOLOGISTS

SEC. 132. (a) Not later than December 31, 1980, the Secretary shall promulgate voluntary minimum standards for licensure of radiologic technologists. The Secretary may designate categories of specialization or levels of competence for the purpose of licensure if he finds that such categories are required to assure adequate protection of public health from unnecessary radiation exposure or to assure efficacious consumer-patient radiologic services. The Secretary shall consider for possible designation the following categories of specialization: senior radiologic technologists, medical radiologic technologists (including radiographers), dental radiologic technologists (including dental hygienists and dental assistants), radiation therapy technologists, nuclear medicine technologists, technologist-in training, and students in radiologic technology.

(b)(1) The Secretary shall, within one year after promulgation of voluntary minimum standards under this section, review and evaluate any voluntary certification programs or State licensure programs in existence as of such date and, based on such review and evaluation, determine whether such programs meet such standards.

(2) If the Secretary is satisfied that the program meets such standards he shall, within one year thereafter, certify such programs as in conformance with such standards.

(c) The Secretary shall review and, as appropriate, revise the standards promulgated by him pursuant to this section.

STATE ASSISTANCE

SEC. 133. The Secretary shall provide the States such advice and assistance as will foster establishment of appropriate programs to achieve the purposes of this Act. Such advice and assistance shall include model laws and may include educational curriculum and teaching aids. Such model law shall provide that—

(a) graduation from an educational institution for the education of radiologic technologists which is accredited as in conformance with the voluntary standards promulgated pursuant to section 131 shall satisfy the requirements for a provisional license as a technologist-in-training conditioned on licensure within one year in one or more categories of specialization the Secretary may designate;

(b) it shall be unlawful for an individual to apply potentially hazardous radiation to consumer-patients unles such individual is a medical or dental practitioner or meets the voluntary standards promulgated pursuant to section 132; and

(c) if adopted by the State, any violation of the model law by an individual applying potentially hazardous radiation to consumer-patients shall be subject to a civil penalty of not more than $1,000, and any such violation shall be with respect to each act or omission made unlawful by such law.

GRANTS TO EDUCATIONAL INSTITUTIONS

SEC. 134. The Secretary may, under title VII of the Public Health Service Act, make grants to educational programs accreditated pursuant to section 131 to carry out the purposes of this Act.

GRANTS TO CERTIFICATION ORGANIZATIONS

SEC. 135. The Secretary may make grants to States or professional organizations designated pursuant to section 131(b) in an amount up to 66⅔ per centum of the cost of the first year and up to 33⅓ per centum of the cost of the second, third, and fourth years for the planning, development, and establishment of programs to carry out the purposes of this Act.

STATE PROGRAM GRANTS

SEC. 136. (a) The Secretary may, in accordance with subsection (b) and (c), make grants to State radiation protection agencies up to 50 percentum of the costs of programs which the Secretary determines are consistent with the purposes of this Act. Such grants shall provide for the accreditation of educational programs and for the mandatory licensure of radiologic technologists.

(b) Within six months of the issuance of any criteria and minimum standards pursuant to section 131 for the accreditation of educational programs, the Governor of a State may file with the Secretary a letter of intent that such State will, within two years of the issuance of such criteria and minimum standards, adopt as a minimum such criteria and standards for the accreditation of such educational programs. If, after two years, a State fails to adopt such standards, or is unable to adopt such standards or more stringent standards, eligibility for grants pursuant to this section shall terminate. *Provided, however,* that upon application of a Governor, the Secretary may grant an extension for not more than two years if after review the Secretary determines that good faith efforts have been made by the State and reasonable assurances is provided that an effective accreditation program will be provided by the State within the period of the extension.

(c)(1) Within six months of the issuance of any criteria and minimum standards issued pursuant to section 132 for the licensure of radiologic technologists, the Governor of a State may file a letter of intent that such State will, within two years of the issuance of such criteria and minimum standards, adopt as minimum standards for such criteria and the licensure of radiologic technologists. If, after two years, a Governor fails to adopt such standards, or is unable to adopt such standards or more stringent standards, eligibility for grants pursuant to this subsection shall terminate: *Provided, however,* that upon application of a Governor, the Secretary may grant an extension for not more than two years if after review the Secretary determines that good faith efforts have been made by the State and reasonable assurance is provided that an effective licensure program will be provided by the State within the period of the extension.

(d) Notwithstanding any other provision of this section, in the case of a State which has, prior to the effective date of standards and guidelines promulgated pursuant to this subpart, established standards for the accreditation of educational programs or licensure of radiologic technologists, such State shall be deemed to be in compliance with the conditions of this section unless the Secretary determines, after notice and hearing, that such State standards do not meet the minimum standards prescribed by the Secretary or are inconsistent with the purposes of this Act.

PART IV—FEDERAL ACTIVITIES

FEDERAL AGENCY COMPLIANCE

SEC. 141. Each department, agency, and instrumentality of the Executive Branch of the Federal government shall comply with any minimum standards promulgated pursuant to this Act.

FEDERAL ASSISTANCE PROGRAMS

SEC. 142. (a) In order to carry out the purposes of this Act, the President shall, not later than one year after the date of enactment, issue an executive order requiring each Federal agency which is authorized to extend Federal assistance or reimbursement of funds by means of grants, loans, contracts, or other forms of financial assistance or reimbursement to promptly effectuate the purposes of this Act, including the adoption of minimum standards promulgated pursuant to this Act.

(b) The President may by order exempt any specific grant, loan, contract, or other form of financial assistance from the requirements of this subsection if he determines such exemption is in the national interest. The President shall notify the Congress in writing of such exemption at least 90 days before it is effective.

PART V—ADMINISTRATION

SEC. 151. Guidelines and standards prescribed under this Act shall be promulgated by rule in accordance with the procedures set forth in section 553 of title 5, United States Code.

CONSULTATION

SEC. 152. In establishing guidelines and minimum standards under this Act the Secretary shall consult with the Environmental Protection Agency, State health departments, and appropriate professional organizations.

PART VI—APPROPRIATIONS AUTHORIZATION

SEC. 161. There is authorized to be appropriated to the Administrator and the Secretary such sums as necessary to carry out the purposes of this Act.●

By Mr. GRAVEL:

S. 3291. A bill to amend the Internal Revenue Code of 1954 to increase the percentage-of-compensation limitation on employee stock ownership plan contributions; to the Committee on Finance.

ESOP AMENDMENTS

● Mr. GRAVEL. Mr. President, today I am introducing a bill which raises serious questions about the future of our economy and our ability to provide adequate incomes for the majority of our citizens. The bill which I send to the desk simply raises the allowable contribution limits for employee stock ownership plans. While this may not seem like a significant change in the law in relation to the broad major programs which we daily see in this body, it holds great portent and raises one of the key issues with respect to the future of America.

Today the capital stock of our economy amounts to approximately $6 trillion. This represents a tripling of our wealth since 1925. In order to meet the demands of our expanding economy the $6 trillion of today will double by the turn of the century. The question which my amendment addresses in a small way is: Who is going to own this increase in our national wealth? This is a very serious question since much of our economic wealth today is controlled by a very small group of people. Five percent of Americans control 50 percent of our wealth and 1 percent control 25 percent. Despite all of our programs designed to promote economic equity these numbers have not changed significantly in the last 50 years. Unless we in the Congress take steps to broaden the ownership of capital we will not see any significant change in the next 50 years.

It is my opinion that the startling lack of capital diffusion in America lies at the root of our economic malaise. Because many individuals have no source of capital related income we develop job promotion programs so that they can earn money with which to meet the daily needs of life. Yet, even in the creation of jobs we are unsuccessful so that for many we must simply transfer income from those who have enough to those who cannot generate enough for themselves. If those unfortunate jobless individuals were the owners of capital assets they would not need the charity of the Congress. They would have sufficient income independently of the Government. But, since the structure of our financial system insures that the majority of these individuals will never acquire such a capital base, we burden our economy with massive transfer payments programs and job creation schemes.

Employee stock ownership plans have been a first small step in remedying this high concentration of capital in our economy. Through the use of leveraged ESOP's employees can acquire stock in their employer company without any investment on their part. The transaction takes place through a fully leveraged acquisition by the ESOP trust on behalf of the employees. The employer makes pension contributions to the ESOP trust in amounts sufficient to amortize the acquisition indebtedness of the ESOP trust. It is this contribution by the corporation to the ESOP trust to which my bill is directed.

The employee stock ownership plan developed under the rules applicable to tax qualified employee pension and profit sharing retirement plans. These plans are subject to many restrictions which are designed to secure the retirement funds and limit abuses of the tax benefits allowed. In the Employee Retirement and Income Security Act of 1974 we abrogated one of the pension limitations as applied to ESOP. We relaxed the retirement fund security provisions requiring diversified investments and allowed ESOP's to hold an undiversified portfolio of employer securities.

It is time now to remove another impediment to the use of ESOP's for the broadening of capital ownership. The contribution limitations of ERISA prevent the employer from contributing more than 25 percent of an employee's compensation to an ESOP. This restriction means that financing through an ESOP for the purchase of employer stock on behalf of the individual employees is restricted to an amount not greater than that which will be amortized by annual contributions equal to 25 percent of the employer's payroll. In small- and medium-sized capital-intensive companies this amount may not be sufficient to satisfy the capital needs of the corporation and, while the corporation might well use a leveraged ESOP for expansion, it cannot do so because of the contribution limitations. My bill addresses this problem by allowing the employer to deduct contributions to an ESOP up to 50 percent of an employee's compensation thereby expanding the opportunities for leveraged ESOP financing.

One of the conflicts implicit in the ESOP concept since its inception has been this limitation on contributions. If the ESOP is to serve its intended function of broadening capital ownership we must allow it the freedom to meet the needs of the financing appropriate to the business context in which it is to be used. By retaining the 25-percent limitation on contributions to the ESOP trust we leave a roadblock in the way of effective use of the ESOP for broadened ownership. The retention of the 25-percent limitation comes from the ESOP's roots in the qualified pension plan provisions of the Internal Revenue Code. Organization under these provisions was and is necessary to insure the tax exempt nature of the ESOP trust and to allow deductibility of ESOP contributions by the corporation. The deductibility of the corporation's payments to the ESOP trust is important in allowing rapid amortization of the ESOP's debt and accumulation of equity interests on the part of the ESOP beneficiaries, the companies' employees.

The increase in contribution limitations which the legislation would provide for ESOP's may be challenged on the ground that it is not applicable to all other tax-qualified pension plans. To that I say, the ESOP is not just another tax-qualified pension plan. Indeed, the confusion which has been caused by the necessary use of the tax qualified plan provision of the code with respect to ESOP's has been unfortunate. It has caused many people to view ESOP's as a form of pension plan. They are not. The ESOP is a means of building a capital estate into employees and, where it works effectively, it can eliminate the need for an employee's sponsored pension plan. But, it is not designed primarily to provide pensions, but capital ownership, for its participants. It is time we recognized this difference and acted to make ESOP's more useful in solving the question of who will own the $6 trillion in new capital which will be required between now and the year 2000. If we do not act soon to ease the restrictions on ESOP's and to adopt new and broader programs for the diffusion of capital ownership the new $6 trillion will be owned by that same group who own the lions share of today's economy.

Mr. President, I hope my colleagues will join me in supporting this bill. I would point out that this bill and others for the broadening of capital ownership in our economy will be the subject of hearings before the full Senate Finance Committee next week on July 19 and 20, beginning at 9 a.m. in room 2221 of the Dirksen Building. Mr. President, I ask unanimous consent that my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 415(c)(6) of the Internal Revenue Code of 1954 (relating to special limitation for employee stock ownership plan) is amended by adding at the end thereof the following new subparagraph:

"(C) For the purpose of applying the limitation in paragraph (1) to any employee stock ownership plan (as defined in clause (i) of subparagraph (B), the percentage '50 percent' shall be substituted for '25 percent' in subparagraph (B) of paragraph (1).", and that section 405(a) is amended by adding at the end thereof the following new paragraph:

"(9) Notwithstanding any limitation set forth in this subsection (a), in the taxable year when paid, if the contributions are paid into a trust established under an Employee Stock Ownership Plan (as defined in section 415(c)(6)(B(i)) and if such taxable year ends within or with a taxable year of the trust for which the trust is tax exempt under section 501(a), in an amount not in excess of 50 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under the plan.".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to years beginning after December 31, 1978.●

By Mr. ABOUREZK:

S. 3292. A bill to provide for deauthorizing the initial stage of the Oahe unit, James division, Missouri River basin project, South Dakota; to the Committee on Energy and Natural Resources.

DEAUTHORIZATION OF THE OAHE PROJECT

● Mr. ABOUREZK. Mr. President, today I am introducing a bill to deauthorize the Oahe project in my State of South Dakota. The project has been controversial for many years, but events in the last 2 years have convinced me that the project should not be built.

Organized opposition to the project began several years ago. Many local farmers contended that the project would do more harm than good. It would take 110,000 acres out of production to irrigate 190,000 acres. These farmers doubted that the loss of all this land would be compensated for by the increase in productivity due to irrigation, particularly since there was some question about the irrigability of the soil in the project. There was also concern that the project would cause the James River, which would be receiving return irrigation flows, to have levels of pollutants exceeding Federal standards. Finally, many farmers wondered whether irrigation was as much a benefit as the Bureau of Reclamation was contending. The area to be irrigated was already a successful dryland farming region, and irrigation would entail enormous capital expenditures by project beneficiaries.

The most vocal opposition, of course, came from the hundreds of people whose land would be taken for the project, either in total, or in part. For many people, canals and other project features would cut their farms in half, seriously hampering their agricultural efficiency. These people, in concert with environmentalists and other concerned local residents, formed United Family Farmers, a group seeking to change and perhaps terminate the Oahe project.

At first, I told the UFF that while I was sympathetic to their concerns, I still thought that the project was a good one. I also told them, however, that I would not force a project down the throats of local people, and that if the project opponents could win a majority of seats on the local board which holds the contract with the Bureau of Reclamation, then I would support the decisions of that majority.

In 1974, project opponents appeared to have won a majority of the five seats contested in that election, but one of the elected individuals later changed his view of the project. In 1976, in the midst of a severe drought, the opponents won five of six seats, losing the sixth by a narrow margin. These two elections provided the opponents with a clear majority on the Board—7 to 4 or more on most votes—and, after an extensive review of the project, the Board voted to request that Congress spend no funds for the fiscal year that is now ending. The Interior Department agreed with this recommendation, saying that they could not recommend a project which lacked local support. Congress did not provide funds for Oahe last year, and will not this year.

This year, the Board has voted to request that Congress deauthorize the Oahe project. I think it is time to take this step.

One would have to search very hard to find any major elected official in South Dakota who believes that the Oahe project, as designed, makes good sense for the State. I think it is fair to say that the reason for this is that the project simply takes too much good land out of production in order to irrigate already productive land. It is just not a good bargain, even at the highly subsidized rates of Federal water projects. In fact, hundreds of local farmers have come to Washington to ask the Congress and the Interior Department not to build the project. It is rare, indeed, that the supposed beneficiaries of a project come to the Government and say "Don't spend your money on us."

Many people in the State, however, want to keep the Oahe authorization alive in as a means to obtain some other water project in the State, possibly using some of the features of the Oahe project, which is now about 10 percent complete. Unfortunately, any project that could be constructed within the existing authorizatcn would encounter the same local opposition and the same problems that the existing project faces, because any such project would move water a very long distance. This necessitates condemning a great deal of land for project features and wildlife mitigation. It necessitates the breaking up of scores of productive farms.

As long as this authorization exists, however, people will want to use it in the hopes that some project can be resuscitated. It must be admitted that there are strong project proponents, but, I am afraid, most of these are bankers and business people who stand to gain by the project's construction.

The farmers in the area affected by the project, by contrast, have proven by decisive elections that they do not want this project, or any version of it. They believe, instead, that South Dakota should move away from large-scale irrigation projects and move to more realistic, more modern smaller scale approaches. By deauthorizing Oahe, we can take the first step toward doing that.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3292

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the construction, operation, and maintenance by the Secretary of the Interior, hereinafter referred to as the "Secretary", of the initial stage of the Oahe Unit, James Division, Missouri River Basin Project, South Dakota, heretofore authorized by the Act of August 3, 1968 (Public Law 90–453, 82 Stat. 624), for the purpose of furnishing a surface irrigation water supply and for other purposes, is hereby deauthorized and is no longer authorized for construction and is no longer an integral physical or financial part of the comprehensive Pick-Sloan Missouri Basin Program that was approved by section 9 of the Act of December 22, 1944 (58 Stat. 891), as amended and supplemented.

SEC. 2. Within 18 months following the date of this Act, the Secretary shall submit to the Congress his recommendations for the disposition of those Oahe Unit Works, facilities, and related properties that have been acquired or constructed, such recommendations to be developed by the Secretary in cooperation with the affected Federal agencies, the elected officials of the State of South Dakota, and the general public. The Secretary is hereby authorized to implement such recommendations; *Provided, however,* That no appropriation shall be used for implementing such recommendations for disposition of the Oahe Unit works, facilities, and related properties prior to 60 calendar days from the date on which the Secretary's recommendations have been submitted to the Congress and then only if, within said 60 days, neither the House Interior and Insular Affairs Committee nor the Senate Energy and Natural Resources Committee disapprove the disposition plan.

SEC. 3. Those funds previously expended pursuant to authorities contained in the Act of August 3, 1968 (Public Law 90–453, 82 Stat. 624), shall be charged against the general Treasury of the United States and shall not be charged against the Pick-Sloan Missouri Basin Program.

SEC. 4. Those revenues derived from the disposition, under the authority of this Act, of Oahe Unit Works, facilities, and related properties shall be deposited to the general Treasury; *Provided, however,* That such properties shall not be disposed of at less than fair market value at the time of disposition, as determined by the Secretary; and *Provided, further,* That in such disposition, the Secretary is authorized, notwithstanding provisions of law to the contrary, to give first right of refusal for the purchase of such properties to legally constituted public entities of the State of South Dakota or to previous owners of acquired property, as the Secretary may determine.

SEC. 5. This Act is declared to be a supplement to the Reclamation Act of June 17, 1902 (32 Stat. 388), and acts amendatory and supplementary thereto, which shall govern the implementation of this Act except as otherwise provided herein.

SEC. 6. There are authorized to be appropriated such sums as may be required to carry out the provisions of this Act.●

By Mr. MELCHER (for himself, Mr. BURDICK, Mr. PAUL G. HATFIELD, and Mr. YOUNG):

S. 3293. A bill to provide that the Amtrak route system in effect on January 1, 1978, shall not be modified or restructured prior to October 1, 1979, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AMTRAK ROUTE SYSTEM

● Mr. MELCHER. Mr. President, this is a bill that would freeze the Amtrak system for 23 months and allow two or more contiguous States to participate in a Federal/State subsidy of a route segment.

The free standing bill has the following provisions:

One. Takes the House "freeze" provision to freeze the system under law until October 1, 1979.

Two. Requires approval of the final system plan by both the Senate and the House.

Three. Adds an additional 60-day notice period, which is an additional 60-day freeze, for train discontinuance

pushed by the route reexamination recommendations as approved by Congress.

Four. Upon notice by one or more States, regional or local agencies during the 60-day notice period, the routes can be frozen for 6 additional months after the 60-day period if the agencies want to pick up the actual costs of operation under the 50-50 cost sharing of section 403 (b) of the Amtrak Act. The State share begins at the end of the 60-day notice period. Requests for continuation of service from two or more States are to be considered as a single request, and the criteria for requests under 403(b) are exempted (proof of adequate resources and State market analysis for proof of demand).

The bill is free standing. It accomplishes two purposes: First, it allows more time for States to consider the effect of a reduction of Amtrak service; second, any State or a combination of two or more States can jointly subsidize the continuation of Amtrak service that would otherwise be discontinued.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3293

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That,

(1) Pending approval of the final recommendations developed by the Secretary of Transportation under the Amtrak Improvement Act of 1978 and notwithstandnig any other provision of the law, the route system of the National Railroad Passenger Corporation in effect on January 1, 1978, shall not be modified or restructured prior to October 1, 1979, except with respect to those routes initiated by the Corporation subsequent to January 1, 1978, pursuant to Section 404(a) of the Rail Passenger Service Act (45 U.S.C. 564(a)). Nothing in this paragraph shall be construed by the Corporation as precluding the rerouting of existing rail passenger service, or construed as requiring the Corporation to maintain service, provided under an agreement with a state pursuant to Section 403(b) of the Rail Passenger Service Act if such state fails to meet its share of the costs of such service or requests discontinuance of such service.

(2) If at any time after October 1, 1979, it is determined that any train or trains or routes are not required under the Final Route Reexamination Recommendations proposed by the Secretary of Transportation by a joint resolution and adopted by the Senate and the House of Representatives, the Corporation shall formally notify the Governor and Legislature of each State in which the train or route is operated, and post in every station, depot, or other facility served thereby notice of the proposed discontinuance. The Corporation shall not change or discontinue such service for a sixty-day notice period. If any state, regional or local agency requests continuation of the service and within six months agrees to reimburse the Corporation for a reasonable portion of any operating losses and capital costs associated with the continuation of service beyond the sixty-day notice period, the Corporation shall continue operations of such train, route, or service for six months after such sixty-day notice period, or for the period covered by a contract between the Corporation and the state, regional, or local agency. For the purpose of this provision, a reasonable portion of the operating losses and capital costs associated with such service shall be as defined under Section 403(b) of the Rail Passenger Service Act; and, two or more state, regional, or local agencies may submit a joint request to the Corporation for the continuation of such service and any such request shall be considered in the same manner as a request submitted by a single State, regional or local agency, and not on the basis of whether each state, regional, or local agency meets the criteria set forth in Section 403(b) of the Act.●

By Mr. ABOUREZK:

S. 3294. A bill to require the Secretary of the Interior to study the area near the Rocky Gorge Reservoir, and for other purposes; to the Committee on Energy and Natural Resources.

S. 3295. A bill to establish the Rocky Gorge National Environmental Center, and for other purposes; to the Committee on Environment and Public Works.

ROCKY GORGE RESERVOIR

● Mr. ABOUREZK. Mr. President, today I am introducing two bills designed to preserve a unique natural enclave of splendid beauty. The enclave, currently hidden and protected, is one of the few remaining unspoiled areas in the midst of high intensity development and the Maryland side of the greater Washington metropolitan area.

The scenic area of approximately 350 acres abuts the Rocky Gorge Reservoir which supplies drinking water to residents of Montgomery and Prince Georges County. In its current undeveloped and unspoiled state the area contains natural forests including bamboo, beech, and maple trees; flowers rarely found growing wildly in an urban area, such as rhododendrons, mountain laurel, and trillium; bridle paths, and two small rocky streams which flow into the reservoir. Additionally, it is a habitat for many forms of wildlife, including species known to be threatened with extinction. Bald eagles, goshawks, ospreys, kings fishers, purple finches, goldfinches, rabbits, fox, deer, squirrels, muskrats, and warblers are just some of the wildlife that live in the area or have been sighted by naturalists who frequent the area.

The beautiful enclave is enjoyed not only by local residents, but by many others from throughout the greater Washington metropolitan area who frequent the area for boating, fishing, riding, photography, birdwatching, hiking, or merely just to walk or sit a moment in peaceful solitude. People are known to drive as long as 3 hours to visit this hideaway.

Unfortunately, if immediate steps are not taken to preserve and conserve this oasis of unspoiled beauty, it may be destroyed by unplanned development. Montgomery County, the Washington Suburban Sanitary Commission, which maintains the reservoir, and residents surrounding the enclave believe it will be forever destroyed if it is chosen as the site for a proposed 500-kilowatt transmission line.

The Maryland Public Service Commission is currently conducting hearings on various alternate routes in the State for the transmission line. While I presently reserve judgment on both the necessity of and the best route for the line, I am concerned that a unique natural enclave may be destroyed in a manner inconsistent with Federal legislation intended to preserve precisely such areas.

For those reasons, Mr. President, I am today introducing legislation requiring, at the very least, that a study be made of alternate beneficial uses of this enclave. This would take into account not only land planning factors, such as the most appropriate uses of the area for residential and public services, but also the benefits and costs of maintaining and developing the area as a refuge for the preservation of wildlife.

The first bill would require the Secretary of the Department of Interior to investigate, study, and report back to Congress in 2 years on the desirability of preserving the area near the Rocky Gorge Reservoir, with particular emphasis and attention on its potential as a wildlife refuge. The second bill would require the establishment of such a refuge or, as I term it in the legislation, a national environmental center.

I ask unanimous consent that the text of the bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3294

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior (hereinafter referred to as the "Secretary") is authorized and directed to conduct an investigation and study to determine the feasibility and desirability of protecting and preserving the Rocky Gorge Reservoir and surrounding area (of approximately 350 acres) and streams which flow into the reservoir and the Patuxent River in the State of Maryland.

SEC. 2(a). The Secretary shall consult with other interested Federal agencies, and the appropriate state and local bodies and officials, and shall coordinate the study with applicable outdoor recreation plans, conservation plans, and other planning activities relating to the region.

(b) Such investigation and study shall be carried out for the purposes of determining:

(1) the desirability and feasibility of protecting and preserving the ecological, scenic, recreational, historical, and other resource values of the area surrounding the Rocky Gorge Reservoir, with particular emphasis on the development of the area near the Ingleglass and Clay Streams as a refuge for the preservation of wildlife;

(2) the potential alternative beneficial uses of the water and related land resources involved, taking into consideration appropriate uses of the land for residential and public services; and

(3) the type of Federal, State, or local program, if any, that is feasible and desirable in the public interest to preserve, develop, and make accessible for public use the values set forth in paragraph (1), including alternative means of achieving these values, together with a comparison of the costs and effectiveness of such alternative means.

SEC. 3. Upon the completion of the investigation and study authorized by this Act, but in no event later than two years following the date of the enactment of this Act, the Secretary shall report to the Congress the results of such investigation and study, together with recommendations with respect thereto.

SEC. 4. There is authorized to be appropriated not to exceed $15,000 to carry out the provisions of this Act.

S. 3295

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rocky Gorge National Environmental Center Act."

SEC. 2. In order to preserve from imminent destruction one of the few remaining natural areas in the State of Maryland surrounded by a highly urbanized environment, containing highly significant ecological features, prime habitat for many species of wildlife, including species known to be threatened with extinction, and a feeding and resting place for migratory wildfowl, the Secretary of Interior (hereinafter referred to as the "Secretary") is authorized and directed to—

(1) establish the Rocky Gorge National Environmental Center;

(2) provide an opportunity for wildlife-oriented recreation and nature study within the natural area herein preserved; and

(3) administer the lands, waters and interest therein acquired as a unit of the National Wildlife Refuge System in accordance with the National Wildlife Refuge System Administration Act of 1966, as amended (80 Stat. 927; 16 U.S.C. 668dd-668ee).

SEC. 3(a). To carry out the purposes of this Act, the Secretary may acquire lands and waters or interests therein, or other property in the counties of Howard, Montgomery and Prince Georges, State of Maryland, as the Secretary may deem necessary or appropriate for the purposes of preserving, restoring and developing the natural area surrounding the Rocky Gorge Reservoir, by donation, by purchase with donated or appropriated funds, or by exchange: *Provided,* That lands, waters, and interest therein owned by the State of Maryland or any political subdivision thereof may be acquired only by donation.

(b) The area to be acquired will generally be bounded on the West by Route 29, on the south by Route 198, on the east by Riding Stable Road, and on the north by Washington Suburban Sanitary Commission property, including the area near the Ingleglass and Clay Streams and exclusive of the portion of the area which is owned and operated by the Washington Suburban Sanitary Commission for purposes of preserving the Rocky Gorge Reservoir.

SEC. 4. The Secretary shall establish the Rocky Gorge National Environmental Center by publication of a notice to that effect in the Federal Register at such time as the Secretary determines that lands, waters, and interests therein sufficient to constitute an efficiently administrable refuge have been acquired for administration in accordance with the purposes of this Act. The Secretary may from time to time make corrections in the boundaries of the refuge, but the total area within the boundaries shall not exceed 350 acres of land, forests and streams.

SEC. 5. The Secretary may utilize such additional statutory authority as may be available for the conservation and management of wildlife and natural resources, the development of outdoor recreation opportunities, and interpretive education as the Secretary deems appropriate to carry out the purposes of this Act.

SEC. 6. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, not to exceed $5,000,000 for the acquisition of lands and interests therein as authorized by section 3 of this Act, and not to exceed $5,000,000 for carrying out of the other provisions of this Act.●

By Mr. TOWER (for himself, Mr. NUNN, Mr. SCHMITT, and Mr. MORGAN):

S. 3296. A bill to amend the Federal Trade Commission Act to provide for congressional review of each rule proposed by the Federal Trade Commission; to the Committee on Commerce, Science, and Transportation.

FEDERAL TRADE COMMISSION REGULATORY REVIEW ACT

Mr. TOWER. Mr. President, on behalf of Mr. NUNN, Mr. SCHMIDT, Mr. MORGAN and myself I am introducing today the Federal Trade Commission Regulatory Review Act to amend section 18 of the Federal Trade Commission Act to provide for congressional review of each rule proposed by the Federal Trade Commission.

The purpose of this bill is to return to the citizens of this country through their elected representatives some control over the laws and regulations which govern their conduct in the marketplace.

One of the biggest problems of modern government is the attempt to gain control over the independent regulatory commissions such as the Federal Trade Commission which are daily churning out myriads of edicts governing what businesses can or cannot do and what the consumer can or cannot buy. These commissions are neither answerable to the President or Congress when they in effect write these laws under their substantive rulemaking authority. The Federal Trade Commission has used this power and is threatening to use it to override actions by State legislatures as well as Congress.

THE REGULATORY MALAISE

When I travel the State of Texas the primary complaint of my constituents is that prices are too high and there is too much interference by Government in their daily lives.

Small business proprietors tell me that they are overwhelmed by the Federal forms they must fill out each year. No wonder. There are over 4,400 different Federal forms and estimates range from a low of 143 million hours to a high of 750 million hours of time taken by American citizens to complete these forms.

The smaller business is hit disproportionately hard by paperwork, as well as other types of Government regulation, because the proprietor usually has to do it himself and does not have expensive attorneys and accountants to assist in compliance.

Motorists are rebelling against the federally mandated safety and environmental features which have increased the price of the average passenger car by $666. This comes to an overall cost of something in the vicinity of $7 billion a year in the form of higher priced cars for the American consumer. In Texas, where our great distances make the automobile a necessity, there is resentment of the bureaucrats attempting to tell Texans that they pay for an airbag at a cost of some $500.

Nor are homeowners particularly pleased with Federal, State and local government requirements which have added between $1,500 and $2,500 to the cost of the typical new house.

Ultimately its the consumer who pays. The cost of complying with Government regulations are inevitably passed on by business to the consumer in the form of higher prices. It has been estimated that the aggregate cost of complying with Federal regulation came to $62.9 billion in 1976 or over $300 for each man, woman and child in the United States.

The taxpayer pays too. The cost of operating Federal regulatory agencies is rising more rapidly than the budget as a whole, the population, or the gross national product. Outlays of 41 regulatory agencies are estimated to increase from $2.2 billion in the fiscal year 1974 to $4.8 billion a year in fiscal 1979, a growth of 115 percent over the 5-year period.

Other calculations show even greater increases. According to a July 10 Washington Star account, a confidential report submitted by the Council on Wage and Price Stability to the administration's economic policy group warns that the cost to U.S. business and consumers of regulations coming up before the Federal agencies next year could be as high as $35 billion.

FEDERAL TRADE COMMISSION LAWMAKING AUTHORITY

Congress has gone overboard in giving the FTC broad authority to promulgate substantive rules which amount to law in any area of the economy where it finds an "unfair" trade practice. The result is a subordination of democratic principles of lawmaking by elected representatives in Congress to an authoritarian, centralized lawmaking procedure by a five-member Commission which is answerable to no one for its acts.

The Federal Trade Commission has demonstrated that it would use this power to override actions by State legislatures as well as Congress.

An early instance may be seen in the Commission's so-called "holder in due course rule" which in 1976 overturned State law aimed at promoting the free flow of funds into the consumer credit market.

Although there were documented abuses of the "holder in due course doctrine," most States were moving to correct these abuses. In addition, the Federal Trade Commission's rule was so broad and ill-defined that the Chairman of the Federal Reserve Board warned that if it went into effect as originally drafted it could have harmful consequences for the economy. After the issuance of this rule, I received complaints from small businesses—such as mobile home dealers and home improvement firms—that the rule was preventing the banks from financing their sales to consumers. In response to these complaints, I joined Senators GARN, MORGAN, and SPARKMAN in introducing on July 1, 1976, S. 3652 to reverse the action of the Federal Trade Commission.

Fortunately for the small business community, the Federal Trade Commission did respond to congressional interest in the matter by issuing a lengthy explanation of its rule which softened its impact and encouraged a resumption of the flow of money to these small firms.

Another example of what appears to be ill-advised action may be seen in the Federal Trade Commission's current proposal for a trade regulation rule on mobile home sales and services.

Mobile homes are of particular importance to many Texans. The mobile—

or manufactured home—is perhaps the last source of reasonably priced housing for many of my constituents. In addition, in Texas there are many small business firms manufacturing and selling mobile homes.

A most serious consequence of the Commission's proposed trade regulation rule could be the adverse impact it would have on small business both in Texas and in the country at large. This prompted the Council for the Advocacy of Small Business at the Small Business Administration to go on record on September 7, 1977, with the FTC as opposing the regulation as being "unreasonable, unnecessary, unworkable and economically burdensome on small business."

The SBA cited the National Mobile Home Construction Safety Standards Act of 1974, the Magnuson-Moss warranty Federal Trade Commission Improvement Act, and State laws as giving adequate protection to the consumer. That agency questioned this unnecessary and burdensome overlap.

Again, the consumer would pay. Industry economists have estimated that the rule, if issued in its present form, could add from $500 to $2,000 to the cost of a mobile home.

I question whether the low- and moderate-income consumer wishes to pay this added cost.

THE LEGISLATIVE VETO

The legislative veto as contained in our bill is one of the most effective ways for the people, through their elected representatives, to get control over the bureaucracy which issues rules and regulations. By giving the elected Congress the right to veto a rule or regulation we will be bringing closer to the citizens the control over these regulations and at the same time sensitizing this bureaucracy.

There should be no substantial question on the constitutionality of the legislative veto over the rules and regulations of independent agencies established by Congress. This differs from the veto of executive action by the President or the Departments of Government.

The rules and regulations of the FTC and other independent agencies are promulgated under legislative powers delegated to them by Congress. Congress can delegate that power completely or only a portion of that power. All we are doing here is retaining oversight authority over this legislative power.

Some may argue that Congress neither has the expertise nor the time to exercise this review.

If these regulations are to cost business and the consumers $35 billion next year Congress should certainly take the time to review them. It is also significant in the case of the Federal Trade Commission that there are simply not that many regulations issued. The pattern is for the Commission to spend several years of investigation and then issue a regulation in an area. There would typically be only one or two regulations a year for Congress to review.

As to the matter of expertise, it is questionable whether the Federal Trade Commission itself has the background to issue comprehensive regulations covering every area of the economy. The original pattern in establishing the independent regulatory agencies was to have a specialized agency, such as the Interstate Commerce Commission to cover transportation, the Federal Communications Commission to cover communications, and so forth, so that these agencies could specialize. I have difficulty in comprehending how the FTC can develop sufficient specialized knowledge to solve all of the inequities in the marketplace.

WHAT THE FEDERAL TRADE COMMISSION REGULATORY REVIEW ACT WOULD DO

The bill provides for congressional review and possible veto of the Federal Trade Commission rules. The FTC would be required to transmit a copy of substantive rules or regulations to both Houses of Congress. The rule would not become effective if within 90 days both Houses adopt a concurrent resolution disapproving the rule or if within 60 days one House adopts a concurrent resolution which is transmitted to the other House and within 30 days the other House does not disapprove the concurrent resolution.

Mr. President, the frequent use of the legislative veto has been a response to widespread anti-Government sentiment. Although its reception in the Senate has not been as warm as it deserves, the House of Representatives has on numerous occasions adopted the legislative veto. Recently, Congressman LEVITAS of Georgia and Congressman BROYHILL of North Carolina were successful in having the substance of our proposed bill added as an amendment to H.R. 8316, the Federal Trade Commission amendments of 1978 by a vote of 279 to 131. The Senate's version of the FTC bill did not contain a legislative veto. The House rejected the conference report on the legislation by a vote of 146 to 255—largely because of the Senate's failure to include the legislative veto.

One of our purposes of introducing this bill is to demonstrate to the conference committee that there is active support for this proposition in the Senate. We welcome Members of this body as cosponsors of this bill as an indication of their support of a bipartisan effort to return to Congress and the people of this country control over the bureaucracy.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3296

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Trade Commission Regulatory Review Act".

SEC. 2. (a) Section 18(a)(1) of the Federal Trade Commission Act (15 U.S.C. 57a (a)(1)) is amended by striking out "The" and inserting in lieu thereof "Subject to the provisions of subsection (i), the".

(b) Section 18 of the Federal Trade Commission Act (15 U.S.C. 57a) is amended by adding at the end thereof the following new subsection:

"(i)(1) Notwithstanding any other provision of this Act, simultaneously with prescribing any rule under this Act, the Commission shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule shall not become effective, if—

"(A) within 90 calendar days of continuous session of Congress after the date the rule is prescribed, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: 'That Congress disapproves the rule prescribed by the Federal Trade Commission dealing with the matter of ———, which rule was transmitted to Congress on .', the blank spaces therein being appropriately filled; or

"(B) within 60 calendar days of continuous session of Congress after the date the rule is prescribed, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within 30 calendar days of continuous session of Congress after such transmittal.

"(2) If, at the end of 60 calendar days of continuous session of Congress after the date on which a rule is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule, and neither House has adopted such a resolution, the rule may go into effect immediately. If, within such 60 calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule may go into effect not sooner than 90 calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in paragraph (1).

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule involved.

"(4) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 30, 60, and 90 calendar days of continuous session of Congress.".

(c) The amendments made by this Act shall apply to any rule of the Federal Trade Commission which has not become final on or before the date of enactment of this Act.

By Mr. CLARK:

S. 3297. A bill to amend the Rural Development Act of 1972; to the Committee on Agriculture, Nutrition, and Forestry.

S. 3298. A bill to consolidate certain rural development functions of the Department of Housing and Urban Development and the Department of Commerce within the Department of Agriculture; to the Committee on Governmental Affairs.

RURAL DEVELOPMENT COORDINATION AND RURAL DEVELOPMENT CONSOLIDATION ACTS OF 1978

● Mr. CLARK. Mr. President, it has been 5½ years since the Rural Development Act of 1972 was signed into law. That act contained many new programs designed to help rural America. We are, however, still struggling for adequate funding and full implementation of its programs. What we have after 5 years is not an effective rural development policy, but an important collection of growing programs that lack clear, overall focus. Despite the

sympathetic attitude expressed by the administration toward rural development, I still see no real commitment toward the development of an integrated and logical plan for rural America. I, for one, would like to see the administration's sympathy translated into positive action. The two bills I am introducing today will, I hope, spur the Congress and the administration into action.

The first of these bills, the Rural Development Coordination Act of 1978, would authorize a process in which the Secretary of Agriculture works with State and local governments to define common development objectives. It would also require that the Secretary undertake a thorough assessment of rural conditions, problems, needs and opportunities every 5 years. The act now requires that the Secretary submit a series of five uncoordinated reports—no systematic evaluation of rural conditions is now required, nor is any consultation with State or local governments. Both the evaluation and the consultation process would greatly strengthen rural development planning and coordination.

Also, this bill would strengthen the rural planning grant program and link it directly into the process the Secretary would use to define specific rural development objectives.

The second of these bills, the Rural Development Consolidation Act of 1978, is designed to strengthen the Rural Development Act of 1972 by transferring the functions of the Economic Development Administration and the nonmetropolitan portion of the HUD community block grant program to the Department of Agriculture.

Together, these bills would significantly strengthen the national rural development program, and they would give the Secretary of Agriculture greater control over some important rural development programs from HUD and Commerce. They would help small rural governments find solutions to at least some of the problems they face. They would help reduce the outmigration process by making rural America a more attractive place to live and work.

Rural America has an additional, extremely important, need that is not addressed by these two bills, and that is the need for additional development credit. The administration has proposed a National Development Bank which is designed to fill many of these needs. I have asked my staff and the Rural Development Subcommittee staff to evaluate this proposal to see how well it actually achieves this goal.

The impetus for the Rural Development Coordination Act which I am introducing today stems from the broad concerns of individual citizens, as well as local and State officials and private-sector spokesmen about the problems caused by the application of unrealistic Federal program guidelines and uncoordinated Federal, State, and local efforts. And these problems are nowhere more acute than in the Nation's rural areas. Often the small scale of local government in these areas precludes the acquisition and retention of the wide variety of expertise needed to deal with the complexities of today's intergovernmental system.

For example, the problems of rural Iowa are quite different from those in rural Texas, Oregon or New Hampshire. Their resource bases are different, their economies are different, their heritages are different, and many of their values are different. These greatly differing development potentials can be woven into a national rural development program only by a process that systematically involves local and State governments, and others, in the formulation of development policy. Local values and perspectives can only be reflected through such a process.

At the present time we have no systematic way of knowing what conditions exist in different rural areas or how people feel about them. We do not have a way of ascertaining local priorities from the Federal level. All branches of the Federal Government lack substantive data and information regarding the problems, attitudes and priorities of rural people. And this lack is most serious for the executive branch, which is charged with program implementation, program coordination and policy formulation.

The Rural Development Coordination Act would amend section 603 of the Rural Development Act of 1972 to better define the elements of the Secretary of Agriculture's rural development leadership, coordination and goal-setting mandates. It also would amend section 603 of the Rural Development Act and title 9 of the Agricultural Act of 1970 to consolidate and rationalize the Secretary of Agriculture's rural development reporting requirements specified therein. In addition, the bill amends section 111—the rural development planning grant program—of the Rural Development Act to specify the types of eligible planning activities and to increase the maximum level of funding authorized for the program.

This bill is designed to do three things. First, it will enable and fund a process whereby the Secretary of Agriculture can involve the executive branch of the three levels of government in the formulation of rural development policies at the State level that encompass differing local needs and conditions while addressing problems common to all areas and reflecting national objectives.

Second, the bill directs the Secretary of Agriculture to establish and fund a process for thoroughly assessing rural conditions, problems, needs, and opportunities every 5 years, for establishing a rural development strategy for addressing those problems and opportunities, and for reporting on rural development progress every 2 years.

Third, the bill eliminates outmoded congressional requirements for five annual reports relating to rural development.

These amendments explicitly recognize the wide variety of public and private interests at the local, State, and national levels whose activities directly affect conditions in nonmetropolitan areas. They direct the Secretary of Agriculture to establish and maintain a rural development policy management process for formulating long and short range rural development goals, policies and strategies, and to involve these interests in that process. The amendments also recognize the role of the Congress in this process by requiring the Secretary of Agriculture to regularly apprise the Congress on conditions in rural areas, the long and short range strategies being formulated and employed to address rural needs and the results of implementing these strategies.

While these amendments do not prescribe the mechanisms, entities or steps to be employed in the rural development management process, they do define the elements of the process seen as necessary by the bill's sponsors. For example, the reporting requirements specify concrete topics to be covered, such as recommended policy, program, and budget changes needed to implement the proposed development strategies. Furthermore, they call for participation by the House and Senate rural development oversight committees in the selection of specific community facilities and services that are to be assessed under the reporting requirements.

Thus, the wanted end products are specified in the bill, but the Secretary is given considerable latitude and flexibility in producing them. The approach recognizes the diverse and complex nature of the required tasks and of the rural setting.

I urge support for these amendments; the cost will be low and the potential benefits high.

The Rural Development Consolidation Act is designed to lead to a fully integrated rural development policy. It would transfer the functions of the Economic Development Administration and the nonmetropolitan portion of the HUD community block grant program to the Department of Agriculture, where they would be expected to become a distinct part of the Secretary's rural development program.

This transfer just makes good sense. In our attempts to deal with problems affecting rural America, we must look toward new techniques—including, where feasible, program consolidation from among different agencies. Consolidation is not a total answer, but in this case, it is definitely a positive step in further defining the rural development process.

The Rural Development Act of 1972 holds the Secretary of Agriculture responsible for the Federal rural development program. However, a large share of the program resources available to nonmetropolitan areas are administered by agencies, commissions or authorities outside of USDA. Each program has different regulations, guidelines and conditions for participation. Shifting these programs to USDA would reduce the overlap and duplication that now exists, and reduce the complexity that results in confusion for small communities which so often lack the professional expertise to compete for available Federal dollars.

Rural development became an objective of the Federal Government in 1955. Since that time, we have learned several important lessons. First, we cannot rely

on urban-based technologies and concepts that have not worked and will not work in rural areas. Second, agencies with an urban bias—HUD, and now EDA—tend to add to the burdens of small communities by imposing on them regulations more suited to the resources and conditions of larger cities and their environs. Third, rural communities usually need to be treated with greater flexibility than urban communities because they are more diverse than metropolitan areas.

There are several other reasons why these programs should be consolidated in USDA. The first is simply to put them together. The need to consolidate the programs, personnel ad agencies involved in rural development work is obvious. Separate overlapping efforts are wasteful, confusing and self-defeating. And, the programs belong in USDA because Congress gave USDA the job of administering and coordinating rural development, and it gave USDA the field staff necessary to do the job.

There are more than 60,000 units of local government. Two-thirds of these are located in nonmetropolitan areas. USDA is the only agency with an existing delivery system designed to function primarily on the local level to accomodate the diversity of these local units. Other agencies tend to administer their programs at some distance from the recipient, and substitute detailed and burdensome regulations in place of face-to-face consultation and knowledge of recipients.

To date, the response of HUD and EDA to problems in smaller communities has been uneven, at best. HUD neglects rural areas and treats large cities as its natural constituency—I am certainly not suggesting that we abandon large cities in favor of rural areas, but if HUD cannot adequately represent both areas, then it should not have responsibilities in both of them. As for EDA, for several years now it has been taking on an urban orientation of its own, and abandoning its rural roots. During this time, its effectiveness and efficiency have been called into question by Congress. The functions of EDA are vital to rural areas—the shift called for in this legislation would revitalize both EDA and the USDA.

I do not pretend that the two bills I am submitting today represent the final word on how to further define the process of rural development. But they would strengthen the foundation of our rural development programs as we seek to reemphasize the need for rural areas to be included in the process of balanced national growth as a co-equal partner.

Mr. President, I ask unanimous consent that the text of these two bills be printed in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 3297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Development Coordination Act of 1978".

SEC. 102. (a) Congress finds that—

(1) Rural development was given the "highest priority" in the Agricultural Act of 1970 (title IX, section 901(a)) as a means of achieving a sound balance between rural and urban America which Congress termed "so essential to the peace, prosperity, and welfare of all our citizens".

(2) Congress passed the Rural Development Act in 1972 as a mainfestation of this commitment to rural development.

(3) In section 603(4)(b) Congress assigned the mission for rural development to the Secretary of Agriculture authorizing and directing him to provide "leadership and coordination within the executive branch" of all Federal rural development efforts and programs as well as assigning him the "responsibility for coordinating a nationwide rural development program utilizing the services of executive branch departments and agencies, bureaus, offices, and services of the Department of Agriculture in coordination with rural development programs of State and local governments."

(4) Congress finds that this mandate has yet to be implemented and that the need for coordination of rural development programs is even more pressing today than in 1972.

(5) Congress further finds that the programs of many Federal departments and agencies impact on rural areas.

(6) Congress further finds that this lack of coordination is resulting in wasteful duplication of efforts, conflicts among Federal programs, excessive bureaucratic redtape and confusion, hindering effective delivery of services and assistance to rural areas.

(7) It is therefore the purpose of this Act to provide for effective implementation of the congressional mandate of the Rural Development Act of 1972.

SEC. 103. (a) Section 526 of the Revised Statutes (7 U.S.C. 2204), as amended, is amended by striking out the last two sentences in subsection (b) and inserting in lieu thereof the following: "In carrying out this responsibility the Secretary of Agriculture shall establish and maintain a rural development policy management process involving local and State governments and all executive branch departments and agencies and major private sector institutions having policies and programs affecting the quality of life in rural (nonmetropolitan) areas. The elements of this policy management process shall include—

"(1) the development, collection, and assessment of data and information to determine rural and nonmetropolitan conditions, problems, needs, and opportunities at the national, multistate, State, and substate levels, and the impact of governmental policies and program actions thereupon;

"(2) the formulation of broad, long-range rural development goals, policies, and strategies, at the national, multistate, State, and substate levels that are consistent with the balanced growth and development of the Nation;

"(3) the establishment of short-range rural development strategies, plans, and program objectives by Federal, State, and local agencies that are consistent with the long-range strategies and support long-range goals; and

"(4) the periodic reporting of progress towards meeting the broad long-range national goals and specific short-range program objectives and the identification of needed changes in program emphasis. There is authorized to be appropriated annually not to exceed $3,000,000 to carry out the purposes of sections 201 and 202."

SEC. 104. (a) Section 901 of the Agricultural Act of 1970, is amended by—

(1) striking out the last sentence in subsection (b); and

(2) striking out subsections (c), (d), (e), and (f) in their entirety.

(b) Section 603(c) of the Rural Development Act of 1972, is amended by—

(1) amending paragraph (2) to read as follows:

"(2) The Secretary shall make an appraisal every five years of rural conditions, needs, problems, and opportunity in rural areas of the United States. The Secrtary's report of this appraisal shall be delivered to the Speaker of the House of Representatives, th President of the Senate, the chairman of the House Committee on Agriculture, and the chairman of the Senate Committee on Agriculture, Nutrition, and Forestry on the first day after Congress convenes in 1981 and on that day every five years thereafter. Each appraisal shall include—

"(A) broad, long-range national rural development goal statements that reflect national policy with respect to the quality of life in rural areas and that are consistent with the balanced growth and development of the Nation;

"(B) an inventory of specific problems, needs, and opportunities for development as they relate to national rural development goals;

"(C) recommended long- and short-range strategies needed to address the problems, needs, and opportunities identified in the inventory; and

"(D) recommended policy, program, and budget changes needed to implement the proposed development strategies."; and

(2) adding new paragraphs (3), (4), and (5) to read as follows:

"(3) The Secretary shall make a biennial report on progress toward attaining national rural development goals. This report shall be submitted to the Speaker of the House of Representatives, the President of the Senate, the chairman of the House Committee on Agriculture, and the Senate Committee on Agriculture, Nutrition, and Forestry on the first day after Congress convenes in 1979 and on the day every two years thereafter except in those years in which the five-year rural development progress appraisal is submitted. Each biennial report shall include—

"(A) a section that compares rural and metropolitan employment, income, and population conditions and trends;

"(B) a section that identifies and discusses the problems, needs, and opportunities of thoso rural areas that differ significantly in terms of employment, income, and population experience from metropolitan standards;

"(C) a section that appraises the current status of housing in rural areas, analyzes conditions affecting rural housing, analyzes Federal rural housing action, and provides information on the Federal program strategies to be employed over the next succeeding two years to address the Nation's rural housing problems. In addition, this section shall identify specific rural areas and population groups having the greatest housing needs and provide information on the short-range strategies to be employed by the Federal Government to address those needs;

"(D) a section on rural community facilities and services. This section shall contain data and information reflecting the needs of rural (nonmetropolitan) America for selected community facilities and services and a statement of the Federal strategy to be employed to meet those needs. The specific community facilities and services to be assessed in each biennial report shall be selected after consultation with the House Committee on Agriculture and the Senate Committee on Agriculture, Nutrition, and Forestry and in consideration of the availability of current data;

"(E) a section on the needs of disadvantaged rural people. This section shall review the needs and problems of selected population groups and describe the Federal strategy for addressing their problems; and

"(F) a section analyzing Federal outlays in rural areas as contrasted with those in metropolitan areas.

"(4) The Secretary is authorized to initiate new and expand ongoing research and development efforts related to the solution of rural development economic, technology, and social problems."

SEC. 105. (a) Section 111 of the Rural Development Act of 1972 is amended to read as follows:

"SEC. 111. RURAL DEVELOPMENT POLICY MANAGEMENT GRANTS.—Section 306(a) of the Consolidated Farmers Home Administration Act of 1961 is amended by adding at the end thereof a new paragraph as follows:

"'(11) The Secretary may make grants, not to exceed $50,000,000 annually, to State government and State government-designated area planning bodies to assist in establishing and maintaining the rural development policy management process provided for in subsection (b) of section 526 of the Revised Statutes (7 U.S.C. 2204), as amended, at the State and substate levels. Such grants are to be used to establish and maintain a process to—

"'(A) collect data and information, needed to assess area and State rural conditions, needs, problems, and opportunities;

"'(B) establish local and State government rural development policies, strategies and program objectives to address these conditions, needs, problems, and opportunities;

"'(C) enable participation by the grantees in the Federal, State, and local rural development policy management process;

"'(D) design, in conjunction with other levels of government, programs needed to implement rural development goals, objectives, and strategies: and

"'(E) provide for a flow of rural development information among the citizens, local governments, designated substate planning bodies, State governments, and the Federal Government.'".

SEC. 106. As used in this title the term "rural (non-metropolitan) area" means all the territory of a State, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, American Samoa, or Guam that (1) is not within the boundary of any standard metropolitan statistical area, as designated by the Office of Management and Budget, and (2) in addition, all territory within any such standard metropolitan statistical area that is also within counties, parishes, towns, plantations (in Maine), and townships having a population density of less then two hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest census of the United States.".

TITLE II—GENERAL PROVISIONS

SEPARABILITY

SEC. 201. If any provisions of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provisions to other persons or circumstances shall be affected thereby.

EFFECTIVE DATES

SEC. 202. (a) The provisions of this Act shall take effect on the date of enactment of this Act.

S. 3298

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rural Development Consolidation Act of 1978".

TITLE I—TRANSFER OF FUNCTIONS

TRANSFERS FROM THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT

SEC. 102. (a) There are hereby transferred to, and vested in, the Secretary of Agriculture all functions of the Secretary of Housing and Urban Development and the officers and components of the Department of Housing and Urban Development under the provisions of title I of the Housing and Community Development Act of 1974, with respect to areas that are outside standard metropolitan statistical areas and areas that are within standard metropolitan statistical areas but which have a population density of less than two hundred persons per square mile as determined by the Secretary of Agriculture according to latest census of the United States.

(b) The functions transferred by subsection (a) of this section shall be preserved as a separate and distinct organizational entity within the Department of Agriculture, and shall be headed by an Administrator appointed by the Secretary of Agriculture.

(c) Any reference in any law, regulation, or other authority to the Secretary of Housing and Urban Development, the Department of Housing and Urban Development, or any office or component of the Department of Housing and Urban Development, with respect to the functions transferred by subsection (a) of this section, shall be deemed to be references to the Secretary of Agriculture.

TRANSFERS FROM THE SECRETARY OF COMMERCE

SEC 103. (a) There are hereby transferred to, and vested in, the Secretary of Agriculture all rural functions of the Secretary of Commerce and the officers and components of the Department of Commerce under the provisions of the Public Works and Economic Development Act of 1965.

(b) The functions transferred by subsection (a) of this section may be preserved as a separate and distinct organizational entity within the Department of Agriculture, and if so maintained shall be headed by an Administrator appointed by the Secretary of Agriculture.

(c) Any reference in any law, regulation, or other authority to the Secretary of Commerce, the Department of Commerce, or any office or component of the Department of Commerce, with respect to the functions transferred by subsection (a) of this section, shall be deemed to be a reference to the Secretary of Agriculture.

TRANSFER AND ALLOCATIONS OF APPROPRIATIONS AND PERSONNEL

SEC. 104. (a) Except as otherwise provided in this Act, the personnel employed in connection with, and the assets, liabilities, contracts, property, records, and unexpended balance of appropriations authorizations, allocations, and other funds employed, held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, subject to section 202 of the Budget and Accounting Procedure Act of 1950, are hereby transferred to the Secretary of Agriculture for appropriate allocation. Unexpended funds transferred pursuant to this subsection shall only be used for the purpose for which the funds were originally authorized and appropriated. If any employee transferred under this Act is in the excepted service, there shall be established in the Department of Agriculture for such transferred employees a corresponding excepted position.

(b) Any person who, on the effective date of the Act, holds a position compensated in accordance with the Executive Schedule prescribed in chapter 53 of title 5, United States Code, and who, without a break in service, is appointed in the Department of Agriculture to a position having duties comparable to those performed immediately preceding his or her appointment shall continue to be compensated in his or her new position at not less than the rate provided for the previous position, for the duration of his or her services in the new position: *Provided,* That the new position in the Department of Agriculture resulting from the transfer of functions from the Department of the Interior and the Department of Commerce, and the transferred personnel assigned to such positions, shall be covered into the competitive service at the appropriate salary grade under the classification Act of 1923, as amended, and the quota of such grades in the Department of Agriculture shall be increased by the number necessary to accommodate these transfers, such grades being in addition to the quota available to the Department of Agriculture immediately prior to the date of this Act.

(c) The transfer of personnel pursuant to this title shall not cause any employee to be separated or reduced in grade for one year after the effective date of this Act.

INCIDENTAL TRANSFERS

SEC. 105. The Director of the Office of Management and Budget is authorized and directed to make such determinations in consultation with the Secretary of Agriculture, as may be necessary with regard to the transfer of functions transferred by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to, or to be made available in connection with the functions transferred by this Act, as he or she may deem necessary to accomplish the purposes of this Act.

SAVINGS PROVISIONS

SEC. 106. (a) All orders, determinations, rules. regulations, permits, contracts, certificates, licenses and privileges that—

(1) have been issued, made, granted, or allowed to become effective by the President, any Federal department or agency or official thereof, or by a court of competent jurisdiction in the performance of functions that are transferred under this Act to the Department of Agriculture after the date of enactment of this Act, and

(2) are in effect at the time this Act takes effect shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized officials, a court of competent jurisdiction, or by operation of law.

(b)(1) The provisions of this Act shall not affect any proceedings or any application for any license, permit, certificate, or financial assistance pending at the time this Act takes effect before any department, agency, or component thereof, functions of which are transferred by this Act; but such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted; and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act has not been enacted.

(2) The Secretary of Agriculture is authorized to promulgate regulations providing for the orderly transfer of such proceedings to the Department of Agriculture.

(c) Except as provided in subsection (e)—

(1) the provisions of this title shall not affect suits commenced prior to the date this Act takes effect, and

(2) in all such suits, proceedings shall be made, appeals taken, and judgments rendered in the same manner and effect as if this title had not been enacted.

(d) No suit, action, or other proceeding commenced by or against any officer in his or

her official capacity as an officer of any department or agency, functions of which are transferred by this title, shall abate by reason of the enactment of this title. No cause of action by or against any department or agency functions of which are transferred by this title, or by or against any officer thereof in his or her official capacity shall abate by reason of the enactment of this title.

(e) If, before the date on which this Act takes effect, any department or agency, or officer thereof in his or her official capacity, is a party to a suit, and under this title any function of such department, agency, or officer is transferred to the Secretary of Agriculture or any other official, then such suit shall be continued with the Secretary of Agriculture or other official, as the case may be, substituted.

REFERENCE

SEC. 107. With respect to any functions transferred by this title and exercised after the effective date of this Act, reference in any other Federal law to any department, or agency or any officer or office the functions of which are so transferred shall be deemed to refer to the Secretary of Agriculture or other official or component of the Department of Agriculture in which such functions are vested.

TRANSITION

SEC. 108. With the consent of the department head concerned, the Secretary of Agriculture is authorized to utilize the services of such officers, employees, and other personnel of the department from which functions have been transferred to the Secretary of Agriculture, for such period of time as may reasonably be needed to facilitate the orderly transfer of functions under this Act.

TITLE II—GENERAL PROVISIONS

SEPARABILITY

SEC. 201. If any provision of this Act or the application thereof to any person or circumstance is held invalid, neither the remainder of this Act nor the application of such provisions to other persons or circumstances shall be affected thereby.

EFFECTIVE DATES

SEC. 202. The provisions of this Act shall take effect on the date of enactment of this Act.●

ADDITIONAL COSPONSORS

S. 2201

At the request of Mr. BAYH, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2201, the Alcohol Fuels Incentive Act.

S. 2400

At the request of Mr. BAYH, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2400, the National Alcohol Fuels Commission Act.

S. 2920

At the request of Mr. HOLLINGS, the Senator from Vermont (Mr. LEAHY), the Senator from Michigan (Mr. RIEGLE), the Senator from Connecticut (Mr. WEICKER), and the Senator from New Jersey (Mr. WILLIAMS) were added as cosponsors of S. 2920, a bill to amend the Trade Act of 1974.

S. 3086

At the request of Mr. LEAHY, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 3086, a bill to eliminate the exemption for Congress or for the United States from the application of certain provisions of Federal law relating to employment, privacy, and social security, and for other purposes.

S. 3092

At the request of Mr. DOLE, the Senator from Massachusetts (Mr. BROCKE) was added as a cosponsor of S. 3092, to amend the Federal Meat Inspection Act to require that meat inspected and approved under that act be produced only from livestock slaughtered in accordance with humane methods.

SENATE CONCURRENT RESOLUTION 95

At the request of Mr. ROBERT C. BYRD, the Senator from Arizona (Mr. DECONCINI), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Iowa (Mr. CLARK) were added as cosponsors of Senate Concurrent Resolution 95, condemning the trials of Anatoly Scharansky, Viktoras Petkus, and Aleksandr Ilyich Ginzburg.

SENATE RESOLUTION 513—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 513

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate, to Annabel Freeman D'Angelo, daughter of Betty Beyer and to Kelly B. Beyer and Casey K. Beyer, sons of Betty Beyer, an employee of the Senate at the time of her death, a sum to each equal to two and one half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 514—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY

Mr. PELL, from the Committee on Rules and Administration, reported the following original resolution, which was placed on the calendar:

S. RES. 514

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Willie B. Hall, widow of Willie C. Hall, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 515—SUBMISSION OF A RESOLUTION RELATING TO THE TRANSPORTATION CRISIS FOR FARMERS AND SHIPPERS OF AGRICULTURAL COMMODITIES

Mr. HUDDLESTON (for himself, Mr. MELCHER, Mr. DOLE, Mr. BELLMON, Mr. CLARK, Mr. CURTIS, Mr. EASTLAND, Mr. HELMS, Mr. HODGES, Mr. LEAHY, Mr. LUGAR, Mr. MCGOVERN, Mr. TALMADGE, Mr. YOUNG, and Mr. ZORINSKY) submitted the following resolution which was referred to the Committee on Agriculture, Nutrition, and Forestry, with instructions to report forthwith, by unanimous consent.

S. RES. 515

Whereas it is in the best interests of the Nation and important to the successful operation of our agricultural economy to maintain a transportation system for agricultural commodities made up of various alternative forms of transportation, including rail service;

Whereas farmers and shippers of agricultural commodities are especially dependent on rail service for the orderly and efficient marketing of agricultural commodities and would find it extremely difficult and costly to make the transition to exclusively non-rail forms of transportation;

Whereas there is a critical shortage of railroad freight cars (both boxcars and covered hopper cars) and locomotive power equipment needed for the movement and marketing of agricultural commodities, which is driving down prices received by farmers and disrupting the orderly marketing of agricultural commodities; and

Whereas the current freight car crisis is the most severe to be experienced in this country, surpassing the freight car shortage of 1972–1973 when agricultural marketings were extremely heavy: Now, therefore be it

Resolved, That it is hereby declared to be the sense of the Senate that, in order to alleviate the current shortage of railroad equipment and prevent similar shortages in the future, the following steps should be taken to ensure that more efficient use is made of the existing stock of railroad freight cars and power equipment involved in the movement and marketing of agricultural commodities and encourage the acquisition of new cars and equipment:

(1) railroads should be authorized to receive per diem at incentive rates for use by other railroads of their covered hopper cars, as is the case now with boxcars, and be permitted to use funds generated from incentive per diem rates for the repair of old cars and equipment and the acquisition of new cars and equipment;

(2) railroads should be charged reverse demurrage for delay in picking up loaded cars from shippers;

(3) the Interstate Commerce Commission should provide sufficient car service agents to oversee properly the allocation of freight cars to shippers of agricultural and other commodities;

(4) the mileage allowance to agricultural shippers and others who own or lease freight cars and equipment, particularly covered hopper cars, should be increased to a level sufficient to encourage an increase in the supply of freight cars and equipment; and

(5) the Interstate Commerce Commission should conduct a study of (a) the present availability of rail power equipment, especially to agricultural shippers, and (b) the policies of railroads with respect to allocation of freight cars.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Chairman of the Interstate Commerce Commission.

Mr. HUDDLESTON. Mr. President, I send to the desk a resolution and ask that it be referred to the Committee on Agriculture, Nutrition, and Forestry with instructions to report forthwith and that when it is reported from the Committee on Agriculture, Nutrition, and Forestry, it be referred to the Committee on Commerce, Science, and Transportation.

This has been cleared on both sides of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUDDLESTON. Mr. President, referral to the Committee on Agriculture, Nutrition, and Forestry is for the purpose of identifying U.S. agriculture's needs for transportation services. Sequential referral to the Committee on Commerce, Science, and Transportation is for the purpose of inquiring into the most effective methods of meeting the transportation needs of American agriculture, including service orders, increased per diem, increased incentive per diem, reverse demurrage, car utilization techniques, and any other methods available to the Interstate Commerce Commission or felt necessary to be delegated to the Interstate Commerce Commission.

This resolution expresses the sense of the Senate that action should be taken to alleviate the present shortage of freight cars and locomotive power equipment needed for the movement and marketing of agricultural commodities. And that action should also be taken to prevent similar shortages in the future.

Mr. President, there is no question that there is currently a shortage of both boxcars and covered hopper cars, as well as locomotive power equipment needed for the movement and marketing of agricultural commodities. My subcommittee has heard a great deal of testimony to this effect, and I have been receiving letters and phone calls in my office from the elevator operators and farmers in my State, Kentucky, expressing serious concern about these shortages.

This resolution is the result of extensive hearings held by my Subcommittee on Agricultural Production, Marketing and Stabilization of Prices regarding agricultural transportation problems and, more recently, grain car shortages specifically. The subcommittee has been working for several years in the area of agricultural transportation.

On June 8 the Senate passed and sent to the House S. 1835, a bill directing the Secretary of Agriculture to develop a report which would identify a rail network essential to agriculture. The measure also directs the Secretary to report to the Congress annually on the capability of the Nation's transportation system to move agricultural products.

Mr. President, I am happy to say that S. 1835 has been introduced in the House as H.R. 12917, by Congressman FLOYD J. FITHIAN and that hearings have been scheduled for July 19. I hope the House will act expeditiously on this bill.

Just to illustrate the agricultural transportation problem we now are facing, last week I received a letter from R. M. Townsend, manager, Sebree Feed & Grain, Sebree, Ky. Mr. Townsend said that he had 100,000 bushels of grain that needed to be moved now, but that he was getting only one railroad car a week. At that rate, he could not move 100,000 bushels by next Easter.

Mr. President, the shortages of rail cars and locomotives is driving down the prices received by farmers and disrupting the orderly marketing of grain. The problems we are now experiencing are not entirely the fault of the railroads. Weather problems last winter caused serious transportation disruptions and low grain prices caused the traditional peak period movement to shift later in the marketing year.

Mr. President, after this resolution was ordered reported, I received the comments of the Association of American Railroads regarding the resolution. I ask unanimous consent that these comments be printed in the RECORD.

There being no objection, the comments were ordered to be printed in the RECORD, as follows:

COMMENTS OF ASSOCIATION OF AMERICAN RAILROADS

The Committee on Agriculture, Nutrition, and Forestry properly recognized in its treatment of this subject that the current problems it found do not stem from a single source nor are they likely to be simply solved. America's railroads, however, which are the dominant form of transportation for moving most of the raw materials and agricultural products essential to the Nation's economy, are doing everything possible to provide the service required.

During the months of April and May 1978, railroad grain traffic was the heaviest since the record years of 1973–1974—with car loadings running 21 percent above the average for the comparable period of the three previous years. Tonnage increases were even greater because of percentage increase in average tons per car originated during this span. In other words, since overcoming the problems caused by severe weather conditions last winter, the railroads have been doing a good job of moving grain. The real problem in this case is not with the railroads, but with a grain marketing system that, for the second time in five years, has placed demands upon the transportation system—and that's mainly the railroads—to move two years' crops in a single year. That simply can't be done without problems.

The railroads cannot logically be expected to buy all the cars that would be needed to handle an abnormal demand such as this. If they did so, they would have thousands of covered hoppers sitting around idle for about six months of the year, and with each car representing an investment of some $35,000, the railroads simply cannot afford that kind of luxury. From a business standpoint it would be a ridiculous investment, even if they could afford it. At the same time, the railroads, contrary to widely held views, have spent billions of dollars on both roadway and equipment improvements—some $17 billion, to be more precise, in the last two years alone. More than 105,000 new and rebuilt freight cars and nearly 2,000 new locomotives have been purchased in these two years . . . and purchases are continuing at an accelerated rate this year. Expenditures for equipment maintenance were $2.9 billion last year, some 40 percent above the level of two years earlier. The investment in maintenance of way in 1977 was $3.3 billion—up 50 percent during the same period. The latest available figures (for the year 1976) show that 27 million new crossties were installed in that year. That's the most in 20 years, representing a 35 percent increase over the average of the previous 10 years. Some 802,000 tons of new rail were laid the same year, again, the largest amount in 20 years and 33 percent more than the previous 10 year average. Figures for 1977 are expected to equal or exceed those results. It is worth noting, too, that there are some 55,000 miles of welded rail in service, representing about half of the mainline in the industry. And installation is continuing at the rate of approximately 4,000 miles annually.

New boxcars are being ordered at the rate of nearly 3,000 a month to keep up with traffic demands for this type of car. Overall, during the first four months of 1977, new car orders have doubled compared to the corresponding period of 1976. The railroads are continuing to order new covered hoppers at the rate of 2,000 a month. Comparisons regarding the size of this fleet, and that of locomotives, is as follows:

	January 1 1977	January 1, 1978
Covered Hoppers	230,069	235,829
Locomotives	27,114	27,680

Thus, in the past year alone, nearly 6,000 hopper cars have been added to the fleet, and over 500 locomotives as well.

It should not be overlooked either, that the railroads have recently authorized an increase in the mileage allowances paid to owners of private covered hoppers, published in a tariff effective July 1, 1978, whereby the newest equipment will receive 24 cents per mile, an increase of 33⅓ over the existing level.

In a nutshell, the present situation in the grain industry is a direct result of the fact that the farmers put much of their 1977 crops in storage rather than selling and shipping when the market was low. While that was good business for them, the railroads should not have to take the rap for the problems this has caused.

The amount of grain in storage on Januray 1 of this year totaled 10.3 billion bushels. That is about the same as this year's crops are expected to produce, according to Department of Agriculture estimates.

When the grain market improved late last year the railroads were suddenly swamped with orders for cars to start moving this grain from storage, at a time when many grain cars are normally used for hauling fertilizer materials.

That, plus three months of horrendous weather that slowed railroad operations generally by about 30 percent, resulted in car supply problems in both the grain and fertilizer traffic. During most of this period, grain car orders continued to mount. While the backlog of unfilled orders for covered hoppers has been reduced by more than 8,000 since mid-April, we are moving into the new harvest season with a considerable backlog of unfilled covered hopper orders, at a time when we normally have a surplus of these cars on hand.

The Nation's railroads share the concern of the Committee about the needs of the agricultural community for an efficient and responsive system of rail transportation. The railroads have demonstrated their capacity to deal with changes in traffic patterns, even large increases in tonnage on short notice, for example, but there is no way that two-years' grain crops can be moved in a single year without problems. The railroads are attempting to meet those problems in a fair and equitable manner, and appreciate the interest of all concerned in providing assistance to them in doing so.

Mr. HUDDLESTON. Mr. President, I also ask unanimous consent that a letter regarding railroad grain transportation from William H. Dempsey, president of the Association of American Railroads, to Chairman TALMADGE be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

ASSOCIATION OF AMERICAN RAILROADS,
Washington, D.C., June 28, 1978.

Hon. HERMAN E. TALMADGE,
Chairman, Agriculture, Nutrition, and Forestry Committee, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR TALMADGE: In view of your concern over railroad grain transportation, I am attaching our latest information to bring you up to date on railroad perform-

ance in this area since the industry began to recover from the severe weather problems of last winter.

It shows that in the five-week period ending June 17, the volume of grain handled was almost 30 percent greater than the average for the corresponding period of the previous three years and even 3.5 percent greater than during the comparable period of the record year 1973. The figures show quite clearly that the railroads are now exceeding their 1973 performance, even though they are moving approximately 3,500 fewer carloadings per week.

This is due to the fact that covered hoppers, each of which carries an average of 3,400 bushels of grain compared with an average of 2,000 bushels for boxcars, now account for 78 percent of all grain car loadings. This compares with 45.8 percent of the total in 1973.

Fewer cars handling more grain reflect improved efficiency, resulting as it does, in less switching, less time spent in loading and unloading, fewer trains and less yard congestion. These are productivity goals that we have been working toward in the railroad industry for a number of years. The present grain operation offers proof of the strides that have been made.

While the railroads are not likely to surpass the 1973 full-year record in grain transported—3.9 billion bushels—because of the impact of weather problems on our operations last winter, I am confident that we will continue to haul a record volume of grain during the remainder of the year, barring further unexpected complications.

Car supply problems being experienced at the present time are due principally to abnormal demand resulting from the fact that farmers stored much of their grain last year and the year before, when market prices were low, and want to clear this out as fast as possible now that prices have improved. This resulted in a backlog of unfilled orders for covered hoppers that reached a record 35,522 on April 15. The backlog has since been reduced by 28 percent, but it is simply not possible to move several years' accumulation of grain from storage on top of this year's harvest without some problems.

Sincerely,

WILLIAM H. DEMPSEY.

GRAIN CARLOADINGS AND VOLUME MOVED—5-WEEK PERIOD ENDING JUNE 17, 1978, VERSUS COMPARABLE PERIOD OF 5 PRECEDING YEARS

Week ending	1978			1977			1976			1975			1974			1973[3]		
	Carloads	Percent covered hoppers[1]	Bushels moved[2]	Carloads	Percent covered hoppers	Bushels moved	Carloads	Percent covered hoppers	Bushels moved	Carloads	Percent covered hoppers	Bushels moved	Carloads	Percent covered hoppers	Bushels moved	Carloads	Percent covered hoppers	Bushels moved
May 20	26,884	78.1	83.2	19,548	80.1	61.0	21,950	78.3	68.0	16,423	73.8	49.8	24,013	59.3	67.9	30,750	45.6	81.2
May 27	26,131	78.1	80.8	20,901	80.2	65.3	21,940	78.2	67.9	14,425	73.8	43.8	20,793	59.5	58.9	30,203	45.7	79.7
June 3	25,101	78.1	77.7	16,879	80.3	52.8	23,580	78.2	73.0	13,659	73.9	41.4	24,793	59.8	70.3	28,631	45.9	75.7
June 10	28,739	78.0	88.8	25,888	80.5	81.0	22,545	78.3	69.8	18,824	74.2	57.2	24,763	60.0	70.3	32,205	45.9	85.1
June 17	29,117	78.0	90.0	25,175	80.7	78.8	31,374	78.3	97.1	27,429	74.3	83.4	29,065	60.1	82.6	32,111	46.0	84.9
Total	135,972		420.5	108,391		338.9	121,389		378.8	90,760		275.6	123,427		350.0	153,900		406.6
Average weekly	27,194	78.1	84.1	21,678	80.4	67.8	24,278	78.3	75.8	18,152	74.0	55.1	24,685	59.7	70.0	30,780	45.8	81.3

[1] Average covered hopper load is 3,400 bu of grain. Average boxcar load, 2,000 bu.
[2] Expressed in millions of bushels.
[3] Record year for rail-grain traffic.

Source: AAR Car Service Division.

RAILCAR SHORTAGE

Mr. DOLE. Mr. President, the farmers of the grain and cotton producing areas of the Nation are being subjected to downward pressures on their commodity prices due to a shortage of railcars, both boxcars and covered hopper cars.

The Subcommittee on Agricultural Production, Marketing and Stabilization of Prices of the Committee on Agriculture, Nutrition and Forestry completed 4 days of hearings on Tuesday, May 16, on rural transportation. During those hearings the majority of witnesses testified on the current critical shortage of railcars for agricultural commodities, chiefly wheat and cotton.

To summarize the testimony of those hearings which provides background on why the committee reported a resolution calling for support of several pending proposals before the Interstate Commerce Commission, I submit the following:

Both grain and cotton are critically affected by the current shortage.

The normal heavy export season is the last 6 months of the year. That has shifted to the first 6 months of this year, when railroads traditionally provide their equipment to other industries.

The coal strike has caused a need for locomotive power to move large trains from the West to the East. A 100-car train of coal was reported to need 4 to 6 power units.

Railroads have reported that their normal down factor for locomotive power units has increased from 2 percent to 8 to 10 percent this year. They indicate this is because of: First, winter storms damage, and second, increase in maintenance time from 30 to 45 days.

During the hearings there was good substantiation that railroads are using their available locomotives for unit trains and high-revenue long-distance shipments. From figures submitted by the American Association of Railroads, the number of new locomotives purchased in the past 3 years is down drastically compared to the prior 10 years.

There seems to be a greater number of bad order cars:

(In percent)

	Bad order boxcars	Bad order covered hopper cars
1968	6.7	3.0
1973	8.9	3.9
1978	15.6	6.5

In addition to the sales of grain being unseasonal, we have the normal demand for rail cars to shift stocks at local elevators to terminal position.

Mr. President, this rail car shortage is far worse than the critical shortage experienced in 1972–73 when that shortage was attributable to the large exports of grain and the necessary movement to ports. As indicated in the summary, it is a very complex problem and why in the resolution we ask the ICC to study and analyze the rail car availability, allocation, and distribution to agricultural shippers.

In Kansas, and throughout the wheat producing States, grain firms are now having to absorb discounts on contracts because they were unable to ship their grain by May 1. In most any other business, any discounts are passed on as added expense to the buyer, but in the grain business these discounts are passed back to the farmers in the form of lower prices. Presently, prices being offered to farmers are from 12 cents to 20 cents per bushel lower than they would be if the car shortage had not forced the discounts.

I think most Members of the Senate are aware of the critical financial situation facing many farmers. They are also aware that exports have increased recently, but I want to emphasize that much of the increase in prices brought about by increased exports is being wiped out due to the discounts and interest charges caused by the rail car shortage. Why should our farmers have to pay for something far beyond his control?

I helped in drafting this resolution and would hope that it will provide some support and direction to the Interstate Commerce Commission toward increasing car and power equipment for railroads to provide agricultural shippers in the future.

I have had my staff working with the cooperative and independent grain firms in Kansas and other States for the past 2 months. I wrote the Chairman of the ICC in March and sent him a wire in April asking for some priority to be established to provide additional cars to grain firms. April 17 the ICC issued car service order No. 1322 establishing such a priority. That order was to expire April 30 but was extended to May 7. Witnesses at the hearings, including Robert F. Bennett, Governor of Kansas, representatives from the Dodge City area Chamber of Commerce, and officials of the Kansas Grain and Feed Dealers Association, all supported a reinstatement of that car service order for at least 2

weeks. On May 11, 7 Senators, including myself and Senators YOUNG, CURTIS, BELLMON, MELCHER, ZORINSKY, and MCGOVERN, sent a letter to Chairman O'NEAL asking for a 14-day reinstatement of that car service order. No response has been received as yet. I ask unanimous consent that background correspondence be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., March 31, 1978.

Hon. A. DANIEL O'NEAL,
Chairman, Interstate Commerce Commission
Washington, D.C.

DEAR CHAIRMAN O'NEAL: In the past two months I have received hundreds of calls, telegrams, letters and personal contacts from grain elevator operators and farmers asking for some assistance in obtaining covered hopper cars for shipping grain.

In my nearly 18 years in Congress, I have seen this problem arise many times. Usually, we have been able to handle the problem by contacting the ICC and the railroads and working out some answer.

This time, however, it appears to be with us to stay, at least through the coming wheat harvest and into the fall feed grain harvest. As I understand the situation from constituents and the report I received from commodity groups and the major grain shipping railroads, the main problems are:

Extreme weather conditions in January and February caused dislocation of these covered cars on railroads in the north stern sector of the nation when they are needed in the grain producing areas;

This weather also caused inordinate damage to an already short supply of power equipment with which to pull these cars (some 8 to 10 percent);

The switch from narrow door boxcars to covered hopper cars seems to be about complete, and this coupled with a strike at one of the major manufacturers of these hopper cars (Pullman-Standard) since last September has prevented delivery of an anticipated 2,000 additional cars;

Low prices at harvest caused by a drop in export shipments the last six months of 1977, shifted increased shipping demand to this year when exports picked up; and

Coal shipments from the west, of course, complicated this matter.

Now, when we need these cars to ship grain, they are also needed to ship potash for the manufacture of fertilizer, and to ship that fertilizer to the grain-producing areas. Exports will likely continue through wheat harvest and feed grain harvest, so a continued shortage is anticipated throughout the remainder of 1978.

From my talks with constituents and grain elevator operators, and from the discussion at your Thursday's meeting, I would like to suggest that the Commission consider expeditious action to:

First. Impose an incentive per diem charge to railroads who do not promptly return covered hopper cars to the railroads that own them. You should also consider allowing the funds generated from the incentive per diem on narrow door boxcars to be utilized in the purchase and/or leasing of covered hopper cars.

Second. Possible increase in demurrage rates by shippers who inordinately delay covered hopper cars. (Any increase in demurrage rates should take into consideration that many elevators presently are paying the 1st day demurrage due to the new system of automatic grain sampling for export shipments.)

Third. Institute truck substitute allowances wherever possible to allow initial shipment to terminals and sub-terminal to relieve congestion at the county elevators at present.

Fourth. Eliminate the use of covered hopper cars for short hauls or less than 50 to 100 miles coupled with the above truck substitution allowance.

Fifth. Create an on-going advisory group made up of grain shippers to advise the Commission of problems and to assist in working out a permanent solution to this recurring problem.

Your prompt consideration and favorable action to these suggestions will be greatly appreciated.

Sincerely,

BOB DOLE,
U.S. Senator.

APRIL 6, 1978.

Hon. A. DANIEL O'NEAL,
Chairman, Interstate Commerce Commission, Washington, D.C.

DEAR MR. CHAIRMAN: Request you take immediate action to provide ample supply of covered hopper cars to grain elevators in Kansas and other grain producing states for shipment of grain during April.

Many small country elevators are behind over 100 cars on their car request from railroads. Larger country elevators are behind 600 cars or more. These grain firms, both independent and cooperatives, are being forced to drop the price they pay farmers for grain to cover their interest costs and sales agreement discounts resulting from lack of covered hopper cars.

Unless an immediate supply of equipment is provided, elevators will drop their prices from 10¢ to 25¢ per bushel in the next ten days.

I have received reports that railroads are circumventing ICC car orders relative to unit trains and are cooperating with grain companies to delay shipments to ports due to the loss of two port grain elevators this year from dust explosions.

Farmers pay for all the costs of these delays and discounts through lower grain prices at country elevators. They should not be penalized for the actions of others.

Please act immediately to issue priority orders providing covered hopper cars to country elevators over other points.

BOB DOLE, *U.S. Senator.*

INTERSTATE COMMERCE COMMISSION,
Washington, D.C., April 13, 1978.

Hon. BOB DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: Thank you for your letter of March 31, 1978, regarding the extreme shortage of railroad cars for shipping grain I have shared your thoughtful letter with my fellow Commissioners.

We agree with your analysis of the present problems. The informal conferences conducted by the Bureau of Operations confirmed our staff's opinion that the single, most significant factor in the decline of car supply was the drastic drop in car utilization caused by an unusual number of widespread severe winter storms This, coupled with the other factors you mention, resulted in the transportation crisis we are now encountering.

Our staff now believes that many carriers, particularly the bankrupt and reorganized Northeastern lines, were operating with little or no margin for periods of stress. The storms so badly affected the operations on these lines that there was a domino effect that created severe car supply problems on all of the Nation's rail lines.

As you know, we have directed staff to problem areas and have issued a number of service orders which we believe are helping get more cars to loading areas. However, recovery is slow and time grows short. For this reason, we are quite appreciative of your suggestions. These are discussed below:

First. Impose an incentive per diem charge to railroads who do not promptly return covered hopper cars to the railroads that own them. You should also consider allowing the funds generated from the incentive per diem on narrow-door boxcars to be utilized in the purchase and/or leasing of covered hopper cars.

Incentive per diem is currently under active study by Commission staff. One of the suggestions made is that incentive per diem funds accruing on narrow-door boxcars be utilized for the purchase or leasing of covered hopper cars. Your thoughts on this matter will be given serious consideration.

Second. Possible increase in demurrage rates by shippers who inordinately delay covered hopper cars. (Any increase in demurrage rates should take into consideration that many elevators presently are paying the 1st day demurrage due to the new system of automatic grain sampling for export shipments.)

Service Order No. 1315, served on April 4, 1978, provides for increased demurrage charges. This order became effective April 8, 1978, and will expire June 1, 1978. If car supply conditions remain essentially the same at the expiration date, it will be extended. This order was drafted in such a fashion so as not to impose additional charges on those shippers who promptly load and unload their cars, but becomes increasingly expensive to those who do not. A copy of this order is enclosed.

Third. Institute truck substitute allowances wherever possible to allow initial shipment to terminals and sub-terminals to relieve congestion at the country elevators at present.

We agree that the substitution of motor truck transportation on the initial gathering leg of grain transportation will free cars for the longer hauls out of terminals. Because of the multitude of individual situations in the gathering of grain, this did not appear to be a matter appropriately handled by an emergency service order. We have encouraged both shippers and railroads to look into this matter with the possibility of amending tariffs on less than 30-days notice. We understand that there is considerable activity, and negotiations between shippers and carriers are underway.

Fourth. Eliminate the use of covered hopper cars for short hauls of less than 50 to 100 miles coupled with the above truck substitution allowance.

The use of motor carriers for gathering grain at destinations up to 100 miles would increase the car supply at terminal elevators. However, because of transit operations, branch line restrictions, availability of motor carrier transportation, and the preference of many receivers of grain for rail car shipments, blanket Commission requirements to restrict shorthaul grain transportation may seriously disadvantage some shippers. The encouragement of such a shift is feasible and, in the current emergency, is certainly desirable. The best way to effect the shift would be through tariff modification, so that shippers who might be seriously harmed by the loss of rail transportation could be protected through the Commission's normal tariff procedures.

In our meetings with shipper groups and railroads, the elimination of shorthaul grain transportation was discussed. The proper avenue for tariff changes of this nature is to encourage both parties to give serious consideration to the proposal. We will continue our efforts in this regard.

Create an on-going advisory group made up of grain shippers to advise the Commission of problems and to assist in working out a permanent solution to this recurring problem.

The Commission would welcome any arrangement that would keep it apprised of the

problems being encountered by grain shippers. While we make every attempt to keep in close contact with grain shipping associations, merchandisers, boards of trade, and other associations of farmers, shippers, and railroads, it may be that an advisory group such as you suggested would be able to bring these problems into focus and assist in working out solutions.

Your staff may have advised you of the timeliness of your suggestions, as they were used in our meeting in Salina as a catalyst to invoke innovative ideas and discussions at that meeting.

If the Commission may be of further assistance to you in this or any other matter, please do not hesitate to call upon us.

Sincerely yours,

A. DANIEL O'NEAL,
Chairman.

U.S. SENATE,
Washington, D.C., May 5, 1978.

Hon. A. DANIEL O'NEAL,
Chairman, Interstate Commerce Commission, Washington, D.C.

DEAR CHAIRMAN O'NEAL: Following up on my previous letters to you regarding the rail car shortage in the wheat producing area of the nation. I am continuing to receive reports on a great need for rail cars at local grain elevators, particularly the larger country points.

Appreciate your extension of Car Service Order No. 1322 for 7 days until April 7th, and would suggest you consider an additional 7 day extension since the problem still exists.

I have been receiving many more complaints about bad order or defective cars being spotted at elevators, some boxcars without doors and bad floors and some hopper cars without hopper slides. It seems you have existing regulations to more closely assure good equipment being spotted and, therefore, request that you take action to improve this situation immediately.

Sincerely,

BOB DOLE,
U.S. Senator.

U.S. SENATE,
Washington, D.C., May 11, 1978.

Hon. A. DANIEL O'NEAL,
Chairman, Interstate Commerce Commission, Washington, D.C.

DEAR CHAIRMAN O'NEAL: As you are aware, the extension of Car Service Order No. 1322 expired on May 7th.

Request you immediately reinstate Car Service Order No. 1322 for 14 additional days in an effort to provide relief for the critical shortage of railcars and to continue the movement of grain.

Sincerely,

JOHN MELCHER.
EDWARD ZORINSKY.
GEORGE MCGOVERN.
BOB DOLE.
MILTON R. YOUNG.
CARL T. CURTIS.
HENRY BELLMON.

Mr. DOLE. Mr. President, I ask my colleagues to lend their full support to this resolution. While it does not carry the force of law, it will serve to support the ICC in its efforts to improve the availability of railcars and locomotives and to identify problems that might cause a repeat of this critical shortage.

AMENDMENTS SUBMITTED FOR PRINTING

ANTITRUST ENFORCEMENT ACT OF 1978—S. 1874

AMENDMENT NOS. 3136 THROUGH 3230

(Ordered to be printed and to lie on the table.)

Mr. HATCH submitted 95 amendments intended to be proposed by him to S. 1874, a bill to restore effective enforcement of the antitrust laws.

● Mr. HATCH. Mr. President, as I will explain in greater detail at some later date, I am taking the opportunity now to submit a number of amendments designed to clarify, limit and improve the provisions of S. 1874 overruling the three Supreme Court rulings in the Hanover Shoe, Illinois Brick, and Pfizer cases. I question the need to overrule the first two of these three cases, and I have even more serious doubts about the manner in which S. 1874 overrules all three. Many of the provisions of S. 1874 are, I believe, plainly unsupportable in light of the hearing record compiled in April and the opposition and criticism from the plaintiffs' bar, the defense bar, small business and many academic experts in law and economics.

I intend to give the matter continuing study, and the amendments help put into focus the extraordinary number of complex issues raised in such a brief bill. I am also very impressed with the amendments which are described in the additional views of the late Senator Allen included in the Judiciary Committee report and which I shall also introduce if Mrs. ALLEN chooses not to do so. While some of my amendments may not be of critical importance, it may very well be that all of the various problems, large and small, raised by S. 1874 taken as a whole are beyond solution by the amendment process and simply overwhelm any benefits the bill might produce.●

ENDANGERED SPECIES ACT AMENDMENTS—S. 2899

AMENDMENTS NOS. 3231 AND 3232

(Ordered to be printed and to lie on the table.)

Mr. HEINZ submitted two amendments intended to be proposed by him to S. 2899, a bill to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions.

AMENDMENTS NOS. 3233 THROUGH 3237

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted five amendments intended to be proposed by him to S. 2899, supra.

AMENDMENT NO. 3238

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to S. 2899, supra.

HEALTH PLANNING AMENDMENTS OF 1978—S. 2410

AMENDMENT NO. 3239

(Ordered to be printed and to lie on the table.)

Mr. WILLIAMS (for himself, Mr. JAVITS, Mr. KENNEDY, and Mr. HATCH) submitted an amendment intended to be proposed by him to S. 2410, the Health Planning Amendments of 1978.

● Mr. WILLIAMS. Mr. President, I am today introducing legislation, as an amendment to S. 2410, the Health Planning Amendments of 1978, to create a National Commission on Alcoholism and Other Alcohol-Related Problems. I am pleased that the distinguished ranking member of the Human Resources Committee (Mr. JAVITS), and the able minority member of the Subcommittee on Alcoholism and Drug Abuse (Mr. HATCH), have asked to join me in sponsoring this amendment.

The President's Commission on Mental Health recommended in its report that a comprehensive national study be made of the problems, public policies, and programs related to alcoholism and alcohol abuse. The report states in part:

> In the case of alcohol-related problems, we believe it is urgent that we develop a national plan of action. As a first step, the Commission recommends the creation of a broadly representative national group to analyze existing public policies and programs and to make recommendations for the future.

The foundation for this recommendation was established in the report of the Commission's Liaison Task Panel on Alcohol-Related Problems. The panel described the need for, and possible characteristics of, a National Commission on Alcoholism and Other Alcohol-Related Problems and made a logical and convincing argument for such a commission involving both the executive and legislative branches.

The implications of the use and misuse of alcoholic beverages are so broad as to require a comprehensive national policy that addresses such divergent areas as health, mental health, welfare, education, transportation, criminal justice, employment standards, the civil service, regulation and taxation, the Armed Forces, veterans programs, and a host of other considerations. A concerted emphasis across the Federal structure must be devised to examine research and prevention initiatives, as well as the effect of existing treatment efforts, and to develop new initiatives against this disease. Only in this way can we hope to tip the scales in what is already an unfavorable balance between resources and needs.

Mortality from alcoholism and alcohol-related problems ranks third in scope, led only by heart disease and cancer. The National Institute on Alcohol Abuse and Alcoholism reports that the cost of alcohol problems to our Nation is $42.5 billion annually, substantially more than any other public health problem. The health care component of this total is $12.74 billion, the greater portion of which, $8.4 billion, is accounted for by hospital care for injury and illness.

In addition, alcohol misuse is a significant factor in mortality from a number of chronic diseases, as well as in suicide, homicide, and accidents. Drivers with blood alcohol levels of 0.10 percent or higher (the legal driving impairment level in many jurisdictions) are involved in from 35 to 59 percent of highway

fatalities, depending on the methodology and population examined. Research findings indicate that, in homicide alone, the range of offenders using alcohol at the time of the offense is from 28 to 86 percent. A disproportionately high rate of death by suicide has been reported among people with a history of alcoholism or heavy drinking. Moreover, alcohol misuse is involved in a large percentage of reported child abuse and marital violence cases, industrial accidents, assaults, rapes, robberies, drownings, freezings, and fires.

Joseph Califano, the Secretary of Health, Education, and Welfare, during his confirmation hearings in January of last year indicated that he hoped to set up a system to estimate what he called the "negative costs" to society when a problem like alcoholism is neglected. He explained:

We come up and ask for money to help with the problem of alcoholism. . . . But we don't often enough come to the Congress and the American people and say, "If we don't help, this is the price we are paying for this problem." . . . There is no question in my mind that we have to increase our commitment in that area. . . . It is one of the highest negative economic impact areas there are for failure to act.

Mr. President, when Congress passed the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act in 1970, it was our hope that the National Institute on Alcohol Abuse, and Alcoholism, created by that act, would develop a national strategy to attack these problems. The report of the Committee on Labor and Public Welfare on that bill stated:

The Committee believes that one of the Institute's most important responsibilities is the development of a comprehensive and detailed alcohol abuse and alcoholism prevention and treatment plan, to serve as a blueprint for a national attack on these problems.

The plan must specify, among other things, how existing federal health, rehabilitation, and welfare legislation can and should be utilized in fostering prevention and treatment programs for alcohol abuse and alcoholism. It will show how all components of the federal government can contribute to a coordinated national approach.

Substantial federal funds are already available under existing legislation dealing with medicare, medicaid, social security, veterans benefits, welfare benefits, vocational rehabilitation, and similar matters, to assist persons suffering from disabilities or disease. At present, few of these funds are being used to assist alcoholics. The Institute undoubtedly will determine exactly which federal funds are available for these purposes, and devise a practical system for channeling such funds directly into treatment for the individual who needs this kind of help, without depriving him or his family of essential support. The Committee believes that this can then be accomplished by administrative action through the cooperation of the federal departments and agencies that administer these laws.

Although the National Institute on Alcohol Abuse and Alcoholism has done a credible, and at times outstanding, job of living up to its congressional mandate, it has never had the funds, staff, or cooperation of the other executive departments to enable it to fully realize the committee's expectations.

The Liaison Task Panel on Alcohol-Related Problems, working under the auspices of the President's Commission on Mental Health, recognized that the Institute has been hampered by inadequate funds and staff. The panel noted:

The overwhelming demand, and need, for treatment services has been a consistent drain on a limited NIAAA budget, to the almost total exclusion of other efforts. Only recently, for instance, has research begun to assume a priority position, and its budget still remains substantially below other agencies functioning within related problem areas. . . . With NIAAA staffing limitations barring effective program evaluation, and faced with a token research budget, much of the federal effort centered in this agency has of necessity been promulgated more on faith than on known fact. . . . NIAAA has historically been considerably understaffed for its responsibilities and has often not been able to recruit staff of appropriate abilities.

The Panel also noted that the Interagency Committee for coordinating alcohol-related programs and policies has not functioned effectively, in part because of insufficient interest and representation by other Federal agencies. Yet a wide variety of Federal agencies impinge on alcohol problems or are involved in treatment or prevention programs.

The Liaison Task Panel found it impossible for the Mental Health Commission to develop and present recommendations on the full range of alcohol problems policy issues. The Panel felt such an attempt would be inappropriate within the framework of the President's Commission on Mental Health. While many alcohol problems are mental health problems, there are many other important dimensions that warrant simultaneous attention. Hence, the Panel's first and foremost recommendation was for the creation of a National Commission specifically addressed to alcohol problems.

Mr. President, the dimensions and ubiquity of alcohol-related problems have long been recognized. However, it appears that the last systematic Federal study was in conjunction with the National Commission on Law Observance and Enforcement in January 1931. The second report of the National Commission on Marihuana and Drug Abuse, issued in March of 1973, stated that—

Alcohol dependence is without question the most serious drug problem in this country today.

In 1972 statement, the American Hospital Association estimated that up to 29 percent of all acute care beds were occupied by people with alcohol-related problems. Max Cleland, Veterans' Administrator, in August 1977 said:

For us (the VA), alcoholism is a major diagnosis in our system and a major challenge which we face. The VA admitted last year (i.e., 1967) nearly 100,000 veterans for the treatment of alcoholism.

It is clear that a coordinated, comprehensive Federal policy on alcohol dependence must be based upon a searching assessment of the scope and nature of the problem, along with a thorough analysis of what is presently being done and a complete set of recommendations for addressing unmet needs.

To meet this awesome challenge, I believe that a National Commission on Alcoholism and Other Alcohol-Related Problems, with adequate personnel and funds to discharge its mandate, should be created. The new Commission should have the time and resources to gather, weigh, and interpret information from a broad base of sources. It should involve representatives of State and local government, the voluntary sector, professionals working in the private sector, academicians, scientists, and organized labor.

The Department of Health, Education, and Welfare, which has major responsibility for meeting this important health challenge, should have the major responsibility for coordinating the work of the Commission. But a number of executive departments should also be involved, as well as Members of Congress representing the appropriate congressional committees.

Secretary Califano has recognized the need for such a Commission. In a recent letter to me, Secretary Califano wrote the following:

I am in strong agreement with you that the area of use and misuse of alcoholic beverages is one of great complexity that requires detailed examination by both the Executive and Legislative branches, with significant involvement of interested groups, organizations, and individuals from the private sector as well as representatives of state and local governments. As noted by the President's Commission on Mental Health, the pervasive nature of our many alcohol-related problems will require closest scrutiny by the best minds that can be brought to bear upon them. As you so clearly state, any effort to advance our effectiveness in ameliorating or eliminating these problems deserves the support of policy makers in both Congress and the Administration.

You may rest assured that I will cooperate in any way you feel appropriate in the development of any such commission.

I should also like to note parenthetically that the Secretary has initiated a study to determine the appropriate role of the agencies within his Department in meeting the challenge. This study can be a beginning for the work of the Commission.

Mr. President, there are a number of reasons why this is an especially auspicious and crucial moment for a sustained reexamination of national policies on alcohol-related problems. These problems are increasing in every segment of our society. The June 19, 1978, issue of Health Care Week reported on a study by the District of Columbia medical examiner, Dr. James L. Luke. According to this study more than half of the deaths in a sampling of autopsies were related to alcohol. The study covered a 6-month period in 1978 and was included in Dr. Luke's 1977 annual report. The report also found that three-fifths of 1977 homicides, about a third of the suicides, and slightly more than half of deaths from other kinds of accidents were alcohol-related. Thirty percent of autopsied deaths of persons between 15 and 44 involved alcohol. According to Dr. Luke:

Alcohol is a universal solvent for the most precious of human attributes, common sense. It is also a depressant. It brings out pathological behavior, and people who use it make

themselves more vulnerable to situations they would otherwise handle in a different fashion.

Dr. Luke explained that "involved with alcohol" means that "circumstances relating to the death involved alcohol," not that the dead person had necessarily been drinking. Two children, for instance, who died of burns, "could have been saved if their father was not drunk."

The Liaison Task Panel on Alcohol-Related Problems recognized the urgency of such a reexamination. It pointed out:

In the last 15 years, average consumption of alcohol in the drinking-age population has risen by over 30 percent, and survey data suggest that the proportion of heavy drinkers in the population grew substantially in the 1960's. Rises in the rate of heavy drinkers are generally associated with eventual rises in the long-term health consequences of alcohol such as cirrhosis mortality. Other major changes in drinking patterns have also occurred, often with unknown consequences. For instance, in the last 30 years there has been a decisive shift from tavern drinking to drinking in homes and other private locations. Meanwhile, the basic frameworks of State and Federal alcohol control laws and regulations have remained unchanged and largely unexamined since their adoption at the repeal of prohibition. Only recently is it becoming recognized that these regulatory systems are relevant to alcohol problems policymaking.

Mr. President, I am, therefore, introducing today an amendment to S. 2410 which would establish the National Commission on Alcoholism and Other Alcohol-Related Problems. I ask unanimous consent that the text of the amendment be printed at this point in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3239

On page 86, after line 6, add the following:

TITLE IV—NATIONAL COMMISSION ON ALCOHOLISM

ESTABLISHMENT OF A NATIONAL COMMISSION ON ALCOHOLISM AND OTHER ALCOHOL-RELATED PROBLEMS

SEC. 401. (a) There is established a Commission to be known as the National Commission on Alcoholism and other Alcohol-Related Problems (hereinafter in this section referred to as the "Commission"). The Commission shall be composed of—

(1) Four members of the Senate appointed by the President of the Senate;

(2) Four members of the House of Representatives appointed by the Speaker of the House of Representatives; and

(3) Eleven members appointed by the President upon recommendation of the Secretary of Health, Education, and Welfare. At no time shall more than two of the members appointed under paragraph (1), or more than two of the members appointed under paragraph (2), or more than six of the members appointed under paragraph (3) be members of the same political party.

(b)(1) The President shall designate one of the members of the Commission as Chairman, and one as Vice Chairman. Ten members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

(2) Members of the Commission who are Members of Congress or full-time officers or employees of the United States shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of the duties vested in the Commission. Other members of the Commission shall receive $100 per diem while engaged in the actual performance of the duties vested in the Commisison, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties.

(3) The Commission shall meet at the call of the Chairman or at the call of a majority of the members thereof.

(c)(1) The Commission shall have the power to appoint and fix compensation of such personnel as it deems advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(2) The Commission may procure, in accordance with the provisions of section 3109 of title 5, United States Code, the temporary or intermittent services of experts or consultants. Persons so employed shall receive compensation at a rate to be fixed by the Commission, but not in excess of $75 per diem, including travel time. While away from his home or regular place of business in the performance of services for the Commission, any such person may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 (b) of title 5, United States Code, for persons in the Government service employed intermittently.

(3) The Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Commission, such department or agency shall furnish such information to the Commission.

STUDY AND REPORT

SEC. 402. (a) The Commission shall conduct a study of alcoholism and alcohol-related problems including, but not limited to, the following areas:

(1) an assessment of unmet treatment needs of alcoholics and their families;

(2) an assessment of manpower needs in the fields of research, treatment, and prevention;

(3) an assessment of the integration of alcoholism treatment into ongoing health and social health care services within communities;

(4) an assessment of the need for integration of alcoholism services into existing fiscal support systems, including national health insurance;

(5) an evaluation of the accessibility of services and quality of care, including rural as well as urban areas;

(6) the relationship of alcohol use to aggressive behavior and crime;

(7) the relationship of alcohol use to family violence:

(8) the relationship of alcoholism to the high rates of illnesses, particularly those with a high stress component, among family members of alcoholics.

(9) an evaluation of the effectiveness of prevention programs, including the relevance of alcohol control laws and regulations to alcoholism and alcohol-related problems;

(10) a survey of the unmet research needs in the area of alcoholism and alcohol-related problems; and

(1) an evaluation of the needs of special and underserved population groups.

(b) The Commission shall submit to the President and the Congress such interm reports as it deems advisable and shall within eighteen months after the date on which funds first become available to carry out the provisions of this section submit to the President and the Congress a final report which shall contain a detailed statement of its findings and conclusions and also such recommendations for legislation and administrative actions as it deems appropriate. The Commission shall cease to exist sixty days after the final report is submitted under this subsection.

COORDINATION AND AUTHORIZATION OF APPROPRIATIONS

SEC. 403. (a) The Secretary of Health, Education, and Welfare shall be responsible for the coordination of the activities of the Commission.

(b) There are authorized to be appropriated for the purposes of this section $1,000,000 to remain available until expended.●

● Mr. JAVITS. Mr. President, I am pleased to join Senator WILLIAMS as a cosponsor of this amendment to S. 2410 which would create a Commission on Alcoholism and Other Alcohol-Related Problems.

As an author of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 I have long recognized the importance of developing a national strategy to combat the problems of alcohol abuse in our society. Unfortunately, however, we have found that despite our legislative initiatives in this area there is still not an appropriate mechanism within the Government to evaluate the needs, problems, and priorities for alcohol abuse prevention, treatment, and rehabilitation.

About 10 million Americans are known to have alcohol-related problems which are estimated to cost the Nation over $40 billion annually. Of course such cost estimates can never truly reflect the pain and suffering of these afflicted individuals and their families. Despite millions of dollars of Federal, State, and voluntary expenditures every year to combat alcohol abuse, we still find inadequate our efforts to stem the increasing incidence of alcoholism; we must again reevaluate our efforts and reassess our priorities.

I think it is especially significant that the President's Commission on Mental Health makes this recommendation, since personally I feel the efforts in the area of alcoholism should be separate and distinct from our efforts in the area of mental health, that is the thrust of their recommendation.

Mr. President, I urge my colleagues to join with Senator WILLIAMS and myself in support of this amendment.●

WHITE HOUSE AND EXECUTIVE RESIDENCE PERSONNEL—H.R. 11003

AMENDMENT NO. 3240

(Ordered to be printed and to lie on the table.)

Mr. ROTH submitted an amendment intended to be proposed by him to H.R. 11003, an act to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes.

NOTICES OF HEARINGS

DEPARTMENT OF EDUCATION MARKUP

● Mr. RIBICOFF. Mr. President, the Committee on Governmental Affairs will continue its markup on S. 991, legislation

to create a separate, Cabinet-level Department of Education in the Federal Government, tomorrow, July 14, beginning at 10:30 a.m. in room 3302 of the Dirksen Building.●

SENATE SELECT COMMITTEE ON SMALL BUSINESS

● Mr. NELSON. Mr. President, I wish to announce that the Select Committee on Small Business will mark up bills: H.R. 11318, S. 836, S. 2156, S. 2259, and S. 3179 on Wednesday, July 19 at 10 a.m. in room 424 of the Russell Senate Office Building.●

ADDITIONAL STATEMENTS

THE NORDYKE BRIDGE

● Mr. LAXALT. Mr. President, in this era of general dissatisfaction with big government, it is heartening to see an example of what efficient local government can accomplish.

Recently in Lyon County, Nev., an old wooden bridge was in dire need of replacement. The Lyon County Road Department replaced the old Nordyke Bridge with a new steel and concrete structure. Total cost to the county for materials, labor, and fuel was less than $6,000. In contrast, a bridge built nearby cost $132,000. Had Lyon pursued Federal and State aid, the cost of the new Nordyke Bridge would have been $92,000 for materials alone.

Mr. President, this is just one example of the efficiency of sound local government. Letting the bureaucrats in Washington build this bridge would have forced the taxpayers to fork over more than 15 times as much money for the same job.

Far too often we in Washington become isolated from the real world. We routinely deal with astronomical amounts of money. As I recall, during the first part of my term here we spent more than $100 billion one Saturday morning. That is almost $500 per American in one morning, and a weekend morning at that. Little wonder such trifling matters as saving $100,000 on a bridge in Nevada gets lost in the shuffle.

As the end of this legislative session nears, I would hope that my colleagues will keep the lessons of the Nordyke Bridge in mind. Mr. President, I ask that the attached article from the Reno Evening Gazette be printed in the RECORD.

The article follows:

[From the Reno Evening Gazette, June 14, 1978]

BARGAIN BRIDGE

YERINGTON.—The new Nordyke Bridge is open at last.

The old wooden structure was closed to all traffic last August because it was failing fast. It was torn out in January.

The Lyon County road department, under supervision of Foreman Frank Booth, constructed the new 50-foot open span steel pipe and concrete structure at a cost of only $5,907 worth of materials, labor and fuel costs to the county. A similar bridge on Miller Lane cost somewhere in the neighborhood of $132,000 by the time it was completed and if the Nordyke Bridge had gone the same federal-state cooperation route, its cost for materials alone would have been over $92,000, officials said.

Booth told Lyon County commissioners, who had taken a ride out to the new bridge, that the job took longer than usual but that crews also did work elsewhere in the county during the construction period.

He said the crews also were held up in acquisition of materials because of attempts to keep cost down.●

VOTER INITIATIVE PROCESS

● Mr. ABOUREZK. Mr. President, recently two articles appeared in the Texas Observer which were written in support of adopting the voter initiative process in all 50 States and at the Federal level. The authors indicated that our representative form of government is not always responsive to the needs of the people. The argument is made that the voter initiative process would directly account for the attitudes of individuals, which are sometimes overlooked on the Federal level.

Mr. President, I ask that these two articles, which express the opinion of many Americans, be printed in the RECORD.

The articles follow:

DIRECT UNDILUTED DEMOCRACY FOR TEXAS

(By Walter Mengden)

HOUSTON.—As you ponder the meaning of California's dramatic measure to limit property taxes, please note—Proposition 13 would never have been adopted if the initiative and referendum method of enacting legislation and amending the state constitution had not been available. One and a half million Californians signed the petition that put the measure on the June 6 ballot and, much to the chagrin of most of the state's elected officials, over 65 percent of the electorate voted for it. The outcome clearly showed that California politicians were remarkably out of touch with the voters who put them in office.

But wide variance between popular sentiment and legislative response is not confined to California, or to the tax issue—it is regrettable commonplace of American politics. Both the Texas Legislature and the U.S. Congress have frequently failed to approve measures for which polls and questionnaire results have demonstrated consistent, overwhelming public support.

The reason for the disparity between what people want and what legislators do in their name lies in the nature of the American representative system. Neither the legislature nor the Congress is now, or was ever intended to be, a microcosm of the state or nation. Instead, the framers of our representative institutions sought to ensure the election of respected, right-thinking notables who would go off to Austin or Washington and wisely conduct the public's complicated business.

John C. Calhoun gave classic expression to this philosophy in explaining how he voted as a congressman and senator from South Carolina during the first half of the 19th century: "I never know what South Carolina thinks of a measure. I never consult her. I act to the best of my judgment and according to my conscience. If she approves, well and good. If she does not and wishes anyone to take my place, I am ready to vacate."

As a U.S. senator in the 1950s, John F. Kennedy made the same point more circumspectly in his "Profiles in Courage": "It is difficult to accept such a narrow view of the role of U.S. senator that assumes the people sent me to Washington to serve merely as a seismograph to record shifts in popular opinion. . . . This may mean that we must on occasion lead, inform, correct, *and sometimes even ignore constituent opinion, if we are to exercise fully that judgment for which we were elected*" (emphasis added).

Kennedy also described the trouble even the most conscientious legislator sometimes has in figuring out what his constituents really think: "I frequently find myself believing that forty or fifty letters, six visits from professional politicians and lobbyists, and three editorials in Massachusetts newspapers constitute public opinion on a given issue. Yet in truth I rarely know how the great majority of the voters feel, or even how much they know of the issues that seem so burning in Washington."

The will of the people is often a lot clearer than that, of course, but legislators can usually get away with some deviations from the views of the voters as long as their overall record remains reasonably representative. And when individual legislators agree with prevailing public sentiment, their bills may still die at the hands of unsympathetic legislative leaders or committees.

Twenty-one states provide for initiatives and referendums as a way around these obstacles to full representation. (Eleven other states, including Texas, permit these procedures only at the local level.) Citizens in those 21 states can bypass unresponsive legislatures and directly enact or repeal state laws.

The current effort to obtain for Texans a similar version of direct, undiluted democracy dates back to the 1974 state constitutional convention. Several different initiative proposals were defeated, and the record discloses that conventional ideological labels were no clue to the positions legislators took on the issue. The likes of Kay Bailey and Lane Denton made common cause on the pro-initiative side, while the anti-initiative majority included such strange bedfellows as Mickey Leland and Billy Clayton. With some personnel changes, these unlikely alliances remained intact in subsequent sessions of the Legislature.

The fate the initiative idea met in the 1977 session illustrates precisely the problem of relying on the usual legislative process for action on a popularly supported challenge to the familiar way of transacting the people's business. The House version of the proposal never even got a hearing in the constitutional amendments committee chaired by Rep. Tim Von Dohlen, a foe of initiative and referendum. The Senate version, which Ron Ivor and I co-sponsored was not given a hearing in the Senate state affairs committee until a week before the session came to a hectic close, when Sen. Jack Ogg of Houston quickly moved to kill the measure by sending it back to subcommittee. His motion passed five to one, and that, for 1977, was that.

I do not mean to suggest that no legitimate concerns were raised by opponents of the initiative procedure. One reasonable objection is that Texas ballots could be flooded with citizen-initiated proposals. Another is that without legislative-style committee review, a proposal sound in principle could be crippled by poor draftsmanship, effectively denying voters the option they meant to have.

But the number of ballot propositions could be limited simply by requiring more signatures on the initiative petitions. For statutory measures, for instance, Texas could set the required number of signatures at a number equal to 15 percent of the total vote cast in the preceding gubernatorial election; for constitutional amendments, the threshold could be raised to, say, 20 percent (which, incidentally, would make initiatives harder to place on the ballot here than in any state that now permits the procedure). And to see to it that poor draftsmanship does not defeat the petitioners' purpose, it might be feasible to interpose an initiative review committee, with citizen members designated in the petition itself.

To create such a committee would admittedly be a departure from the pure initiative system, but it might help win acceptance for the basic idea that citizens should be able to directly introduce measures now left solely to the vagaries of the legislative process. To meet ligitimate objections, I am willing to make any reasonable accommodation.

But some objections admit of no compromise. It is said, for example, that a clever advertising campaign could dupe the electorate into approving a measure a majority would not really want. Or, it is argued, ordinary citizens should not be allowed to vote on matters best left to experts.

There is no basis in a democratic system for an argument so blatantly elitist; logically extended, it could stand as the philosophy of every king, dictator or despot in the world, for it applies with at least equal force to the fitness of the people to choose their representatives. By the same token, the Legislatures present practice of submitting constitutional amendment propositions for popular approval would have to be called into question, for it presumes that the people can be trusted to act wisely.

The argument does, in the end, come down to a question of trust: do we dare to let individual Texans have a direct say in proposing, passing and sometimes repealing the laws they live under? I submit that we must—that the voters of Texas are entitled to substitute their judgment for that of a legislature all too often submissive to the claims of entrenched interests rather than the wishes of the voting public.

Therefore, when the Legislature convenes next year, I will again introduce a proposal to amend the Texas Constitution to create an initiative and referendum system The challenge to liberal and conservative members of the Legislature will be clear: do they have enough confidence in the persuasiveness of their political views to submit them to the test of direct democracy?

A NEW IDEA AT THE FEDERAL LEVEL

(By Harris Worcester)

AUSTIN.—Many a frustrated congressman or senator has quietly forsaken Capitol Hill of late, disillusioned by the unchanging sequence of deadlocks and deals that make up the bulk of the congressional agenda and mock the ambitions of the reform-minded. Not so Sen. James Abourezk, maverick Democrat from South Dakota, who is making his leave-taking the occasion for a parting shot at legislative inertia. His gambit to revive the national body politic takes the form of a constitutional amendment that would allow voters to initiate and directly enact federal legislation.

Though Abourezk's Voter Initiative Amendment, formally proposed last July, offers a new idea at the federal level, it comes with a distinguished pedigree, traceable to the plebiscites of republican Rome and 80 years of testing at the state level in the United States since Abourezk's home state became the first to adopt it in 1898. Fifteen states now have the initiative procedure in its pure form—citizens can place a proposed law on their ballots simply by petitioning for it in sufficient numbers. Five others permit a petition to their legislatures to act on citizen proposals before they come up for a binding popular vote, and three states make both versions of the mechanism available.

The chance to vote directly on federal statutes excites the same hopes for reform today that the state measures aroused among Populists and Progressives at the turn of the century, and for much the same reason: the initiative is a potent remedy for the corruption of the representative process by powerful private interests.

But its potency is exactly what worries opponents of the Abourezk proposal. Sharing in what Washington Monthly writer Michael Nelson calls a "grand revival" of mistrust in the judgment of the American electorate, such luminaries as Robert Heilbroner have expressed misgivings about putting the power to make law directly in the hands of the people, who, they say, are too easily swayed by emotional appeals and are incapable of bringing the necessary legal expertise and deliberate scrutiny to bear on proposed legislation. Some civil libertarians fear as well that a direct, majority-rule legislative process could become a vehicle for the subversion of the rights of minorities.

The prospect that only well-heeled and well-organized interests might be able to use the procedure successfully also causes some alarm, even among proponents of the initiative idea. Ralph Nader, who testified for the proposal in Senate hearings last December, has nonetheless warned that "a national initiative right can only work if there is adequate access to the mass media for all viewpoints." Opponents, who think that precondition can't be met, make the objection much more emphatically: Corey Bush, a former press secretary for San Francisco mayor George Moscone, claims that with $325,000 a public relations firm could get any issue on the California ballot.

Supporters of the Abourezk amendment point to the specifics of his proposal as a partial answer to these criticisms. To put a bill on the general election ballot, petitioners would have to collect signatures of registered voters equal in number to 3 percent of the votes cast nationwide in the most recent presidential election (or nearly two and a half million, to use the Carter-Ford turnout as a benchmark), and that total would also have to include 3 percent of the vote cast in each of ten states (in Texas, again using 1976 totals, that would mean more than 120,000 signatures).

Abourezk's federal proposal also incorporates substantive constraints that don't appear in state initiative laws. A newly approved ballot proposition would be subject to presidential veto, and could be amended or repealed by a two-thirds roll-call vote of both houses of Congress. Moreover, the procedure could not be used to declare war, call out the militia, or—most significantly—amend the Constitution.

Even with these qualifications, a federal initiative procedure would present an unprecedented opportunity for citizen control of the federal colossus, but proponents confidently cite the initiative experience at the state level in response to remaining criticisms. No state has ever rescinded the initiative right. Oregon Sen. Mark Hatfield, a co-sponsor of Abourezk's resolution, notes that in his state, initiatives have been responsible since 1902 for the abolition of captal punishment and the establishment of women's suffrage and compulsory education. In California, the same initiative mechanism that made this year's Proposition 13 possible gave petitioners in 1976 the means to pressure their legislature into passing progressive farm labor legislation and—over the vehement and well-financed opposition of power company lobbyists—a stringent nuclear waste disposal law.

According to Abourezk, six states now have initiative bills pending, and similar bills are being prepared in four others. His federal version has meanwhile attracted several more Senate sponsors, and 25 or so congressmen have joined to sponsor a counterpart resolution in the House. To help speed the federal proposal on its way through the cumbersome constitutional amendment process, a national citizens' group calling itself Initiative America was formed last February. However, Bill Harrington, the group's leader, cautiously forecasts that it may take six years to gain the needed two-thirds approval in the Senate and House and secure ratification by three-fourths of the states.

However long the process takes, national initiative supporters see reasons to suppose that broadcast commentator David Brinkley may have been wrong when he said last year that "Congress would never pass it. It would have to give up some of its power." Early this year, Congress readily approved an initiative system for the District of Columbia (83 percent of district residents had voted for it). And Abourezk aide Stephan Carter reports that pollsters Patrick Caddell and George Gallup recently found that 57 percent of the people favor the Voter Initiative Amendment.

Carter also mentions a little-noted feature of the California balloting on June 6: in Los Angeles County, where voters approved the Javits property tax initiative by a two-to-one margin, a ballot question on the desirability of the national initiative idea drew an even higher favorable vote. Election returns like that may convince members of Congress who see danger in the national initiative idea that the greatest danger of all for them lies in opposing it.●

MEAT IMPORTS

● Mr. McCLURE. Mr. President, on July 4, 1978, the President of the United States took the final step in his ill-conceived plan to increase meat imports. Under the guise of "stopping inflation" and "protecting consumers," the President signed proclamation No. 4577, which suspended the present import quotas established by law and increased meat imports some 200 million pounds in 1978. It is ironic that on the 203d anniversary of our Nation's independence, the President struck another blow against free enterprise and supply and demand, thereby further weakening the independence of this Nation's cattle, sheep, and goat industries.

It is no secret that the U.S. cattle industry has finally broken out of an economic slump lasting some 40 months. During this period, ranchers experienced excessive supplies, low prices, and drought. To stay alive, many dipped deep into savings while still others put their property and businesses on the line. To those that made it through, the current higher meat prices are a godsend. Unfortunately, many producers did not make it through and are now wondering how things could have been.

Despite the problems of our cattlemen during this 40-month period—which by the way was enjoyed by consumers in the form of low meat prices—the Government continued to import some 1.2 billion pounds of meat. Yet producers held their ground, believed in supply and demand, and never asked for Government support or subsidies. They knew the meat cycle would eventually turn around naturally so supply could get in line with demand.

When it finally did, cattlemen rejoiced at the prospect of making a profit for a change. But their excitement did not last too long because the President of this country did not have the backbone to stand up against the powerful consumer lobby—to stand up for what is fair and what is right. He caved-in to their pressure at the expense of this Nation's cattle industry and, what is worse, he did fur-

ther, perhaps irreparable, damage to the supply-demand cycle governing the industry.

Mr. President, my words alone cannot express by disgust over this situation, and I would thus like to bring to the attention of my Senate colleagues an excellent editorial that appeared recently in the Twin Falls, Idaho, Time News. The editorial brings forth the fact that Mr. Bud Purdy, president of the Idaho Cattlemen's Association, apparently understands economics better than the administration. I ask that this article be reprinted in full in the RECORD.

PURDY'S IDEA IS BETTER THAN PRESIDENT CARTER'S

Too bad President Carter hasn't been to Picabo to talk with Bud Purdy about cattle prices.

A few days ago the President decided the nation's cattlemen were growing unnecessarily fat off the profits of the first healthy beef market in three years.

So, Carter authorized the importation of cheap beef from South America and Australia to keep domestic meat prices down.

But as Purdy, president of the Idaho Cattlemen's Association, sees it, Carter isn't really helping the consumers or the cattlemen through his latest encouragement of beef imports.

Here is Purdy's case:

He argues the best way to control the price of beef is to let American ranchers live and die by the law of supply and demand.

The Blaine County rancher agrees beef prices are going up right now and that cattlemen are getting a nice return on their herds.

But, he asks, why are prices going up?

They are rising because of consumer pressure. More people are eating hamburgers and steaks.

American cattlemen are feeding smaller herds than they have in recent years, creating a bit of a beef shortage and prices are going up along with consumer demand.

Yet Purdy maintains as more ranchers are lured back into the cattle business the supply will increase and tend to stabilize the price of beef.

Even if prices were to zoom to an exorbitant level, Purdy theorizes consumers will simply stop buying as much beef, thereby depressing the market and driving the prices of burgers back down. That's precisely what has happened in the coffee industry, the sugar industry and, to some extent, to the cattle industry in years past.

Purdy's supply and demand solution to rising beef prices has a ring of sound economics to it.

The Carter plan doesn't sound the same tone because the administration plan to import beef won't seriously affect meat prices but will damage the rebuildng process of the Amercan cattle industry.

The 1.2 billion pounds of imports Carter has authorized amount to less than 10 percent of America's annual beef consumption. The imports will keep the price of hamburger 5 cents lower than without any additional imports.

More importantly, beef industry officials say the announcement of increased imports may scare off some now-inactive cattlemen who were considering reentering the beef market.

Basically, it seems President Carter has meddled where there was no need for government intervention.

He has psychologically damaged an important Idaho industry that has fought three years of low prices all for a savings of about a penny a hamburger patty.

American consumers long have said they would be willing to spend a little more for food if they honestly felt the money would get into the hands of those who grow the food. At least that seemed to be the mood of the consumer in the weeks following the American Agriculture farm strike.

Cattlemen are currently benefiting from higher meat prices and American consumers probably aren't going to beef about paying a nickel a pound more for hamburger if that's what it takes to get the cattle industry back on its feet.

If the President would let it happen, the American cattle industry might just recover from three bad years.

Bud Purdy thinks it could happen, and he has better ideas than President Carter about rising beef prices and what to do about them.●

ONE-MAN SUBMARINES

● Mr. HATHAWAY. Mr. President, as an advocate for small business, I am always pleased to hear success stories about small business people, and especially pleased when it is a Maine small business. Mr. George Kittredge is the founder and owner of a truly unique and successful small business. His company, Kittredge Industries, Inc., of Warren, Maine, which has six employees, is apparently the Nation's only maker of single-passenger submarines. His skill and initiative have made this business quite a success, as described in an article which appeared in the Wall Street Journal on Wednesday.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

THAT SINKING FEELING GIVES LIFT TO OWNERS OF ONE-PASSENGER SUBS

(By David Gumpert)

WARREN, MAINE.—You squeeze into a cramped little cockpit, fasten the acrylic hatch overhead, fiddle with the appropriate valves, and an eerie experience begins: Amid gurgling and burbling noises, the outside world slips away and you descend into watery darkness.

The personal submarine. It is for people who who are on friendly terms with water, are not claustrophobic and do not tire quickly of their latest plaything. It is 12 feet long, weighs about 2,500 pounds and costs $12,000 without extras such as a mechanical claw or a sonar telephone.

George Kittredge, a slightly built, white-haired 60-year-old who spent much of World War II, on military submarines (where, he says, he took part in the sinking of 16 Japanese ships) and who retired from the U.S. Navy as a captain in 1962, has been building one-man recreational submarines on and off for 11 years.

During most of that time, demand has been on and off, too. Twenty-nine subs have been sold, including the six built last year. This year business has been picking up; Mr. Kittredge and the six men who help him in the converted icehouse that is his shop are building a record nine subs and turning away orders for more.

IT IS MANEUVERABLE

The Kittredge submarine, based on subs used in World War II, is designed to be the "most maneuverable small submarine available," its creator says. The basic model goes down to 250 feet; a more elaborate version, selling for $16,000, dives to 350 feet.

Submerging and surfacing are controlled by three tanks that are filled with water or air to descend or rise. Two rotating thruster motors powered by a rechargeable battery allow the sub to move in various directions at speeds of two to four miles an hour. Air for breathing comes from the sub's own atmosphere and is replenished by surfacing every hour or so. The hull protects against mounting water pressure as the vessel descends.

Kittredge Industries Inc., seems to have little or no competition in the single-passenber, miniature-submarine market. A Florida firm, Perry Oceanographics Inc., makes three- and four-person subs designed for oil rigging and other commercial uses. The Perry vehicles sell for between $50,000 and $1.5 million each.

The standard Kittredge submarine is yellow (for visibility, not out of deference to the Beatles), but the subs coming out of the shop tend to differ from one another. "A guy who buys a sub is highly individualistic," Mr. Kittredge says.

There are the options offered to all, such as a floodlight ($150), the mechanical claw ($300), the wireless telephone ($600) and a trailer for towing the sub ($1,400). A few subs have been ordered with extra bottom-viewing portholes (a $500 feature), and one under construction has an extra diesel engine for speedier cruising on the surface (added cost: $10,000). At the request of a customer, one sub was delivered painted frosted green.

Michael Smith, a Pasadena radiologist, bought his minisub last September in keeping with "a lifelong obsession with the ocean" that has included 23 years of scuba-diving. Once or twice a month he and some friends use the vehicle to explore off the southern California coast. "I could chase seashells or sunken ships forever," Dr. Smith says.

SEARCHING FOR TREASURE

Paul Platonas, a Pontiac, Mich., mailman, uses his sub to scour the Great Lakes for sunken ships and treasure. He has seen a number of sunken vessels but has yet to strike it rich. The sub, he says, is "fantastic—it's not only beautiful, it's practical, like a classic car." Everywhere he takes it, he says, crowds gather to ask questions.

Stetson Turner of Wakefield, Mass., has the interesting occupation of oil-tanker captain and a hobby of piloting small planes, but his sub, he says, "fascinates me more than anything." Diving in it, he says, "is almost like going to another world."

A few of Mr. Kittredges customers have turned their subs to profit making. Ernest Brooks II, a Santa Barbara, Calif., operator of a film and photography-production firm, uses his sub four days a week for picture taking and film making. Mr. Brooks would have preferred a two-man sub, but the Kittredge vessel, he says, "was the only one in our price range." And it has enabled him to do projects that otherwise he couldn't have undertaken, he says.

Leonard LeSchack, the owner of a Silver Spring, Md., research and consulting firm, wants to get work inspecting underwater drills and pipelines for oil companies. He has been testing and modifying his sub to make it suitable for diving under ice in Arctic waters. So far, Mr. LeSchack says, there are expressions of interest from oil companies but no firm orders.

When Mr. Kittredge left the Navy in 1962, he plunged into politics, serving two years in the Maine legislature. An unsuccessful try for a seat in Congress led him back into submarines. Using his Navy experience and a background in electrical engineering, he designed a miniature sub and sold the plans for $2 a set through advertisements in a

skin-diving magazine. In 1967, a scientist who liked the plans but didn't have the time to build the sub contracted with Mr. Kittredge to build it.

With the proceeds of that sale, Mr. Kittredge built a second sub. In 1969, he sold his firm, then called Kittredge Sport Subs, to a fast-diversifying Connecticut firm. But by 1972, that firm had fallen on hard financial times, so Mr. Kittredge bought back his concern, along with six unsold subs, and started anew.

Mr. Kittredge doesn't pretend to be an A-plus businessman. His prices probably are too low; the business usually operates at a loss, although last year it had a $32,000 profit. "My objective has been to make subs instead of to make money," he says.

The bottom line is helped by the fact that neither Mr. Kittredge nor his wife, who works as secretary-bookkeeper, draws a salary. He notes that he can survive financially with his military pension. The hard sell isn't in evidence at Kittredge Industries; the owner often puts up prospective customers at his shop for a day or two so that he can explain the sub and answer questions at leisure.

IF ANYONE SEES . . .

However, he has tightened up his once-liberal credit terms; a buyer—of the frosted-green sub, in fact—failed to keep up with payments or to return the vessel. ("If anyone sees a frosted-green sub, they should let us know," Mr. Kittredge says.)

The latest spurt in orders has whetted Mr. Kittredge's interest in the business side of things. He is talking of expanding the line to include six-person subs for taking vacationers on underwater tours, and he eventually would like his company to go public, he says. He has approached bankers and venture-capital people about expanding the business, he says, but they have shied away because of concern about possible legal problems arising from accidents.

That kind of thing disturbs the submaker, who says he has gone to unusual lengths to ensure safety. Each sub is subjected to water pressures exceeding those normally encountered and then is personally tested underwater by Mr. Kittredge.

Should a problem develop underwater, several safety devices are available. Filling any of the vessel's three tanks with air would cause it to surface, he says; failing that, 190 pounds of lead weights attached to the sub can be released to make it float. If the craft is entangled and unable to surface, he says, the operator can open the hatch and escape with scuba gear, including an emergency tank, that is on board.

NERVOUS MOMENTS

The telephone provides an additional sense of assurance. Most of Mr. Kittredge's customers add another precaution by diving only while friends in boats are waiting on the surface. No customers have had serious accidents, but some admit to disconcerting moments.

Dr. Smith recalls getting entangled in some fishing lines and being momentarily preoccupied with the possibility that "I wouldn't be able to come up." He was in telephone contact with friends on a boat who could have come down to cut the lines, but he managed to free the sub.

Mr. Platonas recalls feeling "panicky" during his first outing because it takes about 20 seconds, after adjusting the valves to ascend, for the vessel to respond.

Customers get acclimated to the subs during an instructional dive in a seven-foot-deep test tank at Mr. Kittredge's factory. There this reporter got a sense of the insecure feeling that can develop, even in shallow water.

A few seconds after submerging, I felt a trickle of water on my right shoulder. A hasty telephone call to the surface helped pinpoint the problem: I had failed to tighten the acrylic hatch sufficiently. A few turns of a bolt made the sub watertight.●

WARNING TO THE EUROPEAN COMMUNITY

● Mr. HAYAKAWA. Mr. President, production subsidies in the European Community are new—as new as June 16, 1978. Furthermore, all details of the new regulation are not available. Since the crop year for most of these products is yet to begin—August and September—there is no experience level by which to determine these subsidies.

Production subsidies per se are not new, and based on numbers available from the EC in Brussels and other sources, I would like to offer several observations regarding the likely impact of this new regulation on exports of California dried prunes.

First, the EC is clearly committed to a "Mediterranean" agricultural policy. This is largely a political policy—at least at first—as opposed to an economic policy. When this policy was reinforced by the Mediterranean Preference Scheme put in place in the 1960's (when the United States was without authority to negotiate) and the Rome Convention put in place just as the Trade Act of 1974 became operative, the EC established the foundation for an exclusive preferential trading system. All other countries exporting specialty food products (the United States for example), to the EC were to be reduced to a "support role," an "alternate" supplier, or for "fill-ins." In my view this policy continues to be completely contrary to the spirit of GATT and world-wide trade liberalization.

Second, the production and grower subsidies adopted by the EC on June 16, are clearly a replacement for its Minimum Import Price (MIP) system. This system, generally regarded as illegal in most U.S. circles, was finally declared illegal by a GATT panel on June 16, the very day the EC Regulation 1152/78 became effective. The subsidy numbers in the regulation are curiously similar to what was understood to be the MIP structure had that device been preserved.

Third, the subsidy scheme described in EC Regulation 1152/78 contemplates a 64½ cents per pound minimum price to the growers exclusively located in France. The funds are to be distributed to the growers through the processors who, after agreeing to pay growers 64½ cents per pound, are provided a processing subsidy of 18 cents per pound by the EC. This grower subsidy is 2.7 times the price typically received by California growers during the past 3 years, or 24 cents per pound.

Fourth, on the basis of an economic study made in France in 1976 on production, processing and marketing costs, in addition to capital and investment requirements, French farmers would need 33 percent more than California farmers to produce a fair return because of California's lower investment cost and operating costs. Thus the French grower would have a comparable return at 32 cents per pound as opposed to 24 cents per pound paid the California grower.

The EC simply doubled the 32 cents figure, to 64½ cents. Clearly, this is a measure of the EC's disdain of and contempt for the U.S. negotiating posture which professes to support export trade liberalization for agricultural products.

Fifth, from a marketing viewpoint French growers have been provided with an extra 32-cents-per-pound incentive beyond a fair return, and the processor has been awarded an 18-cents-per-pound subsidy which is without relation of any kind whatever to the cost of such processing. Furthermore, since 50 percent of French prune production is done by cooperatives, the grower and processor constitute a single entity so that risks and returns can be shared. The cooperative has a 32-cents-per-pound incentive to expand production, and the processor has a substantial margin between his cost and his subsidy to expand his production.

There can be no quarrel with the EC to extend production subsidies to its growers, so long as the intent does not include a ruse to continue trade distorting devices under a more innocuous terminology. I believe that the numbers contained in EC regulation 1152/78 clearly offer the opportunity for French growers to expand market share at California farmers' expense. I can only conclude that the numbers were picked specifically and particularly to lay the groundwork for reduction of California specialty food product exports to the EC to the role the "alternate" supplier described above.

I remain concerned that this entire matter, beginning with the section 301 complaint, has been allowed to become an MTN matter by the U.S. Government instead of the simple bilateral matter that it has always been vis-a-vis the EC. As a result, many countries in the world without any stake in the question have become involved and the essential illegal impairment of U.S. exports to the EC has been allowed to become obscured. The apparent "tampering" with the GATT panel by the EC as to substance and timing so that June 16 would see the GATT panel decision and the EC regulation noted here should be a clear warning that the EC will in all probability continue to make its own world trade policy, with or without U.S. concurrence.

Remedies available to the U.S. Government under section 301 of the Trade Act of 1974 are well known, and they include the threat of, and the use of retaliation. For some, the very word "retaliation" causes mock horror. Yet, as is so well

known, such use of retaliation is fully as much a part of commercial life and U.S. law as any other provision of commercial law. Ambassador Strauss has employed threats against the Japanese and the EC on other matters not as substantial in numbers but no less gross in implication as specialty food products.

Mr. President, the Senate has passed Senate Resolution 76 which concerns this matter, and the House has also passed similar legislation. It is up to both of these bodies to put the EC on notice that disturbances of traditional trade patterns, an upset of historical market share percentages and application of other trade distorting mechanisms are unacceptable. I believe that this warning will become much clearer to the EC as soon as Congress begins its consideration of the MTN proposals.●

UNSAFE DRINKING WATER AND WASTE DISPOSAL SYSTEMS: A CRITICAL PROBLEM IN RURAL AMERICA

● Mr. MORGAN. Mr. President, S. 3084, the Housing and Community Development Act of 1978, which has been reported by the Committee on Banking, Housing, and Urban Affairs, and will soon come before the full Senate, contains a number of important provisions for rural Americans.

Today, I would like to call further attention to one of those provisions, an amendment I offered, and which the committee adopted unanimously, mandating a study by the Farmers' Home Administration of rural drinking water supplies and sanitation facilities. Legislative recommendations are required to be submitted to the Congress after 6 months.

As our Nation approaches the 1980's, I have been concerned to hear testimony in the Rural Housing Subcommittee, which I chair, that no Federal agency, from the Environmental Protection Agency to the Census, knows just how many American families lack either a sanitary toilet or safe drinking water or both. Though the Census Bureau has some outdated and somewhat crude data on pit toilets, no reliable information is available indicating whether those toilets are actually sanitary, or are simply poorly constructed shacks permitting access to disease carrying insects and rodents, or, worse still, constructed so that human wastes can contaminate the area's water supply.

Testimony before my subcommittee has estimated that nearly 1 million households across the Nation continue to rely on outdoor toilets of unknown quality. Many rural families have never benefited from the most basic health and sanitation conveniences which the majority of Americans have long taken for granted. Existing Federal programs have not moved quickly enough to resolve this immediate need for sanitary water and waste disposal systems in the home.

Rural health clinics physicians contend that hundreds of lives could be saved and untold illness prevented through the delivery of a basic health and sanitation program identifying the location of unsanitary toilet conditions and assisting families in designing alternatives which will prevent contamination of the families' own water supply.

Many rural families are not fully aware of the harmful potential of unsanitary waste disposal. Some outdoor facilities are located dangerously near the family water well. Even where an outdoor toilet is situated a suitable distance from the water supply and the house, if the toilet drains into the same underground water stream from which the well draws, serious and often disabling results frequently occur. Particularly vulnerable are children, expectant mothers, and the elderly.

S. 3084 directs the Farmers' Home Administration to determine the number and location of dwellings without access to sanitary water and waste disposal systems, according to definitions specified by the agency.

The report, which is to be completed within 6 months, must also approximate the costs involved in possible future authorization and implementation of an emergency health and sanitation program which would provide potable water and sanitary waste disposal systems for these households within a 2-year period. The ultimate goal of this initiative is to assure that at the earliest feasible date, hopefully by the early 1980's, all Americans can be free from the disease and suffering associated with unsanitary toilets and unhealthy drinking water.●

COMMENTS ON WELFARE PROPOSALS ANNOUNCED BY SENATORS CRANSTON, LONG, AND MOYNIHAN

Mr. BELLMON. Mr. President, recently, Senators CRANSTON, LONG, and MOYNIHAN announced that they will file shortly a bill which would expand work incentives and work opportunities for welfare recipients and provide fiscal relief to State and local governments.

I have not yet had an opportunity to review the details of the new proposal. From the information available so far, it is clear that the proposal has much in common with the welfare reform plan—Senate bill 2777—introduced last March 22 by Senators BAKER, RIBICOFF, DANFORTH, MARK HATFIELD, STEVENS, YOUNG, and me. Our proposal includes an expanded earned income tax credit for low-wage earners. This new plan proposes a somewhat less generous expansion of the earned income tax credit. On the other hand, this new Cranston-Long-Moynihan proposal includes a tax credit to employers who hire welfare recipients that is more generous than the similar credit in our bill. The new proposal does not, however, provide tax incentives for employers to hire unemployed youth and long-term unemployed family heads as does our plan.

Our proposal includes fiscal relief for State and local governments through increased Federal matching payments; this new plan provides fiscal relief on a considerably different basis—through a block grant of Federal funds.

Our proposal deals with a number of other aspects of the welfare system which are not addressed by this new proposal: Reduced age limits in the supplemental security income program, job vouchers for welfare recipients and other hard-to-employ persons, better targeting of subsidized public service jobs for welfare recipients, minimum national benefits for recipients of AFDC, improved AFDC coverage for two-parent families throughout the country.

I am hopeful that the authors of the new proposal and those of us who have backed other plans will be able to agree on a compromise plan which can be supported by a majority in the Senate. I am confident that we can work out our differences on the earned income tax credit and the jobs tax credit.

I am more concerned about the difficulty of reconciling other differences in the proposals. For instance, the terms on which fiscal relief to State and local governments would be provided under S. 2777 differ substantially from the terms of the proposal just announced. Our plan would continue to relate the Federal payment to the amount spent on welfare by State and local governments. The Cranston-Long-Moynihan plan would fix the Federal payment and increase it each year in proportion to the cost-of-living index, without regard to what the States and localities actually spend on welfare. In my view, the Federal Government has the responsibility for assuring that funds it spends on welfare are used to respond to the needs of low-income people. I question whether we would fulfill that responsibility if we proceeded in the way the new proposal contemplates.

I am also concerned that the new plan does not deal with two of the major problems in the current welfare system. One of those problems is the lack of equitable coverage of two-parent families. I feel it is poor public policy to discriminate against such families as our welfare programs do. Likewise, I do not think we can any longer tolerate the widely divergent levels of welfare benefits in different parts of the country. The way to attack that problem in my judgment is to establish a minimum benefit throughout the country and a maximum benefit beyond which the Federal Government will not share in payments. Our bill deals with this problem effectively; the new proposal does not.

I look forward to working with the authors of the new proposal to resolve our differences as quickly as possible.

I submit for the RECORD the following summary comparison of the new Cranston-Long-Moynihan proposal present law and with those portions of S. 2777 that correspond to the elements in the new proposal. This summary does not include numerous features of S. 2777 for which there are no corresponding proposals in the Cranston-Long-Moynihan plan.

PRESENT LAW	(S. 2777)	CRANSTON-LONG-MOYNIHAN
Earned income tax credit:		
10% credit to $4,000 earnings then phase-out at 10% rate as earnings rise. Eligibility stops at $8,000 earnings. At least 50% of family support must come from earnings. Credit must be claimed via annual tax return. Credit not counted as income for determining AFDC or Food Stamps benefit.	15% to Poverty line (varied by family size) then 20% phase-out. Eligibility for family of 4 stops at $13,500 in FY 1982. 50% self-support test eliminated. Credit to be received via "reverse withholding". Not counted in AFDC or Food Stamps.	10% to $6,000 in 1979; $6,500 in 1980; $7,000 in 1981; then 10% phase-out. No family size variation. Eligibility stops at $14,000 in 1981. Credit to be received via reverse withholding.
Aid to families with dependent children (AFDC) coverage:		
States have option to cover intact families (Unemployed Father program (UF)). Father must have worked in 6 of last 13 quarters and family is not eligible if father works more than 100 hours per month.	UF made mandatory. Work force attachment rule removed. 100-hour rule replaced by provision that (1) family becomes eligible if income is less than state's AFDC income entry level and (2) family loses eligibility if income exceeds the equivalent of ¾ of the minimum wage full-time.	No change from present law.
AFDC benefits:		
States determine benefit levels.	States required to pay AFDC benefit amount which, combined with value of Food Stamps, is at least 55% of poverty line in FY 1981; 60% in FY 1982; 65% in FY 1985.	No change from present law.
Federal matching (AFDC):		
Federal share of state's AFDC expenditure varies by state from 50% to 78%. Federal share of state's AFDC administration is uniform 50%. State may require localities to finance part of state's share; such part may vary for program and administrative costs. States receive slightly larger Federal match if administrative accuracy exceeds Federal standards.	Federal share increased in 3 steps from FY 1980 to FY 1982 to a range from 80% to 90%. Matching stops at AFDC benefit level which, combined with value of Food Stamps, is 100% of poverty line. Match is reduced to a minimum of 70% if state requires localities to share in cost. Match is also reduced up to 5 percentage points if state fails to meet Federal accuracy standards. Administration match remains at 50%.	Federal payment to states in FY 1980 would be sum of: Federal share and one-half of state-local share of both program and administration costs paid by each state in FY 1978. Federal payment is converted to permanent block grant. States receive, through block grants each year, the initial amount based on FY 1978 costs, plus annual adjustment for (1) CPI change and (2) change in state's population. Block grant also increased when state has insured unemployment in excess of 6% (or in excess of FY 1978 rate, if higher). Cost of increasing AFDC benefit to amount which, combined with value of Food Stamps, equals 65% of poverty line can be added to base of block grant at any time.
Private Employment		
New Jobs Credit:	Tax Credit:	Tax Credit:
Available in respect to all classes of employees. Applies in each year in which conditions met (but is scheduled to expire Dec. 31, 1978). No requirement on amount of individual's employment. Not available for non-business employment. Credit is 50% of total wages (up to $4,200 per employee) paid in excess of 102% of total wages (up to $4,200) paid in prior year. Regular wage deduction (business expense) reduced by value of credit. Credit limited to one-half of total wages and to maximum of $100,000 in any year. Credit can be carried back 3 years and forward 7. WIN or AFDC tax credit, if applicable, is added to New Jobs Credit.	Available in respect to AFDC recipients, family heads unemployed for 26 weeks, youth unemployed for 90 days, and CETA "graduates". Individual must have conducted 90-day search for unsubsidized jobs (30 days for CETA graduates). Credit applies for one year to each individual. Employment must be at least 30 hours, not more than 40 hours per week. No requirement on length of employment. Credit available for non-business employment. Credit is $1 per hour for new employees, to the extent that employers total hours of employment exceeds 102% of the prior year hours. Regular wage deduction (business expense) reduced by value of credit. Credit limited to one-half of total wages and to maximum of $100,000 in any year.	Available in respect to AFDC and disabled Supplemental Security Income (SSI) recipients. Applies for three years to each individual. Credit available for non-business employment. Credit is 50% of first year wages; 33⅓% of second year wages; 25% of third year wages. Credit per individual limited, for first year employment to $3,000 in 1979; $3,300 in 1980; $3,600 in 1981. For second year employment to $2,000 in 1979; $2,200 in 1980; $2,400 in 1981. For third year employment to $1,500 in 1979; $1,650 in 1980; $1,800 in 1981. Credit refundable to nonprofit employers.
Work incentive program (WIN) credit:	WIN/Welfare Credits:	WIN/Welfare Tax Credits:
Available in respect to all AFDC recipients registered with WIN. Applies for one year to each individual. Individual must have been employed for 90 consecutive days within two years. Credit not available for non-business employment. Credit is 20%. No limit on individual's wages eligible for credit. Credit limited to $50,000 plus one-half of tax liability in excess of $50,000. Credit can be carried back 3 years and forward 7.	WIN and AFDC credits not explicitly repealed, but intent was to supersede them with new tax credit and job voucher program.	WIN and AFDC credits folded into new credit.
Welfare credit:	Job voucher:	Job vouchers:
Available in respect to all AFDC recipients. Must have received AFDC for at least 90 days before employment. Credit applies for one year to each individual. Employment must be substantially full-time. Individual must have been employed for 30 consecutive days. Credit available for non-business employment. Credit is 20%. Credit limited to $1,000 for non-business; no limit for other employment. Employer may claim cumulative credits of up to $50,000 plus one-half of tax liability in excess of $50,000. Credit can be carried back 3 years and forward 7.	Available in respect to same target groups as in tax credit above; requires same job search and extent of employment. Applies for one year to each individual. Available for non-business employment. Provides $1 per hour subsidy for all hours of newly-hired eligible employees. Employer who receives any job voucher subsidy may not receive any tax credit, and vice versa.	No job voucher proposal.●

SENIOR CITIZEN INTERNS

● Mr. PACKWOOD. Mr. President, much will be said today on both sides of the Capitol about the role of the elderly. From time to time, we ask ourselves and we ask each other whether we are doing enough to meet the needs of older people in our society. A few years ago, someone came up with the bright idea to ask older people themselves what is on their minds—to bring them into Government, into the Halls of Congress, into our offices. The senior intern program was born and has matured. This year, I was delighted and fortunate enough to invite two special Oregonians to serve as my senior interns: Roberta Anderson from Portland and Charlie Winters from Jacksonville.

I cannot say enough about these two individuals. Roberta Anderson is a retired home economics professor from Oregon State University and for much of her professional life has been involved with the aging and their concerns. Charlie Winters spent most of his life as a tugboat captain helping to guide ships in and out of San Francisco harbor. Both have a wealth of practical experience to share and advice to bestow.

Although 2 weeks does not seem like a very long time, their visit left a lasting impression on all of us. I can probably speak for most of my colleagues when I say how much I valued their help and enjoyed their friendship. We kept them busy and I am sure they learned a lot about Washington, about the wheels of Government and the peculiarities of Congress. But as much as they learned from us, we were able to learn from them just as much and probably more. The senior intern program is about the best way I can see to bring our older citizens into Government and to bring our Government to them. I know it works because we have tried it. I hope that others will give it a try.

I would like to have printed in the RECORD a letter I received last month from Roberta Anderson after she returned home. It speaks for itself and for many other senior interns, I am sure.

The letter follows:

PORTLAND, OREG., *June 3, 1978.*

Hon. BOB PACKWOOD,
Washington, D.C.

DEAR SENATOR PACKWOOD: I want to thank you again for the opportunity to serve as a Senior Intern in your office.

The experience was a very positive one for me. Your staff were so friendly and helpful that I left with very warm feelings about them as well as a better understanding of the workings of a Senator's office. The kind of staff you have speaks well of you as a person and your concern for people.

The formal meetings we attended provided a wealth of information about various government programs and I expect to utilize much of it in my volunteer work. Certainly when my contemporaries complain that the government doesn't do anything for the elderly, I have ample information to refute the statement! The Older Americans Act has really been a very worthwhile piece of legislation and I am interested in how the House and Senate versions will be reconciled (S. 2850 & H.R. 12527) so that programs can be continued.

I feel a responsibility to make the internships pay dividends here in the state. So far I have shared by experiences with a number of people. This month I will talk with the staff of Homecall, Inc. and the Portland Chapter of the National Association of Federal Employees. One thing I'll stress is the importance of using the local office. During the year I hope to have many more opportunities to share with others.

The experience heightened my concern about special interest groups (Senior Citizens, N.R.A. and others) and their impact on legislation. I have new respect for the job you have to do in evaluating the demands of the vocal special interest groups in terms of the impact on all the people.

I appreciate the time you took from your busy schedule to visit with us. My very best wishes to you and your staff.

Sincerely,

ROBERTA ANDERSON.●

GOING PUBLIC: THE DREAM OF A SMALL COMPANY

● Mr. WEICKER. Mr. President, in my capacity as ranking minority member on the Senate Select Committee on Small Business, I have had the opportunity to discuss the capital formation problem confronting our Nation's small- and medium-sized businesses with numerous persons. The breadth of the problem has become all too obvious to me.

According to figures compiled by the Securities and Exchange Commission (SEC) there were 698 underwritings for companies with less than $5 million in assets in 1969. However, only 80 companies of that size made public offerings in the 4 years from 1974 to 1977. The offerings in 1969 raised almost $1.5 billion, whereas the offerings from the 4-year period combined to produce merely $415 million. Equally disturbing is the decline in the number of corporations, of all sizes, making first-time public offerings. In 1972, 633 unseasoned corporations went public and raised nearly $1.7 billion. However, there were only 93 initial offerings in the 3-year period from 1975 to 1977, and these first-time offerings raised just $388 million. The situation is not improving, as shown by the fact there were only two initial offerings during the first 4 months of 1978, and these raised merely $2.7 million.

However, despite these dire statistics, some small business concerns are able to realize the dream of taking the company public. One such company is Paradyne Corp., a small, high-technology company. The experiences of Paradyne, which exemplify those of other small businesses which desire to grow, were chronicled in an article in the New York Times. Because I feel that it is important that my colleagues are aware of the problems encountered by small companies trying to raise equity and the need for corrective legislation, I ask that this article, "Going Public: A Dream Fulfilled," be printed in the RECORD.

The article follows:

GOING PUBLIC: A DREAM FULFILLED

(By Karen W. Arenson)

Nearly two years ago the officers and directors of the Paradyne Corporation, a small, high-technology company in Tampa, Fla., first started dreaming of taking their company public.

Yesterday they succeeded in issuing one of Wall Street's hottest stock offerings this year. Even though the sale was more than 100,000 shares larger and priced 25 percent higher than originally planned, both big and small investors were left scrambling for shares long after 894,698, at $10 each, were gone.

That Paradyne, with the help of Donaldson, Lufkin & Jenrette, its lead investment banker, managed to survive the labyrinthian process of selling public stock is not unusual. But the fact that Paradyne was able to successfully raise money in the public equity markets at a time when the Dow Jones industrial average hovers in the low 800's, makes it a member of a small and elite group of companies.

Last year, manufacturing companies raised only $800 million through public sales of stock. Of that, less than $300 million went to privately owned companies, like Paradyne, that wanted to go public. So far this year, only about 20 private companies have sold stock publicly, raising about $40 million, according to figures kept by Investment Dealers' Digest.

In many ways Paradyne is typical of the companies that have been able to sell stock this year—companies not too well known, such as GenRad, Storage Technology, Porta Systems and Valtec. Most are relatively small concerns that investors had perceived as having high growth prospects and some well-established niche in their markets.

Paradyne's niche is in the faddish, sophisticated computer/telecommunications field, where it competes with the giant American Telephone and Telegraph Company, among others. About 60 percent of Paradyne's $15 million in revenues in 1977 came from the sale of "modems," devices that convert data signals from computers into a form that can travel over telephone lines, and then convert them back for use by computers at the other end.

This was Paradyne's entryway into an otherwise inhospitable marketplace. "It is easier to start an electronic company and to raise money for it than any other," said David L. Mordy, vice president of DLJ Capital Corporation and a director of Paradyne. But he added, "It's still not like the 1960's when you could sell anything with a sexy name."

SOUGHT $8 A SHARE

After many consultations with DLJ, whose venture capital subsidiary owned 21 percent of Paradyne's stock and which had a seat on the company's board of directors, Paradyne's directors early this year voted to issue public stock, provided they could get at least $8 a share. That price was the minimum some of the venture capital investors felt they needed to justify their earlier investments in the company. (Under the law, however, the final price had to be determined by two companies other than DLJ, since DLJ held more than 10 percent of Paradyne's stock.)

"You can't call on private investors forever," explained Robert S. Wiggins, the 48-year-old chairman, president and treasurer of Paradyne. Sitting in an office at Donaldson, Lufkin & Jenrette earlier this week, the tanned, white-haired executive recalled that the Dow was still plummeting when the decision was made to go public.

"At the time we started, it didn't appear that the market would allow an issue, but we went ahead anyway," he said. "The price of stocks in our industry is not governed as much by the market, because there are not many companies available for people who want to invest in our industry."

Indeed, many of Paradyne's competitors in the high-technology computer communications field have been snapped up in mergers in the past year or so: Motorola acquired Codex, Racal bought up Milgo, and Sycor merged with Northern Telecom. Some investors who brought Paradyne shares yesterday said that one factor that attracted them to Paradyne was the possibility that it too, might someday be acquired by another company for a large premium in stock price.

NOT A SURE THING

Despite the record for the industry, however, the Paradyne issue was far from a sure thing. Like many young companies, Paradyne had a somewhat bumpy takeoff. Founded in 1969, it showed losses every year through 1975. It was nurtured through this period by some of the big names in venture capital, including the Chicago-based Heizer Corporation, San Francisco's Western Investment Associates, Citicorp's FNCB Capital Corporation and Donaldson, Lufkin & Jenrette's Sprout Capital Group II.

These investors were instrumental in bringing in new management in 1974, setting the stage for a turnaround for the struggling concern. From a $3.4 million loss in the 1974 fiscal year, Paradyne pared its loss in the 1975 fiscal year to $10,000, and showed its first profits in 1976.

The profits encouraged Paradyne's officers and directors to consider going public. The concern was on the verge of filing an offering with the Securities and Exchange Commission in 1976, when its largest customer, the Data Transmission Company, filed for bankruptcy. Paradyne scrapped the stock sale idea, and held out its cup to private investors once again. But where earlier shares had sold for as much as $50 a share, this time they brought only $3.75 a share.

Meanwhile, Paradyne's business continued to grow. Revenues in 1977 climbed to $15 million, double what they were only two years earlier. Its profits were rising too, but Paradyne needed still more funds to finance expansion.

SUDDEN STRENGTH IN THE MARKET

When they decided in February to make a public offering, Paradyne executives began working closely with investment bankers at DLJ, preparing the necessary legal and accounting documents. These included a 38-page preliminary prospectus (called a red herring because of the red printing down one side of the cover) that would explain the offering.

By then, DLJ and its two co-managers, Hambrecht & Quist and Alex. Brown & Sons, witnessed some sudden strengthening in the stock market. An initial public stock offering by the Federal Express Company on April 12, proved successful beyond expectations. And an analysis by DLJ of prices of recent equity offerings showed that 19 out of 20 were trading at higher prices than they had been issued at. Then in mid-April, the stock market went wild. The Dow Jones soared more than 20 points in one day, and daily volume on the New York Stock Exchange reached an all-time record high of 63.5 million shares on April 17.

"Psychologically, the market was in the best shape for new offerings it had been in for five years," recalled Sabin Streeter, senior vice president in investment banking at DLJ, who worked with Paradyne on its offering. He and his colleagues started talking with Paradyne about raising the price for the stock.

But while the investment bankers thought they could get a higher price for the Paradyne's stock, they were wary about pricing it too high. "This company may need future capital, so it is very important that this be a good deal, that it leave investors with a good taste," Mr. Streeter said. "The best price to a company is not necessarily the highest price it can get."

DELAYS IN SEC APPROVAL

Though the bankers were itching to get the deal off the ground to take advantage of the upbeat market, they ran into a delay of about a week in getting approval from the Securities and Exchange Commission. In the meantime, Craig Sim, senior vice president and syndicate manager at DLJ, was beginning to put together an underwriting syndicate—the group of brokerage firms that would buy the issue for resale to investors, and carry the risk in case the market went to pieces and the stock sold poorly.

Mr. Sim was anxious to include some prestigious investment bankers in the underwriting group to show that they were backing this first-time issuer. But he could not include too many underwriters in the syndicate since the dollar value of the offering was relatively small, and that limited the amount of profit each underwriter would stand to make. Mr. Sim finally selected 15 firms, including Goldman Sachs, Salomon Brothers and First Boston. But he aimed to spread the stock through 57 more firms that would sell, but not underwrite, the issue.

At the same time, Mr. Sim also compiled a "book" of interested investors, and started talking with Paradyne's about what would be a desirable allocation of stock. Like many companies, Paradyne did not want to have its stock owned too heavily by institutions for fear that they might buy and sell stock simultaneously in large blocks, radically affecting the price of the stock. Nevertheless, some institutional holding "could give a tremendous amount of respectability to a young company," Mr. Sim noted.

Although 77 institutional investors had expressed interest in buying Paradyne, only about 30 were designated to receive stock, each about 10,000 shares or less.

THE GREEN LIGHT

The final steps in the offering were set in motion last Wednesday, when DLJ received notice that the S.E.C. had given a green light. On Monday afternoon, the three managing underwriters and the company negotiated the stock price and the fees: The stock would sell for $10 a share, the managers would receive 15 cents a share, the underwriters would get 16 cents a share, and the sales people would get 44 cents a share, for a total cost to the company of 75 cents a share.

Monday evening, the DLJ syndicate department began to total up the states where the stock could be offered. Under "blue sky laws," each state sets its own criteria for securities offerings. In the Paradyne sale, approval was either not sought or not granted in 15 states. But even without these states, sales were so strong that the underwriters planned to exercise their "green shoe" option to offer 75,000 more shares. (So called because the right of underwriters to call some extra stock was first used in a securities offering by the Green Shoe Manufacturing Company in 1960.)

Yesterday morning, the underwriters stopped by DLJ to sign their contracts. Mr. Wiggins, Paradyne's president, and Mr. Streeter of DLJ, hopped in a taxi cab for a trip to New Jersey so they could sign the formal underwriting agreement without its being subject to the New York State transfer tax on equity sales, resulting in a saving of approximately $42,000.

At 9:15 A.M., the underwriters were allowed to formalize their sales. By 10:50 A.M., the stock was all sold, the underwriting syndicate was disbanded, and the stock was free to be traded.

Yesterday afternoon, the stock was being bought and sold at about $13.50 a share, trading for a premium like many new offerings. The stock may move up and down in coming weeks, but Paradyne is now a public company. Late in the day, Mr. Wiggins headed home for Tampa.●

AMBASSADOR YOUNG

● Mr. HATCH. Mr. President, the Carter administration has based its foreign policy around a cornerstone of human rights. While I have been critical in the past of the apparent turning away from violations when it appeared to be convenient, I must express my support of the President in his remarks concerning the trials of Soviet dissidents Alexander Ginzburg and Anatoly Scharansky. At the same time, I must express my belief that this is not another time for empty rhetoric. The United States is a nation that was founded on the beliefs that man has the right to personal freedom and the right to express his personal views. I believe that this is a major test by the Soviet Union of the strength of the Carter administration. If all the President can do is hurl harmless words of criticism at the Soviet Union, then they will be correct in their assumption that they are free to take any action they please. In reality they will be telling President Carter that he can forget about his human rights campaign, at least so far as the Soviet Union is concerned. This will be a signal concerning any further public dissent in the Soviet Union—a clear signal to those dissidents contemplating any action, that they will be dealth with swiftly and harshly, without any concern for opinion outside the Soviet Union.

To compound the problem for the President, his "glib" Ambassador to the United Nations, Andrew Young, has once again taken it upon himself to criticize the United States for what he calls our "political prisoners." In an interview in Paris with the French newspaper Le Matin, Mr. Young said that there are "hundreds, maybe even thousands of people I would call political prisoners" in the U.S. jails. This has taken the initiative from any condemnation the United States makes of the trials of Soviet dissidents. President Carter, about to travel to Bonn for the economic summit, is now in a position of having to defend the United States instead of attacking the Soviet abuses of human rights.

I would suggest to the administration that simple denials of Mr. Young's statements as "not reflecting the policies of this administration" will no longer suffice. Ambassador Young has been given the credentials of a spokesman for the United States and anything that he says will be interpreted by many people throughout the world as a statement of policy. When one considers the continued abuse of position as manifested by this and previous statements by Mr. Young, including the statement in the second part of the interview with Le Matin, in which Mr. Young states that in his opinion Rhodesian Prime Minister Ian Smith is responsible for the slayings of white missionaries, then it is time for President Carter to remove that credential. In the past, I and others have asked the President to "muzzle" Andrew Young, to stop this flagrant misuse of position to espouse personal views. Having failed to heed this advice, I would suggest that the administration has no other avenue but to now ask Mr. Young to step down. Lest he then consider himself a "political prisoner," I should remind him that he will be free to hold all the interviews and press conferences that he desires, but then he will be speaking as a private citizen and not as a representative of the

U.S. Government, and thus the American people.●

THE FEDERALIZATION OF WELFARE

● Mr. CURTIS. Mr. President, in 1977, a group of 131 corporate executives calling themselves the Businessmen's Committee for the Federalization of Welfare petitioned Congress to federalize the welfare system. They reasoned that while "poverty is a national problem" the fiscal burden of poverty is not spread equally across State and local jurisdictions and, therefore, the Federal Government should take greater financial and administrative responsibility for welfare programs.

At the time of the announcement Congressman TOM HAGEDORN pointed out that the "overwhelming majority of the 131 signatories are from the New York City area," and he suggested that they could better help New York out of its economic troubles "by urging some budgetary restraint upon their local officials than by trying to export the city's woes throughout the Nation."

Apparently, a number of these businessmen heeded his advice, because when the group circulated a more specific statement this year supporting President Carter's welfare reform legislation to federalize welfare programs, only 46 of the original signatories and 2 new people endorsed the statement. Although they had the good sense not to mention where they were from this time, a comparison with last year's list shows that over three-fourths of the signatories are from the New York City area again this year.

This group certainly does not represent the majority of business people on the welfare issue. For example, the Chamber of Commerce of the United States, a major business organization, has testified before the Congress in favor of decentralization of welfare programs—giving the States more responsibility for creating and administering programs with Federal funding through block grants.

If experience is any indication, the federalization of welfare is not likely to accomplish any of the goals which the businessmen's committee supports—fiscal relief, incentive to work, keeping families together, simplifying administration. In fact, it would only make matters worse—as the history of the programs and emerging research now are beginning to make clear.●

THE WILL TO END HUNGER

● Mr. CHAFEE. Mr. President, I am sure you are aware of the play, "Dracula," in its final week at the Kennedy Center. The main actor, Raul Julia, stars as "Count Dracula" and does an extraordinary job.

Raul Julia is actively involved in the hunger project. In the playbill, one-third of his biography is devoted to advertising this project. He spends much of his off-stage time promoting the project through demonstrations and through those he has met while on tour. I think this is an appropriate time to apprise my colleagues of this novel and innovative approach to end hunger within the next two decades.

The world hunger project is a national, nonprofit organization with offices in 60 cities in the United States and in many countries all over the world. Initiated just over 1 year ago, it now has over 120,000 members. By soliciting the support of anyone who is willing to be responsible for making the end of starvation a reality, it continues to grow.

There are three primary ways to participate:

First. Choose the 14th of any month as a day of fasting;

Second. Contribute to the hunger project what you would usually spend on food and alcohol during the day of your fast; and

Third. Have your family and friends participate in the hunger project by joining you in your fast and contribution. Another way to express your participation is to simply make a donation, whether or not you choose to fast.

Any who care to become a member of the hunger project should write to: The Hunger Project, P.O. Box 789, San Francisco, Calif. 94101.●

HUMAN RIGHTS IN PARAGUAY

● Mr. KENNEDY. Mr. President, last Friday, only 12 hours after his return from the recent Organization of American States conference in Washington, the distinguished Paraguayan politician Domingo Laino was beaten and kidnaped on the streets of Asuncion. The Paraguay Government has now acknowledged that it is holding Dr. Laino without charge.

In meetings with both the administration and the Congress in Washington, Dr. Laino spoke out compellingly for the return of democracy and respect for fundamental human rights in his homeland. There is little doubt that for this reason, Dr. Laino has been beaten, kidnaped, and detained without trial. This background must reinforce the concern of the United States about mistreatment in Paraguay.

This incident is contrary to the American Convention on Human Rights, of which Paraguay is a signatory. But of equal concern, it represents a setback in the human rights situation in Paraguay, which has yet to follow through on its expression of willingness to receive the Inter-American Commission on Human Rights.

I have consulted with the administration on Dr. Laino's kidnaping since first learning of it on July 7. I commend Ambassador White for his prompt and continuing efforts to obtain Dr. Laino's release. The United States should insist on his immediate release from detention.

Because of its human rights violations, Paraguay has already been denied U.S. military assistance. If it continues to detain Dr. Laino—or attempts to implicate him in false charges—then the United States should consider suspending economic assistance to that country.

Let us go on record as vigorously supporting the cause of one man—Dr. Domingo Laino—who represents the broader cause of human rights and democratic freedom in Paraguay.●

JUSTICE AND COMPASSION ABSENT IN SENTENCES OF GINZBURG AND PETKUS

● Mr. LEAHY. Mr. President, I know that my colleagues in the Senate have felt the same deep concern that I have over the trials taking place in the Soviet Union this week—concern which we articulated in our July 11 resolution urging the Soviet authorities to deal compassionately with the human rights activists whose fates are now being decided. It is with profound indignation and sorrow that I convey to you news of the first sentences meted out this week to Helsinki Monitor and Solzhenitsyn Fund representative Aleksandr Ginzburg and Lithuanian Helsinki Group member and Catholic activist Viktoras Petkus. Mr. Ginzburg faces 8 years of special regimen camps and 3 years of exile; he is in poor health and the consequences of his exposure to the conditions of the Gulag are frightful indeed. Mr. Petkus, who has already served a total of 13 years detention for his activities in the field of human rights in Lithuania, was read the shocking sentence of 3 years in prison, 7 in camps, and 5 in exile. He will be 64 years of age if and when he survives this inhuman and barbarous ordeal. Non-Russian dissidents inspire particular anxiety in the Soviet leadership, as proven earlier with the sentences of Ukrainians Mykola Rudenko, Olesiy Tykhy, Mykola Matusevych, and Myroslav Marnovych. Mr. Petkus, the day before his arrest back in August 1977, had announced the formation of the Supreme Committee of the National Movement of Estonia-Latvia-Lithuania. This event, combined with his activities as a Helsinki monitor, compounded the fears of the Soviet leadership as to the courageous undertakings of this man, just as Mr. Ginzburg's selfless activities as administrator if the Solzhenitsyn Fund made him "an enemy of the State."

We have urged that the Soviet Government react to these praiseworthy citizens with something other than fear-inspired rashness. I am deeply perturbed and stunned with the path it has chosen to follow, a path of impetuous and contemptuous disregard for all standards of civilized behavior. I call upon all of you to join me in firmly protesting these most recent acts of lawlessness with respect to these individuals being punished for their concern for human rights in their native land.●

FOR AN END TO FIGHTING IN LEBANON

● Mr. KENNEDY. Mr. President, since the beginning of July, the world has witnessed more tragic fighting in Beirut, the capital of Lebanon. Yet another ceasefire has been called, and continues to hold uneasily.

I have been in contact with the administration about this problem. I have received assurances that the United

States is making every effort to insure that the ceasefire is respected by all sides.

I know all in this Chamber join with the administration and the Lebanese Government in the hope that all parties will continue to observe the ceasefire, and to prevent resumption of the fighting which has already caused such a high toll in lives and property.●

INJUSTICES TO A GOOD CONGRESSMAN

● Mr. HATCH. Mr. President, agencies of government are often in a position to assure the election or defeat of Senators and Congressmen and State and local officials. Designing politicians and politically motivated agency personnel are all-too frequently engaged in the misuse of government power, which could, in effect, rig elections and destroy opposition. These shocking conclusions are the result of a year of effort, in conjunction with my colleague, Congressman GEORGE HANSEN of Idaho, in working with a constituent who was experiencing problems with the Internal Revenue Service—his employer. Apparently, this individual had been involved in the scandalous and apparently illegal leakage of the Congressman's income tax information during the 1976 general election campaign. This key IRS official had written a letter of apology to Congressman HANSEN but was being disciplined by the IRS. To assure impartiality and fairness and because this IRS employee was residing in Utah, the Congressman turned the case over to me.

Our further investigation revealed what appeared to be a vendetta on the part of some IRS officials or officials with respect to the Congressman when this improper action was exposed by this letter of apology. It seems that this IRS employee was made the scapegoat. Apparently tax information from the Congressman's files was improperly revealed to his political opponents and such information was then publicly disseminated. It also appears that certain elements of the press in Idaho also improperly received the same information.

It is my understanding that this latter incident has been under investigation by the IRS Commissioner's Office in Washington, D.C., and that the matter has been referred to the Office of the Attorney General. Under such provocation it appears to me that Congressman HANSEN has acted fairly and judiciously with respect to the handling of my constituent and encouraging the legal system to do its job without political fanfare.

I was disturbed by the initial series of events but what disturbs me more is an apparent failure to aggressively pursue these investigations. Furthermore, it appears that these abusive practices are continuing. Obviously such practices could influence or "rig" the current election the Congressman is facing. It seems to me as I have watched from next door in Utah, that the Congressman is being pushed into investigation after investigation at the behest of politicians when the original investigation, if completed promptly would have resolved the whole matter. The Department of Justice should move swiftly to put an end to these practices.

Beginning in 1974 the Congressman has been subjected to what appears to be politically instigated or politically motivated investigations of the House Administration Committee, Clerk's office, and even the FBI and the Department of Justice. It appears a Democratic Party official improperly forwarded the Congressman's credit report to the abovementioned committee as well. Furthermore, other complaints from political partisans caused a Federal Election Commission investigation. When the improper disclosures of IRS were revealed, it appears that rather than correct errors of fact and/or attempt to suppress such confidential information, these officials engaged in open speculation. This confidential information became so available and so well known, it was finally utilized as a basis for a demand for investigation and prosecution by the U.S. attorney's office, even though it was improperly secured and was substantially erroneous.

Just recently I have learned certain elements are again pressing new complaints and charges which are similar to the same old tired charges desipte the fact that some of these elements are under investigation themselves for their earlier improper activities. It would appear that Government agencies are being and have been used improperly in the harassment of a Congressman, who probably works the longest hours on Capitol Hill, meets all his obligations and even has his wife serve as his full-time administrative assistant at no cost to the taxpayers.

Through the years I have observed the occasional manipulation and misuse of Government agencies by ambitious, unscrupulous or designing persons but the degree to which this can now be done to influence and warp the political process and prey on those who wish only to serve their country, as evidenced by the Hansen history which I have briefly recounted, is indeed shocking. Every Member of the House and Senate should take serious note of what might be in store for them or for public officials at any level. Who would want to undergo that which GEORGE HANSEN has experienced—and why should anyone have to?

Elections should be decided on the issues and effectiveness of the individual, not on character assassination and the manipulation of Government agencies to harass, bankrupt, or even destroy those aspiring to serve.

We had better make early adjustments in the system to assure that Government agencies are not improperly used and that the rights of candidates for public office are protected, or no one will care to run for office and self-government will fail.●

TRIALS OF SOVIET DISSIDENTS

● Mr. PELL. Mr. President, press reports from the Soviet Union today indicate that two of the Helsinki watchers on trial this week—Lithuanian Group member Viktoras Petkus and Moscow Group member Aleksandr Ginzburg—have been convicted on charges of "anti-Soviet agitation and propaganda." Tragically, both have been given harsh penalties—Ginzburg must serve 8 years in labor camp and then 3 in exile while Petkus was sentenced to 3 years in prison, followed by 7 years in labor camp and then 5 in exile. These convictions have ominous implications for the fate of the three other members and friends of the Helsinki Groups on trial this week. The prosecution in the Anatoly Scharansky trial has apparently asked that he be sentenced to 15 years—3 in prison and 12 in labor camp—and there is little doubt that this request will be granted. Aleksandr Podrabinek and Maria Slepak will probably also receive severe sentences.

The U.S. reaction to this latest news can only be one of revulsion and outrage. Since the U.S.S.R. found it impossible to show genuine compassion or mercy to these courageous men and women in whom the United States has expressed a particular interest, the Soviet Union should be aware that these deplorable events will affect the climate of our relations and impose serious obstacles to cooperation between our countries. I know I speak for many Americans when I express my profound sadness over the convictions of Aleksandr Ginzburg and Viktoras Petkus.

At the same time, I would like to reiterate my support for President Carter's decision to send Secretary of State Vance to Geneva to continue the vital discussions on a SALT treaty, even as the President was criticizing the Soviet trials. The fact that our country is deeply resentful of these trials does not detract from the necessity of achieving a SALT agreement. A SALT treaty is in our national interest, as it will enhance our security and lessen the danger of nuclear war. Therefore, every effort should be made to conclude a treaty as soon as possible, without linking these negotiations to our protests—which should continue—regarding Soviet human rights violations. Just as we must continue to persevere in the search for a SALT agreement, we must continue to demand Soviet compliance with the Helsinki accord; but one should not be tied to the other.●

ORDER FOR THE CONSIDERATION OF H.R. 11003

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, upon the disposition of H.R. 2777, the Senate proceed to the consideration of Calendar Order No. 798, H.R. 11003, an act to clarify the authority for employment of personnel in the White House Office and the Executive residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 12:55 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 20 minutes.

The motion was agreed to, and at 12:35

p.m., the Senate recessed until 12:55 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DECONCINI).

The PRESIDING OFFICER. The Senator from West Virginia.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 1:45 P.M.

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess until the hour of 1:45 p.m. today.

The motion was agreed to, and at 12:55 p.m., the Senate recessed until 1:45 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. HARRY F. BYRD, JR.).

NATIONAL CONSUMER COOPERATIVE BANK ACT

The Senate continued with the consideration of the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask unanimous consent that the time be charged equally against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHILES). Without objection, it is so ordered.

Mr. TOWER. Mr. President, I yield 3 minutes to the Senator from Pennsylvania.

Mr. HEINZ. I thank the Senator from Texas for yielding.

Mr. President, I rise in support of the bill now pending before the Senate. I supported this legislation in the Banking Committee because I believe a Consumer Cooperative Bank serves a real need with a responsible program.

Time and again, proponents of this legislation including cooperatives in my own home State of Pennsylvania, cited cases of an inability to obtain financial assistance. This is especially true in the area of housing cooperatives. This Bank is designed to serve that need. But what makes this legislation so attractive is that the Bank is also designed to operate on a sound and businesslike basis. It will lend to cooperatives at prevailing rates of interest and only to cooperatives which have a reasonable prospect of repaying both principal and interest. Other provisions of the bill specify the structure and functions of a Board of Directors, and require the Bank to submit annual reports to Congress—all sound management principles.

This legislation is, I think a rather modest version of the Bank for Cooperatives, which is so successful for farmers. The bill before us today responsibly authorizes a $300 million Federal equity interest instead of the much larger funding level contained in the House of Representatives bill. Similar to the farmers' bank, this bill requires that the Bank repay the Federal Government and also to pay dividends. In other words, this is more like a temporary shot in the arm rather than a program into which the Congress will have to continuously pour money.

I have also heard from small businessmen, who are concerned that their livlihood will be affected by Government-funded competition. After careful consideration and consultation with the National Association of Retail Grocers and the National Retail Hardware Association, I am confident, however, that the Bank will not adversely affect the small retailer. I do not support legislation designed to undercut the small businessman and I believe this bill includes sufficient safeguards in behalf of the small retailer.

Mr. President, this is a responsible bill and I urge its swift passage.

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. Mr. President, I ask that the Senator from New Hampshire yield time.

Mr. McINTYRE. Mr. President, I yield to the Senator from California as much time as he may require on the Tower amendment.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, Senator LUGAR in his remarks this morning made some comments about the Consumer Cooperative in Berkeley, Calif., that I would like to comment upon briefly in order to provide some factual elaboration to complete the record.

This 40-year-old cooperative is the largest food cooperative on the U.S. mainland with some 92,000 member-owner families. The Senator from Indiana quoted a Washington Post article of February 1978 which described some of the social concerns as well as the economic-business activities of this democratically controlled cooperative. The main point of the article and the many other written observations about this co-op is that decisions about the quality, variety, and the propriety of selling merchandise are made by the management under guidelines set by the consumer board elected by the membership. The cooperative, unlike its traditional competitors, operates in a fishbowl with two open meetings of the board of directors each month, with numerous standing committees, with elected advisory councils in each cooperative shopping center.

One could cite the socioeconomic contributions of this cooperative as fine examples of the activities which the Senate and the new bank should and will welcome. The Berkeley co-op studied and debated the impact of fluorocarbon aerosols on the Earth's ozone layers. Following this careful examination and open debate, the board voted to phase out the sale of the fluorocarbon products over a 3-month period, accompanied by an intensive educational program. The co-op's buyers found satisfactory alternative products to the fluorocarbons and this cooperative became the first retail operation in the world to remove the dangerous products. It was 18 months later that Federal agencies took similar action.

Similar experiences can be cited in the marketing of food products. The Berkeley Co-op initiated the first comprehensive direct-marketing program of fresh fruits and vegetables in cooperation with the State's department of food and agriculture. By shipment of over 40 varieties of fruits and vegetables in large wooden bins from the farm or packing shed to the retail store floor, the co-op aided farmers by paying a fair price and by increasing the percentage of food grown which was actually marketed; it also reduced packaging costs and middleman costs; and it provided large quantities of nutritious food at a sharply reduced price to the consumer. For example, broccoli, a nutritious but not very popular vegetable, sold 100 times as much in the large bins as it did in the normal retail display technique. This new program has been praised by State officials and by farmers and even some competing retailers. The program is a product of a cooperative whose major concern is service to consumers.

There is considerable controversy today about sugar-sweetened cereals and their effect on the health of our children. Over 3 years ago, the Berkeley Co-op's staff of home economists studied this matter and issued a lengthy report of its findings in a special insert for the weekly Co-op News. The co-op staff, following extensive discussion within the board and management, shelf-marked the cereal products in each co-op supermarket consistent with the some economists' recommendations. Incidentally in a 6-month period, sales of the not-recommended cereals decreased by 26 percent and the recommended cereals increased by about the same amount.

There are countless other examples of initiative taken by this cooperative and its consumer board of directors including action on meat prices, milk price control, fat content of hamburgers, a "lifeline" food policy promoting the more nutritious foods at a sale price.

Senator LUGAR also commented on the Berkeley Co-op's alleged lack of concern for low-income consumers. While it is true that this cooperative was organized 4 decades ago by university faculty and students and Finnish American workers its hundreds of employees and 150,000 shoppers each week today are a true cross-section of all races, incomes and lifestyles. Its 12 supermarkets are in trading areas varying from the relatively high income of Marin County to the relatively low-income in Oakland. Senator LUGAR is correct in describing the challenge to the food industry to serve the inner-city consumer as well as the suburban. Careful examination of the conferences reports and studies and trade publication discussions will clearly reveal, that the problem is growing as the major chains move to the more profitable suburban locations. We see the cooperative food store, as well as cooperative housing and health care as

one alternative for the inner city consumer's needs—not the whole solution, but a vital part of it. The unique contribution of the cooperative is its involvement of the consumer in the decisionmaking as well as the patronizing of the business. Those private and public opinionmakers who have been so critical of government loans and grants should be enthused about the co-op bank as a distinctly different self-help institution.

Mr. President, my colleague (Mr. HAYAKAWA) and I discussed the Berkeley co-op a few moments ago. I am delighted he is on the floor. He has a special tie and intimate knowledge of that cooperative. I think that his own views of it would be of value to the Senate at this point.

The PRESIDING OFFICER (Mr. LEAHY). The Senator from California.

Mr. HAYAKAWA. I thank my distinguished colleague from California, my senior colleague and in many ways my mentor in this new job.

My connection with the Berkeley co-op has to do with the fact that my wife for 6 years, up to about 4 or 5 years ago, was a member of the board of directors of that co-op. She had a personal hand in arriving at those very decisions that Senator CRANSTON has just mentioned.

By the way, she was formerly president of the Hyde Park Cooperative in Chicago. So she has had much experience with that.

She was involved in the Hyde Park Cooperative at the time it expanded into a large supermarket in 1955. Having attended the grand opening of that supermarket, we moved to California.

In the matter of consumer safety, which Senator CRANSTON has mentioned, she had been involved personally in that aerosol examination and in the examination of many other problems of consumer safety, in the Hyde Park Cooperative, in the department of consumer safety, in pricing, and in the promotion of those brands which have the best prices for the lowest cost to the consumer. These always have been of concern to the board of the Berkeley Co-op and every other consumer cooperative.

Senator CRANSTON mentioned the matter of the tree-ripened fruit, the fresh fruit and produce that are brought to the market. As many consumers know, many fruits are picked green and ripened in the course of shipment and in later storage, because many fruits are grown and cultivated for long shelf life rather than for flavor. Tree-ripened fruit do not have a long shelf life because they are already ripened when picked.

One of the problems my wife was very much concerned with was getting tree-ripened fruit on the counters, directly from the orchardist to the grocery store. I recall the great excitement with which this whole program was received both by the farmers and the consumers who were brought together by this very ingenious method.

The California Department of Agriculture took an interest in this program, because it solved the problem which was caused by the fact that this unripe fruit, which was picked and sent to distant consumers, was ruining the reputation of some California fruit products; whereas, this kind of tree-ripened fruit, sent directly to the consumer, did much to restore the faith of people in these fruit products.

The deep social consciousness of the co-op itself is a matter of tremendous interest, because very often the cooperative movement has been tempted to go outside of consumer concerns—to take an interest, for example, in the wider social concerns of labor, the Vietnam war, the draft, and so forth. So that there always has been a sort of struggle going on within the Berkeley Co-op, in which the social concerns of the members sometimes take precedence over the consumer concerns. The fact that such struggle would take place within the co-ops shows the degree of sensitivity to the values of society that they are concerned with; but, ultimately, the central concern of the consumer, as consumer, has taken precedence.

It is true that many cooperatives have been organized within the middle class, especially in university districts. The distinguished Senator from New Hampshire tells me that the strongest co-op in New Hampshire is in the vicinity of Dartmouth College, in Hanover, N.H. This is not surprising.

On the other hand, the successes of the best urban cooperatives also have been accounted for by the union of that middle class with especially Scandinavian and Finnish immigrant labor groups. Where the Scandinavian and Finnish groups have gotten together in Wisconsin, Illinois, and Berkeley with middle-class groups of intellectuals and people of social concerns, those cooperatives especially have been successful.

There is one thing I want to add about cooperatives which is a matter of great personal concern to me: Many people have commented about the remarkable fact that I, as a Japanese-American, should be elected to the U.S. Senate from the State of California, which, for almost 100 years, has been the center of antioriental agitation. From the days immediately following the gold rush of the 1850's, anti-Chinese agitation took over the State of California, including especially the labor movement, until the passage of the Chinese Exclusion Act of 1882.

After the beginning of the 20th century, Japanese immigrants began to come in, and California became the center of anti-Japanese agitation. That agitation, originating from California, was a systematic attempt to deprive the Japanese and the Chinese of jobs, to keep them from holding land, to keep them from prospering in agriculture, and this led to the Chinese Exclusion Act of 1924, which seriously affected the relations of the United States with Japan.

This may seem to have very little to do with cooperatives, except that it is a very important fact. I do not know whether the senior Senator from California is acquainted with this fact, but this is a fact about which I am very grateful—that the Berkeley Co-op was the first employer to hire a large number of Japanese-Americans after the end of the Second World War, when these Japanese-Americans came back from their relocation camps, from their new jobs in the Midwest, Chicago, Minneapolis, Cleveland, and elsewhere, and invited them back to California.

There was debate within California as to whether or not it was a good idea to invite the Japanese back to California, and the Berkeley Co-op was the first outfit to hire a significant number of Japanese-Americans to work there.

Since that time, the Japanese-Americans have returned to California in increasing numbers, until they have become a stable element in the population; and ultimately there were enough Japanese-Americans to put me in the U.S. Senate.

Berkeley Co-op is one of the agencies that helped to bring about this great transformation in reducing the racism that has marred the history of the State of California.

So when Senator CRANSTON talks about the honorable history of the Berkeley Co-op and of other cooperatives in consumer safety, in concern with the quality of consumer products, in the defense of the consumer, and, even more important, in enlightened hiring practices, enlightened promotional practices, and social awareness and social consciousness, Senator CRANSTON is entirely right. I agree, from the bottom of my heart, with the very fine things Senator CRANSTON has said about the Berkeley Co-op and about the movement in general. I endorse those remarks fully.

The PRESIDING OFFICER. Who yields time?

Mr. MCINTYRE. Mr. President, I thank the distinguished junior Senator from California for his strong support of this bill.

Mr. TOWER. Mr. President, I ask for the yeas and nays on the amendment in the nature of a substitute.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I ask unanimous consent that Mr. Bob Aten, of Senator JAVITS' staff; Sally Crossman, of Senator STEVENS' staff; and Mr. Richard Gentry, of Senator ALLEN's staff be accorded the privilege of the floor during debate, consideration, and votes on H.R. 2777.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I yield myself 4 minutes on the amendment.

The proponents of this bill argue that it will not hurt small businesses and that indeed cooperatives complement shall businesses.

But if that is the case, then why are small businessmen so concerned about the enactment of this bill?

The witness for the National Federation of Independent Business had this to say about the bill in testimony presented to the Financial Institutions Subcommittee:

> It is not difficult to understand small business opposition to this bill. Despite the contention of supporters of the bill that the bank will enhance competition in business activities and geographic areas now dominated by a few large firms, the bill would, in

fact, create subsidized competition in business activities—primarily relating and nonprofessional services—now dominated by small firms. . . . Passage of H.R. 2777 will not only seriously threaten the economic vitality of an entire strata of the small business community: it would require small firms to help pay part of the cost of subsidizing the very cooperatives that could put these firms out of business.

The witness for the National Association of Retail Grocers of the United States—NARGUS—had this to say:

The philosophy behind this proposed government program is another source of discouragement to the owners of the small business organizations represented by NARGUS. On the one hand, our government continually piles additional taxes upon them, increases the minimum wages that they as grocers must pay carry-out clerks and others. Then the government would use their taxes to encourage others, who pay no such taxes, to compete with them in business.

The witness for the Chamber of Commerce of the United States told the subcommittee:

Your concern with the bill is not limited to the proponents' failure to demonstrate the need for the project. We are doubly concerned with the effect on thousands of small businesses, and especially "Mom and Pop" stores, which will suddenly find themselves competing against a cooperative financed by the Federal government and paid for by tax dollars. Small business will undoubtedly bear the brunt of the cooperatives' attack. Proponents and opponents both agree that this legislation will increase the number of cooperative businesses in the retail and nonprofessional service sectors. These are the sectors with the heaviest concentration of small businesses.

Lest anyone think that what we are talking about is competition with large business, let me remind them that roughly 90 percent of all retail firms in this country have fewer than 20 employees. They are the ones that will be in competition with federally financed consumer cooperatives.

Representative HENRY GONZALEZ, of the State of Texas, put it very well in last year's House report on this bill when he said:

The unvarnished truth is that enterprises financed by the consumer cooperative bank would not be competing against heartless big business at all. The small businesses of this country—the independent grocers, the neighborhod garages, and the radio and TV repair shops—would bear the brunt of the competition financed by this bank."

Mr. President, we have heaped a number of burdens on the small businessman. Here we go again. We are going to force him through his tax dollars to finance his competition. That is exactly what we are doing here, without making any determination of whether or not the cooperatives really need this bank.

The way out, as I see it, is to adopt the substitute which I have been joined in by Senator LUGAR, and others, that will give us a pilot program, provide lending authority, provide technological assistance, and provide a study, so that we can make a determination whether or not this bank is really needed.

There is no proof, there is no adequate evidence that this bank is really needed.

I think the amendment offers us a constructive way to assist the cooperatives while determining what further steps should be taken to improve their capability for adequate financing.

I urge the adoption of the amendment.

Mr. HAYAKAWA. Mr. President, may I have a couple minutes?

Mr. McINTYRE. Mr. President, how much time remains for the proponents of this bill on this Tower amendment?

The PRESIDING OFFICER. The Senator from New Hampshire has 28 minutes remaining.

Mr. McINTYRE. I yield 2 minutes to the distinguished Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 2 minutes.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that Mr. Marc Steinberg, of Senator GRIFFIN's staff, be accorded the privilege of the floor throughout the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I wish to supplement the remarks of the distinguished Senator from Texas about the threat of the co-ops to small business. I shall only talk about one instance, and that is the Marin County Branch of the Berkeley Co-op which is in Corte Madera, Calif. Because the Berkeley Co-op has placed a branch in Marin County in the immediate building and environs of that co-op a number of other small businesses have moved in and flourished because of the interest of the co-op in bringing together a group of shoppers.

So, a number of businesses are flourishing. A number of small businesses, radio, television repair shops, dry cleaning outlet, book stores, health food stores, and other such small retail enterprises are flourishing because the co-op is there. It is no threat, as I keep saying, to small businesses but being a small business itself is an aid to other small businesses.

Thank you, Mr. President.

Mr. McINTYRE. I yield myself 2 minutes.

In urging my colleagues to reject the Tower amendment, I only say and recall that this amendment was rejected in committee. This is an amendment that would reduce this bill to a pilot study and a loan program under Treasury. I only re-echo the feeling of the majority. I believe it was about a 10-to-5 or 2-to-1 vote in the Banking Committee. The basic conclusion that we reached is that a program of loans and technical assistance makes sense and that such a program would be most effectively administered by an independent bank.

The committee believes that the need for the National Consumer Cooperative Bank has been well documented and that a pilot study is inadequate, inappropriate and would result in unwarranted delay in establishing an independent, specialized credit facility.

Mr. TOWER. Mr. President, I am prepared to yield back my time so we can proceed to a vote on the amendment.

I just want to note that the National Federation of Independent Business is strongly against the bill in its present form, and strongly supports the amendment that Senator LUGAR and I and others have offered to this measure in the nature of a substitute.

In the card I suppose they have sent to all Senators, they say:

NFIB opposes H.R. 2777 because it would use taxpayer funds to finance a strata of tax-favored enterprises to compete in areas traditionally dominated by highly competitive, taxpaying small businesses; because its proponents have not demonstrated a need for the creation of this new bank; and because consumer cooperatives will be no more competitive than their taxpaying counterparts. If, as the proponents state, greater competition is that intended goal, there are ways which are far better, more equitable and less costly to the taxpayer than this untried $400 million program.

They go on to urge my colleagues to vote for this amendment.

Mr. President, the small businessman of the United States is the most put upon element of our society. We have given him the Occupational Safety and Health Act; we have given him the Environmental Protection Act; we have given him minimum wage; we have given him a burden of paperwork that costs $32 billion to $35 billion a year. We tried to give him, or some tried to give him, the Labor Reform Act, which would have made him vulnerable to the power of big government and big labor, and now we are sending another message; wham, we are going to hit him again, and maybe we can knock him out this time. "Here it comes, competition for you financed by your own tax dollars through a cooperative bank." Is that not splendid? I do not know how much more the small businessman in this country can take.

Mr. President, I urge the passage of the amendment which, at least, gives us a pilot program, proffers to the consumer cooperatives, and will allow us to determine in a timely fashion whether or not this cooperative bank is needed.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. McINTYRE. Mr. President, I just want to say to my distinguished friend from Texas that he omitted saying that we gave small business the Small Business Administration where we subsidize and help them as much as any country, any nation, helps the small enterprises within its body.

Mr. President, I urge the rejection of the Tower amendment, and I am prepared to yield back the remainder of my time.

Mr. TOWER. I yield back the remainder of my time on the amendment.

Mr. McINTYRE. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Texas. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senate will be in order. It is virtually impossible for the clerk to hear the responses of Senators to the call of the roll. Senators will please be in order, and stop holding up the procedure.

The clerk may continue.

The call of the roll was resumed and concluded.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), and the Senator from Louisiana (Mr. JOHNSTON), are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN), is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), and the Senator from South Dakota (Mr. MCGOVERN) would each vote "nay."

Mr. BAKER. I announce that the Senator from North Carolina (Mr. HELMS), and the Senator from Alaska (Mr. STEVENS) are necessarily absent.

I further announce that the Senator from Illinois (Mr. PERCY) is absent due to a death in the family.

I further announce that, if present and voting the Senator from Alaska (Mr. STEVENS), and the Senator from North Carolina (Mr. HELMS) would vote "yea."

The result was announced—yeas 35, nays 59, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—35

Allen	Domenici	McClure
Bartlett	Eastland	Nunn
Bellmon	Garn	Packwood
Bentsen	Glenn	Proxmire
Bumpers	Goldwater	Roth
Byrd, Harry F., Jr.	Griffin	Schmitt
	Hansen	Scott
Chafee	Hatch	Stennis
Chiles	Huddleston	Thurmond
Curtis	Laxalt	Tower
Danforth	Lugar	Wallop
Dole	Mathias	Young

NAYS—59

Abourezk	Hatfield, Paul G.	Nelson
Baker		Pearson
Bayh	Hathaway	Pell
Biden	Hayakawa	Randolph
Brooke	Heinz	Ribicoff
Burdick	Hodges	Riegle
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Humphrey	Sasser
Case	Inouye	Schweiker
Church	Jackson	Sparkman
Clark	Javits	Stafford
Cranston	Kennedy	Stevenson
Culver	Leahy	Stone
DeConcini	Long	Talmadge
Durkin	Magnuson	Weicker
Eagleton	Matsunaga	Williams
Ford	McIntyre	Zorinsky
Gravel	Melcher	
Hart	Metzenbaum	
Haskell	Morgan	
Hatfield, Mark O.	Moynihan	
	Muskie	

NOT VOTING—6

Anderson	Johnston	Percy
Helms	McGovern	Stevens

So Mr. TOWER's amendment (No. 3086) was rejected.

Mr. McINTYRE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McINTYRE. Mr. President, I yield 4 minutes on the bill to the distinguished Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington is recognized.

Mr. GLENN. Will the Senator yield for a unanimous-consent request?

Mr. JACKSON. I yield.

Mr. GLENN. Mr. President, I ask unanimous consent that Ed Furtek, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 1978 NOBEL PEACE PRIZE FOR THE HELSINKI MONITORS IN U.S.S.R.

Mr. JACKSON. Mr. President, I send to the desk a resolution, cosponsored by a bipartisan group of 58 Senators, including the majority leader, Senator BYRD, and the minority leader, Senator BAKER, in support of the nomination of the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics for the Nobel Peace Prize to be awarded on December 10, 1978.

Joined in initial cosponsorship of this resolution were Senators JOHN TOWER, RICHARD STONE, JOHN C. DANFORTH, DANIEL PATRICK MOYNIHAN, BOB PACKWOOD, DANIEL K. INOUYE and CLIFFORD P. CASE.

Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 512) expressing the support of the Senate for the nomination for the 1978 Nobel peace prize of certain groups monitoring compliance of the Soviet Union with the human rights provisions of the Helsinki Agreement.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. JACKSON. Mr. President, we believe it is important at this time to give special recognition to the 58 members of the Helsinki Watch Groups, who are the target of systematic harassment, persecution and punishment by the Soviet Government. While subject to a variety of charges, in fact their "offense" is identical—an open, nonviolent effort to encourage Soviet authorities to honor the human rights and humanitarian obligations, voluntarily undertaken by Secretary Brezhnev himself in signing the Helsinki Final Act in 1975.

The 58 members belonging to the Helsinki Watch Groups in Moscow, the Ukraine, Lithuania, Georgia, and Armenia are of various faiths and nationalities. They include: Yuri Orlov, Aleksandr Ginzburg, Anatoly Scharansky, Vladimir Slepak, Viktoras Petkus, Naum Meiman, Father Yakunin. Oleksy Tikhy, Mykola Rudenko, Pyotr Vins, and Elena Bonner (wife of Andrei Sakharov).

These heroic men and women have placed their freedom at risk because they believe that the issues of human rights and free information have a direct relationship to the problem of a stable peace among nations.

In persecuting the Helsinki monitors, the Soviet authorities have violated both international law and their own laws by conducting improper searches, prolonged pretrial detentions, and denial of procedural rights to defendants on trial. The Orlov, Rudenko, Ginzburg and Scharansky incarcerations and trials are dramatic cases in point.

The remarkable dedication to peace and decency of the Helsinki monitors has earned them the recognition the Nobel Institute, most appropriately, can give. The Monitoring Groups have been nominated for the 1978 Nobel Peace Prize by Parliamentarian Groups in Norway, Belgium and Great Britain and, on January 30 this year, by 11 members of our own U.S. Commission on Security and Cooperation in Europe

Holding these views, we offer this Resolution which will put the Senate on record as joining in support of the nomination of the Public Groups to Promote Observance of the Helsinki Agreement in the U.S.S.R. for the Nobel Peace Prize to be awarded on December 10, 1978.

Mr. President, I ask unanimous consent that the names of all 58 cosponsors be printed in the RECORD at this point.

There being no objection, the list of cosponsors was ordered to be printed in the RECORD, as follows:

COSPONSORS OF RESOLUTION

Senators Jackson, Robert C. Byrd, Baker, Anderson, Bartlett, Bayh, Bentsen, Biden, Brooke, Harry F. Byrd, Jr., Case, Chafee, Chiles, Church, Clark, Cranston, Danforth, DeConcini, Dole, Domenici, Durkin, Eagleton, Ford, Garn, Glenn, Hansen, Hart, Hatch, Paul G. Hatfield Hayakawa, Heinz, Hollings, Huddleston, Humphrey, Inouye, Javits, Laxalt, Leahy, Magnuson, McClure, McIntyre, Metzenbaum, Moynihan, Nunn, Packwood, Pell, Proxmire, Ribicoff, Riegle, Sarbanes, Schmitt, Schweiker, Stevens, Stone, Tower, Wallop, Williams, Zorinsky.

Mr. JACKSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. JACKSON. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The yeas and nays have been ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that this vote be limited to 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "yea."

Mr. BAKER. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from Vermont (Mr. STAFFORD), the Senator from Alaska (Mr. STEVENS), and the Senator from Maryland (Mr. MATHIAS) are necessarily absent.

I further announce that the Senator from Illinois (Mr. PERCY) is absent due to a death in the family.

The result was announced—yeas 90, nays 1—as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—90

Allen	Glenn	Metzenbaum
Baker	Goldwater	Morgan
Bartlett	Gravel	Moynihan
Bayh	Griffin	Nelson
Bellmon	Hansen	Nunn
Bentsen	Hart	Packwood
Biden	Haskell	Pearson
Brooke	Hatch	Pell
Bumpers	Hatfield, Paul G.	Proxmire
Burdick	Hathaway	Randolph
Byrd, Harry F., Jr.	Hayakawa	Ribicoff
Byrd, Robert C.	Heinz	Riegle
Cannon	Helms	Roth
Case	Hodges	Sarbanes
Chafee	Hollings	Sasser
Chiles	Huddleston	Schmitt
Church	Humphrey	Schweiker
Clark	Inouye	Scott
Cranston	Jackson	Sparkman
Culver	Javits	Stennis
Curtis	Kennedy	Stevenson
Danforth	Laxalt	Stone
DeConcini	Leahy	Talmadge
Dole	Long	Thurmond
Domenici	Lugar	Tower
Durkin	Magnuson	Wallop
Eagleton	Matsunaga	Weicker
Eastland	McClure	Williams
Ford	McIntyre	Young
Garn	Melcher	Zorinsky

NAYS—1

Abourezk

NOT VOTING—9

Anderson	Mathias	Stafford
Hatfield, Mark O.	McGovern	Stevens
Johnston	Muskie	
	Percy	

So the resolution (S. Res. 512) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 512

Whereas the Union of Soviet Socialist Republics freely agreed to the international humanitarian and human rights obligations of the Final Act of the Conference on Security and Cooperation in Europe, also known as the Helsinki Agreement;

Whereas Soviet members of the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics have encouraged the Government of the Soviet Union to abide by such obligations in the conviction that international openness and the freer movement of peoples and ideas have a direct relationship to the problem of international security;

Whereas Soviet members of the Public Groups in Moscow, the Ukraine, Lithuania, Georgia, and Armenia have been harassed, arrested, imprisoned, stripped of their citizenship, exiled, tried, and sentenced;

Whereas the brave men and women of various faiths and nationalities who are members of the Public Groups deserve admiration, respect, and support for placing their lives at the service of decency and peace in zenship, exiled, tried, and sentenced;

Whereas the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics have been nominated for the 1978 Nobel Peace Prize by parliamentarians of Norway, Belgium, and Great Britain and by members of the United States Commission on Security and Cooperation in Europe: Now, therefore, be it

Resolved, That the Senate joins in support of the nomination of the Public Groups to Promote Observance of the Helsinki Agreement in the Union of Soviet Socialist Republics for the Nobel Peace Prize to be awarded on December 10, 1978.

Sec. 2. The Secretary of the Senate shall transmit a copy of this resolution to the Nobel Institute in Oslo, Norway.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. MCINTYRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. PELL). The Senator from Indiana.

NATIONAL CONSUMER COOPERATIVE BANK ACT

The Senate continued with the consideration of H.R. 2777.

AMENDMENT NO. 3088

(Purpose: To require the Bank to make a small business impact study before making any loan)

Mr. LUGAR. Mr. President, I call up amendment No. 3088 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Indiana (Mr. LUGAR), for himself, Mr. PROXMIRE, Mr. TOWER, Mr. GARN, and Mr. SCHMITT, proposes amendment numbered 3088:

On page 62, line 18, after the period, insert the following: "The Bank may not make any loan unless, after conducting an appropriate study, it determines that—

"(A) the loan will not have a substantial adverse economic or competitive impact on small business in the market area served by the borrower; and

(B) the loan is necessary because the market area to be served is not currently being reasonably and competitively served.".

Mr. LUGAR. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that Senator WALLOP be added as a cosponsor on this amendment No. 3088, on amendment No. 3089, and on amendment No. 3090.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I ask unanimous consent that Dick Friedeman of Senator DOLE's staff be granted privilege of the floor during the debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LUGAR. Mr. President, I yield 2 minutes to the Senator from North Carolina.

Mr. MORGAN. I thank my distinguished colleague.

COOPERATIVES: A BASIC PART OF THE AMERICAN FREE ENTERPRISE SYSTEM

Mr. MORGAN. Mr. President, I rise in strong support of the National Cooperative Bank Act. I believe this legislation builds on a basic American principle of people helping themselves and each other through cooperative effort.

The Senate Banking Committee made major improvements in the House-passed version of this bill, and I believe S. 1010 now offers a mechanism with great potential for making needed goals and services available to American consumers at reasonable prices. It does so with adequate safeguards for small business people. As the distinguished Senator from California, Mr. HAYAKAWA, argued very eloquently earlier today, "cooperatives are not a threat to small business; they are a part of small business."

Mr. President, "Appalachia," the Journal of the Appalachian Regional Commission, for December 1977–January 1978, contained an interesting article by E. Carroll Arnold, vice-president of the Cooperative League of the U.S.A., making precisely that point. His article, entitled "Appalachian Cooperatives: Economies of the Third Kind," emphasizes the importance of a variety of kinds of cooperatives to the economic and social life of Appalachia, which includes part of my own State of North Carolina.

It also contains valuable information on cooperatives nationally, and stresses the role of cooperatives as a basic part of the free enterprise system and an important segment of this Nation's economy.

The Committee on Banking, Housing, and Urban Affairs, of which I am a member, held thorough hearings on S. 1010, the national consumer cooperative bank bill, introduced by the distinguished Senator from New Hampshire, Mr. MCINTYRE. After very careful consideration, the committee reported the bill by a substantial margin.

S. 1010 would create a national cooperative bank to provide eligible cooperatives with a source of capital and technical help—neither of which is readily available presently.

Patterned after the highly successful Farm Credit System, the National Consumer Cooperative Bank would be neither a new Government bureaucracy nor a Government give-away program.

Rather, as Senator MCINTYRE has said, it will be a helping hand—not a handout. By providing seed capital—to be repaid to the Government—and technical expertise, the bank will promote the development of cooperatives in rural and inner-city areas which lack many services and retail outlets. Cooperatives of various kinds—health, housing, food, and craft co-ops, for example—offer an opportunity to help people help themselves to improve the quality of their lives.

I know firsthand the importance of cooperatives, both large and small, to the economic and social life of my own State and region, and as a cosponsor of S. 1010, I hope the full Senate will enact this important legislation.

Mr. Arnold's article is an excellent explanation of the very positive role cooperatives can play. Cooperatives are indeed a basic part of our American free enterprise system and an important segment of our economy. I urge support for the National Cooperative Bank Act, and I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

APPALACHIAN COOPERATIVES: ECONOMIES OF THE THIRD KIND

(By E. Carroll Arnold)

Cooperatives are big business in Appalachia.

Cooperatives are also small business in Appalachia.

As a matter of fact, cooperatives in Appalachia are all sizes and shapes, rural and urban, producer and consumer. Cooperatives serve those at every income level. And cooperatives here have proved to be both successful and unsuccessful.

There are nearly 10,000 known cooperatives in the 13 states served by the Appalachian Regional Commission, and hundreds more organizations that probably could also claim to be co-ops.

Cooperatives provide a third alternative in the U.S. economy, positioned somewhere along the economic spectrum between government and corporate capitalism. Co-ops are proud of their place in the free enterprise system of America.

In Appalachia, a common type of co-op is the credit union, and there are more than 7,300 of them in the Region. Next come farmer cooperatives, totaling nearly 1,300. Consumer cooperatives, including food, service, memorial societies, craft and others, account for more than 600 local cooperatives in Appalachia. There are 300 cooperatives serving the electric and telephone service needs of rural people here.

In the Region and elsewhere in the United States today, there is renewed interest in cooperatives as lifestyles place greater emphasis on self-help and self-reliance in an era of shrinking resources. Consumerism, unemployment coupled with inflation, the unavailability of retail stores and services in poor, rural areas and the inner cities are other factors contributing to the rebirth of co-ops. For all these reasons, more and more people are finding cooperatives a way to cope with the new economic conditions being experienced in the U.S.

The Appalachian Governors in December encouraged a new look at cooperatives by approving a resolution calling on the U.S. Department of Agriculture to expand its programs of assistance, such as those authorized in the Rural Development Act, and to support the development of small agricultural and timber enterprises, including production and marketing cooperatives. This resolution was one of those growing out of the Appalachian conference on balance growth and economic development in Charleston, West Virginia (see the Oct.–Nov. issue of *Appalachia*, which was entirely devoted to the conference). ARC Federal Cochairman Robert W. Scott, who is himself a dairy farmer, points out, in the statement on the opposite page, how much the small farmer needs the sort of help that cooperatives can bring.

BITTERSWEET PAST

Cooperatives in America have not always succeeded, and there are enough problems so that the U.S. Congress has directed its focus to the matter of financial and technical assistance to cooperatives. Through the National Consumer Cooperative Bank Bill, which now awaits Senate action, the U.S. House of Representatives last summer approved a vehicle to provide eligible consumer cooperatives with a source of capital and technical help.

Cooperatives, particularly those serving low-income members, have experienced a variety of problems: undercapitalization, inefficient management, marketing difficulties, insufficient volume caused by inadequate membership participation and poor record keeping. The National Consumer Cooperative Bank legislation seeks to remedy these problems, directly and indirectly.

The House-passed version of this bill authorizes up to $500 million over five years for market rate loans and technical assistance to eligible consumer cooperatives. This seed capital would be invested in preferred stock in the bank by the U.S. government, and ultimately repaid with interest to the U.S. Treasury by co-op borrowers. A self-help development fund of up to $250 million over five years would be used to invest in preferred stock or guaranteed loans of cooperatives serving low-income people to provide equity capital where sound repayment plans exist.

One of the leading advocates of cooperatives in Appalachia is Father John S. Rausch, former director of the Mountain Management Institute in St. Paul, Virginia. MMI serves community groups which establish community-based and community-controlled enterprises in Central Appalachia. The institute is the training arm of the Human/Economic Appalachian Development Corporation (HEAD), based in Berea, Kentucky. HEAD, which grew out of a task force of CORA (the Commission on Religion in Appalachia), is a unique organization of 15 grassroots groups representing over 10,000 people committed to the social and economic development of Central Appalachia.

Through cooperatives, the elderly, the weak, the disadvantaged have received the uplift they need for a fuller human life, Father Rausch contends. There are more than 40 craft cooperatives with memberships ranging from a dozen to 500 people in his area of Appalachia. A closer look at the cooperatives of Appalachia reveals both the problems and promise of this unique form of economic enterprise.

APPALACHIAN COOPERATIVES AND THEIR PROBLEMS

A woman member of the Grassroots Craftsmen of Appalachia in Lost Creek, Kentucky, for example, markets $2,400 worth of quilts to supplement her husband's $150-a-month Social Security check, thus doubling the family income. This same craft co-op was started with grants from the Office of Economic Opportunity in the late 1960s and early 1970s. The Grassroots Craftsmen used the O.E.O. grant money to establish a sound organizational base and upgrade the quality of crafts. Unfortunately, just as the marketing was being developed, the grants ran out. Over the past four years the struggling craft co-op, which has about 60 members, has increased its sales from $15,000 to over $40,000 annually. They have found government and bankers unwilling to loan them money to expand their markets. But they have stayed with it in the hope that something or someone will come to their rescue.

Similarly, in Tazewell, Virginia, a craft cooperative is in a crisis. They have outgrown their operating space due to rapid growth, and the pressure to increase production and train new producers. While the county has offered land and labor costs, the co-op must come up with $20,000 for building materials. They will lose the chance to have their own building if they cannot come up with the money soon.

Eight hundred people in Knott County, Kentucky, organized a food cooperative in 1976, but found the bank in their small community unwilling or unable to loan funds for operating needs. They were given a 10-percent loan of $114,475 for seven years by the Southern Cooperative Development Fund, but the Knott County Food Co-op would have been in business many months earlier and operating under easier terms if it had had access to a permanent lending source.

In Wise County, Virginia, the Bread and Chicken House, a cooperative specializing in baked goods and carry-out chicken, tried to expand by building a new restaurant. Although a local bank was willing to make them a loan, once plans were drawn up for the new restaurant, financing the remainder of the costs proved impossible. The cooperative is now negotiating to buy a vacant restaurant in Big Stone Gap, less desirable for their purposes than the new one drawn to their specifications would have been, but even financing for this is proving very difficult.

Adequate membership education programs and board training generally are missing elements in Appalachian cooperatives. When the Kentucky Mountains Feeder Pig Cooperative in Jackson, Kentucky, was organized in 1970 (see *Appalachia*, June–July 73, p. 34), the farmer members were unaccustomed to speaking in a formal group, much less schooled in the art of running a meeting. With the help of the Grassroots Economic Development Organization, a local community self-help organization later adopted by CORA, they managed to acquire the skills they needed in organizing, budgeting, planning, financial analysis and production scheduling and today have a viable cooperative. But many co-ops have not been able to find the technical assistance they need to survive.

One particularly critical need, according to Father Rausch, is the training of qualified managers in low-income cooperatives. The Sulphur Gap Chair and Woodworks Company near Little, Kentucky (also described in the June–July 1973 issue of *Appalachia*, p. 35), went out business after two years because of under-financing and poor production management. The Holston Mountain Arts and Crafts Cooperative in Abingdon, Virginia, like most emerging cooperatives, has had a continuous problem recruiting and retaining trained management, so that its continued existence is always threatened.

SOURCES OF ASSISTANCE

There are organizations to which low-income co-ops can turn for help. The Cooperative League Fund has been able to assist craft producers in Georgia, Kentucky, Maryland, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virand West Virginia. And Match, Inc., products include seed, fertilizer, grain, cotton, poultry, pecans, chemicals, peanuts, pork, feed, farm supplies and soy products. According to Gold Kist Board Chairman D. W. Brooks, the co-op was formed in 1933 after the per capital income of farmers went to $72 and they were in desperate economic need. The formation of co-ops often comes after severe economic stress, and the Great Depression of the 30s spawned a large number of those active today.

Agway, another regional farm marketing and supply cooperative headquartered in Syracuse, New York, serves Appalachia through 850 retail stores in twelve states supplied by a network of feed, fertilizer, seed and chemical plants, and three distribution centers.

Agway board chairman George Steels believes co-ops should go on the offense.

"They need to get the story across that cooperatives are a basic part of the free enterprise system, and they are an important segment of this nation's economy."

Southern States Cooperative, Inc., of Richmond, Virginia, is another major regional farmer cooperative providing Mid-Atlantic and Southern farmers with fertilizer, petroleum, seed, feed and farm supplies. FCX of Raleigh, North Carolina, and Central Carolina Farmers serve the Carolinas in much the same way.

Dairy cooperatives abound in Appalachia. Dairylea, Dairymen, Inc., Inter-State Milk Producers, Lehigh Valley, Southside, Valley of Virginia and others serve the Eastern seaboard and Gulf states. In fact, there are 148 dairy cooperatives in the 13 Appalachian states, including 82 in New York State and 30 in Pennsylvania alone.

Most consumers are unaware of co-op labels, unless they happen to be co-op members shopping in a co-op supermarket. Brand names like Ocean Spray, Welch's, Land O' Lakes, Sunkist, Blue Diamond and Sunsweet are familiar to most shoppers, but the fact that each is a cooperative is generally not known.

Farmer cooperatives, rural electric and telephone cooperatives, credit unions, the Farm Credit System, co-op-related insurance companies—these are the success stores in the U.S. cooperative world. Consumer goods and service cooperatives have not been so successful, but this is the area of greatest growth potential for cooperatives in America in 1978.

With new interest, new enthusiasm and the prospect of capital and technical help on the horizon, consumer cooperatives seem to be in the ascendancy.

Mr. LUGAR. Mr. President, I rise in support of amendment No. 3088 because it addresses a specific difficulty of this legislation and I believe adoption of this amendment will strengthen this bill.

It is apparent from the previous vote that it is likely that a consumer bank will be adopted today; and it is important at this point that we refine the activity and the criteria of this enterprise if indeed it is to come into being.

My amendment addresses the small business issue directly. The clerk has read the amendment, but let me reiterate its important provisions. They are that the bank—and this refers to the consumer cooperative bank—may not make a loan unless and after conducting an appropriate study that determines the loan will not have a substantial adverse economic or competitive impact on small business in the market area served by the borrower; second, that the loan is necessary because the market area to be served is not currently being reasonably and competitively served.

Mr. President, throughout the discussion of this legislation in committee and today on the floor, the point has been made again and again that there are Americans in various neighborhoods who are not being well served as consumers. That has been the basic consumer focus. That, in my judgment, is the basic rationale for any Federal interest in this subject—that there are Americans who are not being well served; that co-ops, in attempting to gain financing to serve Americans, have been unable to do so and therefore would have a new bank to go to for these loans.

However, Mr. President, the fact remains—and it has not been rebutted throughout the debate—that there are small businesses in many neighborhoods in America, struggling small businesses, on which the impact of this additional competition is likely to be substantial.

Although one of the criteria suggested in the legislation now is that prior to taking a look at a loan for a consumer cooperative, the economic impact on the small business sector should be looked at, the purpose of my amendment is to make certain that, as a point of the legislation itself, an impact study occurs with regard to the businesses there and what will happen to them, and—I think equally important—that the loan is really necessary because the market area is not being reasonably and competitively served.

There is no rationale for Federal money to go into an inner-city neighborhood and finance business in competition with small businesses already there. This is clearly the use of the taxes being paid by small businesses to finance their own competition, and to finance it strictly because the new competition is called a consumer co-op, as opposed to a competitive free enterprise business in that community.

Earlier in the debate, Mr. President, I indicated that small business people throughout the country feel strongly about this issue. I want to read from a statement made to the Banking Committee by Mr. James D. McKevitt, Washington Council of the National Federation of Independent Business, when he appeared before our committee. He said:

In January, 1977, NFIB asked its one-half million small and independent business firms whether they favored or opposed enactment of the National Consumer Co-op Bank Act, H.R. 2777. The response was a resounding 93% in opposition, the second most lopsided vote of NFIB members in the last few years.

It is not difficult to understand small business opposition to this bill. Despite the contention of supporters of the bill that the Bank will enhance competition in business activities and geographic areas now dominated by a few large firms, the bill would, in fact, create subsidized competition in business activities—primarily retailing and nonprofessional services—now dominated by small firms. Table 1 shows the distribution of small retail firms employing at least one person by number of employees in the first quarter of 1973. Passage of H.R. 2777 will not only seriously threaten the economic vitality of an entire strata of the small business community; it would require small firms to help pay part of the cost of subsidizing the very cooperatives that could put these firms out of business.

In Mr. McKevitt's table of retail firms—and these were figures from the Bureau of the Census, published in 1974—44 percent of the retail firms had only one to three employees, and there were 464,547 of these. An additional 25 percent of all the retail firms they were talking about had four to seven employees, and that now comprises 69 percent of the total. We are talking about very small business.

Existing cooperatives already enjoy a major, government-sanctioned competitive advantage over small business in the area of taxes—or, more appropriately, the lack of taxes. While small businesses are busy trying to earn enough money to support themselves, create jobs, and help finance the United States Government, cooperatives can reap the benefits of the marketplace without having to shoulder their fair share of the burden. For example, cooperatives are not required to pay income taxes on profits. so long as these profits are returned to the cooperative's owners as either a cash payment or as stock certificates. Incorporated and unincorporated businesses on the other hand, are required to pay income taxes on all of their profits.

I think it is important, as we take a look at the small business picture, to review the bidding once again. We have had discussion throughout the day of the values of cooperatives. As a matter of fact, a lively discussion has ensued with regard to the Berkeley Cooperative, which I mentioned in my remarks this morning. Senator CRANSTON and Senator HAYAKAWA have commented on the values of the Berkeley Cooperative, and these I did not dispute. But they also have pointed out that the Berkeley Cooperative is fairly typical of the type of successful consumer cooperative that has sprung to life and thrived in our country, cooperatives that provide substantial services and often to people who are not in inner-city America—in fact, people frequently around the edges of universities, relatively affluent people, although people from all sectors of life.

It would be difficult to make a case, however, for an alternative banking system in this country to finance projects such as the Berkeley Cooperative.

Clearly, Mr. President, the rationale that started this entire argument about a banking system for consumer cooperatives was the thought that there are disadvantaged Americans who simply are not being well served. I admitted at the outset that that is true. There are a good number of Americans who do need the advantages of retail services. But there is no particular reason why the form of the operation, the form of the business, should be the determining factor in this case.

I appreciate that, given the vote on the Tower substitute, it appears that a cooperative bank is going to come into formation. Therefore, my amendment is imperative, if small businesses that are going to be affected by other businesses to be financed by this bank are going to be protected in this situation.

I cannot imagine the inequity that is going to exist if, in fact, loans are made to competitors, using the financial advantages of the Treasury—$100 million at the outset, $200 million over the next 4 years—without an impact study of what that means to small businesses already there, and without a statement that the area is not being well served.

Mr. President, let us take it back the other way. If, in fact, the area is being very well served, why should the Federal Government as a matter of public policy be involved in financing business competition in that neighborhood?

If, in fact, there are some businesses, but the definition of the neighborhood is not being well served, let us say it is being moderately or poorly served, still some recognition ought to be required of what the impact will be upon the enterprises that are in that neighborhood.

It is not enough, Mr. President, to have simply the assurance that one of the criteria of a loan officer, and this will be the loan officer of the consumer co-op bank, not an independent figure, not someone outside the co-op movement, not an independent specialist looking over the specter, but in this case the consumer co-op bank directors or loan officers themselves simply casting an eye over that neighborhood and making a judgment that in fact, the impact would not be all that severe. Let me add just this further though, Mr. President, and that is conceivably the proponents of this legislation could say that so few inner city businesses will be served by this bill, so few will be served that the whole point

of the small business impact is irrelevant, that in fact what will occur is that the financing will go substantially to larger businesses in the suburbs, on the fringes of universities, in many other situations other than small business.

And if so then, of course, the effect of the impact statement will not be severe, it will simply be a revelation that this was not designed for inner-city America at all but simply for an alternative banking system that was favorable to consumer co-ops.

Mr. President, I reserve the remainder of my time.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield to me for a request?

Mr. McINTYRE. I yield to the majority leader.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORIZATION TO MOVE TO RECESS OR ADJOURN

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the majority leader may be recognized at any point daily to move to recess or to adjourn.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL CONSUMER COOPERATIVE BANK ACT

The Senate continued with the consideration of the bill.

Mr. McINTYRE. Mr. President, I ask unanimous consent that Mr. Robert Lawrence, of Senator DURKIN's staff, be accorded the privilege of the floor during the remainder of debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, during hearings on the bill, several witnesses expressed concern that the bank might adversely impact upon small businesses by providing what they believe to be Government subsidized loans and services to cooperatives which compete with small businesses. To assure that no unfair competitive advantage is granted to cooperative borrowers, the bill requires that loans be made on a sound business basis. These loans will only be successful if there is an economic need and if the purposes of the loan are not already being met on a competitive basis.

As long as the bank makes loans from the proceeds of Government stock, the interest rate shall not be less than rates generally prevailing in the area for comparable loans.

Moreover, the criteria to be applied by the bank in making loans include an assessment of the impact of the loan on existing small businesses in the applicant's business territory.

Let me read from page 62, beginning on lines 11 through 18. Reading from the bill, it says:

> The criteria to be applied and the factors to be considered by the Bank in making loans, loan commitments, purchases, discounts, and guarantees shall include an assessment of the impact of the loan on existing small businesses in the eligible organizations' business territory. The criteria and factors shall be stated in rules of the Bank which shall be published and made available to applicants and, upon request, to any other person or organization.

In addition, to further safeguard to make sure that no adverse effect takes place or is incurred on our small business free enterprise system, the committee has included a specific provision in the bill requiring that one member of the Bank's Board of Directors be selected from small business.

Mr. President, I say to my colleagues that the Banking Committee considered and rejected a proposal which would have required that the Bank could not make any loans unless after conducting a study it determines that the loan will not have a substantial adverse economic or competitive impact on small business in the market area or that the area to be served is not currently being reasonably and competitively served, in essence, about the same measure that is presented in the amendment of the distinguished Senator from Indiana now under consideration.

Mr. President, to require a competitive impact study before making a loan would seriously cripple the Bank at its birth.

It would be, to say the least, a nightmare of paperwork. In fact, you might dub this amendment of the distinguished Senator from Indiana as Lugar's paperwork amendment. An analysis and a study to be made before each loan would be a nightmare of triplicate, quadruplicate, and strangulation, as we call it in the paperwork field. The bank would be inundated and crippled from its very outset.

It is, Mr. President, an unnecessary amendment since the bill as voted out of committee requires, as I have stated, that the criteria to be applied and the factors to be considered by the Bank in making loans, loan commitments, purchases, discounts, and guarantees shall include as assessment of the impact of the loan on existing small businesses in the eligible organizations business territory. The criteria and factors shall be stated in rules of the Bank which shall be published and made available to applicants and upon request, to any other persons or organization.

This approach is both practical and workable. It will not burden the Bank with prohibitive and excessive expenses by requiring a complete detailed analysis on each and every loan. To carry out the provisions of the proposed amendment would require very lengthy and costly studies of individual firms, some or all of whom might not allow their information to be used. It could delay decisions on loan applications for years, thus overriding the overall intent of the legislation.

Mr. President, I ask unanimous consent that Mr. Paul Wunnicke of Senator STEVENS' staff be accorded the privilege of the floor during the debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McINTYRE. Mr. President, to go further than the bill provides could prevent the bank from lending to a cooperative in an area with a business which was not adequately serving the community or was charging prices much above those in more competitive areas.

The bill includes ample safeguards for the preservation of fair competition between cooperatives and small business. The Congress has recognized the specialized credit and technical assistance needs of rural people and small businesses by established funding sources to meet their needs. A partial list includes the Farm Credit System, Rural Electrification Administration, Rural Telephone Bank, Farmer Cooperative Service, and the Small Business Administration. This bill simply complements these programs for consumer cooperatives.

Cooperatives complement small business. Existing small businesses use the cooperative user-owner form of enterprise to undertake joint purchasing, advertising, or marketing of their products. Retailer-owned hardware dealers, drugstore, department store, and retail grocers cooperatives have helped many small businesses stay in business by joining together in user-owner cooperatives. The Small Business Administration makes loans to such retailer-owned cooperatives, because they are owned by profit-oriented businesses. Indeed, small businesses have access to many forms of assistance from SBA which consumer cooperatives do not have.

SBA loans are normally made to an individual, partnerships, or small corporations. In contrast, a loan made to a cooperative by the National Cooperative Bank may benefit thousands of cooperative members. Moreover, much of the lending activity of SBA is from directly appropriated funds at subsidized rates and continues on that basis indefinitely. In the case of the National Consumer Cooperative Bank, loans will be made a competitive market interest rates and the Government seed capital will be repaid. Most of its loan funds will be borrowed from investors without any Government guarantee.

Also, the development of successful cooperative businesses, in promoting economic revitalization and growth in many inner-city and rural areas, assists the development and stability of small businesses as well.

In this regard, small businesses, in such widely dispersed areas as Wisconsin, New Hampshire, Michigan, and Texas, who have actual experience with consumer cooperatives in their communities, support this legislation. Recently, the Chamber of Commerce of the Twin Cities—St. Paul and Minneapolis—took occasion to salute the many cooperatives in that area for their contributions to general welfare. Chambers of Commerce from Eau Claire, Wis., to Hanover, N.H., have taken similar action.

Finally, for now let me just point out one fact that should be well known. Some business associations object to this program on the basis that consumer cooperatives are tax exempt. Consumer cooperatives have no tax exemption. They are, first of all, subject to all local and State property and other taxes. Consumer cooperatives also are not exempt from Federal income taxes. They pay taxes on income on exactly the same basis as any other business. Consumer cooperatives do not pay taxes on refunds paid to their customers. Neither does any other form of business. Car dealers and manufacturers and a host of other businesses pay no taxes on refunds or rebates to customers. Some claim that cooperatives have an advantage, because they can build up capital by making refunds to members and customers in equity or debt paper. Any other type of business has the same right if it wishes to exercise it.

Mr. President. before yielding at this time, just let me point out that I have been a member of the Banking Committee, chairman of the Subcommittee on Small Business of that standing committee, and then subsequently, subsequent to that time, a member of the Select Committee on Small Business.

I think in the study we have made of this bill I have been very, very careful to make sure there were no adverse effects upon the small business community. This bill, if functioning as properly as it should, will not do any harm to small business, but rather will be of assistance to it.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I would like to express my appreciation for the long-time advocacy of the distinguished Senator from New Hampshire to small business. He has been modest in mentioning this service in this respect, and it is one which small business people not only respect but admire.

This is why this particular amendment and this entire area of discussion is one, I think, that is troubling to me, because the Senator from New Hampshire has been deeply interested and has labored with the language of this bill to try to bring about some of the desirable results he has suggested.

Let me simply say these things in conclusion of my remarks on this particular amendment. The Senator from New Hampshire has mentioned that this amendment was considered in the committee, and it was, and I thought a healthy debate occurred on that occasion. The amendment was rejected in committee by a vote of 8 to 7. There was a good number of the members of the committee absent at the time and, therefore, members voted on both sides of the issue by proxy in fairly large numbers, but it was a fairly even division and a very competitive situation within the Banking Committee on that day.

I would point out one reason why this is so is because there are honest differences as to the protection that ought to be afforded to small business. For example, the Senator from New Hampshire has pointed out that the studies that might be called for by my amendment would be costly. He has suggested, I think in good humor, that this might be known as the Lugar paperwork amendment and, indeed, I would affirm that paper would presumably need to be used for the studies, somewhat more than I fear would be the cursory glance of the consumer cooperative bank as it took a look at the picture.

If I owned a small business in one of these affected areas where a consumer cooperative loan was about to be made, I suppose I would want some time to be taken by the consumer cooperative bank. I think probably delay would be warranted, as a matter of fact, because that kind of delay might be the delay that might save my business, that would give me an opportunity as an effective small business, to make the point that the area was well-served, that the need for a consumer cooperative loan was not there.

Again and again in this entire area, Mr. President, we keep getting back to the need. What is the perceived need? Why are we involved in all of this financing? And the need finally comes down to the assumption that there are unfinanced small businesses that might go in a co-op form in inner-city neighborhoods. There is no reason to be financing affluent businesses everywhere else, at least no public purpose that I can see. As a matter of fact, the banking community, the private banking community, in this country is competitive right now for new loan business, looking for situations in which to loan money, not the 1930's where this argument started out. This is 1978. The private banking community feels well and able, I think, to tackle that challenge.

But let us take the extreme case of an impacted inner-city neighborhood. Mr. President, I am familiar with many such neighborhoods in the city of Indianapolis that I once served as mayor. Numbers of small businesses in those neighborhoods were hanging by a thread. The thought that a new co-op business would come into the neighborhood financed by the Federal Government, buying stock, giving initial capital to a co-op consumer bank, would be a frightening thought to those businesses.

This is not a bill that is going to be welcomed by those who are interested in the inner-cities of America, not by the small businessmen and women of the inner-cities of America. It may be welcomed by more affluent co-ops in the suburbs of America, multistore, multichannel-of-distribution co-ops. That is where the loans are going to go.

All I am suggesting is in those cases where a loan filing may get to a small businessman or a small businesswoman in the inner-city there ought to be an impact study of what that will mean to businesses, small and hanging by a thread, that are already there. Furthermore, some affirmation should be had that the neighborhood was not being well served to begin with.

My amendment I believe is commonsense personified. It offers the protection that small business in America very badly wants, and so affirmed when the legislation came before the Banking Committee, and so affirms now as this legislation comes before the Senate today.

Mr. President, I reserve the remainder of my time.

Mr. McINTYRE. Mr. President, I yield myself as much time as I need.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. LUGAR. Mr. President, I yield back the remainder of my time.

Mr. McINTYRE. I do not yield back my time. I am reserving my time. I yield myself as much time as I may need.

The PRESIDING OFFICER. Right.

Mr LUGAR. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LUGAR. What is the situation? I may have misunderstood where the time situation stood.

The PRESIDING OFFICER. The Senator from Indiana should be aware of the fact that the Senator from New Hampshire is not yielding back his time.

Mr. LUGAR. In that case I would not wish to yield back the remainder of my time.

The PRESIDING OFFICER. Very well. The Senator has 12 minutes remaining.

Mr. McINTYRE. Mr. President, when the distinguished Senator from Indiana mentions these impact statements, economic impact statements, it begins to send a few chills through me when I think of the difficulty we have in trying to come up with environmental impact statements.

The success of this bank will in the end, Mr. President, depend on the marketplace, the institution's paper, its bonds. which must be attractive to the investor in the public credit market. Therefore, in its early existence every effort must be made to create a viable entity.

The soundness of the bank will allow it to move rapidly away from the Government's backing and be able to stand on its own feet.

The amendment of the Senator from Indiana—and this is the first of several amendments he intends to offer, and all of his amendments with the best of intentions, I am sure—they nevertheless do strike at the viability of this bank.

An impact statement of the type he has mentioned in his amendment would bog down the operations of the bank. It would just be impossible to try to function and, therefore, would cripple the bank as it starts to get underway.

Therefore, Mr. President, those who may have voted for the Tower amendment should now be concerned with the way this legislation is moving, that they do not do anything to hamper or cripple or to deter in any way the success of this bank as it is formulated in this bill.

Therefore, I urge my colleagues to reject the amendment offered by the distinguished Senator from Indiana.

The PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. McINTYRE. I am prepared to yield back the remainder of my time.

Mr. LUGAR. Mr. President, I will take 2 minutes, and then yield back my time.

Mr. McINTYRE. Then I will hold mine.

Mr. LUGAR. Mr. President, I appreciate the good humor of the distinguished Senator from New Hampshire as he conjures up the thought of an environmental impact statement as a reason why my thoughtful amendment with regard to an impact statement on small business ought to be rejected. I would hope there are substantial differences between environmental impact statements; and I would not want the prejudice of this body against environmental impact statements to resound against small business impact statements.

Mr. President, my amendment did not specify how many pages or questions, or the extent of the effort, but it does call for a formal and a serious attempt to find the impact of a loan on small businesses in existence that might be wiped out; second, to try to gage the nature of the terrain in that neighborhood with regard to need.

My guess is that the process would not need to be duplicated endlessly, that basic data would be formulated with regard to the economics of various neighborhoods and the various small businesses that would be impacted. If in fact the consumer bank was to make a good number of loans, often there are clusters of businesses, with no need for replication of this effort each time, but there should be something more than simply an affrmative nod with regard to the co-op bank itself. The possible effect of a co-op bank on the neighborhood itself should certainly require a formal, explicit effort, when small business might be placed in jeopardy.

Therefore, I ask for the adoption of this amendment, and I yield back the remainder of my time.

Mr. McINTYRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time has been yielded back. The question is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Montana, (Mr. HATFIELD), and the Senator from Louisiana (Mr. JOHNSTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGOVERN) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from South Dakota (Mr. McGOVERN) would vote "nay".

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from Idaho (Mr. McCLURE) are necessarily absent.

I further announce that the Senator from Illinois (Mr. PERCY) is absent due to a death in the family.

The result was announced—yeas 35, nays 57, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—35

Allen	Ford	Randolph
Bartlett	Garn	Roth
Bayh	Goldwater	Sasser
Bellmon	Hansen	Schmitt
Bentsen	Hatch	Scott
Byrd, Harry F., Jr.	Helms	Stennis
	Huddleston	Stevens
Chiles	Laxalt	Talmadge
Curtis	Lugar	Tower
Dole	Nunn	Wallop
Domenici	Packwood	Young
Eastland	Proxmire	Zorinsky

NAYS—57

Baker	Haskell	Metzenbaum
Biden	Hatfield, Mark O.	Morgan
Bumpers		Moynihan
Burdick	Hathaway	Muskie
Byrd, Robert C.	Hayakawa	Nelson
Cannon	Heinz	Pearson
Case	Hodges	Pell
Chafee	Hollings	Ribicoff
Church	Humphrey	Riegle
Clark	Inouye	Sarbanes
Cranston	Jackson	Schweiker
Culver	Javits	Sparkman
Danforth	Kennedy	Stafford
DeConcini	Leahy	Stevenson
Durkin	Long	Stone
Eagleton	Magnuson	Thurmond
Glenn	Mathias	Weicker
Gravel	Matsunaga	Williams
Griffin	McIntyre	
Hart	Melcher	

NOT VOTING—8

Abourezk	Hatfield, Paul G.	McClure
Anderson		McGovern
Brooke	Johnston	Percy

So Mr. LUGAR's amendment (No. 3088) was rejected.

Mr. McINTYRE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3089

(Purpose: To prohibit the Bank from making a loan unless the borrower has been refused credit twice)

Mr. LUGAR. Mr. President, I call up amendment No. 3089 and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. RIEGLE). The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. LUGAR), for himself and Mr. PROXMIRE, Mr. TOWER, Mr. GARN, and Mr. SCHMITT, proposes amendment No. 3089.

On page 62, line 18, after the period, insert: "The Bank may not make any loan unless the borrower has been denied credit by at least two financial or depository institutions.".

Mr. LUGAR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LUGAR. Mr. President, I yield 2 minutes to the Senator from Vermont. So the Members may know my present course of action, I shall spend no more than 4 minutes discussing that amendment, then yield back all of my time. At this point, I yield to the Senator from Vermont.

ANNOUNCEMENT OF POSITION ON A VOTE—SENATE RESOLUTION 512

Mr. STAFFORD. Mr. President, I appreciate the Senator's yielding to me and I shall not use the 2 minutes. I simply wish the record to show that, at the time of the vote on Senator JACKSON's resolution, Senate Resolution 512, the Senator from Vermont was addressing a large group of interns from the State of Connecticut in Russell Building, Room 155. There were no communications there to apprise me of the vote and I was unaware that the rollcall was in progress. Had I been here, Mr. President, I would have voted for the resolution.

I thank the Senator for yielding.

NATIONAL CONSUMER COOPERATIVE BANK ACT

The Senate continued with consideration of the bill.

Mr. LUGAR. Mr. President, the amendment I commend to my colleagues' attention suggests that the consumer cooperative bank may not make any loans unless the borrower has been denied credit by two financial or depository institutions. Very clearly, that is a parallel route to that followed by the Small Business Administration and seems to me to be a commonsense provision of this legislation.

To review a bit, the purpose for this alternative institution of credit in this country is the supposition that credit is not available through the regular banking system of our country. Throughout the debate, there has been a difference of opinion. I have suggested that the private banking system is eager presently to make loans to almost every credit-worthy borrower in the country. I think that is true. It is apparent that the consumer cooperative bank is likely to come into being through this legislation and therefore this amendment provides that, before a consumer co-op can get a loan, at least that consumer co-op ought to try to get that loan at two other places in town.

The objection to this idea has been that, essentially, this would leave the consumer co-op bank only with borrowers who had been denied at least twice by others. The suggestion is that the consumer co-op bank, if it is to be a successful bank, ought to have a full range of borrowers—some that are very large and wealthy as well as others that apparently are having trouble getting credit.

If, in fact, it were the purpose of the Congress to set up a national banking system or an alternative banking system in this country, if it were the public will, in essence, to try to provide a governmental competitive instrument to private banking, then it would make sense for us, as trustees of the banking system, to try to get as good a portfolio of loans as possible. As a matter of fact, we really ought to go into it whole hog, make certain that everybody who borrows from us is credit-worthy and go after the very best. My supposition, and I presume that of other Members, is that the only

reason, the only public purpose of providing another bank is that some people in our country are not being well served as consumers; that by financing consumer businesses, specifically co-ops in inner-city impacted areas, those consumers might be better served. We have already suggested by the vote on the previous amendment that we do not think a formal statement with regard to the impact on businesses already there, or even the need in the neighborhood, ought to be formulated. But let us at least suggest that before credit is given, we make certain that, in fact, credit is being denied, that there is a credible need.

This idea of two rejections, is not a novel one. As previously pointed out, the Small Business Administration has adopted it and, I think, with some good reason. Therefore, Mr. President, I am hopeful that members, at least taking as the premise that we are going to have a bank, will at least ask consumer co-ops who are seeking credit to try to find it first of all in the private banking system. Otherwise, Mr. President, I submit that we will have taken a sizable step to set up inadvertently a national banking system, a governmental alternative to private banking in this country. Although this may not have been intended, the new bank we are creating will be a very sizable entity, given an enormous boost at the start by provision of Federal funds and an immediate $100 million appropriation, as a matter of fact, in the 1979 fiscal year.

Mr. President, I yield back my time.

Mr. McINTYRE. Mr. President, I yield myself 2 minutes.

The committee also considered and rejected the suggestion that is now being offered by the distinguished Senator from Indiana that the bank should only make loans that previously were turned down by a commercial lender. Treasury Assistant Secretary Altman, testifying on behalf of the administration, opposed this restriction at the committee hearings. He said:

* * * It would not be wise for eligible borrowers to be restricted to those that cannot obtain credit from private financial institutions. In other words, we do not favor a so-called credit elsewhere test. It seems to me such a test would make it hard, if not impossible, for the bank to become financially self-sufficent and we favor an approach whereby the better credit of more established cooperatives or those, at least, that have more certain prospects would offset the riskier credit status of more fledgling operations.

Representative ST GERMAIN of Rhode Island, chairman of the Financial Institutions Subcommittee of the House, pointed out that such a provision would discourage investors from buying the bank's bonds. He said:

Any requirement for a "lender of last resort" certification—or similar pauper's oath—would clearly say to the marketplace that this bank served only "second and third class" borrowers—and faced with this signal, there are few investors who would buy the institution's paper. Under the "pauper oath" approach, the commercial banks, which have failed to meet the credit needs to date, would be allowed to skim the cream of co-op business, leaving the consumer bank with the remainder and a sure formula for failure.

It is, after all, the ultimate goal of all of us that this bank move from the Federal Government to the private sector as rapidly as possible and this can be accomplished only if it is allowed to operate as nearly as possible by the ground rules of its private counterparts. It makes no sense to purposely cripple the bank at its birth.

This again, Mr. President, is an attempt to impose severe restrictions on the bank, which would only have the tendency during its initial stages to injure it and to make it more difficult for it to be successful. I urge the rejection of this amendment.

Mr. SARBANES. Will the Senator yield?

Mr. McINTYRE. I yield to the Senator from Maryland.

Mr. SARBANES. I simply want to add that I think the response to the point that the Senator from Indiana was making about creating an alternative banking system unless his amendment is adopted is answered by the fact that the bill clearly limits who can go to the consumer co-op bank in order to obtain a loan. You have to meet rather stringent requirements with respect to what constitutes a consumer co-op. That clearly limits who can qualify as a borrower under this bill to a very limited area of organizations and activity. That is a limitation that guards against this generally applying throughout the society.

Given that limitation, it seems to me to require a two-time rejection before a qualifying organization, as a consumer co-op, can draw on this banking, would be to greatly weaken the financial underpinning of the bank itself, which we seek to safeguard in this legislation.

Mr. McINTYRE. Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to amendment No. 3089 of the Senator from Indiana. The yeas and nays have been ordered and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Louisiana (Mr. JOHNSTON), the Senator from Minnesota (Mr. ANDERSON), and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. MCGOVERN) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from South Dakota (Mr. MCGOVERN) would each vote "nay".

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from Idaho (Mr. MCCLURE) are necessarily absent.

I further announce that the Senator from Illinois (Mr. PERCY) is absent due to a death in the family.

The result was announced—yeas 35, nays 58, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—35

Allen	Garn	Packwood
Bartlett	Glenn	Proxmire
Bayh	Goldwater	Randolph
Bellmon	Griffin	Roth
Byrd, Harry F., Jr.	Hansen	Sasser
Chafee	Hatch	Schmitt
Chiles	Helms	Scott
Curtis	Hodges	Stevens
Domenici	Huddleston	Tower
Eastland	Laxalt	Wallop
Ford	Lugar	Young
	Nunn	Zorinsky

NAYS—58

Baker	Hatfield, Mark O.	Metzenbaum
Bentsen	Hatfield, Paul G.	Morgan
Biden	Hathaway	Moynihan
Bumpers	Hayakawa	Muskie
Burdick	Heinz	Nelson
Byrd, Robert C.	Hollings	Pearson
Cannon	Humphrey	Pell
Case	Inouye	Ribicoff
Church	Jackson	Riegle
Clark	Javits	Sarbanes
Cranston	Kennedy	Schweiker
Culver	Leahy	Sparkman
Danforth	Long	Stafford
DeConcini	Magnuson	Stennis
Dole	Mathias	Stevenson
Durkin	Matsunaga	Stone
Eagleton	McIntyre	Talmadge
Gravel	Melcher	Thurmond
Hart		Weicker
Haskell		Williams

NOT VOTING—7

Abourezk	Johnston	Percy
Anderson	McClure	
Brooke	McGovern	

So the amendment (No. 3089) was rejected.

Mr. McINTYRE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McINTYRE. Mr. President, I yield 5 minutes on the bill to the distinguished Senator from Minnesota.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes on the bill.

Mrs. HUMPHREY. Mr. President, I thank the distinguished Senator from New Hampshire for relinquishing this time to me.

Mr. President, I express my strong support today for H.R. 2777, the National Consumer Cooperative Bank Act which I am pleased to cosponsor.

The State of Minnesota has the largest number of cooperatives of any State in the United States. In many respects Minnesota is the heartland of the cooperative movement in this country. The cooperatives of Minnesota provide a variety of services to their members whether they be primarily directed toward agriculture, consumers or other services. In my State, for example college students have found that eating and housing cooperatives can be important in helping them to meet their educational expenses.

Agricultural cooperatives have played an important role in the economy of our State and in enhancing the productivity of America's agriculture. Hubert and I have always been dedicated to our farm co-ops. One of the major reasons for their success was the creation of the banks for cooperatives 45 years ago.

The conditions facing agriculture and agricultural cooperatives at that time were not dissimilar to those faced by many consumer cooperatives today. Credit was not available to those cooperatives, farmers cooperatives were not considered to be good risks, and the allocation of credit was primarily to urban areas.

The banks for cooperatives brought a combination of sound credit and wise counsel to the operations of these cooperatives and today they provide extensive services to the farmers of our region. Because they recognize the importance of what a sound dependable source of credit can mean to cooperatives, a number of agriculture cooperatives based in Minnesota have endorsed and supported the legislation we are considering here today.

Inflation is perhaps most cruel to moderate and low income persons. Across our land are many examples of consumer cooperatives (in housing, food, and health) which are important tools through which consumers can reduce costs and meet the necessities of life for food, clothing, and shelter. For this reason I support this bill and oppose weakening amendments to it and I urge my colleagues to do likewise.

Mr. McINTYRE. I thank my friend, the Senator from Minnesota, for her helpful statement.

I yield.

Mr. LUGAR. Mr. President, I yield to the Senator from Missouri.

Mr. DANFORTH. Mr. President, I ask unanimous consent that Chris Brewster, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3090

(Purpose: To increase the percentage of loans made by the bank to benefit low-income persons)

Mr. LUGAR. Mr. President, I call up amendment No. 3090 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Indiana (Mr. LUGAR) for himself and Mr. PROXMIRE, Mr. TOWER, Mr. GARN, and Mr. SCHMITT, proposes an amendment numbered 3090:

On page 62, line 2, strike out "35" and insert in lieu thereof "50".

Mr. LUGAR. Mr. President, the amendment that I now bring to the attention of my colleagues deals with the purpose once again of the consumer co-op bank and who it is going to serve.

Throughout the debate today there have been many groups of people suggested as those who might be served. Clearly, it seems to me that the rationale given by those who are compassionate in our society for this bank has been that there are many people of low income—they might be urban people or they might be in rural America—who have not had adequate consumer services.

The basic public purpose of the bank is reportedly to make certain that those consumer co-ops have credit available to them.

Mr. President, it seems to me that critical to our consideration of this bill is an assurance that if in fact the Federal Government is going to become involved in this alternative banking system it in fact impacts in a way that would help poor people.

I do not think that that stretches commonsense as to what is involved in this bill. It appears to me to be a social objective that is clearly part and parcel of what we are attempting to do.

Mr. President, in my amendment I am not suggesting that the loans be made only to consumer co-ops that assist poor people. The burden of my amendment is a very modest one. It suggests that at the end of each year as the consumer co-op bank takes a look at its books it try to make certain that half, 50 percent of the loans that have been made, go to co-ops in which a majority of the people are of low income. It does not say that all of the people even in that one-half of the co-ops who are to be assisted need to be poor people. It is just that a majority of one-half; in essence, the gist of my amendment in truth is that about one-fourth of the money finally get to poor people.

What has seemed to me to be most peculiar about this debate both in the committee as well as in the Chamber is this thought that my amendment pins the bank down to make loans that are not going to be very successful, that the case is made again and again that this bank needs to be a successful bank.

Mr. President, let us try to see the paradox of that situation. Are we attempting to create in this act another banking system that runs on parallel tracks in competition with the private banking system of the country, a system that will be successful because it makes loans to big co-ops, to rich co-ops? Clearly those loans are likely to be more successful, more remunerative, more profitable, by all standards. I thought when we first started down the trail of the consumer co-op bank we were thinking about poor people. I would have thought that Members on both sides of the aisle were thinking about poor people, that at least a majority of our effort, a majority, not all, but just 50 percent ought to be devoted to co-ops in which a majority of the members of those co-ops were of low income.

Mr. President, in the committee each of the three amendments that I have discussed today failed; two of them by votes of 8 to 7, and one by a vote of 9 to 6 with proxies voted by both sides, closely contested. And this is why I have appealed to the full Membership for some consideration of these situations in hopes that there would be at least a revision of our thinking as we took a look at it as a body of the whole.

In the committee there was a concession made to the viewpoint that I am expressing. As a matter of fact, the bill says that the intent will be to try to get 35 percent of the money to co-ops that have a majority of poor people in their membership, and I would admit that 35 percent is better than nothing. What I cannot understand is why we have such reticence that even a majority, quite apart from all of our effort, ought to be devoted in that direction. What is the impelling need to create financing in this country for large businesses, even if they call themselves consumer co-ops?

We had a lively discussion earlier in the debate today about the Berkeley Co-op because it has been a successful one. It is a big one. It involves people, as the distinguished majority whip pointed out, who come from all sectors of life in the bay area, and has a wide offering of activities, both economic and political.

But why should the Federal Government, all the taxpayers of the country, be involved in attempting to provide credit for this type of large enterprise?

Mr. President, I can see no reason unless it is the intent of Congress literally to create a new banking system in competition with the one that we have. If it is our intent to help poor people, then I would appeal to my colleagues to vote at least for this amendment that suggests that a bank we are about to bring into being would at least lend a half of its money to poor people, simply because half of the loans have to go to co-ops that have a majority of their members who are poor.

I believe this is a commonsense amendment that will have appeal to my colleagues—I hope so—and at this point I reserve the remainder of my time.

Mr. McINTYRE. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator is recognized for 3 minutes.

Mr. McINTYRE. Mr. President, the committee also rejected a proposal to increase the percentage of loans to low-income groups from 35 percent of the bank's total loans as provided in the bill. In the committee's opinion, such a limitation would unduly discourage loan applications and impair the ability of the bank to become a successful private lending institution. While the committee was reluctant to set stringent loan targets, thereby reducing the ability of the banks to market its services freely, some levels were deemed to be appropriate so as to emphasize that the bank is designed to provide readily available financial services to persons previously unable to obtain loans from traditional credit sources.

I admit that the distinguished Senator from Indiana has a strong point. But we felt in the committee that in going to the figure of 35 percent we were, in effect, coming up with a very substantial, not an insignificant, figure.

Again I stress the fact that during the early days of this bank, as it starts to get underway, it must have the opportunity to take some of the better loans in order to be able to handle the riskier loans.

As we say here, increasing the targeted amount of loans to low-income groups would be viewed as requiring the banks to have a great number of risky loans, thereby adversely impacting on the bank's ability to raise lendable funds in the public credit markets. Moreover,

while the committee believes the bank should be required to make loans to benefit low-income persons, it does not believe middle-income cooperative groups which have been denied credit in the private sector should be substantially foreclosed from access to the bank.

Mr. President, I close the argument, in opposing the amendment of the distinguished Senator from Indiana, by just pointing out to my colleagues that all of the amendments offered by our able and distinguished friend from the great Hoosier State have all been aimed at crippling, striking at the vitality of, the bank in getting off the ground.

The amendment which he proposed of no credit elsewhere, where you have to be turned down twice by a commercial or savings bank before you are eligible to come to the consumer cooperative bank; the attempt to have what I would call impact statements on every loan, bogging it down in paperwork, a paperwork mass, that would be just intolerable; and now to shift the percentage from 35 percent, a very significant figure that we feel should go to the low-income people, to 50 percent, again strikes at the ability to make this bank a workable organization, an institution, that would soon, in a matter of a few years, be free and out from under Government, running on its own.

So I urge the rejection of this amendment.

Mr. LUGAR. Mr. President, the distinguished Senator from New Hampshire has made my case by pointing out that he hopes this bank will be sufficiently successful so that within 3, 4 or 5 years as a multibillion dollar bank it will be floating on its own parallel in the economy with the other banking system.

That is precisely what I fear and what I believe Congress ought to fear. Why are we setting up an alternative banking system in the country to be in competition with the private banking system?

I see no good cause for that, and I am hopeful other Members will agree with that.

I would simply indicate this: The Senator from New Hampshire has pointed out that he believes even fairly affluent borrowers ought to come into this bank, ought not to be denied credit. Indeed, they are not going to be denied credit by anyone. By the rejection of my last amendment, the Members have said, in essence, they would not need to be denied twice before coming to the bank. They could come directly, without any particular reason to pass by or go in any other direction. They go directly to the bank, large, multimillion dollar, hundreds-of-millions-of-dollar sales-type organizations.

Mr. President, I believe this particular amendment zeros in on the heart of the question which is: Will a majority of the funding go to co-ops that have a majority of members who are poor or not?

I ask Members to adopt the amendment.

Mr. President, I yield back my time.

Mr. McINTYRE. Mr. President, will the Senator yield for a question?

Mr. LUGAR. I yield for a question.

Mr. McINTYRE. Does the Senator ask for the yeas and nays?

Mr. LUGAR. I ask for the yeas and nays.

The PRESIDING OFFICER (Mr. SARBANES). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McINTYRE. I yield back my time.

Mr. LUGAR. I yield back my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Indiana. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Louisiana (Mr. JOHNSTON), and the Senator from South Dakota (Mr. ABOUREZK) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGOVERN) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from South Dakota (Mr. McGOVERN) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Idaho (Mr. McCLURE) are necessarily absent.

I further announce that the Senator from Illinois (Mr. PERCY) is absent due to a death in the family.

The result was announced—yeas 36, nays 56, as follows:

[Rollcall Vote No. 215 Leg.]

YEAS—36

Allen	Ford	Proxmire
Baker	Garn	Randolph
Bartlett	Glenn	Roth
Bellmon	Goldwater	Sasser
Byrd, Harry F., Jr.	Hansen	Schmitt
	Haskell	Stevens
Byrd, Robert C.	Hatch	Talmadge
Case	Helms	Thurmond
Chafee	Hodges	Tower
Chiles	Laxalt	Wallop
Church	Lugar	Zorinsky
Curtis	Nunn	
DeConcini	Packwood	

NAYS—56

Bayh	Hathaway	Nelson
Bentsen	Hayakawa	Pearson
Biden	Heinz	Pell
Bumpers	Hollings	Ribicoff
Burdick	Huddleston	Riegle
Cannon	Humphrey	Sarbanes
Clark	Inouye	Schweiker
Cranston	Jackson	Scott
Culver	Javits	Sparkman
Danforth	Kennedy	Stafford
Dole	Leahy	Stennis
Durkin	Long	Stevenson
Eagleton	Magnuson	Stone
Eastland	Mathias	Weicker
Gravel	Matsunaga	Williams
Griffin	McIntyre	Young
Hart	Melcher	
Hatfield, Mark O.	Metzenbaum	
	Morgan	
Hatfield, Paul G.	Moynihan	
	Muskie	

NOT VOTING—8

Abourezk	Domenici	McGovern
Anderson	Johnston	Percy
Brooke	McClure	

So Mr. LUGAR's amendment (No. 3090) was rejected.

Mr. McINTYRE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CRANSTON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. (Mr. METZENBAUM). The bill is open to further amendment. If there is no further amendment to be offered, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 2777) was read the third time.

Mr. McINTYRE. Mr. President, I yield 3 minutes on the bill to the distinguished Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding. I just want to raise two points which have been discussed previously.

First, I wish to raise the issue of public participation during the promulgation of policy by the Board of the National Consumer Co-operative Bank. As a member of the Banking Committee and chairman of its Consumer Affairs Subcommittee, I feel that it is imperative that the Board in promulgating its policy should encourage and benefit from a broad spectrum of opinion.

It is clear to me in surveying the language of the bill and in reviewing its legislative history that the bill envisions a co-op program that is run democratically. All co-ops, big or small, urban or rural, should have the opportunity to participate in the drafting of regulations. The Board has the power and should institute a program that allows low-income co-ops to participate in the rulemaking process; and, if necessary, funds should be provided by the Board to afford ample opportunity to accomplish this participation.

The committee received testimony on the need for this legislation as a means of assisting consumer co-operatives which serve persons with low incomes. Persons with low incomes are often able to buy goods and services at reduced prices through such consumer co-operatives. Unless these low-income co-ops may also participate fully when the rules of the games are being blueprinted by agency heads in Washington, then the legislation will be for naught. The idea and accomplishment of a National Consumer Co-operative Bank operating as a viable entity within the economy is an important objective. Public participation in the bank's operation will help to insure this objective.

The second item I wish to raise is the issue of accountability reports by the bank. It is my understanding, and the understanding I believe of my colleagues

supporting this legislation, that the National Consumer Cooperative Bank will be operated with the strictest devotion to democratic principles. It is for that reason that I wish to insure that the bank surveys its shareholders as to its needs and reports the findings to Congress and the public. As a member of the Banking Committee which will have oversight over this program, I believe the issuance of reports to be a key ingredient in the bank's function. In turn this will insure that the Banking Committee must carry out its oversight function in determining the success and viability of the Consumer Cooperative Bank. I believe that this language should be incorporated into the legislation to assure that everything possible is done to assure that this bank is accountable to its shareholders, regardless of size, and to the Congress. An amendment of this nature would be a small step in this direction. It would impose no additional paperwork or expense on the bank since it would require nothing that is not already required by the committee report. However, I realize that there would be opposition to such a move on my part, and therefore, I will offer no such amendatory language. I did though, wish to raise the point and receive the comments of the distinguished floor manager.

Mr. McINTYRE. I say to my good friend that it will be the aim and the objective of the board to encourage the widest and most diverse public participation in the operation of the consumer co-op bank. I am satisfied, I might say to the Senator from Michigan, that the bill already gives adequate guidance in that direction.

As to the second point, I notice within the committee report it states:

> The committee intends that the Bank shall, at least every 3 years, survey borrowers as to their current and projected needs for assistance, their comments on the policies of the Bank, and the adequacy of the Bank's services to them, and that the survey findings be included in the Bank's report to Congress.

Mr. RIEGLE. I thank the chairman for his comments. I think it is important that both of these items be underscored because they are essential to accomplishing what this legislation is intended to do.

I will conclude my remarks by complimenting the chairman for his leadership on this issue.

Mr. McINTYRE. Mr. President, I yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I rise in support of H.R. 2777, the National Cooperative Bank Act. However, I must admit that I shared some of the apprehension expressed by the bill's opponents and declined to become a cosponsor of the measure until I had carefully examined the proposal. I am now convinced that fears of unfair cooperative competition voiced by opponents of the bill are without any foundation.

A cooperative enterprise is the oldest form of economic venture known. In ancient Hawaii, for example, people labored together to build common fish ponds and irrigation ditches. By his labor, each participant earned a share of fish raised or a share of the water for farming.

Society today, of course, is much more complex. Instead of fish farms and irrigation ditches, people need health care, housing, food, and employment. Private businesses have deserted many rural areas and inner city blocks. The residents have no alternative other than cooperative ventures to secure work and needed services. But when these community cooperatives seek financing they all too often run up against the closed minded bank. A conventional lender looks suspiciously at an Appalachian handcraft cooperative, a Watts food cooperative, a Bronx housing cooperative, or a Seattle group health cooperative.

These cooperatives need temporary capital beyond their members' contribution to provide the employment, food marketing service, housing, and health care which their community desperately needs.

Once upon a time, small business confronted similar difficulties in obtaining financing from conventional banks. In response, the Congress established the Small Business Administration, which, in 1976 alone, loaned over $2 billion.

Farmers too, at one time, confronted the same problem in financing their farm cooperatives, and in response Congress enacted the Farm Credit Acts, which have helped to meet otherwise unmet needs.

Consumer, handicraft, housing, and health care cooperatives face a real problem of financing today. They need a lender similar to the Small Business Administration or the Farm Credit System. A suitable response is provided in the pending National Cooperative Bank Act, and I urge its passage.

Mr. McINTYRE. I thank the distinguished Senator from Hawaii for a fine statement.

I yield now to my colleague for a brief statement.

Mr. DURKIN. I thank my colleague.

Mr. President, I should like to take this opportunity to thank my colleague for his efforts over many years on this bill, and to bring to the attention of the Senate his lengthy and fruitful efforts to produce a workable compromise on the Consumer Cooperative Bank bill, H.R. 2777. This bill will benefit thousands of consumers nationwide, some of whom belong to New Hampshire's 50 food co-ops, and others of whom belong to hundreds of health, housing, and consumer goods co-ops across the Nation. For the last 4 years, Senator McINTYRE has carefully husbanded this badly needed legislation to afford consumers viable, low-cost alternatives, while protecting the interests of small business.

Due in large measure to his efforts, the committee has made major improvements in the House-passed bill. It has reduced the funding level of the bill by $375 million, reduced substantially the bank's borrowing authority, prohibited the establishment of regional banks, and included protections for small businesses, without impairing the effectiveness of the Consumer Cooperative Bank.

I join with the senior Senator from New Hampshire in supporting the bill as reported from committee, and I urge my colleagues to do the same.

I yield to the Senator from Maryland for a brief comment.

Mr. SARBANES. Mr. President, I join the distinguished Senator from New Hampshire in commending his colleague, the chairman of the subcommittee, for the outstanding work he has done on this legislation. He held a long series of very careful hearings. The bill was marked up in committee in a very deliberate and thoughtful way. It responded to some of the points that were made. I think this is a very important piece of legislation for consumers all across this country. I think it opens up opportunities which ought to be available to them and I look forward to the bill finally being enacted into law.

I thank the Senator from New Hampshire for his extraordinary leadership on this issue.

Mr. McINTYRE. I thank my friends from Maryland and New Hampshire.

I should say, Mr. Prsident, that I appreciate very much the cooperation from the minority, the distinguished ranking member of the subcommittee, the Senator from Texas (Mr. TOWER). I also appreciate the earnest and well-mannered and well-presented way that the distinguished Senator from Indiana—I am sure with the best interest of all at heart—attempted to modify this bill. I am grateful for their cooperation.

The PRESIDING OFFICER. Is all time yielded back?

Mr. McINTYRE. I have not yielded back yet.

Mr. WILLIAMS. Mr. President, I rise to say I support the bill.

Mr. McINTYRE. I am happy to yield briefly to the distinguished Senator from New Jersey.

Mr. WILLIAMS. Mr. President, I rise to support S. 1010 and as a cosponsor of this important consumer bill to commend my colleague, Senator McINTYRE, for his decisive leadership in developing the legislation over the past several years. Through his tireless efforts, the Senate Banking Committee has improved upon the version of the bill sent to us by the House last year. And I know first hand of Senator McINTYRE's diligence in seeking to enact into law legislation he first introduced 3 years ago.

Mr. President, the consumer cooperative bank bill is a response to the demonstrated need of consumers for governmental aid and assistance to expand the benefits of the well-established cooperative movement in the United States. This movement is by no means a new phenomenon and would not be initiated by the passage of this legislation. To the contrary, the cooperative movement is almost as old as the United States itself and has played an important role in American history. Perhaps the best known, the largest, and the most successful cooperatives have been formed by farmers. Over 6 million farmers belonged to more than 7,600 farm cooperatives in 1975, but there are also many other kinds of cooperatives, including electrical cooperatives, credit cooperatives, and marketing cooperatives.

Since the turn of the century, the Federal Government has actively encouraged the organization and use of cooperatives particularly for farmers and in rural areas. Statutory examples of this include the landmark Federal Farm Loan Act, which is the centerpiece in today's cooperative farm credit system. Through the farmer cooperative service, within the Agriculture Department, the Federal Government provides technical assistance to farm cooperatives. There are many other examples of support at the Federal level to further encourage the movement. The widespread and bipartisan support the pending bill enjoys in both the Senate and House of Representatives further illustrates that support.

Mr. President, I do not have to dwell on the benefits made available to consumers through consumer cooperatives. They are well documented in the committee's report, but let me cite briefly some of the high points.

First, membership in a cooperative provides the consumer with increased availability to goods and services of high quality and at reasonable prices. This is most evident in the case of food cooperatives, where substantial savings can be achieved by groups of consumers through direct purchases from farmers. Second, the climate of self-help and consumer activism, which is created and encouraged by consumer cooperatives, strengthens the community and stimulates community revitalization and enthusiasm. Third, as I have seen in the State of New Jersey, leadership and participation in cooperatives is an excellent training ground for civic leaders. With the benefit of this involvement and experience, many individuals are motivated to become active in politics and government at all levels. Fourth, in intercity or remote rural areas, cooperatives may be the only available sources for food and other necessary goods and services. Beyond that, cooperatives in these areas often provide meaningful jobs to local residents. Finally, during the course of its hearings, the committee received persuasive evidence that cooperatives are a counter-inflationary force in the economy. Through cooperatives, consumers are banded together to fight rising prices in everything from housing to funeral services, optical care, and even medical care.

Mr. President, I cite these as only a few of the advantages of the consumer cooperative movement, but they illustrate the best success and accomplishments. Moreover, they underscore the great potential of the consumer cooperative movements which remains untapped, because of the general difficulty which cooperatives have in obtaining credit from conventional sources and the lack of technical assistance. It is precisely these problems that are addressed by S. 1010.

The bill would remedy these problems in a number of ways. First, the bill would establish an independent ownership financial institution—the National Consumer Cooperative Bank—to provide financial assistance to consumer cooperatives.

The bank will not be a Government-owned or subsidized institution. Instead, once the initial seed capital which the Federal Government would provide to get the bank off the ground is retired, the bank will be wholly owned and controlled by cooperatives which will be under a responsibility to operate the bank and invest in its shares. Under the bill, the initial U.S. Treasury investment of $300 million over 5 years would be retired as rapidly as possible. The bill also would establish an office of self-help development and technical assistance to provide capital advantages and interest subsidies to new or low-income cooperatives, as well as technical and research assistance.

Mr. President, I want to stress that what we are creating is not a new Federal agency or a new Federal program. Consistent with the self-help, self-reliant nature of cooperatives, we are providing limited assistance to consumer cooperatives to permit them to operate their own credit assistance program. And once established, the consumer cooperative bank will not be an arm of the U.S. Treasury, nor will it compete with existing lending institutions because, as a general matter, they do not make loans to cooperatives.

Mr. President, one concern that has been expressed to me about this bill is that it would be harmful to small, taxpaying businesses. In its deliberations, the committee took special care to avoid any adverse impact which the bill might inadvertently create for small businesses.

During the hearings on this bill, several witnesses expressed concern that the bank would provide Government-subsidized loans and services to cooperatives which would be in competition with small business. To assure that no unfair competitive advantage is granted to cooperative borrowers, the bill requires that loans be made on a sound business basis. Thus, these loans will only be successful if there is an economic need and if the purposes of the loan are not already being met on a competitive basis. Moreover, the bill would require that the criteria to be applied by the bank in making loans include an assessment of the impact of the loan on existing small businesses in the applicant's business territory. Finally, the bill approved by the committee includes a specific provision requiring that one member of the bank's Board of Directors be selected from small business.

Mr. President, these are important safeguards. But I think a more fundamental point, and one that is often overlooked, is that the consumer movement and small business should not view them as adversaries. In my judgment, there are tremendous advantages to be had from a strong consumer cooperative and strong small business. An informed consumer creates a better market for businesses of all sizes, large as well as small. In fact, many small businesses make the affirmative decision to locate in the vicinity of cooperatives. In the inner city especially, once a cooperative has revitalized an area which business had previously abandoned, small businesses will follow the co-ops back into the revitalized and commercially viable community.

Mr. President, cooperatives have been an important part of the American experience for better than 100 years. They now have a more important role in the inner city and in rural areas than ever before. I strongly urge my colleagues to seize this opportunity to give modest Federal support to cooperatives by promptly enacting S. 1010 and creating a National Consumer Cooperative Bank.

Mr. McINTYRE. I thank the Senator from New Jersey.

I yield to the distinguished Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I am pleased to give my strong support to H.R. 2777, the National Consumer Cooperative Bank Act, and I strongly urge the Senate to approve it in the form reported by the Banking Committee. As a cosponsor of the companion Senate bill, I am also pleased that the legislation has the strong support of the Carter administration.

This measure has been considered and debated in Congress for the past 4 years, and its enactment is long overdue. The Senate bill establishes a new Federal financing agency—a National Consumer Cooperative Bank—with authority to issue bonds and use the proceeds to provide loans for capital improvements, technical assistance, and other purposes to consumer cooperatives in both urban and rural areas. The Treasury is to purchase stock in the bank in the initial years. But after that, the bank is to become self-financing by increased sales of its bonds to the private sector.

The legislation has been exhaustively analyzed by both the Senate and the House of Representatives. In the light of issues raised in thorough hearings, the Senate modified the House bill in several key respects:

The 5-year funding level was reduced from $750 to $375 million, in order to satisfy the obvious requirements of the Federal budget.

The bank's borrowing authority was reduced from ten times to five times its assets.

The establishment of regional banks was prohibited, although the central bank may establish regional offices.

Protections were provided for small businesses by requiring loans to be made on a sound business basis.

I do not believe that the bill in its present form, as improved by the Banking Committee, poses any substantial threat to small businesses. Consumer cooperatives compete primarily with big businesses, such as chain stores and supermarkets, not small businesses. Most of the bank's loans will go to cooperatives in areas like housing, health care, legal services, and TV and auto repair operations, not to retail cooperatives.

In fact, one of the major advantages of this legislation is the help that the new bank will be able to provide in the ongoing effort to foster the improvement of health services in many different regions of the Nation through the creation of health maintenance organiza-

tions. In general, consumer health cooperatives that exist today, such as the Group Health Association in the District of Columbia, the Eau Claire health cooperative in Wisconsin, and the Puget Sound health cooperative in Washington State operate very much like HMO's.

A central issue in our overall health reform effort in Congress is to provide a greater voice for consumers in controlling the organization, delivery, and financing of the health care services they receive and pay for. Current Federal law on HMO's, for example, requires that one-third of all HMO board members must be consumers. The pending bank legislation is a welcome and significant initiative for the continuation of this auspicious development.

It would be a serious mistake to scuttle the pending legislation and substitute a pilot study for the full-fledged bank. There is a long history of the cooperative movement in the United States, particularly in farm areas. The concept has proved itself in practice over many years. It deserves more substantial support than a pilot study can provide, especially at this time of serious concern over inflation in our economy.

Finally, I believe that it would be unwise to impose a lender-of-last-resort requirement or to raise the percentage of loans required to be made to low-income cooperatives from the present 35-percent level. The committee bill strikes a reasonable balance between establishing the new bank as a successful financial institution and earmarking significant aid to low-income cooperatives, without jeopardizing the bank's future by confining it too narrowly to weaker credit risks. In addition, the bill creates a specific "Self-Help Development Fund," earmarked $75 million for low-income cooperatives on top of the 35-percent requirement, applicable to the remaining $300 million in authorized funds. As a result, $180 million, or about half of all funding, is already allocated to low-income cooperatives.

Enactment of this legislation is an important development for the benefit of consumers throughout the Nation, and I urge the Senate to adopt it.

Finally, I take this opportunity to commend Senator TOM MCINTYRE of New Hampshire, the chairman of the Senate Subcommittee on Financial Institutions, for his extraordinary dedication and commitment to this legislation over the past few years. The fact that this measure has now come so far is in large part a tribute to his skill as a legislator and his effectiveness as an advocate in the Senate for the hard-pressed consumers of America. His excellent work on this bill is proof that one Senator can truly make a difference.

Mr. MCINTYRE. I thank my able, distinguished friend from Massachusetts.

I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, the National Consumer Cooperative Bank Act was introduced originally on November 6, 1975, by Senator MCINTYRE, chairman of the Subcommittee on Financial Institutions of the Committee on Banking, Housing, and Urban Affairs. That this bill has been reported by both Houses of Congress in a relatively short time reflects the merits of the legislation and the skill and experience of Senator MCINTYRE. I commend him for his foresight and fortitude.

This bill is typical of the kind of innovative legislation Senator MCINTYRE has sponsored during his 18 years in the Senate.

His expertise in military research and development for strong national defense has served him well as chairman of the Research and Development Subcommittee of the Armed Services Committee.

In his capacity as chairman of the Government Regulation and Small Business Advocacy Subcommittee of the Select Committee on Small Business, as well as his 8-year chairmanship of the Small Business Subcommittee of the Senate Banking Committee, Senator MCINTYRE has long been a champion of small business.

His legislative record includes a vast area of initiatives to help people help themselves. The bill before us is but one example among many.

With respect to the merits of H.R. 2777, economic history is replete with evidence that cooperatives foster economic growth. In addition, they provide the quality of goods and services their members demand at the lowest possible cost.

In an inflationary environment, consumer cooperatives offer more than a hope that consumer price inflation can be countered. As Senator MCINTYRE has said:

> Successful consumer cooperatives cut out the frills their members do not need. . . . This is particularly important at times when pocketbooks are being squeezed by inflation.

Under H.R. 2777 as reported by the committee, more cooperatives would become eligible for technical and financial assistance. Taxpayers would extend to the National Consumer Cooperative Bank only the initial seed capital. Eventually, the Treasury would be repaid and the bank would be owned and controlled by the cooperatives. The advantages of being self-supporting are an inherent incentive to expedite repayment of the seed money.

This bill will be of benefit to people in inner-cities, in small towns, suburbs, and rural areas. It is important to recognize that the consumer cooperative is the opposite of a giveaway; it is not a handout. Pride—not humiliation—is the feeling engendered by self-help enterprises.

In the bill as reported, only sound loans which have a reasonable expectation of being repaid will be made by the bank. Borrowers will be charged competitive interest rates.

Following the lead of Senator MCINTYRE, the bill's cosponsors and supporters have fashioned safeguards, scaled down the bank's capitalization and borrowing authority, minimized Government involvement, and targeted its benefits to those who need them the most.

Under the provisions of this bill, the Federal Government would provide just enough help to enable more people to make their own economic decisions. This is the kind of relationship between Government and citizens of which we can all be proud.

Mr. MCINTYRE. I thank the distinguished majority leader for those kind words.

● Mr. STEVENSON. Mr. President, I support passage of H.R. 2777 and commend the distinguished Senator for New Hampshire (Mr. MCINTYRE) for his leadership and hard work in support of this much-needed legislation. In my State of Illinois, farmers and their cooperatives have greatly benefited from the technical and financial assistance provided by the highly successful banks for cooperatives—part of the farm credit system. The purpose of this bill is to remedy a gap in the private market by creating a mixed-ownership Government bank to provide similar credit and technical assistance to fledgling consumer cooperatives. Hearings in both the House of Representatives and the Senate, the latter summarized in the Senate Banking Committee's report on H.R. 2777, amply demonstrate that the growth and development of consumer cooperatives have been greatly hampered by the general unavailability of conventional credit and lack of technical assistance—both long available to farm co-ops and more recently to other types of small business. As a result, many potential cooperatives have been unable to get started, and cooperatives have been unable to keep going.

H.R. 2777 as reported from the Senate Committee on Banking, Housing, and Urban Affairs has been scaled down considerably in cost from the House-passed bill and contains ample safeguards for the preservation of fair competition between cooperatives and smaller businesses. The committee was uniform in its intention that this bill not hurt or disadvantage small business. Cooperatives complement small business and can assist the development and stabilization of small business by promoting economic revitalization and growth. In particular, I believe this bill can contribute greatly to the revitalization of low-income neighborhoods and communities in both rural and urban areas by encouraging cooperation, community development, and self-determination and preservation—values that form the cornerstone of a successful community. Housing, food, medical, and other cooperatives can go a long way toward providing the services necessary to keep low-income neighborhoods going—neighborhoods now too often plagued by abandoning businesses. If these neighborhoods are preserved, so too will many opportunities for small business.●

● Mr. MUSKIE. Mr. President, I support H.R. 2777, the National Consumer Cooperative Bank Act. The bill would establish the NCCB to assist consumer cooperatives with long-term loans, technical assistance and other aid. All of these cooperatives are nonprofit and provide goods, services or facilities primarily to their members.

Cooperatives have long been a valuable form of economic organization in this and other countries. They have of-

ten helped small producers and consumers to serve their own needs when other private businesses had failed to do so.

Existing Federal programs have responded to the needs of consumer cooperatives either inadequately or not at all.

Cooperatives have typically been unsuccessful in receiving credit from private lenders to finance normal operating needs and long-term expansion. This bill would help develop the managerial and financial strength of consumer cooperatives and thus open new options for American consumers.

Mr. President, I believe this bill helps fulfill the Federal Government's responsibility for encouraging economic diversity. Enactment would assert the interest of Congress in making the economy as responsive as possible to the needs of consumers.

I would note, Mr. President, that the first budget resolution conference report mentions that the fiscal 1979 targets could accommodate "initial financing and operating requirements for the proposed National Consumer Cooperative Bank." Funding for this program would be included in function 370, commerce and housing credit. It should be kept in mind that the funding requirements of other programs in that function account for almost all of the available budget authority and outlays in that function.

In fiscal 1979, the bill could authorize $114 million in appropriated budget authority plus an additional $500 million in borrowing either from the Treasury or the public. If the bill were fully funded, Mr. President, the new bank could operate at a level that would involve about $1.6 billion in budget authority and about $1.4 billion in outlays over the next 5 years.

The first budget resolution could not accommodate these levels of spending either within the fiscal 1979 or the 5-year totals. I understand, however, that levels of budget authority substantially below full funding of this bill would be adequate in the early years for a National Consumer Cooperative Bank. Thus the bank could be initiated without causing the first resolution targets to be breached.

With that understanding I shall vote for H.R. 2777.●

● Mr. DOLE. Mr. President, consumer cooperatives are on the forefront of the fight against inflation and are a valuable tool for providing improved consumer information to those who use their services. Likewise, they can be an important focal point of community activity and can provide the necessary organizational cohesiveness for uplifting certain communities and neighborhoods.

The Senator from Kansas is intimately familiar with the tremendous amount of good done by farmer cooperatives in Kansas and throughout our Nation. As the ranking minority member of the Senate Agriculture Committee, I am a supporter of our farm cooperatives. As a Senator concerned about the consumer, I believe it is time to expand our cooperative assistance to include consumer cooperatives.

For a variety of reasons, consumer cooperatives have difficulty receiving conventional financing from commercial banks. Therefore, this sort of assistance is necessary, assuming that the assistance is provided in a prudent and wise manner. The Consumer Cooperative Bank is given enough discretion to choose those cooperatives which will be able to succeed and provide necessary services or markets or facilities for their patrons. Through judicious use of the Federal seed money the bank will be able to do much good. This is a landmark piece of consumer legislation and definitely deserves our support.

Cooperatives have been an important part of American life for many, many years. As the late Senator Robert Taft, Sr., of Ohio, said, cooperatives "are as American as apple pie." Especially at this time when more and more people are saying that they want to do things for themselves, get out on their own, solve their own problems—this legislation should prove beneficial. Cooperatives are a powerful tool for self-help. By providing assistance financing and technical assistance we can help consumers help themselves.●

● Mr. NELSON. Mr. President, this legislation is a distinct, and highly beneficial approach to providing the assistance which co-ops need to organize and survive in the marketplace.

Co-ops, regardless of the services they provide, share central tenets of an open membership, democratic control, and equitable distribution of savings. They exist for the benefit of users-owners, rather than for the benefit of outsider investors.

I will not repeat the many advantages which co-ops can provide to citizens. Suffice it to say, co-ops have proven that, with the proper financial backing, and access to specialized management assistance, they can greatly benefit consumers in both urban and rural areas. Nowhere is this benefit more evident than the Consumer's Co-op in Eau Claire, and throughout Wisconsin. Since 1935, consumer's has been a growing, and integral part of the economic development of the area.

For too long, Mr. President, the cooperative movement in the United States has been handicapped by a lack of resources. Today the Senate is recognizing the invaluable benefits which co-ops are able to provide to their members, and taking positive steps to remove these barriers.

This legislation will provide the financial and technical benefits which are so desperately needed. The bill creates a separate National Consumer Cooperative Bank. This bank will make or guarantee loans to consumer cooperatives operated on a nonprofit basis, correcting one of the major impediments to their growth—the lack of adequate capital.

In addition to being a source of needed funding, the bank will have an office of self-help development and technical assistance. This office will be structured so that training, market, and financial analysis can be undertaken on behalf of co-ops. In my view, the functions of this office are just as important as the lending responsiblities of the bank. The resources which the office is to make available to cooperatives will insure that once started, co-ops can stay in business.

Finally, we need not worry that we are creating yet another Government bureaucracy. Under the legislation, the Government will provide only the initial "seed" money to begin the operation of the bank. All of this money will be repaid. The bank will then become a private institution, with almost no Federal involvement.

Consumers organized into cooperatives can be an effective countervailing force to increases caused by inflation. The effective assertion of the consumer's interest has been proven to lead to better quality products, increased production, and a pricing system which more closely reflects the true costs of production.

Mr. President, I urge approval of this legislation.●

Mr. McINTYRE. Mr. President, I move passage of the bill. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

All time has been yielded back.

Mr. ROBERT C. BYRD. Mr. President, there is another bill that will be coming up yet today.

The PRESIDING OFFICER. I thank the distinguished majority leader.

The question is, Shall the bill, as amended, pass?

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, I should say that on that bill there may be rollcall votes.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON) and the Senator from Lousiana (Mr. JOHNSTON) are necessarily absent.

I further announce that the Senator from South Dakota (Mr. McGOVERN) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON), and the Senator from South Dakota (Mr. McGOVERN) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Idaho (Mr. McCLURE), and the Senator from Texas (Mr. TOWER) are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee (Mr. BAKER) would vote "yea."

The result was announced—yeas 60, nays 33, as follows:

[Rollcall Vote No. 216 Leg.]

YEAS—60

Abourezk	Clark	Gravel
Bayh	Cranston	Griffin
Biden	Culver	Hart
Burdick	DeConcini	Haskell
Byrd, Robert C.	Dole	Hatfield, Mark O.
Cannon	Durkin	Hatfield, Paul G.
Case	Eagleton	
Church	Ford	

Hathaway	Matsunaga	Riegle
Hayakawa	McIntyre	Sarbanes
Heinz	Melcher	Schweiker
Hollings	Metzenbaum	Sparkman
Humphrey	Morgan	Stafford
Inouye	Moynihan	Stevens
Jackson	Muskie	Stevenson
Javits	Nelson	Stone
Kennedy	Pearson	Talmadge
Leahy	Pell	Thurmond
Long	Percy	Weicker
Magnuson	Randolph	Williams
Mathias	Ribicoff	

NAYS—33

Allen	Eastland	Packwood
Bartlett	Garn	Proxmire
Bellmon	Glenn	Roth
Bentsen	Goldwater	Sasser
Bumpers	Hansen	Schmitt
Byrd, Harry F., Jr.	Hatch	Scott
	Helms	Stennis
Chafee	Hodges	Wallop
Chiles	Huddleston	Young
Curtis	Laxalt	Zorinsky
Danforth	Lugar	
Domenici	Nunn	

NOT VOTING—7

Anderson	Johnston	Tower
Baker	McClure	
Brooke	McGovern	

So the bill (H.R. 2777) was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 2777.

The PRESIDING OFFICER. Without objection, it is so ordered.

REFERRAL OF S. 1264 TO COMMITTEE ON ARMED SERVICES

Mr. MORGAN. Mr. President, I ask unanimous consent that the Federal Acquisition Act, S. 1264, which was reported to the Senate by the Governmental Affairs Committee on March 22, be referred to the Committee on Armed Services for further study.

This is a far-reaching bill which completely revamps the statutory basis for all Federal procurement. A great deal of work has gone into it. But because it is so important, we need to be sure that the proposed changes are wise ones. The Armed Services Committee's interest in this legislation stems from the fact that it would repeal the Armed Services Procurement Act, which governs procurement of all Department of Defense items from paper clips to missiles. The Department of Defense accounts for 75 percent, in dollar amount, of the procurement done by the whole Federal establishment, and we want to assure ourselves that the bill's effect on that procurement is fully understood. Insofar as the bill would change procurement practices, it will also affect our continuing oversight responsibility for defense procurement and research and development.

In short, Mr. President, this legislation has an important impact on the business of the Armed Services Committee, and we would like to have an opportunity to look into it in some detail in order to assure ourselves that it does not have a harmful effect on our national defense effort. I have discussed this matter with the distinguished chairman of the Subcommittee on Federal Spending Practices, Efficiency and Open Government, Mr. CHILES, and it has been cleared on the other side of the aisle.

Mr. CHILES. Mr. President, reserving the right to object—and I shall not object—I concur with the distinguished Senator from North Carolina that this certainly does have a bearing on the Armed Services Committee. We think it should be looked at by that committee, and we always proposed that it be looked at by the Committee on Armed Services.

I am delighted to hear the statement by the distinguished Senator from North Carolina that they intend to give the bill good attention and careful study. That is the one thing we are concerned with—that the bill does not languish somewhere, because we think it is tremendously important.

We believe there could be savings in the amount of billions of dollars in the way the Government is doing its purchasing, plus being able to get better goods and services, if we can adopt reform. For that reason, I concur in the unanimous-consent request.

I say to the distinguished Senator from North Carolina that I hope we will get a chance to see this measure come out of the Committee on Armed Services shortly, even this year, if possible, so that we would have an opportunity for the Senate to act on it this year.

Mr. MORGAN. Mr. President, I am glad to say to my distinguished colleague that we will try to give this bill expeditious handling.

The distinguished chairman of the Armed Services Committee has designated the Senator from Arizona (Mr. GOLDWATER) and me as an ad hoc subcommittee specifically for this bill, and I say to the Senator that we will begin immediately to go into it and bring it back as quickly as possible.

Mr. CHILES. I thank the Senator from North Carolina.

The PRESIDING OFFICER. Is there objection to the request of the Senator from North Carolina? The Chair hears none, and it is so ordered.

ORDER FOR PLACEMENT IN THE PERMANENT RECORD OF TRIBUTES TO JOHN D. ROCKEFELLER III

Mr. JAVITS. Mr. President, I ask unanimous consent that all tributes to John D. Rockefeller III may be consolidated in the permanent RECORD so that they may be available in one place to his friends and family.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO J. ALLEN FREAR, JR.

Mr. ROTH. Mr. President, an uncommon man, a distinguished son of Delaware, a colleague of many in this Chamber and friend to all, was honored on Monday of this week in Dover, the capital of my State.

J. Allan Frear, Jr., served citizens of Delaware in the U.S. Senate for 12 years from 1948 to 1960. On Monday Delaware turned out to pay tribute to the special integrity of Allen Frear in a ceremony naming the Dover, Delaware Federal Building in his honor.

Platform guests included the Senator's lovely wife and distinguished Delaware citizen in her own right, Esther Frear; the master of ceremonies, Mr. John F. Galuardi, Regional Administrator of the General Services Administration; the Reverend Gregory M. Howe of Christ Episcopal Church; the Honorable Charles Legates, mayor of Dover; Mr. Frederick Van Sant, director of personnel for the State of Delaware; the Honorable Jay Solomon, Administrator of General Services of the United States; former Senator J. Caleb Boggs; former Gov. Elbert Carvel; and the Members of Delaware's Congressional delegation, the Honorable JOSEPH R. BIDEN, JR., U.S. Senator; the Honorable THOMAS B. EVANS, JR., Member of Congress, and myself.

Mr. President, I think it well for us to reflect a moment on the personal and public integrity of this uncommon Delawarean who prefers to call himself a "dirt farmer" rather than the Senator he once was and always will be. Senator Frear's hard work and unselfish service in this Chamber ranged far and wide, but always returned to those he zealously and ably represented; the people. Allen Frear championed States' rights in his belief that the only proper role of the Federal Government is to preserve the individual liberties of the working man and woman, and to this end he was the principal sponsor of the first postwar housing bill in Congress.

During his years in the Senate he came to know both Presidents Truman and Eisenhower well, and served our country on several notable overseas assignments in Indonesia, Turkey, and Russia. In Delaware Allen Frear was always known as a friend of the working people. Although he served 12 years in this Chamber, Senator Frear returned always with his heart to his home State. He fought for transportation improvements in Delaware upon which the First State's economic prosperity in the midst of regional diversity has been based. He worked for the revitalization of one of our Nation's great aviation fortresses, the Dover Air Base, a key element in Delaware's sustained economic growth for the last 30 years.

Mr. President, many of my colleagues and I join today in honoring Allen Frear, Jr., a dedicated uncommon man of the First State, Delaware. I ask unanimous consent that the remarks made by the Honorable Jay Solomon, Administrator of General Services, and by myself at the ceremonies in Dover, Del., be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY JAY SOLOMON, ADMINISTRATOR, GENERAL SERVICES ADMINISTRATION AT RENAMING OF J. ALLEN FREAR FEDERAL BUILDING, DOVER, DEL.

This is indeed a special occasion! I'm pleased to be here in Dover this morning to

honor a great citizen of Delaware who has given so much of himself to his State and the Nation.

The presence here on the platform of the entire Delaware delegation to the Congress is evidence of the high esteem held for J. Allen Frear. Senator William V. Roth, a Republican, who introduced the legislation renaming this building in Mr. Frear's honor, Senator Joseph Biden, a Democrat, who cosponsored the bill, and Congressman Thomas B. Evans serve the citizens of Delaware with distinction in Washington.

I'm delighted to see that this Federal building in Dover is an excellent illustration of some important concepts being developed nationwide. As you can see this building blends in architecturally with Dover's historic environs and traditions and is set back from the sidewalk to provide landscaped areas. These things are vital for the exciting role that Federal buildings will be expected to play in the years ahead.

As some of you probably know President Carter has directed the General Services Administration to make Federal buildings a catalyst for growth. Revival and strengthening of America's communities. The President has asked GSA to locate Federal buildings in inner city areas where possible, and to use good design and landscaping such as illustrated here along with the art-in-architecture and living buildings programs to create a better environment. (In the art-in-architecture program we can allocate up to one-half of 1 percent of construction cost for art which the architect who designed the new building or the renovation of an old building deemed appropriate.)

I think we can and are using federal buildings to help build the kind of environment that will bring people back to urban area communities such as exist all along the Atlantic Coast and make them want to stay to work, play and live.

In the years ahead I feel certain you will see the federal buildings across the country playing a bigger role in community life. (Our living buildings program opens public areas of federal buildings to all sorts of community activities ranging from art shows and concerts to lectures.)

In many cases the federal buildings are becoming the hub of community and civic activity as well as the model of good design and landscaping. I'm very excited about this important part our federal buildings have in the President's urban policy. I feel that we can use these buildings to make an important contribution to improving the quality of life in America.

We are certainly pleased to rename this fine building, which incidentally was dedicated four years ago on July 2, in honor of a distinguished citizen of Delaware. Few living men rise to such distinction and fame as to have a federal building named in their honor.

J. Allen Frear has certainly earned the honor bestowed upon him by this ceremony. He was born on a farm near rising sun in Kent County, Delaware. His service in business and civic affairs is extensive. He was a member of the United States Senate from 1949 to 1961, and was a member of the Banking and Currency, Finance and District of Columbia Committees and the Joint Committees on Defense Production and Internal Revenue Taxation. He twice served as Chairman of the District of Columbia Committee on Fiscal Affairs.

I am told that in the Senate Mr. Frear was a strong supporter of the small farmer, an early advocate of women's right and medical care for the aged, and sponsor of numerous measures to improve public transportation.

There is no question that J. Allen Frear served his State and our country in a dedicated and exemplary fashion and it is my pleasure at this time to officially rename this building the J. Allen Frear Building to be so called from this day on.

SPEECH BY WILLIAM V. ROTH, JR.

Senator and Mrs. Frear and family and distinguished guests.

It gives me great pleasure to be on hand today to dedicate this building to Allen Frear. Senator Frear's hard work and unselfish service as our voice in the U.S. Senate makes it especially fitting that the fine building bear his name.

Quiet, able, considerate—these are words I have heard describing Allen. Every citizen Allen Frear represented was the better for the twelve years Allen walked in the halls of the Senate. His achievements in the Senate reflect a concern for the citizens of his state and his country that transcends all national, state, economic and social barriers. Many of you in Dover remember that it was Senator Frear who brought about the reopening and revitalization of the Dover Air Force Base in 1949. Allen foresaw the Air Base would act as the catalyst for a boom in the industrial base of Kent County, and Kent County's prosperity today is due in part to his farsightedness.

Senator Frear fought for and pushed through the authorization and funding for the new Summit Bridge over the Chesapeake and Delaware Canal. He recognized the key role the Summit Bridge would play in sustaining the economic prosperity of our state based on a strong north-south transportation network.

Allen was the principal sponsor of the first postwar housing bill that set the pattern for the several successful programs that followed. During his years in the Senate he came to know both Presidents Truman and Eisenhower well, and served our country on several notable overseas assignments in Indonesia, Turkey and Russia. Lyndon Johnson was a contemporary and a warm friend of Allen's, and the Senator from Texas eventually was able to return the favor of Allen and his lovely wife Esther's Dover hospitality with invitations to the White House.

Allen's political philosophy and personal standards have always been of the same high moral integrity. He advocated honesty and prudence in government expenditures and programs. He always sought a balanced budget and the elimination of deficit spending. We certainly missed Senator Frear's wise and prudent counsel in the Senate in the 1960's and 1970's when Congress by its billion dollar deficit budgets kindled the fires of destructive inflation.

His son Fred has characterized his father as a political "states righter." The "states rights" Allen championed were the belief that the only proper role of the Federal government is to preserve the individual liberties of the working man and woman, and to support and sustain our system of representative democracy at the state and local levels as a bulwark of freedom between the American citizen and the tyranny of a single national government.

As we dedicate this building today, I should ask if any of us elected or hired to serve our fellow citizens in Federal, state and local offices can match Allen Frear's integrity and dedication to our American democracy. Though none of us can match Allen's dedication to the principles of justice and liberty, we can and should insist that our newest leaders and our youngest citizens follow his example.

Esther Frear has always shared Allen's high standards of personal and public integrity, and her accomplishments as the first woman elected to Dover City Council and as a community leader in her own right certainly rival his. Allen and Esther are quick to recognize excellence in others and to give credit where credit is due, wonderful traits that are lacking in so many.

Working people from all walks of life have always called Senator Frear their friend. There are still Senate employees in Washington who remember his entering the Senate dining room through the kitchen in order to first talk with the kitchen personnel before sitting down to lunch. Allen is a quiet person by nature, but at roll call votes his voice was anything but hushed as he shouted loud his yea or nay in order that all in attendance would know he was voting. Allen's heart never left Delaware while he was in Washington, and even now he calls himself a "dirt farmer" rather than the "Senator" he once was and always will be.

It is especially appropriate that this building be named after such a distinguished son of Delaware as Allen Frear. A Federal building is much more than bricks and mortar—it is a building of spirit and tradition, tied to the virtues of more than two centuries in our nation's history: love of country, dedication to freedom, devotion to duty, faith in God, and allegiance to principle, ethics and moral integrity. Allen Frear personifies all these qualities. He sets a lofty standard indeed for all of us. He has done much for the people of Delaware. He is, in short, an uncommon man.

Allen, we are proud to name this building in your honor and to share this special moment with you.

"THE DUKE" MAYNARD

Mr. DURKIN. Mr. President, Senator MCINTYRE and I want to call attention to a Portsmouth Herald newspaper editorial about Ralph Maynard who, after 12 years of distinguished elective public service, will be retiring from the New Hampshire State Legislature at the close of this session.

For more than a decade, Ralph Maynard, better known as "the Duke," has been working 'round the clock for the people of New Hampshire. It is extremely difficult for any one of us to imagine our legislature in session without Duke. There, he has built up a remarkable near-perfect record of attendance while maintaining an extraordinary 1-to-1 relationship with his Portsmouth constituents. As a key member of the House Appropriations and the Fish and Game Committees, "the Duke" has demonstrated effective leadership in responding to important statewide concerns.

Tireless efforts and hard work are the trademark of Duke's highly accomplished career as a New Hampshire State Representative. I believe his example is sure to long serve the people of my State because it represents good government at its best. On their behalf, I thank "the Duke" for all he has given us.

Mr. President, I ask unanimous consent that the editorial which appeared in the Portsmouth Herald, a very well respected paper in New Hampshire, be printed in its entirety at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

A FAITHFUL PUBLIC SERVANT

Ralph "The Duke" Maynard has decided not to run again for the State Legislature, after 12 years of devoted service.

The Legislature is very much the loser, because we doubt if there is a single member more hard-working, more conscientious and more often in attendance than Duke has been.

In fact, he has only missed one day of regular sessions in 12 years, and only five days of a special session, when he was busy undergoing a serious operation.

But, it is not so much Duke's faithful attendance, although that has been remarkable, but his willingness to work hard and long on many nitty-gritty problems the state has to face.

He has had a mighty good grasp of what was going on, and he has used both his knowledge and his tenaciousness to work generally for the best interests of the state.

Duke said he isn't running again "for health reasons." We hope his health improves enough so he can enjoy other pursuits, although we suspect he will still maintain a keen interest in what's happening in Concord.

He says of his "retirement" from the Legislature, "I could not give the time and effort at this time that it takes to do a good job as a state representative."

Duke has always given that "time and effort." He couldn't operate any other way.

He has been a damned good legislator.

SOVIET JUSTICE

Mr. CASE. Mr. President, the sentences imposed by the Soviet courts on two dissidents are deplorable and show the Soviet Government's utter disregard for human rights and blatant flounting of its pledges made under the Helsinki Accords.

I hope that the Moscow government reviews and then revokes the sentences dealt to Aleksandr Ginzburg and Viktoras Petkus, taking into account the impact of further imprisonment on their health and the health of U.S.S.R. relations with the rest of the world.

Meanwhile I strongly urge our administration—and governments of other nations—to reassess thoroughly their trade, scientific, and other relations with the Soviet Union with a view toward curbing or cutting off activities which might benefit the Soviet Union more than the West.

Particularly at this time, the United States should not go ahead with export of high-technology items such as computers which can be used to strengthen the Soviet economy.

As the ranking Republican member of the Senate Foreign Relations Committee and a member of the Helsinki Commission, I have concluded that it is time to review all our relations with the Soviet Union. Our committee already has asked the staff to prepare a study on United States-Soviet relations.

The trials of Mr. Ginzburg and Mr. Petkus along with Anatoly Scharansky who was a member of the Helsinki monitoring groups in the Soviet Union, can only cast doubt about the Soviet's willingness to abide by international pledges. If this is the way they treat their own citizens, it can only increase concerns about their dealings with the peoples and nations of the rest of the world.

I am particularly worried about the 8-year imprisonment for Mr. Ginzburg who has already been in prison for 7 years and is reported to be suffering from tuberculosis and ulcers. There are grave doubts that he can survive a term in the conditions of the Soviet prison camp.

Petkus, a Catholic activist from Lithuania, had served more than 10 years in prison when he was arrested again last August. His arrest followed his activities in helping form a joint Helsinki monitoring group in the Baltic States which tragically were occupied by the Soviets in the wake of World War II.

It is incumbent upon the Soviets to reassess the sentences and their impact not only on these three men but on Soviet relations with the rest of the world. The Soviet Union strives to portray itself to the rest of the world as a peace-loving nation. The sentences handed out today and the one the prosecution has requested for Mr. Scharansky, further undermine Moscow's credibility.

Mr. President, I ask unanimous consent to print in the RECORD an article on the issue by Robert Toth, the American journalist who has been named by Soviet officials as a contact of Mr. Scharansky.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TOTH: "THERE WAS NOTHING SECRET"

(By Robert C. Toth)

Several of my stories have been cited during the treason trial of Soviet dissident Anatoly Scharansky, but the one that appears to be principal focus of Soviet anger appeared in the Los Angeles Times Nov. 22, 1976, under the headline: "Russ Indirectly Reveal 'State Secrets,' Clues in Denials of Jewish Visas."

It was written from information collected over at least a month. Scharansky and other Jewish activists provided the data—the names and former work places of Jews refused exit visas on grounds that they possessed "state secrets" as a result of their jobs.

Scharansky was named in the article, as were others. There was nothing secret about any of it. All information I collected in the Soviet Union was for publication in the Times.

It had occurred to me, after two years in Moscow, that Jews from a strikingly wide range of vocations were being denied exit on secrecy grounds, from soccer players to scientists, from waiters to engineers.

Clearly, some of the "refusedniks," as those who were refused visas called themselves, had once possessed secrets because of their previous work. It seemed obvious, however, that the intelligence value of such information had long perished, since none of these refusedniks had worked at all for over five years.

More important, the capricious use of the "state secrets" excuse to refuse an exit visa to a former worker in the Soviet Milk and Meat Institute, for example, seemed worth a story.

Further, Scharansky and others had already compiled long lists of refusedniks and had transmitted them to their supporters in the United States and Britain to elicit public support for their cause.

The lists showed that some of the same work places at which the refusedniks supposedly had received "secret information," such as the Institute of the Chemical Ministry, were sometimes officially classified as open, or non-secret by Soviet officials.

The Soviets did this when they wanted to buy advanced technology equipment like computers from Western Europe and the United States, technology that Western governments would not sell to anything but "open" institutes.

For example, Jews who worked on three "oceanographic research vessels" had been denied permission to emigrate on the grounds that they "learned their secrets at their former work places." This suggested that the research vessels were actually spy ships.

My other scientific stories from Moscow that have been cited in the trial dealt with sociology, genetic engineering, space flights, and parapsychology. I am accused of "worming out information that is not subject to publication in the open (Soviet) press," a Soviet court official said.

My article on sociology described unrest in the Soviet Sociological Institute because of ideological restraints on questions to be asked in public opinion polls. Only politically tailored questions could be asked lest non-Marxist replies come back. Most of these polls are for the information of the Communist Party, and very few are ever published.

Scharansky and I had talked about sociology, much as he did with other Western correspondents to whom he offered his help—help intended to make the correspondent more receptive to stories that Scharansky wanted to push about Jews and dissidents.

On genetic engineering, I interviewed a top Soviet geneticist, V. Englehardt, on the subject of splicing genes to make new life species. An aged and much respected scientist, he asked that I submit my story for his approval before publication. Departing from usual practice, I did show him the article, to which he strongly objected.

He had expected it to be in question and answer form, not part of a newspaper story, and he refused to approve it. I tore up the story and wrote another using information not obtained from Englehardt.

Most help came from a refusednik who has now emigrated, E. Trifonov, but that consisted of translating a technical article from a Soviet scientific journal. Scharnasky knew of my project but, so far as I recall, provided no information.

Trifonov, in fact, suggested just before his departure that I meet a friend of his, Valeri Petukhov, who was interested in parapsychology as a sideline to his main job in pharmaceuticals. Petukhov, who made contact with me first through Scharansky and then directly himself, gave me the article on the Moscow street a year ago. That was when I was seized by police.

Petukhov was part of a trap, it now seems certain. Dissident sources as well as Western diplomats later reported that he was "commended" by the Communist Party branch of his drug institute for "unmasking" me as a spy. So whatever "secrets" may be hidden in extrasensory perception were, in all likelihood, never available for "worming out" from him.

WHITE HOUSE OFFICE AND EXECUTIVE RESIDENCE PERSONNEL

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of H.R. 11003, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 11003) to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs with an amendment on page 13, beginning with line 24, strike through and including page 16, line 8, and insert in lieu thereof the following:

"SEC. 113. (a) The President shall transmit to each House of the Congress, and make

available to the public, reports containing information described in subsection (b) for each fiscal year beginning on or after the effective date of this section. Each such report shall be transmitted no later than 60 days after the close of the fiscal year covered by such report and shall contain a statement of such information for such year.

"(b) Each report required under subsection (a) shall contain—

"(1) the number of employees who are paid at a rate of basic pay equal to or greater than the rate of basic pay then currently paid for level V of the Executive Schedule of section 5316 of title 5 and who are employed in the White House Office, the Executive Residence at the White House, the Office of the Vice President, the Domestic Policy Staff, or the Office of Administration, and the aggregate amount paid to such employees;

"(2) the number of employees employed in such offices who are paid at a rate of basic pay which is equal to or greater than the minimum rate of basic pay then currently paid for GS–16 of the General Schedule of section 5332 of title 5 but which is less than the rate then currently paid for level V of the Executive Schedule of section 5316 of title V and the aggregate amount paid to such employees;

"(3) the number of employees employed in such offices who are paid at a rate of basic pay which is less than the minimum rate then currently paid for GS–16 of the General Schedule of section 5332 of title V, and the aggregate amount paid to such employees;

"(4) the number of individuals detailed under section 112 of this title for more than 30 days to each such office, the number of days in excess of 30 each individual was detailed, and the aggregate amount of reimbursement made as provided by the provisions of section 112 of this title; and

"(5) the number of individuals whose services as experts or consultants are procured under this chapter for service in any such office, the total number of days employed, and the aggregate amount paid to procure such services.

The information required under this subsection to be in any report shall be shown both in the aggregate and by office involved.

Mr. SASSER. Madam President, before proceeding to the consideration of H.R. 11003, I ask unanimous consent that the privilege of the floor be accorded to Cindy Anderson, Knox Walkup, Howard Orenstein, and Al From, of the Governmental Affairs Committee staff.

The PRESIDING OFFICER (Mrs. ALLEN). Without objection, it is so ordered.

Mr. PERCY. Madam President, if the Senator will yield, I ask unanimous consent that the privilege of the floor be accorded to John Childers, of the Governmental Affairs Committee staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Madam President, I ask unanimous consent that Jim Fleming, of my staff, be accorded the privilege of the floor during the discussion and vote on this piece of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PERCY. Madam President, I ask unanimous consent that Wayne Schley, of Senator STEVENS' staff, be accorded the same privilege.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAVEL. Madam President, I ask unanimous consent that Heidi Boucher and Bill Hoffman, of my staff, be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SASSER. Madam President, H.R. 11003 amends various provisions of title 3, United States Code, which provide staff assistance to the President. The provisions are quite outdated. They now only permit the President 14 assistants.

H.R. 11003 authorizes appropriations each year beginning in fiscal year 1979 for expenses of the White House, the executive residence, the Office of the Vice President, the domestic policy staff, and the Office of Administration. It is intended to provide permanent authority for the employment of personnel, including experts and consultants, in those offices, as well as for their expenses, maintenance, and operation.

The authorization includes specified maximum levels of employment and rates of compensation for employees equivalent to grade GS–16 and above.

The bill also authorizes the Comptroller General to verify the validity of certain expenditures of the President and Vice President and to report his findings to Congress.

The President and members of his staff have been very forthcoming with direct responses to any questions asked by the appropriations and legislative committees concerning the numbers of employees in these offices, and their salaries. However, this bill will codify the annual reporting requirement to insure that this practice continues.

In addition, the bill places very specific reporting requirements on the President. Each year he must report to Congress concerning the offices covered by the bill for each fiscal year.

The information required by the report includes the number of employees broken down by categories of rates of pay and the aggregate amount paid.

It includes the number of employees detailed from other agencies to the White House for more than 30 days in a fiscal year, the days they were detailed in excess of 30, and the aggregate amount of reimbursement to agencies by the White House for detailees.

And lastly, it includes the number of experts and consultants procured under the authority of chapter 2, title 3, United States Code, the total number of days such experts and consultants were employed, and the total amount of appropriated funds expended for such experts and consultants.

This information must be reported separately for each office and as a total by category. The Governmental Affairs Committee believed that this requirement, together with other reporting requirements in the bill, will provide the Congress with the information needed to perform its oversight role and to make necessary decisions on appropriations.

The bill, for the first time, would provide a unified authorization for personnel and operations of these offices. Congress has not addressed the authorization question since 1939, when there were six administrative assistants and eight other secretaries or assistants to the President. Instead, Congress has simply provided appropriations for whatever funds the President has requested each year to run these offices.

Because there has been no formal authorization for such annual appropriations, points of order have been raised several times on the floor of the House. Each year for the past several, the House has acquiesced in Conference on this issue.

The bill establishes limits on the numbers of individuals who can be employed at the highest staff levels. Under the bill, the President is authorized to appoint and fix the pay of not more than 25 employees at rates of pay not to exceed the rate of pay for level II of the executive schedule, 25 employees at rates not to exceed level III, and 50 employees at rates not to exceed the maximum rate of basic pay for GS–18.

The provisions in this bill are simply ceilings on the number of employees at these levels that the President is authorized to employ. The ceilings do not represent an increase in White House personnel at these levels being requested for fiscal year 1979.

Mr. President, this bill has been thoroughly considered, having been developed over a number of years. A similar measure was first considered in the 93d Congress. This year Members of the House of Representatives worked through the Employee Ethics and Utilization Subcommittee on the Post Office and Civil Service Committee to develop what I believe to be an important piece of legislation, reasserting Congress' constitutional responsibility in overseeing expenditures of the White House. Then, on April 13, after much debate, the House passed H.R. 11003 by a vote of 265–134.

The Subcommittee on Civil Service and General Services held hearings on the House-passed bill May 2 of this year. The Governmental Affairs Committee, after amending the section regarding annual reports to Congress by the President on the use in the White House of detailees from other agencies, reported the bill unanimously on May 15.

Finally, this bill provides necessary authorization, but it does not deal with appropriations levels. That is for the appropriations process. The central issue is whether Congress should acquiesce in, and by implication, approve of, having Presidents who are unaccountable for their funds and their close staff. To oppose this bill is to oppose placing limitations upon the President's staff and to ignore the duty of Congress to provide for positions in the executive branch. This provision is one of the tensions which the Founders of our Nation put into the structure of the Federal Government at the time of writing the Constitution. It must not be compromised by our inaction. It must be conscientiously exercised.

I believe that the provisions of H.R. 11003 are an appropriate exercise of this responsibility. It places permanent limitations upon the President as to the

taking of certain actions which have been in the past subject to abuse. Any employment of persons for unalwful activities, or personal use of Presidential funds, would be subject to oversight. Moreover, Presidents will not be able to hide the true size of their staffs through the use of detailees, experts, and consultants. They will show up on the White House books.

The controls placed upon the President do not burden him with writing us a letter every time he hires or fires an employee. It permits him to hire whom he wishes. In essence, it places upon the President about the same criteria as we ourselves have for our own congressional staffs.

I believe that the extensive work that has gone into this bill has paid off in an effective and comprehensive measure.

Mr. PERCY. Madam President, I simply indicate that, in my opinion, we have worked out in a somewhat better form of what the House of Representatives attempted to accomplish, and that I found the substitute offered by Senator SASSER to the amendment that I had originally put in to be a very satisfactory way of moving ahead with it. It is described in the report at the bottom of page 11 and the top of page 12.

I do feel that this moves us in a direction that is highly desirable.

I point out that this position that we are taking now in authorizing White House personnel will give us an opportunity to work with the White House in recommending to them certain improvements in the procedures, just as certainly, I am sure, as they feel perfectly free on occasion to recommend procedures that can be improved over here.

I point out particularly the fact that we have not addressed ourselves to many of the problems pointed out in some of the reports we have made in the Governmental Affairs Committee, and I specifically refer to the study that was made on Federal regulation.

We have had some instances recently of appointments, nominations made by the White House, that have been obviously not well thought through, where the research was not carefully done, and, in response to those problems, a recommendation has been made that the White House give consideration to establishing a separate section for nominations, for instance, of regulators.

But I think the White House would also want to take into account the fact that Congress itself, under the leadership of our distinguished chairman, Senator RIBICOFF, has moved to find a way to improve our process of investigating nominations so that we do a better job on the advise and consent process.

I tend to think, having recently seen some cases of nominations that never should have been sent down to Congress, that the executive branch also can do a better job of screening, selecting, and investigating before nominations are sent to us. So I believe this legislation will enable us on an annual basis to work with the White House in finding better procedures for them to handle matters.

But I do commend my distinguished colleague, Senator SASSER, the floor manager of the bill today, for the substitute amendment, which I found very acceptable and a fine way of working us in the direction we all want to go.

Mr. President, I ask unanimous consent that Ken Ackerman have access to the floor during the votes on the pending bill and the debate, he being a member of the Governmental Affairs Committee staff.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

The Senator from Tennessee.

Mr. SASSER. Mr. President, I wish to thank the distinguished and able Senator from Illinois for his comments, and to express my appreciation for his help in working out the bill that we present here.

The PRESIDING OFFICER. Who yields time?

Mr. RIBICOFF. Mr. President, I want to take this opportunity to commend the distinguished Senator from Tennessee for his hard work and for his constructive approach to this measure.

As chairman of the Governmental Affairs Committee I am very proud of the outstanding work being done in behalf of the subcommittee and the committee by the Senator from Tennessee. He is conscientious, he is hard working, he is constructive and imaginative. It is a thrilling experience for me to have the distinguished Senator as a member of the committee.

Mr. SASSER. Mr. President, I wish to express my appreciation and gratitude to our distinguished and able chairman of the Governmental Affairs Committee for his comments, and to say that I am grateful and indebted to him, as I think all members of our committee are, for his able, thoughtful and, I might say, upon occasion tolerant leadership of the activities of that committee. I wish to express my appreciation to him for that.

Mr. WALLOP. Mr. President, are we on a time agreement?

The PRESIDING OFFICER. No.

Mr. WALLOP. I thank the Chair.

Mr. PERCY. Mr. President, will the distinguished Senator yield for a unanimous-consent request?

Mr. WALLOP. I am happy to yield.

Mr. PERCY. Mr. President, I ask unaimous consent that Brian Conboy and Alan Bennett, of Senator JAVITS' staff, have access to the floor during the debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wyoming.

Mr. WALLOP. Mr. President, I appreciate what the Senator from Tennessee stated as the reasoning behind this, as did the Senator from Illinois (Mr. PERCY).

I appreciate the need to do something by way of clarifying certain authorizations, but I honestly feel that it is important to rise and express concern over the direction and the amount of the change at this moment in time when the country is being asked to sacrifice, and being asked personally to make sacrifices, to fight inflation.

I also rise to express concern over the extent to which H.R. 11003 appears to betray certain of the President's earlier campaign commitments.

The bill, as was stated, if passed would provide for 25 White House employees at executive level 2, a supergrade by any measure, and it is an increase of 50 percent over what is present statutory authorization; 25 employees at executive level; 50 GS–18's, and as many GS–16's as the President deems necessary.

On each level these figures would either increase the number of employees or reinforce what candidate Carter once considered to be an unacceptable status quo.

The bill would raise the allocation for Presidential travel expenses from $40,000 to $100,000, and that is an increase of up to 150 percent.

The bill would also create what appears to be an open-ended authorization in several categories, including Presidential entertainment expenses.

This means in some respects that we have abdicated any responsibility—we in the Senate—for using the authorization process for determining what is a reasonable amount of money to be expended for Presidential entertainment.

Mr. President, I cannot see how authorizing this sort of legislation at the moment comports with campaign promises or the calls for austerity in the private sector of the economy at this time.

We are seeing problems developing, even though there were statements made during the campaign against the imperial Presidency, and here we are expanding the Presidential authority in the highest echelons of his own staff by 50 percent.

Now, decentralizing power in the White House was a constituent promise of the Presidential campaign, and yet I think we see now an attempt to strengthen the abilities of the President to disguise the growth of the White House staff by having experts detailed to the Executive Office from other departments of the executive branch.

The President has urged the American people to limit their wage increases to a figure of one-half of 1 percent below the figure of inflation. In my industry, the cattle industry, he has cost every single producer in America $100 per head for every cow he raises, and this in the name of fighting inflation. This was not asked of us, it was just laid on us.

Yet we are being asked to stand by and to accept these increases in rather astonishing proportions. A major increment of his own, what will be considered a salary, his travel allotment is being increased by 150 percent, and yet this is the same man who has not hesitated to attack 3-martini lunches.

He is now receiving an open-ended authorization for his own tax-supported entertainment allowances, allowances which, according to Presidential Assistant Hugh Carter, totaled in the millions of dollars during the last fiscal year.

It just seems to me to go at this thing beyond the needs which, I suggest, is what we are doing, and which is to dam-

age the President's own credibility in what he asks the American people to do by way of fighting inflation, by way of personal sacrifices.

I do not in any way begrudge the man the hiring of people who are necessary to the conduct of a competent White House. But an open-ended increase in so many areas of Presidential allowances just seems to be at cross-purposes with his inflation fight, with his credibility as an inflation fighter.

The people in my industry, I know, will find it very difficult to understand why they have been asked to take a decrease—not an increase, a decrease—in what they were getting for their product of some 15 percent, when they have been subsidizing the American consumer for some considerable period of time.

And they are not alone. There are other people. The postmen are asked to be responsible in their wage requests. The unions are asked to be responsible in their wage requests. The corporate presidents have been asked to be responsible. Industries have been asked to be responsible in raising prices. And all of a sudden, here in the Senate, we are providing a substantial increase, in some cases an open-ended increase, in this authorization.

So I rise, Mr. President, to express a great deal of personal concern about the course we are launched on, not that we should not provide an acceptable authorization to give the President the kind of staff that he postively needs, but it seems to me we have stepped over that bound, and I would have to express personal concern and opposition to the route and course of the bill.

I reserve the remainder of my time.

Mr. SASSER. Mr. President, I must regrettably disagree with the distinguished and able Senator from Wyoming.

President Carter, early in his campaign and early in his presidency, enunciated his view that the White House staff could be reduced and the policymaking power returned to the Cabinet. After an extensive study, the President submitted Reorganization Plan No. 1 on August 16, 1977, which reduced the full White House staff positions from 485 to 351, a reduction of 28 percent.

So the answer as to whether this bill actually increases the White House staff is clearly no. It simply authorizes the top limit.

The current law for White House staff dates back to 1939, and it authorizes a White House staff limit of only 14. I think we can all see that in this day and time of 1978 that limit, frankly, is rather ludicrous.

I might say, Mr. President, that this is simply an authorization bill. The Appropriations Committee will control the expenditure of the money. As a matter of fact, it will control the upper limits of the staff which this President or any other President, under the terms of this bill, might wish to employ.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. SASSER. I am happy to yield to the distinguished Senator from Florida.

Mr. CHILES. I would simply say to the distinguished Senator from Tennessee that I think what he is attempting to do with this bill is provide some accountability. There has not been a legislative authorization level since 1939 for this office, and what we are trying to do is provide for and budget a legislative control, and that is what our mission here is to do.

The distinguished Senator is correct in saying that the Appropriations Committees are the ones that will be funding this; and I have to tell you, as chairman of the Senate Subcommittee on Appropriations that handles this budget, that I think the President has cut personnel too much. I am continually chiding the President and the Office of Management and Budget because they have missions that I think they are not performing in the way they could be performing them, because of the President's concern to make sure that this office does not grow and conflict, down the line, with some of the commitments he has made.

As far as I am concerned, what should be the muscle arm of the executive branch in seeing that we control spending, control inflation, and control other areas could use a little more muscle. I could not disagree more with the Senator from Wyoming, with any kind of feeling that this is going out of bounds, or is going to lose its credibility with the people, as long as the appropriations committees have the right to set the appropriations, and as long as we see an office in this administration that has not gone up in numbers, but has gone down, down, down in numbers, in an attempt to establish accountability.

Having the legislative branch have some kind of control in saying they are going to operate under some kind of an authorization instead of no authorization at all, I think, is the most responsible thing we could be doing.

Mr. WALLOP. Mr. President, if I may respond, there are substantial increases in staff allowances which are of concern to the American people. If the Senator will recall, I did not say I decried a substantial staff for the President. It is the open-ended authorizations in here, and the increases in staff and travel.

Mr. CHILES. What is more open ended than what we have now? Since 1939, we have had the President's budget coming under no control and no authorization, and the sky is the limit. The only control is the Appropriations Committee, but there is no legislative control which says it will not go over a number. So right now it goes through that route; there is no control whatsoever.

What the Senator from Tennessee is doing with this legislation is, for the first time since 1939, putting a limit on it. If that is irresponsible, let us throw the bill out and go on the way we have, have no authorizations at all.

As we have seen, with some Presidents this cost has grown like topsy. At least now we are putting on some reasonable limits, if we have the Appropriations Committee fund that, and go through our hearings to determine what we think those needs should be, and whether we should even go up to what that limit is.

Mr. PERCY. Mr. President, I think the colloquy this afternoon is exactly what was intended by this legislation. For the first time, when this authorization bill was before our committee, we raised a number of the kind of questions that should be raised.

Of course, the White House has asked for this authorization bill, because without an authorization its appropriations are subject to a point of order on the House floor, which causes some concern.

The normal process should be gone through. It was gone through in the committee, and we found a number of things.

When the committee reached the question as to past practice of the White House in appearing to look lean and hardy, we found that any number of personnel were on loan from other agencies and departments, tucked away in some budget where we could not find them because there were 2 here, 3 there, and 10 somewhere else. You really did not know what the White House staff was.

So we provided a new section 113 requiring a report from the President to each House of Congress concerning the offices covered by the bill for each fiscal year. The information required in the report includes the number of employees compensated in each of several categories, and, while I will not quote those, we do ask that the White House report the number of employees detailed in excess of 30 days in a fiscal year, the number of days they were detailed in excess of 30, and the aggregate amount of reimbursement for detailees.

So we have started to put a control on how many employees were loaned by other agencies of the Government, and then phased in and phased out, and we felt that a 30-day reporting requirement was a good requirement.

These practices have gone on for many years, we know that. But the kind of colloquy we are holding on the floor at the present time is exactly the kind that should be raised. We raised many questions in the Governmental Affairs Committee, and I have word that more questions will be raised in the Finance Committee. The questions being raised today are perfectly appropriate, and I think are consistent with the authorization and appropriation process that now, for the first time, the White House personnel authorization bill is going to require. I commend my colleagues for taking an interest in these matters, because I think we can probably bring out some points that will further improve the efficiency and effectiveness of the White House operations.

Mr. SASSER. Mr. President, I think we ought to make clear, and I think the able Senator from Illinois has ably stated the case here, that this legislation simply attempts to put a permanent cap on White House staff positions. In other words, a permanent cap is written into the law.

I might say in passing that we have figures, and we have developed other figures during the consideration of this legislation in the committee, that the total number of White House employees has, in the last 2 years, been going down. For example, from a high in 1970 of 632

employees on the White House staff, in 1978 there were 361 employees on the White House staff.

I might also say that the distinguished Senator from Florida may very well have a point about perhaps a need for increased staffing in the White House. There is a point at which one becomes pennywise and pound foolish. Certainly in this critical and crucial position in the executive branch of the Government, in the White House, itself, I think there is a necessity for adequate staffing.

I ask unanimous consent that there be printed in the RECORD at this point, Mr. President, a list of White House total employees beginning with the fiscal year 1934 and ending with the fiscal year 1978.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

White House staff, 1944 to present

Fiscal year	Total [1]	Detailed employees [2]	Real total
1934	45	120	165
1935	45	127	172
1936	45	115	160
1937	45	112	157
1938	45	119	164
1939	45	112	157
1940	63	114	177
1941	62	117	179
1942	47	137	184
1943	46	148	194
1944	47	145	192
1945	48	167	215
1946	51	162	213
1947	190	27	217
1948	245	23	268
1949	220	26	246
1950	223	25	248
1951	257	40	297
1952	252	31	283
1953	262	28	290
1954	250	23	273
1955	272	41	300
1956	351	59	392
1957	364	59	423
1958	352	51	403
1959	354	31	385
1960	355	33	388
1961	342	134	476
1962	309	123	432
1963	318	111	429
1964	306	125	431
1965	294	154	448
1966	256	219	475
1967	251	246	497
1968	250	206	456
1969	314	232	546
1970	345	287	632
1971	555	17	572
1972	550	34	584
1973	496	24	520
1974	506	47	553
1975	533	27	560
1976	474	25	499
1977	446	17	463
1978	351	[3] 10	[3] 361

[1] Total employees includes full-time employees and special projects employees. Full-time employees are the average number of employees as printed in the actual budgets for 1934 through 1962.

[2] Detailed employees are as of June 30 of each year.

[3] As of Mar. 1, 1978.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The Senator from Delaware.

Mr. ROTH. Mr. President, I call up my committee amendment.

The PRESIDING OFFICER. Is this an amendment to the committee amendment?

Mr. ROTH. No.

Mr. GRAVEL. Mr. President——

The PRESIDING OFFICER. The Senator from Alaska.

Mr. GRAVEL. Mr. President, I would like to speak at some length, though not particularly on this amendment. I just want to place everybody on notice that I will be speaking at some length.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator from Alaska yield for that purpose?

Mr. GRAVEL. No, I do not yield for that purpose, Mr. President.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. GRAVEL. Mr. President, I do not want to disaccommodate any person. Perhaps I will owe an apology to Senator SASSER and to Senator RIBICOFF, but maybe I could explain my case. I feel the Members are entitled to know what is going on.

Before that, I would like some enlightenment. Earlier in the day the majority leader obtained a unanimous-consent request. It was not heard generally, but it went into the RECORD. I would like to read that unanimous-consent request and ask the Parliamentarian if he will amplify what it means:

I ask unanimous consent that the majority leader be recognized at any point daily to move to recess or adjourn.

The PRESIDING OFFICER. Without objection, it is so ordered.

[Laughter.]

Mr. GRAVEL. No. I am just asking.

Mr. President, once is enough.

I thank the Chair for defusing the tension in the Chamber. I think he may have rendered a very constructive service.

I would like amplification, because I, as one Member enjoying the prerogatives of a Senator, would like to know what those prerogatives are and what the limitations might be on those prerogatives, so I may conduct myself accordingly.

The PRESIDING OFFICER. The Chair is advised by the Parliamentarian, who is very seldom wrong, that it simply means what it says: That the majority leader may be recognized at any point, even at a point of removing a Member off the floor, may be recognized to make a motion to recess or adjourn.

Mr. GRAVEL. Mr. President, let me just speak to that. I hope that the majority leader did not mean literally to do that, because, obviously, that would do an unusual discharge of power because, when a person has the floor, as long as he can physically hold the floor, he is entitled to hold the floor. I hope the interpretation of the Parliamentarian, that I, if I choose to read these two volumes and am physically capable of doing it—as I understand the rules in the past and the way the Senate has been handled—I am entitled to do that.

I would be chagrined to see that that unanimous consent, secured without the microphone, quietly, without the opposition being in the room, would now mean that I shall be interrupted as I am talking to all of you gentlemen and taken from the floor. That would certainly alter the ability of extended debate in this body. I think the consequences of that are very serious. So I do not think that is what the majority leader meant.

I would like to address a question to the majority leader, without losing my right to the floor, without having it considered a second speech. Does that require unanimous consent, to ask the question that way?

The PRESIDING OFFICER. Is there objection?

The Chair hears none. The Senator may ask the question.

Mr. GRAVEL. I would like to address the question to the majority leader, because it will affect how I conduct myself. In my judgment, the majority leader did not mean to do it that way.

That would be my question to the majority leader: Does he share the ruling of the Parliamentarian in this regard?

The PRESIDING OFFICER. The Chair makes the observation that unless the previous order is given the meaning that was given earlier, the unanimous-consent request will be meaningless.

Mr. GRAVEL. The Chair lost me.

The PRESIDING OFFICER. Unless the interpretation earlier given is given, the previous order will be meaningless.

Mr. GRAVEL. I do not think I fully understand that. Let me state this: If the majority leader did not mean the full breadth of interpretation the Parliamentarian has given this, obviously, the majority leader would have the opportunity to give his views and so correct the unanimous-consent request. However, if the majority leader agrees that that is the interpretation of what his unanimous-consent request was, I think he would be aware that there is a fundamental change in the distribution of power in the Chamber and I, for one, would want to see that situation corrected.

Does that not square with the statement the Chair just made to me, which I do not claim to fully understand?

The PRESIDING OFFICER. The usual rule, as the Senator from Alaska has correctly observed, is that a Senator on the floor cannot be removed. But then, by a previous order of the Senate upon unanimous request of the majority leader, by that order, the majority leader may be recognized at any point to move to recess or to adjourn.

Without this previous order, the majority leader would have absolutely no such authority to do so.

Mr. GRAVEL. I understand that interpretation of the Chair, so, without losing my right to the floor, I think I got unanimous consent to address a question to the majority leader if that was his interpretation, because I would hope that that was not his interpretation. So I ask that question of the majority leader: Was that the interpretation he placed on his motion when he made his motion for a unanimous-consent order? Is the interpretation of the Parliamen-

tarian in excess of that? Obviously, he would be correct if that is the case.

I ask that most respectfully and with deep personal regard for my colleague from West Virginia, whom I have been a strong supporter of and continued to be, I place that question to him.

Mr. ROBERT C. BYRD. I think the request speaks for itself. The Chair has correctly interpreted the order.

Mr. GRAVEL. I then obviously can be taken off the floor right now. He can interrupt me at any time, or he can interrupt any other Member of the body.

I shall leave it up to the minority to assess the consequences of that, so I shall proceed. Certainly, the majority leader now has the prerogative to do that if he chooses.

I shall be very candid and very straightforward with the body as to what my intention is and why I am doing it and what my tactics will be so the Members can make their arrangements accordingly. I feel I owe this to the Members as a courtesy.

First of all, why I am doing it. There is a piece of legislation in one committee. It is called the d–2 authorization, the Alaska lands bill. It passed the House by a vote of 277 to 31, quite overwhelmingly. It quite obviously has a lot of muscle behind it. That legislation would appropriate 172 million acres of land to four systems and to wilderness areas. That is larger than the State of Texas—about the size of the State of Texas. One can say, well, it is Federal and Congress can make its decision in that regard. That is true. It can, But Congress made a compact with the State of Alaska with respect to statehood and gave us more than 100 million acres of free and unencumbered lands. It also gave the Natives, in 1971, 40 million acres of land. The question of land is interspersed throughout the State of Alaska. So it means that the total process is an interface between—and I shall just show two quick maps. It interfaces with our State and Native lands. It looks like this.

That is just one map, showing one parcel. So you can see that, to really use the Native land and use the State land, we have to have access to it. Otherwise, it is quite ridiculous to give us land and not give us access.

Under this legislation, we now will have to come back to the Secretary of the Interior whenever we have an interface of Federal land and State and Native land.

That may not concern some. It does me, because we just do not know who will be in charge. The present person who is in charge, whom I have a great deal of respect and affection for and agree with on many cases, has already determined the policy.

We have a parcel of ground that is in the wildlife range that industry tells us is the most likely place to secure oil and gas. The Secretary of the Interior has told us that is the last place on Earth he is going to look. He will look everywhere else in the United States but there.

That means we are faced with a situation that a radical environmental group cannot only secure all this Federal land but will have it strategically located that they can thwart any and all economic development in the balance of Alaska.

If we took a poll in Alaska today, 99 percent of the people would be opposed to this action. It is unbalanced legislation. How did it happen and why?

Just stop and think, yourselves, gentlemen. You have gotten a lot of letters on this d–2 issue. Most of you know very little about it and you have had to make some tough decisions environmentally in your State. This is the issue that you give to the environmentalists. It is 5,000 miles away. The impact of it will not be felt for 10 years. Of course, the impact on us will be immediate. But that is only 430,000 citizens and it is far away.

So, what happens is that since this is a throwaway vote, a sop to the environmentalists, you have a situation where Congress, in the House—and you could interview Members. You could listen to their statements and you could read an article in the Christian Science Monitor which stated very clearly that Congress is backsliding a little bit on environmental issues. So this is how Congress gets clean with the system at our expense.

At our expense. So it becomes a small national minority of willful, intelligent, sincere people, who foist their views on the Congress who advocates to them. So we get a tyranny of the majority against the minority.

Mr. DURKIN. Will the Senator yield?

Mr. GRAVEL. If I can finish my point I will be happy to yield in a moment.

The point is very simple. When we are caught in that position, we are in a minority about to be overridden and the consequences are mere survival to the people.

We do what Thomas Jefferson, Montesquieu, John Locke, and others pointed out, that when we have the tyranny of the majority, there is only one recourse, and that is the use of law and the rules.

In this case, I will be using the rules to the best of my ability without impinging upon the prerogatives of the leadership as I will not be involved in adjournments, because that is the prerogative of the leadership. That is really what I am after, but I do not want to impinge on that because what I am initiating now, or did a couple of days ago, was a filibuster on the committee.

Under the rules, if the Senate is in session the committee can only meet for the first 2 hours. So if I can be successful in having the Senate in session at 9 o'clock in the morning and the committee comes in at 11 o'clock, that meeting is illegal. We cannot markup the bill. If they want to, they can meet at night, or in caucus, but that is illegal and it will add to my case. We may ultimately lose.

But let me give another fact.

In the statehood bill, there were hearings in Alaska, because it affected Alaska. On the Native claims bill there were hearings in Alaska, because it affected that State.

Is the Chamber where we are appropriating Native land of the entire subcontinent to have no hearings in Alaska to hear the people?

The House had 5 days of hearings, 10 days of town meetings, 10 days of onsite investigation. We can say that the House made its investigation and we do not need hearings, but since when does this body abdicate its knowledge requirements to the House?

Mr. DURKIN. Will the Senator yield?

Mr. GRAVEL. If I could just complete my point.

Obviously, that is not the case.

My point is very simple, that what we seek, I think, is justice. I think we received shabby treatment and that the forces at work are very effective.

This is the most important environmental item the President is seeking. The chairman of the committee is a very prestigious and powerful Member of the Senate for whom I have great respect.

So here I have myself, the President of the United States, the chairman of the committee. My State just got routed and wiped out in the House of Representatives. Now I stand here trying to save the economic viability of the State of Alaska.

I have tried to meet in the past with the environmental community to try to talk compromise. Do you know what my compromise was? I am not worried about acreage. At least, give us a mechanism to solve the problems you create.

My mechanism is to create a land use planning commission that would adjudicate the use of land on a continuing basis of four members.

Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. GRAVEL. I think it is critical——

The PRESIDING OFFICER. If the Senator would suspend. The Senators will cease conversations.

Senators will cease conversations on the floor.

The Senator from Alaska.

Mr. GRAVEL. I thank the Chair.

I think it is important to understand what the compromise is that I was prepared to make.

I would not fight over acreage. But I wanted a mechanism to meet the problems when they occur. The problems of access, any problems of interface, any problems of hunting. All these things would not have to come back to Congress.

I came forward and I suggested legislation that would produce creation of a committee of four members appointed by the President, with confirmation of the Senate; four by the Governor, with confirmation of the State legislature; and then the chairman would be appointed by the Governor and the President, both together.

This commission would sit with no line power over any agencies of Government, but sit as a legislative body and adjudicate the use of land on a full-time basis.

The only powers would be to outreach and get research information on their decisions.

In addition to that, I would have this commission to be in charge of coordinating all environmental legislation in existence. The Clean Water Act, the Clean Air Act, the Solid Waste Act. So we would have one-stop shopping.

This Senate passed twice a land-use

process. Here we have an opportunity to pass a land-use process in Alaska that would be accepted by the people and, if it worked, it could be a prototype for the Nation.

That is the compromise. That is what it took to buy me off, and then go ahead and steal as much land as you can. But when the problems occurred, we would have a mechanism, a mechanism to adjudicate the differences.

Now the only mechanism is the Congress, and the Congress, once done with this issue, will not look at it for another decade. By that time, we would be crippled.

Now, it may be an easy vote, but I would be happy to debate any Member on this issue and his constituency and ask the simple question, why are we taking millions and millions of acres of sedimentary basin, potential oil and gas that can help abate the economic hemorrhage of this Nation?

Mr. DURKIN. Will the Senator yield?

Mr. GRAVEL. In a moment.

A hemorrhage that may, I suppose, wipe out this Nation.

And we are going to capriciously because the Sierra Club has told us this is the important issue.

I do not thing a reasonable American would say that if there is oil or gas in that particular domain, it has no particular, unusual characteristics. I do not want anybody drilling oil there, or on Admiralty Island, or other places. I do not want an invasion in any of these beautiful, spiritual areas. I know where they are. Most of you do not.

So you will be voting on a piece of legislation that just wholesale and piecemeal says you could drill for oil, and says that this is where it is.

It is absolutely foolhardy. I do not think a reasonable American citizen would let you do it, if you knew what you were doing.

Mr. DURKIN. Will the Senator yield for a question?

Mr. GRAVEL. I am happy to yield for a question without losing my right to the floor and without having it considered as a second speech.

The PRESIDING OFFICER. The Senator has that right.

Mr. ROBERT C. BYRD. Mr. President, I do not object to his yielding, but I object to its not being a second speech, if it is not a question.

Mr. GRAVEL. Well, Mr. President, I am only prepared to yield for a question.

Mr. ROBERT C. BYRD. He can do that without getting unanimous consent.

Mr. GRAVEL. And there will be no danger.

I ask unanimous consent that if I yield for questions henceforth I will not lose my right to the floor.

Mr. ROBERT C. BYRD. He does not lose his right.

Mr. GRAVEL. I want to make it abundantly clear since later on this evening—right now, I am winging it a little bit.

Mr. ROBERT C. BYRD. The Senator does not have to wing it and he does not have to get consent to yield for a question, and he does not lose his right to the floor by yielding for a question.

Mr. GRAVEL. And from the majority leader, that is good enough for me.

The PRESIDING OFFICER. The majority leader is correct.

Mr. GRAVEL. I yield to my colleague from New Hampshire for a question, not a statement, a question. I do not want to be ruled out of order.

Mr. DURKIN. I thought we had that.

Mr. GRAVEL. I lost the floor 7 years ago that way. I will not lose it again.

Mr. DURKIN. Anyway, be that as it may, does the distinguished Senator from Alaska plan to talk all night—and if he does, that does not bother me a bit—but will there be any rollcall votes——

Mr. GRAVEL. I want to assure my colleague, as painful as this process is to me I will be bending over backward to accommodate my colleagues. I can assure you that I will protect your right and that there will be no vote.

In answer to the first part of your question, I can assure you that I intend to be on the floor here until the committee of which you are a member is going to meet, so that when you sit down, it will be illegal, and that will be at 9 o'clock in the morning, as I understand it. I might go further than 9 o'clock in the morning, just to make sure that you people have set an alternate schedule.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. Yes.

Mr. DURKIN. Are you contemplating exceeding Senator THURMOND'S record for a nonstop discussion, or are you just going to go until 11 o'clock tomorrow?

Mr. GRAVEL. I could not beat Senator THURMOND'S record, because I believe he went for 23 or 24 hours. All I have to do is last until 9 o'clock, so I do not need to beat his record. But those were days of old. I think we have had some imaginative approaches to the rules that have taken place since I have been here. I contributed to a few of them.

I might say that this is not my first filibuster. I was engaged in one in 1971, from May 15 until September 1, and I have developed some facility with respect to it.

I know that we all are a little rusty on the rules, but as I say, it will not take me long to get up the speed. I can tell you that I already have a device in mind, and I will spend a very comfortaole evening, and I will not inveigh on my colleagues at all. I only wish the staff could get time and a half for what I will be doing.

There will be no votes on it. I will protect you on it. I will object to any votes; because if I permit any votes, I will lose my right to the floor and, under custom, the majority leader will be able to be recognized in that regard.

The whole thing may change, because the majoriay leader may exercise his interpretation of the parliamentarian's ruling under some unusual unanimous consent that has been secured; but I think you all are beginning to think of what that unanimous consent involves, and I think we will see that situation remedied in time.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. GRAVEL. For a question.

Mr. DURKIN. A parliamentary question. What is the extent——

The PRESIDING OFFICER. Does the Senator from Alaska yield for the purpose of a parliamentary inquiry?

Mr. GRAVEL. I yield for the purpose of a question.

Mr. DURKIN. Of the Chair.

Mr. GRAVEL. No, for your question. If you want to question me again, please question me again. If you do not want to question me, I will go about my business.

Mr. DURKIN. I am asking you to yield so that I can make a parliamentary inquiry.

Mr. GRAVEL. No; I have the floor. You may ask me a question.

Mr. DURKIN. I have a lot of respect for you, but you are not the Parliamentarian.

Mr. GRAVEL. You will have to put up with the level of knowledge that is availto you. [Laughter.]

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. GRAVEL. For a question.

Mr. DURKIN. For a question.

Mr. GRAVEL. I yield for a question.

Mr. DURKIN. Would you propound the parliamentary question?

Mr. GRAVEL. I will be happy to do so.

Mr. DURKIN. What is the duration of the majority leader's unanimous-consent request?

Mr. GRAVEL. Mr. President, may I propound such a question without losing my right to the floor?

The PRESIDING OFFICER. The Senator may propound a parliamentary inquiry, yes.

Mr. GRAVEL. My parliamentary inquiry is this: What is the duration of the unanimous-consent request secured or the special order secured by the majority leader earlier this afternoon?

The PRESIDING OFFICER. The Chair will recite the unanimous-consent request, which is now an order, that the majority leader may be recognized at any point daily to move to recess or to adjourn. There is no limitation. The matter continues on and on until that order is removed, until the end of this Congress, the 95th.

Mr. DURKIN. Mr. President, a further parliamentary inquiry.

Mr. GRAVEL. If my colleague addresses his inquiry to me as a question, I will be glad to help him.

Mr. DURKIN. Is that a unanimous-consent request to amend the rules, or was that just a unanimous-consent request that would abide until the next unanimous-consent request?

Mr. GRAVEL. I will be happy to answer the question for you. I think it is just a unanimous-consent request, not to amend the rules. It is just a special order. We do it all the time.

The PRESIDING OFFICER. The Senator from Alaska is correct.

Mr. GRAVEL. You see the level of knowledge you are getting. [Laughter.]

That is without being up to speed. There is nothing like on-the-job training. I am a great advocate of that.

Mr. DURKIN. Do not let me interfere with your getting up the speed.

Mr. GRAVEL. My colleague knows that I have great personal affection for him.

He knows that we may differ on this particular issue, but I admire him because he is expressing a love of Alaska, and that is really what I have. His love is not tempered by as great knowledge as is acquired from living there. But you have to bring home the bread. It is great to have a beautiful place, and we have a beautiful place. We have 400 million acres.

Mr. DURKIN. Where did you get the other 25 million?

Mr. GRAVEL. We can cut Alaska in half and make Texas the second largest State.

Mr. DURKIN. The last I knew, Alaska had 375 million acres. Did you pick up 25 million acres this afternoon?

Mr. GRAVEL. No. I was trying to state it in round figures. We have 433 million acres because of the acres offshore, and we count that as our own. We have a little problem in the Beaufort Sea with respect to the Federal Government, but we do count that as our own; so in the subcontinent of Alaska there are 430 million acres. But if you just took what we got by statehood, we got 300 million acres. When it is completed—listen to me—we will have 172 million acres. I believe the State of Texas has 107 million acres.

We are going to do this in one fell swoop and do it overwhelmingly, as it was done in the House, when people have not taken a map and studied it as to where the—let me show you something here which is interesting.

While I have an audience, I will try to speak as meaningfully on the bill as possible. The situation is very simple.

If the environmentalists were sincere, if all they wanted was the 172 million acres, they would not have any problem in accepting land use planning, because that is what they have been for over time. But the fact that they do not want any land use planning but just want the 172 million acres has to be the tip-off that something else is going on that we are not prepared to accept.

The classic example here is when you look at the shift in the lower Brooks Range. This is petroleum reserve No. 4.

This area here, in the Kobuk Valley, in those mountains, the environmentalists do not dare make claim on, because the minerals are so rich it is unbelieveable, and we have several mining activities going on there. But they are very clever. They knew they could not make a call on that, so what did they do? They took the land in front of it and put a dog-leg around it, and there is no way to get the minerals out except fly them out.

I have flown that area, and anybody who has flown it—maybe the Senator from New Hampshire has flown it—knows there is nothing significant in that area. The terrain there is no different from the terrain there or there. Why did they take it? Part of the eco-system. The eco-system is this whole area. Why did they fight to get that? They do not have to get this other land. Economics will get it for them.

That is just part of the charade that has been played on us. You wonder why the Alaskans are upset? It is criminal; and what is more criminal about it is that, by and large, because of the normal humanness of representative government, what is going to happen is that most of you are going to give your vote away to the environmentalists in your district, because sometimes you have to stand up to them on issues that affect your district. But because this is 5,000 miles away and the impact will not be felt easily, it is an easy shot. That easy shot in the House of Representatives, on a vote, was 277 to 31.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I yield for a question.

Mr. DURKIN. I gather that the Senator's aim is to prevent the Energy Committee from continuing with a markup on the d–2 legislation.

Mr. GRAVEL. That is the first line of attack. The second line of attack is, you fight them at this hill, you fight them at that valley, you fight them at that stream. The bill is here and it is in committee, and so far as I am concerned, the gauntlet is down, and I am going to fight every step of the way as I have to retreat. Or, if I can win a victory at one of the barriers, the issue is over this year. I am prepared to compromise, but not this year. I will compromise in January.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I am happy to yield.

Mr. ROBERT C. BYRD. Do I correctly understand that the Senator said he intends to speak until 9 o'clock tomorrow morning?

Mr. GRAVEL. My intent, Mr. Leader, is to keep the body in session until 9 o'clock tomorrow morning. That is when the committee is supposed to meet. If the body is in session at 9 and we go on to normal business, then I would feel I have accomplished my goal. If there were some efforts to adjourn at that time, to permit the committee to meet, then obviously I would have to extend my posture here.

Mr. ROBERT C. BYRD. Would the Senator allow the Senate to vote on the bill that is before the Senate, with the understanding that upon the disposition of the vote, he would retain his right to the floor, so that Senators can go home? I will stay here with him.

Mr. GRAVEL. I will be happy to do that to accommodate my colleagues.

Let me just say to the majority leader that it is not my intent, and there is no need for him to stay here. I can watch the floor for him, and I want him to get a good night's sleep because he has a tough task to manage this body. Very sincerely, there is no reason why the majority leader has to stay here 1 hour after the bill is passed. I will be happy to stay here with the unfortunate souls who are paid to accommodate me, and I wish to say after it is all over I wish to put a bill in for some extra money for overtime for them for time and a half.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous-consent request with the understanding that he not lose his right to the floor and upon his regaining the floor it not count as a second speech?

Mr. GRAVEL. Mr. President, reserving the right to object to that, I hope the majority leader will amplify that request.

Mr. ROBERT C. BYRD. I am glad to amplify that request.

The purpose is I wish to finish action on this bill so other Senators may go home and the Senator from Tennessee, who is managing his first bill on the floor, will not be delayed in handling that bill, and other Senators who are staying around for a vote on that bill, in the event there is a rollcall vote, will not be discommoded in having to stay around all night and the Senate will not be discommoded by having to wait until tomorrow to take action on the bill that is virtually concluded here, and I offered to make that request in that way and that will protect the Senator so he may have the floor again after disposition of that bill and that it not count as a second speech against him and will accommodate all other Senators.

Mr. DURKIN. Mr. President, reserving the right to object.

Mr. GRAVEL. Mr. President, reserving the right to object, I wish to make one thing clear here, and I agree with all of that. I certainly apologize for disrupting the Senate in that regard.

I wish, as part of the unanimous-consent request, that the majority leader include that I be given the right of the floor and absent any other rule that I be able to retain it for the simple reason of the dilemma I was in last night. When I was attempting to do this, upon investigation I found that we have bills stacked up with time agreements. The only reason I was able to do this tonight was because of the fact that this bill had no time agreement. I do not want to be placed in a situation with the passage of this bill that, one, I have no time agreement and, two, I have no vehicle to amend. So I need a vehicle to amend. So if we could call up a piece of legislation that the majority leader could pick at random so that would be the pending business after this so that I have a legitimate piece of business that I can amend and that there would be no germaneness rules to hit me from the side, then I would feel comfortable.

If we could propound a unanimous-consent request that would be along these lines, one, that it would permit the disposition of this bill; two, that would be laying down of a piece of legislation that would be a vehicle for me to amend; and, three, that that legislation would have no time limit and that I would be permitted the floor until, let us say noon tomorrow or if I am holding it beyond that time, but I as a matter of right would have the floor until noon tomorrow without any danger of being sideswiped through manipulation of the rules.

That is the kind of unanimous-consent request I would propound, and I do it most respectfully to the majority leader and with apologies to our colleagues for having delayed them for a half hour.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, without losing his right to the floor and without counting it as a second speech, the Senator from West Virginia has propounded the request that fully protects the Senator.

Mr. GRAVEL. I do not think that is the case. If I could say most respectfully, I need a vehicle so that I cannot be switched swimming.

Mr. ROBERT C. BYRD. The Senator is not going to get a vehicle. I call up the vehicles here. The Senator is not going to get a vehicle. I have asked unanimous consent that the Senator from Alaska be allowed to yield the floor for the purpose of disposing of the bill that is before the Senate, allowing other Senators to speak on that bill if they wish, to offer amendments if they want to, which actually if such happens is for the convenience of the Senator from Alaska, and with the understanding that upon the disposition of that bill he again regain the floor, that it not count as a second speech against him, and that he be allowed to speak without any bill before the Senate.

Mr. GRAVEL. Mr. President, I have to object for the very simple reason that the majority leader is a wily person who is expert on the rules as can be and I——

Mr. ROBERT C. BYRD. What is the Senator afraid of in that?

Mr. GRAVEL. I am afraid of when I do not have a vehicle to position myself on that I will be fatigued and I might say that——

Mr. ROBERT C. BYRD. No; my request was that the Senator be allowed to speak without a bill before the Senate.

Mr. GRAVEL. I am going to get tired about midnight, and I want to have a couple crutches to hold me up, and I have a couple in mind.

Mr. ROBERT C. BYRD. I am going to be here to propound the request.

Mr. GRAVEL. I would value the situation where the majority leader got home and had a good dinner and good night's sleep.

Mr. ROBERT C. BYRD. The Senator from West Virginia has already eaten his dinner.

Mr. GRAVEL. Let me say that I would have to object, and I want it clearly that I am prepared to cooperate. I am prepared to cooperate to acquire an equal position that I presently have. I have a position and I can recall once when I tried to filibuster——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. GRAVEL. I will yield for a question.

Mr. ROBERT C. BYRD. Mr. President, I wish to propound a parliamentary inquiry to the Chair without the Senator losing his right to the floor and him being fully protected.

Mr. GRAVEL. And that it not be considered a second speech. I yield.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBERT C. BYRD. Mr. President, does not the request that I have propounded fully protect the Senator from Alaska in the following respects, that upon the disposition of the bill now before the Senate he would regain the floor, No. 1; No. 2, it would not count as a second speech against him; No. 3, he would be allowed to speak as long as he wished even though there is no vehicle before the Senate, so he is fully protected. Am I correct?

Mr. GRAVEL. Could I add?

The PRESIDING OFFICER. The Senator is correct.

Mr. GRAVEL. Mr. President, I wish to propound a request.

The PRESIDING OFFICER. The Senator's right to the floor is protected and the Senator will be able to keep the Senate in session as long as he wishes to.

Mr. GRAVEL. Mr. President, if I send to the desk an amendment and it is properly in order and I ask that it be read, will it be read automatically?

The PRESIDING OFFICER. The Senator has a right to offer his amendment to have it reported.

Mr. GRAVEL. I think that this legislation I have is a real germane amendment. I have the two-volume biography of Gerald Ford. I think that this legislation deals with the White House, and I picked this amendment especially because I think it would be valuable and I think that the desk will begin to start reading it when I get tired. In that way I can sit and listen to them and make sure that I can hear it properly and it moves along at a proper rate of speed.

I can only do that if I have a vehicle. Otherwise, I stand here until noon tomorrow, and that is going to be very painful.

Mr. ROBERT C. BYRD. Does the Senator send to the desk that amendment?

Mr. GRAVEL. No; the Senator does not send to the desk that amendment as yet. I want to, as long as I can physically do it, speak to the issue because I think it is a meritorious issue.

Mr. ROBERT C. BYRD. The Senator has his opportunity under the request I made.

Mr. GRAVEL. I will speak to the issue. I can assure the leadership and my colleagues that I will not permit any voting, No. 1; No. 2, that I will not propound any unanimous-consent request that has not been cleared with the leadership, and that I will not do anything other than occupy the time of this body so that this body is in session at 9 o'clock tomorrow morning.

Mr. ROBERT C. BYRD. Why is the Senator not willing to do that under the request that fully protects him under my word of honor, fully protects him? If I wanted to take the Senator off his feet right now and move to adjourn, I could do it, but I am not going to do that. What I am trying to do is to allow the Senate to work its will, let Senators go home, and let the Senator speak all the time. He will be fully protected. There is no pig in the poke here, no tricks in this bag, and he has the opportunity under this procedure to make his speech until 9 o'clock tomorrow morning and let everyone else go home and pass the bill that is before the Senate.

Mr. GRAVEL. I say to my colleagues——

The PRESIDING OFFICER. The Chair will observe that until such time as the committee amendment has been adopted and disposed of the Senator from Alaska may not offer an amendment unless it is an amendment to the committee amendment.

Mr. GRAVEL. I think the Parliamentarian will have an opportunity to judge the efficacy of the technical presentation at the proper time. I was only conjecturing as to what might happen about midnight if I get tired.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I am happy to yield for a question.

Mr. ROBERT C. BYRD. Does he wish to offer an amendment even before the committee amendment has been adopted?

Mr. GRAVEL. In response to my cherished colleague——

Mr. ROBERT C. BYRD. If he does, I will try to get unanimous consent.

Mr. GRAVEL. Certainly he has more respect for me than for me to give away a painful 10 hours. That is really what his unanimous-consent request is. I do not mind accommodating my colleagues, but if I am going to have to stand on my feet between now and noon tomorrow, as an accommodation to Senators, I think there would be some milk of human kindness in their hearts to understand as to why I will not agree to this.

What my choice is is real simple: Either I physically stand here until noon tomorrow or I keep the position I have and I discuss the bill as long as I want to, and then when I am tired I file my amendment and I sit down and snooze and just stay alert in case somebody were to come in and try to run a unanimous consent on me or try to adjourn on me.

But in the absence of that I can spend a fairly comfortable evening. That is what is at stake. So I think my colleague would understand it is not in the sense of selfishness but this is a difficult exercise for me to undertake. I do not do this gladly.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield for an additional question.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senator be allowed to yield to me without it being a question, and that he be fully protected.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. As I understand, the Senator wants to talk all night in his effort to keep Senator JACKSON'S committee from meeting tomorrow morning.

Mr. GRAVEL. On one subject. The committee can meet on other subjects and do its work. But on this one subject I am surgically doing what any Member of this body will do.

Mr. ROBERT C. BYRD. But the Senator will be able to do that under my request.

Mr. GRAVEL. No. I would hate to——

Mr. ROBERT C. BYRD. He would be fully protected, and the Senate could work its will on the bill before us. Senators could go home. The Senator can continue to talk. He can talk until 12 o'clock tomorrow, or 1 o'clock tomorrow afternoon, 2 o'clock tomorrw afternon, as long as he does not run afoul of any other rule of the Senate.

Mr. GRAVEL. I would not do that.

Mr. ROBERT C. BYRD. My request fully protects the Senator.

Mr. GRAVEL. The difference, I must respectfully say to my colleague from West Virginia, is what his request does

is that I will physically stand here and talk all night. What the position I have now is that I could talk as long as I want, and then I can have the floor, I can have the clerks at the desk, who are sitting down comfortably and not cooling the blood in their legs, I can have them sit and read, and there is a big difference between my standing and having to read and getting hoarse and tired as opposed to letting them read my amendment which I have here.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I would be happy to yield for a question.

Mr. ROBERT C. BYRD. I am prepared to pose a request that the Senate vote on the passage of the bill before it, I can say, at 11 o'clock tomorrow morning. Will the Senator yield for that request?

Mr. GRAVEL. I would be happy to yield for that unanimous-consent request if the majority leader would promise me that if tomorrow—and tomorrow is Friday—the Interior Committee chooses to meet on d–2 that we will be in session from 9 o'clock on.

Mr. ROBERT C. BYRD. I am not prepared to make that request. I have already gotten an order that the Senate will come in at 10.

Mr. GRAVEL. If I could merely state, I am trying to really accommodate the leadership. I do not want to get in the Senator's way. I just want to use the rules very surgically, to not hurt anybody but to do exactly what I am after, and that is to protect the rights of the people of Alaska, which I am paid to do, and I am prepared to go to any length to accommodate the leadership. I would be happy to have the Senate vote on this. All I want to do is to stay in session so that the committee will not meet. The committee is scheduled to meet at 9 o'clock. If they hang around and wait and come in at 10 o'clock and we are not in session, I have not succeeded in what I am trying to do. But I do not want to keep the Senate in meetings tomorrow afternoon. The Senate can work its will, but I just want to go after this one little area.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. GRAVEL. Can the leadership accommodate me on that? It is not really so much to ask.

Mr. ROBERT C. BYRD. The leadership is merely seeking to get a vote on the bill that is before the Senate. The leadership is not attempting to take the Senator off his feet. He can speak all night and accomplish whatever purpose he thinks he is accomplishing by speaking on it, but other Senators could go home.

Mr. GRAVEL. I want them to do that.

Mr. ROBERT C. BYRD. They could do that if the bill would have been passed.

Mr. GRAVEL. Let me say that yesterday morning I accomplished what I was trying to do. The committee did not meet. I came here at 8 o'clock in the morning and I talked for 1½ hours. I only got off when the special order came on, and I did not dilly-dally. I did not put on quorum calls. I talked on the issue. Nobody was discommoded. In fact, the members of the committee had a chance to work on their problems affecting their States. They left my State alone for a couple of hours, and I wish they would do more of it and concentrate on their own States.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I would be happy to yield for a question without losing my right to the floor.

Mr. ROBERT C. BYRD. Does the Senator not recognize that when he discommodes the first committee and prevents it from meeting he prevents other committees from meeting except by unanimous consent?

Mr. GRAVEL. I will be prepared to propound the unanimous-consent request right now that whenever I am doing this any other committee can meet, and that committee can meet on any other subject save this one. What is more accommodating? I will not permit myself to be cast as a person who is just shooting buckshot across the Chamber. I am not. I am trying to be very careful to go after one little area.

I say here when people were making filibusters and while I was suffering the consequences of it, and I thought they were ridiculous, and they were broad national filibusters. This is something that involves whether or not my people in my State work 1 year or 10 years from now. So I think there is some sympathy or should be some sympathy on my side of it.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. GRAVEL. I would be happy to yield.

Mr. ROBERT C. BYRD. The Senator from West Virginia might have a great deal of sympathy for the Senator's problem if he would not abuse the Senate in the process. His fight is with the committee at the moment, and I would hope that he would wait until the bill is on the calendar and until such time as the majority leader calls it up to wage his filibuster. I would have no quarrel with his doing that. He would be perfectly within his rights. But at this time he is making his fight on the floor, and he is holding the entire Senate hostage to his desire that the committee not meet.

I would hope that he would make his fight in the committee, give the committee a chance to meet, make his fight there, and then if the bill is reported and called up at some future time—I do not know that it will be called up, I am going to discuss this with the policy committee—the bill may never be called up—but why take the floor at this time to wage a filibuster on the floor when the matter has not even been reported from the committee?

Mr. GRAVEL. Let me just say to the majority leader that he must have some appreciation of how much it pains me to put him in a position of having to exert his strength as leader.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. GRAVEL. Let me just finish this one point so that we clearly understand it.

I am not invading the prerogatives of any Senator. The rules are there to protect the minority, that is what democracy is all about. When you get a majority it is protected by its numbers. The minority is protected by the rules. I am not doing anything that is not in the rules. I am not doing anything improper. I am not doing that which any one would do if your State's survival was at stake. So I am not going to be cast in the position—my quarrel, my fight, is not with them. My fight is with the issue, and it is up to me to use the God-given intelligence I have to research the rules, as has been so ably done by Senator ALLEN in the past, who pioneered the way in which this—to research the rules and figure out a new way for a filibuster, and I have got a new way figured out.

If I might finish——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. Just let me finish making this point in response to the previous statement of the majority leader.

So all I have done is figured that it is going to be a tough filibuster, a tough one, so rather than wait—I could wait to accommodate the body, not to speak until the conference report comes back. But it would be next to a fool who would do that because he has had one shot at it, and then if you lose you are dead.

What I am doing now gives me a lot of shots at the target. I do not know if I can hit the target, but I have got it engineered in my mind, using the rules properly, and I want to assure the majority leader I am not invading his prerogatives. His prerogatives are to adjourn. I do not want to mess with that. I do not want to propound anything to do with that. That is his prerogative. But I want to stake my position on the manual and the rules, and if I am a little out I am sure somebody will bring it to my attention, bring it out.

Mr. ROBERT C. BYRD. That is why I want the Senator to yield.

Mr. GRAVEL. I would be happy to have him give me some counsel. I yield without it being considered a second speech.

The PRESIDING OFFICER. The Senator yields?

Mr. GRAVEL. I would be happy to.

Mr. ROBERT C. BYRD. The Senator says he wants to go according to the manual. He wants to go according to the rules. Has he not read in the manual that the committee does not need unanimous consent to meet after the first 2 hours if the majority and minority leaders give that consent?

Mr. GRAVEL. I would merely suggest to the majority leader that if that is his interpretation of their rules, then we will have to have—we will see what happens tomorrow. Then I will have an appeal from the ruling of the Chair and we will vote on it.

If the majority leader places himself in a position of acquiring a lot of power all at once, that was not envisoned in the general body's interpretation of the rules, and I would caution the majority leader that I am trying to be very accommodating, and I am not pushing anybody to any excesses.

People have stood on the floor and have debated legislation.

Mr. ROBERT C. BYRD. Mr. President,

will the Senator yield for a parliamentary inquiry?

Mr. GRAVEL. Let me finish. I do not know why I should be accused of doing anything unusual because what I am doing is what 20 people have been doing in the last 10 years I have been a Member of this body.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. GRAVEL. So I would appreciate a little bit of accommodation from the leadership and from the body as I pursue my goal. I am not being excessive, and I do not expect any excessive measures against me. As a good colleague whom I will not name told me earlier today, if I lose my filibuster, there will be nothing moved in the Senate, and this colleague has little to lose in that way.

Mr. ROBERT C. BYRD. Will the Senator yield for a parliamentary inquiry?

Mr. GRAVEL. I am happy to yield for a parliamentary inquiry, provided that in doing so I do not lose my right to the floor, and that my subsequent remarks not be considered a second speech on the same subject on the same legislative day.

Mr. ROBERT C. BYRD. Mr. President, is it not correct that the majority leader and the minority leader, if they agree, may give consent for a committee to meet, and that under that circumstance, the unanimous consent of the Senate is not required?

The PRESIDING OFFICER. The Chair will read from rule XXV, paragraph 7(a), which reads as follows:

> When the Senate is in session, no committee of the Senate or any subcommittee thereof may meet, without special leave, after the conclusion of the first two hours after the meeting of the Senate commenced and in no case after two o'clock postmeridian unless consent therefor has been obtained from the Majority Leader and the Minority Leader (or in the event of the absence of either of such Leaders, from his designee).

Mr. ROBERT C. BYRD. So the Senator may be keeping the Senate up all night and failing in his objective of keeping the committee from meeting on tomorrow. All that is really needed is the consent of the majority and minority leaders, under the rule. The minority leader and I have never utilized this authority, which is our prerogative under the rule, but I simply want to call to the attention of the Senator from Alaska that what he is doing may be an act of futility, and I want to call to the attention of the Senate that the Senator from Alaska may be keeping the Senate in all night in an effort to keep one committee from meeting; and it could be an act of futility on his part, if the majority leader and the minority leader were to give their approval for that committee to meet.

Mr. STEVENS. Mr. President, will my colleague yield to me for the purpose of making a short statement, with the stipulation that he not lose the floor or be considered to make a second speech on the same subject in his subsequent remarks?

The PRESIDING OFFICER. Does the Senator ask unanimous consent for that purpose?

Mr. STEVENS. I do.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. STEVENS. Mr. President, I want to state to the Senate that I respect my colleague for what he is doing. The unfortunate problem is that I am the one who is encouraging the committee to meet tomorrow morning and I want to be sure Senators understand why. Several of my colleagues have asked and I would like to advise them and my colleague from Alaska where I stand on this matter.

The committee seeks to meet to amend the House-passed bill, to meet objections I have raised. Unless it can meet, it cannot consider those requests that I have made; and so, while I respect my colleague's approach, which I think is a unique approach to the concept of the filibuster, I think the Senator should consider that from my point of view, I intend to try to seek to change this bill in committee, as I think I have a good deal better chance of doing so there than here on the floor.

Let me clarify that I am seeking to let the committee meet because I want it to meet and seek to change this bill, which both my colleague and I believe is horrendous and detrimental to the future of our State. But we simply have different approaches to the problem.

I thank the Senator for yielding.

Mr. GRAVEL. I am sure that my colleague did not intend to state that he has asked the committee to meet. I think he is seeking to change the legislation in committee.

Mr. STEVENS. No, I stand on what I said. I did encourage the committee to meet at 9 o'clock.

Mr. GRAVEL. But that is just to accommodate that one time. I think if my colleague had the power, and I would propound this question to my colleague with the provision that I not lose my right to the floor, that if my colleague had the power to ask the committee not to meet on this subject until next year, he might want to do that?

Mr. STEVENS. I assure you that if I could ask the Senate to forget about it completely, I would do that, but I do not think that is within my power.

Mr. GRAVEL. Yes, I agree. The majority leader has made a very strong point that he has the power to let the committee meet or not meet. And he could choose to exercise that power, as he has the power to take me off the floor right now, or not take me off the floor. So we just have to go on and just choose sides to see how we go along. I seek to hold the floor without interruption from my colleagues.

So be it. If the majority leader wants to exercise his prerogative, or the minority leader wants to do that, they can do that. That will not solve the problem on the floor, and I am using the floor in order to get at the committee.

We all have our responsibilities, and must discharge them to the best of our abilities, and I am going to discharge my responsibility to the best of my ability.

Mr. President, I would like now to go into the statement that I made when I first introduced my bill, which is S. 2944, a bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, National Forest, and National Wilderness Preservation Systems, to establish a Federal-State Land Use Planning Commission, to establish procedures for the management of fish and wildlife on public lands in Alaska, and for other purposes.

The bill was referred to the Committee on Energy and Natural Resources.

Mr. President, when I introduced this bill, I said this bill is the product of the views and legislative work of many different interest groups and individuals as well as my own. I have solicited and received the thoughts and suggestions of literally thousands of organizations and knowledgeable persons both within Alaska and outside Alaska over the past several years on this issue. Much of this input is reflected in this bill. In addition, I have closely watched the progress of similar legislation in the House and have incorporated some of the language which was developed in the House Interior Committee where I felt Alaskan interests had participated in developing some good compromise language and provisions. Furthermore, the bill reflects consideration of the available, though limited, literature and data on alternative resource uses of lands which some have proposed for inclusion in conservation systems.

My bill calls for the inclusion of 51.25 million acres—

Mr. MELCHER. Mr. President, will the Senator yield?

Mr. GRAVEL. I am happy to yield, without losing my right to the floor and without having my subsequent remarks considered as a second speech on the same subject on the same legislative day.

Mr. ROBERT C. BYRD. Mr. President, I object to any yielding except for a question.

Mr. GRAVEL. I yield for a question. The Senator has a question, I believe.

Mr. MELCHER. Yes.

Mr. GRAVEL. I yield for that purpose.

Mr. MELCHER. I thank the Senator for yielding, and I wonder if the Senator would mind telling me, if we are to properly assess the bill dealing with the d(2) lands in Alaska. does he feel that the members of the committee, such as myself, should be detained here much longer this evening?

Mr. GRAVEL. No, I would hope that my colleague would not feel committed to be detained. I feel there will be no reason for voting. I have no intention of calling for votes or calling for anything that would discommode him in any regard. I do not think there would be any reason for him to stay. Does that answer my colleague's question?

Mr. MELCHER. If the Senator will yield, am I to assume we are not waiting around here for any kind of a vote?

Mr. GRAVEL. Not that I know of. I am prepared to go until tomorrow, so there would be no reason for my colleague to wait around for a vote since I will not permit the vote to take place. I have the floor and will be opposed to yielding the floor.

Mr. MELCHER. If the Senator will yield further, what assurance could I

have that, having gone home, there will not be a vote called for?

Mr. GRAVEL. The assurance is that I will hold the floor until we adjourn or recess. If I cannot do that, I am sure the leadership is not going to call for a vote on this issue in the middle of the night. I cannot envision that. I think votes are set for the general accommodation of the Members. If there is going to be a vote, there is no big deal about it. But under the circumstances, I tried to explain the situation as best I could.

Mr. MELCHER. Would the Senator—and I ask the question—want to assure me absolutely that having gone home, let us say, at 7:32, that there would not be a vote at 11:32, when it would be impossible for me to cast my vote without waking up at 11 o'clock, coming back here and casting my vote? I will ask my colleague if he thinks it is wise to wear us out when clearly the duty of those of us who are on the Energy and Natural Resources Committee is to be able to attend the committee meeting at 9 o'clock tomorrow; to make sure that there is a considerate, a compassionate, and a deliberate judgment rendered on all facets of the bill that is now pending before the committee, which we are marking up, dealing with the d(2) lands in Alaska.

Mr. GRAVEL. Let me just say if there is anybody who I am sure can bring about a deliberate, dispassionate, compassionate, understandable, and intelligent understanding or approach to the legislation it is the Senator from Montana. It is my feeling that he has that full capability. The problem is I wish he was in the majority. I wish we had 51 of him in this Chamber, to be sure that would take place, that when we got to conference Congressman UDALL and SEIBERLING would not run roughshod over us. I pray to God we would have 51 Members like Mr. MELCHER in this body. I can only say there is not enough of the Senator to go around. That is why I have to do what I am doing. It is certainly not to disaccommodate the Senator from Montana. Certainly, tomorrow morning at 9 o'clock he probably has more work than he can say grace over, we all do, and he does not have to focus on Alaska lands tomorrow morning at 9 o'clock. I am sure he can find something concerning Montana lands, and so on, in which I would join him.

The best response I give to my colleague is that to the best of my ability no votes will take place. I would suggest that if he has plans to go home and spend a pleasant evening, to go home and get a good night's sleep, that he do that. I wish I could. That is all I can say.

Mr. MELCHER. If the Senator will yield further, it is obvious that the Senator from Alaska is not in a position to guarantee what might happen on the Senate floor in the case of a vote, but the Senate leadership will determine whether a vote is in order. If I am going to have the opportunity of fulfilling my duty as a member of the Energy and Natural Resources Committee, having been awarded that duty, I might remind my friend from Alaska, as an appointment by the Steering Committee and agreed to by the caucus, to fulfill my duty properly before that committee and do it effectively, as the Senator from Alaska is so gracious to compliment me, I cannot stay here trying to decipher whether or not there is going to be a vote and be able to return in good shape tomorrow morning to attend the committee meeting at 9 o'clock to deal with the very important subject dealing with the lands in Alaska.

I meant to phrase it in a question. I think my colleague from Alaska might have a response to that. I do want to thank my colleague for yielding.

Mr. GRAVEL. I appreciate my colleague's views, and I certainly favor the full connotation of what he is saying. I want to have the record reflect that it is not my intention to stop this legislation, personally. I think we are going to have to deal with that like many others. I want to see land in Alaska set aside, but I want to see it done in a balanced, even fashion, the way the Senator from Montana would bring his judgment to that. The problem is that the judgment of the Senator from Montana, my judgment, or what would be a balanced judgment, has no chance of survival this year. I feel we might get a much better shake out of the Senate than we would out of the House. It will go to conference and with the conference, with the vote in the House, the fact that we have two gentlemen in the House who are strong leaders in this regard and we have no strong leaders on this side, other than the senior Senator from Alaska and myself, we will see ourselves fail and we will go back essentially to the House bill.

Every Member of this body who has been to a conference knows how it is going to happen. It is just the empirical observation of what is the obvious that compels me to do what I am doing. It is not to thwart the will of the committee. I want the committee to exercise its will. But I want the committee to be successful when it does exercise its will. That is the reason why we can only take this up next year.

Next year the House—well, it is not the House. It is the national environmental community—that is who it is—the leadership of the Sierra Club, the Wilderness Society, the Audubon Society. All we have to do is sit down with those fellows and cut a deal and the Congress will buy whatever it is. There are not 10 people who give a darn one way or the other over this issue in this Chamber and there are probably not 10 people in the House who really feel strongly about it, other than the Alaskan delegation. This is just a total copout to the national environmental community. So the compromise is not going to have to be worked out in the House Interior Committee. Let us not be too sanctimonious. The compromise will not be worked out in the House Interior Committee. The compromise will have to be worked out with the radical leadership of a lot of environmental organizations. Then they will tilt their back and the Congress will feel the will and we will see something worked out. Recognizing the realities of that situation, I would be derelict in my duty if I did not affect, to the best of my ability, what should be done with the rules in order to bring about a balanced, moderate, intelligent judgment on this particular issue.

I can only say that certainly there will be various Senators of good will, as is the case with the Senator from Montana.

The Senator from Montana knows that I felt it was important that he get on the Interior Committee. He knows that I tried, to the best of my humble abilities—whether they were successful or not—to try to get him on the Interior Committee by lobbying members of the Steering Committee, because I feel that the distinguished Senator from Montana is closer to my views than many other members of this body. So I helped him to serve on that committee.

I hope he will not take offense over the exercise of the prerogatives that I have, similar prerogatives to what he has. He may someday be standing where I am standing now, in an uncomfortable position, exercising his prerogative to defend the rights of the people of Montana.

When he does that, I hope he will realize that I do not feel invaded upon. It is one of the things you learn about in the Senate. It is a little different than the House. You can get run over in the House, but in the Senate it is a little more difficult to do.

You never know when the postman is going to knock at your door. The postman is knocking at my door right now and I am doing the best I can with that horrible rap at this door. So I hope that answers my colleague. whom I hold in great esteem and great personal affection.

My bill calls for the inclusion of 51.25 million acres in the four conservation systems identified in section 17(d)(2) of ANCSA. Some people would have you believe that Alaskans do not favor the designation of any such "four systems" lands in Alaska. This obviously is not the case. Under the provisions of my bill the total acreage in the Nation's national park system would be doubled; the national wildlife refuge system would be increased by 60 percent—if the existing refuges in Alaska were not counted, the refuge system would be doubled—and the number of rivers in the national wild and scenic rivers system would be more than doubled.

Mind you, Mr. President, the national wildlife refuge system would be increased by 60 percent in this one act.

Wildlife refuge system, 60 percent. If the existing refuges in Alaska were not counted, the refuge system would be doubled. In other words, with this single move in Alaska, we are doubling the number of national wildlife refuges and the number of rivers in the National Wild and Scenic Rivers System would be more than doubled.

In terms of acreage, I feel this bill strikes a reasonable middle ground. Similar bills have recommended anywhere from 25 to 115 million acres of lands included in conservation systems. The acreage I have recommended in this bill, together with the existing acreage in Alaska in parks, refuges, and forests

totals over 97 million acres—over one-fourth of the entire area of Alaska; or an area nearly the size of California.

That is the position that I have in this regard, and I think it is a generous position. In point of fact, it could be really the beginning of negotiation, because if I were later able to secure a Federal-State Land Use Planning Commission, I certainly could be somewhat more accommodating with respect to the land.

I feel the 51.25 million acres of conservation system units in my bill includes the true nationally significant gems in Alaska. These are not just mountain tops and glaciers, but also include the complete range of ecosystems found in our State. Each unit represents a viable, manageable area which would preserve some of the best remaining natural environments in our country. At the same time, the boundaries were closely scrutinized to exclude those areas which were not necessary for the protection of nationally significant natural features or resources or did not add any special values to the conservation unit.

Similarly, the boundaries attempted to exclude those relatively few areas where the potential for the development of mineral resources or other resources is known to be high and where development would represent a significant conflict with designation of a conservation unit.

In other cases the designation of the particular management system was designed to minimize the impacts of inclusion of an area in a conservation system.

One of the single greatest potential conflicts in national parks designation in Alaska is that on hunting. The designation of "preserves" in the Wrangell Mountain, Lake Clerk, and Aniakchak areas will relieve many of these conflicts by permitting sport hunting while at the same time protecting the obvious national interest in these lands.

FEDERAL-STATE LAND USE PLANNING COMMISSION

The simple designation of "(d)(2)" lands will not end the land problems or uncertainties in Alaska. Putting 50 to 80 or 100 million acres safely away on the shelf is only half a measure of "protection" of Alaska's lands. I am not willing to say, lock up these millions in parks and let us turn our backs on the future management of the bulk of the land in the State. If we are to learn from the land use mistakes so prevalent in the rest of the United States, let us start thinking in terms of long-range land planning and management now, with Alaska.

Under my bill there would remain over 250 million acres of land outside of the four systems or any comprehensive planning and zoning authority. These lands will be owned by the Federal and State governments and by private owners—largely native corporations created by ANSCA. Rather than nice neat big blocks of single-owner lands, a checkerboard of ownerships will dominate the State with important resources such as minerals, fish and game, timber, and the like found in locations not respecting any arbitrary ownership boundaries.

To properly plan and coordinate uses on most of Alaska's lands after the "(d)(2)" issue has beeen settled, I am proposing the establishment of a new Federal-State Land Use Planning Commission for Alaska. This Commission would have jurisdiction over all Federal lands located outside conservation system units and military reservations, over all State lands and over any private lands voluntarily placed under its authorities through a process set up by the State. The Commission would be composed of nine full-time members; a chairman appointed jointly by the President and the Governor, four Federal members appointed by the President, and four State members appointed by the Governor.

The Commission would set policy and overall management direction on lands under their jurisdiction with the line management carried out by the Bureau of Land Management, the appropriate State agency, and the concerned private landowner. The Commission would conduct land use plans for the various areas and classify the lands as to the various uses which would be permitted on the lands. In all cases they would closely coordinate uses of lands with managers and owners of adjacent lands.

Among the duties of the Commission would be the coordination of the implementation of various environmental laws such as the Clean Air Act, the Federal Water Pollution Control Act, the Coastal Zone Management Act, and others. This will insure that decisionmaking in regard to the permitting of a particular development will take into account all facets of the project, and once an overall decision to proceed with a development is made, that the usual nightmare of red-tape can be consolidated and expedited.

As opposed to a one-shot designation, the Commission concept is a proposal for ongoing mechanism which can provide the necessary leadership and information base on a statewide basis to creatively solve the host of unknown problems which we in Alaska will undoubtedly be facing in the years ahead. I view this proposal as the most important part of this legislation. The Commission is really the core of what could be truly landmark legislation for my State and what could be possible a model for other States.

WILDERNESS

Although not mentioned in the provisions of section 17(d)(2) of ANCSA, designation of units of the wilderness preservation system has become an area of heated debate in the Alaska lands issue. Except in the case of southeast Alaska, I have not designated any wilderness in this bill.

Wilderness is not a designation in the same sense as a national park or refuge. Rather, it is a specific management prescription placed on top of portions of lands managed by a particular Federal agency such as the Forest Service or the Park Service. In the Lower 48 States studies have typically been conducted over a number of years on areas managed by a particular agency prior to passage of legislation designating portions of those areas as wilderness. Except in southeast Alaska where the Forest Service is nearing completion of wilderness studies, virtually none of the areas recommended for as new units of the various conservation systems in my bill or the other "(d)(2)" bills have been studied for potential designation as wilderness areas. With the designation of most of these areas as parks, refuges, and wild and scenic rivers it seems both premature and unnecessary at this time to superimpose wilderness designations without the benefit of any specific studies as to what resources are involved and which areas would be best suited for designation.

In the case of the seven areas designated by this bill in the Tongass National Forest in southeast Alaska, I have proposed that final boundaries and acreages be determined after the completion of the Forest Service's land use plan for the region. I am confident that the data from this planning process will show that with careful boundary determinations, we can protect most of our great wilderness resources in southeast without any adverse impact on the local timber industry or on the several significant mineral deposits which have been located.

This is not to say that wilderness designations are not desirable in other areas of Alaska. Under this bill the Commission would conduct studies of the demand for and use of wilderness as well as location of potential wilderness areas throughout the State. After 2 years the Commission would recommend areas which would form a statewide diversified wilderness system accommodating a variety of wilderness uses and incorporating a variety of landscapes and ecosystems. These studies and recommendations together with the findings and recommendations of Federal land managers would be the basis of later legislation designating wilderness throughout the State.

SUBSISTENCE

With several modifications the subsistence provisions closely follow those developed after considerable discussions and language rewrites by the House Interior Committee and concerned Alaskan groups. The issue of protecting the lifestyles of many rural Alaskans through the insurance of the continued use of plants and animals by these people for much of their economic livelihood has been a very emotional and divisive issue among Alaskans. The language worked out thus far is not perfect, nor does it make anybody really happy. However, it does incorporate what I feel are excellent concepts which have already gained support among several different interests involved in the debate. The discussions of this provision are still ongoing, and I would expect that further changes will be desirable.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I am happy to yield to my colleague.

Mr. ROBERT C. BYRD. Would the Senator at least use his microphone, so that our guests in the galleries will at

least have some understanding as to what is going on?

Mr. GRAVEL. I would be happy to do that. I will take the microphone in a better location, Mr. Leader, which would permit me to walk around. I think it is a little more comfortable to walk than to stand in one place.

I am reading low for obvious reasons. I want to read as much as I can, since I do not want to be dilatory in that regard.

STATE AND NATIVE LAND CONVEYANCE

Although Congress passed the Alaska Native Claims Settlement Act in 1971 providing for the conveyance of over 40 mililon acres of land to various Native corporations set up by the act, to date only a fraction of these lands have actually been conveyed. A host of reasons can be attributed to this delay. However, I think now is the time to cut our losses and provide some additional congressional direction to expedite the conveyance of these lands. Although I feel again that further modifications may be needed in the Native conveyance provisions in this bill. I think that clear, swift action is vitally needed in this area if we are to make good on our intentions in the Claims Act.

There is a well-worn argument in the (d)(2) debate which goes something like, "The State has received first pick of the best 103 million acres of Alaska land for resource exploitation under the terms of the Alaska Statehood Act, and so now the Nation is entitled to designate the remainder as parks, refuges, and other conservation system areas." As a matter of fact the State has only received approximately a quarter of their entitlement under the statehood act and further selections and patents have been seriously disrupted if not barred by the withdrawal of lands for potential conservation system additions and by other public land withdrawals. As part of the (d)(2) settlement the entitlement of the State must be clarified and conveyance expedited.

This, of course, is the fact that we have not received our full statehood entitlement, and the fact that we have not received proper conveyance under the Native Claims Act. This is what really tips us off, that if this kind of legislation passes, we will be victimized, oppressed, and essentially economically destroyed by a naive, well-meaning bureaucracy that will wreak havoc upon our economic system in Alaska.

MINERALS

As I have previously mentioned, relatively little is known about the resources on much of the land in Alaska. I have included many areas in conservation systems where any resource development possibilities will be effectively written off in favor of more apparent scenic, wildlife or other natural values.

There are places in Alaska that are as beautiful as any place on Earth: the Chugach, the Gates of the Arctic, the West Chichaguf, the Wrangell Mountains, Chickistone Canyon.

There is no end to the various locales that have to be protected. It is clear that the best use of that land is for a wilderness, is to be observed at a distance by man and should not be touched, should be left in its virgin state.

So I will not take a back seat to any person who says he is an environmentalist and says he wants to protect Alaska. We Alaskans also want to protect Alaska. But, as is apparent by the track record of the bureacuracy over the last 2 decades—we thought when we acquired statehood that we acquired statehood. That has not been the case. So, once burned, twice shy. However, I think there are still some measures which we can take which will increase our knowledge of these designated areas, and in some cases, provide for vitally needed resource development without significantly impacting the values for which the conservation system area was established.

Specifically, I am proposing that mineral surveys be continued in all areas under appropriate safeguards. Also, with the exception of parks and monuments extraction activities could be permitted by the Secretary of the Interior under careful guidelines.

Furthermore, the Secretary would be directed to initiate an oil and gas leasing program on all refuge system lands. Although he has this authority under existing law, this authority has been virtually unused on existing refuges in Alaska to date.

Let me repeat that, because I think it is very important to understand that.

Furthermore, the Secretary would be directed to initiate an oil and gas leasing program on all refuge system lands. Although he has this authority under existing law, this authority has been virtually unused on existing refuges in Alaska to date.

The United States of America today is hemorrhaging in a balance of payments outflow in excess of $26 billion. That is the reason why we have the inflation we have, and that is the reason why the dollar has plummeted. That is going to continue.

Here is the situation: What this Nation needs is an indigenous oil and gas coming from the Ameircan flag so that we do not have to import it from other countries.

The Secretary of the Interior had it brought to his attention that in a small portion of the Arctic game range, which borders the Arctic Ocean, there is probably the best likelihood for oil and gas to be found. That Arctic game range can be serviced by the present Alaska pipeline. You would not need to build any more big pipeline system. You would just connect up to the existing pipeline system, and then you could bring that oil and eventully that gas down to the south 48; so the American people could buy it, and then they would not have to buy oil from the Arab world. The Secretary has the option to do that.

If, by magic, I could take you to Alaska and let you look at this particular land, you would see there is nothing unusual here. You are a hundred miles from a hill. It is just flat land on the coast.

We have millions of acres just like this land, and I would be happy to set it into wilderness area—millions of acres which do not have any oil and gas. But this little piece of land has oil and gas.

The Secretary of the Interior has it in his power and prerogative—he makes a statement that this is the last place under the American flag we are going to look for oil and gas. How ridiculous. If the American people understood that here we have something that would lower the cost of Toyotas, lower the cost of TV sets, lower the cost of many of the items they now buy, lower their cost of living—but that is not what is being done. That is at the willful purpose of the Secretary of the Interior.

He is flying around Alaska right now. I hope he flies over this area and sees how ridiculous his position is, because we will trade him 2 acres for 1. For every acre in which he will permit us to drill for oil and gas, we will give him 2 acres to put in wilderness.

I can get carried away with this emotional plea, but I think wisdom would dictate that I would curb my emotion and read on.

One notable area where this has been most frustrating is within the existing Arctic National Wildlife Range.

You know what a range is. I do not know if people are aware of it. It is just a place you let caribou forage and live, and that is fine.

We found in studies that in the development of Prudhoe Bay there was no decrease in the caribou population that could be attributed to the very surgical and very fine development, totally cognizant of the environment, that took place. That is what the study showed, and nobody has disputed those facts.

Although exploration of this land for oil and gas was intended at its creation, no such work has ever been permitted except by Federal agencies. Based on USGS information it now appears that the north slope of the range may possess the greatest potential for on-shore oil and gas discoveries in the United States. With our country's balance of trade payments running at dangerous deficits due to our heavy dependence on foreign oil, this situation seems almost ludicrous.

I think a carefully regulated, carefully monitored oil and gas leasing program on the range could lead to the discovery and development of a major oil and gas find which in turn would be of significant importance to continuance of our Nation's economic health and standard of living, just as the Prudhoe Bay has proved to be. Furthermore, I think that such a program could be designed to not impact the caribou and other wildlife that the range seeks to protect. As is the case with other North Slope explorations, activities are restricted to winter months when ice and snow provide protection of the permafrost and the animals are largely absent. Most people do not realize that in this Arctic game range the animals are not there all the time. They only come in for a reasonably short period of time in the course of the year due to their calving, due to their nesting, or whatever, and then migrate in the balance of the year.

In a further effort to expedite this oil and gas program, I am proposing that the subsurface of a small portion of the range, approximately 3 percent—and I might say the 3 percent is the amount of land in question with respect

to the total range—adjacent to the State-owned Prudhoe Bay field will be conveyed to the State in exchange for State lands of high national interest located next to proposed park and refuge areas designated by this bill. The surface of the range would still be owned by the Federal Government and would be managed by the Fish and Wildlife Service so that any exploration of or extraction from the subsurface estate would be carefully regulated. Such a trade would provide an excellent method of consolidating land ownerships of areas of high State interest as well as areas of high Federal interest.

TRANSPORTATION AND UTILITY CORRIDORS

Under some of (d)(2) proposals various conservation systems link up to form continuous designated areas hundreds of miles long. Even under more modest proposals we are often talking about new park or refuge areas which are over 100 miles wide or long. Obviously, the use of State or private lands adjacent to such proposal areas could be seriously restricted if at some future time a transportaion or utility corridor were needed across the particular unit to reach a population center or market outlet.

It is therefore imperative that some provision be made for the possible future need of such corridors. This bill sets up a mechanism whereby the Commission would study possible routes of a needed transportation or utility system and make recommendations for rights-of-way across the necessary lands. Such rights-of-way across units of conservation systems would be granted by the Secretary unless he could make specific findings that reasonable alternatives exist and that significant harm would be done to the particular resources for which the unit were established to protect.

DENALI PARK DEVELOPMENT

Another area of the bill which I feel is extremely important is the development of visitor facilities to and in the conservation units which we establish. If such areas are to be for the good of the Nation, then we must make a firm commitment to make them available to the people. "Paper parks" without a commitment to management and reasonable development are of little value.

One area in particular where I feel development would be of statewide and national value is the proposed expanded Denali "McKinley" National Park. Most people agree that the south side of the park offers much more opportunity for the provision of visitor facilities and for the provision of a quality recreational experience than the location of the existing park headquarters on the edge of the north side.

In this bill I am calling for a comprehensive study of a recreational development site on the south side. Such a study would include economic scoping for the desirable size of development, engineering feasibility, architectural designs, environmental studies, and transportation studies. Also included is an authorization for appropriation of moneys for development of a mass transit system from Anchorage to the site. The eventual development of a tightly controlled recreational city under the shadow of Denali—McKinley—would make this a visitor attraction of world scale.

SUMMARY

There are other miscellaneous provisions in this complex legislation which are too numerous to specifically discuss. This legislation is obviously of critical importance to Alaska. The decisions which are eventually reached in regard to the issues which I have briefly discussed will affect the economic and social lifestyle of Alaskans for years to come. Just as with the Statehood Act and the Native Claims Act, the (d)(2) legislation will form an extremely large portion of the legislative history of my State and its future destiny.

For these reasons I implore my colleagues not to take this legislation lightly or use it as an opportunity to right all the environmental wrongs of the past or seek atonement for past votes on environmental issues. This is not just another park bill, this is legislation affecting an entire State's economic and social well-being. I ask you for your attention to the views of those most affected by this legislation in the months ahead and urge your strong consideration of the provisions contained in this bill.

I ask unanimous consent that the entire text of this bill along with the summary of the major provisions—I will withhold it for the major provision because I will read those myself into the text—but I ask unanimous consent that the bill be printed in the RECORD at this time.

The PRESIDING OFFICER. Is there objection to the request of the Senator?

Mr. ROBERT C. BYRD. What is the request?

Mr. GRAVEL. It is a request that the bill be printed in the RECORD at this time, and then I will give a summary of the bill.

Mr. ROBERT C. BYRD. Yes. I have no objection.

Mr. GRAVEL. I thank the majority leader.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2944

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Alaska Lands Conservation and Management Act".

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PURPOSES, MAPS, AND BOUNDARIES

SEC. 2. (a) In order to preserve for the benefit, use, education, and inspiration of present and future generations certain natural lands and rivers in the State of Alaska (hereafter referred to as the "State") that contain nationally significant natural, scenic, historic, archeological, geological, scientific, wilderness, cultural, recreational, and wildlife values, the areas described in Title I are, subject to valid existing rights, hereby declared to be units of the National Park System; the areas described in Title III are, subject to valid existing rights, hereby declared to be units of the National Wild and Scenic Rivers System; lands described in Title IV are, subject to valid existing rights, hereby declared to be added to units of the National Forest System; and lands designated in Title V are, subject to valid existing rights, hereby declared to be units of the the National Wilderness Preservation System.

(b) It is the intent of Congress in this Act to preserve unrivaled scenic and geological values associated with natural landscapes; to provide for the maintenance of sound populations of, and habitat for, resident and nonresident wildlife species; to preserve in their natural state unaltered ecosystems; to protect the resources related to subsistence needs; to protect and preserve the historic and archeological heritage of Alaska and the nation; to preserve wilderness resource values and related recreational opportunities; and to maintain opportunities for scientific research in undisturbed ecosystems.

(c) It is also the intent of Congress to provide a management system for the lands which are not located within the conservation system units designated in the Act for making sound land use decisions on lands owned by one or more governmental or private entities but which contain common resources requiring complementary management decisions and actions.

(d) It is also the intent of Congress to encourage the use and appreciation of the various conservation system units designated by this Act by the public. To the extent that it is compatible with the resources and values for which the unit was established, access and facilities to accommodate visitors and recreationists to and within the designated units would be developed in connection with the management plans for the areas.

(e)(1) The boundaries of areas added to the National Park and Wildlife Refuge Systems shall, in coastal areas, not extend seaward beyond the mean high tide line to include lands owned by the State of Alaska unless the State shall have concurred in such boundary extension and such extension is accomplished under the notice and reporting requirements of this Act.

(2) The maps described in Titles I, II, IV, and V of this Act shall be on file and available for public inspection in the Office of the Secretary of the Interior (hereafter referred to as the "Secretary"), or the Secretary of Agriculture with regard to the National Forest System.

(3) As soon as practicable after enactment of this Act, a map and legal description of each change in land management status effected by this Act in the four national conservation systems, including the National Wilderness Preservation System, shall be published in the Federal Register and filed with the Speaker of the House of Representatives and the President of the Senate, and each such description shall have the same force and effect as if included in this Act: *Provided, however,* That correction of clerical and typographical errors in each such legal description and map may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Secretary. Whenever possible, boundaries shall follow hydrographic divides or embrace other topographic features in all cases where straight line map boundaries approximate such features. Following reasonable notice in writing to the Congress of his intention to do so, the Secretary and the Secretary of Agriculture may make minor adjustments in the boundaries of the areas added to or established as units of the National Park Wildlife Refuge, Wild and Scenic Rivers, and the National Forest Systems by this Act.

TITLE I—NATIONAL PARK SYSTEM

PART A—ESTABLISHMENT OF NEW AREAS

GATES OF THE ARCTIC NATIONAL PARK

SEC. 101. (a) There is established the Gates of the Arctic National Park of approximately 7,500,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The park established pursuant to this section shall be managed for the purposes of—

(1) maintaining the wild and undeveloped character of the area;

(2) providing opportunities for visitors to experience solitude;

(3) preserving the environmental integrity and scenic beauty of the mountains, forestlands, rivers, lakes, and other natural features of the area;

(4) protecting populations of fish and wildlife and their habitats; including caribou, grizzly bear, Dall sheep, moose, wolves, and raptorial birds;

(5) providing opportunities for water recreation on wild rivers and lakes, hiking, camping, and other outdoor recreational activities in a manner consistent with the purposes specified in paragraphs (1), (2), (3), and (4); and

(6) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

YUKON-CHARLEY NATIONAL RIVERS

SEC. 102. (a) There are established the Yukon-Charley National Rivers of approximately 1,490,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978 which shall be on file available for public inspection in the office of the Secretary.

(b) The national rivers established pursuant to this section shall be managed for the purposes of—

(1) maintaining the environmental integrity of the Charley River basin, including streams, lakes, and other natural features, in its undeveloped natural condition for public benefit and scientific study;

(2) protecting populations of fish and wildlife and their habitats, including the peregrine falcon and other raptorial birds, waterfowl, caribou, moose, Dall sheep, grizzly bear, and wolves;

(3) protecting and interpreting historical sites and events associated with the gold rush on the Yukon River as well as the geological and paleontological history and cultural prehistory of the area;

(4) providing opportunities for water recreation, hiking, camping, and other outdoor recreation activities in the area in a manner consistent with the purposes specified in paragraphs (1), (2), (3), and (4); and

(5) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

KOBUK VALLEY NATIONAL MONUMENT

SEC. 103. (a) There is established the Kobuk Valley National Monument of approximately 200,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The monument established pursuant to this section shall be managed for the purposes of—

(1) maintaining the environmental integrity of the natural features of the Kobuk River Valley, including the Great Kobuk Sand Dunes, in an underdeveloped state;

(2) protecting and interpreting, in cooperation with Native cultures, the various natural features of the area;

(3) protecting the migration routes of the Arctic caribou herd;

(4) protecting populations of fish and wildlife and their habitats, including cari-

bou, moose, black and grizzly bear, wolves, and waterfowl;

(5) providing opportunities for hiking, camping, river recreation, and other outdoor recreation activities in the area in a manner which does not interfere with the purposes specified in paragraphs (1), (2), (3), and (4); and

(6) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

CAPE KRUSENSTERN NATIONAL MONUMENT

SEC. 104. (a) There is established the Cape Krusenstern National Monument of approximately 190,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The monument established pursuant to this section shall be managed for the purposes of—

(1) protecting and interpreting a series of archeological sites depicting every known cultural period of arctic Alaska;

(2) providing for the scientific study of the immigration of Asian people into the area;

(3) preserving and interpreting evidence of prehistoric and historic native cultures, in cooperation with native Alaskans;

(4) protecting and interpreting a series of beach ridges, as well as the process of beach outbuilding;

(5) protecting seals and other marine mammals, birds, and other wildlife and fish resources and their habitats;

(6) providing opportunities for outdoor recreation activities in a manner which does not interfere with the purposes specified in paragraphs (1), (2), (3), (4), and (5); and

(7) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

WRANGELL-SAINT ELIAS NATIONAL PARK; WRANGELL MOUNTAINS NATIONAL PRESERVE

SEC. 105. (a) There is established the Wrangell-Saint Elias National Park of approximately 7,360,000 acres of Federal lands, and the Wrangell Mountain National Preserve of approximately 3,940,000 acres of Federal lands. These areas shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The park and preserve established pursuant to this section shall be managed for the purposes of—

(1) maintaining the scenic beauty and quality of the high mountain peaks, foothills, glacial systems, lakes and streams, waterfalls, valleys, and coastal landscapes of the park and preserve in their natural state;

(2) protecting populations of fish and wildlife and their habitats, including caribou, grizzly bear, Dall sheep, mountain goats, moose, wolves, trumpeter swans and other waterfowl, and marine mammals;

(3) providing opportunities for camping and hiking, river recreation, hunting and other outdoor recreation activities in a manner consistent with the purposes specified in paragraphs (1) and (2), and

(4) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

LAKE CLARK NATIONAL PARK; LAKE CLARK PRESERVE

SEC. 106. (a) There is established the Lake Clark National Park of approximately 2,230,000 acres of Federal lands, and the Lake Clark National Preserve of approximately 910,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The area established pursuant to this section shall be managed for the purposes of—

(1) protecting the watershed values necessary for the perpetuation of the salmon fishery in Bristol Bay and other fisheries;

(2) maintaining the scenic beauty and quality of portions of the Alaska Range and the Aleutian Range, including active volcanoes, glaciers, wild rivers, lakes, waterfalls, and alpine meadows in their natural state;

(3) protecting populations of fish and wildlife and their habitats including the Mulchatna caribou herd, Dall sheep, grizzly bear, wolves, bald eagle, and peregrine falcon;

(4) providing opportunities for water recreation, nature study, sightseeing, hiking, camping, hunting, and other outdoor recreation activities in a manner consistent with the purposes specified in paragraphs (1), (2), and (3); and

(5) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

ANIAKCHAK NATIONAL MONUMENT; ANIAKCHAK NATIONAL PRESERVE

SEC. 107. (a) There is established the Aniakchak National Monument of approximately 170,000 acres of Federal lands, and Aniakchak National Preserve, of approximately 80,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The area established pursuant to this section shall be managed for the purposes of—

(1) maintaining the caldera and its associated volcanic features and landscape, including the Aniakchak River and other lakes and streams, in their natural state;

(2) studying, interpreting, and assuring continuation of the natural process of ecological succession;

(3) protecting populations of fish and wildlife and their habitats, including grizzly bear, wolves, moose, caribou, sea lions, seals, and other marine mammals, geese, swans, and other waterfowl;

(4) interpreting geological and biological processes for visitors and providing opportunities for river running, hiking, hunting and other outdoor recreation activities, in a manner consistent with the purposes specified in paragraphs (1), (2), and (3); and

(5) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

IMURUK BASIN NATIONAL PRESERVE

SEC. 108. (a) There is established the Imuruk Basin National Preserve of approximately 400,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April —, 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The area established pursuant to this section shall be managed for the purposes of—

(1) protecting and interpreting examples of arctic plant communities, volcanic lava flows, frost phenomena and other geological processes;

(2) providing for the archeological and paleontological study in cooperation with Native Alaskans, of the process of plant and animal and human migration between North America and the Asian Continent including the protection of resources necessary for such study;

(3) protecting populations of fish and wildlife and their habitats, including marine mammals, grizzly bear, moose, and wolves;

(4) providing opportunities for outdoor recreation activities in a manner consistent with the purposes specified in paragraphs (1), (2), and (3); and

(5) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

PART B—ADDITIONS TO EXISTING AREAS

DENALI NATIONAL PARK

SEC. 111. (a)(1) Mount McKinley National Park is redesignated, and shall be known as, "Denali National Park".

(2) Mount McKinley is redesignated, and shall be known as, "Denali".

(3) Any law, regulation, map, document, or record of the United States in which such part or such mountain is referred to as "Mount McKinley, National Park" or "Mount McKinley" shall be changed to refer to such park or such mountain as "Denali National Park" and "Denali", respectively.

(b)(1) Denali National Park is expanded by the addition of an area containing 2,620,000 acres of Federal lands generally depicated on the map entitled " ," dated April , 1978.

(2) The purposes of the expansion of Denali National Park are to—

(A) contain and protect the entire Denali massif and glacial system as well as additional scenic mountain peaks and formations. Protection of these features and the accommodation of recreational activities such as hiking, climbing, and camping which are associated with these features shall be emphasized in the management of the lands added to the south side of the existing Park.

(B) provide further protection for moose, caribou, Dall sheep, wolves, grizzly bear, and other wildlife and their habitats. Protection of these wildlife species shall be emphasized in the management of the lands added to the west and north side of the existing Park.

KATMAI NATIONAL PARK

SEC. 112. (a)(1) Katmai National Monument is redesignated, and shall be known as, "Katmai National Park".

(2) Any law, regulation, map, document, or record of the United States in which such monument is referred to as "Katmai National Monument" shall be changed to refer to such monument as "Katmai National Park".

(b)(1) Katmai National Park is expanded by the addition of an area containing 1,080,000 acres of Federal lands generally depicted on the map entitled dated April, 1978.

(2) The purposes of the expansion of Katmai National Park are to—

(A) protect high concentrations of grizzly (brown) bear and their denning areas as well as habitat for other wildlife;

(B) maintain unimpaired water habitats for significant salmon populations; and

(C) complete or contain areas of scenic, geological, watershed, and recreational value.

GLACIER BAY NATIONAL PARK

SEC. 113. (a)(1) Glacier Bay National Monument is redesignated, and shall be known as, "Glacier Bay National Park".

(2) Any law, regulation, map, document, or record of the United States in which such monument is referred to as "Glacier Bay National Monument" shall be changed to refer to such monument as "Glacier Bay National Park."

(b)(1) Glacier Bay National Park is expanded by the addition of an area containing 490,000 acres of Federal lands generally depicted on map entitled " ," dated April , 1978.

(2) The purposes of the expansion of Glacier Bay National Park are to—

(A) protect animal habitat and migration routes; and

(B) preserve portions of the Fairweather Range including the northwest slope of Mount Fairweather.

PART C—ADMINISTRATIVE PROVISIONS

ADMINISTRATION OF NEW AREAS

SEC. 121. (a) The Secretary shall administer the lands established or added to existing areas under the provisions of this title as units of the National Park System, pursuant to the provisions of the Act of August 25, 1916 (39 Stat. 535 et seq.), as amended and supplemented (16 U.S.C. 1 et seq.), and under the provisions of this Act.

(b) Notwithstanding the provisions of the Act of August 25, 1916 (35 Stat. 535 et seq.), as amended and supplemented (16 U.S.C. 1 et seq.)—

(1) hunting may be permitted on units of the National Park System under the provisions of title VII of this Act, and within any unit designated as a Preserve;

(2) transportation and utility rights-of-way may be granted by the Secretary across units of National Park System under the provisions of title X of this Act; and

(3) access to units of the National Park System shall be provided under the provisions of title XI of this Act.

(c) All proclamations and Executive orders reserving lands, waters, and interests therein for the former Katmai and Glacier Bay National Monuments shall remain in full force and effect, except to the extent that may be inconsistent with the Alaska Native Claims Settlement Act or the purposes of any unit established or expanded by this Act, and in such case the provisions of this Act shall prevail. Any funds available for the purposes of such monuments are hereby made available for the purposes of Katmai National Park or Glacier Bay National Park, as appropriate.

RECOGNITION OF NATIVE SELECTIONS

SEC. 122. Valid Native selections or nominations of lands within the boundaries of the Gates of the Arctic National Park or within the boundaries of the Wrangell-Saint Elias National Park and Preserve established under the provisions of this title, are recognized and shall be honored and conveyed by the Secretary in accordance with the Alaska Native Claims Settlement Act and title VIII of this Act.

TITLE II—NATIONAL WILDLIFE REFUGE SYSTEM

PART A—ESTABLISHMENT OF NEW AREAS

SELAWIK NATIONAL WILDLIFE REFUGE

SEC. 201. (a) There is established the Selawik National Wildlife Refuge of approximately 1,480,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The refuge established pursuant to this section shall be managed for the purposes of—

(1) protecting the crossroads habitats of the Asiatic and North American Flyways and their significant populations of snow geese, ducks and swans, sandhill cranes, and shorebirds;

(2) protecting populations of fish and wildlife and their habitats, including caribou;

(3) providing opportunities for hunting, fishing, reindeer grazing, and other activities, including continued subsistence uses, in a manner which does not interfere with the purposes specified in paragraphs (1) and (2); and

(4) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

INNOKO-KAIYUH NATIONAL WILDLIFE REFUGE

SEC. 202. (a) There is established the Innoko-Kaiyuh National Wildlife Refuge of approximately 2,180,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The refuge established pursuant to this section shall be managed for the purposes of—

(1) assuring continuing high production levels of waterfowl, including ducks, geese, and swans;

(2) protecting populations of fish and wildlife and their habitats, including numerous bird species, moose, beaver, salmon, and the Beaver Mountain caribou herd;

(3) permitting hunting, fishing, and other activities, including continued subsistence uses, in a manner which does not interfere with the purposes specified in paragraphs (1) and (2); and

(4) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

KOYUKUK NATIONAL WILDLIFE REFUGE

SEC. 203. (a) There is established the Koyukuk National Wildlife Refuge of approximately 2,680,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled "————," dated April —, 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The refuge established pursuant to this section shall be managed for the purposes of—

(1) maintaining habitats in order to assure continued high level fall flights of ducks and geese;

(2) protecting populations of fish and wildlife and their habitats, including moose and fur bearing animals;

(3) providing opportunities for hunting, fishing, and other activities, including continued subsistence uses, in a manner which does not interfere with the purposes specified in paragraphs (1) and (2); and

(4) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

ALASKA MARINE RESOURCES NATIONAL WILDLIFE REFUGE

SEC. 204. (a) There is established the Alaska Marine Resources National Wildlife Refuge of approximately 330,000 acres of Federal lands. This area shall consist of the lands which are generally depicted on the map entitled "————" dated April —, 1978, or which are in the following described units, together with all other federally owned islands, islets, rock, reefs, and spires within six miles of the coast of Alaska:

(1) the Chukchi Sea unit, including Cape Lisburne, Cape Thompson, and the Chamisso National Wildlife Refuge;

(2) the Bering Sea unit, including the Bering Sea and Pribilof National Wildlife Refuge, Hagemeister Island, Fairway Rock, Sledge Island, Bluff Unit, Besboro Island, Egg Island, and the Punuk Islands;

(3) the Aleutian Islands unit, including the Aleutian Islands and Bogoslof National Wildlife Refuges, and all other Federal lands in the Aleutian Islands;

(4) the Alaska Peninsula unit, including the Simenof and Semidi National Wildlife Refuges; and

(5) the Gulf of Alaska unit, including the Forester Island, Hazy Islands, Saint Lazaria, and Tuxedni National Wildlife Refuges, the Barren Islands, Latax Rocks, Harbor, Pye and Chiswell Islands, and the islands, islets, rocks, or spires surrounding Kodiak and Afognak Islands.

(b) The map referred to in subsection (a) shall be on file for public inspection in the office of the Secretary.

(c) The refuge established pursuant to this section shall be managed for the purposes of—

(1) protecting internationally significant marine birds and mammals and the land, water, and other marine resources on which such birds and mammals rely;

(2) perpetuating other indigenous fish and wildlife resources of the coastal marine environment;

(3) providing for national and international research on marine resources; and

(4) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

(d) The Secretary is directed to negotiate with the appropriate Native corporations pursuant to section 22(f), as amended, of the Alaska Native Claims Settlement Act the conveyance of public lands, interests therein, or other valuable consideration to the corporations in exchange for their interest in Walrus and Otter Islands, Sea Lion Rocks and the bird cliffs on St. Paul and St. George Islands. At such time as the exchange is agreed to, the Pribilof Islands National Wildlife Reserve, including Walrus and Otter Islands, Sea Lion Rocks and the bird cliffs on St. Paul and St. George Islands shall be included within the Bering Sea unit of the Alaska Marine Resources National Wildlife Refuge established in this section.

SHISHMAREF NATIONAL WILDLIFE REFUGE

SEC. 205. (a) There is established the Shishmaref National Wildlife Refuge of approximately 1,500,000 acres of Federal lands. This area shall consist of the lands generally depicted on the map entitled " ," dated April , 1978, which shall be on file available for public inspection in the office of the Secretary.

(b) The refuge established pursuant to this section shall be managed for the purposes of—

(1) perpetuating nationally significant migratory waterfowl and mammal populations on the lands and waters of the Shishmaref area;

(2) providing for archeological and paleontological study, in cooperation with Native Alaskans, of the process of plant, animal, and human migration between North America and the Asian continent.

(3) providing for continued subsistence uses;

(4) protecting range conditions for the continued grazing of reindeer;

(5) providing for recreational activities in a manner which does not interfere with the purposes specified in paragraphs (1), (2), (3), and (4); and

(6) furthering such other goals as the Secretary finds to be consistent with the provisions of this section.

PART B—CHANGES AND ADDITIONS TO EXISTING AREAS

YUKON DELTA NATIONAL WILDLIFE REFUGE

SEC. 211. (a)(1) The Clarence Rhode National Wildlife Refuge and Hazen Bay National Wildlife Refuge are redesignated, and shall be known as, the "Yukon Delta National Wildlife Refuge".

(2) Any reference to the "Clarence Rhode National Wildlife Refuge" or the "Hazen Bay National Wildlife Refuge" in any law, regulation, map, document, or record of the United States shall be considered to refer to such refuge as the "Yukon Bay National Wildlife Refuge".

(b)(1) The Yukon Bay National Wildlife Refuge is expanded by the addition of an area containing 7,600,000 acres of Federal lands generally depicted on the map entitled " ," dated April , 1978.

(2) The purposes of the expansion of the Yukon Bay National Wildlife Refuge are to—

(A) perpetuate the significant fall flights of ducks, swans, and geese, including large numbers of emperor geese, cackling geese, and large numbers of black brant;

(B) perpetuate significant numbers of shorebirds and waterbirds;

(C) protest populations of fish and wild-

life and their habitats, including internationally significant migratory bird, fish, and marine mammal resources;

(D) maintain the environmental integrity of rivers and lakes;

(E) provide opportunities for hunting, fishing, and other activities, including continued subsistence uses, in a manner which does not interfere with the purposes specified in subparagraphs (A), (B), (C), and (D); and

(F) further such other goals as the Secretary finds to be consistent with the provisions of this section.

ARCTIC NATIONAL WILDLIFE RANGE EXPANSION

SEC. 212. (a) The Arctic National Wildlife Range is expanded by the addition of an area containing 1,890,000 acres of Federal lands generally depicted on the map entitled " ," dated April , 1978.

(b) The purposes of the expansion of the Arctic National Wildlife Range are to—

(1) protect internationally significant populations of caribou and migratory birds and their habitats;

(2) perpetuate other migratory and resident fish and wildlife populations;

(3) protect representative Arctic life zones and their primitive characters;

(4) provide continued opportunity for wildlife and wildland oriented recreational and subsistence uses in a manner which is consistent with the purposes specified in paragraphs (1), (2), and (3); and

(5) further such other goals as the Secretary finds to be consistent with the provisions of this section.

ARCTIC NATIONAL WILDLIFE RANGE EXCHANGE

SEC. 213. (a) The subsurface estate of approximately 280,000 acres of land described on the map entitled dated April, 1978, which is within the Arctic National Wildlife Range is removed from such Range.

(b) After the concurrence of the Governor of the State of Alaska and the Secretary, -- acres of lands which have been selected by the State, tentatively approved for patent to the State, or patented to the State, and which are located within or adjacent to one or more of the units of the National Park System or the National Wildlife Refuge System designed under the provisions of title I or II of this Act, shall be conveyed to the United States Government by the State or retained by the United States Government, as appropriate, and shall be added to the appropriate unit of the National Park System or the National Wildlife Refuge System designated under the provisions of title I or II of this Act.

(c) After the conveyance to or retention of lands by the United States pursuant to subsection (b), the Secretary shall convey the subsurface estate removed from the Arctic National Wildlife Range pursuant to subsection (a) to the State. The Secretary shall take such action as may be necessary to insure that the State may make full use of such subsurface estate, but may impose reasonable restrictions of such use which are designed to protect the surface value of the area.

KENAI NATIONAL MOOSE REFUGE

SEC. 214. (a)(1) Kenai National Moose Range is redesignated, and shall be known as, "Kenai National Moose Refuge".

(2) Any reference to the "Kenai National Moose Range" in any law, regulation, map, document, or record of the United States shall be considered to refer to such refuge as the "Kenai National Moose Refuge".

(b)(1) Kenai National Moose Refuge is expanded by the addition of an area containing 40,000 acres of Federal lands generally depicted on the map entitled " ," dated April , 1978.

(2) The purposes of the expansion of Kenai National Moose Refuge are to—

(A) perpetuate a nationally significant population of moose;

(B) protect populations of fish and wildlife and their habitats, including moose and other mammals and waterfowl;

(C) provide opportunities for wildlife oriented recreation in a manner consistent with the purposes specified in subparagraphs (A) and (B); and

(D) further such other goals as the Secretary finds to be consistent with the provisions of this section.

CAPE NEWENHAM NATIONAL WILDLIFE REFUGE

SEC. 215. (a) Cape Newenham National Wildlife Refuge is expanded by the addition of an area containing 240,000 acres of Federal lands generally depicted on the map entitled " ," dated April , 1978.

(b) The purposes of the expansion of Cape Newenham are to—

(1) protect populations of fish and wildlife and their habitats, including the large populations of waterfowl, marine birds, and mammals associated with the Cape Newenham area;

(2) permit hunting, fishing, and other activities, including continued subsistence uses, in a manner consistent with the purpose specified in paragraph (1); and

(3) further such other goals as the Secretary finds to be consistent with the provisions of this section.

PART C—ADMINISTRATIVE PROVISIONS

ADMINISTRATION OF NEW AREAS

SEC. 221. (a) The Secretary shall administer the lands established or added to existing areas under the provisions of this title as units of the National Wildlife Refuge System, pursuant to the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd et seq.) and of this Act.

(b)(1) All proclamations, Executive orders, public land orders, and similar actions, which, prior to the date of enactment of this Act, reserve any lands, waters, or interests therein for refuge purposes within the boundaries of the areas established as or added to units of the National Wildlife Refuge System under the provisions of this title shall remain in full force and effect except where inconsistent with the provisions of this Act.

(2) Any funds available on the date of enactment of this Act for lands, waters, or interests therein reserved under any proclamation, Executive order, public land order, or similar action prior to the date of enactment of this Act shall continue to be available to carry out the purposes of the unit in which such land, water, or interest therein is located.

TITLE III—NATIONAL WILD AND SCENIC RIVERS SYSTEM

PART A—WILD AND SCENIC RIVERS WITHIN NATIONAL PARK SYSTEM

SEC. 301. Designation.—Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907), as amended (16 U.S.C. 1274(a), is further amended by adding the following new paragraphs:

"( ). Atlatna, Alaska.—The main stem within the Gates of the Arctic National Park; to be administered by the Secretary of the Interior.

"( ). Aniakchak, Alaska.—That portion of the river, including its major tributaries, Hidden Creek, Mystery Creek, Albert Johnson Creek, and North Fork Aniakchak River, within the Aniakchak National Monument and National Preserve; to be administered by the Secretary of the Interior.

"( ). Bremmer, Alaska.—The main stem, and the North, South, and Middle Forks within the Wrangell-Stain Elias National Park; to be administered by the Secretary of the Interior.

"( ). Charley, Alaska.—The entire river, including its major tributaries, Cooper Creek, Hosford Creek, and Crescent Creek, within the Yukon-Charley Rivers National Rivers; to be administered by the Secretary of the Interior.

"( ). Killik, Alaska.—That portion of the river, including its major tributary, Easter Creek, within the Gate of the Arctic National Park; to be administered by the Secretary of the Interior.

"( ). Noatak, Alaska.—That portion of the river within the Gates of the Arctic National Park; to be administered by the .

"( ). North Fork of the Koyukuk, Alaska.—That portion of the river, including its major tributary, the Tinayguk River, within the Gate of the Arctic National Park; to be administered by the Secretary of the Interior.

"( ). Tlikakila, Alaska.—That portion within the Lake Clark National Park; to be administered by the Secretary of the Interior.

SEC. 302. Administrative Provisions.—(a) The river segments designated in section 301 of this title are hereby classified and designated, and shall be administered, as wild river areas pursuant to the Wild and Scenic Rivers Act.

(b) The provisions of subsection 3(b) and section 6 of the Wild and Scenic Rivers Act shall not apply to the river segments listed in section 301. The provisions of Title VII of this Act shall supercede those of section 13(a) of the Wild and Scenic Rivers Act, concerning fish and wildlife.

PART B—WILD AND SCENIC RIVERS WITHIN NATIONAL WILDLIFE REFUGE SYSTEM

SEC. 311. Designation.—Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907) as amended (16 U.S.C. 1274(a)), is further amended by adding the following new paragraphs:

"( ). Sheenjek, Alaska.—The segment within the Arctic National Wildlife Refuge, to be administered by the Secretary of the Interior."

SEC. 312. Administrative Provisions.—(a) The river segment designated in section 303 of this title is hereby classified and shall be administered as a wild river area within the National Wildlife Refuge.

(b) Notwithstanding any provisions to the contrary of the Wild and Scenic Rivers Act (82 Stat. 907; 17 U.S.C. 1271), the boundaries of the river segments referred to in section 311 of this title may include up to one mile from the mean high water level on either side of the river segments. Notwithstanding the provisions of section 3(b) of such Act, the Secretary shall establish boundaries of the river segments referred to in section 311 of this title within three years after the date of enactment of this title.

PART C—ADDITIONS TO NATIONAL WILD AND SCENIC RIVERS SYSTEM LOCATED OUTSIDE NATIONAL PARK SYSTEM UNITS AND NATIONAL WILDLIFE REFUGES

SEC. 321. Designation.—Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 907) as amended (16 U.S.C. 1274(a)) is further amended by adding the following paragraphs:

"( ). Alagnak, Alaska.—The portion beginning at the source, its major tributary the Nonvianuk, and running to the west boundary of township 13 south, range 43 west; to be administered by the Secretary of the Interior.

"( ). Andreafsky, Alaska.—That portion of the main stem from its source, including all headwaters to the west boundary of township 25 north, range 73 west; to be administered by the Secretary of the Interior.

"( ). Birch Creek, Alaska.—The segment of the main stem from the vicinity of the confluence of the North Fork downstream to its intersection with the Steese Highway;

to be administered by the Secretary of the Interior.

"( ). Fortymile, Alaska.—The main stem within the State of Alaska; South Fork; Walker Fork downstream from the confluence of Liberty Creek; Mosquito Fork downstream from the vicinity of Kechumstuk; West Fork Dennison Fork downstream from the confluence of Logging Cabin Creek; North Fork; Champion Creek; the Middle Fork downstream from the confluence of Joseph Creek; and Joseph Creek; to be administered by the Secretary of the Interior.

"( ). Gulkana, Alaska.—The main stem from Paxson Lake to Sourdough and the entire West and Middle Forks; to be administered by the Secretary of the Interior.

"( ). Ivishak, Alaska.—That portion from its source, including all headwaters and an unnamed tributary to Porcupine Lake; to be administered by the Secretary of the Interior.

"( ). Kanektok, Alaska.—That portion from Kagati Lake to a point sixteen miles above the mouth; to be administered by the Secretary of the Interior.

"( ). Noatak, Alaska.—That portion from the boundary of the Gates of the Arctic National Park to the confluence of the Kelly River; to be administered by the Secretary of the Interior.

"( ). Sheenjek, Alaska.—The segment from the boundary of the Arctic National Wildlife Refuge to the confluence of the Porcupine River; to be administered by the Secretary of the Interior.

"( ). Unalakleet, Alaska. — The segment of the main stem beginning at 159 degrees 21 minutes 06.156 seconds west longitude approximately six miles from the headwaters extending downstream sixty miles to 160 degrees 19 minutes 15.031 seconds west longitude in the vicinity of the confluence of the Chiroskey River; to be administered by the Secretary of the Interior.

"( ). Wind, Alaska.—That portion from its source, including all headwaters and one unnamed tributary in township 13 south, range 21 east; to be administered by the Secretary of the Interior."

S53. 322. Administrative Provisions.—(a) The Alagnak, Andreafsky, Birch Creek, Gulkana, Ivishnak, Kanetok, Noakak, Sheenjek, Unalakleet and Wind components as well as the Mosquito Fork downstream from the vicinity of Kechumstuk to Ingle Creek, North Fork, Champion Creek, Middle Fork downstream from the confluence of Joseph Creek, and Joseph Creek segments of the Fortymile component, designated in section 321 of this title, are hereby classified and designated and shall be administered as wild river areas pursuant to the Wild and Scenic Rivers Act. The remaining segments of the Fortymile components are classified and designated and shall be administered as scenic river areas, pursuant to such Act. The classification as wild river areas of certain segments of the Fortymile by this subsection shall not preclude such access across those river segments as the Secretary determines to be necessary to permit commercial development of mineral deposits in the North Fork drainage.

(b) The Secretary of the Interior shall take such action as is provided for under section 3(b) of the Wild and Scenic Rivers Act to establish detailed boundaries and formulate detailed development and management plans within one year after the date of enactment of this title with respect to the Alagnak, Birch Creek, and Gulkana components; within two years with respect to the Fortymile and Noatak components; within three years with respect to the Sheenjek, Andreafsky, Ivishak, Kanektok, and Unalakleet components. The detailed plan for each river (i) shall include establishment of detailed boundaries not to exceed one mile from the mean high water level on either side of the river segments, and (ii) shall include the establishment of a corridor based essentially on line-of-sight from the river within which the Secretary determines that minerals should continue to be withdrawn.

(c) Notwithstanding any provisions of the Wild and Scenic Rivers Act (82 Act. 907; 16 U.S.C. 1271) to the contrary, an area extending one mile from the mean high water level on either side of the river segments referred to in this section is hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws, including in both cases amendments thereto, pending establishment of the detailed boundaries provided for in subsection (b).

(d) The provisions of this title specifying maximum permissible corridors for individual components shall supersede any provisions to the contrary of the Wild and Scenic Rivers Act.

(e) Notwithstanding the provisions of section 9(a)(iii) of the Wild and Scenic Rivers Act, the minerals in all Federal lands within the line-of-sight corridor established pursuant to subsection (b) included in any component or part of a component designated by this section as a wild river area are effective upon the establishment of such corridor, withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and from operation of the mineral leasing laws including in both cases, amendments thereto. The Secretary is authorized to open the remainder of the lands within the detailed boundaries of the river segment to mining and mineral leasing subject to such regulations as he may prescribe.

(f) The Secretary may seek cooperative agreements with the owners of the non-Federal lands adjoining the wild and scenic rivers established by this title to assure that the purpose of such regulations are served to the greatest extent feasible.

(g) Notwithstanding any other provision of law or of this Act to the contrary, with respect to components of rivers herein designated and administered by the Secretary, the Secretary may (i) grant access for oil and gas pipelines in accordance with the Mineral Leasing Act of 1920; (ii) permit, subject to such terms and conditions as he deems necessary, access for roads across, through, or over such river components; and (iii) permit the continued use of Federal lands, waters and interests therein for customary and traditional transportation purposes and those required under existing international treaties.

(h) Rivers designated in section 321 of this title shall be managed by the Federal agency charged with management of the adjacent Federal lands.

TITLE IV—NATIONAL FOREST SYSTEM

ADDITIONS TO NATIONAL FORESTS

SEC. 401. The following units of the National Forest System are hereby expanded:

(1) Tongass National Forest by the addition of three areas, Kates Needle, Juneau Icefield, and Brabazon Range, containing approximately 1.54 million acres, as generally depicted on a map entitled, "Additions to the Tongass National Forest" dated , which shall be filed and made available for public inspection.

(2) Chugach National Forest by the addition of four areas, Nellie Juan, College Fiord, Copper River and Harding Icefield, containing approximately 2.11 million acres, as generally depicted on a map entitled, "Additions to the Chugach National Forest" dated , which shall be filed and made available for public inspection.

TITLE V—DESIGNATION OF WILDERNESS IN SOUTHEAST ALASKA

SEC. 501. In furtherance of the purposes of the Wilderness Act and subject to valid existing rights the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) Certain lands in the Tongass National Forest, Alaska which comprise approximately acres, as generally depicted on a map entitled, "Admiralty Island Wilderness," dated , and which shall be known as the Admiralty Island Wilderness.

(2) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "West Chichagof-Yakobi Wilderness," dated , and which shall be known as West Chichagof-Yakobi Wilderness.

(3) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "Russell Fiord Wilderness," dated , and which shall be known as Russell Fiord Wilderness.

(4) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "Granite Fiords Wilderness," dated , and which shall be known as Granite Fiords Wilderness.

(5) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "Stikine-LeConte Wilderness," dated , and which shall be known as Stikine-LeConte Wilderness.

(6) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled, "Tracy Arm Wilderness," dated , and which shall be known as Tracy Arm Wilderness.

(7) Certain lands in the Tongass National Forest, Alaska, which comprise approximately acres, as generally depicted on a map entitled "Petersburg Creek Wilderness," dated , and which shall be known as Petersburg Creek Wilderness.

BOUNDARIES

SEC. 502. (a) The boundaries of the areas designated in section 501 shall be determined by the Congress upon completion of the Tongass Land Use Management Plan by the United States Forest Service. Such boundaries shall:

(1) include only such commercial forest lands which shall not cause the potential annual yield of the Tongass National Forest to be reduced below existing levels of timber harvest, utilizing marginal and special components at a level which is reasonable in regard to the economic, technological and environmental constraints present at the time of passage of this Act; and

(2) exclude significant known mineral discoveries and mining claim areas.

(b) To the extent it is consistent with the requirements of subsection (a) of this section, additional wilderness areas or wilderness study areas may be designated.

ADMINISTRATIVE PROVISIONS

SEC. 503. (a) This section is enacted in recognition of the unique character of the wilderness areas in Alaska. Nothing in the provisions of this section shall be construed to expand, diminish, or modify the provisions of the Wilderness Act with respect to lands located in areas outside of the State of Alaska.

(b) The appropriate Secretary may take such measures as may be necessary to provide for fire, insect, and disease control in areas designated as wilderness under the provisions of this Act while maintaining the wilderness character of such areas and protecting adjoining lands or waters.

(c) The appropriate Secretary shall permit the continuance of customary uses of aircraft, motorboats, and snowmobiles established prior to the date of enactment of this Act in areas designated as wilderness under

the provisions of this Act, but may impose such restrictions as may be necessary to maintain the wilderness character of such areas.

(d) The appropriate Secretary shall permit the taking of fish and wildlife on lands designated as wilderness areas under the provisions of this Act which are under his jurisdiction in accordance with applicable laws of the United States and the State of Alaska. Subsistence activities described in title VII of this Act, including access by motorized vehicles, shall also be permitted within areas designated as wilderness under the provisions of this Act.

(e)(1) The appropriate Secretary shall permit public use cabins within areas designated as wilderness under the provisions of this Act which are in existence on the date of enactment of this Act to be used by the public and to be maintained or replaced under such conditions as the Secretary finds to be necessary to preserve the wilderness character of such areas.

(2) The appropriate Secretary is authorized to permit the construction and maintenance of new public use cabins and shelters within areas designated as wilderness under the provisions of this Act in order to protect the public health and safety, protect and preserve the wilderness character of the area, or meet minimum requirements for the administration of such areas. The appropriate Secretary may impose such conditions on the construction and maintenance of such cabins as may be necessary to preserve the wilderness character of the area.

(f) Commercial services may be performed within areas designated as wilderness under the provisions of this Act to the extent necessary to provide activities to carry out the recreational or wilderness purpose of the areas.

(g) In any case where State owned lands, privately owned lands, or mining claim lands are completely surrounded by areas designated as wilderness under the provisions of this Act, the State, private owner, or interest holder shall be given such rights as may be necessary to assure adequate access to the appropriate lands.

(h)(1) In order to study, restore, augment, or sustain fish populations the appropriate Secretary is authorized to permit research, fish stocking, enhancement, rehabilitation, and development activities which are in accordance with the principles of sound fisheries management, as well as the development of fish aquaculture and research sites, within areas designated as wilderness under the provisions of this Act. The appropriate Secretary shall require that structures built for such fish aquaculture or research sites include only the minimum facilities necessary for the operation of such sites, and that such structures be constructed in a manner which minimizes the impact on the natural environment and wilderness purposes for which the area was designated as a wilderness area under the provisions of this Act.

(2) The appropriate Secretary may permit reasonable access, including access by motor vehicle—

(A) to the State, or to the holder of a permit for fish enhancement programs or development activities, for the purpose of conducting necessary fish and wildlife management activities; and

(B) for the evaluation of sites needed for fisheries, research, enhancement, rehabilitation, and development and for the construction, operation, and maintenance of authorized projects.

WILDERNESS STUDY

SEC. 504. (a) The Congress finds and declares that—

(1) while there is general agreement that much of the land in Alaska possesses wilderness values and would qualify as potential units of the Wilderness Preservation System, there is a lack of information concerning the demand for wilderness and the uses of wilderness in Alaska; and

(2) the designation of units of the Wilderness Preservation System in Alaska should be done with the knowledge of and with consideration of the inventory of potential wilderness areas throughout the State, the range of uses and resources to occur or be protected in designated wilderness units, and the alternative resource uses of potential wilderness units.

(b) The Commission established in title VI of this Act shall report to the Congress within two years of enactment of this Act the findings and recommendations of a study of wilderness and recreation lands in Alaska. Such study shall be conducted in consultation with appropriate Federal, State and local agencies in Alaska and other interested organizations, all the report shall include:

(1) a general statewide analysis of current and future demands and needs for designated units of the Wilderness Preservation System and for areas managed primarily for recreation other than wilderness units; and

(2) a general statewide inventory of lands meeting the criteria for potential inclusion in the Wilderness Preservation System; and

(3) a general statewide analysis of current and future uses of lands of wilderness character and lands currently managed primarily for recreational purposes; and

(4) recommendations of the general acreages and the general locations of areas which should be designated as units of the Wilderness Preservation System. Such recommendations shall seek to accommodate the demands and needs for the various uses of wilderness identified by the Commission and shall be made with the purpose of facilitating the ultimate establishment of a statewide wilderness system which would include a diversified cross-section of lands meeting the criteria for inclusion in the Wilderness Preservation System; and

(5) recommendations of management practices which would be appropriate for various wilderness units which may be recommended for designation by the Commission; and

(6) recommendations of general areas other than wilderness units which should be designated or managed primarily for recreational uses in order to meet the demands for and uses of recreational lands identified by the Commission.

(c) There are authorized to be appropriated $1,000,000 for the purpose of conducting the studies authorized in this section.

TITLE VI—ALASKA FEDERAL-STATE LAND USE PLANNING COMMISSION

ESTABLISHMENT OF COMMISSIONS; JURISDICTION

SEC. 601. (a) Following designation under Alaska State law of all lands patented or tentatively approved for patent to the State to be cooperatively managed with designated Federal lands, there is hereby established the Alaska Federal-State Land Use Planning Commission (hereinafter referred to as the "Commission").

(b) In addition to the designated State lands, the Commission shall have jurisdiction over all public lands in the State of Alaska under the management of the Bureau of Land Management, including the National Petroleum Reserve in Alaska.

(c) With the approval of the Commission, lands for which patents or interim conveyances have been issued to Native corporations under the terms of the Alaska Native Claims Settlement Act and other private lands may be placed voluntarily under the jurisdiction of the Commission pursuant to the procedures and conditions to be enacted by the State of Alaska.

MEMBERSHIP AND PROCEDURES OF COMMISSION

SEC. 602. (a)(1) The Commission shall, subject to the provisions of section 601, be composed of nine members as follows:

(A) one member appointed, after consultation with and concurrence by the Governor of Alaska, by the President of the United States, with the advice and consent of the Senate, who shall be Chairman of the Commission;

(B) four members appointed by the President of the United States, with the advice and consent of the Senate;

(C) Four members appointed by the Governor of the State of Alaska subject to confirmation by a majority of the Alaska State Legislature in joint session.

(2) Upon the first vacancy of a position in each of the categories created pursuant to subparagraphs (B) and (C) of paragraph (1) (whether created by expiration of a member's term or otherwise) occurring on or after the date on which 80 per centum or more of all lands for which patents or interim conveyances have been issued have been dedicated by Native corporations for jurisdiction under the Commission, the President and the Governor, shall fill the vacancies under their respective jurisdictions by appointing a Native (as that term is defined in section 3(b) of the Alaska Native Claims Settlement Act). Thereafter, as long as such lands remain so dedicated, at least one of such members appointed in each of the categories created pursuant to subparagraphs (B) and (C) of paragraph (1) shall be a Native.

(b)(1) The Chairman shall be compensated at a rate to be determined by the President not to exceed the rate provided for GS–18 of the General Schedule under section 5332 of Title 5, United States Code.

(2) All other members of the Commission shall be compensated at a rate to be determined by the President, after consultation with and concurrence by the Governor of Alaska, not to exceed the rate provided for GS–16 of such General Schedule.

(3) Upon vouchers approved by the Chairman, all members of the Commission shall be reimbursed for necessary expenses incurred by them in carrying out their duties under this Act.

(c) The Commission, with the approval of the Chairman, is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

(d)(1) Members of the Commission shall serve for a four-year term except that of the initial members appointed pursuant to subparagraph (B) of subsection (a)(1), two members shall be appointed for two year terms, and of the initial members appointed pursuant to subparagraph (C) of subsection (a)(1), two members shall be appointed for two year terms. A vacancy in the membership shall not affect the Commission's powers but shall be filled in the manner provided in paragraph (2) of subsection (a). Any person appointed to fill a vacancy involving an unexpired term shall serve for the duration of that term. Except to the extent otherwise provided in subsection (a), members may be reappointed to serve additional terms.

(2) The Chairman of the Commission shall serve at the pleasure of the President and the Governor.

(e) Six members of the Commission shall constitute a quorum, except that the Commission may establish a lesser number for purposes of subsection (g).

(f) All Commission meetings shall be public and shall be duly noticed at least fifteen days prior to the date when the meeting is to take place.

(g) The Commission, or on its authorizition, any subcommittee or member thereof, may hold such hearings, take such testimony, receive such evidence, and print such reports as are deemed necessary to carry out the functions specified in this title.

(h) The Chairman is authorized, in accordance with regulations prescribed by the Commission, to create and abolish employments and positions including temporary

and intermittent employments; to fix and provide for the qualification, appointment, removal, compensation, pension and retirement rights of Commission employees; and to procure needed office space, supplies and equipment.

(i) The principal office of the Commission shall be located in the State of Alaska.

(j) The Federal government shall pay only 50 percent of the costs and other expenses incurred in each fiscal year by the Commission in carrying out its duties under this Act.

(k) The Commission is authorized to use the services, equipment, personnel and facilities of Federal departments and other agencies, with or without reimbursement. Each department and agency of the Federal government shall cooperate fully in making its services, equipment, personnel and facilities available to the Commission.

(l) The Commission is authorized to accept donations, gifts and other contributions and to utilize such donations, gifts and contributions in carrying out its functions under this Act.

(m) The Commission shall keep and maintain complete accounts and records of its activities and transactions, and such accounts and records shall be available for public inspection.

(n) The Commission is authorized to establish such advisory groups or committees of non-Commission members as may be necessary to assist it in performing its functions.

(o) The Chairman is authorized to establish whatever internal organization as may be necessary to efficiently conduct the functions of the Committee, including the assignment of work areas of primary responsibility for various members.

(p) The Commission shall, on or before March 1 of each year, prepare and submit to the President, the Governor of Alaska, the Legislature and the Congress an annual report summarizing its activities during the preceding calendar year, together with its recommendations.

FUNCTIONS AND DUTIES

SEC. 603. (a) It shall be the function of the Commission—

(1) to review resource inventories prepared by the managing agencies and other affected or concerned Federal and State agencies concerning lands under the jurisdiction of the Commission; and to initiate and conduct other such inventories and resource studies as may be needed;

(2) to develop comprehensive land use plans with respect to lands under the jurisdiction of the Commission;

(3) to make land classifications pursuant to such plans, and to approve and to supervise the regulation of uses in accordance with such plans and classifications;

(4) to assure that such classifications would specifically identify lands which are suitable and open for the following primary uses:

(A) oil, gas and other fuel mineral exploration and possible development;

(B) non-fuel mineral exploration and possible development;

(C) permanent and seasonal human habitation;

(D) agricultural and aquaculture development;

(E) timber harvesting;

(F) tourism and recreational development;

(G) primitive or wilderness use;

(H) fish and wildlife habitat; and

(I) other resource uses as may be appropriate;

(5) to assist in the development and review of land-use plans for lands selected by Native corporations under the terms of the Alaska Native Claims Settlement Act which may not be designated for jurisdiction by the Commission; and to assist in the development and review of land-use plans of municipal governments;

(6) to review existing withdrawals of Federal and State public lands and recommend to the President and Congress such additions to or modifications of such withdrawals as the Commission deems appropriate;

(7) to make recommendations, from time to time, to the President, Congress and the Governor and the Legislature of the State of Alaska as to changes in laws, policies, budgets and programs relating to the public lands which the Commission deems necessary or desirable;

(8) to make recommendations to the appropriate officers of the governments of the United States and the State of Alaska and to develop general plans which would ensure that economic growth and development are orderly, planned and compatible with State and national economic, social and environmental objectives;

(9) to make recommendations to appropriate officers of the United States, the State of Alaska, municipal officials and private landowners to improve coordination and consultation between the Federal, State and municipal governments in making resource allocations and land use decisions;

(10) to coordinate Federal and State administration, as it affects lands under the jurisdiction of the Commission, of the following Acts: the Federal Water Pollution Control Act, as amended; the Clean Air Act, as amended; the Solid Waste Disposal Act; the National Environmental Policy Act of 1969; the Coastal Zone Management Act of 1972, as amended; and the Safe Drinking Water Act;

(11) to determine the location of specific routes or corridors which would serve identified regional, statewide or national transportation or utility needs; direct the appropriate agency to grant rights-of-way across lands under its jurisdiction and provide study findings and make specific recommendations to the appropriate landowner where such rights-of-way would cross lands not under the Commission's jurisdiction, and in connection therewith the Commission shall evaluate alternative routes and modes and shall seek to recommend prudent and feasible routes and corridors which minimize environmental; and

(12) to perform any other duties authorized under section 17(b)(1) of the Alaska Native Claims Settlement Act.

(b) With respect to the uses under paragraph (4) of subsection (a), the Commission shall have the authority to pursue such uses on a lease basis under such terms as it may prescribe or under applicable provisions of the public land laws. In the case of leases for mineral exploration, the Commission shall prescribe such procedures and rules which shall recognize the value of and provide opportunities for exploration and discoveries by small businesses and individuals.

(c) With respect to all Federal lands subject to the jurisdiction of the Commission, the Secretary may veto a decision of the Commission. With respect to all State lands subject to the jurisdiction of the Commission, the Governor of Alaska may veto a decision of the Commission. With respect to any lands owned by Native corporation or other private lands subject to the jurisdictions of the Commission, either the Secretary or the Governor may veto a decision by the Commission. Any such veto shall be made within 30 days of the Commission's decision and shall be accompanied by a report to the Commission containing specific findings supporting the veto and indicating possible alternatives.

(d) Federal, State and Native corporation lands under the jurisdiction of the Commission shall continue to be managed by the respective agencies established under Federal and State law, and in the case of corporation lands, by the respective corporation owner, except that uses of Federal, State and Native corporation lands shall be regulated in accordance with classifications made by the Commission. Except to the extent that they would be inconsistent with a Commission classification or the provisions of this Act, land use management decisions made by an agency shall be in accordance with the laws and regulations which generally govern the functions of such agency.

(e) Lands under the jurisdiction of the Commission shall be withdrawn from all forms of disposition or appropriation under Federal public lands laws, including mining and mineral leasing laws, until a land use plan has been completed for the particular area by the Commission and classifications imposed in regard to permissible land uses. The provisions of this subsection shall not apply in cases where the Commission takes action to permit specific uses in an area or areas.

(f) In performing the functions specified in subsection (a), the Commission shall hold public hearings in the specific locale or region for which specific land use plans, classifications or actions are being proposed or considered.

(g) In the development of land use plans and classifications, the Commission shall give priority to the conduct of a study of the Alaska Peninsula region of Alaska, South of Katmai National Park. The study shall include recommendations for land ownership consolidations and possible creation of conservation system units.

COOPERATION OF FEDERAL AGENCIES IN ENVIRONMENTAL LAWS COORDINATION

SEC. 604. In order to assist the Commission in carrying out its coordination function under section 603(a)(10) and to insure that the uses of land under the jurisdiction of the Commission being permitted under the Federal Water Pollution Control Act, as amended, the Clean Air Act, as amended, the Solid Waste Disposal Act, the National Environmental Policy Act of 1969, the Coastal Zone Management Act of 1972, as amended, and the Safe Drinking Water Act, are consistent with the land use plans and classifications of the Commission the Secretary of Commerce, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality, shall, with respect to the implementation of such Acts under their respective jurisdictions—

(1) provide the Commission with copies of all orders, notices, regulations, or other material initiated concerning the implementation of such Act affecting any land under the jurisdiction of the Commission;

(2) solicit and receive comments from the Commission prior to making any final decision concerning any rule, regulation, stipulation, policy or other action affecting such lands; and

(3) shall make such final decisions with a view towards obviating conflicts or problems identified by the Commission in its comments.

TERMINATION OF EXISTING COMMISSION

SEC. 605. Notwithstanding any other provision of law, Federal participation in the Joint Federal-State Land Use Planning Commission for Alaska, established in Section 17(a) of the Alaska Native Claims Settlement Act, shall cease 180 days following the date of enactment of this Act or upon establishment of the Commission provided for in section 601 of this title, whichever first occurs. Immediately upon termination of Federal participation, all unexpended funds appropriated to the Joint Commission and all property shall be returned, as appropriate, to the United States and the State of Alaska, unless the Commission provided for in section 601

of this title has been established, in which case all Federal funds and property shall be transferred to the Commission.

SUNSET CLAUSE

SEC. 606. (a) Unless otherwise hereafter provided by law, Federal participation in the Commission shall terminate upon the expiration of the eleven calendar year period following the date on which the Commission takes effect.

(b) On or before the two-year period immediately preceding the date of the expiration of the eleven calendar year period following the date on which the Commission takes effect, the Secretary and the Commission shall report to the President and the Congress with respect to the Secretary's and the Commission's views and recommendations concerning the desirability or non-desirabiliy of continued Federal participation in the Commission.

(c) If at the expiration of the eleven calendar year period following the date on which the Commission takes effect the Congress has not acted to continue Federal participation in the Commission, the Secretary, acting under authority provided for in existing law, is directed to withdraw from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, up to, but not to exceed forty million acres of unreserved public lands in the State of Alaska which were previously under the jurisdiction of the Commission. Such lands shall be withdrawn for the purpose of studying the lands suitability for potential addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems.

(d) Within two years of the expiration of Federal participation in the Commission the Secretary shall submit to the Congress his recommendations with respect to such lands withdrawn. Areas recommended for addition to or creation as units of the National Park, Forest, Wildlife Refuge, and Wild and Scenic Rivers Systems shall remain withdrawn from any appropriation under the public land laws until such time as the Congress acts on the Secretary's recommendations, but not to exceed two years from the recommendation dates. The withdrawal of areas not so recommended shall termminate at the end of the two year period after the expiration of Federal participation in the Commission.

TITLE VII—SUBSISTENCE

FINDINGS

SEC. 701. The Congress finds and declares that—

(1) the continuation of subsistence uses by Natives of Alaska on the public lands and on their Native lands is essential to their physical, economic cultural existence.

(2) the continuation of subsistence uses by some other residents of the State of Alaska on the public lands is essential to their physical, economic and traditional existence.

(3) the situation in Alaska is unique in that, in most cases, no practical alternative means are available to replace the food supplies and other items gathered from fish and wildlife which supply persons dependent on subsistence uses.

(4) continuation of subsistence uses of resources on public and other lands in Alaska is threatened by the increasing population of Alaska, with resultant pressure on subsistence resources, by sudden decline in the populations of some wildlife species which are crucial subsistence resources, and by increased accessibility of remote areas containing subsistence resources.

(5) in order to fulfill the policies and purposes of the Alaska Native Claims Settlement Act, and as a matter of equity, it is necessary for the Congress to invoke its constitutional authority over Native affairs and over management of the public lands to protect and provide for continued subsistence uses on public lands by Alaska Natives and other Alaska residents.

(6) the national interest in the proper regulation, protection and conservation of fish and wildlife on the public lands in Alaska and the continuation of the opportunity for a subsistence way of life by the inhabitants of Alaska require that an administrative structure be established for the purpose of enabling people who have personal knowledge of local conditions and requirements to have a meaningful role in the management of fish and wildlife and of subsistence uses on the public lands in Alaska.

POLICY

SEC. 702. It is hereby declared to be the policy of Congress that—

(1) management policies on the public lands in Alaska are to cause the least adverse impact possible on rural people who traditionally and consistently depend upon subsistence resources of such lands. Consistent with management of fish and wildlife in accordance with recognized scientific principles and the purposes for which each conservation system unit is established, designated, or expanded by or under this Act, the purpcse of this title is to provide the opportunity for people engaged in a genuinely subsistence-oriented lifestyle to continue to do so if they desire and to allow such people to decide for themselves their own degree of subsistence dependency.

(2) subsistence use of wildlife and other renewable resources shall be the first priority consumptive use of all such resources on the public lands of Alaska, and where it is necessary to restrict taking in order to assure the continued viability of a fish or wildlife resource or the continuation of subsistence uses of such resource, the taking of such resource for subsistence uses shall be given preference on the public lands over recreational, sport, or other consumptive uses.

(3) except as otherwise provided by this Act or other Federal laws, Federal land managing agencies, in managing subsistence activities on the public lands and in protecting the continued viability of all wild renewable resources in Alaska, shall cooperate with adjacent landowners and land managers, including Native corporations, appropriate State and Federal agencies, and other nations.

SUBSISTENCE DEFINITION

SEC. 703. As used in this Act, the term "subsistence uses" means customary and traditional uses in Alaska of wild, renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools or transportation, for the making and selling of handicraft articles, including clothing, or for the customary trade or barter among subsistence users for personal or family consumption. Such uses may provide a cash supplement.

STATE REGULATION

SEC. 704. (a) Except as otherwise provided by this Act and other Federal laws, during an interim period of eighteen months beginning on the date of the enactment of this Act, the State of Alaska is authorized to regulate, in a manner not inconsistent with the policies set forth in section 702 and the definition set forth in section 703, the taking of fish and wildlife for subsistence uses on the public lands in Alaska. If the State fails to accept such authority, the Secretary shall regulate such taking during the eighteen-month interim period in a manner not inconsistent with such policies and definition.

(b) at the end of the eighteen-month interim period, the State of Alaska is authorized to regulate, in a matter consistent with the provisions of this Act, the taking of fish and wildlife for subsistence uses on the public lands in Alaska. If the State fails to accept such authority, the Secretary shall regulate such taking in a manner consistent with the provisions of this Act, including applicable provisions of this section concerning State regulation.

(c) If the State wishes to exercise the authority conferred under subsection (b) of this section, then within eighteen months after the date of the enactment of this Act, the Governor of the State of Alaska shall submit to the Secretary a State program which shall include at least the following elements:

(1) a system capable of monitoring subsistence and other consumptive uses of such species to insure that timely and appropriate State action will be taken to carry out the purposes and policies of this title.

(2) The establishment of not less than five or more than twelve fish and game management regions which, taken together, shall include all public lands where the State is exercising regulatory authority under this title. After consultation with the Secretary, the Native Corporations, rural residents, and other interested persons and organizations, the State shall, from time to time, determine the number and boundaries of such regions taking into account the exterior boundaries of Native Corporations, State fish and game management unit boundaries, ecosystems, the migration and movement of fish and wildlife utilized for subsistence purposes, the boundaries of conservation system units, boroughs, cities, towns and unincorporated municipalities, and other relevant factors.

(3) A State law or regulation which—

(A) provides priority for subsistence uses over other consumptive uses of fish and wildlife on the public lands; and

(B) provides that, whenever it is necessary to restrict the taking or other consumptive uses of subsistence resources in order to protect the continued viability of such resources or the continuation of subsistence uses of such resources, restrictions and limitation on and priorities for such consumptive uses shall be established on the basis of the following criteria: (i) customary and direct dependence upon the resource as the mainstay of one's livelihood, (ii) local residence, and (iii) availability of alternative resources.

(4) A system of local and regional fish and game councils within each management region referred to in paragraph (3). Each such council shall be composed of residents of the concerned region and shall have the following functions:

(A) Reviewing, developing and evaluating proposals for regulations, policies, management plans, and other matter relating to the conservation and utilization of fish and wildlife in such region.

(B) Providing a forum for the expression of opinions and recommendations by persons interested in any phase of fish and game conservation and utilization.

(C) Maximizing local and regional participationn in the fish and wildlife decision-making process.

(D) Preparing a recommended subsistence management plan or a general fish and wildlife management plan which includes subsistence uses for such region. The plan shall contain (i) an identification of current and anticipated significant subsistence uses of fish and wildlife in such region, (ii) an evaluation of current and anticipated significant subsistence needs for fish and wildlife in such region, (iii) a recommended subsistence management strategy for fish and wildlife resources of such region, and (iv) proposals for and advice concerning policies, standards, guidelines, and regulations necessary to implement the plan.

(5) the provision of necessary staff to the regional councils and the distribution of all available, relevant technical and scientific

support data to the local and regional councils.

(6) A requirement that the State agency referred to in paragraph (3)(A) or any other State rulemaking authority shall be guided by the advice and recommendations of the regional councils concerning the taking of fish and wildlife for subsistence uses within their respective regions and shall implement the recommendations, unless the agency or authority after hearing determines on the record that any such recommendation is not supported by substantial evidence, is violative of recognized principles of sound fish and wildlife management, or would be detrimental to the satisfaction of rural subsistence needs.

(d) The Secretary shall issue a certificate of approval for the State program and publish a summary of such program in the Federal Register if he finds that such program complies with the provisions of this section and is well adapted to achieve the purposes and policies of this title. If the Secretary is unable to make such finding, he shall so notify the State and shall afford the State and opportunity to modify its program under a procedure similar to the procedure set forth in section 705. If the State fails to submit a State program within the eighteen-month period established in section 704(a), the Secretary shall exercise his authority to manage the habitat of fish and wildlife on the public lands in Alaska for subsistence uses in a manner consistent with the provisions of this Act until such time as the State submits a program for which the Secretary is able to issue a certificate of approval. If the State submits its program within the eighteen-month period specified in section 704(a), but at the end of that period the Secretary has not either issued a certificate of approval or determined that modifications of the State program are necessary, the Secretary may extend the interim period during which the State may exercise the authority specified in subsection 704(a), and during such extension the Secretary shall complete his review of the State program and shall act thereon. No extension under the preceding sentence shall be for a period greater than eighteen months, and no such extension shall be renewed more than once.

ENFORCEMENT DUTIES OF SECRETARY OF THE INTERIOR

SEC. 705. (a) After issuance of a certificate of approval under section 704(d) of this title, the Secretary of the Interior shall monitor the implementation of the State program. In his review the Secretary shall consult with the local and regional councils referred to in section 704(c)(4). If the Secretary, after notice and hearing determines that the program or its implementation is not in compliance with the requirements, purposes, or policies of this title, he shall so notify the State and shall indicate changes in its program or its implementation which he considers necessary to bring the State into compliance.

(b) If, after a reasonable opportunity, the State fails to make the changes in its program or its implementation which may be required by the Secretary under subsections (a) or (b) of this section, the Secretary shall afford the State formal notice and hearing pursuant to Section 554 of Title V of the United States Code. The Secretary shall have the burden of demonstrating by a preponderance of the evidence that the State program or its implementation is not in compliance with the requirements, purposes, or policies of this title. If after hearing the Secretary finds the State is not in compliance he may issue a suspension of the certificate, in whole or in part. If the Secretary issues a suspension of the certificate under this subsection, he shall assume, in accordance with the requirements, purposes, and policies of this title (including applicable provisions of section 704 pertaining to State regulation), responsibility for regulating the subsistence taking of fish and wildlife on the public lands to which such suspension applies, until such time as the Secretary certifies that the State is in compliance with the State program and the requirements, purposes, and policies of this title.

(c) Notwithstanding any other provision of the Act or other law, the Secretary, after adequate notice and public hearing, may temporarily close any of the public lands in Alaska (including those within a conservation system unit) or any portion thereof to subsistence or other uses when necessary for reasons of public safety, administration or to assure the continued viability of one or more fish or wildlife species.

COOPERATIVE ARRANGEMENTS

SEC. 706. The Secretary is authorized to enter into cooperative agreements or otherwise cooperate with other Federal agencies, the State of Alaska, Native Corporations, and other appropriate persons and organizations (including, through coordination with the Secretary of State, other nations) to effectuate the purposes and policies of this title.

SUBSISTENCE AND LAND USE DECISIONS

SEC. 707. In determining whether to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands under any provision of law authorizing such actions, the head of the Federal agency having primary jurisdiction over such lands or his designee shall evaluate the subsistence needs of the persons who would be affected, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or disposition of public lands needed for subsistence purposes. No such withdrawal, reservation, lease, permit, or other use, occupancy, or disposition of such lands which would significantly restrict subsistence use shall be affected until the head of such Federal agency—

(1) gives notice to the State agency described in section 704(c)(3)(A) and appropriate local and regional councils described in section 704(c)(4) if such councils have been established.

(2) gives notice of, and holds, a hearing in the vicinity of the area involved, and

(3) determines that such significant restriction of subsistence uses is necessary and unavoidable and minimizes the land and impacts on subsistence uses involved.

ACCESS

SEC. 708. The Secretary shall ensure the persons engaged in traditional or customary subsistence activities shall have appropriate access to subsistence resources on the public lands.

SNOWMOBILES AND MOTORBOATS

SEC. 709. Notwithstanding any other provision of this Act or other law, the Secretary shall permit on the public lands appropriate use for subsistence purposes of snowmobiles, motorboats and other means of surface transportation traditionally employed for such purposes, subject to such reasonable regulations as are necessary to prevent abuse, waste or damage to terrain or other natural values.

RESEARCH

SEC. 710. The Secretary of the Interior and the Secretary of Agriculture shall each undertake research on fish and wildlife and subsistence activities on the public lands in Alaska under their respective jurisdiction, seek data thereon from subsistence users, consult such users frequently, and make findings concerning such research available to the State of Alaska, the local and regional councils described in section 704(c)(4), subsistence users, and other appropriate persons and organizations.

PERIODIC REPORTS

SEC. 711. Within five years after the date of the enactment of this Act and every two years thereafter, the Secretary of the Interior, in consultation with the Secretary of Agriculture, shall prepare and submit a report to the President of the Senate and the Speaker of the House of Representatives on the current status of fish and wildlife and subsistence and other uses of those resources on the public lands. The report shall include at least the following:

(1) The management and taking of fish and wildlife under this title.

(2) The status of fish and wildlife populations on the public lands.

(3) The number of persons engaged in subsistence uses and in other uses of fish and wildlife on the public lands.

(4) The status of subsistence uses in the economy and culture of rural Alaska.

(5) Comments, if any, on the report made by the State of Alaska, the local and regional councils described in section 704(c)(4), and other appropriate persons and organizations.

(6) A description of those actions taken, or which may need to be taken in the future, to permit the continuation of subsistence activities on the public lands, as well as recommendations for any legislation the Secretary deems desirable. A summary of the report shall be published in the Federal Register and made available to the public.

REGULATIONS

SEC. 712. The Secretary of the Interior and the Secretary of Agriculture shall each prescribe such regulations as are necessary and appropriate to carry out their respective responsibilities under this title.

OTHER LAWS

SEC. 713. Nothing in this title shall be deemed to modify or repeal the provisions of the Fur Seal Act of 1966 (80 Stat. 1091; 16 U.S.C. 1151–1187), the Endangered Species Act of 1973 (87 Stat. 884; 16 U.S.C. 1531–1543), the Marine Mammal Protection Act of 1972 (86 Stat. 1027; 16 U.S.C. 1361 and following), the Act entitled "An Act for the protection of the bald eagle," approved June 8, 1940 (54 Stat. 250; 16 U.S.C. 667–668d), the Fish and Wildlife Act of 1956 (70 Stat. 1119; 16 U.S.C. 742a–754), the Migratory Bird Conservation Act (45 Stat. 1222; 16 U.S.C. 715 and following), the Fisheries Conservation and Management Act of 1976, the Federal Aid in Wildlife Restoration Act (16 U.S.C. 777), or any amendments to any one or more of such Acts.

LIMITATIONS

SEC. 714. (a) Nothing in this title shall be construed as granting any property right in any fish, wildlife, or other resource of the public lands in Alaska, nor as permitting the level of subsistence uses of fish and wildlife on such lands to be significantly expanded beyond the level of such uses occurring on such lands on or before January 1, 1978.

(b) Nothing in this title shall be construed as permitting any subsistence use of the resources of any portion of the public lands (including any unit of the National Park System) where any such use was not permitted on the date of the enactment of this Act, nor as vesting elsewhere than in the Secretary any authority to manipulate habitat on any portion of the public lands.

REIMBURSEMENT TO THE STATE

SEC. 715. (a) Upon the issuance of a certificate of approval described in section 704(d) of this title, the Secretary of the Interior is authorized to reimburse the State agency described in section 704(c)(3)(A), from funds appropriated for the Department of the Interior, for costs relating to the implementation of the State program. Sums paid under this section shall be in addition to any grants, payments or other sums to which the State is entitled under existing

law. The purpose of such reimbursements shall be to assist the State in developing and implementing the State program described in section 704. During any fiscal year, such reimbursements shall not exceed 50 per centum of the costs of the program's development and implementation during such fiscal year. Such costs shall be verified in a statement which the Secretary of the Interior determines to be an adequate, accurate account.

(b) No reimbursement shall be paid under this section for costs incurred by the State during any period of suspension of part or all of the State program under section 705.

(c) Total payments to the State under this section shall not exceed the sum of $5,000,000 in any one fiscal year.

(d) The Secretary shall periodically review the financial aspects of implementing the State program and shall advise the Congress at least once in every five years as to whether or not the maximum amount of payments specified in subsection (c) is adequate for proper implementation of the State program.

(e) With respect to any fiscal year in which insufficient funds are appropriated—

(1) to reimburse 50 per centum of the costs referred to in subsection (a), or

(2) to meet the maximum amount of payments specified in subsection (c), whichever is less, the Secretary shall consult the State and shall hold a public hearing, for the purpose of determining the most economical manner in which the State can, consistent with the provisions of this title, carry out its program during such fiscal year.

TITLE VII—IMPLEMENTATION OF ALASKA NATIVE CLAIMS SETTLEMENT ACT AND ALASKA STATEHOOD ACT

CONVEYANCE OF CORE TOWNSHIP LANDS

SEC. 801. (a)(1) Except to the extent that conveyance of a surface estate would be inconsistent with section 22(1) of the Alaska Native Claims Settlement Act, there is hereby conveyed to and vested in each Village Corporation for a Native village which is determined to be eligible for land under section 11 or 16 of the Alaska Native Claims Settlement Act all of the right, title and interest of the United States in and to the surface estate in the township or townships withdrawn pursuant to section 11(a)(1)(A) or 16(a) of such Act in which all or any part of such village is located. As used in this paragraph the term "Native village" has the same meaning such term has in section 3(c) of the Alaska Native Claims Settlement Act.

(2) There is hereby conveyed to and vested in each Village Corporation which, by the date of enactment of this Act, is determined to be eligible under the Alaska Native Claims Settlement Act to, and has elected to, acquire title to any estate pursuant to section 19(b) of the Alaska Native Claims Settlement Act all of the right, title and interest of the United States in and to the estates in a reserve which was set aside for the use or benefit of the stockholders or members of such Corporation before the date of enactment of the Alaska Native Claims Settlement Act.

(3) There is hereby conveyed to and vested in each Regional Corporation which, as a result of a conveyance of a surface estate by paragraph (1) of this subsection, is entitled under section 14(f) of the Alaska Native Claims Settlement Act to receive the subsurface estate corresponding to such surface estate all of the right, title and interest of the United States in and to such subsurface estate.

(b) Within six months after the date of enactment of this Act, the Secretary shall issue to each Native Corporation referred to in subsection (a) interim conveyances or patents to the estate or estates conveyed to such Corporation by such subsection * * * title shall be deemed to have * * * date of enactment of this Act, or on the date of eligibility determination if subsequent thereto, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) A village Corporation's obligation to reconvey lands under section 14(c) of the Alaska Native Claims Setttlement Act shall arise only upon receipt of an interim conveyance or patent under subsection (b) of this section or under such Act. For purposes of sections 14(c), 14(f), and 22(g) of the Alaska Native Claims Settlement Act, interim conveyances and patents issued pursuant to this Act shall have the same effect as if issued pursuant to sections 14(a) and 14(b) of the Alaska Native Claims Settlement Act and shall be deemed to have been so issued. Disputes between or among Native Corporations arising from conveyances under this Act shall be resolved by a board of arbitrators of a type described in section 12(e) of the Alaska Native Claims Settlement Act pertaining to disputes over land selection rights and the boundaries of Village Corporations.

(d) Except as otherwise expressly provided in this Act, the provisions of the first two sentences of section 14(g) of the Alaska Native Claims Settlement Act shall apply to all conveyances made by sections 801 and 802 of this Act as if such conveyances were made under the Alaska Native Claims Settlement Act.

OTHER CONVEYANCES TO NATIVE CORPORATIONS

SEC. 802. (a) If a Native Corporation entitled to receive land under the Alaska Native Claims Settlement Act elects to utilize the expedited conveyance procedure provided by this section, then, within one hundred and eighty days after the date of enactment of this Act, or the date of eligibility determination, such Corporation shall file with the Secretary a document or documents which lists in order of prefrence such Corporation's priorities for the conveyance of all or any part of the amount of lands which such Coproration is entitled to receive under the Alaska Native Claims Settlement Act. Any Native Corporation not electing to utilize such expedited procedure shall receive conveyance to its total entitlement under the Alaska Native Claims Settlement Act.

(b)(1) Within one hundred and eighty days after the date on which a list of priorities is filed by a Native Corporation under subsection (a) of this section, the Secretary shall—

(A) determine whether each land selection contained in such list is valid under the Alaska Native Claims Settlement Act and publish such determination in the Federal Register; and

(B) publish in the Federal Register the minimum amount of land which he is able to determine that such Corporation is entitled to receive under the Alaska Native Claims Settlement Act.

If the Secretary is unable to determine the total amount of the land entitlement of such Corporation under subparagraph (B) he shall, at least every six months thereafter, redetermine the minimum amount referred to in such subparagraph and publish in the Federal Register such minimum amount as redetermined. The Secretary shall continue to make such redeterminations until he is able to determine and publish the total amount of such land entitlement.

(2) For a period of thirty days after each date on which the Secretary publishes under paragraph (1) of this subsection a minimum amount of land or the total amount of land a Native Corporation is entitled to receive the Corporation may file with the Secretary a document or documents amending or supplementing the priorities previously filed with the Secretary with respect to any land for which no conveyance has yet taken place, and thereafter conveyances under paragraph (3) or (6) of this subsection shall take place in accordance with such amended priorities. In the event that any land for which a Native Corporation may, under the preceding sentence, file amended priorities has also been validly selected by one or more other Native Corporations, such other Corporation or Corporations similarly may, during the same thirty day period, file amended priorities with respect to such selected land and any other land not previously designated as lower priority than such selected land, and thereafter conveyances to it under paragraph (3) or (6) of this subsection shall take place in accordance with such amended priorities.

(3) Except as provided in section 803(b), on the forty-fifth day following each date on which the Secretary publisher under paragraph (1) of this subsection a minimum amount of land which a Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act, there shall hereby be conveyed to and vested in such Corporation all of the right, title and interest of the United States in and to those lands—

(A) which were validly selected by such Corporation under the Alaska Native Claims Settlement Act and not validly selected by one or more other Native Corporations under such Act;

(B) which are of the highest priority contained in the list of priorities filed by such Corporation; and

(C) which have a cumulative acreage which is equal to the acreage subject to the Corporation's priorities but not more than such minimum amount—

(i) reduced by the cumulative acreage of lands previously conveyed to such Corporation by this subsection or under the Alaska Native Claims Settlement Act; and

(ii) reduced as provided in paragraphs (4) and (5) of this subsection.

(4) In any case in which the Secretary determines under paragraph (1)(A)—

(A) that a land selection contained in the list of priorities filed by a Native Corporation is invalid under the Alaska Native Claims Settlement Act, and

(B) that the cumulative total of acreages of land selections contained in such list of higher priorities than the land selection referred to in subparagraph (A) does not exceed the most recent determination under paragraph (2) of the minimum land entitlement of such Corporation.

the total amount of lands to be conveyed by paragraph (3) shall be reduced by an acreage which equals the acreage of the land selection determined to be invalid under subparagraph (A).

(5) In any case in which the Secretary, before the date of conveyance of lands to a Native Corporation by paragraph (3), determines—

(A) that a valid land section contained in the list of priorities filed by a Native Corporation under subsection (a) of this section has also been validly selected under the Alaska Native Claims Settlement Act by one or more other Native Corporations, and

(B) that the cumulative total of acreage of land selections contained in such list as higher priorities than the land selection referred to in subparagraph (A) does not exceed the most recent determination under paragraph (2) of the minimum land entitlement of such Corporation, the total amount of lands to be conveyed by paragraph (3) shall be reduced by an acreage which equals the acreage of the land selection referred to in subparagraph (A).

(6) Whenever the Secretary receives in writing—

(A) the acceptance by a Native Corpora-

tion of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection.

(B) the results of a final decision on an action filed by a Native Corporation contesting the validity of a determination of the Secretary to reduce the acreage of a conveyance to such Corporation under paragraph (4) or (5) of this subsection, or

(C) the provisions of a final settlement or the results of a final decision on a dispute over which a Native Corporation is entitled under the Alaska Native Claims Settlement Act to receive conveyance of lands which were the subject of a determination by the Secretary under paragraph (5) of this subsection,

all of the right, title and interest of the United States in and to any lands which the concerned Native Corporation is entitled to receive under the Alaska Native Claims Settlement Act as a result of the concerned acceptance, dispute, or settlement shall hereby be conveyed to and vested in such Corporation.

(7) Within ninety days after the date of a conveyance under paragraph (3) or (6) of this subsection, the Secretary shall issue to the concerned Native Corporation interim conveyances or patents to the lands subject to such conveyance, but title shall be deemed to have passed on the date of such conveyance, notwithstanding any delay in the issuance of the interim conveyances or patents.

(c) Nothing in this section shall be construed as applying to lands conveyed by section 801(a) of this Act.

(d) For purposes of this section and sections 801(c), 803 and 805(d) of this title, the term "Native Corporation" means any Village Corporation, any Regional Corporation, any Urban Corporation, and any Native group as such term is defined in section 3(d) of the Alaska Native Claims Settlement Act.

(e) All withdrawals on Admiralty Island heretofore made by the Secretary of the Interior for selection by the Juneau and Sitka Urban Corporations under the terms of section 14(h)(3) of the Alaska Native Claims Settlement Act are hereby ratified and confirmed.

ADMINISTRATIVE PROVISIONS

SEC. 803. (a) With respect to lands conveyed to Native Corporations on or after the date of enactment of this Act, the Secretary shall only reserve those easements which are described in section 14(g) or 17(b)(1) of the Alaska Native Claims Settlement Act and shall be guided by the following principles:

(1) all easements should be designed so as to minimize their impact on the compactness of Native lands, on lifestyles, and on subsistence uses; and

(2) each easement should be specifically located and described and should include only such areas as are essential for the purpose or purposes for which the easement is reserved.

(b) Whenever, after a conveyance has been made by this Act or under the Alaska Native Claims Settlement Act, the Secretary determines that an easement not reserved at the time of conveyance is required for any purpose specified in section 17(b)(1) of the Alaska Native Claims Settlement Act, he is authorized to acquire such easement by purchase or otherwise. The acquisition of such an easement shall be deemed a public purpose for which the Secretary may exercise his exchange authority pursuant to section 22(f) of the Alaska Native Claims Settlement Act. In determining whether to acquire an easement under this subsection, the Secretary shall be guided by the principles listed in paragraphs (1) and (2) of subsection (b) of this section.

(c) This Act is not intended to modify, repeal or otherwise affect any provision of the Act of January 2, 1976 (89 Stat. 1145), and shall not be construed as imposing any additional restriction on the use or management of those lands described in section 22(k) of the Alaska Native Claims Settlement Act.

STATE OF ALASKA LAND SELECTIONS AND CONVEYANCES

SEC. 804. (a) In furtherance and confirmation of the State of Alaska's entitlement to certain national forest and other public lands in Alaska for community development and expansion purposes, subsection 6(a) of the Alaska Statehood Act is amended in part by substitution of the phrase "thirty-five years" for the phrase "twenty-five years" contained in said subsection.

(b) In furtherance and confirmation of the State of Alaska's entitlement to certain public lands in Alaska, subsection 6(b) of the Alaska Statehood Act is amended in part by substitution of the phrase "thirty-five years" for the phrase "twenty-five years" contained in said subsection; said subsection 6(b) is, as to future state land selections, further amended by repeal of the proviso regarding Presidential approval of land selections north and west of that line described in section 10 of said Act.

(c) In full and final settlement of any and all claims by the State of Alaska arising under the Act of March 4, 1915, as amended, including claims to surveyed lands which were within federal reservations or withdrawals, at the time of Statehood, the State is hereby granted 75,000 acres which it shall be entitled to select until January 4, 1994 from vacant, unappropriated and unreserved public lands in Alaska.

(1) Except as provided herein, such selections shall be made in conformance with the provisions for selections under section 6(b) of the Alaska Statehood Act. Selections made under this subsection shall be in units of whole sections as shown on the official survey plats of the Bureau of Land Management, including protraction diagrams, unless part of the section is unavailable or the land is otherwise surveyed, or unless the Secretary waives the whole-section requirement.

(2) Lands selected and conveyed to the State under this subsection shall be subject to the provisions of sections 6(j) and (k) of the Alaska Statehood Act.

(d) All tentative approvals of State of Alaska land selections pursuant to the Alaska Statehood Act are hereby ratified and confirmed, subject only to valid existing rights including but not limited to land conveyances heretofore or hereafter made pursuant to valid selections filed by Native village corporations on or before December 18, 1974 pursuant to sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act, and the United States hereby confirms that all right, title and interest of the United States in and to such lands is deemed to have vested in the State of Alaska as of the date of tentative approval; provided that this subsection shall not apply to tentative approvals which, prior to the date of enactment of this Act, have been relinquished by the State, or have been finally revoked by the United States under authority separate from that derived from sections 11(a)(2), 12(a) and 12(b) of the Alaska Native Claims Settlement Act.

(1) Upon approval of land survey by the Secretary, such lands shall be patented to the State of Alaska.

(2) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State of that basis within six months after notice of such election for townships having no adverse claims on the Public Land Records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(3) Future tentative approvals of State of Alaska land selections, when issued, shall have the same force and effect as those existing tentative approvals which are confirmed by this subsection (d), and shall be processed for patent by the same administrative procedures as specified in paragraphs (1) and (2) of this subsection.

(e) All existing valid State of Alaska land selections made pursuant to the Alaska Statehood Act are hereby confirmed, subject only to valid existing rights including but not limited to conveyances heretofore or hereafter made pursuant to valid selections filed by Native village corporations on or before December 18, 1974 pursuant to sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act.

(1) As soon as practicable after the date of enactment of this Act, the Secretary shall issue tentative approvals to such state selections as required by the Alaska Statehood Act, and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State. All right, title and interest of the United States shall vest in the State of Alaska upon issuance of such tentative approvals.

(2) Upon approval of land survey by the Secretary, such lands shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are the subject of this subsection on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the Public land Records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(4) Future valid State of Alaska land selections shall be subject only to valid existing rights, including but not limited to conveyances heretofore or hereafter made pursuant to valid selections filed by Native village corporations on or before December 18, 1974 pursuant to sections 12(a) or 12(b) of the Alaska Native Claims Settlement Act.

(f) The State, at its options, may file future selection applications and amendments thereto, pursuant to section 6 (a) or (b) of the Alaska Statehood Act or subsection (c) of this section, for lands which are not, on the date of filing of such applications, available lands within the meaning of section 6 (a) or (b) of the Alaska Statehood Act. Each such selection application, if otherwise valid, shall become an effective selection without further action by the State upon the date the lands included in such application become available within the meaning of said section 6 (a) or (b) regardless of whether such date occurs before or after expiration of the State's land selection rights. Selection applications heretofore filed by the State may be re-filed so as to become subject to the provisions of this subsection; provided that no such re-filing shall prejudice any claim of validity which may be asserted regarding the original filing of such application. Nothing contained in this subsection shall be construed to prevent the United States from transferring a Federal reservation or appropriation from one Federal agency to another Federal agency for the use and benefit of the government.

(g) The State of Alaska may select lands exceeding by not more than twenty-five percent in total area the amount of State entitlement which has not been patented or tentatively approved under each grant or

confirmation of lands contained in the Alaska Statehood Act or other law. If its selections under a particular grant exceed such remaining entitlement, the State shall thereupon list all selections for that grant which have not been tentatively approved in desired priority order of conveyance, in blocks no larger than one township in size; provided, however, that the State may alter such priorities prior to receipt of tentative approval. Upon receipt by the State of subsequent tentative approvals, such excess selections shall be reduced by the Secretary pro rata by rejecting the lowest prioritized selection blocks necessary to maintain a maximum excess selection of twenty-five percent of the entitlement which has not yet been tentatively approved or patented to the State under each grant.

(1) The State of Alaska may, by written notification to the Secretary, relinquish any selections of land filed under the Alaska Statehood Act or subsection (c) of this section prior to receipt by the State of tentative approval; provided, however, that lands conveyed pursuant to subsection (h) of this section may not be relinquished pursuant to this paragraph.

(2) Section 6(g) of the Alaska Statehood Act is amended in part by addition of the following provision immediately following the last sentence of said subsection: "As to all selections made by the State after January 1, 1979 pursuant to section 6(b) of this Act, the Secretary of the Interior, in his discretion, may waive the minimum tract selection size where such a reduced selection size would be in the national interest."

(h) In furtherance of its entitlement to lands under section 6(b) of the Alaska Statehood Act, the United States hereby conveys to the State of Alaska the right, title and interest of the United States in and to all vacant, unappropriated and unreserved lands including lands subject to subsection (m) of this section, which lie within the following townships as specified in the list of State selection interest lands submitted by the State of Alaska and on file in the office of the Secretary of the Interior, and as depicted on the map entitled, " " dated 1978.

(i) Lands identified in subsection (h) shall be conveyed to the State subject to valid existing rights, including valid existing Native selection rights under the Alaska Native Claims Settlement Act. All right, title in interest of the United States in and to such lands shall vest in the State of Alaska as of the date of this Act, subject to those reservations specified in subsection (m) of this section.

(1) As soon as practicable after the date of enactment of this Act, the Secretary shall issue to the State tentative approvals to such lands as required by the Alaska Statehood Act and pursuant to subsection (j) of this section. The sequence of issuance of such tentative approvals shall be on the basis of priorities determined by the State.

(2) Upon approval of land survey by the Secretary, those lands identified in subsection (h) shall be patented to the State of Alaska.

(3) If the State elects to receive patent to any of the lands which are identified in subsection (h) on the basis of protraction surveys in lieu of field surveys, the Secretary shall issue patent to the State on that basis within six months after notice of such election for townships having no adverse claims on the Public Land Records. For townships having such adverse claims of record, patent on the basis of protraction surveys shall be issued as soon as practicable after such election. The State shall bear the burden of loss of acreage due to errors, if any, in any such protraction survey.

(j) Nothing contained in this section shall relieve the Secretary of the duty to adjudicate conflicting claims regarding the lands specified in subsection (h) of this section, or otherwise selected under authority of the Alaska Statehood Act, subsection (c) of this section, or other law, prior to the issuance of tentative approval.

(k) The following withdrawals, classifications, or designations shall not, of themselves, remove the lands involved from the status of "vacant, unappropriated, and unreserved" lands for the purposes of subsection (h) of this section and future State selections pursuant to the Alaska Statehood Act or subsection (c) of this section.

(1) Withdrawals for classification pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act; provided, that in accordance with the Memorandum of Understanding between the United States and the State of Alaska dated September 2, 1972, to the extent that Public Land Orders Numbered 5150, 5151, 5181, 5182, 5184, 5190, 5194 and 5388 by their terms continue to prohibit State selections of certain lands, such lands shall remain unavailable for future State selection, but may be conveyed pursuant to subsection (h) of this section.

(2) Withdrawals pursuant to section 11 of the Alaska Native Claims Settlement Act, and which are not conveyed pursuant to sections 12, 14 or 19 of said Act;

(3) Classifications pursuant to the Classification and Multiple Use Act, 78 Stat. 987 (1964);

(4) Classifications or designations pursuant to the Federal Land Policy and Management Act, 90 Stat. 2743 (1976).

(l) Notwithstanding any other provision of law, on lands selected by, or granted or conveyed to, the State of Alaska under section 6 of the Alaska Statehood Act or this Act, but not yet tentatively approved to the State—

(1) The Secretary is authorized to make contracts and grant leases, licenses, permits, rights-of-way or easements, and any tentative approval or patent shall be subject to such contract, lease, license, permit, right-of-way, or easement; provided that the authority granted the Secretary by this subsection is that authority the Secretary otherwise would have had under exising laws and regulations had the lands not been selected by the State; and provided further that the State has concurred prior to such action by the Secretary;

(2) From and after the date of enactment of this Act, ninety per centum (90%) of any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements or from trespasses originating after the date of selection by the State shall be held by the Secretary until such lands have been tentatively approved to the State. As such lands are tentatively approved, the Secretary shall pay to the State from such account the proceeds allocable to such lands which are derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses. The proceeds derived from contracts, leases, licenses, permits, rights-of-way, easements, or trespasses and deposited to the account pertaining to lands selected by the State but not tentatively approved due to rejection or relinquishment shall be paid as would have been required by law were it not for the provisions of this Act. In the event that the tentative approval does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the State shall only be entitled to the proportionate amount of the proceeds derived from such contract, lease, license, permit, right-of-way or easement, which results from multiplying the total of such proceeds by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the tentative approval and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the State shall be entitled to the proportionate share of the proceeds in relation to the damages occurring on the respective lands;

(3) Nothing in this subsection shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act, or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(m) All conveyances to the State under section 6 of the Alaska Statehood Act, this Act, or other law, shall be subject to valid existing rights and to any right-of-way or easement reserved for or appropriated by the United States—

(1) Where prior to a conveyance to the State, a right-of-way or easement has been reserved for or appropriated by the United States or a contract, lease, license, permit, right-of-way, or easement has been issued for the lands, the conveyance shall contain provisions making it subject to the right-of-way or easement reserved or appropriated and to the contract, lease, license, permit, right-of-way, or easement issued or granted, and also subject to the right of the United States, contractee, lessee, licensee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits previously granted, issued, reserved or appropriated. Upon issuance of tentative approval, the State shall succeed and become entitled to any and all interests of the United States as contractor, lessor, licensor permitter or grantor in any such contracts, leases, licenses, permits, rights-of-way or easements, except those reserved to the United States in the tentative approval.

(2) The administration of rights-of-way or easements reserved to the United States in the tentative approval shall be in the United States, including the right to grant an interest in such right-of-way or easement in whole or in part;

(3) Where the lands tentatively approved do not include all of the land involved with any contract, lease, license, permit, right-of-way, or easement issued or granted, the administration of such contract, lease, license, permit, right-of-way, or easement shall remain in the United States, unless the agency responsible for administration waives such administration;

(4) Nothing herein shall relieve the State or the United States of any obligations under section 9 of the Alaska Native Claims Settlement Act, or the fourth sentence of section 6(h) of the Alaska Statehood Act.

(n) Any extensions of time periods granted to the State pursuant to Section 17(d)(2)(E) of the Alaska Native Claims Settlement Act are hereby extinguished, and the time periods specified in subsections (a), (b) and (c) of this section shall hereafter be applicable to such State selections.

(o) Nothing in this section shall alter the rights or obligations of any party with regard to section 12 of the Act of January 2, 1976, P.L. 94-204, sections 4 and 5 of the Act of October 4, 1976, P.L. 94-456, or section 3 of the Act of November 15, 1977, P.L. 95-178.

PROTECTION OF NATIVE LANDS IN CONTINGENCY AREAS UNDER TIMBER SALES

SEC. 805. Section 15 of the Alaska Native Claims Settlement Act is amended by inserting "(a)" after "Sec. 15." and by adding at the end thereof the following new subsection:

"(b) No land conveyed to a Native Corporation pursuant to this Act or by title VIII of the Alaska National Interest Lands Conservation Act which is within a contingency area designated in a timber sale contract let by the United States shall thereafter be subject to such contract or to entry or timbering by the contractor. Until a Native Corporation has received conveyance to all of the land to which it is entitled to receive under this Act, no land in such a contingency area that has been withdrawn for

selection by such Corporation under this Act shall be entered by the timber contractor and no timber shall be cut thereon, except by agreement with such Corporation. For purposes of this subsection, the term "contingency area" means any area specified in a timber sale contract as an area from which the timber contractor may harvest timber if the volume of timber specified in the contract cannot be obtained from one or more areas definitely designated for timbering in the contract."

USE OF PROTRACTION SURVEYS

SEC. 806. With the agreement of the party to whom a patent is to be issued under this title, the Alaska Native Claims Settlement Act, or the Alaska Statehood Act, the Secretary may base such patent on protraction surveys in lieu of field surveys.

ACTION TO ENFORCE; JURISDICTION

SEC. 807. For a period of three years after the date of enactment of this Act, any appropriate Federal district court shall have jurisdiction to hear, consider, and decide any action brought by the State or by a Native Corporation to enforce the provisions of this title and to award appropriate attorney and witness fees and other costs of the litigation to the prevailing party.

NATIONAL ENVIRONMENTAL POLICY ACT

SEC. 808. In the passage of the Alaska Native Claims Settlement Act the Congress took full consideration of the National Environmental Policy Act of 1969 and the environmental impacts associated with land withdrawals, conveyances, the reservation of easements and other similar administrative actions required in the Alaska Native Claims Settlement Act to carry out the purposes of that Act.

TECHNICAL CORRECTIONS IN SECTION 15(a) OF P.L. 94-204

SEC. 809. Section 15(a) of P.L. 94-204, 89 Stat. 1154-1155, is amended as follows:

(1) Strike the description beginning with "Township 36 south, range 52 west/" through "Township 41 south, range 53 west, sections 1, 2, 11, 12, 13 S.M., Alaska, notwithstanding;" and insert in lieu thereof the following:

"Township 36 south, range 52 west, all;

"Township 37 south, range 51 west, all;

"Township 37 south, range 52 west, all;

"Township 37 south, range 53 west, sections 1 through 4, 9 through 16, 21 through 24, and the North one-half of sections 25 through 28;

"Township 38 south, range 51 west, sections 1 through 5, 9, 10, 12, 13, 18, 24 and 25;

"Township 38 south, range 52 west, sections 1 through 35;

"Township 38 south, range 53 west, sections 1, 12, 13, 24, 25 and 36;

"Township 39 south, range 51 west, sections 1, 6, 7, 16 through 21, 28 through 33, and 36;

"Township 39 south, range 52 west, sections 1, 2, 11 through 15, and 22 through 24.

"Township 39 south, range 53 west, sections 33 through 36, and the south one-half of section 26;

"Township 49 south, range 51 west, sections 2 and 6;

"Township 40 south, range 52 west, sections 6 through 10, 15 through 21, and 27 through 36;

"Township 49 south, range 53 west, sections 1 through 19, 21 through 28, and 34 through 36;

"Township 49 south, range 54 west, sections 1 through 34;

"Township 41 south, range 52 west, sections 7, 8, 9, 16, 17 and 18;

"Township 41 south, range 53 west, sections 1, 4, 5, 8, 9, 11, 12 and 16;

"Township 41 south, range 54 west, section 6;

(2) Strike the initial word "The" in the line immediately following the description, and insert "notwithstanding the."

TITLE IX—MINERAL STUDY, EXPLORATION AND EXTRACTION IN CONSERVATION SYSTEM UNITS

GENERAL GEOLOGICAL INVESTIGATIONS AND MINERAL ASSESSMENT PROGRAMS IN ALASKA

SEC. 901. (a) Nothing in the provisions of this Act, the provisions of the Wilderness Act, nor any other provision of law shall be construed to prohibit the Secretary from conducting mineral assessment programs and general geological investigatory programs and inspections in Alaska directly or by grants to or contracts with individuals and business concerns.

(b) The Secretary shall promulgate guidelines concerning the conduct of the program authorized under subsection (a) in areas which are located within a conservation system unit. Such guidelines shall insure that such program is conducted in an environmentally sound manner which does not interfere with the purposes for which such areas are established as part of such unit.

OIL AND GAS LEASING PROGRAMS IN NATIONAL WILDLIFE REFUGES

SEC. 902. (a) The Congress finds and declares that—

(1) leases for the exploration and development of oil and gas resources on units of the National Widlife Refuge System have generally not been granted, despite the authority of the Secretary to enter into such leases; and

(2) exploration and development of oil and gas resources could occur with minimal adverse impact on such refuge system lands if such exploration and development were carried out under strict regulations concerning surface uses of such lands.

(b)(1) The Secretary shall conduct, pursuant to his authority under existing law, a leasing program for the exploration and development of oil and gas resources on units of the National Wildlife Refuge System located in Alaska, including lands designated as units of such system under the provisions of title II. The Secretary shall utilize the recommendations of representatives of the oil and gas industry, conservation groups, the Governor of the State of Alaska, Alaskan local governments, Native corporations, and interested groups and individuals in determining which lands located in units of the National Wildlife Refuge System should be leased for the exploration and development of oil and gas resources.

(2) The Secretary shall promulgate such regulations as may be necessary to insure that exploration and development of oil and gas resources in any refuge system unit pursuant to the provisions of this section occur in a manner which does not result in any significant adverse impact on the resources or values for which such refuge system unit was established.

NON-FUEL MINERAL EXPLORATION AND EXTRACTION PROGRAMS

SEC. 903. (a)(1). The Secretary shall conduct a program, directly or by the issuance of permits to individuals or business concerns, to study and explore the mineral potential of the areas established as or added to conservation system units under the provisions of this Act which are under his jurisdiction, and to determine whether further mineral exploration and extraction activities can be conducted in such areas in a manner which does not interfere with the purposes for which such areas were established as such units.

(2) The Secretary shall determine the size of land tracts for which permits are to be issued by balancing the need for a tract of reasonable size to permit study or exploration with the need to minimize any adverse impact of such study or expiration on the conservation system unit.

(3) In issuing permits for study or exploration under the provisions of this section, the Secretary shall give full consideration to interested individual prospectors and small business concerns.

(4) The Secretary shall authorize the holders of permits to map the surface or subsurface of areas studied or explored under the provisions of this section by aerial, mechanical, physical, or other techniques, as well as by physical entry and examination, geophysical activities, and other evaluation methods. The Secretary shall require that any holder of a permit who employs techniques or methods with result in a substantial alteration of any surface feature of the area studies or explored shall restore such surface feature to its original condition immediately after the conclusion of such study or exploration.

(b)(1) The Secretary may issue permits for the further exploration or extraction of minerals from lands located in areas established as or added to conservation systems units under the provisions of this Act if he determines, based on information gained from studies or explorations conducted pursuant to subsection (a), that such further exploration and extraction may be conducted in a manner which does not substantially interfere with the purposes for which such units was established and that any surface altered by such further exploration or extraction may be substantially restored to its original condition. The Secretary may not issue permits for further exploration or extraction in units of the National Park or Monuments System without the prior consent of Congress.

(2) The Secretary may issue regulations to limit the scope of further exploration and extraction activities in order to preserve, to an appropriate degree, known scenic, habitat, natural, or historical values or concerns in any conservation system unit where such further exploration or extraction is located.

(3) In issuing permits for further exploration or extraction in a particular area under the provisions of this subsection, the Secretary shall offer permits for further exploration or extraction to holders of permits for study or initial exploration in that area. Any such permit holders shall have sixty days from the date when the Secretary offers a permit for further exploration or extraction to accept such offer. If any such offer is rejected by such permit holder, the Secretary shall immediately make the land for which such permit was offered available for lease on a competitive bidding basis.

(c) The Secretary shall provide the public and the Commission established under the provisions of title VI an opportunity to comment on the implementation of the provisions of this section. After receiving such comments, or after a reasonable time from the provision of such opportunity, the Secretary shall issue regulations to implement the provisions of this section concerning—

(1) the issuance of permits for exploration and extraction, including the sizes of tracts for which permits will be issued and requirements for competitive bidding;

(2) the duration, assignment, and renewal of permits;

(3) the establishment of a fee and royalty schedule for issuance and maintenance of permits;

(4) additional appropriate terms for the issuance of permits;

(5) requirements to insure that any activity under any permit for study, exploration or extraction in an area located in a conservation system unit shall be undertaken in a manner which does not unreasonably interfere with the purposes for which such unit was established;

(6) the removal of minerals;

(7) facilities for general access, storage, removal, and transportation of minerals extracted under any permit, including roadways, storage sites, processing operations, water lines, pipelines, communications, and similar facilities; and

(8) such other matters as the Secretary finds reasonably necessary to implement the provisions of this section.

EXISTING MINERAL CLAIMS AND MINERAL LEASING RIGHTS IN CONSERVATION SYSTEM UNITS

SEC. 904. Persons holding valid existing mineral claims and mineral leases within conservation system units designated under the provisions of titles I, II, III, IV, and V shall be afforded reasonable and customary access to such claims or leases, including access by motor vehicles. The provisions of this Act or any other Act shall not be construed to prohibit the use of such claims or leases in a manner intended under the Mining Law of 1872, and related Acts, and the Mineral Leasing Act of 1920, as amended.

TITLE X—TRANSPORTATION AND UTILITY RIGHTS-OF-WAY

SEC. 1001. (a) Notwithstanding any other provision of law, the Secretary is authorized to permit rights-of-way for transportation or utility systems across any lands designated as a unit of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, or the National Wilderness Presevation System (hereinafter referred to as a "conservation system unit") under the provisions of title I, II, III, or V of this Act.

(b) Upon receipt of any application for such transportation or utility right-of-way, the Secretary shall afford the Commission established under title VI of this Act the opportunity to review, study, and make recommendations concerning such application.

(c) In accordance with the provisions of title VI of this Act, the Commission shall make recommendations to the Secretary concerning the approval or disapproval of all applications for rights-of-way for transportation and utility systems across lands designated as a conservation system unit under the provisions of title I, II, III, or V of this Act.

(d) If the Secretary disapproves an application for a right-of-way which has been recommended for approval by the Commission, he shall issue, within the shortest reasonable time, detailed findings concerning such disapproval which shall include—

(1) information indicating that the transportation or utility system right-of-way which is the subject of the application cannot be constructed in a manner which would avoid significant damage or degradation to the natural resources and values for which the affected conservation system unit was established; and

(2) a finding that the natural values for which the affected conservation system unit was established which would be significantly damaged or degraded by the right-of-way for which the application is made outweigh the public interest benefits which would result from the development of such transportation or utility right-of-way; and

(3) a demonstration of a feasible and prudent alternative to the right-of-way for which the application is made which would—

(A) cause less damage or degradation to the natural values of the affected conservation system unit; or

(B) be more compatible with the purposes for which the affected conservation system unit was established.

(e) Section 603 (c) (relating to the veto authority of the Secretary over decisions of the Commission) does not relieve the Secretary of his duties prescribed under this section.

TITLE XI—GENERAL ADMINISTRATIVE PROVISIONS

MINING

SEC. 1101. (a) All lands designated by this Act as units of the National Park System, National Wildlife Refuge System, and, notwithstanding the provisions of section 9(a)(ii) of the Wild and Scenic Rivers Act (82 Stat. 907) as amended (16 U.S.C. 1274(2)), wild rivers, as provided in section 322 of this Act, are hereby withdrawn, subject to valid existing rights, from all forms of appropriation under the mining laws and, except in the case of the National Wildlife Refuge System, from operation of the mineral leasing laws.

SELECTIONS BY NATIVE CORPORATIONS AND THE STATE

SEC. 1102. (a) All lands within the areas added to existing units or established by Titles I, II, III, and IV of this Act, which are subject to selection or selected by Native Corporations under the terms of the Alaska Native Claims Settlement Act, and which are not selected by or conveyed to those Corporations under the terms of that Act are hereby added to and incorporated within the appropriate area, to be administered under the terms of this Act, at such time as the relinquishment of Native rights becomes final.

(b) With respect to valid Native and State selections and Native and State-owned lands which are within the boundaries of the areas added to or established by this Act as units of conservation systems—

(1) inclusion of validly selected lands by the State or by Native corporations shall in no way affects the ability of the Native corporation or the State to receive patent or interim conveyance to such lands;

(2) valid Native selections and Native-owned lands shall be deemed to be included within such boundaries on the date of approval of this Act, except that any such lands shall be deemed to be excluded upon receipt by the Secretary of written notification from the chief executive officer of the concerned Native corporation during the one-year period from the date of approval of this Act that any such lands should be excluded;

(3) valid State selections and State-owned lands shall be deemed to be included within such boundaries on the date of approval of this Act, except that any such lands shall be deemed to be excluded upon receipt by the Secretary of written notification from the Governor of the State during the one-year period from the date of approval of this Act that any such lands should be excluded . . .

(c) Nothing in the foregoing subsection (b) shall prohibit the acquisition by the Secretary, after the one-year period from the date of approval of this, of valid Native and State selections and Native and State-owned lands formerly within the boundaries depicted on the maps referred to in section 2 of this Act, with the consent of the owner. Property so acquired shall thereupon become part of the area from which it was excluded, subject to the laws and regulations applicable thereto.

LAND ACQUISITION; IN HOLDINGS

SEC. 1103. (a) Within the boundaries of the units of the national conservation systems and classifications established by or pursuant to this Act, the Secretary or the Secretary of Agriculture with respect to national forest lands may acquire lands and interests in lands within areas placed under their respective jurisdiction by donations, purchase, exchange, or other wise.

(b) The Secretary may utilize condemnation proceedings without the consent of the owner to acquire private lands or interests therein only in cases where the private or commercial uses of the land are clearly not in keeping with the recreational or other purposes of the conservation unit, that the land is vitally necessary for the use or management of the conservation unit, and that all reasonable efforts to acquire such lands or interests therein by negotiation have failed. In such proceedings the private land owner will have the option of receiving in exchange lands of equal value made available by the appropriate Secretary from public lands elsewhere of similar character or otherwise acceptable to the private landowner.

(c) The owner of an improved property on the date of its acquisition, as a condition of such acquisition, may retain for himself, his heirs and assigns, a right of use and occupancy of the improved property for noncommercial residential or recreational purposes, as the case may be, for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. Unless the property is wholly or partially donated, the Secretary shall pay to the owner the fair market value of the owner's interest in the property on the date of its acquisition, less the fair market value on that date of the right retained by the owner. A right retained by the owner pursuant to this section shall be subject to termination by the Secretary upon his determination that such right is being exercised in a manner inconsistent with the purposes of this Act, and it shall terminate by operation of law upon notification by the Secretary to the holder of the right of such determination and tendering to him the amount equal to the fair market value of that portion which remains unexpired. The Secretary shall afford the occupant the opportunity to cease such inconsistent use prior to termination of such occupation right.

(d) Regardless of the ownership of the land, the Secretary shall permit owners of dwellings located on Federal lands included in conservation systems under this Act to occupy such dwellings for a definite term of not more than twenty-five years or, in lieu thereof, for a term ending at the death of the owner or the death of his spouse, whichever is later. The owner shall elect the term to be reserved. These provisions shall only apply to persons who are occupying dwellings as a principal place of residence and which were constructed when such lands were open to entry under the public land laws.

LOCATION OF ADMINISTRATIVE SITES

SEC. 1104. The Secretary may establish administrative sites or visitor facilities outside the boundaries of any area established under this Act, or protect any significant archeological sites outside the boundaries of the areas described in Titles I, II, or III of this Act. For these purposes he may establish on Federal lands or acquire other lands not to exceed one-thousand acres for administrative and visitor facilities for each area, and no more than seven thousand five acres for archeological or paleontological sites outside the boundaries of each of the areas referred to herein: *Provided*, That no such administrative site, visitor facility, or archeological site may be established on National Forest System lands without the concurrence of the Secretary of Agriculture.

FACILITIES ON MARINE LANDS; SERVICES

SEC. 1105. (a) The Secretary shall, with the concurrence of the Native Corporation involved, attempt to locate administrative sites and visitor facilities for areas established under this Act on adjacent Native-owned lands, wherever possible and desirable.

(b) Notwithstanding any other provision of revenue-producing visitor services, the Secretary shall grant the village and/or regional corporations most directly affected the first right of refusal to provide such services within the unit under such terms and conditions as he may by agreement prescribe.

INTER-AGENCY COOPERATION

SEC. 1106. The Secretary shall direct the Fish and Wildlife Service to participate, where appropriate, in fish and wildlife studies and resource planning on units authorized by this Act as components of the National Park and Wild and Scenic Rivers System. The Secretary shall also direct the National Park Service, where appropriate, to participate in recreation planning, interpretation, historic resources protection, and ecological research on areas authorized by this Act as units of the National Wildlife Refuge and Wild and Scenic Rivers Systems.

PLANNING

SEC. 1107. Except as otherwise provided, within five years from the effective date of this section, the Secretary shall formulate (and he may from time to time revise) a detailed resource management and use plan for each unit of the systems established in Titles I and II of this Act. Where units of the National Wildlife Refuge System and the National Park System include important biological and physical characteristics which control the natural occurrence and the management of fish and wildlife and their habitat, and include scenic, historical, and archeological resources within each unit, a single plan shall be developed for the management and use of such resources. Each plan shall identify management practices, which the Secretary shall adopt and implement, that will accomplish the specific purposes of the areas set forth in titles I and II.

The Secretary shall formulate each plan any revision thereof only after holding one or more public hearings in the vicinity of the affected unit or units, and only after consultation with the appropriate agencies of the State of Alaska.

AUTHORITY TO CONSTRUCT CAPITAL IMPROVEMENTS ON NON-FEDERAL LANDS

SEC. 1108. Notwithstanding any other provision of law, the Secretary is authorized to construct, operate, and maintain, with funds appropriated for the purposes of this Act, such permanent and temporary buildings and facilities as he deems appropriate to provide visitor services and for administrative purposes, and lands within and outside the boundaries of the units established by this Act, without regard to whether title to the underlying land is in the United States: *Provided*, That in the case of buildings and facilities constructed on non-Federal land, the owner shall have entered into a cooperative agreement with the Secretary, the terms of which shall assure the continued use of such buildings and facilities for the purposes of this action.

STATE LAND EXCHANGES

SEC. 1109. In the exercise of his authority to acquire lands, waters, and interests therein for the purposes of this Act, the Secretary may utilize the provisions of subsection 22(f) of the Alaska Native Claims Settlement Act, as amended. Property acquired within the boundaries of the areas added to the four conservation systems by this Act shall become part of the area within which it is located, and subject to the laws and regulations applicable to such area.

LOCAL HIRE

SEC. 1110. (a) The Secretary shall establish a program under which any individual who, by reason of having lived or worked in or near a conservation system unit, has special knowledge or expertise concerning the natural or cultural resources of such unit and the management thereof (as determined by the Secretary) may be considered for selection for any position within such unit without regard to—

(1) any provision of the civil service laws or regulations thereunder which require minimum periods of formal training or experience;

(2) any such provisions which provides an employment preference to any other class of applicant in such selection; and

(3) any numerical limitation on personnel otherwise applicable.

Individuals appointed under this subsection shall not be taken into account in applying any personnel limitation described in paragraph (3).

(b) Within one year after the date of approval of this Act, and annually thereafter during each of the following ten years, the Secretary shall prepare and submit to the Congress a report indicating the actions taken in carrying out the provisions of subsection (a) of this section together with any recommendations for legislation in furtherance of the purposes of this section.

NAVIGATION FACILITIES

SEC. 1111. Within areas added to the National Park System, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems by this Act, access to, and operation and maintenance of, and construction of air and water navigation aids and related facilities shall be permitted in accordance with the laws and regulations applicable to the National Park, Wildlife Refuge, National Forest, and Wild and Scenic Rivers Systems, as appropriate. Access to and operation and maintenance of facilities for national defense purposes and related air and water navigation aids within or adjacent to such areas shall continue in accordance with the laws and regulations governing such facilities notwithstanding any other provisions of this Act. Nothing in the Wilderness Act shall be deemed to prohibit such access, operation, and maintenance within wilderness areas designated by this Act.

ACCESS

SEC. 1112. (a) The Secretary shall take such actions within or outside the boundaries of conservation system units as may from time to time be necessary, including acquiring or providing easements or other interests in lands in accordance with the provisions of this title, to carry out any one or more of the following purposes, consistent with the purposes for which the concerned conservation systems units were established, designated, or expanded:

(1) providing access to subsistence lands for purposes of subsistence uses under this Act;

(2) providing access for purposes of administering units of the National Park, National Wildlife Refuge, National Forest, or Wild and Scenic Rivers Systems established or expanded by this Act;

(3) providing public access to conservation system units, consistent with the purposes for which the units are established, designated, or expanded; and

(4) insuring continued public access to areas conveyed to the State, particularly in cases where such areas are enclosed by one or more conservation system units.

(b) Except as otherwise provided in this Act, in administering the conservation system units in Alaska, the Secretary shall permit the continuation of customary patterns and modes of travel across such units. Such travel may be conditioned by such reasonable regulations as the Secretary shall promulgate to assure that such travel is consistent with the purposes for which such unit was established. Before promulgating regulations under this section, the Secretary shall give at least sixty days public notice of the proposed regulations, including publication of the proposed regulations in a newspaper or newspapers having general circulation in each State judicial district in Alaska where the unit or units affected by the proposed regulations are located, and shall hold a public hearing or hearings concerning the proposed regulations at one or more locations convenient to the unit or units affected.

COOPERATIVE INFORMATION CENTERS

SEC. 1113. (a) The Secretary of the Interior is authorized to establish, after consultation with other appropriate Federal agencies, on not to exceed one thousand acres of State land at a site adjacent to the Alcan Highway, an information and education center for visitors to Alaska. The Secretary and the Governor of the State shall jointly participate in the program planning, construction, and operation of the center and shall seek participation of representatives of Native groups in Alaska and may accept contributions of funds, personnel, and planning and program assistance from such State agencies, local agencies, Federal agencies, Native representatives, and other persons for purposes of such planning, construction, and operation. Before establishing any such center on any such site, the Secretary shall notify the appropriate committees of Congress of his intention to do so. The Secretary and the State shall administer the center of its facilities in accordance with the Act of August 25, 1916 (39 Stat. 535), and other provisions of law applicable to units of the National Park System and in accordance with such State laws as may be applicable.

(b) The Secretary of the Interior is authorized to establish in Anchorage, Fairbanks, and Southeastern Alaska, an information and education center for visitors to Alaska. The Secretary shall seek participation from the State units of local government, and representatives of Native groups in Alaska and may accept contributions from State agencies, local agencies, Federal agencies, Native representatives, and other persons in the same manner and to the same extent as is authorized under subsection (a) in connection with the Alcan Highway Center. Before establishing any such center in any such city, the Secretary shall notify the appropriate committees of the Congress of his intention to do so. The Secretary is authorized to lease or acquire by purchase, donation, or exchange such property in Anchorage, Fairbanks and Southeastern Alaska, as may be necessary to carry out the purposes of this subsection, exception that (1) any property owned by a State or local government may be acquired for such purposes only by donation or exchange, and (2) any property owned by any other person may be acquired for such purposes only with the consent of such person.

(c) There are authorized to be appropriated $10,000,000 for the purpose of construction of the Alcan visitor center established in subsection (a) of this section and for the establishment of the information and education center authorized in subsection (b) of this section.

SECTION 22(E) LANDS

SEC. 1114. Any withdrawals of land by the Secretary pursuant to section 22(e) of the Alaska Native Claims Settlement Act which are not included in any of the conservation units established in title II of this Act are hereby revoked.

TITLE XII—MISCELLANEOUS PROVISIONS

DENALI NATIONAL PARK STUDY AND DEVELOPMENT

SEC. 1201. (a) The Congress finds and declares that—

(1) the superlative natural scenery of the expanded Denali National Park area, and the close proximity of such park area to most residential areas in Alaska and to major transportation systems utilized by visitors to Alaska make it desirable to provide greater opportunities for visitor access to, accommo-

dation in, and use of Denali National Park established in section 111;

(2) the present lack of access to and facilities within the expanded Denali National Park area prevents full enjoyment of such park area; and

(3) the construction of facilities for visitor services and accommodations in the expanded Denali National Park area would permit greater enjoyment and use by the public.

(b) The Secretary is authorized to enter into cooperative agreements with the State, local governments, and local organizations for the purpose of conducting studies and making recommendations concerning the development of facilities necessary for the provision of visitor services and accommodations for the expanded Denali National Park area, including the location and design of such facilities.

(c) Within two years from the date of enactment of this Act, the Secretary shall submit a report to the Congress containing recommendations and proposals for the development of facilities for the provision of visitor services and accommodations for the expanded Denali National Park area. The report shall include—

(1) an economic analysis evaluating the potential market for visitors towards which the development of facilities could be aimed;

(2) a transportation study concerning the cost and feasibility of—

(A) a mass transportation system connecting Anchorage, Alaska, with the expanded Denali National Park area;

(B) the development of a road connecting such park area with the State highway system;

(C) the connection of such park area with the Alaska Railroad; and

(D) the development of an airport near such park area;

(3) an engineering study concerning the cost, feasibility and architectural design of a range of visitor facilities in the expanded Denali National Park area designed to accommodate up to 10,000 visitors and year-round residents, including an interpretive center, lodging facilities, recreational facilities, water impoundments, a tramway, related viewing facilities, and other visitor facilities; and

(4) an environmental study concerning the development of facilities for visitor services in the expanded Denali National Park area, including—

(A) possible actions to mitigate any adverse environmental impacts on such Park area; and

(B) plans to deal with environmental concerns relating to sewage disposal, domestic water supply, local climatological information, avalanche or earthquake hazards, as well as other environmental matters.

(d) For purposes of this section, the "expanded Denali National Park area" means the southern portion of that land added to the Denali National Park under section 111 of this Act and the land in Denali State Park adjacent to such southern portion.

(e) To carry out the provisions of this section, there are authorized to be appropriated $2,000,000 for fiscal years 1979 and 1980. Any funds expanded by the State of Alaska for the purposes set forth in this section prior to enactment of this Act shall be reimbursed to the State of Alaska from the funds authorized in this section.

AUTHORIZATIONS FOR CONSTRUCTION

SEC. 1202. There are authorized to be appropriated $500,000,000 for—

(1) the construction of a mass transit system connecting Anchorage, Alaska, with a visitor center and development site in or near the Denali National Park,

(2) the constructtion of a visitor center associated with related visitor facilities within Denali State Park; and

(3) the construction of a tramway to provide visitor access from a visitor center and other facilities within Denali State Park to an observation site within Denali National Park.

CREATION OF NATIONAL HISTORIC TRAILS SYSTEM

SEC. 1203. The National Trails System Act (82 Stat. 919; 16 U.S.C. 1241) is amended as follows:

(a) In section 2(b) delete "and scenic" and insert "scenic and historic".

(b) In section 3 redesignate subsection "(c)" as "(d)", and insert prior thereto a new subsection (c) as follows:

"(c) National Historic Trails, establish as provided in section 5 of this Act, and designated in accordance with the criteria in section 7 of this Act, which will be extended trails that follow as closely as possible the original trails or routes of national historical significance. Although designation of such trails or routes shall be continuous, an established or developed trail may not be continuous.".

(c) In the new section 3(d) delete "or national scenic" and insert ", national scenic, or national historic".

(d) In the heading of section 5 "SCENIC" insert "AND NATIONAL HISTORIC"; in this first sentence of section 5(a) after "scenic" insert "and national historic"; and in section 5(b) after "national scenic" wherever it appears insert "or national historic".

(e) In section 6 delete in the first sentence "or national scenic" and insert ", national scenic, or national historic"; and in the second sentence delete "or scenic" and insert ", scenic, or historic".

(f) In section 7 in the first sentence of subsection (a) after "Scenic" insert "and National Historic"; in subsection (b) and in the first sentence of subsection (c) after "scenic" wherever it appears insert "or national historic"; in the penultimate sentence of subsection (c) delete "and scenic" and insert ", scenic, and hisotric"; in subsection (d) delete "or scenic" and insert ", scenic, and historic"; in subsection (e) after "scenic" wherever it appears insert "or historic"; in the first sentence of subsection (h) delete "or scenic" and insert ", scenic, or historic"; in the second sentence of subsection (h) after "scenic" insert "or historic"; and in the first sentence of subsection (i) delete "or scenic" and insert ", scenic, or historic".

(g) Section 7 of such Act is further amended by adding at the end thereof the following new subsection:

"(j) To qualify for designation as a National Historic Trail, a trail must meet all three of the following criteria:

"(1) It must be a trail established by historic use and historically significant as a result of that use. The trail need not exist as a trail at present to qualify, but its location must be known sufficiently to permit evaluation of public recreational potentials.

"(2) It must be of national significance with respect to any of several broad facets of American history such as trade and commerce, migration and settlement, or military campaigns. To qualify as nationally significant, historic use of the trail must have had a far-reaching effect on broad patterns of American culture. Trails significant in the history of native Americans (Indians, Aleuts, and Eskimos) may be included.

"(3) It must have significant potential for public recreational use based on historic interpretation and appreciation. The potential for such use generally is greatest along cross-country segments developed as historic trails, and at historic sites associated with the trail. The presence of recreation potential not related to historic appreciation is not sufficient justification for designation under this category.".

(h) In section 8(a) at the end of the first sentence insert the following sentence: "The Secretary is also directed to encourage States to consider, in their comprehensive statewide historic preservation plans and proposals for financial assistance for State, local, and private projects submitted pursuant to the Act of October 15, 1966 (80 Stat. 915), as amended, needs and opportunities for establishing historic trails.".

DESIGNATION OF IDITAROD NATIONAL HISTORIC TRAIL

SEC. 1204. (a) The Iditarod Trail, Alaska, a trail of approximately one thousand and six hundred miles extending from Seward to Nome, Alaska, following the route(s) as generally depicted on the map identified as "Proposed Iditarod Trail, Number dated ---------" is hereby designated a national historic trail within the National Trails System. The Iditarod National Historic Trail shall be administered by the Secretary of the Interior.

(b) Within three years from the date of this Act an inventory and evaluation of all sites, structures, and other properties located along or immediately adjacent to the designated route possessing historical, architectural, archeological, or cultural value shall be conducted by the administering agency in consultation with concerned public and private landowners or managers. This inventory and evaluation shall, among other things, identify properties eligible for inclusion in the National Register of Historic Places and formulate plans for the protection and preservation of significant historical and archeological properties.

(c)(1) The provisions of section 1203 do not prohibit the construction, reconstruction, or improvement of roads, highways, railroads, or water transportation routes which may be designated as part of a historic trail.

(2) Notwithstanding any other provision of law, the designation of the Iditarod Trail as a historic trail shall not prohibit the construction of new transportation or utility systems across or along portions of the trail right-of-way.

(3) The provisions of this section shall not be construed as designating the general historic trail corridor of the Iditarod Trail as a "historic site of national, State, or local significance" as that term is used in section 4(f) of the Department of Transportation Act (49 U.S.C. 1653(f)).

(d) There is authorized to be appropriated $200,000 for the purpose of acquiring lands or interests in lands, signing, conducting an inventory and evaluation of historical and archeological sites, and other actions necessary to implement this section.

KLONDIKE GOLD RUSH NATIONAL HISTORIC PARK

SEC. 1205. The second sentence of subsection (b)(1) of the first section of the Act entitled "An Act to authorize the Secretary of the Interior to establish the Klondike Gold Rush National Historical Park in the States of Alaska and Washington, and for other purposes," approved June 30, 1976 (90 Stat. 717), is amended to read as follows: Lands or interests in lands owned by the State of Alaska or any political subdivision thereof may be acquired only by donation or exchange, and notwithstanding the provisions of subsection 6(i) of the Act of July 7, 1958 (72 Stat. 339, 342), commonly known as the Alaska Statehood Act, the State may include the minerals in any such transaction.".

SCENIC HIGHWAY STUDY

SEC. 1206. (a) Subject to valid existing rights, all public lands within an area, the centerline of which is the centerline of the Parks Highway from the entrance to Denali National Park to the Talkeetna junction which is one hundred and thirty-six miles

south of Cantwell, the "Denali Highway" between Cantwell and Paxson, the "Richardson Highway" and "Edgerton Highway" between Paxson and Chitina, and the existing road between Chitina and McCarthy (as those highways and road are depicted on the official maps of the department of transportation of the State of Alaska) and the boundaries of which are parallel to the centerline and one mile distant therefrom on either side, are hereby withdrawn from all forms of entry or appropriation under the mining laws and from operation of the mineral leasing laws of the United States.

(b) During the three years period beginning on the date of enactment of this Act, the Secretary shall study the desirability of establishing a Denali Scienic Highway to consist of all or part of the lands described in subsection (a) of this section. In conducting the studies, the Secretary, through a study team which includes representatives of the Secretary of Transportation, the National Park Service, the Bureau of Land Management, the State, and of each Regional Corporation within whose area of operation the lands described in subsection (a) are located, shall consider the scenic and recreational values of the lands withdrawn under this section, the importance of providing protection to those values, the desirability of providing a symbolic and actual physical connection between the national parks in south-central Alaska, and the desirability of enhancing the experience of persons traveling between those parks by motor vehicles. Members of the study team who are not Federal employees shall receive from the Secretary per diem (in lieu of expenses) and travel allowances at the rates provided for employees of the Bureau of Indian Affairs in Alaska in grade GS–15.

(c) In conducting the studies required by this section, the Secretary shall cooperate with the State and shall consult with each Village Corporation within whose area of operation lands described in this section are located and with the owners of any lands adjoining the lands described in subsection (a) concerning the desirability of establishing a Denali Scenic Highway. The Secretary, through the National Park Service, shall also give such public notice of the study as he deems appropriate, including at least publication in a newspaper or newspapers having general circulation in the area or areas of the lands described in subsection (a), and shall hold a public hearing or hearings at one or more locations convenient to the areas affected.

(d) Within three years after the date of enactment of this Act, the Secretary shall report to the President the results of the studies carried out pursuant to this section together with his recommendation as to whether the scenic highway studied should be established and, if his recommendation is to establish the scenic highway, the lands described in subsection (a) which should be included therein. The President shall advise the President of the Senate and the Speaker of the House of Representatives of his recommendations and those of the Governor of Alaska with respect to creation of the scenic highways, together with maps thereof, a definition of boundaries thereof, an estimate of costs, recommendations on administration, and proposed legislation to create such a scenic highway, if creation of one is recommended.

(e) The lands withdrawn under subsection (a) of this section shall remain withdrawn until such time as the Congress acts on the President's recommendation, but not to exceed two years after the recommendation is transmitted to the Congress.

(f) There are hereby authorized to be appropriated $60,000,000 for the purpose of paving approximately 115 miles of the Denali Highway from the Tangle Lakes area to the intersection of this Highway with the Parks Highway.

RESERVATION OF TRANSPORTATION AND UTILITY CORRIDOR

SEC. 1207. The Secretary is hereby directed to designate a right-of-way across Federal lands generally following the Alcan Highway and the Ladue River as depicted on the map entitled " ," dated April , 1978. Such a right-of-way shall be withdrawn from all forms of appropriation and disposition, except for valid state selections under the terms of the Alaska Statehood Act and valid Native selections under the terms of the Alaska Native Claims Settlement Act, for the purpose of construction of transportation and utility systems from the Fairbanks area to the Canadian border.

BUREAU OF LAND MANAGEMENT WILDERNESS REVIEWS

SEC. 1208. Notwithstanding any other provision of law, section 603 of the Federal Land Policy and Management Act of 1976, shall not apply to any lands in Alaska. However, in carrying out his duties under section 201 and section 202 of such Act and other applicable laws, the Secretary may identify areas in Alaska which are suitable as wilderness and may, from time to time, make recommendations to the Congress for inclusion of any such areas in the Wilderness Preservation System, pursuant to the Wilderness Act. In the absence of congressional action relating to any such recommendation of the Secretary, the Bureau of Land Management shall manage all such areas which are within its jurisdiction in accordance with applicable land use plans and applicable provisions of law. Nothing in this section shall be construed as relieving the Secretary of the duty of reviewing the wilderness values of the National Petroleum Reserve in Alaska in connection with the study required by section 105 of the Naval Petroleum Reserves Production Act of 1976 (Public Law 94–258).

IN SITU COAL GASIFICATION RESEARCH

SEC. 1209. (a) The Congress finds and declares that—

(1) section B. (1) of the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area", supplemental to section 3(b) of Public Law 94–456, requires that coal resources located in the subsurface estate granted to the Native regional corporation within the Kenal National Moose Range shall only be extracted in a liquid or gaseous state and that such extraction shall be undertaken in accordance with the most advanced technology commercially available at that time and causing the least practicable temporary and permanent harm to the fish and wildlife habitats of the range; and

(2) if extraction under these conditions is to take place and the corporation is to exercise their property rights regarding any coal resources which may be located on lands owned by the corporation within the range, additional research and prototype development of in situ coal gasification or coal extraction in a liquid state is necessary; and

(3) the benefits of such research and development would be applicable to other areas of the State of Alaska and to other parts of the United States, the costs of such research and development are beyond the reasonable capabilities of the corporation and these costs would preclude the reasonable exercising of property rights granted under the terms of Public Law 94–456.

(b) The Secretary of Energy shall enter into contracts with the Native corporations receiving patent to subsurface estates, where the right to extract coal from such estate is limited to extraction in a liquid or gaseous state, for the purpose of conducting research, including development of test wells, on the feasibility of extraction of coal in a liquid or gaseous state in accordance with the provisions of section B.(1) of the "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area" supplemental to section (3)(b) of Public Law 94–456. Where the Secretary of Energy contracts for such research and testing, the Secretary of the Interior shall, subject to such reasonable conditions as are necessary to protect the fish and wildlife resources of the range, permit the use of the surface estate of the range as may be necessary for the conduction of the research program.

(c) There are authorized to be appropriated $2,000,000 annually for a period of six years from the date of passage of this Act for the purpose of conduction of the research described in section 1209.

AUTHORIZATION FOR APPROPRIATION

SEC. 210. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act for fiscal years beginning after the fiscal year 1978.

SUMMARY

NATIONAL PARK SYSTEM—TITLE I—PARKS, MONUMENTS

	Acreage (mil. acres)
Wrangell-St. Elias Park	7.36
Gates of the Arctic Park	7.50
Denali Park (McKinley additions)	2.62
Lake Clark Park	2.23
Katmai Park (additions)	1.08
Glacier Bay Park (additions)	.49
Imuruk Basin Preserve	.40
Kobuk Valley Monument	.20
Cape Krusenstern Monument	.19
Aniakchak Caldera Monument	.17
Subtotals	22.49

National Park System total, 28.66 million acres.

(Hunting permitted)

Preserves, other	Acreage
Wrangell Mountain Preserve	3.94
Lake Clark Preserve	.91
Aniakchak Preserve	.08
Yukon-Charley National Rivers	1.49
Total	6.42

NATIONAL WILDLIFE REFUGE SYSTEM—TITLE II

Yukon Delta	7.60
Koyukuk	2.68
Innoko-Kaiyuk	2.18
Arctic (additions)	1.89
Shishmaref	1.50
Selawik	1.48
Alaska Marine Resources	.33
Cape Newanham (additions)	.24
Kenai Moose	.04

Refuge system total, 17.94 million acres.

Title II also provides trade of approximately 280,000 acres of subsurface lands in Arctic Refuge for State lands in or adjacent proposed park or refuge units.

NATIONAL FOREST SYSTEM—TITLE IV

Chugach Forest (additions)	2.11
Tongass Forest (additions)	1.54
Forest system total	3.65

NATIONAL WILD AND SCENIC RIVERS SYSTEM—TITLE III

18 rivers (11 outside other systems, 7 inside other systems).

1.00 million acres (outside other proposals). River corridors not to exceed 1 mile from either side of river.

Total acreage, 51.25 million acres (in new four systems).

NATIONAL PARK SYSTEM

	Mil. acres
S. 1787 (Stevens)	10.45
Land Use Plan. Com	19.72
Senator Gravel	28.66
Administration	41.77
House Interior Comt	43.17
H.R. 39 (original)	64.30

NATIONAL WILDLIFE REFUGE SYSTEM

	Mil. acres
S. 1787 (Stevens)	8.04
Land Use Plan. Com	18.82
Senator Gravel	17.94
Administration	45.10
House Interior Comt	50.76
H.R. 39 (original)	46.50

NATIONAL FOREST SYSTEM

S. 1787 (Stevens)	5.72
Land Use Plan. Com	4.78
Senator Gravel	3.65
House Interior Comt	3.34
H.R. 39 (original)	0

NATIONAL WILD AND SCENIC RIVERS

S. 1787 (Stevens)	1.00
Land Use Plan. Com	.69
Senator Gravel	1.00
Administration	2.45
House Interior Comt	1.69
H.R. 39 (original)	4.07

NATIONAL WILDERNESS PRESERVATION SYS.

S. 1787 (Stevens)	0
Land Use Plan. Com	0
Senator Gravel	*
Administration	48.90
House Interior Comt	74.26
H.R. 39 (original)	147.50

* Designates 7 areas in Tongass Forest. Boundaries to be set upon completion of Tongass Land Use Plan.

Total acreage proposed in four systems (does not include wilderness within existing conservation system areas).

S. 1787 (Stevens)	25.21
Land Use Plan. Com	44.01
Senator Gravel	51.25
Administration	91.68
House Interior Comt	98.96
H.R. 39 (original)	114.87

TITLE V—WILDERNESS DESIGNATION

Except in Southeast Alaska, no "instant" wilderness designated.

Seven areas designated wilderness in the Tongass National Forest.

Boundaries and acreages to be determined upon completion of Tongass land use management plan, and would not affect existing level of timber harvest or include significant mineral areas.

Includes special provisions to provide for access, cabins, aquaculture facilities, and other uses in wilderness areas.

Land use planning commission would conduct studies of wilderness demands, uses, and potential areas and make recommendations.

TITLE VI—ESTABLISHMENT OF NEW FEDERAL-STATE LAND USE PLANNING COMMISSION

The commission would be established upon the passage of State law dedicating State land for jurisdiction under the commission.

All Federal land not included in conservation systems or military reserves would be placed under the commission.

The State would legislate a process by which private and native corporation lands could be voluntarily placed under the commission's jurisdiction and receive certain advantages such as property tax exemptions.

The commission would be composed of 9 members: 1 chairman jointly appointed by president and governor, 4 Federal members by President, and 4 State members by governor. 1 Federal member and one State member would be native if 80 percent or more corporation land dedicated.

Members would be full-time and serve staggered 4-year terms.

Functions and authorities of the commission would include:

Development of land use plans and land classifications for various land uses;

Insuring that Federal, State, and local planning and land uses are harmonious;

Coordinate implementation of air and water pollution laws, coastal zone management law, and other environmental laws;

Determine location of transportation and utility system rights-of-way across Fed, State, and private lands;

Veto power would be retained by the governor and the Secretary of Interior over their respective lands. Either the state or the secretary would have veto over native corporation lands.

On-the-ground management would be retained by the normal federal (BLM) and state (DNR) agencies.

Lands under the commission would be withdrawn from all entries and appropriations pending classification by the commission.

The commission would terminate after 11 years unless renewed by Congress. If the commission is terminated the secretary could withdraw up to 40 million acres of lands formerly under commission jurisdiction for possible additions to conservation systems.

TITLE VII—SUBSISTENCE

The state would retain prime responsibility for fish and game management.

When fish and wildlife resources are scarce, subsistence users would be given preference in using those resources.

Subsistence users would be defined on the basis of dependence on the resources, not race or ethnic background.

All federal lands, including national park lands, would be open to subsistence uses. Access by customary means, including motorized vehicles, would be permitted on all lands.

The state would create a system of regional boards and local advisors. Regional boards would have primary responsibility, subject to state overview, for development of fish and wildlife policies and regulations.

The secretary would monitor state subsistence program and could suspend program if subsistence provisions not followed. State would have ample hearing opportunities and time to correct program.

Federal funds would be authorized and granted to the state to off-set the extraordinary costs to set up and run special subsistence program.

TITLE VIII—NATIVE AND STATE LAND CONVEYANCE

Core townships would be conveyed to native corporations by the act with patent or interim conveyance issued within 6 months.

Provides for an expedited conveyance process for all other lands whereby patents or interim conveyances issued within 6 months of submission of prioritization of selections.

Essential easements specified by existing law would be reserved in all conveyances subject to the time limitations imposed by this title.

Provides for confirmation of State selections and expedited conveyance process.

Clarifies selection rights and entitlements and amends statehood act to assist in selection process.

Corrects ANCSA amendment language to provide KONIAG correct selection lands.

TITLE IX—MINERAL STUDY, EXPLORATION AND EXTRACTION IN CONSERVATION SYSTEM UNITS

Authorizes continued mineral study, exploration in all system units.

Secretary directed to initiate oil and gas leasing program on wildlife refuge system lands.

In all but park and monument units nonfuel mineral extraction permits could be issued by Secretary following exploration. In parks and monuments congressional approval would be required.

Reasonable and customary access and use assured for existing valid claims and leases in conservation system units.

TITLE X—TRANSPORTATION AND UTILITY CORRIDORS

The commission would conduct studies of all proposed transportation or utility systems which may be proposed. Based on what it determined to be the most prudent and feasible alternative, rights-of-way would be authorized across lands under its jurisdiction.

The commission would recommend rights-of-way to the Secretary across four-systems lands based on its studies. The Secretary would grant the recommended right-of-way unless he issued specific findings showing that the route would result in significant harm to the particular resources involved and that there existed another prudent and feasible alternative which avoided such impacts.

TITLE XI—ADMINISTRATIVE PROVISIONS

State and native lands included in conservation unit boundaries only at their concurrence.

Lands selected but not eventually conveyed to native corporations would become part of conservation unit if within boundaries.

Condemnation of private lands only when uses clearly not in keeping with purposes of conservation unit and all reasonable efforts to acquire failed. Owner given right to occupy improved property for life if acquired.

Homesites legally entered by not filed upon would qualify for lifetime occupancy permit.

Authorizes purchase of isolated archeological sites.

Calls for development of management plans for units.

Provides for local hire in management of four systems lands.

Authorizes servicing and construction of navigation facilities.

Provision of access to and in units of four systems.

Establishes Alcan highway visitor center and other information centers. Authorizes $20 million for these centers.

TITLE XII—MISCELLANEOUS

Calls for special study of development of visitor access and facilities on south side of proposed Denali (Mr. McKinley) National Park.

Within two years of act, secretary would report on economic, environmental, and engineering costs, plans and feasibility of range of developments.

$2 million is authorized for study.

$500 million is authorized for construction of mass transit system from Anchorage, visitor center, and tramway.

Establishes new historic trails system and designates Iditarod Trail as national historic trail.

Would allow state or other lands to be donated or acquired for Klondike Gold Rush National Historical Park.

Calls for a scenic highway study along Denali highway between Parks highway and Glennallen area. Authorizes $60 million for paving Denali highway.

Directs secretary to withdraw a transportation and utility corridor across Federal lands along Alcan highway and Ladue River between Fairbanks and Canada border.

Exempts Alaska from provision of section 603 of BLM organic act calling for wilderness studies on all BLM lands.

Directs Secretary of Energy to conduct coal gasification research on native subsurface lands. Appropriates $2 million annually for 6 years for program.

Mr. GRAVEL. Mr. President, I have some other information here that I wish to present to the body. What I have been reading is from testimony that was given by Mr. Steve Cooper, a distinguished memer of the Alaskan State Legislature, and he testified before the House

Committee on Merchant Marine and Fisheries and I think gave very fine testimony, and I wish to share that testimony with this body at this time.

I am quoting from his testimony. He states:

Mr. Chairman. On behalf of the Steering Council for Alaska Lands, I want to thank you for the opportunity to present and discuss the policy and proposed amendments we have adopted concerning H.R. 39. Our testimony will focus on the segments of H.R. 39 over which your Committee has jurisdiction and we will attempt to address the issues specifically designated for discussion in the memorandum provided to us by your Subcommittee Counsel.

Before reaching the substance of my remarks, I would like to describe the Steering Council and its history.

In July, 1977, the Alaska Legislature created the Steering Council for Alaska Lands as a bi-partisan, nonpolitical body to determine and advocate the consensus position of the State of Alaska and the citizens of Alaska on the D–2 lands issue. Our eleven member council is composed of three Democratic state legislators, three Republican state legislators, and representatives from the Governor's office, the Federal State Land Use Planning Commission, the Alaska Miners Association, the Alaskan environmental community, and the Alaska natives. As you can imagine, our meetings are often the scene of active debate.

As is its purpose, the Steering Council has attempted to put forth the interest of the majority of Alaskans consistent with the values important to all Americans. The Council has adopted a series of proposed amendments and resolutions encompassing the policies which it believes must be incorporated in any balanced D–2 legislation. We believe that the D–2 issue is not one simply of development versus the environment. It is a complex series of issues relating to preservation, land selection, land management and access which cannot be determined on a "for" or "against" basis. We have chosen not to oppose or support any specific piece of legislation but rather to focus our attention on the policy issues that are fundamental to this legislation.

In order to make policy choices, we feel that the Congress must have an accurate understanding of who Alaskans are, what they believe in, and how they treat their environment. Steering Council members who have come to Washington to visit with you and explain our concerns have been surprised by some of the misconceptions about Alaskans. These seems to be a sense that Alaskans don't care about their environment, don't care about their wildlife, and intend to rape their land and exploit resources whenever and wherever possible. Nothing could be further from the truth, and an objective assessment of our record proves this.

Our population fishes, hunts, camps, hikes and generally appreciates its outdoors and its natural beauties at least as much as the citizens of any state. I will match the record of our state leaders against those of any other state with regard to environmental and conservation issues. We have set aside nearly 6 million acres of state park and recreational lands—

Mind you, the State of Alaska has done this with 6 million acres of State parklands and recreational lands—

that is an area twice the size of Connecticut—which is quite an achievement when one considers that the State Legislature has had control over only less than 36 million acres of Alaska's lands. Our state has also been accused of being susceptible to industry exploitation pressures, here the record is even more unimpeachable. In order to protect fish, shellfish, and habitat, the State has recently cancelled all valid oil and gas leases in Kachemak Bay.

Mind you, the State of Alaska canceled some leases in some areas that we thought were of critical importance to us for another use:

This virtually unprecedented act occurred because we balanced the economic values versus the environmental values, and found the environment more important to conserve. I would also cite our oil and gas taxation levels, perhaps the highest oil and gas taxes imposed by any State in the nation, as another example of Alaska's resistance to industry pressures.

The Steering Council for Alaska Lands urges the Committee to adopt the series of proposed amendments that we have submitted with my testimony today. We have provided an explanation of our purposes and policies along with each of our proposals. We believe that each of these proposals would serve both the State and the nation's interest without degrading or threatening the environment of our State.

I would like to highlight a few of the most important amendments.

STATE LAND SELECTIONS

Perhaps the most emotional issue to Alaskans, and the issue that the greatest portion of Alaskans agree on, is the priority of State land selections over D–2 withdrawals. The Steering Council's position is that the 1958 Alaska Statehood Act is a compact between the citizens of the State of Alaska, who ratified it, and the United States Government. As a result, it is constitutionally ineligible for unilateral repeal by the United States Congress. It is the council's position that the Alaska Statehood Act guarantees that the State should have land selected by it conveyed ahead of D–2 lands set aside by the Congress. While the Merchant Marine and Fisheries Committee is probably not the proper forum for determining the legal status of statehood acts, the Committee can determine rights, title, and use of land currently included within the Wildlife Refuge boundaries specified in H.R. 39.

The Council urges that the boundaries of the National Wildlife Refuges in H.R. 39 be redrawn in order to give the State title to all lands it has selected. If the Committee is unwilling to do so, our next best alternative is to convey certain top priority state selections to Alaska, while retaining the other areas where state selections conflict with proposed Wildlife Refuge boundaries.

There are approximately 10 million acres where conflicts currently exist between state selections and proposed D–2 land withdrawals.

Let me repeat this. I think it is very important. There are approximately 10 million acres where conflicts currently exist between State selections and proposed d–2 land withdrawals. Ten million acres, out of 172 million acres, which would be the final determination of this legislation. Ten million acres:

The single most important area of conflict involves the proposed Yukon Flats National Wildlife Refuge. The conflict areas are specified as "Interest Area Nos. 43, 48 and 46" of the State selections. The selections conflict with the eastern and western portions of the Yukon Flats Refuge. If the State is allowed to select these lands, it proposes to use the eastern portion for agricultural development, a transportation corridor, forestry and some mineral development. The western portion is slated primarily for agricultural development by the State. Despite Alaska's size, only about 5 percent of the State has agriculture potential and one-third of these potential lands are in the Yukon Flats area. The Soil Conservation Service and the Cooperative Extension Service have branded these lands the most important crop lands in Alaska. We need them, we have a just claim to them, and we strongly urge you to consent to their conveyance.

Let me reread this, because I think it is a gross injustice when you get the full flavor of what is involved.

The Yukon Flats area is a very big area—hundreds and hundreds of miles, just one big flat area, and this is the situation: We have not got all our statehood selections in, by a long shot. We have not got a third of it, and they come along with those d–2 selections, almost 20 years after statehood, and there is an overlap between what the House of Representatives, in its bill, wants to do, and what we are entitled to select under our compact that we had back in 1959. There is a 10-million-acre overlap.

Let me read it again. The single most important area of conflict involves the proposed Yukon Flats National Wildlife Refuge. The selections conflict with the eastern and western portions of the Yukon Flats Refuge. If the State is allowed to select these lands, it proposes to use the eastern portion for agricultural development.

We have found that we can grow wheat and barley, we hope economically; we do not know, but based upon what scientific effort we have there now, the legislature has appropriated some money. We hope to be able to find out, and if that is the case, we will be able to export that wheat and barley to Japan, which will help offset the trade deficit we have with them. It would contribute directly to our balance of payments if we could do that. But in this area of conflict, where there is no real distinguishment in the area, it will not hurt any waterfowl, because we could design around that.

Despite Alaska's size, only about 5 percent of the whole State has agricultural potential. One-third of this potential is right in this Yukon Flats area. It gives you an idea of how preposterous it is to take one-third of our 5 percent—all we have is 5 percent—to take one-third of that and put it into a refuge, when the land has no distinguishing features other than to be used for agricultural purposes.

If it were done, it would create some employment for the people of Alaska that are there. Talk about bringing people there, it would create some employment for the people that are there now. We still have very high unemployment. It would provide us with something to put into the Japanese export market, which would contribute to our balance of payments, and would permit us to make some kind of inroad into the difficult position we find ourselves in economically, as a result of the hemorrhaging and the inflation that is the product of the hemorrhaging balance of payments.

The Soil Conservation Service, additionally, and the Cooperative Extension Service have branded these lands the most important croplands in Alaska. We have a just claim to them, and we strongly urge the Senate to consent to their conveyance:

The Steering Council has one final suggestion for your consideration. In the event that you decide against allowing the State to select these Yukon Flats areas, you should not forever preclude the possibility of future agricultural development on these lands. If the Committee chooses to reject both of the Steering Council's recommendations, it should, at the very least, initiate a joint study to be undertaken by the Secretary of the Interior and the State of Alaska to deterimne whether any or all of the use contemplated by the State for these areas can be conducted without conflicting with the purposes of the Wildlife Refuge System. If the study finds that certain areas can sustain the uses proposed by the State without being incompatible with wildlife management, then the Secretary of the Interior should be empowered to provide special use permits to allow for said uses under environmental safeguards set out in these permits.

WILDERNESS

It is generally conceded that the imposition of a wilderness designation over a Wildlife Refuge can be either favorable or unfavorable to the wildlife populations within that refuge, depending on the individual conditions and characteristics of that Refuge and the prospects for enhancement and management. Therefore, the instant wilderness overlays currently contained in H.R. 39 cannot be reconciled with the principal purposes of the National Wildlife Refuge System, namely, preservation of wildlife populations indigenous to those areas. In order to satisfy the purposes of the Wildlife Refuge Management system, studies must first be conducted to determine whether wilderness overlay will harm or help the wildlife population residing with the refuges.

The Steering Council for Alaska Lands believes that development of adequate information on all of Alaska's lands is essential. Without it, sound land use planning is not possible. We therefore urge that wilderness overlays in wildlife refuges be limited to certain lands in the Alaska Maritime Wildlife Refuge and in the Kenai Wildlife Refuge that have been studied for wilderness designation. We recommend further that the Secretary of the Interior consider all other, proposed Wildlife Refuge Lands in Alaska for designation as wilderness study areas and that once these studies are completed, a final decision can be made by Congress as to whether a wilderness overlay will comport with the purposes of the National Wildlife Refuge System.

ARCTIC NATIONAL WILDLIFE RANGE/REFUGE

The Steering Council is among those who believe that the future of the Arctic National Wildlife Range is probably the most difficult D–2 issue to decide. The balance between our nation's urgent need for domestic oil and gas production and the last untouched Arctic environment is a hard one to strike.

At present, H.R. 39 imposes a wilderness designation over the Range. In addition, Sections 905 and 603 provide for an Interior Department study covering 1.2 million acres of the existing Range.

Consistent with our wilderness policy, the Steering Council opposes the designation of the Arctic National Wildlife Refuge Range as an incident to the wilderness area, because it has not been studied for inclusion in the National Wilderness Preservation System, and because a determination cannot be made at this time that such wilderness overlay will be be beneficial to the wildlife population residing in or migrating through the proposed refuge.

Let me state that again. To give you an idea how gross this situation can become, going over what I have just pointed out, it appears that putting on a wilderness can do one of two things. It can help the habitat area of whatever lies in that wilderness area, or it can hurt it. You have that choice; you can go one way or the other. So it is important; and I certainly do appreciate the attention of Mr. STEVENS.

It is important to recognize that before you launch into this thing, since it can go one way or the other, you have it studied. Of course, these people are so strong about knocking apart Alaska that they are prepared to forego that intelligent course of action because, obviously, if the study takes too long, we may not make the decision they want to have made. That is the tragedy. That is where you see the classic situation where we have the oppression, the tyranny of the majority over what to my mind would be the efficacy intelligence of fine judgment:

Consistent with our wilderness policy, the Steering Council opposes the designation of the Arctic National Wildlife Refuge/Range as an instant wilderness area because it has not been studied for inclusion in the National Wilderness Preservation System and because a determination cannot be made at this time that said wilderness overlay will be beneficial to the wildlife populations residing in or migrating through the proposed Refuge.

Let me give an example of a wilderness area. Suppose you had 10 million acres of land in Alaska designated as wilderness and it catches fire as a result of lighting striking. Would you think it would be intelligent to take some planes and drop some retardants, to bring in bulldozers? Would that be the intelligent kind of action? Of course, it would be. But in this situation, we have to let nature take its course.

This is truly, truly ridiculous in the approach that is taken in this regard:

The Steering Council has analyzed the study provision adopted by the House Interior Committee and has unfortunately concluded that a major flaw exists. As presently conceived, the only study allowable for oil and gas potential on the Range would be conducted by the Interior Department—which is already on record as stating that any oil or gas in this area should be the last ever extracted in the United States.

Now mind you the charade that the House bill would allow for oil and gas potential on the range, using this as a persuasive argument of their reasonableness when they know that the Secretary of the Interior is already on record that it will not be done.

Based on this position, giving the Interior Department exclusive study rights is fraught with potential for accusations of purposeful understatement of resources for failure to fully explore. There is little reason to believe that their study will receive the credibility needed for it to be valued as a basis for such an important future decision.

The Steering Council feels that the nation would be better served if a private industry study is also permitted over the same time period as the Interior study, but only if the private industry study is conducted under strict environmental regulations imposed by the Department of Interior. The Steering Council proposes that both studies be individually submitted to Congress upon completion and that the GAO should do an analysis and assessment of the two reports. At that point, a determination can be made by Congress as to whether or not any portion of the Arctic National Wildlife Range should be open to exploration or extraction. This joint study concept should provide the adequate and unbiased information needed for a final decision and should do so without causing any significant environmental damage to this precious area.

MINERALS POLICY

Attached to our testimony is a summary of the major areas of conflict between mineral deposits and proposed Wildlife Refuges. We trust that you will consider these mineral deposits as one of the competing values to be assessed in reaching final decisions on Refuge boundaries, Refuge access and Refuge use.

We have also submitted a series of amendments concerning minerals study, exploration, development and access. These amendments would allow some exploration by private industry in Wildlife Refuges, incorporate existing mineral leasing law in non-wilderness refuges, and provide access into refuges for hardrock minerals. The amendments provide clear authority for the Secretary of Interior to deny entry for exploration, mineral leasing or extraction of hardrock minerals whenever those activities endanger wildlife populations.

The Steering Council supports permitting extraction of leasable minerals in Wildlife Refuges, consistent with existing practice in the continental United States. The most important leasable minerals are, of course, oil and gas. The substantial deposits of oil and gas in Alaska make the exploration of potential development of these areas critical to the national interest. If the bill we are considering is correctly named as a "National Interest Lands" bill, then we need look no farther than our daily oil import demand of approximately 8 million barrels to conclude that the "national interest" requires that, at a minimum, we study the oil and gas potential of these proposed national wildlife refuges and provide workable mechanisms for possible future exploration or extraction.

We have been asked to comment on the need to include Titles IX and X of H.R. 39 in final D–2 legislation. There is no simple answer. These sections, with certain improvements, are a necessity if the massive instant wilderness overlays that H.R. 39 still includes are not removed. Existing mineral and access law simply is not equipped to cope with the multitude of problems and exclusions produced by wilderness designations of such magnitude. With more reasonable wilderness designations, the value of Titles IX and X would be reduced. Our inclination is to recommend the retention of these two Titles and improve them. One of our principal bases for this decision rests with the large amount of D–2 lands that will be designated as wilderness study areas. Although it is impossible to estimate how many of these acres will ultimately be designated as wilderness, there is a clear prospect that much of the D–2 land not designated in H.R. 39 will become wilderness in the next decade. As the result, we feel there is more to be gained by preserving and improving Titles IX and X than by eliminating them.

AQUACULTURE

The State of Alaska has an unparalleled record of devoting time and money to enhancement and protection of its fish resources. The Council has proposed an aquaculture amendment which provides for fish stocking, enhancement activities, and the development of small aquaculture sites in all areas of Alaska. The Council's proposal includes parks and it includes wilderness. Fish, like waterfowl, pay no attention to the boundaries imposed by man. There are potential aquaculture sites in the Yukon-Kuskokwim Delta, the Alaska Peninsula,

Togiak and Cape Newenham National Wildlife Refuges. In the interest of proper fisheries management and sustained fish populations throughout the State, Alaska should not be precluded from developing these sites on wildlife refuges and other D–2 lands in an environmentally sound manner.

It is the opinion of the Steering Council that the authority and jurisdiction for determining fisheries management issues appropriately rests with the Merchant Marine and Fisheries Committee and that the Committee is not restricted solely to Wildlife Refuge lands on this issue.

Here is another clear-cut situation. Now that we have the 200-mile limit, Alaska has the water boundaries of more than 50 percent of the Nation. This 200-mile ribbon of all this water has great potential of proteins from fish. We can enhance that capability through aquaculture facilities, seeding of streams, all of that, produce a great deal of fish. Most of this fish will be sent to Japan and help us offset our balance of payments. What we are doing is crippling our ability to do this. It would help if we could have some reasonable measure in this regard. We are talking about billions of dollars that could go to Japan, that would help lower the balance of payments, and would obviously have a favorable impact on our inflation situation.

If the Members who are voting on this legislation knew what they are doing to their constituents—better still, if their constituents knew what they are doing to them in this capricious and arbitrary approach to this mammoth problem in my State—I think we would see a different approach altogether:

Mr. Chairman, your staff has asked us to comment on a suggestion from our Governor to establish an experimental cooperative management area including the proposed Togiak Refuge and the adjacent State lands in the Wood-Tikchik area. The Steering Council favors cooperative management and hopes it is embraced by your Committee. We endorse the Togiak/Wood-Tikchik experiment and, in fact, hope that cooperative management in some form is attempted in many more areas of the State.

Mr. Chairman, it is my hope and the hope of the Steering Council that these remarks have given the Committee a better understanding of the sentiment of Alaskans, their strong feeling of responsibility for their environs, and the changes in H.R. 39 that they and the Council believe are necessary to form legislation that truly serves our nation's interest. We believe that H.R. 39 has come a long way from its original form and hope that your Committee will help make the additional improvements needed to perfect this bill. We look forward to continuing the dialogue we have begun with you and stand ready to lend any assistance that we can.

I shall come back, Mr. President, to the proposed amendments the Steering Council would recommend at a later time. I should like now to deal with a summary, which has to do with the impact of withdrawal of Alaska Federal lands. This is a study of the state of national economic and employment potential of the Alaska mining industry, in March of 1978. This is sponsored by the Committee To Determine the Impact of Alaska Lands Withdrawal. This was done in Menlo Park, Calif.; it is an SRI international study.

I have not read the study myself. I think it will be enlightening to all of us. I shall read it to the Senate:

SRI International has conducted a study of the potential economic benefits to the nation and environmental impacts associated with the development of Alaska's metallic minerals and asbestos. Other resources, such as oil, gas, and uranium were not considered. The study indicates that in the absence of extensive legislative or regulatory impediments to the development of mineral resources, a mining industry could develop by the 1990s that would:

Mr. ROBERT C. BYRD. Mr. President, I make the point of order that the Senator is to stand and not to sit while he addresses the Senate.

The PRESIDING OFFICER The point of order is well taken.

Mr. GRAVEL. This Senator has been advised and I shall attempt not to sit in the future:

Provide the nation with substantial quantities of nonfuel minerals, including gold, silver, copper, nickel, lead, zinc, molybdenum and asbestos, valued at between $900 million and $1 billion annually (1977 dollars).

Provide the nation with 20,000 to 40,000 additional jobs, representing about 0.5 percent of current unemployment.

Reduce the nation's balance of payments deficit by between $700 million and $1 billion annually (in 1977 dollars).

The above results are based on an analysis of seven specific mineral deposits considered commercially attractive. Some of the mines could become depleted during the 1990s, but other known deposits and favorable geology indicate that new mines would be opened to maintain the industry. Further, based on the relatively low level of exploration activity in Alaska to date, and the very rich deposits discovered, it is reasonable to expect that a substantially large industry might develop with time, assuming that areas with favorable geology were open to mineral exploration and development.

The potential environmental impacts of the mineral developments are difficult to quantify. However, exclusive of acoustic effects, they appear to be less, both qualitatively and quantitatively, than those associated with the Trans-Alaska pipeline, an issue given the most searching examination by many governmental agencies and finally resolved by the Congress itself.

The land area disturbed by mining would be small; with proper reclamation procedures, the effects of the land would be temporary. The total land area that would be disturbed by the seven mines analyzed in arriving at the above economic values, including all roads and other necessary infrastructure, would be about 25 square miles, or about 3½ square miles per mine. That compares with about 586,000 square miles in all of Alaska and about 180,000 square miles proposed in various bills before the Congress such has H.R. 39, S. 1500, and S. 500 for inclusion in parks, wildlife refuges, wild and scenic rivers, and wilderness areas.

This is really worth underscoring, Mr. President. You have a great situation here where we have analyzed, or this group has analyzed—let me go back.

They conducted a study. The study indicated that in the absence of extensive legislative or regulatory impediments to development of mineral resources, the mining industry could develop by 1990. That would provide the Nation with substantial quantities of nonfuel minerals, such as gold, silver, copper, nickel, lead, zinc, molybdenum, asbestos.

The value of these mines would be about $900 million and $1 billion annually.

This would provide the Nation with 20,000 to 40,000 additional jobs. It would reduce the Nation's balance-of-payments deficit by somewhere between $700 million and $1 billion annually in 1970 dollars.

All these good things can happen.

It will take 3½ square miles per mine or a total, all told, of 25 square miles.

Compare that 25 square miles which will contribute that to what is being asked for in H.R. 39, which is 180,000 square miles. That compares with all the land in Alaska, which is 586,000 square miles, and about 180,000 square miles proposed in the various bills.

It is preposterous that we would categorically single out 25 square miles.

That would be these economic benefits. It is preposterous that in all Alaska has that we cannot permit the logical exploitation of the equivalent of 3½ square miles per mine or a total of 25 square miles as opposed to what we are taking, that is, 180,000.

Twenty-five square miles as opposed to 180,000 square miles.

The environmental group will tell us this is what the rape of Alaska is all about. The miners will come in, the bulldozers are poised. They will rape 25 square miles in a State that has got 586,000 square miles.

It will give us $1 billion a year balance of payments and create 40,000 jobs in the United States. This is something that, had we let the House bill pass, would be what will happen.

The more I read on, where the rape is taking place, it is a rape of the Congress and a rape of the people of the United States of America. The more I go on, the more incensed I become in this regard.

If an acoustic buffer zone of 3,000 feet of either side of the transportation corridors is considered, the total area affected would be about 940 square miles.

I think to be fair, that is what we should add, the 25 square miles, and add on to that the 940 square miles, because that is obviously the area that will be impacted from an environmental point of view.

That is less than 2 percent of the area, almost 1,000 square miles, 2 percent of the area of a State and less than 0.5 percent of the area proposed for withdrawal. Less than 5 percent.

Review of the above considerations, the extent of land and, equally important, its location, that might be withdrawn from mineral exploitation and exploration and development by the pending bills, H.R. 39 and others, should be carefully balanced in terms of the tradeoff between future economic influence and environmental considerations:

Attached is a study recently completed by the Stanford Research Institute which evaluates the economic potential of hardrock mineral development in Alaska. Initiated to provide an independent assessment of the impact on Alaska and the nation of the proposed withdrawals of vast regions of Alaska, the study underscores the need for Congress to approve balanced Alaska wil-

derness legislation which permits the exploration and extraction of these resources.

The study analyzes only seven potential mines in Alaska. Oil, gas, timber and other resources in the state are not considered.

Specifically Stanford Research Institute finds these seven mines would, in the 1990's:

Provide hardrock minerals valued between $850 million and $1 billion annually in the 1977 dollars;

Create 20,000 to 40,000 jobs nationwide;

Reduce the nation's balance of payments deficit by between $700 million and $1 billion annually in 1970 dollars.

More important however, when the study information is linked with the mineralized trends presently known in the state and the developed mining industry from similar geological formations in Canada and Siberia, it suggests vast potential in terms of resources with significant economic and employment benefits for Alaskans and the rest of the nation.

The study focused on the original Alaska wilderness withdrawal bill, H.R. 39, and its impact on the development of these seven mines. While H.R. 39, as reported from the House Interior Committee, would allow some of these mines to go into production, the fact remains the bill as presently proposed immediately locks up about 83 million acres of resource rich lands in wilderness and national park classifications and withdraws an additional 40 million acres for wilderness study.

My God, let me repeat that, locks up about 83 million acres of resource rich lands in wilderness areas. Eighty-three million acres. And withdraws an additional 40 million acres for wilderness study:

This will prevent exploration for needed resources, the development of which would use temporarily only miniscule land amounts.

The underlying message of the Stanford Research Institute study is that our knowledge of Alaska's resource potential is very limited. However, based on the geology of the State and the very positive economics, employment, and balance of trade benefits accruing from just seven hardrock minerals mines, it is apparent that we are only assessing a small portion of its total potential. It seems clearly in the national interest to make a full appraisal of the potential, social, economic and environmental benefits of Alaska's resources before initiating the final decision to lock up so much of this mineral rich land.

This is the report itself.

Before the Alaskan Statehood Act in 1958, virtually all of the land in the territory was owned by the Federal government. With statehood, the state received the right to take over 104 million acres of federal land for its economic base. The state's selections are to be completed by 1984.

The statehood act did not deal with the territorial claims of Alaska's natives. In 1966, the Secretary of the Interior ordered a halt to further state selections until the natives' claims could be resolved by Congress. In 1971, Congress passed the Alaska Native Claims Settlement Act (ANCSA), giving natives the right to select 44 million acres of land.

A special provision of ANCSA, Section 17 (d)(2), directed the Secretary of the Interior to withhold up to 80 million acres of "national interest" lands from the state and native selections. The "d-2" lands as they were called, were to be temporarily closed to all development and studied as potential additions to the four national land conservation systems: national parks, national wildlife refuges, national forests, and wild and scenic rivers. No limit was placed on how much federal land Congress could ultimately designate as part of the four systems, but ANCSA set a December 1978 deadline for Congress' final decision on the "d-2" lands.

Several proposals are being considered by Congress for placement of federal land in the four systems, ranging from 25 million acres in S. 1787 to about 116 million acres in H.R. 39. In addition, H.R. 39 would authorize the Secretary of the Interior to seek agreements with the heads of other Federal agencies and owners of lands and waters of ecological concern adjacent to withdrawn lands. The purpose would be to assure that such adjacent lands would be managed in a manner consistent with the preservation of the environmental quality of the lands that are withdrawn. Hence, the total land area affected by H.R. 39 is not clear, but it could be substantially greater than 116 million acres.

Because Alaska is known to contain substantial mineral resources, there has been some concern that the proposals for more extensive withdrawal being considered by Congress would, if enacted into law, cause the nation to forego substantial economic benefits that would have resulted from the development of those resources. To examine that issue, SRI International was commissioned to carry out this study.

The specific objectives of the project were to assess the impact of the proposed withdrawals on:

Employment levels in Alaska and the nation.

The output of goods and services by the domestic mining industry.

The U.S. balance of payments.

The vulnerability of the nation to economic or political blackmail by cartel suppliers of critical materials.

The study also was to examine briefly the potential environmental impacts of mining operations in Alaska.

In scope, the study team was to consider the period through the end of the century. Only metallic minerals and asbestos were examined; fuel and industrial minerals were not included.

This work was carried out during the period November 28, 1977 through March 31, 1978. Many divisions of SRI International contributed to the study, including the Minerals and Metals Center, the Center for Resources and Environmental System Studies, the Center for Economic Policy Research, the Transportation and Industrial System Center, and the Urban and Regional Studies Program.

SRI International wishes to express its sincere appreciation to the many representatives of government and industry in the lower 48 states, Canada, and the State of Alaska who contributed their time and knowledge to this effort, and to the Committee to Determine the Impact of Alaskan Land Withdrawal Legislation, whose sponsorship made this study possible.

II. SUMMARY

Introduction

There has been some concern that the more extensive proposals now being considered by Congress to create national parks, wildlife refuges, wild and scenic river preserves, and wilderness areas on federal lands in Alaska would withdraw so much of the state's land from the possibility of mineral development that the state and the nation would be foregoing substantial economic benefits. To investigate this issue, SRI International, under contract to members of the Committee to Determine the Impact of Alaskan Land Withdrawal Legislation, undertook a study to examine the economic benefits that might reasonably be expected from mineral developments in Alaska through the end of the century. The study did not include fuel minerals; only metallic minerals and asbestos were considered.

The methodology employed was to select from known mineral occurrances those considered most likely to go into development through the early 1990s, and to consider other known deposits and favorable geological provinces to judge whether additional mineral developments of like magnitude could be expected in the last decade of the century. It should be emphasized that SRI is not predicting that such development would occur. Rather, SRI is stating only that, given the nature of the deposits and the national and worldwide supply/demand situation for the minerals in question, it is not unreasonable to expect such developments to take place, assuming there were no unusual impediments involved in working in Alaska (other than those imposed by climate and topography), and assuming the necessary infrastructure is available.

Potential mineral developments

Seven deposits were selected for analysis, as follows:

Greens Creek—A lead, zinc, copper deposit on Admiralty Island in southeastern Alaska.

Quartz Hill—A molybdenum deposit near the southern tip of Alaska.

Eagle Asbestos—An asbestos deposit located about 42 miles west and south of Eagle, Alaska.

Bohemia Basin—A nickel and copper deposit on Chichagof Island, approximately 80 miles west of Juneau.

Arctic—A copper, lead, zinc, silver, and gold deposit on the southern flank of the Brooks Mountain range, about 160 miles east of Kotzebue.

Picnic Creek—A deposit close to, and similar to, Arctic.

Lik—A lead, zinc, and silver deposit on the west flank of the Brooks Mountain range, about 80 miles north of Kotzebue and 50 miles from the Chukchi Sea.

The approximate locations of the deposits are shown in Figure 1. If mine development and the construction of infrastructure proceed unimpeded, the first mines could go into production in 1982. All could be in production by 1991. Beginning in 1992, production from the seven mines would begin to drop off as some mines closed down, assuming no additional reserves were defined. However, based on other known deposits of merit, as well as favorable geology, it is expected that other mines will be placed in operation and state production could continue through the 1990s at the average of 1991-92 levels or higher.

Transportation is a major consideration in analyzing Alaskan mineral operations, particularly for deposits far removed from existing infrastructure, such as the Arctic, Picnic Creek, and Lik deposits. In this study, it is assumed that a railroad will be built from Nenana to the coast of the Chukchi Sea at no cost to the mines, and that the rail line will pass close to the Arctic, Picnic Creek, and Lik deposits. For the other mines, it is assumed that roads, paid for by the mines, will be built either to existing roads or to tidewater. (Other transportation systems that might be considered include roads in place of the railroad and river barge.)

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a question?

Mr. GRAVEL. I am happy to yield to the majority leader for a question.

Mr. ROBERT C. BYRD. As I understand it, the distinguished Senator from Alaska is speaking tonight with the intention of speaking until a certain hour on tomorrow, Friday, it being his understanding that by so doing, he will prevent the Committee on Energy and Natural Resources from meeting during the session of the Senate on Friday.

Mr. GRAVEL. That is my intention.

Mr. ROBERT C. BYRD. Then, Mr. President, I invoke rule XXV, paragraph 7(a) at this time and announce that the distinguished minority leader has authorized me to state that he joins me in giving consent to the Committee on Energy and Natural Resources to meet beginning tomorrow morning, Friday, at 9 a.m., in room 3110, the Dirksen Office Building, notwithstanding the fact that the Senate may be in session.

Mr. HANSEN. Mr. President, will the distinguished majority leader yield?

Mr. GRAVEL. I yield further for a question.

Mr. HANSEN. Mr. President, I am authorized to state that I, too, have been instructed by the distinguished minority leader that he does indeed agree with the statement just made by the distinguished majority leader, and joins in stating that the Energy and Natural Resources Committee will meet tomorrow morning at 9 a.m., in room 3110 of the Dirksen Building.

Mr. ROBERT C. BYRD. I thank the distinguished Senator.

Mr. HANSEN. I thank my distinguished majority leader and the distinguished Senator from Alaska.

Mr. ROBERT C. BYRD. Mr. President, if the distinguished Senator from Alaska would yield, I would ask him most respectfully that in view of the fact that the minority leader and the majority leader have exercised their authority under the rule to allow the committee, to authorize the Committee on Energy and Natural Resources, to meet tomorrow at 9 a.m. during the session of the Senate, if the Senate is in session, I would respectfully ask the Senator from Alaska to not persist in speaking further tonight in view of the fact that the cause which he had hoped to serve cannot be attained.

Mr. GRAVEL. Mr. President, by way of inquiry, if I may ask, is there any recollection on the part of the Parliamentarian or of his colleagues whether this rule has ever been invoked in recent history?

The PRESIDING OFFICER. The recollection is that this is the first time this has been invoked, as stated earlier by the majority leader.

Mr. GRAVEL. Let me just say to the majority leader that I am exercising no unusual privilege, and if it is the intent of the majority leader to make this unusually difficult on me, then I will accept that difficulty and I will make the choice very simple that every time the committee meets and I can get the floor, I am going to keep it until I cannot stand on it any more, and then I will go rest and I will come back again and I will keep doing that all year long under the rules, obeying the rules very thoroughly. The leadership has the power to make this very difficult for me or to accord me the same courtesies that other Senators have got through the years and through the years this has not been invoked, and through the years we have accommodated individual Members. But it appears that, for whatever reason or whatever motivation the leadership may have, I will receive no such accommodation.

Well, I will ask for no such accommodation, and I will still be very candid with the leadership, both the majority and the minority, and tell them that every time that committee is going to meet on that subject, you will find me on the floor asking for my courtesies, and that is before unanimous consents are requested that I be notified, as other Members are notified, and I want no more than what is given to other Members, and I will use no more than the individual prerogatives that I have as a Senator, to stop legislation, which is all I am doing.

If my colleague wants to invoke a rule that has never been invoked, a courtesy that has never been withdrawn from a Member, and now we are going to begin a new ball game and make it more difficult to me, fine, I will suffer that difficulty.

Mr. ROBERT C. BYRD. Mr. President, does the Senator yield the floor?

Mr. GRAVEL. I would only yield for a question.

Mr. ROBERT C. BYRD. I hope that the Senator will take into consideration the fact that the Senate is to be considered, and the Members of the Senate are to be considered.

The rule is written. The fact that it has never been invoked is no argument against it being invoked in an unusual circumstance. But in this particular circumstance it is not because it is the Senator from Alaska. If it were any Senator I would feel constrained that under the circumstances, that have caused the Senator from Alaska to keep the Senate in session, I would seek to invoke this rule if the minority leader would join with me.

I tried to reason with the Senator earlier by stating that he would have his right to speak if he would let the Senate act on the bill that was before it. But he stated that his purpose was to keep the committee from meeting on tomorrow. His fight is with the committee, and my suggestion would be that he go to the committee meeting and exercise his rights there. He has the right to filibuster there and exercise his rights there.

The bill has not been reported, and it is only because these are very extenuating circumstances, very extraordinary circumstances, that I have asked the minority leader to join with me in authorizing the committee to meet. If the committee cannot get a quorum that is one thing. But for a Senator to come to the floor and threaten to speak all night long in order to keep a committee from meeting the next morning I think is going to extraordinary lengths, and lengths which justify the joint leadership in invoking the rule which is on the book and clear for all Senators to read.

I would hope the Senator would not take umbrage at the joint leadership. The joint leadership is using its authority under the rules, and I think it is justified in doing so.

So I would hope now that it is clear that the committee will meet, if it can get a quorum—it is certainly authorized to meet—that the distinguished Senator would not persist in keeping the Senate in session very much longer.

Mr. GRAVEL. I would only state to the majority leader that I certainly not only do not take umbrage but certainly do not realize that there is anything personal, and that he is doing this as his responsibilities as he sees them. There is no question about it that these are unusual circumstances. This is an unusual piece of legislation. When you cannot get the majority to act reasonably then, of course, you have to use the devices of the rules.

But the majority leader, like the President of the United States and the chairman of the committee, is going to have some options. The President is going to have to make some decisions on what he thinks is important legislation he wants to get through this year, and the leadership is going to have to make some judgments as to what they think is important legislation to get through this year. The committee is going to have to make its decision as to what it thinks is important legislation to get through this year.

If they want to pay the price that I am prepared to let be extracted out of my hide for that legislation, then that is the decision that the leadership will make. I am just prepared to pay the price. All I can say——

Mr. ROBERT C. BYRD. Mr. President, if the Senator could gain anything by paying the price, I would certainly understand it. I think there is a time to speak and there is a time to keep silent, and there is a time to filibuster and a time not to filibuster. If I may respectfully say to the distinguished Senator, it seems to me that this is the most inopportune time to attempt to conduct a one-man filibuster when he has already lost the cause for which he has said he was going to keep the Senate in all night, and I respectfully urge him now to not persist in that cause, and I would hope he would wait until such time as the bill is motioned up before the Senate and then engage in his filibuster.

I would respect that right of his to use whatever rules are available at that time. But to subject the Senate to a one-man filibuster at a time when the bill has not even been reported from the committee seems to me to be an extraordinary abuse of the rules.

I am not committed to call that bill up, and I am not committed not to call it up. But this is one sure way of getting one Senator over on the other side of the question, and I would hope that the Senator would not do that. I want to keep an open mind on legislation.

I do not know that it will ever be called up this year even if it is reported from the committee. But I can say one thing, that if measures are taken here to obstruct the Senate in getting on with the other business of the Senate at a time when that measure is not even reported from the committee, I am afraid the Senator is going to lose what might otherwise be a very sympathetic understanding of his problem.

I say that kindly, and I hope the Senator will not think that I have in any way attempted to act unduly in invoking the rule. But I have done what I think my

responsibilities are to do. The Senator is not serving any purpose whatsoever now in continuing because the committee is going to meet. If it cannot get a quorum that is one thing. If the Senator wishes to go to the committee and filibuster there that is proper.

(Mr. HODGES assumed the chair.)

Mr. GRAVEL. I am not on the committee.

Mr. ROBERT C. BYRD. The Senator is not on the committee, that is correct.

Mr. GRAVEL. I certainly would not make a spectacle of myself in that regard.

Let me just say to my colleague I know his task is a difficult one as the leader of this body. His job is to get the legislation through. His job is to cooperate with the President of the United States to get the program through for the Nation. It is a difficult task because one day he is being threatened he is going to be filibustered by MIKE GRAVEL; the next day he is going to be threatened by JIM ABOUREZK; and the next day he is going to be filibustered by JESSE HELMS and, you know, it is going to be a terrible travail.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. GRAVEL. I yield for a question.

Mr. ROBERT C. BYRD. As the Senator will remember, it was I who urged the proponents of the measure not to talk to me about calling it up but to go to the two Alaska Senators and discuss it with them because of the special problems for them, and I think I have done that.

I have impressed upon all who have discussed it with me that what they ought to do is go to the two Alaska Senators and see if some accommodation can be worked out that would meet the concerns of the two Alaska Senators, and I urged both Alaska Senators to attempt to find a solution, attempt to find a compromise to the problem, so I have been fair. I have been evenhanded. I have tried to protect the interests of the two Alaska Senators in this way.

The distinguished minority whip, who is the Senator from Alaska, is working in that spirit. I have urged the same thing upon the distinguished Senator who now holds the floor.

I can only say that for my pains I have gotten the thanks tonight of being kept up here until 9:30, and the Senate has been kept in and now for no good cause at all. I hope that the Senator would take that into consideration, the fact that I have tried to be helpful to him. But I cannot believe that the tactics he has resorted to are going to win any votes for his cause if his cause is to completely defeat the bill without any effort made to compromise. If he is absolutely against compromise this year, as I understood him to say earlier, that he is against compromise this year, maybe next year, and then he is against the bill, well, that is all right.

He has a right to be against the bill. But I submit that he has no right to subject the Senate to this kind of exercise when the bill is not before the Senate, not even on the calendar. No motion has been made to call it up, because it is not on the calendar at all yet. His fight is with the committee.

Let the committee meet. Talk to the committee members. Perhaps the Senator can help to bring about some accommodation of viewpoints. He can certainly be of service in bringing about a modification of the views, then, when the time comes, if a motion is ever made by the majority leader to call that bill up, he has a right to filibuster that motion, and if the bill is ever before the Senate, he has a right to filibuster the bill. I do not blame him for that at all. He can use every rule in the book, but he is using the rules at the wrong time. That is what I am complaining about.

I hope the Senator will know that I say this in the spirit of friendship, and most affectionately. I hope now he will be willing to let the Senate go out for the night, now that it is explained that the committee is going to meet tomorrow.

Mr. GRAVEL. Let me say to the majority leader—and I do not state this with any rancor; he knows the admiration and affection I hold him in—I appreciate the help I have been given thus far, and these public statements that it would not be called up. But I think it would be less than realistic on my part not to recognize that we have a sudden death operation, and that that bill can come out of committee, and that would be the time to filibuster it.

I would certainly argue the point, too, even though this is the first time this is being done, that a filibuster now is not just as valid and proper under the rules as then.

If I did not know, with candor, exactly what I am doing and why I am doing it, people could say, "What is he doing, and what is he doing it for?"

But when you say with candor exactly what you are doing, everybody knows what you are after.

In the balance of items to come before the Senate, some will be filibusted on the floor, and there will be some you can stop in committee.

We cannot stop this one in committee. We just do not have the votes. So when you come to a situation where you do not have a majority of the votes, you are losing; then when you get to the situation where you do not even have the votes under the cloture rule, that is it; you are wiped out. If the majority chooses to do that, that is fine; they can do it.

Under our system, it is fundamental, in fact, the first paragraph in the rule book is from Thomas Jefferson's principles, quoting from Hobbes, Montesquieu, Locke, and others—the first paragraph is that when you are overridden, you have recourse to the rules and the law.

The Senator tells me, "Don't worry until it is coming over the barricades."

Mr. ROBERT C. BYRD. Mr. President, the Senator quotes the first paragraph in the rule book, talking about Hobbes and Locke and Montesquieu. There is a paragraph written long before the rules of the Senate, which says, "The wicked fleeth when no man pursueth."

There is no bill before the Senate which affects Alaskan lands. There is no bill on the calendar. I am not absolutely sure, if the bill is reported, that it will ever be called up this year.

But I can say this: the tactics that the Senator is pursuing do not serve his purpose. They do not serve his cause very well at this point. And it could very well be that there will be a motion to call the bill up. I would hope the Senator would weigh that statement, and give the Senate some rest tonight.

Mr. GRAVEL. In deference to my colleague, I am neither wicked nor do I flee. In fact, I started quite early. So I do not think the Senator's quotation is very apt.

With reference to calling it up, I fully expect——

Mr. ROBERT C. BYRD. No; I am saying the Senator is punching at a bag that is not out there to punch.

Mr. GRAVEL. No; but the majority leader is not as clear-sighted as I am on the subject, I might say. On other subjects, yes, but on this subject of Alaskan lands, let me tell my colleague, not only is the bag there, a blivet is there, and a blivet is 10 pounds of material in a 5-pound bag.

Mr. ROBERT C. BYRD. Let me say to the Senator that I have been very sympathetic to his position up to this point, very sympathetic, and have on a number of occasions stated to the press, in terms that were clear, that I felt that there were concerns that both of Alaska Senators ought to have an opportunity to address, and that I would hope that those concerns would be met.

So I think I have been very helpful to the Senator.

Mr. GRAVEL. There is no question about that.

Mr. ROBERT C. BYRD. And I would hope that the Senator would allow me to continue to be helpful.

Mr. GRAVEL. I might say to the majority leader that it will serve us very ill for me to have intact his help and suffer a defeat. I have great personal regard and affection for him, but for him to join me in defeat does not respond to my need not to suffer defeat.

The case is very clear. The bill will be called up. The majority leader is very accurate when he says he does not know whether it will be called up or not. That sounds very good to me now. But I would be less than realistic to think, when you have the full force of the White House and the full force of the chairman of the Interior Committee, and the backing of the majority leader, there is one thing that is going to suffer a little bit in that relationship——

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. GRAVEL. And that is the fact that this bill will be called up.

Mr. ROBERT C. BYRD. Does the Senator not recall occasions when the White House has asked that measures be called up in the Senate, and I have said they would not be called up?

Mr. GRAVEL. Oh, yes.

Mr. ROBERT C. BYRD. Then I would certainly suggest that the Senator not

imply that the Senator from West Virginia is a servant of the White House.

Mr. GRAVEL. I have not implied that. The Senator knows that I have not implied that.

Mr. ROBERT C. BYRD. He is the servant of the Senate.

Mr. GRAVEL. But the Senator from West Virginia is probably the most realistic Member of this body. He is an understanding human being and a cooperative Senator, but he is certainly realistic.

It certainly behooves me at this time to not talk about that, but I would be naive, truly naive, if I did not accept that the wishes of the President of the United States have made this the No. 1 environmental issue, and we have a large environmental constituency in this country.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. GRAVEL. I am happy to yield.

Mr. ROBERT C. BYRD. The President told me that 2 months ago. I said it was not likely to be called up unless the concerns of the Alaska Senators can be met.

Mr. GRAVEL. Well, we have one Senator—he certainly can speak for himself—who is attempting a compromise. If that compromise fails, then we are fighting a token.

Mr. ROBERT C. BYRD. May I interrupt the Senator? I am not being impervious as to what is going on; I say that to the Senator here.

Mr. GRAVEL. I say to the majority leader I understand that. Certainly one does not take up a tough stand and recognize that everybody is going to be happy. But I think one thing I have learned in the 10 years I have been here is that when you believe strongly in something, other people will make a judgment on its merits.

I am convinced, with all regard to my respect to the distinguished majority leader, that he would not make a decision on this floor out of vindictiveness; he would not make a decision on this floor out of anger. He would vote every single time on the merits of the issue.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. GRAVEL. Yes.

Mr. ROBERT C. BYRD. The Senator from West Virginia has not made a statement as to his position. The Senator from West Virginia is not active on the issue.

Mr. GRAVEL. I know that.

Mr. ROBERT C. BYRD. I would hope the Senator from Alaska would let the Senator from West Virginia get his message.

Mr. GRAVEL. I would tell the Senator from West Virginia that I know, in this travail I have undertaken—I have undertaken it reluctantly, but I have no choice—there will be days when the Senator from West Virginia will be angry with me, but I want to assure him my love and affection for him will be undiminished and unimpaired, and he will find me a bulwark of support in his hour of need.

Mr. ROBERT C. BYRD. As I have many times.

The Good Book says that he that controlleth his spirit is greater than he that taketh a city. I am sure the Senator will find me pretty much in control of my spirit most of the time.

Mr. GRAVEL. Oh, I know that.

Mr. ROBERT C. BYRD. I am not angry. Let us smile, shake hands, and go home.

Mr. GRAVEL. I know my colleague is not angry, and I know that regardless of what I do on the floor, when it comes to voting on this issue, he will view that as a moral vote.

He will vote his conscience regardless of his friendship for me. I do not think for a minutes that he would vote against or for this bill because of his love for me. He is too big a man for that. I know when it comes time he will vote on this bill on its merits and regardless of what I have done on the floor—and to make his life as leader more difficult because of this—he will vote for this because of its merits. I cannot hope to win the Senator one way or another by affection.

All I can do is hope to persuade by logic. All I can do is hope that if I can maintain a tactical posture for the next 3 months, that that persuasion will take place next year rather than this year. That is really all I can do and hope for. I am chagrined that I put this situation not only upon the majority leader who carries a tremendous burden, but other colleagues who are obviously tired and fed up with the whole charade, and certainly the staff.

I certainly do not enjoy this. Believe me, I have a backache already. I have had a bad back since I was 19 years old. That will keep me awake. I will just be in pain, that is all. I have no choice. I may remonstrate a little bit because the leadership is making me pay my dues, but in this case I must tell the leadership that when we are talking about the subcontinent of Alaska, it is our treasurehouse, his treasurehouse, and if we are going to appropriate half of that——

Mr. ROBERT C. BYRD. Will the Senator withhold that logical argument until the very appropriate time?

Mr. GRAVEL. I get so incensed with the situation and so frustrated to face such a business as usual approach. The Senator is right. I am doing it the hard way. I do not know of any other way to do it. I cannot wait until this comes out of committee. I have to put pressure on the leadership. We only have until the 1st of October.

Mr. ROBERT C. BYRD. I hope I can convince the Senator that he is failing in this approach if he is trying to put pressure on the leadership. He is failing in his approach. I am just urging now that the committee is going to meet tomorrow, whether the Sun rises or not. As long as the clock keeps running the committee is going to meet at 9 o'clock in the morning. If that was his purpose in the beginning, keeping the Senate in session to prevent the committee from meeting, I would hope the Senator would not insist on doing a vain thing. The committee is going to meet.

Mr. GRAVEL. Let me say I am not in the habit of doing rash things, though sometimes I may not do things as efficiently or as cleverly as I would like to. I understand the dynamics of the Senate and maybe there will be a tomorrow. But I am not convinced that on the 10th day when they have scheduled another meeting, when we have gone through this exercise 10 times, that the leadership may be so pressed to have another meeting, or to exercise the rules the way they have been exercised.

This is the only recourse I had. I wish it could have been simpler. I tried to do it simpler by requesting the time. Senator Jackson countered. Now it is more difficult. I am prepared to void the passage of this legislation, which may take until the 1st of October. It will be a tough few months, tougher on me than on the majority leader. They will be tough enough on him.

All I can say is I failed—the leadership has exercised its prerogative to permit them to meet tomorrow. All I can say is the meeting is going to be expensive, expensive physically on me and expensive in time on the Senate. Time is precious to the Senate. The Senate could handle this issue next year. All it would take is for the leadership to say, "Look, this thing appears grossly unfair."

I appeal to the majority leader for a sense of fair play. The committee is marking up legislation and they have not had hearings in Alaska. If this happened in any State in the Union—let me ask: If this happened in the State of West Virginia, and they were marking up a bill that affected only the State of West Virginia and they had no hearings to find out what the people of West Virginia said, and by and large the two fellows elected to represent the State of West Virginia were opposed to it, how would the Senator feel, if they were doing that to him?

Mr. ROBERT C. BYRD. I might feel very strongly about it, but I would not use the Senator's tactics.

Mr. GRAVEL. That is because the Senator is in the leadership role.

Mr. ROBERT C. BYRD. No; not because the Senator is in the leadership role.

Mr. GRAVEL. What would the Senator do to stop the holocaust?

Mr. ROBERT C. BYRD. I would wait until the bill was before the Senate.

Mr. GRAVEL. Suppose the Senator failed at that time?

Mr. ROBERT C. BYRD. Then I would fail. I have to take defeat along with victory. I cannot win them all.

Mr. GRAVEL. This one, unfortunately, is of such consequence to Alaska that we really cannot fail. That is the reason why we have to begin now and, one, let the Nation know about it.

First off, we have never received a fair hearing on this. People should begin to realize what is going on. Just in this little study I was reading, a study by the Research Institute, it talked about we could have a balance-of-payments contribution of $1 billion and it would take 25 square miles for six or seven mines—25 square miles, with seven mines—and it would take about 940 square miles in addition to that for access to these areas.

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. GRAVEL. I would be happy to yield.

Mr. ROBERT C. BYRD. Is it the Senator's intention to continue talking tonight? The committee is going to meet. Or is it the intention of the Senator to speak briefly and then yield the floor?

Mr. GRAVEL. In answer to the majority leader, it is my intention to continue.

Mr. ROBERT C. BYRD. I did not hear the Senator.

Mr. GRAVEL. To be very candid, it is my intention to continue.

Mr. ROBERT C. BYRD. To continue how long?

Mr. GRAVEL. Until tomorrow morning.

Mr. ROBERT C. BYRD. For what reason?

Mr. STEVENS. Will my colleague yield for a moment?

The PRESIDING OFFICER. Will the Senator yield for a statement by the Chair?

Mr. GRAVEL. Yes.

The PRESIDING OFFICER. Earlier the Chair indicated that the provisions of rule XXV, paragraph 7 relating to the majority and minority leader being themselves able to call a meeting of the committee had not been invoked previously. Upon research, they have discovered that it was invoked previously by Majority Leader ROBERT BYRD and Minority Leader BAKER on July 28, 1977.

Mr. GRAVEL. What was the subject? Does the RECORD indicate that?

The PRESIDING OFFICER. To allow the Committee on Foreign Relations to meet.

Mr. GRAVEL. Was there objection to the committee meeting then?

The PRESIDING OFFICER. I see none here.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. GRAVEL. I yield.

Mr. ROBERT C. BYRD. For what reason does he persist in speaking, now that the objective which was earlier sought to be attained is obviously beyond his reach? Why does he persist in speaking tonight?

Mr. GRAVEL. Well, No. 1, to slow down the Senate.

Mr. ROBERT C. BYRD. Why does the Senator want to slow down the Senate? He has been talking about a committee.

Mr. GRAVEL. Because the leadership will not let me slow down the committee. I cannot reach the committee but I can reach the Senate because I am a Member of this body. I am not a member of the committee. So the leadership is going to have a choice: Whether to let that bill be accelerated, or delay it, or suffer a delay on the floor. So the choices are very simple. The delays will not only impact upon the leadership but impact upon the administration. So the administration is going to have to make a decision whether or not it wants a land claims bill this year or whether it wants other things passed this year.

Mr. ROBERT C. BYRD. The leadership has no choice. The Senator is forcing it.

Mr. GRAVEL. The leadership will have a choice at some point in time.

Mr. ROBERT C. BYRD. What purpose is served by keeping the Senate in session tonight?

Mr. GRAVEL. The majority leader had a choice and he made it. He got hold of the minority leader.

Mr. ROBERT C. BYRD. The Senator is not answering my question. What purpose is the Senator serving by keeping the Senate in session now?

Mr. GRAVEL. Pressure on the Senate. That is the only device, and it is a very crude one. But it is the only one I have to reach the committee. The answer to that pressure was for the leadership to go ahead and cause the committee to meet, even though the Senate is going to be in session.

Mr. ROBERT C. BYRD. What is to keep the committee from meeting on Saturday or Sunday?

Mr. GRAVEL. And what is to stop me from having the floor on Saturday or Sunday if I can get the bill?

Mr. ROBERT C. BYRD. The Senate will not be in on Saturday or Sunday.

Mr. GRAVEL. It sure will be, if I am physically able to stand here, if I can. We could be in session on Sunday.

Mr. ROBERT C. BYRD. But the Senate will not be in session on Saturday or Sunday. The committee can meet on Saturday even though the Senate is not in session.

Mr. GRAVEL. The majority leader misunderstands me. I am speaking candidly. If I took the floor on Friday and was able to last until Monday, the Senate would be in session on Saturday and Sunday.

Mr. ROBERT C. BYRD. There is no question about that. If the Senator wants to conduct himself in that way, he is perfectly free to do so. What I am saying is he is losing points if he does.

Mr. GRAVEL. Well, that is a price, unfortunately, that we have to pay, losing points. We only had 31 points out of the entire House of Representatives, so I do not have much hope of coming out of the Senate with very many points, period. The only chance of saving the day for us is to use the structure that the minority is entitled to when it is being oppressed. I do not have any choice. I cannot win on an up or down vote. If I have a few good friends with me and it is not going to do us any good, we will all lose together. There are other forces that have to be placed in motion.

Mr. ROBERT C. BYRD. How many good friends did the Senator have tonight that were willing to keep the Senate in session uselessly for no purpose whatsoever but to discommode the Senate and to "bring pressure on the leadership"?

Mr. GRAVEL. I would venture to say I do not have any friends tonight. I would say if I am successful and that on October 1 this bill is not law, I will have a lot of friends where they count, and that is the State of Alaska. I think that will be appreciated, and I think it will be understood. We will still have the 49th State and it will be economically viable and will not have been destroyed because of that effort. I think that the membership of the Senate, and I have no fear in this regard because I have seen filibusters conducted around here before—I have seen many days when I was angry at Senator Allen——

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. GRAVEL. Yes.

Mr. ROBERT C. BYRD. The Senator from West Virginia has seen filibusters and has participated in them.

Mr. GRAVEL. Have they been successful?

Mr. ROBERT C. BYRD. When there was cause to believe that a purpose would be served, yes, but there is no purpose to be served whatsoever in keeping the Senate in tonight, no logical reason.

Mr. GRAVEL. Let me just say——

Mr. ROBERT C. BYRD. There is no reasonable purpose, no rational reason, in keeping this Senate in tonight.

Mr. GRAVEL. Let me say to my distinguished colleague, as we are going back and forth and he has been very honorable though obviously he is a little exercised over the unanimous consent which was not granted——

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. GRAVEL. Yes.

ORDER VITIATING UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. I ask unanimous consent, Mr. President, that the order entered earlier giving the majority leader the authority to move at any time daily to adjourn or recess the Senate be vitiated.

The PRESIDING OFFICER. Is there objection?

The Chair hears no objection. It is so ordered.

Mr. ROBERT C. BYRD. It was never my intent to use it. I thought, however, it might cause the Senator from Alaska to abstain in pursuing the course he pursued.

Obviously, it did not. I did not utilize it.

Mr. GRAVEL. I am personally very happy that the leadership has not used it, has vitiated it. I am chagrined that I may have catapulted the leader to anger to do that, and for that I apologize.

Mr. ROBERT C. BYRD. No anger was involved. The Senator did tell me however, that he would let me know of any plans he had, if he decided on a course like this he would let me know.

He did not.

Mr. GRAVEL. Let me say to the leader, I could quit now. I could take his counsel and it would be easier on me because I would get a good night's sleep, too.

But I would not want to mislead the leader or the Senate because I have responded, he has received my letter, a request to be notified of any unanimous consent.

As I understand the tradition in the Senate, that whenever business goes forward it goes by unanimous consent. Customarily, it is honored. In fact, I know of one instance where a Member, or the leadership, told me Senator ABOUREZK had a request in that any-

thing dealing with energy, that he be notified, the unanimous consent was granted, and that has been honored.

I have sent my letter and I will read it. It is very brief.

DEAR BOB: May I ask that I be consulted prior to the granting of any unanimous consent request relating to the scheduling of legislation, the imposition of time limits for debate on any matter, procedures to be followed in the consideration and disposition of any legislation, and the granting of permission for the Committee on Energy and Natural Resources to meet while the Senate is in session.

I would be prepared, and I am certainly moving quickly in that direction, but I do not want to mislead. In fact, the best way not to mislead the leadership would be for me to suffer through this evening, which I am fully prepared to do. But I do not want to mislead because I am going to use my powers as a Senator on this floor to object to time agreements on bills.

That is going to try the Senate. In fact, the delay I am effecting tonight is less painful on the Senate than what I propose to continue to do, and that is to object to time agreements.

I will not use those indiscriminately. I will use them as the one I am using now, that is, when there is a committee meeting on the following day.

Now, obviously, the leadership, every time I do this, can turn around and grant them permission to meet. But what would be served is delaying the Senate, because rather than going all night, I will delay it at a more convenient, physical time for me.

I do not mind doing that. I would have rather done it this other way because the person who is suffering most is me physically, not the rest of the Senate. But if I do not do it this way, I will do it the other way.

Obviously, the answer to that is that if I do that I will alienate the votes.

I am starting out with the premise that I do not have the votes. So, understanding I do not have a position of strength, the only position I have got is the manipulation of the rules. So I do not mind going home tonight.

Mr. STEVENS. Will the Senator yield for a moment?

Mr. GRAVEL. I am happy to yield to my colleague for a question, for a comment, without losing my right to the floor.

Mr. STEVENS. The Senator has mentioned tradition in the Senate.

I informed him and other Members of the Senate earlier that my research, the results of which have been confirmed by the Senate Parliamentarian and the Library of Congress, revealed that in 200 years plus, the Senate of the United States has never enacted a bill that affected only one State when both Members from that State opposed it.

Now, that is a tradition. There is nothing in the rules. That is just absolute precedent.

So if the bill that comes out of the committee is opposed by the two of us and the Senate abides by its precedent, then there will be no bill to pass.

But the Senator and I cannot guarantee that the Senate will abide by tradition since we realize tradition can be broken. However, in my opinion, the Senate is more likely to abide by the tradition of the Senate if we, in turn, abide by the tradition of the Senate.

I would urge the Senator to consider what the distinguished majority leader is saying. He has been a true friend to us in this matter.

I do not want to have a public debate with the Senator on choice of tactics. We agree in principle here in that we both oppose H.R. 39. Neither of us want to see a bill pass the Senate that would be harmful to our State.

But I do not see what we have to gain by abandoning the concepts of the tradition that protects us. It is only the tradition of the Senate in the end that protects a small, faraway State like Alaska. We have got to rely upon the Senate to carry out and recognize the history and tradition of this body.

Now, I have not disagreed with what the Senator has done so far, nor do I disagree with the leadership, necessarily, in responding to the requests of the chairman and the ranking Republican member of the Energy Committee to proceed and exercise their authority.

But I do believe that we have to be very careful not to be the ones to break the tradition of the Senate since we can only survive on this issue if the Senate chooses to abide by its long-standing tradition that protects small States such as ours.

Mr. GRAVEL. Let me say, I am somewhat aghast at the statement. But I do not know of anything I have done that has broken the tradition of the Senate. In fact, it is a great tradition of the Senate to have some real, knock-down, drag-out filibusters. That is a great tradition of the Senate. The Senate is known for unlimited debate. If it is not known for that, it is not known for anything.

So there is nothing I am doing that is impinging upon the traditions of the Senate.

Further, let me tell my colleague, it is not the tradition of the Senate that will protect us, it is the rules that will protect us, and enforcing those rules, or using them.

Tradition is great, but in the 20th century, in a fast-moving, eclectic world, traditions have been going out the window right and left, and I have seen them go out in the last 10 years.

So it may have a certain romance and a clubbiness to talk about traditions that do not break us.

So, from our point of view, when we come up on October 1 and we have been run over, a day late and a dollar short, we will not eat those traditions too well and we will not have much to take back home to our constituency when in the next 20 years they have to suffer the crippling effects of this ridiculous legislation.

When we go back, tell about tradition. What they are interested in is whether or not we are able to bring about an intelligent piece of legislation that affects our State. That can only be done by the rules. That cannot be done by tradition.

Mr. ROBERT C. BYRD. The distinguished Senator mentioned the letter he had written to me. It was dated today.

Mr. GRAVEL. Yes, it was.

Mr. ROBERT C. BYRD. I had not seen the letter until this moment.

Mr. GRAVEL. I am sorry. I assumed the Senator had.

Mr. ROBERT C. BYRD. May I say, I cannot accede to this request because it is a blanket request. If the Senator has in mind a specific piece of legislation that he wishes the leadership to debate and touch base with him on before entering into an agreement, the leadership will honor that. But when he makes a blanket request and says:

May I ask that I be consulted prior to the granting of any unanimous consent request relating to the scheduling of legislation, the imposition of time limits for debate on any matter, procedures to be followed in the consideration and disposition of any legislation.

I cannot accede to that request. I cannot be put in a straitjacket.

But if the Senator has a particular piece of legislation in mind he wants to be notified on, I will grant that request and contact him before I present any agreement to the Senate.

Mr. GRAVEL. I think that is fair enough for the majority leader. We drafted it in haste.

I think we will be supplying the leader with a lot of letters on a lot of different pieces of legislation. If the leader has other comments to make at a later time, if he thinks we are overreaching, just notify us. We will get back down to what is proper and follow that and not impinge upon his prerogatives because, obviously, the main tactic of this would be to deal with adjournment and reconvening time. That is the prerogative of the leadership. I have honored that.

So with that in mind, and what the leadership would do with due notice of my intent, I still think, as I said, it is incumbent on the leadership at a later time, in consultation with the President or Senator JACKSON or anybody else involved in this legislation, to take the measure of the price to be paid in this regard.

I am prepared to say that whenever the committee is meeting, I will make an assault at the committee, whether or not it has to be the punishment of an all-night session. I would prefer not to do it. If the leadership does not want to do it, we will not do it. I do not have to do it. I will just go surgically at the other.

But if the leadership wants to handle this kind of activity in conventional hours, I would be happy. It would be easier on me. I can recall when Senator Mansfield had the two-track system for filibusters.

It was the present majority leader who changed that somewhat, to say that if people want to filibuster, they have to pay their dues. I think that is part of the game.

Mr. ROBERT C. BYRD. It was the majority leader who had something to do with instituting the two-track system.

Mr. GRAVEL. It was the majority leader? Good. I thought it was an effi-

cient way, but it surely was an easy way to filibuster.

I had understood, as a matter of information, that the reason that was stopped was because of heart attacks that occurred at the time of that filibuster.

Be that as it may, I do not mind conducting an easy one, and I will put the leadership on notice and avoid for myself a lot of pain.

With that said, we will have letters to the leadership specifically on items on the Calendar, so we can be consulted.

Mr. ROBERT C. BYRD. I hope the Senator will be reasonable in making his requests and not list too many items on the Calendar, because, as I say, the leadership will honor his requests and will contact him on measures in which there is a reasonable reason to believe that the Senator has reasonable reason to be interested. But it is obvious that the leadership cannot contact one Senator on a plethora of bills, because to do so would be to allow one Senator to take over the leadership of the Senate, and I am not ready to do that, until such time as a majority of my colleagues on this side of the aisle so decide.

Mr. GRAVEL. Either the approach or the consideration is valid for one bill or all bills. I stand here and vote on all of them when I am here. So if I have a concern as to all the items on the Calendar, or most of the items on the Calendar, I think it is a valid request that I be contacted.

Mr. ROBERT C. BYRD. I hope the Senator will be reasonable. The leader always attempts to be reasonable and fair to every Senator, but I do not want any Senator to think he can take undue advantage of the leadership, because if he does so, he takes undue advantage of the Senate. I trust that the Senator will be reasonable, and I trust that he feels I will be fair.

Mr. GRAVEL. I say to the leader that we go to the core of the essence of democratic government, and it is that we have rules; and if the rules are properly used in order to safeguard the rights of the minority, that is the system as I see it.

Mr. ROBERT C. BYRD. Why do we not wait until the situation arises? I have no interest in standing here tonight and discussing ad infinitum hypothetical situations which might never occur. Ninety percent of the things we worry about turn out all right. Let us wait until the time comes and then talk about it.

I am content that I have said enough for one day, so far as I am concerned.

Mr. GRAVEL. Let me just say that I would agree with the majority leader—probably enough has been said tonight. But there is another tomorrow, and we will have a chance to test the efficacy of both arguments, with his responsibility as majority leader and my efforts to thwart this legislation.

I think we can let this evening rest as demonstration of my intent. There is a long time between now and October 1. I have demonstrated just the tip of the iceberg as to my attitude as to what legislation I think will be injurious to the people who sent me here.

Enough said on that score I think we will look for a time to act out the interests and see what happens.

RECESS UNTIL 10 A.M. TOMORROW, JULY 14, 1978

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until 10 o'clock tomorrow morning.

The motion was agreed to; and at 10:16 p.m. the Senate recessed until tomorrow, Friday, July 14, 1978, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 13, 1978:

DEPARTMENT OF STATE

George M. Lane, of Massachusetts, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Yemen Arab Republic.

DEPARTMENT OF DEFENSE

Stanley R. Resor, of Connecticut, to be Under Secretary of Defense for Policy (new position).

DEPARTMENT OF THE INTERIOR

Roger A. Markle, of Utah, to be Director of the Bureau of Mines, vice Thomas V. Falkie, resigned.

DEPARTMENT OF ENERGY

Ruth C. Clusen, of Wisconsin, to be an Assistant Secretary of Energy (Environmental) (new position).

CIVIL AERONAUTICS BOARD

Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board for the remainder of the term expiring December 31, 1978, vice Lee R. West, resigned.

Gloria Schaffer, of Connecticut, to be a member of the Civil Aeronautics Board for the term of 6 years expiring December 31, 1984 (reappointment).

COUNCIL ON ENVIRONMENTAL QUALITY

Jane Hurt Yarn, of Georgia, to be a member of the Council on Environmental Quality, vice John A. Busterud, resigned.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Richard V. Backley, of Virginia, to be a member of the Federal Mine Safety and Health Review Commission for a term of 4 years (new position).

MISSISSIPPI RIVER COMMISSION

Roy T. Sessums, of Louisiana, to be a member of the Mississippi River Commission for a term of 9 years (reappointment).

EXTENSIONS OF REMARKS

BANKS AND INTERLOCKING DIRECTORATES

HON. THOMAS L. ASHLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. ASHLEY. Mr. Speaker, on January 20 the Committee on Banking, Finance and Urban Affairs, by a vote of 23 to 16, defeated an amendment proposed by Mr. ST GERMAIN which would have the present exemption for banks under the Clayton Act prohibition of interlocking directors between competing companies.

Because the amendment was supported by the Federal Reserve Board and the Justice Department, I was reluctant to vote against it. On the other hand, I was not prepared to vote for it, since amendments to the Clayton Act are not, at least until now, under the jurisdiction of the committee; we did not have the views of the Judiciary Committee, and, most importantly, the committee had not held hearings on this proposal. It was not introduced into the committee's consideration of the so-called Safe Banking Act until June 12, 1978, long after hearings were concluded. While the subject was mentioned in the Justice Department's previous testimony, it certainly had not received any substantial degree of discussion and comment by other witnesses, and the actual text had not been provided until June 12. Even after that date, the amendment was substantially modified by the so-called Hanley amendment (actually drafted by the Justice Department) during subcomimttee consideration.

The amendment had been defeated by a vote of 9 to 7 in the subcommittee.

In the absence of the type of consideration which adequate hearings and discussion would provide. there are a number of questions which I should like to see answered before such a provision is enacted.

Among them are these:

First. What was the rationale for the exclusion of banks from the scope of the amendment in the first place? It was described as a "loophole" by the proponents of the amendment, but the actual language and the most current court decision indicate that it was deliberately done, and it is certainly clear from the text of the act that banks are exempt. The exemption has existed since 1914. If it is a "loophole," it is an old one.

In *U.S.* v. *Crocker* the District Court for the Northern District of California said, on August 26, 1976, that its interpretation that banks were exempt was "buttressed by 60 years of administrative and congressional interpretation to this effect, as well as by the statute's legislative history." The court also cites a staff report of the House Subcommittee on Domestic Finance of the House Banking and Currency Committee of the 90th Congress, 2d session, reaching the same conclusion (Report on Commercial Banks and their Trust Activities, 1968).

Second. The bill H.R. 13088 provides for extensive regulation of interlocks between depository institutions, but "grandfathers" present interlocks for 10 years. The St Germain amendment would have provided a 2-year "grandfather" for interlocks between banks and their nonbank competitors. Yet interlocks between depository and nondepository institutions are surely less anticompetitive than those between depository institutions, and, presumably, if 10 years is justified in one case it should be in the other. Furthermore, since no hearings had been held and the full impact was uncertain, more time for adjustment might well be justified.

Third. The criteria of the Clayton Act is rigid and arbitrary. This may or may not be justifiable in view of the competitive risks, but, in the absence of hearings and due consideration we do not know that this is so. The pertinent provision of the Clayton Act outlaws interlocks if the corporations concerned are "by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the antitrust laws."

It is important to understand that there need not actually be any anticompetitive agreement, or even act or practice, for the interlock to be illegal. It is sufficient only that there be such a degree of competition that if an agreement existed that agreement would violate the antitrust laws.

It is ironic, at least to me, that proponents of the amendment argued that in a suit brought by Justice against a bank and an insurance company, the two corporations stipulated that they did, in fact, compete. Of course they did. Yet the premise of the stricture against such interlocks must be that such interlocks are anticompetitive. Is this arbitrary standard justified?

Fourth. The Hanley amendment was offered, at the last minute in subcommittee, to meet some of the objections to the rigidity of the Clayton Act standard. It provided that a corporation "principally engaged in . . . providing nonfinancial services, and as an incident (thereto) extends credit . . . shall not be deemed to be by virtue of such extension of credit a competitor of a depository institution. . .".

This replaces one arbitrary rigidity with another. Many such "nonfinancial" companies are, in fact, keen competitors of depository institutions. Walter Wriston of Citibank recently said that three of the largest retail chains have customer accounts receivable equal to 11 percent of the total consumer installment loans of all American banks combined.

If we wish to outlaw interlocks between banks and insurance companies, do we wish to sanction them between, for example, Chase and Sears, Citibank and Mobil, Bank of America and Ward's or Penney's? These companies compete in the financial markets at wholesale and retail as both creditors and borrowers of funds. The commercial paper market, in which corporations lend each other excess funds is more than $16 billion. There might well be more competition between banks and companies exempted by the Hanley amendment than between banks and insurance companies.

Fifth. It should be noted that the Clayton Act reaches so-called secondary interlocks. Under the St Germain amendment, therefore, a common directorship between a bank and an insurance company, for example, is made illegal although the director involved may be an officer of a third company with whom neither the bank nor the insurance company competes. (The Clayton Act says, "no person at the same time shall be a director in any two or more corporations" which meet the standards of the Act.)

Is the presumption that such an interlock is potentially dangerous a valid one? Would a president of a manufacturing company, for example, who serves on the boards of a bank and an insurance company realistically be a potential risk to cause or facilitate anticompetitive practices between the bank and the insurance company? It might well be a valid presumption of risk for an officer of Prudential to serve on the board of Bank of America, as the Justice Department made in its suit. But it is quite another thing to do so in the case the president of X Manufacturing Co. serving on the boards of a Blue Cross Insurance Co. and the Second National Bank.

If the bank exemption is to be repealed, should its application be limited to, say, officers and directors or 5 percent or greater shareholders of the bank and the competing corporation, and not include a common director whose company is not a competitor of either?

Sixth. Finally, is there a valid purpose in officers of banks and insurance companies serving on the boards of the other institution? The court, in the case I have cited, gave what appeared to the judge to be valid reasons, in the nature of the expertise they provided. I am not persuaded either way on this issue, but this, too, needs to be examined from the standpoint of whether the possible good outweighs the bad.

* * * * *

In raising these questions, I do not prejudge the issues. However, I think they are legitimate questions, the answers to which we do not have.

If the Banking Committee has jurisdiction over this issue, we can obtain answers to these and other questions by other members through hearings and deliberations worthy of the subject matter.●

EQUAL RIGHTS FOR ALL U.S. CITIZENS

Hon. John E. (Jack) Cunningham

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. CUNNINGHAM. Mr. Speaker, since 1924 Native Americans have been citizens of the United States. Both prior to and since that time, the Federal Government has asserted "trustee" rights over these persons. Nearly everyone would agree that the programs and policies of the Government have done little to improve the life, protect the heritage, or assist in moving Native Americans toward a status of full citizenship. Yet we in Congres are continually asked to fund more and more programs, many of them through the Bureau of Indian Affairs, which continues this Federal supervision and control of the lives of Native Americans.

Recently, Federal Courts have been interpreting treaties and Executive Orders to give extraordinary rights of Native Americans. Perhaps the most famous of these decisions was United States against Washington, a case in which Judge George Boldt of Tacoma, Wash. awarded 50 percent of the salmon to 2 percent of the citizens based on his interpretation of the phrase "in common with" contained in a treaty between the United States and Indians. This peculiar interpretation has given treaty Indians superior rights to certain resources over non-treaty Native Americans as well as the rest of us.

Because of decisions such as this, tiny groups of radical political activists among Native Americans have asserted that they want separatism. Ignoring the fact that Native Americans have been citizens for 54 years, these persons claim that reservations are, in fact, foreign nations.

But, Mr. Speaker, while we encourage ethnic diversity in this country, we must not have two classes of citizens: Whether black or white, immigrant American or Native American.

It is for this reason that the Congress must act to end the confusion caused by judicial interpretation of treaties and Executive Orders.

H.R. 13329. the Native Americans Equal Opportunity Act, provides such a vehicle. The legislation will protect Indian ownership of land given them by treaty or Executive Order. They will own the land and the resources under the land. They will be able to fish and hunt as American citizens. And, for the first time, the unjustifiable and uncharitable practice of Federal supervision will end.

Land owned by Indians could be parcelled out to enrolled members of the tribe or kept as a tribal corporation. In addition, the tax burden on Indian land would be kept down through a sliding scale of payment-in-lieu of taxes to localities and other taxing districts, over a 20-year period. Additional financial assistance would also be provided.

Mr. Speaker, I submit the text of H.R. 13329 for my colleagues. Like all legislation, including earlier bills I have sponsored, it is subject to change. Many of the alterations in this bill were brought about through constructive discussions with tribal leaders and members from many places across the Nation. It is my hope that, working together, we can continue to assist Native Americans to protect their land and heritage while giving them freedom from bureaucratic control and a right to live as citizens.

The bill follows:

H.R. 13329

A bill to direct the President to abrogate all treaties entered into by the United States with Indian tribes in order to accomplish the purposes of recognizing that in the United States no individual

or group possesses subordinate or special rights, providing full citizenship and equality under law to Native Americans, protecting an equal opportunity of all citizens to fish and hunt in the United States, and terminating Federal supervision over the property and members of Indian tribes, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Native Americans Equal Opportunity Act".

SEC. 2. (a) The President of the United States shall, as soon as practicable within one year after the date of enactment of this Act, abrogate all treaties entered into between the United States and any Indian tribe.

(b) The President, in carrying out subsection (a), shall—

(1) provide that any real property which is held in trust by the United States on behalf of an Indian tribe and to which such Indian tribe is entitled, on the date of enactment of this Act, to exclusive use and occupancy shall be (A) allotted, in fee simple and in severalty, to the individual adult members of the tribe (as determined by an enrollment) with priority being given to those individuals with the greatest amount of Indian blood; or (B) conveyed, if a majority of the adult members of the tribe so indicate in an election, in fee simple to a tribal corporation for the purpose of enabling such corporation to hold such property in trust for the tribe;

(2) provide that, subject to subsection (e), all property allotted or conveyed under paragraph (1) (and all persons residing thereon and all acts committed thereon) shall be subject to the laws of Federal, State, and local governments;

(3) provide that any funds deposited to the credit of the tribe in the United States Treasury shall be (A) allotted to the individual adult members of the tribe; or (B) transferred, if a majority of the adult members of the tribe so indicate in an election, to the tribal corporation described in paragraph (1) for the purpose of enabling such corporation to hold such funds in trust for the tribe;

(4) provide that hunting and fishing rights derived by the Indian tribe from a treaty shall be abrogated, and the members of such tribe shall be subject to Federal, State, and local laws governing hunting and fishing; and.

(5) provide that there be no taking without just compensation of any property right specifically created for a particular individual by any such treaty.

(c) After the completion of the abrogation of the treaties with an Indian tribe under this Act, the President shall publish in the Federal Register an appropriate proclamation of such completion. Thereafter individual members of the tribe shall not be entitled to any of the services performed by the United States for Indians because of their status as Indians, all statutes of the United States which affect Indians because of their status as Indians shall no longer be applicable to the members of the tribe, and the laws of the several States shall apply to the tribe and its members in the same manner as they apply to other citizens or persons within their jurisdiction, subject to subsection (e).

(d) In the case of any Indian tribe with respect to which treaties have been abrogated prior to the date of enactment of this Act or with respect to which no treaties were entered into but which remain under the supervision of the Federal Government, the President shall, as soon as practicable within one year after the date of enactment of this Act, take steps to assure that such supervision is terminated, the completion of such termination is published in the Federal Register, and the provisions of subsection (c) apply to the members of such tribe.

(e)(1) Any property which is subject to State or local property taxation as a result of subsection (b), (c), or (d) shall be subject to such taxation only as provided in this subsection.

(2)(A) Except as provided in paragraph (3), the property tax which may be levied in any year against any property described in paragraph (1) shall not exceed an amount equal to the product of (i) the amount which would be levied against any similar property owned by non-Indians, and (ii) the applicable percentage for that year as determined under subparagraph (B).

(B) The percentage referred to in clause (ii) of paragraph (A) is—

(i) 5 per centum for the year during which the property described in paragraph (1) first becomes subject to State or local property taxation under subsection (b), (c), or (d); and

(ii) in each subsequent year, the per centum applicable for the preceding calendar year plus an additional 5 per centum, except that in no case shall the applicable per centum be greater than 100 per centum.

(3)(A) If any property conveyed to an Indian under subsection (b)(1)(A) is subsequently conveyed to any person other than an immediate family member of such Indian, such property shall be subject to State or local taxation in the same manner as other property in the State or locality which is owned by non-Indians.

(B) For purposes of subparagraph (A), the term "immediate family member" means any son, daughter, sibling, spouse, parent, grandparent, niece, or nephew.

(4)(A) In any fiscal year beginning on or after October 1, 1979, the Secretary of the Treasury may make grants to any State or local government with respect to any property described in paragraph (1) which is not subject to taxation in accordance with paragraph (3). The amount of any such grant may not exceed the amount equal to the difference between—

(i) the amount any such government would have received from property taxes levied against such property in the year in which an application for such grant is submitted under subparagraph (B) if such property were subject to taxation in the same manner as other property in the State or locality which is owned by non-Indians; and

(ii) the maximum amount such government may receive under paragraph (2) from taxes levied in such year against such property.

(B) No grant may be made under this paragraph unless an application therefor has been submitted to and approved by the Secretary of the Treasury. Any such application shall be submitted in such form and in accordance with such procedures, and shall contain such information, as the Secretary of the Treasury may require.

SEC. 2. (a) During each fiscal year for which funds are appropriated under subsection (c), the President shall allocate any funds appropriated for such year in an equitable manner among all Indian tribes. The funds allocated to any Indian tribe shall be deposited in the United States Treasury to the credit of such tribe for distribution in accordance with subsection (b). The President may distribute such funds to a tribe only after publishing in the Federal Register under subsection (c) or (d) of the first section of this Act a proclamation that all treaties with such tribe have been abrogated or that supervision of such tribe has been terminated.

(b) The President shall distribute the funds deposited to the credit of an Indian tribe to such tribe in the manner provided in subsection (b)(3) of the first section of this Act. After a tribe has determined in accordance with such subsection whether such funds shall be distributed to adult members of the tribe or to a tribal corporation, the President shall disburse such funds to the tribe in that manner in each year in which distribution is made under this subsection unless the adult members of the tribe, by majority vote, determine to change the method of distribution in accordance with such subsection (b)(3) and so inform the President.

(c) There are authorized to be appropriated to carry out this section $100,000,000 for the fiscal year ending September 30, 1980, and $100,000,000 for each of the four subsequent fiscal years.

SEC. 3. Whenever all of the functions vested by law in the Bureau of Indian Affairs have been terminated as a result of subsections (c) and (d) of the first section of this Act, such Bureau shall terminate, and each position and office therein which was expressly authorized by law, or whose incumbent was authorized to receive compensation at the rates prescribed for an office or position at level II, III, IV, or V of the Executive Schedule under section 5313, 5314, 5315, or 5316 of title 5, United States Code, shall also terminate.

SEC. 4. For purposes of this Act—

(1) the term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act; and

(2) the term "State" means any of the several States and the District of Columbia.●

SOVIET TREATMENT OF ITS JEWISH CITIZENS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. BEILENSON. Mr. Speaker, all of the nations which signed the Helsinki Final Act, including the Soviet Union, pledged to do everything possible to reunite families separated by political boundaries.

Because the Soviet Union is not living up to that promise, Members of Congress are conducting a vigil on the House floor entitled "Vigil for Freedom." This project is being conducted on behalf of Soviet Jewish families and individuals who are being forcibly detained in the U.S.S.R. as a result of the Soviet Government's repressive immigration policy.

Last year, I participated in a similar vigil, "Helsinki's Unfulfilled Promise," on behalf of the Emanuel Fainberg family. It saddens me very deeply that my participation in the "Vigil for Freedom" must again be directed toward the plight of this family.

When the Fainbergs first applied for exit visas to Israel in February 1973, their primary motivation was not only to join their Israeli relatives, but also to relieve Ella Fainberg's asthmatic condition. Tragically, Ella passed away last summer at age 13. If the Fainbergs had been permitted to immigrate to Israel during the past 5 years, perhaps Ella might be alive today.

I firmly believe that the Fainbergs' desire to be reunited with their family in

Israel, especially in light of Ella's unfortunate death, is an excellent example of the letter and intent of the Helsinki accords. If families such as the Fainbergs are allowed to join their Israeli relatives, it would serve to raise the international posture of the Soviet Union in the eyes of many Americans, as well as to facilitate the spirit of cooperation and peace between our two nations.

I am deeply concerned over the Soviet Union's disturbing treatment of its Jewish citizens and ask that it abide by its international commitments by relaxing restrictions on immigration policies. I look forward to the day when there is no longer any need for such pleas—the day when families can be reunited in Israel.●

THE NATION'S CITIES: HOLDING CELLS FOR THE POOR

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. STOKES. Mr. Speaker, recently, an article written by Los Angeles Times reporter Robert Scheer appeared in the Sunday edition of the Cleveland Plain Dealer on the current social and economic plight of the Nation's major cities. Crime, unemployment, blight, and racial polarization were but a few of the malignant urban problems which received a sensitive and concise assessment by Mr. Scheer.

So that my colleagues in the House may share in its message, I would like to submit for the RECORD the article entitled "Holding Cells for the Poor" which appeared in the June 25, 1978 edition of the Plain Dealer:

HOLDING CELLS FOR POOR

(By Robert Scheer)

"Each of the nation's metropolitan areas, North and South, is very swiftly dividing itself into two cities, white and black. This is not a matter of neighbors; we have always had racial, ethnic and economic neighborhoods; perhaps we always will. This is different. In each metropolitan area we are setting up two geographically, politically and economically distinct civilizations." Said by J. Skelly Wright, U.S. Court of Appeals judge in an address at Harvard law school in 1974.

A rather neat thing happened on the way to an integrated society. Neat in the sense of tidy, that is. Most of the poorer blacks and Hispanics ended up contained in the central cities—out of sight and out of mind.

It therefore is not true that the cities are no longer needed or terribly useful. They increasingly perform the function of vast holding cells for society's rejects: 60 percent of unemployed blacks, 60 percent of welfare recipients, 70 percent of robbers and the victims of robberies, 90 percent of youth gangs.

The civilization of the cities is marked by the life experiences of an underclass—people without options—children whose parents have never held a steady job, who themselves and whose own children most likely will not.

The cities, with their growing underclass, are ever more separate and unequal.

When U.S. Court of Appeals Judge J. Skelly Wright ordered the Washington, D.C., school system integrated in 1967, the population of the city was 60 percent black and that of its schools was 90 percent black. At the time he suggested that the white suburbs of Maryland and Virginia might be included in the busing plan—a metropolitan plan—in order to desegregate the schools. They weren't. Today, the population of Washington, D.C., is 76 percent black and that of its schools is 96 percent black.

The situation is similar throughout the country. The white "civilization" is located increasingly in the shopping malls, tract homes, country clubs, factories, new corporate headquarters and school systems of the suburbs.

The blacks have Newark, a city of desolate rubble with children playing unattended in fields of broken glass while a black mayor presides over the graveyard of a decade's efforts to renew and integrate.

The blacks have Atlanta, which Jimmy Carter held up during his presidential campaign as a city that knows how to leapfrog over the racial traumas of Northern integration. But the city "too busy growing to hate" now has a school system that is nearly 90 percent black surrounded by suburbs whose schools are 90 percent white. Many of Atlanta's civic boosters put their children in private schools.

The blacks have Oakland, which has lost almost half of its white students in the past six years and which California Gov. Edmund G. Brown Jr. says he will now make his model of urban development. West Oakland, thanks to urban renewal, is an unpopulated wasteland in search of a freeway; overpopulated east Oakland is in a dead heat with Harlem for the highest infant mortality rate in the nation.

The blacks have St. Louis, the most distressed city in the country, according to the Brookings Institution, and they have Cleveland, which may not have a school system in the fall.

And they have the nation's capital, with a school system that is almost all black because the very people in the federal government who must administer the plans for integration will not send their own children to the district's public schools.

The browns have the Bronx, or at least they have what's left of it. And blacks and browns together soon will be a majority in Los Angeles and Chicago. A top Chicago official in the mayor's manpower office says there are now 600,000 illegal aliens in the Chicago area and adds, not for attribution:

"There seems to be a direct chain from Mexico to Chicago. . . . At least half of the hotel staffs are illegals. Chicago is starting to become somewhat of a bilingual city. It's a curiously non-discussed situation."

The two societies predicted in 1968 by the Kerner Commission on Civil Disorders are becoming real. Only it is less the predicted division between the whites and the blacks than it is between the haves and have-nots.

In particular it is the have-nots of the cities, mostly blacks and browns, who form an underclass of people outside of the economic mainstream, people without social options and, increasingly, without a sense of social responsibility.

One hears more optimistic reports. Some of President Carter's urban advisers claim that the cities are perking up, that middle-class whites are moving back. Some argue that the gloomy figures on the racial composition of the cities are from the 1970 census and that current figures would show a more integrated urban population.

But a Los Angeles Times survey of officials in 25 major cities reveals that the flight of whites from the cities has continued at a consistent pace. The 1980 census will show the cities to be blacker and poorer, according to the survey.

White flight has been the decisive residential, educational and occupational experience of urban America since the Supreme Court's 1954 decision in Brown vs. Board of Education.

In every city in the survey, the white population has declined; the increase in nonwhite population since the 1970 census averaged 8 percent.

This phenomenon cuts across geographical lines. Central cities as different as Oakland and Cleveland have gone from being 25 percent black in 1960 to almost half black today.

The new-growth sunbelt city of Atlanta is now 60 percent black, as is the old industrial city of Baltimore. The nation's capital is 76 percent black, Newark has a nonwhite population of 87 percent and Los Angeles, on the other side of the continent, is close to the point of having an Anglo minority.

Since a high proportion of the Anglos left in the cities are older retired people or younger professionals without children or who send their children to private schools, the nonwhite school population figures are even greater.

A city planner in Cleveland summed it up for a reporter in tones more resigned than agitated:

"The middle-income white middle-class families are leaving. The nonwhite, the poor, the elderly and the young—the dependent population in many ways—are the ones that remain. The part of the city that is leaving is the part that has given the city its historic stability. It's pretty much the trend, with the dependent population staying. They're dependent, but there's no one to depend on because everyone else is leaving."

Racism associates all blacks with, and holds them accountable for, the problems of the ghetto. Whites tend to hold all blacks responsible for urban crime and violence, but there is no such association of innocent whites with white criminals. White suburbanites are not held responsible for their children who turn up junkies or teen-age prostitutes in the big cities.

Blacks are still caught by their skin color. Ernest Green, one of the black children who walked into that school in Little Rock in 1957 and who grew up to become an assistant secertary of labor in the Carter administration, reports his own experience:

"You get on an elevator in your suit and tie and briefcase with somebody that is white, particularly a white female, and you immediately see fear in their eyes."

Even when blacks have the money, racial barriers make it more difficult for them to get out of the cities. Harvard social psychologist Thomas F. Pettigrew estimates that while only 8 percent of Chicago's blacks live in the suburbs, according to the 1970 census, 46 percent should be expected to live there on economic grounds alone. But middle-class blacks are slowly but surely leaving the central cities and, when they stay, are tending more often to use private schools, further isolating the minority underclass.

The progress of blacks into the ranks of the middle class has been real and substantial and fully 25 percent of black families had an income of more than $16,000 per year in 1976 (as compared to 50 percent for whites). But there are also just as many poor black families and twice as many blacks out of work today as there were 10 years ago. These are the blacks who form the enduring underclass.

That underclass is marked by female-headed households and children born out of wedlock. In 1976, one-fourth of all black children were in families headed by women who were unemployed or not in the labor force as compared to 18 percent in 1969. In 1976, 28 percent of blacks were said to fall below the poverty line.

A Harris poll conducted for the U.S. Department of Housing and Urban Development showed that crime and poor schools were the most important reasons for people's

rejection of life in the cities. And the two are obviously connected.

Urban crime, in particular urban school violence is a reality. The most recent national study of school violence, for example, revealed that principals in one-quarter of the senior high schools in large urban areas reported that vandalism, theft and attacks represented a fairly serious or a very serious problem.

This same report concluded that the risk of robbery of a teacher is three times greater in minority schools than in predominantly white schools, the risk of attacks even greater: "A typical teacher in an urban high school stands 1 chance in 55 of being attacked within a month's time while a teacher in a rural senior high school has 1 chance in 500."

The urban crime is robbery, which is the crime of poverty. People with options do not, as a rule, perform stickups. There's no percentage in it. It's a crime of desperation—a couple of bucks, a few credit cards, and, for this, the prospect of murder, death, prison

It's all too disproportionate. Unless you're young black, male and unemployed.

The FBI: "Robbery is primarily a large city crime. Seven out of 10 robberies in the United States occurred in the cities with more than 100,000 inhabitants. These cities experienced 521 robberies per 100,000 people."

Almost 60 percent of those arrested for robbery in 1976 in the entire nation were what the FBI still chooses to call Negro. Blacks accounted for 52 percent of the prostitution arrests, 55 percent of all arrests for gambling, 40 percent of weapons violators, 47 percent of rape and 53 percent of murders.

It is also true that blacks account for a disproportionately high number of the victims of such crimes—47 percent of those murdered, for example. Blacks are the main victims of urban violence and they are the ones who must live near it.

It is not that blacks are by nature more violent than whites or that there are few white criminals. (Whites account for 69 percent of all burglary arrests, 65 percent of larceny arrests and 51 percent of rape arrests.) And it is not that most blacks today are violent.

A disturbing number of chronically unemployed and otherwise deprived young blacks have come to view violent, criminal behavior as an option for advancement in a way that seems wildly irrational to one who has other, more acceptable options.

This bleak picture of ghetto life did not shock Georgia state senator and civil rights veteran Julian Bond, who said:

"I go out to the federal pen here a lot and people tell me that the age has just dropped so radically. The average age of the prisoners used to be in the late 30s. Now it's in the mid-20s. This is the federal system we're talking about, not the state system. The black-white ratio has almost reversed from being about 20 percent black some years ago to being 40 percent white now.

"And you see it in all these young guys out there—Vietnam vets, bank robbers, drug people and such. Small time—all of them small time. The prison used to be filled with organized crime figures. Now it's filled with bank robbers. It used to have a lot of moonshiners in it—white country moonshiners. Now it's got black bank robbers. Bank robbery is the crime of choice among black youth. Big money. And that's what happens to those people."

Those people are only a small minority of the black population and certainly of the urban one, but they seriously affect the civilization that is possible in the modern city.

Which is precisely why the courts ordered desegregation in the first place—to permit minority children an escape from total immersion in that grinding ghetto life. If ghetto poverty remains frozen in place at the heart of America's cities, if the schools present no real options, it is to be expected that hundreds of thousands of young people will grow up unable to do anything but make life miserable for themselves and their neighbors.

A central problem with the city is that while most people want to use its facilities, they just don't want to live there or have their tax dollars go there.

The Harris Poll for HUD found that most people still regard "the American city as that place where society's economic, cultural and intellectual needs, but not its residential needs, are best met."

The survey concluded that "large cities clearly offer the best shopping, the best employment opportunities, the best health care, the best colleges and universities, the best public transportation, the best restaurants, the best selection of movies and the best plays and cultural activities."

So much for the good news.

The report added: "However, the city's image today as a place to live and raise children is overwhelmingly negative." And yes, the two main reasons for the cities being poor places to live and raise children were schools and crimes, not concrete any pollution nor crowded buildings and subways.

As a result of such attitudes suburbanites have figured out how to use the city without living in it and without paying for most of it. They work and shop in the cities, go to its restaurants, movie theaters and doctors. It turns out that they like the city—it's just the people who live there that they don't like.

We reject the cities because we reject the poor.

If a neutron bomb were suddenly dropped on the poor of St. Louis, New York City or Central Los Angeles, the housing stock would be rediscovered by affluent home buyer as quaint, conveniently located and architecturally fascinating and they would pour in money to rehabilitate those structures that are not rejected.

A less drastic people-removal process is under way in a number of cities; it's called neighborhood restoration. But the brownstones and Victorian houses that are restored in Washington, D.C., New York or San Francisco become valuable only because the neighborhood is changing. Which means that the balance has swung toward more affluent and white residents, and that a security zone has been thrown up around the "new" neighborhood.

This is true, too, in Atlanta's "revitalized" neighborhoods, where the poor are pushed out economically through rising home prices and then kept out with new private police forces and intensified patrolling by the city's police.

The new downtown hotel complexes are another example of this sort of restoration of a neighborhood. It is possible to sit in security in a Hyatt Regency in a downtown section that is a jungle one block outside of the hotel sanctuary, but conventioneers need never encounter that reality.

The people-removal part of urban renewal was not accidental to the policy. It was the policy.

By 1967 urban renewal had removed 400,000 housing units from U.S. cities and built only 12,000 new units of public housing for the people displaced.

The cities, more often than not have been victims of federal programs designed to ensure the progress. The urban renewal of the '50s—the bulldozer tactic—let deserted areas in one side of town and overcrowding in the other.

Public housing projects of immense proportions planned as alternatives to the ghettos became ghettos themselves, further isolating the poor and minorities from the rest of the population.●

CITIZENS' RIGHT TO STANDING IN FEDERAL COURTS ACT

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. KASTENMEIER. Mr. Speaker, today I am pleased to introduce for the House's consideration a bill to render consistent and broaden the rights of citizens to bring suit in the Federal courts for unlawful governmental activity. The bill is entitled the "Citizens' Right to Standing in Federal Courts Act".

The proposed legislation is the fruit of a joint effort by Senators METZENBAUM, KENNEDY, and RIBICOFF, and their staffs, with considerable input from the Department of Justice. The Senate bill (S. 3005) was introduced on April 27, 1978, and was referred jointly to the Committee on the Judiciary and the Committee on Governmental Affairs. I look forward to working with the Senate on this legislation and wish to commend Senators METZENBAUM, KENNEDY, and RIBICOFF for their fine efforts in this regard.

The Department of Justice has indicated that it supports the concepts embodied in the bill. The legislation's thrust has also been endorsed by the President. In April 1977 and then again last month, he committed himself to greater citizen access to the courts. In his May speech to the Los Angeles Bar Association, the President observed:

> Access to justice must not depend on economic status, and it must not be thwarted by arbitrary procedural rules.
>
> Overcoming these procedural barriers means that groups with distinct interests to defend—in civil rights, economic questions, environmental causes and so forth—must be able to defend them fully. We are supporting efforts to broaden the use of class action, and to expand the definitions of standing to sue.

Basically, standing is a threshold requirement designed to check the credentials of litigants who invoke the jurisdiction of a court. It confers the right to obtain judicial review of a controversy but not necessarily the right to relief. Standing is a question which, by definition, is addressed in every lawsuit.

There has been recent confusion and controversy surrounding standing. One Supreme Court Justice has voiced concern that "the recent Art. III jurisprudence of this Court in such areas as * * * standing is creating an obstacle course of confusing standardless rule to be fathomed by courts and litigants, * * * without functionally aiding in the clear, adverse presentation of the constitutional questions presented." *Kremens* v. *Bartley*, 431 U.S. 119, 140 (1977) (J. Brennan, dissenting).

Today, in my opinion standing is not unlike Franz Kafka's doorkeepers:

> . . . before the Law stands a doorkeeper. To this doorkeeper there comes a man from the country who begs for admittance to the Law. But the doorkeeper says that he cannot admit the man at the moment. The man, on

reflection, asks if he will be allowed, then, to enter later. "It is possible," answers the doorkeeper, "but not at this moment." Since the door leading into the Law stands open as usual and the doorkeeper steps to one side, the man bends down to peer through the entrance. When the doorkeeper sees that, he laughs and says: "If you are so strongly tempted, try to get in without my permission. But not that I am powerful. And I am only the lowest doorkeeper. From hall to hall, keepers stand at every door, one more powerful than the other. And the sight of the third man is already more than even I can stand." These are difficulties which the man from the country has not expected to meet, the Law, he thinks should be accessible to every man and at all times, but when he looks more closely at the doorkeeper in his furred robe, with his huge pointed nose and long thin Tartar beard, he decides that he had better wait until he gets permission to enter. The doorkeeper gives him a stool and lets him sit down at the side of the door. There he sits waiting for days and years.—F. Kafka, *The Trial* (Knopf, New York, 1970), pp. 267–268.

Mr. Speaker, in testimony before my subcommittee during our state of the Judiciary and Access to Justice Hearings, we learned that standing is often combined with justiciability defenses to delay a hearing on the merits of the case. Moreover, restrictive decisions on standing often result in a tremendous waste of judicial resources while lower court judges are left to decipher confusing commands from the higher courts. What is needed is comprehensive standing legislation setting forth precise standards under which individuals are assured access to the courts to protect their rights.

The legislation drafted by Senators METZENBAUM, KENNEDY, and RIBICOFF, with valuable input from the Department of Justice, satisfies this need.

By way of further background, problems with standing arise most often in litigation involving allegations of illegal governmental activity. Standing issues are addressed in suits between private parties, but are generally not segregated into a separate threshold inquiry. This is because in private suits, as part of proving the elements of a cause of action, the plaintiff must establish his stake in the controversy. This proof is inseparable from consideration of the merits of the case, whereas in suits involving governmental action the standing question is readily separable from the cause of action.

There are two basic elements in the concept of standing. The first is rooted in the "case and controversy" requirement of the Constitution and cannot be modified by legislative action.

In *Flast* v. *Cohen*, 392 U.S. 83 (1968) the Supreme Court discussed the constitutional minimum for standing. Relying on its earlier decision in *Baker v. Carr*, 369 U.S. 186, 204 (1962), the Court defined the "gist of the question of standing" as "whether the party seeking relief has alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the Court so largely depends for elimination of difficult constitutional questions." (at 99).

The second aspect of standing involves considerations not required by the Constitution. This area involves what is referred to as "prudential" rules of standing; that is, rules developed by the Federal courts through judicial decision to control the numbers and types of cases filed in the courts. Congress clearly has the authority to remove or modify these standing barriers. See *Trafficante* v. *Metropolitan Life Ins. Co.*, 409 U.S. 205, 209–212 (1972).

On occasion, Congress has specified a particular class of litigants entitled to bring an action under a specific act. See, for example, Federal Trade Commission Act, 15 U.S.C. section 45(c), National Labor Relations Act, 29 U.S.C. section 160(f); Consumer Product Safety Act, 15 U.S.C. sections 2060, 2073; Federal Water Pollution Control Act, 33 U.S.C. section 1365. For the most part, however, Congress has deferred to the Federal courts to formulate their own rules and guidelines for resolving standing issues. This has been described by one judge—Mr. Justice Jackson—as backing into the issue rather than facing it squarely.

I believe that the time is ripe for congressional action to confront the issue and to remove judicially constructed barriers to the Federal judicial system. Individuals who have been victimized by unlawful governmental action ought to have access to the courts.

The proposed legislation would eliminate three prudential barriers. First, the bill would prevent Federal courts from denying an aggrieved party standing because the identified injury is of a "generalized" nature—that is, an injury suffered by all or by a large class of persons. Second, the proposed legislation provides that standing may not be denied on the ground that the defendant's conduct is not the "primary cause" of plaintiff's injury. Third, the bill prevents dismissal of a suit on grounds of "redressibility"—that is, whether the defendant's conduct is not "substantially likely to be remedied" or that the judgment would not "contribute in significant part" to the remedy or prevention of such injury.

In short, the purpose of the proposed legislation is to address and resolve growing confusion in the area of standing to bring suit. The legislation will result in access to the courts for an increasing number of people. More importantly, the legislation will treat litigants equally—where there is a Federal right there will be a Federal forum to protect that right.

Although the bill will make the courts more efficient by reducing the amount of time expended in resolving threshold issues, it will increase their overall workload by raising the number of lawsuits filed in Federal court. The 95th Congress has expended much effort in attempting to reduce the burdens on the Federal courts. We have processed legislation to increase the number of judgeships, to expand the civil and criminal jurisdiction of U.S. magistrates, and to abolish diversity of citizenship jurisdiction in the Federal courts. Passage of all this legislation—which I sincerely support—will not only dramatically reduce Federal caseloads but will pave the way for meritorious legislation like S. 3005.

I am pleased to join my Senate colleagues in introducing this bill.●

SOVIETS SHOULD NULLIFY IDA NUDEL TRIAL

HON. PAUL E. TSONGAS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. TSONGAS. Mr. Speaker, it is with deep distress that I have read that Mrs. Ida Nudel was sentenced to a long term of internal exile by a Soviet court. What the Soviets call her "crime"—peacefully demonstrating on behalf of other Soviet Jews—was, in reality, an act of great courage and humanity.

Mrs. Nudel had been arrested for peacefully demonstrating on behalf of Soviet Jews who wished to join their families in Israel. Her own requests to emigrate have been systematically denied for the past 7 years. Known as the "Guardian Angel of Prisoners of Conscience," the 47-year-old economist has kept records of where Soviet prisoners of conscience are being held, prepared the regulation 5-kilogram package of food for many prisoners, and insured that someone was present to pick up prisoners upon their release.

Despite harassment—she was followed by four KGB agents wherever she went—five arrests, and the threat of exile, Mrs. Nudel has never stopped her fight to free Soviet Jews. Her courage should serve as an inspiration to oppressed people throughout the world, as well as to those of us who are more fortunate and who share a duty to speak out against the Soviet Government's unconscionable repression of individual freedom.

On June 7, 1978, I joined with other Members of Congress in sending a letter to Soviet Ambassador Dobrynin urging that Mrs. Nudel be permitted to emigrate to Israel. On June 20, 1978, I sent a cable to President Brezhnev urging him to stop her trial and allow her to emigrate. On June 22, 1978, I read the newspaper accounts of her trial and subsequent sentence of 4 years of internal exile. The New York Times reported:

Plainclothes police agent or informer kept friends and relatives of the defendant and reporters under surveillance during the trial. All were barred from attendance as were representatives of the American Embassy. Jewish friends and reporters whom she tried to invite into the courtroom were forcibly ejected by the police who then carried her off to face trial.

Today, I have joined with the Greater Boston Lawyers' Committee for Soviet Jewry asking that the trial be nullified and the court's decision be set aside. It must be stressed that the Soviet Union is flagrantly in violation of the spirit of the Helsinki Accords which protect certain fundamental human rights including the right to emigrate freely.

So long as there are people like Mrs. Nudel, willing to risk their lives for the freedom of Soviet Jews, I feel a responsibility to use whatever forum I have available to protest the human rights violations of the Soviet Union. Their system

of repression and inhumanity must be attacked until it is finally stopped. I hope other Members of Congress will join with me in expressing outrage against Soviet oppression of its Jewish population.●

TURKISH-AMERICAN PRISONER EXCHANGE TREATY PROGRESS

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. SAWYER. Mr. Speaker, the State Department announcement, on July 10, concerning the establishment of negotiations on a prisoner exchange treaty between the United States and Turkey, was greeted with much excitement and thanksgiving by the parents of JoAnn McDaniel and Katherine Zenz. I have received many phone calls and messages from concerned individuals throughout the country since the announcement who were anxious to express their relief over the establishment of negotiations. I greeted the press release with the hope that meetings between the nations' representatives would proceed swiftly, thus insuring the release of the Americans incarcerated in Turkish prisons in the very near future. As the time approaches to vote on the repeal of the Turkish arms embargo, I pledge to maintain my strong commitment to the prisoner exchange treaty and will be even more diligent in my demands for the conclusion of "talks", the acceptance of a treaty, and the prompt exchange of prisoners.

On July 10, I received a response to my many letters to Ronald Spiers, the U.S. Ambassador to Turkey. His reply, while it seems to express interest in the establishment of a prisoner exchange treaty, does not give a good forecast for the swift conclusion of negotiations. My intense desire to see negotiations concluded and a treaty put into effect has not abated. I will not tolerate any actions which deliberately slow or halt efforts to secure this treaty.

The letter I received from Ambassador Spiers follows:

AMERICAN EMBASSY,
Ankara, Turkey, July 10, 1978.

Hon. HAROLD S. SAWYER,
House of Repersentatives,
Washington, D.C.

DEAR CONGRESSMAN SAWYER: I have read your letters with great interest and appreciate your consideration in keeping me informed of your efforts on behalf of Joann McDaniel and Katherine Zenz.

I share your concern and desire to help these girls and their parents and have support from responsible officials in the Turkish Government.

As you know, treaty discussions often move slowly, delays being more a result of legal requirements than lack of interest. I assure you that we (the Embassy and Department of State), together with the Government of Turkey are working diligently to conclude a prisoner transfer type treaty in the shortest possible time.

With best wishes

RONALD I. SPIERS, *Ambassador,*
Ankara, Turkey
Spiers.●

MR. ED SALT, AWARD-WINNING YOUNGSTOWN, OHIO, JOURNALIST, CHRONICLES OUR NATION'S EARLY "FIGHT FOR INDEPENDENCE"

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. CARNEY. Mr. Speaker, for several weeks, I have been inserting in the CONGRESSIONAL RECORD a series of articles entitled "Fight for Independence," authored by Mr. Edward Salt, an award-winning Youngstown, Ohio, journalist.

At this time, I present "Fight for Independence, part V," which continues Mr. Salt's discussion of the early history of our Nation. Because these articles provide insight into our economic and political life, I believe that they deserve the attention of all of us.

The article follows:

[From the Boardman (Ohio) News, Aug. 4, 1977]

FIGHT FOR INDEPENDENCE—PART V

(By Ed Salt)

As delegates assembled for the first Continental Congress, Sam Adams of Massachusetts proposed that sessions be opened with prayer.

Rev. Jacob Duche, an eloquent Episcopalian leader, was invited to address the third session of the Congress, and to lead delegates in prayer. John Adams, also of Massachusetts, hailed this as "an important move to unify the delegates" who represented various religious faiths.

Rev. Mr. Duche began by reading the 35th Psalm. It seemed so appropriate for the occasion:

"Plead my cause, O Lord, with them that strive against me: fight against them that fight against me.

"Take hold of shield and buckler, and stand up for mine help.

"Draw out also the spear, and stop the way against them that persecute me: say unto my soul 'I am thy salvation.'

"Let them be confounded and put to shame that seek after my soul; let them be turned back and brought to confusion that devise my hurt . . ."

Mr. Duche closed with this prayer:

"O Lord, our Heavenly Father, high and mighty King of kings and Lord of lords, Who dost from Thy throne behold all the dwellers of the earth, and reignest with power supreme and uncontrollable over the kingdoms, empires and governments, look down in mercy, we beseech Thee, on these American States, who have fled to Thee from the rod of the oppressors and thrown themselves on Thy gracious protection.

"Desiring to be henceforth only dependent on Thee, to Thee have they appealed for the righteousness of their cause; to Thee do they now look for that countenance and support which Thou alone canst give. Take them, therefore, Heavenly Father, under Thy nurturing care; give them wisdom in council and valor in the field.

"Defeat the malicious designs of our adversaries, convince them of the unrighteousness of their cause; and if they still persist in their sanguinary purpose, oh! let the voice of thy unerring justice, sounding in their hearts, constrain them to drop the weapons of war in their unnerved hands in the day of battle.

"Be Thou present, O God of wisdom, and direct the councils of this honorable assembly; enable them to settle things on the best and surest foundation, that the scene of blood may be speedily closed; that order, harmony and peace may be restored and truth and justice, religion and piety prevail and flourish among the people.

"Preserve the health of their bodies and the vigor of their minds; shower down on them and the millions they represent such temporal blessings as Thou seest expedient for them in this world, and crown them with everlasting glory in the world to come. All this we ask in the name and through the merits of Jesus Christ, Thy Son, our Saviour. Amen."

When the Second Continental Congress met in July 1775, delegates attended in a body to hear Mr. Duche preach on the day of humiliation, fasting and prayer, which was being observed throughout the country. This was about three months after the battles of Lexington and Concord and a month after the battle of Bunker Hill.

In a letter to Gen. George Washington a month later, Mr. Duche said "My prayers are continually for you, and the brave troops under your command." He enclosed a sermon he had delivered to the First Battalion of Philadelphia.

On July 9, 1776 Mr. Duche was appointed chaplain for the Congress at a salary of $150 for his "uniform and zealous attachment to the rights of America. He resigned three months later and asked that the money be used for the relief of widows and children of Pennsylvania officers.

Things changed when British troops captured and occupied Philadelphia in September, 1777. On the first Sunday after British occupation of the city, Mr. Duche prayed for the royal family.

As he left the church that day, he was arrested by the British and taken to jail for his association with the Congress. He was released the next day. Before Philadelphia was captured, members of Congress fled to Lancaster, Pa., and after a one-day stay there, went to York, Pa., where they remained for some nine months.

On October 8, Mr. Duche wrote a letter to General Washington, criticising the Congressional leadership and the men who made up the Continental army. He urged General Washington to use his influence with the Congress to end the revolt.

General Washington sent the letter to Congress, and when it was made public, such a storm broke that Duche fled to England. Pennsylvania confiscated all his property and money, except enough to send his wife and children after him.

Mr. Duche was well received in England and became a leading clergyman. His heart, however, was not in England, but in Philadelphia. Thirteen years later he wrote to President Washington, asking permission to return to the United States. Permission was granted. He died in Philadelphia Jan. 3, 1798.●

EVERYONE WINS WITH TRANSBUS

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. TEAGUE. Mr. Speaker, yesterday I pointed out, for the benefit of my colleagues, the "crippling blow" being dealt to the handicapped and elderly people of this Nation with the proposed reevaluation of the Transbus program.

Today I am pleased to bring to your attention a public service brochure distributed by the Urban Mass Transportation Administration which describes in further detail the benefits of Transbus.

The brochure follows:

What Is It?

Transbus—the bus of the future—is a new full-size urban transit vehicle. It offers a high level of service for all riders and, for the first time, will provide regularly scheduled improved transit service for senior citizens, handicapped and other persons—including wheelchair users—who have difficulty using current buses.

The new bus has a much lower floor height, wide doors and a ramp that permits wheelchair access, fewer and lower steps in the stepwell, greater window surface for better visibility, improved crashworthiness, and handling and maintenance advances.

Transbus was mandated by Secretary of Transportation Brock Adams in May 1977 for all full-size transit buses purchased with Federal assistance after September 30, 1979. The mandate was the culmination of a $27 million research and development project begun by the Department of Transportation's Urban Mass Transportation Administration (UMTA) in 1971.

That effort responded to calls for a new bus that senior citizens, handicapped and other mobility-impaired persons could easily use, that would meet operators' needs for improved operation and maintenance, and that generally would provide greater comfort, convenience and safety for all riders.

The three major U.S. bus manufacturers—AM General, General Motors and the Flexible Company—built Transbus prototypes which were extensively tested and demonstrated in actual service in New York, Seattle, Kansas City and Miami. Tomorrow's Transbus incorporates the best features of those prototypes.

Why is it better?

Transbus was designed with you in mind!

As a passenger, you'll find Transbus a significant improvement over existing buses. The bus interior is comfortable and attractive, undercarriage components ensure a smooth ride and the large windows provide greater visibility for all passengers.

The wide doors, lower floor and fewer steps mean faster, more convenient boarding and exiting, and that means faster service. It also means greater safety in the stepwell areas, where many passenger accidents occur. If you have to stand, there are more handrails for greater safety.

Passenger safety also is enhanced through the use of energy-absorbing bumpers, a lower vehicle center of gravity which makes handling easier, and generally improved crashworthiness.

For those of you with special mobility needs—senior citizens, handicapped persons including wheelchair users, children, pregnant women and those temporarily disabled—Transbus will provide service you can use with ease. Lower floor height, fewer and lower steps mean less climbing distance from curb to bus. Stepwells will be well-lighted and equipped with sturdy handrails to help you board and exit. Wide doors and a driver-activated ramp will enable wheelchair users to board and exit as easily as other passengers, while special securement devices will keep wheelchairs in place in transit.

For the operator, you'll find Transbus easier to operate and maintain. It has a lower center of gravity, and that means easier handling. Exterior materials are more corrosion-resistant and easier to maintain. There is better engine access for repair work and interior cleaning is simplified by seats cantilevered from the walls.

Speedier boarding and exiting will reduce travel time and passenger amenities will help to attract more riders.

Everyone wins with Transbus!

When Will Transbus Be Here?

Even though bus operators must buy Transbus after September 30, 1979, manufacturers will need time to make production arrangements for the new bus. UMTA now expects that the first Transbus models will enter service in 1981.

Three cities—Los Angeles, Philadelphia and Miami—have joined to purchase the first order of 530 buses. Other groups are being formed for additional purchases.

This does not mean, though, the current buses will disappear in 1981. Because the average life of a bus in 12 years, it will take until 1990 or later before all existing buses are replaced by Transbus.

UMTA recognizes that Transbus will never fully replace the special, door-to-door transit services which many communities provide through a variety of sources for handicapped and elderly persons. Both types of service are important to the varied mobility needs within a community.

Transbus will not solve every public transportation problem, but it is the best effort of persons concerned with transit to provide a bus that meets the needs of riders and operators. UMTA will continue its efforts to improve the quality of public transportation in consultation with riders, operators and manufacturers alike.

The brochure ends with, "In about 1981, you will begin to see on the streets of some cities a new style transit bus that will be more comfortable, safer and fully accessible to everyone."

Mr. Speaker, I hope so.●

NEED TO CURB TRADE DEFICIT

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. EMERY. Mr. Speaker, European and Japanese eyes are upon us and what they see is not likely to breed respect.

President Carter will attend the Bonn Economic Summit Meeting on July 15 and 16, but he will arrive in West Germany with unnecessarily reduced bargaining power.

The purpose of the summit meetings was to coordinate recovery efforts necessitated by the 1974 recession. Supposedly that is still the purpose of these meetings. The United States, however, has apparently abdicated its leadership role in blazing the recovery trail.

This abdication is signified by our failure to curb our increasingly enormous trade deficit, a failure that has contributed to the destabilization of world currencies, thereby disrupting the economic policies of Japan and Europe.

An important factor contributing to our trade deficit is our failure to sufficiently reduce imports of foreign oil. And that failure is directly attributable to Congress' inability to pass a much-needed energy program; a program that would not only allow us to decrease our trade deficit but would also lead to less domestic inflation: High-priced energy does little to reduce the inflation rate.

It is time to put politics aside and embrace the reality of an economic necessity. Five bills, all part of the National Energy Act, are still pending before the House. Some of these bills are obviously more popular than others. It is a time when action is overdue and, therefore, a time when those portions of the act already accepted by Congress should be passed into law separate from the total energy package. It is time for the United States to reassume its position of economic leadership.●

USOE BILINGUAL EDUCATION EVALUATION FOUND INVALID METHODOLOGY AND DATA ANALYSIS CHALLENGED

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. ROYBAL. Mr. Speaker, I would like to share with my colleagues an objective and scientific analysis conducted by the Center for Applied Linguistics that casts serious doubt as to the validity of USOE's title VII impact evaluation. The Center for Applied Linguistics is a well-known and respected organization devoted to the application of linguistic research to the solution of educational and social problems. As you know, I have been critical of USOE's methodology and subsequent findings, and I am glad to see an objective analysis of the HEW evaluation.

The analysis follows:

CHALLENGE TO USOE FINAL EVALUATION OF THE IMPACT OF ESEA TITLE VII SPANISH/ENGLISH BILINGUAL EDUCATION PROGRAMS

The final USOE evaluation of Title VII programs conducted by the American Institutes for Research (AIR), suggests that the program does not appear to have a significant impact on student achievement. This study provides little assistance in casting the problems confronting the Title VII program in comprehensive and operational terms. On the basis of this report, one is unable to decide to what extent the inadequacies of bilingual education are an artifact of measurement error, evidence of inherent limitations in production possibilities, a result of implementation problems, the result of slippage between treatment and goals, or the product of premature assessment. In short, this study does not permit us to generalize from the past experience with Title VII or even to specify the nature of the problems in theoretically fruitful terms. It avoids the reality that bilingual programs develop and exist in districts that differ markedly in terms of variability of linguistic needs, demographics, availability of well-trained teachers, adequate curricula, district commitment and level of politicization of constituencies. As a result of this, the report fails to distinguish between the effects of good programs and weak programs, and treats bilingual education as an undifferentiated uniform whole (despite AIR's own findings published in Volume II of this study). Despite the opportunities to rectify the limitations of the study, all of the problems and shortcomings inherent in the Interim Report are present in the Final Report:

(1) The aggregation of Title VII and non-Title VII students who have received a variety of educational treatments and whose language abilities are extremely varied, effectively conceals the potential impact of bilingual education.

Comment.—An examination of the Title VII Project Descriptions illustrates the vast site differences which are compounded by the varied social and political settings of the projects. The data analysis failing to take

this into account, not surprisingly, found little relationship between educational outputs and achievement. It is evident that the grouping of disparate projects are unlikely to reveal such relationships when they exist. The tendency with this type of analysis is that the positive effects found with the good programs are cancelled out by the negative effects of the bad programs. To use Tallmade's analogy, the situation is something akin to evaluating all world-class athletes on a test of bowling. Not only might one find that Laura Baugh scored higher than Nadia Comaneci, but also, that on the average, world class athletes are really pretty mediocre performers.

(2) The unrealistically short period (approximately 5 months or less) between the pre-test and post-test administered to the students.

Comment.—Serious limitations in the study are attributed to the fact that the average period between the pre- and post-testing is five months or less. It seems unrealistic to expect either the rate of improvement or the actual improvement to be evident over such a short time span. It could be argued that the expected incremental change would more clearly be seen over a longer period of time due to the nature of a bilingual classroom, where two languages are used as a means of communication. The institutionalization of the changes anticipated by this evaluation would be expected to occur over an extended period of time.

(3) The inappropriate use of the Comprehensive Test of Basic Skills (CTBS) to assess the English reading ability of limited English-speakers and monolingual Spanish-speakers who were just learning to read and write English.

Comment.—The sole use of the CTBS to assess English reading ability is highly questionable particularly in the case of the bilingual-Spanish dominant monolingual Spanish-dominant children. Although these evaluated projects were in the fourth and fifth years of funding, the students in these classrooms varied in their length of project participation. Therefore, it is probable that the reading scores of monolingual Spanish-speakers and limited English-speakers who were recently placed in the bilingual classrooms would have negatively skewed the test results. The important issue here is the statistical aggregation of test scores without regard for in-group variation. It would be equivalent to giving the monolingual English-speaking students the Spanish-language Prueba de Lectura to assess their reading skills in an unknown language.

Also at issue is the divergence between project goals and those being assessed by this study. It seems highly probable that where the content of the tests (CTBS, Prueba de Lectura) did not reflect the content of the curriculum being used in the classrooms, the tests would be insensitive to whatever gains the curriculum might produce. The situation is exacerbated by the fact that students gain only a few raw score points on a total standardized test during the school year. If a given test is only tangentially relevant to a curriculum, even substantial gains may produce little effect on the total scores. It would appear logical that the most valid means of assessing the effects of a bilingual classroom would be to administer a test that measures what was taught. A review of the different projects indicates that they are stressing different subsets of the components of reading and math (in two languages), than those measured by the tests administered in the study. It seems unlikely that any single reading or math test would be a reliable measurement of the effects of the entire range of projects.

(4) The inappropriate use of a comparison group research design to contrast Title VII and non-Title VII projects.

Comment.—The study sought to assess the impact of fourth and fifth year Title VII projects and to compare them with non-Title VII projects. Any pre-test is not an indication of how the students were doing before treatment, but at varying points during treatment. In order for an adequate comparison to be done between two groups, the groups must be equal and one group must receive an educational treatment which the other group does not. The Title VII and non-Title VII groups were never tested for comparability at onset of the study. It is possible that the two groups differed on the basis of cognitive development. Also, the groups differed in terms of language proficiency in English and Spanish before entering school. Thus the groups were not comparable on the most critical elements in evaluating a language program.

(5) The lack of a clear understanding of the term "limited English speaking ability" which is compounded by the unreliability of teacher assessment of students' language ability, particularly since the AIR Teacher Bilinguality Scale indicated that only 50% of the teachers were proficient in English and Spanish.

Comment.—It is reported that generally less than one-third of the participating Hispanic students were considered by their teachers to be enrolled in Title VII classrooms because of their need for English instruction. It is concluded that these children are retained in bilingual programs for political reasons. A related finding of the study states that the children in the Title VII classrooms are performing at the 20th–30th percentile on the English CTBS (Comprehensive Test of Basic Skills), significantly below the national average. Clearly, there is a contradiction in these two findings: How can teachers make the claim that less than one-third of the students are in need of English if they are performing as reported? While the first finding taken by itself tends to suggest that the Title VII program is not delivering its services to the most needy population, i.e., less than 30 percent of the children are limited English-speakers; the second finding indicates that the children in the Title VII classes are performing well below the national norm and are unable to benefit from and compete in an English only classroom.

These findings also call attention to the fact that teacher assessments were used to categorize students by language groups. There is a large body of research which indicates the unreliability of teacher judgments as an indicator of students' language ability. The problem is compounded by the fact that only half of the teachers were proficient in both English and Spanish, as measured by the AIR Teacher Bilinguality Scale. Since the teachers' classification of students by language groups played such a pivotal role in the study, it tends to cast further doubt on the findings.

The Center for Applied Linguistics, established in 1959 with continuing support from the Ford Foundation, serves an an international resource center in language and linguistics. The Center is a non-profit organization devoted to the application of linguistic research to the solution of educational and social problems.●

THE ROAD TO PROSPERITY—PART XI—JIMMY CARTER WAS ALSO MISTAKEN ABOUT * * *

HON. WILLIAM A. STEIGER
OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. STEIGER. Mr. Speaker, on June 28, I inserted in the RECORD a table showing the actual average tax reduction per income class which would result from the adoption of the Investment Incentive Act, also known as the Steiger-Hansen amendment. The table corrected misleading statistics from the White House on the impact of his legislation.

There is another problem with the interpretation of the data by the administration. Mr. Carter, and other officials, have stated that our proposal is a relief bill for the wealthy. They base this erroneous assertion on the distribution of benefits of capital gains tax relief. The relevant table of data is based on expanded income. The expanded income concept involves ordinary income plus capital gains.

The problem with the table is that capital gains are realized infrequently and thus raise income well above what it would normally be. For instance, table 1 shows that by including capital gains with normal income (expanded income) the number of taxpayers with income above $100,000 is 110,000. But, when you take out taxpayers who had a capital gain, only 52,000 have income above $100,000. Obviously, many middle-income taxpayers are raised to high income brackets because of capital gains.

Table 2 shows that if capital gains is removed from expanded income, only 38.7 percent of the revenue effect occurs on returns with more than $100,000 of income. The President's statistics showed 81 percent of the benefits going to people in the $100,000 expanded income category.

A Treasury study traced a sample of returns over 5 years, 1967 through 1971. Only 5 percent of the sample reported capital gains each year. Between 10 and 12 percent had gains in any one year. Twenty-five reported gains in one or more years—16 percent had gains in two or more years. There is much movement in and out of the capital gains category. Many are middle-income taxpayers who have a large capital gains at some point in time. To state that the Investment Incentive Act is a break for the wealthy is absurb. We should also keep in mind that we are taxing capital, not income, with this particular tax. Which is all the more reason to reduce the tax burden on capital.

I am including the two tables for the Members' review:

TABLE 1.—DISTRIBUTION OF RETURNS AFFECTED BY THE STEIGER AMENDMENT BY EXPANDED INCOME AND BY EXPANDED INCOME LESS CAPITAL GAINS, 1978 INCOME LEVEL

[In thousands]

Income	Returns by expanded income	Returns by expanded income less capital gains	Difference
Below $5,000	3	69	66
$5,000 to $10,000	(1)	47	47
$10,000 to $15,000	1	35	35
$15,000 to $20,000	11	32	22
$20,000 to $30,000	30	46	17
$30,000 to $50,000	99	54	−45
$50,000 to $100,000	131	48	−83
$100,000 to $200,000	76	36	−40
$200,000 and over	34	15	−19
Total	383	383	

[1] Less than 500 returns.

Note: Details may not add to totals because of rounding.

TABLE 2.—THE STEIGER AMENDMENT AS IT AFFECTS INDIVIDUALS BY EXPANDED INCOME LESS CAPITAL GAINS, 1978 INCOME LEVEL

Expanded income less capital gains	Returns (thousands)	Tax change (millions)	Percentage distribution
Below $5,000	69	−$400	24.2
$5,000 to $10,000	47	−60	3.6
$10,000 to $15,000	35	−55	3.3
$15,000 to $20,000	32	−62	3.8
$20,000 to $30,000	46	−95	5.8
$30,000 to $50,000	54	−154	9.3
$50,000 to $100,000	48	−187	11.3
$100,000 to $200,000	36	−199	12.1
$200,000 and over	15	−439	26.6
Total	383	−1,652	100.0

Source: Joint Committee on Taxation, July 11, 1978.●

CHAIRMAN WILLIAM MILLER OF THE FEDERAL RESERVE BOARD: A THOUGHTFUL LEADER

HON. RALPH S. REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. REGULA. Mr. Speaker, today as a member of the House Budget Committee I was privileged to listen to the testimony of William Miller, Chairman of the Board of Governors of the Federal Reserve Bank. I am inserting herewith a copy of Chairman Miller's statement in the hope that my colleagues and the public that reads this publication will read it and heed the advice of a thoughtful leader.

STATEMENT BY G. WILLIAM MILLER

Mr. Chairman and members of the Committee, I appreciate this opportunity to meet with you to convey the views of the Federal Reserve Board on the state of the economy as well as on economic policy issues facing the nation.

The economy is now in its fourth year of expansion and unemployment has been substantially reduced. However, the nation is beset by an unacceptably high and recently accelerating inflation, and budget deficits continue large for this stage of the expansion. It is essential that longer-term policies be structured to confront these problems, while supporting continued growth.

PACE OF GROWTH MAINTAINED RECENTLY

Economic growth, though uneven so far this year, has been on the whole satisfactory. As you know, the severe weather and the coal strike temporarily halted over-all expansion during the winter. However, with the subsequent surge in activity—illustrated in the first chart—growth of real GNP in the first half appears to have averaged about a 4½ per cent annual rate, close to the average pace over the first three years of the present expansion.

The vigor of employment growth is one important measure of the underlying momentum of the economy, and indicates that business has confidence in the sustainability of the expansion. The addition of 2¼ million jobs so far this year has pushed the unemployment rate substantially lower—illustrated in the lower panels of the chart—and supported brisk growth of personal income. Almost all groups of workers have benefited from improved job opportunities, though the unemployment rate remains unacceptably high for minorities and youth.

AND THE NEAR-TERM OUTLOOK APPEARS FAVORABLE

Not surprisingly, recent data indicate some slowing from the extremely rapid growth of over-all activity during the spring rebound. Even so, the fundamental determinants of final demand suggest that economic expansion will be reasonably well maintained in the near term.

In particular, consumer demand remains strong. Auto sales continue at extremely high rates following the turnaround that began in March. Some of the surge in durable goods purchases appears to have represented buying in anticipation of further price rises. Gains in retail sales outside the automotive area have moderated somewhat recently, but this was to be expected following the extremely rapid sales pace of February and March. With surveys indicating a continued high level of consumer confidence, sustained moderate growth in income should support further expansion of consumer outlays over the near term.

The business sector also should continue to be a source of support to activity. Inventory policies have been conservative over the past several years, and businesses have in general thus avoided the imbalances that interrupted previous expansions. Various investment surveys, as well as data on equipment orders and construction contracts, suggest moderate increases in capital spending over the balance of this year.

In contrast, it appears likely that residential construction will cease to be the source of support that it has been in this expansion. While housing activity currently remains at a high level, mortgage markets have tightened considerably and it is likely that residential construction will begin to slacken in coming months. And growth in State and local government outlays is likely to remain modest. These jurisdictions have pursued relatively conservative spending practices and this reluctance to accelerate spending seems unlikely to change, especially in light of tax relief mandated by Proposition 13 in California and the possibility of similar actions elsewhere. But our net export position, which has deteriorated over the past two years, should improve somewhat over the next year. Imports are likely to rise at a slower pace. At the same time, exports should pick up if activity abroad increases as expected and as the changes in exchange rates which have occurred over recent months improve the competitive position of U.S. goods.

INFLATION CONTINUES AS OUR BASIC PROBLEM

On balance, the evidence suggests further moderate growth of aggregate demand over the near term, sustaining one of the most durable expansion of the postwar period. But the longer term outlook is clouded by the price situation. During the first three years of the expansion inflation rates were very high by historical standards, and there has now been a further acceleration of price increases, as shown in Chart 2. So far this year consumer prices have risen at a 10.2 per cent annual rate, as compared to 6.8 per cent in 1977. A key element in the price surge this year has been the adverse developments in the food sector, as meat production has been constrained by an ongoing reduction in the nation's cattle herds. However, prices outside the food area have also moved up sharply recently. Retail prices of nonfood commodities and services rose at an 8 per cent annual rate during the first five months of the year—up appreciably from the 6½ percent rate in 1977.

We can expect some relief later this year from a slowing of food price increases. But with the economy moving into a period of heavy collective bargaining, the intensified inflation is likely to be reflected in larger wage adjustments, and a more rapid increase in labor costs. These costs also will be boosted early next year by additional mandated increases in social security taxes and in the minimum wage. The continued interplay of wage and price rises, coupled with the legislated cost increases, makes it difficult to anticipate much relief from underlying inflationary pressures over the next year.

RISING INFLATION AND RISING INTEREST RATES ARE TWO SIDES OF THE SAME COIN

In the last year or so, private and governmental credit demands have risen, putting upward pressure on interest rates. At the same time, the recent and expected inflation also has been an extremely important factor underlying the increase in interest rates, contributing to money and credit demands and conditioning the stance of monetary policy. Obviously, inflation increases the volume of credit necessary to finance any level of economic activity. Individuals have to borrow more to acquire houses, cars and other durables. In the business sector, the rise in the dollar volume of spending on inventories and fixed capital, a significant portion of which represents rising prices, has outstripped internal funds generation, producing a marked increase in borrowing this year.

In addition to the direct effect of rising prices on credit demands, the prevalent expectation that the rate of inflation will remain extremely high—if not accelerated—has also increased the demand for goods requiring financing. As noted earlier, the extremely strong pace of automobile sales recently appears to have reflected consumer attempts to beat expected price rises. Home sales may have been similarly buoyed by the perception that waiting can only result in having to pay higher prices later. Such purchases have continued to record installment debt financing and to substantial additions to mortgage debt. The volume of borrowing also has been strengthened by existing home owners withdrawing part of their rising equity in the housing stock, partly to finance major expenditures and to otherwise maintain living standards in an inflationary environment.

Borrowers appear to be counting on the general rise in nominal incomes that accompanies most inflations to help service their growing debt burden. This, in fact, has been a major ingredient in the upward pressures on interest rates. Borrowers are willing to pay higher interest rates because they expect that their future debt burdens will be eased by rising nominal incomes; meanwhile lenders seek higher interest rates in order to protect their real position.

CURRENT BORROWING LEVELS IMPLY FUTURE RISKS

Moreover, such borrowing has contributed to worrisome distortions in the financial positions of consumers and businesses. For example, the ratio of consumer and mortgage loan repayments to disposable income is now at a near record level (Chart 3). Thus far, households have apparently been able to service this debt with little problem. Recently, however, delinquency rates have edged higher, although they remain well below previous peaks. Nonetheless, the level of household indebtedness is of concern, since it may constrain future spending, and could give rise to more widespread financial difficulties—especially if the rate of income growth were to slow.

In the business sector, the pattern of financing has similarly begun to cause some concern. An increasing share of business credit requirements recently has been met through short-term borrowing, especially at banks, and businesses have slowed their accumulation of liquid assets. As a result of these changes in the composition of business assets and liabilities, corporate liquidity has deteriorated recently, although balance sheets remain in considerably stronger condition than they were in 1974 (Chart 4).

RESPONSE OF MONETARY POLICY

While one would expect strong credit demands as a normal counterpart of a healthy and growing economy, a significant—and I

am afraid expanding—share of recent credit growth is both the direct and indirect result of inflation. Moreover, mounting inflationary expectations raise the specter of possible speculative excesses, leading to a short-run explosion of credit and output, and subsequently to recession. The Federal Reserve's firming of monetary policy has been designed to minimize the possibility of such an outcome.

In the presence of strong credit demands, the worsening of inflation, and the Federal Reserve's efforts to contain excessive monetary expansion, market interest rates have risen significantly further. Most short-term rates have increased by 1 to 1½ percentage points since the beginning of the year and long term bond yields have followed much the same pattern, as illustrated in Chart 5. The rise of market interest rates has been accompanied by slower growth of savings and small-denomination time accounts at banks and thrift institutions. As a result, growth rates of broader monetary aggregates—M–2 and M–3—have remained within the Federal Reserve's long-run ranges.

The slower rate of growth of savings and small-denomination time deposits has threatened to retard housing activity. Therefore, in an environment of rising interest rates, the Federal regulatory agencies have recently taken action to increase the competitiveness of bank and thrift deposits subject to regulatory ceilings in order to maintain the flow of credit to housing. Two new savings instruments were authorized effective June 1—a variable-ceiling, six-month certificate, with weekly ceiling rates tied to yields on newly issued Treasury bills, and an eight-year certificate carrying ceiling rates of 7¾ and 8 per cent for banks and thrifts, respectively. The limited available evidence suggests that these new instruments, especially the defensive six-month certificates, are playing a significant role in helping to sustain net deposit inflows to thrift institutions, even as market interest rates have risen further.

CONTINUED HIGH DEFICITS A MAJOR PROBLEM

The persistence of large Federal budget deficits at this advanced stage of our economic expansion is a disturbing problem. Businesses and households have had to compete for funds in credit markets with the public sector, whose borrowing this year has continued at a high level.

During the last recession, large deficits were both a consequence of and a reasonable policy response to the under-utilization of our productive resources. The Federal government cut taxes and increased the size of public employment and other spending programs. Continued large Federal deficits were justified well into the recovery period, since the expansive impact of Federal fiscal policy was offset in part by sizable budget surpluses by States and localities, together with an increasing foreign sector deficit, both of which drained purchasing power away from the private sector of the economy. Developments this year, however, suggest that the Federal government should be moving with deliberate speed to rein in compensatory policies. The level of private sector activity has risen markedly over the past several years, and there now appears to be much less usable slack in the economy. Moreover, the overall surplus of States and localities appear likely—in the wake of Proposition 13 in California and related developments—to be swinging back toward balance.

WE MUST REDUCE GROWTH OF FEDERAL EXPENDITURES

Positive steps are thus in order to lessen the government's competition with the private sector for resources. The Federal government has a constructive role to play in moderating the ups and downs in economic activity. In the present circumstances, a damper on further expansion of Federal expenditures would help to assure a continuation of sustained long-term economic growth.

In my view, the task of reducing the Federal share of GNP should begin now. A careful, systematic review must be undertaken to reduce or eliminate those Federal programs that are ineffective or that have outlived their usefulness. We also need to recognize the limits on government resources when considering alternative spending proposals.

I believe that we should strive to reduce the Federal government's share of GNP from more than 22 percent at present to 20 percent or so over a period of five to seven years. As can be seen in Chart 6, such a reduction would not fully return the government proportion to that of the early 1960's.

As spending is brought under tighter control, government will become less prominent as a borrower in credit markets. A lower government profile will facilitate the flow of credit to the housing sector where it is becoming scarce, and to the business sector where it can be put to use in rebuilding our currently inadequate stock of fixed capital.

MEASURES NEEDED TO ENCOURAGE INVESTMENT

Moreover, private capital investment should be encouraged directly by offering incentives to business to expand their stock of plant and equipment. Capital accumulation is the chief engine of long-range growth of labor productivity and rising living standards. Yet for an extended period, the nation's tax policies have not provided adequate incentives for business investment. In particular, depreciation guidelines and the resulting deductions have not approached actual replacement costs in periods of inflation. Present depreciation-tax laws should be liberalized. For example, businessmen could be permitted to use a shorter write-off period for machinery, equipment and structures. Careful consideration also should be given to present laws that tax corporate profits twice—first at the firm and then at the stockholder level.

Given the neglect of investment which has eroded the nation's capital stock, as well as the need to accommodate to the reality of scarcer and more expensive energy, a larger share of GNP must be devoted to capital investment. It will not be enough simply to reach the investment proportion of 10½ to 11 percent that has been characteristic of past periods of prosperity and low unemployment. In my opinion, the nation must set an ambitious goal of, say, 12 percent of GNP for an extended period—a level that would support increased growth and productivity.

STRUCTURAL REFORMS ARE ALSO NECESSARY

Establishment of a high-growth, low-inflation economy would be facilitated by extensive reform of costly governmental regulations. Regulatory activities in the health, safety and environmental protection areas may not always achieve the desired outcome at minimum costs, and they need to be reviewed with that thought in mind. Similarly, market- and price-regulation programs should be carefully reexamined to ensure that their benefits outweigh their costs. In this connection, the President's recent executive order to improve the regulatory process is most encouraging and it deserves the fullest possible support and cooperation.

In the same vein, it is important that we carefully consider alternatives for those programs that tend to limit competition and raise prices. Notable examples are import controls, price supports, and the Davis-Bacon and Walsh-Healy Acts. In addition, it seems appropriate to consider deferring the increase in the minimum wage that is scheduled for January 1, 1979, given its implications for costs and for youth employment opportunities.

To conclude, it is my belief that a reduction of budget deficits and restructuring of taxes to help investment, along with prudent monetary management by the Federal Reserve, should, over time, lead to an economy that enjoys sustained growth, price stability and a sound dollar.●

CHILD SNATCHING

HON. WILLIAM F. WALSH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. WALSH. Mr. Speaker, Karen Eubanks of Ithaca, N.Y., sent her 10-year-old daughter off to Georgia recently to visit her father for 2 weeks. As the time drew near for her daughter to return home, however, Mrs. Eubanks received a call from her husband telling her he had no intention of returning their daughter to Ithaca.

Panic stricken at the prospect of losing her daughter, Mrs. Eubanks, who has legal custody of the child, contacted local authorities, who advised her to go to Georgia and find the youngster herself. With the help of family and friends, she scraped together the funds for her trip, and when she arrived, contacted Federal, State, and local officials for assistance in locating her daughter. She was told that Georgia does not honor legal custody papers from another State, and there was nothing they could do.

Mrs. Eubanks staked out her husband's home, and 48 hours later, child snatched her daughter back, and fled to New York. For the last month, she has been in hiding with her children, afraid her husband will carry out his threat to kill her, and denied police protection because "it is a domestic matter."

The tragedy of this story is not only what Mrs. Eubanks and her children are going through, but the fact that between 25,000 and 100,000 such child-snatching incidents happen each year, according to social services officials. The number is imprecise because child snatching is not against the law, and so many of the cases are not even reported.

Each story is heart rending, but no one seems to be listening. Police authorities claim helplessness under current laws. Lawmakers at all levels of government are reluctant to get involved in this issue. But the time has come that we must.

Twenty States have passed the Uniform Child Custody Jurisdiction Act, which generally promises respect for custody terms worked out in other States. That still leaves 30 States as havens for child snatchers, however, and the act does not provide a mechanism to track abductions across State lines. Obviously, the solution to the problem rests at the Federal level, because to be effective, all States must comply.

Unfortunately, Congress is foot-dragging on this issue. The House Judiciary Committee has buried several bills proposing Federal standards for fighting child snatching. The Senate, however, has been more successful, adopting an amendment to the Federal criminal code legislation which now awaits House action. Senator MALCOLM WALLOP spon-

sored the amendment, which would require States to honor the child custody laws of other States, make parental child snatching a misdemeanor, and provide for FBI child hunts after 60 days.

I realize this is a very difficult area to legislate. Setting up laws governing parents' rights is tricky business, as evidenced by the legal battles which already ensue between parents trying to gain custody of their children, or social workers trying to remove children from unfit homes. I recall well many such cases during my term as public welfare commissioner in Onondaga County. I am pleased that we have finally set up a parent locater service through the Department of Health, Education, and Welfare, to track down missing parents of welfare recipients. Perhaps this service could be expanded into a child locater service in cases of child snatching.

In any event, child snatching is not the answer to a complex question. While we deal with custody laws, we must make it more difficult for child snatching to occur. I am not suggesting we should treat the parents as criminals, but let us keep in mind the welfare of the children, too. If indeed there are even 30,000 such cases a year, Congress can no longer afford to ignore this problem. I urge the House Judiciary Committee to approve the Wallop amendment in the Federal criminal code bill, and I ask the support of my colleagues when the bill reaches the floor.●

PEACE CORPS IN AID—A BAD IDEA LYING IN WAIT

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. BONKER. Mr. Speaker, at last there is consensus that the Peace Corps should be taken out of ACTION, but as Bill Moyers observes the "wheel of history is about to come around again with efforts to inter the Peace Corps."

Current efforts to place the Peace Corps in a revamped AID are not new, according to Mr. Moyers, Sargent Shriver, and others who were involved at the time of the Peace Corps' inception.

As Mr. Moyers wryly notes, the State Department's determination to move the Peace Corps into AID is a "design which reminds me that is the case of bureaucracies, bad ideas never die—they simply lie in wait."

In his appearance before the subcommittee, Sargent Shriver's eloquent plea to keep the Peace Corps independent of the State Department did not go unheeded. And Morris Abram, general consul to the Peace Corps at the time, in a letter to the Committee on International Relations, recalls the compeling reasons which laid the foundation for the Peace Corps to be a separate and unique program.

In addition, our former colleague and recent director of the Peace Corps, John Dellenback, plus virtually everyone else who appeared before the subcommittee voiced concerns about merging the Peace Corps with any other Federal agency.

Probably the most revealing argument for keeping the Peace Corps independent comes by way of Bill Moyers' vivid recollection of Lyndon Johnson's rambling commentary on the subject, included in the letter which follows.

Mr. Speaker, for the benefit of my colleagues, particularly those who serve on the House International Relations Committee, I include in the RECORD three letters from prominent Americans who want to see the Peace Corps remain independent of the State Department:

JUNE 27, 1978.

Hon. CLEM ZABLOCKI,
Chairman, the International Relations Committee, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I'm writing because the wheel of history is about to come around again with efforts to inter the Peace Corps.

I refer, of course, to the determination of the Department of State to move the Peace Corps into the Agency of International Development, a design which reminds me that in the case of bureaucracies, bad ideas never die—they simply lie in wait.

When the Peace Corps was about to be enacted back in 1961, the old-line employees of State and AID coveted it greedily. It was a natural instinct: established bureaucracies do not like competition from new people. There was another, slightly more idealistic, if still myopic, reason: folks who had been presiding over foreign aid all those years simply thought they knew best how to do it, and they pooh-poohed the idea that volunteers could contribute to a field which had been dominated by professionals. This was of course the fundamental fallacy of their perception of the Peace Corps. It was not to be economic assistance in the traditional sense. Money and goods were not to change hands. The Peace Corps wasn't even to be "technical assistance" in the way that term was used by the experts. It was to be a sharing of people. Their contributions were to be so diverse, because their experiences and talents and personalities were so diverse, that to shoehorn them into the existing job descriptions—which the bureaucracy wanted to do—would be to diminish, tame, and finally extinguish the purpose and enduring value of the program.

The very idea of the Peace Corps thus scared the traditional managers of the foreign assistance sector of government. But they couldn't outright oppose the Peace Corps because it had such high visibility with the new President. They did the next best thing: they sought to absorb it. The result, we knew, would be anonymity for an organization which needed to be publicly conspicuous to attract and excite volunteers, and stifling regulation of an idea whose great virtue was that it was by the government, but not for the government (it was, I think you will agree, an intriguing idea to ask the State to sponsor: that to serve, people need an opportunity more than they need a program.) We could not, or so it seemed to us, pour new wine into an old bottle.

By "we" I mean Sargent Shriver, myself, and our colleagues. I was then working with him in establishing the Peace Corps, having left the services of my mentor and friend, Lyndon B. Johnson. It occurred to me that we should seek the counsel of the new Vice President, who not only had for a long time effectively done combat with the Washington bureaucracy, but as a young man had been a director of a program not totally out of spirit or character with the Peace Corps—the youth corps established in New Deal days. So Shriver and I called upon him. His argument went like this as we sat in Room P. 38 next to the Senate floor:

"Boys, this town is full of folks who believe the only way to do something is their way. That's especially true in diplomacy and things like that, because they work with foreign governments and protocol is oh-so-mighty-important to them, with guidebooks and rulebooks and do's-and-don't's to keep you from offending someone. You put the Peace Corps into the foreign service and they'll put striped pants on your people when all you'll want them to have is a knapsack and a tool kit and a lot of imagination. And they'll give you a hundred and one reasons why it won't work every time you want to do something different, or they'll try to pair it with some program that's already working and you'll get associated with operations that already have provoked a suspicious reputation and the people you want to work with abroad will raise their eyebrows and wonder if you're trying to spy on them or convert them. Besides, you don't have money to give out and all these other programs to, so you'll get treated like the orphan in a big family where your prestige depends upon your budget. And to top it off, they'll take your volunteers and make them GS one's and two's and you'll send little government employees marching off into the villages over there when you want those countries to accept you as American citizens and not employees of the Secretary of State. And most important of all if you want to recruit the kind of people I think you want, you're going to have to ask them to do something for their country and not for AID or State. This boy here (he was referring to me) cajoled and begged and pleaded an connived and threatened and politicked to leave me to go to work for the Peace Corps. For the life of me I can't imagine him doing that to go to work for the foreign aid program. And I don't think your folks are going to write home and tell their mom and dad that they're giving up two years of their lives for the Agency of International Development. Earl Rudder (he was then President of Texas A&M) commanded the Rangers at Normandy—toughest little fightin' bunch in the war. He took a mess of gangly little country boys and turned 'em into the damndest crowd Eisenhower let loose that day. Now there had been a big argument in training over whether they were part of the regular forces or not, but ol' Earl told 'em they were an army unto themselves and they believed it. And I'll tell you this—when they went up those cliffs and through those hedgerows like Indians after my grandpa Baines' scalp, it wasn't for Eisenhower and it wasn't for Marshall and it wasn't for the Joint Chiefs of Staff—it was for Earl Rudder and glory. And if you want the Peace Corps to work, friends, you'll keep it away from the folks downtown who want it to be just another box in an organizational chart, reportin' to a third assistant director of personnel for the State Department. Who's your boss in this town is important, and as much as I like Dean Rusk, do you think he's going to have time to give to Shriver here when he has a problem that has to be worked out? Hell, he (Rusk) has to worry about the Russians and the Chinese and Charles DeGaulle. You'll wind up seeing his deputy's deputy. And who the hell is going to volunteer to go to Nigeria for the second deputy Secretary of State? Who the hell is the second deputy Secretary of State, anyway?"

Well, he loved hyperbole, did LBJ, but his point was not lost on us. And he felt so keenly about it that he later personally called JFK and implored him to keep the Peace Corps separate and apart, with a life and identity of its own. JFK did—and the rest is history, including the present when the Peace Corps, finally having been incorporated by President Nixon into another and larger bureaucracy, is less a vital force than ever.

By all of this, I do not mean to disparage our foreign assistance program or even our diplomatic force. At its best, foreign aid has also expressed the magnanimity of the American people. But the Peace Corps is to the American government what the Franciscans in their prime were to the Roman Catholic Church—a remarkable manifestation of a spirit too particular and personal to be contained by an ecclesiastic (read: bureaucratic) organization. It is not like anything else and it should not be organized as if it were.

I write, then, as a friend of an idea that can be as potent today as it once was, if it is liberated to be so. I think the effort to free it (HR 12956) is worthy. As much as I admired Hubert Humphrey and applaud the desire to bring the programs that mattered to him under a separate aegis in the Department of State, I have to think the way to do it in this case is to let the Peace Corps fly on its own—it *is* different—rather than to place it in a foster home.

Sincerely,

BILL MOYERS.

NEW YORK, N.Y.
June 26, 1978.

HON. CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I believe the Committee is about to consider H.R. 9774, which would establish the Peace Corps separate and apart from both ACTION and the Agency for International Development.

As a former General Counsel to the Peace Corps and as one who, together with Sargent Shriver, Bill Moyers and Warren W. Wiggins, was instrumental in the decisions that lead to the establishment of the Peace Corps separate and apart from the Agency for International Development in 1961, I would like to express my strongest possible support for this concept.

Simultaneously, I would like to express my opposition to the Administration backed bill which would make the Peace Corps a part of the Agency for International Development.

I feel that it is tragic that this bill is associated with Senator Humphrey, who was one of the champions of the Peace Corps's independence in 1961. I feel certain that if Senator Humhprey was still alive, he would not be in favor of this particular part of what has become known as the Humphrey bill.

The reasons for not including the Peace Corps in the foreign aid program are manifold, but they boil down to this. The Peace Corps is an idealistic people to people program. The foreign aid program is an exercise in the wielding of power, money and influence, sometimes in the guise of development, but many times, necessarily, not even in such a disguise.

In the interests of getting this letter to you for such benefit as it may be to your Committee, I am keeping it short.

If it would be of any interest to yourself or to any member of the Committee or to any member of its staff to learn more about the history and the reasons for the independence of the Peace Corps from the foreign aid program, and why I believe these reasons are as valid today as they were in 1961, I should be happy to meet with anyone at any time, formally or informally.

Please be assured of my continuing high respect and regard.

Sincerely yours,

WILLIAM JOSEPHSON.

JUNE 26, 1978.

HON. CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As your Committee prepares to take up the International Development Cooperation Act of 1978—S. 2420. (The Humbert Humphrey Bill) and as almost simultaneously you give consideration to the Peace Corps Reform Act—H.R. 9774, may I respectfully urge you and the other Members of your Committee to act favorably first of all on H.R. 9774, and secondly on S. 2420 with the Peace Corps deleted from its provisions.

I make this double-barrel suggestion because I believe deeply in the aims, and even in the language of both Bills (with the exception of Peace Corps inclusion in the Hubert Humphrey Bill). I testified before Congressman Harrington's Committee in support of H.R. 9774 because I am certain that the Peace Corps cannot prosper unless it is given bureaucratic independence, high visibility and a clearly re-stated mission in keeping with its original mandate and purposes. In short, both of these bills are good. Both should be passed. Both are overdue, but under no circumstances, in my judgment, should the Peace Corps be contained within the Hubert Humphrey Bill (S. 2420)

If you or any other Member of your Committee should wish to question me on any aspect of the Peace Corps legislation, I would be honored and pleased to respond to the best of my ability. If not, I can only express my most sincere hope that you will see fit to be the leader in making sure that both Bills pass in the House of Representatives.

Kindest regards.

Sincerely yours,

SARGENT SHRIVER.

JUNE 27, 1978.

HON. CLEMENT J. ZABLOCKI,
Chairman, International Relations Committee, House of Representatives, Washington, D.C.

DEAR MR. ZABLOCKI: I was the General Counsel of the Peace Corps at its inception.

You will recall that this Corps was established by an Executive Order of the late President Kennedy. Congress soon enacted the legislation under which it has operated for more than a decade and a half.

The first director of the Peace Corps, Sargent Shriver, Bill Moyers, William Josephson and I were in almost constant discussion in the early days over an issue which once again is before Congress: Should the Peace Corps be a separate entity or an arm of the then Agency for International Development? Arguments were advanced on both sides of the question, but in the end all of the persons in at the creation of the Peace Corps came to the conclusion that it could not effectively operate under the umbrella of A.I.D. The reasons were simple:

1. While the Peace Corps had a developmental mission, its operations would be attractive to countries which would be confused (or even misled) by the two types of American aid, economic and military;

2. The identity of the Peace Corps would be obscured in the larger foreign operation;

3. A valuable morale factor would be debased by the tying of the Peace Corps into A.I.D.;

4. Suspicions—however unjustified—would be aroused impairing the efficacy of the Peace Corps program by some of the work of A.I.D.

There were other reasons in addition, but the above will suffice to indicate that the reasons for a separate Peace Corps from A.I.D. were not insubstantial and the Congress agreed.

I realize that in the House, the so-called Bonker Bill, H.R. 9774, is pending and in the Senate the Senate Bill, S.B. 2420, the International Development Corporation Act of 1978, has been introduced. The latter is referred to frequently as one deserved act to memoralize the late and revered Senator Hubert H Humphrey.

The Bonker Bill presumably would separate the Peace Corps from ACTION. On this I really take no stand beyond an expression of my belief that the Peace Corps is unique. With respect to S.B. 2420, I hope that the arguments that prevailed in the past and kept the Peace Corps from being a branch of A.I.D. will receive your close attention and ultimately your support and that of your Committee.

Sincerely,

MORRIS B. ABRAM.●

THE ANDREW YOUNG PROBLEM

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. FRENZEL. Mr. Speaker, yesterday our ex-colleague, Andrew Young, now Ambassador to the United Nations, made statements concerning the Russian trials which were so contrary to U.S. policy that they were immediately repudiated by the White House.

Despite repudiation, the damage had already been done. The U.S. attack on Russian abuse of human rights and violation of the Helsinki Agreement has been blunted by the Young statement. The President's protests, Secretary Vance's protests, even the congressional resolution have been defused.

Ambassador Young has set back the cause of human rights, and in so doing rendered a great disservice to the United States and to the President who appointed him. He has tried to give credibility or validity to the trials which most Americans consider a dramatization of continuing Russian disregard for human rights.

Several of Ambassador Young's statements on Africa, notably the one in which he said Cuba was a "stabilizing influence" in Africa have been not only embarrassing to our country, but contradictory to our policies. We can all stand a little embarrassment, and our President seems to enjoy contradictions, but Ambassador Young's statement on the trials was too much.

It is one thing to louse up American policy now and then, but it is unthinkable and unbearable to mess up our relations with Russia at this critical juncture. As that relationship has moved from détente to a state of confrontation, we cannot tolerate whimsical, contrary opposition to a policy that both branches of our Government support, and on which there is popular consensus. Giving Russia, or the rest of the world, a wrong signal in these sensitive times could have disastrous, irreparable results.

The country, and the administration, simply cannot support the burden of Andrew Young any longer. There is no way the President can carry out a foreign policy when our U.N. Ambassador invariably marches to a different drummer in an opposite direction.

This morning I voted to lay a Young impeachment motion on the table. It is not up to Congress—at least not yet—to solve the Andrew Young problem. The President, who appointed him and is hurt by him, has that responsibility.

Accordingly, I wrote the President this morning respectfully suggesting he appoint a new Ambassador to the U.N.

The Ambassador was a fine Congressman. I wish he were still a fine Congressman. There are, however, many other important positions in which he can serve. In our country's best interests, he should serve no longer as Ambassador to the U.N.●

THE KEMP-ROTH-LAFFER FREE LUNCH: HUGE TAX CUTS DO NOT LEAD TO UTOPIA

HON. CHARLES A. VANIK
OF OHIO
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. VANIK. Mr. Speaker, the Wall Street Journal has a guest editorial by Walter Heller, former Chairman of President Kennedy's Council of Economic Advisers and currently a professor of economics at the University of Minnesota. Professor Heller addresses himself to the arguments used by advocates of the Roth-Kemp tax cut bill.

That bill, politically appealing but based mostly on conjecture, would cut individual income taxes by about a third, reduce corporate tax rates from 48 percent to 45 percent, and increase the corporate surtax exemption from $50,000 to $100,000, all over a 3-year period. The Joint Committee on Taxation estimates that the individual and business tax cuts provided in the bill would amount to $86 billion per year when fully phased in—at 1979 levels of income.

Professor Heller refutes each of the arguments used by the supporters of the Roth-Kemp bill. While seemingly simple, the bill has extraordinary implications. It would increase the Federal deficit enormously, and even by the figures that Congressman KEMP uses to tout the bill, it would increase inflation drastically.

Professor Heller addresses these points in the article, as well as reminding us that the new tax "guru," Arthur Laffer, recently told Newsweek, "There's more than a reasonable probability that I am wrong."

I hope my colleagues will read the Heller article that follows:

[From the Wall Street Journal, July 12, 1978]

THE KEMP-ROTH-LAFFER FREE LUNCH

(By Walter W. Heller)

Sound the trumpet and hear the heralds: There is, after all, such a thing as a free lunch! And it's not soft-headed liberals but hard-headed conservatives that bear the glad tidings.

More explicitly, it is Congressman Kemp and Senator Roth with their $114 billion tax cut bill—embraced as official GOP policy—who offer us this bonanza. On their silver platter, one finds a 33%, or $98 billion, serving of individual income tax cuts and a garnish of $15.5 billion in corporate cuts, both to be phased in over the next three years.

And it won't cost us a thin dime. According to the Kemp-Roth June 1978 "Tax Cut News," their cuts "will increase the incentive to work, save and invest, resulting in higher economic growth, lower prices, more jobs and higher government revenues." And all this happens without budget cuts, the true believers tell us. Lunch is not only free, we get a bonus for eating it. P. T. Barnum, move over.

But ridicule is not reason. One must appraise the historical, quantitative and analytical foundations on which the Kemp-Roth structure is built.

Let's start with their assertion that "the Kennedy tax cut provides the best historical proof" that their tax cut will work. In the light of Congressman Kemp's flattering references to my paternal role in the 1964 tax cut, it may be a bit graceless to say quite flatly that he has been misled both as to the cause of the Kennedy tax cut's success and as to the Treasury's supposed goof in forecasting its revenue effects.

THE RECORD IS CRYSTAL CLEAR

First, as to "verdict of history" that the Kennedy tax cut ($12 billion-plus, roughly equivalent to $36 billion today) achieved its success to quote Mr. Kemp, "by increasing aggregate supply by increasing the reward to work and investment:" on the contrary, the record is crystal clear that it was its stimulus to demand, the multiplied impact of its release of over $10 billion of consumer purchasing power and $2 billion of corporate funds, that powered the 1964-65 expansion and restored a good part of the initial revenue loss.

By activating idle human and physical resources—reducing unemployment from 5.6 percent in January 1964 to 4.5 percent in July 1965 (when Vietnam escalation began) and boosting utilization rates in manufacturing—it drew on aggregate supply" capacity that already existed. Inflation, which had been running at 1.4 percent before the tax cut, crept up to only 1.6 percent by the summer of 1965. The purchasing power punch of the tax cut was thus converted into higher sales volume, higher output, more jobs and more income, not into higher prices.

To give any credence to the Kemp-Roth thesis that the 1964 tax cut accomplished all this by unleasing incentives and triggering a great leap forward on the supply side, one would have to find a sudden bulge in productivity and GNP potential in the economic statistics for the mid-1960s.

No such budge occurred. True, our 1962–1964 tax cuts were well-designed to boost investment and work incentives (via new investment credits, more liberal depreciation, a cut in top rates from 91 percent to 70 percent and so on). But these benign effects on the supply side work slowly, gradually tilting the productivity growth curve upward.

Estimates by Norman B. True that a Kemp-Roth tax cut would in a little more than a year generate huge investment increases, four million new jobs, $157 billion of added GNP and revenues exceeding pre-tax-cut levels stretch both credulity and facts. As Rudolph Penner of the American Enterprise Institute puts it, "There can't be two or three or four times more bang in a Kemp-Roth tax cut than we've had with any other."

Second, what about the great Treasury goof? Just one statement from the Roth-Kemp release will illustrate how far the facts have been stretched: "Although Kennedy's Treasury department estimated a six-year revenue loss of $89 billion, his tax cuts expanded the economy so much that revenues actually increased by $54 billion." To attribute to the 1962–64 tax cuts all the expansion and revenue increases experienced in 1963–68 boggles the mind. Among other things, it totally ignores (1) the huge (over-) stimulus of Vietnam expenditures and (2) four payroll tax rates and base increases in those years as well as $6 billion of revenues from the 1966 Tax Act.

Even more inexplicably, those who put the Kemp-Roth numbers together seized on a table the Treasury submitted to the House Banking Committee in 1968 to show what revenues would have been if (a) the economy had expanded as rapidly as it did but (b) no 1964 tax cut had been enacted. In contrast, the careful year-by-year comparison of Treasury revenue estimates and results they should have made shows a six-year net discrepancy of only $22 billion (partly by grace of compensating errors) rather than the $143 billion they assert. Those who did the staff work for Congressman Kemp and Sen. Roth have done them—and the cause of rational tax debate—a serious disservice.

Now, what about the other tax cuts cited by Kemp-Roth supporters as precedents for the supply explosion that their huge tax cut is supposed to set off?

—The Andrew Mellon tax cuts of the 1920s are brought forward as evidence. "As a result [of the Mellon cuts], the period 1921–29 was one of phenomenal economic expansion. . . ." At a time when only a few million Americans paid income taxes and federal spending was less than 5 percent of GNP (it was 3 percent in 1929), we are asked to believe that federal income tax cuts alone powered the growth of GNP from $70 billion in 1921 to $103 billion in 1929.

—Or take another favorite precedent, the 1948 tax cuts in West Germany to which the great German expansion is attributed. As Chief of Internal Finance in our Military Government in Germany in 1947–48, "I was there." The multiple sources of expansion were (1) a tough and successful currency reform, (2) removal of rationing and wage and price controls, (3) the Marshall Plan, (4) bountiful harvests, (5) a bountiful labor supply swollen by two million refugees from Eastern Europe and (6) tax reduction and reform. Yet the whole German "economic miracle" is attributed to tax cuts.

In short, the Kemp-Roth enthusiasts rely excessively on post hoc, ergo propter hoc reasoning and on a one-dimensional view of the world. Have they forgotten that there is more to life than economic life, and that there is more to economics than taxes?

Now, for a look at the "Laffer Curve," a diagram designed to show how tax changes can suppress or unleash incentives to work and invest and hence affect tax revenues. The tax cuts that are cited as "evidence" have just been explored. But let me go beyond this to look at the assertion that we are so far out on the Laffer Curve that tax cuts would release enormous tax-suppressed energies. Here I would simply echo the conclusion of Mr. William Fellner of AEI: "The U.S. is not yet at high enough tax rates to produce anything like the revenue explosion that Laffer is predicting." And I would agree with him that "where the U.S. economy is along such a curve is completely undocumented, unexplored and unknown."

Have tax pressures increased sharply since the mid-60s and perhaps brought us closer to the breaking point? Comparative figures assembled regularly by the OECD show total U.S. taxes at 27.3 percent of GNP in 1966 and 29.6 percent in 1976, hardly enough of an increase for tax cuts to trigger much bigger responses today than in the mid-60s. Besides, with top income tax rates at 50 percent and 70 percent instead of 91 percent, there is less tax disincentive to remove.

But let's move beyond the field of taxation and take another cut at it. Broadening our horizon to include the whole range of quantitative surveys and studies of responses to changes in after-tax rewards per unit of work, savings and investment, can we find any support for the Laffer-Kemp-Roth thesis?

First, as to savings, there is little aid and comfort in "Denison's Law." Edward F. Denison of Brookings has found that U.S. gross private domestic saving has for a century held very close to 16 percent of GNP (adjusted to a high employment level) year in and year out in the face of high taxes, low taxes or virtually no taxes. Contrary findings about the elasticity of the savings rate still fall short of the taxpayer response predicted by proponents of Kemp-Roth.

But what about labor supply elasticity? Don't the myriad studies of the responses of workers to increases or decreases in take-

home pay lend some support to the Laffer thesis that big tax cuts would stimulate a big switch from leisure to work and thus sharply increase labor supply? No.

TWO CONFLICTING RESPONSES

The human animal has two quite conflicting responses to increases in take-home pay, from whatever source. Yes, the studies show some people working harder and longer as tax cuts or other income boosts make leisure and sloth more "expensive." But others respond to an income boost by taking out some of their gains in more leisure, that is, by working less hard to gain a given target income. In economic terms, the studies tell us that the income elasticity of labor supply is not very great either way, and it is not clear whether it is, on net balance, negative or positive. So the Kemp-Roth advocates would once again look in vain for support of their belief that big tax cuts would cause a vast upsurge in labor supply.

To summarize, then, nothing in the history of tax cuts, econometric studies of taxpayer responses, or field surveys of incentives suggests that the effects of a big tax cut on the supply of output even begin to match its effects on the demand for output. A $114 billion tax cut in three years would simply overwhelm our existing productive capacity with a tidal wave of increased demand and sweep away all hopes of curbing deficits and containing inflation. Indeed, it would soon generate soaring deficits and roaring inflation.

One wonders whether these considerations are not beginning to generate some self-doubts, as they should, in the Kemp-Roth camp. Disarmingly, Laffer, as their "economic guru," recently told Newsweek: "There's more than a reasonable probability that I'm wrong. But . . . why not try something new?" Why not? One reason might be that in getting the Republican party on the Kemp-Roth hook, he may be leading it over the cliff.●

TRIBUTE TO JAMES LYNCH, DIRECTOR OF LEGISLATIVE AFFAIRS, AFGE

HON. GLADYS NOON SPELLMAN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mrs. SPELLMAN. Mr. Speaker, President John Kennedy, in his 1961 inaugural address, remarked that one of the ultimate measures of each of us will be, "were we truly men of dedication." I rise today to give tribute to a man who, I believe, exemplifies the dedication our late President spoke about when he talked to our Nation that cold January day.

That man, Mr. Speaker, is Mr. James Lynch, who for the last 9 years has been director of legislative affairs for the American Federation of Government Employees, one of the largest of our Federal employee organizations. The successful growth and effectiveness of this group of more than 550,000 Federal workers can largely be attributed to the unwavering dedication and service of James Lynch.

As a member of the House Post Office and Civil Service Committee, and, in particular, as chairman of the Subcommittee on Compensation and Employee Benefits, I am in a unique position to observe the effectiveness of those who represent our Federal employees. Mr. Lynch, consistently displaying his earnest concern for his members, actively and conscientiously pursued their interests before us, and his comments were always enlightening and to the heart of the issues. His service and efforts have contributed immeasurably to the betterment of our Federal workers over the years.

I particularly remember one example where Mr. Lynch's knowledge and expertise proved instrumental. Working through my staff, and enlisting the help of the other committee members, he was able to effect changes in certain aspects of an Executive order relating to the livelihood of overseas employees. The long list of bills which Jim Lynch has successfully supported covers the whole spectrum of Federal employee concerns—retirement, hospitalization and medical benefits, overtime, classification, per diem, the protection of privacy, and a host of other matters. Whatever the issue, as long as civil servants' interests were involved, Jim Lynch was always present with his steady hand and watchful eye.

Just a few days ago, on July 4, James Lynch resigned from his legislative liaison position to seek elective office within his organization, AFGE. I personally want to take this occasion to express my deep appreciation to him for his good counsel throughout the years, and to recognize him for his dedicated service to those he represented so unselfishly. I am confident that with his leadership capabilities, which have reflected so well upon his organization, coupled with his very pleasant demeanor, the achievement of his goals will surely follow.

Mr. Speaker, I know my colleagues join me in wishing James Lynch well as he embarks upon the next phase of his career.●

DOES ERA NEED BELLA?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. DERWINSKI. Mr. Speaker, an issue which is high on the agenda of the State legislative bodies, and again looms large here in the Congress, is that of ERA. One of the reasons that the proposed constitutional amendment has encountered grassroots opposition is the public concern over the views of a few controversial advocates.

The very distinguished columnists, Rowland Evans and Robert Novak, make this point in their column of July 12 in the Chicago Sun-Times. The article follows:

DOES ERA NEED BELLA?

(By Rowland Evans and Robert Novak)

WASHINGTON.—On the night before she was named by President Carter to head a blue-ribbon national women's committee, Bella Abzug was in New York City's Union Square cosponsoring a "mass tribute" to executed traitors and atom spies Julius and Ethel Rosenberg—a bizarre juxtaposition that points to many troubles in the White House.

Abzug's presence in Union Square suggests the President's wife and daughter-in-law had good reason to doubt the wisdom of the appointment. As co-chairman of the new National Advisory Committee for Women, Abzug will not help the embattled Equal Rights Amendment, a cause to which the entire Carter family is firmly committed.

But beyond ERA, the Abzug appointment points to this hard fact of life: After 18 months on the job, the Carter team remains surprisingly naive and uninformed about national politics. What's more, the internal debate over Abzug reflects a larger, more important contest within the White House about how Carter can best regain his former standing.

Abzug has lost three elections in New York in three years and is considered a plague on ERA, less because of her aggressive personality than her extremist politics. Her cosponsors of the Rosenberg "tribute" were aging warriors of the Old Left—John Abt, of the Ware underground Communist group of the 1930s—and activists of the New Left—David Dellinger of the Chicago Seven. Henry Winston, national chairman of the Communist Party, spoke.

"What's wrong with Bella attending a New York liberal rally?" asked one White House aide. But those Carter staffers sophisticated enough to understand Abzug's impropriety found out too late to do anything about it. "Oh, no," moaned a senior Carter adviser, "did she really do that?"

The impact of such antics on middle-class America explained the First Lady's misgivings about the appointment, as related to the National Press Club: "I sometimes am concerned about the legislators in North Carolina and South Carolina and Florida where we need (ERA) votes. Can they identify (with Abzug)? Will it help the ERA pass?" Daughter-in-law Judy Carter, a doughty ERA campaigner, not only wondered but actually opposed the appointment.

Bella was saved by a strange benefactor: Anne Wexler, the bright new star on the President's senior staff. Abzug has never disguised her contempt for the pragmatic political methods of Wexler as a Connecticut Democratic leader. Yet, Wexler convinced Mrs. Carter that Abzug's appointment will do more good than harm.

Why? Partly because Wexler feels Abzug deserves a reward for defending Carter against women's caucus attacks at the 1976 Democratic National Convention. But mainly out of fear of reprisals. MS magazine editor Gloria Steinem, women's activist and Abzug's close friend, was persistent in demanding the job for Bella. Wexler determined that risking attack from the women's movement was not worth it.

To many liberal politicians, Wexler overestimated Abzug's influence, even when allied with Steinem. "Bella brings you nothing in New York, nothing in the women's movement, nothing in liberal circles," one New York reform leader told us. "What she does is kill ERA for you."

But even if Abzug still exercised real influence among those constituency groups, some Carter aides feel Wexler was pushing the President down the wrong trail.

Wexler has been a most invigorating addition to the White House staff—bringing political experience, competence and enthusiasm for Carter. But her technique is "coalition building—putting together interest groups to generate support. Old-line Carterites claim that was not how Jimmy won the presidential nomination and that is not the way to reclaim his former allure.

Wexler has been hard at work trying to mobilize a coalition of interest groups—consumerists, labor, small businessmen, women and others—in opposition to capital gains tax reduction. Her critics on the White House staff admire her skill but would rather see the President somehow appealing to broad popular sentiment for tax relief.

Herein lies the importance of Abzug's appointment. Her job is so unimportant that honoring the cosponsor of the Rosenberg tribute will not hurt anything more than

ERA's fading chances. It is the political tactics behind it that affect many other issues as Carter seeks his political recovery.●

OF SNAIL DARTERS AND RATTLESNAKES

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. SYMMS. Mr. Speaker, I am becoming increasingly concerned over the possible repercussions of the recent Supreme Court decisions favoring the snail darter over the TVA Tellico Dam.

Please be assured that I do not condone the extinction of valuable species of plants and animals. Moreover, what I want to do is show how the inflexibility of the Endangered Species Act of 1973 can be used to stop the projects that certain special interests are opposed to.

Consider this article from the Wall Street Journal of July 6, written by P. J. Wingate. His article explains the significance of the Supreme Court decision in favor of the snail darter and what the future may hold in view of this decision.

The Wingate article reads as follows:

OF SNAIL DARTERS AND DIAMONDBACK RATTLERS

(By P. J. Wingate)

When Congress passed the Endangered Species Act of 1973 it forgot the truth of H. L. Mencken's 50-year-old axiom: "For every problem there is a solution, neat, simple—and wrong."

However, the Supreme Court's recent decision in favor of the snail darter and against the Tellico Dam on the Little Tennessee River has brought it to Congress's attention. And if the court will follow through and also vote for the furbish lousewort and against the Dickey-Lincoln Dam on the St. John River in Maine, the issue may be brought squarely to the attention of the American public.

Since much of this may sound like gibberish to some people, an explanation of terms is in order.

The snail darter is a little fish or minnow about three inches long at maturity, and the furbish lousewort is a small plant with fernlike leaves and yellow flowers. It is only one of a big family of lousewort plants, all of which got their names from the mistaken notion, once held by some farmers, that sheep and cattle grazing on these plants were likely to become infested with lice. Most people can't tell one lousewort from another, but botanists can. The furbish lousewort was first discovered by Kate Furbish, a Maine botanist, and named in her honor.

Now it happens that, so far as anyone knows, the snail darter lives only in the Little Tennessee River and the furbish lousewort grows only along the banks of the St. John River, and the two dams, if completed, may destroy these two species of life.

But the Endangered Species Act of 1973 says that no federal funds may be spent on any project that is likely to destroy any project that is likely to destroy any species of life—plant or animal. So suits were started to protect the snail darter and the furbish lousewort by stopping all work on these dams.

Environmentalists point out—quite properly—that all forms of life on earth seem to be woven together in some complex manner so that if one thread is tugged on the whole fabric of life may pucker in some distant and unexpected spot. Ask not for whom the bell tolls, they say, and they have a point; but it does not provide a neat, simple answer to all problems, as the Supreme Court has just pointed out to Congress.

Lawyers pleading for the Tellico Dam told the court that Congress obviously intended to exempt the dam from the Endangered Species Act since Congress voted funds for the dam after the act was passed. But Chief Justice Burger said that Congress had more clearly said it intended to save all species of life, regardless of any problems created for people, and he did not know what else, if anything, was on its mind.

Lawyers pleading for the dam on the St. John will probably claim that Congress clearly recognizes the need for a clean source of new energy in Maine, to help keep the people in Maine from freezing in the winter of 1985, and Congress also recognizes the need for more sources of domestic energy in order to reduce oil imports.

They may also argue that the dams will make energy a little cheaper in Maine and reduce inflation by a whisker all over the nation, something which the very poor would welcome. But none of this will be as clear as the wording of the 1973 act, so once again the Supreme Court will probably support this neat and simple law.

If so, Congress may be in trouble on Election Day, because someone is sure to point out that this 1973 law would, with equal clarity, prevent any federal funds being spent on projects to eradicate such forms of life as the polio virus, the anthrax bacillus, the anopheles mosquito or the diamondback rattlesnake. Now there may indeed be some unexpected problem for people if these four species of life were obliterated, but most voters would be quite happy to run that risk, whatever it is. There may, of course, be some environmentalists who would argue against wiping out the polio virus, the anthrax bacillus, the anopheles mosquito and the rattlesnake, even if we knew how to, but people who have had to deal with these things on a personal basis would be sure to take a dim view of such a position.

The average voter knows that it is necessary to weigh the odds in all such matters and he feels instinctively that the odds are his problems will be less, instead of greater, if such forms of life disappeared. He also feels that it is unlikely that the snail darter and the furbish lousewort will hurt the human race if they continue to have the government spend a few thousand dollars to have them transplanted to other areas.

But not a hundred million dollars, because he also thinks it unlikely that the disappearance of the snail darter and the lousewort would bother him any more than the disappearance of the dinosaur and the dodo bird or perhaps thousands of other species that have vanished during the millions of years in which evolution has been going on.

And woe unto any candidate for Congress who tells the voter that all species of life must be preserved at any and all costs—even the polio virus and anthrax bacillus.

And so the candidate is now in a bind because the environmentalists who pressured him into passing the 1973 act are not about to relax their pressure one bit. A few people may freeze in the dark in Maine, Tennessee and all over the nation, but the snail darter and the furbish lousewort must be preserved.

So I now offer to Congress a modest proposal to solve its problem. Let it repeal the Endangered Species Act of 1973 and replace it with a law making it illegal for any species of life on earth to endanger or even harm any other species of life. What could be better than that? It should please everyone and it certainly is neat and simple.●

JOHN S. BEGLEY, AN OUTSTANDING CITIZEN

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

JOHN S. BEGLEY, ALMOST IRREPLACEABLE

[From the Holyoke Transcript-Telegram, July 1, 1978]

● Mr. CONTE. Mr. Speaker, the residents of Holyoke, Mass., in my congressional district, were saddened recently with the passing of an outstanding citizen, John S. Begley.

John Begley was vitally concerned with the vitality of Holyoke and his concern was manifested by his involvement in civic affairs throughout his life. At his death, the chairman of the board of the Holyoke Transcript-Telegram, William Dwight, Sr., wrote a fine tribute to John Begley's memory. At this time, I would like to insert this editorial in the RECORD, commend it to my colleagues, and express my deepest sympathies to Mr. Begley's family and to the citizens of Holyoke:

No one is irreplaceable, but the general remark we heard on the death of John S. Begley was "It's going to be mighty hard to replace him."

There were so many segments of his illustrious career. Kipling's uncommon man could walk with kings and not lose the common touch. We doubt if John Begley ever walked with a king. He could have. But he walked with presidents of the United States and with governors and senators, and he always kept the common touch. It was only natural.

He was born and raised in Ward Four—the old Ward Four. That ward generated more pride in its natives than any other section of the city. Folks born in old Ward One and Ward Two might dispute it, but to Holyokers of past generations when one said he came from "The Ward," everyone knew it was Ward Four. John Begley was proud that he was a son of Ward Four.

He started from scratch as everyone else did who began life in that part of Holyoke. It was only natural that with his inheritance and his associations in early life there that he would develop an interest in the art of government, which sometimes is called politics. At the age of 24 he was the youngest delegate to the Massachusetts Constitutional Convention in 1917, the last one ever held. He was the last survivor of this group of representative citizens of the Commonwealth who redrafted our state constitution to bring it out of the Colonial era to the 20th Century. He was as proud of being a part of that bit of history as of any of his accomplishments in life.

He was the youngest person ever to chair the Holyoke School Committee and it was through his vision, and daring, and determination that Holyoke tapped the late William R. Peck for superintendent of schools.

Mr. Peck was the youngest ever to hold such a position in Massachusetts and when he retired he had the distinction of having served longer than any other superintendent of schools in Massachusetts.

He could go on and on to tell about men and women whom he trusted and whose careers he helped improve.

But interest in government was only one side of John Begley. When he reached his prime, Holyoke found herself in the new industrial revolution that was uprooting traditional New England industries and sending

them southward and the old family owned and operated enterprises were being gobbled up by the giants. Textiles vanished. Families of economic strength died off. Holyoke like all New England industrial communities was hurting.

Back a generation ago, when financial institutions had more leeway and freedom of action than they now have, Holyoke had a banker who presided over the Hadley Falls Trust Co. He was George V. Wallace Jr. John Begley was a member of the bank's board of directors and was one of the legal counsels of the bank. Happily both understood the basic economic problems of the day and could work together.

The Holyoke Redevelopment Corporation, which envisioned the prospects of the development of the western sector of the city for industry, was the creation of a group of enlightened citizens including John Begley. There were many barriers thrown up against this civic effort, some of them understandable, others purely selfish. John Begley, ever holding the respect of his fellow Holyokers, played a vital role in bringing the Whiting Farm area into productive use for Holyoke. It well might not have happened without John Begley. So important was his help.

There are business operations in Holyoke and immediate environs today that are contributing substantially to the economic health of the area with employment and payrolls because John Begley had confidence in them. We all are the beneficiaries of his interest and work in the world of business.

With all the demands made upon him as a result of his leadership position in government and business, we don't believe he ever turned down a call for help from the social service sector. John Begley helped mightly with the development and building of our two fine hospitals. He was chairman of the fundraising for the Providence Hospital campaign. The Community Chest and later the United Way were prime concerns of his. And during his long career he was involved in some way with most of the agencies that serve us through the United Way.

Yes. John S. Begley is going to be a hard man to replace. He has given us a rich civic legacy. —WILLIAM DWIGHT.●

LET US CONTROL INFLATION

HON. THAD COCHRAN

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. COCHRAN of Mississippi. Mr. Speaker, I am tired of hearing a lot of talk around here about inflation and seeing no action taken to help bring it under control.

This is our Nation's No. 1 economic problem. Of course, it is not a simple problem to solve, but let us get to work on it and quit just talking about it.

The problem has a number of causes, some of which Congress cannot do anything about. But there is one very significant source of inflation that we can and should address. That is excessive Government regulation.

There are 60,000 pages of new regulations printed every year which result in an annual cost of some $130 billion. This is about $600 for every man, woman, and child in the United States.

The people who have to deal with this enormous burden are tired of seeing the problem get bigger instead of smaller.

There is nothing being done by the administration to help. The agencies keep on churning out costly rules and regulations by the truckload. Congress has to act.

There are two bills that I have sponsored that are gathering dust in the Judiciary Committee and the Rules Committee. They provide for more congressional control over regulatory agencies and a cost-impact statement for all regulations the administration proposes to issue.

If we are serious about doing something on this inflation problem, a good starting place will be the favorable consideration of these two bills.

As an example of citizen concern over the failure of our Government to do its part in the battle against inflation, I am inserting here a letter and resolution from Mississippi condemning unnecessary regulations and calling for congressional review of agency action.

The letter follows:

DELTA COUNCIL,
Stoneville, Miss., July 7, 1978.

Hon. THAD COCHRAN,
212 Cannon House Office Building,
Washington, D.C.

DEAR THAD: We wish to respectfully call your attention to the enclosed resolution "Controls on Regulatory Agencies" adopted at the Delta Council annual meeting on May 30, and to the photocopy of a syndicated column "The Personal Cost of Regulation" that appeared in the July 2 issue of the Memphis Commercial Appeal.

Please note the Office of Management and Budget estimate that government regulations currently cost the public $130 billion a year. Also, American business spent $3.12 billion in 1975 to comply with OSHA regulations alone. One industry, General Motors, spent more than $1.3 billion in 1974 complying with federal regulations thereby adding $320.00 to the base price of every General Motors vehicle sold that year.

It can be said that the 1970's will go down in history as "The Decade of Federal Regulations." A long list of federal regulatory agencies has been set up that are not effectively accountable to either Congress or the Executive Branch. These agencies are grinding out regulations that impact every phase of our economy, often without regard to the consequences.

Agriculture is particularly vulnerable to the adverse impact of regulations in that farmers have no way of passing on the high costs of compliance. In some cases, regulations cause direct losses in markets. A case in point is the recently announced "Cotton Dust Standards" which will cause textile mills to switch more and more to synthetic fibers, unless these regulations are modified. A proposed noise standard for textile mills, according to a government contract study, will cost $2.5 billion. The American Textile Manufacturers Institute estimates the cost of the noise standard to be $13 billion.

Flammability standards for children's sleepwear resulted in cotton's share of the children's sleepwear market falling from 75 percent to 11 percent. We could add other illustrations, but the list would be too long.

Rapidly increasing regulatory costs together with inefficiencies caused by compliance procedures are contributing in a large way to inflation and also impair the ability of U.S. business and industry to compete with foreign-made products. This is a major factor contributing to our balance-of-payment deficit.

We do not mean to imply that all regulations should be removed—some are necessary; however, we are being regulated "out of business" and we urge that Congress take whatever steps are necessary to solve this problem.

Cordially,

B. F. SMITH,
Executive Vice President.

RESOLUTION—CONTROLS ON REGULATORY AGENCIES

Regulatory agencies created by Congress, such as the Environmental Protection Agency and the Occupational Safety and Health Administration, have been granted broad and far-reaching authorities to promulgate rules and regulations dealing with almost every segment of the national economy.

Staffed largely by zealous and highly partisan personnel, these agencies often issue unrealistic regulations without adequate scientific or economic justification. Rules issued by these agencies have the same effect as law; and farmers, businessmen and industrialists are being inundated by regulations that are sometimes issued without regard to adverse economic or social consequences even though the weight of scientific and/or economic evidence has demonstrated the unrealistic nature or the fallacy of proposed actions.

Since these agencies were created and granted broad and far-reaching powers by the Congress of the United States, we hereby respectfully and urgently request that the Congress hold these agencies accountable for their rule-making activities and that the Congress enact legislation providing for Congressional review of proposed regulations before such regulations are issued.

Furthermore, we urge that regulatory agencies be required to prepare and make public economic impact studies on all proposed regulatory actions.●

TUITION TAX CREDITS—BAPTIST OPPOSITION

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. BUCHANAN. Mr. Speaker, this Nation was founded on the principle that Government would not interfere with the religious freedoms of its citizens. This doctrine of separation of church and state is in marked contrast to what was then and is now occurring in other countries of the world.

On June 1, 1978, the House approved H.R. 12050, the Tuition Tax Credit Act of 1978. The bill, as passed by the House, extended tax credits to nonpublic elementary and secondary education tuition. This action was taken in spite of an advisory opinion by the Justice Department that tuition tax credits for nonpublic elementary and secondary education violate the first amendment guarantee against the establishment of religion.

The resolution follows:

RESOLUTION NO. 18—ON TUITION TAX CREDITS

Whereas the Congress of the United States is considering legislation to give taxpayers a tax credit (that is, a direct subtraction from one's tax bill) for tuition payments,

Whereas the effect of such legislation would be of most benefit to those who can afford to finance their children's attendance at private schools, including elite schools,

Whereas most private elementary and secondary schools are related to churches and exist to serve the religious mission of sponsoring churches,

Whereas tuition tax credit legislation carries the potential of financing private education at the expense of public education,

Whereas the attorney general of the United States has issued an advisory opinion that such legislation is of doubtful constitutionality under the First Amendment, especially with regard to tuition paid to elementary and secondary schools.

Whereas the Baptist Joint Committee on Public Affairs has opposed such legislation because of its threat to the principle of separation of church and state.

Be it therefore Resolved, that we call upon President Jimmy Carter to veto any tax credit legislation now under consideration by Congress, and

Be it further Resolved, that we, messengers to the Southern Baptist Convention, meeting in Atlanta, Georgia, on June 15, 1978, register our opposition to all tuition tax credit legislation pending in Congress; urge the Baptist Joint Committee on Public Affairs to continue to oppose such legislation; and express our concern over such legislation's threat to the First Amendment guarantees of non-establishment of religion and the free exercise of religion.●

OUR RHODESIA POLICY

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I would like to bring to the attention of my colleagues an editorial by William Randolph Hearst, Jr., exploring the problematic nature of American foreign policy toward Rhodesia.

Efforts are underway in Rhodesia to achieve a moderate solution to difficult racial and political problems. Prime Minister Ian Smith has negotiated an interim settlement with black moderates providing for a peaceful transition to black majority rule, with protection for the rights of the white minority. But measures are being undertaken which would subvert this reasonable solution. Marxist guerrilla forces, trained and equipped by the Soviets and Cubans, have been waging a vicious and bloody campaign of terrorism aimed at preventing the peaceful transition to democratic rule in Rhodesia.

It is to the discredit of the Carter administration that it has been insistent that a just settlement of the Rhodesian problem must include the participation of these Marxist thugs. Unfortunately, it is often a characteristic of the diplomacy of the Carter administration that it will blithely insist on the reconciliation of fundamentally irreconcilable elements.

For instance, this same administration called for the participation of the Soviets at the proposed Geneva peace talks on in their power to foment turmoil in that the Soviets have been doing everything in their power to forment turmoil in that troubled region. Why should the Soviets be interested in peace in the Middle East when a war there would further their strategic objectives? At the very least, a Middle Eastern war would result in a crippling oil embargo against the West. And if the fondest dreams of the Soviets were to be realized, they would succeed in eliminating our ally, and ending our influence in that vital region of the world in one fell swoop. Indeed, President Sadat's peace initiative may well have been motivated by a desire to circumvent a great power solution to Middle Eastern problems which would have been vulnerable to Soviet meddling.

Similarly, in the case of Rhodesia, President Carter insists that a peaceful settlement must include those elements to whom the democratic process is an anathema. These Marxist marauders have rejected Prime Minister Smith's invitation to participate in democratic elections because they know that the Rhodesian people fear, rather than love them.

A just settlement of the Rhodesian problem can never be reached by insisting on the participation of the unjust, whose influence extends no further than the effective range of an AK–47. To be true to its support of human rights our Government must stand for those who respect human rights, and not with those who destroy them. I respectfully ask my colleagues to give consideration to the issues raised by this editorial:

IT'S TIME FOR A CHANGE ON OUR RHODESIA POLICY

(By William Randolph Hearst, Jr.)

NEW YORK.—It is encouraging to note there is a growing awareness in Congress that the time has come for a change in the Carter administration's incredible policy toward Rhodesia.

Even President Carter's chief representative in the Senate, Majority Leader Robert Byrd, has abandoned that policy and voted against it.

In a remarkabe display of independence, integrity and sense of justice, the West Virginia senator voted to support a move in the Senate to lift temporarily, at least, the U.S. economic sanctions against Rhodesia.

Opposed by the White House and the State Department, this move fell only six votes short of victory. It may be brought up again before the summer recess and, if so, I hope, as the United States had given its word and in the name of justice, it will succeed.

It is becoming apparent to an increasing number of senators and members of the House of Representatives that the Soviet-backed leaders of the mis-named Patriotic Front guerrilla organization—Joshua Nkomo and Robert Mugabe—are determined to prevent the black and white population of Rhodesia from voting on the settlement that provides for gradual transition of political power from the white minority to the black majority.

The recent barbaric massacres of blacks and whites in rural areas of Rhodesia is the heinous method of being used by the "Patriotic Front" to block the elections the moderate black and white transition government is endeavoring to organize. The fiends who slaughtered 12 whites, including five women and four little children, in a missionary school, proudly proclaimed they belonged to Nkomo's guerrilla terrorists.

Despite the clear evidence that Nkomo and Mugabe do not want free elections in Rhodesia, nor democratic black majority rule, but, instead, a black Marxist dictatorship, the Carter administration persists in trying to impose the two foreign-based terrorist leaders on the settlement. It fears that without their participation there will be prolonged civil war, with the Soviets and Cubans supporting the guerrilla forces. Nkomo and Mugabe have been invited by the transition government to join the settlement and participate in the elections providing they renounce terrorism. They have rejected the offer because they know they cannot gain power through free elections.

Realization of this situation pr mpted strong Senate support for the resolu ion to lift the trade embargo against Rhode ia, and thus encourage implementation of he interim settlement that Prime Minis:er Ian Smith reached with the three moderate black leaders. Co-sponsored by four senators, the resolution—after lively debate—was tabled by a vote of 48 to 42 on the motion of Sen. George McGovern.

Naturally, the bird-brained liberal from South Dakota sided with the Moscow-oriented terrorist leaders, as he has sided with the communist cause in Vietnam and Cambodia, and more recently with Castro against President Carter on the question of Cuban support for the Angola-based guerrila invasion of Zaire.

Regular readers of this column will be familiar with my feeling that we should support the sensible compromise settlement Prime Minister Ian Smith reached with the moderate black leaders, providing for free elections, gradual transition to black majority rule and protection of white minority rights. Thus it was gratifying to find this view shared by some of the most highly-respected members of the United States Senate, and I bring to your attention the following remarks they made during the Senate debate.

Sen. Jesse Helms (R.-N.C.), who introduced the resolution to lift the American trade embargo for a period of 15 months:

"As everyone now knows—everyone, apparently, except the State Department—the principal leaders of Rhodesia, representing both the white populations and at least 80 percent of the black populations, signed an agreement on March 3, 1978, thereby initiating a transitional government to full majority rule by December 31, 1978.

"Despite certain inevitable tensions that transitional government has been functioning fairly smoothly. Few would assert that the parties concerned have failed to make a good faith effort to see that the internal settlement works, and that it leads to peace and prosperity for all residents of Rhodesia, black and white.

"Nevertheless . . . terrorist attacks from guerrillas based in neighboring countries have continued to devastate both white and black communities. Furthermore, the economic situation has continued to deteriorate because of the refusal of the outside world to lift economic sanctions against the Rhodesian economy.

"If there are to be truly free elections, and if the elections are going to be held in an atmosphere of peace and emotional stability, it is imperative that sanctions be dropped immediately.

"The leaders of the so-called Patriotic Front have not been excluded (from the settlement). They have excluded themselves. Not only do they lack a significant following among the black Rhodesians, but they have alienated most black Rhodesians by their emphasis on murder and atrocities. Indeed, records show they have murdered far more blacks than whites in their terrorist raids. They cannot even claim they are waging a war against white oppression. Their program is simply murder as a stratagem to seize total power.

"If we demand that the Patriotic Front must be admitted to the settlement simply because they have the capacity, with the assistance of the Soviets and the Cubans, to make war against Rhodesia, then we have succumbed to the same malaise that over-

took Prime Minister Chamberlain at Munich, when he legitimized Hitler's aggressive claims in the illusory search for peace.

". . . The carefully crafted plan of the internal settlement, by contrast, is reasonable, humane, and just to all parties. It is based upon traditional Western concepts of equity and justice. It was proposed in good faith. It should be given a chance."

Sen. S. I. Hayakawa (R.-Calif.), a co-sponsor of the resolution, has just recently returned from a visit to Rhodesia, South Africa, Botswana, Zambia and Kenya:

"Those two leaders (Nkomo and Mugabe) are harassing the villagers, killing hundreds and hundreds of blacks as well as whites in order to persuade them not to support the Salisbury government.

"From the 'Patriotic Front,' we can see no hopes for an emerging democracy or any emerging inter-racial cooperation. We should give that group which is making groping steps towards interracial harmony and democracy a fighting chance to survive."

Sen. Harry F. Byrd (Ind.-Va.), co-sponsor of the resolution:

"Under pressure from the United States, Ian Smith worked out an agreement whereby at the end of this year black majority rule will prevail with free elections in Rhodesia. Prime Minister Smith received a guarantee from the United States and the British government in 1976 that if the white Rhodesian government agreed to a transition to majority rule, economic sanctions would be lifted.

"What an element in the State Department is now demanding is that Smith and the three black leaders . . . bring into the government Marxist-oriented terrorists who have been terrorizing the people of Rhodesia from bases outside that nation.

"Rhodesia is important to our national interest because it contains two-thirds of the world's chrome. That is a strategic material that is vitally important to our national defense. Virtually all of the world's chrome supply is in either Rhodesia or South Africa or Russia. Few extremists in our State Department are preparing to force either bloodshed or a Marxist government, or both, on the people of Rhodesia."

I think the attitude of the United States toward parts of Africa that we seem to be interested in is going to cause the biggest bloodshed in the history of man if we do not change our tune. I think we have been completely wrong there."

I suggest Prime Minister Ian Smith and the black leaders who share power with him in the transition government should be allowed to come to Washington to present their side of the problem. At present they are forbidden to enter our country.

Nkomo and the presidents of Zambia and Tanzania, neither of whom permit majority rule in their own dictatorially run countries, have all been invited here to promote the terrorist cause.

Let Congress and the American people hear directly from those who are striving to solve the Rhodesian problem in a sane and peaceful manner. It is shameful that the State Department denies visas to Prime Minister Smith and his black partners of the Salisbury government, while the enemies of freedom are welcomed.●

REDUCING UNCERTAINTY ABOUT COMMUNIST INTENTIONS

HON. DAVID E. SATTERFIELD III

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. SATTERFIELD. Mr. Speaker, reaction to the Soviet treason trials of Anatoly Shcharansky and Aleksandr Ginzburg has been one of indignation, which is understandable.

The surprising thing about these trials, however, is not that they have occurred, or the fact that the Soviet Union has thus violated its commitment to the Helsinki accords; the genuine surprise is that anyone should have seriously expected the Soviet Union to adhere to the principles contained in the Helsinki accords, which are patently incompatible with Communist philosophy espoused by Marx and Lenin and now embraced by the Soviet power structure.

The fact that such a reaction has been evident should serve as a reminder to us that we cannot afford the luxury of ignorance or indifference to the intransigent philosophy, state of mind, and established goals of Soviet leaders. If we are to be effective in our international affairs it is imperative that we constantly remind ourselves about the true nature of Soviet communism.

In this regard a timely article by Ben W. Tarwater titled "Reducing Uncertainty About Communist Intentions" appeared in the July 9 edition of the Richmond Times-Dispatch. Considering the brevity dictated by the limited space available, it states with remarkable clarity the essential fundamentals of Soviet communism, and the resulting beliefs and aims of its exponents.

This article, which follows, deserves serious consideration and prominence in any discussion prompted by the trials in question:

REDUCING UNCERTAINTY ABOUT COMMUNIST INTENTIONS

(By Ben W. Tarwater)

We can reduce our uncertainty about the communists' intentions if we examine their beliefs. All the world's communists believe in Marxism-Leninism, which Brezhnev has described as "a coherent international teaching . . . a theory which belongs to all communists and all revolutionaries and serves as a guide to action."

As materialists, the communists believe there is no God, no eternal moral principles; only matter is real. They believe that movement is an inherent part of all matter and that matter moves in accordance with the laws of dialectics—the idea being that all things are in conflict with something else. For example, you start with a thesis—say, iron—and this is in contradiction or conflict with an antithesis, oxygen. This conflict eventually results in a synthesis of the two—iron oxide, or rust; then the iron oxide becomes a new thesis which, in turn, is in conflict with another antithesis. This cycle of events—thesis in conflict with antithesis, resulting in synthesis—is never ending.

Marx applied this dialectical materialist concept to the history of civilization, saying that since all matter moves in accordance with the laws of dialectics and since people are simply matter, people and civilizations also move in accordance with the laws of dialectics. To understand the history of civilization, to correctly interpret existing conditions and to be able to predict the major outlines of the future, it is necessary, Marx felt, to understand the dialectical movement of things and to determine the direction and speed of the changes that are taking place.

In applying this concept to history, Marx said that civilization has passed through four major stages, or eras, and that the most significant feature of each of these stages has been the thesis/antithesis conflict between the two major economic classes: those who own the means of production and those who do not.

Marx started his history of world civilization with what he called the "classless communal" stage, then moved to the master/slave era or relationship, with the masters being the thesis and the slaves the antithesis. As the means of production changed, he said, contradictions and antagonisms between the masters and the slaves and in the whole superstructure of society developed to a point of revolutionary intensity, causing an upheaval that produced a synthesis and resulted in a new era of civilization—the lord-serf relationship, with the lords and serfs becoming the new thesis and antithesis. Then as the means of production again changed and the antagonisms and contradictions between these economic classes grew to revolutionary intensity, there was another upheaval, resulting in the worker/capitalist relationship.

The communists believe that the worker/capitalist stage of civilization will be inevitably superseded by an interim stage of the "dictatorship of the proletariat." By whatever name, the essential purpose of the dictatorship of the proletariat is to eliminate the remnants of the capitalist individualis beliefs and way of life. This dictatorship of workers will, in turn, be inevitably superseded by pure communism. But it is important to be aware that the communists believe that they can achieve pure communism only after they have eliminated our way of life. Until they have accomplished this, they believe there will be the threat of infection from our capitalist individualist ideas and the probability of conflict with the capitalist individualists who hold these ideas.

Furthermore, they believe there is no hereafter, that life is short and that world communism will bring the ultimate good for man. Consistent with these understandings, Lenin said that communist ethics and morals were determined by the interests and needs of the proletarian revolution; that "morality is what serves to destroy the old exploiting society."

Therefore, in accordance with their philosophy and Lenin's teachings, the communists have the dynamic objective of hurrying what they believe to be the inevitable establishment of world communism by any means that does not cost more than the results are worth.

In applying their concepts to the task of spreading over the world, the communists always follow the same methodology:

First, they analyze their objective dialectically. They determine the forces at work within their objective and upon that objective from the outside. They identify the forces in contradiction and antagonistic to each other and assess comparative strengths and weaknesses.

Second, they determine the form or forms of struggle they will use. These can be psychological, political, economic, irregular or regular military or any combination of these—and it is usualy a combination.

Third, they determine the primary or key objective and the succeeding sequential objectives which, if seized, will give them control of their ultimate objective.

Fourth, they keep the key objective under continuing scrutiny. Whenever conditions or factors influencing it change, they re-analyze that objective in light of their ultimate purpose and the new conditions; then they revalidate the old form of struggle and the primary and sequential objectives, or establish new ones, as appropriate.

The communists used this pattern in Eastern Europe following World War II. First, they made a dialectical analysis. Second, on the basis of this analysis, they determined that "coalition government" would be the primary form of struggle. Third, they determined that the "key" tactical objective or key

link in their strategy would be for a communist to be the minister of the interior in the coalition government because he controlled the police; and by controlling the police, they were able to get rid of most of the influential anti-communists. Control of the police was followed by the second most important link, control of the propaganda media. This was essential in convincing the public that the communist actions were justified. Control of propaganda was followed by the third sequential link, control of the economic structure. This made it possible for the communists to control the rest of the populace, because it gave them a virtual monopoly on commercial activity and employment. With control of these three power levers, they had achieved their key and sequential objectives and hence were in a position to utilize them in gaining their strategic objective—control of national power.

Having reviewed some of the basic Marxist-Leninist beliefs and how they have been applied in the past, it is instructive to look at some of the specific beliefs and teachings—in Lenin's own words—that answer questions that are of particular concern to us today:

To what extent can we trust the communists? What are their ethics and morals?

"In what sense do we repudiate ethics and morality? In the sense that it is preached by the bourgeoisie, who derived ethics from God's commandments. . . . We repudiate all morality derived from non-human and non-class concepts. . . . We say that our morality is entirely subordinated to the interests of the class struggle of the proletariat. . . . We say: Morality is what serves to destroy the old exploiting society and to unite all the toilers around the proletariat which is creating a new communist society."

Is "Eurocommunism," or the participation of communists in non-communist parliaments, inconsistent with Marxism-Leninism?

"As long as you are unable to disperse the bourgeois parliament and every other type of reactionary institution, you must work inside them . . . It has been proved that working in a bourgeois-democratic parliament even a few weeks before the victory of a Soviet republic, and even after that victory, not only does no harm to the revolutionary proletariat, but actually makes it easier for it to prove to the backward masses why such parliaments deserve to be dispersed; it facilitates success in dispensing them."

What is the Marxist-Leninist attitude toward war?

"And from a scientific point of view, it would be utterly wrong and utterly unrevolutionary for us to evade or gloss over the most important thing; namely, that the most difficult task, the one demanding the greatest amount of fighting on the road to socialism, is to crush the resistance of the bourgeoisie. 'Social' persons and opportunists are always ready to dream about the future peaceful socialism, but the very thing that distinguishes them from revolutionary social-democrats is that they refuse to think about and reflect on the fierce class struggle and class *wars* that are necessary for the achievement of this beautiful future."

The communists constantly proclaim that they are tirelessly working for peace. What is the focus of their efforts?

"Only after we have overthrown and finally vanquished and expropriated the bourgeoisie of the whole world, and not merely of one country, will wars become impossible."

In light of all the foregoing, it is clear that we can reduce our uncertainty about the communists' intentions if we keep in mind that: (1) Their ultimate objective, world communism, is constant; (2) their ethics and morals are constant: Anything which accelerates the collapse or defeat of non-communist nations is ethical and moral; and (3) their four-step methodology for determining what to do and how to do it is constant.

Furthermore, if we would keep the communists' beliefs in mind and then use the communists' four-step methodology as they would to determine what to do in Africa, Europe and other areas and situations, we should be able to improve greatly our batting average in anticipating not only the communists' intentions, but their specific actions as well.●

CONDEMNATION OF SOVIET TRIALS

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. LEHMAN. Mr. Speaker, I strongly condemn the trials of Anatoly Scharansky, Aleksandr Ginzburg, Maria Slepak, Viktoras Petkus, and Aleksandr Podrabinek now taking place in the Soviet Union. These trials have focused the attention and outrage of people around the world on the Soviet repression of Jewish dissidents. The Commission on Security and Cooperation in Europe, under the chairmanship of the distinguished gentleman from Florida (Mr. FASCELL) held hearings to discuss Soviet compliance with the Helsinki Final Act. Those individuals who appeared before the Commission emphasized the conditions under which the dissidents have had to struggle and the implications of the Soviet human rights violations for United States-Soviet relations in general.

I would like to share with my colleagues the text of my statement to the Commission on Security and Cooperation in Europe:

STATEMENT OF HON. WILLIAM LEHMAN, CONGRESS OF THE UNITED STATES, JULY 11, 1978

Mr. Chairman, I would first like to commend the members of the Commission on Security and Cooperation in Europe and its chairman, the distinguished gentleman from Florida, Mr. Fascell, for holding these public hearings in order to discuss the trials of Anatoly Scharansky, Alexsandr Ginzburg, and Maria Slepak now taking place in the Soviet Union, and the implications of these trials on the future of U.S.-Soviet relations.

The blatant disregard for international covenants and for human rights exhibited by the Soviet Union's purge of Jewish dissidents and monitors to the Helsinki Final Act has culminated this week in a travesty of justice. Our hopes for cooperation and the growth of detente, justifiably raised by the Soviets' signing of the Helsinki Final Act, seem to have vanished. The Soviet Union has shown no signs of compliance with the Helsinki agreement, the litmus test of good will and humanitarianism between East and West.

I and many of my colleagues have repeatedly sent letters and telegrams of protest to Soviet officials, have presented petitions gathered by constituents to the highest officials of the Carter Administration for transmittal to Soviet officials, and have linked human rights violations with various legislative proposals. Still, the Soviet Union has chosen to ignore its commitments and to blatantly act in defiance of our pleas. It is very rare that I receive a reply to my letters, and, I have, on numerous occasions, had mail returned to my office undelivered. The correspondence, cosigning letters with my colleagues, and cosponsoring resolutions has now escalated to such an extent that a week does not go by without congressional attention being directed to the plight of Soviet Jews wishing to emigrate from the Soviet Union to Israel.

I am increasingly alarmed to witness the pattern of silencing Jewish dissidents which can only be characterized as an intentional plan to demoralize and degrade them in a manner reminiscent of the antisemitic behavior of the past. When the cases of Jewish dissidents such as Vladimir Kislik and Lev Roitburd from the Ukraine were first brought to my attention, I was not surprised that such persecution persists in this notoriously antisemitic area of the Soviet Union. This does not, however, suffice to explain the increasingly systematic persecution of Jewish dissidents and refuseniks throughout the rest of the Soviet Union.

Too many Soviet Jews who wish only to emigrate from the Soviet Union to Israel have endured a predictable cycle of harassment, losing their jobs and finally serving long sentences for "parasitism." In the case of Vladimir and Maria Slepak, the charge of malicious hooliganism for merely hanging a protest banner outside their apartment window was enough to send Vladimir Slepak to five years' internal exile. This is the price Vladimir Slepak, Ida Nudel, and other courageous Soviet Jews must pay for their leadership role in the Helsinki monitoring groups.

It is evident that the Soviets intend to erase any traces of dissident behavior from Moscow and other cities prior to the opening of the 1980 Olympic Games. This occasion is apparently being seized by the Soviets as a political instrument. I have, therefore, written to Lord Michael Morris Killanin, President of the International Olympic Committee, to request that the Committee investigate the exploitation of the Olympic games by the Soviet Union to further silence and persecute Soviet Jews. If we cannot affect the Soviets in other ways, perhaps pulling out the United States from the Olympics will reveal to them the seriousness with which we regard their human rights violations. Let us tell the Soviets that before we support the Moscow Olympics, they must show evidence of compliance with the Helsinki agreement by curtailing this extreme treatment of Soviet Jews and allowing freer emigration.

We know that if the Soviet Union had lived up to the commitments it made at Helsinki, the monitoring groups would not have been necessary. International covenants carry with them the promise and hope of recognizing values that apply to everyone, on a level beyond ideology. Accordingly, the trials of Scharansky, Ginzburg, Elepak, Petkus, and Podrabinek and the trials of other members of the Helsinki monitoring groups are to be vehemently condemned. Let us in Congress continue to do all we can to show the Soviet Union that the commitments it makes must be honored.●

QUESTIONNAIRE RESULTS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. STUDDS. Mr. Speaker, the following are the results of an 18-question survey on important national and international issues which I distributed recently to residents of the 12th Congressional District. I hope that they will be of interest to my colleagues.

The survey results follow:

[In percent]

Question	South Shore	Greater New Bedford	Cape and islands	District total
1. President Carter has recommended a $25,000,000,000 reduction in Federal income taxes in order to compensate for higher social security taxes, and to stimulate the economy. Which of the following statements is closest to your view?				
(a) The President's tax cut plan is a wise one, which should be accepted	22.8	22.1	17.7	20.2
(b) It would be wiser to reduce social security taxes, instead, and to finance part of social security from general revenues	47.5	47.0	44.8	46.2
(c) The President's plan should be rejected, since a tax cut would increase our national debt and contribute to inflation	29.7	30.9	37.5	33.6
2. With respect to inflation, which statement is closer to your view?				
(a) Inflation can be halted by the Government, since it is caused primarily by excessive Federal spending	48.0	50.4	48.1	48.5
(b) Inflation is only partly subject to governmental control, since many factors not caused by Federal actions (higher energy prices, for example) are significant contributors to inflation	52.0	49.6	51.9	51.5
3. Social security should be financed:				
(a) Solely from the payroll tax, as under current law	25.9	30.2	30.4	28.7
(b) From the payroll tax, except that the medicare and disability funds should be financed from general revenues (the income tax)	64.9	59.3	62.5	62.8
(c) Solely from general revenues	9.2	10.5	7.1	8.5
4. Do you agree with those who suggest that the age at which people become eligible for social security benefits should be increased to 68 or 70 in order to reduce the number of people collecting social security?				
(a) Agree	14.8	11.0	16.5	14.9
(b) Disagree	85.2	89.0	83.5	85.1
5. Do you agree with President Carter's proposal to reduce the tax deduction for business lunches?				
(a) Agree	64.0	66.7	65.1	65.0
(b) Disagree	36.0	33.3	34.9	35.0
6. President Carter has requested that this year's cost-of-living pay increases for Federal workers be reduced as a symbol of our commitment to fighting inflation. Do you agree or disagree with this request?				
(a) Agree	74.1	79.7	77.0	76.5
(b) Disagree	25.9	20.3	23.0	23.5
7. Which of the following statements is closer to your views?				
(a) Oil and gas prices should be allowed to rise in order to encourage energy production, discourage consumption, and make other power sources more competitive	38.9	30.1	41.2	38.4
(b) Oil and gas prices should be held steady in order to protect the economy and the consumer	61.1	69.9	58.8	61.6
8. Which of the following statements is closest to your view?				
(a) More nuclear powerplants should be built and put into operation as quickly as possible	29.8	28.3	30.4	29.8
(b) Construction and operation of nuclear powerplants should continue, but it should be done slowly and cautiously, even if this results in some increased cost	45.0	45.8	41.4	43.4
(c) Nuclear powerplants have severe safety problems, many of which are as yet unresolved. Consequently, no new nuclear powerplants should be built at this time	25.2	25.9	28.2	26.8
9. Do you believe that Congress should enact strong oil tanker construction and operating safety standards, even if this leads to a slight increase in the cost of oil?				
(a) Yes	87.0	87.1	91.4	89.1
(b) No	13.0	12.9	8.6	10.9
10. The United States currently sells about $12,000,000,000 worth of arms annually to other nations. Which of the following statements is closest to your view on arms sales?				
(a) The sale of large quantities of U.S. arms to other nations is generally a good thing, winning us friends and providing benefits to the economy	12.1	10.0	9.2	10.4
(b) U.S. arms sales can serve a useful purpose, but they must be carefully restrained, and should be limited to those which provide clear foreign policy benefits to the United States	67.7	69.8	68.7	68.5
(c) U.S arms sales should be reduced drastically, and should be restricted to our treaty allies and to Israel	20.2	20.2	22.1	21.1
11. Should the United States risk its relationships with friendly governments (such as those in South Korea, Iran, and the Philippines) by reducing or prohibiting military sales and assistance on human rights grounds?				
(a) Yes	50.9	51.0	53.0	51.9
(b) No	49.1	49.0	47.0	48.1
12. Should the United States proceed with production of the neutron bomb?				
(a) Yes	57.4	62.6	55.5	57.5
(b) No	42.6	37.4	44.5	42.5
13. President Carter's proposed 1979 budget would slightly increase defense spending from the previous year. The Soviet Union is also expected to increase defense spending. The United States should:				
(a) Rapidly increase defense spending in order to discourage the Russians, and attempt to insure massive U.S. military superiority	32.7	38.2	29.7	33.0
(b) Maintain current defense spending levels	40.7	37.7	38.8	38.9
(c) Reduce defense spending in an effort to restrain the arms race, and to provide funds for other purposes	26.6	24.1	31.5	28.1
14. Which statement is closest to your view about national health insurance?				
(a) Congress should pass comprehensive national health insurance, covering all illnesses and all Americans	36.5	41.2	35.7	36.9
(b) Congress should confine itself to catastrophic national health insurance, covering only serious illnesses	38.6	35.9	41.5	39.5
(c) We should continue to rely solely on current medical care programs and on the private insurance industry	24.9	22.9	22.8	23.6
15. Congress should approve President Carter's request to establish a new Department of Education:				
(a) Agree	43.6	45.8	42.4	43.4
(b) Disagree	56.4	54.2	57.6	56.6
16. Do you support a constitutional amendment to guarantee equal rights for women?				
(a) Yes	60.2	62.7	63.1	62.0
(b) No	39.8	37.3	36.9	38.0
17. Congress should approve a constitutional amendment to prohibit abortions:				
(a) Agree	25.5	30.6	19.7	23.6
(b) Disagree	74.5	69.4	80.3	76.4
18. Congress should prohibit the use of medicaid funds to provide abortions for poor women:				
(a) Agree	39.1	43.1	33.5	37.2
(b) Disagree	60.9	56.9	66.5	62.8
Percentages of responses received by region	35.3	17.9	46.8	100.0

Total responses: 10,025.

CONGRESSMAN DRINAN OUTLINES THE CASE FOR NATIONAL HEALTH INSURANCE

HON. ROBERT F. DRINAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. DRINAN. Mr. Speaker, before the end of the summer, we are to receive from the President a plan for national health insurance. As a longtime supporter of the Kennedy-Corman Health Security Act, which guarantees adequate health care to all Americans, I eagerly await the President's proposal. Because media reports indicate that the administration is wavering in its commitment to a comprehensive program, I would like to remind the President of the National Democratic Platform of 1976 which promised "a comprehensive national health insurance system with national coverage." Basic to the platform was a commitment "to make adequate health services a right for all people." The best way to honor that promise is through adoption of the Health Security Act.

The administration and the Congress do not have to be reminded that each year millions of Americans forgo medical care or are turned away from hospitals because of an inability to pay. Even among people who have some type of health insurance, limits on coverage, age and medical history or sudden loss of a job can mean having to bear the total cost of a health service or doing without needed medical care. In the 1976 recession an estimated 27 million workers were deprived of health coverage because of job layoffs.

I recently spoke to a woman from a middle-income community in my district whose husband is self-employed and whose son upon leaving college lost his health insurance. She, like all too many Americans, suddenly found herself in the incredible predicament of being asked whose health was more important—her husband's or her son's.

At the same time that a tumor was discovered near her son's eye which

required immediate surgery and her husband suffered a heart attack and was hospitalized, she was told her son's surgery woud cost close to $2,000 and she would have to produce $1,000 before he would be admitted to the hospital. Although she was able to borrow money from relatives to insure her son's immediate treatment, something is very basically wrong when this woman or any other parent is asked to put a price tag on their family's health.

What we face is a fundamental, moral question of whether health care in this Nation should depend on income, where you work and where you live or whether health care, like education, should be a basic right to be enjoyed equally by all.

That question is at the heart of our national debate on what type of universal health insurance we should adopt.

A LOOK AT THE PRESENT SYSTEM

Nearly 45 million Americans—about 1 in 5—have either no health insurance or inadequate coverage. Almost half the population is unprotected against catastrophic illness; medical debts are given as the reason for personal bankruptcy petitions in half the cases filed each year. Each one of us now pays more than 1 month's salary for health care.

Although we are virtually the only industrialized nation in the world without a national health insurance program, no country spends as much per capita on health care as we do. In a single generation from 1950 to 1976 the cost soared from $12 billion to $133 billion. A study done for HEW in 1976 estimates the cost will reach $180.2 billion by 1980. Those statistics indicate that for every man, woman, and child in the United States, within 30 years, the cost of medical care has gone from $60 to $600 and will reach over $800 by the end of this decade.

Being first in spending, however, has not made us first in health. For example, the United States ranks 15th among nations in infant mortality with 16.7 deaths per 1,000 births with the death rate for nonwhite babies running 68 percent higher than for whites. The 14 nations, including Canada, which have lower infant mortality rates than ours, all have a national health insurance system. In life expectancy the United States ranks 17th for men—68.2 years—and 10th for women—75.1 years.

INFLATION AND HEALTH CARE

We keep hearing that the risk of renewed inflation requires postponement of comprehensive health insurance when in fact inflationary pressures strengthen the case for universal coverage. The average annual inflation rate over the last 3 years for the health care industry was 9.5 percent, more than 1½ times the overall increase of 6.1 percent for all other consumer prices.

If it were not for steep health care inflation, the Nation's inflation rate in that same period would have been 0.3 percent lower. In other words 5 percent of the overall rate of inflation over the past 3 years could have been avoided if health costs had risen at the same rate as other prices. Health, Education, and Welfare Secretary Joseph Califano recently noted in a television interview that—

If we do not have national health insurance in this country, we will have the most incredible health cost inflation . . . The American people will pay more for health care without a national health insurance plan than with it.

NO INCENTIVES FOR CONTAINING COSTS

It is no wonder health care inflation exceeds increases in all other areas of the economy as our health care system offers virtually no incentive for holding down costs.

The patient may select a family doctor but is rarely involved in any other decision regarding the health services purchased. The physician is the key decisionmaker in the health care network. This is reflected by statistics which show that although doctors receive about 20 percent of the health care dollar they control decisionmaking for 70 percent of health care services. In 1977 this meant that the Nation's physicians, who are not trained in medical economics, controlled $110 billion in health care expenditures.

Disincentives for holding down costs are further exacerbated by the nature of the fee-for-service system and the present legal framework of malpractice which encourages a physician to practice "defensively" ordering more tests than may be necessary, thereby adding to the health care bill. Fee-for-service which is a central component of our present health care system too often serves to reward physicians for spending instead of encouraging cost control. In contrast HMO's—health maintenance organizations—which provide a variety of services for a fixed prepaid amount, operate with economic incentives for maintaining health and avoiding costly and unnecessary treatment.

Recent studies show that HMO's achieve cost savings of from 10 to 40 percent in health spending. HMO members spend 30 to 60 percent fewer days in hospitals than patients with traditional health insurance while physicians visits average 3.8 per member per year compared with 5.1 under a fee-for-service system. Cost savings are further achieved by the use of properly trained nonphysicians to carry out tasks which are otherwise performed at greater expense by physicians.

As a member of the Subcommittee on Health and Long-Term Care of the Committee on Aging, I participated in hearings on HMO's earlier this year and sponsored legislation with other committee members to promote the growth and development of HMO's which I view as forerunners of a national health insurance program.

PREVENTIVE HEALTH CARE

A prominent feature of HMO's, which is deficient in other health insurance programs and which must serve as a cornerstone in any national health insurance program, is the emphasis on preventive health care. Under HMO's, the health care providers have an incentive for keeping their patients healthy—a fixed prepaid fee; in addition, patients have access to a wide range of preventive and health maintenance services. Whereas two-thirds of those who are covered by health insurance plans still have to pay for office visits to their doctors and few people are covered for preventive health care such as checkups, immunization, vision, dental and other such services, participants in HMO's have ready access to such care. Illness tends to be identified and treated earlier.

The lack of attention given to preventive health care in our present health care system is reflected in the Federal budget for fiscal 1978: $48 billion for treatment, less than $2 billion for prevention.

The usefulness of emphasizing prevention is well illustrated by what we have learned in the 7 years since we launched the "War on Cancer." Billions of dollars were poured into cancer research with the hope that a massive expenditure would buy us a cure. Although progress has been made in treating a few of the more than 100 types of cancer, the death toll in all age groups continues to rise.

What we have learned is that 60 to 90 percent of all cancer is environmentally related and thus cancer could frequently be prevented or at least diagnosed at the early stage if a better effort were made to control carcinogens, discourage cigarette smoking, and educate the public about the hazards of cancer-causing agents in the air, water, food, and workplace.

The limited attention we presently pay to prevention is already making a difference. There has been a marked increase in the diagnosis and treatment of hypertension which inflicts 27 million Americans and is a major risk in both heart attack and stroke. Despite this achievement, heart and blood vessel disease continues to be a major cause of death in the United States. Each day an estimated 3,400 citizens are stricken with heart attacks and 1,600 persons suffer strokes. We know that those bleak statistics could drastically change if a major effort were undertaken to prevent these diseases and to provide for preventive health care.

The cost in dollars for treatment of both heart disease and cancer is in the billions but is nothing compared with the cost in human suffering for both the afflicted and their families who suffer the untimely loss of loved ones.

THIRD-PARTY PAYMENTS

Another anomaly in our present health care system is that medical bills, unlike other types of bills, are paid by third parties—private insurance companies, medicare, and medicaid. Thus a large part of what we pay is out of sight and also out of mind until our health insurance premiums are increased or we are forced to pay more for other goods and services because companies pass their increased costs for health insurance on to the consumer.

THE HEALTH SECURITY PROGRAM

It will take a minor revolution in our health care system to reverse all of these

trends. No proposal better resolves the above mentioned deficiencies than the Health Security Act.

The essence of this legislation is a rearrangement of how health costs are paid with the result that no American will be asked to decide whether as Senator KENNEDY has said, a loved one is $50 sick, $100 sick or $1,000 sick. Costs will be shared by all citizens on an equitable basis, as will access to health care.

Benefits will cover the entire range of personal health care services, including catastrophic illness; full physician services; inpatient and out-patient hospital services; home health care; optometry and podiatry services and medical devices and appliances.

Psychiatric services, nursing home care, and prescription drugs would be provided with certain limitations; dental care would at the onset be provided to children 15 years of age and younger, with the eventual goal of covering the entire population.

In a very few years a national health insurance program such as health security will reduce the amount of money the American people will otherwise pay for health care by putting firm controls on our present sharp rise in medical and hospital costs.

The Congressional Budget Office estimates that a plan like health security with strong built-in cost controls can save the American people over $23 billion a year by fiscal 1981, while providing access to health care for all citizens. The Health Security Act is the only proposal for national health insurance which enjoys broad-based consumer organization support.

In a recent letter to the President, I and other sponsors of the National Health Security Act urged that the administration's plan embody the principles of health security. After years of national debate on what is all too often a life-and-death issue, it is my sincere hope that the administration and the Congress will honor the promise made by the Democratic Party in 1976 to institute national health insurance. There is no better gift we can make to ourselves and future generations of Americans.●

YANKEE INGENUITY

HON. WILLIAM S. COHEN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. COHEN. Mr. Speaker, the recent success of proposition 13 and the ensuing tax revolt which has spread across the Nation, transmit many diverse and confusing signals to Washington. What began as a specific movement to cut property taxes in California has mushroomed into a broad protest against big government. People are fed up with government interference which hinders rather than helps them to lead creative and productive lives.

The district I serve contains a fair portion of the fabled Yankee ingenuity. Maine people, in response to national crises such as the energy shortage, have developed their own homespun solutions to national problems. Yet, instead of tapping this potential gold mine of practical technology, the Federal bureaucracy actually discourages individual innovation by rebuffing suggestions that do not happen to fit one of its established programs. The Federal Government can no longer afford to ignore the resourcefulness of its citizens; it must change its arrogant attitude that the Government always knows what is best for its constituents. The people have creative and practical solutions to many problems facing the Nation—now the Government only need listen.

With these thoughts in mind, I ask that the following article which appeared in the July 17 Time magazine be printed in the RECORD. The story details the problems which a constituent of mine has faced while trying to secure Government funding and encouragement for some of his many innovative energy-saving projects.

[From Time magazine, July 17, 1978]

IN MAINE: A CRANK FOR ALL SEASONS

One afternoon last April, in the central Maine town of Dover-Foxcroft (pop. 4,000), Charles MacArthur was standing beside the canal lock that feeds water from the Piscataquis River into the hydroelectric plant of Brown's Mill. He heard a strangely squishy, popping sound. "It was sort of like a baseball bat hitting a rotten stump," he recalls. The bulkhead below the 600-kw generator bulged from hydrostatic pressure and quietly let go. MacArthur (who owns the mill) turned, horrified, to see 100 tons of concrete, studded with steel reinforcing rods, tossed lightly into the springtime air as thousands of gallons of water poured back into the river with the agonizing casualness of all spilled energy.

At 50, MacArthur is a peculiar homegrown Yankee product, one of those ingenious cranks who are likely to do the Republic some good—in spite of itself. Hardly had the dam fallen than he was on the phone to Washington, inquiring cheerfully about a low-interest loan. He happened to be (he explained to the voice going uh-huh on the other end) just the American that President Carter always talks about. He was—reverent pause—a small businessman. He also happened to be another of the President's favorite people: an energy-crisis fighter, an advocate and indeed a practitioner of "small is beautiful" technology. Hydroelectric plants of no more capacity than the one at Brown's Mill, he told the now fast-fading uh-huh in Washington, are being built for $6 million. Could a taxpayer in good standing borrow $30,000 to restore a single little bulkhead? Hello? Hello?

After nine phone calls, MacArthur located in the labyrinth of the Department of Energy (DOE) a harassed man with, he swore 3,999 other dams to worry about. He informed MacArthur that he *might* have become eligible for a loan by conducting something called a feasibility study, if only the wall had collapsed two months before. Now—too bad—the deadline for feasibility studies had passed.

Nine more days of phone calls and $114 later, MacArthur hung up and announced to all who would listen: "Trying to deal with the Government is like having a hippopotamus for a ballet partner." Finally he went to a local bank for his $30,000 and turned his attention to what he calls, as though the words were engraved in stone, The Project.

As a visitor to Dover-Foxcroft soon sees in purely material terms the project consists of a complex of five buildings MacArthur bought for $100,000 with a mortgage taken out last July. Dating back to 1867, Brown's Mill stands in all the interesting stages of decay known to brick, mortar and wood. As MacArthur takes you on the conducted tour, picking his way buoyantly through the rubble, he can manage to see Brown's Mill as a stranger sees it—but not for long. For MacArthur, in this cavernous tomb to New England's vanished woolen industry lie the makings of a utopian community, or at least a working model of the 1980s. Behind the bleak, randomly broken windows he imagines 92,000 sq. ft. of space filled by maybe 60 different cottage industries, all running off the mill's hydroelectric power. An ad listed under business opportunities in the Maine Times reads in part: "Abandon ulcers, all ye who enter here . . . serene, supportive, imaginative 'business hatchery' for starting second careers. Heated, lighted spaces $1 a day."

Already MacArthur has found half a dozen converts, a tiny band of practical-minded natives. Paul Atkinson, dry and leather-lean, with a wit to match, is in the process of setting up a cabinet shop. He plans to beat the high cost of lumber and control the quality of his product by sawing and milling his own wood. An old chicken incubator stands by for ingenious use as his kiln.

Almost lost in the corner of one particularly vast floor, a number of tables of plants bask under fluorescent lamps. "The only water-powered African violet farm in the world." MacArthur announces with a mock-grand wave of the hand to introduce the domain of Cliff Shafer. A big, soft-spoken man with kindly "Please grow" eyes. Shafer patiently fights the presence of mildew on his gloxinia and mill cats in his potting soil. In Maine, the greenhouse, which costs about twelve times as much to heat as comparable space in a factory, is a faltering institution. Shafer can easily sell everything he grows at the mill to retail florists and wholesalers in nearby Bangor.

Above and beyond all the other recruits there is Hermie Nutter. Hermie more or less came with the mortgage. On a now rusted water tank, next to patriotic graffiti of World War II (Buy War Bonds, Remember Pearl Harbor), Hermie scratched his name and the date when he first started to work at Brown's Mill—1939. Over the years he did just about everything, from repairing spinning frames to caring for the steam turbines. Even after the mill, in its last metamorphosis as a leather tannery, closed down five years ago, Hermie stayed on as maintenance man. Now, on a lower floor crowded with alternative vehicles (from steam cars to electric motorcycles), Hermie's project within The Project is to adapt to battery power a gas-powered vehicle he detests: the snowmobile.

But Hermie's primary function is to keep asking MacArthur: "Are you sure you want to do that?" When MacArthur gets carried away with visions of an electric soil floor capable of growing 25 lbs. per sq. ft. of the ripest, reddest, most luscious tomatoes, or the old red barn complete with a nature-food restaurant and live music, Hermie clamps down hard on reality and plays down-Maine Sancho Panza to MacArthur's Don Quixote. Then MacArthur will begin to talk about solid things—like the twelve-by-twelve beams in the old red barn, all meticulously mortised—and down-to-earth ideas.

"I'm a mechanical engineer, not a social engineer," he says in his guise as realist. "I was an English major at Bates. The nearest I came to formal science was a minor in geology. That's all right. The Teton Dam and the Hartford Civic Center were both designed by engineers. The state of Maine's made up of tinkerers—they'll tackle anything—and maybe that's what the world needs now."

Other credentials of a hard-nosed variety may then be displayed. MacArthur the successful businessman: founder of Graphics, a company devoted to making sophisticated copies of engineers' blueprints. MacArthur the licensed pilot and balloonist who ten years ago soared over the Arctic Circle in a basket of his own making. Q.E.D., Charlie MacArthur is no starry-eyed idealist. Charlie MacArthur is no nut. And having more or less settled that question, he can relax and go back to all the other things Charlie MacArthur is, including owner of the biggest clubhouse a boy and his gang could ever dream of.

There are just so many things for a creative crank and entrepreneur to do! He has to get cracking, for instance, on marketing his Katahdin Hiker, made from peeled alder, which he pays industrious Dover-Foxcroft youngsters 20¢ a staff for reaping. MacArthur drills a hole for a compass, brands the name on the side and plans to sell each walking stick for $1.95, with a suggested retail price of $3.99. The alternative-vehicle regatta, now in its fifth year, is never far from its sponsor's thoughts. Every June, at MacArthur's urging, riders on two, three or four wheels—variously powered by electricity, methane, charcoal, chicken fat or even sewer gas—race 6,288 ft. to the top of Mount Washington, N.H.

It is only when he broods on the wasteful internal combustion engine that MacArthur comes as close as he knows how to discouragement. "We won't get out of the gasoline car till we're driven out with whips," he says. One night, when the Department of Commerce and a couple or three Government agencies had failed to answer MacArthur's latest jeremiads—in which he likes to point out that there is, in fact, an Electric and Hybrid Vehicle Development Act on the books (and when are the feds going to do more than press-release it, hmm?)—he tapped out a letter to Amy Carter. Since the adults were being so obtuse, why didn't Amy and her chums—the consciences of the future—stage an alternative-vehicle regatta on the White House lawn? In due time a postcard made its way to Brown's Mill with a picture of Amy on one side and a message on the other: "Thank you for being my friend. Amy Carter."

—MELVIN MADDOCKS.●

TAXATION OF CAPITAL GAINS

HON. GUY VANDER JAGT

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. VANDER JAGT. Mr. Speaker, at a recent press conference, President Carter attacked the Investment Incentive Act, H.R. 12111, which would return the pre-1969 tax treatment for capital gains.

I suggest that Members who are more interested in facts than in demogogic rhetoric give close attention to the following testimony presented by our very able colleague, Representative WILLIAM A. STEIGER of Wisconsin, before the Senate Finance Committee on June 28, 1978. I commend it to the attention of the House:

TESTIMONY OF REPRESENTATIVE WILLIAM A. STEIGER

I want to commend Chairman Byrd for calling these hearings on the taxation of capital gains. This subject is important to the health of our economy and to the openness of our society.

When the President of the United States summons the nation's press to a televised news conference and then—with the full force of his high office—he proceeds to attack a "so-called Steiger amendment," which is only three sentences long, and he suggests that to lower these particular taxes is really a "two-bit" proposal, well, then, a lot of people get the feeling: there must be something to be said for this so-called Steiger amendment. They are right, of course; and this is what I hope to show the Members of your Committee this morning. Among other considerations, I will show that our President has been given misleading statistics, that he's been given some poor advice about economic growth and that he himself miscounts what it is that encourages private individuals to buy their homes and to take investment risks that ultimately create jobs and enhance the productivity of a free enterprise system.

Let me briefly explain what my proposal will do. It is, as I said, only three sentences long. The bill reduces capital-gain taxes to a rate of 25%, for individuals and corporations alike. This is the same rate that was in effect prior to the Tax Reform Act of 1969. Under current law, capital-gains taxes can approach 50% for individuals and 30% for corporations. The bill does not change the present treatment of capital losses. It does not change the one year holding period required for long-term capital gains.

I will not argue that the proposal known as the Steiger-Jenkins-Hansen amendment will stop inflation, produce full employment, balance the budget, eliminate the need for imported oil, or reduce the trade deficit. I do say: our Investment Incentive Act will greatly improve the economic climate in this country, simply by reducing the tax burden on our capital stock.

Since 1963, our tax policies have penalized investment and rewarded consumption. To stimulate the economy, by encouraging consumption, we have lowered income taxes for the lower and middle income taxpayer. But, at the same time, we have increased the tax burden on capital by as much as 100 percent.

Recent utterances of the Administration and of some tax "reformers" reveal a deep-rooted confusion over the difference between income and capital. Income, comprised of consumption and savings, is the reward or incentive we receive in exchange for our labor. Capital, on the other hand, is the resource that provides the tools which enable us to employ our labor. By taxing capital as income, we reduce our capital stock and our ability to invest, to create jobs, and to improve both the private and public welfare. Only a mistaken tax policy ignores the economic theory of development.

To make matters worse, our tax code is biased against capital. Income is taxed only once, when it is earned. Capital is taxed several times. We tax the income which is used to obtain a capital asset. We tax the nominal (inflated) gain on the asset when liquidated, even if it is reinvested (except in housing). We tax the income generated by the original capital asset and the reinvested capital asset. Clearly, today's tax system discourages the formation of capital. Little wonder that our economy is suffering from insufficient investment, inflation and slow growth.

I would like to include in the record an article by Lawrence Seltzer who discusses the effects of our taxes on capital gains and income. His report was published by the American Economic Association.

The view from the White House wasn't always so disheartening. In 1963, President John F. Kennedy saw the need, and I quote, "to release the forces of growth," end quote, and he recommended cutting back the tax on capital gains. President Kennedy proposed that the tax rate be reduced from 25 percent to around 20 percent. I would like to also include some remarks by Treasury Secretary Dillon on this idea.

It might be useful to briefly review economic events of the past ten years. In the process, we will see the significance of H.R. 12111.

In 1968, we were at full employment, inflation was still moderate, the stock market was rising, new companies were being formed, and the economy was healthy. The 1970's have been pretty dismal in contrast. We have gone through two recessions and double-digit inflation. The stock market has declined, and over five million individual investors have dropped out of the market. In 1968, 300 high technology companies were started. In 1976, there were none.

Let us look at one particular problem, the ability to raise capital. In 1969, 698 firms with a net worth under $5 million raised $1.4 billion in capital. In 1975, four firms raised $15 million; and in 1977, 30 firms raised $118 million. That's million, not billion. It is plain that something is wrong. High technology industries and venture investors are convinced that the root cause of inadequate capital is the Tax Reform Act of 1969, the law which increased the tax on capital gains.

This Act narrowed the gap between ordinary income and capital gains. It weakened the financial incentive to invest. An analysis by Oscar Pollock reveals that between 1969 and 1976, investments in tax-free municipal bonds increased by 52.9%. Investments in the stock market—a primary source of capital—declined by 5%. Yet, from 1962 to 1969, a period of low taxation on capital, stock market investments increased by 70.7%. Even Joan Robinson, the English Marxist economist, has acknowledged that people do not normally act out of altruistic motives. They need incentives. If we create disincentives, people will not invest. In short, capital-gains taxes are even more important as a determinant of investment decisions than they are as a producer of revenue. This point is fundamental, and it is one that, to my sorrow, the President's advisers fail to recognize.

Shrinking capital markets are making it difficult for firms to raise capital. Competition is fierce, but it is not competition to produce goods and services. It is competition to find whatever little capital the people are willing to make available.

A retired Michigan businessman has written to say he had planned to start a new business by selling holdings in a mutual fund. His accountant told him the tax on the sale would make the effort not worth his while. Instead of creating new jobs, therefore, his money is locked into a mutual fund.

His case is not an isolated one, as the Pollock data mentioned above indicate. Capital is locked into existing investments or flowing to tax-free bonds—thanks to the high rate of taxes on capital gains. Another area that has had an infusion of capital is real estate. In 1962, most capital-gains revenues came from securities; 16% came from real estate transactions. In 1973, the most recent year studied, gains from stocks had dropped significantly, but real-estate gains rose to 23%. Real estate is attractive because of inflation. If Ambassador Bob Strauss is successful in moderating inflation, there will be less incentive to invest in real estate; but I will let Bob fight that battle.

One of our national goals is to achieve adequate housing. Yet, incongruously, the Administration is concerned that we might be encouraging capital investment in real estate. I saw yesterday that the cost of lumber increased 20% in the past year. We will not reduce the cost of housing by maintaining a high tax on capital.

Internationally, our economy faces many vigorous competitors. It will be no easy task to maintain our competitive edge in the world markets. We have the highest capital-gains tax of any industrial country, the highest percentage of obsolete plants and equipment, the lowest productivity and one of the worst

records on inflation. The relationship is clear. The question is what do we do about it.

The American Academy for the Advancement of Science this week warned that our investment in research and technology has declined dangerously. A presidential commission is to study the problem, just as another one will study capital formation, and the AAAS predicts it will be ten years before there is a change in our policy on research and development. Does anyone in this room believe that our competitors will wait? What is needed is for us to act now, and that is why my colleagues and I have proposed the Investment Incentive Act.

Some in the Administration are not ignoring the problem. Stuart Eizenstat, in a memo on industrial innovation, has recognized the difficulties that small, high-technology firms encounter in obtaining venture capital. Another encouraging sign has been Secretary Blumenthal's recent speech in Florida. He took the bull by the horns and he said:

"We are not saving enough; our financial system is providing insufficient equity capital; we are not investing nearly enough in productive plant, equipment and technological innovation; profits are too low, and they are too uncertain."

Both the State and Commerce Departments are working with the semi-conductor industry to prepare them for the challenge from Japanese competitors. Crucial to this effort is increased investment, and that requires encouraging private investors to supply the venture capital and to accept the risk. Yet, Treasury and the Executive office are working against this innovative trade policy by advocating the continued high tax on capital gains.

The Administration cites three arguments against H.R. 12111. The first is that there would be a tax loss. The static analysis shows a revenue loss of $2.4 billion. It is based on the unrealistic assumption that nothing will happen in the financial world—that people won't react to changes in taxes. In 1969, the Treasury Department likewise estimated that capital-gains revenues would increase if the maximum rate were increased. Revenues declined almost 40 percent in the first year; they have just now returned to the levels of 1968—in inflated dollars.

Four separate economic analyses have been made on the likely effects of H.R. 12111. All say that a lower tax on capital gains will stimulate investment and will lead to more jobs, a widening of the tax base, and increased revenues. I will include the studies for the record.

The Administration's second argument is that our proposal offers a tax break to the wealthy. Again we confront the view that capital is income. It is not, and it should not be taxed as income. I realize that some portion of a gain may be used for consumption. So the tax will continue. But we must encourage reinvestment; hence, the tax should be moderate. I propose 25 percent.

True tax equity and simplification would indicate that reinvested capital should not be taxed at all. Capital gains which are consumed should perhaps be taxed as ordinary income, on the basis of the real, not the nominal, gain. This would separate capital from income. For now, my approach seems to be as far as we can go.

A Treasury study reveals that the average capital-gains tax on high income is 18 percent. Only a few need to pay the maximum rate of 49.125 percent. To me, these figures indicate that the tax is ineffective, another reason for adopting H.R. 12111.

The President has claimed that taxpayers in the $15,000 to $20,000 income bracket will receive 25¢—just "two bits"—from our proposal. Not so! Based on actual taxpayer returns, the average benefit for people earning $15,000 to $20,000 per year is $278.

Let me take you through just one example to show how capital-gains taxes affect middle-income taxpayers. In this case, the husband and wife both have jobs.

Mr. and Mrs. Clark's 1978 income from wages is $18,500, approximately the national median family income for a two-earner family. They are 57 years old. In 1959 they bought a new home for $15,000 (the national median price for a new home that year). They lived together, raised their children and now want to sell their house and move to an apartment. If the sales price is $42,900 (the national median price for an existing house last year) they will incur a capital gain of $27,700.

If the Clarks don't sell their home, their tax will be $2,261. With the sale, however, they must pay $6,984.50 ($6,407 plus $577.50 in minimum tax). That's a federal tax increase of more than 208 percent!

The Steiger-Jenkins-Hansen amendment will reduce the taxes for this family by $577.50—simply by removing capital gains from the minimum tax.

For Mr. and Mrs. Clark, $577 can't be considered an excessive tax break. And $577 isn't exactly "just two bits" either.

I have received a number of calls from older people who want to sell property, but they feel locked in because of the tax. The capital-gain tax genuinely is a problem for middle-income taxpayers.

If we lower the tax, economic activity will accelerate. Stock market values will increase. The portfolios of private pension plans—the main source of savings of the American worker—will recover from the disasters of the 1970's. New equity capital will be available, companies can expand, employment can increase, and everyone benefits.

The last argument of the Administration is that other approaches to capital formation are better than Steiger-Jenkins-Hansen. The President said we should lower corporate tax rates. But in his original proposal, 80% of the benefits would go to 0.1% of the corporations. One might almost object that this sounds like a fat cat proposition if there ever were one. I suggest Mr. Carter review the Tax Consistency Act, co-sponsored by Dave Stockman, Jack Kemp and myself if he wants to support an effective corporate tax cut bill.

Another proposal is the Investment Tax Credit. Senator Edward Kennedy had the Library of Congress evaluate the effectiveness of the ITC. It is not favorable. I would like to include the study in the record.

One other alternative is the double taxation of dividends. To date, we have found no formula that works. We should bear in mind that high growth companies, the ones that provide new jobs, pay almost no dividends. The average is 1%. An American Electronics Association survey shows that new companies paid only 0.1% in dividends. Easing double taxation is of no use for these companies and investors. If we expect people to tie up an investment for a long term with few dividends, there has to be an attractive reward/risk ratio. Today, the risks is still high, and the potential return is eroded by inflation and taxes.

Throughout this amazing country, there are hundreds of companies still on the drawing boards simply because they lack the capital to begin. These would-be companies repesent hundreds of thousands of would-be jobs, if only the Administration would agree, in the words of President Kennedy, "to release the forces of growth," and to encourage the private investor.

Mr. Chairman, when beginning these remarks I noted that this subject is important to the health of our economy and to the openness of our society. Not every society has been endowed and has prospered by the investment decisions of its private citizens. Certainly every society has a mechanism for acquiring and deploying investment capital. In totalitarian societies, investment decisions are strictly those of the government; the rulers determine how much money will be taken and where it will be put.

In an open society, these decisions are more properly left to private individuals and private institutions. This system has proven more flexible, more efficient, more productive, and it ultimately works out to be more equitable for all.

When we see private investors dropping out of our markets by the hundreds of thousands, as we have seen since 1969, I think it is our duty as the writers of the nation's laws to ask: what are the long-range consequences of our tax policies, and how will they affect our free society.

I feel strongly that the locus of investment decisions should be with the private individual, and that the government should do as little as possible to discourage private investment and reinvestment.●

SENATE—*Friday, July 14, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Let us pray:

O God, our Father, as we open our hearts to Thee, we thank Thee that Thou dost believe in us and love us. Sometimes we are confused, uncertain, and weary. The way seems hard and long. Wickedness appears triumphant and strong, goodness so rare and feeble, suffering so widespread and unmerited. Come to us as the morning light replaces the shadows of night. Make us sure of Thee and of Thy purpose for mankind. Dispel doubt, disappointment, and despair. Renew our faith in Thee and our confidence in one another. Enhearten us. Strengthen us and send us to our duties mindful that redemption came by way of a cross and a resurrection morning.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 14, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY,

a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 10 A.M., MONDAY, JULY 17, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. on Monday.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF THE ENDANGERED SPECIES ACT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Monday, if the conference report on coal conversion has been completed prior to that time, the majority leader be authorized to call up at any time during the afternoon the Endangered Species Act, Calendar Order No. 804, S. 2899.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further use for my time. I will be glad to yield it to any Senator who wishes to have some time this morning.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. I yield.

Mr. JAVITS. Senator MOYNIHAN and I wish to make a brief statement on the Shcharansky case. He is on his way, if the Senate will indulge us.

Mr. ROBERT C. BYRD. Very well.

I yield at the moment to the distinguished Republican whip.

The ACTING PRESIDENT pro tempore. The Senator from Alaska is recognized.

TRANSFER OF BIA SCHOOLS

Mr. STEVENS. Mr. President, on Tuesday, July 11, the Senate Governmental Affairs Committee approved the transfer of the BIA schools and education programs from the Bureau of Indian Affairs to the proposed Department of Education. I opposed the transfer and feel that my colleagues should be well informed on one major point.

The vast majority of Indians and Alaskan Natives are opposed to the removal of education programs from BIA which is responsible for matters affecting their interest. The position of the American Indian community was made quite clear at hearings which I chaired concerning the transfer of BIA schools. At that time, the committee heard from many Indian organizations and the concensus of opinion was in opposition to becoming a part of the new Department of Education at this time.

The following remarks are excerpts from several of the Indian organizations that voiced their strong feelings on this issue. The Minnesota Chippewas felt that:

The recommendation to include BIA education programs in a Department of Education is in direct conflict with testimony given by Indian tribes and Indian representatives during hearings conducted by the Secretary's task force on BIA reorganization. The task force report, and recommendations were published in the Federal Register for review and comment on April 10, 1978. If the administration and Congress intend to comply with a policy of Indian Self-Determination, the recommendation of tribes must be considered very seriously.

The Affiliated Tribes of Northwest Indians views are:

Indian preference is beginning to make its impact into the BIA. For the first time ever, the top administrative positions are being filled by Indian people. The Indian Self-Determination and Education Assistance Act is little more than three years old. The concept of Self-Determination is less than eight years old. These changes plus Indian preference and college educated Indians hold the future of BIA educational program involvement. Any transfer of BIA educational programs based upon past history is premature at this time. Furthermore, it would largely undo all efforts of Indian tribes in working cooperatively with the BIA in the education of their children.

The National Tribal Chairmen's Association stated that:

The President's reorganization project recommendation for transfer of BIA education programs has been made without full consultation with the tribes. The President's Reorganization staff has not observed protocol or courtesy in regard to the elected leaders of tribal governments. There was a total absence of consultation with the heads of tribal governments prior to the President's Reorganization Project and OMB's decision to remove education from BIA. This has made a mockery of Jimmy Carter's October 14, 1976 campaign promise to the heads of tribal government not to take "Unilateral action on any issue regarding Indian Affairs or Indian programs without full consultation with tribal representatives.

In Alaska, the largest Indian organization, the Alaska Federation of Natives, which represents all Alaskan natives and Aleuts, opposes the transfer because they feel that they have not had enough time to discuss the transfer with their members. Additionally, they feel the bill does not adequately address recognition of tribal sovereignty rights.

It is most unfortunate that a Senate committee has voted against the majority of the Indian communities wishes, while they were walking toward the Capital. A thousand American Indians are completing their 2,700-mile trek across the country from California to Washington. The enormous personal efforts made in "the longest walk" is symbolic of the traditional spirit ever present in the tribes. It seems to me that this Congress should be listening to these Native Americans right now as they march to Washington, instead of doing what they think is best for the Indian without proper consultation.

I shall oppose the transfer until the concerns of the Indian nation have been met. I feel very strongly that issues affecting Indians should be resolved in the tribal council rooms and not in Washington, D.C.

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Kentucky (Mr. FORD) such time from my time as he desires.

Mr. FORD. I thank the distinguished majority leader.

The ACTING PRESIDENT pro tempore. The Senator from Kentucky is recognized.

POSTAL SERVICE AMENDMENTS ACT OF 1978—S. 3229

AMENDMENT NO. 3241

(Ordered to be printed and referred to the Committee on Governmental Affairs and the Committee on Commerce, Science, and Transportation, jointly.)

Mr. FORD. Mr. President, today I am submitting an amendment to S. 3229, the Postal Service Amendments Act of 1978. This amendment will strengthen and add to the effectiveness of S. 3229. This amendment provides for the Presidential appointment of the Postmaster General with the advice and consent of the Senate. I believe this amendment will help insure that the public is provided the quality level of service that it expects and deserves.

Mr. President, I ask unanimous consent that the amendment and the accompanying "Dear Colleague" letter be printed in the RECORD.

There being no objection, the amendment and letter were ordered to be printed in the RECORD, as follows:

On page 8, after the item between lines 2 and 3, insert the following new subsection:

(c)(1) So much of section 203 of title 39, United States Code, as follows the heading thereof is amended to read as follows:

"(a) The chief executive officer of the Postal Service is the Postmaster General who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The alternative chief executive of the Postal Service is the Deputy Postmaster General who shall be appointed by the President by and with the advice and consent of the Senate.".

(2) Section 202 of title 39, United States Code, is amended by striking out subsections (c) and (d) and inserting in lieu thereof the following:

"(c) The Postmaster General and the Deputy Postmaster General appointed under

section 203 of this title, shall be voting members of the Board.".

(3) Subsection (c) of section 205 of title 39, United States Code, is amended to read as follows:

"(c) The Board shall act upon majority vote of those members who are present, and any six members present shall constitute a quorum for the transaction of business by the Board, except as otherwise provided in this title.".

(4)(A) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(15) Postmaster General.".

(B) Section 5313 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(24) Deputy Postmaster General.".

U.S. SENATE,
Washington, D.C., July 14, 1978.

DEAR COLLEAGUE: In the near future, I plan to introduce an amendment to S. 3229, the Postal Service Amendments Act of 1978, which provides for Presidential appointment of the Postmaster General. My purpose in introducing this amendment is to insure that the postal services provided the public shall be of the quality level and reasonable rates which the pubic expects and deserves.

The ninety-first Congress passed the Postal Reorganization Act of 1970, legislation that gave the Postal Service new status as an independent government corporation. In my view, the Postal Service has progressively deteriorated since that time.

One of the major purposes of that reform legislation was to help the Postal Service become a self-sufficient operation by 1984. However, since the Postal Service has become an "independent establishment," its deficits have soared from a modest $13 million in 1973 to an accumulated shortfall of more than $3 billion by the end of the last fiscal year.

In 1970, it was generally believed that postal reorganization would result in improved service, stabilized postal rates and better day-to-day management of the postal system. However, seven years' experience has demonstrated that actual achievements have fallen far short of everyone's expectations. Most evident of the Postal Service's shortfalls during this period are the extent of the recent rate increases, the wholesale post office closings in rural areas and the Postal Service's efforts to discontinue six-day mail delivery.

The public, mail users, and postal employees have all made known their dissatisfaction with the way the Postal Service is presently being run. I am sure each and every one of you shares this concern. We have heard the complaints long enough.

Every member of this Congress, recognizing the vital need to resolve this problem, should act now to insure that the public is provided the prompt, reliable and efficient level of mail service that it demands. All of us know, from our mail and from our talks with folks at home, what kind of service the average citizen wants. He wants postal service as efficient as possible, at least no worse than it is now.

We must act now to turn around the erosion in the quality of our Postal Service. The Postal Service can no longer be allowed to isolate and insulate itself from the needs and wishes of the American people.

The nation's Postal System is a basic constituency-mandated public service; Americans have come to rely on it heavily. However, if the American public is to have the quality level of service that it expects and deserves, the Post Office must be made more responsive to the policy makers of the government and to the people who elect them. Only one course can be followed: we must insure that the Postal Service is held responsible for its actions. The amendment to the Postal Service Amendments Act of 1978 which I intend to offer hopes to do just that, by providing for Presidential appointment of the Postmaster General with the advice and consent of the Senate.

This amendment is necessary for a number of reasons. First, it should serve to carry a clear signal to the Postal Service that the Congress strongly opposes any erosion in the quality of service. Second, the Postal Service is performing a vital government service without which this country's commerce could not exist; and yet, none of its top management personnel are accountable, in any way, to the people or their elected representatives. Third, the appointment of the Postmaster General by the President would make the Postal Service more responsive to national policy. We need to bring the Post Office back into the government and back into line with our national needs.

Today, we are faced with skyrocketing rates and curtailed service, which actually constitutes a two-fold increase in costs to the consumer. My purpose in introducing this amendment is to insure that the Postal Service not be allowed to remain isolated and insulated from the needs and wishes of the individual, small businesses and small communities. If you share my views, I would be pleased to have you as a co-sponsor in this endeavor.

I hope that you will give serious consideration to this amendment. A copy of the amendment is attached for your information.

Should you wish to join me in co-sponsoring this amendment, please contact me or have your staff member contact David Leiter of my staff (4–1148).

With best wishes.

Sincerely,

WENDELL H. FORD.

Mr. FORD. I thank the distinguished majority leader for the time.

Mr. ROBERT C. BYRD. The Senator is welcome.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, the following measures have been cleared on the minority side.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 899, 901, 904, 906, and 910.

NEW HAMPSHIRE-VERMONT INTERSTATE SCHOOL COMPACT AMENDMENTS

The bill (S. 2403) to consent to certain amendments to the New Hampshire-Vermont interstate school compact, approved by Public Law 91–21, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the consent of Congress is given to the amendments to the New Hampshire-Vermont Interstate School Compact which have been agreed to by such States and are substantially as follows:

(1) amend article VII–G to read as follows:

"(G) STATE AID PROGRAMS.—As used in this paragraph the term 'initial aid' shall include New Hampshire and Vermont financial assistance with respect to a capital project, or the means of financing a capital project, which is available in connection with construction costs of a capital project or which is available at the time indebtedness is incurred to finance the project. Without limiting the generality of the foregoing definition, initial aid shall specifically include a New Hampshire State guarantee under RSA 195–B with respect to bonds or notes and Vermont construction aid under chapter 123 of 16 V.S.A. As used in this paragraph the term 'long-term aid' shall include New Hampshire and Vermont financial assistance which is payable periodically in relation to capital costs incurred by an interstate district. Without limiting the generality of the foregoing definition, long-term aid shall specifically include New Hampshire school building aid under RSA 198 and Vermont school building aid under chapter 123 of Title 16 V.S.A. For the purpose of applying for, receiving and expending initial aid and long-term aid an interstate district shall be deemed a native school district by each State, subject to the following provisions. When an interstate district has appropriated money for a capital project, the amount appropriated shall be divided into a New Hampshire share and a Vermont share in accordance with the capital expense apportionment formula in the articles of agreement as though the total amount appropriated for the project was a capital expense requiring apportionment in the year the appropriation is made. New Hampshire initial aid shall be available with respect to the amount of the New Hampshire share as though it were authorized indebtedness of a New Hampshire cooperative school district. In the case of a State guarantee of interstate district bonds or notes under RSA 195–B, the interstate district shall be eligible to apply for and receive an unconditional State guarantee with respect to an amount of its bonds or notes which does not exceed fifty percent of the amount of the New Hampshire share as determined above. Vermont initial aid shall be available with respect to the amount of the Vermont share as though it were funds voted by a Vermont school district. Payments of Vermont initial aid shall be made to the interstate district, and the amount of any borrowing authorized to meet the appropriation for the capital project shall be reduced accordingly. New Hampshire and Vermont long-term aid shall be payable to the interstate district. The amounts of long-term aid in each year shall be based on the New Hampshire and Vermont shares of the amount of indebtedness of the interstate district which is payable in that year and which has been apportioned in accordance with the capital expense apportionment formula in the articles of agreement. The New Hampshire aid shall be payable at the rate of forty-five percent, if there are three or less New Hampshire members in the interstate district, and otherwise it shall be payable as though the New Hampshire members were a New Hampshire cooperative school district. New Hampshire and Vermont long-term aid shall be deducted from the total capital expenses for the fiscal year in which the long-term aid is payable, and the balance of such expenses shall be apportioned among the member districts. Notwithstanding the foregoing provisions, New Hampshire and Vermont may at any time change their State school aid programs that are in existence when this compact takes effect and may establish new programs, and any legislation

for these purposes may specify how such programs shall be applied with respect to interstate districts. Notwithstanding the foregoing, the respective amounts of New Hampshire and Vermont initial and long-term aid, with respect to a capital project of the Dresden School District for which indebtedness is authorized by a vote of the District after July 1, 1977, shall be initially determined for each year for each member district by the manner provided in this paragraph and the aid shall be paid to the Dresden School District, however, the amount of aid for those capital projects received by the Dresden School District on account of each member district shall be used by the District to reduce the sums which would otherwise be required to be raised by taxation within that member district.";

(2) insert the following at the end of article VII:

"(I) Notwithstanding paragraph (G) of this Article, initial and long-term aid may be allocated among the members of an interstate district other than the Dresden School District in the manner which is provided in the articles of agreement of that district, or if not therein provided, in the manner specified in paragraph (G) for all interstate districts other than the Dresden School District."; and

(3) amend Article IX to read as follows:

"ARTICLE IX

"AMENDMENTS TO ARTICLES OF AGREEMENT

"A. Amendments to the articles of agreement shall be adopted in the manner provided in the articles of agreement, and if no such provision is made in the articles of agreement then amendments shall be adopted by the affirmative vote of two-thirds of those present and voting at an interstate district meeting, except that:

"a. If the amendment proposes the addition of a new member district, the amendment shall be adopted in the same manner provided for the adoption of the original articles of agreement, provided that the planning committee shall consist of all of the members of the interstate district board of directors and all of the members of the school board of the proposed new member district or districts, and provided that the amendment shall be submitted to the voters of the interstate district, the affirmative vote of two-thirds of those present and voting at an interstate district meeting being required for approval of the amendment. The articles of agreement together with the proposed amendments shall then be submitted to the voters of the proposed new member district or districts, and an affirmative vote of a simple majority of those present and voting at each district meeting shall be required for approval of the amendment.

"b. No amendment to the articles of agreement may impair the rights of bond or note holders or the power of the interstate district to procure the means for their payment.

"c. Amendments to the articles of agreement of the Dresden School District shall be adopted in the following manner: (1) an amendment shall be initially approved upon the affirmative vote of a simple majority of those voters of the Dresden School District who are present and voting at a meeting called for such purpose, (2) the amendment initially approved by the voters of the Dresden School District shall become final and effective upon the expiration of thirty days after the date of that vote, unless a petition is duly filed within that thirty-day period and the amendment is subsequently not approved by the voters of a member district in accordance with the procedure specified in clause (3), (3) if a petition, valid under applicable State law, is filed before the expiration of that thirty-day period with the clerk of any school district which is a member of the Dresden School District, which petition requires the calling of a special meeting of that member district for the purpose of considering the approval of the amendment initially adopted by the voters of the Dresden School District, then the board of school directors of that member district shall thereupon call a special meeting of that district for that purpose, (4) if the amendment as initially approved by the voters of the Dresden School District is approved by more than forty percent of the voters present and voting at the meeting of each member district in which a petition was filed under this section, then the amendment as initially adopted shall become final and effective upon the vote of that member district last to vote. If the amendment as initially approved by the voters of the Dresden School District is not so approved by more than forty percent of the voters present and voting at the meeting of any one member district, then the amendment shall be null and void and of no effect.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-968), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of the bill is to amend the New Hampshire-Vermont Interstate School Compact which was established by Public Law 91-21 in the 91st Congress. The amendments are of a technical nature to improve the internal operation of the compact and to provide for a more equitable apportionment of state building fund aid to the Dresden (Interstate) School District.

STATEMENT

The Legislatures of Vermont and New Hampshire enacted an Interstate School Compact to enable adjoining communities in both States to form a cooperative school system on an educationally and economically sound basis. The Congress gave its consent to the establishment of this Interstate Compact in 1963. This legislation has been of immense assistance to the towns in evolving a community educational system.

The interstate school compact was designed to insure fair apportioning of school board representation, financial support and sharing in state assistance to the school districts involved. However, experience in operating under the Compact has revealed the need to make the amendments proposed by S. 2403.

Copies of the legislative enactments approving these amendments by the States of New Hampshire and Vermont are contained in the files of the Committee.

NOMINATIONS FOR APPOINTMENTS TO THE MERCHANT MARINE ACADEMY

The bill (H.R. 3489) to amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-971), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE LEGISLATION

H.R. 3489 would amend section 216(b) of the Merchant Marine Act, 1936, as amended, to allow the Delegates in Congress from Guam, the Virgin Islands, and the District of Columbia to nominate candidates for admission to the U.S. Merchant Marine Academy at Kings Point, N.Y. In addition, H.R. 3489 would amend that section by deleting duplicative language and obsolete references to the "Territories of Alaska and Hawaii."

INTRODUCTION

The U.S. Merchant Marine Academy is part of the Maritime Administration of the U.S. Department of Commerce (Marad) and is one of the five Federal academies. The others are: U.S. Military Academy, U.S. Naval Academy, U.S. Air Force Academy, and U.S. Coast Guard Academy.

The U.S. Merchant Marine Academy trains young men and women to be merchant marine officers and leaders in the American maritime industry. The Academy offers courses in marine and nautical sciences; oceanography, naval architecture, business administration, computer science, nuclear engineering, mathematics, the humanities, and transportation. In addition to 3 years of classroom training, midshipmen spend a year at sea on American-flag vessels.

All graduates receive U.S. Coast Guard licenses and bachelor of science degrees. In addition, they must accept commissions as ensigns in the U.S. Naval Reserve if a commission is offered. About 95 percent of all Kings Point graduates are commissioned. For example, the class of 1977, included 117 third mates, 91 third assistant engineers, and 17 graduates who completed the dual deck/engine program.

Within 6 weeks after the June commencement, 79 percent of the 225 graduates had found employment at sea or were serving on active duty in the Navy and Coast Guard. This employment upsurge was brought about mainly because of increased retirements from the active seagoing workforce.

Members of Congress nominated 2,625 constituents for the class of 1981. From these nominations, 358 appointments were made, with all but 5 States being represented.

Average enrollment at the Academy during the year was 975.

At the start of the 1977-78 school year the regiment of midshipmen included 57 women. Eight women were graduated in June 1978 and have become the first alumnae of any Federal academy—a result of MARAD's landmark decision to admit women to Kings Point in 1974, 2 years before the other Federal service academies.

BACKGROUND AND NEED FOR THE LEGISLATION

In 1956, the Congress amended section 216 (b) of the Merchant Marine Act, 1936, to

provide that each Representative and Senator could nominate up to 10 candidates for admission to the U.S. Merchant Marine Academy. The 1956 amendment further provided that the actual entering class would be selected competitively from among those receiving nominations, with the number of places in an entering class reserved for qualified nominees from each State proportioned among the States on the basis of their total representation in the House and Senate. At the time the 1956 amendment was considered by the Congress, Puerto Rico, Alaska, and Hawaii were the only territories with representation in the Congress. The 1956 amendment provided that the Resident Commissioner of Puerto Rico and the Delegates to the House of Representatives from Alaska and Hawaii would have the same ability to nominate candidates for admission to the Academy as other Members of the House and Senate.

In 1958, the Congress amended section 216(b) to allow nomination of candidates for admission to the Merchant Marine Academy from the Canal Zone, Guam, American Samoa, the Virgin Islands, and the District of Columbia. None of them had representation in the Congress at that time, and the authority to nominate candidates for admission to the Academy was given to their Governors. Because the District of Columbia had neither a governor nor a mayor, the authority to nominate candidates for the District of Columbia was given to its Commissioners. The 1958 statute reserved two places in each entering class at the Academy for the Canal Zone; four for the District of Columbia; and one each for Guam, American Samoa, and the Virgin Islands.

Several events have taken place since 1958 which affect the provisions of section 216 (b) of the Merchant Marine Act, 1936, and consequently, that section needs to be updated. Alaska and Hawaii became States in 1959, but this section of the law has never been amended to remove mention of their statute as territories. This has not created any substantive problems with respect to the nomination of candidates for admission to the Merchant Marine Academy, however, because the general provisions of section 216(b) authorize all Representatives and Senators to nominate candidates for admission to the Academy. Since 1959 the admissions process has worked in exactly the same manner for Alaska and Hawaii as it did for all other States, and the obsolete language in the statute has been ignored.

The form of government of the District of Columbia has changed twice since section 216(b) of the Merchant Marine Act, 1936, became law. The Commissioners were replaced first by a single Commissioner, and then in 1974, by an elected Mayor. Because the wording of the law clearly authorizes the chief executive officer of the District of Columbia to nominate candidates for appointment to the Merchant Marine Academy, the regulations issued by the Maritime Administration of the Department of Commerce were altered to reflect these changes in the title of the District's chief executive. The current regulations give this authority to the Mayor.

Although the District of Columbia has had an elected Delegate to the House of Representatives since 1971, the law has not yet been changed to entitle him to nominate candidates for admission to the Merchant Marine Academy. In recent years an informal practice has developed—apparently by agreement between the Mayor and the Delegate—whereby nominations for admission to the Merchant Marine Academy are made by the Delegate from the District of Columbia. The committee believes that the original intent of the Congress in passing section 216 (b) of the Merchant Marine Act, 1936, was for nominations to be made by Members of the House and Senate, and that the law should be amended to so provide for the District of Columbia.

Guam and the Virgin Islands sent their Delegates to Washington in 1973, after they were authorized to do so by Public Law 92–271. Because section 216(b) of the Merchant Marine Act, 1936, specifically authorizes the Governors of these territories to nominate candidates for appointment to the Merchant Marine Academy, the Delegates from Guam and the Virgin Islands have been precluded from making such nominations. In keeping with the committee's belief regarding the original intent of the Congress in passing section 216(b) of the Merchant Marine Act, 1936, that is, that nominations be made by the Members of the House and Senate, the law should be amended to so provide for Guam and the Virgin Islands.

The admissions process of the Merchant Marine Academy is unique among the five Federal Academies. The Coast Guard Academy does not use any form of congressional nominations in its admissions process, but determines admissions solely on the basis of competition. On the other hand, a congressional nomination to the U.S. Military Academy (West Point), the U.S. Naval Academy (Annapolis), or the U.S. Air Force Academy (Colorado Springs), can, if a nominee meets the minimum standards for admission to the Academy and is designated as a principal nominee, amount to a guaranteed admission to the Academy. Each Senator, Representative, and Delegate is entitled by law to have at the Academy a specified number of cadets who received their original nominations from him or her.

The admissions process of the U.S. Merchant Marine Academy starts with congressional nominations, but differs substantially from that of the Military, Naval, and Air Force Academies. Places in each entering class are allocated to States and territories, instead of to nominating officials. Admissions decisions for each State or territory are made competitively from persons nominated from that State or territory. If there are not enough qualified applicants nominated from a State or territory to fill the State or territorial quota, the vacancy is filled in order of merit from the national alternates list which includes all qualified candidates who failed to place high enough in the competition for the quota assigned to the States or territories from which they were nominated. Thus, a well-qualified candidate for admission who does not gain admission under the quota of a State or territory from which he or she was nominated still has an opportunity to gain admission from the national alternates list. This happens quite frequently in practice because interest in attending the Merchant Marine Academy is not equally distributed among the States and territories. As a consequence, the State and territory quota system does not in practice prevent admissions from exceeding State or territorial quotas if enough of the nominees are well-qualified.

No change in the State and territorial quotas currently in effect is made by this legislation.

The Delegate from the District of Columbia gained authority to nominate candidates for admission to the Military, Naval, and Air Force Academies in 1970 (Public Law 91–405) and the Delegates from Guam and the Virgin Islands gained such authority in 1973 (Public Law 93–117). Enactment of H.R. 3489 would therefore, result in a single official making Federal academy nominations in each of these jurisdictions.

HENRY R. KOEN FOREST SERVICE BUILDING

The bill (S. 2801) to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Ark., as the "Henry R. Koen Forest Service Building," was considered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building in Russellville, Arkansas, commonly known as the Ozark National Forest Headquarters Building, shall hereafter be known and designated as the "Henry R. Koen Forest Service Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be held to be a reference to the "Henry R. Koen Forest Service Building".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–974), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of S. 2801, as reported, is to authorize the naming of the Ozark National Forest Headquarters Building in Russellville, Ark., as the "Henry R. Koen Forest Service Building."

GENERAL STATEMENT

Henry R. Koen was a major force in the conservationist move to protect the Ozark National Forest in Arkansas. Born in Bellefonte, Ark., the heart of the Ozarks, his active career in conservation spanned three decades. He began his Forest Service career as a ranger of the Sylamore District, Ozark National Forest, Stone County, Ark., in 1913. In 1922 he became supervisor of the Ozark National Forest.

As supervisor of the Ozark National Forest, the challenges and responsibilities facing him were numerous. Fire was a major threat to the forest and, until 1922, efforts to minimize fire damage were ineffectual. Koen initiated a program in 1925, including a system of towers, telephones, and personnel, that was successful in the fight against forest fires. Furthermore, during his tenure, hundreds of thousands of acres were added to the forest. He also directed the planting of millions of trees on abandoned farm lands which were in government ownership.

Henry Koen was also instrumental in the development of the State Forestry Commission in 1933. He worked diligently for the fledgling commission while he carried on his duties as supervisor for the Ozark National Forest. In the creation of the commission itself, he was chiefly responsible for a portion of the legislation which earmarked timber severance revenues for the State commission.

Subsequent to his retirement from the Forest Service in 1943, Mr. Koen maintained an active interest in conservation. In 1950, because of his contributions to the conservationist cause, the Henry R. Koen Experimental Forest was named in his honor. From

1952–53 he served as Boone County Representative in the Arkansas Legislature where he often demonstrated his concern for the Arkansas forests.

Henry Koen's concern for our forests benefitted not only the Ozark National Forest, but every forest in the Nation. His life as a conservationist serves as an excellent model of service to our society and our environment.

NATIONAL GRANDPARENTS DAY

The joint resolution (H.J. Res. 613) to authorize and request the President to issue a proclamation designating the first Sunday of September after Labor Day in 1978 as "National Grandparents Day", was considered, ordered to a third reading, read the third time, and passed.

● Mr. RANDOLPH. Mr. President, I support House Joint Resolution 613 proclaiming September 10 of this year as National Grandparents Day.

It was my privilege to have introduced Senate Joint Resolution 24 on February 21, 1977, authorizing and requesting the President to issue annually a proclamation designating the Sunday following Labor Day of each year as "National Grandparents Day." The bill was unanimously approved in the Senate on May 16, 1977. Subsequent to this numerous similar resolutions, receiving the cosponsorship of over 400 Members were introduced in the House, and on July 10 the House approved House Joint Resolution 613 by a vote of 362 to 8.

Their committee procedures require that legislation for special days be considered on a yearly basis. I would have preferred that the other body had agreed to the Senate version, but it is right that we proceed with this year's proclamation in an expeditious manner. We will have a special day for our grandparents to be honored this year.

I sponsored similar measures in the 93d and 94th Congresses. My keen interest in this idea was prompted by Mrs. Marian McQuade of Oak Hill, W. Va. Mrs. McQuade has led this movement for the past 5 years to create a nationwide observance. She was instrumental in the designation of Grandparents Day in 25 States, and is a grandmother and also the mother of 15 children.

The contributions to the strength of this country by our grandparents are substantial. I remember with fondness the love and encouragement that my grandparents bestowed on me. It is a joy for Mary and I to be the grandparents of three adorable children.

I am hopeful that by proclaiming this special day—that all grandchildren will honor their grandparents on Sunday, September 10 of this year.

It is our belief that this special proclamation will be carried forward to a fellow grandparent—President Carter for his favorable action.●

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

FEDERICO DEGETAU FEDERAL BUILDING

The bill (H.R. 4270) to designate the Federal building and United States courthouse in Hato Rey, P.R., the "Federico Degetau Federal Building", was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–979), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE

The purpose of H.R. 4270, as reported, is to authorize the naming of the Federal building in Hato Rey, Puerto Rico as the "Federico Degetau Federal Building."

GENERAL STATEMENT

Federico Degetau contributed greatly to Puerto Rican independence from Spain and subsequent development. Born in Ponce, Puerto Rico on December 5, 1862, he attended the public schools and the Colegio Central there. He eventually went to study in Barcelona, Spain, and, later, received a law degree from the Central University in Madrid. It was there that he commenced his law practice. His career in Spain was an illustrious one, marked by his membership in the Spanish Academy of Jurisprudence on Legislation and his cofounding of the Societe Francaise pour L'Arbitraje entre Nations.

Upon his return to Puerto Rico, Degetau became actively involved in politics. In 1897 he was on the Municipal Council of San Juan and was also appointed as an emissary to Spain with a mission to request Puerto Rican autonomy from the mother country. His request was based on principles of liberalism and colonial reform; principles which later guided him in his duties as a delegate to the Cortes of Spain. He returned to Puerto Rico again in 1898 and became the mayor of San Juan. In 1899 he was appointed Secretary of Interior in Puerto Rico's first cabinet formed under the American flag. He also served as a member of the Insular Board of Charities, vice president of the Municipal Council of San Juan, and from 1900 to 1901 was president of the Board of Education of San Juan.

On November 5, 1900, he was elected the first Resident Commissioner from Puerto Rico to the U.S. House of Representatives. The Foraker Act of 1900, however, denied a Resident Commissioner voice or vote on the House floor because of that office's lack of floor privileges. Degetau's testimony before the House Committee on Insular Affairs, resulted in the extension of floor privileges to Resident Commissioners.

After leaving the U.S. Congress, he returned to Puerto Rico where he resumed his law practice. On January 20, 1914, he died at the age of 52 in Santurce, Puerto Rico.

The Federico Degetau Federal Building in Hato Rey, Puerto Rico, will serve as a memorial to a great statesman. His record of public service is surpassed by few and one which any person would be proud of. Federico Degetau's concern and love for his people deserves only the highest regard.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—seeing Mr. JAVITS and Mr. MOYNIHAN and knowing that they wish to make some comments—that there be a period for the transaction of routine morning business for not to exceed 10 minutes with Senators allowed to speak therein for up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SPECIAL ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of morning business Mr. JACKSON be recognized.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRIALS OF RUSSIAN DISSIDENTS

The ACTING PRESIDENT pro tempore. The Senator from New York is recognized.

Mr. JAVITS. Mr. President, it has been reported that the Shcharansky verdict has come down, calling, as far as we can get the immediate report, for 13 years of imprisonment under conditions which probably can best be described by Solzhenitsyn's "The Gulag Archipelago."

Mr. President, I am, together with my distinguished colleague, Senator MOYNIHAN, a cochairman of the committee to free Anatoly Shcharansky, a committee of the New York Conference on Soviet Jewry, and I make this statement, because of my profound interest in the case and because of my feeling and view as a Senator of the United States in respect of the future of peace and of justice in our world.

Mr. President, the Soviet Union's verdicts in the Shcharansky case, the Ginzburg case and the Petkus case, all of which verdicts have just come down, together are an international disgrace and an affront to humankind.

The strange persistence in this determination to insult the word of the President of the United States on Shcharansky, who personally represented that Shcharansky never spied for the United States, to affront basic U.S. opinion on these trials so clearly expressed, to affront the basic morality of the civilized world, is almost beyond belief.

Nonetheless, Mr. President, we must face the facts: First, the Soviet Union may still redeem this situation by what our resolution in the Senate passed earlier this week in the Shcharansky case calls a humanitarian solution.

Mr. President, such a solution would call for freeing these men from the bond-

age to which they are now sentenced. The Soviet Union has had its day in the trials and in the sentences. It is time to end this affront to all civilized people.

Mr. President, if this does not happen, the United States and other nations must now be prepared to decide whether they really mean what they say. What price are we willing to pay in sacrifices of commercial, political, and other interests to bring about respect for human rights upon which depends the fate and the peace of the world?

Mr. President, our action in this matter may well be judged in the light of history as having been the turning point as to whether this world will not be worth living in, or whether the conscience of mankind will at last prevail over the forces of evil, the forces of darkness, and the forces of tyranny.

That is the test as I see it, and I shall do my utmost as one Senator to enlist myself, Mr. President, fully in this struggle.

Mr. President, I ask unanimous consent to have printed in the RECORD a relevant editorial from the New York Times of today, July 14, 1978, entitled "On Preachers, Prisoners, and Power."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

ON PREACHERS, PRISONERS, AND POWER

As Ambassador Andrew Young has now demonstrated in his reaction to the Soviet political trials, it is easy to say or do something that is simultaneously humane and dumb. In fact, the entire nation is in danger of making just such a response.

We think we understand Preacher Young. His answer to barbarism in the Soviet Union is more liberty and opportunity for the oppressed within his reach. He is not satisfied merely to denounce others or proclaim his system's superiority. He was once a political prisoner, he observes. In fact, many poor descendants of American slaves in American jails could be said still to be "political prisoners."

Sure they could, but not seriously by an American ambassador to the world. And not by the friend and partner of a President who is trying to define a standard of decency that even tyrants might respect. And not by a man who well knows, indeed personifies, the revolutionary power of free speech in the United States. There are ways to avoid self-righteous chauvinism without misrepresenting the K.G.B. as a brotherhood of fellow sinners.

There are also ways to express our disgust with Soviet tyranny without pretending that we possess the power to tame it or that the world will be made safer by our refusal to deal with it. Some prominent Americans, no less responsible than Andrew Young, have let their humane feelings for the victims of Soviet repression lead them to counsel against arms control negotiations and agreements with the Kremlin. Others would declare economic warfare, not to gain any definable objective but to make themselves feel better for having "done something." Still others feel a compulsion to act out our hostility because a "weak" response would mark us as a people who can be pushed around on matters more vital to national security.

Something innocent in the American character lurks behind these protestations of toughness and sophistication. We are asked to proceed as if the effort to limit Soviet nuclear forces is an exercise in trust and good fellowship with the Kremlin. We are asked to pretend that the goods we sell and the dollars we spend abroad are marked "Made in America for Nice People Only." And we are urged to feign strength where we are weak so that the Soviet leaders will respect our real power and determination to use it. No matter how pure in motive, such advice is naive and dangerous.

After repeatedly telling the Russians not to try Anatoly Shcharansky as an American spy, President Carter is now made to feel that he must answer the implied question, "Or else what?" The answer is denunciation and remonstrance—and a deportment that distinguishes symbolic relations of good will from trade and from geopolitical maneuver and all of these from nuclear arms control.

Exchanges of personal, cultural and sports visits can be deferred or canceled to express our displeasure. Even here, however, it is always wise to ask who will gain and who will lose; the K.G.B. more than anyone wants to keep Soviet minds and frontiers sealed. To visit a jail is not always to condone it.

Trade with the Soviet Union may or may not have a gradual political effect on Soviet behavior. The issue has been much debated over the decades without a persuasive conclusion. There is no demonstrable political value in selling the Russians wheat or computers or even in the implied power to interrupt the trade at a later stage. The only deals worth making, therefore, are those from which we stand to benefit; it is too late in human history to pretend on Sundays that we do not worship mammon during the rest of the week.

When the spread of Soviet military and diplomatic influence disturbs us, now in Africa, now in Asia, there can be only one effective response: the measured use of a countervailing influence. We cannot and fortunately need not topple every Marxist regime that may appear, but we do have a need for resources, friends, allies—for some balance of power in various regions. Where these are threatened, they need to be defended by means that correspond to the stakes involved.

None of these competitions and collaborations, however, should ever be confused with the Soviet-American bond of terror. Our two countries alone can destroy each other, and much of the rest of the world, in a thermonuclear holocaust. The effort to limit our weapons, to specify rules for their deployment, to guard jointly against accident and miscalculation, has barely begun. Technology, in fact, is racing far ahead of the diplomacy to control it—and that diplomacy is no insignificant moral enterprise. The task would be easy if we trusted the Soviet Union and its political system; it would be more pleasant if we liked them as negotiating partners. We would not need to make the effort if we could afford to abandon it.

Mr. JAVITS. I yield to my colleague from New York.

The ACTING PRESIDENT pro tempore. The junior Senator from New York is recognized.

Mr. MOYNIHAN. I thank the majority leader for his graciousness in providing this moment to my revered senatorial colleague, Senator JAVITS, and to me.

This is not a moment for angry words. It is a moment for careful and determined behavior.

I associate myself wholly with my senior colleague, who said that the Soviet behavior is an insult to the word of the President of the United States, and an affront to basic morality of the civilized world. We are required to consider how will we respond to such an insult and how will we respond to such an affront, knowing them to be deliberate, intended to test that response.

There can be no question that the basic purpose of the Soviet Union is to establish to their own people that whatever we say about human rights the United States will not do anything about them; that our behavior is for internal political consumption. This is a pattern of government behavior fully understood by the Soviet people. It signals to the dissenters that they are alone, that they will receive no help.

Now, Mr. President, there is one specific act we have available to us this week which seems to me would be of the most extraordinary, substantive, and symbolic importance. The Soviet news agency Tass has applied to purchase a Sperry Univac computer, a computer characterized by its huge storage capacity such that it is nominally purchased to keep the Olympic records, but will be equally useful in tracking down every dissident in the Soviet Union, tracking networks. Now it is a first fact, Mr. President, that Anatoly Shcharansky is a computer expert. I would hope our country could understand that the reason the Soviet Union is backward in technology is that it is backward in human rights.

There is an unbroken continuum between freedom of inquiry in cultural and political matters and the same in scientific and technological matters. There is further, Mr. President, the fact that if a society, by suppressing its political dissent and cultural freedom, pays the price of a depressed technology in science, that it can nonetheless overcome that cost by importing its science and technology, up to a point at least. The import by the Soviet Union of a Sperry Rand computer is a direct effort to compensate for that loss.

If you put your computer experts in Siberia for 13 years you will need to buy computers from the United States. If you take Mr. Sakharov out of his laboratory your physics will decline.

Here is the exact trade that they are making. They punish their creative people and ask to buy our creativity in exchange. If we withhold it, I cannot imagine a more precise message to them.

Two points: One is the Sperry Rand Co. is not in any way short of business. They have a $1.5 billion backlog of orders for this splended computer. Second, we might well remember that, for all its tyranny, the Soviet Union is a bureaucracy, too. There are powerful rivalries within the Soviet bureaucracy; If Tass loses this computer, because some butcher in the secret police wants to send Shcharansky to prison, the next time those political decisions are coming up the secret police are going to have to think how will Tass respond.

Mr. President, I call upon the President of the United States with respect, and hope that he will respond to the proposal first made by the incomparable Senator from Washington, Senator JACKSON, that this computer not be sent to the Soviet Union. That this we do in the name of Anatoly Shcharansky.

I thank the Chair and I yield back to the Senator from New York

Mr. JAVITS. Mr. President, I mentioned what I did about considering commercial and political action because,

as the Senator knows, he and I and others had very grave doubts as to Secretary Vance's decision to go to Geneva immediately upon the determination of this really grave insult to the United States, let alone the word of its President, on Shcharansky, on putting him on trial for high treason because he allegedly spied for the United States, notwithstanding the flat denial of the President, which is most unusual.

I thought that was outrageous. Now the Senator suggests that we cut off on this computer. I agree with him. All I urge on the Senator and the country is two things: One, that we have measured the retaining of our options, and not give the Soviets any idea that we have retained these computers just for their expiration. They have to realize we are now engaged in a wrestling match, a real course of conduct with them, and that we can escalate it, or do anything, even cut off the SALT negotiations if it gets that bad, because I think that is what they are engaged in, and they had better realize it. Maybe they do not realize it adequately in the Kremlin.

Second, from my experience on the Foreign Relations Committee, I think we have to serve notice on Germany, on France, on Britain, on Japan, and on all the industrialized nations of the world that it is just as much aiding and abetting if they sell the computer, which they can very well do, and which the Russians count on. They told me in 1962, 16 years ago, "Well, we would like to do business with you, but if you do not do business with us we have a big shopping list, and there are a lot of countries in the world that will."

This is a world problem. Either humanity is going to be safe or in peril, and we have to put it up to the nations that rely on us for security and trade and everything else, just the same way.

Mr. MOYNIHAN. Will the Senator yield me 20 seconds?

Mr. JAVITS. That is up to the majority leader.

Mr. MOYNIHAN. Will the majority leader allow me 20 seconds to respond, just to repeat Alexandr Solzhenitsyn's plea, on addressing the AFL–CIO dinner on June 27, 1975? He said, "Don't sell earth moving equipment to our gravediggers."

Mr. GRAVEL. Mr. President, will the Senator yield to me to ask a question?

Mr. ROBERT C. BYRD. I yield.

Mr. GRAVEL. How do we stop this computer sale?

Mr. MOYNIHAN. An export license is required. Approval at the technical level has taken place; it is now up to the President finally to decide.

The ACTING PRESIDENT pro tempore. The time for routine morning business has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for morning business be continued for 5 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I ask to be recognized.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I yield to the Senator from Alaska.

Mr. GRAVEL. I thank the majority leader.

Mr. President, I think we may well be carried away here. I would agree, certainly, about the insult, the injustice, the invasion of human rights, and all that. But I think the Soviet Union is not doing that for our benefit. I think we misread them entirely. I think we are carried away a little bit with our own importance in this regard.

The reason they have brought these people to trial is not because of what has happened of late. It is because the initial policy of deterrent ruptured the fabric and put cracks in the system, and the whole approach to deterrence was not a confrontational approach, it was that "we will trade with you. we will exchange scientists, we will do this and that; we will let your people, as best we can, see the efficacy of our economic and political system, and that will cause problems."

The fabric of Soviet society is in difficulty today, not because of the statement of President Carter or because of the statement on human rights here. They are in trouble because these deterrents are exposing the oppressions that have gone on in the past, and the best way to keep that going is to keep the trade going.

So, if they get a Univac computer, and they have to have the people to go in there, the installation people to set it up, and people to train the people to operate it, that means you will have more Americans exposed to more of their scientists, and maybe 5 years from now another Shcharansky will come on the scene with enough courage to fight the system.

That is the way we will win. These people have every right of sovereignty that we have, and we are sensitive about that. The pridefulness of American leadership is that we will not let ourselves get buried, and they will not let themselves get buried, so when we pass a trade bill and put on a proviso that we will sell to them depending on how many people of the Jewish race they let out, they have told us literally to go to hell, and have acted that way ever since. I believe that was the turning point of détente.

It is a terrible thing they are doing. They are ruining their image in the world. If they want to do it, it is at their expense. But there is no way in confrontation we will cause them to knuckle down on an internal type of issue.

If that is the case, let us do it to Idi Amin. We can find cases all around the world, if we want to do it equally.

I believe it is unfortunate that this has happened. We have made requests officially and unofficially. But to turn around and start breaking off all arrangements, all contact, we will escalate this thing until we will be back to the full fledging of the cold war.

That will not work. We have tried that for several decades, until President Nixon made the first step toward normalization in the economic area.

Several Senators addressed the Chair.

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator has 2 minutes.

Mr. GRAVEL. I do not need any more. I think I have made my point.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the period for routine morning business be extended for 10 minutes for the purpose of Senators making statements only, and that they be allowed to make statements up to 5 minutes each.

The ACTING PRESIDENT pro tempore. Without objection, is is so ordered.

Mr. JAVITS. Mr. President, I would reply to the Senator from Alaska as follows:

First, I am not impassioned about this total trade restriction effort, and even if I were, it should have no place in this debate.

Second, the arguments made by the Senator are very pertinent and should be very seriously considered. This is a subject which needs to be debated by all means. It is not open and shut at all.

Now as to the reply, why do I take the position I do. My beloved colleague is well able to speak for himself.

There are three factors:

One, I believe the Russians have exploited the fact that the rest of the world will do business with them and that we are all commercial and mercantilists, that that is all there is to this world. They have exploited that for years. I think it is time to end that.

Second, we have tried the trading part of it and many other things. Sure, the Russians, can turn the figures off and on as they choose, by just turning the bureaucratic handle. That is what they did about the agreement which Senators JACKSON, RIBICOFF, and I made through Henry Kissinger on Jewish emigration from the Soviet Union. But remember, that is what they always say about us, that we cannot stay the course, that we are speedily discouraged, that the minute you turn down the numbers on us, we run, we give up.

Third, I am a rationalist. I think I have proved that here in 22 years of service. But, Mr. President, there comes a time when only indignation will do. There comes a time when the human spirit just can no longer remain silent at such crudeness and barbarism and injustice as we are seeing, and arrogantly persisted in. That is what we are giving voice to.

Even that is subject to debate and the kind of counsel which the Senator gives us. But I do think, Mr. President, that it has to weigh, and weigh heavily, in the balance.

Lastly, Mr. President, if the Russians persist in this course, there will be no dissidents. They will have scared them to death or they will have eliminated them all. There will just not be anybody. That, of course, will be a disastrous event. So, sure, what we are advising is full of risks, but, as I say, sometimes the human heart calls out with such indignation that such risks must be run.

Mr. MOYNIHAN. Mr. President, I once again wish to associate myself wholly with the remarks of my revered senior colleague, and perhaps to accept his distinction. I said this is not a time for

anger. It is indeed a time for indignation.

I would like to suggest to the Senator from Alaska, who is our friend and with whom we share so much in common, that there is something to be understood about Soviet doctrine. In 1922, Lenin said about the West, "The bourgeoisie will sell us the rope with which we will hang them."

That has the standing in Soviet doctrine of St. Paul's letters to the Corinthians. It is not a random observation. It is a basic tenet of Soviet faith. They think we will sell them the rope with which they will hang us.

Nothing could be more symbolic than this computer and the sentencing of Shcharansky. The Russians know that by suppressing political dissident they suppress their scientific and technological creativity. They understand that. They know they pay this price. You cannot send Shcharansky to Siberia and not pay a cost in your computer technology.

What they mean, however, is to make it up by importing the technology from us.

The Univac is not perhaps the most advanced mathematical instrument. But it can tell you in a millisecond every person in the Soviet Union who ever lived on a street on which Alexandr Solzhenitsyn has walked and then compare with those people who may have been on the street where Ginzburg ever lived, and trace works of that kind.

The Soviets are waiting to see what we will do. If we do nothing, I cannot but feel that it says these things mean nothing to us. I stand with the Senator from Washington and the things he has stood for in this Chamber. He has been right to say that one thing connects with another both in the real world and very much in the official thinking of the Soviet Union.

I would repeat the plea that Senator JACKSON has made, with which I associate myself, in that meeting with Mr. Solzhenitsyn. Do not send that Univac to the Soviet Union, not at this time, not in this context. I thank the Chair.

Mr. HATCH. Will the Senator yield?

Mr. MOYNIHAN. I yield.

Mr. HATCH. I associate myself, Mr. President, with the distinguished Senators from New York. I think they have made some very good points here today. I really believe that it is about time that we start sending some messages that are short of confrontation messages, of war or otherwise, to the Russians.

I certainly agree with the suggestion of the distinguished Senator from New York. I saw him on television yesterday and I thought he made a very good point and a very good presentation at that time.

I do think we need to do a little bit more. I think with regard to the Cuban interference all over this world, and the fact that we allow them to run rampant all over Africa, and now in other areas, that we ought to consider some remedies with regard to the Cubans. We ought to start sending the message to these people that we are not going to tolerate this type of activity all over the world, and certainly not just cite Shcharansky and Ginzburg, with whom I am very sympathetic. I think that is the focal point of today's discussion and I do not want to detract from that, but I think there are very many other peoples who are losing human rights as a result of Russian and Cuban activity.

The United States has, with proper restraint, acted against these types of activities that would send messages to the Russians and the rest of the world that we have guts enough to stand up not only for principles and human rights but for other decent standards in this particular world in which we live.

Mr. MOYNIHAN. I thank the Senator.

The ACTING PRESIDENT pro tempore. The Senator from Alaska.

Mr. GRAVEL. The Senator talks about the doctrine of we will sell them the rope with which to hang us. I hope that we get a good price for the rope. One of the fallacies of the Russian approach is that they have too much doctrine. That is why they have the rigor mortis that they have.

I will say to the senior Senator from New York, when you risk toward confrontation, you restrict your options. It is like going into a funnel. When you risk toward a rheostated contact, you expand your options for influence effect. So if we want to have more effect on Soviet society, if it were a democratic society, that is the way to do it. Get in confrontation. Whack them a little bit. Then public opinion will have its effect and we will have an effect on the leadership.

But we are dealing with a monolithic society, a dictatorial power.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. GRAVEL. May I have an additional 2 minutes?

Mr. ROBERT C. BYRD. How much has the Senator used?

The ACTING PRESIDENT pro tempore. The Senator has used 2 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that he be permitted to proceed for 3 minutes

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. GRAVEL. So, because of the nature of their society, the more we go into confrontation, the more the leadership will dig its heels in and say, "This is our country. We won the revolution in 1917 and we will be darned if we will let the Americans tell us how to get off and treat our citizens."

Then they go into their rhetoric.

I can pick places in the world—Uganda, for one—where the violations of human rights are a thousand times more than this particular incident. I have not seen the Senate as exercised about that. I think we have to look at this thing with some degree of aplomb and not get carried away.

The junior Senator says this is not a very smart computer. I cannot think of a better thing to sell the Russians than a nonsmart computer.

Let us keep the smart ones and sell them the stuff that we cannot sell over here. If all they can do is handle the Moscow games, then fine. But stop and think—we are contributing to the Moscow games. The Moscow games are going to have more impact on Soviet society than probably anything in a decade. So we do not want to sabotage those efforts. We want to enhance them. That is the only way we are going to make a change in the Soviet Union.

This thought that we can be at loggerheads with the competition is not going to work. We have to sneak in there with our economic system and destroy the fabric of communism. We can do it because our system is better. The road to confrontation—we have been down that bitter road. We have been there for 30 years and it has not done anything toward the cause of peace in our society. So, Mr. President, I hope we will be somewhat deliberate in looking at all facets of this and not be carried away with the emotion or passion of the day because of these two trials.

These two trials are dastardly. They are stupid to have occurred from their point of view and they are immoral to have occurred from our point of view.

But unless we are prepared by force of arms to walk over there and correct their system, then it is their system and they are entitled to run it under their sovereignty. We should be aware of that, since we hold that right of sovereignty unto ourselves.

I yield the floor.

PRIVILEGE OF THE FLOOR

Mr. GRAVEL. Mr. President, I ask unanimous consent that Deming Cowles and Campbell Gardett of my staff have the privilege of the floor during the consideration of the coal conversion conference report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JACKSON. Mr. President, I ask unanimous consent that the following staff members be given floor privileges during the consideration of and voting on the conference report on the coal conversion bill, H.R. 5146: Fred Craft, Ted Orf, Danny Boggs, Carol Sacchi, Judy Foley, Dave Swanson, Rose Fillingane, Richard Grundy, Dan Dreyfus, Mike Harvey, Doris Winkler, and Marty Zeller.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I ask unanimous consent that Sally Rogers and Marcie Ward of Senator STEVENS' staff and Kris Iverson of my staff have the privilege of the floor during the consideration of the coal conversion measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I make the same request on behalf of Carol Lane and Eugene Iwanciw of my staff.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR CONSIDERATION OF S. 3075

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent—and this has

been cleared with the minority leader—that upon the disposition of the Endangered Species Act, the majority leader be authorized to call up Calendar Order No. 772, S. 3075, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978—CONFERENCE REPORT

Mr. JACKSON. Mr. President, the conference report on H.R. 5146 is at the desk and has been cleared for Senate consideration. I, therefore, move that the Senate proceed to the immediate consideration of the conference report.

The ACTING PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (H.R. 5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

Mr. JACKSON. Mr. President, the Powerplant and Industrial Fuel Use Act of 1978 is a cornerstone for the national energy policy outlined on April 20, 1977, by President Carter. This is the first energy conference report to be considered by the Senate regarding the four bills agreed to by the Senate-House conferees. The other cornerstones of the National Energy Act legislation, which have been agreed to by Senate-House conferees, are energy conservation (H.R. 5037), public utility rate reform (H.R. 4018), and natural gas pricing (H.R. 5289).

Energy conservation can significantly reduce the rate of growth in our consumption of energy. Energy conservation also can foster more efficient use of our Nation's non-renewable energy sources, such as natural gas and petroleum. But until such renewable energy sources as solar and geothermal energy are able to achieve their promise for the future, greater utilization of coal and other alternate fuels will remain our principal alternative.

Greater utilization of coal and other alternate fuels in lieu of natural gas and oil must play a significant role in our country's quest for greater energy self-sufficiency. This objective is achieved by the conference agreement on H.R. 5146. But it is equally essential that we assure. and indeed insist on, the environmentally acceptable production and utilization of coal. This also is a statutory requirement of H.R. 5146. It is also important that national environmental policies not be permitted to preempt national energy policies.

As Senator HANSEN and I wrote President Carter on June 23, 1978, regarding implementation of the Clean Air Act Amendments of 1977, and I quote:

It is imperative therefore that any New Source Performance Standards for fossil fuel fired stationary sources adopted by the EPA depart from a uniform national standard in order that the hard fought gains of national energy legislation not be sacrificed for what are, in the main, non-environmental objectives.

Mr. President, the measure before us represents a legislative effort begun in 1973 pursuant to the Senate's national fuels and energy policy study because of the vision and leadership of the distinguished Senator from West Virginia, Mr. RANDOLPH, as well as the efforts of Senator MAGNUSON and with the participation of the Interior Committee. Legislative initiatives were undertaken over 5 years ago in the Senate to foster greater coal utilization. The Energy Supply and Environmental Coordination Act of 1974 (Public Law 93–319) was enacted during the 94th Congress and further refined in the Energy Policy and Conservation Act of 1974 (Public Law 94–163). However, the administration of the current ESECA program has left considerable room for improvement. The delays have been unconscionable. From the beginning of the current process—when an order is proposed—until coal is actually burned can take from 2 to 8 years. After 4 years, only one conclusion can be reached regarding the present program under existing law—it is plagued with many problems and uncertainty.

Precisely for this reason, the present program needs to be simplified. Clear guidelines and ground rules are needed to provide certainty for all current and potential users of oil and gas. Such policies are set forth in H.R. 5146. The bill establishes expedited procedures for consideration of rules, orders, and petitions for exemptions. Provided the measure is administered pursuant to a rule of reasonableness the procedures can be more expedited and certain than current law.

Mr. President, H.R. 5146 sets forth a streamlined program to foster greater utilization of coal and other alternate fuels in lieu of natural gas and petroleum by electric utilities and major industrial installations.

An electric powerplant is a boiler, gas turbine, or combined cycle unit that produces electricity for sale or exchange. In addition, an electric powerplant must be a unit that by design is capable of a fuel heat input rate of 100 million Btu's per hour, or roughly 10 megawatts, or be in an aggregation of units which together are capable of a fuel heat input rate of 250 million Btu's per hour, or roughly 25 megawatts.

A major fuel-burning installation is a boiler, gas turbine, combined cycle or internal combustion engine. The size thresholds for such units are the same as for electric powerplants.

Emphasis of the program is on certain new facilities. Jurisdiction over existing electric powerplants and major fuel burning installations is limited.

Mr. President, the provisions of H.R. 5146 differ from the administration's originally proposed regulatory mechanisms. Although these differences are expected to slightly reduce the natural gas and petroleum savings compared to the originally proposed National Energy Act, the administrative burden associated with the anticipated petitions for exemptions will be significantly reduced.

As approved by the Senate-House conferees, the total reduction in oil imports by 1985 as a result of H.R. 5146 is approximately 1.0 to 1.3 million barrels of oil per day.

ELECTRIC POWERPLANTS

In the utility sector, H.R. 5146 is designed to insure that current utility construction programs, which emphasize alternative fuels to oil and natural gas, are actually carried out. Due to the long construction time for new electric powerplants the principal benefits of H.R. 5146 will be realized after 1985.

Looking to the future, the electric utility industry, according to the National Electric Reliability Council, does not plan any new oil or gas-fired baseload powerplants, except for a couple of oil-fired plants currently under construction. Their projects show that natural gas use is expected to continue its decline from its current approximate 3 trillion cubic feet per year to about 1.2 trillion cubic feet in 1985 as a result of scheduled retirements and the conversion of other units to oil, as well as the shifting of others to intermediate and peak load use.

Oil use, however, may increase by 800,000 barrels per day from the current 1.5 million barrels per day to about 2.3 million barrels per day in 1985. This will result from the few new oil-fired powerplants still under construction and conversion of some of the existing natural gas-fired units to oil.

Because of the long lead times for the construction of new electric powerplants, the potential oil import savings will only be realized by continuation on schedule of planned construction scheduled for new coal-fired powerplants and retirement of older oil-fired peowerplants.

Regarding existing electric powerplants, there are about 40,000 megawatts of existing "coal capable" units of which about 16,000 megawatts are potential candidates for reconversion to coal. An estimated 260,000 barrels of oil per day are projected by 1985 in the electric utility sector as a result of reconversion of coal capable powerplants to coal and accelerated retirement of existing petroleum-fired powerplants. However, these savings only will accrue if the utility industry's construction programs continue in the face of declining rates of growth in electricity demand. The unknown factor is the future decisions of State utility commissions.

The Congressional Research Service estimated that H.R. 5146, in conjunction with utility rate reform, will achieve an additional savings of 350,000 barrels per day in the electric utility sector through reduced growth in the demand for electricity. Thus, the total reduction in oil imports in the electric utility sector is an estimated 610,000 barrels of oil per day as a result of the legislation.

MAJOR FUEL BURNING INSTALLATIONS

The industrial sector uses about 8.4 trillion cubic feet of natural gas per year and 3.2 million barrels of oil per day. These two fuels represent approximately 70 percent of all energy consumed by industry (about 80 percent of all non-electric energy). The distribution of oil

and gas use among boilers, indirect-fired heating, direct-fired heating, process uses, and feedstocks is not well quantified; however, estimates for boiler uses range between 30 and 50 percent.

In the industrial sector, oil and natural gas savings will accrue from four actions: Reconversion of existing coal capable units; accelerated retirement of existing oil and gas fired units; new facilities utilizing coal and other alternate fuels; and conservation from improved efficiencies in oil and gas use.

The jurisdiction of H.R. 5146 is limited to boilers, combined cycles, and internal combustion engines. The measure does not encompass any other combustors such as process uses of natural gas or petroleum.

Significantly, since 1975, changes in relative fuel prices and availability have reversed the ratio of oil and natural gas in new boilers from one out of two to two out of one.

Last year, coal or other alternate fuels represented about half of the fuel requirements of all new boiler orders, up from less than 20 percent as recent as 2 years ago. Also, no new large oil or gas-fired boilers were ordered, and a number of coal-fired units smaller than 300 million Btu per hour were ordered.

The trend away from natural gas since 1975 is expected to continue. However, the trend toward coal will be strongly influenced by the Clean Air Act Amendments of 1977. Scrubbers may be required on all new coal-fired installations—above an as yet to be specified size—once the required regulations have been promulgated.

Scrubbers add about 15 percent to the capital cost of a 1,000 megawatt powerplant, but they add a much higher percentage to the cost of smaller installations. For example, at the size of 100 million Btu's per hour, where the coal conversion program in H.R. 5146 takes effect, a scrubber could almost double the cost of a coal-fired boiler installation. However, a new coal-fired boiler installation without a scrubber already is more than twice as capital intensive as an oil-fired installation of the same capacity.

With regard to new industrial installations, estimates of the amount of new construction that will be capable of using coal or another alternate fuel depend on the assumptions regarding the pace and nature of industrial growth, as well as energy prices. The Congressional Research Service estimates oil import savings of approximately 260,000 barrels of oil per day from the program in H.R. 5146. If the energy users tax were enacted as approved by the Senate, an additional savings of approximately 130,000 barrels per day might be realized from new industrial installations.

Regarding existing major industrial installations, the potential oil savings from reconversion of existing coal-capable units is approximately 300,000 barrels per day. The Congressional Research Service estimates that the program in H.R. 5146 will achieve savings of about 60,000 barrels per day from the reconversion of existing major fuel-burning installations to coal and other alternate fuels to natural gas and petroleum.

When early retirement of existing industrial installations are included at 70,000 barrels, a total potential oil import savings by 1985 is an estimated 390,000 to 520,000 barrels per day in the industrial sector.

By not including combustors in H.R. 5146, as proposed by the administration, petroleum consumption could be approximately 70,000 barrels of oil per day greater in 1985 than might otherwise occur, according to the Congressional Research Service. However, this exclusion will significantly reduce the administrative burden of this program.

Mr. President, this measure represents a bipartisan effort.

I wish to take this opportunity to express my deep appreciation to our ranking minority member, the Senator from Wyoming (Mr. HANSEN), as well as my other colleagues on the committee who have contributed their ideas and energies to the formulation of this comprehensive and rational national policy to foster greater utilization of coal and other alternate fuels in lieu of natural gas and petroleum.

In particular, on behalf of all the members of the Committee on Energy and Natural Resources, I wish to commend the efforts of the senior Senator from Colorado (Mr. HASKELL), the chairman of the Subcommittee on Energy Production and Supply, for his leadership in steering this measure through the committee and the conference.

May I say, Mr. President, this was no easy task. The Senator from Colorado demonstrated his wisdom and his good judgment in putting together a bill that has the virtual unanimous approval of those who participated in the committee in support of this first phase of the President's program in the field of energy. I want again to commend the Senator from Colorado for his outstanding performance in bringing this, the first bill out of conference, to the floor, as the beginning of the final action on the key parts of the President's energy program.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. JACKSON. I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator for yielding.

Mr. JACKSON. If the majority leader will permit, the Senator from Alaska wanted to make a unanimous-consent request.

Mr. ROBERT C. BYRD. Surely. I yield for that purpose.

Mr. GRAVEL. Mr. President, I ask unanimous consent that Heida Boucher and William Hoffman of my staff may have the privilege of the floor during consideration of this conference report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, during the past 18 months, I have expressed only confidence that President Carter's national energy plan would emerge from the legislative process to make a significant contribution toward dealing with our critical energy problems.

Today, Senate action on the conference report on H.R. 5146, the Powerplant and Industrial Fuel Use Act of 1978, justifies that degree of confidence.

In my visits last week with European leaders, the economic issue uppermost in their minds was whether the United States would cope with our oil import problem. Our action today should go a long way toward reassuring the world that we are committed to reducing our reliance on oil, particularly imported oil.

The bill is a testimonial to the fortitude, legislative skill, and reasonableness of members of the administration and Congress who have had primary responsibility for this first part of the President's energy proposal to be reported out of committee. I predict that passage of this bill will represent our biggest step thus far toward limiting our reliance on crude oil and natural gas.

This conference report is the culmination of efforts of many Senators, Representatives, and administration officials. I commend in particular Senator JACKSON, the distinguished chairman of the Committee on Energy and Natural Resources, for the depth of his understanding of our energy problems, his incisive analysis of proposed policies, and his exemplary management of a complicated bill in committee, on the Senate floor, and in conference. Perhaps more important, he has kept steadfastly as his standard for evaluation the public's best interest.

Notwithstanding the transformations H.R. 5146 has gone through since its inception, the workload and contribution of the Energy Production and Supply Subcommittee have been remarkable. No one knows this better than the members of the subcommittee and its distinguished chairman, Senator FLOYD HASKELL. His conscientious management of this bill typifies his reputation as a hard-working and effective legislator.

During the 7 long days of legislative hearings, the painstaking subcommittee and committee markup, floor debate, and extensive conference deliberations, Senator HASKELL always was personally involved. He participated not only in terms of guiding the bill procedurally, but also substantively.

In marshaling the Nation's efforts to capitalize on coal—our most abundant fossil fuel resource, Senator HASKELL has kept in mind the impact of resource development on communities. He sponsored the provision in this bill which utilizes the Farmers Home Administration to assist private developers in providing housing and related services in areas where coal fields are developed.

The concept of coal conversion—of shifting our reliance to coal for power generation and industrial energy—was advocated first on the Senate floor in 1969 by my close friend and distinguished colleague, the senior Senator from West Virginia, Senator JENNINGS RANDOLPH.

In 1973 he introduced, with Senators JACKSON and MAGNUSON, the first coal

conversion bill. During the last Congress, hearings were held and the bill was marked up in committee, although time did not permit full Senate consideration. Nevertheless, the bill and its legislative history established a model from which H.R. 5146 has benefited tremendously.

The work of two Senators most knowledgeable on energy matters (Mr. JOHNSTON and Mr. FORD) during the conference committee planning resulted in steering conferees toward accommodation.

Although H.R. 5146 as reported by the energy conferees, the Senate version, the final product, represents an improvement on both versions.

This is largely due to the legislative and persuasive skills of the Senate conferees and especially those of Senator JOHNSTON and Senator FORD.

Also notable is the fact that on the Senate side, the conference report enjoys bipartisan support. Indeed, Senator HANSEN, the ranking minority member of the full Energy Committee, supported the bill's fundamental concept throughout its legislative consideration. His cooperation has been invaluable.

All of these efforts have made it possible for us to reach the time now when the Senate will discuss the ratification and, hopefully, adopt the conference report on H.R. 5146, a bill that is essential to controlling our energy future.

The premise of H.R. 5146—that natural gas and crude oil are not reliable sources to meet future energy needs is very obvious. Many experts believe that domestic natural gas or crude oil production will continue to decline. Even the most optimistic recognize that long leadtimes necessitated by exploration and development, and by declining reserves relative to demand, cause us to live too close to the margin for comfort.

H.R. 5146 seeks to conserve natural gas and crude oil supplies by directing large petroleum consumers; namely, electric powerplants and industrial facilities, to burn coal or fuels derived from coal. The directive to shift to alternative fuels is a reasonable one. The savings in terms of consuming less oil and gas will accumulate over the next decade. Since it will be phased in, economic disruption will be minimized.

There are costs associated with saving oil by shifting to coal. The conversion approach to conservation is capital-intensive. New fuel burning facilities will have to be installed. Clean air is no longer a free good. In order to protect the public, health and hold down conversion costs, an exemption may be granted, where burning coal would violate Federal or State clean air standards.

Costs also would be controlled by the reliability test. A new powerplant would be exempt, if the Secretary of the Department of Energy determines that no alternative fuel can be obtained at a reasonable cost which would not impair the reliability and integrity of that power supplier. The bill specifically directs the Secretary to consider the long- and short-term availability of power in making his determination.

We should recognize also that H.R. 5146 will result in benefits which will offset the cost of compliance. The savings in terms of oil and gas conservation means that residential, small- and medium-sized industrial and commercial consumers, and other priority users of natural gas and crude oil will be more certain of access to available supplies. Some of the oil conserved will be foreign oil; this will benefit our trade balance, and go a long way, Mr. President, toward alleviating the concerns of the leaders and many from countries who have been distressed at the profligate waste on the part of the United States of our energy resources.

Employment and other economic activity in the capital goods and primary goods sectors of our economy will contribute to economic growth. Moreover, the construction and extractive industries provide a substantial number of skilled and unskilled jobs. Research, development, and production of synthetic fuels and other alternative energy sources will be stimulated—creating more jobs. In my estimation, these and other longrun benefits will outweigh the costs, which will be made more manageable since the bill's requirements will be phased in over the next decade.

In summation, the importance of debate on this bill cannot be underestimated in terms of fashioning a prudent and effective national energy policy which will use our more abundant natural resources to meet future energy needs.

Mr. President, the action on the conference report comes at a very timely moment when the President of the United States needs something to show the leaders of Germany, England, and other Western European countries, and other countries in the world, that the U.S. Congress is, indeed, acting on the energy problem.

This is something which I found in my trip abroad, I say to the Senator from Washington (Mr. JACKSON). I found that leaders in Belgium and Germany and England felt that the Congress was not acting, thought that the Congress was blocking the President, thought that the Congress was acting as a stumbling block and had no intention of acting on the energy problem.

Well, today's action on the conference report would help to debunk that misconstruction of the truth.

So I again congratulate Senator JACKSON and Senator HASKELL, and all the other Members, who have labored so long, so patiently in such a dedicated way, to bring to the floor this excellent conference report.

Mr. JACKSON. Will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. JACKSON. Mr. President, I commend the distinguished majority leader for his statement on the floor today.

Mr. President, more than that, he has been chairman of the Interior Appropriations Subcommittee through the years when the pioneering work has been done in energy research.

I would point out that the distinguished majority leader has been long active in this area in his great State of West Virginia where he has worked with his colleague (Mr. RANDOLPH) and has played a key role in developing our Nation's coal resources.

We are currently consuming 18.3 million barrels of oil a day. We are importing about 8 million barrels of oil. What we are doing here today will make it possible by 1985 to save over a million barrels of oil per day in the form of imports.

Mr. ROBERT C. BYRD. Daily.

Mr. JACKSON. That is over one-eighth of the oil we are currently importing from abroad.

I want to commend the distinguished majority leader.

Mr. ROBERT C. BYRD. I thank the distinguished Senator for his generous remarks.

Mr. RANDOLPH. Mr. President, if my colleague will yield, I wish to also join with Senator JACKSON in expressing appreciation to our majority leader.

This is an area of activity in which he is both knowledgeable and committed.

I think that the record might indicate at this point, as he told us of his conversations abroad on the subject of energy, that in this Senate we have not been unmindful of our duty, a duty which has been shared with leadership by Senator JACKSON, Senator HASKELL, and many other Members on both sides of the aisle, including, of course, Senator HANSEN.

I was thinking as Senator BYRD spoke that it is a fact that between 1971 and 1976 this Senate, through its national fuels and energy policy study, passed 70 pieces of energy legislation which became, with the signature of the President of the United States, the public law and energy policy of our country.

In this study program, eight committees contributed under the leadership of Chairman JACKSON.

Mr. HASKELL. Mr. President, I urge that the Powerplant and Industrial Fuel Use Act, popularly known as the coal conversion bill, which has emerged from a somewhat contentious yet fruitful conference with the House be accepted today. I believe that the agreements that were reached late last year are reasonable and in the best interests of the country. We have waited over 7 months to receive the final language of the bill because this bill and the conservation and utility rate reform bills have been held hostage pending resolution of the natural gas pricing bills.

Many of us have attempted to get the administration and the House to provide the leadership to move these bills in a more timely fashion—unfortunately to no avail. As a result, we have been unnecessarily denied the benefits that prompt enactment of these bills could have meant in terms of energy savings and conversion to more abundant fuels.

This act, as well as the other two bills, will contribute significantly to energy self-sufficiency and toward alleviating our balance-of-payments problems. Further delay can only contribute to the feeling that this country cannot grapple with its energy problems. Further delay aggravates public misgivings—and, on the eve of the Bonn economic summit, international misgivings—over the reality of the energy crisis and America's ability to solve it.

I hope that the historic action we take today in enacting the first portion of the

national energy plan will be a clear signal to the House to follow suit and to send this bill, and the rest of the energy package agreed to in conference, to the President.

It is certainly appropriate that the coal conversion bill is the first of the energy bills in the national energy plan to come to a final vote. Coal is truly the linchpin of the national energy plan—it is the transition fuel which will bridge the gap between our overdependence on foreign oil and the eventual renewable energy resources to which we will increasingly turn in the future. Until such clean and inexhaustible energy sources as solar, wind, biomass and geothermal energy are able to achieve their promise for the future, greater coal utilization will remain our principal near-term alternative to oil imports. While energy conservation can significantly reduce the rate of growth in our consumption of energy and foster more efficient use of our nonrenewable energy sources, it cannot satisfy all our needs.

Nuclear power for the generation of electricity is surrounded by question of cost, safety, and reliable means of permanent nuclear waste disposal. Moreover, natural gas shortages during the winter of 1976–77 which paralyzed industries, schools, and hospitals throughout several regions of the country, dramatized the need to conserve oil and gas for higher priority uses than the generation steam for electricity. America's dwindling oil and natural gas resources must be conserved for residential, small commercial, transportation, and essential industrial uses for which there is no feasible substitute.

The Coal Conversion Act will contribute to greater national energy self-sufficiency by requiring that new and existing electrical powerplants and major industries convert to the use of plentiful indigenous coal under a revised and more simplified regulatory program than previously existed. The program will be carried out without an undue burden on certain utilities and their investors and certain consumers and customers who happen to live in a specific geographic area.

It will reduce our oil and gas dependence by over 1 million barrels per day by 1985. Moreover, the act gives the utilities a degree of flexibility in meeting these requirements in order to insure the reliability of service. In order to meet the stringent requirements of the Clean Air Act, loans are authorized to finance up to 75 percent of the cost of air pollution control equipment certified as necessary to meet applicaole environmental requirements. Finally, and most important to the West and coal mining areas of the East, is the impact and provision, which I was particularly interested in. The President's goal of 1.2 billion tons of annual coal production by 1985 implies a significant increase in production. The impact aid provision will help to mitigate the adverse impacts of explosive growth on small communities as a result of expanded coal and uranium development to meet national demands.

Mr. President, this act represents the combined result of many days of hearings and thousands of pages of testimony conducted by both Senator RANDOLPH's Committee on Environment and Public Works and in my Subcommittee on Energy Production and Supply. It has been refined and perfected over a period of 4 years, most recently in the energy conference, and represents a bipartisan effort. I wish to take this opportunity to express my appreciation to my chairman, the Senator from Washington (Mr. JACKSON), to our ranking minority member, the Senator from Wyoming (Mr. HANSEN), as well as to my other colleagues on the committee and in the energy conference who have contributed their energies and ideas to the formulation of this comprehensive and rational national coal utilization policy.

Mr. President, I point out that this bill, although it is here on the floor in 1978, basically was envisaged by the foresight of both the distinguished Senator from West Virginia (Mr. RANDOLPH) and the distinguished Senator from Washington (Mr. JACKSON).

During my first year in the Senate, in 1973, I was on the Energy Committee, then known as the Committee on Interior and Insular Affairs, and we held hearings on a coal conversion bill. I point out to my colleagues that this was prior to the Arab embargo. The Senator from West Virginia (Mr. RANDOLPH) and the Senator from Washington (Mr. JACKSON) foresaw the fact that the hydrocarbon fuels in the form of oil and gas were going to be in short supply, and they had the foresight to recognize that utilities must and indeed should convert to coal. Their efforts and the hearings resulted in 1974 in enactment of the Energy Supply and Environmental Coordination Act.

Also, my friend and colleague, the Senator from Wyoming (Mr. HANSEN), was part of the effort. It is only through the foresight of these gentlemen that we are here now on the floor, about to adopt the conference report on this measure.

Mr. President, I yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Mr. President, I thank the distinguished chairman, the Senator from Washington (Mr. JACKSON), for his unflagging efforts in diligently pursuing the objective that the President called for more than a year ago, in trying to develop a rational energy plan for the United States.

Also, I pay my respects to the distinguished senior Senator from Colorado (Mr. HASKELL) for his courteous consideration, his willingness always to listen, to counsel, and to consider the ramifications of this part of a total energy package which today comes before the Senate of the United States

Mr. President, today begins our final consideration of the so-called national energy plan. There may be as many as five parts to this plan, depending upon what actions are taken by the conferees of the House and the Senate and what agreements can be reached.

These different parts of the national energy plan, beginning with coal conversion and going through energy conservation, utility rate reform, natural gas and so-called COET, the crude oil equalization tax, are all parts of what many hope will be a total energy package.

I do not mean by naming them to indicate my support for all of them. I do not intend to support them all.

I should note that, in my opinion, this is one of the few parts of the plan that is likely to save any oil. While the savings are rather small: my staff estimates that those savings now will be in the order of 250,000 barrels of oil a day rather than the 1 million barrels to 1.3 million barrels that my good friend, Senator JACKSON, had predicted, and I make that statement partially upon visits and conversations we have had with administration people, it was and should be noted initially that the administration had estimated a savings of 1.8 million barrels a day.

Small as these savings might be, it is, a beginning.

This conference report has been carefully drafted along lines very close to the original Senate bill. While I disagree with parts of it, this is a bill that I do reluctantly support.

We all know the problems associated with the administration of ESECA. This bill will solve many of those problems. First, this act will prevent the Secretary's harassment of existing major fuel-burning installations that should not be converted.

We have carefully drafted guidelines for the Secretary, guidelines that were absent from ESECA.

Second, we have reversed the burden of proof for consideration of new facilities. This will make administration of the act much easier.

Third, we have provided exemptions and exceptions for facilities that were not provided for under ESECA.

Fourth we have provided an orderly procedure for consideration of actions under this act.

Support for this bill does not indicate that my position has changed on energy policy. I still believe, Mr. President, that decontrol of both oil and gas prices will allow a utility to make a fuel choice that will be more appropriate than that under the current scheme of pricing.

I remain solid in my opposition to Federal regulatory structures.

My support for this bill is based upon the fact that there is already a regulatory structure in place that is not working, a structure that needs improving. This bill is an improvement over ESECA.

Votes on the various portions of the energy plan are separable. While I do support this particular bill, I reserve my right to voice objections to the others.

I might say, also, that I will be joining with some of our colleagues on the Energy and Natural Resources Committee in trying to bring about further improvements that hopefully could be adopted by the House of Representatives and that I would hope would result in an even better bill.

Mr. President, I observe that there is, I think, an understandable misconception of what the energy situation is in

the world today and particularly what it is in the United States.

It is often reported that the United States is the "only country in the world without an energy plan," and that this lack is the cause of America's stunning dependence on foreign oil imports.

This situation is also blamed for the decline in the value of the U.S. dollar, especially against the Japanese yen and the West German mark. These assertions seem to be contrary to fact.

In the first place, no one has ever satisfactorily explained what the "energy plans" of the Germans and Japanese are. Such plans certainly do not contain many of the major portions of the Carter plan. Those countries, West Germany and Japan, do not maintain price controls on major sources of domestic energy. Those countries, West Germany and Japan, do not attempt to subsidize domestic consumption by artificially low rates to particular classes of energy users. And those countries, West Germany and Japan do not ban particular fuel uses, or automobiles that exceed specified rates of consumption.

Further, those countries are, nevertheless, far more dependent on oil imports than are we. The following shows the number of barrels of oil imported for each million dollars of gross national product:

In the United States the number of barrels of oil imported for each million dollars of gross national product is 1.9 barrels; in West Germany it is 2 barrels; in France it is 2.1 barrels; in Japan it is 3.3 barrels; and in Italy it is 6.1 barrels.

Thus, I believe we must look elsewhere for the source of America's declining dollar and balance-of-payments problem. We should look at those policies of the Carter administration which inflate the currency and discourage production, and those are policies that the national energy plan does little to change.

I am glad to note that the President said before leaving for the summit conference in Bonn that manufactured goods, not oil imports, are the largest factor in our trade deficit.

Oil imports during the first quarter of 1978 were down 17 percent from the first quarter of 1977 while nonoil imports were up 27 percent for the same period. Oil imports are serious enough when we must depend on foreign oil for almost half of our demand and it is a problem Congress has neglected too long.

Just 10 years ago, the House Interior Committee released a report on the mandatory oil import control program after extensive hearings. Among its conclusions the report stated:

> Declining exploration activity and declining crude reserves are endangering the health and well-being of the domestic petroleum industry and seriously endanger the national security of this nation.

That is the report of the House Interior Committee made just 10 years ago.

We found during the 1973–74 Arab oil embargo just how seriously we were endangered but since then we have done little about reversing our declining exploration activity and shrinking reserves.

We have, however, accomplished more in conserving what we have than our European and Japanese critics give us credit for.

They point the finger of blame at us for increasing our imports and weakening the dollar but the facts are a little different.

Actually, combined U.S. oil and gas consumption has remained virtually stationary between 1973 and 1977 but domestic supplies have declined.

During that period U.S. crude oil production dropped by 1 million barrels per day and natural gas production by 2.65 trillion cubic feet, equal to 1.25 million barrels per day of oil. Together these two figures are equal to 96 percent of the increases in U.S. oil imports during this period. And these statistics were compiled by John H. Lichtblau, executive director of the Petroleum Industry Research Foundation.

These facts do not square with the charge sometimes levelled against the United States that the rise in its oil imports is due primarily to wasteful consumption of oil by the American public, aided by continued price ceilings below world market levels on most domestic crude oil and natural gas production. In fact, the principal oil fuel consumed by the public—motor gasoline which accounts for nearly 40 percent of total U.S. oil demand—has shown a total increase of only 7.3 percent between 1973 and 1977, compared to nearly 10 percent in Western Europe and 7.7 percent in Japan.

Of course, what we should be doing is to double our efforts in domestic oil and gas exploration and development. That is the only near-term solution to our oil import dependency dilemma.

Included in the potential of domestic development is a recoverable reserve of 50 million barrels of oil that could be recovered by enhanced recovery techniques. This would be in addition to the 35 million barrels recoverable by standard techniques.

But the $50 billion will not be recovered at current prices for old oil or even new oil prices.

What we need rather than a crude oil equalization tax is decontrol of oil prices now held below replacement costs.

If the Department of Energy would even allow producers what they are entitled to under the Energy Policy and Conservation Act, cash flow to producers would be increased by more than $500 million per month.

Congress also authorized a higher price for enhanced recovery oil in 1976 but the Department of Energy has yet to do anything but publish a proposed rulemaking and that was a year ago.

I hear about what can be done administratively to increase oil prices for new oil and marginally produced oil and old oil but why does not the Department of Energy go ahead and do these things and pay the producers the more than $2 billion dollars that has been withheld.

Applying these increases as intended by the Energy Policy and Conservation Act would gradually phase oil prices up to the world level as intended by the act.

The President already has a workable oil pricing energy plan if he would allow it to operate.

Price controls could be phased out under the plan by the end of 1981 and free the domestic oil and gas industry from the maze of rules and regulations and low prices that are forcing marginal wells to be shut down.

Using the authority he now has would do more to bring on more domestic production than anything the President could do other than letting all controls expire next May under the Energy Policy and Conservation Act.

I want to be certain that I am clear on the question of the Secretary's authority to prohibit use of natural gas or oil. Is it correct that, while the Secretary may, under certain circumstances, prohibit use of natural gas or oil by certain powerplants and major fuel burning installations, the Secretary has no authority to require the use of a particular alternative fuel? For example, the Secretary would not be able to require an existing powerplant or MFBI to use synthetic gas produced from coal, and certainly would not to able to require that an existing powerplant or MFBI construct such a coal-based SNG plant.

Mr. JACKSON. You have correctly stated the scope of the Secretary's authority in this area. The authority of the Secretary is limited to the ability to prohibit use of natural gas or oil as the primary energy source of a powerplant or MFBI. Nothing in the bill is intended to permit the Secretary to order a powerplant or MFBI to utilize a particular alternative fuel, whether it be coal-based SNG or any other alternative. Certainly the Secretary could not directly or indirectly require the owner of an existing MFBI, for instance, to build a coal-based SNG plant or to purchase coal-based SNG.

Mr. RANDOLPH. Mr. President, will my colleague from Wyoming yield?

Mr. HANSEN. I would be happy to yield.

Mr. RANDOLPH. I know he realizes that I have shared his thinking on these matters, as indicated by the debates in this Chamber on measures that have to do with the energy programs in this legislative package. I have long felt that they should come one at a time and we should take action on them when the conferees agree, but I will not belabor this point.

As the Senator discusses the new oil and gas that could come into the American energy lines to serve industry and people with proper incentives in this country, the record must reflect the American taxpayers have been called upon to spend $12.5 billion to store—I emphasize just to store—petroleum products in this country.

A large degree of that oil stored comes into this country from abroad. That is a fact. When we think in terms of a greater efficiency we should not depend upon that which comes from overseas but that which we can produce in this country. It is really saddening, to know that during earlier periods, specifically the 1940's and 1950's we could have been developing synthetic fuels from coal and other nonconventional sources.

I reemphasize the $12.5 billion is dead weight, is it not?

Mr. HANSEN. It is indeed.

Mr. RANDOLPH. No productivity taking place, but merely a possible hedge if an embargo comes from the Middle East in the weeks or months ahead.

I compliment my colleague from Wyoming, who has certainly not been partisan in these matters but has been knowledgeable in the consideration of this and other bills.

Mr. HANSEN. Mr. President, I thank my friend from West Virginia for his very perceptive observations. There is no one I know of who has worked longer in trying to address the increasingly difficult and perplexing problems of energy in this country than the distinguished Senator from West Virginia.

I think what the American people must understand, hopefully very quickly, is the fact that our energy policy, jerry-built as it is, has resulted in the shutting down of both oil and gas wells in the United States, and of failing to bring on-stream natural gas that could have diminished our dependence upon foreign sources simply because of the price structure.

There are gas wells in West Virginia, in Colorado and in different places that do not yield a lot of gas, and presently are yielding no gas at all, simply because the price structure makes it economically infeasible to build the pipelines from where the gas is, whether it is in the Devonian shale, from coal mines or whatever, and to get it into the pipe system, into the delivery system, so it becomes available for use.

I make this point because in the United States today we have gas selling for 25 cents a thousand, some even less, and our regulations have kept it there. At the same time, they have made it economically impossible, to bring other gas on line. We are today paying as much as $4.50 a thousand for imported LNG. How on earth anyone can rationalize such an idiotic scheme is beyond my comprehension, but that is exactly what we are doing.

Mr. DURKIN. Mr. President, will the Senator yield?

Mr. HANSEN. If I can just finish this remark.

The same thing applies to the oil business. My friend from Oklahoma (Mr. BARTLETT) has pointed out repeatedly that it makes no sense at all to keep oil in the ground because it costs as much to pump it as it would sell for in these marginal wells, deep wells, and stripper wells, and turn around and buy oil from Canada, from Indonesia, from the Middle East, paying many times as much as we are willing to pay our own people in this country to produce that oil.

I think if we were to move in the direction that many of us have recommended for a long time, to let the law of supply and demand make these determinations, we would be making far greater progress, in my opinion, than we are with this whole five-time package of energy bills.

The trouble with this bill is that it tries to fine tune the regulations; this would be totally unnecessary legislatively if we would simply let the marketplace work.

I am happy to yield to my friend from New Hampshire.

Mr. DURKIN. I thank my friend from Wyoming.

Mr. President, I wish to express my strong support of the coal utilization bill. I urge its enactment so that we may at last begin implementation of a national energy policy.

I also wish to commend the distinguished managers of this bill who have spent long hours working on this important piece of legislation.

Mr. President, I believe this legislation is particularly significant because it specifically recognizes the link which must be forged between a national energy policy and a national transportation policy. This legislation demonstrates that a truly comprehensive national energy plan must necessarily embrace a coordinated transportation policy. I am referring specifically to section 803 of the legislation, which embodies an amendment I introduced to provide an additional $100 million for rehabilitation of branch and weaker rail lines to carry coal and coal products.

The reasoning for this provision was well explained in the committee report, from which I would like to quote briefly:

Railroads have always been and will in the immediate future continue to be a major carrier of coal in this country. While main rail lines close to the source of coal (mines) may have sufficient volume to attract private financing to upgrade lines, main and branch lines in more remote consuming areas of the country may not have the volume of coal traffic needed to attract private improvement funding. Nevertheless, these areas will have the majority of the Nation's utilities and factories which would be expected to convert to coal. In order for coal conversion to be meaningful, these existing plants and new facilities to be built to use coal throughout this country must be serviceable by rail. In practical effect, this will mean rail lines to bring the coal to the users. These lines are presently in deteriorated condition and will need financing help from the government in order to upgrade to carry the coal.

Clearly, in the presence of a coal conversion act, it is in the public interest to upgrade rail to carry this coal. The linking up of a coal conversion program and improved rails to carry this coal is a natural one. The committee thus looks favorably on proposals to encourage a rail rehabilitation.

The manner in which the provision accomplishes this is to add this authorization directly to the title V railroad rehabilitation program established under the 1976 Railroad Revitalization and Regulatory Reform Act (4 R Act). Thus, the funds would be able to be made available to railroads applying for them without any additional bureaucratic creation or delay. It is better to spend money in rails to carry coal, than to spend it on a bloated bureaucracy to process streams of exemption applications from facilities which have no way to get coal transported to them. This provision fits comfortably into the administrative program set up at the Federal Railroad Administration.

The thrust of this provision is to make Federal funding available to smaller main and branch lines which are marginally profitable, and which otherwise would not be able to obtain private financing needed to carry coal to the numerous factories and other users throughout this country.

Mr. President, I sponsored the rail rehabilitation provision of the coal utilization bill because I believe that we will never solve our Nation's energy problems until we recognize that a comprehensive energy policy requires that other national policies, such as transportation, be consistent with, and contribute to, these energy goals. The coal utilization legislation we consider today embodies this concept, and I believe that it is therefore appropriate that it be the first portion of the national energy plan to be enacted into law. I therefore urge its passage.

Furthermore, New Hampshire and New England will not be able to get coal without the funds my amendment provides to rebuild our railbeds.

I would also like to commend Senator RANDOLPH who has been fighting for this type of legislation for many years. This is another tribute to the effectiveness of Senator RANDOLPH.

Mr. BARTLETT, Mr. President——

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. HASKELL. Mr. President, will the Senator yield?

Mr. HANSEN. Mr. President, I yield the floor.

Mr. BARTLETT. Does the distinguished Senator from Colorado wish me to yield?

Mr. HASKELL. I ask unanimous consent, if the distinguished Senator from Oklahoma would not mind, I believe the distinguished Senator from West Virginia has a pressing engagement, and if it is all right with him——

Mr. BARTLETT. I would say to my good friends from West Virginia and Colorado that I would be very happy to have the distinguished Senator from West Virginia have the floor now, with the understanding that I would then follow the Senator from West Virginia.

The PRESIDING OFFICER. With that understanding, without objection, the Senator from West Virginia is recognized.

Mr. JACKSON. Mr. President, will the Senator from West Virginia yield?

Mr. RANDOLPH. I yield to the Senator from Washington.

Mr. JACKSON. Mr. President, before the Senator from West Virginia proceeds, I would just like to state that since he came to the U.S. Senate in 1959——

Mr. RANDOLPH. 1958.

The PRESIDING OFFICER. Will the Senator please use his microphone?

Mr. JACKSON. In 1958, he was "Mr. Coal."

I say that in all candor. Senator RANDOLPH has taken the lead all through the years. He is the one who put coal research on the map, and I want to point out that the real beginning in connection with our coal conversion program was the result of the tireless work of the Senator from West Virginia (Mr. RANDOLPH). That effort, Mr. President, has continued right down to this very moment. I commend him, and wish to express my personal appreciation for his outstanding service to the people of West Virginia and to the Nation, for his foresight, his per-

ception, and his understanding of the problems facing the coal industry. More than anyone else in this body, he is responsible for where we are at the moment with the current legislation before the Senate, to provide for coal conversion, which will really give new impetus to the coal industry, but, in addition, will save us by 1985 more than a million barrels of oil a day out of the 8 million barrels of oil that we are importing. I commend my colleague and friend.

Mr. RANDOLPH. Mr. President, the very generous words of Chairman JACKSON are much appreciated by me.

We are beginning the so-called energy package on a day that is not just another day. It is a new day. Even though we have moved forward, as I have indicated, on many occasions in matters of energy in this body, we today are bringing from a conference committee the results of arduous and long effort, not only in this body but in the other body as well.

This is a day made necessary by world conditions in which America rubs shoulders with most of the other nations and peoples of the world.

In 1971, as Senator HANSEN knows, for a 5-year period when we set up the Senate's study, with eight committees of the Senate active participants through their membership, we placed on the desk of the President of the United States 70 measures having to do with phasing, with processing, and with attempts to strengthen this country from the standpoint of its energy security in the face of the increasing supplies from abroad.

So, as we come to this first part of the national energy plan, we are providing a clear signal not only to the American people but to the people of other nations, the leaders of other countries, that we here are not attempting to favor one type of energy over the other but we are dedicated to the utilization of coal. Coal is here in tremendous amounts, ready to be processed in many ways, for the benefit of those in our country.

I think it is very important for us to state that in no sense does this conference report represent a narrow or partisan approach. It is a well-reasoned and realistic approach.

Not always do we agree with one another. Sometimes our differences can even be our strengths later, as we compromise to bring points of view together.

I disagreed with the President of the United States in reference to the deregulation of natural gas. It was a fight here, as we know, with only three or four votes separating this body, and the votes coming in different degrees from both sides of the aisle.

We are face to face with the problem, however, of having it understood that this country is thinking of the increased production of coal and the utilization of that fossil fuel. I commend all those persons—my record will indicate their names and their efforts—who have contributed so much to this immediate hour. I would point out here on the Senate floor that HARLEY STAGGERS of West Virgina has served as chairman of the conferees of the other body, and he has long represented capably the district that I had the opportunity to represent in the other Chamber for a period of 4 years.

I know that the Members of this Senate and the Members of the House, and many people throughout the country, realize that we must just not recognize that coal is here, but that it must have a broad, widespread, economic impact on the reduction of oil and gas consumption.

The chairman has spoken of my activity in this field. I am grateful for those comments. It was in 1959—I took office in November 1958—when I advocated with vigor that our country's energy course had to be better planned, and not a hit-miss operation which had prevailed over the years. We had to develop an efficient and comprehensive plan for use of the natural resources of this country. It was long overdue then; it is long overdue in greater degree today.

For the record, there were 45 Senators who joined in the legislation I presented creating the congressional joint committee on national fuels policy.

Mr. President, it was in the year of 1973, in October, that Senators JACKSON, MAGNUSON and I introduced what was known as S. 2589. The provisions of that bill were eventually incorporated into the Energy Supply and Environmental Coordination Act which became law the next year.

That was an emergency measure, to ease problems faced by powerplants which were required to reconvert or voluntarily be converted from oil to coal.

Coal conversion legislation passed in the Senate in September of 1977 incorporated, I believe, about 80 percent of the provisions included in S. 273 which I introduced on January 14 of that year. This bill represented a legislative initiative I first proposed in May 1975, after hearings on the steps necessary to support coal substitutions as a national policy—S. 1777.

In June 1961, I said before the then Interior and Insular Affairs Committee, now the Committee on Energy and Natural Resources, that this country has a foreign policy—a defense policy—a farm policy and the beginnings of a transportation policy. All are necessary and important. But not one of them is so basic to our national security and economy as would be a national policy in respect to those energy fuels that make all of them possible and without which, or lacking an abundant available supply of which, would render all other national policies impotent and would disarrange our country industrially, economically, and militarily. The act before us, which calls for large utility and certain industrial plants to switch to coal, is the single most effective method that can be used to conserve other fossil fuels.

It was 2 years later when, before that same committee, I indicated that the failure to have a fuels and energy policy for the United States, and that each year that we delayed, would perhaps bring us 1 year nearer to disaster.

I believe the conferees have developed this coal utilization legislation mindful of the historic constraints to increased coal substitution. Coal production investment has always been subject to fluctuations, but more recently coal development has been hampered by major uncertainties about Government policies. Uncertainties about future regulations, in the past, have deterred development of new mines, and caused pass through of certain costs to certain segments in the coal industry, especially, equipment manufacturers and transportation concerns.

Last year the Senate took action establishing new mining and restoration practices, and adopted new requirements related to health and safety in the mining environment. These measures are beginning to aid industry responsible for production of coal and responsible for making decisions and defining problems associated with assured coal markets of specific dimensions.

The Fuel Use Act begins to clarify Federal policy for consumers of coal from the mine. It sets forth a revised and simplified regulatory program for converting existing electric powerplants while essentially continuing the current Federal approach for existing industrial plants. The burden of proof on the Federal Government is to show why a plant should convert to coal. Requirements that certain new electric powerplants and new industrial plants be built with the capacity to use coal and other fuel are also spelled out. The act establishes the Federal position on a fuel utilization policy, answering a question which had to be resolved before definite markets for coal could become clear.

Coal combustion leaves ash residue and emits sulfur dioxide gas, and another part of an effective coal plan is to assure our citizens continued clean air. I feel strongly, as chairman of the Environment and Public Works Committee that the clean air amendments, signed into law by President Carter on August 7, 1977, fulfills that objective. The policies adopted on coal conversion in last year's clean air conference are consistent with the President's coal use program. An example is the question of whether to establish a policy advocating a national percentage rate for removal of sulfur, or to allow a smaller rate of sulfur removal for low-sulfur coal. Representative STAGGERS and I worked to secure a uniform new source performance standard for all coal thus preventing the importation of low-sulfur coal into areas producing coal with higher sulfur values. The administration, since the introduction of its proposed energy legislation, have supported requiring of uniform source performance standards.

I wish to commend the conferees for inclusion of section 602 in the act which provides up to two-thirds Federal participation to help certain utilities and industries purchase scrubbers and other devices enabling them to burn coal cleanly.

Included in the conference agreement is an amendment which I did author, directing the President to conduct a complete investigation of how we, as a nation, will implement a national coal policy. Hopefully, the national coal study, section 741 of this conference report, will be a substantial study which can be used by the President's Coal

Commission, recently established and chaired by Gov. John Rockefeller IV of West Virginia.

I am glad to be a part of the Commission membership.

Mr. President, I am gratified that the conferees provided socioeconomic impact assistance in areas where increased coal production will take place—section 601. States like West Virginia must improve the quality of life for coal miners. All you have to do is go into a county in West Virginia—let us say Boone County, for example. The valleys are very, very narrow. The mountains are very precipitous. Although it is difficult to get the increased number of miners, the thousands needed in the opening of new mines for the production of coal—there is also the problem of securing the necessary housing for the miners who are to work in this production of coal. That is a very, very real problem and a very difficult one and the miners often are driving 50 miles to the mine and 50 miles back to their homes.

Assistance to energy imported areas is a key element to increasing coal productivity in the coal industry and reaching a national goal of 1.2 billion tons of coal by 1985. The provision, although unfortunately less than recommended by the Senate, will provide the means to expand housing construction and develop needed water and sewer systems in the coal fields.

Providing transportation and effective distribution after coal is mined is essental to a coordinated coal substitution program. Sections such as 803 of the conference pact, which I sponsored during Senate consideration, makes available $100 million in additional funds under title V of the 1976 Railroad Act. Effective implementation can avoid many requests for permanent exemptions from coal conversion by utilities and industries, providing people work in rehablitating branch and spur lines for carriage coal.

If you are back on the branch railroads in the State of West Virginia and see the coal moving toward the markets, the coal is moving at a speed of perhaps 12 to 14 miles an hour in the trains, where it used to move at 40 miles an hour. This is because of the deterioration of the rails.

Mr. President, during the past year many obstacles to an effective coal conversion program have been overcome. The 1977 clean air amendments have satisfied many environmentalists that increased coal use will not destroy our air, land, and water. Surface mining and black lung legislation have convinced many miners that their working conditions will improve, with better health and safety controls. Those associated with energy needs realize special attention must be given to the development and rehabilitation of energy transportation networks to fulfill national energy goals. The administration is now committed to the development of commercial synthetic fuel plants through the liquefaction and gasification of coal.

The passage of this first part of a national energy package assures our goals for coal conversion will be met. This measure provides for increased coal use in domestic markets essential to our economy-electric utilities, steel, general industry such as cement paper, primary metals, and transportation equipment, synthetic fuel production, and the retail industry.

The United States has the strength to produce the coal we need for energy independence. The Powerplant and Industrial Fuel Act of 1978 represents a Government policy long needed to again make substantial coal utilization a reality.

The PRESIDING OFFICER. Under the previous order, the Senator from Oklahoma is recognized.

Mr. BARTLETT. Mr. President, I rise in opposition to the report of the conference on this bill. I opposed the bill in committee and on the floor. While I have worked at every turn—constructively, I hope—to improve the legislation and make its effects more reasonable and less punitive for the area of the country I represent, I do not believe this effort has been fully successful. Although a number of modifications have been made to meet the points I have raised and the legislation has been improved in these respects, it is still far from perfected.

Unfortunately, the work of the conference has also now been marred by the unseemly haste to consider this report and pass a bill simply for show—apparently so that the President can point in Bonn to the action that will have been taken on his energy program. While it would be nice to be polite, I feel it is essential that someone have the courage to stand up and point out that this effort is a farce.

It is not even a suitable symbol. Were the entire administration energy program put in place, it is unlikely that it would save a single barrel of oil or cubic foot of gas. In fact, it would probably end up decreasing the amount of oil and gas we would otherwise have available, and thereby increase our imports.

Mr. President, this legislation is unnecessary, burdensome, and anticonsumer. In addition, it will increase our consumption of foreign oil.

The bill is unnecessary because the laws of economics are driving users away from natural gas as fuel. The bill simply represents an additional blanket of Federal controls designed to address problems created by an earlier, ill-fated layer of Federal controls. Deregulation of new natural gas and decontrol of domestically produced crude oil will alleviate the supply shortfalls this bill is purported to address.

My distinguished friend and colleague from Wyoming spent considerable time a few minutes ago pointing out how important it is to deregulate both natural gas and crude oil in order to bring about a solution to our energy problems. To fail to do that is to fail to address properly the energy crisis that we have had before us for a long time.

(Mrs. ALLEN assumed the chair.)

Mr. BARTLETT. That was recognized by the Senator from West Virginia (Mr. RANDOLPH) a number of years ago. But that has not been addressed properly and sufficiently by this body or by the entire Congress and the various Presidents who have served during the interim. But the problem is still there and it is a bigger problem today than it was before.

In addition, separate provisions in other energy bills pending in conference can deal quite adequately with regional shortfalls of natural gas supply. These provisions deal with allocation, special sales, incremental pricing, and user taxes.

Under this legislation, new industrial boilers and new electric powerplants will not be able to use natural gas or oil unless there is essentially no alternative for environmental or similar reasons. But that is already the case. For economic reasons alone, industry is perfectly capable of making those decisions.

It is business. It is most essential for making a profit for a business to recognize which fuel it should use for the long pull, which is economically in its best interests, which can be used for a long enough time to amortize a very sizable investment, so later on it will not be outlawed because of environmental or other Federal regulatory reasons.

Moreover, if anyone were stupid enough to plan to use the wrong fuel, the Energy Supply and Environmental Coordination Act of 1974 (ESECA) already provides ample authority to prevent such a mistake.

Existing boilers and plants are likewise dealt with. If they can use some fuel other than natural gas or oil, or if they can reasonably be converted to do so, this is already underway for economic reasons, without the need for bureaucrats and regulations to prescribe it. However, for the economically ignorant, ESECA again provides sufficient authority to compel them to proceed in their own interest.

Practically the only place where existing plants will be required to convert, or to stop burning gas or oil and be replaced by new plants, is in the Southwest where natural gas is used to generate electricity. This practice developed years ago, and in fact is one of the principal reasons there is a strong intrastate natural gas industry, successful enough so that we have gas available to argue about.

In fact, it was only a short time ago, a few years, when the Government wanted industry to convert from coal, because of its pollution problems, to natural gas. For that reason some conversions were made to natural gas to satisfy the problems of pollution.

No new powerplants are being built to burn natural gas, but those that exist—and this area is dependent on them—in Oklahoma, Texas, New Mexico, Louisiana, and a few other States are now being paid for by the consumers of electricity in those States. It is monstrously punitive to compel these States and their consumers to throw these plants away by 1990 and to build new ones, so that relatively small amounts of natural gas could be saved and presumably transported north and east to heat someone's store at a low, controlled price.

Madam President, this bill is excessively burdensome. A massive regulatory

bureaucracy is established to wreak havoc on utilities and industry and cost millions of taxpayer dollars in the process. This bureaucracy will ultimately publish thousands of pages of regulations and case records to monitor what would have happened anyway.

This legislation is anticonsumer oriented. Due to premature plant retirements and unnecessary cost increases brought about by this bill, utility ratepayers in this country will pay billions of dollars in excess electricity bills. A greatly disproportionate share of the burden will fall on the ratepayers of the Southwest and South. It is estimated that the capital costs of converting existing gas-fired generating capacity in Oklahoma to coal capability will be $4 billion, and will be passed on to consumers in my State.

One of the problems with a bill such as this, which forces conversion from gas to coal, or to nuclear energy, or to imported petroleum, is that the various parameters on which the legislation is based are not known with any exactness.

They are perhaps the best guesses that can be brought together for the purpose of basing the date 1990 for those conversions to take place.

But nobody knows for certain that conditions will turn out as expected by those who wrote the legislation, and nobody knows whether or not that period of time might be far too short and, because of the shortness of the time, wreak havoc on the consumers of electrical energy generated by natural gas.

It is my concern that it is difficult to look into a crystal ball and know for sure what kind of specific restrictions to include in such a bill as this.

Now, if there was not a lot of movement already taking place in converting from gas to other energies, then perhaps such legislation as this would be called for. But that movement is taking place in the Southwest and will continue to take place of its own momentum for economic reasons.

Therefore, this legislation is not necessary.

Madam President, this bill will increase our imports of foreign oil. Forced off natural gas, utilities, and industry will not convert existing physical facilities designed to burn natural gas to coal-burning or nuclear capability. Due to economics and institutional barriers, existing generating facilities will be converted wherever possible to oil-burning capability. Since domestic refiners are presently unable to meet domestic fuel oil demand, any increase in demand must be supplied by imports. The resulting adverse impacts on the value of the dollar and on our national security are already well known.

I think it could be safely said that all Senators would like to see more of our domestic energy resources utilized, so that we could stem the tide of imported oil. However, this bill is neither effective in accomplishing this end, nor is it necessary for that purpose.

There are no estimates of the amount of oil imports that will be saved by this bill as reported by the conferees. However, it is useful to note that the Congressional Budget Office estimated that the bill, as originally introduced, would save only 500,000 barrels of oil per day, and that the bill as reported is weaker than the original bill introduced. One estimate from an administrative source was that savings for this particular bill would be in the neighborhood of 250,000 rather than the 1.8 million barrels daily that was originally estimated by the administration when this plan was submitted. I noted that our distinguished chairman, the Senator from Washington, estimated 1 million barrels of savings. I do not think this would be the case. I do not believe there will be any savings at all in imported oil.

Furthermore, this bill has not removed the major difficulty with the increased use of coal—that is, the environmental problem. The Clean Air Act will prevent many of the conversions that otherwise would be possible. The companies that are faced with conversions are going to look at the possible sources of energy available to them. One, of course, is coal; another is nuclear energy.

In the case of nuclear energy, it takes today approximately 13 years to build a nuclear plant, from the time the decision is made to move ahead with that plant until that plant comes on stream. Of course, that is not going to solve the problem that exists for the utilities faced with conversion, when in many cases they also must have the concern that New Hampshire apparently is having, for environmental reasons, of moving ahead with a nuclear plant.

So we have the environmental regulations plus the long leadtime delay in the case of nuclear energy.

In the case of coal, let us examine a little history about it. The history of coal leasing over the past 7 years has been a disaster, and I am talking about coal leasing of Federal lands.

Since 1971, the Department of the Interior has leased no new coal, with a very few small exceptions of emergency leasing. One was done just recently, of leasing some coal adjacent to an existing mining operation in the Steamboat Springs, Colo., area. That particular mine was going to have to shut down due to lack of coal, and therefore an exception was made. But there has not been any broad leasing program during that period since 1971, and with the few exceptions of emergency leases, no new coal leases have been issued.

Coupled with this, the department is administering a strip mining bill that has as a major goal to preclude surface mining in many areas. It gets into land use planning and creates great difficulties in moving ahead with any kind of leasing program.

Even more disturbing is the fact that I see no sign of reversing this attitude. Recently, the Secretary of the Interior, Secretary Andrus, entered into an agreement in the Pratt court case which allowed environmental groups to spell out the Federal policy for coal leasing. I think it can be imagined how much coal they want be leased. The answer is "none"—at least for the next considerable number of years.

We cannot afford to lock up our most plentiful domestic fuel source. My understanding is that because of this agreement that Secretary Andrus has entered into, the leasing of coal on a programed basis will be delayed until after 1984.

It is with some irony that I recall the situation a few years ago, when we were talking about some of the difficult problems with our domestic energy shortage, and various people spoke on this floor and elaborated on what they considered to be the goals that should be achieved by 1985. Almost everybody said that we should achieve a production level in 1985 double that of, say, 1973, or 1974.

One of the advocates of such a program, estimating what future production would be, was our distinguished majority leader at that time, Senator Mansfield, who also was a very strong advocate of the strip mining bill, which in various ways has delayed our coal production program and has not offered opportunities of incentives for coal to be produced in this country at more rapid rates.

So here we are, with the one source of energy that is available in large amounts, estimated to be a supply for 200 years or so, which we are not utilizing in any way at all to the fullest.

This act is not needed, Madam President, because industry already is converting to oil. No new baseload electrical powerplants utilizing oil or natural gas are being planned. Industry is more concerned with security of supply than with cost of the supplies; to a large extent because oil and gas, especially gas, viewed as likely to be cut off, no new plants are being constructed for their use.

The claim is made that the current regulatory program, section 2 of ESECA, is not working.

Of the 143 utility orders issued by mid-1977, all had been issued to utilities that were going to burn coal anyway, even without the Federal order. The program has almost totally broken down for major fuel burning installations other than utilities.

But will this bill improve upon that legislation? No, not really. Compliance with this bill will be more expensive due to the increased regulatory burden. Because one must apply for exemptions rather than wait for the Federal Government to come after you, administrative compliance costs will rise dramatically.

Given, then, that this bill will be ineffective and that it will be expensive to comply with its provisions, what can we do to foster coal conversions? There is a simple answer to this question and one that I have been urging on my colleagues for some time. Let the marketplace set fuel prices. If gas and oil were allowed to rise to their true value in the marketplace, all fuel users would be able to choose a fuel based upon real cost considerations. That is the only way that proper fuel selections will be made.

In the argument that has taken place on price controls versus the free market for domestic energy, I think it is often not recognized that the main argument used against price controls—at least I think it is the main one—is that the price of gasoline and other petroleum and gas products would rise very sharply, and for the poor and those of fixed income it

would be a burden that they could not easily handle.

I do not think that that is true. But if that is the case, it is an ancillary problem and does not deal with the main problem and the basic problem of the shortage of energy in this country, which affects everyone, which affects our national security, which affects our economy, which affects the dollar, and which affects the large imports of oil, causing dollars to chase all over the world in trying to bring in more and more oil.

If it developed that the cost of petroleum products would rise and become too great a burden for the poor and those of fixed income, this Congress could deal with that directly. We have already in a very small way passed in this Chamber a bill doing just that. So this is something that can be dealt with quite adequately by Congress in a separate manner.

It has been estimated, I think by the administration, that if we had an import fee on the oil that is now being imported of $5 or $6 a barrel, this would be reflected in the marketplace in a price increase of 7 cents a gallon for gasoline. So I do not think that the price is going to be a tremendous jump if we do have deregulation of gas and decontrol of oil. It would, of course, provide much more incentive for oil and gas exploration, and would provide the opportunity for the costs of finding oil and gas, replacement costs, to be met and in that way an additional amount of incentive and effort made to bring on more domestic energy. This would then be reflected in the other fuels and the newer type fuels which need to be brought on in the remaining years of this century so that, when we do embark on the 21st century, we will do so with significant supplies of energies.

Mr. President, this conference report deserves closer analysis than has been permitted. It is a new document, unlike either original piece of legislation from the House of Representatives or the Senate, and it comprises over 80 legal-size, fine-print pages of highly technical language. It consists of over 40,000 words. It was drafted in secret and kept unavailable to members of the conference and the public until less than 48 hours ago.

I might say the conference considered this legislation and approved it in memo or outline form but not in bill form. So this has not been scrutinized very carefully, and it would be my best guess that there are a number of areas in it which would not express adequately or accurately the thinking of some of the conferees who have supported it. I think that there will be in this legislation a number of provisions that will be political nightmares to those who administer the legislation.

So I feel that it should have a much closer look than it has had by those in industry and those in Congress. But that has not been the case, simply in the interest of having this legislation be made available for announcement by the President at Bonn.

Such a short period of time has really prevented an analysis of the substantive issues involved, some very complicated, much less a review for technical accuracy.

Mr. President, I urge my colleagues to oppose this legislation. I do not think that it is in the best interests of the Nation. It certainly is not fair to the State of Oklahoma, which I represent, and which will be paying a very large and disproportionate share of the forced conversion costs.

I yield the floor.

Mr. SCHMITT. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. HASKELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Madam President, if it is agreeable with the manager of the bill, I would like to propound a question to clarify a point we feel is important to some of my constituents.

Mr. HASKELL. Certainly.

Mr. THURMOND. Some of my constitutents in South Carolina are concerned about the effect which passage of this conference report would have on existing powerplants, and whether they would possibly be required to expend large sums of money to convert to the use of coal.

I am looking at section 301(b) of title III of the conference report, and I would like to propound the question: What effect do you foresee this provision having on existing electric powerplants, and what could the Secretary require them to do under this provision?

Mr. HASKELL. I assume the Senator from South Carolina is referring to existing electric powerplants that use petroleum?

Mr. THURMOND. Well, about 70 percent, I understand, probably of our powerplants use coal, but there are about 30 percent that use petroleum.

Mr. HASKELL. Well, Madam President, the Senate-passed bill amended and retained the provisions of existing law—the Energy Supply and Environmental Coordination Act of 1974—relating to a prohibition against the use of petroleum. But present law will only permit the Secretary to, by order, prevent the use of petroleum where a utility has facilities that are capable of burning coal.

The conference agreement does not rely on existing law but adopts the approach of the House, which was not to incorporate and amend prior law, but to have one bill that governs the whole area.

Mr. JACKSON. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. HASKELL. I yield.

Mr. JACKSON. Madam President, I would like to ask for the yeas and nays on the adoption of the conference report.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HASKELL. The definition that is in the conference bill is basically narrower than it is in existing law which the former FEA defined by regulation. Therefore, in effect, the bill is more favorable to those existing utilities that have both petroleum and coal-burning capability.

The conference report would authorize the secretary, who must bear the burden, to order conversion to coal burning from petroleum only where the existing electric utility has coal-burning facilities as set forth in section 301(b), (1), (2), and (3).

Mr. THURMOND. In other words, then passage of this legislation would not be detrimental to the operations of the powerplants at present as they now operate?

Mr. HASKELL. That is correct, The passage of this legislation would not affect existing petroleum powerplants any more than previous law did. On gas burning it is a different situation.

Mr. THURMOND. Madam President, I wish to thank the distinguished Senator from Colorado, the manager of the bill, for the explanation he gave. I felt it would be wise to clarify that point, because it is a matter of grave importance to the power companies in South Carolina.

Mr. HASKELL. I am very pleased to do it, I say to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. Madam President, I believe very, very strongly in the encouragement of the use of coal, of the encouragement of the development of efficient coal combustion technologies, of the encouragement of the development of technologies that will allow the environmentally sound use of coal, and I believe that in our midterm future with respect to energy, that coal provides the foundation, at least a major part of the foundation, upon which we will stand in order to achieve, first, energy independence for essential requirements and, eventually, become again an exporting nation of energy derived from essentially inexhaustible sources.

Madam President, I believe that the cost and the environmental impact of the use of coal will be progressively reduced over the next several decades, so that not only will have an abundant and secure energy source for this Nation, one which will be compatible with our environmental aspirations, but also one which will become more and more a source of valuable natural chemicals, which are becoming very much a part of our modern civilization.

However, Madam President, in spite of all the good intentions of the conferees that have reported this report, all the good intentions of the members of the appropriate congressional committees, and all the good intentions of this body, the U.S. Senate, in our search for a strong and long-term energy policy, in spite of all of this, what we have before us is a regulatory nightmare.

It is a nightmare of unknown economic cost to the consumer who must eventually pay all the costs, whether directly or indirectly through taxation. It is a nightmare of unknown paperwork impact, because of the regulations that will be promulgated by the Department of Energy. And it is a nightmare of judicial impact—something we often forget, but wherever contests result from imprecise, not freely understandable congressional action, the courts become progressively more and more burdened with the resolution of what we should have resolved in the conference.

This bill gives the Secretary of the Department of Energy vast new regulatory power that will be almost entirely at the expense of our citizens—both the expense in cost and the expense in time.

I would just, for perspective as we begin this debate, quote to the Senate section 214, paragraph (A):

> TERMS AND CONDITIONS GENERALLY.—Any exemption from any prohibition under this subtitle shall be on such terms and conditions as the Secretary determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this Act.

Madam President, that is a very sweeping transfer of legislative power to the Secretary of the Department of Energy.

But we are used to that. We have been doing that for the last 18 months that I have been privileged to be a Member of this body, and if this bill becomes law we will have done it to ourselves and our constituents once again.

Madam President, this bill is misguided in its basic purposes. It attempts to substitute regulation by the Secretary of the Department of Energy for regulation by the marketplace in the conversion from natural gas and petroleum to the use of coal. Although a worthy aim, it is one which can be much better accomplished in the marketplace, much better regulated by the availability, the real availability and the real cost of alternative energy sources.

This bill is unfortunately based on a very fundamentally inaccurate and insidious premise; namely, that we are running out of available resources of natural gas and petroleum within the continental United States and within areas accessible to us.

Natural gas is in fact one of the potentially most abundant sources of domestic energy available to us, and it certainly is the most clean from an environmental point of view. To be considering legislation whose fundamental aim is to substitute, much too rapidly, at much too high and economic cost, the use of coal, which is not yet environmentally sound in many respects, for the use of what is much more compatible with our environmental needs; namely, natural gas—that purpose is, to say the least, misguided.

Natural gas can be extremely abundant if there is just a free market to stimulate its production. And with that abundance, we will see the price, not only of natural gas but of other competitive energy sources, begin to drop.

Unfortunately, that is not our situation today. Our situation today is once again, through regulation, that of restricting the increase in supply of natural gas, so that the consumer, again, is the ultimate victim.

The price of natural gas or any energy source, either the direct or indirect price, cannot be decreased by regulation; it can only be decreased by supply. A little later this afternoon, I will discuss just what that resource base for natural gas and oil is within the domestic confines of the United States of America. Let me just summarize now by saying that there is, at an absolute minimum, a resource base of something like 700 trillion cubic feet of available natural gas, and 300 billion barrels of oil, through primary production techniques.

In effect, of natural gas, we use only 20 trillion cubic feet, approximately, each year. If one includes the potential resources of so-called geopressured brines of the gulf coast regions of this country, we probably have, a minimum, 20,000 trillion cubic feet of natural gas dissolved in those brines, and yet to be produced by advances in technology.

So whatever else you may think of this bill and its merits and demerits, we are working on the wrong problem, at least for the short term. In the long term there is no question that we do not want to use natural gas; it is far too valuable a natural chemical for future generations to be burning as a fuel. But in the short term, there is no question that we are dependent upon its availability, and the availability of petroleum as well.

The headlong meat-ax approach represented by this conference report on coal conversion makes no economic, environmental, or commonsense to this Senator, and I do not believe it will make any economic, environmental, or commonsense to the majority of our constituents once they understand what we are trying to do to them.

In addition, Madam President, there is another resource which is not adequately considered by this conference report. That is the resource of capital. Capital is not abundant in this day and age for a variety of economic reasons, and certainly I think could be better used for many other purposes, particularly those of building new energy plants, not the purposes necessarily of converting old energy plants.

Madam President, with respect to capital, because of our tax policies today and because of inflation, the capital we are going to need for energy development over the next many decades is going to be in short supply, and we should not do anything that wastes that capital. We are going to need investment capital for producing from our domestic base of natural gas and oil. We are going to need development capital for developing the mid-term energy plant that we are going to need, the new plant, the new plant in geothermal and nuclear, with some aspects of solar energy, but also in new coal burning plants with the latest of environmental technology.

We are also going to need that capital, both in the private and public sector, to invest in the research and development that will lead us eventually in the next century to those clean and essentially inexhaustible energy sources represented by nuclear fusion, hydrogen, and solar energy sources. We certainly should not be passing a bill of this kind that is, I know not intentionally but, nevertheless, in fact, designed to waste our investment capital resources.

Madam President, the bill before us is before us in a vacuum of energy policy in this country. We do not have a true energy policy. We certainly have a de facto energy policy. There has not been laid before the Congress or the American people a systematic set of goals and objectives by which we move from a time of dependency on fossil fuels and, unfortunately, a dependence on imports of fossil fuels, to a time when we are an exporter of energy derived from inexhaustible nonfossil fuel sources.

Such a plan should contain that kind of view of the future and should look at the research and development requirements for it, the technologies that will be required in the early part of the next century to begin to produce electricity from nuclear fusion processes, solar processes, as well as the development of a hydrogen economy where hydrogen becomes our portable fuel. Such an energy policy must recognize that over the next 50 years there must be the capability to transition from our present dependence on oil and natural gas to this time of inexhaustible energy sources, a transition period that will require broad scale use of coal, nuclear fission power, dispersed solar energy systems, of geothermal, of biomass systems, so-called, of a great concentration, ethical concentration, on conservation.

But we do not have that kind of policy, Madam President. We have, instead, a shotgun approach to a wide variety of energy questions where conservation is emphasized without a comparable emphasis on production, which is the only way we are going to give the consumer a break in this time of inflation, to produce enough to drive the prices down.

Again, it does not make much sense to be considering one piece of the problem, and a particularly bad piece of that problem in the absence of a clear, workable national energy policy. What we have had presented to the Congress, in the form of this and other bills, is not an energy policy; it is a tax and regulatory policy. All we have to do is spend a recess, as I have in New Mexico and elsewhere in the country, to know that that is not what the American people want. They want less taxation and regulation.

Madam President, certainly this bill does not recognize that our energy policy and our environmental policy together must move on a measured course, one which moves fast enough so that we get to that time of energy independence and eventual export of energy from inexhaustible sources, but not one that unduly burdens an already burdened economy and that makes just fundamentally bad decisions.

Madam President, this afternoon I will speak, as I have already, in some general terms with respect to energy

policy and the context of coal conversion within that policy. I will also try to continue to indicate that the bill is misguided in its assumptions, in its purposes, and certainly, in its assumptions which underlie the bill has fallen into grievous error.

For example, Madam President, on those assumptions, the bill fundamentally assumes that the oil and gas resource base of this country is small.

It is not small. It is potentially very, very large—certainly, large enough to see us through the short term of dependence on that resource until we can develop coal, uranium, geothermal, and solar energy sources so that we can eventually reach a much more abundant energy climate in the next century.

The bill also assumes that free market forces will not function when, in fact, we know they do throughout the United States. New powerplants, base load powerplants, are being built to take coal, not natural gas. The market place is doing that and will do it at the appropriate rate, based on the availability of coal and its cost, and the availability of natural gas and its cost.

The bill assumes that coal will be available where, by regulation, it is going to be required to be used. Madam President, we have done so many things in the last 18 months that will limit the availability of coal for those purposes that it is hard to conceive that we are now passing a bill that is going to require its use in so many circumstances.

The bill also has, an an underlying assumption, that coal can be used at a reasonable cost to the consumer and to the environment. I would just remind my colleagues of the recent decision by the Environmental Protection Agency to disallow the construction of two major coal plants in Montana, colstrip 3 and 4. I am sure that the decision will be appealed through the courts and through administrative procedures. That is what we are up against: We have conflicting law.

In the face of that particular decision that has just been made, we are today considering a conference report that will require the construction of plants using coal.

Which set of laws are we going to follow? I do not know, but I think this body certainly should consider that in the conduct of this debate.

Another underlying assumption of this bill is that capital will be available to accomplish the conversions at a reasonable cost—again, capital at a reasonable cost. That is not at all clear, because the demands on capital today for all aspects of our economy are unbelievable. If we are going to survive as a major trading nation—in fact, maybe as a nation—we must have tremendous resources of capital, trillions of dollars in energy alone, over the next two or three decades. We certainly should not precipitately require the use of that valuable resource called investment capital without clear understanding that conversion to coal is the best way to use it.

This bill also has as an underlying assumption that the bill, as I have indicated before, is compatible with existing law and other legislation that is being considered by the Congress. I again mention in this context the Surface Mining and Surface Reclamation Act and the Environmental Protection Act, and I am sure there are many others that will come to mind on further consideration.

The bill has as its underlying assumption that Americans want more regulation. Well, as I said earlier, I do not think Americans want more regulation. They certainly dc not in New Mexico, and I have not seen it anywhere else I have been in this country, and I do try to travel around a bit. Americans want less regulation. For one thing, they are tired of being told what to do in every facet of their lives. They want to try again to do it themselves, as we used to, or at least have time to think about it without yet another batch of regulations appearing on top of all those that exist.

They understand more and more that one of the principal causes—not the principal cause, but one of the principal causes—of inflation is this large body of unnecessary regulations that have been created by unelected bureaucrats over the last two or three decades, regulations that are costly to administer, that are costly to adhere to, that raise the costs of goods and services, and therefore, form a major portion of the inflationary pressure which is a considerable cause of the insidious tax we have today, hurting those who can afford it least.

The bill also assumes that the Department of Energy can efficiently and reasonably administer the proposed legislation. Anybody who has been dealing with the Department of Energy recently in the real world—and I do not mean Washington, it is bad enough here—but anybody who has been dealing with the Department of Energy and its adopted child, the Federal Energy Regulatory Commission, known as FERC, knows that the Department of Energy is far from being an efficient and reasonable administrator of regulations.

Finally, Mr. President, the bill assumes that this legislation is compatible with a reasonable and coherent national energy policy. That is a very poor assumption, because, as I said earlier, we have no reasonable and coherent national energy policy.

In addition, Mr. President, there are numerous technical deficiencies which, in a very hurried reading over the last 24 hours, jump out of the pages of the conference committee draft. These are technical deficiencies which I shall, in a moment, go through in the form of questions and hope that, as the debate proceeds, the committee members, with the help of their staffs, will try to supply answers to. I shall not expect an answer immediately, but I hope that they will peruse the RECORD over the weekend and that, on Monday, when we come back in to consider the bill further, they will supply answers—not just for myself, but for the country and, maybe most importantly, as guidance to the Secretary. If this bill is going to pass, let us give him a little legislative history about what we are going to do.

I might add for the benefit of my colleagues who have other plans that I hope we will not have a vote on this bill today. I think it is important to discuss it and study it further, and have much more opportunity than we have had today. One of my purposes, of course, is to see that we do not have a vote today.

Mr. FORD. Will the Senator yield for a question?

Mr. SCHMITT. I yield for a question.

Mr. FORD. Without losing his right to the floor.

Mr. SCHMITT. I appreciate that qualification. I ask unanimous consent that I retain the right to the floor, and I yield for a question.

The PRESIDING OFFICER (Mr. SASSER). Without objection, it is so ordered.

Mr. FORD. For what reason does the Senator want to prevent the Senate from voting today? This has been knocked around for almost a year now, since last September. It is obvious that most Members of the Senate have had an opportunity to read it. They have worked very hard on it. Now you are trying to delay. You say we do not have an energy problem and you are standing here and, by your very nature, are preventing the country from having an energy bill. The first piece that comes on the Senate floor, you start a filibuster.

It seems to be the fad today to have a filibuster and you are the one that is preventing this country from having an energy bill. Explain to this Senator why you want to stand here and prevent us from carrying out a vote this afternoon that will get one piece of the energy bill behind us. Everyone knows that if this bill goes into place and there are problems, we can do something about it in the future. Let us start with something. Tell me why you want to prevent us from voting.

Mr. SCHMITT. I am happy to. You obviously missed my opening remarks.

Mr. FORD. Let me say I probably was fortunate.

Mr. SCHMITT. If the Senator is going to take that attitude, he obviously was fortunate.

The principal problem with this bill is that the situation is exactly the opposite of what the distinguished Senator from Kentucky has indicated. The Senate has not had time to consider the conference report and the modifications to the Senate-passed language that have been made in that conference report. It has just been received. I do not know about the Senator, but I have had about 24 hours to look at a draft and I have hardly completed that. I shall have some questions based on that draft. I think there are many others, including the distinguished Senator from Oklahoma and I believe others, who feel the same way, that there is a sense of urgency about this particular bill that is inappropriate.

There is also the basic problem that this energy bill is not an energy policy, it is a regulation policy. It is regulation that has gotten us into the problems that we have today. I think it is impor-

tant that the Senate and the Congress as a whole realize that, once again, we are considering a bill that is a bad bill, but we are being asked to pass it just because it is a bill. I am not willing to do that, sir.

Mr. FORD. Well, your opinion of whether it is good or bad is one thing; my opinion of whether it is good or bad is another. But it seems that when your colleagues work as diligently as they have—long hours, all night—and they come to a point where they have a reasonable agreement—it is not the best of both worlds, I will grant you that. But at least, it is a package that begins to put an energy policy for this country together.

Mr. SCHMITT. Does the Senator have another question to propound?

Mr. FORD. How long does the Senator think he is going today, just until we quit and go home, or all night?

Mr. SCHMITT. I would prefer that we debate for a while this afternoon, delay consideration of this measure over until Monday, and consider a vote Monday or Tuesday on the matter.

It is not a filibuster in the classic sense, but to debate on a measure not debated in its present form, with the many positions made, and the many questions that still exist on this measure.

I think it is only appropriate to our constituents in this country that we have that kind of debate in this so-called deliberative body.

I respect very greatly the diligent efforts of my colleagues on the conference committee. I think they tried. They have in some areas done a good job. But, overall, I think they missed the mark on the bill.

I have as much obligation as the Senator from Kentucky to say that and to try to convince the Senator and others that this is not the kind of bill we should be passing as any other Senator does.

Mr. FORD. May I answer the Senator as to whether this is his responsibility or mine?

Mr. SCHMITT. The Senator may, without losing my right to the floor.

Mr. FORD. I ask unanimous consent I may have colloquy without the Senator from New Mexico losing his right to the floor.

Mr. HASKELL. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. How much coal does the Senator's State produce?

Mr. SCHMITT. Newly producing coal——

Mr. FORD. How much, does the Senator know?

Mr. SCHMITT. In total quantity, I do not know. But we are about No. 4 or 6 in the Nation in the production of coal.

The anthracite, the coking coal deposits in Colfax County are extensively used in the steel plants of Kaiser Steel, and the soft bituminous coals of the Four Corners area in New Mexico produce large amounts of power both for New Mexico and for Arizona and other surrounding States.

There is also, hopefully, in the wind, some of the major demonstration plants for the production of synthetic fuels from coal that will soon be approved for that area. That is not moving as fast as we hoped, but New Mexico has a very great interest in it.

Mr. FORD. How much coal does the Senator's State produce?

Mr. SCHMITT. At the appropriate time, I could get that information for the Senator.

Mr. FORD. The Senator from Kentucky worked very hard. It is the largest coal production State in the Nation with 23 percent of all the coal produced every day. We produce 33 percent of the daily production of coal for this country, and of the 16 pilot and demonstration plants east of the Mississippi, 5 are in Kentucky.

I do not particularly like this bill, as being Utopian, but I do think it is best to try to get it in place for Monday or Tuesday, hopefully, so we can get to it next week.

Would the Senator be willing to give me a time certain on Monday to vote?

Mr. SCHMITT. I am not quite prepared yet to give a time certain.

Mr. FORD. What about on Tuesday?

Mr. SCHMITT. But when I feel the debate and my questions have been answered by the committee, I will be happy to agree to that kind of time certain.

I would think, if the committee provides answers to the questions I will propound very shortly, I would be willing to come to an agreement sometime Monday.

But I would like to see the answers to the questions.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SCHMITT. I will yield for a question without losing my right to the floor.

Mr. ROBERT C. BYRD. Would the Senator agree to a vote to occur on the conference report at, say, 4 o'clock p.m., Monday?

Mr. SCHMITT. Well, I respect the majority leader's request, but I have not had assurances yet from the committee that they will attempt to provide some answers to numerous questions I have. I was about to go through them when the Senator from Kentucky asked the questions he did.

If I could, first of all, go through those questions, put them into the RECORD and have assurances then on Monday we could deliberate the answers, early Monday I might be willing to that kind of an agreement, or even later this afternoon. But I would like to have that kind of colloquy with the committee first.

I assure my distinguished colleague, the majority leader, that I am not in this to delay excessively the consideration of this bill. I just think this bill laying over a weekend will make me feel much better about it, and I think a lot of my colleagues will feel much better about it. It will give us all a chance to see how in the world we will justify its passage to our constituents.

Mr. ROBERT C. BYRD. Would the Senator be willing to submit his questions and let the committee answer them in the RECORD in writing?

Mr. SCHMITT. I would prefer that they be answered on the floor sometime Monday. I would prefer to list those questions now for the RECORD. It will take only a little while to do so, and then let that be the basis upon which the legislative history and guidance from the Senate, at least, to the Secretary of the Department of Energy, be settled.

Mr. ROBERT C. BYRD. Would the Senator submit his questions today, agree to a vote, say, at 4 o'clock p.m., on Monday, and the Senate will be coming in at 10 o'clock Monday morning, it will be going on the conference report if it is not disposed of today, it will be going on the conference report shortly thereafter, the manager of this bill would be in a position over the weekend to prepare his answers. He could present the answers on the Senate floor on Monday during the debate before the 4 o'clock vote on Monday afternoon.

It seems to me that would be reasonable and the Senator from New Mexico would be getting his questions answered.

Everybody would be on notice that the vote would occur Monday at 4 o'clock p.m., which would accommodate all Senators and it would give the Senator the weekend, which he says he wants and which he says he needs. It would seem to me it would be a very reasonable solution to the problem all the way around.

Would the Senator consider that and give me a response a little later in the afternoon?

Mr. SCHMITT. As the Senate knows, the majority leader is always capable of propounding reasonable proposals.

I would appreciate if the Senator from Colorado would assure me, first of all, that he will respond subsequently to the questions that I will put into the RECORD as soon as we are through with this particular colloquy, and I would like to have that assurance before I attempt to modify the Senator's agreement.

Mr. ROBERT C. BYRD addressed the Chair.

Mr. SCHMITT. If I may continue while the Senator thinks about that, I would be much more inclined if I can get those kinds of assurances to agree to a vote on Tuesday so that there can be legitimate debate Monday and Tuesday on the issues that these questions will raise.

I frankly think many of my colleagues have not completed minimum personal study of the measure.

Mr. ROBERT C. BYRD. Will the Senator yield for a question?

Mr. SCHMITT. I am happy to.

Mr. ROBERT C. BYRD. I would suggest that the vote be at, say 6 o'clock p.m. on Monday, that the Senator may, of course, use as much of today as he wishes to discuss it, and if he wants, I will be glad to attempt to get a request changed so the Senator can come in tomorrow to talk, if he would like to talk tomorrow, or if he wants to talk all night long tonight, that is his prerogative.

But I would think that a 6 o'clock vote on Monday would be a very reasonable time to vote, would accommodate all Senators, would give the Senator from New Mexico the opportunity today to get his questions in the RECORD, and would give the Senator from Colorado

an opportunity to answer those questions publicly on the record on Monday.

I would hope the Senator from New Mexico would seriously consider the proposal I intend to make.

Mr. HASKELL. Would the majority leader yield?

Mr. ROBERT C. BYRD. The Senator from New Mexico has the floor.

Mr. SCHMITT. I am happy to yield without losing my right to the floor.

Mr. HASKELL. I say to the Senator from New Mexico that if he would propound his questions this afternoon, so that work can be done over the weekend, as floor manager of the bill I will be in a position to answer his questions on the floor, provided the questions are susceptible of answering, of course, on Monday.

Therefore, I hope the Senator from New Mexico will agree to the 6 o'clock vote on Monday. I can assure him that the questions will be worked on over the weekend and answers obtained, within the constraints of possibility.

Mr. SCHMITT. I ask the Senator, in reply, whether the time certain for a vote might not be more appropriate to be on Tuesday afternoon, considering that he and I are uncertain about the nature of the answers that would come; also, that the agreement would include the specific time for convening on Monday or Tuesday, so that this Senator and other of our colleagues understand just how much time we will have to debate.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a response to that request?

Mr. SCHMITT. I yield, without losing my right to the floor.

Mr. ROBERT C. BYRD. I suggest that if staff people had to stand on the floor and make the speeches, they would not be quite so ready to suggest to their Senators that further delays would be in order.

The answer to the Senator's question is that——

Mr. SCHMITT. So that the record is clear, the implication is that that suggestion came from a staff person. I am sorry—that was my suggestion.

Mr. ROBERT C. BYRD. I understand that it was the Senator's suggestion. But I just want to say to the Senator that I am not presently ready to agree to put the vote over to Tuesday. If the Senator wants to stand on his feet and prevent the Senate from voting until Tuesday, he can do that.

We have had ample time to consider this conference report, and I have offered to vote at 6 o'clock on Monday, which gives the Senator the time he needs to propound his questions and get the answers. The manager of the bill has offered to work throughout the weekend to prepare the answers. It seems to me that that is a reasonable solution to the Senator's problem.

But to say that we will agree to vote on Tuesday; we will agree on a certain convening time on Monday; we will agree to a convening time on Tuesday—let me say right here and now that this idea of one Senator being able to hold up the Senate and conduct a one-man filibuster is getting to be pretty rife around here.

So far as I am concerned, the Senator can use his rights; the Senator can resort to the rules. But so far as I am concerned, he will have to stand the test. If he wants to hold up a bill, if he wants to speak tonight, if he wants to speak Saturday, if he wants to speak Sunday, that is within his rights. I will tell him right now that he has a taker; he has one right here who will take him on and he will have to be prepared to operate strictly under the rules.

I will say this to any Senator who seeks to do that in the remainder of this session: We do not have many more days. We have about 56 days remaining after today, not counting Saturdays, until October 7, which is 1 month before the elections.

I think the Senate has a responsibility to complete its work before it adjourns sine die, and I hope it will complete its work by October 7, so as to give all Senators 1 month in which to campaign before the election.

I do not want to see the Senate have to come back after the election, but our first responsibility is to do our work. If we cannot complete our work by October 7, then we have no alternative but to come back after the election. If that is what it takes, I am willing to do it.

I just want to say to the Senator that I think I have made a reasonable proposal, because I think his request was reasonable, that he have his questions answered.

But I say here and now that this leader is not going to be put in a straitjacket by a single Senator in holding up the Senate.

Mr. SCHMITT. Mr. President, I believe the Senator from New Mexico has the floor.

Mr. ROBERT C. BYRD. The Senator has the floor.

Mr. SCHMITT. I am not attempting to be cantankerous. I was offering the Tuesday possibility as a negotiating point.

I agree with the Senator entirely that the Senate must do its work. I have no intention of preventing that.

Part of our work, as the Senator knows, is to debate bills that are controversial. This bill, I believe, is controversial, more so than many others have had a chance to realize, since the report has not been with us very long.

I ask the majority leader, the distinguished majority leader, if in his unanimous consent agreement that there would be a vote at 6 o'clock on Tuesday, he would include the time of convening, so that this Senator and the committee would know the amount of time we have in which to conduct our business.

Mr. ROBERT C. BYRD. The Senate is coming in at 10 o'clock on Monday, under the order previously entered. If the Senator wants to come in at 9, I will bring the Senate in at 9. I have no problem with coming in early, if that will help the Senator.

Mr. SCHMITT. I just want to assure that with a 10 o'clock convening time, if we get to that point at 6 o'clock, that will give us about an 8-hour discussion period, and that should be sufficient.

Again, subject to the committee having a chance to hear my questions, they are much more familiar with the bill than I am, and they should be able to answer these questions. I hope they will be answered completely.

That kind of agreement would be appropriate, if the Senator also would assure me, and perhaps include in the agreement, that no other measures will superimpose themselves on this time, so that we can have the full 8-hour period for the discussion of this measure. I am more than happy to do that.

I realize that the Senator is subject to great stress by other Senators, and perhaps even myself at times. This is not intended in any way to delay the actions of the Senate. It is not intended to delay a vote. It is to provide sufficient time for me and many of my colleagues to understand this bill, because that is part of our job, and I think the Senator will agree that it is part of our job.

I am not saying that I will not at other times feel that extended debate is an extremely important part of the process here. I do not think it is an important part of this process. I think debate is an important part of the process, and that is what I am after.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SCHMITT. I yield, without losing my right to the floor.

Mr. ROBERT C. BYRD. Mr. President, if the Senator wants the Senate to convene earlier on Monday, it is agreeable with me, if it is agreeable with the manager of the bill. I have only one problem.

Mr. SCHMITT. Ten o'clock is fine with this Senator, so long as it is absolutely clear that the 8 hours from 10 o'clock to 6 o'clock, the proposed time for the vote, will be used to debate this particular bill and that when we convene, this Senator would be recognized to continue that debate at 10 o'clock.

Mr. ROBERT C. BYRD. The Senator continues to add conditions.

Mr. SCHMITT. It is only in order to carry out the intent of our agreement.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield, I have no problem with his request that no other measure be brought up prior to the 6 o'clock vote. However, I had assured the distinguished minority leader that the Endangered Species Act would be brought up on Monday. So I previously received consent that the majority leader be authorized at any time on Monday to bring up the Endangered Species Act.

It is perfectly all right with me to wait until after the 6 o'clock vote to bring up the Endangered Species Act. I still would be keeping faith with my assurance to the minority leader, because it still would be Monday.

I merely mention this to say to the distinguished Senator from New Mexico that this portion of his request may be a little difficult for his own leader. But so far as I am concerned. I am agreeable to that portion of the request.

I wish someone would take it up with the minority leader's office.

Mr. SCHMITT. I think that would be fine with the minority leader. I do not know that, and I would have to verify that. It may well be that the questions I

have will be answered very quickly and that any other measures that may need to be brought before us can be brought up prior to the 6 o'clock vote. I have no problem with that. It is just that we are uncertain. I do not know the answers to the questions, so it is difficult for me to know what circumstances may arise on Monday.

I hope we can get an answer to the Senator's question. Perhaps we can delay the propounding of the unanimous consent request until the majority leader or his representative has had a chance to be contacted.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. SCHMITT. I yield, without losing my right to the floor.

Mr. ROBERT C. BYRD. The minority leader does have a personal interest in the Endangered Species Act. If he would have no objection, in the event the debate on the conference report ran throughout the day, until 6 o'clock, if he would have no objection to the Senator's proposal, I am willing to make the request and that will protect the Senator from Tennessee, Mr. BAKER, as I am sure he has probably announced to his constituents that the endangered species bill is going to be brought up Monday.

I am now advised that it will be all right with the minority leader, if the entire day were to be consumed on Monday with a discussion of the conference report, to proceed on the Endangered Species Act after the 6 o'clock vote, and I believe I am also assured by the distinguished Senator from New Mexico that he is not positive that it will take all of the time during the day until 6 o'clock for discussion of the conference report. He may very well be satisfied with ending the discussion prior to 6 o'clock, in which case, under the order, the majority leader could then proceed to go to the Endangered Species Act and at 6 o'clock the vote would occur on the conference report. Is that agreeable with the able Senator?

Mr. SCHMITT. I think that is most agreeable.

In fact, I think it is probable again, because the distinguished Senators who were part of the conference committee, I am sure, have the answers at their fingertips; they just have not heard the questions yet. I hope, though, that the distinguished majority leader in a unanimous-consent request will consider to allow me to have the right to the floor at the beginning of the debate on Monday.

Mr. ROBERT C. BYRD. That is agreeable.

May I ask the distinguished Senator if he has any objections to our proceeding at some time during this early afternoon with the completion of the White House authorization bill?

Mr. SCHMITT. I prefer to propound my questions first, and then will be happy to allow that to occur.

Does the Senator expect considerable amount of time to be spent on the White House bill?

Mr. ROBERT C. BYRD. I doubt it, because the problems that arose last night I think have temporarily evaporated.

The Senator from North Carolina, Mr. HELMS, has two amendments. He says he will not take too long on them. But he does have to leave here at 3:15 p.m.

Mr. SCHMITT. Mr. President, I say to my distinguished colleagues that I can probably within a half hour and presumably less list the questions that I wish answered at this time. I may later in the afternoon add a few questions to that, because we are still in the process of reviewing the conference report. If that is agreeable, may I do that and yield the floor for the purposes of considering the White House authorization and then assume the floor again on Monday? That is agreeable with me.

UNANIMOUS CONSENT AGREEMENT

Mr. ROBERT C. BYRD. All right I understand the Senator clearly.

I ask unanimous consent that a vote occur on the conference report at 6 p.m. on Monday next; provided that, after the two leaders or their designees have been recognized under the standing order on Monday and any orders for the recognition of Senators on Monday that have been previously entered have been consummated—and I know of none at the moment—the Senate resume consideration of the conference report and the distinguished Senator from New Mexico at that time be recognized, and that following the vote on the conference report on Monday or at any time prior thereto, if discussion on the conference report has run its course, the majority leader may proceed to call up the Endangered Species Act—which order has already been entered—and that the Senator from New Mexico, when he finishes propounding his questions this afternoon, may be permitted to yield the floor for the further consideration and completion of work on the White House authorization bill if there is time remaining that accommodates those Senators who have amendments thereto and that the Senator from New Mexico may thereafter again be recognized for such time as he wishes to take today to further discuss the conference report on the coal conversion bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from New Mexico and thank all Senators.

Mr. SCHMITT. Mr. President, let me thank also the majority leader for his, I think, appropriate resolution of this matter. I hope, though, that he and all our colleagues will realize that the purpose of the Senate is not just to pass legislation; it is to consider legislation and then if appropriate pass it and eventually see that it becomes law.

QUESTIONS BY SENATOR SCHMITT

Mr. President, the questions which I will direct to the distinguished members of the Energy and Natural Resources Committee are of two categories, general questions and some specific questions related to specific provisions of the conference report to the Senate that this Senator has had an opportunity to study.

The general questions are as follows:

Is there a requirement within the bill or would the committee, for the purposes of legislative history, be willing to set a requirement for the Secretary to evaluate the local economic impact of specific orders and rules; and that economic impact to include the burden of paperwork that would be placed on petitioners or other citizens relative to those orders and rules?

Similarly, could legislative history be established to set the requirement for the Secretary to evaluate the national economic impact of specific orders and rules, again including paperwork impact on petitioners and other citizens?

In a similar vein, could requirements be set and what should those requirements be for the Secretary to evaluate State and National judicial impact of the various orders and rules that he may promulgate?

Additionally, I would be interested if the committee would provide the justification for the "burden of proof" in the search for exemptions to rules and regulations under this act being placed on the petitioners, that is, the American citizens rather than on the bureaucracy which is creating and administering those rules and regulations.

Another question is what is meant by the "good faith effort" to comply with conversion before exemption is granted as is propounded at least in sections 211 and 212 and maybe in other sections that the Senator has not had an opportunity to study completely?

Additionally, with respect to the good faith effort question, what legislative history can be established as to provide guidance to the Secretary for evaluating whether or not a good faith effort has been made?

I would also appreciate the committee discussing the rationale for tying excessive costs criteria for an exemption to imported petroleum which the committee realizes is an uncertain cost, hardly one that is going to be easily evaluated in the future.

It may be that there is some clear rationale for this, but so far it has escaped this Senator. I specifically would refer the committee to section 211(a)(1) and 212(a)(1) for reference to this question.

Also, Mr. President, as I have indicated earlier, I would like the committee to discuss the compatibility in some specific terms between the regulatory provisions that are provided for in this act and the regulatory provisions that exist in the Surface Mining and Surface Reclamation Act passed last year, and in the existing Environmental Protection Act, and pointing out those areas where they believe that inconsistencies may occur, and therefore, further Senate action may be required to resolve those inconsistencies.

I would also ask if there is any specific provision within the bill that would provide for exemptions for the use of natural gas in electric powerplants which install solar regeneration units. Cogeneration is discussed in the bill in several places. I have not found any references to the concept of regeneration, which is an extremely important means of reducing the

use of natural gas where no other fuels may be available.

The question has been raised that relative to utilities that are presently moving toward conversion to coal, something like 259 new coal plants are presently planned to be constructed between now and 1985, and my question relative to that would be what is the impact in terms of the availability of capital, equipment and hardware of this bill on the already planned construction projects?

There is also a question that in the conversion from older plants burning gas or petroleum to plants burning coal—and this is conversion of existing plants—there may be a reduced plant life as contrasted to the construction of the planned plant life of the existing facility, and I would appreciate it if the committee could talk to that point on Monday also.

Additionally, in this general category of questions, the overall discussion of the availability of hardware for the level of conversion that is envisioned would be an important one. For discussion, can, in fact, the provisions of the bill be accomplished within the constraints of other demands on the industrial manufacturing capacity of this country?

Relative to specific questions within the body of the bill itself, I would list the following: Under section 202 that deals with prohibitions on nonboilers, prohibition on the use of natural gas, is it the intent of the committee to include fuel cells in that prohibition, a new technology that has been unfortunately delayed because of the lack of cash flow within the industry that would construct fuel cells but, nevertheless, a technology that appears to be viable economically, and certainly viable from an environmental point of view? Fuel cells that burn natural gas can do so at a much higher efficiency than can existing natural gas plants and certainly with almost no impact on the environment.

Also in that section I would appreciate some indication from the committee of what they would feel would be required to be accomplished by a petitioner during the 60 days that a petitioner would have to petition for an exemption after a rule has been made, the 60 days being provided in paragraph (b) of section 202.

Again relative to the problem of it not being clear what the words of the bill mean, I would appreciate it if the committee would give some guidance, legislative guidance, to the phrase "substantially exceed" under section 211, paragraph (a)(1). Is it possible to define somewhat better than is apparent at this time what the phrase "substantially exceed" does not do? I quote the paragraph:

(1) it is likely that an adequate and reliable supply of coal or other alternate fuel of the quality necessary to conform with design and operational requirements for use as a primary energy source will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the cost, as determined by rule by the Secretary, of using imported petroleum as a primary energy source;

This relates back to my previous question of, Is imported petroleum the appropriate base upon which to base a cost estimate and, further, what does the phrase "substantially exceed" entail?

Under paragraph (c) there is another uncertain expression in that a petitioner must demonstrate that for the period of the proposed exemption the issuance of such exemption would be in the public interest, and I would like some indication from the committee what does it take to demonstrate that something like that is in the public interest.

In subparagraph (e)(2)(B) under section 211 reference is made to a limit on an exemption of 10 years. I would appreciate some guidance from the committee on what will be done if coal was still not available after that 10-year period. Can another exemption be applied for or is that the end of it? The coal regulations and the coal market being as it is or may well be over the next 10 years, unfortunately, there may be a great deal of uncertainty as to whether coal will be available in that time frame no matter how good our intentions may be.

Under section 212, Permanent Exemptions, there is a problem in terms of judgment in the criteria that would be used to make the decision on whether a permanent exemption is to be granted.

If the Secretary finds that a petitioner has demonstrated that, despite diligent good faith efforts, it is likely that an adequate and reliable supply of coal or other alternate fuel will not be available within the first 10 years of the useful life of the powerplant or installation.

My question is, Who will make that determination, and on what basis will that determination be made?

Under paragraph (b) of section 212, there may be one of the most serious problems with this bill. In subparagraph (1) under paragraph (b), where the Secretary may order a permanent exemption if he finds "that the petitioner has demonstrated"—there is that phrase again—that—

With respect to the proposed site of the powerplant or installation, the construction or operation of such a facility using coal or any other alternate fuel is infeasible because of a State or local requirement (other than a building code or a nuisance or zoning law);

My concern is about the parenthetical phrase "(other than a building code or a nuisance or zoning law)."

Does this not indirectly preempt local law in this area? That is my question.

A related question is, is it not a provision that may be unconstitutional, in providing the Secretary with that kind of power to indirectly preempt local building codes and zoning law?

I realize the impact of that is that the powerplant would not be built if the Secretary found a building code or zoning law to be inappropriate in his opinion; and that is why I say indirectly there is a preemption of services to the local community by the Secretary, and that may be a preemption or a service being denied without due process. I would ask the committee to look at the due process clause as well as the 10th amendment to the Constitution in their consideration of this question.

Again, in section 212, paragraph (e), I would like some legislative history to define what is meant by "emergency purposes." Some general guidance to the Secretary, I am sure, would be appreciated with respect to the possibility of exemptions for emergency purposes.

In paragraph (h) of that same section, I would appreciate some comment from the committee about the consequences of the recent EPA decision on Colstrips 3 and 4 in Montana, relative to that section.

In section 312, paragraph (i), dealing existing electric powerplants and the prohibitions related to those powerplants, I would appreciate the committee giving the Senate and the Secretary, presumably, some guidance on what the constraints on the Secretary will be on his or her determination of technical capability and financial feasibility.

Mr. DURKIN. Mr. President, will the Senator yield for a question?

Mr. SCHMITT. I am just about through, and I will be happy to yield as soon as I finish this sequence of questions, because I would like to have them available to the committee as soon as possible.

I will yield to the Senator in a moment; I am just about through.

In section 312, paragraph (i), dealing with permanent exemptions for the use of LNG by certain powerplants, I would like the committee's opinion on the impact of this provision on increasing our dependence on imported liquefied natural gas. It may be that this Senator does not fully understand that provision, but on its face, it looks as if it might push us further toward that kind of dependency, which could be as dangerous as our oil dependency is now.

In title IV, section 401, paragraph (c), entitled "Exemption" it says:

The Secretary shall exempt any person from any prohibition prescribed pursuant to subsection (a) or (b) if such person demonstrates to the Secretary that an adequate and reliable source of petroleum is not likely to be available to such person during the period of the exemption.

I would like the committee to discuss the phrase "adequate and reliable source" relative to OPEC, and to the possibilities of that source changing, either because of cost or because of supply.

Mr. President, I will now yield for that question, if the Senator from New Hampshire still wishes.

Mr. DURKIN. I thank the Senator from New Mexico. My question can wait until Monday, and then I will have had a chance to read the RECORD and study the Senator's questions.

Mr. SCHMITT. Mr. President, as I indicated earlier, on looking through the language of the bill as it came out of conference, I will probably have, after consideration of the White House authorizations, some additional questions to submit to the committee. At this time I am happy to yield the floor; but under the previous agreement I would have the right to the floor after consideration of

the White House authorizations; is that correct?

The PRESIDING OFFICER (Mr. MOYNIHAN). The Senator is correct.

Mr. HELMS. Mr. President, I wonder if I might raise a question with the distinguished majority leader.

Mr. ROBERT C. BYRD. Yes.

Mr. HELMS. Is it his intention to return to the White House personnel authorization measure at this point?

Mr. ROBERT C. BYRD. Mr. President, it was my intention to request that the Senate return to the consideration of the White House authorization, and to temporarily lay aside the consideration of the conference report.

Does the Senator from Tennessee wish pose?

Mr. SCHMITT. Yes, I yield the floor.

Mr. HASKELL. Mr. President, I would like to ask the Senator from New Mexico another question. It is going to take the staff some work, obviously, to prepare answers to the Senator's questions. At some time can they be sure they have all your questions, today? Do you know how many more you have?

Mr. SCHMITT. The Senator's question is appropriate. I believe there will be no more than half a dozen more questions, but we can work that out within the next half hour. If there is any way to do it, I am trying to keep this to a minimum.

Mr. HASKELL. I thank the Senator.

WHITE HOUSE OFFICE AND EXECUTIVE RESIDENCE PERSONNEL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the conference report be set aside temporarily until later in the afternoon, and that the Senate return to the consideration of the White House authorization measure.

The PRESIDING OFFICER. Is there objection?

There being no objection, the Senate resumed its consideration of H.R. 11003.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, I ask——

The PRESIDING OFFICER. Does the Senator wish to be recognized? The Chair wishes to state that the pending business is the committee amendments. Unless the Senator has reference to the committee amendments, the committee amendments must be disposed of first.

Does the Senator yield for that purto be recognized?

Mr. SASSER. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, that the bill, as thus amended, be considered as original text for the purpose of further amendment, and that no points of order be waived thereby.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The committee amendments were agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that Mr. Alvin From and Mr. David Johnson of the Committee on Governmental Affairs be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

Mr. HELMS. I ask unanimous consent that Mr. Howard Segermark of my staff be granted the privileges of the floor during consideration and any votes on the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1417

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1417.

Mr. HELMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, strike lines 9 through 11 and insert in lieu thereof the following: "There are authorized to be appropriated for fiscal year 1979 to the President $20,019,700 for—."

Mr. HELMS. My amendment, simply stated, would take the 1978 expenditures by the President for entertainment, travel, and other official expenses of the White House, adjust that figure by the President's projected 7 percent inflation rate, and enact the resulting figure as the 1979 authorization level.

This approach would have the dual advantage of assisting the President in carrying through with his campaign promise to dismantle the imperial Presidency and also of putting some limitations on the infinite duration of the authorizations currently contained in the bill.

On July 19, 1976, in Time magazine, Candidate Carter stated:

I do not intend to run the affairs of the government through the White House staff.

I believe that the President was sincere when he made that statement and that the President would want the Senate to assist him in fulfilling that pledge.

This amendment would accomplish that purpose. It is based on estimates of 1978 White House expenditures provided to the Congressional Budget Office by White House Assistant Hugh Carter and his office, and it would allow the President to continue at staffing levels which he set for himself during the first year in office, irrespective of inhibiting statutory restraints which may have existed during that time.

Mr. President, the moral influence of the White House must necessarily depend on the willingness of the President to abide by the standards which he has set for the American people.

The American people will respond to Presidential call for self-restraint in wage demands when the President freezes his own wages. The American people will respond to calls for sacrifice on the day the President agrees to curtail his own entertainment expenses. But an administration which decries "three martini lunches" while demanding open-ended authorizations for its own entertainment expenses will, in the end, lose whatever powers of moral suasion it may have over the American people.

There is one final point which needs to be made in this context: The authorization process is designed not only to give the committees with substantive jurisdiction an opportunity to develop a statutory level of expenditure, but also to allow the Senate to consider what that level should be in a context other than a multibillion dollar appropriations bill. I have looked with disfavor over expanding attempts to circumvent that authorization process through the use of preauthorization appropriations, and through open-ended authorizations. To the extent that we allow this circumvention of the Senate authorization process to continue, I fear we will have done a serious disservice to our rules.

Mr. President, before I yield the floor I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. CHILES. Mr. President, may we have the amendment stated, please?

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 4, strike lines 9 through 11 and insert in lieu thereof the following: " "There are authorized to be appropriated for fiscal year 1979 to the President $20,019,700 for —".

Mr. CHILES. Mr. President, I wonder if the distinguished Senator from North Carolina would explain to the Senator from Florida what his amendment does. I was a little late getting on the floor, and I have an interest in this. My subcommittee on appropriations has the budget of the White House Office along with some others. I am interested in knowing what the amendment is.

Mr. HELMS. I am aware of the Senator's work in this connection and I appreciate his inquiry. This amendment would simply limit the President, for White House expenses and for entertainment purposes, to spending what he has now plus a 7-percent inflation increase. That is the rate which the President himself has indicated will be this year.

I might add that the bill authorizes an open-end authorization, which I do not think the Senator from Florida would approve.

Mr. CHILES. Do we not have an open-end situation right now? This bill, think, is the first time that I have seen legislation put any restraint on the Office of the President. What we have now is an

open-end situation. The Appropriations Committees, of course, look over the budget that is submitted by the President and add or cut in areas in which they see needs. This time, in fact, we cut $196,000 of the total request of the Office of the President. That request, itself, is down considerably from the year before and down from the year before that. So, for the last 2 years the budget has been presented, it has been less in every year. Again, from those figures, we trimmed $196,000.

Mr. HELMS. I am not sure exactly what the Senator's question is, but I think I understand the point he is trying to make.

In no way is this amendment designed to imply, nor should the Senator infer, that there is any criticism of the appropriations process. If the Senator will get the bill and look on page 4, lines 9 through 11, he will see language as it now stands: "There are authorized to be appropriated each fiscal year to the President such sums as may be necessary for," et cetera.

This is open ended, I say to the Senator, and I think we ought to be specific in the amount of money that the President of the United States or anybody else wants to spend for entertainment or other White House purposes. What I am saying is he ought to have what he has this year plus the 7-percent inflation increase, period.

Mr. CHILES. I am still trying to understand it, for staff travel, has been $100,000 since 1975. It was $75,000 from 1972 to 1974. It was $40,000 prior to 1972.

Mr. HELMS. If the Senator will yield, I think the Senator is talking about travel expenses and I am talking about entertainment expenses in this amendment.

Mr. CHILES. This is not on travel expenses?

Mr. HELMS. That is correct. I may get to travel in just a moment, but this amendment does not address itself specifically to travel.

Mr. CHILES. Mr. President, I wonder if the distinguished Senator from Tennessee might yield to me for a question?

Mr. SASSER. Yes.

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. CHILES. Mr. President, I was trying to listen to the Senator on this amendment. As I understand, this is on entertainment expenses. Can the Senator from Tennessee tell me, is there a level that was put in the bill on entertainment expenses?

Mr. SASSER. I say to the distinguished Senator from Florida, to my knowledge, there is no limit on entertainment expenses put in the bill. As the Senator from Florida, I think, knows well, this is simply an authorization bill. This simply the first White House authorization bill that we have had in many, many years. It simply puts a cap on what the White House may expend.

The Appropriations Subcommittee of the distinguished Senator from Florida will really determine the amount of money which, in the final analysis, may be expended by the White House. This is simply an authorization bill. It is really puts a limit, a top, a cap, on what the White House may expend.

Mr. CHILES. Mr. President, from what I can understand, there is no allegation that there is an abuse in entertainment expenses right now. There is no figure that is placed in this bill as an overall cap on the spending of the White House Office. The distinguished Senator from North Carolina has said that he has had no problem, as I understand it, with what the Appropriations Committee has been doing in regard to the budget of the White House Office. It seems to me that it is kind of a strange thing to say we are going to come in and put some big cap on this expense and it cannot go more than this amount plus 7 percent. That is great for making a nice political shot, but I think——

Mr. HELMS. Now, Senator.

Mr. CHILES. Well, I just have to say to my good friend from North Carolina that I do not know what else it sounds like, other than that.

Mr. HELMS. I am sorry the Senator said that, and I think he might want to reconsider.

Mr. CHILES. I wish the Senator from North Carolina would explain to me. If he does not have any problem with the way the Committee on Appropriations has been handling this, and we have—as I explained to him, we reduced $196,000 from this budget. I wonder why we are going to put some kind of limitation here in this particular item. I do not think he said he thinks it is being abused right now.

Mr. HATCH. I hate to interrupt, but will the Senator yield for a unanimous-consent request?

Mr. CHILES. Yes.

Mr. HATCH. Mr. President, I ask unanimous consent that Joan McEntee and Mary Lewis of Senator ROTH's staff be accorded the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, do I have the floor in my own right?

Mr. CHILES. I have the floor.

The PRESIDING OFFICER. The Senator from Florida has the floor.

Mr. CHILES. Mr. President, as I was saying, I really wonder why an amendment like this would be necessary if there has not been any obvious abuse. I yield the floor.

Mr. HELMS. Mr. President, I hope that Senators will at least scan this bill, H.R. 11003, and in particular, page 4. Then I think it would be perfectly apparent what the Senator from North Carolina is doing.

The amendment involves five categories on which the President of the United States—the White House—is spending $18,710,000 this year. What the amendment proposes is to add 7 percent to take care of inflation, the precise percentage which the President of the United States himself has stated will probably be the effective inflation rate.

We are proposing by this amendment that the White House be allotted $20,019,700.

Mr. President, I do not know how the distinguished occupant of the chair feels about it, but I object to open end authorizations of the taxpayers' money.

If that is political, so be it. I made the same objection when certain bills came up from the previous administration. I think it is a nonpartisan thing to do whatever we can to protect the interests of the American taxpayers. I see nothing wrong with suggesting to the President of the United States that he limit his expenditures for entertainment, and so forth, to what he has spent this year plus 7 percent inflation.

What the Senator from North Carolina is insisting upon is that we be more guarded about the use of the taxpayers' money and more specific about how it will be authorized and appropriated.

Mr. President, I urge adoption of the amendment. I believe the yeas and nays have been ordered.

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. HARRY F. BYRD, JR., addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. HARRY F. BYRD, JR. I wonder if the Senator from Tennessee will yield for a question.

Mr. SASSER. The Senator from Tennessee does not have the floor, but I would be delighted to——

Mr. HARRY F. BYRD, JR. Would the Senator from Tennessee——

Mr. SASSER. I would be delighted to attempt to answer the Senator's question.

Mr. HARRY F. BYRD, JR. The Senator from Tennessee earlier said that the purpose of the bill is to put a cap on the expenditures at the White House.

Did the Senator from Virginia understand correctly?

Mr. SASSER. Yes. That is correct.

I might say to the distinguished Senator from Virginia that this is an effort to put a limit on White House spending. Heretofore, as the Senator from Virginia may be aware, there really was no authorization, that is, appropriate authorization, of White House expenditures and there simply were appropriations, at least here on the Senate side. This is an effort to properly authorize funding for the White House.

It is an effort to allow us in the Senate, and those of us in the Congress, to exercise our constitutional right and duty to oversee expenditures of the White House.

I might say to my distinguished friend from Virginia that under this authorization bill the General Accounting Office will have the authority and also the duty to audit expenditures made for White House expenses.

This is another control, in addition to the control presently exercised so ably under the leadership of the distinguished Senator from Florida on the appropriations side.

Mr. HARRY F. BYRD, JR. I can see on page 6 where I assume limits are being——

Mr. SASSER. May I ask my distinguished friend what document he is referring to?

Mr. HARRY F. BYRD, JR. The bill itself.

On page 6, limits seem to be put on the number of employees insofar as rates of compensation are concerned.

But on page 4, I do not see where there is any limitation. On page 4, lines 9, 10, and 11 say that they are authorized to be appropriated each fiscal year to the President, such sums as may be necessary.

So my question, really, to the Senator from Tennessee is that it would appear to me there is no limitation.

Mr. SASSER. Well, I would respond to the distinguished Senator from Virginia by simply referring here to report language which states on page 8:

However, the bill as reported allows the Congress limited oversight to insure that the expenditures in the certificate accounts under paragraphs (1), (3), and (5) of subsection (d) are properly related to the purposes specified in such paragraphs. For these certificate accounts the Comptroller General is allowed to inspect all necessary books, documents, papers, and records relating to any such expenditure solely for the purpose of verifying that all such expenditures related to expenses specified in paragraphs (1), (3), or (5). Information furnished to the Comptroller General for inspections shall not be revealed to any other person. If the Comptroller General verifies that the document in question relates to an expenditure in any of these three categories, he would report this verification to Congress.

Mr. HARRY F. BYRD, JR. Yes. But the point I am suggesting is that it would appear to me the bill itself says that there is authorized to be appropriated such sums as may be necessary.

In other words, there is no limit on the amount that may be appropriated.

Mr. SASSER. I might say to my distinguished friend from Virginia that there are limitations, specific limitations, written into other sections of the authorization bill. But in this particular specific instance, we are relying on the vigilance of the General Accounting Office and also relying on the vigilance of the appropriate Appropriations Committee here in the Senate.

Mr. HARRY F. BYRD, JR. If the Senator from Virginia understands the distinguished Senator from Tennessee, insofar as these five items on page 4 are concerned, there is no limitation on the legislation itself.

Mr. SASSER. Well, I would have to agree with my distinguished friend from Virginia. But I think we would all agree that the President of the United States, the Chief Executive, must be allowed some degree of flexibility in running the White House operation and in running the Executive Office operation.

This has traditionally been allowed to him over the years.

We have for the first time the safeguards and the counterbalancing check of a General Accounting Office audit, coupled with the appropriate Appropriations Committee oversight.

Mr. HARRY F. BYRD, JR. I certainly agree with the distinguished Senator from Tennessee that the President of the United States, whoever he may be, should have adequate financing for the activities of his office, including the items listed on page 4. .

But the only point the Senator from Virginia is suggesting is, should that be an open-ended authorization, should not there be some limit?

In regard to what the limit might be, should there not be some limit on it?

Mr. SASSER. If I could respond to the distinguished Senator from Virginia by simply stating that on page 4 of the bill, one of the items that we are dealing with includes, and I quote:

"(1) the care, maintenance, repair, alteration, refurnishing, improvement, air-conditioning, heating, and lighting (including electric power and fixtures) of the Executive Residence at the White House;

I would say to my able and learned friend from Virginia that it would be, obviously, extremely difficult to put a limit, or a fixed limit, on something as mundane as repairing the White House air conditioning system.

I think the appropriate oversight, or appropriate review here, would be simply a review of reasonableness by the General Accounting Office and, certainly, the able Senator from Florida keeps a very vigilant eye on appropriations flowing through his subcommittee, and should the White House abuse its prerogative of overrepairing the air conditioning, the heating or lighting, et cetera, of the Executive residence, I am certain that this would be called to our attention.

Mr. HARRY F. BYRD, JR. I agree with the Senator from Tennessee with regard to the splendid Senator from Florida. I have absolute confidence in the Senator from Florida (Mr. CHILES).

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. STEVENS. I appreciate my good friend's comments, but I call this attention to page 5, line 6. It gives the Comptroller General, an arm of Congress, authority to inspect books, documents, papers, and records relating to expenditures, for the purpose of verifying those expenditures. It says:

The Comptroller General shall certify to Congress the fact of such verification, and shall report any such expenses not expended for such purpose.

This is the first time, to my knowledge, that we have authorized an arm of Congress to look over those who keep the books of the executive branch for the President.

I say to the Senator that this is an improvement over existing law. There is no postexpense audit, to my knowledge. I have served on appropriations for 7 years, and I do not know of any.

Mr. HARRY F. BYRD, JR. The Senator from Virginia is not directing his remarks to page 5. The Senator from Virginia is trying to understand if there is any limit on the five items on page 4.

Mr. STEVENS. There is none now and there is none in this bill, but this bill does provide us the vhicle—having authorized these expenditures—for the first time to require that they be audited, to make certain that they are expended for the purpose for which they are provided. I think it is an improvement over the present procedure, even though there is no limit. We have operated under annual limits, as suggested by the President in the budget, year by year since I have been here.

Mr. HARRY F. BYRD, JR. I thank the Senator from Alaska.

The Senator from Tennessee mentioned item 1 on page 4; but to make the record clear, there are five items to which the Senator from Virginia was directing his attention. The Senator from Tennessee has just mentioned item 1. Item 2 is the official expenses of the White House Office. Item 3 is the official entertainment expenses of the President. Item 4 is the official entertainment expenses for allocation within the Executive Office of the President. Item 5 is the subsistence expenses of persons in the Government service while traveling on official business in connection with the travel of the President.

The way the measure is drafted and now before the Senate, there is no limitation on the amount that can be authorized for those purposes. That is the only point the Senator from Virginia was trying to establish: Is there a limitation or is there not? Apparently, there is not. Whether there should be or should not be is something else, but we need to get the facts.

Mr. SASSER. I say to the Senator from Virginia that the Senator from Tennessee respects his point, which is a point ably made; but I also say to the distinguished Senator from Virginia that this is subject to oversight. It is subject to the rule of reason. It is subject to the verification of the General Accounting Office. It is subject to review of the appropriate appropriations committees of both Houses.

I know that the Senate, and particularly the distinguished Senator from Virginia, would not want to impose unreasonable restrictions upon this President or any other President. I say to my able friend that he is correct in that there is no specified, strict limitation on the particular items to which he has referred. This includes what I have alluded to earlier: The care and maintenance of the Executive Building, the official expenses of the White House Office, the official entertainment expenses of the President, the official entertainment expenses for allocation within the Executive Office of the President, and others.

Mr. HARRY F. BYRD, JR. I thank the Senator from Tennessee.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. CHILES. Mr. President, the Senator from Virginia is absolutely correct in the point he is trying to establish. There is no direct control here so far as a total figure is concerned.

The Senator from Tennessee has explained what the bill does give us in regard to the General Accounting Office audit. Certainly, it is going to be further help to the Appropriations Subcommit-

tee in looking at this budget and determining whether something is reasonable or not.

I point out to the distinguished Senator from Virginia, because he said we would have to look at the other question of whether this limit was right or wrong, that the Senator from Florida believes certain items in the legislative authorization allows us to appropriate such sum as we think might be necessary for the carrying out of our task, and that includes travel as well as all the other expenses of our office. In the legislative appropriation we limit how much can go for travel and how much for the other items. But in a legislative authorization act, we have not put a limitation on how much overall limitation there will be. Why should we handicap ourselves by not having sufficient funds to be able to carry out the task before us?

When I look at most of these items—to take care of the air-conditioning units or the Executive residence or even the entertainment expense of the President—I think that might depend on whether you are in a bicentennial year and what foreign dignitaries are visiting. The same would apply to travel.

So what we would be looking for would be whether there are abuses. Do those abuses need to be corrected?

I have not heard anybody say that in this particular administration there are abuses. In fact, we know that the opposite is true, from our own experience. Many of us feel that the entertainment at the White House this year is not up to what it has been in the past. I have heard people say that. I have heard people say that the beverages served are not the same. So I do not think anyone can make any charges that there are abuses

I know we are taking a great deal of time on this, but I think it is going too far to say that we are going to limit it.

I ask the distinguished Senator whether he understands that the amendment we are dealing with not only puts a limit of $20 million on entertainment. That puts a lid on the care, maintenance, repair, air-conditioning, heating, and lighting of the Executive residence of the White House, no matter what is done to fix the residence; the official expenses of the White House Office, no matter what those are; the entertainment expenses, no matter what those are; the subsistence of persons on the President's staff while traveling, whether they are going to Russia or to Bonn, wherever they are going. We are writing that into concrete, whereas our Appropriations Committees do not even have the authority or the ability to look into it to see whether it needs to be changed.

I think that writing all that in would be shortsighted, and we would be back here changing the authorization legislation, or right back to where we were in 1939; because the authorization we have now goes back to 1939, and no one has done anything about it since that time.

It seems to me that we are trying to update it here, trying to make it realistic, trying to have a General Accounting Office audit which gives us that information.

I believe that the distinguished Senator from Tennessee and the distinguished Senator from Alaska should be congratulated for the work they have done on this bill, to get a handle on it for the first time. People should not be coming in here and saying "You should be doing more," or, "Let's tack something else on" or, "I want to go home and be able to make a speech that, by golly, I told that President he couldn't spend more than 7 percent for his entertainment expenses. I'm not going to allow him to have any fancy entertainment." That is not to say that he has had any fancy entertainment.

For those reasons, I do not see why the amendment should be adopted.

Mr. STEVENS. Mr. President, will the Senator yield?

Mr. HARRY F. BYRD, JR. I yield.

Mr. STEVENS. I am sure the Senator from Florida is referring to the unavailability of diet cola in the White House. I am sure he wants the RECORD to show that.

Can the Senator from Virginia tell me this: We have the problems of people going West, and there is a major airline strike in the West, and it is hard to get additional reservations. I would like to see if we could accelerate the votes on this amendment and the next amendment. I understand there is to be another amendment.

Mr. HARRY F. BYRD, JR. I just have a brief comment to make, and then we can vote, so far as I am concerned.

No. 1, the Senator from Virginia was not speaking about the amendment which is now pending. The Senator from Virginia rose to seek information with regard to the legislation.

The Senator from Virginia made no allegations in any way, shape, or form that too much money was being spent at the White House.

It is a question of policy, a question of viewpoint as to whether there should be an open-ended authorization. The Senator from Florida correctly pointed out there is an open-ended authorization on legislative expenditures. I do not approve of that.

I do not approve of open-ended authorizations. It has nothing to do with the White House, Congress, or any other department of Government. I just do not believe in them. I think there should be a limitation in the authorization bill. I have not decided exactly how I will vote on the bill. I think the committee has made improvements in this legislation over what has existed in the past. On the other hand, I am concerned about an open-ended authorization.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. Mr. President, let me say to my distinguished and able friend from Virginia that his point is well and eloquently made. What we are seeking to do here is simply to allow the Office of the President some flexibility in dealing with the items which we have alluded to earlier.

Let me say and try to reassure the able Senator from Virginia that appropriate oversight and appropriate restrictions are available under this legislation to swiftly curtail, I hope, any abuses and to swiftly curtail any unreasonable expenditures of taxpayers' money. I might say that I do agree with the point made by the able Senator from Florida that the present occupant of the White House certainly appears to be very frugal in his entertainment expenses. The Senator from Tennessee was invited over there for breakfast not too long ago and arrived expecting at least ham and eggs and got coffee and a doughnut. The Senator from New Hampshire also received the same treatment. We have not returned since then. We have not been invited back, I might add.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Arkansas (Mr. BUMPERS), the Senator from North Dakota (Mr. BURDICK), the Senator from Iowa (Mr. CULVER), the Senator from Missouri (Mr. EAGLETON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Maine (Mr. HATHAWAY), the Senator from Arkansas (Mr. HODGES), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Louisiana (Mr. JOHNSTON), the Senator from Vermont (Mr. LEAHY), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maine (Mr. MUSKIE), the Senator from Mississippi (Mr. STENNIS), and the Senator from Florida (Mr. STONE) are necessarily absent.

I further announce that the Senator from Minnesota (Mrs. HUMPHREY) and the Senator from South Dakota (Mr. MCGOVERN) are absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mrs. HUMPHREY) and the Senator from Vermont (Mr. LEAHY) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Massachusetts (Mr. BROOKE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. GRIFFIN), the Senator from Nevada (Mr. LAXALT), the Senator from Idaho (Mr. MCCLURE), the Senator from Kansas (Mr. PEARSON), the Senator from Illinois (Mr. PERCY), the Senator from Texas (Mr. TOWER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

The result was announced—yeas 16, nays 56, as follows:

[Rollcall Vote No. 217 Leg.]

YEAS—16

Bartlett	Hatfield, Mark O.	Schweiker
Byrd, Harry F., Jr.	Helms	Scott
Curtis	Proxmire	Stafford
Danforth	Roth	Thurmond
Garn	Schmitt	Wallop
		Young

NAYS—56

Allen	Gravel	McIntyre
Bayh	Hansen	Melcher
Bellmon	Hart	Morgan
Bentsen	Haskell	Moynihan
Biden	Hatch	Nelson
Byrd, Robert C.	Hatfield, Paul G.	Nunn
Cannon	Hayakawa	Packwood
Case	Heinz	Pell
Chafee	Hollings	Randolph
Chiles	Inouye	Ribicoff
Church	Jackson	Riegle
Clark	Javits	Sarbanes
Cranston	Kennedy	Sasser
DeConcini	Long	Sparkman
Dole	Lugar	Stevens
Domenici	Magnuson	Stevenson
Durkin	Mathias	Talmadge
Ford	Matsunaga	Williams
Glenn		Zorinsky

NOT VOTING—28

Abourezk	Griffin	Metzenbaum
Anderson	Hathaway	Muskie
Baker	Hodges	Pearson
Brooke	Huddleston	Percy
Bumpers	Humphrey	Stennis
Burdick	Johnston	Stone
Culver	Laxalt	Tower
Eagleton	Leahy	Weicker
Eastland	McClure	
Goldwater	McGovern	

So Mr. HELMS' amendment was rejected.

Mr. RIBICOFF. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I take the floor at this time to inquire, for the convenience of Senators who have to catch planes and meet engagements, as to how many amendments remain, whether or not there will be rollcall votes on amendments, and whether or not there will be a rollcall vote on final passage.

Mr. STEVENS. Mr. President, may we have order? I think the majority leader is asking an important question, and deserves to be heard.

Mr. ROBERT C. BYRD. Mr. ROTH has an amendment.

Mr. ROTH. My understanding is that it will be accepted. In that case, there will be no rollcall.

Mr. ROBERT C. BYRD. Very well.

Mr. THURMOND. Mr. President, I do not have an amendment. I have three or four questions I have prepared to ask the manager of the bill, which I think will take 2 or 3 minutes.

Mr. ROBERT C. BYRD. Very well. Does anyone have any other amendments? Apparently not. Does anyone intend to ask for a rollcall vote on passage? I see no indication thereof, so I would suggest that Senators may take that as an indication that there will be no rollcall vote on final passage.

Mr. THURMOND. Mr. President, I would like to inquire of the manager of the bill for certain information, if he would kindly——

Mr. SASSER. May we have order, Mr. President?

The PRESIDING OFFICER (Mr. MELCHER). The Senate will be in order.

Mr. THURMOND. I thank the distinguished Senator from Tennessee, as manager of the bill.

I notice that section 105, on page 2, (D) of the bill appears to give the White House a "blank check" on the number of employees in the grade of GS–16's, who can be hired for the White House staff. Is that correct?

Mr. SASSER. Let me respond to the question of the distinguished Senator from South Carolina by saying that the number of employees would be subject to the total authorization and the total cap that is in this particular bill. Of course, the number of employees and their grades would be subject to the oversight of the appropriate Appropriations Subcommittee. The Senator is correct; there is no specific limitation.

Mr. THURMOND. Does the committee know how many employees at the minimum rate of basic pay grade GS–16 are presently on the White House staff? Could you give me a number?

Mr. SASSER. We have an updated list here that we are seeking to uncover now. But I would say to my friend from South Carolina that the level of employment now, the total level of employment at the White House in fiscal year 1978, was at its lowest level since fiscal year 1965.

The total employment at the White House in fiscal year 1978 was 361 employees, and, according to our figures, this is the lowest level since 1965.

Mr. THURMOND. Do you believe that we should put a "cap" on the number of GS–16's who may be hired on the White House staff?

Mr. SASSER. I would say to my able friend from South Carolina that this President and any subsequent occupant of the White House should have the flexibility to secure a staff adequate to meet the demands, within the bounds of reason and within the overall limitations of the present authorization bill that we are considering here today.

I would say to the Senator from South Carolina that these individuals who might be employed would be subject to the oversight of the appropriate Appropriations Subcommittee.

Mr. THURMOND. I notice under section 112 on page 13 of the bill that the White House may borrow employees of other departments or agencies for 179 days without cost to the White House. Am I correct in that assumption?

Mr. SASSER. May I ask the Senator to repeat his question?

Mr. THURMOND. I notice under section 112 on page 13 of the bill that the White House may borrow employees of other Departments or agencies for 179 days without cost to the White House. Am I correct in that assumption?

Mr. SASSER. I should clarify, for the distinguished Senator from South Carolina, a distinction in two different areas of the bill regarding detailees. The White House must compensate the appropriate agencies from which it borrows employees for more than 180 days. Another section, section 113, provides that the White House must file detailed reports on any employees on assignment to the White House for more than 30 days.

I might say that one part of the thrust of this authorization bill is to move the White House from the practice of taking employees for assignment from other agencies and simply asking those agencies to supply the individuals at no expense to the White House.

Mr. THURMOND. Whether the White House compensates them or not, is it not true that they can borrow these employees for 179 days?

Mr. SASSER. Oh, yes, indeed. I would say to the Senator from South Carolina that this may be done, but it has been done traditionally, for many, many years. As a matter of fact, the White House now is presently, by law, I think, allocated a total staff of 14 people. They are operating now under an authorization passed in 1939 which limits them to a staff of 14.

So over the years, employees have been borrowed from various agencies. I think the high limit of the borrowing occurred in the early 1970's, and this White House, as previous White Houses have done, does borrow employees from appropriate agencies.

For example, if the Department of the Treasury has an employee with particular expertise in an area that is under discussion at the White House, or a matter of importance to the White House, this employee might be borrowed for a period of time and I believe the White House should have access to his or her particular area of expertise.

Mr. THURMOND. Under the provisions of section 112 of the bill on page 13, would section 112 permit the White House to borrow a group of employees from departments or agencies for 179 days and then send them back to their respective departments and agencies and thereafter on the next day borrow other employees from the same department and agencies for the remainder of the year or for the next 179 days?

Mr. SASSER. I would say to my friend from South Carolina that that could be done, but that it would be a very difficult and, indeed, cumbersome, awkward, and self-defeating process for this White House to attempt to undertake, or for any subsequent White House staff to undertake.

Mr. THURMOND. I thank the Senator.

Mr. SASSER. In clarification of the response I made to the inquiry of the distinguished Senator from South Carolina, it should be pointed out that under the Senate committee amendments, should the White House borrow any employee from an agency for a time in excess of 30 days, it must file a detailed report relative to borrowing this employee from that particular agency. That should be added to amplify the response I made to the Senator from South Carolina.

Mr. DOLE. Mr. President, this is a rather interesting piece of legislation and the Senator from Kansas wanted to take a few moments to comment on its impact.

The committee believes that Congress needs to reassert its power to authorize expenditures over the White House. Had they actually reported a bill that did that, it would have been most appropriate, in light of the fact that President Carter was elected on a platform of reducing the Presidential staff by one-third and deimperializing the Presidency.

However, having stated the need to start exercising the power to authorize expenditures, the committee has recommended a bill granting authorizations

virtually without limit. Almost all of the authorizations are for "such sums as may be necessary." Frankly, it does not sound like Congress is exerting much control.

The bill does set a limit of 100 on the number of staff numbers that can be compensated at greater than the GS–16 level. The current number is 55, however, and the 100 figure should not really be much of a limit. In addition, lower level employees (compensated as GS–16's or below) can be hired without limit.

Mr. President, I would like to refer to an article which appeared in the National Journal about this bill. I ask unanimous consent that the article be printed in the RECORD. It is entitled "The 'Lean White House' Has a Fat Staff Authorization in the Works."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the National Journal, April 1, 1978]

THE "LEAN WHITE HOUSE HAS A FAT STAFF AUTHORIZATION IN THE WORKS

(By Dom Bonafede)

(Proposed legislation awaiting House action would allow President Carter the most expensive White House staff in history)

An authorization bill (H.R. 11003), unanimously approved March 16 by voice vote by the House Post Office and Civil Service Committee, would let the President almost double the number of executive level and supergrade aides on his personal White House Office staff from 55 to 100. Occupants of such senior positions receive annual salaries ranging from $42,500 to $57,500.

Similar top-level staff increases for four other units of the Executive Office of the White House Office, would cost $8.6 million the first year alone, if fully implemented. (*See box, p. 516.*)

Other provisions in the measure, some of which are unprecedented, would grant:

Virtually open-ended authority to the White House to hire an unlimited number of consultants and borrow "detailees" from other federal agencies:

Assistance and services for the wives of the President and Vice President, the first time they have been included in legislation dealing with White House personnel authorization;

Increases in executive level and supergrade employees for the Office of the Vice President from eight to 11. Domestic Policy Staff from 13 to 24. Office of Administration from five to 10 and Executive Residence staff from none to three;

Authority for an unlimited number of appointments to the presidential staff below a GS 16 rating, which carries a yearly salary of $42,423;

"Subsistence expenses" for persons, both military and civilian, traveling on official business in connection with travel of the President or Vice President, including aides accompanying them on trips and advance people. This is in addition to per diem expenses regularly allowed.

The Administration-endorsed legislation, which is expected to be taken up by the full House in a few days, appears to represent a reversal of a movement towards a deimperialized presidential establishment and to run counter to Carter's pledge to constrict the White House bureaucracy.

Hugh Carter Jr., special assistant to the President for administration, reported the White House has been working in support of the bill since August but does not intend to add significantly to the number of senior aides in the White House and Executive Office of the President, notwithstanding the opportunities available under the bill, should it be adopted.

Administration officials are confident the bill will be approved. "We feel pretty good about it," Carter commented. "This provides permanent statutory authority for the President's staff," he said. "We wanted to have plenty of flexibility for the future, in the event of an emergency like World War III or something, and needed to suddenly increase the staff. But except for one or two people, we have no plans to raise the staff level."

Tread Davis Jr., general counsel to the President's reorganization project in the Office of Management and Budget (OMB), said the bill does not represent a staff increase since year-to-year personnel levels will continue to be determined through the appropriations and budgetary process.

LIMITED OVERSIGHT

Charles H. Knull, staff counsel for the House Post Office and Civil Service Subcommittee on Employee Ethics and Utilization and the bill's principal author, acknowledged that there was "quite a bit of horse trading" in negotiations over the legislation.

"There was a tradeoff for a higher authorization of staff in exchange for some limitations and oversight provisions," he said. "But actually, they [the limitations] are not as stringent as for other agencies and are close to what Congress has for itself."

A report issued by the Post Office and Civil Service Committee candidly concedes the bill "allows the Congress limited oversight." It notes that the Comptroller General would be allowed to inspect records related to White House expenditures as a form of "limited verification procedure."

This, the report said, "will enable the Congress to perform its oversight role while at the same time protect the confidential nature of the funds and avoid an overly broad intrusion into this area of executive discretion. Under this procedure, the Congress will receive a report from the Comptroller General certifying the fact of his verification and listing only those specific sums which were not expended for the purposes certified."

It is apparent from the tone of the report that the committee considers this a delicate matter and does not intend to probe too deeply into White House business. Provisions covering the use of detailees, for example, require only that those who have been assigned to the presidential complex for 180 days or longer in any fiscal year must be included in a public report submitted to Congress. Detailees who serve for 179 days or less need not be reported. Committee officials say it is not inconceivable that the White House could take advantage of the provision.

WHITE HOUSE STAFF COSTS

The following table represents a projection of the estimated costs for increased White House staffing under H.R. 11003, if all the slots are filled. (All figures are in millions of dollars.)

Estimated costs	Fiscal years				
	1979	1980	1981	1982	1983
Current projection	$29.5	$31.6	$34.0	$36.4	$39.1
Staff increase	8.6	8.8	9.1	9.3	9.6
Total	38.1	40.4	43.1	45.7	48.7

SOURCE: Congressional Budget Office.

As part of a supplement to the committee report, minority members of the panel, led by the ranking Republican, Edward J. Derwinski of Illinois, who cosponsored the bill, said, "Although this is good and basic legislation . . . some of us are concerned by what we regard as loopholes in the reporting of detailees assigned to the White House from other agencies."

The unchecked use of consultants permitted the White House under the bill also is a contentious issue, particularly since the President not long ago issued a statement advocating a cutback in their employment by governmental agencies.

"We may have to have a specific appropriation for consultants," Knull said.

The inclusion of the authorization for the President's wife was made at the suggestion of the White House, committee officials said. Recently, questions have been raised about the fact that Rosalynn Carter, the President's wife, has at least 17 persons on her staff, none of whom is covered by specific authorization legislation. Similarly, the Vice President's wife, Joan Mondale, who is involved in arts programs, has at least four aides paid out of government funds.

"Authorization for the spouse is supposed to be in connection with their official duties," a committee staffer said. "But no one knows where their official duties end."

Additional provisions in the bill increase the President's travel expenses from $40,000 to $100,000 and maintain his allowance of $1 million for unanticipated needs. For the most part, however, the President's travel expenses are underwritten by the Defense Department, which has jurisdiction over the Air Force planes made available to him. The $100,000 is used mainly for aides who travel with the President and other incidental expenses.

The $1 million for unanticipated needs is allocated to the President "in furtherance of the national interest, security or defense, which may arise at home or abroad." That is a purposely vague definition; presumably the money is viewed more as pocket spending money for the President. The 94th Congress reduced the amount to $550,000, but it has since been raised to its former level.

"It's questionable whether it is needed," said Theodore J. Kazy, the committee's minority staff director. "Is it too much and what is it used for? I'm sure some Members would like to see it amended."

SWITCHED POSITIONS

An interesting sidelight on the bill concerns the political maneuvering that has accompanied it, particularly the inconsistency of some House Members on the issue of White House staffing.

In 1975, when a similar, yet more modest, bill affecting the Ford White House was introduced. Rep. Morris K. Udall, D-Ariz., took the lead in denouncing the proposal. During an impassioned floor debate that July 9, Udall, then a prospective Democratic candidate, declared it was time to draw the line against expanding the presidential establishment and said that a bloated White House staff tended to centralize power within the White House and trespassed on the traditional role of the Cabinet. Udall then recited a list of aides of President Ford who made more money than several directors of federal agencies, such as the chief of the Forest Service and the Commissioner of Education.

According to committee staff aides, however, Udall has been extraordinarily quiet regarding the proposed staff authorization for Carter, a Democrat.

In a transparent jibe at Udall, the minority members said in their supplemental report:

". . . When modest staff increases were proposed for President Ford in the 1975 legislation, there was an attempt to cut the number of executive level employees from 25 to 13. The sponsor of that amendment, a noted

Copper State statesman, said he was not cutting back but was holding the line on White House staff. He made it clear, however, he considered the correct course of action to be a rollback on the number of high-level positions at the White House. It almost seemed as if General 'Black Jack' Pershing were in hot pursuit of Pancho Villa.

"In a flood of eloquence, he expressed shock at the increase in jobs at the White House. We have no way of knowing what the White House staff situation would be today had voters in the 1976 Democratic presidential primaries exercised different judgment."

When asked about Udall's puzzling position, Jennifer Fain, a spokesperson for him, replied, "Since the bill sets a limit on the number of executive and supergrade jobs in the White House, he is for it."

Another committee member, Rep. Patricia Schroeder, D-Colo., changed her tune on the issue. During the July 1975 debate she said, "We have had an incredible crisis in this government in the past few years and there has been a tremendous concern about the power vested in the executive branch and a faceless government, that we cannot even figure out who is making the decisions. The issue is the centralization of relatively unaccountable power in the White House at the expense of our Cabinet form of government.

". . . I am delighted the President has said how many people are on the White House detail. But there is no limit to how many can be detailed in the future. I have the list of 20. There is also no limit on White House consultants. They are making a lovely salary. We would all do well to quit and become a White House consultant."

Explaining Schroeder's new position, an aide said, "It was important to get out a bill and this was the best they could get."

After the bill was drafted, the White House, apparently certain that it would be overwhelmingly accepted by the full House, requested that it be placed on the suspension calendar. That means that the normal rules are waived, that there can be only 40 minutes of debate on the bill, that no amendments can be added and that there must be an up-or-down vote requiring a two-thirds majority for passage.

"I personally recommended against it," said David Minton, the committee's executive director and general counsel, "not on the merits of the bill but because of politics. It [the quick action] might antagonize some Members."

The bill was taken off the suspension calendar but could be reinserted when Congress reconvenes.

"That's a little risky," remarked minority staff director Kazy. "Some Republicans might take some shots at it. They have been more generous with Carter than the Democrats with Ford."

One of the chief attractions of the bill from the White House's view is that it marks a departure from past practice when White House staff appropriations proposals were subject to points of order because the House had not first provided an authorization.

Following House action on the bill, it will then go to the Senate.

Mr. DOLE. Mr. President, I would note that the Government Affairs Committee of the Senate did strengthen the House bill on reporting requirements for detailees and other staff. In addition, the managers agreed to accept the amendment by the Senator from Delaware which requires periodic authorization. Obviously, those changes were made since the article was written, but otherwise, it is disturbingly accurate.

I would also like to correct a misimpression that may have resulted from yesterday's discussion of this bill. The distinguished Senator from Tennessee stated that President Carter had reduced the White House staff from 485 to 351. Of course, such a reduction would have almost fulfilled the President's promise to reduce the White House staff by one-third. In fact, however, 73 of those people were simply transferred to the new White House "Office of Administration" and represent no real reduction in force.

In addition, I quote from an interesting article by William Safire which appeared in the May 22, 1977, New York Times:

For over two years on the campaign trail, Mr. Carter railed at the swollen size of the White House staff. In his Feb. 2 fireside chat, he warmed our hearts with the report that "I am reducing the size of the White House staff by nearly one-third."

The White House staff he inherited consisted of 510 people. Since his "nearly one-third" was translated into a directive ordering a 30 percent cut, the number—by his own announcement—should now be 357.

Don't hold your breath. According to the White House press office, the size of the White House staff as of last week was not the targeted 357, not the Ford level of 510, but 608.

Obviously, the President is not making good on his campaign promise. In addition, he is supporting a bill which authorizes staff far in excess of current levels.

All this disturbs the Senator from Kansas, and leads me to oppose this bill.

UP AMENDMENT NO. 1418

(Purpose: To limit budget authorization to five years)

Mr. ROTH. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. ROTH) proposes an unprinted amendment numbered 1418.

Mr. ROTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 20, line 12, before the period insert the following: ", except that no budget authority (including permanent budget authority) which is authorized under these amendments may be obligated or expended during a fiscal year beginning after September 30, 1983, unless the enactment of such budget authority is authorized by provisions of a law enacted after the date of the enactment of this section. For the purposes of this section the term 'budget authority' has the meaning given to it by section (3) (2) of the Congressional Budget Act of 1974."

Mr. ROTH. Mr. President, what I am proposing to be added to the White House authorization bill is a cutoff or sunset provision that would require the reauthorization again in 1984. I shall be brief.

On the matter of personnel, I would like to amplify the remarks that were made by the distinguished Senator from Kansas as well as the remarks of the Senator from North Carolina, because I, too, am disturbed at the example of growth for the rest of the Federal Government being given by this particular authorization.

Mr. President, this White House authorization bill is an oracle of the future. It shows us that the President has no intention of keeping his pledge to cut the White House staff by one-third. It reveals the emptiness of administration promises to streamline the bureaucracy. And it is an indication of whether Congress intends to take an active role in controlling the burgeoning size of the Federal Government.

This bill sets a frightening example of growth for the rest of the Federal Government. It authorizes almost double the number of executive level positions that now exist in these White House offices. If we approve it unamended, it mandates the same kind of growth throughout the bureaucracy. The place for Congress to begin to control the bureaucracy is at the top. If the President will not do it—if he persists in requesting extravagant authorizations such as this one, then we must do it ourselves.

The President had the right idea when he told us last February he was trimming the White House staff. He said, "The place to start is at the top—the White House. I am reducing the size of the White House staff by nearly one-third."

The President also stated in an interview last year with Congressional Quarterly:

I am very much opposed to having a concentration of large numbers of people in authority in the White House staff . . . We are proposing to cut that to 351, a drastic reduction amounting to about 28 percent.

However, this so-called "drastic reduction" is imaginary. Employees were shifted from the White House office to the new Office of Administration, giving only the appearance of a reduction. I guess we are supposed to ignore the existence of the Office of Administration, like the Emperor's clothes, and perceive a real reduction here.

Mr. President, the increase to which I refer is clearly illustrated when we compare the number of positions in the offices we are considering for authorization today with the number of positions under the Ford administration. In February 1976, the total civilian employment in the five offices we are considering was 666. Total civilian employment in February 1978 was 718. The claim of a staff cut is a blatant attempt to veil the growth of the White House staff.

Mr. President, I ask that a chart compiled by my staff from the most recent civil service figures be printed in the RECORD.

There being no objection, the chart was ordered to be printed in the RECORD, as follows:

Paid civilian employment

	1976	1978
January:		
White House Office	517	379
Office of Administration	---	178
Office of the Vice President	24	23
Domestic Council	55	43
Executive Mansion	80	87
Total	676	710

	1976	1978
February:		
White House Office	515	377
Office of Administration	---	189
Office of the Vice President	23	22
Domestic Council	49	43
Executive Mansion	79	87
Total	666	718

Mr. ROTH. Budget authority for the White House staff has been an issue for several years. In the last two Congresses, it was voted on once in the Senate and twice in the House.

The sentiment then was that the Congress had written too many blank checks to the President. I shared this concern and voted against uncontrolled extravagant authorizations. I still believe congressional acquiescence is a problem today. It is imperative that we fully exercise our responsibility to examine the President's requests for staff increases. It is Congress duty to insure that we have an accountable executive branch and that its shape and size are controlled.

As President Carter said in an interview during his campaign (CG 9/25/76 p. 9):

> We now have a greatly expanded White House Staff . . . This needs to be changed. We need to put the responsibilities back on the Cabinet members.

I cannot see how this bill is in any way consistent with this goal. President Carter's concern for Cabinet Government was also articulated in the last Congress.

It is also shocking to me that some Members of the House who were vocal opponents of the more modest previous proposals have chosen to cosponsor this extravagant bill. Their concern for "the Cabinet form of Government" and "the ominous proliferation of power in the White House" has inexplicably dwindled since 1974. While it may be inapportune for them to espouse these views now, I think some valid points were made in the dissenting views of H.R. 6706 in the last Congress, and I ask unanimous consent that they be printed in the RECORD.

There being no objection, the information was ordered to be printed in the RECORD, as follows:

DISSENTING VIEWS OF MORRIS K. UDALL AND PATRICIA SCHROEDER

While we welcome the attempt of the committee to exercise its oversight and authorization jurisdiction in regard to the employment of personnel in the White House Office, we believe that the committee has not sufficiently addressed the important issues before it and, in the final analysis, has approved a bill which contains the seed for potential abuse in employment practices by the Office of the President.

The central question before us is not whether we trust the present incumbent, or whether the Congress is attempting to tie the hands of the President in relation to his hiring authority. The central issue is whether the Congress should continue to acquiesce, indeed approve of the increasing trend toward the centralization of power and policy-making authority in the White House rather than in the more decentralized Cabinet-type of Executive Branch which was envisioned by the Founding Fathers, and which, until recently, seemed to serve the Nation's needs more than adequately.

Our Constitution envisages a President assisted by a Cabinet made up of his principal consultants and advisors. This concept was underscored by the creation of the Executive Office of the President in 1939 (Reorganization Plan I—April 25, 1939). In the order implementing the plan, it was made clear that "In no event shall Administrative Assistants (to the President) be interposed between the President and the head of any department or agency." However, except for the big four (State, Justice, Defense, and Treasury) few Cabinet members in recent times have had any regular and effective access to the President. The plain fact is that on most matters Cabinet members tend to deal with the White House staff members who apparently have more influence with the President than the Cabinet member himself.

The framers of the Constitution understood that a Cabinet-type government deciding policy formulation was far preferable to a medieval court system where the king's favorites struggled for power, owing no allegiance except to their master.

While no American would begrudge any President the expertise or manpower needed to cope with the pressing problems of the Nation and the world, a serious problem does arise when the White House staff begins to replace both the functions of the Cabinet and the career civil service. Since 1960, there has been a steady and marked increase in White House personnel. Between the years 1970–73, we witnessed an explosive 25 percent increase in the White House staff.

Not only did this personnel growth affect the powers of Congress but it has unquestionably eroded the responsibilities of the Cabinet and the stabilizing controls of the Civil Service.

A President's major administrators and advisers—the Cabinet—have always been properly questioned by Congress about their administration of public laws. Public accountability of a President's personal staff all too often may be non-existent.

H.R. 6706, in effect, approves of this type of nonaccountable government, and therefore, is a bad bill. It rubber-stamps the White House's recent proliferation of high level positions. What has changed in the past year to require such large increases in top level positions at the White House?

But even these so-called "limitations," however bloated, can be easily circumvented by any President who wishes to do so under the provisions of H.R. 6706. When the bill came before the Committee, there was not even a ceiling for total staff positions. Such a limitation was instituted by amending the bill, but two serious potential loopholes remain.

First the President is allowed to hire unlimited numbers of experts and consultants, and regardless of any other personnel limitations, keep them on the payroll for an indefinite period of time subject only to the President's assertion after the first year of employment that their continued presence is "necessary." Every other Federal government agency is limited to hiring experts and consultants for only one year. No reason comes to mind why the White House should not be subject to the same limitation. If an individual needs to be kept on for more than one year, then the White House should transfer that individual to one of the personnel slots which have been authorized, After one year of work, it seems that the term "consultant" is somewhat inappropriate.

Second, it seems to us that the $1,000,000 to be used at the discretion of the President for "unanticipated needs" also holds the potential for abuse. This subject has been discussed by Mr. Harris in his Dissenting Views, and we fully concur with his assessment.

In conclusion, H.R. 6706 fails to limit the ominous proliferation of power in the White House. and in doing so, it puts the Congress on record as implicitly approving of this form of government. For this reason, we oppose this bill, however, well-intentioned is its purpose, and hope that it can be amended sufficiently on the floor to reverse the current trend and bring back more accountability to the Executive Branch.

MORRIS K. UDALL,
PATRICIA SCHROEDER.

Mr. ROTH. This authorization bill is excessive. Why are 100 executive level positions necessary when there are only 55 positions now? The flippant explanation offered by Hugh Carter, head of the new Office of Administration, was that they were necessary in case of "an emergency like World War III or something." I believe a more accurate explanation is that the administration is attempting to circumvent the process of justifying staff increases to Congress. It will be much easier to secure larger appropriations, if the ceiling is this high. For all the controls this bill offers, the authorization might as well be unlimited.

The Congressional Budget Office estimates that, as a result of this legislation, White House executive level positions alone will rise by approximately $10 million over the next 5 fiscal years. They did not factor in inflation, or consider the growth of the staff in positions below GS–18. Still, this conservative estimate illustrates the growth and escalating cost that will result from this bill. I ask unanimous consent that this estimate be printed in the RECORD.

There being no objection, the estimate was ordered to be printed in the RECORD, as follows:

Estimated costs

	In millions
Fiscal year 1979:	
Current level projection	$29.5
Staffing increase	8.6
Total	38.1
Fiscal year 1980:	
Current level projection	31.6
Staffing increase	8.8
Total	40.4
Fiscal year 1981:	
Current level projection	34.0
Staffing increase	9.1
Total	43.1
Fiscal year 1982:	
Current level projection	36.4
Staffing increase	9.3
Total	45.7
Fiscal year 1983:	
Current level projection	39.1
Staffing increase	9.6
Total	48.7

Mr. ROTH. The major objection to this authorization is it has no expiration date. The administration will never again need to return to this body for such authorization—except to request further increases. A former Senator from Minnesota eloquently expressed the need for a termination date for the authorization in 1974 and I refer to the following excerpt of his remarks:

Third, the committee reported bill placed a July 1, 1978 cutoff date for the authoriza-

tion for White House personnel and the President's emergency fund envisioned by this legislation. I am particularly pleased with this provision of the bill since it will require future Presidents to come to the Congress and make their case for their own staff needs. In view of the usurpation by the White House staff of recent years of the functions of Cabinet officers and others to whom principal responsibility for executive department policymaking should be delegated, I believe that it is essential that any future President, of whatever political party, be required to come to the Congress and grant us our proper role in determining the size and shape of the White House staff.

I agree wholeheartedly with Vice President MONDALE that any future President, Republican or Democrat, should be required to come back to Congress and justify further staff increases. Why should we exempt these White House offices from this vital part of our budgetary process? If we leave this aspect of the bill unamended, we are granting the President an open-ended, blank-check authorization.

I do not mean to imply in principle an executive request for growth is always unacceptable. Under many circumstances such a request may, indeed, constitute real reform or the need be real. My problem is the administration has not adequately demonstrated such a need to us today.

Mr. President, I frankly do not have the expertise to specify how many people the President needs to carry out the responsibilities of this Office. I only know that the authorization called for in this bill is much more extravagant than either the requests of the previous two administrations. Therefore, Mr. President, at the very least, this body should exercise its oversight responsibility in the authorization process.

Mr. President, Congress is tired of being misled. We are told the White House staff has been cut, when in fact it has increased. We are told this bill is a reform—that it will establish a budget authorization where none now exists. In fact, this bill offers no controls and, unamended, is the same as no White House staff authorization at all.

At this time I yield to the Senator from Utah.

Mr. HATCH. Mr. President, we have before us a bill which is totally open ended in terms of duration. In some of its provisions, such as the allowance for reimbursement of travel and entertainment expenses, there are no expressed limits and little or no accountability for expenditure. A White House staff member could receive reimbursement for a night at the Ritz. The First Lady's staff could take on an army of consultants.

While the possibilities for this kind of abuse may be remote, they are nonetheless completely open under the present bill, H.R. 11003. I applaud the Senator from Tennessee and the Senator from Illinois who were instrumental in bringing to us this long-awaited White House authorization. I wholeheartedly support the important concept of a separate White House authorization. I support the concept of limiting the number and salaries of top White House staff. My objection is that the wise restrictions of this bill do not extend far enough into areas equally open to bureaucratic shenanigans. As long as we are about the matter of examining the White House personnel needs and making some necessary changes, let us be thorough and close the remaining loopholes.

One gaping loophope is the provision in the bill for a permanent authorization. Under no circumstances should we permit this to go unamended. It is the constitutional responsibility of Congress to authorize and appropriate funds for all the purposes of Government and this Congress would be negligent in performing that duty if, in spite of both the loopholes in the language and the absolute necessity for holding down spending, we did nothing to limit the period for authorization.

The amendment proposed by Senator ROTH is based on good commonsense. He suggests a 5-year authorization, extending from October 1, 1978 through September 30, 1983. Five years seems to me a logical and reasonable period for this authorization as it will provide sufficient opportunity for planning by the White House as well as adequate information on the years of implementation for Congress to evaluate.

We all know times change. Staff needs may change as quickly as the issues. Economic changes may signal us to be more generous or more frugal. Any authorization passed in this Congress ought to have a specified time limitation. Mr. President, I urge adoption of the amendment and ask unanimous consent to be added as an original cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. SASSER. Mr. President, as floor manager of the bill we are agreeable to accepting the amendment offered by the distinguished Senator from Delaware (Mr. ROTH). I agree with Senator ROTH. To provide a sunset for White House authorization consistent with the provisions of the Sunset bill reported by the Governmental Affairs Committee and the Rules Committee I think would be good public policy.

I certainly have no objection to accepting this amendment.

I might say in passing, Mr. President, and as a matter of clarification, that not long ago, on July 15, 1977, the Governmental Affairs Committee of the Senate considered Reorganization Plan No. 1 for 1977 under the reorganization authority of the President which reduced White House staff positions from, at that time, 485 to 351. This is a reduction of 28 percent in White House staff positions.

We have previously alluded to the fact that the staff of the present White House is the lowest in number since 1955. The present level stands at 341 individuals, though 351, I believe, have been authorized. This is down substantially from what it has been for the past few years. I think we can all take heart in the fact that this number has been reduced.

The PRESIDING OFFICER. Is the Senator from Delaware seeking recognition?

Mr. ROTH. Mr. President, I shall be very brief. I think the manager of the bill, the distinguished Senator from Tennessee, for accepting the amendment. I should like to make it clear that the fund will be obligated or expended during the fiscal year beginning after September 30, 1983. I said 1984, but it is 1983, and I want to make certain that was clear.

Mr. President, I do not want to extend the debate, but the thing that has concerned me so much about the so-called personnel reduction in the White House is that much of the change has come about by transferring employees into the Office of Administration. That is an office which did not exist in 1976, so there were no people there. So if we compare the same offices, in 1976, for January, we see 676. In January of 1978, we see 710. One hundred and seventy-eight of those individuals are now in the so-called Office of Administration which were formerly on the White House staff.

One can argue numbers and organizations, but as far as I am concerned, that does not represent any real reduction in the number of White House staff.

Mr. CURTIS addressed the Chair.

Mr. HATCH. Will the Senator from Nebraska yield?

Mr. CURTIS. I am happy to yield.

Mr. HATCH. Has adoption been moved?

The PRESIDING OFFICER. The amendment has not been voted on yet.

Mr. HATCH. Are we going to move the adoption of the amendment?

The PRESIDING OFFICER. Is the Senator from Nebraska seeking recognition?

Mr. CURTIS. Yes, but not on the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROTH. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMBASSADOR ANDREW YOUNG

Mr. CURTIS. Mr. President, I rise to protest the conduct of foreign affairs on the continent of Africa by President Jimmy Carter. These things that are happening over there cannot be passed off as the thoughtless remarks of Andrew Young and that Andrew Young is not responsible to anybody. The serious trouble that he is creating has gone on and on. He was appointed by the President. The President asked the Senate to confirm him. I did not vote for his confirmation; he had a public record on foreign policy and on national defense established as a Member of the House of Representatives. But we have instance after instance, one of them offending a longtime friend, France.

Then we have the incident where this spokesman for the administration makes his statement about political prisoners in the United States. You can get an idea of how much damage that has done by noting what the Russians have to say about it. I read from the New York Times of July 14, 1978:

Tass, the Soviet press agency, said of Young's remarks that "a senior member of President Carter's Government" had "admitted" that there were political prisoners in the United States just as the President was issuing his denunciation of the Russians for the treatment of dissidents. Tass said the Young interview also came at a time when Mr. Vance was giving Mr. Gromyko a message on the issue from the President for Leonid I. Brezhnev, the Soviet leader.

Now, Mr. President, this is not the idle remark of somebody, made out on the campaign stump. This is affecting the course of history, and blood will flow in Africa from these blunders—the blood of black men and white men, the blood of all races—unless there is a change in course.

Then we have the other instance, the one involving the report that Mr. Andrew Young suggests that the Government of Rhodesia and Europeans have murdered missionaries over there in order to blame it on the terrorists.

Mr. President, if you want a notion as to how this is hurting the United States, I read further from the same article of the New York Times:

LONDON, July 13.—Conservative members of Parliament reacted angrily today to a suggestion by Mr. Young that supporters of Mr. Smith, the Rhodesian Prime Minister, might have killed several white missionaries there.

The attack was led by Winston Churchill, the grandson of the wartime Prime Minister. "To accuse Ian Smith and the Europeans in Rhodesia of rape, murder and mutilation of missionaries, in defiance of all eyewitness accounts," Mr. Churchill said. "Is as despicable and obscene as to say that the Jews were responsible for the gas ovens of Auschwitz."

Another member, John Wakeham of Maldon, said, "I don't see how President Carter can go on with him for much longer. He is clearly an embarrassment to his own side."

Mr. President, Andrew Young is not just an individual shooting off his mouth. He is making policy for the United States. He is directing the course of events. I believe that the American people are in sympathy with all the people in Africa. They would like to see the lot of our American country allied with those moderate and reasonable blacks who, without a doubt, are of good will, and with those whites who are of good will. But the back of our country has been turned against both of those groups and alined with those who are promoting terror and murder and Communist subversion and the takeover of all Africa. Mr. President, that is not the road to peace. I raise the question raised by that Member of Parliament that I just quoted: "I don't see how President Carter can go on with him much longer."

Mr. HATCH. Will the Senator yield for some comments?

Mr. CURTIS. I am happy to yield.

Mr. HATCH. This morning, the New York Times had a report. I should like to preface my remarks with a compliment to the distinguished Senator from Nebraska for his always lucid approach in discussing these matters. In the New York Times this morning, in a report from London, it was said:

Conservative members of Parliament reacted angrily today to a suggestion by Mr. Young that supporters of Mr. Smith, the Rhodesian Prime Minister, might have killed several white missionaries there.

The attack was led by Winston Churchill, the grandson of the wartime Prime Minister. "To accuse Ian Smith and the Europeans in Rhodesia of rape, murder and mutilation of missionaries, in defiance of all eyewitness accounts," Mr. Churchill said, "is as despicable and obscene as to say that the Jews were responsible for the gas ovens of Auschwitz."

Another member, John Wakeman of Maldon, said, "I don't see how President Carter can go on with him for much longer. He is clearly an embarrassment to his own side."

One of the things that bothers me, and I have to preface my remarks to the Senator's statement with this, is that I rather like Andrew Young. I do not personally dislike this man. As a matter of fact, I like people who are blunt and whose statement they really believe. But that is not what is at issue here.

When he said prior to the President's trip to Bonn, right on the eve, or 3 days before the trip to Bonn, but reported on the eve of the trip to Bonn, a very important trip for our President, "After all, in our prisons there are hundreds, maybe even thousands, of people I would call political prisoners," he put the President to a tremendous disadvantage because, instead of going over there and being able to speak positively about human rights violations in Russia, the President now has to defend his stand on human rights violations.

Mr. Young knows that there is no way that anybody really, who has a personal conscience, it seems to me, or anybody who knows our due process of law and our great court system, which occasionally does have injustices within it but for the most part is so incredibly wonderful, could really say that what might be called political prisoners here are the same as the political prisoners in Russia.

I do not know many people in our society today who would even speak about any political prisoners in the United States because it is simply not the case.

Mr. Young and a number of other Congressmen may disagree with the outcome of certain trials. They may raise certain people who are in jail. But under our system of due process of law they have had a trial and they have rights to appeal and, certainly, they are not maligned or murdered, in essence, because of political viewpoints.

In any event, I think it was tremendously embarrassing to the President. But, even more importantly, I think that these comments, injudicious as they are, and I am sure he did not mean them in quite the way they came out, to make those comments during the trials of Anatoly Shcharansky and Alexander Ginzburg seems to me almost unforgiveable, because I just think he threw those people to the wolves.

All over Russia today the Tass News Agency is broadcasting how awful it is in the United States to justify the terrible jurisdictional and antihuman approaches to law and conditions they have in Russia.

If this is the only mistake in language Mr. Young had made, even then I think it is serious enough that it does not justify his continuing to act as our Ambassador to the United Nations. As a matter of fact, I think it justifies a tendered resignation, and I would welcome that because I think it would be better for Andy and better for this country.

But it is not the only thing. He was the man who said that the Cubans are a stabilizing force in Angola. In an interview, he said that Nixon and Ford were racists. He said the British would leave us with the same 30 years of trouble the same way they did in the Middle East, which caused the British to go into an uproar. He said the Swedes were terrible racists, which caused discord and disruption all over Sweden. He accused the South African leaders of being racist, and whether they are or not, and I believe some of them are, and I hate the system of apartheid, for our Ambassador to make a statement like "Vorster is very much over the hill intellectually and in every other way," he cannot be tried as a leader in foreign policy to create good relations with a nation that virtually has a 100-percent pro-United States voting record in the United Nations.

To me, these are pretty serious. But in this interview he gave to Le Monde, he said three things that were incredible.

One, that we have maybe thousands of political prisoners in this country. He would have to know that was going to be misconstrued, to be put in the same category as Scharansky, Ginzburg, and Orloff, and many others over there being persecuted, and now, since Scharansky has been sentenced to 13 years and Ginzburg to 8 years.

But, second, he made these outrageous comments about the white Europeans, and I presume those moderate blacks who cooperated with them, as being responsible for the rapes and murders and mutilations of the missionaries in Rhodesia.

But, third, he has the French in an uproar because he said they are only interested in going back to Zaire during these troubles, these recent troubles, because it was an economic interest.

Now, I agree with the distinguished Senator from Nebraska, and all I am saying is that, nice guy that Andrew Young may be, former Congressman that he may be, considering the good things that he has tried to do, considering his whole tenure as a public servant, and all of those things that many would say are good and stand well in his favor, he has embarrassed this country.

He spends almost as much time trying to explain away his remarks as he does making them—in fact, more time explaining them away than he does in making them.

In the end, this man, really, in my opinion, should not be in the sensitive position of speaking for the United States as the Ambassador to the United Nations and representing all of our people over in Europe and not just the few which, apparently, he thinks he represents.

So, considering all the good things that anybody can bring up about Andy Young, and considering the fact that perhaps he did not mean it the way he said it in any of these instances, and there have been more than I have enumerated here today,

he has caused the United States embarrassment all over the world. He has, I think, demeaned the President of the United States, has on occasion placed people in higher positions of interest and prestige than the President of the United States, and has demeaned our country and everyone within it because of his inability, it seems to me, to be sensitive enough in his speech to realize that he is dealing in international affairs and that he is dealing with people all over this world who have differing feelings from ours here, and that he is speaking primarily, perhaps, in a way, especially under these circumstances, which is bringing the United States into disdain and which has undermined the President's approach to human rights in this world today.

If we add it all up, I think Andy really ought to do our country a favor and he ought to do himself a favor. He ought to resign. He ought to, it seems to me, then become a private citizen, or even a Congressman again, where he can speak his mind in whatever way he wants to without representing all of the people of this country and embarrassing us with these types of outbursts.

Now, with regard to the President of the United States, people can defend Mr. Young all they want, but he has been rebuked by the President not only on this occasion but also on others. He was rebuked by the Secretary of State, the main speaker in this area and the main leader in this area, whose authority he continually subverts.

Last, but not least, either he represents this administration in his speeches or he does not. If he represents the administration, I would be shocked with respect to the statements he has made. If he does not, then he should quit representing the administration as though he does, and we should get somebody in there as the Ambassador to the United Nations who has sensitivity for all nations, not just a select few that seem to be paramount in the mind of Andrew Young and certain followers of Andrew Young.

I believe that the distinguished Senator from Nebraska has done the Senate a service today in bringing this matter up again. I think it is time that we all encourage the President either to speak out and tell us whether Andrew Young represents his administration in these comments that he is continually making or whether he does not. If he does not, then I urge the President to talk with Mr. Young and see whether he can urge and encourage him to resign, so that Mr. Young can speak his mind whichever way he wishes—which is a privilege, incidentally, that is very seldom had in many places in this world that Mr. Young seems to think are so wonderful, and a privilege which hardly anybody has in Russia. It is a privilege that I know that Anatoly Scharansky and Alexsandr Ginzburg wish they could exercise, and which they cannot.

I thank the distinguished Senator for yielding.

Mr. CURTIS. I thank the distinguished Senator for his contribution.

Let us agree that Andrew Young is a charming individual, that out socially he is a very pleasant guy. But that is not the issue. Neither is Andrew Young's remarks the gravest of all issues, bad as they are.

What is grave is the fact that he has directed the course of affairs for the United States and as a result has brought death and bloodshed to innocent people, that he has cast the lot of the United States on the wrong side in every country, and that he has cast the lot of the United States against men of good will among the blacks and among the whites alike.

There are people who are dead and there are people who have lost their liberty, because of the course of action of the United States.

I am not quite as generous toward the President of the United States as my distinguished friend is. I ask the question: For whom does Andrew Young speak? Well, he does not speak for the Republican National Committee. He does not speak for some newspaper editor in this country who is a critic of and hostile to the Government. He does not speak for any individual Congressman, be he a hard-shelled critic of the administration or not. Where did he get his credentials? How does he keep them day after day? That is the issue.

He is the man of the Carter administration until they do something about it. Merely to explain his words and apologize for his intemperate talk does not change the course of affairs away from the disastrous and warlike direction in which he is leading this country.

Mr. President, these are harsh words, but death is harsh for human beings any place in the world, and war is a tragedy any place in the world. Communism is an evil conspiracy that enslaves men any place in the world. The United States should not be alined with those forces and against both black and white people of good will in the continent of Africa who are resisting those things.

Oh, to apologize for the language. It is more serious than that. This is not just a situation in which someone speaks intemperately, spouts off a little now and then. His course is wrong. It is contrary to the best interests of all humanity. It is contrary to the best interests of the United States.

Where did he get his credentials? Did he write them out himself? Or is he a part of the Carter administration and the spokesman for the official who, under our constitutional system, is in charge of foreign affairs?

Mr. President, this is a harsh position, but I say that the tragedy of war and of death and of enslavement is harsh, and we should realize it.

NUNN FOR THE DEFENSE

Mr. THURMOND. Mr. President, a distinguished Member of the Senate, the junior Senator from Georgia, is the subject of a full-page article in the July 17, 1978, issue of Newsweek magazine entitled "Nunn for the Defense."

Mr. President, Senator Nunn has impressed me as a man of integrity and vision and as a Senator who is willing to work hard at whatever task he undertakes. He has given much time to his studies of defense matters and his consistent position for a strong national defense posture is most commendable.

America is facing a period when the adequacy of our defense posture is in question and I expect this period to worsen before it improves. I am pleased to see recognition given to a Senator who has placed defense matters at the top of his priorities here in the Congress. Senator NUNN is making important contributions in these complex defense matters which will insure that our Nation remains prepared and free.

Mr. President, I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NUNN FOR THE DEFENSE

When the United States and the Soviet Union were working out the SALT I accord seven years ago, Samuel Augustus Nunn Jr. was peaceably raising soybeans, pecans and peanuts down in the red-dirt country of Georgia. Now in the Senate, Nunn has turned his preoccupations from plowshares to nuclear hardware and the strategic balance of terror. "You have to get yourself into a Strangelovian frame of mind before you can comprehend all the numbers and details," he says. And he clearly knew how to make the passage. "Nunn is emerging as the coming man on defense analysis," says Robert Berman, a strategic thinker from the Brookings Institution. "In the coming debate over SALT he may well become the most crucial voice on the Senate Armed Services Committee."

For a freshman, Nunn has propelled himself upward with extraordinary velocity. At 39, he is the third-youngest man in the U.S. Senate. He is only the seventh-ranking Democrat on the Armed Services Committee; he stands midway in the seniority list. Yet he has parlayed his chairmanship of a once-obscure subcommittee on military manpower into headlines as a critic of fellow Georgian Jimmy Carter on the B–1 bomber and the neutron bomb and as an expert on the growing pains of the volunteer Army, the aging pains of NATO and the increasing pain of U.S.-Soviet negotiations for SALT II.

Nunn's hairline is receding. He wears horn-rimmed glasses that give him a slightly owlish look. He jogs to keep ahead of a slight paunch; he is a moderate conservative in a hurry. "Sam Nunn is a very astute, clear-headed young senator who knows what power he wants," says one old friend. "More important, he knows how to get and use it."

PATRONS

Nunn's boyhood hero was Sen. Richard Russell of Georgia, a patrician who chaired the Armed Services Committee for nearly two decades; his great-uncle was Georgia Rep. Carl Vinson, who presided for years over the House Armed Services Committee. After graduating from Emory Law School in 1963, Nunn became legal counsel to Vinson's committee. He then served two terms in the Georgia Legislature. When Russell died in 1971, Nunn won his seat. He cultivated the patronage of the then Senate Majority Leader, Mike Mansfield, and Majority Whip Robert Byrd; he also paid court to such military experts as John Stennis of Mississippi and Henry Jackson of Washington. "He got up here, worked hard and was smart as hell," says one top White House aide. He was rewarded with a seat on Armed Services—and a say in the global military posture of the United States.

Nunn's main fear is that the U.S. has underestimated the military strength and

intentions of the Soviet Union. He maintains that Soviet strategists cling to the goal of winning a nuclear war—in sharp contrast to the American strategic doctrine that sees both sides as losers in a nuclear exchange. The Russians, he claims, put first priority on developing and keeping weapons systems designed to further the more aggressive doctrine; by contrast, he contends that the United States tailors new weapons systems to its SALT proposals: losing the B–1 bomber as a bargaining chip particularly dismayed him. He's been keeping a wary eye on the course of SALT II talks, which may bring a treaty before the Senate sometime next year. "I might lead a charge against it," he says. "In doing so, I would hope to try to lay down a foundation for an alternative approach. Negativism in this area is not really the way to go."

Russian conventional forces in Europe also alarm Nunn. "What confronts NATO across the inter-German border today," he argues, "are 935,000 Warsaw Pact troops organized, trained and equipped for a blitzkrieg governed by a doctrine based on surprise and a postulated rate of advance of 70 miles a day." After a two-week inspection in Europe in 1976, he reported that the three-week warning time NATO strategists once relied on had withered to as little as 72 hours. (Gen. Alexander Haig, NATO's supreme commander, subsequently took soundings of his own and conceded the warning time stood at four to eight days.) By some adept budget maneuvering, Nunn succeeded in replacing 18,000 U.S. support troops in NATO with two brigades of combat-ready troops. Though he opposes significant U.S. troop buildups in Europe, he has sponsored legislation enabling the President to call up 50,000 reservists for 90 days without a declaration of an emergency. He argues that such emergency powers are necessary to counter a "post-Vietnam syndrome" that might otherwise paralyze Congress in times of crisis.

LIPS AND EYES

Nunn bristles over White House dawdling on the M–X mobile missile. He also says he is baffled by Carter's decision to forgo the neutron bomb, a radioactive killer capable of neutralizing some of the fearsome numerical advantages Warsaw Pact armor now holds over NATO: 6–1 in infantry transport, 4–1 in artillery, 5–1 in tanks. And he dismisses the contention that internal political opposition in Europe made it impossible for NATO allies to accept the weapon. "Their lips said caution," he says. "Their eyes said full speed ahead."

Nunn's own style is cautious and measured: he has not proved to be a new-fashioned, Southern spokesman for the military-industrial complex. "If he has a weakness, it is that he has not been lied to enough by the bureaucracy," says one combat-ready staffer on the Senate Armed Services Committee. "He has not developed a skeptical carapace—but he is certainly getting there." When Nunn discovered that the 1978 Manpower Procurement Act would keep 1,165 generals and admirals on the duty lists—more than served at the peak of the Vietnam war—he lowered the boom and cut the brass. He is also willing to explore such unconventional avenues as recruiting more women and subcontracting more chores to civilians to buck up the all-volunteer Army. "He is his own man," says Martin Binkin, senior fellow at Brookings. "He is not a rubber stamp for the Pentagon."

Nunn's critics say he shies away from such touchy matters as reinstating the draft or curbing military retirement costs. "He seems too aware that with Georgia having so many retired military personnel it is impolitic to shake that tree too hard," snipes one foe. Nunn does face a re-election campaign this fall, though so far none of his challengers has caught fire. If he wins, as expected, he may be well on the way to the same kind of eminence Senator Russell and Uncle Vinson once enjoyed.

VETERANS' PROGRAMS—THE BATTLE FOR SURVIVAL

Mr. THURMOND. Mr. President, the frontal assault on veterans and veterans' programs continues under the Carter administration. The most recent battle has been waged over an adequate VA budget. Thanks to the efforts of the American Legion, the VFW, the DAV, and other veterans' organizations, victory in this instance went to the Nation's 29 million veterans.

The administration's budget proposal for the Veterans' Administration was $19.1 billion, a disappointing figure. The effect of the Carter budget proposal would have reduced the overall bed strength of the VA hospital system and would have drastically weakened the VA medical research program. Thanks to the veterans' organizations and to many of our colleagues here in the Congress, the final figure for the VA budget was increased to $21.3 billion. This amount will assure adequate funding for the continuation of quality services and programs for our Nation's 30 million veterans and their families.

A recent article in the U.S. News & World Report describes the efforts of veterans and veterans' organizations to maintain veterans' benefits at adequate levels in the face of the inflationary spiral that has plagued our country during the past several years.

Mr. President, in order that my colleagues may have the benefit of this informative and interesting article, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VETERANS FIGHT FOR A BIGGER PIECE OF THE PIE

(Higher pensions for needy ex-servicemen, more help for the disabled, additional medical care—all are goals of a major campaign.)

Big veterans' groups, which claim to speak for 30 million ex-servicemen and their families, are out battling for more dollars from Washington—and apparently are about to succeed.

These organizations are after:

More compensation for veterans with service-connected disabilities.

An increase in pensions for needy veterans.

Expansion of medical care, which they claim is being cut back at a time when the need is growing.

More-liberalized education benefits for Vietnam veterans.

All these are needed, the veterans' groups claim, because benefits have not kept pace with inflation and with the needs of an aging population of veterans and their families.

The campaign aims to correct all of this by boosting the Veterans Administration's proposed budget of 19 billion dollars by at least 2 billion dollars. It is being pressed by the American Legion, the Disabled American Veterans and the Veterans' of Foreign Wars—among other veterans' organizations—at a time when the veteran population is still close to its all-time high.

In Congress, a conference committee approved a rise of about 2 billion dollars in the VA budget to 21 billion, an amount considered likely to survive final votes in both House and Senate.

It is the White House and the Office of Management and Budget, rather than VA Administrator Max Cleland, that are criticized by ex-servicemen's groups for "short-changing" veterans.

"We have no quarrel with Cleland," says Robert Lyngh of the American Legion. But the VA head is still in the line of fire. His views on the campaign by veterans' groups are given in the interview starting on page 39.

Nearly half of all Americans stand to participate in any increase in veterans' benefits.

Close to 96 million people, or 44 percent of the population of the United States, are potentially eligible for one or more of the benefits. Of these, 29.9 million are veterans, 62 million are dependents and 3.9 million are survivors of ex-GI's. This number is expected to decline steadily in coming years, as the chart shows, with the biggest single group—those connected with World War II—now entering their 60s.

Right now, the budget under consideration for the fiscal year starting October 1 provides for—

5.3 billion dollars in compensation payments for some 2.3 million veterans with service-connected disabilities.

5.3 billion for medical care for about 1.4 million veterans who require hospital, nursing-home or at-home treatment.

3.3 billion in monthly pensions for 1 million wartime veterans and 1.3 survivors who qualify on the basis of financial need.

2.7 billion for education benefits under the GI Bill for 1.2 million veterans and their survivors.

1.1 billion for 364,000 survivors of veterans whose deaths were connected with service-related disabilities.

In addition, the VA expects to help about 372,000 veterans to buy homes through guarantees of privately financed mortgages, and to make more than 2,500 direct loans in those cases where private mortgage credit cannot be obtained.

TOP SORE POINT

Biggest complaint about this budget from the veterans' organizations is a plan to cut back on the number of beds in the 172 VA hospitals and 92 nursing homes, from the roughly 90,000 beds now in use. Proposed is a cut of 3,100 beds in 1979, with a further decrease of 2,500 in 1980, along with the cancellation of plans to build a new VA hospital in Camden, N.J.

Lyngh, the American Legion spokesman, argues that with each passing year, more and more veterans from World War II require medical care because of advancing age.

"Thus," says Lyngh, "the need is going to grow, not become smaller, and now is the time to stop the backward trend in the number of beds, which has gone down by 15,000 over the past decade."

More attention should be paid to the plight of disabled veterans, too, in the view of the DAV. It claims that about half of all disabled veterans today are jobless, many because of the lack of the necessary rehabilitation measures.

On all veterans' payments, the cost-of-living increases to keep pace with inflation are slow to come and unrealistically low, the spokesmen add.

Veterans of the Vietnam War who are seeking a college education under the GI Bill are reported to be suffering especially from inflation and a changed system for paying tuition. The American Legion is asking for at least a 6 percent adjustment for both education and training allowances, which now total 2.8 billion dollars and provide assistance for 1.4 million veterans and their survivors.

At this stage of the game, the veterans' organizations have been lobbying openly with Congress in a major new effort to get basic changes in the patchwork of veterans' benefits enacted into law, and to do it before

the eligible population has dropped much below its all-time peak.

"If we succeed, it will be more difficult in years to come to take away any benefits which have become cemented into the system," one veterans' spokesman explains.

HELSINKI ACCORD

Mr. PACKWOOD. Mr. President, this week the Soviet Union continued to deliberately decimate and destroy the Helsinki monitoring group. We cannot ignore the fact that the establishment and existence of such a group was guaranteed by the Helsinki Accord. More than 230 such monitors have been jailed since the signing. The United States signed that accord in good faith but we can no longer remain signatories in good faith. Shcharansky, Ginsburg, and Pytatkus will suffer in Soviet prisons, having been spurred by our good faith guarantees and forgotten in our hypocrisy. I again call on the President to begin the process that says to the world the United States will not continue to implicitly condone the actions of the Soviet Union by remaining with them signatories to a fraudulent document.

WHITE HOUSE OFFICE AND EXECUTIVE RESIDENCE PERSONNEL

The Senate continued with the consideration of H.R. 11003.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. SASSER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SASSER. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of the Senate amendments to H.R. 11003.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNOUNCEMENT OF POSITION ON VOTE—H.R. 11003

● Mr. GARN. Mr. President, if there had been a rollcall vote on the White House personnel authorization bill I would have voted in the negative.●

POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 5146.

Mr. SCHMITT. Mr. President, under the previous order, I believe I am to be recognized at this point, merely for the purpose of adding two additional questions to the list of questions relative to the coal conversion conference report.

The PRESIDING OFFICER. The Senator is correct, under the previous order, once the conference report has been reported.

The clerk will report the conference report.

The assistant legislative clerk read as follows:

Conference report on H.R. 5146, to amend the tariff schedules of the United States to provide for the duty free entry of competition bobsleds and luges.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, although with a continuation of the study of this report this weekend and with the availability of about 8 hours of discussion on Monday before the scheduled vote, there may be some other questions, I think that two more will suffice to clear up most of the uncertainties that this Senator has about the intention of the conference committee relative to the limits on the discretion of the Secretary of Energy to promulgate regulations under this act.

The next question that I had was on section 213, "General Requirements for Exemptions," paragraph (c), and I read subparagraph (1) under paragraph (c) in order to clarify the question:

Except in the case of an exemption under section 212 (c) or (g), the Secretary may not grant an exemption for a new powerplant unless he finds that the petitioner has demonstrated that there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service and which can be obtained by the petitioner, despite reasonable good faith efforts.

My question is, Will the committee provide some guidelines as to what is meant by "reasonable distance" and "reasonable cost?"

The second and last question that I wish to propound relates to section 403, paragraph (b), "Federal Contracts and Financial Assistance."

This section appears to require and I believe it does require each Federal agency which is authorized to extend Federal assistance by way of grant, loan, contract, or other form of financial assistance" to promulgate regulations that effectuate the purposes of the act particularly with respect to conservation of petroleum and natural gas.

I have no particular problem with that aim except it is not clear to this Senator what the limits are in terms of agency authority to regulate under this section, what the costs of that regulation might be and how they might be funded, and also it is not clear just what kinds of energy systems are envisioned by the conferees to be included under this.

Going back to the conference report, it appears that the term "major fuel-burning installations" is intended to define what is meant by this section. And my question in addition to the question on limits and costs is, Is there not a more precise definition for "major fuel-burning installations"? And I wish to have that definition made more specific and clarified for the purposes of the other agencies' consideration of their responsibilities under this bill should it become law.

Mr. President, finally, with the completion of those questions I wish to have the RECORD show my appreciation to the Energy and Natural Resources Committee and its members for their consideration of these questions and also to the distinguished majority leader for his asisstance in working out an agreement by which the questions, their answers, and discussion of those answers will become part of the legislative history on this bill.

I think it is clear by now that I find the bill an inadequate if not also an inappropriate response to the energy crisis, certainly one that does not have much commonsense to recommend it but, nevertheless, men of good will will differ on this assessment and it is only through debate and consideration of the kinds of questions that I have propounded that I believe we can come to some kind of general understanding of just what is meant to the American consumer by the regulatory authority that is contained within this measure.

● Mr. MATSUNAGA. Mr. President, the conference agreement adopts the House provision as modified to prohibit by statute the installation of new outdoor lighting fixtures using natural gas and to direct the Secretary, in the case of existing units, to prohibit natural gas pipelines and local distribution companies from providing natural gas to residential, commercial, and industrial customers for use in outdoor lighting.

However, such uses of natural gas for decorative outdoor lighting may be exempted by the Secretary under subsection 402(c). Under this subsection, the Secretary is required to exempt from the prohibition the use of natural gas where the lighting "is of a traditional nature, and which conforms with the cultural or architectural style of the area in which such light is located."

Mr. President, since this matter was not considered in the original bill passed by the Senate, I would like to ask the floor manager if it is the intent of Congress that the exemption would apply in the case of the so-called "luau torches" commonly found in Hawaii. As you know, such torches are an important part of the tradition and culture of the Islands. The luau torches are traditional as well as decorative. Their fuel, which is derived from petroleum, is an almost insignificant 0.06 percent of Hawaii's energy requirement; however, this miniscule amount of energy brings large dividends in citizen satisfaction and local pride as well as in the tourist trade, which is Hawaii's major industry. The luau torches are unique and part of the tradition and heritage of Hawaii and should be exempted from the prohibition on the use of natural gas for outdoor lighting.

Mr. JACKSON. Mr. President, the conference agreement directs the Secretary to exempt any new or existing memorial lights or lights of historical significance upon petition to the Secretary and a certification made by a Federal, State, or local government agency or by an appropriate historic association. Similar exemptions are available for existing commercial lighting units which are of a traditional nature and which conform with cultural or architectural style of the area where the light is located. The luau torches described by the Senator are an example of outdoor gas light fix-

tures which conform with cultural and architectural style of an area.●

● Mr. METZENBAUM. Mr. President, I would like to take a few minutes to direct a question to the chairman of the Energy Committee, Senator JACKSON, regarding section 601 of H.R. 5146. Mr. Chairman, title VI provides financial assistance to those areas experiencing rapid growth in coal and uranium production, processing, and transportation industries. My question to my good friend and chairman is the following: Is it your understanding that uranium processing industries include uranium enrichment facilities?

Mr. JACKSON. Mr. President, in response to my good friend and colleague from the State of Ohio, Senator METZENBAUM, the conference agreement authorizes financial assistance to areas where, and I quote from the bill:

(i) employment in coal or uranium production development activities in such area has increased for the most recent calendar year by 8 percent or more from the immediately preceding year or (ii) employment in such activities will increase 8 percent or more per year during each of the 3 calendar years beginning after the date of such finding:

(B) such employment increase has required or will require substantial increases in housing or public facilities and services or a combination of both in such area; and

(C) the State and the local government or governments serving such area lack the financial and other resources to meet any such increases in public facilities and services within a reasonable time.

The statement of managers states further that the Governor of a State must identify an area or areas within that State, and I quote further:

To be impacted by energy development such as new or existing coal or uranium producing, processing, and transportation industries and demonstrates to the Secretary that these tests are met.

I have discussed the point you raise as to whether or not the impact of uranium enrichment facilities would qualify with the minority floor manager as well as Senator FORD and Senator DOMENICI, the principal authors of this provision. We are in accord that uranium processing industries should be interpreted to specifically include uranium enrichment facilities, provided the statutory tests are demonstrated by the Governor to the satisfaction of the Secretary.

Mr. METZENBAUM. I would like to thank the chairman for helping clarify this issue. As the chairman knows, the expansion of the uranium enrichment facility in Portsmouth, Ohio, will have major socioeconomic impacts on the entire area. The possibility of receiving 100 percent Federal planning grants and 75 percent Federal grants for the acquisition of land for needed public facilities and housing, and for the construction of access road and sewer systems could provide invaluable financial assistance to this rapidly growing region.●

DAYS OF REMEMBRANCE OF VICTIMS OF THE HOLOCAUST

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 911. This has been cleared on all sides.

The Senate proceeded to consider the joint resolution (S.J. Res. 135) designating the weekend of or preceding April 29 of each year as "Days of Remembrance of Victims of the Holocaust," which had been reported from the Committee on the Judiciary with an amendment on page 2, lines 6 and 7, strike the words "each year" and insert "1979".

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I want to commend my colleague, Mr. DANFORTH, for his introduction of this important legislation and his vigorous support in its behalf.

By adopting this resolution, the Senate will help insure that future generations will be reminded of the need for vigilance in protecting basic human rights. As the Nazi experience demonstrated, the price for indifference is far too high to ever pay again.

Mr. President, it has now been more than 30 years since millions were murdered in Nazi concentration camps. But the Nazi horrors are as vivid today as when those atrocities were first uncovered.

The sheer enormity of this suffering is unparalled in modern times. At least 6 million lives were lost—a number too large for most of us to comprehend.

But words and numbers alone are inadequate to convey the enormity of the Nazi destruction. That is why millions of Americans, including many of us here, were so captivated by the documentary, "Holocaust."

Never before had the fear and suffering of those years been dramatized so effectively. This was the story of only one Jewish family, the Weiss family, during those horrible years of terror, but this protrayal brought to life the full tragedy of those years.

Mr. President, as I watched "Holocaust," I asked myself, as millions of Americans did, what could be done to insure that this horror would never be repeated.

This resolution is an important step in keeping this memory alive. Remembering those who perished is one means of keeping us sensitive to recurrence of these acts in the future.

But there is still more that we can do. Not only should we pay tribute to the victims of the holocaust, we must also take measures to see that genocide will never occur again.

We can take a symbolic, a moral, and a constructive step by joining with other nations in affirming the United Nations Convention for the Prevention and Punishment and Genocide.

Ratification of the Genocide Convention is just the action we need to take. Supported by every administration since 1949 when President Truman first submitted the treaty for ratification, this convention seeks to make the commission of genocide—mass murder—a crime under international law.

This treaty has already been ratified by 82 nations, including all of our Western allies. At home, it has the support of nearly every major interest group.

Mr. President, this treaty cries out for ratification. Despite condemnation of the Nazi murders, genocide continues today throughout the globe—in Uganda, Cambodia, and in Equatorial Guinea.

We can and should do more than dedicating one weekend each year in remembrance of the victims of the holocaust. We must see that there are no more victims. It is time that we moved to outlaw the crime of genocide.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-980), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF AMENDMENTS

The purpose of the amendments is to amend the joint resolution so as to alter the authorization from a perpetual observance to one which will be observed in 1979.

PURPOSE

The purpose of the joint resolution is to authorize the President to designate the weekend of or preceding April 29 of 1979 as "Days of Remembrance of Victims of the Holocaust."

STATEMENT

Senate Joint Resolution 135 establishes the weekend of or preceding April 29 of 1979 as "Days of Remembrance of Victims of the Holocaust." The resolution authorizes and requests the President to issue a proclamation calling upon the American people to honor the memory of the victims of the Nazi concentration camps and to reflect upon the pernicious nature of bigotry and the danger of tyranny with appropriate ceremonies and prayers. April 29 was the date in 1945 that the 7th U.S. Army liberated the Dachau concentration camp, one of the first concentration camps built by the Nazis. The resolution provides that the "Days of Remembrance" occur during the weekend so that those of us who wish to commemorate those days on our Sabbaths are able to do so.

The horrors of World War II and the inhumanity of the so-called "final solution" is within the personal memory of most of us in the Senate. However, many younger Americans do not have a personal memory of that period.

We must keep the memory of the concentration camps vivid; we must not forget the atrocities that were committed. We must not forget the millions of people who were murdered as a part of a planned program of extermination.

Six million Jews as well as millions of others were murdered by the Nazis. When numbers are very large, they often lose their reality. When we talk in terms of millions, it is easy for the mind to glide over the numbers—seeing only impersonal statistics. But to understand the horror of that period, we must realize that the numbers are not just statistics. Each number represents a human being—an individual who had a personal, unique history. Each person killed by the Nazis felt happiness and pain, experienced triumphs and defeats, had a network of family and friends. The victims of the Nazi holocaust were doctors, shopowners, professors, scientists, laborers—in the mainstream of European society.

While the atrocities committed by the Nazis are shocking, they are not isolated events in history. The Jews, as a people, have been the object of much persecution throughout history. It is imperative that they never again face the threat of destruction with no homeland to which to turn. But we need only to examine history to realize that the Jews are not the only ones to experience man's inhumanity. Other similar situations are occurring in the world right now.

The refugees who have escaped from Cambodia have begun to report to the rest of the world the dimensions of the Cambodian holocaust: stories of forced marches, mass killings, a rising death toll from beatings, shootings, and starvation. Phnom Penh, a thriving city of 2 million people just a few years ago has been decimated, with fewer than 30,000 still in the city. The victims in this case are not Jews, but former government employees, soldiers, and those with an education. The death toll has been estimated as high as 2.5 million people—out of a total population of 7 million. Here again, the numbers are difficult to grasp but each number represents an individual human being. And it is not just in Cambodia. In Uganda, up to 300,000 people have been ruthlessly murdered since 1971 when Idi Amin took power. And elsewhere in the world there are other persecutions and acts of terrorism.

It is important that we set aside days to reflect upon the horror of these massacres and to recommit ourselves each year to continue to stand up for the rights of the oppressed. However, it is not enough to feel horror at the massacre of millions of people.

The events in Nazi Germany, Cambodia, and Uganda are of a magnitude and degree of cruelty almost impossible to comprehend. However, they are rooted in the same intolerance and bigotry which is present to some degree in most of us. Any time we have ridiculed and degraded others or heard a derisive epithet and said nothing we have engaged in the same meanness of spirit which makes oppression possible.

A democratic form of government which rests on a mutual respect of the ideas of others and which acknowledges the equality of all serves as a check on that meanness of spirit. However, we must be vigilant always against bigotry and tyranny. We should, from time to time, reflect upon the acts of cruelty and oppression that have been committed in the past, and continue to be committed today, recognizing that none of us is truly free until all of us are free.

The "Days of Remembrance" will serve a twofold purpose. Specifically, it is a time designated to remember the Nazi holocaust—the event itself—and the individual people who suffered horribly, while the entire world watched. More generally, the "Days of Remembrance" will be a time for all of us to reflect upon the Nazi holocaust as a symbol—as a symbol of atrocities that are being committed today. The "Days of Remembrance" should be a time to reconfirm our belief in the equality of all people and to recommit ourselves each year to continue to stand up for the rights of the oppressed.

For these reasons, the committee believes it appropriate that the President proclaim the weekend of or preceding April 29 of 1979 as "Days of Remembrance of Victims of the Holocaust."

Accordingly, the committee recommends favorable consideration of Senate Joint Resolution 135 with amendments.

COST

The enactment of this legislation involves no direct additional expenditure to the Government.

The joint resolution was ordered to be engrossed for a third reading, read the third time, and passed.

The preamble was agreed to.

The joint resolution, with its preamble, is as follows:

Whereas, less than forty years ago, six million Jews as well as millions of others were murdered in Nazi concentration camps as part of a planned program of extermination;

Where as the people of the United States of America should always remember the terrible atrocities committed by the Nazis so that they are never repeated;

Whereas the people of the United States should continually rededicate themselves to the principle of equality, recognizing that every act of bigotry is rooted in the same callousness and cruelty of spirit as the acts committed by the Nazis;

Whereas the people of the United States should remain eternally vigilant against all tyranny, recognizing that tyranny provides a breeding ground for bigotry to flourish;

Whereas the memory of the Dachau concentration camp remains a startling symbol of all the destructive acts of the Nazis and more generally, the capacity of people to be cruel, the pernicious quality of bigotry, and the danger of all tyranny; and

Whereas the liberation of Dachau is testimony to the ability of people to overcome cruelty and bigotry through vigilance and resistance: Therefore, it is hereby

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in memory of all those who perished in the Nazi concentration camps and in the hope that Americans will strive always to overcome cruelty and prejudice through vigilance and resistance, the weekend of or preceding April 29 of 1979, the anniversary of the days in 1945 when the Dachau concentration camp was liberated by United States Armed Forces, is hereby designated as "Days of Remembrance of Victims of the Holocaust". The President is authorized and requested to issue a proclamation each year calling upon the people of the United States to remember the atrocities committed by the Nazis and to observe those days with appropriate ceremonies and prayers.

The title was amended so as to read:

A joint resolution designating the weekend of or preceding April 29 of 1979 as "Days of Remembrance of Victims of the Holocaust.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

At 12:10 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to H.R. 10929, an act to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PRICE, Mr. BENNETT, Mr. STRATTON, Mr. ICHORD, Mr. NEDZI, Mr. CHARLES H. WILSON of California, Mr. LEGGETT, Mr. WHITE, Mr. NICHOLS, Mr. BOB WILSON, Mr. DICKINSON, Mr. WHITEHURST, and Mr. SPENCE, and Mr. BOLAND, Mr. BURLISON of Missouri, Mr. MINETA, and Mr. ROBINSON regarding intelligence-related activities were appointed managers of the conference on the part of the House.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC–3958. A communication from the Secretary of Department of Health, Education, and Welfare, transmitting a draft of proposed legislation to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for assistance to new refugees; to the Committee on Foreign Relations and the Committee on Human Resources, jointly, by unanimous consent.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a communication transmitted by the Secretary of Health. Education, and Welfare, relative to the Indochina Migration and Refugee Assistance Act of 1975, be referred jointly to the Committee on Foreign Relations and the Committee on Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

EC–3959. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on Public Law 480 activities for fiscal year 1977; to the Committee on Agriculture, Nutrition, and Forestry.

EC–3960. A communication from the Chairman, Indian Claims Commission, transmitting, pursuant to law, a report of final determination with respect to Docket No. 18–U, Minnesota Chippewa Tribe, et al., on behalf of the Chippewas of Lake Superior, plaintiffs, v. The United States of America, defendant; to the Committee on Appropriations.

EC–3961. A communication from the Deputy Assistant Secretary of Defense (Administration), transmitting, pursuant to law, the second-quarter fiscal year 1978 report of receipts and disbursements pertaining to the disposal of surplus military supplies, equipment, and material, and for expenses involving the production of lumber and timber products; to the Committee on Appropriations.

EC–3962. A confidential communication from the Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Navy's proposed Letter of Offer to Saudi Arabia for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–3963. A confidential communication from the Defense Security Assistance Agency, reporting, pursuant to law, concerning the Department of the Army's proposed Letter of Offer to Kuwait for Defense Articles estimated to cost in excess of $25 million; to the Committee on Armed Services.

EC–3964. A communication from the President and Chairman, Export-Imoprt Bank of the United States, reporting, pursuant to law, with respect to a transaction involving U.S. exports to the Republic of China; to the Committee on Banking, Housing, and Urban Affairs.

EC–3965. A communication from the Vice President, Government Affairs, National Railroad Passenger Corporation, transmitting, pursuant to law, a report on total itemized revenues and expenses, revenues and expenses of each train operated, and revenues and total expenses attributable to

each railroad over which service is provided, for the month of March 1978; to the Committee on Commerce, Science, and Transportation.

EC–3966. A communication from the Secretary of Energy, transmitting a draft of proposed legislation to amend the Energy Policy and Conservation Act, as amended, to improve the States' capacity for energy planning and management, to provide a consolidated program of Federal financial assistance to the States to meet their respective goals for energy conservation, production and distribution, and for other purposes; to the Committee on Energy and Natural Resources.

EC–3967. A communication from the Secretary of the Interior, reporting, pursuant to law, that Mobil Oil Corporation has submitted an application to the Department for repayment of royalties totaling $8,318.75 for lease OCS–G 1494, West Delta Block 33, offshore Louisiana; to the Committee on Energy and Natural Resources.

EC–3968. A communication from the Acting Director for Congressional Affairs, Department of Energy, transmitting, pursuant to law, a quarterly report on private grievances and redress, issued by the Office of Administrative Review; to the Committee on Energy and Natural Resources.

EC–3969. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus for alterations at the Cincinnati, Ohio, U.S. Post Office and Courthouse, in the amount of $3,784,000; to the Committee on Environment and Public Works.

EC–3970. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a report of Building Project Survey for the Government Printing Office, in Washington, D.C.; to the Committee on Environment and Public Works.

EC–3971. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on the Appropriateness of the Federal Interagency Day Care Requirements (FIDCR); to the Committee on Finance.

EC–3972. A communication from the Chairman, Agricultural Technical Advisory Committee for Trade Negotiations on Oilseeds and Products, transmitting, pursuant to law, a report on the Agreement on Trade Matters Between the United States and the United Mexican States, signed in Washington, D.C., on December 2, 1977; to the Committee on Finance.

EC–3973. A communictaion from the Executive Secretary, Agricultural Policy Advisory Committee for Trade Negotiations, Foreign Agricultural Service, U.S. Department of Agriculture, transmitting, pursuant to law, a report on the Agreement on Trade Matters Between the United States and the United Mexican States, signed in Washington, D.C., on December 2, 1977; to the Committee on Finance.

EC–3974. A communication from the Assistant Administrator for Legislative Affairs, Department of State, reporting, pursuant to law, an increase in the funding level of the proposed FY 1978 program in Guyana; to the Committee on Foreign Relations.

EC–3975. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Inaccurate Estimates of Western Coal Reserves Should be Corrected," July 11, 1978; to the Committee on Governmental Affairs.

EC–3976. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Department of State Has Continuing Problems in Managing Real Estate Overseas," July 12, 1978; to the Committee on Governmental Affairs.

EC–3977. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need to Better Inform Military Personnel of Compensation Changes," July 12, 1978; to the Committee on Governmental Affairs.

EC–3978. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Aircraft Depot Maintenance: A Single Manager is Needed to Stop Waste," July 12, 1978; to the Committee on Governmental Affairs.

EC–3979. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on May 16, 1978, which would require certain State officials coming into the District of Columbia to register with the Chief of Police, and for other purposes (Act 2–212); to the Committee on Governmental Affairs.

EC–3980. A communication from the Deputy Secretary, Department of Energy, transmitting, pursuant to law, a report on new systems; to the Committee on Governmental Affairs.

EC–3981. A communication from the Executive Secretary to the Department of Health, Education, and Welfare, transmitting, pursuant to law, Interim Final Regulation for Part 164, Capacity Building for Statistical Activities in State Educational Agencies; to the Committee on Human Resources.

EC–3982. A communication from the Administrator, Veterans' Administration, transmitting, pursuant to law, a report on occupational graduate employment, August 1976; to the Committee on Veterans' Affairs.

EC–3983. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report on the planning and management of EPA's research and development activities; to the Committee on Environment and Public Works.

EC–3984. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on June 27, 1978, which would establish a home purchase assistance fund in the District of Columbia, and for other purposes (Act 2–214); to the Committee on Governmental Affairs.

EC–3985. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on June 27, 1978, which would provide for the administrative adjudication of certain traffic offenses within the Department of Transportation, for the civilian enforcement of parking infractions, and for other purposes (Act 2–215); to the Committee on Governmental Affairs.

EC–3986. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need to Improve Regulatory Review Process for Liquefied Natural Gas Imports," July 14, 1978: to the Committee on Governmental Affairs.

EC–3987. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Evaluation Needs of Crime Control Planners, Decisionmakers, and Policymakers Are Not Being Met," July 14, 1978; to the Committee on Governmental Affairs.

EC–3988. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a summary of their report entitled "Evaluation Needs of Crime Control Planners, Decisionmakers, and Policymakers Are Not Being Met," July 14, 1978; to the Committee on Governmental Affairs.

EC–3989. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a draft of proposed legislation to establish the position of Deputy Secretary of Health, Education, and Welfare; to the Committee on Governmental Affairs.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-738. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"SENATE JOINT RESOLUTION No. 36

"Whereas, Several bills are pending consideration by the Legislature of this state which would require the identification of the state's prime agricultural lands, in order that such lands might be afforded adequate protection from non-agricultural uses; and

"Whereas, The Inventory of Important Farmlands which is being proposed by the United States Department of Agriculture will provide a comprehensive county by county mapping of such lands at a date later than it might be useful in the implementation of pending legislation; and

"Whereas, This inventory is currently underway in several counties and will be completed for all counties at no cost to the state; and

"Whereas, An adjustment of the scheduled completion date of the inventory could make these valuable data available in sufficient time to aid in the implementation of the pending legislation in this state; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Soil Conservation Service of the United States Department of Agriculture, with full cooperation of the agencies of this state, to expedite the inventorying of farmlands in this state and to complete its Important Farmland Inventory not later than September 30, 1979; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–739. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION No. 73

"Whereas, the United States Government has, over the past three decades, embarked on a course of continuous and ever increasing deficit spending; and

Whereas, the public debt engendered thereby now far exceeds 300 billion dollars, and current budget proposals include provision for a further deficit of 43 billion dollars; and

"Whereas, such national debt is, in and of itself, a major contributor to the very inflation to which the United States is committed to eradicating; and

"Whereas, this massive national debt is inimical to the public welfare, limiting the amount of credit available to private citizens, thus curtailing opportunities for needed economic growth; and

"Whereas, continued fiscal irresponsibility can only result in an eventual financial debacle of the sort recently experienced by New York City; and

"Whereas, payment of the massive interest required to service national debt imposes an undue hardship on the citizenry, particularly those on fixed incomes; and

"Whereas, the ability of the Federal Government to avoid the difficult budgetary choices posed by zero debt financing has resulted in a lack of objective budgetary analysis, and thus the funding of unnecessary or inefficient programs.

"Therefore, be it resolved by the Senate of the Legislature of the state of Louisiana, the House of Representatives thereof concurring, that pursuant to Article V of the Constitution of the United States, the Legislature of the state of Louisiana does hereby apply to the Congress of the United States for a convention to consider the following amendment to the United States Constitution:

"Section 1. Except as provided in Section 3, the Congress shall make no appropriation for any fiscal year if the resulting total of appropriations for such fiscal year would exceed the total revenues of the United States for such fiscal year.

"Section 2. There shall be no increase in the national debt, and the existing debt, as it exists on the date on which this amendment is ratified, shall be repaid during the one hundred-year period following the date of such ratification. The rate of repayment shall be such that not less than one-tenth of the debt shall be repaid during each ten-year period.

"Section 3. In times of national emergency, declared by the concurrent resolution of three-fourths of the membership of both Houses of Congress, the application of Section 1 may be suspended, provided that such suspension shall not be effective past the two-year term of the Congress which passes such resolution. If such a national emergency continues to exist, a suspension of Section 1 may be reenacted pursuant to the provisions of this Section. National debt incurred pursuant to this Section shall be repaid under the provisions of Section 2; provided, however, that the repayment period shall commence upon the expiration of the suspension under which it was incurred.

"Section 4. This article shall apply to fiscal years that begin six months after the date on which this article is ratified.

"Section 5. Congress shall provide by law for strict compliance with this amendment.

"Be it further resolved that the purview of any convention called by the Congress pursuant to this resolution be strictly limited to the consideration of an amendment of the nature as herein proposed.

"Be it further resolved that this application by the Legislature of the State of Louisiana constitutes a continuing application pursuant to Article V of the United States Constitution, until such time as two-thirds of the Legislatures of the several states have made similar application, and the convention herein applied for is convened.

"Be it further resolved that a duly attested copy of this resolution be immediately transmitted to the President of the United States, to the Secretary of the United States Senate, to the Clerk of the United States House of Representatives, to each member of the Louisiana delegation to the United States Congress, and to the presiding officer of each house of each state Legislature in the United States."

POM-740. A resolution adopted by the County Council of Howard County, Maryland, urging the extension of the deadline for ratification of the Federal Equal Rights Amendment; to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978—CONFERENCE REPORT (REPT. NO. 95-988)

Mr. JACKSON, from the committee of conference, submitted a report on the disagreeing votes of the two Houses on the amendment of the House to the amendment numbered 6 of the Senate to the bill (H.R. 5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, which was ordered to be printed.

Mr. DECONCINI, from the Committee on the Judiciary, with an amendment:

S. 2266. A bill to establish a uniform law on the subject of bankruptcies (Rept. No. 95-989). Referred to the Committee on Finance for not to exceed thirty days to consider sections 346, 507, 509, 523, 728, 1146 and 1331.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HELMS:

S. 3299. A bill for the relief of Yasmeen Muredalli Gillani and Aneela Gillani; to the Committee on the Judiciary.

By Mr. DOLE (for himself, Mrs. ALLEN, Mr. ANDERSON, Mr. CLARK, Mr. CURTIS, Mr. EASTLAND, Mr. HAYAKAWA, Mr. JOHNSTON, Mr. LEAHY, Mr. MCGOVERN, Mr. MELCHER, Mr. MORGAN, Mr. PEARSON, Mr. STONE, Mr. THURMOND, Mr. TOWER, Mr. YOUNG, and Mr. LONG):

S. 3300. A bill to amend Public Law 480 to expand U.S. exports and help meet more adequately the food import requirements of developing nations; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. BAYH (for himself, Mr. CHAFEE, Mr. BROOKE, and Mr. PELL):

S. 3301. A bill to amend the Tax Reform Act of 1976; to the Committee on Finance.

By Mr. JAVITS:

S. 3302. A bill for the relief of Eun Kyung Cho and Hei Kyung Cho; to the Committee on the Judiciary.

By Mr. JACKSON (by request):

S. 3303. A bill to amend the Alaska Native Claims Settlement Act of 1971 (85 Stat. 688; 43 U.S.C. 1601, as amended) to provide clarifications and improvements in the provisions thereof; to the Committee on Energy and Natural Resources.

By Mr. PROXMIRE (by request):

S. 3304. A bill to amend the Federal Reserve Act to provide for the maintenance of reserves for certain institutions; to require the imposition of charges for certain services by Federal Reserve banks; to authorize the payment of interest on reserves held in Federal Reserve Banks; and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GLENN:

S.J. Res. 146. A joint resolution to authorize and request the President to proclaim October 7, 1978, as "National Guard Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mrs. ALLEN, Mr. ANDERSON, Mr. CLARK, Mr. CURTIS, Mr. EASTLAND, Mr. HAYAKAWA, Mr. JOHNSTON, Mr. LEAHY, Mr. MCGOVERN, Mr. MELCHER, Mr. MORGAN, Mr. PEARSON, Mr. STONE, Mr. THURMOND, Mr. TOWER, Mr. YOUNG, and Mr. LONG):

S. 3300. A bill to amend Public Law 480 to expand U.S. exports and help meet more adequately the food import requirements.

ESTABLISHMENT OF MINIMUM PUBLIC LAW 480 EXPORTS

● Mr. DOLE. Mr. President, Public Law 480 or food-for-peace legislation was signed by President Eisenhower in 1954 with his strong endorsement. During the last 24 years, with bipartisan support, over $30 billion worth of farm commodities have been exported under its provisions. The great value of this program, in terms of assisting hungry and malnourished people in developing countries while helping our own farmers, is impossible to comprehend. It is one of the great practical humanitarian steps of all times.

For fiscal year 1978, the administration is required to export under title II of Public Law 480, the donation program, 1.6 million metric tons of food commodities and products. Under titles I and III, the administration allocated another 5.5 million metric tons. Unfortunately, only 5 million tons or less will be actually exported, and it is likely that in fiscal year 1979 only around 4 million tons will be exported under all titles of Public Law 480.

This quantity will not adequately meet the food assistance needs of about 30 developing nations that will be requesting far more food than the combined quantities planned for fiscal year 1979.

During the decade from 1960 to 1970 the abundance from American farms was shared by exporting an average 13.2 million metric tons annually under title I alone.

I do not believe the Carter administration is being forthcoming enough with food assistance at a time when the hungry of the world need food and our farmers need markets. My colleagues in the Congress share my feelings. Virtually every member of the Senate Agriculture Committee signed a letter earlier in fiscal year 1978 asking President Carter to increase exports under title I of Public Law 480 by $200 million. Apparently, the U.S. Department of Agriculture feels that exports should have been increased for title I because the USDA proposed a title I budget supplemental request of $185 million.

All of this was to no avail. The Office of Budget and Management is still sitting on that request, apparently on instructions from the White House.

This is hard for me to understand. The administration's rhetoric claiming compassion for the hungry and starving does not quite match the actions being taken.

Administration officials just returned from the World Food Council meeting in Mexico City on June 16, 1978, where one of the declarations was that "governments aim at a level of 10 million tons of assured food aid by needy countries" to help fill their food gap. The need is there and our grain bins are overflowing, yet the administration is planning to actually reduce Public Law 480 assistance. There are other ways to fight inflation without denying food to the hungry and malnourished of the world.

I realize that you cannot solve the hunger problem by throwing food at people and I am not proposing that. Every title of Public Law 480 has criteria to be met such as linkage of food assistance to economic development. I supported and still support these criteria. However, I am concerned that not a single title I program agreement was signed for the first 3 months of fiscal year

1978 and that the 5.5 million tons that was announced by the administration for fiscal year 1978 will not materialize. I am further concerned when I hear that title I exports in fiscal year 1979 will be only 4 million tons. If you add the 4-million ton title I figure to the 1.6 million tons that is mandatory for title II, the program level would be only 5.6 million tons of food assistance under all titles. This is exactly the average for 1970–77, which included the food short years of 1973 and 1974, and is only about one-third of the annual amounts exported under Public Law 480 during the 1960's.

Therefore, in order to achieve the twin objectives of helping the hungry and malnourished in developing nations while helping American farmers expand their exports, I am introducing a bill that will establish a Public Law 480 minimum quantity of 7 million tons for each of the next 4 fiscal years.

I believe that Public Law 480, title I program countries could use considerably more food assistance than these minimums. Certainly our farmers need the markets and export supplies are more than adequate. This bill will meet these goals and should contribute to a more even flow of food assistance throughout the fiscal year since the minimum amounts will be provided for in the budgetary process rather than being subject to the whims of the Office of Management and Budget.

I solicit the support of my colleagues for this bill which will not only address the food problems of food short developing countries, but will also help U.S. farmers improve their incomes at a time when many of them are receiving prices less than the cost of production.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3300

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Agricultural Trade Development and Assistance Act of 1954, is amended by adding at the end thereof a new section 413 as follows:

"SEC. 413. (a) In order more adequately to meet the food requirements of hungry and malnourished people in the developing countries while at the same time providing additional export outlets for American farmers, a minimum aggregate quantity of 7 million metric tons of U.S. farm commodities shall be exported under titles I, II, and III of this Act during each of the following fiscal years: fiscal year 1979, fiscal year 1980, fiscal year 1981 and fiscal year 1982. This aggregate quantity requirement shall not affect the title II minimum quantities required under Section 201(b) of this Act, since those minimums shall be a part of the total minimum requirement for all titles.

"(a) The export of an aggregate quantity of 7 million metric tons for each such fiscal year under titles I, II and III shall be mandatory unless (1) export supplies are not available as determined under section 401 (a) of this Act, or (2) food needs of developing countries do not merit such quantity as gauged by (a) a lack of request for food assistance by the developing countries, or (b) a determination by the Food and Agriculture Organization of the United Nations that unfilled food requirements of the developing nations are less than 7 million metric tons during such fiscal year.

"(c) Should less than the minimum quantities required by this section be exported because of the above criteria, the President shall report to the appropriate committees of Congress the specific reasons for such shortfall.".●

By Mr. BAYH (for himself, Mr. CHAFEE, Mr. BROOKE, and Mr. PELL):

S. 3301. A bill to amend the Tax Reform Act of 1976; to the Committee on Finance.

● Mr. BAYH. Mr. President, I am introducing a bill today which would remedy an unforeseen hardship caused by the Tax Reform Act of 1976 for the New England Patriots Football Club and its owner.

The New England Patriots Football Club, Inc. was founded in 1960 by William H. Sullivan, Jr., and had outstanding 100,000 shares of voting common stock and 139,800 shares of nonvoting common stock.

Commencing in 1973 certain problems arose between Mr. Sullivan, who held about 24 percent of the voting shares, and two other groups of voting shareholders. After extended negotiations, these problems were resolved in 1975 by Mr. Sullivan deciding to purchase the voting shares of the other two groups which together held the remaining voting shares and then to restructure the corporation through the formation of a legal entity as the successor to the Patriots.

Pursuant to that undertaking and on November 7, 1975, Mr. Sullivan borrowed in excess of $5.3 million from a bank and used such funds to purchase from the other two groups all of their voting shares.

This buy out of the other voting shares by Mr. Sullivan was accomplished: First, on his representation to the bank that when the rest of the plan was carried out, in addition to all of the ownership interest of the new entity, the principal assets of the new entity as well—that is, the NFL franchise, player contracts, ticket sales and television revenues—would be pledged as security for the loan to Mr. Sullivan personally, and second, on the clear understanding, both by the bank and by Mr. Sullivan, each of whom was independently so advised, that the new entity would be entitled to a basis for player contracts in accordance with then current provisions of the Internal Revenue Code.

Thereafter and pursuant to proxy statement dated November 5, 1976 in all essential respects identical to the proposed proxy statement filed September 9, 1976, the restructuring of the Patriots was accomplished through taxable State law merger into New Patriots Football Club, Inc., a newly formed Massachusetts corporation, providing for the payment of $15 a share in cash in exchange for each of the nonvoting shares.

Solely because of the change in basis for player contracts made by section 212 of the Tax Reform Act of 1976, and in midstream of a plan the first of the two major steps of which was consummated in 1975 after almost 3 years of difficult negotiations, Mr. Sullivan will be unable to service and amortize the loan of $5.3 million already made to him personally, nor will the new entity be able to service and amortize the additional loan of approximately $1.4 million, in the manner originally contemplated at the time the $5.3 million loan was made, with the consequence that Mr. Sullivan faces the serious risk of being unable to retain the ownership interest of the football team which, since its founding in 1960 and most particularly since 1973, he has fought to save and preserve, and which constitutes almost his entire net worth.

My bill would, in these limited circumstances only, continue the basis for player contracts which existed under the law prevailing at the time the commitment, which contemplated as its final step a taxable restructuring, was made—at the time the bank made the first loan of $5.3 million to Mr. Sullivan personally—and at the time Mr. Sullivan purchased the other voting shares—all of which occurred in 1975 and long prior to the enactment of section 212 of the Tax Reform Act of 1976.

Because of the timing and nature of Mr. Sullivan's acquisition of the Patriots, he was treated differently by the Internal Revenue Code than any other football owner. The type of accidental discrimination is unfair and should be remedied.

Mr. President, often our actions have unforeseen and unfortunate consequences. When we can provide relief for those who have been unintentionally injured, I believe we have an obligation to do so. I hope my colleagues will agree.●

By Mr. JACKSON (by request):

S. 3303. A bill to amend the Alaska Native Claims Settlement Act of 1971 (85 Stat. 688; 43 U.S.C. 1601, as amended) to provide clarifications and improvements in the provisions thereof; to the Committee on Energy and Natural Resources.

ALASKA'S NATIVE CLAIMS SETTLEMENT ACT AMENDMENTS OF 1978

● Mr. JACKSON. Mr. President, today, I am introducing, by request of the administration, a bill to amend the Alaska Native Claims Settlement Act of 1971 (ANCSA).

The Department of Interior recently concluded a review of ANCSA, conducted with the participation of the Alaska Natives, the State of Alaska, and the Federal-State Land Use Planning Commission, which identified several possible amendments or clarifications of the Settlement Act now embodied in the proposed legislation. The Department has indicated that enactment of this bill will help to expedite the land conveyance process mandated by ANCSA and eliminate certain inconsistencies in the act.

The Committee on Energy and Natural Resources intended to give full attention to this legislation together with S. 3016, introduced by Senator GRAVEL and Senator STEVENS, in conjunction with the committee's consideration of the pending Alaska national interest lands bills.

Mr. President, I ask unanimous consent that the text of the bill, the letter of transmittal and the Department's synopsis of the individual amendments be

printed in the RECORD at the conclusion of my remarks.

There being no objection, the bill and material were ordered to be printed in the RECORD, as follows:

S. 3303

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Alaska Native Claims Settlement Act Amendments of 1978."

UNDERSELECTIONS

SEC. 2. Section 22(j) of the Alaska Native Claims Settlement Act (hereinafter in this Act referred to as the "Settlement Act"), 43 U.S.C. 1621(j), is amended by identifying the existing paragraph as paragraph (1) and adding a paragraph (2) to read as follows:

"(2) Where lands selected and conveyed, or to be conveyed, to a Village Corporation are insufficient to fulfill the Corporation's entitlement under subsection 12(b), 14(a), 16(b), or 16(d), the Secretary is authorized to withdraw twice the amount of unfulfilled entitlement and provide the Village Corporation ninety (90) days from receipt of notice from the Secretary to select from the lands withdrawn the land it desires to fulfill its entitlement. In making the withdrawal, the Secretary shall first withdraw public lands that were formerly withdrawn for selection by the concerned Village Corporation by or pursuant to subsections 11(a)(1), 11(a)(3), 16(a), or 16(d). Should such lands no longer be available, the Secretary may withdraw public lands that are vacant, unreserved, and unappropriated, except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1). Any subsequent selection by the Village Corporation shall be in the manner provided in this Act for such original selections."

RETAINED MINERAL ESTATE

SEC. 3. Section 12(c) of the Settlement Act, 43 U.S.C. 1611(c), is amended by adding a new paragraph (4) to read as follows:

"(4) Where the public lands consist only of the mineral estate, or portion thereof, which is reserved by the United States upon patent of the balance of the estate under one of the public land laws, other than this Act, the Regional Corporations may select as follows:

"(A) Where such public lands were not withdrawn pursuant to subsection 11(a)(3), but are surrounded by or contiguous to lands withdrawn pursuant to said subsection and filed upon for selection by a Regional Corporation, the Corporation may, upon request, have such public land included in its selection and considered by the Secretary to be withdrawn and properly selected.

"(B) Where such public lands were withdrawn pursuant to subsection 11(a)(1) and are required to be selected by paragraph (3) of this subsection, the Regional Corporation may, at its option, exclude such public lands from its selection.

"(C) Where the Regional Corporation elects to obtain such public lands under subparagraph (A) or (B) of this paragraph, it may select, within ninety (90) days of receipt of notice from the Secretary, the surface estate in an equal acreage from other public lands withdrawn by the Secretary for that purpose. Such selections shall be in units no smaller than a whole section, except where the remaining entitlement is less than 640 acres, or where an entire section is not available. Where possible, selections shall be of lands from which the subsurface estate was selected by that Regional Corporation pursuant to subsection 12(a)(1) or 14(h)(9) of this Act. The Secretary is authorized, as necessary, to withdraw up to two times the acreage entitlement of the in lieu surface estate from vacant, unappropriated, and unreserved public lands from which the Regional Corporation may select such in lieu surface estate except that the Secretary may withdraw public lands which had been previously withdrawn pursuant to subsection 17(d)(1).

"(D) No mineral estate or in lieu surface estate shall be available for selection within the National Petroleum Reserve—Alaska (formerly Naval Petroleum Reserve No. 4) or within Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act."

CONVEYANCE OF PARTIAL ESTATES

SEC. 4. (a) Section 14(h)(1) of the Settlement Act, 43 U.S.C. 1613(h)(1), is amended by replacing the existing paragraph with the following paragraph to read as follows:

"(1) The Secretary may withdraw and convey to the appropriate Regional Corporation fee title to existing cemetery sites and historical places. Only title to the surface estate shall be conveyed for lands located in a Wildlife Refuge."

(b) Sections 14(h)(2) and 14(h)(5) of the Settlement Act, 43 U.S.C. 1613(h)(2) and (h)(5), are amended by adding to the end of each section "unless the lands are located in a Wildlife Refuge".

(c) Section 14(h)(6) of the Settlement Act, 43 U.S.C. 1616(h)(6), is modified by adding at the end thereof the following sentence:

"Any minerals reserved by the United States pursuant to the Act of March 8, 1922 (42 Stat. 415), as amended, in a Native Allotment approved pursuant to section 18 of this Act during the period December 18, 1971, through December 18, 1975, shall be conveyed to the appropriate Regional Corporation, unless such lands are located in a Wildlife Refuge or in the Lake Clark areas as provided in section 12 of the Act of January 2, 1976 (Public Law 94–204), as amended."

(d) Section 14(h) of the Settlement Act, 43 U.S.C. 1613(h), is amended by adding at the end thereof the following new paragraphs:

"(9) Where the Regional Corporation is precluded from receiving the subsurface estate in lands selected and conveyed pursuant to paragraphs (1), (2), (3), or (5), or the retained mineral estate, if any, pursuant to paragraph (6), it may select the subsurface estate in an equal acreage from other lands withdrawn for such selection by the Secretary. Selections made under this paragraph shall be contiguous and in reasonably compact tracts except as separated by unavailable lands, and shall be in whole sections, except where the remaining entitlement is less than 640 acres. The Secretary is authorized to withdraw, up to two times the Corporation's entitlement, from vacant, unappropriated, and unreserved public lands, including lands solely withdrawn pursuant to section 17(d)(1), and the Regional Corporation shall select such entitlement of subsurface estate from such withdrawn lands within ninety (90) days of receipt of notification from the Secretary.

"(10) Notwithstanding the provisions of subsection 22(h), the Secretary, upon determining that specific lands are available for withdrawal and possible conveyance under this subsection, may withdraw such lands for selection by and conveyance to an appropriate applicant and such withdrawal shall remain until revoked by the Secretary.

"(11) For purposes set forth in subsections (h)(1), (2), (3), (5), and (6), the term Wildlife Refuges refers to Wildlife Refuges as the boundaries of those refuges exist on the date of enactment of this Act."

(e) Any Regional Corporation which asserts a claim with the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") to the subsurface estate of lands selectable under section 14(h) of the Settlement Act which are in a Wildlife Refuge shall not be entitled to any in lieu of surface or subsurface estate provided by subsection 12(c)(4) and 14(h)(9) of such Act. Any such claim must be asserted within 180 days after the date of enactment of this Act. Failure to assert such claim within the 180 day period shall constitute a waiver of any right to such subsurface estate in a Wildlife Refuge as the boundaries of the refuge existed on the date of enactment of the Settlement Act.

ALASKA TOWNSITES

SEC. 5. (a) Effective on and after the date of enactment of this Act, all lands which are located in patented townsites or which are the subject of an application for patent under the acts of March 3, 1891 (43 U.S.C. 732) or May 25, 1926 (43 U.S.C. 733–736) are withdrawn from further entry.

(b) The Townsite Trustee shall convey all unoccupied lands in the townsite for which he still retains title, without charge, to the Home Rule or First or Second Class City, if any, incorporated under the laws of the State of Alaska for the community in which the townsite was originally entered. Any remaining unobligated trust funds shall also be transferred by the Trustee to the city.

(c) Where a community has not incorporated a city under the laws of the State of Alaska, or a city does not wish to receive conveyance of the unoccupied lands in the townsite pursuant to subsection (a) of this section, the Townsite shall convey all unoccupied lands in the townsite for which he still retains title, without charge, to the State of Alaska for the community in which the townsite was originally entered, to be administered in the same manner as provided by Alaska law for administration of lands conveyed to the State of Alaska pursuant to section 14(c)(3) of the Settlement Act. Any remaining unobligated trust funds shall also be transferred by the Trustee to the State. If, subsequent to conveyance of the unoccupied lands in the townsite to the State of Alaska, the community in which the townsite was originally entered incorporates a city under the laws of the State of Alaska, the State will convey to the city all unoccupied lands in the townsite for which it still retains title, without charge, together with any unobligated trust funds. This procedure will also apply in the event a city previously declining conveyance of unoccupied lands in the townsite indicates to the state its desire to receive conveyance.

(d) The Secretary shall proceed to process any pending townsite entry which has been filed by the Townsite Trustee and issue patent, if appropriate, to the Townsite Trustee. After the issuance of patent to the Townsite Trustee, the provisions of this section shall apply.

ENVIRONMENTAL IMPACT STATEMENTS

SEC. 6. The National Environmental Policy Act of 1969 (83 Stat. 852) shall not be construed, in whole or in part, as requiring the preparation or submission of an environmental impact statement for withdrawals, conveyances, regulations, orders, easement determinations, or other actions which lead to the issuance of conveyances to Natives or Native Corporations, pursuant to the Settlement Act.

STATUTE OF LIMITATIONS

SEC. 7. Section 10 of the Settlement Act, 43 U.S.C. 1609, is amended by adding at the end thereof the following new subsection:

"(c) Except for administrative terminations of navigability for purposes of determining ownership of submerged lands under the Submerged Lands Act, 43 U.S.C. 1301, *et seq.*, a decision of the Secretary under this Act shall not be subject to judicial review unless such action is initiated before a court of competent jurisdiction within one year of the date of the Secretary's decision becomes final or date of enactment of this

amendment, whichever is later; *Provided* that the plaintiff has exhausted any administrative appeal rights."

ESCROW ACCOUNT

SEC. 8. (a) Subsection (a) of section 2 of Public Law 94–204 (89 Stat. 1146) is amended to read as follows:

"SEC. 2. (a)(1) During the period of the appropriate withdrawal for selection pursuant to the Settlement Act, any and all proceeds derived from contracts, leases, licenses, permits, rights-of-way, or easements, or from trespass occurring after the date of withdrawal of the lands for selection, pertaining to lands or resources of lands withdrawn for Native selection pursuant to the Settlement Act shall be deposited in an escrow account which shall be held by the Secretary until lands selected pursuant to that Act have been conveyed to the selecting Corporation or individual entitled to receive benefits under such Act.

"(2) Such proceeds which were received, if any, subsequent to the date of withdrawal of the land for selection, but were not deposited in the escrow account shall be identified by the Secretary within two years of the date of conveyance of this Act, whichever is later, and shall be paid, together with interest payable on the proceeds from the date of receipt by the United States to the date of payment to the appropriate Corporation or individual to which the land was conveyed by the United States: *Provided*, That interest shall be paid on the basis of a semiannual computation from the date of receipt of the proceeds by the United States to the date of payment with simple interest at the rate determined by the Secretary of the Treasury to be the rate payable on short term obligations of the United States prevailing at the time of payment: *Provided, Further* That any rights of a Corporation or individual under this section to such proceeds shall be limited to proceeds actually received by the United States plus interest: and *Provided, Further*, That monies for such payments have been appropriated as provided in subsection (e) of this section.

"(3) Such proceeds which have been deposited in the escrow account shall be paid, together with interest accrued by the Secretary to the appropriate Corporation or individual upon conveyance of the particular withdrawn lands. In the event that a conveyance does not cover all of the land embraced within any contract, lease, license, permit, right-of-way, easement, or trespass, the Corporation or individual shall only be entitled to the proportionate amount of the proceeds, including interest accrued, derived from such contract, lease, license, permit, right-of-way, or easement, which results from multiplying the total of such proceeds, including interest accrued, by a fraction in which the numerator is the acreage of such contract, lease, license, permit, right-of-way, or easement which is included in the conveyance and the denominator is the total acreage contained in such contract, lease, license, permit, right-of-way, or easement; in the case of trespass, the conveyee shall be entitled to the proportionate share of the proceeds, including a proportionate share of interest accrued, in relation to the damages occuring on the respective lands during the period the lands were withdrawn for selection.

"(4) Such proceeds which have been deposited in the escrow account pertaining to lands withdrawn but not selected pursuant to such Act, or selected but not conveyed due to rejection or relinquishment of the selection, shall be paid, together with interest accrued, as would have been required by law were it not for the provisions of this Act."

(b) Section 2 of Public Law 94–204 (89 Stat. 1146) is amended by adding a new subsection to read as follows:

"(e) There is authorized to be appropriated such sums as are necessary to carry out the purpose of this section.

SELECTION REQUIREMENTS

SEC. 9. Subsection (a)(2) of section 12 of the Settlement Act, 43 U.S.C. 1611(a)(2), is amended by adding to the end of that subsection the following:

"*Provided*, That the Secretary, in his discretion and upon the request by the concerned Village Corporation, may waive the whole section requirement where:

"(A)(i) A portion of available public lands of a section is isolated from other available public lands in the same section by lands unavailable for selection; and

"(ii) Such waiver will not result in small isolated parcels of available public land remaining after conveyance of selected lands to Native Corporations; and

"(iii) Such waiver would result in a better land ownership pattern or improved land or resource management opportunity; or

"(B) The remaining available public lands in the section have been selected and will be conveyed to another Native Corporation under this Act."

FIRE PROTECTION

SEC. 10. Subsection (e) of section 21 of the Settlement Act, 43 U.S.C. 1620(e), is amended by replacing the comma following the citation "(64 Stat. 967, 1100)" with a period, and making a revised sentence out of the remaining phrase by striking the words "and" and "also", replacing the comma after the word "lands" with the words "they shall", and replacing the word "forest" with "wildland".

LIMITATIONS

SEC. 11. Except as specifically provided in this Act, (I) the provisions of the Settlement Act are fully applicable to this Act, and (ii) nothing in this Act shall be construed to alter or amend any of such provisions.

DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 7, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: In March of this year the Department completed an intensive review of its implementation of the Alaska Native Claims Settlement Act of 1971. This review was conducted with full participation by the Alaska Natives (represented by the Alaska Federation of Natives, Inc.), the State of Alaska, and the Federal-State Land Use Planning Commission for Alaska.

Four specific items of legislative need were identified by this study as well as other possible amendments or clarifications of the Settlement Act. Since the completion of the study, we have continued to work with the Alaska interest representatives and have developed the enclosed Bill amending the Settlement Act. The enactment of these amendments will assist the Department in expediting the land conveyance process and eliminate certain inconsistencies in the Act.

It is respectfully requested that the enclosed Bill be introduced and referred to the appropriate Committee for consideration. I urge early passage by the Congress.

Enclosed with the Bill is a synopsis of the individual amendments.

The Office of Management and Budget advises that the presentation of this Bill is in accord with the program of the President.

Sincerely,

(SGD) JAMES A. JOSEPH,
Acting Secretary.

PROPOSED BILL TO AMEND THE ALASKA NATIVE CLAIMS SETTLEMENT ACT OF 1971

SECTION 2—UNDERSELECTIONS

Provides general authority under certain circumstances for the Secretary to withdraw available land and allow Village Corporations a period of time to make additional selections to achieve entitlements granted by the Settlement Act.

For a variety of reasons, some Village Corporations have failed to select sufficient and available land, within the time periods specified in the Settlement Act, to fulfill the entitlement granted the Corporations. Congress has previously passed legislation correcting such insufficiencies for two Village Corporations. At this time, three more Village Corporations are underselected and as many as a dozen more could be found to be underselected when their land selections are finally adjudicated.

The Settlement Act does not give the Secretary the authority to correct underselection problems. An amendment to the Act giving the Secretary general authority to make the additional withdrawals necessary to correct these deficiencies as they are finally identified, is considered the most satisfactory way to correct these problems. The alternative is legislation on an individual Village Corporation basis. General authority will also allow the earlier completion of the distribution of entitlements under section 12(b) and 12(c) of the Settlement Act.

These entitlements are dependent on the final calculation of acreage selected by the Village Corporations under section 12(a) of the Act.

The general authority granted by this amendment would allow the Secretary to rewithdraw available land in the area originally withdrawn for selection by the Village Corporation. This would include land within the boundaries of both the original "village" and the "deficiency" withdrawals. Land available for rewithdrawal would include all land which was considered public land and available for withdrawal at the time the Settlement Act was passed in 1971, irrespective of classification of the land subsequent to passage of the Settlement Act. If sufficient land to correct the problem is not available in the original withdrawals, other vacant, unreserved and unappropriated public land (including lands solely withdrawn for purposes of classification under section 17(d)(1) of the Settlement Act) would be reviewed and withdrawn as needed. The new withdrawal would not exceed two times the remaining entitlement of the Village Corporation and the Corporation would have 90 days from notice by the Secretary to select its remaining entitlement. Thereafter, the selection would be accepted and processed as if originally filed under the Settlement Act.

Further background on this amendment is contained in Issue 4–E of the Department's review of the implementation of the Settlement Act, completed March 3, 1978.

SECTION 3—RETAINED MINERAL ESTATE

Under many of the Public Land Laws, the United States retained all or a portion of the mineral estate when it conveyed lands to individual entrymen. In some cases under the Settlement Act, this retained mineral estate is "public lands" available for or required to be selected by Regional Corporations. This amendment would make it clear when retained mineral estate is considered "public lands" and provide the Regional Corporations with the option to select or not select such lands, and, if selected, provide in lieu surface estate rights.

Under section 11(a)(1) of the Settlement Act, the retained mineral estate is "public land" withdrawn for selection. As a subsurface estate, it is not available for selection by Village Corporations. Under section 12(c) of the Settlement Act, Regional Corporations are required to first select from lands in townships that are odd-odd or even-even numbered before they may select from lands withdrawn pursuant to section 11(a)(3). Under section 11(a)(3), however, the retained mineral estate is not "public land" and was not withdrawn by the Secretary pursuant to that section. In many cases, this

leaves isolated parcels of United States owned mineral estates within an area where the Regional Corporation has selected the entire fee estate.

All Regional Corporations that have an entitlement under section 12(c) of the Settlement Act, except the Cook Inlet Region (special conditions apply to Cook Inlet under section 12 of the Act of January 2, 1976), are affected by this situation.

Inequities occur between Regional Corporations in that certain corporations must expend "fee title" entitlement acreage on units of "public land" that consists only of the retained mineral estate, or portion thereof. In circumstances where the Corporation wishes to obtain the mineral estate, it cannot select those isolated parcels that otherwise fall within a general 11(a)(3) selection area. Still other Regional Corporations may configure their selections to exclude or include the retained mineral interest areas.

The proposed amendment provides as follows: (1) upon request of the Regional Corporation allow the retained mineral estate lands within or contiguous to an area withdrawn under section 11(a)(3) to be included in such withdrawal and be selected by the Corporation; (2) give the Corporation the option to select or not select the retained mineral estate withdrawn by section 11(a)(1); and (3) where such retained mineral estate is selected and conveyed to the Corporation, provide in lieu surface estate selection rights to other lands.

The withdrawal of available lands for the in lieu surface rights and subsequent selection process is similar to that provided in the proposed "underselection" amendment in section 2. The Secretary would first withdraw available lands where the Regional Corporation has selected the subsurface estate pursuant to section 12(a)(1) of the Settlement Act.

Further background on this amendment is contained in Issue 11 of the Department's review of the implementation of the Settlement Act, completed March 3, 1978.

SECTION 4—CONVEYANCE OF PARTIAL ESTATES

Throughout the Settlement Act runs the thread that the subsurface estate in lands located within National Wildlife Refuges and Pet 4 (now National Petroleum Reserve—Alaska) would remain with the United States and the appropriate Regional Corporation would receive the subsurface estate elsewhere. However, in section 14(h) this thread is broken in a manner that indicates an oversight in the original Act.

This proposed amendment would do two things; (1) retain in United States ownership the subsurface estate in lands located within Wildlife Refuges and NPR-A; (2) provide the Regional Corporation with equivalent subsurface estate. The following sections of the Settlement Act would be affected;

Section 14(h)(1), involving cemetery and historical sites, would be amended to retain subsurface estate when located in a Wildlife Refuge;

Section 14(h)(2), including Native Groups, and 14(h)(5), involving individual Native residents, would be amended to retain subsurface estate when located in Wildlife Refuges;

Section 14(h)(b), involving Native allotments approved during the period December 18, 1971 through December 18, 1975, would be amended to convey any retained mineral estate to the appropriate Regional Corporation, except when located in Wildlife Refuges.

A new Section 14(h)(9) would be added to provide withdrawal, selection and conveyance of in lieu subsurface estate, similar to section 12(a)(1), where the subsurface estate is retained by the U.S. due to location within a Wildlife Refuge;

A new section 14(h)(10) would be added giving the Secretary explicit authority to make the necessary 14(h) withdrawals.

To preclude an action of "taking" as a result of this amendment, provision is made for a 180 day period for Regional Corporations to assert any claim to the subsurface estate of lands in a Wildlife Refuge selectable under 14(h) of the Settlement Act. If such a claim is submitted, that Regional Corporation would not be entitled to the benefits provided by this amendment and the amendment provided by section 3 of this Bill.

The intent of this section and section 3 is to provide a workable and equitable process for the conveyance of both surface and subsurface estate to appropriate Native entities of the 38 million acres granted by sections 12 and 16 and the 2 million acres transferred by section 14(h) of the Settlement Act, while retaining the intent of Congress to retain in the United States the subsurface estate in lands located within a Wildlife Refuge or NPR-A.

SECTION 5—ALASKA TOWNSITES

Under the general Alaska townsite law of 1891 as amended or supplemented by the 1926 Native Townsite Act, there are approximately 100 patented townsites in Alaska where the Townsite Trustee still holds lands or other townsite interests in trust. Although these two acts were repealed by the Federal Land Policy and Management Act of 1976, there are approximately 30 townsite entries which at that time, had equity in the lands and patent from the United States is yet to be issued. The Department provides the Trustee at no cost for actions under the 1926 Act and at a cost reimbursement for actions under the 1891 Act.

Certain lands within these townsites are the only "open to settlement" lands in Alaska today. This has created a number of problems and strife between the members of the local community and "outsiders" settling on vacant townsite lands. Certain legal questions have also been raised concerning the relationship between the Settlement Act and the Unittd States' trust responsibility on the Townsites. Also since passage of the Settlement Act in 1971, a significant number of new municipalities have been formed and the Act itself has caused the creation of a State municipal trust program to carry out the State's responsibilities under section 14(c)(3) of the Settlement Act. The repeal of the Townsite Acts, however, has constrained the Department's ability to take unilateral action.

This amendment would:

(1) Close all presently open townsite lands to further entry and occupancy and;

(2) Direct the Townsite Trustee to convey all unoccupied lands and any remaining unobligated trust funds to the Home Rule, First, or Second Class City organized for the townsite community, or, in the absence of a city, to the State of Alaska in trust.

Further background on this amendment is contained in Issue 24 of the Department's review of the implementation.

SECTION 6—ENVIRONMENTAL IMPACT STATEMENTS

This amendment would clarify the Settlement Act in relation to the National Environment Policy Act of 1969 in that actions taken by the Department leading to the conveyance of land to Native entities are not subject to the preparation or submission of an environmental impact statement.

The Department has consistently interpreted the Settlement Act to be a specific direction by the Congress to convey certain lands to Native entities and believes the conditions of that direction remove conveyance actions from being a major federal action as contemplated by the National Environmental Policy Act. This interpretation may be subject to challenge and, in at least two cases, the Environmental Policy Act has formed part of the basis of a legal action against Departmental action leading to conveyance of land to Native entities.

Should this situation not be clarified by Congress and the courts determine that conveyance actions under the Settlement constitute a major Federal action, the conveyance process will be extended an indefinite period of time. This will jeopardize the ability of the Native Corporations to survive without additional Federal assistance.

SECTION 7—STATUTE OF LIMITATIONS

With one exception, which is discussed below, this amendment would allow a Secretarial decision to be finalized unless judicial action were initiated within one year.

The complexities of the Settlement Act and the interrelationship or "building block" make-up of the various sections of the Settlement Act require that decisions made under the Act be finalized as soon as possible while still maintaining due regard for the rights of involved parties. Without a specific limitation, decisions can be challenged after five or more years have passed. For example, challenge of a decision on a 12(a) selection, impacts subsequent 12(b) and 12(c) actions; 14(h)(1)–(3) impacts 14(h)(8), etc.

Such uncertainties also cause the Native Corporations to maintain excess selections for inordinate periods to preserve their options in the event a delayed challenge is initiated. This in turn causes other land programs in Alaska to become more difficult to implement including the (d)(2) lands program and State selection.

The exception referred to above, involves the administrative determination on the navigability of a body of water necessary under the Submerged Lands Act to differentiate between State and Federal ownership of submerged lands.

SECTION 8—ESCROW ACCOUNT

Section 2 of the Act of January 2, 1976, provided for the payment into escrow funds received after January 1, 1976, from leases, rights-of-way, etc., on lands withdrawn for Native selection. The escrowed funds are held pending conveyance or non-conveyance, and paid, upon conveyance, to the appropriate Native entity.

This amendment would:

(1) Include within the types of receipts covered by the escrow account, funds received by the United States as a result of trespasses occurring on public lands after they were withdrawn for Native selection;

(2) Provide for proportionate payment of escrowed funds where the conveyed land did not include all of the area involved in the lease, right-of-way, trespass, etc.; and

(3) Change the date for identification of funds derived from leases, rights-of-way, etc., for deposit in the escrow account from January 1, 1976, to the date of withdrawal of the lands for selection. To avoid delays in the conveyancing process, receipts due the Natives for the period between date of withdrawal and January, 1976, would be paid, subject to appropriation and with interest, within two years of conveyance of the land from which the receipts were derived. An appropriation authorization for this change is included.

SECTION 9—SELECTION REQUIREMENTS

This amendment would allow the Secretary, in his discretion, and under certain circumstances, to waive the minimum "whole section" selection requirement of section 12(a) of the Settlement Act.

A rigid requirement to maintain an "artificial" grid system and not consider natural conditions, does not always result in land ownership patterns that are in the best interests of the involved land owners. Strict use of square sections and straight section lines may ignore the use of more beneficial natural feature boundaries. An example would be a situation where a Village Corporation desires to only select and receive land laying on one side of a navigable river,

the State of Alaska owning the bed of the river under the Submerged Lands Act. The river forms a natural boundary between the Village and, say, a Wildlife Refuge. Under the "whole section" requirement, the selection and conveyance requirements would result in Village ownership of small parcels within the Refuge area or the United States retaining small parcels between the Village lands and the river. In many cases, these small parcels are of 5, 10, or 20 acres in size. This amendment would allow use of the river as the dividing property line.

The administrative discretion provided by this amendment would provide a simple and little or no cost solution in specific cases where waiver of the "whole section" requirement would be beneficial to the landowners involved—Native, State, and Federal. Although these same changes could be made through an exchange process under section 22(f) of the Settlement Act, such a process is time consuming and costly.

Additional background materials relevant to this amendment are contained in Issues 7 and 23 of the Department's review of the implementation of the Settlement Act, completed March 3, 1978.

SECTION 10—FIRE PROTECTION

This amendment would provide a single criteria for the continuation of "fire protection" of Native lands—lack of production of substantial revenues. It would also change the adjective used to describe the kind of protection provided, from "forest" to "wildland" fires.

Sections 21 (d) and (e) of the Settlement Act as they relate to fire protection are sufficiently ambiguous to likely result in the necessity for a judicial determination on the criteria for continuing fire protection. It is preferable to resolve such questions now. The situation will become more complex as more land is conveyed and wildland fires continue to occur on Native lands.

We do not feel the term "forest fire" is the proper term relative to the Alaska scene. While Congress may have intended this to be a general term, it has specific meaning. The specific meaning of the term "forest fire" would remove most of Alaska from such a fire protection category since "forests" exists only in limited areas. The term "wildland fire" as the Department uses it in Alaska covers the entire spectrum from tundra through brush to timber areas. It does not include developments (mineral developments, oil rigs, sawmills, etc.) or improved areas (towns, communities, groups of buildings, etc.).●

By Mr. PROXMIRE (by request):

S. 3304. A bill to amend the Federal Reserve Act to provide for the maintenance of reserves for certain institutions; to require the imposition of charges for certain services by Federal Reserve banks; to authorize the payment of interest on reserves held in Federal Reserve banks; and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FEDERAL RESERVE REQUIREMENTS ACT OF 1978

Mr. PROXMIRE. Mr. President, I am today introducing, by request of the Federal Reserve Board, legislation that would affect reserve requirements that are held at the Federal Reserve banks.

The Federal Reserve has sent to the Congress and Banking Committees a proposal that they feel would promote competitive equality among member banks and other financial institutions and would at the same time encourage membership in the Federal Reserve System. While I wish to reserve judgment on the Federal Reserve's legislative proposal and the other reserve requirement proposals they have put forth, I am submitting this legislation so that it may serve as the vehicle for discussion and debate by the Banking Committee. The legislation combines two draft bills sent to me by Chairman Miller and the idea of pricing of Federal Reserve services.

This legislation consists of three parts. The first part would establish and require uniform and universal reserve requirements for all transaction accounts which aggregate in excess of $5 million at every depository institution. It would also establish the range of required reserves for all transaction accounts other than demand deposits—including negotiable order of withdrawal accounts. That range would be 3 to 12 percent. At the same time the Federal Reserve is requesting that the range of reserve requirements for member banks on time and savings accounts be reduced from the present 3 to 10 percent to a range of one-half to 10 percent. The second part of the legislation would require the Federal Reserve to impose charges for certain services offered by the Federal Reserve banks. The third part of the bill would authorize the payment of interest on reserves held in Federal Reserve banks.

Mr. President, the bill I have introduced does implement the Board's proposed plan as outlined in its letter of July 6. However, the bill has been redrafted so that it might serve as a better vehicle for focusing the committee's attention on the Board's proposal.

First, the bill I have introduced directly authorizes the Federal Reserve banks to pay interest on reserve balances with the limitations proposed by the Board. By way of contrast, the Board's recommended draft bill apparently assumed that the Board already has the authority, an issue that is strongly disputed by many Members of Congress. Rather than getting into a side argument as to who has what authority, I believe the committe would be better served by addressing the substantive merits of the Board's plan.

Second, I have combined the Board's proposal for interest on reserve balances and universal reserve requirements into one bill. I believe these two proposals are closely interrelated and should be considered together.

Third, the bill I have introduced would specifically direct the Board to proceed with its plan to begin charging for the services it provides to member banks. Putting the charging proposal directly in the statute will highlight the close interrelationship between this proposal and the other elements of the Board's plan.

Fourth, I have deleted the proposed statement of congressional findings contained in the Board's draft legislation. While I appreciate the Board's suggestions in this regard, I believe it would be more appropriate for the committee to make its own findings if and when it acts positively upon the legislation.

Mr. President, I have promised Chairman Miller that the Senate Banking Committee will hold prompt hearings on the Board's proposals and that I will attempt to bring the issue to a decision this year. I intend to follow through on that timetable. I would envision committee hearings some time in August and a committee markup in September. I understand Chairman REUSS of the House Banking Committee intends to follow a similar timetable.

Mr. President, I ask unanimous consent that Chairman Miller's letter about the Board's proposed program, the memorandum accompanying that letter, the text of the Board's draft legislation and the text of the bill I am introducing be placed in the RECORD at this point.

There being no objection, the bill and material was ordered to be printed in the RECORD, as follows:

S. 3304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act, may be cited as the "Federal Reserve Requirements Act of 1978".

TITLE I—RESERVE REQUIREMENTS OF MEMBER BANKS AND OTHER DEPOSITORY INSTITUTIONS

SEC. 101. The first section of the Federal Reserve Act, as amended (12 U.S.C. § 221), is amended by adding at the end thereof the following new paragraphs:

"The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(6) any insured institution as defined in section 401 of the National Housing Act; and

"(7) for the purpose of section 13 and the fourteenth paragraph of section 16, any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (1) through (6).

"The term 'transaction account' means a deposit or account on which the depositor or account holder is allowed to make withdrawals by negotiable or transferable instrument or other similar item for the purpose of making payments to third persons or others. Such term includes demand deposit, negotiable order of withdrawal and share draft accounts."

SEC. 102. Section 19(a) of the Federal Reserve Act, as amended (12 U.S.C. § 461), is amended by adding at the end thereof the following: "In order to prevent evasions of the reserve requirements imposed by this Act, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Administrator of the National Credit Union Administration, the Board of Governors of the Federal Reserve System is further authorized to determine, by regulation or order, that an account or deposit is a transaction account where such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.".

SEC. 103. The last sentence of subsection (b) of section 19 of the Federal Reserve Act, as amended, (12 U.S.C. § 461), is designated as paragraph (7) and that part of subsection (b) that precedes that sentence is amended to read as follows:

"(b)(1) Except as provided in paragraph (4), every depository institution as defined in section 1 of the Federal Reserve Act, as amended (12 U.S.C. § 221), shall maintain reserves against its demand deposits at such

average ratio of not less than 7 per centum nor more than 22 per centum, as shall be determined by the Board.

"(2) Except as provided in paragraph (4), every depository institution as defined in section 1 of the Federal Reserve Act, as amended (12 U.S.C. § 221), shall maintain reserves which shall be at the same level for all depository institutions against all other transaction accounts at such average ratio of not less than 3 per centum nor more than 12 per centum, as shall be determined by the Board.

"(3) Every member bank shall maintain reserves against its time deposits and savings deposits (other than negotiable order of withdrawal accounts) as such average ratio of not less than ½ per centum nor more than 10 per centum, as shall be determined by the Board.

"(4) A total of $5,000,000 of transaction accounts of a depository institution shall not be subject to the reserve requirements of this section, subject to such rules and regulations as may be adopted by the Board. However, the Board may impose reserve requirements on such transaction accounts at such average ratio of up to 7 percent if determined to be appropriate in light of general liquidity, considerations of monetary policy, or other relevant conditions prevailing in the banking system.

"(5) Every depository institution as defined in section 1 of the Federal Reserve Act (12 U.S.C. § 221) shall make reports concerning its deposit liabilities and required reserves at such times and in such manner and form as the Board may require.

"(6)(a) For purposes of determining the reserve requirements of a depository institution established after June 30, 1978 which is an affiliate of a depository institution subject to the reserve requirements of this section, the transaction accounts of such newly established depository institutions shall be added to the total transaction accounts of such affiliated depository institution.

"(b) In addition to its authority under section 19(a), the Board is authorized to determine, by regulation or order, the affiliated depository institution to whose transaction accounts the transaction accounts of a depository institution established after June 30, 1978, shall be added for purposes of this provision."

SEC. 104. With respect to any depository institution that is not a member of the Federal Reserve System on June 30, 1978, the required reserves imposed pursuant to subsection (a) against its transaction accounts on the effective date of this Act shall be reduced by 75 per centum during the first year that begins after the effective date, 50 per centum during the second year, and 25 per centum during the third year.

SEC. 105. (a) Section 19(c) of the Federal Reserve Act, as amended (12 U.S.C. 461) is amended to read as follows: "Reserves held by any depository institution to meet the requirements imposed pursuant to subsection (b) of this section shall be in the form of—

"(1) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account. However, the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves against their transaction accounts in the form of vault cash: *Provided*, That such proportion shall be identical for all depository institutions; and

"(2) balances maintained by a nonmember depository institution in a member bank or in a Federal home loan bank maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a member bank from another depository institution that are used to satisfy the reserve requirements imposed on such depository institution by this section shall not be subject to the reserve requirements of this section imposed on such member bank and shall not be subject to assessment imposed on such member bank pursuant to section 7 of the Federal Deposit Insurance Act, as amended (12 U.S.C. 1817)."

(b) Section 19(f) of such Act, as amended (12 U.S.C. § 464), is amended by deleting "member bank" and inserting in lieu thereof "depository institution."

SEC. 106. (a) The Federal Reserve Act is amended by inserting after section 11 (12 U.S.C. 248) the following new section:

"SEC. 11A. (a) Not later than July 1, 1979, the Board of Governors shall have prepared and shall publish for public comment a set of pricing principles and a proposed schedule of fees for Federal Reserve System services; and not later than July 1, 1980, the Board shall put into effect a schedule of fees for such services which is based on those principles. Except that the Board may put into effect fees for some of such services prior to July 1, 1980, but after July 1, 1979, if it determines such action to be appropriate.

TITLE II—CONFORMING AMENDMENTS AND EFFECTIVE DATE

SEC. 201. Section 5A of the Federal Home Loan Bank Act, as amended (12 U.S.C. § 1425a), is amended by redesignating subsection (f) as subsection (g) and by inserting before such subsection, as redesignated, the following new subsection:

"(f) Every institution which is a member or is an insured institution as defined in section 401(a) of title IV of the National Housing Act (12 U.S.C. § 1724(a)) shall maintain reserves against its transaction accounts as defined in section 1 of the Federal Reserve Act (12 U.S.C. § 221) in accordance with the provisions of section 19 of the Federal Reserve Act (12 U.S.C. § 461) in amounts not less than such percentages of its aggregate amounts of such deposits or accounts as may be prescribed under section 19(b) of the Federal Reserve Act (12 U.S.C. § 461) by the Board of Governors of the Federal Reserve System.".

SEC. 202. Section 116 of the Federal Credit Union Act, as amended (12 U.S.C. § 1762), is amended by adding at the end thereof the following new subsection:

"(c) Each insured credit union shall maintain reserves against its transaction accounts as defined in section 1 of the Federal Reserve Act (12 U.S.C. § 221) in accordance with the provisions of section 19 of the Federal Reserve Act (12 U.S.C. § 461) in amounts not less than such percentages of its aggregate amounts of such deposits or accounts as may be prescribed under section 19(b) of the Federal Reserve Act (12 U.S.C. § 461) by the Board of Governors of the Federal Reserve System.".

SEC. 203. (a) The first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. § 342) is amended as follows:

(1) by inserting after the words "member banks" the words "or other depository institutions".

(2) by inserting after the words "payable upon presentation" the first and third times they appear, the words "or other items, including negotiable orders of withdrawal or share drafts".

(3) by inserting after the words "payable upon presentation within its district," the words "or other items, including negotiable orders of withdrawal or share drafts".

(4) by inserting after the words "nonmember bank or trust company," wherever they appear the words "or other depository institution".

(5) by striking the words "sufficient to offset the items in transit held for its account by the Federal Reserve bank" and inserting in lieu thereof the words "in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve bank, and other factors as the Board may deem appropriate".

(6) by inserting after the words "nonmember bank" after the second colon the words "or other depository institution".

(b) The thirteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. § 360) is amended as follows:

(1) by striking out the words "member banks" wherever they appear and inserting in lieu thereof "depository institutions".

(2) by striking out the words "member bank" wherever they appear and inserting in lieu thereof "depository institution".

(3) by inserting after "checks" wherever it appears the words "and other items, include negotiable orders of withdrawal and share drafts".

(c) the fourteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. § 248(o)) is amended by striking out "it's member banks" and inserting in lieu thereof "depository institutions".

SEC. 204. The provisions of this Act shall become effective one year after the date of enactment.

TITLE III—AUTHORITY FOR PAYMENT OF INTEREST ON RESERVES

SEC. 301. Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Subject to such limitations, restrictions, and regulations as the Board of Governors may prescribe, the Federal Reserve Banks are hereby authorized to pay interest on balances held in any Federal Reserve bank pursuant to section 19(b) of this Act. The total amount of such interest paid with respect to any year shall not exceed the sum of the following items computed with respect to the same year:

"(A) total receipts by Federal Reserve banks from the recipients of such interest for services rendered to such recipients by such banks, and

"(B) 7 percent of the total net earnings of the Federal Reserve banks computed without regard to the payment of such interest. The rate of interest paid under this section shall not exceed 2 percent per annum with respect to required balanced in excess of $25 million held at Federal Reserve Banks."

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, D.C., July 6, 1978.

Hon. WILLIAM PROXMIRE,
Chairman, Committee on Banking, Housing and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR CHAIRMAN PROXMIRE: On June 20, the Board of Governors approved for submission to Congress a proposed program to provide for greater competitive equality among financial institutions and to arrest the loss of Federal Reserve member banks by reducing the burden of membership. Enclosed is a copy of the Board's document setting forth this proposal.

UNIVERSAL RESERVE REQUIREMENT

A primary proposal is for the legislation to require all depository institutions to maintain reserve balances with the Federal Reserve with respect to transaction accounts which aggregate in excess of $5 million. The range of required reserves for demand deposit accounts would remain from 7 to 22%, as presently provided by law. The range of required reserves for all other transaction accounts, including NOW (negotiable order of withdrawal) accounts, would be from 3 to 12%. A companion legislative amendment is proposed to reduce the range of required reserves for member banks on time and savings accounts from the present 3 to 10% to a range of one half of 1% to 10%, in order to permit member banks to be more competitive with other institutions offering such accounts. The enactment of such a "universal" reserve requirement would place all depository institutions on a more nearly equal competitive

basis, and therefore would be an especially appropriate and fair solution. A draft of proposed legislation for this purpose, entitled "Reserve Requirements Act of 1978," is enclosed.

The Board simultaneously is considering a program, described below, whereby the Federal Reserve would charge for certain of its services and would pay some compensation for required reserve balances. However, if Congress enacts a requirement for universal reserves, the Board would need to evaluate the desirability of service charges and reserve compensation in light of the effects of such legislation on Federal Reserve membership, operation of the payments system, and monetary control. Payment of interest would, of course, counter possible objections from depository institutions which are not now required to maintain reserves on transaction accounts. The charges for Federal Reserve services would both offset to some extent the costs of paying such interest on reserves and also promote more efficiency in the payments system by providing greater opportunity for alternate services from the private sector. However, the Board has not developed a specific proposal for charges pending Congressional review and action on the "universal" reserve concept.

REDUCING BURDEN OF MEMBERSHIP

The Board is also proposing for Congressional consideration a comprehensive program seeking to arrest the loss of Federal Reserve membership by reducing its burden. The principal elements of this program, included in the enclosed document, are as follows:

(1) A schedule for a phased-in reduction of reserve requirements for member banks would be adopted. Since the proposed adjustments are within present statutory limits, no new legislation will be required for this component.

(2) The Federal Reserve would initiate a system of charges for its payments mechanism and certain other operational services. This component would be made effective in conjunction with the parallel proposal to pay interest on reserve balances, covered below. Otherwise, charges for services would only increase the cost burden of Federal Reserve membership and accelerate the loss of members and the accompanying loss of revenue available for payment to the U.S. Treasury.

The Board is aware of pending legislation, including that introduced by you, that would mandate charges for Federal Reserve services. However, recognizing both the rapid pace of change in technology and systems and the responsibility of the Federal Reserve to maintain basic services in the public interest, the Board believes it is desirable to maintain maximum flexibility in any pricing policies that may be adopted by the System under existing statutory authority. Therefore, the Board's proposal does not contemplate a legislative requirement for service charges. Instead, it recommends legislation, described below, to limit the net amount which the Federal Reserve may pay in interest on reserves over and above the amount collected for services. This provides both incentive to optimize service charges and protection against net distribution larger than authorized by Congress.

(3) Along with charging for services, the Federal Reserve would commence payment of interest on required reserve balances held at Federal Reserve Banks. In the first phase, as service charges are introduced, interest would be at a two per cent annual rate. When planned service charges are in effect, the interest would be at a rate of one half of one per cent under the Federal Reserve portfolio yield for required balances up to $25 million and two per cent for balances over $25 million. Proposed Congressional action would approve a limit on the amount of interest payable, as noted below.

(4) The burden of Federal Reserve membership would be reduced to the extent that the total amount paid in interest on required reserves exceeds the total amount collected for services. In order to assure that such net amount is no greater than the level authorized by Congress, the Board recommends legislation that would limit the net amount (that is, interest paid on required reserves less charges for Federal Reserve services) to seven per cent of Federal Reserve earnings, before payment of interest. This would create a practical and flexible arrangement that would not exceed the limits set by Congress, but yet would adjust automatically in the light of changing conditions.

A draft of proposed legislation, entitled "Interest on Reserves Act of 1978," is also enclosed.

(5) The Federal Reserve would commit itself to reimburse the U.S. Treasury for the net loss of revenue as a result of the above program during the first three years. When the program is fully in effect, and assuming no further loss in Federal Reserve membership, current estimates are that the net reduction to the Treasury would be $250 to $300 million a year. However, Treasury revenues would in any event be expected to decline in the absence of the program by $80 million per year, or more, as member bank attrition continues. Because the program is expected to stabilize Federal Reserve membership and provide prospects for growth, there may be relatively little, if any, net effect on Treasury revenues. Such revenues would be further enhanced if Congress enacted the Board's proposed universal reserve requirement legislation.

I am appreciative of your highly constructive approach to this important problem and particularly welcome your intention to hold prompt hearings on this proposal looking towards a legislative determination during this session of the Congress.

Best wishes.

Sincerely,

WILLIAM MILLER.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

PRELIMINARY PROPOSAL

To promote competitive equality among member banks and other financial institutions and to encourage membership in the Federal Reserve System

The continuing decline of bank membership in the Federal Reserve System and the increasing competition between banks and other depository institutions in providing payments services require prompt, responsive measures.

This preliminary proposal is intended as a means of submitting a program for consideration and appropriate action by Congress.

Background of the Problem

Section 19 of the Federal Reserve Act provides that member banks of the Federal Reserve System are required to maintain reserves against their demand and time deposits in such ratios as shall be determined by the Board within specified legal ranges. In order to satisfy these reserve requirements, member banks are required to maintain reserves in the form of vault cash and balances held in Federal Reserve Banks. Such balances maintained by member banks do not earn any interest at present. By contrast, most banks that are not members of the Federal Reserve System are permitted by State law to hold a substantial part of their required reserves in the form of earning assets, such as United States Treasury obligations, or in the form of balances that would be held in the ordinary course of business in any event. Consequently, member banks incur a burden in the form of foregone earnings on their required reserve balances.

As a result of the inflation of recent years and the increased competition between banks and other depository institutions in providing payments services, more and more banks have become aware of the burden of membership and have determined that the benefits associated with remaining a member bank do not outweigh the costs. Over the past ten years, a total of 551 banks have withdrawn from membership. Although many of the banks that have left the System are small, there is a growing trend among larger member banks to become nonmembers. Of the 69 banks that left the Federal Reserve in 1977, 15 banks possessed deposits in excess of $100 million. Because of the decline in membership, the proportion of total commercial bank deposits held by member banks has by now been reduced to about 72 per cent.

If corrective action is not taken, a continued, probably an accelerated, erosion of membership and of deposits subject to regulation by the Federal Reserve can be expected. This threatens to weaken the nation's financial system, as more and more of the nation's payments and credit transactions are handled outside the safe channels of the Federal Reserve, as fewer and fewer banks have immediate access to Federal Reserve Bank credit facilities, as a national presence in bank supervisory and regulatory functions becomes increasingly diluted, and as implementation of monetary policy becomes more difficult.

Proposed Legislation for Universal Reserve Requirements

In order to promote fair competition among member banks and other depository institutions and to stem the decline in deposits subject to reserve requirements of the Federal Reserve, the Board will transmit to Congress proposed legislation that would require all depository institutions to maintain reserves against transactions accounts in accordance with requirements set by the Federal Reserve. If uniform, universal reserve requirements on transactions balances become effective, competition among banks and other depository institutions would be on a more nearly equal basis.

The Board's proposed legislation would make transactions accounts—such as demand deposits and NOW (negotiable order of withdrawal) accounts—at all Federally insured depository institutions subject to reserve requirements set by the Federal Reserve. However, a total of $5 million of transactions accounts at these institutions, whether members or nonmembers of the Federal Reserve, would not be subject to the basic reserve requirements. The proposed legislation also adjusts the existing 3 to 10 per cent statutory range for reserve ratios on time and savings deposits at member banks. A reduction in the range to ½ of 1 to 10 per cent is proposed for time and savings deposits other than transactions accounts to provide needed flexibility that would enable member banks to compete in this area on a more nearly equal basis with other depository institutions.

The Board simultaneously is considering a program, described below, whereby the Federal Reserve would charge for certain of its services and would pay some compensation for required reserve balances. However, if Congress enacts a requirement for universal reserves, the Board would need to reconsider whether, and to what extent, its proposed program of service charges and reserve compensation might need to be adjusted in light of the effects of such legislation on Federal Reserve membership, operation of the payments system, and monetary control.

Proposed Federal Reserve Program

In view of the increasingly acute problems associated with the decline in membership in the Federal Reserve System that is attributable to the burden imposed on member banks by competitive inequality, the Board

is also considering a program with the following principal elements: (1) restructuring and reduction of demand deposit reserve requirements, (2) charging for services provided by the Federal Reserve, (3) compensating for required reserve balances held at Federal Reserve Banks, and (4) transferring part of Federal Reserve surplus to Treasury during a transition period to offset any Treasury revenue loss.

The program would provide time for Congress to consider the issue of payment of interest on required reserve balances. If the Federal Reserve is not able to pay interest on reserves, or otherwise remove the burden of membership, it would not be feasible to charge for services offered by Federal Reserve Banks. A portion of reserve balances held by member banks with Federal Reserve Banks in effect represents payment for these services under current circumstances. Charging for the services, without compensating banks for the reserves held, would simply increase the burden of membership and exacerbate competitive inequality.

Reserve Requirement Actions.—Under the proposed program, the Board would amend Regulation D (Reserves of Member Banks) to simplify the structure of reserve requirements. The proposal would also redefine a reserve city and impose reserve city reserve requirements on member banks with net demand deposits in excess of $600 million (compared to $400 million at present). The structure of reserve requirements would be revised in two phases as follows:

Size class (millions)	Reserve requirement (percent)
Present:	
0 to $2	7
$2 to $10	9½
$10 to $100	11¾
$100 to $400	12¾
Over $400	16¼
Proposed:	
1st phase:	
0 to $10	7
$10 to $200	9½
$200 to $600	12½
Over $600	16¼
2d phase:	
0 to $200	7
$200 to $600	10
Over $600	16¼

It is anticipated that these actions would have the effect of releasing approximately $5 billion in reserves on an annual basis, with about $2¾ billion released by the initial adjustment.

Charges for Federal Reserve Services. The second element in the program relates to charging for services rendered by the Federal Reserve. The Federal Reserve does not now generally charge member banks for services it renders in view of the substantial burden of membership presently incurred by banks. Member banks "pay" for Federal Reserve services through the maintenance of reserve balances with Reserve Banks. Nonmember banks are now permitted to use a limited number of Federal Reserve services at no charge.

Competitive equity between member banks and nonmember institutions requires that all users of Federal Reserve services be subject to charges established on the same basis. Moreover, such charges might encourage more efficient use of check clearing facilities and provide incentives for innovations that reduce costs. With explicit pricing, therefore, the opportunities of the private sector to compete with and improve upon Federal Reserve services would be enhanced.

In order to assure continued efficient functioning of the payments mechanism and to avoid major disruption during the transition to a more competitive environment, the Board would follow a conservative and flexible approach in establishing charges for Federal Reserve services. To this end, the System has concluded that its charges should be competitive with those for comparable services (when available) in the private sector. However, the Board would retain flexibility to alter charges or service policies in order to meet its responsibilities to maintain a satisfactory, basic level of service for the nation as a whole and to encourage innovations.

The Board would use the following general principles as guidelines for establishing a price structure:

1. Each Federal Reserve service category for which charges are to be assessed would usually have separate prices by geographic area, activity, and class of work processed. The price schedule would employ explicit per item charges and be as simple as possible. Prices would be adjusted as the System gained experience with service charges and observed their effects in the markets in which the System operates.

2. The System does not contemplate significant alterations in services provided at the time charges initially are imposed. However, after charges are in place, some offices might find it necessary to revise their operating policies and prices to maintain competitiveness and to enable the System to maintain a basic level of service nationwide.

3. All users in the same pricing zone (typically a Federal Reserve Bank, Branch or office area) would pay the same price for a given service. However, identical services might not be provided in all areas.

More specifically, guidelines established by the Board for the pricing of Federal Reserve check and automated clearing house (ACH) services would include the following:

a. Charges for check services would be imposed on depositing institutions.

b. Prices for interoffice items deposited locally might include both a local processing charge and a uniform national charge.

c. Charges for automated clearing house (ACH) items could either be imposed on ACH associations or directly on financial institutions using the service.

d. Prices for automated clearing house services would be set to encourage the use of such services and to reflect mature volume levels.

It is anticipated that schedules of charges for System services would be announced for public comments, and implemented in two phases:

First phase: Charges for Federal Reserve payments services, including check processing, check transportation, and automated clearing house services.

Second phase: Charges for certain other services, including shipping of coin and currency to member banks, transfer and settlement of reserve balances, and purchase, sale, safekeeping and clearing of securities.

Based on the present volume of Federal Reserve Bank activity, and on the direct and indirect costs incurred by the System, it is estimated that charges imposed for System services would result in revenue to the Federal Reserve of approximately $225 million annually in the first phase and about $410 million annually thereafter. The Federal Reserve does not anticipate imposing charges for governmental-type functions it performs, such as conducting bank examinations and monetary policy and certain activities associated with issuance and destruction of Federal Reserve notes.

Access to Federal Reserve Facilities. At present, Federal Reserve Banks maintain virtually no accounts for nonmember depository institutions. However, nonmember institutions may have access to Federal Reserve operated automated clearinghouse facilities (ACH's). Nonmember commercial banks may also deposit intra-regional checks and drafts at Federal Reserve regional check processing centers (RCPC's). When charges are imposed for payments services under the proposed program, the Federal Reserve would permit all nonmember depository institutions with third party payment powers to deposit intra-regional checks and drafts at RCPC's. Nonmembers would pay the same charges as member banks for services rendered by the Federal Reserve, and would continue to be required to settle through reserve accounts of member banks.

Once the proposed program has been fully implemented, and the Federal Reserve has evaluated the impact of the program on membership and on the functioning of the payments mechanism, the System expects to provide direct and full access for nonmember depository institutions to payments and other operational services provided by Federal Reserve Banks. Access would be provided on the basis of equality of treatment with respect to balances held by members and nonmembers; balances held by nonmembers would be equivalent to the reserve balances of members and such funds would receive similar compensation.

Compensation for Maintenance of Required Reserves. The third element in the Federal Reserve's proposed program relates to compensating member banks for the maintenance of required reserve balance with the Federal Reserve. Member banks are at a clear competitive disadvantage because nonmember banks generally may satisfy reserve requirements by holding interest bearing assets or balances that would be held in the ordinary course of business in any event, and this disadvantage contributes substantially to the erosion of membership. In order to reduce this inequality and to prevent further erosion in membership, the Federal Reserve believes it would be appropriate to compensate member banks by paying interest on required reserve balances. However, in no case would the amount of compensation paid to member banks after deducting service charges collected exceed 7 per cent of the net earnings of Reserve Banks (before payment of compensation). The Board will submit to Congress proposed legislation to formalize this limitation on the bank payment of interest on required reserve balances.

The Board proposes to phase in the payment of interest on required reserve balances of member banks concurrent with the imposition of charges for System services in accordance with the following schedule:

First phase: Payment of interest on all required reserve balances maintained at Federal Reserve Banks at a rate of 2 per cent per annum.

Second phase: Rate of interest payable would be increased to ½ percentage point below the average return on the Federal Reserve System portfolio, valued at book, for the first $25 million of required reserve balances at Federal Reserve Banks. Based on the 1977 return on the Federal Reserve portfolio, the rate of compensation on those balances would be 6 per cent per annum. The rate of interest payable on required balances held at Federal Reserve Banks in excess of $25 million would be 2 per cent per annum.

The Board estimates that interest payments to member banks would amount to about $430 million in the first phase and about $765 million annually thereafter, based on the current level of member bank deposits.

Effect on Treasury Revenues. Since 1947, the Federal Reserve has paid almost all of its net earnings to the United States Treasury. A portion of these earnings are attributable to the non-interest earning required reserve balances that member banks hold at Federal Reserve Banks. Nonmember institutions do not hold such balances and thus their reserve holdings are not a source of Treasury revenue. The program being proposed by the Board would substantially reduce this unequal "tax" borne by member banks. At the same time the Board recognizes the budgetary need to maintain Treasury revenues.

The Board estimates that adoption of the proposed program, in the absence of universal reserve requirements, would in itself

result in a cumulative net reduction in United States Treasury revenues on the order of $575 million over a transition period of, for example, about three years, until the program would be fully in place. To eliminate this anticipated loss of revenue during the transition period, the Federal Reserve would transfer an equivalent amount of its surplus to the Treasury. The Federal Reserve's program, therefore, would not result in any net reduction in the level of revenues received by the Treasury during the implementation period.

With the program fully in place, the net cost to the Treasury would be expected to be minimal, if there were any cost at all. Although Treasury revenues would be reduced by about $300 million per year as a consequence of the actions in this program, there would have been, in any case, a substantial decline of Treasury revenues in the absence of the program. At a minimum, if attrition in deposits subject to Federal Reserve reserve requirements continued over the next four years at the average rate of the recent past, Treasury revenues would be reduced by about $80 million in the fourth year and would increase further thereafter. If the rate of attrition were at the more rapid pace experienced in New England in recent years, the loss in Treasury revenues would be about $200 million by the fourth year. The program could be expected to reduce, if not eliminate, such attrition in deposits. There might even be a gain in Treasury revenues if the program succeeds in increasing membership. The gain in revenues would be more prononuced if Congress enacted the Board's proposed universal reserve requirement legislation.

Result of the Proposal

The Board believes that implementation of the program presented in this statement is essential to the continued maintenance of a sound financial system. Implementation of its various elements should result in an environment in which financial institutions can compete on a more equitable basis, should arrest the decline of bank membership in the Federal Reserve System, and should facilitate the implementation of monetary policy.

A bill to promote greater competitive equality among depository institutions and to place a limitation on the payment of interest on reserve balances held by member banks of the Federal Reserve System

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interest on Reserves Act of 1978."

Sec. 1. The Congress finds that a substantial inequality exists between banks that are members of the Federal Reserve System and other depository institutions as a result of the non-interest earning reserves that member banks are required to maintain. This requirement imposes a burden on those banks that are required to or voluntarily become members of the Federal Reserve System that is not similarly carried by other banks and depository institutions. In recent years the number of banks that have withdrawn from the System has increased substantially. As a result of this continuing decline in membership, the proportion of total commercial bank deposits held by member banks has declined significantly.

In order to assure the future viability of our nation's central banking system, to preserve the basis for efficient management of the nation's monetary policy, and to achieve greater equity among the nation's depository institutions, Congress finds necessary immediate action of the nature proposed by the Board of Governors for a comprehensive program aimed at reducing the current reserve burden borne by member banks of the Federal Reserve System. The Board's program contemplates, along with the payment, within appropriate limits, by Federal Reserve Banks of interest on reserves held by member banks, a restructuring of current reserve requirements within existing statutory ranges; adoption of explicit charges for services provided by the System to member banks and other depository institutions; and, during the program's implementation period, the transfer of a portion of Federal Reserve surplus to assure that the earnings returned by the System to the U.S. Treasury will not fall below present levels.

To further assure that the level of Federal Reserve System earnings returned to the United States Treasury will not be significantly impaired as a result of implementation of this program, the Congress finds appropriate the imposition of a limit on the amount of interest to be paid by the Federal Reserve System.

Sec. 2. Section 19(f) of the Federal Reserve Act (12 U.S.C. § 464), as amended, is amended by adding at the end thereof the following:

"The total amount of interest paid on balances maintained at all Federal Reserve Banks after deducting the total amount of charges imposed for services provided shall not exceed 7 percent of the total net earnings of the Federal Reserve Banks. The total amount of interest paid on balances shall not be included as an expense in determining total net earnings."

A bill to promote competitive balance among depository institutions, and to enhance the effectiveness of the Federal Reserve System

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Reserve Requirements Act of 1978."

TITLE I—RESERVE REQUIREMENTS OF MEMBER BANKS AND OTHER DEPOSITORY INSTITUTIONS

Sec. 101. The first section of the Federal Reserve Act, as amended (12 U.S.C. § 221), is amended by adding at the end thereof the following new paragraphs:

"The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act; and

"(6) any insured institution as defined in section 401 of the National Housing Act.

"The term 'transaction account' means a deposit or account on which the depositor or account holder is allowed to make withdrawals by negotiable or transferable instrument or other similar item for the purpose of making payments to third persons or others. Such term includes demand deposit, negotiable order of withdrawal and share draft accounts."

Sec. 102. Section 19(a) of the Federal Reserve Act, as amended (12 U.S.C. § 461), is amended by adding at the end thereof the following: "In order to prevent evasions of the reserve requirements imposed by this Act, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Administrator of the National Credit Union Administration, the Board of Governors of the Federal Reserve System is further authorized to determine, by regulation or order, that an account or deposit is a transaction account where such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.".

Sec. 103. The last sentence of subsection (b) of section 19 of the Federal Reserve Act, as amended, (12 U.S.C. § 461), is designated as paragraph (7) and that part of subsection (b) that precedes that sentence is amended to read as follows:

"(b)(1) Except as provided in paragraph (4), every depository institution as defined in section 1 of the Federal Reserve Act, as amended (12 U.S.C. § 221), shall maintain reserves against its demand deposits at such ratio of not less than 7 per centum nor more than 22 per centum, as shall be determined by the Board.

"(2) Except as provided in paragraph (4), every depository institution as defined in section 1 of the Federal Reserve Act, as amended (12 U.S.C. § 221), shall maintain reserves which shall be at the same level for all depository institutions against all other transaction accounts at such average ratio of not less than 3 per centum nor more than 12 per centum, as shall be determined by the Board.

"(3) Every member bank shall maintain reserves against its time deposits and savings deposits (other than negotiable order of withdrawal accounts) at such average ratio of not less than one-half per centum nor more than 10 per centum, as shall be determined by the Board.

"(4) A total of $5,000,000 of transaction accounts of a depository institution shall not be subject to the reserve requirements of this section, subject to such rules and regulations as may be adopted by the Board. However, the Board may impose reserve requirements on such transaction accounts at such average ratio of up to 7 per cent if determined to be appropriate in light of general liquidity, considerations of monetary policy, or other relevant conditions prevailing in the banking system.

"(5) Every depository institution as defined in section 1 of the Federal Reserve Act (12 U.S.C. § 221) shall make reports concerning its deposit liabilities and required reserves at such times and in such manner and form as the Board may require.

"(6)(a) For purposes of determining the reserve requirements of a depository institution established after June 30, 1978 which is an affiliate of a depository institution subject to the reserve requirements of this section, the transaction accounts of such newly established depository institutions shall be added to the total transaction accounts of such affiliated depository institution.

"(b) In addition to its authority under section 19(a), the Board is authorized to determine, by regulation or order, the affiliated depository institution to whose transaction accounts the transaction accounts of a depository institution established after June 30, 1978 shall be added for purposes of this provision.".

Sec. 104. With respect to any depository institution that is not a member of the Federal Reserve System on June 30, 1978, the required reserves imposed pursuant to subsection (a) against its transaction accounts on the effective date of this Act shall be reduced by 75 per centum during the first year that begins after the effective date, 50 per centum during the second year, and 25 per centum during the third year.

Sec. 105. (a) Section 19(c) of the Federal Reserve Act, as amended (12 U.S.C. § 461) is amended to read as follows: "Reserves held by any depository institution to meet the requirements imposed pursuant to subsection (b) of this section shall be in the form of—

"(1) balances maintained for such purposes by such depository institution in the

Federal Reserve bank of which it is a member or at which it maintains an account. However, the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves against their transaction accounts in the form of vault cash: Provided, That such proportion shall be identical for all depository institutions; and

"(2) balances maintained by a nonmember depository institution in a member bank or in a Federal Home Loan Bank: Provided, That such member bank or Federal Home Loan Bank maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a member bank from another depository institution that are used to satisfy the reserve requirements imposed on such depository institution by this section shall not be subject to the reserve requirements of this section imposed on such member bank and shall not be subject to assessment imposed on such member bank pursuant to section 7 of the Federal Deposit Insurance Act, as amended (12 U.S.C. § 1817).".

"(b) Section 19(f) of such Act, as amended (12 U.S.C. § 464), is amended by deleting "member bank" and inserting in lieu thereof "depository institution.".

TITLE II—CONFORMING AMENDMENTS EFFECTIVE DATE

SEC. 201. Section 5A of the Federal Home Loan Bank Act, as amended (12 U.S.C. § 1425a), is amended by redesignating subsection (f) as subsection (g) and by inserting before such subsection, as redesignated, the following new subsection:

"(f) Every institution which is a member or is an insured institution as defined in section 401(a) of title IV of the National Housing Act (12 U.S.C. § 1724(a)) shall maintain reserves against its transaction accounts as defined in section 1 of the Federal Reserve Act (12 U.S.C. § 221) in accordance with the provisions of section 19 of the Federal Reserve Act (12 U.S.C. § 461) in amounts not less than such percentages of its aggregate amounts of such deposits or accounts as may be prescribed under section 19(b) of the Federal Reserve Act (12 U.S.C. § 461) by the Board of Governors of the Federal Reserve System.".

SEC. 202. Section 116 of the Federal Credit Union Act, as amended (12 U.S.C. § 1762), is amended by adding at the end thereof the following new subsection:

"(c) Each insured credit union shall maintain reserves against its transaction accounts as defined in section 1 of the Federal Reserve Act (12 U.S.C. § 221) in accordance with the provisions of section 19 of the Federal Reserve Act (12 U.S.C. § 461) in amounts not less than such percentages of its aggregate amounts of such deposits or accounts as may be prescribed under section 19(b) of the Federal Reserve Act (12 U.S.C. § 461) by the Board of Governors of the Federal Reserve System.".

SEC. 203. (a) The first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. § 342) is amended as follows:

(1) by inserting after the words "member banks" the words "or other depository institutions".

(2) by inserting after the words "payable upon presentation" the first and third times they appear, the words "or other items, including negotiable orders of withdrawal or share drafts".

(3) by inserting after the words "payable upon presentation within its district," the words "or other items, including negotiable orders of withdrawal or share drafts".

(4) by inserting after the words "nonmember bank or trust company," wherever they appear the words "or other depository institution".

(5) by striking the words "sufficient to offset the items in transit held for its account by the Federal reserve bank" and inserting in lieu thereof the words "in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve bank, and other factors as the Board may deem appropriate".

(6) by inserting after the words "nonmember ban" after the second colon, the words "or other depository institution".

(b) The thirteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. § 360) is amended as follows:

(1) by striking out the words "member banks" wherever they appear and inserting in lieu thereof "depository institutions".

(2) by striking out the words "member bank" wherever they appear and inserting in lieu thereof "depository institution".

(3) by inserting after "checks" wherever it appears the words "and other items, including negotiable orders of withdrawal and share drafts".

(c) The fourteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. § 248(o)) is amended by striking out "its member banks" and inserting in lieu thereof "depository institutions".

SEC. 204. The provisions of this Act shall become effective one year after the date of enactment.

SECTION BY SECTION SUMMARY

Section 101 defines the term "depository institution" to include every Federally insured commercial bank, mutual savings bank, credit union, and savings and loan associations. The term "transaction account" is also defined as a deposit or account on which negotiable or transferable instruments are drawn for the purpose of making payments. The term includes negotiable order of withdrawal accounts and share draft accounts.

Section 102 authorizes the Board, after consultation with the other agencies to determine that an account or deposit used directly or indirectly make payments to third parties is a transaction account.

Section 103 imposes demand deposit reserve requirements on every depository institution at average ratios of 7–22 per cent as determined by the Board and eliminates the concept of reserve cities.

Every depository institution is required to maintain reserves against all other transaction accounts at ratios of 3–12 per cent as determined by the Board.

Every member bank must maintain reserves against its time and savings deposits at ratios between ½–10 per cent as determined by the Board.

Five million dollars of a depository institution's transaction accounts are not subject to reserve requirements. However, the Board may impose reserve requirements of up to 7 per cent on such accounts if determined to be appropriate in light of general liquidity, monetary policy, or other relevant conditions.

All depository institutions subject to the Act are required to make reports to the Board concerning their deposit liabilities.

The transaction accounts of a depository institution established after June 30, 1978 shall be added to the transaction accounts of an affiliated depository institution in order to determine the reserve requirements of the new depository institution.

Section 104 provides a transition period of four years in order to phase-in reserve requirements of nonmember depository institutions against transaction accounts existing on the effective date of the Act.

Section 105 requires that reserves shall be maintained in the form of balances at a Federal Reserve Bank or vault cash, or portion thereof, as determined by the Board. Reserve balances may also be maintained by a member depository institution in a member bank or a Federal Home Loan Bank provided such institution passes through the balances to a Federal Reserve Bank. Such funds shall not be subject to reserve requirements or Federal deposit insurance assessment.

Section 201 requires Federally insured savings and loan associations to maintain reserves against transaction accounts.

Section 202 requires Federally insured credit unions to maintain reserves against transaction accounts.

Section 203 amends the Federal Reserve Act to provide clarifying technical amendments to the check clearing and settlement provisions of the Federal Reserve Act and to require the maintenance of balances by depository institutions using Federal Reserve services.

Section 204 provides that the Act shall be effective one year after date of enactment.

By Mr. GLENN:

S.J. Res. 146. A joint resolution to authorize and request the President to proclaim October 7, 1978, as "National Guard Day;" to the Committee on the Judiciary.

NATIONAL GUARD DAY

● Mr. GLENN. Mr. President, today I am pleased to introduce a resolution giving justly deserved recognition to the National Guard for their 342 years of service to this Nation by designating October 7, 1978, as "National Guard Day." Over the years the National Guard has continued to symbolize the role of the citizen-soldier which began long ago with the formation of the units of the local militia in the 13 colonies. These citizens are prepared to go when a need arises—to their country's defense in time of war, or their community's aid in times of local emergency disaster.

Under the "total force" concept, active since 1971, military reserve forces, including the National Guard, become the primary source of ready support in the event of an armed confrontation. This is an important responsibility. Yet as a result of the end of the draft the National Guard is having serious problems enlisting and maintaining the personnel needed to meet the authorized strength necessary for effective performance of its mission.

I believe it highly desirable, Mr. President, to commemorate the dedication of the Guard on October 7, their 342d birthday. In addition I believe that this recognition would serve to make all Americans aware of the valuable contribution of the Guard in their local communities and in defense of the country as a whole. Hopefully a better understanding and appreciation of the Guard's role would serve to increase the interest of other citizens in contributing their time and talents to service in the National Guard.

I hope my colleagues will join me in signaling their recognition of the dedication of our citizen-soldiers.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 146

Whereas on October 7, 1636, several local militia units of the Massachusetts Bay Col-

ony were organized into the first militia regiment which became the forerunner of the modern National Guard;

Whereas today the National Guard consists of nearly 400,000 volunteer soldiers and airmen serving in approximately 4,000 units located in each of the fifty States, the Commonwealth of Puerto Rico, the Virgin Islands, and the District of Columbia;

Whereas during the 342 years of its existence, the National Guard and its predecessors have served with distinction in every conflict from the Revolutionary War to the Vietnam War, and today remains the primary backup force for the Army and Air Force of the United States;

Whereas the Nation owes a debt of gratitude to the citizen-soldiers and airmen who have served in the past and stand prepared to defend the United States in the future: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating October 7, 1978, as "National Guard Day", and calling upon the people of the United States and interested groups and organizations to observe such day with appropriate ceremonies and activities.

ADDITIONAL COSPONSORS

S. 3003

At the request of Mr. MELCHER, the Senator from Tennessee (Mr. BAKER) was added as a cosponsor of S. 3003, the Rural Electrification Act Amendments of 1978.

S. 3272

At the request of Mr. TALMADGE, the Senator from Kentucky (Mr. HUDDLESTON) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 3272, a bill to amend the Packers and Stockyards Act, 1921, to authorize value based tariffs.

S. 3284

At the request of Mr. HEINZ, the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 3284, the Free and Fair Trade in Procurement Act of 1978.

S. 3293

At the request of Mr. MELCHER, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 3293, a bill to provide that the Amtrak route system in effect on January 1, 1978, shall not be modified or restructured prior to October 1, 1979, and for other purposes.

SENATE RESOLUTION 516—SUBMISSION OF A RESOLUTION TO OBSERVE CAPTIVE NATIONS WEEK

Mr. DOLE (for himself, Mr. CASE, Mr. GARN, and Mr. DOMENICI) submitted the following resolution, which was referred to the Committee on Foreign Relations:

S. RES. 516

Whereas, Public Law 86-90 authorizes the third week in July to be designated Captive Nations Week; and

Whereas the United Nations has supported and reaffirmed the right of national determination of all peoples suffering under the domination of occupying powers; and

Whereas Section VIII of Basket I of the Final Act of the Conference on Security and Cooperation in Europe affirms the right of peoples to national self-determination; and

Whereas the Final Act was approved by the Heads of State of 35 European and North American nations, including the Head of State of the Soviet Union whose armies occupy the territories of East European nations and impose governments and political systems on those nations which frustrate their aspirations to independence and liberty; and

Whereas the actions of citizen Monitoring Groups dedicated to the implementation of the Helsinki Agreement indicate continued support for the principles of national self-determination and human rights: Therefore, be it Resolved, That it is the sense of the Senate that: in keeping with the spirit of P.L. 86-90, the Final Act of the Conference on Security and Cooperation in Europe and the expressed sentiments for self-determination of representatives of the peoples from the Captive Nations, the United States continue to support the cause of freedom, independence and human rights in all nations of the world and urge the citizens of the United States to observe Captive Nations Week with appropriate ceremonies, prayers, and activities.

CAPTIVE NATIONS WEEK

● Mr. DOLE. Mr. President, I rise to submit a resolution concerning the vital issue of human rights and national self-determination.

A HISTORY OF SUBJUGATION

In the last few weeks we have been the unwilling witnesses to a whole series of trials in the Soviet Union designed to smother the efforts of brave men and women to secure their rights as human beings. While the trials have focused attention on a small group of activists who have fallen victim to the merciless policies of a powerful police state, we must remind ourselves that really what we have seen in the last few weeks is just business as usual for the Soviet Union. The denial of human rights first occurred in 1917 in Russia, then in 1920 in Ukraine, Armenia, Azerbaijan, Byelorussia, Cossakia, Georgia, Idel-Ural, North Caucasia, Turkestan, and Mongolia. In 1940 the three valiant Baltic States, Estonia, Latvia, and Lithuania were invaded by the Soviet Union and denied their rights as independent nations. Following World War II, the nations of Eastern Europe—Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania, and Yugoslavia were "liberated" from the Fascists by Soviet troops, who installed a political system on those nations that systematically denies its citizens generally accepted liberties and rights. Since World War II various other nations of Asia, Africa, and South America have also come under Communist domination. In each of these countries basic freedoms are denied the citizens.

HUMAN RIGHTS AND NATIONAL SELF-DETERMINATION

Captive Nations Week focuses attention on the plight of those nations where basic rights are denied and reminds us that the principles of human rights and national self-determination are related. Only in those countries where citizens can participate in the determination of the destiny of their own nation can human rights be guaranteed. In each of the nations I listed, citizens must serve the interest of an ideology that is destructive of human rights and hostile to national traditions and cultural heritage. The trials of Vladimir Slepak and Ida Nudel indicate total disregard for the rights of a religious minority, the trials of Anatoly Scharansky and Alexandr Ginzburg show Soviet hostility to basic human rights, while the trial of Viktoras Petkus in Lithuania demonstrates the determination of Soviet authorities to destroy the age-old cultures of nations like Lithuania, Estonia, Latvia, Georgia, Ukraine, and others that suffer under Soviet occupation. These dramatic incidents are indicative of a basic philosophy that has poisoned the national life of Czechoslovakia, Romania, Poland, and other nations of Eastern Europe as well as those within the U.S.S.R.

CAPTIVE NATIONS WEEK A VITAL OBSERVANCE

Captive Nations Week is a vital observance that reminds us of the precious freedom we enjoy in this country. At the same time, it reminds us of the responsibility Americans have to help those nations that struggle for the right to national self-determination, which is the only way toward genuine observance of personal liberties and human rights. Let us all take time this week to remember those principles on which our Nation is based and toward which so many other nations strive. Let us resolve to continue our support with actions as well as words of those who struggle to secure basic rights for their countries. This desire for liberty and independence is the best check on irresponsible and illegitimate use of power and, therefore, a powerful deterrent to war and one of the best hopes for a just and lasting peace. In that spirit therefore, I submit this resolution.●

AMENDMENTS SUBMITTED FOR PRINTING

POSTAL SERVICE AMENDMENTS ACT OF 1978—S. 3229

AMENDMENT NO. 3241

(Ordered to be printed and referred to the Committee on Governmental Affairs and the Committee on Commerce, Science, and Transportation, jointly.)

Mr. FORD submitted an amendment intended to be proposed by him to S. 3229, a bill to amend title 39 of the United States Code to improve the organizational structure of the U.S. Postal Service, to provide authorizations for funds to maintain the public service functions of the U.S. Postal Service, to provide a reduced rate for certain individuals, and for other purposes.

(The remarks of Mr. FORD when he submitted the amendment appear elsewhere in today's proceedings.)

LEGISLATIVE APPROPRIATIONS—1979—H.R. 12935

AMENDMENT NO. 3242

(Ordered to be printed and referred to the Committee on Appropriations.)

Mr. CHAFEE (for himself, Mr. HELMS, Mr. DANFORTH, Mr. ROTH, Mr. PROXMIRE, Mr. DECONCINI, and Mr. LUGAR) submitted an amendment intended to be proposed by them, jointly, to H.R. 12935, an act making appropriations for the legislative branch for the fiscal year ending

September 30, 1979, and for other purposes.

RESCIND FUNDS FOR THE PHILIP A. HART SENATE OFFICE BUILDING

● Mr. CHAFEE. Mr. President, today I am submitting an amendment to the legislative appropriations bill (H.R. 12935) which would rescind all unexpended funds previously appropriated for construction of the Philip A. Hart Senate Office Building.

I take this action, because there has been no movement yet on my original resolution, introduced in April, which called for a halt to construction of the building.

With expensive construction moving forward, the time has clearly come when we must make a decision on this outrageous project. The public is waiting.

I recognize that some could argue that this amendment constitutes legislation on an appropriation bill and, therefore, could be subject to a point of order on the floor. For that reason, I am submitting the amendment today, so it can be referred to the Appropriations Committee, which is currently reviewing the bill.

A rescission such as this can clearly be added by the committee to the bill and reported without making it subject to a point of order. But if the committee does not act favorably on my amendment, I shall certainly propose language similar to this when the bill comes to the floor, which might happen next week.

If the issue of legislation on an appropriation bill is raised then, I shall argue that this amendment is germane to the bill. I say that because this is really the only legislation we consider annually that pertains to the workings of the Congress. On three occasions in the past 6 years the Senate has authorized money for this third Senate office building. On each occasion, that authorization has occurred in an appropriations bill.

Hence, this bill is the most logical spot to join this issue. Should the Senate sidestep the issue through a vote on a point of order, I would point out that I shall bring it back on the floor on the next available authorization bill. The public deserves a clear up or down vote on whether we want to spend $200 million of their money on our comfort.

That is really what we are talking about here—increasing our comfort within an ever-growing monster that we just continue to feed. I am talking about the monster of our own bureaucracy.

Our legislative budget has tripled, and our staff has doubled within the past decade. When the staff assembled to meet the needs of 100 people reaches 6,500 people, as it has now, the time has come to draw the line, not create more space for more people.

In the early 1950's, one office building met the needs of 96 Senators very nicely. Since then, we have built another comparably sized building, started work on a third that is as big as the other two combined—and added four Senators. Either those four Senators required a remarkable amount of space, or we are letting this bureaucracy get away from us.

If this third building is completed, we will fill it immediately and start finding ways to need a fourth. Staff expands to fill the space available.

Let us look at the cost of this absolutely amazing building we are constructing for ourselves. The current estimate is $122 million, but the Senate Office Building Commission has already heard from the General Accounting Office that this figure is unrealistically low.

Just look at the track record of this building's cost estimates—they have gone up 150 percent in 6 years. At that kind of rate, we can expect our palace to have cost about $213 million by the time it opens in 1981.

Just as troubling, however, are the hidden, indirect costs associated with this project, the kind of costs no one has yet even estimated.

If the Hart Building is completed, 50 Senators will be moving into it. The Architect of the Capitol then intends to reconstruct the interior of the two existing office buildings, so that the other 50 Senators can obtain offices double the current size. But there has been no cost estimate made of that enormous follow-up project.

If the Hart Building is completed, it will have to be furnished. These ever-growing cost estimates we are looking at now do not even include furnishings.

If the Hart Building is completed, I am sure we will say that we need more policemen to guard it, more people to clean it, more craftsmen to repair it—all the services a palace of 25 acres requires.

Is it really that expensive a building, compared to any other quality office building? Well, during the past week IBM announced plans for a spectacular new 41-story office building in the middle of Manhattan, where construction costs are astronomical. The cost: $75 million.

Remember the concern about the cost of the new FBI building here in Washington? Well, it is twice as big as the planned Hart Building—and it cost about the same as the current estimate of $122 million.

If Congress intends to tell Federal agencies and departments—along with the people of this Nation—to tighten their belts in the fight against inflation, then the Senate must be willing to strike the first blow and set an example.

The public is waiting to see now, after we have diligently cut programs that affect them, how we respond to an outrageously expensive project that coddles and comforts only us. Let us cut our losses and stop this building now.

Mr. President, I wish to say a word of appreciation to the Members who have joined with me in sponsoring this legislation—Senators HELMS, DANFORTH, ROTH, PROXMIRE, and DECONCINI.

I know that each is as concerned as I am about demonstrating in a clear way to the American public that Congress is serious about tightening our belt. I would, of course, welcome the cosponsorship of others of my colleagues.

Mr. President, I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3242

On page 17 after, line 9, insert the following:

"HART SENATE OFFICE BUILDING

"All appropriations remaining to the Architect of the Capitol as provided in Public Law 92-607, Public Law 93-245, and Public Law 93-554 for constructing and equipping the Philip A. Hart Office Building (also identified as the extension of the New Senate Office Building and of the Dirksen Senate Office Building) but not expended as of the date of enactment of this Act, are hereby rescinded." ●

ENDANGERED SPECIES ACT AMENDMENTS—S. 2899

AMENDMENTS NOS. 3243 AND 3244

(Ordered to be printed and to lie on the table.)

Mr. WEICKER submitted two amendments intended to be proposed by him to S. 2899, the Endangered Species Act Amendments of 1978.

NOTICES OF HEARINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Senate Committee on Energy and Natural Resources.

The hearing is scheduled for Tuesday, July 18, 1978, beginning at 8 a.m. in room 3110, Dirksen Senate Office Building. Testimony is invited regarding the House amendments to S. 2821, a bill to authorize appropriations for certain insular areas of the United States, and for other purposes.

For further information regarding the hearings you may wish to contact Jim Beirne of the committee staff on extension 42564. Those wishing to submit written testimony for the hearing record should write to room 3106, Dirksen Senate Office Building, Washington, D.C., 20510.●

INTERSTATE TAXATION ACT—S. 2173

● Mr. MATHIAS. Mr. President, I wish to announce that public hearings will be held by the Committe on the Judiciary on S. 2173, the interstate taxation bill of 1977. This legislation provides for Federal judicial review of the application of jurisdictional guidelines for State taxation of interstate commerce and for apportionment among the States of income received from interstate commerce. The hearings will be held on July 19 and 20, 1978 in hearing room D of the State capitol in Columbus, Ohio.

Those who wish to testify or submit a statement for inclusion in the record should communicate as soon as possible with the committee office, 2226 Dirksen Senate Office Building, telephone (202) 224-5225.●

SUBCOMMITTEE ON PARKS AND RECREATION

Mr. ABOUREZK. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Parks and Recreation Subcommittee of the Energy and Natural Resources Committee.

The hearing is scheduled for July 21 beginning at 9 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding the following sections of H.R. 12536, as passed by the House of Representatives:

LIST OF SECTIONS

Sec. 101(6). Cape Lookout National Seashore, North Carolina.
Sec. 101(21). Piscataway Park, Maryland.
Sec. 101(25). Redwood National Park, California.
Sec. 201(1). Apostle Islands National Lakeshore.
Sec. 301(13). Monocacy National Battlefield, Maryland.
Sec. 310. Dorchester Heights, addition to the Boston National Historical Park.
Sec. 311. Sailors Snug Harbor, addition to Gateway National Recreation Area.
Sec. 312. Adams National Historic Site.
Sec. 319. Antietam National Battlefield.
Sec. 320. Chesapeake and Ohio Canal National Historical Park.
Sec. 322. Alibates Flint Quarries and Texas Panhandle Pueblo Cultural National Monument.
Sec. 324. Cumberland Island National Seashore, Georgia.
Sec. 511. Ebey's Landing National Historical Park.
Sec. 513. Thomas Stone National Historic Site.
Sec. 601. Old Faithful Inn, Yellowstone National Park.
Sec. 606. Potential Park Unit Studies.
Sec. 607. New Area Studies, General Management Plans, and Contracts.
Sec. 609. Appropriate Agency Procedures.
Sec. 610. Land and Water Conservation Fund Accomplishments Reporting Date.
Sec. 614. Theodore Roosevelt Inaugural National Historic Site.

For further information regarding the hearing, you may wish to contact Laura Beaty at 224–7144.

Those wishing to testify or who wish to submit a written statement for the record should write to the Parks and Recreation Subcommittee, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. JACKSON. Mr. President, for the information of the Senate and the public, I would like to insert in the RECORD a schedule of hearings and business meetings of the Committee on Energy and Natural Resources.

The schedule follows:

Listed below is the current program of the Senate Committee on Energy and Natural Resources as it is presently scheduled. This program is subject to change, and a notice of the meetings and any changes will be subject to change, and a notice of the meetings and any changes will be communicated to each member of the Committee, the Congressional Record, and the Senate Press, Radio and TV offices. Questions concerning the schedule should be directed to Avis O'Leary, 3106 Dirksen Senate Office Building, Washington, D.C. 20510. Telephone 224–7142.

July 17, full committee, 10 a.m., room 3110, hearing, S. 2999 and S. 2623, legislation re enhanced oil recovery.

July 18, full committee, 8 a.m., room 3110, hearing, House amendments to S. 2821, to authorize grants to the government of Guam for construction of public facilities, and other purposes.

July 18, full committee, 9 a.m., room 3110, business meeting, to continue markup on Alaska D–2 lands legislation.

July 18, House-Senate conference, 2 p.m., room 3110, conference, S. 9, Outer Continental Shelf bill.

July 19, full committee, 9 a.m., room 3110, business meeting, to continue markup on Alaska D–2 lands legislation.

July 19, House-Senate conference, 2 p.m., room 3110, conference, S. 9, Outer Continental Shelf bill.

July 20, full committee, 9 a.m., room 3110, business meeting, to continue markup on Alaska D–2 lands legislation.

July 20, House-Senate conference, 2 p.m., room 3110, conference, S. 9, Outer Continental Shelf bill.

July 21, Parks and Recreation Subcommittee, 9 a.m., room 3110, hearing, H.R. 12536, Omnibus Parks bill.

July 24 and 25, Energy Production and Supply Subcommittee, 10 a.m., room 3110, hearing, S. 3078, to contain and reduce potential radiation exposure from residual radio active materials.

July 26, Parks and Recreation Subcommittee, 10 a.m. room 3110, hearing, H.R. 12536, Omnibus Parks bill.

July 27, full committee, 9 a.m., room 3110, business meeting, pending calendar business.

July 28, full committee, 9 a.m., room 3110, business meeting, pending calendar business.

July 31, Parks and Recreation Subcommittee, 9 a.m., room 3110, hearing, H.R. 12536, Omnibus Parks bill.

August 1, Public Lands and Resources Subcommittee, 10 a.m., room 3110, hearing, S. 2590, to amend certain provisions of law relating to land claims by U.S. in Riverside, California; S. 2774, to extend the boundaries of the Toiyabe National Forest in Nevada.

August 2, full committee, 9 a.m., room 3110, business meeting, pending calendar business.

August 3, full committee, 9 a.m., room 3110, business meeting, pending calendar business.

August 4, Parks and Recreation Subcommittee, 9 a.m., room 3110, hearing, H.R. 12536, Omnibus Parks bill.

August 7, Public Lands and Resources Subcommittee, 10 a.m., room 3110, hearing, S. 2475 and H.R. 10587, to improve range conditions of the public grazing lands.

August 8 and 9, Energy Research and Development Subcommittee 10 a.m., room 3110, hearing, S. 2533, to provide for the use of alcohol produced from renewable resources as a motor vehicle fuel.

August 10, Parks and Recreation Subcommittee, 8:00 a.m., room 3110, hearing, S. 2560, relating to the Indiana Dunes National Lakeshore.

August 14, Energy Research and Development Subcommittee, 10 a.m., room 310, hearing, S. 2860, feasibility of collecting in space solar energy for generation of electricity.

August 15, full committee, 9 a.m., room 3110, business meeting, pending calendar business.

August 16, full committee, 9 a.m., room 3110, business meeting, pending calendar business.

August 18, Parks and Recreation Subcommittee, 10 a.m., room 3110, hearing, H.R. 12536, Omnibus Parks bill.

ADDITIONAL STATEMENTS

U.S. COURT OF APPEALS DECISION IN THE CASE OF RONALD R. HUTCHINSON VERSUS WILLIAM PROXMIRE AND MORTON SCHWARTZ

● Mr. ROBERT C. BYRD. Mr. President, on April 27, 1977, I was pleased to report to the Senate that the district court for the western district of Wisconsin had upheld congressional immunity under the Speech or Debate clause in the case of Hutchinson against Proxmire. I am again pleased to report that that case has been affirmed by unanimous decision of the U.S. Court of Appeals for the Seventh Circuit on June 30, 1978, and again on broad constitutional grounds.

The Senate will recall that this action stems from a floor speech by the Senator from Wisconsin, Mr. PROXMIRE, announcing a "Golden Fleece" award to three Government agencies for funding of a research project on the causes of animal and human aggression. Contemporaneous with the speech, Senator PROXMIRE issued a press release which was in essence the same as the speech. The recipient of the Federal funding brought an $8 million dollar defamation action against the Senator and his aide, Morton Schwartz, charging libel and slander in the investigation of this matter, the press release, two newsletters to constituents reporting the Senator's actions, and for followup calls to the agencies inquiring about further funding in light of the disclosures.

Because of our concern over the erosion of congressional immunity in recent actions brought by the executive branch, the Senate authorized the hiring of independent counsel, Alan Raywid, to defend Senator PROXMIRE and his aide. Mr. Raywid filed to dismiss or alternatively for summary judgment principally on the basis of speech or debate immunity and filed in support a full evidentiary record of why such activity was within the realm of legitimate legislative activity, particularly the investigative and informing functions of Congress. The district court in a detailed opinion held that congressional immunity under the speech or debate clause protected against suit for most of the activity and as to the remainder, the Senator's conduct, as with any citizen, was protected by first amendment rights to criticize public spending. The court of appeals has now affirmed that decision and added its own clarification of speech or debate immunity.

The appeals court held that the press release, which was the same as the speech, was within legitimate legislative activity under the informing function of Congress, explaining:

> Given the enormous amount of material addressed by Congress each day, strategic press releases may serve to alert a representative's colleagues about a matter of particular importance as well as to inform the appropriate federal agencies and the public who can then comment on proper legislative action.

The court similarly found congressional immunity applicable to the newsletter, reasoning:

> Denying a representative protection for newsletters to his constituents in circumstances such as this would effectively isolate the legislator from the people who elected him.

After carefully examining the extensive evidentiary submission, this court has given full account and understanding of how the Congress functions and why it is necessary to protect its access

to constituents, colleagues and the public through adequate means of communication.

This recognition of the informing function of Congress had not so clearly been set out before and, indeed, had been clouded by dicta in decisions suggesting limitations on congressional immunity. The court further held that investigation by the Senator's aide was equally immune as if performed by the Senator himself, and when the subject of the investigation was one on which the Congress could legislate Finally, athough withholding immunity for press interviews by the Senator and for follow-up calls by his aides, the court gave his conduct first amendment protection and granted summary judgment.

I believe the opinion in Hutchinson against Proxmire has helped to explain the functions of Congress and to remove, at least in part, the threat of coercive litigation which tends to impede the full exercise of those functions. I further believe that by upholding the informing function of Congress, representative democracy is enhanced for free and uninhibited exchange among legislators and between legislators and their constituents is an essential ingredient of our elected representative system.

Mr. President, because of the importance of this case to the Senate, I submit for the RECORD a copy of the decision by the U.S. Court of Appeals for the Seventh Circuit as well as the letter transmitting this decision to Senator PROXMIRE by the attorney hired by the Senate to represent him.

The material follows:

COLE, ZYLSTRA & RAYWID,
Washington, D.C., July 5, 1978.

Re Hutchinson v. Proxmire.
Hon. WILLIAM PROXMIRE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR PROXMIRE: I am pleased to transmit to you the decision of the U.S. Court of Appeals for the Seventh Circuit in *Hutchinson v. Proxmire,* which affirms the District Court's opinion granting summary judgment in your favor.

In affirming the lower court's opinion, the Seventh Circuit has clarified and defined that legitimate legislative activity—the necessary touchstone for speech or debate immunity—embraces newsletters and press releases when the subject matter of such communications deal with public spending and issues with which the Congress is intimately involved.

The Court also affirmed summary judgment on First Amendment grounds concerning your interviews for radio and television, and your aide's follow-up calls to the agencies concerning the disclosures of information obtained in his investigation.

No one enjoys being sued. However, in my view, this decision and the full and patient efforts you have contributed in explaining the purpose of your action within the informing function of Congress has done much to advance Congressional immunity and clarify the breadth and scope of a Congressman's right to advise his colleagues and his constituents through press release and newsletter of matters pending before the Congress. I extend to you and to Morton Schwartz my heartiest congratulations and wish to express my pleasure in working with you on this matter.

Unless petition is sought before the Supreme Court, the decision becomes final within 90 days.

Best personal regards,
Respectfully yours,

ALAN RAYWID.

Enclosure.

[In the United States Court of Appeals for the Seventh Circuit (Nos. 77–1677 and 77–1755)]

Ronald R. Hutchinson, *Plaintiff-Appellant,* *v.* William Proxmire and Morton Schwartz, *Defendants-Appellees.*

Appeal from the United States District Court for the Western District of Wisconsin. No. 76-C-257.

George N. Leighton, *Judge,* Northern District of Illinois, sitting by designation.

ARGUED JANUARY 9, 1978—DECIDED JUNE 30, 1978

Before CASTLE, *Senior Circuit Judge,* WOOD, *Circuit Judge,* and EAST, *Senior District Judge.**

CASTLE, *Senior Circuit Judge.* This civil suit against a United States Senator and his legislative aide for damages arising from one of the Senator's monthly "Golden Fleece" awards involves the interplay of the immunities provided by the Speech or Debate Clause and the first amendment. The issues on appeal are (1) whether the alleged activities of the congressional defendants were within the legitimate legislative sphere and thus absolutely immune from suit and (2) to the extent those activities are not absolutely protected by the Speech or Debate Clause, whether the statements complained of are protected by the qualified privilege of the first amendment. The district court found that the combination of the absolute and qualified immunities completely shielded the defendants and granted their motion for summary judgment. We affirm.

I.

The facts as alleged by plaintiff are fully stated in the opinion below. *Hutchinson v. Proxmire,* 431 F. Supp. 1311 (W.D. Wis. 1977), and will be briefly summarized here. Defendant William Proxmire is a United States Senator from Wisconsin who serves on the Senate Committee on Appropriations. In March, 1975, Senator Proxmire announced in a speech on the Senate floor that he was establishing his "Golden Fleece of the Month Award" the aim of which was to point out examples of wasteful government spending. Senator Proxmire's legislative aide, Morton Schwartz, was assigned to identify and investigate possible "Fleece" candidates.

After a review of agency documents and discussions with the various agencies' officials, the defendants decided they would give a Golden Fleece award to the National Science Foundation (NSF), the Office of Naval Research (ONR), and the National Aeronautics and Space Administration (NASA) for spending $500,000 to fund research by plaintiff Dr. Ronald Hutchinson into the causes of animal and human aggression. Defendants delivered a press release to the Senate Service Department on April 15, 1975 for release April 18 which, in essence, was the text of a speech scheduled to be given before the Senate by Senator Proxmire on April 18.[1] In his speech, Senator Proxmire characterized the research as merely studying why "rats, monkeys and humans bite and clench their jaws." Also on or about April 15, 1975, Schwartz telephoned Dr. Hutchinson to inform him of the upcoming award and to verify the information contained in the speech. In rebuttal, Dr. Hutchinson then issued his own press release also dated April 18, 1975. In May, 1975, Senator Proxmire sent approximately 100,000 newsletters to his constituents and others summarizing the Golden Fleece Award.[2] Later in 1975, in addition to other interviews, Senator Proxmire appeared on a Milwaukee radio show and the Mike Douglas television show to discuss the Golden Fleece Awards including the one given to NSF, ONR, and NASA.[3] Following the April 18, 1975 announcement of the award, plaintiff alleges defendant Schwartz made several followup phone calls to NSF, ONR, and the National Institute of Drug Abuse (NIDA), and possibly other agencies, encouraging them to terminate the funding of Dr. Hutchinson's research.

Dr. Hutchinson filed this action seeking $8,000,000 in damages for injury to his reputation, for physical illness, mental distress, invasion of privacy, and loss of existing and prospective economic advantage. Defendants, claiming immunity from suit, moved for summary judgment and filed numerous supporting documents. Plaintiff opposed the motion with equally voluminous documentation. The district court, in a scholarly opinion, granted Senator Proxmire's motion for summary judgment and later dismissed the suit against Schwartz. This appeal followed.[4]

II.

Several recent cases have interpreted the scope of the absolute immunity provided legislators and their aides under the Speech or Debate Clause in suits stemming from investigations.[5] While actual speech in either House is unquestionably protected, the Clause also protects other acts by representatives when those acts are found to be within the "legitimate legislative sphere." *Eastland* v. *United States Servicemen's Fund,* 421 U.S. 491, 503 (1975); *Gravel* v. *United States,* 408 U.S. 606 (1972).[6] The act of investigation is an "appropriate auxiliary to the legislative function" and legislators have been found to be within the legislative sphere when the subject of the investigation was one on which Congress could legislate and when the information sought from material witnesses furthered that subject. *McGrain* v. *Dougherty,* 273 U.S. 135, 174, 177 (1927); *Watkins* v. *United States,* 354 U.S. 178, 187 (1957).[7] However, even where the investigation is within the legislative sphere, absolute immunity does not attach to the improper dissemination of actionable information outside Congress, *Doe* v. *McMillan,* 412 U.S. 306, 316 (1973); *Gravel* v. *United States, supra* at 625, nor to illegal or unconstitutional acts committed during the investigation. *United States* v. *Brewster,* 408 U.S. 501, 526 (1972); *Dombrowski* v. *Eastland,* 387 U.S. 82 (1967).[8] Equipped with these basic principles, we will now determine if absolute legislative immunity bars suit upon the acts complained of by the plaintiff. For the purposes of analysis, we divide the allegations in this case into four separate acts: (1) the follow-up phone calls to administrative agencies; (2) the press release of the speech; (3) the newsletters; and (4) the television, radio, and other interviews.

1. Follow-up phone calls to agencies

Plaintiff agrees that the investigative actions by defendants in gathering information on public spending from administrative agencies is not actionable under the Speech or Debate Clause since the investigation was within the legislative sphere. *McGrain* v. *Dougherty, supra.* However, Dr. Hutchinson argues that when the defendants made the phone calls to the agencies encouraging them to terminate the research grants, they ex-

*Honorable William G. East, Senior United States District Judge for the District of Oregon, is sitting by designation.

Footnotes at end of article.

ceeded the legitimate information gathering protected by legislative immunity. The phone calls, plaintiff alleges, were made for the purpose of influencing the agencies and not for the gathering of information. In response, defendants maintain that the follow-up contact with the agencies was part of the legislature's oversight function and thus should be accorded Speech or Debate protection.

The thrust of legislative immunity is the protection of the "deliberative and communicative processes" of representatives. *Gravel v. United States, supra* at 625. It can be argued that each of the nonlegislative functions of Congress, *i.e.*, investigative, oversight, informing, assist representatives in their legislative deliberations and communications. However, the Supreme Court has specifically stated that contact with administrative agencies is normally too far removed from the legislative sphere to be absolutely protected:

"Members of Congress are constantly in touch with the Executive Branch of the Government and with administrative agencies—they may cajole, and exhort with respect to the administration of a federal statute—but such conduct, though generally done, is not protected legislative activity. *United States v. Johnson* [383 U.S. 169(1966)] decided at least this much."

Gravel v. *United States, supra,* at 625, *See also McSurely v. McClellan, supra* note 8 at 1285–86. Thus, while there may be cases where the postinvestigation contact with administrative agencies is so integral to the investigation or other protected activities that application of absolute immunity would be compelled, the phone calls to NSF, NASA, and NIDA in this case cannot be accorded Speech or Debate protection.[9]

2. Press release, newsletter, television, and radio comments

To determine whether the remaining allegations of plaintiff are actionable under the Speech or Debate Clause, we must explore the limits of permissible public dissemination of information by a representative. The Supreme Court has rejected the argument that the "informing function" of Congress requires absolute immunity for all public distribution of information. *Doe v. McMillan, supra* at 316. *Doe* held that the Speech or Debate Clause protected representatives and their legislative aides from suit for voting to authorize the public distribution of an actionable committee report. However, the Court further held that absolute immunity was not automatically available to the Public Printer and Superintendent of Documents who actually distributed the report and remanded the case for a determination of whether the "legitimate legislative needs" of Congress had been exceeded.[10] Thus, while the Supreme Court has recognized that the informing function of Congress is sufficiently important to warrant Speech or Debate immunity for some public dissemination of information, *Id.* at 317, 328 (Douglas, J., concurring), 333 (Blackmun, J., concurring and dissenting), 341 (Rehnquist, J., concurring and dissenting), the distribution outside Congress must serve legitimate legislative needs to afford the actual distributor absolute immunity. The key factor in determining the amount of distribution that is within legislative needs is the extent of the dissemination. *Id.* at 324.[11]

Following the particularized inquiry into the legislatively necessary extent of public distribution outlined in *Doe*, we agree with the district court that the press release in this case was protected by absolute immunity. It is uncontested that the release, which is virtually identical to the speech by Senator Proxmire, was routinely distributed to the Senator's general media list which was placed on file in the Senate Service Department (Shuman Affidavit ¶¶ 8–11). The release merely served to call attention to the speech which was in the public record.[12] Given the enormous amount of material addressed by Congress each day, strategic press releases may serve to alert a representative's colleagues about a matter of particular importance as well as to inform the appropriate federal agencies and the public who can then comment on proper legislative action. We find the limited facilitation of press coverage of congressional action in this case to be protected by the Speech or Debate Clause. *Cf. Consumer's Union of United States, Inc. v. Periodical Correspondents' Association,* 515 F.2d 1341, 1350–51 (D.C. Cir. 1975), *cert. denied,* 423 U.S. 1051 (1976) (management of congressional press galleries, though entrusted to private association, is protected by the Speech or Debate Clause).[13]

We also find that the Speech or Debate Clause protects any otherwise actionable material contained in newsletters mailed to Senator Proxmire's constituents. As noted above, the informing function of Congress was given limited Speech or Debate protection by the Supreme Court in *Doe v. McMillan, supra.* If the informing function, even though limited, is to be accorded any absolute immunity, it must be in a case such as this. Senator Proxmire's newsletter informed his constituents of his actions in connection with overseeing public funds which were part of his general duties as a Senator and his particular responsibilities as a member of the Senate Committee on Appropriations. Denying a representative protection for newsletters to this constituents in circumstances such as this would effectively isolate the legislator from the people who elected him. *Id.* at 333 (Blackmun, J., concurring and dissenting). The subject matter and language of the newsletters make this case factually distinct from *Doe, Id.* at 328–29 (Douglas, J., concurring).

However, any defamatory remarks made by Senator Proxmire in television, radio, and other interviews are not protected by absolute immunity. We view this form of public dissemination of information, absent special circumstances, to be too far removed from serving legitimate legislative needs to be within the limited reach of the protected informing function. Such methods of reaching the public are generally not necessary to carry out a representative's informing function and are more frequently used for political purposes. *United States v. Brewster, supra* at 512. While there might be a case where distributing actionable information through television and radio interviews would be viewed as serving legislative needs, the type of distribution alleged here does not suggest that situation.

Finding that television and radio interviews and the follow-up telephone conversations with administrative agencies urging the cut-off of funds are not absolutely immune under the Speech or Debate Clause, we must now determine whether the statements made in those communications are protected by the qualified privilege of the first amendment right to free speech.

III.

Regarding the statements which were unprotected by an absolute Speech or Debate immunity, the court below after careful analysis found (1) that Dr. Hutchinson was both a public official and public figure and there was no showing of "actual malice" under the doctrine of *New York Times v. Sullivan,* 376 U.S. 254 (1964) and (2) that even if Dr. Hutchinson was a private person, the statements did not constitute defamation under the applicable local law. 431 F. Supp. 1325–33. After having independently examined the record, *Fadell v. Minneapolis Star and Tribune Co., Inc.,* 557 F. 2d 107, 108 (7th Cir.), *cert. denied,* 98 S. Ct. 508 (1977), we agree with the district court that summary judgment was proper based upon first amendment grounds. Consequently, we need not decide whether the statements were actionable defamation under local law.

We agree with the district court that Dr. Hutchinson is a public figure and consequently must show that any false, defamatory statements were made with "actual malice," *i.e.*, actual knowledge that the statements were false or reckless disregard of their truth or falsity. *New York Times v. Sullivan, supra* at 279–80. *See Curtis Publishing Co. v. Butts,* 388 U.S. 130 (1967). Public figures are those who (1) have the appropriate status which either exists by their position alone or is achieved by their voluntarily thrusting themselves into the "'vortex' of an important public controversy" and (2) have "sufficient access to the means of counterargument to be able 'to expose through discussion the falsehood and fallacies' of the defamatory statements." *Id.* at 155. While governmental employees and contractors by their positions alone do not generally have such "persuasive power and influence that they are deemed public figures for all purposes," *Gertz v. Robert Welch, Inc.,* 418 U.S. 323, 345 (1974), the nature and extent of an individual's participation in the particular matter may make him a public figure for that issue. *Id.* at 352.

Here, there is no question that Dr. Hutchinson had actively solicited federal grants to pursue his research and had secured a substantial amount of public funds by his applications. (Defendants' Exhibits 82b, 83.) The plaintiff had also published numerous articles regarding his work (Plaintiff's Exhibits 64–96), and stories regarding his research had appeared several times in local papers. (Defendants' Exhibits 47–51). In addition to his public status as to his research, it is evident from the record that plaintiff had sufficient access to the media to rebut any defamatory falsehood. Dr. Hutchinson's answering press release was quoted in detail in the same stories which initially reported the Golden Fleece Award. (Plaintiff's Exhibits 32–39.) Thus, Dr. Hutchinson had the appropriate status and access to the means of rebuttal to be considered a public figure with regard to the propriety of his research. *See Adey v. United Action for Animals, Inc.,* 361 F.Supp. 457, 460 (S.D.-N.Y. 1973), *aff'd.* 493 F.2d 1397 (2d Cir.), *cert. denied,* 419 U.S. 842 (1974) (NASA research scientist is public figure).[14]

Having found the plaintiff to be a public person and therefore subject to the *New York* Times standard, the district court granted summary judgment after finding that there was no issue of material fact as to whether the defendants had actual malice. 431 F.Supp. 1329–30. In order to show actual malice, plaintiff must prove by clear and convincing evidence that defendants had actual knowledge of the falsity of their statements or that defendants acted with a "high degree of awareness of . . . probable falsity." *St. Amant v. Thompson,* 390 U.S. 727, 730–31 (1968), *Gertz v. Robert Welch, Inc., supra* at 342. We agree with the district court that, upon this record, there is no question that defendants did not have knowledge of the actual or probable "falsity" of their statements.[15]

Dr. Hutchinson's main argument in this regard is that while failure to fully investigate generally does not establish reckless disregard for the truth, *St. Amant v. Thompson, supra,* defendants were on notice of the possible falsehoods since they possessed agency reports supporting the type of research and

Footnotes at end of article.

its cost. (ONR letter, Plaintiff's Exhibit 9 to Shuman Deposition.) In contrast, defendants' exhibits include correspondence from agencies which criticize plaintiff's research technique and project costs. (Defendants' Exhibit 90.) At best, this could be read to show there was a dispute as to the value of the research. This dispute by itself, however, is not sufficient to raise a question of material fact as to whether defendants had knowledge that their statement of opinion regarding the value of the research was actually or probably "false." In addition, it is unchallenged that defendants spent many hours investigating and verifying their information. (Schwartz Affidavit ¶¶ 10–20.) Defendants even telephoned Dr. Hutchinson before the press release was issued to inform him of its content. (Hutchinson Deposition pp. 389–90.) Defendants can also point to their extensive researching of Dr. Hutchinson's applications for federal grants and contracts as support for their opinions regarding plaintiff's "grantsmanship." (Defendants' Exhibits 82b, 83.) Under these circumstances, plaintiff has not presented facts which could demonstrate that defendants acted with a "high degree of awareness of . . . probable falsity." *St. Amant v. Thompson, supra* at 730–31. Therefore, we find that there is no genuine issue as to whether the defendants had actual malice in the constitutional sense and that summary action by the district court was proper. *See Grzelak v. Calumet Publishing Co. Inc., supra* note 4 at 583.

Finally, plaintiff argues that even though the first amendment may shield the defendants from liability for defamation, the district court erred in not allowing a trial upon the other wrongs alleged in the complaint, *i.e.*, interference with contractual relations, intentional infliction of emotional anguish, and invasion of privacy. We view these additional allegations of harm as merely the results of the statements made by the defendants.[16] If the alleged defamatory falsehoods themselves are privileged, it would defeat the privilege to allow recovery for the specified damages which they caused.

For the reasons stated above, the judgements of the district court are

AFFIRMED.

FOOTNOTES

[1] The press release is attached to this opinion as Appendix A.

[2] This newsletter is attached as Appendix B. A second newsletter repeated the substance of the first and stated that all funding of the studies involved had been ended.

[3] The relevant dialogue from the Mike Douglas Show is set forth below:

MIKE DOUGLAS. You gave another award to a research project studying angry rats.

Senator PROXMIRE. Well it was angry monkeys, rats and humans. It was a study that cost $500,000 to find out why people, rats and monkeys clench their jaws. They found out they clench their jaws when they were angry, when they were prodded by sticks, when they were hungry, and they didn't clench their jaws as much if they had been drinking.

MIKE DOUGLAS. You know we're laughing at this but this is really really . . .

Senator PROXMIRE. Oh it's terrible.

[4] The district court granted Senator Proxmire's motion for summary judgment on April 22, 1977 (77–1677) and the motion to dismiss defendant Schwartz on June 22, 1977 (77–1755). As stated below, see note 5 *infra*, since we find the legal status of the defendants to be identical, we affirm both rulings for the same reasons.

We note that in cases involving the assertion of the immunities raised here, dismissal or summary judgment, when proper, is necessary to prevent the possible harassment of a full-fledged lawsuit; the precise harassment the legislative and first amendment immunities were designed to prevent. *See Dombrowski v. Eastland*, 387 U.S. 82, 85 (1967) (Speech or Debate Clause protects legislators from the burden of defending against a lawsuit as well as from the results of the lawsuit); *Grzelak v. Calumet Publishing Co., Inc.*, 543 F.2d 579, 582 (7th Cir. 1975) (summary judgment minimizes the chilling effect libel suits have on first amendment rights).

[5] *See* Comment, *McSurely v. McClellan: Civil Suits Under the Speech or Debate Clause*, 71 Nw.U.L.Rev. 783 (1977) [hereinafter cited as Northwestern Comment].

The Speech or Debate Clause states: "for any Speech or Debate in either House, they [members of Congress] shall not be questioned in any other Place." U.S. Const. art. I, § 6. Generally, legislative aides are entitled to the same Speech or Debate Clause protection as the representatives they serve. *Gravel v. United States*, 408 U.S. 606, 618 (1972). In the present action, we view the immunity available to Senator Proxmire and his aide, Morton Schwartz, to be identical.

[6] The Court stated in *Gravel*:

"The heart of the Clause is speech or debate in either House. Insofar as the Clause is construed to reach other matters, they must be an integral part of the deliberative and communicative processes by which Members participate in committee and House proceedings with respect to the consideration and passage or rejection of proposed legislation or with respect to other matters which the Constitution places within the jurisdiction of either House." 408 U.S. at 625. *See generally* Reinstein & Silverglate, *Legislative Privilege and the Separation of Powers*, 86 Harv. L. Rev. 1113 (1973).

[7] We find unpersuasive plaintiff's argument that these cases do not involve Speech or Debate immunity but only the power of Congress to investigate. Language from *McGrain* and *Watkins* is frequently used in Speech or Debate cases involving investigations as the test for application of legislative immunity. *Eg. Eastland v. United States Servicemen's Fund, supra* at 505–06; Northwestern Comment, *supra* note 5 at 788 n.39.

[8] An example of a civil suit based upon claims of unconstitutional acts is *McSurely v. McClellan*, 553 F.2d 1277 (D.C. Cir. 1976) (en banc), *cert. dismissed as improvidently granted sub nom. McAdams v. McSurely*, ---- U.S. ----; 46 U.S.L.W. -- (June 26, 1978). It is not contended that the tort claims here are of constitutional dimensions *See Paul v. Davis*, 424 U.S. 693 (1976).

[9] The district court did not specifically address the Speech or Debate status of the follow-up phone calls. It appears, however, that the court below viewed these actions as merely a part of the total investigation and therefore absolutely privileged. 431 F. Supp. at 1321–22. In light of the language in *Gravel*, we must disagree.

[10] On appeal after remand, *Doe v. McMillan*, 566 F.2d 713 (D.C. Cir. 1977), *cert. denied*, 98 S. Ct. 1607 (1978), the D.C. Circuit upheld the district court's finding that the routine distribution of the actionable report "did not exceed the legitimate legislative needs of Congress." *Id. at* 715. *See also Gravel v. United States, supra* at 625 (Senator's direct arrangements with a private printer to publish classified information was "in no way essential to the deliberations of the Senate").

It appears that while the representatives and their legislative aides are automatically immune from suit when authorizing public dissemination of information, both can become subject to showing "legitimate legislative needs" if they actually distribute actionable material outside Congress. In the latter instance, representatives and their legislative aides are treated in the same manner as nonlegislative functionaries such as the Public Printer. *See Doe v. McMillan*, 566 F.2d at 715 n.l. We assume, according to plaintiff's allegations, that defendants actually distributed the actionable materials here and cannot claim to have merely "authorized" their distribution.

[11] While the extent of the public dissemination was the only factor noted by the Supreme Court in *Doe*, implicit recognition was also given to the importance of the type of information being distributed; *i.e.*, committee reports, floor speeches, proposed legislation. Presumably, certain types of information would require greater public distribution to properly serve legislative needs.

[12] Plaintiff claims the press release, dated April 18, 1975, was actually made public April 15, three days before the speech. Assuming, as we must, that plaintiff is correct, we do not see how the timing of the release affects this case. There is no claim that Senator Proxmire attempted to create absolute immunity after the fact by reading the release in the Senate. The wording of the press release belies any such contention.

[13] The district court held that the "press release, in a constitutional sense, was no different than would have been a television or radio broadcast of his speech from the Senate floor." 431 F. Supp. at 1325. This statement might be an overstatement since it is unlikely that all exact duplications of congressional speeches would enjoy the unquestioned absolute immunity accorded actual speech in the House or Senate. See note 6 *supra*. However, we agree with the district court that the form of distribution of the questioned material has an effect upon the extent to which its dissemination can still be considered to serve legislative needs.

[14] In light of our decision that Dr. Hutchinson is a public figure, we need not decide whether the district court was correct in holding that plaintiff was also a public official. 431 F.Supp. at 1327.

Time, Inc. v. Firestone, 424 U.S. 448 (1976), cited by plaintiff, is factually distinct from the present case. There, the Court found that Mrs. Firestone was not a public figure since she did not thrust herself into the forefront of a public controversy in order to influence its resolution by her divorce proceedings and related press conferences, *Id.* at 454 & n.3. In contrast, here Dr. Hutchinson was not forced to seek public funds and plaintiff's numerous articles and news stories which preceded his rebuttal press release demonstrate his public affirmation of the soundness of the research and the continued public funding thereof. *See also Gertz v. Robert Welch, Inc., supra* at 345.

[15] We note that the statements in the interviews constitute a personal opinion as to the value of plaintiff's work, rather than false statements of fact and thus may not be defamatory in a constitutional sense. *See Greenbelt Cooperative Publishing Ass'n, Inc. v. Bresler*, 398 U.S. 6, 14 (1970). While the statements in the press release intimating that Dr. Hutchinson had made a personal fortune and that the research was "perhaps duplicative" may be defamatory falsehoods, that document, together with the newsletters, is absolutely immune under the Speech or Debate clause. See Part II *supra*. In any event, we find the allegedly defamatory statements, including any action which may be premised on the documents being misleading to be privileged under the first amendment.

[16] Although the harm caused by the follow-up phone calls might be argued to be independent of the defamatory statements, we see no constitutional distinction in their treatment. The torts allegedly stemming from the phone calls, interference with contractual relations and interference with prospective advantage, are based upon "malice" or other improper intent. W. PROSSER, LAW OF TORTS, §§ 129, 130 (4th ed. 1971). Where the constitutional right to free speech is involved, as it is here, the *New York Times*

standard would be applicable to such an intent inquiry.

APPENDIX A—APRIL 18, 1975, PRESS RELEASE, OFFICE OF SENATOR WILLIAM PROXMIRE, WISCONSIN

(For release after 6:30 a.m. Friday, April 18, 1975)

Senator William Proxmire (D.-Wis.) announced on Friday, "My choice for the Golden Fleece Award for the biggest waste of taxpayers' money for the month of April goes jointly to the National Science Foundation, National Aeronautics and Space Administration and the Office of Naval Research for spending almost $500,000 in the last seven years to determine under what conditions rats, monkeys and humans bite and clench their jaws. From the findings of these studies it is clear that the Government paid a half million dollars to find out that anger, stopping smoking, and loud noises produce jaw clenching in people."

The Wisconsin Senator said, "This is the second in a series of 'fleece of the month' awards which will climax in a Biggest Waste of the Year Award.

"All this money was given to Dr. Roland [sic] R. Hutchinson of Kalamazoo State Hospital in Michigan. Last year alone the good doctor spent over $200,000 of which more than $100,000 were federal funds. And what are some of the other results reached by these research projects in the last seven years?

"Dr. Hutchinson told NASA that people get angry when they feel cheated and tend to clench their jaws or even scream and kick. NSF learned that Dr. Hutchinson's monkeys became angry when they were shocked and would try to get away from the shock. In addition, NSF was informed that drunk monkeys do not usually react as quickly or as often as sober monkeys and that hungry monkeys get angry more quickly than well-fed monkeys.

"The Office of Naval Research appears to have gotten the same type of so-called research as did the NSF and NASA.

"It is very interesting to trace the history of these extremely similar and perhaps duplicative projects. In 1967, NSF gave Dr. Hutchinson $44,700 to study 'Environmental and Physiological Causes of Aggression.' For two years, Dr. Hutchinson studied the biting reactions of monkeys when they received electric shocks. He also compared their reaction while being given a number of different drugs as alcohol and caffeine. In 1969, the NSF gave Dr. Hutchinson another $26,000 to continue these experiments. He received another grant, this one for $51,200 in 1970 from the NSF.

"By this time Dr. Hutchinson was ready to extend his work to human biting and jaw clenching. In 1970, Dr. Hutchinson received a grant which ran for five years from the ONR to continue 'research on subhuman primates to determine the environmental, physiological and biochemical factors responsible for the maintenance of aggressive behavior and systematic replication of results obtained in primates extended to human subjects.' Total funding from the Navy ran to $207,000.

"During this period, Dr. Hutchinson applied for and received a $50,000 grant from NASA to develop measurements of latent anger or aggression in humans by means of jaw-clenching. In addition, Dr. Hutchinson received his fourth NSF grant in 1972 for $51,800 in order to continue his experiments on monkeys and extend the work to human jaw-clenching.

"Dr. Hutchinson, who in addition to being Research Director at Kalamazoo State Hospital, is also an Adjunct Professor at Western Michigan University and President of his own non-profit Foundation for Behavior Research, has proposals presently pending before the NSF, the National Institute of Drug Abuse, and the National Institute of Mental Health to continue research on monkeys' drinking, drug and jaw clenching habits. If Dr. Hutchinson is successful in this new grantsmanship attempt, he would receive an additional $150,000 of taxpayers' money.

"The funding of this nonsense makes me almost angry enough to scream and kick or even clench my jaw.

"Dr. Hutchinson's studies should make the taxpayers as well as his monkeys grind their teeth. In fact, the good doctor has made a fortune from his monkeys and in the process made a monkey out of the American taxpayer.

"It's time for the federal government to get out of this 'monkey business.' In view of the transparent worthlessness of Hutchinson's study of jaw-grinding and biting by angry or hard-drinking monkeys, it's time we put a stop to the bite Hutchinson and the bureaucrats who fund him have been taking out of the taxpayer."

Proxmire said that the public is urged to write him in Washington with suggestions for the "Golden Fleece of the Month" for May.

APPENDIX B—MAY, 1975 NEWSLETTER

ROMANTIC LOVE STUDIED

Each month I have decided to offer a "golden fleece" award to the organization or person who has most utterly wasted your tax dollars.

Last month's award went to the National Science Foundation for a study of why people fall in love. For $84,000 the researchers were supposed to find cut how people grow dependent upon each other in what they called "romantic love."

Not only is this a question that cannot be answered, like what is infinity, I'm not sure we want an answer. There should be some mysteries in life.

A BITE OUT OF YOUR POCKETBOOK

This month the award is shared jointly by the National Science Foundation, National Aeronautics and Space Administration and the Office of Naval Research. These three organizations have put up $500,000 of your tax money to reach the astounding conclusion that people and monkeys clench their jaws when angry or forced to stop smoking or confronted with loud noise.

In seven years of work by Dr. Ronald R. Hutchinson of Michigan, your money was used to discover that people get angry when they feel cheated and they tend to clench their jaws or even scream and kick. Did you know that? Did you know that monkeys become angry when they are given electric shocks? Or that drunk monkeys do not react as quickly as sober monkeys? That's what your taxes paid for!

Dr. Hutchinson has received one grant after another from various federal bureaucracies to study these earth shaking problems. He has examined crayfish, wasps, boa constrictors, turtles, alligators, opossums, foxes, pigeons, rats, monkeys and humans to discover under what circumstances they show signs of being angry.

TESTS ON ANIMALS

He has "stimulated" the animals by using physical blows, electric tail shocks, intense heat, brain probing, air blasts, foot shocks and loud noises. He has influenced them with morphine, transquilizers, food, alcohol, caffeine and in the case of humans, with money.

He graduated from animals to humans in 1970. That's when he began to conclude that humans bite and clench their jaws under stress. And that when they feel cheated, they react by screaming and kicking on occasions.

These studies are continuing and several new proposals, if accepted, will mean another $150,000 for this program.

If this use of your tax money makes you want to kick and scream or clench your jaws, then join the club. The good doctor has made a monkey out of the federal bureaucrats.

I've told these government agencies it's time to get out of this "monkey business" and put an end to worthless studies be they scientific or social.

If you have any suggestions for my next "golden fleece" award, please write to me in Washington.●

THE REAL ECONOMIC IMPACT OF THE 1973–74 OPEC OIL PRICE INCREASE

● Mr. JAVITS. Mr. President, In a penetrating article that appeared in the New York Times of July 2, 1978, and entitled "Oil and the Price/Productivity Gap," Robert A. Bennett has focused on the real impact on the world economy rather than the financial impact on the petrodollar recycling system of the 1973–74 OPEC oil price increase.

As many of my colleagues are aware, I have expressed concerns similar to those expressed by Mr. Bennett on numerous occasions on the floor of the Senate. We are only today beginning to feel the impact on the international economy of the decision by the OPEC countries to raise the price of oil to uneconomic levels; the "skimming" off the top of the industrial system which it represents.

Because we in the West have sought to deal with the OPEC price increase by choosing to transfer either real resources or financial resources (which give a later call on real resources) to the OPEC countries in exchange for the same amount of oil at new prices, we have been forced to make the drastic choice between inflationary and deflationary policies to pay for the oil. Mr. Bennett calls on the participants at this week's Bonn summit to deal with this problem in a way which would return the world to financial stability by having market criteria determine the price of oil. In return Mr. Bennett calls for the establishment of adequate facilities to insure the OPEC countries with large-scale development plans that they will have the long-term development funds as they need them.

Also, I do not believe that the total plan should be limited to OPEC countries but should also include other less developed countries that are willing to work with us in meeting their development needs and in accelerating their development. I have introduced Senate Resolution 441, together with Senators CHAFEE, DANFORTH, MATHIAS, PERCY, STAFFORD, STEVENS, and STEVENSON, which calls on the President to begin negotiations with the other industrialized countries and with OPEC countries for the purpose of developing a growth development fund, for these purposes and would also serve as a source of needed stimulation for the markets to make a healthy world economy.

Mr. President, I commend this article to my colleagues' attention and ask that it be printed in the RECORD.

The article follows:

[From the New York Times, July 2, 1978]

OIL AND THE PRICE/PRODUCTIVITY GAP

(By Robert A. Bennett)

The summit conference scheduled to be held in Bonn in mid-July will wind up as another fruitless exercise unless leaders begin to deal with the root causes rather than with the symptoms of today's international economic problems.

The symptoms are inflation and recession. The heart of the malaise, however, is a basic imbalance in the world economy that was caused by the quintupling of oil prices since the end of 1973. This has created a giant price/productivity gap.

While everyone has come to recognize that petroleum plays a crucial role in all modern economies, it seems that very few—including government leaders—grasp the full meaning of the sudden and sharp increase in the price of oil.

A fundamental shift has occurred—one that cannot be managed through classical fiscal and monetary means. As a commodity, oil is comparable to money—a sophisticated economy cannot run without it; its cost and availability have an impact, direct or indirect, on practically every sphere of economic activity. Consequently, the oil-price increase must be viewed in terms of its real economic impact, not in terms of its effect on balances of payments and movements of funds.

Most of the focus in trying to deal with the results of the rise in petroleum prices, however, has been concentrated on financial aspects, such as "recycling petrodollars." But, as we should have learned from the futile attempts during the 60's to shore up the fixed exchange-rate system, financial arrangements are useful only in dealing with short-term aberrations, not with structural economic problems.

Regarding the increase in oil prices, the international transfers of funds are less important than the aggregate increase in the global price structure. If world output had matched the increase in the price of petroleum, the world financial system would have remained essentially sound, even if the distribution of wealth had been altered.

There is no way to escape the fact that the price/productivity gap created by the action of the Organization of Petroleum Exporting Countries had to be bridged in real terms through deflation, or in monetary terms through inflation. As it has turned out, the official response has been a combination of inflationary and recessionary policies. It is not surprising, therefore, that the world continues to struggle with the two apparently contradictory problems of inflation and recession.

On the deflationary side, many nations cut back severely on their petroleum imports. Since oil is so vital to any industrialized society the result was a decline in output. This decline has had a rippling effect throughout the world.

On the inflationary side, money has been created in various ways to finance petroleum purchases and thereby mitigate the deflationary trends. Internationally, this was done through leading facilities within the International Monetary Fund. Domestically, many governments resorted to deficit spending. Central banks created money to help finance these deficits, thus contributing to inflationary tendencies.

Some countries, such as West Germany and Japan, tended to give greater priority to austerity, while others, such as the United States, showed a greater willingness to allow the money supply to rise and to accept a higher level of inflation.

Because the dollar is the world's transaction and reserve currency, the United States has been able to follow an expansionary policy more easily than would have been the case for other nations. Foreign countries have little choice but to hold a good part of their reserves in dollar assets; in effect, they are lending money to the United States. Despite the whopping $30 billion trade deficit experienced by the United States last year, there were few outcries from abroad that the United States should get its trade account back in line. The reason, of course, was that American purchases of foreign goods were mitigating the recessionary effects elsewhere in the world that were triggered by the higher price of oil.

Yet, while the dollar is probably the only currency capable of carrying such a large responsibility—even for a short period—the pressure it has been bearing cannot go on forever. If confidence in the dollar collapses, the probability is that no other paper currency could survive. The result, of course would be economic disaster.

Failing to recognize the basic price/productivity imbalance, the Carter Administration has been encouraging West Germany and Japan to speed up their respective economies as a means of averting a global deflationary spiral. Washington has defended its gaping trade deficit by noting that huge imports by Americans are helping to relieve recessionary pressures around the globe. The United States has been urging West Germany and Japan to contribute to the effort.

Bonn and Tokyo have been looking at the other side of the coin. Their concern has been more about the inflationary effects of highly stimulative economic policies and the threat such policies would pose to the basic soundness of the international financial system. Although approaching the problem from a different angle than the United States, West Germany and Japan, too, appear to have shut their eyes to the basic price/productivity imbalance caused by the increased cost of energy.

Businessmen and investors, however, seem to know that something is fundamentally wrong. Although they may not articulate the basic reason for their fears, they express themselves through an unwillingness to increase their capital expenditures—at least not to the extent that might be expected during specific phases of the business cycle. Even in those recent periods of economic upsurge, which were spurred primarily by consumer expenditure, sluggish capital spending has caused the upswings to have been short-lived. The reticence to invest is due to the fact that business must deal not only with the current reality, but also with the constant prospect that OPEC in the future will further raise oil prices

The decision of the OPEC ministers in mid-June not to raise the price of oil—at least until next year—was a positive development. The last price increase occurred at the end of 1976, when the average per-barrel price was set at $12.70. Thus, the basic gap has been narrowing somewhat as the rate of inflation has outpaced the price of oil. In addition, deflation has created a surplus of global petroleum supplies, making it impossible for the "hardline" OPEC countries to further raise the price as they would like.

In the longer term, a reduction in the price of petroleum would be as beneficial to the OPEC countries as it would be to the oil-consuming nations. Only with basic global economic stability will the value of the foreign-currency assets of countries such as Saudi Arabia and Kuwait be preserved. And only with basic world economic stability will those OPEC countries with ambitious development plans be able to meet their long-term objectives. No one benefits from a world economy that has a serious chronic disease. And, as we should have learned from the past, economic illness often leads to social, political and military suffering as well.

If world prosperity and stability are to be regained, the price of oil must again be determined by commercial forces. Return to a more balanced system must be accomplished in a systematic manner—in a way that would insure that all receive a fair deal.

The summit meeting should begin working on such a positive approach, which should contain a number of elements:

Recognize that the base of world prosperity—and economic, political and military stability—depends on continual real increases in global productivity.

Acknowledge that oil, at economically feasible prices, is a finite commodity that all countries must try to conserve. As part of the overall arrangement, countries that have not already instituted stringent oil-conservation programs should be required to do so. This would apply especially to the United States, which remains the most flagrant waster of petroleum.

Continue a global effort to promote development of alternatives to oil as a source of energy.

Determine the price of oil by commercial supply and demand forces.

Establish special international facilities to assure that a stream of long-term development funds would be available to the more populous OPEC countries with ambitious development schemes. Slack demand for petroleum has forced most OPEC members to become heavy borrowers, and last year they accounted for about 25 percent of all international borrowings. Rapid economic growth in the oil-producing countries would help to stimulate healthy world economic activity.●

GERIATRICS: YOUTHFUL ENTHUSIASM SPARKS A BOOM

● Mr. CHURCH. Mr. President, in recent congressional testimony, the Census Bureau's Population Division revealed data that shows the elderly population will be greater by the end of the century than earlier predicted. Latest projections are that by the year 2000 there will be 31.8 million persons 65 years of age and older in this country.

Clearly, longer life expectancies, together with lower birth rates, will result in a "graying of America."

In an effort to study one aspect of this population shift, the Senate Special Committee on Aging held a hearing, "Medicine and Aging: An Assessment of Opportunities and Neglect." Medical professionals discussed how geriatric medicine was being practiced in our medical schools. A survey of the 114 medical schools prior to the hearing provided the committee with responses from 87 schools indicating that only 10 had "a specialty in geriatrics" within their curriculum. Others responded that the students' exposure to older patients and nursing home residents was the only specialized geriatric training.

Since that time, there has been an increase in the interest in and emphasis on geriatric medicine. Congressional interest, support by the National Institute on Aging, and in-house interest among the medical profession have encouraged more medical schools and teaching facilities to offer courses or training workshops on treatment of the elderly patient.

This interest is described in a recent

article in the Medical World News. The article highlights several medical schools and geriatricians who have been instrumental in arousing interest and enthusiasm in geriatric medicine. The number of such programs is still very small but I hope that the enthusiasm expressed in this article will continue and spread to more of our country's staff and students of medical schools and teaching hospitals.

I ask that the Medical World News article be printed in the RECORD.

The article follows:

GERIATRICS: YOUTHFUL ENTHUSIASM SPARKS A BOOM

American medicine is starting to think old. Pushed by the young and pulled by early pioneers of special care for the elderly, geriatrics seems to be coming of age.

There are still only two geriatric residency programs in the U.S. today, but pressure is building toward a boom. A prime need: skilled geriatricians to direct the programs that medical schools are now planning.

What is not needed, nearly all U.S. geriatricians agree, is full-fledged specialty status as in Britain. Most of the field's American apostles are internists or FPs interested in bridging specialty divisions, not in creating new ones or in drawing patients away from nongeriatricians' care.

But at universities from coast to coast, new programs are popping up like green grass in summer. And though demographically this reflects largely the graying, not the greening, of America, much of the new enthusiasm for the old comes from youth:

"My interest in geriatrics began last summer when I spent three weeks with a family practitioner to get some idea of what type of patients they see," says a third-year student at Louisiana State University in a letter to the head of one of the new programs. "I went to an old folks' home two to three times a week. To him it was a penance, but for me it was the highlight of the three weeks—probably because they appreciate what you do for them."

"I have found myself on my medical and surgical rotations dealing almost exclusively with patients over 60," writes a University of Michigan student newly committed to the field. "Once an avowed future pediatrician, I came to enjoy working with my older patients."

Are these cases unrepresentative, or early raindrops in a future torrent? "Not all future physicians are bored with the medical problems of the elderly," declares Richard Shannon, 23, second-year medical student at the University of Connecticut and member of the American Medical Student Association's newly formed Task Force on Aging. He feels correcting "the misunderstanding and mismanagement of the elderly in our health care system" is a big job and that it will fall largely to medical schools.

"We know that except for those entering pediatrics, much of our practice will involve older patients. We question the wastebasket term 'senility,' and we reject the stereotyped diagnosis that you're sick because you're old."

Similar views come from young physicians in practice. Before Dr. Judith A. Andrew Ameriks, 34, came to the University of South Carolina in Charleston seven months ago to integrate geriatrics into the family practice residency program, she was in general practice in Boulder City, Nev., a community with many retired people. "I feel the medical profession has to put more emphasis on the patients who will make up so much of our practice, and more emphasis must be put on the elderly in our training," she says.

At Southern Illinois University in Springfield, British-born Dr. Richard J. Ham, 31, oversees one of this country's few medical school geriatric programs that's required for all students. "We emphasize looking at the whole patient—medically, socially, and psychologically. This is particularly appropriate in learning to care for the elderly."

Some doctors may still turn away psychologically from "old crocks," but there are fresh breezes blowing. Among the recent signs: standing-room-only attendance at symposiums and lectures on medical care for the elderly, a flood of inquiries about geriatric electives, and an outcropping of programs on aging at many centers, including Duke, Stanford, George Washington, NYU, USC, UCLA, the medical colleges of Wisconsin and Georgia, and the universities of Minnesota, Maryland, Michigan, Vermont, both Dakotas, and Rochester.

Some 75% of practicing physicians surveyed in 1976 by an AMA publication, *Impact*, answered "yes" to the question, "Do MDs need special training in geriatrics?" But geriatricians say many doctors continue to regard the field as little more than glorified handholding—until they need help for their own aged parents.

Dr. Theodore R. Reiff, director of the University of North Dakota's Institute of Gerontology and Geriatric Medicine and chairman of the National Advisory Council on Geriatric Medical Education, sees clear signs of a changed climate in the responses to the council's latest once-a-year mailing to medical school deans.

"Five years ago, when we began urging development of geriatric courses, responses were overwhelmingly negative. Some were violently so. I remember letters saying it wasn't worthwhile spending much time on old people. Now there has been a complete reversal. Everyone is getting on the bandwagon."

But the bandwagon isn't overloaded yet. Deans may not denounce geriatrics openly any more, but the programs many schools talk about are either electives still in the planning stage or lectures already in the curriculum that deal with "the aging organism." Nevertheless, leaders in the field, including American Geriatric Society president-elect William Reichel, FP chairman at Baltimore's Franklin Square Hospital, find these signs encouraging.

The Veterans Administration, with the average age of 13.3 milion World War II veterans reaching 65 by 1984, is beginning a geriatrics and gerontology training program for board-certified physicians July 1. The program will start with 12 physicians—two at each of six VA hospitals affiliated with medical schools—and increase to 48.

The nation's first endowed chair in geriatrics has been established at Cornell University Medical College—though it is not yet filled.

Dr. Milo D. Leavitt Jr., director of the NIH's John E. Fogarty International Center for Advanced Study in the Health Sciences, last month began a detailed study for the National Institute on Aging of the way geriatrics is taught in the 10 British medical schools with chairs in the field.

A Senate bill (S. 2287) to fund geriatric education in U.S. medical schools has been introduced by Sen. Quentin N. Burdick (D-N.Dak.), with 14 co-sponsors.

Leaping ahead of Congress, the Ohio legislature passed a bill requiring each of the State's seven medical schools to get up "an office within a department, or a department" of geriatric medicine by July 1. The bill, introduced and pushed by first-term Assemblyman John Begala, 27, a former program consultant with the Akron Area Office on Aging, provides $350,000 to help carry out the legislature's mandate.

Ohio's action angered the Association of American Medical Colleges. Charles Fentress, its director of public relations, declares: "We view this as a legislative intrusion in the academic process. Traditionally, the curriculum of a medical school is a prerogative of the faculty, not of the legislative body."

But the move pleased others. "I think it's terrific," declares Dr. Leslie S. Libow, chief of geriatric medicine at Long Island Jewish—Hillside Medical Center and medical director of the Jewish Institute for Geriatric Care. The six-year-old, 527-bed JIGC is probably the leading training ground for "homegrown" geriatricians in the U.S. It's one of the two facilities in the country—Oak Forest (Ill.) Hospital is the other—offering residency training in the field.

"You can't easily teach and demonstrate human concern for and clinical skills with the elderly in a typically sterile classroom atmosphere," Dr. Libow says. "Their struggle for life and self-sufficiency must be experienced first hand." Indeed, the surge of interest in geriatrics as a quasispecialty stems more from a desire for a "greening of medicine"—in the sense of a new emphasis on humane treatment—than from any unique diseases or therapies.

A geriatrician does not just treat elderly patients, Dr. Libow emphasizes. Instead, he "manages" their care as one member of a team. Teams meet, in small groups and large, to discuss patients' progress and needs. These meetings are the "apex" of the JIGC activity, Dr. Libow says. "Physicians cannot do the job themselves. The problems are economic, social, ethical, and legal as well as medical. A geriatrician must make a commitment to work closely with others in providing whatever level of care is needed."

Much of what needs to be done, especially for the "old old," isn't mainly clinical. "Persons 75 and older have fewer personal and financial resources with which to meet the burdens of dependency than those 65 to 74," notes a recent Institute of Medicine report. "They are more likely to have children approaching old age. They are more likely to be living alone."

At JIGC care runs the gamut from outpatient to inpatient, acute, chronic, and rehabilitative. Staff members provide or arrange for social services, nursing, and other home care services. Soon to open are a geriatric day care hospital—one of the few in the U.S.—and an ambulatory care and diagnostic center.

Dr. Libow and JIGC have also been serving as role models. "To those who say no one wants to be a geriatrician, I reply that we have more applicants than we can accept."

Dr. Libow set up the country's first geriatric residency in 1972 at the City Hospital Center in the Elmhurst section of New York City. The city's financial plight killed that program, and Dr. Libow moved to JIGC, setting up a program for seven residents. More than 150 medical students—from the affiliated State University of New York at Stony Brook and 15 other medical schools—have studied under him in four-to-eight-week clinical clerkships.

One of his former residents, Dr. Valery Portnoi, 33, is shown examining a patient on MWN's cover. Next month he becomes George Washington University's director of geriatric medicine. Another, Dr. Thomas Kalchthaler, 34, is now director of the geriatric program at St. Joseph's Hospital and Nursing Home in Yonkers, N.Y., affiliated with New York Medical College. And Dr. Albert A. Fisk, who will finish his residence next week, will take over the Wisconsin Regional Geriatric Center, a joint program of Mount Sinai Medical Center and Family Hospital and Nursing Home in Milwaukee.

Dr. Fisk, 57, is a board-certified internist and former chief of staff at Elyria (Ohio) Memorial Hospital. He practiced there 20 years before deciding to take a geriatric residency.

Why the career switch? "My practice was full. I couldn't even see new patients. I wanted a new stimulus in my life. There is a tremendous need for geriatric health care."

Against the skeptics who see little in the field that's medically unique, geriatricians argue that they already possess a substantial—albeit incomplete—body of distinctive biomedical knowledge and clinical know-how that other physicians should respect and share. The National Institute on Aging's director, Dr. Robert N. Butler—reputed author of geriatric demographics' popular buzzword, "the graying of America"—offers these examples:

Older people with hyperthyroidism may appear apathetic, not hyperactive.

Appendicitis may occur without the characteristic tenderness at McBurney's point, without fever, and without an elevated white count.

An older person may even have a heart attack without chest pain and may instead appear confused and disoriented, seeming to be the victim of a stroke.

Dr. Libow adds these points:

Complaints of headache or shoulder pain are too often blamed wrongly on rheumatism or "nerves" when the real problem is polymyalgia rheumatica or temporal arteritis, which are treatable but often not detected.

Depression is frequently missed. When finally recognized, it is often treated with wrong drugs or dosages. Tricyclics are used at too-high dosage levels—and given together with inappropriate drugs. Monoamine oxidase inhibitors are a particular hazard because of cardiovascular toxicity.

Hypertension in the elderly is often not treated. Yet recent studies have shown that among men 60 to 75 there is as significant reduction in modbidity when even minimal hypertension (90–114 mm Hg diastolic) is treated. But drugs must be chosen differently than for middle-aged patients because of cerebral sensitivity and decreased renal blood flow. So alpha-methyldopa is favored; reserpine is not.

Choosing drugs and dosages for the old can indeed be a complex art. "Rational use of drugs in the elderly is exceptionally difficult," defying any setting of general guidelines, noted the British Medical Journal in a May 6 editorial. Among the cited specifics:

Risk of side effects goes up for the old, though mostly from relatively few drugs: digoxin, benzodiazepines, phenothiazines, and antihypertensive agents.

Old folks often don't take all their drugs all the time.

More tolerant of symptoms than younger people, the old may fail to speak up when drug toxicity begins.

Kidney impairment may be extensive yet undiagnosed.

Older patients' plasma protein binds warfarin, phenytoin, and carbenoxolone much less than that of younger persons, greatly increasing the proportion of a drug dose that remains unbound and circulating.

Old people "are also often less able to metabolize drugs than are younger patients—perhaps partly because they smoke and drink less, thereby making less use of two common enzyme-inducing agents."

Harvard's medical students can expect to begin learning their geriatrics from a curriculum now being drawn up by Dr. Richard W. Besdine, 38, assistant professor of medicine and a primary care geriatrician at the Hebrew Rehabilitation Center for Aged in Boston. With Dr. John W. Rowe, also a Harvard assistant professor of medicine and head of a new gerontology unit at Boston's Beth Israel Hospital, he is collaborating on a geriatric formulary.

"A basic principle of geriatric medicine is that any disease that has a classic complex of signs and symptoms among the young and middle-aged may show few or none of those findings in the elderly," Dr. Eesdine says. "The classic presentation is often replaced by nonspecific problems: refusal to eat or drink, falling, incontinence, dizziness, apparent confusion, worsening dementia, weight loss. These can herald myocardial infarction, pneumonia, pulmonary embolism, infection, hyper- and hypothyroidism, cancer, serious depressive illness, drug intoxication—a whole variety of serious treatable diseases that in younger people are much easier to diagnose."

Geriatrics has long been wrongly considered a synonym for nursing home medicine. "Only 1.2 million Americans over 65 are in institutions," emphasizes the geriatric society's Dr. Reichel. "The other 22 million are at home. That means 95% are ambulatory. So appropriate teaching programs should involve not just long-term facilities but medical clinics, family health and senior citizen centers, and day care programs. Geriatrics cuts across the daily living of elderly people, most of whom are coping at home. Doctors, whatever their specialty, must learn to use alternatives to institutions."

This is precisely what many geriatric programs are stressing. Dr. William A. Tisdale, professor of medicine and director of the new gerontology unit at the University of Vermont, says medical students "will be exposed repeatedly to all aspects of gerontology, from cellular aging to clinical geriatrics," throughout their studies. The clinical work, he said, will involve not just extended care facilities but visting the homes of older people—"people, not patients." The aim: to show future doctors how self-sufficient the old can be.

The University of North Dakota has developed close links with a newly built senior citizen center in Grand Forks, part of a wide-ranging clinical training program there. But Dr. Reiff, who also is professor of medicine, notes that the mandatory exposure of all medical students to geriatrics in their second year does involve an affiliated nursing home—though in a special way.

"Every student is assigned to one long-term-care patients there and must do an extensive, documented biography—a 'life medical history review' drawing on all available records of prior medical care. It's an eye-opener to many students. They see how problems actually started many years before or represent complications of untreated—or missed—illnesses. They see how life situations affect the patient. They're encouraged to talk with the patient's family, minister, and nurses."

Dr. Reiff spends two to three hours going over the biography with the student and discussing diagnosis and proposed therapy. "Students overwhelmingly say this experience is valuable."

The medical school's geriatric program will soon touch the entire state. Seniors as well as residents will work out of family practice centers for each of four "quadrants" in Grand Forks, Fargo, Bismarck, and Minot.

At Southern Illinois University, which has one of the few other mandatory geriatric programs in this country, student involvement with elderly patients starts with an afternoon spent in an affiliated nursing home. But that is followed by emphasis on the elderly at home and in senior citizen and day care settings.

A key part of the training is visits by pairs of students to the homes of elderly patients. "At first they don't know what to expect, but they come back feeling very enthusiastic," says Dr. Ham, director of the geriatrics division.

He concedes that the people visited are extroverts who enjoy the visiting. "We teach the students to look for safety features and the suitability of the home for older people. We advise on how to talk with them about their problems and how these problems are met: financial, getting around, what they do all day, how they cope. These are people who are successful adapters. All have eight or nine items on their 'problem list,' but this doesn't mean they are ill. The main thrust of our program is to generate enthusiasm about the elderly, to counter whatever negative feelings students might have about sick old people."

There are few discernible negative feelings about sick old people at one of the nation's newest geriatric facilities—the $10.5-million Johnston R. Bowman Health Center for the Elderly at Rush—Presbyterian—St. Luke's Medical Center in Chicago. The facility provides hospital, skilled nursing, and rehabilitative care on six of its floors and has small apartments for people over 65 on its two top stories. "We're new, we're posh, and we were built specifically to meet the psychosocial impairments of the elderly," says Dr. Rhoda S. Pomerantz, Bowman's medical director and director of geriatrics at the medical center.

Few would deny that old folks should be treated humanely, but some skeptics still feel they really can't benefit much from the advances of medical science. Recent studies tend to dispute this:

A 1977 National Heart, Lung, and Blood Institute study of 73 patients over 60 and 277 under 60 showed aortic valve replacement carries no higher risk for the old and brings similar improvement in left-ventricular function irrespective of age.

A University of Kansas study of 66 patients, 60 to 93 years old, with massive upper GI bleeding showed vigorous diagnois by fiberoptic endoscopy and prompt surgery reduced operative mortality to 5%.

At the geriatric society meeting in Atlanta last April, a Georgetown team gave new findings indicating age should be no barrier to starting hemodialysis.

Nephrology fellow Alexander Chester said records of 45 patients started on dialysis after they reached 70 were compared with those of 70 randomly selected younger patients. The team found no contraindication to long-term dialysis of the elderly and declared: "The old, who more willingly accept not only their own mortality but the limitations of chronic disease, respond well to dialysis. Their more cooperative spirit is probably reflected in the relatively small weight gain between dialyses."

Mean survival was 22 months for the elderly, 40 months for the controls. But since the mean survival is 9.5 years for 75-year-olds in the general population, and 33 years for 43-year-olds, dialysis provided the elderly with 16% of their life expectancy and controls with only 10%, the team pointed out.

Recognizing the gloom that treating end-stage renal disease brings to budget-watchers, the researchers add: "If limitation of resources should again become an economic necessity, we urge that the cost-benefit analyses emphasize rehabilitation potential, not the age."

That point is underlined by Dr. T. Franklin Williams, professor of medicine at the University of Rochester and medical director of Monroe Community Hospital. "The feeling that you just can't do much for older people is so far from the truth," he exclaims.

Dr. Williams cites the case of a woman with intractable heart failure "sent to us to die" when she was 69. With careful attention over a long period of time—"nothing dramatic"—she improved gradually, progressed to less intensive hospital-type care, and then to living alone. "Now she's 76 and living in a supervised setting. She needs monitoring, but she's quite active, and I see her every six weeks. She hasn't been fully restored, but she's a very functional woman."

There will be more like her. The death rate among persons over 65 was 54.3 per 1,000 in

1976, a 13% drop since 1950. Life expectancy of 65-year-olds has been increasing about one year each decade, so that men and women now 65 can expect to live to 79 and 83, respectively.

Dr. Alexander Leaf, a long-time gerontologist, is chief of medical services at Massachusetts General Hospital. In his book *Youth in Old Age* (McGraw-Hill, 1975), he describes his travels to three remote areas in Russia, Ecuador, and Pakistan to met and examine some of the world's oldest people, dozens of them over 100: "In all three countries visited I found the old people participating in the social and economic life of community and family. The need seems to be for a role that sustains the self-esteem of the individual. No one can feel useless, unwanted, and redundant and survive for long."

Dr. Leaf's conclusion: "We must develop our activities for our early as well as our late years. A long life is worth living only if there is something worth living for."—MALCOLM M. MANBER.●

THE NEED FOR A MORE AGGRESSIVE EXPORT PROMOTION POLICY

● Mr. HEINZ. Mr. President, May's $2.2 billion trade deficit marks the 24th consecutive monthly deficit recorded by the United States and raises this year's total to $14.8 billion. At this pace, we will experience an unprecedented $35.5 billion trade deficit in 1978, surpassing last year's record $27 billion deficit by $8.5 billion, a 31-percent increase.

Our failure to address this problem and reduce our trade deficit has resulted in increased unemployment, higher inflation, reduced productivity, and continued declines in the value of the dollar. Ultimately, this failure could result in a further slowdown of world economic growth and could possibly precipitate another deep worldwide recession.

Though several long-term measures need to be taken, including the implementation of an effective energy policy to reduce our heavy reliance on imported oil, one immediate step we can and should take to close the trade gap is to aggressively promote U.S. exports.

As a nation, we have felt little need to export in the past due primarily to our large internal market. Furthermore, our Government, while verbally encouraging export promotion, has repeatedly passed laws and regulations in such areas as taxation, antitrust, and strategic controls, which do more to inhibit than to promote exports. Consequently, we need to reassess our policies as they relate to trade and work to develop a cohesive national export policy designed to stimulate export growth.

The Senate Subcommittee on International Finance, on which I serve as ranking minority member, has conducted a lengthy series of hearings on the subject of U.S. export policy and promotion, hearing testimony from the administration, business, labor, and the academic world. The message has been clear—our export performance has deteriorated significantly over the past decade due, to a large part, to the aggressive export policies of other major trading nations and to the lack of an export ethic in this country.

Last year, U.S. exports grew only 4.6 percent, the lowest growth rate since 1971, even though the value of the dollar declined significantly, which should have improved our export performance by increasing the price competitiveness of U.S. products in world markets. During the same period, the exports of two of our major competitors, Germany and Japan, grew 15 and 20 percent respectively—thus their exports grew three to five times as fast as ours. Furthermore, we learned that other nations spend up to eight times as much as we do on export promotion and support a much larger percentage, up to four times more of their exports with official credit.

As a result of these hearings, the subcommittee is presently working on a study which will analyze the testimony and other pertinent data on this subject and make recommendations to improve our export performance. The study is expected to be completed this summer.

Other similar studies are presently being conducted by various agencies and organizations. In addition, the Carter administration, responding to the rising trade deficit, set up last spring an interagency task force, headed by Commerce Secretary Kreps, charged with formulating a national export policy and reporting its findings to the President by June 15, 1978.

I understand this task force has considered various stimulative measures including:

First, new tax incentives for exporters such as speedier writeoff of export-oriented investments and credits for establishing overseas sales offices;

Second, increased Government support of research and development of new exportable products;

Third, improved worldwide computerized information network to link American producers with foreign buyers and distributors and vice versa;

Fourth, liberalization of the Export-Import Bank to enable it to become more aggressive and competitive in financing U.S. exports.

I believe measures such as these deserve serious consideration as it seems aparent that our business community needs appropriate incentives and support from Government if we hope to stimulate U.S. export growth.

I am disturbed, though, by the inability of the administration task force to meet its June 15 reporting deadline and by publicized reports of a major struggle within the administration over not only the details of an export policy but also over the need for such a policy. Those questioning the need for such a policy apparently fear the cost of an export stimulation program and/or feel it is irrelevant by comparison to the impact of exchange rate fluctuations on trade flows.

We must recognize, though, that the costs of failing to enact a stimulative export policy could far exceed those of implementing one and the risks associated with nonaction could seriously impact not only our economy, but the world economy as well. As for the exchange rate argument, the dollar has depreciated significantly over the past years which should have improved our export performance by making our products less expensive in the world markets. Obviously, though, this has not been the case. Furthermore, Japan and Germany, with appreciating currencies which increase the cost of their exports, have nevertheless continued to build huge trade surpluses.

I am also deeply concerned that the administration's inability to resolve this issue and develop an export policy will severely hamper our negotiating strength in the upcoming Bonn economic summit which will include leaders from the United States, West Germany, Japan, France, Britain, Italy, and Canada. It has been anticipated that the summit could produce an accord in which:

First. The United States would pledge to take action to reduce its oil imports and to continue to pursue policies to curb domestic inflation;

Second. Japan and West Germany would agree to reflate their economies to stimulate domestic demand, thus expanding imports and reducing their huge trade surpluses; and

Third. All participants would agree to limit growing trade protectionism.

Such an accord among the major industrial and trading nations could be the impetus to stimulate world trade and thus prevent the world economy from slipping into another deep and painful recession. Therefore, it is vitally important that we enter into this summit ready to negotiate from a position of strength.

Without a new export stimulation package, though, nor a new energy policy, it will be virtually impossible to persuade the Japanese and the Europeans that we are serious about reducing our trade deficit and strengthening the dollar. Thus, we will have little leverage to persuade them to reflate their economies.

Furthermore, our ability to negotiate at Bonn, or in any other international forum such as GATT or OECD, a comprehensive international consensus focusing on eliminating predatory export credit practices and establishing export credit guidelines, is substantially weakened by our failure to develop a stimulative export package.

We cannot afford to continue to vacillate on this matter. The economic consequences and potential risks to the world economy are too great. Though the final form of a new export policy and the specifics of individual stimulative programs may take some time, we must move expeditiously to develop the basics of such a policy to show our trading competitors that we are serious about reducing our trade deficit and stimulating the growth of world trade and that we plan to offer our exporters the appropriate incentives and assistance to encourage exports and to insure they can be competitive in today's world markets. Until we have taken such steps, we can not expect other nations to respond to our pleas to gear up their economies or to show restraint in their trade practices.●

TEMPORARY OPERATING AUTHORITY TO NEW INTERSTATE TRUCKERS—PART II: THE CASE OF DAYTON AIR FREIGHT, INC.

● Mr. GLENN. Mr. President, last April, I commented extensively on the GAO report of February 24, 1978, that recommended significant change in the procedures followed by the Interstate Commerce Commission in granting temporary operating authority to new interstate truckers. In my statement, I asked the basic question of whether the myriad maze of ICC regulations and rules really does justice to our need for a rational, coordinated national transportation and regulatory policy. Specifically, I cited the GAO's findings that the current process for granting temporary operating authorities does not always give shippers the service they want while overly protecting regulated truckers from competition. Furthermore, GAO found an overly strict burden of proof requirement on TOA applicants attempting to demonstrate that authorized truckers cannot meet a shipper's needs, with no corresponding requirement that protesting licensed carriers demonstrate that they are actually meeting shipper's needs. Basically, GAO found that on both sides in these cases, there is a dearth of required specific information relating to meeting shippers' needs and that as a consequence, many meritorious TOA applications were rejected in a somewhat offhand manner by the ICC. I commented that this was particularly unfortunate since, first, the TOA is often a means by which small and minority-owned local companies can gain a foothold in the trucking industry while, second, providing a valuable and needed service to shippers that often prevented shippers from losing valuable sales.

It seems that more TOA's and improved procedures regarding them might introduce a realm of flexibility into trucking regulation while preserving the basic regulatory framework and the more positive features of it.

Mr. President, the Dayton, Ohio, Air Freight Co., is a company that is apparently caught in a catch-22 regulatory web that could be relieved if we achieve some measure of regulatory reform in this area. Dayton Air Freight is a small trucking company having gross revenues under $250,000 and net operating revenues that are less than $50,000. It owns and operates all of its equipment and has employed as many as 20 people. DAF was on a sound and firm growth pattern that began in the early 1970's when it received temporary authority to operate between Dayton, New York, Chicago, and Detroit. DAF then proceeded to apply for permanent authority for the same routes as the TA. When the TA expired and while the permanent authority request to the ICC was pending, DAF entered a contractual arrangement with a large licensed carrier having jurisdiction in the Dayton area and the other cities so that it could continue to serve its customers. Subsequently, DAF was granted permanent authority for Dayton-Detroit only. Contract costs became exorbitant—roughly $350,000 over 4 years—and in order to grow effectively and to continue servicing its established customers, DAF needed to acquire its own operating authority to other cities. The regulated carrier with whom DAF contracted owns no equipment and operates no trucks in the Dayton area.

In 1977 DAF applied for temporary and emergency authorities to operate to Chicago, New York, and Indianapolis. These requests were all denied by the ICC despite the strong support of local shippers and despite the fact that the licensed protestors do not offer the specialized Dayton airport facilities that DAF offers, nor are they immediately available for the often irregular pattern of shipments, as DAF is. Two of the lisensed protestants, while presumably having protested DAF's applications on the basis of their providing the service that DAF sought, actually discontinued that service while the DAF application was pending without losing standing as protestants. Additionally, none of the protestants offer the type of service that DAF could provide.

To add a final touch of irony and futility, one of the protestants to DAF's application for greater operating authority was the regulated carrier with whom DAF had contracted to allow it to service the areas for which it now seeks to be licensed. In effect, the protestant was protesting against the same company that it was contracting with to provide service for the Dayton area. The reasons for the protest had nothing to do with service but represented the licensed carrier's efforts to keep its operating rights free of licensed competition. As of early summer, the protestants had won and DAF had lost. No genuine competition exists and adequacy of service to many shippers in the Dayton area is questionable. The ICC and DAF lie moribound in rigid, inflexible procedures that sap the strength of the most well-intentioned. These procedures are costly and time-consuming and do not directly address the question of adequacy of service. Clearly it is a sad and tragic commentary on our regulatory scheme when a small and industrial firm such as Dayton Air Freight becomes caught and tangled in a circle of regulations and redtape that saps both its initiative and its resources.

Mr. President, I have not yet taken a position on the complex question of trucking deregulation. This is a volatile area where any action touches on the delicate competitive balance in the transportation industry. There is considerable impact on prices, service, profits, inflation, employment, the value of existing licenses and more that flows from any step taken in the regulatory framework. Major changes must be weighed with great care and at length. I look forward to grappling with these issues when the Senate Government Affairs Committee considers part V of our regulatory reform study. In the interim, it is clear that we must move to modernize the regulatory structure in a more coherent manner. Steps must be taken to preserve a viable role for the local small businessman and to assure adequate service to shippers. The ICC should act on the GAO's temporary authority recommendations. At the same time Congress must attempt to develop a rational and coherent regulatory policy which encourages two of the goals that are basic to our Nation: economic growth and adequate service.

Mr. President, I shall submit for the RECORD at the conclusion of my remarks a June 18, 1978, article from the Washington Star depicting the fate of Dayton Air Freight. I also include a brief listing of recent articles and materials that further demonstrate the complexity of these trucking issues.

First. Congressional Budget Office, May, 1978, Background Paper Barriers to Urban Economic Development, pages 17–24.

Second. GAO report of June 26, 1978, "ICC's Expansion of Unregulated Motor Carrier Commercial Zones Has Had Little or No Effect on Carriers and Shippers."

Third. GAO report of June 20, 1978, "Issues in Regulating Interstate Motor Carriers."

Fourth. Harvard Business School Professor Daryl Wycoff report on the potential effect of economic deregulation of the trucking industry on highway safety.

Fifth. Report of the Attorney General on "The Effects of ICC Regulations of Independent Owner-Operators in the Trucking Industry."

Sixth. March 13, 1978, White Paper on "Motor Carrier Regulation—The Issue in Perspective," by the American Trucking Association.

Seventh. June 30, 1978, Senate Commerce Committee study on potential impact of trucking deregulation on small communities.

These materials should be tremendously helpful as we move in the months ahead to deal with these complex issues.

The article follows:

[From the Washington Star, June 18, 1978]

OWN WORK SEEMS TO HAVE BLOCKED ICC LICENSE

(By Stephen M. Aug)

Five years ago, Herschel W. Wimmer and Charles T. Hacker began the arduous task of trying to get a trucking certificate from the Interstate Commerce Commission.

Instead of a license to continue operating their small firm, however, all they've gotten has been a series of denials—most of them with no reason given.

Among opponents to their plan is Cape Air Freight, which told the ICC that it already provides the service for which Wimmer and Hacker want a license.

However, it turns out, Cape had provided the service by, in effect, renting its license to Wimmer and Hacker, who actually performed the work.

The case, some observers say, is an example of the commission's unwillingness to permit increased competition. It also illustrates the value put on ICC licenses—a value that is increased when the commission refuses to open up routes to competition.

Wimmer and Hacker's firm, Dayton Air Freight Inc., is a small company that holds an ICC license to operate between the Dayton and Detroit airports. It carries goods between the airports and to and from shippers served at the two facilities.

In December 1972 Dayton asked the ICC for a temporary license to operate between Dayton and airports in Chicago, New York

and Detroit to serve the needs of existing customers in the Dayton area and several new customers.

The Commission approved the temporary license early in 1973, but after the company sought to make the license permanent the following September there was opposition from other truckers. Among the opponents was Cape Air Freight, which held an ICC license to provide the service between the same points, but, according to Hacker, wasn't using it.

Frequently when a firm applies to the ICC for a trucking license, those who already hold such a license oppose the request whether or not they are using the authority. The purpose is to prevent someone else from competing with them—if they are in fact using the license—or to keep the value of their unused license high so it may be sold.

In this case, while the ICC proceeding was underway Dayton made an arrangement with Cape Air Freight to serve the route in Cape's behalf. About this time Cape dropped its opposition to the license. Initially, Cape charged Dayton 7 percent of the route's revenues. Business boomed for a while and eventually Dayton was taking in perhaps $900,000 a year.

In late 1974 an ICC administrative law judge turned down Dayton's request to serve Chicago and New York. The firm, he noted, had had only one shipment to the New York airports and "one shipment in a year certainly does not warrant a grant of any authority." (With a temporary license from the commission the firm probably wasn't in a position to win much permanent business.)

In December 1975 the ICC ratified the judge's recommendation limiting Dayton's business to the Dayton and Detroit airports. Shortly thereafter, Cape demanded a larger percentage of the take, according to Hacker.

Despite the rising cost of doing business—largely the result of the rising price Cape was demanding—Dayton continued to ply Cape's routes.

In early 1977, Trans World Airlines canceled its all-cargo flights from Dayton to New York. The move had considerable impact on some of Dayton's customers. As a result, Dayton Air Freight more than ever needed an ICC license to serve the New York airports, since the business to the Dayton airport had dropped sharply.

Shortly after TWA pulled out, Hacker says, Cape made an offer to buy out Dayton Air Freight—a view not supported by a Cape official. Wimmer and Hacker refused to sell. Cape demanded still higher rental fees, Hacker said, to 23½ percent of the take. At this point, Dayton could no longer afford to use the service and the two companies ended their agreement.

At the same time, Dayton applied to the ICC for emergency temporary authority to continue, serving its customers and transport shipments to New York and Chicago, but the commission refused.

Then, starting last summer, Dayton, backed by some of its customers, began filing a series of unsuccessful requests with the commission to win a license.

One of the opponents again was Cape. Hacker says the essence of Cape's opposition was that there was no need to grant Dayton Air Freight authority to serve this area because Cape was already serving it.

"Then they used a document to support that, which was a document on business we had generated," Hacker says.

In other words, according to Hacker, Cape was saying it was already serving the Dayton area by showing revenues that amounted to Dayton Air Freight's fees to Cape.

In an interview the other day, Wimmer said the protracted fight at the ICC has been costly. Through early last year, he said, the company had spent about $16,000 in legal fees alone, even though he and Hacker did much of the work themselves. This, he said did not include whatever charges might be levied by a Washington law firm he felt he had to hire a year ago.

At the same time, as a result of cancellation of the Cape agreement, Dayton's revenues have fallen from a peak of about $900,000 to about $250,000 a year.

The view from Cape is obviously different. In a telephone interview from the firm's Shawnee Mission, Kan., headquarters, Wendell Wahlsted, who identified himself as office manager, said that for one thing Cape never rented its certificate—renting such certificates, he said, is illegal.

Cape, he said, simply hired Dayton Air Freight as a local contractor—a way to avoid making large capital investments in big trucks. Wahlsted said Cape, which has ICC licenses in some 22 states (and operating revenues last year of about $7.7 million), typically pays such a contractor 75 to 80 percent of the revenues.

The Dayton area, he pointed out, is being handled by Jim Jones, "our Dayton contractor. We hired him to handle all our work around Dayton. He started working for us . . . when Ted Hacker and his organization and Cape parted company. Jones used to be one of Ted Hacker's drivers. He requested to continue with us . . . He's done a very good job for us ever since."

Cape is one of the nation's largest air freight forwarders and typically contracts out its work to local truckers. This, Wahlsted said, enables a local firm to serve areas for which it doesn't have ICC authority.

And, if any local trucker sought additional authority to stretch its area in order to serve shippers farther from the local airport, Cape would oppose such an application at the ICC. "We'd be foolish not to," said Wahlsted.●

MISS LOIS FAHRLANDER

● Mr. CURTIS. Mr. President, our country is blessed with many fine organizations. They raise their budgets and they contribute to the well-being of our country by dedicating themselves to the solution of some grave problem. The National Multiple Sclerosis Society is such an organization. Their efforts mean much to many, and it is hoped that they will have great progress in the future.

Recently Miss Lois Fahrlander received the highest award of the society. I wish to commend Miss Fahrlander, and I ask that the article which appeared in the Uptown Citizen on July 6, 1978, be printed in the RECORD.

Lois Fahrlander of 5302 Albemarle Street, Washington, D.C., has been presented the Hope Chest Award, the highest award given by the National Multiple Sclerosis Society for exemplary volunteer Service.

. . . the award is being presented by Mr. George Boddiger, President of the Equitable Life Insurance Company and Trustee of the National MS Society, and Mr. Roy Harris, Chairman of the MS National Capital Chapter.

Miss Fahrlander is a long-time volunteer and was recently elected to the local Board of Trustees of the Society. She is Assistant Vice President of Mutual of Omaha at the Regional Administrative Office.●

INDUSTRIAL INNOVATION

● Mr. STEVENSON. Mr. President, technological innovation was responsible for 45 percent of the Nation's economic growth from 1929 to 1969. It remains the key to our ability to compete in the world. A $30 billion trade deficit is not so much the result of the oil bill as it is our inability to pay for it with exports. Other nations do so. Indeed, even with appreciated currencies they run trade surpluses. The key to recovery and stable prices is industrial innovation, including innovation in the production of food. But the Nation is losing its edge. More R. & D. now takes place outside than inside the United States. This subject is discussed in the July 3 issue of Business Week.

Mr. President, I urge my colleagues to read "Vanishing Innovation" and ask that it be printed in the RECORD.

The article follows:

VANISHING INNOVATION

A grim mood prevails today among industrial research managers. America's vaunted technological superiority of the 1950's and 1960's is vanishing, they fear, the victim of wrongheaded federal policy, neglect, uncertain business conditions, and shortsighted corporate management. They complain that their labs are no longer as committed to new ideas as they once were and that the pressures on their resources have driven them into a defensive research shell, where true innovation is sacrificed to the certainty of near-term returns. Some researchers are bitter about their own companies' lax attitudes toward innovation, but as a group they tend to blame Washington for most of their troubles. "[Government officials] keep asking us, 'Where are the golden eggs?'" explained Sam W. Tinsley, director of corporate technology at Union Carbide Corp., "while the other part of their apparatus is beating hell out of the goose that lays them."

That message—and its implications for the overall health of the U.S. economy—is starting to get through. Following months of informal but intense lobbying led by such executives as N. Bruce Hannay, vice-president for research and patents at Bell Telephone Laboratories Inc., and Arthur M. Bueche, vice-president for research and development at General Electric Co., the White House has ordered up a massive, 28-agency review of the role government plays in helping or hindering the health of industrial innovation. "Federal policy affecting industrial R&D and innovation must be carefully reconsidered," wrote Stuart E. Eizenstat, the White House's domestic policy adviser, in a recent memo outlining the review's intent.

One thing that the study clearly will not accomplish is a quick fix for the deepening innovation crisis. The problem is regarded as immensely complex by the Administration, and is inextricably tied to other economic dilemmas now facing Carter's White House.

"Historically, the government's role has been to buy more science and R&D," says Martin J. Cooper, director of the strategic planning division at the National Science Foundation (NSF). "Now maybe we better go with investment incentives." Says Jordan J. Baruch, Assistant Commerce Secretary for science and technology, who will be the review's day-to-day manager: "This study developed in an environment of people concerned about economics, business, and technology."

The Administration's concern is underscored by the fact that it is organized as a domestic policy review, the highest sort of attention a problem can receive within the executive branch. Among its objectives, such a review must produce options for corrective action by the President. According to Ruth M. Davis, Deputy Under Secretary of Defense for research and development, "this is the only such review at the policy level in 20 years that transcends the interests of more than one agency."

The White House also seems determined not to conduct the study in a governmental vacuum. Baruch is soliciting input from

groups such as the Industrial Research Institute (IRI), the Business Roundtable, and the Conference Board. "We want both CEOs and R&D vice-presidents," says a White House official. Labor groups have been asked to participate, too, along with public-interest groups. Congressional leaders such as Senator Adlai E. Stevenson (D-Ill.), chairman of the Senate subcommittee on science, technology, and space, have been brought into the early planning. And the 28 agencies involved extend beyond obvious candidates, such as the Environmental Protection Agency, to the Justice Dept. and even the Small Business Administration.

The study's scope is so sweeping, in fact, that some federal officials are talking about a "thundering herd" approach to policymaking. But one government science manager demurs. "It beats having one guy write a national energy program in three months," he sniffs.

Philip M. Smith, an assistant to Presidential science adviser Frank Press and an early organizer of the study, concedes that "a lot of people have told us that we are likely to fail." But such skepticism, he believes, does not take into account the considerable clout of those involved in the effort. Commerce Secretary Juanita M. Kreps, for example, is chairing the study, and she heads a coordinating committee whose members include Charels L. Schultze, chairman of the Council of Economic Advisers, Administration inflation fighter and chief trade negotiator Robert S. Strauss, and Zbigniew Brzezinski, Carter's national security adviser. Even more important is the support of Eizenstat, who, says Smith, "is very interested in this particular review."

FINDING "NEW DIRECTIONS"

On the other hand, there is already grumbling within the Agriculture Dept., which was left off Krep's committee. "We are red-faced," says a high-ranking Agriculture official. "We are out of the project because this Administration and those before it do not place any priority on agricultural research." However, Jordan Baruch insists that the department will play a role in the study. Agriculture experts point out that farm commodity exports of over $24 billion play a key role in the U.S. balance of payments. They note also that superior technology is the basis of the commanding American position among world food exporters.

Whatever its outcome, the White House policy review is being undertaken at a time when, as Frank Press puts it, "we badly need some new directions." Many experts review with alarm the declining federal dollar commitment to R&D, which has dropped from 3 percent of gross national product in 1963 to just 2.2 percent this year. For its part, industry as a whole has more or less matched the inflation rate and then some with its own spending. But such macroscale indicators do not tell all. "We've got to find out what the story is sector by sector, because each industry is going to be different," says Press. "We also have to find out what's going on abroad."

Better data on the relationship between industrial innovation and the health of the economy are becoming available. According to a 1977 Commerce Dept. report, for instance, technological innovation was responsible for 45 percent of the nation's economic growth from 1929 to 1969. The study went on to compare the performance of technology-intensive manufacturers with that of other industries from 1957 to 1973, and found that the high-technology companies created jobs 88 percent faster than other businesses, while their productivity grew 38 percent faster.

The numbers help to establish the central role of industrial innovation in stimulating economic development, but they also are beginning to reveal the changing character of industrial research. The amount of basic research that industry performs, for instance, has dropped to just 16 percent two years ago from 38 percent of the national total in 1956.

And a new IRI survey of member companies for the National Science Foundation demonstrates how federal policy has directly altered the nature of the research effort in another way, making it more and more defensive. The study shows that surveyed companies increased R&D spending devoted to proposed legislation by a striking 19.3 percent, compounded annually, from 1974 to 1977. And the rate was 16 percent a year for R&D devoted to Occupational Safety and Health Administration (OSHA) requirements. "When overall R&D spending is not growing nearly this fast," note the survey's authors, George E. Manners, Jr., and Howard K. Nason, "other categories of effort—especially research—must be suffering."

Other observers compare the viability of industrial innovations in the U.S. with that of foreign countries. One expert is J. Herbert Hollomon, director of the Center for Policy Alternatives at Massachusetts Institute of Technology. According to Hollomon, a reason the U.S. is losing its leadership is that "we're arrogant—we have an NIH [not invented here] complex at the very time a majority of technological advances is bound to come from outside the U.S." Consequently, he argues, the U.S. has not organized itself to capitalize on these advances, as foreign countries have done for years with American knowhow. Since as much as two-thirds of all R&D is now conducted by foreign laboratories, Hollomon says, it should be no surprise that they have taken the lead in such technologies as textile machinery and steel production.

"We essentially prohibited West Germany and Japan from defense and space research," says Hollomon. "So it's no accident they concentrated on commercial fields." He adds: "I believe other nations better understand that the innovation process is important."

Says a research director for one high-technology company: "For a country like ours, the technology leader of the world, what has been happening is downright embarrassing." Indeed, even the presumed sources of strength in a consumer-oriented society are today under intense pressure. "Our experience with Japan in the consumer electronics industry—namely televisions, radios, audio, and transceiver equipment—shows some of our weaknesses," testified Gary C. Hufbauer, a Deputy Assistant Treasury Secretary, before a congressional subcommittee. In 1977, he said, "we had a $23.6 billion trade deficit with Japan in high-technology goods, and about two-thirds of this was accounted for by imports of consumer electronic goods."

THE ROLE OF REGULATION

The cumulative response to these developments has been alarm. "The system has now sharpened its pencils in a way that discourages changes that are major," worries Robert A. Frosch, head of the National Aeronautics & Space Administration. "We have been so busy with other things that we may have inadvertently told the people who think up ideas to go away."

Even labor unions, which historically have left R. & D. decision-making up to corporate board rooms, now are complaining about lack of innovation. "Having helped to develop and pay for this technology," says Benjamin A. Sharman, international affairs director of the International Association of Machinists, "American workers have a right to demand government responsibility for using it to create new products, more jobs, better working conditions, and general prosperity." And Charles C. Kimble, research director of the Electrical, Radio & Machine Workers union, goes so far as to suggest that labor should now have a say in how industrial research money is spent.

Among research managers themselves, excessive or contradictory federal regulatory policy is the single greatest complaint. Hannay of Bell Labs points to Food & Drug Administration requirements as a case in point. According to one study, says Hannay, a 1938 application for adrenaline in oil was presented to the FDA in 27 pages. In 1958, a treatment for pinworms took 439 pages to describe. "By 1972," he says, "a skeletal muscle relaxant involved 456 volumes, each 2 in. thick—76 ft. in total thickness and weighing one ton."

Regulation, says Tinsley of Union Carbide, has put a bottleneck on new-product development in the chemical industry and has so added to the cost of getting any new chemical approved that only those targeted at a vast, assured market are attempted today. Food and drug industry researchers echo that complaint. "Today," says Al S. Clausi, director of technical research at General Foods Corp., "our industry does work that is fostered by unreal and invalid public concerns."

But regulation can have less obvious impacts, such as forcing an industry to stick with old technology rather than to experiment with new approaches to problems. "The overall effect of regulations on the auto industry has been to build an envelope around the internal-combustion device and the whole car structure," says Harvard Business School Professor William J. Abernathy, who specializes in technology management. "Don't do anything really new, don't change. That's what these regulations say." Paul F. Chenea, vice-president for research at General Motors Corp., agrees. "You just don't have time to explore wild new ideas when a new rule is so closely coupled to your current business," he says.

"THE SCIENCE OF THE MATTER"

In Congress, where the regulatory laws are written, such thinking has so far found a small audience. "A great number of the regulations that we would call environmental . . . may actually be self-defeating," muses Harrison H. Schmitt, the former astronaut from New Mexico who is the ranking Republican on Stevenson's Senate subcommittee. "Instead of looking at pollution controls, if we were looking at building a more efficient and therefore less-polluting engine, we would not only be solving our environmental problems, but we would be producing a new thing for export."

Schmitt is one of only three federal legislators with the semblance of a science background. "We probably have exercised very poor judgment in the past," he says, "because the Congress overall—members as well as staff—have not been able to understand what is possible technologically and what is not, and therefore not been able to relate the costs [of legislation]."

Jason M. Salsbury, director of the chemical research division at American Cyanamid Co., pleads, "Before the lawyers write the legislation, let them know the science of the matter." Not only may some mandates be beyond what industry can legitimately perform, he says, but the rules force a conservative approach to science. One key indicator of this trend is the increasing number of toxicologists now employed in chemical company research labs. "Toxicologists don't innovate," notes Frank H. Healey, vice-president for research and engineering at Lever Bros. Co.

Then there is the regulatory bias against new ideas. In the EPA's grant programs for waste-water treatment at the municipal level, for instance, equipment specifications must be written so that gear can be procured from more than one source. That means a company with a unique process is

discriminated against. What is more, the mandate for cost effectiveness precludes trying out innovative approaches whose value can only be measured if someone is willing to gamble on them.

If the domestic policy review is to solve such questions, it will depend in large part on the willingness of regulators to see matters in a new light. According to Philip Smith, there is "a sense that people like [EPA Administrator] Doug Costle and [FDA Administrator] Don Kennedy want to work with industry, and they don't want to fight all the time. I think we have a team of people now in government that may be able to do something."

THE INVESTMENT CLIMATE

But industry should not expect a major overhaul of regulatory practices to emerge from the study. EPA Administrator Douglas M. Costle concedes "a tremendous growth in the last decade in health and safety regulations—13 major statutes in our area alone." Though Costle agrees that the economic impact of such rules should be more closely quantified, he contends that "this rapidly widening wedge of regulation has been a response to a massive market failure—failure of the marketplace to put an intrinsically higher value on pollution-free processes."

Most regulators agree that not enough research has been done on the true nature of the environmental problems they are empowered to combat, but they also argue that regulation has led to cost-saving practices, especially in the area of resource recovery, where closed-cycle processes now help capture reusable material. OSHA officials also cite examples where the agency has laid down rules that have led to cost-cutting innovations. But Eula Bingham, the OSHA administrator, emphasizes that the "legislatively determined directive of protecting all exposed employees against material impairment of health or bodily function" requires tough regulation without quantitative weighing of costs and benefits. "Worker safety and health," she insists, "are to be heavily favored over the economic burdens of compliance."

Bingham and her boss, Labor Secretary Ray Marshall, may represent an increasingly isolated view, however. Economic issues have come to dominate thinking within the Carter Administration, and it is precisely these questions that industry has stressed in its discussions with science adviser Press and other White House officials. Just over a month ago, Treasury Secretary W. Michael Blumenthal told a meeting of financial analysts in Bal Harbour, Fla., "We are now devoting a very sizable chunk of our private investment to meeting government regulatory standards . . . and in some of these areas we may well be reaching a breaking point." Blumenthal also noted: "Our technological supremacy is not mandated by heaven. Unless we pay close attention to it and invest in it, it will disappear."

A month before the Blumenthal speech, GE's Bueche suggested to an American Chemical Society gathering that "we step back and look at R&D for what it really is: an investment. It is an investment that, like more conventional investments, has become increasingly less attractive."

Bueche, along with most other research managers, rejects the idea of direct federal subsidies to industrial R&D. Instead, he points out that "perhaps 90 percent of the total investment required for a successful innovation is downstream from R&D [and thus] it becomes . . . clear why we must concentrate on the overall investment climate." Bueche attacks Administration proposals to eliminate special tax treatment of long-term capital gains, plumps for more rapid investment write-offs, and says "it is extremely important to provide stronger incentives for technological innovation by making permanent and more liberal the 10 percent investment tax credit."

CRITICS IN INDUSTRY

Bueche's arguments suggest the broad—yet often indirect—way in which federal policy runs counter to the best interests of innovation. Fear of antitrust moves from the Federal Trade Commission or the Justice Dept., for instance, has prevented many companies from sharing research aimed at a problem common throughout an industry—including new technology aimed at solving regulatory questions. At General Electric, the legal staff must now be notified if a competitor visits a company research facility, even if no proprietary material is involved.

For their part, Justice Dept. trustbusters claim that fears that their policies stifle innovation are not justified. They say they are flexible enough to recognize the differences in the pace of innovation from industry to industry, and that is why they allow a fair number of mergers among electronics companies. "That's an industry where you don't have to worry about someone cornering the market," says Jon M. Joyce, an economist in the Justice Dept.'s antitrust division. "There's just a lot of guys out there with good ideas."

Industry further claims that the inability to secure exclusive licenses on government-sponsored research leaves much good technology on the shelves, while federal attempts to market new products are often silly at best. Richard A. Nesbit, director of research at Beckman Instruments Inc., recalls a government circular that waxed rhapsodic over the federal commitment of billions of dollars to R&D. Included with the letter was a syringe for sampling fecal matter, and the suggestion that Beckman might want to license the technology. "I wondered if they spent billions to develop that," Nesbit recalls. "The contrast was ludicrous."

Even national accounting procedures draw criticism from industry. A major target is the 1974 ruling by the Financial Accounting Standards Board that stipulated that R&D spending could no longer be treated as a balance sheet item, but must be listed as a direct profit or loss item in the year spent. R. E. McDonald, president and chief operating officer at Sperry Rand Corp., recently told an executive management symposium, "The ramifications of that rule change are quite complex, but the net effect has been to dry up a lot of potential venture capital investments. . . . I can say quite candidly that Univac would not be here today if we had not had the advantage of the old rule for so many years."

The shortage of risk capital has had a tremendous impact on small, technology-oriented companies trying to arrange new public financing. According to a Commerce Dept. survey, 698 such companies found $1.367 billion in public financing in 1969. In 1975, only four such companies were able to raise money publicly, and their numbers rose to just 30 in 1977. Equally ominous is the experience at Union Carbide, which, according to Tinsley, has not been able to compete for venture capital and has thus canceled plans to start a number of small operations built around interesting new technology. Years ago, says Tinsley, Carbide was reasonably successful at getting such funding. "And you must remember that these ideas are perishable," he says. "They don't have much shelf life."

The Treasury Dept., in fact, has an ongoing capital-formation task force that will be integrated into the policy review under the direction of Deputy Secretary Robert Carswell. Carswell notes that "you can't draw a clear line" between R&D support and investment in general, but "if it turns out that we find some form of capital formation gives the economy a greater multiplier effect than another form, we at the Treasury would not shy away from whatever policy would help most."

WASHINGTON'S CHANGING ROLE

Even as it has pursued policies detrimental to industrial R&D, the federal government has withdrawn as a major initiator of innovation. Research managers generally believe that companies are better equipped than government to bring new technology to society because they are more attuned to market pull. But Lawrence G. Franko of Georgetown University, an international trade expert, recently pointed out to a congressional committee that the U.S. Government has in the past played an important role "as a source of demand for new products and processes, and as a constant, forbearing customer in computers, semiconductors, jet aircraft, nuclear-power generation, telecommunications, and even some pharmaceuticals and chemicals. . . ."

According to the Defense Dept.'s Davis, both Defense and NASA "have faded" in this role, the result of the Vietnam war and concerns over the military-industrial complex. "The consumer marketplace and other government agencies have not been able to pick up where DOD and NASA left off," she says. "The Department of Energy should be able to help with this, but it hasn't yet. And the Department of Transportation just never blossomed in this role." An unreleased IRI study for the Energy Dept. summed up industry's views. The company officers interviewed said government could spur industry's energy R&D only by creating a national energy policy, increasing its managerial competence, and offering financial incentives rather than massive contracts.

On the other hand, there have been some recent, notable government efforts to spur the innovation process. "We've talked to the leading semiconductor companies about our hopes for their innovation," says Davis. She says that the Defense Dept. expects to program $100 million over the next five years for industrial innovation in optical lithography, fabrication techniques involving electron-beam technology, better chip designing and testing to meet military specifications, and system architecture and software implementation.

At the Transportation Dept., chief scientist John J. Fearnsides wants to involve the private sector much earlier in the government's R&D process, thereby allowing industrial contractors to develop technology alternatives insteads of having to cope with rigid specifications at the outset. Such a policy, some believe, might have resulted in major savings for the Bay Area Rapid Transit system, for instance. "It is more expensive to fund a wider range of choices, but only at first," says Fearnsides.

The NSF also has announced a new industry-university grant program for cooperative exploration of "fundamental scientific questions." The aim is to make "a long-term contribution toward product and/or process innovation."

THE FAILURES OF BUSINESS

While agreeing on the need for federal policies that bolster innovation those knowledgeable about industrial research think that the companies themselves share some of the blame for stagnation and must be willing to examine their practices critically. Alfred Rappaport, a professor of accounting and information systems at Northwestern University's graduate school of management, believes that one reason the U.S. lags in R&D is that the incentive compensation systems that corporate executives live under tend to deter intelligent risk-taking. "Incentive programs are almost invariably accounting-numbers oriented and based on short-term earnings results," he says. "That puts management emphasis on short-term

business considerations." Another criticism has been of the haphazard way in which companies have launched new R&D programs. In essence, industry should try to learn how to weed out bad ideas early on, say the detractors. To that end, Dexter Corp. has instituted an eight-factor "innovation index" approach to research management that weighs questions such as effectiveness of communications, competitive factors, and timing, and comes up with an "innovation potential" for new ideas. At Continental Group Inc., D. Bruce Merrifield, vice-president of technology, says that "constraint analysis" of new ideas now means that eight of 10 projects that survive the review will generate cash flow within two to four years. That contrasts with accepted estimates that only one in 50 ideas that come out of research labs ever generates cash flow, and not for seven to 10 years.

Large companies often fail to exploit their own resources effectively. In the 1950s and 1960s, some companies set up centralized research facilities, but many of these did not yield the hoped-for synergism—in many cases, apparently, because the different parts of the company were in businesses too unrelated to one another.

On the other hand, Raytheon Co. was highly successful in transferring its microwave expertise to its newly acquired Amana appliance subsidiary in 1967, resulting in the counter-top microwave oven. That was done through a new-products business group set up specifically for such purposes. And more recently, this group, headed by Vice-President Palmer Derby, brought the company's microwave talent to bear on its Caloric subsidiary's product line, resulting in a new, combination microwave-electric range.

In such ways, industry can maximize its potential for innovation in the most adverse environment. But the future health of the nation's economy, many experts believe, requires a much more benign environment for industrial R&D than has existed over the past decade. And Jordan Baruch, the enthusiastic leader of the multi-agency federal study, believes that such an environment is likely to emerge as a result of the Administration's concern.

"We may have bitten off more than we can chew," notes Frank Press, "and it may be that we can't get much done in a year. But even if it takes three or five or 10 years, I think it is historically very important."●

OUR YOUTH SHOULD SERVE

● Mr. MATHIAS. Mr. President, given the many issues and problems of our economy which face the Senate today, it would indeed be a difficult, if not impossible, task to come up with one proposal that touched on all the issues. A recent column in Newsweek by Dr. Steven Muller, president of the Johns Hopkins University, does not exactly do the impossible, but it does, in a very few paragraphs, put forward a fresh idea with manifold positive effects. Ostensibly, Dr. Muller's suggestion of a national youth service is offered as an alternative to Federal aid to post-secondary students in the form of tuition tax credits. I am a cosponsor of S. 2142, the Tuition Tax Credit Act of 1977, but my support of that bill does not preclude my interest in other proposals to provide tuition relief. However, Dr. Muller's idea of a youth corps addresses broader issues of great importance to the vigor of our country: The need to keep alive public spiritedness, to revive our cities, to provide job training to Americans who want and need employment. Most striking and appealing about Dr. Muller's proposal is the process of give and take that it envisions among the Government, private citizens and businesses. This would certainly be in keeping with the best of American political and social ideals.

Mr. President, I ask that the article, entitled "Our Youth Should Serve," which was published in the July 10, 1978, issue of Newsweek, be printed in the RECORD.

The article follows:

OUR YOUTH SHOULD SERVE

(By Steven Muller)

Too many young men and women now leave school without a well-developed sense of purpose. If they go right to work after high school, many are not properly prepared for careers. But if they enter college instead, many do not really know what to study or what to do afterward. Our society does not seem to be doing much to encourage and use the best instincts and talents of our young.

On the one hand, I see the growing problems of each year's new generation of high-school graduates. After twelve years of schooling—and television—many of them want to participate actively in society; but they face either a job with a limited future or more years in educational institutions. Many are wonderfully idealistic: they have talent and energy to offer, and they seek the meaning in their lives that comes from giving of oneself to the common good. But they feel almost rejected by a society that has too few jobs to offer them and that asks nothing of them except to avoid trouble. They want to be part of a new solution; instead society perceives them as a problem. They seek a cause; but their elders preach only self-advancement. They need experience on which to base choice; yet society seems to put a premium on the earliest possible choice, based inescapably on the least experience.

NECESSARY TASKS

On the other hand, I see an American society sadly in need of social services that we can afford less and less at prevailing costs of labor. Some tasks are necessary but constitute no career; they should be carried out, but not as anyone's life-time occupation. Our democracy profoundly needs public spirit, but the economy of our labor-system primarily encourages self-interest. The Federal government spends billions on opportunity grants for post-secondary education, but some of us wonder about money given on the basis only of need. We ask the young to volunteer for national defense, but not for the improvement of our society. As public spirit and public services decline, so does the quality of life. So I ask myself why cannot we put it all together and ask our young people to volunteer in peacetime to serve America?

I recognize that at first mention, universal national youth service may sound too much like compulsory military service or the Hitler Youth or the Komsomol. I do not believe it has to be like that at all. It need not require uniforms or camps, nor a vast new Federal bureaucracy, nor vast new public expenditures. And it should certainly not be compulsory.

A voluntary program of universal national youth service does of course require compelling incentives. Two could be provided. Guaranteed job training would be one. Substantial Federal assistance toward post-secondary education would be the other. This would mean that today's complex measures of Federal aid to students would be ended, and that there would also be no need for tuition tax credits for post-secondary education. Instead, prospective students would *earn* their assistance for post-secondary education by volunteering for national service, and only those who earned assistance would receive it. Present Federal expenditures for the assistance of students in post-secondary education would be converted into a simple grant program, modeled on the post-World War II GI Bill of Rights.

VOLUNTEERS

But what, you say, would huge numbers of high-school graduates do as volunteers in national service? They could be interns in public agencies, local, state and national. They could staff day-care programs, neighborhood health centers, centers to counsel and work with children; help to maintain public facilities, including highways, rail beds, waterways and airports; engage in neighborhood-renewal projects, both physical and social. Some would elect military service, others the Peace Corps. Except for the latter two alternatives and others like them, they could live anywhere they pleased. They would not wear uniforms. They would be employed and supervised by people already employed locally in public-agency careers.

Volunteers would be paid only a subsistence wage, because they would receive the benefits of job training (not necessarily confined to one task) as well as assistance toward post-secondary education if they were so motivated and qualified. If cheap mass housing for some groups of volunteers were needed, supervised participants in the program could rebuild decayed dwellings in metropolitan areas.

All that might work. But perhaps an even more attractive version of universal national youth service might include private industrial and commercial enterprise as well. A private employer would volunteer to select a stated number of volunteers. He would have their labor at the universally applied subsistence wage; in return he would offer guaranteed job training as well as the exact equivalent of what the Federal government would have to pay for assistance toward post-secondary education. The inclusion of volunteer private employers would greatly amplify job-training opportunities for the youth volunteers, and would greatly lessen the costs of the program in public funds.

DIRECT BENEFITS

The direct benefits of such a universal national-youth-service program would be significant. Every young man and woman would face a meaningful role in society after high school. Everyone would receive job training, and the right to earn assistance toward post-secondary education. Those going on to post-secondary education would have their education interrupted by a constructive work experience. There is evidence that they would thereby become more highly motivated and successful students, particularly if their work experience related closely to subsequent vocational interests. Many participants might locate careers by means of their national-servico assignments.

No union jobs need be lost, because skilled workers would be needed to give job training. Many public services would be performed by cheap labor, but there would be no youth army. And the intangible, indirect benefits would be the greatest of all. Young people could regard themselves as more useful and needed. They could serve this country for a two-year period as volunteers, and *earn* jol training and/or assistance toward post-secondary education. There is more self-esteem and motivation in earned than in unearned benefits. Universal national youth service may be no panacea. But in my opinion the idea merits serious and imaginative consideration.●

EXECUTIVE AGREEMENT WITH IRAN

● Mr. SPARKMAN. Mr. President, on May 8, 1978 I entered in the RECORD

correspondence with the Department of State regarding the scope of obligations undertaken by the United States in its executive agreement with Iran.

For the purpose of insuring that the record is complete, I ask that my March 3 letter to the Assistant Secretary of State for Congressional Relations, as well as his response to that letter, be printed in the RECORD.

The letters follow:

MARCH 3, 1978.

Hon. DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations, Department of State, Washington, D.C.

DEAR MR. BENNET: Thank you for your letter of December 16, 1977 responding to my November 23, 1977 letter to Secretary Vance.

In answer to the first question that I raised, you indicate that the 1959 Agreement with Iran "avoids any implication of automaticity. . . ." I am not entirely clear, however, in what ways this commitment differs from those contained in United States Mutual Security Treaties since those treaties also imply no "automatic" military response on the part of the United States. What, specifically, is the functional difference in the commitment contained in each? Is the United States committed to do anything under its mutual securities treaties it is not committed to do under this agreement?

The Department's position regarding my second question is somewhat ambiguous. Is it, to repeat, the position of the Department of State that "congressional approval of the U.S. response would be required"?

Finally, you refer in your letter to Public Law 85–7, the "Middle East Resolution." Does the Administration construe that resolution as authorizing the introduction of the United States armed forces into hostilities?

Sincerely,

JOHN SPARKMAN,
Chairman.

DEPARTMENT OF STATE,
Washington, D.C., May 19, 1978.

Hon. JOHN SPARKMAN,
Chairman, Committee on Foreign Relations, U.S. Senate.

DEAR MR. CHAIRMAN: I am responding to your recent letter regarding my earlier letter of December 16, 1977 on the subject of the 1959 Agreement for Cooperation between the United States and Iran.

You asked first how the commitments contained in that Agreement compare with those contained in mutual security treaties to which the United States is a party. Enclosed, for purposes of comparison, are the relevant provisions from several of these treaties.

There are "functional differences" in these various agreements relating to the obligations of the United States, including the degree to which other States are to be consulted in the event of armed attack and the degree to which multilateral bodies are involved in determining the appropriate response. However, none of these agreements prescribe a specific "automatic" response by the United States.

With respect to your second question, any U.S. response pursuant to the Agreement would have to be considered in light of the circumstances. I want again to emphasize that the United States is obligated under the Agreement only to take those measures to which it may agree, in accordance with the requirements of the U.S. Constitution. Beyond that, I can only repeat that it is this Administration's position that the United States should not go to war without the collective judgment of the Congress and the President, and that we are committed to meaningful implementation of the procedures established by the War Powers Resolution of 1973 in responding to emergency situations. As you know, Administration witnesses have addressed these points before your Committee on a number of occasions.

With respect to your final question, Public Law 85–7 (March 9, 1957) states, in part, that:

. . . if the President determines the necessity thereof, the United States is prepared to use armed forces to assist [Middle East nations] . . . requesting assistance against armed aggression from any country controlled by international communism: Provided, that such employment shall be consonant with the treaty obligations of the United States and with the Constitution of the United States.

This is, therefore, a declaration of U.S. intention to respond to aggression in the Middle East in a manner consistent with U.S. Constitutional requirements. It clearly does not constitute a specific statutory authorization within the meaning of Section 8(a) of the War Powers Resolution. Further, the Middle East Resolution was enacted in response to particular emergency then existing in the region, which has long since ceased to exist. The Administration does not regard that resolution as authority for the introduction of United States Armed Forces into hostilities.

I hope you will find these answers helpful. Please let me know if I can provide further information.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

Attachment: as stated above.

ATTACHMENTS

ARTICLE I OF THE 1959 AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES AND IRAN

. . . In case of aggression against Iran, the Government of the United States of America, in accordance with the Constitution of the United States of America, will take such appropriate action, including the use of armed forces, as may be mutually agreed upon. . . .

ARTICLE 5 OF THE 1949 NORTH ATLANTIC TREATY

The parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all; and, consequently, they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area. . . .

ARTICLE 3 OF THE 1947 INTER-AMERICAN TREATY OF RECIPROCAL ASSISTANCE BETWEEN THE UNITED STATES OF AMERICA AND OTHER AMERICAN REPUBLICS

1. The High Contracting Parties agree that an armed attack by any State against an American State shall be considered as an attack against all the American States and, consequently, each one of the said Contracting Parties undertakes to assist in meeting the attack in the exercise of the inherent right of individual or collective self-defense recognized by Article 51 of the Charter of the United Nations.

2. On the request of the State or States directly attacked . . . each one of the Contracting Parties may determine the immediate measures which it may individually take in fulfillment of the obligation contained in the preceding paragraph. . . . The Organ of Consultation shall meet without delay for the purpose of examining those measures and agreeing upon the measures of a collective character that should be taken.

ARTICLE V OF THE 1960 TREATY OF MUTUAL COOPERATION AND SECURITY BETWEEN THE UNITED STATES AND JAPAN

Each Party recognizes that an armed attack against either Party in the territories under the Administration of Japan would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional provisions and processes. . . .●

PRESCRIPTION FOR SLUMS: PRIVATE OWNERSHIP REQURES PRIVATE CONTROL

Mr. GARN. Mr. President, the Senate will soon be called upon to render its decision on S. 3084, the Housing and Community Development Amendments of 1978. In addition, the Senate Banking, Housing, and Urban Affairs Committee recently began hearings on the President's Urban Initiatives. Involved are millions of Federal dollars and the establishment of new Federal programs. I have been and continue to be skeptical of Federal involvement in the private sector. Too frequently such involvement serves only to compound the problems that it seeks to correct. Many Federal programs are aimed at the symptoms of disease rather than at the diseases themselves, which all too often are prior Federal programs.

It is rare, Mr. President, when Federal assistance does not become a means for the Federal Government to buy control over local decisionmaking. The assistance to New York City is only a recent example. More far reaching is Government involvement in the housing industry. The history, for example, of Government housing programs, on all levels, is miserable. It is heartening, therefore, that there is a move toward the conversion of public housing to private ownership. This is a trend that I heartily support. Many Government urban renewal programs have failed because they did not recognize the importance played by private ownership in stimulating personal pride, self-respect, and responsibility, perhaps the most crucial elements in any form of renewal and development.

Mr. President, there is no meaningful private ownership without private control. I was encouraged, therefore, by an article in the Wall Street Journal of July 13, 1978, describing the success of King's Lynne Apartments, formerly America Park, in Lynn, Mass., as it made steps along the path from public housing to private ownership.

The private sector of this country is not dead, Mr. President. It is strong. It has life. It is time that we recognized that fact. If the private sector is ill at all, it has too frequently been further weakened by governmental blood-letting. I applaud efforts such as these begun in America Park. The decrease of governmental interference will serve to increase the health of our free Nation.

I commend this article to my colleagues and ask that the article be printed in the RECORD.

The article follows:

[From the Wall Street Journal, July 17, 1978]

PUBLIC-HOUSING SHIFT TO PRIVATE OWNERSHIP IS ADVANCED TO CURE ILLS

(By Liz Roman Gallese)

LYNN, MASS.—In 1970, America Park was among the worst public-housing projects in the Boston metropolitan area. Two-story brick-and-stucco buildings stood decaying on 58 trash-filled acres. Vandalism, robberies and other crimes were rampant in the 408 apartments. Because of the poor living conditions, many of the low-income tenants were moving out.

What could be done?

America Park decided to go private—a promising approach that could prove to be a solution for other blighted public-housing projects across the country. The local housing authority sold America Park to a private developer and a tenants, group. They have already torn down two-thirds of the project, and they are building and managing a mixed-income development on the site here in Lynn, a working-class and middle-income town about 12 miles north of Boston.

Called King's Lynne Apartments, the suburban-style complex is half-finished now, and it will have 441 units when completed late next year. The apartments will be rented to tenants with low, moderate and upper incomes. But only 110 of the families will be poor—far fewer than in the old housing project.

"LAST-RESORT" HOUSING

Assisted by their own staff of social workers, many former America Park families already are moving into King's Lynne. They dwell in peaked-roof townhouses, garden apartments and five-story buildings nestled along winding lanes. Tennis courts, a swimming pool and a recreational hall grace the manicured grounds.

"America Park was housing of the last resort," says Eleanor Wessell, a staff member of King's Lynne Residents Council Inc., the tenants' organization. "For years, no one thought King's Lynne would happen."

Housing officials across the country have long struggled with the all-but-unsolvable problem of the nation's deteriorating public housing—deterioration that was caused by rising expenses, inadequate funds for improvements, tenants' social problems and poor management by local housing agencies. Simply tearing down the deteriorated projects and scattering tenants elsewhere didn't always solve the problem.

But now, housing experts are coming up with more innovative solutions, and one is the conversion of public housing to private ownership, says Mary Nenno, associate director of the National Association of Housing and Redevelopment Officials, a Washington-based professional group. The idea is that private owners of rehabilitated or new projects will attract responsible families and evict irresponsible ones. And private developers' investment ought to motivate them to manage the property properly, too.

HUD BACKS CONVERSIONS

There is federal interest in conversion. As part of a comprehensive urban plan announced recently by President Carter, the U.S. Department of Housing and Urban Development this week unveiled an "Urban Initiatives" program that will cost about $209 million. The program aims to rescue the 200 worst of the 14,000 public-housing projects in the U.S. by providing funds for rehabilitation, improved management and more social services.

The HUD program includes the option of "more types of ownership," such as converting projects into cooperatives owned by the tenants, says Thomas Sherman, HUD's former acting director for assisted-housing management. The department already plans to test cooperative housing by helping a developer rehabilitate and convert Marina Village, a 400-unit public-housing project in Bridgeport, Conn.

Working with state housing-finance agencies, another arm of HUD intends to repair and return 25 other subsidized projects to private owners—developers, nonprofit groups or tenants. The projects are among 8,000 built privately with federally insured mortgages since 1968. HUD took over 210 of them after developers had defaulted on their mortgages because the low-income tenants couldn't pay increased rents.

A MODEL FOR OTHERS

But private ownership of renovated or rebuilt public housing won't work, housing authorities say, unless the project has a decent site, gets support from tenants and local officials, and has extensive social services. The most deteriorated projects may "have too many cards stacked against" them—principally, tenants burdened by unemployment, marital problems and chronic dependence on welfare, says Jeffrey Spragens, president of the Foundation for Cooperative Housing, a Washington-based private research group.

Probably one of the few converted projects, America Park could become the model for others. Its story illustrates how a committed group of tenants can use so-called sweat equity to turn an idea into a reality. The America Park experience also demonstrates that adequate social services for project families can help avoid some pitfalls of conversion.

The idea for King's Lynne Apartments began in 1970. City officials wanted to tear down or rehabilitate decaying America Park, a state-financed project built in 1951. America Park Associates Inc., the project tenants' organization, fought the move. "We knew the city wouldn't tolerate America Park much longer. But we made it clear the city wasn't going to do a thing without the tenants," recalls Mrs. Wessell, a 46-year-old resident and former community worker who was active in the tenants' group.

Aided by a private consultant, the tenants decided they wanted to replace the public project with privately owned mixed-income housing. They figured that the large site would permit open space and pleasant landscaping and that its location near a neighborhood of well-maintained single-family homes would attract middle-income tenants. And the tenants concluded that it didn't make any sense to rehabilitate the project's poorly constructed buildings.

The tenants' organization and other Lynn residents then pressured state legislators to pass a law permitting the sale of the project. That law, passed in 1973 also required the Massachusetts Housing Finance Agency to provide a $19.1 million construction and mortgage loan for the $21.2 million new development.

The tenant's planning for a 750-unit complex proceeded smoothly—until early 1974, when a fight erupted over whether to ban American Park families with unruly children, deadbeats and other troublemakers. Mrs. Wessell and her future husband, Daniel (they got married in 1977), opposed such a ban and won a state-agency guarantee to admit all 269 families then living in the project.

Next, America Park Associates looked for a developer that would give them an equal say in the management of King's Lynne and a portion of its ownership. From five developers that submitted bids, they chose Corcoran Mullins Jennison Inc., a Quincy, Mass., firm that had built several mixed-income complexes. Initially apprehensive about the deal, Corcoran Mullins insisted on the right to ban or evict tenants who wouldn't obey certain rules. The rules included prompt payment of rents and a prohibition of pets.

The biggest battle for the residents' group began just days after the selection of Corcoran Mullins: The Lynn city council ordered the project site rezoned for industry. Opponents—including the local chamber of commerce and nearby homeowners—feared King's Lynne would turn into another America Park.

The tenants and the developer sued, charging illegal rezoning. The snarl dragged on for 18 months, and the prolonged dispute "was a low point, a terrible low point," for the tenants, Mrs. Wessell recalls. The lawsuit was settled when the developer agreed to reduce the complex to 441 from 750 units and to eliminate six-bedroom and seven-bedroom units.

There was another disappointment during that 1974-75 period: About 100 America Park families moved out, thereby forfeiting their right to live in the new development. Some families left because they doubted King's Lynne would happen. Others moved because they wanted their share right away of the estimated $480,000 in state relocation money. (Tenants received the funds whether they moved out for good or were temporarily dislocated during construction of King's Lynne.) Certain tenants departed because they didn't like the new rules. And one motorcycle-gang member with a pet mountain lion wasn't encouraged to stay, according to Mrs. Wessell.

Construction began on King's Lynne in October 1976. Part of America Park was torn down and 53 of the 166 remaining families were relocated temporarily.

There are now 205 completed units at King's Lynne, but the development has attracted only five higher-income families—far fewer than desired. The developer and the tenants' organization want to rent one-fourth of all apartments to affluent families paying full-market rents, from $425 monthly for a one-bedroom unit to $560 a month for a four-bedroom one. Half the units are to be rented at subsidized rates to moderate-income families that earn between $8,100 and $22,080 a year and the rest to low-income families with annual incomes below $8,100.

Corcoran Mullins officials cite the difficulty of finding many affluent families in the industrial city of Lynn. "People who can afford $425 (monthly) for a one-bedroom apartment aren't living here," says Joseph Corcoran, president.

However, the popularity of King's Lynne with moderate-income families probably will prevent it from turning into another low-income project. About 130 of these families have moved into the new complex since last fall. One is the Kobor family, which has two children and an annual income of $12-000. Tibor Kobor, a machinist, and his wife, Barbara, sold their $45,000 home in suburban Tewksbury because they found the upkeep too expensive. At King's Lynne, they rented a three-bedroom unit for $345 a month. "We wouldn't have come if we thought it would become another America Park," Mrs. Kobor says.

King's Lynne boosters realize its success also depends on the willingness of former America Park families to keep their children out of mischief and to take pride in their new homes. (Of the 70 low-income tenants already living in King's Lynne, 60 moved from America Park and the rest are elderly newcomers.) That's why there is a staff of five social workers, an administrator, a Spanish-speaking counselor and a children's art teacher. Paid for with $205,000 in state money, the staff will be reduced to two after the December 1979 completion of King's Lynne. Then the developer and the tenant's group will pay the staff's salaries.

The staff has worked with about 126 America Park families, helping them to realize that rental arrears, vandalism and uncleanliness will lead to eviction from the new complex. For instance, slow-paying

America Park tenants now get notices, discussions with social workers and invitations to attend budgeting classes to learn how to manage the family income.

It's a carrot-and-stick approach, explains David Connelly, director of social services. Corcoran Mullins "means business about evictions," he tells tenants. "We also point to better services." So far, just two King's Lynne tenants have been evicted—one, a former America Park tenant whose children misbehaved, and the other, a moderate-income tenant who fell behind in rent payments. Others may be evicted if they can't work out problems, but probably 140 America Park families will "survive" in the new development, Mr. Connelly predicts.

The budget classes, job-placement efforts and other counseling also have enabled 20 of the 125 America Park families on welfare to reduce or discontinue their benefits. "I have never seen families respond as well to social services, because they are responding at a time of major change in their lives," Mr. Connelly says.

Perhaps anticipation of a new home accounts for some of this response. Catherine Gridley, a 39-year-old housewife, says she, her husband and their seven children can't wait to move into their new four-bedroom apartment with a den. They now live in one of America Park's few remaining buildings.

Mrs. Gridley shows a visitor the tiny, seedy apartment—with its peeling ceilings, a shower that scalds, and storage so inadequate that winter clothes are kept in trash barrels. In King's Lynne, Mrs. Gridley says, "I'll have a full dining room, 2½ baths and, most of all, space." She adds pensively, "We have been promised this for a long time. It's like a dream come true."●

MEXICAN OIL AND OPPORTUNITIES FOR THE UNITED STATES

● Mr. KENNEDY. Mr. President, in March of this year the Subcommittee on Energy of the Joint Economic Committee held hearings entitled "Energy in the Eighties: Can We Avoid Scarcity and Inflation?" One of the witnesses, Dr. Bernardo Grossling, a widely respected geologist now serving with the U.S. Geological Survey, told the subcommittee that he believed that Mexico's oil reserves are much larger than those of the United States and may even approach or exceed those of Saudi Arabia.

Now, in an article in the July 5 Wall Street Journal, Dr. Grossling's views are in the news again. Lawrence Goldmuntz presents an analysis of Mexico's oil reserves and the power broker role Mexico would assume should its potential vast reserves be realized. Although Goldmuntz does not agree completely with Dr. Grossling, the value of the article lies in the fact that Grossling's views, which were greeted with some skepticism at our March hearings, are now being given greater prominence and acceptance.

The article points out that the Mexican oil discoveries present the United States with an opportunity to settle some of the issues that have strained our past relationship with that country. The discoveries could pave the way for greater cooperation by helping the United States meet her energy needs and by helping Mexico develop its economy with American assistance. Such joint undertakings would enable Mexico, for example, to provide the employment opportunities needed to stem the flow of unemployed Mexicans across the U.S. borders.

Mr. President, I submit the Wall Street Journal article "Mexico: Emerging Oil Superpower?" for the RECORD:

MEXICO: EMERGING OIL SUPERPOWER?

(By Lawrence Goldmuntz)

Two months ago Pemex, the state-owned Mexican oil company, completed a well in the shallow water of the Bay of Campeche 200 kilometers due west of Merida on the Yucatan Peninsula.

The well, called Ixchel, is also about 200 kilometers from an oil-bearing geological structure farther south along the coast. It indicates the existence of a potentially vast region of oil-bearing structures from the foothills of the Sierra Madre southwest of Villahermosa north to Ixchel over a distance of 500 kilometers.

Pemex hasn't announced the production capability of Ixchel, and it's also possible that the well is simply indicative of a limited oil-bearing structure in that region unrelated to the finds farther south.

But Ixchel has spawned a new round of speculation about the extent of Mexican oil reserves. Bernardo Grossling, a research scientist with the U.S. Geological Survey, interprets the recent exploration results as boosting Mexico's potential reserves to 160 billion barrels and conceivably more. Arthur Meyerhoff, a Tulsa-based consultant to Pemex, has made similar estimates in conversations, though he has declined requests for a follow-up interview. Other knowledgeable onlookers, such as M.I.T. professor M. A. Adelman, say they wouldn't rule out the possibility that Mexico will turn out to be a major producer of hydrocarbons on the scale of, say, Iran, which claims proven reserves of about 90 billion barrels.

In fact, says Sevinc Carlson, director of legal and international energy studies of the Center for Strategic and International Studies in Washington, a unit of Georgetown University, it's possible that "Mexico's reserves might be second only to those of Saudi Arabia," whose proven reserves of 151.4 billion barrels account for nearly 24 percent of the world's total. Dr. Carlson's comment was made in a recent study of the Mexican situation. She cautioned, however, that the true extent of Mexico's reserves can only be determined after years of extensive drilling.

The implications of major oil finds in Mexico are substantial. For one thing, they are another reason to doubt the fundamental assumptions behind the Carter administration's energy policy—that the world is running short of oil and that government intervention is needed to resolve a looming energy "crisis."

They might also pose a substantial economic threat to private and state-owned oil operations in other parts of the world, particularly those where oil and gas is being extracted at relatively high prices, such as the North Slope of Alaska and the North Sea.

A TRICKY BUSINESS

Making estimates of oil and gas reserves is, of course, a very tricky business. Mexico's reserve figures have been the center of controversy for some time, with many observers feeling that Mexico has been inflating its figures in order to make it easier to get loans to prop up its shaky economy. There's also some suspicion that some U.S. officials find it convenient to brandish the figures at other oil-producing nations from time to time as a reminder that there may come a day when the U.S. isn't dependent on OPEC oil.

But there's also a school of thought that, if anything, the Mexicans have been understating their reserves to avoid driving down the price on the world market.

Whatever the case, the dynamics of the growth of Mexican oil and oil-equivalent reserves are fascinating. In 1972, Mexican proven and probable reserves were announced to be 2.6 billion barrels; in 1977, they were announced to be 16.8 billion barrels. Pemex currently says the figure is over 40 billion barrels. (Mexico includes gas in its reserve estimates; it's estimated that gas accounts for 35 percent to 40 percent of the total.)

In 1977 there were 50 rigs drilling on shore producing 100 wells per year. These wells defined 40 new fields. Ten offshore rigs drilled 20 wells finding 14 new fields in 1977. Today there are 90 rigs onshore and 14 rigs offshore. Approximately 200 promising geophysical structures have been identified offshore so far and 60 structures onshore.

The pay zone in one of the wells in the Bermudez field southwest of Villahermosa was struck at 4.5 kilometers and extended 2,000 meters to a total depth of 6.5 kilometers. The rig was not equipped to go any deeper. This particular well was reported to have flowed at the rate of 37,000 barrels a day from a 10-meter interval from both the top and bottom of the 2,000-meter oil-bearing stratum. The well has been choked back to 5,000 barrels per day.

The lifting costs of these reserves are nominal—probably less than $1 per barrel for the reserves on shore. This compares with approximately 40 cents per barrel in Saudi Arabia. The lifting costs of the offshore reserves are probably greater—perhaps $1 to $2 per barrel. However, the transportation costs from Saudi Arabia to the U.S. are probably five to 10 times as great as the transportation costs from the Yucatan peninsula.

Mexican gas reserves are also estimated to be substantial. Again the transportation costs of this gas are considerably less than either liquefied natural gas from Algeria or Indonesia or gas from Alaska.

The discoveries in Mexico, the oil possibilities elsewhere in the underdeveloped world (the density of drilling in the developing nations is only 1% that of the U.S., according to Mr. Grossling of the U.S.G.S.) and progress being made in developing other transportation fuels (Mobil, for example, says it's working on a catalyst that may convert coal-based methanol to 100 octane lead-free gasoline for a total price of $1.20 a gallon at the pump, including state and federal taxes) should provide some stimulus for revising U.S. energy policy.

The neo-Malthusians have the wrong time scale. We won't run out of oil in the next few decades; it could last well into the next century, assuming we maintain only the moderate increase in demand experienced since the Arab oil embargo. After that, the conversion of coal and shale to liquid hydrocarbons will provide transportation fuels for a few more centuries at quite reasonable prices.

The primary focus for energy policy should be to provide energy at the lowest possible price to the U.S. consumer—without any federal subsidies or taxes. A secondary focus should be to insure that an important fraction of these supplies are secure against international political upheavals.

To achieve lower petroleum costs—or to put a cap on present petroleum costs—it is in the interest of the U.S. consumer to increase the supply of petroleum products. The most likely increases in supply are in the underdeveloped world. These people need money and have the greatest desire to develop and sell their resources to obtain the financing necessary for their own development.

Saudi Arabia, Kuwait, the Arab Emirates and Libya have such a high ratio of petroleum reserves to population and are already so rich that they need no increase in income and are therefore reluctant to increase production. As a matter of fact, these Arab states are the linchpin of the OPEC cartel. A cartel has a better chance of lasting if it

is not necessary to allocate production among its members. The tendency to "cheat" is great once production allocations are necessary. Saudi Arabia has decreased its daily production from 10 million barrels a year ago to approximately seven million barrels today to accommodate the world's oil glut and to forestall the need to allocate production in OPEC. However, it has been estimated that the Saudis would be reluctant to see their production fall below five million barrels per day.

If the Mexican reserves or any other reserve in a country hat needs income—can be brought to production, OPEC's power to set oil prices would be decreased. Mexico, not presently an OPEC member, might follow OPEC pricing policies. Nevertheless, an increase in Mexico's production from one million to five million barrels per day would tend to destroy OPEC's cohesiveness.

If enough reserves could be brought to production in the underdeveloped countries, the monopoly rents of OPEC might be reduced and oil prices might fall as much as $4 per barrel. At today's import levels. this might save the U.S. as much as $12 billion annually. This is a measure of the amount the U.S. might invest to develop resources in underdeveloped countries. Other industrialized countries that import major quantities of oil, such as Germany, France and Japan, should be as interested as the U.S. to make such an investment.

"GRINGO IMPERIALISM"

Our relations with Mexico have not been smooth. U.S. oil firms were nationalized in 1938. Energy Secretary Schlesinger refused to approve the purchase of Mexican gas at $2.60 per thousand cubic feet in 1978 even though there had been approval for the importation of Algerian natural gas (LNG) at much higher prices. Even in nonenergy areas there has been tension. Contrary to treaty, the U.S. has made the Colorado River a salty sewer by the time it flows to Mexico. Any negotiation concerning Mexican petroleum and gas reserves will be complicated by this prior history. In particular, the rejection of the gas purchase evoked memories of "gringo imperialism."

It is time to rethink our relationship with our Latin American neighbors. Our substantial oil import needs can be an attractive market for our neighbors in the Western Hemisphere. The U.S. must be sensitive to Mexican problems of unemployment, a marginal economy and political tensions. It is not likely that Pemex and U.S. international oil companies could conclude an arrangement concerning Mexican oil. Pemex might fear political repercussions and the U.S. oil companies certainly fear expropriation. Some favored access to the U.S. market and security of income over a period of time may be the catalyst necessary to induce Pemex to increase its production capability at a rate to meet U.S. interests. A further inducement might be an "up-front" investment by the U.S. to develop the Mexican reserves.

It has been reported that Mexico is working on an arrangement involving the U.S.S.R., Spain and Cuba, whereby the U.S.S.R. will supplant Mexican oil that was being transported to Spain and Mexico will replace Russian oil that was being shipped to Cuba—thereby saving transportation costs for all countries. A similar pragmatism applied to the mutual interests of the U.S. and Mexico should certainly be encouraged. The cost of petroleum products to the U.S. consumer for the next half century would be decreased, the development of Mexico and the standard of living of her people could be enhanced. Perhaps this is the basis of a meaningful good neighbor policy.●

THE TAX ON MARRIAGE

● Mr. MATHIAS. Mr. President, on April 19, 1978, I introduced S. 2941, a bill to amend the Internal Revenue Code of 1954 to provide that a married individual who files a separate return may be taxed at the same rate as an unmarried individual. I initiated this measure as a means of ending the inequitable "marriage tax," the extra tax burden which often arises when both husband and wife work. Since introducing the bill, I have been joined in its sponsorship by Senator JAVITS and Senator STEVENS. I have received letters of support from my own constituents as well as from taxpayers of other States—including taxpayers who would not be directly affected by the measure; I have a file of supportive editorials which includes columns appearing in the Boston Globe, the Washington Post, and the Detroit News.

What I would like to focus on today, though, are two quite different expositions on the "marriage tax" that recently came to my attention. One is a case decided in the U.S. Court of Claims on May 17, 1978; the other is a study, dated June 2, 1978, entitled "The Couple Versus the Individual Under the Federal Personal Income Tax" by Alicia H. Munnell, assistant vice president and economist of the Federal Reserve Bank of Boston. Both raise the question of the responsiveness of our tax laws to changing societal norms and lifestyles, but the court and the economist take differing stances and reach differing conclusions.

The court case, *Mapes* v. *U.S.*, No. 403–77 (U.S. Ct. Cl., decided May 17, 1978) involved a married couple who challenged the constitutionality of the existing Internal Revenue Code provisions relating to taxation of married people on the grounds of fifth amendment due process and equal protection standards. The couple paid $1,220.10 more to the Internal Revenue Service in 1976 as a result of being married than they would have if they were single. The court, citing precedent and prudence, demonstrated its inability to invalidate the relevant portion of the code on any grounds, whether of fundamental rights, sex discrimination, or arbitrariness. Concluded Judge Nichols:

> Plaintiffs have demonstrated that the tax classifications used by Congress are imperfect and imprecise, at least to some degree. This however, is not sufficient to justify invalidating the legislation * * *

Fortunately, tax reform does not depend upon judicial negation of bad laws. Judge Nichols was right: Judicial relief is not the solution for every imperfection in our laws. On the contrary, it is usually not the solution. But the opinion continued:

> The solution advanced by plaintiffs to provide a more equitable system of taxation is to create a third option for married couples—the ability to take advantage of section 1(c) rates [i.e., to file as unmarried individuals]. Defendant's response to this is first to note that there is some concern by Congress that this would create the temptation to shift income in various ways to avoid the higher rates. . . . Second, this approach would end tax equality among married couples with equal incomes. Finally, inequities would again exist among people residents of community property states and common law states.

In short, the foregoing serves to illustrate that tax disparities will exist no matter how the rates are structured. This is simply the nature of the beast. The tax law is complicated enough already without the added complexity a full solution to this problem would apparently require. We in the judiciary, are neither equipped nor inclined to second guess the legislature in its determination of appropriate tax policies . . .

I agree that the judiciary is not equipped to "second guess" the legislature. I do not agree—and I think the court in this instance indulged in some second guessing—that a solution to the "marriage tax" would further and unnecessarily complicate our already intricate tax laws. S. 2941 works entirely within existing codification. The experience of 11 States, the District of Columbia, and 14-member nations of the Organization of Economic Cooperation and Development that permit or require married taxpayers to file individually does not bear out predictions of extra complexity or an epidemic of tax evasion. As for the relative advantages which couples in community property States might gain by income splitting should each spouse be permitted to file individually, S. 2941 explicitly bars application of community property laws when spouses file under section 1(c) rates.

Finally, the contention that individual filing would end the principle of tax equality among married couples with equal incomes brings me to the heart of my remarks—to the need for our laws, including our tax laws, to reflect changing social conditions. Is it today an inviolable principle that all married couples with identical incomes be taxed identically? This principle is valid only if the couple, not the individual, is taken as the taxable unit.

The Mapes opinion observed (not without some wit, after quoting from a Gilbert and Sullivan ditty on the selflessness of true love):

> Formerly society frowned upon cohabitation without marriage, assessing various punitive sanctions by law and custom against the partners themselves, and their innocent offspring. Most of these have now been eliminated in our more "enlightened" society. Cohabitation without marriage, and illegitimacy, or whatever it is now called are said to be rapidly increasing. Certainly the tax-minded young man and woman, whose relative incomes place them in the disfavored group, will seriously consider cohabitation without marriage. Thereby they can enjoy the blessings of love while minimizing their forced contribution to the federal fisc. They can synthesize the forces of love and selfishness.

The court's point is that our Tax Code encourages cohabitation over marriage in many cases. While a constitutional remedy is not available, Judge Nichols alluded to a possible benefit of this inequity when he said, "our Internal Revenue Code provides an opportunity to the young to demonstrate the depth of their unselfishness," since marriage may mean an increased tax burden.

Is it really the function of the Internal Revenue Code to instill one supposed virtue or another in Americans. For me, the important goals to be pursued in revamping our tax laws are simplicity, equitable tax liability, and promotion of capital spending and increased productivity. Social conditions change; the Tax Code must reflect these changes to continue the pursuit of these goals. My

point in emphasizing evolving social conditions is not that the Tax Code must be structured to embrace one or another mode of living, but that the laws must be structured to take them into account—or else the more permanent goals become skewed. My complaint is not that existing law serves to undermine the institution of marriage, but that it undermines principles of fairness. Plain facts of American life point to the need for change in the taxation of married people in order to maintain a progressive and efficient overall tax scheme. Dr. Munnel presents these facts clearly, and I would like to enter into the RECORD excerpts from her study:

. . . The selection of the taxable unit involves a value judgment and reflects a nation's social norms. The changes in the role of women and the family in the United States during the last two decades require a reassessment of the appropriate taxable unit in this country.

In 1948, when income splitting was adopted, almost 80 percent of households were comprised of husband and wife families. Generally, the husband was the bread-winner and the wife did not work. Thus, the one-earner married couple was the appropriate norm to adopt as the taxable unit. However, since 1948 the composition of households, the labor force participation of women (especially married women) and the divorce rate have all changed dramatically with important implications for tax policy.

LABOR FORCE PARTICIPATION OF WOMEN

The most dramatic increase in labor force participation has been among married women who live with their spouses. While the overall female labor force participation rate has doubled from 27.4 percent in 1940 to 48.0 percent in 1977, the rate for married women more than tripled from 14.7 percent to 46.6 percent. The significant rise of married women in the labor force and the prevalence of two-earner couples seriously undermines the principle of equal taxation of couples with equal income as an appropriate goal of Federal income taxation. In addition to the equity consideration, the increased labor force activity of married women has sharpened the efficiency issue. The aggregation of spousal income creates a work disincentive by subjecting the secondary worker's earnings to very high marginal tax rates.

EQUITY CONSIDERATIONS

In 1940, the two-earner couple accounted for 11.2 percent of total households, by 1977 this percentage had increased to 29.6 percent and will certainly rise further in the future. The influx of married women into the labor force weakens the argument for taxing equal income couples equally. When wives' contributions to family income consisted primarily of unearned income, employing the couple as the unit of taxation was reasonable. With only one wage earner, no work-related expenses nor loss of household services or leisure were incurred in the receipt of the wife's income. Therefore, taxing one-earner couples equally regardless of the distribution of income between the spouses involved no inequity.

One and two-earner couples, however, are quite different and taxing them equally (as under current law) sharply discriminates against the family with two workers. Taxable income does not include the value of services performed by a spouse at home or the value of the nonworking spouse's leisure. While it would be administratively impossible to estimate accurately the value of such work and leisure for tax purposes, the failure to do so systematically benefits one-earner couples relative to two-earner couples.

In addition, the failure to allow deductions for work expenses such as commuting, meals, etc. tends to be particularly burdensome for the two-worker family. Ideally, these expenses should be deducted from a worker's earnings to determine net income from employment but generally they have been disallowed for administrative reasons. If every household had only one earner, this inequity created by improperly defining income would be distributed uniformly. However, a two-earner couple incurs approximately twice the amount of work expenses as a one-earner couple with the same income, and therefore, is particularly disadvantaged. . . .

EFFICIENCY CONSIDERATIONS

The changing employment pattern of married women increases the potential impact of high marginal tax rates on work incentives. Taxing a married couple via a joint return implies that the first dollar earned by the wife, in effect, is taxed at the marginal rate on the last dollar earned by the husband. In terms of efficiency, taxing the earnings of secondary workers at high marginal rates causes the greatest distortion in labor activity and thereby the largest reduction in economic welfare. . . .

Studies on labor force activity of males generally have concluded that factors other than money play the most important role in work motivation and have found their labor force participation is affected little by the income tax. This result should not be surprising since healthy males in the United States generally are considered to be responsible for supporting themselves and their families and therefore are expected to work. For women, however, high marginal tax rates have particularly serious implications. In the current social context, American working wives are predominantly secondary family earners. Women workers generally earn less than their male counterparts and working wives earn less than their husbands. Furthermore, the wife's working career adapts to familial responsibilities with time taken out for childbearing and raising. Since the labor force participation of married women is viewed as discretionary, it would be expected that they would be more sensitive than men to high taxes on their earnings.

The impact of high marginal taxes on married women's labor force activity cannot be assessed by an examination of their labor force participation rates. While currently 46 percent of married women are in the labor force, the issue is whether participation rates and the number of hours worked would be substantially greater under an alternate tax structure. Econometric studies generally indicate that an increase in the net hourly wage for married women would result in a substantial increase in hours worked. The conclusions of a study by Harvey S. Rosen suggest that for a 10 percent increase in the net hourly wage rate, the number of hours worked by married women per year would increase by 16 percent. These results are consistent with the findings of two other studies. . . .

The labor force activity of married women appears quite sensitive to changes in the net wage; yet, under the current tax system, which aggregates the earnings of spouses, these workers face the highest tax rates. A recent study concluded that by moving from joint to individual filing, the same amount of revenue could be collected with a 30 percent lower loss of economic welfare. Efficiency considerations, therefore, provide a strong argument for individual taxation.

DIVORCE

The divorce rate, which remained relatively constant from 1940–1965, has doubled in the last decade, from 2.5 per 1,000 population in 1966 to 5.1 in 1977. Furthermore, the divorce experience of young adults has already exceeded that of older adults when they were of comparable age. The Census Bureau estimates that more than one-third of the married persons between 25 and 35 years old in 1975 may eventually end their first marriages in divorce. The outlook for second marriages is even more uncertain. About 40 percent of people in their late twenties and early thirties who entered a second marriage, after their first marriage ended in divorce, will probably also have their second marriage end in divorce.

The prevalence of divorce has important implications for tax policy. First, with the probability of divorce so high, the legitimacy of the income pooling concept may be questioned. Employing the couple as the basic unit of taxation assumes that spouses effectively pool their income and consider their expenditures as being met out of a common budget. It also implies that the income of one's spouse contributes as much to one's welfare as one's own income. If the couple were a stable and permanent unit, this may be a legitimate assumption. However, in view of the dramatic increase in the likelihood of divorce, the long-term economic welfare of each spouse may depend more on his or her own earning than on the couple's combined income. . . .

COHABITATION

The increase in divorces and decline in marriages have been accompanied by a dramatic growth in the number of unrelated adults sharing two-person households. In 1977, 1.5 million persons lived in the 754,000 households which were shared with an unrelated adult of the opposite sex. The number of individuals in this type of household more than doubled between 1970 and 1977 and for those under age 45, the increase was over fivefold during the same period. While unrelated adults of the opposite sex sharing living quarters represent only about 9 percent of all primary individuals and 2 percent of all household heads, the trend toward cohabitation without marriage is clearly an important and growing phenomenon. If this trend continues, it will make it increasingly difficult to justify taxing people on the basis of their legal marital status.

The tax code should reflect social changes; the taxable unit that was appropriate in the 1940s is not applicable in the 1970s. The married one-earner couple now represents only one-third of all households and therefore can no longer be accepted as the norm. The increased labor force participation of women has resulted in a significant growth in the number of two-earner families, thereby undermining the desirability of equal taxation of families with equal income. The aggregation of the earnings of two-worker families also results in serious work disincentives for married women as well as imposing a "marriage penalty" when two employed persons marry. The rising probability of divorce undermines the premise that the married couple is a stable economic unit and that economic wellbeing and taxable capacity do not depend on how the income is divided between the spouses. As the incidence of divorce increases, married people will inevitably acquire a more proprietary interest in their own earnings as a basis for future financial security and may prefer a system which levies taxes on each spouse individually. Finally, the increase in the number of unmarried individuals who live together erodes the foundations of a tax system which discriminates on the basis of legal status. In light of the social revolution in lifestyles during the 1960s and 1970s the United States should reevaluate its tax code, because aggregation of couples' earnings, which may have been appropriate in 1948, now creates serious inequities.●

NUCLEAR FUEL SHIPMENT TO TARAPUR, INDIA

● Mr. RIBICOFF. Mr. President, last week my distinguished colleague, Senator SPARKMAN, on behalf of the Foreign

Relations Committee, sent a letter to the President regarding the shipment of nuclear fuel to India. I wish to place my views on the record with respect to this shipment.

The Nuclear Nonproliferation Act of 1978 on which we worked so hard and long, sets forth this Nation's policies and intentions to end the spread of a nuclear explosives capability. The act sets forth criteria which recipient states must meet in order to receive U.S. material and technology. Some of these criteria are to be met immediately, some to be met in 18 months. The act sets forth a process: The independent Nuclear Regulatory Commission is required to determine that the applicable statutory criteria are met. If the NRC is unable to do so—as it has been in this case—the matter is referred to the President, and then to the Congress. It is the congressional role to determine whether or not in the final assessment, exceptions should be made to the statutory criteria in order to advance larger nonproliferation interests. The Congress has assigned itself a very difficult role.

In my consideration of the first contested shipment of fuel I have tried to look at this issue fairly. One cannot forget the rude awakening which this Nation, indeed the world, had when in 1974 India exploded a so-called "peaceful" nuclear device. One cannot forget that this jolted us into a concept of a world afloat with nuclear weapons. The reality of that concept has become even more clear as supplier nations announced their intent to sell equipment, material, and technology to countries which had not renounced a nuclear explosives capability, which had refused to sign a nonproliferation pledge, and which have refused to accept full-scope safeguards on their nuclear facilities.

The nonproliferation situation for the world today is bleak. The prospects of other nations obtaining and using (or threatening to use) nuclear weapons is a horrifying vision. The question before the United States is how to stop it from happening.

We have before the Congress a pending fuel shipment to India to fuel the Tarapur reactors. It is the first issue since the enactment of the Nuclear Nonproliferation Act of 1978 to come before the Congress; that is, it is the first proposed shipment in which the Nuclear Regulatory Commission could not determine that the statutory criteria required for such exports would be met.

In our assessment of sending this proposed shipment, we cannot forget or ignore India's past nuclear history. In May 1974, India detonated a nuclear explosive device containing material produced through the use of heavy water exported from the United States, in violation of the terms under which the heavy water was supplied. India still retains possession of U.S.-supplied heavy water and has failed to provide assurances that this material is not now being used for purposes in violation of our contract. As one of a number of fuel fabrication facilities, it is likely that India's nuclear fuel fabrication facility continues to evidence "materials unaccounted for" and "unexplained losses" of materials. The International Atomic Energy Agency has encountered severe difficulties in monitoring safeguards on India. In the international community, India has hindered the development and adoption of an international system of nuclear safeguards. Most recently, U.S. attempts to negotiate with India regarding the adoption of full-scope safeguards have come to a standstill.

A primary issue which must be looked at in assessing the merits of this export is the adequacy of safeguards—our primary protection against unauthorized diversion of nuclear materials. Recently, the Office of Nuclear Material Safety and Safeguards at the Nuclear Regulatory Commission refused to certify that the internationally applied safeguards of the IAEA were adequate. With respect to safeguards applicability in India, it has been alleged that India has resisted the placement of IAEA cameras and tamper-indicating seals at the Tarapur reactors; that IAEA has been denied total access to the plutonium-bearing spent fuel of the Tarapur reactors; and that Indian nuclear officials have not been cooperative with the IAEA inspectors.

It is also important to consider what other nations will think as they examine U.S. response to this first test of the Nuclear Nonproliferation Act. Because this is the first instance since the passage of the act in which the NRC could not provide the required assurances, those other nations will have a right to ask if in other similar extenuating circumstances would the United States make an exception for their country? I too must ask, would the United States be willing to make an exception in other cases? This issue should not be taken lightly. It is important to understand the ramifications of our decision on this fuel export to India. We must consider the message our decision would give to the world community.

It is important, I realize, to look at what we can obtain by sending this shipment. The United States and India are in the midst of negotiations on India's acceptance of full-scope safeguards for its nuclear facilities. This is a highly important and worthy goal. Some progress has been made; more has been promised. The United States hopes that India will agree to the acceptance of full-scope safeguards so that U.S. fuel can continue to be supplied under the provisions of the Nuclear Nonproliferation Act. In continuing these talks the United States hopes to assure that proper protections are placed on its exports. It is within U.S. interests and the world interest to bring about a successful resolution to the negotiations.

The United States/Indian agreement for cooperation now provides for: The application of safeguards by the IAEA to all U.S. nuclear exports to India transferred pursuant to that agreement and to all nuclear materials produced therefrom; a prohibition on the use of U.S. nuclear exports for atomic weapons or any other military purpose; a prohibition on the retransfer of U.S. nuclear exports; and a prohibition on reprocessing any U.S.-exported nuclear material. These agreements are clearly steps in the right direction. These agreements, the continuing negotiations, and the new assurances offered by the Government of India must also be taken into account when Congress decides whether or not to permit the fuel shipment.

The Government of India has provided assurances precluding the use of U.S. nuclear exports for the use in nuclear explosive devices of any kind. Our agreement for cooperation with India provides that the United States will be the sole supplier of the Tarapur atomic power station. The United States does have the right to purchase nuclear material produced in the Tarapur atomic power station.

I believe that under the provisions of the act we should permit this shipment of nuclear fuel to India in this instance. I agree with the Foreign Relations Committee. The pending negotiations must be vigorously pursued and new efforts must be made to reach a successful conclusion. The Nuclear Non-Proliferation Act provided for 18 months to reach agreements on some of these critical issues. That 18-month period should be allowed to run. However, during this 18-month period agreements on full-scope safeguards and other matters must be reached. India must demonstrate its good faith to the United States and the world community by accepting full-scope safeguards. If such agreements cannot be reached within the statutorily provided time period, I would hesitate to consider any waiver of those crucial criteria.

I am very uneasy about the shipment of fuel which is now pending. I am willing to give India "one more chance" to demonstrate its recently stated willingness to cooperate with the United States in its nonproliferation effort. We have until September of 1979.●

ADDRESS BY SENATOR BROOKE TO LICENSED PRACTICAL NURSES OF MASSACHUSETTS

● Mr. CASE. Mr. President, providing health care for all Americans in the most rational, effective, and humane manner at an affordable cost is one of the primary problems facing our Nation. I should like to call to the attention of the Senate a speech which was recently given by our colleague from Massachusetts, Senator EDWARD BROOKE, to the licensed practical nurses of Massachusetts. Senator BROOKE not only pays well-deserved tribute to the skills and devotion which LPN's display in the widest possible variety of health care settings but he also points out the increasingly important role which these key health care providers must play, and be allowed to play, in the future.

I ask that Senator BROOKE's speech be printed in the RECORD.

The address follows:

REMARKS OF SENATOR EDWARD W. BROOKE

I am delighted to have this opportunity to meet with you, for, regrettably we in the Senate and the House have seen too little of you and your representatives in the halls of Congress. And thus we have heard far too

little of the needs and concerns of our Licensed Practical Nurses. This is particularly disturbing because you are truly the backbone of the nursing profession. It is you, the LPN, who serves the American patient most broadly across the nursing spectrum. You serve as the bedside nurse. You serve in the patient's hospital room, in the operating room, in intensive care units, in coronary care wards, in nursing homes, in community health care, in home health care, and, indeed, in virtually every branch of medicine and health. Yet both Congress and the public have failed to recognize the valuable and indispensable role of the LPN.

There is one unifying theme which should underline all our discussions and subsequent actions. And that is the recognition that LPNs are nurses in the fullest sense of the word, and that they deserve and have earned the same respect as their sister nurses. There must be an end to the unjustified, implied or actual, status of LPNs as the stepchildren of the nursing profession.

This morning I would like first to discuss with you some specific measures which the Congress and the Executive Branch must take as soon as possible to correct the pervasive and myopic neglect of LPNs and then I would like to address a broader long range question regarding the role not only of LPNs but of all other health professionals.

First, and important both in terms of economic earnings as well as professional respect, we must change the federal Civil Service classification on LPNs. LPNs and Nursing Assistants are now placed in the same classification. Yet nursing Assistants require the time and expense of only 4 to 8 weeks of health education. LPNs, on the other hand, require the time and expense of at least 10 to 18 months of education. There is no justification for classifying these two groups of health personnel, varying so greatly in training, expertise, and responsibility, in the same Civil Service classification, and thus making them subject to the same salary scales. This is not just economically inequitable, it is also a vivid symbol to the entire nation of the federal government's ignorance about the role and value of LPNs.

Therefore, we must establish a separate category in the Civil Service classification for LPNs. This category would recognize the measurable differences in their training and responsibilities and would establish a higher and fairer salary for them.

Within the area of federal regulations, there are two regulations pending in the Department of Health, Education and Welfare which are of particular importance to you and your colleague. In November, HEW proposed regulations defining the duties and practices of health personnel in hospitals receiving Medicare/Medicaid reimbursements. Under these proposed guidelines, LPNs would not have been allowed to take medication orders over the phone, nor would they have been permitted to act as circulating nurses in operation rooms. These proposed regulations were not only a misunderstanding of the education and role of LPNs, and of their potential for cost-saving in the delivery of health services, but also a misunderstanding of the necessary interaction of the many kinds of health providers in the treatment of our ill and our aged. Several of my colleagues and I objected and fortunately HEW is now rewriting these proposed regulations. And I understand that favorable and fair changes will be made, probably in June, recognizing the important responsibilities LPNs have, can, and must fulfill.

In the Congress there has also been recent legislative action vitally affecting LPNs. The Rural Health Care Bill, enacted by Congress in December, provided that in addition to registered nurses and nurse practitioners, LPNs would now be eligible for the very important Medicare-Medicaid reimbursements for home health care in rural areas. This was a critical step in our campaign to obtain Congressional recognition that LPNs are an essential and integral part of the health professions.

Presently there are several bills pending before Congress authorizing major programs of home health care which would not only substantially change the American health care system, but would also expand the already impressive role of LPN's. As you well know, we have for too long placed too great a reliance in our country on institutionalization in hospitals and in nursing homes. This institutionalization has very often been unnecessary and has occurred only because satisfactory and more rational alternatives were not available. This institutionalization has very often been unnecessary and has occurred only because satisfactory and more rational alternatives were not available. This institutionalization has been far more costly than such alternatives, and explains in large part our massive and constant escalation of health care expenditures. Moreover, this institutionalization, most particularly of our aged, has too often been insensitive and inhumane. We are all familiar with the instances, uncovered by the Senate Special Committee on Aging on which I serve, of actual cruel mistreatment of elderly patients in unethical nursing homes. But there are other tragic, more common examples of mistreatment of our elderly. For so many of our elderly are uprooted from the homes they know and love, and where they often brought up their families. They are removed from the neighborhoods with which they are familiar, and separated from the friends and acquaintances whose company has given meaning to retirement years, usually marked by declining health, few pleasures and public indifference. Not surprisingly, under these circumstances, institutionalization of our elderly with its sense of isolation and loss of all that is dear and known, has often actually taken away the patient's incentive to live.

These sad and costly occurrences need not have happened had the government provided services which would have enabled an elderly person to stay in his or her own home. These services should have ranged from simple homemaker services, such as help with the housekeeping and the preparation of meals, to those health services which could just as easily and safely be provided to the patient at home rather than in the hospital or nursing home. Many of you know well how many times such care would have been of such positive and appreciated value to your patients, yet was not possible because no reimbursement was available.

Fortunately we are at long last recognizing this major deficiency in our national health policy and government reimbursement system. I introduced with Senator PETE DOMENICI S. 2009, major legislation which would remove virtually all the primary restrictions on Medicare reimbursement of home health care services. This omnibus bill eliminates, for example, the requirement that a patient be institutionalized for 3 days in order to be eligible for home health care services and many of the other requirements for levels of health care which might not be necessary. Hearings will be held in the House on this landmark bill during this session. And we are trying to persuade Chairman Russell Long of the Senate Finance Committee also to schedule hearings despite his Committee's crowded calendar.

Such basic restructuring and reimbursement of our health care system is increasingly necessary and important as our population grows much older. Too accustomed to hearing talk of the post-war baby boom and the youth culture, many fail to realize the fact that a much larger percentage of our population will in the future be elderly. Indeed in the year 2000 one out of eight of our citizens will be over the age of 65. And the "old" elderly will also increase: 45% of the elderly population will be over 75 years of age and 11% over 85. These compelling statistics mandate, in humane and cost terms, a wide variety of home health care alternatives to institutionalization.

This authorization, establishment and reimbursement of a national home health care system, would demand a major new role for LPNs. For LPNs would be the necessary foundation for such a system of home health care. And none are better fitted to serve in that capacity. At present almost ⅔ of the 600,000 LPNs serve in hospitals and bedside care, and the remaining ⅓ are engaged in long term care, primarily in nursing homes. However, with the advent and reimbursement of widespread home health care services, a much larger percentage and far greater number of LPNs will be essential in the emerging area.

Related to, though far less broad than S. 2009, is a bill introduced by Senator Spark Matsunaga, S. 310, which I support. It would provide reimbursement by Medicare and Medicaid for LPN services, primarily in home health care settings. This lack of reimbursement is a serious failing of these government health care programs.

These essential bills are pending in Committee, but there is one measure that Congress will shortly enact. And that is the Labor-HEW Appropriations Bill. The Administration budget request for the grants to your schools, which are funded under Voc Ed and go to the states to distribute among several programs, as each sees fit, remained the same as last year. This I assure you was a far more generous, if still inadequate response, than many other necessary education programs received in the Administration budget requests.

We on the Appropriations Committee will try to increase this budget request for level funding to allow at least a cost of living funding allowance. And Basic Education Opportunity Grants, under which you receive your nursing scholarships and student financial aid, are, of course, the fastest growing and most widely supported of all our student assistance programs.

However, this question of education funding brings up several of the most controversial issues in health care. And they do not just affect LPNs. These issues center primarily around our unbearable health care costs and the lack of necessary services for all Americans.

As you know too well, the training of health personnel is expensive. It becomes more expensive, of course, when we decide longer training is required.

We must now have careful studies of just how many health personnel we need and the various kinds of health providers we can best utilize and afford. That includes a careful study determining how much we need to expand our supply of nurses, and what kinds of nurses would be most effective in health terms of cost effectiveness. I am well aware, of course, that a recent report from HEW stated that the need for LPNs will probably continue to grow, especially considering their potential key role in home health care and national health insurance.

The number of health personnel we need and the amount of training which we require of them is also closely related to the question of how much we can utilize health personnel needing less than maximum training in order to stretch our funds and thus increase health services. There must be a role for many kinds of health providers, each with an appropriate level of education and expertise.

But although no one has been a firmer supporter of education or education funding than I, I do not believe that every child should be pressured into feeling that she or he must attend college should her or his interests lie elsewhere. And I do not believe

that American society or our institutions of higher education should produce a dynamic of its own for more and more degrees. For in many cases these degrees serve as eligibility requirements in an occupation when such specialized education is not needed. This could well be true in the health area as well, despite the increasing complexity of modern medicine and the overwhelming amount of medical knowledge today.

Several years ago, the government recognized that it had over-emphasized and financed the training of specialists among doctors. It recognized the vacuum which the increasing disappearance of the primary care physician, the family doctor, was leaving in the American health care system. Steps were taken to reverse this costly mistake. We must not now repeat this neglect or lack of understanding of the role of primary care in nursing, which is so well illustrated by the LPN.

The basic question we must ask regarding the education of nurses are how the real and varied needs of patients, who after all are our primary concern, can best be served by various types of nurses. And these decisions will determine what education and expertise are really needed by each type of nurse to best serve that individual's chosen function and patient.

There is no doubt that LPNs have loyally and capably served to ease the pain and quicken the recovery of patients entrusted to their care in an incredibly wide variety of medical and health situations. Yet I know that many LPNs with justification feel that their role has not properly been recognized, and indeed that there is a move by some to endanger it.

But I assure you that your efforts, your indispensibility, and selflessness are, and will always be remembered. And they will be remembered with the greatest respect and gratitude, by the millions of your fellow citizens all across the country whom you have served in times of great and small health needs, with understanding and the highest degree of professionalism.●

A. ROBERT SMITH

● Mr. MARK O. HATFIELD. Mr. President, last evening the members and staffs of the Northwest delegation bid farewell to a fine and decent journalist who has been covering Washington for 27 years. A. Robert Smith is moving on to other challenges and opportunities as associate editor of the Norfolk Virginia-Pilot. His journalistic abilities, matched by an uncommon integrity, combine to give Bob one of the finest reputations within his profession. I feel privileged to call Bob a friend.

I submit for the RECORD two articles. The first is an excellent piece written by another accomplished journalist, Mr. Bill Keller, on Bob's experiences in Washington and his contribution to his profession. The second is Bob's last column to appear in Oregon newspapers which explains in his own way the years he has spent covering the Washington scene. I am sure I join with all of my colleagues from the Northwest in wishing Bob every good fortune in the future.

The articles follow:

FOR A. ROBERT SMITH, 27 YEARS LONG ENOUGH AS POLITICIAN WATCHER

(By Bill Keller)

WASHINGTON.—When he first came to Washington, A. Robert Smith was briefly enrolled in a training school for Capitol Hill tour guides, where he learned to point out, among other trifles, a bronze statue of the humorist and politician-baiter Will Rogers facing the door of the House of Representatives.

Smith was taught to tell tourists the statue was put there because Rogers "wanted to keep an eye on the boys."

Smith fished up that memory last week, and it makes a fitting epitaph to his career as a Washington correspondent for Pacific Northwest newspapers. For 27 years, beginning when some of his competitors were on strained food, Smith has been keeping an eye on the boys (and occasional girls) who run things, recording their accomplishments, exposing their foibles and assessing their significance with charm, fairness and often deadly accuracy.

Before this gets to sounding like an obituary, let me say that Smith is alive and kicking. (If you read one of the 17 newspapers where his column appears regularly, you'll see that this week he's kicking Oregon Sen. Bob Packwood.)

Come September, however, Smith will be moving to Norfolk, Va., to write editorials for that city's morning paper. For a while, he will continue to sign a Northwest column jointly with his successor—Steve Forrester, late of Portland's Williamette Week—and then he will, as he puts it, "just vanish into the overset."

"I want to call on Les AuCoin just after he was elected to Congress (in 1974)," Smith mused last week. "It suddenly dawned on me that the year I started out as a correspondent, he was in the first grade. I think that's when I began to realize I'd been here as long as I should."

It is likely that from time to time, certain of the politicians Smith covered looked forward to his retirement.

Wayne Morse, for one. Morse, who was just starting his second term when Smith came to Washington, had been one of Smith's college heroes. After keeping an eye on him for eight years, Smith began cranking out an admiring—but not entirely flattering—biography called "A Tiger in the Senate."

The book came out on a Friday in 1962. Morse read it over the weekend, and the following Monday rose on the Senate floor with a characteristic reaction:

"This character assassination book is full of untruths, half-truths, out-of-context distortions, and oft-repeated Republican misrepresentations," the senator exclaimed. And the author, he added, was "the Washington correspondent of several anti-Morse newspapers in Oregon."

"I wasn't welcome in his office for quite a while," Smith says. Eventually the relationship healed, and Smith's esteem for Morse is still high, though wiser than in his college days.

"There really aren't any heroes," he says. "There are just men who occasionally do heroic things. I thought Morse's opposition to the war—against all the newspapers in his state—was a heroic act. My big regret is that all that happened after the book came out."

More recently, Smith has had differences with Morse's successor, Sen. Bob Packwood, whom he has portrayed as a slick politician with little appetite for the hard work of the Senate. His most recent column blustly accuses Packwood of "borderline demagoguery" on the Israeli-Arab conflict.

Packwood has remained cordial (but one of the senator's aides has made repeated efforts to get editors in Oregon and Washington to cancel Smith's services.

Smith also has roasted, more-or-less good-naturedly, Rep. Bob Duncan for his allegiance to the timber industry ("I think Duncan is miscast as an urban congressman") and, earlier, for his hawkish chest-beating on Vietnam. In one incisive column a few years ago, Smith speculated that Duncan was compensating on Vietnam for the fact that he never saw combat in World War II.

"As a generalization, the most jingoistic members of Congress are those who never saw any combat themselves," says Smith, who fought in the Pacific and lost his taste for sword-rattling.

Smith's occasional jabs have never made him any real enemies or hurt his reputation for being fair and open-minded. His news stories are straight and reliable, his analyses are interpretive without being opinionated, and in his columns it's clear he appreciates the good qualities of man—the earthy genuineness of Duncan, say—even as he records their imperfections.

He does not subscribe to the popular notion that politicians are at least liars and probably crooks.

"I don't think any of them that I've covered has ever been corrupt, in the way that has become almost commonplace in other parts of the country," he believes. "We still have clean politicians—relatively speaking."

"Even more than being on the lookout for the scoundrel," he adds, "I think we should be on the lookout to protect the unfairly accused."

Once when the Washington Post ran a story which overreached the facts to accuse Sen. Mark Hatfield of a conflict of interest, Smith, his sense of fair play overruling his reportorial distance, shot off a protesting letter to the newspaper.

After Wayne Morse died during a comeback attempt, Smith wrote a lengthy story defending the senator against allegations that he had deliberately hidden a fatal illness from the public.

Smith's second book, "An American Rape," is the meticulous account of three black men accused—Smith believed unfairly—and sentenced to death in the rape of a white woman.

Smith's homespun style—his grizzled auburn beard and rumpled, pockets-full-of-papers suits, and his sourdough voice—is so genuinely Western that Oregonians sometimes ask when he's "coming home." In fact, Smith has never lived in a western state, though he is more an Oregonian by osmosis than most people will ever become by residency.

Smith grew up in Pennsylvania, came to Washington out of college and got a job as a copyboy at the Washington Star, where he saw that all the choice reporting jobs were held by oldtimers.

"I could see where I wanted to go," said Smith. "I could also see it was going to take me a whole lifetime to get there."

So he quit and began shopping for a region of the country that was lacking in Washington correspondents. The Pacific Northwest, he soon learned, was virgin territory.

It was astonishing, really, that a region in large part owned and operated by the federal government had no reporters in Washington watching headquarters. Smith has done more than any other individual to remedy that.

"I'd tell editors, 'know you've never had a Washington correspondent. I've never been one. Let's give it a try.'"

The Eugene Register-Guard did (and remains today his major Oregon client) and over the years many of the biggest and smallest papers in the Northwest kept an eye on the boys through A. Robert Smith. He represented The Oregonians for 18 years, leaving when the paper decided it wanted its own fulltime correspondent.

Smith has covered the major battles over western hydropower (there were only two dams on the Columbia River when he began his beat) and timber and water and land, through the administration of seven presidents.

He covered the battle over Alaska statehood for papers in Anchorage and Fairbanks. More

recently he helped King Broadcasting (parent of KGW-TV in Portland and stations in Seattle and Spokane) open up its own Washington bureau—an extreme rarity in the broadcast world.

Smith has always had topnotch informants in the Interior Department, where officials still read his column to find out what's going on around them.

"Bob was always under some suspicion in starchy, official circles because he would go off on his own and ask questions, in his low-key way, instead of swallowing the official line", said one Interior veteran. "I was once told to keep an eye on him, an order which I promptly forgot."

I've been on hand a few times when Smith was asking his questions in his low-key way.

While fastballs are the fashion in the Washington interviewing game, he still practices the slow change-up.

"Isn't it true, senator," the hotshots ask, "that this bill of yours would rob penniless widows and benefit only a few sleazy tycoons like your brother-in-law?"

Not Bob Smith. He'll warm up with a little aw-shucks, backporch politics talk, and then lob in a question like "Well, now, exactly what does this bill of yours do, anyway?" And then he'll sit back and wait, nodding sympathetically. The interviewee, by the time he's done talking, probably has no idea how much he's revealed.

It used to drive me crazy with impatience, listening to that. Now I think it's something they ought to teach in journalism schools.

[From the Pendleton East Oregonian, July 6, 1978]

AFFAIR WITH OREGON IMPOSSIBLE TO END

(By A. Robert Smith)

(EDITOR'S NOTE.—Behind this familiar by-line and personnel whimsy hides a happily married man with four children, a dog and a cat. After many years as our Washington correspondent, he departs to become an associate editor of The Virginian-Pilot, the morning newspaper at Norfolk, Va. Steve Forrester, our new Washington correspondent, will continue to keep our readers informed about events of special interest to Oregonians from the nation's capital.)

WASHINGTON.—In the film "The Captain's Paradise," Alec Guiness, skipper of an English channel steamer, shuttles contentedly between loves in ports on opposite shores, one night there, one night there, careful in mid-channel to switch photographs on his desk according to which lady he is going home to that evening.

Only a hopeless romantic like me would identify with this fantasy. But this correspondent's paradise has been to savor affairs of the heart on opposite sides of the continent, shuttling between my first love, the city of Washington, and my second, the state of Oregon. Unable to choose between them at the pain of giving up the other, I have cohabitated alternately, shamelessly, for more years than I probably deserved.

They are quite different loves, to be sure. One captivated me in my youth. Exciting, stimulating, exhausting at times, she was just right for a young fellow with my appetite for history and a yen to see up close the great, the near great, even at the cost of spending many hours with the not-so-great.

She introduced me to presidents, prime ministers, even The Queen. She got me into presidential inaugurals, Senate filibusters, diplomatic parties, farewell addresses ("old soldiers never die"—I can hear him now), funerals in Arlington, even to a White House Christmas party.

She was good to and for me, and hopefully I to her. But much as I cared for her—I even wrote a book about her magnificent aspects—I couldn't marry Washington. I couldn't commit my heart and soul to her and her utilitarian values, her eternal fawning before the momentary possessors of temporal power. I wouldn't have missed knowing her for anything, but there is something more than front row seats.

My affair with Oregon has been something else. I liked her from the start—a gentle, wood sprite of a lass, with no pretense of psuedo-sophistication, offering the best of honest relationships. But there's no fool like a young fool. It wasn't until I reached middle age that I sensed that excitement isn't half as good as tenderness.

I should have married her, of course, this trusting, kind, generous, appreciative spirit. Unlike Washington, she took time to smell the flowers, and I should have realized from the start that her values were mine. But I couldn't give up the Washington affair and stay in one port. Once a sailor, always at sea.

Some months ago I found a new interest, as gentlemen used to say. Virginia lives by the sea in a grove of tall pines. We have been keeping company weekends and getting on quite well.

It is time I settled down, everyone agrees, so I proposed, she accepted, provided I end this affair with Washington. I couldn't have done it a decade ago. Now I'm ready to move on, this time south.

As H. L. David put it, "new country puts an edge on a man."

I'm a bit on edge about abandoning this correspondent's paradise to try to settle down with a new love. I must stifle the thought that if things don't work out, I can always slip back to Washington or call Oregon late one night and ask what's new?

If I can't quite explain why, I know this is something I've got to do. Washington fed my ego, but too long an ego trip is toxic to the soul. I'll see her from time to time no doubt, but the compulsion is gone at last. I'll just say, as LBJ used to say, "Hi ya, honey," and we'll both know it was good but it's over.

My Oregon attachment will be impossible to end, so I won't even try. After a generation of "passing" as an Oregonian, I realize that she's a part of me. We're wed in spirit if not in flesh. Instead of farewell, I'll just say "See you later." I hope Virginia will understand.

NUCLEAR FUEL FOR INDIA

● Mr. PERCY. Mr. President, on Wednesday of this week, the House considered House Concurrent Resolution 599 regarding the proposed shipment of enriched uranium to India. I am pleased that the House voted to allow this export to proceed, as I have determined that a severance of our nuclear relationship with India at this time would be counterproductive.

However, the final vote of 181 to 227 is a graphic demonstration of the deep concern which many of us share about the inadequacy of non-proliferation controls in India. It is clear that if India has not accepted full scope safeguards within the 18-month period provided under the Nuclear Non-Proliferation Act of 1978, it is highly unlikely that a waiver allowing continued exports would be approved by the Congress. This message was clearly relayed to the President in Senator Sparkman's letter of June 21, 1978 representing the views of the Senate Foreign Relations Committee. In addition, my colleagues and I discussed this matter at length with Prime Minister Desai during his recent visit to this country.

During consideration of this matter in committee, two other important questions were raised of a more general nature. The first concerned the adequacy of international safeguards on nuclear materials and facilities. These safeguards, which serve as the cornerstone of U.S. non-proliferation policy, have come under serious question in recent months. This is a matter which I believe deserves the continuing attention of the Senate.

The second issue is whether or not the Nuclear Regulatory Commission acted properly in failing to issue an export license for this shipment of enriched uranium to India. I ask that immediately following my remarks, a copy of my statement which will appear in the committee hearing record concerning the legislative history on this matter be printed in the RECORD. While I feel that it is a close question whether or not the criteria were met, this is a judgment which is clearly within the discretion of the NRC.

The statement follows:

TESTIMONY OF SENATOR PERCY

Mr. Chairman, it has been suggested that the decision of Commissioners Bradford and Gilinsky was not consistent with the Nuclear Non-Proliferation Act of 1978. While questions can be raised as to whether their judgment was sound, I believe that their action was well within the scope of discretion granted by the Act.

I completely agree with Senator Glenn's statement that it would be a serious misreading of the Act and the legislative history to suggest that the Phase I criteria are met by definition in all cases where we have existing agreements for cooperation, and that NRC's finding regarding those criteria is essentially an automatic one. There may be instances in which serious doubt might be cast upon the validity of the assurances provided by prospective recipients. Evaluating such questions is the statutory responsibility of the NRC. In addition, we must not lose sight of the fact that even when the Phase I criteria are met, the export cannot proceed unless the NRC makes a positive finding that it would not be inimical to the common defense and security. Nothing could be clearer from the legislative history than the fact that the NRC was not to be a rubber-stamp on nuclear exports.

Debate on this proposed export to India has focused on one important aspect of the evaluation which must be performed by the NRC—the duration of assurances. The concept of duration is essential to the Phase I criteria. The whole purpose of Phase I is to ensure that U.S. exports will not be used for explosive purposes. If we knew that safeguards or other vital controls would be terminated shortly after approval, it would be ridiculous to suggest that the Phase I criteria were met. Such an interpretation would relegate Phase I to the status of window dressing.

This point has been challenged by those who assert that NRC had no grounds for denying this export. This challenge rests in large part on the argument that since 18 months was provided to negotiate the Phase II, full-scope safeguards requirement, Congress clearly intended that exports should continue in the interim.

I agree that the Phase II requirement should not be imposed prematurely, and that a positive finding on Phase I is not precluded by the mere possibility that after 18 months controls on previous exports would be endangered. However, common sense dictates that Phase I could not be satisfied if such

a breakdown were a virtual certainty. Our desire to obtain full-scope safeguards does not alter NRC's duty to assess the adequacy of controls on interim shipments—an assessment which must include duration. Statements such as that by Prime Minister Desai made after the Act was signed into law, that "all ways would be open to India" with respect to this shipment and previous ones in the event of a cut-off unavoidably has a bearing on the NRC's assessment.

It is also important to remember that the provisions for Presidential and Congressional review of NRC export decisions were intended to give higher authorities the responsibility to consider the "big picture" when the specific tests set forth in law could not be met.

Another argument which has been raised against considering duration in the application of Phase I is that it would prematurely apply the Title IV negotiating goal of a clear commitment to safeguards in perpetuity. It is true that Phase I does not require the NRC to obtain unambiguous agreement from the recipient to this long-standing U.S. interpretation of our agreements for cooperation. However, the need for a finding as to reasonable duration is far different from the issue of perpetuity. Even in Phase II, where it is clear from the legislative history that no pledge of perpetual acceptance of full-scope safeguards is required, the rule of reason must be applied to determine if the assurances we do receive are sincere and are not hiding a clear intention to operate facilities without safeguards once export approval has been granted. This concept must be applied doubly to Phase I, which deals with a higher and more immediate responsibility than Phase II.

A third argument cites section 405(a) of the Act to justify the position that NRC was required to approve this export. This section states that "The amendments to section 123 [new agreements] . . . shall not affect the authority to continue cooperation pursuant to agreements for cooperation entered into prior to the date of enactment of this Act." As noted above, this section is irrelevant here since the question of reasonable duration derives from Phase I, not the requirements for new and renegotiated agreements. In addition, it is important to note that after extensive discussion with the executive branch over the past three years, and it was explicitly agreed that Section 405(a) was intended solely to ensure that existing agreements would not be invalidated because they were not entered into according to the new procedures set forth in the amendments to section 123 of the Atomic Energy Act.

I would like to note one final aspect of the legislative history which underscores the NRC's independent role in applying Phase I. The Senate defeated an amendment offered by Senator Domenici which would have forced the NRC to issue a license unless circumstances had changed materially since the last export. The strong opposition of the bill's sponsors to this amendment was founded on the belief that the NRC should carefully review each export to determine whether it raises serious non-proliferation concerns. Indeed, one example which I cited in opposing this amendment was that "the NRC would be required to continue to supply enriched uranium to India" even if no progress had been made. This amendment would not have gone nearly as far towards binding the hands of the NRC as the recent interpretations of Congressional intent regarding Phase I.

There can be no question that the Congress wanted the NRC to review each license in the context of non-proliferation and to raise a red flag when doubts arise. It is vitally important that exports which raise no such problems be handled expeditiously, and the NRC must be responsible in exercising its discretion. But each time the NRC approves a license, the Congress must be able to rest assured that the export was consistent with our non-proliferation objectives. When a real borderline case confronts the NRC, I for one would prefer to see the Commission take a conservative stance and refer the issue to higher authorities under the procedures set forth in the Act. We cannot be too careful when it comes to ensuring that U.S. exports will not be used to increase the deadly threat of nuclear proliferation.●

TARAPUR NUCLEAR FUEL EXPORT

● Mr. GLENN. Mr. President, inasmuch as the Senate will be in recess tomorrow and Sunday, today is the final date for Senate action on the export of nuclear fuel to India for use in the Tarapur nuclear reactors. The export license for this material came before the Congress under the terms of the Nuclear Non-Proliferation Act of 1978, after the Nuclear Regulatory Commission was unable to determine that the export met the criteria in that act necessary for nuclear exports, and after the President then authorized the export by Executive order.

On May 22 and 24, the Subcommittee on Arms Control, Oceans and International Environment of the Committee on Foreign Relations held hearings on this matter and, on June 21, sent a letter to the President expressing the committee's continuing and very serious concerns relating to exports of nuclear materials to India. I ask that the text of this letter be printed in the RECORD following my remarks.

Mr. President, the decision of the Nuclear Regulatory Commission, which was the first since the enactment of the Nuclear Non-Proliferation Act in which the Commission determined that it was unable to find that the statutory criteria were satisfied, has raised considerable controversy. While I do not believe it necessary or fruitful to second guess the Commission's determination inasmuch as Congress, under the act, has broader latitude in reviewing this export than had the Commission, one question has been raised concerning the basic discretion conferred on the Commission by the act which I felt necessary to address in further remarks I submitted for the record of the subcommittee hearings. Mr. President, I ask that these remarks be printed in the RECORD following the previous insertion.

Mr. President, I would also like to note at this time, my continuing grave concerns over our nuclear cooperation with India. India's use of prior U.S. exports to produce plutonium for the nuclear device it tested in May 1974, and its continuing unwillingness to accept the safeguards system of the International Atomic Energy Agency on all of its nuclear activities continue to cast a deep pall on United States-Indian nuclear relations.

Against this background, it is worth reiterating the key points made in Senator SPARKMAN's letter to the President on behalf of the Foreign Relations Committee. First, it is essential that there be progress in bringing all India's nuclear activities under IAEA safeguards. It must be stressed that at this time, among India's unsafeguarded activities are uranium mills, reactors, and reprocessing facilities as well as research facilities—all that is necessary for the fabrication of nuclear weapons. Although Prime Minister Desai has taken the important step of declaring an end to India's nuclear explosives testing and abjured atomic weapons, obtaining IAEA verification of these pledges is crucial to lessening the tensions created by India's past activities.

Second, India retains the heavy water, imported from the United States under a 1956 contract, which was used in the production of India's nuclear test device. Because this heavy water was not under safeguards, we have no way of knowing how it was used over the years since the 1974 test. At least prior to the time of Mr. Desai's assuming the office of Prime Minister, the possibility that it was used in support of a nuclear weapons program cannot be ruled out. We need to have this matter resolved and to have complete confidence that the material is not misused in the future. For this reason the executive branch should make all possible efforts to have safeguards applied to this material, or at least to an equivalent amount of Indian heavy water not now under safeguards. Efforts should also be made to bring any plutonium produced through the use of the U.S.-supplied heavy water under safeguards.

Third, India retains spent fuel from past U.S. fuel exports. These contain what is perhaps India's greatest store of plutonium at this time. In the event that India does not accept safeguards on all of its nuclear activities at the end of the 18-month period provided in the Non-Proliferation Act and the United States, accordingly, terminates further exports, India might consider herself free to appropriate this spent fuel and the plutonium it contains to non-peaceful uses. To avoid this possibility, we must endeavor to obtain continuing control over the spent fuel which would survive any termination of further U.S. exports. One approach which needs to be actively explored is exercising U.S. rights to buy back this spent fuel. It may not be necessary to have physical control of the fuel, as long as the fuel will be placed under international safeguards and will not be handled in a manner unacceptable to the United States.

Finally, although the House and the Senate are not taking action to bar this export, I would emphasize in the strongest terms that this should not be taken by the Indian Government to mean that the Congress would shrink from a termination of U.S. exports at the end of the 18-month period provided in the Non-Proliferation Act for India's acceptance of comprehensive safeguards. This deadline was provided to allow a time for diplomacy to work, a grace period while the handful of nations not now accepting such full-scope inspections could reexamine their position on the matter. But the deadline was also established as a firm statement that such safeguards were, indeed, to be a condition for continued nuclear cooperation with the United States. Accordingly, I would strongly reiterate the words of the Foreign Relations Committee in its let-

ter to the President, that the Indian Government should base its discussions with the U.S. Government on the comprehensive safeguards matter on the assumption that if full-scope safeguards are not achieved, it is highly unlikely that a waiver allowing continued exports would be acceptable.

The letter and remarks follow:

U.S. SENATE,
Washington, D.C. June 21, 1978.

THE PRESIDENT,
The White House,

DEAR MR. PRESIDENT: The Committee on Foreign Relations has recently reviewed the proposed export of enriched uranium for continued fueling of India's Tarapur reactors pursuant to the provisions of the Nuclear Non-Proliferation Act of 1978 regarding congressional review of presidential determinations.

At hearings on May 22 and 24, the Subcommittee on Arms Control, Oceans and International Environment of the Committee on Foreign Relations received testimoy from the four Nuclear Regulatory Commissioners and representatives of the Central Intelligence Agency and the Department of State. The Subcommittee also heard Senator McClure and two non-governmental witnesses.

The Committee discussed the proposed export on June 20. Upon the motion of Senator Glenn, the Committee requested that I write to you to communicate the following views of the Committee:

—Substantial progress at an early date toward placing all peaceful nuclear activities in India under international safeguards is of critical importance. The executive branch should make a vigorous effort to secure Indian agreement to full-scope safeguards within 18 months of the enactment of the Nuclear Non-Proliferation Act of 1978. The executive branch and the Indian government should base their discussions on the anticipation that, if full-scope safeguards are not achieved, it is highly unlikely that a waiver allowing continued exports would be acceptable.

—The President should make every effort to obtain from the Government of India agreement to the transfer of an amount of heavy water to the inventory of a safeguarded facility equal to all previous transfers of heavy water from the United States to India. In addition, the United States and India should seek to ensure that any additional heavy water shipments will result directly in increasing safeguards coverage.

—The United States should also actively seek an arrangement with India ensuring that no spent fuel of United States origin could be used at any time for explosive purposes. Such agreement might provide for the United States to exercise its right to repurchase spent fuel should it desire to do so or to maintain veto rights as to the future disposition of the fuel. It may not be necessary for the United States to have physical control of the fuel so long as the fuel will be assuredly under international safeguards and will not be handled in a manner unacceptable to the United States.

—India and other nations have linked their acceptance of strong non-proliferation controls to success in achieving a comprehensive test ban and agreement on nuclear arms reduction. While success in other arms control endeavors cannot be a precondition for mutual agreement on nuclear safeguards, the administration should appreciate the concerns of such nations as India and should strive vigorously to achieve further arms control measures.

—The Committee intends to follow closely the negotiating process and nuclear supply arrangements with India during the period before full-scope safeguards are specified in the Non-Proliferation Act.

Sincerely,

JOHN SPARKMAN,
Chairman.

REMARKS MADE BY SENATOR JOHN GLENN BEFORE THE COMMITTEE ON FOREIGN RELATIONS ON JUNE 20, 1978, REGARDING INDIA NUCLEAR FUEL EXPORT

It has been suggested that NRC acted unlawfully and contrary to the clear intent of Congress in rejecting the Tarapur license. This view is fundamentally unsound. I believe all the NRC Commissioners acted within the discretion conferred upon them by the Nuclear Non-Proliferation Act, and thus, as was noted in the letter Senator Percy and I sent the President, within the spirit and the letter of the law. The Commissioners were faced with a complex and difficult decision whose outcome was not clearly determined by the terms of the Nuclear Non-Proliferation Act and they were required to exercise their judgment in deciding whether the Act's immediately applicable, or "Phase I," criteria were met. I do not believe it necessary or fruitful to second-guess the Commission by offering a view as to which Commissioners may have exercised that judgment most in accord with my own views, since, under the terms of the Act, Congress exercises its judgment on nuclear export matters against a different procedural and substantive backdrop.

There has been, however, one criticism of the opinion of the Commissioners Bradford and Gilinsky which I believe to be totally unsound and which I would like to address at this point. This is the view that statements in the legislative history of the Nuclear Non-Proliferation Act to the effect that the Act would not cause an immediate moratorium of nuclear exports should be read as a Congressional determination that, under the conditions prevailing at the time, all U.S. nuclear trading partners (save the IAEA and EURATOM) fully and unambiguously satisfied the Phase I export licensing criteria in the Act. By this view, without some subsequent change in the surrounding circumstances, no export could be barred for failure to meet the Phase I requirements. This interpretation is incorrect and not supported by the history of the Nuclear Non-Proliferation Act.

It is true, of course, that the Phase I criteria in final form codify the terms of existing agreements (with the exceptions of those with IAEA and EURATOM, for which exemptions were specifically provided). Accordingly, it was anticipated that U.S. trading partners through their previous adherence to such agreements, would, in principle, already be in compliance with the essentials of the Phase I criteria; in other words there was no case anticipated where the deviation between the existing agreement and the Phase I criteria was so great as to make an immediate export cut-off inevitable. In this sense no export moratorium for any individual nation was mandated.

There may be factors, however, including those existing at the time of the Act's passage, which cast doubt on a nuclear trading partner's ability to satisfy fully the Phase I criteria, notwithstanding the fact that his agreement for cooperation is consistent with these requirements. Specifically, questions may arise as to whether the trading partner is fully committed to these requirements and understands them as the United States does.

The wording of the various Phase I criteria, for example, differs from the wording of the corresponding provisions of some existing agreements; the criteria reflect explicitly the U.S. understanding of what those provisions stand for. Although the Act allows recipients to meet the "equivalent" of the criteria, there may be cases where another party's acceptance of the U.S. view of an agreement's terms is nevertheless uncertain and where, for various reasons, doubts on this score are a cause for serious concern. Similarly, statements by a foreign official or a history of past conduct by an export recipient may undermine confidence in that nation's willingness to fulfill its obligations under its agreement for cooperation, even though the agreement, itself, appears to satisfy the criteria. Such matters require case-by-case scrutiny and it is well within the discretion of the Nuclear Regulatory Commission to ensure that the assurances and controls required by the Phase I criteria and thought to be contained in our existing agreements are, in fact, fully accepted by the nuclear export recipient involved.

This view is well reflected in the legislative history of the Act. The Senate Report at page 16 notes that:

"The 'Phase I' export criteria will not result in an immediate moratorium on U.S. nuclear exports. Although the actual language in our existing agreements for cooperation varies, and seldom corresponds precisely to the language of these criteria, it is our understanding that each of these basic requirements and rights are contained in those agreements noted below."

What is meant by this passage is that, because our nuclear trading partners through their existing agreements had already accepted the Phase I criteria in principle, there was no reason to believe that exports to any of them would necessarily fail to meet the criteria when they were applied, in practice. But the passage also makes clear that there were perceptible differences between the terms of these agreements and wording of the criteria. Whether particular recipient nations are, in fact, interpreting and adhering to their agreements in a manner fully consistent with the criteria must be verified with each export license. This is a proper subject of NRC inquiry on a case-by-case basis and such scrutiny was contemplated by the sponsors.

My opening statements during Senate floor consideration of S. 897 continued this theme. My view that the Phase I criteria represented "nothing more than a common-sense codification of existing policy regarding nuclear exports to nonweapon states," signified that the criteria contained no abrupt departures from then current requirements, which might put a suddent halt to exports. (124 Cong. Rec. S1065). I chose the word "policy" with care, however, to emphasize that the criteria encompass the U.S. understanding of what our agreements mean; U.S. export licenses should be issued only to those nations which have, indeed, accepted this view without reservation. At the same time, I in no way intended to suggest that the NRC, or any other agency or department, should cease to be concerned with whether recipient countries were, in fact, adhering to this policy.

Surely, any questions on this score which existed prior to enactment of the Nuclear Non-Proliferation Act would not be affected by the mere codification of pre-existing policy, and would persist after the Act's passage.

My other statements on the floor of the Senate at this time regarding S. 897 should be considered in this light.

H.R. 8638, the House version of the Non-Proliferation Act, contained Phase I criteria virtually identical to those in the Nuclear Non-Proliferation Act, as enacted, and the legislative history of H.R. 8638 is, therefore, instructive on the issues here. The House Report on the bill similarly indicates the propriety of inquiry by NRC and other interested agencies into whether individual export recipients are adhering, in fact, to the Phase I criteria, notwithstanding that the criteria were derived from existing agreements.

At page 22, the House report states "*in general*, these criteria correspond to undertakings export recipients have previously given the United States in their existing agreements for cooperation with this country. Thus, *in most cases*, the committee anticipates that application of the criteria will provide a basis for continued exports to countries currently engaged in nuclear commerce with the United States." The underscored language plainly indicates that the House was of the view that some existing agreements for cooperation might not embody provisions equivalent to those required by the Phase I export criteria, potentially requiring an immediate cut-off to the nations involved unless additional assurances were forthcoming. For the House, therefore, questions remained for resolution during the licensing process not only as to whether a recipient's apparent agreement in principle to the Phase I criteria amounted to such agreement in fact, but also as to whether the receipient, in its agreement for cooperation, had even agreed in principle to accept these terms—a somewhat broader inquiry, perhaps, than that contemplated by the Senate.

The view that Congress had affirmatively decided in passing the Non-Proliferation Act that all trading partners already satisfied the Phase I criteria in every respect must also be rejected because this would render NRC's license review in this regard a virtual nullity. I believe few points are more clearly made in the Senate floor debates surrounding the passage of this legislation than Congress' intention that the Nuclear Regulatory Commission should carefully scrutinize every export license coming before it thoroughly and independently.

To cite but two places in the record where this point was made emphatically, I note the colloquy between myself, Senator McClure, and Senator Percy concerning NRC's authority to assess the adequacy of IAEA safeguards which is found in the Congressional Record of February 7. Senator Percy noted quite specifically that this assessment of safeguards would take place within the context of the Commission's applying the Phase I criteria, as well as in its making the common defense and security determination. (124 Cong. Rec. S1464). It is plain from this that the Senator from Illinois did not intend that the NRC assume, as a foregone conclusion, that export license applicants were in compliance with the Phase I criterion concerning the application of IAEA safeguards simply because these safeguards are provided for in existing agreements; rather the intent was that the Commission verify compliance in each instance. I shared this view and continue to do so. Similarly, in the debate on Senator Domenici's amendment which would have made NRC use of the "no material changed circumstances" test mandatory. Senator Percy and I opposed the amendment because we believed that license-by-license review by the NRC was essential. (124 Cong. Rec. S1333–1334). Obviously, the usefulness of such license-by-license review would be drastically reduced if it were assumed in advance that the six Phase I export criteria were fully satisfied, and it was not our intent that such an assumption be made.

Let me also note that the term "export moratorium" has taken on different meanings during the evolution of the Nuclear Non-Proliferation Act. In some contexts, it was plainly intended to refer only to an across-the-board termination of exports to all, or virtually all, of our nuclear trading partners. The distinction is important, because some statements explaining the anticipated impact of the Phase I criteria meant only that the criteria would not result in such a wholesale export cut-off. These statements were silent as to whether particular nations would necessarily satisfy the criteria and should not be misread as indicating that they did.

For example, in May of 1977, Administration spokesmen criticized the then current Governmental Affairs Committee version of S. 897 on the grounds that its immediately effective export licensing criteria would lead to an export moratorium. (See letter from Paul Warnke to Senator Abraham Ribicoff, May 3, 1977; statement of Dr. Joseph Nye on S. 897 before the Committee on Governmental Affairs, May 6, 1977). It is plain from the context in which these comments appear that the Administration's concern was an across-the-board moratorium affecting most U.S. nuclear trading partners, a concern which was fairly raised by this version of S. 897. The Administration spokesman went on to state in the documents noted above that in contrast to the Committee bill that of the Administration, S. 1432, would not cause such a moratorium. Again, there can be no doubt from the context of these statements, particularly the contrast made with S. 897, that an across-the-board moratorium was referred to. All that can fairly be gleaned from these latter statements, which are significant because they interpret a version of the Phase I criteria all but identical to those finally adopted, is that in the administration's view, exports to *all* nuclear trading partners would not be interrupted; these statements cannot be read as ruling out the possibility that exports to a particular nation might have to be terminated by the application of these criteria.

From the foregoing, it is plain that the Nuclear Non-Proliferation Act confers ample authority on the NRC to reject a license for failure to meet the Phase I criteria even in the absence of any change in circumstances since the Act's passage. Moreover, by requiring that the Commission make an affirmative finding that the criteria are satisfied, a requirement necessitating careful and skeptical review of each license, the Act encourages NRC to exercise this discretion vigorously. The burden is upon the proponents of the export to make their case and if substantial doubts remain, NRC must find against the license and forward it for Presidential and Congressional review. This framework serves the important purpose of ensuring consideration at the highest levels for licenses raising major doubts and concerns.

At the same time, in view of the overall consistency between the Phase I criteria and existing understandings with our nuclear trading partners, such cases are likely to be extremely rare, and, as an overall matter, exports to these nations may be expected to continue without interruption.●

SENTENCING OF ANATOLY SCHARANSKY

SOVIET RULERS FEAR THE TRUTH

● Mr. DOLE. Mr. President, today the unhappy spectacle of the Soviet Government devouring its finest citizens continued as Anatoly Scharansky was sentenced to 13 years imprisonment. This talented young man who has so many productive years ahead of him, will be forced to work at hard labor designed to break the health and will of an individual. The disgraceful series of trials that culminated with today's conviction is a sorry reflection on Soviet society. The second most powerful country in the world with nuclear weapons, tens of thousands of tanks, a mighty fleet and millions of men under arms trembles before the courage of individuals like Anatoly Scharansky who threaten this mighty empire with a few words of truth. An army of secret police had to be organized to protect the Soviet rulers from the image their lawlessness creates in the world.

SOVIETS WON A HOLLOW VICTORY

The Soviet authorities appear to have won a victory today—they succeeded in their efforts to put Mr. Scharansky away where his simple statements of fact will no longer reach the ears of decent people in the world who stand appalled at the horrors perpetrated against Soviet citizens who dare to be different, to be creative, to be honest. Yet the victory of the Soviet Union today is a hollow one—Anatoly Scharansky is the real winner—he has remained steadfast in his assertions of the truth, he has remained strong in the face of brutality, he remains noble in the midst of barbarism. No court verdict in the world, no prison sentence, no matter long and unfair, will change the fact that Anatoly Scharansky is right and his tormentors are wrong.

ILL-ADVISED STATEMENTS

Those of us who feel strongly about the plight of Scharansky will search our consciences in an effort to be sure we did all we could on behalf of this courageous man. Clearly, the Soviets intended, from the very outset, to strike down all that Scharansky represents. But I can not help but wonder what thoughts are running through the mind of the President's Ambassador to the United Nations, who could not resist adding his ill-considered comments to the sensitive negotiations being conducted by the Secretary of State. How convenient it must have been for the Soviet judges to know that there was a "sympathetic" politician placed in one of the highest positions in the U.S. Government. One would have been hard pressed to think of a scenario that could worsen the situation for Scharansky. Andrew Young's "inspired" efforts on behalf of Soviet repression should not go unnoticed.

LET US LEARN FROM SCHARANSKY'S COURAGE

I feel great sorrow at the outcome of this trial, but then no one expected any other verdict. Perhaps the people for whom we must most feel sorrow are the citizens of the U.S.S.R. who must endure a system that hates truth and common decency and routinely destroys its finest sons and daughters. Let us voice our strong protest against the savagery of the events that have been transpiring in the Soviet Union and let us learn a lesson from the sordid circus trial—let us know full well what kind of people we are dealing with when we meet the Soviet officials with whom we are forced to reach agreements. Let us have no illusions about them. Let us deal with them from strength, let us deal with them on the basis of truth. Above all, let the courage of Anatoly Scharansky and his colleagues be a model for us all.●

SUPREME COURT CALLS FOR ACTION ON INTERSTATE TAXATION

● Mr. MATHIAS. Mr. President, a constituent of mine on the Eastern Shore of Maryland has a small mail order business and a big headache—the headache comes from his attempt to pay all

of the sales and use taxes demanded by the thousands of jurisdictions where he does business. He told me the other day that in desperation he has begun to ignore all of the minuscule assessments and puts the notices in the bottom drawer of his filing cabinet. He knows he is sitting on a time bomb that could ruin him, but he simply cannot cope with the burden.

I have recently introduced a bill that would help him and other business people in a similar predicament. My bill, S. 2173, the Interstate Taxation Act, would standardize the jurisdictional principles by which States impose sales, use, income, and gross receipts taxes. It would benefit States by giving them assurance that their tax laws, written in conformity with the uniform sales and use tax provisions of S. 2173, would result in maximum compliance and maximum revenues. The Interstate Taxation Act would provide judicial review by Federal courts of applications of jurisdictional guidelines for the State taxation of interstate commerce. It would also provide for the fair apportionment of interstate income among the States.

My bill seeks to remedy problems that result from the complex and frequently conflicting local tax rules confronting firms doing business in interstate commerce. Because of the complexity of rules, businesses often fail to pay tax liabilities. Some State laws are ineffective because corporations having minor contacts in these States are simply not familiar with the idiosyncrasies of the laws. There are no uniform accounting principles by which businesses can compute their liability if they conduct business in varying amounts in a number of States. My bill would put businesses on notice that in those States where they operate extensively enough to bring them under Federal guidelines, the States can impose and collect taxes on their sales and income.

This problem has been one of my special concerns for some time. As a Member of the House of Representatives, I served on the House Special Committee on State Taxation of Interstate Commerce. In 1964, the committee issued a report based on an extensive study of the problem and concluded that sales and use taxes were levied by approximately 2,300 separate State and local units. That number has now risen to almost 6,000.

In the 90th and 91st Congresses, the House of Representatives, by overwhelming majorities, passed State taxation legislation similar to my bill. The Senate Finance Committee created a Subcommittee on Interstate Taxation in the 93d Congress to convene hearings and give serious consideration to the problem. Other pressing business has precluded the Finance Committee from taking action on the findings of their hearings.

I urge all of my colleagues to consider the merits of my bill at this particular time, because of a recent Supreme Court decision. In Moorman Manufacturing Co. against Bair, the majority of the Court specifically asks Congress to enact legislation identical to my own. In the Court's view:

> [T]he prevention of duplicative taxation . . . would require national uniform rules for the division of income.

The Court then stated:

> While the freedom of the States to formulate independent policy in this area may have to yield to an overriding national interest in uniformity, the content of any uniform rules to which they must subscribe should be determined only after due consideration is given to the interests of all affected States. It is clear that the legislative power granted to Congress by the Commerce Clause of the Constitution would amply justify the enactment of legislation requiring all States to adhere to uniform rules for the division of income. It is to that body, and not this court, that the Constitution has committed such policy decisions.

The dissenting opinion did not quibble with the premise that a national standard was desirable. Its point, however, was that the Court already had sufficient power under the commerce clause of the Constitution to strike down the offensive tax formula that Iowa imposes on an out-of-State corporation.

The majority disagreed, noting that this—

> . . . view of the Constitution . . . would require extensive judicial lawmaking.

I have no doubt that the entire Court would applaud passage of the interstate taxation bill.

Therefore, Mr. President, I suggest that we act quickly on the Court's unambiguous call for help. I will conduct hearings on my interstate taxation bill in Columbus, Ohio, on July 19 and 20, and I hope all of my colleagues will read the record. I know that the evidence will be convincing that we should heed the Court's plea.●

AMERICAN FOREIGN TRADE POLICIES

● Mr. ROTH. Mr. President, recently the head of Japan's Economic Planning Agency, Mr. Kiichi Miyazawa, made some very frank and critical remarks about American foreign trade policies which were quoted in the New York Times.

As one who has long believed in the need for a very candid, but friendly, dialog between the United States and our foremost ally and trading partner in the Pacific, I very much welcome the spirit of Mr. Miyazawa's remarks.

We should respond with equal frankness. As the British journal, the Economist, editorialized:

> Unfortunately, the west that runs such a deficit with Japan also suffers, rather glaringly, from a dearth of economic leadership. A strong American administration might call Japan's bluff. If a leadership vacuum is shown to exist at the summit in Bonn, with President Carter on the defensive about his own economy, then this year's economic summit will be the least credible, and creditable, of the series that began so bravely at Rambouillet in 1975.

For this reason, I am very pleased by reports that President Carter has gone to the Bonn summit ready to defend our position.

In the spirit of frankness, I intend to outline the reasons I and many, many of my colleagues in the Senate and constituents at home are deeply concerned about Japan's international economic policies.

Japan's huge trade account and current account surpluses have created a very difficult problem for the rest of the industrialized democracies. As the Economist has put it:

> Japan's huge dollar surplus is the last straw-bale on the deficit burden which OPEC has laid on the rest of the non-oil-producing world.

Last year, Japan had a balance of trade surplus with the United States alone of more than $8 billion, and this year that surplus is expected to reach $12 billion in value terms.

In January, the Japanese Government made a number of commitments to reduce its bilateral and global surpluses. Since then, Japan has taken a number of steps to try to increase its imports and reduce its surpluses, but most of these steps have been stopgap measures rather than the kind of significant and more fundamental steps that are needed.

Moreover, the Japanese have dragged their heels virtually every step of the way; instead of acting aggressively and assertively to bring the surpluses down, they have seemed determined to require the United States and Western Europe to force every step. While this may have had certain domestic political advantages in Japan, it has placed a serious strain on the very important international political relationships between Japan and other developed nations.

Japan's initial offers at the multilateral trade negotiations (MTN) in Geneva were inadequate and substantial pressure had to be applied to Japan to supplement its offers. Such measures as there have been to liberalize Japan's highly restrictive system to protect its agriculture have been most grudging and slow. In the process, Japan has missed a very important opportunity to earn the goodwill of the American farmers and to give its consumers a real break.

Japan, which in per capita terms has the stingiest foreign aid program among the industrialized democracies, had promised to double its foreign aid expenditures. Now I understand that some Japanese are arguing that this commitment should be tied to a lower base period than initially contemplated and fulfilled in dollar rather than yen terms. This would virtually gut the value of this commitment.

Japan's recovery and growth since World War II has, indeed, been an economic miracle, but absolutely essential for that miracle to happen was continued liberal access for Japanese exports to foreign markets, and most especially, the American market.

It is essential for the Japanese to recognize that their own surpluses, on top of the oil import problem, have placed their access to these markets in very grave jeopardy. The United States simply cannot and should not sustain the kind of massive trade deficits with Japan we now have. Unless we can sell more to Japan—make trade a truly two-way street—we will have to buy less.

Japan's formula for economic growth has been based on buoyant exports and

protectionism at home that have held its ratio of imported to domestically produced manufactured products to half that of the other industrialized countries. Admittedly, it is difficult for Japan to make major changes in a system that has worked well for Japan for three decades. This system, however, is rooted in a period of history when Japan's own economy and the world economy were much different.

Now Japan is the non-Communist world's second largest economy, and the world's trading and monetary systems are under greater strain than ever before. Whether or not the trade and monetary institutions can weather the current crisis probably depends more on Japan's policies than those of any other nation. It is essential that this point be recognized in Tokyo.

In his remarks over the weekend, Mr. Miyazawa was quoted as saying President Carter and Ambassador Strauss, our chief trade negotiator, "do not have anything to give, it's all take." As the ranking Republican on the Senate International Trade Subcommittee, I certainly take issue with this statement. The United States has put a lot of bargaining chips on the table; the question is whether other countries are willing to make matching concessions.

The most important contribution we have made—and it has been of critical importance to Japan—is that we have continued to sustain a high rate of economic growth and absorb imports from countries like Japan and Germany which have not met their growth targets. Under this administration and the previous administration, the United States has leaned over backward—too far in some instances in my judgment—in trying to maintain a free trading system in the face of record trade deficits. Our domestic economic policies have been expansionary, and if we adopt the Roth-Kemp 3-year tax cut proposals, we will not just continue, but increase our efforts to stimulate a high rate of economic growth. The expanding U.S. economy has played an enormous role in helping to sustain the world economy.

Mr. Miyazawa also commented on the failure of the United States to adopt comprehensive energy legislation. I believe our trading partners, with some encouragement by the administration, have distorted the significance of the energy issue. Whatever energy package is ultimately adopted, it will have very little impact on U.S. energy imports in the short and medium term.

Moreover, the United States has already undertaken energy measures at least comparable to those of the other industrialized countries. During the past 4 years, gasoline consumption in major European industrialized countries has grown more than for the United States. Our ratio of new energy consumption per unit of GNP growth has decreased. Our imports of oil have begun to decrease. And we have substantially increased Government expenditure for energy research and investment. Between 1974 and 1977, for example, our spending, which is the highest per capita in the world, has increased 181 percent while Japan's expenditure on energy research and development has increased by only 48 percent.

Energy is a vital element in economic growth. If the United States were to adopt the crude oil equalization tax, as proposed by the administration, it would seriously hurt our economy and our ability to hold inflation in check while inducing new productive capital investment.

Our partners in the summit are well within their rights to urge the United States to continue steps to achieve energy independence. I hope they will do so, recognizing the effort the United States has already made, recognizing that a country which still produces half its oil has the right to refuse to require its citizens to pay a confiscatory world market price for its domestic oil, and recognizing that it is very much to their own interests as well as ours that our energy program emphasize production incentives rather than massive new taxes that would lead us toward higher inflation and slower growth.

In the past, Mr. President, it has been very easy for the rest of the world to stand by and say:

United States, you solve the world's economic and trade problems.

In the spirit of frankness, I say to Japan:

I agree the United States must exercise leadership, but so must you. Just as the United States must work harder to try to sell more abroad, you must work harder to buy more and play a responsible international economic role by eliminating your surpluses. The solution to the world's trade and energy problems lies in a cooperative endeavor, in which you as well as we put forth our best efforts.

Mr. President, I ask that the editorial from the June 10 issue of the Economist be printed in the RECORD.

The editorial follows:

A YEN FOR VICTORY

Only the yen has stood as arbitrator in the war of nerves developing between the world's greatest trade warrior and its competitors. For the second year running, Japan's surplus on its current account will probably be between $12 billion and $16 billion.

That is spectacularly beyond all wishful forecasts and promises made by Mr. Fukuda's government to the world economic community. The yen is forcing some adjustment, willy-nilly; there are faint signs, in April's trade figures and preliminary indicators for May, that the 23% appreciation last year is beginning to act as a check on the yen value and even the volume of Japan's exports. And the yen has risen another 8% this year. Even so, Japan's huge dollar surplus is the last straw-bale on the deficit burden which Opec has laid on the rest of the non-oil-producing world.

The danger this poses is not to the deficit countries alone. The Japanese argue that the fortunes of trade cause huge swings in balances (they ran a $5 billion current deficit in 1974) which are temporary and uncontrollable. They feel, with some justice, that they are now being penalised for success. And they say that western exporters who fail to compete in Japan are merely using the excuse of Japan's distribution system to explain their own unwillingness to bid for mass sale in Japan's mass consumer market. Westerners, they say, stick to luxuries they can price high (almost every Japanese minister discussing trade with a westerner goes through the ritual of tweaking his Savile Row suit, tapping his Gucci shoes and straightening his Cardin tie).

Half-true, but no answer to the problem. Some Japanese industrialists like to think that their American and European competitors' political influence is ephemeral, and that a year's export restraint will earn the chance to surge farther into western markets in the next two or three. They delude themselves. Without change, unless Japan itself learns to absorb more imports, its own future will become a diluted version of its past. It will find itself stubbing its toes on trade cartels, condemned to a growth rate only slightly higher than the total growth of world trade, which at present looks dismally slow. By a faint-hearted version of their famous consensual approach, the Japanese seem too ready to accept this future, and to underestimate the pains of doing so.

The arrows now raining on the heads of the Japanese have stung them into a defensive posture designed to show that they are doing rather more than any reasonable free-trader could ask. Low-interest import loans; emergency import stockpiling; import centres to assist penetration of the inscrutable Japanese market; liberalisation of exchange controls and capital markets so that yen-dominated bond issues are running at $200m–400m a month; export restraint for sensitive products (cars, televisions, ships, steel) in sensitive markets; a front-loaded budget stimulus for 1978; a promised speeding-up of the aid programme; further lowering of trade barriers, particularly against food imports (beef, oranges). This buzz of willingness humming throughout the Japanese government is designed to buy time from a world growing impatient with Japan's swollen surplus.

TIME FOR WHAT?

Time for measures already taken, Japanese ministers say, to take statistical effect. Import stockpiling simply raises this year's import bill and lowers next year's; but by 1979 market forces should have taken over the role which government has had to provide artificially this year. Appreciation of the yen widens the trade surplus before reducing it (the J-curve upside down). All Japan's imports, but only two thirds of its exports, are priced in dollars, so the immediate effect of cheapening the dollar is to widen the gap. In a booming car market, Japanese exporters last year managed to hold their yen prices; but other exporters are already beginning to feel the squeeze. Slower-moving western industrialists must eventually take advantage of the yen's appreciation to snatch back more of their home markets, compete more effectively in third ones (like the Middle East, where Japan's car exporters raised sales by a third last year) or, best of all, increase their manufactured exports to Japan. Preoccupation with the size of Japan's surplus, together with protectionist pressures to fend it off, is breeding the nonsensical belief that it is as useful to rebalance Japan's payments by choking back its exports (with individual trade deals and marketing "agreements") as by raising imports. Since Japan is the free world's second largest economy, this nonsense is not only unfair to the Japanese but dangerously deflationary.

BREAKING THE EXPORT-LED CHAIN

In Japan, imports and exports have been linked in a chain forged by years of export-led growth. Only one fifth of imports are of semi-finished or finished goods (compared with about three fifths of imports in the major European economies). So imports rise when production rises: but about half of manufactured production is exported. Lower import costs mean a smaller rise in export prices. That is why Japan's 7% growth target for fiscal 1978 (April, 1978–March, 1979) is both important (more growth, more

imports) and meaningless (more growth may mean more exports). Most independent forecasters in Japan assume a shortfall (as in fiscal 1977) of 1–2%. The government argues that the 2.4% increase in gnp in the first quarter of calendar 1978 shows that the economy is well on course. But this figure was high primarily because exports were enormous (as exporters rushed to beat the end of the 1977 fiscal year). Japan can only usefully narrow its surplus if domestic demand rises fast.

Despite the urgings of the international trade minister, Mr. Komoto, the Japanese government appears set on doing too little, too late. Much play is made of the fall in inventories, meaning that any stimulus this year has more impact than last. But ministers have been claiming optimistically that the process of inventory adjustment was virtually complete for months.

Japan's problems are genuinely harder to resolve than those of the world's other reluctant reflator, West Germany. The Japanese save about a quarter of their incomes, which weakens the effect of tax cuts (the Germans, who also plead a high savings ratio, in fact save at not much more than half this rate). The government deficit is running above the conventional 30% limit. Since the public sector is small in Japan, this sounds more dramatic than it is. Though the deficit now takes a large slice of gnp, the public sector could still be used more as an engine of growth—without going to the extremes of overstaffed bureaucracy so typical of Europe's public (and Japan's private service) sectors.

The Japanese have plainly not, as the Germans kid themselves they have, reached saturation point in public spending; more public investment is needed to bridge the deflationary savings-investment gap in Japan, where investment shows no sign of recovery to pre-oil-shock levels; and the arguments against increasing government borrowing are technical, not monetarist ones. The inflationary threat to Japan is not government borrowing, but a service and distribution sector that permits retail prices to rise a constant 4–5% faster than wholesale prices.

The Japanese know they need to change their economic structure, but seem to lack the will to make several kinds of change at once. Industrial reconstruction, out of yesterday's growth industries (cars, electrical equipment) into high knowledge-intensive industries, is certainly coming about, just as during the past generation Japan moved from labour-intensive industries (eg, textiles) which 25 years ago made up more than half their exports and now make up barely a tenth. But with real, if disguised, unemployment as high as in the west, Japan remains reluctant to open up its market and change a distribution system which in effect subsidises domestic manufacturers. That opening up is gradually happening, just as overt import restriction began to be dismantled in the 1960s; but against a political resistance as powerful as greeted the abolition of resale price maintenance in Britain 15 years ago.

Lastly there must be an increase in capital exports, with the aim of manufacturing more in overseas markets rather than exporting to them: counterbalancing the current account surplus now, and circumventing the trade barriers of the future. This is happening only slowly, as Japanese industrialists remain wary of the risks and sensitive, as the Germans were until recently, to dislike of their presence in other countries.

INTERNATIONALLY PERSUADABLE

Like deficit countries, surplus ones need international pressure to persuade them into politically difficult domestic economic policies in their own, as well as the world's, best interests. Unlike deficit countries, surplus ones are not in the hands of international institutions which can force compliance. But forceful international leadership between now and the economic summit in Bonn next month could push the Japanese government, more willing and internationally persuadable than the obstinate Germans, into playing their part in the concerted reflationary action to which all governments are currently paying lip-service. The Japanese could and should be persuaded both to bring forward their supplementary budget, and to increase their aid programme now (not sometime) to at least the international average. They could and should be coaxed into moving faster and farther to dismantle tariffs and import restrictions (sugar, computers); and into incouraging large import purchases (aircraft).

Unfortunately, the west that runs such a deficit with Japan also suffers, rather glaringly, from a dearth of economic leadership. A strong American administration might call Japan's bluff. If a leadership vacuum is shown to exist at the summit in Bonn, with President Carter on the defensive about his own economy, then this year's economic summit will be the least credible, and creditable, of the series that began so bravely at Rambouillet in 1975.●

SOVIET DISSIDENTS TRIAL

● Mr. CASE. Mr. President, the trial and sentencing of Anatoly Scharansky are deplorable acts which deserve the strongest condemnation by everyone concerned about the sanctity of human rights and international accords.

If the Soviet Union does not suspend the sentences of Mr. Scharansky as well as of Aleksandr Ginzburg and Viktoras Petkus who were sentenced yesterday, relations between the Soviet Union and the Western World will continue to deteriorate in a downward spiral which may not be easily stopped. I hope the Soviets reconsider the situation and the sentences imposed on Soviet citizens whose major crime was that they took seriously the pledges made by their government when it signed the 1975 Helsinki accords.

Meanwhile, the Western World must reassess its trade and other relations with the Soviet Union, curtailing or suspending programs and activities that might help a Moscow government which shows a blatant disregard of its specific pledges to uphold basic human rights.

It is time for our Commerce Department and for the trade ministries of the free world to set aside now the attitude that somehow making a dollar or franc has a higher priority than rallying behind fellow human beings who are being severely punished for seeking basic human rights for themselves and others.

Such basic rights as unification of families were covered by the Helsinki accords which the Soviet Union and other members of the Warsaw Pact signed along with the countries of the NATO alliance.. Yet Mr. Scharansky and others who sought to emigrate or monitor their government's compliance with the Helsinki accords, or both, have been repeatedly harassed and punished by Soviet officials.

As a recent New York Times article suggested, the action against Mr. Scharansky "represents an elevation to the juridical level of what many Soviet intellectuals see as the ugliest impulses of their society"—anti-Semitism.

The official Soviet efforts to cloak this persecution in charges of treason and espionage only inflames the hatred and fear and suspicion. Unless reversed, the trend bodes ill for the situation inside the Soviet Union and relations with the rest of the world.

Mr. President, I ask that the New York Times article by David K. Skipler to which I have just referred, as well as a piece by Tom Wicker on the saine subject which appeared today, be printed in the RECORD.

The articles follow:

[From the New York Times, July 10, 1978]

PORTENT OF SOVIET DISSIDENT'S TRIAL—SCHARANSKY TREASON CASE, WHICH BEGINS TODAY, MAY BE INDICATOR OF FOREIGN AND DOMESTIC POLICY

(By David K. Shipler)

Moscow, July 9.—No political trial in the last decade has contained the array of issues and emotions that the proceeding against Anatoly F. Scharansky, a Jewish dissident accused of high treason, holds for people inside and outside the Soviet Union.

No case against a human-rights advocate has been seen as such a vivid indicator of the direction in which Soviet policy, both domestic and foreign, is headed. As the trial opens here tomorrow, it will be watched more closely, and will be read for more hints, than any previous event during the period of détente.

For Russians who have hoped for a liberalized society, for Soviet Jews who have struggled against a historical anti-Semitism and fought for the right to emigrate, for Americans who have sought closer ties between the two great powers, the Soviet Government's decision to try Mr. Scharansky for treason darkens the future.

For other Russians, who have nurtured a corrosive anger at dissidents and Jewish activists for smearing their motherland and invoking pressure from the West against their country, the decision represents overdue revenge, a reassertion of tough internal leadership sorely missed since Stalin's days.

These are powerful issues. One trial will not resolve them all, nor will it rearrange the conflicting currents of tolerance and parochialism that will probably continue to flow, however erratically, through Soviet society.

Yet there is a sense in Moscow this weekend that an important corner is about to be turned, that if Mr. Scharansky is convicted—as he must be, given the precedent of past political trials—and after he is sentenced, perhaps to death or to many years in prison, nothing will be the same.

Jews who apply to emigrate to Israel, as Mr. Scharansky did in 1973, and who are then refused permission, as Mr. Scharansky was, and who then protest the refusal, as Mr. Scharansky did, will have been put on notice that they take the ultimate risk, that the state considers them traitors, that no amount of Western publicity or high-level American pleading can save them.

The United States is directly involved in this case: President Carter denied Soviet press allegations that Mr. Scharansky worked for the Central Intelligence Agency, and he warned Moscow repeatedly that a trial would hurt Soviet-American relations. Thus the trial carries the potential for international damage, insofar as it is Moscow's challenge to the President. And, timed as the trial is to fall in the same week that Secretary of State Cyrus R. Vance meets Foreign Minister Andrei A. Gromyko in Geneva, it is seen by some Western analysts as a deliberate slap in Mr. Carter's face.

The Russians have always regarded the President's outspoken support of Soviet dissidents as improper. They have objected strongly to warnings from Washington that accord on a new arms-limitation treaty, the main subject of the Vance-Gromyko talks, would be jeopardized by Soviet misbehavior in other fields, such as treatment of dissidents.

LIMITS OF DÉTENTE HIGHLIGHTED

From Moscow's perspective, then, the trial's timing appears to be an effort to highlight the limits of détente, to dramatize what détente does and does not mean here: that its centerpiece is arms control, and that it does not imply acquiescence to American demands for internal social change.

It may seem contradictory to pursue reduced military tension with the West while maintaining tight control over political expression at home, but these twin aims of coexistence and orthodoxy have long been policy themes of Leonid I. Brezhnev, the Soviet leader. Some domestic purpose may be served in underscoring the domestic aspect of the equation now in a period of some uncertainty about power relationships in the Kremlin.

Mr. Brezhnev's health has evidently been poor in recent years, and his stamina has diminished, a development that raises questions about the dynamics of policy-making in the upper echelons. Others have arisen as to how much influence the police apparatus has, for example, and to what extent those near the top, anticipating a change in leadership, tend to fall back to the relative safety of hard-line positions on issues ranging from involvement in Africa to oppression of dissidents.

Some analysts read the Scharansky trial and its timing as evidence that the Soviet leaders, after watching Mr. Carter for a year and a half, have given up hope of any satisfactory relationship with his Administration. They see him as weak, vacillating, impulsive, susceptible to right-wing pressure and unpopular at home. And for the moment at least, especially after Washington's verbal attacks in recent weeks, the Russians may see little chance of concluding an arms treaty, and no merit in wooing the President.

Internally, the Scharansky case represents an elevation to the juridical level of what many Soviet intellectuals see as the ugliest impulses of their society. First, Mr. Scharansky is a Jew. He was one of several dissidents, all Jews, cited in the original accusation that was published in the Government newspapers Izvestia as an open letter from a former friend, Dr. Sanya Lipavsky. Dr. Lipavsky had posed as a dissident, and according to intelligence sources in Washington, had actually worked for the C.I.A. at one time.

The tradition of anti-Semitism is a long, deep one here; it is reinforced increasingly now by Government propaganda against Jews and Zionism, and by a rising tide of chauvinism that sees Jews as foreign. The charge of treason embodies a host of old prejudices that have haunted Jews in many lands over many centuries. In the Soviet Union it stirs fear and resentment among assimilated Jews who want to get along by denying or suppressing their Jewishness, who detest Jews such as Mr. Scharansky for becoming activists and thereby, they say, inflaming an otherwise dormant bigotry.

WARNING SEEN AGAINST REFORMERS

Moreover, the authorities are wielding the treason charge as a decisive bow against a persistent civil-rights movement that has included not only Jews who want to emigrate, but citizens with a multiplicity of ethnic backgrounds who want to stay and reform the society. Significantly, another trial begins tomorrow, that of Aleksandr I. Ginzburg, a friend of Aleksandr I. Solzhenitsyn, the exiled writer, and the manager of a fund to aid families of political prisoners.

Since Mr. Scharansky was a member of a dissident group set up to publicize Soviet violations of the human-rights provisions of the 1975 Helsinki accords, the charge that he was really a Western agent bent on subverting the Soviet system is an effort to discredit him, his fellow dissidents and the West's avowed interest in rights.

Judging from attacks in the official press, the testimony is likely to be directed against American diplomats and correspondents as well. They have been portrayed before as messengers between their bosses in Washington and their "hirelings" among the Soviet citizenry. In a fiercely patriotic, closed society such as this, the argument probably strikes a chord with broad sections of the population, as did the "outside agitator" epithet in the American South during the civil-rights struggle of the 1960's.

As it was wrong to see the South as a monolith of racism, however, so would it be an error to picture Soviet society as a monolith of oppression. It is a complex mixture, crisscrossed by varied attitudes and tendencies, and governed by conflicting tones and moods. For example, Mr. Scharansky goes on trial while Soviet authorities increase the number of Jews being allowed to emigrate, a treason charge is used against political diversity while daring stage plays, paintings and novels are permitted in public.

The trial marks a direction for Soviet society, but perhaps not the only direction, or a lasting one.

[From the New York Times, July 14, 1978]

A SPECTACLE OF FEAR

(By Tom Wicker)

The conviction of Aleksandr Ginzburg and the trial of Anatoly Scharansky constitute an attack on freedom itself. They remind us once again that this supposed superpower, fearing its own people more than any foreign adversary, permits them not even the most limited human rights of belief and expression. But the trials also make frustratingly clear how little the United States can do to change this depressing condition, not just in the Soviet Union, but for so many of the world's people

What are human rights anyway? One of our most cherished documents defined them admirably—"life, liberty and the pursuit of happiness." Later, the Bill of Rights specified such freedoms as those of speech and religion. And still another generation added that guarantee of "due process of law" without which rights become empty generalities.

Whatever "rights" may be promised to Soviet citizens, their Government permits no due process to guarantee them; instead, due process is being mocked in the so-called trials of Mr. Shcharansky and Mr. Ginzburg. As a result, not even the barred doors of the courtrooms can hide the hypocrisy, cruelty and fear of the Soviet system from the eyes of the world.

That these shameful proceedings were pursued at all testifies to the desperation with which Soviet officials believe they must counter dissent and stamp it out if possible. They are bound to know that such a spectacle will make it more difficult for Congress, owing to American revulsion, to ratify a sensible SALT agreement or take any other step to improve Soviet-American relations.

Moscow also must know it is risking serious material losses—for example, cancellation of the planned export of computer and oil drilling equipment from this country to the Soviet Union. Since President Carter has publicly denied Soviet allegations that Mr. Scharansky was a spy for the C.I.A., and personally appealed for the treason charge to be dropped, his trial on precisely that charge is an almost calculated affront to Mr. Carter.

But if their disregard of all these consequences, not to mention the opprobrium of the world, demonstrates the Soviets' implacability, that only underlines the near-helplessness of the United States to do anything effective about it.

Canceling the computer shipments and other exchanges seems clearly warranted, not merely as a rebuke but as a substantive step that might at some future time give the Soviets greater concern for American reaction to their internal indecencies. The State Department's reported view—that canceling the shipments would hurt this country's economic interests without altering Moscow's human rights policy (or lack of one)—ignores the symbolic power of gestures, and may even underestimate Soviet technological needs.

Nevertheless, such American action would be unlikely to have the direct effect of helping Soviet dissidents now, particularly since the Soviets probably would feel compelled to make some blustery response. The same would be true of the more extreme action advocated by a few—that the United States break off the SALT negotiations. Most of this talk is probably for voter consumption in the United States, since such a position seems clearly self-defeating.

It is also ironic in the extreme, if really prompted by concern for human rights. Life is the most basic of all human rights, listed first in the Declaration of Independence. And life is the ultimate concern of the arms limitation talks, because the Soviet Union and the United States with their nuclear arsenals are the greatest threats to life in all its history.

What sense does it make, therefore, to break their connection, tenuous as it is, on this most momentous of issues? And no matter how reprehensible the Soviet Government, who would really be penalized by such an act of folly? The American and Soviet peoples, and all others threatened by nuclear holocaust.

The hard truth is that the United States has little power to affect human rights in the Soviet Union, Cambodia, China, Eastern Europe; but it can, and should, hold up a moral standard to be seen even where its literal power does not run. In other nations—South Africa, for example—American actions may have at least the indirect effect of improving human rights conditions; and these actions should flow from our heritage. In countries heavily dependent on the United States—South Korea, the Philippines, Chile—American policies can have far greater effect, if strongly pursued.

But the United States itself is the most important arena of American concern for human rights, the one where the most can be done. Militant protection of the Bill of Rights, stringent concern for due process of law, the extension of equal economic opportunity to all classes and colors of citizens—these are the first human-rights duties of Americans, and in the long run their greatest service even to Anatoly Scharansky and Aleksandr Ginzburg.●

SPECIAL ORDER

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the two leaders are recognized on Monday under the standing order, Mr. TALMADGE be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOLDEN FLEECE AWARD FOR JULY—PENTAGON PARTY FUND

Mr. PROXMIRE. Mr. President, today I am awarding my monthly "fleece" award to the Pentagon brass for spending over $1.2 million a year from a special fund hidden in the defense budget for gifts, parties, trips, dinners, receptions, and other entertainment.

Deep within the Pentagon's budget lies a little noticed financial category called "Emergencies and Extraordinary Expenses." It is part of the huge operations and maintenance function which is used to keep aircraft flying and ships sailing.

The "Emergencies and Extraordinary Expenses" account is divided into two parts. One is for classified military purposes. The other turns out to be the entertainment fund for Pentagon civilian and military brass.

The Pentagon's party fund is used for a wide range of travel and entertainment activities. It pays for unreimbursed congressional trips, receptions for foreign military leaders, welcoming parties and going away parties for the Pentagon hierarchy, flowers, corsages, gifts, tea parties for wives, boat cruises, conferences, lunches, dinners, change of command ceremonies, and bulk purchases of alcoholic beverages.

This is an "extraordinary" fund, but there is nothing of an "emergency" about it. These social events are planned far in advance. There is no last minute crisis involved here. And it is "extraordinary" only in the amount of dollars spent.

Of the $1.2 million spent in the last 12 reported months (dates vary by service), the Air Force accounted for $408,946, the Army $375,800, the Navy $286,265, and the Office of the Secretary of Defense/Joint Chiefs /Defense agencies $160,992.

These funds have been systematically misused. In one case a retiring official was given a party by his colleagues with full expenses of $176 charged to the taxpayers. Then several days later the same official gave a party for his friends at a cost of $271.80, again charging it to the taxpayers.

Farewell parties for top officials often run to thousands of dollars. When Secretary Rumsfeld and Deputy Secretary Clements left office, taxpayers paid for a farewell dinner at a cost of $1,992 plus $507 more for five custom-made cakes and checkroom services.

The super secret National Security Agency spent $12,161.74 entertaining foreign visitors and some U.S. citizens. Of course, the guest list is secret.

Sometimes local military bases entertain local officials with tax dollars. A preholiday commanders reception in Philadelphia for "prominent officials and members of the Philadelphia industrial community" cost $975. A commanders reception for "local dignitaries" in Richmond, Va., cost $604.

Every conference seems to have a reception paid for out of the "emergencies and extraordinary expenses" account. For example, the Defense Mapping Agency in Monaco—$700; the Four Nations Digital Radar Landmass Simulation Conference luncheon in Rome—$100,000; dedication and luncheon at the new Uniformed Services University of the Health Sciences—$718; annual supergrade conference expenses—$891.40; reception for civilian aides and Army Secretariat Alumni Conference—$7,108.77; reception for the press in New York—$299; party for Congressional Committee on Budget Office staff—$468.76; a reception at the American Bar Association meeting—$452.40.

Even small items were charged off to the country's taxpayers. Former Deputy Secretary Clements, a multimillionaire, was reimbursed $8 for porter service in New Orleans.

A portion of these party funds are used to pay for unreimbursed congressional travel. By rough calculation at least $75,000 in Air Force funds are associated with congressional travel. Given this fact, I believe Congress should share in this fleece award.

Some of the most expensive entertaining is performed on behalf of visiting military leaders from other countries. This list is extensive and includes Chile, Venezuela, Argentina, Uruguay, Brazil, Sweden, Mexico, Bolivia, Korea, Denmark, Norway, Turkey, Iran, Kuwait, Iceland. Each trip costs on average about $2,000.

On one occasion the public paid for entertaining the air attaché of the Soviet Union. On another the Pentagon gave a Yugoslavian general a tour and briefing on the B–1 bomber, F–16 fighter, and AMST transport—three of our most important technological research programs of this decade.

Meanwhile, our officials overseas are running up huge entertainment bills. It is difficult to say who has the highest bills because the competition is close among our representatives to the SALT talks, the mutual balanced force reduction talks and the Law of the Seas Conference.

The Defense Department has elaborate internal regulations discussing how the emergency and extraordinary funds shall be spent. According to Directive 7250.13 they "will be used to maintain the standing and prestige of the United States." Ratios are established for the number of non-DOD guests to be entertained (20 percent in groups under 30, 50 percent in groups over 30) compared to DOD officials.

The regulations establish a list of items that entertainment funds cannot be used for and then immediately make exceptions to those restrictions. Thus retirement ceremonies are not covered (except where approved in advance); entertainment of DOD officials is not approved (except minimal official courtesies to the highest ranking officials); expenses for conferences, conventions and working groups are not approved (except where specifically approved in advance); gifts, mementos and calling cards are not approved (except wreaths, nominal cost mementos and others approved in advance).

As a matter of practice, these restrictions are meaningless. Retirement ceremonies are funded, self-entertainment is allowed with frequency and great expense, and receptions at conferences for working groups are common.

What should be done about these expenditures? Obviously, some amount of entertaining for diplomatic purposes may be necessary. But I am convinced that it is an amount far, far less than now being spent. Furthermore, the party funds should not be hidden in the budget and colocated with classified military purpose expenditures. They should be identified, called by a correct discriptive name and reduced drastically. I intend to recommend such steps on the Defense Appropriations bill.

Mr. President, I ask unanimous consent that a selected listing of various expenditures under representation allowance of the emergencies and extraordinary expenses account be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

OSD/JCS/AGENCIES

Stag reception for the German armament director. $363.00.

Stag dinner of Ambassador Robert Strausz-Hupe. $178.59.

Boat cruise and picnic for foreign officials. $173.

Luncheon and flowers for General Toufanian's wife. $129.00.

Tea party for wives of the Standing Consultative Committee at SALT. $107.00.

Replenishment of gifts for the Secretary of Defense to give away. $1,660.32.

Dinner for the Defense Science Board. $967.00.

Reception for the Reserve Force Policy Board. $850.00.

Functions hosted by the Defense Mapping Agency at the International Hydrographic Organization in Monaco. $700.00

A party given for Dr. Walter LaBerge, Assistant Secretary for Defense Support NATO by his colleagues. $176.00.

A party given by Dr. Walter LaBerge for his colleagues. $271.80.

Various hotel bills for the Secretary of Defense on overseas trips. $1,280.

Social functions at the National War College. $2,000.

Air Transportation from Capetown to Bloemfontein for Mrs. Gatewood, wife of the Republic of South Africa Naval Attache, who was joining an attache tour arranged by the South African Defense Force for foreign attaches and their wives. $139.42.

Secret entertainment by the National Security Agency. $12,161.74.

Luncheon in honor of the representatives attending the Four Nations Digital Radar Landmass Simulation Conference in Rome. $100.00.

Change of Command ceremonies for retiring general and flag rank officers. $474.42.

Luncheon and dedication of the Uniformed Services University of the Health Sciences. $718.00. Luncheon and dinner for Board of Regents of the University. $370.00.

Cocktail and dinner party for officials of the Four Power Armament Directors meeting in Bonn. $484.79.

1977 Annual Supergrade Conference expenses. $891.40.

Reception for representatives to U.S.-Micronesia Consultations. $500.00.

Reception for Minister of Defense of Israel. $9,879.00.

Bouquets, flowers, corsages. $166.25.

Farewell dinner for Secretary Rumsfeld, Deputy Secretaries Clements and Ellsworth.

$1,992.00. Five custom made cakes and checkroom services for farewell reception for Secretary Rumsfeld. $507.00.

Porter fees for Deputy Secretary Clements in New Orleans. $8.00.

Refreshments for Congressional staffs and press corps, 15 Jan 77. $149.50.

Dinner honoring distinguished guests attending the U.N. Regional Cartographic Conference in Bangkok, Thailand, 17 Jan 77. $200.00.

Purchase of alcoholic beverages, "to be used in connection with representational functions to promote U.S. national interests." $485.34.

Preholiday Commanders reception for "prominent officials and members of the Philadelphia Industrial Community." $975.

Commanders reception for "local dignitaries" in Richmond. Va. $604.00.

ARMY

Annual luncheon for spouses of civilian aides to the Secretary of the Army. $387.14.

Reception for unveiling painting honoring the 442nd Regimental Combat Team. $68.00.

Exemption requested for hosting the 149th Meeting of the Permanent Joint Board on Defense, Canada-U.S. $3,400.00.

Monthly vouchers for entertaining Congressional aides; average about $400.00.

Army Commanders Dinner, Oct. 3, 1977. Cost at least $1100.00.

Party for Congressional Committee staff and Congressional Budget Office staff. $468.76.

Reception for Civilian Aides and Secretariat Alumni Conference. $7,108.77 (includes reception, badges, luncheons, dinners, ceremonies.)

Reception by Office of Chief of Public Affairs, New York Branch, for the press. $299.00.

Proposed for June 30, 1978: Requested exception for costs of reception following retirement review in honor of General Walter T. Kerwin.

NAVY

Reception on 201st birthday of U.S. Navy. $2808.00.

Dinner for Comptroller of the Navy. $666.-15.

Dinner for consular corps on 201st birthday of the Marine Corps. $1000.00.

Reception for guests attending commissioning of the USS *Los Angeles*. $1200.00.

Reception, dinner and ball to honor non DOD guests on 201st birthday of the U.S. Marine Corps. $2540.38.

Reception in honor of the Assistant Secretary of the Army. $2556.32.

Reception to honor state and city officials in Philadelphia. $684.08.

Dinner in honor of local Memphis, Tennessee, officials. $1680.00. (DOD personnel paid their own costs—civilians charged to government.)

Dinner in honor of Navy Oceanographic Advisory Committee. $450.00.

Breakfast to honor certain civilian officials during the annual American Bar Association meeting. $452.40.

Reception in honor of the Virginia Supreme Court, Norfolk City Council and Presidents of local business leagues. $828.00.

Reception in honor of the Commandant of the Marine Corps and community leaders at Camp Lejeune. $1566.62.

Reception to honor local civil and business leaders in the Philadelphia area. $2370.25.

AIR FORCE

Lunch at La Bagatelle for Brazilian military representatives. $335.00.

Dinner by Secretary Stetson for General McBride. $1180.05.

Purchase of confiscated beverages. $49.52.

Visit of Col. General Cemalovic of Yugoslavia. The general was given tours and briefings on the B–1 bomber, F–16 and AMST. $3410.37.

Reception for Air Force Board for Correction of Military Records. (Secretary Stetson by memo states this will be the last time he will approve the expenditure.) $324.30.

Party at Andrews Air Force Base Officers Club for Col. Arbe, Air Attache, Embassy of Uruguay. $195.68.

Reception for Scientific Advisory Board Fall General Meeting. $1453.59.

Luncheon at Watergate Terrace in honor of Col. Shport, Air Attache, USSR. $82.95.

Visit of Commander Colombian Air Force. Dinners, lunches, transportation, golf, laundry, flowers. $2077.32.

Reception in honor of Secretary of Air Force John C. Stetson. $2,320.82.

Visit of Commander of Bolivian Air Force. $2,892.36.

Visit of Commander Mexican Air Force, including a visit to Disneyland. $3284.19.

Books, stamp plaques, medallions for Secretary Stetson's trip to the Middle East, including an eagle weathervane. $861.41.

Reception honoring the Corps of Air Attaches. $6,471.00.

Reception for Assistant Secretary of the Air Force. $334.75.

Farewell dinner to Brig. Gen. Temporini of Argentina. $357.24.

Visit by Chief of Staff, Kuwait Armed Forces. $4,197.34.

Reception for Air Force Historical Advisory Committee. $221.80.

Expenses incurred in connection with USAF Independence Day Air Attache Golf Tournament (trophies, greens fees, reception) $3,352.91.

Walnut plaque purchases. $2,158.60.

BASTILLE DAY: A DAY TO REMEMBER THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, on July 14, 1789, the Bastille was overcome by revolutionaries in France. Inspired by the watchwords "liberty," "fraternity," and "equality," the French fought to create a democratic society. Later in 1789, the National Assembly of France immortalized the ideals of the revolution in the "Declaration of the Rights of Man and the Citizen." Allow me to quote from that historic document:

> Men are born and remain free and equal in rights. The aim of all political association is to preserve the natural and imprescriptible rights of man. These rights are liberty, property, security, and resistance to oppression.

On this, the 189th anniversary of the French Revolution, the people of France can be proud not only of their own free society, but of their efforts to guarantee the "rights of man" worldwide.

On October 14, 1950, the French acceded to the United Nations Genocide Convention, which makes genocide a punishable crime under international law.

Mr. President, I sincerely regret that as Americans, we cannot fully rejoice with our friends and allies in France on this Bastille Day. We have failed to ratify the Genocide Treaty.

For over 30 years the treaty has been before the Senate, and Presidents Truman, Eisenhower, Kennedy, Johnson, and Ford have all urged its ratification. We are reminded daily of the genocide that is perpetrated by those who deny fundamental human rights. I hardly need to mention Cambodia, Uganda, South Africa, Paraguay, and so many others. Yet, we have not added our voice to the more than 80 nations that have publicly opposed genocide by signing the U.N. convention.

The time has come for the U.S. Senate to take a stand against the heinous crime of genocide. I urge all of my colleagues to ratify the Genocide Treaty without delay.

Mr. President, I truly hope that at this time next year, we can celebrate Bastille Day with our friends in France knowing that we, too, have furthered the rights of man; that we, too, have ratified the Genocide Convention.

$165 MILLION EXIM MONEY FOR ALGERIA

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed loan to assist the export of U.S. goods and services to be used in a gas cycling project in Algeria. Section 2(b)(3)(i) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees in an amount of $60 million or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a loan in the amount of $165,-000,000 to SONATRACH, the state-owned gas and oil monopoly of Algeria, to assist in the purchase of U.S. goods and services to be used in the construction and operation of the project which will produce condensates and liquefied petroleum gas (LPG) at Alrar in southeastern Algeria. The proposed credit will cover 75 percent of the total cost of U.S. goods and services for the project. The loan will bear interest at the rate of 8.5 percent per annum and be repayable over a 10-year period commencing January 1, 1983.

Mr. President, I ask unanimous consent that the letter from Eximbank and accompanying material pertaining to this transaction be printed in the RECORD.

The material follows:

EXPORT-IMPORT BANK
OF THE UNITED STATES,
Washington, D.C., June 29, 1978.

HON. WALTER F. MONDALE,
President of the Senate, U.S. Capitol, Washington, D.C.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to Algeria.

A. Description of Transaction:

1. Purpose:

Eximbank is prepared to extend a direct credit in the amount of $165,000,000 to Societe Nationale pour la Recherche, la Production, le Transport, la Transformation et la Commercialisation des Hydrocarbures (SONATRACH), a state-owned enterprise of the Democratic and Popular Republic of Algeria, to assist in financing the export from the United States of U.S. goods and services for a gas cycling project (Alrar Project) to produce condensates and liquefied petroleum gas (LPG) at Alrar in southeastern Algeria.

The total direct costs of the Alrar Project are estimated at $336,000,000. Of this total,

non-Algerian costs will amount to $274,000,000, including U.S. costs of $220,000,000; Algerian costs will be $62,000,000.00.

The Alrar Project represents another step in the SONATRACH program for the prudent utilization of Algeria's gas reserves. Its primary purpose is to maximize the recovery of associated gas, now flared, from two major oil-producing reservoirs, as well as the recovery of the heavier liquefiable hydrocarbons from the Alrar gas field that would be lost to the reservoir if not produced under a pressure maintenance and cycling method. The gas cycling process is designed to remove the condensates and LPG, i.e., propane and butane, and then reinject the dry gas (methane) into the field. This process involves the continuous removal of the natural gas liquids and eventual exploitation of the dry gas.

The Alrar Project, as now planned, is unrelated to the liquefied natural gas (LNG) projects now under way for which Eximbank financing has been extended (LNG-1) and for which Eximbank financing has been requested (LNG-2). LNG, which is almost pure methane, is to be distinguished from condensates and LPG, which will be the principal products of the Alrar Project.

2. Identity of the Parties:

SONATRACH is the state-owned monopoly of Algeria under the jurisdiction of the Ministry of Energy and Petrochemical Industries charged with the responsibility for the development of Algeria's oil and gas resources.

Banque Algerienne de Development is the government-owned development bank which will guarantee repayment of Eximbank's credit for and on behalf of the Democratic and Popular Republic of Algeria.

3. Nature and Use of Goods and Services:

The principal U.S. goods to be exported from the United States for use in the construction and operation of the Alrar Project will be structural stel, compressors and drivers, tanks, heat exchangers, fabricated equipment, piping, electrical equipment and instruments. The principal U.S. services will be to provide engineering design, construction supervision and start-up and training. Major U.S. suppliers for the Project are subsidiaries, which are located in Houston, Texas, and California, of the Fluor Corporation, Irvine, California, as well as various U.S. manufacturing firms yet to be selected.

B. Explanation of Eximbank Financing:

1. Reasons:

Domestic Employment—The proposed extension of a $165,000,000 credit by Eximbank will facilitate the export of $220,000,000 of U.S. goods and services. In addition to the engineering, design, and construction work that will result from this Project for Fluor, many other U.S. firms will receive contracts to supply equipment, with the result that U.S. export sales for the Alrar Project will generate an estimated 1,350 man-years of direct manufacturing labor in the United States.

Foreign Competition—The award of this contract to a U.S. company will help maintain the competitive position of the United States in an important area of technology, with respect to both engineering and construction services and to the supply of equipment. There has been active European and Canadian competition for this Project and for similar projects in the Rhourde Nouss and Oued Noumer gas fields, for which official export credit support have been offered.

No adverse Impact—None of the goods or services to be exported is in short supply in the United States, and Eximbank perceives no adverse impact on the U.S. economy from the export of these goods and services.

Advantages of Project—The Alrar Project fits Algeria's program for the development of its natural gas resources. It will generate substantial amounts of foreign exchange earnings, and, by helping to develop Algeria's energy resources, it will also help to expand the world supply of energy.

Repayment Assurances—The considerable earnings capability of the Project indicates a very comfortable debt service coverage which, together with the guarantee of the Government of Algeria, provides a reasonable assurance of repayment for the Eximbank financing.

2. The Financing Plan:

The total cost of U.S. goods and services to be exported from the United States for the Alrar Project is estimated to be $220,000,000, which will be financed as follows:

		Percent
Cash payment	$33,000,000	15
Eximbank credit	165,000,000	75
Private loans not guaranteed by Eximbank	22,000,000	10
Total	$220,000,000	100

(a) Eximbank Charges—The Eximbank Credit will bear interest at the rate of 8.5% per annum, payable semiannually. A commitment fee of ½ of 1% per annum will be charged on the undisbursed portion of the Eximbank Credit.

(b) Repayment Terms—The total Eximbank and unguaranteed private financing of $187,000,000 will be repaid by the Borrower in twenty equal semiannual installments, beginning January 1, 1983. The private loans will be repaid out of the first two and part of the third installments, and the Eximbank Credit will be repaid from the remainder.

Sincerely,

JOHN L. MOORE, JR.

EXECUTIVE SESSION

The PRESIDING OFFICER. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, the following nominations have been cleared on all sides, beginning with the Department of State on page 2 of the Executive Calendar, if the acting Republican leader agrees that is the case.

Mr. HATCH. I do.

Mr. ROBERT C. BYRD. He does. Therefore, Mr. President, I ask unanimous consent that the Senate go into executive session to consider nominations beginning on page 2 of the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the nominations be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations agreed to en bloc are as follows:

DEPARTMENT OF STATE

Raymond E. González, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ecuador.

Viron P. Vaky, of Texas, a Foreign Service officer of the class of career minister, to be an Assistant Secretary of State.

Geri M. Joseph, of Minnesota, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

Thomas D. Boyatt, of Ohio, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Upper Volta.

INTER-AMERICAN FOUNDATION

Viron P. Vaky, of Texas, to be a member of the Board of Directors of the Inter-American Foundation for the remainder of the term expiring Sept. 20, 1978.

INTERNATIONAL COMMUNICATION AGENCY

R. Peter Straus, of New York, to be an Associate Director of the International Communication Agency. (New position.)

DEPARTMENT OF JUSTICE

Joseph I. St. George, of New York, to be U.S. marshal for the western district of New York for the term of 4 years.

Oliver James Keller, Jr., of Florida to be a Commissioner of the U.S. Parole Commission for a term of 6 years.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE FOREIGN SERVICE

Diplomatic and Foreign Service nominations beginning Yukio Allan Kuniyuki, Jr., to be a Foreign Service officer of class 4, a counsular officer, and a Secretary in the Diplomatic Service of the United States of America, and ending Elizabeth A. Edwards, to be a consular officer of the United States of America, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 26, 1978.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move, en bloc, to reconsider the votes by which the nominations were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I now make that motion.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSIDERATION OF CERTAIN MEASURES IN THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 914 and 915.

The PRESIDING OFFICER. Without objection, it is so ordered.

ANNABEL FREEMAN D'ANGELO, KELLY B. BEYER, AND CASEY K. BEYER

The resolution (S. Res. 513) to pay a gratuity to Annabel Freeman D'Angelo, Kelly B. Beyer, and Casey K. Beyer, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay from the contingent fund of the Senate, to Annabel Freeman D'Angelo, daughter of Betty Beyer and to Kelly B. Beyer and Casey K. Beyer, sons of Betty Beyer, an employee of the Senate at the time of her death, a sum to each equal to two and one half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WILLIE B. HALL

The resolution (S. Res. 514) to pay a gratuity to Willie B. Hall, was considered and agreed to, as follows:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Willie B. Hall, widow of Willie C. Hall, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONSIDERATION OF A MEASURE ON THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 913.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL EXPENDITURES BY THE COMMITTEE ON ARMED SERVICES

The resolution (S. Res. 504) authorizing additional expenditures by the Committee on Armed Services for routine purposes, was considered and agreed to, as follows:

Resolved, That the Committee on Armed Services is authorized to expend from the contingent fund of the Senate, during the Ninety-fifth Congress, $15,000 in addition to the amounts, and for same purposes, specified in section 134(a) of the Legislative Reorganization Act of 1946, and in S. Res. 71, Ninety-fifth Congress, agreed to February 11, 1977.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MODIFICATION OF ORDER WITH RESPECT TO TAKING UP S. 3075

Mr. ROBERT C. BYRD. Mr. President, earlier today I obtained unanimous consent, which had been cleared with the distinguished minority leader, that the majority leader, upon the disposition of the Endangered Species Act, would be authorized to take up the foreign assistance bill, S. 3075.

I modify that request—and this has also been cleared on the other side—by adding the words "at any time"—meaning that at any time after the disposition of the Endangered Species Act, the majority leader may proceed to call up the Foreign Assistance Act.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

LEGISLATIVE PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the vote on the coal conversion conference report occur at 2 p.m. on Tuesday, with the proviso that there be 10 minutes for debate prior to that vote, the time to be equally divided between Mr. SCHMITT and Mr. HASKELL; that there be 8 hours on Monday for debate on the coal conversion conference report; that the time on the 8 hours be equally divided between Mr. HASKELL and Mr. SCHMITT; and provided further, that if either or both of those Senators should yield back their time on Monday, or any portion of that 8 hours on Monday, the majority leader then proceed to call up the endangered species bill; with the further understanding that on Tuesday, after the two leaders have been recognized under the standing order, the Senate go into executive session to consider the nomination of Mr. Milton David Stewart, of New York, to be chief counsel for advocacy, Small Business Administration; provided further that upon the disposition of that nomination, and that it be understood that the nomination would be disposed of that day, the Senate would return to legislative session and return to consideration of the endangered species bill; and with the further proviso that in any event, the vote on the conference report will occur at 2 o'clock p.m. on Tuesday; with the further proviso that the 10 minutes for debate prior to that vote on the conference report would occur.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. ROBERT C. BYRD. Mr. President, as in executive session I modify the previous unanimous-consent agreement as follows so that my reference to the nomination of Milton David Stewart appear in this fashion: That if the nomination is not disposed of one way or another on Tuesday, further discussion of the nomination will occur at a later time.

The PRESIDING OFFICER. Is there objection?

Mr. NELSON. Will the Senator yield for a question?

What is the agreed time for the nomination to be taken up on Tuesday? Or is there an agreed time?

Mr. ROBERT C. BYRD. Yes; on Tuesday, the nomination will be taken up immediately after the two leaders or their designees have been recognized under the standing order. It is my intention to come in about 10 o'clock that morning.

Mr. NELSON. Is there any agreed vote on Tuesday morning?

Mr. ROBERT C. BYRD. No. I have a feeling that the nomination will be disposed of on Tuesday, but I did not want to foreclose Senators on that point. What I wanted to do is leave the Senate free to proceed to other business and not have it stuck on a nomination for a number of days, if that eventually arose, which I do not anticipate.

Mr. NELSON. I thank the Senator.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. ROBERT C. BYRD. Mr. President, as in executive session, I ask unanimous consent that the words appear as follows: That if the nomination has not been disposed of on Tuesday, it be returned to the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

ORDER FOR RECESS ON MONDAY, JULY 17, 1978, UNTIL 10 A.M. ON TUESDAY, JULY 18, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business on Monday, it stand in recess until the hour of 10 o'clock a.m. on Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS ON TUESDAY UNTIL 10 A.M. ON WEDNESDAY, JULY 19, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business on Tuesday, it stand in recess until the hour of 10 o'clock a.m. on Wednesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS ON WEDNESDAY UNTIL 10 A.M. ON THURSDAY, JULY 20, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, when the Senate completes its business on Wednesday, it stand in recess until the hour of 10 o'clock a.m. on Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS ON THURSDAY UNTIL 10 A.M. ON FRIDAY, JULY 21, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on Thursday, it stand in recess until the hour of 10 o'clock a.m. on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

MONDAY, JULY 17, 1978

Mr. ROBERT C. BYRD. Mr President, the Senate will convene at 10 o'clock on Monday. After the two leaders or their designees have been recognized under the standing order, Mr. TALMADGE will be recognized for not to exceed 15 minutes, after which the Senate will resume its consideration of the conference report on the coal utilization bill. Eight hours of debate have been ordered for Monday on that conference report, to be equally divided between Mr. SCHMITT and Mr. HASKELL.

The majority leader is authorized to call up the endangered species bill on Monday, and I have a commitment to the

distinguished minority leader, who has a great interest in that bill, to proceed to that bill for sometime on Monday, which would mean that it is conceivable that the Senate will not proceed to it until after 6:15 pm., if all 8 hours are consumed for the debate on the conference report. It is conceivable that there could be some rollcall votes on the endangered species bill on Monday. Of course, it is also entirely possible that the two Senators in control of the 8 hours for debate on the conference report will not need the 8 hours and will yield back a portion thereof, which would then permit the majority leader to proceed to keep his word to all parties and call up the endangered species bill; in which case, there is even more likelihood that there could be votes on that measure on Monday.

TUESDAY, JULY 18, 1978

Mr. ROBERT C. BYRD. On Tuesday, the Senate will begin, after the two leaders have been recognized and any orders for recognition of the Senators that have been entered into prior thereto, to go into executive session to consider the nomination of Milton David Stewart, of New York, to be Chief Counsel for Advocacy of the Small Business Administration.

There is no time limitation on that nomination. It is hoped that the Senate will complete action on the nomination on Tuesday at a reasonably early hour, but again, I stress, there is no time limit on the nomination. However, in any event, on Tuesday, the Senate will proceed at 10 minutes until 2 o'clock p.m. to debate for 10 minutes the conference report on coal conversion.

I ask unanimous consent that no quorum call be in order at that point for the full protection of Mr. SCHMITT and Mr. HASKELL, that they may have their 10 minutes of debate; and also for the protection of all Senators, that they can be assured that the vote on the conference report will occur at 2 o'clock p.m. in any event.

The endangered species bill, which is very important from my own personal standpoint, because I think at times I am a member of the endangered species, will be set aside temporarily—perhaps I am not a member, but in that category.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. That bill, under the order, will be set aside temporarily for the consideration of the nomination of Mr. Milton David Stewart and also for the vote on the conference report on coal conversion. After those matters have been disposed of sometime during the day, the Senate will resume its consideration of the endangered species bill. So there will be rollcall votes on Tuesday.

Mr. HATCH. I should remind the majority leader that in order to be in the category of the endangered species, you have to be a Republican.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Is there objection?

The Chair hears none. It is so ordered.

Mr. ROBERT C. BYRD. I thank the Chair for his support and I thank the distinguished Senator from Utah for his comment.

RECESS TO 10 A.M. ON MONDAY, JULY 17, 1978

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, and with thanks to the distinguished Senator from Montana who has so patiently presided over the Senate this afternoon and with such a remarkable degree of skill and efficiency and dignity, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock on Monday morning.

The motion was agreed to; and at 4:41 p.m., the Senate recessed until Monday, July 17, 1978, at 10 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 14, 1978:

DEPARTMENT OF STATE

Raymond E. González, of California, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Ecuador.

Viron P. Vaky, of Texas, a Foreign Service officer of the class of Career Minister, to be an Assistant Secretary of State.

Geri M. Joseph, of Minnesota, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Kingdom of the Netherlands.

Thomas D. Boyatt, of Ohio, a Foreign Service officer of class 2, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Upper Volta.

INTER-AMERICAN FOUNDATION

Viron P. Vaky, of Texas, to be a member of the Board of Directors of the Inter-American Foundation for the remainder of the term expiring September 20, 1978

INTERNATIONAL COMMUNICATION AGENCY

R. Peter Straus, of New York, to be an Associate Director of the International Communication Agency.

DEPARTMENT OF JUSTICE

Joseph I. St. George, of New York, to be U.S. marshal for the western district of New York for the term of 4 years.

Oliver James Keller, Jr., of Florida, to be a Commissioner of the U.S. Parole Commission for a term of 6 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF STATE

Diplomatic and Foreign Service nominations beginning Yukio Allan Kuniyuki, Jr., to be a Foreign Service officer of class 4, a consular officer, and a Secretary of the Diplomatic Service of the United States of America, and ending Elizabeth A. Edwards, to be a consular officer of the United States of America, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 26, 1978.

HOUSE OF REPRESENTATIVES—*Friday, July 14, 1978*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

He that abideth in Me and I in him, the same bringeth forth much fruit.—John 15: 5.

Eternal God, who didst lead our fathers to bring forth on this land a new nation devoted to Thee and dedicated to liberty, give Thy grace to us their children to continue their high devotion and deep dedication that we may prosper together and live in peace with one another.

Forgive our shortcomings and our failures to live up to our best which have led to discord and division. Help us to turn away from the errors of the past and to learn to live together in good will with liberty and justice for all. May we keep true democracy alive in our land that it may come to new life in all lands. Bless us as a nation that we may become a blessing to all nations. To Thee be the glory now and forever more. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the amendment of the House to a bill of the Senate of the following title:

S. 1582. An act relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States.

The message also announced that the Senate agrees to the amendments of the House to the amendments of the Senate to a bill of the House of the following title:

H.R. 12637. An act to amend the North Pacific Fisheries Act of 1954.

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2777. An act to provide for consumers a further means of minimizing the impact of inflation and economic depression by narrowing the price spread between costs to the pro-

ducer and the consumer of needed goods, services, facilities, and commodities through the development and funding of specialized credit sources for, and technical assistance to, self-help, not-for-profit cooperatives, and for other purposes.

AMBASSADOR YOUNG'S STATEMENTS GIVE SOVIETS PROPAGANDA

(Mr. McDONALD asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. McDONALD. Mr. Speaker, yesterday I called for the impeachment of Andrew Young, U.S. Ambassador to the U.N. Evidence continues to accumulate of the aid and comfort he has given to the enemies of freedom.

Soon after Ambassador Young's outrageous statements. Tass, the official Soviet agency quoted Mr. Young as saying:

In our prisons there are hundreds, maybe even thousands of people whom I call political prisoners. I was a political prisoner ten years ago, when I was arrested in a civil rights demonstration in Atlanta, Georgia.

They commented—

These words are noteworthy, since they come from a member of the Cabinet, and therefore signify an official admission that political persecution is widespread in the United States.

Every American knows this is nonsense; but how are other people in the world who have not experienced American freedom to know this? Ambassador Young has lent himself to a vicious Soviet propaganda campaign and has done immeasurable harm to those in the Soviet Union seeking freedoms that all Americans, whatever their race, religion, or national origin, take for granted.

He should either have the decency to resign or the President should show the good sense to retire him.

ANDREW YOUNG SHOULD SUBMIT HIS RESIGNATION

(Mr. SISK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SISK. Mr. Speaker, on yesterday, on the occasion of the motion offered by the gentleman from Georgia, I was absent. Had I been here I would have voted to table, because I do believe that any man is entitled to be heard prior to indictment, and in this case I certainly would have supported the motion by the gentleman from Texas.

However, having said that, and regretfully, as a personal friend of Andrew Young, having served with him on committee, having a great respect for him, having endorsed Mr. Carter for President by virtue of persuasion of my good friend from Georgia, Mr. Young, let me say that I would urge my good friend, Mr. Young, to seriously consider submitting his resignation.

He has become a liability to this administration, a liability to our country, and in spite of my high regard for the gentleman, in view of what has happened to him since he has left this body, I would urge our good friend, Andy, to consider seriously resigning from the position which he now holds because of the fact, as I say, that he is now a liability to our country as well as this administration. Come home, Andy.

FOREIGN POLICY ON PERFORMANCE NOT PROMISE

(Mr. CORCORAN of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORCORAN of Illinois. Mr. Speaker, Wednesday morning at the request of the President, several of our colleagues including me had the pleasure of a breakfast meeting with President Carter, members of his Cabinet, the Chairman of the Joint Chiefs of Staff, and our Ambassador to Turkey.

The purpose of the meeting was to discuss lifting the present Turkish arms embargo. After the President made his presentation and asked for our help, a few questions were raised. On behalf of those of us concerned about specific, concrete details on the plans to move the Turkish troops off Cyprus, I asked the President whether or not any such details had come to light in any of his discussions with officials of the Turkish Government. His answer in effect was that we have no such concrete details on a timetable for troop withdrawal.

Thus, as I promised President Carter then, yesterday I sent him a proposal which I think will end the stalemate in Congress on this issue, help both Turkey and Greece, and most importantly for the United States, buttress the presently weak southern flank of the NATO alliance. I urge all my colleagues to join me in this effort and I have already sent you copies of the correspondence involved.

SOVIET RECORD OF IGNOMINY

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, once again, Soviet Helsinki monitors have been sentenced to serve out merciless sentences in Soviet hard labor camps. In distant Vilnius, Viktoras Petkus, a founding member of the Lithuanian Helsinki group has been sentenced to 3 years of total isolation in prison, 7 years in a labor camp—where he will probably have to work in the mines—and 5 years of internal exile. In Kaluga, Aleksandr Ginzburg, a founding member of the Moscow Helsinki group, has been told that he must serve 8 years in the worst type of Soviet labor camp, plus 3 years of exile in a remote area in the U.S.S.R. Both men have already served long years in prison on previous political charges. Both men stand accused of "anti-Soviet agitation"; that is, of asking their government to live up to the agreement it freely signed.

These three brave men are but the latest in a series of self-appointed Helsinki monitors in the U.S.S.R. who have suffered severe reprisals at the hands of the Soviets for their work as Helsinki watchers. The appalling toll of such people who have already started serving their sentences has reached 12: Arutunyan of Armenia; Gamsakhurdia, Kostava, and Goldshtein of Georgia; Orlov and Slepak of Moscow; Rudenko, Tykhy, Marynovych, Matusevych, and Vins of the Ukraine. The ruthless response of the Soviets to their Helsinki watch speaks far louder than their honeyed words about the record of Soviet compliance with the Helsinki Final Act. It is a record of ignominy. In addition, this week Anatoly Shcharansky has been found guilty of charges which our President has rightly characterized as "patently false." In the light of such actions we must reassess our relations with the U.S.S.R.

APPOINTMENT OF CONFEREES ON H.R. 10929, DOD APPROPRIATION AUTHORIZATION ACT, 1979

Mr. PRICE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 10929) to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test, and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. PRICE, BENNETT, STRATTON, ICHORD, NEDZI, CHARLES H. WILSON of California, LEGGETT, WHITE, NICHOLS, BOB WILSON, DICKINSON, WHITEHURST, and SPENCE, and Messrs. BOLAND, BURLISON of Missouri; MINETA, and ROBINSON from the Select Committee on Intelligence only when differences regarding intelligence-related activities are under consideration.

● Mr. PRICE. Mr. Speaker, as was stated last year when we came before the membership to offer this motion for the first time in the history of the House, it is not our intent to do other than protect the sensitivity of classified security information when certain national defense programs are under active consideration in the conference.

As my colleagues are well aware, there are a variety of matters included in the procurement and research and development titles of the authorization bill which are classified and, therefore, cannot be discussed in public. At such times, we would propose that the conference be closed.

Let me assure my colleagues that at other times the House conferees have no intention of asking that the conference be held in executive session.

You will note that we have included a provision in the motion that any sitting Member of Congress shall have the right to attend any closed or open meeting of the conference. That provision was added to the original motion made last year, and the motion was agreed to by a rollcall vote of 273 to 114.

Accordingly, Mr. Speaker, I again urge my colleagues to support the motion in order that we may get along with the business of meeting in conference and arriving at an agreement in a professional and expeditious fashion.●

MOTION OFFERED BY MR. PRICE

Mr. PRICE. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. PRICE moves that, pursuant to rule XXVIII 6(a) of the House rules, the conference committee meetings between the House and the Senate on H.R. 10929, the fiscal year 1979 military authorization bill, be closed to the public at such times as classified national security information is under consideration, *Provided however*, That any sitting Member of Congress shall have the right to attend any closed or open meeting.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The question was taken and the Speaker announced that the ayes appeared to have it.

PARLIAMENTARY INQUIRY

Mr. PRICE. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. PRICE. Mr. Speaker, it is my understanding that under our House rules a recorded vote is required on such a motion.

The SPEAKER. The Chair will state that the gentleman from Illinois (Mr. PRICE) is entirely correct, there has to be a roll call vote under clause 6, rule XXVIII. The prior proceedings taken by the House on the motion are vacated, and the yeas and nays are ordered.

The question is on the motion offered by the gentleman from Illinois (Mr. PRICE). Those Members in favor of the motion will vote yea, those Members opposed will vote no. Members will record their vote by electronic device.

The vote was taken by electronic device, and there were—yeas 312, nays 5, answered "present" 1, not voting 114, as follows:

[Roll No. 543]

YEAS—312

Abdnor	Blanchard	Conte
Akaka	Boggs	Corcoran
Ammerman	Boland	Corman
Anderson, Calif.	Bolling	Cornell
	Bonior	Cornwell
Andrews, N. Dak.	Bowen	Coughlin
	Brademas	Crane
Annunzio	Brinkley	Cunningham
Applegate	Brodhead	D'Amours
Archer	Broomfield	Daniel, Dan
Armstrong	Brown, Calif.	Daniel, R. W.
Aspin	Broyhill	Danielson
Badham	Buchanan	Davis
Bafalis	Burgener	Delaney
Baldus	Burke, Mass.	Derrick
Bauman	Burleson, Tex.	Derwinski
Beard, R.I.	Burlison, Mo.	Devine
Beard, Tenn.	Burton, Phillip	Dickinson
Bedell	Butler	Dicks
Benjamin	Carter	Diggs
Bennett	Chappell	Dingell
Bevill	Coleman	Dodd
Biaggi	Collins, Tex.	Dornan
Bingham	Conable	Downey
Drinan	Kastenmeier	Pickle
Duncan, Oreg.	Kazen	Pike
Duncan, Tenn.	Kelly	Poage
Early	Keys	Preyer
Eckhardt	Kildee	Price
Edgar	Kindness	Pritchard
Edwards, Ala.	Kostmayer	Pursell
Edwards, Calif.	LaFalce	Rahall
Edwards, Okla.	Lagomarsino	Regula
Eilberg	Latta	Rhodes
Emery	Leach	Rinaldo
English	Lederer	Risenhoover
Erlenborn	Leggett	Reuss
Ertel	Lehman	Robinson
Evans, Del.	Levitas	Roe
Evans, Ind.	Lloyd, Calif.	Rogers
Fary	Lloyd, Tenn.	Roncalio
Fascell	Long, La.	Rooney
Fenwick	Long, Md.	Rose
Findley	Lujan	Rostenkowski
Fish	Luken	Rousselot
Fisher	McClory	Roybal
Fithian	McCormack	Rudd
Flippo	McDonald	Runnels
Florio	McEwen	Russo
Flowers	McFall	Ryan
Foley	McHugh	Santini
Forsythe	McKay	Satterfield
Fowler	McKinney	Scheuer
Frenzel	Madigan	Schulze
Fuqua	Maguire	Sebelius
Gammage	Mahon	Seiberling
Garcia	Marks	Sharp
Gaydos	Marlenee	Shuster
Gephardt	Marriott	Sisk
Giaimo	Martin	Skelton
Gilman	Mattox	Skubitz
Ginn	Mazzoli	Slack
Glickman	Meeds	Smith, Iowa
Goldwater	Meyner	Snyder
Gonzalez	Michel	Solarz
Gore	Mikulski	Spence
Gradison	Mikva	St Germain
Grassley	Miller, Calif.	Staggers
Green	Miller, Ohio	Stangeland
Gudger	Mineta	Stanton
Hagedorn	Minish	Steed
Hall	Mitchell, N.Y.	Steers
Hamilton	Moakley	Stratton
Hammer-schmidt	Moffett	Studds
	Mollohan	Taylor
Hanley	Montgomery	Teague
Hannaford	Moore	Thompson
Harkin	Moorhead, Calif.	Traxler
Harris		Trible
Harsha	Moorhead, Pa.	Udall
Heckler	Moss	Vander Jagt
Hefner	Murphy, Ill.	Vanik
Heftel	Murphy, Pa.	Vento
Hightower	Murtha	Volkmer
Hillis	Myers, Gary	Walgren
Holland	Myers, John	Walker
Hollenbeck	Myers, Michael	Watkins
Holt	Natcher	Weaver
Holtzman	Neal	Whalen
Horton	Nedzi	White
Howard	Nix	Whitehurst
Hubbard	Nolan	Whitley
Huckaby	Nowak	Whitten
Hughes	O'Brien	Wilson, Bob
Hyde	Oakar	Wilson, C. H.
Ichord	Oberstar	Wirth
Ireland	Obey	Wright
Jacobs	Ottinger	Wydler
Jeffords	Panetta	Yates
Jenrette	Patten	Yatron
Johnson, Calif.	Patterson	Young, Alaska
Johnson, Colo.	Pattison	Young, Fla.
Jones, N.C.	Pease	Young, Mo.
Jones, Okla.	Pepper	Zablocki
Jones, Tenn.	Perkins	
Jordan	Pettis	

NAYS—5

Carr	Krebs	Schroeder
Dellums	Mitchell, Md.	

ANSWERED "PRESENT"—1

Bonker

NOT VOTING—114

Addabbo	Brown, Mich.	Cleveland
Alexander	Brown, Ohio	Cochran
Ambro	Burke, Calif.	Cohen
Anderson, Ill.	Burke, Fla.	Collins, Ill.
Andrews, N.C.	Burton, John	Conyers
Ashbrook	Byron	Cotter
Ashley	Caputo	de la Garza
AuCoin	Carney	Dent
Barnard	Cavanaugh	Evans, Colo.
Baucus	Cederberg	Evans, Ga.
Beilenson	Chisholm	Flood
Blouin	Clausen, Don H.	Flynt
Breaux		Ford, Mich.
Breckinridge	Clawson, Del	Ford, Tenn.
Brooks	Clay	Fountain
Fraser	Mottl	Stokes
Frey	Murphy, N.Y.	Stump
Gibbons	Nichols	Symms
Goodling	Pressler	Thone
Guyer	Quayle	Thornton
Hansen	Quie	Treen
Harrington	Quillen	Tsongas
Hawkins	Railsback	Tucker
Jenkins	Rangel	Ullman
Kasten	Richmond	Van Deerlin
Kemp	Roberts	Waggonner
Krueger	Rodino	Walsh
Le Fante	Rosenthal	Wampler
Lent	Ruppe	Waxman
Livingston	Sarasin	Weiss
Lott	Sawyer	Wiggins
Lundine	Shipley	Wilson, Tex.
McCloskey	Sikes	Winn
McDade	Simon	Wolff
Mann	Smith, Nebr.	Wylie
Markey	Spellman	Young, Tex.
Mathis	Stark	Zeferetti
Metcalfe	Steiger	
Milford	Stockman	

Mr. MAGUIRE and Mr. PEASE changed their vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded:

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. PRICE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the motion just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

THE LAFFER CURSE

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, since my remark about the "Guffaw curve" a couple of weeks ago, a few people have suggested I might be making fun of an allegedly serious economic proposal. So, I want to make it clear that I have nothing personal against Prof. Arthur Laffer. In fact, his basic thesis may be true that when tax rates exceed a certain level, further increases will reduce the total revenue, even though no one has any idea of what the optimum tax rate might be.

This basic idea seems logical but we have to keep in mind that it is merely an unsubstantiated and untested theory. By itself, this theory is merely interesting and fairly harmless.

However, in the hands of our colleague, the gentleman from New York (Mr. KEMP), the Laffer curve has been transformed into the Laffer curse to justify the Kemp-Roth One Hundred Billion Dollar Deficit Act of 1978.

Mr. Speaker, I am surprised to find that a few of my colleagues in this Chamber, friends who have stood by our side in the past in the fight toward a balanced budget and fiscal responsibility, are now supporting a wholesale raid on the Federal Treasury that might eliminate the hope of balancing the Federal budget.

I, for one, am not willing to gamble $225 billion in more Federal deficits on the slight chance that this unproven

theory might be right. I hope that my colleagues will not place the future of our Nation's economy in the hands of this Laffer curse.

1976 ANNUAL REPORT OF HEALTH ACTIVITIES UNDER FEDERAL COAL MINE HEALTH AND SAFETY ACT OF 1969—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and together with the accompanying papers, referred to the Committee on Education and Labor:

To the Congress of the United States:

I transmit herewith the 1976 Annual Report of Health Activities under the Federal Coal Mine Health and Safety Act of 1969.

I recommend that the statutory reporting requirement for this report be changed from once every year to once every three years. HEW staff resources and time could be better spent on more research rather than on the preparation of annual reports of largely repetitious material. Basic information in this field has been known for some time, and new findings develop only slowly and infrequently. All of the information contained in this report is available to Congress during annual appropriations and oversight hearings, and HEW will inform Congress immediately of any scientific breakthroughs in the field.

This report describes activities prior to the beginning of my Administration

JIMMY CARTER.

THE WHITE HOUSE, *July 13, 1978.*

DOE AUTHORIZATIONS FOR FISCAL YEAR 1979

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1261 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1261

Resolved, That upon the adoption of this resolution it shall be in order to move, clause 7 of rule XIII to the contrary notwithstanding, that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12163) to authorize appropriations to the Department of Energy in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 660 of the Department of Energy Reorganization Act, for energy research and development, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, fifteen minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, and fifteen minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interstate and Foreign Commerce, the bill shall be read for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute printed in the Congressional Record of June 23 by Representative Fuqua of Florida, and said substitute shall be read for amendment under the five-minute rule as an original bill by titles instead of by sections. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, I want to alert the Members to the fact that because of an inadvertent misunderstanding on the part of our committee, we only gave 1 hour for general debate which is divided among three committees.

Because of the limited amount of time, Mr. Speaker, I have been asked to yield some time under the rule. Consequently, I simply want to alert the Members to the fact that we may take a little extra time.

It is not my understanding that this rule itself is controversial. It is simply a matter of being as fair as we can; and I certainly, of course, will be yielding to the gentleman from Florida (Mr. FUQUA) under the rule for some discussion, as I understand it, of his substitute amendment.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. TEAGUE) for any comment he would like to make.

Mr. TEAGUE. Mr. Speaker, I thank the gentleman for yielding.

Many Members have asked us to expedite this bill, and we are going to do everything possible to expedite it. In fact, we only have 15 minutes on this side of the aisle and 15 minutes on the other side. That does not bother us in any way. We hope to get through with the bill in plenty of time today.

Mr. SISK. Mr. Speaker, I thank my colleague, the gentleman from Texas, for his comments.

Mr. Speaker, the other two committees will actually only have 7½ minutes on each side, 15 minutes between them. Hopefully, of course, we can expedite the bill.

As far as this Member is concerned, I do not propose to take any substantial amount of time.

Mr. Speaker, House Resolution 1261 provides for consideration of H.R. 12163 which authorizes appropriations for the Department of Energy in fiscal year 1979.

This rule makes in order the first of two DOE authorization bills which the House is scheduled to consider. The Committee on Rules heard testimony on both H.R. 12163 and H.R. 11392 on Tuesday, July 11, 1976, and voted to report a rule for each of the bills. Upon completion of consideration of H.R. 12163, the second bill, H.R. 11392, is scheduled for consideration under a separate rule.

Mr. Speaker, House Resolution 1261 making in order H.R. 12163 is an open rule granting 1 hour of general debate. The time is divided between three committees. Thirty minutes of the time is to be controlled by the Committee on Science and Technology. Fifteen minutes is granted to each of the Committees on Interior and Insular Affairs and Interstate and Foreign Commerce. The time allocated to each committee is to be equally divided and controlled by the chairman and ranking minority member of the respective committee.

The floor procedure outlined in the resolution takes into account the compromise reached by the three committees on the substance of the legislation. The bill is to be considered for amendment under the 5-minute rule. For purposes of amendment, the rule makes in order as an original bill an amendment in the nature of a substitute inserted by Mr. FUQUA in the CONGRESSIONAL RECORD of June 23, 1978. This compromise substitute is to be offered in lieu of the amendments now printed in the bill. The substitute is to be read by titles rather than sections for purposes of amendment. A motion to recommit with or without instructions would be in order at the conclusion of debate.

The rule provides one waiver of points of order. The report of the Committee on Science and Technology accompanying the bill failed to provide a separate cost estimate or to state that the cost estimate supplied by the Congressional Budget Office and printed in the report had been adopted as that of the committee. Although the committee has complied with the intent of clause 7, rule XIII requiring cost estimates in committee reports, the bill would still be subject to a technical point of order. Consequently, the waiver is provided to protect the ability to consider the bill.

Mr. Speaker, H.R. 12163, or more correctly, the substitute made in order by the rule, provides an authorization of some $4.3 billion for civilian research and development by the Department of Energy in fiscal year 1979.

This is a broad-based bill which seeks to provide sufficient funding for research and development of a variety of alternative technologies to meet our Nation's energy crisis. The substitute provides funding for projects in the advanced energy technologies including programs for research and development of solar, biomass, geothermal and hydroelectric technologies. Funding for basic research into areas such as high energy physics and nuclear physics are authorized. Additional research and development programs are authorized for fossil fuels to encourage better utilization of our coal, oil, and natural gas resources. Programs for the pursuit of nuclear energy capabilities are also authorized. Additionally, the substitute provides funding for R. & D. programs in energy conservation and environmental protection.

Mr. Speaker, we are all aware, I am sure, that there has been some controversy surrounding the DOE author-

ization bills. However, I am not aware of any controversy concerning this rule. The committees have worked diligently to craft this legislation, and I would urge my colleagues to adopt House Resolution 1261 so that we might proceed to consideration of H.R. 12163.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides a total of 1 hour of general debate for the consideration of H.R. 12163, which is one of two bills providing fiscal year 1979 authorizations for the Department of Energy.

This bill was considered by three different committees, and therefore the time is to be divided among the three committees. In this case, 30 minutes of the general debate time will be controlled by the Committee on Science and Technology, 15 minutes will be controlled by the Committee on Interior and Insular Affairs and 15 minutes will be controlled by the Committee on Interstate and Foreign Commerce.

The three committees involved have agreed on a substitute, which the rule makes in order in lieu of the various committee amendments now printed in the bill. The substitute was printed in the CONGRESSIONAL RECORD of June 23 by the gentleman from Florida (Mr. FUQUA). In order to preserve the normal amending process, the substitute is made in order as an original bill for the purpose of amendment. The substitute will be read by titles instead of by sections.

Under this rule, the bill will be open to all germane amendments.

There is one technical waiver of a point of order. Clause 7 of rule XIII requires that committee reports include a cost estimate made by the committee. In this case the report of the Committee on Science and Technology includes a cost estimate prepared by the Congressional Budget Office, but there is no cost estimate by the committee, as the rule requires. Therefore, the waiver is necessary.

Mr. Speaker, the compromise substitute made in order by this rule is not exactly what any of the three committees reported out. However, the chairmen of the three committees involved wrote a joint letter endorsing this approach, and the Rules Committee agreed.

Mr. Speaker, this substitute authorizes approximately $4.3 billion for a broad range of programs including programs for solar research and development, hydroelectric power, energy conservation, fossil fuel research, and nuclear energy research.

I support the rule, so that the House may debate the issues raised in the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Florida (Mr. FUQUA).

Mr. FUQUA. Mr. Speaker, we feel that we are recommending a very strong energy R. & D. program which includes some key initiatives and changes for energy research programs. Passage of this bill will provide the funds to achieve breakthroughs in several energy technologies and will greatly assist our Nation in the areas of both consumption and production.

This is the second year that our committee has had the opportunity to look at nuclear energy programs which were previously under the jurisdiction of the Joint Committee on Atomic Energy. As you know, the Committee on Science and Technology received the jurisdiction for all the civilian nuclear energy research and development programs, and legislated the authorization for them last year.

As I said last year before this House, our bill has many items which are endorsed by all Members of the body such as solar, conservation, and fossil energy programs, yet there is some area of controversy over a few of the nuclear programs which our committee feels are very important to move ahead with.

Last year you may recall that two other committees expressed an interest in our bill and received a sequential referral, the Committees on Armed Services and International Relations. You may also recall that there was no problem in the handling of that bill on the floor and problems of jurisdiction with these committees has been successfully worked out.

Our committee followed the same approach this year that we used before and did not include a single item that we had not previously legislated on in the past. The leadership has requested us to put together a schedule, we did, and we have held by it. Mr. TEAGUE wrote the Speaker in January to let him know that we intended to only legislate those matters we had worked on before.

However, because the Department of Energy has been created since we acted last year, different committees have taken an interest in our work for authorizing funds for the DOE. They requested a sequential referral through May 15 which they received. We have made every effort to work with these committees on our bill and have printed in the RECORD of June 23, an amendment that will be offered which reflects our agreements. I am pleased to report that as a result of the work of our staffs that we have eliminated all the items of overlap between H.R. 12163, the science and technology bill and the jointly referred bill H.R. 11392.

The bill contains an authorization for the R. & D. programs of the DOE, an increase of $251,700,000 over the administration's authorization request of January 1978. The work on this bill has been done by our distinguished subcommittee chairman, WALTER FLOWERS, who has handled the fossil and nuclear portions of the bill; MIKE MCCORMACK, who has worked on the solar, geothermal, and conservation portions of the bill; and GEORGE BROWN, who has been active in the environmental research and development programs contained in the bill.

Mr. Speaker, I urge passage of the rule, and further comments will be made on the bill at the appropriate time in the committee.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. TEAGUE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous matter on the bill H.R. 12163.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 12163) to authorize appropriations to the Department of Energy in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 660 of the Department of Energy Reorganization Act, for energy research and development, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 12163, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Texas (Mr. TEAGUE) will be recognized for 15 minutes, the gentleman from New York (Mr. WYDLER) will be recognized for 15 minutes, the gentleman from Arizona (Mr. UDALL) will be recognized for 7½ minutes, the gentleman from Maryland (Mr. BAUMAN) will be recognized for 7½ minutes, the gentleman from Michigan (Mr. DINGELL) will be recognized for 7½ minutes, and the gentleman from Louisiana (Mr. MOORE) will be recognized for 7½ minutes.

The Chair recognizes the gentleman from Texas (Mr. TEAGUE).

Mr. TEAGUE. Madam Chairman, I yield 5 minutes to the gentleman from Washington (Mr. MCCORMACK).

Mr. MCCORMACK. Madam Chairman, I thank the chairman for yielding to me.

I rise in support of H.R. 12163 without any major amendment.

I think that it is most important for the Members of this House, for the members of the press, and for the members of the public to recognize that this bill we have before us this morning is by far the most important energy bill that the Congress will consider this year. The press has made the mistake of treating the President's energy bill introduced last year as being the energy bill for the Nation, as if it represents the energy policy for the Nation. But in fact the administration has acknowledged before

our committee that that legislation deals only with restrictions and taxation and regulation and very little with incentives and even less with energy production.

Energy production is the key element to solving this Nation's energy crisis. The bill before us today deals with energy production.

The part that I will discuss this morning is the part handled by the subcommittee which I have the honor of chairing, the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development, and Demonstration.

The solar energy technologies involved including solar heating and cooling, solar electric production (photovoltaics, solar thermal conversion, wind energy conversion and OTSC) and fuels from bioconversion. The other technologies are geothermal energy, hydropower and energy conservation.

Much to our surprise, the administration requested a substantial reduction for solar energy for fiscal year 1979. We are presently spending $358 million for solar energy; the administration originally requested only $322 million for fiscal year 1979, then, later on, relented and increased that to about $400 million. Almost a month before, the Committee on Science and Technology had reported out a recommendation of $458 million, with aggressive funding for solar energy programs across the board.

In geothermal, we are presently spending $106 million, the administration requested $130 million, the committee increased that to $146 million.

For energy conservation, we are presently spending $288 million, the administration requested $331 million, we increased that to $417 million.

In bioconversion of organic waste and other material to energy, or to energy intensive materials or fuels, we are presently spending $24 million, the administration requested $27 million, and we doubled that, taking it to $53 million.

So the Committee on Science and Technology has dramatically increased the requests of the administration across the entire spectrum of advanced energy technology and energy conservation and brought the programs up to the maximum level which the agencies can actually handle, establishing the vigorous programs in all of these energy technologies, to go along with our fossil fuel and nuclear programs.

I am pleased to advise the Members of the status of the bill and to recommend their support for the entire bill, including the nuclear portion and the fossil fuel portion, without any major amendments, so that this Nation's energy programs may proceed. It is time to send a signal to the entire world that the Congress is moving forward with an energy production program for this country. If there is any message that we must send to the President today, and to the heads of the major countries in Europe, as they meet there in the economic conference in Europe, it is that this Congress is trying to reduce our imports of oil and our trade deficit by moving forward with an aggressive program for energy production including our nuclear energy and our breeder programs. This is the message that we should be giving the President and the other nations of the world.

Madam Chairman, I would like to report in some detail on the status of the programs related to the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development, and Demonstration as they are in the Fuqua substitute to H.R. 12163. In particular, the programs I shall speak to are solar, bioconversion, geothermal, low head hydropower, energy conservation, and the basic research programs—high energy physics, nuclear physics, and the basic energy sciences. After 14 days of hearings and markups first by the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development, and Demonstration and then by the Committee on Science and Technology, these programs have been scrutinized from almost every angle. The final recommendations are, I believe both technically aggressive and fiscally prudent.

Madam Chairman, as you know, the Congress has consistently led recent administrations in the formulation of energy research and development policy—first with the Solar Heating and Cooling Demonstration Act of 1974, then followed quickly by the Geothermal Research, Development, and Demonstration Act of 1974; the Federal Nonnuclear Energy Research and Development Act of 1974; the Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976; and the ERDA authorization and appropriation acts which included not only funding initiatives, but also such new programs as the energy extension service; the automotive propulsion research and research development program; and the municpal waste to energy program. These historical congressional initiatives will, I hope, be followed quickly by two more solar acts already passed by the House—the Solar Power Satellite Research, Development and Demonstration Act and the Solar Photovoltaic Research, Development, and Demonstration Act.

I have been privileged to act on all of these programs during my term in office and wish to express my appreciation to the leadership of the Committee on Science and Technology for making this possible—in particular, Chairman TEAGUE has consistently encouraged my efforts to develop an integrated and responsible energy policy, and even though we occasionally disagree on specific issues, I would like to recognize his support and thank him for it.

There is one more matter that needs to be addressed before discussing the specific programs and funding in the substitute to H.R. 12163—the overlapping interests of the Committee on Science and Technology and the Committee on Interstate and Foreign Commerce. It seems to me that, even though this overlap caused procedural delays this year, it is, in many ways, a healthy sign. The R. & D. programs of the Department of Energy are not intended to be ends in themselves—they are, rather, necessary steps through which we can develop new technologies and improve existing ones—specific goals of such technological advance are that they be geared to the future needs of society and that they be able to fit into the societal infrastructure existing at the time of their implementation. That is, a successful R. & D. program eventually evolves into a successful commercial application—and, at some point in this evolution, those committees involved with commercialization of energy technologies will have a common interest.

The solar heating and cooling demonstration program is a good example of a congressionally mandated R. & D. program growing up. The heating and hot-water portion of that program has been a sparkling success. For fiscal year 1979, the joint recommendation of the Committees on Science and Technology and Interstate and Foreign Commerce is $60 million, a $24 million increase over the administration request. Forty-one million dollars of this, for programs still largely in the R. & D. stage, is in this substitute and $19 million, for market and consumer-oriented activities, is in the jointly referred title VII of H.R. 11392.

Similarly the Energy Extension Service, which originated in the Committee on Science and Technology, has aspects that span R. & D., information dissemination, and interstate commerce. It, too, has been placed in title VII of H.R. 11392.

Not counting the funding for these two subprograms in title VII of H.R. 11392, the authorization in this bill for solar energy is $458.1 million; bioconversion, $52.6 million; geothermal energy, $145.7 million; hydropower, $6 million; energy conservation, $417.2 million; basic energy sciences, $172.4 million; high energy physics, $394 million; and nuclear physics, $86.8 million.

A more detailed discussion of these programs follows.

For fiscal year 1979, the Committee on Science and Technology once again recommends very aggressive—but fiscally and technologically responsible—solar energy research, development, and demonstration programs, providing maximum feasible support for each solar technology.

The administration requested an authorization of $322.4 million for solar energy research, development, and demonstration for fiscal year 1979—an actual reduction for existing programs. With the Fuqua substitute, the Committee on Science and Technology has increased the recommended authorization levels for the solar programs by $135.7 million, as shown in an accompanying table, which is inserted in the RECORD:

DEPARTMENT OF ENERGY (FISCAL YEAR 1979)—SOLAR ENERGY

[In thousands of dollars]

	Fiscal year—		Fiscal year 1979		Committee action	
	1977 actual obligations	1978 estimated obligations	Request to OMB	Request to Congress	Changes	Total
OPERATING EXPENSES						
Solar thermal applications:						
Heating and cooling demonstration	47,200	47,900	32,100	17,000	+24,000	41,000
Heating and cooling R. & D.	26,907	29,500	33,100	33,100	+13,500	46,600
Agricultural and industrial process heat	8,543	10,300	11,000	11,000	0	11,000
Subtotal	82,650	87,700	76,200	61,100	+37,500	98,600
Technology support and utilization	14,589	8,500	9,500	9,500	0	9,500
Solar electric applications:						
Thermal electric	48,510	61,000	69,000	69,000	+100	69,100
Photovoltaics	50,889	78,452	66,800	75,800	+49,200	125,000
Wind	21,347	36,200	39,300	39,300	+20,000	59,300
OTEC	13,552	35,800	32,500	32,500	−5,300	27,200
Satellite solar	0	500	4,600	4,600	0	4,600
Subtotal	34,289	211,952	212,200	221,200	+64,000	285,200
Total, operating expenses	231,528	308,152	297,900	291,800	+101,500	393,300
CAPITAL EQUIPMENT						
Solar thermal applications:						
Heating and cooling demonstration	997	1,503	400	0	0	0
Heating and cooling R. & D.	600	600	1,000	1,000	0	1,000
Subtotal	1,597	2,103	1,400	1,000	0	1,000
Technology support and utilization	65	0	0	0	0	0
Solar electric applications:						
Thermal electric	210	3,293	3,000	3,000	0	3,000
Photovoltaics	4,009	300	300	300	0	300
Wind	1,100	1,400	1,400	1,400	0	1,400
OTEC	68	700	700	700	0	700
Subtotal	5,387	5,693	5,400	5,400	0	5,400
Total, capital equipment	7,049	7,796	6,800	6,400	0	6,400
CONSTRUCTION						
Solar electric applications:						
Thermal electric	20,806	45,326	0	24,250	0	24,250
OTEC	0	0	0	0	+34,200	34,200
Total, construction	20,806	45,326	0	24,250	+34,200	58,450
Total, solar	259,383	358,274	304,700	322,450	+135,700	458,150

The DOE solar energy research, development, and demonstration program is organized into three major subprograms: First, solar thermal applications; second, technology support and utilization; and, third, solar electric applications.

Under solar thermal applications, the heating and cooling demonstration program, as I said before, is already a sparkling success. The residential demonstration program is currently in its fourth procurement cycle with projects involving over 7,000 dwelling units now implemented. In commercial demonstrations, now in the third procurement cycle, there are now nearly 300 projects involved.

The committee increased the recommended authorization for the solar heating and cooling demonstration program by $24 million above the administration's budget request. The increase will enable DOE to maintain the fifth cycle of the residential heating and cooling demonstration program at the level contemplated by the Solar Heating and Cooling Demonstration Act of 1974 (Public Law 93–409) and the national program for solar heating and cooling of buildings, ERDA 76–6. These activities would have to be significantly cut back in fiscal year 1979 with funding requested by the administration.

In addition, this increase is to be used to expand efforts underway to improve and demonstrate passive solar technology. The passive initiative begun in fiscal year 1978 for residential buildings will be expanded with this increased funding to include both residential and commercial buildings in fiscal year 1979. DOE is also to initiate work on integrated solar systems, systems which combine solar heating and cooling with other solar energy technologies such as wind, photovoltaics, et cetera.

The committee agreed to an amendment to the Solar Heating and Cooling Demonstration Act of 1974 to extend the program for combined solar heating and cooling from the 5-year program authorized by Public Law 93–409 to an 8-year program. DOE would be required by the amendment to report to Congress within 120 days on how DOE and HUD plan to implement this program extension.

The 3-year extension would enable DOE to continue work on solar cooling and on combined heating and cooling systems to enable the DOE program to bring competitive solar cooling closer to realization.

The DOE program in research and development for solar heating and cooling of buildings provides the technical base that the solar industry needs to become self-sustaining. DOE support emphasizes research and development that the industry might not otherwise undertake at this time. For example, most solar cooling technologies, and particularly those suitable for retrofit, are far from being economically competitive, hindering the market penetration of combined solar heating and cooling systems. Thus, the committee increased the recommended authorization for solar heating and cooling research and development by $13.5 million to be used in close cooperation with industry to accelerate research and development on solar-assisted heat pumps and small- and medium-sized rankine cycle cooling equipment.

Both of these accelerated efforts will impact on the technology of solar cooling by reducing costs to a level more competitive with conventional cooling technology.

Also under solar thermal applications is the agricultural and industrial process heat applications program, for which the committee concurred with the administration request of $11 million.

The major components of the solar technology support and utilization subprogram are, first, environmental and resource assessment, and second, technology transfer and consumer outreach activities. The DOE budget request includes satellite power systems in the subprogram, but the committee has listed satellite power systems as a distinct budget item under the solar electric applications subprogram for greater emphasis.

In H.R. 12163, the committee recommends the administration's authorization request for both technology support and utilization and for satellite power systems. However, the House has also passed a separate bill, H.R. 12505, (H.R. 10601), the Solar Power Satellite Research, Development and Demonstration Program Act of 1978. This bill authorizes $25 million for fiscal year 1979 for the purpose of determining the feasibility of collecting solar energy in space to be transmitted to Earth by microwave transmission.

The solar electric applications subprogram includes the following major components: Thermal electric power systems, photovoltaic energy systems, wind energy conversion, and ocean thermal energy conversion (OTEC).

The committee increased the recommended operating and construction authorization for solar electric applications by $98.2 million above the administration's budget request. Benefiting from this increase would be primarily photovoltaics, wind, and OTEC.

In thermal electric, current DOE efforts involve development of systems both for dispersed applications; that is, irrigation and small community needs—as well as for central power applications; that is, utility-scale generation of electricity. The major thermal electric pilot committee, is the 10-megawatt electric generating plant now being constructed near Barstow, Calif., and scheduled to be in operation in 3 years.

The committee increased the recommended authorization for thermal elec-

tric by $0.1 million. This increase will be used for advanced planning and studies of a thermal central receiver plant of intermediate size, approximately 50 MWe. These studies are to ascertain the need for such an intermediate-sized plant and whether the scale up by a factor of 10 from the 10 MWe Barstow plant to a 100 MWe commercial scale plant, as presently planned by DOE, entails the proper technical and economic risk. In addition, DOE is authorized within the constraint of available funding, to study and evaluate the concept of solar repowering of existing utility powerplants, and if DOE determines the desirability of a follow-on demonstration, to undertake such a program as the budget allows.

In photovoltaics, DOE is presently supporting technical innovations that will lead to low cost, reliable solar cell systems, which convert sunlight directly into electricity. Options that are now being developed include single crystal flat plat arrays, concentrating systems, and advanced material/thin film arrays.

One of the major problems confronting future implementation of photovoltaic systems is the reduction of material and production costs. Achieving cost reduction goals will require a vigorous program of research and development on advanced materials and a well-coordinated demonstration program involving a multi-cycle series of solicitations, similar to the solar heating and cooling program. A bill that meets these objectives was passed by the House on June 21 by an overwhelming vote of 385 to 14. The bill, H.R. 12874, initiates in DOE an accelerated 10-year goal-oriented solar photovoltaic research, development and demonstration program that is based on a close cooperative effort between the Federal Government and private industry.

Consistent with the accelerated program outlined in H.R. 12874, the committee increased the administration request for authorization for photovoltaics by $49,200,000, bringing the recommended authorization up to $125 million for fiscal year 1979.

The silicon cost reduction efforts—a key to a successful photovoltaic program—would be increased by $19 million, to be used as follows: $9 million to start work on two low-cost silicon production facilities; $7 million for the silicon sheet and silicon ribbon pilot program, to scale up from laboratory scale processing units to production scale units; and $3 million for design and development work on automated assembly lines for silicon cell production.

The area of advanced research and development would be increased by $6.5 million, to be used for research on thin film gallium arsenide, cadmium sulfide and polycrystalline and amorphous silicon, with the goal of reaching 10 percent efficiency in the near future. Efforts in liquid junction photovoltaics are also to be accelerated.

The concentrator technology development program element, which was initiated in fiscal year 1978, is increased by $4.5 million to increase the number of concentrators being developed, thus increasing the likelihood that performance and cost goals for concentrator systems can be met.

The remaining $19.2 million of the photovoltaic program increase would be used for the procurement of the photovoltaic cells and systems called for in the National Energy Act.

In wind energy conversion, DOE is pursuing development of a variety of system sizes ranging from small units (1 to 10 kilowatts) for individual rural homes or farms to large units (100 to 3,000 kilowatts), which could be used by small towns, electrical cooperatives, and utilities. Substantial progress has been made recently in weight and cost reduction for the larger wind machines.

The committee increased the administration request for authorization by $20 million in order to accelerate efforts in three promising areas: Multi-unit projects ($6 million), second generation megawatt scale wind generators ($4 million), and small wind machines ($10 million).

Ocean thermal energy conversion (OTEC) technology is focused on the development of floating powerplants for converting thermal energy in ocean water to electricity for transmission to onshore utility grids and for shipboard production of energy intensive products such as hydrogen, ammonia, and aluminum. DOE has been supporting laboratory and ocean experiments to answer a number of critical questions concerning heat transfer performance, biofouling, and corrosion, and recent results have been encouraging. A solicitation has been released for design, construction, and operation of OTEC–1, an ocean-going engineering test facility, and a design has been undertaken for a tropical grazing plant-ship for the production of energy intensive products.

The committee increased the recommended authorization for the OTEC program by $28.9 million. Anticipating the initiation of two major construction projects, the committee also shifted the OTEC–1 and tropics ocean grazing pilot plant projects from "Operating Expenses" to "Plant and Capital Equipment." The result of this increase in total authorization and the change in accountability is an increase in "Plant and Capital" of $34.2 million and a decrease in "Operating Expenses" of $53 million

In particular, authorization of funds for OTEC research and development contained under operating expenses was increased by $8.2 million. Then, authorization for the OTEC–1 was increased by $10.7 to $24.2 million and moved from "Operating Expenses" to "Plant and Capital" as a separate construction line item. This construction project is thus fully authorized.

The committee also authorizd $10 million as a construction line item for design work on a tropics ocean grazing pilot plant for the production of energy intensive products, (corresponding to an estimated increase of $3.8 million in budget authority).

In total, then, the committee increased the administration's authorization request for solar energy from $322,450,000 to $458,150,000.

Beginning with the fiscal year 1979 budget request, DOE has established fuels from biomass as a distinct budget item separate from the solar energy program. This underscores the increasing importance and rapid growth of bioconversion technologies.

Although direction combustion is the most immediately available conversion technology, the overall goal of the fuels from biomass program is to provide clean liquid transportation fuels and gaseous and liquid petrochemical substitutes. The technology involves three principal sources of material for energy conversion: First, forest agricultural, and animal residues; second, cultivated terrestrial plant growth from "energy farms"; and third, cultivated aquatic plant growth such as algae, sea kelp, and water hygentus.

The committee felt that inadequate emphasis was being placed on the fuels from biomass program in DOE's fiscal year 1979 request of $26.9 million. Therefore, the committee increased the authorization for the program by $25.7 million, shown in an accompanying table, which is inserted in the RECORD:

DEPARTMENT OF ENERGY (FISCAL YEAR 1979)—FUELS FROM BIOMASS

[In thousands of dollars]

	Fiscal year 1977, actual obligations	Fiscal year 1978, estimated obligations	Fiscal year 1979		Committee action	
			Request to OMB	Request to Congress	Changes	Total
Operating expenses	9,525	20,425	31,400	26,400	+25,700	52,100
Capital equipment	7	500	500	500	0	500
Construction	0	3,000	0	0	0	0
Total, fuels from biomass	9,532	23,925	31,900	26,900	+25,700	52,600

The recommended increase in authorization is broken down as follows:

$18.1 million increase for work on thermochemical conversion and direct burning. Of this, $10 million is to be used to accelerate construction on the 1000 ton per day direct combustion wood burning plant, near Lincoln, Maine; $5.0 million is for thermochemical conversion of agricultural residue to liquid transportation fuel such as methanol; and the remainder is for the thermochemical production of gaseous fuels.

$4.1 million increase in funding for fermentation research. This increase will go toward improving the hydrolysis of cellulose to sugar (the feedstock for subsequent fermentation to ethanol). It will also accelerate the process development unit called for in the fiscal year 1978 authorization.

$2.5 million increase for production and collection of biomass. This additional funding will expand a number of efforts including silviculture test farms, plant screenings and harvester developments.

$1.0 million increase for research on syn-

thetic gas production by anaerobic digestion from manure and other agricultural residues.

The increased efforts on fermentation, thermochemical production of liquid transportation fuels and production and collection of biomass will directly impact on improving the economics of blending ethanol or methanol with gasoline, generally known as "gasohol."

We have just completed 3 days of hearings on gasohol, and the first of several field hearings on bioconversion will be held at Brookhaven National Laboratory tomorrow.

Taken together, the solar and biomass programs of the Department of Energy have been increased $161.4 million over the administration request.

Next, I would like to discuss geothermal energy and insert a funding table at this point:

U.S. DEPARTMENT OF ENERGY, (FISCAL YEAR 1979)

[In millions of dollars]

	Actual fiscal year 1977	Estimated fiscal year 1978	DOE request to Congress for fiscal year 1979	Committee action	Total committee authorization
Geothermal energy development:					
Engineering R. & D.	12.2	15.5	21.6	+3.5	25.1
Resource exploration and assessment	10.2	17.6	29.4	+3.0	32.4
Hydrothermal technology applications	12.4	28.0	27.2		27.2
Geopressured utilization	6.0	17.1	17.6	+8.5	26.1
Hot dry rock	5.3	5.4	12.0	(−3.0)	9.0
Utilization experiments	0	12.0	7.5	+4.0	11.5
Environmental control and institutional studies	4.7	8.1	11.4		11.4
Total, operating	50.8	103.7	126.7	+16.0	142.7
Capital equipment (not related to construction)	1.5	2.5	3.0		3.0
Total, geothermal energy development	52.3	106.2	129.7	+16.0	145.7
Geothermal loan guarantee [1]	.6	15.0	(1)		

[1] Public Law 93-410 provides an authorization of up to $50,000,000 per year—a separate annual authorization is not needed unless the administration request for appropriation exceeds this figure.

Geothermal energy has been used in many countries of the world for a number of years, but in practice it has been mainly the rare, dry steam deposits which have been used to generate electricity. The Geothermal Energy Research, Development and Demonstration Act of 1974, Public Law 93-410, laid out goals for developing presently unused geothermal resources such as hot dry rock, geopressured and hydrothermal systems.

The committee action increased the fiscal year 1979 geothermal budget by $16 million over the budget originally requested by the administration. This increase brings the total authorization for geothermal energy development to $145.7 million, and represents an increase of $31.2 million over that authorized for geothermal energy in fiscal year 1978, and $39.5 million over the estimated 1978 obligations.

The geothermal program consists of seven subprograms: Engineering, research and development, resource exploration and assessment, hydrothermal technology applications, geopressured technology, hot dry rock technology, utilization experiments, and environmental control and institutional studies.

The committee recommends an increase of $3.5 million, for a total of $26 million, for engineering research and development. This increase will permit continued emphasis on the drilling technology program, a cooperative effort between the Department of Energy and industry that is key to achieving the target of 20 to 25 percent reduction in the cost of geothermal wells. Work to be added would include improvement in current drill bit designs, continued development of chain bit drills and related technology. Other engineering areas to be expanded are the development of new drilling muds, direct contact heat exchangers, down hole pumps, and other well stimulation projects. These, too, would lead to important cost reductions in the drilling and operation of geothermal wells.

In resource exploration and assessment, the committee increased the subprogram by $3 million, bringing it to a total of $33 million. This increase consists of an additional $2 million for reservoir assessment and $1 million additional for well logging activities. In reservoir assessment, two additional known geothermal resource areas will be confirmed, bringing to eight the number to be confirmed in fiscal year 1979. Under the well logging program, the development of instrumentation and equipment to measure important well parameters will be accelerated. These include, among others, temperature, pressure, and rock density.

The committee did not increase the administration's request for hydrothermal technology applications, since this program is proceeding aggressively. However, the committee increased the geopressured technology program by $8.5 million over the administration's original request. This increase will allow for additional well drilling ($7.5 million) and pilot plant design ($1.0 million). In well drilling, administration plans to drill only one additional geopressured well in fiscal year 1979 would be expanded by two or three wells, to be cost shared with industry. This would permit an earlier answer to the question of just how important geopressured fluids actually are, and could do much toward developing the confidence needed for industrial investment. Supporting R. & D. and reservoir definition activities would also be included. The increase in funding for pilot plant design will allow the preliminary planning, conceptual design studies, and architect-engineering work to begin on a geopressured pilot plant, so that the geopressured program can be conducted partly in parallel, rather than in series.

The committee has decreased the administration's request in the hot dry rock program by $3 million. The potential for utilization of hot dry rock, as in the case of geopressured technology, is further into the future than other geothermal applications. Exploration activities aimed at the identification of new hot dry rock areas will be reduced by $4.1 million, since initiation at the funding level requested by the administration is considered premature. The committee has authorized a somewhat less ambitious program of drilling and exploration, combined with an increase in funding of $1.1 million for a new utilization experiment. The reduction in the overall hot dry rock program is not an indication of a lack of support for this program by the committee, but represents instead a shift in emphasis based on the early state of development of this energy source.

The committee has increased the funding utilization experiments from the administration request of $7.5 million to a recommended total of $11.5 million. In this respect, I am very pleased to note that the Department of Energy has heeded our advice and completed the selection process for the first 50-megawatt geothermal demonstration plant. The committee has provided $7.5 million for this subprogram to begin and continue the construction of this plant during fiscal year 1979. In addition, a $4 million increase has been provided for architect-engineering, design studies and procurement of long-lead materials for a second 50-megawatt demonstration plant. Since the pace of commercialization of geothermal energy has been disappointing, the need for a second demonstration plant is even more pressing than it was last year.

The committee did not increase the request for environmental control and institutional studies. The request for $11.5 million for this subprogram reflected an increase of more than $3 million over fiscal year 1978, which indicates that the Department of Energy continues to maintain a strong commitment to this program—one which addresses some of the most serious barriers to geothermal development.

In general, I believe that the increases the committee made to the geothermal program are both necessary and fiscally responsible, and should serve to expe-

dite the use of this needed energy resource.

With regard to the low-head hydroelectric power program, the under developed capacity associated with potential low-head hydroelectric power represents a significant energy resource that could be developed by the year 2000. The intended Federal program impact is to place on line an additional 1,500 megawatts in the near term (approximately 1985), an additional 20,000 megawatts in the mid-term (1985–2000), and an additional 50,000 megawatts in the long term (by about 2020).

The committee recommends that the low-head hydroelectric power program be funded at a level of $12 million for fiscal year 1979, of which $6 million is provided in H.R. 12163 and $6 million in title VII of H.R. 11392. The $6 million in H.R. 12163 will allow for low-head hydroelectric site assessment research, development, and demonstration; institutional, legal, and environmental considerations; cooperative assistance; research and development work on turbines and structural features for low-head hydroelectric facilities; engineering technical support studies; and other R. & D. aspects of low-head hydroelectric technology.

I would like to insert a detailed tabular breakout of the conservation R.D. & D. programs in the RECORD at this time:

DEPARTMENT OF ENERGY (FISCAL YEAR 1979)—ENERGY CONSERVATION

[In thousands of dollars]

	Fiscal year—		Fiscal year 1979		Committee action	
	1977, actual obligations	1978, estimated obligations	Request to OMB	Request to Congress	Changes	Total
OPERATING EXPENSES						
Electric energy systems	22,146	37,778	36,000	38,000	+2,000	40,000
Residential and commercial:						
Building and community systems	27,549	55,141	57,800	57,800	+10,400	68,200
Municipal waste-to-energy	0	4,000	0	0	+20,000	20,000
Subtotal	27,549	59,141	57,800	57,800	+30,400	88,200
Industrial:						
Industrial conservation	12,147	25,463	36,000	32,000	−600	31,400
Industrial cogeneration	420	5,269	16,200	15,700	0	15,700
Subtotal	12,567	30,732	52,200	47,700	−600	47,100
Transportation:						
Vehicle heat engine propulsion R.D. & D	16,209	27,119	46,300	46,300	+21,000	67,300
Alternate fuels utilization	1,850	2,445	5,500	5,500	0	5,500
Electric and hybrid vehicles	21,440	30,505	37,500	37,500	0	37,500
Nonhighway transportation	510	1,400	1,800	1,800	0	1,800
New concepts/impact assessment	3,112	3,983	3,700	3,700	0	3,700
Subtotal	43,121	65,452	94,800	94,800	+21,000	115,800
Energy storage systems	31,172	49,527	55,900	55,900	+1,000	56,900
Improved conversion efficiency: [1]						
Fuel cells	17,308	30,800	19,500	19,500	+25,000	44,500
Heat recovery	183	2,700	5,435	5,435	0	5,435
Subtotal	17,491	33,500	24,935	24,935	+25,000	49,350
Inventions program support	0	0	2,000	2,000	0	2,000
Appropriate technology	0	3,000	3,000	3,000	+7,000	10,000
Subtotal	0	3,000	5,000	5,000	+7,000	12,000
Total, operating expenses	154,046	279,130	326,635	324,135	+85,800	409,935
CAPITAL EQUIPMENT						
Electric energy systems	2,306	4,219	2,000	2,000	0	2,000
Residential and commercial	0	170	1,200	1,200	0	1,200
Industrial	958	542	500	500	0	500
Transportation	197	990	1,500	1,500	0	1,500
Energy storage systems	2,492	1,708	2,100	2,100	0	2,100
Total, capital equipment	5,953	7,629	7,300	7,300	0	7,300
CONSTRUCTION	0	800	0	0	0	0
Total, conservation R.D. & D	159,999	287,559	333,935	331,435	+86,800	417,235

[1] The DOE Budget line "Improved Conversion Efficiency" was split into 2 parts. Programs not shown here are carried under coal.

Conservation is one of the 10 major missions around which the Department has structured its fiscal 1979 budget. The aim of this program for fiscal year 1979 is to moderate energy demand growth by improving the efficiency of energy use. Simply stated, this means more service or product for less energy through more efficient machines, distribution systems, heat engines, transportation systems, buildings, and community systems.

An important underlying criterion that is met by each program authorized by this bill is an expectation of positive economic returns on the presumed energy conservation advance. Each program or project undertaken has been projected to be economically competitive by the time the technology is commercialized, given the future expected energy prices and the returns of competing investment opportunities.

The conservation program recommended here is based upon two philosophies or approaches: One is the reduction of the total use of energy; and the other is fuel switching from short supply fuels to coal, nuclear, or inexhaustible energy supplies such as solar and geothermal energy. Such fuel switching may not always use less energy, but is defined as a conservation measure, because it reduces dependence on imported fuel.

During authorization hearings before this committee, Secretary Schlesinger warned of a possible return to a societal trauma as severe as anything this Nation has experienced since the 1930's if "we" did not plan wisely and well. The administration then proceeded to present a fiscal year 1979 budget which called for $331.4 million for the same conservation R.D. & D. programs for which Congress authorized $353.3 million the previous year. The committee agreed with the severity of the problems as expressed by the Secretary and proceeded to increase the authorization request by $86.8 million in specific areas of need based upon our authorization hearings and oversight activities during the past year.

Starting in the 92d Congress, this committee has held special briefings and hearings on energy demand, the potential for energy savings and the possible lifestyle changes which may occur. Since that time, the committee has continuously supported responsible energy conservation programs.

Although the long-term energy problem is veiled by a short-term excess oil supply, the record confirms a continuing increase in energy demand and growing difficulty in energy supply.

The development of new and more efficient technologies will over time reduce consumption from what it would have been, and ease the threat of energy shortages. In this sense, energy conservation expenditures represent a national energy insurance which must not be undervalued.

Reducing energy consumption through conservation is of interest to all nations around the world. An important side benefit that will accompany the development of new technologies is a strong export market, but new products can only influence our balance of trade positively if they are developed and produced by the United States.

The DOE conservation program authorized by this bill will lead to substantial future energy conservation. The industrial energy conservation program alone is projected to have a 3.2 quadrillion Btu impact in 1985 and 8.6 quadrillion Btu impact in 1990 over and above currently available commercial technology. (For comparison the Energy Information Administration's annual projection of "Energy Supply and Demand" as of May 8, 1978, projected savings of 2 quadrillion Btu's in 1985 and 3.4 quadrillon Btu's in 1990 using only currently commercial conservation technology.)

The energy conservation programs in the Teague substitute to H.R. 12163 are electrical energy systems, buildings and community systems, industrial conservation, industrial cogeneration, transportation, energy storage, improved conversion efficiency, inventions program support, and appropriate technology small grants program.

A brief description of these programs and committee actions follows:

The electric energy systems program

has as its primary concern those technologies which are relevant and applicable to the systems aspects of U.S. electric energy systems. The current electric energy systems program includes power supply, power delivery, and systems management.

The broad objective of the electric energy systems program is to insure that the Nation's electric energy systems is capable of meeting future demands reliably, with the lowest practicable energy losses, in accordance with national environmental principles and policies. To this end, the electric energy systems program focuses on R. & D. designed to:

Help to insure that all of the elements of future electric energy systems (oil, coal, nuclear, solar, geothermal, hydropower, et cetera) are integrated as required to achieve an overall energy-efficient system.

Help to insure continued availability of the system's capability of delivering electrical energy from the source to the user as needed, by aiding in the development of advanced electric energy supply and delivery technologies.

Help develop the system design and control techniques that will be required to maintain reliability as the system increases in size and complexity.

Pursue the demonstration of selected emerging technologies with significant near-term energy benefits.

Provide the analytic framework for addressing electric energy systems needs in national energy policy planning.

Environmental and socioeconomic considerations are central to this R. & D. effort.

The committee added $2 mililon to the $38 million administration request in order to expedite research and development on the underground transmission of electricity, specifically in two main areas—gas insulated cables ($1.2 million) and direct current cables ($0.8 million). The objective of this work is to reduce the cost, raise the power transfer capability, and increase the reliability of underground transmission as compared to overhead cables, thereby accelerating the use of underground transmission.

The major objective of the building and community systems program is to reduce future energy consumption by making possible more efficient use of energy in buildings, community systems, and consumer products. The program is carried out along several major integrated thrusts: First, building design and structure aimed at increasing the efficiency of energy utilization in residential and commercial building; Second, community energy utilization directed at integrating all community energy functions in order to increase energy efficiency, and at providing technological options to planners so that they may select a waste-to-energy system applicable to their specific situation; Third, technology and consumer products aimed at providing improved performance of consumer products through technological opportunity and energy efficient standards; and Fourth, technology transfer and demonstrations aimed at promoting the acceptance of new energy savings technologies and supporting the program through appropriate analyses.

The overall effort is designed to increase energy utilization efficiency and provide options to substitute more abundant domestic energy sources such as coal for natural gas or oil. In doing so, the DOE programs are expected to be economically sound, complement other Federal agencies' and private sector efforts, foster acceptance of energy saving technology, and minimize potential adverse socioeconomic and environmental impacts. Many are also expected to be cost shared with industry and trade associations to expand the impact of Federal funds and to insure full commitment to project objectives.

The committee added $10.4 million to the requested buildings and community systems authorization to accelerate the development of two gas-fired heat pumps initiated in fiscal year 1978 ($1 million), to initiate two additional residential heat pump projects ($4 million), and to improve oil fueled boiler and furnace combustion, heat transfer efficiencies and oil-fired heat pumps ($5.4 million). The latter program should include: Laboratory testing of innovative burner, boiler, and furnace designs; integrated technology demonstrations of advanced systems using advanced components; and field testing of new component designs.

Public Law 95–238 (DOE authorization for fiscal year 1978) amends the Federal Nonnuclear Energy Research and Development Act of 1974 and establishes a financial support program for reprocessing municipal waste into fuel and energy intensive products. The Department is authorized under title IV of this act to enter into grants, contracts, price support, and cooperative agreements to foster municipal waste demonstration facilities in cooperation with a parallel but not duplicative program under the Environmental Protection Agency. The committee added $20 million to provide an authorization for this program in fiscal year 1979.

The industrial energy conservation program is directed at cost-shared R. & D. to improve energy efficiency of industrial and agricultural processes and to substitute abundant energy resources for scarce fuels. The program authorized by this bill focuses its activities along three thrusts: First, waste energy reduction directed at technologies having wide application across industry; second, industrial process efficiency concerned with process improvements within the most energy-intensive industries; third, industrial cogeneration aimed at technologies to generate electric power and thermal energy on industrial sites.

As I said, DOE estimates that this program will have an energy impact (savings or substitution of abundant for scarce fuels) of 3.2 quads annually by 1985 and 8.6 quads annually by the year 2000. The activities will focus on industrial energy conservation technologies which either are not being pursued at all, or are not being expeditiously pursued by industry alone. Related projects are closely integrated with activities of other DOE divisions (such as improved conversion efficiency and solar energy) and other Government agencies.

The authorization for the fiscal year 1979 industrial energy conservation program affords a logical continuity of growth in a critical activity directed at 37 percent of the total national energy consumption. A substantial number of previously initiated projects will be advanced into and through the demonstration phase in fiscal year 1979.

The fiscal year 1979 activities include efforts in waste heat recovery, cogeneration systems, substitute fuels, advanced aluminum and steel processes, advanced fertilizer development, energy saving processes in textile and paper manufacturing and a major effort for collective utilization of waste energy in energy integrated industrial parks.

The authorization will also initiate energy savings efforts in some of the heretofore untapped but known opportunities such as: Industrial applications for fuel cells, reduction of nontechnical barriers to industrial cogeneration, assessment of cogeneration component availability and fumes-as-fuel in postpaint lines.

The operating expenses proposed by the administration for industrial conservation include $1.8 million as the first authorization for a "Waste Oil Re-refining Facility" to be constructed at the Bartlesville Energy Research Center in Oklahoma. It is the understanding of the committee that the project is to be carried out in two phases—the first phase includes optimization of process equipment for oil re-refining; the second, the actual construction of the demonstration facility. The total estimated cost of both phases is $5.7 million. The committee has recommended that only the first phase, requiring $1.2 million for fiscal year 1979, be authorized at this time, thus deferring the facility construction decision until fiscal year 1980. This is consistent with the information obtained during the field hearings of the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development, and Demonstration on this subject in December 1977.

Transportation energy conservation to carry out the program activities have been defined in the following broad areas: First, vehicle heat engine highway systems concerned with the development of new automotive propulsion systems, transmissions, and components; second, alternative fuels utilization conducting research to solve the practical problems associated with the use of new nonpetroleum based fuels; third, electric and hybrid vehicles systems directed toward the development of options to reduce or eliminate petroleum as the energy source for automobiles and lightweight trucks; fourth, nonhighway transport systems concerned with reduction energy consumption in the nonhighway transport modes; and fifth, systems analysis.

Title III of Public Law 95–238 (DOE authorization for fiscal year 1978) establishes within the Department a research and development program to insure the development within 5 years of advanced automotive propulsion systems, advanced automotive subsystems, and integrated test vehicles. The committee added $21 million to provide an authorization for this program for fiscal year 1979. The funds will be used to advance the pace of Stirling and turbine

engine projects and expand the development of ceramic parts for turbine engines. They will also be used to support the special studies called for in Public Law 95–238.

The energy storage program covers batteries and chemical, thermal, mechanical, and magnetic energy storage technologies. These technologies are being developed for transportation, solar energy systems, building heating and cooling, industrial processes, and utility applications.

The objectives of this program are to develop reliable, inexpensive, and environmentally acceptable energy storage systems to increase the substitution of coal and nuclear energy for petroleum, to enable solar and other intermittent energy sources to provide continuous energy services, and to enable electric utilities to use their facilities more efficiently. The resulting fuel substitution will reduce the need to import expensive oil and can help reduce environmental pollution. The increased operating efficiency of utilities through more efficient energy storage, by reducing the need for new plants and transmission and distribution facilities, can slow the rate of increase in the cost of electricity to the consumer.

The committee added $1 million in operating expenses to expand three areas of research and development related to superconducting magnetic energy storage: Superconducting materials, structural design of the underground chamber, and the manufacturing technology for the containment chamber.

The improved conversion efficiency programs are low-grade heat recovery, first generation fuel cells, and total energy systems.

The goal of the above three areas is to develop the technology base necessary to permit implementation of advanced conversion devices applicable to all fuel sources and end-use sectors. This should help the transition away from consumption of limited supplies of oil and natural gas.

Fossil fuels are used in devices which convert chemical energy into useful forms such as mechanical, thermal, or electrical energy. The present efficiencies of conversion devices are well below the theoretical maxima, but the energy costs in the past have been such that it has not been cost effective to improve these efficiencies.

As convenient and clean fuels become more scarce, alternate fuels such as residual oils and coal derived liquids and gases will be used. Conversion devices capable of using these fuels in an efficient and environmentally acceptable manner must be developed.

The Federal role in this effort is to help develop and demonstrate technologies that will achieve total energy saving goals within national economic and environmental constraints.

The committee authorized a $25 million addition to this program to initiate a fuel cell feasibility demonstration over the next 10 years. Total estimated Federal cost for the period is $250 million. An equal or greater contribution is expected from the fuel cell industry and participating electric utilities.

The committee placed conditions on the authorization to assure careful program planning and balanced risk among the participants: The Federal Government, the fuel cell industry, and the electric utilities.

In order to accomplish these objectives the committee established a requirement for a detailed action and financial plan with provisions for approval by the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources. Examination and approval of this plan, which is now in concept form, will provide the congressional oversight necessary for this large scale technology demonstration.

The committee also wished to show a clear intent to have the demonstration terminated at an early phase of the project should the projected 500 MW of utility purchase commitments fail to materialize. Without a pilot operation at this scale the data collection objectives of the technology demonstration are not likely to be met.

The DOE inventors program is composed of two parts which can lead to a small startup grant for the inventor and an opportunity to compete for department R. & D. funds.

Part one requires a screening and endorsement by the National Bureau of Standards (NBS) as provided under section 14 of Public Law 93–577. NBS is reimbursed for these services by the Department out of funds provided for institutional programs, not out of conservation's "Inventors Program Support" funds. The latter funds are reserved for the second step.

The second part assists an inventor after he or she has passed the NBS screening. NBS endorsed inventions are considered for small grants to help the inventor along toward commercialization. Grants may be used to prepare a proposal for private venture, solicitation of Small Business Administration loans or to compete for DOE funds under conservation or other budget areas.

Congress, in the Energy Research and Development Administration authorization for fiscal year 1977 (Public Law 95–39), directed the establishment of an appropriate technology small grants program. The program has adopted a decentralized management approach where program management, proposals, solicitation, and proposal evaluation will be done on a regional basis. To further that concept, the program has regional program managers for operational management of the program; peer review panels to evaluate and recommend suitable proposals for funding; and plans to insure widespread dissemination of program information, obtain feedback, and identify areas where "focused research" should be considered in cooperation with the Energy Extension Service.

The Fuqua substitute adds $7.0 million to the appropriate technology small grants program to expand this activity from a pilot project to nationwide participation. The potential of this program for near-term impact on energy consumption is of interest to the committee and a report based upon region IX experience has been requested from DOE by the committee.

In forming DOE, Congress mandated the establishment of the Office of Energy Research, to coordinate research and development activities for the entire department and, in particular, to manage all of the basic research programs—basic energy sciences, high energy physics, and nuclear physics. The committee's recommended authorization levels for these programs are shown in an accompanying table inserted in the RECORD:

DEPARTMENT OF ENERGY (FISCAL YEAR 1979)—BASIC RESEARCH

[In thousands of dollars]

	Fiscal year—		Fiscal year 1979		Committee action	
	1977 actual obligations	1978 estimated obligations	Request to OMB	Request to Congress	Changes	Total
BASIC ENERGY SCIENCES						
Operating Expenses						
Materials sciences	58,354	65,709	69,900	72,000	+1,600	73,600
Chemical sciences	35,777	43,285	48,200	48,200	+2,400	50,600
Engineering, mathematical, and geosciences	10,379	11,480	13,200	23,200	0	23,200
Advanced energy projects	0	3,187	3,800	3,800	0	3,800
Subtotal	104,510	123,661	135,100	147,200	+4,000	151,200
Capital Equipment						
Materials sciences	5,091	5,400	5,900	5,900	0	5,900
Chemical sciences	2,659	2,700	3,300	3,300	0	3 300
Engineering, mathematical, and geosciences	609	900	800	800	0	800
Advanced energy projects	0	0	200	200	0	200
Other	1,800	2,000	11,700	1,700	0	1,700
Subtotal	10,159	11,000	21,900	11,900	0	11,900
Construction						
Total construction	15,826	15,560	75,800	9,300	0	9,300
Total basic energy science	130,495	150,221	232,800	168,400	+4,000	172,400
HIGH ENERGY PHYSICS						
Total operating expenses	169,974	187,950	206,600	194,000	+5,000	199,000
Total capital equipment	21,797	42,000	41,200	41,200	0	41,200
Total construction	33,085	44,210	248,250	315,200	−161,400	153,800
Total high energy physics	224,856	274,160	496,050	550,400	−156,400	394,000
NUCLEAR PHYSICS						
Total operating expenses	64,178	69,148	72,100	72,900	+2,000	74,900
Total capital equipment	5,367	6,725	7,500	7,500	0	7,500
Total construction	7,450	8,629	4,400	4,400	0	4,400
Total nuclear physics	76,995	84,502	84,000	84,800	2,000	86,800

For basic energy sciences the committee recommends an increase of $4 million, specifically intended for long-range, basic research on the direct conversion of solar radiant energy to electricity. DOE currently receives more worthy proposals in this important area than it is able to fund. The additional funds would provide support primarily for university and nonprofit research groups.

The high energy physics program supports basic research that explores the fundamental nature of matter and energy. The recent past has been a period of great achievement and excitement in this field of science. New discoveries and subsequent advances in our understanding of the elementary particles of matter depend on the completion of a new generation of particle accelerators now under construction.

Unfortunately, rapidly rising operating costs have prevented researchers from fully utilizing the large particle accelerator facilities, thus delaying or canceling important experimental projects. For this reason, the committee recommends an increase in operating expenses of $5 million to allow the facilities to maintain at least their fiscal year 1978 level of utilization.

The committee recommends an additional $11.1 million in authorization (corresponding to an estimated $10 million in budget authority) for construction of the energy saver/doubler at the Fermilab high energy physics facility. The additional authorization would allow the entire project to be completed in 3 years instead of the administration's schedule of 5 years. This accelerated schedule would achieve reduced power costs and initiation of new experiments at an earlier date, and thereby maintain U.S. preeminence in high energy physics, now being challenged from abroad.

The committee decreased the requested authorization for the 8-year, $275 million Isabelle construction project at Brookhaven National Laboratory by $172.5 million. The administration request would fully authorize the Isabelle project in fiscal year 1979; the committee's action would give the Congress a continuing role in reviewing the project while the facility is under construction. This decrease in no way affects the DOE's construction schedule for Isabelle and provides ample authorization of funds for future year planning at Brookhaven.

The nuclear physics program supports basic research on the interactions and structure of the nuclei of atoms. One of the research areas in which considerable progress has been made involves the acceleration of heavy ions for probing the behavior of nuclear matter. Results from this area of nuclear physics may be applicable to fusion technology. For this reason, the committee recommends an increase of $2 million in authorization for further research to translate the technology developed in the heavy ion accelerator program into technology applicable to the inertial confinement fusion program.

Madam Chairman, as I said, this is an excellent bill, dealing aggressively with our Nation's energy crisis, and I recommend that it be passed without major amendment.

Mr. WYDLER. Madam Chairman, I urge support of this bill simply because it begins to address the problem of energy supply. I think the major elements of an energy supply strategy must focus on nuclear and fossil energy technologies to assure a reliable energy future.

In nuclear energy this bill has three major elements: First, breeder reactor development; second, nuclear fuel reprocessing; and third, increasing public acceptance of nuclear power so that we can expeditiously deploy nuclear powerplants.

I think it is unfortunate that the President has persisted in his opposition to a demonstration of fast breeder reactor technology. We in the Congress have determinedly retained the national commitment to build a breeder reactor plant. I am afraid that the administration's breeder decision and the related actions to implement the President's nonproliferation policy have been clearly proven bankrupt.

Other developed countries have indicated that they have no intention of slowing their breeder development programs. The President's increasing discomfort was very evident last month when he visited Oak Ridge, Tenn., near the site of the U.S. breeder reactor project he has sought to kill. On this "nontrip" the President spoke about a variety of topics but did not mention his stand on breeder reactor development.

I have talked to Government officials in Western and Eastern Europe as well as the Soviet Union and the results are irrefutable: This country has embarked on an unfortunate unilateral nuclear policy that has made us appear unreliable to friend and foe alike.

Neither can this country turn its back on the energy content in the spent fuel rods for nuclear powerplants. This bill keeps the nuclear reprocessing option open by providing funding to maintain the skilled team at the Barnwell Nuclear Fuel Plant in South Carolina. Also, $15 million is included for research and development on the CIVEX process. This approach to nuclear reprocessing for breeders precludes the terrorist threat for weapons proliferation. This concern has been an important basis for the administration's misguided program.

The dike recently burst on this aspect of the administration's misguided nuclear policy. Both the British and the Japanese made critical decisions on the reprocessing of nuclear fuel within the past month. The British Parliament voted three to one to build a reprocessing plant at Windscale in the United Kingdom. The Japanese informed us that they have made arrangements with both the British and the French to reprocess uranium and plutonium from spent fuel rods. The Japanese will invest over $1 billion toward the capital costs of facilities at LeHavre, France, and Windscale.

In retrospect the Japanese decision was extremely predictable. How we could have expected the Japanese to turn their backs on the energy in spent nuclear fuel is beyond comprehension. They are an island nation without any major fossil energy reserves so it is only commonsense for them to look to conserving their enriched U.S. uranium and reactor-made plutonium.

The President also recently overruled the Nuclear Regulatory Commission to allow enriched uranium to be shipped to India. I noted in my overseas discussions that the President's insistence on renegotiating the terms of nuclear agreements within foreign countries has put these countries in a mood of "quiet rage." I have discussed this matter in some detail in the findings of the report I just formally submitted to the Congress on European nuclear energy development.

Since India has been reluctant to embrace international safeguards, the friendly nations who have signed the Nonproliferation Treaty can hardly expect anything less in nuclear bargaining with the United States. The administration approach has suffered from lack of consultation with our allies and nothing short of a major reversal in policy can recapture our credibility. The United States is in danger of becoming a nuclear island. We are giving up first place in the atomic league and rejecting purchases which would be made with Japanese yen and German marks thus only further weakening the dollar.

The bill also authorizes important generic R. & D. for improved performance of light water reactor plants. Funding of $155 million is provided for important R. & D. to accelerate the civilian nuclear waste management program. The integrated demonstration of nuclear waste management technology is mandatory if we are to gain widespread acceptance of the nuclear option. It is the cleanest, safest, most economical way to generate electricity and we must lower the institutional barriers which have mitigated deployment of nuclear plants and eroded industry confidence.

LMFBR PROGRAM

This bill includes funding for both a strong breeder base technology program as well as continuation of the Clinch River breeder reactor project (CRBRP). A technology development program can only be truly strong if it is focused on culmination in demonstration. The CRBRP is intended to be just that. This is the foundation of our long-term energy supply strategy.

FOSSIL

The fossil energy budget indicates a serious attempt by this committee to redirect certain efforts, terminate others, and accelerate truly promising technologies.

The funding for coal liquefaction is at a level which will allow for major initiatives once the best candidate technology has emerged. I have some concerns about the administration's priorities in this area but I feel a strong program can be worked out in a congressional-executive dialog. In gasification this bill provides significant funding for second-generation technologies. The limitation of conventional technologies in the use of Eastern coal are clear and new techniques must be pursued.

The committee initiatives in enhanced gas recovery through this bill have already been mimicked in the administraton's supply strategy plan, the so-called phase II of the national energy plan (NEP). It is tragic that the national energy plan does not contain similar near-term incentives for production of natural gas. That problem must be resolved outside the R. & D. arena.

I hope that as technology is developed in the various programs of fossil energy the administration and the Congress will tailor the proper and necessary regulatory and economic incentives to push these technologies into the marketplace. To understand how difficult the path to commercialization is one must understand the torturous road of technology development.

CONSERVATION

This bill contains a relatively small but very important amount of funding—$6 million—for oil heat R. & D. I amended this bill in full committee markup to include this very high leverage initiative. The incorporation of advanced boiler and furnace concepts and ultimate application of oil fired heat pumps promises tremendous savings in the use of this precious fuel. We in the Northeast are particularly sensitive to this need since we have 13 million residential oil heat users.

HIGH ENERGY PHYSICS

I am gratified that this bill also includes continued authorization for the intersecting storage accelerator (ISABELLE) which is being built at the Brookhaven National Laboratory. It is the premier facility that will assure U.S. preeminence in the fundamental studies of matter.

SOLAR

The bill also includes funding for high priority needs in solar photovoltaics, and solar thermal technology. I have been opposed to massive Federal buys of existing solar cell technology as included in the National Energy Act. However, a fraction of such funds in meaningful research and development makes much more sense for the Nation than reinforcing soon-to-be-obsolete technology.

Madam Chairman, I repeat, this is a supply bill and I urge all of my colleagues to vote for it. The United States cannot turn its back on progress toward energy independence and the key to that is healthy technology development.

The CHAIRMAN. The Chair recognizes the gentleman from Maryland (Mr. BAUMAN).

Mr. BAUMAN. Madam Chairman, as we embark on the consideration of these mammoth energy authorization bills for this newly formed Department of Energy, I think we ought to think for a moment about the reason behind the creation of this brand new executive branch agency. As I recall it, we were told by the administration and the leaders of the Congress that we were consolidating several existing energy-oriented agencies into one umbrella agency to better solve the many energy problems confronting this Nation. Some people at the time believed that the logic was sound, but I am curious, about the apparent total lack of the same logic when the leadership of this House decided that it requires five Standing Committees of the House to legislate for and oversee the functions of this one agency. As my colleagues may know, this split jurisdiction translates into 10 different subcommittees with varying jurisdictional responsibilities and more than 100 different Members spending hundreds of man-hours and thousands of staff-hours dealing with the problems of energy.

President Carter may be correct about our energy crisis being the moral equivalent of war, but the way this House parliamentarily treats the energy crisis is the real equivalent of chaos. Anyone who has sat through these hearings and markups, as I have, on any one of these subcommittees during the last few months knows that our consideration of the energy crisis on the congressional level is very much like the administration's energy policy on the executive level, just about the same level as a tinker-toy operation.

I am not criticizing any of the individual subcommittees or the committees. The members have each done their job as best they can, but if we need to consolidate and streamline energy policy, we have got to change the committee consideration in the next Congress. All of us know that this bill before us today and the bill that will be before us next week were delayed for weeks because of the wrangling between the various committees with everybody fighting for their own turf and trying to resolve the dispute in a manner beneficial to their own jurisdictions. I do not think the American people need the next Congress to treat the energy problem in this same chaotic way.

I would hope that the leadership would support the creation of a Committee on Energy to deal with the entire problem; if the problem should be put within the Committee on Science and Technology or the Committee on the Interior or anywhere else, let it be so but wherever it is, let us give the problem to one committee. As it is now, the only committee that is not in on the energy policy is the House Committee on Administration or the Committee on the Beauty Shop.

Mr. DINGELL. Madam Chairman, I yield myself 2 minutes.

Madam Chairman, the Committee on Interstate and Foreign Commerce, as well as the Committee on Interior and Insular Affairs, was referred H.R. 12163 sequentially on April 20, 1978. Our committee held hearings on this bill upon receipt of it, and reported it to the House on May 19, 1978. In our report, we included a number of amendments which were also included in H.R. 11392. But, obviously, there was overlap between the two bills which necessitated considerable discussions between our committee, the Interior Committee and the Science and Technology Committee.

These discussions have resulted in the amendments printed in the RECORD of June 23 by Congressmen FUQUA and STAGGERS to these bills which removes the duplication between the two bills and also removes the concerns of our committee between H.R. 11392 and H.R. 12163 and transfers funds from H.R. 12163 to H.R. 11392. It is a sound approach to a very difficult problem caused largely by the Department of Energy's legislative proposal of last February which sought to authorize appropriations for the energy programs on a mission-oriented basis with no delineation of the type provided both in H.R. 12163 and H.R. 11392. This lump sum approach by the Department resulted in creating serious jurisdictional disputes between our committees. The Fuqua amendment, together with a Staggers amendment, which we will offer later to H.R. 11392, helps to resolve those jurisdictional disputes although I daresay they probably do not resolve them on a permanent basis.

None of the committees got all that they desired. Each, I am sure, will interpret these provisions in a way that serves their purpose. But the point that I think is most important is that the three committees involved were able to sit down and work out their jurisdictional difficulties in a reasonable and sound fashion and come to the floor today with an amendment which reflects the committee's views and which does not do damage to the actions by the committees themselves. I commend Chairman TEAGUE and Chairman UDALL, particularly, for their efforts and those of their staff in working to resolve these differences. I want also to commend the minority members of both committees as well as the ranking minority member of our subcommittee, Mr. BROWN of Ohio, for their support and assistance and that of their staff in resolving this difficult problem. I think that the House is better served by the Fuqua amendment and urge the adoption of the amendment.

On April 20, 1978, the House Committee on Science and Technology reported out a clean bill, H.R. 12163, without amendment which was referred concurrently to our committee and the Committee on Interior and Insular Affairs for "consideration of such provisions in title IV and in the remainder of the bill as fall within the jurisdictions of those committees under rule X, clause 1(j) and clause 1(l), respectively * * *. On April 25, 1978, our committee held hearings on H.R. 12163 and on May 19, 1978, reported out the bill. Our report is printed as House Report 95–1978, part III.

The committee in reporting the bill amended title IV of H.R. 12163 and also made a number of amendments to provisions in titles I and II of that bill which were related to matters within the jurisdiction of our committee. Thereafter, as the members know, we entered into a number of discussions with the Science and Technology Committee in order to resolve our differences. As I have already indicated, the Fuqua amendment sets forth the agreement between the committees concerning those differences and provides a good working document for the Department of Energy to follow in fiscal year 1979.

It is important to stress that the bill probably does not resolve, at this time, all the jurisdictional issues between the committees because more time is needed to sort these problems out. Quite clearly, it is not the intention of our committee to encroach upon the jurisdiction of the Science and Technology Committee in

matters which are within the ambit of research and development. The problem relates to when research and development ceases and commercialization starts. This is a part of the problem that we have been faced with in consideration of this legislation.

In title I of the bill the Fuqua amendment increases the sum for solar energy from $359.5 million in the bill, as reported by the Science and Technology Committee, to $375.3 million, including $23 million for heating and cooling demonstrations. These sums were originally included in title IV of the bill by our committee, but on further reflection, I believe it more appropriate to include them in title I with the specification concerning solar heating and cooling demonstration.

The Science and Technology bill, as reported, included $13 million for hydroelectric power and $2 million for a specific demonstration at Idaho Falls, Idaho. The Fuqua amendment reduces this sum from $13 million to $6 million and eliminates the amount for the Idaho Falls project. A corresponding change is made in H.R. 11392 to provide for grants for lowhead hydroelectric demonstration projects. At this point, the committee wants to stress that we believe that the grant approach is not the soundest way to deal with efforts to increase the use of hydroelectric power at small dams. Indeed, the conferees on the National Energy Act have adopted, as part of the utility portions of the legislation, provisions for loans to various organizations and municipalities to encourage development of lowhead hydroelectric power at existing dams. At the same time, the bill encourages speedy action by the Federal Energy Regulatory Commission to license such projects where appropriate. The committee agreed to include this grant provision in this program this year, but in doing so, we expect the Department, upon enactment of the National Energy Act legislation, will reconsider the need for any further grants. It is sounder to fund the NEA legislation than it is to continue this grant program.

In the area of energy conservation, the bill increases the amount originally reported by the Science Committee from $358,423,000 to $282,768,000, including $15.7 million for industrial cogeneration related to new technologies and applications. Again, this increase represents moneys that were added to the bill by our committee amendments to title IV of H.R. 12163 and which are now considered to be matters which should be included in title I rather than in title IV of that bill.

In title II of H.R. 12163 the Fuqua amendment restores the amount reported by the Science Committee for coal. Our committee had reduced that amount because of a misunderstanding of what was included in that lump sum.

In the case of nuclear energy, the Fuqua amendment revises the provisions relating to light water reactors and civilian waste management and spent fuel disposition, as contained in the Science Committee bill, as reported. The revisions are along the lines recommended by our committee in our amendment to the bill. It provides that of the $23,900,000 authorized by the Science Committee for light water reactor technology, $4 million of these funds shall be available for safety improvements. This is an area where our committee and the Interior and Insular Affairs Committee are very concerned. We want to insure that the DOE will devote at least $4 million to this purpose. It also provides that the remaining amount of $50,191,000 shall be available for other programs related to light water reactor technology. The civilian waste management and spent fuel authorization is the same as recommended by the Science and Technology Committee. It, however, should be stressed that this item does not include any moneys for the studies and other actions authorized by section 403 of H.R. 11392. Those studies which relate to away-from-reactors sites for disposition of nuclear spent fuel are not research and development and are clearly within the jurisdiction of our committee. The matters covered by the civilian waste management and spent fuel disposition item in this bill are of concern to our committee and the Interior Committee but we agree that it is more appropriate in this title of H.R. 12163, and accordingly, it is deleted from H.R. 11392.

The bill also provides the delineation that we recommended in our amendment to H.R. 12163 for advanced reactor concepts. In our amendment to that bill we provided the breakout for these concepts as follows: gas cooled thermal reactors $37 million; nuclear energy assessment $6.3 million; and other programs $57.9 million. We believe that this is a sound delineation of how these funds should be expended.

In title III of H.R. 12163 the Fuqua amendment reduces the amount for overview and assessment from $65,450,000 to $60 million. This reduction of $5,450,000 is contained in H.R. 11392 and relates to policy and analysis matters for the entire department.

The committee is quite concerned about the need for the Department to expend funds for environmental analysis and policy for programs other than research and development. This matter is discussed quite thoroughly in our committee's report on this provision in title I of H.R. 11392. The budget, as presented by the Department, provided $48 million for overview and assessment activities which were largely related to research and development only. The reduction in the amount authorized in title III of H.R. 12163 reflects a concern by our committee on this matter and indicates that our committee expects the Department to use the funds that are authorized now in title VII of H.R. 11392 for environmental policy and analysis of the entire Department, not just research and development activities.

Funds for decommissioning and decontamination research and development in title III are reduced by $1,500,000 to reflect action taken earlier this year for the grand junction program. Such sums were authorized in connection with the enactment of S. 266.

In title IV of H.R. 12163 the Fuqua amendment reflects a number of changes made by our committee in amending that bill. This title, as recognized by the Science and Technology Committee, includes considerable overlapping jurisdiction. In the area of solar heating, the funds have been increased by $1 million over that authorized by the Science and Technology Committee to reflect changes by our committee. The funds for energy conservation are essentially the same as those recommended by the Science Committee. Energy extension service funds are authorized in H.R. 11392.

The Fuqua amendment does not include funds for uranium enrichment activities or for the nuclear fuels resource assessments which were originally in the bill, as reported by the Science Committee. Those funds are now provided in H.R. 11392. Added to title IV is $8,510,000 for decommissioning and decontamination remedial action. These funds do not relate in any way to legislation now pending on mill tailings.

There have also been included in this title specific funds for policy and management and for the Assistant Secretary for Energy and Technology, Assistant Secretary for Conservation and Solar Applications, Assistant Secretary for Environment, the DOE's Operations Office, the special project offices, the Offices of Energy Research and for the Office of the Controller. These are funds which relate primarily to research and development functions of the Department and are complementary to the actions taken by our committee in H.R. 11392 to delineate policy and management dollars rather than to provide a lump sum figure for these functions. This title also includes funds for special foreign currency which were originally in H.R. 11392. Deleted from H.R. 12163 are funds for capital equipment that relate to uranium enrichment, including the Portsmouth activity. Also included in title V is the amendment adopted by our committee to H.R. 12163, which is section 506, making clear that the funds in titles I, II, and III of this bill should only be available for energy research and development purposes.

Madam Chairman, I believe that these changes by the Fuqua amendment are quite useful and will help to provide a sound energy program for the Department in fiscal year 1979. Again, I want to commend Chairmen TEAGUE and UDALL and my colleagues on those committees for their efforts in working out our joint problems. It shows that these three committees with energy jurisdiction, even with divergent views, can work together and fashion reasonable and sound energy legislation that cuts across jurisdictional lines.

Mr. MOORE. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, this bill is the first part of a two-bill package providing authorizations for fiscal year 1979 for the Department of Energy. As you know, both this bill and H.R. 11382 have been the subject of major jurisdictional disputes involving the Interstate and Foreign Commerce Committee, the Science and Technology Committee, and the Interior and Insular Affairs Committee.

The majority and minority staffs of

all three committees have worked together on behalf of the Members and have resolved the differences among the three committees. The duplication in the two bills has been eliminated, and the programs of joint jurisdiction have been placed in specific titles for easy identification, namely title IV of the Fuqua amendment to H.R. 12163, and titles VII and VIII of the Staggers amendment to H.R. 11392. Thus, the legislation being considered is a compromise, and I would urge the House to support the changes made in the reported version of H.R. 12163 by the Fuqua amendment.

Mr. TEAGUE. Madam Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. FLOWERS).

Mr. FLOWERS. Madam Chairman, I, of course, support the committee action here. I must take this brief opportunity to emphasize how much I have enjoyed working with my friend, the distinguished chairman of the committee, the gentleman from Texas (Mr. TEAGUE), who has been an inspiration to me for 10 years now.

As we have worked together on this difficult bill and on other matters in the Committee on Science and Technology, I have become an even greater admirer of the gentleman from Texas. As we both leave this body, let me say that I will certainly miss his advice and counsel in the years ahead. I hope we will be able to reach him by telephone somewhere down in Texas in the coming years when we need his counsel.

I will even miss my friend, the gentleman from New York (Mr. WYDLER), with his sharp tongue and even quicker wit, who, I might add, has been an inspiration on occasion.

I regret, however, that those who are apparently joining with me in my controversial effort a little bit later on this morning are being somewhat maligned. There is some call for understanding in this regard. One cannot always choose who one's friends are on a particular issue. You can take those you can get. This goes for me and goes for them, too.

We tried to bring the gentleman from New York along with us in this effort. In fact, much of the time my friend, the gentleman from Texas (Mr. TEAGUE), and others spent was in trying to do a little missionary work with the gentleman from New York. We failed in that regard but we think ultimately even he may see the light.

Madam Chairman, I thank the chairman of the full committee for his kind words of praise and his summary of the actions on this fiscal year 1979 Department of Energy Authorization bill, H.R. 12163.

I urge all my colleagues to support this bill because of the important energy research programs which are included. Passage of this bill will provide the funds to achieve the breakthroughs needed for future energy supply areas. I am convinced that an aggressive energy R. & D. program is the key to providing the energy required for our Nation in the years ahead.

Madam Chairman, at this time, let me take a few moments to review the fossil and nuclear programs contained in the fiscal year 1979 authorization, and to describe the committee's actions.

We took a very hard look at these programs and in some areas made substantial decreases in funding. I am pleased with this approach since the committee has generally expressed its support for energy research and development by adding funds so that more energy options could be explored. The more critical approach contained in this bill does not mean lessened support, but rather the opinion that it is time for decisive actions, choices must be made, options will be narrowed, and resources must be applied to the larger cost of demonstration projects. This is the fourth budget which the committee has examined for the ERDA–DOE. With the advent of the ERDA in 1975, the Government made a broad commitment to the development of energy technologies of all kinds. In the first years of this effort, it was important to make technical, environmental, and economic assessments of many systems. Now it is time to make an overall assessment of the role that R. & D. can fill in providing supply options for the near term and in the long term; it is time to exercise technical, economic, and political judgment with respect to the many energy systems that ERDA and now DOE has responsibility for. The committee's actions in this bill represent that kind of judgment.

We have also had another concern in our consideration of this bill. The creation of the Department of Energy and the ongoing efforts of Congress and the administration to shape a comprehensive national energy policy introduce large uncertainties in the firmness of the numbers which the administration presented as the fiscal year 1979 budget. This view has been confirmed by the energy supply initiatives which the President has sent us. At the moment the programs which this new initiative presents tracks our own committee work, but details are still sketchy. We have been promised a more thoughtful program, the national energy supply strategy, some time next year. This may also affect the fiscal year 1979 budget. If the Congress is to have meaningful input and influence on the shape of this strategy, then we must be very critical in our consideration of the Department's budget for this year.

Interestingly enough, our efforts in this direction were assisted by the President's introduction of zero-base budgeting. The minimum budgets which the Department developed were also the base from which the committee developed its own program, which is contained in this bill. At this point, I am going to get more specific and describe the programs which have been affected by our more critical approach.

In the fossil area, the Science and Technology bill would authorize just under three-quarters of a billion dollars for fossil energy programs—a reduction of $142.8 million from the President's budget request. Most of the decrease is due to a committee decision not to fully fund a high Btu pipeline demonstration plant in 1 year. Other changes were increases for MHD, enhanced oil recovery, enhanced gas recovery, and coal preparation. Reductions were made for a few of the less promising coal technologies.

The coal program, as it now stands, covers a wide variety of technologies spanning the entire coal fuel cycle. The committee kept intact the large coal mining research program which was transferred from the Bureau of Mines by the Department of Energy Organization Act. This activity funds research on improved methods of opening deep mines and the development of better, more efficient means for the actual mining of coal and bringing it to the surface. Also included in this item is the Department of Energy's surface mining research program, including new efforts to meet the substantial research requirements of the Surface Mining and Control Act passed by this Congress.

One of the major problems we face with coal is transforming it into forms where it can be used to ameliorate our domestic shortages of liquid and gaseous fuels. Over the past several years, almost every coal liquefaction and coal gasification project has been authorized and the entire program has grown by leaps and bounds. The committee decided that the time had come to take a serious look at which of the projects within these programs were producing results.

In the liquefaction program, the committee decided that the time had come to reduce funding for the fixed-bed hydrogenation and zinc chloride catalyst process development units and for the CRESAP liquefaction test facility—feeling that in each case DOE and its predecessor agencies, after years of trying, had not been able to overcome major obstacles confronting each of these processes. Similar decisions in gasification program were made with regard to synthane pilotplant, the hydrogen-from-coal facility, as well as the fixed and fluid bed low Btu gasifier projects.

The committee's major action in the coal gasification area was to redesign the high Btu pipeline demonstration program. In the past, the committee had considered that either the slagging Lurgi process or the COED–COGAS process would be used in the first demonstration funded under this program. The committee has learned that the HYGAS process is now at relatively the same level of technical development and studies have been done which show that HYGAS may produce cheaper gas. Thus, the committee decided to add that process as a third competitor for the first plant and increased design funds in the program for fiscal year 1979 to achieve this objective. At the same time, the second high Btu pipeline demonstration plant was deauthorized. The committee also added $4.5 million for peat gasification feeling that some of our enormous domestic peat reserves are a promising source of reasonably priced synthetic gas.

More efficient generation of electricity from coal is also a primary interest of the committee. The $20 million was added to the MHD program to develop this technology which in the long run may allow almost 50 percent more electricity to be generated per pound of coal than is currently derived from state of the art technology.

The money will be spread across the entire MHD program including component fabrication development for the first flow train at the CDIF facility in Montana; initiation of technology development for the second CDIF flow train; work on development of the superconducting magnet which will be used later on at the same facility; and also support funds for technology work on heat and seed recovery in the MHD channel and the development of downstream components.

Two other programs in the budget which also show promise for more efficient use of coal as an electricity source are the fuel cells and thermionics subprograms.

The committee also has a strong interest in transforming coal into as clean a fuel as possible, so it can be burned directly. In addition to the large coal environmental programs contained in the environmental section of this bill, the committee voted to delineate coal cleaning and preparation technology development as a separate program and to accelerate this activity. In addition, we have fully authorized the advanced environmental control technology program transferred from EPA to DOE.

Realizing that our domestic energy problem is largely an oil and gas problem, the committee voted to accelerate most of DOE's efforts in these areas. Enhanced recovery of oil using micellar polymer techniques was increased by $14 million. It has been estimated that enhanced recovery methods investigated by this project, if followed up to the maximum, could increase the percentage of oil recovery from the average oil field by 25 percent by 1995. The committee made a small increase to fund a drilling R. & D. management plan and support study to evaluate advanced approaches to enhanced oil recovery.

In the gas area, the committee provided $20 million to give massive boosts to DOE's programs to recover gas from geopressured regions of the gulf coast, the Devonian shale formations of the Midwest, and the western tight gas sands. $2.7 million was redirected from the western oil shales program to investigate the promising hydroretorting method of developing shale oil from eastern shales.

The committee's largest decision on the nuclear side was once again what to do about the Clinch River breeder reactor project and the breeder reactor base program. The committee continued its support for the Clinch River breeder reactor project by adopting an increase of $159,100,000 above the administration request and adding the larger breeder demonstration plant.

The future of nuclear power in the United States depends on an aggressive approach to maintaining the breeder option, but it also requires improving our current light water reactors, developing proliferation resistant reactors and fuel cycles, finding out just how much uranium we have and finally solving the disposal problems of nuclear waste. These other areas are as important or perhaps, in the case of nuclear waste, more important for the nuclear option than developing a breeder. However, it is the issue of the breeder that has generated the most deeply felt debate in Congress and has created the impasse that now exists between Congress and the administration.

I am a strong supporter of breeder technology and voted for the CRBR last year, but I believe that the U.S. breeder program will not be diminished by starting a new initiative for a large plant which builds on what has been learned in the CRBR program. Continued support of the CRBR ignores the almost impossible problem of moving the CRBR forward without administration support. It is the CRBR which the President adamantly opposes and if this bill contains an authorization for it, he will veto it.

I favor the compromise which I offered in the subcommittee which seeks to reorient the breeder program. I am advocating a conceptual design study to take the fullest advantage of the 6 years of work on the CRBR.

It will reflect the learning that has taken place since 1969. When CRBR was begun there was no industry and part of the cost of the CRBR was getting the people in place. No one could make pumps, for example, when the program started, and major engineering/design firms did not have any high temperature design people.

Giving the administration this direction will preserve the most important resource, the people, and permit them to put their talents to work by expanding their knowledge to study design of a larger technology demonstration plant. The proposal maintains this team, gives it new direction, and addresses the need to move forward rather than slipping the schedule to concentrate on a smaller plant.

The conceptual design will include conceptual planning, conceptual studies, systems studies and systems design for an advanced fission plant. It is too early to make a commitment to build such a plant, but the commitment to intensify study and design efforts means that the base program gains new direction and the support facilities such as LMEC, FFTF, Saref and EBR II will be dedicated to the testing of components geared toward the larger size demonstration.

Dr. Schlesinger has told us that in his judgment this facility will be less expensive per unit of energy than the designed from the ground up whereas at Clinch River facility because it will be Clinch River it was necessary to go back through the design to compensate for information learned about seismic problems and thermal transients which required redesign for things like steam generator buildings.

My commitment to this compromise is twofold: First, it gives new direction and a badly needed goal for the program which is also acceptable to the administration, and second, it will allow all of us to turn our attention to the other problems that face the nuclear option, which, even most breeder opponents agree, must be a critical part of our energy supply strategy in the next 25 years.

The committee recommendations for additions to the base program complement the administration's proposal and beef up the support work that must be undertaken at the facilities in the base program—Saref, the LMEC and EBR II.

The breeder, of course, is not the only advanced reactor being considered by the Department of Energy. The advanced reactor concepts and alternate fuel cycle concepts programs are both geared toward commercial reactors of the future. The committee made several changes in these programs. The committee reduced funding by $5 million in the advanced water breeder applications program by permitting the proof of breeding activity for the thorium-fueled light water breeder reactor to continue. However, by reducing the comercialization portion of this item, the committee has taken the view that funds leading toward commercialization should not be expended until those companies which will eventually build the commercial reactor are actively involved in the program. In the gas cooled reactors area, the committee moved $6 million of research funds from the long range gas cooled fast breeder reactor to the shorter range high temperature gas cooled reactor. The committee also voted to strike all funds for the alternate advanced reactor systems budget item because it felt that it was premature to be funding technologies identified in a study which is yet to be completed.

In the alternative fuel cycle concepts area, the committee voted to increase funding by $10 million to begin research and development on the CIVEX process, a concept which shows considerable promise in reducing the risk of diversion of weapons grade materials. Also $3 million was added to the alternate fuel cycle technology program along with the requirement that the entire $13 million needed to carry out proliferation resistant alternative research and development at the Barnwell facility be funded from this activity.

The Department of Energy also has programs to help solve problems related to light water reactors and to identify domestic uranium and thorium reserves. The future of nuclear power in this country depends on maintaining and improving our current light water reactor technology. Without the light water reactor growth anticipated through the year 2000 and without the breeder option, our Nation will be even more dependent on foreign oil as the swing fuel for electric power production.

It is also clear that we must have a firm estimate of our nuclear fuels resource. The committee supports the light water reactor technology programs directed toward improving plant productivity, uranium fuel utilization and the safety margin of light water reactors. The genuine R. & D. issues which must be addressed to keep these plants operational and reliable needs increased emphasis.

Other committee decisions in the nuclear area included full funding of the uranium enrichment program, the space nuclear program and the advanced isotope separation program.

The final area which falls within the jurisdiction of my subcommittee is the nuclear fusion program. The two options

in this area are magnetic fusion and inertial confinement fusion. Neither of these technologies have demonstrated that they can produce power, though each program is planned to achieve this milestone in the mid-1980's.

These are admittedly long-term technologies, but the promise is so great in terms of power output, availability of fuel and environmental attractiveness relative to both fission and coal that the committee has increased these programs. The programs have grown significantly within the last few years; scientific feasibility is close and the transition to engineering development is in sight. Near term needs for fossil technology demonstrations should not return these programs to funding levels that would convert them to pure R. & D. efforts. The committee voted to add $15.9 million to the magnetic fusion program which will be distributed as follows: $5 million for pursuit of aggressive experiments in alternative concepts to the low density mainline fusion machines, $2 million for comparative studies of advanced fusion reactor systems concepts and $900 thousand to supply adequate instrumentation for diagnostics at the fusion user facility. The committee also decided to add a line item for civilian applications of the inertial confinement fusion. Here $8.8 million was added to support the development of advanced lasers and other advanced drivers as well as systems studies related to the eventual development of inertial confinement fusion power reactors.

In closing, I would like to note that most, though not all, of our actions have been recognized and confirmed in the Interior and Public Works subcommittees of the Appropriations Committee. This is the result of a close and mutually productive cooperation between the committees. I wish to thank my colleagues, TOM BEVILL and SID YATES, whose time and attention are very much appreciated. This kind of interchange between authorization and appropriations committees exemplifies congressional process at its best. Finally, Madam Chairman, I can attest that my fellow members of the Science and Technology Committee put many hours of thought and work into the formation of this comprehensive piece of energy research and development legislation. I hope that our colleagues carefully consider this bill and will vote for it overwhelmingly.

Mr. WYDLER. Madam Chairman, I yield such time as he may consume to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Madam Chairman, I have particular enthusiasm for four major energy program areas funded in this bill. They are nuclear, including breeder and magnetic fusion research and development, solar and geothermal energy, and certain aspects of the fossil technology program.

This bill retains the strong and definitive commitment to build a breeder reactor plant at Clinch River. No energy research and development plant can be called complete without this commitment to such a focus for breeder technology. It is our route to energy independence for electrical power generation and it can be taken without leading to proliferation of nuclear weapons.

MAGNETIC FUSION

I am pleased that the committee has seen fit to fund innovative activity outside the main line fusion program. I am certain that the technology development funds to support the Tokamak and Mirror activity are not at a really healthy level. However, I am delighted that we are able to provide funds for advanced concepts, for example, the "Throw-Away-Tokamak," which is a compact approach to fusion using very high magnetic fields. An additional $2 million is provided to fund the critical advanced concepts evaluation activity at Los Alamos Scientific Laboratory. We must accelerate studies of approaches such as the fission-fusion hybrid concept for fissile fuel generation. The advanced reactor systems group at Los Alamos will conduct evaluations of these aggressive concepts on comparative physics, technical, and economic bases. Such studies are a key to determining future program growth and projected costs for technology development of these advanced concepts.

The committee has also seen fit to spell out the role of Los Alamos in developing a prototype of the particle accelerator for the fusion materials irradiation test facility (FMIT). They have the expertise to do this job in support of this badly needed fusion support facility at Hanford.

SOLAR

I am particularly pleased that the solar energy funding does not neglect centralized applications of solar energy in both the solar thermal and solar electric areas. It seems to me there has been overemphasis of attention to distributed solar systems. Solar energy technology in solar thermal is now focusing on the power tower facility and total energy systems (TES) test facility both at Sandia Laboratory. In terms of reliable large-scale utility applications the central receiver heliostat for powerplant applications will be moving to the 10-megawatt electrical pilot plant at Barstow, Calif. This facility will build on the experience in evaluating major central receiver components and subsystems gained at the 5-megawatt thermal Sandia facility.

The photovoltaic emphasis on cost reduction is accelerated by the Science and Technology Committee initiative. This is the most critical research and development in the photovoltaics program and I trust the Department of Energy will maintain proper management attention to moving this activity at a healthy pace.

GEOTHERMAL

I am not satisfied with the level of funding for hot dry rock technology in geothermal energy. Unfortunately, I feel we shall fail to retain a healthy program in fiscal year 1979. The utilization experiment at Los Alamos using steam from injected water will lower the requirement for natural gas heating at that laboratory. This application will signal a healthy advancement of the state of this technology. I am particularly concerned that we do not overlook the optimum utilization of this regional source of geothermal energy in hot dry rock.

FOSSIL

In general, I do not feel that fossil energy technology is receiving sufficient focus relative to the country's long range needs. If we are to get off an oil independence by making synthetics for coal, we are doing it at a much too leisurely place. There are, however, some small funding initiatives in this R. & D. bill which can be major factors in the long run. One that I would like to point out is in the area of drilling for offshore technology. It is important that the drilling industry be made more and more aware of advanced technology developed outside the petroleum sector. It is important that the comprehensive management plan for drilling R. & D. be submitted to the committee at the earliest possible date so that the potential for near-term increases in domestic oil production from this program can be outlined. This is an area where the neglect of technology has not been at all benign.

Madam Chairman, I have singled out specific areas with which I am quite familiar and I am pleased that the committee has had the foresight to make funding additions. I hope that in the coming fiscal year the Department of Energy will show a similar level of innovativeness and imagination to match these legislative efforts.

I urge all my colleagues to vote for the bill H R. 12163.

Mr. WYDLER. Madam Chairman, I yield 5 minutes to the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Madam Chairman, H.R. 12163 possesses two characteristics that seem to have become typical of energy research, development, and demonstration authorization legislation. One is urgency, and the other is controversy.

I cite urgency because we still have an energy crisis, despite the fact that not everyone seems to believe it. I mention controversy because no matter how urgent the energy problem seems to be there are many who object to all or part of the solutions proposed. That is why the bill before us today presents such a legislative challenge.

In that regard, Madam Chairman, I must speak as a member of the minority who has worked very closely in providing this legislation, H.R. 12163, and emphasize that it represents a bipartisan effort to contribute to the alternative sources to fossil fuel. Again, it represents many hours of hearings, as well as work on both sides of the aisle, and it represents an intelligent, reasonable consensus.

Madam Chairman, before discussing the specifics of the bill, I would like to join with my other colleagues in paying tribute to a man whose contributions to this Chamber cannot be fully described in a 5-minute speech. This man has devoted some 32 years of his life to serving this Nation. I am referring to our colleague from Texas, "TIGER" TEAGUE, who has been an inspiration to me, as he has been to many others in this House. Over the years he has devoted much of his energy and time in conducting the affairs of the committees on which he

served. His contributions to veterans' problems remain unchallenged. His contributions to space, to science, and to technology are beyond question. And I can truly say that "TIGER" TEAGUE over the years has represented to me the epitome of what a Congressman should be in truly representing his district, his constituents and this Nation. I have enjoyed the privilege, and it truly has been a privilege, of serving under his chairmanship on the Committee on Science and Technology. Oftentimes we become very partisan. But when we talk about "TIGER" TEAGUE, that type of title could never be applied. In our Committee on Science and Technology, where recently—especially recently—much controversy and conflict has evolved, I have watched this gentleman arbitrate, negotiate, to try to show a fairness to all sides. Throughout the development of this bill he has been a leader. He has shown a tremendous amount of respect for the points of view held by the members who sit on that committee.

Madam Chairman, he is leaving us this year. It will not only be a great loss to his district, but it will be a great loss to me personally and to many Members of this Congress. "TIGER" TEAGUE has devoted so many years to the services of our Nation. Of all the remarks that could be placed in a docket describing these contributions, none can adequately or properly express my feelings about our chairman, "TIGER" TEAGUE. He is truly one of my fine friends, a man I truly respect and admire. I will certainly miss his contribution, his leadership, and his presence here in the House.

Madam Chairman, we are all aware that our Nation's position in the world's economy is not good and has been getting worse. Our chronic trade deficit has economic implications which are truly frightening. This deficit has caused the value of the U.S. dollar in the international market to fall faster than my hopes for a balanced Federal budget by 1981. And, as we all know, the major reason for this deficit is the large amount we pay for foreign sources of energy.

I had hoped that the oil embargo 4 years ago would have rudely awakened our Nation to the fact that our appetite for energy must be curbed, and that production of our domestic sources of energy must be encouraged and accelerated. Quite frankly, no such awakening has fully occurred. For example, electricity consumption increased by about 5.5 percent in 1977 over the 1976 level. The Nation increased its energy use as a whole by 4.1 percent during 1977. Unfortunately, this trend of increased energy consumption has not been offset by increased domestic production. In fact, domestic production of energy has decrease by 3 percent from 1973 to 1977. Most importantly, fossil fuel imports in 1977 were 19.4 percent above the 1976 level. The United States now imports nearly 9 million barrels of oil each day, leading to an annual flow of some 40 billion U.S. dollars to foreign nations each year.

It is against this background that we must consider H.R. 12163, the authorizing legislation for the Department of Energy's research, development, and demonstration programs for fiscal year 1979. This legislative proposal contains certain essential elements that must be enacted if our energy deficit is to be erased. These elements have been carefully forged by the Science and Technology Committee. After much effort and careful scrutiny, we structured a piece of legislation which will give our energy programs new direction and momentum, qualities it desperately needs.

Our committee has taken the administration's original budget request, which at best is lackluster and at worst is a national disgrace, and reforged it from top to bottom. We have done this not by arbitrarily raising the funding levels in every area where arguments could be made for doing so, but by carefully examining each subprogram and project to see what their true funding needs are. We paid special attention to those areas where some judicious additional funding could be expected to provide proportionally greater results; that is, we tried hard to get more energy bang for the R. & D. buck. We were also not afraid to reduce funding in those areas which seemed less likely to provide significant payoff in terms of developing new energy sources. This concentrated and intense effort by the Science and Technology Committee has enabled us to establish priorities among the various DOE programs, so that the most urgent programs could be given increased emphasis and the less promising programs could be pared. The resulting funding levels manifest a keen sense of balance between fiscal responsibility and vital energy initiatives.

What we have arrived at is a total energy R. & D. authorization of $4.38 billion for fiscal year 1979. Included in this total are funds for research, development, and demonstration programs relating to solar and geothermal energy, fossil fuels, nuclear power, energy conservation, and several associated technologies and activities. While some of the increases in funding for various projects were higher than I myself might have proposed, I feel that the committee has provided responsible levels in most areas. Considering both the seriousness of the energy problem and the need for fiscal restraint, I believe the committee has struck an appropriate balance between the need to permit necessary research activities to go forward, and the need to prevent waste of taxpayers' money.

Before discussing the specifics of the bill, I would like to pay tribute to a man whose contributions to the House Science and Technology Committee cannot be fully described in a 5-minute speech. This man has devoted 32 years of his life to serving his Nation as a Member of Congress; his strong leadership and broad vision have greatly benefited the Nation. Indeed, as the committee progressed in its work on H.R. 12163, I more fully appreciated the valuable role that our committee chairman, Congressman TEAGUE, has played in shaping this particular piece of legislation, as well as hundreds of other pieces of landmark legislation. The strengths of my distinguished and most respected colleague from Texas have fully surfaced in the bill before us today.

Perhaps the many admirable qualities of Congressman TEAGUE are somewhat contagious—for the rest of our committee's leadership has also demonstrated great wisdom and dedication throughout our long deliberations on one of this session's most important pieces of legislation. A foremost example is our ranking minority member, Congressman WYDLER, who contributed aggressive leadership and sound guidance to this legislative proposal. I would also like to underscore the very important role that Congressman MIKE MCCORMACK, the chairman of our Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development, and Demonstration, played in formulating this legislation. His penetrating expertise and comprehensive grasp of the energy dilemma were indispensable to the subcommittee's and full committee's deliberations. Congressman WALTER FLOWERS, the chairman of our Fossil and Nuclear Energy Subcommittee, played a similar role in developing responsible funding levels in the energy programs under his subcommittee's jurisdiction. As a result of the extensive efforts of these men and of the committee as a whole, I am confident that the funding recommendations in H.R. 12163 have maximized the return on our energy investment dollar.

Madam Chairman, I would now like to describe several specific features of the bill which I believe should be specially noted. First, the geothermal energy program. Geothermal energy has in recent years been recognized as a potential nationwide rather than just a regional energy resource. We selectively added to and subtracted from various parts of the program, with the net result that we increased the administration's $130 million request by $16 million, to $146 million. The main thrust of this increase was to expand and accelerate those programs and activities most likely to improve the chances of success of geothermal technology, reduce the cost of geothermal wells, encourage increased industrial participation, and quicken the pace of utilizing geothermal energy for electrical and nonelectrical applications. The most significant of these actions was to again authorize the construction of a second geothermal demonstration plant. We provided $4 million for this purpose, which I believe will pay substantial dividends. I hope the administration will take note of our actions here and strive to avoid the unwarranted delays which have plagued the first demonstration project. I believe that the need for both demonstration plants is more pressing now than it was last year, since the pace of commercialization of geothermal energy has to date been very disappointing.

A second area in which we increased the funding is the low-head hydroelectric power program, which represents a significant untapped energy potential. There are more than 50,000 small dam sites in the Nation, whose use could result in substantial oil savings. In view of this potential, we have provided $6 million to expand R. & D. on low head turbines in support of accelerating the program of retrofitting existing small dams at the earliest practical date. I believe that the recommended funding level, in conjunction with the related program provided in the Commerce Committee's bill, will provide valuable information on

the technical practicality and economic viability of low-head hydroelectric plants.

A third area in which we made significant changes to the administration's budget is that of solar energy. I know I do not have to tell this body about the prospects of solar energy or the enthusiasm it has generated among our citizens. Let me just review for you some of the major funding changes we have made, as provided in H.R. 12163.

Our overall increase to the administration's original proposal was approximately $117 million, bringing solar R.D. & D. programs up to a funding level of about $458 million. The largest portion of this increase went to photovoltaics, the direct conversion of sunlight into electricity, which was increased by over $49 million, to $125 million. This increase was based on the continuing potential for obtaining large reductions in the cost of photovoltaic devices, a potential which could lead to much wider market applications by the mid-1980's.

Substantial increases over the administration's original request were also provided in the wind energy program ($20 million), in ocean thermal energy conversion ($29 million), and in the solar heating and cooling program ($20 million). These increases will hopefully hasten the day when these various forms of solar energy will be economically available to reduce our dependence on depletable fossil fuels.

A solar-related area in which we also provided a substantial increase is that of biomass. The biomass program is aimed at producing usable fuels from substances that may be grown in "energy farms," and has sufficient potential to justify a doubling of this effort to about $52 million. Among other things, this effort will help improve the economics of blending ethanol or methanol with gasoline, to produce a product known as gasohol. The use of these alcohol fuels as partial replacements for gasoline has, as you know, generated a great deal of interest, and while the final economics of this concept are still in doubt, expanded research and development is clearly in order at this time.

Another area in which the Science Committee made significant changes is in the accelerated development of improved conversion technologies, or more efficient means of converting fuels into electricity. These are thermionics, fuel cells and magnetohydrodynamics. I would like to discuss two of them. First, thermionics. This is what is known as a direct conversion technology, that is, it can convert heat directly into electricity without moving parts. It is also more efficient than standard measures—it can produce more electricity per pound of fuel burned. We have added $4 million to this item, bringing it up to $5.9 million. At this level, work can proceed at the pace of the original program plan, allowing demonstration of the technology to begin in 1984. In view of the very substantial fuel savings potentially achievable, we believe this money would be well spent.

Work in magnetohydrodynamics has also been accelerated. MHD, as it is known, could increase the efficiency of burning coal from about 35 to over 50 percent, thereby markedly extending the usefulness of this fuel. We have provided an additional $20 million, primarily to construct a second flow train at the MHD component development and integration facility in Butte, Mont. I believe that efficient utilization of this facility, which is scheduled to come on line in fiscal year 1980, is of special urgency.

In the nuclear area, there are three specific subjects I wish to mention. The first involves the committee's action to continue the Clinch River breeder reactor project, despite the President's desire to cancel it. As I have stated many times, I believe there are several important reasons to maintain the breeder option. Without going into them, as I realize we will probably be discussing this subject shortly, I will just say that I heartily endorse the committee's action in this regard, which is to continue the project and study the prospects for future breeders. We need this energy source.

I also endorse the committee's decision to continue support of R. & D. activities at the Barnwell nuclear fuels reprocessing plant in South Carolina. As in the case of the breeder reactor, reprocessing is an energy option that must be kept open, and I believe the decision to provide $13 million for this activity is a good one.

The final nuclear activity I want to mention concerns the development of high temperature gas-cooled reactors, to which we added $6 million. The HTGR is a highly efficient reactor concept with near term market potential. Significant industry and utility interest seems to be developing, and increased support of R. & D. work and plant design seems appropriate at this time.

Madam Chairman, if I were to try to summarize all of the beneficial aspects of the legislation we have before us today, I could continue almost indefinitely. Rather than do that, let me just note that I consider H.R. 12163 to be extremely well thought out, and an immensely valuable proposal. This legislation is absolutely critical if our Nation is to take the dramatic and bold steps it needs to reverse its energy situation. Moreover, by promoting more efficient use of energy and the development of new energy sources, H.R. 12163 will have a healthy impact on our economy and on our national security. I believe this legislation is necessary, responsible, and timely, and urge my colleagues to support it.

Mr. UDALL. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, I would like to express my support of the substitute amendment to H.R. 12163 offered today by Chairman TEAGUE. This bill represents substantial effort on the part of himself, Chairman STAGGERS and I, our minority members and staff. All three committees with jurisdiction over this bill and H.R. 11392, introduced by myself and Mr. STAGGERS, have worked to draft legislation that is jurisdictionally fair and programmatically clear. I believe this legislation comes as close as was practically possible to meeting those objectives.

Each of the committees of jurisdiction on these matters recognizes the broad oversight responsibilities and proper jurisdictional claims retained by the other committees. Our respective interests link and overlap through many Department of Energy programs in such a way that it would have been impossible to circumscribe them jurisdictionally without creating havoc here on the floor. It is a tribute to the good faith and cooperation of my colleagues Chairmen STAGGERS and TEAGUE that we are able to come before you today with this coherent and thorough authorization.

Let me turn now to a few of the programs authorized by H.R. 12163 of particular interest to the Committee on Interior and Insular Affairs. Chairman Teague's bill authorizes a total of $212,800,000, in three separate line items, for programs for the management of nuclear wastes from civilian nuclear activities, primarily from commercial reactors. With the exception of a couple of programs which were not in our bill as introduced, the Interior Committee approved and encouraged waste management authorizations. These programs are inextricably related to the management and acceptability of commercial nuclear power in this country. It will be incumbent on all our committees from our different perspectives to insure that civilian waste management programs move along cautiously but expeditiously.

Part of the nuclear waste management cycle includes decontamination and decommissioning of radioactively hazardous materials and facilities left over from poorly regulated nuclear activities. The Interior and Commerce Committees now are working on several programs to remedy these hazards. The decontamination and decommissioning construction and engineering assessment funds authorized in H.R. 12163 were recommended heartily by our committees and represent a significant part of our decontamination activities.

In addition, H.R. 12163 includes funds for a uranium enrichment test facility which is part of our national uranium enrichment services program. This test facility is an important element of the program authorized in H.R. 11392, and I support its enactment.

I would like to thank Chairman TEAGUE and his committee for their fine work on H.R. 12163. The resolution of these matters for fiscal year 1979 shows that our committees can work cooperatively in a highly productive and fair manner.

Madam Chairman, I reserve the balance of my time.

Mr. DINGELL. Madam Chairman, I yield 2 minutes to the gentleman from West Virginia (Mr. STAGGERS), the chairman of the Committee on Interior and Insular Affairs.

Mr. STAGGERS. Madam Chairman, I thank the gentleman for yielding.

Madam Chairman, I just rise to echo the remarks of the gentleman from California (Mr. GOLDWATER) in regard to our colleague, the gentleman from Texas (Mr. TEAGUE).

I think the gentleman from Texas is one of the greatest Americans with

whom I have served in the 30 years I have been here. He not only is a great American, but a thorough gentleman at all times, in every sense of the word, a man whom one is always proud and happy to call friend.

I would also like to commend the gentleman from Texas (Mr. TEAGUE), the gentleman from Arizona (Mr. UDALL), and the gentleman from Michigan (Mr. DINGELL) for working out the compromise that we have here today. I also thank and commend the members of the minority, the gentleman from New York (Mr. WYDLER), the gentleman from Kansas (Mr. SKUBITZ), and the gentleman from Ohio (Mr. BROWN), who have worked very closely on this matter. It really is, as the gentleman from California (Mr. GOLDWATER) said, a bipartisan effort.

Madam Chairman, I think that is the way all legislation should go forward. It should not be just a one-party effort. We should work together for what we think is in the best interests of America.

Madam Chairman, I think we are all very happy that the bill has been brought to the floor today, and it deserves our attention and support now. This legislation should have been passed years ago. The time is later than we think.

Mr. TEAGUE. Madam Chairman, I reserve the balance of my time.

Mr. WYDLER. Madam Chairman, I yield 1 minute to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Madam Chairman, the bill under consideration is one of the most highly complex pieces of legislation to reach the Congress this year. For many months the Committee on Science and Technology, the Committee on Interstate and Foreign Commerce, and the Committee on Interior and Insular Affairs have worked for thousands of hours drafting the final legislation which we consider today. The bill represents weeks of careful negotiation as the various committees involved determined fine points of jurisdiction so that we could come to the floor with a bill which all three committees could support.

As the ranking minority member on the Subcommittee on the Environment and the Atmosphere, I had the pleasure of being involved in the considerations of this legislation and I want to assure my colleagues that those portions involving the jurisdiction of my subcommittee are both straightforward and reasonable.

Too many Members of Congress have forgotten that we bear a special duty to the people of this Nation. We were elected to represent the taxpayers—the little people—the individuals who will have to dig a little deeper into their pockets next year to pay for new and expensive programs proposed in the Congress today. Before we can in good conscience add a new program to the budget I believe that we have a higher duty to the taxpayer to see if there might not be some area of the budget which can be reasonably reduced.

In our considerations of the bill I believe that our subcommittee was conscientious in attempting to add only those sums which were absolutely necessary, and in cutting those sums which we felt could be prudently reduced.

Madam Chairman, there is one item which I think should be brought to the attention of the general public. The bill before the House today, H.R. 12163, is the first of two companion bills which the House will consider. Initially, the three committees claiming jurisdiction over the area of energy had drafted bills which had little, or no relation to one another. Many of the programs included in the various bills were either duplicative or unnecessary. Through a long negotiation process the bills have been substantially simplified, and in the process of simplification the bills have also been brought into conformity. Now programs are no longer duplicated—programs have been written far more stringently—and now the spending guidelines for the administration have been made tighter and more easily administered.

One of the most important functions of the Congress is the oversight we exercise over the Executive. It is my firm belief the compromises in this legislation will undoubtedly lead to a greater and more effective exercise of congressional oversight activities in the future.

Madam Chairman, it should be a matter of concern to Members of this House that because of the manner in which the conference on the energy bill passed by the House last year has been conducted it is impossible for the average Member to know what programs are and are not to be included in the final conference agreement. In fact, many of the stories concerning the conference have been so conflicting that until a conference report is prepared, it will be impossible to reconcile them. The bill before the House today undoubtedly includes some programs which will be addressed in that conference. But I believe that after more than a year of waiting, it would be not only unwise, but probably foolish, to continue to wait for the conferees to complete their deliberations.

Let me move now to an area which deeply concerns me, and one which I believe should be of deep concern to every American. We have been informed that an amendment will be offered to kill the Clinch River breeder reactor. This is an issue which this House has faced before, and I trust that the amendment will be defeated today.

There is far more to this amendment than the simple question of Clinch River, and the question deserves to be examined in the broader perspective. Breeder technology is the next logical step forward in nuclear power, and it is a technology already being actively pursued by other nations including France and the Soviet Union. We have already been informed that a unilateral halt to breeder work by the United States will not be matched by other nations.

For more than 100 years the United States has been the world leader in new technologies. In fact, each year we export far more machinery and technological products than we import oil. Put simply, despite the overall balance of payments deficit, it has been our ability to maintain the lead in technology which has allowed us to export billions of dollars worth of equipment year in and year out.

Now American preeminence is being seriously challenged in a number of areas. In one area after another we have seen other nations close the technology gap. The breeder reactor is merely the latest in a long series.

I am told that not long ago a high administration official said in jest, "Well, we can always buy breeders from the French." It is a hollow joke.

There is little doubt that our energy future will have to depend, at least partially, on nuclear energy. And testimony received by our committee indicates that the breeder will have to be the next step in nuclear technology. That much is beyond dispute. There may be alternative breeder cycles which will eventually prove to be feasible, but they are not yet proven. Clinch River is ready to go now, and it is a technology which is already moving forward in other countries. Killing Clinch River does nothing to stop others from adopting the breeder and inevitable results in an obvious technology loss to this Nation.

There is no way that I could support such an amendment and I urge my colleagues to defeat it when it is offered.

In conclusion, Madam Chairman, let me say that there are some excellent provisions included in this bill. It represents the best possible allocation of funds and of efforts. I am particularly pleased with the sections pertaining to environmental health and safety. I would like to thank my colleagues on the subcommittee for their efforts this year, particularly the gentleman from Kansas, (Mr. WINN), and the gentleman from New Jersey, (Mr. FORSYTHE), who contributed greatly to the work of our subcommittee. I would also like to offer a special note of thanks to our subcommittee chairman, the gentleman from California, (Mr. BROWN), for his leadership and efforts in working with the minority in the development of this legislation.

Madam Chairman, I believe that the vote on the Clinch River breeder reactor will be one of the most important energy related votes in this Congress. I intend to vote to preserve the breeder, and I trust my colleagues will join me in that vote. However, if we should fail in our endeavor, I will have no choice but to vote against the bill itself. In my opinion, the bill without the breeder is worse than no bill at all.

Mr. WYDLER. Madam Chairman, I yield 1 minute to the gentleman from Michigan (Mr. PURSELL).

Mr. PURSELL. Madam Chairman, my chief reasons for supporting H.R. 12163 are its splendid initiatives in fusion research and solar energy development. In this bill the Science and Technology Committee in its best tradition of innovative legislation has split out an identifiable civilian program in inertial confinement fusion (ICF). The $8.8 million provided for this effort is tailored to civilian program priorities in industry and the national laboratories. The ob-

jective of this program is to develop, demonstrate and utilize inertial confinement (laser fusion) for solution of domestic energy problems. If we move at a reasonable pace this technology could be proven by the late 1990's. It offers tremendous advantages of fuel ability—from ordinary sea water—scaling, and low capital cost over many other energy options as well as desirable environmental features.

The understanding of the nature of the interactions of lasers and particle beams with matter has advanced rapidly. Sophisticated target design has led to the relaxation of requirements for these ignition devices. The advanced studies done have indicated that the time has come for an expanded technology development effort.

The areas of critical focus for the civilian applications are system studies, the development of advanced drivers and advancements in target handling and injection. System studies are directed toward powerplant design, materials development, pulsed-power systems and ICF drivers and design and evaluation for energy systems. Advanced driver funds are directed primarily to developing advanced gas lasers via an understanding of new concepts in excitation technology.

The committee has noted that the expertise of KMS fusion is particularly strong in the area of target handling and target injection. The development of alternate fabrication and injection systems is mandatory for commercial application of ICF. The committee endorses the attention to cost reduction by the industrial players in these areas.

The committee again has shown great foresight by funding meaningful add-ons in every major program across the solar energy front. We have increased solar heating and cooling demonstration programs by $23 million to prevent cutbacks that would have robbed momentum from the implementation of the Solar Heating and Cooling Demonstration Act. A critical item in this funding is the expansion of efforts to emphasize and demonstrate passive solar technology and initiate work on integrated solar systems.

In solar heating and cooling research and development $13.5 million was added to accelerate development of solar-assisted heat pumps and small- and medium-sized rankine cycle cooling equipment.

In solar thermal the committee endorsed planning for a 50-megawatt electric central receiver plant to be designed using experience derived on previously authorized facilities for Sandia lab and Barstow, Calif. We also chose to increase funding for photovoltaic energy systems by almost 70 percent. Silicon is still the preferred material for solar cells and $19 million was provided to reduce costs on silicon systems. Advanced R. & D. was increased by $6.5 million for research on other materials which promise increased efficiency. Concentrator technology development was jumped $4.5 million to lower the risk in reaching performance and cost goals. Another $19.2 million will be used for procurement of photovoltaic cells and systems already spelled out in the National Energy Act.

In the distributed systems category the wind energy subprogram was increased by $20 million. These additional funds will accelerate efforts in multiunit projects, second generation megawatt wind generators and small wind machines. Multiunit project activity is focused on clusters of utility size, consisting of units of several megawatts each. The committee has earmarked $4 million for parallel development efforts on a second large wind machine to reduce the risk in demonstrating technology.

I am pleased to see $10 million devoted to accelerate the pace at which small wind machines are brought into widespread use. In the areas of regional solar resources the ocean thermal energy conversion program (OTEC) was boosted $28.9 million. The OTEC project is being pushed forward and the topic grazing pilot plant is also authorized for construction. Finally, important R. & D. is increased across the board.

It is worth noting that the DOE/NASA planned program for a solar power satellite (SPS) has been authorized in a separate bill. This bill will soon go to the floor of the House and I expect that it will pass by an overwhelming margin. It is a far-out concept that deserves serious attention because of its great promise for electrical power generation.

Madam Chairman, the long-term energy supply problem is certainly addressed in this legislation in terms of renewable energy sources. I enthusiastically urge my colleagues to support this research, demonstration and development bill.

Mr. WYDLER. Madam Chairman, I yield 4 minutes to the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Mr. GARY A. MYERS. Madam Chairman, before I deliver my comments on the bill and amendment we are going to be dealing with, I too wish to add my words of praise for the gentleman from Texas (Mr. TEAGUE). As I leave this Congress, I want to say to him that it has been my pleasure to serve on the committee which he has served as chairman in a very proper way. I have felt that he was always fair to me and to the Members on my side of the aisle, even when we disagreed on the procedures that confronted us as Members. I will always remember his courtesies to me, and I certainly appreciate them.

Madam Chairman, I also want to say a word about the gentleman from Alabama (Mr. FLOWERS). Serving as the ranking minority member of the subcommittee which he chaired, I belive he made every effort to allow members to consolidate their ideas in the bill which has come before us. We have had ample opportunity to offer amendments and to have them fully debated in his committee. I certainly appreciate his courtesies to us.

Madam Chairman, I further want to compliment the gentleman from New York (Mr. WYDLER), the ranking minority member of the full committee. I appreciate his guidance and contribution to the efforts of the full committee as well as those of the subcommittee. I also appreciate the fact that he has assembled for our side of the aisle a qualified staff which, I believe, is very well integrated with the full committee staff, and in which it is not possible to distinguish the politics of members of the staff.

Madam Chairman, I believe we have qualified persons advising us and assisting us in the task we encounter as members of the committee. No committee can run successfully without a qualified staff, and there are many individuals on the Science and Technology Committee staff who are well-qualified individuals, who are advising us and assisting us in our responsibilities.

Madam Chairman, I rise in support of the bill H.R. 12163 authorizing appropriations for the Department of Energy for fiscal year 1979 as reported by the Committee on Science and Technology, and amended by the Teague-Fuqua amendment. This bill was considered by three subcommittees on the Science and Technology Committee and only after numerous weeks of hearings and a great deal of other work by Members of the committee was it reported by voice vote with one Member wishing to be recorded in opposition. In a year which has been so frustrating to so many of us concerned with energy policy this bill is a bright spot. Your committee has taken what could best be described as a lackluster administration request with no new initiative and has examined each program in detail cutting some and providing for significant new or enlarged initiatives in other areas.

As many of my colleagues know, I am a supporter of many of the new emerging technologies. We face a very serious energy supply crunch in the latter part of this century and at this point no one knows what the solution to that problem will be. Many of the emerging technologies show promise but we need more than promise to run our mills, heat our homes, and power our automobiles. At this point we have little choice but to practice conservation and to push all new energy technologies as hard as we can within the limits of fiscal responsibility.

During the last Congress, I conducted a poll of my constituency asking in what areas they felt increased Government spending was in order. Of the many choices I presented only one area consistently was selected by the residents of the 25th District of Pennsylvania. The area was energy research and development. I am certain that if any one of you contacted the people you represent in a similar fashion that you would be surprised at the support in your districts for increased spending on energy research and development.

A bill of this dimension is always a compromise. There are certain programs within the Department of Energy authorization which I feel are being increased too fast and others on which I would place more emphasis. However, when viewed as a whole, this bill has my wholehearted support.

I have been involved in this legislation as a member of the Advanced Energy Technologies Subcommittee, as ranking minority member on the Fossil and

Nuclear Energy Subcommittee, and as a member of the full committee. It is in my role as ranking minority member for fossil and Nuclear Energy that I would like to make the balance of my comments.

The committee in the coal area realized that the time has come to begin looking seriously at the various programs that have been funded over the years in the old Office of Coal Research in the Department of Interior, in ERDA, and in the Department of Energy. We found that we were able to pick some winners and losers and in many instances chose to cut back programs to the minimum budget requests that the Department of Energy reported in their zero-based budgeting exercise. This I feel was an appropriate exercise in fiscal responsibility and I am happy that the committee had the courage to admit that certain projects were just not working. Other programs which show promise but would have never been given serious funding were given a slight boost. A good example is the entrained bed gasifier.

One committee decision in the fossil area I do find troublesome, that is the $20 million increase in the MHD budget to $94.3 million. I do not dispute theoretically that MHD has a lot of promise and that it may be in the longrun the best way we devise to use our immense coal resources.

However, I do feel at the present time in the absence of a detailed management plan for the development and commercialization of MHD, that throwing $20 million additional into the program invites excessive waste of hard-earned tax dollars. Detailed hearings on MHD which followed our reporting of this bill have reaffirmed my reservations about the current status of this program. Key participants in the program admitted that there is not a cohesive plan for development of MHD and that we are at the presented headed in several directions. They also, almost to a man, expressed confidence that the new leadership of the MHD program will be able to get the situation under control. I, therefore, believe that we owe these new managers a chance to get the program in shape without giving them the added burden of controlling a greatly accelerated program when they are trying to figure out what to do with the present program.

I do not plan to offer an amendment to strike the $20 million but I will strongly oppose further increases in the MHD budget.

The leadership of the Department of Energy repeatedly has said in recent weeks that the energy crisis in the United States is primarily at the present time a crisis of liquid and gaseous fuels rather than a shortfall of electricity. Yet, the various oil and gas programs within the department were cut back in the fiscal year 1979 budget request. The Science and Technology Committee did, therefore, make substantial percentage increases in a variety of oil and gas programs. Each of these programs were small enough to start with, that the absolute number of dollars represented by all of these increases is still a small portion of the total bill. Let me briefly describe four of the more important increases the committee made. The committee chose to accelerate the gas from Devonian shale program by adding $6 million.

This increase in funds will mean that the gas-starved industrial portions of the Midwest will have a greatly increased knowledge of the extent of the Appalachia Devonian shale gas resources and of what is needed to commercialize these resources by 1983 instead of 1985. Deregulation of Devonian shale gas may be the preferable way to encourage the development of these resources but in light of the politically explosive nature or the mere mention of any deregulation, R. & D. in Devonian shale becomes the best option.

The committee chose to reestablish a fossil, geopressured brine program since 75 percent of the energy value in the geopressurized regions is natural gas and since those portions of the region with the best gas potential are not the regions with the best geopressured energy potential. The committee put in a small amount of money to begin work toward a pilot plant for the hydro-retorting process of recovering oil from Eastern shales. Testimony before the committee stated that Eastern shale has a large potential for oil recovery although not by the same methods that are used in Western shale. Therefore, I feel the committee made the right choice in choosing to look at these prospects. The committee also increased funding for enhanced oil recovery. Current methods of bringing oil from the ground leave a great deal of oil in the formations. Therefore, commercialization of methods of recovering part of the remaining oil may be one of the best near-term ways of decreasing our dependence on foreign oil.

In the nuclear area I agree with the committee's decision to maintain Clinch River and a related base program while at the same time looking ahead to what the next generation of breeder demonstration plants will look like. International events of the past year have shown that very few nations if any agree with President Carter's decision regarding breeder reactor development.

We should push ahead at this time with the Clinch River project so we are not left in the dust by the Russians, the British, the French, the Germans, and all other nations who are considering the breeder as their primary energy source for the future. In a related action, the committee embraced CIVEX reprocessing concepts for breeder spent fuel that was proposed by the Electric Power Research Institute. This process shows strong promise in proliferation resistance and therefore should be examined closely.

Civilian waste management has become a major concern of a variety of committees in the Congress of many nuclear proponents and opponents throughout the country. Much of the discussion makes it seem like nuclear waste management is a novel idea and a problem that has been completely ignored for years. For the second straight year the Committee on Science and Technolgy has authorized over $150 million to deal with the various aspects of this problem thereby permitting the Department of Energy to come close to a solution on many of the technical aspects of the waste management problem. I urge, therefore, all of my colleagues concerned about the waste management program to consider seriously supporting this bill.

The committee also chose for fiscal year 1979 to create a small civilian laser fusion program. Up to this point, the laser fusion program has been a military program with certain acknowledged civilian energy spin-offs. However, there are aspects of the laser fusion power reactor which are completely unrelated to the technology of nuclear weapons. Therefore, this money will permit a direct look at these problems to be taken.

There is one final provision of this bill which, although not directly related to the authorization dollars, is crucially related to the effective functioning of the Department of Energy. This provision devises a new system for the Department of Energy for accounting for construction projects when reporting to the Congress. It is modeled after those regulation which Congress chose to impose on NASA which in their way have contributed to our impressive successes in space. I feel that congressional knowledge of the progress of construction projects within the Department of Energy is equally important to our Nation's well-being.

Therefore, I hope that you will join with me in giving your wholehearted support to the Science and Technology Committee's efforts.

● Mr. YOUNG of Missouri. Madam Chairman, the decline of the Nation's oil resources and the continued importation of 40 to 50 percent of our petroleum needs are reasons to continue a vigorous energy research and development program. The Federal Government's work on coal liquefaction is a major and necessary component of such a program. The Department of Energy is working to develop improved technologies that will convert domestic coal into clean boiler fuel, distillate heating oil, gasoline, and chemical feedstokes. I believe that support of DOE's program is absolutely necessary if coal is to contribute to our future liquid fuel supply.

The technology for converting coal to liquid fuels would produce products that would be uncompetitive in today's marketplace. A recent study by the National Academy of Science noted:

> The cost of synthetic crude oil from processes currently developed at least through the pilot-plant scale is estimated to be $20 to $30 per barrel (based on 1976 costs) or about twice the present cost of imported oil.

Studies such as the Academy's report remind us that we must continue to support research and development in order that new technologies can be advanced that will one day be competitive with imported oil.

The Committee on Science and Technology maintains that new coal liquids technologies needs to be demonstrated on an aggressive basis. For that reason, I stand in support of the committee's action to authorize appropriations of $84,-

126,000 for DOE's program. This funding level will allow pilot plant operations of the three major second generation technologies to continue. In specific—

The solvent refined coal (SRC) pilot plant at Fort Lewis, Wash., will be operated in support of demonstration program objectives for both the solid and liquid versions of the SRC process.

Construction of the H-Coal pilot plant in Catlettsburg, Ky., will be completed in 1979 and operation of the 200- to 600-ton-per-day facility will begin.

In addition, in fiscal year 1979, detailed design and procurement will be completed and construction will begin on the donor solvent pilot plant to be built at the Exxon refinery in Baytown, Tex.

The Congress has a responsibility to insure that funds for energy research and development are properly spent. To this end, the Committee on Science and Technology has been maintaining careful oversight over DOE's pilot plant facilities. In our report accompanying H.R. 12163 we expressed two major concerns: First, there must be an effective department presence in the field during design, construction, and operation of these pilot plants, and second, supporting research and technology and operational milestones of the program from the earliest planning stages. We intend to continue to ensure that the DOE properly manages its pilot plant projects.

In addition to work on pilot plant facilities, the DOE's program includes work on laboratory studies and process development of third generation liquefaction processes. In fiscal year 1979, the liquefaction demonstration plant activity has been consolidated with the rest of the liquefaction program.

The committee maintains that it is very important that DOE moves forward with the solvent refined coal (SRC) processes. For this purpose, $3 million is designated in operating funds to commence design, environmental, and other planning efforts for the SRC solids demonstration plant. An additional $20 million is authorized for detailed design long-lead procurement and construction.

The committee has decreased DOE's original request by $20,740,000 in operating expenses. The committee has acted to reduce the number of unnecessary second generation projects so that DOE's coal liquefaction program will concentrate on the most promising technologies. We have taken the initiative to cut from DOE's budget those efforts that do not have a useful technical or economic return or projects that have had enormous cost overruns and are of minimum value to the overall liquefaction program. For example, the committee has provided no funds for the Cresap Test Facility in fiscal year 1979.

I thank you for your continued support of this major Federal effort.●

● Mr. DORNAN. Madam Chairman, I rise in support of the DOE R. & D. Authorization Act of 1979. This bill takes giant steps forward in the important energy research and development area where America traditionally has shown world leadership to the betterment of mankind. There are few areas where we can spend our hard-earned tax dollars more beneficially. There are direct correlations between abundant energy supplies and both the availability of meaningful employment and our ability nationally and internationally to maintain and improve our standards of living. Development of advanced sources of energy is the best way we have of ending the adverse effects long-term dependence on foreign energy sources has on our domestic economy and those of developing nations. We also cannot afford to overlook the domestic consequences of international competition in energy research and development.

The nations of OPEC have taught us that control of important energy supplies can catapult otherwise underdeveloped nations into positions of international prominence. Through their levels of commitment to energy sources for the future, nations are now deciding whether they will be among the new generation of energy powers that will emerge when oil supplies dwindle and the solar and nuclear ages dawn. The Russians understand this. The Japanese understand this. So do the French and British. All are pushing ahead on major solar, fission, and fusion programs. We cannot afford to plod along with a shortsighted energy policy emphasizing short-term manipulation of energy prices through increased regulation and relegating energy research to a second-class status. Russia will take advantage of America's missed moments in history and export their system of slavery using new energy sources as political and economic weapons of greater impact than anything in their conventional arsenal.

By passing this authorization bill and following up with strengthened programs in future fiscal years, Congress will be laying the groundwork for commercialization of a number of promising technologies. I will mention just a few.

PHOTOVOLTAIC ENERGY SYSTEMS

Photovoltaic solar cells which convert sunlight directly into electricity should be a versatile, low-cost, reliable electricity source in the not-too-far distant future. The technology works now but its cost must be reduced by a factor of 20–30 to gain wide-range acceptance. DOE feels this can be done within 10 years and is already a year ahead of schedule. The Science and Technology Committee increased the photovoltaics authorization by $49,200,000 to a total of $125,000,000 for fiscal year 1979 to permit work to begin on two low-cost silicon production facilities, to scale up processing unit size, to do advanced materials work, and to allow for procurement of photovoltaic cells. This proposal is just the first step in a 10-year acceleration of the photovoltaic program which was overwhelmingly approved by the House of Representatives shortly before the July 4 recess.

I was also happy to see that President Carter was willing to include a $30,000,000 increase for photovoltaic research in his otherwise timid recent energy supply initiative.

SOLAR POWER SATELLITES

This technology, although an unproven concept, may turn out to be an ideal source of central station electric power for the future. The Department of Energy and NASA have established a 4-year joint program to provide an initial understanding of the technical feasibility, economic practicality and the social and environmental acceptability of satellite power systems by the end of fiscal year 1980. In addition to this bill's $4.6 million authorization for solar power satellites, this body, of course, has already approved, by a substantial margin, a $25 million solar power satellite bill which transforms this small program into a serious effort.

SOLAR HEATING AND COOLING

This is another relatively short-term important energy technology which gets a major push in this legislation. The Science and Technology Committee added $23 million to the solar heating and cooling demonstration program budget request and $13.5 million to the R. & D. program. In addition, the Solar Heating and Cooling Demonstration Act was extended for an additional 3 years with emphasis on solar cooling. This is one area where we have much to learn from our traditional ally Israel which has already converted a substantial portion of its buildings to this renewable energy source.

GEOTHERMAL ENERGY

Geothermal Energy is a widely available, although largely underutilized energy source, which is found in at least 33 of our States. The Department of Energy has a wide-ranging geothermal research program which includes engineering research and development, resource expiration and assessment, geopressured hydrothermal resources, hot dry rock, and utilization experiments. The Science and Technology Committee once again took the lead in pushing these programs to an authorization of over $140 million from a total of around $50 million just 2 years ago.

BREEDER REACTOR

The breeder reactor program is our largest and oldest Federal energy research and development program. After 25 years of research, we are ready for a demonstration of the technology at the 250-megawatt electric level. This project known as Clinch River has been reinstated in this year's energy research and development authorization, despite opposition from the President, because an integrated technology demonstration is essential to the continued progress of this program.

Breeder reactor technology holds out the promise of unlocking hundreds of years of electricity supply from otherwise unusable U-238.

NUCLEAR FUSION

This year's authorization continues the long range effort to unlock a virtually limitless supply of electricity through safe fusion reactors. The Science and Technology Committee this year for a first time established a small inertial confinement fusion program for civilian applications. This program will provide a focus for those laser fusion problems which are uniquely related to the generation of electricity.

These are but a few of the worthwhile energy research and development projects contained in this important legis-

lation. Therefore I hope you will endorse these efforts for an improved America and for the betterment of mankind by voting for the Department of Energy Authorization as reported by the Science and Technology Committee.●

● Mr. RUDD. Madam Chairman, I rise to add my support to the Department of Energy authorization bill for fiscal year 1979, because this bill provides the expanded energy R. & D. programs that this Nation so urgently needs. I believe that the energy crisis seriously threatens the national security of our country. Our dependence on imported oil places us in grave danger, requiring a comprehensive energy program to reduce oil dependence and a shift to other fuels. In particular, the overall development of renewable energy sources such as solar energy must be pursued in order to avoid the disastrous consequences that can result from our continuing heavy dependence on imported oil.

Of the many energy sources to be funded by this bill, one I would like to single out specifically is solar energy. My own State of Arizona has been a leader in the solar energy field, both in research and development and commercialization of solar technology, for many years. The State is currently involved in several important DOE-supported solar energy projects, including the development of a deep-well solar thermal irrigation system in Pinal County, which is in my district.

There are several provisions of this bill which I find to be particularly encouraging in helping establish a solar industry capable of contributing to our national energy requirements. Foremost among them is a substantial increase in funding for photovoltaic power systems, whose long-range potential is unlimited and whose development should be accelerated by DOE. Emphasis on the development and application of photovoltaic systems will bring down the costs of these systems and make them commercially practicable for a much wider range of applications by the mid-1980's.

The bill also provides substantial increases in the solar heating and cooling program, in ocean thermal energy conservation and in the wind energy program. These programs are essential if we are to develop economically cooperative solar energy systems for commercial application at a rapid pace.

Madam Chairman, this bill contains funding levels which, in my judgment, will help promote the development of solar energy and other renewable fuels capable of contributing to our future energy needs. We urgently need these energy sources, and I urge support of this bill.●

● Mr. HOLLENBECK. Madam Chairman, my support of the bill is concentrated on nuclear and fossil energy technology and realistic expectations for progress in solar research and development.

H.R. 12163 approaches the energy question in a positive fashion and I think that this means progress and jobs. It seems to me that we force ourselves to low-growth energy scenarios if we are willing to arrest energy technology development.

Those groups supporting the breeder reactor action by the committee, I am pleased to note, range from the AFL–CIO to the National Association of Manufacturers. The breeder approach to energy production is one we cannot afford to back away from now, I feel, and I find the administration's approach to the breeder confusing to say the least.

In the magnetic fusion area, the bill calls for some real growth in technology development, albeit, somewhat short of what I had hoped. The Tokamak Fusion Test Reactor at Princeton is to be the major facility for the foreseeable future in the magnetic fusion program. I feel that this authorization sustains the vital activity at the Princeton Plasma Physics Laboratory. Nevertheless, until the proof-of-concept of the magnetic fusion confinement scheme is demonstrated, this program will not have the focus of breeder R. & D. I hope the Department of Energy will soon see fit to accelerate the timetable for the technology demonstration of electrical power from magnetic fusion.

In the fossil energy area the committee has seen fit to fund much needed R. & D. in gasification, liquefaction, and direct combustion.

In gasification, I hope we can speed the development of advanced techniques in order that Eastern coal becomes a viable option in the coal conversion program.

In liquefaction we in the Northeast are only too keenly aware of the need to get off the oil binge by employing alternative sources of liquids and achieving improved efficiency in burning oil and gasoline. The fossil energy budget provides $98.5 million for gasification R. & D. and $84 million for coal liquefaction. Despite this level, I am disturbed by the lack of urgency in this program and the slow pace at which advanced technology is being adapted to the fossil energy program.

I am pleased, however, that $57 million is being provided in direct combustion with particular emphasis on the application of fluidized bed combustion to clean coal burning. The only way that the coal conversion bill of the National Energy Act can become meaningful is if atmospheric and pressurized fluidized bed approaches are pushed to commercialization. This critical R. & D. must be coupled to efforts in advanced environmental control technology so that the clean air standards as they apply to new technologies make real sense.

I support certain specific add-ons to the solar energy budget where the committee is pushing DOE to commit to significant technology milestones. We cannot continue hand-waving or simply throwing additional millions at DOE in solar without improved accountability for this technology development. Properly funded, well-managed programs in photovoltaics and solar heating and cooling can result in eminently marketable products in the coming decades. In every case we have got to push to get costs down so that these new approaches become economically competitive.

Madam Chairman, I restate my endorsement for this DOE research, demonstration and development bill. It is not the complete answer to the supply problem but it is a good beginning. I believe that the important committee actions on the breeder, the substantial continued support of magnetic fusion and very well-tailored add-ons in fossil and solar energy are admirable. I hope all the Members who are really concerned about energy supply will support this legislation.●

● Mr. BROWN of California. Madam Chairman, I rise in support of H.R. 12163.

Within the Committee on Science and Technology, the Subcommittee on the Environment and the Atmosphere, which I chair, has jurisdiction over environmental research and development, specifically including the activities of the DOE Office of Environment, formerly the ERDA Office of Environment and Safety. During the past year, we have held extensive hearings on the environmental research implications of the fossil fuel cycle, the nuclear fuel cycle, the decommissioning and decontamination of nuclear facilities, and the President's national energy plan. A common thread which ran through these hearings was that there are serious gaps in understanding and mitigating energy-related environmental and health effects. For example, in addition to the recognized range of environmental impacts of present energy programs, each new or proposed energy technology or program must be studied for unknown or potential environmental impacts.

In the bill presently before this body, H.R. 12163, all of title III, and sections 401(C) and 401(D)(3) of title IV authorize appropriations for the Office of the Environment of the Department of Energy. The authorization is for the total amount of $303,348,000, which includes $7,560,000 for policy and management functions. This total figure represents a modest increase by the Committee on Science and Technology of $28 million—about 10 percent—over the President's fiscal year 1979 request. Despite significant increases in the Office of Environment's responsibility that resulted from its transition from ERDA to DOE, its total budget request was about 7 percent less than the fiscal year 1978 level.

This $303 million figure also reflects the results of the negotiations between the Committee on Interstate and Foreign Commerce and the Committee on Interior and Insular Affairs and the Committee on Science and Technology. I would like to emphasize that as a result of excellent staff cooperation, those negotiations resulted in full and complete agreement on the authorizations related to the Office of the Environment. Among those negotiated areas I would like to mention three specific items.

First, in the area of environment overview and assessment, the "environmental policy analysis" function funded at a level of $5.45 million was transferred from H.R. 12163 to H.R. 11392 to reflect an area of joint referral. The objective of this program is formulation and analysis of environmental policy that may

affect energy research and development, as well as some DOE regulatory and commercialization activities. Although intimately related to the Department's environmental research and development, this program contains sufficient regulatory and commercialization aspects to justify joint referral. In H.R. 11392 an additional $1,550.000 will be added by the other committees in the jointly referred section, to be used specifically for National Environmental Policy Act (NEPA) activities conducted by the Office of Environment, on departmental regulatory or commercial activities.

Second, in the area of decommissioning and decontamination in Grand Junction, Colo., $1.5 million was removed from both the President's request and the committee authorization because of intervening passage of separate authorizing legislation for that site. The decontamination and decommissioning program is responsible for the safe management and disposition of outmoded or unused contaminated DOE facilities, uranium mill tailings sites, and the buildings at Grand Junction which were built using uranium mill tailings. Many aspects of the decontamination and decommissioning program involve research and development on methods for insuring the radiological safety of these sites. However at some point, components of this program become more predominantly safe disposal activities. It is because of this distinction, that the authorization for this program is located at two locations in H.R. 12163.

Third, the loss of fluid test facility program was transferred to H.R. 11392. This item represents a transfer of $10 million. This facility is dedicated to the performance of Nuclear Regulatory Commission (NRC) confirmatory safety research and assessment, and it was felt that this activity could be only peripherally categorized as environmental research and development.

Now I would like to summarize the environmental research and development increases to the President's budget request approved by the Committee on Science and Technology.

A large portion of the proposed increases, totaling $16.8 million in operating expenses, was added for various activities in the overview and assessment category, including the coordination of activities related to the National Environmental Policy Act (NEPA), an environmental assessment of unconventional and renewable energy technologies, and $6 million for an accelerated research program on the safety and control of liquefied natural gas (LNG). This addition of funds is necessitated by the increased importation, storage and use of LNG in the United States. Although some research has been done on LNG safety, its scope has been limited and selective. For example, on the basis of present data we cannot ascertain the possible consequences of a large scale spill of the potentially hazardous LNG. To meet this challenge, DOE has proposed an ambitious 5-year research program.

The $6.2 million increase authorization will permit this program to proceed in a timely fashion, and thereby provide the necessary information for making safe and environmentally sound decisions related to LNG. In addition, $5 million has been provided for a regional technical assistance program. These funds will permit the Office of Environment to respond to requests for the application of environmental research results and planning techniques to regional and local energy-environment problems.

In the biomedical and environmental research category, a total of $8.16 million was added, the majority of which is for increased research on the health and ecological effects of coal, in response to the increased coal utilization called for in the national energy plan. Included are toxicological assessments and occupational health surveys of coal liquefaction and combustion processes, and research and combustion, conversion and gasification processes. The remaining committee addition is for basic research on the environmental and health effects of electric fields associated with high voltage overhead transmission lines.

The committee also added $750,000 in capital equipment funds, of which $200,000 is for instrument development and scale effects experiments related to the liquefied natural gas research program, and $550,000 is for the purchase of a computer-assisted tomography (CAT) scanner for treatment of cancer using radioisotopes.

Finally, $2,440,000 was added for two construction projects, of which $2 million is for architecture and engineering services for a badly needed energy-environment technology facility, and the remaining $440,000 is for construction modifications to accommodate the aforementioned CAT-scanner.

I would also like to call your attention to two provisions in the bill adopted by the committee relating to environmental research activities. The first, section 502, mandates the collection by the Assistant Secretary for Environment of information from other Federal agencies for the annual Federal inventory of energy-related environmental and safety research. This section is intended to result in a more complete inventory, thus improving the understanding of gaps and priorities in the existing environmental research programs.

Section 503, the second provision, was included in response to the proposed exchange of research and development responsibilities and programs between the Environmental Protection Agency (EPA) and the Department of Energy. It contains two reciprocal subsections, one of which directs the EPA Administrator to evaluate and report annually on DOE's environmental control technology R. & D. programs in light of environmental standards and regulations. The second subsection requires the Secretary of Energy to review, evaluate, and report on EPA's research activities in relation to DOE's energy control technology needs.

In conclusion, Madam Chairman, the DOE Office of Environment has a vitally important responsibility to assure that existing and new energy technologies are developed with adequate consideration and mitigation of their potential environmental and safety impacts. Although significant progress has been made in the past, there remains considerable work to be done. Therefore, I strongly urge my colleagues to act expeditiously on this 1979 DOE authorization bill.●

● Mr. TSONGAS. Madam Chairman, I support the Flowers amendment to the DOE authorization. The amendment calls for a cut of $154 million for continuing the Clinch River breeder reactor project. It would allow the engineers and scientists involved to apply what they have learned, however, to a systems design for a second generation potential breeder. Although this amendment does not commit the Nation to a new breeder reactor, it allows scientific research and engineering development to continue. The amendment will put the Clinch River project to rest at last and I urge my colleagues to support this measure.●

● Mr. RISENHOOVER. Madam Chairman, for the past 60 years, the Energy Research Center at Bartlesville, Okla., has been operated by the Federal Government. During those years, the Bartlesville scientists have contributed richly to methods of recovering oil from underground reservoirs. They have been pioneers in methods of primary, secondary, and tertiary recovery.

Currently, Bartlesville is involved in exciting and revolutionary methods of getting oil out of the ground using methods such as micellar polymer—which is a chemical flooding process. Bartlesville scientists say that to get just another 2 percent of the oil from known reserves, in money terms, could mean $200 billion worth of oil from domestic fields this century. That is vital to our balance of payments and to energy independence.

That is only a small item in the Federal budget—but a great force in our national economy and our energy picture. Bartlesville scientists are into chemistry and refining from aviation gasoline for World War II fighter planes to refining of lubricating oils today. They have an international reputation in thermodynamics research and in fuel/engine research—that is trying to get the most from fuel while sensibly reducing harmful emissions.

On July 5, I visited these laboratories which are in my district. I saw the true environmentalists at work—researchers dedicated to cleaner and more efficient ways to fuel our Nation's machineries in the most economical manner. They are some of the most dedicated Federal workers in our entire system. I am certain, Mr. Chairman, that your distinguished colleagues and you recognized Bartlesville's great resourcefulness when you increased in the current bill, H.R. 12163, the authorization from $46 million to $60 million for the important work on the enhanced oil recovery research program—including more responsibility for the administrators and scientists at Bartlesville.

As you know, the laboratory now is part of the new Department of Energy. During my July 5 visit, I learned distressing facts.

First, tne administrator of 15 years, John Ball, has been notified of his forthcoming transfer.

Second, the name of the center is being changed from "energy research" to "energy technology." I found in a copy of a DOE official's speech to the Interstate Oil Compact Commission saying the name change suggests a shift in emphasis from research to pilot plant and demonstration missions.

Over the years, this facility has worked with small operators who cannot afford their own research. Its findings and discoveries have gone into the public domain—for all operators to use for the benefit of all consumers.

Besides in-house research, the Center has 22 contracts with industry where the Government is spending $56 million. But with private matching money we are getting $156 million in research. These findings go into the public domain.

I today ask our distinguished chairman if, in the reorganization or in this bill, Congress grants the administration authority to reduce in-house research at Bartlesville.

Mr. TEAGUE. This bill in no way reduces the funds for in-house research, nor grants authority to the Department to reduce in-house research at any Energy Technology Center. I have asked the Department the consequences of the renaming of these institutions. It is my understanding that the name change was made for the following reasons:

First. The centers are part of the Office of the Assistant Secretary for Energy Technology wherein the role is one of applied research and development rather than basic research as is the role of the Office of Energy Research;

Second. The title change is in concert with the fossil energy program mission to which the energy technology centers belong. Further, the new title more accurately describes the work content underway at the centers.

Mr. RISENHOOVER. Is it the will of Congress or the intent of our distinguished Committee on Science and Technology to reduce the in-house research I have described?

Mr. TEAGUE. Certainly not.

Mr. RISENHOOVER. Has the Department presented any plans to the committee or indicated an intent to change the role of the Bartlesville Center?

Mr. TEAGUE. The in-house research capabilities of the Energy Technology Centers will be preserved but is the intent of the fossil energy program to develop these institutions into centers of excellence with a clear mandate to manage and develop the technology base for assigned areas. Typical examples are: Enhanced Oil Recovery for Bartlesville Energy Technology Center and Liquefaction for Pittsburgh Energy Technology Center. This change of title, then, is the first step in a series that will sharply increase the role and importance of these centers to the fossil mission.

Mr. RISENHOOVER. Is it the will of the committee that full justification—with ample opportunities for suggestions from Congress—be supplied by the Department of Energy regarding any future change or detraction from the in-house research mission of the Bartlesville Center?

Mr. TEAGUE. Yes, that is the case.

Mr. RISENHOOVER. I thank the gentleman from Texas and I would like to recognize the understanding, the wisdom and the dedicated efforts which the distinguished chairman of the Committee on Science and Technology has rendered to this Nation through his 32 years in Congress, in combat during World War II, and as a friend and citizen of this Nation. I regret very much that you are retiring. You will be missed by your colleagues—and your leadership on this committee will be a loss to every scientist or technician everywhere.

● Mr. GORE. Madam Chairman, H.R. 12163 includes increased funding for a number of solar technologies, many of which have received totally inadequate funding in the past. I am particularly impressed with the potential of photovoltaics, passive solar systems, and wind energy. The Science and Technology Committee has indicated its strong support for these technologies and has recommended substantial increases in their funding. I urge my colleagues to support these increases.

The recommended authorization in title I (section 101(A)(1)) for photovoltaics was increased from $76 million for fiscal year 1978 to $125 million for fiscal year 1979. A more aggressive R.D. & D. program will lead to substantial reductions in photovoltaic solar cell costs, perhaps down to $0.50 per peak watt by 1986. Such cost reductions will significantly expand the market for photovoltaic cells and will make photovoltaics one of the most important electric energy technologies of the future.

H.R. 12163, title IV (section 401(A)(1)(A), also includes $8 million specifically earmarked for increased R.D. & D. for passive solar systems. Passive systems have been touted the most economical solar technology. They collect and distribute solar energy without mechanical assistance, simply through careful building and window design. Yet, passive systems have been inadequately demonstrated. Design and performance data are lacking. The increased authorization of $8 million will expand efforts to improve and demonstrate passive systems.

The recommended authorization in title I (section 101(A)(1)) for wind energy is $60 million, an increase of $24 million over fiscal year 1978. The objective of the wind program is to develop reliable wind turbines which are economically competitive for both large- and small-scale applications. Past activities have been fairly limited, focusing primarily on the development of large machines. The increased authorization will accelerate efforts in multi-unit projects, megawatt scale wind generators and small wind machines.

I would also like to strongly support the authorization in title II (section 201(A)(1)) of $94 million for magnetohydrodynamics, an increase of $24 million over fiscal year 1978. MHD technology will allow us to burn high-sulfur coal—our most abundant energy resource—in a virtually pollution-free manner. The University of Tennessee, which has been experimenting with MHD for the past 15 years, has demonstrated pollution control with simple, inexpensive apparatus. In fact, the University of Tennessee has successfully demonstrated MHD electrical generation with pollution control performance that exceeds the allowable emission standards proposed by EPA through 1982.

Our committee devoted considerable attention to the funding for MHD and a great majority shared the firm conviction that the additional appropriation is fully warranted. This was one of the very few increases recommended in the fossil fuel budget.

H.R. 12163, (title IV, section 401(A)(2)(f)) also includes $10 million for the appropriate energy technology small grants program, an increase of $2 million over last year's authorization. This program which gives small grants up to $50,000 for R. & D. for small-scale renewable energy technologies designed for local applications, has been very successful. It is currently operating in only region IX in the West. Ten million dollars will enable the program to expand nationwide in fiscal year 1979.●

● Mr. MILFORD. Madam Chairman, I rise to support the authorization of $111.45 million for the Department of Energy fiscal year 1979 oil and natural gas program. Madam Chairman, the DOE management plan anticipates a nationwide enhanced oil recovery program that is expected to add 15.2 million barrels of oil to the total production from our known oil fields. This will be accompanied by increasing average oil recovery from the historical 32 percent of the original in-place oil to between 34 to 38 percent. This would provide to the Nation a most valuable period of time in which to effect the necessary conversion to coal, uranium, and also to other alternative energy technologies.

Under the DOE program, cost-sharing contracts have been undertaken with industry to test four of the most promising enhanced oil recovery technologies. These technologies are micellar-polymer flooding, carbon dioxide flooding, improved water flooding, and thermal recovery. The funding for these projects has averaged 35 percent DOE and 65 percent industry. However, as DOE fully implements its management plan, these percentages should change.

The Science and Technology Committee has added $16 million to the $46 million requested by DOE for enhanced oil recovery. Of this increased amount, $14 million would be earmarked for additional micellar-polymer tests. The money has been added to allow research and development which may result in an estimated increase of 25 percent in daily oil production by enhanced recovery methods in 1995. The committee feels that this work is increasingly important because over half of our domestic oil production is projected to come from en-

hanced recovery operations in the last few years of this century. The committee has recommended the increase to assure that the research and development is done as soon as possible.

The committee has also added $2 million to the enhanced recovery budget to allow DOE to investigate new imaginative methods of oil recovery. Research on such new methods are not included in the management plan, but are definitely worthy of study. These funds will provide DOE with the option of pursuing new enhanced recovery ideas which were not part of the plan when it was originally formulated, but have since emerged as having potential.

Madam Chairman, the total dollars spent on drilling oil and gas wells doubled between 1973 and 1976 and is likely to double again in the next 3 years. This huge requirement of capital limits domestic drilling and is a tremendous incentive for improving drilling technology. Drilling costs continually increase because of the increased well depths made necessary as our shallow reservoirs become depleted. Improvements in drilling technology are needed in order to stimulate the exploration for and development of deep oil and, especially, deep gas deposits. An alternative to building more rigs is to increase the drilling rate of existing rigs. If existing rigs could drill 30 percent faster, this would be equivalent to constructing 600 new rigs. Increasing the drilling capability of existing rigs by 30 percent could result in the drilling of an additional 12,400 wells per year and the discovery of an additional one billion barrels of oil per year, if the projected rate holds.

Last year, the committee authorized DOE to provide the necessary incentive to restart work in specific areas of drilling technology which are known to hold promise, but which had been ignored by the industry. The result has been renewed industry interest in joint projects with DOE to demonstrate a system to measure and telemeter direction drilling data from the bit while drilling and to demonstrate a downhole electric motor for improved drilling efficiency. Also, a study was made on past work with downhole drill motors and work was done on attaching synthetic diamond cutting elements to drill bits on metalization techniques.

Madam Chairman, the DOE request will only support a continuation of this effort. The committee has added $1 million in operating expenses to this program in the belief that it can have a significant near-term payoff. The additional funds, however, have been added to require the completion of a drilling R. & D. management plan to include a 5-year budget. Because of the potential for a near-term increase in domestic production, the committee feels that this plan should be completed as soon as possible. The neglected technologies may increase our ability to drill for oil. Thus, the committee expects that DOE will effectively investigate the areas with Federal R. & D. funds and report on a full program next year.

Madam Chairman, natural gas currently supplies about 30 percent of our total domestic energy needs, while proved natural gas reserves amount to an 11-year supply at the present rate of consumption. The bulk of these gas reserves are found in conventional reservoirs in the gulf coast and southwestern regions of our country. These reserves have been developed because they can be easily produced, have high recovery efficiencies, and provide acceptable profit incentives. There are, however, four potentially very large unconventional gas resources that are not fully exploited. An incomplete understanding of their nature and lack of adequate production technology combine to create an unfavorable economic situation. These unconventional gas resources are: The gas-bearing Devonian shales of the Eastern United States; the low-permeability—tight—gas sandstones of the Rocky Mountain region; the free methane gas present in coal seams; and the methane saturated geopressured deposits of the gulf coast. The specific near-term objectives of the DOE enhanced gas recovery subprogram are to improve the techniques necessary for the prompt and orderly development of these unconventional gas resources; to add 10 trillion cubic feet of producible gas reserves by 1985; and to increase gas production by an incremental 3 billion cubic feet, also by 1985.

I support the recommendation of the Committee on Science and Technology to authorize $41.3 million for this essential gas recovery program. This represents an increase of $14.5 million over last year and $20 million over the DOE request, but it will add sufficient funds in the amount of $10 million, for site selection and initiation of two wells to test the two types of shallow geopressured aquifers which are particularly attractive for methane recovery and, in addition, support necessary geopressured reservoir research, resource base definition, and environmental studies. Four million additional dollars have been earmarked for western tight gas sands. These funds will be used to restart rock mechanics studies which will be a necessary prelude to the DOE management plan for enhanced gas recovery to be issued this July The remaining $6 million of the $20 million committee increase will accelerate DOE's existing Devonian shale program. If this acceleration is continued, it has been estimated that commercialization of this large gas resource could come as early as 1983. The additional funds when added to industry matching funds should permit 20 to 30 more wells to be drilled. This year's increase, however, is not a commitment to extended acceleration if, for example, decontrol of Devonian shale gas should provide the incentive for industry to do this R. & D. work without further Federal assistance.

Madam Chairman, in summary, I rise in support of an authorization of $111.45 million for the DOE oil and natural gas program. In a time of energy shortages, the program is part of vital Federal activity to help provide the domestic energy supplies that are so badly needed. It represents an increase of $37 million over DOE's request and of $31.875 over the fiscal year 1978 estimate for the same program, however, its potential benefits are well worth this extra effort, for the failure to efficiently utilize these potentially vast domestic oil and gas resources may exact an even greater national price.●

● Mr. LLOYD of California. Madam Chairman, I rise in support of the Science Committee's actions on three programs in the advanced nuclear reactor area. Those programs are: First, the gas-cooled thermal reactor; second, nuclear energy assessments; and third, alternate advanced reactor concepts.

One of the most important programs is the high-temperature gas reactor, or HTGR. We raised the budget request by $6 million to $37 million. One such reactor is in commercial operation, at Fort St. Vrain, Colo. Developers of this type reactor have commitments or near commitments for 10 such commercial plants. The advantage of the HTGR is that it can provide a means of utilizing the Nation's thorium resources to produce energy. The modest increase is being done to accelerate the HTGR program.

In the next program, nuclear energy assessments, the administration requested $6.3 million, and we concur in that request. It is basically a long-range research program to study the nuclear program and evaluate its objectives, which we think is important to the Nation's energy program for the future.

The third program is the alternate advanced reactor concepts. The committee suggests deleting the entire $20 million. It appears to be a program whose time has not yet come. Other programs underway should identify reactor concepts which would be promising from a nonproliferation standpoint. Pending outcome of those studies, we believe that this funding should be eliminated.

In evaluating the administration's budget for the Department of Energy, we have tried to be selective and careful, supporting the programs that need support and eliminating funding for programs which are premature.

I believe our actions on these programs illustrate that selectivity.●

● Mr. FORSYTHE. Madam Chairman, I rise today to express my full support for H.R. 12163, the Department of Energy Authorization for fiscal year 1979. As a member of the House Science and Technology Committee, I have been most impressed by the work which this committee has done in conducting a comprehensive review of DOE's research and development of alternative energy technologies.

Madam Chairman, even a cursory review of our energy situation can be most depressing. While our energy situation may depress Congress, it is having a much more depressing effect on our economy. U.S. imports of foreign oil in March averaged 8.26 million barrels daily—costing our country over $100 million a day. This glut of U.S. dollars on the international market is leading to a steady erosion of the value of the dollar.

Of great concern is the fact that our dependence on foreign sources of oil for energy has increased, not decreased, since the 1973 embargo. In 1977, we im-

ported three times as much oil as we imported in 1972. This trend has disastrous effects on our Nation's energy supply and, more importantly, on our economy. And, as we saw recently in the Senate vote on the Middle East plane sale, our inability to curb our dependence on OPEC is affecting profoundly our foreign policy.

Our Nation's consumption of all forms of energy suggests an urgent need for additional supplies. In 1977, we consumed 6 percent more energy than we consumed in 1972. Electricity consumption, oil consumption, and coal consumption have all increased since the embargo. In sum, our Nation has not succeeded in cutting the energy umbilical cord which ties us to OPEC.

I could spend hours lamenting our present administration's utterly incompetent energy policy. At a time when energy supply needs stimulation, our energy prices are regulated. We are importing liquefied natural gas, paying foreign nations a price more than twice that received by domestic producers. Nuclear powerplants are so tied up in redtape that new applications have virtually ceased.

The latest in a continuing parade of the administration's incoherent approach to energy policy is its fiscal year 1979 budget request for energy research and development. I, and many other Members, believe this Nation is on the verge of a serious shortage of energy supplies. Yet just when we should be accelerating our Nation's effort in developing long-term alternatives—technologies such as solar photovoltaics, fusion, municipal wastes to energy, the breeder reactor, and fuels from biomass—the President submits a budget request which at its very best is dismal.

Fortunately, the Science and Technology Committee has been able to invest the time needed to reshape totally the DOE research and development program. In my opinion, our committee has been able to balance successfully national urgency with fiscal responsibility. While I could spend, and our committee will spend, considerable time discussing the specifics of H.R. 12163, I will only briefly describe some aspects which I feel are most important.

The committee was astonished that the administration had requested absolutely nothing for its municipal waste-to-energy program. Our committee authorized $20 million for urgently needed activities to develop techniques for reprocessing municipal waste into fuel and energy intensive products. Success in this aera would allow our society to attack two problems simultaneously: waste recycling and energy generation. I will be extremely disappointed if these authorized funds are not utilized by DOE.

The committee recommended a total increase in DOE's solar program of $134.7 million. Increased emphasis was given to solar photovoltaics, wind energy, ocean thermal energy conversion, and solar heating and cooling. While none of these technologies is likely to make a major contribution to our Nation's energy supply by the year 2000, the research done today in these areas is critical to our long-range energy strategy.

The committee gave increased emphasis to DOE's research in enhanced oil recovery. Today, just 32 percent of the original oil-in-place which is discovered is recovered. New techniques, however, offer promise for a greater recovery rate. Additional moneys were targeted for enhanced natural gas recovery programs and for methane recovery from geopressured aquifers.

Our committee has also taken a courageous stand on the Clinch River breeder reactor. Clearly, a U.S. decision to foresake the breeder technology will do little to slow other nations' use of this technology. If the United States is the world's leader in breeder technology, however, we will retain control over how this technology is used internationally. More importanlty, the U.S. energy crisis is serious enough that all promising technologies—including the breeder reactor—should be thoroughly explored.

Madam Chairman, I could continue to cite areas of H.R. 12163 which I feel will, in the long-run, benefit our Nation. I would like to conclude now simply by saying that efforts done to promote domestic supplies of energy are critical to our Nation's economy and security. I urge my colleagues to support this legislation.●

● Mr. GAMMAGE. Madam Chairman, I rise in support of the Science and Technology Committee's recommendation of increased funding for the magnetic fusion energy research and development program. Nuclear fusion is a potential source of energy which poses comparatively few environmental problems and relies on a low-cost, readily available, and virtually inexhaustible domestic fuel supply. Therefore, it is in the national interest to demonstrate safe, reliable, economically competitive production of fusion energy at the earliest date. In pursuit of this goal, we should proceed with an accelerated funding level for magnetic confinement fusion.

One of the greatest problems in achieving nuclear fusion is sustaining the fusion reaction by confining the fusion elements for a sufficient duration to return more energy than invested. Confinement by magnetic fields represents one promising approach to fusion energy.

Thus far, two major magnetic confinement schemes are being emphasized: closed and open systems. The main examples of each are: tokamak systems and magnetic mirror systems. Tokamak, or closed toroidal, systems are the primary development concept in the magnetic fusion program. Recent experimental results with tokamak systems have brought the program closer to the achievement of reactor-like conditions. For example, the Alcator A at the Massachusetts Institute of Technology (MIT) has recently improved its previous world record for plasma confinement by 50 percent, a factor of less than ten from values needed for a useful power reactor. In order to advance this promising work, progress continues in five critical areas of research: heating; transport and scaling; plasma shape optimization; boundary effects and impurity control; and fueling.

Open magnetic confinement systems have always been considered attractive candidates for fusion reactors because of their potential engineering simplicity. They are, therefore, being developed as backup systems to the closed toroidal systems. Last year's results on the 2X–11B facility at Livermore, together with new insights into methods for improving open magnetic system confinement properties, have led to a strengthening of open confinement research. Research efforts will continue in the areas of confinement scaling, heating and improved power balance.

Because of the promise shown by these two magnetic confinement schemes, the committee recommends full funding support which will allow progress to continue in an orderly fashion. However, the committee also recognizes that for a variety of theoretical and engineering as well as economic reasons, no one candidate scheme has been chosen as the ultimate fusion machine. Thus, research in alternative fusion concepts is imperative. At this early stage of fusion development, it is important not to close the door on any promising fusion energy approach. Concurrent with alternate fusion schemes, the committee supports research necessary to identify alternative uses for fusion power. One such alternate use is the fission/fusion hybrid concept of utilizing fusion neutrons with a blanket for fissile fuel generation without generation of electricity.

In addition to problems of theory, there are numerous engineering problems which must be solved before a working reactor can be built. One such problem is the development of materials which will endure the intense neutron flux experienced during a fusion reaction. It is necessary to determine what materials can be used in building fusion facilities prior to the construction of the first pilot plant. The committee, therefore, supports the Fusion Materials Irradiation Test Facility (FMIT). The project includes the technical planning, engineering, design and procurement of long lead items in support of the future construction of a facility to test and develop low neutron absorption materials. The test facility is designed to accommodate all critical materials having possible application in fusion facilities.

For these reasons, Madam Chairman, I support the committee's recommendation of an increase of $15.9 million for operating expenses. The promise of an environmentally clean source of energy totally dependent upon domestic fuel supplies is well worth this expenditure.●

● Mrs. LLOYD of Tennessee. Madam Chairman, I rise in support of the committee's recommended funding for the civilian waste management and spent fuel disposal. The department request for fiscal 1979 was $152.1 million, compared to $158.5 million in fiscal year 1978 and $82.5 million in fiscal year 1977. The committee increased the 1979 authorization by $3 million to $155.1 million.

The disposal of radioactive wastes and spent nuclear fuel has become one of the most controversial aspects of the development of nuclear power. There is an urgent public policy need to demonstrate that these materials can be disposed of safely. In addition, the administration's

new policy to store spent fuel, rather than reprocess it, requires a broad new program of R. & D. to develop this technology.

The program authorized in this bill supports management of civilian nuclear wastes. The large amounts of nuclear wastes developed by the military weapons program are being handled under a program funded by another bill.

The civilian waste program has two objectives:

First. To develop, construct, and operate permanent repositories for the waste or spent fuel from the civilian industry; and

Second. To provide process technology to convert wastes into forms in which they may safely be packaged, handled, and transported.

For the first tasks, the Department has been pursuing a program of geological investigation to identify the location of two sites for deep geologic repositories to assure that facilities are available by 1985. DOE had originally planned as many as six repositories, but in fiscal year 1978 the decision was made to drop plans for the last four in order to dedicate resources to the first two. The location for the first repository will be selected in fiscal 1978, according to DOE, and will be in a salt formation. In addition, work is being accelerated in other types of geological formation at the Hanford and Nevada sites.

A draft environmental impact statement and a firm cost estimate for the first repositories will be completed in fiscal year 1979. Preparation for an in-situ geologic storage test, using civilian spent nuclear fuel will continue, with startup scheduled for 1981. Construction of the first national waste repository is also scheduled to start in 1981. Mining and construction should take 65 months.

The program of waste processing includes dealing with the large amounts of liquid wastes produced, and converting them to solids, as well as preparing those solids for ultimate disposal. Research and development in dealing with gaseous radioactive wastes, primarily Krypton 85, is also included in this program.

The committee recommends that the authorization for the waste processing program be increased by $3 million, to investigate fully other options than subsurface disposal, including disposal in outer space. The committee wants to assure that these options are fully evaluated at this time before we commit ourselves to the subsurface option.

This section of the authorization bill includes a new item on domestic spent fuel storage. The deferral of nuclear fuel reprocessing has created a need for the development of facilities to store spent fuel "away from the reactor," or AFR, as it is being called. While the technology for the safe, temporary storage of spent fuel is known and widely practiced, it is important that facilities be available for plants that have exhausted their on-site storage capability, otherwise the plants would have to shut down.

The bill authorizes $3 million to prepare studies and assessments of the timing and the need for AFR storage, including the possibility of private sector storage facilities, and to assess some of the unique technology problems AFR storage may present.

Madam Chairman, the Committee believes that timely resolution of the uncertainties involved in nuclear waste management and disposal must be carried out if continued reliance on nuclear energy is to be possible. The current program, in combination with the program being carried out for military nucler waste management, appears to be dealing honestly with what has become a major public policy issue. The Committee will monitor carefully the progress made in this area to assure that the proper attention is paid to this important matter.●

● Mr. TEAGUE. Madam Chairman, the bill H.R. 12163, as amended, authorizes funding for fiscal year 1979 for those programs for the new Department of Energy which traditionally have fallen within the jurisdiction of the Committee on Science and Technology.

The funding in this bill is approximately $4.5 billion and encompasses such areas as conservation, solar energy, fuels from biomass, geothermal, fossil energy technologies, nuclear fission and nuclear fusion programs. The authorization request is $251 million over the President's request or a little under 6 percent growth.

Madam Chairman, this bill contains many excellent research and development endeavors that warrant this body's attention which are geared toward energy supply and conservation. It is important, Madam Chairman, to tell the House briefly about these urgently needed energy initiatives.

SOLAR ENERGY AND RELATED PROGRAMS

This area includes the vital photovoltaics, biomass, solar heating and cooling, industrial and agricultural applications, ocean thermal and wind energy programs that provide the potential for unlimited future energy supplies in years to come.

CONSERVATION

The committee considered the R. & D. aspects of primarily the automotive heat engine research effort and also the municipal waste to energy conservation grants to municipalities.

FOSSIL ENERGY

The key program areas of enhanced oil recovery, devonian shale gas, gas from geopressured brines were increased by our committee. Mr. Chairman, the potential energy supply of these advanced technologies is tremendous. For example, the potential for peat resources for the continental United States is approximately 700 quads which is 120.7 billion barrels of oil equivalent. The order of magnitude estimates for geopressured methane is 1,000 trillion cubic feet which is about 170–200 billion barrels of oil equivalent. Madam Chairman, you can see why we are so vitally interested in a vigorous R. & D. effort.

NUCLEAR FISSION

The committee is recommending the continued funding of the Clinch River breeder reactor project at Oak Ridge, Tenn. The committee is dedicated to the advancement of breeder reactor technology and was not persuaded that the project should be halted at this time. The bill contains other important R. & D. programs such as continuation of light water reactor technology which is geared to development of a more safe, more efficient fuel cycle. The committee has placed added emphasis on the areas of alternative fuel cycle technology studies to look at proliferation resistant fuels, and fully authorized the advanced uranium enrichment centrifuge effort and finally, civilian waste management and spent fuel disposal research and development. Madam Chairman, we on the committee are as interested in these areas as we are in breeder technology. The breeder reactor demonstration conceptual design study which President Carter had proposed as a substitute for the Clinch River process was rejected by a very narrow margin as an alternative to the Clinch River project.

NUCLEAR FUSION

Continuing, Madam Chairman, the committee established a new inertial confinement program—laser fusion—for civilian applications. There is some very exciting work taking place in this area as well as the more highly visible magnetic fusion area. This technology has the potential of providing a real alternative to nuclear fission technologies in the future. The committee initiative addressed the real need to attract strong individual players in the early phases of technology development. In the main-line magnetic fusion program the committee has provided some high leverage funding while sustaining a healthy level of research and technology base work. The total authorization is reduced here since major commitments to key facilities, the Tokamak fusion test reactor and mirror fusion test facility, were made in the fiscal year 1978 budget.

ENVIRONMENT

Finally, Madam Chairman, we have been and intend to continue to review the EPA R. & D. effort to assure they are not eliminating ab initio promising fossil fuel technologies without sufficient analyses and testing. Other environmental technology related issues such as LNG, NEPA, and environmental development plans and high voltage overhead transmission are also being addressed by the committee at this time.

Madam Chairman, let me say that I am very proud of our committee and our staff because of the long and difficult effort they have put into this bill. It is the product of many days of indepth hearings with many excellent witnesses from public and private groups as well as the Department of Energy. I am especially proud of the three subcommittees that devoted so much of their time on this legislation, and of their chairman, Hon. WALTER FLOWERS of Alabama from the Fossil and Nuclear Energy Subcommittee, Hon. MIKE MCCORMACK of Washington from the Advanced Energy Technologies and Energy Conservation Subcommittee, and Hon. GEORGE BROWN of

California from the Environment and Atmosphere Subcommittee.

These three men and their ranking minority members are to be complimented for their leadership under some very trying circumstances in perfecting the bill you have before you now. Let me tell you of some of the problems these men faced.

Chairman WALTER FLOWERS and most of the members of the subcommittee expressed dissatisfaction and frustration over the absence of any bold fossil initiatives to address the energy supply problem. This tone prevailed throughout the subcommittee hearing process and although generally supportive, the subcommittee was not satisfied about the rate of progress in the fossil energy programs.

As I said earlier, our committee took the initiative on coal solids and liquids last year. This year the committee is supporting major construction for large 250-ton-per-day pilot plants for the H coal and Exxon donor solvent liquefaction processes. We are also pleased that the SRC liquids process has had a successful run on its smaller 25-ton-per-day pilot. Prospects for a commercially viable coal liquids process depend on successful operations of these pilot plants so that scaling up to demonstration level is a less risky undertaking. There was no major news in the gasification demonstrations where design is proceeding on several options. The subcommittee expressed some concern about the "mortgage" connected with pilot plant activity—a single plant can cost $200 million—and the absence of evidence for tight management of certain pilot plants and demonstration projects. The subcommittee was pleased to see that the fossil energy division was committed to field delegation of project management and cited specific instances where they will locate project offices.

On the nuclear side, it became apparent that the top priortiy was resolving waste disposal problems. The second priority of the nuclear division was solving problems associated with light water reactor funding. The light water reactor technology program is made up of a variety of specific tasks such as developing decontamination techniques to improve utilization of light water reactor fuels, to improve light water reactor productivity and to enhance safety margins in light water reactors.

Madam Chairman, WALTER FLOWERS characterized the budget request for nuclear programs as the worst he could have expected. He was especially concerned about cutbacks in the breeder reactor programs and that waste management was put ahead of supply development in the agency priorities. In the area of fusion, the basic goal of both the laser and magnetic fusion programs is to find a controlled economic way to produce central station electricity by approximately the turn of the century. This program is very exciting and has much promise.

The Clinch River breeder reactor project remained a major issue with the committee and I will refrain from commenting further about that at this point since I am sure there will be much discussion during this debate on this lively topic.

MIKE MCCORMACK, serving as chairman of the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration was very busy looking at the many and varied programs dealing with conservation, solar, geothermal, fuels from biomass, hydroelectric power and basic energy sciences. I felt that MIKE and the members of his subcommittee were very disappointed at the amount of dollars planned for some of the new technologies. In the conservation area, an important underlying assumption of all energy conservation R.D. & D. projects if the presumed economics worth of the expected technology advance. Each program undertaken is projected to be economically competitive by the time the technology is commercialized, given the expected energy prices by then and the returns of competing investment opportunities. In addition, the development of new and more efficient energy technologies is expected to reduce future energy consumption and allow more time to develop energy supply technologies, thus reducing the threat of economic decline caused by high energy prices. You will hear more about this area later from the subcommittee.

The primary goal of the solar energy program within the McCormack subcommittee is to stimulate the development and introduction at an early date of economically competitive, environmentally acceptable solar energy systems. Again, Madam Chairman, you will hear a great deal about this area during the course of debate today, and I am sure you are going to be pleased with the progress being made by the department in this most important field.

GEORGE BROWN chairs the Subcommittee on Environment and the Atmosphere and held several days of hearings on the Department of Energy Environment Research and Development effort. The major thrust of the department's effort in this area is to assure that energy technologies are acceptable from an environmental, health, and safety standpoint through research and development activities in the areas of overview and assessment, environmental research, life sciences research, decontamination and decommissioning and light water reactor facilities. The subcommittee added some $28 million to this modest $295 million budget for fiscal year 1979 for these various areas. I am sure Mr. BROWN will speak to these increases later during the debate.

Madam Chairman, in summary, let me urge my colleagues to vote for passage of this bill and to continue to support the committee in dealing with these most important foundation R. & D. requirements for our energy future.

Now, Madam Chairman, I will insert here for the RECORD, a chronological list of the more than 50 meetings, in full committee and subcommittees that have gone into the preparation of this DOE authorization.

You will note that we had to coordinate our efforts with those of the Commerce and Interior Committees. I want to express our great appreciation for the cooperation of the chairmen and staffs of those committees during the weeks of our negotiations with them.

The jurisdictional matters which troubled all of us for a long time have now been largely resolved.

Madam Chairman, here is the list of our more than 40 committee and subcommittee sessions, from which our DOE authorizations have emerged in a form which the House can support.

Jan. 25, 1978—Full Committee hearing.

Jan. 26, 31—Fossil and Nuclear Energy Research, Development and Demonstration Subcommittee hearings.

Jan. 26, 27, 30—Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration Subcommittee hearings.

Feb.1, 2, 7, 8, 9—Fossil and Nuclear Energy Research, Development and Demonstration Subcommittee hearings.

Feb. 1, 2, 3, 6, 7, 8, 9, 14 15 21—Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration Subcommittee hearings.

Feb. 14, 15, 16—Environment and the Atmosphere Subcommittee hearings.

Feb. 15, 21, 22, 23—Fossil and Nuclear Energy Research, Development and Demonstration Subcommittee meetings (markups).

Feb. 22, 23—Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration Subcommittee meetings (markups).

Feb. 24—Advanced Energy Technologies and Energy Conservation Research, Development and Demonstration Subcommittee meeting (markup). Ordered bill, amended, reported to Full Committee.

Feb. 28—Environment and the Atmosphere Subcommittee meeting (markup). Ordered bill, amended, reported to Full Committee.

Mar. 1—Fossil and Nuclear Energy Research, Development and Demonstration Subcommittee meeting (markup). Ordered bill, amended, reported to Full Committee.

Mar. 14, 15, 21—Full Committee meetings (markup).

Mar. 22—Fossil and Nuclear Energy Research Development and Demonstration Subcommittee hearing.

Apr. 11—Full Committee meeting (markup).

Apr. 12—Full Committee meeting markup). Ordered clean bill to be introduced.

H.R. 12163—April 17, 1978.

Apr. 18—Full Committee meeting (markup). Ordered bill reported.

Apr. 19—Rules Committee hearing requested.

Apr. 20—Report filed in House H. Rept. 95-1078, Part 1.

Apr. 20—Sequentially referred to the Committee on Interior and Insular Affairs and the Committee on Interstate and Foreign Commerce for a period ending not later than May 15, 1978, for consideration of such provisions in title IV and in the remainder of the bill as fall within the jurisdictions of those committees under Rule X, Clause 1(j) and clause (1) (1), respectively.

May 15—Reported with amendments by the Committee on Interior and Insular Affairs, H. Rept. 95-1078, Part II.

May 19—Reported with amendments by the Committee on Interstate and Foreign Commerce, H. Rept. 95-1078, Part III.

July 11—Rules Committee hearing—Rule granted (one hour open).●

● Mr. FISH. Madam Chairman, I rise in support of the bill H.R. 12163 authorizing appropriations for the Department of Energy for fiscal year 1979 but in oppo-

sition to the committee's decision to continue the Clinch River breeder reactor for yet another year. Furthermore, I support the compromise amendment worked out between the committee leadership and the President on breeder research and development.

BACKGROUND

The Government is involved in the energy research and development business because we as a Nation face a massive task some time in the foreseeable future of moving from an oil and gas economy to one based on coal the so-called inexhaustible sources of energy: Solar energy, fusion energy, or as a last resort, fission energy. The stakes are immense; oil and gas still provide between two-thirds and three-quarters of the fuel used domestically, but each year of this decade our proven reserves of oil and gas has dropped. The question is not whether we need inexhaustible fuel supplies, but rather, when they will be needed and how they will be made available. We must require DOE to push forward the development of solar and related technologies as well as fusion in a timely innovative fashion.

Events of the past year both reemphasize the impending change of energy sources and indicate that we may have more time to make the change than we thought we had a few years ago when the only alternative committed to was an all-out nuclear fission development program. The need for action was underlined by a continuing decline in proven oil and gas reserves. Yet we saw some breathing room for devising a final solution develop when an unexpected glut appeared on the world oil market which, according to some sources, may last a decade and when a draft of the Department of Energy's Market Oriented Program Planing Study (MOPPS) predicted that substantially increased domestic production of gas from conventional and unconventional sources could result when natural gas prices reach the $2.50 to $3 per thousand cubic feet price range.

This breathing room has permitted your Science Committee to reassess its priorities. For the first time the committee this year is reporting a bill which spends more dollars on non-nuclear research and development than it does on nuclear fission research and development, a trend which I wholeheartedly support. This does not change the fact that civilian nuclear programs have been heavily supported for more than 20 years and have substantial momentum, but it does show the committee's recognition that the nonconventional potential sources of energy have a future as bright as nuclear fission. I am hopeful that this trend of enhanced funding of solar energy and other alternative technologies will continue and that the nuclear fission proportion of the budget will decline even further. The fruits of fission's past Federal support and its well-established base in the private sector should make it increasingly less dependent on Federal largesse.

Solar, by comparison, is a technology and an industry in its infancy. Solar companies are often small, on shoestring budgets, and in need of Federal assistance in helping push forward the technology and in increasing the public acceptance of it.

I was among those members of the Science and Technology Committee who urged the President in early April to commit himself to the development of alternate energy programs such as geothermal, solar and conservation at a funding level and during time frames which parallel the historical attention heaped on the young nuclear industry.

I was pleased that as part of his Sun Day's speech that Mr. Carter committed himself to an expanded role for solar and followed the lead of the Science Committee in calling for dedication of a larger proportion of the Federal energy research and development effort to these emerging technologies.

SOLAR, CONSERVATION AND RELATED PROGRAMS

The specific additions made by the committee in solar, conservation, and related programs are as follows. The committee added approximately $135 million to the solar program with significant increases in the solar heating and cooling demonstration program, solar heating and cooling research and development, photovoltaics, wind energy and the OTEC program. Major increases were also made to the fuels from biomass program, the geothermal program, the program to retrofit small dams for power production, and the heat engine research and development program. Additionally, the committee chose to extend the Solar Heating and Cooling Demonstration Act both for cooling and for combined heating and cooling for three additional years. Each of these changes will help the Department of Energy have a more balanced approach to the future.

I was especially pleased that provisions which I sponsored strengthening DOE's electric transmission R. & D. and municipal waste programs were added by the committee. A $2 million was added to expedite development and bring down costs of gas insulated cables and high voltage DC cables for underground transmission of electricity from powerplants, as a substitute for construction of additional overhead transmission lines. An additional $1.5 million will be spent for expanded work on the possible environmental effects of the electric fields associated with high voltage overhead transmission lines. A $20 million was included to fund last year's congressional initiative establishing grants, contracts, price supports, and cooperative agreements to demonstrate municipal waste reprocessing for production of fuel and energy intensive products.

This measure complements two important solar measures out of our committee which the House has passed overwhelmingly: The Solar Power Satellite Demonstration Act and the Solar Photovoltaic Research Development and Demonstration Act.

FUSION

Research on fusion energy, the other inexhaustible energy source meriting close congressional attention, is divided by the Department of Energy into two major programs, magnetic fusion and laser fusion. Although magnetic fusion receives significantly higher funding than laser fusion, both programs are gearing toward energy breakeven during the mid-1980's. At that point we will have the knowledge to make a rational decision concerning whether or not these technologies should be developed further and commercialized. Fusion may well be the technical long shot among the so-called inexhaustibles. However, at this point in our energy planning, we should continue a substantial push of these technologies since they may offer vast amounts of energy with a minimal impact on the environment. One significant move by the Science and Technology Committee this year was to create a civilian inertial confinement or laser fusion line item. To date, laser fusion has primarily been a weapons program with acknowledgment of long-term energy spinoffs. A civilian laser fusion program will permit the Department of Energy to dedicate earmarked funds to those aspects of laser fusion technology which are uniquely related to energy research and development and to give them the emphasis they need.

CLINCH RIVER

The committee's action on Clinch River prevents my otherwise wholehearted support of the fiscal year 1979 Energy R. & D. authorization. I believe the committee made a serious tactical error in including an even larger authorization request for Clinch River than President Carter vetoed last year, since the President has continually expressed his complete opposition to the Clinch River project. If the votes for passage of Clinch River over the President's veto existed, veto override would have been attempted last year. This year's close vote in favor of Clinch River in the Science Committee which approved the same position by a 2-to-1 margin last year shows that there is even less chance of overriding a Presidential veto this year than last. The total suspension of Clinch River licensing activity makes the Science and Technology's Committee's level of Clinch River funding totally unrealistic.

The President made a major concession when he offered to exchange a larger breeder plant design study for continued work on the single technology Clinch River breeder reactor program. This is further than I would like to go. However, the compromise keeps 90 percent of those who have been working on the Clinch River project working in breeder reactor design activities. We will be building on what has already been learned and on a base technology superior to the Europeans. The new design study would consider different breeder technologies and alternate fuel cycles to uranium-plutonium. Unlike Clinch River, this new design study should produce a plant with a much safer fuel cycle, with up-to-date design, and which is consistent with an international program of reducing proliferation risk. This compromise will preserve the most important ingredient of a successful

breeder program, the people who have accumulated expertise over the years, and will permit them to put their talents to use in a meaningful but standby effort which will in no way signal to the rest of the world that we have reversed our deep commitment to reducing the risk of the spread of nuclear weapons. If in fact, at the end of the study, the United States should find that breeder technology must be developed at an accelerated pace, little time in the commercialization schedule for breeder reactors will have been lost.●

● Mr. WALGREN. Madam Chairman, I rise today in support of H.R. 12163, the Department of Energy authorization for fiscal year 1979. The Committee on Science and Technology is to be commended for the important work which was done by its various subcommittees in the area of energy research and development. I also applaud the cooperation shown by Chairman TEAGUE of the Science Committee and Chairmen STAGGERS and DINGELL of the Interstate and Foreign Commerce Committee in resolving jurisdictional disputes between their two committees. As a member of each of these committees, I look forward to the continued cooperation of these committees in both the R. & D. and commercial aspects of our energy situation.

In his April, 1977 energy message, President Carter called for canceling the demonstration project for the liquid metal fast breeder reactor (LMFBR) and redirecting the Nation's nuclear reactor effort toward reinvestigation of other types of breeder reactors. Although the Science and Technology Committee disagrees with the President's position on the LMFBR, we do agree that further research into other breeder reactor concepts might prove valuable, and therefore support programs for the light water breeder (LWBR) and the gas cooled fast breeder (GCFR). For fiscal year 1979, the administration has requested $63 million for LWBR, an increase of $21.3 million over last year's appropriation, and $32 million for GCFR, double the fiscal year 1978 appropriation.

The LWBR is an advanced version of the type of nuclear powerplant now in commercial operation in this country. Last fall, the Nation's first experimental LWBR plant began operation at Shippingport, Pa., to determine the breeding potential of this type of reactor. I support this program, and the reductions in the LWBR budget request which are recommended here relate not to operation of the Shippingport facility, but rather to the advanced water breeder application (ABWA) project. ABWA is designed to develop and disseminate technical information about the LWBR to assist U.S. industry in evaluating LWBR technology. The Science Committee feels that it is premature to provide large amounts of funding for ABWA until the LWBR concept is proven. We therefore recommend a reduction of $5 million in operating expenses and $9 million in plant and capital equipment.

The reduction in operating expenses would still allow for maintaining the ABWA team at Bettis Atomic Power Laboratory through fiscal year 1979, and the Science Committee asked that a detailed management plan for ABWA be provided to Congress by September 1, 1978. The plant and capital equipment reduction of $9 million is the entire amount requested for an ABWA test and examination facility proposed for construction at Bettis. The Science and Technology Committee was not given any indication as to how this new facility would interface with existing facilities at the Idaho National Engineering Laboratory and, in fact, is concerned that some of the work planned for the new facility might duplicate work already being performed at the Argonne National Laboratory. These factors, coupled with the lack of hard knowledge about the potential for LWBR's and therefore the ABWA, suggest that there is no need for this facility at the present time.

The GCFR is an advanced version of the nonbreeding high-temperature gas-cooled reactor (HTGR) which has been in development for several years. The Science and Technology Committee agrees that research should continue into the GCFR concept, but at a pace consistent with the pace of the HTGR. We feel that funding the full amount requested by the administration for GCFR would prematurely accelerate that program, and therefore suggest a reduction of $6 million for operating expenses.

These programs have been carefully reviewed by the committee. I feel confident that this is a responsible action on our part and do not hesitate to ask for the support of my colleagues.

Madam Chairman, I also rise in support of the Science Committee's action to authorize $98,533,000 in appropriations for the DOE's coal gasification program. This major Federal effort consists of four important subprogram areas: (1) high-Btu coal gasification, (2) low- and medium-Btu gasification, (3) in situ or underground gasification, and (4) demonstration plants. Continued funding of these subprograms will help to develop and demonstrate processes for the economic manufacture of fuel gases from coal in an environmentally sound manner.

Over the last 15 years, industry and the Federal Government have joined hands to advance new technologies for gasifying coal. The program was extremely small when it started in the Office of Coal Research at the Department of the Interior. Soon after the oil embargo, the Federal effort grew rapidly and was transferred to ERDA. Now, DOE is continuing to nurture second and third generation processes toward eventual commercialization. The Department is advancing processes with lower cost potential from the research lab to pilot plants to demonstration scale facilities. Over the long run, these new processes will prove to be far superior to existing first generation technology.

In my remaining time, I wish to highlight a few aspects of DOE's coal gasification program.

We on the Committee on Science and Technology strongly support DOE's low- and medium-Btu gasification subprogram. This Federal effort responds to the need to develop efficient processes capable of producing gaseous fuel for use in our Nation's industries and utilities. DOE's program will also advance systems capable of converting coal into chemical feedstocks that are the basis of the U.S. petrochemical industry. As industry decreases its reliance on natural gas and fuel oil, the technological options being developed by DOE's program will become very important. DOE is investigating a wide variety of systems including: fixed bed gasifiers, pressurized systems, atmospheric entrained bed gasifiers, a combined cycle test facility, and a hydrogen from coal plant.

I strongly favor the committee's continued support of DOE's work on in situ or underground coal gasification technology. Using this process, coal is converted to synthetic fuels, with little or no mining required. Underground coal gasification is potentially capable of expanding—by three to four times—commercially usable coal reserves; reducing capital investments and gas costs compared to mining plus surface gasification. In addition, in situ processes are expected to use water of lesser quality and to result in less degradation of the air and land than conventional systems.

We should all be proud to note that major advances have already been made in converting coal to substitute natural gas at greater efficiencies than are possible using existing technology. By continuing to support this subprogram, we will hasten the day when the new technologies will be commercialized that may result in the decrease of the cost of the product gas by as much as 20 percent. The overall program goal is the construction of full-scale commercial plants in the 1980's.

I wish to call to your attention one example of a major advance achieved by the Federal high-Btu coal gasification subprogram.

For many years, the Federal Government has supported and nurtured the development of the HYGAS process, in which coal reacts directly with hydrogen-rich gases to produce methane, the major component of natural gas. This process is now considered one of the most advanced second generation systems. Its technical and economic feasibility have been evaluated and the process has been transferred to DOE's coal gasification demonstration subprogram for conceptual design. This significant accomplishment illustrates once again that the Federal Government can push technology forward.

The demonstration program, which was just mentioned, is another integral part of the Department's coal gasification program. The goal here is to demonstrate with commercial size equipment, processes that have been evaluated as superior through industry and Government research and development.

In addition to these efforts, I would like to bring to your attention a new initiative taken by the Committee on Science and Technology. The committee has added $4.5 million to operating expenses for initiation of pilot plant work to test the technology needed for the gasification of America's resources. Peat

is simply a young form of coal. You may be interested to learn that U.S. peat deposits contain roughly 1,440 quads of energy, which far surpasses our known and inferred reserves of conventional natural gas and petroleum that total only 800 quads. DOE's program should hopefully get peat gasification off the ground.

I urge your support of DOE's coal gasification program—a Federal effort designed to insure that the vast quantities of our coal deposits will be converted into an array of marketable products to fuel our industries, our utilities, and our homes.●

● Mr. MOORHEAD of Pennsylvania. Madam Chairman, the Department of Energy Authorization requests, now before the House for action, do not contain important financial incentive features proposed by the administration through its own authorization bill, H.R. 11137. I believe that the record of debate surrounding the legislative action we take today would be incomplete without our acknowledging the reasoning behind these significant omissions.

In its own request, filed on February 23, 1978, the administration proposed to revise its current loan guarantee authority through amendment of the 1974 act to permit the Secretary to utilize guarantee agreements and commitments for commercial-size facilities or other type operations in order to demonstrate the technical, economic, or environmental feasibility of a particular nonnuclear technology. In April my Subcommittee on Economic Stabilization opened hearings on this proposal and undertook extensive analysis of the differences and distinctions between the newly proposed authority contained in the administration bill and that already provided by the 1974 act and subsequent amendments made to it earlier this year. We also examined the use of guarantees in the context of the differing technologies to which they might be adapted as well as the appropriateness of guarantees for varying phases of development of new energy technologies.

Madam Chairman, our review pointed out a very definite need for a comprehensive examination of all Federal financial assistance policies with regard to the energy sector. That there is a clear need to seek answers to a number of very basic, but equally important, policy questions cannot be denied. First, we need to know much more about what incentives, financial or otherwise, can be expected to produce or can produce the required investments of the private sector in energy supplies and in energy conservation. There is a substantial gap in this field of public policy knowledge which must be plugged. Second, if some form of financial assistance is required, we need to know how it can be provided at the least cost to the American taxpayer and at the same time produce the greatest beneficial effect on energy supplies and conservation. We are sadly lacking in this particular capacity.

Our subcommittee chose not to adopt the administration's proposed changes in the current guarantee authority of the Department of Energy. From the outset of our hearings it was clear that the scope of the authority contained in the earlier enacted 1978 legislation and that sought in the 1979 request was different and involved far greater at this time without a great deal more information and experience upon which to base them. The subcommittee believed it a more reasoned course to follow to consider the need for the proposals in the context of the administration's overall national energy supply strategy (NESS) over the next several months. We hope we can help provide the Department and other concerned congressional committees the benefit of our experience in dealing with various forms of Federal financial assistance. It has been the continuing responsibility of the Subcommittee on Economic Stabilization to keep a watchful eye on all aspects of the Nation's economic health. We have been most concerned with those Federal policies which affect credit allocation, particularly regarding the means by which the Federal Government proposes to provide financial assistance to the energy sector of our economy.

It is in this spirit that I offer these remarks and assure my colleagues of my determination to press for a far greater degree of understanding of the complexities of this area of national public policy.●

The CHAIRMAN. Does the gentleman from Arizona desire to yield time?

Mr. UDALL. Madam Chairman, I yield back the balance of my time.

Mr. DINGELL. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from New York (Mr. WYDLER) has used all of his time.

The gentleman from Louisiana (Mr. MOORE) yields back the balance of his time.

Mr. TEAGUE. Madam Chairman, I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, the Clerk will now read by titles instead of by sections, the amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of June 23, 1978, by Representative FUQUA of Florida as an original bill for the purpose of amendment in lieu of the amendments now printed in the original bill.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in accordance with section 261 of the Atomic Energy Act of 1954 (42 U.S.C. 2017), section 305 of the Energy Reorganization Act of 1974 (42 U.S.C. 5875), section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5915), and section 660 of the Department of Energy Organization Act (42 U.S.C. 7270), there is hereby authorized to be appropriated to the Department of Energy for the fiscal year 1979, for energy research and development and related activities, the sum of the following amounts:

TITLE I—ADVANCED ENERGY TECHNOLOGIES AND ENERGY CONSERVATION RESEARCH AND DEVELOPMENT, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 101. For "Operating Expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

(A) Energy supply:

(1) Solar energy, $375,300,000, including $23,000,000 for heating and cooling demonstrations, and operating expenses for the following projects:

(a) 150 kilowatt irrigation system, Coolidge, Arizona, $500,000;

(b) Solar thermal electric project, Large Scale Experiment No. 1, Fort Hood, Killeen, Texas, $3,800,000;

(c) Solar thermal electric project, Large Scale Experiment No. 2, Shenandoah, Georgia, $6,230,000;

(d) Small power experimental station No. 1, $5,000,000;

(e) Total energy photovoltaics conversion system, Mississippi Community College, $500,000;

(f) MOD 2—megawatt scale wind system, 90 meter diameter, $10,600,000;

(g) MOD 3—megawatt scale wind system, design and development, $2,800,000;

(h) MOD 4—kilowatt scale wind system, design and development, $1,300,000;

(2) Fuels from biomass, $44,300,000, and operating expenses for the following projects:

(a) Biomass utilization system, 50 MW wood-fueled generating plant, Lincoln, Maine, $5,000,000;

(b) Biomass silviculture experiment, $800,000;

(c) Advanced system experiment for thermochemical gasification of biomass, $2,000,000;

(3) Geothermal energy, $119,675,000, and operating expenses for the following projects:

(a) 40 MW thermal loop/pilot plant, Raft River, Idaho, $2,400,000;

(b) Geothermal loop experimental facility, Niland, California, $2,000,000;

(c) Liquid dominated electrical power demonstration plant, 50 MWe, design and long lead procurement, $7,500,000;

(d) Wellhead generator, design fabrication and installation, Geothermal Project Development Group, Hawaii, $1,300,000;

(e) Direct application of geothermal heat to industrial processes and space conditioning, several projects, $9,825,000;

(4) Hydroelectric power, $6,000,000;

(5) Basic energy sciences, $151,200,000.

(B) Energy conservation, $382,768,000, including $15,700,000 for industrial cogeneration related to new technologies and applications, and operating expenses for the following projects:

(1) 4.8 MW fuel cell power plant, design, develop, and fabricate, $5,500,000;

(2) Fluid bed combustor for urban waste, $300,000;

(3) Activated carbon sludge digestion pilot plant, $345,000;

(4) Waste oil refining facility, Bartlesville, Oklahoma, $1,200,000;

(5) Fuel cell feasibility demonstration for electric power generation and cogeneration of usable steam and electric power (subject to section 103), $25,000,000.

(C) High energy physics, $191,595,000, and operating expenses for the following projects:

(1) Zero Gradient Synchrotron, decommissioning, Argonne National Laboratory, $1,300,000;

(2) Modifications to 5 meter bubble chamber, high voltage distribution, cryogenics, beam controls and additional shielding, Fermi Laboratory, $5,050,000;

(3) Upgrading Alternating Gradient Synchrotron, Brookhaven National Laboratory, $1,055,000.

(D) Nuclear physics, $74,900,000.

(E) Advanced technology and assessment projects, $10,500,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 102. For "Plant and Capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construc-

tion, a sum of dollars equal to the total of the following amounts:

(a) FISCAL YEAR 1979 PROJECTS.—

(1) Solar:

(A) Project 79-1-m, engineering test facility vessel modifications, $24,200,000.

(B) Project 79-1-n, tropic ocean grazing pilot plant (A-E only), $10,000,000.

(2) Basic Energy Sciences:

(A) Project 79-1-k, intense pulsed neutron source-I, Argonne National Laboratory, Illinois, $6,400,000.

(3) High Energy Physics:

(A) Project 79-9-a, Hadron bubble chamber facility, Fermilab, Illinois, $2,200,000.

(B) Project 79-9-b, energy saver/doubler, Fermilab, Illinois, $50,000,000.

(C) Project 79-9-c, five protection improvements, Brookhaven National Laboratory, $1,300,000.

(D) Project 79-9-d, accelerator improvements and modifications, various locations, $4,500,000.

(4) Nuclear Physics:

(A) Project 79-9-e, accelerator improvements and modifications, various locations, $1,500,000.

(b) PRIOR YEAR AUTHORIZATIONS.—

(1) There is authorized an additional sum of $24,250,000 for the ten megawatt central receiver solar thermal pilot plant, Barstow, California (project 76-2-b), authorized by section 101(b)(2) of Public Law 94-187 (for a total project authorization of $71,500,000).

(2) There is authorized an additional sum of $10,600,000 for the program support facility, Argonne National Laboratory (project 78-19-a), authorized by section 102(a)(12)(C) of Public Law 95-238 (for a total project authorization of $15,600,000).

(3) There is authorized an additional sum of $92,000,000 for the proton-proton intersecting storage facility, Brookhaven National Laboratory (project 78-10-b), authorized by section 102(a)(8)(B) of Public Law 95-238 (for a total project authorization of $102,500,000).

(c) Capital equipment not related to construction, $77,800,000.

SEC. 103. (a) The amount authorized for a fuel cell feasibility demonstration for cogeneration of steam and electric power under section 101(B)(5)—

(1) shall not be available for such demonstration until, (A) the Secretary of Energy has delivered to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, no later than ninety days following the enactment of this Act, a plan for the feasibility demonstration of fuel cell technology, and (B) each such committee has found such plan to be acceptable and in accord with the requirements of subsection (b); and

(2) the authorization of such sums shall be terminated, and no further obligation of the funds appropriated pursuant thereto shall be entered into (except for necessary termination costs), if twelve months following the enactment of this Act, the establishment of a broad based utility commitment to the feasibility demonstration, such commitment being either by cost sharing or procuring a substantial (for example, 500 megawatts) aggregate megawatts for the demonstration, has not been legally documented. The Secretary of Energy is responsible for the certification of this commitment and will report such certification of the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. Such committees will have thirty days (not including any day on which either House of Congress is not in session because of an adjournment of more than three calendar days to a day certain) to reject this certification; otherwise it is to be considered accepted.

(b) To be found acceptable under subsection (a) the feasibility demonstration plan—

(1) must contain recognition that cogeneration is a major part of the feasibility demonstration and preference shall be given to a company industry, industrial group, utility, or State willing to demonstrate the cogeneration of electric power and steam rather than electric power alone;

(2) must include demonstration alternatives representing different levels of Federal cost sharing and the establishment of a single project management authority for the demonstration;

(3) must provide for, in addition to major cost sharing by all parties of interest, an approach to reducing the Federal share of the demonstration cost as utility, industrial, or State aggregate participation is increased above the 500 megawatt level;

(4) must contain a requirement for the establishment of a well-documented financial base line so that an audit basis will be available to indicate past utility, industrial, and Federal contributions to fuel cell technology development, including current depreciated status of fuel cell capital equipment; and

(5) must call for a series of studies which examine the following:

(A) the cost and benefit of first generation fuel cells using petroleum fuels against remote generation and power transmission,

(B) the market for first and second generation fuel cells, and

(C) the data needs from the demonstration for all parties including public information on the fuel-cell demonstration.

(c) The Fuel Cell Feasibility Demonstration Plan for cogeneration of steam and electric power, which accepted according to subsections (a) and (b), shall be considered as basic guidance for the demonstration contracts when written.

TITLE II—FOSSIL AND NUCLEAR ENERGY RESEARCH AND DEVELOPMENT, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 201. For "Operating Expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

(a) Fossil energy:

(1) Coal, $543,177,000: Provided, That at least 5 per centum of the amount appropriated for magnetohydrodynamics shall be expended for closed cycle technology.

(2) Oil and gas, $111,450,000.

(3) Oil shale, $29,350,000.

(b) Nuclear energy:

(1) Light water reactors:

(A) Light water reactor technology, $23,900,000 of which $4,000,000 of the funds appropriated under this subparagraph shall be available for safety enhancement.

(B) Other programs, $50,191,000.

(2) Civilian waste management and spent fuel disposition, $158,100,000.

(3) Liquid metal fast breeder reactor, $465,301,000.

(4) Other advanced reactor concepts:

(A) Gas cooled thermal reactors, $37,000,000.

(B) Nuclear Energy Assessment, $6,300,000.

(C) Other programs, $67,900,000.

(5) Alternate fuel cycle concepts, $66,850,000.

(6) Magnetic fusion, $240,900,000.

(7) Inertial confinement fusion (civilian applications), $8,800,000.

(8) Nuclear science, $28,400,000.

(9) Space nuclear applications, $39,400,000.

(10) Advanced technology and assessment projects, $10,500,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 202. For "Plant and Capitol equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(a) Fiscal year 1979 projects:

(1) COAL.—

(A) Project 79-1-a, Morgantown Energy Research warehouse building, Morgantown, West Virginia, $350,000.

(2) BREEDER REACTOR DEVELOPMENT.—

(A) Project 79-1-b, modifications to reactors, $4,000,000.

(B) Project 79-1-c, security improvements, Richland, Washington, $12,000,000.

(C) Project 79-1-d, second power tie line, Idaho National Engineering Laboratory, $2,600,000.

(D) Project 79-1-e, five protection improvements, various locations, $3,100,000.

(E) Project 79-1-f, radioactive waste treatment facility, Idaho National Engineering Laboratory, $2,000,000.

(F) Project 79-1-g, test area north radioactive waste storage and transfer system, Idaho National Engineering Laboratory, $1,000,000.

(G) Project 79-1-h, maintenance and storage facility, Richland, Washington, $16,700,000.

(3) PROGRAM MANAGEMENT AND SUPPORT.—

(A) Project 79-4-b, heating, ventilating and air-conditioning heat recovery, Richland, Washington, $4,000,000.

(b) Prior Year Authorizations:

(1) There is authorized an additional sum of $19,000,000 for the low British thermal unit fuel gas small industrial demonstration plants, sites undetermined (project 78-2-c), authorized by section 102(a)(2)(C) of Public Law 95-238 (for a total project authorization of $25,000,000).

(2) There is authorized an additional sum of $40,000,000 for the high British thermal unit synthetic pipeline gas demonstration plant (project 76-1-b), authorized by section 101(b)(1) of Public Law 94-187 (for a total project authorization of $95,000,000).

(3) There is authorized an additional sum of $12,400,000 for the breeder reactor integrated prototype equipment test facility, Oak Ridge National Laboratory, Tennessee (project 78-5-b), authorized by section 102(a)(4)(B) of Public Law 95-238 (for a total project authorization of $15,400,000).

(4) There is authorized an additional sum of $45,000,000 for the facilities for the national waste terminal storage program, site undetermined (project 78-5-a), authorized by section 102(a)(4)(A) of Public Law 95-238 (for a total project authorization of $55,000,000).

(5) There is authorized an additional sum of $4,000,000 for the safety research experimental facility, Idaho National Engineering Laboratory, Idaho (A-E and long-lead procurement only) (project 78-6-c), authorized by section 102(a)(5)(C) of Public Law 95-238 (for a total project authorization of $24,100,000).

(6) There is authorized an additional sum of $5,000,000 for the experimental breeder reactor II modification, Idaho Falls, Idaho (A-E and selected long-lead procurement only) (project 78-6-d), authorized by section 102(a)(5)(D) of Public Law 95-238 (for a total project authorization of $8,100,000).

(7) There is authorized an additional sum of $5,600,000 for the liquid metal engineering center facility modifications, Santa Susana, California (project 78-6-e), authorized by section 102(a)(5)(E) of Public Law 95-238 (for a total project authorizing of $9,600,000).

(8) There is authorized an additional sum of $5,000,000 for the high performance fuel laboratory, Richland, Washington (A-E and long-lead procurement only) (project 77-4-c), authorized by Public Law 95-39 (for a total project authorization of $11,500,000).

(c) Project 79-6, general plant projects, $43,235,000.

(d) Capital equipment not related to construction, $112,701,000.

SEC. 203. Public Law 95-39 is amended by striking out all the authorization for project 77-1-b (for a high Btu pipeline gas demonstration plant, $10,000,000) contained in section 102(a)(1)(B).

SEC. 204. (a) In order to redirect and reorient the Nation's breeder program by evaluating designs for a larger advanced fission facility through conceptual planning, conceptual studies, systems studies, and systems design, and to give the program the direction needed to maintain a strong breeder option, the Secretary shall conduct a study examining in detail variants of the uranium/plutonium cycle (including the CIVEX process) and the uranium/thorium cycle, with planning for each of these cycles taking into consideration both the pool and loop designs as well as a system involving aspects of both pool and loop design, and with adequate support facilities permitting the development and testing of components geared toward an advanced fission facility: *Provided*, That the Secretary shall furnish to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources a progress report on this study commencing one year after the date of the enactment of this section and each succeeding six months thereafter, with the final report by the Secretary on this study being transmitted to such committees no later than March 31, 1981.

(b) There is hereby authorized to be appropriated for the fiscal year 1979 the sum of $35,000,000 to carry out subsection (a).

TITLE III—ENVIRONMENTAL RESEARCH AND DEVELOPMENT AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 301. For "Operating Expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

(1) Overview and assessment, $60,000,000, of which $1,000,000 shall be made available for the Water Resources Council to carry out the provisions of section 13 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5912).

(2) Environmental research, $143,498,000.

(3) Life sciences research, $39,700,000.

(4) Decommissioning and decontamination, research and development, $14,990,000.

(5) Funds to carry out provisions of section 11 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5910), in the amount of $500,000 for the Environmental Protection Agency.

PLANT AND CAPITAL EQUIPMENT

SEC. 302. For "Plant and Capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(1) ENVIRONMENTAL RESEARCH AND DEVELOPMENT.—

(a) Fiscal year 1979 projects:

(A) Project 79-3-a, modifications and additions to environmental research facilities, various locations, $4,000,000.

(B) Project 79-3-b, modification to pion biomedical facility of the Clinton P. Anderson Mason Physics Facility, Los Alamos Scientific Laboratory, $440,000.

(C) Project 79-3-c, environmental and energy technology facility, Pacific Northwest Laboratory, Richland, Washington, $2,000,000.

(b) Capital equipment not related to construction, $16,450,000.

TITLE IV—OTHER ENERGY RESEARCH AND DEVELOPMENT, AND RELATED ACTIVITIES

OPERATING EXPENSES

SEC. 401. For "Operating Expenses", for the following programs, a sum of dollars equal to the total of the following amounts:

(A) ADVANCED ENERGY TECHNOLOGIES AND ENERGY CONSERVATION.—

(1) Energy Supply:

(a) Solar Energy:

Solar heating initiatives (passive and active systems), $18,000,000.

(2) Energy Conservation:

(a) Building systems performance standards, $10,000,000,

(b) Community energy utilization implementation, $2,052,000,

(c) Oil heat efficiency improvement (field testing and marketing), $2,000,000,

(d) Technology of insulating materials for buildings, $315,000,

(e) Building and community system analysis and technology transfer, $2,800,000,

(f) Appropriate technology small grants program, $10,000,000.

(B) FOSSIL AND NUCLEAR ENERGY.—

(a) Nuclear Energy:

(1) Light water reactors:

(i) U-235 process development, $72,300,000,

(C) ENVIRONMENT.—

(1) Decommissioning and decontamination remedial action, $8,510,000.

(D) ALL OTHER PROGRAMS.—

There is authorized to be appropriated for policy and management functions a sum of dollars equal to the following amounts:

(1) The Assistant Secretary for Energy Technology, $29,365,000;

(2) The Assistant Secretary for Conservation and Solar Applications, $6,395,000;

(3) The Assistant Secretary for Environment, $7,560,000;

(4) Department of Energy Operations Offices, $42,180,000;

(5) Department of Energy Special Project Offices, $3,108,000;

(6) Office of Energy Research, $3,630,000;

(7) Section 91 of the Atomic Energy Community Act of 1955 (24 U.S.C. 2391), $9,057,500;

(8) Special foreign currency, $2,000,000;

(9) Energy Inventions Evaluation, $2,200,000;

(10) Management and Support, Office of the Comptroller, including $10,000,000 for project 79-5, $43,942,000.

PLANT AND CAPITAL EQUIPMENT

SEC. 402. For "Plant and Capital equipment", including construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction, a sum of dollars equal to the total of the following amounts:

(a) FISCAL YEAR 1979 PROJECTS.—

(1) Uranium Enrichment:

(A) Project 79-2-d, technology test facilities, various locations (A-E and long-lead procurement), $7,000,000.

(2) All Other Programs:

(A) Project 79-4-a, modifications for energy management, various locations, $25,000,000.

(b) Capital equipment not related to construction:

(1) process development, $4,700,000.

(2) decontamination and decommissioning, $200,000.

SEC. 403. The Administration is authorized to start any civilian research and development project set forth in section 402(a) only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

TITLE V—GENERAL PROVISIONS

SEC. 501. (a) The Administration is authorized to start any project set forth in sections 102(a), 202(a), and 302, only if at the time the project is started the then currently estimated cost does not exceed by more than 25 per centum the estimated cost set forth for that project; and the total cost of any such project shall not exceed the estimated cost set forth for that project by more than 25 per centum (if such estimated cost was $5,000,000 or more) unless and until appropriations covering such excess are authorized.

(b) The Administration is authorized to start any project under section 202(d) only if the maximum currently estimated cost of such project does not exceed $750,000 and the then maximum currently estimated cost of any building included in the project does not exceed $300,000; and the total cost of all projects undertaken under such section shall not exceed the estimated cost set forth in such section by more than 10 per centum.

SEC. 502. Section 6 of the Federal Nonnuclear Energy Research and Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(d) In order to expedite development of the comprehensive plan mandated under subsection (a), the Assistant Secretary for Environment shall collect all appropriate information concerning federally sponsored energy-related environmental, health, and safety research for inclusion in the Inventory of Federal Energy-Related Environment and Safety Research. All Federal agencies shall provide the requested information.".

SEC. 503. (a)(1) Section 11(a) of the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577) is amended—

(A) by striking out "and" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(3) the adequacy, applicability, and effectiveness of the environmental control technology development and research programs in meeting environmental standards and regulations administered by the Environmental Protection Agency.".

(2) Section 11 of such Act is amended by adding at the end thereof the following new subsections:

"(e) The Administrator of the Environmental Protection Agency shall prepare and submit an annual report to the Congress concerning his findings under subsection (a)(3) along with recommendations for improvements in the management and conduct of research, development, and demonstration related thereto, and a priority listing of additional needed research.

"(f) For the purpose of implementing this section, the Secretary of Energy shall actively make available to the Administrator of the Environmental Protection Agency all information on the environmental control technology research and development activities and development activities and programs of the Department.".

(3) Section 11 of such Act is further amended by striking out "Council on Environmental Quality" each place it appears and inserting in lieu thereof "Administrator of the Environmental Protection Agency", and by striking out "the Administrator" in subsection (d) and inserting in lieu thereof "the Secretary of Energy".

(b) The Secretary of Energy shall annually review the research activities of the Environmental Protection Agency. Such annual review shall evaluate the adequacy, applicability, and priority of such Environmental Protection Agency research activities in relation to the environmental control technology research, development, and demonstration needs of the Department of Energy, and recommended improvements in the management and conduct of such activities as they relate to the energy research, development, and demonstration responsibilities of the Department. Such review shall be consistent with the goals and principles of the Federal Nonnuclear Energy Research and Development Act of 1974. Such review shall be trans-

mitted to the Congress, as part of the annual report pursuant to section 15 of the Federal Nonnuclear Energy Research and Development Act of 1974, and made available to the Environmental Protection Agency.

SEC. 504. (a) Section 111 of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new subsection:

"(j(1) Beginning with fiscal year 1980 with respect to Department of Energy civilian research and development programs, for purposes of the President's annual budget submission and of related reports submitted by the Secretary of Energy to the House Committee on Science and Technology and to the Senate Committee on Energy and Natural Resources each plant and capital equipment construction project shall be assigned or reassigned to one of the following categories:

"(A) Category I: All construction projects having a total estimated cost of $5,000,000 or more. Each such project shall be set forth by name, location, total estimated cost, and outlays for pertinent fiscal years. Appropriate documentation shall also be provided.

"(B) Category II: All construction projects having a total estimated cost between $1,000,000 and $5,000,000. These projects may be combined into one item. Accompanying documentation shall include the name, location, description, and total estimated cost of each project. By October 31 of each year, the Secretary shall issue a report to the Committee describing all changes in funding among these projects.

"(C) Category III: All general plant construction projects having a total estimated cost up to $1,000,000. These projects may be consolidated into one item.

"(D) Category IV: The architect and engineering phase for construction projects may be combined into one item. Accompanying documentation shall include description by subprogram of the effect, purpose, and estimated cost of such planning and design.

"(2) The following definitions shall apply for purposes of this subsection:

"(A) 'Total estimated cost' of a construction project is defined as the most current estimate of the cost which will be borne by the United States Government of all activities ultimately constituting a part of the total construction project.

"(B) 'Construction project' is defined as the planning, design, construction, or modification of Department of Energy civilian research and demonstration facilities including buildings, test facilities, pilot and demonstration plants, wells (other than for test purposes), processing and reprocessing plants, and pipelines plus related grounds and improvements. Facilities uniquely related to a larger construction project may be combined with that project. Furthermore, for categories II and III, construction projects combined into one item must be a complete project including all collateral equipment.

"(C) 'Plant and capital equipment' shall include all construction projects: *Provided*, That those construction projects having a total estimated cost of $500,000 or less may be funded from operating expenses. However, operating expenses may not be used to supplement active plant and capital equipment construction projects.".

(b) Section 111(d) of such Act is amended by adding at the end thereof the following new paragraph:

"(3) As used in this subsection, the term 'program' includes any of the categories listed in subsection (j)(1), and any construction project included in category I as described in subparagraph (A) of such subsection: *Provided*, That if the current total estimated cost of any construction project in category I exceeds the estimated cost set forth in the project by more than 25 per centum, such funds may be acquired from other category I projects upon written notice to the House Committee on Science and Technology and to the Senate Energy and Natural Resources Committee."

SEC. 505. (a) In carrying out the programs for civilian energy research and development, the Secretary shall provide a realistic and adequate opportunity for small business concerns to participate in such programs to the optimum extent feasible consistent with the size and nature of the project and activities involved.

(b) At least once every six months, or upon request, the Secretary shall submit to the appropriate committees of the House of Representatives and the Senate a full report on the actions taken in carrying out subsection (a) during the preceding six months, including the extent to which small business concerns are participating in the programs involved and in projects and activities of various types and sizes within each such program, and indicating the steps currently being taken to assure such participation in the future.

SEC. 506. Nothing in titles I, II, and III of this Act shall be construed to authorize the appropriation or use of funds for any purpose other than energy research and development.

TITLE VI—AMENDMENTS TO THE SOLAR HEATING AND COOLING DEMONSTRATION ACT OF 1974

SEC. 601. Section 2(b) of the Solar Heating and Cooling Demonstration Act of 1974 is amended by striking out "development and demonstration within a five-year period" and inserting in lieu thereof "development and demonstration within an eight-year period".

SEC. 602. Section 19(c) of the Solar Heating and Cooling Demonstration Act of 1974 is amended by inserting after "aggregate" the following: "and for the three succeeding fiscal years such sums as may hereafter be authorized in annual authorization Acts,".

SEC. 603. The Secretary of Energy and the Secretary of Housing and Urban Development shall make such modifications in the comprehensive program plan prepared and transmitted under section 7 of the Solar Heating and Cooling Demonstration Act of 1974 as may be necessary or appropriate to reflect the amendment made by the first section of this title, and shall transmit the plan with such modifications to the President and to each House of Congress within one hundred and twenty days after the date of the enactment of this title.

Mr. TEAGUE (during the reading). Madam Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS:

On page 10, lines 16 and 17, strike the amount "$465,301,000" and substitute in lieu thereof "$306,401,000."

On page 14, line 17, strike the words beginning on line 17 through page 15, line 16, and insert in lieu thereof the following:

"SEC. 204. (a) Section 106 of Public Law 91–273, as amended, is further amended by adding at the end thereof the following new subsection:

"(d)(1) With respect to the Clinch River Breeder Reactor Project, the Secretary of Energy is authorized and directed only to complete systems design and to complete and test such selected components as are necessary and appropriate for the purposes of paragraphs (2) and (4) of this section.

(2) The Secretary shall conduct a conceptual design study on an advanced breeder reactor facility utilizing the uranium/plutonium and uranium/thorium fuel cycles. Such study shall use conceptual planning and systems design studies to serve as the design basis for a large demonstration facility, and shall address such factors as size and cost of such a facility, as well as generic, environmental, technical, and safety issues.

(3) The Secretary shall furnish to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources progress reports on the study described in paragraph (2) commencing one year after the date of enactment of this section and each succeeding six months thereafter. The final report by the Secretary on the study shall be transmitted to the said committees no later than March 31, 1981. Such final report shall include recommendations with regard to conceptual plant design, and timing for such a facility (including estimates of time necessary to definitize design, license, construct and place such a facility in operation), and estimates of plant costs. The report shall also include a discussion of possible alternatives for industry and utilities involvement in definitive design, construction and operation of a large plant.

(4) The Secretary shall also prepare a detailed program plan for the Liquid Metal Fast Breeder Reactor Base Technology Program with particular emphasis on the sodium components development and test program, which integrated program plan shall be transmitted to the Congress contemporaneously with the final report required under paragraph (3)."

(b) The Secretary of Energy is hereby directed to take such action with respect to contractual instruments entered into in connection with the Clinch River Breeder Reactor Project as in his judgment are necessary or appropriate to carry out section 106 of Public Law 91–273, as amended by subsection (a) of this section.

(c) There is authorized to be appropriated for Fiscal Year 1979 the sum of $55,000,000 to carry out this section and in addition the unexpended portion of any appropriations heretofore made for the Clinch River Breeder Reactor Project is authorized to be available instead to carry out the purposes of this section, as provided for in appropriation acts.".

PARLIAMENTARY INQUIRY

Mr. WYDLER. Madam Chairman, a parliamentary inquiry: What is the bill that is actually before the Committee at the present time? Are we on the substitute bill?

The CHAIRMAN. We are on the amendment offered by the gentleman from Florida (Mr. FUQUA), which is made in order by the rule.

Mr. FLOWERS. I would say to my friends and colleagues, Madam Chairman, that the amendment is self-explanatory. In looking over this large and distinguished audience of Members and staff members who are working on this bill today, I do not see anybody who looks to me as though they have failed to make up their minds. and I hesitate to go into great detail here.

This is, for want of better words, the so-called Flowers amendment. All of the arguments that I am going to hear shortly against it I have made myself in years gone by. I think I can anticipate each and every one of them.

Let me say in synopsis, that I think that this amendment or something closely akin to the amendment is the very best that the Congress is going to come out with in dealing with the administration on the breeder reactor pro-

gram technology. That is why I recommend it to the Members of the House.

I want to see this move forward and not stay in the manner it has for about a year now. We passed last year, with a whole lot of luck, an $85 million appropriation for the Clinch River program. All it has done has been to keep a large number of people in place, but there is really nothing going forward, there is no construction going on, there is no activity going on at the site. We need to get moving to give us that option down the road so that we can decide whether or not to go ahead with the breeder commercially. At the rate we are going we will never have that option.

I hope the majority of the Members will join me in this effort.

Mr. BROWN of California. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I am happy to yield to the gentleman from California.

Mr. BROWN of California. Madam Chairman, I rise to attest to the hard work that the gentleman from Alabama (Mr. FLOWERS) has put in in constructing this compromise amendment. As indicated, this is a true compromise in that it does not completely satisfy either side of the ideological fight, the antinuclear or antibreeder forces feel that it goes much too far in continuing the breeder technology program and those, of course, who feel that the country is in danger because of a shortage of nuclear energy are not happy with the 30-month delay which is proposed in this compromise.

I think that, if anything, demonstrates that it is a valid compromise and one which as the gentleman says, will keep us moving and end the stalemate, and evenutally give us the best program that we can get in the interest of the Nation.

I thank the gentleman.

Mr. FLOWERS. I thank my friend for his comments. Let me carry on this colloquy a little bit further with the gentleman from California, who has worked with us in developing this compromise. I appreciate his good work, too. I will ask the gentleman from California (Mr. BROWN) does he not think that this is, as he says, a true compromise in which at the appropriate report-back time in 1981 that is specified in the amendment the administration will be required to take action?

Mr. BROWN of California, If the gentleman will yield further, there is no question but what the administration is required to take action at that time when the report is issued, and the Congress, of course, will participate, I presume, at that time.

Mr. FLOWERS. And that the Congress will have an option as to whether to go with the administration recommendation or to take another route that will be a part of the report that will come back in March 1981?

Mr. BROWN of California. That is exactly the case.

Mr. FLOWERS. And that is the purpose of this amendment.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

I think it just should be made clear that when the gentleman says the administration will be forced to take action, the only action they will be forced to take is to make a decision whether they are going to do anything. If they decide not to do anything, that is the action they will take, and we would be nowhere.

Mr. FLOWERS. No. The action they would be forced to take is to go to work and give us this in-depth study that we will be able to move on. It is my hope and my belief personally that the report that we will get back in March 1981 will have a program for a breeder reactor demonstration project that will make sense, and it will have administration backing, because I believe that the facts are there. Maybe it will be a better project than Clinch River could ever be. I would hope so. As I said earlier, it is imperative, in my judgment, that we move forward on breeder-based technology.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BROWN of California, and by unanimous consent, Mr. FLOWERS was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to my friend, the gentleman from Pennsylvania, who, I might say, Madam Chairman, has been a stalwart on the subcommittee on which I have had the privilege of serving, and I have certainly enjoyed working with him these last couple of years.

Mr. GARY A. MYERS. I thank the gentleman for yielding and thank him for his comments.

If I recall the gentleman's "Dear Colleague" letter correctly, he indicated in there the effect of his amendment was not to deauthorize Clinch River but that it would remain authorized during this period of study, and because of the uncertainty about that, I would just like to have the gentleman address that question.

One of the concerns that I think the gentleman from New York (Mr. WYDLER) and I obviously have is that if we deauthorize a project which is only living now simply because it was able to sustain a veto on the ruling of GAO, we will face a situation in which to reauthorize a LMFBR demonstration project would perhaps take the ability to amass a two-thirds vote in the House and Senate, because if the administration, after a study—regardless of the evaluation of the study—were to have an attitude that was counter to the majority of the opinion of the House and Senate, it would continue to block the essential demonstration of this technology. That is one of the major concerns I have.

I am not certain I can support the gentleman's amendment even if he allays those fears, but I do think it is important to the House for an explanation in that particular area.

Mr. FLOWERS. Let me say to the gentleman, I think we are playing with words here. My amendment adds, after striking some language, in section 204 (d) (1) the following:

With respect to the Clinch River breeder reactor project the Secretary of Energy is authorized and directed only * * *.

In other words, it is picking out only what the Secretary is authorized and directed to do with and to the Clinch River breeder reactor project. It relates to a specific project. In my judgment, this does not deauthorize the project. Let me say quickly again that we are playing with words here.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. FLOWERS) has expired.

(At the request of Mr. GARY A. MYERS, and by unanimous consent, Mr. FLOWERS was allowed to proceed for an additional 2 minutes.)

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Madam Chairman, I would like the gentleman to continue on this line.

Mr. FLOWERS. Madam Chairman, I think we are playing with words here, because there will be certain activities that under my amendment will be done with the Clinch River project. Certainly it is kept alive as to those activities. I think it is kept alive as to any other, but it would require, of course, an appropriation this year, next year, or any year to come. That appropriation, just like this authorization, is subject to a Presidential veto. In that sense, it would require a two-thirds vote there, too; so I think to place a great deal of importance on whether we are authorizing or deauthorizing a project is not appropriate. I say this in all seriousness to my friend, the gentleman from Pennsylvania, that the project is already dead.

I do not mean to be light about it; but the question is whether we are going to give it a decent burial or not. I am sorry, but this is the case, and it is not a decision that I made myself. It has already been accomplished.

Mr. GARY A. MYERS. Madam Chairman, if the gentleman will yield further, is it the gentleman's intent to maintain the opportunity to appropriate against that project throughout the period of this study to the extent that those appropriations can be made now, qualified by the authorizing committee's actions?

Mr. FLOWERS. Well, I am not the Parliamentarian; but in my judgment, what I am doing here would not head off that potential. It would not require a waiver of the rules in order to appropriate against the project. Last year when we had an appropriation without an authorization we had to have a rule waiving points of order in that regard; so we get right back up against the same thing. We have to have an authorization in order to have an appropriation, unless we get a waiver of the rules and we would be at the same place in the future.

Mr. GARY A. MYERS. Madam Chairman, if the gentleman will yield further, would it be the gentleman's intent with respect to the President's ability on rescissions and deferrals that the current situation would be maintained during this period of time?

Mr. FLOWERS. As far as I am concerned, it would be. If the Congress and the President wanted to do something different on Clinch River, this, as a mat-

ter of law, would not disallow it. It would be legal, but again, I think we are playing with words.

Let me say this in conclusion. I have been much longer than I thought I would be. I think the basic problem is that, No. 1, in my judgment and in the judgment of many other people, too, the Clinch River breeder project as an ongoing proposition is no longer. There is no way that we can breathe life into it through the legislative process here in this bill. We are recognizing a fact accomplished by accepting this amendment and we are trying to do something about improving the current situation.

Now, the interests of the U.S. public are not going to be served by authorizing here funds for Clinch River, then going through a conference committee, spending the rest of the year on this subject and then having the President veto it in September. We would just come back next year without an authorization bill. In my judgment, this amendment will accomplish something real, and we will see progress in breeder technology.

Madam Chairman, I urge adoption of the amendment by the House.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. FLOWERS) has again expired.

(At the request of Mr. TEAGUE, and by unanimous consent, Mr. FLOWERS was allowed to proceed for 2 additional minutes.)

Mr. TEAGUE. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Texas.

Mr. TEAGUE. Madam Chairman, I think the gentleman ought to tell the committee how this amendment was developed and the work that went into developing it. We have been told by the President that unless we get something like this, he will veto the bill. He pulled in 15 top businessmen to talk about this project and said that the bill as is will be vetoed. The vote in the committee was 19 to 20, and it was decided on a proxy vote.

Mr. FLOWERS. Madam Chairman, the gentleman is absolutely correct. This amendment was offered virtually in the same form, with few different words. It lost by one vote in the Committee on Science and Technology, only by one vote.

The chairman of the committee, the gentleman from Florida (Mr. FUQUA), the gentleman from New York (Mr. WYDLER), the gentleman from Washington (Mr. MCCORMACK), the gentleman from California (Mr. BROWN), and myself, along with staff mmebers of our committee and the Committee on Appropriations, have been working with members of the Department of Energy and even the President himself. We have talked about this issue for months and months and we think that this is the best possible compromise we can come up with. Until someone offers us an improved compromise, we think this is the best that we can get and on this basis it is recommended here.

Mr. JOHN T. MYERS. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from Indiana.

Mr. JOHN T. MYERS. Madam Chairman, how does the gentleman's compromise differ from the President's budget of last year when he proposed further study with no construction money authorized?

Mr. FLOWERS. There was nothing specified in the President's proposal last year. He just proposed that we spend $33 million to wind up the Clinch River project, period. What we are authorizing here will do a great deal more in completing component parts, for example.

The components will be tested at the Fast Flux Test Facility and elsewhere. This will authorize $55 million in next year's budget for the study of an advanced breeder. I think there is a big difference.

The CHAIRMAN. The time of the gentleman from Alabama (Mr. FLOWERS) has expired.

(On request of Mr. BROWN of California, and by unanimous consent, Mr. FLOWERS was allowed to proceed for 1 additional minute.)

Mr. BROWN of California. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to the gentleman from California.

Mr. BROWN of California. Madam Chairman, I want to repeat the point that was made here. There may be some misunderstanding as to the nature of this study.

Actually this is the design of a next-phase larger breeder reactor, along with an economic analysis and all the information necessary for this Congress and for the executive branch to decide on the construction of a breeder reactor that is at least twice as large as Clinch River.

This, in the normal course of events, would have come about after Clinch River, and now, if we make this decision, it could come ahead sooner than it would have otherwise developed.

Mr. FLOWERS. Madam Chairman, the gentleman is accurate. It could be two to three times larger. Something of this size would have been required had we built the Clinch River before going to the full commercial size.

This is an attempt to give us the option of stepping over the smaller size.

Again, Madam Chairman, I urge the Members to support my amendment.

Mrs. LLOYD of Tennessee. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, first, I would also like to express my appreciation to our beloved committee chairman, the gentleman from Texas, TIGER TEAGUE. Since I have been a Member of Congress he has been more than an inspiration to me. We all stand in admiration and gratitude to this great man.

Also to the chairman of my subcommittee, the very distinguished gentleman from Alabama (Mr. FLOWERS), goes my profound respect, admiration, and appreciation for his help.

However, I do rise in opposition to this amendment. The proposal offered by the gentleman from Alabama (Mr. FLOWERS) is neither new nor is it any serious attempt for us to reach a compromise, because this amendment has been rejected by the Committee on Science and Technology not only this year but last year as well.

We have gone on record in the House in support of the CRBR project this year when we approved without amendment the appropriations for this in our public works bills.

What the gentleman's amendment clearly and simply seeks to do is to kill the Clinch River breeder reactor project and to replace it with a 3-year study. This study, a $55 million proposal which the gentleman recommends, will give us no new information that was not already contained in the report given by the Presidential Review Commission on the breeder reactor. That body in its report that was issued on April 6 last year concluded that the CRBRP was the best vehicle for the pursuit of the U.S. breeder program. This study investigated all the alternative fuel concepts and also the larger breeder, but it concluded there was no economic benefit from developing the CRBR.

In the position we took in our Committee on Science and Technology, we made every attempt to reach a compromise, a real compromise, with the administration. As my good friend, the gentleman from Alabama (Mr. FLOWERS), knows, we accepted an amendment which he offered himself that used our CRBR funding in the amount of $70 million, with the attempt and the understanding that we would preclude any actual construction during fiscal year 1979.

The gentleman from Alabama contends that we have reached a stalemate with the administration over the CRBRP and we must, therefore, surrender our position so that some progress can be made in the development of a sound nuclear policy. Well, the simple fact that no one in the nuclear industry or in the utilities industry supports the gentleman's attempt is clear enough evidence as to the absence of a stalemate.

The CRBR is moving forward. There are presently 325 people in my district in Tennessee who are working on the breeder. There are 5,600 jobs nationwide that relate to the CRBR; 75 percent of the components and reactor hardware is under contract already, and some of it is stored in warehouses awaiting the construction phase.

If the gentleman is aware now of some reluctance on the part of the administration to comply with the existing authorization contained in section 106 of Public Law 91–273, then I can assure him that the Comptroller General of the GAO would certainly be interested in knowing of it and of prosecuting the offending individual. Clearly the breeder is not dead. But this amendment would bury it alive.

The weight of the law is clearly on the side of Clinch River, so far as the obligation of the President to comply with previous authorizations is concerned.

Many of the Members this morning, should have received in their morning mail, photographs of some of the components that are now under construction for the CRBR. I have some photographs here, of CRBR component construction—if anyone would like to see them and review them. So I cannot understand how anyone can conclude that we are at a stalemate when this much work is ac-

tually being done. We are making good progress except for licensing.

But let me add that if we terminate the CRBR, then we surely are going to be at a stalemate so far as nuclear power is concerned, and nuclear energy in its present role is limited to a very few years.

So what is the importance of Clinch River in the development of a sound energy policy for our country? First of all, if we are going to place an order for a nuclear plant here in the United States, then the prospective utility must have an assured supply of uranium sufficient for the operating life of the plant and for the construction period, which amounts to about 40 years.

The CHAIRMAN pro tempore. The time of the gentlewoman from Tennessee (Mrs. LLOYD) has expired.

(On request of Mr. TEAGUE and by unanimous consent, Mrs. LLOYD of Tennessee was allowed to proceed for 5 additional minutes.)

Mr. TEAGUE. Mr. Chairman, will the gentlewoman yield?

Mrs. LLOYD of Tennessee. I yield to my chairman.

Mr. TEAGUE. I thank the gentleman for yielding.

Mr. Chairman, will the gentlewoman tell the committee what she expects the end result to be if this committee sticks with the committee position, or instead if it adopts the Flowers amendment? What will we end up with?

As the gentlewoman knows, the President has told us he will veto the bill. She knows that Dr. Schlesinger and the President have told us they will not build the present Clinch River. They may put in a brick a day, but they are not going to build it. So what is the final thing we are trying to do?

Mr. Chairman, I would like to compliment the gentlewoman on representing her district. She has done as good a job as anyone could do. But I would like her to tell this committee what she thinks the final result will be, if we adopt her position.

Mrs. LLOYD of Tennessee. Mr. Chairman, I feel if we adopt the Flowers amendment that our breeder reactor is dead, because of the point I was about to make, because of the long leadtime to develop the breeder option. There is about a 40-year time from the time we begin our prototype breeder reactor until we reach the commercial phase of development. Our known reserve of uranium is between 1.8 million to 2 million tons—enough to supply about 250 nuclear plants.

As far as proceeding with the committee's recommendation as it came out of subcommittee, the gentleman is aware that time and time again we attempted to reach an agreement with the administration. I think we can reach an agreement. We do not have to have a breeder reactor plant with a breeder blanket and a plutonium core. The Clinch River breeder reactor is adaptable to the CIVEX project, that we know is proliferation proof. We can adapt the Clinch River breeder reactor to the thorium cycle.

If the gentleman remembers, when we were in Oak Ridge, we saw rows and rows of volumes of NRC work that has been done. It is my hope that we will not have to start all over with the licensing procedure and delay for 10 or 15 years the work and progress which we have accomplished.

Mr. TEAGUE. If the gentlewoman will yield further, Mr. Chairman, the gentlewoman well knows that I am not terminating the Clinch River project by any means. However, I do want to try to get something done. I do not want to just sit and spin wheels.

If we want to do the same thing we did last year and the President vetoes it, does the gentlewoman believe that we have the votes to override the veto?

Mrs. LLOYD of Tennessee. The time has come when we can reach an agreement with the President, I am sure. We do not have to stop the breeder reactor program. It has been called many names, we can change the name of the program. There are many ways we can go forward with a meaningful program without completely starting all over.

I frankly believe, with all my heart, that the breeder program is dead if we adopt this amendment.

Mr. TEAGUE. If the gentlewoman will yield further, I think the gentlewoman knows that in the other body the committee has reported out a bill in which they have the right to terminate the money for Clinch River, in which case the President would have to come back with a new position. However, that would take 6 or 7 years of study. What we are proposing here takes 3 years. The fuel cycle is changing all the time. Something new is always coming out.

It is my position, and I understand this from other people, that this is one way of getting something done. Therefore, I am very much for the Flowers amendment.

Mrs. LLOYD of Tennessee. I understand the gentleman's position.

Mr. TEAGUE. Madam Chairman, my support for the Flowers amendment results directly from personal discussions with President Carter in which he has clearly stated his firm support for vigorous development of the breeder reactor technology.

The President favors using much of the experience and expertise gained in the Clinch River breeder reactor program, which so many of us have persistently supported in the past; but he believes it now essential that we reorient that course of action by approving an intensive new design effort for the purpose of choosing among options for a much larger, safer breeder than is provided for in the existing Clinch River plan.

In addition to that personal assurance to me from President Carter, I was able to arrange a meeting at the White House on the morning of June 14, between the President and the principal officers of five utility and eight nuclear industry firms who are most involved in the Clinch River project.

Madam Chairman, I now submit for the RECORD a copy of my "Dear Colleague" letter of July 11 to all Members of the House and also a memo dated July 10 to all Members which I signed together with Congressmen DON FUQUA, WALTER FLOWERS, and GEORGE BROWN. These clearly state my carefully considered understanding of the choices before the House today, in support of the breeder reactor, as I perceive those choices based on the President's personally stated views.

Included here with my "Dear Colleague" letter is the very important March 17 letter to me from Secretary Schlesinger—a letter which President Carter told me expresses his own position—in which the President's proposed compromise was first stated. It is that compromise which will be implemented if the Flowers amendment is now approved.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 11, 1978.

DEAR COLLEAGUE: You and I have only two options when the Clinch River issue again comes to us for a vote this Wednesday or Thursday as the House considers H.R. 12163, the DOE authorization bill.

Option 1—To continue the Clinch River Breeder Reactor Project (CRBR) as now planned—but that means a probable veto by the President and he does have the means to stall any construction even if the funds are appropriated. He has promised to do exactly that. Thus, this Option 1 means only another nonproductive stalemate.

Option 2—To approve the Flowers Amendment which the President will accept. It will implement the positive compromise proposed in the letter enclosed here from Secretary Schlesinger of DOE, a letter which President Carter has assured me personally does state accurately his own commitment to a reoriented, larger, safer breeder technology. (Note the two statements I have marked for emphasis early in the enclosed letter.)

I urge your support for the second of these options, for the Flowers Amendment, because I am confident that is the effective way to get progress toward a larger, safer breeder reactor, and without repealing the basic authorization as voted in 1969.

NOTE.—It is clear that the proliferation threat is no longer the President's major concern. He made that point to representatives of industry and the utilities at a recent White House meeting. He declared again his strong support for perfecting the breeder technology with new techniques to guarantee against proliferation dangers. The Flowers Amendment carries out that intent, and also avoids one of the President's major concerns by substantially cutting expenditures in the next fiscal year. It also gives the President and the Congress the added time and redesign effort he feels necessary, until March 31, 1981, when a final choice of breeder options can be made before actual construction is approved.

I urge support for the Flowers Amendment.

Sincerely,

OLIN E. TEAGUE.

DEPARTMENT OF ENERGY,
Washington, D.C., March 17, 1978.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: To pursue our conversation of earlier this week, this letter further elaborates on a proposal to redirect the Nation's breeder program. This new direction, which would accompany a CRBR program calling for completion of systems design and component testing only, would in our view strengthen our breeder R. & D. program.

The Administration believes the breeder program should be reoriented to evaluate designs for a larger advanced fission facility through conceptual planning, conceptual studies, systems studies and systems design. It is premature to commit to build such a facility; but intensified studies and design ef-

forts will give the base program the direction needed to maintain a strong breeder option. The support facilities such as LMEC, FFTF, Saref, and EBR II would be adequately supported to permit development and testing of components geared toward an advanced fission facility.

The study would examine in detail variants of two fuel cycles: (1) the uranium/plutonium cycle, including the CIVEX process; and (2) the uranium/thorium fuel cycle. Planning for each of these cycles would consider both the pool and loop designs and a so-called hybrid system which involves aspects of both pool and loop design.

The Administration would propose to spend $55,000,000 for this work, as well as work on completion of Clinch River systems design, in Fiscal Year 1979. Approximately 90 percent of the CRBR design team, currently consisting of 850 professional persons, could be utilized for these efforts. This plan would keep the technology team together and permit those not utilized on the design per se to be employed in further testing of certain critical CRBR components at existing DOE facilities.

This approach would allow the country to build in an orderly way upon the six years of work on the CRBR. For example, the experience gained in the pump development area will be useful, and engineering/design firms now have experienced high temperature design staff in place. This proposal would also preserve the most important resource—the people—and permit them to put their talents to work by expanding their knowledge to study design options for a larger advanced facility.

This proposal would complement the Subcommittee recommendations for additions to the base program, including Saref, the LMEC, and EBR II.

The Department would be pleased to explain this proposal more fully before the Committee at your convenience.

Sincerely,

JAMES R. SCHLESINGER,
Secretary.

Memo: To all Members of the House.

From: OLIN E. TEAGUE, DON FUQUA, WALTER FLOWERS, GEORGE E. BROWN, JR.

Subject: Urging Support for the Flowers amendment.

We are writing this joint memo to request your support for the Flowers Amendment, which will be offered to the DOE Authorization Bill (H.R. 12163). It will redirect the Nation's breeder plans by providing a new design effort, to achieve a larger, safer, strengthened breeder R&D program, but also calls for completion of systems design and component testing only for the Clinch River Breeder Reactor. President Carter approves this Amendment. (Note—The exact wording of the Flowers Amendment is being published as an Extension of Remarks in the Congressional Record for today.)

As you know, last year the first authorization bill sent to the White House was vetoed because of the Clinch River project, but the project was kept alive because it was included in the Public Works Appropriation bill which was signed into law. We now ask your support for the means to avoid further stalemate and achieve progress to a better, safer breeder program.

This year we have been diligently working with the Administration to develop a compromise we can support so that the Congress does not again come to an impasse with the Administration over this issue. We have not in any way tempered our strong support for a breeder technology program. However, faced with the President's opposition to the project to be built at Clinch River, we have reassessed the status of U.S. breeder technology and the Clinch River project and feel that we have put together a compromise which you can support. The Flowers Amendment encompasses our compromise. It reorients our breeder program, using important aspects of the Clinch River project, and moves vigorously toward new goals which should be acceptable to all of us. In essence, it directs the Administration (and the President supports this) immediately to undertake an intensive new design effort for a breeder facility of much larger capacity than the Clinch River plant previously planned. The experienced team that has trained and worked on the Clinch River project will be used for the new design work, because it is the learning from the CRBR program that actually permits this big step forward in more modern, safer design and size.

The Flowers Amendment establishes a deadline of March 31, 1981, for conclusion of this new design effort. At that point, the President and Congress will decide what the next step shall be concerning breeder reactor development. We are confident the new design work will prove that a larger, safer, proliferation-resistant breeder reactor can and should be built. We hope and expect the President then will agree with us, on the basis of the new decisive design work.

The completed design effort will produce:

(1) Plant conceptual design descriptions;

(2) Estimates of plant costs;

(3) Projected industry and utility involvement in any such plant; and

(4) Estimated time factors for design, licensing, and construction for such a large plant.

The Flowers Amendment will reduce the authorization amount reported by the Science and Technology Committee by $154 million for activities leading to construction of the Clinch River breeder reactor which is now estimated to cost an additional $2.0 billion to complete. The amendment would retain $55 million in the bill to initiate a new design effort for a larger breeder reactor. The U.S. breeder program is given a new focus, but this can be achieved at much less cost by concentrating on the testing of critical components based on what has been learned.

Of course we do not know what the cost of a newly designed breeder reactor will be, but information furnished to our Committee indicates that the larger plant will not cost much more than the money required to construct the Clinch River breeder reactor as previously planned.

We request your vote for the Flowers amendment.

Sincerely,

OLIN E. TEAGUE.
DON FUQUA.
WALTER FLOWERS.
GEORGE E. BROWN, Jr.

Also, I now submit for the RECORD my May 25 letter to the President, urging him to meet personally with a group of principal officers of leading nuclear industry and utility firms, so that they might hear directly from the President his firm position on the breeder, but also so that he could hear directly their firm views.

COMMITTEE ON
SCIENCE AND TECHNOLOGY,
Washington, D.C., May 25, 1978.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: It was my privilege to discuss with you the future of the breeder reactor program in our telephone conversation in early March of this year. I was pleased to have your personal assurance that Secretary James Schlesinger's letter to me dated March 17, 1978 definitely did represent your own position. I enclose a copy of that letter here, and you will note that it outlines your Administration's "proposal to redirect the Nation's breeder program."

I was pleased especially to have your personal assurance that as President you do consider it imperative in our nation's best interest that we develop and maintain a strong breeder reactor capability as a ready, viable energy option. You also made very clear your firm opposition to the Clinch River Breeder Reactor project (CRBR) as it now exists.

As a result of your own assurances, and Dr. Schlesinger's letter, Congressman Walter Flowers and I took the lead in attempting an amendment to our Department of Energy authorization bill which represented a compromise acceptable to you; it proposed to reorient our breeder program, with a fundamental study of various alternatives and the positive use of certain elements and expertise from the CRBR. We made that a major effort, but as you know the compromise was defeated 19 to 20; a bipartisan majority of our committee voted in favor of moving ahead with the CRBR as planned. It seems evident that this committee action will be confirmed when the issue comes to the House floor.

I recognize that you are committed to veto that action if the DOE authorization reaches your desk in its present form. I also recognize that the Congress could not override that veto. Thus there exists a stalemate which threatens to sidetrack any progress toward the vigorous breeder program you and so many others desire. We will wind up this year on dead center.

Mr. President, I hope you agree that any such nonproductive deadlock will be a severe blow to our national interest, as well as the world's best interests. I fully accept your word that you do support development of a strong breeder option.

We crucially need now your personal help to try to break this deadlock and insure that an effective breeder development shall be voted by this 95th Congress and with your approval.

Mr. President, very respectfully I suggest there now exists an immediate, imperative need and opportunity for you to confer personally with the principal executive officers (as distinguished from their Washington representatives) of several of the key industry and utility firms involved in the breeder reactor technology and at the same time with several of the key Members of Congress who are attempting to get agreement for a workable breeder program acceptable to you.

This is my urgent, personal request for such a useful discussion with you. Frankly, with all respect, I must tell you that industry and Congressional leaders seem reluctant to believe my report to them that you do personally favor a strong breeder program. However, it has become clear that the Administration's compromise proposal (the Flowers Amendment) received support in our Committee from two very contradictory factions: (1) From those of us who believe you personally do support a vigorous, viable breeder technology development; (2) From those Members who strongly oppose any breeder development and who interpreted your proposed "intensified studies and design efforts" as actually meaning an intention to kill any significant breeder effort. The third group, a majority of the Committee, also refused to believe the proposed study is intended to produce any positive results.

Thus, at the heart of our present impasse is this intense uncertainty as to your own intentions concerning our breeder effort, this refusal of most Members of Congress and also of industry leaders to believe the assurances that you personally gave to me. So, I am convinced they must learn that directly in at least a brief personal conversation with you. I am confident that such a face-to-face exchange could result in an immense benefit to the Nation, to our energy alternatives program and to your own creative record as President.

I have presumed to discuss this possibility with several of the most responsible industry people and find that their chief executive

officers surely would welcome the privilege to confer with you in person. We even are able to suggest Wednesday, June 14, as a date when several definitely could come to Washington for that purpose.

I further respectfully suggest that the one most critical ingredient the industrial and congressional bipartisan majority would hope for is some form of direct confirmation from you, Mr. President, that you consider the "intensified studies" as proposed in Secretary Schlesinger's March 17 letter to be not an end in themselves but definitely intended to produce an effective breeder program, including those safety factors to which you are dedicated. There is a critical need for assurance from you, spelled out in Administration policy, that your specific goal is to bring into being whatever type of breeder reactor may be indicated as advisable as a result of the Administration's "intensified study". I am confident you will understand the current skepticism of expensive "studies" unless there is a firm intention to harvest positive, creative results. There also is, as you will understand, an anxiety that the many valuable products thus far obtained from the CRBR effort shall not be wasted but used in every way possible in the redirected breeder program.

Of course, Mr. President, we all recognize you must protect your options. If the proposed studies clearly produce compelling evidence which convinces you that you could never recommend to Congress any breeder reactor development, that option would be understood. But, at this point, there is a crtical need for specific assurance that you do intend to support breeder development if the evidence from the studies is positive.

Recognizing your extremely crowded schedule, I would understand if it seems impossible for you to confer soon with the industry leadership and several of us from the Congress, as suggested above. If that meeting does seem impossible, then I respectfully request from you a letter to me which I hope would clearly and forcefully reaffirm your very specific assurances of personal and Administration support for the breeder.

Mr. President, this appeal to you is strictly my own. It does not represent any position officially taken by our Committee. I have conferred only with Congressman Flowers before sending this letter. But I assure you, this is a very earnest, urgent appeal—which I consider extremely important for your personal, innovative leadership. We do need your help!

Sincerely,

OLIN E. TEAGUE,
Chairman.

The President did accept that suggestion, and on the morning of June 14 the following nuclear industry and utilities executives met for nearly an hour with Mr. Carter at the White House:

Willard J. (Al) Rockwell. Jr., chairman of the board, Rockwell International.

Walter D. Dance, vice chairman of the board, General Electric.

R. E. Kirby, chairman and chief executive officer, Westinghouse Electric Corp.

Arthur J. Santry, Jr., president, Combustion Engineering, Inc.

Kenneth A. Roe, chairman and president, Burns and Roe, Inc.

W. F. Allen, Jr., president, Stone & Webster.

Harry Orville Reinsch, president, Bechtel Power Corp.

George G. Zipf, chairman and president, Babcock & Wilcox.

William S. Lee, president, Duke Power Co.

William McCollam, president, Edison Electric Institute.

William G. Kuhns, chairman of the board, General Public Utilities.

Sherwood H. Smith, Jr., president, Carolina Power & Light.

James J. O'Connor, president, Commonwealth Edison Co.

Finally, Madam Chairman, I now will submit for this RECORD 13 letters I have received from members of that industry and utilities group who met in free-wheeling discussion with the President. I believe their reports of that meeting very clearly indicate both the President's views and the industry views, and how they differ.

ROCKWELL INTERNATIONAL,
Pittsburgh, Pa., July 10, 1978.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN TEAGUE: Your continued effort and leadership in seeking a resolution to the breeder impasse, as indicated in your letters of June 15 and 30, is greatly appreciated.

The exchange of views on the Clinch River Project between the President and utility and industry invitees to the June 14 meeting was a fruitful arrangement on your part in that it afforded the first direct communication there has been on this matter and established a basis for further effort toward the determination of the nation's future course. I believe there can be no progress toward a resolution of differences without a clear understanding of those differences on the part of everyone concerned.

We believe that the White House meeting generated some impetus toward positive progress in breeder development. Even though the President confirmed his opposition to the program, I believe he recognized the strong consensus among utility and industry spokesmen that a form of the Clinch River Project should be continued.

Our position on the breeder development effort, as presented by the head of our Energy Systems Group, Mr. Sam F. Iacobellis, in Congressional testimony, calls for a dual program, i.e., continuation of the work presently in progress on the Clinch River Project and, simultaneously, the initiation of conceptual design studies for a larger plant.

Realistically, we must agree that continued insistence at this time on the full CRBRP program to construction and operation most likely will result in a veto which may not be overcome in the Congress. Perhaps, therefore, we should try for a compromise that would strengthen Option Two.

Our recommendation is that the Clinch River program design, hardware procurement and component testing be continued but without a commitment to construction, at this time, leaving that decision to be made on the basis of circumstances in 1981. This would permit us to advance the development of breeder technology, utilizing time that is now critical to our energy future, and preserving intact the expertise without which no breeder program can be successful. I would like to reemphasize what I mentioned at the meeting with the President—the engineers and scientists currently assigned to CRBRP are a most important asset.

At the same time, a conceptual design effort for a larger breeder facility can be undertaken. The commitment to construction and operation of a demonstration plant—either the CRBRP utilizing the then-optimum proliferation-resistant fuel cycle or terminating the CRBRP and proceeding with a larger plant—need not be made until 1981, and it can be made more wisely at that time.

This approach will allow the U.S. to make a more rational decision based on a more complete set of data, including a better estimate of our uranium reserves, a better estimate of foreign technology development and the results of the International Fuel Cycle Evaluation (INFCE). Considering the energy crisis and the unstable international picture, this parallel course allows the U.S. to keep its options open at this critical time without making a major commitment for construction and with a minimum of additional costs. I firmly believe that if the Congress continues to work toward such a compromise with the President that the stalemate will be broken and he will not veto the FY 1979 authorizations for I believe this approach recognizes his viewpoint and should alleviate the concerns of industry and the utilities.

Thank you for the opportunity to express my views with respect to these important national decisions.

Sincerely,

W. F. ROCKWELL, Jr.,
Chairman of the Board.

DUKE POWER CO.,
Charlotte, N.C., July 7, 1978.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN TEAGUE: Thank you so much for arranging the meeting with President Carter to discuss our nation's breeder program and for your letters of June 15 and June 30.

The most significant result of the meeting was the change in the President's stated reason for opposing the building of Clinch River. In response to being told that the Clinch River reactor could readily accommodate one or more of several proliferation-resistant fuel cycles, the President replied that the fuel cycle is no longer his concern. His only stated basis of continued opposition was the competition for limited government funds. Paradoxically, he offered to support the Flowers amendment which would call for about the same amount of funds but result in yet another paper study.

I have been personally involved in our nation's attempts to develop the breeder for many years, and served on the AEC's Senior Utility Technical Advisory Committee where the concept of Clinch River was born. CRBR was then and is now an urgent and important next step in the development of our nation's breeder technology, including demonstration of licensability construction and operation. We should proceed now with the vigorous development of breeder technology so that this alternate energy source will be available for deployment if needed to save our nation's economic future.

Since proliferation is no longer an issue, it seems to me that it is in the purview of the Congress to make the hard judgments about relative priorities for federal funds. With hundreds of millions already spent for CRBR, it will be a bargain for the Congress to authorize the completion of the CRBR instead of spending essentially equivalent funds on a paper study.

Mr. Teague, your personal leadership has meant so much to his nation's energy technology, and you are urged to vigorously press for passage by the House of CRBR's continuation.

Very respectfully,

W. S. LEE.

WESTINGHOUSE ELECTRIC CORP.,
Pittsburgh, Pa., July 6, 1978.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: I appreciate very much your efforts in arranging the meeting

between industry leaders and President Carter on the subject of Clinch River.

In answer to your question as to how the meeting went, the President initially stated that he would veto any Clinch River Bill but that he was willing to listen to our side of the argument.

After nearly 30 minutes of presentations by the various attendees in which all major points were thoroughly stressed, he answered that he appreciated our efforts, but he still would veto the Bill.

Some of the group had apparently been under the impression that his veto threats were based on plutonium and possible proliferation, but he clearly said he was not concerned about what fuel cycle was used in Clinch River. Indeed, our impression now is that the merits of breeder technology, as a component of a balanced national electric supply system, are largely irrelevant in his present thinking. We are, therefore, quite concerned that he and his advisers are ignoring the major and long-term economic and social consequences to the nation of a failure to develop and have in place such a balanced system.

The President said he recognized that Western Europe and Japan have immediate pressing energy problems. For that reason he said he would not attempt to stop them from going ahead with reprocessing and the breeder. If that is now the policy of the United States, this will put our Nation's nuclear industry at a severe competitive disadvantage, and will also aggravate our unemployment and trade balance problems when foreign breeders are imported. It also significantly reduces our ability to influence worldwide safeguards policies for preventing the misuse of nuclear materials.

One of the major purposes of Clinch River was to test the balance of plant components of the overall system design as it had to react to the actual environment of an operating utility system. This has been necessary in all nuclear developments, starting with the submarines, for we generally can accurately predict what the fuel will do in a new design, but the balance of plant has many unknowns.

For us to stop Clinch River at this point would require dismantling of the technical design teams of a highly successful operation; to restaff after 1981 would cause a total delay of 5–7 years in starting the final plant designs. Even a slight miscalculation on the availability of uranium in the 1990's would make this delay far too risky for the country. Consequently, the group had great concern about the future as a result of this meeting.

Rather than a major reorientation of the program, I would suggest that the prudent course of action for the country is to proceed with the Clinch River program. This, of course, will necessitate strong support in both the Senate and the House which can only be achieved by our redoubling our efforts toward a fuller awareness by the members of Congress of the real issues involved.

I would think there should be concern that 13 highly knowledgeable members of industry continue to have a diametrically opposite opinion than the President and his advisers on this subject. Many of the attendees are not even directly involved in the project and therefore are in a position to objectively evaluate the pluses and minuses of going forth with Clinch River. Their opinion is unanimous to go ahead.

Consequently, I believe that Congress should be equally concerned as we are and vote for continuation of the Clinch River Breeder Program.

Sincerely,

R. E. KIRBY.

CHICAGO, ILL.,
July 5, 1978.

Hon. OLIN E. TEAGUE,
Rayburn House Office Building,
Washington, D.C.

DEAR CHAIRMAN TEAGUE: This is in response to your letter of June 30 concerning the breeder reactor matter now pending before Congress.

We at Commonwealth Edison strongly urge support of the continuation of the Clinch River Breeder Program.

The Flowers Amendment is well-intentioned, but as you note, it contains no commitment to build a breeder. Moreover, a three-year delay now would put the United States hopelessly behind the other major nations of the world in the development of this important technology. Most importantly, failure to proceed with Clinch River severely threatens our ability to meet the projected energy requirements of this nation over the next thirty to forty years.

We urge your continued strong support of the Clinch River Breeder Program.

Sincerely,

JAMES J. O'CONNOR,
President.

CHICAGO, ILL.,
July 3, 1978.

Hon. OLIN E. TEAGUE,
Rayburn House Office Building,
Washington, D.C.

DEAR CHAIRMAN TEAGUE: This is in response to your letter of June 15, 1978, requesting my comments concerning the discussion held at the White House on the Clinch River Breeder program.

First, let me thank you for arranging the meeting with the President. The meeting provided an opportunity for both nuclear industry officials as well as the Administration to clarify their respective positions.

Like you, we were disappointed that the meeting did not result in breaking ground for a possible compromise. Prior to the meeting, it had been our understanding that the President's principal objection to Clinch River was his concern that plutonium would be used in the fuel cycle. At the meeting, I pointed out that a decision on the type of fuel could be deferred while construction of the plant proceeded. Furthermore, I said that the reactor had been designed to accommodate a wide range of fuels, including such proliferation-resistant alternatives as thorium, enriched uranium or the Civex process which has been jointly proposed by U.S. and British scientists. The President stated that the use of plutonium was not his principal objection to Clinch River. Rather, he said he felt that breeder development at this time was premature and that we should instead devote what funds are available to further design studies before plans are firmed-up for construction of a demonstration plant.

On the day prior to our meeting with the President, a meeting of the Board of the Breeder Reactor Corporation was held in Chicago. This Board represents the interests of the 753 utility companies, both privately and publicly owned, which have placed their confidence and financial support behind Clinch River. At this meeting, it was pointed out that over $500 million had already been spent on the Clinch River Project, and many of the major components are in an advanced stage of fabrication.

Except for licensing, which was suspended over a year ago at the Administration's request, the Clinch River project is ready to begin construction. Delaying or canceling it now would not only increase the eventual cost of breeder development, but would mean that the six years and over $500 million already invested in the project probably would be lost. On the other hand, construction of a large scale developmental facility such as Clinch River is the necessary next step in the development of the breeder option. Clinch River represents the quickest and least costly alternative. The momentum essential for building a project of this magnitude is there. The Clinch River design is up-to-date and because it represents a prudent extrapolation of current technology, there is good reason to be confident that the project would be successful. As you know, the U.S. has invested 30 years and over $3 billion in development of the Liquid Metal Fast Breeder technology and the consensus among engineers throughout the world is that, among advanced technologies, the LMFBR has the best chance of contributing significantly to the solution of the world energy problems during the next thirty to forty years.

As a result of delays already incurred on Clinch River because of the government's action, the United States is already several years behind other nations in developing the breeder option. France, Russia, Japan, and the United Kingdom already have breeder demonstration plants in operation that are somewhat smaller than the proposed Clinch River plant, and are proceeding with larger demonstration plant projects. Cancellation of Clinch River would further erode this country's position in the development of this important technology. Without a plant such as Clinch River, the United States will simply be unable to keep pace with foreign breeder development.

The electric power shortages during the past two winters and the recent coal strike of record duration underscore the importance of nuclear energy as a prime source for the production of electricity if the utility industry is to be expected to meet the nation's growing electricity demands. Faced with today's uncertainties and the proven difficulties attendant to our increased dependence on petroleum imports, the prudent choice is to develop the breeder option now. On a matter as important as our future energy supply, this nation must have a high confidence strategy and that strategy should include development of the Liquid Metal Fast Breeder Reactor. We regret that our determination to develop this option on a timely basis has not found continuing support within the Administration.

I wish to thank you again for your efforts in seeking to bring about a resolution to this difficult and troublesome situation.

Sincerely,

JAMES J. O'CONNOR,
President.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN TEAGUE: Apparently, your letter of June 30 and my letter to you of July 3, regarding the Clinch River Breeder Reactor, crossed each other in the mails.

For the reasons set forth in my letter, I continue to feel that it is in the best interests of our electric consumers, as well as to the benefit of our country's overall welfare, that the Clinch River Breeder Reactor project be continued. I do, however, appreciate the difficulties created by the Administration's position on the project, particularly if there should be a Presidential veto. Unfortunately, as I see it, the Administration's position offers no reasonable alternative in place of support for the Clinch River project.

A primary difficulty lies in the absence of any commitment by the Administration to go forward with the necessary technological development and implementation of some other breeder demonstration project. This appears, to me, to be inconsistent with the assurance referred to in your letter of May 25 to the President pointing out your understanding that he considered it to be "imperative in our nation's best interest that we

develop and maintain a strong breeder reactor capability as a ready, viable energy option."

American consumers have a great stake in this matter. In order for there to continue to be an adequate supply of electricity from nuclear power at reasonable costs, which must serve as an indispensable part of our national energy policy, we should continue to seek to go forward with the development and implementation of a true breeder reactor program rather than a "study."

Again, let me thank you for your interest in this matter and express the hope that despite the difficulties posed by the Administration's position that you will support full funding for the Clinch River Breeder Reactor.

Sincerely,

SHERWOOD H. SMITH, Jr.

JULY 3, 1978.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, House of Representatives, Rayburn Office Building, Washington, D.C.

DEAR CONGRESSMAN TEAGUE: First, let me express my appreciation to you for arranging the meeting with President Carter on June 14. Everyone in attendance from our industry valued the opportunity to meet with the President to discuss the vital need, as we see it, for the continued timely and full development of the breeder reactor program. It is our opinion that time is of the utmost importance, if we are to utilize more fully the energy in our supplies of uranium and extend the viability of the light water reactor program, to reduce our dependency upon foreign oil, and to seek to hold down the cost of electricity for our economy and the American consumer.

Personally, the timing of the meeting was very appropriate because only the week before I had visited the French Phénix breeder reactor at Marcoule, France, and observed it in successful operation at 585 Mw thermal and 268 Mw electric. This visit dramatized vividly to me the extent to which we had fallen behind in the development and use of the breeder technology. This situation could, I fear, contribute to a loss of leadership for our country in more than just that particular technology, as other nations continue to look away from our country for essential nuclear services.

At the White House meeting, the President expressed support for the current light water program, but he clearly and succinctly stated his position of opposition to the Clinch River project. He expressed his opinions that he did not believe the project was now necessary, that it was too costly, and that he favored a delay until 1981 for making a decision on whether or not any demonstration breeder reactor should be constructed, licensed, and operated. We, on the other hand, reviewed in some detail the reasons why we felt very much to the contrary, including some of the points mentioned in this letter.

In response to each of the three specific questions in your letter of June 15, I would make the following comments:

1. "Do you personally feel that the (meeting's) purpose was accomplished?"

I feel that a better understanding of both points of view must have resulted. While I can only speak with personal knowledge for the industry side, we certainly have an even more complete understanding of the Administration's position. Also, it appeared from the President's courtesy, interest, and open invitation to all of us to speak candidly that he should have a clearer perception of our views and the reasons for them. In particular, I hope that we made clear the importance of time with regard to having the Clinch River project proceed, even if there is a delay in the decision as to the specific fuel cycle to be used. As you know, it will be possible to utilize the Clinch River Breeder with a more proliferation-resistent fuel cycle than plutonium. We had hoped that a clear statement of the position on the fuel cycle might provide some basis for modification in the Administration's position. It would be premature, however, for me to express any opinion as to the President's overall reaction to our meeting.

2. "To what degree and in what direction do you believe the White House meeting may have provided some impetus toward positive progress in breeder development?"

In order for there to be "positive progress," in my opinion, there should be some firm legislative and administrative assurance that the breeder technology will not only continue to be "studied" and certain components tested, but that a demonstration reactor of suitable size will be *designed, licensed, built,* and *operated* within a definite span of time. I understand clearly that the President's current position does not go that far. As the debate over this issue continues, perhaps there may be further and more expanded statements of the Administration's position on these points. At present, however, it appears to be too soon to determine whether there will be some "impetus" (from the meeting) for positive progress in the breeder development.

3. "Do you feel . . . it is imperative that we try to agree on a major reorientation growing out of the CRBR? If so, then please suggest the essentials for any such revised and revitalized breeder program, as you personally see it."

Such a reorientation or revision as contemplated by the President's position would call for termination of Clinch River project without a program for a comparable alternative, that is, without a commitment to go forward with the necessary technological development through the actual licensing, construction and operation stages of another demonstration plant taking advantage of the substantial work done to date on the Clinch River project. Thus, I do not believe that we now have a basis for a reasonable "reorientation." I see nothing in the Administration's proposal which would serve as a better alternative for our country's best interests than going forward with the Clinch River project.

Thank you very much for your great interest in this matter and for the time and effort you have devoted to it. I hope that you will continue to support full funding for the Clinch River Breeder Reactor when it is before the House of Representatives.

Sincerely yours,

SHERWOOD H. SMITH, Jr.

WASHINGTON, D.C.,
July 12, 1978.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. TEAGUE: Thank you for meeting with our industry group yesterday to discuss the Clinch River Breeder Reactor. As we indicated to you in that discussion and in previous correspondence, after careful consideration we have concluded that continued Congressional support of the Clinch River Breeder Reactor is in the best interest of the United States and its people.

In our judgment, the Flowers Amendment is not an acceptable accommodation because it does not commit the Administration to license, build and operate a breeder demonstration plant, and its adoption can only result in the loss of from 5 to 10 years in the development of breeder technology, a situation which the Nation can ill afford.

Sincerely yours,

WILLIAM MCCOLLAM, Jr.,
President.

WASHINGTON, D.C.,
June 30, 1978.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CHAIRMAN TEAGUE: This letter is in response to your request for considered comment on the recent meeting with President Carter regarding the Clinch River Breeder Reactor (CRBR). Please accept my apologies for the delay in responding, but the seriousness of the issue and the obvious difference in viewpoint between the President and our industry dictated the most careful consideration before answering your letter.

I would first like to thank you for initiating this important meeting and for arranging that I attend. Your action was in keeping with your record of striving to assure that adequate government attention is focused on energy issues which have significant impacts on how and whether the energy needs of the American public will be met.

During our meeting, President Carter was forthright and clear in stating his position of opposition to the continued design, construction and operation of the Clinch River Breeder Reactor. Industry representatives attending the meeting were given ample opportunity to present their strong contrary views and to respond to the positions stated by Mr. Carter. I believe that the meeting was successful an constructive to the extent that both the President and industry had an ample opportunity to clearly state their respective positions and to exchange views.

Because of the President's adamant opposition to commit to the construction of a fast breeder demonstration reactor at this time and our strong conviction that it is necessary to promptly build a facility like Clinch River to assure the viability of the nuclear option, I find it difficult to suggest that a positive consensus might be developed out of our exchange of views.

As I am sure you know, the national objective of decreasing our dependence on imported energy resources requires the efficient utilization of domestic supplies of coal and uranium in the production of electricity. We cannot depend upon coal alone but we must also proceed with the continued development and use of nuclear power.

Light water reactors are beginning to play a significant role in the generation of electricity and their importance will increase, provided the Federal Government takes steps to improve the licensing process and to implement a publicly acceptable spent fuel storage and radioactive waste management program. But currently identifiable uranium reserves are limited so that we cannot expect to support more than 400,000 Mw of light water reactors with these uranium resources. Consequently we must promptly develop the breeder reactor so that we can use our uranium resources more efficiently and also use the "tailings" of prior uranium enrichment operations which are estimated to have the energy equivalent of the country's known coal reserves. Without the breeder this valuable domestic energy resource will be wasted.

Every industrial nation which has a developed nuclear program has reached this conclusion regarding the need for the breeder and are well on their way to developing liquid metal fast breeder reactors. The design, construction and operation of the CRBR is the important first step in assuring that breeder technology will be available when needed in the United States toward the end of this century. Rather then being premature, as the President has suggested, I believe we are already behind schedule. CRBR is a well designed reactor system which will provide valuable information for our Nation's program. Contrary to the criticism of anti-nuclear advocates, its design has been kept current and, as you know, it is

flexible enough to accommodate the fuel cycles that are being discussed in the INFCE and NASAP programs.

We appreciate, as the President observed, the budgetary impact of the CRBR, but it is evident that abandonment of the program, which is over half completed, would be costly both from the point of view of the time loss and the funds already expended or committed and most importantly because it would cost more to build the same type of facility to meet the same objective sometime in the future. The most cost effective manner of assuring our energy future is to proceed with CRBR, not to abandon it.

In closing, I regret that our meeting with the President did not result in some compromise, but we in the electric utility industry do not agree with the President's position because the nuclear option is in jeopardy if his view prevails. Loss of this option, as I am sure you realize, would have a significantly adverse effect on the social and economic health of our country.

My associates and I will continue to work closely with you, your Congressional colleagues, and the Administration in developing programs to assure our energy future. In that connection, I would respectfully urge your continued support of the Clinch River Breeder Reactor, which is in the best interest of the United States and its people.

Sincerely yours,

WILLIAM MCCOLLAM, Jr.,
President.

PARSIPPANY, N.J.
June 30, 1978.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CHAIRMAN TEAGUE: I apoligize for my delay in responding to your June 15 letter, regarding the visit with President Carter on June 14. Those of us who were privileged to attend that meeting with the President have been active on the subject since the meeting in assessing that discussion and reviewing it with our associates in the utility industry.

The discussion with the President was open and frank, and I do indeed believe that all of us obtained a better view of the President's position. The opportunity he afforded us to present our point of view I am sure was helpful to his assessment of those arguments.

The significant and continuing point of disagreement regards the timing of the breeder development program. I believe there is a clear concensus within the electric untility industry that the breeder is so important to the energy supply potential of our country that we can't afford to delay the acquisition of experience with the breeder related technologies. This experience is so essential to the ultimate development of a breeder power supply capability. The President's clear opposition to the Clinch River Breeder Project is, of course, a reality that has great significance.

I thank you for arranging for the meeting with the President and for your continuing determination to resolve this important issue.

Sincerely,

BILL KUHNS.

SAN FRANCISCO, CALIF.,
June 29, 1978.

Congressman OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CONGRESSMAN TEAGUE: I appreciate your interest in the U.S. breeder program and the guiding hand you provided in organizing the June 14, 1978 meeting with President Carter, Secretary Schlesinger, Congressman George Brown, Congressman Walter Flowers, and the executives from the utility and nucelar industries. This meeting did give us the opportunity to explain to the President why we feel so strongly about the importance of the breeder to our energy resource future, and the part CRBR plays in the development of the breeder reactor capability. We continue to hold to the necessity of a national commitment to expand our breeder reactor capability as soon as possible.

If despite the strong views of U.S. industry, the federal government was to cancel CRBR—in our view one of the essential actions by government must be an unequivocable Presidential endorsement of nuclear power and the need to develop the entire resource, including the breeder. One immediate action that the President could take is to visit a nuclear power plant in construction or operation and give a strong public endorsement to the important efforts of the men and women involved with its construction and operation. Such action would be most appreciated by those in the industry and labor, and it would display to the public through the media that the President really believes nuclear power has an important role in meeting our domestic energy needs—now and in the future.

Other important measures to be taken are:

The federal government must articulate and support true nuclear licensing reform through legislation where necessary, but more important, through faster administrative actions. The primary objective in any of these actions is to reduce the lead time for getting new nuclear power capacity online We believe prudent planning requires at least 50 percent of the new generating capacity, 1,000,000 Megawatts-electrical, needed in the next 20 to 25 years, must come from nuclear power. To achieve this goal will require a predictable and stable nuclear licensing and regulatory climate which will depend on the policy and actions taken by not only the NRC, but also the Congress and the President. These actions must acknowledge and remedy the overlapping jurisdiction and detrimental conflict between both federal and state agencies.

The Nation must commit to continuing a breeder research and development program which pursues nuclear fuel development through the operation of EBRII and FFTF, completes CRBR systems design and realizes the fabrication and testing of critical components, and establishes cooperative programs with other countries developing LMFBR and other breeder technology. A site should be selected and design of a demonstrated breeder should proceed through and including licensing in order to have an LMFBR plant in operation on a utility system by the mid-to-late 1980's.

As insurance for providing sufficient future nuclear fuel resources, the federal government should either agree to operate the AGNS plant at Barnwell, South Carolina as a full scale demonstration by 1983 of the technology and facilities to recycle nuclear fuel in LWR's, or license a nongovernment operator to perform such a demonstration.

Public concerns with regard to nuclear power presently dwell on the high-level radioactive waste issue, and as long as the detrimental perception of "no federal government waste program" exists, it will be increasingly difficult to realize necessary new commitments of LWR's. Therefore, it is imperative for the government to immediately undertake an accelerated program to site, construct, and operate facilities by 1983 for the disposal of high-level radioactive wastes. It is important that this accelerated program include facilities for both spent-fuel elements and solidified wastes resulting from reprocessing, as prudent planning for its eventual resumption.

To provide necessary expansion of U.S. uranium enrichment capacity, it is necessary that the Nation make firm commitments now to have sufficient increments on-line by 1986—and sufficient capacity to allow for efficient recovery of the contained uranium–235.

It is essential to the Nation's economic well being and security that we plan prudently and precisely in the full development of our domestic energy resources—the two most important being coal and nuclear. A cornerstone of such planning is the breeder and its development, in which we are already falling behind. As a good example of the type of commitment needed, please see Attachment-A on the French breeder program. Compared to the U.S.'s uncertain, minimal approach to the breeder, France's program is an all-out, substantial deployment of breeder reactors by or shortly after the year 2000. The French installed LMFBR capacity by 2000 A.D. is expected to be 22,000–25,000 Mwe; and 31 years after the start of construction of the Phenix demonstration reactor (about the size of CRBR), this LMFBR capacity would represent 20–25 percent of France's total installed nuclear capacity.

We in industry feel nuclear power is an essential part of our energy and electrical future. As part of prudently meeting our future energy needs and conserving and developing our domestic energy resources, it is essential to accelerate our breeder program—not slow it down. Therefore, I recommend the President be personally advised on this extremely important matter by the technical leaders including:

Respected scientists and engineers outside the nuclear industry who are knowledgeable on the subject, including the expertise in the national laboratories.

Scientific and industrial representatives of other countries.

I hope my thoughts have been helpful to you; and if there is anything further I can do in this regard, please do not hesitate to call on me.

Sincerely,

HARRY O. REINSCH,
President.

FAIRFIELD, CONN.,
June 26, 1978.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR REPRESENTATIVE TEAGUE: This is in response to your letter of June 15, 1978 wherein you asked for our impressions of the meeting with the President on June 14, 1978.

To be candid, I came away from the meeting disappointed. I must add that nothing which transpired at the meeting compels me to make any changes in the position our people have presented to your Committee previously on the breeder. It was very clear to me, and I am sure to the others, that the President was in no way inclined to move from his position of no Clinch River Breeder Project. in spite of the efforts by some of the industry and utility participants to fully explain the value and necessity of Clinch River. So, to answer one of the questions in your letter, the Administration and the industry positions were clearly understood, but there was no movement to break the impasse.

Much has been said about the possibilities of developing a positive consensus of all parties or a compromise. Mr. Carter, I recall, indicated that his position would be similar to the Flower's Amendment which is, in fact, a mere continuation of studies. My personal opinion is that the only opportunity for negotiations has to be between the Congress and the Administration, and

from a practical standpoint, this can only be accomplished if backed up by very strong Congressional positions.

I would like to express my appreciation for your sincere concern about the energy future of our nation.

Very truly yours,

W. D. DANCE.

ORADELL, N.J.,
June 26, 1978.

Hon. OLIN E. TEAGUE,
Chairman, Committee on Science and Technology, U.S. House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR CHAIRMAN TEAGUE: This is in response to your letter of June 15, 1978 requesting my comments on recent discussions I attended at the White House when they covered the subject of Clinch River and the U.S. breeder reactor and nuclear energy programs.

May I take the occasion of this letter to thank you for inviting members of our firm to appear before your committee over the last several years. Your committee, among its other duties, provides an important forum for the setting of our most critical phases of the U.S. national energy policy. We, in Burns and Roe, have spent our lives in the energy supply sector. As a professional firm of engineers, we welcome the chance to provide what we believe to be informed and objective opinions based on this experience. The opportunity to meet with the President in the company of other industry leaders was the latest of many initiatives you have taken to try to resolve this difficult problem. We believe they have all been designed to be constructive.

I sincerely appreciated the opportunity to participate in the White House discussions and express my views. I also commend you on your leadership in arranging these discussions to find an answer on a matter that is so vital to our future national well-being.

At the meeting, each side was able to make its views known very clearly. The utility and nuclear industry officials made compelling presentations on the national need to proceed with Clinch River and the essential role that project plays in assuring the future viability of the nuclear energy option for the U.S. I found it very interesting that President Carter stated that concern over proliferation—his original reason for cancelling Clinch River—is no longer his basis for opposing the project. I would expect that point to be of particular interest to those in Congress who have supported the Administration position based on foreign policy and proliferation considerations.

The President made it clear that his opposition to the project is now on the basis of timing and budgetary reasons, which I believe to be properly matters of Congressional discretion. With the energy problems this nation faces in the future, it seems clear to me that spending the money now for a breeder demonstration plant like Clinch River is both the most prudent and most cost effective action that can be taken to insure the availability of the currently most promising electrical energy option of all. Also, I consider it significant that other reasons given during the past year for not proceeding with Clinch River, such as the plant design and cost estimate, were no longer advanced as arguments against the project. They appear to have been dispelled along with proliferation.

It is my opinion, I am disappointed to say, that no positive consensus developed out of the mutual exchange of views. The President quietly, politely and quite firmly made it clear that there was no flexibility in his position on Clinch River. Thus, it would seem that no real or acceptable compromise is readily apparent.

Under more normal circumstances, I should have thanked you and answered more quickly. The gravity of the issue and the clear difference between the industry and the President's viewpoints have caused me to delay until now. I have wanted the interval of time to turn the matter over further in my mind and give additional thoughtful consideration to the substance of our interaction with the President.

My evaluation at this time is that the reasons advanced by the utility industry for the continuance of the Clinch River project still clearly outweigh the counter-arguments advanced by the President. I believe, as a professional engineer, that Clinch River is the quickest, cheapest and best way to develop the breeder which provides the ultimate guarantee of our nuclear option.

For two years now, Clinch River has been a pivotal issue. It is the essential step in the guarantee of long-term availability of nuclear energy. This is recognized by the so-called environmentalists as well as those of us who believe we need nuclear power.

In that regard, I would like to bring to your attention an item contained in a newspaper account of President Carter's recent visit to Tennessee. The following quote was published after an interview with a member of the anti-nuclear Palmetto Alliance who said:

"What happens at Oak Ridge will determine what happens with nuclear energy. Without the breeder, they can't maintain nuclear power with conventional light-water reactors and the limited uranium available. Carter's sympathetic with our position."

I believe this quotation may illustrate the feelings and future strategy of the anti-nuclear movement. On this point, both the industry and the anti-nuclear movement agree—an adverse decision on Clinch River would be inimical to the future of the U.S. nuclear energy option. The Congress should consider this point very seriously.

Burns and Roe, as an architect-engineer over many years, has carried out and vigorously supported our national policy in many areas once it has been set. We have supported and continue to support proceeding with Clinch River as an appropriate research and development step as presently authorized by Congress.

Should this policy be changed we would consider it our professional obligation to vigorously support a new policy should we be selected to play a role in it.

However, for the purposes of the current policy debate, our professional advice is that it would be in the overall national interest to continue Clinch River from all standpoints which we are qualified to assess. Any consideration of reorientation of the project to break the existing impasse would come more appropriately from the utility industry which would be the ultimate users of breeder reactors.

Again, I thank you very much for the opportunity to express my views and participate in discussions which I consider vital to our national future. You have my permission to use this letter in further discussions as you see fit.

Sincerely yours,

KENNETH A. ROE.

Mr. McCORMACK. Madam Chairman, will the gentlewoman yield?

Mrs. LLOYD of Tennessee. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I think we are all concerned about the possibility of a Presidential veto; but it seems to me that if the President were going to veto this authorization bill because it contains language to continue the Clinch River project as it is now designed, with some minor modifications, we are only delaying the inevitable.

What makes anyone in this Chamber think that in 1981, if he should still be President—and there are serious doubts with respect to that possibility—that he would not veto it at that time? I think in 1981 the only hope is to see another President who would favor the Clinch River project. However, we are only delaying the inevitable if we hide today behind the possibility that the President may veto it, because if he is going to veto this one, he will veto the larger ones.

We are only talking about sizes at this time and minor changes in the fuel system.

Mr. TEAGUE. Madam Chairman, if the gentlewoman will yield further, I agree with the gentleman from Washington (Mr. McCORMACK) completely.

We are at a crossroads as to which way to go. I do not know, but I think the Flowers amendment is the best route.

There is no question that in 1980 the President might say, "I am not going to do anything," or he could say that he is going to do something.

He has written me a letter or Dr. Schlesinger has, and the President has called me and told me that he was for reorienting and redirecting a bigger, better breeder reactor. I know that a lot of people do not believe what he says, but I have it in a letter, and he has called me and told me that that represented his thinking. Therefore, I have to have some faith in the President.

The CHAIRMAN. The time of the gentlewoman from Tennessee (Mrs. LLOYD) has expired.

(On request of Mr. WYDLER and by unanimous consent, Mrs. LLOYD of Tennessee was allowed to proceed for 3 additional minutes.)

Mr. WYDLER. Madam Chairman, will the gentlewoman yield?

Mrs. LLOYD of Tennessee. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, I just want to point out that I know the Members of the House know that these arguments have been made before.

The new argument, of course, that we are being faced with here today is that since the President is going to veto the bill, we should cancel Clinch River. However, let nobody make any mistake about what he is doing when he votes for the Flowers amendment. The Flowers amendment finishes, puts to death, the Clinch River project. That is the exact result of it.

We are doing it, we are told, because we want to satisfy the President's insistence on a veto unless we do it. That is what we are being told.

Madam Chairman, if the Members want to vote that way, it is all right; but they should not get the idea that we are going to keep the Clinch River project in any way, shape, or form.

If the Members vote for the Flowers amendment, the Clinch River project is dead as a doornail once that amendment is passed.

Mrs. LLOYD of Tennessee. Let me say this to the gentleman from New York (Mr. WYDLER): From the gentleman's visit to Europe, is it not his opinion that it is desirable that this intermediate step is advisable instead of jumping to the larger reactor and is also more pru-

dent. There is no technical reason to make such a plant change.

Mr. WYDLER. To answer the gentlewoman, I feel that when we get to the next step, many of the Members are going to make the same arguments they are making now. They are going to say, "Why build this one? Why not design a bigger one?"

We are behind the eight ball. We are going to get the same arguments, including one that all industry is against this amendment and that the major part of the labor unions of our country are against it, too, and that that should be made clear.

I have a letter here from the president of the building and construction trades department of the AFL–CIO, in which he asks for the defeat of the Flowers amendment.

So, there is a very broad-based position on this amendment, and I hope Members on both sides of the aisle will keep that in mind. I thank the gentlewoman for yielding to me.

Mr. McCORMACK. Madam Chairman, will the gentlewoman yield?

Mrs. LLOYD of Tennessee. I yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I thank the gentlewoman for yielding to me. If I may, I would like to expand for just a moment on the colloquy that the gentlewoman has held with our esteemed chairman.

I want to say that I have all the respect in the world for the chairman, but I differ with him on tactics at this point. What the chairman is saying is that we have a better chance of getting where we want to be by allowing the President to kill Clinch River in exchange for the President's assertion that he will go on with the study.

I suggest that we would be in a much stronger position in the conference committee, where we can actually deal with the President, if we reject the Flowers amendment. Then, we are in the position to tell the President that we can force him to veto it if that is what he intends to do, and tell the American people that he intends to kill the breeder program. Let him be the executioner; not us.

Mr. LLOYD of California. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I think we have heard it all. I think it is clear, as Mr. FLOWERS said, that there are no minds that will change, not only in this Chamber but, fortunately or unfortunately—whatever one's position may be—nor will they change over in the White House.

I have in the past strongly supported the position of the gentlewoman from Tennessee regarding the Clinch River breeder reactor. I believe that in the committee we should have gone forward with it, but we didn't. Now I think we have arrived at that point in time where it becomes debilitating just to continue. We can talk about it until we are blue in the face, but we are not going to accomplish anything.

So, the answer clearly is that we ought to go forward on the Flowers amendment and get on with it, because we do need nuclear reactor electric energy. There is no question about that. There is hardly anybody, at least any of my friends, who is against that. It is not that I am against the Clinch River breeder reactor, but it is the fact that I recognize the futility of pursuing the CRBR.

Madam Chairman, I think enough words have been said, and I hope not to add any more of my immortal words. Let's vote and get on with the business of Congress.

Mr. LUJAN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I simply want to join the gentlewoman from Tennessee in opposing this amendment. I understand that there are reasons for the leadership of the committee to support that amendment, but I feel a certain sense of frustration every time something like this comes up. As we move along, we seem to just turn around, on anything that is going to solve our energy problem. We just turn our backs on it and go on to something else.

I was not going to say anything, but yesterday in the Subcommittee on Water and Power of the Committee on Interior and Insular Affairs, we had a bill up to authorize eight hydroelectric powerplants. Certainly they are needed, and of course, the recommendation of the administration is that we study them for 2 more years. Well, we did study one of them for 20 years and another one for 4 years, and they seem to think that is not enough, that instead of authorizing construction, we just authorize an additional feasibility study.

I looked through all of the initiatives that we have had, and efforts to stop construction because of some fish somewhere, or because coal is going to add more pollution, or we seem to find some reason why we do not move forward with anything that will produce additional energy. The administration tells us how committed they are to solving the energy problem, how concerned they are that all the dollars are going out of the country for oil, although they say that oil is not the problem now. But I do not see a single initiative that will produce 1 watt of electricity by any of the proposals of the administration. So I would urge the Members of this House to oppose the Flowers amendments.

Mr. FUQUA. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I too want to join the chorus in expressing my strong feeling in support of our chairman, the gentleman from Texas, for the fine job that he has done in the 16 years that I have served on this committee with him. I too want to commend the gentleman from Alabama and the gentlewoman from Tennessee. She has done a very fine job and has made most persuasive arguments why we should support the present program for the Clinch River project.

I did not decide to support the Flowers amendment lightly. As the gentleman from Alabama (Mr. FLOWERS) said, I too made speeches in support of the Clinch River project. If I thought it was a project that would go forward and help speed up our breeder technology, I would be speaking for it here today. But after realizing, after long and arduous debate with myself and listening to people on different sides and people that I have confidence in, I came to the conclusion that the approach of the gentleman from Alabama (Mr. FLOWERS) is the only way that we are going to advance and leapfrog in our breeder technology.

I have heard it said in this well today and on other days, that if we vote for the Flowers amendment we are killing the breeder technology. Nothing could be further from the truth. Already in this bill, this bill before us now, there is $375 million for base breeder technology. That is in this bill. Last year there was about $430 million. And the year before there was over $250 million for base breeder technology.

We do have a broad program going on in breeder technology, most of it in the district of my good friend and able colleague, the gentleman from Washington. It is also represented by the gentleman from Idaho in the other body, who handles this bill in that body.

So we are doing a large amount of work in the breeder technology.

The comment is made that the administration has abandoned their commitment to breeder technology. What we are proposing in the Flowers amendment is a major commitment by the administration to the nuclear breeder. It is a major commitment by this Congress that we do intend to and want to move forward with breeder technology.

The Clinch River is, as the gentleman from Alabama (Mr. FLOWERS) has said, a dead issue. The President has said he was not going to spend money for it. Now we can walk up this hill and say we are going to show the President a lesson or two, and he vetoes the bill, and we do not have the votes to override the veto, so we may feel better, but we have not accomplished a thing.

But what we are doing in the Flowers amendment is mandating that there be a study made and a report back of definitive design studies and cost estimates so that we do not have the overruns we have had in the Clinch River project, and we can get on with a much larger breeder program and make that commitment in 1981 and build a demonstration project in the neighborhood of 650 to 900 million megawatts.

If we continue with Clinch River, it is another $2 billion before we get it into operation. We still have to build a Clinch River 2 somewhere in order to have a larger design for the larger megawattage that it would require for commercialization.

So what we are doing is leapfrogging, and we can do it. I recall in looking back at history at the great advantage we have enjoyed over the years in our advancement of jet technology, of jet engines. But it was not the United States that flew the first jet engine. It was the French. But the United States had a great base program going of R. & D. and we recouped and far exceeded the French, and today the United States dominates that market, and has for many, many years in the commercialization of jet aircraft or jet engines.

So I say, Madam Chairman, that I appeal to them that this is the only way that we are not going to abandon the breeder technology, you will be voting to continue to work on the breeder technology as we have in the past. We have a strong base program.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. BROWN of California, and by unanimous consent, Mr. FUQUA was allowed to proceed for 2 additional minutes.)

Mr. FUQUA. Madam Chairman, I thank the gentleman for yielding me the additional time.

As I say, we have a strong basic breeder program and we can move forward in the years ahead and leapfrog ahead and get out of the dilemma that we are in today.

I urge the adoption of the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

Further, Madam Chairman, I would like to express my appreciation to the distinguished chairman of our committee, the Honorable OLIN "TIGER" TEAGUE of Texas, for the tremendous patience, time, and effort that he has put into this authorization bill. There are few people in this House that I admire, respect, and love more than this gentleman from Texas, "TIGER" TEAGUE, who has been a friend for close to 16 years. When I was a freshman he took me under his wing and led me through the complicated maze of parliamentary procedures and rules of the House. I will never forget his kindness to me and say here and now that I value his friendship tremendously.

Madam Chairman, this fiscal year 1979 Department of Energy authorization bill, H.R. 12163, is a good bill and the work product of a committee that has demonstrated the kind of teamwork necessary to deal with tough issues of energy research and development program priorities, substantive development and demonstration programs, overarching nuclear issues such as the Clinch River breeder reactor project, and finally, jurisdictional discussions brought about by a complicated mission-oriented Department of Energy budget request. I commend the leadership of the committee, the ranking minority member, JACK WYDLER of New York, and the various subcommittee chairmen and ranking minority members for their bipartisan support. This bill is a tribute to their effort. I rise in support of this bill, Madam Chairman, even though I am in disagreement with a certain portion dealing with the Clinch River breeder reactor program.

THE CLINCH RIVER BREEDER REACTOR PROJECT AND THE BASE BREEDER REACTOR PROGRAM

Madam Chairman, I would like to address a popular misconception that is making its way among the Members and that is to defer to terminate the Clinch River breeder reactor project automatically "kills" all the breeder technology. This is not true and I would like to clear up this matter today. This bill, H.R. 12163, contains approximately $375 million for breeder technology and represents a major commitment by the administration to the nuclear breeder. The problem comes with the timing of the Clinch River project. For purposes of planning the scope and pace of the research, development, and demonstration associated with the liquid metal fast breeder reactor effort, the following reference assumptions were made in 1976:

The ultimate uranium resource base is 3.7 million short tons U_3O_8; and

The U.S. light water reactor capacity growth would be such as to reach a total nuclear capacity of 625 GWe in the year 2000.

These two assumptions established the requirements to commence on-line development in the early 1990's, if of course, the fission options were to have a role as an essentially inexhaustible energy resource in the Nation's energy economy.

Two factors have caused the LMFBR program to be redirected:

A reassessment of the timing of the need for the breeder; and increased concern for the proliferation issue.

The timing reassessment is based on substantial reductions in projected demand for nuclear generating capacity: the current projection for the year 2000 is 330 to 380 GWe. At the time of the Clinch River breeder reactor plant commitment, the year 2000 capacity was projected to be 900 to 1200 GWe. In addition, the uranium resource base estimate has been revised upward to 4.4 million short tons.[1] With these assumptions, the need for the breeder deployment recedes into the next century.

With more time available, the U.S. can pause for an examination of alternative institutional and technical nonproliferation strategies while maintaining the breeder option. Thus, the President, in April 1977, deferred indefinitely the demonstration phase of the LMFBR program and commercialization of conventional fuel reprocessing.

PROPOSED LMFBR PROGRAM REVISION

The U.S. liquid metal fast breeder reactor (LMFBR) program will remain viable and broad based if the decision is made to complete CRBRP systems design and to construct and test key CRBRP developmental components. The U.S. program's strength is derived from a combination of test facilities both operating and planned, a strong well-funded base technology program in the critical areas of fuels, components, physics and safety, and conduct of a conceptual design study (CDS) on an LMFBR in the 650- to 900-MWe size range. The program is also paced to take advantage of foreign LMFBR experience and to incorporate results of ongoing nonproliferation studies. Key activities in each area are discussed below (fiscal year 1979 figures):

I. FACILITIES ($217.9 MILLION)[2]

Continued operation of major facilities including:

Experimental Breeder Reactor II (EBR–II) in Idaho (fuel and safety tests).

Energy Technology Engineering Center (ETEC) in California (component tests).

Hanford Engineering Development Laboratory (HEDL) in Washington (fuel and components tests).

Transient Reactor Test Facility (TREAT) in Idaho (safety tests).

Zero Power Plutonium Reactor (ZPPR) in Idaho (key critical tests).

Sodium Loop Safety Facility/Engineering Test Reactor (SLSF/ETR) in Idaho (safety tests).

Hot Fuel Examination Facility (HFEF) in Idaho (fuel examination and analysis).

Continued planning/or construction of new facilities:

Fast Flux Test Facility (FFTF) Fast Test Reactor—(Complete construction and start-up tests—confirm engineering codes and standards and initiate advanced proliferation resistant fuels development) in Washington.

Maintenance and Storage Facility (MASF)—Fuel Storage Facility (FSF)—(FFTF Support).

High Performance Fuel Lab/Fuels and Materials Examination Facility (HPFL/FMEF) (Proliferation resistant fuels development).

TREAT Upgrade (Safety tests).

Sodium Pump Test Facility modification (SPTF) in California (large pump testing).

II. BASE TECHNOLOGY PROGRAM ($155.5 MILLION)[2]

Components:

Key developmental activities on critical components including large pumps and steam generators will be conducted.

Key CRBRP components will be completed and tested at ETC.

Development of large scale pumps and steam generators will be conducted by U.S. design firms and laboratories.

Development also to continue on fuel handling equipment, control rod drive mechanisms, valves, etc.

Fuels and Materials Program:

Utilize EBR–II and FFTF for testing reference and advanced fuels.

Continue R&D and tests on alternate fuels including thorium.

Safety:

Continue safety analysis and modeling.

Continue safety tests at SLSF, TREAT, and EBR–II.

Modify TREAT to increase test capability.

Physics:

Conduct critical tests on advanced fuels at ZPPR.

Confirm breeding characteristics of thorium cores.

I urge my colleagues to support the Flowers amendment which will allow the proposed LMFBR program revision to go forward in a positive manner. The Flowers amendment would add the key element to focus the breeder technology program as follows:

CONCEPTUAL DESIGN STUDY ($55 MILLION)[2]

Conceptual design effort on 650–900 MWe sized plant.

Preserve LMFBR design expertise by using professionals with CRBR experience.

Develop key large plant parameters to focus the ongoing base program effect.

Provide to Congress by March 31, 1981, a report on conceptual design details, estimated costs and times for plant design, licensing and construction, and a description of required R&D.

CRBR system design will be completed and results incorporated in conceptual design study.

Madam Chairman, moving right along, I would now like to address another misconception and that is that the Science

[1] The National Uranium Resource Evaluation (NURE) will continue to refine the uranium and thorium resource bases.

[2] Amounts include operating, capital equipment not related to construction, and construction.

Committee tries to "hold onto a technology" rather than let it proceed to the marketplace.

This is simply untrue, and I am pleased to place in the RECORD at this point the record developed through the efforts of the Science and Technology Committee to assist the transfer of energy technologies from R. & D. to the commercial marketplace. The long-range view and near-term impact of the committee's actions predates the Department of Energy and the recent mass media attempts relating to solar and nuclear programs. There is no way that any scientific event or technology development can be classified as energy R. & D. unless somewhere, someone sees the possibility of its use by some form of consumer. No responsible overseer of energy R. & D. can act responsibly unless he bears constantly in mind the necessity for getting a given technology to a consumer—the Science and Technology Committee is no different. Though its specific jurisdiction is research and development, its concern is the same as it was in the space program—deliverable, reliable systems. The committee has acted on these concerns through a series of legislative actions and hearings.

93D CONGRESS—LEGISLATION

Solar Heating and Cooling Demonstration Act of 1974 (P.L. 93-409). This act authorized funds and the organization of a program to provide for the demonstration of the practical use of solar heating technology and combined heating and cooling technology in residential and commercial buildings.

The Geothermal Energy Research, Development and Demonstration Act of 1974 (P.L. 93-410). This act establishes a Geothermal Energy Coordination and Management Project to carry out a program of demonstrations in geothermal technologies and a loan guarantee program for financing geothermal energy development.

The Solar Energy Research Development and Demonstration Act of 1974 (P.L. 93-473). This act provided for the development and demonstration of practicable solar energy technologies (including direct and indirect solar radiation, wind, ocean thermal gradient, biomass) on a commercial scale.

HEARINGS

June 5, 1973. Solar Energy for the Terrestrial Generation of Electricity.

Nov. 13, 14, 15, 1973. H.R. 10952 et al., Solar Heating and Cooling Demonstration Act—Hearings before the Subcommittee on Energy.

Feb. 5, 6, 7, 11, 1974. H.R. 12112 et al, and H.R. 14172, Geothermal Energy.

May 8, 1974. Oil Shale Technology.

May 23, 1974. Solar Sea Thermal Energy.

June 6, 11, 1974. Solar Photovoltaic Energy.

June 13, 1974. Bioconversion.

July 30, Aug. 2, 1974. H.R. 15612, Solar Energy Research, Development and Demonstration Act.

Dec. 17, 1974. Synthetic Liquid Fuel Research and Development, H.R. 17400.

94TH CONGRESS—LEGISLATION

ERDA Authorization Act for FY 1976 (P.L. 94-187). This bill provided:

1. Project 76-1-b—High Btu Synthetic Pipeline Gas Demonstration Project. This first synthetic gas from coal demonstration was a Science Committee initiative and was not in the ERDA request.

2. $33 million for two geothermal energy demonstration plants.

3. Funds for feasibility study of Industrial Applications of atmospheric fluidized bed combustion.

Electric and Hybrid Vehicle Research, Development and Demonstration Act of 1976 (P.L. 94-413)—The act established a program to demonstrate the economic and technological practicability of electric and hybrid vehicles for personal and commercial use in urban areas and for agricultural and personal use in rural areas.

HEARINGS

Feb. 6, 1975. ERDA Authorization, 1976 and Transition Period—Overview.

Feb. 18, 19, 20, 27, 28, 1975. ERDA Authorization FY 1976 and Transition Period—Fossil Fuels.

May 7, 1975. The Energy Related Applications of Helium.

May 13, 14, 15, 1975. Solar Heating and Cooling Demonstration Act of 1974—Oversight.

June, 1975. ERDA Authorization—FY 1976—6 Volumes (Non-Fossil).

June 3, 4, 5, 6, 1975. Electric Vehicle Research, Development and Demonstration Act of 1975.

June 17, 19, 1975. Methanol.

June 24, 1975. Oversight Hearings—Methanol Derived from Fossil Fuels—Vol. I.

July 8, 9, 10, 11, 1975. Legislation for Outer Continental Shelf R&D—Vol. I & II.

July 29, 30, 31, 1975. Oversight Hearings—Coal Combustion RD&D for Utility Power Plants and Industrial Uses—Vol. II.

July 21, 1975. Comprehensive Plan for Energy Research, Development and Demonstration.

Sept. 9, 10, 11, 1975. Industrial Energy Conservation Act of 1975—H.R. 8494, et al.

Sept. 18, 25 & Oct. 30, 1975. Loan Guarantees Provision, H.R. 3474, ERDA Authorization Bill FY 1976.

Sept. 29 and Oct. 7, 8, 9, 20, 21, 22, 23, 25, 27, 1975. Loan Guarantees for Commercial-size Synthetic Fuels Demonstration Plants—3 Vols.

Oct. 1, 6, 1975. Geothermal Energy Research, Development and Demonstration Program Loan Guarantees.

Oct. 7, 1975. Loan Guarantees for Solar Energy Demonstrations.

Oct. 9, 1975. Loan Guarantees for Energy Conserving Technologies.

Oct. 30, 1975. Loan Guarantees for New Energy Technologies—Capital Formation.

Jan. 20, 1976. Oversight Hearings on P.L. 94-410—Geothermal Energy Research, Development and Demonstration Act.

Jan. 22, 1976. ERDA Authorization—FY 1977 Overview.

Jan. 22, 23, 29, 1976. Oversight Hearings on P.L. 93-577—ERDA Plan and Program.

Jan. 26, 1976. Near Term Energy R&D 1976 ERDA Plan and Program.

Jan. 29, 1976. Oversight Hearings Coal Slurry Pipeline R&D.

Feb. 4, 1976. ERDA Authorization FY 1977—Part I Conservation.

Feb. 5, 6, 1976. ERDA Authorization FY 1977—Part II Solar.

Feb. 10, 11, 17, 18, 19, 20, 24, 25, 1976. ERDA Authorization Fossil Fuels FY 1977—Vols. I & II.

Feb. 19, 1976. ERDA Authorization FY 1977—Part III Geothermal.

Mar. 31, April 1, 6, 7, 8, 13, 1976. Synthetic Fuels—Volumes I and II. Loan Guarantees.

June 25, 26, 1976. ERDA Authorization FY 1977—Part VI.

July 27, Aug. 3, 4, 5, 10, Sept. 16, 1976. Oversight Hearings—Coal Mining R&D.

95TH CONGRESS—LEGISLATION

ERDA Authorization Act for FY 1977 (P.L. 95-39)—

This act contained authorizations for:

1. Project 77-1-b, a Second High Btu Pipeline Gas Demonstration Plant.

2. Project 77-1-c, a Low Btu Fuel Gas Demonstration Plant (Utility).

3. An increase in the Enhanced Gas Recovery program by $6 million to initiate Devonian Shale activity because of its near-term impacts.

4. A municipal solid waste demonstration price guarantee program.

DOE Authorization Act for FY 1978 (P.L. 95-238)—

This act included authorization for:

1. Project 78-2- —a Solvent Revined Coal Solids Demonstration Plant; this Committee initiative anticipated the Administration's 1978 "Energy Supply Intiatives."

2. An expanded drilling technology program with near-term impacts.

3. An additional $32 million to deal with technological and international implications of civilian waste management and spent fuel storage.

4. The 10MW Central Receiver, Solar Thermal Power Plant.

5. A second 50 MW Geothermal demonstration plant.

6. Fluidized bed combustion of anthracite waste.

7. Acceleration of utilization of coal-oil slurries in oil-fired boilers.

8. A demonstration of the technology and economics of cogeneration.

9. Augmentation of demonstration program for conservation in Buildings and Community Systems.

10. $200 million for a broad range financial support program for municipal waste-to-energy demonstration programs.

11. A generic loan guarantee authority.

12. A High Btu Coal Gasification Test Facility feasibility study ($10 million) for testing of commercial-sized advanced gasification reactor vessels.

HEARINGS

Feb. 22, 23, 24, 25; March 1, 2, 3, 4, 8, 1977. FY 1978 ERDA Authorization Hearings 4 Vols.

March 31, 1977. Nuclear Power Issues & Choices.

April 4, 5, 1977. Energy Demand, Conservation Potential & Probable Lifestyle Changes.

June 7, 8, 9, 10, 14, 1977. Clinch River Breeder Reactor.

July 12, 1977. Market Oriented Program Planning Study.

July 12, 1977. Electric and Hybrid Vehicle Act, P.L. 94-413, Demonstration Program Objectives & Schedule.

Nov. 1, 1977. New Technologies for Old Fuels.

Nov. 3, 1977. Oversight Hearing on P.L. 93-409. The Solar Heating & Cooling Demonstration Act of 1974.

Dec. 12, 1977. Hearing on Used Oil Reprocessing, Seminole, Oklahoma.

Jan. 26, 27, 30, 31; Feb. 1, 2, 3, 6, 7, 8, 1978. FY 1979 Department of Energy Authorization.

April 19, 26, 1978. Impact of Clean Air Act Amendments on New Energy Technologies.

June 13, 20, 28, 1978. Nuclear Waste Management.

In conclusion on this subject, Madam Chairman, let me add another citation to this impressive list and that is the program for the development of a system to produce electricity from waste heat. The Sundstrand Corp. has been working with the Department of Energy for several years on this technology and it is fast approaching the commercialization stage. As further evidence of this a cooperative agreement was agreed to which includes cost sharing and possibly even recovery of DOE cost for the R. & D. associated with this effort. A summary of this cooperative agreement is as follows:

A cooperative agreement exists between the Department of Energy's (DOE) Division of Conservation Research and Technology and Sundstrand Energy Systems. This agreement covers a jointly funded program to develop an organic Rankine cycle system

(ORC) to capture and use the waste heat energy from large stationary diesel engines, gas turbines, and industrial processes. The unit will produce 900 SHP (nominally 600 kW). In addition to the development program, five field test units are being constructed and placed at various municipal utilities and industrial sites. The four-year development and field test program began in 1976.

Several important features distinguish the DOE/Sundstrand cooperative agreement from most other Federal R&D contracts. In general, it recognizes that there is a partnership between the Government and the Corporation, based on substantial cost-sharing and mutual interest in the success of the project.

The agreement also includes built-in incentives to encourage Sundstrand to produce equipment that is both extraordinarily reliable and energy-efficient. To the extent that the ORC system meets minimum standards for reliability and efficiency called for under the agreement, DOE's share of the project cost will be increased, and Sundstrand's share correspondingly reduced.

Of special interest is a provision that will enable the government to recover part or all of its costs—or even make a profit—in return for support of the project. Within five years Sundstrand may either pay back the Federal share of the project cost or, alternatively, it may elect to pay the government a "royalty" on its ORC equipment sales during a 10-year period.

Madam Chairman, I applaud this effort by the new Department of Energy and I look forward to the day when many more exciting ideas move from the research and development and demonstration phases to the commercial marketplace.

Thank you, Madam Chairman, for your time and patience. I am proud to support this authorization bill and I urge its passage by my colleagues.

Mr. BROWN of California. Madam Chairman, will the gentleman yield?

Mr. FUQUA. I am happy to yield to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Madam Chairman, I very much appreciate the statement the gentleman has made and particularly his emphasis on the point that we are not detracting from our base breeder program at all.

I have heard it said several times on this floor that the Flowers amendment destroys the breeder program. Is it not true that our base breeder technology program, without the Clinch River project in it, is still larger than the combined breeder programs of all the European nations?

Mr. FUQUA. The gentleman is absolutely correct, and the United States is still the leader in breeder technology. We have not gone to the demonstration program, and we are going to have to do that and I would like to see us do it soon, but the facts are that the President is not going to do it, and if we are going to continue with the base breeder technology program.

The gentleman is correct.

I have heard many people state the myth that Clinch River is killed, or the base breeder technlogy program. It is not true, that is a myth.

Mr. McCORMACK. Madam Chairman, I thank the gentleman for yielding.

There are several points I would like to make. One of them is that the European breeder program at the present time is larger than our program. The Europeans have completed construction of their first plants, and are in between the first and the second demonstration facilities. We have now funding construction of our first demonstration unit, CRBR. That is why our program is behind, and also why we are today spending more money.

I appreciate the gentleman's comment on the fact that much of the base program for the breeder is being carried out in my district.

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. Mr. McCORMACK, and by unanimous consent, Mr. FUQUA was allowed to proceed for 2 additional minutes.)

Mr. McCORMACK. Madam Chairman, if the gentleman will continue to yield, let me say that it is true that much of the base program is being carried out in Hanford, Wash.

I should like to point out that the program at Hanford will not be disturbed by this amendment. However, if it succeeds in killing Clinch River, the administration intends to go after the base program in 1980, and we already have some inklings as to how deeply they are going to cut on it.

Mr. FUQUA. I would like to point out to the gentleman from Washington (Mr. McCORMACK) that the gentleman now in the well, speaking, has not gotten that feeling from the administration that they plan to cut back on the base breeder program. I hope they do not have such inklings on this program.

Mr. McCORMACK. I can understand that.

I would like to point out that my support for the Clinch River breeder reactor is not a selfish one. If the Flowers amendment were to be adopted, it could very well mean an additional $250 million in future R. & D. in my district. My support for the CRBR, and I hope the Members will all understand that, is because it is vitally important to our Nation.

I do not believe that we should be the ones to kill Clinch River. It is the leading edge of U.S. breeder technology. If we were to abandon Clinch River today it would be like abandoning our demonstration projects on fossil fuels, solar, and geothermal energy, and saying it was OK to kill them because we still have our base program in those technologies.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. WYDLER. Madam Chairman, I move to strike the requisite number of words.

Mr. WYDLER. Madam Chairman, I will try to be brief. I think, as I said before, most of us have made up our minds. I do not know if any minds are being changed, but there is some significance in the discussion.

I would just want to point out that really, basically, what we are being told here in the House this morning is that there are a lot of Members who are all for the Clinch River breeder reactor, and the breeder program, but they have decided that they are going to be in the position of voting against it on the theory that that is the only way to save the breeder program. That is what I understand them to be saying to us here today.

I want every Member to fully understand the implications of his vote. We can talk about the program going on, but all we are going to have, if you kill the one project—the one project that we have in breeder reactor development—all we have left is a study, and it is a general study. They are going to take all the material that is currently available and study it. They are going to put it together—the Members know how they do that—and they are going to come out and say, "Well, maybe we should build this kind of reactor that will be better." "This kind of reactor"—what is that going to mean? Then where are we at the end of the road? We are at the end of the next Presidential election. I do not know how that is so significant one way or the other, but the amendment brings the decisionmaking beyond that point. Then the President is going to sit there and say, "I do not think we need a breeder reactor." Or if he happens to say, "Maybe we should build this one, or that one," then we will have a study to determine which of the two alternatives will be adopted.

Can the Members imagine the money we are going to need in those days? We are going to start from ground zero. The $800 million we have spent so far will be down the drain, wasted, finished.

Let us seriously consider what we are doing here today. We are not going to decide this issue finally. It is not going to be decided on this vote, and everybody knows it. The House is going to take a position—and that is an important factor—but it is not the final story. We are going to have to go over to the conference with the Senate, and we are going to have to write some type of provision in the bill with the Senate in the conference. I suggest we should go to that conference in a strong position, backing the committee in its position. That will put us in a strong position to negotiate with the Senate. Why give up everything at this point and go to the conference with the Senate with nothing to negotiate? That is exactly what we are being asked to do by adopting the Flowers amendment. It is a bad policy; it does not make sense. For those who have supported the Clinch River breeder reactor it would be a mistake, and I think it is a mistake if even these men, for whom I have the greatest respect, decide to go in this direction. I am not willing, every time the President says he is going to veto some project here or there to say, "OK, then we will drop that." He is not making the legislative decisions here in the House, and he should not be making them in the Senate. We should be making them here today on what we think is right. We should go to conference to try to work out a reasonable solution, and if we do that, I think we will serve our country's interests.

Don't kid yourself. The French have built their breeder reactor. They are already building their second generation breeder reactor. The Russians have already built their prototype breeder re-

actor. They are also in the process of building their second generation breeder reactor. We are being left behind in this world. We are being left behind in nuclear technology, and if we give up the only project we have got—this is the only project—for studies, thoughts, and considerations, and that is the process our Nation is going to follow, by the time the 1980's and 1990's come upon us, we will find ourselves a second-rate nuclear power in the world, going from a position of preeminence in this world in nuclear energy, we are going to go down to practically the bottom of the list. Do not let it happen to our country. Let us fight for this project. It is important to the future of our Nation.

Mr. HILLIS. Madam Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding.

I would like to associate myself with the gentleman's remarks.

Madam Chairman, I rise in opposition to the Flowers amendment. It is my hope that this body will not believe that this amendment is a compromise between not building a breeder reactor and the full development of the Clinch River breeder reactor (CRBR). There is no compromise contained within this amendment. The amendment is tantamount to killing any U.S.-built breeder reactor.

The new breeder design to be studied, should this amendment be approved, does not solve any of the problems associated with the Clinch River breeder reactor. In fact, there are many more objectionable aspects of this unknown breeder design than with the Clinch River reactor. To begin with, it would be much more expensive. Estimates indicate that the delay this amendment would cause would result in an additional $2 billion should a demonstration reactor ever be built. Furthermore, some $800 million of taxpayers money already spent on the Clinch River reactor would be for nothing—a complete waste of almost $1 billion. Last and most important, the future energy needs or demands of this Nation would not be protected should this amendment pass.

It is safe to say that the United States really has only two choices or alternatives available to meet our electrical needs in the 1990's and the early part of the next century. These two choices are nuclear and coal. Only these two sources of energy will be available in large enough quantities to meet our projected demands. Neither alone will insure that the demand will be met; we will need a combination of the two.

Obviously, without nuclear power, this Nation will not meet its energy needs. Even the administration agrees with this point. Not only is the administration supporting the construction of more light water reactors, but it is licensing reforms which are being supported facilitating the construction of new nuclear powerplants. However, light water reactors alone may not meet our need for nuclear power. A breeder program may be needed to augment our supplies of nuclear fuel.

There is only a limited amount of uranium-235 known to exist within the United States. The actual amount of fissionable uranium is not known and estimates vary. However, the important fact is that by the very early 2000's, we may find ourselves in very serious danger of running out of uranium-235 at a time when more nuclear power will be needed to meet the energy demands.

No one knows what our electrical demands will be in the future. There simply are too many variables involved. We do not know how our projected needs truly reflect what the future will bring. Nevertheless, it should suffice to say that there is a strong possibility that new sources of fissionable fuels may be required. Should these sources not exist when needed, great economic and social upheaval will result.

As I understand it, there are only two fissionable fuels known to exist: Uranium-235 and plutonium-239. U^{235} comprises only a small percentage of the uranium found in nature. Most uranium is U^{238} which is nonfissionable. However U^{238} can be used as a fuel in the breeder. By using U^{238}, the breeder produces plutonium-239 as do light water reactors. Plutonium-239 can be used as a fuel in either the light water reactors or LMFBR's.

There are huge amounts of U–238 already mined which cannot be used to produce energy unless we construct a breeder reactor. It has been estimated that there is enough U^{238} to supply more energy than the entire coal supply in the United States. That represents trillions of dollars worth of potential energy which can be used in a breeder reactor.

Plutonium is a fictitious isotope; that is, it is manmade and not found in nature. While Pu^{239} is fissionable and can be used in light water reactors, the net result is a loss of fuel while the breeder actually produces more fuel than is used, thus increasing our nuclear power capabilities. Unless we are willing to gamble like the administration that the additional fuel which can be produced by breeders will not be needed, we must support the Clinch River breeder reactor.

Only then will the technology of the CRBR demonstration project be available when we must make the decision to build the next stage in breeder reactors; that is, the prototype for a commercialized breeder. That decision must be made in the mid-1980's. Should we decide that a prototype will be necessary, we must have the experience of building a demonstration breeder of which only the Clinch River project can be accomplished in time.

We should not be fooled by the President's support of the study required by the amendment now under consideration. The President is against breeders. We have no assurance that he will ever support any breeder, either at Clinch River or anywhere else. This is a well-camouflaged effort to kill any U.S.-built breeder reactors.

It is absolutely incredible to me that the President would sit by and watch the rest of the world develop breeders, and allow this Nation to be dependent upon foreign technology. Should the CRBR be killed today, and later we determine that we do need a prototype breeder in the 1990's, the only available source will be from foreign nations. Furthermore, we have no assurance that this foreign technology will be available to the United States or that it would be adequate to meet our safety requirements.

As I mentioned earlier, the President is taking a gamble. He is willing to bet the future of America that a breeder prototype will not be needed 6 to 10 years from now. We cannot sit idle and hope that breeders will not be necessary. The risk and consequences are much too great. We must defeat this amendment in order to keep open our future energy options.

Mr. ROE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I, too, want to share some of the thoughts that have been expressed by the distinguished gentleman from New York. I want to preface, however, my comments by complimenting and extending my greatest fidelity to the chairman of our committee, the distinguished gentleman from Texas (Mr. TEAGUE), who I think has been really the bulwark for the peoples of America in building our science and technology, and also to my good friend, the gentleman from Alabama (Mr. FLOWERS) who has made an eloquent presentation.

But I would like to make a point that I am opposed to this amendment for perhaps a different reason, and I want to share this with the Members.

I have great concern, and I want to share where we are going. There is an old military axiom that goes—and the fellows and gals who were in the military will remember:

If you don't remember what to do with it, first of all, pick it up; second, bury it; and, third, paint it.

When we come down to this particular situation, the way to solve this problem here today is either to dilute it, expand it, or study it. Every time we turn around when there is a confrontation, when we have to stand up, the proposal is, let us study it again. What is there to study? The only demonstration breeder program going in this Nation now is the one we are asked to direct our attention to today.

It seems to me when we talk about 1981 or 1982, it is only a 3-year study. We have got all the time in the world; but then let us look at the facts. The President is in Bonn, Germany, today. He is going to be meeting on Sunday. He is going to be debating with the free powers of the world on the economic strength of the Western Hemisphere, on the strength of the dollar and the economics of this country. We know we are in rampant inflation in this country. What is the underpinning debate? The underpinning debate is about $45 billion worth of foreign trade deficit and the purchasing power of the American dollar.

The core of the issue is energy. The core of the issue is a $45 billion deficit for imported oil. We sit and fritter and we are going to study for another 10 or

15 years whether we should get off the pot or on the pot.

We can pretty much agree this country is the greatest country in technology in the world, but we are going to lose the edge.

The gentlewomen from Tennessee (MARILYN LLOYD), of that great State is doing a great service to the country today, not because the Clinch River breeder reactor is located in the gentlewoman's district, that is a fallacious argument. It is not in my district. I am from the Northeast; but let me put in perspective in the short time I have, the problem this country is faced with. Certainly we cannot increase our resources in energy by increasing the cost of oil by 400 percent in a matter of 4 years and not do enormous damage to the economy of the United States and the free world. The key is the cost of the production of energy and the ever-increasing costs of the goods we are producing in the world.

The battle before the White House and before both committees is what we should be doing in our energy policy. It has been a year and a half and nothing has moved. In the meantime, we are now debating as indicated in the New York Times whether we are going to sell our surplus oil on the west coast to Japan, because we can balance our payments, which was against the legislative directive of this committee and against the dictum of the House of Representatives. Then we are coming back and saying that the West Germans, the French, and the Japanese are way ahead of us in breeder reactors. If they get this away from us today, I predict we will be buying technology back from Japan, West Germany, and France, at a great loss to the people of our country.

We are called upon to make a decision. What is the decision? It is simple. Either the United States moves ahead with a solid well-thought-out breeder reactor program, or we are lost. We still can. We are not quarreling about the breeder reactor. We can study that. We can study advanced technology and still move ahead. There is no reason whatever not to go ahead with this program now. It is crucial to the energy policy and the economic balance of payments and the productivity of the United States.

We would be making the worst possible mistake. I am a Democrat, but I do not agree with the President. Does this make me any less a Democrat or any less an American? Of course, not. That is what this forum is all about.

I ask all of you to join with us, vote down the Flowers amendment.

Yes, we can study it 3 years, but we do not have to kill or destroy this program in doing it.

Mr. DUNCAN of Oregon. Madam Chairman, will the gentleman yield?

Mr. ROE. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Madam Chairman, I want to associate myself completely with the gentleman's remarks. The gentleman has defined the situation in great detail and quite accurately.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. ROE) has expired.

(At the request of Mr. DUNCAN of Oregon, and by unanimous consent, Mr. ROE was allowed to proceed for an additional 3 minutes.)

Mr. DUNCAN of Oregon. Madam Chairman, will the gentleman yield further?

Mr. ROE. I yield to the gentleman from Oregon.

Mr. DUNCAN of Oregon. Madam Chairman, the gentleman has suggested that we are going to be dependent upon foreign countries for our nuclear technology. This concerned me and I went to visit the breeder plant in Mercoule, France. I came back convinced it is just as dangerous to the survival of this country for us to be dependent on a foreign power, even though it is Western European, for our nuclear technology, as to be dependent on the Middle East for our petroleum energy.

While this country is deferring the Clinch River project, while we are stopping construction of the nuclear plant at Seabrook, while we are failing to meet the President's goal of increased coal production, because of environmental lawsuits to prevent the leasing of public lands, while the President is sending programs down to this Congress that stop the development of any hydroelectric project, the Soviet Union is moving and moving rapidly to surround the whole country of Saudi Arabia and that vast oil pool upon which we are so dependent, and the United States is not even moving in the Middle East to try to forestall that calamity.

Madam Chairman, I think the gentleman's remarks ought to be heeded by every Member of this House and by every citizen of this country.

Mr. DORNAN. Madam Chairman, will the gentleman yield?

Mr. ROE. Yes, of course, I yield to the gentleman from California.

Mr. DORNAN. Madam Chairman, I think it is most unfortunate that the gentleman's eloquent words come before this House on a Friday low attendance day. We just had a record vote with only 312 Members in attendance.

I want to associate myself forcefully with all the gentleman's remarks and particularly with those of the gentleman from New York (Mr. WYDLER).

This is one of those critical moments in the history of this House when I desperately wish that the cameras of the three major networks were filming our proceedings and sending the video image out across the country. I think this is one of the issues that Thomas Jefferson referred to when he said, "Give the American people the facts, and they will always make the right decision." The voters upon hearing and seeing our debate today would lean heavily upon us with tons of mail coming into our offices telling us to get with it and move into the 21st century.

I hope the gentleman from New Jersey prevails. With all the respect I have for the gentleman from Alabama (Mr. FLOWERS) he has been pushed into a sad political posture by the President and that he is playing politics with one of the most critical energy decisions I have heard discussed in this body in a year and a half.

Mr. ROE. Madam Chairman, I thank the gentleman for his remarks.

Madam Chairman, let me conclude on this point: I honestly and genuinely believe the interests of the American people in large measure are riding upon this action today, and, although I certainly have the greatest feeling for the distinguished gentleman from Alabama (Mr. FLOWERS), who is the chairman of my subcommittee, and although I have inordinate respect for him, I ask the Members to vote down this amendment, because I think that is in the interest of our country.

Mr. GOLDWATER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the amendment and in support of the action of the Committee on Science and Technology in providing full funding for the Clinch River breeder reactor.

Madam Chairman, the Clinch River breeder reactor demonstration plant represents only one of several energy options this country is looking at to replace its dependence upon fossil fuels, especially oil and gas. It is an important option, because as we move forward in the next decade or so, it is going to be more important than ever that we begin right now to find substitutes for the diminishing supply of the world's oil and gas.

Nuclear energy is one of our most significant options. As we look back a number of years to the 1950's, we see that the United States was truly the originator and developer of nuclear energy. We were unquestionably the leader in this field. In the atoms for peace program of that decade, we felt it was important to share our technology and our knowledge with the rest of the world, and we began a concerted effort of exporting nuclear technology. We invited to this country literally thousands of foreigners to be trained in our expertise of nuclear energy.

We have gone along during these years with a very aggressive program, and in fact today, because of our leadership, the world enjoys a movement toward the use of nuclear energy, a safe use of the atom that will make up for the diminishing supplies of oil and gas.

Now we come to this administration, which all of a sudden has decided to change the policy of this country, to change the policy of nuclear energy use, and to precipitiously close our doors to the advancement of atomic energy. It is strange that the United States is pursuing a unilateral energy disarmament policy and abrogating its leadership in breeder technology. It is understood that most other countries do not share our abundance of knowledge and our large resources of oil and gas, and so, therefore, these other countries are not following our leadership but are pursuing their own course in developing, demonstrating, and in fact building breeder reactors.

It is also very strange that this administration takes an entirely different approach than it does for the breeder

regarding conventional nuclear powerplants, which I might remind the Members also can produce weapons-grade material.

The President has changed this country's position on breeder technology primarily based on his legitimate concern over the possibility of proliferation. And then, when that concern was proved to be basically false, he changed his reasoning to one of economics, an argument which is certainly debatable.

But how can you debate the worth of an energy alternative until we know by actual demonstration, by actual online effort, whether it is going to be economically feasible for this country to depend on it?

In my opinion, the answer to proliferation is one of action instead of default. We need a parallel technology effort in as well as diplomacy in order to dampen down the threat of proliferation of weapons-grade material.

Madam Chairman, I say to my colleagues that I support the continuation of Clinch River for many reasons. Let me cite just a few.

We have so far spent over $470 million on this demonstration project, and it represents the culmination of some 25 or 30 years of research and development on breeder technology. So far, 75 percent of the equipment for the Clinch River breeder reactor has been ordered. The design is almost complete. All of the materials for the 11 steam generators to be required have been ordered, most of them have been received, and they are just now being fabricated and put together. If you kill this project, you will kill and destroy the many millions of dollars that have been so far spent on this plant. We will not receive commensurate value in return.

The CHAIRMAN. The time of the gentleman from California (Mr. GOLDWATER) has expired.

(By unanimous consent, Mr. GOLDWATER was allowed to proceed for 2 additional minutes.)

Mr. GOLDWATER. Madam Chairman, in addition, there are over 753 utilities which have committed themselves to this project and have recently reaffirmed their support, and have already committed some $254 million to this project.

In addition to that, it is interesting to note the bipartisan support that has developed for the breeder. In addition, the NAACP, many labor organizations, business, the American people, and certainly the National Governors' Council support continuation of this demonstration program.

I say to my colleagues that one of the main reasons I think we need to demonstrate this technology is because the breeder reactor does represent an increased utilization of the available uranium supplies in this country and in the world. And let me point out that there is debate, there is uncertainty as to the amount of uranium left in the world. Some people will put the assured and probable reserves at a low figure of 1.8 million tons, as does the National Academy of Sciences. On the other hand, the administration is very liberal and generous, and they peg it at 3.1 million tons, thereby saying we have sufficient uranium to delay the need for the breeder. But I think that uncertainty makes it even more compelling to vote down this amendment.

In my opinion, in order to assure the safe utilization of nuclear energy worldwide, the United States must continue its leadership. By voting this amendment in and canceling Clinch River, we would abrogate our leadership, our knowledge, our technical expertise, and certainly our ability to guide the rest of the world in the safe use of nuclear energy and the high standards that we have supported to date.

In addition to that, by canceling the Clinch River breeder reactor we would disrupt an industrial base which has been put together over the years. Termination of the Clinch River breeder reactor would result in a significant loss in the program, more than 10 years' delay, and certainly an added significant cost. I think it is time, after all these years, to go ahead with this project.

Mr. SCHEUER. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I rise in opposition to the Flowers amendment and in strong support of the continued funding of the Clinch River Breeder Reactor. The Flowers amendment, which is being touted as a compromise, is in fact no compromise at all—it phases out the continued development of Clinch River, our Nation's only extant research project on the breeder.

We have already put more than $700 million into Clinch River, and the utilities have also put in a large amount of money. Contrary to some of the figures being bandied about the floor, the difference in cost to the Government of finishing Clinch River or terminating it is not that significant.

This administration has been wrong on energy matters before. Last year, the reason the President urged us to vote against Clinch River was to set a good nonproliferation example for the rest of the world. I argued that the rest of the world was proceeding pellmell ahead with the breeder and that what we did would make no difference. This year, the President did not even bother to use the nonproliferation argument.

Also, the President has been wrong on his nonproliferation bill. That bill, signed into law only 4 months ago, is now falling apart at the seams. As I explained on the floor—2 days ago—the U.S. Nonproliferation Act is a laughingstock all around the world.

However, it is with great reluctance that I stand in opposition to the President on this issue and I fervently hope that one day we will agree on the need for nuclear energy and the breeder reactor as one alternative form of energy. This administration has made some excellent proposals in the energy area, including the President's energy bill which was so strong in the conservation area and which the Congress has kept bottled up for a year.

I am pleased to point out that I supported President Carter 81 percent of the time on the floor during 1977, according to Congressional Quarterly. Only two Members of the House supported the President more than 1 percentage point more than I did last year. I truly hope that the President sees the light on this nuclear issue and comes around sometime in the future because it is clear that we need to keep alive any and all alternative energy options.

I am also hopeful that President Carter will not take the route and strategy of previous Presidents in going to war with the Congress. We are cooperative branches of Government and governing by veto is simply not constructive. The Congress has expressed its will on the Clinch River breeder reactor many times now and, should this amendment fail, I would hope that the President does not veto the entire Department of Energy authorizations bill to get at the Clinch River project.

Madam Chairman, the following arguments for the breeder were the major forces behind my decision to oppose the Flowers amendment:

Defeating the Flowers amendment will not lead to commercialization of the breeder. Clinch River would not be operational until 1984 and could not possibly be commercially operating until the early 1990's. This long leadtime allows us plenty more time to evaluate whether or not to go ahead with the breeder technology. The time to cancel an R. & D. project is not midstream when we still do not know everything about it.

Passage of the Flowers amendment would be a death knell for the Nation's entire nuclear program. The administration has already shown itself to be less than the most active supporters of nuclear energy. In today's Washington Post, in a letter to the editor by Keith Klink of the Sierra Club, it is persuasively argued that both supporters and opponents of the Flowers amendment all agree that Clinch River is "the linchpin of nuclear energy."

Despite the President's arguments to the contrary, we do not know today whether or not we will need the breeder. The Federal Power Commission estimates that electric energy demand will increase substantially, perhaps even double, by 1990. The electricity to satisfy that demand can be generated by oil, gas, coal, nuclear, or any combination of the four along with the more exotic forms of energy such as solar, geothermal, tidal, or wind.

Owing to excessive cost and decreasing supply, natural gas is being phased out.

The exotic sources of energy are not expected to come online fast enough to be of much help in the next few decades. Also, for example, while four 1,200 megawatt nuclear reactors could supply all of New York City's electricity needs, the solar reflectors to do the same job would cover the entire State of New Jersey.

The increased use of coal burning brings with it severe environmental problems. And, while a great deal of attention is focused on the nuclear waste problem, no attention at all is paid to the coal waste problem. Take an amount of high level radioactive waste equiva-

lent to 3 feet deep by 6 feet wide on the pitcher's mound at Yankee Stadium. In order to produce an equivalent amount of energy from a coal-powered plant, the fly ash and sulfurous sludge, the waste product of coal plants, would fill the entire stadium three-quarters full.

Finally, heavy importation of oil conflicts with our stated national goal of energy independence. Already, in 1977, we imported 50 percent of our oil from abroad at the whopping cost to the taxpayers of $45 billion. This issue is the single most critical point in my opposition to the Flowers amendment or any other amendment that would have the effect of limiting our options on energy sources of the future.

Madam Chairman, I am not suggesting that we foreclose the coal conversion process or that we restrict funding for solar energy research. However, it is critical not to abandon the breeder technology either; we must keep all reasonable and encouraging options open, until we have far more data than we have now on comparable cost-benefit, safety, and environmental impact considerations.

Mr. GARY A. MYERS. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, there is so much that can be said, and I feel that most of us have heard most of the arguments.

With all due respect for the gentleman from Texas (Mr. TEAGUE), the gentleman from Florida (Mr. FUQUA), and the gentleman from Alabama (Mr. FLOWERS), I think highly of them; and I know what their objectives are; I must oppose this amendment.

The gentleman from Texas asked the gentlewoman from Tennessee what she expected to be the outfall of rejecting the Flowers amendment in realistic terms. I think that is a proper question. I think the proper answer to that simply is that rejecting the Flowers amendment allows us to have the capacity of the Flowers amendment along with the ability to continue in our efforts to convince the President that a demonstration is needed. The bill as it stands contains the provisions of the Flowers amendment, plus it contains the ability to appropriate and attempt to move the administration on Clinch River, so that even if we cannot move the Clinch River project—and that is a great concern—we still have the administration moving ahead with what the Flowers amendment would give us.

Now, as all of us know, there have been considerable hearings. I would like to say one word with respect to the point the gentleman from Washington made about the question of do we need a broader-based program on spending management. According to the report I have in my hand, in 1974 the cumulative Government expenditures on liquid metal fast breeder programs were, in France and the United States, about the same. This report shows that France had spent, cumulatively, about $4 million more than the United States.

I think it is important to realize that they now have been able to reduce these large expenditures by moving into the demonstration phase. I think essentially that we would be able to do the same thing if we moved in that direction.

Madam Chairman, I hate to say it, but I think this administration's energy policy is a policy of quotas. We are seeing it now in suggestions of rationing and quotas and restrictive use of energy as a solution to the energy problem. I think that electricity is next. I think there will be a selective rationing and quota applied to the consumers of electricity in this country ever so subtly at first, because the electric companies will, on a time basis, selectively black out during high-demand periods so that people will either think there is a malfunction or that the power companies are not doing their job. But, in essence what it will be is that there is just not enough baseload to supply demand during those high-demand periods. It is going to be so subtle that we will not really know what has happened to us until we are in the deepest of crises.

I heard antinuclear, antibreeder witnesses come before our committee and attempt to convince us that there is no relationship between our oil imports and our electric generation capacity. That is not true. There will be a direct relationship in home heating and in industrial applications of heat, of turning either to oil or to electricity. There are plenty of opportunities. We do not have to take just the oil imports that provide transportation. Even in that area, if we are successful in electric power and some other developing technologies, we will have a trade-off in that area.

There are very few people who say that natural gas production in this country will be able to pick up the lack of that electrical generation, and demand does have and will have a significant impact on our oil imports. Now, nothing has really changed to our benefit over the course of the last year when the administration tried to convince us that by delaying the breeder, we would improve. Our uranium supply does not look any better to us—in fact, the demand for electricity is running about double what the President based his energy program on. We are almost back to pre-recession levels of growth and demand, and I do not see anything in the picture to indicate that we will at all be able to expect to get back to the demand level that the President thought we should.

Mr. STOCKMAN. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Michigan.

Mr. STOCKMAN. Madam Chairman, where did the gentleman get that figure? It is totally at variance from anything I have heard. What number is the gentleman talking about in terms of demand?

Mr. GARY A. MYERS. I do not have the exact figures.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 3 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, it appears to me the figure the President was aiming at was somewhere around 2½ to 3 percent growth. It is my understanding recent growth patterns show in excess of 5 percent.

Mr. STOCKMAN. That is because the economy grew at 5 percent last year. We do not expect the economy to grow at 5 percent every year for the next 20 years.

Mr. GARY A. MYERS. But the president expects the demand for electricity not to grow beyond 2½ percent. The point is, it is running at the rate of twice what the President has told us it would run. It places the President's program on energy on very weak grounds.

I believe over 700 power companies are involved in this demonstration project. It is extremely unlikely because of the uncertainties they have experienced with CRBR that they will want to involve themselves in this so-called new demonstration project. We had all the industrial producers of reactors that testified before our subcommittee—and I stand to be corrected if the chariman or someone else would refute it—it was my understanding that all said, in response to the question I asked, that today, after having gone through development of Clinch River to this point, what size plant would they recommend we demonstrate this technology at, and they all affirmed the fact that even putting in all the information that has come to them during development and design of Clinch River, they would recommend the approximate development size that we have at Clinch River and the scale up of the program should go on from there; that to do otherwise, that to reverse that and take the scale up as the first demonstration, increases the risk of failure.

We should not forget that and the administration should not forget that.

When the gentleman in the well who preceded me spoke, I was hoping he would explain what this policy does with respect to international policy regarding the developing nations and what we do to them. If we do not move toward a technology that can move us away from the international availability of fossil fuels, we are going to be penalizing the developing countries. I am not saying all the developing countries need liquid metal fast breeder reactors in their countries to have the benefits of them.

What I am saying is that we have been most competitive internationally in withdrawing from the international sources all types of fossil energy, and if we do not have a nuclear base here we are going to increase that, albeit much to our dissatisfaction with the balance of payments. And our commitment to the developing world is that we are going to starve them of that energy.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. GARY A. MYERS) has expired.

(By unanimous consent, Mr. GARY A. MYERS was allowed to proceed for 3 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, there is a simplistic attitude that we can solve the energy needs of the developing nations simply by tying a few solar collectors to a half or three-quarter horsepower motor to pump up water in an irrigation project out in the rural parts of these nations. That is not true. Scientists will tell us that the character-

istics of energy demands in the developing nations are very similar to ours, and their growth rates will greatly exceed current demand. They have large urban areas needing a capacity of large sources of power, large amounts of water being conveyed to those areas, and we will starve them if we do not have energy available to them.

That might not convince many people who do not see our role in international affairs as very important and think we can live as an island, but it should be of great concern to many who see themselves as antinuclear and antipoverty at the same time. I do not think an antinuclear policy is going to help the poor of the developing nations of the world.

Those are philosophical questions, but I think the underlying question here today is one that has to be asked.

I think the answer simply is that we can have both by rejecting the Flowers amendment. We can have that study, and if it comes through and says that we should not continue with this, and if we are at some point in the construction then let us do away with it. The $150 million per year is a good investment. Just several weeks ago this Congress passed a bill which would have contributed $250 million a year to potholes. This is $100 million less than that. I think it is a good bargain.

Mr. FISH. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, the gentlemen who preceded me in the well in the course of this debate have given forceful speeches in favor of continuing the Clinch River breeder program. It had been my purpose to speak on the merits of the amendment offered by the gentleman from Alabama, (Mr. FLOWERS), and not attempt to respond. However, I think there are some points that should be made.

First, it must be pointed out that dependence on foreign breeders is simply not the issue before us. Breeders themselves are but one option among the so-called "inexhaustibles." Our base technology is superior to that of the Europeans. The proposed new design study should produce a plant with a much safer fuel cycle than Clinch River and one which is consistent with our international program of reducing proliferation risks.

I doubt under any circumstances that breeders would constitute, before the end of this century, a significant contribution to electrical power generation.

Clinch River was designed under emergency conditions and the Atomic Energy Commission, at the time, was projecting by the year 2000 we would need 1,000 to 1,200 nuclear reactors and that our supplies of U^{235} were running out. Since that time we have learned more efficient ways to use our uranium resources by use of the thorium fuel cycle. The projections demanded for nuclear reactors is one-third to one-fourth of what it was 5 years ago according to testimony by Department of Energy officials. I think we now have time for a program of paced reactor development. It would be foolish to rush ahead and spend a billion dollars prematurely without taking a hard look at all our needs, our options, and our international responsibilities.

Mr. BINGHAM. Madam Chairman, will the gentleman yield?

Mr. FISH. I yield to my colleague, the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Madam Chairman, I thank the gentleman from New York (Mr. FISH), for yielding me this time.

I would like to commend the gentleman upon his statement. I think the gentleman is making a very wise statement, taking into account the realities of the situation.

I would also like to commend the chairman of the committee, the gentleman from Texas (Mr. TEAGUE), as well as the gentleman from Alabama (Mr. FLOWERS).

I wish to associate myself with the remarks of the gentleman in the well in support of the amendment.

Mr. FISH. Madam Chairman, I thank the gentleman for his remarks.

Madam Chairman, the question of the President's vetoing this legislation has already been mentioned. Certainly if the votes on passage of the Clinch River project over the President's veto had existed for a veto override last year, it would have been attempted. This year's 20 to 19 vote in favor of Clinch River in the Committee on Science and Technology, which last year approved the same proposition by a 2-to-1 margin, shows that there is even less chance today of overriding a Presidential veto than it was last year.

Madam Chairman, the President made a major concession when he offered to exchange a larger breeder plant design study for continued work on the single technology Clinch River breeder reactor program. That is, frankly, further than I would like to go, Madam Chairman. Nevertheless, I wholeheartedly support the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

I think it is important to note that under his amendment 90 percent of those who have been working on the Clinch River project will be kept working on breeder reactor design activities. We will be building on what has been learned. The new design study would consider different breeder technologies and alternate fuel cycles to uranium-plutonium.

If, in fact, at the end of the study, the United States should find that breeder technology must be developed at an accelerated pace, little time in the commercialization schedule for breeder reactors will have been lost.

This compromise amendment will preserve the most important ingredient of a successful breeder program, the people who have accumulated expertise over the years. It will permit them to put their talents to use in a meaningful but standby effort which will in no way signal to the rest of the world that we have reversed our deep commitment to reducing the risk of the spread of nuclear weapons.

It is my hope, Madam Chairman, that among our colleagues who voted for Clinch River last year many will meet the rest of us halfway and work to avoid another veto by accepting this major study in place of the Clinch River project. Then we can hope for speedy enactment of this legislation which, on the whole, offers so much to the energy future of our country.

Madam Chairman, I yield back the remainder of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Madam Chairman, I rise in support of the amendment offered by the gentleman from Alabama. I am sure that would probably come as no surprise to my colleagues here, both in the House and on the full committee. I have consistently opposed the Clinch River breeder reactor since I first came to Congress 3½ years ago and first took my position on the Committee on Science and Technology. So my background is that of consistently being opposed to it.

I think what we have here today and what we are talking about in terms of the Flowers substitute is that the arguments surrounding the Clinch River breeder reactor have reduced themselves to fighting over a symbol. It seems that we are putting more effort into fighting over a symbol and more money into fighting over a symbol than it really warrants, and the decision that is going to be made on this symbol is going to cost a lot of money if, in fact, we do not support the Flowers amendment. For example, it will cost approximately—and these figures are always open to variance—$717 million to terminate Clinch River. It will cost $2 billion plus to go ahead and build it, so any way we look at it, we are going to save some money.

Of course, the question can be raised, but should we save that money? Would it not be in our best interest to go ahead and spend that money to build it? I do not think so because what we have here is an old design, an old conceptual design, that is at least 10 to 15 years old on the Clinch River breeder reactor. We have better information now. We have progressed in our research and development on breeder technology. We should move ahead, instead of locking ourselves in to outdated projects.

Again I would say that while I oppose this one project, the Clinch River breeder reactor, and always have, I do not think anyone on this floor or in the committee can point to any opposition that I have raised to breeder research and development. I have supported it consistently in the subcommittee, in committee, and on the floor of this House. I have supported the $407 million that is in the bill right now for further breeder research and development. That has nothing to do with the Clinch River project at all. So I am just saying forget about the symbol; forget about the symbol of Clinch River; and let us work at really moving ahead with the new ideas and the new design concepts that we have with breeder technology. There have been a lot of myths, I think, raised about Clinch River itself. I am not talking again about breeders; I am just talking about Clinch River. People say, "Well, we have got to go ahead with this LMFBR, the Clinch River project, to cut down on the amount of oil that we are going to have to import into this country." God knows we have got to do that.

We have got to cut down on the amount of oil we are importing, but the fact is that the building of Clinch River is not going to do one small bit in reducing the amount of oil that we have to import between now and the year 2000.

I would just quote from the Council of Economic Advisers. They say, and I quote:

. . . oil imports are not significantly affected by the future of the breeder. The alternatives to the LMFBR programs are currently other nuclear fission reactors or coal. It is highly unlikely, and under the NEP would be prohibited, that base load electricity will be generated from oil.

So we are talking about apples and oranges here. We are talking about the generation of electricity on the one hand and the use of oil for transportation and other forms of energy on the other hand.

They just do not mix. One does not really substitute for the other because we will not be using that oil to generate electricity. At least we should not.

One other point I would like to make is that by defeating the Flowers amendment we will not really be keeping alive the Clinch River breeder reactor. By defeating the Flowers amendment, what we are really doing is reviving a dead horse. The Clinch River breeder reactor for all purposes really is dead. It is my information that a lot of people who have been working on the Clinch River breeder reactor, at least 200 of the key personnel who have worked on it, have left it and gone on to other jobs. Some of the key management people managing the program, seeing that it was dying and going downhill, have left the project and moved on to other projects and other jobs. So we are not just keeping it alive; we are reviving something that, for all intents and purposes, is dead anyway.

One other thing that I think is a myth that has been raised about this is that we have to go ahead with Clinch River because it is the best possible kind of a breeder that we can build at this time.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. HARKIN was allowed to proceed for 3 additional minutes.)

Mr. HARKIN. But I think that there is enough indication to show that perhaps even the site alone, the choice of the site alone, is enough to warrant not building Clinch River.

There is a memorandum that came from, at least it was on the Burns & Roe letterhead; this is from the Washington Star of June 22, 1977. I know it came up last year. It said, and I quote:

The Clinch River site selected for the LMFBR (breeder) demonstration plant is one of the worst sites ever selected for a nuclear power plant based on its topography and rock conditions and predicts delays and mounting costs as a result.

That is not something I dreamed up. That is from an internal memorandum from the Burns & Roe Construction Co. itself, the company with contracts to build Clinch River.

One last thing I want to bring up has to do with the problem of radioactive wastes and what we should do with them. Some people agree we have got to get on with this because we are going to have more and more radioactive wastes and do not know what to do with them. That is one of the things I have always been concerned about is what to do with these radioactive wastes. Some argue for the LMFBR on the basis of reprocessing, and some argue for reprocessing on the basis of having a LMFBR like Clinch River. I just want to read one comment from the report of the Task Force for Review of Nuclear Waste Management of February 1978, page 7:

. . . no compelling argument could be found that chemical reprocessing of commercial spent fuel is required for safety waste management. (Report of Task Force for Review of Nuclear Waste Management, DOE, Feb. 1978, page 7.)

So the argument that all these things, the oil, the fact we have to keep it going because we have put in this amount of money, the siting, the fact we have already started the work and we have to continue and the fact that we are going to solve the radioactive waste problem, they are all myths; they are simply not so.

The point is that we have to move ahead on all fronts on the energy problem in this country. We should not get tied to some symbol, some old worn-out symbol that is going to bog us down and cost the taxpayers money and which may in the long-run do more harm to our overall energy efforts in the future than anything else.

Mr. COUGHLIN. Madam Chairman, I move to strike the requisite number of words and I rise in support of the amendment.

Madam Chairman, I rise in support of the Flowers amendment to the Department of Energy Authorizations for fiscal year 1979. This amendment provides a viable compromise to the controversial Clinch River breeder reactor issue—suspending construction of the demonstration project while preserving the technology and option for future development of the breeder.

The Flowers amendment is backed by the leadership of the House Science and Technology Committee and will reduce the authorization by $154 million for construction funds, yet will maintain the assembled scientific team to complete project design and component testing and initiates a study to design a larger, safer breeder reactor. The new study will be completed by March 31, 1981, and presented to the Congress.

As my colleagues are aware, as a former member of the House Science and Technology Committee, I have long been critical of the U.S. commitment to the problem-ridden LMFBR program as our top energy priority. I have for a number of years called attention to the huge cost-overruns, doubtful cost-benefits and disproportionate share of energy research and development funds involved in the project.

The LMFBR project was designed as a joint private industry-Federal Government enterprise. The original 1969 price tag of $3.9 billion for development of a commercial breeder reactor, including test and demonstration phases, has more than tripled to a conservatively estimated $11.8 billion in 1976.

While the costs of the program have skyrocketed, the share borne by the private utilities has declined remarkably. Between 1972 and 1976 the industry contributions have dwindled from 39 to 13 percent of the costs involved in the demonstration phase of the LMFBR program.

Although inflation does account for an estimated 81 percent increase over the original cost estimates and Government projections, the Clinch River breeder reactor costs have increased more than 179 percent over the original estimates. The LMFBR is now the single most expensive energy project in the history of the United States.

The escalating costs and delayed commercialization date of the breeder, appalling enough on their own merits, put into question the costs-benefits of the program. The extremely high capital and development costs of the project mean a favorable cost benefit must rely on a more rapid growth in electrical demand and a more limited uranium supply than currently predicted.

Schedule slippages moving the date for commercial production of electricity by the breeder reactor into the 1995 time frame also compress the payoff period before the breeder is made obsolete by other means of power generation currently under study. The possibility of moving directly from light water reactors to fusion power, skipping the breeder generation, becomes more realistic as each day passes.

Finally, the breeder reactor consumes a disproportionate share of our Federal energy R. & D. budget. It is the single largest item gobbling 26 percent of our total energy research and development funds and 63 percent of nuclear fission research funds. It represents twice the amount devoted to nuclear fusion research and more than the combined funding for research in coal conversion, solar energy, and geothermal power.

Alarmed by the open-ended approach to breeder reactor development and the lack of firm cost figures, I offered an amendment on April 30, 1974, to the energy research appropriations bill to suspend the development of the LMFBR until the Atomic Energy Commission had submitted a breakdown of the total planned costs to Congress. This amendment was struck down on a point of order which was sustained.

In 1975, despite further cost escalation and schedule slippage, the AEC asked for funding authorization for an entirely new phase of the project—a demonstration breeder reactor plant on the Clinch River.

This request was notwithstanding a report of the General Accounting Office that cost overruns were directly attributable to a management system that was both "complex" and "represents a potential risk to the project"; design changes in the plant; increased material and labor costs; inadequate initial estimates; and schedule slippages.

The LMFBR program, as originally conceived, would have allowed a sequential design from the test reactor, the fast flux test facility, to the Clinch River

breeder demonstration phase. Now, both projects would be proceeding concurrently, thus magnifying waste, error, and cost factors because of simultaneous planning in design, technology development, and construction.

On June 20, 1975, I offered an amendment to the ERDA authorization bill for fiscal year 1976 to delete funding for long lead time purchases for the Clinch River project. The amendment would have allowed adequate time for an objective study of the breeder reactor program. It was defeated.

I continued to call attention to the steadily declining cost effectiveness of the project and in July 1975 the GAO concluded that the LMFBR program had not demonstrated that commercial-sized leadtime purchases for the Clinch River could be operated economically, reliably, or safely. In addition studies by the Holifield National Laboratories indicated that the AEC overstated the probable rate of electrical demand growth in the United States and revised ERDA figures indicated that U.S. uranium supplies may have been underestimated or at best very conservatively estimated in AEC projections.

These findings further erode the ultimate cost benefit of the LMFBR, since the huge capital investments negate the possibility of it being economically competitive with the light water reactors when commercial operations begin in the mid-1990's.

In testimony before the Joint Committee on Atomic Energy on April 14, 1976, I again stated my opposition to the contractual arrangement between the consortium of 740 private utilities and ERDA which showed too little financial participation by the private sector in comparison to its management role.

I am convinced that the private sector relies on hard analysis, and the declining private sector participation in the breeder program supports the contention that industry questions the return on investment in the breeder reactor.

To test this thesis, on May 20, 1976 Congressman WILLIAM S. MOORHEAD and I offered an amendment to the fiscal year 1977 ERDA authorization bill to require private participants to contribute a gradually increased share of all cost overruns beyond $2 billion. Including this language would have encouraged fiscal responsibility in controlling CRBR costs and would have provided a clear demonstration of private utilities' commitment to the project as a cost-effective means of generating electricity. This amendment was also defeated, but by a much narrower margin than previous efforts to restrain the breeder. During a test on the House floor last year, this same amendment failed passage by just 10 votes.

Everyone is familiar with the results of the Brown amendment last year and the subsequent veto of the energy research and development authorization bill by President Carter. This issue is yet again before the Congress.

I urge my colleagues, in the spirit of compromise, to support the Flowers amendment which allows for further study and the opportunity to follow a responsible approach in pursuing our energy options.

The fast breeder reactor has not been terminated as a possible future energy source nor been eliminated from a future energy arrangement. This allows us to shift our energy priorities to regard the LMFBR as a possible long-term energy option rather than a short-term energy necessity.

Mr. BROWN of California. Madam Chairman, will the gentleman yield?

Mr. COUGHLIN. I am happy to yield to my colleague, the gentleman from California.

Mr. BROWN of California. Madam Chairman, I want to compliment the gentleman from Pennsylvania (Mr. COUGHLIN) on the statement he has made, because I think it emphasizes a point which has not been adequately covered, although it was alluded to by another one of our distinguished colleagues, and that is the fact that the Clinch River breeder reactor or any follow-on reactor at this point would not produce electricity which would be economically competitive with electricity produced from either coal or from existing light water reactors.

Will the gentleman admit that this is one of the major factors in the administration's decision?

Mr. COUGHLIN. Madam Chairman, this is certainly one of the major factors in that decision. All available evidence indicates it would not be cost beneficial, at least until well into the next century, and we need adequate time to look at the problem.

Mr. BROWN of California. Madam Chairman, I appreciate the gentleman's stressing that point.

Mr. STOCKMAN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in strong support of the Flowers amendment and, I think, with the same motivation of the gentleman who offered it.

I am certainly not antinuclear. I have 3,000 megawatts of light water capacity in my district, and I wish we had more.

I am certainly not antibreeder. I think clearly that someday we will require that breeders be deployed. The arguments made by the critics in any event are totally exaggerated regarding proliferation, safety, and so on.

I think the real issue in the House today is not if we need this, but when. The choice we are making today is whether we will continue on with the current commercialization timetable, which would bring breeders onstream for commercial power production sometime in the nineties, as the gentleman from New York indicated a while ago, or whether it would be prudent and we would be saving more money in the next two or three decades if we slowed down the timetable and deferred the commercialization process.

That is the essential judgment we have to make today.

I think the essential thing the House has to understand is that the breeder is not some beneficial cornucopia of free energy. It is not the energy equivalent of a perpetual motion machine, as is sometimes implied by those who are so ecstatic about it. It is just one variant in the whole spectrum of nuclear technologies. This particular variant is just one variant in the spectrum. It substitutes a more costly capital-intensive reactor and a more costly, involved, and complicated fuel cycle for a fuel or raw uranium intensive reactor and a once-through cycle of the light water reactor plants that we are using today.

In the abstract, without any cost consideration, the one is no worse or no better than the other.

The major relevant criteria in deciding what the time frame should be is simply the cost of power produced. I think all of us want to have the lowest cost electricity possible; we want not only physically supply adequacy, but the lowest cost power as well. The fact is that at current uranium prices, there is simply no way the breeder can compete with the light water reactor and produce power more cheaply.

The question is: How long is that adverse relationship and that noncompetitive status going to continue? I think that depends on two things. No. 1, it depends on the demand for raw uranium, and that obviously is a function of the number of reactors or breeders we have in operation. The 1990's commercialization timetable was established prior to 1973. But since then we have had a total, radical change in the energy world and in all the numbers and all the forecasts, as well as all the data since then, as a result of the quadrupling of energy prices. Prior to 1973, electric power consumption was growing at the rate of 7.5 percent a year.

They were projecting the need for something like 2,000 gigawatts of power in the year 2000. One thousand of that, at least, had to be nuclear. There is no way, under that scenario, that you could survive without the breeder and, hence, the timetable.

We have had a drastic change since 1973. Our economic growth is down 50 percent from the average rate in the 1960's and the early 1970's. That is true all over the world. We are growing at half the rate we used to. In addition, the real price of electrical energy is rising, not declining. If you put those terms together, you will end up with 3 percent electrical growth, or a rate something like that, half of what we had in 1970 when these breeder reactors were planned. That means we will need 360 gigawatts or 250 gigawatts, or something like that, of nuclear power by 2000. Yet that I think its optimistic, because that scenario provides 14 plants per year. The fact is, in the last 3 years we have only ordered 6 more, and we have canceled 14 gigawatts. You will never get that 14 per year timetable.

The second point is the supply of uranium. Just with the 300 gigawatts you would need 2.2 million tons of supply at .3 tails and 1.8 million tons at .2 tails. The question is: How much is out there? What is prudent to assume? We keep hearing from the pro breeder enthusiast that the prudent planning base is 1.8 million tons of uranium, and that is cut-

ting it pretty close if you need 1.8 million tons to supply these 300 plants we are talking about.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. STOCKMAN) has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. Madam Chairman, I would like to suggest that that so-called prudent planning base is entirely imprudent, because it includes only proved reserves, the inventory, we have already delineated and we have put our finger on, plus predictable extensions. If you assume that that is all of the uranium there is in this country, it is just like assuming that since we only have 300 trillion cubic feet of gas in proved and inferred reserves, we will run out in 15 years to the last drop. And nobody believes that. That is like assuming we only have 50 million barrels of oil. We will run out in 10 years. Nobody has projected that. There are more reserves yet to be discovered.

The fact is that prudent planning base, that 1.8 million tons of uranium assumes there will be no more drilling, no more discoveries from this point forward. That is not true. The research shows 4–8 million tons in the resource base. There will be plenty of uranium at a price under $60 a pound, and there is no way a breeder can compete to produce power as cheaply as light water reactors at under $60 a pound.

The question before us is simply one of timetable, commercialization time frame.

I think we should get off of this kick of talking about gaps in physical supply and start talking about gaps in the cost of energy we are putting in the economy. If we do not start keeping that cost at a minimum, we will do far more damage to the economy in the long run, than if we continue to invest tons of money not only in this field but in many others, when lower-cost alternatives are available.

Madam Chairman, I think we should adopt the Flowers amendment and slow down the timetable.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. I thank the gentleman for yielding.

Madam Chairman, the gentleman has spoken all around the issue about timing. The gentleman has not informed the House the precise time in which he thinks it is important that we have a breeder technology demonstrated and available for starting to deploy, which will then take perhaps a decade or more before it really figures in that impact.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. STOCKMAN) has again expired.

(On request of Mr. GARY A. MYERS and by unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. I will tell the gentleman that that is a fair question.

Mr. GARY A. MYERS. What is the date we must have?

Mr. STOCKMAN. I cannot give the gentleman a date, but I will say, on the basis of what I see there, what I think will happen, on the basis of electrical demand, you will not need it before the second decade of the next century.

Mr. GARY A. MYERS. If the gentleman will yield further, when Dr. Schlesinger visited our committee, he testified we did not need this Clinch River project because we had 7 years beyond the planning date that Clinch River was conceived upon before we needed it. It seems to me that if it takes 3 to 4 years, from my experience in the steel industry and steel plants, to design and deploy and bring on line and work out problems on a very small portion of a major industrial production operation, to design and ratchet out the problems of a fully new technology, and one which I want to be as safe as possible, it is ridiculous to push us up to that point at which we need to deploy it and not allow ourselves that time for ratcheting.

Therefore, if this has been developed for 2 years or 3 years before we actually need it, I do not think that will be wasted. However, if we err on the other side, that is my concern. I know from practical experience that people who have not had an industrial experience do not have any conception of the time it takes to design, deploy, and work out the bugs of equipment.

That is really what concerns me; when we talk about a 7-year gap on a major research project like this one, I think we are on the verge of disaster.

Mr. STOCKMAN. Madam Chairman, I thank the gentleman.

Mr. BROWN of California. Madam Chairman, will the gentleman yield?

Mr. STOCKMAN. I yield to the gentleman from California.

Mr. BROWN of California. Madam Chairman, I want to compliment the gentleman from Michigan (Mr. STOCKMAN) on his economic analysis.

I have been trying to make this point in a somewhat inadequate way, but I will say frankly that the gentleman's exposition of the economics of this matter is the best that I have heard on the floor of the House, and I want to compliment him on it.

Mr. JOHN T. MYERS. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I share in the views of many of our colleagues in their admiration for the chairman. The gentleman. The gentleman from Texas (Mr. TEAGUE) and I have been friends for a number of years. On most occasions we agree; in fact, more often than not.

Madam Chairman, I regret that I must disagree with him today on his views with respect to this amendment. Many of the proponents of this amendment suggests or leave the impression that fast breeder reactor technology is a new technology that requires more study.

Quite the contrary, Madam Chairman, the first breeder reactor built in this country was in the late 1940's and has been operating in Idaho successfully since that time.

On Clinch River itself, we have had years of research and many changes in design. We have spent several hundred million dollars in research and development for this facility.

It seems that this country is becoming the studyingest country in the world with little action.

Madam Chairman, as has been expressed here, many of our friends around the world have begun to wonder about the United States. Are we just a paper tiger with studies and many plans, but never any action?

Madam Chairman, it reminds me of an experience of mine as a young man. We had an old car. We never had a new car. My dad would buy a used car, often pretty well beaten up by the time we got it.

The other young people had access to newer automobiles. It bothered me and I wanted a new automobile like my friends had.

Every fall, in October, when the new models came out, I would say to my dad, "Let us get a new car."

My father would say, "We do not have the crops out yet. After that we will take a look at it."

Then in November after we got the crops out, we would go to look at the car. My father would say, "We have to wait unitl after January 1 because that is when we get the money." Because of tax situations, he always waited until after January 1, to sell the previous year's crops.

After January 1, I would say, "Dad, let us get that new car."

He would say, "We will have to wait until after the first of March because that is tax assessment time."

After the first of March. I would say, "Dad, how about it?"

He would say, "We have got to wait until we plant a new crop this year. We have to use our money for seed and fertilizer."

I would help put the crops out.

Then June would come, and I would say, "Dad, let us go and buy that new car."

He would say, "You realize that in October the new model is coming out. Let us wait until then and take a look at the new model." It took me a couple of years to realize he had no intention of purchasing a new automobile and was only using those reasons to stall me.

Madam Chairman, that is exactly what this Congress is being asked today: "Let us wait until a new model comes out."

As far as the leapfrog suggestion here is concerned, we have been through that question. I have been on the appropriations subcommittee for energy, ERDA, for a little more than 6 years. I remember back when we thought a likely new alternative for energy was going to be coal gasification, so we built a 1.5-ton pilot for coal gasification. It was working up in Pennsylvania. Then in the committee we suggested, "Let us go to the commercial type now."

What did ERDA tell us? They said, "No. We have to make sure the system will work. We would have to go through the intermediate stage of the research and development." What has changed that DOE now wishes to change its policy and risk a larger plan that has not been proven through the size stages.

Madam Chairman, that is exactly what Clinch River is all about. Let us not kid ourselves. If we wait until 1981, not only will this country become more dependent on energy from other nations, but we are not going to have the energy we are going to need to turn the wheels of our factories so as to employ the unemployed.

This is really what we are talking about. Of course, Clinch River is a research and development project. It is not the final commercial unit and was never intended to be.

However, if we wait until 1981 to make a decision, that will be too late. A decision should be made right now, today.

Madam Chairman, we are voting on whether we want to move forward progressively on the fast breeder reactor technology. If we vote for and pass this amendment, we might just as well not spend any more funds on R. & D. for LMFBR because it would be a waste of money.

Madam Chairman, this Nation must move forward, and prove our own technology by constructing Clinch River. We have delayed for too long already.

Mr. HARKIN. Madam Chairman, will the gentleman yield?

Mr. JOHN T. MYERS. I yield to the gentleman from Iowa.

Mr. HARKIN. Madam Chairman, I thank the gentleman for yielding.

I say to the gentleman that I would have a lot of admiration for his dad. He sounds as though he was a pretty sharp, conservative man; and the times have proved that he was right. The gentleman probably never did need a new car at that time, and they probably saved a lot of money by driving around those old cars.

Mr. JOHN T. MYERS. Madam Chairman, I thank the gentleman for his comment. Several years before he passed away, my dad said that he could have been a millionaire if he had just a little bit more vision and courage to take some chances.

If he were here today he would say, "Build that thing, make a decision." He has told me this many times. Any decision is better than no decision, and that is what this Congress is being asked to do today, to make no decision.

Mr. PRICE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in opposition to the Flowers amendment to redirect the breeder reactor program. The amendment proposes a retrogression in the program. The technical status of development of this energy generating source and the time sequence in which the new source of energy is needed are inconsistent and in conflict with the step proposed by the amendment.

As you know, my scope of responsibilities concerning the development and use of nuclear energy for both military and peaceful uses embraces the entire period of our efforts in this area. Over the past 30 years, I have participated in the study of our overall energy needs and the development of programs which the facts indicated must be carried out to contend with the dilemma we face. One key element in the programs which were developed and agreed to by everyone who took the opportunity to make his views known was the breeder reactor concept. This was the reason the breeder concept was made a prominent point of our energy development program in 1962.

The research and development work which was done on this concept advanced the concept to a point which called for a detailed review to determine what the next step should be. Based on this review in 1969, it was the consensus that the optimum program called for the start of the construction of a demonstration breeder reactor powerplant. The Congress accordingly authorized the first phase of this effort in 1969.

Following the first authorization of the demonstration plant, designs were developed, construction sites were evaluated and selected, and a cooperative project management arrangement with industry was entered into. Licensing activities were all entered into under the new and complex regulatory requirements for such a facility. These steps, as actual experience indicates, are very time consuming. I cannot deny that bureaucratic vacillations have added several years to the efforts but, regardless, it still would have taken about a half dozen years to carry out these activities for such a complex project under any condition. The main point to be learned from this experience is that leadtimes for present complex technologies under our present way of doing business is measured in units of decades.

The proposed amendment would, in effect, terminate the controlling long leadtime efforts required for a demonstration plant and revert the effort back to 1969 or before. My contention is that our Nation cannot accept such a step in the face of presently growing needs for energy. Nothing has changed fundamentally concerning the time schedule for the need of energy from this system. In fact, what we have learned from the past decade of experience is that we should have allowed for longer leadtimes in such efforts. Our experience indicates we should press forward with our construction efforts on this project and expedite the start of the follow-on phase if we are going to meet the time requirements for this energy source. Going back to the study phase we finished in the late 1960's is just the opposite of what we should be doing.

I strongly urge the rejection of the amendment. I hope this body will strongly indicate its will on this matter so that there will be no doubt in anyone's mind of our desire to move on with this effort without any more delays. This certainly is not a time to go backward.

Mr. McCORMACK. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Madam Chairman, I will be brief so that we can get on to the vote. I want to pay my respects to our chairmen and to their intent to try to avoid a veto on the Clinch River project. However, I disagree with their tactics, because I believe enactment of the Flowers amendment will be considered throughout this country and throughout the world as a retreat from our support for our vital nuclear energy programs. If we support the Flowers amendment today, no matter how well-intentioned our vote may be, the entire antinuclear, antigrowth, antijob community will join in saying that the Congress has repudiated nuclear energy.

This is important for us to understand. This is an important reason why we cannot surrender now. We must stand and fight. We must all be "tigers." We must have the courage of our convictions to force the President to negotiate with us. We cannot just surrender to him.

The important message that we can send to the President today, while he is meeting with the Western European leaders, and that we can send to the other Western European and industrial nations, is that the United States will go forward with an aggressive breeder program, because it is the key to our domestic energy production for the balance of this century, and the first half of the 21st century.

We must signal to them that we intend to implement programs that will ultimately reduce our oil imports, knowing that we must depend upon cleaned-up coal and nuclear energy. These are the fundamental sources on which we must depend.

Ladies and gentlemen, let us remember, as much as we respect the chairmen, and as much as I respect the sponsor of this amendment, the gentleman from Alabama (Mr. FLOWERS), that the proposed amendment is not a compromise; it is total capitulation. We may be able to work out a meaningful compromise from the conference committee, but we cannot deal with the President on this issue from a position of weakness. We must do it from strength.

If our breeder program is killed, let us not be its executioners. Let us not be responsible for that.

Madam Chairman, I have here, for the Members to examine, a set pictures of breeder plants in existence in other countries, pictures of the first two breeders in existence in Russia; the first compares to the Clinch River breeder plant, and the second one is twice as big. The one's in France and in England have been in operation for several years. There one in Germany, which compares to our Clinch River breeder reactor in size is about two-thirds complete.

Madam, it is tragic that the entire world is moving away from us. We are falling behind, killing the Clinch River breeder reactor would accelerate that disastrous decline. If any Members are in doubt, they should look at the photo-

graphs. I have also a series of photographs of a quarter of a billion dollars worth of components for the Clinch River plant that have have already been built—a quarter billion dollars worth of components completed; they are here; they are in many cases, ready for installation. That is a quarter billion dollars that we would throw away if we were to adopt the Flowers amendment. I appeal to the Members, the people of this country deserve better of us. Let us reject the Flowers amendment.

Mr. TEAGUE. Madam Chairman, I think I owe it to this House to take about 2 minutes to tell why I took the position I did.

First, I would like to say I wish I had the intelligence to tell this House exactly what was right, and I wish I was as sure my position was right as some people are.

Madam Chairman, I spent over 100 hours trying to work out a compromise on this issue. Finally after many hours, the President sent me a letter through Dr. Schlesinger, and later the President called me and told me that Dr. Schlesinger's letter represented the President's point of view. Let me read to the Members a part of that letter. I sent a copy of this to all the Members, but I will read part of the letter:

To pursue our conversation of earlier this week, this letter further elaborates on a proposal to redirect the Nation's breeder program. This new direction, which would accompany a CRBR program calling for completion of systems design and component testing only, would in our view strengthen our breeder R&D program.

The Administration believes the breeder program should be reoriented to evaluate designs for a larger advanced fission facility through conceptual planning, conceptual studies, systems studies and systems design.

Madam Chairman, that is where the Flowers amendment came from. This letter was given to my staff and they were told to work up an amendment that carries out what the President says he believes in. That is how the Flowers amendment came about.

In no way, form, or fashion has anybody on this committee tried to cover up anything. We called in the industry and told them. The energy industry people do not agree with this. The President called in 15 of the top people in the industry involved in this program and he told them in no uncertain terms that he would veto this bill.

That is how the Flowers amendment came about. I am uncomfortable here about taking a different viewpoint from what my committee has taken, but the vote in committee was 20 to 19, and there were some proxy votes, so that does not put me in too bad a position.

I do not know whether the language kills the Clinch River. The President says it does not kill it. The Members can decide for themselves.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FLOWERS. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 142, noes 187, not voting 103, as follows:

[Roll No. 544]

AYES—142

Ambro	Flippo	Natcher
Ammerman	Flowers	Neal
Ashley	Fowler	Nedzi
Aspin	Fuqua	Nolan
Baldus	Garcia	Nowak
Beard, R.I.	Gephardt	Oakar
Bellenson	Giaimo	Oberstar
Bingham	Gilman	Obey
Blanchard	Glickman	Ottinger
Boland	Hamilton	Panetta
Bolling	Hanley	Patterson
Bonior	Harkin	Pattison
Bonker	Harris	Pepper
Brademas	Heckler	Pickle
Brodhead	Heftel	Pike
Brown, Calif.	Hightower	Pressler
Burton, John	Holtzman	Pritchard
Burton, Phillip	Howard	Pursell
Carr	Ireland	Rahall
Cavanaugh	Jacobs	Reuss
Chisholm	Jeffords	Rogers
Conte	Jordan	Roncalio
Conyers	Kastenmeier	Roybal
Corman	Keys	Ryan
Cornell	Kildee	Schroeder
Coughlin	Kostmayer	Seiberling
D'Amours	Krebs	Sharp
Danielson	LaFalce	Skelton
Davis	Leach	Solarz
Delaney	Lehman	Staggers
Dellums	Levitas	Stark
Derrick	Lloyd, Calif.	Steed
Diggs	Long, La.	Steers
Dingell	Long, Md.	Stockman
Dodd	McDade	Studds
Downey	McHugh	Teague
Drinan	McKinney	Thompson
Early	Maguire	Traxler
Eckhardt	Markey	Udall
Edgar	Marlenee	Vanik
Edwards, Calif.	Mattox	Vento
Emery	Mikva	Weaver
Fascell	Milford	Whalen
Fenwick	Miller, Calif.	Wirth
Findley	Mitchell, Md.	Wright
Fish	Mitchell, N.Y.	Yates
Fisher	Moorhead, Pa.	
Fithian	Moss	

NOES—187

Abdnor	Duncan, Tenn.	Kazen
Akaka	Edwards, Ala.	Kelly
Anderson, Calif.	Edwards, Okla.	Kemp
	Eilberg	Kindness
Andrews, N. Dak.	English	Lagomarsino
	Erlenborn	Latta
Annunzio	Ertel	Lederer
Applegate	Evans, Del.	Lent
Archer	Evans, Ind.	Lloyd, Tenn.
Armstrong	Fary	Lott
Badham	Florio	Lujan
Bafalis	Foley	Luken
Bauman	Forsythe	McCloskey
Beard, Tenn.	Frenzel	McCormack
Benjamin	Gammage	McDonald
Bennett	Gaydos	McEwen
Bevill	Ginn	McFall
Blaggi	Goldwater	McKay
Boggs	Gonzalez	Mahon
Bowen	Gore	Marks
Broomfield	Gradison	Marriott
Broyhill	Grassley	Martin
Buchanan	Green	Mazzoli
Burgener	Gudger	Meyner
Burke, Mass.	Hagedorn	Michel
Burleson, Tex.	Hall	Mikulski
Burlison, Mo.	Hammer-schmidt	Miller, Ohio
Butler		Mineta
Carter	Hannaford	Minish
Chappell	Hansen	Mollohan
Clausen, Don H.	Harsha	Montgomery
	Hefner	Moore
Coleman	Hillis	Moorhead, Calif.
Collins, Tex.	Hollenbeck	
Conable	Holt	Murphy, Ill.
Corcoran	Horton	Murphy, Pa.
Cornwell	Hubbard	Murtha
Crane	Huckaby	Myers, Gary
Cunningham	Hughes	Myers, John
Daniel, Dan	Hyde	Myers, Michael
Daniel, R. W.	Ichord	Nix
Derwinski	Jenrette	O'Brien
Devine	Johnson, Calif.	Patten
Dickinson	Johnson, Colo.	Pease
Dicks	Jones, N.C.	Perkins
Dornan	Jones, Okla.	Pettis
Duncan, Oreg.	Jones, Tenn.	Poage
Preyer	Scheuer	Vander Jagt
Price	Schulze	Volkmer
Regula	Sebelius	Waggonner
Rhodes	Shuster	Walker
Rinaldo	Sisk	Watkins
Risenhoover	Skubitz	White
Robinson	Slack	Whitehurst
Roe	Smith, Iowa	Whitley
Rooney	Snyder	Whitten
Rose	Spence	Wilson, Bob
Rostenkowski	Stangeland	Wilson, Tex.
Rousselot	Stanton	Wydler
Rudd	Stratton	Yatron
Runnels	Taylor	Young, Alaska
Russo	Thornton	Young, Fla.
Santini	Trible	Young, Mo.
Satterfield	Ullman	Zablocki

NOT VOTING—103

Addabbo	Ford, Mich.	Roberts
Alexander	Ford, Tenn.	Rodino
Anderson, Ill.	Fountain	Rosenthal
Andrews, N.C.	Fraser	Ruppe
Ashbrook	Frey	Sarasin
AuCoin	Gibbons	Sawyer
Barnard	Goodling	Shipley
Baucus	Guyer	Sikes
Bedell	Harrington	Simon
Blouin	Hawkins	Smith, Nebr.
Breaux	Holland	Spellman
Breckinridge	Jenkins	St Germain
Brinkley	Kasten	Steiger
Brooks	Krueger	Stokes
Brown, Mich.	Le Fante	Stump
Brown, Ohio	Leggett	Symms
Burke, Calif.	Livingston	Thone
Burke, Fla.	Lundine	Treen
Byron	McClory	Tsongas
Caputo	Madigan	Tucker
Carney	Mann	Van Deerlin
Cederberg	Mathis	Walgren
Clawson, Del	Meeds	Walsh
Clay	Metcalfe	Wampler
Cleveland	Moakley	Waxman
Cochran	Moffett	Weiss
Cohen	Mottl	Wiggins
Collins, Ill.	Murphy, N.Y.	Wilson, C. H.
Cotter	Nichols	Winn
de la Garza	Quayle	Wolff
Dent	Quie	Wylie
Evans, Colo.	Quillen	Young, Tex.
Evans, Ga.	Railsback	Zeferetti
Flood	Rangel	
Flynt	Richmond	

The Clerk announced the following pairs:

On this vote:

Mr. Addabbo for, with Mr. Sikes against.

Mr. Zeferetti for, with Mr. Breaux against.

Mr. Steiger for, with Mr. Dent against.

Mr. Moffett for, with Mr. Le Fante against.

Mr. Richmond for, with Mr. Flood against.

Mr. Rangel for, with Mr. Krueger against.

Mr. Walgren for, with Mr. Livingston against.

Mr. Fraser for, with Mr. Kasten against.

Mr. Weiss for, with Mr. Sarasin against.

Mr. Lundine for, with Mr. Nichols against.

Mr. Hawkins for, with Mr. Shipley against.

Mr. Tsongas for, with Mr. Mottl against.

Mr. Harrington for, with Mr. Roberts against.

Mr. McDADE and Ms. OAKAR changed their vote from "no" to "aye."

Mr. BURLISON of Missouri changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. FLOWERS

Mr. FLOWERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FLOWERS: On page 11, after line 15, insert the following: "(B) Project 79-1-r, coal liquefaction (SRC-II) demonstration plant, site undetermined (total estimated cost is $500,000,000, including the Federal share thereof), $75,000,000."

Mr. FLOWERS. Madam Chairman, I

rise today to offer an amendment to the Department of Energy authorization bill, which would provide the authorization of a new construction line item for a coal liquefaction demonstration plant.

We are all aware of the energy supply problems that our country faces. This problem is particularly acute for domestic sources of liquids. We will no longer be able to count on traditional resources to provide us energy for our transportation, for our electricity, for our industrial manufacturing needs.

What are our options? At the very least, this country has a vast coal resource that must be utilized extensively. This coal can be used in many ways. Up until now we have only used that coal by burning it directly. In the past, in other countries, coal has also been the source of fuel gas, oil, and chemical feedstocks. In this country we have always had the luxury of an immediate natural source of those products. We know now that this will not continue. It is imperative for us to set in place now the industrial capability for using our coal to provide alternate forms of energy.

In previous authorizations the Science Committee has acted very wisely to provide the Department of Energy with the funds to undertake the development of coal gasification and liquefaction technologies. In each case the demonstration plants have been congressional initiatives. The Science and Technology Committee has authorized coal gasification demonstration plants for both high Btu synthetic natural gas and low Btu industrial applications. Last year, it again took the initiative and authorized an SRC solids from coal demonstration plant. It is time now to authorize the demonstration of coal liquefaction technologies. That is what this amendment will do.

I am not alone in calling for the demonstration of the coal liquefaction technologies. The administration through the Department of Energy presented to us on May 15 of this year, a proposal of energy supply initiatives. Among them was a proposal to demonstrate coal liquids and coal solids technologies. The administration would undertake conceptual design for four or five candidate processes in fiscal year 1978; in fiscal year 1979 there would be a commitment to construct for one or two of these processes. The authorizations for conceptual design were wisely put in place by the Committee on Science and Technology in fiscal year 1978. In its report to accompany the fiscal year 1978 appropriations, the Appropriations Committee also recognized the wisdom of pursuing conceptual designs of various liquefaction processes. As I said earlier in fiscal year 1978 the Science and Technology authorized $30 million in construction funds for an SRC solids demonstration plant; the SRC solids process is virtually unique in its capacity to produce a low sulphur solid fuel product.

In the case of liquids from coal, the Science Committee was more cautious. Although the SRC process has also been developed for the production of liquids, there are other promising liquefaction technologies. The SRC liquids process has operated at pilot plant level. The other liquefaction processes have pilot plants under construction which will operate a more realistic size of between 250 to 600 tons of coal per day; operating experience should be available by 1981.

Because of the SRC pilot plant experience—a 25-ton-per-day unit was operated for 6 to 9 months within the last year on various coals including a Pittsburgh seam coal—the SRC liquids process is considered more advanced by its proponents. However, the pilot plants for the promising H-Coal and Exxon donor solvent processes are considerably larger—250 tons per day—and will provide more dependable scale-up data for liquefaction than the smaller SRC units.

The SRC process is simpler than the H-Coal and the Exxon donor solvent processes insofar as a catalyst is not used. At the same time this meant the use and production of expensive hydrogen on a larger scale than the other processes. The use of a catalyst in H-Coal and Exxon donor solvent has a positive side, however, because they may permit significant process improvement if better, more efficient catalysts are developed. As you can see the technical choices among these various processes make a decision for one or the other of them a complicated process.

But a consensus has developed. The time in which the choice must be made has become narrowed by the increasing seriousness of our energy supply problems. We must act now. We need a scaled-up, integrated liquefaction system. It will be a prototype; there will be difficulties, but that is the essence of a demonstration plant.

In summary, then, this amendment will balance previous congressional action in synthetic fuels from coal areas by providing new authority for coal liquids as well as the coal solids demonstration plant authorized in fiscal year 1978. It is also a solid response to the administration's energy supply initiatives. It provides a mechanism for fair judgment and competition among the different liquefaction processes and it provides maximum flexibility for the Department of Energy to accelerate these demonstrations in a manner already provided by the Federal Nonnuclear Energy Research, Development, and Demonstration Act of 1974. It is simple and straightforward; it expresses the intent of Congress clearly for a liquid fuels from coal demonstration; and it uses existing statutory authority. I ask for your support and am convinced that this is the best way for us to obtain a synthetic fuel from coal industry in this country in time to meet our needs.

AMENDMENT OFFERED BY MR. GARY A. MYERS AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. FLOWERS

Mr. GARY A. MYERS. Madam Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. GARY A. MYERS as a substitute for the amendment offered by Mr. FLOWERS: On page 11, after line 15, insert the following:

(B) Project 79–1–r, coal liquefaction demonstration plant, site undetermined (total estimated cost is $500,000,000 including the Federal share thereof), $60,000,000 of which

(a) Up to $36,000,000 is available for process design studies on no less than 5 coal liquefaction technologies including Solvent Refined Coal (SRC)—II, Donor Solvent, H-Coal and Fischer-Tropsch process, and

(b) Up to $24,000,000 is available for detailed design activity on no less than two processes selected competitively from the results of the process design studies authorized in paragraph (a).

Mr. GARY A. MYERS (during the reading). Madam Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

Mr. DINGELL. Madam Chairman, I reserve the right to object until we know what is in the amendment so as to determine whether or not it would be subject to a point of order.

Mr. GARY A. MYERS. Madam Chairman, I withdraw my unanimous-consent request.

(The Clerk concluded the reading of the amendment.)

Mr. GARY A. MYERS. Madam Chairman, I offer this amendment to the Flowers amendment in order to provide some continued opportunity for choice by the administration among several technologies.

I do not have any argument with the gentleman from Alabama (Mr. FLOWERS) on the need, in a timely fashion, to demonstrate this technology. I think the gentleman from Alabama and I have somewhat reversed our roles from the previous amendment. On that one he was arguing that we should delay the demonstration project, and in this one I seem to be arguing just the reverse.

Mr. FLOWERS. Madam Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from Alabama.

Mr. FLOWERS. Also with reverse success, I would say to the gentleman.

Mr. GARY A. MYERS. I thank the gentleman.

I hope I can convince the gentleman as to the wisdom of this amendment, and I hope that he will be satisfied with the result of it.

What this amendment specifically does is that it addresses the concerns which the administration has expressed to the gentleman from Michigan (Mr. STOCKMAN) in response to a letter when he was seeking out the administration's position on the demonstration project. The administration, in their response, indicated that they do want to continue the opportunity for competitive technologies over the next year so that we do not make a premature judgment that the SRC is the only technology or the first technology to be demonstrated.

Madam Chairman, I believe that I can concede the fact that from a development standpoint, SRC is a slight step ahead in competition with the four or five other technologies. However, I do not think that timing factor that puts it a few months ahead should permit it to have a preferential position with respect

to the technology in which we demonstrate a fairly sizable commitment.

Madam Chairman, what my amendment would do would probably be to slip the actual demonstration or beginning of the demonstration back in the neighborhood of 6 to 9 months. The benefit of doing that is that the administration will have the opportunity to look selectively at four or five competing technologies.

I agree with the gentleman that we ought not to be specific about site location; and I think at this point we ought not to be specific about technology designation either, because, for an investment of 6 to 9 months, we may, in fact, find that our investment can be much more prudent.

For that reason, because of the fact that these technologies are going to proceed in the realm of some $500 million, we are going to have a sizable investment in it. There is some question by the private sector as to how much they will risk in it, what will be their percentage share, and so forth. Therefore, I think even the private competitors know that there is considerable risk in the technology.

However, Madam Chairman, I believe it would be wrong for us on the floor of the House to try to prejudge the competitiveness of these technologies.

I yield back the balance of my time.

Mr. OTTINGER. Madam Chairman, I move to strike the last word.

Madam Chairman, I rise in opposition to both the amendment and the Myers substitute for the amendment, even though I strongly support the technology that we are here involved with. I was the author in the Commerce Committee of a very carefully crafted amendment to permit us to go ahead and subsidize the initial stages of the development of this SRC II technology.

Let me say first of all that this is not research and development. We are here involved in commercialization, and while I do not think this question ought to be decided on the question of jurisdiction, I think the jurisdictional question is clear, that this is a matter of completely developed technology, and we are talking about the application of commercialization of that technology. This amendment keeps the technology at the R. & D. stage. H.R. 11392 brings it to commercialization.

What we are involved with here is a very promising technology that is ready to go, but is not yet, in terms of the price of the fuel that is to be manufactured, competitive with existing energy resources. So, the companies that are involved in the development of this have said that they need some help if they are going to go forward and start production of this fuel at the present time. No arrangements have yet been made to determine what share of the production is going to be subsidized. We are talking here about a technology that is going to cost hundreds of millions of dollars, and that could involve the Government in virtually unlimited subsidy, and could well set a precedent with respect to the Government's participation in this kind of subsidization of technology that is ready to go for commercialization but is not yet economical.

So, in the Commerce Committee provision we provided, one, for the kind of competition Mr. MYERS seeks to provide for, saying that not more than 60 percent of the funds appropriated pursuant to this section shall be available for the share of any one project. Then, we provided that the Secretary of Energy shall give us a detailed report which would include, financial, patent, and other arrangements with any person for the development and operation of such project. The patent questions here are very important.

In addition, it requires that the total estimated cost of the project; the estimated Federal share so that the taxpayers are not required to bear an undue burden; the identity of any person proposing to participate financially; the extent, timing, and method of such participation. We have a lot of money floating around, and it is important to know who is involved and what their share is going to be.

Then, we ask for the form of management, and other aspects such as economic, environmental, all other aspects of the project. This is a technology that is likely to use a lot of water and have a considerable environmental impact wherever it is located.

We ask for the estimated energy benefits of the project, the estimated cost of fuel produced by the project. We ask for plans for the use and disposal of all such fuel. All of these are questions that I think ought to be answered before we go ahead and make an unrestricted commitment such as both the Flowers amendment and the Myers substitute amendment would do.

Then, to further protect ourselves, we provide that they cannot go ahead with construction of these projects until they come back to Congress with a specific statute authorizing the funds, so that we can take a look and see what kind of deal the Department of Energy has entered into with the promoters of these various technologies. We are talking about very big companies, one of which is Gulf Oil Co. I do not think we ought to just hand them a blank check. I think it would be the greatest of mistakes.

As I say, I was author of an amendment to permit us to proceed, but we should proceed with adequate protection. So, I urge that both the amendment and the substitute amendment be defeated, and I urge the adoption of the provisions which are in the Commerce Committee print at page 77, section 704.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I yield to the gentleman from Pennsylvania.

The CHAIRMAN. The time of the gentleman from New York has expired.

(On request of Mr. GARY A. MYERS, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 3 additional minutes.)

Mr. GARY A. MYERS. If the gentleman will continue to yield, it is my understanding that his argument that we ought to defeat both of these amendments is that this technology is fully developed to the point of successful commercialization, and if that is the point the gentleman bases his argument on, then what tonnage per day has this technology been demonstrated at in the past? Is the gentleman familiar with the pilot project so far?

Mr. OTTINGER. I am, indeed.

Mr. GARY A. MYERS. Does the gentleman agree that the range of input of those demonstration projects is in the neighborhood of 6 tons per day?

Mr. OTTINGER. I cannot verify that to the gentleman off the top of my head. I do know this is a commercial plant intended for commercial production. The argument of the sponsors of the various technologies say that they can go ahead and they believe that this produces fuel but not at an economic figure at the present time. In order to take the risks involved in this, they therefore want some subsidization.

Mr. GARY A. MYERS. On the question of whether it is commercial or research, I think we have to determine where we are going. It seems to me when we are going from a 6-ton-per-day project to one of 7,000 tons per day, that there is a considerable amount of research involved in that increase. The question is not whether or not we are deploying plants which will serve commercial usefulness—one plant really will not have a great commercial impact—but one question is what is the learning process. Certainly I would not be supporting this project if there was an absence of a need for some scientific development.

Mr. OTTINGER. The question is whether this is a commercial size. It seems to me that is the logical question. But that is the point of my opposition to the Flowers amendment or this substitute. The main reason is I think we ought to have better protection for the taxpayers of the United States and we ought to have a report made by the Secretary. We ought to get in all the cost factors and environmental factors and find out what the costs are that are involved and what are the costs the Government will have to bear, and then we ought to have them come back to the Congress for authorization, because we are talking about a half billion dollars—maybe more than that. I think it is unwise to tell them just to go ahead.

Under the amendment I authored, there would be all the specific requirements I specified and that are in the Commerce Committee bill. If the gentleman would agree to adopt all those, then perhaps I would drop my opposition, but without those protections and without the project coming back I simply could not support it.

The CHAIRMAN. The time of the gentleman from New York (Mr. OTTINGER) has expired.

(On request of Mr. GARY A. MYERS, and by unanimous consent, Mr. OTTINGER was allowed to proceed for 2 additional minutes.)

Mr. GARY A. MYERS. Madam Chairman, if the gentleman will yield further,

is the gentleman prepared to offer perfecting amendments to provide that the proposals come back to the Congress, and leave it as a research project, because it seems to me nobody can ignore the fact that going from a 6-ton-per-day plant to a plant of several thousand tons per day would involve much more research than would be involved in taking a shelf item that is developed to the point where there is a 1,000-ton-per-day plant up to a 3,000-ton-per-day plant.

Mr. OTTINGER. My point is the 6,000-ton-per-day operation is a commercial operation.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. OTTINGER. I will yield in a moment.

It seems to me that is the logical point at which these jurisdictions should pass.

Mr. GARY A. MYERS. There is critical point.

Mr. OTTINGER. I do not deny there is research and development that is going to take place in the course of upping the size to a commercial size plant. One has got to cut off some place, and I think this is a logical point.

Mr. GARY A. MYERS. That is what is critical in the question of dealing with research or dealing with commercialization.

Mr. OTTINGER. That is one difference I have with the gentleman.

One important one is that I think we ought to have the Department of Energy get all the financial information and the environmental information, and most importantly the kind of deal that is going to be made for outfits the size of Gulf Oil Co., and then we ought to have a chance to look at it in this House, to look at that project before we authorize it.

Therefore I urge the defeat of the Flowers amendment and the substitute amendment.

Mr. STOCKMAN. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I rise in strong opposition to the amendment offered by the gentleman from Alabama (Mr. FLOWERS) for the same reasons that I strongly supported the gentleman's last effort, and that is simply that these coal liquefication plants are premature, they are uneconomic and we would be wasting the money of the taxpayers on them at this time. None of the variations, whether it be the SRC–II plant proposed by the Flowers amendment, or the other alternatives that might be allowed by the substitute amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) can produce fuel at less than $20 to $30 per barrel, which is 50 percent above the so-called OPEC monopoly prices we are paying today.

The House ought to recognize that these coal liquefication plants, that are being discussed, are not some esoteric new technology. They are not the functional equivalents of fusion power, for instance. As a matter of fact, liquefication techniques have been around for decades. During World War II, Germany ran its war machine on liquid fuels produced from coal and potatoes. Brazil is planning on building some 150 plants making fuel out of tapioca pudding, or at least the plants from which we get tapioca pudding. We now know how to do it, the technology is standard fare in terms of materials, temperatures and pressures, component equipment and chemical-thermal processes used in the refining and petrochemical industry today. The problem is simply not the fuel they produce costs too much, compared either to the domestic or the international market petroleum.

Madam Chairman, I think an executive from the Gulf Oil Co., the major beneficiary of this proposed project, had the last word about a month ago when he said that if the Gulf Oil Corp. was investing its own money and funds in this project the stockholders would go bananas.

So I ask the Members of this House whether they believe we should invest a half a billion dollars worth of the taxpayers' money in that same project that the Gulf Oil Corp. admits is noneconomic, nonprofitable, and will not be for a decade or more.

The whole case for these commercialization efforts, these huge subsidies at the taxpayers' expense for the purpose of building commercial plants, is based on massive confusion about our real energy situation, and about what we should properly be doing about it.

The argument we have heard time and time again is that domestically produced, high-cost synfuels will reduce our imports and somehow that will improve our balance of payments. The fact is the balance-of-payments deficit that we have today is not the result of oil imports per se. The United States imports less oil per dollar of gross national product than any other industrial country in the world and yet we have the worst balance-of-payment situation. Japan imports 80 percent of its energy, and oil imports account for 4 percent of its gross national product yet they have a balance-of-payments surplus. We only import 20 percent of our total energy needs and that accounts for 2 percent of our gross national product, half as much as Japan, and yet we have a huge balance-of-payments deficit.

The reason for that is that our economy is expanding twice as rapidly as the economy of Western Europe and Japan, we are flooding the world with dollars, and consequently the value of the dollar is dropping. It has nothing to do with oil imports per se.

Moreover, it would not do our economy one bit of good to substitute a $20 synthetic fuel for $13 oil that you can buy on the world market. It will only raise domestic production costs above those faced by our international competition—and our domestic market will, therefore, be more vulnerable to imports and our exports will be less competitive. A high-cost domestic fuel substitution strategy, will actually worsen our balance of payments, and retard our economic growth rate.

The fact is that these high-cost projects are premature and it is unnecessary to attempt this technology at the moment through massive Federal subsidies, because it will worsen our economic situation in every imaginable dimension.

We have speculated in this country and we have speculated in this Congress about the world's oil situation today, about the fact that we may have another crisis in the mid-1980's. That is simply not probable. The world is not running out of oil in the next decade and we will not need these plants until the currently prospective reserves of conventional oil are used up.

Since 1973 when the oil crisis erupted, the countries around the world have added 100 billion barrels to proven reserves; oil that we did not know about in 1973. That is 20 billion barrels more than was produced in the same period. The world's proven reserves of oil are growing, they are not declining, even though the consumption rates are going up.

The CHAIRMAN. The time of the gentleman has expired.

(By unanimous consent, Mr. STOCKMAN was allowed to proceed for 2 additional minutes.)

Mr. STOCKMAN. Madam Chairman, the fact is there is a great deal of new oil flowing into the market today. We all know that is why OPEC is having difficulty maintaining the world price. That is why Saudi Arabia had to cut back from about 10 million barrels a day to 6 or 7 million barrels. The fact is that this is not a 1- or 2-year phenomenon. It is going to continue well into the 1980's. Mexico is now only producing about 1 million barrels of oil a day. With the huge delineation of reserves they have had in the last 3 years, their reserves have gone from 2 billion to 40 billion, with a potential of 100 billion. Their production will rise to 4 to 5 million barrels per day in the 1980's.

The North Sea is just beginning to produce. It is only producing at about 20 percent of the rate that they will supply in the years ahead. The fact is they are finding oil in large quantities all around the world in response to the $13 price, just like the economists predicted.

Just last year they found their biggest single oil field ever in Canada, a couple billion barrels, in an area totally passed over before because nobody thought it had potential. They are drilling all over South America. They are drilling in the Southeast Asian part of the world and finding additional reserves. The fact is we have only used up 18 percent of the recoverable reserves of oil in the world. The world price and market is going to be $13 a barrel in real terms due to those additional supplies for the next decade, and that means that these liquefaction plants at $20 a barrel and above are not going to be economical. That is why Gulf has not built SRC II with its own funds; and that is why Mobil is not using its new technology. That is why Exxon is not investing its money in its liquefaction technology—donor solvent. They know it will not be profitable to produce oil from these plants for quite some time. If industry knows that and they are unwilling to invest their capital, I do not

think we should dissipate hundreds of millions of dollars of taxpayers' funds that we do not have, in light of the terrible fiscal condition we are in, by subsidizing these plants. I urge defeat of the amendment.

Mr. DINGELL. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to both of these amendments before the Committee at this time.

Madam Chairman, we have before us in the committee two amendments, neither of which has any safeguards in it insofar as the expenditure of the taxpayers' money. It distresses me greatly to remind the House of an earlier coal conversion proposal which was authorized and appropriated under the same provisions of law as that which now is before us. I refer to the coal-con project from which the sponsors walked away without a nickel of loss and with the Federal Government having to mark off some $40 million. I do not want my colleagues to get the idea that I oppose a coal liquefaction commercialization project. Quite to the contrary, I strongly support such a project if properly implemented, but the amendment offered by the gentleman from Alabama (Mr. FLOWERS) contains none of the protections which will be before the House next week when the Commerce Committee reports a bill which has a whole broad spectrum of protections to assure that the taxpayer gets his money out and that the project beneficiaries participate under responsible constraints and conditions.

The adoption of the amendment offered by the gentleman from Alabama (Mr. FLOWERS) would possibly put the Congress in the position of throwing $75 million on the table and saying to the Department of Energy, "Go ahead and build a coal liquefaction plant, or coal liquefaction plants, without any constraints or restrictions." The coal-con proposal carries with it for us an abundance of warnings as to the consequence of that kind of behavior.

With regard to the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS), it is a share-of-the-wealth amendment. The department, instead of sharing this beneficence one way or two ways, identifies those who would most likely want to participate, and it says, "Department of Energy, give it to these folks under these conditions". These are the same conditions, which are, in fact, no conditions. I could try to perfect this amendment so as to create the kind of program that would obtain the constraints and restrictions and guidance for responsible behavior that will be before the House in H.R. 11392, the Commerce Committee bill authorizing these programs for the Department of Energy, but I do not think that is necessary.

The Commerce Committee bill limits expenditures to engineering and designing. There is no constraint here. No money can be spent for the acquisition of land under the Commerce Committee bill and none for the purpose of purchasing equipment or construction without further authorization from Congress.

The DOE is directed to justify such a request with a detailed report presented in a timely fashion.

The Commerce Committee proposal encourages competition and responsible bidding under the usual Federal bidding process. No such thing is required here either under the proposal offered by the gentleman from Pennsylvania or the gentleman from Alabama.

The Commerce Committee proposal will require that not more than 60 percent of the authorization can go to any one project and the committee report requires that each project be selected upon a competitive basis.

H.R. 11392, which will be before us shortly, requires that projects be subject to all the requirements and limitations of law, including those administered by DOE, including the patent and information provisions of the Federal Research and Development Act of 1974.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. DINGELL) has expired.

(By unanimous consent, Mr. DINGELL was allowed to proceed for 3 additional minutes.)

Mr. DINGELL. Madam Chairman, these restraints are vital to assure future development and protection of the public interest. They are put there specifically to prevent the kind of situation when we saw industry walk away from the coal-con project, leaving the Federal Government with about a $40-million liability. They assure that the Congress will have an effective review of coal liquefaction commercialization projects as they develop and that the Congress can in an intelligent fashion pass upon such factors as total cost, financing, patent arrangements, energy benefits, and environmental impact, and not just be faced with a fair accompli down the road.

We could prevent the recurrence of another coal-con fiasco and we can assure that the industry and participants commit their own capital early, something that they are not required to do under the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

Madam Chairman, I urge rejection of both amendments.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Madam Chairman, the gentleman from Michigan is basing a lot of his argument on the projects being authorized. In fact, the gentleman's interpretation and opposition to the amendments offered by myself and the gentleman from Alabama (Mr. FLOWERS) is inaccurate.

The amendments in no way authorize the projects. It is only prudent that the department will be working in concert with these committees in the projects.

Mr. DINGELL. Madam Chairman, the gentleman is partly right, but mostly in error. The hard fact is that none of the restraints present in H.R. 11392, the Commerce Committee bill, are found here. As a matter of fact they can go forward in almost any amount, in any degree, in any kind of construction undertaking, and so commit the Congress in the coming year fully to a project whose wisdom might be in grave doubt and compel us to keep throwing money at a project and permit any additional amount to be spent without any great liability, as was the case in the coal-con contract.

Mr. GARY A. MYERS. Madam Chairman, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Madam Chairman, I was referring once again to the letter that came from the administration to the gentleman from Michigan (Mr. STOCKMAN). They indicated in there that they have asked for reprograming money, which would mean they had money in this department to a limited extent. It is much like the amendment that the gentleman from Alabama (Mr. FLOWERS) or myself offers to ask for a further capitalization.

Mr. DINGELL. Madam Chairman, the gentleman refers to what they do under reprogramming; I refer to what they can do under his amendment and under the Flowers amendment. The gentleman can make out whatever he wants to, but that is the situation.

Madam Chairman, I oppose both amendments. I urge my colleagues to reject them as being without proper safeguards in the public interest.

Mr. MOORE. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I oppose the substitute and the original amendment, because they are unnecessary. They are unnecessary for several reasons.

First, if you support an SRC–II plant being funded by the Federal Government, it is unnecessary to support this amendment because a provision for an SRC–II plant is contained in H.R. 11392, the version of the Committee on Interstate and Foreign Commerce for DOE authorizations. That will be up for consideration Monday. There is no point in our debating and rehashing yet another version in this bill. It is duplication.

There is a second and better reason why this is unnecessary. That is the fact that I think it is totally unnecessary for the Federal Government to be giving grants to private industry to build coal-con plants. Private industry will build these plants when the cost of that energy made from coal warrants it and when that process is costworthy and economical. Until that time I think the Federal Government is just wasting taxpayers' money to force something into production that is not going to sell in the first place.

I intend to oppose these amendments today, and by the same token I intend to support the amendment to be offered by the gentleman from Michigan (Mr. STOCKMAN) to H.R. 11392 to take out of that bill funding for the SRC–II plant by the Federal Government.

But no matter how the Members feel about that, they ought to at least vote today against these amendments as being unnecessary. We already have this in an-

other bill, whether or not the Members believe the plants ought to be built or not.

Mr. FLOWERS. Madam Chairman, I move to strike the requisite number of words, and I rise in opposition to the substitute amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

Madam Chairman, it is interesting to note that those who are against the Flowers amendment are members of the other committee that is exerting jurisdiction over what is clearly a research and development matter. That is what the basic issue is here.

As my friend, the gentleman from New York (Mr. OTTINGER), said—and I quote him—SRC–II is indeed a "promising technology." Those were his words spoken earlier from the well of this House.

That is exactly what it is. It is a promising technology, and some pilot-phase work has now been done on it.

We are proposing in our amendment here something similar to what is proposed in the bill from the Committee on Interstate and Foreign Commerce, and that is a 6,000-ton-per-day module of what would ultimately be a commercial sized plant. This is a demonstration of the potential. It is clearly demonstration; it is not commercialization. Nobody could argue that a 6,000-ton-a-day module would be a commercial sized venture. It is not; it will not be; it might become a part of it in the future.

A commercial sized venture, as everyone agrees, would be for 30 tons a day—five times that size.

Madam Chairman, in winding this thing up, let me say this: Of course, none of us would propose that the Federal Government spend hundreds of millions of dollars without any safeguards. I hope my colleagues will listen to this. We have permanent legislation in this field. We all sit around here and talk about bureaucratic redtape, and we dog-cuss the bureaucracy, do we not?

And now what are we going to do? We are going to add some more redtape on top of each individual project we authorize. Is that what we want to do?

We have permanent legislation in the 1974 Non-Nuclear Research and Development Act, which came after this original aborted coal-con project legislation, and that gives us the restraints we need. This committee, the Committee on Science and Technology, had nothing to do with the coal-con proposition. It was awarded by the Department of the Interior before the Research and Development Administration ever came into being. That is where the problem came, when coal-con came about, before the 1974 Non-Nuclear Act ever came about.

The Committee on Science and Technology will be on top of this with our oversight jurisdiction. I will not be around, but I do not want to preside here today in my small way and see a raid on a committee's jurisdiction, and that is just exactly what we have here.

Madam Chairman, I hope the Members will vote down the Myers substitute and support the Flowers amendment.

Mr. OTTINGER. Madam Chairman, will the gentleman yield?

Mr. FLOWERS. I yield to my friend, the gentleman from New York.

Mr. OTTINGER. Madam Chairman, the Non-Nuclear Act would not apply if we made this specific authorization, as I understand it.

Mr. FLOWERS. Madam Chairman, I disagree with the gentleman. I disagree with the gentleman's premise.

Mr. OTTINGER. Under section 8(f) there is a provision of which I was the sponsor, stating that any project which is over $25 million and which the Department of Energy decides it wants to pursue requires a detailed report, for example. But if we authorize the $75 million the gentleman seeks, and it is already authorized, it would not come under that protection, is that right?

Mr. FLOWERS. It would not come under that protection; that is right.

Mr. OTTINGER. It is that kind of protection I think we need here. Here we have a huge project, a project which it is stated at the present time involves half a billion dollars.

Mr. FLOWERS. Madam Chairman, if I could reclaim my time, I will say that I agree with the gentleman that it would not come under that section. But I disagree with the gentleman that we need to write in every authorization of every project of an energy nature all of these far-reaching bureaucratic constraints that we do not have on Armed Services Committee projects, that we do not have on other projects authorized here by this Congress, and we should not cowtow to the Department of Energy in this regard. Give the committees of this House the oversight jurisdiction they ought to have, and we will find that it works out. We have not had a coal-con project since the Science and Technology Committee had jurisdiction.

Mr. OTTINGER. Can the gentleman point out where these protections or safeguards are with deals made with Gulf Oil Co., before we go ahead with the gentleman's amendment?

Mr. FLOWERS. I do not know who you are dealing with. The site is unspecified and the participants are unspecified. Our committee had hearings on the thing. There will be hearings on it at every stage. This is not something someone is going to walk out on the street and sign as soon as authorized by Congress.

Madam Chairman, I urge the Members to vote against the substitute amendment and support my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS) as a substitute for the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

The amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama (Mr. FLOWERS).

The question was taken; and the Chairman being in doubt, the Committee divided, and there were—ayes 26, noes 16.

RECORDED VOTE

Mr. OTTINGER. Madam Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 165, noes 132, not voting 135, as follows:

[Roll No. 545]

AYES—165

Abdnor	Gammage	Murphy, Pa.
Akaka	Gaydos	Murtha
Ambro	Gephardt	Myers, Gary
Ammerman	Gilman	Myers, Michael
Anderson, Calif.	Ginn	Natcher
	Glickman	Neal
Annunzio	Goldwater	Nowak
Applegate	Gonzalez	Oberstar
Archer	Gudger	Panetta
Ashley	Hall	Patterson
Beard, R.I.	Hammer-schmidt	Pepper
Benjamin		Perkins
Bennett	Hannaford	Pettis
Bevill	Harkin	Pickle
Biaggi	Harsha	Poage
Bingham	Hefner	Preyer
Blanchard	Heftel	Price
Boggs	Hillis	Pritchard
Bolling	Horton	Pursell
Bowen	Howard	Rahall
Brademas	Hubbard	Risenhoover
Buchanan	Ichord	Roe
Burke, Mass.	Ireland	Rogers
Burleson, Tex.	Jenrette	Roncalio
Burlison, Mo.	Johnson, Calif.	Rooney
Carter	Jones, N.C.	Rose
Chappell	Jones, Okla.	Runnels
Coleman	Jordan	Scheuer
Conte	Kazen	Schroeder
Conyers	Krebs	Skelton
Corman	Lederer	Slack
Coughlin	Leggett	Smith, Iowa
Daniel, Dan	Lent	Solarz
Danielson	Levitas	Spellman
Davis	Lloyd, Calif.	Spence
Delaney	Lloyd, Tenn.	Steed
Derrick	Long, Md.	Stratton
Devine	Lujan	Teague
Dickinson	McCormack	Thompson
Dodd	McDade	Thornton
Downey	McFall	Ullman
Duncan, Oreg.	McKay	Volkmer
Duncan, Tenn.	McKinney	Waggonner
Edgar	Mahon	Watkins
Edwards, Calif.	Marriott	White
Ertel	Martin	Whitten
Fary	Mattox	Wilson, Bob
Fascell	Mazzoli	Wilson, Tex.
Findley	Meyner	Wright
Fish	Miller, Ohio	Wydler
Fisher	Mineta	Yates
Flippo	Mitchell, N.Y.	Yatron
Flowers	Mollohan	Young, Mo.
Foley	Montgomery	Young, Tex.
Fowler	Moorhead, Pa.	Zablocki
Fuqua	Murphy, Ill.	

NOES—132

Armstrong	Dellums	Heckler
Aspin	Derwinski	Holt
Badham	Diggs	Holtzman
Baldus	Dingell	Huckaby
Bauman	Dornan	Hughes
Beard, Tenn.	Drinan	Hyde
Beilenson	Early	Jacobs
Bonior	Eckhardt	Jones, Tenn.
Bonker	Edwards, Ala.	Kastenmeier
Brodhead	Edwards, Okla.	Kelly
Broomfield	Emery	Kemp
Brown, Calif.	English	Keys
Broyhill	Erlenborn	Kildee
Burgener	Evans, Del.	Kindness
Burton, John	Evans, Ind.	Kostmayer
Burton, Phillip	Fenwick	Lagomarsino
Butler	Fithian	Leach
Carr	Florio	Lehman
Chisholm	Forsythe	Long, La.
Clausen, Don H.	Frenzel	Luken
	Giaimo	McCloskey
Collins, Tex.	Gore	McDonald
Conable	Gradison	McEwen
Corcoran	Grassley	McHugh
Cornell	Green	Maguire
Crane	Hamilton	Marlenee
Cunningham	Hanley	Michel
D'Amours	Hansen	Mikulski
Daniel, R. W.	Harris	Mikva

Miller, Calif.	Regula	Staggers
Minish	Reuss	Stanton
Mitchell, Md.	Rhodes	Stark
Moore	Rinaldo	Steers
Moorhead, Calif.	Robinson	Stockman
	Roybal	Studds
Moss	Rudd	Taylor
Myers, John	Ryan	Trible
Nedzi	Santini	Vanik
O'Brien	Satterfield	Walker
Obey	Schulze	Waxman
Ottinger	Seiberling	Weaver
Patten	Sharp	Whalen
Pattison	Shuster	Whitehurst
Pease	Skubitz	Wirth
Pike	Snyder	

NOT VOTING—135

Addabbo	Fraser	Richmond
Alexander	Frey	Roberts
Anderson, Ill.	Garcia	Rodino
Andrews, N.C.	Gibbons	Rosenthal
Andrews, N. Dak.	Goodling	Rostenkowski
	Guyer	Rousselot
Ashbrook	Hagedorn	Ruppe
AuCoin	Harrington	Russo
Bafalis	Hawkins	Sarasin
Barnard	Hightower	Sawyer
Baucus	Holland	Sebelius
Bedell	Hollenbeck	Shipley
Blouin	Jeffords	Sikes
Boland	Jenkins	Simon
Breaux	Johnson, Colo.	Sisk
Breckinridge	Kasten	Smith, Nebr.
Brinkley	Krueger	St Germain
Brooks	LaFalce	Stangeland
Brown, Mich.	Latta	Steiger
Brown, Ohio	Le Fante	Stokes
Burke, Calif.	Livingston	Stump
Burke, Fla.	Lott	Symms
Byron	Lundine	Thone
Caputo	McCIory	Traxler
Carney	Madigan	Treen
Cavanaugh	Mann	Tsongas
Cederberg	Markey	Tucker
Clawson, Del	Marks	Udall
Clay	Mathis	Van Deerlin
Cleveland	Meeds	Vander Jagt
Cochran	Metcalfe	Vento
Cohen	Milford	Walgren
Collins, Ill.	Moakley	Walsh
Cornwell	Moffett	Wampler
Cotter	Mottl	Weiss
de la Garza	Murphy, N.Y.	Whitley
Dent	Nichols	Wiggins
Dicks	Nix	Wilson, C. H.
Eilberg	Nolan	Winn
Evans, Colo.	Oakar	Wolff
Evans, Ga.	Pressler	Wylie
Flood	Quayle	Young, Alaska
Flynt	Quie	Young, Fla.
Ford, Mich.	Quillen	Zeferetti
Ford, Tenn.	Railsback	
Fountain	Rangel	

Messrs. PIKE, SKUBITZ, and KOSTMAYER changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. M'CORMACK

Mr. McCORMACK during the read- I have three amendments at the desk, and I offer the first two amendments.

The Clerk read as follows:

Amendments offered by Mr. McCORMACK: At page 2, line 3, after the words "demonstrations, and" add the word "including".

At page 4, line 1, after the words "applications, and" add the word "including".

Mr. McCORMACK during the reading). Madam Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD, and that they be considered en bloc.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. McCORMACK. Madam Chairman, these amendments are simply technical amendments to clarify the language so that there is no chance of misinterpreting the fact that the lead figure in the paragraph includes the figures that follow.

Mr. GOLDWATER. Madam Chairman, if the gentleman will yield, the minority concurs with the gentleman from Washington (Mr. McCORMACK) and would accept the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Washington (Mr. McCORMACK).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. M'CORMACK

Mr. McCORMACK. Madam Chairman, I offer my third amendment.

The Clerk read as follows:

Amendment offered by Mr. McCORMACK: Page 27, after line 17, add the following new section:

SEC. 507. Section 208(a)(4) of Public Law 95-238 is amended by—

(1) inserting in the first sentence between the words "acquire" and "up" the following: ", or have other Federal agencies acquire under delegation from the Secretary of Energy,";

(2) inserting in the last sentence between "Federal agencies" and the comma the words: "for use at sites under their jurisdiction or at sites connected with programs administered by such agencies", and

(3) striking from the proviso in the last sentence the word "Federal" and inserting in lieu thereof the word "such".

Mr. McCORMACK (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

Mr. DINGELL. Madam Chairman, reserving the right to object, would the gentleman explain the amendment?

Mr. McCORMACK. Madam Chairman, if the gentleman will yield, the amendment is a request by the administration to expand its authority in managing the photovoltaic program. The administration has requested authority to establish photovoltaic demonstrations on other than Federal sites, and to expand that authority to facilities administered by the Federal authorities. Thus demonstrations could be established on Indian reservations, Federal highways, and so forth. The request is only to allow the administration to expand its area of operation in photovoltaics.

Mr. DINGELL. I thank the gentleman and I withdraw my reservation of objection.

Mr. McCORMACK. Madam Chairman, my amendment would amend section 208 of Public Law 95-238, the Fiscal Year 1978 Energy Authorization Act for civilian applications.

Section 208 of the act requires that photovoltaic systems acquired under the act be used only at Federal sites, and that all such applications be life cycle cost effective. However, I am informed by the Department of Energy that cost effective applications, even on a life cycle basis, are difficult to find only on Federal sites. The high current cost of solar cells and other system components leads to the fact that the only likely cost effective applications are for delivery of energy in remote areas which have no access to conventional electric grids, and have high operation and maintenance costs for alternative energy sources such as gas or diesel generators or batteries.

Thus, the present requirement limiting application of photovoltaic systems to Federal sites severely curtails the research and development potential of the section 208 program.

My amendment would expand the potential sites at which photovoltaic systems could be used by Federal agencies to cover sites involved in programs administered by the agencies as well as federally owned sites. For example, Indian lands and U.S. Trust Territories over which the Department of the Interior has cognizance offer great potential for economic use. In the case of Indian lands photovoltaic systems may have favorable economic application as power sources for tribal water wells and sewer plants and for individual living units. The placement of the systems could be dovetailed with their other programs and ownership of the system conveyed to the Indians as desirable by the Department of the Interior. The systems could be acquired by the Secretary of Energy or by the Department of the Interior under delegation from the Secretary. Similar potential for economic use may be offered in connection with federally funded highways under programs administered by the Department of Transportation.

My amendment would further the purpose of section 208 without additional costs.

It has been requested by the Department of Energy.

I urge its adoption.

The CHAIRMAN. Is there objection to the request of the gentleman from Washington?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington (Mr. McCORMACK).

The amendment was agreed to.

Mr. TEAGUE. Madam Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12163) to authorize appropriations to the Department of Energy in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 660 of the Department of Energy Reorganization Act, for energy research and development, and for other purposes, had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. RHODES asked and was given permission to address the House for 1

minute and to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, I take this time to request of the acting majority leader the program for next week and for the balance of this week.

Mr. BRADEMAS. Mr. Speaker, will the distinguished minority leader yield for that purpose?

Mr. RHODES. I will be glad to yield.

Mr. BRADEMAS. The program for the House of Representatives for the week of July 17 is as follows:

On Monday the House will meet at noon for the Consent Calendar, and five bills will be considered under suspension, with the votes on suspension postponed until the end of all suspensions. The suspensions are:

H.R. 11153, Reclamation Safety of Dams Act,

H.R. 12028, Veterans Housing Improvement Act of 1978,

H.R. 12232, unemployment compensation amendments,

H.R. 12380, limitation on extended unemployment compensation, and

H.R. 10848, social security amendments for disability.

Then the House will consider:

H.R. 12163, the Department of Energy authorizations for fiscal year 1979, to complete consideration of that bill, and

H.R. 11392, Department of Energy authorizations for fiscal year 1979, under an open rule, with 1 hour of general debate.

On Tuesday the House will meet at noon for the Private Calendar and will consider six bills under suspension. Votes on suspensions to be postponed until the end of all suspensions. The suspensions are as follows:

H.R. 12443, Immigration and Nationality Act amendments,

H.R. 12508, immigration and naturalization of adopted children,

H.R. 12252, plot allowance to State veterans cemeteries,

H.R. 12011, hospital care for veterans in U.S. territories,

H.R. 11891, increase for disabled veterans requiring constant medical attention, and

H.R. 6075, prohibit sex discrimination based on pregnancy.

Then the House will consider H.R. 1609, Coal Pipeline Act of 1978, under an open rule, with 1 hour of general debate, and

H.R. 11983, FEC authorizations, under an open rule, with 1 hour of general debate.

On Wednesday the House will meet at 10 o'clock a.m., for—

H.R. 13385, debt limit extension, subject to a rule being granted, and

H.R. 12433, housing and community development amendments, to complete consideration of that bill.

On Thursday the House will meet at 10 o'clock a.m., for—

H.R. 3350, Deep Seabed Hard Minerals Act, under an open rule, with 2 hours of general debate, and

H.R. 13467, supplemental appropriations for fiscal year 1978.

On Friday the House will meet at 10 o'clock a.m., for—

H.R. 13468, District of Columbia appropriations for fiscal year 1979, and to complete consideration of

H.R. 12432, Civil Rights Commission Act of 1978.

The House will adjourn by 3 p.m. on Friday and by 5:30 p.m. on all other days except Wednesday Conference reports may be brought up at any time, and any further program will be announced later.

I thank the gentleman from Arizona for yielding.

Mr. RHODES. I thank the gentleman. Is there any tentative schedule yet for bringing up the appropriations bill on foreign aid? I note that the bill was reported out of the full committee on June 1 and had been originally scheduled for June 15. It is about a month later, and the people on my side have asked me this question.

Mr. BRADEMAS. If the distinguished minority leader would yield further, that bill is tentatively—and I reiterate "tentatively"—under consideration for floor action the week of July 24.

Mr. RHODES. I thank the gentleman.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday of next week.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ADJOURNMENT TO MONDAY, JULY 17, 1978

Mr. BRADEMAS. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet on Monday next at 12 o'clock noon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

ANTICIPATED ACTION ON MONETARY CONTROL OVER RESERVE REQUIREMENTS

(Mr. REUSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

● Mr. REUSS. Mr. Speaker, the Committee on Banking, Finance, and Urban Affairs, in full committee session, will shortly hold hearings on legislation to enhance the efficiency and competitiveness of our financial system and improve the conduct of monetary policy. The chairmen of the two subcommittees of relevant jurisdiction, Mr. MITCHELL of Maryland, and Mr. ST GERMAIN of Rhode Island, will alternate in chairing the sessions.

The Federal Reserve System has asked for speedy action. We shall act.

This legislation, in my judgment, should have as its goals to:

First. Authorize the payment of interest on reserves held by member banks in the Federal Reserve System, without increasing the Federal budget deficit.

Second. Provide for explicit and compensatory charges for services that are offered by the Federal Reserve to depository institutions.

Third. Establish specific statutory reserve requirements—in order to decrease the burden of Federal Reserve membership, to enhance the competitive environment for smaller banks, and to deal explicitly with those time deposits which are automatically transferable into demand deposits.

Fourth. Tie the discount rate to the yield on 3-month Treasury bills. This would end abrupt market-disturbing movements in the discount rate, and reduce possibilities for arbitrage profits on discount operations that are sometimes present under current arrangements.

Fifth. Improve monetary control by authorizing the Federal Reserve to obtain summary statistical information on assets and liabilities of all depository institutions, members or not.

There will be four principal pieces of legislation before us. On July 6, 1978, Chairman G. William Miller of the Board of Governors of the Federal Reserve System requested that the Congress consider two Federal Reserve proposals (1 and 2), asking that they be regarded as alternatives to each other. Earlier, on May 12, 1978, proposal 3, H.R. 12706, containing four sections, was introduced by our colleague, the distinguished ranking minority member of the Committee on Banking, Finance, and Urban Affairs, J. WILLIAM STANTON of Ohio, with 12 cosponsors. Finally, an amendment (4) to H.R. 12706 will be offered at the hearings. While there has not been an opportunity to consult with all members of the House Banking Committee on this amendment, a clear majority support it in principle.

Let me describe each of these four proposals.

1. THE FIRST FED PROPOSAL

The first Federal Reserve proposal, "Reserve Requirements Act of 1978," would extend mandatory universal reserve requirements to all depository institutions—banks, whether members of the Fed or not, mutual savings banks, savings and loans, and credit unions—"for their demand deposits and all other transactions accounts." The range of required reserves for demand deposits would remain from 7 to 22 percent, as at present, but the distinction now in effect between "reserve-city" and other banks would be eliminated. For other transactions accounts, including NOW accounts, reserve requirements would be set in the range of 3 to 12 percent. The range of required reserves on time and savings accounts would continue to apply to Federal Reserve member banks only, and would be reduced from the present 3 to 10 percent to a new range of 0.5 to 10 percent. In addition, this proposal authorizes the Federal Reserve to obtain such summary statistics on deposit liabilities and required reserves from all depository institutions as it may require.

I today introduce this proposal as H.R. 13476 by request. Its text follows:

H.R. 13476

A bill to amend the Federal Reserve Act to provide for the maintenance of reserves for certain institutions

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Reserve Requirements Act of 1978".

TITLE I—RESERVE REQUIREMENTS OF MEMBER BANKS AND OTHER DEPOSITORY INSTITUTIONS

SEC. 101. The first section of the Federal Reserve Act, as amended (12 U.S.C. § 221), is amended by adding at the end thereof the following new paragraphs:

"The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act;

"(6) any insured institution as defined in section 401 of the National Housing Act; and

"(7) for the purpose of section 13 and the fourteenth paragraph of section 16, any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (1) through (6).

"The term 'transaction account' means a deposit or account on which the depositor or account holder is allowed to make withdrawals by negotiable or transferable instrument or other similar item for the purpose of making payments to third persons or others. Such term includes demand deposit, negotiable order of withdrawal and share draft accounts."

SEC. 102. Section 19(a) of the Federal Reserve Act, as amended (12 U.S.C. § 461), is amended by adding at the end thereof the following: "In order to prevent evasions of the reserve requirements imposed by this Act, after consultation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, and the Administrator of the National Credit Union Administration, the Board of Governors of the Federal Reserve System is further authorized to determine, by regulation or order, that an account or deposit is a transaction account where such account or deposit may be used to provide funds directly or indirectly for the purpose of making payments or transfers to third persons or others.".

SEC. 103. The last sentence of subsection (b) of section 19 of the Federal Reserve Act, as amended, (12 U.S.C. § 461), is designated as paragraph (7) and that part of subsection (b) that precedes that sentence is amended to read as follows:

"(b)(1) Except as provided in paragraph (4), every depository institution as defined in section 1 of the Federal Reserve Act, as amended (12 U.S.C. § 221), shall maintain reserves against its demand deposits at such average ratio of not less than 7 per centum nor more than 22 per centum, as shall be determined by the Board.

"(2) Except as provided in paragraph (4), every depository institution as defined in section 1 of the Federal Reserve Act, as amended (12 U.S.C. § 221), shall maintain reserves which shall be at the same level for all depository institutions against all other transaction accounts at such average ratio of not less than 3 per centum nor more than 12 per centum, as shall be determined by the Board.

"(3) Every member bank shall maintain reserves against its time deposits and savings deposits (other than negotiable order of withdrawal accounts) as such average ratio of not less than ½ per centum nor more than 10 per centum, as shall be determined by the Board.

"(4) A total of $5,000,000 of transaction accounts of a depository institution shall not be subject to the reserve requirements of this section, subject to such rules and regulations as may be adopted by the Board. However, the Board may impose reserve requirements on such transaction accounts at such average ratio of up to 7 percent if determined to be appropriate in light of general liquidity, considerations of monetary policy, or other relevant conditions prevailing in the banking system.

"(5) Every depository institution as defined in section 1 of the Federal Reserve Act (12 U.S.C. § 221) shall make reports concerning its deposit liabilities and required reserves at such times and in such manner and form as the Board may require.

"(6)(a) For purposes of determining the reserve requirements of a depository institution established after June 30, 1978 which is an affiliate of a depository institution subject to the reserve requirements of this section, the transaction accounts of such newly established depository institutions shall be added to the total transaction accounts of such affiliated depository institution.

"(b) In addition to its authority under section 19(a), the Board is authorized to determine, by regulation or order, the affiliated depository institution to whose transaction accounts the transaction accounts of a depository institution established after June 30, 1978 shall be added for purposes of this provision."

SEC. 104. With respect to any depository institution that is not a member of the Federal Reserve System on June 30 ,1978, the required reserves imposed pursuant to subsection (a) against its transaction accounts on the effective date of this Act shall be reduced by 75 per centum during the first year that begins after the effective date, 50 per centum during the second year, and 25 per centum during the third year.

SEC. 105. (a) Section 19(c) of the Federal Reserve Act, as amended (12 U.S.C. § 461) is amended to read as follows: "Reserves held by any depository institution to meet the requirements imposed pursuant to subsection (b) of this section shall be in the form of—

"(1) balances maintained for such purposes by such depository institution in the Federal Reserve bank of which it is a member or at which it maintains an account. However, the Board may, by regulation or order, permit depository institutions to maintain all or a portion of their required reserves against their transaction accounts in the form of vault cash: Provided, that such proportion shall be identical for all depository institutions; and

"(2) balances maintained by a nonmember depository institution in a member bank or in a Federal Home Loan Bank maintains such funds in the form of balances in a Federal Reserve bank of which it is a member or at which it maintains an account. Balances received by a member bank from another depository institution that are used to satisfy the reserve requirements imposed on such depository institution by this section shall not be subject to the reserve requirements of this section imposed on such member bank and shall not be subject to assessment imposed on such member bank pursuant to section 7 of the Federal Deposit Insurance Act, as amended (12 U.S.C. § 117)."

TITLE II—CONFORMING AMENDMENTS AND EFFECTIVE DATE

SEC. 201. Section 5A of the Federal Home Loan Bank Act, as amended (12 U.S.C. § 1425a), is amended by redesignating subsection (f) as subsection (g) and by inserting before such subsection, as redesignated, the following new subsection:

"(f) Every institution which is a member or is an insured institution as defined in section 401(a) of title IV of the National Housing Act (12 U.S.C. § 1724(a)) shall maintain reserves against its transaction accounts as defined in section 1 of the Federal Reerve Act (12 U.S.C. § 221) in accordance with the provisions of section 19 of the Federal Reserve Act (12 U.S.C. § 461) in amounts not less than such percentages of its aggregate amounts of such deposits or accounts as may be prescribed under section 19(b) of the Federal Reserve Act (12 U.S.C. § 461) by the Board of Governors of the Federal Reserve System.".

SEC. 202. Section 116 of the Federal Credit Union Act, as amended (12 U.S.C. § 1762), is amended by adding at the end thereof the following new subsection:

"(c) Each insured credit union shall maintain reserves against its transaction accounts a defined in section 1 of the Federal Reserve Act (12 U.S.C. § 221) in accordance with the provisions of section 19 of the Federal Reserve Act (12 U.S.C. § 461) in amounts not less than such percentages of its aggregate amounts of such depoits or account as may be prescribed under section 19(b) of the Federal Reserve Act (12 U.S.C. § 461) by the Board of Governors of the Federal Reserve System.'.

SEC. 203. (a) The first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. § 342) is amended as follows:

(1) by inserting after the words "member banks" the words "or other depository institutions".

(2) by inserting after the words "payable upon presentation" the first and third times they appear, the words "or other items, including negotiable orders of withdrawal or share drafts".

(3) by inserting after the words "payable upon presentation within its district," the words "or other items, including negotiable orders of withdrawal or share drafts".

(4) by inserting after the words "nonmember bank or trust company," wherever they appear the words "or other depository institution".

(5) by striking the words "sufficient to offset the items in transit held for its account by the Federal Reserve bank" and inserting in lieu thereof the words "in such amount as the Board determines taking into account items in transit, services provided by the Federal Reserve bank, and other factors as the Board may deem appropriate".

(6) by inserting after the words "nonmember bank" after the second colon the words "or other depository institution".

(b) The thirteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. § 360) is amended as follows:

(1) by striking out the words "member banks" wherever they appear and inserting in lieu thereof "depository institutions".

(2) by striking out the words "member bank" wherever they appear and inserting in lieu thereof "depository institution".

(3) by inserting after "checks" wherever it appears the words "and other items, including negotiable orders of withdrawal and share drafts".

(c) the fourteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. § 248(o)) is amended by striking out "its member banks" and inserting in lieu thereof "depository institutions".

SEC. 204. The provisions of this Act shall become effective one year after the date of enactment.

This legislation will get a full hearing, though I admit to grave doubts of its wisdom—for example, its over-intrusion

of uncompensated reserve requirements into vast new areas, and its meaninglessly wide percentage ranges.

Universal reserve requirements, as required by H.R. 13476, are not necessary for improved monetary control. Such control can be more easily achieved without extending the Federal Reserve's power to regulate nonmember institutions simply by providing the Federal Reserve with summary statistics on assets and liabilities of all depository institutions.

Universal reserve requirements would unnecessarily impose burdens on small independent banks and other financial institutions. Such requirements would extend the regulatory jurisdiction of the Federal Reserve far beyond present limits, upsetting the long-established regulatory jurisdictions of State banking officials, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

2. THE SECOND FED PROPOSAL

The second Federal Reserve proposal, "Interest on Reserves Act of 1978," as submitted by Chairman Miller, would amend the Federal Reserve Act to provide a limit on the amount of interest payable on required reserves:

Interest paid on balances maintained at all Federal Reserve banks after deducting the total amount of charges imposed for services provided shall not exceed 7 percent of the total net earnings of the Federal Reserve Banks.

Accompanying language would have the Congress "find necessary" a program designed and executed by the Board of Governors consisting of the following elements:

Explicit charges for services.

Payment by Federal Reserve Banks of interest on reserves held by member banks.

Restructuring of reserve requirements within existing statutory ranges.

Transfer of a portion of the Federal Reserve surplus (specified elsewhere at $575 million) to the Treasury.

I, likewise, introduce this second proposal, with a small modification, discussed later, as H.R. 13477, "by request." Its text follows:

H.R. 13477

A bill to amend the Federal Reserve Act to authorize the payment of interest on reserve balances

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Interest on Reserves Act of 1978".

SEC. 2. Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Subject to such limitations, restrictions, and regulations as the Board of Governors may prescribe, the Federal Reserve banks are hereby authorized to pay interest on balances held in any Federal Reserve bank pursuant to section 19(c)(1) of this Act. The total amount of such interest paid with respect to any year shall not exceed the sum of the following items computed with respect to the same year:

"(A) total receipts by Federal Reserve banks from the recipients of such interest for services rendered to such recipients by such banks, and

"(B) 7 percent of the total net earnings of the Federal Reserve banks computed without regard to the payment of such interest.

The rate of interest paid under this section shall not exceed 2 percent per annum with respect to required balances in excess of $25 million held at Federal Reserve banks."

H.R. 13477 differs from the Fed's second proposal as submitted in that it would have the Congress authorize, rather than merely "find necessary," an action which clearly cannot be taken by the Federal Reserve without legislative authority: the payment of interest on reserves.

On June 26, 1978, the Democratic Caucus of the Committee on Banking, Finance and Urban Affairs met and passed by unanimous vote the following resolution:

Resolved, That, the Democratic Caucus of the House Committee on Banking, Finance and Urban Affairs believes that the question of Federal Reserve member bank reserves, including the payment of interest thereon, and of charges for services, are matters for Congressional legislation, not Administrative regulation. It is intended to hold thorough legislative hearings on the matter, and to invite the Federal Reserve to submit recommendations for the proposed legislation as promptly as possible.

It is my understanding that minority members of the committee share this view. H.R. 13477 reflects this considered judgment.

The only other difference between H.R. 13477 and the Federal Reserve's second proposal is that, in the interest of a clear distinction between what does and does not require explicit congressional authorization, provisions "finding necessary" those actions for which the Federal Reserve Board's authority is not in doubt have been omitted.

Again, this legislation will get a full hearing, but here, too, I have grave doubts of its wisdom for a number of reasons.

Most importantly, it costs too much. Even on the most optimistic assumptions, the Federal Reserve's second proposal would entail net direct costs to the Treasury of between $250 and $300 million per year. More conservative estimates place this figure at $355 million per year. In addition, reducing reserve requirements by $5 billion, as the Federal Reserve proposes to do in conjunction with H.R. 13477, entails further indirect costs to the Treasury. These are estimated at $350 million per year at present interest rates.

This is too high a price to pay to attract and maintain State bank membership in the Federal Reserve System. We surely want to help the Fed exercise its monetary control, and be attractive to members—but not at an unnecessarily high cost in terms of an additional budget deficit of more than $700 million a year in an era when the United States needs to reduce, not increase, its budget deficit.

Moreover, the Federal Reserve's proposal is an inefficient approach to this problem. In the absence of universal reserve requirements, the payment of interest on reserves in excess of charges for services would be at most a small marginal inducement to membership in the Federal Reserve System. It is pointless for the Fed to try to influence the decisions of a relatively small number of member banks, which are considering resigning their memberships, by running a huge additional budget deficit that would subsidize the many banks which have no intention of leaving the Federal Reserve System.

There is an alternative for achieving monetary control, described below. In the light of the high cost and doubtful membership effect of using millions of taxpayers' dollars to pay member banks' interest on reserves under the Federal Reserve's second proposal, the second proposal, in my judgment, does not pass the cost-benefit test.

3. THE STANTON BILL—H.R. 12706

H.R. 12706. "The Federal Reserve Membership Act of 1978," would authorize the payment of interest on required reserves, at a rate determined periodically by vote of the Federal Reserve Board, but not exceeding the average yield on 3-month Treasury bills in the preceding quarter. The bill would require the Federal Reserve to charge for services connected with the payments process and establishes explicit principles governing the prices of these services. These principles are designed to insure the preservation of the potential for private free-market competition in this area. The text follows:

H.R. 12706

A bill to amend the Federal Reserve Act to provide for the pricing of Federal Reserve System services and the payment of interest on reserves

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Reserve Membership Act of 1978".

SEC. 2. PRICING OF SERVICES.—(a) The Federal Reserve Act is amended by inserting after section 11 (12 U.S.C. 248) the following new section:

"SEC. 11A. (a) Not later than July 1, 1979, the Board of Governors shall have prepared and shall publish for public comment a set of pricing principles in accordance with this section and a proposed schedule of fees for Federal Reserve System services; and not later than July 1, 1980, the Board shall put into effect a schedule of fees for such services which is based on those principles.

"(b) The Federal Reserve System services which shall be covered by the schedule of fees under subsection (a) are—

"(1) currency and coin services;

"(2) check collection services;

"(3) wire transfer services;

"(4) automated clearinghouse services;

"(5) net settlement services;

"(6) securities safekeeping services; and

"(7) any new payment services which the Federal Reserve System provides, including but not limited to payment services that effectuate the electronic transfer of funds.

"(c) The pricing principles referred to in subsection (a) and the schedule of fees prescribed pursuant to this section shall be based on the following general principles:

"(1) All services shall be priced explicitly.

"(2) Prices shall be established on the basis of all direct and indirect costs actually incurred in providing the services priced, including overhead, and an allocation of imputed costs that take into account the taxes that would have been paid and the return on capital that would have been provided had the payment services been furnished by a private business firm.

"(3) Services shall be made available to

any depository institution at the same fee schedule applicable to member banks.".

SEC. 3. INTEREST ON RESERVES.—Section 19 of the Federal Reserve Act is amended by inserting after subsection (b)(3) (12 U.S.C. 461(b)) the following:

"(4) The Board shall pay interest on those reserves required to be held pursuant to this subsection. The rate of interest shall be periodically determined by an affirmative vote of not less than four members of the Board. The rate of interest shall not exceed the average rate paid during the preceding calendar quarter on United States Treasury bills with maturities of three months.

"(5) Not later than July 1, 1981, the Board shall prepare a study to be transmitted to the House Committee on Banking, Finance and Urban Affairs and Senate Committee on Banking, Housing, and Urban Affairs on the feasibility and impact of permitting member banks to invest a percentage of their required reserves in United States Treasury securities. The study shall examine the impact of such an arrangement on—

"(1) monetary and financial conditions;

"(2) Treasury revenues;

"(3) safety and soundness of member banks;

"(4) impact of benefits and costs of membership in Federal Reserve System.

"(6) In its annual report to Congress the Board shall provide a full account of the changes in membership during the preceding year, the pricing structure for services in effect during the preceding year, and the interest rate structure on reserves in effect during the preceding year.".

SEC. 4. DEFINITIONS.—(a) The Federal Reserve Act is amended by adding at the end of section 1 (12 U.S.C. 221) the following new paragraph:

"The term 'depository institution' means—

"(1) any insured bank as defined in section 3 of the Federal Deposit Insurance Act;

"(2) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(3) any savings bank as defined in section 3 of the Federal Deposit Insurance Act;

"(4) any insured credit union as defined in section 101 of the Federal Credit Union Act;

"(5) any member as defined in section 2 of the Federal Home Loan Bank Act;

"(6) any insured institution as defined in section 401 of the National Housing Act; and

"(7) any association or entity which is wholly owned by or which consists only of institutions referred to in clauses (1) through (6).".

(b) The first paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 342) is amended—

(1) by inserting "or other depository institutions" after "member banks";

(2) by inserting "or other depository institution" after "nonmember bank or trust company" each place it appears;

(3) by inserting "and other factors as the Board may deem appropriate" after the words "held for its account by the Federal Reserve bank"; and

(4) by inserting "or other depository institution" after "nonmember bank" in the second proviso.

(c) The thirteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 360) is amended as follows:

(1) by striking out the words "member banks" wherever they appear and inserting in lieu thereof "depository institutions"; and

(2) by striking out the words "member bank" wherever they appear and inserting in lieu thereof "depository institution".

(d) The fourteenth paragraph of section 16 of the Federal Reserve Act (12 U.S.C. 248 (o)) is amended by striking out "its member banks" and inserting in lieu thereof "depository institutions".

In my opinion, H.R. 12706 is a constructive approach to the problem, and I, therefore, recommend that it be the primary legislative vehicle at our upcoming hearings. But I believe that it must be significantly improved, by the addition of a substitute amendment to its section 3, dealing with interest on reserves. As I have said, such an amendment will be introduced by several members of the committee during the committee's deliberations.

4. THE PROPOSED AMENDMENT TO H.R. 12706

The proposed amendment to H.R. 12706 is designed to facilitate and improve the conduct of monetary policy, to increase the competitiveness of our financial system, and to reduce the burden of Federal Reserve membership, with minimal cost to taxpayers or adverse impact on the Federal budget.

These goals would be achieved in the following manner.

First. Interest would be paid on required reserves held on deposit at Federal Reserve banks, up to an amount limited to the sum of—

Receipts from the pricing of services (estimated by the Federal Reserve to equal $410 million per year when fully effected), and

Earnings on discounts and advances (currently about $40 million annually).

Total interest payable would thus equal about $450 million, of which only $40 million would represent a cost to the Treasury. In contrast, under the Federal Reserve proposal, the total estimated interest payout is $765 million, of which $355 million would be a net cost to the Treasury. Under both proposals, the Federal Reserve would have full flexibility to allocate the total funds available for paying interest on reserves so as to maximize the impact of membership.

Second. Specific statutory reserve requirements for member banks would be established to replace the current reserve requirement ranges. Under the amendment, the first $10 million of demand deposits and "other transactions accounts" would be exempted from reserve requirements altogether. After the first $10 million, a progressive scale of reserve requirements is introduced.

The changes are calibrated to reduce aggregate required reserves by $5 billion—the same as in the Federal Reserve proposal. They will reduce the burden of holding required reserves for all 5,628-member banks. Over 3,200 of the smallest Federal Reserve member banks, or nearly 60 percent of all member banks, would be entirely exempted from reserve requirements on demand deposits. More than 90 percent of member banks, those with demand deposits of $50 million or less, will face lower requirements than contemplated by the Federal Reserve in its proposal. Clearly, reducing the present burden of Fed membership and distributing the reduction as per the proposed amendment to H.R. 12706 would improve the competitive environment in which our smaller banks operate. And by allowing small banks to compete more successfully, the amendment will assure that America's smaller communities and businesses will have successful, viable commercial banks to adequately service their needs.

By setting specific statutory reserve requirements, the proposed amendment also eliminates a potentially disruptive means of implementing monetary policy. The conduct of monetary policy through changes in reserve requirements is clumsy and imprecise. The magnitude of the effects of changing reserve requirements on the monetary aggregates and interest rates is difficult, if not impossible, to predict. Furthermore, changes in reserve requirements simply are not necessary to the successful conduct of monetary policy. Monetary policy can be conducted exclusively through open market operations and discounting. Indeed, history shows that the Federal Reserve has changed reserve requirements only very infrequently—most recently in December 1977—and then only by small amounts. And requirements on demand deposits have not been raised since July 1973. If in the future the Federal Reserve should see a need to effect such changes, the Congress stands ready to consider its request with all deliberate speed.

In its schedule of reserve requirements, the proposed amendment to the Stanton bill takes explicit account of "other transactions accounts"—interest bearing deposits that are automatically transferable into demand deposits. Massive shifts of funds into these transactions accounts are likely to occur with the change in Federal Reserve regulations that is due to go into effect on November 1 of this year. Under the amendment to H.R. 12706, these accounts would be subject to the same reserve requirements as demand deposits. In contrast, under the Federal Reserve's proposal, it appears that these transactions accounts would be treated for reserve requirement purposes as time and savings deposits, so that they could be subject to an average reserve requirement of only 3 percent. This, clearly, would enable member banks to circumvent the congressionally mandated reserve requirement ranges for demand deposits simply by having customers shift their demand deposits into these automatic transfer accounts. Let me repeat, therefore, that under the proposed amendment to the Stanton bill, all transactions accounts—demand deposits and those convertible into demand deposits—would be treated alike, as they properly should be.

1. THE DISCOUNT RATE WOULD BE SET EQUAL TO THE AVERAGE YIELD ON TREASURY BILLS WITH LESS THAN 92-DAY MATURITIES ISSUED DURING THE PREVIOUS 2 WEEKS

The discount rate is not addressed by either the Fed's proposal or the Stanton bill. However, we cannot legislate authority on the interest that the Fed will pay on member bank reserves without defining the interest charges that member banks must pay to add to these reserves by borrowing from the Federal Reserve through the discount window.

There now exists the potential for arbitrage profits whenever the discount rate is below the Treasury bill rate. By setting the discount rate at the same level as the Treasury bill rate, the possibility for this subsidy to member banks

is removed. In addition, tying the discount rate to the yield on Treasury bills would eliminate the sharp arbitrary movements in the discount rate that now occur when the Federal Reserve Board decides to change it. Ordinarily, it changes the discount rate to catch-up to changes in such money market interest rates as the Treasury bill rate. These movements are often very disconcerting to the financial markets and are frequently misinterpreted to imply major shifts in the posture of monetary policy when, in fact, none is intended. Tying the discount rate to the Treasury bill rate will eliminate the need for disruptive "catch-up" changes in the discount rate.

2. THE FEDERAL RESERVE WOULD BE AUTHORIZED, AS IT DEEMS NECESSARY FOR THE CONDUCT OF MONETARY POLICY, TO OBTAIN SUMMARY STATISTICS ON ASSETS AND LIABILITIES OF ALL DEPOSITORY INSTITUTIONS

The Federal Reserve proposal provides for obtaining the same information. However, it would have the Federal Reserve obtain that information directly from all depository institutions, whereas the proposed amendment, in the interest of economy, would direct the Federal Reserve to acquire the information through the good offices of agencies already in place—the FHLBB, the FDIC, the NCUA. Current and reliable information is essential for the conduct of monetary policy. Because of existing reporting deficiencies, the Federal Reserve has been surprised repeatedly by large bench-mark revisions of monetary data on which it had based policy decisions.

3. THE FEDERAL RESERVE WOULD BE DIRECTED TO PAY TO THE TREASURY $575 MILLION FROM ITS SURPLUS WITHIN 24 MONTHS OF ENACTMENT, WITH $300 MILLION TO BE PAID IN THE FIRST YEAR

The Federal Reserve's proposal contemplates the transfer of this amount over a 3-year period. This proposal would merely speed the process from 3 years to 2.

The text of the amendment to H.R. 12706 follows:

AMENDMENT TO H.R. 12706

Page 3, strike line 7 and all that follows through line 9 on page 4, and insert in lieu thereof the following:

SEC. 3. (a) INTEREST ON RESERVES.—Section 13 of the Federal Reserve Act is amended by adding at the end thereof the following new paragraph:

"Subject to such limitations, restrictions, and regulations as the Board of Governors of the Federal Reserve System may prescribe, any Federal Reserve bank may pay, to any holder of balances held in it pursuant to section 19(c)(1) of this Act, interest on the amount of such balances necessary to meet requirements imposed under section 19(b) of this Act. The total amount of such interest shall not exceed the sum of the gross receipts of Federal Reserve banks from—

"(A) fees collected pursuant to section 11A of this Act for services rendered by such banks, and

"(B) interest or discount on obligations (other than those issued or guaranteed by the United States or any agency thereof) held by such banks."

(b) RESERVE REQUIREMENTS.—Section 19 (b) of the Federal Reserve Act (12 U.S.C. 461(b)) is amended to read as follows:

"(b) (1) Every member bank shall maintain reserves against its deposits in the ratios required under this subsection.

"(2) For the purposes of this subsection, the term 'transactions accounts' includes deposits or accounts (whether or not interest-bearing) from which transfers or withdrawals may be made, by negotiable or transferable instruments, for the purpose of making payments to third parties, or from which payments or withdrawals may be automatically made pursuant to an agreed-upon procedure for replenishing a demand deposit or similar account from which payments are made to third parties.

"(3)(A) No reserves shall be required in respect of the first $10,000,000 of the total amount of the demand deposits and transactions accounts of any member bank; (B) reserves of 8.75 percent shall be required on any part thereof in excess of $10,000,000 but not in excess of $100,000,000; (C) reserves of 12.625 percent shall be required on any part thereof in excess of $100,000,000 but not in excess of $400,000,000; and (D) reserves of 16.125 percent shall be required on any part thereof in excess of $400,000,000.

"(4) In the case of deposits other than demand deposits and transactions accounts, the minimum reserve ratios shall be not less than 3 per centum and not more than 10 per centum as shall be determined by the affirmative vote of not less than 4 members of the Board."

(c) COMPENSATORY TRANSFER TO TREASURY.—Not later than 24 months after the date of enactment of this Act, the Federal Reserve banks shall pay $575,000,000 to the United States, of which $300,000,000 shall be paid within 12 months of the date of enactment. Such payments shall be charged against the surplus accounts of the banks in accordance with the directions of the Board.

(d) DISCOUNT RATES.—Section 14(d) of the Federal Reserve Act (12 U.S.C. 357) is amended by striking "or oftener if deemed necessary by the Board;" and inserting in lieu thereof the following: "and the basic (that is, lowest) rate of discount shall be equal to the average yield when issued of United States Treasury bills having less than 92 days to run to maturity originally issued during the preceding fourteen-day period;".

(e) REPORTING REQUIREMENTS.—Section 10 of the Federal Reserve Act is amended by adding at the end thereof the following:

"The Board may require any depository institution, at such intervals as the Board may prescribe, to make such reports of the total amounts of such classes of its liabilities and assets as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibility to monitor and control monetary aggregates. Such reports shall be made (1) directly to the Board in the case of member banks, and (2) to the Board through the (A) Federal Deposit Insurance Corporation in the case of insured State nonmember banks; (B) National Credit Union Administration in the case of insured credit unions, and (C) Federal Home Loan Bank Board in the case of any institution insured by the Federal Savings and Loan Insurance Corporation or which is a member as defined in section 2 of the Federal Home Loan Bank Act. The Board shall endeavor to the maximum feasible extent to avoid unnecessary burdens on reporting institutions and the duplication of other reporting requirements, and any data therefrom shall be made readily available to the Board. The Board may classify depository institutions for the purposes of this paragraph, and may impose different requirements on each such class."

(f) STUDY OF FEASIBILITY OF TREASURY SECURITIES AS RESERVES.—Not later than July 1, 1981, the Board shall prepare a study to be transmitted to the House Committee on Banking, Finance and Urban Affairs and Senate Committee on Banking, Housing, and Urban Affairs on the feasibility and impact of permitting member banks to invest a percentage of their required reserves in United States Treasury securities. The study shall examine the impact of such an arrangement on—

(1) monetary and financial conditions;

(2) Treasury revenues;

(3) safety and soundness of member banks; and

(4) benefits and costs of membership in Federal Reserve System.

(g) ANNUAL REPORT TO CONGRESS.—The seventh paragraph of section 10 of the Federal Reserve Act is amended by adding at the end thereof the following new sentence: "In its annual report to Congress the Board shall provide a full account of the change in membership during the preceding year, the pricing structure for service in effect during the preceding year, and the interest rate structure on reserve in effect during the preceding year.".

(h) EFFECTIVE DATES.—(1) The amendments made by subsections (a) and (b) of this section shall take effect six months after the date of enactment of this Act.

(2) The amendments made by subsection (e) of this section shall take effect nine months after the date of enactment of this Act.

(3) All other provisions of this section and the amendments made by this section shall take effect upon enactment.

Let me now compare net costs to the Federal Treasury of the amended Stanton bill and the Federal Reserve's plan as presented in H.R. 13477:

ESTIMATED COSTS [1]

[In millions of dollars]

	H.R. 12706 (as amended)	H.R. 13477	Difference
Revenues lost:			
Interest on reserves	$450	$765	$315
Revenue loss from released reserves	350	350	0
Revenues gained:			
Receipts from services	410	410	0
Transfer of surplus to Treasury	[2] 575	[2] 575	0
Net costs: [3]			
First year	90	405	315
Second year	115	430	315
Third year and after	390	705	315

[1] On the assumption that total required reserves are maintained at present levels, the first Federal Reserve proposal, "Reserve Requirements Act of 1978," has no significant budgetary implications.

[2] For purposes of comparison, we assume that the $575 million of the Federal Reserve surplus will be transferred to the Treasury in the amounts mandated in the amendment to H.R. 12706: $300 million in the first year and $275 million in the second.

[3] We assume that interest payments and service charges are fully in place in the first year after enactment.

As the table clearly shows, the amendment to H.R. 12706, to be proposed by several members of the committee, is by far the least costly alternative before us.

On the payment of interest on reserves, the amendment to H.R. 12706 restricts net Treasury costs—costs over and above the estimated $410 million receipts from fees on services—to earnings from discounts and advances. On the assumption, of course, that the Federal Reserve will not radically alter its

use of the discount window, the payment of these earnings as interest would cost the taxpayer only about $40 million per year.

By contrast, the Federal Reserve intends to pay out $765 million in interest on reserves, $355 million more than they will receive in receipts from services. And the Federal Reserve has asked for authority to pay as much as 7 percent of its total net earnings in interest over and above such receipts. At a maximum, such payments could cost the taxpayers as much as $500 million per year in foregone remittances from the Federal Reserve to the Treasury.

Under the Stanton bill, unamended, no cap is set on the payment of interest on required reserves, save that the rate of interest shall not exceed the average yield on 90-day Treasury bills in the preceding calendar quarter. As this provides an upper limit to interest payments at current rates of over $2.6 billion per year, well above what the Federal Reserve itself requests, it is clear that some further restriction is needed. The proposed amendment to H.R. 12706 provides such a restriction.

With respect to the cost of reducing reserve requirements, the proposal submitted by the Federal Reserve and the amendment to H.R. 12706 are the same. Under both proposals, reserve requirements would be reduced by an aggregate $5 billion amount. Therefore, under both proposals, the Federal Reserve would have to sell an equal sum of Government securities in order to maintain monetary equilibrium, and the taxpayers would forego a remittance to the Treasury of the interest on those securities of an equal amount. At current interest rates, this means a revenue loss of $350 million per year under either proposal.

Finally, under the Federal Reserve's proposal and under the amendment to H.R. 12706, the taxpayers would be reimbursed in part for their costs by a transfer of $575 million from the Federal Reserve's surplus to the Treasury. We use the $575 million figure, though the total surplus is more than $1 billion, because the Federal Reserve has clearly indicated that its retention of this sum is unnecessary.

In sum, therefore, H.R. 12706, as amended, would cost the taxpayer $315 million per year less than the Federal Reserve proposal. Yet the benefits would be the same or greater under the amended Stanton bill than under the program proposed by the Federal Reserve.

The legislation which we will be working to complete in the coming weeks must effectively improve monetary control and promote fairness and competition in our banking system without substantially increasing the budget deficit. The Federal Reserve's proposal for achieving these goals are seriously deficient. They would increase the competitive advantages of medium and large size banks relative to small banks. They would unnecessarily increase the budget deficit.

The Stanton bill, H.R. 12706, as many Members propose to amend it, will avoid these evils. Monetary control will be improved by assuring that the Federal Reserve can obtain the summary information it needs to conduct monetary policy efficiently and effectively from nonmember banks and nonbank depository institutions, and by tying the discount rate to the Treasury bill rate and establishing reserve requirements on demand deposits and other transactions accounts in law. Federal Reserve membership is not required to effect good monetary policy. Nor are universal reserve requirements. The competitiveness of small banks will be greatly increased by the reductions in reserve requirements as proposed in the amendment to H.R. 12706. Fixing this reserve requirement structure in law will insure that the enhanced competitive position of small banks cannot be undermined by regulatory action. Finally, the Stanton bill assures fair competitive pricing of Federal Reserve services, and the proposed amendment to it will provide for the payment of interest on reserves with minimal effect on the budget deficit.●

ANTICOMPETITIVE ASPECTS OF COAL SLURRY PIPELINE LEGISLATION

(Mr. ROONEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROONEY. Mr. Speaker, H.R. 1609, the Coal Pipeline Act of 1978, will soon be before the House. Members should be aware that this bill will substantially increase economic concentration within the energy field. I consider this feature of the bill particularly inappropriate at a time when the issue of concentration is the subject of intense debate within the Congress.

Because of my concern about this aspect of H.R. 1609, I requested the opinion of the Justice Department on the "control" provision of the bill. I am inserting a letter from the Department of Justice concerning the commodities clause in H.R. 1609, which is the provision governing the question of control.

At the time I requested the Justice Department's views on the issue of exercising "control" of a pipeline, the versions of the bill of the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation contained different percentage levels of control, the former being 5 percent and the latter 35 percent. Under the Udall amendment to H.R. 1609, printed in the CONGRESSIONAL RECORD on June 28, 1978, at page 19434, the two committees have agreed to a 20-percent ownership as evidence of control.

The issue of control is extremely important in this bill. At a 5-percent "control" figure, it takes 20 companies who have an interest in both the coal mine and pipeline. This percentage is clearly preferable to the Udall amendment, whereby five corporations with such interests could control a pipeline, or the Public Works Committee's version, whereby three corporations could control a pipeline.

Mr. Speaker, what is at issue here is vertical integration: whether three energy companies and two utility companies can control the water rights, own the coal, own the transportation mode, and finally, own the utility which converts the coal into electricity for consumers. The proponents of coal slurry pipelines speak of making the transportation of coal more competitive, but actually have built a framework under which vertical integration is inevitable given the 20-percent control figure and the long-term through-put contract which would entail irreversible commitment of enormous volumes of coal to this transportation mode for up to 30 years.

DEPARTMENT OF JUSTICE,
Washington, D.C., July 12, 1978.

HON. FRED B. ROONEY,
Chairman, Subcommittee on Transportation and Commerce, Committee on Interstate and Foreign Commerce, Washington, D.C.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 1609, as reported by the House Committee on Interior and the House Committee on Public Works and Transportation, with particular regard to section 2(d).

H.R. 1609, both as reported by the House Committee on Interior and Insular Affairs ("Interior Committee") and by the House Committee on Public Works and Transportation ("Public Works Committee"), would grant the power of eminent domain to carriers of coal by pipeline operating under certificates of public convenience and necessity issued by the Secretary of Interior. Coal pipelines not requiring eminent domain authority would not be obligated to secure a certificate of public convenience and necessity. All certificated coal pipelines would be subject to regulation under part I of the Interstate Commerce Act and must operate as common carriers subject to that Act. The bill also would amend subsection 28(a) of the Mineral Leasing Act of 1920 (30 U.S.C. § 181 *et seq.*) to insure that coal pipelines would be eligible for rights-of-way across federal lands under the terms of that Act.

Section 5(d)(1) of H.R. 1609 would prohibit pipelines that have been granted the power of eminent domain from transporting coal which they mine, own in whole or part, or over which they may have any control, direct or indirect. H.R. 1609, as reported by the Interior Committee would qualify this prohibition by permitting a pipeline to own coal after it is mined and before it enters the pipeline in order to achieve transportation and storage economies by commingling the coal received from more than one shipper or for several coal users. A second qualification would permit the Secretary to allow ownership of coal during shipment to effectuate similar economies. H.R. 1609, as reported by the Public Works Committee, would permit, the same two exceptions to the commodities clause but would require a specific finding by the Secretary of Interior that the exception would facilitate transportation and storage economies and would be in the public interest. The Interior Committee version would require such a finding by the Secretary only when the carrier proposed to own the coal during shipment.

H.R. 1609 section 5(d)(3), both as reported from the Interior Committee and as reported from the Public Works Committee, further prohibits the issuance of a certificate of public convenience and necessity to any pipeline which controls, is controlled by, or is under common control with suppliers and customers of the coal pipeline. No carrier granted the power of eminent domain under the bill could control, be controlled by,

or be under common control with suppliers or customers.

The scope of the commodities clause will be governed in part by the definition of "control" (Section 2(d)), which is different as reported by each Committee. H.R. 1609, as reported by the Interior Committee, defined "control" as the power to exercise control by whatever means; and any person who (1) is a director of a carrier or of any other person, or (2) owns in excess of 5 per centum of the voting stock (or any like evidence of participation) of a carrier or of any other person shall be deemed to have the power to exercise control of such carrier or other person as the case may be. H.R. 1609, as reported by the Public Works Committee, adopts this same definition but raises the per centum of stock which will give rise to a presumption of control to 35 per centum rather than 5 per centum.

The commodities clause of H.R. 1609 is limited further in that it would not apply to all coal pipelines, but only to those pipelines that are certified to operate pursuant to the Secretary's grant of eminent domain authority. The Department recommends the commodities clause be extended to all coal slurry pipelines, regardless of whether they are certified. Our recommendation is based on the fact that the competitive problems sought to be cured by the proposed commodities clause are not limited to those pipelines exercising the power of eminent domain.

The Committee reports concerning the qualifications to the commodities clause indicate that they were inserted to avoid the unintended effect of requiring pipelines to batch coal that might be shipped through the pipeline by more than one shipper, thereby increasing storage and transportation costs. The Department is of the view that the provision as originally drafted would not have this effect, since the proscription is against vertical integration and not against efficient pipeline operation. Moreover, the proposed qualification could overreach its stated purposes and, in fact, operate to vitiate the commodities clause provision by giving back to the pipeline the ownership of the coal it would transport. The Department believes that commodities clauses as amended by the Interior and Public Works Committees are insufficient for their purposes and supports instead the commodities clause endorsed by the Administration.

H.R. 1609, as reported by the Public Works Committee, would raise the per centum of voting stock (or any like evidence of participation) of a carrier or any other person which may be owned before a person will be "deemed" to have "control" of that person or carrier to 35 per centum from the 5 per centum in H.R. 1609, as reported by the Interior Committee. Thus, absent independent proof of control, a carrier could own up to 35 percent of the stock of a purchaser or supplier of coal to be transported or a supplier or purchaser of coal to be transported could own up to 35 percent of the stock of the transporter. Such ownership could grant effective control over the firm whose stock is owned, and thus could circumvent the prohibitions of the commodities clause. Effective control over a firm may arise from ownership of less than 35 percent of the voting stock of that firm, and yet be very difficult to demonstrate.

This Department supports the approach to the "control" issue as set forth in the Department of Energy's report on H.R. 1609 dated March 21, 1978. Specifically, Secretary Schlesinger recommended that, in lieu of attempting to establish a stipulated percentage of stock ownership as the appropriate criterion, "control" should be defined as provided in the Interstate Commerce Act, 49 U.S.C. § 1(3)(b).

The remainder of this letter expresses other concerns that the Department has about H.R. 1609, all of which have been incorporated in the Administration's amendments to H.R. 1609. Sections 5(e) and 13 of H.R. 1609, as reported by the Interior Committee, would create inadvertent barriers to entry of either new certificated or non-certificated pipelines that have failed to enter certain agreements with the Secretary of Interior concerning access across rights-of-way within two years of enactment of H.R. 1609. Such barriers would result from the fact that all future competitors would have had to make the necessary compact or agreement within the two year period or be barred thereafter from entering the industry. The Department is of the view that the provisions were not intended to have this adverse effect.

Further, according to the House Interior Committee Report on H.R. 1609, Section 5(e) was intended to require certificated coal pipelines to enter into compacts with the Secretary of the certificating Department, so that "certificated carriers cannot unfairly deny access to other carriers." H. Rep. No. 95-924, Part I, 25. However, as presently worded, the section places requirements on interstate coal transporters other than pipelines. Particularly, Section 5(e) would require railroads to enter into compacts with the coal slurry pipeline certificating Department whenever they obtain certificates of public convenience and necessity from the ICC (such certificates are required whenever an extension or abandonment of rail service is sought). Therefore, whenever railroads obtain certificates of public convenience and necessity they would have to grant coal slurry pipelines easements over their entire system. Therefore, the section should be reworded to clearly indicate that only certificated coal slurry pipelines have to enter into such compacts. The Department has recommended the following substitute for Section 5(e) of the bill as introduced and reported by the Interior Committee.

"No certificate of public convenience and necessity may be issued to any carrier unless such carrier has entered into a compact with the Secretary prior to the issuance of a certificate providing means whereby rights-of-way across the lines of such carrier may be acquired by another carrier on terms customarily employed with reference to other types of pipeline. Any Federal court of competent jurisdiction may entertain a suit by an interested party to enforce the provision of such compact."

H.R. 1609, as reported by the Public Works Committee eliminates these two provisions entirely. This would resolve the problems noted above but would not insure that certificated carriers could not unfairly deny access to other carriers.

The antitrust review provision of H.R. 1609, both as reported by the Interior Committee and the Public Works Committee, ought to be changed to reflect the proper standard for review—the probable competitive effect of the pipeline. The bill should be amended to provide an antitrust test in language similar to other antitrust review statutory provisions such as those contained in the Atomic Energy Act (Section 105c, 42 U.S.C. 1473) or the Federal Coal Leasing Amendments Act of 1975 (Section 15, 30 U.S.C. 184). Those statutes condemn actions which would be "inconsistent" with the antitrust laws. The Administration's amendments reflect this change (Section 7(a)).

The Department also is of the view that an antitrust review by both the Attorney General and the Federal Trade Commission is duplicative and unnecessary. The Administration's amendments have suggested mandatory review only by the Attorney General and have added a 180-day time limit on this review.

H.R. 1609, both as introduced and as reported by the Interior Committee, places certificate jurisdiction over coal slurry pipelines in the Department of Interior and rate regulation in the Interstate Commerce Commission. The Department prefers the Administration position, which would place certificate authority in the Department of Energy, with concurrences by the Departments of Interior and Transportation, and rate authority in the Federal Energy Regulatory Commission. In the past, the Interstate Commerce Commission had jurisdiction over all pipelines, except those specifically exempted from its jurisdiction (water and gas pipelines). The enabling act creating the Department of Energy transferred the responsibility for regulating oil pipelines to the Department of Energy, leaving virtually no pipeline subject to the Interstate Commerce Commission's jurisdiction. In our view, regulation of coal pipelines also should be vested in the Department of Energy in order to maintain consistency in regulation and enforcement.

H.R. 1609, both as introduced and as reported by the Interior Committee, provides for dual enforcement by the Department of Interior and the Interstate Commerce Commission. The Department of Interior would enforce the provisions of H.R. 1609 by requesting the Attorney General to institute enforcement actions under proposed Section 8 and the Interstate Commerce Commission would enforce the commodities clause prohibition. Moreover, it is not clear which agency would enforce the common carrier provisions of the Interstate Commerce Act. We would suggest that H.R. 1609 be amended to vest responsibility for the regulation of coal pipelines in the Department of Energy and that all regulatory and enforcement powers with respect to such pipelines be removed from the Interstate Commerce Commission. The Administration's proposed amendments to H.R. 1609 reflect this transfer of regulation and enforcement.

The Department of Justice has no objection to the proposed legislation if amended as suggested and in conformance with the Administration's proposed amendments.

The Office of Management and Budget has advised that from the standpoint of the Administration's program there is no objection to the submission of this report.

Sincerely,

PATRICIA M. WALD,
Assistant Attorney General.

DEPARTMENT OF ENERGY BUDGET

The SPEAKER pro tempore. (Mr. WRIGHT). Under a previous order of the House, the gentleman from Texas (Mr. COLLINS) is recognized for 20 minutes.

Mr. COLLINS of Texas. Mr. Speaker, I have just completed a study definitively contrasting the proposed Department of Energy budget with the need for more exploration and development to combat the energy shortage. With our annual OPEC imports having gone from $5 billion in 1972 to $50 billion annually today it is incredible that America is devoting so much wasted effort to useless makework and paper shuffling. Even a small cut in DOE's budget would go a long way toward relieving the energy shortage that caused so much discomfort and unemployment over the past two winters. We could also restore the American dollar on the world money market.

Overregulation and price controls are the real cause of our shortages. Only the oil and gas industry is under price controls and price control has never worked in 5,000 years of history. In 1972, Congress established price controls at

$5.25 a barrel on American oil. Since then OPEC world oil has gone to $14.50 a barrel but American oil is still controlled at $5.25.

If a mere 10 percent cut in the DOE budget were devoted to energy development, 539 million barrels of oil could be produced. If an amount equivalent to the entire $12.6 billion budget were put into development, we could produce enough oil reserve additions to break the OPEC cartel in less than a year.

The proposed DOE budget for fiscal year 1979 is $12.6 billion, which represents sadly misguided priorities, since this $12.6 billion of make-work controls and paper-shuffling is more than the entire American oil and gas industry was spending on all drilling expenditures this year. Our study of the effect of just a 10-percent cut in that budget clearly demonstrates how the money could be better used on productive capital investment for drilling expenditures.

I have studied the effect of a $1.26 billion investment in energy drilling and exploration. This would be only 10 percent of the $12.6 billion DOE budget, and would still leave $11.34 billion to be spent, which is still a major increase over last year's $10.6 billion budget. But for this amount our American energy industry would produce 539 million barrels of oil or 5.5 trillion cubic feet of gas for our energy reserve. This 5.5 trillion cubic feet of gas could power Dallas at current rates of consumption for over 45 years. When our OPEC imports are now at 8.7 million barrels per day and climbing steadily, this 539 million barrels of oil would amount to 62 days of OPEC imports, or 7.8 billion dollars' worth.

If we go a step further and theoretically assume a total abolition of the Energy Department, with the full $12.6 billion budget dedicated to energy drilling expenditures, our study indicates that 5.39 billion barrels of oil would be added to reserves. Since our total annual OPEC oil imports are only 2.85 billion barrels, it becomes obvious that we could completely resolve our $50 billion import dependence on OPEC in less than 1 year.

With our serious balance-of-payments problems, and the dollar dropping on world markets, a realization of how much we could save by letting the American free enterprise system go to work on energy production should be enough to convert the most ardent proregulation liberal.

The proposed DOE budget is $12.6 billion, but less than $10 million goes to oil and gas research—that is less than one-tenth of 1 percent of the budget. Remember that 75 percent of America's energy comes from oil and gas but Congress ignores the need to produce more oil and gas. When we set up a super-sized new Department to "relieve the crisis" and then let 99.9 percent of the money go to everything but new oil and gas energy development, something is wrong. Why do we seem intent on managing the energy crisis with a big supervisory department, rather than letting American effort go to work and solve it, so that America can achieve energy independence.

Last year the Department of Energy budget was $10.6 billion a year. Compare this with the fact that the cost of all drilling for gas and oil in the United States for the entire year was $10.3 billion. That included $4.2 billion for reworking 500,000 present oil and gas wells plus drilling all new ones; $2.3 billion for dry holes drilled; $1.6 billion to acquire undeveloped acreage; $1.5 billion to lease equipment; and $0.7 billion for geological and geophysical research. The entire oil and gas industry drilling program in America for new and reworked wells was only $10.3 billion, yet the bureaucracy with all of its nonproductive make-work controls and paper shuffling asks $12.6 billion to operate this year.

This would represent a $2 billion increase in 1 year alone from last year's $10.6 billion budget. If we were to just hold DOE at $10.6 billion for another year and put only this $2 billion into drilling, it would add to our reserves 856 million barrels of oil, the equivalent of $12.4 billion in imports. If put into natural gas production, a $2 billion investment would add 8.7 trillion cubic feet of gas, which could fuel total U.S. residential and commercial consumption for 15 months.

From industry expenditures we are getting oil and gas to relieve our energy shortage, but from the Energy Department expenditures all we are getting is more paperwork, more bureaucrats, more taxes, and less energy. Which should be the higher priority?

REPRESENTATIVE KEMP'S REBUTTAL BEFORE THE SENATE FINANCE COMMITTEE TO THE WALTER HELLER AND ADMINISTRATION ORCHESTRATED ATTACKS ON THE KEMP-ROTH PLAN TO REDUCE TAX RATES TO COMBAT INFLATION AND UNEMPLOYMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. KEMP) is recognized for 30 minutes.

● Mr. KEMP. Mr. Speaker, while today is the first anniversary of the Tax Rate Reduction Act, the Kemp-Roth bill to provide for permanent tax rate reductions for the American people, my idea of restoring incentive to working, saving and investing Americans began when I first came to the Congress.

In the space of the past year—

The Tax Rate Reduction Act has gathered 178 cosponsors in the House and the Senate—Democrats, Republicans, liberals, moderates, conservatives. They are from every region in this country too.

It came within 12 votes of passing the House. On March 15, 194 Members voted for it, as an amendment to H.R. 50, the Humphrey-Hawkins bill.

It has won the formal endorsement of such organizations as the National Taxpayers Union, the National Federation of Independent Business, the Consumer Federation of California, the Teamsters Council in New York City and many, many other prominent organizations and people.

It has, most importantly, won the support of the people for whom its tax rate reductions are intended.

What is the Tax Rate Reduction Act? It is a strategy to restore incentive to the worker, the saver, the investor, the entrepreneur by lowering the Federal income tax rates which are strangling economic growth.

WHAT THE TAX RATE REDUCTION IS NOT

What the Tax Rate Reduction Act is not.

It is not an election year gimmick. We have been fashioning and introducing the concept of this legislation for more than 5 years.

It is not a response to proposition 13. It was introduced far in advance of that measure's proposal or consideration.

It is not a response to the tax revolt. The Jobs Creation Act, which preceded the Tax Rate Reduction Act, was introduced before all but the first ripples of that revolt.

It was not drawn as an alternative to the administration's bill. It was introduced far in advance of that bill.

It does not rest on the Laffer curve. It rests on intuitive reasoning, empirical observation and the best of the econometric studies and evidence. The Laffer curve is just illustration of the relationship between tax rates and tax revenues, a relationship which everyone knows exists, from the most ardent Keynesian, through the monetarist, to the supply side fiscalists.

It is not a Republican program. Not only is it patterned after President Kennedy's tax rate cuts of 1963–64, but the support for it also shows bipartisan support. We had 194 votes on March 15, and there are only 146 Republicans in the House. We also know that it was an indication, reported this week in "The Washington Post," that the majority party feared so many of its Members were going to support Kemp-Roth, that they initiated and orchestrated the attacks of the past several days on the measure.

EVERY POINT OF CRITICISM HAS BEEN ANSWERED

Let me say that the criticism against the Kemp-Roth bill and the premises on which it rests was rebutted this morning, not just by Senator ROTH and me, but also by professionally qualified and highly respected, skilled economists who testified. Walter Heller has been refuted, and my colleague (Mr. WIRTH) should make note of that. My colleague from Ohio (Mr. VANIK) has been refuted. The Robert Dunn article from last weekend's Washington Post has been refuted. The attacks from the White House, Treasury Department and Office of Management and Budget have been refuted. The concerns of the editorial writers at our newspapers here in the Nation's Capital and in New York City have been answered in a credible, systematic way.

The economic questions have been answered, no matter what rhetorical, grandstanding political attacks may still continue as support for the measure sends the White House and its allies into further panic.

Those who attacked this bill have been shown to have failed in that attack, for they failed to weigh all the evidence and logic sufficiently to realize their own errors.

Let me tell you what I told the Senate Committee on Finance this morning.

TAX RATES AND THE PEOPLE

Maybe some economists do not feel we are paying too much in taxes. Maybe some politicians do not feel we are paying too much in taxes. But the people certainly do. Listen to what they said on a recent CBS special:

A flight superintendent:

Every time you turn around, there's a new tax here, a tax there. And I think the people are just getting fed up with all the taxes.

An electrical engineer:

It's frustrating. You would expect, as you work longer and longer and work harder over the years, you'd be able to not only just keep meeting your bills, but live a little more comfortably. And it doesn't seem to be happening. It's always the same struggle, and you're always falling just a little bit further behind.

A housewife:

We've had a few experiences with the police here with broken windows and things like that, and they just say there's nothing they can do. That's infuriating to me. Why am I paying taxes, then? Get lost and I'll save some money. I think we're closer to the poor than anybody realizes, and we have a great deal in common with them.

An unidentified woman:

Used to be that I was afloat. Now I'm drowning. Now I am really drowning.

Or let me quote from a housewife in Tonawanda, N.Y.:

"The middle-class American, who is trying to make ends meet and work hard, is being taxed to death."

This can be repeated millions of times, for taken cumulative we know these kinds of feelings reflect the consensus in America today. The people know where we are in the counterproductive range of tax rates where production and economic growth are diminished.

They also know that, unless Congress acts to reduce their taxes, they will go up sharply this year. They will go up because inflation will have pushed them into higher tax brackets without any increase in real after-tax earnings. They will go up because of the mammoth Social Security tax increase. They will go up, also, if the President's energy bill is passed. They feel they are paying too much now, especially for what they are getting in Government services returned. That is why the consensus supports a reduction in taxes and a reduction in spending.

THE FEDERAL GOVERNMENT'S RESPONSIBILITY

The problem of the Government is to fix rates which will bring in a maximum amount of revenue to the Treasury and at the same time bear not too heavily on the taxpayer or on business enterprise. A sound tax policy must take into consideration three factors. It must produce sufficient revenue for the Government; it must lessen so far as possible, the burden of taxation on those least able to bear it; and it must also remove those influences which might retard the continued steady development of business and industry on which, in the last analysis, so much of our prosperity depends. Furthermore, a permanent tax system should be designed not merely for 1 or 2 years nor for the effect it may have on any given class of taxpayers, but should be worked out with regard to conditions over a long period and with a view to its ultimate effect on the prosperity of the country as a whole.

Any revision of taxes which ignores these fundamental principles will prove merely a makeshift and must eventually be replaced by a system based on economic, rather than political, considerations.

There is no reason why the question of taxation should not be approached from a non-partisan viewpoint. Recommendations for such reductions have not been confined to either Republican or Democratic administrations. Tax revision should never be made the football either of partisan or class politics but should be worked out by those who have made a careful study of the subject in its larger aspects and are prepared to recommend the course which, in the end, will prove for the country's best interest.

I have never viewed taxation as a means of rewarding one class of taxpayers or punishing another. If such a point of view ever controls our public policy, the traditions of freedom, justice and equality of opportunity, which are the distinguishing characteristics of our American civilization, will have disappeared and in their place we shall have class legislation with all its attendant evils. The man who seeks to perpetuate prejudice and class hatred is doing America an ill service. In attempting to promote or to defeat legislation by arraying one class of taxpayers against another, he shows a complete misconception of those principles of equality on which the country was founded. Any man of energy and initiative in this country can get what he wants out of life. But when that initiative is crippled by legislation or by a tax system which denies him the right to receive a reasonable share of his earnings, then he will no longer exert himself and the country will be deprived of the energy on which its continued greatness depends.

Adam Smith, in his great work, "Wealth of Nations," laid down as the first maxim of taxation that "The subjects of every State ought to contribute toward the support of the Government, as nearly as possible, in proportion to their respective abilities," and in his fourth and last maxim, that "Every tax ought to be so contrived as both to take out and to keep out of the pockets of the people as little as possible over and above what it brings into the public treasury of the state," citing as one of the ways by which this last maxim is violated a tax which "may obstruct the industry of the people, and discourage them from applying to certain branches of business which might give maintenance and employment to great multitudes. . . . While it obliges the people to pay, it may thus diminish, or perhaps destroy, some of the funds, which might enable them more easily to do so."

The experience since this was written has emphasized the truth of these maxims, but those who argue against a reduction of surtaxes to more nearly peace-time figures cite only the first maxim, and ignore the fourth. The principle that a man should pay taxes in accordance with his "ability to pay" is sound but, like all other general statements, has its practical limitations and qualifications, and when, as a result of an excessive or unsound basis of taxation, it becomes evident that the source of taxation is drying up, and wealth is being diverted into unproductive channels, yielding neither revenue to the Government nor profit to the people then it is time to readjust our basis of taxation upon sound principles.

It seems difficult for some to understand that high rates of taxation do not necessarily mean large revenue to the Government, and that more revenue may often be obtained by lower rates.

There was a time, only a few years ago, when the leadership of this country felt this way. Need I remind our Democratic colleagues that it was President Kennedy who said in 1963:

The main block to full employment is an unrealistically heavy burden of taxation. The time has come to remove it.

Need I remind them of what the then-chairman of the Committee on Ways and Means, Mr. Mills, said in supporting the tax cuts which flowed from the Kennedy plan:

Many believe we can spend our way to prosperity. On the other hand, I am firmly convinced that if Congress adopts a tax reduction and revision bill of the type which is before this body today, we can also achieve this more prosperous economy by loosening the constraints which the present Federal tax system imposes on our free enterprise system. These tax reductions will bring about a higher level of economic activity, fuller use of our manpower, more intensive and prosperous use of our plant and equipment, and with the increase in wages, salaries, profits, consumption and investment, there will be increases in Federal tax revenues.

THE CRUCIAL QUESTION OF INCENTIVES

The real purpose of Roth-Kemp is to restore incentive to the American economy. The Roth-Kemp bill is an incentive-oriented tax cut. I use the phrase "incentive" because, despite the best efforts of the Treasury Department to lead us astray, the issue is not merely the size of the tax cut, but more importantly, the shape. The issue is whether the cut will restore incentive to the worker, saver, and investor in America.

Common sense, and even most economists, tell us that people respond to incentives. But the administration would have us believe that increasing the incentive to work will overheat the economy and produce inflation. In answer to this, I think Margaret Bush Wilson's statement is appropriate: "Inflation has never been caused by too many people at work."

How can inflation be fueled by a tax cut which knocks down the barrier be-

tween effort and reward? President Kennedy discussed this barrier when he announced his proposed tax cuts in January 1963. He said, "The main block to full employment is an unrealistically heavy burden of taxation. The time has come to remove it."

In the past decade, we have allowed inflation to destroy the incentives which the Kennedy tax cut provided. Therefore, our people are again faced today with an unrealistically heavy burden of taxation. We must act positively once more.

We need a cut in tax rates, not a lump sum handout. We must take into account the last 10 years of inflation which have forced everyone into higher tax brackets, destroying incentives across the board.

A tax cut can only work if it is sensitive to how people and firms react as individuals to the incentives which expand the economy. It is by expanding incentives that we will create jobs, and it is by expanding production that we will fight inflation.

We can no longer tolerate the counsel of those who, while insisting we must have either inflation or unemployment, have saddled us with both.

THE WALTER HELLER ATTACK

I would like to systematically address the criticisms of the Roth-Kemp bill which were presented in Walter Heller's column in the Wall Street Journal of July 12, 1978. They are typical of the criticisms leveled by the administration.

In his discussion of the Roth-Kemp bill, Professor Walter Heller made six main points: First, Roth-Kemp is too large; second, it is inflationary; third, there is no evidence that the Kennedy tax cut operated on supply; fourth, saving will not respond to a reduction in tax rates; fifth, that very few people believe that incentives and the supply side of the economy matter, and matter greatly; and sixth, that the enormous tax increases facing the economy will not be recessionary because the Government intends to return the money to the economy by spending it.

Let us look at these points, one by one.

IS ROTH-KEMP TOO LARGE?

Is Roth-Kemp too large? No. We can afford it. Just to offset the social security tax increases and inflation's impact on tax brackets, even without the proposed energy taxes, the economy is going to be facing enormous increases in taxes by 1982.

The Roth-Kemp bill, which will involve an $80–$90 billion cut according to the Joint Committee on Taxation's static estimates, barely keeps up with the tax increases that are going to occur anyway. The following chart illustrates this point:

PENDING AND PROPOSED TAX INCREASES[1]

[In billions of dollars]

	Fiscal year—					
	1979[2]	1980	1981	1982	1983	Total
Pending tax increases:						
Social security	9.5	12.7	24.2	32.6	35.3	114.3
Inflation[3]	13.4	22.4	32.8	44.9	58.7	172.2
Energy taxes[4]	2.9	12.3	15.4	7.7	4.2	42.5
Total	25.8	47.4	72.4	85.2	98.2	329.0
Carter tax package:						
Tax cuts	30.4	37.1	41.9	46.4	52.4	208.2
Tax increases	5.3	10.4	13.2	15.6	17.5	62.0
Total	25.0	26.6	28.6	30.8	34.9	145.9

	Fiscal year—					
	1979[2]	1980	1981	1982	1983	Total
Pending increases minus Carter net tax cuts:						
Tax increase	25.8	47.4	72.4	85.2	98.2	
Tax cut	25.0	26.6	28.6	30.8	34.9	
Total tax increase	.8	20.8	43.8	54.4	63.1	

[1] Prepared by the staff of the Joint Committee on Taxation.
[2] Includes fiscal 1978 increase of $7,200,000,000 and fiscal 1979 impact of $18,600,000,000.
[3] Estimate based on 5 to 6 percent inflation rate.
[4] Based on energy tax bill passed by House.

By historical standards, is the Roth-Kemp cut too large? No. It is not much larger than the Kennedy tax cut was as a percent of total Federal revenue collected. The Kennedy tax cut was approximately 10 percent of the Federal revenue in 1963. In comparison, Roth-Kemp in its first year, is only 5–7 percent of Federal revenue, 9–11 percent in its second year, and 12–14 percent in its third year.

IS ROTH-KEMP INFLATIONARY?

Is Roth-Kemp inflationary? No. In order to judge the impact of a cut in marginal tax rates on growth and inflation, we have to know what the cut will do to GNP and saving. To finance itself without causing inflation, a tax cut can do four things:

First. It should increase GNP, which is the tax base, and get back revenues to offset some or all of the initial cut.

Second. It should cause existing savings and investment funds to switch out of tax shelters and nontaxable uses into taxable uses, raising the tax base and revenue. (This probably also raises GNP by shifting saving and investment from low-yield, but sheltered, projects into straightforward, high-yield activities.)

Third. A tax cut should make saving more rewarding after taxes. It should raise the total amount of saving in the economy. Some of this saving would go to buy the bonds the Treasury may have to sell to cover any deficit remaining from the tax cut. Any excess would be used to increase net investment and growth.

Fourth. A tax cut should increase incentives for output and employment. A tax cut should reduce Federal outlays for unemployment and social welfare spending.

Roth-Kemp, which is a cut in marginal tax rates, will do all of the above, because the after-tax reward from working and saving will be enlarged.

As long as revenues rise to offset the tax cut, or as long as savings rise by enough to cover any added debt, the Federal Reserve does not have to buy even one additional Treasury bill, and does not have to add one cent to he money supply.

In fact, Chase Econometrics estimates that personal savings, retained earnings, and other capital inflows will rise enough from the tax-rate reductions found in the Roth-Kemp bill to cover any added deficit and to still leave enough saving left over to increase net investment by well over one-half, delivering an enormous boost to real growth.

Thus, Roth-Kemp is not inflationary. It is self-financing four ways. Dr. Heller has forgotten why inflation occurs, and has no way to distinguish between a tax cut which alters incentives, reduces the use of tax shelters, and stimulates savings and investment, and one which simply cuts Federal revenue and forces the Federal Reserve to create money to buy Treasury debt.

If the Roth-Kemp bill is self-financing, why does Chase predict small increases in inflation rates from Roth-Kemp? Note first, these increases are very small for a tax cut of this size. The reason is, any Keynesian model will show some cost-push inflationary effects resulting from a tax cut. But, Roth-Kemp does not inherently require the inflationary printing of money to finance it.

Contrast this self-financing Roth-Kemp tax cut with the administration tax bill.

WHAT'S WRONG WITH CARTER BILL?

The Carter bill, which focuses on corporate tax rates, does not noticeably lower marginal tax rates for individuals. Therefore, it will not raise the rate of return on work effort. Nor will it lure people out of tax shelters into taxable income. It will not increase the after-tax rate of return on savings. The Carter bill does not go far enough. It does not take advantage of the self-financing mechanisms of a marginal tax-rate reduction. Only on the corporate side are tax rates reduced. But this is not enough. We must reduce the tax rates for individuals, too.

The reason is that if we just cut tax rates for business without doing anything to reduce tax rates on work effort

and saving, business will be strongly encouraged to expand. It will rush to the credit markets, because only a fraction of its need for funds can be met out of retained earnings or the investment tax credit. The investment tax credit only covers 10 percent of the purchase cost of a machine, and expansion programs generally take several years of a firm's income. So, business will go rushing into the credit market. And what will it find there? The Government, trying to borrow back the tax cut it just granted. Interest rates will soar. The Federal Reserve will see this as crowding out. It will step in to buy Treasury bills, printing money right and left, and guaranteeing inflation. The only way to avoid this outcome is to slash Federal spending. I would like to see a freeze in real Federal spending. But, I do not believe it is going to happen, let alone a sharp cut.

Now, look at what would happen if Roth-Kemp were enacted. The firms would reach the credit market, and what would they find? They would find a large increase in saving, providing funds for both themselves and the Government, no increase in interest rates, no crowding out, no inflationary printing of money. Why? Because we cut the tax rates on individuals, and they saved more.

Roth-Kemp is balanced. The Carter bill, and other such measures, are hopelessly unbalanced and inflationary.

WHAT IS THE COST OF KEMP-ROTH?

I should like to comment on the very high estimates of the cost of Roth-Kemp. Some estimates are as high as $110 billion by 1981. The only way this bill can initially cost that amount is if income taxes are expected to be about $350 billion by that year. This must assume we are going to move to either 5 percent real growth or 9 percent inflation. Those who oppose this bill, or any tax cut for that matter, predict a rapidly growing economy under the status quo. This is beyond belief. More and more forecasters are predicting a slowdown. The only way to reach our potential economic growth rates in the absence of inflation is by increasing supply. This is what Roth-Kemp will do.

LOWER INFLATION AND LOWER UNEMPLOYMENT SIMULTANEOUSLY

Is it possible to have high employment, low unemployment rates, and low inflation simultaneously? Conventional economic wisdom says no, there is a trade off between the two. However, we have witnessed the breakdown of the Philips curve which purports to show the trade off between inflation and unemployment. How accurate has the Philips curve been historically? To find out, just draw a chart graphing the rate of growth of real output and the rate of inflation since 1969. You will see that during periods of rapid growth in the supply of goods and services, there was low inflation. It is only during recessions, when output falls, that prices have soared. I am submitting such a chart, prepared by H. C. Wainwright & Co., for the record. It is clear from the chart that economic growth is associated with low inflation. In fact, I believe that models which show even a small impact on prices from the job creation effects of Roth-Kemp are, therefore, in error.

According to this, those who praise the Carter bill for not producing cost-push pressure are admitting it does not increase employment.

THE SAVINGS RESPONSE AND ITS ROLE

I have placed heavy stress on the benefits of higher saving and faster growth. Dr. Heller, however, has denied that this saving will materialize if Roth-Kemp is enacted. In support of his arguments he relies on the conventional wisdom embodied in something called Denison's law, named after the economist. Denison claimed that savings do not and will not respond to incentives simply because tax rates have been cut. Instead of relying on Denison's law, Dr. Heller should have relied on some of the newer work in the economics profession on this subject. For example, in a highly respected economic journal, the Journal of Political Economy, Michael Baskin of Stanford University recently showed that savings are responsive to incentives.

Let me quote from his paper in the April 1978, issue:

The notion that saving is perfectly interest inelastic has received widespread acceptance among empirical and policy-oriented macroeconomists. While I shall present below considerable evidence that nothing could be further from the truth, it is worthwhile exploring just how important the interest elasticity of the saving rate is in the analysis of a wide variety of vital issues of economic policy. In so doing, I hope to point out how costly it has been (and will continue to be) to accept the conjecture—based on evidence which is flimsy at best and dangerously misleading at worst—that the interest elasticity of the saving rate is negligible.

I deal with possible biases in previous estimates of the interest elasticity of the saving rate. Special attention is paid to the notion, which has come to be called Denison's law, that the saving rate is essentially constant and unaffected by changes in the tax system or other changes in the real after-tax rate of return to capital.

A variety of . . . estimation methods all lead to the conclusion that private saving is indeed strongly affected by changes in the real after-tax rate of return. The estimated total . . . interest elasticities of private saving cluster around 0.3–0.4. While this is hardly an enormous elasticity by conventional standards, it is substantially larger than virtually all previous estimates and the conventional wisdom and has drastic implications for the effect of tax policy on income, welfare, and income distribution.

Briefly, policies (such as switching from an income tax to a consumption tax) which raise the after-tax rate of return to capital will increase income substantially, remove an enormous deadweight loss to society resulting from the distortion of the consumption-saving choice, and redistribute income from capital to labor.

SUPPORT FROM MAJOR ECONOMISTS

This brings me to the next point. Is my view of the importance of the supply side, and the responsiveness of the public to incentives, an isolated view or one that is commonly held in the profession? Let me point out that Michael Evans of Chase Econometrics is a leading Keynesian, demand-oriented model builder. But, he is also concerned with supply. Norman Ture has been working for years on the supply side of the economy.

I would like to point out that Norman Ture worked for Wilbur Mills at the time of the Kennedy tax cut. He was and remains an expert on that tax cut, and is convinced that it worked through the stimulation of supply. There was very fine work on the Kennedy tax cut done here on Capitol Hill. The executive branch had no monopoly on an understanding of that bill or in its development. Michael Boskin is one of the country's leading young price theorists. His statistical work is of the first quality, and he is one of the country's leading experts on saving. There are many other economists who are interested in incentives and supply. We have been collecting letters and comments from leading economists bemoaning the fact that the supply side incentives have been left out of the major economic models. People like Armen Alchian of UCLA, Karl Brunner of Rochester, James Buchanan of VPI, Arthur Laffer of USC, Paul Evans of Stanford, Allan Meltzer of Carnegie-Mellon, Robert Mundell of Columbia, Beryl Sprinkel of the Harris Bank—all believe the Keynesian approach totally neglects incentives.

SAVINGS

Now, getting back to the savings question for a moment, I am sure most of the members of this panel are familiar with the testimony and the work of Professor Martin Feldstein of Harvard. People like Feldstein and Boskin have devoted most of their professional careers to the study of saving and its effect on our growth rate, standard of living, and viability of our pension systems, including Social Security. They feel strongly that saving can be increased, and should be increased, and Government policy, including tax policy, can have a strong impact on saving.

Last July, in a hearing on economic growth, the Joint Economic Committee heard from Martin Bailey of Maryland, Michael Boskin of Stanford, Oswald Brownlee of Minnesota, Martin Feldstein of Harvard, and David Meiselman of Virginia Polytechnic Institute. They all believe we can and should increase the supply incentives on savings. They even suggested ending all taxes on income that is saved.

Not all of these professionals I have named believe that the particular tax proposal I have introduced is perfect. They have their own models, and their own ideal as to what kind of a specific tax cut we should have.

Professional disagreements over the exact shape of a marginal tax rate cut should not be allowed to obscure the basic point: There is a growing feeling in the economics profession that supply is important; that the public responds to incentives, and that short-run demand models have placed the economy in a mess by ignoring the supply side effects incentives have on the economy.

SUPPLY, DEMAND, AND CAPACITY

Dr. Heller has said that the Kennedy tax cut was clearly a demand-stimulating tax cut. He has stated that there was no great surge in capacity at the time, and so why do we think it is a supply phenomenon? Dr. Heller is playing with words. Demand creates its own supply,

and vice versa. There are short-run effects. A tax cut aimed at increasing the rewards for production will quickly result in increases in the supply of goods and services from domestic and foreign sources. This is the short-run effect. In the long run, total domestic productive capacity will be enlarged to offset the importing of foreign goods.

PARALLELS BETWEEN THE KENNEDY PERIOD AND THIS ONE

Besides, in answer to Dr. Heller, there was a bulge in capacity. The Kennedy tax cut kept the economy growing at a steady rate. Dr. Heller asks, "Where is the bulge in capacity?" The bulge in capacity came from the simple fact that, had we not had a tax cut in 1964, we would have been in a recession very shortly thereafter. Capacity would have flattened out instead of continuing to grow.

Dr. Heller claims today's conditions are not comparable to conditions in 1963–64. On the contrary, unemployment and capacity utilization are almost exactly at 1963–64 levels. No capital spending boom has materialized in spite of a strong recovery to date. Many forecasters believe we are heading for a recession within a year. And what do you think will happen to capacity if we hit a recession? Dr. Heller simply cannot claim that the economy would have been as healthy without the Kennedy tax cut as it was with the Kennedy tax cut. He should be comparing capacity after the cut to what would have happened if there had been no cut.

WHAT THE KENNEDY CUTS DID AND DID NOT DO

He should also compare Federal revenues after the tax cut to what they would have been without the tax cut. In fact, he once did. Testifying before the Joint Economic Committee in February 1976, Dr. Heller said:

> What happened to the tax cut is difficult to pin down but insofar as we are able to isolate it, it did seem to have a tremendously stimulative effect, a multiplied effect on the economy. It was the major factor that led to our running a $3 billion surplus by the middle of 1965 before escalation in Vietnam struck us. It was a $12 billion tax cut which would be about $33 or $34 billion in today's terms, and within 1 year the revenues into the Federal Treasury were already above what they had been before the tax cut. . . . Did it pay for itself in increased revenues? I think the evidence is very strong that it did.

He even went on to bemoan the fact that people seemed to credit the Vietnam war spending boom, which did not come on stream for another 2 years, for the beneficial effects correctly attributable to the tax cut.

WHERE ARE WE ON THE LAFFER CURVE?

Dr. Heller says that we are not in the prohibitive range of the Laffer curve. Then, let me ask a few questions.

Is Dr. Heller counting all the potential revenue that the Federal Government is losing because of high tax rates, low savings rates, and low growth rates?

If people are not being overtaxed, why are they sheltering their income at record rates?

If people are not being overtaxed, why are workers rejecting overtime and bargaining for days off with pay and higher fringe benefits rather than higher wages?

Why do we have the lowest saving and investment rates in the Western World?

Why are people retiring earlier at such a rapid rate?

Why do we see a flood of articles on the subterranean economy and a do-it-yourself boom?

Why was there a proposition 13 in California?

Why is there a taxpayer's revolt across the country?

I do not claim that everyone in every situation is in the prohibitive range of the Laffer curve. But, I do claim that millions of Americans are sheltering income, that millions of low income people are prevented from taking jobs because the after tax gains from becoming employed do not offset the concurrent loss in social services, that millions of workers would work harder and more productively at lower tax rates, and that the country's saving rate would expand to unleash a major investment boom if tax rates were lowered. Many in the economics profession feel the same way.

TAX INCREASES WE ARE FACING MUST BE OFFSET

Finally, let me turn to Dr. Heller's view that the $95 billion in tax increases we are facing in the near future are not dangerous and need not be offset because the Government will return the money to the economy by spending it. Let us carry this reasoning to its logical conclusion. Suppose we tax away all income with 100 percent tax rates. As a consequence, no one will gain anything by working, saving, or investing.

What will happen then? GNP will fall to zero. There will be a zero rate of return, a zero reward to all productive effort, and production will be zero. In spite of the demand generated by Government spending, supply will be zero and the price level infinity.

THE CONSEQUENCES OF THE HELLER APPROACH

Cannot Dr. Heller see the logical conclusion to his own theory? Suppose we raise tax rates, either directly or through inflation, on those productive activities which require rewards if they are to take place and which will disappear if rewards decline. If we do that, we shall have less output, even if the Government tries to spend money to compensate. With output down, and demand up, prices will soar. Sadly, most econometric models follow Dr. Heller's reasoning, that saving is bad, spending is good, and tax rates and incentives do not matter.

Dr. Heller quoted liberally from a Newsweek column in his testimony. Let me quote from the same issue, June 26, from an article entitled: "The New Economists."

> Until the late 1960's, the Keynesian formulas seemingly worked well. An activist U.S. Government successfully stimulated the economy by increasing spending during slumps, and cooled off booms by cutting back. But the recession-ridden 1970's have demolished the Keynesian notion that there is a tidy trade-off controllable by government, between inflation and unemployment. Both, it turns out, can rise at the same time, frustrating fine-tuning attempts to maintain economic balance.
>
> Many of the neo-Keynesians vigorously deny that Keynes's theories have been disapproved . . . But some experts are not so sure. "A decade from now, most of us will have retired into the professional shade," predicts Henry C. Wallich, a governor of the Federal Reserve Board. "The universities and government will be overrun with monetarists and neo-classical economists devoted to free markets and deeply skeptical and activist macroeconomic management."
>
> Wallich may well be right. By some assessments, it is the best and brightest of graduate students and young professors who are leading the conservative shift. But they are not necessarily conventional political conservatives. Instead, they have been inspired by the seemingly impotence of Keynesian economic theory. "The raw fact that hits everybody is that the economy has just not behaved according to the best Keynesian models," says Thomas Sargent, 34, of the University of Minnesota. "We were good Keynesians once, but we had to change our minds."

WHAT WE MUST ENACT

Mr. Speaker, I want to move toward a fair and efficient tax system that rewards effort, reduces the waste of tax shelters, moves us to a higher growth rate, and fights inflation and unemployment by lowering costs and rewarding hiring. I am trying to translate into practical legislation the newest insights of the economics profession on how we got where we are today, and how to correct our troubles. This is an honest, good-faith effort on the part of many people. I believe in their work. I hope my proposals reflect these insights, and I hope you will find it helpful in your struggle to produce a strong economy for all our people, so that we can hire those who want work, provide for the elderly, care for the indigent, and defend our freedom.

At this point I include the following:

Increase in marginal incentive resulting from Kemp-Roth proposal

[In percent]

Present marginal tax bracket	Under Kemp-Roth proposal	Percent rate reduction
70	50	28
69	49	29
68	48	29
66	47	29
64	46	29
62	44	29
60	42	29
55	40	27
50	37	26
45	36	20
40	35	12
38	33	13
36	31	14
34	29	15
31	27	16
29	24	17
27	21	22
25	19	24
24	17	25
21	15	28
19	13	31
17	11	35
16	10	37
15	9	40
14	8	43

DISTRIBUTION OF TAX REDUCTION ACT

Rather than redistributing income, the Tax Reduction Act provides substantial tax relief to people who pay taxes. Americans earning $10,000 and more now pay 94 percent of all Federal income taxes, with middle-income taxpayers shouldering a disproportionate share of the tax burden, as the following chart shows.

TABLE IV.—IMPACT OF THE TAX REDUCTION ACT ON FAMILY OF 4

Income	Present law		Tax reduction act	
	Percent of taxes paid	Cumulative	Percent of cut	Cumulative
0 to $5,000	0.1	0.1	0.7	0.7
$5,000 to $10,000	6.1	6.2	7.6	8.3
$10,000 to $15,000	13.4	19.6	14.7	23.0
$15,000 to $20,000	17.0	36.6	17.5	40.5
$20,000 to $30,000	24.2	60.8	24.3	64.8
$30,000 to $50,000	16.3	77.1	16.0	80.8
$50,000 to $100,000	12.2	89.3	11.4	92.2
$100,000 plus	10.7	100.0	7.7	100.0

Income	Present tax	Proposed tax	Tax cut	Percent cut
$8,000	$120	$12	$108	90
10,000	446	218	228	51
12,500	917	539	378	41
15,000	1,330	811	519	39
17,500	1,745	1,092	653	37
20,000	2,180	1,388	792	36
25,000	3,150	2,047	1,103	35
30,000	4,232	2,781	1,451	34
35,000	5,464	3,589	1,875	33
40,000	6,848	4,512	2,336	33

FEDERAL INCOME AND SOCIAL SECURITY TAXES FOR A FAMILY OF 4 WITH $17,000 IN 1978[1]

	Annual gross income	Marginal tax bracket	Federal income tax	Effective income tax rate (percent)	Social security tax	Federal income and social security taxes	Effective Federal tax rate (percent)
Year:							
1966	$8,509		$649	7.6	$277	$926	10.9
1967	8,754	17	685	7.8	290	975	11.1
1968	9,122		[2]794	8.7	343	1,137	12.5
1969	9,612		[3]891	9.3	374	1,265	13.2
1970	10,181		[4]896	8.8	374	1,270	12.5
1971	10,618		919	8.7	406	1,325	12.5
1972	10,969		933	8.5	468	1,401	12.8
1973	11,651		995	8.5	632	1,627	14.0
1974	12,949		[5]1,063	8.2	756	1,819	14.1
1975	14,111	19	1,234	8.7	825	2,059	14.6
1976	14,925		1,308	8.8	873	2,181	14.6
1977	15,888		1,471	9.3	929	2,400	15.1
1978	17,000		1,660	9.8	1,029	2,689	15.8
1979	18,024		[6]1,833	10.2	1,105	2,938	16.3
1980	19,101	22	[6]2,016	10.6	1,171	3,187	16.7
1981	20,248		[6]2,228	11.0	1,346	3,574	17.7
1982	21,464		[6]2,462	11.6	1,438	3,900	18.2
1983	22,751	25	[6]2,710	11.9	1,524	4,234	18.6

[1] Assuming that income changes as does the Consumer Price Index and that deductible expenses are 23 percent of income.
[2] Including a $55 surcharge.
[3] Including a $81 surcharge.
[4] Including a $22 surcharge.
[5] Including a $118 tax rebate paid in May 1975.
[6] Assuming extension of the $35 and 2 percent taxable income credits.

Source: Joint Committee on Taxation, July 13, 1978.

Changes in taxes and disposable income for a family of four earning the median income, 1967–77

	1967	1977
Income (current dollars)	$8,400	*$17,000
Real income (1967 dollars)	8,400	9,366
Personal exemption	2,400	3,000
Standard deduction	1,240	3,200
Taxable income	4,760	10,800
Federal income tax	764	1,822
Social security tax	174	965
Total Federal tax	938	2,787
Disposable income	7,462	14,213
Real disposable income	7,462	6,579
Effective tax rate	11.2%	16.4%
Marginal tax rate	19%	22%

*The zero bracket is not shown in this table. To include the zero bracket, increase all taxable incomes shown by $3,200.

Americans Save Far Less of Their Earnings Than Citizens Elsewhere, and the Gap Grows

(By Alfred L. Malabre Jr.)

Americans are saving far less of their money than citizens in other industrial countries.

At a time of growing uneasiness over the U.S. economic outlook, the disparity has received few headlines. Yet, it is enormous, and it has grown over the years. Many economists find the pattern deeply disturbing.

A willingness to save, of course, is fundamental to economic growth. Paul A. Samuelson, the Nobel-laureate economist at Massachusetts Institute of Technology, has observed that "to the extent that people are willing to save—to abstain from present consumption and wait for future consumption—to that extent society can devote resources to new capital formation."

DIVERSE TRENDS

American willingness to save is low, as the accompanying chart shows, and it has been diminishing. Meanwhile, saving rates abroad have risen. The following table traces these diverse trends over the last decade. In the six major industrial countries, it pinpoints consumer saving, as a percentage of consumer disposable, or after-tax, income.

Rate of saving

[In percent]

	1977	1967
United States	5.1	7.5
Canada	9.8	6.2
Britain	13.9	8.5
West Germany	14.0	11.3
France	16.1	15.9
Japan	21.5	18.5

It is impossible to know whether the propensity to save will continue to decline in America, or keep expanding abroad. Inevitably, much will depend on the extent to which governmental policies tend to encourage or discourage saving. And who can foresee with precision the economic plans that political leaders may be hatching?

Whatever does develop, the present disparity is significant on a number of counts. It suggests a greater potential for economic growth abroad than in America. "If people dont' save, there can't be sufficient investment, and eventually economic growth suffers," says Martin S. Feldstein, president of the National Bureau of Economic Research, a nonprofit business-analysis organization based in New York.

Noting the remarkable rise of savings in Canada, Robert Baguley, an economist at Royal Bank of Canada in Montreal, declares: "Canadians possess the capability to increase their spending sharply." No such cushion exists in the U.S., says Paul Wachtel, an economics professor at New York University. "There is a strong argument that Americans should be saving more."

To many analysts, the relatively low rate of saving in America suggests that the U.S. economy is particularly susceptible, in the event of brisk expansion in coming months, to interest-rate increases. By the same token, these analysts maintain that interest rates are likely to rise relatively little in countries where a large portion of income is being plowed into savings. Sharply climbing interest rates, of course, act to inhibit economic activity inasmuch as they discourage borrowing for business expansion projects, homebuilding and other endeavors.

Economic growth in America has indeed tended to lag during the last decade. This is apparent, for instance, in data showing industrial production, an economic indicator expressed in physical terms and therefore not distorted by rising prices. Since 1967, industrial production in the U.S. has risen slightly over 40%. Among the major countries, only Britain shows a smaller gain. The comparable increase in Japan is 97%. West Germany, France and Canada also show far larger gains than the U.S.

By no coincidence, capital spending in the U.S. is relatively small in terms of overall economic activity. Last year, according to a U.S. Commerce Department analysis, capital investment amounted to 17 percent of America's gross national product. This was a lower percentage than for any other major nation. The report shows the latest comparable rates to be 30 percent in Japan, 23 percent in France and Canada, 21 percent in West Germany and 19 percent in Britain.

International comparisons of economic data, to be sure, involve a particularly high degree of risk. It is easy to find oneself comparing oranges and apples. Different countries compile statistics in different ways. Definitions vary from country to country. Statistics involving savings are no exception.

ORANGES AND APPLES

"These are somewhat messy statistics that should not be taken as precisely accurate," warns Gerard Villa, consulting economist of Banque Bruxelles Lambert in Brussels. He notes, for example, that in much of Western Europe" spending by self-employed small businessmen on their own businesses is counted as a part of personal savings." This would not normally be so in the U.S. he adds.

Such distinctions, however, are hardly sufficient to explain the large lag in savings in America. "This is not simply a case of comparing oranges and apples" declares Edward F. Denison, an economist at the Brookings Institution, a nonprofit business-research

group based in Washington. "People really do save much higher percentages of their incomes abroad than in the U.S."

There is no single explanation for this U.S. tendency to spend or the propensity elsewhere to save. Various factors appear to be at work.

Mr. Feldstein, who also teaches economics at Harvard University, maintains that Americans have relatively extensive insurance against old age through such programs as Social Security. He finds the U.S. coverage "substantially greater" than, for example, in Japan. Not surprisingly, he says, the typical Japanese worker feels obligated to set aside a relatively large fraction of pay for the retirement years.

Big bonuses

Mr. Denison notes that workers in some countries derive a considerable percentage of their yearly pay through annual or semi-annual bonuses. In Japan, he says, bonus money recently has approximated one-quarter of annual earnings. No precise figures are available, but he estimates that the comparable U.S. rate is "far lower." Bonus money, he explains, is likelier to be put into savings than regular pay.

The sharp rise of saving in Canada apparently reflects in part governmental efforts to induce thrift. Mr. Baguley of Royal Bank of Canada mentions, for example, the advent of government-sponsored plans, set up within the last decade, that provide tax breaks on various forms of saving. One plan encourages saving for retirement and another saving for home-buying.

Tax considerations are cited by many analysts. U.S. taxation of capital gains, for instance, is deemed relatively heavy. And this, many observers claim, acts to discourage key forms of saving in America. Mr. Villa maintains that the absence of a Belgian capital-gains tax on individual savings is a major reason that his country's saving rate is up around 18%. Countries that either exempt such gains from taxation or levy less of a tax than Uncle Sam also include Australia, West Germany, Italy, Japan, the Netherlands, Britain, Sweden, France and Canada.

Proposals have recently been in the Congress to trim capital-gains taxation in the U.S. However, the Carter administration makes clear that it opposes such measures. The dispute has caused a delay in congressional consideration of President Carter's entire tax "reform" package.

Demographic factors may also work to hold the U.S. saving rate below levels elsewhere. Over the next decade, forecasters project an increase of only 470,000 among Americans aged 45 to 64, a group that tends to save a relatively high percentage of income. In the period, a 6.4 million increase is foreseen among Americans aged 25 to 44, years when only a small portion of income typically is saved. Generally, these demographic patterns are more pronounced in the U.S. than in other industrial countries.●

THE SENTENCING OF ALEKSANDR GINZBURG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 15 minutes.

● Mr. JEFFORDS. Mr. Speaker, yesterday was a sad day for the cause of human rights. As my colleagues know, Aleksandr Ginzburg was convicted of anti-Soviet agitation and sentenced to 8 years in prison. At the same time, Anatoly Scharansky was sentenced to 15 years for "espionage," and Viktorus Petkus 15 years for anti-Soviet agitation. These are, of course, just the latest in the Soviet Government's unlawful harassment and repression of Soviet citizens who have attempted to monitor the Soviet Government's compliance with the Helsinki Final Act's provision in the area of human rights, accords which that government has agreed to abide by.

Let us set to rest any notion that the various pretexts that the Soviet Government has used to justify these sentences has any basis in fact. Mr. Edward Bennett Williams, Mr. Ginzburg's counsel, has outlined in great detail the brutally oppressive and unjust procedures the Soviet Government has used against his client. In recent testimony before the Helsinki Commission, he provides the following instructive description of the nightmare that has been imposed on Mr. Ginzburg by his own government. I urge those of my colleagues as yet unfamiliar with the details of the case to review the following testimony. I have personally reviewed the documents Mr. Williams submitted to the Commission and concur in his conclusions:

It is now over 16 months since Aleksandr Ginzburg was arrested on his doorstep in the middle of the night by the KGB in Moscow and wisked off to solitary confinement where he has been held incommunicado ever since.

For him, it has been a long and a lonely time, waiting in poor health and in isolation, forbidden all contact with his family, forbidden all contact with counsel, kept ignorant of any charges lodged against him, helplessly awaiting trial, certain conviction and maximum punishment. He has been held, without charges, without counsel, without bail, without communication, without recourse, and, I submit, without humanity.

These past 16 months have provided a chilling example of the Soviet Union's disregard for its own laws and procedures and for the legal rights of its own citizens under the Soviet Constitution. We have seen firsthand their disdain for solemn international commitments. We have seen and we have heard and felt the scorn with which the leaders of the Soviet Union view basic human rights and the most elementary and universal principles of justice.

No one of us in this room representing these dissidents has been given permission to enter the Soviet Union, although each of us has asked. Some of us many times; always we have been told not only no, but that it was arrogant to ask.

The case of Aleksandr Ginzburg—with its unprecedented 16-month-long investigation—has provided some new and startling information about the Soviet judicial system. We now know that this investigation has been accomplished by blackmail, by threats, by intimidation, by coercion and by extortion. We now know that witnesses have been imprisoned during these sixteen months because they have refused to give the kind of evidence that the KGB wanted in order to formulate charges against Aleksandr Ginzburg. We know that they have made promises to prisoners now in Vladimir Prison that if only they would give evidence against Aleksandr Ginzburg their sentences would be commuted and they would be released. And I am not speaking without documentation.

I want to present to the Commission today the testimony of scores, literally scores, of Soviet citizens who have risked their lives, in the interest of justice for another. I have here hand-written letters, statements and declarations that these courageous people have written to me, as Aleksandr Ginzburg's counsel, to tell me of the threats and the coercive techniques used by the KGB in their desperate efforts to formulate a case against Ginzburg. They tell me of a course of conduct that puts all civilized man to shame. Most importantly, they have asked their testimony be presented, if not to a Soviet court, then to the court of world opinion.

These people have risked their freedom and their lives to make these declarations in the interest of justice for another. This investigation was longer than any that we have known about. It was so long it violated Article 97 of the Soviet Criminal Code. The interviews that were conducted, the investigation that was conducted surpassed in its intensity even the investigations of Yuri Orlov and Anatoly Scharansky.

Let me describe for you just a few incidents that typify this investigation. On November 11, 1977, Lieutenant Vladimir Sergheyevich Gaydel'tsov, the KGB interrogator in Kaluga Prison where Ginzburg is held, summoned Leonid Borodin a friend and former campmate of Ginzburg's to Kaluga to be questioned. Borodin refused to give evidence of the kind that Mr. Gaydel'tsov wanted and he was charged with being an uncooperative witness and he is now imprisoned and being held incommunicado.

Another of Ginzburg's friends, Vitaliy Pomazov, tells us in these documents that on November 28, 1977 he was summoned to Kaluga by the same Lieutenant Gaydel'tsov. The KGB official threatened Pomazov and refused him permission to write out his own statement and refused to tell him what the nature of the charge was that they were investigating vis-a-vis Aleksandr Ginzburg, although Article 160 of the Soviet Code of Criminal Procedure clearly requires that any witness who is interrogated is entitled to know the nature of the accusation which is being investigated by the police.

Between April and May of 1977, KGB Captain Obrubov at Vladimir Prison repeatedly summoned Viktor Anisimov to be interrogated. Anisimov is now a prisoner. He has been in prison a long time. He is a political prisoner. He is due to be released in 1989. He was told if only he would cooperate, if only he would sign a statement to the effect that all the information that Ginzburg had gathered and reported about political prisoners in monitoring the Helsinki Accords was false, he would be released. He refused.

In March of this year, members of the Commission, I received a letter dated February 2, 1978 from Alexandr Podrabinek. * * *

Podrabinek, among other things, says, "I have never met a more honest, noble and fine human being."—concerning Aleksandr Ginzburg. He says, "His merciful activity helping political prisoners and their families was disinterested, generous, self-dedicated and, alas, very dangerous for him. His example is a source of courage and inspiration for many honest people in our country who would consider it an honor to be able to share with him at least part of the torment and suffering . . ."

Members of the Commission, 45 days later Padrabinek was arrested and incarcerated and he has been held ever since under investigation, incommunicado, without counsel, without charges.

In March of '78, I received a letter from Peter Vins, Document 23 in that packet which I handed up to you. And among other things, he says, "Because a man is kind and loves his fellow men, he is thrown in a damp prison cell. Because he is honest and will not accept evil and violence he is taken away from his friends, his wife and his two little sons." That same month, that month did not end, members of the Commission, it did not come to an end, we did not reach March 31 before Peter Vins was arrested and sentenced to forced labor.

Many other friends and associates of Ginzburg's have sought to testify on his behalf during the investigation in this case. In

each instance, their offers have been rejected; we do not want evidence attesting to his good character. We do not want evidence demonstrative of the fact that he has committed no offense other than to express his honestly held opinions and views. All of this, of course, is in violation of Article 46 of the Code of Criminal Procedures which guarantees an accused in the Soviet Union the right to call witnesses in his defense.

When Aleksandr Ginzburg was tried in 1968, he had a lawyer named Boris Zolotukhin. Boris Zolotukhin did an unprecedented thing in an Article 70 case. Instead of standing up in front of the court and asking for mercy, and begging for mercy, he stood up and he asked that his client be acquitted. That was an unpardonable sin for a lawyer given the privilege to try an Article 70 case. Boris Zolotukhin was disbarred. Boris Zolotukhin was expelled from the Communist Party for the arrogance and effrontry of asking that his client be acquitted.

I think you can search the record, you can search through all the annals of Soviet jurisprudence, and you will never find as long as you look the record of an acquittal of anyone charged with an Article 70 violation. Dina Kaminskaya was in that case and when they finally got around to asking Aleksandr Ginzburg, as they were about to tell him what the charges were, if he wanted to confer with counsel, the name on his lips was Dina Kaminskaya. He was never told that I had been retained by his wife and by the Solzhenitsyns to represent him. Naturally, he did not ask for me; he asked for her. And she expressed a willingness—and you know what happened to Dina Kaminskaya. She was thrown out. She is, thank goodness, here in the United States.

I have learned now from Andrei Sakharov that there is no longer a possibility for me to talk to Mr. Ginzburg's mother or Mr. Ginzburg's wife because their phones are now gone.

I was fortunate enough to have a couple of telephone conversations with his mother and his wife, but that is over. The phones have been disconnected to isolate them from all communication in anticipation of his trial.

That Aleksandr Ginzburg is innocent of any wrongdoing needs no elaboration. He has become a blazing beacon of hope and courage to free men and women everywhere.

As Director of the Russian Social Fund, Ginzburg's crime has been to feed the hungry, to care for those in need, and to inspire those otherwise without hope. As a member of the Helsinki Watch Group, Ginzburg's crime has been to speak the truth, openly and without fear. As a devoutly religious man, Ginzburg's additional crime has been to worship his God and serve his fellow man by the lights that he has been given.

I would like, if I may, to spend my last minute not as an advocate, but as an American citizen and say to the Commission that with the arrest, the prosecution and the trial and the sentencing of Ginzburg, which is sure to come this month, with the arrest, the prosecution and trial and sentencing of Yuri Orlov and Anatoly Scharansky, who will be so ably represented by Alan Dershowitz and Ramsey Clark, the Soviet Union will have proven to the world that it has no intention of abiding by its pledges to respect human rights sections of the Helsinki Accords.

The Soviet Union began ignoring its human rights promises the day after the Helsinki Accords was signed. Emigration was curtailed, dissidents were rounded up and refuseniks were harassed.

What did we get—what did we get—alas, what did we get for agreeing to the ratification that the Soviets wanted so badly—what did we get? We got a horse laugh. That is what we came away from Helsinki with.●

THE NEED TO ROLL BACK TAXES ON CAPITAL GAINS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 10 minutes.

Mr. GREEN. Mr. Speaker, the House Ways and Means Committee shortly will begin consideration of proposals to lower the taxes presently imposed on capital gains.

Despite initial opposition to any effort to decrease capital gains taxes, the administration now is indicating that it might be willing to go along with a rollback of some kind. In this regard, I call my colleagues attention to Secretary of the Treasury W. Michael Blumenthal's statement quoted in the New York Times of July 13:

> In view of the strength of sentiment on Capitol Hill for a reduction in the capital gains tax, I think President Carter would accept some cut in capital gains.

I hope that Secretary Blumenthal's comments to the press and his testimony before the House Budget Committee are signals that the administration will not attempt to slow the momentum which clearly is building across the country for a capital gains tax rollback.

As a strong supporter and cosponsor of the Steiger bill (H.R. 13158) to return capital gains taxes to the levels in effect prior to the Tax Reform Act of 1969, I would like to commend to my colleagues some excerpts from an article entitled "The 'Cost' of a Rollback in Capital Gains Taxes to Pre-1970 Levels." The author of the article is Oscar S. Pollock, of Ingalls and Snyder in New York City. Mr. Pollock's studies of the capital gains issue and the "diminishing incentives to invest" have been cited frequently in recent editorials in the Wall Street Journal.

I urge my colleagues to take note of the following points he raises in response to the administration's criticisms of the Steiger proposal:

THE "COST" OF A ROLLBACK IN CAPITAL GAINS TAXES TO PRE-1970 LEVELS

(By Oscar S. Pollock)

JUNE 16, 1978.

There is a growing realization among members of Congress that a significant reduction in capital gains taxes would lead to a better economic performance by the United States. Much of the present opposition of the Administration to the effort to roll back long-term capital gains tax rates to the pre-1970 levels centers around the "cost" of such a measure—estimated by the Treasury Department at $2.2 billion, which includes about $500 million of costs due to rate reductions applying to corporations.

The Treasury estimate indicates that if net capial gains of individuals reach projected 1978 levels, then the difference between taxing them at current rates and taxing them at pre-1970 rates is $1.7 billion.

The most serious criticism of the Treasury estimate is that it makes no allowance for significant and obvious investment consequences of such a tax rollback. It is similar to looking at the cost of a new piece of earth-moving machinery on the basis that it remains sitting in a shed, instead of including the perspective of what the machine can produce. A capital gains tax rollback would have a range of positive effects that would create additional revenues for the Treasury and, in all probability, more than offset lower rates:

Large investors are likely to emphasize common stocks to a greater degree, instead of neglecting them in favor of investments that produce little or no Federal tax receipts such as municipal bonds, home ownership, and fine art.

More long-term capital gains will be realized as capital gains tax rates go down; there will be more sales of holdings by investors tax rates.

There would be a favorable impact on equity values which would raise the amount of net capital gains that are realized and taxed.

Economic growth would be stimulated because equity financing and risk capital would be more available to many companies—including smaller ones with the potential for rapid growth and the creation of new jobs.

THE TREASURY'S COST ESTIMATE

In a letter to members of the House Ways and Means Committee, dated May 11, 1978, Secretary of the Treasury W. Michael Blumenthal said, "The Treasury very strongly opposes any attempt to reverse the reforms of capital gains taxation enacted since 1969." He went on to give a range of objections to reverting to pre-1970 tax rules for capital gains, as proposed by bills in the House and Senate. A principal objection is the cost.

According to Secretary Blumenthal, "Rolling back capital gains taxation to pre-1969 rules would reduce annual tax revenues by $2.2 billion (at 1978 levels of income)." On page three of the letter, he added that "rolling back the capital gains tax rate would steal much of the revenue needed for this balanced program of investment incentives," which refers to more than $6 billion in net tax relief for business, most of which would be directed to large corporations. He did not mention that the President's January, 1978 message to Congress on taxes included proposals for two further increases in capital gains taxes on individuals.

With his cost estimate of $2.2 billion and his further comments, the Secretary is apparently trying to drive a wedge between the interests of individual investors and the interests of business. It is unfortunate that a measure designed to restore incentives to individual investors, who have experienced a far poorer return on their capital than the country's large corporations over the past decade, should be portrayed as an attempt to "steal."

We believe that such a rollback in capital gains taxes will not steal anything from anyone. We said in our study that measures designed to increase capital gains taxes, starting with the Tax Reform Act of 1969, have been counter-productive from the standpoint of the Treasury and have done great damage in other areas. We went on to say that a "return to the provisions that were in effect before 1970 would be more likely to add to Government receipts than to lower them." We are sticking to that position.

THE EFFECT ON INVESTMENT FLOWS

To understand the impact on investment flows of reverting to pre-1970 tax rates for long-term capital gains, one must understand the effects of the post-1969 tax increases on capital gains.

Changes in capital gains taxation enacted by the Tax Reform Acts of 1969 and 1976 have had an effect on a wide range of investors, but of course, the greatest impact has fallen on larger investors. As we have pointed out before, people with sizable incomes and considerable capital or assets of value have many investment options and are often skillfully advised. As changes in tax provisions have made common stock investing less profitable, they have realized fewer profits, simply holding on to equities and assets that have appreciated substantially. In addition, they have moved into investment alternatives—often ones that are

much less productive for the economy and, we might add, that generate less revenue for the Treasury than common stock ownership.

If capital gains tax rates revert to pre-1970 levels, we believe that present investment flows will be altered and that individuals, particularly those with significant amounts of capital, will emphasize common stock investing to a much greater degree than is now the case. The potential for a shift back into common stock by large investors is enhanced by the fact that most common stocks are currently cheap on an historical basis. Such a shift would produce widespread benefits, including incremental revenues for the Treasury from taxes on dividends and capital gains. To the extent that common stock investing is emphasized at the expense of alternatives such as municipal bonds and home ownership, there would be a very positive swing in receipts from the standpoint of the Treasury.

The original Steiger bill has been frequently attacked by liberal critics as a "sop to the rich" or a new "tax break for the wealthy." A more perceptive analysis would view this legislation as a way of raising Federal tax revenues from individuals with significant amount of capital to invest by bringing them back into the mainstream of the free enterprise system.

THE IMPACT ON THE ECONOMY

A reduction in capital gains taxes would also have positive economic effects. It would significantly increase the demand for equities on the part of individuals. A wide range of companies, including utilities, communications companies, and many companies with the potential for rapid growth, would be helped in their efforts to sell common stock to the public. Equity financing would decrease the dependence on these companies on debt, which has become dangerous in many cases; and it would encourage expansion in plant and equipment that would not be feasible otherwise. A greater use of equity financing would directly contribute to a reduction in long-term and short-term interest rates that would lower the cost of borrowed funds for individuals and business and thus stimulate economic expansion.

One interesting point should be added: considering the viewpoint of Federal income taxation of companies, equity financing is much more advantageous to the Treasury than debt financing. This is because interest charges on debt reduce income that is taxed by the Federal Government; the sale of common stock involves no such reduction of taxable income.

In any economic analysis of a rollback in capital gains taxes, a pivotal consideration is that it would stimulate a greatly increased flow of risk equity capital to new and rapidly growing companies—the companies that create the most new jobs. The American Electronics Association has effectively pointed out that, in the electronics industry, it takes an average of $14,000 of new risk capital to create each new job and that risk capital has become extremely scarce in recent years. To the degree that lowering capital gains taxes creates more risk capital and more risk capital creates new jobs, Federal income tax receipts would rise.

To the degree that a reduction in capital gains taxes helps to improve equity values, a wide range of individual and institutional investors would benefit by increases in their assets and capital. Such increases help their economic confidence and lead to additional discretionary spending. As we said in our original study on page 5, "The higher level of discretionary spending prompted by rising stock prices can be significant in stimulating the economy and improving its growth rate. It is a form of stimulus which costs the Federal Government or the taxpayer nothing; rather, it is more likely to add to the tax receipts of the Government. By comparison, when the Federal Government operates at a deficit and stimulates the economy by additional spending, the funds required must be provided by higher taxes or higher borrowings."

CONCLUSION

We have shown that present capital gains tax provisions will tend to depress Federal tax receipts. On the other hand, a rollback in capital gains taxes to pre-1970 levels would have a range of positive investment and economic consequences that would lift tax revenues significantly. The difference for the Treasury between these alternative courses is substantial.

Our present capital gains tax provisions have alienated from the investment and risk-taking process many of those people who have significant amounts of capital and who are thus in the best position to take risks. The reason is that our capital gains tax provisions are unfair. Only to a minimal degree do present tax provisions permit capital losses to be deducted from taxable earned income. Therefore the Federal Government does not share in the larger risks of the investment process; but then it wants up to 49.125% of the long-term capital gains and up to 70% of the short-term capital gains.

If we restore the fairer capital gains tax rates that were in effect before 1970, everyone will benefit, including the Department of the Treasury.

THE NATIONAL CONSUMER COOPERATIVE BANK—A GREAT DAY FOR THE AMERICAN CONSUMER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 5 minutes.

● Mr. ST GERMAIN. Mr. Speaker, yesterday, the Senate, on a 60-to-33 vote, approved the National Consumer Cooperative Bank Act—a great victory for the American consumer.

As my colleagues remember, the House passed a similar measure 1 year ago today, and the Senate action now assures that there will be a Consumer Cooperative Bank in place in the near future.

The Cooperative Bank will provide the consumer with a new means of combating inflation. It will give the consumer a voice and a chance to have a freedom of choice in the marketplace. And in many neighborhoods, the cooperatives fostered by this bank and self-help development fund will help pull people together, to give them a stake in their communities and to start the process of revitalizing many of our inner-city and rural areas. It is a great moment for consumers, and for those who believe in the American principle of self-help.

Mr. Speaker, many deserve great credit for moving this legislation forward. I want to express my deep appreciation for the hard work of Chairman HENRY REUSS and the members of the Committee on Banking, Finance and Urban Affairs who have spent so many hours in promoting this legislation and the concept of consumer cooperatives. Senator THOMAS MCINTYRE provided the leadership in the Senate and did a very skillful job in moving this through his committee and the Senate. He deserves the highest commendations for his untiring and very successful efforts.

The Carter administration, while it did not support the initial efforts, has come on board in a magnificent fashion and it can claim much credit for making this a success. President Carter, once he had a chance to consider the issues, became a vigorous and highly effective supporter of the National Consumer Cooperative Bank and this spirit has pervaded the entire administration. And certainly everyone has been impressed by the work and dedication—and the enthusiastic spirit—of the President's consumer adviser Esther Peterson, a truly wonderful lady.

The many consumer, cooperative, religious, labor, urban, and rural groups which have come together on this bill have been a tremendous coaiition for the public good.●

NEW HOME LOAN PLAN TO HELP STRAPPED MIDDLE CLASS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the back-to-the-city movement in Chicago got a healthy shot in the arm last week from Chicago Mayor Michael A. Bilandic's new mortgage pool plan for middle income home buyers. The plan provides for low-interest home mortgages of up to $80,000 for families with incomes of $40,000 or less. The mortgage pool will be financed through the sale of $100 million in tax-exempt municipal revenue bonds and will be available in early August. Under the program, interest rates on home loans will be as much as 2 percentage points lower than the going rate for a conventional home mortgage.

This innovative loan plan is not to be confused with New York City's Mitchell-Lama programs, which has been plagued with loan defaults. Chicago's loans will go directly to home buyers, while New York's program provides loans to developers of subsidized multiple housing.

Also, under the program, the city's credit worthiness will not be placed in jeopardy in any manner. The bonds will be marketed by the brokerage house of E. F. Hutton, which helped Mayor Bilandic design the mortgage plan. The revenue bonds will be secured by the property itself and by private insurance policies.

The program will work this way. First, the city will sell $100 million in tax-exempt bonds to provide funds for the mortgage pool. The funds will then be handled by city financial institutions serving as trustees. In the initial stage, First Federal Savings and Loan, Chicago's largest thrift institution, will process all the mortgage loans, but several other large saving and loans in the city have expressed great interest in the plan.

Chicago residents with a combined family income of no more than $40,000 will be eligible to apply for loans of up to $80,000 with interest rates of 8 percent. A conventional home loan in Chicago has an interest rate averaging at 10 percent. This 2 percent difference

translates into a savings of $100 a month for persons financing a $60,000 home.

Loan applications will be judged in essentially the same manner as conventional loans, with credit soundness as the determining factor. The only requirement of the program is that the home buyers live in the properties they purchase.

Although the loans will not become available for several weeks, Chicago residents are already showing great interest in the plan. On the day following the announcement of the program, 75 persons requested applications from First Federal. The loans will be granted on a first-come, first-serve basis. City officials estimate that between 2,000 to 2,500 homes will be financed through the pool.

This plan is specifically designed to help the segment of our population which feels the costs of inflation and increasing taxation the most, the middle class. This group is caught in the middle of today's spiraling housing costs, by not being able to afford to buy a home yet being at an income level too high to apply for Federal assistance.

It is this group which has made the flight to the suburbs in the last two decades. Lured in a large part by lower home prices, an estimated one-half million Chicagoans have made the move to the suburbs since 1950. This large migration has substantially lowered the city's tax base and has also made the city a place where mainly the poor and the upper middle class live. But, more and more young, middle-class families are becoming dissatisfied with the suburbs and find many of their reasons for moving no longer hold true. Crime has increased dramatically in the suburbs, and housing is no longer the bargain it once was. Also, many surburbanites, particularly young working couples, want the proximity to work and the cultural advantages found in the city.

This program will provide an incentive for many families to return to the city. It will also allow many renters to buy a home, who otherwise could not afford today's high interest rates.

Several other thrift institutions have proposed similar mortgage pools. Immediately after the city council approved the program July 7, four other large financial institutions in Chicago asked to set up mortgage pools totaling $310 million. The proposals were referred to the Finance Committee of the city council for consideration.

I commend this mortgage plan and its spirit of cooperation between private industry and local government. I also applaud the program for recognizing the problems of the middle class's struggle to afford the high costs of city living.●

A BATTLE PLAN FOR INFLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 10 minutes.

● Mr. UDALL. Mr. Speaker, last January I mailed a legislative questionnaire to the residents of the Second Congressional District in Arizona, asking them to list issues they considered most important. Not surprisingly, inflation topped the list as their No. 1 concern. A few weeks ago, I addressed this concern in a speech before a group of Tucson businessmen. In it, I also offered a plan to help fight inflation. It is an income-based tax policy to provide incentives and disincentives to curb increases in wages and prices. It is no simple proposal—but we face no simple problem.

A BATTLE PLAN FOR IFLATION

(Remarks by MORRIS K. UDALL)

Someone in Washington said they were reminded that June 6—the day Californians voted on Proposition 13—also was the anniversary of D-Day. The reaction in Governor Brown's office, the story went, must have been something like what happened at the headquarters of the German High Command after word was flashed that the biggest invasion fleet in the history of mankind was really landing in France—"General," a young German lieutenant exclaimed, "I think the Allies are trying to tell us something."

Well, something landed in California earlier this month. It was called the Jarvis-Gann amendment, and it cut property taxes by 57 per cent. That is the obvious part of the story, and I know everyone here is familiar with it by now.

Proposition 13 is one part of the situation we face today. I want to come back to it in a few moments, but allow me, if you will, to recount some history for you—some facts of life that I think have led us to this inflationary mess we face today—and to offer some answers about how we can come out of it, for come out of it we must.

For at least four decades in this country, we rode the crest of what was undoubtedly the most astounding wave of development and growth in the history of any civilization that ever inhabitated this planet.

Things were great and they would always be greater. Americans could do anything we set our minds to. More growth would cure any problems we encountered along the way—we were going to double our gross national product every couple of decades and double our population maybe every century and we would always be expanding our work force and the money was coming out of faucets.

Then the bubble burst, five years ago this fall. And holding the pin was something called the Organization of Petroleum Exporting Countries . . . our long, long period of unrestrained growth and incredible prosperity had a fragile foundation. The whole structure rested on a basis of cheap energy. Suddenly, it was no longer cheap. It never will be again.

But the United States, unlike the other major industrial countries of the Free World, insisted that it would have it both ways. Instead of cutting our oil use, we increased our oil consumption. Today, we are not less dependent but more dependent on foreign oil than ever before. And it's rupturing us to the tune of $45 billion a year. We have to solve that problem, or it's going to solve us.

Just a week ago, the smiling and friendly Foreign Minister of Saudi Arabia assured us that we wouldn't be paying any more for our oil, "until you have another shortage."

That represents one important part of our economic problems. A second part is that government has got to put its house in order. We've got to cut where possible and economize where we can. We've got to balance our budgets . . . and I've voted for balanced budgets and I support that concept . . . and do whatever else it takes. Whatever else that is prudent and wise and in our best interests, to help combat this inflationary spiral.

While it is reasonable to ask that government spend tax dollars wisely and in a responsible way, I think it's also reasonable to remind that government alone doesn't hold the key to this problem. A big factor? Yes. But not the whole cure.

While we're on the subject of government, I want to touch on another facet that comes up so often. It's that side of the argument that says a good healthy cut in the bureaucracy sure wouldn't hurt. Well, let's take a look at the bureaucracy and see what would happen.

There are about 2.8 million federal civilian employees on the payroll today. Of that total, about 1.6 million work either for the Post Office (a government service that desperately needs to be improved) or in the Department of Defense—two functions that most Americans would agree are quite vital.

Americans have already said that they don't want any decreases in postal service (and they don't want higher postage rates, either) and nearly everybody, according to the public opinion polls, wants a strong defense.

The truth is that 10 years ago, we had 3 million federal employees, and today, there are fewer, not more.

I raise these points about government and the bureaucracy first because I know it is on your minds . . . but secondly, I raise it because it represents a mainstream of American thought these days.

That "mainstream"—if that is the right word—preaches that the gospel for all of us is the "quick fix." Americans like their problems solved quickly and without any mess. We have come to believe that in the Pepsi generation, all we have to do is find some simple answer and apply it. How I wish it were so. How we all wish it could be so.

Well, new times and new problems call for new thinking. James Reston once wrote that there are dogmas and creeds and practices that are ideally suited to one age, which can be disastrous to another.

And we are seeing today that our old and trusted and respected and dependable economic assumptions, that served us so well for so many years, just don't seem to hold up anymore.

Inflation and unemployment, say the old assumptions, are incompatible.

But today we have both.

Government can fine tune the economy into prosperity with just some tinkering here and there and some budgetary footwork there and here, and we'll get back on the track. Those days, I suspect, are gone forever. As H. L. Mencken once wrote, for every problem, there is one solution, which is simple, neat—and wrong.

Well, I think the American people want to see their government get tough with this problem and lead—lead them out of this economic nightmare. I don't shrink from that responsibility. It is what I was elected to do. It is what I plan to do.

We need more competition in a free marketplace, we need to curb our oil imports and the rising cost of health care, and tougher government action that will tell this monster we call inflation to stay in it's cage.

Specifically, I would offer a four-part plan to fight inflation. I call it "the Udall ladder" approach.

First, I would try "jawboning," the exhortation of voluntary controls and restraints, and try to exercise a little leadership and persuade those in the public and the private sectors to hold the line. Under some Presidents this has had limited success. Bob Strauss, the President's influence fighter, can talk birds out of trees, and he's doing a pretty good job so far.

But "jawboning" has almost always depended on sheer "personality power." And if the President doesn't appear to want to be tough, then I doubt if many of us are going to take his speeches very seriously. As some old philosopher once said, you are likely to get more money with a kind word and a gun than with a kind word alone.

Second on the "Udall ladder" . . . if

friendly persuasion doesn't seem to be getting the job done . . . would be to move on to give the government the authority to order delays in both price and wage increases, to allow for a "cooling-off" period, to give us in the government, as the voice of the people, time to let them know what we consider reasonable . . . and what we consider unreasonable. And again, to try to "jawbone" them back to a fair level. All this would give us some "breathing time." And in some cases, I think it could be effective.

Third on the "Udall ladder," if step number two turns out to be less than strong medicine, is to begin a major reform of the tax system to induce noninflationary behavior by both business and labor. I'm not talking about controls, but incentives. And by sharpening the focus of an incomes policy, we can avoid an administrative jungle. The machinery is self-operating.

This particular approach would also allow prices and wages to play their proper role in allocating resources to their best and most efficient uses. A tax-based incentives policy also holds the hope of a minimum of government interference.

It would function much the same as the investment tax credit encourages business to spend money on new plants and equipment without requiring government planners to tell them when or how or where to do it. Such a policy need not be unfair to either labor or business.

Admittedly, given the rate of inflation at the moment, getting a productivity guideline back to a reasonable level will take some time. In the year or two ahead, a wage guideline might begin at 5 per cent, and then come down by 1 per cent a year until the guideline reaches 3 per cent per year. That would insure reasonable price stability.

To get there, our biggest corporations would be provided with a tax incentive leading them to make wage settlements at the guideline level, or with disincentives leading them not to settle above a certain level.

Wages and other compensation, which constitutes about 75 per cent of our Gross National Product and are the main factors in prices, should be held to productivity guidelines.

And a word here about organized labor, which plays a central role in the "markup and catch-up" game—a noninflationary incomes policy will require that wage gains be held to the rate of growth of national productivity. Some large unions have enough power to insulate themselves from market forces. And no tough anti-inflation program can leave anybody out—including George Meany.

The guidelines I referred to might not result in an explosion of profits, but they might stop the wage-price spiral which has only further eroded profits.

There are different ways of providing tax incentives or disincentives. One is to disallow corporate income tax deductions for any excess wage increases or by raising the corporate income tax.

All of this, of course, must be coupled with a sound fiscal and monetary policy, and I think an effective incomes policy could stop the need for "lurches" aimed at stopping inflation, which primarily affect the job market and only worsen inflation.

My fourth rung on the "Udall ladder" would be, in an extremely reluctant way, to consider wage and price controls, which I have, frankly, very little faith in. They worked well during World War II when we had 15 million people out of the labor force and in the armed services, but usually, over an extended period of time, their record is not good. I do not like controls of this sort. I like the free marketplace and good and strong and healthy competition. But if all else is a colossal failure, and we're facing the prospect of still higher and higher inflation and an economy that is still steamrolling toward Armageddon. . . then what is left?

I honestly believe that a tax-based incomes policy, starting at first with only the 2,000 largest companies that really set the pace in our economy, could do the job. I'm not saying it will be without flaws.

And if it is to work, government must be evenhanded in its approach. If we make politically expedient exceptions, then the program would lose credibility.

And it should apply just as evenhandedly to appropriations in the national budget as to "tax cuts"—those special breaks for special interest groups that always end up costing other taxpayers more money and drive the federal budget into a deeper deficit.

Inflation often takes on the appearance of having resulted from a series of "accidents"—an increase in wages here, an increase in prices there, a drop in the dollar—but what is really happening is that we have come dangerously close now to a game of "threat and bluff" among pressure groups. And the ante is always raised by one group working against the other.

But the game is a ruinous one. No one wins, everybody loses. Not just the powerless or the poor or the jobless or the ill or the aged, but for all of us. In the end, it is ruinous for our entire society.

Inflation has to be stopped. And if we need to change the rules, then let's get on with the job. The American people want a disciplined Congress and some tough leadership because this is a tough problem. It goes way beyond any liberal or conservative philosophy.

In closing, let me swing back to Howard Jarvis' Proposition 13 for a moment . . . because it has received a line or two of coverage in the press as of late. I'm sympathetic to what the people of California faced, and I'm sympathetic to what people in the Second Congressional District face in the way of property taxes.

But we all know, just as sure as the sun will rise tomorrow, that these approaches, while gaining some temporary relief for homeowners, also hold the promise of some rather volatile backfires that come with such meat-ax solutions.

There seems to be a genuinely contradictory mood at large these days. On the one hand, as in California, it says, "I'm ready to cut my taxes," but on the other, according to a recent newsweek poll conducted by George Gallup, it says, "Don't cut my services."

When I say "services," I'm not just talking about social services. I'm talking about fire departments, police departments, and sanitation and the vital day-to-day functions of local government.

Back in my office in Washington, I have a letter from a constituent, a good, reasonable man, who wrote: "Congressman Udall, I think the current federal budget is fiscally irresponsible. . . . you have to bring it under control." In the second paragraph, he said a proposed 10 percent cut in a program that affected him—an agricultural program—was "unconscionable."

In one swoop, the man demanded that inflationary spending be curbed, and that it also be continued. Well, we've had a lot of new spending programs in the last few years. Not one of them was dreamed up by me. Each was a response to people's lobbying—for health, veterans, education, the handicapped, by defense contractors—in fact, everybody in this room probably has at least one program that they would argue is indispensable and should not be cut, let alone done away with altogether.

So far this year, I have received letters from more than 60 different groups, local governments, agencies and others, many from right here in Arizona, all asking for millions and millions of dollars more than they were granted last year for one or another projects.

All I'm saying is that if we really want to bite the bullet, then we may expect to go without a visit to the dentist for a while.

We just can't have it both ways.●

THE SMALL BUSINESS GOVERNMENT CONTRACTING REFORM ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 10 minutes.

● Mr. DRINAN. Mr. Speaker, 1 year ago today the Small Business Government Contracting Reform Act of 1977, H.R. 9321, was introduced in the House of Representatives. This bill, the product of efforts by Mr. REUSS, Mr. BEDELL, and myself, would provide necessary assistance to small business concerns in order that they will be able to fairly compete with large corporations for Government contracts.

Subsequent to its introduction, H.R. 9321 has acquired the following 89 cosponsors, which include 12 members of the House Small Business Committee:

Mr. Akaka, Mr. Andrews, Mr. AuCoin, Mr. Baldus, Mr. Bedell, Mr. Benjamin, Mr. Blanchard, Mr. Blouin, Mr. Bonker, Mr. Brademas, Mr. Brown, Mr. Carr, Mr. Cederberg, Mr. Cohen, Mr. Conte, Mr. Cornell, Mr. Cornwell, Mr. Corrada, Mr. D'Amours, Mr. Duncan, Mr. Edgar, Mr. Edwards, Mr. Eilberg, Mr. Ertel, Mr. Fascell, Ms. Fenwick, Mr. Fithian, Mr. Fowler, Mr. Fraser, Mr. Garcia, Mr. Gephardt, Mr. Glickman, Mr. Harrington, Ms. Holtzman.

Mr. Huckaby, Mr. Hughes, Mr. Kastenmeier, Ms. Keys, Mr. Kildee, Mr. Leach, Mr. Lederer, Mr. Le Fante, Mr. Lloyd, Ms. Lloyd, Mr. Luken Mr. Lundine, Mr. Marks, Mr. Mazzoli, Mr. McHugh, Ms. Meyner, Ms. Mikulski, Mr. Mikva, Mr. Mineta, Mr. Mitchell, Mr. Moffett, Mr. Moss, Mr. Mottl, Mr. Neal, Mr. Nolan, Mr. Nowak, Ms. Oakar, Mr. Ottinger.

Mr. Panetta, Mr. Paterson, Mr. Pattison, Mr. Pease, Mr. Pepper, Mr. Rahall, Mr. Rangel, Mr. Reuss, Mr. Richmond, Mr. Rose, Mr. Ryan, Mr. Santini, Mr. Schroeder, Mr. Selberling, Mr. Sharp, Mr. Simon, Mr. Skelton, Ms. Spellman, Mr. Steers, Mr. Stokes, Mr. Studds, Mr. Thompson, Mr. Tsongas, Mr. Walgren, Mr. Watkins, Mr. Weiss, Mr. Wilson.

Also, the bill has been endorsed by the National Small Business Association (NSB), the American Association of Small Research Companies, the Smaller Business Association of New England (SBANE), and the Council of Smaller Enterprises (COSE). These members and organizations have recognized that H.R. 9321 will provide a much-needed and long-overdue reform.

On October 28 of last year, Senators NELSON and HATHAWAY, chairmen of the Select Committee on Small Business and the Subcommittee on Government Procurement, respectively, introduced the Small Business Procurement Expansion and Simplification Act of 1977, S. 2259, legislation very similar to ours. In February, testimony before Senator HATHAWAY's subcommittee indicated the extent to which small businesses are losing faith in the Government as a customer, due to callous indifference and neglect on the part of the procuring agencies. The Small Business Government Contracting Reform Act of 1978

will reverse this trend by mandating several changes in the present relationship between small businesses and the Government.

A common problem confronting small businesses is the massive amount and unrealistic complexity of paperwork involved in bidding for Government contracts. H.R. 9321 would require simplification of the bid specification process, including both plain-English summaries of relevant statutes and regulations, and the identification of an agency employee available to answer small business questions relating to each Federal contract under $100,000. Clear legal citations would be required for all contracts over that amount.

Even the most concise and straightforward of bid sets is useless, however, if the information is never received, or if it is received too late for the formulation of a bid. It is not uncommon for small firms to find that time has already run out on them for a bid set request, even though they had just received the agency's information from the official Commerce Business Daily (CBD). While large corporations are able to prepare a bid based on precise information from their Washington offices well in advance of specified deadlines, the small firm must rely on either the CBD or sporadic agency notices. In some situations, hard copies of bid specifications have simply been unavailable to small concerns. H.R. 9321 provides for a minimum 30-day bidding period on all nonemergency Government procurement contracts. Further, small business set-asides shall be listed clearly in the CBD, and efforts shall be made by each agency to notify a firm of each relevant contract or subcontract available in the company's stated areas of interest.

If a small business does manage to enter into a contract with the Government, the legal fees involved in any dispute with the agency might easily bankrupt the firm. Thus, a small business is too often in a position where it cannot effectively assert its procedural rights when simple and resolvable contract disputes arise. To address this problem, H.R. 9321 will provide arbitration panels as a viable option available to firms and agencies in disagreement.

To further rectify the present disparity by which 8 out of every 10 Government procurement dollars go to big business, the following provisions are also included in H.R. 9321 and deserve thorough consideration by Congress.

First, each Federal agency shall establish ambitious but realistic goals for small business involvement in Government contracting. These goals will be determined by the agency administrator after consultation with the Small Business Administration (SBA), and shall be used in the analysis of each agency's compliance with this legislation.

Second, an employee of the SBA shall be appointed to each agency with "watchdog"-liaison status. This person will oversee the specific agency's compliance with set-aside programs, and assure strict compliance with the procedural guarantees of this legislation to insure that small businesses are given a fair break. Further, this SBA representative shall provide information and assistance to small business concerns with respect to Government procurement contracts offered by that agency and shall give quarterly reports on these matters to the SBA.

Third, all low bidders must demonstrate that small businesses are included in the subcontracting plan to the maximum practical degree and any geographical limitations on bidding must be clearly justified.

Finally, a Small Business Procurement Advisory Committee shall be established in order to further the interests of small business through periodic recommendations to the Congress and SBA. This committee, appointed by the SBA administrator, will advise the SBA and Congress on Government dealings with small businesses, will make annual reports on the subject, and will recommend any additional measures needed to protect small businesses in their contractual relations with the Government.

Each of these reforms can be directly traced to a substantive need of small firms. As I noted in my detailed statement to the House on September 15, 1977, the small businesses of America ask only for a fighting chance in a fair competition, not for charity or subsidies. At a minimum cost, H.R. 9321 will insure for small firms the access, information, and equity which they are presently denied. This commonsense bill will open the door to millions of dollars through Government procurement contracts for thousands of small businesses. Because smaller firms can often produce goods and services more economically than their giant competitors, this bill promises to yield long-run and long-lasting benefits for all Americans.

Since the time that this bill was introduced, the argument in favor of its prompt passage has only grown stronger. Although small businesses employ some 44 percent of our workforce, account for 43 percent of the gross national product, and are considered responsible for at least half of all innovations and inventions in U.S. commerce, their goods and services comprised only 20.2 percent of the total procurements of the Department of Defense, the nation's largest purchaser, in the last fiscal year. In fiscal year 1977, the Energy Research and Development Administration (ERDA) and the National Aeronautics and Space Administration (NASA) awarded only 13.6 and 8.9 percent, respectively, of their contract dollars to small businesses. Overall, out of 67.9 billion dollars spent by the Federal Government on goods and services in fiscal year 1977, only $16 billion dollars, or 23.6 percent, went to small businesses.

Mr. Speaker, America's small businesses, which are the economic backbone of many of our cities and towns, are efficient, innovative, reliable, and excel in the caliber of their work. I anticipate that by the end of the summer both H.R. 9321 and S. 2259 will be reported favorably by committee to their respective chambers. Today, I urge those Representatives who have yet to consider the Small Business Government Contracting Reform Act to examine the bill on its merits and join me in its support.

For the convenience of my colleagues, a text of H.R. 9321 follows:

H.R. 9321

A bill to provide additional assistance to small business concerns in acquiring procurement information and contracts from the United States

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Small Business Government Contracting Reform Act of 1977".

PURPOSES

SEC. 2. The purposes of this Act are—

(1) to simplify the contracting procedures of the United States which relate to small business;

(2) to provide additional statutory protection to insure that a fair proportion of Government procurement contracts is let to small business concerns;

(3) to establish arbitration panels to solve problems arising from the dealings of small business concerns with Federal agencies having procurement authority; and

(4) to establish a Small Business Procurement Advisory Committee to provide better representation for small business concerns to the Congress and to the Small Business Administration.

SIMPLIFICATION OF GOVERNMENT CONTRACTING PROCEDURES

SEC. 3. (a) Except as provided in subsection (b), with respect to any Federal agency having procurement authority, the head of such agency shall—

(1) in the case of any Government procurement contract to be let by such agency which may not exceed $100,000 provide to any small business concern on its request—

(A) a copy of bid sets and specifications with respect to such contract;

(B) a copy and summary of each major Federal law or agency rules with which such concern must comply in performing such contract, including Federal laws and agency rules relating to environmental impact statements, air and water cleanliness requirements, and occupational and safety requirements; and

(C) the name and telephone number of an employee of such agency to answer questions with respect to such contract; and

(2) in the case of any Government procurement contract to be let by such agency which may exceed $100,000, provide to any small business concern on its request—

(A) a copy of bid sets and specifications with respect to such contract; and

(B) adequate citations to each major Federal law or agency rule (as described in paragraph (1)(B)) with which such concern must comply in performing such contract.

(b) Subsection (a) shall not apply to any contract—

(1) which is for services which are personal in nature; or

(2) which, including all subcontracts under such contract, will be performed entirely outside any State, territory, or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(c) Documents and information required to be provided under subsection (a) shall be supplied, to the extent practicable, at the local level.

SOLICITATION AND AWARD LIMITATIONS

SEC. 4. (a) Except as provided in subsection (b), any Government procurement contract with respect to which a notice for bidding is published in the Commerce Busi-

ness Daily shall be open for bidding until the later of—

(1) the end of a thirty-day period beginning on the date such notice is so published, or

(2) the date stated in such notice as the closing date for such bidding.

(b)(1) Subsection (a) shall not apply to any Government procurement contract to be let by any Federal agency with respect to which the head of such agency personally determines that emergency circumstances prevent compliance with such subsection.

(2) Subsection (a)(2) shall not apply to any Government procurement contract with respect to which an amended notice for bidding is published in the Commerce Business Daily not later than fifteen days before the closing date for bidding stated in such amended notice.

(c) In the case of any Government procurement contract with respect to which a notice for bidding is published in the Commerce Business Daily—

(A) if such bidding is limited to only one person, such notice shall specify the law or rule under the authority of which such bidding is so limited; and

(B) if such bidding is limited to persons located in a certain region of the United States, such notice shall state the basis for so limiting such bidding.

(d) The Secretary of Commerce shall take such steps as may be necessary in order that all Government procurement contracts set aside for small business concerns under section 15 of the Small Business Act, and all awards of contracts to small business concerns, are published in a timely manner in the Commerce Business Daily.

(e) The Secretary of Commerce shall study the feasibility of, and to the extent practicable implement, the notification to any small business concern, on request of such concern, of all Government procurement contracts on which, or on any subcontract of which, such concern may bid.

GOVERNMENT CONTRACT ARBITRATION PANELS

SEC. 5. There is hereby established in the Small Business Administration such Government contract arbitration panels as the Administrator deems appropriate. Such panels shall provide an opportunity for resolving disputes between any small business concern and any Federal agency having procurement authority concerning any Government procurement contract which is let to such concern or which may be let to any such concern. Use of such panels shall be voluntary, and decisions of such panels shall be binding only to the extent that such concern and agency agree that such decisions are binding.

INCENTIVES FOR SMALL BUSINESS SUBCONTRACTING

SEC. 6. (a) Before the award of any Government procurement contract described in section 3(a)(2), the apparent low responsive bidder on such contract shall submit to the Federal agency letting such contract a small business concern subcontracting plan. Such plan shall describe the type and percentage of work under such contract which such bidder expects to be performed by small business concerns. Such plan and the bidder's compliance with other such plans under other contracts shall be considered by the head of such agency in determining the responsibility of such bidder for the award of such contract.

(b) No Government procurement contract shall be awarded to any bidder unless the head of the agency letting such contract determines that the small business concern subcontracting plan submitted under subsection (a) provides the maximum practicable opportunity for small business concerns to participate in the performance of such contract.

SMALL BUSINESS PARTICIPATION GOALS

SEC. 7. The head of each Federal agency having procurement authority shall, after consultation with the Administrator, establish goals for the participation of small business concerns in Government procurement contracts let by such agency. Such goals shall reflect realistically the potential of such concerns to perform such contracts and to perform subcontracts of such contracts.

SMALL BUSINESS REPRESENTATIVES IN FEDERAL AGENCIES

SEC. 8. An employee of the Small Business Administration shall be assigned by the Administrator to each Federal agency having procurement authority. Such employee shall—

(1) monitor the compliance of such agency with the small business set-aside program pursuant to section 15 of the Small Business Act;

(2) provide information and assistance to small business concerns with respect to Government procurement contracts let or to be let by such agency; and

(3) report to the Administration at the close of each calendar quarter on—

(A) the aggregate number and dollar amount of all such contracts awarded by such agency to such concerns during such quarter, and the percentages which such number and amount represent in relation to the aggregate number and dollar amount of all such contracts awarded by such agency, respectively; and

(B) the aggregate number and dollar amount of such contracts which such agency set aside for small business concerns pursuant to section 15 of the Small Business Act, and the percentages which such number and amount represent in relation to the aggregate number and dollar amount of all such contracts awarded by such agency, respectively.

SMALL BUSINESS PROCUREMENT ADVISORY COMMITTEE

SEC. 9. (a) There is hereby established the Small Business Procurement Advisory Committee to be composed of thirteen members appointed by the Administrator. The Committee shall advise the Administrator and the Congress on matters relating to Government procurement contracts awarded to, or set aside for, small business concerns.

(b)(1) Any vacancy in the Committee shall be filled in the manner in which the original appointment was made.

(2) Members of the Committee shall, while away from their homes or regular places of business in the performance of services for the Committee, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703(b) of title 5, United States Code.

(c) At the close of each calendar year, the Committee shall submit a report to the Administrator and to the Congress on its activities during such year. Such report also shall contain recommendations for new Federal legislation or agency rules which the Committee determines will improve the participation of small business concerns in the performance of Government procurement contracts.

DEFINITIONS

SEC. 10. For purposes of this Act—

(1) the term "Administrator" means the Administrator of the Small Business Administration;

(2) the term "Committee" means the Small Business Procurement Advisory Committee established by section 9;

(3) the term "Federal agency" has the meaning given the term "agency" by section 551(1) of title 5, United States Code; and

(4) the term "Government procurement contract" means any contract for the procurement of any good or service by any Federal agency.●

SUSAN B. ANTHONY COIN ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. OAKAR) is recognized for 5 minutes.

● Ms. OAKAR. Mr. Speaker, I am reintroducing my bill, the Susan B. Anthony Coin Act of 1978. We now have 50 cosponsors of the bill. This is a very important bill, Mr. Speaker, as it proposes to place, for the first time, the portrait of a woman who actually lived, on our circulating coinage.

The U.S. Treasury has proposed to place on the new dollar coin the portrait of Miss Liberty, a mythical figure which graced some of our 19th-century coinage. The rationale is that all women could identify with this portrait.

But, I would like to respond to this by saying that there is one issue which I am sure the greater majority of American women can truly identify—that is the right to express ourselves at the ballot box—the right to vote. Susan B. Anthony's pursuit of our democratic right to vote as truly being a right of everyone, regardless of sex, is perhaps the most fundamental step in our women's movement and our country's quest for equality and human rights. It is a step that still merits a tremendous debt of gratitude on the part of men and women today because this woman, with such undaunting courage, lived her life for this single-minded purpose that is so basic to the very fiber of our democratic system.

It would be a very special honor to have Susan B. Anthony's portrait placed on the new dollar coin. By doing so, we honor all Americans who cherish their democracy and their liberty—which has as its fundamental concept, the right to vote.

H.R. 13485

A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Susan B. Anthony Dollar Coin Act of 1978".

SEC. 2. Section 101(c)(1) of the Coinage Act of 1965, as amended (31 U.S.C. 391(c)(1)), is amended by striking out "1.500" and inserting in lieu thereof "1.043" and by striking out "22.68" and inserting in lieu thereof "8.5".

SEC. 3. (a) The one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, shall bear on the obverse side the likeness of Susan B. Anthony.

(b) Subject to subsection (a) and the limitations contained in section 3517 of the Revised Statutes, as amended (31 U.S.C. 324), the Secretary of the Treasury may prescribe such design for the one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, as he deems appropriate.

SEC. 4. Section 203 of the Act of December 31, 1970 (31 U.S.C. 324b), is amended by striking out "initially" and by inserting "(d)" after "section 101".

SEC. 5. Until January 1, 1979, the Secretary

of the Treasury may continue to mint and issue one-dollar coins authorized under section 101(c)(1) of the Coinage Act of 1965, as such section was in effect immediately prior to the date of enactment of this Act.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. NEAL) is recognized for 5 minutes.

● Mr. NEAL. Mr. Speaker, on Wednesday evening, June 14, I was away from the Capitol for about 2 hours. Several months earlier, I had made a commitment, not knowing that far in advance that the House would be in session late into the night. It was a commitment that I could not break, and I express my regret at having missed a small portion of that evening's debate.

While away from the Capitol, I missed two rollcalls. The first was on final passage of State-Justice-Commerce appropriations; the second on an amendment to reduce legislative appropriations not required by law by 5 percent. Although my vote was not crucial—both measures passed by substantial margins—I regret having missed the opportunity to join my colleagues in making these wise choices. Had I been present, I would have voted "aye" on both questions.●

"DESEGREGATION EXPERT BACKS TUITION CREDIT"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. COTTER) is recognized for 10 minutes.

● Mr. COTTER. Mr. Speaker, I would like to share with my colleagues the following article from the June 20, 1978, Washington Post, which quotes desegregation expert James S. Coleman as supporting a tuition tax credit for elementary and secondary schoolchildren.

Professor Coleman effectively argues that rather than hurting minority families, the tuition tax credit will actually benefit lower income groups and increase the range of choice for poor students.

DESEGREGATION EXPERT BACKS TUITION CREDIT

(By Lawrence Feinberg)

Sociologist James S. Coleman, who headed a massive influential study favoring school desegregation in the mid-1960s, yesterday strongly supported a tuition tax credit to aid parents of private and parochial school pupils.

Coleman, a professor at the University of Chicago, said he favors the tax credit—which has been voted by the House but is bitterly opposed by the Carter administration—because it would "increase the range of choice of low-income black parents."

Particularly in big cities, Coleman said, where large-scale public school desegregation is unlikely, a tax credit "would increase the opportunity of black parents to escape from schools that they think hurt their children."

Opponents of the measure have contended it would promote segregation, hurt public schools and mainly benefit middle- and upper-income groups.

But Coleman said that because of the relatively modest size of the proposed credit, $100 to $500 per student, "the principal effect would be on lower-income families" sending their children to relatively low-priced schools

He said "a very large number of black children" already attend low-tuition Catholic schools in big cities, such as Chicago, New York and Washington, with generally positive educational results.

Coleman spoke at a forum on desegregation attended by about 60 persons at Georgetown Day School, 4530 MacArthur Blvd., NW. The forum was sponsored by the Black Student Fund, which during the past decade has aided more than a thousand black students to attend private schools in the Washington area.

He was introduced warmly by Alice M. Rivlin, director of the Congressional Budget Office, who later asked him to deal with the "accusation" that programs to help blacks attend private schools are "detrimental" to public education.

"That's not a valid argument," Coleman rejoined. "Anything that allows for an individual to have greater opportunity can't be bad for the country."

Besides favoring a tuition credit on federal income taxes, Coleman said he supported proposals to give vouchers to parents to use for tuition at public or private schools.

"Parents and children have a better sense of what's a good school context for them," Coleman said, "than do professionals who must deal with a very large number of children. I trust the parents and children more than the professionals.

"I think the stronger the private schools are the better it will be for the public schools because the public schools will be forced to be better to stay in business."

Overall, Coleman said, school desegregation since 1954 has had "no effect" on educational achievement of black students.

"In the absence of turmoil," Coleman said, "there seems to be an achievement increase." But so far, he said, this has been counterbalanced by reduced black achievement in places where desegregation was accompanied by conflict and fear and "distraction from study."

In general, he said, integration has been most successful in well-disciplined schools headed by strong principals.

Coleman stressed that the main finding of his 1966 report, issued by the U.S. Office of Education, was that black students had higher achievement in mostly white schools not because of the skin color of their classmates but because of the middle-class background and "educational resources" that the white children brought from home.

"Increasingly, class is less correlated with race than it was 10 years ago," Coleman said.

Widespread desegregation, he said, has been "enormously beneficial" to the South by aiding its transformation from a backward region to a thriving "Sun Belt."

But he repeated his view, which has attracted controversy for the past three years, that desegregation program requiring "instant racial balance" through compulsory busing have caused "very serious harm" by speeding the exodus of whites from big cities.●

FED CHIEF SAYS ROTH-KEMP PROPOSAL WOULD ENGENDER ADDITIONAL INFLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 10 minutes.

● Mr. VANIK. Mr. Speaker, considerable attention has been directed to the feasibility of the Roth-Kemp proposal. In the past several weeks I have tried to provide information as to the effects this proposal would have on the Treasury, the deficit, and the public debt of the United States.

Following is a letter I have received from Chairman G. William Miller of the Board of Governors of the Federal Reserve Board which responds to this issue.

BOARD OF GOVERNORS OF THE
FEDERAL RESERVE SYSTEM,
Washington, D.C., July 10, 1978.

Hon. CHARLES A. VANIK,
House of Representatives,
Washington, D.C.

DEAR MR. VANIK: Thank you for your recent letter requesting an assessment of the Kemp-Roth proposal which calls for a 30 per cent cut in individual income tax rates, implemented over a three-year period, as well as reductions in corporate income taxes.

Estimates prepared by the Treasury Department suggest that the initial direct effect on Federal tax receipts would be a revenue decline of about $17 billion in fiscal year 1979, about $52 billion in fiscal year 1980, and about $97 billion in fiscal year 1981. These estimates of direct impact appear to be reasonable, but they need to be tempered by the effects of a rising revenue base that results from the increase in economic activity induced by the tax cut.

Precise estimates for this return flow of receipts are difficult to prepare. Under normal circumstances, however, it would be quite unlikely for these induced receipts to match or to exceed the initial losses of revenues that are the direct consequence of the tax cut. As an example, consider the possibility that the direct tax cut, after a year or so, might lead to increases in private spending as much as twice as large as the size of the tax cut. Roughly a quarter of this increase in incomes would flow back to the Federal Government in the form of taxes. According to these assumptions, the flow-back of revenues would offset about half of the direct revenue loss.

Some economists have stressed that a tax cut not only increases personal spending power, but also the after-tax rewards to work and investment. Thus, persons might seek to work longer hours and businesses might make additional investments. These incentive effects are desirable, but it is doubtful that they would be large enough over a period of a few years to change substantially the type of estimate given in the preceding paragraph.

The Kemp-Roth proposal, therefore, would tend to result in a net decrease in Federal revenues, an increase in the Federal deficit, and an increase in private incomes and spending. If Federal spending at the same time were cut back to eliminate the increase in the Federal deficit, these combined actions might not be inflationary. The tax proposal by itself, however, would engender additional inflation. Resources of skilled labor and up-to-date industrial equipment are now not as plentiful as they were in the earlier stages of the economic expansion that began in 1975. The additional private demands that would tend to follow large tax cuts would result in a further absorption of slack resources and thus would lead to additional price and wage increases.

Much as I would welcome a reduction in taxes and better incentives for work, productivity and investment, I also believe that the size of any tax cut needs to be balanced by programs that curtail the growth of Federal spending, reduce the deficit, and ease inflationary pressures.

Sincerely,

BILL.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ASHBROOK, through Friday, July 21, on account of business away from Washington.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARLENEE) to revise and extend their remarks and include extraneous matter:)

Mr. COLLINS of Texas, for 20 minutes, today.

Mr. KEMP, for 30 minutes, today.

Mr. JEFFORDS, for 15 minutes, today.

Mr. GREEN, for 10 minutes, today.

(The following Members (at the request of Mr. SKELTON) and to revise and extend their remarks and include extraneous matter:)

Mr. ST GERMAIN, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. UDALL, for 10 minutes, today.

Mr. DRINAN, for 10 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Ms. OAKAR, for 5 minutes, today.

Mr. NEAL, for 5 minutes, today.

Mr. LONG of Louisiana, for 5 minutes, today.

Mr. COTTER, for 10 minutes, today.

Mr. VANIK, for 10 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. REUSS, and to include extraneous matter notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,478.25.

(The following Members (at the request of Mr. MARLENEE) and to include extraneous matter:)

Mr. GILMAN.

Mr. SYMMS.

Mr. EMERY.

Mr. DORNAN in two instances.

Mr. KEMP.

Mr. MICHEL.

Mr. LENT in two instances.

Mr. MARKS.

Mr. PURSELL.

Mr. MCCLORY.

Mr. MCKINNEY.

Mr. LAGOMARSINO.

Mr. DERWINSKI.

(The following Members (at the request of Mr. SKELTON) and to include extraneous matter:)

Mr. ST GERMAIN in two instances.

Mr. MOTTL.

Mr. DE LUGO.

Mr. LEHMAN.

Mr. BENNETT.

Mr. LONG of Maryland.

Mr. GONZALEZ in three instances.

Mr. ANDERSON of California in three instances.

Mr. DODD.

Mr. HARKIN.

Mr. MCCORMACK.

Mr. BRECKINRIDGE.

Mr. JACOBS.

Mr. ZABLOCKI in two instances.

Mr. RONCALIO in six instances.

Mr. OBERSTAR.

Mr. ROYBAL.

Mr. BEARD of Rhode Island.

ADJOURNMENT

Mr. SKELTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 3 o'clock and 12 minutes p.m.), under its previous order, the House adjourned until Monday, July 17, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4577. A letter from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 10, United States Code, to abolish the Women's Army Corps, and for other purposes; to the Committee on Armed Services.

4578. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-214, "to establish a home purchase assistance fund in the District of Columbia, and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4579. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2-215, "To provide for the administrative adjudication of certain traffic offenses within the Department of Transportation, for the civilian enforcement of parking infractions, and for other purposes," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4580. A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to establish the position of Deputy Secretary of Health, Education, and Welfare; to the Committee on Post Office and Civil Service.

4581. A letter from the Administrator, U.S. Environmental Protection Agency, transmitting a report on the planning and management of the Environmental Protection Agency's research and development activities, pursuant to section 7(c) of Public Law 95-155; to the Committee on Science and Technology.

4582. A letter from the Comptroller General of the United States, transmitting a report on the counterproductive aspects of the lengthy regulatory review process for liquefied natural gas importation proposals (ID-78-17, July 14, 1978); jointly, to the Committees on Government Operations, Interstate and Foreign Commerce, and Ways and Means.

4583. A letter from the Comptroller General of the United States, transmitting a report on the problems in obtaining objective, valid, and timely evaluation information on Law Enforcement Assistance Administration delinquency and crime prevention programs (GGD-77-72 and 72A, July 14, 1978); jointly, to the Committees on Government Operations, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. Pursuant to section 302 of the Congressional Budget Act of 1974 (Rept. No. 95-1352). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5044. A bill to suspend until January 3, 1980, a portion of the duties on strontium nitrate; with amendment (Rep. No. 95-1353). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 5265. A bill to provide for the temporary suspension of duty on the importation of fluorspar; with amendment (Rept. No. 95-1354). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 7108. A bill to amend the Tariff Schedules of the United States in order to suspend the duty on Yankee Dryer Cylinder Rolls until the close of December 31, 1977; with amendment (Rept. No. 95-1355). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 8755. A bill to make specific provisions for ball or roller bearing pillow block, flange, take-up, cartridge, and hanger units in the Tariff Schedules of the United States; with amendment (Rept. No. 95-1356). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 9911. A bill to continue until the close of June 30, 1981, the existing suspension of duties on certain forms of zinc; with amendment (Rept. No. 95-1357). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 9628. A bill to suspend until the close of June 30, 1980, the duty on certain nitrocellulose; with amendment (Rept. No. 95-1358). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 10625. A bill to suspend the duty on natural graphite until the close of June 30, 1981; with amendment (Rept. No. 95-1359). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 11409. A bill to extend indefinitely the period during which certain dyeing and tanning materials may be imported free of duty; with amendment (Rept. No. 95-1360). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12165. A bill to extend until the close of June 30, 1981, the existing suspension of duties on certain metal waste and scrap, unwrought metal, and other articles of metal; with amendment (Rept. No. 95-1361). Referred to the Committee of the Whole House on the State of the Union.

Mr. ULLMAN: Committee on Ways and Means. H.R. 12739. A bill to suspend the duty on live worms until the close of June 30, 1981; with amendment (Rept. No. 95-1362). Referred to the Committee of the Whole House on the State of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of rule XII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ULLMAN: Committee on Ways and Means. H.R. 10161. A bill for the relief of Eastern Telephone Supply and Manufacturing, Inc. (Rept. No. 95-1363). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions

were introduced and severally referred as follows:

By Mr. REUSS (by request):

H.R. 13476. A bill to amend the Federal Reserve Act to provide for the maintenance of reserves for certain institutions; to the Committee on Banking, Finance and Urban Affairs.

H.R. 13477. A bill to amend the Federal Reserve Act to authorize the payment of interest on reserve balances; to the Committee on Banking, Finance and Urban Affairs.

Mr. BEARD of Tennessee (for himself, Mr. KINDNESS, Mr. FRENZEL, Mr. KEMP, Mr. ERLENBORN, Mrs. LLOYD of Tennessee, Mr. DAN DANIEL, Mr. BADHAM, Mr. JONES of Tennessee, Mr. DERWINSKI, Mr. EVANS of Georgia, Mr. CHARLES WILSON of Texas, Mr. BURGENER, Mr. CLEVELAND, and Mr. DUNCAN of Tennessee):

H.R. 13478. A bill to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions; to the Committee on Merchant Marine and Fisheries.

By Mr. DELLUMS:

H.R. 13479. A bill to amend the District of Columbia Self-Government and Governmental Reorganization Act to provide for a Federal payment to the District of Columbia for each fiscal year beginning with fiscal year 1979 in an amount equal to 40 percent of the amount of the revenues of the District of Columbia during such year from all sources other than receipts from the United States and general obligation bonds; to the Committee on the District of Columbia.

Mr. SISK (for himself, Mr. MCKAY, Mr. LAGOMARSINO, Mr. ABDNOR, Mr. BADHAM, and Mr. STEED):

H.R. 13480. A bill to amend and supplement the acreage limitation and residency provisions of the Federal reclamation laws, as amended and supplemented, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. EMERY:

H.R. 13481. A bill to name the post office and Federal building in Portland, Maine, the "Federick G. Payne Building"; to the Committee on Public Works and Transportation.

By Mr. FLOWERS:

H.R. 13482. A bill to change the name of the Gainesville Public Use Area being constructed near Warsaw in Sumter County, Ala., to the "S. W. Taylor Memorial Park"; to the Committee on Public Works and Transportation.

By Mr. NEAL (for himself and Mr. LUKEN):

H.R. 13483. A bill to amend the Internal Revenue Code of 1954 to exempt small manufacturers and producers from the excise tax on firearms; to the Committee on Ways and Means.

By Mr. NOLAN (for himself, Mr. BLANCHARD, Mr. BURGENER, Mr. BURKE of Florida, Mr. CORNELL, Mr. GEPHARDT, Mr. HOLLENBECK, Ms. HOLTZMAN, Ms. KEYS, Mr. MARKS, Mrs. MEYNER, Mr. MINETA, Mr. O'BRIEN, Mr. PATTISON of New York, Mr. PRICE, Mr. ROE, Mr. SANTINI, Mrs. SPELLMAN, Mr. STARK, Mr. WATKINS, Mr. WAXMAN, and Mr. Bob Wilson of California):

H.R. 13484. A bill to amend the Internal Revenue Code of 1954 to allow handicapped individuals a deduction for certain transportation expenses; to the Committee on Ways and Means.

By Ms. OAKAR (for herself, Mr. ANNUNZIO, Mr. ST GERMAIN, Mrs. MEYNER, Mrs. BOGGS, Mr. ROUSSELOT, Mr. HYDE, Mr. MCKINNEY, Mr. ASHLEY, and Mr. BLANCHARD):

H.R. 13485. A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the $1 coin, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RHODES:

H.R. 13486. A bill to authorize the Secretary of the Interior and the Secretary of Agriculture to assist local organizations and persons in improving water yield and environmental quality; jointly, to the Committees on Agriculture, and Interior and Insular Affairs.

By Mr. TRIBLE (for himself, Mr. AKAKA, Mr. BLANCHARD, Mr. BROYHILL, Mr. EILBERG, Mr. ENGLISH, Mr. GOODLING, Mr. GUYER, Mr. HUCKABY, Mr. KINDNESS, Mrs. LLOYD of Tennessee, Mrs. MEYNER, Mr. MOAKLEY, Mr. WALKER, Mr. WHITEHURST, Mr. WINN, and Mr. YATRON):

H.R. 13487. A bill to amend the Small Business Act to establish in the Small Business Administration a Small Business Extension Service; to the Committee on Small Business.

By Mr. WAGGONNER (for himself, Mr. FRENZEL, Mr. BURLESON of Texas, Mr. LEDERER, Mr. HOLLAND, Mr. JENKINS, Mr. SCHULZE, Mr. CONABLE, Mr. DUNCAN of Tennessee, Mr. GIBBONS, Mr. ARCHER, Mr. STEIGER, Mr. MARTIN, Mr. CRANE, Mr. GRADISON, Mr. PICKLE, Mr. JONES of Oklahoma, Mr. VANDER JAGT, Mr. BAFALIS, and Mr. ROUSSELOT):

H.R. 13488. A bill to amend the Internal Revenue Code of 1954 with respect to the tax treatment of earned income of U.S. citizens and resident aliens from sources outside the United States, and for other purposes; to the Committee on Ways and Means.

By Mr. WHITTEN:

H.R. 13489. A bill to designate the U.S. Army Engineer Waterways Experiment Station in Vicksburg, Miss., as the Will M. Whittington Waterways Experiment Station; to the Committee on Public Works and Transportation.

By Mr. VOLKMER:

H.J. Res. 1063. Joint resolution extending the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

451. By the SPEAKER: Memorial of the Legislature of the State of California relative to cotton production; to the Committee on Agriculture.

452. Also, memorial of the Senate of the Commonwealth of Massachusetts, requesting that Congress propose an amendment to the Constitution of the United States to establish the rights of the unborn; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. NEAL introduced a bill (H.R. 13490) for the relief of Wake Forest University, Winston-Salem, N.C., which was referred to the Committee on Ways and Means.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

502. By the SPEAKER: Petition of the Grocery Manufacturers of America, Inc., Glenview, Ill., relative to inflation; to the Committee on Banking, Finance and Urban Affairs.

503. Also, petition of the city commission, Hollywood, Fla., relative to cutting the Federal budget by 10 percent, as well as the city's share of Federal funds; to the Committee on Government Operations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1609

By Mr. MARLENEE:

(To the amendment by Mr. UDALL.)

—Insert in section 5, after paragraph (g) the following new section.

(h) The Secretary shall not approve an application for a certification of public convenience and necessity for a coal pipeline for which the operation will be dependent, in whole or in part, on water acquired in any way from an Indian tribe unless the reserved water claimed by the tribe from whom the water is to be secured for the coal pipeline has been quantified by volume.

H.R. 1609

By Mr. WEAVER:

(Amendment to the amendment in the nature of a substitute.)

—Immediately following subsection 5(d)(3) and for subsection 5(d)(4) insert a new Subsection (4) as follows:

"(4) No certificate of public convenience and necessity may be issued to any carrier which controls, is controlled by, or is under common control with any person, association, or corporation which, together with its affiliates, produces, refines, transports or markets at retail a daily worldwide average of at least 1,600,000 barrels of crude oil or the equivalent natural gas or products of petroleum refining if such association or corporation:

"(A) controls mineral deposits in two or more of the following classes:

"(i) coal, including hydrocarbons associated with coal, but excluding coal found as a small fraction of a deposit containing coal and other marketable minerals;

"(ii) oil or natural gas;

"(iii) geothermal steam; and

"(iv) uranium and other fissionable material; or

"(B) engages in two or more of the following:

"(i) owning or controlling deposits of, or producing petroleum or natural gas;

"(ii) refining petroleum;

"(iii) transporting by pipeline petroleum, products of petroleum, or natural gas; or

"(iv) marketing petroleum, products of petroleum refining, or natural gas; or

"(C) enters or participates in a joint venture with any other person, association, or corporation, which, with its affiliates, produces, refines, transports by pipeline, or markets at retail a daily worldwide average of at least one million six hundred thousand barrels of crude oil or the equivalent in natural gas or products of petroleum refining, unless such joint venture has been specifically approved and authorized by the Secretary by notice published in the Federal Register and is operated in accordance with such regulations as the Secretary may promulgate to ensure, protect, and promote competition.

"(2) The Secretary, in consultation with the Federal Trade Commission and the Attorney General, may conduct such hearings and require the submission of such information as he deems necessary to determine

compliance with subsection 5(d)(4) by any such person, association, or corporation.

"(3) For purposes of this subsection—

"(A) the term 'control' includes having or acquiring effective power or influence to deny to others the acquisition or use of a substantial portion of the materials or facility, whether such power or influence is actual or legal, and whether such power or influence may be exercised directly or indirectly, through ownership or control of stock or other securities, through affiliates, through representation on a board of directors or similar body, through interlocking directorates, through election of one or more officers, or through any stockholder, agency, trust, joint venture, lease, or contractual agreement or arrangement, or otherwise, but the fact that a contractual arrangement provides for the supply of all or a portion of the requirements of a person, association, or corporation for a material or a reasonable time period shall not, in itself, be deemed to constitute control. Control shall be presumed to exist whenever any person, association, or corporation owns 10 per centum or more of the outstanding voting securities of another corporation or association.

"(B) the term 'affiliate' means another person, corporation, or association which controls, is controlled by, or is under common control with, such persons, corporation, or association.".

Renumber the subsequent subsections of section 5 accordingly.

H.R. 11392

By Mr. LEVITAS:

(Amendment to the amendment in the nature of a substitute (committee print, June 23, 1978).)

—Page 14, line 23, strike out "subsection" and insert in lieu thereof "subsections".

Page 15, line 17, strike out the quotation marks and the period which follows.

Page 15, after line 17, insert the following new subsection:

"(1)(1) If any hearings are held with respect to any rule, regulation, or order which is issued pursuant to authority vested by law in, or transferred or delegated to, the Commission and the effects of which would directly or indirectly result in a significant increase in the rates or charges paid by any user or users of natural gas or electrical power who are located within any State, the Commission shall, subject to paragraph (2), upon application by any interested party, hold at least one hearing and provide for procedures for the holding of such a hearing within the boundaries of the affected State.

"(2) If the Commission determines that the effects of a rule, regulation, or order described in paragraph (1) would directly or indirectly result in a significant increase in the rates or charges paid by users of natural gas or electrical power who are located within more than two States within a region, the Commission, upon request of any interested party, will hold at least one hearing referred to in paragraph (1) within the region rather than within each of such States.

"(3) The responsibility of conducting a hearing required under this subsection may be delegated by the Commission only to an administrative law judge appointed under section 3105 of title 5, United States Code.

"(4) For the purposes of this subsection, the term "region" means each of the regions established by Office of Management and Budget circular designated A-105, issued April 4, 1974."

H.R. 11392

By Mr. MOORE:

(Amendments to the amendment in the nature of a substitute (committee print, June 23, 1978).)

—Page 9, after line 10, insert the following subsection:

(c) No funds authorized to be appropriated pursuant to this Act may be expended to carry out the provisions of any amendment to the regulation of the Department of Energy (10 C.F.R. 211) issued for the purpose of reducing disparities in the cost to the refiners in acquiring crude oil if the purpose or effect of such amendment is to require the transfer of funds from any domestic refiner to offset the acquisition cost, or result in any other form of subsidization, of imported residual fuel oil to an extent greater than that provided under such regulation as it was in effect on May 1, 1978.

—Page 16, after line 11, insert the following new subsection:

(g) Section 501 of the Department of Energy Organization Act (42 U.S.C. 7191) is amended by adding at the end thereof the following new subsection:

"(h)(1) In the case of any regulation promulgated pursuant to authority vested by law in, or transferred or delegated to, the Secretary, or required by this Act to be carried out by any other officer, employee, or component of the Department (other than the Commission), the person promulgating the regulation pursuant to such authority shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Such regulation shall not become effective if within 60 calendar days of continuous session of the Congress after the date of promulgation of the regulation, either House of Congress adopts a resolution, the matter after the resolving clause of which is as follows: "That the disapproves the regulation promulgated by dealing with the matter of which regulation was transmitted to Congress on ." the blank spaces therein being appropriately filled.

"(2) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule or regulation involved.

"(3) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of 60 calendar days of continuous session of Congress.

"(4) The provisions of this subsection shall apply notwithstanding any other provision of this Act;

except that the provisions of this subsection shall not apply with respect to the promulgation of any regulation the effectivness of which, under any other provision of law, is conditioned on the approval or concurrence of one or both Houses of the Congress, or the effectiveness of which is subject to the disapproval of one or both Houses of the Congress.

"(5) For purposes of this subsection the term 'regulation' means any rule, regulation, or amendment thereto.

"(6) The amendments made in this section shall apply to any regulation of the Department of Energy which has not become final prior to the date of enactment of this section."

H.R. 12931

By Mr. MILLER of California:

—Page 13, immediately after line 16, insert the following new section:

SEC. 116. Funds appropriated or made available pursuant to this act for international narcotics control shall not be used for the eradication of marihuana through the use of the herbicide paraquat.

H.R. 12931

By Mr. WAXMAN:

—Page 13, immediately after line 16, insert the following new section:

SEC. 116. Funds appropriated or made available pursuant to this act for international narcotics control shall not be used for the eradication of marihuana through the use of the herbicide paraquat.

EXTENSIONS OF REMARKS

LET'S THROW A PARTY

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. BADHAM. Mr. Speaker, I think my colleagues should be interested in this article written by Jim Murray in the Los Angeles Times which is demonstrative of the attitude of many Californians.

[From the Los Angeles Times, June 6, 1978]

LET'S THROW A PARTY

(By Jim Murray)

If anyone can explain to me why the United States of America can't put on an Olympic Games, I wish he'd do it.

Here's a country that can pour billions into an Asiatic war, can prop up governments in remote corners of the world with taxpayers' dollars, can subsidize the regrowth of Europe but gets hysterical at the thought of running a lousy little sports carnival for its own people.

We're turning into a nation of damp Ebenezer Scrooges. Thank God the kind of people around to day weren't around in 1492. "What's that, Mr. Columbus? You're going to sail in what to where? Humbug! A waste of the people's money! You're not going to sail off in search of the riches of the New World. You're going to stay right here in Genoa and use that money to build dog pounds!"

What's wrong with having a little athletic festival in August of 1984? Do you believe the politicians are going to put that money to better use? Sure they are! And I'm the Easter Bunny.

It's really funny. Countries we propped up through the Marshall Plan, nations we put back on their feet, have staged Olympic Games. Britain had them in 1948—on tracks made of the crushed brick from the Blitz. Finland had them. Australia. Italy. Japan. Mexico. Germany. Canada. They all had them. But this nation harkens to a bunch of penny pinching bluenoses, self-righteous guardians of the public purse. Frankly, they make me sick. Good Lord, Russia is going to have an Olympics! But not us. We're going to build diamond lanes instead.

I'm kind of ashamed. I thought Colorado was kind of bush league when it welshed on the 1976 Winter Olympics, and not only threw the Games out and back to Austria, but also elected a governor who got them thrown out. Our heroes are party poopers today.

I don't know what kind of hokey rules provide that the city of Los Angeles alone ante it up for the Olympic Games. It's an

American rite, too. What's the matter, are we too good for the rest of the world? Why can't those characters in Washington throw a little of our money our way for a change? How can they sit there and yawn while the Soviet Union puts on an Olympic Games, and our TV networks throw $80 million their way? What the hell's wrong with a little track meet? We'll probably spend more money that week spying on Chile.

You got to throw a party once in a while or you die of boredom. I'll never forget 1932 when I was a litle kid, and the boy who sat in front of me in school turned around one day and announced that his grandfather was going to take him to the Chicago World Fair. We were all in awe. Here we all had hand-me-down sweaters, darned socks, peanut-butter sandwiches for lunch. Life was a total drag. And here this guy was going to take his grandson clear to Chicago to a fairyland world.

That same year a funny little place way out west called "Los Angeles" was staging an Olympic Games. I'll tell you something. We admired that a whole bunch. This was a town with some gumption, not that dreary little Calvin Coolidge, a hide-under-the-bed town that we lived in.

Well, it's 46 years later, and the paper-clip counters have all moved out to Los Angeles. They're doing their best to turn it into Bridgeport. Don't let them. Let's throw a party. This country wasn't settled by a bunch of accountants. Let's have a celebration for America for a change, instead of a wake.●

POLITICS AND THE E.R.A.

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. EDWARDS of California. Mr. Speaker, last Sunday, well over 50,000 women and men proved that the fight for the equal rights amendment is still very much alive. E.R.A. supporters from all over the country marched up Constitution Avenue in defiance of their opponents' claims that the E.R.A. is no longer an issue of public importance. The overwhelming success of the march illustrated the strong support and growing concern for the extension and ratification of an amendment which will finally provide constitutional recognition of equal rights for men and women.

In the following New York Times article the author, Tom Wicker, explains that unfair political games have caused the delay in ratification of the equal rights amendment and make the extension of the amendment's time limit necessary. I urge my colleagues to read this article and vote for the extension when it reaches the House floor:

POLITICS AND THE E.R.A.

(By Tom Wicker)

In 1976, Jim McDuffie won one of the four seats from North Carolina's 22d State Senate District, finishing third in an at-large race, just a thousand votes behind the leader. But when Senator McDuffie sought re-election last May, he came in fifth, 4,000 votes behind the top man, and lost his seat.

In 1976, you see, Jim McDuffie promised to support the Equal Rights Amendment. But once in the Senate, he cast the single vote that defeated the E.R.A., after it had passed the House. So in 1978, E.R.A. supporters helped unseat him. That's politics.

And that kind of give-and-take and play of forces in our fluid American political life is an excellent reason why Congress should vote to extend the time limit for passage of the E.R.A. That would be politics, too—not a question of how you play the game, but of who wins.

As was pointed out in a recent letter to this newspaper by Representative Elizabeth Holtzman, the principal sponsor of the extension resolution, and other proponents, there's no real tradition or custom—much less a constitutional or statutory requirement—for a time limit for passage of a constitutional amendment. The first 18 amendments, including the Bill of Rights and the monumental Fourteenth, had no such limit. The original seven-year limitation on passage of the E.R.A. was not part of the amendment itself but a section of the legislation by which Congress proposed it to the states; so there's no fundamental reason why Congress cannot change its collective mind and choose to extend the period.

And it's nonsense to call such an extension for the E.R.A. "unfair"; as the time limit was arbitrary, so would be extension, and one is no more and no less unfair than the other. To those who say extension would be like changing the rules of baseball in the eighth inning because one team is behind, an equally dubious analogy should be cited—that many a manager has stalled for time, hoping for rain to end the game in the eighth inning while his team was ahead. That's baseball and politics.

Besides, an extension would provide as much time for rescissions—of which there already have been three by states that had passed the E.R.A.—as for ratifications. Whether rescissions are legal ultimately will be up to Congress, which decides whether or not the necessary three-fourths of the states have ratified an amendment; but if an extension should result in numerous rescissions, Congress surely would be impressed. That's a chance E.R.A. proponents must take.

Besides, the purpose of the torturous amendment process provided by the Constitution is to make sure that hasty and ill-conceived amendments are not whipped through by impatient majorities. In this instance, extension would serve that sound purpose, because of the campaign of distortion, intimidation, innuendo, slander, shabby maneuver and outright lies waged by numerous opponents of E.R.A., many of them—like the John Birch Society—veterans of far-right causes back to the vilification of Dwight Eisenhower.

In a democratic society, that's politics, too, but to let the E.R.A. die under such pressures and by an arbitrary time limit would be the opposite of the calm, thoughtful and orderly process the Constitution prescribes. And that is particularly so since the E.R.A. is before state legislatures at a time when it must bear symbolic identification with rising hysteria against abortion, homosexual rights, busing, and other "liberal" ideas. The amendment has become a sort of stand-in against which opponents of any of these can vent their opposition to all.

So Congress should provide an extension as a legitimate political action to save the E.R.A. from being killed, without constitutional justification, by the seven-year time limit—not by the states. Indeed, 35 of the necesary 38 states have passed it (the three remaining rescissions notwithstanding). In numerous of the 15 other states, the amendment has been bottled up in committee, or otherwise sidetracked, rather than finally defeated; in Utah, for example, the opposition of the Mormon Church has kept it from coming to a vote. Again, that's politics.

But the legislative situation in the states is such that three additional ratifications cannot possibly be had by the deadline, March 22, 1979. Equal-rights marchers therefore ought to make this crucial point in their Washington demonstrations—that Congress, which by two-thirds vote of both houses recommend the E.R.A. to the states, has the political power to prevent its defeat, as various forces have so far had the political power to prevent its ratification.

If Congress wants the Equal Rights Amendment to pass, that is, it must vote for extension; if Congress does not provide an extension, Congress will have killed the E.R.A. An arbitrary time period will have been allowed to frustrate the intent of the Constitution; forces of reaction and untruth will have prevailed politically when they might have been countered politically. But, as Jim McDuffie learned, politics won't stop there.●

SAN ONOFRE NUCLEAR STATION

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. BURGENER. Mr. Speaker, prior to the reappointment of congressional districts in California I had the honor of representing an area which included the site of the San Onofre Nuclear Generating Station in north San Diego County. I became aware of the excellent work of the people who operate this facility and of its importance to the energy supply for all of southern California. The San Onofre facility has recently completed 10 years of operation and has done so with a perfect industrial safety record. To mark the occasion my distinguished colleague, BOB BADHAM, who now has the honor to represent that area in this House wrote an article which may be of interest to all of our colleagues. I ask that it be printed in the RECORD.

SUNDESERT NUCLEAR POWERPLANT PROJECT

(By Bob Badham)

With the cancellation of the Sundesert Nuclear Power Plant project for southern California and the halting of construction on the Seabrook Nuclear Power Plant in New Hampshire, the opponents of nuclear power have had a great deal of attention in recent weeks.

Another event passed almost without notice recently which demonstrates the effectiveness and efficiency of nuclear power plants and dramatizes their safety. I think we should pause to consider this event.

The event was the tenth anniversary of the start of operation of the San Onofre Nuclear Power Plant just south of San Clemente. The first generating unit began operation ten years ago and has accumulated a perfect industrial safety record. Of all the employees assigned to work at the facility, none has ever experienced a lost-time industrial accident.

While construction is currently under way on additional generating capacity at San Onofre it is worth noting that the original nuclear generating equipment has now been "on line" for 10 years of commercial operation generating more than 26 billion kilowatt hours of electricity for consumption in southern California.

San Onofre is a joint project of Southern California Edison Company and the San Diego Gas and Electric Company. Edison owns 80 percent of the plant and operates the facility while SDG&E provided 20 percent of the cost of building and operating

the facility in exchange for 20 percent of its output.

Over the years the plant has been available for service more than 73 percent of the time and has produced electricity at an average of 70 percent of capacity. This compares favorably with other forms of energy generation and is well above standards expected of the plant when it was first proposed.

The 26 billion kilowatt-hours of electricity the plant has produced is equal to the energy contained in more than 41 million barrels of oil. The savings to the consumers of the electricity generated through the nuclear process at San Onofre over the cost of using imported fuel oil during the decade of service amounted to more than $235 million.

What is more, the reduced demand for imported fuel oil resulting from the operation of this plant helped ease our nation's energy demand problems and avoided a major contributor to the deficit in our balance of payments.

Part of California's electricity supplies comes from hydroelectric plants which were hard hit during the recent drought. San Onofre managed to operate at nearly 100 percent of its capacity during the drought to help fill the gap in the power supply.

This record of accomplishment is dramatic proof of the need to expand our use of nuclear power generating technologies and to devise improvements and develop technologies to further exploit the power of the atom to peaceful uses.●

NO MERCY, NO JUSTICE FOR GINZBURG AND PETKUS

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. SIMON. Mr. Speaker, while the West was receiving news of Aleksandr Ginzburg being hauled into a Moscow court looking pale, thin, and completely gray following his 17-month incommunicado confinement in the feared Kaluga Prison, an equally alarming trial was quietly underway in Vilnius—that of Viktoras Petkus, also a Helsinki Monitor and famed Lithuanian nationalist.

Both Petkus and Ginzburg are former political prisoners: Ginzburg served a total of 7 years and Petkus, 13, for political activities in the past. Both men have been given extremely harsh sentences for "anti-Soviet agitation and propaganda" this time around: Ginzburg's penalty of 8 years of prison to be followed by 3 years of internal exile will condemn him to a painful, gradual, but certain death, since his health has been long since ruined by his previous stints in the grim Gulag Archipelago: Petkus is made to serve out the entire 15 years sentence that is provided for in the Soviet Criminal Code. This is a terrible fate for a 49-year-old man who has already spent more than a decade in the camps.

In handling down such sentences to two men whose "crime" amounts to nothing more than "knowing and acting upon their rights", the Soviet Government has shown itself to be insensitive to humanitarian appeals from abroad, disregard of the pledges it made when it signed international agreements such as the Universal Declaration of Human Rights, the Covenant on Civil and Political Rights and the Final Act of the Helsinki accords.

I protest against this travesty of justice perpetrated against Viktoras Petkus and Aleksandr Ginzburg by the Soviet Government. We are witnessing an incalculable human tragedy. The brave stand that Ginzburg and Petkus took for human rights in the Soviet Union cost them their freedom, their health, and will perhaps cost them their lives. Their struggle has been a testament to human dignity. In sentencing Ginzburg and Petkus, the Soviet Government has judged itself and not the two who received the sentences.●

IMPEACH ANDREW YOUNG

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. McDONALD. Mr. Speaker, today, July 13, 81 bipartisan Members joined with me in calling for the impeachment of Ambassador Andrew Young. All debate on that resolution (H. Res. 1267) was stifled; therefore I am taking this opportunity to extend discussion of Mr. Young's activities which make him liable for impeachment proceedings.

Through an interview which Mr. Young gave to the Socialist Paris newspaper, Le Matin, published on July 12, he again demonstrated that although the Carter administration designated him to represent the United States of America at the United Nations, Ambassador Young in no way represents the views of the people of the United States.

When asked about the trials in the Soviet Union of dissident leaders Anatoly Shcharansky and Alexander Ginzburg which commenced on the eve of the reopening of Strategic Arms Limitation Talks in Geneva by Secretary of State Vance and Soviet Foreign Minister Gromyko, Ambassador Young commented that there was no reason to publicize or dramatize the trials using the phrase, "You cannot stop the world because of a trial no matter where it is and who it is." Mr. Young further volunteered his opinion that Soviet persecution of dissidents "will not hinder the SALT negotiations." In that there was a strong probability that Secretary Vance and the administration may have intended to pressure the U.S.S.R. for human rights concessions and adherence to the Helsinki accords, any such attempt has been effectively and thoroughly undermined by Ambassador Young for it would graphically demonstrate to the Soviet leaders that American foreign policy remains in a state of chaos with the President unable to control the policymaking factions centered around National Security Adviser Brzezinski, Secretary of State Vance and Ambassador Young.

Ambassador Young also revealed in the interview with the French newspaper that he sees no difference whatsoever between the Soviet system of totalitarian communism and the United States. As part of his comments opposing "dramatization" of the persecution trials, Mr. Young said:

> Besides, we don't know what will become of the dissidents. After all, in our prisons there are also hundreds, maybe even thousands of people I would call political prisoners.
>
> Ten years ago, I was sentenced myself, in Atlanta, for organizing a protest movement. And, three years later, I was in the Georgia legislature. It's true that things don't change so quickly in the Soviet Union, but they do change there, too.

Let us set the record straight. Anatoly Shcharansky is charged with treason and espionage against the Soviet Union. The so-called "evidence" of these capital crimes is that he spoke with a reporter for the Los Angeles Times. In the case of other dissidents persecuted under the Soviet system of injustice, the mere act of pointing out the existence of injustice and repression was made an act of treason punishable by long sentences in forced labor camps and exile to remote areas.

The victims of Soviet oppression sentenced to slave labor camps for desiring freedom do not return to be appointed to a position of influence in the Soviet governmental or Communist Party apparatuses. And Andrew Young was not arrested for "organizing a protest movement." He was arrested, as reported in the Communist party newspaper, the Daily Worker, of September 13, 1968 for blocking garbage trucks in a labor dispute. Under the Communist dictatorship in the Soviet Union, men of the caliber of Shcharansky and Ginzburg have no chance of becoming influential members of the government.

Andrew Young is either more abysmally misinformed than any other American citizen as to the nature of the Soviet system or he is callous and indifferent to the sufferings of the Soviet people beyond words. If Ambassador Young cannot recognize the differences between representative government, such as we have in this country, and a one-party totalitarian dictatorship which maintains its position by systematic programs of state terror, he is unfit to hold the post to which he was appointed.

Mr. Young has demonstrated an extreme ethnocentrism in his concerns with southern Africa. Rather than countenance the Rhodesian internal settlement where the former white-dominated government is handing over power in an orderly manner to moderate black leaders, Ambassador Young has thrown his personal support, and as much of U.S. policy as he can swing, to the Soviet-backed Marxist organizations who have rejected the electoral process and have clearly stated their intention to set up one-party dictatorships along the lines of the new Communist states of Mozambique and Angola. Ambassador Young seems quite prepared to "stop the world" over events in southern Africa; but appears utterly unconcerned over the fact that a substantial number of those being persecuted in the current wave of Soviet repression are members of the Jewish faith, despite the fact that most dissenters are not Jewish, which is a reflection

of the long-standing program of government sponsored anti-Semitism in the U.S.S.R.

Over the years, Andrew Young has expressed strongly held personal convictions that are at variance with the beliefs of the great majority of Americans. If Mr. Young were not a strong principled man, he could subordinate those strong personal views to those of the United States and serve his country's interests as United Nations Ambassador with ease. But, because his strongly held beliefs are at variance with those of most Americans, Mr. Young's personal views have again and again come into conflict with the interests of the United States in conducting its foreign policy.

One major example of this conflict between Ambassador Young's personal beliefs and those held by most Americans occurred on June 24, 1977, in an interview on WETA-TV, the local Washington, D.C., affiliate of the Public Broadcasting System. Mr. Young said:

And I must say that I share the kind of total abhorrence to racism which I think is characteristic of two thirds of the world. Most colored peoples of the world are not afraid of communism. Maybe that's wrong, but communism has never been a threat to me. I have no love for communism. I could never be a communist. I could never support that system of government. But—it's never been a threat. Racism has always been a threat—and that has been the enemy of all of my life and, everything I know about life.

This can only be consistent if Ambassador Young meant that it is racism by whites he finds objectionable, not racism by brown, black, and yellow people such as the repression of national minorities and the genocidal treatment of Tibetans by the ruling Han Chinese, or the conflict between Malays and Chinese in Singapore and Malaysia, or the mass deportation of ethnic East Indians from Uganda directed by Idi Amin.

Furthermore, it would seem that Ambassador Young does not regard the black-ruled Marxist-Leninist regimes in Mozambique, Guinea-Bissau, Angola, Ethiopia, Tanzania, and so forth, as being "Communist." Only if Mr. Young refuses to make an objective analysis of the concrete conditions in those countries—an analysis that would show their adherence to "scientific socialism," a currently fashionable euphemism for communism, could Mr. Young regard them as "nationalist."

Mr. Young made no secret of his intention to place his personal views, beliefs, and goals above those of the United States as a whole. Following the announcement of his appointment as United Nations Ambassador, Mr. Young told the New York Times:

I'm going to be actively working within the State Department, the Congress and the Executive for my own concerns.

In January 1977, I was the only Member of Congress to testify against confirmation of Andrew Young to the United Nations post. Basing my predictions on his actions and statements over his 15-year public career, I pointed out that Andrew Young had repeatedly collaborated with Marxist-Leninists and militants in causes relating to Africa, Asia, and Latin America. And perhaps my colleagues again need reminding that in a filmed interview broadcast as part of an ABC-TV news production on the Black Panther Party on April 13, 1970, Mr. Young said:

Western technology and western militarism has so interfered with the right of—the possibility of, say, democracy in Latin America, or real freedom in Africa and Asia, that it may take the destruction—and this of course is Panther ideology—that it may take the destruction of western civilization to allow the rest of the world to really emerge as a free and brotherly society, and if the white west is incapable of brotherhood with colored peoples, then this small body of colored peoples, black people within the white west, may be the revoluntionary vanguard that God has ordained to destroy the whole thing.

Then, in response to the question, "Would you support the destruction of Western civilization if you were convinced that the rest of the world would thereby be liberated?" Mr. Young replied, "I probably would."

On July 11, 1977, I pointed out to my colleagues that Ambassador Young was attempting to institute radical changes in U.S. foreign policy toward Africa: Policies that included rapprochment, if not actual alliance, with pro-Soviet Marxist states, support for Soviet and Cuban-backed terrorist groups, and active measures against pro-Western governments in southern Africa who are the targets of the terrorist organizations. On October 4, 1977, I introduced House Resolution 805, calling for the impeachment of Ambassador Young.

Ambassador Young took an oath to uphold and defend the Constitution of the United States. He has violated that oath by his continuing activities promoting the destruction of Western civilization and undermining the foreign policy of this country. If he had any decency, he would resign. But clearly he intends to hold on to his ambassadorship and maintain his policymaking position as a member of the Cabinet. Therefore it is the responsibility of Congress to remove him by impeachment.●

MY AMERICA

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. BADHAM. Mr. Speaker, at the request of one of my constituents, Mr. H. M. Burke, who is a World War I veteran I would like to insert a poem entitled "My America." This poem addresses a hope which all Americans, particularly those of this body, should keep in their thoughts and express in their words and deeds. I request the poem be inserted in the RECORD.

MY AMERICA

In thoughts, as wise as is her prairie sea;
In deeds, as splendid as her mountain piles;
As noble as her mighty river tides.
Let her be true, a land where right abides;
Let her be clean, as sweet as summer isles;
And let her sound, the note of liberty
For all the earth, till every man and child be free!

[Thomas Curtis Clark]●

BRITAIN'S HEALTH CARE A 30-YEAR FLOP

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. HYDE. Mr. Speaker, as each day dawns, we hear the drums beating more loudly for national health insurance. A useful antidote for such misplaced enthusiasm is the recent July 12, 1978, Chicago Tribunal article by its London correspondent, James O. Jackson:

[From the Chicago-Tribune, July 12, 1978]

BRITAIN'S STAB AT HEALTH CARE CALLED A FLOP

(By James O. Jackson)

LONDON.—Britain's socialized medical systerm marked 30 years of existence last week in the atmosphere of gloom and acrimony over its failure to deliver on the optimistic promises of 1948.

The huge National Health Service (NHS), the country's largest single employer, has become the target of bitter criticism from doctors, patients, and politicians. Some critics have called for scrapping the entire system, and even its supporters agree that fundamental reforms are needed.

"Doctors know that the NHS is failing to provide the service which the patients have been led to expect," the British Medical Association said in a statement issued on the 30th anniversary." They are no longer willing to cover up for the deficiencies of the Health Service, and are ready to speak out publicly in defense of their patients."

The litany of deficiencies is "nearly endless. And for the last year a royal commission has been listening to a recitation of failures as it seeks a way out of the deepening British medical crisis.

Among them:

Antiquated and worn-out hospitals, half of them built before the turn of the century and lacking modern equipment.

An enormous waiting list for nonurgent operations, so long that tens of thousands of persons have no hope of relief from such ailments as hernia, arthritic joints, or varicose veins.

A top-heavy administrative bureaucracy that has created an unworkable mass of red tape, which bewilders patients and enrages doctors.

An exodus of top-quality doctors either to private pratice in Britain or to other countries where pay and conditions are better; and, conversely, a rush of foreign doctors and nurses into NHS hospitals to fill low-paid posts rejected by British professionals.

A breakdown in morale of hospital staffs that is bringing strikes, slowdowns, and outright rebellion among professionals once renowned for their dedication.

Rising medical costs that are widening the "technology gap" between the kind of treatment that is available and the kind that is possible as a result of modern advances.

None of these failures was anticipated by the late Aneurin Bevan, the crusading Labor Party stalwart who was the father of British socialized medicine. He believed the system would bring such improvements in the basic health of Britons that, in time, medical care would become less and less costly to a more and more healthy nation.

But in its first year the costs were twice what had been expected, and even Bevan was surprised at the tremendous rush of patients to obtain free medical care. He concluded that the sudden pressures had disclosed that "in the past, there had been a vast amount of silent suffering and preventable pain."

But the rush is still on today, and critics of the system question whether the NHS had done any good at all in its three difficult decades.

NHS officials like to point to statistics on the reduction in infectious diseases, including the virtual eradication of tuberculosis, polio, and diptheria as among the greatest achievements of socialized medicine.

But critics point out that tuberculosis, polio, and diptheria also have been conquered in countries without a state monopoly on medicine, and they complain that Britain has made, at best, a mediocre showing for all the money spent on NHS.

For example, infant mortality in Britain has been more than halved since 1948, from 38 deaths per 1,000 live births to only 16. But other countries, including France, Holland, Norway, and Finland, have reduced their infant mortality rates even more, and the United States did at least as well.

The most glaring and frustrating statistic in the NHS, however, is the length of the waiting list for nonurgent surgery, which now stands at more than 600,000. Many must expect delays of three or four years for operations to correct problems which, though not fatal, are painful and disabling.

The British Medical Association denounced the delays as "a scandal without parallel in any developed country," and a number of NHS doctors have mounted personal protests over the waiting lists. One, orthopedic surgeon John Cozens-Hardy, called a meeting of the 127 persons on his waiting list to tell them that some will not get their operations for 36 years unless something is done to clear the backlog.

Many of the patients were elderly persons confined to wheelchairs because of arthritic hips, and the announcement dashed all hope of getting artificial hip joints.

"I have so little operating theater time available that I was able to do only two hips in the whole of 1977," he said.

Even when the operating theater is available, he said, there may be shortages elsewhere.

"Two weeks ago, I had an afternoon virtually clear and then had to turn a patient away because there was no bed," he said.

Another cause of frustration and delay in the system is its bureaucracy, a multitiered administrative hierarchy that has been repeatedly revamped, most recently in 1974, but with apparently no effect.

"There is a great deal of anger and frustration at what many regard as a seriously overelaborate system of government administrative and decision making," according to a report by a research team from Brunel University.

That anger and frustration drive both doctors and patients out of the NHS and into private hospitals, "pay beds" in NHS hospitals, or to other countries. Many pay for private medical insurance, such as the 2 million Britons covered by the giant firm, British United Provident Association, enabling them to get treatment privately whenever the NHS fails to provide it.

When such privately insured patients use a "pay bed" in an NHS hospital or pay fees to a doctor who practices both in the NHS and privately; they are, in effect, jumping to the head of the line.

The lucrative possibilities of private practice have lured many doctors away from the NHS, and thousands more have immigrated to America, Australia, or the Arab oil states. Even the much-maligned administrators sometimes abandon the NHS for greener pastures.

Despite the growing crisis in the NHS, it has become a part of the British society and nobody, not even the Conservatives, would consider dismantling it. It offers basically free medical care [except that patients must pay part of the cost of dental treatment and prescription medicines], and the vast majority of Britons are grateful for that.

Nevertheless, the population and the medical profession are growing more and more restive over the system's many failures. The royal commission appointed to study the problem is expected to produce a list of recommendations in 1979, and political leaders hope that they will point the way to solution of the most pressing difficulties.

Meanwhile the 600,000-strong waiting list is growing steadily longer, and those on it are reduced to repeating an old joke that no longer gets any laughs.

"You join the queue with a cold," it goes, "and by the time you get treatment, you've got double pneumonia." ●

NUCLEAR ENERGY AND THE DOE AUTHORIZATIONS

HON. EDWARD W. PATTISON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. PATTISON of New York. Mr. Speaker, the Clinch River project controversy once again brings before the Congress issues which have plagued this body, our Nation, and the world for the past few decades. It has become painfully clear that we are exhausting finite sources of energy. Though many had warned us that we were on the way to depleting our fossil fuel reserves, we did not wake up to the reality until recently when we found ourselves discomforted by long gas lines, strained budgets, and the painful realization that depletion was not far off at our rate of consumption.

In our search for a solution to our energy problems, we have focused on nuclear energy as an answer to our long term needs. It may very well be that nuclear energy will ultimately be the answer. I am very much in favor of greater research in nuclear energy in the interest of determining how to safely apply nuclear technology to our energy needs. I believe though that commercial construction should not proceed until we have reasonably solved the problems created by nuclear generation of electricity.

At times I wonder if we are in the situation of a modern day Prometheus who has discovered nuclear energy instead of fire. For early man, fire was a primary source of energy which provided both heat and light, but it could also destroy him. Nuclear energy also serves our energy needs, but I have great fears that it could easily destroy us unless we learn to control it. The difference between early man and ourselves is that unarrested fire can destroy a forest which can grow back in a century. A nuclear accident has a considerably more awesome and long lasting power of destruction, whether by contamination of the environment as a result of nuclear wastes or by explosion of nuclear bombs created by plutonium derived from breeder reactors.

Unfortunately, the problems with nuclear energy are growing, not diminishing. The more plants we build, the greater the chances for catastrophe. The more waste products we create, the greater the chance of accident in their transportation. The more nuclear energy we produce, the more waste we have. Since we still do not know what to do with it, it just stockpiles. Our nuclear safety technology is not keeping up with the dangers created. We are producing problems for which we have no solutions.

We have experienced failures in plants, losses of radioactive waste through leakage and other "accidents" which show the danger is very real. It is a danger which forces us to think seriously of our future. The problems of radioactive waste disposal go beyond tomorrow, or even this century into the distant future of this planet. We can try to put the waste in salt domes but we do not know if the waste will remain there for the thousands of years in which it is still radioactive. We are not solving the problem, just burying it with no assurance that it will not reappear. We must be aware that our decisions go beyond our present constituencies and affect generations yet to come.

The problems with nuclear energy are also very much a part of our immediate concerns. People are scared of nuclear power and rightly so. In my home State of New York there is already an overabundance of nuclear reactors. A recent Harris poll in my State revealed that of those polled, only 8.8 percent prefer nuclear power as an energy source while 42.5 percent prefer solar and another 44.7 percent prefer conservation. Solar and conservation are preferred over nuclear by a ratio of almost 5 to 1.

The Clinch River project brings before this body those problems of nuclear energy over which we still have little control. We can not be confident that the plutonium produced will not fall into the hands of people who would use it to construct nuclear weapons. We cannot be sure that the transport of fuel can always occur without mishap. We cannot promise that there will never be any leakage of one of the most toxic substances known to man.

I support the Flowers amendment to the Department of Energy Research and Development Authorizations because it recognizes these issues and states that we do not have adequate solutions and safeguards. It also continues funding for further research to better determine our nuclear options on a safer level. This is similar to the intent of the Nuclear Energy Reappraisal Act that Representative FISH and I introduced 3 years ago which calls for a moratorium on the granting of construction licenses of nuclear fission powerplants until the completion of a 5-year study of the nuclear fuel cycle, with particular reference to its safety and environmental hazards.

To some, action such as the termination of the Clinch River project and nuclear reappraisal might be seen as standing in the way of progress. I think they are better seen as demands for quality, safety, and the need to proceed cautiously instead of experimenting with a system we do not fully know how to control.

Until we can adequately deal with nuclear energy problems, we have a variety of other energy options we can pursue. The Department of Energy Research and Development Authorizations has already placed considerable empha-

sis on research in solar and geothermal energy, biomas fuel, and hydroelectric power. The House has recently passed legislation such as the Solar Energy Sources Loan program encouraging the development of the solar energy industry on a small business level. Further research in the area of solar and other alternative sources of energy may lead to an escape from our dependence on fossil and nuclear energy sources.

If we make a real effort to conserve, we will have the time to work out our energy problems. Studies suggest that we can use 30 to 40 percent less energy without significantly altering our standard of living. The amount of energy used per person in Sweden is 60 percent of the amount used per person in the United States. In West Germany it is 50 percent, in France less than 40 percent.

When energy conservation is mentioned, people usually think that they will have to reduce their level of activity. Not necessarily so. We can maintain the same levels of activity if we increase our efficiency. In our daily lives this means eliminating as much energy waste as possible: Turning off lights when we leave rooms, waiting until we have fully loaded clothes or dish washers before running a load, or pooling rides when a number of people are headed to the same destination, to mention just a few useful devices.

The same principle of efficiency applies in broader terms in the concept of end use. End use basically means that what matters is not how much energy we produce, but how we use it in the end. It is senseless for us to strive to meet the energy demands of energy inefficient machines and systems. We do not want people to have to drive fewer miles to conserve fuel. We want them to be able to drive more miles for the same or less gas than they are using now. We want the end use, or the work we get out of the energy, to be the best possible. We can think that we are "conserving by turning our thermostats down to 68 degrees, but if half the fuel we are burning still is going up the chimney and out the windows unused, we are not getting as much work out of the energy as we can. If our end use of the energy is extremely efficient, then our energy needs will decrease. If our needs decrease, we will not be as pressed to produce so much energy.

We have the ability and technology to conserve, but what is needed most is the will to do so, and the realization that conservation will allow us to reassess our use of nuclear energy and provide for greater freedom in determining our energy future.●

NO ONE HAS THE RIGHT

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. EDWARDS of California. Mr. Speaker, in recent weeks much debate has focused around the Supreme Court's ruling on the Tellico Dam and the snail darter. I have been quite concerned with the media and Members of Congress who have unfairly portrayed this issue as one in which an insignificant species is blocking an important public works project. This could not be farther from the truth. Tellico Dam is simply a bad water project and should have been canceled many years ago. I was very interested in learning of the testimony of S. David Freeman, Chairman of the Tennessee Valley Authority, on June 23, 1978, when he remarked that some of the best farmland in Tennessee is in the bottom lands of Tellico Reservoir and perhaps "the real waste of the taxpayers' money may be in flooding the land."

During the Merchant Marine Committee's Subcommittee on Fisheries and Wildlife Conservation and the Environment's hearings on the reauthorization of the Endangered Species Act, in the vast majority of cases where a conflict arose, a solution was developed in a way that allowed the project to go forward without obliterating the species. Tellico Dam was planned in 1939, and the latest cost and benefits of TVA's proposal are 10 years old. Moreover, the refusal of TVA to consider alternatives to the proposed dam date back to 1965.

When Congress wrote the Endangered Species Act in 1973, we recognized that extinction of wildlife is final. The Interior Department estimates that approximately 3,000 species in the world become extinct every decade. As responsible Members of Congress, we must do all we can to mitigate man's assault on these precious species.

The Endangered Species Act is but one vital consideration during the planning and consideration of responsible water and highway projects. Stated simply, we must take a more philosophical approach to the use of our land, water, and resources when considering large projects like Tellico Dam. Representatives should not come to Congress promising large construction projects for their district, rather, promises should be made that all aspects of planning proposed projects will be scrupulously examined.

I believe the Endangered Species Act is an effective, workable and good law which would be reauthorized without substantive amendments.

I am including a recent editorial taken from the Los Angeles Times by Jimmie Durham entitled "Who Has the Right To Destroy a Species?" Mr. Durham discusses the historical Indian sites which would be destroyed if Tellico Dam were to be completed. I think that Mr. Durham hits on another important philosophical question as the title of his article would indicate. I feel the sensible answer to his query is, simply, no one has the right:

WHO HAS THE RIGHT TO DESTROY A SPECIES?

(By Jimmie Durham)

Tsi Yunwiyah. That means I am a Cherokee.

In Ani Yunwiyah, the language of my people, there is a world for land: Eloheh. This same world also means history, culture and religion. This is because we Cherokees cannot separate our place on the earth from our lives on it, nor from our vision and our meaning as a people. From childhood we are taught that the animals and even the trees and plants that we share a place with are our brothers and sisters.

So when we speak of land, we are not speaking of property, territory or even a piece of ground upon which our houses sit and our crops are grown. We are speaking of something truly sacred.

Is there a people anywhere in the world that does not revere its homeland? Is there a human being who does not revere his homeland, even if he may not return to it? We say that reverence is a great human characteristic. We say that reverence for ancestral lands, no matter how insignificant they are in our own daily affairs or how far they are from our own homes, is vitally important to the whole of humanity.

The Cherokee people lived for thousands of years in what is now Tennessee, Georgia and Carolina. In our own history, we teach that we were created there, which is truer than anthropological truth because it was there that we were given our vision as the Cherokee people. But President Andrew Jackson illegally drove us out of that land, from Echota, the center of our world.

There is no Cherokee alive who does not remember that Trail of Tears, as we call our march into exile in Oklahoma. There is none among us who does not remember and revere that sacred land, Echota.

Today, the Tennessee Valley Authority would like to flood the sacred valley that held our two principal cities, Echota and Tenasi, after which the state is named. The Tellico project would have destroyed an area of great religious importance, many settlement sites, cemeteries, rich farmlands, forests and the river itself. This is an unneeded dam which can, at the whimsy of TVA, wipe out thousands of years of history of a great and currently oppressed people. To do so would be an insult not only to the Cherokee, but also to all the people in the United States and to all humanity. Yes, I am proud enough to state that the history and vision of my people are important to humanity.

I want to speak to my children and my grandchildren about Echota, and I want them to be able to go there and listen to their ancestors. The anthropologists have dug up some bones and some pottery at Echota and TVA tells us that we can visit those bones at a museum.

But the spirits of our ancestors are not in a museum. They live in the pine and hickory and walnut trees and in those free-running creeks and rivers.

I will never live at *Echota*, any more than a Greek in New Jersey will ever live at the Parthenon, but the hearts of our people say it must be there.

The fact that there is no stone monument or large ruins at Echota is itself a monument. Our reverence for the land and its life maintained it in an unspoiled state for those thousands of years. Maybe someone will think I am being too emotional, but there must come a time when the American government and the American people can be emotional about the destruction of land and of sacred things.

The flooding of our old valley has been stopped temporarily because of a little fish that lives there and nowhere else. I have seen Atty. Gen. Griffin Bell, the New York Times and a national television network make fun of this little fish and I would like to ask why it is considered so humorously insignificant. Because it is little, or because it is a fish?

It is this incredible arrogance towards other life that has caused such destruction in this country. Who is Griffin Bell or the U.S. government to play God and judge the life or death of an entire species of fellow beings which was put here by the same power that put us here? Who has the right to destroy a species of life, and what can assuming that right mean?

Let me be emotional: To me, that fish is

not just an abstract "endangered species," although it is that. "It is a Cherokee fish and I am its brother. Somehow, it has acted to save my holy land, so I have a strong gratitude for that fish.

The Cherokee people in Tennessee, Oklahoma, the Carolinas, Georgia and wherever we might be, are of one voice and of one mind that this dam, this degradation, must be stopped. We want our universe, our Echota with all of its fish and all of its life to continue. We are sure that this cannot be against the interests and wishes of the American people.●

AMENDMENT TO ERISA TO ALLOW PENSION TO BE ATTACHED FOR FAMILY SUPPORT

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. SEIBERLING. Mr. Speaker, yesterday I introduced a bill (H.R. 13446) to provide that pensions covered by the 1974 Employee Retirement Income Security Act can be assigned or alienated by court order for alimony or child support.

My interest in this subject began when I received a letter from a constituent whose husband left her and their two children, and retired at the age of 53. Because ERISA section 206(d)(1) provides that "benefits provided under the plan may not be assigned or alienated," and because ERISA preempts State law, the husband's pension plan has ignored a State court order attaching his pension for the support of his two children. My constituent has had to turn to welfare for subsistence. I do not believe that Congress intended this result from 206(d)(1), and I think we have a responsibility to speak unequivocally on this point.

Spouses and children being denied pension benefits for support by this interpretation of ERISA are hardly in a position to sue the pension plan in Federal court. H.R. 13446 would remove this burden of litigation by clearly expressing Congress' intent to allow pension attachment by court order for support.

The text of the bill follows:

H.R. —

A bill to amend the Internal Revenue Code of 1954 and the Employee Retirement Income Security Act of 1974 to permit assignments or alienations of rights under pension plans which are pursuant to certain court orders.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (13) of section 401(a) of the Internal Revenue Code of 1954 (relating to requirements for qualification of pension plans, etc.) is amended—

(1) by striking out "(13) A trust" and inserting in lieu thereof "(13)(A) A trust";

(2) by striking out "This paragraph" in the last sentence and inserting in lieu thereof "This subparagraph"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) Subparagraph (A) shall not apply to any assignment or alienation of benefits payable to any participant or beneficiary who is receiving benefits under the plan if—

"(i) such assignment or alienation is pursuant to a decree of divorce or separate maintenance, or any other order of a court which requires an individual to contribute to the support of his children;

"(ii) such decree or order does not affect the time when benefits are payable under the plan; and

"(iii) a copy of such decree or order is submitted to the Secretary of Labor at such time and in such manner as he may by regulations prescribe."

(b) Subsection (d) of section 206 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end thereof the following new paragraph:

"(3) Paragraph (1) shall not apply to any assignment or alienation of benefits payable to any participant or beneficiary who is receiving benefits under the plan if—

"(A) such assignment or alienation is pursuant to a decree of divorce or separate maintenance, or any other order of a court which requires an individual to contribute to the support of his children;

"(B) such decree or order does not affect the time when benefits are payable under the plan; and

"(C) a copy of such decree or order is submitted to the Secretary at such time and in such manner as he may by regulations prescribe."

(c) The amendments made by this section shall take effect on the date of the enactment of this Act.●

EXPLANATION OF MISSED VOTES

HON. LEO J. RYAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. RYAN. Mr. Speaker, on June 23 and 26, I was unavoidably absent when the House voted on several measures. During that time, I was conducting hearings in San Francisco of the Environment, Energy and Natural Resources Subcommittee on the environmental management plan for the San Francisco Bay Area.

Had I been present, I would have voted as follows:

JUNE 23

Roll No. 488: Rejected an amendment to strike the requirement that Amtrak buy American products for any purchase over $100,000: NO.

Roll No. 489: Rejected an amendment to provide Amtrak withan automatic mechanism for dropping unprofitable routes: NO.

Roll No. 490: Rejected an amendment to Amtrak bill to have the U.S. Special Trade Representative advise when it would be in the public interest to require the purchase of American products: YES.

Roll No. 491: Passage of H.R. 11493, the Amtrak Improvement Act: YES.

Roll No. 492: Agreed to H. Res. 1214, the rule for H.R. 12433, the Housing and Community Development bill: YES.

JUNE 26

Roll No. 493: Passage of H.R. 10341, to permit reserve enlisted members of the Army and Air Force to retire with 20 years of service: YES.

Roll No. 494: Passage of H.R. 10342, revising the rule for recalculation of military retired or retainer pay for post-retirement active duty: YES.

Roll No. 495: Failed to suspend the rules and pass S. 666, federal employmeent preference for certain employees of the Bureau of Indian Affairs: NO.

Roll No. 496: Agreed to H. Res. 1243, the rule for H.R. 12536, National Parks and Recreation Act: YES.

Roll No. 497: Agreed to H. Res. 1235, the rule for H.R. 12432, extension of the Commission on Civil Rights: YES.●

WHAT HIGHER EDUCATION SHOULD BE

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. PEPPER. Mr. Speaker, I take great pleasure in requesting for publication in the RECORD a recent commencement address given by a dedicated legislator, the Honorable Jack D. Gordon, State senator, at the commencement ceremonies of Florida International University. I wish to share Senator Gordon's remarks with my colleagues because they offer an excellent insight into the very substance that higher education should be and because they timelessly reflect the great spirit with which American public education was born. I would also like to take this opportunity to thank my dear friend Jack Gordon for his courtesy in sharing his work with the Congress and the Nation, and for his outstanding legislative achievements in the Florida Senate.

The address follows:

COMMENCEMENT ADDRESS AT THE FLORIDA INTERNATIONAL UNIVERSITY

(By Senator Jack D. Gordon)

President Crosby, honored platform guests and participants, honored guests, faculty members, graduates and families and friends of graduates;

I am, of course, deeply honored to have received this award, and the invitation to address the class of 1978 at these Commencement Ceremonies. My personal—you will forgive me for adding it—and political commitment to the development and growth of Florida International University stems from a strong philosophical belief in the value of a publicly-supported university in an urban base.

In a moment I will make some comments on this view of higher education, but first I feel that I must at least pay lip service to the five traditional elements of which good commencement speeches are supposedly composed, theerfore, I will tell you that:

1. Your graduation today is not an end, but a beginning.

2. You face a world complicated by many difficult problems—war, underemployment, automation, famine.

3. But take heart, for your possibilities for correcting or solving the problems are limitless—it all depends upon you.

4. You should take the lead because my generation has failed to solve these cosmic problems.

5. The world is anxiously awaiting your arrival. It is looking forward to your unfettered approach and keen enthusiasm.

With that out of the way, let's talk as neighbors with a common concern about where we live, where we're headed and what we want for the community of which F.I.U. is such an integral component. The creation of Florida International, despite the resistance—if not opposition—of those who could not erase the image of a state university located in some small town smothered in wisteria and weeping willow attests to our faith in higher education for as many as desire it. That faith, of course, is not new. In this country it originated for the elite with the church, but in reality, education for all only became an American religion through the influence of Thomas Jefferson.

"If a nation expects to be ignorant and free," he wrote, "in a state of civilization it expects what never was and never will be." Moreover, Jefferson said, "I know of no safe depository of the ultimate powers of society but the people themselves; and if we think them not enlightened enough to exercise their control with a wholesome discretion, the remedy is not to take it from them, but to inform their discretion." These were articles of faith that were translated into action by the Land-Grant Act, signed during the Civil War by Abraham Lincoln, which launched the publicly-controlled colleges and has brought us to this day.

Of course, there always have been doubters. The English philosopher, Herbert Spencer, asked about the future of America, commented that "it is a frequent delusion that education is a remedy for political evils." But the thinking of men like sociologist Lester Ward dominated the last quarter of the 19th century in America and bolstered the idea of universal education as the great panacea, not only for political but for all other evils.

There is, he asserted, no aristocracy of brains. Intellectual capacity is the product of opportunity and privilege, not of native capacity. He believed that what he called the "denizens of the slums" were not inferior in potential capacity to the Harvard graduates, and was one of the first to reject the theory of inherent intellectual superiority, as he was among the first to reject theories of race, class or sex superiority.

The Land-Grant College, primarily for "agriculture and mechanics," was subsidized originally to provide cultural leadership for its state and region, but in many areas of the South quickly lost its purpose. As Pat Watters wrote in his book, "The South and the Nation," the state university was the place to send all but the "most obstinately bright of the children of the prominent. Here football, social life, contacts and a sense of the special tradition of each state are the important things. Political careers are begun at them."

Thus, the late Paul Goodman was led to write that while cultural and planning activities, "including the sociology of the urban services ought to be the concern of the Land-Grant College, at present in the United States we have pathetically perverted this beautiful institution . . ." Goodman was trying to tell us that most Land-Grant schools have lost their community function.

Although it can by no stretch of the imagination fit into the original mold of the Land- Grant College, to many of us Florida International University carries the seed of growing into what Goodman calls "this beautiful institution" whose concern should be that of the last quarter of the twentieth century. That is, the sociology of the urban services. And that is where I believe our direction lies.

We have a great example at the beginning of this century when there began an intimate union between the state government and the University of Wisconsin that foreshadowed the later brain trusts of academic schools. The development of regulative and humane legislation, the staffing of administrative and regulative bodies, all flowed from that state-supported university.

Many of our state universities have placed their community function in a secondary or tertiary priority and in their pell-mell scramble to imitate the great academic institutions, have wound up with the worst of both worlds—neither supporting the community nor achieving anything more than routine acadamic excellence. Their neglect offers a great opportunity for the urban-based university to study and provide the academic resources for the troubled cities of our area and the state.

Consider some of the local aspects of issues before us: slums, crime, education, alienation, anomie, despair and disillusionment—I need not delineate them all here and now—that for this student body and this faculty are not academic. Coming, nearly all of you, from Dade and Broward Counties, these issues and many more are part of your daily lives. At the same time look at our strength as the largest bi-lingual, tri-ethnic urban area in the United States, and the one with the strongest links to the Caribbean and all of Latin America, and all the exceptional opportunities for study and growth this provides. To avoid them in your studies and planning, is to deny one of the essential values of the university which is to enhance the community which shelters it, to be a strong resource to which the community can turn for leadership for its social, cultural and economic benefit.

Among its other functions, the university is the repository of human values. On this campus we find that multi-ethnic mix which best characterizes urban society and it is through that pluralism that we can better serve our community by bringing harmony through conflict, consensus through debate. An immediate objective to accomplish this should be the expansion of this university's graduate programs and the institution of the four-year undergraduate process for which it is chartered so that there is a continuity to the course of study which is so helpful in creating a true academic community.

Florida International must become the four-year college it was originally chartered, perhaps with the proviso that the freshman class be no greater than about one thousand students. The junior and senior classes would still be the bulk of the student body, but for some there would be the opportunity for a four year experience. If just a few moments ago I spoke of our state universities becoming poor imitations of great academic institutions, in reality it was to point up the need for a university which classically concentrates on the life of the mind, on the humanities and on the wisdom to deal with the urban problems I discussed earlier.

My vision of a greater university in the Dade-Broward area is one which, attracting the best minds among our young and scholars looking for real situations in which to test their ideas, would fall into natural faculties and schools of manageable dimension so that they could address themselves to our society—a total society. To learn about the community and in turn to give back to that community the knowledge to deal with business, public and private schooling, centralized government and neighborhood governance, urban aesthetics, delivery of health services, whatever issues are important to the urban community in which we live and whose environment we must always seek to better.

In addition, we should continue to press for the establishment of major graduate programs here, at Florida International, rather than in the hinterlands, if choices like that must be made. The last bastion of this state's famed pork-chop philosophy is in the state university system which covers twenty-two percent of the population and a lot of empty acres with five universities including the two major ones, while the two and one-half million residents of Dade and Broward Counties as well as other urban centers in Florida continue to be recipients of an academic "Pacification" program. We cannot accept the meagre leavings from Gainesville's and Tallahassee's overladen tables, but we need to have located here those programs most concerned with our priorities because that is the way the most Floridians will be served. The value of such graduate programs must be obvious to our community leaders. The argument against adding them to Florida International is, in the final analysis, a political argument. There are the natural fears of those who believe that enhancement of Florida International will affect the viability of our local private universities and our community colleges. I believe these are exaggerated fears. This community is large enough to support the kind of university I speak of with endowments of all sizes without depriving the private universities of their share. At the same time it is important that this institution, so vital to the future of South Florida, receives its fair share of the educational budget to which we contribute so substantially.

I make no pretense to originality when I say that America has lost faith in its institutions—government, religion, the family—and that we face the future with uncertainty and concern. There are times when I come from a session of the legislature with the feeling that there is no hope when men and women are unable to resolve their small differences in order to attack larger issues. We are fantastically wasteful of brains, money, the environment and people.

It is at times like that I think of the "religion" of Thomas Jefferson, and later that of William James and John Dewey, who had faith in the American genius to view our nation as always in process, in a kind of regulated permanent revolution where the remedy, as Jefferson said, is not to take democracy from them but "to inform their discretion."

Graduation does not complete the education of a person, and the goal I share with you today is to so inform your discretion and those who will follow you in an even greater university that the faith of our fathers in the greatness of this nation is restored to all the people, and to confirm our resolve that our particular role is to make our university, Florida International, the focus and fulcrum of our efforts to make our South Florida community the kind of place where we will be happy to spend our lives.●

A NATIONAL CEMETERY FOR DELAWARE

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. EVANS of Delaware. Mr. Speaker, I am today introducing legislation directing the Administrator of Veterans' Affairs to establish a national cemetery in the State of Delaware.

Mr. Speaker, there are approximately 83,000 veterans now living in Delaware, of which 35,000 to 40,000 are World War II veterans. Sooner or later, these thousands of veterans, who have served our Nation so well, will be in need of burial services. But unless action is taken today, these men and women are not going to have the opportunity to be buried in a national cemetery. The cemeteries closest to Delaware—Arlington, Valley Forge, South Jersey—are rapidly filling up. There will soon be no place for the Delaware veteran to go.

My bill does not specify a location in Delaware. That decision would be left up to the Administrator of Veterans' Affairs, who would consult with State officials and veterans groups to find the best suitable area in our State for a national cemetery.

I believe it is terribly unfortunate that, as demand for places in veterans cemeteries grow the capacity of the national cemetery system does not grow with it.

Our veterans have made great sacrifices for our country. The least we can do is provide these veterans with the opportunity for a final resting place in a national cemetery which is close to their homes and the homes of their friends and families.

I urge prompt and favorable action on my legislation, and include the text of the bill in the RECORD:

A bill to provide for the establishment of a veterans cemetery in the State of Delaware

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Administrator of Veterans' Affairs shall take such action as may be necessary to establish in the State of Delaware, at a location to be determined by the Administrator, a cemetery which shall be part of the National Cemetery System established under chapter 24 of title 38, United States Code.●

PERSONAL EXPLANATION—NATIONAL PARKS AND RECREATION ACT OF 1978

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. DORNAN. Mr. Speaker, after a great deal of consideration I decided to vote against H.R. 12536, the National Parks and Recreation Act of 1978. I reached this decision painfully aware of the fact that section 511 creates the Santa Monica Mountains National Recreation Area which, in part, will be within the boundaries of my 27th district.

In my view, H.R. 12536 is nothing more than a "Christmas tree" of overkill from the Congress. It seems as if any area with a blade of grass and a squirrel has been slated for inclusion into the park system. There are 34 development ceiling increases, 5 acquisition ceiling increases, 18 boundary changes, 11 new park and seashore areas, 5 new trails, 15 miscellaneous provisions, 8 wild and scenic river act amendments, 18 new studies, 5 authorizations for funding and a plethora of technical, administrative and new authority changes. This grab-bag approach to our national parks, at a cost of approximately $1.4 billion dollars is, in my view, improper and ill considered given the suffering of U.S. taxpayers.

Legislation of this magnitude, complexity and cost is better judged on a smaller and more manageable scale. Too few hearings were held to justify whether or not new park designations and continuing appropriations are warranted. Moreover, I am not persuaded by the Interior Committee's slick maneuver of providing something for everyone in order to secure this bill's passage. It is the wrong approach and the Congress has done a disservice to the public and to the legislative process by lumping all these park areas, many of which are worthwhile, into one bill. The Congress simply should have taken more time and judged with greater care the necessity of so many park designations.

As many of my colleagues know, successful passage of section 511 was of great importance to me and to my constituency. Section 511 of this bill establishes the Santa Monica Mountains National Recreation Area ending a greater than 20-year struggle to preserve and protect significant portions of the last undeveloped land resource that crowns the northern part of my district reaching into the very heart of the Los Angeles urban area. Since coming to Congress I have worked closely with the section's authors, BARRY GOLDWATER and BOB LAGOMARSINO, to work out a reasonable approach to the longstanding concern over the fate of this lovely mountain area.

The section designates a target acquisition of approximately 80,000 acres of the ruggedly picturesque Santa Monica Mountains which stretch from downtown Los Angeles all the way into rural Ventura County and along large portions of the Los Angeles County coastline of which my beautiful district is a part. It preserves this unique mountain area for open space and recreational purposes and protects the environmentally important "mountain airshed" which maintains a vital clean air flow in the Los Angeles basin area.

The proposals for the new recreational area are novel inasmuch as great emphasis is placed upon involving local citizens and interest groups in the entire park study, planning and creation. The work of the current Santa Monica Mountains Comprehensive Planning Commission will continue to be utilized. In addition, the bill also creates a new park commission which will have members appointed from the local area. Significantly, section 511 further provides that except where continued private ownership is clearly incompatible with the proposed recreational area, no private land will be condemned or acquired.

The Santa Monica National Recreation Area will provide a valuable environmental and recreational asset to Los Angeles, the State of California and to our Nation. It is a reasonable approach that strikes a necessary balance between legitimate environmental and commercial interests. I sincerely believe it will become a model for future park development and I am proud to have played a part in its birth. I only wish that the entire bill had been given one-tenth of the thoughtful research and planning that went into establishing this recreational area.

As a model park I believe it will be a great tribute to the one outstanding Congressman who played such a great role in making this park a reality. The Santa Monica National Recreation Area will be cherished and enjoyed by millions of Americans thanks to this man. I speak of my predecessor, former Congressman Alphonzo Bell, who for over a decade was at the forefront of the fight to preserve this beautiful mountain wilderness. In recognition of his monumental contribution to this effort I intend to soon introduce a resolution which would have the "interpretive and recreation visitors center" bear his name. A timeless tribute to a colleague and friend of so many in this legislative body.●

JENNIFER ROSE OHANIAN NEW FAMILY MEMBER

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. DANIELSON. Mr. Speaker, because I have now acquired the title of "Uncle," it is with the greatest of pleasure that I announce to my colleagues a new addition to my family: Jennifer Rose Ohanian, born on Saturday, July 1, to my brother-in-law, George Ohanian and his wife, Eileen.●

STATESMANSHIP FROM THE PRIVATE SECTOR

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. HARRINGTON. Mr. Speaker, there appeared in the New York Times this morning an extraordinarily perceptive op-ed piece written by Felix Rohatyn. Mr. Rohatyn points to the urgent need for a new approach to the business of government with accuracy and rare insight. I commend his remarks to my colleagues in the Congress.

[From the New York Times, July 12, 1978]

STATESMANSHIP FROM THE PRIVATE SECTOR

(By Felix G. Rohatyn)

Three years ago, when Governor Carey asked me to take a few weeks off to try to keep New York out of bankruptcy, I was a liberal—Franklin Roosevelt was my childhood hero, the New Deal an unparalleled intellectual achievement. I believed in government's ability to manage, to right wrongs and make things work. I was also obviously totally ignorant of government and its functioning.

Today, my municipal virginity torn to shreds, I am neither liberal nor conservative but profoundly skeptical. Government, at any level, is neither efficient nor inspiring. Inefficiency can be corrected but inspiration cannot be ordered.

Henry Kissinger, in a recent address said: "It is a paradox of the contemporary world that, if we wait until these dangers become realities, we will lose the chance to do anything about them. At the moment when we still have a great scope for creativity, the facts are likely to be unclear and ambiguous. When we know all the facts, it is often too late to act. That is the dilemma of statesmanship."

There is no place for statesmanship in government today because the political cost of statesmanship is too great. Most of the meaningful decisions required from government today are unpleasant; they involve vocal, powerful, competing interests. They involve living up to over-commitments made by previous officeholders unwilling to face facts in their own time and place. My role as chairman of the Municipal Assistance Corporation was symbolic of the failure of government as well as pointing to an increasingly important role to be played by the private citizen, and specifically by the businessman.

Mr. Kissinger's definition of statesmanship can be restated relatively simply: get the facts, make a judgment as to their meaning, don't kid yourself, act before it is too late. This is essentially what business leaders do every day of their lives. By and large we have no illusions that we will be faced with decisions which will make everybody richer, or more secure, or happy.

I believe most of us also understand that there is more to business than just profits; that there is the moral imperative for affirmative action, social responsibility, environmental protection. But it is all within the framework of a viable on-going economic and social unit and with the recognition that, for the businessman and for his company, tomorrow always comes.

Businessmen, by and large, are ready and

willing to serve government. As cabinet members and commission chairmen, presidential advisors and ambassadors, they have served the country well. They are usually timid, however, about getting involved in "politics" and, through the media, in taking public positions on a variety of issues. It is an understandable view. Politics is probably the cruelest form of activity known to man, short of war and cannibalism. The ruthlessness of political relationships, the callous disregard for a minimum level of human kindness, have to be seen to be believed.

Not as cruel, but equally risky, is the involvement with the media. There is always the possibility of embarrassment, of making people angry and attracting fire from various quarters. There is possibly the greater danger of getting hooked on being a public figure, of believing that your own inane statement, because you read it in The New York Times, is all of a sudden imbued with wisdom. However, if businessmen are to play the role they can and should play, in a world increasingly in need of sanity, they will have to come out of the closet and deal with politics and the press.

It is not unfair bias that gives business a bad image in the press. It is because business and the press do not talk to each other except through intermediaries such as vice presidents for public relations. The resentment of the newspaperman translates into a bad story and reinforces the businessman in his conviction to stay isolated. The waltz continues.

Labor leaders, far better than businessmen, understood long ago that involvement in public affairs and a direct relationship with the media were a powerful instrument to get political attention. The business leader who wishes to make an impact has to do the same thing. His views may have the wisdom of Solomon, but if they have the editorial support of The Times and The Daily News they will become public policy. This was proven here.

The City of New York, for years, was careering to its own destruction. Labor leaders negotiated unsustainable contracts with City and State politicians more than eager to oblige, because that was easy; the financial community provided credit, because that was easy; the accountants balanced the books with phony entries, because that was easy. Taxes were going up every year, more and more short-term financing was needed, laws were passed without any thought of economic impact, business and jobs were fleeing, the quality of life was eroding.

It was written on the wall that a catastrophe was coming; it was absolutely inevitable. Yet, the political sector, alone, was unable to handle the crisis. First with the Urban Development Corporation, then with M.A.C. and the Emergency Financial Control Board, private citizens, mostly from the business sector, were called to face the facts. We were able to contain the crisis by leveling with the politicians, the banks, the public, the press, Albany, Washington, the labor leadership.

More than anything else, however, the influence that the private members of M.A.C. and the Emergency Financial Control Board had on the political process was due to the public support we gained as a result of a supportive press. Early on we made a fundamental decision to be totally candid with the press. It was a decision that entailed risk since we were continuously teetering on the brink of bankruptcy. The press however, once it understood what we were trying to do and why, treated us with fairness, supported us and created the climate in which political leaders could do difficult and painful things.

Not only could they do difficult things, but it also turned out to be good politics, I would venture to say that Governor Carey's popularity never stood so high as after that long summer and fall of 1975 when, together with us, he led the fight against New York City bankruptcy.

The situation in the country today is not so different from the City's situation 10 years ago. We have the talent, the muscle, the wealth, the technology to solve all of our problems and provide for all of our citizens. But the impotence of the political structure and the incompetence of the bureaucracy turn every problem into an insurmountable mountain. Government today is like the outfielder who turns every routine fly ball into a circus catch. Statesmanship today must come from the private sector since it seems incapable of flourishing in government.

It is in this climate that the private citizens and, more particularly, the business leader, can play a vital role if he is willing to take the risks. I say risks because it is obvious that when you venture into the public arena you are fair game for a lot of headhunters. But the impact can be enormous and, especially when, as in the case of M.A.C. or the Emergency Financial Control Board, the impact is on one's community, the satisfactions are enormous.

Political leaders today need more help than ever before. Some of them even know it. Most of them are faced with enormously complicated problems way beyond anything for which they were prepared by prior experience. They are, by and large, decent people, enormously hardworking, engaged in an occupation where the line between the real and the perceived, the necessary compromise and the cheap expedient, is exceedingly fine.

The business leader, in structures such as M.A.C., of which there will be many, can be of enormous help. If he is unafraid of politics, but without political ambition himself, he will have public support and can make his greatest contribution by helping the political leaders to be statesmen.

The politician, every day, has to reconcile the hard realities of the moment with the impossible promises he and his predecessors made in the past. On taxes, on services, on labor costs, on jobs. Everywhere he wants peace, he wants to be loved, he wants to make everyone happy, he wants to be reelected. So did Neville Chamberlain. We should, however, encourage him to become Winston Churchill.●

RETIREMENT OF ARTHUR D. MORGAN FROM BANK OF AMERICA

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. BADHAM. Mr. Speaker, it has come to my attention that on July 20 this year Mr. Arthur D. Morgan, vice president of the Bank of America, will be honored in the city of Commerce on the occasion of his retirement from the Bank of America.

It has been my pleasure to know Art Morgan for several years as a gentleman who exemplifies that which is good and respected in the business of banking. Mr. Morgan has served his community in such capacities as president of the Industrial Council of the city of Commerce, as president of the Bell Garden-Commerce Rotary Club, as president of the Lions Club, and presently serves as treasurer of the Beverly Hospital Foundation Board and retains membership on the Industrial Development Committee for the city of Commerce and has been active in the Rio Hondo and La Crescenta Boys Club for several years.

Arthur Morgan joined the Bank of America on September 1, 1936, and after holding many positions with the bank, will retire as vice-president and manager of the city of Commerce office.

While the banking fraternity will lose an excellent representative, I am sure that my colleagues would join me in wishing Arthur Morgan a full and happy retirement.●

"GOOD NIGHT, GOOD LUCK AND GOOD NEWS TOMORROW"

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. GAYDOS. Mr. Speaker, on July 19, officials of the Columbia Broadcasting System and its affiliate station in Pittsburgh, KDTA–TV, will honor a man whose name is a household word in thousands of homes around western Pennsylvania.

For 25 years, KDTA–TV news and Bill Burns have been synonomous. For 25 years, Bill Burns has been the link between people and the news surrounding them. His unique style of broadcasting has earned him the distinction of being the most popular TV newsman in town.

He did not achieve this by sitting behind a desk, looking into the camera and reading the work of someone else. Bill Burns believes in going where the action is.

Over the years he has witnessed death, destruction, and tragedy. He has tramped through the ruins of fires, and picked his way through flood-strewn debris to cover a story. On one occasion, he saved a life by convincing a man not to jump from a bridge.

Bill Burns has interviewed the great, the near great, and the would-be great. He has talked to people on the street, at their jobs, and in their homes. He has earned the respect and sometimes grudging admiration of his competitors. His reputation is such that more than once others have simmered with indignation and frustration while a visiting dignitary granted Bill an exclusive.

His two shows a day are among the top-rated in the country. At noon, Bill is joined by his attractive and talented daughter, Patti, making them the first father-daughter news team in the Nation.

Bill was born in Philadelphia but Pittsburgh now claims him as its own. He came west after serving with the 30th Infantry Division during World War II and has been a fixture in Pittsburgh ever since.

Mr. Speaker, I know I speak for thousands of television viewers in western Pennsylvania when I say we hope to hear Bill's signoff message of "Good Night, Good Luck and Good News Tomorrow" for many more years to come.

On behalf of my colleagues in the Congress of the United States, I congratulate Bill Burns on his 25th anniversary with KDKA–TV and wish him continued success in the future.●

HON. JIM WRIGHT, MAJORITY LEADER OF THE HOUSE OF REPRESENTATIVES, ADDRESSES THE STATE BAR ASSOCIATION OF TEXAS ON THE SUBJECT OF INFLATION AND ENERGY SHORTAGE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. TEAGUE. Mr. Speaker, recently the distinguished majority leader of the House of Representatives, the Honorable JIM WRIGHT, addressed the convention of the State Bar Association Annual Judges Luncheon. His subject was "Inflation and Energy Shortage," which was well received by that body.

Under leave to extend my remarks in the RECORD, I wish to include the remarks of our majority leader so that all in this House may read them.

TO COMBAT INFLATION—AND THE ENERGY SHORTAGE

(Remarks of Jim Wright)

We meet at a time when our will as a people is being severely tested, and in a somewhat new and unaccustomed way.

This test of our will, and of our nationhood, is not an overt challenge as on a military battlefield.

That kind of obvious challenge is in many ways much easier. The enemy is personified and unmistable. The threat is immediate. Our duty is clear. We can galvanize a spirit of unity for the burst of heroic effort that is required of us. Several times in our history we have done just that.

The test we face today is in subtle ways more difficult. It demands no less a unity of purpose, no less a will to sacrifice. The sacrifices are less costly and less severe—but they must be longer endured.

Sincere citizens can honestly disagree today upon the relative importance of a wide variety of national concerns.

But no informed American can deny that two challenges are of overriding importance to the nation. These are the energy crunch and persistent inflation.

The two are intertwined. Both have been a long time in developing. Each feeds upon the other. Neither will be solved quickly nor yield to a dramatic gesture.

A major cause of the present inflation is our shameful and growing dependence upon foreign petroleum—up from $7 billion in imports in 1973 to $45 billion last year. The result is a deficit in our balance of payments, a decline in the value of the dollar, and a rise in our cost of living.

The effort required of us all must be united and sustained. We'll have no military bands, no unifying themes in movie houses to inspire us. News media will not trumpet our successes—but only our defeats, our failures and our follies. Not heroes but anti-heroes will be celebrated.

And so it will be harder to believe in ourselves, and in the rightness of our cause. That in itself is a part of our problem.

Another part of the problem is in communicating to the American people exactly where it is that we are trying to go. News accounts do not tie it together. When people understand that there is a plan, they will be much more likely to cooperate in its fulfillment. So let me try to spell it out.

There is a definite long-term plan to triumph as a nation over these twin challenges—energy insufficiency and inflation. But let us not deceive ourselves. The plan will not yield sudden results. And it could be derailed by sectionalism, by factionalism, or by impatience.

This plan was not developed overnight. It has been consciously formulated over a period of many months. It has been agreed to in broad principle by the President, the Council of Economic Advisors, the Secretaries of Energy and Treasury, the Chairman of the Federal Reserve, and the congressional leadership as well as the Chairmen of the Budget and Appropriations Committees.

The components of the plan are the following:

1. To pass the energy bill this year and thus begin the long, slow task of conservation and of increased domestic exploration. The congressional leadership is determined that this bill, including the gradual deregulation of natural gas, shall be enacted before this session of Congress ends. This will do more than any other single thing to reduce the dollar drain and to revive world confidence in the value of the dollar.

2. To begin next year the serious development and production of long-term alternatives to petroleum—mainly synthetic fuels and solar power.

3. To pursue a measured policy of fiscal restraint to the end that the budget deficit shall be steadily reduced to less than $50 billion this year, less than $40 billion next year, and consistently downward to an absolute balance by 1982. Congress has made a good start. In the first ten appropriations bills this year, we are below the President's budget.

4. To sustain a consistent rate of economic growth within the range of 4 percent to 4.5 percent annually, and thus to avoid the roller-coaster cycles of booms and busts.

5. Gradually to reduce that portion of the national product which is represented by government activity from a present level of about 22 percent to 20 percent or less by 1982. And to eliminate the needless inflationary impact that has crept into literally hundreds of government regulations.

6. As the rate of inflation abates, to reduce interest rates commensurately as a spur to healthy private economic growth.

7. To eliminate the economic drag created by a chronic welfare class of unemployables through a program of job training and a reform of the welfare system to require useful work of all who are able to work.

8. To encourage the private sector, by selective tax reductions and incentives consistent with our budgetary goals, to take up the slack through investments in job-creating enterprises to the end that the current downward trend in unemployment shall continue.

9. To sell more abroad, particularly of agricultural commodities, so that together with the ultimate reduction in our petroleum imports, we again shall achieve a healthy surplus in our balance of trade.

10. To follow a policy of measured restraint in wage increases, and to balance them with productivity increases, so that they do not give cause or excuse for a new wage-price spiral.

That, in broad outline, is the plan. That is where we intend to go. We cannot get there overnight. But if we have the patience, the determination, the consistency—and a sufficient sense of national purpose, we can arrive at each of those destinations.

We easily could spend an hour or more discussing any one of the ten goals I have enumerated. We might disagree on the details of their implementation. But I do not believe that we would disagree upon the basic validity or desirability of the plan.

The goals are achievable. Of that I am convinced. I am not certain that they will be achieved. But I do feel certain that they are worth working for—and that *if* we can achieve them, every American will be the beneficiary. All of us will be better off.

The question, really, is whether we have the sense of nationhood, and the patience, to pursue this plan long enough for it to work, resisting temptations to abandon it prematurely out of regional bravado or factional strife.

Americans are, by our very nature, an impatient people. That is both our strength and our weakness. We tend to rock along undisturbed until a crisis has us by the throat, and then to demand instant solution.

But, with it all, we historically have had a capacity to believe in ourselves and in our collective ability to surmount difficulties.

In 1835, Alexis de Tocqueville was astounded by what he discerned as the optimistic spirit of the typical American. This is how he described it: "In (the American's) eyes, what is not yet done is only what he has not yet attempted to do."

I hope that the cynicism of the past few years, and the growing thirst for scandal and debunkery, have not fatally flawed that spirit.

There is reason to hope that they have not. The economic performance of our nation in the past 18 months has been nothing short of spectacular—far more spectacular than the average one of us seems to realize.

We have reduced the nation's unemployment from more than 8% in January of last year to less than 6% today.

A reduction of two full percentage points in the unemployment rate in only 18 months, is absolutely unprecedented in the history of the nation.

Among heads of households, unemployment is down to 3.7% at this moment.

More than five million new and additional jobs have been created in this economy in just the last year and a half. And it is not as though these five million people have been employed by the government. Not at all. More than 4.7 million of them are employed in the resurgent private sector of our economy.

Business investment, after increasing at an average rate of only 1% annually for the previous eight years, has grown at an annual rate of better than 9% during the past 18 months.

In spite of all our loudly proclaimed cynicism over the institutions of our society, there must have sprung from somewhere a revival of confidence, and of hope.

It remains for us now to install the linchpin—the energy program, the evidence of our self-discipline—and to follow that with a sustained assault upon inflation, the evidence of our self-control.

Kevin Phillips, writing in the May issue of Harper's magazine, decried what he sees as the "Balkanization" of America. He describes the disintegration of our basic national purpose into a whole set of quarrelsome factions—regional, racial, economic and ethnic—with each of us giving his primary

Alexandr Solzhenitsyn, in his recent competitive piece of it.

From my vantage point in Congress, I do see some evidence of that.

Alexandr Solzhenitsyn, in his recent commencement address at Harvard, pronounced a grim assessment of our moral courage. An unchecked materialism, timid leadership, legalism without moral values, a vicious and irresponsible press, a spiritual vacuum—all these in his view add up to a society which has lost the will to defend itself or to make any sacrifice for the common good.

His critique, if extreme, at least contains some uncomfortable truth.

But I gain some solace in reflecting upon an even harsher prognosis, written in about 1785, while we were just beginning to try to pull together a Constitution, by the Dean of Gloucester:

"As to the future of America, and its being a rising (nation) under one hand . . . it is one of the idlest and most visionary notions

that ever was conceived, even by the writers of romance. The mutual antipathies and clashing interests of the Americans, their differences of governments, habitudes and manners indicate that they will have no center of union and no common interest. They never can be united into one compact empire under any species of government whatever; a disunited people till the end of time, suspicious and distrustful of one another, they will be divided and subdivided into little commonwealths or principalities . . ."

Almost 200 years later, as we approach yet another birthday of our nation, it might be worth observing that we've done a bit better than that!

And we can do better still. We can whip inflation and the energy shortage if we have the will to stick together.●

SOCIAL SECURITY CHANGES

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. JACOBS. Mr. Speaker, the following correspondence from an Indianapolis resident is, I think, of interest to most Members of the Congress:

INDIANAPOLIS, IND.,
March 29, 1978.

DEAR SIR: I just received in with my social security checks for myself and dependent children, "the recent changes in social security." Fine if you are over 60! But the forgotten woman, the widow past 40 who has small children or young people under 18. She gets no help from anywhere. She can make $240.00 more this year, why even bother? It amounts to about $62.00 a week that is part time. When my husband died 3 years ago, I had 4 children and was 51 years old. I have no marketable skills. I spent 31 years raising a family of 8 children and still had the 4 younger ones at home plus my mother who has lived with me for over 20 years she is now 85. I still have 2 children and my mother at home and am 54.

Part time work I do, but it is not the kind of work that is teaching me a skill that will give me a liveable income when my youngest child is 18. Everything is geared for the "senior citizen," beginning at age 50, but not in effect until age 65.

Discounts and help of all kinds, but a widow without working skills and over 50 is the forgotten woman.

I will have 5 years or more that I will provide a living for myself. How am I supposed to do this? I have not stated that I do not have talents, but because I have not used them for gainful employment, they do not exist. I am not sick, nor do I look like I am "over the hill." I do feel like I am being punished for staying at home and making a home for a husband, 8 children who are decent human beings, and a mother who was not able to live alone. I am sure I am not the only woman in this position and what is to happen to us? We are a drag on the employment market.

There might be a law stating age is not a deferment to employment, but that is only a law. For every law that is written there is a way around it and is used. Maybe you can tell me how I can help myself? I have found out in the last 3 years that I can get no credit, can not find employment that pays me to give up Social Security and eat and pay *rent*.

What are we to do?

We are just so much in need of help as all the other so *called minority*. We are maybe not forgotten but we are ignored. It is time someone gave some thought to us. If you manage to live till a age when you have medicare, et cetera, you might be able to exist a few more years. What a wonderful future we have to look forward to.

I am enclosing an ad from a newspaper in Indianapolis. Maybe it says some things for me. If you take time to read this or answer it, please do not send me a form letter that is only costing the taxpayer more money, and not helping me one bit.

MARY ANN LOBDELL.

RECENT CHANGES IN SOCIAL SECURITY

Major changes in the social security program have been enacted into law. The new law provides more income to assure the financial stability of the system well into the next century. Gradual increases in both the tax rate and the taxable wage base were approved to keep social security on a sound footing.

Other program changes that may affect people now getting benefits are described briefly in this leaflet.

YOU CAN EARN MORE AND STILL GET BENEFITS

If you work while getting social security, you can earn more without losing any benefits.

If you are 65 or older—You can earn $4,000 in 1978 (up from $3,000 in 1977) and receive all benefits for the year. If your earnings exceed $4,000, $1 in benefits will be withheld for each $2 you earn above that amount. The amount you can earn will increase by $500 each year until it reaches $6,000 in 1982. After that, the amount will increase automatically to keep pace with increases in average wages.

Starting in 1982, there will be no limit on earnings for people 70 or older, just as there is none now for those 72 and over.

If you are under 65—You can work and earn $3,240 in 1978 and not lose any benefits. If you earn more than this, $1 in benefits will be withheld for each $2 earned over $3,240. This amount will increase in future years as wages go up.

Before 1978, working people who had low wages or were not active in their own business some months could get a full benefit for those months, no matter how high their total earnings for the year were. Now this special rule applies only in the first year a person was both eligible for benefits and had a non-work month—a month in which he or she neither earned wages in excess of 1/12 the annual limit nor performed substantial services in self-employment. If 1978 is your first year to get benefits and you are 65 or older, you can get a check for any month you neither earn over $334 in wages nor do substantial work as a self-employed person. If you're under 65, the monthly limit is $270.

If you receive benefits because of disability, there are special rules (including medical considerations) which are considered when determining how work affects your benefits.

(NOTE.—If you worked and earned over $3,000 in 1977 while receiving benefits, you must complete an annual report of earnings by April 17, 1978, unless you were 72 or older all year.)

IMPROVEMENTS NEXT YEAR

Several new provisions take effect in January 1979:

Benefits to a widow or widower who remarries after age 60 will not be reduced or stopped.

A divorced wife 62 or older can get benefits on her ex-husband's earnings record if the marriage lasted at least 10 years (instead of 20 years). A surviving divorced wife's benefits can start as early as 60 (or 50 if disabled).

Special minimum benefits payable to people who worked for many years under social security at low wages will be increased next January. The payment for a worker with 30 or more years of work, for example, will increase from $180 to $230 a month. The top amount for a couple will go from the current $270 a month to $345. These payments will be increased in future years as the cost of living goes up.●

THE SOVIET UNION ON TRIAL

HON BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. ROSENTHAL. Mr. Speaker, the Soviet Union is on trial. As the civilized world looks on in helpless horror, Anatoly Scharansky, Alexandr Ginzburg and Mariya Slepak are being tried in the ultimate court of injustice: a court in which hand-picked hecklers fill the gallery, the prosecution reigns supreme, the verdict is decided in advance, and men and women of great courage are accused of crimes wholly fabricated by the Soviet Government.

The unspoken and unwritten charges against Anatoly Scharansky and Mariya Slepak and the charges for which they really are on trial are their desire to emigrate to Israel and their attempts to monitor their own government's compliance with the 1975 Helsinki agreement. Instead Scharansky has been charged with treason, anti-Soviet agitation, and propaganda. The Soviets claim that he passed defense secrets to foreign agents and worked for the CIA. For these charges, he could be sentenced to death. In an even more preposterous charge, Mariya Slepak is being tried for "malicious hooliganism" for hanging a banner outside her Moscow apartment which proclaimed her desire to emigrate.

There is also the tragic case of Alexsandr Ginzburg, seriously ill and a victim of years spent in Soviet prisons. He has been tried for his activities as a Helsinki monitor and administrator of a relief fund for the families of political prisoners.

But by far the most egregious element of these cases is that Scharansky, Ginzburg, and Slepak are on trial for being Jews. The prosecution—and indeed persecution—of these three dissidents marks a return to the terror and purges of the Stalinist era. It marks a return to the overt anti-Semitism of a time we thought had been left behind long ago.

In addition, the world is witnessing this week the Soviet mockery of such accords as the United Nations Charter and the Helsinki Final Act. The accused are being tried for exercising rights guaranteed them by the laws of their own country and by international treaties it has signed. At Helsinki just 3 years ago, the Soviet Union pledged to "respect human rights and fundamental freedoms and the rights of the individual to know and act upon his rights." In addition, that government agreed to observe the

right of individuals to rejoin family members abroad and to make new lives for themselves in their native, historic homeland.

It is a bitter irony that Anatoly Shcharansky is now being prosecuted for monitoring the accord which his trial itself violates. And it is little consolation that the whole world has now taken his place, monitoring the Helsinki accord by way of his trial.

Indeed, the whole world is aghast at this shameful violation of fundamental rights; even the traditional apologists for the Soviet Union are outraged. The Communist parties of Western Europe have joined in protest against the trials. And we hear reports that demonstrations are taking place even in some Iron Curtain nations.

By itself, this mockery of justice is enough to attract worldwide attention. But these trials also carry with them repercussions which could seriously affect the state of East-West relations for years to come. For this severe blow to human rights in the Soviet Union constitues a direct challenge to the Western world in general and to the United States and President Carter in particuiar. In an unprecedented move, the President has publicly denied that Shcharansky had any involvement with the CIA. And the significance of these trials for United States-Soviet relations has been heightened by their timing, coming as Secretary of State Vance and Soviet Foreign Minister Gromyko meet in Geneva to discuss strategic arms limitations. The Soviets, with this action, have further poisoned the already deteriorating relationship between our countries.

I am proud that both the House and Senate this week have overwhelmingly condemned this shameful act of Soviet repression. This should be a clear signal to the world of the seriousness with which the United States regards fundamental human rights.

Mr. Speaker, the Soviet Union is on trial. The court of world opinion awaits the decisions affecting three fellow human beings, so that it can render its own.●

OCCUPATIONAL OUTLOOK

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. HAWKINS. Mr. Speaker, I would like to bring to the attention of my colleagues a very interesting and useful publication: The 1978–79 Edition of the Occupational Outlook Handbook. The handbook, which is available through the Government Printing Office (GPO), was compiled by the Bureau of Labor Statistics in the Department of Labor and is a major source of vocational guidance information for hundreds of occupations. For each occupation, the handbook describes what workers do on the job, the training and education needed, and most importantly, some of the availability of jobs in the years ahead.

We all recognize the difficulties our young people, especially, have in making the transition from school to work. Accurate career guidance is vital if this transition is to be successful. I hope those of you who have an occasion to discuss career options or who know of others who provide such guidance will take advantage of this informative book. (Occupational Outlook Handbook, 1978–79 Edition, Bulletin 1955, No. 029–001–02067–8.)●

CALIFORNIA DESERT CONSERVATION AREA

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. PATTERSON of California. Mr. Speaker, the California desert encompasses 25 million acres, nearly one-quarter of the whole State. Within the next 2 years the Bureau of Land Management will be drawing up a plan to manage the California Desert Conservation Area, as required by the Federal Land Policy and Management Act of 1976.

Recently I wrote a letter to the Director of the BLM, explaining my views on this subject, which I would like to bring to the attention of my colleagues.

The letter is as follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 11, 1978.

Mr. FRANK GREGG,
Director, Bureau of Land Management, Department of the Interior, Washington, D.C.

DEAR MR. DIRECTOR: In the near future, the BLM will be preparing a comprehensive management plan for the California desert. Since many of the constituents I represent use and enjoy the desert, I wish to express my feelings on this plan.

The Federal Land Policy and Management Act of 1976 requires the BLM to prepare a comprehensive long-range plan for the California Desert Conservation Area by September 30, 1980. I am wholeheartedly in favor of a comprehensive plan for the California desert, and I believe it is important for the various agencies involved, at all levels of government, to coordinate their activities in producing a plan to manage the 25 million acres of the California desert.

Congress, through the FLPMA, has mandated that the public be allowed to take part in the wilderness review procedure. I am very pleased to see the Bureau involving the public as much as it has been, and I hope that this high level of public participation will continue.

In accordance with Section 603 of FLPMA, the BLM must inventory and review all roadless areas of 5,000 acres or more. Although many have conveyed their belief that there should be no minimum at all, I believe that the 5,000 acre minimum may be too small, and I hope that this does not lead to a patchwork plan of wilderness areas.

I have received many complaints, as I am sure you have, concerning the definition of road that you are using in your wilderness review procedure. I realize that the selection of this definition follows the intent of Congress. However, special consideration should be given to the unique characteristics of the California desert, and the off-road vehicle use of that land.

The California Desert Conservation Area presently sustains about half of the total off-road vehicle use occurring on the public lands administered by the Bureau. Therefore, it is important that the areas currently open for off-road vehicle use remain open in order to accommodate all the people using the desert for this purpose.

The Wilderness Act of 1964 has given Congress the authority to place certain lands, "where the earth and its community of life are untrammeled by man", into the National Wilderness Preservation System.

The wilderness designation provides a special layer of protection to federal lands, with the hope of preserving the magnificent scenery and wildlife of that land. This designation should not be indiscriminately recommended for just any land, but limited to those areas which have retained their pristine quality.

Certain areas of the California desert have maintained their pristine quality, and it is my hope that only these areas truly deserving of the wilderness designation will receive this protection and that the other areas of the desert will be managed for the optimal benefit of all the people who use the land.

Cordially,

JERRY M. PATTERSON,
U.S. Congressman.●

ZURCHER AGAINST STANFORD DAILY, A PANDORA'S BOX

HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. WALGREN. Mr. Speaker, I am appalled by the recent Supreme Court decision in Zurcher against Stanford Daily. By a vote of 5 to 3, the Court has opened a Pandora's box which, if not closed, could infringe on the precious first amendment guarantee of freedom of the press. Moreover, this deplorable decision also threatens the rights of private individuals. It represents an encroachment on an individual's fourth amendment protection from unreasonable search and seizure. This decision invites abuse by overzealous police officials.

There is one wise sentence in Justice White's opinion. He states,

Of course the Fourth Amendment does not prevent or advise against legislative or executive efforts to establish Constitutional protections against possible abuses of search warrant procedure. . . .

As a cosponsor of H.R. 13017, the Citizen's Protection Act of 1978, and H.R. 12952, the Press Protection Act of 1978, I call on my colleagues to act to restore the freedoms which the Supreme Court has compromised.

In the wake of this deplorable decision, no one is safe from the enforcement arm of the Government. This decision permits a judge to grant a warrant on the basis of a supposition of evidence. The legislation which I support would reinstate the needed criteria of probable cause, or require a reason to believe that suspected individuals might attempt to destroy evidence.

I cannot emphasize enough the urgent need for a free press. If this decision had come down 10 years ago, it is unlikely that the press could have done the out-

standing job it did with regard to Watergate or the Pentagon Papers. If this decision is permitted to go unscathed, then we will have taken a dangerous step away from freedom and toward a police state. To take such a step would be to abandon the oath which calls for all public officials to uphold the Constitution. I urge expeditious action on H.R. 13017 and H.R. 12952.●

MENTAL HEALTH AMENDMENTS: CORRECTING MEDICARE DISCRIMINATION AGAINST MENTAL ILLNESS

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. PEPPER. Mr. Speaker, we like to think that we live in an age of enlightenment, that the civilizing influences of the past have cleared out the cobwebs in the dark corners of the mind of man, and have enabled us to put ourselves, and our relationships with others, in a perspective that no longer tolerates barbarism. Almost daily we receive reports that dispel this notion. The cloud under which people live in Uganda is illustrative. And here at home we cling to ideas that are throwbacks to the dark ages. Some of these ideas have been institutionalized in the medicare laws. Laws that tell us that mental illness is less devastating than physical illness.

Those seeking help for mental illness must find medicare a hollow promise. Perpetuation of medicare's institutional bias against the mentally ill has come to affect the way older people with incipient mental disorders have come to think about themselves. Lewis Carroll, the author, in a subtle but pungent way made the point that I am trying to make so much better when he fantasized a dialog between a son and his father that goes like this:

"You are old father William," the young man said,
And your hair has become very white,
And yet you incessantly stand on your head,
Do you think at your age, it is right?"

"In my youth," father William replied to his son,
"I feared it might injure the brain;
But now that I'm perfectly sure I have none,
Why, I do it again and again."

In the dialog, father William has come to accept society's own evaluation of himself. Many older people with incipient mental disorders are surrounded by the same frustration and futility reflected in the attitude of father William. They know that up and down the line, they will be greeted with an institutional bias that too often correlates mental illness with the irreversible effects of old age, and says that nothing can be salvaged from either.

There is compelling evidence that senior citizens are among those who have the greatest need for treatment of mental disorders. Yet, they are the most underserved. Although they constitute 11 percent of the population, they account for 25 percent of all suicides. An estimated 15 to 25 percent of older persons have significant mental problems but they make up less than 2 percent of those cared for in private psychiatric settings, and less than 4 percent of those seen in public outpatient clinics.

The President's Commission on Mental Health, chaired by Rosalynn Carter, says:

Senility is a term loosely applied to thousands of older Americans, yet as many as 20 to 30 percent of those so labeled have specific conditions that can be diagnosed, treated, and often reversed.

The President's Commission notes that there is a paucity of medicare coverage for both inpatient and outpatient treatment of mental illness, and concludes that—

Nowhere are the deficiencies of the Medicare program more apparent than in the area of financing mental health care.

I was privileged to meet at the White House with the First Lady to discuss the Commission's report, and she asked me for my help in pressing for assistance to the mentally impaired. I share the First Lady's concern. Many of those who are now in mental institutions could be released with proper care on the outside, and many would never require admission if outpatient care were readily available.

There is evidence that it is much easier to get out than to get into a psychiatric hospital. From the viewpoint of the mental patient, and society too, the exit may be accomplished all too easily. The results of a survey made by the Select Committee on Aging, of which I am chairman, disclosed all the indicators of a national scandal in the transfer of mental patients from State funded hospitals into old hotels and for profit boarding homes supported by supplemental security income, the Federal assisted welfare program for the aged. The years between 1967 and 1977 witnessed a massive exit from State mental hospitals. The number of inpatients dropped from 427,709 to 160,830, a decrease of 62 percent. Much of the impetus for discharge came from the availability of Federal dollars to assist States with maintenance of the elderly, blind, or disabled—provided they reside outside State institutions.

To qualify as many institutionalized persons as possible for federally subsidized income maintenance, many patients were released from State mental hospitals without appropriate screening, and were placed in substandard nursing homes and boarding homes without access to outpatient mental health services necessary to deal with the residual effects of mental illness.

A bill I introduced today proposed to deal with the precipitous discharge of patients from mental institutions. It would relieve the harsh effects of the current law, which now requires suspension of supplementary benefits of SSI recipients who are lodged in substandard group residential facilities, by declaring a moratorium on suspensions until October 1, 1979. It would provide Federal financial incentives to the States to establish standards, train, and compensate personnel to enforce standards, governing the discharge of mental patients and the adequacy of accommodations for supplemental security income recipients in nursing homes and boarding homes.

Those with mental disorders not only find facilities and services for treatment of mental illness limited, but also medicare coverage narrowly drawn. Medicare currently indemnifies only $250 annually for outpatient care, requires 50/50 copayments, and is limited to 190 days of coverage during the insured's lifetime for inpatient psychiatric hospital care.

The bill I introduced today will, if enacted, make medicare coverage for mental illness available on the same basis as coverage for physical illness, and place the services that clinical psychologists are licensed to perform under State law on the same footing, for most purposes, as the services of physicians.

Under this bill, no longer would referral of a mentally ill patient by a medical doctor, or psychiatrist, be necessary before a clincial psychologist could get medicare reimbursement for services that a clinical psychologist is licensed to perform under State law. This proposed change in the medicare law would not only eliminate the double fee that must now be incurred in every instance where referral is made to a psychologist, but it would also introduce a whole new cadre of mental health professionals to provide direct services to medicare insureds.

Services of the clinical psychologists, like services of physicians, would qualify for medicare reimbursement without certification of need for those services by any intervening authority, and without regard for whether those services are furnished in a hospital, extended care facility, office, clinic, home or any other kind of setting. Mental health clinics, which are now operated primarily by clinical psychologists, would also in most instances qualify for medicare reimbursement without certification by any intervening authority of the need for those services. Through this proposed change in the medicare law, the utility of the clinical psychologist and mental health clinic would be greatly increased.

The estimated cost, according to the Social Security Administration, of placing medicare coverage for mental illness on parity with coverage for physical illness—as the law is presently constituted—is $45 million annually. The additional cost would to some extent be offset by savings realized from substituting less expensive outpatient services for psychiatric hospitalization. Incremental additions in cost would be balanced by the immeasurable benefit that the mentally ill would receive from restoration of health, and the gain to society from making the mentally ill whole.

All of the changes—parity of coverage for mental illness, greater use of psychologists' services, enforcement of standards for discharge of mental patients and for living accomodations of SSI recipients—proposed in the bill I introduced today, Mental Health Amendments of 1978, should be made if we are to stop the backward march of thousands who, under the current system, have no means to cope with mental illness.●

ASBESTOS-RELATED DISEASE SCREENING ACT

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. RICHMOND. Mr. Speaker, since the thirties as many as 11 million workers, particularly men and women employed in the shipbuilding, construction, and automotive industries have been exposed to asbestos. They and members of their family who lived in the same household during the period of employment run an especially high risk of developing asbestos-related diseases. This is a calamity of major proportions.

We do not know how many of these individuals have already died from asbestos exposure in the workplace, but estimates are that as many as 50 percent of all Americans exposed by working with asbestos might die of lung cancer and other diseases as a result of that exposure.

Exposure to asbestos for as little as 30 days can result in life threatening asbestos-related diseases, including lung cancer and other forms of cancer, as well as asbestosis, a debilitating respiratory disease. It takes from 15 to 35 years following exposure for these diseases to develop. Smokers who have been exposed to asbestos are eight times more likely than nonsmokers to develop lung cancer.

Sad incidents regarding asbestos exposure have been reported recently. One case involved a child who each day would deliver a hot meal to her father who worked in a New Jersey insulation plant. Thirty years later, she was afflicted with cancer and died. There have also been reports of cancer among housewives whose only exposure to asbestos was washing their husbands' work clothes.

Now that we are beginning to realize the degree to which asbestos exposure has afflicted workers and their families, it is crucial that the Government immediately locate and test those who have already been exposed while we continue to upgrade our efforts to prevent such catastrophes in the future.

The Department of Health, Education, and Welfare, the Labor Department, and the Navy Department are now initiating a program to locate all the men and women who have been exposed to asbestos and to notify them of the dangers of exposure. Each of these individuals will be advised to see their physician immediately and to get medical screening to determine if they have developed asbestos-related diseases.

I am concerned, as I am sure many of my colleagues are, that we simply do not know how many of the individuals who have been exposed to asbestos are unable to get the necessary screening through public or private health and hospital insurance. I have repeatedly requested information from HEW, the Labor Department and the Navy Department on how many persons may not have coverage to get the necessary screening.

According to Secretary Califano, many health and hospital insurance programs, as well as medicare and medicaid and some worker's compensation programs will not cover the cost of screening exposed individuals on an outpatient basis.

Mr. Speaker, hundreds of thousands of men and women, shipyard workers, painters, electricians, carpenters, machinists, boilermakers and welders—and members of their families—may be living on borrowed time. These people, who have contributed to our national economy and who supported our war effort are entitled to a complete medical diagnosis for possible asbestos poisoning. If they cannot afford it, the government has a responsibility to pay for it.

For this reason, I am today introducing the Asbestos-Related Disease Screening Act of 1978. This legislation would allocate $55 million in Federal funds over a 3-year period to cover the cost for medical screening of workers and members of their families who have been exposed to asbestos poisoning and are unable to pay for the necessary tests on their own. The cost of a complete screening varies from approximately $100 to $400 per individual.

My proposed program would be administered by the Secretary of Labor and would provide two alternative methods of funding for asbestos disease screening. Federal grants could be made to public and private organizations, including State health departments, community health centers and the Public Health Service, to reimburse them for providing the screening, or, Federal reimbursement could be provided to individuals who choose to go to their own doctor for the screening.

Mr. Speaker, I urge my colleagues to join me in support for this measure which will insure that all persons who have been exposed to the life threatening hazards of asbestos will have the opportunity to get the all-important screening, even if they are unable to afford the cost.●

THE ANDY YOUNG FLAP

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. RONCALIO. Mr. Speaker, earlier today I had additional remarks I wanted to make regarding the Andy Young flap that could not fit into the 1 minute. They are as follows:

I have an abiding belief that America's best interests, as well as those of all Africans, black and white, will be best served if Andy Young can continue in his present role.

If his candor is occasionally harsh, if a piece of bitterness from his early years slips into his observations now and then, we ought not let this detract from the fact that he serves at a most difficult time, Africa's coming of age.

I have just finished reading Laurence Stern's account of the politics of intervention and the failure of American diplomacy, "The Wrong Horse." After its account of our 20 years of obsolete cold war policies, I am not too critical of the "verismo" school of Andy Young diplomacy.

To those who disagree, I recommend they read his entire interview of yesterday, and not just the headlines, and also read "The Wrong Horse." ●

WHO WILL LIVE? WHO WILL DIE?

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. DORNAN. Mr. Speaker, the Medical World News for May 15, 1978, carries one of the most ghastly abortion stories I have ever heard. Swedish doctors, or more aptly, Swedish gene police, have recently extended the reach of their death technology. In an operation that can only be described as macabre, Anders Aberg took a long surgical needle and pierced the living heart of one twin which he had previously diagnosed as having Hurler's disease. His operation is the first recorded selective abortion of a fraternal twin. Aberg performed the operation during the 24th week of gestation. The twin that Dr. Aberg so graciously allowed to live in the mother's dual womb-tomb was delivered 11 weeks later by cesarean section.

M. Neil Macintyre, a geneticist and anatomy professor at Case Western Reserve University, when informed of the procedure exclaimed "I'll be damned."

I sometimes wonder.

This misuse of technology qualifies for what Dr. Herbert Ratner calls "Recent Setbacks in Medicine."

The article follows:

ABORTED HURLER'S TWIN IS DELIVERED WITH NORMAL ONE

LUND, SWEDEN.—When amniotic fluid from fraternal twin fetuses revealed that one had Hurler's syndrome and the other was normal, doctors here took bold and apparently unprecedented action. They aborted the abnormal fetus and left it in the uterus. Eleven weeks later they delivered the dead twin by labor and its living sister by cesarean section.

Gynecologist Anders Aberg, director of the mother-care unit at Lund University Hospital, and Dr. Felix Mitelman, director of the hospital's department of clinical genetics, did amniocentesis on the 26-year-old expectant mother in the 18th week. She had given birth to a previous Hurler's syndrome child. Doctors injected a dye into the first amniotic sac after fluid was removed so they could be sure not to tap the same sac twice.

Five weeks later, the biochemistry by Dr. Michael Cantz of Johannes Guttenberg University in Mainz, West Germany, indicated one twin had Hurler's syndrome, severest of the mucopolysaccharidoses, which leads to progressive retardation and death, usually by the age of 10.

Using real-time ultrasound scanning as a guide, Dr. Aberg pierced the heart of the Hurler's fetus with an amniocentesis needle during the 24th week of gestation. Ultrasound enabled him to tell precisely when the needle hit the heart and it stopped. The physicians had kept track of the fetuses' positions by ultrasound after the original amniocentesis, and their relative positions did not change in the five weeks.

A second sample of fluid was taken from the amniotic sac of the abnormal fetus just

before the needle pierced its heart, and Dr. Gantz made a second diagnosis of Hurler's—several weeks afterward.

The dead fetus remained in the uterus, the physicians intending to bring the living child to term. But during the 35th week the mother came to the hospital with mild hemorrhaging and labor began. The dead fetus was delivered normally, but the position of the living child necessitated immediate cesarean section.

Both mother and child were reported doing well three months afterward.

American experts agreed with Drs. Aberg and Mitelman that this was probably the first case of selective abortion of a single fraternal twin.

"Amazing," said fetologist Neil K. Kochenour of the University of Louisville School of Medicine.

"Extraordinary approach," commented pediatrician Michael Kaback, director of the prenatal diagnosis and genetic counseling center at UCLA Harbor General Hospital.

"I'll be damned," said geneticist M. Neil Macintyre, professor of anatomy at Case Western Reserve.

Dr. Kochenour said that although he had never been faced with a similar problem, he had thought about it. "I think it sounds like a very good solution, and obviously it worked," he said. But he added that aborting one fetus risked aborting the other spontaneously at the same time.

Dr. Kaback was also concerned about the risk to the healthy fetus. "Until the safety of the healthy fetus is further solidified, I don't think it would be considered here as an alternative for a family in that situation," he said. "And there are ethical issues perhaps even more important than our lack of knowledge about the pregnant uterus and multiple gestation that would make me hesitant. But I'm not criticizing, I don't think they did anything wrong."

Dr. Macintyre said the approach might have been considered for a patient he counseled once who had married late in life, had had several miscarriages, and was carrying one Down's syndrome fetus and one normal child. She desperately wanted a child—but was shattered by the idea of a mongoloid. In this instance, a church group agreed to adopt the Down's child, and the pregnancy continued.

Henry L. Nadler, professor of pediatrics at Northwestern University, said it might not be easy to explain to a parent about sticking a needle into the heart of a twin but added that the approach was not unreasonable.●

AMBASSADOR ANDREW YOUNG

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. MOORE. Mr. Speaker, my vote against the motion to table consideration of a resolution of impeachment of U.N. Ambassador Andrew Young was given today in order to allow full and open discussion of recent controversial statements he has made that have a direct bearing on U.S. foreign policy as perceived here and abroad. My vote was not given to record my sentiments on the question of impeachment, but rather it was supportive of timely debate and examination of what Ambassador Young has said and in turn what the House should do about it. We should be given the opportunity to examine all alternatives. His remarks should not be swept under a rug of political convenience.

In the past I have regularly opposed closed rules, sponsored legislation to open committee, caucus, and conference doors to full public view and blocked attempts to limit open and full debate on an issue simply because those in positions of power in Congress found an issue too hot to handle from their perspective. My vote today was consistent with my past observations and votes to debate issues the public wants to have fully and fairly examined.●

ON THE PASSAGE OF NATIONAL PORT WEEK

SPEECH OF

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, July 10, 1978

● Mr. DODD. Mr. Speaker, earlier this week the House of Representatives passed House Joint Resolution 778, which authorizes the President to designate the week beginning September 13, 1978, as "National Port Week."

As a cosponsor of this resolution, I am enthusiastic over the great opportunity to recognize the contributions our ports have made to our Nation's economy and well-being. At the same time I feel that a National Port Week provides an opportune time to examine our Nation's response to a major problem currently facing our shoreline communities—oil pollution caused by tanker accidents.

We can ill afford to experience incidences similar to the loss of the *Amoco Cadiz.*

In recent months a great deal of effort has been exerted to pinpoint the causes of oil tanker accidents, and proposals to improve tanker safety on both domestic and international fronts have been put forth. For instance, at the International Conference on Tanker Safety and Pollution Prevention (TSPP), which met in London last February, the United States proposed changes to the present international standards for tanker construction and equipment and the international system of inspection and certification of tankers. Two very important protocols resulted from the 1978 IMCO conference—the protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships (MARPOL protocol) and the protocol of 1978 relating to the International Convention for the Safety of Life at Sea (SOLAS protocol). The provisions adopted in these protocols include requirements that new crude tankers 20,000 DWT and over have segregated ballast, utilize crude oil washing, and have inert gas systems as well as second radar and collision avoidance systems. The target dates for entry into force for the MARPOL protocol is June 1981 and June 1979 for the SOLAS protocol, pending ratification.

Moreover, another conference, the International Conference on Training and Certification of Seafarers recently met in London to examine the problems of adequate crew training and licensing. The conference is presently formulating its recommendations on these issues.

The formal ratification process for the Marpol and Solarz protocols has not yet begun. However, there is much that we can do as a nation pending ratification of these protocols. In this regard it is important to note that the Coast Guard has published an anticipated plan for regulatory implementation of the results of the IMCO Conference. However, it is felt that the Coast Guard should speed up its regulatory efforts in this area. Congressional hearings have been slated next week on the Coast Guard's efforts to prevent oil pollution caused by tanker accidents.

Additionally, the House Merchant Marine and Fisheries Committee has reported out a comprehensive piece of legislation to strengthen the ports and waterways.

Safety Act by mandating the Coast Guard to take certain regulatory actions. Numerous other proposals are before Congress which address other aspects of the oil pollution problem, such as oil pollution liability and compensation.

I am hopeful that as National Port Week approaches our Nation will be much closer to implementing proposals to improve tanker safety. However, Mr. Speaker, as you can see the problem is a very comprehensive one broaching both domestic and international concerns. I hope that as we celebrate National Port Week, our Nation will also examine how far we have traveled in dealing with this issue, and will use this time to increase national efforts to move ahead to prevent another oil spill from occurring.●

PEOPLE'S POLL SUPPORTS WAGE-PRICE CONTROLS

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 12, 1978

● Mr. GAYDOS. Mr. Speaker, this administration, as others before it, has publicly declared its dislike of and opposition to the use of wage and price controls as a weapon against inflation. It is a position shared by some economists, industrialists, businessmen, and labor leaders.

It is not, however, necessarily shared by the American people, particularly the residents of the 20th Congressional District of Pennsylvania which I have the privilege of representing in this body.

On four occasions over the past 7 years I have conducted public opinion polls in the district on the question of wage and price restraints to curb inflation. On every occasion, the results have revealed an overwhelming support for such controls when the need arises—providing they are imposed properly and fairly.

The findings of the latest survey, a districtwide "Lightning Poll," have just been compiled. More than 74 percent of

the 12,507 responses indicated endorsement of wage and price restraints, 24 percent opposed them and a mere 1.5 percent expressed no opinion on the question.

These results are consistent with similar polls conducted in 1971, 1973, and 1974. At that time 67, 69, and 68 percent of the responses, obtained from more than 2,000 volunteer participants in a "home phone poll" voiced their support of wage and price restraints.

Mr. Speaker, I have informed the President of the results of these surveys and I insert them into the RECORD today for the attention of my colleagues. I believe they speak for people generally but I have one observation to make.

When inflation, like taxation, becomes too oppressive this Government "of the people" had better listen to the people or be prepared to answer to them.●

ST. LOUIS METRO HEALTH PLAN

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. CLAY. Mr. Speaker, recognizing that my colleagues share with me a tremendous concern about the rising cost of health care, I would like to call their attention to a highly unique and innovative health care plan which has been developed in my home State of Missouri.

We can all agree that sound measures must be taken immediately to reverse the ever-increasing cost of health care and to insure that good health care is available to every citizen. In the last 10 years, the cost of health care for our elderly has skyrocketed beyond reach. We must make every effort to guarantee that good health care services are available at reasonable and affordable prices.

A viable solution to our health care crisis is long overdue. We have all heard dozens of proposed solutions to the rising cost of health care. Many of these proposals offer no new insights and only repeat old and worn out solutions to this growing problem. We must now concentrate our energies on more innovative and creative proposals if we are going to put an end to this cost-plus spiral.

For this reason, I am happy to bring the St. Louis Metro Health Plan before my colleagues. I believe this program warrants our serious consideration as it offers some interesting and innovative solutions to our health care problems.

The notable features of the St. Louis Metro Health Plan are outlined below in a statement by Mr. Thomas J. Ernst, Esq., vice president of Medserco Incorporated of St. Louis, Mo. Medserco, in developing this health plan, has proven itself dedicated to ending the spiraling cost of health care. Mr. Ernst's statement was presented on June 30, 1978, before the Subcommittee on Public Health and Environment in hearings on the Health Maintenance Organization Act. It is as follows:

STATEMENT OF THE ST. LOUIS METRO HEALTH PLAN

Mr. Chairman and members of the Committee, I am Thomas J. Ernst, an attorney and Vice President of Medserco Incorporated in St. Louis, Missouri where we manage the innovative St. Louis Metro Health Plan.

For four years, I served as legislative aide to Congressman Jim Symington who was a member of this Subcommittee. During that time, I came to greatly admire and respect Chairman Paul G. Rogers. His leadership, his compassion, his concern for all Americans is the best possible personification of representative democracy. We will greatly miss his legislative skill. We wish him well in his new, non-Congressional endeavors.

As you may know, your colleague Congressman Richard A. Gephardt, 3rd District of Missouri, termed the St. Louis Metro Health Plan "unique" and "a position response to meeting this Nation's health care needs." Representative Gephardt said the plan "is innovative in its restructuring of the economics of medicine." We ask that Representative Gephardt's March 20, 1978 Congressional Record statement about the St. Louis Metro Health Plan be made part of our testimony and we respectfully submit his analysis for inclusion in the record of this hearing.

There are at least eight good, sound reasons why the St. Louis Metro Health Plan is unique and worthy of your attention:

1. It is non-Federal.

2. It is physician-owned.

3. A total of $240,000.00 in private funds has been invested by 40 of St. Louis' leading doctors for Plan development. Each individual physician has personally committed $6,000 of his own money. We doubt any HMO in the nation has that kind of support from private doctors. Equally significant, these physicians have credentials which are most impressive. They are virtually a Who's Who in Missouri medicine.

4. In addition to those 40 investors, over 500 physicians, approximately 25 percent of all private practitioners in St. Louis, have already signed participation agreements making the St. Louis Metro Plan one of the largest IPAs in the country.

5. The Plan has restructured traditional economics so it is in everyone's self-interest to reduce medical costs and reverse the cost plus spiral. In this regard, we have restructured the system in St. Louis without disrupting valuable and productive relationships. For people know and trust their doctors. Employers know and trust their insurance carriers. These positive traditional relationships should be the strong foundation upon which the 1978 HMO amendments are based.

We have tried too long to find fault, instead of searching for solutions. We have tried too long to blame the doctors, the insurance companies, the hospitals for the creation of cost-plus economics under which there is insufficient incentive to reduce costs and little, if any, competition. The St. Louis Metro Plan changes this kind of non-system.

6. Doctors bear over 55 percent of the entire risk, yet also benefit from any savings due to decreased utilization. These are strong positive and negative incentives to change the costly practices of the past.

7. Doctors and the Metropolitan St. Louis Ancillary Service Company share the risk for clinical laboratory and drug utilization. Conversely, a non-profit Medical Education Foundation can benefit from charitable donations from the profitable Ancillary Service Company. Again, these are strong positive and negative incentives to change the costly practice of overly defensive medicine.

8. Insurance companies, either through reinsurance or first dollar coverage, are also at risk. But again, there are structural changes so that the insurance companies are contractually obligated to return ⅔ of any surplus attributable to reduction in utilization to policyholders and patients. The remaining ⅓ of any surplus goes to the doctors. This innovative approach is a strong incentive for patients not to overutilize services and for doctors to carefully monitor admissions as well as length of stay. It will make "peer review" more than a facile slogan. It will virtually guarantee that "concurrent" review by physicians results in greatly reduced inpatient costs.

Turning to H.R. 13266, the Health Maintenance Organization amendments of 1978, we offer five conceptual suggestions based on our St. Louis experience as well as our many professional consultant and management contract experiences around the nation.

(A) Our efforts to expedite establishment of HMOs should not constitute the proverbial "throwing the baby out with the bath water." To limit Federal expenditures, we must utilize existing resources. We must use old, established insurance companies for their stability, huge amounts of assets, reputations, and overall credibility are often needed by new HMOs which lack any of these private sector strengths.

On this point, though Congress wisely recognized that there should be opportunities for every doctor, medical group, and IPA to participate, such rights were not extended to insurance companies. Seemingly, there is an inherent assumption that insurance companies would abuse such rights to (1) manage IPA operations and (2) participate in risk sharing in the same way doctors or other providers share such risks.

To make any HMO truly cost-effective, risk sharing is absolutely essential. Both physicians and private insurance companies must be put at risk if past behavior patterns are to really change. The years of claims processing and actuarial experience as well as other insurance company skills must be put to work in the HMO setting. The federal HMO officials and tax-weary Americans simply cannot afford to reinvent the wheel. Existing management firm and insurance company personnel from the private sector must be utilized. We just cannot afford on-the-job training for HMO Administrators.

Present strengths of the free enterprise system should be statutorily recognized in the HMO Amendments of 1978. Major roles for private physicians, private insurance carriers, and private health care providers should be legislatively mandated so the private sector can play appropriate roles in restructuring the economics of American medicine. We need a real partnership at the local level between physicians, consumers, and insurance companies. Rather than cost containment inquisitions over who's to blame for the health care cost-plus spiral, we should recognize that the traditional trust between patient and doctor can be maintained through use of open panel, multisite IPAs. Such trust will bring more acceptance of new HMO financing and delivery systems than hundreds of pages of federal regulations. We suggest Section 1317 changes in the intern program to put heavy emphasis on attracting experienced insurance company and management firm personnel into this HMO program.

(B) Profit is not a dirty word. Self-interest can be the best of all possible motivations. Strong positive incentives, like a fair return on investment and a decent profit level, are among the most effective methods of reversing the cost-plus spiral. But, such incentives cannot be fully utilized if private sector Prepaid Health Plans are burdened with the stigma of not being "federally qualified." For better or worse, Federal qualification has become a kind of stamp of approval, a Good Housekeeping seal that the "qualified" HMO is financially sound and medically pure. Un-

fortunately, this does great injustice to the many excellent private Prepaid Plans, which, for a variety of sound reasons, have not sought Federal qualification.

Even more important, no matter how successful and effective a private Prepaid Plan becomes, employers fear that despite such success they will still be forced to offer a less effective HMO simply because it is "qualified".

To ease such apprehension, the HMO law should be amended to give employers the option of offering a "certified" private HMO or a "qualified" Federally-funded HMO. Briefly, the "certified" HMO would meet all Federal requirements for qualification except the community rating and board composition provisions. Significantly, the private certified HMO would require no Federal subsidies. Rather, out in the market place, private HMOs would use private sector capital for planning and initial development. A system of certified HMOs could be developed far more quickly than Federally funded entities. Yet private HMOs (like the five IPAs managed by Mr. James Dyer in Wisconsin) can be equally effective in cutting medical costs and reversing the cost-plus spiral.

Therefore, we suggest the HMO Amendments of 1978 provide for Federal "certification" for those private plans which provide excellent, cost-effective health care services though these plans lack Federal "qualification."

Certainly, findings and judgments about the quality of private Prepaid Plans should not be made cavalierly. Those of us in the private sector are not asking for a free ride or an unjustified stamp of approval. Rather, we recognize and willingly accept our responsibilities.

We favor and we will work hard for the creation of a system of performance audits of private Prepaid Plans by independent experts like Drs. Ellwood and Egdahl. Joint accreditation, preceded by tough examination of the proficiency of private HMO personnel and quality control testing of every aspect of private HMO operations, should be tied to the methods and procedures of Federal "certification" of private Prepaid Health Plans.

Many employers now look blindly at Federal "qualification" as the only sure way, the single certain method of ascertaining the quality and stability of an HMO. A system of Federal "certification" of private HMO's would probably counter-balance "qualification." It would provide the nation's personnel directors, risk-managers, and employee benefits officials with another method of determining the worth of any private Prepaid Plan.

(C) We suggest that millions of tax dollars be saved by totally eliminating any Federal funding for new construction of HMO facilities. Lest this nation repeat the mistake of excess Hill-Burton funded hospital beds, we recommend that no Federal monies go for new construction. Rather, we favor funds for rehabilitation of surplus hospital space and for conversion of underutilized inpatient facilities.

Shiny new HMO centers are luxuries this taxpaying nation cannot afford. It is time to cut the frills and the facade often associated with new construction. Quite simply, we need to avoid the costly mistakes of the past. In St. Louis, we have shown that dedicated doctors can restructure the economics of American medicine without building new structures. Indeed, to balance the Federal health care budget and to reduce needlessly high overhead costs, we believe the nation would do well to emulate the "HMO Without Walls" model developed in St. Louis.

Eliot Janeway, America's best known economist, has called our St. Louis Metro Health Plan a well-managed system of "physician cooperatives." Existing doctors' offices are more fully utilized. Existing outpatient facilities are properly and effectively used to their capacity.

Accordingly, the St. Louis Metro Health Plan is debt free. It is not burdened with huge interest payments on construction loans. It has minimal overhead costs. It did not require a single Federal tax dollar. Whether supporting an "open" or "closed" panel HMO, whether funding a single or multi-site HMO, there is simply no need for new construction.

In most cases, cost-saving conversion of existing under-utilized health facilities is simply the more effective efficient method of reducing health care costs.

We offer this suggested language change in H.R. 13266, page 9, line 16;

Strike the words "construction of new facilities" and insert in lieu thereof "only in medically underserved areas where alteration or renovation of existing facilities is cost prohibitive, construction of new facilities; and in all other areas, construction means . . ."

(D) The same case for cost savings and the same need to conserve limited Federal tax dollars also necessitate that similar statutory restrictions on costly computer purchases. Too often, an experienced HMO staff looks on a multi-million dollar computer system as a panacea. Very tight controls should be placed on HMOs with plans to purchase expense computer main frames and related hardware. We suggest restrictive language be developed to require the Secretary to carefully examine the need for costly computer purchases by HMOs and to thoroughly scrutinize HMO proposed purchases. Surely, short term leasing of such data processing equipment is a better, less costly method of accomplishing the same information objectives.

Just a renovation and rehabilitation of existing facilities can save tax dollars, time sharing and computer leases can reduce Federal HMO expenditures.

CONCLUSION

America has always been a pragmatic nation. We pride ourselves on problem-solving. Fortunately, there are few ideological purists or political fanatics who cling to a certain dogma under any circumstances in all situations.

We represent the cost-effective St. Louis Metro Health Plan created by St. Louis physicians who are pragmatic leaders. They are concerned with preserving their profession by controlling skyrocketing medical costs. St. Louis doctors are dedicated to protecting their traditional relationship with patients in which trust, confidence, and the right to privacy are most valued.

Our purpose is to offer constructive suggestions toward improving the existing HMO Act so that many different types of Prepaid Health Plans can flourish. Diversity, competition, and freedom are America's great strengths. Freedom of choice is absolutely essential. We believe all Americans—consumers and private employers should be—

Free to choose their own highly skilled doctors;

Free to select any quality, cost-effective health plan;

Free to receive care in any licensed hospital;

Free to use any stable insurance carrier;

Free to elect any reasonable financing or payment program.

The St. Louis Metro Health Plan has been carefully designed so the Plan protects these Five Freedoms. We ask only that Congress amend the law to facilitate the expansion and growth of similar endeavors throughout our country.●

A SENSIBLE TAX CUT

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. McCLORY. Mr. Speaker, my colleague, the Congressman from New York, JACK KEMP, and Senator WILLIAM ROTH of Delaware have proposed a plan to reduce all individual tax rates by an average of 30 percent over a period of 3 years, as well as shave the corporate tax rate from 48 to 45 percent.

Certainly, all Americans—particularly those individuals in the middle-income bracket, who have borne the burden of high taxes for so very long—need some relief. It is hoped that such relief could come in the form of the Kemp-Roth proposal, which, it is estimated, would also increase our Federal revenues.

Mr. Speaker, I would like to commend to my colleagues' attention an editorial which appeared in the Elgin, Ill., Daily Courier News, for July 7, 1978, entitled, "Search for Sense in Tax Cut Plans." It speaks directly to the need for my colleagues' proposal. The editorial follows:

SEARCH FOR SENSE IN TAX CUT PLANS

Rep. Jack Kemp of New York has been sniffing the political wind and has reason to believe that Congress is going to switch to a Republican plan for bigger cuts in federal taxes than President Carter has proposed. He even sees a chance for Rep. William Steiger, a Wisconsin Republican, to win Democratic converts to a downward revision in the capital gains tax—a proposal Mr. Carter has denounced as a windfall for millionaires.

We'd agree that tax-cutting has become the most popular subject in American politics this summer. But the reason Congress should be listening to Republican voices in its tax hearings is not the June 6 election in California and similar "tax revolts" brewing around the country.

Mr. Kemp and his GOP colleague Sen. William Roth Jr. of Delaware were advocating a major cut in federal taxes when Proposion 13 was only a gleam in the eye of Howard Jarvis. Rep. Steiger's case for lowering the tax liability of capital gains goes back further, too. These proposals are not based on political rumblings, but on economic rumblings.

Those rumblings rolled through the Capitol again last week when the leading economic indicators seemed to bolster the fear that persistent inflation is about to send the the economy into another recession. The GOP tax philosophy is to try to make the federal tax structure part of the cure for this condition rather than part of the disease.

The Kemp-Roth plan should gain credibility on the Democratic side because it uses the example of a major tax cut in the Kennedy administration to show how this can narrow rather than widen the deficit in a federal budget and therefore have an inflationary effect. The theory is that the tax burden is now so high that cutting taxes will stimulate economic activity to the point of generating more revenue than the government would realize if tax rates remained the same.

This is the same rationale for Mr. Steiger's overhaul of the capital gains tax. Revenue from that tax has been making up a smaller and smaller percentage of federal revenue since the rates were increased in 1969. A case can be made that the present tax is inhibiting the capital investments that create economic growth and jobs, hence reducing the

"take" from the tax. Reduce the tax, the argument goes, and there will be more investment in innovative industries, and more jobs; in turn there would be more government revenues, a lower deficit and less inflation.

Economists may not agree on the economic models, the "Laffer Curve" and other theories that support one side or another in the current tax debate in Congress. One thing is obvious, however. Up to now Congress has made no progress in controlling the federal deficit, inflation is once again on the rise, the leading indicators look bad, and the administration doesn't have a fresh idea for a solution.

Mr. Carter's dismissal of capital gains reform as a tax cut that only means "two bits" to the average American was blatant playing to the gallery. It's not that simple, Mr. President. The five major industrial nations which have no capital gains tax at all are consistently outstripping the United States in the growth of their productivity and their gross national products. Why? That's the kind of question Mr. Carter—and congressional Democrats—should be thinking about.●

ISRAEL AND PEACE

HON. ELIZABETH HOLTZMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Ms. HOLTZMAN. Mr. Speaker, over the past months the Carter administration has persisted in publicly rebuking Israel and Prime Minister Begin for supposed "intransigence" in the Middle East peace negotiations. Many of us have contended that these public criticisms have belied the administration's claimed "evenhandedness" in the Middle East, have been counterproductive as a matter of foreign policy and, most importantly, have been wrong as a matter of fact.

An article by Clayton Fritchey in the July 8 Washington Post sets the record straight as to who is to blame for the breakdown in the peace negotiations in January. Suffice it to say that the blame, in Mr. Fritchey's view, does not lie with Prime Minister Begin.

With the Middle East peace talks due to reconvene in London shortly, I commend this excellent article to my colleagues' attention:

WHAT DERAILED THE MIDEAST TALKS LAST JANUARY?

(By Clayton Fritchey)

There is a missing link in the understanding Americans have of the circumstances that led to the disruption of peace negotiations between Egypt and Israel. And that "link" is an eye-opening statement by Egypt's president, Anwar Sadat, that, although highly significant, has never, to the best of my knowledge, been published in the United States.

As a result, the impression in the United States is that Israel's prime minister, Menachem Begin, is the villain responsible for the breakdown of peace efforts, and Sadat is seen as the innocent, long-suffering victim of Begin's alleged "intransigence."

Now that Vice President Mondale has arranged for the Egyptian and Israeli foreign ministers to meet under U.S. auspices in London on July 18, it is time for Americans to get a clearer idea of what derailed negotiations last January.

The unpublished story is far different from the accepted one. It springs from an exclusive interview given by Sadat to his favorite personal mouthpiece (the Cairo weekly October) on Jan. 1.

It is essential to keep that date in mind to understand the contradictions in Sadat's shifting positions. Sadat now says Begin stonewalled him after his historic mission to Jerusalem last November. He accuses the Israeli leader of being inflexible and hawkish as well as insensitive to Egyptian problems. Sadat says his Jerusalem initiative failed to evoke either concessions or compromise proposals from Begin.

The Israeli prime minister, however, has a radically different story. Following Sadat's trip to Jerusalem, Begin in December made a return visit to Egypt, conferring with Sadat in Ismailia.

According to Begin, everything went serenely. He found Sadat open-minded about Israel's general proposals and quite ready to leave specifics to be negotiated by joint political and military committees created at Ismailia. He returned to Israel feeling that a "warm" relationship had been established, and that a peace agreement was imminent.

What is the truth about Ismailia? Was Begin cooperative, or, if we are to believe Sadat, was he negative and unbending? Let us now hear from Sadat as he personally described the Ismailia meeting soon after it took place:

"It had been agreed that we should deal with general principles in Ismailia," Sadat told October. This in itself, he said, was "a very important achievement. However, what happened was something more important and greater than this. Begin came and brought a complete plan on withdrawal from the occupied territories."

It was, Sadat said, "the first time since the establishment of Israel that the Jews presented something specific. . . . This time they went further than one could imagine . . . they came to argue with us. I would state my views and they would state theirs. This in itself was a positive step. We both agreed to discuss everything. Begin had declared that everything was negotiable."

Sadat frankly said that he had previously regarded Begin as the "hawk of hawks." But suddenly, after the trip to Jerusalem, Sadat said he found that Begin "had changed his opinion and wants peace, not war. He wants discussions . . . and we would leave the task of discussing details to the ministers" of the joint committees created to carry on the negotiations after Ismailia.

"Therefore," Sadat observed, "it is not true that we did not agree on anything, or that I did not obtain any specific thing." The Egyptian president said that when he saw Begin in Jerusalem, he realized "that he was a man with whom understanding can be reached." He said he had learned from President Nicolae Ceausescu of Romania "that Begin is a man who truly wants peace. . . ."

That was on Jan. 1, but four days later Egypt's government-controlled press began a campaign to undermine the negotiating committees established at Ismailia by Sadat and Begin. Sadat was quoted as saying that the negotiations, scheduled to start on Jan. 14, were doomed in advance because of Begin's supposed intransigence.

The joint political committee, however, after only one session in Jerusalem, made such phenomenal progress toward a peace agreement that the diplomatic world was stunned when Sadat, without warning, cancelled the meetings and abruptly called home his negotiators.

What prompted this seemingly inexplicable change of heart? What happened between Jan. 1 and Jan. 5? In diplomatic circles, interest centers on Jan. 4 when President Carter, after a trip to Saudi Arabia, held an unplanned meeting with Sadat at Aswan.

We will probably never know for certain what took place, but the present consensus is that Sadat, rightly or wrongly, got the impression that Carter, through pressure on Israel, might be able to get him a better deal than he had been prepared to settle for at Ismailia.●

RESOLUTION TO BREAK WAGE/PRICE SPIRAL

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. EDWARDS of California. Mr. Speaker, I recently introduced a resolution here in the House which recommends that the Ways and Means Committee develop a new approach to tackling the problem of inflation. My resolution, House Resolution 1257, suggests that the committee explore the proposals of such prominent economists as Arthur Okun, Henry Wallich, and Sidney Weintraub to control inflation by providing tax benefits to employers who moderate price increases for their products and to employees who moderate wage demands. I believe that this type of tax reform legislation would be much more effective than the current efforts based on jawboning. Only by breaking the wage/price spiral can we save Americans from the deadly inflationary squeeze.

I was pleased to note recent editorials in both the New York Times and the Washington Post advocating this approach. I am entering these fine editorials in the RECORD for the edification of my colleagues, along with a copy of my letter to the chairman of the House Ways and Means Committee, the distinguished gentleman from Oregon, AL ULLMAN, which explains my resolution in more detail:

[From the Washington Post, July 13, 1978]

THE INFLATION DEBATE

Since the country cannot agree on any other remedy to inflation, it seems to be drifting toward a recession. It is not that recession is a notably efficient countermeasure. A general economic slowdown is likely to send the unemployment rate up somewhat faster than it brings the inflation rate down. Nor is a recession the only choice. But the other possibilities are complex and controversial.

Congress is now in the process of deciding what to do about the tax cut that President Carter proposed to keep the economy expanding. If there is no tax cut at all, according to the Congressional Budget Office, prices might be two-tenths of a percentage point lower by the end of 1980 than they would otherwise have been. But unemployment would be somewhat more than two-tenths of a point higher than it would have been, as Alice Rivlin, the CBO's director, told the House Budget Committee. Since two-tenths of a point means slightly over 200,000 jobs, that is hardly a negligible impact. But neither is it a massive or insupportable increase, compared with the normal monthly fluctuations of employment. In Congress the interest in a big tax cut this year has been tepid from the beginning, and now seems to be fading altogether.

Why has inflation picked up since early

this year? Mrs. Rivlin cited several reasons: a surge in food prices, the slide in the international value of the dollar, last January's increases in payroll taxes and minimum wages. To that list we would add the hugely inflationary settlement of the coal strike last March and, not unrelated to it, rising prices of coal and steel. Mrs. Rivlin made an important point about the nature of the current inflation when she observed that, even setting aside the possibility of further new shocks to the economy, it is possible to foresee only a slight reduction in the inflation rate next year. The reason is that prices and wages throughout the country will be moved up by the prevailing inflation figure, whatever that might be, as companies and their employees struggle to maintain the real value of their earnings. Each year's inflation tends to become the base for the following year's rate.

The recent acceleration has revived talk of mandatory controls on wages and prices, in the style of the Nixon program of 1971–73. If there is one thoroughly discredited idea in economic policy, it is that one Mr. Carter has been absolutely right to rule it out. But if it's out, what's left?

The choices, to be candid, are not brilliant. Experience argues in favor of using a great variety of narrow and specific attacks. Since, for example, raising payroll taxes and minimum wages has contributed to this year's increase in inflation. Congress might want to reconsider—after the election—the laws that would continue to raise payroll taxes and minimum wages in the future.

One interesting new idea is a device known as TIP—for Tax-Based Incomes Policy—that would raise the taxes of a company that gave inflationary wage increases to its employees. The concept and its drawbacks are explored at length, incidentally, in the current issue of the Brookings Papers. The gravest of these drawbacks is that, as a practical matter, it would be extremely difficult to administer. But the present stage of the debate over inflation was accurately described by one of TIP's authors. Henry C. Wallich of the Federal Reserve Board, when he said: "Of course, nobody likes TIP per se. It is really a question of the alternatives. We are running out of good options and have to look at choices among unattractive ones."

[From the New York Times July 9, 1978]

THE ECONOMY'S HIGH BLOOD PRESSURE

The latest figures on unemployment and inflation provide further evidence that the Carter Administration's tax-cut proposals are now out of date and need to be redesigned. Read separately, they offer cause for both cheer and concern; the sharp decline in the unemployment rate to 5.7 percent is heartening but the continuing high rate of increase in wholesale prices signals further trouble ahead. Taken together, the figures demonstrate that the American economy still suffers from inadequate investment and productivity. We seem unable to return to acceptable levels of unemployment without at the same time returning to unacceptable levels of inflation.

The problem will be compounded next year by the inflationary impact of higher Social Security taxes. They need to be rolled back. But the most promising way out of the stagflation dilemma would be to encourage greater investment in new technology to make labor more productive. A tax program that encourages more investment thus becomes the most imperative fiscal measure. Any additional tax cutting should be designed to reward wage and price moderation; untried though it may be, there seems no alternative.

The economic picture today looks very different from what it was only a few months ago, when the Administration drafted its tax proposals. Unemployment has turned out to be lower and inflation higher than expected. The main concern last year was to avoid another recession by stimulating consumer demand. Recession is still a danger, but it is at least as likely to come from the business world's frightened responses to inflation as through the sluggishness of consumer buying. The problem therefore is how to maintain demand without feeding the inflation. It would be poor policy, as well as impractical politics, for the Administration to abandon all thought of a tax cut. But it cannot now aim only at keeping the heart of the economy pumping; it must also hold down the blood pressure.

The belated jawboning against inflation was a move in the right direction. But Robert Strauss, the President's number one jawboner, and Barry Bosworth, number two, are merely imploring business and labor to serve the public interest by decelerating price and wage increases. That is a noble but probably futile approach. Although the jawboners claim a minor victory in holding down some industrial prices and executive wages, they will not get far on bended knee.

They need to be able to offer labor a carrot at the bargaining table and not simply a plea for good citizenship. But the Administration still rejects the idea of using taxes as the carrot. Mr. Carter's tax cut would be for everyone, regardless of their wage or price behavior. Moreover, he plans to cut income taxes rather than Social Security taxes, whose increase in January will exert further pressure on both wages and prices.

Untried medicines are risky. But the present combination of slow growth and fast inflation is a new ailment that plainly requires a new approach. Given the evidence that the Administration will have difficulty pushing its tax program through Congress, it seems dangerously stubborn to bank on its passage and to keep on rejecting other, albeit more complicated ideas.

JUNE 29, 1978.

Hon. AL ULLMAN,
Chairman, House Ways and Means Committee, Longworth House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: The inflation news is grim. There seems to be no real hope that the present plan to fight inflation by voluntary restraints will work. Unless the wage-price cycle is broken, unacceptable permanent damage will be done to the economic and social fabric of the nation.

The President has ruled out mandatory wage and price controls. Our best hope, it seems to me, is that the House Ways and Means Committee, ably chaired by you, will provide an appropriate legislative remedy.

The purpose of this letter is to suggest that your Committee prepare tax reform legislation designed to induce noninflationary behavior by both business and labor. Economists Arthur Okun, Henry Wallich and Sidney Weintraub have each made challenging proposals that would give tax reductions both to employers who hold down prices and to employees who moderate wage demands.

A symposium on these proposals was held recently at the Brookings Institute, and I refer you to the studies developed there for additional details.

The operation of this tax-based incomes policy will be simplified if focused on the largest 2,000 companies, which account for about 85% of total business output in the United States. These big companies set the patterns for the rest of the country.

The kind of tax reform to control inflation that I describe would be much more effective than the current programs based on jawboning. Best of all, it is fair to all segments of our economic life. Labor would not suffer because prices are moderated. Industry would be rewarded by tax deductions for keeping its prices within reasonable bounds. The rest of the country, the retired, the pensioners, the unemployed, all would be rescued from the deadly inflationary squeeze.

I would appreciate hearing from you about the Committee's plans to act on this type of tax reform.

Sincerely,

DON EDWARDS,
Member of Congress.●

CARLOS FERNANDOS CATO: OUTSTANDING STUDENT ACHIEVER

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. STOKES. Mr. Speaker, I rise on this occasion to bring to your attention and to the attention of my colleagues in the House, the outstanding achievement of Mr. Carlos Fernandos Cato, a recent graduate of Kent State University. I have recently been informed that Mr. Cato is the first student in the history of higher education to be named for 4 consecutive years to "Who's Who Among American Colleges and Universities."

Mr. Speaker, this is certainly a significant honor for both Mr. Cato and Kent State University. So that my colleagues can be aware of Mr. Cato's achievements, I commend to you the following article which appeared in the Ravenna-Kent Record-Courier on June 8, 1978:

CARLOS CATO EXCELS AS ATHLETE, SCHOLAR, LEADER

(By Dan Moreland)

During the recent honors ceremonies at Kent State University, one individual was singled out as being the first student in the history of higher education to have received the honor of being named to "Who's Who Among American Universities and Colleges" for four consecutive years.

For most people that award would be distinctive, but for Carlos Cato it is expected. Cato has spent six years at KSU demonstrating that he has a significant future ahead of him as an athlete, scholar and leader among students.

The "Who's Who" award sounds as though it were written for him. The award is given to students who "are decidedly above average" in academic standing, their service to the community, leadership in extracurricular activities and future potential.

Cato, 23, said winning the award for the fourth consecutive year was like "a dream come true. By winning the award, I have been recognized for my past leadership, but it also provided me with the incentive to continue as a leader," he said.

Winning awards is not foreign to Cato, who will graduate Saturday with a master's degree in education. He received a bachelor's degree in business administration from KSU in 1976.

While at Kent State Cato received the "W.E.B. Dubois Award for Service," the "Outstanding Junior Award" in 1975 and the "Senior Eric Rackman Award" in 1976.

He is past president of the Kent chapter of Omieron Delta Kappa, a national leadership honorary, and a member of the Blue Key honor fraternity.

Cato came to Kent on a football scholarship, after he graduated from high school in Little Rock, Ark. in 1972.

He lettered in varsity football for three years as a wide receiver at KSU and was named to the All Mid-American Conference Academic Team in 1973. He played on the Kent State MAC championship team in 1972.

While at Kent, Cato has also taught classes

in the Honors and Experimental College including "The Individual and Society" and "Racism and Poverty." He is also two-year director of Moulton Residence Hall.

Cato was a director of the BUS Line Security program for three years. The program deals with security and social problems in the dormitories. He has also been active in Black United Students and has served on a number of university committees.

Dr. Milton Wilson, acting dean of student affairs, described Cato as a "Renaissance man," an individual with a wide variety of talents.

"His interests are broad and he has an aptitude in a number of areas. I think he is an outstanding young man and his accomplishments at KSU are merely a signal of greater accomplishment in the future," Wilson said.

Cato plans to go on for a doctorate in public administration or educational administration at Old Dominion College or Virginia Commonwealth University.

"Someday I would like to develop my own consulting firm for small businesses," he said. Cato is the son of Mrs. Pennie M. Cato, 903 E. 36th St., Lorain.

In conclusion, Mr. Speaker, I would like to ask that my colleagues join me in saluting Carlos F. Cato for his outstanding work and commitment to excellence. Let us wish him great success in the challenging years to come.●

CONGRESSMAN STEERS' VIEWS ON SOVIET VIOLATIONS OF HUMAN RIGHTS

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. STEERS. Mr. Speaker, at this time I would like to insert into the RECORD testimony of mine that I submitted to the Helsinki Commission:

STATEMENT OF THE HONORABLE NEWTON I. STEERS, JR.

Mr. Chairman. I would like to commend you and the rest of the Commisison for holding these hearings, because recent actions by the Soviet Union seem to corroborate my earlier fears that the Soviet Union has no intention at all of living up to the Helsinki Accords. In the face of Soviet disregard for signed agreements which results in the suffering of thousands of defenseless people, Congressional actions such as this proceeding are necessary and will be so in the future.

The current trials of Anatoly Scharansky, Aleksander Ginzburg, and Viktoras Petkus are based not on a desire for justice, but rather on a desire to repress those in the Soviet Union who are attempting to secure Soviet compliance with the Helsinki Declaration signed by the Soviet Union in 1975. The courageous efforts of these three individuals should receive the praise of the entire world. To remain silent on this point would be tantamount to a tacit approval of these sham trials.

The oppressive aspects of these trials is not solely limited to those seeking compliance with the Helsinki Accords, but generally they are part of a widespread campaign of repression directed towards Jews living in the Soviet Union. This fact makes this whole episode even more reprehensible.

The Soviet Union has made clear its intention to disregard the Helsinki Accords. I think that the United States should reexamine whether or not any purpose is being served by maintaining this agreement in light of Soviet attempts to render it meaningless. Cooperation between the United States and the Soviet Union is a crucial goal, but it takes two to cooperate.●

QUALITY TV PROGRAMING FOR CHILDREN

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. CLAY. Mr. Speaker, the following article was printed in the June 6 issue of the Washington Star and addresses the issue of providing quality television programing for children. This effort was aided by the Emergency School Aid Act of 1972 whose purpose was to provide financial assistance to eliminate the effects of racial and ethnic isolation resulting from segregation. Three percent of the funds made available through this act were designated for the production of television programing which would work to improve the quality of education for our youth.

A problem which occurs is that these shows, once produced, often are not offered for broadcast by the Public Broadcast Service and even when they are offered by the service, many times local PBS affiliates fail to broadcast or schedule the programs at convenient times.

The result of these practices, is that many of these programs are never viewed by the public. To increase broadcast opportunities and to promote ESAA produced programs, the U.S. Office of Education Special Projects Branch has funded a company known as TVAC. TVAC is an acronym for Television for All Children.

TVAC's executive director, Nathaniel Long in the following article enlightens us on the reasons why television programing directed toward children must be positive and motivational.

As Mr. Long points out, we need television programing for children that encourage children to be intelligent rather than silly. I believe that the American people will find the views of Mr. Long to be very instructive:

NEEDED FOR THE KIDS: SEPARATING REALITY FROM TELEVISION

(By Judy Flander)

"If television does nothing else, it should teach kids survival skills," says Nate Long, executive director of something called TvAC, a government-funded company created to peddle quality children's television series free to local stations.

These are very special kinds of shows—heavy on ethnicity, big on brotherhood, whip-creamed with messages that encourage children to think well of themselves and how to cope in their world. They are, for the most part, what many parents have in mind when they wish their children had alternatives to the kind of frenzied, idiotic animated fare churned out by the networks.

You've heard of some of them.

One series, "Vegetable Soup," aired on NBC; others ran or are running on PBS—"Villa Allegre," "Rebop," "Infinity Factory," "Carrascolendas" among them. They were produced under the Emergency School Act of 1972, legislation designed to "eliminate some effects of racial and ethnic isolation resulting from segregation in our society," according to David Berkman, HEW's director of the project.

A panel of eight broadcasters and educators, including two or three blacks, two Latinos, an Asian American and an American Indian, sift through proposals for new series, basing their decisions on, among other things, the shows' degrees of ethnicity both on and behind the scenes. The result is that more minority people have input in these productions than in any other phase of the industry. So far, 17 series have been produced, and five more are in the works, 60 to 70 percent of them staffed by, and 19 of them headed by, representatives of minorities. The first 22 series have been financed to the tune of $45 million. Berkman reports that an additional $8½ million will result in another seven or eight series.

The reason for the creation of TvAC is that there has been a problem in distributing the productions. It was assumed, Berkman says, that PBS would be "the most likely vehicle." But PBS has only absorbed a limited number. And PBS reaches only a limited audience. Long points out that millions of youngsters for whom the shows are designed don't even watch PBS. The programs were made available to the networks and local stations, but nothing much happened: "The government," says Long, "doesn't do a very good job of promoting itself."

Then, last November, HEW set up TvAC, with a nine-person staff and a yearly budget of $464,000, to aggressively syndicate the shows. And along came Nate Long with a bagful of programs available to local stations who want to beef up their kids television schedules. He's already "sold" 227 series to about 140 stations nationwide. In Washington, he's scored with WTOP–9, which is taking "Villa Allegre"; WRC–4, which will air "South by Northwest," a series Long himself produced; and WTTG–5, which will run "Vegetable Soup."

There's a Catch 22 to these free HEW packages: the programs have to be run without commercials. But it's no secret that local stations everywhere are hard up for good ethnic children's fare, and they do not have the budget to produce consistently excellent programs of their own.

"Most local television stations don't even have their own children's segment," Long reports. By using HEW productions; "the stations can't make any money, but they're satisfying their community requirements."

Long's own varied career has included 20 years in the Air Force, and nearly a decade in television production, where jobs didn't come easily. "I worked for one producer on five programs as the only black, and he told me that he hired me only because he had to."

It had nothing to do with the fact that Long wasn't capable. The producer simply explained that he wasn't "part of the family." Long smiles ruefully, "You have to make your own way."

And he obviously has. He got into the TvAC sales job accidentally, but it seems to suit him. He was the producer of the miniseries, "South by Northwest," the story of blacks who were among the people who "won the West," with a cast including Esther Rolle, Bernie Casey and Vonetta McGee. PBS, which "gets first crack" at the HEW productions, didn't take it, and, like more than half of the other productions, the matter just lay coiled in a growing pile of cassettes.

But Long is a super salesman, an animated, articulate man who says he knows enough about local station managements' problems to proceed with just the right amount of persuasion.

Long's own approach to children's television is innovative and pragmatic. "Most kids don't separate reality from television. I think

we can do a better job with our shows in bridging that gap. Most of the shows have an educational theme," he says, "but educational television turns people off. So we're not preachy."

He makes no apology for the educational content. "The tendency (among commercial producers of children's television) is toward entertainment, and entertainment only. So the kids get caught up in being silly and not intelligent. But the kid needs intelligence to survive. They don't give kids credit for their intelligence."

Long is not impressed by the "black" shows he sees on commercial television, although "The Jeffersons" is the one he likes best. What concerns him is "there is not enough variety of the lifestyles of blacks." While Jefferson is a comic character, he is in his own way a stereotype and one that Long fears may be taken at face value.

Ironically, there is no adult equivalent of the HEW children's programs, he points out. It took federal millions and concern for minorities to get people from all ethnic groups involved in the entire creative process. Long hopes that these shows will serve as an example of what can be done and that eventually adult programming will also be improved. But he's not holding his breath. "I think the advertisers are running the networks, anyway," he says.●

GUARANTEED STUDENT LOAN INCOME CONTINGENT PAYBACK BILL GAINS EDITORIAL SUPPORT

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. STEIGER. Mr. Speaker, little more than a month ago Congressman ANDREW MAGUIRE and I introduced legislation to reform the guaranteed student loan program. In that period the bill, H.R. 12756, entitled the Capital Availability for Higher Education Amendments of 1978, has gathered endorsements from the news media and several of our colleagues.

H.R. 12756 would establish a collection service through IRS that could be purchased by financial institutions participating in the guaranteed student loan program. Borrowers whose loans were collected in this manner would pay back their loans based on their adjusted gross income. Borrowers would continue to pay 7 percent interest on the loans as under present law. The bill also increases the maximum amount undergraduate students could borrow each year.

We believe these changes can reduce lender resistence to the GSL program, increase accessibility to loans, diminish the high default rate, and generally make college education more widely and equitably available to students from low- and middle-income families.

The New York Daily News said of the bill, "Why not? The IRS seems to know where everybody is. And it certainly is the all-time champ when it comes to bill collecting."

The Newark Star-Ledger, the largest paper in New Jersey, the Bergen Record and New York Radio Station WPIX have also added their support. The Star-Ledger, Record, and WPIX editorials are reprinted below.

We appreciate this support, and commend their position to our colleagues:

[From the Newark Star-Ledger, May 22, 1978]

SIMPLE BUT EFFECTIVE

A plan, ingeniously simple in conception, would be set up in proposed legislation by a New Jersey congressman to stem the sharply rising tide of student loan defaults.

Under a measure introduced by Rep. Andrew Maguire (D-7th Dist.), the Internal Revenue Service would provide a collection mechanism Banks would contract with the IRS to have loan repayments deducted from weekly earnings after graduation.

It is virtually a fiscally fail-safe procedure. It would shift the collection responsibility from banks, which have found this administrative function overly burdensome, to the IRS, which has a proven record of performance for collecting money owed the government.

The IRS has the capability of maintaining a constant contact with mobile segments of the student population after graduation. This has been a formidable obstacle under the present system; lending institutions have been overwhelmed by defaults, primarily because they are not adequately geared to deal with this specific type of problem.

The Maguire measure would do much to resolve the formidable difficulties of collecting student loans in the future. The federally insured loan program has guaranteed $9.6 billion in loans made by banks since the program was started in the mid-1960s.

More than a million students have defaulted on an estimated $875 million in various types of education loans. It is an unacceptable rate of defaults, running at about 13 per cent of the loanout.

It has been sufficiently disturbing for federal officials to launch a crackdown. An experimental preliminary phase has been started in New Jersey to recover more than $5.5 million in defaulted loans owed by about 7,000 students.

Court actions will be instituted in cases where earlier efforts to collect defaulted loans fail. This could be a long, costly process that would be averted in the future by the Maguire bill. It should be given strong support by Congress.

[From the Bergen Record, May 22, 1978]

STUDENT LOANS: A WAY OUT

There is very little that boils the blood of the average taxpayer more than hearing that tens of thousands of budding young professionals, whose college educations were made possible by guaranteed student loans subsidized by tax dollars, are now defaulting on their payments.

Under the federal Guaranteed Student Loan Program, students may borrow up to $7,500 while they're in college. Once they've graduated, they have 10 years to repay the loans at 7 percent interest. The federal government not only guarantees the loans, but also rewards those banks that dispense them with modest subsidies.

The trouble is, it's become fashionable and commonplace for former students to skip out on their loans. In New Jersey alone, more than 7,000 former students have defaulted on loans totaling $5.5 million. The banks are not inclined to call out the local collection agency, since many former students are hard to track down and the federal government guarantees their loans anyway. That leaves it to the federal bureaucracy to locate the defaulters and collect their debts.

The growing problem of student-loan defaults has recently attracted the attention of a number of public officials, including U.S. Attorney Robert Del Tufo and Rep. Andrew Maguire of Ridgewood. Earlier this month, Mr. Del Tufo announced that his office would crack down on student-loan deadbeats in New Jersey by instituting civil suits against them. This announcement alone has already prompted several former students to start repaying their loans, and a handful of successful suits would undoubtedly scare many more into repaying.

Mr. Maguire has come up with another approach. He and Wisconsin Rep. William Steiger have introduced a bill that would give banks the option of collecting outstanding student loans by conventional means, or having the Internal Revenue Service do the collecting for them. To help defray any additional administrative expense associated with this service, those banks that turned their collections over to the IRS would forfeit half of 1 percent of the federal subsidy they now receive on student loans.

The IRS would collect outstanding student loans the same way it now collects income taxes. Employees would be required to disclose any outstanding loans on their W-4 forms, and employers would withhold loan repayments in accordance with an established schedule, just as federal income taxes are withheld. The IRS would then turn these repayments over to the banks.

Congressman Maguire believes such an arrangement would have several advantages over the present collection system. Since the IRS already has the administrative authority to withhold federal income taxes, extending that authority to student-loan repayments would be relatively simple. The IRS is also in a much better position than banks to keep track of people as they move around the country. Finally, most former students would have no choice but to repay their loans; unless they were self-employed, they would be required to list any outstanding student loans on their W-4 forms, and their employers would be compelled to withhold their loan repayments accordingly.

The Maguire proposal faces a couple of imposing obstacles. For one thing, he's hoping to tie it to President Carter's Middle Income Student Assistance Program, which is designed to provide student loans and grants to middle-income families putting children through college. This program, however, faces an uncertain future in Congress. Moreover, the IRS has always resisted any effort to extend its authority beyond the strict confines of tax collection, and IRS officials aren't likely to embrace any added responsibility with open arms.

Still, this proposal has a good deal of merit. It's clear that something has to be done about student-loan defaults; Mr. Del Tufo's crackdown on deadbeats is a step in the right direction, but it is a costly and time-consuming exercise, and it should be augmented by legislation. Mr. Maguire's bill offers both a reasonable and workable solution. We have no doubt that collection of outstanding student loans would increase appreciably if it were placed in the hands of the IRS, and that alone would make the effort worthwhile.

[A WPIX Editorial No. 78-101 June 8, 1978]

A PLAN FOR STUDENT LOAN DEFAULTS

Representative Andrew Maguire of New Jersey has come up with a dazzlingly simple plan to deal with the problem of defaults on student loans, which are currently running at least 13% and climbing every year. Like the wheel, Mr. Maguire's proposal should have been obvious from the start, but as is often the case, the obvious is not easy to perceive.

The student loan program began in the 1960s and provides federal guarantees for long term loans to cover the cost of college education. The loans carry a low rate of interest and become payable after students

are graduated from college. Since the loans are guaranteed, banks have a very lenient policy for them, and, for all practical purposes, they are available to any student who applies.

The problem of default developed because at the same time the student loan program began, the nation got bogged down in Vietnam, which was followed by the trauma of Watergate. A disproportionate number of college age youngsters lost faith in their government, and from that, it was only a short step for them to conclude that it was somehow "moral" to defraud what they perceived to be an immoral government. Such is the convolution of some adolescent minds, whatever their age and training.

So, at the present time, students have defaulted on more than $875 million dollars in federally guaranteed loans. Representative Maguire's plan, which is in a bill before the Congress, would set up a mechanism in which participating banks could contract with the Internal Revenue Service to handle collection on borrowers who are in default in the student loan program. IRS has the means of keeping a constant check on even the most mobile segments of the population, and that is something the banks have been unable to do, since so many students move to other parts of the country after graduation.

After considering the matter, the Management of WPIX supports Mr. Maguire's proposal, and we hope it will have wide support in the Congress as well. The student loan program serves an important function, and it must not be allowed to be endangered by a small segment of the student population which attempts to defraud the government.

What's your opinion? We'd like to know.

CITIZENS' RIGHT TO STANDING IN FEDERAL COURTS ACT

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. KASTENMEIER. Mr. Speaker, yesterday I introduced for the House's consideration a bill (H.R. 13434) to render consistent and broaden the rights of citizens to bring suit in the Federal courts for unlawful governmental activity. The bill is entitled the "Citizens' Right to Standing in Federal Courts Act."

The proposed legislation is the fruit of a joint effort by Senators METZENBAUM, KENNEDY, and RIBICOFF and their staffs, with considerable input from the Department of Justice. The Senate bill (S. 3005) was introduced on April 27, 1978, and was referred jointly to the Committee on the Judiciary and the Committee on Governmental Affairs. I look forward to working with the Senate on this legislation and wish to commend Senators METZENBAUM, KENNEDY, and RIBICOFF for their fine efforts in this regard.

The Department of Justice has indicated that it supports the concepts embodied in the bill. The legislation's thrust has also been endorsed by the President. In April 1977 and then again last month, he committed himself to greater citizen access to the courts. In his May speech to the Los Angeles Bar Association, the President observed:

> Access to justice must not depend on economic status, and it must not be thwarted by arbitrary procedural rules.

Overcoming these procedural barriers means that groups with distinct interests to defend—in civil rights, economic questions, environmental causes and so forth—must be able to defend them fully. We are supporting efforts to broaden the use of class action, and to expand the definitions of standing to sue.

Basically, standing is a threshold requirement designed to check the credentials of litigants who invoke the jurisdiction of a court. It confers the right to obtain judicial review of a controversy but not necessarily the right to relief. Standing is a question which, by definition, is addressed in every lawsuit.

There has been recent confusion and controversy surrounding standing. One Supreme Court Justice has voiced concern that:

> The recent Art. III jurisprudence of this Court in such areas as . . . standing is creating an obstacle course of confusing standardless rule to be fathomed by courts and litigants, . . . without functionally aiding in the clear, adverse presentation of the constitutional questions presented. *Kremens* v. *Bartley*, 431 U.S. 119, 140 (1977) (J. Brennan, dissenting).

Today, in my opinion standing is not unlike Franz Kafka's doorkeepers:

> . . . before the Law stands a doorkeeper. To this doorkeeper there comes a man from the country who begs for admittance to the Law. But the doorkeeper says that he cannot admit the man at the moment. The man, on reflection, asks if he will be allowed, then, to enter later. "It is possible," answers the doorkeeper, "but not at this moment." Since the door leading into the Law stands open as usual and the doorkeeper steps to one side, the man bends down to peer through the entrance. When the doorkeeper sees that, he laughs and says: "If you are so strongly tempted, try to get in without my permission. But not that I am powerful. And I am only the lowest doorkeeper. From hall to hall, keepers stand at every door, one more powerful than the other. And the sight of the third man is already more than even I can stand." These are difficulties which the man from the country has not expected to meet, the Law, he thinks should be accessible to every man and at all times, but when he looks more closely at the doorkeeper in his furred robe, with his huge pointed nose and long thin Tartar beard, he decides that he had better wait until he gets permission to enter. The doorkeeper gives him a stool and lets him sit down at the side of the door. There he sits waiting for days and years. F. Kafka, *The Trial* (Knopf, New York, 1970), pp. 267–268.

Mr. Speaker, in testimony before my subcommittee during our State of the Judiciary and Access to Justice Hearings, we learned that standing is often combined with justiciability defenses to delay a hearing on the merits of the case. Moreover, restrictive decisions on standing often result in a tremendous waste of judicial resources while lower court judges are left to decipher confusing commands from the higher courts. What is needed is comprehensive standing legislation setting forth precise standards under which individuals are assured access to the courts to protect their rights.

The legislation drafted by Senators METZENBAUM, KENNEDY, and RIBICOFF, with valuable input from the Department of Justice, satisfies this need.

By way of further background, problems with standing arise most often in litigation involving allegations of illegal governmental activity. Standing issues are addressed in suits between private parties, but are generally not segregated into a separate threshold inquiry. This is because in private suits, as part of proving the elements of a cause of action, the plaintiff must establish his stake in the controversy. This proof is inseparable from consideration of the merits of the case, whereas in suits involving governmental action the standing question is readily separable from the cause of action.

There are two basic elements in the concept of standing. The first is rooted in the "case and controversy" requirement of the Constitution and cannot be modified by legislative action.

In *Flast* v. *Cohen*, 392 U.S. 83 (1968) the Supreme Court discussed the constitutional minimum for standing. Relying on its earlier decision in *Baker* v. *Carr*, 369 U.S. 186, 204 (1962), the Court defined the "gist of the question of standing" as "whether the party seeking relief has alleged such a personal stake in the outcome of the controversy as to assure that concrete adverseness which sharpens the presentation of issues upon which the court so largely depends for elimination of difficult constitutional questions." (at 99).

The second aspect of standing involves considerations not required by the Constitution. This area involves what is referred to as "prudential" rules of standing—that is, rules developed by the Federal courts through judicial decision to control the numbers and types of cases filed in the courts. Congress clearly has the authority to remove or modify these standing barriers. See *Trafficante* v. *Metropolitan Life Ins. Co.*, 409 U.S. 205, 209–212 (1972).

On occasion, Congress has specified a particular class of litigants entitled to bring an action under a specific act. See, for example, Federal Trade Commission Act, 15 U.S.C. section 45(c), National Labor Relations Act, 29 U.S.C. section 160(f); Consumer Product Safety Act, 15 U.S.C. section 2060, 2073; Federal Water Pollution Control Act, 33 U.S.C. section 1365. For the most part, however, Congress has deferred to the Federal courts to formulate their own rules and guidelines for resolving standing issues. This has been described by one judge (Mr. Justice Jackson) as "backing into" the issue rather than facing it squarely.

I believe that the time is ripe for congressional action to confront the issue and to remove judiciary constructed barriers to the Federal judicial system. Individuals who have been victimized by unlawful governmental action ought to have access to the courts.

The proposed legislation would eliminate three prudential barriers. First, the bill would prevent Federal courts from denying an aggrieved party standing because the identified injury is of a "generalized" nature—that is, an injury suffered by all or by a large class of persons. Second, the proposed legislation provides that standing may not be denied on the ground that the defendant's conduct is not the "primary cause" of plaintiff's injury. Third, the bill prevents dismissal of a suit on grounds of "re-

dressibility"—that is, whether the defendant's conduct is not "substantially likely to be remedied" or that the judgment would not "contribute in significant part" to the remedy or prevention of such injury.

In short, the purpose of the proposed legislation is to address and resolve growing confusion in the area of standing to bring suit. The legislation will result in access to the courts for an increasing number of people. More importantly, the legislation will treat litigants equally—where there is a Federal right there will be a Federal forum to protect that right.

Although H.R. 13434 will make the courts more efficient by reducing the amount of time expended in resolving threshold issues, it will increase their overall workload by raising the number of lawsuits filed in Federal court. The 95th Congress has expended much effort in attempting to reduce the burdens on the Federal courts. We have processed legislation to increase the number of judgeships, to expand the civil and criminal jurisdiction of U.S. magistrates, and to abolish diversity of citizenship jurisdiction in the Federal courts. Passage of all this legislation—which I sincerely support—will not only dramatically reduce Federal caseloads but will pave the way for meritorious legislation like S. 3005 (and H.R. 13434).

I am pleased to join my Senate colleagues in introducing this bill.●

THE BALANCE(S) OF POWER—GEOPOLITICS AND SOVIET POWER, BOOK II (A) (ii)

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, in the July 11 CONGRESSIONAL RECORD, pages 20324–20325, I made the second insertion in my continuing "Balance(s) of Power" series, book II. Today's selection is the conclusion of Dr. Colin Grey's outstanding article entitled, "Geopolitics in the Nuclear Age."

Dr. Grey's article follows:

THE GEOPOLITICS OF THE NUCLEAR ERA

. . . Geopolitical relations in Central Europe are a matter of major interest to this study, because—unlike the clashes of East-West interest elsewhere (save with respect to the Middle East, and the Persian Gulf in particular)—the achievement by the Soviet Union of hegemony over this region would, in and of itself, mean a decisive and immediate shift in the global balance of power. Even Soviet success in the Persian Gulf area would largely have meaning in terms of its effects upon the policies of European countries (and Japan). Two geopolitical "core" regions far removed from the demarcation lines in Central Europe also merit explicit attention for their direct relevance to the projection of Soviet power into and over the Marginal Seas of Eurasia that the United States must control if it is to be assured of access to Rimland allies. Specifically, the Soviet Union has developed major complexes of military bases in the Kola Peninsula (centered upon the Kola inlet itself and the port of Murmansk and the naval base and shipyards of Severomorsk) and in the Far East (with three principal base areas: Vladivostok, Sovietskaya Gavan, and Petropavlovsk).[53] The leading Western student of Soviet military affairs, John Erickson, has observed that "the greatest single concentration of military bases in the world is presently located on the Kola Peninsula."[54]

Described in offensive perspective, these two geopolitical core areas have significance for their utility in denying American sea power free access through North Atlantic and North Pacific waters. Soviet geography has dictated a quadripartite division of Soviet sea power. The four fleet base areas all have their distinctive limitations: the Baltic and Black Seas fleets are based in potentially "closed seas" (with the choke points at the Dardanelles, the Oresund Strait out of the Baltic, the Strait of Gibraltar, and the Suez Canal); while the Northern and Pacific fleets are not without their problems in terms of access to the open sea. The Kola coastline offers 240 miles, ice-free year-round (from the Norwegian frontier to Svjatoi Nos), while the mean southernmost distance of the ice-pack from the Kola coastline is 180 miles. Soviet surface vessels thus are restricted for part of the year by the narrow corridor between land and ice, and—all year round—they (and submarines) also must, for access into the North Atlantic, transit the NATO-monitored gateway into the North Atlantic, the Greenland-Iceland-Faeroes-United Kingdom gap(s).

Geography changes in its political meaning as a result of changes in the military capabilities of rival states (among other factors). In terms of political influence in "peacetime," and perhaps even military vulnerability in wartime, the Soviet military build-up of the past decade has changed the strategy meaning of the Kola Peninsula. Norway, Denmark, and possibly even Great Britain are today outflanked by the deployment of Soviet naval and naval air power from the Kola Peninsula. In a period of crisis, the Soviet Union could deploy task forces into the North and Norwegian Seas and into the North Atlantic (from Kola bases and from the Baltic); these task forces would have a major impact upon the deliberations of the NATO (and neutral) governments of Northern Europe. Western naval strategists are wont to talk of the principal Western naval mission of sea control and the principal Soviet objective of effecting sea denial. These concepts, though useful, are also misleading. The Soviet Navy (and naval air force) is not strong enough to deny the North Atlantic to NATO shipping. But it is strong enough to compel NATO countries to wage a major campaign to ensure substantial freedom of movement of seaborne cargo. In a war for control of the European Rimland, the decisive interaction will be between Soviet-Warsaw Pact and NATO ground forces. The task of the Soviet Navy (as of Soviet frontal, or tactical, aviation) will be to do, and to prevent the infliction of, sufficient damage, so that the ground forces can occupy territory very expeditiously. The history of Soviet-Finnish relations from 1939 until 1944, and Soviet-Norwegian relations since 1945 attests to the major significance attached by Soviet officials to the Kola Peninsula. Kola is the base area for the largest Soviet fleet and is second in importance only to Central Europe as a geographical forward platform for the projection of military power.[55]

Of the three Soviet naval base complexes in the Far East, only one—Petropavlovsk in Kamchatka—has direct access to the open ocean. By reason of its natural harbor, inland communications, developed facilities, and tolerable ice and fog conditions. Vladivostok is the principal base for the Pacific fleet of the Soviet Union. But seaborne access to Vladivostok is through the Sea of Japan, and transit of all save the northernmost of the straits which lead into that sea (the Tartar Strait, between Sakhalin and the mainland) is easily monitored, and could be blocked by enemy forces based in the Japanese islands. Access to Vladivostok and Sovietskaya Gavan in a northerly direction entails transit of either the Tartar or La Perouse (between Sakhalin and Hokkaido) Straits; both straits lead into the Sea of Okhotsk. The physical geography of its Siberian littoral, with its offshore island chains, explains very clearly why the Soviet Union will never cede the Kurile Islands back to Japan. If the Kuriles were returned to Japan, the Japanese (or hostile power using Japanese-provided facilities) could render the Sea of Okhotsk a "closed sea" to the Soviet Union. The major submarine base at Petropavlovsk, on the southeastern coast of Kamchatka, has manageable ice and fog problems, has no "closed sea" difficulties, and lies only 500 miles north of the main east-west shipping route of the North Pacific.

The peacetime and potential wartime projection of military power from the forward positions of the Heartland in Central Europe, in the Kola Peninsula, and in the Far East is a source of major concern to Western defense planners. It would be foolish, however, to ignore the weaknesses of Soviet geopolitics. In time of war, the separate Soviet fleets would have the utmost difficulty reinforcing one another; and interdiction of overland communications and support between the European USSR and the Far Eastern core area would be an elementary matter. Also, the Soviet imperium over Eastern Europe, however useful in military terms, is a permanent source of political anxiety to Soviet officials.

POLICY OBJECTIVES

Soviet foreign policy may usefully be characterized in terms of a maximum-minimum principle, namely, to seek the maximum gains with minimum risks. Geopolitically, Soviet leaders probably believe that time is on their side; the Soviet Heartland power is permanently a Eurasian power, while the United States, neglecting Mackinder, Spykman, and others, may come to forget that the Eurasian Rimlands are forever the American security dike. For reasons of domestic preoccupation, anger at "ungrateful" allies, or simply psychological distance, Americans might lose interest in balancing power in and around Eurasia. The Soviet Union, by virtue of geopolitical location (not to mention political inclination), cannot lose interest.

Since access to the innermost councils of the Soviet government is not granted, one can only speculate on Soviet policy objectives. It is the contention of this study that there is a logic to East-West geopolitical relations, and a logic to observable Soviet policy actions, which permits the presentation of Soviet foreign policy goals with a fairly high measure of confidence. Soviet deeds, Soviet words, and the more plausible of the geopolitical theories all point in the same direction.

The basic contrast between American and general Western policy goals and the goals of the Soviet Union lies in the stability orientation of the former and the dynamic content of the latter. In the words of one prescient group of American commentators: "Moscow neither believes nor is interested in a world of stable power relations."[56] Over the very long term, Soviet leaders are committed to the concept of victory for their system of ideas/unit of power. The Marxist dialectic, an inherently dynamic framework, has some difficulty coping with the prospect of a world that is in a Communist "steady

Footnotes at end of article.

state." The roles of the Soviet Union as a unit of power in such a world are, to say the least, obscure—even to Soviet theoreticians. The Leninist notion of "the withering away of the state" (the Soviet state!) lacks for official adherents in the Soviet Union. While admitting the existence of these uncertainties well over the horizon, the interim goals of the Soviet Union are very clear indeed. The final confrontation with the United States may be very many years away, but Soviet leaders understand very well that they face only one first-class enemy, and that the 1970s is marking a historic shift in the correlation of forces between them.

The Soviet Union appears to set no boundaries to its ambitions—a condition suspiciously reminiscent of Wilhelminian Germany. But unlike Imperial Germany, the Soviet Union is ruled by a committee of cautious bureaucrats who see no necessity for haste or high risk-taking in their policies. In general terms, Soviet policy seems intended to secure improved power relations vis-a-vis the United States; and this policy is wholly opportunistic. It is not the case that beyond a current phase of (nonmilitary) struggle, the Soviet Union aspires to a global modus vivendi with the United States, on the basis of more advantageous demarcation lines between spheres of influence. In much the same way—and essentially for the same reasons—that there appear to be no sufficiency criteria for the Soviet armed forces, so the foreign policy ambitions of the Soviet state are unbounded. At any one time, Soviet policy will show apparent inconsistencies; and local setbacks will be accepted without recourse to military action. What matters is the trend.

Notwithstanding the maximum-minimum principle cited earlier, Soviet leaders are mindful of the possibility that war with the United States could occur. An unplanned crisis could expand either on American (or American-allied) initiative, or the Soviet Union might be confronted with an opportunity for major gains—albeit an opportunity fraught with unusually high risks. While Soviet leaders must hope that perception of Soviet politics will and political-military weight, strictly local dynamics, and Western pusillanimity will effect favorable shifts in the balance of superpower influence around Eurasia-Africa, Soviet policy also reveals a profound concern for the course of possible military interactions.[57] Through being the friend that delivers victory, as in Angola, the Soviet Union both encourages the belief that it is the tide of history, and lays the basis for requests for access to territory, sea, and airspace that might be very useful indeed in the contexts of influencing developments in Southern Africa, or menacing the oil supply route from the Gulf to Europe.

Although the European Rimland is the major medium-term prize in Soviet-American conflict, it also happens, by virtue of that fact, to be the area of major risk. Detente, or peaceful coexistence, is an offensive policy; it is intended to help make the world safe for political (and even some military) conflict in areas far removed from the direct military confrontation in Europe. Under the umbrella of detente, the Soviet Union orchestrated military victory for its faction in Angola,[58] and earlier had acquiesced in, if not encouraged, the Egyptian-Syrian attack upon Israel on October 6, 1973, and in the Spring of 1975 provided the means for the North Vietnamese invasion of South Vietnam. The essential background to these developments has been the compatibility, in Soviet eyes, of a general policy line of peaceful coexistence in its relations with the West with the purchasing of major new military options relevant to all categories of potential war. The Soviet military build-up needs to be considered in geopolitical perspective.

Footnotes at end of article.

A. Soviet strategic forces may usefully be thought of as having counterdeterrent, warfighting, and symbolic tasks. If the Soviet Union balances or overbalances the United States in strategic nuclear power, any "extended deterrent" functions of American strategic forces must be subject to severe skepticism. From the late 1940s until the present day, it has always been assumed in the West that American strategic nuclear power was a makeweight compensating for deficiencies in forward-deployed military forces around the periphery of Eurasia (and in and about Europe in particular). Looking to the 1980s, the Soviet Union will have built not merely a balancing counterdeterrent, but also a counterdeterrent that could seize the initiative and hold it.[59] Symbolically, the Soviet modernization and augmentation of its strategic nuclear forces is both an expression of the scale of the Soviet will to power and a source of Western (and other) expectations concerning the confidence with which Soviet theater power might be exercised.

B. Soviet theater forces increasingly have been designed with a view to securing what Paul H. Nitze has termed "projectible power."[60] Because of the Soviet strategic counterdeterrent, the outcome of military conflict around the periphery of Eurasia-Africa should depend wholly upon the balance of military power deployed in, and deployable to, Eurasia and the marginal seas of Eurasia. The deducible Soviet objective of obtaining as much influence over as much of the Eurasian-African World-Island as countervailing forces will permit requires major investment in both counterdeterrent and "projectible power." This the Soviet Union has been doing and is doing. The Soviet Navy and naval air force, frontal aviation and theater nuclear missile forces, and air mobility—the details in all these areas speak to a determination to be able to match, and overmatch, the traditional superiority of the "projectible power" of the maritime alliance around the Rimlands.

Soviet naval/air reach around the southwestern and southern littorals of Eurasia-Africa is growing and rests upon an expanding set of naval/air facilities (and even bases). To be specific, the Soviet Union is flying maritime reconnaissance missions out of Cuba, Conakry in Guinea in West Africa, Somalia in the Horn of East Africa, and out of Umm Qasr in Iraq. Naval facilities are available on Socotra and in South Yeman (Aden) at the entrance to the Red Sea, a naval base has been constructed at Berbera, and facilities are reported to be used at Mogadishu (Somalia). Also, the Soviet Navy has maintenance and repair facilities at some Indian ports. For southward reach one must presume that the government of Angola (which is offering almost a classical example of "client" status) would not be in too strong a position to deny base facilities to Soviet ships and aircraft should such use come to seem expendient. (Mozambique is far less obviously a Soviet client than is Angola; but here again the Soviet Union does have a potential forward base area; Soviet interest in naval/air facilities in Lourene Marques has already been expressed.)[61]

It would be easy to exaggerate the significance of Soviet forward deployment in Africa and South Asia. It is sensible to appreciate that the quantity of Soviet naval/air activity in those regions is very limited, and that the "hinterlands" for Soviet bases and shore facilities are politically volatile. But commentators must also recognize that Western naval/air strength in the South Atlantic and the southern Indian Ocean is, as a general rule, distinguished by its absence, that "the Cape route" is literally the energy lifeline of Western Europe, and the trend is adveres to Western interests. We may not fear for the 1970s, but what of the late 1980s? Soviet interest in acquiring a large measure of control over Middle East oil supplies, either at source or, if need be, in transit, is sure to be permanent. The struggle for the Eurasian Rimlands will not cease. Soviet influence waned in Egypt, but it remained (though not without strains) in Syria, and waxed strongly in Libya and Algeria. Soviet presence in the Middle East, South Asia, and Africa, for reasons fundamentally antipathetic to the NATO powers, might be expelled by local forces or by NATO action, but it will not voluntarily be withdrawn. Also over the long term, the Soviet Union will have to find an enduring solution to its "China problem." The Chinese threat to the Soviet position in the Far East can only grow, just as China's alliance value to the West must grow. It is not plausible to maintain that Soviet leaders will choose to acquiesce in the eventual rise of China to first class superpower status.

POLICY MEANS AND POLICY PROSPECTS

To many people in the West, it seems profoundly unsophisticated to stress either the military dimensions of East-West relations, or military security questions in international relations more broadly. The real threats today, so we are told, are to our economic security. The state of the various East-West military balances is held to be of some residual significance, though really the military instrument of policy is largely an artifact from simpler times. This study does not deny that international relations are highly complex, nor does it challenge the view that there is a very serious category of economic security issues. Nevertheless, the expansive foreign policy ambitions of the Soviet Union are no figment of the imagination. They have been proclaimed with convincing consistency by senior Soviet officials for many years. Similarly, however old-fashioned it may appear to some in the West, the Soviet Union acts as though it believes that a truly major investment in all kinds of military power will bring worthwhile political-economic dividends.[62]

The history of the Soviet Union reveals one unquestionable success story, the performance of Soviet arms. Why is the Soviet Union regarded as a superpower in the 1970s? The Soviet gross national product is probably less than half that of the United States; the Soviet political system is a source of acute embarrassment to foreign Communist parties; and its state ideology is a profound irrelevance both to revolutionary movements and to developing countries in search of guidance. It might be suggested that the Soviet Union is a superpower solely by raw geographical virtue of its power potential—the extent and location of its territory, the number of its people, the quantity and variety of its raw materials, and its advanced state of industrial development. Such a suggestion would be grossly in error; potential counts for little if it is not harnessed. The maritime alliance of NATO could secure a prospectively permanent and major measure of strategic superiority vis-a-vis the Soviet Union were it to mobilize its potential; but for reasons of political division, domestic-looking choices concerning resource allocation, and a resolute determination not to expect the worst (or even the bad), NATO will be fortunate to avoid a major adverse change in its security condition over the next decade. For all its manifest and profound weaknesses, the Soviet Union has demonstrated that it can compete successfully with the West on one narrow, though critically important, front—the military.

To focus upon the Soviet military instrument is, therefore, entirely appropriate. If the Soviet Union succeeds in establishing its hegemony over Eurasia-Africa, it will be because of the use, the threat of use, or the anticipation by others of the use, of its military power alone. It is sensible to take account of signal Soviet deficiencies—the inefficiency of Soviet industry and agriculture, the ever-present "nationalities" problem, and the rigid and stifling character of Soviet society. But the domestic imperfections of So-

viet life will not protect Western countries from defeat, political and military, if the "old-fashioned" threats to military security are not taken sufficiently seriously; many an advanced civilization has gone down before the barbarians. In the words of John Erikson: [63]

"This all comes back to Solzhenitsyn's point that the Soviet leadership may place an undue and obsessive reliance on military force, on its form and function, but then Western Europe has increasingly chosen to ignore the military factor. Between them, these two postures have contributed to what can only be counted a growing imbalance. In the final outcome, Europe may well become that 'low-risk option' that will suit the Soviet command perfectly."

Many detailed assessments of Soviet military power are readily available; such exercises will not be reproduced here. But the virtue of a geopolitical perspective is that it does permit a degree of integration and a level of analysis that transcends the familiar partial assessments of the East-West military balance. The American defense community, for example, has experts on the strategic nuclear balance, theater nuclear, theater conventional, and naval questions; but it has remarkedly few people with a competence or even an interest that crosses those necessary but constricting categories of analysis. Unfortunately, competence in analyzing the political meaning of military power is even rarer than competence in more than one of the standard subfields of defense policy analysis.[64] An explicitly geopolitical framework compels both the assessment of all categories of military power, and relating that assessment to the political relations of states.

East-West relations in geopolitical perspective pose a terrifying prospect for the maritime alliance. In peninsular Europe, the Soviet Union and its Warsaw Pact dependents have developed a military capability for very rapidly overrunning the American "bridgehead." Opinion is divided as to just how adverse the situation is, but the balance of responsible and knowledgeable analysis suggests that NATO-Europe would lose. As noted above, the Heartland power has succeeded in constructing a strategic nuclear counterdeterrent of such proportions and quality that the United States would not be motivated to initiate a major process of nuclear escalation. Unfortunately, the great North American mobilization base for the development and production of the trained manpower and equipment needed to sustain the alliance in a long war in Europe would neither enjoy easy access to the European Rimland, nor would it be likely to find that Rimland in friendly hands when and if its strength did arrive. Soviet naval activity now outflanks the Eurasian-African Rimlands, and threatens to interdict trans-Atlantic (and trans-Pacific) reinforcement and resupply. Also, with base facilities on the Indian and Atlantic Oceans, the Soviet Union would be well placed to interdict the oil supply route from the Gulf.

The threat of Soviet naval and air blockade of the Eurasian-African Rimlands was demonstrated almost arrogantly in the worldwide naval exercise held in 1975—"Okean 75" (or Vesna–75 in Soviet identification). In this exercise, the Soviet Union employed its ocean surveillance and communication satellites to effect central control of naval activity around the globe, while special attention was devoted to the establishment of blockade lines (of submarines) and to counterconvoy tactics. This exercise pointed dramatically to the vulnerability of NATO's western flank.

Much defense analysis suffers from a seeming inability to appreciate that geography imposes different tasks upon the armed forces of the rival alliances. Many Americans appear to have difficulty understanding that if they wish to deny hegemony over the Eurasian Rimlands to the Soviet Union, either the maritime alliance must sustain a very robust local denial capability, or the United States must invest in a significant margin of strategic nuclear superiority. To recap in question form, How are the Eurasian-African Rimlands to be defended against the Heartland power, if strategic parity (or, more likely, parity-plus is conceded to that power? If superiority in the European theater is conceded? And if anyone, worldwide, who can read a newspaper or listen to a radio can learn that the Soviet Union is on the ascendant on gaining influence in potential (and actual) base areas in Africa and South Asia?

If the Soviet Union achieves effective hemispheric denial in the years ahead, the West will have none save its own citizens and leaders to blame. In terms of resources, human and material, the historic bid of the Heartland power for the achievement of hegemony over the World-Island is eminently resistible. Whether or not Soviet leaders and defense planners think in Mackinder's terms, Soviet actions—considered in the round—can be fully comprehended only in a geopolitical framework. The West undoubtedly will awaken to its danger, to the fact that the state of too many military balances has been permitted to erode to its disadvantage; but such an awakening could well occur too late.

FOOTNOTES

[53] The discussion which follows is heavily indebited to C. G. Jacobsen, *Soviet Strategy-Soviet Foreign Policy, Military Considerations Affecting Soviet Policy-Making* (Glasgow: Maclehose, The University Press, 1972), ch. 6.

[54] Erickson, *Soviet-Warsaw Pact Force Levels*, p. 72.

[55] The Soviet Navy and its missions have come to be popular subjects for analysis and speculation in the West. Useful studies include Norman Polmar, *Soviet Naval Power, Challenge for the 1970s*, rev. ed. (New York: Crane, Russak, 1974); Michael McGwire, Ken Booth, and John McDonnell, eds., *Soviet Naval Policy. Objectives and Constraints* (New York: Praeger, 1975); and John E. Moore, *The Soviet Navy Today* (London: Macdonald and Janes, 1975).

[56] Gouré, Kohler, and Harvey, *op cit.*, p. 64.

[57] The basic Soviet strategical-theoretical text remains V. D. Sokolovskiy, *Soviet Military Strategy*, 3rd ed., edited by Harriet F. Scott (New York: Crane, Russak, 1975). Also of great value is the series of Soviet texts currently being published under the auspices of the United States Air Force ("Soviet Military Thought").

[58] This judgment is not offered in ignorance of the possibility that the Soviet Union may have been at least as concerned to shut out Chinese as American influence in Angola, nor does it deny the high level of active American interest which preceded the overt Soviet-Cuban military involvement. There is some value in John A. Marcum, "Lessons of Angola," *Foreign Affairs*, vol. 54, no. 3 (April 1976), pp. 407–425. This author would draw different lessons from those specified by Marcum, but his indictment of American policy is convincing (whatever one's political orientation).

[59] For justification in detail of these remarks, see Colin S. Gray, *The Future of Land-Based Missile Forces*. (London: International Institute for Strategic Studies, forthcoming).

[60] Paul H. Nitze, "Deterring Our Deterrent," *Foreign Policy*, no. 25 (Winter 1976–77), p. 207.

[61] Erickson, *Soviet-Warsaw Pact Force Levels*, p. 8.

[62] Detente, in Soviet official explanation for domestic and foreign Socialist audiences, has been forced on the West as a consequence of the improved power position of the Soviet Union. The basic Soviet belief appears to be that the better the relative power position of the Soviet Union, the better are the prospects for "peace" (on Soviet terms). See Goure, Kohler, and Harvey, *op. cit.*, particularly ch. 2.

[63] "Soviet Military Posture and Policy in Europe," in Pipes, ed., *Soviet Strategy in Europe*, p. 207.

[64] For an analysis of enduring worth, see Klaus Knorr, *On the Uses of Military Power in the Nuclear Age* (Princeton: Princeton University Press, 1966).●

VIGIL FOR FREEDOM FOR SOVIET JEWS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. FRASER. Mr. Speaker, I wish to add my concern to that of my colleagues who are participating in the vigil for freedom for Soviet Jews. Our support is particularly crucial at a time when the Soviet commitment to the Helsinki agreement is in question, as evidenced by the current trials of Anatoly Shcharansky and Alexsandr Ginzburg. While we speak out on the injustice of these trials, we also continue our efforts to aid in the emigration of Soviet Jews to Israel for a reunion with their families. Our success in this endeavor will serve, to some degree, to circumvent the miscarriage of justice evident in these so-called trials.

On this occasion, I would like to bring up the case of Dr. Grigory Goldstein. Although my colleague, Representative RICHARD L. OTTINGER, has previously spoken out on behalf of Dr. Goldstein, we cannot overemphasize our desire to see an end to the persecution he has endured so that he may realize his hope of living with his family in Israel.

Dr. Goldstein was born in 1931 in Tbilisi. He has worked as a physicist for 17 years, 7 of them as head of the scientific laboratory of the Tbilisi branch of the Mendeleev Research Institute of Meteorology. In 1971 Grigory applied for permission to leave for Israel, and in 1972 renounced his Soviet citizenship and obtained Israeli citizenship. In anticipation of being denied permission to leave on the official grounds that his job gave him access to "state secrets," he resigned his position. Andrei Sakharov has commented that "the refusal is still in force despite the fact that work in meteorology, which Goldstein dealt with 7 years ago, has never in the world been considered secret." This situation culminated in the March 1978 sentencing of Grigory Goldstein to 1 year in prison on charges of "parasitism." The Soviet system has effectively used its criminal code to work against Mr. Goldstein, as the law, refusing emigration to those possessing classified information, forced him into unemployment. Grigory recently arrived in a prison in Archangel in northern Russia, which is over 1,000 miles from his home in Tbilisi. His physical condition is poor, and the distance will make it extremely difficult for his family to visit him.

In the intervening years between his original request to leave the Soviet Union

and his prison sentence, the Goldstein family has continued to bravely fight back. They have participated in numerous demonstrations and have written many protest letters, articles, and appeals protesting their plight. They have also been subject to numerous interrogations by the Soviet Secret Police, house searches, and threats. It is my strong feeling that such courageous actions deserve our full support and encouragement.

The current situation in which the Goldsteins find themselves is due to their efforts to exercise and preserve their basic human rights, as guaranteed in the Helsinki accord and the Universal Declaration of Human Rights. It is my sincere hope that the Soviet Union will honor the spirit of these agreements in the case of the Goldsteins, as well as all other refuseniks, who wish to live in their Jewish homeland.●

AMBASSADOR YOUNG AND THE WEIGHT OF HIS COMMENTS

HON. BENJAMIN S. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. GILMAN. Mr. Speaker, at a time when multitudes of concerned individuals, groups, and governments throughout the world stridently denounce the inhumane Soviet treatment of dissidents in the Soviet Union, Ambassador Andrew Young, the chief U.S. representative at the United Nations, has issued an irresponsible off-the-cuff comment producing totally justifiable indignation on the part of all those fearful for the lives of Soviet human rights activists.

In an interview with the Paris newspaper Le Matin, Mr. Young observed that while he too denounced the current trials of Anatoly Shcharansky and Alexsandr Ginzburg, the situation of the Soviet dissidents should not be so dramatized since the United States also has political prisoners, "hundreds, maybe even thousands."

As the administration, at the urging of Congress and many other concerned people, is attempting a careful reassessment of major aspects of United States-Soviet relations because of systematic Soviet human rights violations, Andrew Young has in effect critically diluted official U.S. condemnation of Soviet repression.

While the White House indicated that Mr. Young's remarks "do not reflect the policy of this administration," it is incumbent upon the Chief Executive to go further and strongly reprimand the Ambassador for his alarming indiscretion.

We recall among Ambassador Young's earlier indiscretions, his statement describing Cuban forces in Africa as a "stabilizing influence" there. Yet his most recent diplomatic faux pas is far more egregious, coming at a crucial moment in U.S. efforts to influence Soviet treatment of dissidents.

Insensitive to the crucial juncture at which United States-Soviet relations have arrived because of the current sham trials of Shcharansky and Ginzburg, Ambassador Young's words appalled many, and were eagerly seized upon by the Kremlin, which stated, through the official Soviet news agency Tass that: "These words are noteworthy, since they come from a member of the Cabinet and therefore signify an official admission that political persecution is widespread in the United States."

Ambassador Young's diplomatic blunder warrants the President's strong rebuke and censure. This country's U.N. Ambassador must be made to realize that his "shoot from the hip" type comments are not only unworthy of such a high position, but seriously damaging to American diplomacy, the conduct of American foreign policy, and in this most recent instance, devastating as concerns the fate of all those suffering the systematic repression of the Soviet Union.●

THE ADMINISTRATION SUPPORTS STOCKMAN AMENDMENT TO DOE BILL

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. STOCKMAN. Mr. Speaker, last month I wrote to the Director of the Office of Management and Budget, the Honorable James T. McIntyre, in order to ascertain the administration's position on the massive subsidy for synthetic fuels plants contained in the Commerce Committee version of the fiscal year 1979 Department of Energy authorization (H.R. 11392). I would like to share with my colleagues the response to my letter because for the first time it provides us with a clear and concise explanation of the policy the administration is pursuing in this important area. The letter also expresses support for an amendment to delete the $75 million authorization now contained in section 704 of the bill. I plan to offer such an amendment, and I hope that my colleagues will support me.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C., July 11, 1978.

Hon. DAVE STOCKMAN,
House of Representatives,
Washington, D.C.

DEAR MR. STOCKMAN: I am responding to your letter of June 16, 1978, concerning the Administration's position on the demonstration of coal conversion through Solvent Refined Coal or other technologies.

In the recent Department of Energy supply initiatives and in amendments to the fiscal year 1979 budget sent to the Congress, liquids/solids conversion programs which includes:

Completion of the preliminary design for several (4–6) coal liquids/solids demonstration plants during FY 1979. These design efforts also would include preparation of proposals for completion of plant construction, identifying cost sharing requirements and potential markets for the plant products.

Beginning in FY 1979 the detailed design of one or two plants to be selected from the preliminary designs and plant proposals provided to DOE.

Initial funding in the FY 1980 budget for construction of one or two coal liquids/solids demonstration plant(s).

The President's original FY 1979 budget proposal was to complete a comparative analysis of both the SRC I and SRC II technologies and on the basis of that analysis select the specific process to be used in a demonstration plant. The FY 1979 Budget as submitted in January 1977, included $23 million for the initiation of design and long lead time procurement leading to construction of a liquids or solids plant, depending on the outcome of the analysis.

The Administration's decision in May 1978, to reprogram $33 million in FY 1978 funds for coal liquids/solids demonstration plant design efforts was based largely on our current view of the need to (a) broaden the potential contenders for the Nation's first major coal liquids/solids demonstration plant(s) beyond SRC I and II and (b) speed up the preliminary design of all potential demonstration plants. About four to six process design studies would be conducted and would include an SRC I study by Southern Company Services, Inc., with Wheelabrator-Frye, Inc., and Air Products and Chemicals, Inc., an SRC II study by Gulf Oil Corporation, and such other studies as may be presented by other qualified proposals.

The SRC technology (both liquids and solids) are now at a more advanced stage of development than other processes currently under development. If this presumed advantage is supported by technical analysis and financial proposals from industry, DOE now plans to use the SRC demonstration project funds ($23 million) proposed in the President's FY 1979 budget for detailed design(s) and long lead procurement(s) of an SRC I or SRC II plant or both. If another process and proposal (other than SRC I or II) is judged to be the best or one of the two best proposals, some or all of the FY 1979 funds may be used for the detailed design and long lead procurements associated with such a proposal.

At this time the Administration has made no final budgetary commitment to fund the *construction* of any coal liquids/solids demonstration plant and will not do so until the design and proposal activities described above are completed. Consequently, the Administration opposes the $75 million included in section 704 of H.R. 11392, since it prematurely would commit the Federal Government to two coal-based alternate fuel commercialization projects and would prejudge the outcome of the design and construction proposal assessments.

The Administration's approach is aimed at assuring the best technical decision and encouraging companies interested in these projects to propose financial packages which may be more attractive to the Federal Government than those already in hand. This could significantly reduce the cost to the Federal Government of any of the demonstration options.

The following answers are in further response to your specific questions:

First. The Administration's decision to move forward with multiple design and construction proposal activities to ensure that all reasonable technical alternatives are explored, prior to committing the Government to a large expenditure for the first coal liquids/solids demonstration plant(s), was the basis for the decision not to provide funds in FY 1979 for initiation of construction of one or two plants.

Second. OMB has estimated the outyear impact of constructing *one* demonstration plant to be approximately:

(*BA in millions of dollars*)

Fiscal year 1980	125
Fiscal year 1981	200
Fiscal year 1982	150
Fiscal year 1983	50

This is based upon an assumption of a 25 percent participation by the private contractors. However, as indicated above, we hope that the competitive selection process will encourage more equitable private cost

sharing and result in less costly financial arrangements for the Federal Government.

Third. As indicated above, the authorization of $75 million in the Commerce Committee bill is not consistent with the Administration's policy. The Administration therefore supports the deletion of this authorization from the bill. The Administration supports only the funding levels requested in the proposed FY 1978 reprogramming ($33 million) and the President's original FY 1979 budget ($23 million) for coal liquids and solids demonstration activities.

The Administration intends to keep the Congress fully informed of the outcome of its analysis of coal conversion projects and to involve the Congress, as appropriate, in any future decisions. The Congress will of course have a full opportunity to reach its own conclusions on plans to proceed with construction of any demonstration project(s) in the course of reviewing the Administration's proposed 1980 budget.

In summary, the Administration is committed to the rapid demonstration of large scale coal conversion projects in order to gain essential information on economic cost and environmental impacts. Seeking the best financial deal for the Federal Government in any demonstration endeavor—as the Administration has proposed—also will save Federal funds at a time of necessary fiscal constraint.

Thank you for your interest in this important subject.

Sincerely,

W. BOWMAN CUTTER,
Executive Associate Director for Budget.●

TAKE FROM THE "RICH" AND MAKE THEM POOR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. CRANE. Mr. Speaker, as a child, I always enjoyed the story of Robin Hood; full of action and courage, Robin Hood and his merry band were real people who did not disappear at the stroke of midnight. Robin's antics exhibited a sense of cunning and creativity foreign to most of the stories our children hear today. Indeed, R2D2 and C3PO pale in comparison.

Yet, Robin Hood's Sherwood Forest was left behind when I grew up, went to college, served in the Army, and took on the responsibilities of family and adult life. I had to make ends meet, and there was no fairy godmother or benevolent thief to help out in lean times. Yes, Sherwood Forest became a never, never land * * * or so I thought until I came to Congress.

With little further ado, I commend this column which appeared in the Chicago Tribune this spring. I share Joan Beck's writing with you and my other distinguished colleagues now as the date of final consideration of the fiscal 1979 budget approaches. It is not too late to end our profligate ways. A careful reading can keep Congress from remaining Robin Hood's merry band of men, or should it please you, persons.

WHO TOLD UNCLE SAM TO ACT LIKE ROBIN HOOD?

(By Joan Beck)

None of us ever had a chance to vote on whether Uncle Sam should be turned into Robin Hood.

Yet the federal government increasingly acts as if it had an absolute mandate from voters to take from the rich and give to the poor. The problem is that the "rich" are primarily the hard-working middle class. The "poor" aren't necessarily deserving or poor. And most of us never intended to make Washington into a Sherwood Forest where our pockets could be picked with impunity in the name of social justice.

Even though we're still smarting from our annual fleecing by the Internal Revenue Service, few taxpayers realize the extent to which the federal government has become an income transfer agent.

In fiscal 1977, for example, the federal government transferred more than $248 billion from taxpayers to others—who usually qualified as beneficiaries simply because of their age, occupation, racial ancestry, residence, or other classification. Fewer than one recipient in four had to show need for the money to get it.

The $248 billion was handed out through 182 programs. Some are widely known and generally approved by taxpayers. Others are overlapping, obscure, or highly controversial.

The first comprehenesive look at this massive $248 billion in federal pay-outs has just been compiled by Pace University Graduate School of Business and published by the Institute of Socioeconomic Studies under the title "An Inventory of Federal Income Transfer Programs."

The report defines income transfers as payments which "support or supplement an individual's current standard of living." [No one seems to care how much paying for such benefits diminishes taxpayers' current standard of living.]

To whom is taxpayers' money being transferred? Here's a random sampling from the report:

Guaranteed income for owners of sheep or goats selling wool or mohair, $8 million. Indemnity payments to dairy farmers or beekeepers for losses due to use of pesticides nearby, $4 million. Medicare hospitalization, $15,314 million plus $6,330 million for supplementary services. Reimbursement to states for unemployment compensation, $13,490 million, and $712 million for unemployment compensation for federal civilian employees and ex-servicemen.

Veterans' hospitalization, $2,862 million plus $872 million for outpatient care. Burial allowances for veterans, $150 million. Veterans' survivors, pensions, $1,322 million. Aid for families with dependent children, $5,718 million. Vocational training for Indians, $36 million. Sanitation facilities for Indians, $35 million. Food stamps, $5,474 million.

Social Security retirement benefits, $52,364 million plus $11,625 million in disability payments and $18,888 million in survivors' benefits. School lunch program, $2,204 million plus $177 million for school milk, $191 million for school breakfasts, and $195 million for summer food for children.

Veterans' educational assistance, $3,683 million, plus $210 million for dependents. Flood insurance program, $178 million. Indochinese refugee help, $95 million. Black lung disease compensation for coal miners and dependents, $935 million. Drug abuse programs, $159 million.

Every one of these programs—and the rest of the 182 federal income transfer programs—has defenders. Each serves a socially useful purpose, it can be argued. Each benefits people who claim a pipeline into the federal treasury for reasons with which most of us sympathize.

But this massive venture into income transfer programs has changed the nature of our government. Collecting so many billions in taxes requires unconscionable probing into our private lives and confiscates earnings we could also use for beneficial social purposes. Handing out billions necessitates irksome regulations and invites cheating.

The Carter administration is urging more politically attractive, multi-billion dollar income transfer programs. Now, while April 17 is still fresh in the mind, we should be thinking carefully how much more of Robin Hood can we take.●

AMPLIFICATION OF THE ADMINISTRATION POSITION ON THE STOCKMAN AMENDMENT TO THE DOE AUTHORIZATION BILL

HON. DAVE STOCKMAN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. STOCKMAN. Mr. Speaker, earlier today I submitted for publication in the Extension of Remarks a letter expressing the administration's support for an amendment to strike section 704 of the Department of Energy Authorization bill (H.R. 11392) that I plan to offer. This letter, dated July 11, was received in my office at approximately 10 a.m. It read in pertinent part as follows:

As indicated above, the authorization of $75 million in the Commerce Committee bill is not consistent with the Administration's policy. The Administration therefore supports the deletion of this authorization from the bill.

Approximately 6 hours after receiving this letter, I received a second letter from the Office of Management and Budget. This letter of Management and presses the administration's support for section 704 with a few minor changes. The second letter reads in pertinent part:

With these changes, we do support Section 704 of H.R. 11392.

In order to avoid any confusion on the part of the Members, I am submitting this second letter for publication in the RECORD as well. I assure my colleagues that I will endeavor to keep them advised on a timely basis of any further correspondence.

The letter follows:

OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., July 12, 1978.

HON. HARLEY O. STAGGERS,
Chairman, Interstate and Foreign Commerce Committee, Washington, D.C.

DEAR MR. CHAIRMAN: I am writing today to set the record straight concerning the Administration's position on coal-based alternate fuel commercialization plants and to correct any misapprehensions that may have arisen from my letter of July 11 to Congressman Dave Stockman concerning this subject.

As you know, the Administration believes that domestic coal can provide a potentially large supply of the liquid and clean solid fuels which will be needed in the late 1980's and the 1990's. We are committed to the rapid commercialization of large-scale coal conversion projects in order to gain essential information on economic cost and environmental impacts of coal conversion. We appreciate very much the leadership that you have shown in this vital effort, and in general we strongly support the concept of the provisions in Sec. 704 of H.R. 11392.

The Administration's proposed program in this area, as set forth in Secretary James Schlesinger's May 15 letter to the Congress describing the Department of Energy's supply initiatives, includes the following:

Completion of the preliminary design for several (4–6) coal liquids/solids demonstration plants during FY 1979. These design efforts also would include preparation of proposals for completion of plant construction, identifying cost sharing requirements and potential markets for the plant products.

Beginning in FY 1979 the detailed design of one or two plants to be selected from the preliminary designs and plant proposals provided to DOE.

Initial funding in the FY 1980 budget for construction of one or two coal liquids/solids demonstration plant(s).

It does not appear at this time that funds for the preliminary design work on 4–6 plants will fully be available from the reprogramming of FY 1978 appropriations. Therefore, we do support the authorization of $50M in Sec. 704(a) of H.R. 11392 to complete this work and to begin the detailed design of up to two plants. Finally, we believe that up to 70 percent of the funds appropriated should be available for the Federal share of any one such project. With these changes, we do support Sec. 704 of H.R. 11392.

I hope that this letter clarifies the Administration's position on this issue.

Sincerely,

W. BOWMAN CUTTER,
Executive Associate Director for Budget.●

ANYBODY SEEN A MATTRESS MILLIONAIRE?

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. HYDE. Mr. Speaker, one of the most sensible voices in America belongs to columnist James J. Kilpatrick. His analysis of the President's views on our colleague BILL STEIGER's capital gains tax reductions proposal is a monument of common sense and I commend it to my colleagues:

[From the Chicago Sun-Times, July 7, 1978]

ANYBODY SEEN A MATTRESS MILLIONAIRE?

(By James J. Kilpatrick)

WASHINGTON.—At his June 26 press conference, President Carter delivered an opening statement that combined a little demagoguery, a little populism and some old-line liberalism. In the process, he revealed something of himself.

Carter's purpose was to denounce proposals now pending in the House to cut the tax on capital gains. In one version, sponsored by Wisconsin's William Steiger, the present 49 per cent would be reduced to 25 per cent; in another version, sponsored by Oklahoma's James R. Jones, the rate would drop to 35 per cent. Carter attacked both of them.

Eighty per cent of the benefits, Carter complained, would go to those taxpayers with earnings of more than $100,000 a year. Three thousand millionaires, he said, would get tax reductions averaging $214,000. Neither he nor the American people would tolerate a plan that provides huge tax windfalls for millionaires and two bits for the average American.

Later on in the press conference, he again lashed out at "very rich people" and "very wealthy taxpayers." He was indulging himself in an absolutely no-risk exercise, attacking millionaires. He was echoing an American political tradition that goes back to Teddy Roosevelt's indictment of "malefactors of great wealth," and to William Jennings Bryan and the "cross of gold." But castigation of the rich dates at least from Matthew 19 and Mark 10. The millionaire's silk hat just naturally draws snowballs.

The President's populist rhetoric opened a small window upon his philosophical heart of hearts. Outwardly Carter often exhibits a stout conservatism. Down inside, seldom revealed, is the liberal's conviction that if money is to be spent, the government should spend it.

That is what this controversy over capital gains is all about. The Steiger bill would cost the Treasury perhaps $2 billion in fiscal '79, the Jones bill maybe $1.1 billion. After that, because of the economic activity generated by additional capital, it is anybody's guess. It is a highly plausible theory that within a couple of years, the temporary loss in tax revenues would be more than offset by gains.

What of these "huge windfalls" to the very rich? Carter, who is very nearly a millionaire himself, knows perfectly well that the tax savings would be reinvested. What else is the millionaire to do with his $214,000? Hide it under his mattress? Put it in a cooky jar or coffee can? Send it to Switzerland and pay the Swiss to keep it on ice? Nonsense. I have known dozens of millionaires and I never met a mattress millionaire yet.

Reduction of the capital-gains tax would have the effect of releasing hundreds of millions of dollars for investment in the private sector. This is the capital that buys machine tools, erects factories, finances inventions. But critics complain that some of the happy millionaires might spend their windfall "frivolously."

Why not? This was the sourpussed complaint of Yale University against the Korean student's casino ball. It did not occur to Yale that the student's $45,000 would benefit cooks, waiters, busboys, musicians, bartenders, the suppliers of lobster and beef and booze. Carter is equally obtuse, or hostile, in the matter of reducing the tax on capital gains. What rankles Our Leader is that he couldn't spend the money on federal programs; the filthy rich would spend or invest the savings to suit themselves.●

TAX REFORM STILL IMPORTANT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. SIMON. Mr. Speaker, one of the reasons people get discouraged about taxes is the inequities that they see, inequities that we in Congress have to do more to move on.

I have, from time to time, cited some of these inequities to my colleagues, but a letter I have received from an old friend, William N. Paris, an attorney in Charleston, Ill., is one more example.

He enclosed a bulletin advertising the mid-year meeting for the Illinois State Bar Association at Acapulco, Mexico.

It will cost $433 per person and is tax deductible.

I have been to Mexico several times but have never had the privilege of being in Acapulco. And I understand it is a magnificent resort. And I applaud anything that is going to help improve Mexican-United States relations.

But for the taxpayers of the United States to subsidize, through tax benefits, trips by lawyers from Illinois to Acapulco, strikes me as being a perfect example of the kind of inequity that causes cynicism toward Government and helps to fuel the fires of things like proposition 13.

I hope our colleagues on the Ways and Means Committee can gradually improve, simplify, and make more just our tax laws.●

STILL NOT GETTING THE MESSAGE

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I would like to call the attention of my colleagues to an editorial in the Ventura County (Calif.) Star-Free Press relating to proposition 13. The editorial deals with the contradiction posed by Federal regulations on CETA as local governments in California attempt to deal with the mandate of proposition 13. In view of the fact that the CETA program is up for extension in Congress this year, I think the points made in the editorial are worth noting.

The editorial reads as follows:

STILL NOT GETTING THE MESSAGE

Under the heading, "They haven't got the message yet," comes the latest Labor Department edict in the wake of Proposition 13.

Ernest Green, assistant secretary of Labor, said the department will oppose efforts by any California community to rechannel Comprehensive Employment Training Act (CETA) funds from make-work projects to essential services.

In other words, Ventura County still wouldn't be able to use any money to keep firemen on the county payroll, but while the county is laying off firemen and closing county fire stations, if the county wants CETA funds, those funds will have to be spent on such projects as the county animal census. Likewise, the city won't be able to use CETA funds to build a new police station, but it will have to continue to use CETA funds for such projects as fancier sidewalks.

This seems to us a large part of what Prop. 13 was all about—this business of having government money available for frills and niceties while the same money can't be used for essentials. The idea of laying off firemen because there's no money to pay their salaries is pretty hard to accept, when there's money to pay dog-counters.

Before Prop. 13, the CETA groundrules made some sense, if not much. The object was to create new jobs by funding projects that local government wouldn't undertake without CETA money. So there was this built-in Catch-22: It had to be considered non-essential by local government to qualify; otherwise local government would have been funding it locally.

So when CETA funds came along, local government went after its share. The county supervisors took a lot of guff for approving the pet census and the city council has taken some for the fancy sidewalks, but the fault isn't in Ventura—it's in Washington. If that CETA money hadn't been used to provide jobs in Ventura County, it would have been used to provide jobs—counting dogs and cats and building fancier sidewalks—in Oshkosh, Wis., or Biloxi, Miss.

The money all came from the same Ventura County taxpayers, by way of Washington, with the inevitable Washington strings attached. Many of those Ventura County taxpayers voted for Prop. 13, some no doubt out of frustration at the inability of government to get its act together—to get some semblance of coherence between local, state and federal government, when it comes to spending tax dollars.

In an era of plenty, with unlimited tax funds, the CETA guidelines may have made some little bit of sense, though local government is almost always in a better position to decide how to spend funds locally than the bureaucrats in Washington are. But

what little sense the CETA guidelines made before Prop. 13, they make none at all now.

To say that CETA funds cannot be used to fund essential services, while those services are being cut for lack of funds—as a Labor Department spokesman did—is to say quite clearly that the message from Prop. 13 hasn't reached the Labor Department yet. (In fact, the spokesman said the department has recently created a position of independent inspector general to help crack down on local government agencies that have been "misusing" CETA funds for essential services.)

There's a lot of political posturing going on in the wake of Prop. 13, some of it in Washington. In a column elsewhere on this page, James Reston even credits Prop. 13 with a congressional vote to cut U.S. aid to foreign governments. Perhaps.

But when it comes to U.S. aid to local governments, bureaucrats still haven't got the word. Not yet.

That's too bad. It's only because the folks in Sacramento didn't get the word when they should have that Prop. 13 ever got on the ballot. And if we read the public mood right, the revolt ain't over yet.●

EXTENSION AND THE ERA

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. FRASER. Mr. Speaker, the House Judiciary Committee will vote soon on whether or not to report out House Joint Resolution 638, to extend the ratification date for the equal rights amendment.

Legitimate concerns have been raised about the constitutionality and appropriateness of the extension. I am satisfied that the extension is constitutional and fair, and wholeheartedly support the extension measure.

The extension of the ratification deadline would allow more time for the American public to fully debate the ERA, and I think the end result will be to provide full protection for women in the U.S. Constitution.

However, the curiosity and concern about what the ERA will do and what it will not do remain. The following article by respected economist Sylvia Porter, first published in the Washington Star on March 30, 1977, summarizes what the ERA will not do. Although I inserted this article in the RECORD about a year ago, I think it is still timely.

The article follows:

VICIOUS MYTHS STALLING ERA

(By Sylvia Porter)

A full five years after the Equal Rights Amendment was passed by Congress and recommended to the states for ratification, it still is three states short of becoming a part of our Constitution. Why has so reasonable a measure been so long delayed?

Because of a deliberately waged campaign—characterized by scare tactics and misinformation—to create confusion and misunderstanding. Thus, below are six myths (some really ludicrous) that have been circulated about the ERA, along with the facts.

Myth No. 1: If the ERA is ratified, husbands will pay Social Security taxes twice, one on their own earnings and again on the value of their wives' services as homemakers.

Facts: This is simply not true! Some changes in Social Security law would be required, but they would be in the direction of recent Supreme Court decisions, giving husbands and widowers of woman workers the same rights as female spouses now enjoy. The rumor that ERA would double a husband's Social Security tax liability is a vicious lie.

There is great merit in the concept of giving a homemaker credit for the work she does in the home. But it would require enactment of a separate law—possibly permitting couples to share their family earnings, just as they now file tax returns.

Myth No. 2: Under ERA, a husband would no longer be obliged to support his wife. This, says Phyllis Schlafly, vehement opponent of ERA, "would take away the most basic and precious legal right every wife now enjoys." A wife also would have to "provide half the family income," adds Schlafly.

Facts: The ERA would not require any mathematically equal contribution to family support from husband and wife, an analysis of ERA in the Yale Law Journal of April 1971 states.

Instead, the decision would be based on such matters as the current resources of husband and wife, their earning power, the non-monetary contribution each makes to the family.

If one of the couple was a wage-earner and the other worked in the home, the wage-earner, regardless of sex, would have the duty of supporting the other spouse.

Myth No. 3: The ERA is an anti-male measure.

Facts: The title of this proposed 27th Amendment to the U.S. Constitution is "Equal Rights for Men and Women." Its purpose, says Mary A. Deisman, in "Everything You Need to Know About ERA," (Meranza Press, $4.50 paperback), is to declare that "women and men have equal legal standing and that individuals should be treated as individuals, not all one way because they are all one sex."

The ERA allows for legal distinctions between the sexes when the subject concerns physical or functional differences unique to one sex. And that leads into the next myth, refuted again and again.

Myth No. 4: According to this absolutely silly rumor, there would be no separate bathrooms for men and women and the sexes would not be segregated in living quarters in dormitories, prisons, etc.

Facts: Of course, this is not true. The ERA deals only with public legal relationships. And even in the legal area, sex classifications based on physical or functional differences would continue.

Myth No. 5: Women would be drafted and assigned to combat duty.

Facts: Yong women would be subject to the draft (if we had a draft) but not be required to perform military duties for which they were not qualified. Some might be assigned to combat duty, many would not be. (Nurses have been in combat zones in all our wars.)

Just as in the past, the single would be drafted first; childless, married persons, second; and then the situation in each family would have to be weighed to decide whether husband or wife, or neither, or both, were to be called up.

Myth No. 6: Upon ratification of ERA, states would be required to validate homosexual marriages.

Facts: Bunk. All that ERA proposes to do is to give males and females equal rights. By definition, a marriage is the union of a man and a woman. ERA will not change that definition.

In the above myths lie the reasons legislatures have voted against ERA despite the attitudes of most of a state's residents.

In North Carolina, a poll showed less than 18 percent against ERA but the legislature defeated the measure.

In Florida, where ERA will come up for legislative action after April 6, polls show 67 percent favoring ratification, but the lawmakers are being hit by an anti-ERA barrage—not valid arguments but fictitious, venomous propaganda, most from out of state.●

REAPPRAISING THE STATE-FEDERAL REGULATION OF INSURANCE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. LAFALCE. Mr. Speaker, the American insurance industry has long been exempt from Federal regulation. Until the mid-1940's, the business of insurance was not even recognized as interstate commerce. When the Supreme Court finally reversed itself, finding that the business of insurance indeed affects commerce and was thus subject to the antitrust laws and the Federal Trade Commission Act, Congress responded with the McCarran-Ferguson Act which continued the exemption.

In a recent speech before an American Bar Association seminar dealing with the antitrust implications of insurance, Mr. Robert B. Reich, director of the Office of Policy Planning in the Federal Trade Commission, noted that in passing the McCarran-Ferguson Act, Congress did not really grapple with the issues of federalism: which regulatory roles are most appropriately left to the State, and which to the Federal Government. He questioned how FTC policing against deceptive practices interferes with State regulatory systems, and queried as to why any activity not actually approved by State insurance departments should receive immunity.

Further, he criticized the "judicial gloss" put on McCarran-Ferguson in that it tends "to obscure the critical questions": "What abuses was Congress willing to leave exclusively to the States to remedy because the States seem better able than the Federal Government to handle them? And, when has a State sufficiently accepted these responsibilities to preclude Federal intervention? These are not mere issues of congressional historiography. Instead, they go to the very roots of federalism."

He counsels both Federal and State regulators not to jealously guard their regulatory purview. Rather, he advises "reasoned policymaking about the extent to which regulation is needed to insure both consumer protection and competition, and which level of Government can be most effective in providing it."

The speech is indeed a provocative one, and I commend it to your attention.

The speech follows:

REAPPRAISING THE STATE-FEDERAL REGULATION OF INSURANCE

Americans spend $116 billion annually on insurance. Rising insurance costs add to the spiraling costs of health care, automobile repairs, even housing and credit. And many of these insurance costs could be reduced if consumers had adequate information about insurance, and if competition kept insurance rates down. As consumers complain about rising prices, and policymakers fret about inflation, it's not surprising that two related questions have been asked about the insurance industry: first, to what extent

should or could it be more competitive?, and second, which level of government—state or federal—should regulate what aspects of it?

A belief that free competition serves the best interests of consumers is the premise which underlies the antitrust laws and the Federal Trade Commission Act. Our goal is to take best advantage of the strong forces of competition to serve consumers' interest in a wide variety of quality products and services at low prices. To what extent should these forces be harnessed in the insurance industry? I think the jury is still out on this question, although some states have provided evidence that greater competition can work.

Illinois has been operating without a specific rate regulatory law since August 1, 1971, when its competitive rating law expired. No rate standard or regulatory authority over rates now exists in that State. A law regulating advisory rating organizations was enacted in 1972, but cooperative ratemaking activities are not sanctioned under that law. Insurers are subject to the Illinois antitrust laws, and probably to the federal antitrust laws as well, since these areas are not regulated by State law.

The Illinois system of nonregulation is, then, of particular interest. A study undertaken last year by the State [1] compared its automobile insurance price and profit experience with that of other states and concluded that "automobile insurance consumers fared reasonably well under the unique competitive rate regulatory system in Illinois" (at 11) and that "consumer interests have been reasonably safeguarded by the competitive market forces of supply and demand in Illinois" (at 13).

Sixteen states have enacted insurance rate regulatory laws which can be called "open competition" statutes.[2] The common denominator underlying most of these statutes is the lack of prior approval or disapproval of rates by the regulator and the prohibition of any agreement to adhere to bureau rates. Most states with such statutes require that an insurer file its rates with the state authority at the time they become effective or shortly thereafter. Each of the open competition states provides that rates shall not be excessive, inadequate or unfairly discriminatory.

A report issued in January, 1977, by the Antitrust Division of the Justice Department compared the experience of these open competition states with "prior approval" states. The report concluded that: [3]

> Rigid state rate regulation in insurance . . . has fostered greater adherence to bureau rates, disocuraged rate reductions, contributed to instability in insurance company operations, established various forms of cross subsidization between good and bad risks, imposed unnecessary restrictions on the collective merchandising and the direct writing of insurance, and aggravated the availability problem in which marginal or high risks have difficulty obtaining coverage in the open market at prevailing rates.

By contrast, the experience of states with open competition dispelled the common notion that price competition would result in prices wars, mass bankruptcies or excessive profits. The Department found that vigorous competition was compatible with the goals of reasonable prices and insurer reliability; it also opined that the industry would generally take advantage of competition wherever there was an opportunity to be competitive, since its relatively unconcentrated structure is conducive to competition.

Our own review of the growing literature on open competition confirms that consumers could benefit by less direct regulation. But the free market, left completely to its own devices, may not be adequate to fully protect consumers. Could price competition occasionally be destructive, leading to insolvency and impairment of the financial structure of the insurance industry? Is pooling of data within rate bureaus sometimes essential for accurate and efficient rate making? Might competition make insurance unavailable to certain high risk categories? And what of unfair or deceptive marketing of insurance? Surely some regulation would seem to be appropriate here. Is regulation also desirable to ensure that the privacy of policyholders is respected, particularly with regard to recordkeeping and collection practices? Is regulation needed to guarantee that insurance is available without regard to race, religion, national origin, sex, or other characteristics that we as a society deem irrelevant to individual worth? And what if certain other rate categories, such as geographic location, have a disproportionate effect upon people with one of these characteristics?

Regardless of how much competition is permitted in the industry, therefore, some government intervention may be necessary to make insurance markets serve consumers better. Indeed, some government intervention in the form of antitrust enforcement, may be necessary to ensure that competition itself is healthy and robust. So the public policy question becomes: who will guide the "invisible hand" of the market when it slips or goes astray—the federal government, the states, or both? Who has the comparative advantage to remedy which set of problems?

For some 30 years the answer to that question has been an easy one, since the McCarran-Ferguson Act has largely precluded a significant role for federal agencies. Federal regulation of insurance has been confined to relatively narrow areas not immunized by the Act. It's clear that the Act immunizes the "business of insurance" from the Federal Trade Commission Act and the antitrust laws "to the extent that such business is regulated by State law," *unless* the activity involves an "act of boycott, coercion or intimidation." But all these phrases—"business of insurance", "to the extent regulated by state law", and "boycott, coercion, or intimidation"—have cried out for definitions.

In a series of cases stretching back over the thirty intervening years since the Act was passed, and extending into the Supreme Court's current term, these phrases have been picked and chewed over, with no particularly edifying results. Because lawyers and judges are often more comfortable trying to fathom unfathomable legislative history than undertake difficult policy decisions, the jurisprudence of the McCarran-Ferguson Act is not the stuff of which fascinating speeches are made. I can tell you that, in the recently announced view of the Federal Trade Commission, mergers are outside the definition of the "business of insurance;" [4] interlocking directorates between insurance companies also probably are outside that definition; [5] activities of insurance companies which have a substantial impact in states where the insurer is not licensed are probably not within the "extent . . . regulated by state law" phrase—if the impacted states cannot adequately control that conduct; and concerted refusals to deal are probably included within the term "boycott" and thereby outside the Act's immunity. The Supreme Court's upcoming opinion in *Royal Drug* [6] and *Barry* [7] may throw considerable light on the extent of these exemptions.

The problem with this endless judicial gloss of McCarran-Ferguson is that it has tended to obscure the critical questions: what abuses was Congress willing to leave exclusively to the states to remedy, because the states seem better able than the federal government to handle them? And when has a state sufficiently accepted these responsibilities to preclude federal intervention? These are not mere issues of congressional historiography. Instead, they go to the very root of federalism.

Federalism is a two-way street, with the states performing the governmental role most appropriate for them, and the federal government tackling problems which are best handled on a regional or nationwide level. Does the nationwide structure and impact of the insurance industry suggest that there is an important role for the federal government to play, particularly where uniform and nationwide strategies seem appropriate? Would FTC policing against deceptive practices interfere with any state policies or regulatory systems? Why should any activity not actually approved by state insurance departments receive immunity?

Congress did not really grapple with these issues when it enacted the McCarran-Ferguson Act, as evidenced by its scant legislative history and ambiguous phrases.[8] And they can no longer be ducked. The National Commission for the Review of Antitrust Law and Procedure will meet them head on.

The Antitrust Commission, which was established by President Carter to review the various antitrust exemptions, will almost surely undertake an in-depth review of McCarran-Ferguson and may make recommendation for change. The presence of no less than 10 Senators and Congressmen on the Antitrust Commission assures that such recommendations will get a full hearing in the Congress. The FTC's Chairman will be a member of the Antitrust Commission. We have an agencywide Insurance Task Force which is reviewing the McCarran exemption in support of the Chairman's role. Although the Task Force has not yet reached a conclusion on the nature of any changes, we anticipate making some very specific proposals for amendments which would impose

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[1] Illinois Insurance Laws Study Commission, *The Automobile Insurance Rate Regulatory System in Illinois: A Comparative Study* (September, 1977).

[2] Although these sixteen states have statutes which look like open competition laws, much depends upon the way the acts are administered. Consistent use of the power to suspend rates or fear of such suspension will cause so-called open competition schemes to work like prior approval regulation. One major insurer recently filed testimony stating that only in Illinois and California could a company safely institute new rates in response to market forces without the prior approval of the state's insurance commissioner.

[3] Department of Justice, *The Pricing and Marketing of Insurance* 22–23 (1977). (Hereinafter "DOJ Report"); See also State of New York Insurance Department, *The Open Rating Law and Property-Liability Insurance: An Evaluation of Insurance Price Regulation* (1977); Insurance Bureau, Michigan Department of Commerce, *Essential Insurance in Michigan: An Avoidable Crisis* (1977); Bureau of Insurance, Virginia State Corporation Commission, *Competition in the Property and Casualty Insurance Industry: An Evaluation of Alternative Methods of Rate Regulation* (January, 1978).

[4] American General Insurance Company, 89 FTC 345, Docket 8847 (Final Order, decided June 28, 1977). This case is on appeal to the Ninth Circuit Court of Appeals, Docket No. 77–3207.

[5] *John Hancock Mutual Life Insurance Co.*, File 771 0019, FTC.

[6] Royal Drug Co. v. Group Life & Health Insurance Co., 556 F.2d 1375 (1977), cert. granted.

[7] Barry v. St. Paul Fire and Marine Insurance Co., 55 F.2d 3 (C.A. 1, 1977), certiorari granted U.S.

[8] The McCarran Act was hastily written and passed, with the central provision of the Act (the Sec. 2(b) Proviso dealing with the FICA and the antitrust acts) not appearing in the Act until inserted by the House and Senate conferees. See *Barry* v. *St. Paul Fire & Marine Ins. Co.*, 55 F. 2d 3, 9 N. 5 (1st Cir 1977), *cert. granted.*

a more competitive framework on the insurance industry.

Let me also assure you that we at the FTC are not bent on securing more regulatory territory as our own. The FTC acts not only through cases and trade regulation rules, but by issuing studies, reports and buyer's guides, and supplying technical assistance—all of which could be of benefit to state regulators. Our Insurance Task Force has already opened discussions with the States to see how we might help them carry out their role more efficiently.

You may be familiar with our recent work on life insurance cost disclosure. In life insurance, there are many competitors, but the market has generally not provided appropriate information to enable consumers to compare the value of various policies. Our staff members have been working to develop what they hope will be an effective and comprehensible cost disclosure system. They are seeking a cost index which is meaningful and not easily manipulated, and can provide a yardstick by which the costs of various policies can be compared.

The staff has been pleased by the interest, responsiveness, and cooperation that state insurance departments have shown in its work. We've met with over 20 insurance commissioners and their staffs, and have learned that several of them share our concerns about the model cost disclosure regulation that has been adopted by the NAIC.

Another area where we are exploring the prospects for cooperation between the NAIC and the FTC is insurance mergers. We hope that the combination of the NAIC's insurance expertise and the FTC's antitrust expertise will lead to an effective joint monitoring and regulatory system.

In health insurance our staff is looking at whether the relationship between health care providers and Blue Shield, one of the leading health insurers, has anti-competitive implications, and we are studying other aspects of the interplay between health insurance and health care costs.

While we will not plunge precipitously into misdirected action, neither can we turn our backs on persisting problems. We'll seek reasoned, cooperative action in a true partnership with the states to ensure competition *and* consumer protection.

Strong state and federal antitrust enforcement may be the best guarantee that workable competition can be sustained where it exists and nurtured where it's lacking. State and federal consumer protection strategies, complementing and bolstering one another, may be the best guarantee that the free market will work fairly to provide the quality and amount of insurance that consumers want. The future lies not with federal litigators trying furiously to expand McCarran-Ferguson's narrow exemptions, nor with state regulators and their regulated insurers trying with equal fury to hold on to a regulatory scheme that is not always up to the task. The future lies in reasoned policymaking about the extent to which regulation is needed to ensure both consumer protection and competition, and which level of government can be most effective in providing it. Thus, the time is ripe for a fresh appraisal of the Federal-State relationship and for new mechanisms that will permit each level of government to do what it can do best to make competition in insurance markets work for consumers.●

ADDRESS OF ADM. H. G. RICKOVER ON EDUCATIONAL STANDARDS

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. MOTTL. Mr. Speaker, the importance of competency testing is apparent with the passage of H.R. 15. Under this bill I introduced a program of voluntary competency testing. The Federal Government would provide the funding to State or local school districts necessary to establish such programs.

I would like to call attention to a speech given by a distinguished advocate of educational standards, Adm. H. G. Rickover, before the National School Boards Association Convention in Anaheim, Calif., April 3, 1978. I encourage all Members to read Admiral Rickover's comments expressing the need for the pursuit of excellence in our classrooms.

WHY SCHOOL BOARDS?

(Remarks of Adm. H. G. Rickover)

Frequently I am called upon by Congressional committees to testify about defense contracts. I point out to these committees problems I see and what I believe should be done to correct them.

Lobbyists for the defense industry usually do not like what I say. They respond with canned speeches about the free enterprise system and patriotism written by their public relations flacks. Regardless of the issue, the theme is the same: "Trust us. We know what is best." The lobbyists then suggest that I stick to engineering and leave defense contracting to others.

Many educators react the same way when I talk about education. They say that when it comes to education, I am a competent engineer. More than a few have told me: "If you don't tell us how to run our schools, we won't tell you how to design your reactors." In other words, "Trust us. We know what is best."

Many educators display the same attitude toward parents and school boards—that of an angry householder whose "castle" is being invaded by the village gossip.

Too often, parents and school boards are intimidated by some outspoken educators and defer to them as the experts. But what goes on in the schools is not the private domain of the educators; it is the people's public business. As school board members, you represent the people. It is your responsibility to see that our children get a proper education. It is your solemn duty, individually and collectively, to correct whatever ills exist in our educational system. Judging from results, not all of you have been doing a good job.

As head of the Navy's Nuclear Propulsion Program, I have had the unique opportunity to judge the products of our schools. I have interviewed, over the last three decades, more than 12,000 top gradautes from some 150 colleges and universities in search of young officers to meet the demands of this program. I look for people with the ability to think for themselves; to understand the basic principles of the courses they have taken; and to speak clearly. While I continue to find some who are well-qualified, a growing number do not measure up to their diplomas.

It is not uncommon to interview a recent graduate from a "good" college with a Degree in Mathematics who cannot solve a tenth grade algebra problem. I find graduates with Degrees in Electrical Engineering who do not know the difference between alternating and direct current.

In case after case, not only in engineering, mathematics, and science, but in history, foreign language, economics, and other fields, I find students with excellent academic records, who are unable to discuss even the fundamentals of their disciplines. From what I see, the basic knowledge shown by recent graduates is much less than that shown by those interviewed 15 years ago. Yet each had received good grades and, as a result, believed he had learned what was expected of him.

I also see the products of our secondary schools—the enlisted men in the naval nuclear program. They are selected from the top high school graduates. Yet, in recent years, I have had to teach remedial courses in the basics of mathematics, physics, and chemistry to prepare many of them for nuclear power school.

There are similar problems in the rest of the Navy. We continue having difficulty finding young men who read well enough to perform their jobs. One sailor who could not read instructions tried to repair a diesel engine simply by looking at the illustrations. He caused $250,000 damage. Because so many recruits cannot read adequately, the Navy now conducts six-week remedial courses to raise the reading skill of high school graduates to the sixth grade level.

This problem is not unique to the Navy. What concerns me is our nation's future, because a parallel to the Navy's experience exists in nearly every aspect of life.

Employers must now teach basic skills that should have been learned in elementary school. More and more colleges are compelled to conduct remedial courses for high school graduates who are inadequately prepared in reading, writing, and mathematics. A few colleges, like American University in Washington, D.C., have now begun to require all students to pass competency tests in reading, writing, and mathematics before receiving a degree.

Despite rising grades, test scores on college entrance examinations and various achievement tests have been dropping steadily for over a decade. The National Assessment of Educational Progress reports that the writing ability of teenagers has declined. In short, diplomas or even good grades no longer accurately represent actual academic achievement.

Many factors have contributed to this decline. Changes in our society have played a part. Hard work is no longer a driving force. We live in a society governed by conspicuous waste. Only a very rich nation would squander human energies in the pursuit of meaningless diplomas the way we do.

Parents are also responsible. Many spend little time with their children or do not show enough interest in their children's schoolwork. Many subscribe to the belief, common in our affluent society, that any problem can be solved by spending more money. But the education of youth requires not just money; it also requires personal dedication and investment of time.

Schools cannot fully compensate for lack of parental involvement or for all manner of societal problems. But they do bear a primary responsibility for the decline in student achievement. Instead of helping solve the problem, many educators and educational organizations who purport to speak for the entire educational community have become obstacles to better education. Their opposition to academic standards and competency testing is a case in point.

Most developed countries have definitive and known standards of intellectual accomplishment. But in our country, what a child should know at a given stage of his academic career is undefined—or, at best, determined locally. What standards there are vary widely. Consequently, the student is placed at the mercy of local community bias, which tends to be set by a few of the community's most vocal members.

Most achievement tests we have today merely show the relative standing of a student compared to other test-takers. They do not measure what a student should know. It is little consolation to find out you know more than your contemporaries about swimming, if none of you can swim.

In reading, writing, and mathematics, parents should be able to find out how well their children are really doing without having to rely solely on the judgment of teachers or

local school officials. Instead, students and parents are often misled by automatic promotion and grade inflation. A glaring example occurred recently in Washington, D.C. when a high school valedictorian failed to meet the entrance requirements of a local college because his knowledge as shown by his entrance examination scores was insufficient.

Last year, I recommended to the House and Senate Education Committees the establishment of voluntary national competency standards, and tests in reading, writing, and mathematics. These standards would define what children should know and be able to do in reading, writing, and mathematics at the second, fourth, sixth, eighth, tenth, and twelfth grade levels. Tests against these standards would identify deficiencies in time to correct them early in a child's schooling. High school graduation is too late to find out that a child cannot read, write, or calculate.

I proposed that the Federal Government assemble a panel of nationally prominent persons in representative walks of life to develop these standards, and contract with testing firms or universities to devise appropriate tests against these standards. These standards and tests would be voluntary, not mandated by the Federal Government. They would serve as a model for states and localities to use or not, as they saw fit. However, parents would be able to have their children tested against the standards—if necessary, at Government expense. I proposed that the Federal Government rather than private groups do this, because excellence in education is essential to the national interest. I also proposed Federal involvement because the Federal Government is likely to be more objective than any other entity.

Unlike much of the so-called research traditionally sponsored by the Department of Health, Education, and Welfare, these model standards and tests would be a tangible and practical form of Federal assistance. States and localities which have not begun to develop competency tests could save time and money if national standards and tests were available. For example, the Virginia State Superintendent of Public Instruction has recommended using commercially prepared tests for that state's competency program because developing the tests would be too expensive and time consuming.

Many educators, including the National Education Association and the U.S. Office of Education—which seems to be NEA's unofficial ambassador to the Executive Branch—have opposed development of such voluntary national standards and tests. But their arguments make no sense to me.

Some contend that voluntary national standards and tests will eventually lead to federal control of education. It amazes me how they can denounce development of voluntary standards and tests as a threat to state and local control of education, while at the same time demanding and accepting ever-increasing sums from the Federal Government for programs they themselves advocate.

Some contend we do not know enough about testing to develop tests that can measure reading, writing, and mathematical skills fairly. They oppose development of national standards and tests, urging instead more Federal funds for research on testing. This is nonsense. Testing companies, universities, and many educators who make their living by studying tests rather than teaching have an insatiable appetite for federally sponsored research. If we wait until they concede they have conducted enough research on testing, we will still be waiting for an answer 2,000 years hence.

Obviously, no test is perfect, and a single test score does not tell us everything about a child's intellectual development. But this is no reason to delay testing. There will never be a perfect test, just as there will never be a perfect law—except in Heaven. Driver tests are not perfect; nor are speed limits, consumer safeguards, or bathroom scales. Does it then follow that we should not have them?

Some contend that national competency standards and tests in basic skills would be unfair to minorities and the disadvantaged. But these are the very ones who have most to gain from standards and tests. Many leaders of minority groups have now endorsed the concept of voluntary national scholastic standards and tests as a means to help their children get a fair education. These leaders recognize that to expect less from minority children is a cruel form of discrimination.

Some contend that federal involvement is wrong because competency testing should be based on local needs. But with today's highly transient population, every American child, regardless of cultural or geographic background, has the same need for competency in reading, writing, and mathematics. The concept that schools should educate children to fit into the local environment belongs to an earlier, less complex age, when people were less mobile and the need for literacy not as great as it is today.

Education should be the great equalizer. Through respect for intellectual excellence; vigor and discipline in study; pursuing a curriculum that strengthens intellectual fiber and stretches the power of mind; and by personal commitment and responsibility; an education can be acquired which will enable one to become a free, informed individual equipped to take his place in society.

Some contend that with minimum competency standards and tests, "the minimum will become the maximum." They suggest that teachers and students would set their sights on minimum standards and not try to progress beyond them. I do not believe good teachers would reorient their courses and reduce content in order to prepare all students to meet merely the minimum competency standards. Nor would parents allow them to. Instead, to the extent students are not meeting standards for reading, writing, and mathematics, schools would be required to focus their primary attention on developing these skills.

Not all educators are opposed to competency standards and tests. Many teachers and school officials recognize and support the need for them. Among these teachers, however, there is legitimate concern about the accountability aspects of these tests. Specifically, if they teach in neighborhoods where there is no tradition of academic excellence and little parental support, will low scores cast doubt on their competence as teachers?

Low scores in themselves do not necessarily mean a teacher is incompetent. A teacher who improves the skills of those at the bottom may be doing a far better job than one whose students score at the top. The tests would identify which students are not measuring up to the standards, so that corrective action could be taken. In this vein, changes from previous test scores, not the absolute score themselves, would tend to reflect teacher or school performance.

In the absence of standards, some educators spurred by parent and school board demand for "innovation," have made it possible for students to avoid courses that provide a solid grounding in the basic academic subjects of reading, writing, and mathematics. There has been a decline in enrollment for basic academic courses. These have been supplanted by electives or extra-curricular activities. In many schools, the total number of instructional hours per school year has declined.

Similarly, many schools have become preoccupied with instilling "relevance" in education. Substantial sums have been wasted in programs directed more toward providing amusement than developing ability to sort facts and make intelligent decisions.

These programs are couched in the jargon of systems analysis and other pseudo-science mumbo-jumbo. They place a high priority on freedom of choice in selecting courses, without ensuring that the choices are structured to meet academic needs. At this stage in their development, most children are not competent to decide what is in their own best interest or how much "creative freedom" they should be permitted.

Again, many schools foster attitudes that do not prepare students for the world's harsh realities. They promote the idea that learning must be easy and entertaining. This idea is cruel to the child and dangerous to society; children then grow up believing they need not struggle to excel.

Often students are induced into courses through gimmickry—catchy titles, or entertaining field trips. There is simply no way to combine the instant provision of happiness with the business of learning to read, write and calculate. Clear thinking is a pleasure and an ingredient of the highest happiness; but it is a difficult one to acquire and to appreciate.

In the attempt to make learning fun, and possibly to make themselves popular, many teachers and administrators have deemphasized disciplined thought and work habits. Instead, they have stressed creativity, individuality, and "feeling"—to the detriment of academic achievement. What this means in teaching English, for example, is a turning away from serious reading and reasoned writing.

Students, especially at the high school level, are led to believe that oral and written expression need no real effort. Feelings are placed ahead of language as the primary tool of expression. In consequence, students are cheated; they do not have to face the difficulties inherent in good writing. This approach may free teachers from tedious grading of papers, but it does not develop the ability to write well. To use a langauge properly one must know more than the rules. If people are to speak and write well, they must first read well; there is no short-cut.

Learning can be interesting, rewarding, and exciting, but it requires effort. It is work. No learning takes place, just as no ditch gets dug, without work. Mental sweat is reqiured of the student who would acquire the skills, concepts, and information necessary to master a subject. Preaching the doctrine that learning should be easy implies that society has an obligation to make life easy, and promotes the already far too prevalent attitude against hard work. If our goal is to entertain our children, we can do so far more cheaply than by sending them to school.

There is also the matter of "equal educational opportunity," a noble concept which some educators, by carrying it to illogical extremes, have subverted. Properly, equal educational opportunity means removing the access barriers to education, especially for minorities. It means giving each student a chance to grow to the limits of his ability without regard to race or class.

Unfortunately, some educators distort this concept to mean that poor academic performance should be overlooked or rewarded, especially if the student is a member of a minority or is poor. In their worst form, such policies hold that all children are entitled to the same academic recognition, whether they have earned it or not.

This twisted philosophy is detrimental both to the slow learner and to the academically talented child. In response to parental pressure, many students who have not mastered the subject are promoted anyway, so they will not feel inferior to their fellow students, or so that parents or teacher will not be embarrassed. These promotions are seldom coupled with additional instructional

support. Eventually the student gets so far over his head academically that all learning stops; he then becomes a discipline problem or a dropout.

At the same time, many special programs that challenge intellectually gifted children have been dismantled as being unfair to other students. The neglect of student needs in the name of educational equality should be intolerable to all of you. Equal opportunity is an important goal I strongly support. However, undereducating children in the name of equal opportunity I reject.

Those like me who have challenged this philosophy are charged with fostering "elitism" or racism—as if intellectual talents are limited to upper middle class whites. Giftedness is color blind and not class conscious. In fact, it is the economically disadvantaged gifted student who is the most common victim of this philosophy.

A prominent official of Columbia University Teachers College once quoted me as saying I wanted to "educate the best and shoot the rest." I never said or implied any such thing. However, I am highly critical of the present situation in many schools where they "neglect the best and amuse the rest."

Children have unequal mental ability and learn at different speeds. Lowering standards to the level of the least capable may allow the mass to move forward together and to claim the same recognition, but it does not do justice or produce well-educated citizens.

Many educators have impressive credentials from teachers colleges, and would have us believe they alone are competent to judge our educational process. They also maintain powerful lobbying organizations which wield considerable political power. Organizations like the NEA contribute heavily to state and national political campaigns. The NEA publishes to its members throughout the nation the names of Congressmen and Senators who voted "right" and "wrong" on educational legislation. No wonder school boards, state legislators, and members of Congress frequently defer to these so-called experts and their lobbyists.

But education is too important to be left to the educators alone. It is our most important public function. It affects all citizens and the future of the nation. In a democracy, public institutions are accountable to citizens. They are supposed to serve the public, not themselves.

The public, though not expert in the jargon of the educationists, is nevertheless competent to judge the performance of our schools. You do not have to be a hen to smell a rotten egg.

It is the right and duty of each citizen in a democracy to assure that our public education system is effective. School boards, elected or appointed, are the people's agents for seeing that schools are doing their job. The professional educators and administrators are their executors and advisors, not the final judges. But, in giving administrators and teachers almost unlimited leeway in running the schools, many school boards have abrogated responsibility for providing purpose and direction to education. School boards, not educators, have the legal and ultimate responsibility to establish educational goals and see that these goals are met. All other board activities are peripheral to this primary obligation.

Too often, school boards are diverted to housekeeping details—school buses, athletic programs, budgets, and so on. Often the accoutrements of education get more attention than the intellectual needs of our children. What the children need and deserve most is a good education, not beautiful buildings and modern facilities. A good teacher in a barn is better than many of our teacher college products in a palace. Why don't you ask the parents—the taxpayers—which they prefer?

I recognize that problems unrelated to instruction and learning such as collective bargaining, declining enrollments, financial crises, and busing are time consuming problems. But no matter how difficult or distracting these other problems may be, you must focus your attention principally on the quality of education.

The highest priority of school boards should be monitoring instructional programs. You must ensure these programs are developing in each child the ability to read, to write clearly, to calculate, to think critically and logically, and to acquire knowledge of the world through history, literature, art, science. The major concern of the school must be with the intellect.

Today, basic education in our schools is competing with, and being overwhelmed by, career education, consumer education, energy education, drug education, sex education, and many others. Our education system is being asked to do too many things; as a result, it is doing none of them well. The schools should concentrate on what they can do best—and must do—developing the mind and passing knowledge on to the younger generation through systematic study under expert instruction.

Education consists of mastering the ways of abstracting experience. An educated person is one who is familiar with the fundamental ways of analyzing and reflecting upon the world. Logic and experience show that certain subjects develop this ability and others do not.

School boards must equip themselves and the public with means to measure how well educational programs are working. The preponderance of data now available on education is in material terms such as money invested, buildings and equipment purchased, desks filled, diplomas awarded. But little data are available to assess the quality of education.

The development of national scholastic standards and tests to measure competency in reading, writing, and mathematics can provide one such measure. The public recognizes the need for competency testing. A 1976 Gallup Poll showed that two of three Americans favored a standard nation-wide examination as a prerequisite for high school graduation. Sixty percent of the respondents to a poll by your own American School Board Journal favored competency testing for high school graduation.

In response to public pressure, more than thirty states have now enacted laws or issued regulations involving competency testing. The opponents of voluntary national competency standards and tests claim this indicates that the Federal Government need not get involved in devising standards and tests.

However, behind the hoopla, what actually is being done? Some states have simply issued "motherhood" statements and directed local school boards to establish their own competency standards and tests. This is a difficult task, and the results vary with the locality. Some states and localities require competency testing only at the high school level, when it is already too late to do much with the results. Others have made their tests ridiculously easy, so that a politically acceptable percentage of those tested can pass. This is like trying to make a cold room warmer by shifting the scale on the thermometer.

Lord Kelvin said: "When you can measure what you are speaking about, you know something about it; but when you cannot measure it, your knowledge is of a meager and unsatisfactory kind." To operate our schools without appropriate standards and tests is tantamount to getting vaccinated and not finding out if the vaccination "took."

If school boards truly want to carry out their responsibility to our children, they should use competency standards and tests. They should welcome federal development of voluntary model standards and tests to help accomplish this task.

It has been said that tests have become a device for racial discrimination. To me they have been an instrument for individual freedom. By taking tests, I was admitted to the Naval Academy, and thereafter achieved professional advancement.

Without testing, this would not have been possible. I have an unfortunate personal trait. I am inherently incapable of ingratiating myself with those on whom my progress would otherwise depend. With such a personality, I would have had a hard time, were it not for objective tests.

Tests are a blessing to those who are dominated by a desire for individual freedom. They have enabled me to survive on my own terms and to be moderately indifferent to the vicissitudes I encounter. I am grateful for having been born at a time during which testing prevailed, a time in which the "whimpering of mediocrity" went unheeded.

Competency testing of students, while important, is merely an indicator of whether students are learning. It takes competent and dedicated teachers to provide quality education. Unfortunately, many teachers today do not have the basic skills the students themselves lack. Many teachers are the products of teachers colleges which emphasize the theory of education. They are then supposed to be capable of teaching any subject, regardless of their knowledge of that subject. Some states foster this concept by qualifying teachers based on the number of education courses in teaching techniques rather than on competence or skill in subject matter.

While classroom management, discipline, and method of presentation are necessary, they are not a substitute for mastery of the subjects being taught. It is essential that teachers themselves be proficient in the reading and writing they are trying to teach our children. They should also be proficient in mathematics. Today, anyone who is matnematically illiterate is as badly off as someone who cannot read. Teachers should be required to demonstrate, through written examination, their own expertise in these basic skills before being allowed to teach.

School boards should demand close supervision of teachers by administrators and principals. The notion of academic freedom is of doubtful applicability to a grade or high school. Combined with tenure protection, it often results in each teacher determining on his own what subject matter is taught and how it is presented. In many schools, training of teachers consists merely of granting them time off to attend conventions and symposia or requiring that they periodically take additional courses in subjects of interest to them, but often of no value to their teaching function.

For any endeavor to be successful, those responsible must involve themselves in the details of day-to-day operations. The supervision and training of subordinates is the single most important duty of the one in charge. Yet school teachers are among the most unsupervised workers in our society. Some school administrators are not themselves experienced or competent teachers and are not capable of evaluating teacher performance. Nowhere else is such a situation tolerated.

School boards can enhance the effectiveness of good teachers by freeing them of burdensome administrative and extra-curricular duties. Teachers burdened with large amounts of clerical and administrative work have a strong incentive to structure their courses so as to minimize such work. This results in simplified tests and little demand for written work. It is not surprising that true-false examinations or multiple choice

tests have largely replaced written assignments so essential to the development of writing and reasoning.

Not many teachers are willing to devise comprehensive tests and assignments when they must draft, type, and reproduce them on their own time, or at the expense of time devoted to teaching. Availability of administrative and clerical support would probably enhance the quality of education and teacher morale as much as the investment of equivalent funds in teacher salaries.

The family and the school, over the past generation, have made many accommodations which undermine the foundations of authority and the maintenance of academic standards. This bodes ill for our own generation and for the future.

At the same time, there are some indications that American education may be headed for better times. The back-to-basics movement is gathering momentum. Recent programs such as Jesse Jackson's Operation PUSH are focusing much needed emphasis on parental involvement. Also, academically talented students appear to be receiving increased attention in the last few years.

While these signs are encouraging, our educational system is still a long way from meeting the needs of our society. As school board members, you are required to protect the interests of parents. You are responsible for seeing that their children are learning the skills they must have to function effectively in our society. You must not and should not defer to self-proclaimed experts. In this regard, I have the following recommendations:

Ensure that the primary goal of schools is the intellectual development of the children.

Demand programs for diagnosing learning disabilities early in elementary school, so that these children receive the special instruction they need.

Set up advanced placement programs for gifted students and remedial programs for those with learning difficulties. The concept of equal educational opportunity should not be subverted to preclude these special programs. The goal should be to educate each child to his fullest potential.

Improve in-service training of teachers and free them insofar as possible from responsibilities extraneous to their teaching.

Give instructional programs precedence over athletics and other extra-curricular activities.

Require teachers to be knowledgeable in the subject matter they teach.

Require teachers to demonstrate the reading, writing, and mathematical skills necessary to evaluate student performance and serve as appropriate models for them.

Select school administrators and principals from competent and experienced teachers. Being a good athletic coach is not an adequate qualification for these positions.

Insist on proper supervision of teachers by principals and school administrators, and require frequent factual reports to the board on teacher performance.

Periodically check to see how graduates of your school have fared in college and in business. This will help you evaluate the quality of your school.

Establish objective measures of student achievement in elementary and secondary schools. As a first step to accomplishing this task, this convention should pass a resolution supporting the establishment of a federally sponsored panel of nationally prominent persons in representative walks of life. They would establish voluntary competency standards and tests in reading, writing, and mathematics for the elementary and secondary school grades.

The title of my speech is "Why School Boards?" If so-called educational experts are going to run our schools, there is then no need for school boards. If school boards are going to spend their time on housekeeping functions, there is then no need for school boards. The only reason for school boards is to fulfill their responsibility to assure that our children become educated—in the true sense of the word.

Responsibility is a unique concept: it can only reside and inhere in a single individual. You may share it with others, but it is still with you. You may disclaim it, but you cannot divest yourself of it. Even if you do not recognize it or admit its presence, you cannot escape it. If responsibility is rightfully ours, no evasion, or ignorance, or passing the blame can shift the burden to someone else.●

LT. CMDR. THOMAS PATRICK ANDERSON

HON. CHARLES E. BENNETT

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. BENNETT. Mr. Speaker, several weeks ago a fine young naval officer and aviator, a member of a distinguished Navy family, a highly decorated flyer with more than 200 combat missions to his credit, and a promising, vital contributor to the strength and freedom of this country died in the line of duty.

His passing is a reminder to us all of the great sacrifices which we as a nation demand, in peacetime as well as during war, of the officers and men of our Armed Forces, and particularly of those involved in operational military aviation. Lt. Cmdr. Thomas Patrick Anderson, U.S. Navy, was operations officer of Carrier Air Wing 17 flying from the deck of the carrier *Forrestal* in the Mediterranean June 24, 1978, when his aircraft went into the sea following a dive-bombing exercise.

Commander Anderson was but one of a family of men who contributed to our country's security and strength as naval aviators. His brother, an uncle, and two cousins also wore the wings of gold, as did his father, Adm. George Anderson, our distinguished former Chief of Naval Operations.

Commander Anderson was a man who made his own records and compiled his own impressive achievements. After completing flight training in 1966, he made deployments to Southeast Asia where he earned the Silver Star, Distinguished Flying Cross, 19 Air Medals, 3 awards of the Navy Unit Commendation, and 2 awards of the Vietnamese Cross of Gallantry. The record of courage, daring and achievement which those decorations represent needs no explanation.

Such exploits are an example to our youth, an inspiration to our countrymen, and a clear reminder to all that our Nation continues to produce the caliber of men who have made her great throughout our history, and who are willing to sail into harm's way in her defense. Commander Anderson leaves behind his wife, the former Hildegard Kirchoff, members of his family, and many friends both within and outside the naval service.

The passing of such a capable, courageous, and talented officer is a great loss to our country and our society, because his life embodied the highest traditions of dedication, service and duty. It serves to keep in the forefront of our thoughts the great prices which we must pay to preserve the precious heritage of freedom which is ours, and how much, indeed, that our society owes to the men who freely take upon themselves this difficult and often dangerous task on our behalf.●

NEED FOR DUTIES ON CANADIAN FISH PRODUCTS

HON. MICHAEL HARRINGTON

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. HARRINGTON. Mr. Speaker, recently Secretary of the Treasury Michael Blumenthal decided to waive the imposition of countervailing duties on Canadian fish products. I am very much discouraged by this action, and I would urge my colleagues in the House to disapprove of this decision by supporting House Resolution 1260, introduced on June 29, 1978, by our colleague, GERRY STUDDS.

The U.S. Government on several occasions has investigated the effect on the domestic fisheries of imported groundfish from Canada. Each investigation and consideration has been marked by an overwhelming concern for ongoing global trade negotiations rather than the needs and concerns of American fishermen, resulting repeatedly in economic hardship for U.S. fishermen, particularly in the Northeast..

I was disappointed in Treasury's most recent decision, outlined in the summary entitled "Liquidation of Duties, Certain Fish from Canada-Waiver of Countervailing Duties." Clearly, Treasury again has chosen to review the issue from the most legalistic and bureaucratic perspective in interpreting the petition filed by the National Federation of Fishermen and the Point Judith Fishermen's Cooperative Association.

The decision is, again, heavily reflective of ongoing international trade discussions, concluding that the imposition of countervailing duties on Canadian groundfish imports would "be likely seriously to jeopardize the satisfactory completion of such negotiations."

At a time when many American fishermen are experiencing severe economic dislocation adjusting to the Fisheries Conservation and Management Act; at a time when U.S. fishermen were suddenly ejected from Canadian controlled waters traditionally shared by both nations; at a time when the New England fleet is virtually "tied up" for the fifth time in 18 months to comply with conservation efforts mandated by the Department of Commerce while Canadian fish floods the American market, the damage of heavy Canadian fish imports to the domestic fishing industry is par-

ticularly dramatic. Treasury's decision could not have been more untimely or more unjust.

Treasury tells us that the Canadians have agreed to virtually roll back their entire fishing industry subsidy program to avoid the countervailing duties. What Treasury seemingly ignores is the unfair competitive edge the Canadians have been able to develop by subsidizing their fishing industry by over $200 million in the last decade. The continuing deleterious effect of those subsidy programs on the American fishing industry, which has had little financial support and which has essentially been ignored until very recently in the struggle for survival, should not be underestimated. Canadian efficiencies in fish harvesting and processing operations will continue to allow the Canadians to flood U.S. markets with high quality, lower-priced fishery products, lowering the prices U.S. fishermen can expect to receive for their landings and in fact, negating the last minute willingness of the Canadians to eliminate their fishing industry subsidies. The impact of heavy Canadian fishery support programs will likely have a negative generational effect on the American fishing industry, unless appropriate countervailing duties are imposed.

The time has come to support American fishermen in their demands for protection from heavily subsidized penetration of their markets from the Canadians. New England fishermen, particularly, are not going to stand by and see themselves "sold out" again to the Canadians, or to any other international consideration. In fact at this very time, New England fishermen are organizing regionally to protest a series of Federal actions, including the recent Treasury decision to waive countervailing duties, the overall impact of which have pitched their industry in a state of chaos.

Once again, I ask you to support House Resolution 1260. American fishermen are tired of bureaucratic lipservice and insensitivity to their problems. They are hopeful that the Congress will help them to resolve some of the unfair economic advantages afforded to other nations penetrating their industry. They need our help now.●

QUESTIONS AND ANSWERS ABOUT THE TUITION ADVANCE FUND

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

Mr. MOAKLEY. Mr. Speaker, I would like to share with my colleagues the contents of a question and answer column from the May 29, 1978, Chicago Tribune in regard to legislation recently introduced by Congressman MICHAEL HARRINGTON, the tuition advance fund.

I think my colleagues will find the following column informative as it reviews the major provisions of the tuition advance fund measure:

A PROPOSAL FOR PAYING COLLEGE COSTS

(By Casey Banas)

WASHINGTON.—College students and their parents may be struggling with the high costs of education, but the president of Boston University believes there is a painless way to relieve the burden—for both students and parents.

John R. Silber is proposing that the federal government give students up to $5,000 a year for tuition and other college expenses. After graduation, the money would be paid back through 2-per-cent payroll deductions from salaries.

In an interview with The Tribune, Silber explained his proposal, which was introduced as a bill in Congress by Rep. Michael J. Harrington (D. Mass.). Following is an edited transcript of that interview:

Q. You have a proposal for students to finance their college costs. How would it work?

A. It is called the Tuition Advance Fund. After the successful completion of the freshman year in an accredited college or university, a student could apply to the federal government for the full amount of tuition plus up to $1,000 for other educational costs such as room and board. Up to $5,000 would be advanced by the federal government for each of the remaining three years of college education.

After graduation, the student would be obligated to repay that advance at the rate of 2 per cent of gross annual income through a payroll deduction system, or if self-employed, through a deduction under the estimated income tax. Payment would be for the rest of his working life or until he had paid off 150 per cent of what had been advanced. That 50-per-cent surcharge is to insure the Tuition Advance Fund against death, disability, or unemployment. The obligation to repay would be absolved by death or disability and be reduced by unemployment.

Q. How would the money be collected?

A. By the Internal Revenue Service. When he started to work, the W–2 form would be altered to ask, "Do you have an unfilled obligation under the Tuition Advance Fund?" If the answer is yes, then the employer would automatically deduct 2 per cent of the gross income.

If the person earns $20,000 a year, it would be a payroll deduction of $400 a year. At retirement, the obligation would be satisfied even if not fully paid off.

Q. You are familiar with defaults on student loans. Couldn't somebody duck payment?

A. There would be no way to do this because this is not a loan. It's an advance by the federal government repaid as a form of taxes. If a person filed for bankruptcy to avoid other debts and didn't work for a year, he would not be obligated to pay during that time. He would start paying again when he had another job. There would be no form of default covered by bankruptcy law.

Q. What would be the equivalent of an annual interest rate?

A. If you take the 50 per cent surcharge and assume the person had to pay 30 years, it would be the equivalent of 2 per cent.

Q. This would get parents off the hook saving money for their children's college expenses?

A. It suddenly would lift from their backs this tremendous burden and makes good sense in terms of American values. It satisfies a conservative value of Americans, namely that a person who receives a benefit ought to pay for it. Secondly, it answers to a fundamental liberal value that there shoud be equal opportunity.

No individual should be denied access or choice of any higher education institution because of inablity to pay. Every qualified student would be able to finance a higher education. Parents would no longer suffer that full burden. That burden would be transferred in an unburdensome manner to the children.

Q. But it saddles people with a 2-per-cent payroll deduction for years.

A. A 2-per-cent payroll deduction, say, on $20,000 a year is $400. That's less than the average person spends on cigarets. If we took the total cost of this program, we spend seven times as much on alcohol, three times as much on tobacco, and about twice as much on candy and ice cream.

Q. How much more does a college graduate expect to earn over a lifetime than someone who doesn't graduate from college?

A. The Department of Labor reports that an average college graduate earns over a lifetime $232,000 more than a person who has only graduated from high school.

Q. How much is a person likely to have to pay back after going to college?

A. If he went to an independent college he would pay back, on the average, $12,000 to $15,000. If he went to a public institution, he would pay back, on the average, $2,500 to $3,000.

Q. Why would you start with the sophomore year?

A. It is very important that the freshman year be used for self-discovery. The youngster, upon graduation from high school, doesn't know if he is cut out for college. If he can't make it, he ought to be able to leave without owing a lot of money.

Q. What about those who earn college degrees and never work, such as women who marry?

A. The woman who marries should pay when she works or her husband would assume part of her obligation. If both work, they would pay on their own salaries. If the man works and the woman never works, then the man would pay 2 per cent of his income and the wife would pay 2 per cent on one-half of his income. If a man earned $20,000 a year, he would pay $400, and on their joint income tax return she would pay $200. Their total contribution would be $600.

Q. What's to prevent colleges from increasing their tuition?

A. They could have a one-time upward adjustment of 10 per cent. Thereafter, no university or college that participated under this plan could raise tuition beyond the level justified by an increase in inflation.

Q. Would that be a federal restriction on tuition?

A. It would be a restraint for a university that wants to participate. Any university that doesn't want to participate can do whatever it pleases. Anyway, market forces would hold down tuition.

Q. What are the advantages of your plan over the federal student loan program and the tuition tax credit proposal pending before Congress?

A. The loan program suffers from a 13 per cent default rate. There's an enormous advantage over the loan program in the Tuition Advance Fund because there is no default.

Q. And the advantage over tuition tax credits?

A. Under the proposal in Congress, the maximum benefit would be from $250 to $500 a year. That's a small part of what has to be paid. Average tuition goes up $250 a year. Within two years, any advantage would have been exhausted by inflation.

The tuition tax credit plan will cost the federal government between $3.5 billion and $4.5 billion in lost revenues. The Tuition Advance Fund would cost about the same, depending on how extensively it is used. But it would be a tremendous stimulation of the economy without having any tax deductions.

It would free up a large amount of money saved now by parents to finance college education.

The Tuition Advance Fund is a self-sustaining program. After one generation the fund will generate sufficient revenue under the payback to pay for itself—somewhere between 17 and 25 years.

Q. That's how Social Security was supposed to work.

A. This has a substantial advantage over Social Security. The number of people borrowing from the fund will be at a peak in the beginning. The number of people who will need it will decrease. We graduated our largest high school class in 1978. We anticipate a decline for the next 15 years in the number of students reaching 18 years of age.

That decline will be so severe that there will be 1.1 million fewer persons reaching 18 by 1990 than in 1978. That's a 30 per cent decline in Social Security, the number retiring is increasing.●

REPRESENTATIVE FINDLEY SEES FOREIGN POLICY DEFICIENCY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. SIMON. Mr. Speaker, during our absence from the Washington scene, working in our districts, our colleague, Congressman PAUL FINDLEY, had an article which appeared in the Washington Post editorial page which illustrates, once again, the necessity and desirability of taking advantage of every diplomatic opening which is presented.

I understand the difficulties that our friends in the State Department have because they have so many balls to juggle at the same time.

The article also illustrates the importance of Members of Congress assisting in a quiet way in these diplomatic efforts.

I applaud my colleague from Illinois for his initiative and his attention to a country before it made the Nation's headlines.

A BUNGLED OPENING IN SOUTH YEMEN

(By PAUL FINDLEY)

The State Department fiddled, hedged and delayed for four long years before it decided to grasp the out-stretched hand of friendship offered by President Salim Rubayai Ali of South Yemen.

The delay made no sense. South Yemen, although small and poor, is vital to our security. It could control access to the Red Sea. With the reopening of the Suez Canal, its port (and capital), Aden, is once more busy. In the struggles in the Horn of Africa, Aden is an important relay point for Soviet military traffic. South Yemen is the Arab state most closely tied to the Soviet Union, the only one with a Marxist economic system. The United States has had no diplomatic relations since it was ousted from Aden in 1969 shortly after the Marxist state came to power.

The State Department fiddled too long. An internal power struggle cut down the outstretched hand just as it was about to welcome a long-awaited U.S. negotiating team to Aden. President Ali, who had attempted persistently and openly to establish friendly relations since May 1974, was overthrown and put to death by a firing squad on June 26 of this year, the very day he was scheduled to receive the U.S. team.

Two days before Ali's death, his emissary and the president of North Yemen died when a bomb exploded in the emissary's briefcase. One report accused Ali's rivals in Aden of planting the bomb to provide the pretext for the change of power in Aden.

Since Ali's death, South Yemen has been harshly censured by most members of the Arab League—including its financial benefactors, Saudi Arabia and the United Emirates—and has come under military attack from North Yemen. Only time will tell how far the violence will spread and the degree to which U.S. and Soviet interests will clash. About 800 Cubans are in Aden along with Soviet and East German advisers and technicians. The United States provides military assistance to North Yemen and, of course, to Saudi Arabia.

The new president of South Yemen is Ali Nasser Mohammed, who retains his old post as prime minister. He shares political power with Abdul Fattah Ismail, secretary general of the National Front. Abdulla Ashtal remains as South Yemen's ambassador to the United Nations.

Ambassador Ashtal insists that foreign policies of the nation will be unchanged and that a State Department team will be welcome at any time. Foreign Minister Mohammed Salih Muti recently invited political and diplomatic dialogue with the outside world. Ambassador Ashtal telephoned, asking me to draw the attention of the U.S. State Department to Muti's statement.

I am probably the only U.S. citizen ever to have had personal discussions with the slain president of South Yemen, and the only U.S. official, elected or appointed, to visit Aden since 1969. My first interview with Ali was in May 1975, when he made his first move for better relations with the United States. He did so by granting my request for the release of my constituent Ed Franklin, of Nebo, Ill., who by then had served 16 months of a five-year sentence on a spy charge. During the interview, I mentioned my concern for two other U.S. citizens believed to be imprisoned in Aden. Within a few months, they, too, were free.

I next met with Ali last September in New York, where he had addressed the United Nations. He restated his desire for good U.S. relations and authorized me to report on our discussion to Secretary of State Cyrus Vance, who was to meet later that day with the South Yemen foreign minister. The upshot of the Vance-Muti meeting was the tentative agreement that a State Department team would visit Aden in January.

I visited Aden in mid-January. When I had first visited Ali in 1974, South Yemen was engaged in sporadic border fighting with its archenemy, Saudi Arabia, and with its other neighbors, Oman and North Yemen. Now, he said, his government had diplomatic relations with the Saudis, and he had established close personal cooperation with Saudi Prince Fahd. He was negotiating for a resumption of economic aid from Saudi Arabia.

Fighting had stopped on all borders. During the Somalia-Ethiopia conflict, South Yemen kept diplomatic relations with both governments. Aden was cooperating against skyjacking. Ali had asked his neighboring states in the Gulf of Aden to join in a policy to exclude foreign military bases.

He dictated this message for me to deliver to President Carter: "Please extend my warmest greetings to President Carter. Kindly inform him we are eager to maintain smooth and friendly relations between Democratic Yemen and the United States. We recognize that he is concerned about maintaining friendly relations with all countries. We feel that is a positive policy. We believe our relations should be further strengthened."

The State Department kept Ali waiting for months. It did not have the courtesy even to tell him the January date was off. State Department officials continued rhetoric critical of South Yemen. For example, just a few weeks ago Secretary of State Vance in a prepared statement to the House International Relations Committee declared that Saudi Arabia had been under military attack from South Yemen on three recent occasions. The "recent" occasions dated back almost a decade and consisted of border clashes.

Would a prompt response by the United States to Ali's gestures of friendship have averted the violence, and enabled him to contain the pressures from his Soviet-leaning rivals? One thing is certain. South Yemen remains vital to the security interests of the United States. Our government should have the best possible diplomatic presence in Aden, no matter who runs the country.●

ABOLITION OF DIVERSITY OF CITIZENSHIP JURISDICTION

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. KASTENMEIER. Mr. Speaker, in the April 1978 issue of the District Lawyer, the president of the District of Columbia Bar Association, Robert L. Weinberg, challenged the work of my subcommittee (House Judiciary Subcommittee on Courts, Civil Liberties, and the Administration of Justice) in drafting diversity of citizenship legislation. He argued that H.R. 9622—our bill to abolish diversity of citizenship juridsiction, and further, to abolish the amount in controversy requirement in Federal question cases—was drafted and passed without adequate thought and consideration. He concluded that the bill was an unwise and unwarranted piece of legislation.

In the June 1978 issue of the District Lawyer, Assistant Attorney General Daniel Meador responded to Mr. Weinberg's contentions. Since Mr. Meador impartially discusses the substantive issues involved and further fairly describes the work of my subcommittee in drafting this important legislation—which passed the House by a 266-to-133 margin on February 28, 1978—I commend Mr. Meador for his comments. I also would like to share his thoughts with my colleagues:

DIVERSITY JURISDICTION IN FEDERAL COURTS: THE NEED FOR CHANGE

(By Daniel Meador)

This is in response to the remarks on diversity of citizenship jurisdiction by D.C. Bar President, Robert L. Weinberg, appearing in the April 1978 issue of the District Lawyer. Mr. Weinberg noted that H.R. 9622, which would abolish the general diversity of citizenship jurisdiction in the federal courts, had recently been enacted in the House of Representatives. He suggested that this provision was adopted without adequate consideration and deliberation and without regard to other legislation which would increase the number of federal judgeships. He further noted that enactment would unduly burden the state courts in general and the District of Colum-

bia Superior Court in particular. Finally, he concluded that diversity jurisdiction should be retained both because bias against outsiders still exists, and because maintaining a nationwide civil court system is of professional value.

I would like to offer some supplemental information and to note that the Department of Justice, numerous organizations, attorneys, and judges support some form of legislation which would reallocate a significant number of these state law cases to the state courts (including the District of Columbia Courts).

A principal, but not the only, reason for the Department of Justice's support of legislation of this nature is the need to enable the federal courts to deal better with those cases where there is a special need for a federal forum. We have supported not only diversity legislation but also proposals to increase the number of judges and to enlarge the jurisdiction of federal magistrates. In our view, all of these measures are necessary to equip the federal judiciary to adjudicate expeditiously and economically the unprecedented volume of civil cases.

This increase in volume is not illusory. The number of civil filings in 1977 was 130,567; an increase of 49.5 percent over the number in 1970, when the last increase in judges occurred. Because of the Speedy Trial Act of 1974, federal judges have been giving priority to criminal cases at the expense of the civil calendar. As a result, the number of civil cases pending increased 63.3 percent from 1970 to 1977. Because of this congestion, it now takes longer, with few exceptions, to dispose of a civil case in a federal district court than it does for a state court system to dispose of a comparable case.

Under the leadership of the Honorable Robert W. Kastenmeier (D-Wis.), the Subcommittee on Courts, Civil Liberties and the Administration of Justice conducted hearings for seven days in June and July, 1977 on the state of the judiciary and access to justice. Testimony and statements were received from representatives of the three branches of government, the state courts, the practicing bar, the public interest law community, and academia.

Based upon the information provided during those hearings, further hearings were scheduled for four days in September, 1977 to consider several bills relating to curtailment of diversity jurisdiction and expansion of the duties of magistrates. The bills considered included one that would abolish general diversity jurisdiction; one that would enact the proposal to curtail diversity jurisdiction prepared by the American Law Institute after ten years of study; and bills formulated by the Judicial Conference of the United States and the Department of Justice which would bar the exercise of diversity jurisdiction by a plaintiff who was a citizen of the state in which the action was brought.

Again, many witnesses appeared and statements were received from a number of individuals and organizations. Those supporting legislation restricting diversity jurisdiction included the Chief Justice, the Department of Justice, all public interest groups that contributed, and federal and state judges. Of the scores of witnesses who testified during any of the hearings, only two opposed such legislation.

In response to this overwhelming support from a wide variety of interests, the Subcommittee unanimously recommended H.R. 9622 to the Committee on the Judiciary on October 20, 1977. On February 7, 1978, the full Committee considered H.R. 9622. At least a dozen members spoke in favor and no opposition was voiced. By roll-call vote of 28–2 the full Committee ordered the bill reported favorably. The same Committee, two months earlier, had reported the bill calling for an increase in judges by a vote of 31–2. On February 28, 1978, the House adopted H.R. 9622 by a 2–1 margin.

H.R. 9622 was given thorough consideration by both the Subcommitte and the full Committee. It is also clear that the bill enjoyed substantial support from a wide cross-section of the legal community. And finally, it is clear that the diversity measure was adopted with full knowledge on the part of the Committee members that the number of federal judges would very likely increase in the future. The House of Representatives has correctly concluded that the congestion in the federal courts could be relieved only by a broad-based approach, *i.e.*, increasing the number of judges and reducing the number of cases that could be filed in the federal courts. Indeed, there are other measures, such as the magistrates bill, which are still under consideration. None of these proposals, standing by themselves, will suffice to provide the relief necessary. With the growing increase in federal question cases all of these reforms, if enacted, will likely serve only as temporary relief for the federal courts.

With respect to the substantive objections that have been voiced to abolition or curtailment of diversity jurisdiction, the one most often heard is the effect the caseload transfer would have on state courts. As noted above, with few exceptions, most state court systems are less congested than the federal courts. Studies have demonstrated that in fact the caseload increase in the states would be minimal if the legislation is enacted. For example, if in-state plaintiffs were barred from invoking diversity jurisdiction, the proposal developed by the Department, no state's caseload would increase by more than one and one half percent.

It should also be noted that the reaction of state court judges has been positive. This is supported by the position taken by the Conference of Chief Justices, composed of the Chief Justices of all fifty states. At its meeting in August, 1977, the Conference adopted the following resolution:

"Our state court systems are able and willing to provide needed relief to the federal court system in such areas as:

"The assumption of all or part of the diversity jurisdiction presently exercised by the federal courts."

This and the above statistics provide an effective answer, we believe, to any argument that withdrawal of federal diversity jurisdiction will create unmanageable difficulties for the state courts.

Nor do we believe that the other arguments offered in favor of retention of diversity jurisdiction withstand close scrutiny. The bias against out-of-staters is often offered as justification for retention, but most of the witnesses who testified were doubtful that this is any longer a serious problem. That is particularly so since, as Mr. Weinberg notes in his article, jurors for both the federal and state courts are being selected from the same pool and the court rules in the states are often patterned after the federal rules. Finally, the remarks of U.S. District Judge Elmo Hunter (W.D., MO.) are instructive with respect to the assertion that state court judges are biased while federal court judges are not—

"It is strange to me as one who has been a state judge for 13½ years and one who sat on all courts of record of his state . . . that I [would] have been susceptible of such prejudice then but have been purged of it for the twelve years I have been a federal judge."

One other argument that has been offered is the notion that somehow the quality of justice in the federal courts is superior to that available in state courts. It would be pointless to argue that one is better than the other. The real question is, do the state courts administer an inferior or inadequate brand of justice in cases resting on state law? Litigants who proceed in the state court systems with a state law case involving parties from a different state will receive a fair hearing. They do every day across the country. It should not be overlooked that state courts always have and still do handle an endless variety of cases which involve persons of diverse citizenship. Any state court judge could verify that numerous cases are now heard in the state courts which involve persons from different states, but which are neither brought in nor removed to the federal courts.

Furthermore, it is the state courts which ought to be deciding diversity cases. After all, each such case is based upon state law which only the state courts can authoritatively determine. Federal judges often spend an inordinate amount of time attempting to determine first, the venue and jurisdictional issues which arise under the diversity jurisdiction, and then attempting to determine state law which might be unsettled.

In multi-party tort and contract cases, diversity jurisdiction often promotes repetition and duplication. Thus, in such circumstances, out-of-state litigants might choose a federal forum while other litigants, because of a lack of diversity, will proceed in the state court. There will usually be no significant differences in the issues tried in the separate cases but, because of pure accidents of residency, they will be litigated unnecessarily in separate forums. This waste of court time and the added expense to litigants is clearly unjustified and can be avoided by abolition of federal court jurisdiction in such cases.

One other feature of H.R. 9622, which Mr. Weinberg did not mention, is the elimination of the jurisdictional amount in federal question cases. In our judgment a litigant asserting a federal right should be entitled to do so in a federal forum regardless of the amount of his claim. That is why we support this change. The result, therefore, if H.R. 9622 is enacted, is that litigants with a claim based upon state law would litigate that claim in the state court, while the federal claimant's case will be heard in a federal court. Thus, the court that has the most experience on the subject and which is most familiar with the law will be deciding the case.

The reduction or elimination of diversity jurisdiction has the support of widely diverse segments of the legal community. Opposition to these measures comes almost entirely from some segments of the practicing bar. There appear to be two reasons for practitioner opposition. One is the natural and human tendency to oppose change. I think that exists, to some extent, in most people but I regret to say that I think it exists, among lawyers, to a higher degree than among some other groups. The sad fact is that historically, in England and in this country, some of the most significant judicial reforms have been made not at the instance and initiative of the practicing bar, but in spite of the practicing bar.

This is not to say we should disregard the views of the bar. Far from it. But we must bear in mind the inherent, instinctive resistance to change that exists in the profession. This resistance to change is understandable. Lawyers are familiar with the existing system. They have mastered it. They are comfortable with it. Change calls for a redoing of some of their habits and thought.

A second reason for the practicing bar opposition to any curtailment of diversity is that, if given a preference and free choice about the matter, lawyers will always prefer an arrangement that gives them a choice of forum. It is simply one more technical avenue available for them in pursuing their clients' interest.

There is nothing dishonorable about this. A litigating lawyer likes a choice of judges, procedure and courts, and diversity jurisdiction gives him this choice.

While these reasons are understandable, they do not justify continuing the present system. We must consider the interest of the public and of the justice system as a whole.●

PROS, CONS ON DISARMAMENT SESSION LISTED

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. SIMON. Mr. Speaker, Dr. Homer H. Jack, executive director of the World Conference on Religion and Peace, has made an evaluation of the U.N. special session that my colleagues would be wise to read.

There may be an item or two that people who were in attendance at the disarmament session would disagree with, but, generally, his conclusions appear to me to be sound.

I am inserting this into the RECORD in the hope that my colleagues in the House and the Senate will take the time to look at it:

LISTS EVALUATING THE U.N. SPECIAL SESSION ON DISARMAMENT

Compiled by Homer A. Jack, Secretary-General, World Conference on Religion and Peace

A. FIFTEEN POSITIVE RESULTS OF THE SPECIAL SESSION

(Not listed in order of importance)

1. Fulfillment of the prediction of U.N. Secretary-General Kurt Waldheim that the Special Session would be "the largest, most representative gathering ever convened to consider the question of disarmament."

2. Agreement by the U.N. that the arms race "jeopardizes the security of all States" and "increases the threat of nuclear war." Disarmament has become "an imperative and urgent task facing the international community" and the alternatives are either disarmament or annihilation.

3. Adoption of an excellent Declaration on Disarmament.

4. Adoption of an adequate—if not excellent—Program of Action on Disarmament.

5. Establishing a new disarmament negotiating forum, with France participating and, hopefully soon, China.

6. Enhancing the role of Non-Governmental Organizations (NGOs) in U.N. disarmament affairs, including the presence of NGOs on some delegations.

7. Raising consciousness about disarmament in many Governments, inter-governmental organizations, the general public, and NGOs.

8. Increased activity of France in disarmament affairs.

9. Increased activity of China in disarmament affairs.

10. Development of new linkages between disarmament and a—development, b—environment, and c—international security.

11. Stimulating the obvious need for stronger national disarmament movements and an international disarmament movement.

12. Surfacing of a number of new disarmament proposals (e.g., a disarmament and development fund by France, U.N. disarmament fellowships for diplomats from developing countries by Nigeria, and a ban on flight tests of all new strategic delivery vehicles by Canada).

13. A number of important disarmament studies suggested which would result in new disarmament initiatives.

14. The two-nation monopoly on disarmament affairs—by the U.S.A. and the U.S.S.R.—strongly questioned if not completely broken.

15. Agreement to convene a Second U.N. Special Session on disarmament in 1981.

B. NINE DISAPPOINTMENTS OF THE SPECIAL SESSION

1. Few changes perceived in the basic positions of nations, although some new ratifications of treaties announced (by the Soviet Union, France, etc.). Thus the quantitative and qualitative arms races continue unabated.

2. No Comprehensive Test-Ban Treaty or SALT II Treaty announced by the U.S.A. and the U.S.S.R.

3. Little continuing coverage of the Special Session by the media, especially in the U.S.A.

4. Little sustained pressure on the superpowers by the non-nuclear States for immediate and drastic cuts in their strategic nuclear stockpiles.

5. Little evidence demonstrated that the Third World wants to lessen its conventional arms races.

6. Introduction by Iraq of a resolution calling for an arms embargo of Israel and thus diverting the pressure of the Session from the super-powers to Israel.

7. The uncreative attitude of the U.S.A. toward the Special Session, beginning with the preparatory work, but including the non-appearance of President Carter, the hosting of the NATO Summit in Washington during the session, the lack of new U.S. initiatives, and the general insensitivity of being Host Country to an extraordinary disarmament conference.

8. No disarmament caucus or bloc formed at the U.N. during the Special Session.

9. The Program of Action, while adequate, is not because of the use of consensus—as forward-looking on some issues (e.g., a moratorium on nuclear testing) as previous General Assembly resolutions.

C. WHAT WERE SOME OF THE ORIGINAL PURPOSES OF THE SPECIAL SESSION—AND WERE THEY ACHIEVED?

1. To curb the arms race. No.

2. To make the world more aware of the arms race and the need for disarmament. Yes.

3. To bring France and China into disarmament affairs. Largely.

4. To exert sustained pressure on the two super-powers for drastic nuclear disarmament. No.

5. To break the blockade in disarmament negotiations. Probably not.

6. To make the U.N. more central in disarmament affairs. Partly.

7. To give the Non-Aligned States a greater role in disarmament affairs. Yes.

D. WAS THE SPECIAL SESSION A SUCCESS, A FAILURE—OR WHAT?

1. The Special Session was neither a huge success nor a dismal failure.

2. The Special Session is a beginning, the start of a long process.

3. The Special Session represents hopes deferred in the U.N. while the arms races outside accelerate and represent the actual present.●

JOURNEY TO CHINA

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 13, 1978

● Mr. MICHEL. Mr. Speaker, at this point I would like to insert in the RECORD the ninth installment of C. L. Dancey's "Journey to China" as printed in the Peoria Journal Star.

[From the Journal Star, June 19, 1978]

THE PAST: "LET THE SCHOLARSHIPS RULE"

History counts. You have to believe that part "barbarians"—that they have an ancient and graceful civilization as old as the Roman empire and better preserved.

The present rulers of China are hanging on to the heritage. They may use it in a framework of "evidence of the exploitation of the workers by the emperors" but they have carefully preserved the grand old structures, are repairing some, and have begun excavating the Ming tombs and the fabulous first emperor's burial complex at Sian.

And it can't be entirely for the tourist trade—they started long before they had the slightest interest in that.

Old Chinese architecture had a unique grace, to start with. There is a kinship, at least, to the Taj Majal in a style of architecture that built massive buildings so gracefully that you could be unaware of their immensity.

A pagoda on a mountain top uniquely fits the rugged Chinese hill country and its unique landscape. Frank Lloyd Wright would have approved. He always espoused the idea that architecture should blend with the natural scene.

But most dramatic are the tile roofs with a graceful curve and up-swing at the eaves, be it a tiny old "house" or a gargantuan palace.

You see the difference in the old and the new. The Great Hall of the People and Mao's Tomb and the other structures which now flank The Square of Heavenly Peace in Peking look massive and heavy and even dull.

But the entrance that leads to the Forbidden City is actually larger, although it looks like it is only about three stories high, and there is nothing heavy or dull about it.

The giant gate has a pretend doorknob higher than your head—and modern buses move through the ancient arches as readily as horsemen did in centuries past, yet there is no awareness of this immensity until you are right there—and then it merely adds grandeur without destroying grace.

No place on earth has the antiquities to rival China—nor has them in such good repair.

In some cases, it is hard to shift gears and appecriate what you are seeing—as was evident among tourists who have already "been everywhere" on standard tours.

It was obvious at times that we were actually looking at standing buildings, in good condition, even still in actual use, with many of the original furnishings intact—and as old as the Coliseum—and regarding them as simply quaint and unusual!

Had they been ruins, like the Coliseum, we would have been more awed. It's hard to get the full impact of this miracle because it defies previous experience.

Yet, this same graceful, old China with its brillant builders and artisans and scholars did ride on the backs of the mass of the Chinese people and treated them like cattle—worse than cattle.

China is the ultimate example of what can happen if you worship the intelligentsia—and they become decadent.

Confucius laid down the wonderful-sounding doctrine: "Let the scholars rule." And they did. Scholars, winning competitive written exams, became the top officers of empire, the provincial government, the ruling bureaucracy.

And, in time, their eight-inch fingernails gave physical evidence of their pride in doing no physical work—and that pride led them to regard the mass of illiterate "coolies" as sub-human. They treated them like animals except that human life was cheaper than animal life.

To the peasants, the word for "intellectual" was simply "rice thief."

Therein lies some background, too, for the intense efforts to make peasants the "real heroes" of modern Chinese society . . . while at the same time making massive efforts to move into modern industrial development and current technology.

In that process, clearly, there automatically exists a new version of the ancient conflict.

The Old and the New Chinas hit home constantly—but never more than when the two things that were most outrageous in the view of the old emperors to start with actually "violated" the places most sacred to the ancients.

Working peasants and "foreign devils" (we tourists) mingled on the private road that led to the Ming tombs—reserved to the royal family for the chief religion of Old China: ancestor worship.

And the stone guards, human and animal, that were set out to guard the way just stood there, had their pictures taken, and did nothing.

(When we got to the excavated tomb of Ting-Ling, I expected to see the old Ming Emperor spinning, there.)

From another of the Emperors' private places, I looked up and saw one of those soaring, gracefully roofed temples on a hill-top—being bathed in the black smoke from a factory chimney.

The Old China and the New live side by side in many ways, and the work of the peasants has changed but slightly except that instead of working for the landlord or the emperor, they now work for Chairman Hua and the party.

But the new system gives them something more. It gives them a place to live, a bicycle, a sewing machine, a radio. Most of all, it tries to give their children an education.

Harriet Tubman, who knew if anyone did, once said: "The slave who has a bad master only wants a better master, but the slave who has a good master, soon wants no master at all."

The Chinese people seem to have—and want—"a better master."

And what of the second premise, of the slave of a good master who soon wants no master at all?

Well, the Chinese Red system just isn't that good . . . yet.●

IN DEFENSE OF AMBASSADOR YOUNG

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. ROYBAL. Mr. Speaker, once again our former colleague Andrew Young is under attack for his open and frank discussions of current world problems.

I am glad to see that some clarification has come into this situation over the past day. As most of my colleagues probably know by now, it is very easy to be misquoted at one time or another. And that, Mr. Speaker, is what seems to have occurred in this case.

What disturbs me, however, is the irrational frenzy of reaction that seems to result whenever Andrew Young makes a statement or appears to make a statement that challenges established opinion. Now that we have the facts before us, we know that Andrew Young did not equate the systems of justice existing in this country with those of the Soviet Union. What he did say in essence was that political prisoners have existed in both countries. The Nobel prize-winning Amnesty International agrees with him. Andrew Young, no less than or no more than any other American citizen, without regard to position, is entitled to express opinions on that subject.

This incident clearly indicates to me two things. We should not rush to judge or condemn any individual, including Andrew Young, for whatever appears in a foreign newspaper, without first verifying what indeed was said. More importantly, it reaffirms to me, and I hope to my colleagues, that we in this country should always remember that the right of free expression is something that we are justly proud of.●

SOVIET MIGHT VERSUS HUMAN RIGHT

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. BINGHAM. Mr. Speaker, while the world expresses its sense of outrage and humanitarian concern over the political trials in the Soviet Union, Soviet justice has expressed its uncompromising lack of respect for human freedoms by sentencing Aleksandr Ginzburg and Viktoras Petkus to particularly severe penalties for their participation in the work of the Helsinki monitoring groups in the Soviet Union.

Mr. Ginzburg, who has already suffered 7 years in prison and the past 17 months incommunicado in Kaluga prison awaiting trial, has now been condemned to spending the next 11 years in confinement—8 years in prison and 3 years in internal exile. He is being punished because his sense of humanity pressed him to help the families of political prisoners by administering the Solzhenitsyn Public Fund and to help others by contributing to the work of the Moscow Helsinki Watch Group. He is being judged by the same people who helped create the conditions against which he fought.

Now, Ginzburg must again suffer emotional and physical anguish in the merciless network of Soviet prisons and labor camps while his judges remain free to continue ministering "justice." Already a sick and broken man at the young age of 41, many of Ginzburg's friends and relatives question whether he will be able to survive another 11 years confined in the difficult conditions of the Soviet Gulag.

Viktoras Petkus, founding member of the Lithuanian Helsinki group, is also intimately familiar with the ways of Soviet justice. Sixteen of the 49 years he has been alive have been spent in Soviet prisons, and he learned today that he owes the Soviet state another 15 years of his life. Because of his activities with the Lithuanian group, because he dared to speak out under the rights guaranteed him by the Soviet Constitution and the Helsinki Accord, Petkus has been sentenced to 3 years imprisonment, 7 years in labor camp, and 5 years in internal exile.

The plight of these two men takes on an added poignancy because both have committed their entire lives to courageously defending basic principles of human decency—against all odds and against the mighty power of the Soviet state. The state has once again shown its might, and has once again shown what disdain it has for questions of right.●

AMENDMENT TO H.R. 12163

HON. MIKE McCORMACK

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. McCORMACK. Mr. Speaker, my amendment would amend section 208 of Public Law 95–238, the fiscal year 1978 Energy Authorization Act for civilian applications.

Section 208 of the act requires that photovoltaic systems acquired under the act be used only at Federal sites, and that all such applications be life cycle cost effective. However, I am informed by the Department of Energy that cost-effective applications, even on a life cycle basis, are difficult to find only on Federal sites because of the high current cost of solar cells and other system components. The only likely cost-effective applications are for delivery of energy in remote areas which have no access to conventional electric grids, and have high operation and maintenance costs for alternative energy sources such as gas or diesel generators or batteries.

Thus, the present requirement limiting application of photovoltaic systems to Federal sites severely curtails the research and development potential of the section 208 program.

My amendment would expand the potential sites at which photovoltaic systems could be used by Federal agencies to cover sites involved in programs administered by the agencies as well as federally owned sites. For example, Indian lands and U.S. trust territories over which the Department of the Interior has cognizance offer great potential for economic use. In the case of Indian lands photovoltaic systems may have favorable economic application as power sources for tribal water wells and sewer plants and for individual living units. The placement of the systems could be dovetailed with their other programs and ownership of the system conveyed to the Indians as desirable by the Department of the Interior. The systems could be acquired by the Secretary of Energy or by the Department of the Interior under delegation from the Secretary. Similar potential for economic use may be offered in connection with federally funded

highways under programs administered by the Department of Transportation.

My amendment would further the purpose of section 208 without additional costs.

It has been requested by the Department of Energy.

I urge its adoption.●

"THE BATTLE OF RHODE ISLAND"

HON. EDWARD P. BEARD

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. BEARD of Rhode Island. Mr. Speaker, although 2 years have now passed since the great Bicentennial celebration, my State of Rhode Island will this year recall the significant events of the Revolutionary War that took place in 1778, landmark events that shaped the course of the war.

On August 26 and 27, the Battle of Rhode Island Commemorative Committee will sponsor the reenactment of that clash between our Continental Forces and the British and German troops encamped near Newport. This reenactment, complete to the last detail of uniforms, firearms and artillery, will involve companies of volunteers from many States including Maryland, Virginia, Connecticut, New York, Pennsylvania, New Jersey, Maine, New Hampshire, Massachusetts, Michigan, and from Ontario, Canada, and the West Indies.

On August 27, the retreat of British and German forces will be reenacted, detailing the evacuation by boats from Portsmouth, R.I., across the Sakonnet River to what is now the Rhode Island town of Tiverton.

The British occupation of Newport on December 8, 1776, set the stage for the Battle of Rhode Island. It was in my State that the first overt act of rebellion against the Crown occurred when the British revenue sloop *Liberty* was destroyed at Newport. That occurred on July 19, 1769. An even more significant overt act was the burning of the British schooner *Gaspee* on June 10, 1772, in Narragansett Bay. The fierce independence of Rhode Islanders in those times is demonstrated by the fact that fully 2 months before the Declaration of Independence at Philadelphia, the Rhode Island General Assembly declared formal renunciation of allegiance to the Crown of Great Britain.

The reenactment of the Battle of Rhode Island will be a spectacle of unprecedented proportions and will be the culmination of a long chain of commemorative events extending from August 4 through August 29, the actual date of the 1778 battle.

Mr. Speaker, our State is small but its history is great. I wish to commend the extraordinary work of Steve A. Boscarino, the general chairman of the Battle of Rhode Island Commemorative Committee and the dedication of the 1,500 volunteers who will gather in Portsmouth, R.I., from many parts of the United States and Canada.●

FOOD AND ENERGY—A SPEECH BY ARDESHIR ZAHEDI, AMBASSADOR OF IRAN

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. RONCALIO. Mr. Speaker, the paths of two remarkable men crossed recently when our Ambassador to Japan Mike Mansfield asked Ambassador to the United States from Iran, Mr. Ardeshir Zahedi, if he would be kind enough to hie himself out to Montana and give a speech to the Montana College of Mineral Science and Technology.

His Excellency Ambassador Zahedi agreed to this sweet mission and his result is a speech that I think gives us a warm insight into the developments of Iran and it reveals a good bit about the nation that ought to be brought forth in America today.

For these reasons, and also because I have long been an admirer of both gentlemen involved, I am happy to share with you some of Ambassador Zahedi's remarks, in this special memorial tribute to our beloved colleague and friend, Mike Mansfield:

FOOD AND ENERGY

(By Ardeshir Zahedi)

As Iran's Ambassador to the United States, I always welcome any opportunity to discover more of this country and to promote understanding and cooperation between our two peoples.

As an ardent admirer of Mike Mansfield, I come to pay homage to all the fine virtues which this great statesman represents.

I do not think I will offend any of you when I say that your representatives in the Senate are rarely in agreement on any matter.

In June, 1970, however, they were for once unanimous in their tributes to Mike as he achieved the longest tenure ever as Majority Leader.

If I may, I would like to quote now, as one of them did then, from the writings of Alexander Pope:

"Statesman, yet friend to truth; of soul sincere in action faithful and in honour clear; who broke no promsie, served no private end, who gained no title, and who lost no friend."

Mike is truly wonderful and an exceptional man who is respected and admired not only in the United States, but throughout the world. He is dedicated, honest, and patriotic.

I am honoured today to follow in his footsteps.

When I first considered my address, an obvious topic came to mind.

The reputation of Montana College of Mineral Science and Technology is known around the world.

And the mineral sciences, of course, have been of importance to Iran since the dawn of history.

Iron, bronze, and copper artifacts that have been discovered in my country indicate that mining and smelting were carried on there as long as 7,000 years ago.

And I decided that a mere description of the development of my country's mineral resources would leave too much unsaid.

I was a student when the world was just beginning to recover from the devastation of World War II.

Everywhere, fear and despair were giving way to hope and courage, as nations went about the task of rebuilding their future.

Today, however, much of this optimism has been replaced by uncertainty and even despair, as we have discovered that economic crises, every bit as much as political conflicts, can threaten world peace and stability.

We are now faced by two major international crises of massive proportions, namely the food and energy crises.

Food and energy constitute the very basis of our existence.

And yet we still have not found the means to feed the world's hungry who today number some 1.29 billion.

In November 1974, the late Senator Hubert Humphrey, made the following statement:

"The great central problem of our time is hunger. There may yet be time to devise a truly cooperative and coordinated international program for the production, distribution, conservation and pooling of existing foods, and for the development of new food sources."

At that time, Senator Humphrey was on his way to the First World Food Conference in Rome.

And it was only six months ago that Secretary of Agriculture Bergland made the following statement, again in Rome, at the 19th Session of the Food and Agriculture Organization:

"Despite increased production, the number of malnourished people remains intolerably large, and little progress has been made toward the goal of eliminating malnourishment in the poorest developing countries."

The magnitude of the rich-poor problem in general and the food and energy crises in particular, transcends national boundaries and ideological differences and serves to emphasize our evergrowing interdependence.

But for each nation to be able to contribute effectively to this total effort, it must first put its own house in order, within the limits of its capabilities and natural endowment.

In Iran, we have the good fortune to enjoy a generous share of the world's natural resources.

And in recent decades, we have been blessed with the enlightened and far-sighted leadership of His Imperial Majesty.

The location and strategic importance of Iran have long been recognized.

In the old days, it served as the bridge between East and West, being part of the silk route between China and Europe.

Throughout its long history, Iran has evolved into a center for scholarship, science and culture, and is often referred to as "The Cradle of Civilization."

We have tried to implement a development policy which will improve the economic lot of our citizens while safeguarding their spiritual and social well-being.

The achievements of our economy are well known and I will not bore you with too many facts and figures.

It suffices to say that in 1961, Iran was an aid recipient from the United States.

In 1974, Iran became an aid donor.

To date, we have committed nearly 12 billion dollars in loans and grants to countries throughout the world, of which over 7 billion dollars have already been disbursed.

In Iran, we have always aimed to protect human dignity and justice.

As a matter of fact, as we know from the Bible, more than 2,500 years ago, it was Cyrus, the great Persian King who decreed that those who threw Jews into the mouths of lions would themselves be thrown to the lions, and then Darius who released Daniel from the lion's den.

Cyrus the Great established freedom of religion and worship in Iran and our present

constitution provides for that same essential freedom.

As a matter of fact, our parliament today includes representatives of the Jewish, Armenian and Assyrian peoples, a situation which is unique in our part of the world.

At the same time, however, we firmly believe that it is through economic development that we can finally guarantee social justice.

In the area of education, we have succeeded in reducing the illiteracy rate from 90 percent in 1950 to 50 percent in 1977.

In the field of health, we have extended free medical care to every Iranian, while increasing the number of hospitals and clinics throughout the country.

We have executed an extensive Land Reform Program whereby ownership of land has been transferred to the peasants. And the success of this program has been unequalled in the world, even among the socialist countries.

And finally, we have succeeded in bringing Iranian women into the mainstream of our national life.

Women in Iran now have the right to vote, and to be elected to public office.

The success of our domestic programs in changing Iran from a backward society to a modern industrialized nation owes much to the proper utilization of our oil revenues.

However, being the fourth largest producer and the second largest exporter of petroleum in the world has not made us complacent.

And we have embarked upon an energy policy designed to make an efficient use of national energy resources in order to provide better opportunities for future generations.

By 1933, atomic energy will provide 23,000 megawatts or close to one third of the total installed electric generating capacity.

With 18 percent of the world's proven natural gas reserves, we have increased the share of natural gas in the domestic energy market from 1.5 percent in 1970 to 15.2 percent in 1977, and by 1982, it will reach 22.7 percent.

In sum, our experience in dealing with our energy resources has led us above all to a recognition of the fact that we live in an interdependent world.

This is why I say to you now that it is only through joint, cooperative action that we can hope to solve the energy crisis which confronts us today.

The United States has the means and the resources to play a leading role here.

And as the largest consumer of oil in the world, you have the important responsibility not to allow oil to be used unnecessarily as a fuel, when there are other possible sources.

In a recent interview, His Imperial Majesty declared Iran's willingness to join with oil producing countries in a joint investment pool to help American technology develop alternative sources of energy.

This could involve billions of dollars of investment in the development of solar and nuclear energy, and would further recycle petrodollars back into the United States.

In the same way, man's age-old quest for food will only be satisfied if we pursue determined, cooperative policies.

It is estimated that, if the world's population continues to grow at present rates, food production would need to double by the end of the century merely to maintain the present inadequate level of supply.

Recognizing the extreme urgency of this situation, Iran, together with other members of OPEC, has committed 537 million dollars to the newly-created International Fund for Agriculture Development.

This fund provides assistance to developing countries, particularly those with a per capita income of 500 dollars or less.

In the United States, such legislation as the International Development and Food Assistance Act of 1975, together with your very active support of the FAO and the IFAD, provide clear testimony to a profound determination to invest adequately in all areas of agricultural development.

A great challenge lies ahead for all of us.

In Iran we are certain that we can reach our goals.

Our confidence and determination are also based on the strong ties we have with the United States.

In virtually all the important spheres of national interest, Iran and the United States have developed policies that, on the whole, work to the mutual benefit of our two countries.

The commonality of our interests transcends our national borders in promoting international peace and prosperity.

But we have to recognize that peace and prosperity must embrace all the people of this world, not just half of them.

We must therefore work towards narrowing the gap between rich and poor if we, as mankind, want a future at all.

And here the challenge faces you in particular, for you have the know-how, the capacity and the will to lead the rest of the world in this effort which can very well determine the future of global peace and progress.

For us, America has always symbolized right and justice.

In closing, I would like to leave with you a remark that His Majesty the Shah made on the occasion of the American Bicentennial and I quote:

"The name of America has always conjured in our minds the respect for, and the championship of, human values and right and justice, and it is these very principles that you must safeguard and preserve with the greatest care and concern for the benefit of yourselves and that of all mankind."●

CONSTITUENT MISTREATED IN SOVIET UNION

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. LEHMAN. Mr. Speaker, I would like to insert into the RECORD an account of the mistreatment of Mr. Allan Margolis, of Miami, Fla., received during his recent visit to the U.S.S.R.

Mr. Margolis met with Vladimir Slepak just days before Vladimir and Maria Slepak were arrested and charged with malicious hooliganism for hanging a protest banner from their apartment window. Afraid to speak inside his apartment, Mr. Slepak suggested they walk to a small park nearby. The incident which occurred following their brief meeting was in violation of Mr. Margolis' rights as an American citizen, and I have sent an official protest to the Department of State on his behalf.

The account follows:

Approximately 9:00 PM Monday, May 15, I was taping an interview with Vladimir Slepak in a small park immediately across from his apartment. Within a few minutes of the start of the taping a local Moscow Chief of Police began walking in the immediate area. After observing us for a few minutes he approached us and informed Vladimir in Russian that I was to accompany him to the police station. At the station I was asked for the tape. I refused, asked why I was being held, what I had done wrong, informed them I was an American citizen, and asked to call the American Embassy. I was not allowed to place this call even after repeated requests until the very moment I was allowed to leave, approximately 12:30 AM. Eventually around midnight I gave them a tape (which was blank). They then asked for me to submit to a body search to which I refused, and I was released a half-hour later without being body searched.

Tuesday, May 16 at the airport my luggage was very thoroughly searched and ten cassette tapes were removed with six rolls of undeveloped film. I was then escorted to a room, the door was locked, and I found myself with a uniformed gentleman who later identified himself as the Chief of Security of Moscow Airport; two uniformed men (possibly KGB) with yellow identification cards with a red border; an interpreter; and an older gentleman (who left the room many times during the 45 minutes to one hour and a quarter I was there possibly getting information of the playing of my tapes). I was told that I must submit to a body search. Over and over I repeated "I have done nothing wrong. I had broken no laws. What are you looking for? I'm an American citizen, and I want to call my embassy." I was given no answer and was never allowed to call the American Embassy. I was threatened that my plane would leave in a few minutes and if I did not cooperate they would keep me until I did, that they would get what they wanted from me with or without my consent.

Within a half hour to 45 minutes I yielded to the body search and everything in my pockets and wallet were thoroughly scrutinized. I was frisked including my shoes but nothing unusual was found. I was then told I could leave only after I signed a handwritten document (confession?) which was not translated for me. I refused for a short time and finally submitted and signed "WITHOUT KNOWLEDGE ALLAN MARGOLIS". I was then released and boarded the plane to New York.●

HARRY BROOKS, JR., HONORED BY NAACP

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. HEFTEL. Mr. Speaker, the National Association for the Advancement of Colored People, an organization whose contributions to the minorities of America are immeasurable, each year honors men and women who have made their own lives shining examples for our Nation's youth.

Among the honors presented by the NAACP at its recent national convention was its Annual Award Service and Veterans Affairs Meritorious Service Award. Mr. Speaker, I will let you judge the quality of the award by observing the quality of its recipients since 1975, the first year of its presentation. The honorees have included Brig. Gen. Robert Arter, Col. Benjamin Waller, Gen. (Ret.) Michael S. Davison, and the late Gen. Daniel "Chappy" James, Jr.

To that illustrious company, the NAACP has now added a man who makes it a habit to set examples, not only for our Nation's youth, but for all who are

fortunate to know him—Maj. Gen. (Ret.) Harry Brooks, Jr.

As the commanding general of the 25th Infantry Division at Schofield Barracks in Hawaii prior to his retirement 2 years ago, General Brooks made it a point to set examples for his men, and it was unit SOP for him to be out in front for the "Tropic Lightning Mile," a conditioning run like no other. Harry was out in front, too, as a man who understood the modern Army's problems and took decisive action to reconcile those problems and keep his command in fighting shape.

Harry was, and continues to be, an innovator of change and improvement. Prior to his command of the 25th Division, Harry served in Korea, where he became an exponent of tai kwon do, the Korean form of karate. Harry brought the martial art with him to Hawaii, where he introduced it to his men as a part of their conditioning. He also originated mayhem known as combat football, a combination of English rugby and American football that separated the men from the boys, but made all its participants better soldiers.

Harry has now channeled that exuberance and professionalism into the world of private business, where he is an executive with a major Hawaii-based corporation. Mr. Speaker, I am proud to know Harry Brooks as a friend, and I wish to commend the NAACP for having the wisdom to recognize him as one of America's outstanding men and an example of the American dream fulfilled.●

FIFTY-YEAR ANNIVERSARY

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. ST GERMAIN. Mr. Speaker, I would like to take this opportunity to praise a very special resident of the State of Rhode Island.

This Sunday, July 16, a testimonial is being held to honor Mr. Donald C. Dewing to commemorate Mr. Dewing's more than 50 year's involvement with the Boy Scouts of America and his half century commitment to the ideals of independence and self-reliance.

Donald Dewing has, for the past 50 years, served the young men of Rhode Island as a scoutmaster and has endeared himself to so many of his former charges that they have chosen to designate the Donald C. Dewing campsite at Camp Yawgoog, the camp at which Donald Dewing spent the past 50 summers.

The official dedication will be held this Sunday, July 16, at a dress parade to be held in his honor.

Men such as Donald are a very rare and important breed. The ideals of friendship, trustworthiness, loyalty, kindness, courtesy, bravery and all the other traits Donald Dewing believes in and passes on to the young men he comes into contact with are the basis of any great society, and it is the commitment by men such as Donald Dewing that insures that these ideals are cultivated in each new generation.

Not only do the thousands of young men whose lives he has enriched owe him this tribute, but all the people of Rhode Island are in his debt. For, in building strong men, he benefits us all, and for this, I extend my gratitude and congratulations for his long term of commitment and meritorious service.●

ERA EXTENSION

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

Mr. McCLORY. Mr. Speaker, the confusion, uncertainty, and obvious damage which are being created by the unwise proposal to extend the time for ratification of the equal rights amendment are highlighted in an article by Columnist George Will which appeared in yesterday's Washington Post.

This illuminating article is attached to these remarks for the benefit of my colleagues, as follows:

[From the Washington Post, July 13, 1978]

168 MONTHS FOR WHAT?

(By George F. Will)

At the ERA demonstration here last weekend, Gloria Steinem was not as fierce as the lady who announced that, "I came out of the womb with a clenched fist." But Steinem did warn that the "revolution" may not remain "peaceful" unless Congress extends by seven years the deadline for ratification of the Equal Rights Amendment.

In March 1972, Congress sent ERA to the states, with a seven-year deadline. Twenty-two states ratified it that year, but in the last five and one-half years only 13 have ratified. Fifteen states have refused, repeatedly, and three states have voted to rescind earlier ratifications.

ERA is at least three—and probably six—states short of ratification. Without an extension, it is dead. But revocation of the original understanding about ratification would violate constitutional values, as well as standards of fair competition.

Chief Justice Charles Evans Hughes explained why a constitutional amendment, once proposed, should not be open for ratification indefinitely: ". . . ratification must be sufficiently contemporaneous in the required number of states to reflect the will of the people in all sections at relatively the same period of time." A reasonable ratification period is long enough to allow ample debate, and short enough to ensure that states' decisions will be "contemporaneous."

Congress has considered a seven-year limit reasonable for all amendments proposed in the last 50 years. No amendment has ever required even four years. The first 10 were ratified in 27 months. The most recent amendment (lowering the voting age) took four months. Yet ERA supporters, having failed in 84 months, now demand at least 168.

Those who advocated extension are impervious to arguments about constitutional values, perhaps because ERA is an ideological gesture, not justified by considerations of constitutional law.

No provision of the Constitution denies equality to women, and the due process and equal protection clauses of the fifth and the fourteenth amendments, as now exuberantly construed, guarantee it. To gauge the frivolousness of what Steinem is pleased to call the ERA "revolution," imagine what the middle-class "revolutionaries" could have done for less advantaged women if the energy devoted to introducing redundant "equal rights" language into the Constitution had been put to serious purposes.

A counselor for "Ambitious Amazons," an organization of lesbians in Bay City, Mich., insists upon the importance of "just having it down there on the books." But the Supreme Court is already highly skeptical about laws involving classifications according to sex, unless they are reasonably related to an important social objective. ERA ("Equality of rights under the law shall not be denied or abridged by the United States or by any state on account of sex") could not be reasonably construed to do significantly more for women than the court already is able and prepared to do.

Recently I had the pleasure of arguing about this with Rep. Patricia Schroeder (D-Colo.) on a "Town Meeting" run by Mobil the cultural affairs conglomerate that also produces petroleum products. Schroeder's mind has a razor-sharp keenness, but the same cannot be said of two arguments she used.

A presidential commission on mental health has reported, she said, that many women suffer "depression" because they believe they are considered second-class citizens, and passage of ERA would be therapeutic. But even if—a considerable "if"—ERA would buck up those who are downcast, it is perverse to tinker with the fundamental law for psychological purposes.

Regarding extension of the deadline, Schroeder noted that many states that have refused to ratify ERA are in the "Sun Belt"; population is growing faster there than elsewhere; so these states are "out of apportion" and apt to be redistricted after the 1980 census. Her implication is that the actions of these states' legislatures are somehow less than legitimate.

This argument has an almost redeeming audacity, but it is no more persuasive than a placard waved at last weekend's demonstration. The placard proclaimed:

1776–1789
Rejoice!
There was no 7-year limit

The author of that placard evidently believes that ratification of the Constitution took 13 years. The placard may be persuasive to all who do not know that the Constitution was submitted to the states in 1787. That placard is a sample and a symbol of the arguments to which ERA advocates have been reduced.

PERSONAL EXPLANATION

HON. MARC L. MARKS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. MARKS. Mr. Speaker, on July 11, 1978, I was unavoidably absent when rollcall vote 525 was taken on House Joint Resolution 1024, the urgent supplemental appropriations for agriculture. If I had been present, I would have voted "yes" on this measure to insure the adequate staffing of the local agricultural stabilization and conservation service offices.●

THE LONG GRAY LINE'S LATEST ADDITION

HON. BENJAMIN S. GILMAN
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. GILMAN. Mr. Speaker, on Wednesday, June 7, I had the honor to attend the graduation exercises of the class of 1978 at the U.S. Military Academy at West Point, N.Y.

I have the distinct privilege of representing the 26th District of New York, which includes that most beautiful section of the Hudson Valley in which the "Point" is located. Over the years, I have visited the Academy hundreds of times. But each time I travel through either Thayer or Washington Gates, I experience a new sense of pride in this world renowned institution and in our Nation.

West Point is steeped in our Nation's history. The names of such outstanding leaders like Patton, Eisenhower, Bradley, Pershing, MacArthur, Lee, and Grant ring through the halls.

Included in the latest members of the "Long Gray Line" there are probably new American heroes.

At the June 7 commencement, Gen. Bernard W. Rogers, Chief of Staff, welcomed this largest and newest class of officers into the Army, reminding them that "the American people have placed the responsibility for their present and future security in their hands.

At this point in the RECORD, Mr. Speaker, I wish to insert General Roger's remarks in full so that my colleagues can share his observations and recommendations to the future military leaders of America:

GEN. BERNARD W. ROGERS ADDRESS AT WEST POINT

General Goodpaster, distinguished guests, members of the Class of 1978, their proud parents and loved ones, ladies and gentlemen.

I come here today with mixed emotions. I am always pleased to return to West Point and am especially honored to participate in these ceremonies. At the same time I realize that it was just over a month ago that you members of the graduating class and I shared an evening, with my doing the talking on that occasion as well, as we discussed the leadership challenges you will face. The result may well be an overexposed Chief of Staff when viewed from the perspective of you men of the Class of '78.

I know that you, to, have mixed emotions today. You are pleased to have successfully completed your studies and training here at the Academy—for which we all congratulate you—and are looking forward to your leave, your branch basic course and then to your first assignment as officers in the United States Army. On the other hand, it is sad to take leave of friends made over the past four years and to step from these familiar surroundings into a relatively unknown future. But the time has come for you to embark on new undertakings—and I doubt that any of you would wish to postpone it.

Last March I talked to some of the members of the Academy's staff and faculty at the annual Founders Day dinner. I spoke to them of what the nation and the Army expects of this institution. Put succinctly, you are what is expected of the United States Military Academy. The graduates of this Academy are what defines its worth to our Army and our nation.

The Academy took you four years ago as young civilian citizens and turned you into cadets. During these four years it has subquently turned you into officers of the United States Army. Not all of your class that entered in 1974 could measure up, and your ranks have thinned. But those of you here today are well qualified to wear the insignia of rank as officers in our Army.

What has the Academy done to prepare you for your career and your responsibilities? I believe that it has done the following.

First, it has given you the broad intellectual, military, moral, and spiritual foundation on which to build, to grow, to develop, and to flourish—a foundation that has equipped you to reach the highest levels of service to our country.

Second, it has given you an understanding that being an officer bears with it responsibilities, obligations and constraints (sometimes severe), and not a demand for privilege—to serve rather than be served.

Third, it has given you the ability to know and to distinguish right from wrong, truth from untruth, honor from dishonor, and to internalize the difference so that it is second nature to embrace one and to scorn the other—a moral compass by which to chart your paths ahead.

Fourth, it has instilled within you the obligation of continued self-improvement and the striving for perfection in your performance of duty.

Finally, it has developed you from young civilians into officers worthy of receiving your commission in which the President expresses "special trust and confidence" in your "patriotism, valor, fidelity, and abilities."

You are not expected to be able to lead a platoon into combat tomorrow morning. I have no doubt that most of you could do it, but that is not the mission of the Academy. You are not expected to become an instant Pershing, a great military leader of our country. Nither you, nor he, for that matter, step from West Point into instant success and glory. In fact you will now find yourself on the bottom rung of another ladder, albeit longer. But you can climb higher this time, just as Pershing did, since you, like him, build on similar foundations.

You share another distinction with that illustrious leader. Like him, as you graduate you will be joining an Army composed entirely of volunteers.

You might not believe it from today's rhetoric, but the "all-volunteer" Army is hardly new. It is, rather, the norm in the over 200 years of the Army's history. We have perhaps become spoiled by the aberration of the recent three decades when the draft gave us a seemingly endless stream of soldiers. Now we are back to the realities that Second Lieutenant John J. Pershing faced in 1886—turning ordinary young American civilian volunteers into soldiers capable of defending our country, protecting its interests in the world, and, with their counterparts in our other Military Services, being strong enough to deter war.

You can rest assured that he would have envied the type—and the number—of soldiers that you will have to work with today.

I think some comparisons of the challenges that he faced with some of those you will face are illuminating. It helps to keep our problems in perspective lest we become overawed by them.

Pershing was commissioned into an Army totalling not quite 27,000 officers and men—3½ percent the size of our Active force today. The desertion rate in 1871 hit an all-time high of one in every three soldiers, but by 1882 was down to only one in every six. Last year it was just over one in eighty. The ranks then were filled with immigrants, many of whom could hardly speak English. Like the society it defended, the Army was severely segregated and prejudice was rampant. But it is interesting to note that Pershing was so proud of the black cavalry regiment with which he served on the Western Frontier that when he was assigned back here to the Academy as a tactical officer, he so frequently compared the cadets to the sharp black troopers he had known on the plains that he earned his famous nickname of "Black Jack" Pershing.

When Pershing was preparing the American Expeditionary Force to enter World War I, he would surely have welcomed the Total Army that we have today. Today's Total Army consists of the Active Army and the Reserve Forces, the Army National Guard and the Army Reserve. We are hard at work molding these Active and Reserve Forces into an effective combat-ready organization. Given the threats that face our nation, we know that the Active Army cannot go it alone in a major contingency. There existed no such integration of effort when Pershing was commissioned, and only the beginnings of true teamwork were developing when the American Expeditionary Force was being created.

Your initial assignments will be with the Active Army, but many of you will find your unit affiliated with a Reserve Force unit to enhance its training and improve its deployment capability. In many respects the soldiers of these reserve units have a more difficult task than you will have. They face the military requirement for readiness while at the same time holding down full-time civilian jobs. They need your help, and you will be expected to assist in making the Total Army a reality, not because it is nice to have but because it is something we must have to accomplish our mission of preserving the peace and defending our country.

Pershing could hardly have foreseen at his commissioning that the Army would be more distantly garrisoned than along the Western Frontier. He could hardly have envisioned a world in which destructive force is so potent that a nation can be devastated by nuclear weapons within minutes. But just as do our leaders today, he knew about the need for readiness of his unit. He knows of the need for adequate and well-kept equipment that could be relied upon to perform in an emergency. He knows about the need for constant training in order to operate and employ that equipment effectively. Above all, he knew about the need to make good soldiers from those who volunteered to follow the flag.

You, too, will face the challenges of being prepared and developing good soldiers. Where do they come from? They come from our society and reflect all the strengths and weaknesses of this society at this time in our history. For example, the literacy of some often leaves something to be desired, but any newspaper in the country carries stories about high school graduates and college students who cannot read. Our Army has a variety of programs designed to correct this deficiency. On the other hand, these soldiers have the independence, the initiative, the ingenuity, the need for challenge and the common sense that have always been the hallmarks of American soldiers.

They are reasonably representative of the American people—perhaps more so than some other institutions of our society. The draft was not necessarily much more representative, and neither were our ranks 50 or 70 years ago.

These volunteers of today are subject to a constant screening process. They are screened for mental, moral, and physical defects before they are allowed to enlist. They are screened during their initial training for adaptability to military life. They are screened and tested throughout their careers for ability to perform in their military skills. And only the best are permitted to reenlist.

They are trained constantly throughout

their careers, both through on-the-job training and formal service schools. Our noncommissioned officer education system has institutionalized progressive training for our junior leaders. Many civilian educational opportunities are available to them, and part of your responsibility will be to ensure that they have the chance to take advantage of these programs.

Today's soldiers are among the best with whom I have been privileged to serve in 35 years of commissioned service. Your and my task is to make them even better soldiers and better citizens during the time they serve with us.

What will these soldiers expect of you?

They expect your respect as soldiers who have volunteered to serve their country. In turn, they will give you their respect as "first among equals."

They expect you to help them correct their deficiencies. This does not mean "bad mouthing" the troops because their schools may have failed to teach. It does not mean talking about "quality" as if you were discussing a brand of automobile—by statistical indicators of perfection. It means recognizing the challenge in its human dimensions and doing something about it.

They expect you to understand their problem, and one of the most serious is that of the young married soldiers with a family trying to make ends meet. One of your major concerns—and one of the major concerns of the Army leadership—is providing for the quality of life of our soldiers and their families. There will be challenges facing you that you alone cannot solve, but in at least as many instances, you will be able to provide that margin of help that encourages the best soldiers to reenlist because they feel the Army is worth the extra effort involved.

Finally, they expect you to discipline them and train them for the rigors they can expect on the battlefield. That will be your major challenge. It has always been so in times of relative peace. It will require all the skills that you have acquired here at the Academy and that you will acquire in your future schooling and during your future service. As I mentioned to you in April, your leadership will be a critical factor in the ability of the Army to accomplish its mission. In that requirement for leadership, you are one with Second Lieutenant John J. Pershing when he left the Academy.

And, in another respect, you are one with Pershing. He was a soldier of the 19th Century who helped lead America into the 20th Century.

When Pershing left the Academy for duty on the Western Frontier, he could not begin to imagine that thirty-one years later he would lead an American Expeditionary Force to Europe. Such an eventuality flew in the face of every American instinct. We had trouble enough projecting military power onto the Western plains, and the thought that we might project it overseas was ludicrous. It was obvious that the tiny American Army could never match the Continental European powers. Yet, the impossible became a reality, and today the first line of our national defense is in Western Europe and Northeast Asia.

Neither you nor I can forecast what the next thirty years will bring. The Army of the year 2000 and beyond will be what you make it. Like Pershing, you cannot know what the future holds or what responsibilities you will be asked to shoulder. But, like Pershing, the Academy has provided you the foundation upon which to build your ability to meet those future responsibilities. And you will have another precious asset available to you—the support of your loved ones to sustain you in times of trial.

To those of you here today witnessing your young man graduate, let me mention how proud we are of this Class of 1978. It has known some turbulent times, has dealt with some difficult challenges—some unprecedented by nature—and it has performed in a most impressive manner. It has sustained a standard of leadership for the classes which follow to emulate.

You members of the Class of '78 are soldiers of the 20th Century who will help lead America into the 21st Century. In commissioning you as officers in the United States Army, the American people have placed the responsibility for their present and future security in your hands. On their behalf, and on behalf of all of us who welcome you into our ranks, I wish you success, professional fulfillment and Godspeed.●

THE EQUALITY OF IT ALL

HON. JOSEPH M. GAYDOS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. GAYDOS. Mr. Speaker, a national magazine recently reported the plight of chief corporate officers whose pay increases in 1977 fell short of company profit increases.

According to the item, top executive officers of 100 major U.S. industrial firms received a 12 percent median increase in total compensation whereas the median increase in company profits over the same period totalled 14.5 percent.

As a result, the median earnings for top managers rose a meager $50,000, inching upwards to $470,000 from a mere $420,000 in 1976. Second echelon executives fared worse. Their total pay increase was just 11 percent, raising them from $293,000 to $326,900. Median compensation for the third rank of high paid executives, however, reflected a 15 percent increase, jumping from $237,000 to $273,000.

This news must be of comfort to millions of men and women working in mines, mills, offices, and factories for $10,000 to $20,000 a year whose earnings also lag behind company profits. They will be heartened by the knowledge individuals earning $200,000 to $400,000 a year have the same financial problem. Ah, the equality of it all.

Mr. Speaker, I am inserting the article from the June 26 edition of Industry Week into the RECORD for the attention of my colleagues:

EXECUTIVE PAY HIKES TRAIL PROFITS' RISE

Chief executive officers of 100 major U.S. industrial firms received a 12 percent median increase in total compensation (base pay plus bonus) last year, falling short of the 14.5 percent median increase in profits reported by these companies over the same period, says a study conducted by Towers, Perlin, Foster & Crosby (TPF&C), management consultants. Median earnings for top managers last year rose to $470,800 from $420,000 in 1976.

For the second-highest-paid executives in the companies, total pay was up 11 percent, to $326,900, compared with $293,700 in 1976. Median compensation for the third-highest-paid executives was $273,000, an increase of 15 percent over the 1976 figure of $237,200.

Stock appreciation rights are continuing to gain in popularity, reports' TPF&C, with 56 of the 100 firms providing them, 11 percent more than in 1976. Typically, stock appreciation rights are issued in tandem with non-qualified stock options and entitle the executive to the amount he would have gained had the option been exercised. The manager, however, is spared the inconvenience and expense of raising enough capital to exercise the option.

CYPRUS

HON. JOSEPH D. EARLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. EARLY. Mr. Speaker, I would like to insert an article that appeared in the Boston Herald American on July 6, 1978. The article was written by Mr. Charles N. Collatos, commissioner of veterans' affairs in Massachusetts. Mr. Collatos' comments on the situation in Cyprus are timely in light of the proposed lifting on the arms embargo in Turkey.

The article follows:

THE FACTS OF CYPRUS

(By Charles N. Collatos)

I write this as an American—albeit an American of Greek descent—and I write with a passionate insistence that there is danger, deep and insidious, to America's commitment to human rights in the occupation of Cyprus by Turkish troops.

Even today, the major emphasis in Congressional debate on peace in the Aegean centers on lifting or not lifting the embargo on the sale of U.S. arms to Turkey. But my insistence is that the uprooting of 200,000 Greek-Cypriots by the invading army of Turkey, their state of quasi-imprisonment, their loss of home and farm and business and life itself . . . my insistence is that this is the danger, this is the problem, this is the terror that cries for solution.

We divert ourselves and mislead ourselves if we concentrate on an embargo that was never fully implemented. More than $600 million of U.S. arms found their way into Turkish hands during the four-year state of embargo, which was token at best.

The facts of Cyprus are these:

America did arm Turkey.

Turkey did use those arms to invade and hold lands in Cyprus in great disproportion to its population on the island.

Despite a grand commitment to human rights throughout the globe, the present administration has not extended that belief to the refugees on that militarized island.

I do no, however, view the reluctance to press for a negotiated peace on Cyprus as an irreconcilable breach of relations between Greece and the United States. I also believe that this should be clearly stated by political leaders in Greece, beginning with Prime Minister Constantine Caramanlis.

America's concern over human rights, undeniably, is both genuine and enduring. But our actions have vacillated and have been prompted by a foreign policy that often admits expedience and appeasement before it does dignity.

In Vietnam, we entered with arms ourselves; in the Middle East we have negotiated actively with both camps; in Latin America we have been more than firm.

* * * homeless refugees on Cyprus, herded almost cattle like by armed invaders not of their choosing, denied human rights and oppressed, uprooted against their will, torn from farm and family and friend, in this regard we do nothing but we debate the efficiency of a policy of embargo that is a paper tiger and not a principle, a posture and not a policy.

In effect, we have entered the politics of blackmail.

When history judges our era, I feel that its overriding condemnation will be the substitution of threat for the politics of negotiation and compromise. The recent horror of the assassination of the former premier of Italy by the Red Brigades, the violence begat by the PLO, government by intimidation * * * these are the erosions of law that plague our times.

And now Turkey flagrantly tells us that there will be no settlement of the Cyprus invasion and occupation UNTIL the flow of U.S. arms returns to the pre-embargo level, and Turkey threatens to pull out of their NATO commitment and Turkey closes U.S. bases in that land . . . all to insure that a military nation sustains its might.

Our administration, in reaction wants to lift the embargo, to reverse the rule of law in the execution of its foreign policy and in doing so, to endanger further the achievement of a Cyprus settlement and a just resolution of the burning refugee problem on that island.

Secretary of State Vance has asked Congress to lift the embargo on the hope that Turkey will retreat on the island but in the violent political climate that surrounds Ankara today it is almost inconceivable that Turkey will give up territory to Greek Cypriots.

This, then, becomes our foreign policy: Simply lift the embargo and all will be well with our NATO positions in Southeastern Europe, simply lift the embargo and Turkey and Greece will rush to the negotiating table to solve the Cyprus problem, simply lift the embargo and somehow the uprooted and homeless 200,000 Cypriots of Greek descent will be returned to their farms and famililes.

The root of the problem is the dignity of nearly a quarter of a million people. Our policy in the Aegean must begin with our concern for those people. And until our debate in Washington becomes a dialogue of human rights, our decision on arms are meaningless.

The historical fact of Cyprus is human suffering and the only important issue at stake—just as it always has been and forever will be—is on what side of the fence we stand.●

WHERE IS SWEDEN HEADED—BANGLADESH NEXT STOP

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. SYMMS. Mr. Speaker, there is an ongoing struggle in this country and in this Congress between those who want to cut taxes and Government spending and those who want to increase Government involvement in our lives. There are those of us who have continually spoken up for free enterprise and the individual's right to manage his own income in the way he sees fit. And then there are those who continue to encourage more Government spending and involvement in our lives. But as the Congress continues this deficit spending, the national pie of productivity keeps shrinking.

In the July issue of the Harry Schultz Letter, a well-respected international newsletter published in Lausanne, Switzerland, there is a report from Sweden discussing some of the results of its experimentation with socialism. The cost of living there has risen to an unbelievable level, and the taxes are so high that there is very little incentive to work. Most Swedes become adept at cheating the government and stealing from their employers.

Dr. Harry Schultz asked one Swede where she thought the country was headed, and the reply was "Bangladesh next stop."

The Schultz letter follows:

INTERNATIONAL HARRY SCHULTZ LETTER—No. 388

Government has made it nearly impossible to fire anyone. (Holland has adopted this idea & suffering badly from it.) It's especially difficult to fire anyone over 40. You may have to pay 1 year's wages if you sack them. Obviously this discourages hiring. Such laws, as with minimum wage laws always hurt the people most they are designed to help. Likewise with sanctions against Rhodesia. So, unemployment is high in Sweden. Especially so for a political concept that thought it had all the answers. Indeed, I'm told the government decides everything here. This is increasingly true the world over, so as you look at Sweden you see the rest of us in perhaps 10 years.

The banks won't lend money. That sounds incredible, but it's true. They claim not to have enough cash. Gradually the Swedish socialists have used up all the natural resources and or priced themselves out of the market due to excessive labor costs (e.g. lumber, paper, pulp, steel, iron ore). When you pay people almost as much not to work as to work, wages become noncompetitive and productivity falls. Sweden has a staggering deficit now and the 5-year outlook is grim. The deficit has risen 100 percent over government estimates of 12 months ago. 1 in 4 of Sweden's biggest companies had a loss last year. The 200 largest firms had a pretax profit margin of only 0.1 percent on total sales. Compares with 6.9 percent in 1974 and 2.3 percent in 1976. 1 in 6 had a loss in 1976. Now it's 25 percent of all the companies. The state owned firms had the biggest losses, naturally. The most profitable firm was a foreign one, Xerox, with 23 percent. Nobody is investing. Investment fell by 5.1 percent. Prices, by the way are very high; it's one of the costliest places to live in the world. But the reasons for that are childishly obvious from all we've just discussed. Everything is cause and effect. Yet that principle is seemingly rarely taken into consideration, or always seen through rose(pink) colored glasses—i.e., how things "should be", not how human nature works.

So ignorance is still our enemy. Not communism, socialism or fascism as such. In all these it is ignorance that creates the problem. Socialists say: you have certain rights—but no mention of responsibilities. In this manner the Swedes have soiled their pretty nest. The birth rate among Swedes is very low now, due to high costs, frustrations and pessimism. Yet the immigrants have a high birth rate and they dependably vote for handouts. There's a new tax on boats. Swedes suspect it's not for income so much as control. "Where did you get the money for the boat?" The option to be anonymous has nearly disappeared. The option to even leave by boat may disappear. True, they had a slight swing to the right in their last election. But the chap is no Einstein, I'm told, and in any case he can't turn back the tide.

Said one Swede to me: "The Swedes are boring, complaining and preoccupied." If that were partly true, it would be the result of political conditions. Oh yes, government provides virtually all housing. And naturally there is an acute housing shortage. Who wouldn't be bored, complaining and self-occupied under such pinkoeconomica? Socialism destroys the individual. In a Republic or proper democracy the individual is supposed to be the society. Under socialism he is just a hapless cog. And when I say "socialism", I don't mean a fanatic cultism practised by some remote "them". Rather, it is the political philosophy, in one shade or another, of the or a major party in every major western nation today. It wasn't 20 years ago. But it is today. So, in Sweden, you probably see you and me in some tomorrow, if we don't stop the trend. Among the silly legislation now in practice in Sweden, as a fitting climax to this report, is a social welfare program wherein fathers are urged to take time off work to stay home with the kids, to see what it's like and to give equal rights to men to stay home. The percentage of fathers who are now often absent from their jobs rose from 2½ percent in 1974 to 5.2 percent in 1975 to 7½ percent in 1976 and over 10 percent in 1977. They took off from 26 to 42 days a year in 1976–77. They get paid for being away. Absenteeism does nothing for Swedish productivity. "Whom the Gods would destroy, they first make mad". I asked one Swede where she thought Sweden was headed. Her reply: "Bangladesh next stop."

Sweden revisited—or what has socialism wrought? It's been many years since I was last in Sweden, so it gave an excellent opportunity to contrast and compare then with now, especially as this has been, for several decades, the showcase laboratory for free world experimentation with socialism, democratically imposed.

Almost nothing is black or white. Most things are a shade of grey. Thus one can say, for the whiter side, the Swedish socialism does not manifest poverty. But then it inherited a "going concern", a structure of high efficiency and work ethic. Over the years it has dissipated the wealth it inherited and has borrowed, putting the future in hock. It is no show of talent, but merely a trick, to spend money you are given and also to borrow against tomorrow—thus giving the impression to outsiders your high standard of living is due to your own efforts. A masquerade.

That's no different to most of the world today, you may say. True. But as Sweden was the 1st western nation to plant a socialist seed in its garden, it pays rich dividends to study the results, for here we have more case history than elsewhere. I have some good friends there, self-employed. They introduced me to their friends—both workers and employers. Because I was introduced as a friend, they all poured out their conviction and emotions to me, especially so as I was outsider who simply wanted to know how the country was ticking these days. This enables me to speak with a hundred tongues today. Not as an expert on Sweden, but as one who reflects and synthesizes the sincere views and observations of a pretty good cross section of Swedes.

If Zambia or some similarly strong-age country adopts socialism, it's not sociologically very significant. They don't know what they're doing; they're 99 percent illiterate and 100 percent nitwitted. So it's of no great moment. They just stumble from emergency to emergency, taking the course of least resistance. But when a highly developed, highly civilized, educated, ancient culture like Sweden elects to test socialist theories, as it did a generation ago, then its results are worthy of serious appraisal. Especially as every western nation has now embarked on some variation of this abstraction without really knowing where it will lead. Sweden has, I believe, given us the answers. Here they are:

First it's necessary to understand that tax rates here are the highest in the world, on balance. The government has its hand in everyone's pocket all the time. Taxes are both direct and indirect at incredible levels. A bottle of ordinary Scotch whiskey, for example, is $22, quality whiskey is $30. And only government stores sell it. The taxes are high because government has undertaken to provide so many "free" services. Obviously they're not really free, and when welfare is distributed by any government

their handling merely adds to the cost and lowers the quality.

The effects of these high taxes and widespan welfarism upon human nature should have been predictable, and were to many of us. These effects include the following:

The prime purpose of most Swedes now is to cheat the government. It was described to me as a "sickness". By doling out freebees to the masses, the common denominator has dropped and this, plus inflation, creates acute frustration. One result: gambling is very big now, obviously an attempt to get even or get ahead, despite hopeless odds, in a hope-free society. Another predictable manifestation is: crime. Stealing is so common now it's not regarded as much of a crime. I don't mean break and entry so much as people stealing from their employers. One large mercantile chain closed down because employee theft sapped their profits entirely. A new law says if you're under 20 and you steal less than $20 worth of goods, there is no punishment! Guess what that encourages? Theft-protection built into law.

Automatic wage deductions amount to some 30 percent for common laborers, 45 percent for secretaries, and if you earn over a mere $20,000 a year, your tax rate is 80 percent with no nonsense about deductions. Very little is deductable anymore. A famed author was taxed 102 percent recently, on 100,000 Kroners income. But even these rates mask the high indirect taxes on everything you buy. All this has created black-market labor. People ask to be paid in cash, with nothing reported. It's not even whispered, but blatently asked for. There is no incentive to work if it is mainly taxed away.

Part of the reason why welfarism went so far here is Sweden's neutrality. Because it was, along with Switzerland, neutral in WWII, there was no war damage. In fact they didn't suffer at all, thus escaping life's realities in another way. The people are, in the words of my friend, "spoiled" by this shielding. Another reason it went so far is that they were 1st on the scene, which means: when you give people free this and that, it becomes impossible to take it away from them and they indeed want more as they become psychologically atuned to expecting government to be their provider.

Enforcement of tax law is only 3rd rate. That means you can "probably" get away with inaccurate tax returns. But maybe not. So, do you or don't you try? It makes for a schizophrenic society. Most good brains leave, I'm told. Those who stay have every penny they can manage in Switzerland and such. People are increasingly buying rare stamps and coins. "Going somewhere else" is the preoccupation of most successful people.

The schools don't like grading pupils. They want to eliminate giving a, b, c grades, which (they say) make some children feel "inferior". They ignore Mark Twain who I think it was that said: "We're all born equal, but some are more equal than others." I see this dreadful philosophy, which castrates incentive, creeping into GB. Russian isn't so silly; they put brainy children in special schools and encourage the differences. Red China, after 2 decades of trying to make everyone the same, has . . .●

NATIONAL FEDERATION OF INDEPENDENT BUSINESS ENDORSES THE KEMP-ROTH TAX RATE REDUCTION ACT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. KEMP. Mr. Speaker, the National Federation of Independent Business—NFIB—has endorsed the Kemp-Roth Tax Rate Reduction Act. This is the legislation to restore incentive to the worker, saver, investor, and entrepreneur by reducing income tax rates across-the-board.

NFIB has 535,000 small business members throughout the United States—in every State and congressional district. Its support, which I deeply appreciate, was made known to me yesterday by Wilson S. Johnson, its president.

In a letter to me, he said, in part:

NFIB and its friends in Congress have searched for years for a way to help Main Street entrepreneurs. We have been unsuccessful because the Treasury Department has opposed all of our suggestions.

Faced with this type of opposition, we have decided that the best and most effective way to provide the relief these firms need, so they can continue to grow and create jobs, is to reduce individual taxes on a scale similar to that proposed by the Kemp-Roth bill. Therefore, NFIB and its 535,000 member firms will support your effort to substantially reduce individual taxes.

This endorsement is another indication of the accelerating grassroots movement to lower the American people's tax rates and to get the Nation's economy going again without big Government-inspired inflation. It joins the other endorsements for the measure, such as that of the National Taxpayers Union, an organization of 65,000 members designed specifically to deal with this kind of issue.

Over 70 percent of the small firms in the United States operate as proprietorships and partnerships, and therefore, pay taxes as individuals. These, according to Wilson Johnson, are the types of labor-intensive firms, retailers, and providers of services that have been hurt the most by recent increases in the minimum wage and social security taxes, and they need tax relief very badly.

This endorsement is very important.●

THE MOUTH THAT ROARED

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. LAGOMARSINO. Mr. Speaker, I bring to the attention of my colleagues a July 14, 1978, editorial from the Los Angeles Times on the Andrew Young affair.

The article follows:

THE MOUTH THAT ROARED

Excluding the various perjurers and other malefactors associated with the late Nixon administration, it is hard to think of any recent employe of government who has been more of a national embarrassment than Andrew Young, the U.S. ambassador to the United Nations and—less formally—irrepressible master of the murky, the inappropriate or the erroneous comment.

Young's latest venture into the higher reaches of semantic precision came in an interview this week with a Paris newspaper, in the course of which he casually revealed to the world that there are "hundreds, perhaps thousands, of political prisoners in the United States."

So far as we can tell from the context of the interview, Young meant to compare though not equate the plight of dissidents in the Soviet Union with the situation that Young believes has befallen some who run afoul of American law. In talking of "political prisoners" in the United States, he made clear that he was not referring to people who were punished for criticizing the government. Whom, then, was he talking about? Well, vaguely though not exclusively, about "some people who are in prison much more because they are poor than because they are bad."

There may indeed be some people in jail who might not be there if they had more money either to avoid the temptation of crime or to hire a persuasive lawyer after committing a crime. But by what flight of imagination can these people be considered "political" prisoners, as that term is commonly if not universally understood? If a "poor" prisoner is per se a political prisoner, then Young in fact drastically understated his point. The truth in that event would be that there are tens of thousands of "political" prisoners in the United States, the non-poor being demonstrably underrepresented in the national prison population.

Perhaps the best, or at least the most charitable, interpretation that can be put on this whole affair is that Young intended to convey a sociological or ideological message in the form of a metaphor, rather than a literal truth. Accept that, though, and Young's statement still smacks of immaturity, deliberate provocation and a cavalier disregard for the interests of the country that he represents. As with so many of his other public comments, it is something that he simply should not have said at all, for it was factually and unmistakably wrong.

Worse than wrong, it was incredibly mistimed. On the very day that Secretary of State Vance was handing the Soviet foreign minister a letter from President Carter protesting the trials of dissidents Anatoly Scharansky and Alexander Ginzburg. Young bursts forth in print with what many would properly take to be the implication that the United States, too, persecutes and punishes its citizens for reasons of state. No, that was not what Young intended to say. But it certainly was what millions believed that he said and, intended or not, the damage was done.

Young too many times has had to explain what he really meant to say, his superiors in government to many times have had to deny that his capricious comments reflect official policy. Given this consistent record, Carter may be well advised to consider an alternative post for his U.N. ambassador.●

CONGRESSMAN RICHMOND BRINGS THE PEOPLE TOGETHER

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. HARKIN. Mr. Speaker, while each of us in this House represents more or less homogenous districts, taken all together, the 435 of us in this body represent a diverse body of Americans. One such diversity is the difference that exists between the interests of the people who live in our urban areas and the people who live in our rural areas. While the things that unite the rural and urban people are much more and much stronger than those that separate them, it is sad but true that many times people for very selfish reasons emphasize the differences and try to build up a split between our urban citizens and our rural citizens,

between our farmers and our consumers.

There are, however, those who have tried to bridge that gap and have tried to bring the rural and urban people together in a general understanding of each other's problems and needs. I would like to take this opportunity to congratulate Representative FRED RICHMOND of New York for his continuing efforts to bring together the rural and urban representatives on so many issues.

Mr. RICHMOND has gained the respect of many rural congressmen through his active and forthright participation on the House Committee on Agriculture. He has also gained our respect for his understanding of the problems of rural people and farmers. In return, I and many other rural congressman have listened and learned about urban problems and urban needs from FRED RICHMOND. In particular, his advice and consultation was important to me on the legislation to aid New York City. His hard work and dedication on behalf of New York City has always been impressive, and his well reasoned arguments on behalf of this legislation to aid New York City convinced many rural congressmen of the need for this legislation.

It is this kind of effort exhibited by Congressman RICHMOND that makes us the great country that we are, pulling together many different people to work toward a common goal—the good of our country. I look forward to continuing work with Congressman RICHMOND to bridge the gap on urban and rural issues.●

LIBERAL BARRAGE?

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. PICKLE. Mr. Speaker, I would like to insert in the RECORD a copy of today's editorial from the Wall Street Journal concerning the Steiger amendment, the Laffer Curve and the Kemp-Roth deficit bill.

I think there are some interesting comments in this editorial but I must admit that I am somewhat confused by their statement about the "liberal barrage" against the Kemp-Roth bill. Few people have ever accused me of being a "liberal," especially on tax and economic affairs. I even support the idea of a reduction in the capital gains tax. However, I simply cannot endorse the $100 billion deficit proposed by the gentleman from New York (Mr. KEMP) and I cannot understand how any conservative or anyone who advocates fiscal responsibility can accept this proposal.

While I am glad to see that many liberals are finally embracing the policy of balancing the budget, I would hardly label this a liberal cause.

The editorial writer also believes that the central issue of the Kemp-Roth debate will become the time period for recovery of the lost revenue. Well, Mr. Speaker, I am still waiting for the Treasury to recover the $81 billion in tax cuts that Congress passed between 1975 and 1977. I guess its out there hiding somewhere. When it comes in, I will be glad to reassess my view of the Kemp-Roth deficit bill.

The editorial follows:

A STEP AT A TIME

We're not quite sure whether it's a good sign or a bad one, but surely there is some significance in retargeting of the liberal barrage against tax reduction. Two weeks ago the guns were blasting the Steiger amendment to cut the capital gains tax. Either because that target was too tough or because a new threat was spotted, they are currently bombarding the Kemp-Roth proposal to slash income tax rates by 30 percent over three years.

In the process of beating up on Kemp-Roth the other day, Treasury Secretary Blumenthal even allowed that the repeated veto threats do not mean that the administration is dead-set against cutting the capital gains tax. We note as well that our contributor Walter W. Heller argued strenuously that Kemp-Roth would not be a "free lunch," that is, that its lower tax rates would not stimulate production and expand the tax base enough to avoid a drop in total tax collections. Mr. Heller did not address the far more pertinent question of whether or not these "free lunch" conditions apply to the Steiger proposal.

It seems to us that in all of this the "Laffer Curve" is making further intellectual inroads. No one wants to dispute Arthur B. Laffer's principle that at some point tax rates get so high production starts to fall and revenues from the tax shrink rather than grow as the rate is raised. Mr. Heller accepts this broad principle, as does Herbert Stein in a new American Enterprise Institute debate with Mr. Laffer. They go on to argue that, on average, the personal income tax has not reached that point.

Now wait a minute, one step at a time. The principle itself is enough of an earthquake for the economics profession to undergo in one year. Before we debate whether it applies to all taxes, let's look to see if it applies to any taxes. We can continue from there.

If you look seriously for a "free lunch" tax cut, your eyes will stop first on Capital Gains. Econometric studies by Chase Econometrics and Data Resources have found that on this tax, reduction would in fact pay for itself. They are now joined by a new study by Martin Feldstein and others at the National Bureau of Econmic Research, which concludes that in the sample year of 1973, "reduction in tax rates would have substantially increased the revenue produced by the capital gains tax."

By contrast, investigation has scarcely started on whether the "free lunch" conditions apply to an across-the-board tax cut like Kemp-Roth. Our own guess is that as debate proceeds the central issue will become not the existence of the effect, but the time period. Mr. Laffer says government revenues would be restored "in a very few years." It is also worth noting that the case of Kemp-Roth does not in the end rest on the free-lunch effect; many people, Mr. Stein for example, support it even though they believe government spending would have to be reduced.

But there is little likelihood of an across-the-board tax cut this year, while there is every likelihood that a capital gains cut will reach the President's desk. The liberal barrage against Kemp-Roth does little except to raise a smokescreen to conceal the principle embodied in Steiger. Once high tax rates are cut to enhance revenues, the whole structure of soak-the-rich taxation becomes suspect. This is what disturbs the liberals, and explains why they want to fight about some future year's tax bill rather than this year's.●

THE PEOPLE: YOU HAVE TO RESPECT THEM

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. MICHEL. Mr. Speaker, at this point I would like to insert in the RECORD the last installment of C. L. Dancey's "Journey to China" as printed in the Peoria Journal Star:

The Chinese are a Great People.

The record, past and present, proves this.

You do not need to deal with their leadership in the dawn of civilization, their numerous early inventions that were basic keys to the modern era—although used by the West, or their empire which more than rivaled that of Rome, at the same time as Rome.

You would know their greatest in antiquity if you saw nothing but The Great Wall. If you could move it here it would reach from Minneapolis, Minn., to Tampa, Fla.—and that is just the portion of it that remains. It was much longer when the emperor built sections to link up a complex of still earlier walls . . . and that was in the year 200, the Third Century!

What remains is just the part renovated by the Mings . . . 1,500 miles winding through the northern mountains, usually over their tops.

And look around at the Chinese people, today.

There are four and a half millions jammed into four and a half square miles of the British Crown colony that somehow still exists on the Kowloon peninsula and the island of Hong Kong—many of them destitute refugees just a few years ago.

The make-shift slums climbing the mountains that marked that flood of refugees are already gone. A few fragments only, remain. Now, the bay looks something like Peoria Lake would look if the shores on both sides were lined and the whole thing ringed with Miami Beach high rises. At night it is a blaze of light and color.

Hong Kong is a bustling, modern community. It is successful—even blatantly successful—and, if anything, ultra-modern in its style and its skills.

Look at the island of Taiwan, where the Chinese Nationalists remnants moved in a generation ago. It is more crowded per acre than the Chinese Mainland, even, and still has only seventeen or eighteen million people—yet they have climbed in their fantastic productivity to a Gross National Product that puts them in the top 20 nations of this world, economically.

They build everything from super-tankers to TV sets, and have not merely solved the age-old Asian problem of a consistently successful agriculture. They actually export rice!

We have given them no economic aid for 12 years and they are bustling and successful. Who else in the Third World has done either?

Mainland China, the People's Republic of China, has not done that well with its eight or nine hundred millions of people—long in isolation.

It is like passing through a time machine into an earlier age—not only in the ruder and more primitive methods of farming and of industry, but with the tea trays and lace curtains, the old-time groceries where you

buy it live or in the raw, with no packaging and no processing, the old-time department stores with their wrapping paper and string, the non-smoking women with their peculiarly feminine grace—even in baggy pants and jacket—the old-fashioned courtesy in speech, the well-behaved, disciplined children with high skill levels, the incredible industry of hard-working people everywhere applying themselves purposefully to building something, making something, or growing something!

No description of places, activities or systems gives a true impression—because there is no way to transmit the total atmosphere in which all exists—the atmosphere created by the People, themselves.

If we have moved far ahead of them in terms of modernity, and left behind a lot of dirt, back-breaking hand labor, and a life of the bare necessities in our hurry for change, we have also left behind some very good things, as well.

China reminds one of some of the good things we have lost.

The people are open, friendly, helpful in a perfectly natural, relaxed way.

In a system, in some ways, perhaps, more tightly organized than even the Soviet Union, there is a far different people-atmosphere than in Russia.

Officials are easy-mannered and relaxed in dealing with other people—and people are easy-in-manner and relaxed in chatting with their officials. They are quick to laugh. They simply are not tense even in situations where Russians, for example, get very tense, indeed.

They are open, honest, and unspoiled—with curiosity that lights up their faces. When you try to shop, for example, in very ordinary stores—and speak not a word, the clerks are not disgusted, nor tensed up, nor over eager. Their faces light with a smile, and they twinkle as they casually resolve the speech problem with gestures, guesses, and good will * * * and take obvious pleasure in ultimate success.

Try that in New York!

This self-respect and self-confidence is just a great climate to experience.

"We know we have a long way to go," they say, again and again—but they smile when they say it.

They aren't ashamed, or sensitive about shortcomings. They are coping—and they get self-respect and satisfaction from doing whatever they do and doing it well. And they are confident they are learning to do it better, tomorrow. This makes them feel good—in a way that we have proven ourselves unable to buy in modern America—or to find in a pursuit of personal peasure.

There is the calm and the courtesy that comes from people who actually have what many talk incessantly about here. They don't talk about it. They generally seem to "know who they are" or to "have it together"—and they don't have to be blatant in dress or rude in manner to prove it. They don't have to talk about it. It's there.

It stirs the memory to recall that there really was a time when a lot more of us were like that, and suddenly many of us look a lot more neurotic than before—too self-assertive, feeling the need to "make an impression."

The Chinese we came in contact with, and many of merely casual contact, had dignity, self-confidence and obviously felt no need to "show off" or "one-up" anybody. It made for a relaxed feeling—for all of us.

Tourists who proclaimed themselves very much on edge in Russia, again and again, throughout our group, demonstrated it was different in these far more alien surroundings, followed about the streets at times by great groups of Chinese in their universal dark uniforms, at night or by day. There was no sense of foreboding, no tension, no fear among us.

While we were there came the reports of the rows with the Vietnamese on the southern border, and the "clash" with the Russians on the northern border. That sort of thing can make visitors seem very helpless and uncertain about what's happening. Especially older folks.

Still, ours was a very relaxed group of Americans, too. Enjoying it all.

I can tell you that Peorian Vic Traenkenschuh lost his wallet somewhere between Taiyuan and Shi-Chi-Chuang (Shansi and Hopei provinces.) When he arrived at Peking, the officials who met the train had recovered that wallet, intact, just as it was before he lost it.

The total People Climate is a combination of a thousand things, many of them subtle, some of them an indefinable empathy, but everyone seemed to feel it.

Indeed, it dominated the whole scene, whatever the physical discomfort or dirt or lack that we were seeing or feeling. The physical things became superficial, and the human element was the real force in the whole atmosphere.

Lord knows, they have had—and do have—their villains. Even super villains.

And they can be simple and harsh as the rugged countryside we saw in Shansi.

(One of the evidences of this year's "relaxation" has been the release of 115,000 political prisoners. Try to conceive of a country that can hold political prisoners in such masses that it can casually release 115 thousand when easing up!)

But you have to respect the Chinese people . . . and their greatness is not only reflected in their great historic accomplishments of the past, or their remarkable accomplishments against all manner of obstacles today—or what they are accomplishing in Hong Kong, Taiwan and Red China, all three.

There is this other element of basic nature and character.

The Chinese are a Great people—as people.●

REMARKS REGARDING COSPONSORSHIP OF RESOLUTION DECLARING OCTOBER 7 "NATIONAL GUARD DAY"

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

Mr. BRECKINRIDGE. Mr. Speaker, I take great pleasure in cosponsoring with fellow Members of the House the resolution introduced by Mr. BROWN of Ohio, recognizing October 7 as "National Guard Day."

Since the colonial period, members of the civil militia have demonstrated their readiness to defend both State and country in periods of crisis and have made notable personal sacrifices in not only times of war, but of peace as well. Our National Guard has provided invaluable assistance in dealing with natural disasters and local emergencies. Most significantly, the National Guard aids the active military services by providing well-trained and equipped forces prepared to assist in the defense of our Nation.

October 7, the 342d anniversary of the civil militia, is a fitting occasion to recognize these unique, and too-often overlooked, contributions made by members of the National Guard. Such recognition can do much to publicize the Guard's roles and achievements, leading to increased citizen involvement in this most honorable group of citizen-soldiers.

A MOCKERY OF JUSTICE

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. ROSENTHAL. Mr. Speaker, the unusually harsh sentences meted out to Anatoly Scharansky and Alexsandr Ginzburg this week constitute an outrageous mockery of justice. As the civilized world looked on in helpless horror, these two disidents were convicted in the ultimate court of injustice: A court in which the prosecution reigned supreme, in which the verdict was decided in advance of the trial, and in which men of great courage were accused of crimes wholly fabricated by the Soviet Government.

The unspoken and unwritten charges against Anatoly Scharansky were his desire to emigrate to Israel and his attempt to monitor his own government's compliance with the 1975 Helsinki agreement. However, the formal charges brought against him were treason, anti-Soviet agitation, and propaganda. The Soviets claimed that he passed defense secrets to foreign agents and journalists and worked for the CIA. He was found guilty of those charges today and sentenced to 13 years at hard labor.

Aleksandr Ginzburg, seriously ill and a victim of years spent in Soviet prisons, was found guilty yesterday of "anti-Soviet agitation and propaganda" for his activities as a Helsinki monitor and administrator of a relief fund for the families of political prisoners. He was sentenced to 8 years in a strict labor camp, and it is feared that he will die there.

By far the most egregious element of these cases is that Scharansky, Ginzburg, and Mariya Slepak, another dissident prosecuted this week, were on trial for being Jews. The prosecution—and indeed persecution—of these three dissidents marks a return to the terror and purges of the Stalinist era. It marks a return to the overt anti-Semitism of a time we thought had been left behind long ago.

The dissident trials in Russia this week reveal the inherent weaknesses of the repressive Soviet system and the fear that grips its leaders. They apparently feel they must act in such a reprehensible manner in order to protect their police state against unarmed people whose only weapons are a pen and paper and a desire to exercise their fundamental human rights.

In addition, the world has witnessed this week the Soviet mockery of such accords as the United Nations Charter and the Helsinki Final Act. The accused were found guilty of exercising rights guaranteed them by the laws of their own country and by international treaties it has signed. At Helsinki just 3 years ago, the Soviet Union pledged to "respect human rights and fundamental freedoms and the rights of the individual to know and act upon his rights." Additionally, that government agreed to observe the

right of individuals to rejoin family members abroad and to make new lives for themselves in their native, historic homeland.

It is a bitter irony that Anatoly Scharansky and Aleksandr Ginzburg were prosecuted for monitoring the accord which their trials themselves violate. And it is little consolation that the whole world has taken their place, monitoring the Helsinki accord by way of these trials.

Indeed, the whole world is aghast at this disgraceful violation of fundamental rights; even the traditional apologists for the Soviet Union are outraged. The Communist parties of Western Europe have joined in protest against the trials. And we hear reports that anti-trial demonstrations have taken place even in some Iron Curtain nations.

By itself, this mockery of justice is enough to attract world-wide attention. But these trials also carry with them repercussions which could seriously affect the state of East-West relations for years to come. For this severe blow to human rights in the Soviet Union constitutes a direct challenge to the Western world in general and to the United States and President Carter in particular. In an unprecedented move, the President publicly denied that Scharansky had any involvement with the CIA. And the significance of these trials for United States-Soviet relations has been heightened by their timing, coming as Secretary of State Vance and Soviet Foreign Minister Gromyko met in Geneva to discuss strategic arms limitations. The Soviets, with this action, have further poisoned the already deteriorating relationship between our countries.

I am proud that both the House and Senate this week have overwhelmingly condemned this outrageous Soviet act. Such shameful repression will not go unnoticed by civilized people throughout the world.●

FREDERICK G. PAYNE BUILDING

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. EMERY. Mr. Speaker, I am introducing legislation today to name the post office and Federal building in Portland, Maine, the "Frederick G. Payne Building."

Mr. Payne, who served two terms as Governor of Maine and one term in the U.S. Senate, passed away on June 28. He was Governor from 1949 to 1953 and Senator from 1953 to 1959, losing his bid for reelection to then Governor EDMUND S. MUSKIE.

The list of Mr. Payne's political and community service contributions is extensive. As Governor, Mr. Payne was instrumental in creating a broader tax base, an accelerated highway building program, larger school appropriations, and Maine's first sales tax. Mr. Payne also aided the development of Maine's state park system. As a Senator, Mr. Payne served on the Banking and Currency and Foreign Commerce Committees. He was particularly interested in legislation for the protection of small industries and aid for the blind and elderly. In addition, he sponsored a resolution leading to United States involvement in an international United Nations' study of the possible hazards of atomic and hydrogen warfare fallout to human health. Mr. Payne was involved in several civic activities and received a number of special awards, including the Army Commendation Medal for meritorious service in 1944; the Silver Beaver Award for service from the Boy Scouts of America; citations from the VFW in 1957 and the Maine Legislature in 1967; the title of honorary chief from the Penobscot Tribe of Indians; and honorary Doctor of Law degrees from the University of Maine and the Portland University Law School.

Out of respect for these accomplishments and for Mr. Payne's personal friendliness and warmth, the post office and Federal building in Portland, Maine should be named in his honor.●

A SOLUTION TO TRADE DEFICITS

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. DORNAN. Mr. Speaker, I recently received a letter written by Thomas P. Collier, an expert on international business. As a well-respected member of this specialized field, he has been a lecturer at the graduate study level, represented the United States on official Government trade missions, and founded the international management consultant firm of Thomas Collier and Associates. Mr. Collier has developed a theory for solving our Nation's problem of trade deficits, an amount which totaled approximately $20 billion in 1977. I find this innovative idea to be very sensible and I wish to bring it to the attention of my colleagues. This letter was originally sent to Robin M. Porter of the Industry and Trade Administration section of the Department of Commerce and was referred to me. Please heed the Collierian logic.

The letter follows:

THOMAS COLLIER & ASSOCIATES,
Los Angeles, Calif., May 26, 1978.

MS. ROBIN M. POTTER,
Steering Group Executive Coordinator, Room 3830–A, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C.

DEAR MS. POTTER: Even though I am a 13-year veteran of the U.S. Department of Commerce's District Export Council of Southern California, I am nevertheless writing this as my personal opinion.

I am delighted that a Task Force has finally been organized on a inter-agency basis to focus on some of the problems that have resulted in this nation's unconscionable and unacceptable trade deficits. I have a very simplistic answer to this problem, which I articulated personally to Assistant Secretary Weil when he visited Los Angeles several months ago. In fact, I even suggested this program to President-Elect Carter after he was elected but before he was sworn in as President.

I also corresponded with Secretary Kreps and Secretary Blumenthal immediately on their appointment to their respective positions regarding my idea on how to solve this trade deficit problem. Obviously, I received no replies or encouragement, and hence will voice this suggestion once again.

I recommend that President Carter announce, support and enact a National Export Goal of 10 percent of our GNP. With complete inter-agency support and led by the Secretary of Commerce, we should embark on a national goal of exporting 10 percent of our gross national product. This would only be an approximate 4 percent increase over 1977's inadequate 6 percent figure. Last year we exported approximately $125 billion. We imported approximately $145 billion. Next year and the following year our gross national product should be $2.1 to $2.3 trillion.

If we had a 10 percent goal, this nation's exports would reach $210 to $230 billion. This would solve our oil import problem, strengthen our dollar, reduce inflation, increase employment and spur economic growth.

By now the Task Force must be well aware of all the impediments that this and the previous Administration and Congress have placed upon American exporters such as the tax disincentives, boycott legislation, human rights legislation, antiquated antitrust laws, environmental regulations, cumbersome and confusing export control procedures, inadequate funding for Commerce's export promotion, the lack of trained commercial foreign service officers in the Embassies and Consulates abroad, reduced export promotion, trade centers, trade missions, inadequate Export-Import Bank role, disincentives to require U.S. companies to allocate a share of their research and development costs to overseas sales, government policies on transportation, overseas investments, etc.

It is my belief that it is a government task to encourage U.S. firms to export 10 percent of their production. Most private firms have enough problems trying to sell their own management on greater involvement in export, and therefore should not be counted on to spend time encouraging others to provide competition to them. We must realistically recognize that export business is more complicated than a simple domestic sale. It is up to the government to lead the way, give the incentives, remove the disincentives, and embark on a long-term, hard-hitting national advertising and export promotion program.

Our major competitors in world trade, such as Germany, Japan, Great Britain, etc., all export between 20 percent and 40 percent of their production. Is it expecting too much to ask of the Yankee Trader to export a mere 10 percent???

Yours truly,

THOMAS P. COLLIER,
President.●

NEED FOR AN ENERGY POLICY

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. JACOBS. Mr. Speaker, at the request of my constituent Richard Byfield Ohrn, I insert his letter of July 4 in the RECORD:

INDIANAPOLIS, IND., *July 4, 1978.*

HON. ANDY JACOBS,
Representative, 11th Congressional District

DEAR ANDY: Mr. and Mrs. U.S.A., there comes that moment in human history when

a great people live or die. Let us America live! Yet we have no energy policy. We seem to have no hope of an energy policy. All our hopes and fears of surviving as a Nation may ride with the symbol of a cup of gas. Leaving us the last beggar on the highway. For we had no plan. Why? Why no plan? It is the hard true fact it is we the voters who will be hurt. And we are in hiding. Some of our Congressmen and Senators are terrified. They are frightened of the American voter. They're afraid they will lose their jobs. Are we the voters such babies mentally? It is we the voters who must let our Congressmen know we are not cowardly. We know we are running out of gas and oil. The world is running out of gas and oil. Congressman cast my vote to save our Nation. Vote for an energy plan Congressman. I will not vote against you Congressman because you bite the bullet. For if there is no energy plan, America finally will be at the "Tennessee Waltz" and Civilization will give us a hug and say goodbye forever.

The U.S. voter, you and I, must now give a signal of courage to our Congress.

RICHARD BYFIELD OHRN.●

AMBASSADOR YOUNG'S STATEMENT DAMAGES THE CAUSE OF HUMAN RIGHTS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

Mr. LENT. Mr. Speaker, seldom in my memory has a high-ranking American official so harmed his own country and the world cause of human rights, as has Ambassador Andrew Young. His deplorable claim that the United States has "hundreds, maybe thousands" of political prisoners in its jails has wrought incalculable damage to our Nation.

This results from the fact that as our Ambassador to the United Nations, Andrew Young is literally our Ambassador to the world. He is constantly in the world spotlight. His words are taken as U.S. policy. It is shocking—staggering—to think that such a damaging statement could come from our Ambassador to the world. It is even more deplorable that the statement was made in connection with the climax of the cruel Russian attempt to crush human rights of Soviet Jews in the U.S.S.R.

By attempting to equate the United States with the vicious, unprincipled, brutal oppression and persecution practiced by the Soviet regime, Andrew Young has disgraced his high office. He has seriously undermined the moral position of the United States. The Russians very quickly took advantage of this unfortunate declaration. Using their full propaganda machinery, the Soviets have been trumpeting to the world that the U.S. has "officially" admitted that it has political prisoners. It is hard to imagine a more damaging remark.

The Young statement also must have a brutal personal effect on the hundreds of courageous Russians who have been fighting against tremendous odds for the right to pursue their own religious beliefs and to join their families in Israel. Think of the effect of that statement on Mrs. Avital Scharansky, and Mrs. Irini Ginzburg, who have, without thought of their own danger, continued to appeal for justice, human rights and freedom for their husbands. Andrew Young might as well have taken the back of his hand and cracked them across the face. What a dark cloud his words throw over their brave effort.

The worst of this whole tragic matter is that as Ambassador, Andrew Young has made other damaging blunders. This is just the crowning disaster. It does little good for President Carter to proclaim that Ambassador Young was just voicing his personal opinion; that his statement "does not reflect the policies of this Administration." Remember Maj. Gen. John Singlaub? He voiced a personal opinion that went against Carter administration policy for Korea. President Carter promptly recalled General Singlaub to the United States, removing him from his command post in South Korea. Later the general was forced to resign from the military service.

Surely, common justice and consistency in upholding his own policies would require that President Carter follow the same procedure for Ambassador Andrew Young who has used his position to weaken the cause of human rights and to seriously damage the stature of his own Nation before the entire world. President Carter must recall Andrew Young and take appropriate action. Only in this way will the world understand just how completely Andrew Young misrepresented his administration and our Nation.

INDIANAPOLIS JOINS OTHER CITIES AND STATES IN HONORING THE REVEREND MARTIN LUTHER KING, JR.

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. CONYERS. Mr. Speaker, one-third of our citizens already honor Rev. Martin Luther King, Jr., in observing his birthday as a State or local holiday. Thirteen States have observances, and a great many cities, including Detroit, Los Angeles, Philadelphia, Washington, St. Louis, Louisville, Chicago, and Boston. Pending before the Congress is a bill (H.R. 2972), introduced on February 22, 1977, to create a national holiday on Dr. King's birthday, which has 104 cosponsors.

About a month ago the city of Indianapolis became the most recent major city to honor Martin Luther King, Jr., Clarence E. Hodges, chairman of Indianapolis' Conference on Black Politics, a highly active and effective coalition, discusses this event and its significance, and I wish to bring it to the attention of my colleagues. I have no doubt whatsoever that the gathering movement in States and cities across the Nation to commemorate the greatness of Martin Luther King, Jr., will in the not so distant future persuade the national legislature to also honor him by declaring his birthday a national holiday.

CREDIT WHERE CREDIT IS DUE

(By Clarence E. Hodges)

The City of Indianapolis is the most recent city of the nation to officially adopt the birthdate of Dr. Martin Luther King, Jr. as a holiday. This City Ordinance was introduced and skillfully guided through the City-County Council by the eloquent Dean Rozelle Boyd of Indiana University who has distinguished himself as a councilman. Boyd, one of the founders of the Conference of Black Politics, has deservedly received unanimous commendation from this group for his achievements.

The Conference had adopted the King Holiday as one of its goals at the beginning of the year. A broad survey of agencies, organizations, churches, clubs, and individuals who serve, who are interested in, or who reside in the Black community was completed. Every respondent included the King holiday as a most important issue that needed action this year. Public meetings were also conducted on the establishment of priorities and the voice of the people consistently called for the King holiday.

In the spirit of the fallen Nobel Peace Awardee, unity quickly developed on this issue. In the Council Committee hearings, the measure was about to be defeated when the white Republican chairman, John Tinder, joined hands with the Black Democrat Boyd and it was saved by one vote. Momentum continued with SCLC, The Urban League, NAACP, the religious community, the Mayor, whites and Blacks, Democrats and Republicans, Catholics, Protestants, and Jews uniting until the final vote was an overwhelming landslide for the holiday.

Indianapolis deserves special credit for recognizing the special credit earned by Dr. King.

With several States, including even West Virginia, and many cities, including even Louisville, now enjoying the Martin Luther King Holiday, one-third of the citizens of the United States now has this date as a holiday. This says to the world, we too appreciate the contributions of black Americans and particularly Dr. King. It is time the rest of the Nation be given this right by the enactment of a National King Holiday as this credit is not only due but overdue.●

INSTITUTE OF WORLD AFFAIRS CONFERENCE ON U.S. SECURITY AND THE SOVIET CHALLENGE

HON. CLEMENT J. ZABLOCKI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

Mr. ZABLOCKI. Mr. Speaker, on June 29, 1978, the Institute of World Affairs of the University of Wisconsin-Milwaukee held a conference at the Wingspread Johnson Foundation Center in Racine, Wis., entitled "U.S. Security and the Soviet Challenge."

The purpose of the conference was to enable Wisconsin civic leaders to meet for a background educational briefing on U.S. security and the Soviet challenge with particular emphasis on the status and issues involved in the current SALT negotiations with the Soviet Union. The conference explored several issues including the present status of United States-Soviet relations, U.S. defense capabilities, the basic elements of strategic theory, U.S. security and SALT, So-

viet nuclear capabilities and intentions, and other related issues.

The conference included presentations from a number of speakers including both Government and private representatives. The main speaker was Ambassador Paul C. Warnke, Director of the Arms Control and Disarmament Agency and the chief U.S. negotiator for SALT II. Ambassador Warnke emphasized in his remarks that a sound, fair, and verifiable SALT agreement is not a favor to the Soviet Union but is in our national security interests. Warnke listed five ways in which SALT serves our national security interests:

First. In the absence of SALT, the best one could possibly expect from an unrestrained arms race is that we would hopefully not be much worse off.

Second. SALT will maintain the U.S. principle of equal aggregates of nuclear delivery vehicles without including the forward base systems in Europe that are important to the security of the NATO countries.

Third. SALT II does not rely on trust but on limits and rules that are verifiable. The Soviets have fully accepted the U.S. position on verification of SALT II by agreeing to provide data on their equipment and to ban measures of deliberate concealment and obstruction to national technical means.

Fourth. The process of negotiation is an interagency process involving the full support and advice of the State Department, the Department of Defense, the National Security Council, and other agencies to elicit a full range of policy options in the consideration of the U.S. negotiating stance. Final approval and authority to offer a position can be made only by the President himself.

Fifth. SALT II preserves the military options that the United States considers necessary to modernize our strategic forces including modernization of our bomber force, transfer of cruise missile technology to our NATO allies, and full freedom to develop our own cruise missile capabilities.

Participants at the conference included representatives from Government, media, academic, and civic leaders from the Milwaukee area. The Institute of World Affairs has performed an important service through sponsorship of this important conference. The consideration of the major issues involved in United States-Soviet relations generally and SALT specifically will contribute to a greater public awareness of these issues and their relationship to U.S. national security interests.

NEO-NAZIISM IN CHICAGO

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. DERWINSKI. Mr. Speaker, there has been a great deal of press attention directed to the small but vocal group of neo-Nazis as a result of their activities in Chicago's Marquette Park. The residents of this area are for the most part, Lithuanian-Americans, who in an effort to show their disapproval of the Nazi march in their community, staged their own counter-demonstration.

In the July 7 Chicago Catholic, a publication serving Cook and Lake Counties, Ill., James B. Burke relates the reaction to the Nazis from the Lithuanian-American community. I insert the article at this time:

MARQUETTE PARK'S LITHUANIANS DON'T LIKE NAZIS OR RACIST LABEL

(By James B. Burke)

To a lot of Chicagoans—including neo-Nazi leader Frank Collin—Marquette Park is racism personified.

Marquette Parkers, however, are saying their neighborhood has been given a bad name unfairly.

Particularly upset with the pro-Nazi image given to Marquette Park are the area's more than 30,000 Lithuanian-Americans, most of whom are Catholics.

"Marquette Park does not support the Nazis," said Father Victor Rimselis, superior of the Marian Fathers in Chicago and a resident of Marquette Park.

"I don't know any Lithuanian here who is a Nazi. I, myself, was in a Nazi concentration camp during World War II for five months. How can we like them now? What they say about Marquette Park is propaganda."

Pilypas Narutis, who spent two years at the Nazi Stutthof camp, has lived in Marquette Park for 19 years. Narutis suggested the correct assessment of his neighborhood's relationship to neo-Nazism is what he told his small son more than 10 years ago when the boy was horror-stricken by the sight of a uniformed Nazi in Marquette Park.

"I told him," Narutis recalled, "If there are Nazis here in Marquette Park, they are a small group and don't live here. I have never met a Nazi who lived here, either Lithuanian or any other nationality."

Convinced that actions speak louder than words, some Lithuanian-Americans from Marquette Park have recently taken their disapproval of the Nazis to the streets. On June 23 nearly 50 members of the Association of Young Lithuanians held a demonstration across from the Nazi's Marquette Park headquarters, 2519 W. 71st St.

Chanting "We don't want you; we don't need you," the demonstrators paraded for more than an hour in front of Rockwell Hall.

John L. Juozevicius, president of the Chicago A.Y.L., said, "We want to keep Marquette Park a stable, viable community but we also believe it can be done without the bigotry, hatred and violence that the Nazis propose."

In order to help Marquette Park clear its name, the young Lithuanians would like to see the city help clean public and private property which has been defaced by Nazi propaganda, such as stickers of the swastika accompanied by the slogan, "Niggers beware."

The group is also decrying the neo-Nazi policy of using minors to disseminate Nazi ideology through promotional gimmicks like swastika t-shirts.

In addition, the A.Y.L. wants the media to bring the Lithuanian-American community's stance towards Nazism into sharper focus.

A.Y.L. members are still disturbed that NBC's spring feature "Holocaust" had scenes referring to an S.S. legion made up of Lithuanians—something the Lithuanian-Americans say never existed.

Whether or not "Holocaust" misrepresented Lithuanian history, much of Marquette Park's racist and pro-Nazi reputation may stem from the violent reception given Dr. Martin Luther King's march there in the mid-60s.

"Fear rather than racism was probably the cause of the treatment to Dr. King," said a Lithuanian-American law student, who asked that his name be withheld.

"When the march took place avowed racists came into the community from all over the country. There were numerous cars from Wisconsin and Indiana.

"It's also good to remember that there were then and are now today those who can profit from putting Marquette Park into a panic. Real estate brokers, for example, stand to make millions if fears are fanned."

Referring to the King march, Father Rimselis added, "In those days the people were convinced that even Martin Luther King was somehow in common effort with the Communists—to disrupt the community and infiltrate it.

"The Lithuanian people had nothing against colored people. They were concerned for their community and their property."

Of Marquette Park's approximately 85,000 residents, nearly one-third are Lithuanian-Americans. About 95% of the Lithuanian-Americans in Marquette Park are Roman Catholics.●

NEW YORK CITY CUTS BACK ON WELFARE ABUSES

HON. STEWART B. McKINNEY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. McKINNEY. Mr. Speaker, during the many heated debates over the plight of New York City a recurring theme was the wasteful spending of Federal dollars in existing programs. We were told that New York City was not only unable to control its municipal expenditures, it was not able to control Federal transfer programs for its citizens. The most frequently cited example of flagrant abuses was the welfare program.

It is, then, with great pleasure that I request unanimous consent to insert in the RECORD an article from the July 3 edition of U.S. News & World Report entitled "New York's Success Against Cheaters." I have frequently said that, as a result of tight program managements instituted at the urging of Congress, New York City will emerge from its current fiscal crisis as a model for other cities. The author of this article enumerates the major steps taken to control welfare abuses. Let me express the progress in terms best appreciated by those who have criticized New York: through this major campaign to root out ineligible recipients "the city has saved taxpayers nearly $175 million in the last 2 years."

As one of my colleagues on the Banking Committee said when I showed him this article, someone who voted against aid to New York, I might add: "This should be in the RECORD. It makes a darn good case for the city."

Mr. Speaker, if there is no objection, the article follows:

NEW YORK'S SUCCESS AGAINST CHEATERS

At a time when tales of welfare abuse are rampant, reports from New York offer a cheering contrast.

Once known as a magnet for public-aid cheats, the city has launched a major campaign to root out ineligible recipients. In

the process, the city has saved taxpayers nearly 175 million dollars in the last two years. Among major steps—

A mail survey is being sent to public-assistance recipients twice a year to verify eligibility. The surveys are followed up carefully to eliminate claimants who provide inadequate information. The most recent survey led to the closing of 8,293 cases. Saving: an estimated 21.5 million dollars.

Computer searches that match names on welfare rolls with those on city and state payrolls and other lists have lopped off in the past two years more than 15,000 ineligible cases and reduced payments for thousands more. Saving: nearly 60 million dollars.

A new computer-match program that compares Social Security payroll information with welfare lists will result in an estimated 3,150 case closings. Saving: 11.4 million dollars.

Tighter scrutiny of new welfare applicants has resulted in the elimination of a greater percentage of ineligible families than in past years. There are now 930,000 people on the city's welfare rolls, down from the peak of 1,077,000 in September of 1972.

New York also is starting a program that puts policemen on the trail of 4,000 fathers who have disappeared and defaulted on child-support payments, causing their families to go on welfare.

As a result of all of these efforts, the city has managed to reduce its proportion of ineligible welfare cases from 18.3 percent to 8.4 percent in five years.

Human Resources Administrator Blanche Bernstein is especially enthusiastic about the mail surveys, and has ordered them stepped up to three times a year instead of two.

Reports Bernstein: "In the three years since the mail surveys have been conducted on a semiannual basis, they have realized substantial savings and have proved an effective way of reducing ineligibility and overpayment."

She also endorses plans by Governor Hugh Carey to require private employers to make quarterly reports on their payrolls so that names of workers can be compared with the names of welfare recipients.

Nationwide, experts are reporting progress in the reduction of welfare waste.

Some 30 states now are using quarterly reports that employers file on unemployed insurance in order to trace welfare cheats, while others match Social Security payroll information with welfare rolls, as in New York City. States will soon be rewarded for such efforts by a new federal program that will return to them some of the money saved from reducing fraud.

Economist Richard Nathan of the Brookings Institution notes that the error rate has been cut in half in the past five years for Aid to Families With Dependent Children, the major welfare program.

Says Nathan: "As an old HEW watcher, I have rare occasion to compliment that agency, but they've done a good job in cleaning up AFDC."●

ANDERSON-HUMPHREY BILL: REASONABLE BWCA PROPOSAL

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. OBERSTAR. Mr. Speaker, I know that my colleagues in this House have become very familiar with the Boundary Waters Canoe Area in my district. They have devoted considerable time and energy to this issue during the current session. I have appreciated their diligence and their understanding of this controversial issue.

Our debate has produced considerable consensus on the major issues of timber harvesting and mining. There is agreement that the BWCA should be protected from the potential damage of mining and logging. Further, the BWCA's status within the wilderness system should be affirmed.

The Senate is now considering legislation affecting the BWCA.

On Sunday and Monday, members of the Senate Energy and Natural Resources Committee will tour the BWCA and conduct informal hearings in northern Minnesota.

Senators ANDERSON and HUMPHREY, our most able colleagues in the other House, have introduced legislation which provides for greatly increased protection of the BWCA, as compared to its present status, and is similar to that which I sponsored in the House.

Senator ANDERSON, a member of the Senate Energy and Natural Resources Committee, Parks and Recreation Subcommittee, has commendably moved for early Senate action this summer on the BWCA.

The Anderson-Humphrey bill honors the commitments which were made to the people of Minnesota when the Wilderness Act of 1964 was enacted.

Their legislation demonstrates that protection of the BWCA need not abrogate those commitments.

I would like to share with my colleagues the statement which Senator ANDERSON made in Minnesota when he announced the introduction of the Anderson-Humphrey BWCA bill:

ANDERSON BWCA STATEMENT

I am today introducing a bill to protect the boundary waters canoe area. The bill is much more protective of the BWCA than current Federal law. My goal is to pass this bill in the Senate by September 1.

This bill represents the position I outlined on the BWCA issue last September. It is also, however, a good faith attempt to narrow the differences which separated the two sides in this long controversy. I am pleased to say that Senator Humphrey has agreed to support my efforts and has outlined her position in a letter which I am making available to you this morning.

The bill expands the size of the BWCA and required its continued management as a wilderness area, prohibits mining within its boundaries and on the periphery and bans logging.

On these three critical issues, it is identical to the BWCA bill passed in the House on June 5.

In the 1964 Wilderness Act, the Congress assured the people of Minnesota of continued motorized recreation and logging in parts of the BWCA. Without that commitment, the BWCA would never have been included in the Wilderness Act of 1964.

Our bill confirms that commitment for motorboats. It permits the continued use of small motors for fishing on 92 of the present 124 lakes open to motors and allows winter use of snowmobiles on 8 of the 21 snowmobile routes that existed in the BWCA.

On the issues of continued motorboat and snowmobile use in limited parts of the 1 million acre BWCA, our bill differs from the House BWCA bill.

This bill will not satisfy ardent advocates on either side of the BWCA issue. I understand that. Not all of its provisions will be acceptable to those who support the House BWCA bill nor will it be totally acceptable to those who supported Congressman Oberstar's last proposal.

But, it is a commonsense approach and can pass the Senate this year. I urge all who really want to pass this year a bill to settle once and forever how the BWCA will be managed, to support the procedure I am outlining today. With cooperation, not continued hostility, we can pass a Senate bill by September 1st, convene a conference committee, and have a bill on President Carter's desk before Congress adjourns.

Passing a bill in the Senate in just three months will not be easy. The calendars of the Senate Energy and Natural Resources Committee and the Senate itself are extremely heavy. The House BWCA bill came to the Senate with just four months remaining in this session.

But the following steps I intend to take can lead to Congressional passage of a BWCA bill this year:

1. Senators Jackson and Abourezk have approved an Energy and Natural Resources Committee tour of the BWCA and public hearings on H.R. 12250 and the Anderson/Humphrey bill for July 16–18. I have invited several Senators to get a first-hand look at the BWCA, and, intend to provide Minnesotans with an opportunity to testify on the management of the BWCA, particularly on recreational use. Details of the tour and public hearings will be announced later.

2. Energy and Natural Resources Committee markup of our legislation will be scheduled for the week of July 24, with the objective of reporting a bill to the Senate floor by August 1.

3. Senate consideration of a BWCA bill will be scheduled as soon as possible after a bill is reported to the floor from committee. My objective is for the Senate to pass a bill by September 1 so that a conference committee can convene immediately thereafter.

Senator Humphrey and I intend to do everything we can to follow this schedule and have a Senate BWCA bill passed by September 1.

While all Minnesotans will not agree on every detail of the BWCA legislation we are introducing, no one, I believe, wants the BWCA issue to continue past this Congress, in an endless dispute which would leave this area less protected than it is now.●

A TRULY GREAT VIRGIN ISLANDER

HON. RON DE LUGO

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. DE LUGO. Mr. Speaker, Senator Frits Lawaetz, a member of the Virgin Islands Legislature and one of the most dedicated public servants the islands has ever known, is retiring this year after 25 years of service to the people of the island of St. Croix and the entire territory of the Virgin Islands. He will be greatly missed.

Years ago I served with Frits in the Virgin Islands Legislature and am proud to count him among my longtime friends. Even though I have been representing the Virgin Islands in Washington for the past 10 years, I have kept my close ties with this outstanding legislator.

I can think of no higher accolade than to say that Frits has continually shown great courage in the conduct of his public duties as well as in the meeting of life's daily challenges. At all times, he treated others with Old World civility worthy of his Danish forebearers.

I and every other Virgin Islander regret Frits' decision to retire. However,

retirement will allow him the opportunity to spend more time with his beloved wife, Bodil.

The accompanying editorial in the June 2 edition of the Virgin Island Post echos a sentiment that all of us share: Frits' retirement not be the end of his years of public service. He is truly a great Virgin Islander.

A TRULY GREAT VIRGIN ISLANDER

You don't read the name of Frits Lawaetz very often in the newspapers.

For a senator, Lawaetz issues few press releases. When his name appears in a news story it is almost always because a discerning reporter has learned that Lawaetz is central to the issue or the comment which has turned a debate on the Senate floor was contained in a cogent and wise statement made by Lawaetz.

The "Bull from Annally" announced Wednesday that he has decided not to seek reelection to the Senate in which he has served for twenty years. He has opted at this senior stage of his life to devote his remaining years to his family and the impressive ranch outside of Frederiksted which he has developed into a showplace of Virgin Islands agricultural potential.

The Lawaetz family's gain is the entire territory's loss. Most of all, though, Lawaetz will be missed by the Crucian constituents and the Democratic Party he has led since his early political years in the 1950's when he was a popular independent. If anyone in public life has established the principle of equal treatment for St. Croix it has been Lawaetz.

Lawaetz has promoted and protected the interests of St. Croix primarily through the Finance Committee. His attention to the budget process over two decades in the Senate has been among the most important factors in government in St. Croix since 1955 when Lawaetz first took office.

Frits Lawaetz' term of office ends in a mere seven months, most of which will be devoted by his fellow politicians to the election process at which he was so adept and which he so evidently enjoyed. We hope these next seven months will not be the last public service of this truly great Virgin Islander.●

UNION SAINT-JEAN-BAPTISTE

HON. FERNAND J. ST GERMAIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. ST GERMAIN. Mr. Speaker, confusion has arisen as of late concerning an affiliation between Union Saint-Jean-Baptiste, a civic-minded social organization headquartered in Woonsocket, R.I., and other organizations in the United States and Canada which bear the name "Saint-Jean-Baptiste." Outside of sharing a common name, these organizations have no real association and should not be confused as being connected to one another.

One reason for the widespread use of the name "Saint-Jean-Baptiste," is that Saint Jean Baptiste, being the patron saint of Franco-Americans and Franco-Canadians, has become very popular among organizations comprised of persons of this ethnic background.

In the United States, particularly within the New England States, the name "Saint-Jean-Baptiste" is used frequently for churches, schools, cemeteries, and even business establishments such as credit unions.

In Canada's Province of Quebec, there are what are called "Societes Saint-Jean-Baptiste which over the years, in their fervor to gain more favorable treatment of French-Canadians, have become more actively involved in Canadian politics. The major issues at hand in Quebec are the French language bill and the referendum concerning separatism.

There is no such political attitude with regard to Union Saint-Jean-Baptiste. As specified in the official constitution and bylaws of Union Saint-Jean-Baptiste, amended by the 26th Congress of the Society, it is "a corporation under and by the virtue of the powers conferred by chapter 176 of the general laws of the State of Rhode Island" and "said corporation is for beneficial, charitable and educational purposes; to encourage the teaching of the French language and to promote French culture and civilization in the United States; to promote the social, moral, and educational welfare of its members; to render them mutual aid and assistance and to furnish them benefits in case of sickness, disability, death, or withdrawal, and to issue to them any and all plans of insurance, in accordance with its bylaws and the general laws of the State."

Nowhere in the bylaws is there mention of political connections whether in the United States or in any foreign land. It stands to reason that politics have been kept out of these bylaws so that its members could work in harmony toward the achievement of the society's goals. These members from all parts of New England, from all walks of life, and their respective party affiliations, run the gamut of the entire American political spectrum.

If, then, the society is not involved in political activities in this country, it is obvious that Union Saint Jean-Baptiste will not and cannot participate in governmental activities outside the United States.

Founded in 1900 under the laws of the State of Rhode Island, Union Saint-Jean-Baptiste is a mutual benefit society which sells life insurance in order to carry out its programs of benevolent and philanthropic works; foremost among these are programs of educational assistance and aid to the aged and needy members. In recent years it has added a long-range project of assistance to the mentally retarded.

Union Saint-Jean-Baptiste is a corporation working solely within the borders of the United States of America and exists for the benefit of its members and is affiliated with no other organization whether domestic or foreign.●

ON THE PASSAGE OF NATIONAL PORT WEEK

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. DODD. Mr. Speaker, earlier this week the House of Representatives passed House Joint Resolution 778, which authorizes the President to designate the week beginning September 13, 1978, as "National Port Week."

As a cosponsor of this resolution, I am enthusiastic over the great opportunity to recognize the contributions our ports have made to our Nation's economy and well-being. At the same time I feel that a National Port Week provides an opportune time to examine our Nation's response to a major problem currently facing our shoreline communities—oil pollution caused by tanker accidents.

We can ill afford to experience incidences similar to the loss of the *Amoco Cadiz*.

In recent months a great deal of effort has been exerted to pinpoint the causes of oil tanker accidents, and proposals to improve tanker safety on both domestic and international fronts have been put forth. For instance, at the International Conference on Tanker Safety and Pollution Prevention (TSPP), which met in London last February, the United States proposed changes to the present international standards for tanker construction and equipment and the international system of inspection and certification of tankers. Two very important protocols resulted from the 1978 IMCO conference—the protocol of 1978 relating to the International Convention for the Prevention of Pollution From Ships (MARCOL Protocol) and the Protocol of 1978 Relating to the International Convention for the Safety of Life at Sea (SOLAS protocol). The provisions adopted in these protocols include requirements that new crude tankers 20,000 DWT and over have segregated ballast, utilize crude oil washing, and have inert gas systems as well as second radar and collision avoidance systems. The target dates for entry into force for the MARPOL Protocol is June 1981 and June 1979 for the SOLAS Protocol, pending ratification.

Moreover, another conference, the International Conference on Training and Certification of Seafarers recently met in London to examine the problems of adequate crew training and licensing. The conference is presently formulating its recommendations on these issues.

The formal ratification process for the MARPOL and SOLARZ protocols has not yet begun. However, there is much that we can do as a nation pending ratification of these protocols. In this regard it is important to note that the Coast Guard has published an anticipated plan for regulatory implementation of the results of the IMCO conference. However, it is felt that the Coast Guard should speed up its regulatory efforts in this area. Congressional hearings have been slated next week on the Coast Guard's efforts to prevent oil pollution caused by tanker accidents.

Additionally, the House Merchant Marine and Fisheries Committee has reported out a comprehensive piece of legislation to strengthen the Ports and Waterways Safety Act by mandating the Coast Guard to take certain regulatory actions. Numerous other proposals are before Congress which address other aspects of the oil pollution problem, such as oil pollution liability and compensation.

I am hopeful that as National Port Week approaches our Nation wil be much closer to implementing proposals to improve tanker safety. However, Mr. Speaker, as you can see the problem is a very comprehensive one broaching both domestic and international concerns. I hope that as we celebrate National Port Week, our Nation will also examine how far we have traveled in dealing with this issue, and will use this time to increase national efforts to move ahead to prevent another oil spill from occurring.●

THE LONGEST WALK

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. RONCALIO. Mr. Speaker, today as the "Longest Walk," a 3,000 mile trek by representatives of Native American people, nears Washington, I would like to urge my colleagues to give serious consideration to the grievances they are here to present and to be receptive to their message.

This walk began last February when some 500 Native Americans gathered in San Francisco to begin a spiritual journey to the Nation's Capital to dramatize the concerns of the Indian people over encroachments upon their historical treaty rights.

They have come to demonstrate their very real concerns about 11 bills pending before the Congress which they feel are destructive of their treaty rights.

They come to petition the Federal Government, the Congress, and the American people to honor the commitments made to the Indians when this Nation was formed and in the years of conquest that followed.

As chairman of the House Interior Subcommittee on Indian Affairs and Public Lands, I understand their concerns and am sympathetic toward their goal to awaken public sentiment about this basic issue of human rights here at home.

Nearly 100 tribes have united under the Native American Treaties and Rights Organization to bring this protest message to the Congress and the administration. They hope to create a better understanding among non-Indians of the cultural values and religion of native people and to stem the tide of anti-Indian sentiment they see developing in this country. They see Congress as reflective of that attitude. The "Longest Walk" arrives in Washington on Saturday. The planned activities include workshops and seminars open to the public to increase awareness and a sensitivity toward the problems facing the Indian people.

On Sunday evening, there will be a benefit performance of "Black Elk Speaks" at the Kennedy Center to help defray expenses of the week's encampment and return transportation costs of the participants.

"Black Elk Speaks", based upon the book published in 1932 by Nebraska Poet Laureate John G. Neihardt, is a dramatization of the history of the Indian from the arrival of the white man on these shores to the destruction of the Indian dream at Wounded Knee. It has been termed "a short shattering history of the Winning of the West as experienced by those who lost it." Tickets are available to this one-night-only performance in the Opera House through the Kennedy Center and its ticketron outlets. I would also note that tickets to this benefit are tax deductible.

Mr. Speaker, I include a schedule of events during the "Longest Walk" demonstration:

July 15. Longest Walk enters Washington, D.C., Welcoming Ceremony at Washington Memorial Park. Evening Rally.

July 16. Ceremonies and meeting with government officials. Presentation of Manifesto. Workshops for the public. Benefit performance: Black Elk Speaks.

July 17. Presentation of Manifesto/Workshops.

July 18. Presentation of Manifesto/Workshops.

July 19. Appreciation Day—Thank you to Longest Walkers.

July 20, 21, and 22. Planning sessions/Resource Development.

July 23. Benefit Concert (Richie Havens, Buffy St. Marie, Floyd Westerman, Charlie Hill, Michael Murphy).

While the majority of the "Longest Walk" participants will be encamped in Greenbelt Park and bused the 12 miles into Washington for demonstrations and workshops, a group of tribal elders and spiritual leaders will establish a "spiritual camp," under a permit from the National Park Service, in West Potomac Park near the Lincoln Memorial for a 4-day vigil.

The "Longest Walk" is a historical walk of Native Americans to commemorate all the forced walks their ancestors made in the past when they were forcibly removed from their lands. This walk differs, however, because it is a voluntary walk to rekindle a spiritual awakening among native people and to provide an education of Indian concerns for non-Indians.

Mr. Speaker, this week finds the world's attention focused on the trials of Soviet dissenters, Scharansky and Ginzburg. We can show the world that our system will permit the American Natives to demonstrate in Washington and petition their Government to honor their human rights.●

THE UNITED STATES MUST ACT AGAINST SOVIET PERSECUTION OF ANATOLY SCHARANSKY AND ALEKSANDR GINZBURG

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

Mr. LENT. Mr. Speaker, the sentencing of Anatoly Scharansky and Aleksandr Ginzburg is a tragic setback in the cause of human rights. The double blow is particularly painful for those of us who have strongly supported efforts to insure Soviet compliance with the Helsinki Final Act.

It is obvious that Soviet leaders are attempting to crush any effort by Soviet citizens to maintain the human rights guaranteed under that international agreement. But these brutal efforts to stifle the human spirit in the pursuit of human rights must be challenged and challenged strongly. We must help strengthen the determination of the men and women of tremendous courage who continue to fight for the human rights they are denied.

Anatoly Scharansky and Aleksandr Ginzburg have been in the forefront of those courageous Soviet citizens who have risked their lives in calling world attention to the Soviet persecution of its Jewish citizens who seek only the freedom of their religious beliefs and the right to join relatives in Israel. Their sentencing is the culmination of a terrible campaign of oppression that has sent more than a score of Soviet activists for human rights to prison or into exile.

Mr. Speaker, it is time for the U.S. Government to demonstrate convincingly its opposition to these gross violations of the Helsinki Final Act. President Carter has spoken out repeatedly on the importance of human rights in every nation of the world, and of his dedication to that cause. The time for words is past so far as Soviet violations of human rights are concerned. The time for action has come! We must make clear to the Soviet leaders that they cannot continue this campaign of persecution unchallenged. Now is the time for the President to demonstrate with action that the United States means what it says about the importance of human rights!

There are a number of actions Mr. Carter could take. The President could tell the Russians there would be no further bilateral negotiations on important matters in the face of such violations of the Helsinki agreement. The President could tell the Russian we are suspending or limiting the activities of Soviet diplomats and citizens in this country. The President could tell the Russians we must suspend or restrict our exports to the Soviet Union until such time as conditions change.

Mr. Speaker, I firmly believe that these actions on the part of the United States would have a very positive effect. It would make clear to the Soviet persecutors that painful repercussions result from violations of the Helsinki agreement. It would demonstrate to those courageous Soviet citizens still fighting for freedom that they continue to have strong support from those outside Russia who believe in their cause. It would strengthen the cause of human rights everywhere.

In the name of freedom, I call upon the President to act, and act now.

RESOLUTION ON ANDREW YOUNG

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 14, 1978

● Mr. PURSELL. Mr. Speaker, due to official business, I was unable to be present on July 13 for the vote on the

motion to table House Resolution 1267, the resolution to impeach Andrew Young, U.S. Ambassador to the United Nations. However, had I been present, I would have voted to table the motion.

It is my firm belief that the responsibility for all U.S. Ambassadors, and the manner in which they conduct themselves while in office, rests with the President of the United States. Whether we agree with Mr. Young or not, it is not within the jurisdiction of the Congress to take action regarding his conduct. Ambassadorships are within the jurisdiction of the executive branch, and recall of an ambassador is also the responsibility of the President. I do believe that the House Judiciary Committee could invite Mr. Young to appear in order to clarify his views and answer questions by the committee members. That is an appropriate procedure. Therefore I concur in the House decision.●

SENATE—*Monday, July 17, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. KANEASTER HODGES, JR., a Senator from the State of Arkansas.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

*The eternal God is thy refuge, and underneath are the everlasting arms * * *.* —Deuteronomy 33: 27.

Almighty and ever-living God, we thank Thee for the everlasting arms underneath everything, underneath nature, underneath history, and underneath human personality. We thank Thee for the arms which reach out to love us back and gather us in when we have sinned and lost the way, for the arms that are underneath us even in our failures, our moral rovings, and our defeats. In all things, great and small, national, international, and personal, Thy arms support and strengthen us.

Most of all we thank Thee for the outstretched arms of the cross and the redemptive love surrounding all life. As we take up our work, we place our reliance on the love that will not let us go nor let us down.

Through Jesus Christ our Lord. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 17, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable KANEASTER HODGES, JR., a Senator from the State of Arkansas, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. HODGES thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. Under the previous order, the majority leader, the Senator from West Virginia, is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I have no further use for my time.

The ACTING PRESIDENT pro tempore. The assistant minority leader, the Senator from Alaska, is recognized under the previous order.

Mr. STEVENS. Mr. President, there is no request for time on this side. I yield back the minority leader's time.

SPECIAL ORDER

Mr. ROBERT C. BYRD. Mr. President, the distinguished Senator from Georgia may need more time than that which is included in his 15-minute order. I ask unanimous consent that, in the event he needs more time, it may come out of the 10 minutes reserved to the majority leader.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Under the previous order, the Senator from Georgia (Mr. TALMADGE) is recognized for not to exceed 15 minutes.

S. 3305—SOCIAL SECURITY AMENDMENTS OF 1978

Mr. TALMADGE. Mr. President, Congress acted in 1977 in an effort to restore the financial stability of the social security program.

It was clear that the program was out of control and was running itself straight into bankruptcy.

It would be intolerable of course to have the social security program—which is vitally important to the economic security of 30 million current beneficiaries and of nearly all Americans in the future—to lose its solvency.

The urgency of the situation dictated that social security taxes be increased. At the same time, there was general recognition that a much more comprehensive look at the entire social security system was imperative.

The 1977 amendments involved raising the tax rates well above levels that had previously been thought necessary and, even so, the soundness of the program was not assured through the traditional 75-year evaluation.

Since the 1977 social security taxes went through, it has become clear to all of us that the costs of the program represent a potential tax burden far in excess of what the American people expect or want to pay.

I am introducing legislation today to substantially lessen the burden of the social security program. It would reduce its cost. It would allow individuals who must pay social security taxes to claim those taxes as an itemized deduction in computing their income tax liability.

The bill also is designed to correct certain other aspects of the program which work hardships and inequities on those who must pay the taxes to support it.

At the same time, the bill would completely restore long-range soundness to the program and assure that the real value of benefits will be maintained for people presently on the rolls and for those who will retire in the future.

The bill does not directly affect the medicare trust funds in any way. Thus, while the tax schedules for cash benefits under social security would put that program on a sound basis, there does remain a long-range deficit in the hospital insurance program with which we will have to deal.

I hope that a substantial part of that deficit can be resolved by bringing the costs of the medicare program under better administrative control. That problem is now being attacked by the Finance Committee Subcommittee on Health, of which I am chairman.

DEDUCTIBILITY OF SOCIAL SECURITY EMPLOYEE TAXES

My bill will allow individuals who pay social security taxes to claim those taxes as an itemized deduction on their income tax returns.

Self-employed persons will be able to claim two-thirds of the self-employment social security tax as a deduction.

This proposal would allow tax relief for people who are most adversely affected by the increased social security taxes adopted last year.

At the same time, it would not undermine the basic principles of social security which would occur through the direct use of general revenue funds to finance the program.

For example, a family with an adjusted gross income of $15,500 who pays $907.50 in social security taxes under current law would realize a $208.50 cut in income tax liability.

At this point, Mr. President, I ask unanimous consent that there be printed in the RECORD at the conclusion of my address a table prepared by the Joint Committee on Taxation on the effect of making social security tax deductible on families, 1978 levels.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. TALMADGE. I recognize that a significant revenue loss will result from this provision. Preliminary estimates fall between $8 and $9 billion.

However, this is well within the range of revenue reductions that have been proposed by the President, and it also is appropriate in view of the very heavy increase in social security taxes in recent years.

The present situation is double taxation. An individual must pay income taxes not only on the income which he actually earns, but also on the income which is withheld from his check in social security taxes and used to pay benefits to current recipients.

It is unjust to treat the money a person must pay into social security as taxable income.

It is true that that person earns a valuable right to future benefits which will be financed out of taxes paid by his children, but the situation is not quite the same as if this money were being specifically set aside for his own future use.

The fact of the matter is, today's social security taxpayer cannot count on a full return of his investment. This is now a myth, and it is unfair to the taxpayer to claim otherwise.

I am aware that the need to provide this type of relief to individuals burdened with heavy social security taxes must be balanced against other important and desirable changes in tax policy.

However, the basic concept is meritorious and should be considered as one of the priority items in this year's consideration of tax legislation.

ELIMINATION OF OVERINDEXING FEATURES

In 1972, Congress was persuaded to enact legislation commonly referred to as a cost-of-living escalator for social security.

It seemed like a good idea at the time. Nobody wants to see the benefits of our senior citizens eroded by inflation. So Congress put in the law a mechanism which would periodically increase benefit levels to offset inflation .

In fact, however, the 1972 amendments did far more than just provide a cost-of-living adjustment.

They incorporated a mechanism which annually adjusted benefit levels for all new retirees and all future retirees in a manner which far outpaced inflation.

In fact, actuaries project that the current system would automatically raise benefit levels so high as to encourage many people to retire and increase their income by going on social security.

The amendments last year partially corrected this unhappy situation. But they left in place a mechanism which will raise benefit levels far more than is necessary to correct for inflation.

Under last year's bill, the real value of benefits—that is, after adjustment for inflation—will more than double over the next 50 years, and more than triple over the next 75 years.

The argument in favor of this approach is that benefit adequacy ought to improve as national productivity increases.

But the fact of the matter is that these improvements in benefit adequacy will require higher and higher social security taxes.

I do not believe the American taxpayer wants a social security system which guarantees higher and higher benefits and higher and higher taxes.

I believe most Americans would prefer a social security system that will maintain the purchasing power of benefits at the levels we already have attained, so that we can avoid building in the need for ever-increasing tax rates.

If we enjoy a prolonged period of prosperity and increasing productivity, we can decide in future years how much of our productivity gains, if any, we may want to devote to improving the level of social security benefits, and how much we want to enjoy in the form of higher take-home pay.

That kind of decision about committing future resources is properly left to those who will then be earning those resources, and to the Congresses they elect.

In short, we should not make our children pay for a richer social security program than we are willing to pay for ourselves.

I emphasize that the change I am proposing in the way benefits are adjusted does not in any way affect those who are now getting benefits.

People will continue to get the same benefits they now receive, and they will get future cost-of-living adjustments just as they would under present law.

Moreover, for those who will retire in the future, the program will continue to provide benefits at the same level of purchasing power adequacy as the benefits we now provide retirees.

REDUCTION IN TAXES

Because my bill would lower the future cost of the social security program, it would also permit a reduction in the taxes necessary to support that program.

Over the 5-year period, 1979–83, my bill would reduce the estimated expenditures of the social security program from $657.8 billion to $657.2 billion—a reduction of $0.6 billion.

Over the 10-year period 1978–88, the bill would reduce estimated expenditures from $1,638.9 billion to $1,624.7 billion—a reduction of $14.2 billion.

At the end of the 10-year period large reductions in expenditures will begin. For example, in the 3-year period 1978–80, there is no reduction in expenditures while in the 3-year period, 1986–88 the reduction is $11.1 billion as follows:

	Billion
1986	$2.4
1987	3.6
1988	5.1

The biggest reductions, of course, would come in the future when the continual pumping up of the system by mechanisms in the present law would have greatly increased its cost.

Even within the next few years, however, there could be some important tax reduction, as shown on the table which I now ask unanimous consent to be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

IMPACT OF TALMADGE PROPOSAL ON SOCIAL SECURITY TAX RATES (COMBINED EMPLOYER/EMPLOYEE TAX)

Year	Tax required to fund program under present law			Tax required to fund program under Talmadge proposal		
	Tax rate (percent)	$15,000 earner	$25,000 earner	Tax rate (percent)	$15,000 earner	$25,000 earner
1981	13.3	$1,995	$3,325	13.2	$1,980	$3,300
1982–84	13.4	2,010	3,350	13.2	1,980	3,300
1985	14.1	2,115	3,525	13.1	1,965	3,275
1986–89	14.3	2,145	3,575	13.3	1,995	3,325
1990–94	15.3	2,295	3,825	12.8	1,920	3,200
1995–2009	15.3	2,295	3,825	12.6	1,890	3,150
2010–24	[1] 15.9	2,385	3,975	12.6	1,890	3,150
2025 and after	[1] 18.7	2,805	4,675	12.6	1,890	3,150

[1] These rates would be required for program to meet its benefit obligations; however, present law does not actually provide adequate taxes.

Note: Hospital insurance tax rates, as in effect under present law, are included in all columns.

TAX SCHEDULE (COMBINED EMPLOYER AND EMPLOYEE TAXES)

[In percent]

Year	Present law			Talmadge proposal		
	Cash benefits	Hospital insurance	Total	Cash benefits	Hospital insurance	Total
1979–80	10.16	2.1	12.26	10.16	2.1	12.26
1981	10.7	2.6	13.3	10.6	2.6	13.2
1982–84	10.8	2.6	13.4	10.6	2.6	13.2
1985	11.4	2.7	14.1	10.4	2.7	13.1
1986–89	11.4	2.9	14.3	10.4	2.9	13.3
1990–94	12.4	2.9	15.3	9.9	2.9	12.8
1995 on	[1] 12.4	2.9	15.3	9.7	2.9	12.6

[1] Inadequate to fund present law program.

Mr. TALMADGE. Thus, as the table shows, the bill provides reductions in social security taxes as compared with present law. While these reductions are fairly modest in the next few years, they will ultimately amount to hundreds of dollars per year, per social security taxpayer.

Even in the short run, the tax reductions, combined with the deductibility of employee social security taxes, will provide significant relief while fully main-

taining—and in fact improving—the fiscal soundness of the program.

COVERAGE OF MEMBERS OF CONGRESS AND NEW FEDERAL EMPLOYEES

For four decades now, the United States has had a social security program. Over those 40 years, the program has continually grown bigger and more costly.

It has come to provide bigger and bigger benefits, and to involve larger and larger bites of tax dollars.

And, as we have watched it grow, we have continually argued that it is basically a good thing for the American people. It provides them a base of economic security against the common threats of death, disability, and old age.

Increasingly, however, the American people are getting suspicious of these arguments when they find that the agent who collects the social security tax does not himself pay that tax.

The clerk who accepts a claim for social security benefits does not participate in the system.

The Commissioner who heads the Social Security Administration is not covered by the program he runs.

And, we in the Senate and the House of Representatives who write social security laws and impose the taxes which support it have excluded ourselves from it.

This situation did not come about through any intent to deceive or defraud the people of this country. As near as I can tell, it is more the result of historical accident than anything else.

Still, the situation is one which seems to run directly counter to that fundamental axiom of equity: "What is sauce for the goose is sauce for the gander." It is time that we corrected that situation.

My bill addresses the problem directly. First of all, it would immediately bring under social security coverage those who are responsible for voting the taxes which support it; members of the Senate and the House of Representatives.

Then, starting in January, 1980, it would require social security coverage for all new Federal employees.

Since existing Federal employees may have built up many years of service in which they paid substantial contributions to the civil service system, they would not be required to come under the program but could do so if they wished.

However, I believe they should have an opportunity to see and comment upon such proposal before being mandated.

Even for future Federal employees, it will be necessary to redesign the civil service retirement program so that it fulfills a role comparable to a private pension supplementing social security.

Otherwise, the total of social security taxes and civil service contributions would be inordinately high.

My bill deals with this problem by requiring the administration to propose a plan for providing this type of coordinated coverage.

Since 1977 amendments already require that this type of study be made, it should be possible for the administration to provide such a proposal in ample time.

SELF-EMPLOYMENT INCOME CREDITABLE ONLY IF TAX PAID

My bill also closes a loophole which permits certain people to draw social security benefits on the basis of earnings for which they did not pay the applicable social security taxes.

When a self-employed person files his income tax return, a portion of one form is torn off and sent to the Social Security Administration.

This tear-off form is used to give him credit for his earnings under social security and forms a basis for his future benefit eligibility.

The way things are done today, however, that form is sent, and the credit given, even if he does not pay the tax that is due.

My bill corrects this problem by requiring that the crediting of those earnings be withheld until the taxes have in fact been paid.

Altogether, I believe the bill I am introducing today would complement action taken last year by Congress in enacting the 1977 amendments.

Those amendments were in the nature of an emergency action to rescue the program from the danger of bankruptcy by the necessary but bitter means of increased taxes.

This bill completes that action by addressing some of the unacceptable features of the program which were highlighted as a result of last year's bill.

My legislation would restore the long-range soundness of the cash benefits program.

It eliminates a built-in propensity for over-indexing which, under present law, would drive tax rates up to nearly 19 percent by the middle of the next century.

It lessens the impact of social security taxes by allowing them as an itemized deduction in computing income taxes.

It eliminates the anomaly under which Senators, Congressmen, and Federal employees are exempt from social security taxes.

And, it eliminates an abuse under which some people get benefits while evading taxes.

This is by no means the ultimate answer to all of the social security program's ills. There are other problems and abuses to be corrected. But this is an important second step.

It is feasible. It can be taken now.

It is important that we move in this direction at this time so that, as we address other problems, we can do so with confidence that this program has the continuing support of those who pay the taxes that support it.

Without changes of the type proposed by my legislation, I am not at all sure that we can have that confidence.

Mr. President, I would like to publicly commend Mr. Joe Humphreys, of the Finance Committee Professional Staff, and Mr. Frank Crowley, of the Library of Congress, for their able and expert assistance in the preparation of my social security reform bill. In dealing with a matter as complex as social security law, expertise such as these men rendered is invaluable.

EXHIBIT 1

EFFECT OF MAKING SOCIAL SECURITY TAX DEDUCTIBLE ON FAMILIES—1978 LEVELS

Family AGI	Social security taxes under current law	Reduction in income tax liability resulting from deductability of employee contributions	Social security taxes after offset
$10,000	$605.00	$109.00	$496
$15,500	907.50	208.50	699
$20,000	1,071.00	289.00	782
$25,000	1,071.00	289.00	782

Source: Joint Committee on Taxation, July 10, 1978.

Mr. President, I ask unanimous consent that the bill I am introducing, together with two tables be printed in the RECORD at this point.

There being no objection, the bill and tables were ordered to be printed in the RECORD, as follows:

S. 3305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Social Security Amendments of 1978".

ADJUSTMENTS IN TAX RATES

SEC. 2. (a) Section 3101(a) of the Internal Revenue Code of 1954 (relating to rate of tax on employees for purposes of old-age, survivors and disability insurance) is amended by striking out paragraphs (1) through (7) and inserting in lieu thereof the following:

"(1) with respect to wages received during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages received during the calendar year 1978, the rate shall be 5.05 percent;

"(3) with respect to wages received during the calendar years 1979 and 1980, the rate shall be 5.08 percent;

"(4) with respect to wages received during the calendar year 1981, the rate shall be 5.30 percent;

"(5) with respect to wages received during the calendar years 1982 through 1984, the rate shall be 5.35 percent;

"(6) with respect to wages received during the calendar years 1985 through 1989, the rate shall be 5.20 percent;

"(7) with respect to wages received during the calendar years 1990 through 1994, the rate shall be 4.95 percent; and

"(8) with respect to wages received after December 31, 1994, the rate shall be 4.85 percent.".

(b) Section 3111(a) of such code (relating to rate of tax on employers for purposes of old-age, survivors, and disability insurance) is amended by striking out paragraphs (1) through (7) and inserting in lieu thereof the following:

"(1) with respect to wages paid during the calendar years 1974 through 1977, the rate shall be 4.95 percent;

"(2) with respect to wages paid during the calendar year 1978, the rate shall be 5.05 percent;

"(3) with respect to wages paid during the calendar years 1979 and 1980, the rate shall be 5.08 percent;

"(4) with respect to wages paid during the calendar year 1981, the rate shall be 5.30 percent;

"(5) with respect to wages paid during the calendar years 1982 through 1984, the rate shall be 5.35 percent;

"(6) with respect to wages paid during the calendar years 1985 through 1989, the rate shall be 5.20 percent;

"(7) with respect to wages paid during the calendar years 1990 through 1994, the rate shall be 4.95 percent; and

"(8) with respect to wages paid after December 31, 1994, the rate shall be 4.85 percent.".

(c) Section 1401(a) of such Code (relating to rate of tax on self-employment income for purposes of old-age, survivors, and disability insurance) is amended by striking out "a tax as follows:" and all that follows and inserting in lieu thereof the following: "a tax as follows:

"(1) in the case of any taxable year beginning before January 1, 1978, the tax shall be equal to 7.0 percent of the amount of the self-employment income for such taxable year;

"(2) in the case of any taxable year beginning after December 31, 1977, and before January 1, 1979, the tax shall be equal to 7.10 percent of the amount of the self-employment income for such taxable year;

"(3) in the case of any taxable year beginning after December 31, 1978, and before January 1, 1981, the tax shall be equal to 7.05 percent of the amount of the self-employment income for such taxable year;

"(4) in the case of any taxable year beginning after December 31, 1980, and before January 1, 1982, the tax shall be equal to 7.95 percent of the amount of the self-employment income for such taxable year;

"(5) in the case of any taxable year beginning after December 31, 1981, and before January 1, 1985, the tax shall be equal to 8.00 percent of the amount of the self-employment income for such taxable year;

"(6) in the case of any taxable year beginning after December 31, 1984, and before January 1, 1990, the tax shall be equal to 7.80 percent of the amount of the self-employment income for such taxable year;

"(7) in the case of any taxable year beginning after December 31, 1989, and before January 1, 1995, the rate shall be equal to 7.45 percent of the amount of the self-employment income for such taxable year; and

"(8) in the case of any taxable year beginning after December 31, 1994, the tax shall be equal to 7.20 percent of the amount of the self-employment income for such taxable year.".

ALLOCATIONS TO DISABILITY INSURANCE TRUST FUND

SEC. 3. (a)(1) Section 201(b)(1) of the Social Security Act is amended by striking out clauses (G) through (K) and inserting in lieu thereof the following: "(G) 7.55 per centum of the wages (as so defined) paid after December 31, 1977, and before January 1, 1979, and so reported, (H) 1.50 per centum of the wages (as so defined) paid after December 31, 1978, and before January 1, 1981, and so reported, (I) 1.55 per centum of the wages (as so defined) paid after December 31, 1980, and before January 1, 1982, and so reported, (J) 1.60 per centum of the wages (as so defined) paid after December 31, 1981, and before January 1, 1995, and so reported, and (K) 1.70 per centum of the wages (as so defined) paid after December 31, 1994, and so reported.".

(2) Section 201(b)(2) of such Act is amended by striking out clauses (G) through (K) and inserting in lieu thereof the following: "(G) 1.090 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1977, and before January 1, 1979, (H) 1.040 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1978, and before January 1, 1981, (I) 1.1625 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1980, and before January 1, 1982, (J) 1.200 per centum of the amount of self-employment income(as so defined) so reported for any taxable year beginning after December 31, 1981, and before January 1, 1995, and (K) 1.275 per centum of the amount of self-employment income (as so defined) so reported for any taxable year beginning after December 31, 1994,'".

COMPUTATION OF PRIMARY INSURANCE AMOUNT

SEC. 4. (a) Section 215(a)(1) of the Social Security Act is amended to read as follows:

"(a)(1)(A) The primary insurance amount of an individual shall (except as otherwise provided in this section) be equal to the sum of—

"(i) 96 percent of the individual's average indexed monthly earnings (determined under subsection (b)) to the extent that such earnings do not exceed the amount established for purposes of this clause by subparagraph (B),

"(ii) 35 percent of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (i) but do not exceed the amount established for purposes of this clause by subparagraph (B), and

"(iii) 17 percent of the individual's average indexed monthly earnings to the extent that such earnings exceed the amount established for purposes of clause (ii),

rounded in accordance with subsection (g), and thereafter increased as provided in subsection (i).

"(B)(i) For individuals who initially become eligible for old-age or disability insurance benefits, or who died (before becoming eligible for such benefits), in the calendar year 1979, the amount established for purposes of clause (i) and (ii) of subparagraph (A) shall be $165 and $985, respectively.

"(ii) For individuals who initially become eligible for old-age or disability insurance benefits, or who die (before becoming eligible for such benefits), in any calendar year after 1979, each of the amounts so established shall equal the product of the corresponding amount established with respect to the calendar year 1979 under clause (i) of this subparagraph and the quotient obtained by dividing—

"(I) the Consumer Price Index (as defined in section 215(i)(1)(C)) for the first calendar quarter of the second calendar year preceding the calendar year for which the determination is made, by

"(II) the Consumer Price Index (as so defined) for the first calendar quarter of calendar year 1977.

"(iii) Each amount established under clause (ii) for any calendar year shall be rounded to the nearest $1, except that any amounts so established which is a multiple of $0.50 but not of $1 shall be rounded to the next higher $1.

"(C)(i) No primary insurance amount computed under subparagraph (A) may be less than—

"(I) the dollar amount set forth on the first line of column IV in the table of benefits contained in (or deemed to be contained in) this subsection as in effect in December 1978, rounded (if not a multiple of $1) to the next higher multiple of $1, or

(ii) an amount equal to $11.50 multiplied by the individual's years of coverage in excess of 10, or the increased amount determined for purposes of this subdivision under subsection (i),

whichever is greater. No increase under subsection (i), except as provided in subsection (i)(2)(A), shall apply to the dollar amount specified in subdivision (I) of this clause.

"(ii) For purposes of clause (i)(II), the term 'years of coverage' with respect to any individual means the number (not exceeding 30) equal to the sum of (I) the number (not exceeding 14 and disregarding any fraction) determined by dividing (a) the total of the wages credited to such individual (including wages deemed to be paid prior to 1951 to such individual under section 217, compensation under the Railroad Retirement Act of 1937 prior to 1951 which is creditable to such individual pursuant to this title, and wages deemed to be paid prior to 1951 to such individual under section 231) for years after 1936 and before 1951 by (b) $900, plus (II) the number equal to the number of years after 1950 each of which is a computation base year (within the meaning of subsection (b)(2)(B)(ii)) and in each of which he is credited with wages (including wages deemed to be paid to such individual under section 217, compensation under the Railroad Retirement Act of 1937 or 1974 which is creditable to such individual pursuant to this title, and wages deemed to be paid to such individual under section 229) and self-employment income of not less than 25 percent of the maximum amount which, pursuant to subsection (e), may be counted for such year, or of not less than 25 percent of the maximum amount which could be so counted for such year (in the case of a year after 1977) if section 230 as in effect immediately prior to the enactment of the Social Security Amendments of 1977 had remained in effect without change.

"(D) In each calendar year after 1977 the Secretary shall publish in the Federal Register, on or before November 1, the formula for computing benefits under this paragraph and for adjusting wages and self-employment income under subsection (b)(3) in the case of an individual who becomes eligible for an old-age insurance benefit, or (if earlier) becomes eligible for a disability insurance benefit or dies, in the following year, and the Consumer Price Index (as described in subparagraph (B)(ii)(I) on which that formula is based. With the initial publication required by this subparagraph, the Secretary shall also publish in the Federal Register the Consumer Price Index (as so described) for each calendar year after 1950.",

(b) Section 215(b) of such Act is amended to read as follows:

"Average Indexed Monthly Earnings; Average Monthly Wage

"(b)(1) An individual's average indexed monthly earnings shall be equal to the quotient obtained by dividing—

"(A) The total (after adjustment under paragraph (3)) of his wages paid in and self-employment income credited to his benefit computation years (determined under paragraph (2)), by

"(B) the number of months in those years.

"(2)(A) The number of an individual's benefit computation years equals the number of elapsed years, reduced by five, except that the number of an individual's benefit computation years may not be less than two.

"(B) For purposes of this subsection with respect to any individual—

"(i) The term 'benefit computation years' means those computation base years, equal in number to the number determined under subparagraph (A), for which the total of such individual's wages and self-employment income, after adjustment under paragraph (3), is the largest;

"(ii) the term 'computation base years' means the calendar years after 1950 and before—

"(I) in the case of an individual entitled to old-age insurance benefits, the year in which occurred (whether by reason of section 202 (j) (1) or otherwise) the first month of that entitlement; or

"(II) in the case of an individual who has died (without having become entitled to old-age insurance benefits), the year succeeding the year of his death;

except that such term excludes any calendar year entirely included in a period of disability; and

"(iii) the term 'number of elapsed years' means (except as otherwise provided by section 104(j)(2) of the Social Security Amendments of 1972) the number of calendar years after 1950 (or, if later, the year in which the individual attained age 21) and before the year in which the individual died, or, if it occurred earlier (but after 1960), the year in which he attained age 62; except that such term excludes any calendar year any part of which is included in a period of disability.

"(3)(A) Except as provided in subparagraph (B), the wages paid in and self-employment income credited to each of an individual's computation base years for purposes of the selection therefrom of benefit computation years under paragraph (2) shall be deemed to be equal to the product of—

"(i) the wages and self-employment income paid in or credited to such year (as determined without regard to this subparagraph), and

"(ii) the quotient obtained by dividing—

"(I) the Consumer Price Index (as defined in section 215(i)(1)(C)) for the first calendar quarter of the second calendar year (after 1976) preceding the earliest of the year of the individual's death, eligibility for an old-age insurance benefit, or eligibility for a disability insurance benefit (except that the year in which the individual dies, or becomes eligible, shall not be considered as such year if the individual was entitled to disability insurance benefits for any month in the 12-month period immediately preceding such death or eligibility, but there shall be counted instead the year of the individual's eligibility for the disability insurance benefit to which he was entitled in such 12-month period), by

"(II) the Consumer Price Index (as defined in section 215(i)(1)(C)) for the first calendar quarter of the computation base year for which the determination is made.

"(B) Wages paid in or self-employment income credited to an individual's computation base year which—

"(i) occurs after the second calendar year specified in subparagraph (A)(ii)(I), or

"(ii) is a year treated under subsection (f)(2)(C) as though it were the last year of the period specified in paragraph (2)(B)(ii), shall be available for use in determining an individual's benefit computation years, but without applying subparagraph (A) of this paragraph.

"(4) For purposes of determining the average monthly wage of an individual whose primary insurance amount is computed (after 1978) under section 215(a) or 215(d) as in effect (except with respect to the table contained therein) in December 1978, by reason of subsection (a)(4)(B), this subsection as in effect in December 1978 shall remain in effect, except that paragraph (2)(C) (as then in effect) shall be deemed to provide that 'computation base years' include only calendar years in the period after 1950 (or 1936, if applicable) and prior to the year in which occurred the first month for which the individual was eligible (as defined in subsection (a)(3)(B) as in effect in January 1979) for an old-age or disability insurance benefit, or, if earlier, the year in which he died. Any calendar year all of which is included in a period of disability shall not be included as a computation base year for such purposes.".

NO CREDIT FOR SELF-EMPLOYMENT WITH RESPECT TO WHICH TAX IS NOT PAID

SEC. 5. Section 212 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this title, there shall not be included, for purposes of determining the average monthly wage and quarters of coverage of any individual, the amount of self-employment income of an individual for any taxable year beginning after December 31, 1978, if the Secretary determines (in accordance with regulations) that the tax imposed by section 1401 of the Internal Revenue Code of 1954 on the amount of the self-employment income of such individual for such taxable year has not been paid in full (together with any applicable penalties imposed pursuant to such Code).".

INCOME DEDUCTION BY INDIVIDUALS FOR SOCIAL SECURITY TAXES

SEC. 6. (a) Part VII of subchapter B of chapter 1 (relating to additional itemized deductions for individuals) of the Internal Revenue Code of 1954 is amended by redesignating section 221 as 222 and by inserting after section 220 the following new section:

"SEC. 221. SOCIAL SECURITY AND RAILROAD RETIREMENT TAXES.

"In the case of an individual, there shall be allowed as a deduction all of the taxes imposed during the taxable year on the wages of such individual under section 3101 and on the income of such individual under section 3201, and two-thirds of the taxes imposed by section 1401 on the self-employment income of such individual.".

(b) The table of sections for part VII of subchapter B of chapter 1 of such code is amended by striking out the item relating to section 221 and inserting in lieu thereof the following:

"Sec. 221. Social security and railroad retirement taxes.

"Sec. 222. Cross references.".

(c) The amendments made by this section shall apply in the case of taxable years beginning after December 31, 1977.

SOCIAL SECURITY COVERAGE FOR THE VICE PRESIDENT, MEMBERS OF CONGRESS, AND NEWLY EMPLOYED FEDERAL EMPLOYEES

SEC. 7. (a)(1) Section 210(a)(6)(A) of the Social Security Act is amended by adding at the end thereof the following: "except that the provisions of this subparagraph shall not be applicable to service performed after the month of the enactment of the Social Security Amendments of 1978 as the Vice President of the United States, or as a Member, Delegate, or Resident Commissioner of or to the Congress;".

(2) Section 210(a)(6)(C)(i) of such Act is amended by inserting ", in the case of service performed prior to the month following the month of enactment of the Social Security Amendments of 1978, as" immediately after "President or".

(3) Section 210(a)(6)(C)(ii) is amended by inserting "(except for service performed after the month of enactment of the Social Security Amendments of 1978 as Vice President of the United States, or as a Member, Delegate, or Resident Commissioner of or to the Congress)" immediately after "branch".

(b) Section 210 of such Act is further amended by adding at the end thereof the following new subsections:

"Service Performed as Vice President of the United States, or as a Member, Delegate, or Resident Commissioner of or to the Congress

"(p) The term 'employment' shall, notwithstanding the provisions of subsection (a), include service performed after the month of enactment of the Social Security Amendments of 1978 as Vice President of the United States, or as a Member, Delegate, or Resident Commissioner of or to the Congress.

"Service of Federal Employees whose Employment Commences after September 1979

"(q)(1) Except as provided in paragraph (2), the term 'employment' shall, notwithstanding the provisions of subsection (a), include service otherwise excluded from such term by paragraph (5) or (6) of such subsection which is performed after September 30, 1979.

"(2) The provisions of paragraph (1) shall not be applicable to service performed by an individual as an employee of the United States or an instrumentality thereof during any continuous period which commences on or before September 30, 1979; except that the provisions of paragraph (1) shall be applicable with respect to such service performed by such an individual after the month (which shall not be later than the month of December 1979) in which he files a certificate under section 3121(w) of the Internal Revenue Code of 1954.".

(c)(1) Section 3121(b)(6)(A) of the Internal Revenue Code of 1954 is amended, by adding at the end thereof the following: "except that the provisions of this subparagraph shall not be applicable to service performed after the month of enactment of the Social Security Amendments of 1978 as the Vice President of the United States, or as a Member, Delegate, or Resident Commissioner of or to the Congress;".

(2) Section 3121(b)(C)(i) of such Code is amended by inserting ", in the case of service performed prior to the month following the month of enactment of the Social Security Amendments of 1978, as" immediately after "President or".

(3) Section 3121(b)(6)(C)(ii) of such Code is amended by inserting "(except for service performed after the month of enactment of the Social Security Amendments of 1978 as Vice President of the United States, or as a Member, Delebate, or Resident Commissioner of or to the Congress") immediately after "branch".

(d) Section 3121 of such Code is further amended by adding at the end thereof the following new subsections:

"(u) SERVICE PERFORMED AS VICE PRESIDENT OF THE UNITED STATES, OR AS A MEMBER, DELEGATE, OR RESIDENT COMMISSIONER OF OR TO THE CONGRESS.—The term 'employment' shall, notwithstanding the provisions of subsection (b), include service performed after the month of enactment of the Social Security Amendments of 1978 as Vice President of the United States, or as a Member, Delegate, or Resident Commissioner of or to the Congress.

"(v) SERVICE OF FEDERAL EMPLOYEES WHOSE EMPLOYMENT COMMENCES AFTER SEPTEMBER 1979.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'employment' shall, notwithstanding the provisions of subsection (b), include service otherwise excluded from such term by paragraph (5) or (6) of such subsection which is performed after September 30, 1979.

"(2) EXCEPTION.—The provisions of paragraph (1) shall not be applicable to service performed by an individual as an employee of the United States or an instrumentality thereof during any continuous period which commences on or before September 30, 1979; except that the provisions of paragraph (1) shall be applicable with respect to such service performed by such an individual after the month (which shall not be later than the month of December 1979) in which he files a certificate under subsection (w).

"(w) WAIVER OF EXCLUSION FROM COVERAGE OF FEDERAL SERVICE.—Any individual performing service which is excluded from the term 'employment' by reason of the provi-

sions of paragraph (2) of subsection (v) may file a certificate (in such manner and form and with such official as may be prescribed by regulations made under this chapter) certifying that he elects to have the insurance system established by title I of the Social Security Act extended to such service. Any such certificate may not be filed after December 31, 1979, shall be irrevocable, and shall be effective with respect to all such service performed by such individual after the month in which the certificate is filed.".

(e)(1)(A) As soon as possible after the enactment of this Act, the Secretary of Health, Education, and Welfare in consultation with the Civil Service Commission shall undertake and carry out a detailed study of how best to coordinate the benefits of the civil service retirement system and the benefits of the old-age, survivors, and disability insurance system, with the objective of developing for Federal employees covered by the social security system under this section a combined program of retirement, disability, and related benefits which will assure that such employees are no worse off, comparing their benefits under the combined program with the benefits they would receive under the Federal staff retirement systems then in effect, upon their coverage under the old-age survivors, and disability insurance system pursuant to the amendments by this section.

(B) Upon completion of the study under subparagraph (A) and in any event no later than January 1, 1979, the Secretary shall submit to the Congress a full and complete report on the results of such study together with a specific and detailed plan for coordinating the benefits of the civil service retirement system and the benefits of the old-age, survivors, and disability insurance system (along with such comments or recommendations as may be appropriate with respect to other staff retirement systems covering such Federal employees). The plan so submitted shall include such financing and benefit provisions and other features as may be necessary to assure that the employees involved will not be placed at a disadvantage by the coordination of the benefits of the systems as compared with their treatment under the Federal staff retirement systems in effect prior to such coordination.

(2) In addition to and along with the study provided for under paragraph (1), the Secretary shall carry out a study of how best to coordinate the Medicare program and the program established by the Federal Employees Health Benefits Act, with the objective of developing for Federal employees covered by the social security system under this section a combined program of health insurance benefits to accompany the retirement and disability program developed under paragraph (1). Such combined program shall include the features necessary to assure that such Federal employees are no worse under that program, in terms of benefits, than they were under the Federal Employees Health Benefits Act as theretofore in effect. The study under this subsection shall in general take into account the same aspects of the two health insurance programs and their coordination as those taken into account (with respect to the two retirement and disability systems) under paragraph (1); and the report submitted under paragraph (1)(B) shall include or be accompanied by a full and complete report on the results of the study under this subsection.

TABLE 1.—SOCIAL SECURITY CONTRIBUTION RATES UNDER PRESENT LAW AND UNDER THE TALMADGE BILL

Calendar year	Present law					Talmadge proposal				
	OASI	DI	OASDI	HI	Total	OASI	DI	OASDI	HI	Total
Employees and employers, each:										
1978	4.275	0.775	5.05	1.00	6.05	4.275	0.775	5.05	1.00	6.05
1979–80	4.330	.750	5.08	1.05	6.13	4.330	.750	5.08	1.05	6.13
1981	4.525	.825	5.35	1.30	6.65	4.525	.775	5.30	1.30	6.60
1982–84	4.575	.825	5.40	1.30	6.70	4.550	.800	5.35	1.30	6.65
1985	4.750	.950	5.70	1.35	7.05	4.400	.800	5.20	1.35	6.55
1986–89	4.750	.950	5.70	1.45	7.15	4.400	.800	5.20	1.45	6.65
1990–94	5.100	1.100	6.20	1.45	7.65	4.150	.800	4.95	1.45	6.40
1995 and later	5.100	1.100	6.20	1.45	7.65	4.000	.850	4.85	1.45	6.30
Self-employed persons:										
1978	6.0100	1.0900	7.10	1.00	8.10	6.0100	1.0900	7.10	1.00	8.10
1979–80	6.0100	1.0400	7.05	1.05	8.10	6.0100	1.0400	7.05	1.05	8.10
1981	6.7625	1.2375	8.00	1.30	9.30	6.7875	1.1625	7.95	1.30	9.25
1982–84	6.8125	1.2375	8.05	1.30	9.35	6.8000	1.2000	8.00	1.30	9.30
1985	7.1250	1.4250	8.55	1.35	9.90	6.6000	1.2000	7.80	1.35	9.15
1986–89	7.1250	1.4250	8.55	1.45	10.00	6.6000	1.2000	7.80	1.45	9.25
1990–94	7.6500	1.6500	9.30	1.45	10.75	6.2500	1.2000	7.45	1.45	8.90
1995 and later	7.6500	1.6500	9.30	1.45	10.75	5.9750	1.2750	7.25	1.45	8.70

Source: Social Security Administration, Office of the Actuary, June 21, 1978.

TABLE 2.—ESTIMATED OPERATIONS OF THE OASI AND DI TRUST FUNDS, COMBINED, UNDER THE PROGRAM AS MODIFIED BY THE TALMADGE BILL, CALENDAR YEARS 1977–88

[Dollar amounts in billions]

	Income	Outgo	Net increase in funds	Funds at end of year	Funds at beginning of year as a percentage of outgo during year
Calendar year:					
1977	$82.0	$87.3	−$5.3	$35.9	47
1978	91.8	97.1	−5.2	30.6	37
1979	105.8	107.8	−2.0	28.6	28
1980	118.9	119.3	−.4	28.2	24
1981	137.9	131.1	6.8	35.0	21
1982	154.0	143.4	10.6	45.5	24
1983	168.7	155.6	13.1	58.6	29
1984	181.8	168.0	13.8	72.4	35
1985	190.5	180.3	10.2	82.6	40
1986	204.0	193.0	11.0	93.6	43
1987	218.1	206.2	11.8	105.5	45
1988	233.7	220.0	13.7	119.1	48

Note: The above estimates are based on the intermediate set of assumptions in the 1978 trustees report.

Source: Social Security Administration, Office of the Actuary, June 21, 1978.

Mr. TALMADGE. I yield back the remainder of my time.

POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978—CONFERENCE REPORT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of the conference report on H.R. 5146, which the clerk will now state by title.

The legislative clerk read as follows:

Conference report on H.R. 5146, an act to amend the tariff schedules of the United States to provide for the duty-free entry of competition bobsleds and luges.

The ACTING PRESIDENT pro tempore. Time for debate on this conference report is limited to 8 hours today to be equally divided and controlled by the Senator from New Mexico (Mr. SCHMITT) and the Senator from Colorado (Mr. HASKELL).

The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I would, first of all, request unanimous consent that Chi Lang of Senator STEVENS' staff be granted privileges of the floor during consideration of this conference report.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield for a unanimous-consent request?

Mr. SCHMITT. I would be happy to yield.

Mr. ROBERT C. BYRD. I thank the distinguished Senator from New Mexico.

ORDER TRANSFERRING CERTAIN MEASURES TO THE CALENDAR OF SUBJECTS ON THE TABLE

Mr. ROBERT C. BYRD. Mr. President, I ask that the following measures be transferred from the General Orders Calendar to the Calendar of Subjects on the Table: Calendar Order No. 143, Cal-

endar Order No. 144, Calendar Order No. 336, Calendar Order No. 369, Calendar Order No. 395, Calendar Order No. 403.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator from New Mexico for yielding.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

POWERPLANT AND INDUSTRIAL FUEL ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report on H.R. 5146.

Mr. SCHMITT. Mr. President, my efforts to extend the time available for consideration of this coal conversion conference report have been reported in some media outlets as a filibuster. I would just like the RECORD to show there is no attempt here to have a filibuster or even a period of extended debate.

It is merely an attempt on my part to extend, through parliamentary procedures, the number of hours available for considering a complex and potentially very expensive measure.

In spite of all the time spent on this bill and all the diligent and sincere efforts that have been made to bring it to the floor at this time, and in spite of all the other energy bills that will come before us as conference reports are presented to the Senate, this bill and its companions are not clearly understood by the Senate, certainly are not clearly understood by the media, and I would submit not clearly understood by the public. Some additional debate, I think, is clearly warranted, and the answers to some questions about the measure before us are clearly warranted.

It is unfortunate that there seems to be a mad rush to have an energy bill, any bill, no matter whether it is part of a coherent national energy policy or not.

In the present voter climate a bill that will increase costs of energy and, therefore, inflation, a bill that will increase regulation by the Federal Government of our economy and our society, and a bill that will probably increase our dependence on imported oil must be carefully reconsidered no matter how good and noncontroversial this bill may have looked a few months ago.

I think it is clear from our recent surveys, from our recent visits to our home States, that the voters, our constituents, in general do not want more inflation of power costs. They do not want more regulation by the Federal Government, and they realize, I believe, maybe more than we do, that the Nation cannot stand more dependence on the increasingly high costs and increasingly uncertain imports of oil.

The principal problem with this bill and its four companions is that they are negative in their basic approach. These bills are also based on many false assumptions, some of the most critical assumptions being, one, the size of our energy resource base which, in the case of oil and gas, is seriously underestimated by the proponents of the bills, and in the case of uranium is seriously overestimated by the proponents of the bills; two, the rates at which various components of that resource base will become economically available or available at all, given various environmental constraints now imposed upon that resource base; three, the relation between our use of energy and our rate of economic growth, a relationship that has been very closely coupled throughout most of our history and is not going to be decoupled in any significant way over any short period of time; four, the liability of government to regulate a market system better than the market system itself.

Mr. President, I might add parenthetically that it is this Senator's sincere wish and hope that the appropriate representatives of the Energy and Natural Resources Committee and other interested Senators will find their way to the floor this morning in order to present the answers to questions that were presented to them on Friday. While we are awating the arrival of those Senators, I think it is important to consider, maybe further than was done on Friday and maybe further than we have done in this Chamber at any time during the 95th Congress, just what kind of an energy policy would be appropriate for America.

AN ENERGY POLICY FOR AMERICANS—PROLOGUE

It is this Senator's belief that an energy policy for Americans must be positive in its spirit. It must call on the best in the American character; the creativity, the competitiveness, and the compassion that conquered American wilderness and met the major challenges of the last 200 years. Otherwise, there is no humanistic foundation for success. An energy policy for Americans must first define the problems to be solved, and then set out deliberately and urgently to solve them. It must identify with the mothers, the workers, the professionals, and the poets in all walks of life who have joined together to surmount America's past difficulties.

An energy policy for Americans must assure, as we always have, that we will discover new ideas and will make these ideas work to meet the long-term challenges. In this way we will act with confidence that the short-term sacrifices will not be in vain. In asking for the temporary loss of economic and personal freedom with "the moral equivalent of war," the policy must hold out an achievable and broadly believed promise of victory.

An energy policy for America must be underlain by a foundation of realistic assumptions on the strength of the American system, the quantity of American resources, and the facts of the American economy.

Most of all, an energy policy for Americans must rapidly give young men and women the motivation, the resources, the information and the leadership they can use to move their nation from a time of impending energy crisis to a time of energy balance and growth. This is the way our challenges have been met before; this is the way it must be done now.

This positive outlook that cries out from the American character has been forged by our unique history as a nation. From our ancestors to ourselves, we want new country to look at, new ways of doing things, new ideas to try. We want to move forward in the face of challenge; never to admit there are rivers that cannot be crossed, diseases that cannot be cured, or moons that cannot be visited.

The first American challenges were the oceans and wildernesses that lay that precious individual freedom that surges within the human soul.

Then came the growth of a nation through the Western frontier and the industrial and agricultural revolutions. Our compassion for the freedom of other peoples drove us onto the world scene in response to the challenges of worldwide aggression. The space and nuclear challenges began to force new directions across new frontiers for Americans and for mankind.

As Americans faced the nuclear and space challenges, they set off a rapid technological explosion. This explosion brought to mankind not only the opportunity of moving into space, but also the opportunity of a future civilization on Earth and in space in which the age-old human problems of ignorance, hunger, disease, poverty, and isolation will have disappeared. There is now light at the end of these human tunnels that is no longer the lamp of an onrushing train.

The energy challenge is the first that must be faced squarely as we move toward this future civilization. It is the challenge to provide stable and growing civilization for our children while protecting their Earth.

THE ENERGY CHALLENGE

It would be a disservice to the President to fail to recognize the moral leadership he has shown; to fail to give sincere credit to the effectiveness of his presentations about the reality and crisis proportions of our energy challenge. He has succeeded where many of us have failed. We must take advantage of the opportunity he has provided by creating this environment for action.

However, the President's energy proposals are extremely disturbing because of the tone they set. That tone was negative. It was not the positive tone that Americans traditionally set for themselves as wars are won, dreams made true, and frontiers explored. Has the American character changed so in less than a decade? Are the 1970's so different from the 1960's, or the 1950's, or the 1940's? I am sure they are not.

Our principal response to the energy challenge should be to harness the Sun, nuclear fusion, and hydrogen fuel before the end of the next decade. As we enter the 21st century, these energy sources can gradually establish stability within the economy and the environment. These three major programs can be and will me successful if we just get to them.

Harnessing the Sun will require both terrestrial and space-based electrical

power facilities and the broad use of "energy crops" to generate special solid, liquid, and gaseous chemicals.

Harnessing nuclear fusion, the joining of atoms, as a source of electrical power first will require intensive and coordinated efforts along several possible research paths until the best is clearly defined. Then, the focus can be on developing commercial systems.

Harnessing hydrogen as a safe and abundant fuel for transportation and other portable uses will move rapidly once the economical decomposition of water is possible. With this accomplished, hydrogen-based energy conversion systems can be developed. Such systems will include hydrogen engines for vehicles, hydrogen fuel cells for electrical power, and super-conducting power "pipelines" cooled by liquid hydrogen flowing to markets throughout the Nation.

Our second major response to the energy challenge must be to buy time until our future energy sources are fully in place. Major technology advancement programs are necessary to develop new or upgraded engines and electrical and thermal energy systems so that petroleum, coal, uranium, thorium, and geothermal sources can be used with maximum efficiency for the next 30 to 50 or maybe 75 years.

These technology advancement programs should be partnerships between Government, industry, universities, and the public much like our aeronautical program is today. They should concentrate primarily on surface propulsion systems, electric power generation, thermal energy utilization, and energy conservation, using solar energy in homes, building, and industry.

Associated with the technology advancement programs there should be a major effort by Government to assist the public, not regulate it, in the rapid development and environmentally reasonable use of coal, uranium, thorium, and geothermal energy sources.

Federal assistance may take the form of technology advancement projects, research on waste management, and other environmental technologies, regulatory reform, or financial incentives where clearly warranted. By 1985 there should be a clear decision between the use of uranium fuel cycles or the use of thorium fuel cycles as a foundation of the nuclear fission reactor and breeder reactor industry. This industry's contributions to electrical and thermal energy production must be substantial if we are to survive over a half century of transition to solar, fusion, and hydrogen systems.

The third major response that Americans require, and which is required by the energy challenge, is to take urgent action to relieve our present crisis of supply with respect to oil and natural gas. Our society is dependent on oil and natural gas at this time. It is also the most well-developed technology, exploration technology, that we have today.

Three essential steps are necessary to meet the energy challenge, in this Senator's opinion: First, there must be a complete and active energy emergency preparedness plan which would carry the Nation through any major and prolonged interruption of energy supply. Second, the energy extension service must be funded and implemented on a broad scale to assist Americans in the reduction of energy waste and cost. Third, the Federal Government must set a policy of regulatory reform which will rapidly accelerate domestic production of oil, natural gas, coal and uranium.

The energy emergency preparedness plan must consist of a continuously updated definition of essential needs and of available supply. Essential needs must be analyzed geographically, including standby allocations and distribution plans. Analyses of available supply at any point in time must include emergency storage, emergency production potential, short-term alternatives, and standby rationing. Most importantly there must be nationwide education about the plan and what individuals and industries should do in the event of an interruption of supply, either through local problems in climate or through international problems in foreign policy.

The energy extension service, which is now only experimental, should be patterned after, or possibly integrated with, the agricultural extension service which all people who dealt with know to be a success. Local people helping local people with the direct assistance of the State universities seems to be a very fine system to implement in this case.

The energy extension service should disseminate information on available and cost effective conservation technology and techniques. This service also can be the operational arm of the energy emergency preparedness plan.

The regulatory reforms required to increase domestic energy production must include a return to reason in the implementation of environmental laws as well as a gradual return to a free market energy pricing system. The essential elements of this effort must be the decontrol of new natural gas and oil prices, the availability of drilling cost tax deductions, acceleration of Federal leasing of public lands, the reinvestment of profits in new exploration and production, and a hardship assistance program for those poor Americans now dependent through no fault of their own on cheap, artificially cheap, energy.

There are two other major but more general activities are required in addition to the programs I have mentioned. First, there must be an effective management of the reprocessing, the reuse and, if necessary, the disposal of nuclear materials in the world. Second, there must be monetary and fiscal policies that encourage the free enterprise system, including the consumer, the worker, the researcher, and the investor, to take the initiative wherever possible in meeting the energy challenge through their own resources.

Mr. President, one of the greatest challenges facing this country and the world today is the balancing of the use of our land, water, and air with the need to preserve our Earth for future generations. We can do this. There is no question in my mind or in, I think, at least the younger generation's minds that this is possible. We are in the midst of a revolution in technical and scientific know-how that just a few years ago was beyond the reach of our imaginations.

The benefits of this revolution allow us to reach for the stars while we maintain the balance we need here on Earth. All we have to do is start with the acceptance of the energy challenge. Then, we can launch the major effort to provide inexhaustible and clean solar, fusion, and hydrogen energy sometime early in the next century, and we can meet our interim needs until such future energy sources become available.

We can accomplish feats that our parents would not have done or even conceived of. There can be powerplants and smelters without pollution; there can be strip mining with restoration actually improving the land for agricultural purposes; and there can be energy that is compatible without natural environment. All we must do is be positive, confront the challenge as Americans have before. In so doing we can harness our abilities to make this country and the world stronger and freer for generations to come.

Unfortunately, the energy bills coming from conference are not a true energy policy. It does not mean that these bills are not going to be passed. But Americans should be told that they will not solve the basic problems that we have with respect to energy in our economy today. The economic and resource assumptions upon which that so-called policy was based are wrong.

There are really no long-term true policy goals or objectives that have been articulated which reflect, in a comprehensive way, the basic problems which face this country now and subsequently, on into the next century.

The national energy policy should have been a set of goals and objectives that dealt with the long-, intermediate- and short-term needs of the country, and the long-, intermediate-, and short-term possibilities and probabilities of being able to satisfy those needs.

The current so-called national energy plan, first of all, is not a set of guidelines to go from today, with our high dependence on fossil fuels, to a time of excess supplies and inexhaustible energy sources. Rather, the plan is a set of formulas for price regulation, expensive conversion to coal, and extreme taxation. Americans do not like regulation, and they also do not like taxation. Regulation and taxation never increase the supply or reduce the cost of anything that I am aware of. Americans want increased supply at less cost. Production in a free market is the only known means of achieving this end.

The present plan that is before us in the form of this bill, and others soon to be before us, offers no positive psychological incentive to participate in a national effort to create new and abundant sources of domestic energy and develop the technological alternatives that may be available in the future. If the President and the Congress are bewildered

as to why the plan that has been put before the American people has not been received with greater enthusiasm it is because Americans do not respond well to regulation and taxation, and it is to their credit that they do not respond well to that form of government.

It must be recognized that there is a continual change in energy markets; changes due to the discovery of a new resource; changes due to the development of new technologies, changes due to a decrease in the importance of a resource; changes due to the penetration of a new technology or resource in the market; changes due to the fact that a particular resource is suddenly viewed as exhaustible; or changes due to new social priorities that appear and could govern the use of specific resources. All of these and many other factors are part of the free market system and it is beyond the capability of Government today, and very probably will always be beyond the capability of Government, to adjust and play these various market forces against each other. Only the market can do that.

Because of this constant movement of trends, it is essential that an energy policy be flexible and primarily based on this free market, a market which can be changed and can adapt to changing circumstances. Our Government's role should be that of a referee, primarily, and when clearly necessary, the taker of risks to help accelerate new and necessary production in environmental technologies. The establishment of Federal programs to assist consumers in business where risk is high must be aimed at moving targets, spaced differently in time and requiring different weapons if successful hits are to be recorded.

A policy cannot be regarded as a mechanism or formula for achieving a goal in a static situation through increased regulation and taxation. A true energy policy would have been, as I have indicated, positive in approach, what I would say is a typical American approach, on which, again in addition to asking for sacrifice with the moral equivalent of war, would have presented a true and achievable promise of victory after that sacrifice is complete.

In the time between now and the early part of next century, when these other technologies could be available, we have to buy time. Our principal means of buying time for two or three or four decades will come through the increased use of coal and through the use of nuclear power, nuclear fission power. There will be other energy sources, like geothermal and dispersed solar energy, but our principal resource base will be that of coal and uranium if we are to actually buy the time we need. Coal and nuclear fission in some presently unknown ratio of use will be what will hold out the promise of victory.

In the short term, as I think practically everyone in this body would agree, we are dependent on oil and natural gas. Our technology is based on oil and natural gas as our principal affordable fuel. We have no other alternative but to be able to produce more and waste less.

If we recognize this, then the marketplace will gradually force more and more conversion to coal and nuclear power as environmental problems are solved and oil and gas become more scarce and increasingly more expensive in the market system.

We have tremendous potential for the production of oil and natural gas in this country and in areas accessible to this country. These areas exist within the contiguous United States and Alaska and in nearby offshore areas. It is geologically realistic to assume that there is the same volume of potentially productive rock yet to be drilled for oil and gas as has been drillled in this country to date. If one can agree with that basic fact—and it is a fact—the fact that there are deep rocks, that there are offshore rocks, rocks in Alaska and rocks as yet not fully explored in known basins and stratographic traps in the contiguous United States, then we are talking about, at a minimum, 300 billion barrels of crude oil yet to be produced and 700 trillion cubic feet of natural gas yet to be found and produced. That is only assuming that there is just as much volume of rock left to look into as we have looked into to date. Assuming that we only consider primary production techniques and ignore the potential, which we should not, of secondary and tertiary production. In oil alone, if we examine the potential of secondary and tertiary production, we may very well, in known fields, have accessible 100 or more billion barrels of new oil.

If you are as optimistic as I am about American technology and you know a little bit about the geopressured brine reservoirs of our gulf coast, then there is a possibility of 10, 20, maybe even 80,000 trillion cubic feet of gas yet to be produced for use in this country. Our annual use rate of natural gas is about 20 trillion cubic feet, almost insignificant in the face of these estimates of dissolved natural gas in the geopressured brines of the gulf coast. So there is not a shortage of potentially available domestic oil and natural gas. To talk of a shortage is only a shortage of will and an environment in which that oil and gas can be produced.

The question is, Is there a shortage of will to produce from this resource base so that we can survive the present, so that we can buy the time for the future, and so that we can, once again, be where we ought to be as a leading exporter of energy and technology in this world? Any energy policy that is going to work for Americans must be based on this positive approach and on realistic assumptions about what America can do and should do.

Mr. President, I ask unanimous consent that my suggestion for the absence of a quorum be provided for out of the time of the proponents of the conference report, since they are not yet, apparently, able or ready to respond to my questions. I make that unanimous-consent request.

The ACTING PRESIDENT pro tempore. I object in my capacity as the Senator from Arkansas. The majority leader is not on the floor, nor any Member of the majority party.

Mr. SCHMITT. Mr. President, then I ask unanimous consent that the time for the quorum call come out of neither side's time.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that I retain my right to the floor when the quorum call is rescinded.

The ACTING PRESIDENT pro tempore. Is there objection to the second request? Hearing no objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. ALLEN). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, we are awaiting the arrival of Senator HASKELL, who has been conducting a hearing before the Committee on Energy and Natural Resources. He is the only majority Senator available to conduct that hearing, and he is expected to recess the hearing to come to the Chamber. Due to the fact there is no one else on the floor at the moment to respond to the questions by Mr. SCHMITT, I shall proceed to respond to those questions, using the responses that have been prepared by the committee and the managers of the bill on this side of the aisle, as well as the staff, over the weekend. Shortly, Senator HASKELL will be here, at which point he will take over. However, to utilize the time to the best advantage, I shall proceed in this fashion.

I yield such time as I may require, on behalf of Mr. HASKELL.

The first question is as follows:

Is there a requirement within the bill or would the committee, for the purposes of legislative history, be willing to set a requirement for the Secretary to evaluate the local economic impact of specific orders and rules; and that economic impact to include the burden of paperwork that would be placed on petitioners or other citizens relative to those orders and rules?

The response is as follows:

The conference agreement (in section 743) requires the Secretary to conduct on a continuing basis evaluations of potential losses of employment which may result from the application of this act. This evaluation is to include potential shifts of employment, as well as potential losses of employment resulting from this act.

In addition, the conference agreement in subsection 701(g) requires the Secretary to request the FTC to review any petition and all proposed rules or orders issuing a prohibition or granting an exemption for a new or existing MFBI to evaluate the impact on competition.

There is no requirement under H.R. 5146 that the potential or actual paperwork burden be analyzed.

Question No. 2 is as follows:

Similarly, could legislative history be established to set the requirement for the Secretary to evaluate the national economic

impact of specific orders and rules, again including paperwork impact on petitioners and other citizens?

The response is as follows:

There is no requirement in the conference agreement that the Secretary analyze the national economic impact of specific orders or rules. Legislative history establishing such a requirement would be ineffective in the absence of a specific provision to which the legislative history could be attached. Moreover, the appropriateness of such an evaluation is questionable due to the extensive paperwork that would result therefrom. For example, this bill requires that orders and rules establishing prohibitions for existing powerplants and installations, as well as orders granting or denying exemptions for both new and existing facilities, shall be, in general, on a case-by-case basis. However, the Department of Energy will in fact analyze the economic impacts pursuant to the Federal Executive order on "Improving Government Regulations."

Question No. 3:

In a similar vein, could requirements be set and what should those requirements be for the Secretary to evaluate State and National judicial impact of the various orders and rules that he may promulgate?

The response is as follows:

It is difficult to predict with any accuracy the burden on court calendars and workload of particular rules and orders that may be promulgated. However, it is understood that the Department of Energy does consider the likelihood of litigation when it develops any particular rule or order. With regard to H.R. 5146, the Department has over 5 years of experience pursuant to existing law upon which to conduct this review.

Question No. 4 was as follows, and this is again a question submitted by Senator SCHMITT:

Additionally, I would be interested if the committee would provide the justification for the "burden of proof" in the search for exemptions to rules and regulations under this act being placed on the petitioners, that is, the American citizens rather than on the bureaucracy which is creating and administering those rules and regulations.

The response is as follows:

At the time of Senate consideration and during the Senate-House conference, extensive consideration was given to the question of who should bear the "burden of proof" under H.R. 5146, as well as under existing law, which is the Energy Supply and Environmental Coordination Act of 1974.

The general rule adopted by the Senate-House conferees was to place the burden of proof on the parties most capable of bearing it. Consideration was given to minimizing the regulatory burden on Government, as well as the regulatory and economic burden on owners and operators of electric powerplants and major fuel-burning installations. Particular attention was given to orders and rules establishing prohibitions, as well as orders granting or denying petitions for exemptions. It is the judgment of the conferees that an equitable balance was achieved in this regard. For example, the case of existing electric powerplants is discussed in the Statement of Managers on page 81, which I will read into the RECORD:

The conference agreement adopts with modification the House provision which authorizes the Secretary to issue prohibitions (by order or rule) pursuant to section 303 against any existing powerplant using natural gas or petroleum if he finds prior to issuing the proposed rule or order that the powerplant has, or previously had, the technical capability to use coal or another alternate fuel.

Before issuing a notice of a proposed rule or order prohibiting the use of natural gas or oil, the Secretary has the burden to find, at the time of issuance of such proposed rule or order, that the existing powerplant is technically capable or was technically capable of using coal as a primary energy source. Any reasonable evidence of such capability, such as engineering drawings, will suffice in meeting this burden. It is not intended that the Secretary go through any hearings or exhaustive investigation to make this initial finding. It is in essence a paper search. The final rule or order, of course, concerning this test must be supported by substantial evidence. . . .

When the final rule or order is issued, the Secretary must find that the powerplant has such capability or could have without substantial physical modification or substantial reduction in the rated capacity of the powerplant. In addition, the Secretary must find that it is financially feasible for such powerplant to use coal or another alternate fuel.

Mr. President, I now yield the floor to Mr. FORD, who is a member of the committee.

Mr. FORD. I thank the majority leader, and I will attempt to continue with the answers for the distinguished Senator from New Mexico. It will take me a while. If he wants to sit down and relax I will be delighted to proceed as best I can. There is no need for him to stand unless he has further questions. I will be glad to do it.

Mr. SCHMITT. Mr. President, if the Senator will yield for a procedural question, entirely on his wishes, does he wish to go through each of the questions individually or go through the whole package and then come back to the ones where there may be questions?

Mr. FORD. I will be glad to do it any way the Senator wants to do it. I have been rushing from Owensboro, Ky., to get up here to do this for the Senator.

Mr. SCHMITT. I cannot tell the Senator how much I appreciate that.

Mr. FORD. I want him to know I am glad to be here.

Mr. SCHMITT. I think it might be best if we go through the list of questions and then go back to individual ones to carry on the discussion.

Mr. FORD. Fine. I will be glad to.

Mr. SCHMITT. Yes.

Mr. FORD. Question No. 5:

Another question is what is meant by the "good faith effort" to comply with conversion before exemption is granted as is propounded at least in sections 211 and 212 and maybe in our sections that the Senator has not had an opportunity to study completely?

Additionally, with respect to the good faith effort question, what legislative history can be established as to provide guidance to the Secretary for evaluating whether or not a good faith effort has been made?

Answer to question No. 5:

The determination of what constitutes a "good faith effort" is a subjective judgment that is to be made by the Secretary and reviewed by the courts in light of well established legal concepts. However, the conferees assume that the Secretary, when granting or denying petitions for exemption, will exercise his discretion reasonably in determining what constitutes a "good faith effort" and will be guided by precedential judicial decisions.

Question No. 6:

I would also appreciate the committee discussing the rationale for tying excessive costs criteria for an exemption to imported petroleum which the committee realizes is an uncertain cost, hardly one that is going to be easily evaluated in the future.

It may be that there is some clear rationale for this, but so far it has escaped this Senator. I specifically would refer the committee to sections 211(a)(1) and 212(a)(1) for reference to this question.

The answer to question No. 6:

The conferees tied the cost test for an exemption to the price of imported oil because that price is the true cost to the American economy. As the demand for oil increases, the price that must be paid by the American consumer is the subsidized price of imported oil.

Question No. 7:

Also, Mr. President, as I have indicated earlier, I would like the committee to discuss the compatibility in some specific terms between the regulatory provisions that are provided for in this act and the regulatory provisions that exist in the Surface Mining and Surface Reclamation Act passed last year, and in the existing Environmental Protection Act, and pointing out those areas where they believe that inconsistencies may occur, and therefore, further Senate action may be required to resolve those inconsistencies.

The answer to question No. 7:

In the statutory statement of purposes in H.R. 5146, section 102(b) states that this act "shall be carried out in a manner consistent with applicable environmental requirements." Therefore, no conflict with environmental law can arise. With regard to the Surface Mining Control and Reclamation Act of 1977, that act deals with coal production. This act deals with the use of coal. Nothing in H.R. 5146 could be interpreted to require the production of coal in violation of any of the requirements of the Surface Mining Control and Reclamation Act of 1977.

Exemptions are provided in this act for the use of petroleum or natural gas where coal cannot be obtained or where environmental law and regulation would preclude the use of coal.

Question No. 8:

I would also ask if there is any specific provision within the bill that would provide for exemptions for the use of natural gas in electric powerplants which install solar regeneration units. Cogeneration is discussed in the bill in several places. I have not found any references to the concept of regeneration, which is an extremely important means of reducing the use of natural gas where no other fuels may be available.

The answer to question No. 8:

There is no permanent exemption provided in H.R. 5146 for the use of natural gas on the basis of adoption of advanced technologies. However, the measure does provide temporary exemptions of up to 5 years duration for the use of natural gas

or petroleum where an existing powerplant or major fuel-burning installation demonstrates the need for additional time to effectuate the use of advanced technologies which rely on coal or other alternate fuels to natural gas or oil.

Question No. 9:

The question has been raised that relative to utilities that are presently moving toward conversion to coal, something like 259 new coal plants are presently planned to be constructed between now and 1985, and my question relative to that would be what is the impact in terms of the availability of capital, equipment and hardware of this bill on the already planned construction projects?

The answer to question No. 9:

No impacts are anticipated. Between now and 1985 the conference agreement is not expected to have an impact upon new electric powerplants. The principal effect of the bill will be to encourage the long-term utilization of coal and other alternate fuels by electric powerplants. H.R. 5146 is formulated to assure that current utility construction programs, which emphasize alternative fuels to oil and natural gas, are actually carried out. Due to the long construction time for new electric powerplants the principal benefits of H.R. 5146 will be realized after 1985. However, should shortages of necessary capital, equipment, and hardware to comply with the requirements of H.R. 5146 develop, the measure provides certain exemptions to address such lack of availability of equipment and hardware, as well as exemptions based upon findings of economic and financial feasibility as discussed in the answer to questions 20 and 21.

Question No. 10:

There is also a question that in the conversion from older plants burning gas or petroleum to plants burning coal—and this is conversion of existing plants—there may be a reduced plant life as contrasted to the construction of the planned plant life of the existing facility, and I would appreciate it if the committee could talk to that point on Monday also.

The answer is:

The conference agreement regarding existing electric powerplants is addressed only to facilities which were initially constructed with or later acquired the capability to utilize coal. Financial and economic feasibility tests may serve as the basis for exemptions. Such tests will take into account any changes in plant life of the existing facility.

Question No. 11:

Additionally, in this general category of questions, the overall discussion of the availability of hardware for the level of conversion that is envisioned would be an important one. For discussion, can, in fact, the provisions of the bill be accomplished within the constraints of other demands on the industrial manufacturing capacity of this country?

The answer is:

The conference agreement has addressed the possibility of shortages in the availability of hardware to meet the need for new construction, as well as effect conversion of existing powerplants and major fuel-burning installations. Should such shortages develop, temporary and permanent exemptions are available.

Question No. 12:

Relative to specific questions within the body of the bill itself, I would list the following: Under section 202 that deals with prohibitions on nonboilers, prohibition on the use of natural gas, is it the intent of the committee to include fuel cells in that prohibition, a new technology that has been unfortunately delayed because of the lack of cash flow within the industry that would construct fuel cells but, nevertheless, a technology that appears to be viable economically, and certainly viable from an environmental point of view? Fuel cells that burn natural gas can do so at a much higher efficiency than can existing natural gas plants and certainly with almost no impact on the environment.

The answer is:

The conference agreement does not include fuel cells in the definition of powerplants and major fuel-burning installations, therefore, they would not be effected by the act.

Question No. 13:

Also in that section I would appreciate some indication from the committee of what they would feel would be required to be accomplished by a petitioner during the 60 days that a petitioner would have to petition for an exemption after a rule has been made, the 60 days being provided in paragraph (b) of section 202.

Answer: There is no requirement that a petition for an exemption be filed within 60 days of the final rule. The reference in section 202(b) requires that a petition for a stay be filed within 60 days of the final rule in order to get an automatic stay of the prohibition pending its resolution. A petition for an exception may be filed after the 60-day period, and the Secretary will consider it, but no automatic stay of the prohibition will be granted. A parallel might be drawn to the judicial process where a minimal filing is required within the 60 days.

Question No. 14:

Again relative to the problem of if not being clear what the words of the bill mean, I would appreciate it if the committee would give some guidance, legislative guidance, to the phrase "substantially exceed" under section 211, paragraph (a)(1). Is it possible to define somewhat better than is apparent at this time what the phrase "substantially exceed" does not do? I quote the paragraph:

(1) it is likely that an adequate and reliable supply of coal or other alternate fuel of the quality necessary to conform with design and operational requirements for use as a primary energy source will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the cost, as determined by rule by the Secretary, of using imported petroleum as a primary energy source;

This relates back to my previous question of, Is imported petroleum the appropriate base upon which to base a cost estimate and, further, what does the phrase "substantially exceed" entail?

Answer (also see answer to question 6):

The Secretary is by rule to define the term "substantially exceed." There are administrative and judicial procedures for establishment of this test and its reasonableness. It is assumed by the conferees that the Secretary will exercise his discretion reasonably in determining how "substantially exceeds" is to be evaluated and will be guided by any precedential judicial decisions.

Question No. 15:

Under paragraph (c) there is another uncertain expression in that a petitioner must demonstrate that for the period of the proposed exemption the issuance of such exemption would be in the public interest, and I would like some indication from the committee what does it take to demonstrate that something like that is in the public interest.

Answer to question No. 15:

The conference agreement in subsections 211(c) and 311(e) authorizes the Secretary, in his discretion, to grant an exemption to use natural gas or petroleum, if he finds that the petitioner has shown that for the entire exemption period it would be in the public interest and consistent with the purposes of the act to grant the exemption.

In the judgment of the conferees, every possible circumstance could not be anticipated, but the intent of the public interest exemption was to provide the Secretary the flexibility to grant an exemption for potential unforeseen reasons. Any further definition would only serve to limit the usefulness of the provision.

Question No. 16:

In subparagraph (e)(2)(B) under section 211 reference is made to a limit on an exemption of 10 years. I would appreciate some guidance from the committee on what will be done if coal was still not available after that 10-year period. Can another exemption be applied for or is that the end of it? The coal regulations and the coal market being as it is or may well be over the next 10 years, unfortunately, there may be a great deal of uncertainty as to whether coal will be available in that time frame no matter how good our intentions may be.

Under section 212, Permanent Exemptions, there is a problem in terms of judgment in the criteria that would be used to make the decision on whether a permanent exemption is to be granted.

If the Secretary finds that a petitioner has demonstrated that, despite diligent good faith efforts, it is likely that an adequate and reliable supply of coal or other alternate fuel will not be available within the first 10 years of the useful life of the powerplant or installation.

My question is, Who will make that determination, and on what basis will that determination be made?

Answer:

The Secretary would make the determination on the basis of the evidence supplied for the record in connection with the petition for the exemption. If the record supports a finding by the Secretary that coal would not be available during the initial 10-year period, the exemption would be granted. This is a nondiscriminatory exemption. The statement of managers provides guidance in this regard on page 76 of the report:

"The conference agreement adopts the House test of coal availability. However, when it is shown on a case-by-case basis that coal would not be immediately "available" but would become "available" within the first 10 years of operation of the powerplant or MFBI, construction with a duel-fired fuel capability would be required in order to build

and operate the facility and a temporary exemption to use petroleum or natural gas would be granted for the necessary initial years of operation until the coal was available. This would all be determined by the DOE, after the proper showing by the applicant. If it is shown that coal will not become available at anytime during the first 10 years, a permanent exemption shall be granted."

The conference agreement also adopts the following generic rule as discussed in the statement of managers on page 73 of the report:

Both bills required that the person seeking a temporary exemption clearly demonstrate to the Secretary that such person will qualify for the entire period of the exemption. Unless otherwise specified in the applicable provisions, the Secretary is required to grant an exemption if he finds that the person has clearly met the tests for an exemption. The burden is on the person requesting the temporary or permanent exemption.

In those instances where a temporary exemption is authorized and there is also authorized a permanent exemption with identical criteria if the petitioner demonstrates to the satisfaction of the Secretary that he would be entitled to the temporary exemption, but for the fact that he could not comply within the time provided for such exemption, he is then eligible for the companion permanent exemption.

Question No. 17:

Under paragraph (b) of section 212, there may be one of the most serious problems with this bill. In subparagraph (1) under paragraph (b), where the Secretary may order a permanent exemption if he finds "that the petitioner has demonstrated"—there is that phrase again—that—

With respect to the proposed site of the powerplant or installation, the construction or operation of such a facility using coal or any other alternate fuel is infeasible because of a State or local requirement (other than a building code or a nuisance or zoning law);

My concern is about the parenthetical phrase "(other than a building code or a nuisance or zoning law)."

Does this not indirectly preempt local law in this area? That is my question.

A related question is, Is it not a provision that may be unconstitutional, in providing the Secretary with that kind of power to indirectly preempt local building codes and zoning law?

I realize the impact of that is that the powerplant would not be built if the Secretary found a building code or zoning law to be inappropriate in his opinion; and that is why I say indirectly there is a preemption of services to the local community by the Secretary, and that may be a preemption or a service being denied without due process. I would ask the committee to look at the due process clause as well as the 10th amendment to the Constitution in their consideration of this question.

Answer to question No. 17:

The conference agreement does not directly or indirectly preempt any local building codes or nuisance or zoning laws. Moreover, H.R. 5146 in subsection 761(b) states:

LOCAL ENVIRONMENTAL REQUIREMENTS.—In the case of any new or existing facility—

(1) which is subject to any prohibition under this Act, and

(2) which is also subject to any requirement of any local environmental requirement which may be stricter than any Federal or State environmental requirement.

the existence of such local requirement shall not be construed to affect the validity or applicability of such prohibition to such facility, except to the extent provided under section 212(b) or section 312(b); and the existence of such prohibition shall not be construed to preempt such local requirement with respect to that facility.

In addition, permanent exemptions are provided in sections 212(b) and 312(b) which the Secretary, at his discretion, may grant in recognition of State or local requirements. The Statement of Managers covers this matter on page 85:

As in the case of new powerplants and installations, the conference agreement adopts a modified Senate provision authorizing, at the discretion of the Secretary, a permanent exemption where an existing electric powerplant or major fuel-burning installation which cannot comply with a prohibition because of the existence of a State or local requirement. Such exemption also may be obtained due to a local building code or nuisance or zoning law. However, in all cases the petitioner must show that no other permanent or temporary exemption could be granted for such facility.

The conferees intend that the Secretary determine the purposes of the State or local law and he certainly should not grant an exemption under this provision where it is clear that such law was established for example, to aid the affected powerplant or installation, to preclude the use of coal or alternate fuels in preference for natural gas or petroleum in order to evade the policies, purposes, and prohibitions of this Act. The conferees are particularly concerned about any collusive practices in this regard. The Secretary has discretion here to reject petitions in such situations.

Just as in the case of new powerplants and MFBI's, the exemption must be in the public interest and consistent with the Act's purposes.

Thus nothing in H.R. 5146 would directly or indirectly preempt any services to the local community. Nevertheless, should anything in the act affect service, a reliability exemption also is provided to deal with the situation.

Question No. 18:

Again, in section 212, paragraph (e), I would like some legislative history to define what is meant by "emergency purposes." Some general guidance to the Secretary, I am sure, would be appreciated with respect to the possibility of exemptions for emergency purposes.

Answer: The statement of managers provides guidance on what constitutes "emergency purposes" on page 77:

The conference agreement adopts the Senate provision with modification providing for a permanent exemption for the use of petroleum or natural gas by new electric powerplants or major fuel-burning installations where operated only for emergency purposes. The Secretary would define by rule what constitutes emergency purposes.

The conferees envision that units used for "emergency purposes" would consist of installations which are used to substitute for the usual source of energy in situations other than scheduled equipment outages or interruptions of service. The Secretary will define "emergency purposes" by rule and thus will make his determination on the basis of the evidence supplied for the RECORD.

Question No. 19:

In paragraph (h) of that same section, I would appreciate some comment from the committee about the consequences of the recent EPA decision on Colstrips 3 and 4 in Montana, relative to that section.

Answer:

Since the Colstrip 3 and 4 powerplants in Montana are proposed for the use of coal, these powerplants would be in compliance with H.R. 5146. The issues surrounding compliance of those plants with applicable environmental requirements are matters between owners of the proposed powerplants and appropriate Federal and State environmental agencies.

Questions Nos. 20 and 21:

In section 301, dealing existing electric powerplants and the prohibitions related to those powerplants, I would appreciate the committee giving the Senate and the Secretary, presumably, some guidance on what the constraints on the Secretary will be on his or her determination of technical capability and financial feasibility.

Answer to question No. 20:

The statement of managers on H.R. 5146 provides guidance to the Secretary in his determination of what constitutes "technical capability." The statement of managers on page 81:

The conference . . . authorizes the Secretary to issue prohibitions (by order or rule) pursuant to section 303 against any existing powerplant using natural gas or petroleum if he finds prior to issuing the proposed rule or order that the powerplant has, or previously had, the technical capability to use coal or another alternate fuel.

Before issuing a notice of a proposed rule or order prohibiting the use of natural gas or oil, the Secretary has the burden to find, at the time of issuance of such proposed rule or order, that the existing powerplant is technically capable or was technically capable of using coal as a primary energy source. Any reasonable evidence of such capability, such as engineering drawings, will suffice in meeting this burden. It is not intended that the Secretary go through any hearings or exhaustive investigation to make this initial finding. It is in essence a paper search. The final rule or order, of course, concerning this test must be supported by substantial evidence. The conferees intend, however, that by the term "technical capability" that there must have existed or exists a real capability to use coal or coal derivatives. For example, the facility must not only be able to have been able to burn synthetic gas from coal or other sources, but the facilities to do so must exist or have existed including the facility to convert the coal or other fuel to such gas.

Answer to question No. 21:

The statement of managers also provides guidance to the Secretary for his use in the determination of what constitutes "financial feasibility" on page 81:

When the final rule or order is issued, the Secretary must find that the powerplant has such capability or could have without substantial physical modification or substantial reduction in the rated capacity of the powerplant. In addition, the Secretary must find that it is financially feasible for such powerplant to use coal or another alternate fuel. The Secretary could not issue a final order if such units would have been granted an exemption had the prohibition been established by rule rather than by order.

The Secretary is not authorized by this Act to require the building of a synthetic fuels facility by the powerplant or MFBI.

One test of financial feasibility, in the case MFBI's, is the effect of the proposed rule or order in the operations of the facilities at which the unit is located and whether any required modification to effect the use of coal or another alternative fuel can take place

without unreasonable shutdown of the entire facility.

In addition, the usual administrative and judicial remedies apply to determinations of technical capability and financial feasibility.

Mr. SCHMITT. Madam President, will the Senator yield?

Mr. FORD. Yes, I will be glad to yield.

Mr. SCHMITT. Are those statements which have been previously published?

Mr. FORD. They are all published. It is a matter of record. It is in the statement of managers.

Mr. SCHMITT. The statement of the managers in the original Senate action on the bill?

Mr. FORD. No, the conference report; the final conference report (Senate Report 95-988). The House does one thing, the Senate does another; we then have a conference and from that conference the final bill comes out, and there is a statement of managers of the conferees.

Mr. SCHMITT. Fine, I thank the Senator.

Mr. FORD. Question No. 22:

In section 312, paragraph (1), dealing with permanent exemptions for the use of LNG by certain powerplants, I would like the committee's opinion on the impact of this provision on increasing our dependence on imported liquefied natural gas. It may be that this Senator does not fully understand that provision, but on its face, it looks as if it might push us further toward that kind of dependency, which could be as dangerous as our oil dependency is now.

Answer to question No. 22:

The statement of managers characterizes this exemption on page 86:

The conference agreement adopts the House provision as modified to grant a permanent exemption for the use of liquefied natural gas if the Environmental Protection Agency or State appropriate air pollution control agency certifies that use of coal by such powerplant will cause or contribute to a concentration in air quality control region or any area thereof of a pollutant for which a natural ambient air quality standard is or would be exceeded and that the use of coal would not comply with applicable environmental requirements.

This exemption is restricted to areas where national primary—health—and secondary—welfare—ambient air quality standards are or would be exceeded if coal were used. Therefore, the existing facility also would qualify for a general environmental exemption to use natural gas or petroleum. This exemption is an alternative. However, in the opinion of the committee, the high cost of LNG would dictate that a decision to use LNG would only be made in a very few selective circumstances.

Question No. 23:

In title IV, section 401, paragraph (c), entitled "Exemption" it says:

The Secretary shall exempt any person from any prohibition prescribed pursuant to subsection (a) or (b) if such person demonstrates to the Secretary that an adequate and reliable source of petroleum is not likely to be available to such person during the period of the exemption.

I would like the committee to discuss the phrase "adequate and reliable source" relative to OPEC, and to the possibilities of that source changing, either because of cost or because of supply.

Answer:

The conferees did not intend that the worldwide reliability of OPEC oil be used to determine what constitutes an "adequate and reliable source" of petroleum for the purposes of section 401(c).

Question No. 24:

The next question that I had was on section 213, "General Requirements for Exemptions," paragraph (c), and I read subparagraph (1) under paragraph (c) in order to clarify the question:

Except in the case of an exemption under section 212 (c) or (g), the Secretary may not grant an exemption for a new powerplant unless he finds that the petitioner has demonstrated that there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service and which can be obtained by the petitioner, despite reasonable good faith efforts.

My question is, Will the committee provide some guidelines as to what is meant by "reasonable distance" and "reasonable cost?"

Answer:

The conference agreement melds the alternative power supply tests for powerplants exemptions contained in the Senate- and House-passed bills. The statement of managers provides guidance on "reasonable distance at a reasonable cost" on page 80:

The conference agreement melds these versions to require such a test for all temporary or permanent exemptions, except in the case of a cogeneration or peakload exemption. The petitioner seeking the exemption would be required to demonstrate and the Secretary must determine that, despite good faith efforts, no alternative supply of electric power is available within a reasonable distance to the petitioner's utility system and at a reasonable cost without impairing reliability of service. In granting or denying the exemption the Secretary would have to give consideration to the short- and long-term reliability of such power. Ultimately, the test of "reasonableness" will be made by the Secretary, but, of course, the conferees intend and expect that the Secretary will not be arbitrary in making these determinations. The Secretary also is required to consult with the Federal Energy Regulatory Commission before making such determinations.

Nothing in this section empowers the Secretary to order, as a condition of any exemption, pooling or wheeling, except as is authorized to do so pursuant to other law.

It was the intention of the conferees that the search for alternatives should be constrained within reasonable financial and practical considerations and that any choice of alternatives would not affect short-term or long-term systems reliability. In addition, H.R. 5146 requires that the Federal Energy Regulatory Commission be consulted. Historically, the FERC has a body of experience in this area and is constituted to evaluate and comment on such determinations regarding reliability of service.

Question No. 25:

The second and last question that I wish to propound relates to section 403, paragraph (b), "Federal Contracts and Financial Assistance."

This section appears to require and I believe it does require each Federal agency which is authorized to extend Federal assistance by way of grant, loan, contract, or other form of financial assistance" to promulgate regulations that effectuate the purposes of the act particularly with respect to conservation of petroleum and natural gas.

I have no particular problem with that aim except it is not clear to this Senator what the limits are in terms of agency authority to regulate under this section, what the costs of that regulation might be and how they might be funded, and also it is not clear just what kinds of energy systems are envisioned by the conferees to be included under this.

Answer:

The limits on Federal agency actions pursuant to subsection 403(b) will be established by the President pursuant to an Executive order. The statement of managers addresses the use of this provision for regulatory purposes on page 89:

The President is also required to issue an Executive order within 30 days after the effective date of this Act requiring Federal agencies which provide any form of Federal financial assistance through loans, grants, contracts, and loan guarantees to take steps to effectuate the purposes of this Act relating to the conservation of petroleum and natural gas, by rule, within 180 days after the issuance of the order. The order has to set forth procedures, sanctions, penalties and other provisions necessary to carry out this requirement effectively. The President is authorized to exempt specific grants, loans, contracts, or other forms of financial assistance from this requirement, but before doing so he must give the Congress at least 60 days notice.

The conference agreement also adopts a provision concerning Federal activities to make it clear that a Federal agency cannot use as a condition of financial assistance or contract activities to require compliance by any person or facility with any prohibition under other sections of this Act if such person or facility has been specifically determined by the Secretary to be subject to such prohibition or has been exempted from the application of such prohibition.

The conferees intend that this provision he utilized in connection with ongoing Federal involvements with major energy users to encourage achievement of the basic intent of this act which is to reduce our dependence upon imported oil and to conserve natural gas. The conferees do not intend that this provision be used to undertake any extensive or detailed regulatory action outside of the framework of this act.

Question No. 26:

Going back to the conference report, it appears that the term "major fuel-burning installations" is intended to define what is meant by this section. And my question in addition to the question on limits and costs is, Is there not a more precise definition for "major fuel-burning installations"? And I wish to have that definition made more specific and clarified for the purposes of the other agencies' consideration of their responsibilities under this bill should it become law.

Answer:

The conferees carefully considered the definition of "major fuel-burning installation" and specifically defined such installations on the basis of the specific technologies employed, in subsection 103(10)(A):

(10)(A) The terms "major fuel-burning installation" and "installation" mean a stationary unit consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine which—

(i) has a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) is in a combination of two or more such units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

The statement of managers on page 69 adds the following:

The conference agreement limited the coverage of the definition only to boilers, gas turbines, internal combustion engines, and combined cycle units. The conferees stress that the Secretary has no authority under this Act to regulate combustors, other than boilers, gas turbines, combined cycle units, and internal combustion engines.

From the information I have at hand, that completes the answers to the Senator's 26 questions.

Mr. SCHMITT. I appreciate the Senator's courtesy in reading his answers to those questions. I wonder if he is prepared to discuss a few of them in somewhat more detail.

Mr. FORD. I wonder how any of us are fully prepared to discuss every item, but I will do the best I can.

I want the record to show, however, that I am a country boy up against a geologist.

The PRESIDING OFFICER. The record will so show.

Mr. SCHMITT. I hope the record will show that. But I certainly think Senators will find that geologists can be as simple as country boys, particularly those who come from the country themselves.

The first question, which you were not able to read since you were not here at that time, had to do with the local economic impact, and what requirements the Secretary had to fulfill in evaluating the local economic impact.

The answer basically dealt with losses of employment and competition, and it does not have any requirement for evaluating the paperwork burden that might result from a particular rule or order.

I wonder if the Senator would care to comment on more specific problems that might result under a specific rule or order, such as evaluation or the need for evaluation of the tax base, versus the cost of conversion that might be required if we are dealing with a municipal utility, or the question of certainty of supply, and meeting the local or even area environmental standards.

Mr. FORD. Mr. President, it is my understanding that the environmental requirements will take precedence. I would hope that we have enough pressure on all agencies about the emphasis placed on paperwork. I also think that the economic tests, hopefully, will take care of the taxation problems. If the facility has no money, they are exempt as far as economic test is concerned.

Mr. SCHMITT. Do you think that the fact that the Secretary should evaluate local tax rates is one of the items——

Mr. FORD. Senator, I think throughout the whole bill we have tried to shift to our own energy resources, first, so that we will not be as dependent on foreign sources; and I think this is even requested of our foreign suppliers, to reduce that dependence, and that we go as far as we can without damaging the environment; we also have the economic impact test, and that they are equal in cost to imported oil and we do not push them substantially beyond that.

That gives us a balance somewhere between the clean air, the clean water, the cost to the consumer, and using our own resources. I think for once some of the people have tried to use commonsense as it relates to the development of the bill.

Mr. SCHMITT. I hope that they have. The problem, though, is that the discretion left to the Secretary is so broad that one would have to ask the question, Is he going to use comonsense?

Mr. FORD. Well, of course, this is a very broad——

Mr. SCHMITT. The cost of burning coal is very large.

Mr. FORD. This is a very broad requirement, Senator. We have the opportunity to disapprove the Secretary's action, and he will come before the committees to answer questions.

We are moving into a broad area, and I think he ought to have broad discretion. He has tremendous responsibility, and has to make it meld together.

Hopefully, the oversight committee will be on top of all the decisions, and will parallel those decisions. We will try to do those things that will eliminate that fear.

One thing I have found since I have been here, and I think probably the Senator has found, is that we cannot write into law every answer. We have to allow for discretion. It is the degree of discretion I think the Senator is questioning here.

Maybe in the Senator's mind we have gone too far in allowing the Secretary discretion; but, on the other hand, some people may think we have not gone far enough.

Basically, the House conferees and the Senate conferees of both parties came down on this question at this point, and we always are in the position of being able to correct whatever we have done.

Mr. SCHMITT. Of course, my basic position is that we do not need a regulatory bill of this kind at all. But if we are going to have one, and obviously we are going to have one, or it appears that way at this time, we ought to provide and I think we are obligated to provide as much guidance as we possibly can to the Secretary and, in a sense, provide a check against the overzealous regulations that may result.

Mr. FORD. May I ask the Senator a question?

Mr. SCHMITT. To try to exercise that kind of guidance.

Yes, I will be glad to have the Senator do so.

Mr. FORD. Are you trying to fight for your sunset proposals, to fight overregulation as it relates to this bill, is that the thrust of your questions, and to do so it relates to this particular bill?

Mr. SCHMITT. Well, it is one of the thrusts, because I hope the Senator will agree that regulation is something very much on people's minds. They like to see the least possible regulation, without a whole new body being created. Localities and local utilities are going to have a tremendous problem dealing with this regulation and the regulations that will flow from it. I think it is important that we do try to establish a little better framework for the action of the Secretary than we have established to date.

Mr. FORD. I can understand the Senator's frustration as well as mine as it relates to regulations, but I also can understand, and the Senator knows full well, that this country has a problem as relates to energy. We are trying to face that problem. We are not trying to face that problem with over- or underregulation. We are trying to curtail the consumption of energy, particular the $45 billion of our money that is going overseas every year to buy foreign sources of energy.

I believe the people of this country are ready to say, "Let us try to find our own sources. If you are going to spend $45 billion, you might as well spend it here in this country so we can provide jobs, provide the capital, and improve our economy."

As we face an unknown, we really hope that our foresight is good. We make as good decisions as we possibly can. I do not think anybody has said that this bill is the final answer, or the energy package is the final answer. What everyone has said is that as soon as this is in place we will begin to look at the problems and start making changes through the decisions that we see are made in the field, recommendations that come back from the various agencies, and from oversight by the committee.

Therefore, I say to the good Senator this bill is not set in concrete. We are going to finally have an energy program. It is not crossing one's fingers and hoping OPEC will not raise the price or putting a button on one's coattail.

Mr. SCHMITT. I agree with everything the Senator has just said. I agree completely, that we have to do something about relieving our dependency upon imports, that the $45 billion which the Senator mentioned is a tremendous drain on our economy. There is no question that we must do something about it. The problem with the bill is that it is probably going to push us in the wrong direction. It also ignores the known energy sources in this country, such as natural gas, which could be available. We could spend that money here in order to make it available.

As I read the bill, and I am not an expert on this bill, with the exemptions that are there, the chances are that most of the conversions will be to petroleum rather than to coal. Petroleum only comes from one place—abroad. I am afraid that what we are going to do is to see an increase in the import of petroleum under this bill rather than a decrease, depending on how the various exemptions are handled and how the available supplies of coal materialize as they are assumed to be available under this bill.

Mr. FORD. Madam President, I assume we are responding to the Senator's questions on his time. I understood the

earlier discussion was charged to my time.

The PRESIDING OFFICER. The time is being equally charged.

Mr. FORD. Then, Madam President, I will close.

Mr. SCHMITT. I will ask the distinguished Senator from Kentucky if he is no longer going to respond to questions.

Mr. FORD. I did not hear the question.

Mr. SCHMITT. Is the Senator going to respond to questions?

Mr. FORD. I am going to try to. But I am not going to stand up here and discuss our philosophies on my time.

COMMITTEE MEETING

Mr. FORD. Madam President, I ask unanimous consent that the committee on Energy and Natural Resources be authorized to meet during the session of the Senate today to hold a hearing on S. 2623 and S. 2999, legislation dealing with incentives for tertiary enhanced oil recovery.

The PRESIDING OFFICER. Without objection, it is so ordered.

POWER PLANT AND INDUSTRIAL FULL USE ACT OF 1978—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. SCHMITT. Madam President, I hope we can stay with the specific questions. The Senator from Kentucky has brought up some other issues. I think we generally agree philosophically, but it is just that we cannot agree on how to get there.

Let me summarize.

On the local economic impact, I think it is very unfortunate that the conferees and the Congress do not provide somewhat clearer guidance to the Secretary on what should be evaluated in terms of local economic impact. Obviously, the bill does go in the direction of losses of employment and losses of competition, and having listed those I think we would be obligated, in the best of all possible worlds, to list other types of economic impact, or potential economic impact, related to the tax base, the cost of conversion, the increased cost of coal instead of gas for a new plant, the transportation and fuel costs, and the initial cost of the plant, including the environmental protection. These are all factors which should be considered.

I hope very sincerely that the Secretary will consider them.

The certainty of supplies and meeting environmental standards is something that local communities have to consider in their attempts to meet the intent of this act. For example, the location of new industry in a small community in Kentucky or New Mexico may well be dependent upon the certainty with which the community is guaranteed a supply of energy. If that uncertainty is great enough, there may actually be a loss of existing energy from the community.

There also will be uncertainty with respect to coal relative to natural gas because rail transport is the primary means by which coal will be supplied to these plants. Rail transport is just not as guaranteed as pipeline, either because of labor problems or because of the problems within our rail industry today.

Hopefully all those problems can be resolved, but it does increase the uncertainty that a local community will face. I hope they will be evaluated in terms of the impact upon a local community in terms of conversion to coal.

Mr. FORD. I will say to the Senator that on each item he mentioned there is a possibility of an exemption regarding the impact of environmental requirements. I think regarding the Senator's fears as related to the loss of jobs, and that sort of thing, the bill has adjusted to that.

Mr. SCHMITT. The bill does treat the loss of employment and competition. However, it does not treat the other factors. So it is up to the discretion of the Department of Energy and the Secretary to consider all the other factors, not just those that I have mentioned. I would hope that he will. I wish the Congress had provided a little better guidance than it has.

On the second question, the question of a national economic impact, the answer was hardly satisfactory, in this Senator's opinion, that there was no requirement for national economic impact and, therefore, the legislative history would not be applicable, and there would be a great deal of input involved in coming up with one anyway.

My problem is that I would think the Secretary, and I would think the Congress, would want to understand just what would be the effect on the national economy for a specific rule or set of rules promulgated under this legislation. How would it affect the supply of capital, the cost of that capital, within the country as a whole? What would happen to the inflation rated due to the increased cost coal conversion would entail on the consumer, on the power company first, and then directly on the consumer?

What would be the effect on the rate base, on the fuel adjustment clauses, and so forth? What would be the basic cost to the taxpayer due to regulations?

It is my understanding that the bill provides for 160 new positions in the Department of Energy to oversee this bill. I would appreciate being corrected if that is wrong.

Mr. FORD. The Senator is wrong. The correct figure is 82 positions in the President's proposed budget for fiscal year 1979. I want the record to be correct on this point. The Senator is wrong in his assumption.

Mr. SCHMITT. I would appreciate very much having those figures.

Well, whatever the number is, it is almost certainly going to grow as this bill has very broad authority given to the Department of Energy.

There will be administrative cost increases in the private sector, at the State and local level and, of course, within the Federal Government. So all of these bear on the question of the national economy and whether the national economic impact of a particular rule or set of rules should be considered. I sincerely hope that the Secretary will so consider that impact.

The third question had to do with the judicial impact of various orders and rules. The answer was basically that that judicial impact cannot be predicted. I am not fully convinced that that is so, but I shall accept it. It goes even farther to show that we have and we are continually burdening our court system with the effect of these laws which we are passing that allow a vast increase in regulatory power.

It would be of great interest to this Senator if the Secretary would, before the promulgation of a specific rule or order, try to evaluate just what may be the court impact, the judicial impact, of that order. I think that there is enough history of regulation now that it would be possible to make such an evaluation. Apparently, the conferees do not agree. Only time will tell who is right. If we do not begin to evaluate the impact on the courts of this kind of legislation, we may find that the court system is going to grind to a halt. I personally think it is close to being irresponsible of Congress if we continue to avoid this particular issue.

We not only avoid that issue, but we are extremely slow in providing for an increased capability within the judicial system to handle the judicial reviews required in these kinds of matters.

I understand in question No. 4 what the committee is saying about the "burden of proof" issue. The answer basically is that they feel the private sector, or at least, the utility sector, is the group best able to bear the burden of proof. Unfortunately, that is what is making a great number of our constituents unhappy with the present trend of Government, that they continually in the position of being burdened with the proof.

(Mr. DECONCINI assumed the chair.)

Mr. FORD. Will the Senator yield at that point?

Mr. SCHMITT. I shall be happy to yield.

Mr. FORD. The truth is that the burden of proof is not in any one place throughout the bill. The burden of proof shifts from place to place in the bill in an effort to be fair as discussed in the answer to question 4. I do not think that the Senator can say that we have put the burden of proof one place or the other throughout the whole bill. If the Senator goes back and analyzes the bill, he might look at the Statement of Managers on page 81, which says:

> Before issuing a notice of a proposed rule or order prohibiting the use of natural gas or oil, the Secretary has the burden to find, at the time of issuance of such proposed rule or order, that the existing powerplant is technically capable or was technically capable of using coal as a primary energy source.

This is a place were the burden is on the Secretary. There are other places were it is on the operator.

I hope the Senator will be very careful in his accusations that the committee placed the burden one place or the other. I have called at least one or two items to his attention.

Mr. SCHMITT. I appreciate that. My

basic point is that even if it is shared, the burden of proof on our constituents is up, particularly in the issue of applying or petitioning for exemptions from the various rules and orders that may be put forth by the Secretary of the Department of energy.

Mr. FORD. Will the Senator yield at that point?

Mr. SCHMITT. Yes.

Mr. FORD. He is coming down hard on saying that this is going to cost the consumer more. I have not seen or heard anything from him that would say this alternative would not be cheaper than the road down which we are traveling.

Everything is going up. We read that at the end of every month, the inflation rate and other factors. Hopefully, we can do something to bring it down.

You can make a broad-brush statement that it is going up; that is true. But what about the alternative? What is the cost of the road we are traveling now, compared to what we are trying to do?

I hope the Senator will not paint the whole conference with a broad brush or this piece of legislation with a broad brush, just saying that it is all going up and the burden is on the consumer. I hope we have tried to eliminate the possibility of a harsh burden on our consumers in the future.

Mr. SCHMITT. It is my understanding that the cost of converting a gas-fired plant to a coal plant, say, one of 300 megawatts capacity, is about $15 or $16 million. That is a cost that will be borne by the rate base, presumably.

Mr. FORD. If the Senator will yield at that point, the Senator is saying that they must convert this plant. But it does not have to be converted if it cannot burn coal. So there you are, making accusations and saying it is his understanding. Is it his understanding from his own reading or from advice from somebody who helped draft the bill? You do not have to convert to coal in the instance which the Senator just stated. I am very hopeful that he will be very careful in making his understandings. If it is understanding from his reading and his interpretation of the bill, I am very hopeful that he would talk to somebody who has had an opportunity to develop this legislation.

Mr. SCHMITT. Does the Senator care to tell me what he or the committee would estimate the cost of converting a 300-megawatt plant would be, that presumably all he had to do was change the scrubbers——

Mr. FORD. Does it have a coal-burning capability?

Mr. SCHMITT. Let us assume it does have.

Mr. FORD. There you go, assuming again. We hope they will not have to put in scrubbers. We just signed a contract for two solvent refined coal systems that will give them clean-burning fuel. You will then not have to have scrubbers.

Mr. SCHMITT. When is that equipment going to be available?

Mr. FORD. We just talked about some that will be available in 1979. That is just a few months away. It will be liquid coal. I hope it will dovetail with the requirements under this bill. We are trying to make it work.

Everybody can complain that it will not work today. We do not know. It sounds like a ghost issue.

Mr. SCHMITT. My complaint is not that it will not work. It is working and in the marketplace already. My complaint is that they are going to try to substitute the judgment of the Secretary——

Mr. FORD. What is working in the marketplace?

Mr. SCHMITT. Conversion to coal. There are 259 coal plants right now on order in this country and will be presumably constructed, if there is capital available, by 1985.

Mr. FORD. That is true.

Mr. SCHMITT. If there is capital available.

Mr. FORD. I do not know about out your way, but we have 16 pilot demonstration plants east of the Mississippi River trying to work out new methods of producing energy so it will be clean.

Mr. SCHMITT. My only point is that it is happening and if we ever had an unnecessary bill, this is it. There is nobody in his right mind who is going to build a new coal plant to burn natural gas if there is coal available. They are not doing it in my part of the country, in your part of the country, everywhere.

Mr. FORD. Let me say to the Senator that this bill, in essence, is formulated to assure that these things go forward.

Mr. SCHMITT. All it is going to assure is that they do not go forward because of the burden of regulation and paperwork that we are going to add to what is already happening.

Mr. FORD. Oh, Senator, come on; you know better than that. You can talk and talk about that and go back to what is best. We worked hard. We were there. I think we understand it. The ability to exempt facilities from all the paperwork and the regulations and make an effort is in the bill. The Senator is complaining now that we have given the Secretary too much authority to give the exemptions.

It is whichever side you want to be on. It reminds me of a lawyer——

Mr. SCHMITT. The Senator misunderstood.

Mr. FORD. No, I think I understand very well what you are doing.

Mr. SCHMITT. I am happy to see that the Senator thinks that all the clean-burning coal will be available to accomplish the conversions and new plant construction without the additional environmental costs that have been traditional up to now.

I might just say that based on the estimates of my advisers, and I think they are accurate, the pollution equipment within a coal plan causes about a 15-percent loss of output relative to a comparable natural gas plant. That loss of efficiency is going to be borne by the rate base. The scrubbers alone result in a 7-percent loss. With those kinds of figures, I sincerely hope the Senator is correct that the clean-burning coal will be available in time to meet the requirements imposed by this bill.

It is unfortunate, I think, that the bill does not recognize that government should provide more of a service in this conversion, such as the development of a clean-burning coal operation, rather than becoming a burden through the exemption process.

Every one of those exemptions is going to be a burden on the people seeking it. It will be a burden independent of operating within the marketplace.

It is unfortunate in the present political climate that we still not do recognize that people want government to be less of a burden, rather than more. The same kind of questions and issues can be raised under the question about what constitutes a good-faith effort.

I realize that there are established precedents for a good-faith effort. But on this specific case of conversion, is it a good-faith effort if the petitioner demonstrates he cannot get commitments from coal suppliers? Is it a good-faith effort if they cannot get commitments from coal transportation facilities? Is it a good-faith effort if they cannot get a commitment from their public service commission relative to rate increases that may come with conversion of coal for the new plant or a more costly energy supply?

The same would apply, of course, if they ended up having to convert to petroleum.

Does it involve a commitment from State and Federal environmental protection agencies that they will be able to go on with this? Does it imply an environmental impact statement has been approved or disapproved? Would they have to demonstrate land is available for their wastes, and so forth?

There is a whole list of efforts that presumably would be required if one was going to truly establish a good-faith effort.

Mr. FORD. Mr. President, I say to the good Senator from New Mexico, if the facility makes a good-faith effort on any one of those points, it is the basis for an exemption in the bill.

Mr. SCHMITT. So then the Senator is saying, again, the burden of proof is on the individuals to provide that kind of a documentation in order to get an exemption; is that correct?

Mr. FORD. He is the one that is supposed to make the good-faith efforts; all he has to do is prove any one of those items you just listed. I think if he makes a showing on any of those, he gets his exemption.

As I stated a while ago, we put such a burden of proof on the Secretary. So now, here, we have some rules and regulations to go by to give exemptions. If the facility makes a showing, he is exempt.

That is where we attempted to be fair.

Mr. SCHMITT. I believe that question No. 6 is the next issue, if I have the numbers correct.

The question is that excessive costs judgments are tied to the price of imported petroleum.

I am sure the Senator and the conferees realize that this was an uncertain cost. I wonder if they considered other

ways of judging excessive costs besides the price of imported oil?

Mr. FORD. All growth is going toward imported oil. There were other formulas that were presented, but, basically, this was the rule that was used and finally decided upon.

I am not sure that we could improve very much on that.

If the conferees were correct, then this will be a good road on which to travel and to assume, if we continue on the path we are on now, that this would be the price that would be paid in the future.

Mr. SCHMITT. Is this the general price, average price nationwide, or would it be the delivered price in the specific exemption case?

Mr. FORD. I think it is a case-by-case decision—we are looking it up—by the Secretary.

Mr. SCHMITT. Well, that would certainly seem to be the logical thing.

Mr. FORD. I can get it for the Senator in a minute, but I could not anticipate all the questions.

Mr. SCHMITT. At the same time, I wonder if that price would include import fees that might be imposed by the executive branch?

Mr. FORD. It is my understanding that it would be the price delivered to each facility.

Mr. SCHMITT. Total price delivered.

Mr. FORD. That would include everything.

Mr. SCHMITT. Of course, I am sure the Senator realizes all the uncertainty in that price, whether it is our own uncertainties of import fees, or of OPEC or other exporters, what they might do with respect to the price, and provides——

Mr. FORD. I think if anyone in this chamber ought to know about dealing with the future, that we are dealing with uncertainties, the Senator from New Mexico should know that.

Mr. SCHMITT. The interesting thing is that very often we can limit those uncertainties. It would seem to me that the price of imported petroleum is about as uncertain a tie for this kind of exemption as one could find.

I think we are going to find as the years go by with this act, if it in fact becomes law, that there are going to be considerable difficulties and considerable unfairness if that price changes, either goes up or goes down, depending on what other policies we may follow, or whatever policies others may follow in this world.

I assume that the Senator's answer to whether it was a general price or locally delivered price has been confirmed and that it is, in fact, a case-by-case local delivered price?

Mr. FORD. That is correct.

Mr. SCHMITT. I particularly found the answer to my seventh question, which was, basically, were there any conflicts between this bill and a Surface Mining and Surface Reclamation Act, the Environmental Protection Act, and I should have added, but I did not, the Clean Air Act, and the answer is that there can be no conflict because of the wording of the bill.

I realize that on paper that might seem to be logical and true. But I am afraid, in fact, there is a conflict, primarily just because this bill requires the use of coal and the other bills tend to restrict its use.

Pragmatically, it may turn out that the amount of coal that one could conceive being used under this bill would exceed the amount that could be available under the enforcement of the various environmental acts. For that reason, I find the answer somewhat unsatisfactory.

Mr. FORD. I say to the Senator that if the coal is not there, everybody would get an exemption.

Mr. SCHMITT. Will the Senator repeat that?

Mr. FORD. If the coal is not there, everybody would get an exemption.

Mr. SCHMITT. Then, what is the purpose of the bill?

Mr. FORD. It is contingent upon compliance with the environmental law. It is contingent upon the availability of coal.

Mr. SCHMITT. That is certainly true. But every time we turn around now, we are finding that the coal has run into difficulty in being used in many circumstances. The administrative decision the other day on Colstrips 3 and 4 is one example. Certainly, the enforcement of the alluvial plant provisions of the Surface Mining Act may cause additional difficulties.

I am afraid that we are going to see that conflict develop more and more to the point where we have practically no capability to do what I think all of us feel has to be done, and that is to bring about a transition to the increased use of coal.

Mr. DANFORTH. Mr. President, will the Senator yield so that I may engage in a colloquy with the Senator from Kentucky?

Mr. SCHMITT. Mr. President, I yield 5 minutes to the Senator from Missouri for that purpose, without losing my right to the floor subsequently.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Section 402 directs the Secretary of Energy to prohibit local distribution companies from providing natural gas to residential customers for use in existing outdoor lighting fixtures. Civil penalties for violations are to be assessed against the local distribution company up to a maximum of $500 for each gas light. Neither the prohibition, nor the penalty applies to the residential user himself.

Many such gas lights are on the user's side of the gas meter and thus are not accessible to the distribution company. Futhermore, the lights are sometimes not visible from the street.

The conference report expressly recognizes that these facts will present problems for a distribution company in enforcing the ban and that the Secretary should provide some guidelines.

How do you expect that local distribution companies will enforce the gas light prohibition?

Mr. FORD. We expect that local distribution companies will seek voluntary compliances by their customers by means of written communications and publicity. Where companies have access to the gas light we expect that companies themselves will disconnect such lights. As a last resort, in order to avoid being subject to penalties imposed by the Secretary, distribution companies may cut off the supply of gas to a customer who refuses to comply.

Mr. DANFORTH. Most State utility regulatory commissions require a utility to obtain their permission, which can take months, before cutting off service for reasons other than nonpayment of bills. Would this bill overcome such requirements through operation of the supremacy clause?

Mr. FORD. No; but we expect that the Secretary would not assess penalties against a distribution company which had proceeded in a timely fashion to seek permission from a State utility commission to cut off a noncomplying customer.

Mr. DANFORTH. The gas light prohibition takes effect with respect to residential customers in the month of January during the coldest part of the year. It appears that in some cases the distribution company will face a choice of either denying heat for an entire household in the dead of winter because the head of the household is recalcitrant or being subject to fine by the Secretary. Is this the committee's intention?

Mr. FORD. No, the effective date you speak of is January 1, 1982. The Secretary is required to promulgate final rules on both who will be affected and the basis for exemptions within 180 days of enactment (or no later than June 1, 1981). The conference report states that among the criteria which the Secretary must apply in establishing rules for exemptions is the safety of persons and property. Informal procedures are provided for the obtaining of exemptions pursuant to such rules. The Secretary thus has sufficient authority under the conference agreement to take the necessary action to avoid the potential risks to public health that are of concern to you and this Senator.

Mr. DANFORTH. Do you agree that the rules which set forth the criteria for exemptions ought to provide for certifications by law enforcement and other local authorities that particular gas lights are needed for public safety purposes, or that the public financing of replacement lighting for municipally owned gas lamps is not presently feasible?

Mr. FORD. Yes.

Mr. DANFORTH. The bill imposes liability on local distribution companies for gas lights that such companies know "or reasonably should have known" were burning in violation of the law. Assume that a gas company publicizes widely the fact that, as of January 1, 1982, gas lights must be disconnected unless they are exempted. The company invites its customers to call to arrange for disconnection. As the deadline approaches the company makes a survey to try to detect and turn off any remaining lights. It in-

structs its employees to watch out for and report any lights still burning. Despite these efforts, some nonexempt gas lights of which the company has no knowledge are still operative after the deadline.

Should such a record of good faith efforts at compliance militate against the imposition of penalties based on imputed knowledge?

Mr. FORD. Yes.

Mr. DANFORTH. Mr. President, I thank the Senator for answering my question, and I thank the Senator from New Mexico for yielding.

Mr. SCHMITT. Mr. President, it has come to my attention—and would like to have this clarified by the Senator from Kentucky—that the exemption for the use of natural gas by existing powerplants that do not have the existing capability to burn coal is limited to plants of less than 250 million Btu's per hour. Is that correct? So that plants greater than that capacity, whether they have the capability or not, still would have to convert to coal, unless some other circumstances provided an exemption.

Mr. FORD. As I recall, after January 1, 1990 they would have to shift to a different fuel, but not necessarily coal. It would just be a fuel different from natural gas to which they would have to shift.

Mr. SCHMITT. So, under that circumstance, presumably they would shift to oil.

Mr. FORD. That is a possibility. Or it be synthetic fuels.

Mr. SCHMITT. So for those larger plants there would not be the automatic exemption that was implicit in the Senator's comments earlier, when we were discussing that issue.

Mr. FORD. There is no automatic exemption.

Mr. SCHMITT. There would be no probable exemption.

With respect to question No. 8, dealing with the provisions of the bill that would provide for exemptions for the use of natural gas in electric powerplants which install solar regeneration units, it was not clear to me just what the answer was.

Mr. FORD. Which question is that?

Mr. SCHMITT. Question No. 8. My question had to do with the potential of using solar energy for regeneration within existing natural gas plants.

Mr. FORD. Explain the technology the Senator is talking about? He could ask a question and I could answer it based on what I thought he asked, and he could obtain an answer to the question that he thought he asked.

Mr. SCHMITT. Solar regeneration is a technology by which one can use the production of steam by solar techniques to supplement the steam that would be produced by, say, natural gas. It would decrease the use of natural gas within the plant—not eliminate it but decrease its use—and in balancing out the various economic factors, it might turn out that was a better way to provide for power than a complete conversion to coal.

Mr. FORD. I think my answer to question 8 was that no exemption is to be given based on efficiency, nor is there a permanent exemption based on future technologies.

I think that it goes back to a question the Senator propounded a little earlier; his problem was in giving the Secretary too broad authority. If a technique were developed that would save energy and would be more efficient, I do not see any reason why that technology could not be put in place. We are spending a great deal of money trying to find answers, and there is of course difference of opinion as to how we ought to.

So we come to a consensus, and we hope that we will not be in a position of tying anybody's hands to prevent us from getting on with new technologies and finding new methods which are more efficient. We will just have to do the best we can.

Mr. SCHMITT. I hope the Senator will agree that the Secretary should consider on a case-by-case basis, all the factors that might be involved, when the final totals are run, resulting in the use of natural gas being more economical and more conservative than a forced conversion to coal, all other factors being equal.

Mr. FORD We are also looking at the possibility of gasification. As we get to cost, gasification does not look too bad, and conversion of coal to liquids by liquefaction does not look too bad.

I think the Secretary is being pushed very hard by a lot of people in the Congress to move into different areas and to look at all possible technologies. So I am not concerned one iota about giving the Secretary too much authority.

Mr. SCHMITT. It is still not clear to this Senator exactly where we stand on the question of using natural gas more efficiently and having that factored into the coal conversion problem. It would seem from the time I had to study the bill that the bill would tend to move against the increased efficiency in the use of natural gas. It would tend to take a fairly doctrinaire position that conversion to coal is what should be done independent of those other considerations and if we cannot convert to coal then we should convert to petroleum. I hope that the Secretary uses whatever discretion may be available to him in the bill to examine those systems such as solar regeneration and fuel cells, and others, that may provide for a much more efficient use of natural gas and for the remaining life of a particular plant or the remaining needs of a particular community. These advanced technologies should be considered as alternatives to coal conversion.

Mr. President, the Senator from Kentucky and I have already discussed to some degree the question of the availability of capital to accomplish what is envisioned by the bill.

More specifically I ask him if the committee was able to do any tradeoff studies on the impact of this bill for conversion of existing plant on the availability of capital for new coal plants that are presently planned or that would be constructed. Is there any conflict in the committee's mind between the conversion of existing plant and the construction of new plant based on capital availability?

Mr. FORD. That is the reason we limited the section to the coal-capable units.

Mr. SCHMITT. Except for those that are larger than 250 million Btu per hour; correct.

Mr. FORD. In 1990.

Mr. SCHMITT. So that decision was based on evaluation of availability of capital; is that right?

Mr. FORD. And the regulatory impact. The original Senate proposals would have made them convert non-coal-capable facilities. I hope the Senator is not back on that.

Mr. SCHMITT. No; I understand that. But I am curious as to what figures were used by the committee to make that judgment. What estimates were made of the amount of capital required for the conversion to existing plant under the committee conference report?

Mr. FORD. I do not have that in the Chamber with me at this time. But it was on the basis of the hearing records, the information submitted by the Department, and other information available to us that we put together, that the determination was made.

Mr. SCHMITT. It is a very important figure. Is there a ball park estimate? The reason I am asking, to be very frank, is that I am trying to compare it with what the apparent cost of the 259 plants already planned would be. That cost is going to be probably closer to $200 million based on an estimate of close to $900 per installed kilowatt for new coal-fired plant.

Mr. FORD. I have a substitute now, the chairman of the subcommittee, and Senator HASKELL will take my place.

Mr. SCHMITT. I appreciate the courtesies and willingness of the Senator from Kentucky to come back and help out on this particular conference.

Mr. FORD. I will be back, I say to the Senator.

Mr. SCHMITT. All right.

Mr. President, I appreciate the appearance now of the Senator from Colorado and hope that he can jump into this particular question. I am sorry he has not had the benefit of our previous discussions. But the basic question is the estimate of the amount of capital required for conversion of existing plant and its relationship to the capital available for the construction of new coal plants.

Mr. HASKELL. In the first place, with regard to existing plants, the bill does not require any kind of conversion unless there happened to be previous or standby coal-burning facilities. So that part of the question, of course, would not be susceptible to an answer. The second part of the Senator's question I did not catch.

Mr. SCHMITT. My understanding from the Senator from Kentucky is that some estimates were made of the cost of converting existing plants to coal and it was on that basis that the decision was made to limit the bill's applicability to those plants that have been burning less than 250 million Btu's per hour and have

a capability for or have had a capability for the burning of coal even though they may now be burning natural gas or petroleum.

Mr. HASKELL. In other words, the Senator is talking about existing plants with previous or standby coal capability; is that correct?

Mr. SCHMITT. Yes.

Mr. HASKELL. How much it would cost to fire up that coal burning would, of course, depend on a plant-by-plant analysis. I presume, if the Senator asked me as to a given plant, possibly we could dig up the answer.

Mr. SCHMITT. We have the estimate of the number of plants we are talking about.

Mr. HASKELL. That have coal-burning capability?

Mr. SCHMITT. That would fit under the 250 million Btu per hour limitation that presumably under the bill, unless other circumstances intervene, would have to convert to coal.

Mr. HASKELL. I gather the Senator's question is, How many plants have previous or standby coal-burning capabilities so that all other things being equal they could be required to convert?

Mr. SCHMITT. Yes.

Mr. HASKELL. Apparently there are less than 250 plants that would fall into that category.

Mr. SCHMITT. And the estimate of the cost of conversion including environmental add-on?

Mr. HASKELL. There you have to go to a plant-by-plant situation because certain plants, for example, might not have coal available to them. Under those circumstances clearly they would not be required to reconvert.

Mr. SCHMITT. Will the Senator guess that it is $50 million per plant?

Mr. HASKELL. The Senator is not very good at guessing.

Mr. SCHMITT. Based on the information that I have it might average something like $50 million. What does that turn out to be? The Senator said 250 plants?

Mr. HASKELL. I did.

Mr. SCHMITT. That is about $12,500,000 for that conversion if the estimates are right, and I believe the back of the envelope is correct.

Mr. HASKELL. I would probably not disagree with the Senator's arithmetic. I assume the Senator multiplied 250 by 50.

Mr. SCHMITT. Correct.

Mr. HASKELL. That is good mathematics, but it does not result in accuracy for the simple reason that some plants will not be able to reconvert because of environmental constraints. Other plants would not be able to reconvert because they will not have any access to coal and will, therefore, get an exemption. So until a case-by-case application of the bill is made I do not think you can come up with a meaningful tote.

Mr. SCHMITT. Is the Senator suggesting that this provision may not have any significant effect on coal conversion?

Mr. HASKELL. No; I did not say that.

Mr. SCHMITT. The Senator is just saying we do not know; is that correct?

Mr. HASKELL. We do not know how many plants, for example, will not be able to get access to coal.

Mr. SCHMITT. Then it sounds more and more like other things in this bill that are a good idea but nobody really knows what is going to happen to an experiment. Put it out there and see how many people have to come in and petition for exemptions. Presumably that is what the Senator is saying.

Mr. HASKELL. Well, the Senator can draw his own conclusions. We try to construct legislation so that it is fair and anybody is entitled to draw whatever conclusion he wants to.

Mr. SCHMITT. Well, the Senator and I can disagree, we know, because I would say that the bill is unfair because the marketplace is handling the situation very well. The fact that there are over 250 new coal plants already planned for construction between now and 1985 is a good indication of that.

Here we are putting together a measure that is going to force a large proportion of the users of coal for powerplants to now come in or a large proportion of utilities to come in, and petition in order to either continue using their existing fuels or convert to coal on a somewhat different schedule.

Mr. HASKELL. Well, Senator, all I can say is the Senator may not like the bill now, but he would have liked it even less before it went through committee because at that time all plants, whether or not they had standby coal burning facilities or not, were subject to conversion. So I guess you could say, I guess the Senator can say that because he does not like the bill now, but he might have liked it less before.

Mr. SCHMITT. I think that is a very true statement, but a bill that is based on bad assumptions does not get much better when it is put through a conference committee.

Question 15 having to do with public interest, the answer has already been read into the RECORD. The basic answer was that we should not try to define what the public interest is. We should leave that flexibility to the Secretary. But again, as on other issues, by doing so Congress turns its back on its responsibility if it is, in fact, going to regulate, because then, it seems to me, Congress has to create some guidelines by which the regulators have to act.

I wonder if the Senator would agree that some factors relating to public interest, whether an exemption would be allowed, would be the degree to which rates would be increased, which local taxes may be increased, local bonding and bonded indebtedness may be increased, local environmental pollution might be increased, and there might be even some cases of loss of service and loss of economic growth potential. These are the kinds of things that I well believe the committee could have spelled out because I think we all would agree those are factors the Secretary should consider.

Mr. HASKELL. Excuse me, but the Senator, I gather, asks a question and the question is that he feels the meaning of the words "public interest" should be spelled out?

Mr. SCHMITT. No; my question was should there not be some guidance to the Secretary as to what should be included in his consideration of the public interest in order to grant an exemption? Again if Congress is going to be foolish enough to regulate, it seems to me we should be intelligent enough to offer some guidance to the Secretary. There are some self-evident points that would be in the public interest that I would think Congress would want to insure into the Secretary's problem. We are the elected bureaucrats, he is the unelected bureaucrat.

Mr. HASKELL. Again the Senator's specific question, please?

Mr. SCHMITT. Would the Senator from Colorado agree that the public interest could include the possibility of increased rates for power, increased bonded indebtedness, increased local taxes to finance the construction of new plant or conversion of old plant, increased environmental pollution of the local area because of the conversion, loss of service because of lack of an exemption and the loss of economic growth potential because of uncertainties or other factors dealing with the conversion to coal?

Mr. HASKELL Well, I am sure the Senator noted that the answer to question 15 which said that it would be in the public interest and consistent with the purposes of the act to grant the exemption. If the Senator would read section 102(b) of the bill the Senator would see the purposes of the act. The words "public interest" are words that are quite widely used, and I would hesitate on the floor to enumerate as examples certain things that were in the public interest because then by enumerating some I might exclude others by oversight. The courts could properly consider that "publice interest" is very much like the "reasonable man" rule. It is a little hard to define, but it should be in the public interest and it should be consistent with the purposes which are set forth in section 102(b) of the act

Mr. SCHMITT. The Senator and I have a different feeling about what is a responsible legislative activity. The first responsible thing we could do is not regulate unless we can provide free-standing instructions to the regulators. Since we are not going to do that, apparently, under this bill, then it would seem to be more responsible that we provide some guidance to the regulators. I admit that it is probably a little bit late to do so. I am sorry, however, that the Senator, representing the committee, is unwilling to attempt to establish some guidance to the Secretary even at this late date.

Question No. 16, because of the rate at which the answer was read, I wonder if the Senator from Colorado could reread that question? It has to do with the limit of an exemption of 10 years.

Mr. HASKELL. Would the Senator like me to read the question or the answer?

Mr. SCHMITT. The answer.

Mr. HASKELL. The answer is: The Secretary would make the determination on the basis of the evidence supplied for the record in connection with the petition for the exemption. If the record supports a finding by the Secretary that coal

would not be available during the initial 10-year period, the exemption would be granted. This is a nondiscretionary exemption. The statement of managers provides guidance in this regard on page 76 of the report:

The conference agreement adopts the House test of coal availability. However, when it is shown on a case-by-case basis that coal would not be immediately "available" but would become "available" within the first 10 years of operation of the powerplant or MFBI, construction with a duel-fired fuel capability would be required in order to build and operate the facility and a temporary exemption to use petroleum or natural gas would be granted for the necessary initial years of operation until the coal was available. This would all be determined by the DOE, after the proper showing by the applicant. If it is shown that coal will not become available at anytime during the first 10 years, a permanent exemption shall be granted.

Mr. SCHMITT. Mr. President, on the next issue, I lost the number system that you used. I think it was question 17, but let me read the question first, and I would like to get into some discussion of this beyond the answer that it was read. It has to do with paragraph (b) of subsection 212, subparagraph (1) under (b), where the Secretary may order a permanent exemption if he finds:

That the petitioner has demonstrated that—

(1) with respect to the proposed site of the powerplant or installation, the construction or operation of such a facility using coal or any other alternate fuel is infeasible because of a State or local requirement (other than a building code or a nuisance or zoning law);

My concern is about the parenthetical phrase "(other than a building code or a nuisance or zoning law)."

Does this not, in the committee's mind, indirectly preempt local law?

Mr. HASKELL. I might answer the Senator by stating that I remember a discussion about this by the conferees. There was a discussion in the committee about building codes, for example, let us say a community just did not want a coal-burning facility just because it did not want it. Then it could adopt a zoning law that "we will not have any coal-fired plants anywhere in our community or in our State."

Or a State, the State of Colorado or the State of New Mexico, could say that. But it was felt, that since this bill was a national bill and it was felt to be in the national interest, then to the extent feasible coal should substitute for natural gas and it was unreasonable to permit a State or local government, by exercising its zoning powers, to override the national purpose.

Mr. SCHMITT. But the effect of that is that under certain provisions a State or local area could be deprived of new required power; is that right?

Mr. HASKELL. It could be deprived what?

Mr. SCHMITT. Could be deprived of new powerplant capabilities.

Mr. HASKELL. No, I——

Mr. SCHMITT. The Secretary could disallow the construction of a new natural gas or petroleum plant in an area where a building code would have required it; is that not correct?

Mr. HASKELL. Let us put it in the converse. A community could not arbitrarily exclude a coal-burning facility from that community.

Mr. SCHMITT. Why is not that the community's business? Why is that the national business?

Mr. HASKELL. I would point out that we have, for example, minimum wage laws in which communities and States are overriden as far as what they can pay people. We have various laws that are administered by the Federal Trade Commission, that overrule community desires. There are certain things that the Congress, over the years, has considered in the national interest, and therefore has overriden community's desires.

In this particular bill, it was felt that it was in the national interest, pending absence of reasons, such as the environmental problems, availability of coal, et cetera, that local communities should not be permitted to frustrate the national purpose.

Mr. SCHMITT. Well, usually, under laws of that kind, some determination of relationship to interstate commerce or something like that has been made. Would that be the case here?

By my remark I do not mean to justify some of the laws that the Senator has mentioned, necessarily. Just because we have done something right or wrong in the past does not necessarily form a justification for doing it right or wrong at present.

Did the committee consider basically the constitutional justification for this indirect preemption of local prerogatives?

Mr. HASKELL. Well, we can refer to section 102(b)(1) of the bill, to answer the Senator's question. Among the purposes of the act, listed as No. 1, is as follows:

(1) to reduce the importation of petroleum and increase the Nation's capability to use indigenous energy resources of the United States to the extent such reduction and use further the goal of national energy self-sufficiency and otherwise are in the best interests of the United States;

Mr. SCHMITT. Is the Senator saying that a local determination of what is in the best interests of the local community, through zoning or building code enactments, does not bear on this issue?

Mr. HASKELL. No, I did not say that. I will ask the reporter to read back my answer, if he will.

Mr. SCHMITT. Well, I heard the answer. It was just my statement that the national interest is very clear. The purposes of the bill are laudable. The question of whether the bill is actually going to achieve those purposes can lead to a separate discussion.

What I am concerned about is the preemption by this provision of a local community's prerogative of particular building codes or zoning laws. The word "nuisance" is put in there, but that is an editorial comment. Building codes and zoning laws.

I think this provision constitutes preemption of State and community prerogatives by the Federal Government. I am very much concerned that this adds to the insertion of Federal preemption into that area of Government, and seems to violate the federal system we have one more time.

We are getting rather used to that, but it does not mean we should accept it.

If the Senator is not going to be interested in that part of this discussion any further, I am wondering if he would be willing to show me how, in the House and Senate versions, there is a latitude for getting to that particular provision without introducing new subject matter; namely, the question of the building codes and zoning laws.

I would refresh the Senator's memory by citing a Senate provision which says as follows:

"(c) PUBLIC INTEREST EXEMPTION.—Any person owning, constructing or proposing to construct a new electric powerplant or major fuel-burning installation subject to the requirements and prohibitions of section 103 or 104 of this title may apply to the Administrator for a permanent exemption under this section from such requirements and prohibitions and the Administrator may grant a permanent exception from such requirements and prohibitions and the penalties of section 303 of this Act upon a finding that—

"(1) compliance with applicable environmental standards and legal factors pursuant to Federal or State law would be feasible, but compliance with local environmental and legal requirements would not be feasible;

The House basically had no comparable provision. There was some discussion of "site limitation," but I believe it is correct to say there is no comparable provision. Within the Senate language there certainly does not seem to be the latitude of creating the preemption of building code and zoning law.

Mr. HASKELL. What is the Senator's question?

Mr. SCHMITT. My question is where in the world did the committee come up with the justification within the two bills, the House bill and Senate bill, to add this preemption of building codes and zoning laws?

Mr. HASKELL. I will read from the Senate passed bill and then out of the conference report.

I think I have the answer here. I am reading from the committee print dated September 16, 1977, which compares the two bills. The Senate-passed bill contained a subsection (c) which appears on page 36, reading:

Public interest exemption.

Mr. SCHMITT. Yes, I just read that into the RECORD.

Mr. HASKELL. Did the Senator read paragraph 1 into the RECORD?

Mr. SCHMITT. Yes, I did.

Mr. HASKELL. Then what is the question?

Mr. SCHMITT. My question is how, under paragraph 1, does the Senator draw the authority to preempt building codes and zoning laws? The House has no comparable provision which brings up that particular subject. The provision of paragraph 1 says compliance with local environmental and legal requirements would not be feasible and, therefore, an exemption would be granted.

Mr. HASKELL. Compliance with local environmental and legal requirements

would not be feasible, therefore the public interest exemption could be granted where somebody could comply with Federal and State laws and otherwise could not construct this type of facility, but the same latitude would not be granted regarding certain county ordinances or municipal ordinances.

Mr. SCHMITT. Is the Senator saying that the parenthetical phrase is a definition of that? The way I read this, I might say, is that the Secretary may order a permanent exemption if he finds that the petitioner—this is going now to the conference report—has demonstrated that the construction and operation of the facility using coal is infeasible because of a State or local requirement. That, I think, if you only went that far, would be consistent with the Senate language.

Mr. HASKELL. Is this in regard to question 17?

Mr. SCHMITT. I believe it is 17. It is paragraph (b), section 212. My notes are not numbered and they have become a little confused at this point.

Mr. HASKELL. "With respect to the proposed site of the powerplant or installation the construction or operation of such facility using coal" et cetera "is infeasible because of a State or local requirement (other than a building code or a nuisance or zoning law);"

The Senator is wondering how that was derived from what he earlier read, which was paragraph 106(c)(1), which talked about "but compliance with local environmental and legal requirements would not be feasible." The Senator is wondering how one sprung from the other.

Mr. SCHMITT. Yes.

Mr. HASKELL. Well, the words that appear in the answer to question 17, are really a further definition in the conference agreement of what appeared over here in the Senate-passed bill on page 37 of the September 16, 1977, committee print. In other words, legal requirements were further spelled out by the conferees.

Mr. SCHMITT. But it seems to me that rather than being a further definition, it is a further restriction. It is adding subject matter by restricting the definition. Under the Senate version, the administrator may grant a permanent exemption upon a finding that compliance with Federal and State law would be feasible but compliance with local environmental and legal requirements would not be feasible. Then the Senator has taken the further step of saying that is OK unless building codes and zoning laws are involved. The Senate version does not say anything at all about restricting.

Mr. HASKELL. I would refer again you to this document I talked about earlier, the committee print of September 16, 1977, on page 15, the definition term "legal factors" is spelled out. I think we just have a difference of opinion on this item.

Mr. SCHMITT. What committee document is the Senator referring to with legal factors in it?

Mr. HASKELL. It is a committee print dated September 16, 1977. I am referring to page 15, paragraph (3)(17) of the Senate-passed bill, in the left-hand corner.

Mr. SCHMITT. Is that the Energy and Natural Resource Committee document?

Mr. HASKELL. It is prepared for the use of the conferees, Committee on Energy and Natural Resources, yes.

Mr. SCHMITT. But based on its face, the Senate bill does not spell out the legal factors. I will wait and see what is spelled out in the committee print.

(Mr. McINTYRE assumed the chair.)

Mr. HASKELL. Incidentally, this committee print is a comparison of the Senate passed bill and the House passed bill, and I was reading from a column that was in the Senate bill.

Mr. SCHMITT. I again say to the Senator that it appears to me that both the original Senate version and the House version, from a comparison that I have before me—it may be the same one, October 14, 1977—both bills provided for an exemption and do not exclude building codes and zoning laws.

I am afraid that I do not see—I am not pretending to be a lawyer at all, but I do not see why the definition of the term "legal factors" has anything to do with the question I am raising.

Again, let me try to state the issue one more time. The conference report says very clearly that the Secretary may order a permanent exemption if he finds that the petitioner has demonstrated that "the construction or operation of such a facility using coal or any other alternate fuel is infeasible because of a State or local requirement." Then it adds parenthetically "other than a building code or a nuisance or zoning law."

The Senate bill provides as follows: That the administrator may grant a permanent exemption upon a finding that compliance with applicable environmental standards and legal factors pursuant to Federal or State law would be feasible, but compliance with local environmental and legal requirements would not be feasible.

Therefore, under the Senate bill, if a building code made it infeasible, then a permanent exemption could be granted. The House has no comparable provision. So I would say that the conference committee's report has introduced a new subject matter; namely, by saying that an exemption could not be granted if a building code or a zoning law prohibited the construction of a particular facility.

Mr. HASKELL. I guess we just disagree. All I can do is again refer to that same committee print and the material the Senator read under paragraph 106(c)(1). I would then refer to the definition of legal factors in the same committee print, paragraph (3)(17), on the left-hand side of the page. I indicate clearly that what appeared in the final conference version basically stemmed from those two sections. It is just a disagreement.

Mr. SCHMITT. The Senator is correlating, then, the definition of "legal factors" provided by the House with the Senate use of the term "legal factors"?

Mr. HASKELL. I think the Senator misunderstood me. The left-hand side of this committee print that I have referred to is, in fact, the Senate-passed bill. On page 15, when I referred to the left-hand side, section (3)(17), which contains a definition of "legal factors," it is part of the Senate bill.

Mr. SCHMITT. I stand corrected by the Senator. Yes, I see that.

I think the Senator would agree that that definition applies to the term "legal factors," but I fail to see how it relates to the subsequent phrase that, in effect, allows the granting of a permanent exemption if it is infeasible to comply with local environmental and legal problems. "Legal factors" is part of the bill language that deals with the Federal and State law, not part of the bill that deals with local environmental and legal requirements.

Mr. HASKELL. Would the Senator repeat the question?

Mr. SCHMITT. I presume that the Senator from Colorado is, in his use of the definition of "legal factors" provided in the Senate bill I presume that he would agree that that definition applies to the term "legal factors" in subparagraph 1 of the section on public interest exemption within the Senate bill. Is that correct?

Mr. HASKELL. So the RECORD will be clear, paragraph 106(c)(1) appears on the left-hand side of page 37 of the committee print. The definition of "legal factors" appears on the left-hand side of page 15 of the committee September 16, 1977, print. Under those circumstances, I would agree that the term, "legal factors," is a further definition of "legal requirements and factors."

Mr. SCHMITT. I think what the Senator has pointed out is an inconsistency in the language of the bill. The way I read subparagraph 1 is that "legal factors" are limited by subparagraph 1 to those pursuant to Federal and State law, even though the definition of "legal factors" does include local governmental law. We have to leave it to the lawyers to decide what definition has precedence. But the use of the term, "legal factors," in subparagraph 1 on page 37 as referred to by the Senator appears by this Senator to be limited to Federal and State law, not inclusive of local governmental laws, as indicated on page 15 in the definition of "legal factors." That is further supported by the fact that subparagraph 1 goes on to discuss local environmental and legal requirements, independent of legal factors relating to Federal and State law and provides for the possibility of a permanent exemption based on the infeasibility of compliance with local environmental and legal requirements.

Mr. HASKELL. I suggest that we are both arguing about something which is moot, because the conference report obviously superseded the House and Senate bills.

Mr. SCHMITT. It is not moot if the conference report has included the subject matter in this bill. That is against the rules of the conference.

Mr. HASKELL. That is where the

Senator and I disagree. I think it is quite clear, from reading the legislative history, that it was not new subject matter. The Senator thinks it is. That is just a difference of opinion.

Mr. SCHMITT. I believe in a case like this, we are dependent upon what the provisions of the two bills are, whether or not a new subject matter is introduced.

I am not looking for some technical basis by which the bill might have to be referred back to conference. I am very, very seriously concerned about the constitutional issue of whether or not, in this particular case, this particular area of legislation, the Federal Government should, by indirection, preempt local building code and zoning laws.

Our constituents are the ones that established those local building codes and zoning laws by the local process of representative government. It is not clear to me that this Congress should move to preempt those codes and laws without having put a great deal more thought into it than seems to have gone into this particular actual provision within the conference report that neither the House nor the Senate appears to have dealt with.

Mr. HASKELL. I assume the Senator is aware that the local government could in general, within their building codes or zoning requirements forbid powerplants but that they are precluded on picking on just coal burning units.

Mr. SCHMITT. I fully understand that. If I were involved in a local situation where it was environmentally feasible and economically feasible to burn coal and there were building codes or zoning laws that would prevent that, I would work at the local level to change that.

But my purpose is that I do not think that we should do it on a preempting basis from Washington, but it is a decision that should be made at the local level.

I realize that this bill is draped with a great national purpose of eliminating imports of petroleum, saving natural gas for some future uses by future generations.

Those purposes I concur with completely. Unfortunately, I happen to think the bill will not accomplish these and will probably make the situation worse and add a multitude of other problems at the same time.

But on this specific point of preemption of local codes and laws, I think the conference has made a serious error. At the very least, it is something that should be discussed by the Senate and the House to the degree it was put into law, rather than just being something that may be part of legislative history.

I have not read the legislative history. But it is my understanding it is the four corners of the bills looked at with respect to the introduction of subject matter in a conference.

I would pose a parliamentary inquiry on that point to the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. SCHMITT. I am asking the Chair for an interpretation of the rules of the Senate in respect to conferences and the introduction of new subject matter within a conference, and in the evaluation of those rules does the Chair look at the House and Senate versions of the bills exclusively, or does it include the examination of legislative history?

The PRESIDING OFFICER. When one House substitutes for the other House's bill and it then goes to conference, the only requirement is that the matter included in the conference report be germaine to either the House or the Senate bill.

In "Senate Procedure," on page 294, the paragraph titled "Substitute Versions" reads as follows:

Where one House strikes out all after the enacting clause of a bill and inserts a substitute, the conferees have wider latitude in dealing with the matters in dispute, or the differences between the two passed versions, than in the case of amendments made to various sections; and they may make any germane modifications; in such cases, they have the entire subject before them with little limitation placed on their discretion, except as to germaneness, and they may report any germane bill.

Mr. SCHMITT. The Senator from New Mexico would make the further inquiry of the definition of germaneness.

It is the Senator from New Mexico's understanding that the definition of germaneness has to do with whether or not new subject matter has been introduced.

The PRESIDING OFFICER. The Senator is absolutely correct. Under these circumstances, the Senator is correct.

Mr. SCHMITT. Mr. President, how much time does the Senator from New Mexico have remaining?

The PRESIDING OFFICER. The Senator from New Mexico has 81 minutes remaining.

The Chair would like to add this to its previous remarks concerning the previous rulings on the issue raised by the distinguished Senator from New Mexico, that the basic test for germaneness is whether it adds new subject matter and that has been strictly construed. The Chair reads from page 295 of "Senate Procedure," the third paragraph:

But the conferees, even in the case of a substitute bill for the House-passed bill, may not substitute new matter—that is, matter not germane.

Mr. SCHMITT. The Chair's more recent discussion is more consistent with what this Senator remembered as being the definition of germaneness, even with respect to the situation that was faced in this instance.

Mr. President, I yield to the distinguished Senator from Wyoming. How much time does the Senator require?

Mr. HANSEN. Two minutes.

Mr. SCHMITT. I yield 2 minutes to the Senator, or as much time as he requires.

Mr. HANSEN. I thank the Senator from New Mexico.

Mr. President, earlier, today, there was a discussion of preemption of local governmental authority. As minority manager of the bill, it is certainly not my understanding that anything in this bill preempts local rights, even when considering local nuisance laws or building codes. No mention of it was made in the debate, and I am sure that the language of the statute will allow no such preemption.

The local building codes and nuisance laws still will be applicable. No plant will be built in conflict with them. At the same time, no exemptions need be granted. The result may well be that no plant is built.

However, there is a further exemption for reliability. Since this exemption is available if the power is needed by the local community and no other possible site is available for the plant; and it is a mandatory exemption, there will be no indirect preemption of local authority, either.

The only point here is that local law, on its face, will not gain the plant an exemption. The local law is not preempted.

Mr. SCHMITT. Mr. President, I appreciate the remarks of the Senator from Wyoming. I will study them carefully. I do not and have not claimed there was any direct preemption. I am just claiming, as the Senator has pointed out, that the effect may be indirect preemption and the effect may be that no plant is built for the local community of any kind.

If they decide that their codes should be such to restrict the use of coal and the Federal Government decides that they should not be able to use natural gas or petroleum, then there will be no plant built. That is my concern that there is an indirect preemption.

One of the things I have learned since I came to the Senate is that the law generally does not allow things to be done by indirection that would be prohibited on their face.

Mr. HANSEN. If the Senator will yield, I do agree that there is a further exemption for reliability. That is an exemption for reliability. But my understanding, if I could just restate it, is:

However, there is a further exemption for reliability. Since this exemption is available if the power is needed by the local community and no other possible site is available for the plant, and it is a mandatory exemption, there will be no direct preemption of local authority either.

Does that clarify the Senator's understanding?

Mr. SCHMITT. Again I understand and appreciate the Senator's comments but I still see within the words, and I think the Senator said them also, that there could be circumstances of an indirect preemption. It is not directly in the law, but, as I said, if the building codes or zoning laws restrict on the one hand and the Federal Government restricts everything else on the other, then the effect is that no new powerplant will be built in that particular case unless the zoning law is changed. That is the kind of pressure I do not like to see coming from Washington. It is a precedent, among many other precedents around here, that I get very disturbed with.

Mr. HANSEN. I thank my colleague.

Mr. SCHMITT. Mr. President, I reserve the remainder of my time under the unanimous-consent agreement, and I do not know whether the proponents wish to speak. If not, I suggest the absence of a quorum for a brief interval of time to work with my staff.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, we are just trying to answer the questions of the distinguished Senator from New Mexico. We have no reason to hold up or delay consideration of this legislation and if he wants to spend his time, fine. He has 80-some minutes remaining. He is welcome to it. If he is going to ask for a quorum, I suggest the time be divided equally.

Mr. SCHMITT. That would be fine with me. I shall only take a few moments. I want to explore this question.

Mr. FORD. Mr. President, I ask unanimous consent, then, that the quorum call be equally divided between the distinguished Senator from New Mexico and the Senator from Kentucky.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, I am happy to see that the conference report has appeared and, as a consequence of the discussion Friday and today, there has been at least some preliminary examination of that report.

I hope my colleagues of the various committees into which will go this summer's and potentially this fall's legislative activities will realize that it is very important to get these reports to their colleagues before the bills are brought to the floor. Otherwise the legislative process tends to become lengthened. Had the report been available Friday or before, let us say Wednesday, before the Friday discussion, we well might have been able to complete this business on Friday.

Mr. President, I also believe I understand the legal factors and Senate rule factors, related to the question I was putting to the Chair, and I appreciate the indulgence of the Chair and my colleagues in clarifying the points that were made.

I am still concerned about the basic Federal intrusion into the area of local building codes and zoning laws that are implicit and explicit in the conference report.

However, I do believe it is clear that within the narrow confines of the House and Senate bills the conference committee's action was legitimate in this case. But I think the constitutionality of the issue is one which will merit some future discussion and may well merit discussion in the courts.

At this time I would like to make a few final points with regard to this general issue of coal and coal conversion and of the bill itself.

Mr. President, first of all, with respect to the bill I think it is clear that I am personally disappointed in it, disappointed largely because I think it goes against the grain of what the American people have been telling us they would like Congress and the government to do, and that is to allow more latitude to the free marketplace not less, and remove regulations instead of creating more regulations.

An indirect but very real message that we are getting is that in this regard inflation is of paramount importance to the American people. It should be of paramount importance to Congress and, unfortunately, one of the major contributors to the current status of our economy. I will not say the major contributor, but one of the major ones—and becoming larger every day to inflation is regulation and, particularly, of course, those regulations that are unnecessary with respect to many, many facets of our economy.

There is also implicit in this measure and in this issue that is before Congress a not too well-considered as yet commitment to a rapid increase in the use of coal in our energy economy.

I am personally and philosophically committed to that aim. However, I am still afraid we have blinders on with respect to all the implications of that increased use of coal and all of the other collateral issues that must be resolved before it will become possible.

We are slowly increasing our dependency on coal as a source of energy. At what rate that dependency will increase, given the existing law and laws soon to be enacted, is not clear. In 1973 coal made up 17.8 percent of the total U.S. gross energy consumption. In 1976 this percentage had increased to 18.3 percent.

This bill and the President's energy proposals that he put before us last April will continue to increase that percentage if we are successful in findings ways to implement this bill and the President's suggestions.

But the question must be asked how secure under present circumstances and those that can be easily foreseen in the near future is that source of energy we call coal? We just experienced a long coal strike where the States most dependent on coal as a source of energy experienced many, many grave problems and were the focus of considerable discussion and debate in Congress.

In some of those States, industries, schools and even government were forced to curtail their essential activities. I need not go back into the specifics of last winter's activities beyond reminding my colleagues of them.

One need only go back and read the newspapers and the RECORD for the details and the consequences of those details. While the coal strike was settled, there is concern about the dependency upon coal as a source of energy in major parts of the country.

Let me quote from an article of the Washington Post of February 21 of this year. The article begins:

> Although the current coal strike that plagues President Carter is the longest in the 27 years of negotiations between the United Mine Workers and the Bituminous Coal Operators Association, these strikes have been almost a rite of passage for presidents since World War II.

The article concludes as follows:

> Whatever the resolution of this year's strike, it appears likely to achieve no more than previous attempts to resolve the bedrock differences between miners and mine owners.

The article, Mr. President, is not very optimistic that the history of labor relations in the coal industry will change in the future. I ask unanimous consent that the full article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

THE COAL STRIKE: A RITE OF PASSAGE FOR PRESIDENTS SINCE WORLD WAR II

(By Harold J. Logan)

Although the current coal strike that plagues President Carter is the longest in the 27 years of negotiations between the United Mine Workers and the Bituminous Coal Operators Association, these strikes have been almost a rite of passage for presidents since World War II.

And this one is merely an infant in impact, bitterness and rhetoric when compared with the granddaddy of coal strikes, the crippling walkouts of 1946.

The energy shortages of today came to life briefly 32 years ago for Americans only recently emerged from World War II.

In a nation that used coal to heat its homes, power its trains, produce 62 percent of its electricity and provide 55 percent of its industrial power, the coal strikes of 1946 were a disaster.

The walkouts, precipitated by a wage dispute, lasted eight weeks. They caused dimouts in 22 states, forced auto makers to close, produced a 50 percent power cutback in Chicago, and led to a takeover of the mines by the Army.

The roles that Jimmy Carter and UMW President Arnold Miller fill today were played far more dramatically by the irascible Harry S. Truman and John L. Lewis, the Brobdingnagian Iowa-born miner who dominated the UMW for decades.

Truman took over negotiations from the mine owners, and 59 days after the strike had begun Lewis signed a contract with the federal government at the White House. The government was running the coal mines.

But it fared little better with the union than the owners had. Four months after the agreement was signed, Lewis accused the government of violating the contract. He called a new walkout for Nov. 21.

The administration obtained a restraining order imposing a nine-day delay, but to no avail. On Nov. 21, a new walkout began.

The impact was swift. An estimated 250,000 non-miners were laid off. Steel plants began closing. Major cities, short of power, lived in shadows.

The issue was finally settled in the courts rather than at the bargaining table.

Truman obtained a contempt of court ruling against Lewis for refusing to obey the restraining order. Lewis was fined $10,000 and the union $3.5 million, the largest fine in U.S. labor union history.

When the case reached the Supreme Court, Lewis sent his men back to work to, he said, keep the court "free from public pressure superinduced by the hysteria and frenzy of an economic crisis."

The court upheld the conviction, but reduced the UMW fine to $700,000.

The strikes of 1946 were union-sponsored. Since then, coal mine shutdowns have as often been wildcat strikes, carried out without union sanction.

In 1959, several miners were killed, mines were destroyed by dynamite, and mine own-

ers pleaded unsuccessfully with President Eisenhower to send in troops to break a union strike.

A wildcat strike in 1964 shut down mines in six states and idled 10,000 miners. The next year wildcat strikes in Kentucky, Ohio, and West Virginia prompted comments that the issues underlying the 1964 dispute had not been properly resolved.

More than 58,000 union miners went out in 1966 and stayed away even after their then-president, A. W. (Tony) Boyle, ordered them back.

There were strikes in 1970, in 1974, when celebrated violence came to Harlan County, Ky., a wildcat strike in 1975, and a strike that kept 80,000 workers home in 1976.

Money and mine safety are the issues over which most of the strikes have been fought. Whatever the resolution of this year's strike, it appears likely to achieve no more than the previous attempts to resolve the bedrock differences between miners and mine owners.

Mr. SCHMITT. Mr. President, it is also this Senator's opinion that the basic problems between labor and management, the basic problems of working conditions in the coal industry, have not been resolved, and that we will continue to search for that solution, and in some cases that search may lead us to coal shortages.

To pursue the issue a little further, I would like to quote from an editorial in the Washington Post, published on February 24 of this year, entitled "Mr. Schlesinger, Meet Mr. Marshall."

The editorial deals with the need for a labor settlement and the need for a dependable source of coal, and states as follows:

Since the White House needs a quick solution, it is sliding toward a settlement that will do nothing about the epidemic of wildcat strikes that has increasingly disrupted production and disrupted the miners' health and pension funds.

That kind of a settlement would be a severe setback to the president's own energy plan with its emphasis on more coal.

The editorial states further:

Perhaps, in the present circumstances, there is no alternative to a contract sending the miners back to work with a lot more money and no real sanctions against more wildcat strikes. But it is necessary to recognize that there is a price. The administration is sacrificing its energy policy to the necessity of ending the strike quickly.

Mr. President, I ask unanimous consent that the complete text of the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MR. SCHLESINGER, MEET MR. MARSHALL

This unfortunate coal strike is now approaching an unfortunate conclusion. The Carter administration is desperate to get the thing settled. It is not only the threat of a spreading power shortage; the strike has also become an excruciating political embarrassment to the president. He brought the negotiations into the White House with a grand gesture, and there they have stuck. By this time there have been too many headlines hinting at dramatic breakthroughs—followed by no visible progress. The White House has now arrived at the same conclusion as everyone else: There is no rational solution that can be achieved quickly. Since the White House needs a quick solution, it is sliding toward a settlement that will do nothing about the epidemic of wildcat strikes that has increasingly disrupted production and disrupted the miners' health and pension funds.

That kind of a settlement would be a severe setback to the president's own energy plan with its emphasis on more coal. But when a president gets into trouble, the short-run necessity usually triumphs over the long-run interest. We have to acknowledge that none of the various legal solutions—court orders, new legislation—holds any promise. The basic fact here is that the union is in the grip of a populist rebellion that is determined to preserve the unauthorized local strike as its only reliable weapon against companies, arbitrators, judges and its own national leadership—all of whom it regards with mistrust varying only in degree.

Earlier this month the United Mine Workers' leadership settled with the coal companies on a contract that would have imposed severe sanctions on wildcat strikes, in return for an array of financial benefits. That is the contract that the UMW's bargaining council immediately rejected. Subsequently a small company, Pittsburgh and Midway Coal, bargaining outside the industry association, signed a contract in which the wildcat clauses were very heavily diluted. The union's bargaining council approved that one. The administration's strategy now is to make the rest of the industry swallow the P and M contract whole.

The governors of several coal-producing states met with Mr. Carter at the White House yesterday, and called loudly on the other companies to accept the P and M terms. The president's special representative for foreign trade, Robert Strauss, has been telephoning major steel companies to warn them that the administration will permit rising steel imports if production here falls. The steel companies' captive coal mines will be influential in any coal-industry settlement.

This whole sequence of events is, in a sense, the effect of too sudden a rush of prosperity toward people too long neglected and denied. For decades both the miners and the companies believed, with good reason, that they were in a dying industry. Prices were low. Employment in the mines fell rapidly and steadily. Management generally practiced the shortsighted and coarse labor relations of declining industries. The miners felt themselves to have been forgotten and left behind by the rest of the country.

Then, all at once, the country needed coal. In a few years the price tripled, and new jobs opened up in mining. A new president declared that coal would be the salvation of the country. Both miners and companies glimpsed the pot of gold at the end of the rainbow. The surge of new hope and new expectations was too great a weight for the union structure or the bargaining process to bear. Both have now collapsed. Perhaps, in the present circumstances, there is no alternative to a contract sending the miners back to work with a lot more money and no real sanctions against more wildcat strikes. But it is necessary to recognize that there is a price. The administration is sacrificing its energy policy to the necessity of ending the strike quickly. Secretary of Energy James Schlesinger needs more coal production. But Secretary of Labor Ray Marshall has to get these labor negotiations wound up, and he's in a hurry. Mr. Schlesinger meet Mr. Marshall.

(Mr. HOLLINGS assumed the chair.)

Mr. SCHMITT. Mr. President, I do not intend this to be a commentary on the relative positions of management and labor in the coal industry. The point is that the mining of coal has encountered many labor-management related problems. Wildcat strikes and the industry-wide contracts related to strikes have hampered the production of coal. Whether coal is a reliable source of energy has not been demonstrated as yet by the actions of either management or labor, in that there seems to be an inability to come to grips with the basic differences that divide them.

As long as those differences exist, there will be some question as to the inherent reliability of coal as a source of energy in many parts of this country.

To reiterate a point I made earlier, there is also grave concern about the transportation of coal that is mined, and thus its availability at points distant from the mining operation.

Most of the coal is transported by railroad, which is an industry plagued with current problems and without any clear solution to those problems in the near future. Even if the supplies are available, the transportation of this coal to utilities may not be possible in a reliable way.

We are talking about two industries, the coal industry and the rail industry, which have histories of problems, both technical and labor related. Some of my colleagues might point to the future use of coal slurry pipelines; but that is an issue yet to be resolved within Congress and within the country. There are many national and local questions yet to be resolved before it will be clear what the advantages and disadvantages of coal slurry pipelines may be, and where Congress should come down on that particular issue. Again, uncertainty is built into the equation.

The next point, Mr. President, relates to the image that is being portrayed in this discussion with respect to coal. Over and over, we have heard that coal makes up 20 percent of the energy production of this Nation, but makes up 90 percent of the energy resources in the resource base of the United States.

That statement is somewhat misleading. The important point is not how much coal we have potentially available in the United States. The point we must consider is how much coal can be mined at a reasonable cost, at a reasonable rate in terms of the economics, the environment, the availability of equipment such as draglines, and on and on down the list.

Last year we passed a strip mining bill, the so-called Surface Mining Control and Reclamation Act. The effect of that act is to decrease or potentially decrease the available supplies of coal—not that that was its intention, necessarily, but the net effect is to make coal mining more restrictive, and therefore at least, to decrease the rate at which we can accelerate the mining of coal. In many cases, that rate has held constant or decreased in local situations.

Had that bill been enacted 5 years ago, it might have been understandable in the light of those times, and of our appropriate and increased emphasis, at that time, on environmental considerations. We were not, 5 years ago, aware of the dark cloud of dependency on energy imports that was hanging over us, as we are now. The Surface Mining Control and Reclamation Act was enacted

after the President submitted his energy plan calling for a 66-percent increase in the production of coal, and of course a comparable increase in the future.

The effect of that act, now Public Law 95–87, will be to decrease the available supply of coal, at least to decrease the rate at which that coal is available compared to our needs.

Let me quote from the minority views of some of my colleagues in the Energy and Natural Resources Committee about that particular legislation:

MINORITY VIEWS OF SENATORS BARTLETT, DOMENICI, AND LAXALT

President Carter, like President Ford before him, has identified coal as a vital element in our energy policy. Both of these Presidents recognized that while coal accounts for only 19% of our present energy needs, it represents 90% of our total energy reserves. The calls for increased coal production go back to 1973 and the Project Independence proposal to double production by 1985. And now, this Administration has nominated coal as the principal replacement fuel for a massive conversion effort from gas and oil. Yet, the Congressional response to this dilemma is a woefully misdirected surface mining bill which will:

(1) Severely restrict the acceleration of coal production;

(2) Scrap every state law, regulation, and administrative procedure that is in place that could be used to expand coal production; and

(3) Impose restrictions which have no relevance to insuring adequate reclamation.

Again, Mr. President, bringing this subject up is not to take a side, necessarily, but just to point out the uncertainties with which we deal when our various laws are at cross purposes.

In addition to the restricting of the lands that can be mined under Public Law 95–87 the Surface Mining Control and Reclamation Act also requires a considerable amount of paperwork and regulation; and that is an understatement, Mr. President. The act as signed into law contains 88 pages. Forty-eight of those pages deal with the control of environmental impact, that is, the regulation of the production of coal.

Some of the aspects of recent legislation include the following—and I quote from the Congressional Quarterly Almanac of 1977:

According to the Congressional Quarterly, the legislation,

Established a Federal enforcement program within 6 months of enactment, to include at least the one inspection for every mining site every 6 months.

It required that all mine operators within a State had to apply for a permit to mine lands they expected to be working on 8 months later. It required mine operators to submit detailed information on their applications, including the following: identification of all officials and corporations involved; history of the applicant's experience with past mining permits; a demonstration of compliance with public notice requirements; maps of the proposed mining area and land to be affected; description of the mining methods; starting and termination dates of each phase of the mining operation; schedules and methods for compliance with the environmental standards; description of the hydrologic consequences of mining and reclamation; results of test borings; soil surveys if the mine might include prime farmlands; a blasting plan.

Mr. President, I might add that all of those requirements are necessary to a successful mining operation, but the question is how many people can the industry stand to have looking over their shoulder as they try to actually mine coal?

The Congressional Quarterly goes on to add that the legislation:

Required operators to submit a reclamation plan as part of their permit application.

Required that reclamation plans submitted with permit applications must include the following information:

And one can imagine the lengths of the list of the information that is required.

The legislation—

Provided that a mining permit could not be approved unless the regulatory authority found that all requirements of the act would be met, reclamation could be accomplished, damage to the hydrologic balance would be prevented, and the area to be mined was not one designated as unsuitable for mining—unless the operator showed that substantial legal and financial commitments had been made before January 1, 1977.

Required findings that mining operations would not interrupt, discontinue or preclude farming on alluvial valley floors west of the 100th meridian, nor materially damage the quality or quantity of underground or surface water there.

Again, Mr. President, it is my belief that technology, good sense, and some legal oversight can provide for the environmentally sound production and use of coal. However, with those kinds of regulatory requirements, and with the history that the bureaucracy has with respect to the overzealous enforcement of those regulatory requirements, I am afraid that, again, a great deal of uncertainty exists as to our ability to produce coal at the rate which we will require.

Mr. President, last year this Congress passed legislation which will restrict the production of coal. We have to recognize that. Carter Manasco, of the National Coal Association, stated after the passage of the Surface Mining Control and Reclamation Act:

Every day they want more and more coal production, then they put more and more roadblocks. It is a difficult bill.

Mr. Manasco's remarks would have to be among the understatements of the year.

Today this same Congress is attempting to enact, and will, I am sure, enact, a law that will increase the need for coal. Again, a well-intentioned bill, although maybe unnecessary, in fact. All I can see from my own personal analysis of the situation, based on some years of consideration, is that the gap between our need for the use of coal and the potential availability of coal is increasing. Our demand for coal will increase due to Federal laws and regulations, and hopefully because of the continued threat of imports of petroleum. At the same time, our available supply of coal will decrease due to Federal laws and regulations. This widening gap will result in increased costs for coal and, in a large number of possibilities, for shortages of coal.

Mr. President, I have only spoken to the Surface Mining Control and Reclamation Act but we must also include the general provisions of the Environmental Protection Act and the Clean Air Act. Again all of these were well-intentioned bills but which, as they were drafted, as they were passed and signed into law, contain many, many provisions which, on their face, are inconsistent with the purposes of the coal conversion bill and in their implementation, based on the history of the bureaucracy, will almost certainly become even more inconsistent with the purposes of this bill.

What is even more ironic is that we are legislating an increased dependency on a fuel which is not reliable, as I have pointed out earlier. It may become reliable and, as a matter of fact, I think it has to become reliable, but at the present time the Congress and the administration, and, to some degree, the administrative and judicial courts of this country, are not—I repeat not—taking the steps necessary to make coal a reliable fuel for our future.

Parts of this country, if not the whole country, were basically held hostage 6 months ago by the coal strike. The laws that we had on the books did not prevent that coal strike. By increasing the dependency of this Nation on coal without increasing its availability we are allowing ourselves to become subject to even greater blackmail in the future. What will substitute as our energy requirements increase? Since we are not going to allow the use of natural gas or the incentives for the production of large amounts of natural gas, which we could do, there is only one other source of energy immediately available and available in the near future, and that is imported petroleum. Every barrel of oil we do not produce in this country, every cubic foot of natural gas we do not produce in this country, and every ton of coal that we do not produce in this country will be substituted for by much higher priced foreign imports.

As an example of the seriousness of the events of this past winter, let me point out that the President asked for voluntary restraints on wage increases, and then sanctioned in the increase that we got, which is well in excess of the guidelines that were set. This whole business of regulation, of excessive wage increases related to energy, is causing more and more of an impact on the rate of inflation. I am sure this body in its discussions of the Humphrey-Hawkins Full Employment Act and other measures will be talking about inflation a great deal in this election year, but I, for one, am not sure I am going to see a great deal of action on the part of the Congress to do anything about it.

Finally, Mr. President, I would like to remind my colleagues of an issue that I tried to make considerable importance out of and that is the issue of capital availability.

Capital, that is, dollars that can be invested, is another primary energy resource of this country, and it is one which we tend to forget about. We pass laws that relate to the production or the restrictions on the production of coal, natural gas, oil, geothermal, uranium and so forth, all of which, I would have to say again, are well-intentioned. Everybody is trying to increase the availability of domestic energy. On the other hand, we are passing laws which tend to be not well-intentioned because they are aimed at restricting and limiting the availability of that other energy resource, which is investment capital.

We just tend to forget how these various laws interface in terms of the use of capital, where it is diverted, and how much it is going to cost.

So, as we consider legislation such as this conference report, let us remember that it has to be done in the context of some other things we are going to have to do this year, and that is look at a major cut in Federal taxes, to try to understand how we can begin to correlate the capital needs within this country. The best place, of course, is in the market system itself, but we seem bound and determined not to let that system do the job it has done so well for this country for so long.

Mr. President, I appreciate the courtesy of the distinguished Senators from Colorado and Kentucky for responding to the questions which can be completely read and reviewed in the record, along with their answers.

I think that, at the very least, we have clarified the intent of the conferees with respect to some relatively vague portions and other aspects of the conference report before us.

I also appreciate the courtesy of the majority leader for working out the time agreement by which the debate today has been conducted and that the vote will be held tomorrow. I believe the agreement still provides for a 2 o'clock vote.

I hope that my colleagues will review the record established last Friday and today with respect to many of the issues that have been raised by colloquy and by question. Now we shall at least cast that vote tomorrow with a better understanding of just what the issues are that are coming before us this summer, as the conference reports on the energy bills appear before us.

This is not a subject that we can take literally. We certainly should not fall prey to the passage of energy bills for the sake of passage of energy bills. We certainly should not assume that, just because there is a bill, there is a policy. Nevertheless, I hope that, as a consequence of this weekend and today, we now are in the right frame of mind to begin to consider seriously the energy measures that are before us.

It has been a long time coming. Many, many months have gone by as the conferees have attempted to work out their compromises. Now that they are here, let us make sure that we can at least explain to our constituents, to all Americans, and to the world what we have done. I am afraid that what we have done is not only insufficient, but, in many cases, inappropriate. That, of course, will be for history to judge.

Mr. President, if the proponents of the conference report have no further use for their time, I should be happy to agree to yield back the remainder of my time and let the Senate move on to the next matter before us.

Mr. FORD. Mr. President, the Senator from New Mexico wants to yield back the remainder of his time?

Mr. SCHMITT. I should be happy to.

Mr. FORD. It would suit me fine. As I understand it, there are 10 minutes to a side.

The PRESIDING OFFICER. Five minutes to a side.

Mr. FORD. Five minutes to a side tomorrow; prior to the vote. If the Senator from New Mexico will yield back his time, I shall be happy to do the same.

Mr. SCHMITT. I yield it back.

The PRESIDING OFFICER. All time is yielded back.

Mr. FORD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 2788

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as Calendar Order No. 815, S. 2788 is the pending business before the Senate, there be a time agreement thereon as follows: 2 hours on the bill, to be equally divided between Mr. CANNON and Mr. PEARSON; 30 minutes on any amendment, with the exception of one amendment by Mr. MUSKIE, on which there will be a 2-hour limitation; 15 minutes on any debatable motion, appeal, or point of order, if such is submitted to the Senate for its consideration; and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection——

Mr. SCHMITT. Reserving the right to object—I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 2788 (Order No. 815) a bill to amend sec. 216 of the Regional Rail Reorganization Act of 1973 to authorize the purchase of an additional $600,000,000 of the series A preferred stock of the Corporation, and for other purposes, debate on any amendment (except an amendment to be offered by the Senator from Maine (Mr. Muskie), on which there shall be 2 hours) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 15 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the said bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Nevada (Mr. Cannon) and the Senator from Kansas (Mr. Pearson): *Provided,* That the said Senators or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME-LIMITATION AGREEMENT—H.R. 11445

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that, at such time as Calendar Order No. 758, H.R. 11445, the small business bill, is made the pending business before the Senate, there be a time limitation thereon as follows: 1 hour on the bill, to be equally divided between Mr. NELSON and Mr. WEICKER; 30 minutes on any amendment; 15 minutes on any debatable motion, appeal, or point of order if such is submitted to the Senate for its consideration; and that the agreement be in the usual form, with this proviso: that on each of three amendments by Mr. BARTLETT, there be a time limitation of 1 hour, to be equally divided in accordance with the usual form.

The PRESIDING OFFICER. Is there objection? The Chair hears none. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of H.R. 11445 (Order No. 758), an act to amend the Small Business Act and the Small Business Investment Act of 1958, debate on any amendment (except three amendments to be offered by the Senator from Oklahoma (Mr. Barlett), on each of which there shall be 1 hour) shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill, and debate on any debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 15 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage of the bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Wisconsin (Mr. Nelson) and the Senator from Connecticut (Mr. Weicker): *Provided further,* That the Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

ENDANGERED SPECIES ACT AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, there seems to be nothing at this point that I can call up at the moment. I ask unanimous consent that the Senate pro-

ceed to consider the endangered species bill, with the understanding that once the title is read, I shall move to recess for a period.

The PRESIDING OFFICER. The clerk will state the bill by title. The legislative clerk read as follows:

A bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works with amendments as follows:

On page 1, line 6, strike "1536" and insert "1532";

On page 2, line 7, after "which," insert "after consultation as required in section 7 (a) of this Act,";

On page 2, line 11, after "the" insert "adverse modification or";

On page 2, line 12, strike " "; and" ;

On page 2, beginning with line 13, insert the following:

"(9) For purposes of subsection 7(e)(2)(C) the term 'alternative courses of action' means all alternatives and thus is not limited to original project objectives and agency jurisdiction."; and

On page 2, line 19, strike "(18)" and insert "(19)";

On page 3, line 9, after "or" insert "adverse";

On page 3, line 10, after "Secretary" insert "after consultation";

On page 4, line 9, after "Interior" insert "(and where appropriate, the Secretary of the Interior in concurrence with the Secretary of Commerce)";

On page 4, line 13, strike "Secretary of Transportation" and insert "Governor of the State which is affected by the action for which an exemption is sought (or in the case of an action affecting more than one State, the Governors of all such States who shall cast collectively a single vote on the Committee as determined among such Governors)";

On page 5, line 3, strike "Except as provided in subparagraph (B) of this paragraph, five" and insert "Seven";

On page 5, line 4, after "Committee" insert "or their representatives";

On page 5, beginning with line 18, insert the following:

"(E) All meetings and records of the Committee shall be open to the public."

On page 6, line 21, strike "Commission" and insert "Committee";

On page 7, beginning with line 15, strike through and including page 9, line 4, and insert in lieu thereof the following:

"(12) For the purpose of obtaining information necessary for the consideration of an application for an exemption under this section the Committee may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents.

"(13) To the extent practicable within the time required for action under subsection (e) of this section, and except to the extent inconsistent with the requirements of this section, the consideration of any application for an exemption under this section and the conduct of any hearing under subsection (e) of this section shall be in accordance with sections 554, 555, and 556 of title 5, United States Code."

On page 10, line 20, after "Service" insert "(or where appropriate the Director of the Fish and Wildlife Service in concurrence with the Director of the National Marine Fisheries Service)";

On page 11, line 3, strike "—Not later than one hundred and eighty days after" and insert "After";

On page 11, beginning with line 13, insert the following:

"(ii) there has been a reasonable and responsible effort to resolve the conflicts which are known to exist, and the Federal agency requesting such exemption has made, subsequent to the initiation of the consultation under subsection (a) of this section, no irreversible or irretrievable commitment of resources which forecloses the consideration of modification or alternatives to such action; and"

On page 11, line 21, strike "(ii)" and insert "(iii)";

On page 11, line 22, strike "both determinations in clauses (A) (i) and (ii), determine after notice and opportunity for public hearing" and insert "positive determinations under clauses (i), (ii), and (iii) of subparagraph (A), determine and publish in the Federal Register, within one hundred and eighty days after receipt of the application and response required in subsection (d) of this section and after notice and public hearing on the record,";

On page 12, line 9, after "determines" insert "on the record";

On page 12, line 13, strike "project" and insert "action";

On page 12, line 16, after "of" insert "alternative courses of action consistent with";

On page 13, line 8, strike "should" and insert ", au";

On page 13, line 10, strike "and the Federal agency or department shall transfer to the United States Fish and Wildlife Service out of appropriations or other funds, such money as may be necessary to implement the conservation programs or mitigation measures required by this section for endangered or threatened species or their critical habitats";

On page 14, line 2, strike "1981,".' and insert "1981.";

On page 14, line 2, strike "1981,"." and insert the following:

"(j) The authority granted to the Endangered Species Committee established in this section shall terminate on September 30, 1981.".

SEC. 4. Section 9(b) of the Endangered Species Act (16 U.S.C. 1538) is amended by inserting "(1)" after "(b)" and by adding the following new paragraph:

"(2) The provisions of this section shall not apply to any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978, or the domestic captive produced progeny of any legally held raptor: *Provided*, That such raptor has not been intentionally returned to a wild state. Persons holding such raptors must be able to demonstrate that the raptors do, in fact, qualify under the provisions of this paragraph. Such persons shall maintain and submit to the Secretary on request such inventories, documentation, and records as are reasonable and as the Secretary may by regulation require: *Provided*, That such requirements shall not unnecessarily duplicate the requirements of other rules and reglations promulgated by the Secretary.".

On page 14, line 23, strike "4" and insert "5";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act Amendments of 1978".

SEC. 2. Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

(1) by inserting after paragraph (4) thereof following new paragraph:

"(5) The term 'Federal agency' means any department, agency, or instrumentality of the United States.";

(2) by inserting after paragraph (7) thereof the following new paragraphs:

"(8) The term 'irresolvable conflict' means, with respect to any action authorized, funded, or carried out by a Federal agency, a set of circumstances under which, after consultation as required in section 7(a) of this Act, completion of such action would (A) jeopardize the continued existence of an endangered or threatened species, or (B) result in the adverse modification or destruction of a critical habitat.

"(9) For purposes of subsection 7(e)(2)(C) the term 'alternative courses of action' means all alternatives and thus is not limited to original project objectives and agency jurisdiction."; and

(3) by renumbering the paragraphs thereof, including any references thereto, as paragraphs (1) through (19), respectively.

SEC. 3. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended to read as follows:

"INTERAGENCY COOPERATION

"SEC. 7. (a) CONSULTATION.—The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall insure that any action authorized, funded, or carried out by such agency does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary after consultation as appropriate with the affected States, to be critical, unless such agency is granted an exemption for such action by the Committee pursuant to subsection (e) of this section.

"(b)(1) ESTABLISHMENT OF COMMITTEE.—There is established a committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the 'Committee').

"(2) The Committee shall review any application submitted to it pursuant to subsection (d) of this section and determine in accordance with subsection (e) of this section whether or not to grant an exemption from the requirements of subsection (a) of this section for the action set forth in such application.

"(3) The Committee shall be composed of seven members as follows:

"(A) The Secretary of Agriculture.

"(B) The Secretary of the Army.

"(C) The Chairman of the Council on Environmental Quality.

"(D) The Administrator of the Environmental Protection Agency.

"(E) The Secretary of the Interior (and where appropriate, the Secretary of the Interior in concurrence with the Secretary of Commerce).

"(F) The Secretary of the Smithsonian Institution.

"(G) The Governor of the State which is affected by the action for which an exemption is sought (or in the case of an action affecting more than one State, the Governors of all such States who shall cast collectively a single vote on the Committee as determined among such Governors).

"(4)(A) Members of the Committee shall receive no additional pay on account of their service on the Committee.

"(B) While away from their homes or regular places of business in the performance

of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(5)(A) Seven members of the Committee or their representatives shall constitute a quorum for the transaction of any function of the Committee.

"(B) The Committee shall not grant any exemption from the requirements of subsection (a) of this section to the head of any Federal agency for any action authorized, funded, or carried out by such agency unless five members of the Committee vote to grant such exemption. The vote of the Committee members shall not be delegated to other persons.

"(C) The Secretary of the Interior shall be the Chairman of the Committee.

"(D) The Committee shall meet at the call of the Chairman of five of its members.

"(E) All meetings and records of the Committee shall be open to the public.

"(6) The Committee may appoint and fix the pay of such personnel as it deems desirable.

"(7) The staff of the Committee may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Service pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

"(8) The Committee may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule.

"(9) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this section.

"(10)(A) The Committee may for the purpose of carrying out its duties under this section hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee deems advisable.

"(B) When so authorized by the Committee, any member or agent of the Committee may take any action which the Committee is authorized to take by this paragraph.

"(C) Subject to the Privacy Act, the Committee may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Committee, the head of such Federal agency shall furnish such information to the Committee.

"(D) The Committee may use the United States mails in the same manner and upon the same conditions as other Federal agencies.

"(E) The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

"(11) In carrying out its duties under this section, the Committee may promulgate and amend such rules, regulations, and procedures, and issue and amend such orders as it deems necessary.

"(12) For the purpose of obtaining information necessary for the consideration of an application for an exemption under this section the Committee may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents.

"(13) To the extent practicable within the time required for action under subsection (e) of this section, and except to the extent inconsistent with the requirements of this section, the consideration of any application for an exemption under this section and the conduct of any hearing under subsection (e) of this section shall be in accordance with sections 554, 555, and 556 of title 5, United States Code.

"(c) REGULATIONS.—Not later than ninety days after the date of enactment of this section, the Committee shall promulgate regulations which set forth the form and manner in which applications by the heads of the Federal agencies for review of actions by such agencies shall be submitted to the Committee and the information to be contained in such applications. Such regulations shall require that information submitted in an application by the head of any Federal agency with respect to any action of such agency include, but not be limited to—

"(1) a description of the consultation process carried out pursuant to subsection (a) of this section between the head of such Federal agency and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

"(2) a statement describing why such action cannot be altered or modified to conform with the requirements of subsection (a) of this section.

"(d) SUBMISSION OF APPLICATIONS.—(1) The head of any Federal agency may submit an application for review of any action of such agency to the Committee if, in the opinion of the head of such agency, such agency has complied with the requirements of subsection (a) of this section and that an irresolvable conflict exists with respect to such action. Such application for review shall be submitted in accordance with the regulations promulgated by the Committee under subsection (c) of this section.

"(2) The Director of the Fish and Wildlife Service (or where appropriate the Director of the Fish and Wildlife Service in concurrence with the Director of the National Marine Fisheries Service) shall prepare and submit to the Committee within thirty days of any submission made under paragraph (1) of this subsection his comments concerning such submission.

"(e)(1) REVIEW AND DETERMINATION.—After the Committee receives the application and comments submitted pursuant to subsection (d) of this section, the Committee shall review such application and comments and—

"(A) determine, with respect to the action which is the subject of such application, whether or not—

"(i) the requirements of the consultation process described in subsection (a) of this section have been met; and

"(ii) there has been a reasonable and responsible effort to resolve the conflicts which are known to exist, and the Federal agency requesting such exemption has made subsequent to the initiation of the consultation under subsection (a) of this section, no irreversible or irretrievable commitment of resources which forecloses the consideration of modification or alternatives to such action; and

"(iii) an irresolvable conflict exists; and

"(B) if it makes positive determinations under clauses (i), (ii), and (iii) of subparagraph (A), determine and publish in the Federal Register, within one hundred and eighty days after receipt of the application and response required in subsection (d) of this section and after notice and public hearing on the record, whether or not to grant an exemption from the requirements of subsection (a) of this section to the head of such Federal agency for such action.

"(2) The Committee may only grant an exemption for any action under subsection (e) of this section if it determines on the record that—

"(A) there is no reasonable and prudent alternative to such action; and

"(B) the action is of national or regional significance; and

"(C) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and that such action is in the public interest.

"(f) NATIONAL ENVIRONMENTAL POLICY ACT.—No final determination of the Committee under subsection (e) of this section shall be considered a major Federal action under the terms of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(g) MITIGATION.—In those instances where the Committee determines that an exception is warranted under subsection (e) of this section the Committee must assure that the action approved for such exemption incorporates all reasonable mitigation measures deemed necessary by the Secretary to minimize adverse impacts upon the affected endangered or threatened species or its critical habitat including but not limited to live propagation, transplantation, and habitat acquisition and improvement. The Federal agency or department receiving such exemption shall include the costs of such mitigation measures within the overall costs of continuing the proposed action.

"(h) EXCEPTION ON TAKING.—Notwithstanding sections 4(d) and 9(a) of this Act or any regulations promulgated pursuant to such sections, any action for which an exemption is granted under subsection (e) of this section shall not be considered a taking of any endangered or threatened species with respect to any activity which is necessary to carry out such action.

"(i) AUTHORIZATION.—There is authorized to be appropriated to carry out this section not to exceed $2,500,000 for fiscal year 1979, not to exceed $2,500,000 for fiscal year 1980, and not to exceed $2,500,000 for fiscal year 1981.

"(j) The authority granted to the Endangered Species Committee established in this section shall terminate on September 30, 1981.".

SEC. 4. Section 9(b) of the Endangered Species Act (16 U.S.C. 1538) is amended by inserting "(1)" after "(b)" and by adding the following new paragraph:

"(2) The provisions of this section shall not apply to any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978, or the domestic captive produced progeny of any legally held raptor: *Provided*, That such reptor has not been intentionally returned to a wild state. Persons holding such raptors must be able to demonstrate that the raptors do, in fact, qualify under the provisions of this paragraph. Such persons shall maintain and submit to the Secretary on request such inventories, documentation, and records as are reasonable and as the Secretary may by regulation require: *Provided*, That such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary.".

SEC. 5. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and the

fiscal year ending September 30, 1978, not to exceed $23,000,000 for the fiscal year ending September 30, 1979, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, and not to exceed $27,000,000 for the fiscal year ending September 30, 1981, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $2,500,000 for the fiscal year ending September 30, 1979, not to exceed $3,000,000 for the fiscal year ending September 30, 1980, and not to exceed $3,500,000 for the fiscal year ending September 30, 1981, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.".

RECESS UNTIL 4 P.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 4 p.m. today.

There being no objection, the Senate, at 2:28 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. MELCHER).

ENDANGERED SPECIES ACT AMENDMENTS OF 1978

The PRESIDING OFFICER. The bill before the Senate is S. 2899. Time for debate on this bill is limited to 2 hours, to be equally divided and controlled by the Senator from Iowa (Mr. CULVER) and the Senator from Vermont (Mr. STAFFORD) with 30 minutes on any amendment except one to be offered by the Senator from Mississippi (Mr. STENNIS), on which there shall be 1½ hour and with 15 minutes on any debatable motion, appeal, or point of order.

The Senate continued with the consideration of S. 2899.

The PRESIDING OFFICER. Without objection, the Chair suggests the absence of a quorum to be equally divided between the two sides, and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. SCOTT be authorized to control 30 minutes of time on this bill and it be an additional amount of time to that already specified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time for the quorum be divided equally on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I ask unanimous consent that Mr. George Jacobson, Kathy Korpon, and Dick Oshlo, of my staff, be accorded the privilege of the floor during consideration of S. 2899.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Does anyone else want me to yield for a unanimous-consent request?

Mr. WALLOP. Mr. President, I ask unanimous consent that Mr. Jon DeVore and Mr. Dean Roberts, of Senator STEVENS' staff, be accorded the privilege of the floor during and throughout the votes on this debate, and Patty McDonald and Jim Range, from the staff of the Environment and Public Works Committee and my staff, and Mr. Gordon Jones, of Senator GARN's staff, be accorded the privilege of the floor.

The PRESIDING CFFICER. Without objection, it is so ordered.

Mr. STENNIS. If the Senator will yield to me, I ask unanimous consent, Mr. President, that Mr. James Kendall, my legislative assistant staff, be permitted to remain in the Chamber during the disposition of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Jeffrey Nedelman of my staff be permitted the privileges of the floor during the consideration of the pending legislation and rollcalls thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, will the Senator yield to me for a parliamentary inquiry?

Mr. CULVER. I am delighted to yield.

Mr. STENNIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. STENNIS. To refresh our recollection, Mr. President, the Senator from Iowa now is proceeding under the unanimous-consent agreement to take up the so-called endangered species bill.

Mr. CULVER. That is correct.

Mr. STENNIS. And the Senator is floor manager of the bill.

Mr. CULVER. Yes.

Mr. STENNIS. We had an understanding about amendments and amendments in the second degree, as I recall, and I had an amendment in at that time and it was treated to 1½ hours equally divided; is that correct?

Mr. CULVER. The Senator from Mississippi is correct. We have provision under the unanimous-consent agreement for 2 hours of general debate, with the understanding as well that the amendment of the Senator from Mississippi will be accorded 1½ hours of debate to be equally divided and any other amendments will be accorded 30 minutes of debate equally divided.

Mr. STENNIS. I thank the Senator from Iowa very much.

Mr. CULVER. Mr. President, for the next few hours the Senate will be considering legislation, S. 2899, which will reauthorize and amend the Endangered Species Act which was enacted in 1972 through the wisdom of Congress. I use the term wisdom advisedly, for there is little doubt, in my judgment, that this act is one of the most significant and profound laws adopted by our Nation.

The Endangered Species Act was a recognition—and a woefully late one—that our developmental activities were responsible for destroying forms of life which were present as a result of processes which began with the first appearance of life on Earth 3½ billion years ago. All species present today have been shaped by those forces, and they have evolved and developed for ages which in contrast make the length of our own lifetimes insignificant.

This has been a continuing saga. Species and life forms appear, flourish for a time, and then disappear forever. This is a natural process, and one we must recognize as we consider this legislation today.

And yet, events shaped by our industrialization over the past few hundred years have led to a sharp acceleration in the rate of extinction, to the point where the natural process may be increased by a factor of hundreds or even thousands. The chilling tragedy of this massive loss of species from our ecosystems and biosphere will never be fully understood, because among the species irreversibly lost are some whose existence we never realized, and whose contribution to science and mankind will never be known.

The Endangered Species Act is a first, a belated, and a noble attempt to reduce these losses by requiring that our citizens and our Government be aware of threatened or endangered species, and that they plan future activities to prevent these losses. The act has without question already had a positive effect in this regard. In just 5 years, it has probably been responsible for saving several species from extinction.

Unfortunately, one provision of the law has generated considerable attention in recent months. Section 7 of the Endangered Species Act requires that all Federal agencies undertaken necessary precautions to assure that actions or projects authorized, funded, or carried out by them do not jeopardize the continued existence of an endangered species or its critical habitat.

This is in every sense a rational and necessary provision, because Federal actions have done much to alter our landscape and environment. Section 7 was designed to require a new and specific analysis of these actions and to require planning so that we could avoid recognizable harm to any extremely rare species.

This section establishes a specific process of consultation which must take place between the construction agency and the U.S. Fish and Wildlife Service (FWS) which implements the Endangered Species Act. This mechanism has led to the resolution of a vast majority of the potential conflicts which have arisen since 1973.

As all my colleagues are aware, this provision of the law has been used suc-

cessfully to prevent the completion of the Tellico Dam in Tennessee, and it appears likely that a growing number of other projects will not be completed, because of this section. During the past months we have heard many emotional discussions from both sides about the case of Tellico, whose reservoir would have flooded the only remaining habitat for a small species of fish not even known to exist until several years ago.

Strictly speaking, the decision of the Supreme Court in the case of Hill against the Tennessee Valley Authority was a good one, in that it correctly interpreted the purposes of the law and the intent of Congress, which was to give priority to the important value of endangered species.

During the past year the Resource Protection Subcommittee, which has jurisdiction over the Endangered Species Act, has held 6 days of hearings on the implementation of the act. The committee received persuasive testimony that there are now many other projects in the Nation where consultative resolution may not be possible under the existing arrangement.

It has also been brought to the committee's attention that the General Accounting Office suspects, but has not confirmed, that the Fish and Wildlife Service has refrained from listing species which may pose a conflict with a Federal action, for fear of provoking the Congress into weakening the protective provisions of section 7. In addition, the listing of endangered species is increasing dramatically. One thousand and eight hundred plant species have been proposed, as have 40 additional critical habitat designations. The inevitable consequence of these developments is an intensifying pressure on Congress to destroy the objective of this valuable legislation or similarly exempt various projects.

The Committee on Environment and Public Works unanimously appproved—after considerable discussion—the bill before us today, S. 2899, which amends the Endangered Species Act to establish a rational and responsible mechanism for resolving future conflicts and at the same time assure maximum protection for all endangered species. It provides a general solution to these problems and is designed to avoid ad hoc exemptions or the emasculation of the act as a result of short-term pressures on Congress which overlook the importance of this law.

(Mr. NELSON assumed the chair.)

Mr. CULVER. Briefly, the bill establishes an Endangered Species Committee, composed of seven public officials, including the heads of six Federal agencies and the Governor of the State affected by the conflict. The committee would review and arbitrate conflicts which involve Federal projects and endangered species, and it could exempt a project from compliance with section 7 of the act if it agreed that certain criteria had been met. These criteria would require the committee to evaluate social, cultural, economic, and other benefits of the project as well as the ecological, educational, and scientific and other benefits of alternatives which would conserve the species. In addition, the bill would stimulate the resolution of impasses by requiring good faith efforts in consultation between the action agency and the U.S. Fish and Wildlife Service.

Mr. President, I want to assure my colleagues that the proposal before us is one which has received serious scrutiny by our committee. It was, as I have mentioned, adopted unanimously by the committee. We are satisfied that it does preserve the integrity of the Endangered Species Act and yet provides the flexibility which will be needed in the coming years. Most importantly, it is an attempt to get ahead of foreseeable problems and be prepared for them in a rational way.

It is not possible to overstate the importance of keeping the Endangered Species Act strong. Enlightened self-interest requires that we do our best to preserve these species, which have evolved over millions and billions of years. We owe it to our children and grandchildren to pass on to them a world that is intact.

For the record, Mr. President, I would like at this time to present a more comprehensive and detailed analysis of the bill, S. 2899.

The Endangered Species Act of 1973 is the first statute to authorize a comprehensive national program for the conservation of endangered or threatened species of fish, wildlife, and plants.

The regulatory mechanism provided to achieve this goal authorizes and directs the Secretary of the Interior and, for marine species, the Secretary of Commerce to list and to issue regulations for the protection of endangered or threatened species. The Secretary is required to enter into cooperative agreements with, and provide technical and financial assistance to, qualified States for species conservation programs.

The authorization for the act, currently $25 million annually for the Secretary of the Interior and $5.5 million annually for the Secretary of Commerce, expires on September 30, 1978. S. 2899 extends the budget authority for the endangered species program through fiscal year 1981 at a level of $75 million for the Secretary of the Interior and $9 million for the Secretary of Commerce.

As I mentioned, the bill also contains a provision which is intended to provide a mechanism for the resolution of conflicts which might arise between the Endangered Species Act's mandate to protect and manage endangered and threatened species and other legitimate national goals and priorities such as providing energy, economic development, and other benefits to the American people. Some of the objectives have clashed in recent months as construction on certain major Federal projects has been slowed, and in one instance, stopped, since completion of the proposed Federal action would adversely impact endangered or threatened species or their critical habitats.

The Tellico Dam project on the Little Tennessee River has been probably the most visible case in which the committee found a difficult conflict between project objectives and the requirements of section 7 of the Endangered Species Act. The Fish and Wildlife Service feels TVA should terminate or modify the project, because it endangers the snail darter. TVA, on the other hand, feels it has ambiguous congressional directives and that it is not at liberty to terminate the project at this time.

This case has also resulted in a court suit, which was pursued to the Supreme Court, Hiram G. Hill, Jr. et al. against Tennessee Valley Authority. The appellate court had held in this case that a lower court decision ruling that the Tellico Dam should be completed was in error and that TVA should be enjoined from completing the project. The appellate court stated that enforcement of section 7 of the act requires an injunction of all further actions by TVA which may detrimentally alter the critical habitat of the snail darter regardless of mitigating circumstances. Arguments were heard before the U.S. Supreme Court on April 18, 1978. On June 15, 1978, the Court announced its decision in the case, upholding the decision of the appellate court. Mr. President, the Court's decision is important and relevant to the consideration of this legislation, and I think the syllabus will be of interest to my colleagues.

I ask unanimous consent that the syllabus be printed in the RECORD.

There being no objection, the syllabus was ordered to be printed in the RECORD, as follows:

SYLLABUS

The Endangered Species Act of 1973 (Act) authorizes the Secretary of the Interior (Secretary) in § 4 to declare a species of life "endangered." Section 7 specifies that all "Federal departments and agencies shall, . . . with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of [the] Act by carrying out programs for the conservation of endangered species . . . and by taking such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species or result in the destruction or modification of habitat of such species which is determined by the Secretary . . . to be critical." Shortly after the Act's passage the Secretary was petitioned to list a small fish popularly known as the snail darter as an endangered species under the Act. Thereafter the Secretary made the designation. Having determined that the snail darter apparently lives only in that portion of the Little Tennessee River that would be completely inundated by the impoundement of the reservoir created as a consequence of the completion of the Tellico Dam, he declared that area as the snail darter's "critical habitat." Notwithstanding the near completion of the multimillion-dollar dam, the Secretary issued a regulation, in which it was declared that, pursuant to § 7, "all Federal agencies must take such action as is necessary to ensure that actions authorized, funded, or carrier out by them do not result in the descriction or modification of this critical habitat area." Respondents brought this suit to enjoin completion of the dam and impoundment of the reservoir, claiming that those actions would violate the Act by causing the snail darter's extinction. The District Court after trial denied relief and dismissed the complaint. Though finding that the impoundment of the reservoir would probably jeopardize the

snail darter's continued existence, the court noted that Congress, though fully aware of the snail darter problem, had continued Tellico's appropriations, and concluded that "[a]t some point in time a federal project becomes so near completion and so incapable of modification that a court of equity should not apply a statute enacted long after inception to produce an unreasonable result. . . ." The Court of Appeals reversed the District Court's judgment and permanently enjoined completion of the project "until Congress, by appropriate legislation, exempts Tellico from compliance with the Act or the snail darter has been deleted from the list of endangered species or its critical habitat materially redefined." The court held that the record revealed a prima facie violation of § 7 in that TVA had failed to take necessary action to avoid jeopardizing the snail darter's critical habitat by its "actions." The court thus rejected the contention that the word "actions" as used in § 7 was not intended by Congress to encompass the terminal phases of ongoing protects. At various times before, during, and after the foregoing judicial proceedings, TVA represented to congressional appropriations committees that the Act did not prohibit completion of the Tellico Project and described its efforts to transplant the snail darter. The committees consistently recommended appropriations for the dam, sometimes stating their views that the Act did not prohibit completion of the dam at its advanced stage, and Congress each time approved TVA's general budget, which contained funds for the dam's continued construction. *Held:*

1. The Endangered Species Act prohibits impoundment of the Little Tennessee River by the Tellico. Dam. Pp. 17–37.

(a) The language of § 7 is plain and makes no exception such as that urged by petitioner whereby the Act would not apply to a project like Tellico that was well under way when Congress passed the Act. Pp. 17–19.

(b) It is clear from the Act's legislative history that Congress intended to halt and reverse the trend toward species extinction—whatever the cost. The pointed omission of the type of qualified language previously included in endangered species legislation reveals a conscious congressional design to give endangered species priority over the "primary missions" of federal agencies. Congress, moreover, foresaw that § 7 would on occasion require agencies to alter ongoing projects in order to fulfill the Act's goals. Pp. 19–31.

(c) None of the limited "hardship exemptions" provided in the Act would even remotely apply to the Tellico Project. P. 32.

(d) Though statements in appropriations committee reports reflected the view of the committees either that the Act did not apply to Tellico or that the dam should be completed regardless of the Act's provisions, nothing in the TVA appropriations measures passed by Congress stated that the Tellico Project was to be completed regardless of the Act's requirements. To find a repeal under these circumstances, as petitioner has urged, would violate the "cardinal rule . . . that repeals by implication are not favored." *Morton* v. *Mancusi*, 417 U.S. 535, 549. The doctrine disfavoring repeals by implication applies with full vigor when the subsequent legislation is an appropriations measure. When voting on appropriations measures, legislators are entitled to assume that the funds will be devoted to purposes which are lawful and not for any purpose forbidden. A contrary policy would violate the express rules of both Houses of Congress, which provide that appropriations measures may not change existing substantive law. An appropriations committee's expression does not operate to repeal or modify substantive legislation. Pp. 33–37.

2. The Court of Appeals did not err in enjoining completion of the Tellico Dam, which would have violated the Act. Congress has spoken in the plainest words, making it clear that endangered species are to be accorded the highest priorities. Since that legislative power has been exercised, it is up to the Executive Branch to administer the law and for the judiciary to enforce it when, as here, enforcement has been sought. Pp. 37–39.

549 F. 2d 1064, affirmed.

BURGER, C. J., delivered the opinion of the Court, in which BRENNAN, STEWART, WHITE, MARSHALL, and STEVENS, JJ., joined. POWELL, J., filed a dissenting opinion, in which BLACKMUN, J., joined. REHNQUIST, J., filed a dissenting opinion.

Mr. CULVER. While the committee found in its hearings that much controversy still surrounds the Tellico Dam case, the case is the type of Federal action which should be eligible for review by the Endangered Species Committee established by this bill and given appropriate consideration for an exemption under the new review process mandated in this legislation.

Testimony received by the committee indicates that a substantial number of Federal actions currently underway appear to have all the elements of an irresolvable conflict within the provisions of the act. This number may increase significantly in the future as the Fish and Wildlife Service continues to list additional species and critical habitats.

As I mentioned, some flexibility is needed in the act to allow consideration of those cases where a Federal action cannot be completed or its objectives cannot be met without directly conflicting with the requirements of section 7.

The bill requires that when conflicts with the Endangered Species Act are known or shown or should be known, an agency must consult immediately with the Fish and Wildlife Service and exhaust all reasonable avenues for eliminating the conflict. If this consultation process is unsuccessful in resolving the conflict, the bill provides a further review process in section 7(e) to address the conflict and resolve it.

The bill sets up a seven-member Endangered Species Committee composed of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Smithsonian Institution, The Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, and the Governor of the State in which the action is located. The Marine Mammal Protection Act gives responsibility for protecting certain endangered and threatened species to the Secretary of Commerce.

For cases in which the conflict before the Endangered Species Committee involves such a species, the Secretary of Commerce is required to concur with the Secretary of the Interior before that vote is cast.

The bill was amended by the committee to add the Governor of the State affected by the proposed action as a voting member of the Endangered Species Committee. The purpose of this addition was twofold. First, it was considered important that an elected official be a member of the Endangered Species Committee. Second, there was a perceived need to have someone on the Endangered Species Committee who is in touch with and understands the needs and desires of those persons close to or dependent on the Federal activities which would be the subject of the exemption application. The State Governor met both of these requirements.

If a case should occur in which more than one State is affected by the proposed action and legitimately involved in the outcome of the review process, all appropriate Governors may take part in the Endangered Species Committee work and discussions. For purposes of the decision regarding an exemption, however, the several States shall have collectively only one vote. The Governors will therefore determine among themselves how the single State vote should be cast.

The Endangered Species Committee can carry on business only when all seven members or their designated representatives are present.

In order to grant such an exemption at least five of the seven members must agree that the criteria listed in subsection (e) of this section are met, and vote in favor of such an exemption. A member may not delegate his or her vote to any other person; in the event one of the members is unable to be present at the time a vote is taken, he or she must transmit the vote in writing to the chairman of the Endangered Species Committee.

When an agency believes it has encountered an irresolvable conflict with the act which cannot be resolved through consultation with the Fish and Wildlife Service or the National Marine Fisheries Service (NMFS), that agency may petition the Endangered Species Committee for relief. The Fish and Wildlife Service—or when appropriate the Fish and Wildlife Service in consultation with the National Marine Fisheries Service—would have 30 days to respond to the agency's petition and give its views as to whether the consultation process required by section 7 had been fully conducted.

After reviewing the response of the Fish and Wildlife Service and other relevant information, the Endangered Species Committee would decide whether or not the action should be considered for an exemption. No action could be so considered unless the Endangered Species Committee determined: First, that the requirements of the section 7 consultation process had been met; second, that there had been a reasonable and responsible effort to resolve the conflicts and that the Federal agency requesting the exemption has made, subsequent to the initiation of consultation no irreversible or irretrievable commitment of resources which forecloses the consideration of modifications or alternatives to the action; and third, that an irresolvable conflict does indeed exist. If the Endangered Species Committee makes positive determinations on each of these matters it would then conduct hearings and receive public testimony on whether an exemption is warranted.

Within 180 days after the Endangered

Species Committee first received the agency's petition and the Fish and Wildlife Service's response, the Endangered Species Committee must publish in the Federal Register its decision as to whether the action should be exempted, modified, or terminated. No project could be exempted, or exempted with modifications unless the Endangered Species Committee determines that there is no reasonable and prudent alternative to such action, that it is of regional or national significance, and that its benefits clearly outweigh the benefits of alternative courses of action that are consistent with conserving the species or its critical habitat, and that the action is in the public interest.

In reviewing available alternatives to the action under review, the committee would be charged to examine the benefits of all available alternatives, not simply those which are within the agency's jurisdiction or are consistent with the original project objectives.

After deciding that some additional discretion to resolve conflicts was a necessary addition to the present provision of the Endangered Species Act, the committee considered a number of options on how to introduce this discretionary authority into the present law. Of these options an Endangered Species Committee was chosen as that one best suited to make the necessary balancing decisions regarding conflicts. This committee concept was employed because it seemed to offer the involvement of the broadest array of expertise and the greatest potential for a balancing of viewpoints concerning all the alternatives to be considered.

The committee hearings indicated that the requirements of section 7 might also conflict with a number of administrative processes; for example, Federal licensing and permitting of private activities. If a Federal agency, in carrying out an administrative function of this type determines, after appropriate consultation with FWS or the National Marine Fisheries Service, that a conflict with the act is irresolvable, the agency can petition for an exemption under the provisions of section 7(e). This approach provides relief for both the party who applied for the license or permit and for the Federal agency who might, except for the requirements of the Endangered Species Act, be disposed to approve the license or permit request. This is a reasonable policy for responding to this type of Federal action which might occur on private or Federal lands.

The basic premise of S. 2899 is that the integrity of the interagency consultation process designated under section 7 of the act be preserved. Many, if not most, conflicts between the Endangered Species Act and Federal actions can be resolved by full and good faith consultation between the project agency and FWS or NMFS, as appropriate. Only in those instances where the consultation process has been exhausted and a conflict still exists should the Endangered Species Committee consider granting an exemption for a Federal action.

In order to assure this intent, S. 2899 sets up a two-step process by which Federal projects can be considered for an exemption. In the first step, the Endangered Species Committee must decide if the application is ripe for review. Specifically, it would have to find first that the requirements of the consultation process described in section 7(a) had been met. These requirements are specifically set forth in regulations promulgated by FWS and NMFS in CFR 50, chapter IV, part 402. Second, the Endangered Species Committee must determine that a reasonable and responsible effort had been made by both parties to resolve the conflict once it is known to exist and that, subsequent to the initiation of consultation, the construction agency had made no irreversible or irretrievable commitment to resources which forecloses the consideration of those modifications or alternatives to such action which are consistent with preserving the species or its critical habitat.

Under the current section 7 regulations, Federal agencies have a responsibility to identify activities or programs which they undertake that may affect listed species or their critical habitat and to request consultation with the services concerning those activities or programs. Thus, the consultation process must be initiated at that point in the implementation of the action where the Federal agency first recognizes that the activity may have a detrimental effect on a species or its critical habitat.

Finally, in the process of deciding whether to review fully an action for an exemption the Endangered Species Committee would be required to determine that an irresolvable conflict does indeed exist. The term irresolvable conflict is defined as an action authorized, funded or carried out by a Federal agency where, after consultation as required in section 7, completion of such action would jeopardize the continued existence of an endangered or threatened species or result in the adverse modification or destruction of its critical habitat. An irresolvable conflict cannot be found to exist unless the project agency had thoroughly reviewed all modifications and alternatives to the action that are within its jurisdiction and consistent with the objectives of the project, but has determined that even with the adoption of such modifications or alternatives the activity cannot be completed without adversely affecting a listed species or critical habitat.

CRITERIA

If the Endangered Species Committee determines that the initial criteria for review have been met by the Federal agency making the application, the Federal action in question is appropriate for further consideration. The review process must be accomplished within 180 days after the receipt of the petition for an exemption and response from the Fish and Wildlife Service. The final determination must be made on the record and thus must be accompanied by a formal hearing process.

In addition, the final decision to grant an exemption must be based on criteria set forth in section 7(e)(2) as follows:

1. There is no reasonable and prudent alternative to such action.
2. The action is of national or regional significance.
3. The benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and that such action is in the public interest.

The bill also requires that during the review process, the Endangered Species Committee must address the benefits of all alternatives which might be available in lieu of the proposed action. This criterion makes it clear that the Endangered Species Committee must consider all options which might eliminate harm to the species, independent of the stage of project completion. As a project approaches completion certain alternatives to the proposed action may not be reasonably or prudently available as options. It is also clear that the earlier in the progress of a project a conflict is recognized, the easier it is to design an alternative consistent with the requirements of the act, or to abandon the proposed action. It may be feasible to utilize resources already expended or lands acquired for a proposed action to carry out alternatives, such as the development of parks or wildlife refuges, which are unrelated to the initial project. The Endangered Species Committee should apply this standard of reasonableness in asserting the availability of alternatives to any action before them for review.

The criteria in section 7(e)(2) should not be viewed as a limitation on those factors the Endangered Species Committee might deem appropriate for use in making the final decision. It should, however, give some guidance as to those elements that the Congress believes are essential to a reasonable decision in cases of conflicts, along with some idea of what emphasis should be given these elements in any decision.

It is particularly difficult to assess exactly what facts are or will be important when viewing a particular species within the subsection (e) process. Clearly such genetic, recreational, esthetic, historic, and scientific values of the affected endangered or threatened species should be given weight in any final decision.

In the balancing process the Endangered Species Committee is not expected to weigh simply the importance of a species against the value of a Federal action. The criteria expressly mandate that the balancing which is to take place is between the benefits of a proposed Federal project and the benefits of alternative courses of action which will not result in harm to the species or its critical habitat.

Although the balancing process is difficult the Endangered Species Committee should note that the decision to allow the extinction of a species or destroy all or parts of its critical habitat must not be taken lightly and great care must be applied in trying to decide finally, in cases of conflict, what future course of action is in the public interest.

The bill provides authority for the Endangered Species Committee to issue subpenas for the attendance of witnesses and the production of relevant papers,

books, and documents. The authority should be used with restraint, when necessary to obtain information material to an exemption decision.

In oversight hearings concerning the Endangered Species Act the committee also received testimony from organizations representing zoos. These witnesses were skeptical of the necessity for the stringent and burdensome process developed by FWS for regulation of their captive bred endangered and threatened species. The committee advises the Service to reexamine these regulations and the rationale upon which they are based in light of this testimony, and to make every effort to insure that only those regulations which result in real benefits for wild populations of endangered and threatened species are retained. In any event, every effort should be made by the Service to reduce the amount of paperwork and time involved in this regulatory process.

The committee notes favorably the Fish and Wildlife Service announcement in the April 14, 1978, Federal Register that they are examining the possibility of reclassifying captive endangered species to a less restrictive status under the Endangered Species Act. The committee agrees that some distinctions ought to be made between the regulatory processes relating to captive endangered species so that only those regulations that can be reasonably expected to enhance the protection of endangered species be retained.

The committee also received testimony on a related issue, the manner in which the Endangered Species Act affects scientific pursuits, particularly work carried on in museums. In discussions with members of the scientific communities the Fish and Wildlife Service has agreed to reexamine its present regulations. The permit procedures in this regard badly need to be streamlined.

Large amounts of time and money have been committed to compliance with these regulations, although little may be accomplished by control of museum specimens. There is little evidence that such controls have any appreciable effect on existing populations of endangered species.

The committee believes that a distinction should be made between regulation of legitimate scientific pursuits and commercial activities involving endangered species, and that regulations should be promulgated which do not unnecessarily impede or obstruct legitimate scientific inquiries.

The committee requests that the Fish and Wildlife Service study upgrading the efforts of the Customs Service activities and other alternatives for monitoring and protecting endangered species and report its findings back to the committee within a reasonable time.

Mr. President, I think my colleagues will agree that the Committee on Environment and Public Works has completed a comprehensive review of this enormously complicated subject. Let us hope that the deliberations on this bill are conducted so as to resolve these issues with careful consideration of the scientific, ethical, and social implications of the decision we make.

Mr. RANDOLPH. Mr. President, I am a strong supporter of public works projects. I believe that in providing jobs, energy, water, and other life sustaining needs, they are truly beneficial to the American people. I am an equally strong supporter of environmental protection efforts. Clean air, safe drinking water, and the conservation of our fish and wildlife resources are all essential to the Nation's health and welfare.

As chairman of the Senate Committee on Environment and Public Works, I have been closely associated with legislation regarding both of these important national priorities. My experience is that economic progress and environmental protection are generally compatible.

This is the case with the Endangered Species Act. Hundreds of potential conflicts between endangered species and Federal projects, such as dams and highways, have been averted by careful planning and by diligent consultation and cooperation between project agencies and the Departments of the Interior and Commerce. However, the recent Supreme Court decision in Tennessee Valley Authority against Hill demonstrates that the 1973 law is not flexible enough to provide for a balancing of equities in those few instances where endangered species and Federal actions come into irresolvable conflict.

This is why the Committee on Environment and Public Works approved S. 2899. This legislation continues the program and creates a seven-member Endangered Species Committee to review irresolvable conflicts which develop between endangered species and Federal projects. If the project meets criteria set forth in the bill, the committee could exempt it from compliance with the act. Since this panel includes individuals with expertise in both environment and development matters, its decisions are likely to be balanced and fair.

Furthermore, S. 2899 is intended to encourage agencies to work diligently toward resolving conflicts, since to qualify for an exemption an agency must demonstrate that it had made a good faith effort in this regard. This requirement will strengthen the consultative process currently mandated under the law.

I cosponsored S. 2899 when it was introduced in April, not because I supported its every provision, but because I felt that it was essential for the Senate to have a vehicle for discussing the endangered species issue. After debating it carefully and extensively and making improvements in the original text, the committee unanimously approved a bill which, in my view, provides a reasonable and practical solution to a very difficult problem.

I commend my able colleagues Senator CULVER, Senator WALLOP, and Senator BAKER, for the leadership and knowledge they have displayed in the formulation of this measure. Their efforts have been criticized both by those who wish to see no change in the act and by those who would like to see it weakened significantly. Due to their efforts, the committee has been able to approve a bill which provides effective protection for endangered species without unduly impeding essential development activities.

Senator STAFFORD, our ranking minority member, also contributed to our discussions and helped us to fully understand the issues in this legislation.

Mr. President, S. 2899 has my strong support. I urge my colleagues to give it theirs as well.

Mr. CULVER. Mr. President, I ask unanimous consent that the amendments of the Committee on Environment and Public Works to S. 2899, the Endangered Species Act amendments of 1978, be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

The PRESIDING OFFICER (Mr. BAYH). Is there objection? The Chair hearing none, it is so ordered.

Mr. CULVER. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Environment and Public Works be given the privilege of the floor during debate and voting on S. 2899, the Endangered Species Act Amendments of 1978: Michael Choukas, Phil Cummings, Bailey Guard, Richard Harris, Vic Maerki, Jim Range, John Yago, Hal Brayman, Patti MacDonald, and Mimi Feller.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that Mr. Jeff Tilden and Mr. Barry Leshowitz of Senator DOLE's staff be granted the privilege of the floor during the consideration of S. 2899 and rollcalls thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, first I would like to thank the chairman, the Senator from Iowa (Mr. CULVER) for his thorough presentation explaining the history of the Environment and Public Works Committee's recent work on the Endangered Species Act, and express to him my respect and admiration for what I thought was a responsible and rather courageous step in becoming one of the coauthors of the so-called Baker-Culver amendments that we will be speaking of here.

I think the committee, and particularly Senator CULVER in his leadership, took the whole matter seriously, and took into account both the problems of endangered and threatened species and the problems of living in this workaday world, and have come up with what I think it has been a privilege to work with them on, in this whole affair.

Mr. CULVER. Mr. President, will the Senator yield?

Mr. WALLOP. I yield.

Mr. CULVER. I was remiss in not also expressing, at the outset, my very genuine appreciation for the tireless, conscientious, and valuable contribution that the Senator from Wyoming, in his role as ranking minority member of this subcommittee, has contributed toward the formulation of this legislation; and I want him to know how very much I appreciate those efforts, and how very

greatly I depend upon his continued counsel and leadership in this area. I again want to say how sorry I am that I failed to acknowledge that on the occasion of my general presentation.

Mr. WALLOP. I thank my colleague, and assure him that I had not noticed it.

Mr. RANDOLPH. Mr. President, will the able minority manager of the bill yield?

Mr. WALLOP. I am happy to yield to the chairman of the committee, the Senator from West Virginia (Mr. RANDOLPH).

Mr. RANDOLPH. This is a serious subject, but in a lighter vein, I recall that someone asked me recently about the jurisdiction of the Environment and Public Works Committee. I explained that we had three new subjects. One is fish and wildlife, the second is a small item—nuclear regulation—and the third is endangered species.

I said, "I understand the latter, because I am a candidate for re-election."

Mr. WALLOP. The unfortunate thing is that the committee that has sway over the fate of those endangered species is a good deal larger than seven Cabinet members.

I thank the distinguished chairman.

Mr. CULVER. I appreciate the observations of the able chairman of the Committee on Environment and Public Works. I am confident, however, that the voters of the State of West Virginia are sensible and fully aware of his service to them. They will not permit him to become an extinct species.

Mr. WALLOP. Mr. President, I support this legislation as it lies before us, although, as in any legislation, nothing is engraved in marble. It is a living document, subject to amendment.

The committee held 6 days of hearings addressing many of the issues covered in the act, and spent 4 days marking it up in an effort to resolve some of the very complex and emotional issues which have arisen on this subject. I believe the final version of the committee bill, S. 2899, to be a reasonable response to some of the legitimate criticism which has been voiced over the law, but a response which will continue to afford strong and necessary protection to endangered and threatened species.

Mr. President, the committee received a considerable amount of conflicting information regarding the impacts which the act as implemented is having or might potentially have. After careful consideration of this information, the committee has made an assessment of what the facts actually are, and has designed a committee bill which addresses those impacts for which a legislative solution is deemed appropriate. However, I would like to note here that many of the problems which have been brought to the committee's attention over this law have been largely administrative problems which can and should be resolved by a more careful and reasonable administration of the act. Certainly it is no easy task to carry out the considerable mandates of this law, and I commend many of the dedicated people in the Federal agencies and especially the U.S. Fish and Wildlife Service who bring ability and common sense to this job. Nevertheless, the committee received numerous reports of various administrative decisions and policies which would not seem to be in the best interests of the endangered or threatened species, the State agencies with responsibility to manage resident wildlife, or the act itself. For example, a cattleman from Minnesota testified before the committee about how eastern timber wolves, which were at that time classified as endangered by the U.S. Fish and Wildlife Service, were attacking his cattle on private land adjacent to national forest lands, causing him obvious economic hardship. However, the USFWS interpreted the law in such a way that this man was rendered powerless to do anything to protect his private property, even so much as to shoo away the wolves, which would constitute "harrassment" under USFWS interpretation of the law. I understand that since that time the wolf has been downlisted to a threatened category, which allows for more management options.

However, it is unreasonable to suppose that a man must stand in silence while his livelihood is being devoured by any species, threatened or otherwise, particularly inasmuch as those very people had no compensation contemplated in their behalf by those of us in the process of protecting these threatened or endangered species.

Similarly, I was often disappointed to hear of many instances of less than model cooperation by the Fish and Wildlife Service in working with State game and fish agencies. The Florida Game and Fresh Water Commission testified about the problems that agency was having with alligators in southern Florida when it became apparent that alligator populations were increasing at a very rapid rate. The agency petitioned to have the alligator delisted from endangered to threatened, but experienced silly delays in the process, and in the meantime received over 10,000 complaints from private citizens concerning alligators in their swimming pools, canals, and backyards. The agency representative testified that biologically the alligator never did qualify as endangered, but that its listing as such was an example of emotional rather than biological reason dictating the species to be listed in the first place.

In another example, the Arizona Game and Fish Department testified that passage of the 1973 act and its implementation hindered its State program for a period of time, because of the restrictions that were imposed upon the State with regard to taking and transportation of endangered species. When the act passed, the prohibitions inherent in the law put a stop to the State programs for two species of fish, the Gila topminnow and the Arizona trout. The program necessitated the capture of fish in the streams and movement to hatcheries for propagation purposes back and forth across State lines. This was not possible without permits from the Fish and Wildlife Service, and as a result the program ground to a halt until bureaucratic redtape could be sliced through. Arizona representatives also stated their concern over seeming Fish and Wildlife Service indifference to Arizona recommendations regarding listing on the International Trade in Endangered Fauna and Flora Appendices. This is, of course, one of several international treaties implemented by the passage of the 1973 act. The Arizona Game and Fish Department recommended removal of the Mearns quail and several other Arizona species from appendix II, maintaining that there is no evidence that such species have ever featured in international trade or are even threatened at all by hunting, trade, or anything else. The department testified it had devoted some $200,000 to a comprehensive study of the Mearns quail, and that there had been no overall downward trend in population. Yet that department felt its recommendations to remove it from appendix II seemed to have been ignored by the Fish and Wildlife Service.

In the interest of the cooperation which the Endangered Species Act clearly calls for, and which Federal administrators have stressed is vital for effective implementation of the law, I would submit that the opinions of State game and fish agencies should be afforded the greatest consideration and respect. Furthermore, I would hope the Fish and Wildlife Service would streamline its procedures to delist as well as list species, and put strong emphasis on examining qualified supporting data. Finally, that agency should give just as much emphasis on recovery and eventual delisting of species as the initial listing again with State consultation.

I would like to address several other issues relating to this legislation which are of particular importance to me. The first is the committee's examination of the effects of the 1973 act upon certain endangered and threatened raptor populations. For years biologists, conservationists, and falconers have been working to reproduce raptors through propagation in captivity, and have been successful in breeding both endangered and nonlisted birds in captivity. It is worth noting that modern falconers were among the first to detect a significant decline in wild populations, because of pesticides in the environment and initiate captive breeding efforts to avoid extirpation of such species.

In their work emphasis has been placed on raptors which are now listed as endangered under the Endangered Species Act. However, prohibitions listed in section 9 of the law against commerce and other activities have impeded their breeding activities. Section 9 of the 1973 law allows for the exclusion from the act of species held in captivity at the time of the effective date of the act. Whether progeny of such stock would also be exempted from the prohibitions of the act has also been debated. Senator Tunney, the floor manager of the 1973 act and sponsor of this provision, wrote, in a letter to Senator CULVER, that the clear intent of section 9 was to exempt the offspring of pre-act falcons from the act. Therefore, it is the intent of committee that the domestic captive-produced

progeny of any raptor which was legally held prior to enactment will also be exempt from the provisions of the act, even if such progeny were produced after December 28, 1973. In order to encourage breeding of raptors in captivity, the domestic captive-produced progeny of raptors considered to be endangered, but legally taken from the wild after that date shall be considered for legal purposes in a like manner as the progeny of raptors captured before 1973. The committee believes this will alleviate some of the human pressures on wild raptor populations, will increase genetic diversity in captive populations, and will encourage captive production of raptors for conservation, scientific, and breeding purposes. If such domestic, captive-produced raptors are intentionally returned to a wild state, such raptors will be fully protected under the act. Finally, the Secretary of the Interior may require owners of exempted raptors to keep records and require banding to distinguish them from wild birds. However, such recordkeeping should not unnecessarily duplicate records already required.

On another topic, the committee has been concerned over the Fish and Wildlife Service's policy to treat areas to extend the range of an endangered species the same as areas critical for the species' survival. Other committee members and I have been especially concerned about the implication of this policy in the case of the proposed critical grizzly bear habitat in a large area of Wyoming, Idaho, and Montana. Much of this area is not critical to the continued existence of the grizzly bear, but is instead proposed so that the population within truly critical habitat can expand. The goal of expanding existing populations of endangered species in order that they might be delisted is understandable. However, this process does greatly increase the amount of acreage in the critical habitat designation, which is, of course, subject to the regulations and prohibitions which apply to critical habitats.

The committee felt that the rationale for designating and protecting areas for range extension the same as those for truly critical habitat ought to be reexamined by the Fish and Wildlife Service, and that there is little or no reason to give both types of areas the same status with the same regulations. Therefore, the committee has directed the Fish and Wildlife Service to examine this ambiguity in its regulatory process for critical habitat designations, and to report back to this committee before a final decision on the grizzly bear designation is made.

In preparing this legislation, the committee review found that operation of the 1973 act depends principally on two important elements. The first is the process of identification and designation of endangered and threatened species. Due to shortages in personnel and funding it, there have been time delays in fish and wildlife consideration of proposed designations, which have led to unnecessary expense and delay for many. The committee hopes the funding contained in this reauthorization legislation will be adequate to reduce or eliminate much delay and confusion in the future.

The second important element of the act is the consultation process mandated by section 7 of the act. The success of the consultation process seemed to be the single point on which there was most conflicting testimony in the hearings. The committee found after reviewing the facts that the consultation process has been successful in resolving many conflicts, both informal ones by phone and the approximately 200 formal consultations which have occurred. However, it appears to the committee that there may be a number of unresolved consultations which will prove to be irresolvable in the future, and it is this category of projects which became the focus of attention in the controversy involving the act. While there may not be an overwhelming flood of irresolvable cases in the future, the committee felt that the number could be sufficient in view of all facts to require including a mechanism in the law for resolving clashes between the Endangered Species Act and other conflicting national priorities which prove to be truly irresolvable. Therefore, the committee amendment created such a mechanism through an interagency review committee, the Endangered Species Committee.

Briefly, under the amendment a Federal agency believing a conflict between its activities and the act is irresolvable through the consultation process could petition this committee for relief. The Fish and Wildlife Service would have 30 days to respond to the petition. After reviewing this response and providing for formal public hearings, the Endangered Species Committee has the authority to decide if the proposed activity should proceed as planned, be modified, or terminate. In order to waive the requirements of section 7, five of the seven committee members would have to determine that there is no reasonable and prudent alternative to the project, that it is of regional or national significance, and that the benefits of the project clearly outweigh alternatives to the project which are consistent with the requirements of the act.

The committee amendment should not be interpreted as creating a broad loophole through which large numbers of Federal activities can escape the requirements of the Endangered Species Act. Rather it should be viewed as an attempt to inject a modicum of flexibility into the law to see that some resolution mechanism can balance the need to protect and manage endangered species while considering other legitimate national priorities. The committee fully intends that Federal agencies continue to make every possible effort to avoid conflicts, and that the agencies participate fully in consultation processes. In those relatively few instances where an irresolvable conflict arises, the mechanism in the committee amendment should result in expedient and reasoned resolution of the issue, so the fate of the agency's actions can be determined without long delays and increased expense.

One final point which I would address regarding the committee's amendment to section 7 of the act concerns the speed with which the Endangered Species Committee can resolve conflicts which arise. The timing of the Endangered Species Committee action depends on two factors. The first is the expediency with which the committee can reach a final decision within the administrative framework of the amendment. The second factor is the potential for length litigation on the decision made by the committee.

The amendment to section 7 in S. 2899 addresses both of these factors. The amendment places a 180-day limitation on the time available for a final decision by the committee for an exemption. The Environment and Public Works Committee feels that when a Federal agency makes application for an exemption with the Endangered Species Committee, the application should contain all information pertinent to the exemption, particularly information on the Federal activity as proposed and on all the available alternatives to such proposed action. These factors, along with the rationale for why these alternatives have been rejected as viable in the formal consultation carried out between the Fish and Wildlife Service and the applying agency, should enable the Endangered Species Committee to reach a final decision within the time frame set up by the amendment.

The Environment and Public Works Committee also tried to avoid excessive litigation in such decisions. The process in the amendment contains two steps. First, the Endangered Species Committee has to determine if the Federal activity meets the basic requirements to enter the committee review procedures—principally that an "irresolvable conflict" does in fact exist. If the committee grants the review of the application, this decision is viewed by the Environment and Public Works Committee as preliminary to its final determination on whether to grant an exemption, and should be viewed as part of the final decision or the exemption, and should not be litigable except as part of litigation on the final decision to exempt.

If the Endangered Species Committee decides not to allow review of the application, this is of course a final decision by the committee and would be judicially reviewable.

The Environment and Public Works Committee is not seeking to make the decision of the Endangered Species Committee nonreviewable by those who disagree with them, but the committee is attempting to insure that litigation of the decision is carried out in a single court case covering the entire basis for a final Endangered Species Committee decision rather than in multiple litigation procedures dealing with issues relating to preliminary decisions as separate from final findings of the Committee concerning an exemption.

Mr. President, I yield to the distinguished ranking member of the committee (Mr. STAFFORD).

Mr. STAFFORD. Mr. President, I appreciate the distinguished Senator from Wyoming yielding to me, and I compliment him and the manager of the bill (Mr. CULVER) for the work they have done on this important piece of legis-

lation. I am, therefore, somewhat embarrassed to find myself rising in opposition to the changes which have been proposed to the Endangered Species Act.

It is true, as Senator CULVER pointed out, that the vote to report the bill to the floor of the Senate was unanimous. While in opposition to the proposal for changes I felt the matter should come to the attention of the Senate and be decided here. I did oppose in committee some of the changes which are now incorporated in the bill pending before us.

Mr. President, I rise in opposition to the changes being proposed to the Endangered Species Act.

The record of implementation of the present law during the last 4 years provides ample evidence that the law is working well and that there is adequate flexibility in the administrative process contained in existing law.

There have been more than 4,500 consultations covering a broad range of Federal activities carried out under the requirements of the law. In the overwhelming majority of those consultations, no conflict with the requirement of the law was found to exist. In those few cases where conflicts did arise, each of those conflicts was resolved—with the lone exception of the Tellico Dam project of the Tennessee Valley Authority.

During the extended debate and deliberations conducted by the Committee on Environment and Public Works on this matter, I often expressed my opposition to the changes that have been proposed by the committee. I do not think we should tamper with the present law. There is no need to change the law.

The present process used to implement the law is working well. It is my understanding that the most visible conflict with present law—that posed by the Tellico Dam project—was a creature of the lack of consultation, rather than a failure of the consultation.

Indeed, that conflict may be resolved by a new attitude on the part of the project's managers. That attitude, had it been expressed earlier in the life of the project, may have led to a solution of the problem, rather than to deadlock.

The Department of Interior tells us the process is working and there is no need to change the present law. Surely, as the Fish and Wildlife Service gains more experience in implementing the consultation process and finds ways to improve the decisionmaking under section 7, there will be even less cause for conflict.

I urge my colleagues to allow the present law to stand, so that the policies and machinery designed to protect our Nation's endangered species can go ahead as they were developed by the Congress in 1973.

In conclusion, I urge my colleagues in the Senate to reject the proposed amendments offered by the committee and to allow the Endangered Species Act to remain as is—an important and effective law that protects the interests of all of us who occupy our Nation at the present, as well as those still unborn who will occupy our Nation in the future.

Mr. WALLOP. Mr. President, I ask unanimous consent that Miss Mary Goedde, of Senator HAYAKAWA's staff, and Sally Rogers and Eddie Twilly of Senator THURMOND's staff, be granted the privileges of the floor throughout the debate and votes on the pending legislation.

The PRESIDING OFFICER (Mr. ZORINSKY). Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I suggest the absence of a quorum with the time to be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, will the distinguished Senator from Wyoming yield me 5 minutes?

Mr. WALLOP. I am happy to yield the distinguished minority leader 5 minutes.

Mr. BAKER. Mr. President, I rise in support of the provisions of S. 2899 as reported.

My fellow members of the Committee on Environment and Public Works are to be congratulated for their diligent efforts to design the responsible legislation which is before us today. It addresses each of the difficult and controversial issues which have arisen concerning the implementation of the Endangered Species Act. I would particularly like to compliment the distinguished Senator from Iowa (Mr. CULVER) and the distinguished Senator from Wyoming (Mr. WALLOP), the chairman and ranking member of the Resource Protection Subcommittee, for their leadership during consideration of these issues.

As I am sure most of my colleagues are aware, the landmark case concerning the act's implementation occurred within my home State of Tennessee. On January 31 of last year, the Tellico Dam, located on the Little Tennessee River, was halted at an advanced stage of construction by the decision of the Sixth Circuit Court of Appeals in Hiram Hill et. al., against TVA. The court's decision interpreted section 7 of the act such that this multipurpose water project, which is over 90 percent complete, must be stopped if the snail darter or its critical habitat were to be harmed. Mr. President, I feel that this is certainly not what Congress intended and hope that our efforts here today will result in a clear mandate that other national important interests must be balanced within the decisionmaking process in the act.

The sixth circuit's decision prompted many in Congress, including myself, to request a review of the act's implementation. The Subcommittee on Resource Protection accepted these requests and responded by holding 4 days of hearings on the Endangered Species Act during July of last year. While these hearings covered a broad range of topics concerning the act, the impacts which the act had had or will have on Federal agency activities quickly became the focal point of the subcommittee's attention.

The hearings generated some interesting findings on this issue. It became clear that, with regard to Tellico, the act as written was, indeed, inflexible and would not permit completion of this project despite the commitment of resources and potential benefits to the public that might be derived from such project. More interesting, however, was the subcommittee's finding that there were a number of other major Federal activities in the same situation as Tellico and that this number would likely increase as implementation of the act proceeded. The recent decision of the U.S. Supreme Court concerning Tellico underscores the need for the Congress to address the issue and inject some additional flexibility into the act.

After lengthy consideration of these facts, the subcommittee has proposed a legislative alternative for resolution of conflicts between the Endangered Species Act and Federal activities. Of all the options reviewed, the approach taken in S. 2899 seemed best to meet the objective of the subcommittee: Providing a broad, flexible process for reviewing the impact of Federal activities on endangered species. The process has the ability to reasonably balance other legitimate national objectives with the need to protect and manage the Nation's endangered species. I agree with the choice made by the Committee on Environment and Public Works on this matter and urge each of my colleagues to support this act in essentially the form in which it was reported.

Mr. SCOTT. Mr. President, I ask unanimous consent that Donald Ruby and James Roberts of my staff be accorded the privilege of the floor during the consideration of this bill or any amendments to it.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HANSEN. Will the Senate yield?

Mr. SCOTT. I am glad to yield to my colleague.

Mr. HANSEN. Mr. President, I ask unanimous consent that Tony Bevinetto of my staff may be accorded the privilege of the floor during debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, it appears that the Endangered Species Act has been brought more acutely to the public view, as suggested by the distinguished Senator from Tennessee just a moment ago, by the recent Supreme Court decision in the Tennessee Valley Authority against Hill. I have read both the decision of the court and the dissenting views.

It appears from a reading of the case that the Court has found that the present law is rigid; but under our system of government, in which the three branches have differing functions, any changes in the law must be brought about by the Congress and whether the law is good or bad is not for the Court to say.

Let me quote the final short paragraph of the Court decision:

We agree with the Court of Appeals that in our constitutional system the commitment to the separation of powers is too fundamental for us to preempt a congressional action by judicially decreeing what accords with "commonsense and public weal." Our Constitution vests such responsibilities in the political branches.

Mr. President, the Court having put the onus directly upon the Congress to change the law, if any changes are necessary, I believe we should look very carefully at the existing law and the committee bill. The measure before us is an apparent effort to reduce the inflexibility of the act to some extent by constituting a Cabinet-level endangered species committee that would have the power to review an application submitted to it to grant an exception from the act in instances of national or regional significance where there is no reasonable or prudent alternative and the benefits of such action clearly outweigh the benefits of alternative courses.

It does not appear, however, that the proposal grants any relief in local situations or gives any discretion to those in the executive branch charged with the responsibility of administering the present act. It would seem reasonable, therefore, to amend portions of the 1973 act to permit the general welfare of mankind to be considered along with the protection of species of fish, wildlife, and plants.

During the Independence Day recess, my wife and I visited the Natural Bridge of Virginia. We spent the night there and observed what is said to be one of the seven natural wonders of the world—a natural bridge 215 feet high, 40 feet thick, an arch with a span of 90 feet between its walls; certainly a wonder of nature regardless of its ranking among other works of nature. During the evening, we sat beneath the bridge and listened to a drama based upon the Book of Genesis regarding the creation. It might be pertinent to read a portion of the story of creation included in the drama, beginning at verse 26, chapter 1 of the Book of Genesis:

And God said, let us make man in our image, after our likeness: And let them have dominion over the fish of the sea, and over the fowl of the air, and over the cattle, and over all the earth, and over every creeping thing that creepeth upon the earth. So God created man in his own image, in the image of God he created him; male and female created he them. And God blessed them, and God said unto them, be fruitful, and multiply, and replenish the earth, and subdue it: And have dominion over the fish of the sea, and over the fowl of the air, and over every living thing that moveth upon the earth.

Now, Mr. President, some will accept the biblical story of the creation, while others will find it in conflict with scientific knowledge and the theory of evolution but everyone listening to this drama must have been awed by the presentation taken from Genesis while sitting beneath this natural phenomenon.

After reading the 1973 Endangered Species Act, it seems apparent that the Congress concentrated upon the protection of fish, wildlife, and plants in a most general and constructive manner. However, it also seems apparent that we—I say "we," because I was a Member of the Senate and this passed on a rollcall unanimous vote—neglected to give sufficient emphasis to our own welfare, to the fact that mankind is superior to animal and plant life, that both are under the dominion of man. Of course we should protect fish and wildlife in every proper way, and I would not suggest any other course, but in our stewardship over fish, wildlife, and plants, it does not appear reasonable to jeopardize the welfare of mankind, the society we have created, the economic, social, political, and cultural system we have developed over the years.

Let me read and share with my colleagues a small, short editorial from Grit newspaper.

I know that many of us are familiar with this paper that has existed for a long period of years. I am told by the Library of Congress that it has a national circulation of 1,259,458.

This editorial comment is entitled, "Excessive U.S. Regulation":

Unreasonable federal regulations stifle progress. How many times has that been said? How many more times must it be said before the government begins to listen?

Look what has happened to the over-regulated railroads. Look what is happening to the businesses and industries which must conform to rigid environmental safety rules even where no hazards exist. Look what is happening to private individuals who cannot even drive their cars three feet without being affected by a government regulation.

Now comes one of the most ridiculous examples of over-regulation to date. A three-inch fish called a snail darter is preventing a new $119,000,000 dam in Tennessee from going into operation. Although the dam holds great potential for public benefit, Tennessee must yield to the snail darter because it is protected under the 1973 Endangered Species Act. It seems that a scientist discovered the presence of the fish after much of the construction on the dam had been completed. A Supreme Court ruling upheld the "rights" of the fish over the rights of Tennesseeans.

Blame Congress for this absurd situation. In its zeal to protect the environment and wildlife, it went too far. One can only be thankful that dinosaurs don't exist today, for Congress would probably seek to protect them too.

The time is long past for Congress to begin rescinding unreasonable rules and regulations which limit, rather than enhance, constitutional freedoms. It's time Congress began thinking first of the people it represents, instead of snail darters or ivory-billed woodpeckers.

Mr. President, I will read in the dissenting views by Mr. Justice Powell in the TVA against Hill case, a footnote on page 3, and I would like to share it:

Although the snail darter is a distinct species, it is hardly an extraordinary one. Even icthyologists—

Those who make a study of fish—familiar with the snail darter have difficulty distinguishing it from several related species.

This is obtained from the record of the trial court, pages 107 and 131:

Moreover, new species of darters are discovered in Tennessee at the rate of about one a year; eight to ten have been discovered in the last five years.

That is also in the report of the trial in the district court:

All told, there are some 130 species of darters. Eighty-five to ninety of which are found in Tennessee, 40 to 45 in the Tennessee River system, and 11 in the Little Tennessee itself.

Since the Endangered Species Act attempts to preserve from extinction what the Supreme Court in the TVA case indicates covers every animal and plant species, subspecies, and population in the world needing protection—approximately 1.4 million full species of animals, 600,000 full species of plants, with some 200,000 that may need to be listed as endangered or threatened, with these figures increasing three to five times that number when subspecies and individual populations are counted. It would appear that the Congress has overextended itself and is endeavoring to perform an impossible task.

I requested the Congressional Research Service of the Library of Congress to provide information regarding what would happen to fish, wildlife, and plants in their natural state without the intervention of mankind.

It sometimes has been said that our industrial world has brought about jeopardy to our wildlife.

The memorandum refers to an article regarding the Shenandoah National Park by Napier Shelton and quotes in some detail the changes made in the area over a period of many millions of years. Then, Mr. William C. Jolly, analyst in the Environment and Natural Resources Policy Division, Library of Congress, states that:

The changes in landforms and in biological species and communities which occur naturally over time, are continuing ones. They are sometimes aided, sometimes directed to various degrees by the planned and the inadvertent actions of man. One need not go back milennia to detect significant changes, of course. Ecological conditions have changed markedly over the last few centuries.

He refers to other authorities, examines the question in more detail, again refers to the instructive booklet, "The Nature of Shenandoah," and concludes;

Shelton mused of the future of the Shenandoah:

"Taking a geological perspective, we can imagine all sorts of possibilities. The Blue Ridge may erode to virtually nothing and be covered again with water. Or it may be pressured upward into craggy peaks. Perhaps there is a long chance that lava will once again flow from great cracks in the rock. And changing climate may put entirely different vegetative clothes on the land. A warming trend could once again bring tropical forests, or cooling could bring glaciers from the north—perhaps this time to bury the Blue Ridge and wipe its biological slate clean. And who knows what new forms of life will evolve in response to the ever-changing environments?"

Similarly we may muse of the futures of any or all other regions. We can be sure of but one thing: Change is natural and inevitable even if we may not know the exact nature or even direction of the changes which will occur.

The writer refers to an article entitled "Should We Save All Endangered Species?" appearing in an issue of the

Academy of Natural Science of Philadelphia's Frontiers, written by George Constantz, in which he notes that some species are rare or may disappear because they "cannot evolve appropriate adaptations to an environment which is changing through natural courses." He then expresses the opinion that "man should not bear the moral burden to preserve species which will not evolve at an adequate rate or in the appropriate direction to keep pace with an evolving environment.

I ask unanimous consent, Mr. President, that this research memorandum in its entirety be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ON SPECIES AND COMMUNITY EVOLUTION: THE ONLY CONSTANT IS CHANGE

In his delightful and instructive booklet, The Nature of Shenandoah, naturalist Napier Shelton gives us this treatment of floral, faunal and geological changes over the last billion years in one part of eastern North America: [1]

"From Hogback Overlook, highest in the north section of the park, you can see to the heart of the Appalachians. As your gaze travels westward, it first falls on the South Fork of the Shenandoah River, winding far below in its valley. Beyond, the two ridges of the Massanutten Mountains rise, hiding the Shenandoah's North Fork on their far side. Still farther westward, two or three ridges of the main Appalachian body fade away into the blue haze of West Virginia. This soul-lifting scene has the look of eternity about it, giving a feeling of peace and stability. But from an earth-time point of view, even these mountains illustrate that change is the norm, for the main features of the view from Hogback probably have existed for less than one-twentieth of earth's history.

"To learn what happened here before the Blue Ridge and its westward companions were formed, we must look at the rocks. Just south of Thornton Gap, at Marys Rock Tunnel, Skyline Drive goes through granodiorite at least 1.1 billion years old. This is part of the ancient granitic rock which forms the core of the Blue Ridge. Though exposed now, this rock was formed miles below the surface under tremendous heat and pressure.

"The earliest landscape that can be reconstructed from present geologic evidence was carved in these granitic rocks after their overburden was eroded away. Wind and rain sculptured them into an irregular pattern of hills and valley, the hills rising as much as a thousand feet. It was a bleak scene, lifeless except possibly for a few algae clinging to the rocks.

"This scene was dramatically transformed some 800 million years ago by a series of lava flows, which poured out of long cracks, or fissures, in the granite and gradually filled the valleys. (Greenstone dikes in the older rock at Marys Rock Tunnel and on Old Rag represent two of these fissures.) Eventually even the hilltops were buried under these fiery flows, producing a broad plateau in place of the former hilly landscape. How deep this lava was we can only conjecture, for its upper layers have been eroded from the Blue Ridge. In the Big Meadows-Stony Man area 12 flows, with a total thickness of 1800 feet, have been detected. The accumulated lava flows may originally have been several times as thick.

"Today, remnants of these lava flows form many of the cliffs in the park, most notably Franklin Cliffs near Big Meadows and the cliffs on the west side of Stony Man. Most of the park's waterfalls occur where streams plunge over ledges of this rock. (The new mineral composition of the rock gives it a distinctive green color, hence its name—greenstone.) The original volcanic nature of the rock is not now obvious because it was changed subsequently by heat and pressure due to burial deep within the earth; but traces of the gas bubbles that formed in the hot lava, and vertical columnar joints that formed when the lava cooled and cracked can still be seen.

"The crust of the earth is more flexible than we might imagine, and when subjected to pressure it moves. After a long existence, the plateau was subjected to some great force which slowly depressed it beneath a rising sea. And perhaps it was those same pressures that formed the mountains, now gone, which rose along the eastern edge of our continent. Whatever the causes, the present Appalachian area became a long trough filled by an arm of the ocean. Into this shallow trough washed sediments from the uplands. For many millions of years, long enough for life to evolve from simple soft-bodied sea animals to bony fish and finally to the great experiment of land-dwelling amphibians, the deposition went on. Though the shorelines of the sea fluctuated, the long-term trend was toward shrinkage, so that much of the eroded material never reached the sea but was deposited in streambeds and over the land by floods. In the later stages of the Appalachian trough, we can imagine a rather level, perhaps swampy area lying west of the present Blue Ridge. Ferns and canelike horsetails spring from the ground. Here and there strange, scaly trees rise above them. Near pools presided over by giant dragonflies, descendants of lobe-finned fishes drag themselves through the vegetation.

"Although some 30,000 feet of sediments were deposited in that great depression during the 350 million years of the Paleozoic Era, only the lowest (oldest) part of it remains today on the Blue Ridge. These sedimentary remnants consist of white, gray, or purpose quartzites (made from sandstone) and interbedded shales (made from mud), which are exposed chiefly in the south and north sections of the park. The only evidence of life preserved in those rocks is the long, tubelike structures called Scolithus, presumed to be the burrows of worms that tunneled into the sandy sea floor long before it was compressed into rock.

"The great swamps of the Appalachian trough, in which were entombed the plants that we mine as coal, were destined to be erased forever by the profound geologic event known as the Appalachian Revolution. Some 200 million years ago, pressures from the southeast gradually folded and sometimes buckled those thousands of feet of sediment, forming the Appalachian Mountains. Depending on the rates of uplift and erosion, these mountains in their early days may have looked like the Alps or may have appeared much as they do today.

"Take a 50-million-year step now, to the period called the jurassic, and what do we see? The west slopes of our ancestral Blue Ridge face other peaks; but eastward the mountains diminish to a lowland along the coast. Encouraged by a warm climate (the norm for most of earth's history), ferns, palmlike cycads, and conifers not greatly different from our present ones dot the landscape. A carnivorous dinosaur, running on its big hind legs, emerges from the trees in pursuit of one of its lesser brethren. Insects make their shrill music. To us it is still an alien scene.

"Jump another 125 million years, to the Miocene, and we feel more at home. The mountains now have a cover of forest trees very much like our present ones. Walking the Blue Ridge slopes, we find maples, oaks, ashes, hickories, chestnuts, beeches, and walnuts—not the same species as today, but quite recognizable. At our approach, a three-toed horse quits its browsing to run, and a large bearlike dog slinks into the forest. The rise of mammals has followed the development of deciduous trees, which in turn has followed a cooling trend—a trend that will reach a climax in the Pleistocene, or ice age.

"Just a tick on the geologic clock before the present, the ice age presents a Blue Ridge scene that is both familiar and unfamiliar. Scanning the ridge at the climax of the last major glaciation, about 15,000 or 20,000 years ago, we recognize the individual peaks by their contours; but the forest and its life surprise us. The edge of the massive glacier is some 200 miles north of us and the cool climate that accompanies it has mantled the highest slopes with spruce and fir. As we sit under the dark conifers crowning Stony Man, gray jays mew furtively in the boughs overhead, and a porcupine ambles from one tree base to another. Along a trail made by white-tailed deer and black bears, a cottontail rabbit hops toward us. Now we look far down the ridge and see a pack of dire wolves crossing a saddle. Descending into a hollow, they suddenly bolt as a great gray mastodon emerges from the forest. This sight climaxes a day in which we have seen some animals that today are extinct (dire wolf and mastodon), some that now are only found farther north (gray jay and porcupine), and some that still live in the Blue Ridge. The ranges of these animals remind us that Shenandoah climates of today are only a few degress removed from those of the Pleistocene, and that another ice age could easily return.

"During that immense interval between the rise of the Appalachians and the present, the infinitely slow but persistent forces of erosion have worn down the ranges to low, rounded ridges of resistant rock, and rivers such as the Shenandoah have carved deep valleys in the softer limestone and shale. These forces—wind, water, freezing, thawing, and gravity—continue their work today. Masses of gray boulder, lying still in steep ravines, may move again in the next big rainstorm. Ice collecting in a crack may chip another piece off the face of Stony Man. And every day, streams carry bushels of soil down the steep slopes.

"Though the view from Hogback does not directly tell us, nature creates, and nature destroys."

The changes in landforms and in biological species and communities which occur naturally over time, are continuing ones. They are sometimes aided, sometimes directed to various degrees by the planned and the inadvertent actions of man. One need not go back milennia to detect significant changes, of course. Ecological conditions have changed markedly over the last few centuries. The eastern deciduous forest as presented to Hudson, Champlain, Raleigh, Vespucci, Verrazano and John Smith, for instance, is far different from that seen today. Pre-Columbian eastern North America was extensively and predominantly forested. This pattern was broken by the agricultural patches of resident aboriginals as well as by the areas periodically devastated by fire, wind, flood, hurricane or other natural physical events and by periodic insect, disease or other biological epidemics.[2]

While the details of landforms, climatic and weather patterns, soils, flora and fauna

[1] Napier Shelton, The Nature of Shenandoah, 1975, Natural History Series, Office of Publications, National Park Service, U.S. Department of the Interior. pp. 12-14, 16.

[2] See Robert L. Burgess, Deciduous: the changing face of eastern north america, 1978, Frontiers 42 (3): 9 (Spring 1978).

vary among biomes, the kinds of changes and processes which occurred in the eastern deciduous forest biome can also be demonstrated for coniferous forest, desert, grassland, and alpine tundra biomes as well. In all cases the forms of life which are found in any ecological system represent the results at a point in time of the continuing adjustment of genetic material to the forces of evolution. Communities of plant and animal species change as natural and other factors change; species composition of such communities is rarely static—dynamic change is the norm. Thomas Elias of the Carey Arboretum, speaking at an international symposium on threatened and endangered species of plants and ecosystems in the Americas, observed:

"Admittedly, extinction is a natural phenomenon. One has only to compare the fossil forms from past geological ages with modern plants and animals. By doing so, we can see that large numbers of plants and animals became extinct long before man was a factor. Many species of dinosaurs ruled the world during the Jurassic and Cretaceous periods, when relatives of our herbaceous club mosses and ground pines were the size of trees. But for some reason, they completely died out, and surely urbanization was not responsible for their demise. Perhaps it was due to the changing climate, the changing topography, competition from newly-evolved groups, or some combination of new environmental conditions. The ability of populations of organisms to respond to environmental modification is dependent upon the extent of their gene pool, the genetic variability that is inherent in all populations. Since these gene pools are finite and response to change often evolves over generations, populations cannot adapt to all changes in their environments, especially sudden changes.

"When faced with alterations in its environment, a population can respond either by evolving in a new direction, by adapting to the alterations, or by dying out.[3]

Elias goes on to caution that there are differences between natural extinction and man-caused extinction and to note that the rate of extinction has accelerated in recent years in response to man's impacts on natural systems.

Because species extinction is a part of the natural and perpetual adjustment of life forms interacting with environment and because man and his actions also cause or accelerate biological extinction in some instances, some students of the subject have tried to distinguish between the two classes of extinction. George Constantz, writing for an issue of the Academy of Natural Science of Philadelphia's *Frontiers* which was largely devoted to the subject of endangered species, noted that some species are rare or may disappear because they "can not evolve appropriate adaptations to an environment which is changing through natural courses".[4]

Others may be rare because "human intervention through habitat alteration and introduced species may result in the decline of populations of native species."[5] Constantz opines that "man should not bear the moral burden to preserve species which cannot evolve at an adequate rate, or in the appropriate direction, to keep pace with an evolving environment."[6]

[3] Thomas S. Elias. An overview in Extinction is forever. G. T. Prance and T. S. Elias, eds. Proceedings of a symposium held at the New York Botanical Garden, May 11–13, 1976. The New York Botanical Garden. Bronx, New York, 1977. p. 15.

[4] George Constantz, Should we save ALL endangered species? Frontiers 41(4):39; Summer 1977.

[5] Ibid.

[6] Ibid.

It is not the function of this piece to argue for or against what one might or should do with respect to the species extinction issue. Rather it is to observe that extinction is a part of the dynamic and continuing relationship between life forms and environment, that change in habitats and in floral and faunal associations is the expected norm over time, and that just as the biological communities we now see are not the same as were found hundreds, or thousands, or millions of years ago, so too will future associations of plant and animal species differ from those of today. Shelton mused of the future of the Shenandoah:

"Taking a geological perspective, we can imagine all sorts of possibilities. The Blue Ridge may erode to virtually nothing and be covered again with water. Or it may be pressured upward into craggy peaks. Perhaps there is a long chance that lava will once again flow from great cracks in the rock. And changing climate may put entirely different vegetative clothes on the land. A warming trend could once again bring tropical forests, or cooling could bring glaciers from the north—perhaps this time to bury the Blue Ridge and wipe its biological slate clean. And who knows what new forms of life will evolve in response to the ever-changing environments?"

Similarly we may muse of the futures of any or all other regions. We can be sure of but one thing: change is natural and inevitable even if we may not know now the exact nature or even direction of the changes which will occur.

Mr. SCOTT. Mr. President, the purpose, of course, is to show that neither plants nor wildlife continue over the years in their identical form. There is an evolutionary change made which should not stop us from attempting to protect or delay the extinction of desirable fish, wildlife, or plants, but cause us to recognize that an absolute preservation in its present state of the more than 2 million species of plants and animals is not possible, and we should consider the welfare of people in determining the species to preserve.

Moreover, if we look at the act from the political or governmental point of view, we again find that it gives undue consideration to fish, wildlife, and plants over the welfare of people. Not only from the biblical, or evolutionary point of view is mankind superior but also from the political point of view. Our own Government exists to serve people. I do not believe anyone in this body would suggest that the equal protection clause of the 14th amendment applies to fish, wildlife, and plants, but even if it should be so applied, human species would be entitled to the protection now denied them under the Endangered Species Act. It does not appear reasonable that anyone would quarrel with the statement that people should have dominion, as genesis provides, over the fish of the sea, the fowl of the air, and every living thing that moves upon the Earth. Government exists only for the purpose of serving people and apparently this basic fact was not considered fully when we enacted the Endangered Species Act of 1973.

The major action bringing the Endangered Species Act to public attention, of course, was the TVA case involving the Tellico Dam project and the snail darter fish. However, the Endangered Species Act has caused concern in many other States, including Virginia. During both 1977 and 1978 in the southwestern part of our State, there was heavy rainfall within the three-fork tributary system of the Holston River that empties into the Tennessee Valley system. As a result, the river flooded on all forks and exceeded by several feet the projected 100-year flood plan established by the Tennessee Valley Authority. When we speak of a 100-year flood plan, we are thinking of the highest elevation that water will rise even once within a hundred years. There were two major floods last year and one this year in the same area, resulting in approximately $275 million worth of property damage and the death of four persons—not snail darters but people.

President Carter declared the Holston watershed a Federal disaster area on two of the three occasions, and funds were made available for emergency repairs, necessary cleanup, and removal of debris. It is understood that emergency work was designed to protect private homes, the majority of the manufacturers in a 16-county area—this is a rural area—and to minimize the consequences of future floods. The only work approved was that deemed necessary to protect private and public property. Representatives of the Federal Disaster Assistance Administration, Army Corps of Engineers, Virginia Office of Emergency Services, and the Virginia Commission of Game and Inland Fisheries were all in agreement that this work needed to be performed on an emergency basis.

However, the Fish and Wildlife Service of the Department of the Interior advised the Corps of Engineers that the Holston tributary was the habitat of several endangered and threatened species and on June 19 of this year, the corps issued a directive tentatively stopping work. Thereafter, the corps arranged for a meeting of representatives of the State and county governments, the Federal Disaster Assistance Administration, EPA, and Fish and Wildlife Service to discuss future action and to furnish their recommendations. While the meeting has been held the corps is currently waiting reports before determining whether work can be done to prevent future floodings and other disasters.

Mr. President, this is happening in a somewhat rural and mountainous section of western Virginia, but it could happen in your State. Other disasters could occur in any State of the Union and aid could be halted to protect the habitat of species of animals or plants. Is the protection of their habitats more important than the protection of the habitats of mankind? I just do not believe the American people want all species of plant and animal life preserved, even if it is possible, regardless of the cost, in terms of money, regardless of the cost to our standard of living or regardless of the cost to human life itself. And there were four people killed in these floods.

Of course, in every reasonable way we want to protect fish, wildlife and plants as provided in the Endangered Species

Act, but the law we passed was rigid—so rigid that the Supreme Court indicated the courts have no discretion under the act and appeared to invite Congress to make amendments. Had the question been raised, there is a possibility that an act with such rigidity could have been declared void, the entire act, by the Court on the basis of due process. If, as the Court suggests, this is a rigid law, protecting animals but denying protection to the human species, it seems reasonable that it should be amended to provide for consideration of human factors.

The committee has addressed this point in the bill before us insofar as projects of a national or regional scale are conserved by the establishment of a cabinet-level commission. But, it would appear difficult to get seven individuals of cabinet level together to pass upon any substantial number of issues that might arise under the act and the bill does not relieve the rigidity in other than national or regional situations.

What I will attempt to do through a series of printed amendments, all of which are on your desk, is to have the welfare of mankind considered along with the welfare of the lower animals in day-to-day administrative regulations and decisions. This act relates to governmental actions at all levels but it also relates to private actions by the individual citizen. Civil penalties up to $10,000 can be imposed by the Secretary for each violation and criminal penalties up to $20,000 and a year in jail for each violation. Our country has vast resources but they will be greatly limited if no activity is permitted to interfere with the retention of any species of fish, wildlife or plant. Court testimony has indicated that the act applies to complete projects, functioning projects, serving vital needs of society. The Grand Coulee Dam was mentioned as an example of a project that could be shut down should it be found at this time that in some manner the project was endangering some endangered species. And it applies as well to those under contemplation or those under construction.

I hope the managers of the bill and, in fact, that each Senator will give careful consideration to these amendments and a bill can be enacted acceptable not only to the Members of the Senate but agreeable to the vast majority of the American people

Mr. President, let me conclude merely by saying that if some amendments are not adopted that take into consideration the human factor, I propose to move to recommit the bill to the Committee on Environment and Public Works with instructions to the committee to consider such amendments thereto as will give priority to the welfare of mankind over the protection of fish, wildlife, and plants.

Mr. President, I reserve the remainder of my time.

Mr. NELSON and Mr. STENNIS addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. NELSON. Mr. President, I wonder if the distinguished Senator from Iowa will yield?

The PRESIDING OFFICER. Who yields time to the Senator from Wisconsin?

Mr. CULVER. How much time does the distinguished Senator from Wisconsin wish? Does he wish to speak on the bill itself?

Mr. NELSON. Just 3 or 4 minutes.

Mr. CULVER. I am delighted to yield to the distinguished Senator from Wisconsin for 5 minutes.

Mr. NELSON. Mr. President, on June 15 the Supreme Court ruled that the snail darter is protected by the Endangered Species Act (ESA) of 1973 and that the Tellico project in Tennessee may not be completed and put in operation because it would destroy the habitat of the snail darter, an endangered species.

The decision has caused a national uproar over the Endangered Species Act. A spate of editorials have assaulted the act as unnecessarily inflexible—a kind of national straitjacket. Politicians, industrial developers, and all manner of alarmists have joined in a clamor to strike down this monster that is stifling progress, threatening economic growth, and frustrating our national purpose.

As some anonymous wit so aptly put it, one would think that the little 3-inch snail darter had suddenly loomed on the horizon as Jaws III and was about to devour us all unless we marshal the full resources of the Republic to strike him down.

One hardly knows whether to laugh or cry or both.

What, really, is all the fuss about? Is it because the 1973 law is not working as Congress intended? Is the law cumbersome or ineffective or too difficult to administer or too rigidly inflexible? The answer to each of these questions is an emphatic "No." The law is working very well indeed. Much better, in fact, than any of its broad spectrum of proponents could have hoped.

What have been the results of almost 5 years' experience under the law? In that period there have been 260 proposed Federal actions which posed a potential and serious threat to an endangered species. Every single case, save one, was resolved pursuant to the law in a way that did not threaten the habitat or survival of any endangered species. The law has achieved exactly what Congress intended. What other law can we think of that has so faithfully followed the legislative intent and so effectively carried out its objective? I can think of none.

In short, not a single event, not a single episode, not a single problem has arisen during the 5-year experience under this law that furnishes a valid basis for compromising or weakening the Endangered Species Act.

It is instructive to note that those who administer the law are satisfied with it and oppose any change.

Now, what about that one case, the Tellico Dam and the snail darter?

There are several things to be said about the Tellico Dam which was conceived of 40 years ago under circumstances, conditions and laws which no longer exist. In sum, when all objective factors are weighed, apart from any consideration of the Endangered Species Act or the snail darter, the public interest would have been better served if the project had never been started and will be better served at this time if the project is not completed.

This conclusion is based upon an evaluation of the costs and benefits of a dam with an impoundment compared to the costs and benefits of a dam and a free-flowing river. This point is discussed later in my remarks.

Thus when all the smoke has cleared we are left with the Tellico project as the sole basis for a sweeping attack on this landmark legislation which spelled out in the law our specific recognition of the vital importance of curbing man's recklessness against the natural world of which man himself is a part.

In this legislation we finally recognized that we do not have the wisdom to decide what species shall live and what species shall die. In the last analysis this act was addressed much more to our concern over the future of man than to our concern over anything else.

The Endangered Species Act of 1973 evolved from 8 years of experience with other legislation that spoke to but did not adequately address the endangered species question. By the 1950's there was widespread recognition that species of wildlife and flora were vanishing at an alarming rate due to the activities and intrusions of man. Legislation directed at a reversal of this trend was enacted in 1965 and in 1966. While a step in the right direction, these laws, however, did not adequately resolve the very serious problem. By 1973, there was general agreement that a new and more comprehensive statute was required if species of life that were threatened with extinction were to be saved.

Thus, in a special environmental message to the Nation in February of 1973, former President Nixon stated that the existing law "simply does not provide the kind of management tools needed to act early enough to save a vanishing species."

What emerged was a soundly drafted statute that had almost unanimous support in Congress. The law, the Endangered Species Act of 1973, provided a means "whereby the ecosystems upon which endangered species and threatened species depend may be conserved." The law declared that it was "the policy of Congress that all Federal departments and agencies shall seek to conserve endangered species and threatened species."

The heart of the 1973 act is section 7. Simply put, this section requires that "all other Federal departments and agencies shall * * * (take) such action necessary to insure that actions authorized, funded, or carried out by them do not jeopardize the continued existence of such endangered species and threatened species or result in the modification of habitat of such species which is determined by the Secretary * * * to be critical."

The law is clear and the intent of the Congress is unmistakable: the highest priority is given to the protection of species of flora, fauna, and habitat listed

by the Secretary of Interior or Commerce as endangered or threatened. Actions in conflict with this policy would have to be modified. The legislative history on this point is overwhelming and conclusive.

S. 2899 would change a basically scientific process and insert in lieu thereof a political decisionmaking procedure. I have read S. 2899 and committee report 95–874 and I have searched for one reason to support it on the merits of the issue. I have not found one because one does not exist. There are a large number of political reasons to change the law but the fact of the matter is, the law is reasonable and is working well.

THE LEGISLATIVE HISTORY

The legislative intent of the Congress was clear in 1973 when it passed the Endangered Species Act. Congress mandated that changes in on-going Federal programs would have to be made where conflicts with the ESA surfaced. Moreover, almost unanimous support of this legislation was received both in the Congress and in the administration, and it strengthened the view that the nation was united and committed to taking whatever action would be necessary to protect our vanishing wildlife and to reverse the trend toward extinction. The Senate passed S. 1983 on a rollcall vote of 92 to 0, the conference report passed on a voice vote. In the House the conference report was agreed to 355 to 4.

The requirement in the 1973 act that affected Federal departments and agencies must modify their project or actions once a conflict arises between an endangered or threatened species and a developmental project is clear and explicit in both the language of the act and the legislative history.

On December 20, 1973 the House considered and passed 355 to 4, the conference report on the Endangered Species Act of 1973. Page 42912 of the RECORD contains a discussion by Congressman DINGELL, the floor manager of the bill, on just this point. Congressman DINGELL called to the attention of the House a recent Washington Post story about the bombing by the Air Force of the nesting grounds of the sandhill cranes along the gulf coast of Texas. The cranes were one of our most endangered species. Representative DINGELL clearly stated:

> Under existing law, the Secretary of Defense has some discretion as to whether or not he will take the necessary action to see that this threat disappears . . . but the point that I wish to make is that once this bill is enacted, he or any subsequent Secretary of Defense would be required to take the proper steps.

A further example of clear legislative intent is contained on page 14 of the House Report 93–412. This page deals with a discussion of the grizzly bear. Briefly, the House told the Park Service and the National Forest Service that both agencies would have to adjust their management programs under the provisions of this new act to insure that the bears are not further endangered. Nothing could be more clear and concise.

The Supreme Court's June 15, 1978 decision in the case of Tennessee Valley Authority against Hill et al., contains an extensive explanation of the legislative history of the law on this very point. I ask unanimous consent that pages 19–31 of the Court's opinion be printed in the RECORD at the end of my remarks.

It is not necessary to read statement after statement into the RECORD from Republicans and Democrats alike to make the point that the ESA had strong support on both sides of the aisles. It seems to me that the discussion thus far has clearly defined three issues:

First, Congress was rightly alarmed at the rapid rate that various forms of life were disappearing from the planet; second, Congress and the administration were determining to do something about it, something that would have continuing force, an approach that was long-range and comprehensive in nature; and third, Congress created a program which required all Federal departments and agencies to take whatever action was needed to resolve conflicts with this new law.

Congress neither moved in haste in drafting this approach, nor did it underestimate the importance of this law and the need for the legislation before it was placed on the statute books. In fact, just the opposite is true. The ESA of 1973 was enacted because the 1965 and 1966 laws were ineffective. There was universal agreement on this point.

The Endangered Species Act of 1973 is fair, it is flexible, it works, and it is vitally needed. There is no compelling reason to modify it.

HOW THE LAW WORKS

To demonstrate the flexibility of the law one only needs to look at how the law has worked since enactment.

Over 4,500 consultations have been conducted pursuant to the Endangered Species Act. A "consultation" is defined as any question on, communication about, review or investigation of any Federal activity that might affect any endangered or threatened species or its critical habitat. Consultations may be a simple 5-minute phone call requesting information on the location of an endangered species or its critical habitat in relation to a proposed or planned Federal project or a full-blown investigation requiring many person-days of effort on a complicated Federal action that involves a dozen or more endangered species.

The Interior Department estimates that 90 percent of the consultations require only an hour or less and may not result in a permanent record. There are the phone calls and personal discussions that occur daily, even hourly, at the lowest field levels of the service.

About 5 percent of the consultations are more complicated and take about one person-day to complete. These require minor analysis and will usually result in a written report, letter or other communication.

The last 5 percent of the consultations are the most difficult. They embody complex Federal activities that usually impact several endangered or threatened species and their critical habitats. These consultations require anywhere from 2 or 3 to 200 or 300 person-day and effort and always result in an official "biological opinion" signed by a member of the Service's directorate.

Approximately 260 consultations have occurred where a major Federal action would adversely affect a listed species. In all but one case, the Tellico Dam, the consultation requirement of section 7 worked. Two other cases were litigated. The second case was National-Wildlife Federation et. al. against William Coleman, Secretary of Transportation. An out of court settlement was reached. The DOT was funding a project in Mississippi, Interstate 10, which would have disturbed the nesting area of the sandhill crane. The interchange that would have caused the problem was relocated. The final case was Sierra Club against Robert Froehlke, Secretary of the Army, the so-called Indiana Bat case. The court in this instance held that the planned construction of the Meramec Park Lake Dam by the Corps of Engineers would not have harmed the population of the Indiana bat.

By negotiations involving 260 major actions, the ESA has blocked only one project, the Tellico Dam in Tennessee, a project that should never have been started in the first place. According to the Fish and Wildlife Service there are no Tellicos in the future of the 1973 act. There are no irresolvable conflicts that cannot be settled pursuant to section 7 of the law. One bad project is too little of a reason to justify such a massive change in the law.

THE COMMITTEE REPORT

The committee report makes two arguments why an interagency committee is needed to resolve possible conflicts between the purposes of the Endangered Species Act and other federally authorized programs, projects, and actions.

First, the committee states on pages 2 and 3 of the report that "(T)estimony received by the Committee indicates that a substantial number of Federal actions underway appear to have all the elements of an irresolvable conflict." When pressed, the committee staff will produce a list of 121 action; only 12 less than 11 percent, involve possible conflicts. This is the "substantial number" the committee report mentions. However, Assistant Secretary of Interior for Fish, Wildlife and Parks Robert Herbst in a June 12, 1978 letter to me refutes this list and allegations of conflict. The letter reads:

> DEAR SENATOR NELSON:
>
> Earlier this year a list of 12 Federal projects (attached) that may pose "potential consultation problems" was prepared for the Senate Subcommittee on the Environment at the request of key subcommittee aides. It was not intended then nor is it accurate now to state that these potential consultation problems represent insurmountable obstacles that will result in "Tellico-like" situations after the consultations are completed. In fact, consultations have now been completed on three of these projects (Miami Jetport—Florida, Dickey Lincoln—Maine, and Osceola phosphate mining—Florida) and no jeopardy to the concerned endangered species was found providing reasonable precautions are taken as outlined in the Biological Opinions concerned.

We are confident and hopeful that no major controversy will develop with the other projects either so long as the consultation is conducted by open-minded people with an honest desire to accomplish the concerned project, while minimizing adverse effects on the critical habitats of endangered or threatened species. We can assure the U.S. Congress that the Department of the Interior will always approach the consultation table with this point of view.

Sincerely yours,

BOB HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

Second, the committee report on page 3 indicates that 20,000 consultations are expected in fiscal year 1979 alone. The impression is given that the system will be swamped with paperwork, that decisions will not be made on a timely basis, that a review procedure is necessary.

It is important to note that the managers of the system are satisfied and confident that the additional consultations can be handled in an efficient and speedy manner. Furthermore, all these consultations would have to take place under Culver-Baker just to satisfy the requirement that good faith negotiations have occurred before any project would be considered for an exemption from the act.

THE PROCESS OF LISTING

Currently there are 619 endangered species—439 foreign and 180 native, and 43 threatened species—17 foreign, and 26 native.

Section 4 of the act spells out the process. A species can only be listed as threatened or endangered for any of the following reasons: First, the present or threatened destruction, modifications, or curtailment of its habitat or range; second, overutilization for commercial, sporting, scientific, or educational purposes; third, disease or predation; fourth, the inadequacy of existing regulatory mechanisms; or fifth, other natural or manmade factors affecting its continued existence. These determinations must, by law, be made "on the basis of the best scientific and commercial data."

Furthermore, before listing a species the Secretary must consult with: First, the affected State(s); second, interested persons or organizations, and other interested Federal agencies, and cooperate with the Secretary of State and with the country or countries where the species is normally found. Before listing a native species the Secretary must publish notice in the Federal Register and notify the Governor of each State where the species is found. The Secretary must then allow the State 90 days to comment on the proposed listing. A summary and explanation of all comments received must then be placed in the Federal Register.

TELLICO VERSUS THE SNAIL DARTER

There appears to be widespread misunderstanding about the Tellico Dam project. Contrary to popular opinion, the major purpose of the project is neither flood control, nor navigation improvement, nor even electric power generation. It is real estate speculation. Tellico is a gigantic, hundred-million-dollar-plus, Government owned and operated recreational and industrial land development scheme. According to recent figures released by the TVA, more than 57 percent of all the project benefits would be derived directly from recreation and industrial shoreline development. Not very many people realize this; it has been a well-kept secret.

Of the $109 million invested thus far only $22.5 million has been spent on construction of the dam; $8.9 million of this amount is labor costs.* Other expenses for the Tellico project include:

	Million
Land (all of which was acquired under threat of eminent domain)	$25.7
Road construction through valley and project area adjustments	42.5
Overall project administration and supervision	15.4
Channel work on canal, public use facilities	12.1
Other expenses—miscellaneous	12.9

The Federal Government has now condemned from private landowners 38,000 acres of land, the majority of which is prime agricultural farmland. TVA is the largest real estate firm in Tennessee. Tellico was never formally authorized by Congress. TVA, operating under emergency authority dating back to the New Deal planned the project for completion before World War II. It got sidetracked for a while but the plans were never changed. It is interesting to note that TVA is also the only Federal water resources development agency that can condemn more land than it actually needs for a project, speculate with the value of that land, and then resell the land they have condemned to the public at a vast profit from the Government. This is not sound management, it is a "legalized" grand theft of the public.

Only the estimated $700,010 per year from the sale of 22,000 acres of land over the project's 50-year economic life keeps the Tellico program marginally afloat. A cost-benefit ratio has not been updated for over a decade. This again is unique to TVA because the Corps of Engineers, for example, updates their cost-benefit ratios annually.

The fact of the matter is that the land, the 38,000 acres already acquired by the Federal Government, and the value of the agricultural productivity of the farmland is worth more today than all of the estimated benefits of the Tellico project.

Tellico simply is a water resources dinosaur that Congress should have made extinct years ago. It is one species that unfortunately is not threatened or endangered, but nonetheless, it is a species that Congress should wipe out.

The absurdity of this project just goes on and on. In order to add 200 million kilowatts of additional generating capacity, to produce $3 million in additional revenue to a system, TVA proposed to destroy farm production estimated by the TVA to yield between $29.5 and $52 million a year. In order to create a 14,000-acre lake for flat water recreation, TVA proposed to flood this prime agricultural land despite the fact that, according to the GAO, there are right now 22 major, underutilized lakes within a 60-mile radius of the Tellico site.

TVA proposed to do all this in the name of progress. The key word in this sentence is "proposed"—past tense. TVA no longer advocates completing this boondoggle. Under the chairmanship of Dave Freeman, reason has been restored. TVA is now working with the Interior Department and is negotiating, pursuant to section 7 of the 1973 act. TVA now realizes that the Tellico lands are worth more dry than if they were inundated under approximately 18 feet of water. Tellico, including the sunk costs in the dam which are minimal is worth more to the Federal Government, worth more to the people of Tennessee, the way it is today.

The strong tradition of pork-barrel politics has raised the battle cry, "Amend the Endangered Species Act." The battle cry shouted in return ought to be something along the lines of, "You have got to be kidding." Unfortunately, they are not kidding. The proponents of these highly capital-intensive, environmentally destructive, and economically wasteful projects have seized upon the Tellico and the snail darter to attempt to deal the Endangered Species Act a crippling, if not fatal, blow.

The Interior Department has stated publicly that there are no more Tellicos in the future of the Endangered Species Act. There is not one project that might have a conflict with the act whose importance to the Nation is so overwhelming that this great country would suffer if it were not built as presently designed. The "horrible hypothet" painted by opponents of the ESA and the media does not exist. It is popular with the media to repeat that the law is too rigid, too inflexible but they cannot present one case where the law, in practice, has proven to be rigid. They cannot cite one example where a change may be justified.

The great irony of this issue is that a careful reading of the Culver-Baker amendment and S. 2899 leaves one with the conclusion that Tellico is not even eligible for consideration by the committee S. 2899 would create.

Tellico fails on two grounds. First, TVA has not, until very recently, conducted any negotiations with Interior. The consultation process will have to be carried on in good faith before Tellico becomes an "irresolvable conflict."

Second, the committee report clearly states that:

The criteria expressly mandate that the balancing . . . is between benefits of proposed federal actions and benefits of alternative courses of action.

Given David Freeman's testimony before the House Subcommittee on Fisheries, Wildlife Conservation, and the Environment on June 23, 1978, the benefits of modifying the project clearly outweigh the benefits of the proposed action, the completing of the dam and the filling of the reservoir.

Progress has not been halted and we can thank the snail darter for saving this Government and its hard-pressed

*By far the most important purpose of the Tellico project is recreational and industrial development not flood control, hydroelectric generation, etc.

taxpayers tens of millions of dollars. It is fear and ignorance that are the driving forces behind this change in law, not fact and reason.

THE CULVER-BAKER AMENDMENT

A careful review of the 4½-year history of the Endangered Species Act of 1973 demonstrates beyond any doubt that, on the merits of the issue, there is no basis for a change in the law. In fact, the arguments that support a straight 3-year reauthorization are overwhelming and conclusive.

Those who have authored and support S. 2899 are perfectly sincere in their concern about the reckless and irresponsible attacks on the 1973 law that are now being made by groups like the chamber of commerce. These organizations simply wish to destroy this vital program. The supporters of S. 2899 perceive that the politics of the issue, rather than the merits of the argument, require a modification of the law in order to secure reauthorization of the act. If they are correct, then the law will have to be amended. And, S. 2899 is a better and more carefully drafted modification than any other approach introduced thus far.

However, it seems to me, that if the politics are going to force a change in the act, some alteration of Culver-Baker, modifications that lessen the degree of violence S. 2899 imposes on the law, are required.

First, S. 2899 will encourage rather than discourage Federal agencies and departments to flout the basic purposes of the act, the protection of endangered species. The fact that the present law requires modification or termination of an action as the only alternative when a species or its habitat are endangered is a compelling inducement to work out a solution. That is the history of the act. If, however, an agency believes it can persuade the committee to grant an exemption, the consultation process becomes a charade. Yes, they will talk to one another, but as long as there is an opportunity for business as usual, there will be a desire to fight for one's project.

Second, S. 2899 only requires a simple majority decision on the question of whether or not the consultation process has been carried on in good faith. This decision must be made before a project is eligible to be considered for an exemption. Since the heart of the bill is the consultation process and since a 4–3 vote on this point triggers the review, a change in the Culver-Baker amendment is necessary to insure that the consultation process is not undermined. Such a change is required by amendment No. 3132 which requires a unanimous decision by the committee on whether the consultation process has been carried on in good faith.

Third, the exemption program under S. 2899 is available to all projects regardless of their stage of planning, design, or construction. I believe that an exemption should only be available to actions for which a "substantial and irretrievable" commitment of resources has been made prior to the listing of a species which causes a conflict as endangered or threatened. All other projects or actions in their feasibility or design stages ought to be required to comply with section 7 of the law as currently enacted. Amendment No. 3132 makes this change.

Fourth, one of the grounds for granting an exemption would be if the committee determined that there was no "reasonable and prudent" alternative to the proposed action. This terminology has no legal meaning and the committee report makes no attempt to define what is "reasonable and prudent." On the other hand, the term "feasible and prudent" has been construed by the Supreme Court to mean "consistent with sound engineering." This definition grew out of the Overton Park against Volpe case. "Feasible and prudent" is a known standard and if S. 2899 is adopted, as drafted, the Congress will be telling the courts that it is establishing a new standard for review, a standard that, it is my judgment, is far more vague and weaker than the known legal definition of "feasible and prudent." Moreover, a very large majority of the key terms in S. 2899 are undefined and will certainly invite litigation. In considering the grounds for an exemption, I believe the Congress must be very careful and it, not the courts, should decide what are the ground rules. Amendment No. 3132 makes the change to a known standard of law.

Fifth, an action may also qualify under S. 2899 for an exemption if it is of "national or regional significance." Again, the term "regional" is not defined by the committee. What does it mean? No one knows. Regardless of intent, it seems to me that if we are to grant exemptions, then actions or projects that are of national significance should qualify.

Almost anything can be construed to be of "regional" importance. The Congress, in drafting the ESA, wisely decided to give the protection of endangered species and habitat the highest national priority. It makes no sense to undermine a national program with regional actions. The words "or regional" should be dropped. This would be accomplished by amendment No. 3132.

Sixth, S. 2899 imposes an unfair and unreasonable limitation on citizen suits by requiring that parties wanting to file litigation to challenge decisions made under S. 2899 give 60 days notice. If this language is enacted, a decision to exempt an action could not be stopped by the issuance of an injunction for 60 days. This is more than enough time to allow an agency to complete the action before judicial review of the decision can take place. Amendment No. 3132 would correct this problem by waiving the 60-day notice requirement for all suits that challenge the decision of the interagency committee.

We as a nation have made a fundamental commitment to environmental quality. We are investing tens of billions of dollars to improve and enhance our environment. The programs are broad and widely supported by the public. Finally, we have a President who understands the problem and has proposed a constructive series of water policy reforms. We have a Secretary of the Interior who says that the days of "rape, ruin, and run" are over. And yet, we seem to be prepared, as a Congress representing the entire Nation, to substantially weaken a vital program because one or two States have projects that they want completed regardless of the consequences.

So, what we are really left with is a political argument that a good law, a law that is working well, doing the job Congress and the President intended, should not be changed because some Members of Congress believe that some day, something unknown may occur, something that no one can point to now may happen that may threaten a pork barrel project or an action by the Federal Government that, judging from the history of the act, can be avoided in the first place.

It is for this argument, and this argument alone, that the Senate is today debating S. 2899.

Mr. STENNIS. Mr. President, will the Senator yield me 5 minutes on the bill?

Mr. CULVER. I am delighted to yield to the distinguished Senator from Mississippi 5 minutes on the bill.

Mr. STENNIS. I certainly thank the Senator from Iowa.

I shall not offer an amendment nor seek disposition of my amendment tonight.

Mr. President, I filed last week amendment No. 3097 to this pending matter and now for the purpose of clarification and some modification I wish to change that amendment and modify to the extent as reflected by this amendment that I hold in my hand and may send to the desk, if that is in order.

The PRESIDING OFFICER. Without objection, the amendment will be so modified.

Mr. STENNIS. Mr. President, this does not disturb the order previously granted for an hour and a half of debate on this amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. STENNIS. Mr. President, I thank the Chair.

Mr. President, this amendment, as numbered, is proposed on behalf of myself and Senators EASTLAND, GARN, HATCH, LAXALT, YOUNG, CURTIS, and GOLDWATER.

This amendment differs but slightly from amendment No. 3097 which I offered on June 28, and I would like to explain those differences.

First, the amendment would substitute for the words "to the extent feasible" proposed by my previous amendment the words "insofar as practicable and consistent with their primary responsibilities."

Second, I propose to add a new subsection (c) to make it clear beyond question that any action carried out in compliance with subsection (a) of the proposed amendment to section 7 shall not be deemed to be a violation of either section 4(d) or 9(a) of the act. Both of these subsections contain prohibitory language and I think it is wise to add this new provision.

Finally, this amendment makes certain technical corrections to assure that the amendment is keyed to pages and lines of the bill reported by the com-

mittee which is now before the Senate rather than the bill as introduced.

The basic purpose and thrust of my amendment No. 3097. In that respect, there is no change.

Mr. President, before I discuss my amendment I want to point out that the committee and I are in agreement on the proposition that an amendment to the Endangered Species Act is needed to provide some flexibility in its administration. We disagree as to how this should be done and as to the degree of flexibility needed. I will briefly discuss why I believe that the committee proposal is not the answer to the very real problems with which we are confronted.

The committee bill proposes to set up a seven-member Endangered Species Committee with the power to grant exemptions to the protection afforded to endangered species when an irresolvable conflict exists between the sponsoring agency and the Fish and Wildlife Service, or the National Marine Fisheries Service. The committee would be composed of the Secretary of the Interior, the Secretary of Agriculture, the Secretary of the Army, the Secetary of the Smithsonian Institution, the Administrator of the Environmental Protection Agency, the Chairman of the Council on Environmental Quality, and the Governor of the State involved. In order to grant an exemption at least five of the seven members would have to agree.

This committee process is cumbersome and unwieldy, and promises delay on its face. These are high level officials and it would be difficult to assemble all of them, or even all of their designees, and this is what the bill requires. The committee process which the pending bill proposes could mean a slow and lingering death to many worthwhile and needed projects. A very pertinent consideration is that the committee could be absolutely overwhelmed by the number and variety of cases presented to it. This could very well prevent it from making a decision within 180 days as the bill would require.

Equally important are the stringent requirements laid down before a proposed action could be exempted. For one thing an exemption must be approved by at least five of the seven members. As a prerequisite to granting an exemption these five members must find: First, that there is no reasonable or prudent alternative to the proposed action; second, the action is of regional or national significance, and third, the benefits of the proposed action clearly outweigh the benefits of alternative courses of action that are consistent with conserving the species or its critical habitat.

These are very heavy burdens of proof to be carried by a sponsoring agency. They are particularly heavy when the requirement of five affirmative votes and the composition of the committee is added. The Administrator of the Environmental Protection Agency and the Chairman of the Council on Environmental Quality are professional environmentalists. It is hard to conceive of them voting for an exemption. The same thing would apply to the Secretary of Interior since in most cases he would be asked to overrule one of his own agencies. Even if all the other committee members voted for an exemption, and this is highly doubtful under the stiff requirements laid down, the exemption would be denied by one vote. The committee setup appears to me to be an institutional veto.

What my amendment proposes to do, by contrast, is to put into the law precisely what the Senate was told was its purpose and intent when it passed the act in 1973. At that time former Senator Tunney, the sponsor of the bill, said:

(A)s I understand it, after the consultation process took place, the Bureau of Public Roads, or the Corps of Engineers, would not be prohibited from building a road if they deemed it necessary to do so.

He also told the Senate:

(A)s I read the language there has to be consultation. However, the Bureau of Public Roads or any other agency would have the final decision as to whether a road should be built. That is my interpretation of the legislation at any rate.

My amendment puts explicitly into the law just what Senator Tunney in 1973 said the law meant. Indeed, it goes further by setting down standards for the sponsoring agency to follow with respect to projects involving the protection of endangered species. It provides that the sponsoring agency "shall balance the social, cultural, economic, and other benefits to the public if such action is carried out as planned against the esthetic, ecological, educational, historical, recreational, or scientific loss to the public which would occur if such species were to become extinct." It seems to me that these are the appropriate and pertinent factors to be balanced by the agency in determining whether a planned action should be modified, delayed, or terminated.

There is nothing radical or unusual about this proposal, Mr. President. It is parallel to the procedure followed under the National Environmental Protection Act of 1969. Under that legislation the sponsoring agency makes its own study and investigation and, after receiving the comments of other agencies and interested parties, makes a decision on whether to proceed with the project, to modify it or to abandon it. In so doing, it must balance the need for and worth of the project against the environmental consequences which would result if the project was completed.

In addition, my amendment contains two grandfather provisions while the committee bill contains none. The first would prohibit a project from being halted if it was more than 50 percent complete based upon the amount expended. The second would provide that the act should not apply to any project under contract or for which construction funds had been appropriated as of the date of enactment of the original law.

I am not going to discuss the Tellico Dam case in detail again. I do want to point out that, under the Supreme Court's decision, the closure and operation of the dam was halted even though it was more than one-half completed when the Endangered Species Act was passed in 1973 and more than $105 million had been invested in it at the time of the injunction by the Circuit Court of Appeals.

I understand also that the Dickey-Lincoln Dam, a Corps of Engineers project in Maine, was and perhaps still is threatened because of the existence of a useless plant known as the Furbish lousewart.

The Florida Everglades Jetport is in an uncertain status because, after a tentative site selection and the expenditure of well over $1 million in studies and environmental monitoring, the nomadic Florida Everglade Kite, an endangered species, migrated into the area.

There are many other cases that could be cited. I mention these because they illustrate the absurd and unreasonable results which can come about under the existing law as construed by the Supreme Court. The same results would be both possible and probable under the committee system recommended by the pending bill and that is why I believe my approach is far more preferable.

Let me emphasize, so that we do not lose sight of it, that this law and its potential impact is not limited to Federal projects. It applies to any project, Federal, State, municipal, or private, which is supported by Federal funds, including grants or loans, or which requires Federal approval by licensing, permitting or otherwise. The scope of the reach of the law must be recognized before its potential impact is fully understood.

As the law now stands, any Federal project, or any project involving Federal action, even though it involved the highest national interest, could be stopped cold if it impacted on the most significant, most obscure and most worthless plant or vertebrate. This would still be entirely possible under the bill reported by the committee.

The Fish and Wildlife Service has estimated that there may be as many as 1 million species and subspecies of animals and plants entitled to protection under the law. It is conceivable then that virtually every river, stream, hillside, and field may contain a unique species or subspecies of life. Therefore, it is possible that virtually any project could be stopped in its tracks if the opponents just look hard enough for a unique animal or plant in the area. You may be sure that they will do so.

There is some suggestion that the Endangered Species Act is being used, not primarily to protect plants or animals, but to stop controversial projects which cannot be stopped in any other way. There is also a suggestion that the act's supporters are deliberately keeping a low profile for the time being. The committee report states:

It has also been brought to the committee's attention that the General Accounting Office suspects, but has not confirmed, that the Fish and Wildlife Service has refrained from listing species which may pose a conflict with a Federal action, for fear of provoking Congress into weakening the protective provisions of Section 7.

I fully support legitimate ecological and environmental concerns. However, I

believe that in passing the Endangered Species Act we inadvertently unbalanced the scales unduly. We must redress the situation and enact legislation which does not unnecessarily and unreasonably hamper progress, growth, and development. We must accommodate people and their needs as well as the environment and its needs. What is needed is a balanced and flexible decisionmaking process under which all important and relevant factors are weighed before the final decision. My amendment provides this. I urge the Senate to adopt it.

Mr. President, let me point out here that this is a grave and far-reaching matter. For several years it has been my privilege to serve as chairman of the Appropriations Committee on Public Works throughout the 50 States, and this matter and the question of added costs has arisen time and time and time again just on these items.

Mr. President, may we have order, if not in the Senate at least down here at the bar.

I warn now that the carrying out of this proposal already in the law, and confirmed by the Supreme Court of the United States, is heading for the expenditure of hundreds of millions of dollars, and I will give some illustrations of that when I address this Chamber later on this amendment.

So we have just begun to hear, Mr. President, what the potential of this amendment carries. I am not seeking the repeal of the law. I am not critical of the Supreme Court of the United States for its decision on the law as written by Congress. I think the Court was exactly right. They did give it a very rigid interpretation, but they were totally right in their interpretation of the meaning of the words that Congress used.

If there ever has been anything thrown back into the laps of Congress with force, it is this opinion of the Supreme Court of the United States. I can hear the bells ringing now that we had better do something about this, and we can do something about it without repealing the original purposes of the act, just provide a more reasonable way of reaching an opinion or conclusion on the merits of the facts, whatever they may be, in these hundreds of cases that are involving, just as certain as we are here, billions of dollars, and not just Federal dollars, and we have none to spare, but in the field of private enterprise, construction of most any kind.

I believe with the already accumulated list of what I understand are several thousand endangered species that have been found by the official authorities, that many, many, many more of them will be found, and the tenor of a great deal of these challenges is very obviously not concerned about the endangered species but to stop the project.

It has been a long, long time since Congress intentionally stepped in and deliberately killed and cut off and discontinued one of its own projects, this Tellico Dam, where we had already spent more than $105 million.

I thank the Senator from Iowa for yielding me the time.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER. Mr. President, I suggest the absence of a quorum and I request that the time be divided equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. I ask unanimous consent that Gary Aldridge, of my staff, may have the privilege of the floor throughout the consideration of this measure at all stages.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. Does the Senator request that the time for the quorum call be equally divided between the two sides?

Mr. CRANSTON. Yes.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I yield 8 minutes to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, no species, not even man, exists independently of all other species. The value of a healthy balanced ecosystem should be obvious, but sometimes it is overlooked until it is too late. I am talking about the need we have to preserve a diversity of species.

With this in mind, I must enthusiastically rise in support and defense of the Endangered Species Act. This landmark legislation was Congress first attempt to recognize and deal with the threat posed by man's activities on a growing number of species. The legislation was enacted to first, protect ecosystems upon which endangered and threatened species depend and second, to provide a program for the conservation of such species themselves.

The many forms of life on our planet represent millions of years of evolution and diversification. These species have each gone through an evolution process in which they have established intricate interdependent relationships which can be of critical importance to their survival.

The act recognizes that it is only through the ability to provide protection to a full spectrum of plant and animal life that we are able to provide protection to any particular species. In other words, if we want to preserve species such as the peregrine falcon, the bald eagle, and the grizzly bear, we must also preserve the network of life upon which they depend.

At the same time that we have started to appreciate the potential value of species and the complex life support systems they provide, we have also witnessed an accelerating rate of their extinction or disruption. Widespread disturbance of habitats and overexploitation of the environment are the major causes of this problem. But we can avoid many of these extinctions and endangerments by protecting a relatively small area of critical habitat and by careful development of land and water-use projects.

Mr. President, in the committee I fought to preserve the act as it was originally enacted, but I was not successful. I support efforts to preserve that act here. But, Mr. President, I cannot refrain from commenting on one particular amendment that concerns me. That is the amendment that is supported by the distinguished Senator from Mississippi (Mr. STENNIS). That amendment, I believe, would prevent the Endangered Species Act from achieving either of its principal purposes. I say this because Senator STENNIS' amendment would preempt the consultation process created under section 7 of the act.

Section 7 requires that Federal agencies consult with the Fish and Wildlife Service when their proposed activities or programs may affect a listed endangered species. This does not mean that flexibility is thrown to the winds. The new regulations published by Fish and Wildlife Service for section 7 recognize that consultation procedures must be sufficiently flexible to accommodate the myriad of activities that are authorized, funded or carried out by the Federal Government.

Conflicts between the Endangered Species Act and other Federal activities are being resolved through this administrative process. The result of consultation is that in almost all cases Federal agencies have found that for both proposed and ongoing projects, modifications or alternatives can be designed which avoid conflict with the Act. Senator STENNIS' amendment fails in my judgment to recognize this fact. It seeks to avoid conflicts by outright exemptions from the act for large classes of projects. This appears to me to be stopping the consultation effort before it even has a chance to begin.

Senator STENNIS' approach has a number of shortcomings which will most certainly result in unnecessary destruction of endangered species and habitats critical to their existence.

First, the amendment changes present law by providing that in cases where conflict between the Endangered Species Act and a Federal activity occurs, that the construction agency itself should decide if the project should be modified or terminated. Mr. President, each one of my colleagues is fully aware of the commitment that many line agencies have to the completion of proposed projects, in many instances with less than appropriate attention to other important factors such as endangered species. They want to get the projects built. To allow a single agency head to determine the advisability of destroying a species or completing the agency's proj-

ect as proposed, seems a bit like putting the fox in charge of the henhouse.

The amendment also contains two grandfather clauses. The first would exempt any project at the 50-percent stage of completion from having to meet any of the requirements of the act. The second would exempt any project which was under contract or otherwise underway as of the date of enactment of the law.

It might be noted first that grandfathering of any sort makes no distinction between species. Thus, grandfathering, I believe, would be an unacceptable approach to resolving conflicts under the Endangered Species Act for those critics of the act who believe that values can be placed on different species. Under the grandfathering clauses of the Stennis amendment, eagles, wolves, whooping cranes—in other words, all those beautiful species that seem to draw people's attention—are just as much in jeopardy as are some of the lower life forms. Even the act's most vocal critics. I do not believe can possibly intend such a result. This is too high a price to pay for a Federal project in the minds of almost everyone.

The exemption of all activities that are 50-percent complete seems to completely ignore the history of the consultation process. If a project can be modified to avoid harm to an endangered species or the critical habitat necessary to the species' survival, then the modification should be given every opportunity to succeed. The consultation process has indeed been successful in helping agencies design and carry out modifications in a number of ongoing projects. An outright exemption of projects through grandfathering provisions is a path that the Senate ought to avoid in this legislation.

The second type of grandfathering that is proposed in the Stennis amendment is perhaps perilous as bad as the first. This approach would exempt from the act any project which was in any way ongoing in 1973. The language in the amendment is "or otherwise underway." What exactly does "otherwise underway" mean? It could be defined by the courts to signify congressional intent that all the thousands of Federal activities, good or bad, that have been proposed over the years, are above the Endangered Species Act requirements. The sheer number of Federal activities involved in this type of exemption is staggering.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The Senator is advised that his time has expired.

Mr. CHAFEE. May I have an additional 2 minutes?

Mr. WALLOP. I yield 2 additional minutes.

The PRESIDING OFFICER. The Senator is recognized for an additional 2 minutes.

Mr. CHAFEE. Even if an objective analysis shows the benefits of saving the species, Senator STENNIS' amendment would deny the act's application to a broad range of activities that by any reasonable criteria ought to give consideration to the protections provided by the act.

The Stennis amendment jeopardizes the workability of the Endangered Species Act. The amendment should be opposed. It undermines one, if not the most important, aspect of the act * * * the consultation process. In addition, the grandfathering provisions do no less than insure that endangered species considerations will not be brought to light in the vast majority of Federal activities.

For these reasons, Mr. President, I oppose the amendment which is being proposed by Senator STENNIS and would ask each of my colleagues to oppose it.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER. Mr. President, I ask unanimous consent that Mr. Richard Gentry be granted the privileges of the floor during the consideration and voting on S. 2899.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business, with statements limited therein to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

At 12:30 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 1582. An act relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States;

H.R. 3489. An act to amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, and for other purposes;

H.R. 4270. An act to designate the Federal building and United States courthouse in Hato Rey, Puerto Rico, the "Federico Degetau Federal Building";

H.R. 12637. An act to amend the North Pacific Fisheries Act of 1954; and

H.J. Res. 613. A joint resolution to authorize and request the President to issue a proclamation designating the first Sunday of September after Labor Day in 1978 as "National Grandparents Day."

The enrolled bills and joint resolutions were subsequently signed by the Acting President pro tempore (Mr. HODGES).

The message also announced that the House has passed the following bill in which it requests the concurrence of the Senate:

H.R. 12536. An act to provide for increases in appropriations ceilings, development ceilings, land acquisition, and boundary changes in certain Federal park and recreation areas, and for other purposes.

At 5:40 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bills, without amendment:

S. 947. An act to declare certain federally owned land known as the Yardeka School land to be held in trust for the Creek Nation of Oklahoma; and

S. 1291. An act to declare that certain lands of the United States situated in the State of Oklahoma are held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and to authorize the Secretary of the Interior to accept conveyance from the Cheyenne-Arapaho Tribes of Oklahoma of certain other lands in Oklahoma to be held in trust by the United States for such tribes.

The message also announced that the House disagrees to the amendment of the Senate to H.R. 12602, an act to authorize certain construction at military installations for fiscal year 1979, and for other purposes; agrees to the conference requested by the Senate on the disagreeing votes of the two Houses thereon; and that Mr. NEDZI, Mr. PRICE, Mr. CHARLES H. WILSON of California, Mr. BRINKLEY, Mr. DAVIS, Mr. KAZEN, Mr. WON PAT, Mr. WHITEHURST, Mr. BOB WILSON, and Mr. BEARD of Tennessee were appointed managers of the conference on the part of the House.

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 12536. An act to provide for increases in appropriations ceilings, development ceilings, land acquisition, and boundary changes in certain Federal park and recreation areas, and for other purposes; to the Committee on Energy and Natural Resources.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 17, 1978, he presented to the President of the United States the following enrolled bill:

S. 1582. An act relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SPARKMAN, from the Committees on Foreign Relations, with an amendment, an amendment to the title, and with a preamble:

S. Res. 49. A resolution expressing the sense of the Senate that the United States Government should seek the agreement of other governments to a proposed treaty requiring the preparation of an International Environmental Impact Statement for any major project, action, or continuing activity which may be reasonably expected to have a significant adverse effect on the physical environment or environmental interests of another nation or a global commons area (Rept. No. 95-990).

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

S. 140. A bill for the relief of Doctor Kok Liong Tan, and his wife, Gloria Siao Tan (Rept. No. 95-991).

S. 340. A bill for the relief of Dr. Belinda A. Aquino (Rept. No. 95–992).

S. 1484. A bill for the relief of Michael Bruce Holland (Rept. No. 95–993).

S. 1564. A bill for the relief of Tomiko Fukuda Eure (Rept. No. 95–994).

S. 2243. A bill for the relief of Rohini (Rept. No. 95–995).

S. 2326. A bill for the relief of Anupama Alis Chandrakala (Rept. No. 95–996).

S. 2377. A bill for the relief of Muradali P. Giliani (Rept. No. 95–997).

S. 2509. A bill for the relief of Rodolfo N. Arriola (Rept. No. 95–998).

H.R. 1751. An act for the relief of Lucy Davao Jara Graham (Rept. No. 95–999).

H.R. 2555. An act for the relief of Michelle Lagrosa Sese (Rept. No. 95–1000).

H.R. 2945. An act for the relief of Mrs. Amelia Doria Nicholson Rept. No. 95–1001).

H.R. 3995. An act for the relief of Habib Haddad (Rept. No. 95–1002).

H.R. 4607. An act for the relief of William Mok (Rept. No. 95–1003).

H.R. 5928. An act for the relief of Miss Coralia Raposo (Rept. No. 95–1004).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

S. 85. A bill for the relief of Raul Arriaza, his wife, Maria Marquart Schubert Arriaza, and their children, Andres Arriaza and Daniel Aivouich Arriaza (Rept. No. 95–1005).

S. 613. A bill for the relief of Kwok Hung Poon and his wife, Sandra Shau Man Lai Poon (Rept. No. 95–1006).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment and an amendment to the title:

S. 2061. A bill for the relief of Doctor Dela Cruz (Rept. No. 95–1007).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments.

S. 2067. A bill for the relief of Cesar B. Ibanez II, doctor of medicine (Rept. No. 95–1008).

S. 2068. A bill for the relief of Nelio S. Abrenica, doctor of medicine (Rept. No. 95–1009).

S. 2209. A bill for the relief of Munnie Surface (Rept. No. 95–1010).

S. 2248. A bill for the relief of Susanna Shu-hui Jean (Rept. No. 95–1011).

S. 2294. A bill for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley (Rept. Nofi 95–1012).

By Mr. EASTLAND, from the Committee on the Judiciary, with amendments and an amendment to the title:

S. 2639. A bill for the relief of Mrs. Kerry Ann Wilson and her son Jason John Wilson (Rept. No. 95–1013).

By Mr. EASTLAND, from the Committee on the Judiciary, with an amendment:

H.R. 8449. An act for the relief of Lourdes Marie Hudson (Rept. No. 95–1014).

By Mr. SPARKMAN, from the Committee on Foreign Relations, without amendment:

S. Con. Res. 32. A concurrent resolution relating to broadening the observance of Thanksgiving to an occasion of sharing our plenty with the hungry of other lands (Rept. No. 95–1015).

By Mr. RANDOLPH, from the Committee on Human Resources, without amendment:

S. Res. 517. An original resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2600, the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978. Referred to the Committee on the Budget.

By Mr. CRANSTON, from the Committee on Veterans' Affairs, with an amendment and an amendment to the title:

S. 2384. A bill to amend title 38 of the United States Code in order to provide a security pension program for non-service-connected disabled veterans of a period of war who are in need, for surviving spouses of veterans of a period of war who are in need, and for surviving children of veterans of a period of war who are in need; to provide for annual automatic cost-of-living adjustments in the security pension program; to prevent reductions in security pension benefits solely attributable to cost-of-living increases in social security benefits; and for other purposes (Rept. No. 95–1016).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. TALMADGE:

S. 3305. A bill to reduce the burden of social security taxes by eliminating the over-adjustment for inflation incorporated in the Federal Old-age, Survivors, and Disability Insurance program, by extending coverage to Members of Congress and Federal employees, and by allowing an income tax deduction for social security taxes imposed on employees, and for other purposes; to the Committee on Finance.

By Mr. BARTLETT:

S. 3306. A bill to provide for increased crude oil production in the United States through the use of price incentives for enhanced crude oil recovery; to the Committee on Energy and Natural Resources.

By Mr. CASE (for himself and Mr. WILLIAMS):

S. 3307. A bill to establish an educational program in the Department of Health, Education, and Welfare for the purpose of promoting the centennial anniversary of the invention by Thomas Alva Edison of the first practical incandescent electric lamp through encouragement of scholarly works, conferences, seminars and public programs, and to establish a grants program to assist in collecting, compiling, editing and publishing the papers of Thomas A. Edison, and for other purposes; to the Committee on Human Resources.

By Mr. STEVENS:

S. 3308. A bill to authorize an allowance based on living costs and conditions of environment for judicial employees employed outside the continental United States or in Alaska; to the Committee on the Judiciary.

By Mr. CRANSTON (by request):

S. 3309. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for assistance to new refugees and for other purposes; to the Committee on Foreign Relations and the Committee on Human Resources, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. TALMADGE:

S. 3305. A bill to reduce the burden of social security taxes by eliminating the over-adjustment for inflation incorporated in the Federal Old-Age, Survivors, and Disability Insurance program, by extending coverage to Members of Congress and Federal employees, and by allowing an income tax deduction for social security taxes imposed on employees, and for other purposes; to the Committee on Finance.

(The remarks of Mr. TALMADGE when he introduced the bill appear elsewhere in today's proceedings.)

By Mr. BARTLETT:

S. 3306. A bill to provide for increased crude oil production in the United States through the use of price incentives for enhanced crude oil recovery; to the Committee on Energy and Natural Resources.

ENHANCED CRUDE OIL RECOVERY INCENTIVES ACT

● Mr. BARTLETT. Mr. President, I introduce today a bill designed to make progress toward reducing the reliance of the United States on foreign oil by providing economic incentives for enhanced domestic crude oil production.

As I have pointed out so many times in the Senate Energy Committee and on the Senate floor over the past 15 months, the President's proposed energy program contains at least one major flaw: it ignores the need to increase domestic energy production. Underlying the exclusive emphasis on conservation at the expense of production is the false assumption that the United States has virtually exhausted its crude oil and natural gas resources. To put it another way, the argument goes that there is no sense allowing the "fat cat" oil companies to make "windfall profits," because the additional income they would receive from partial decontrol of crude oil prices could not be put to any productive use, inasmuch as there is no more oil and gas to be found.

Mr. President, people who make such statements do not understand the oil and gas business at all.

The economics of oil and gas production are not markedly different from the economics associated with the production of any other goods or services. Businessmen generally, including oil operators, make their decisions on whether or not to invest in a given enterprise by estimating how much the operation will cost and what kind of return on their investment they are likely to realize. In enhanced oil recovery, as in wildcatting or in marginal well operations, as the costs increase and the likelihood of earning a return on the money invested for such operations is reduced, oil companies, like any other business, reach a point where they decide that the return is insufficient to justify the investment.

Domestic production of crude oil can be increased significantly by developing and encouraging more efficient methods of recovering oil from known reservoirs. Only about one-third of the 440 billion barrels of oil discovered in the United States will be produced under current economic conditions. More efficient methods to recover the known remaining 300 billion barrels are available, but their costs are high. The return, however, can be sufficient with the proper incentives.

Various studies, including one by the Office of Technology Assessment and another by the National Petroleum Council, have estimated that an additional 30 to 50 billion barrels of oil could be recovered at present market prices. At higher prices the potential exists for even greater recovery. It is thus imperative to put this potential domestic crude oil production in parity with imported oil by exempting enhanced recovery crude oil from price controls.

As I have said before, no barrel of domestic oil should be left in the ground unproduced at a controlled price lower

than the cost of the imported barrel that must replace it.

The Congress has recognized the need for price incentives for enhanced oil recovery, and in 1976 directed the President in the Energy Conservation and Production Act (ECPA) to implement a program of price incentives for tertiary enhanced recovery techniques. In August of last year the Federal Energy Administration assured us that the regulations would be issued "in the near future." In December we learned that the proposed regulations were on Secretary Schlesinger's desk, apparently held hostage for passage of the COET (crude oil equalization tax) program.

We have yet to see any price incentives proposed by the administration for enhanced oil recovery or for any other category of production. Instead, we have an accumulated deficit in producer revenues—the difference between what Congress authorized and what the administration has allowed—approaching $1.9 billion and growing.

If this Nation is to stem the tide of imported oil, and arrest the mounting trade deficit and resulting erosion of the dollar, then we must increase domestic energy production. Punitive pricing policies for oil and gas can only make the situation worse.

Mr. President, the projected ultimate total cost for full implementation of the 1-billion-barrel strategic petroleum reserve is over $20 billion, with over $15 billion alone going for purchase of the oil. If the American people are willing to spend that much money to buy foreign oil to guard against the interruption of foreign oil imports, the necessity of which is a result of declining domestic oil production, I feel they would be even more willing to spend that money to develop and produce more secure reserves of petroleum here at home.

There are six general qualifications which must be fulfilled, I feel, for any enhanced oil recovery program to work effectively for the United States.

First. The framework for granting price incentives must be simple, understandable, and predictable, not subject to capricious change or "reinterpretation."

Second. Price relief should be generic in nature and available to all operators on a nondiscriminatory basis. To be otherwise would be unfair and anticompetitive.

Third. The price incentives should be broadly applicable to all techniques used to increase crude oil production beyond the primary level. Countless numbers of secondary recovery or waterflood projects would be implemented to greatly increase our domestic crude oil production, if only the price incentive were there.

Fourth. The price incentive should apply to all production from a bona fide enhanced recovery project, not just to an arbitrary or calculated production increment. Price relief for only a fraction of the production from a project will not justify the enormous front-end investment required.

Fifth. Price relief should be made available to qualifying existing enhanced recovery projects, as well as to new or expanded projects. This will permit the continued operation of those projects approaching their economic limit under present price constraints.

Sixth. Price relief for enhanced recovery crude oil should not penalize or "ratchet down" other categories or domestic oil production. Constraints of the composite weighted average pricing scheme should not be allowed to translate relief for one industry sector into injury for another.

Mr. President, the bill I introduce today meets these six qualifications. I feel enactment of the Enhanced Crude Oil Recovery Incentives Act would be a decisive step toward domestic energy self-sufficiency.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Enhanced Crude Oil Recovery Incentives Act".

SEC. 2. Section 8 of the Emergency Petroleum Allocation Act of 1973, as amended, is amended by adding the following new paragraph:

"(k)(1) The first sale price of enhanced recovery crude oil shall be exempt from the regulation promulgated under section 4(a) of this Act.

"(2) For purposes of this subsection, 'enhanced recovery crude oil' means crude oil produced from any reservoir on a property for which a bona fide enhanced recovery project, consisting of the injection of fluids and/or other materials into the reservoir for the purpose of increasing ultimate crude oil recovery, has been implemented. Eligible enhanced recovery projects must be certified by the appropriate state regulatory authority and shall include, but not be limited to, waterflooding, chemical flooding, polymer flooding, miscible fluid injection, steam injection, gas injection, in situ combustion, and any variation or combination of the same. The President shall have the authority to further define the term by rule.

"(3) For purposes of this section, the President shall include in the computation of the actual weighted average first sale price of crude oil produced in the United States in any month subsequent to the month of enactment of this subsection, the actual volume of enhanced recovery crude oil and such actual volume shall be deemed to have been sold at a first sale price which equals the average price for which such crude oil would have been sold if the exemption under *this subsection had not been in effect.*".●

By Mr. CASE (for himself and Mr. WILLIAMS):

S. 3307. A bill to establish an educational program in the Department of Health, Education, and Welfare for the purpose of promoting the centennial anniversary of the invention by Thomas Alva Edison of the first practical incandescent electric lamp through encouragement of scholarly works, conferences, seminars, and public programs, and to establish a grants program to assist in collecting, compiling, editing, and publishing the papers of Thomas A. Edison, and for other purposes; to the Committee on Human Resources.

THOMAS A. EDISON CENTENNIAL EDUCATIONAL ACT

● Mr. CASE. Mr. President, on October 21, 1979, we will mark the 100th anniversary of the invention of the first practical incandescent electric lamp by that foremost American genius Thomas Alva Edison.

In connection with the upcoming anniversary, I am today introducing for Senator WILLIAMS and myself the Thomas A. Edison Centennial Educational Act. Mr. Edison, while belonging to all of America, made his home and maintained his famous laboratories in New Jersey for many years.

New Jersey today lists as two of its historic attractions, the Edison Historic Site at West Orange, N.J., the location of Edison's large and famous "idea factory," and the Edison Tower, a 131-foot high tower marking the site at Menlo Park, N.J., of one of Edison's earlier and well known laboratories.

It was at the Menlo Park lab that Edison and a group of hardy associates undertook on a major scale work on electric lighting, and after some months developed the incandescent electric lamp—the gadget without which our lives today would be different indeed.

Edison, of course, did not invent electric lighting nor discover electricity. He saw the need, and had the mental capacity and the vision to develop the first practical incandescent electric lamp. He did it, I suspect, by what he would describe as 90 percent perspiration and 10 percent inspiration.

Edison was a most prolific inventor and his laboratories turned out many inventions, in addition to the incandescent lamp, which have enriched the lives of mankind. These include the phonograph, the motion picture camera, the the stock ticker, the storage battery the magnetic ore separator and the fluorescent lamp, among others.

The bill which I am introducing today establishes a 20-member commission to promote and guide an observance of the 100th anniversay of Edison's genius and its impact on our society. The commission, in addition, would administer a small grants program under which work in compiling, editing and publishing the many papers of Thomas A. Edison would be initiated.

This is a modest program—$250,000 yearly for the grants program for 3 successive years—and I believe it is a worthwhile project which we should consider carefully.

I ask unanimous consent that the full text of the Thomas A. Edison Centennial Educational Act be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Thomas A. Edison Centennial Educational Act."

PURPOSE

SEC. 2. The purpose of this Act is—

(1) to establish the Thomas A. Edison Centennial Commission to encourage and support the observance of the one hundredth anniversary of the invention by Thomas A. Edison of the first practical incandescent electric lamp and of the contributions by Thomas A. Edison to modern technological developments; and

(2) to establish a three-year grant program to assist in the collecting, compiling, editing and publishing of the papers of Thomas A. Edison.

ESTABLISHMENT AND MEMBERSHIP OF THE COMMISSION

SEC. 3. (a) There is established in the Department of Health, Education, and Welfare a commission designated as the Thomas A. Edison Centennial Commission (hereinafter referred to as the "Commission").

(b) The Commission shall be composed of twenty members as follows:

(1) The Secretary of Health, Education, and Welfare;

(2) The Secretary of the Smithsonian Institution;

(3) The Secretary of the Interior;

(4) The Secretary of Commerce;

(5) The Librarian of Congress;

(6) The Archivist of the United States;

(7) The Chairman of the National Endowment of the Arts;

(8) The Chairman of the National Endowment for the Humanities;

(9) The Director of the National Science Foundation;

(10) The Executive Director of the National Historical Publications and Records Commission;

(11) The Director of the National Park Service; and

(12) Nine citizen members who shall be appointed by the President and who are qualified to serve on the Commission by virtue of their education, training or experience in the field of academics, business or science and by virtue of their knowledge with regard to the career and achievements of Thomas A. Edison, and

(a) who are not officers or employees of any Federal, State or local government unit, and

(b) of whom not more than five shall be of the same political party.

(c) A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(d) If any member of the Commission who is an officer or employee of the Federal government leaves that office or if any member of the Commission who is appointed as a member of the Commission by the President, becomes an employee or officer of the government, he may continue as a member of the Commission for not longer than 30 days after the effective date of his resignation or his employment as an employee or officer of the government, as the case may be.

(e) The members of the Commission shall be appointed for the life of the Commission unless there is a change in employment status as described in section 3(d).

(f) The members of the Commission shall receive no pay for their services, but shall be allowed travel expenses in accordance with title 5, United States Code.

(g) Five members of the members appointed by the President shall constitute a quorum.

(h) Meetings shall be held quarterly. Additional meetings may be called by a quorum of members or by the director or chairman of the Commission.

(i) The chairman shall be elected from the members appointed by the President. The Commission shall elect such other officers as it deems necessary.

(j) The Commission offices shall be at the Edison National Historic Site at West Orange, New Jersey.

FUNCTIONS OF THE COMMISSION

SEC. 4. The functions of the Commission shall be—

(a) to initiate the development of publications, documentary and scholarly projects, conferences, seminars and public programs in observance of the one hundredth anniversary of the invention by Thomas A. Edison of the first practical incandescent electric lamp; and to coordinate such efforts with any similar efforts undertaken by the Smithsonian Institution, and to consult the Library of Congress, the National Science Foundation, the National Endowment for the Arts and Humanities, the National Archives, and the National Historical Publications and Records Commission;

(b) to encourage and coordinate similar activities by State and local public and private organizations;

(c) to recommend and coordinate commemorations of specific events and the issuance of commemorative coins, medals, stamps, and other memorials pertaining to Thomas A. Edison and his inventions;

(d) to encourage efforts to preserve historic sites pertaining to the career of Thomas A. Edison and his inventions and to consult with the Secretary of the Interior and other appropriate officials about such efforts; and

(e) to encourage and to support by grants under section 6 the collecting, compiling, editing and publishing of the Thomas A. Edison papers.

DIRECTOR AND STAFF OF THE COMMISSION; EXPERTS AND CONSULTANTS

SEC. 5. (a) The Commission shall employ a director who shall be appointed by members of the Commission and whose pay shall be fixed in accordance with the provisions of subsection (c).

(b) The director may hire not more than five persons as staff personnel and shall fix the pay of such personnel in accordance with the provisions of subsection (c).

(c) The director and the staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that—

(1) the director may not be paid basic pay at a rate in excess of the maximum annual rate of basic pay payable for GS–15 of the General Schedule under section 5332 of such title; and

(2) members of the staff, other than the director, may not be paid basic pay at a rate in excess of $30,000 per year.

(d) The Commission may hire temporary services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for grade GS–15 of the General Schedule under section 5332 of such title.

GRANTS PROGRAM

SEC. 6. (a) The Commission may make grants for the fiscal year beginning October 1, 1978, and for each of the next two succeeding fiscal years to a nonprofit institution of higher education for a project to collect, compile, edit and publish the papers of Thomas A. Edison. To the extent feasible the grantee shall conduct such project in cooperation with the Smithsonian Institution, the National Park Service and the New Jersey Historical Commission.

(b) There are authorized to be appropriated to carry out the purposes of this section $250,000 for the fiscal year ending September 30, 1979, $250,000 for the fiscal year ending September 30, 1980, and $250,000 for the fiscal year ending September 30, 1981.

GENERAL POWERS OF THE COMMISSION

SEC. 1. (a) The Commission may consult and seek advice and assistance from appropriate Federal departments and agencies. Such Federal departments and agencies are authorized and requested to cooperate with the Commission in carrying out the purposes this Act.

(b) The Commission may accept, use, and dispose of gifts or donations of money or property.

(c) The Commission, to such extent as it finds to be necessary, may procure supplies, services and property, make contracts, and expend funds. The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative supports services as the Commission may request.

(d) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

REPORTS

SEC. 8. The Commission shall transmit to the President and to each House of Congress interim reports not later than one year after the date on which appropriations are first made under this Act and annually thereafter during the life of the Commission and shall transmit a final comprehensive report to the President and to each House of Congress not later than September 30, 1981. Each report shall include a detailed statement of the accomplishments of the Commission during the period of time covered by each report and recommendations for legislative or administrative actions as the Commission deems appropriate.

TERMINATION

SEC. 9. The Commission shall cease to exist on September 30, 1981. In connection with the termination of the Commission, any papers of the Commission may be transferred by loan or gift to such public or private agency or agencies as the Commission deems appropriate, subject to subchapter II of chapter 5 of title 5, United States Code, any unexpended funds of the Commission then remaining shall be returned to the Treasury as miscellaneous receipts and any property acquired by the Commission shall be disposed of by the General Services Administration as excess property.

AUTHORIZATION OF APPROPRIATIONS

SEC. 10. There is authorized to be appropriated to carry out the purposes of this Act (other than section 6) $500,000 for the fiscal year ending September 30, 1979, $500,000 for the fiscal year ending September 30, 1980, and $500,000 for the fiscal year ending September 30, 1981.●

By Mr. STEVENS:

S. 3308. A bill to authorize an allowance based on living costs and conditions of environment for judicial employees employed outside the continental United States or in Alaska; to the Committee on the Judiciary.

COST-OF-LIVING ALLOWANCE FOR JUDICIAL EMPLOYEES

Mr. STEVENS. Mr. President, I am introducing a bill which would authorize application of the cost-of-living allowance concept to all judicial employees, including judges. The cost-of-living allowance, commonly referred to as COLA, presently applies to most Federal employees. It simply makes certain allowances to executive agencies to pay for the higher living costs of employees who

are stationed outside of the continental United States, including Alaska and Hawaii. Another similar provision of law authorizes the Director of the Administrative Office of the U.S. Courts to take living costs into account to determine the compensation of judicial employees. The problem with present law is that Federal judges, magistrates, and receivers are not included. Though they are few in number, they bear the same burden of the higher costs of living in Alaska and elsewhere as do the rest of the Federal employees. They, too, should be entitled to this equitable remedy to offset their higher costs of living.

Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 5941 of title 5, United States Code is amended by adding at the end thereof the following new subsection—

"(c)(1) Appropriations or funds available for the compensation of court officers and employees, including justices and judges of the United States, who are employed outside the continental United States or in Alaska are available for allowances to such officers and employees. The allowance is based on—

"(A) Living costs substantially higher than in the District of Columbia;

"(B) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

"(C) both of these factors.

(2) The allowance may not exceed 25 percent of the rate of basic pay. Except as otherwise specifically authorized by statute, the allowance is paid only in accordance with regulations prescribed by the Director under chapter 41 of title 28, United States Code, establishing the rates and defining the area, groups of positions, and classes of court officers and employees to which each rate applies.".

By Mr. CRANSTON (by request):

S. 3309. A bill to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for assistance to new refugees and for other purposes; to the Committee on Foreign Relations and the Committee on Human Resources, jointly, by unanimous consent.

INDOCHINA MIGRATION AND REFUGEE ASSISTANCE AMENDMENTS OF 1978

● Mr. CRANSTON. Mr. President, I have introduced today, by request, the administration's proposal to amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for assistance for new refugees arriving during the next fiscal year.

I welcome this initiative by the administration to provide for the 25,000 Indochina refugees who will enter the country next year. This is humanitarian legislation and deserves the full support of the Senate. Many of the refugees to be admitted are among those rescued from sure death at sea by ships of the United States and other nations. None of us can comprehend fully the terror which would drive desperate human beings toward certain death and we can respond toward those who survive only with our compassion and assistance.

On June 15, I sponsored with Senator KENNEDY and Senator HAYAKAWA S. 3205 to provide assistance to new Indochinese refugees and to authorize an additional year of full Federal funding of the Indochina Migration and Refugees Assistance Act. S. 3205 also provides for the adjustment of status of Indochinese refugees as aliens lawfully admitted for permanent residence. At the appropriate time I plan to offer S. 3205 as an amendment to the bill introduced today.

I have been assured by the distinguished chairman of the Human Resources Committee (Mr. WILLIAMS of New Jersey) that the bills will receive prompt consideration by the committee so that we may act before the end of the current fiscal year.

I ask unanimous consent that the text of the bill together with the letter of transmittal from Secretary Califano to the President of the Senate, be printed in the RECORD.

There being no objection, the bill and the letter were ordered to be printed in the RECORD, as follows:

S. 3309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as "The Indochina Migration and Refugee Assistance Amendments of 1978".

SEC. 2. Section 2(b)(2) of the Indochina Migration and Refugee Assistance Act of 1975, as amended by section 201 of P.L. 95-145, is amended by adding "and who entered the United States prior to October 1, 1978," immediately following "from Cambodia, Vietnam, or Laos".

SEC. 3. Section 2(b)(2) of that Act is further amended by adding at the end thereof the following new sentence: "The cost of the State or local public agency of providing assistance for the fiscal year ending September 30, 1978, as specified in the preceding sentence, may be increased to the extent determined appropriate by the Secretary of Health, Education, and Welfare to reflect the portion of such fiscal year for which Federal funds are available to State and local agencies for the provision of such assistance except that such sums of the increase for all the States shall not exceed the difference between $14 million and the total of the actual expenditures in that fiscal year by all the States for social services in accordance with such preceding sentence."

SEC. 4. Section 2(b) of such Act is further amended by adding at the end thereof the following paragraph:

"(3)(A) The amount of assistance (including the amount of reimbursement as described in subsection (a)(2)) provided to a State or local public agency under section 2(b) of the Migration and Refugee Assistance Act of 1962 for the purpose of providing cash or medical assistance to aliens who have fled from Cambodia, Vietnam, or Laos and who entered the United States on or after October 1, 1978, may not exceed the cost (including the non-Federal share of costs as described in subsection (a)(2)) of the State or local agency in providing such assistance for such purpose for the fiscal year in which an alien enters the United States, and, except as provided in subparagraph (B), may not exceed—

"(i) for the first fiscal year following the year of entry, 75 per centum,

"(ii) for the second such year, 50 per centum, and

"(iii) for the third such year, 25 per centum, of an amount equal to twice such cost during the fiscal year of entry; No assistance shall be provided to a State or local public agency under this Act for cash or medical assistance furnished for any period after the third fiscal year following the fiscal year of entry.

"(B) In the case of any alien under the age of 18 who enters the United States unaccompanied by a parent or other close adult relative (as such term is defined by the Secretary of Health, Education, and Welfare), the percentages referred to in clauses (i), (ii), and (iii) of paragraph (A) shall be 100 per centum.".

SEC. 5. The amendments made by this Act shall be effective beginning October 1, 1978.

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 10, 1978.

Hon. WALTER F. MONDALE,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed for the consideration of the Congress is a draft bill "To amend the Indochina Migration and Refugee Assistance Act of 1975 to provide for assistance to new refugees." The proposed amendments extend the legislative formulas for assistance to State and local agencies to aid new refugees, and contain certain minor technical amendments to existing law, as described more fully below.

Last October's amendments to the Indochina Migration and Refugee Assistance Act of 1975 continued Federal support for State efforts to provide cash assistance, medical assistance, and social services to Indochinese refugees. At the same time, those amendments provided for a four-year phasedown in Federal reimbursement for these purposes, from the full cost of providing that assistance in FY 1978, to 75 percent, 50 percent, and 25 percent of that FY 1978 cost in each of the next three years respectively. Under current law the program terminates on September 30, 1981. Section 2 of the draft bill would limit the application of that formula to aliens who entered the United States before October 1, 1978.

Section 3 of the draft bill would permit a limited adjustment in calculating a State's FY 1978 cost for purposes of a reimbursement during the phasedown. The five-month delay (until March 7, 1978) in the availability of appropriations for grants to State and local agencies under the provisions described above resulted in some curtailment in State expenditures for social services on behalf of these refugees. Unless the compensating adjustment proposed here can be made, the delay could have adverse and unintended effects upon the refugee assistance program which States and communities can operate for the remaining three years of the program.

Section 4 of the draft bill would add a new paragraph to section 2(b) of the Indochina Migration and Refugee Assistance Act. This proposal reflects the fact that a continued flow of refugees from the countries of Indochina, not envisioned last year, is now anticipated. This new paragraph would provide approximately the same levels of Federal support for State and local efforts on behalf of the newcomers, and mandate the same rate of phasedown in subsequent years, as is the case under existing law with respect to refugees who have already arrived. An exception to the phasedown would be provided in the case of unaccompanied refugee children entering the United States, since they will rarely qualify for AFDC and will usually require some form of public support.

It is anticipated that 25,000 Indochinese

refugees will enter the United States in fiscal year 1979, with respect to whom $11 million would be expended under the authority of this proposal. Additionally, 500 unaccompanied children are expected to arrive for whom $2 million would be spent.

In general, the Indochinese refugees have been highly successful in attaining self-sufficiency, although some continue to need varying amounts of public assistance. We believe these amendments will enable the Federal government to reimburse States fairly and equitably for the help they render.

We urge the Congress give prompt and favorable consideration to the enclosed draft bill.

We are advised by the Office of Management and Budget the enactment of this bill would be in accord with the program of the President.

Sincerely,

JOSEPH A. CALIFANO, Jr.,
Secretary.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by Senator Cranston by request on Indochina refugees be referred jointly to the Committees on Foreign Relations and Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 1974

At the request of Mr. NELSON, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of S. 1974, the Regulatory Flexibility Act.

S. 3288

At the request of Mr. DOLE, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 3288, to amend the Internal Revenue Code to allow a retirement savings deduction for persons covered by certain pension plans.

AMENDMENT NO. 849

At the request of Mr. NELSON, the Senator from Kansas (Mr. PEARSON) was added as a cosponsor of Amendment No. 849, intended to be proposed to S. 1974, the Regulatory Flexibility Act.

AMENDMENT NO. 3242

At the request of Mr. CHAFEE, the Senator from Utah (Mr. GARN) was added as a cosponsor of Amendment No. 3242, intended to be proposed to H.R. 12935, the Legislative Appropriations Act of 1978.

SENATE RESOLUTION 517—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. RANDOLPH, from the Committee on Human Resources, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 517

Resolved, that pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 2600, a bill to amend the Rehabilitation Act of 1973, to establish a comprehensive services program for the severely handicapped, and for other purposes.

Such waiver is necessary to permit consideration of new spending authority (as detailed below) to become effective in fiscal years for which the first concurrent resolution on the budget has not been agreed to. Specifically, S. 2600 provides new spending authority under section 401(c)(2)(C) to become effective in fiscal years 1980, 1981, 1982, and 1983, prior to adoption of the first concurrent resolutions on the budget for such years.

S. 2600 extends the State allotment formula of the Rehabilitation Act of 1973 (P.L. 93–112), as amended, through fiscal year 1983, such formula being based on an allocation level equal to the amounts authorized to be appropriated in those fiscal years for grants to States for basic vocational rehabilitation services.

The effect of defeating consideration of S. 2600 would be to deny the States the advanced funding they need for adequate planning in providing vocational rehabilitation services. The matching requirement for State allotments is determined on the basis of funding decisions by State legislatures which generally meet and adjourn prior to May 15, the date by which the first concurrent resolution on the budget must be adopted under the Congressional Budget Act of 1974. During such sessions of State legislatures, commitments are made to provide such State's share, on the basis of which the Federal allotment is then paid to each State with an approved State plan. If legislation authorizing a nationwide allotment level for the program for fiscal year 1980–83 is not enacted at an early date, many State legislatures will be unable to authorize the funds needed for vocational rehabilitation programs for such years.

For the foregoing reasons, pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a) of such Act are waived with respect to the consideration of S. 2600.

Mr. RANDOLPH. Mr. President, as chairman of the Subcommittee on the Handicapped of the Committee on Human Resources, I am reporting from the committee a Senate resolution to provide a waiver, pursuant to section 303(a) of the Congressional Budget Act of 1974, as it would apply to consideration by the Senate of S. 2600, the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978.

This waiver is necessary to permit consideration of new spending authority to become effective in fiscal years for which the first concurrent resolution on the budget has not been agreed to. S. 2600 provides new spending authority under section 401(c)(2)(C) to become effective in fiscal years 1980, 1981, 1982, and 1983, prior to adoption of the first concurrent budget resolutions for those years.

Mr. President, title I of S. 2600 extends and amends the Rehabilitation Act of 1973. The allotments paid to States under title I of that act are in the nature of entitlements under the formula and the State plan provisions. The total level available for such State grants is, under section 110 of the act, the amount authorized to be appropriated. Once the State plan of a State is approved, then if the State commits itself to provide its 20-percent matching share, it becomes entitled to the 80-percent Federal grant. In order for each State to know how much money it must put up to meet its 20-percent matching requirement and in order to qualify for its full 80-percent Federal entitlement, the total Federal allocation level must be known. As my colleagues are aware, most State legislatures meet in January, and some meet for only 60 days or so. During State legislative sessions commitments are made to provide the State's matching share; the Federal allotment is then paid to each State with an approved State plan. Unless legislation authorizing continuation of this program is not expeditiously enacted, planning to meet for the vocational rehabilitation needs of handicapped individuals cannot proceed since many State legislatures will be unable to authorize funds needed for vocational rehabilitation programs for fiscal years 1980–83.

AMENDMENTS SUBMITTED FOR PRINTING

ENDANGERED SPECIES ACT AMENDMENTS—S. 2899

AMENDMENT NO. 3097 (AS MODIFIED)

(Ordered to be printed and to lie on the table.)

Mr. STENNIS submitted amendment No. 3097 (as modified) intended to be proposed by him to S. 2899, a bill to amend the Endangered Species Act of 1973.

AMENDMENT NO. 3245

(Ordered to be printed and to lie on the table.)

Mr. PELL (for himself, Mr. WEICKER, Mr. CASE, and Mr. CRANSTON) submitted an amendment intended to be proposed by them, jointly, to S. 2899, supra.

AMENDMENT NO. 3246

(Ordered to be printed and to lie on the table.)

Mr. SCOTT submitted an amendment intended to be proposed by him to S. 2899, supra.

AMENDMENT NO. 3247

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to S. 2899, supra.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978—S. 3084

AMENDMENT NO. 3248

(Ordered to be printed and to lie on the table.)

Mr. TOWER (for himself, Mr. BAKER, Mr. BELLMON, Mr. BENTSEN, Mr. CHILES, Mr. CRANSTON, Mr. GARN, Mr. HATCH, Mr. SASSER, and Mr. SCHMITT) submitted an amendment intended to be proposed by them, jointly, to S. 3084, a bill to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes.

● Mr. TOWER. Mr. President, I am submitting an amendment today, on behalf of Senators BAKER, BELLMON. BENTSEN, CHILES, CRANSTON, GARN, HATCH, SASSER, SCHMITT, and myself, to the Housing and Community Development Amendments of 1978 (S. 3084) that would allow cities and urban counties with areas of severe economic and physical stress to participate in the Department of Housing and

Urban Development's urban development action grant (UDAG) program. Under this amendment, a city or urban county would be considered to be severely distressed and, therefore, eligible for assistance under the UDAG program, if it contains one or more areas meeting the criteria of physical and economic distress set by the Secretary of Housing and Urban Development. The amendment defines the term "area" as one or more contiguous census tracts with a population of 10,000 or more persons.

This amendment is designed to deal with a particular problem that has emerged under the UDAG program. That program is presently confined to entire cities and urban counties that meet certain eligibility criteria. The problem is that, because the program is based on statistical information for an entire city or urban county, many cities containing areas of severe economic and physical distress are not eligible for the program. Outwardly, these cities and urban counties may not exhibit the characteristics of severe economic and physical distress because the statistical information and data used to make that determination are based on the entire city and urban county. This tends to mask over the areas within those cities and urban counties that do exhibit severe distress both economically and physically. This amendment solves that problem by making cities and urban counties with areas of severe distress eligible for the program.

One of the best examples of a city or urban county that is not presently eligible for funding under the present program, but would be eligible under this amendment, is Houston. The city of Houston has grown very rapidly in recent years and outwardly has shown all the signs of a healthy and expanding community, if data for the entire city are used to make that determination. But, within the city of Houston there is an area that has not fared quite so well.

This area within Houston is over 73 square miles in land area with a population of nearly 400,000 persons. This represents about 14 percent of the total land area in the city. Within this area, there is abundant evidence of physical deterioration, economic distress, and economic deterioration and decline.

Many neighborhoods within this area are plagued by inadequate streets, insufficient water and sewer capacity, nonexistent street lighting, and decaying telephone and electrical lines. The city, in its efforts to keep up with the tremendous growth of population, has been unable to maintain and upgrade the infrastructure of this area.

There are a large number of persons living in conditions of economic deprivation within this area. More than one-fourth of all persons living in this area are below the 1970 poverty level. More than 8 percent of the work force is unemployed, and over half of it is underemployed. Nearly two-thirds of the population in this area is black and another 20 percent Hispanic. The number of households below the poverty level has increased, the total population has decreased and the unemployment rate has increased in recent years.

In addition to these problems of physical deterioration and economic distress, there are also the problems of economic deterioration and decline. This area has lost more than 20 percent of its manufacturing companies over a 10-year period. That is a loss of over 15,000 job opportunities. The area lost 1 percent of its commercial structures from 1971 to 1975 and 18 commercial centers between 1975 and 1977. Moreover, the area showed a net loss of almost 3 percent of its total dwelling units between 1960 and 1975.

Eligibility for the UDAG program is based on six factors: The age of housing, per capita income, population lag/decline, unemployment, job lag/decline, and poverty. In order to qualify under this program, Houston would have to meet three of these factors. But, because the city has been growing so rapidly, and because it is a relatively "new" city, it cannot qualify if the factors apply to the city as a whole. But, the area within the city characterized by severe economic and physical distress does meet five of these six factors. Under this amendment, the city of Houston would qualify for the program because it does contain an "area" of severe economic and physical distress. Houston is not alone in facing this problem. There are many other cities that are presently not eligible for the same reason, but would be if this amendment were adopted.

Opponents to this amendment have argued that cities such as Houston can solve their own problems. But, cities that have shown relatively rapid growth or other overall healthy signs have problems within their boundaries that are just as troublesome and intractable as those in other cities that are presently eligible under the UDAG program. The people living within certain areas of these ineligible cities are faced with the same plight as people elsewhere, and their need for funding under this program is just as meritorious. Cities with areas of severe economic and physical distress are entitled to participate in the UDAG program on an equitable basis with cities elsewhere, and this amendment would provide them with this opportunity.

I ask unanimous consent that the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 3248

At the bottom of page 12, insert the following:

(c) Section 119 (b) of such Act is amended by adding at the end thereof the following: "For the purpose of the preceding sentence, a city or urban county is severely distressed and eligible for assistance under this section if it contains one or more areas which have the levels of physical and economic distress set forth in the minimum standards referred to in the preceding sentence. As used in the preceding sentence, the term 'areas' means one or more contiguous census tracts having a population of at least 10,000 persons."●

NOTICES OF HEARINGS

COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, on behalf of the Committee on the Judiciary, I desire to give notice that a public hearing has been scheduled for Tuesday, July 25, 1978, at 9:30 a.m., in room 2228, Dirksen Senate Office Building, on the following nominations:

Jose A. Gonzalez, Jr., of Florida, to be U.S. district judge for the southern district of Florida vice Charles B. Fulton, retired.

Edward S. Smith, of Maryland, to be an associate judge of the U.S. Court of Claims vice Bryon G. Skelton, retired.

Any persons desiring to offer testimony in regard to these nominations shall, not later than 24 hours prior to such hearing, file in writing with the committee a request to be heard and a statement of their proposed testimony.

This hearing will be before the full Judiciary Committee.●

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, the Subcommittee on Taxation and Debt Management of the Senate Finance Committee will hold hearings on July 24, 1978, on various miscellaneous tax bills.

The hearing will be held on Monday, July 24, 1978, at 9:30 a.m. in room 2221, Dirksen Senate Office Building.

The following pieces of legislation of general application, unless otherwise noted, will be considered:

S. 869, sponsored by Senator BARTLETT, a bill to increase from $1 million to $10 million the exemption from industrial development bond treatment for certain small issues.

S. 1674, sponsored by Senators LAXALT, CANNON, CURTIS, and DOLE, a bill changing the recordkeeping requirements applicable to employers with respect to tip income of their employees.

S. 2128, sponsored by Senators INOUYE, CHILES, THURMOND, DOMENICI, DURKIN, STONE, HATHAWAY, EAGLETON, SCHMITT, and DOLE, a bill to eliminate the adjusted gross income limitation on the credit for the elderly, to increase the amount of the credit, and to create a cost-of-living adjustment.

S. 2393, sponsored by Senator DOLE, a bill changing the tax treatment of certain obligations transferred in connection with a corporate organization or reorganization.

S. 2462, sponsored by Senators DOLE, TOWER, LUGAR, GRAVEL, HAYAKAWA, PERCY, STEVENS, NELSON, and CURTIS, and S. 3288, sponsored by Senator DOLE, are bills to permit a limited individual retirement deduction to individuals who are participants in retirement plans.

S. 2628, sponsored by Senator BUMPERS, a bill to eliminate the requirement that a husband and wife who live together and claim the disability payments exclusion must file joint returns.

S. 2825, sponsored by Senators BARTLETT, TOWER, and JAVITS, a bill to exempt certain organizations from treatment as a private foundation if the principal purpose is to provide long-term care or education of permanently and totally disabled persons, elderly persons, needy widows, or children. This bill would benefit the Sand Springs Home in Oklahoma and approximately 26 other homes around the country.

S. 3007, sponsored by Senators DOLE, CURTIS, HATCH, CHURCH, TOWER, LUGAR,

DOMENICI, GRAVEL, EAGLETON, SCHMITT, MCCLURE, THURMOND, and HAYAKAWA, a bill to disregard any IRS changes in the occupational status of any individual, for example, from independent contractor to employee, until Congress acts to amend the Internal Revenue Code.

S. 3037, sponsored by Senators DOMENICI, HASKELL, JOHNSTON, GRAVEL, and HUDDLESTON, a bill to disregard certain IRS revenue rulings relating to the status of real estate agents as employees as opposed to independent contractors.

S. 3080, sponsored by Senator ALLEN, a bill to exclude certain services performed on fishing boats from coverage under the Federal Unemployment Tax Act.

S. 3125, sponsored by Senator DOLE, a bill to change the tax treatment of an involuntary conversion of real property to which the special farm valuation provisions of the Federal estate tax apply.

S. 3301, sponsored by Senators BAYH and CHAFEE, a bill amending section 1056 of the Internal Revenue Code in circumstances where the transferee of shares of a sport's franchise was committed to and did purchase prior to December 31, 1975 more than 50 percent of the voting shares of the transferor. The bill will benefit the New England Patriots Football Club.

Revenue estimates for each of these bills are currently not available. A committee publication listing each of the bills with revenue estimates will be available prior to or on the day of the hearings.

Requests to testify.—Persons who desire to testify at the hearing should submit a written request to Michael Stern, staff director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D. C. 20510 by no later than the close of business on Thursday, July 20, 1978.

The subcommittee would be pleased to receive written testimony from those persons or organizations who wish to submit statements for the record. Statements submitted for inclusion in the record should be typewritten, not more than 25 double-spaced pages in length and mailed with five (5) copies by July 31, 1978, to Michael Stern, staff director, Committee on Finance, Room 2227, Dirksen Senate Office Building, Washington, D. C. 20510.●

ADDITIONAL STATEMENTS

COAL—THE BLACK DIAMONDS OF OUR ENERGY FUTURE

● Mr. RANDOLPH. Mr. President, on Friday, June 23, Gov. John D. Rockefeller IV, of West Virginia, delivered a knowledgeable address to the Mining and Reclamation Council of America, in Washington, D.C.

Coal conversion legislation, which we will finalize in Senate action tomorrow, anticipates that the coal mining industry would be expected to double its current production by 1985 to approximately 1.2 billion tons. This magnitude of production would require the opening of hundreds of new mines, in the West and in the East, in surface and underground. In turn, it would generate increasing competition for land use with recreational, residential, and agricultural activities.

In West Virginia, just as in many of our Western States the people's energy and the vast resources of coal are unquestionally linked to the future. The Nation, and indeed, the world are waiting to see what we do about it. We need not look to imported fossil fuels to provide economic stability in this country. Our acres of coal are the diamonds that lie beneath our feet.

The eight coal producing States in Appalachia produce 64 percent of the total coal supply in the Nation. It was also recently pointed out that West Virginia, with its vast coal reserves has the energy-producing potential of 246 billion barrels of oil.

Mr. President, in response to our renewed reliance on efficient coal utilization and to coincide with settlement of the strike in the coal fields, President Carter announced the appointment of a Presidential Coal Commission to look into problems underlying coal production. Our own Gov. Jay Rockefeller will head that Commission. He is well qualified to lead a group that will look closely at problems underlying coal production, problems of increasing productivity, of providing greater stability and health and safety. His remarks reflect those qualification, and I commend them to my colleagues in the Senate and ask that they be printed in the RECORD. The reform measures he suggests, such as regional coal impact assistance, and cooperation between the coal industry and labor groups are essential in establishing the role coal must play in solving both over short and long term energy problems.

The remarks follow:

EXCERPTS OF REMARKS OF GOVERNOR JOHN D. ROCKEFELLER IV

Coal is 26 per cent of our state economy in West Virginia, so we naturally have a vested interested in the strength, profitability and stability of the coal industry.

It means jobs for our people, in a state where our unemployment level is below the national average; revenue to help us provide needed government services; and a solid base upon which we can build much in the way of long-term economic and community development.

As you know, President Carter has placed emphasis on coal playing a major role in meeting the nation's energy needs by 1985. I have difficulty finding anyone with any knowledge at all about the energy situation who can disagree with the President's conclusion on that count. There are those, to be sure, who question whether the administration's increased production goals can be reached. I'm optimistic we can at least come close.

But whatever the level, increased production, of course, will have a substantial impact upon the coal-producing regions of the country. More production means more jobs. More jobs means more workers. More workers means more families, more homes to be built, more recreational facilities, more teachers and doctors, more schools, better roads, more public services . . . a real challenge for anyone in government who must plan well into the future. But quite frankly, if one has to have a problem, that's the kind of problem this governor likes to have.

And this whole issue of "impact assistance" has been very much a part of our work in the National Governors' Association this past year. President Carter's program on impact assistance, which he announced recently in Denver, is an outgrowth of that. And while there are still areas of difference between the governors and the administration, I hasten to say that President Carter should be commended for addressing the problem.

And I also observe that no national administration, at least in my lifetime, has been more open and accessible to the governors of this nation. And that's significant for you, because this is an energy-oriented administration. And therefore, governors of energy-producing states are being heard on matters of considerable consequence.

This increased reliance on coal, however, is not something we can carry out blindly, without careful planning, or—quite frankly—without addressing many of the problems that exist. Problems that are real. Problems which face not only government, but most especially management and the miners themselves.

It was with this in mind, I'm sure, that the President on May 26th in Charleston, announced establishment of the President's Commission on the Coal Industry, which I will be privileged to chair.

The Commission itself will consist of five voting members: a representative from management, a representative from labor, and three members from the general public; and eight non-voting members—three from the House of Representatives, three from the U.S. Senate, plus the Secretary of Labor and the Secretary of Energy.

We are still in the process of organizing the Commission. It is my intention to proceed first with the task of putting together a competent staff. Once that is accomplished, the Commission will hold its first meeting. I anticipate that will come either in late summer or early fall.

It's important to have all the pieces in place and ready to go before I call that first meeting, because the executive order specifies that our report must be ready one year from the date of our first meeting.

The scope of our assignment is quite broad. We will be placing particular emphasis on matters associated with productivity and capital investments, and on the economic health of the industry. I believe it crucial that we assess exactly where the industry is today, and where it will be five to ten years from now. And I look upon that process as an excellent opportunity for us also to fully assess the impact which will accompany increased production upon our communities.

We will take a close look at labor-management relations, at collective bargaining and at grievance procedures. It's no news to you that the recent coal strike had a serious effect on the industry and on the economy. The worst thing we could do at this point is say, "Well, the coal strike's over," . . . and not to think about the problems that caused it in the first place.

But we cannot afford to put this problem on the back burner until the next contract comes up for renewal three years from now. What the coal industry needs right now is a sustained period of profitable operation. That's absolutely necessary if we're to generate the enormous amounts of investment capital needed to finance the new industrial capacity that is now on the drawing boards.

For that to come about, we need stability. This may well be our most difficult area to deal with, but it offers us an unparalleled opportunity to take a fresh look at the historic pattern of national bargaining, and to see where improvements can be made.

We also will be looking at the general subject of regulatory policy. That's a problem government simply has to address. No one

will argue with the statement that government regulation is necessary to protect the health and safety of our workers, and the integrity of our land, water and air.

But we need to make certain that the increased costs caused by regulation do, indeed, yield the benefits for which the regulatory programs are designed. Because it's my belief, based on experience, that over-regulation can be as damaging to our livelihoods as under-regulation can be to our lives.

In 1977, for instance, the Federal Register published 65,000 pages of rules and regulations—65,000 pages! And the coal industry is one that's getting special attention in this maze of regulations, with practically every agency having even the remotest responsibility in the energy or environmental area seemingly grasping for additional power and money for coal-related programs.

In order for a new coal mine to be opened today, an operator must be prepared to obtain approval from as many as fifteen various government agencies, and deal with permits which, when piled one on top of the other, stand about three feet tall.

I think we can do better than that. We certainly should at least try. And we should address the problem of duplication between state, federal and local governments at the same time.

And here's another aspect of law-making and rule-making that's becoming increasingly important, and that's the matter of whether state and federal agencies are acting in accordance with mandates they should be enforcing. The Federal Surface Mining Act was a long time coming. It was the product of great effort by both government and the private sector. Yet it is disappointing and discouraging to find that some flagrant violations of this act are being allowed to continue. The downslope placement of overburden materials on steep slopes is a point in question, something that's going on in some states at this very moment.

In West Virginia, we're enforcing this provision, because we're enforcing the law. And as a consequence, we're paying for it, about $5 more a ton than some of our neighboring states.

Why? Because some states are not acting, and the federal government is not acting, to enforce the law. The result is a gross inequity to those states, and those companies, which *are* complying with the law. Enforcing reclamation requirements equally among all the states must become a reality, and I call upon the states, the industry, and the Office of Surface Mining to get on the ball and see that this law is applied fairly, across-the-board.

The Commission also will look into research, development and demonstration programs, and seek out ways in which states can help, and explore what the private sector can do to become more involved in R&D.

The health, safety and living conditions of today's coal miner will be very much an important part of our agenda . . . sensitive issues, to be sure, where agreement may be difficult. But we have an opportunity to accomplish something for those who choose the highly-skilled job of mining coal as a professional career. Health care, housing, safety—all of these things, and rightly so—are of concern to today's coal miner.

And, because of the increased importance attached to coal development (and let's face it, if we don't succeed, we're going to waste more and more of this country's resources on imported oil), the Commission also is asked to look at the development and application of new technologies.

Let me say at the outset that I go into this year of work with the Coal Commission with my eyes wide open. I am not naive enough to suggest that we're going to solve all the problems of the coal industry. Nor do I want to raise the level of expectation so high that everyone says, "This is the answer." It isn't. It's a complex industry, with complex problems. And a single presidential commission can only help focus attention on the problems and suggest steps to be taken that will benefit management and labor, that will strengthen this rapidly-growing industry, that will play a part in helping this country meet an energy crisis.

But for any progress to be made, we need stability. We also need a National Energy Plan. And now that the principles have been agreed upon in the Congress, and the four major parts of a national energy program have been clearly defined, I hope Congress can proceed in an expeditious manner on this issue.

But above all else, we are at a point where the basic improvements which come in the coal industry, both in terms of stability and production, have to come from initiatives not within government, but from within the private sector. From corporation management. From mine supervisors. From labor.

Labor and management simply must reach out for a more modern and more mature understanding of their mutual dependence on one another. After all, both want the same thing, to get the coal out of the ground. Everyone—government, management, labor—has a direct stake in the issues. If we fail to come to grips with the issues, we face lost opportunity. Lost profit. And lost gain—to our communities, to the industry, to the country, to ourselves.

So we need to look beyond the immediate issue in each individual dispute. And seek instead the advantages that will come from a willingness to work together, as we're doing now in West Virginia with a mountaintop removal program. Management, labor and government are all working on this program, because we all have something to gain from it—an improvement in the quality of life in the southern West Virginia coalfields, where land for housing is practically nonexistent because of the steep terrain.

So the state has bought land. And labor and management in the coal industry are working with us. And the construction industry will be working with us to clear off mountaintops, and free up level land above the flood plain, so we'll have homes and communities for those who produce coal, and for those who, indirectly, grow as the coal industry grows.

This is a case where the program put together by government, labor and industry is our ticket to new housing. This is a case, unprecedented to be sure, where we're all in it together for mutual benefit: government, doing its duty to provide a better quality of life; management, doing its duty to provide energy for the country; labor, doing its duty to provide housing for its workers.

We're all in this together. And it's only when we start working together, when we put everything else behind us and start from this point, right now, that we'll have the capibility to pull off one of the great success stories of modern time.●

U.N. AMBASSADOR YOUNG

● Mr. GOLDWATER. Mr. President, in the past several days, I have read many statements and editorials condemning the incredible statements by U.N. Ambassador Andrew Young to the effect that "there are hundreds—perhaps thousands—of political prisoners in the United States." But none of the comments put the situation more aptly than an editorial which appeared in the Arizona Republic and which stated that:

It is becoming increasingly difficult to remember that Andrew Young is the Ambassador to the United Nations, and not the Soviet Ambassador. No one could possibly do more to undermine the U.S. foreign policy than he.

Mr. President, the editorial reaches the conclusion that this time Andrew Young has gone too far and recommends that President Carter discharge him. Without objection, I ask that the editorial entitled "Young Must Go" be printed in the RECORD:

The editorial follows:

YOUNG MUST GO

It's becoming increasingly difficult to remember that Andrew Young is the U.S. Ambassador to the United Nations, and not the Soviet ambassador. No one could possibly do more to undermine U.S. foreign policy than he.

How President Carter can continue to tolerate him is beyond understanding. Even as Carter was accusing the Soviets of violating the 1975 Helsinki accords on human rights, and even as Secretary of State Cyrus R. Vance was telling Soviet Foreign Minister Andrei A. Gromyko that the trials of Soviet dissidents Anatoly Scharansky and Alexander Ginzburg threaten détente, Young was saying, in effect that the difference in human rights between the United States and Soviet Russia is merely a matter of degree.

In doing so, he not only slapped Carter and Vance in the face, he gave the Soviets a perfect answer to them—namely, look what your own ambassador to the United Nations, a member of *your* own Cabinet, says.

And he grossly slandered the United States.

Commenting on the trials of Scharansky and Ginzburg to a reporter for the French Socialist newspaper *Le Matin*, Young compared them with the civil rights campaigners in the United States, adding that there were "political prisoners" in both countries.

He added: "There are hundreds, perhaps thousands of political prisoners in the United States."

And then he said that he, too, had been a political prisoner when he was arrested 10 years ago during a demonstration in Atlanta.

Not even the Communist Party, U.S.A. has ever charged that "there are hundreds, perhaps thousands of political prisoners in the United States." though it probably will now that it can cite Young. Amnesty International, the London-based human rights organization, says there are between 17 and 19 political prisoners in this country, but the cases it lists are highly debatable.

They are not cases of men and women convicted of political crimes, but criminal cases, in which, Amnesty International believes, hatred of the civil rights movement precluded a fair trial.

Certainly, as State Department spokesman Hodding Carter III declared, the United States is not perfect. There are scores of thousands of police departments in this country, and sometimes one of them goes beserk. This was true in Atlanta.

However, it's the height of effrontery for Young to compare himself with Scharansky and Ginzburg. They are facing the horrors of the Gulag Archipelago. He spent a night in jail.

Young went from jail to become a member of Congress, a member of the Cabinet and an ambassador. Does Young believe that Scharansky and Ginzburg will attain even the position of dog catcher when they emerge from the Gulag?

Even more important: In Soviet Russia, throwing people in jail for expressing dissent is a government policy, which has brought condemnation even from the French and Italian Communist parties. In the United

States, the civil rights movement was protected by the federal government with federal marshals, the FBI and even troops. And it was protected by the federal courts, as well, whereas in Soviet Russia the courts have no function except to railroad dissidents.

Young has been guilty of indiscretions before, but this time he's gone too far. Carter should fire him.●

GUARANTEEING MISMANAGEMENT

● Mr. HARRY F. BYRD, JR. Mr. President, Financial World, published in New York City, had an interesting editorial in its July 15 issue captioned, "Guaranteeing Mismanagement."

It discusses New York City's deplorable financial condition and is signed by Robert I. Weingarten, publisher.

I ask that this editorial be printed in the RECORD.

The editorial follows:

GUARANTEEING MISMANAGEMENT

New York City has invented a new method for staving off bankruptcy. It's called "pass-the buck," and it works in two ways. First you pass more of your bucks in union settlements and in other profligate ways, which ordinarily should make bankruptcy certain. Then you pass the buck by passing the responsibility up the line to the Federal Government. And since Congress is always delighted to learn new pass-the-buck techniques (even though they are already acknowledged experts) they'll accommodate you.

Last week the Senate voted 53–27 to provide New York City with $1.5 billion in long-term loan guarantees. This time the Senators passed the guarantees without the debate that characterized these same deliberations over aid to New York City three years ago. Why the easy passage? After studying all the facts and projections available, I have come to the conclusion that the only logical reason the measure could have moved through the Senate so quickly this time is that it was a day before the beginning of the Independence Day recess. As we know, Senators are more inclined to be intelligent about their leisure than their legislation.

Now if you think that may not be an appropriate explanation, let's examine some of the other inputs that should have weighed on their decision. For example, you may think they were impressed with the projections of New York City's "belt tightening" recovery plan. As best as I can understand the fuzzy facts, it seems the belt tightening over the fiscal years from 1979 to 1982 (the years of the loan guarantee commitments) by New York City will mean a "cutback" from $14.3 billion in expenses to $15.3 billion in expenses. The deficit during this period, assuming no increase from the 1980 labor negotiations, will go from $1 billion to $1.5 billion.

Maybe the Senators were impressed with this sound fiscal projection. Or perhaps they were moved by the bite-the-bullet attitude of our city administrators. In their description of actions they would take to reduce the gap, New York City's officials were even willing to take such hard-line "local" measures as: funding skilled nursing facilities through Medicare; looking for enactment of the Federal Administration's welfare proposal, increasing the State's share of programs such as home relief and aid to dependent children; and State assumption of the full cost of senior colleges, etc.

Wow! It must take incredible political courage to deal so forthrightly with local issues. It's the kind of courageousness with which the Senate can empathize.

But I must admit that maybe it wasn't any of the specifics of the situation that moved the Senate; maybe it was the conceptual philosophy they found so appealing. For example, the idea that it is okay for the citizens of all municipalities to have their Federal dollars used to guarantee the mismanagement of a particular municipality. Or the concept that other cities in similar condition could appeal to the Congress on the same basis as New York, utilizing the current guarantee as a precedent for future guarantees.

Just think how glorious that could be. Who knows, it could even get big enough to require a separate commission or a whole new agency or department or an increase in Federal taxation to handle the additional burden. Certainly our Congress would find those concepts very exciting. Or better yet, in four years when the guarantees run out and the city, having artificially operated under this umbrella, is forced to the brink of bankruptcy again, Congress could approve a multimillion dollar study to find out what went wrong.●

THE JAYCEES ARE FIGHTING FOR A BALANCED BUDGET

● Mr. CURTIS. Mr. President, in reference to most issues which are of vital importance to the survival of the United States, official Washington is far behind the people back home. The people back home ask for a balanced budget and a constitutional amendment to compel a balanced budget every time they have an opportunity to speak out.

I am so delighted that the great organization of the U.S. Jaycees are rendering a great service in support of the efforts to bring about a balanced budget for our Federal Government and in support of a constitutional amendment to compel a balanced budget. I commend that great organization, and I particularly want to congratulate their president, Mr. J. Banks Shepherd, for his leadership.

Mr. President, I wish to extend my remarks by printing in the RECORD a speech entitled "Balance the Federal Budget" which was delivered at the National Convention of the U.S. Jaycees on June 17, 1978, by their president, Mr. J. Banks Shepherd. The speech is as follows:

BALANCE THE FEDERAL BUDGET

Long before Proposition 13 broke on the national horizon, the continued upward spiral of taxes and deficit spending caused Jaycee's Executive Committee and your state and national officers, to draft a resolution asking Congress to balance the budget. While Proposition 13 measures the temper and frustration of the American taxpayer, it responds to only half the problem . . . excessive taxes.

Your resolution calling for an amendment to the Constitution faces the total problem . . . calling for an invincible law that says to Congress, "You can't spend more than you take in".

While Proposition 13 is not the entire answer, it couldn't have come at a more opportune time. Believe me, Congress got the message.

I want to commend you for your forthright action . . . A sound, comprehensive answer to a frustrated nation.

With our national debt at an all time high, with a record Federal budget, with an habitual annual deficit, it is certainly time we put the lid on.

U.S. Jaycee's request for a constitutional amendment is an action—whose time has come. The public is aware, the public is concerned, but . . . like the weather, everybody talks about it . . . nobody does anything about it.

To my knowledge, U.S. Jaycee is the first national (broad based) organization to request a referendum.

On behalf of a grateful country and on behalf of myself, thank you for taking the first step in what I hope will lead to a referendum—a chance to vote on the single most important issue of our time.

Some may ask, "Why a constitutional amendment? Why not just ask the President and Congress to be more careful in their planning, to be more careful in the way they spend our tax dollars." The answer is . . . they have had their chance.

Every candidate for president for the past 40 years, including President Carter, has campaigned on the promise to balance the budget. Then when elected, he says, "Next year we'll balance the budget". And the following year he says, "Some day we'll balance the budget".

Guiseppe was a little Italian fisherman. He lived in Sicily. His business was successful. Each day he brought in his catch and sold it at the local market. Only one problem. He had a nagging wife . . . in fact, she nagged the living daylights out of him.

One day he had had it up to here. Down the steps he ran and out the front door and down to the sea. And with each step he said, I'm a-gonna leave that woman. I'm a-gonna leave that woman.

He jumped into his boat and started to row out to sea. With each stroke of his oar he said, "I'm a-gonna leave that woman. I'm a-gonna leave that woman."

Now, Mrs. Guiseppe was not that much in love but when she witnessed what was happening, she saw her meal ticket disappearing, she ran down to the shore and called out, "Guiseppe, what am I a-gonna do with your new a-black suit?" Guiseppe answered, "Give it to your no good brother. I'm a-gonna leave that woman."

She said, "But, Guiseppe, what am I a-gonna do with your a-new hat?" He answered, "Give it to the Salvation Army."

By this time Guiseppe was on the horizon so she played her ace. "But Guiseppe," she said, "What are you a-gonna do when the sun goes down?" The oars hesitated and then reversed . . . slowly Guiseppe began to row back to shore.

"Some-a-Day, Some-a-Day", He said, "I'm a-gonna leave that woman."

Like Guiseppe, our President and our Congress continue to say, year after year, "Some-a-Day, Some-a-Day, we'll balance the budget.

You know most of these facts but just to orient our thinking, here's a brief summary:

Our federal budget has been in balance only once in the past two decades.

Our National debt now stands over 700 billion dollars.

Our National Annual Budget will soar this year to a record 460 billion dollars.

Our annual operating deficit is 60 billion dollars . . . and no end in sight.

Now none of us understands the meaning of 700 billion dollars or 460 billion dollars, or even 60 billion dollars.

But all of us understand the stark fact that the average American taxpayer pays over one third of his earnings for federal, state, and local taxes.

And we all understand the stark fact that the purchasing power of our dollar has shrunk in only 10 years to only 52 cents.

As a citizen, as a taxpayer, as one who loves his country, I share your concern about the continuous overrun of our national budget. And the continuous commitment to projects beyond our ability to pay.

Sen. Proxmire is Chairman of the Senate Sub-Committee on Priorities and Economies in Government of the Joint Economic Com-

mittee which monitors the spending of our tax dollars.

According to Sen. Proxmire (and this is a direct quote) "I have investigated thousands of wasteful projects over the years."

Here are some of the examples cited by Senator Proxmire: The Dept. of Transportation has squandered nearly a quarter of a million dollars forecasting transportation needs in the year 2025.

Findings included:

If there is a new ice age, large numbers of people will move south.

If Guerilla warfare breaks out, automobile use may become risky.

U.S. Department of Agriculture spent 46 housand dollars to find out how long the average housewife takes to cook breakfast.

113 thousand dollars on mothers' attitudes toward cotton in children's light weight clothing.

The Federal Aeronautics Association shelled out 20 thousand dollars on a study of body measurements for prospective airline stewardesses.

The National Science Foundation spent $25,000 for a series of experiments. One of which was to gauge the reaction of people shown pictures of an octopus in a barnyard.

I've saved the best for last—the Coup de Gras: The Veterans Administration spent $89,000 in benefits for an AWOL Philipino guard on a 100% disability rating. He has fathered 26 children, 11 by his wife and 15 by his wife's sister. This entitles him to $820.00 a month VA Benefits. The Philipino disability program has cost the U.S. taxpayer over 2 billion dollars since 1946. It currently runs 87 million dollars a year.

The transportation bill for Government officials has reached a staggering total of 2.7 billion dollars a year.

The House Government Operations Committee calculates as much as 370 million dollars in travel costs is for no useful purpose.

That concludes Senator Proxmire's examples. Here is one of my own:

In recent weeks a 3.5 million dollar grant has been authorized for Appalachia (that includes West Virginia) to teach bus drivers good manners.

Literally millions of our tax dollars are being spent each year . . . just take a look at your local newspaper—Federal Funding has become a household word.

Now . . . these things are all fine—if we weren't running 60 billion dollars in the red.

One more quote from Senator Proxmire—

In a recent speech before Congress in reference to the proposed 500 billion Federal Budget—he said, "This is much too high. It should be cut by 25 to 35 billion dollars or from 5 to 7%.

Some economists would have us believe that there is a certain mystery about the Federal budget. That for some reason the Federal Government is different from the rest of us. The Government doesn't need to have enough money coming to cover expenses. This may work for a while but ultimately chickens come home to roost.

For the past 40 years, we have operated like there is no tomorrow. No problem too big that 2 or 4 billion dollars more couldn't cure. Our Federal budget in 1961 was 92 billion dollars. Today it is 5 times 92 billion . . . 460 billion dollars.

Spiraling inflation, unsound currency, uncertainty of the future, lack of confidence in government. Citizens both large and small protesting either the cause or effect of our present situation.

I believe we are ready to vote—don't you?

Senator Curtis of Nebraska, along with 20 fellow Senators, has propcsed a constitutional amendment that directly responds to U.S. Jaycee's resolution. But 20 Senators can't do it alone. U.S. Jaycee has a unique opportunity. Through your resolution to provide the way and through your leadership to guide our nation to a new era of sound management and responsible performance. So I say to you, Jaycee, when 380,000 young business and professional leaders fan out across the country . . . we are going to see a crusade the likes of which has never been seen before. The Panama Canal issue will seem like a game of ring around the roses.

This proud nation of ours—with all its vitality, with all its resources, with all its majesty, must be preserved.

U.S. Jaycee can do no greater service than to help return this Nation to a sound fiscal basis.

Breathes there a man
With soul so dead
Who never to himself has said
This is my own, my native land

My young friends, this is our country. I think she is worth saving, don't you?●

MAINE'S SUCCESS WITH UDAG

● Mr. MUSKIE. Mr. President, last year, Congress authorized the urban development action grant (UDAG) program in order to aid the older, distressed cities of this country. Other Federal programs have proven to be inadequate in eradicating urban blight and generating sufficient physical and economic improvements to halt the decline of so many of our communities.

A significant aspect of the action grant program is the requirement that private financial commitments be obtained to match the Federal dollars requested. This will insure the interest and cooperation of local residents, business, and industry, and make urban revitalization a truly joint effort between the Federal Government and the private sector.

The Department of Housing and Urban Development has begun to implement the program and has awarded more than $250 million in Federal funds to 80 cities across the country. Competition has been intense.

In my home State of Maine, the UDAG program has generated a considerable amount of interest and, I think, a high degree of creativity in the formulation of downtown revitalization plans. Maine's largest communities—Portland, Auburn, and Lewiston—have all fashioned projects tailored to their individual problems of physical decay and economic decline.

The city of Lewiston serves as a fine example of energetic planning and spirited cooperation between the public and private sectors. With the approval and support of city hall, a local neighborhood organization called Lewiston Tomorrow, Inc., fashioned a rehabilitation loan pool, an elevator grant program, and other aspects of the overall revitalization plan. The Department of Housing and Urban Development approved their application during the first round of competition. Together, municipal leaders and Lewiston Tomorrow are now starting to administer their projects.

The elected officials of Auburn, Lewiston's sister city across the Androscoggin River, have worked closely over the last several months with a number of local businessmen and bankers. They have developed a wide variety of activities, ranging from the redevelopment of 160,000 square feet of commercial and residential floor space, to the reconstruction of streets and sidewalks, to the renewal of public utilities. The UDAG award announced by HUD officials this week will now make their goals a reality.

Portland, Maine's largest city, has conceived an ambitious plan of linking its downtown civic center, municipal parking garage, and several commercial buildings to facilitate pedestrian traffic in the heart of the city and to redevelop vacant commercial space into a minimall. While Portland was not granted funds in the latest round of competition, I am hopeful that its application will be favorably acted upon in the waning months of this fiscal year.

In addition, there are at least a half dozen smaller communities in the State that have been actively working on redevelopment plans of their own. They have sought broad public involvement and done their planning without the aid of sophisticated grantsmen available to the metropolitan areas.

Mr. President, there is ample evidence in Maine, in both urban and rural areas, that the time is ripe to preserve and rehabilitate our communities. Such action will make those communities better places in which to live, will enhance the local tax base by attracting new commercial enterprises, and will provide needed employment opportunities.

The urban development action grant program can provide the vehicle to stimulate this redevelopment and involve all levels of government and all elements of the private sector.

Maine's communities deserve credit for their innovative thinking and their active pursuit of funds to make community and neighborhood revitalization successful. The urban development action grant awards made thus far indicate that they are off to an auspicious start—and I am watching their progress with interest and enthusiasm.●

THE CASE FOR DOING BUSINESS IN SOUTH AFRICA

● Mr. GOLDWATER. Mr. President, in the over-simplified view of many Americans, the whole idea of not doing business in South Africa would seem to be an effective instrument for the United States to use in its opposition to the policy of apartheid. Companies doing business in South Africa are continually being harassed, cross-examined, and criticized by well-meaning people who have yet to grasp the true nature of problems in that far-off country. Now comes Fortune magazine with an article which explains that U.S. investment in South Africa is far from a force for evil but rather is a needed force for peaceful change. Among other things, the article, written by Herman Nickel, points out that the shortage of white labor has made the advance of blacks into semiskilled and skilled jobs a matter of urgent necessity for companies doing business in South Africa. This, of itself, is a potent instrument for the kind of change we would like to see take place in South Africa.

Mr. President, I ask that the Fortune article entitled "The Case for Doing Business in South Africa" be printed in the RECORD.

The article follows:

THE CASE FOR DOING BUSINESS IN SOUTH AFRICA

(By Herman Nickel)

For some 350 American companies, doing business in South Africa has become much more than that. Whether they like it or not, they have become key actors in one of the more harrowing national dramas of our time.

At these companies, there is hardly a shareholders' meeting at which the chairman doesn't have to respond to cross-examination and criticism, mainly from church and university groups, pressing them to explain why they are still in South Africa. Some harassed university trustees, confronted by the most vocal political-protest movement on American campuses since the Vietnam war, have begun selling off the shares of such companies, often with heavy losses. Other universities, led by Harvard, have taken the line that they will look at their portfolio case by case, to make sure the companies in which they own shares meet their exacting standards of corporate responsibility. Major American banks are being threatened with the withdrawal of accounts unless they stop lending to the South African government, and even to private South African firms.

The anti-South African campaign has also been making steady progress in Washington—particularly since the rioting in Soweto in 1976 and the explosion of worldwide outrage over the case of Steven Biko, the leader of the "Black Consciousness Movement" who failed to survive South African police "questioning" last September. In January, a staff report of the Foreign Relations subcommittee on Africa, chaired by Senator Dick Clark (Democrat-Iowa) charged that the "abysmal" record of American employers in South Africa threatened to undermine "the fundamental goals and objectives of U.S. foreign policy." In the House of Representatives, a move to bar the Export-Import Bank from providing loan guarantees and insurance for transactions with South Africa has passed the Banking Committee. The Carter Administration has not yet supported such extreme judgments or actions, but potential investors seeking advice are being warned about the labyrinth of problems they might be getting into.

In the public forum, the critics of American companies charge flatly that whatever helps the South African economy also helps apartheid. So long as these companies go on conducting business as usual, so too will the South African government, with its politics of repression. For according to the indictment, this is a government so immune to persuasion that it can understand no language milder than an American economic withdrawal.

Frightened or fatigued by all such pressures, a few American companies—notably those for which South African business is only a marginal item anyway—have found it easier to wash their hands of the whole nettlesome affair. After all, business in South Africa is not nearly as profitable today as it used to be, with the once-fabulous returns (a record 29.9 percent in 1973) sharply down to 8.5 percent in 1975. In these circumstances, the temptation can be strong to give withdrawal some moral gloss. When Polaroid recently announced its withdrawal, for example, it won applause from those who had been castigating the firm for supplying the government with the photographic equipment to make the hated passbooks that keep South African blacks from moving around freely in their own country. In fact, Polaroid conducted its South African business through a local distributor. Its products are still on sale. As for the passes, which existed well before Polaroid arrived on the scene, they are still issued as before.

This comparatively trivial instance merely hints to the massive difficulty besetting any grand design for American economic disengagement: the true nature and impact of any such withdrawal would bear little if any similarity to the avowed objective of its ardent advocates. And this essentially is why the vast majority of companies—after sober weighing of all risks and uncertainties—have chosen to stand their ground.

To be sure, one self-serving consideration plays its role in this decision. The fact is that any "heading for the exit" is not nearly as simple an exercise as some of its proponents seem to assume. For while South African foreign-exchange regulations allow the free repatriation of profits, this does not apply to capital. There is thus no way of packing up the plant and shipping it home. If an American corporation found a South African buyer, the proceeds would first have to be invested for at least seven years in low-yield South African government securities—a solution as unattractive politically as it is financially. The alternative of selling out to another foreign enterprise would merely give the buyer the competitive break of being able to pick up a plant at a knock-down price—and without any obvious gain for South Africa's blacks.

But going beyond these practical reasons, most American companies cast their decision to stay in South Africa in more positive terms. By their continued presence, they argue, they not only provide jobs for their 90,000 employees, including some 60,000 blacks; they also can serve as catalysts of peaceful social change. For them, the crucial question is: would U.S. withdrawal bring the desired human, practical, and political rewards? And this is precisely where the case for withdrawal, flawed with many oversimplifications and half-truths, breaks down.

To begin with, one has to confront a truth that Americans often prefer to ignore in foreign relations: there is a clear limit to American power and leverage. While continued U.S. investment, credit, and trade are important to South Africa, they are not a matter of survival. At least on this point, South Africa's Finance Minister Owen Horwood and U.S. Ambassador to the United Nations Andrew Young are in perfect agreement. "South Africa will certainly not be forced to its knees by disinvestment of American capital, whatever that vague notion may mean and however it is supposed to be brought about," Horwood told me when I questioned him in his spacious Cape Town office. "South Africa is one of the most self-sufficient nations in the world," said Young in a recent interview. Even the staff report of Senator Clark's subcommittee on Africa, with its strong disengagement bias, concedes that U.S. economic interests in South Africa "may not be decisive" after all.

In purely quantitative terms, the $1.6-billion (book value) U.S. direct investment in South Africa represents 16 percent of total foreign investment there. This is dwarfed by the 57 percent stake of the European Community countries and amounts to only 4 percent of the total capital invested in the South African economy. It is true that in some sectors the American role is critical, probably the most important being computer technology, where U.S. companies, led by I.B.M., control 70 percent of the market. But South Africa is by no means defenseless. Thanks to its near-monopoly in some critical metals (including 83 percent of the world's reserves of platinum and 74 percent of the chrome), it is quite capable of retaliating if the U.S. refused to deal in terms of quid pro quo. "Without South African platinum for catalytic converters, the U.S. government would have to call off the entire emission-control program," a G.M. executive warns.

Since South Africa's economic relationship with Europe is so much more important to both sides than its relationship with the U.S., a fully effective investment boycott would need the support of the EEC. But precisely because the European stake is so much greater, the chances for that are very remote. Britain's Foreign Secretary David Owen recently voiced concern that Britain's huge £5-billion portfolio and direct investment in South Africa, 10 percent of all British investment abroad, makes his country "dangerously vulnerable" and urged that this exposure be reduced. But successive Labor governments have been far too worried about the 70,000 jobs allegedly dependent on British economic ties with South Africa to move decisively toward economic disengagement.

A new and increasingly vital factor in this equation is Western Europe's reliance on South Africa as a major supplier of processed uranium. The restrictive conditions that have been put on the export of U.S. and Canadian uranium in effect increases this dependence. Though no official figures are published, South African and Namibian uranium is established to account for at least 50 percent of Western Europe's supplies. As soon as ten years from now, top South African officials expect uranium (even excluding Namibian sources) to surpass gold in importance to the South African economy.

Even South Africa's reliance on foreign credits, while serious, has not made it vulnerable to an ultimatum from the outside world. The fact that the South African government managed to turn a balance-of-payments deficit running at an annual rate of 2,592 million rand ($2,976 million) early in 1976 into an annual surplus of 1,277 million rand by mid-1977 shows that the government is prepared to slow domestic expansion to make up for the reduced net capital inflow (from 989 million rand in 1976 to 211 million rand in 1977). Largely as the result of the mid-1970's recession, which hit South Africa about eighteen months late, the economy's real growth rate has nose-dived from 7 percent in 1974 to 0.5 percent in 1977.

Here one comes to the crux of the matter. Stopping the flow of foreign capital cannot bring South Africa "to its knees," in Finance Minister Horwood's phrase. But it does spell the difference between adequate and inadequate growth. The government acknowledges that South Africa's normal growth rate of about 6 percent would be halved if the flow of foreign capital came to a halt. Independently, academic analysts such as Professor Arnt Spandau of the University of Witwatersrand have come to the same conclusion. Of course this is a "worst case" assumption, but even a substantial decline in the capital inflow—and it reached 6 to 7 percent a year during the "golden Sixties"—could slow growth to below the level that is necessary to accommodate the 3 percent birth rate in the non-white population. South African blacks would thus face the prospect of growing unemployment, without the benefits of welfare checks and food stamps. That would be the harshly ironic result of a policy designed to help them.

The prospect worries most blacks deeply. In the blunt words of Freddy Sauls, a battle-seasoned organizer for colored and black workers in the Port Elizabeth auto industry: "It's all very well for people to urge disinvestment who sit in safe comfort in some nice office 8,000 miles away. But if the American auto plants here closed down, I'd have thousands of men looking for work and literally wondering where the next meal would come from." I found the same sense of realism echoed in scores of conversations I had with

black workers. Whatever specific grievances they might have, the vast majority rejected any notion of foreign economic boycott of their country. And this simply confirmed the estimate of black leaders who told me that a poll of urban black would find 75 percent opposing any withdrawal by U.S. companies.

In broad historical terms, there appears to be little logic or reason is the idea that economic stagnation provides a better backdrop for the peaceful transformation of South Africa from institutionalized racism into a multiracial society. The notion would seem all the more bizarre when put forward by Americans, for the whole history of racial progress in the U.S. points in the opposite direction. Practically every major step forward was linked with economic progress. Just as the hardheaded interests of Yankee businessmen helped to pave the way for the abolition of slavery, so the emergence of the "new South" and the opening up of equal opportunities for black Americans one hundred years later could have happened only against a background of growth, while they would have been unthinkable during the Depression. Economic growth did not strengthen the system of institutionalized racism in the U.S.; it effectively destroyed it.

When Andrew Young first drew parallels between the role business eventually played in the civil-rights struggle in the American South and the role it might play in South Africa, his critics were quick to cite the essential differences: the reversed ratios between blacks and whites, the much wider cultural gaps, and the fact that South Africa has no U.S.-type constitution in place. All these differences make the South African problem much more difficult—a fact some Americans should recall before unleashing their moralistic rhetoric. Nevertheless, this criticism should not obscure a central point in Young's thesis that applies to segregation and apartheid with equal force: institutionalized racism is plainly incompatible with the functional requirements of an expanding industrial society.

The same point is made in a different way by Harry Oppenheimer, chairman of the huge Anglo-American minerals empire and a persistent critic of the government. As the political philosophy of poor rural Afrikanerdom, he observes, apartheid could possibly have worked only in the context of a poor agricultural subsistence economy. Against the background of an industrial revolution that turned the Witwatersrand into the "only real industrial complex south of Milan" (FORTUNE, December, 1966), the contradictions of the system were bound to become ever more glaring, even to many of its Afrikaner supporters.

This is exactly what has been happening. The first consequence of industrial growth was the full enlistment of the country's limited supply of white labor for semiskilled and skilled jobs, and, accordingly, the necessity of proceeding to train nonwhite labor. Even though South Africa has yet to emerge from its deepest postwar recession, the unemployment rate among whites is less than 1 percent. The real burden of the recession has been carried by unskilled blacks. (Although, grotesquely, there still are no official statistics on black unemployment, the estimates run as high as 12 percent.)

The effect of this transformation has been to make an empty shell of the old system of "job reservation," conceived originally to shield poor whites from black competition. Last year the remaining twenty-five "reserved" job categories were reduced to a mere five, and even these are expected to be abolished soon. The only obstacle to this reform would be the fear of a prolonged depression, which could stir up opposition from some reactionary white unions. But if the South African economy could get back on its normal pre-recession growth path of almost 6 percent, it would require 3.8 million more skilled workers by 1980, of whom more than half would have to be nonwhite.

This structural transformation of the labor market has already had significant effects on the real earnings of black industrial workers. At least since 1970 their wages have been rising not just absolutely, but also in relation to those of whites. According to a survey by the Bureau of Market Research of the University of South Africa, average incomes of black households in the Johannesburg area rose 118 percent between 1970 and 1975, as compared with 58 percent for white households. Between 1975 and 1980, black per capita income is expected to rise 29.3 percent, as against only 7.3 percent for whites.

In contrast to what has happened in many independent black African countries, the gap between black and white incomes has been narrowing steadily. Between 1970 and 1976, the gap in industry narrowed from 1:5.85 to 1:4.44; among employees in the central government, from 1:5.31 to 1:3.10; and in construction from 1:6.60 to 1:5.20. The most dramatic—and the most necessary—improvement occurred in the mining sector, where the gap shrank from 1:19.79 to 1:7.69. This is still by no means satisfactory, but it sharpens the point made by Economics Minister Chris Heunis when he observed that foreign critics can't reasonably demand, at one and the same time, an investment boycott and the narrowing of income disparities. In a new study, to be published later this year in the U.S., Professor Spandau documents a significant reallocation of racial incomes in South Africa since 1970. Between 1970 and 1977 the white share of total incomes declined steadily at a rate of one percentage point a year, from 70 to 63 percent. In another paper, economist Erich Leistner predicts that by the end of the century the black market will be twice the size of the total consumers' market in South Africa today. All these figures would seem to dispose of those baleful predictions that in a capitalist society like South Africa, growth can only make the rich whites richer and the poor blacks poorer.

The most important political consequence of these economic changes has undermined the central aim of apartheid, which was the effort to overcome the numerical disadvantage of the country's 4.3 million whites by decreeing the 18 million blacks to be citizens of ten fragmented, pseudo-independent tribal "homelands" (occupying just 13 percent of the land area of South Africa). The theory of apartheid regarded the urban townships as little more than dormitory towns for transient workers who—rather like Turks in Germany—were not supposed to stay forever and would have political rights only in their "homelands." Hence the reluctance to improve the townships to a point where people might want to stay for good and others would be attracted to move in from the impoverished homelands. Hence also the resistance to giving blacks in the townships property rights, as well as the insistence that no one be allowed to move to the urban areas without a passbook. But the gravitational pull of the urban industrial centers has proved too strong for all such barriers. The huge, sprawling township of Soweto outside Johannesburg—home for as many as one million people, including 300,000 to 400,000 unauthorized "squatters"—became the dramatic symbol of apartheid's failure to face up to the reality of the urban black.

When Soweto erupted into violence in 1976, this failure could no longer be masked, and there is now a virtual consensus that the status quo will no longer do. Moreover, this failure is no longer discussed just in private. Among *verligte* (enlightened) Afrikaners, the reliance on repression to cope with the system's contradictions is perceived as not only ruinous to South Africa's desire to be recognized as a member of the Western world: it would also be blindly defiant to the real needs of the economic future. The ferment of this "agonizing reappraisal" contrasts with the outside world's popular perception of the Afrikaners as one monolithic and immutable bloc.

It is not surprising that Afrikaner businessmen, themselves a fairly recent product of economic growth, should be playing a prominent part in this reappraisal. It is, after all, in business's own interest that the status of the ten million urban blacks be improved and given full recognition, for they are the indispensable workers. There is little point in spending time and money on training migrants, as distinct from a stable work force living with their families under decent conditions. It was simple recognition of this that led in 1976 to the forming of the Urban Foundation, an effort by businessmen to mobilize the resources and influence of private enterprisse to improve the quality of life in the townships. Having raised 14 million rand, even in th midst of a recession—including a million each from Barclays and Standard banks, half a million from Ford, and a quarter million from Mobil—the foundation is now embarked on a variety of projects to improve housing in the townships and set up community centers, kindergartens, early-learning centers, and recreational facilities.

The success of this enterprise still hangs in the balance. As the foundation's executive director, Justice Jan Steyn, concedes, its biggest problem is to overcome suspicion and hostility among urban blacks toward still another white-sponsored effort to improve their lot within the political straitjacket of the apartheid system. He acknowledges that "without securing their involvement, the changes we seek will be beyond our reach." Steyn hopes that the foundation's credibility was enhanced by its role in prodding the government to drop the fiction of the "transient" urban blacks, at least to the extent where they can now acquire permanent leaseholds on which they can borrow money and which they can sell and bequeath. On the employment front, the foundation has gained the endorsement of more than 700 South African employers for a code of practices that commits them to abolish job discrimination, train their black employees, and give them equal pay for equal work. Whatever its limitations, the Urban Foundation symbolizes the emergence of the Afrikaner businessman as a force for change. Andrew Young has aptly noted that South Africa is one country where the business community stands to the left of the government.

As the politicians of the ruling National party try to dodge the new realities—with contorted schemes to recognize the economic role of the urban black without letting him share in political power—they have succeeded only in disenchanting the intellectuals at Afrikaner universities, such as Stellenbosch, who used to serve as the party's brain trusters. The ranks of the estranged include even the current head of the legendary Broederbond, the secretive fraternal society that is the watchdog over 300 years of Afrikaner heritage. Professor Gerrit Viljoen is now quietly prodding the government to face the facts by accepting urban blacks as permanent residents and to move on from separate development toward a multiracial federation, with even eventual political integration not ruled out. Coming from the head of the Broederbond, this is a quantum leap forward.

Unfortunately, this kind of *verligte* thinking continues to come up against the *verkrampte* (uptight) hardliners in the National party. The result of their inertial re-

sistance is to slow the evolutionary process to a pace that is not nearly brisk enough for the outside world—and what is much more critical—for a new generation of politicized blacks in South Africa itself. Inadequate reforms, grudgingly made, help to create the tensions that Alexis de Tocqueville described in his classic account of the end of the Ancien Regime in France. "Patiently endured so long as it seemed beyond redress, a grievance becomes intolerable once the possibility for removing it crosses men's minds." Such is the situation in Soweto today. The most militant talk comes not from the downtrodden poor but from members of an intellectual and professional elite who have already achieved their economic takeoff and are now insisting on the political rights to go with it.

Yet there is little doubt that, however erratic and confused, an evolutionary process is at work. The striking mark of this process is that the forces for change in the political sector receive their strongest thrust from progress in the economic sector. In the light of this fact, it hardly seems sensible to argue that political redemption can be accelerated by a full-scale American retreat from the economic arena. The constructive question is what role American companies have been playing in the past—and what they should be doing in the future—to speed profounder change.

If the prospects can now be viewed more positively than in 1972 when Fortune first examined them (July, 1972), much credit is due to the Reverend Dr. Leon Sullivan, the civil-rights activist who is minister of Philadelphia's big Zion Baptist Church and a member of the board of General Motors. It is an ironic fact that the Reverend Dr. Sullivan has never erased his own reservations about the presence of U.S. companies in South Africa. But a brief visit there in 1975 quickly persuaded him that, so long as the companies were doing business, they should at least pioneer principles of fair-employment practices and equal opportunity, rather than simply blend into the apartheid scenery, as many had been doing with embarrassing ease. In March, 1977, Sullivan's meetings with the top level of major U.S companies produced a carefully drafted code of conduct based on six principles:

Nonsegregation of races in all eating, comfort, and work facilities.

Equal and fair employment practices.

Equal pay for comparable work.

Training programs to prepare blacks and other nonwhites for supervisory, administrative, clerical, and technical jobs in substantial numbers.

More blacks and other nonwhites in management and supervisory positions.

Improving employees' lives outside the work environment in such areas as housing, transportation, schooling, recreation, and health.

Today the number of signatories to this code has risen from the original twelve companies to ninety-eight, and task forces—one for each point—are meeting regularly to compare notes and develop new approaches. The code, to be sure, is hardly revolutionary; and with the sole reservation that it should not apply just in South Africa, the South African government has even given its approval—a fact that, in the view of some militants, automatically renders it suspect or meaningless.

It is no such thing. The code has provided both a forum for discussion and a criterion for judgment where none before existed. Fully aware that the Reverend Dr. Sullivan has ready access to the top levels of U.S. corporate management—and that failure to perform can lead to damaging publicity and nasty scenes at shareholders' meetings—the local managers of American companies in South Africa now have to address themselves seriously to each of the six principles, report back to the home office what they have been doing, and spell out concrete objectives for the future. The result has been to inspire a new kind of corporate competition. The fact that Ford has now established itself as a leader in implementing the Sullivan principles may well be as painful to G.M.'s ears as the fact that Ford is No. 1 and G.M. No. 5 in South African car sales.

The reputation of American companies is is now much better than it used to be—and deservedly so. Freddy Sauls, who organizes nonwhite auto workers in Port Elizabeth and is not given to easy flattery of any bosses, grants that "most of the American firms now are pretty good, certainly a hell of a lot better than the British firms." Henry Chipeya, a young black union organizer in Johannesburg, pays the U.S. companies a backhanded compliment by complaining that many of them try to keep black unions out by providing above-average wages and benefits. In 1972, twelve out of fifteen companies examined by Fortune turned out to be paying starting wages below the minimum subsistence level of the government's Poverty Datum Line. All the firms visited this time paid starting wages above the higher standards of the Household Subsistence Level, as set by economists of the University of Port Elizabeth, with average wages usually 50 percent and more above that level. In Port Elizabeth, the coastal city with the biggest concentration of American factories, the average monthly cash income of black workers at Ford this March was 216.02 rand, compared with a Household Subsistance Level of 132.84 rand. Even the lowest unskilled starting wage encountered this time—.80 rand an hour at Firestone—worked out to 105 percent of H.S.L.

Since the principle of equal pay for equal work means nothing so long as there is no equal work, a training program is as crucial to blacks as their pay scale. Most major American companies recognize this now and are either supporting industrial-training centers like Chamdor in the Transvaal (see the photo on page 63) or running their own programs. For example, Ford is spending $1.1 million on job training this year, an increase of 70 percent over 1977, despite the fact that it lost $8 million in its South African operations last year. This is one of the advantages of a large multinational that smaller South African companies envy.

The programs offered by the companies range all the way from courses for toolsetter and foreman positions to literacy and language training. For many blacks these company courses represent a major part of their entire education. More concretely, the blacks are gradually making inroads into skilled and supervisory positions that used to be all-white monopolies. One major limitation remains—an anachronistic law that still prohibits blacks from becoming apprentices (except in the homelands). But companies like Ford have got around this by providing the essential training under a disguised name.

Compared with the importance of training for a good job, the better pay to go with it, and the opportunity for advancement, the right to use the same lavatory and to sit in the same cafeteria with the white supervisor ranks rather low on the list of priorities of the average black worker. By itself, says one black leader, "it doesn't mean a damn thing." But it does mean a great deal to whites. Perhaps this is why white management devotes enormous care to implementing the Sullivan code in ways that will prevent a "white backlash" incident. But this sometimes produces nervous exercises in gradualism that trigger a black backlash against mere tokenism.

A prime example of this, ironically, comes from the company on whose board the Rev. Dr. Sullivan sits—G.M. In line with the Sullivan code, G.M. duly removed the offending written signs from the lavatory doors in its Port Elizabeth plant, only to replace them with color-keyed doors; blue for whites and Chinese (the latter considered honorary whites for lavatory purposes), orange for blacks and coloreds. Far from "lessening the insult," as one G.M. official in Detroit tried to explain to FORTUNE, it infuriated a number of black trade unionists, for it seemed to confirm their worst suspicions that G.M. was using the code as mere window dressing. "Who do they think we are?" rumed one black shop steward. The fact that black hourly workers at G.M. eat in a segregated cafeteria, while white hourly workers are allowed to use the cafeteria for salaried employees (pending the planned construction of a new, integrated facility), has built up further resentment, which threatens to obscure G.M.'s good record in training and upgrading black employees.

The episode illustrates the gap in perception and communication that plagues South Africa generally and its paternalistic industrial relations in particular. Ford has found that its channels of communication were much improved by establishing a good working relationship with the black United Automobile Workers Union. This is something that G.M. has not managed to achieve so far.

The white-backlash problem is by no means entirely a figment of a timid management's imagination. Earlier this year, when Borg-Warner began to integrate its white cafeteria, a recent emigrant from Yorkshire stirred up a boycott, backed by the white union, to force re-segregation. The South African government reacted not by sternly enforcing the law requiring separate facilities, but by quietly dispatching an aide to the Minister of Labor to calm the scene. Taking the Yorkshireman aside, the official expressed puzzlement about why he was making such a fuss when he should have been used to sharing facilities with colored immigrants in Britain. "Why did you think I came here in the first place?" came the reply. The problem is now straightened out, but the incident throws light on the government's awareness that if it wants American companies to stay, it is in its own interests to see the Sullivan code put into effect—a clear hint of the bargaining position of American firms in nudging the government toward change.

As a rule of thumb, the Borg-Warner kind of trouble tends to disappear the higher up one goes on the educational and social ladder. Integration of facilities poses few problems, if any, at banks, white-collar operations, and in companies like I.B.M. and 3M, and others that deal with more sophisticated technologies. The task is much harder in auto plants and such hot, dirty, and dangerous operations as the Firestone and Goodyear tire plants, where fewer and fewer whites are prepared to take jobs as production workers. For the same reason, the opening of South Africa's top hotels to the tiny number of blacks who can afford to patronize them poses no problems, while the downmarket establishments remain strictly limited to "whites only."

What can American companies collectively contribute to progress in a political environment so strange and snarled? In view of moderate black leaders, it is possible—and necessary—for American business to deliver, in effect, a message to the South African government. This message would not be a hostile threat, but simply a statement of the facts of life. Beneficial as continued foreign investment may be for peaceful change, such investment will simply not happen to any adequate degree so long as the prospect for long-term political stability does not improve. But this improvement can only be

achieved by reform and not by repression. Already new U.S. investment has slowed to a trickle, and most American companies now in South Africa are essentially in a holding pattern. Another Soweto, another Biko case, would not only further inhibit investment but also would greatly strengthen the pressures for sanctions and the withdrawal of American firms. If U.S. companies are to stay, they need tangible evidence that their presence does indeed contribute to change. This means more than formal abandoning of the more obnoxious remainders of "petty apartheid" (some of which, like the Immorality Act making sex between the races a crime, are no longer being strictly enforced anyway). It means above all facing up to the necessity of starting a dialogue between the races. What formula for sharing power this dialogue should devise is not up to the outside world, but for black and white South Africans to work out among themselves.

It may well be that the South African government will ignore this message, as it has other messages in the past, for the forces of fear and inertia within the ruling Nationalist party are still all too strong. But at least the chance of American business getting a hearing will be better than that of foreign polemicists from afar, including those of the Carter Administration. After all, as Professor Willie Esterhuyse of Stellenbosch University puts it, "You rather take advice from a friend than from an enemy." Unfortunately, all the Carter Administration has managed to achieve with its rhetoric so far has been to stiffen the will of the forces of resistance and complicate the task of black leaders struggling for reform.

An outstanding figure among these leaders is forty-year-old Percy Qoboza, South Africa's foremost black journalist. An articulate and dedicated believer in the principles of nonviolence, he has long been recognized as one of his country's most courageous black foes of apartheid. During five months of detention, which ended only last March, he agonizingly reviewed the dilemmas besetting South Africa and his own convictions. Qoboza has found himself confirmed in his belief that the American—and other foreign—companies have at least the potential of becoming "one the the most vital links in bringing about peaceful change." But today he attaches important conditions. The foreign companies must, he says, "put their money where their mouth is" and do those things that give blacks a sense of dignity. This means the training to be productive workers earning the wage they deserve; equal opportunity for work and in the process, the liberation from pride-killing, paternalist charity.

An essential part of the process, he insists, is to let black workers deal through their own unions. In a country full of institutions created by whites for blacks, black unions have a very special role to play, he argues. In the present South African context, multiracial unions are unions dominated by whites. Concerned that the educational efforts of American companies tend to be concentrated either at the doctoral or the literacy training ends of the spectrum, Qoboza urges multinationals to stress the middle level—"the production manager who can keep the factory running while the boss is away." And if this kind of training cannot be carried out in South Africa, he asks, "Why not do it in America or somewhere else abroad?"

In the office of his new paper, the Johannesburg *Post*, Qoboza sits at his work under a picture of Martin Luther King and a framed certificate of his Nieman Fellowship at Harvard in 1975–76. Here he talks darkly about the lengthening shadows that are falling on his naturally beautiful, richly endowed, and politically imperiled country. "Today people like myself can still stay 'cool'—but how much longer?" he asks. Persecuted as a radical by the government, under mounting attack from young militants who detest his moderation and dedication to nonviolence, he briefly considered moving himself and his family to safety in the U.S. after his release. It was his fourteen-year-old daughter who dissuaded him, telling him that by staying he might be able to save more lives than just his family's.

While Qoboza's great inspiration, Martin Luther King, had a dream, Qoboza today has a nightmare. It first came to him in detention, and it is the vision of his children standing over his grave and demanding angrily, "Why didn't you do more to stop the holocaust?" Qoboza knows that a racial war would be the ultimate South African tragedy—staggering in its human suffering, with incalculable international ramifications—and in the end inconclusive. Just as Arabs cannot push Israelis into the sea, so the white Afrikaner tribe would still be there when the killing stopped, and Afrikaners and blacks would have to face up to the same test they are facing now: the historic task of living together and sharing power in their common country.

These are events that American business cannot, of course, control. But it can influence them. This is why the searing question in Percy Qoboza's nightmare is addressed to them, too.●

THE DEFENSE WORKER'S DILEMMA

● Mr. McGOVERN. Mr. President, for years I have been interested in economic conversion, not only as a means of developing a rational defense budget, but as a way to insure a strong economy by putting Americans back to work in stable, productive jobs. We are all too familiar with the stories of communities in distress because of a defense budget cut, a military base closing, or a contract cancellation. Yet with proper planning the affected workers and communities can not only recover in a minimum of time, they can look forward to job and community stability that is unknown to those dependent on defense contracts.

In an article in the May 27, 1978, issue of the Nation, William Winpisinger, president of the International Association of Machinists & Aerospace Workers, puts the frequently misunderstood concept of economic conversion into its proper perspective. He discusses the role economic conversion can play in reaching our hoped for goals of arms control and reduction of foreign military sales, as well as the issues of defense dependency and employment security, and the question of Federal responsibility to the contractors, the workers, and the communities affected by Federal decisions.

I commend this excellent article to my colleagues and ask that it be printed in the RECORD.

The article follows:

[From the Nation, May 27, 1978]

THE DEFENSE WORKER'S DILEMMA

(By William W. Winpisinger)

Rumor of Weapon Able's demise has, let us suppose, been rife for five years. Workers and community officials have trembled at the prospect. But each time, employers and employees, labor and management, city officials and civic leaders have petitioned Congressman Jones and Senator Smith, who have taken the case to the Pentagon, and each time the funds have been restored. Weapon Able has always come through.

This year, however, Congressman Jones and Senator Smith failed in their mission of mercy. It is now conclusive: the Pentagon insists that the Russians have developed Weapon Counter-Able, making Weapon Able totally obsolete. A new weapon is demanded, wholly different in design, matrix and purpose. Baker, Inc., which makes Weapon Able at its Caltex plant, finds that facility is obsolete too. So are the subcontractor plants and component manufacturing plants.

At this point, panic seizes workers and whole communities. Baker, Inc. could decide to convert its Caltex plant into production of civilian products, but there are other considerations. The company has decided it no longer cares to do business in Caltex. The plant has been wholly depreciated and has no further tax advantages. The unions there negotiated solid contracts over the years and wage and benefit levels are at or above those of Baker plants located elsewhere, primarily in the Sunbelt, producing other weapons and products. In fact, Baker, Inc. management figures the damned union is too strong. It's about time it was broken up.

However one looks at it, Baker, Inc. stands to profit by giving up operations in Caltex. And that's what private enterprise is all about: maximizing profits.

Individually, defense workers may fervently hope and wish for peace, for scaling down the arms race for an end to the international trafficking in arms. They may want to support SALT agreements, nuclear nonproliferation treaties and restrict arms sales.

Yet for them to support those laudable objectives demands a nobility of spirit and a courage of self-sacrifice that are asked of no other members of society, except those who are called and serve during actual wartime.

It is an excruciating dilemma and it makes absolutely no sense—economically, politically or socially. But before we come to that, consider the typical situation.

The Pentagon announces that Weapon Able production is to be halted. Baker, Inc. has been the prime contractor for fifteen years, employing some 5,000 workers to produce Weapon Able at its Caltex plant. Subcontracting firms in two other communities employ another 5,000 people who work at jobs directly related to Weapon Able. At the third tier, a half-dozen firms scattered around the country employ in all 3,500 people to manufacture component parts for the device. In addition, a dozen vendor firms and service suppliers have been directly dependent on the Weapon Able contract; that's a few thousand more people. And in the community of Caltex, as in the dozen or so other communities where subcontractors, component manufacturers, vendor and service suppliers may be located, Weapon Able has an immediate economic bearing on the full spectrum of local economic activity and public finance. In all, 15,000 or more people are directly affected by the fate of Weapon Able, and countless others concerned in varying degree.

For its part, the company was cleverly able to write into its prime contract with the Pentagon that, should Weapon Able's production be curtailed, the U.S. Government would indemnify Baker, Inc. for loss of the contract and production. The indemnity would amount to an average of the profits derived in the best five years of Able production, and would cover a two-year "economic adjustment" period. That indemnity payment would come to $10 million. No severe dilemma there.

But, back in Caltex and a dozen other Weapon Able communities, workers are laid off. Unemployment insurance claim lines are long, but the workers will receive two-thirds of the state's average weekly wage for twenty-six weeks. If, after that time, they still haven't found work, they may get a thirteen-week extension of unemployment benefits.

The community fathers, businessmen and civic leaders rally somewhat from their initial

shock. They form a local industrial development committee and hire a full time director to (1) write federal grant applications for economic development assistance; and (2) recruit and scout prospective firms to buy or lease the Weapon Able plant and start producing widgets. The latter chore is called Operation Bootstrap.

Months pass, with the national unemployment rate hanging high at near 7 percent; in Caltex, it is now 14 percent. But undaunted, the local real estate broker comes up with an idea to level the old Weapon Able building, subdivide the 10-acre tract and sell lots for new condominiums, even though mortgage loan defaults are at an all-time high. The Chamber of Commerce proposes, instead, a city-financed industrial park. Its promotional literature stresses the advantages of a "free labor market." Local bankers suggest selling industrial development bonds, rather than directly charging local taxpayers for the park.

Unemployment compensation for the laid-off defense workers had expired after thirty-nine weeks. Therefore, when it was learned that Baker, Inc. had gone overseas and was now producing Weapon Able in Gomorrah, to secure that nation's defense against its arch rival, Sodom, the workers' international union applied for Trade Adjustment Assistance, which would have given them a two-year lease on life at 75 percent of pay. However, the Labor Department ruled that the loss of their jobs was unrelated to foreign trade.

After about a year, the Department of Defense's Office of Economic Adjustment announces it has approved a $20,000 grant to survey the Caltex community and estimate its needs. The dozen other Weapon Able communities are not included in the survey; DOD's OEA lacks the money to assist every defense impacted community. And there's a little hitch at Caltex. OEA has asked the Economic Development Administration's Title IX section to administer the grant, and EDA's Title IX funds are committed through the next fiscal year. Caltex, though, is high on the list of priorities for F.Y. 1980.

Anyone remotely familiar with declining communities, whether in the agricultural Midwest, the heart of New York City, or under the leaden skies of New England, can finish the scenario. There is no happy ending to this tale of economic and social woe.

Several conclusions can be drawn from this fictitious but unexaggerated story of Weapon Able. The point that must first be recognized is that, until the fears of the nation's 2.5 million defense production workers in private industry can be constructively alleviated and their employment security assured, it may well be impossible to consider arms and military control measures and the defense budget on their merits. Indeed, since the economic recession of 1974–75, the ever escalating Pentagon budget has more and more been sold as a giant public works program, and less and less as an essential and rational national defense program.

Second, chronically high levels of unemployment aid and abet the cause of the Pentagon's big spenders. It is too much to expect that Congressmen and Senators will support defense budget cuts and resist unnecessary weapons procurement programs when the unemployment rate in their states or districts stands at punishing levels.

(It is noteworthy, though, in this connection, that several recent studies have shown that every $1 billion of direct federal spending in the civilian and nondefense public sectors of the economy produces more jobs than does $1 billion spent on defense. And some of those studies reputedly took into account payment of union-negotiated wages and benefits, the number of new civilian sector jobs created being calculated on the basis of union wage and benefit levels, rather than on the federal minimum wage. That is a consideration of primary importance, if trade unions are to be expected to support arms controls and Pentagon budget cuts. After all, if employers are entitled to million-dollar indemnity payments when defense production ceases, employees are entitled to new jobs at wage and benefit levels they've bargained for and depend upon. Unemployment compensation is not the goal of workers and their unions.)

Third, private enterprise cannot be trusted to relieve defense workers and their communities of their dilemma. Profit maximization does not run in tandem with either full employment or continuity of employment. Free-market dogma does not fit the defense industry, since it is wholly dependent on direct federal expenditures, for both production and research and development contracts. Competition is extremely slight in the industry.

It is fair to ask, however, after the contract expires, whether defense firms, particularly large prime contractors of the multinational stripe, have any moral, economic or social responsibilities to the workers and communities whom they've enlisted (drafted may be more appropriate) in serving the national interest for profit. Shouldn't society expect from business at least the same things business expects from the community and its workers—namely, dependability, stability and fairness?

But if private business is to be absolved from accepting those responsibilities, then clearly the federal government has a duty to meet them. Defense work is required by the government in the name of the national interest. If it then curtails that work, it has a responsibility to pass measures and shape programs to make sure that workers and whole communities do not suffer as a consequence.

It follows, if defense workers are to have the freedom, which all other members of society enjoy, to decide objectively whether or not to support SALT, nuclear nonproliferation and weapons sales curbs, then the economic and military isues must be separated. That is where Planned Economic Conversion comes in.

Simply put, Planned Economic Conversion is a method to convert defense plant, equipment and workers to socially useful peacetime production. Beyond this, conceptual refinements are necessary. Planned Economic Conversion requires that notification be given in advance of an impending cutback or shutdown, so that a conversion plan can be developed before the ax falls. It requires, further, an assessment of local community needs and it requires stimulation of demand for civilian production by the declaration of a backlog of public needs.

Railroad rehabilitation, mass transit construction and manufacture, development of solar energy and other alternative energy sources, low-cost housing and solid waste recycling plants are critical and long-neglected public needs. Government-sponsored manufacture of the industrial goods necessary to meet them is the obvious key to successful economic conversion. These new industries would be located in those plants and communities crippled by defense cutbacks.

The Exploratory Project for Economic Alternatives, of Washington, D.C., recently outlined a program which showed that development of such industries would create more than 3 million new jobs. Literally thousands of these jobs would require the sophisticated skills now demanded by defense production, and more would require semi-skilled and unskilled employment.

Senators McGovern, Mathias and Cranston are now preparing economic conversion legislation. In the House, Representatives Weiss and Dodd are taking the initiative. Working with them to develop this legislation is a coalition of trade unions, peace groups, religious and public-interest organizations.

After thirty years of spiraling arms competition, it is evident that the only true guarantee of national security is a balanced foreign policy and a strong, diversified civilian economy operating at full employment. Defense spending can be cut back. With proper advanced planning, our national security and economic vitality will not be imperiled by that prudent step. On the contrary, they will be enhanced.●

AMBASSADOR MIKE MANSFIELD

● Mr. MUSKIE. Mr. President, our friend and former majority leader, Mike Mansfield, was the subject of a feature story in this morning's editions of the New York Times. I think my colleagues will find in the story that combination of informality, thoughtful analysis and understanding so familiar to all of us who worked with him over the years.

To share the story with my colleagues, I ask that the story by Andrew H. Malcolm in the New York Times of July 17 be printed in the RECORD.

The article follows:

[From the New York Times, July 17, 1978]

MIKE MANSFIELD, THE ENVOY, IS A WEARY BUT HAPPY MAN

(By Andrew H. Malcolm)

TOKYO, July 15.—Mike Mansfield, once a miner, is pleased to have left the wild winters of Montana behind. Mike Mansfield, once a marine, is glad to be living in the region where he served 57 years ago. Mike Mansfield, once the Senate majority leader, is delighted to be away from Washington. After his first anniversary as a diplomat, Ambassador Mike Mansfield is at ease in his latest profession.

"I don't miss Washington," said the 75-year-old native of New York City who has also been a sailor, a soldier, a mining engineer, a professor and a member of the House. "I don't miss Congress. I don't miss the problems. I'm happy."

He is making his mark, quietly and in typically understated fashion, as one of the most influential and effective post-war American representatives here.

As an observer of his homeland from abroad, the child runaway who became the confidant of the last five Democratic Presidents is concerned over a number of things: young prima donnas in Congress, increasingly powerful lobbies, American preoccupations with Europe and misconceptions of Asia, and the potential for serious misunderstandings between the non-Communist world's largest economic powers—Japan and the United States.

IRRESISTIBLE PRESIDENTIAL CALL

Then there is the health of his wife, Maureen, 73, who is recovering from a heart attack. There is that Florida Gulf Coast beach they could be strolling every morning in a retirement cut short last year after only 10 weeks. "I really enjoyed those weeks," Mr. Mansfield recalled in an interview. "We walked a lot, slept a little bit in the afternoon, did a lot of reading, some eating and had a chance to do some thinking for the first time in many years." But, he went on, he could not resist President Carter's offer of a job in Asia, an area that has fascinated him since he watched Japanese women load coal in Nagasaki when his troopship called there en route to China in 1921.

Mr. Mansfield's contagious casualness sometimes seems restrained—momentarily—by the

traditions and formalities of diplomatic life in this traditional and formal land. When the Mansfields went for a walk not long ago, they got only 100 yards before being surrounded by protective guards. A squad of servants keeps Mrs. Mansfield from concocting her famous hamburgers and vegetable soup.

But Mr. Mansfield can still continue a learned discourse on Chinese history while raising his hands in mock surrender when he spies a youngster approaching with a toy pistol. In his office, atop the modern ninestory embassy, his table is littered with rural Montana newspapers and he insists on making his guests' coffee himself.

He has startled local social lions by turning down invitations, and people at the few parties he does attend may be even more startled to see the Mansfields arrive promptly and depart five minutes later. "I think people appreciate when you just show up," Mr. Mansfield explained, his ubiquitous pipe in hand. "I'm the greatest party inner-and-outer that Tokyo has ever seen."

TIRING DAYS FOR THE AMBASSADOR

The fact is that Mr. Mansfield, who works from 7:30 A.M. until 4:30 P.M., is tired by late afternoon these days and schedules his heaviest tasks for the mornings. His wife, who at doctors orders quit smoking, at least briefly, has curtailed her schedule and must spend an hour a day doing rythmic walking exercises around the pond at the embassy residence to regain her strength. Nonetheless, Mr. Mansfield denies that he has decided to leave.

At his sometimes caustic urging, staff meetings that once rambled on are clipped to a minimum. Though his talk can be blunt, the Japanese respect his frankness, his direct access to President Carter and his age and experience and insight into the baffling world of American politics.

The Ambassador's rare interviews and frequent conversations are laced with understanding words about the vulnerability of this crowded, resource-poor nation. Japan, with 114 million people, is 3,000 square miles smaller than his home state, which has 750,000 inhabitants.

"Many Americans think that Japan is Japan Incorporated, and Fukuda just has to press a button and he can get things done," he remarked, referring to the Prime Minister. "It's not a true picture of the Japanese economic system."

He concedes that Japan will be unable to lower its current-account trade surplus this year to anywhere near $6 billion, as it promised during talks with American officials in January, but, he maintains, Mr. Fukuda is most serious about spurring an economic growth rate of 7 percent, as promised. Mr. Mansfield noted that the Carter Administration did not deliver on its January pledge to forge a national energy package within 90 days.

JAPANESE TERMED ACCOMMODATING

Moreover, Mr. Mansfield said, Japan has been far more accommodating to and cooperative with the United States on trade and other issues than have such nations as West Germany. Last year, he said, Japan dispatched officials to Washington to head off trouble over steel exports. "But we had no steel policy," he went on, "and the situation got out of hand and the President was forced to step in. But Western Europe and other countries were dumping far more steel into the U.S. than Japan was. But you never heard them mentioned."

Mr. Mansfield, preaching patience, said: "Americans are impetuous. They want things done yesterday. The Japanese, as all Orientals, are more patient." Ingrained insularity, antiquated attitudes and cumbersome distribution systems cannot be changed overnight, he added.

He cited substantial percentage increases in some agricultural imports as proof of progress. "The door is opening; the most difficult steps have been taken," said the consummate compromiser who led the Senate for 16 years. "What I think we ought to do is not shove that door but nudge it all the time, so with the passage of time we can add on to what we've achieved."

Profitable long-term business opportunities are available in Asia for Americans, who must become "more export-oriented and less self-satisfied," the Ambassador said. Last year, he said, the return on American overseas investment was 13 percent worldwide and 16 percent in Asia, where the two-way trade with the United States now exceeds American trade with Western Europe.

Asia is "the area of the future," he said, adding: "I think the Administration pays too much attention to Europe, like every Administration before it. But that is changing now."●

ADDRESS BY SENATOR BARTLETT BEFORE AVIATION WEEK AND SPACE TECHNOLOGY CONFERENCE

● Mr. GOLDWATER. Mr. President, the problems of NATO have long been the subject of intense and expert study by my colleague Senator BARTLETT of Oklahoma. You will remember that in 1977 Senator BARTLETT, together with Senator NUNN of Georgia, performed a distinct service to this body when he reported on the subject of "NATO and the New Soviet Threat." At that time, the challenge before the alliance was to adjust to the loss of American strategic nuclear superiority and to structure its defense for an era of strategic nuclear parity with the forces of the Warsaw Pact.

Today, Mr. President, we are indebted to Senator BARTLETT for an extremely important updating of that earlier report. As he sees it, the NATO alliance may face a far more difficult challenge in the years ahead—an era of American strategic nuclear inferiority, beginning perhaps in the mid-1980's.

Mr. President, because of its extreme importance, I ask to have printed in the RECORD Senator BARTLETT's recent address before the Aviation Week and Space Technology Conference in Brussels, Belgium.

The address follows:

ADDRESS BY SENATOR DEWEY F. BARTLETT

NEW DIRECTIONS FOR NATO

In the winter of 1976, Senator Sam Nunn of Georgia and I came here to NATO, to examine the strength of the world's great alliance of democracies. We examined equipment and depots. We walked along potential battlefields. We talked with airmen and sailors and soldiers in the field. We talked to political, military, and business leaders from throughout the alliance, many of whom are in this room today. Although we received many different answers to the question, "What is to be done?", we found widespread agreement that there was a new Soviet threat to NATO. This we reported to the Senate Armed Services Committee:

"Soviet conventional forces in Europe have undergone significant expansion during the past decade and are now being qualitatively improved. Against a background of strategic nuclear parity with the United States and substantial advances in their tactical nuclear capability, the Soviets have provided their non-nuclear forces deployed opposite West Germany an ability to initiate a potentially devastating invasion of Europe with as little as a few days' warning. This is evident in a growing emphasis upon firepower and readiness of ground forces and in the dramatic transformation of Soviet tactical aviation from a defensive force into a hard-hitting offensive air armada of extended reach."

In our report to the Senate Armed Services Committee, Senator Nunn and I identified important military tasks now before the alliance which must be addressed. Some progress has been made, but much remains to be done by all members of the alliance, including the United States.

First, we urged the United States Department of Defense to give up its casual and self-serving assumption that three weeks warning would precede any Soviet attack, thus permitting a lengthy NATO mobilization. A Soviet blitzkrieg, unreinforced from the USSR prior to hostilities, could come with little or no warning, and the resulting war might be incredibly intense but of short duration.

This recommendation attracted so much attention that many people thought it was our only recommendation. Certainly, it is fundamental. Within the alliance, however, military leaders disagree on how short such a short war might be. Unfortunately, some members estimate their war reserve needs on the assumption that it will be a very short war indeed. Preparation for a short war should be based on analysis of the Soviet threat, not on a need to reduce defense budgets, and it should not preclude preparation for a long war.

We also recommended a redeployment of forces further to the east and to the north. This difficult task requires forbearance from the population of West Germany, but it would greatly enhance NATO's conventional deterrent.

NATO also needs a quantum jump in deployed firepower, and it needs it now. The West must develop new weapons technologies, both for precision guided weapons and area weapons, and it must maintain its qualitative lead over the Soviet Union. Today, however, we must place equal emphasis on greater numbers because of qualitative improvements in the Warsaw Pact Forces.

Improving the readiness of U.S. and Allied Forces is perhaps the most difficult of our recommendations to fulfill. In peacetime, readiness is difficult to maintain and difficult to measure. There exists throughout NATO a "peacetime garrison mentality" which links readiness to war and assumes war will come only after sufficient warning, but there could be no warning.

Nothing is more disturbing than to be briefed on current war plans which could not possibly be implemented because of long term deficiencies in readiness. Today, our prepositioned materiel stocks (POMCUS) are nearly full. Two years ago, reinforcements arriving in NATO to use these stocks would have found themselves unarmed. Senator Nunn, Congressman Stratton, and I have introduced legislation designed to protect POMCUS and War Reserve Stocks needed in Western Europe.

NATO's air defenses must be transformed. Despite vast improvements in the quality of Soviet tactical air forces, western aviation technology remains superior. However, we have been smug. The air defense of Western Europe still suffers from all of the difficulties one would expect in integrating the air force, navy, and army air defense forces of some 14 nations. And again, I believe that many have underestimated the intensity of future air combat.

Improvements in command, control, and communications are expensive and require

long lead time for their development and implementation. Nevertheless, they are vital to conducting mobile warfare on the modern battlefield. More important, however, is the role modern electronics plays in preventing surprise attack and increasing warning time. Here, let me simply restate my belief that establishment of a NATO Airborne Warning and Control System (AWACS), currently up in the air, to make a pun, is the most important single procurement step that the Alliance can take.

Improvements in strategic airlift, for geographical reasons, is largely in the hands of the United States. I assure you that we are working hard to enhance our ability to bring reinforcements across the Atlantic. We are extending the life of the C–5A, lengthening the C–141, building the Advanced Tanker Cargo aircraft (ATCA) and modifying commercial wide-bodied jets. These programs are not completely adequate and, I am not optimistic that we will establish effective programs to improve our theater airlift resources.

Implementation of our final recommendation will certainly be controversial. NATO must increase interoperability and standardization. The need for greater interoperability is widely understood, but the economic, military, and political advantages of standardization are more difficult to comprehend, especially when they are difficult to achieve and easy to ignore. I strongly believe, however, as does a clear majority of the Senate Armed Services Committee, that NATO must increase standardization. And to us, that means a more equitable "two way street."

Complete standardization is neither possible nor desirable. Nevertheless, NATO should reverse the present trend toward destandardization and move back toward a more optimal level of common equipment based upon the needs of the Alliance. Many different roads to standardization will be taken: Direct purchase, competitive research and development, cooperative research and development, and also co-production. Each will have a different economic impact on the Alliance and on each member of the Alliance. In my opinion, however, standardization will be far easier once individual American corporations routinely share in projects from the beginning with one or more of their European counterparts. Clearly, the development of these transatlantic consortia, and competition between them, has already begun.

It should be recognized that by demonstrating the ability of the Alliance to cooperate, and to increase the number and quality of the weapons it fields, standardization works to increase the deterrent effect of the Alliance. I hope everyone in this room understands that the quest for greater standardization is a test of the cohesion of the Alliance. I, personally, am fully committed to that goal.

Inadequate conventional defenses and political fragmentation are not new to NATO, but they have become a luxury we can no longer afford.

Our present course was charted to guide the Alliance safely through an era of American strategic nuclear parity. Since Senator Nunn and I issued our report in 1976 however, some new and ominous warning signs have been coming into view.

As we consider future directions for NATO, we cannot ignore these warning signs. For they suggest that a far more treacherous path may lie ahead—an era of American strategic nuclear inferiority, not even parity, beginning perhaps in the mid 1980s.

This growing perception of future U.S. strategic weakness calls into question America's nuclear umbrella for its allies and undermines the linkage between U.S. strategic nuclear forces and deterrence in Europe. The entire world is aware of the vulnerability of the American Minuteman ICBM force which will occur in the early to mid-1980's unless sufficient crash programs are undertaken immediately. Many are aware that during the same period, the number of U.S. ballistic missile submarines deployed will probably decline as Polaris submarines are retired and Trident submarines delayed. And no one doubts that America's manned bomber forces of lumbering B–52s will have great difficulty penetrating the massive modern Soviet air defenses of the eighties. Assurances that American Air Launched Cruise Missiles can compensate for nearly all of these deficiencies in the American Triad can hardly be reassuring when the United States accepts restrictions at SALT on this and other new weapons needed to maintain the strategic and theater military balances.

Despite President Carter's recent statement that he would use "all the forces necessary" in the event of an attack on Western Europe, the contribution of America's strategic nuclear forces to deterrence in Europe remains greatly reduced for the mid-eighties. Actual "strategic inferiority" in the mid-eighties would permit the Warsaw Pact, with its powerful ground forces and geographical advantages, to place a devastating strain on the Alliance and on individual members.

The U.S. has been guided by the notion that strategic arms must be taken out of the arena of East-West competition. We say that we are willing to pay the price of that decision. We claim that we will maintain our strategic forces, although we have canceled the B–1, delayed the MX mobile missile, and may subject the most important innovation in our strategic and theater forces, the cruise missile, to restrictions in SALT. We claim that we will enhance our theater forces and strengthen our alliances although we have delayed programs essential to NATO, such as the enhanced radiation warhead.

In the last few years, European voices have raised concerns quietly, perhaps too quietly, that the United States, in and effort to negotiate strategic parity from a position of declining strength, might take concessions at the Strategic Arms Limitations Talks (SALT) which would undermine the North Atlantic Alliance.

With respect to non-circumvention/non-transfer proposals for the SALT II Protocol, some in NATO were alarmed by Soviet efforts to conclude a formal agreement with the United States to shut off Western Europe from important new defense technologies. Others are concerned about restrictions on Ground Launched Cruise Missiles (GLCM) and Sea Launched Cruise Missiles (SLCM) because these are promising new technologies for countering Soviet conventional and nuclear threats to Western Europe. These theater cruise missiles, similar in function to the Forward Based Systems (FBS) which have been traditionally excluded from strategic arms negotiations, have a range far less than that of Soviet systems such as SS–4 and SS–5 Medium and Intermediate Range Ballistic Missiles, and the mobile SS–20 intermediate range ballistic missile which are not limited by the Protocol. In fact, with only one warhead, the SS–20 can reach the United States. Cruise Missile ranges are also far less than those of the Backfire bomber, and some fear that the Protocol's 600 KM restriction on SLCMs and GLCMs and the 2500 kilometer restriction on ALCMs will add support to the Soviet definition of strategic systems; namely those weapons which can hit the homelands of the superpowers from wherever they are based. This definition contrasts with the American approach which has focused on weapons with a generally intercontinental range.

The danger in accepting this Soviet definition of "strategic" is that it calls into question the legitimacy of U.S. nuclear (and non-nuclear) military forces deployed on the periphery of the Soviet Union in order to aid our allies and protect our interests. Under this Soviet definition of strategic, Soviet weapons designed to attack Western Europe appear legitimate while U.S. forces designed to defend NATO appear illegitimate. This notion, should it become widespread, would provide the Soviet Union with considerable geopolitical leverage in its efforts to divide the United States from its allies and to pry the United States away from the rimland of the Soviet Union.

The relative decline in America's strategic forces since SALT I has already permitted the Soviet Union to place the tip of the wedge between the United States and Western Europe. We must act quickly and decisively to ensure that they do not expand the crack.

For this reason, I believe that the United States and Great Britain must be cautious in their approach to a cessation of nuclear weapons testing. A Comprehensive Test Ban Treaty should be concluded only after meaningful agreements at SALT and MBFR have been achieved and firm programs to guarantee future nuclear parity are established. NATO's nuclear nations must know what programs they will need, now and in the future, to maintain both strategic and tactical nuclear parity before they preclude the development of new weapons. They must not risk destabilizing the nuclear balance in order to placate "Ban the Bomb" enthusiasts. Any test ban must be verifiable and not endanger the reliability of weapons in the nuclear stockpile. With its 150 kiloton limit, the existing 1974 threshold Test Ban Treaty, sidelined in the Senate Foreign Affairs Committee, meets those standards and should be ratified by the Senate.

The United States and its nuclear NATO allies must also modernize their tactical nuclear weapons in the near future. New weapons which bring greater military effectiveness along with reduced civilian casualties should be introduced. These weapons will also be safer and more secure to deploy. This month the Senate Armed Services Committee approved production of nuclear weapons which can be converted to Enhanced Radiation warheads by the addition of separate components whose production was also approved. I support this step, although I personally believe that we should deploy immediately Enhanced Radiation weapons in Europe.

NATO must also consider deployment of new tactical systems, perhaps cruise missiles or new theater ballistic missiles, which can counter the Soviet medium and intermediate range ballistic missiles such as the SS–4, SS–5, and the new mobile SS–20. In my view, the ability of one SS–20 with its MIRVed warheads to destroy cities like Paris, Rome, Brussels, and London, makes them as "strategic" to the United States as are the massive Soviet SS–18 ICBMs. The Soviet Union is expected to deploy several hundred SS–20s, but may deploy far more than that. There are no numerical limits on the SS–20, or the SS–4 and SS–5 in SALT.

Thus, NATO is expanding its conventional military capability today to counter a new Soviet threat made more ominous by the loss of American strategic superiority. But what would NATO do if, in the 1980s, the United States lost nuclear parity? Would we take up the buren of ever greater defense expenditures or would we bow to the incredible political, economic, and military pressures created and accept a disadvantageous accommodation? I do not know the answer to that question, but I believe that we must and can avoid that dire situation. I believe that SALT II or no SALT II, the United States should at least begin a multi-air point (MAP) basing system and a new large mobile missile (MX) with appropriate MIRVed warheads.

The Alliance must not leave itself vulnerable to coercion of any kind, particularly as it seeks to persuade the Warsaw Pact to give up face to face confrontation. At SALT, the United States should accept only a true strategic equality which takes into account our interests and allies overseas. At the Comprehensive Test Ban Talks, Great Britain and the United States must insure that the closed, totalitarian society of the Soviet Union cannot upset the strategic balance by conducting secret testing. We should not end underground nuclear testing until we are certain that we can maintain nuclear parity, now and in the future.

At MBFR, NATO must insist that the Soviet Union give an accurate accounting of its forces in Eastern Europe. However, NATO should not settle for cosmetic reductions at Vienna which, by themselves, cannot reduce the risk of an attack with little warning on Western Europe.

With or without further arms control agreements, the United States and its European allies must have vigorous programs, not simply options, which will maintain both nuclear and conventional deterrence. A NATO, united and strong, will not hinder East-West cooperation, it will compel cooperation. A divided Alliance, however, will only lead to appeasement.

In summary, the challenge before NATO is not in deciding what directions the new alliance shall take, but in understanding that the decision has been made for us, by the passage of American nulcear strategic superiority and the prospect of future strategic inferiority.

The new Soviet threat we acknowledged in 1976 will continue to grow more menacing unless it is countered by a strong united, adequately prepared, and firmly committed, NATO alliance. I am confident that the United States will do its part, including adopting the strategic nuclear programs which will assure parity with the Soviets and I trust that our NATO allies will likewise fulfill their obligation.

Earlier I referred to NATO as the world's great alliance of democracies. With the measures I have outlined I believe NATO can and will be more than just democracy's alliance; it will be democracy's assurance for the future.●

THE RAIL CRISIS

● Mr. McGOVERN. Mr. President, our Nation is rapidly approaching a crossroads regarding the formulation of fundamental policies and methods which shape the directions of rail transportation. It has become all too obvious that we cannot continue to regulate this industry as we have in the past. Traditionally, Congress and the administration have responded to railroad crises with inadequate, inconsistent, emergency stopgap measures. Government has been asked to resolve in a matter of weeks, pervasive problems that have been building for years. This band-aid approach to major comprehensive needs has done little, if anything, to check the advance of the railroads' ills, or to efficient and reliable rail transport in our Nation.

The rail industry continues to decline in most parts of the country as shippers take their business to more reliable modes. In light of the fact that this industry is potentially our most cost-efficient and energy-efficient transportation mode, we are faced with the dilemma that if Congress and the industry do not act quickly to foster substantial change in rail operations and regulation we will soon experience the demise of any significant railroading in this country.

These circumstances present Congress and the administration with fundamental policy choices. Either Government seeks to promote the revitalization of an independent railroad industry within the private, competitive enterprise sector, or it concedes that the Nation's transportation needs cannot be met without increased public participation in the maintenance and operation of the rail system.

Mr. President, I ask that an article by Lawrence Kaufman, from the July 3, 1978, issue of Business Week, be printed in the RECORD.

The article follows:

THE RAILROADS' VICIOUS CYCLE—AND HOW TO BREAK IT

Five years ago the nation's major railroads hauled more than 1.5 billion tons of freight. Ever since, they have been trying to get back to that record level. But now it is possible that the industry could not handle the traffic even if it were available.

Although the railroads are operating at less-than-record levels, there are continuing shortages of freight cars. The cars spend an increasing amount of time getting to their destinations because of deteriorating track. The obvious answer is for the railroads to add cars. But it is equally obvious that many cannot generate enough earnings to do so.

Because of this, and because of poor utilization of existing rolling stock, prospects are dim that the railroads will build additional revenues from traffic growth. This means that they will be pressing for higher rates. Average freight charges have increased more than two-thirds since 1966, and just two weeks ago the Interstate Commerce Commission authorized increases averaging 3.7 percent, the third general rate increase in the past 18 months.

Says John D. Mitros, vice president of the Chicago, Rock Island & Pacific RR Co., "Unless the railroads and their unions start serving the shippers, the public is likely to relegate them to an insignificant role in transportation."

CHANGING TIMES

There are several reasons for the trouble the industry is having serving its customers. Since the end of World War II, railroads have been physically deteriorating. Moreover, they have 50 percent fewer employees than they did 20 years ago. Along with a shrinking car fleet, these changed circumstances mean that the railroads are straining more to produce less.

The most obvious problem is the condition of railroad track and roadbed. Because the industry's return on investment has never been more than 4 percent in the past 20 years, its capital is extremely scarce and cost-cutting has become a way of life for rail managements.

For the most part, main lines are still in good shape, and once trains get on the road, they generally move as fast as ever. But branch lines and terminals have deteriorated badly. Many such lines are restricted to speed limits of 20 mph, and some even to 10 mph. It now takes longer to move trains to the terminals, and once there they move with glacial slowness through the switching process.

Early this month, chief executives of major railroads agreed to order a 10-mph reduction in the speed of freight trains that include tank cars carrying certain hazardous materials. The order affects only about 5 percent of all trains, but the speed cut means that these trains now take 16 to 25 percent longer to make their runs.

Archaic work rules, which prevent railroads from achieving real productivity increases, are no help, either. Rail employees are among the highest-paid industrial workers in the country, and because their productivity has not improved, companies have compensated by automating as much as possible and reducing payrolls.

In a further effort to control costs, railroads have gone to longer trains and bigger cars in those trains. Thus, when the trains move, they carry more freight than ever before. But when something goes wrong, more freight is delayed.

In addition, there are fewer cars and locomotives available than there used to be. In just the last decade, the national fleet of freight cars has dropped by more than 100,000, to fewer than 1.7 million. Of these, 20% are privately owned (up from 15% a decade ago) and are not available for general use by the railroads.

DISMAL DELINQUENCIES

Service deterioration is a self-perpetuating process. When a car in delayed getting to a terminal from an originating shipper, it now sits in the yard longer because there are fewer trains going over the road, and it takes longer to reach its destination. ICC figures show that the average turnaround time for boxcars increased 50% in 10 years.

Delivery time has become erratic, with delays being measured in days rather than hours. One industry task force studied 35,000 carloads shipped by five large companies and found that only half arrived on time or early, and fully one-fourth were two or more days late.

BULK PREFERENCES

Not all freight is equally sensitive to service. To keep a steady flow of revenues, railroads today are concentrating on serving large, regular shippers of bulk commodities—the producers of coal, minerals, and grain. But this trend can be self-defeating, too, because the slowing and congestion on the rails most severely afflict shippers of packaged goods—which bring railroads higher revenues than they get from hauling bulk commodities.

John H. Hertog, senior vice-president for operations of Burlington Northern Inc., recently told a Senate agriculture subcommittee: ". . . revenue carloading has decreased, which is definitely the result of a reduction in rail physical plant and the diversion of traffic to motor and barge carriers. The declining number of revenue carloads only leads to reduced earnings and, hence, fewer freight-car acquisitions."

To win back the high-value traffic, the railroads have to improve productivity. Up to now all moves toward this—longer trains, larger cars—have been efforts to make the industry's capital work harder. So now the only clear way to break the cycle is to improve railroad labor productivity. That would encourage shorter, more frequent trains, keeping cars from crowding switching terminals. The changes would improve service and squeeze costs, permitting the industry to generate more earnings.●

ANATOLY SCHARANSKY

● Mr. HASKELL. Mr. President, Anatoly Scharansky is Jewish. He should be happily raising his family in Israel. Instead, he has been convicted of espionage and sentenced to 13 years at hard labor. How is this shocking injustice to be explained?

To say that the Soviet Government is cruel, is redundant. The refusal to grant emigration visas to Jews and others seeking to leave Russia and the succession of dissidents' trials, complete with phony

charges, fabricated confessions, mendacious witnesses, hand-picked audiences, and Siberian exile demonstrate the brutal continuity of the October revolution. Soviet repression has not mellowed with age.

While the Russian decision to prosecute Scharansky may appear gratuitous, there is a perverse logic to the Soviet decision. It is tempting to dismiss the actions of the Russian leaders as dementia, but if we are to compete with and prevail over the Soviet system, we must attempt to understand their motivations and reasoning, however outrageous.

By American standards, Scharansky has done nothing extraordinary. He applied to emigrate to Israel and was refused. He organized a small group to monitor Russian compliance with the Helsinki Agreement and communicated his findings to Western news reporters. None of these actions would seem to destine a person for international celebrity or qualify him as an enemy of the state. Yet the Soviet Union, in its infinite idiocy and insecurity, has transmuted Scharansky's actions into espionage and a threat to the entire Soviet nation.

No one questions the military might of the Russian state, and the United States remains determined to counter Soviet adventurism and to defend our allies. But we must avoid misinterpreting the Scharansky trial as a demonstration of Soviet might. It is not surprising that the Soviet Union, mobilizing the full force of the state and exploiting the traditional xenophobia of the Soviet people, should attempt to crush a courageous, but small group of dissidents. It is significant, however, that a few hundred persons armed only with typewriters and a commitment to the truth should require this attention.

The trial, rather than indicating Soviet strength, reveals the anxiety of Russian leaders and the inevitable toll which must be extracted to maintain the rule of fear and intimidation. Those features of American society—freedom to emigrate, criticize, organize, and publish—which strengthen our democracy terrify Soviet leaders.

Anatoly Scharansky does pose a threat to Russian society, not on the basis of the malicious charges conjured up by Soviet authorities, but because the Russian Government cannot both serve its people and survive. Anatoly Scharansky, like thousands of Russians before him, is a victim of having perceived the truth and expressed it.

America has responded to the Scharansky trial and those of other Soviet dissidents and refuseniks with shock and outrage. The brutal nature of Russian totalitarianism has never been more obvious, and demands for a United States' response have been sounded across the land. As one who has been involved in protesting Scharansky's treatment by Soviet authorities since his arrest a year ago, I believe that unequivocal condemnation and harsh reciprocal gestures are in order. But the United States must judiciously choose those actions which convey our disapproval and which aid and encourage those brave individuals who have challenged the repressive policies of the Soviet state.

We must not, in our anger, adopt measures inimical to our national interests. While Anatoly Scharansky was accused, the Soviet Union is on trial before the conscience of the world. When a decent citizen is sentenced to hard labor and exile for investigating whether his nation is living up to its international commitments, how many nations or individuals are going to emulate the so-called "vanguard of revolution"? Even the Communist Parties of Western Europe have felt compelled to criticize the Soviet handling of the Scharansky case. No amount of Russian propaganda has been able to mask the true meaning of the trial.

Anatoly Scharansky did not seek martyrdom or worldwide notoriety; the barbarity of Russian justice saw to that. We must see that his bravery is not in vain.

The United States has numerous trade, cultural and scientific relations with the U.S.S.R. We should review every aspect of our relations with the Soviet Union and eliminate those which are determined to be exclusively or predominantly beneficial to the Russians. In addition, we should take actions which appropriately penalize the Soviet Government for its illegitimate prosecution of Scharansky. Finally, our decisions must be measured, reasonable, and contributory to the best interests of the nation and mankind.

The conviction of Anatoly Scharansky reveals the stark differences between the Soviet and American systems. The United States must respond in a way which demonstrates to the world our commitment to freedom and our continuing concern for all humanity.●

THE ARMS EMBARGO AGAINST TURKEY

● Mr. SARBANES. Mr. President, the Senate will soon take up S. 3075, the international security assistance authorization bill. It is expected that the administration's proposal to end the limited arms embargo on Turkey will be offered on the floor as an amendment to the bill. This proposal was rejected by the Foreign Relations Committee (on an 8 to 4 vote) during the markup of this legislation.

I am placing in the RECORD a number of editorials which carefully discuss and sharply criticize the administration's proposal to end the limited arms embargo on Turkey. I urge members of the Senate to review these editorials which make the following points, among others, very effectively:

Turkey's recent proposals fall far short of the minimum necessary for the beginning of good faith negotiations. In fact they do not provide a formula for negotiation but instead constitute a plan for partition of the island.

A very important matter of principle is at stake: American law provides that U.S. military aid must not be used for aggressive purposes. To lift completely the embargo without Turkey having taken any substantial concrete steps to remedy its aggression on Cyprus would condone an illegal use of American arms.

Until the Cyprus problem is solved, there cannot be a full restoration of the NATO alliance. Ignoring Cyprus—the administration's approach—will jeopardize the stability of the democratic Greek government and prevent Greece from resuming full participation in NATO.

As these editorials cogently point out, the vote on maintaining the limited arms embargo is an important vote on the basic principles of our foreign policy.

The editorials follow:

[From the St. Louis Post-Dispatch, May 16, 1978]

FIRST SOME GIVE

The Senate Foreign Relations Committee has dealt a serious and perhaps even fatal blow to the administration's misguided drive to end the three-year-old arms embargo against Turkey; which in our view is all to the good. The embargo was imposed in the first place because Turkish use of U.S. arms in its invasion and continued occupation of 40 percent of Cyprus violated an agreement under which Turkey acquired the weapons. And as Sen. Claiborne Pell of Rhode Island contended, there is no reason to lift the embargo until substantial progress has been made on eliminating the conditions that precipitated it, a situation that has yet to materialize.

But rather than offer concessions on Cyprus, the Turks have threatened to reduce their ties to the North Atlantic Treaty Organization, which of course has upset the Pentagon; and they have threatened to make permanent the shutdown of U.S. military and intelligence outposts ordered in retaliation for the embargo, which may be of even greater concern to the Washington military establishment. Those are important considerations. But it is far more important, we think, not to condone an unacceptable—and indeed, illegal—use of U.S. arms by a client state against an innocent third party.

[From the New York Times, Mar. 31, 1978]

THE WAY BACK FROM CYPRUS

Since 1974, when Turkish troops, using American weapons, occupied two-fifths of the island of Cyprus, relations between Ankara and Washington have been sour. Congress has limited the flow of additional arms until Turkey pulled back its forces; successive Turkish Governments have refused to define their conditions for withdrawal under such pressure. Both the United States and Turkey will end up losers if no way can be found to break out of this bind. Turkey could point the way by revealing its proposals for a Cyprus settlement.

Turkey's invasion was scarcely unprovoked. The 18 percent Turkish minority on Cyprus had never been well treated by the Greek majority. And in July 1974, a coup brought to power a hard-line Greek-Cypriot faction that seemed likely to take even less account of Turkish-Cypriot rights. Although the insurgent regime lasted only a few days, that was long enough to precipitate Ankara's invasion.

Ankara has reacted to the limit on arms sales—$175 million this year—by sharply restricting American use of NATO facilities in Turkey. Under steady pressure from Greek-Americans, Congress has remained firm. But the Ford Administration strongly deplored the Congressional restrictions as harmful to NATO—and thus caused the Greek Government to curtail its military cooperation with NATO. The Carter Administration has tried to straddle the issue. It has continued discussions for a defense agree-

ment that would substantially increase American military aid to Turkey. But it has implied that it would not conclude the agreement until there had been progress on Cyprus. Early this month, Secretary of State Vance was explicit: Washington would not move, he told Congress, until it had examined proposals for Cyrus promised by Turkey's new Prime Minister, Bulent Ecevit.

More intolerable "linkage," responded Mr. Ecevit—and this time from the Administration, not merely from Congress. He countered with reverse linkage: no Cyprus proposals until the heat is off. That message, and subsequent hints that Turkey might withdraw its half-million men from NATO's command and even sign a nonaggression pact with Moscow, caused a high-level American delegation to hurry to Ankara this week to attempt to set things right.

That won't be easy. Strong sentiment continues in Congress that Turkish concessions are necessary before normal military relations can resume. That sentiment is justified. Turkey broke United States law and violated the spirit of its alliance when it used American weapons to expel Greek Cypriots from their homes and farms. Having made its point. Ankara should now pull back. Greek Cypriots—and Greece—realize there can be no return to the old arrangements on Cyprus. They acknowledge that Turkish Cypriots should enjoy nearly complete autonomy, including a territorial zone of their own, but one proportionate to the size of the Turkish-Cypriot population.

There is every reason to believe that both Prime Minister Ecevit and the Turkish military leadership would like to pull back. Because the Turkish occupation force is the central issue in contention, the first moves must come from Ankara. Since the issue continues to be the most explosive one in Turkey's politics, such a move would be painful. But Mr. Ecevit is in a strong parlimentary position; unlike his precedessor, he does not depend upon ultranationalists for his majority.

Turkish dissociation from NATO would be costly to the United States. But it is the Turks who should calculate the benefits of full participation in NATO; it is they who face the risks of weakened ties to the West. Meanwhile, those who would support NATO by lifting the restrictions on arms to Turkey should remember that Cyprus is just as emotion-wrenching an issue in Greece. It would not strengthen the alliance to appease Turkey at the expense of turmoil in Greece.

[From the New York Times, April 9, 1978]

TAKING A CHANCE ON TURKEY

Secretary of State Vance told Congress last Thursday that if only it would lift its restrictions on shipments of American arms to Turkey, the Turks and Turkish Cypriots would put forward new proposals for a Cyprus settlement. He may be right. But the issue is not whether there will be new proposals. Rather, it is whether the proposals will move Turkish troops back from the 40 percent of Cyprus they now occupy to a zone more nearly proportional to the 18 percent of the island's population that is Turkish. Secretary Vance is thus asking Corgress to join him in betting that once the American restrictions are removed, the Turkish Government of Prime Minister Ecevit will be able to make large concessions that could not be made while the limits remain.

The bet may be a bad one. In Turkey's politics, no time is a good time for conceding territory to Greek Cypriots. And Mr. Ecevit's position seems less strong now than it did when he returned to office last Jan. 1. In Parliament he has been able to govern without the votes of ultranationalists. But in the streets extremists continue their campaigns of violent intimidation that have taken more than 100 lives this year. There is no reason to think that Mr. Ecevit himself does not want to be generous so as to remove the Cyprus problem from his crowded agenda. But in the prevailing political climate, concessions that are even remotely acceptable to the Greek Cypriots may be impossible. And once American pressure is removed, Mr. Ecevit will have even less reason to take political risks.

Secretary Vance emphasized the strains that the limits on arms shipments impose on Turkish politics and Turkey's links to NATO. But he glossed over the comparable strains on Greek politics, and Greece's links to NATO, if removal of the restrictions is not accompanied by a satisfactory outcome on Cyprus. Greece is no less important to NATO's southern flank than Turkey. Any bargain that "saves" Turkey for the alliance at the cost of losing Greece would be hollow indeed. And if, as is likely, Congress should refuse to ease the limits on Turkey, the Administration's present approach risks alienating both countries.

Turkey's spokesmen decry what they see as an American tilt toward Greece, and they say that they only want Americans to be "even-handed." Yet in the present Cyprus situation, removing the arms limits would amount to a tilt toward Turkey. So long as Ankara's troops remain where they are on the island, Congress should retain the only leverage it has.

[From the Kansas City Star, May 5, 1978]

THE CASE STILL UNMADE ON U.S. ARMS FOR TURKS

The Carter administration will hardly begin breaking out the champagne after its one-vote victory in the House International Relations Committee on the question of lifting the U.S. arms embargo against Turkey. The White House and State Department argue that continuing the embargo contributes nothing to a solution of the Cyprus situation and, instead, only damages this country's and the West's security interests. By a vote of 18 to 17, the key House committee agreed.

But that hard-won triumph is only the first of many that must be achieved if the embargo suspension is finally to be squeezed past strong and bitterly unconvinced factions in both chambers of the Congress. The administration's case has not yet been adequately or persuasively made.

We are told that the embargo's end will actually increase, not lessen, U.S. leverage on the Ankara regime. And that it will assure this country's armed forces of continued use of military bases in Turkey. On the other hand, we are warned, to maintain the ban will so offend the Turks that they might turn to the Soviet Union for patronage and military favors, imperiling NATO's southeastern flank and risking the fall of the West. Sheer madness, say the opponents of repeal. So the three-year argument drones on and everyone, it seems, is in absolute possession of the truth.

The only genuine facts are that the Turks used U.S.-supplied arms in an aggression and a continuing occupation in breach of agreement and of U.S. law, that the embargo imposed in the hope of persuading them to moderate their behavior has failed and that injustice still prevails on occupied Cyprus. The rest is arguable. But if it is to make its case successfully, the administration will need to do better than blandly pronounce the Turks indispensable to the defense of the West. Many Americans, quite frankly, just do not believe that is true. And considering the chronic instability and irresponsibility in Ankara, they would be rightly appalled and alarmed if they did believe it.

A useful ally Turkey has been, and might be again, however. The issue is whether that utility is sufficient to require the U.S. to reverse its policy, without results and in the face of threats, on a matter of clear principle and clearer law.

[From the Guardian, April 17, 1978]

TOO FRAIL A BASE TO BUILD ON

It is almost impossible to judge at this stage whether the latest Turkish proposals for an end to the Cyprus crisis provide a viable basis for a new round of peace talks. For the document handed to Dr. Kurt Waldheim last week—more than two months later than originally promised—did not contain Ankara's "concrete proposals." Instead it contained a summary of those proposals. So Dr. Waldheim is off to Nicosia tomorrow bearing merely a much-leaked summary, a promise from Turkey that the full proposals will be made available to the Greek Cypriot government if talks are resumed (but not before) and broad hints that the (unknown) proposals are not the last word anyway. Turkey is prepared to give more ground (literally and figuratively) once negotiations are under way. No wonder Dr. Waldheim has so far failed to commend the Turkish package publicly and Mr. Nicos Rolandis, the Cypriot Foreign Minister, has been so sniffy about it. If the Turks really wish to lead the Greek Cypriots back to the bargaining table they should, as they promised, give them, privately and through Dr. Waldheim, the full text of their opening offer. A blank (or even blankish) sheet of paper does not constitute an adequate agenda for complex negotiations in which neither side fully trusts the integrity of the other.

The initiative lies with the Turks for two reasons. First because the Greek Cypriots tabled their peace plan a year ago and secondly because it is the Turks who are in occupation of 40 percent of the island, in defiance of a string of UN resolutions. The Turkish occupation was launched almost four years ago in response to a right wing Greek Cypriot coup backed by the military junta then in control in Athens. It was, claimed Turkey, a "police action" by a guarantor power under the Zurich agreements. Its purpose was to defend the constitutional and territorial integrity of Cyprus and protect the lives of the Turkish minority who had undoubtedly suffered since Independence. Yet, within days of the initial landing, the constitution was restored and the leaders of the coup imprisoned. Next, democratic government was restored in Greece and the threat of annexation vanished. And, although there had been no direct threats to Turkish lives during the fraticidal Greek struggles, UN troops were guarding Turkish villages. But, throughout the summer of 1974 the Turkish army pushed on and on until 40 percent of the island was under Turkish military control and 200,000 Greek Cypriots had been made refugees. Then Turkey announced that the old, unworkable, constitution was dead and that the only solution was a partitioned, federal Cyprus.

Although it meant a total reversal of Greek Cypriot policy Archbishop Makarios accepted the collapse of Zurich and the inevitability of a federal solution. That is what the Greek proposals of April 1977 were all about. Since then the Turks have been dragging their feet, feeding Greek Cypriot fears that their true goal is an "independent" north, strictly segregated from the rest of Cyprus and heavily dependent on mainland Turkey. It is this fear which Turkey must now seek to remove. To do so Turkey must produce realistic proposals for territorial concessions, the right of return or compensation for the refugees who make up more than a third of the Greek population, freedom of movement and a viable federal constitution.

Turkish newspaper leaks of a document summarising proposals which have yet to be tabled and are, in any case, only an initial negotiating position are hardly an adequate

basis for divining long term Turkish objectives. But they are all we have.

To return, as is suggested, only about 7 per cent of the island (instead of 20 per cent which population size would dictate) is unrealistic. Slightly bigger concessions than Turkey apparently contemplates would allow 120,000 Greek refugees (who lived just north of the present partition line) to return to their own homes within the Greek portion of the island. The rest should be allowed to return to the Turkish north and live as a permanent minority if they wish. Otherwise they must be properly bought out of their homes and fields. The choice must be theirs. Both populations should be free to cross the "frontier" for work or pleasure. Yet there is no indication that the choice of return or compensation, and the question of freedom of movement, are contemplated. Finally Dr. Waldheim must be convinced—before he recommends the terms to President Kyprianou—that the federal constitution is a workable one. Another botched-up constitution, followed by another breakdown, would play into the hands of extremists on both sides and guarantee the final and irrevocable partition of that unhappy island.

[From the Guardian, June 5, 1978]

TIME FOR A CYPRUS SETTLEMENT

There is something about the long-running Cyprus tragi-comedy which encourages experienced players to mistime their entrances, muff their lines, and exit on banana skins. Already this year President Carter, Mr. Ecevit of Turkey, President Kyprianou and Dr. Kurt Waldheim have tripped over each other's feet in farcical fashion. As a result the Cyprus problem looks to be more completely deadlocked than it has for some time. Yet this week in New York Dr. Waldheim launches a new round of informal contacts designed to see if a settlement is possible. If his ability to chew Turkish delight and walk at the same time has improved there is a possibility that he will succeed in picking up the pieces he and the other participants so recently spilled on the ground. President Carter appealed to Congress to lift the Turkish arms embargo shortly before the Turks completed their peace proposals. Emboldened, the Turks toughened up those proposals quite unreasonably at the last moment. Distressed by the loss of American support and genuinely horrified by the ruthless nature of the modified Turkish plan, President Kyprianou labelled it unacceptable "in substance and philosophy" and indicated that it would be impossible to amend the plan in any way acceptable to (Greek) Cyprus. Whereupon Dr. Waldheim, who had just welcomed the Turkish plan without studying it or the likely Cypriot reaction to it, backtracked rapidly. His enthusiasm for the plan apparently did not mean the thought it an appropriate basis for negotiation. Which did nothing for his reputation either in Ankara or Nicosia. Final Catch-22: President Carter has discovered (mainly as a result of the hard line taken by Turkey since he proposed the end of the arms embargo) that Congress will almost certainly reject his proposal.

Even so there are signs for hope. At the NATO summit Mr. Ecevit made it clear that there would be no friction with Greece engineered in the Aegean this summer. And, though Turkey will continue to rock the NATO boat, he does not intend to leap overboard. More than that—all Turkish sources now insist that there is massive give in the Turkish position if only the Greeks would agree to negotiate. (Six weeks back there were merely vague nods and winks about possible, marginal, shifts.) The industrial and political unrest in the Turkish sector of Cyprus and the bitter confirmation by Dr. Kutchuk in the opposition press, but the mainland Turkish army has secretly shipped in more than 40,000 illegal and highly unpopular immigrants from the mainland all suggest that Turkish Cypriots would welcome a reasonable settlement and an end to meddling by the 25,000-strong Turkish "peacekeeping force."

Dr. Waldheim's task, with a little help from the Americans, is to get substantial improvements on the public record in advance of talks. Specifically the Turks should offer—as an opening bid—to return at least a quarter of the occupied North to the Greek Cypriots. That would enable perhaps two-thirds of the 180,000 refugees to return to their own homes and fields and still leave the Turks with far more than their fair share of land. Next the Turks' mis-named "federal" proposals (two defence forces with no joint command, two assemblies which do not normally meet jointly, two currencies and two central banks—two mini-states free to negotiate separate international treaties) should be re-jigged to look a lot more like what the rest of the world knows as federalism. It is inevitably going to be a weak federation at first. But there is no reason to build deadlock and dissolution into it from the start. Finally the Turks must make some concession towards (phased?) freedom of movement and compensation or resettlement for the remaining refugees, Turkish as well as Greek. If Dr. Waldheim can get that far the Greek Cypriots would be well advised to swallow their pride and get back to the conference table. Four years is a long time in politics and the Greek Cypriot tragedy is no longer at the top of international compassion tables. Tough as the present mainland Turkish regime is, the next (possibly militarily) could well be tougher. And, with the cold war getting colder, the strategic significance of Turkey looks significantly more strategic than that of Cyprus and Greece combined. One way and another a speedy—but not inherently unworkable—solution to the Cyprus problem is in the interest of all Cypriots, Greek and Turkish alike.

[From the Guardian, June 24, 1978]

MR. CALLAGHAN REDEEMS A CYPRUS DEBT

President Kyprianou of Cyprus must be well pleased with the result of his talks yesterday with the Prime Minister. For Mr. Callaghan has cleared the air about the British attitude to the recent Turkish proposals on the future of Cyprus, and he has done so with greater sympathy than President Kyprianou can have dared to expect. Mr. Callaghan apparently made it quite clear that the British Government does not regard the Turkish plan as an acceptable basis for the resumption of negotiations. Since the Greek Cypriots rejected those proposals as "suicidal" almost two months ago, they have been waiting anxiously for just such a signal from London. Mr. Callaghan also listened with sympathy to the Greek Cypriot suggestion of direct, private and informal talks between President Kyprianou and Prime Minister Ecevit of Turkey (whose troops still occupy 40 percent of the island) in an effort to break the deadlock.

He listened, too, to Greek Cypriot proposals for a total de-militarisation of the island. That would involve the withdrawal of 25,000 mainland Turkish troops and the remaining handful of mainland Greek officers and the total abolition of both the regular (Greek) Cypriot army and the defense forces of the Turkish Cypriot side. In their place would be one, integrated, police force under United Nations "direction and control." It was suggestions such as these that persuaded Mr. Callaghan that the Greek Cypriots genuinely want to find an acceptable solution. They are not merely being stubborn. Hence Mr. Callaghan's promise of more direct British involvement in peace moves, his reaffirmation of the 1960 treaties which ruled out partition and his condemnation of the current Turkish line.

Under considerable pressure from the United States and Britain, Mr. Ecevit has already indicated that there is plenty of give in his federal peace plan. So there should be. Specifically the Turks should offer to give back to the Greek Cypriots far more of the occupied North. (This, in turn would enable most of the Greek Cypriot refugees to return to their own homes yet remain within the Greek sector of the island.) Next the Turks must accept that their "federal" solution (which would leave two mini-states free to negotiate internal treaties, two defence forces with no joint command, two assemblies which would normally not meet together, two currencies and two central banks) sounds more like partition than genuine federation. Perhaps there really is some give in Mr. Ecevit's position. Perhaps—and it is a big perhaps—the Turkish people and the Turkish army would allow concessions on that scale. The trouble is that the Greek Cypriots do not believe it. There is an element of patting the ball back into the Turkish court about President Kyprianou's proposal to meet Mr. Ecevit. But it is better to keep the ball in play than to throw down the racket in disgust. Talking about talks is no substitute for negotiation. But it is preferable to a sullen silence. If Mr. Callaghan can do anything to facilitate any form of contact it will be to his credit. We remain, as Mr. Callaghan himself apparently emphasized yesterday, a guarantor power. In 1974 Mr. Callaghan as Foreign Secretary felt unable to use that authority to defend Cyprus either from the Athens inspired coup or the resulting Turkish occupation. Now could be the time to redeem our pledges to that divided island.

[From the (London) Times, June 1, 1978]

TURKEY, GREECE AND NATO

Many of those participating in the Nato summit will have considered that it had far more serious things to worry about than the smouldering dispute between two Nato members, Greece and Turkey. Unfortunately it is clear that that problem is not going away, and that it has taken up a good deal of the Nato leaders' time and energy, in the corridors of the conference if not in its formal sessions.

To a certain extent Nato is now paying the price for its earlier, short-sighted policy of relying simply on a status quo in the Mediterranean which was inherently unstable; and more especially for Dr. Kissinger's serious miscalculation in 1974, when the Cyprus crisis burst upon him in the midst of the American domestic crisis leading to Mr. Nixon's resignation. During the crucial week of July 15 to 20 in that year Dr. Kissinger, ignoring the advice of many of his subordinates, gave every sign of being disposed to accept the fait accompli of the coup against Archbishop Makarios organized by the Greek junta, apparently discounting the risk of a Turkish counter-intervention. The following month he appeared equally undisturbed by the Turkish fait accompli of occupying more than one third of the island and expelling almost all the Greek Cypriot inhabitants.

The short-term result was the withdrawal of Greece from Nato's military wing. The longer-term result, as the United States Congress has striven, in spite of varying degrees of discouragement from the Administration, to right the wrong done to the Greek Cypriots by imposing limited sanctions on Turkey, has been a growing estrangement between Turkey and the United States, with possibly alarming implications for Nato as a whole.

The reaction of the Nato establishment has been, while expressing occasional pious wishes for a solution of the Cyprus dispute, to support the Turkish argument that an arms embargo on Turkey does not favour such a solution but does do considerable

damage to NATO. This argument was apparently strengthened, at least in the eyes of the Carter Administration, when Mr. Ecevit returned to power in Turkey at the beginning of this year and began to develop a new Turkish foreign policy which could perhaps be described as Gaullist—both because it emphasizes Turkey's specific national interests more than those of NATO and because it is unfolded in a Delphic manner which keeps the rest of the world guessing about its precise implications.

An invitation to the Soviet chief of staff to visit Turkey, and hints that Mr. Ecevit might visit Moscow this summer instead of Washington (it is now confirmed that he is in fact doing both) were enough to induce a regular panic in Washington and push Mr. Carter to reverse his earlier policy by asking Congress to lift the arms embargo even before the promised Turkish proposals on Cyprus had materialized. This was a decision that probably had to be taken sooner or later, but the timing was particularly irritating to the Greeks and nearly canceled out the modest achievement in Greco-Turkish relations achieved at the Montreux meeting between Mr. Ecevit and Mr. Karamanlis in early March. (Some at least of the damage seems now to have been repaired by a further meeting in Washington.)

Mr. Carter has now repeated his assurance to Mr. Ecevit that he will do his utmost to get Congress to lift the embargo, but his chances of achieving that do not look good. The Turkish proposals on Cyprus fell so far short of minimum Greek Cypriot demands as to give Congress very little encouragement to change its mind; indeed, almost the only hopeful sign of a solution is the recent emergence of criticism of the official position from reputable politicians and newspapers within the Turkish Cypriot community itself. And Mr. Ecevit has hardly helped his case, either, by a series of public statements indicating (a) that there is no question of Turkey turning to the Soviet Union for arms, but (b) Turkey does not feel threatened by the Soviet Union and will pursue her Gaullist "new defence concept" (directed principally against Greece) irrespective of any American decision. In other words, Congress has little either to fear from maintaining the embargo or to hope from lifting it. In either case the damage to NATO's south-eastern flank seems likely to be limited, but permanent.

[From the Financial Times, Apr. 24, 1978]

TURKEY SHOULD TRY HARDER

Cyprus has been an international problem for so long that it is easy to overlook its continuing potential for crisis. Today the cynical might argue that its threat to the world community ended in 1974 when the Turkish armies imposed their "final solution" and almost half the population of the island was uprooted and resettled. But nearly four years later Cyprus remains the West's tinder box.

It would be pleasant to say that Turkey's (grossly-delayed) proposals for a settlement alter this situation. But, when they were finally tabled—to many it seemed as if the mountain had merely brought forth a mouse.

DISHEARTENING

The constitutional proposals were only an indicative outline. Moreover what they indicated was disheartening for those who believe in the UN's virtually unanimous demand that Cyprus should remain independent, sovereign and unitary.

Instead of this, the two communities would have their own separate security forces, their own separate legislatures and central banks, and be able to sign separate treaties with any outside state. The powers of the federal state would thus be limited.

If it is issues of law which are at question here, the question of equity is raised by the Turkish proposals on territory which are far short of the amount the Greek Cypriots demand to restore the balance of land to population.

Questionable in law, tough in equity and harsh in economics—the 20 per cent of the population in the north will control nearly one-half of the country's economic resources—the Turkish Cypriot proposals are hardly the step forward which had been hoped for. More had been expected now that Mr. Bulent Ecevit was back as Prime Minister of Turkey.

Mr. Ecevit's own argument is that as trust is established so more powers will be given to the federal government and the crucial rights of freedom of movement and settlement will be activated.

This is a powerful argument but Mr. Ecevit has done his cause a disservice by not doing more to allay Greek Cypriot suspicions. It was he who sent the troops into Cyprus in 1974 and even today he continues to flout UN resolutions by leaving 25,000 of the original 40,000 invasion force there. The presence of one Turkish soldier for every Turkish Cypriot family inevitably influences local politics.

The last Turkish Cypriot "Prime Minister," Mr. Necat Konuk, says that "Right-wing extremists" have taken over the ruling party. His successor, Mr. Osman Orek, is on record in 1975 for saying, "we want to be the 68th province of Turkey, but Ankara will not let us." Hardly an attitude which squares with today's "federation through evolution."

In all this, the West has done little better in restoring the rule of law than it did in 1974 at the time of the junta's coup. Finding sympathy abroad but little support, President Kiprianou is in an unenviable position.

RESPONSIBILITY

With the 2,000 missing Greek Cypriots unaccounted for and the church militant, it is almost impossible for a Greek Cypriot to accept wiping the slate. But the international mood is against them and the acute problems the Turkish Cypriots faced before 1974 are remembered abroad.

Today the West is keen to see fresh talks between the two communities, and the Greek Cypriots have to recognize this. But if Dr. Waldheim's reconvening the talks is to have any value, they cannot afford immediately to fail. The responsibility for rebuilding trust has to be with the stronger party—in this case the Turkish side. And it is up to them to show that they can do better and offer more than they have so far.

[From the London New Statesman, May 26, 1978]

CARTER, NATO AND CYPRUS

The latest NATO declarations on the Cyprus question provide almost a *locus classicus* of how not to conduct a foreign policy. They display just that combination of strategic special pleading and political naivete which led to the Cyprus catastrophe in the first place. What the NATO ministers are saying in effect is that Turkey should not be inconvenienced at all for her unauthorized use of American weapons in the 1974 invasion, and should be allowed to annex as much of the island as she wishes without any apparent demurral from the West. This, of course, because she is an ally, and because of the strategic importance of the Bosphorus. Exactly this kind of approach was demonstrated by NATO leaders when they excused seven years of repulsive military dictatorship in Athens—a dictatorship culminating in the very aggression against Cyprus which made the Turkish invasion inevitable. Only then, of course, the strategic importance of Piraeus harbour to the Sixth Fleet was being invoked. (One wonders why it is not being invoked now.)

Because Dr. Kissinger had deceived Congress so thoroughly over the 1974 events, and because his policy in the area achieved the remarkable triple feat of alienating Greeks, Turks and Cypriots all at the same time, the Cyprus issue became something of a test case in the fight for open government in foreign policy. That, and not the activism of the "Greek lobby", is the reason for the tenacity of certain Senators in upholding the embargo on arms to Turkey which NATO has said should be removed. One of the advantages of the Carter policy to date has been its reluctance to excuse piratical behaviour on the grounds that it is conducted by "allies". The condemnation of Israel's use of cluster bombs has been a case in point. Now Carter is contradicting this policy as it applies to Cyprus, in order to appease its powerful foes in the military and defence establishments. It has been found a mistake in the past to treat Cyprus as if it was uninhabited; it will be found so again.

NATO has called for a relaxation of pressure on Turkey just at a time when her pretexts for occupying the island are dissolving. There are increasing signs of Turkish-Cypriot discontent with the forces of the "peace-keeping" contingent, illustrated forcibly by large demonstrations in Turkish Nicosia on May Day, when slogans against partition and colonisation were raised. Turkey still stands condemned at the United Nations for its policy towards Cyprus, and, although the report has not been published, at the European Commission on Human Rights as well. Negotiations between Turkey and the EEC are also impeded by the issue. But the hope of a settlement is being frustrated by the very group of intransigent military men whose bluff NATO is so eager not to call.

The triangle which is formed by Ankara, Athens and Nicosia will not cease to be a source of instability until there is a just political settlement in Cyprus. It is therefore absurdly short-sighted of the West to use one aspect of that instability—the unrest among Turkish generals—as an excuse to postpone a policy which could bring a settlement closer. The scare-mongering about Russian influence in Turkey just will not wash. Not only is the Turkish high command the most resolutely anti-Communist in NATO, but opportunities for Russian meddling in the area multiply precisely because Cyprus is such a source of division.

It might have been hoped that NATO, two of whose armies participated in the dismemberment of Cyprus, would accept some responsibility. But apparently its sole concern is to inter the issue as swiftly as possible, to get Turkey off the hook and to act as if strategy and politics existed on different planes. This stance, which involves conceding the right of one country to acquire the territory of another by force, is wrong in principle and foolhardy in practice. A Labour government should have no part in it.

[From The Nation, July 8–15, 1978]

CYPRUS, THE BATTERED PAWN

(By Christopher Hitchens)

When Carter won election, the Cypriots proclaimed a national holiday. They were exulting chiefly at the departure of Henry Kissinger, who had conspired against them, first with the Greek colonels and then, as they saw it, with the Turkish invaders. When I last saw Archbishop Makarios, shortly before his death last fall, he had a large Jimmy Carter personal medallion in pride of place on his desk. Now, in Nicosia and in Athens, the anti-American forces can once again say "I told you so." Carter's decision to press for the end of the arms embargo, and administration support for the Turkish settlement proposals, have canceled

the painful revival of trust on the Greek-speaking side of the argument.

Meanwhile, flushed with their temerity in refusing earlier to comply with discouraging advice from Washington, the Turks are now angry with Carter for not acting more decisively in their favor. Kissinger's intervention in the eastern Mediterranean in 1974 brought off the amazing triple feat of alienating Athens, Ankara and Nicosia all at the same time. The aftermath of that intervention displays the same features. And since it was Cyprus that paid the price for the overdue collapse of the Greek junta, Cyprus that paid for the apparent vindication of Turkish claims, Cyprus that still pays for Greek-Turkish rivalry over oil and minerals in the Aegean Sea, Cyprus seems the best place to start.

Not long ago, a visiting American Congressman was turned back by Turkish soldiers when he attempted to cross the "Attila line" (the name given by the Turks to their military border in Cyprus in a stunning feat of bad public relations). What angered the Congressman was not so much the peremptory treatment as the fact that the weapons being brandished at him were American.

Cypriots hear and retell this story with no little glee and *Schadenfreude*. They think that, ever since Dean Acheson made his famous proposal that the bulk of the island be unified with Greece, the Turks being given a canton and military base in the north to keep them quiet, America has wanted Cyprus partitioned and attached to the countries of the mainland. They know (we all know now) that the CIA overruled many within the State Department who warned against supporting the moribund Athens junta in 1974 when it attempted to annex the island. They also know that, after the failure of that scheme, the United States changed sides at the Vienna Conference and ceased to oppose a Turkish counterstroke. (The story is best told by Lawrence Stern in *The Wrong Horse*, Times Books.) That "peace-keeping" operation, as it was called by the Turks, killed thousands of Cypriots, made one-third of them into refugees, and took away the most fertile and prosperous 40 percent of their country. The persistence of this *fait accompli* is the key to what is known as the "Southern Flank" problem of NATO.

A version of the Acheson plan has indeed been consummated: Cypress is partitioned. But whereas Makarios, backed by a huge majority of Cypriots, refused to surrender the island's sovereignty, the Turks today are in de factor possession of the bulk of it. This mutated version of the Acheson solution is causing no end of trouble for a simple reason: there are many more Greeks than Turks on Cyprus (the proportions are roughly 82 to 18 percent). And the Republic of Cyprus, instead of being a pliant appendage of Athens, had an independent government still recognized by the international community.

The Turkish case is based solely on the security of Turkish Cypriot citizens (although there are Turkish generals and politicians who say that the entire island belongs to Turkey by right from Ottoman days). That security, they say with some justification, was a low priority in Cyprus after independence in 1960. Yet a stay in their military protectorate in the North reinforces the impression that the grievances of Turkish Cypriots have been used as a cover for an entirely different policy. A visit to the "Museum of Barbarism," which commemorates the vile things done by Greek Fascists in the 1960s, is obligatory and salutary. But not all murdered Turks are remembered. There is no allusion to the killing of Hikmet and Gurkan, the editors of a magazine that advocated intercommunal solidarity, who were slain when their paper threatened to expose Turkish extremist violence. Nor is there any mention of Dervish Kavazoglu, a leftist union leader shot down for advocating bi-communal trade unions. These things took place under the same Turkish Cypriot leadership as now prevails. At least their Greek equivalents are in jail.

Then, as one travels around the North (it was my fifth visit since partition), there are even more depressing signs. The huge army presence prevents free movement off the main roads but it cannot silence the Turkish Cypriot press. For some time, largely unnoticed by the outside world, elements of this press have been protesting against the settlement of colonists from mainland Turkey. Dr. Fazil Kuchuk, a former Vice President of the island and one of the leaders of the Turkish Cypriot community, wrote in his paper on May 25 that the island was being turned "from paradise into hell" by this process, which may involve as many as 40,000 settlers in a population of 120,000 (who also have the 15,000-man Turkish garrison to support). Other opposition figures, like Dr. Berberoglu of the Republican Turkish Party, have told me that the distribution of expropriated Greek property is being handled in a corrupt and authoritarian manner, to benefit the imported supporters of the government and stifle Cypriot self-expression. This is to say nothing of the many Turkish Cypriots who have emigrated, and of the many more who have moved to Turkey rather than face the intimidation of the "Gray Wolf" Fascist youth movement, based on a mainland party which engages in armed struggle on the Right and was until recently a member of the coalition government. And there are the thousands of Greeks who did not flee their villages after the invasion, but who have been gradually bullied into crossing the border with whatever they can carry. Lawrence Durrell's old village of Bellapaix, once predominantly Greek, has now been emptied by a "salami tactic" of intimidation and eviction. Turkish officers use it as a weekend retreat.

One stresses these points because it is often said, or implied, that the Cyprus problem is one of incompatible communities, and that the islanders have in effect brought the present disaster on themselves. This view, which has the merit of blaming the victims of the aggression they suffer ignores the way in which British, Turkish and Greek Governments have used factionalism to suit their purposes. By any standard, intercontinental relations in Cyprus were actually improving in the early 1970s. The Greek *Putsch* and the Turkish invasion shattered the picture, but even after both those two traumas one could see Turkish villagers crying and scooping up handfuls of earth as they were loaded onto trucks and taken to the North, leaving the keys of their houses with their Greek neighbors. Cypriots of both nationalities have learned the hard way that the differences between them are as nothing compared to their common differences with their cynical "motherland."

Bulent Ecevit, who was Prime Minister of Turkey at the time of the 1974 invasion and is now back in office after a period of isolation, finds himself in an almost classic social-democratic dilemma. The Islamic and military right-wing forces in Turkey do not like him at all, but he temporarily drew some of their teeth by moving troops into Cyprus. He is now the only man who can begin to make concessions, but if he does so he risks even more rightist violence and noncooperation than he has to bear already. He has appointed Prof. Mumtaz Soysal, a well-known radical and a political prisoner under the previous regime, as his personal envoy in the Cyprus negotiations. But even that has been too much for some of his coalition partners and not enough for the Greeks. In a sentence, Turkish proposals for the withdrawal from Greek territory offer no real concessions except on terms that are wholly unacceptable. Thus, the empty city of Famagusta will be opened to its previous thousands of inhabitants only if the city is left under Turkish administration.

The idea that an island of the size and population of Cyprus should be expected to support two entirely separate state and military machines is an unhappy one, especially with the ethnic disparities involved and the crude version of apartheid lately enforced. Consideration of past wrongs will dominate discussion on both sides for a time, but everybody knows that if Cyprus were not cursed by its geography, and if it were not so small, none of this would ever have happened. As it is, Greek Cyprus may be scheduled to go the same way as Kurdistan and Armenia (two minority causes which do not receive very tender attention in Turkey itself).

If it did, who would mourn? Greece could probably live with it, though even the conservative Karamanlis has his public to consider, and after the seven black years of dictatorship that public has a very low opinion of American designs. Still, as one of Europe's most seasoned conservative crisis managers, he might ride the storm. The British Government has already washed its hands of its treaty obligations to Cyprus, and seems content to leave matters with Clark Clifford, Carter's special envoy on the Cyprus problem. NATO would relax, glad to be free of the great triangular screw-up that has dogged it since 1974. The Americans are only interested in removing the conflict as a source of intra-NATO friction and, of course, to prevent Cyprus from developing into an island of radicalism (over the years of negotiation with him the State Department took to calling Archbishop Makarios a "Cassocked Castro"). The Russians, who have been exploiting America's difficulties with Turkey, would resent a NATO solution in Cyprus but would be rid of the long commitment to the Cyprus cause that prevents their having an easy rapprochement with Ankara.

The problem is that Greek and Turkish Cypriots refuse to behave as if their island were uninhabited. Several years ago, when faced with apparently Byzantine intransigence from the Archbishop, George Ball banged the table and exclaimed "Goddamn it, your Beatitude"— remembering his protocol just in time. The Cypriots are no more convenient now than they were then, or than they were when Henry Kissinger referred to Makarios as "too big a man for so small an island." This is a population which is at one and the same time part of developed European culture and of the aspirations of the post-colonial world. Its traditions are generally radical, democratic and independent. To treat it as expendable would no more bring real peace between Greece and Turkey than did supporting the Athens junta. At that time, if you recall, Piraeus harbor was all-important for the Sixth Fleet and NATO. Now, apparently, it is as nothing compared to the vital strategic position of the Bosphorus. Those who originated this crisis have yet to show any evidence that they have learned from their mistakes.●

U.S./CANADIAN TALKS ON WHEAT

Mr. McGOVERN. Mr. President, on June 30, 1978, Senator BELLMON and Senator MELCHER joined me in Winnipeg, Canada, to discuss our interest in prices received by producers in international wheat transactions. I had arranged for a meeting which included our contingent from the Senate Agriculture Committee, six Senators from the Canadian Senate

side of that country's Parliament, all members of the Canadian Senate Committee on Agriculture and led by Senator Hazen Argue, its chairman, the entire membership of the Canadian Wheat Board and its Chief Commissioner, Mr. W. E. Jarvis; and Minister of Transportation, the Honorable Otto Lang, the cabinet officer of the Trudeau administration responsible for wheat.

Our mission was to discuss frankly and openly the areas of cooperation we could mutually pursue to assure wheat producers in our two countries world prices that would equate with North American cost of production plus a reasonable profit.

The United States and Canada account for about 66 percent of all wheat moving in international commerce. Australia and Argentina, both major exporters of wheat, would raise this figure to 85 percent. It was our judgment that cutthroat price cutting rather than cooperation would serve only to prejudice producers whose productions costs now range beyond $3 a bushel when prices received by farmers at initial selling points are substantially less than $3.

Mr. President, I want to report the high level of interest all our Canadian neighbors demonstrated in reaching cooperative pricing agreements with our country. Senator Argue, Chairman Jarvis, and Minister Lang all indicated a willingness to pursue negotiation and dialog in spite of past historical differences in marketing arrangements between the two countries. All these differences were fully explored and we unanimously agreed that if our producers continued in an era of rising costs and unstable prices we would all be losers. I publicly called the Winnipeg conference an "historic meeting." Senator BELLMON said,

The meeting was more productive than I had dared to hope.

Our group of Senators carefully pointed out that the meeting did not have official status insofar as we could not speak for the Carter administration. Minister Lang indicated that he felt he was able to speak for the position of the Trudeau administration.

The tangible recommendation of the meeting was the general acceptance of a proposal to appoint a joint United States/Canadian Task Force to be made up of senior marketing officials of both countries together with substantial input from major producer organizations of the two countries. It was hoped that such a task force could consider the issues involved and issue a report within 90 days. Hopefully, the report would make recommendations containing mechanisms whereby producers would receive fair prices while each country could maintain its traditional share of the world market eliminating many of the competitive forces that have existed in past years which have not substantially benefitted either American or Canadian producers and have not contributed as significantly as they could to balance-of-trade problems for either nation.

At my suggestion, the Canadian members of Parliament accepted an invitation to continue the dialog by traveling to Washington to meet with our Agriculture Committee at a time when such a meeting would be mutually beneficial.

Senator BELLMON, Senator MELCHER and I have outlined our version of the meeting in a letter to President Carter with copies to Secretary Bergland and Ambassador Strauss. We earnestly hope that the administration will move swiftly in appointing our side of the recommended task force.

Mr. President, I ask that the text of our letter to President Carter be printed in the RECORD, together with the following press statements of our meeting: a press release from my office dated July 1, 1978; a report from the Toronto Globe and Mail, July 1, 1978, entitled "Canadian and U.S. Senators Agree to Form Joint Task Force to Seek Fair Price for Wheat"; a story from the Huron (S.D.) Daily Plainsman dated July 2, 1978, entitled "A Minimum Floor Base for Wheat Urged by Senators"; press statement from office of Senator BELLMON dated June 30, 1978; Canadian Wheat Board Statement dated June 30, 1978; news release of Minister Otto Lang, dated June 30, 1978, entitled "Lang: Canada Will Not Undermine U.S. Programs for Fair Prices"; editorial from Huron (S.D.) Daily Plainsman on July 5, 1978, entitled "Historic Meeting"; editorial from Aberdeen (S.D.) American News dated July 7, 1978, entitled "Historic Wheat Meeting in Canada Can Have Significance in South Dakota"; and news release of South Dakota Farmers Union, dated June 30, 1978.

The material follows:

U.S. SENATE,
Washington, D.C., July 12, 1978.

President JIMMY CARTER,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On June 30, 1978, we met in Winnipeg, Canada with Senator Hazen Argue, Chairman, and five members of the Committee on Agriculture of the Senate of Canada. Senator Argue graciously arranged this meeting in response to our request for an opportunity to learn something about the grain marketing system of Canada, and, whether the Canadian Wheat Board and the Government of Canada would and could cooperate effectively with the United States to raise and maintain prices of wheat in the world market at levels that would return the cost of production to our farmers. In the course of this meeting, the Honorable Otto Lang, the Minister responsible for the Canadian Wheat Board, and the entire membership of the Canadian Wheat Board joined in our discussions.

These discussions led us to the following extremely significant conclusions:

1. In the past, whenever world supplies of wheat exceeded current and prospective demand by any appreciable margin, the world trading price of wheat was determined by the United States price support loan rate;

2. The Government of Canada wishes to cooperate with the United States in raising wheat prices as soon as possible to at least producers' cost of production calculated to return to producers their out-of-pocket costs plus a modest return on their labor, management, and investment;

3. Present world reserves of wheat are relatively tight in relation to potential crop shortfalls such as were experienced during recent years, and the public interest requires that effective means be found to sustain farmers in production and to maintain reasonable reserves in order to avoid the risk of shortages;

4. The Canadian Wheat Board system has the capability to price all Canadian wheat that enters world trade at a fair relationship to the selling price of United States wheat, which in times of ample supply is based on the U.S. price support loan rate. The Board desires to work out a joint U.S.-Canadian export marketing plan under which Canadian wheat would not absorb more than its fair share of the total wheat market if prices were to be raised to cover farmers' cost of production. This would avoid repetition of past experience where U.S. producers bore the full brunt of balancing supply with demand;

5. The delivery and marketing quota system administered by the Canadian Wheat Board can become an effective means of restraint on production, and it would insure that Canada could cooperate with the United States in restricting production of wheat if world surpluses should occur in response to more adequate prices for producers;

6. Both Canada and the United States, and the other main wheat exporting countries as well, are sacrificing billions of dollars a year in balance of payments benefits by pricing exported wheat far below the prices that prevail in the importing countries. This has the effect also of enabling the importing country governments by use of variable duties or other import taxes or resale markups, to "skim off" two to three times as much per bushel of the total that producers receive in the exporting countries.

Another vitally significant result of the meeting was the announcement by W. E. Jarvis, Chief Commissioner of the Canadian Wheat Board, that he had been authorized by the General Manager of the Australian Wheat Board to state to us that the Australian Wheat Board is prepared to commit itself to cooperate with the United States and Canada by pricing its wheat in an appropriate relationship to the selling prices of wheat in the United States and to hold its fair share of a reserve of wheat off the market during periods of surplus.

In addition to the obvious benefits to farmers and rural communities, this would make an impressive contribution to our country's trade balance, and to strengthening the U.S. dollar in relation to the currencies of the importing countries. It would thus help to ease inflationary pressure in our economy. Furthermore, it would eliminate the need for deficiency payments to our wheat producers amounting to more than one billion dollars per year.

We believe this opportunity should be explored thoroughly and as quickly as possible. Chief Commissioner Jarvis, in a statement for the Canadian Wheat Board which he presented to us, proposed that a task force of senior marketing officers of the two governments be constituted to identify the costs and benefits to each country of close cooperation, and to outline the means by which such cooperation could be achieved. He suggested that the task force be charged with the goal of reporting back to the two governments within a short period such as ninety (90) days.

We strongly endorse the suggestion that such a task force be established. We further urge that Australia and Argentina be invited to participate. In view of the vital interest of American wheat producers in the matter, we urge that the United States membership in the task force include representatives nominated by each of the Farmers Union, Farmers Bureau, Grange, American Agriculture Movement/National Farmers Organization and the National Association of Wheatgrowers. These six national farmers' organizations among them include an overwhelming majority of wheat farmers throughout the country, and would provide the widest

possible representation of American wheat producers.

For our part, we expect to continue the efforts to inform ourselves about this matter, and to focus the attention of other Senators, the Senate Committee on Agriculture, Nutrition and Forestry and the general public upon the opportunities which we believe it offers. Please be assured that we want to do everything we can to help you to develop such a pattern of cooperation and to win the understanding and support of our colleagues in the Senate and the American public at large. Please advise us of your reaction to this letter and its recommendations.

With warm personal regards,

GEORGE MCGOVERN,
HENRY BELLMON,
JOHN MELCHER, *U.S. Senators.*

MCGOVERN/CANADIAN WHEAT MEETING MAY LEAD TO AN INTERNATIONAL WHEAT PRICING AGREEMENT

Senator George McGovern said today that there is "an active interest in Canada in establishing some workable international wheat pricing agreement with the goal of substantially raising the price of wheat on world markets".

Senator McGovern headed a delegation from the Senate Agriculture Committee which included Senator Melcher of Montana and Senator Bellmon of Oklahoma, met Friday in Winnipeg with the Canadian Wheat Board and Agriculture Members of the Canadian Parliament from the western provinces.

At Senator McGovern's suggestion, the meeting participants agreed to appoint a U.S./Canadian Task Force to study the procedural and substantive problems in reaching an international wheat pricing agreement. The Task Force would report back within 90 days.

The South Dakota Senator also invited the Canadians to come to Washington to meet with the full Senate Agriculture Committee and "those in the Administration who may be interested" to discuss the specific steps that need to be taken to work out an agreement.

"Canada is definitely interested in doing for wheat what the OPEC nations have done for oil—namely, to increase the price for that portion of the product that now moves in international commerce. The United States and Canada produce about 65% of exportable wheat so an agreement between our two countries would have an immediate and direct effect on world wheat prices. If Argentina and Australia were to be included—and they are interested—in such an agreement it would increase the share of the world market control to about 85%. Certainly this would be more than sufficient to establish the world price", McGovern pointed out.

"The chief problem at this point in reaching such an agreement appears to be the reluctance on the part of the Administration to take certain steps to establish an adequate price floor for U.S. domestic wheat producers to protect American farmers until the international price rises to the point where it could be sold under the terms of an acceptable agreement," McGovern said.

The South Dakota Senator said he planned to report his findings on the trip to the Senate Agriculture Committee and to the appropriate Federal agencies.

"If it develops that the Administration is unwilling to proceed into active negotiations," McGovern said, "then it may be necessary for Congress to take the initiative in moving us closer to the kind of agreement that will be required".

McGovern noted that "the implementation of a wheat pricing agreement would not only result in higher prices for farmers, but also favorably affect our balance of trade which is presently running a huge deficit".

Stressing the preliminary aspects of the Winnipeg meeting, McGovern said that "we have at least made a start in the direction I believe we should go if we are going to obtain a fair and equitable price for a basic commodity that is badly needed in other parts of the world. It will be up to the United States to formally signal its interest in moving ahead on the agreement".

[From the Toronto Globe and Mail, July 1, 1978]

CANADIAN AND U.S. SENATORS AGREE TO FORM JOINT TASK FORCE TO SEEK FAIR PRICE FOR WHEAT

(By Roger Newman)

WINNIPEG.—Canada and U.S. Senators have agreed to establish a joint task force to determine a fair market value for wheat produced by the two countries, according to U.S. Senator George McGovern of South Dakota.

Senator McGovern said Canadian and U.S. wheat should be selling for at least $4 a bushel in world markets if North American farmers are to cover their production costs. But at the moment, the two countries are engaged in destructive competition, with the result that their wheat is being sold at "ruinous levels" ranging from $2.80 to $3 a bushel. For this reason, a joint task force is to be set up both to determine a fair price and to foster Canadian-U.S. cooperation on wheat pricing.

Senator McGovern made his remarks at the conclusion of a joint meeting in Winnipeg of the Canadian and U.S. Senate agricultural committees.

Besides Senator McGovern, the U.S. delegation included Senator John Melcher of Montana and Senator Henry Bellman of Oklahoma. The Canadian contingent was led by Senator Hazen Argue of Saskatchewan, chairman of the Senate agricultural committee, and included Senators Gildas Molgat and Duff Roblin, both of Manitoba, Senator Harry Hays of Alberta, and Senator Herbert Sparrow of Saskatchewan.

Senator Argue said while the Winnipeg meeting was instigated by the U.S. Senators, the gathering had produced a unanimous agreement that Canadian and U.S. wheat prices should be higher. On the Canadian side, "we are interested in co-operating with the United States to get a reasonable wheat price. And we believe that $4 a bushel is reasonable, in view of the costs that farmers have to face today."

Senator McGovern said the task force—which will include representatives of the legislative and administrative branches of both governments—will issue a report within 90 days. In addition the Canadian and U.S. senators will hold a second meeting in Washington to consider the report of the task force and to develop further plans for a common policy on wheat prices. "If we develop a common policy, we feel we will be able to persuade the other two major wheat producers—Argentina and Australia—to join with us. We also believe Canada and the U.S. can be pretty persuasive, since they are the dominant world wheat producers, controlling two-thirds of the trade."

Senator McGovern said he believes wheat producing countries should establish their own price agreement because little progress is being made with importing countries in reaching a new world wheat pact. He also said importing countries such as Japan and the European Economic Community are "skimming off" wheat profits that should be going to North American farmers.

"These countries buy wheat from North America at the present low market price and then sell it to their own mills and consumers for double the amount. This is not only unfair, it is an impossible way to run a wheat export operation."

Senator Duff Roblin said it should be emphasized that pricing goals of Canada and the United States are modest. "We only want a floor price that represents the cost of production. And this would be in the general interest of everybody since a stable price would result in a steady supply of wheat being available rather than roller-coaster swings."

Senator McGovern admitted the U.S. delegation requested the meeting because it was afraid Canada might undercut the market if the United States were to raise its wheat price unilaterally. But at a separate press conference in Winnipeg, Otto Lang, minister responsible for the Canadian Wheat Board, said Canada will not undermine U.S. programs to get fair prices, although it will insist on holding on to its traditional 20 to 25 percent share of the international wheat market.

[From the Huron (S. Dak.) Daily Plainsman, July 2, 1978]

$4 MINIMUM FLOOR BASE FOR WHEAT URGED BY SENATORS

(By Bette Burg)

WINNIPEG, MANITOBA.—An end to a "price war" between wheat exporting countries and the establishment of an international minimum floor base for wheat are two key goals that were decided on at a meeting between the United States and Canadian senators Friday in Winnipeg, Manitoba.

Termed "a meeting of historical impact" by Sen. George McGovern, D–S.D., one of the three U.S. senators at the meeting, the discussion was the first time that legislative leaders of the two countries had met to work out a cooperative wheat export agreement.

Two of the major results of the meeting are that a task force will be formed to develop a wheat export agreement and that a second meeting will be held in Washington, D.C., to formalize the plans.

Participating in the Winnipeg meeting from the United States were Sens. McGovern, Harvey Bellmon, R–Okla., and John Melcher, D–Mont. The Canadian leaders were Sen. Hasen Argue, chairman of the Standing Senate Committee on Agriculture, and Sens. Harry Hays, Hammy MacDonald, Gil Molgat, Duff Roblin and Herb Sparrow.

Friday's meeting was applauded by both countries' senators as a beginning in determining a minimum floor at least up to the cost of production.

The figure which was deemed as a modest and reasonable price would be $4.00 per bushel instead of the $2.50 below cost production price that farmers on both sides of the border now receive.

"It's ridiculous to be selling below the cost of production," McGovern said. "Instead of undercutting each other, we need to agree on a fair price and then take the steps necessary to stabilize prices."

McGovern called Friday's meeting a very successful venture between the two main wheat exporting countries that also are the two world leaders in the export of wheat, together, their wheat exports account for 65 to 70 percent of all exports in the world. The other two leading exporters of wheat are Australia and Argentina with the four leading countries comprising 80 percent of the world wheat exporters.

McGovern announced a preliminary invitation to the Canadians to come to Washington where formal Senate hearings will be conducted. Argue said that such an invitation will be "heartily welcomed" and accepted so that further cooperative steps can be taken.

At the press conference held following the meeting, Sen. Argue was asked if a timetable had been established on the next step for negotiations. He replied that no time limitations had been set but said that "we are

ready for action now" and want to proceed as quickly as possible.

As a leader in the U.S. Senate Agriculture Committee, McGovern said that he expects a positive reaction from his colleagues in the Senate in setting up a joint task force and further meetings. McGovern stated that most of the preliminary work will be done by the task force in the next 90 days.

At the meeting, Sen. Melcher agreed that further steps need to be taken to stabiilze wheat export prices which will have the two-fold purpose of benefiting the producers as well as the consumers.

"The $4 bushel price will help meet the producer's costs and will be a darn good buy for nutritional concerns throughout the world," Melcher said. "What we are talking about with a floor price is sound nutritional value, but we will not be turning our backs on the less fortunate nations of the world."

Melcher said that he is very confident in the two countries reaching a wheat export agreement when the producers and policy-making bodies can see the long-term advantages of stable prices.

"You have a well established marketing agency in the Canadian Wheat Board and with the assurances we were given today from that group, all parties appear ready to cooperate."

Earlier in the day, members of the Canadian Wheat Board and Transport Minister Otto Land, explained how the marketing system works to help Canadian wheat producers at the bargaining table and in the delivery of wheat.

Bellmon commented that misunderstandings have built up between Canadian and American wheat producers who have not been fully aware of how each other's system works.

"The problem has been that Canada has been threatening our markets. However, I think after the exchange of ideas here today and the promises of positive cooperation in the future, producers can be assured that setting a floor price will help stabilize prices and eliminate 'cut-throating'."

Bellmon also mentioned that misunderstandings have existed between the importation of Canadian beef imports which in the past has meant some confrontations at the border with Canadian truckers.

"It isn't the numbers of beef coming over the border but that it comes during the crucial points in marketing for our beef producers," the senator said.

Argue addressed that concern by saying that the Senate Agriculture Committee has been meeting on that issue with the consensus that this is a second important area where the two countries could work cooperatively on rules for beef shipment.

The legislative leaders at the meeting agreed that the time appears to be right for more cooperative efforts especially since both countries are facing inflationary problems.

"You can't win inflation by taking it out of the hides of producers," Bellmon said. Bellmon cited the recent move of the Carter administration to increase beef imports can only hurt the producers. "We have a real job ahead of us to turn the administration to help the producers and consumers get a fair shake."

Following the meeting, the senators answered questions from the Canadian and American press concerning the effects of this agreement in regards to the international wheat agreement policy that is currently being formalized in Geneva, Switzerland.

Argue replied that the joint plan was not "inconsistent with the international wheat agreement, but may accelerate a breakthrough." That agreement has been "largely ineffective in recent years," Argue said, and has been dominated by decisions that benefit the multinational grain trading companies.

Questions were also raised if the European and Japanese buyers will buy elsewhere if they can purchase wheat at a lower price. McGovern replied that it will be in no exporting country's interest to sell at a lower price once the leaders (United States and Canada) have set a fair price.

The proposal for the exporting countries to join together has been recently referred to by McGovern as an "Organization of Wheat Exporting Countries."

However, unlike the Organization of Petroleum Exporting Countries (OPEC) that has tripled the price of oil, McGovern emphasized that the goals of OWEC are not to skyrocket prices.

"We are not asking for $12 a bushel or any other unreasonable price but only an extremely modest price of $4 a bushel that can help meet the cost of production."

"We can't afford the roller coaster that the wheat producers have been on because of the lack of a guaranteed base price," McGovern said. The agreement should also insure a surplus of wheat in times of shortages which will also help steady prices.

At the meeting between the United States and Canadian senators and the Canadian Wheat Board were a South Dakota delegation and a National Farmers Union official.

Attending the meetings were Lt. Gov. Harvey Wollman of Hitchcock, S.D. Farmers Union President Ben Radcliffe of Huron and Robert Lewis, chief economist and secretary of the National Farmers Union in Washington, D.C.

NEWS RELEASE FROM SENATOR HENRY BELLMON

Members of the Canadian Parliament and Wheat Board, along with Canadian wheat growers, will come to Washington within 90 days with specific proposals for the United States and Canada to coordinate policies which will maintain world wheat prices at a level at least near the cost of production, Senator Bellmon announced today from Winnipeg, Canada.

Bellmon and two other wheat State Senators, George McGovern and John Melcher were in Canada today for an exploratory meeting designed to see whether the two countries would work together to the advantage of American and Canadian wheat growers.

"The meeting was far more productive than I had dared to hope," Bellmon said. "I am very optimistic that we will be able to have a Canadian American agreement that could also involve the Australians and Argentines and that will have the result of stabilizing wheat prices at near the cost of production which is currently about $3.75 to $4 dollars a bushel."

The U.S., Canada, Australia, and Argentina account for nearly 90 percent of the world's exported wheat. The United States and Canada account for more than 65 percent of the world wheat market.

Bellmon, McGovern, and Melcher met for 4 hours with six members of the Canadian Senate's Agriculture Committee, the three members of the Canadian Wheat Board and Minister of Transportation Otto Lange. The Ministry of Transportation handles wheat questions in Canada.

"We talked about joint efforts to work out marketing procedures that would help maintain wheat prices at closer to the cost of production.

"It should be possible to coordinate the two countries' farm programs and marketing efforts to maintain a good level of wheat prices," he added specific proposals on how to accomplish this goal will be discussed within 90 days at a second meeting in Washington, Bellmon said. The two countries will name task forces to attend the meeting. The task forces will be made up of members of each country's executive and legislative branches and representatives of wheat growers.

The meeting is designed to work out a marketing system which will be beneficial to both countries in the world market.

"The present arrangement has worked to the detriment of Canadian and American wheat producers and especially to American consumers who have had to bear the burden of balancing the world's wheat supply and demand.

"The present arrangement also has not benefitted consumers in the importing countries because Japan, the Common Market countries and others have doubled or even tripled the price of wheat between the port of entry and the supermarket," Bellmon said.

"The Canadians are very upset with President Carter who announced plans to import more beef and forced the price of cattle down $10 per 100 pounds. In the United States." "That also reduced the price Canadians get by the same amount.

"They want, as a part of the next meeting, to discuss a joint import policy and to work with us on eliminating disadvantages between the two countries on the movement of cattle between the United States and Canada," "they ship us feeder cattle and import fat cattle from us."

(Joint Meeting of U.S. and Canadian Senators, Winnipeg, Manitoba—June 30, 1978)

CANADIAN WHEAT BOARD STATEMENT

The Canadian Wheat Board welcomes the interest of the Senators in wheat prices and exports. These are matters of great importance to both our countries, and the world, and we thank you for the opportunity to discuss our views with you.

It may be useful for our American friends if I begin with a brief description of the Canadian Wheat Board. The Board was a rather unique marketing organization when established by Parliament in 1935 and even today there is no close parallel to it in the United States. However, most other countries around the world have counterpart agencies involved in importing and/or exporting grain (see Appendix A for a list of national grain agencies).

THE CANADIAN WHEAT BOARD

The Canadian Wheat Board is the monopoly marketing agency for prairie-grown wheat, oats and barley sold for export or for human consumption within Canada. This involves most of the grain sold commercially in our country. The objective of the Board is to market the grain delivered to it in an orderly manner which will maximize returns to the producers.

In performing its role the Board:

(1) establishes export selling prices for wheat, oats and barley; domestic milling wheat prices are set in accordance with the Federal Government's Two-Price Wheat Policy which took effect August 1, 1974.

(2) administers a quota system on farm deliveries into country elevators for non-Board grains (rye, flax and rapeseed) as well as Board grains; this system enables the Board to bring grains into the elevator system as needed to meet market requirements.

(3) administers a shipping order system (the Block System) for rail movement of all grains from country elevators to port positions.

(4) operates pool accounts for Board grains under which initial payments (minimum payments guaranteed by the federal government) are made to farmers at time of delivery into country elevators; any

profits go to farmers in the form of final payments.

The Board has five full-time Commissioners appointed by the Federal Government. There is an eleven-member Producer Advisory Committee, elected by farmers, which meets monthly. The Board employs its own staff; they are not government employees. The Board directly negotiates many large sales contracts but can and does also utilize Canadian and international grain firms as sales agents (see Appendix B for list of the Board's sales agents).

INTERNATIONAL MARKET TRENDS

The growth in population alone requires a continued effort to expand world grain production—about a billion bushels more are needed each year just to keep pace with the increase in population. If reasonable rates of economic growth and development also occur, then improvements in diets and levels of consumption will create even stronger demands for grains. The long-term outlook is thus one of significant expansion in the world trade in grain, with exporters being challenged to expand not only production but also export capabilities.

There can, and will, continue to be periods of imbalance of supply and demand for grain, given agriculture's dependence on weather. In looking ahead, though, we believe the periods of "surplus" in the future are likely to be fewer and shorter than those of the past. Nevertheless, as farmers and students of grain markets are well aware, relatively small swings in supplies can bring about drastic price reactions that are detrimental to the long-term interests of both producers and consumers. The need for stabilizing actions seems obvious to all, but efforts toward that end seem to quickly run into many complicating factors.

THE INTERNATIONAL WHEAT AGREEMENT

Since the 1930's, the I.W.A. has been the focal point for international co-operative efforts on grain. Some success occurred in the 1940's and 1950's, largely because of close co-ordination between the United States and Canada, the two countries supplying about 70 percent of the wheat moving in world trade. With the subsidized export price war of the 1960's and the wide-open market situation of the 1970's, the I.W.A. has had no economic impact in these years.

Considerable efforts are now being made to negotiate a new, meaningful I.W.A. Such efforts will come to naught unless the importers are convinced that the exporters, basically the United States and Canada, are truly prepared to co-operate with each other rather than to undercut each other. For example, the minimum prices being proposed by some importers suggest they wish to see ample opportunity for cut-throat competition. Such minimum prices, if accepted, translate to less than $2.00 per bushel, and thus disaster, at the farm level in the United States and Canada. Such low price proposals one might expect to come from L.D.C.'s but not from major development countries with huge balance of payments surpluses, large "skimming profits" on imported wheat and concessions to make on agriculture under the M.T.N. Thus determined, co-operative action between the United States and Canada is essential if the long-term interests of producers, as well as of the world's consumers, are to be met.

IMPORTANCE OF U.S. ACTIONS

We welcome the recent initiatives of the United States Government to bolster wheat prices and farmers' incomes. The measures introduced have contributed substantially to pulling world export grain prices back up from the disastrously low level of a year ago. However, that improvement cannot be taken as an end to the farmers' problem as wheat prices in 1977, in relation to farmers' costs, were the lowest in real terms since the Great Depression of the 1930's. They are still very low in real terms.

Given the United States' dominant supply position and openmarket system, the fundamental determinant of the minimum world export price for wheat is the price support loan rate in the United States. This is the approximate minimum price at which U.S. farmers will sell their wheat and make it available to the world market. Other exporters, including the Canadian Wheat Board, set their selling prices at the U.S. level, adjusted for differences in quality, location, etc. This is true whether prices are low or high.

The U.S. price support loan rate for wheat in 1978 is set at $2.35 per bushel, 10 cents higher than in 1977. These levels are far too low to sustain wheat farmers in the United States or Canada. This is indicated by the fact that the U.S. government made a deficiency payment of 65¢ per bushel for 1977 ($1.2 billion) while for 1978 the amount of the potential deficiency payment has been increased to $1.05 per bushel.

Maintaining the loan rate at the extremely low level of $2.25 per bushel (1977) and letting export prices fall to that level in surplus times does not increase the United States' share of the world market, as some claim. Far from it. This past crop year the world carryover of wheat declined by over 300 million bushels, while the United States' carryover increased by nearly 100 million bushels. As mentioned, other exporters, including Canada, Australia and Argentina, price competitively at the U.S. level whether it be high or low. In fact when prices are low, other exporters need to increase sales volume to maintain cash flow. The E.E.C.'s agricultural policies so thoroughly insulate its grain trade from outside market forces that no conceivable change in the U.S. loan rate would affect its competitive position. For most importing countries, higher world export prices would not reduce their import requirements. For some, it would merely reduce their "skimming" profits on imports, which they mark-up to their consumers by more than the price received by farmers in export countries.

CO-OPERATIVE ACTIONS NEEDED

In addition to our countries' responsibilities to our own wheat farmers, our paramount position as suppliers to the world during times of short crops imposes a heavy responsibility upon us to ensure that adequate reserves will be carried. Again, the response of others to the reserve proposals in the I.W.A. negotiation has not been very enthusiastic. Inevitably it appears the major reserve carrying role will continue to rest with the United States and Canada. However, by co-operating to meet this responsibility, we have the opportunity to enhance the benefits of co-operation to maintain more adequate prices for our farmers and foreign exchange earnings for our countries. Also when assessing the costs of maintaining reasonable reserves, *with prices at fair levels*, one must take account of the very high costs to our consumer and livestock industries of running short of grain supplies, as happened earlier in this decade.

Furthermore, if Canada and the United States demonstrate a readiness to lead in a co-operative effort to maintain fair prices and reserves, the other grain exporters may be persuaded to co-operate also in carrying out these responsibilities.

ALLOCATING RESPONSIBILITIES

The means for carrying out responsibilities for fair prices and reserves exist in the grain marketing systems of the exporter countries. The U.S. price support loan rate system establishes the effective "floor price" in world trade. The Canadian Wheat Board can, by pricing in appropriate relationship to U.S. selling prices, govern with fair precision the quantities of Canadian wheat that will be sold or retained. By means of our transportation and delivery control systems, as well as prices, the Board conveys marketing directions back to farmers and influences their production decisions. The Australian Wheat Board, if co-operating, could operate similarly.

The determination of appropriate shares of the reserve for each country to carry is a matter for negotiation between the co-operating export countries. Account must be taken of historical patterns but there must also be recognition of the need to adapt to changing conditions.

RECOMMENDATION

We recommend that our two countries, in the very near future and whether or not there is progress on the I.W.A., establish a small task force of senior marketing officers to identify the costs and benefits to each country of close exporter co-operation and to outline the means by which such co-operation can be achieved. Such a task force could report back to our governments within—say—ninety days, or some such limited period.

Exporter co-operation along the lines indicated would in no way be counter to the interests of the world community. On the contrary, it would further the prospects for world food security at reasonable prices.

[News Release from Canadian Wheat Board]

LANG: CANADA WILL NOT UNDERMINE U.S. PROGRAMS FOR FAIR PRICES

WINNIPEG, June 30, 1978.—Wheat Board Minister Otto Lang welcomed the initiative taken by a number of Canadian and U.S. Senators to meet and discuss their common interests in working towards improved co-operation between the two countries in grain matters. Mr. Lang participated in some of the discussions between Senators McGovern and Melcher from the United States and Senators Argue, Sparrow, McDonald and Hays from Canada.

"This meeting is another example of the excellent working relationship that has evolved over the past year between the two countries. Senators from both countries share the view that returns from the market should at least cover production costs and this must also form the basis for a new international wheat agreement if it is to be acceptable to Canadian producers", Mr. Lang said.

Mr. Lang noted that in recent months the U.S. Administration had taken a number of steps designed to raise producers' income. Some of these measures have had a beneficial effect on world price levels.

"While Canada and the United States are competitors, severe competition at price levels which do not give our producers satisfactory returns are in no one's long-term interest. Importers may gain temporary advantages from low prices, but the resulting instability in the market is eventually harmful to them as well. It is Canada's intention to manage our grain marketing system in such a way as to not undermine direct actions by the U.S. or other countries to assure a fair producer return from the international market", Mr. Lang said.

Canada is continuing to work with other countries to develop a new international wheat agreement. Further progress was made at recent meetings in London of an Interim Committee of the UN Wheat Conference. The Committee will reconvene on July 7 in

Geneva. The Minister expressed optimism that these negotiations will succeed and that a new agreement would be in place by July 1, 1979.

[From the Huron (S. Dak.) Daily Plainsman, July 5, 1978]

HISTORIC MEETING?

An unusual meeting between United States and Canadian senators in Winnipeg last weekend initiated a series of events that could lead to a minimum floor price for wheat in the world market. A minimum starting base of $4 per bushel was proposed.

Two immediate goals agreed upon last Friday were to end the "price war" between wheat-exporting countries and to set up a task force to work out a wheat export agreement that both countries might be expected to ratify.

Sen. George McGovern, who led the U.S. delegation, and his fellow members of the Senate Agriculture Committee, Henry Bellmon, R-Okla., and John Melcher, D-Mont., who attended the meeting, will undoubtedly be expected to generate backing for such a plan in the U.S. Senate. The idea already has the support of the National Farmers Union.

Together the U.S. and Canada supply 65 to 70 percent of the world wheat exports. If Australia and Argentina were invited to join the agreement the percentage of the world wheat export total could be boosted to 80 percent.

In the past, the U.S. government has sometimes subsidized export wheat prices to enable farmers to recover production costs. At the same time importing countries have applied import duties to American wheat to keep prices high enough to protect their own farmers who have even higher production costs. In such a situation the efficiency of the American wheat producer has actually cost our government money.

The timing for such a marketing agreement between the two largest wheat exporters should be good. The Agriculture Department reports a drop in acreage in both wheat and corn plantings, this year, plus a drop of some 15 percent in yield of winter wheat now being harvested. This combination is expected to remove the surplus that was accumulated last year and firm up prices for both commodities.

The Organization of Petroleum Exporting Countries (OPEC) has proven the effectiveness of a cartel composed of exporting countries. And the prices that this group has dictated for petroleum products have been responsible for some of the wheat producers largest production increases—the cost of fertilizers and energy.

It would seem only fair that the grain producer be given the same leverage as the oil producer in the world market place. Such a plan could be beneficial to American (U.S. and Canadian) farmers and taxpayers.

George McGovern called the Winnipeg session "a meeting of historical impact." We hope ensuing events prove that definition to be correct.

[From the Aberdeen (S. Dak.) American News, July 7, 1978]

"HISTORIC" WHEAT MEETING IN CANADA CAN HAVE SIGNIFICANCE TO SOUTH DAKOTA

Following a period when there has been emphasis upon quarrels between Canada and the United States on fishing rights and boundary water regulations, among other things, it is encouraging that the two friendly neighbors are working cooperatively on a wheat export plan that will benefit both countries.

The groundwork for a move that would seek to end price wars and set an international minimum floor base price of $4 per bushel for wheat was begun at a meeting a week ago in Winnipeg, Manitoba.

The meeting was attended by three U.S. senators, including George McGovern, D-S.D., and six influential members of the Canadian government.

The representatives of both countries optimistically praised the meeting as a beginning in determining a minimum floor price for wheat that will bring a profitable selling price. McGovern called it "a meeting of historic impact."

The South Dakotan said: "It's ridiculous to be selling below cost of production. Instead of undercutting each other, we need to agree on a fair price and then take the steps necessary to stabilize prices."

McGovern, a member of the Senate Agriculture Committee, said he expects a positive reaction from his colleagues in the Senate in setting up a joint task force and further meetings. He said most of the preliminary work will be done by the task force in the next 90 days.

Cooperation between the United States and Canada in this matter can be effective because they are the two major wheat exporting countries. Together their wheat exports account for 65 to 70 percent of all wheat exports in the world. The other two leading exporters of wheat are Australia and Argentina and if they were added to the U.S.-Canada agreement 80 percent of the world wheat exporters would be represented.

The Winnipeg meeting and the meetings to be held in Washington, D.C., to formalize the plans, can be of great significance to South Dakota and other wheat producing states.

It is hoped the good start on the plan for stabilizing the price of wheat above cost of production will result in advantages for all concerned.

[News Release from South Dakota Farmers Union]

WINNIPEG, CANADA.—Higher wheat prices for both U.S. and Canadian producers is the number one goal of a meeting here today between members of the U.S. Senate Agriculture Committee and top Canadian agricultural officials.

Participants at the meeting, being held at the headquarters of the Canadian Wheat Board, include Sen. George McGovern; Sen. Henry Bellmon, R-Okla.; Sen. John Melcher, D-Mont.; Sen. Hazen Argue, Chairman of the Canadian Senate Agricultural Committee; Otto Lang, Canadian Minister of Transportation and members of the Canadian Wheat Board. The Canadian Wheat Board is the sole international marketing agency for Canadian wheat.

Also attending the meeting are S.D. Lt. Gov. Harvey Wollman, South Dakota Farmers Union President Ben Radcliffe and National Farmers Union Secretary Robert Lewis.

"We hope this meeting will demonstrate the willingness of the Canadian government to cooperate with the United States and other leading wheat exporting countries to establish a new international pricing structure," South Dakota Farmers Union President Ben Radcliffe commented.

The South Dakota farm leader noted that "we already have had both private and public assurances from Canada, Australia and Argentina that they are anxious to participate in a new international wheat agreement including floor prices at not less than the cost of production." The U.S., Canada, Australia and Argentina currently market between 80 and 90 per cent of all wheat sold on the world market.

International Grain Agreement negotiations are now underway in Geneva, Switzerland, but so far U.S. representatives have resisted efforts to include a minimum wheat price in the agreement.

"Our basic problem is the undue influence that the major multinational grain trading companies appears to be exerting on the Carter Administration," Radcliffe explained. "They are the only party involved who can possibly profit from a continuation of the boom-and-bust atmosphere that has dominated the international grain trade for the past decade."

The Farmers Union President contended that "a new international agreement establishing a fair and reasonable price for wheat would be one of the most significant steps we could take to reduce our current staggering balance of payments deficit."

"In holding this meeting, we hope to apply pressure on the Administration to support adoption of a pro-farmer attitude on the part of U.S. negotiators at Geneva."

Senator McGovern has suggested that what may be needed is creation of a new Organization of Wheat Exporting Countries (OWEC).

"What we may need to do," McGovern said, "is to take a page from the book of the Organization of Petroleum Exporting Countries (OPEC) who used their oil surpluses to, in effect, set a world price for oil. Among the United States, Canada, Australia and Argentina, there is a similar domination of the market to permit some kind of 'cartel' that will insure U.S. farmers—and those in other wheat surplus nations—a fully adequate price for wheat we grow in excess of our own domestic needs."

"This meeting in Canada is an effort to investigate the potential for this kind of agreement—and to strongly signal the Administration that the time has come to get tough on pricing our wheat export sales," McGovern said.●

NUTRITION EDUCATORS CONVENE IN MINNEAPOLIS

● Mr. DOLE. Mr. President, today several thousand nutrition educators from around the country are coming together in Minneapolis for 4 days of meetings and discussions. It is the 11th Annual Convention of the Society for Nutrition Education (SNE). It was 10 years ago last month that the society was incorporated; although I believe discussions to form such a group generated some time before—at Berkeley, Calif., in the fall of 1966.

We can be proud of the strides SNE and its individual members have made to influence the course of nutrition education over the past decade. Many of these professionals, with expertise in nutrition and education, will be instrumental in the carrying out of the nutrition education components of several major pieces of legislation coming out of this Congress:

NUTRITION EDUCATION IN 95TH CONGRESS

First. The Food Stamp Act of 1977 which says State agencies shall prominently display in all food stamp and public assistance offices general information which will help recipients understand the relationship between health and diet.

Nutritionists tell me this is a significant step forward in nutrition education practices—moving from teaching about nutrients and their functions in the body to an understanding of the diet-nutrition relationships.

Second. The Child Nutrition Amendments of 1977 whereby State departments of education are eligible for funds to provide quality food service management training for school cafeteria personnel, and also nutrition instruction for students and teachers. SNE members are helping States take full advantage of this legislative first, making nutrition instruction available in our schools.

Third. And finally, the Senate version of this year's child nutrition amendments (S. 3085) scheduled to go to the floor soon. It again demonstrates Congress growing recognition of how good instruction in nutrition can strengthen our Federal food programs.

The child care food program (CCFP) part of this bill, which I introduced earlier this year, calls for States to provide sufficient training, technical assistance, and monitoring of programs to facilitate effective program operations. It was testimony from nutrition educators which convinced me of the importance of food habits development at an early age, and I would like to see some emphasis on nutrition education in the technical assistance aspects of CCFP.

The WIC title of S. 3085 too contains language addressing the importance of teaching nutrition to the vulnerable groups receiving this nutritious food package. In fact, the bill calls for not less than one-fifth of a State's 20 percent administrative costs to be used for nutrition education activities.

A word of appreciation and thanks is in order for the generous assistance and hard work of the nutrition education community, many of whom are SNE members, who will help assure significant results from all this legislation.

NUTRITION EDUCATION IN ACTION

In my congratulatory message to the society I urged them to continue their professional input beyond the legislative process. Their expertise is needed in the regulatory process; in the continuing monitoring and review of federally supported programs at the State and local levels; and, of course, in the much needed evaluation of program activities and the nutrition education components in particular.

I have been told that SNE members get involved in the regulatory process recently by responding to USDA's proposed regulations governing the competitive foods amendment. The very principles of nutrition education—as I am beginning to understand them—are at issue here.

My colleagues may recall that I introduced that amendment into last year's child nutrition legislation. With allegations of stagnant school meal participation levels, poor student food choices, and excessive food waste, Mr. President, we have an obligation to look at legislative opportunities which might retain the food quality as well as the nutrition integrity of school meals.

The training and education activities nutrition educators undertake in the 50 cents per child program must address the overall goals of the child nutrition program.

Mr. President, as nutrition—research and education—reaches its crescendo on Capitol Hill we must continue to seek the expert advice and counsel from SNE members in matters pertaining to food, nutrition, and health. I am sure my distinguished colleagues join me in a congratulatory message of good wishes. May SNE members experience a very productive 11th annual meeting as they proceed on the conference theme "perspectives for action." ●

NOTICE CONCERNING NOMINATION BEFORE THE COMMITTEE ON THE JUDICIARY

● Mr. EASTLAND. Mr. President, the following nomination has been referred to and is now pending before the Committee on the Judiciary:

Eugene Madden, Jr., of New York, to be U.S. marshal for the northern district of New York for the term of 4 years vice Frank M. Dulan, term expired.

On behalf of the Committee on the Judiciary, notice is hereby given to all persons interested in this nomination to file with the committee, in writing, on or before Monday, July 24, 1978, any representations or objections they may wish to present concerning the above nomination with a further statement whether it is their intention to appear at any hearing which may be scheduled.●

NO NEW PALACES

Mr. CHAFEE. Mr. President, our distinguished colleague from Missouri, Senator DANFORTH, recently made a statement in his home State concerning his opposition to further construction of the new Philip A. Hart Senate Office Building.

Senator DANFORTH has joined with me in sponsoring an amendment which would halt that extravagant project, and I ask unanimous consent that his complete statement on that occasion be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

NO NEW PALACES

(By Sen. JOHN C. DANFORTH)

Government costs increase because Congress continually increases the size of government. Congressmen want to be popular so they say yes to everyone and no to no one. The result is a government which gets bigger and more expensive every year. Today it is fashionable for Congressmen to talk of the need to reduce government spending, but few believe there is much conviction behind the rhetoric—and for good reason. The truth is that Congress cannot even say no to itself.

In 1972, Congress authorized construction of a third Senate office building—the Hart building. The building will be situated on three acres. Its estimated cost was to have been $48 million. That cost figure has been revised to $122 million—and it is likely to get even bigger. This represents an increase of 150 percent—and construction is just beginning. I think the whole project is disgraceful and—as a consequence, I have joined as a cosponsor of a resolution which would scuttle plans for the new building and turn the existing area into a park for Washington visitors.

I think $122 million is a ridiculous price to pay for an office building—particularly when the cost is borne by taxpayers. Even allowing for inflation, the expense is astronomical. When compared to the costs of constructing some of Missouri's more expensive projects, the Hart building makes no sense at all. In the early 1970's, Kansas City christened the Harry S. Truman Sports Complex, consisting of separate stadiums for the Kansas City Chiefs and Kansas City Royals. The complex covers 300.5 acres and was built at a cost of $55 million. The St. Louis Arch and Visitor's Center were built for just $13 million. Missouri Western State University was built in the 1960's for a cost of $13 million—and it covers approximately 744 acres of prime land in St. Joseph. In 1972, the University of Missouri opened the Hearnes Multipurpose Building, which encompasses a basketball stadium and an indoor track. It covers 4.4 acres of land and 8 acres of space and was built for $10.8 million. The Hart building will cost more than 12 times as much.

Furthermore, the building includes some unneeded and extravagant items. Architect's plans call for a third Senate gym, at a cost of $350,000. I can see no justification for having three gyms to take care of the physical exercise needs of 100 persons! Plans also call for a third Senate dining room (a rooftop dining room, no less), at a cost of $600,000. Other items include a multimedia center for Senate press efforts, at a cost of $1 million, and wood paneling for all Senator's offices, at a cost of $1.5 million. At a time when we are asking Americans to make so many sacrifices, these lavish plans are absolutely irresponsible.

A third reason for my opposition relates to the size of Senate staffs. Senate offices now are very crowded and space is a real problem, but I am not sure a new building will help the situation at all. Instead, I think it will encourage Senators to take on even more staff because of the extra space in which to accommodate them. The three buildings will become as crowded as the two we now have. Since 1968, the size of Senate staff has doubled. The legislative budget has more than tripled. We should not encourage this trend to continue.

There are some who contend that we should go ahead and complete the Hart building because construction has already begun. I think that is bunk. Halting this project will result in significant savings to taxpayers, now and in the future. Most important, it would prove to the rest of the bureaucracy that Congress is serious about reducing government spending, but perhaps that is too much to ask.

THE CLINCH RIVER BREEDER REACTOR

Mr. BAKER. Mr. President, on Friday, the House of epresentatives decisively reaffirmed its commitment to one of the most important energy projects this nation shall undertake in the next decade—the completion of the Clinch River breeder reactor. I rise to reiterate my unwavering commitment to that project.

The House members, by a vote of 187 to 142, rejected an amendment, offered by Congressman FLOWERS and the present administration, that sought to authorize completion of only the systems design and component testing portions of the CRBRP, and to conduct a study on an advanced breeder reactor project. This move would have meant the termination of the CRBRP. The proposal was rejected in favor of continued funding for the breeder reactor at the sum of $172 million. I want to express

my sincere appreciation to my Tennessee colleague, Congresswoman MARILYN LLOYD for her successful efforts to keep the breeder option open for the United States of America.

I have stood on this floor many times in the past few years fighting to insure the continued viability of the breeder reactor in our Nation's "energy arsenal." It is a battle to which I am totally committed, for I believe that we must work towards a program of energy independence, and the breeder reactor is an essential part of any such program.

I feel compelled to clarify a point that has become lost in a sea of confusion and misunderstanding about the CRBRP. The Clinch River breeder reactor project is a demonstration project. It is intended to demonstrate the feasibility of developing commercial size breeder reactors for use in preserving this Nation's uranium supply.

Proceeding with the Clinch River project does not commit us to a commercial breeder industry. This plant is only about one-third the size needed for a commercial plant. It would merely provide the technical information and experience with problems of siting, licensing and safety necessary in preparation for building commercial size breeder, in the event that decision is made sometime in the future.

Confusion has been created by those who argue that it is not economcial, presently necessary or safe enough. These theoretical questions can best be answered by finishing the demonstration project and learning as much as we can from the practical experience that will result from such completion.

Mr. President, I cannot guarantee what the future needs of our country will be; and therefore, I cannot guarantee that a commercial size breeder reactor will be needed. But, I also realize that no one else can guarantee that it will not be needed. I ask my colleagues to reflect upon the fact that, a few short years ago, no one would believe that this country would need to be as concerned about the price of oil or our oil export debt as we are today.

The point I am trying to make is a simple one: the question that confronts this body is whether we can afford to sacrifice our Nation's productive capacity on the altar of hoped-for conservation and conversion efforts. I, for one, do not think that is an appropriate move.

I am heartened to know that an overwhelming majority of our colleagues in the House of Representatives agree with me on this project's continuing importance.

In May of this year, the Rockefeller Foundation issued a study on international policy entitled, "International Cooperation on Breeder Reactors." I would like to present a few of the conclusions offered by the study.

First, there has been a major commitment by other nations throughout the world to the continued development of the breeder reactor, namely France, Germany, Japan, the United Kingdom and Russia. The study concluded that these nations will continue expansion of the breeder program with or without the participation of the United States.

Second, the study concluded:

The United States should continue to develop breeders as insurance against possible future resource depletion. For such an approach to be credible, breeders should be proven as an option through the demonstration of commercial size units.

And finally:

The United States should take steps to move back into a position of technological leadership on the breeder reactor and particularly on the breeder fuel cycle and nonproliferation matters.

Mr. President, I sincerely hope that the decision made by the House of Representatives, to continue funding for this project, will be duplicated by this body when the issue is present for our consideration. I believe it is necessary for us to indicate to the President, that the people of this Nation do not wish to be dependent upon anyone else for their energy supplies. The future is presently in our hands, and I hope that we will vote for a future of domestic energy production and energy independence.

EXPORT-IMPORT BANK LOAN TO TAIPOWER

Mr. PROXMIRE. Mr. President, I call to the attention of my colleagues a communication I have received from the Export-Import Bank pursuant to section 2(b)(3)(i) of the Export-Import Bank Act of 1945, as amended, notifying the Senate of a proposed loan to assist the export of U.S. goods and services to be used in the construction of two 300-MW combined-cycle thermal powerplants in Taiwan. Section 2(b)(3(i) of the act requires the Bank to notify the Congress of proposed loans or financial guarantees in an amount of $60,000,000 or more at least 25 days of continuous session of the Congress prior to the date of final approval. Upon expiration of this period, the Bank may give final approval to the transaction unless the Congress adopts legislation to preclude such approval.

In this case, the Bank proposes to extend a direct loan in the amount of $81,400,000 to Taipower, the Taiwan Power Company, 95 percent owned by the Republic of China, to assist in the purchase of U.S. goods and services to be used in the construction and operation of the project, which will use fossil fuel to supply electricity throughout the island of Taiwan. The proposed credit will cover 55 percent of the total cost of U.S. goods and services for the project. The loan will bear interest at the rate of 8¼ percent per annum and be repayable over a 10-year period commencing June 30, 1981.

Mr. President, I ask unanimous consent that the letter from Eximbank and accompanying material pertaining to this transaction be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EXPORT-IMPORT BANK OF THE UNITED STATES,
Washington, D.C., July 12, 1978.

DEAR MR. PRESIDENT: Pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended, Eximbank hereby submits a statement to the United States Senate with respect to the following transaction involving U.S. exports to the Republic of China.

A. Description of Transaction:

1. Purpose:

Eximbank is prepared to extend a direct credit of $81,400,000 to Taiwan Power Company (Taipower) to assist Taipower in the purchase from United States suppliers of eight 50 MW gas turbine units, steam generating equipment and related equipment and services for use in the construction of two 300 MW combined cycle thermal power plants located at Tunghsiao, Taiwan. The plants will use fossil fuel. Repayment of the Eximbank credit will be unconditionally guaranteed by the Republic of China.

While no equipment suppliers have yet been selected, it is known that General Electric is bidding to supply all of the equipment. Gills & Hill Engineering Corporation of New York City will provide the engineering services.

The total project cost of the two plants is $277,300,000 of which the total cost of the U.S. goods and services is $148,000,000. Taipower will obtain loans from local banks and government agencies for the local cost of the project and will also provide its own funds for the project.

2. Identity of the Parties:

Taipower, organized in 1946, is a corporation 95 percent owned by the Republic of China and its political subdivisions. It has the sole responsibility for the supply of electricity throughout the island of Taiwan. Taipower is one of the largest users of Eximbank's programs for its U.S. purchases and has maintained an excellent credit relationship with Eximbank.

The Ministry of Finance of the Republic of China will issue to Eximbank an unconditional, full faith and credit guarantee for repayment of the Eximbank direct credit.

3. Nature and Use of Goods and Services:

The goods to be exported from the United States are eight 50 MW gas turbine generators, two 100 MW waste heat recovery steam units, auxiliary electrical and mechanical equipment, miscellaneous equipment and spare parts. The U.S. originated services are engineering services and ocean freight on U.S. flag vessels. To date only the engineering services from Gibbs & Hill have been contracted, with the remaining U.S. goods and services to be ordered in the next few months.

The U.S. goods and services will provide for two 300 MW combined cycle thermal power plants, located on the western coast of Taiwan. The two plants will supply approximately 8% of Taiwan's electricity needs and will be utilized to meet peak power demand. The two plants will burn light distillated oil to be supplied under a long-term contract with the government-owned Chinese Petroleum Company.

B. Explanation of Eximbank Financing:

1. Reasons:

The Eximbank direct credit of $81,400,000 will facilitate the export of $148,000,000 of United States goods and services.

Eximbank perceives no adverse impact on the United States economy from the export

of these goods and services. This transaction will have a favorable impact on employment for substantial numbers of United States workers, as well as on the United States balance of trade. None of the goods to be exported are in short supply in the United States.

The domestic market for conventional power equipment has been well below the United States productive capacity. Foreign orders, therefore, have become a vital portion of United States thermal power equipment manufactures' business which enable those manufacturers to retain specialized engineering and technical staffs and production work forces. General Electric has informed us that the equipment it would be supplying would require 3,529 man years of work at its facilities, principally in Greenville, South Carolina where unemployment is 5.6 percent; Lynn, Massachusetts where unemployment is 6.5 percent; Portland, Maine where unemployment is also 6.5 percent; Pittsfield, Massachusetts where unemployment is 6.1 percent; and Schenectady, New York where unemployment is 4.5 percent. Gibbs and Hill estimates that it will take 83 man years of U.S. personnel to perform the engineering services.

Private financing without Eximbank guarantee is available only for the construction period and the earlier years of the repayment period. Lenders of the private financing for this transaction have informed us that they are prepared to extend the private financing without an Eximbank guarantee for a term not to exceed 6 years. In this transaction, there is a total term of nearly 12½ years consisting a 2½-year construction period and a ten-year repayment period. Thus, private financing is inadequate to meet the total financial requirements of this project and the Eximbank direct credit is necessary in order to generate sufficient financing for the U.S. sales.

The United States suppliers have had a long beneficial relationship with Taipower as a result of their dependable performance and superior technology. However, today manufacturers in nearly all of the industrial countries are fully capable of supplying all or nearly all of the goods and services for the two power plants, and in most instances at prices substantially below the cost of the U.S. goods and services. In the past, Eximbank has received information that suppliers in Japan, Switzerland, United Kingdom and West Germany, with the strong support of the official exports credit agencies in each of these countries, submitted bids for the procurement of major equipment categories for projects similar to the two plants. All were lower in price than the comparable U.S. costs.

In view of the magnitude of the transaction and the necessary repayment term, Eximbank's credit is necessary to secure this sale for United States suppliers.

2. The Financing Plan:

The total cost of United States goods and services to be purchased by Taipower is $148,000,000, which will be financed as follows:

	Amount	Percent of U.S. costs
Cash	$29,600,000	20.0
Eximbank credit	81,400,000	55.0
Private loans not guaranteed by Eximbank	37,000,000	25.0
Total	148,000,000	100.0

(a) Eximbank Charges:

The Eximbank credit will bear interest at the rate of 8¼ percent per annum, payable semiannually. A commitment fee of 0.5 percent per annum will also be charged on the undisbursed portion of the Eximbank credit.

(b) Repayment Terms:

The Eximbank credit and private loans, which total $118,400,000, will be repaid by Taipower in 20 semiannual installments beginning June 30, 1981. The first 6 installments and part of the 7th installment will be applied to repayment of the private loans and the balance of the 7th and all of the last 13 installments will be applied to repayment of the Eximbank direct credit.

Sincerely,

JOHN L. MOORE, Jr.

RATIFICATION OF THE GENOCIDE TREATY CAN STRENGTHEN OUR SOVIET RELATIONS

Mr. PROXMIRE. Mr. President, the last few months have been difficult for United State-Soviet relations. The Russian presence in Africa, Soviet reticence to accede to a stricter SALT agreement, crackdowns on outspoken dissidents, and arrests of American businessmen and reporters within the U.S.S.R. have led Americans to question the intentions of the Soviet regime. Some have suggested that we are entering a period reminiscent of the cold war.

Part of the blame has fallen on President Carter. Critics claim that the President is responsible for the tension in relations because of his firm commitment to human rights.

Many contend that we are faced with a dilemma in our foreign policy. We must make a tradeoff, they say, between our call for human rights in the Soviet Union and our bargaining position with the Soviets.

But, a moral stand in foreign policy and a smoother relationship with the Soviet Union are not mutually exclusive. There is one simple action we can take which reaches both objectives. This step is U.S. ratification of the United Nations Convention on the Prevention and Punishment of Genocide.

Signing this treaty is a significant move in the area of human rights. It commits the United States to the most basic and crucial right of all—the right to live. By acceding to this treaty, we are making it clear to other nations that we will not tolerate mass murder against any racial, ethnic, or religious group, and within any national borders. Ratification would affirm our moral responsibility and would inspire other nations to expand their support for human liberties.

At the same time, ratification would improve our diplomatic position. Our hestitation in approving the genocide treaty has often been exploited by the Soviet Union in their dealings with us. The Soviets have been able to embarrass us by pointing out our failure to condemn mass murder through ratification of the Genocide Convention. By eliminating the opportunity for embarrassment, we can strengthen our hand in foreign affairs.

Direct accusations by the United States of international violations of civil liberties have often sparked animosity in the Soviet Union. This treaty, however, makes no direct attack on Soviet policies.

On the grounds of both humanitarian objectives and diplomatic goals, I call upon the Senate to support this treaty.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the Senate will convene at 10 o'clock tomorrow morning. After the two leaders or their designees have been recognized under the standing order, the Senate will go into executive session to consider the nomination of Milton D. Stewart of New York to be Chief Counsel for Advocacy of the Small Business Administration. There is no time agreement on the nomination. If the Senate should dispose of that nomination before the hour of 1:50 p.m. tomorrow, the Senate will, at that point, return to the consideration of the endangered species bill, S. 2899. In any event, at the hour of 10 minutes to 2 o'clock tomorrow afternoon, the Senate will, for 10 minutes, debate the conference report on coal conversion, the bill being H.R. 5146.

At the hour of 2 p.m., the vote will occur on the adoption of the conference report, after which, the Senate will resume its consideration of the nomination of Mr. Stewart if the nomination has not been disposed of by that time; or, in the alternative, if the nomination has been disposed of, the Senate will resume its consideration of S. 2899, the Endangered Species Act. Amendments will be called up tomorrow on that bill.

There will be rollcall votes. There will be a rollcall vote on the nomination of Mr. Stewart. There will be a rollcall vote on the conference report on coal conversion; and there will be rollcall votes on amendments to and motions, if there be such, in relation to S. 2899, the Endangered Species Act. So I expect several rollcall votes tomorrow.

RECESS UNTIL 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 10 o'clock tomorrow morning.

The motion was agreed to; and at 6 p.m., the Senate recessed until tomorrow, Tuesday, July 18, 1978, at 10 a.m.

HOUSE OF REPRESENTATIVES—*Monday, July 17, 1978*

The House met at 12 o'clock noon.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

May the Lord grant you discretion and understanding that you may keep the law of the Lord your God.—1 Chronicles 22: 12.

O God and Father of us all, may Thy presence be real to us as we set out upon the labors of this week. Renew our strength for the work we have to do and give us wisdom to see clearly, to choose wisely, and to act worthily that we may make this week a great week for our people.

Help us to stand up for the truth whether others do or not, to believe in justice—even in the midst of injustice, to work for brotherhood amid unbrotherliness and to seek to make our land a fairer land for all of us to live together with good will in every heart. Make us a part of the company who seek the truth, who desire goodness, and who walk in the ways of peace.

Bless our President, his Cabinet, the Members of Congress, and all who work with them and for them that together they may worthily represent our people and seek the highest good of our Republic.

In Thy holy name we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 3489. An act to amend section 216 (b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, and for other purposes;

H.R. 4270. An act to designate the Federal building and United States courthouse in Hato Rey, Puerto Rico, the "Federico Degetau Federal Building"; and

H.J. Res. 613. Joint resolution to authorize and request the President to issue a proclamation designating the first Sunday of September after Labor Day in 1978 as "National Grandparents Day."

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 11003. An act to clarify the authority for employment of personnel in the White House Office and the Executive Residence at the White House, to clarify the authority for employment of personnel by the President to meet unanticipated needs, and for other purposes; and

H.R. 12602. An act to authorize certain construction at military installations for fiscal year 1979, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 12602) entitled "An act to authorize certain construction at military installations for fiscal year 1979, and for other purposes," requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. STENNIS, Mr. HART, Mr. JACKSON, Mr. CANNON, Mr. BYRD of Virginia, Mr. NUNN, Mr. HATFIELD of Montana, Mr. THURMOND, Mr. TOWER, Mr. SCOTT, and Mr. BARTLETT to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 2391. An act to extend the Commodity Exchange Act, and for other purposes;

S. 2403. An act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91–21; and

S. 2801. An act to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Arkansas, as the "Henry R. Koen Forest Service Building."

CONSENT CALENDAR

The SPEAKER. This is Consent Calendar day. The Clerk will call the first bill on the Consent Calendar.

TO PAY TRIBUTE TO MEMBERS OF THE U.S. ARMED FORCES WHO SERVED HONORABLY IN SOUTHEAST ASIA DURING THE VIETNAM CONFLICT

The Clerk called the bill (H.R. 12261) to pay tribute to those members of the U.S. Armed Forces who served honorably in Southeast Asia during the Vietnam conflict.

There being no objection, the Clerk read the bill as follows:

H.R. 12261

A bill to pay tribute to those members of the United States Armed Forces who served honorably in Southeast Asia during the Vietnam conflict

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of Defense shall have placed in the Trophy Hall of the Memorial Amphitheater at Arlington National Cemetery a memorial plaque suitable for display before an international audience which shall bear the following inscription: "The people of the United States of America pay tribute to those members of its Armed Forces who served honorably in Southeast Asia during the Vietnam conflict.". To further honor those members of the Armed Forces who lost their lives in hostile action in Southeast Asia during the Vietnam conflict, the Secretary of Defense shall have placed near such plaque in a suitable repository a display of the Purple Heart Medal and other medals, ribbons, and decorations associated with service in Southeast Asia during the Vietnam conflict.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

RIGHTS OF PAIUTE AND SHOSHONE TRIBES

The Clerk called the Senate bill (S. 785) to declare that all right, title, and interest of the United States in 2,700 acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nev., to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

There being no objection, the Clerk read the Senate bill, as follows:

S. 785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subject to valid existing rights, all right, title, and interest of the United States in two thousand seven hundred acres, more or less, described below are hereby declared to be held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Nevada:

MOUNT DIABLO MERIDIAN

Township 19 north, range 29 east, section 29, south half northwest quarter northwest quarter and the southwest quarter northwest quarter;

Township 19 north, range 30 east, section 2, northwest quarter; section 3, north half and southwest quarter; section 4, all; section 8, north half and southwest quarter;

Township 20 north, range 30 east; section 33; south half; section 34, south half; section 35, west half southeast quarter and southwest quarter.

(b) Notwithstanding any other provision of this Act, the United States shall be entitled to use, without compensation, for so long as necessary, as determined by the Secretary of the Interior, four acres, more or less, of such lands referred to in subsection (a) for irrigation canal purposes.

SEC. 2. The lands held in trust pursuant to this Act shall be included in and deemed a part of the Fallon Indian Reservation and Colony, Nevada.

SEC. 3. The Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony shall hereafter be entitled, from the date of enactment of this Act, to the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement covering lands declared to be held in trust by this Act. In the event that such trust lands do not cover all of the land embraced within any such lease, contract, permit, right-of-way, or easement, said tribes shall hereafter be entitled, from the date of enactment of this Act, to the proportionate amount of the revenues to be received by the United States under any existing lease, contract, permit, right-of-way, or easement which results from multiplying the total of such revenues by a fraction in which the numerator is the acreage of such lease, contract, permit, right-of-way, or easement which is included in the land declared to be held in trust pursuant to this Act and the

denominator is the total acreage contained in such lease, contract, permit, right-of-way, or easement.

SEC. 4. The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange, the water rights appurtenant to any allotted lands within the boundaries of the Fallon Indian Reservation. The title to all water rights acquired, transferred, or developed under the authority of this Act shall be held in trust by the United States for the benefit of the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.

SEC. 5. (a) The Fallon Paiute and Shoshone Tribes Business Council or the Secretary of the Interior, acting at the request of the tribes, is authorized to acquire, with funds provided by the Fallon Paiute and Shoshone Tribes, through purchase, gift, or exchange any lands or interest in lands within the boundaries of the Fallon Indian R rvation in Nevada for the purpose of consolidating landholdings, eliminating fractionated heirship interests in Indian trust lands, providing land for any tribal program for the improvement of the economy of the tribe and its members through the development of industry, recreational facilities, housing projects, and the general rehabilitation and enhancement of the total resource potential of the reservation. Title to any land acquired under the authority of this Act shall be taken in the name of the United States in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation in Nevada.

(b) Nothing in this section or subsection 4(b) of this Act shall confer any authority or impose any requirement on the Secretary to exchange, dispose of, or otherwise utilize other lands or interests therein under his administration in connection with any exchange, disposal, or acquisition of Indian trust land or interests therein authorized by this section and subsection 4(b) of this Act. Nothing in this section or in subsection 4(b) of this Act shall supersede or repeal by implication the requirements of the Act of October 21, 1976 (90 Stat. 2743). Any acquisition of or exchange pursuant to this section or subsection 4(b) of this Act which involves public lands of interests therein as defined in the Act of October 21, 1976, shall also meet the requirements of said 1976 Act.

SEC. 6. Nothing in this Act shall affect rights subject to adjudication in United States against Alpine Land and Reservoir Company, et al., Equity No. D–183, U.S. Dist. Ct., Nevada, and United States against Truckee-Carson Irrigation District, et al., Civ. No. R–2987, U.S. Dist. Ct., Nevada.

SEC. 7. The Secretary of the Interior is authorized and directed to make as his first priority: (a) the improvement and extension of the existing system for the delivery and distribution of irrigation water within the Fallon Indian Reservation; (b) the construction of such additional canals, laterals, and irrigation works as are necessary to deliver sufficient water to irrigate the practically irrigable acres included in the Fallon Indian Reservation pursuant to this Act; and, (c) the subjugation of up to one thousand eight hundred acres for agricultural purposes

To implement this section, there are hereby authorized to be appropriated up to $5,-400,000 for construction purposes under this Act, such amount to remain available until expended.

With the following committee amendments:

Page 2, line 8, strike out "section 33;" and insert "section 33,".

Page 2, line 21, strike out "from the date of enactment of this Act," and insert "beginning on October 1, 1978,".

Page 3, line 3, strike out "from the date of enactment of this Act," and insert "beginning on October 1, 1978,".

Page 3, line 23, add a new sentence as follows:

Nothing in this Act shall be construed to permit the transfer of water rights from lands within the existing Fallon Indian Reservation to lands added to the reservation by this Act.

Page 4, line 18, page 5, line 1, and line 5, strike the words "subsection 4(b)" and insert in lieu thereof "section 4".

Page 5, line 4, strike the word "of" and insert in lieu the word "or".

Page 6, strike out all of lines 1 through 4.

The committee amendments were agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR DISTRIBUTION OF CERTAIN JUDGMENT FUNDS AWARDED BY INDIAN CLAIMS COMMISSION TO CONFEDERATED TRIBES AND BANDS OF YAKIMA INDIAN NATION

The Clerk called the bill (H.R. 10581) to provide for the distribution of certain judgment funds awarded by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation.

There being no objection, the Clerk read the bill as follows:

H.R. 10581

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of this Act, the term:

(1) "Superintendent" means Superintendent, Yakima Indian Agency, Bureau of Indian Affairs.

(2) "Yakima Tribal Council" means the governing body of the Confederated Tribes and Bands of the Yakima Indian Nation or a delegate committee within the Yakima Tribal Council.

(3) "Minor" means a Yakima Indian who has not attained the age of eighteen.

(4) "Minor's share" means the per capita share of a judgment award and the investment income accruing thereto, which is segregated in individual Indian money accounts.

SEC. 2. Notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466), to the contrary, or the regulation promulgated pursuant thereto, the minor's share of judgment funds awarded by the Indian Claims Commission or the United States Court of Claims to the Confederated Tribes and Bands of the Yakima Indian Nation may be disbursed to the parents or legal guardian of such minor.

SEC. 3. The minor's share of judgment funds may be disbursed in such amounts deemed necessary for the best interest of the minor for the minor's health, education, or welfare and emergencies under a plan approved by the Superintendent and the Yakima Tribal Council.

SEC. 4. None of the funds distributed per capita or held in trust under the provisions of this Act shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act, or any other Federal or federally assisted program.

SEC. 5. A monthly report of the disbursements of judgment funds to minors specifying the amount and purpose of the disbursement shall be formulated and delivered by the Superintendent to the Yakima Tribal Council.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

DECLARING CERTAIN FEDERALLY OWNED LAND KNOWN AS THE YARDEKA SCHOOL LAND TO BE HELD IN TRUST FOR THE CREEK NATION OF OKLAHOMA

The Clerk called the Senate bill (S. 947) to declare certain federally owned land known as the Yardeka School Land to be held in trust for the Creek Nation of Okahoma.

There being no objection, the Clerk read the Senate bill as follows:

S. 947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, subject to existing permits and rights-of-way, all right, title, and interest of the United States in the five acres, more or less, described as west half of the northwest quarter of the northwest quarter of the northwest quarter of section 10, township 10 north, range 13, I.B.M., McIntosh County, Oklahoma, are hereby declared to be held in trust by the United States for the Creek Nation of Oklahoma.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

LANDS HELD IN TRUST FOR CHEYENNE-ARAPAHO TRIBES

The Clerk called the Senate bill (S. 1291) to declare that certain lands of the United States situated in the State of Oklahoma are held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and to authorize the Secretary of the Interior to accept conveyance from the Cheyenne-Arapaho Tribes of Oklahoma of certain other lands in Oklahoma to be held in trust by the United States for such tribes.

There being no objection, the Clerk read the Senate bill as follows:

S. 1291

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, all right, title and interest of the United States in and to the following described lands, and improvements thereon, are hereby declared to be held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma:

A tract, piece, or parcel of land lying partly in the northeast quarter section 12, township 13 north, range 8 west, Indian meridian, and partly in the northwest quarter, section 7, township 13 north, range 7 west, Indian meridian, Canadian County, State of Oklahoma, more particularly described as follows: beginning at the northeast corner of said section 12,

thence south 0 degree 56 minutes 25 sec-

onds east a distance of 2,622.63 feet to the east quarter corner of said section 12;

thence north 89 degrees 08 minutes 36 seconds east a distance of 232.24 feet;

thence south 4 degrees 03 minutes 30 seconds west a distance of 420.90 feet;

thence south 64 degrees 49 minutes 23 seconds west a distance of 1,193.98 feet;

thence north 1 degree 21 minutes 07 seconds west a distance of 911.11 feet;

thence north 89 degrees 08 minutes 36 seconds east a distance of 212.31 feet to a point of intersection with the west right-of-way line of the Rock Island Railroad;

thence north 11 degrees 47 minutes 24 seconds east along said right-of-way line a distance of 2,339.61 feet;

thence northeasterly along a curve to the left with a radius of 2,192.01 feet a distance of 344.39 feet to a point of intersection with the north line of said section 12:

thence north 89 degrees 07 minutes 19 seconds east a distance of 600.83 feet to the point or place of beginning which coincides with and is identical to the northwest corner of section 7, township 13 north, range 7 west, Indian meridian, from whence proceed north 89 degrees 20 minutes 20 second east a distance of 1,320.00 feet;

thence south 1 degree 32 minutes 45 seconds east a distance of 974.19 feet;

thence south 89 degrees 20 minutes 04 seconds west a distance of 1,330.29 feet;

thence north 0 degree 56 minutes 25 seconds west a distance of 974.19 feet to the point or place of beginning, subject to the easements of record. Portion of tract in section 12 (13 north-8 west) contains 73.24 acres, more or less. Portion of tract in section 7 (13 north-7 west) contains 29.63 acres, more or less. Total area equals 102.87 acres, more or less.

A tract or parcel of land in the east half northwest quarter of section 18, township 12 north, range 16 west of Indian meridian, Custer County, State of Oklahoma, more particularly described as follows: beginning at point on the north line of said quarter section, 259 feet west of the northeast corner (quarter corner); thence west along north boundary 426 feet;

thence south 01 degree 20 minutes west 705 feet;

thence east 640.43 feet parallel with north line;

thence south 0 degree 43 minutes west 926.97 feet;

thence south 87 degrees 11 minutes 40 seconds west 227.5 feet;

thence south 0 degree 38 minutes west 843.67 feet;

thence south 25 degrees 10 minutes 20 seconds east 169.5 feet to south boundary of said quarter section; thence east along south boundary 202.85 feet to southeast corner 1 inch diameter iron pin;

thence north 0 degree 43 minutes east 2315 feet along east boundary;

thence west parallel with north line 259 feet;

thence north 0 degree 43 minutes east 325 feet to point of beginning, containing 16.56 acres, more or less.

SEC. 2. The Secretary of the Interior is authorized and directed upon request of the Cheyenne-Arapaho Tribes of Oklahoma to accept the conveyance from such tribes of the fee simple title to the lands, and improvements thereon, conveyed to such Tribes from the United States pursuant to the Act of September 14, 1960 (74 Stat. 1029) and the Act of May 18, 1968 (82 Stat. 124). Such lands, together with the improvements thereon, shall be held in trust by the United States for the Cheyenne-Arapaho Tribes of Oklahoma.

SEC. 3. The conveyances made pursuant to this Act shall be subject to any existing easements, licenses, permits, or commitments heretofore granted or made for a specific period of time, but no such easement, license, permit, or commitment shall be renewed or continued beyond its presently effective termination date without the express consent of the Cheyenne-Arapaho Tribes of Oklahoma. The conveyances made pursuant to this Act shall be also subject to existing rights-of-way for waterlines, electric transmission lines, other utilities, roads, and railroads.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMERICAN INDIAN RELIGIOUS FREEDOM

The Clerk called the joint resolution (H.J. Res. 738) on American Indian religious freedom.

The SPEAKER. Is there objection to the present consideration of the joint resolution?

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the joint resolution be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. That concludes the call of the Consent Calendar.

THE LATE HONORABLE R. WALTER RIEHLMAN

(Mr. HANLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HANLEY. Mr. Speaker, it is with great sadness that I bring to this Chamber the news of the passing yesterday of a man who served almost two decades as a U.S. Representative, the Honorable R. Walter Riehlman of Tully, N.Y. He would have been 79 years old next month.

R. Walter Riehlman started life as a farm boy in the town of Otisco, N.Y. He attended Otisco grade school and Tully High School for a year before entering Manlius Military School. He worked his way through that school as a waiter.

He graduated from Manlius in 1919, and entered Central City Business School. After completing his schooling there, he became employed briefly by a wholesale druggist, and then purchased his own grocery store in Nedrow. Subsequently, he was appointed postmaster.

Walter sold his grocery business in 1922, and worked briefly for an east Syracuse bakery before starting the Tully Bakery in 1923. Under his guidance, the bakery grew from an establishment which made $13.64 on its first day, to a thriving enterprise which employed 75 persons.

Walter Riehlman tended strictly to business and served his community in a variety of volunteer capacities for several years. In 1934, however, he decided his business was firmly enough established to permit him to take a fling at politics. He took his first step in 1934, when he was elected Republican chairman in the town of Tully. Three years later, he was elected supervisor from the town of Tully on the old Onondaga County Board of Supervisors. He served in that capacity for 6 years, and was chosen majority leader in his last year. Continuing his step up the political ladder, he was elected county clerk in 1943.

R. Walter Riehlman was elected to Congress in 1946, and represented the city of Syracuse and the county of Onondaga for 18 years. As chairman, or member, of the House Military Operations Subcommittee, depending on which party was in the majority, he figured prominently in uncovering huge waste in the armed services. In 1954, for instance, congressional colleagues publicly praised Walter Riehlman for the manner in which his subcommittee had investigated and reported on ticklish research and development problems within the Nation's military establishment.

At that time, the subcommittee's report was cited as "one of the most constructive reports" any congressional committee had ever written. Former Speaker of the House, our dear friend John McCormack of Massachusetts, then the minority whip, said:

> The investigation made by the Riehlman Subcommittee could well be a guide for every other investigation that is made by any Committe or any Subcommittee or any Special Committee.

Throughout his congressional career, Walter Riehlman was an outspoken supporter of fiscal restraint. He was a "watchdog of the Treasury" before that role became fashionable.

Early in 1965, Walter Riehlman became a consultant on policy matters to the National Aeronautics and Space Administration. For the last several years, he and Mrs. Riehlman resided at Ormond Beach, Fla., while retaining their summer residence at Tully Lake.

We will all miss R. Walter Riehlman for his courage, his inspirational leadership, and his dedication and concern for his community and his country. I know that our heartfelt best wishes go out to his family.

Mr. WALSH. Mr. Speaker, will the gentleman yield?

Mr. HANLEY. I am delighted to yield to my friend and colleague from New York (Mr. WALSH).

Mr. WALSH. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. Speaker, it is my sad duty to inform you and my colleagues of the death yesterday of R. Walter Riehlman, who represented my home area, Onondaga County, N.Y., in this body with distinction and honor from 1947 through 1964.

I know many of you present today served with Walter Riehlman and will remember his quiet wit, his warm companionship, his effective leadership, and his dedicated service to the people who

chose him to represent them in Congress for 18 fine years.

Walter Riehlman was a symbol of a less complicated age, when success was measured by hard work, starting at the bootstraps and pulling up. He worked his way through elementary and secondary schools and college, started his own grocery business, then a small bakery in his hometown of Tully, N.Y.

Even while the Tully Bakery grew and prospered, it always retained the personal smalltown flavor so typical of America a generation ago—and so did Walter Riehlman, who successively served his fellow citizens as Postmaster, as town supervisor, as town Republican chairman, as Onondaga County clerk, and then as a Member of Congress.

In Washington he became best known for his pioneering leadership in space exploration, in military operations, and in projects to improve the economy of central New York.

He was loyal to his party, and a close friend and early supporter of Dwight D. Eisenhower, Richard M. Nixon, and Gerald R. Ford. At the same time, he was respected and revered by colleagues on the Democratic side of the aisle. Former Speaker John McCormack praised Walter Riehlman publicly for his efforts to eliminate waste in military appropriations, and the National Aeronautics and Space Administration retained him as a consultant after he left Congress.

It was a privilege to know Walter Riehlman, and to know him was to have his friendship and his support forever.

I know I speak for all of us here today when I say that our deepest sympathy is extended to Lucie, his lovely wife, his son Royce, and his daughter Jane.

I ask you to join with me in a prayer for Walter Riehlman, a friend, a leader, a genuine public servant. May God rest his soul.

Mr. HANLEY. I thank the gentleman from New York for his very kind comments. I would conclude with a sincere note of sympathy on behalf of Mrs. Hanley and myself to Mrs. Riehlman and the Riehlman family.

NATION COULD GO INTO DEPRESSION IF PAYROLL TAXES ARE NOT REDUCED

(Mr. BURKE of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURKE of Massachusetts. Mr. Speaker, I take this opportunity to bring to the attention of the Members of the House the news stories that are appearing around this Nation about the proposed tax cuts that might take place this year.

As the Members know, I have been trying to roll back the increases in social security taxes that were enacted last year. It is the opinion of the Joint Economic Committee that if those increases take place and we do not roll back these taxes, there will be 1.3 million jobs lost in this country. That approximates to about 3,000 jobs for each Congressman's district.

I say, Mr. Speaker, that unless we reduce the payroll tax, the other taxes we are talking about will be meaningless. This Nation could go into a depression starting January of 1979.

Time is running out on us. As I said before, on the beaches of hesitation lie the bleached bones of thousands: Having sat down to rest, life passed them by.

BROCK ADAMS IS SUPPORTED AGAINST RUMORED RESIGNATION

(Mr. WRIGHT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WRIGHT. Mr. Speaker, a story in one of the daily newspapers today speculates over a rumored possibility that Secretary of Transportation Brock Adams might be contemplating resignation.

While I am aware of no basis for that rumor, I take this time simply to express the hope that the rumor is not true and to urge Secretary Adams, if indeed, he has contemplated any such thing, to reconsider.

The fact is that Secretary Brock Adams has been handling his job just as we, his friends, would have expected him to do. He has done it forcefully and effectively. He has taken on the tough questions and applied his best judgment to issues ranging from airline regulation to highways and mass transit, to flights by the Concorde, to air bags for automobiles. He has not dodged even the toughest of them.

Most Members of this body know Secretary Brock Adams personally. Most of us are familiar with the truly outstanding leadership he provided here in Congress, notably as chairman of the Committee on the Budget in its formative years. Without his leadership and without his sound judgment, there might have been no Budget Committee and no budget process today. His performance in that capacity as well as in numerous others was a superb demonstration of skill, finesse, and the ability to get important and difficult objectives accomplished.

I believe he has done that kind of job as Secretary of Transportation as well, and I should like to urge that if indeed he has considered resignation, he abandon that thought and continue to serve, in the interest of the Nation.

Mr. HOWARD. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from New Jersey.

Mr. HOWARD. Mr. Speaker, I thank my friend, the gentleman from Texas, for yielding.

I wish to compliment him for his remarks. Certainly I concur in them.

We do have as the head of the Department of Transportation a brilliant man who knows transportation. He is going through difficult times because transportation is going through a change and we are entering a new era.

I would certainly hope that Brock Adams will stay at the helm of the position he has now so that we can work together as we have in the past to develop certainly in the area of my subcommittee a comprehensive and far-reaching and effective transportation policy for this Nation.

I thank the majority leader for the words he has just spoken.

MISLEADING ARTICLE IN WASHINGTON POST ON DECONTROL OF OIL

(Mr. POAGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. POAGE. Mr. Speaker, On Saturday the Washington Post printed a front page article headlined "House Astir Over Gambit To Decontrol Oil." The article is extremely misleading. It pictures our majority leader, Mr. WRIGHT, as presenting a plan to decontrol the price of all domestically produced oil. Maybe, that would be a good thing. There is honest difference of opinion on that point. But what the leader seeks to do is only to decontrol the price of oil produced by the small producing wells. And he has proposed this course in an effort to get a larger percentage of our oil from domestic sources.

The cost to the public would be exactly the same whether a barrel of oil were produced from a so-called "stripper" well in Okalhoma or whether it was produced in Saudi Arabia, but the effect on our balance of trade and the value of the dollar would be quite different.

Mr. WRIGHT knows, as everyone who is familiar with the oil business knows, that the cost of drilling a well of a fixed depth is approximately the same whether the well produces 3,000, 300, or 30 barrels or whether it comes in dry.

There are vast areas in our country where there is a good chance of finding a well of 20 or 30 barrels, but practically no chance of finding 300 barrels, yet most of our oil is produced from the larger wells.

The question is should we forego the production we could get from these small wells and from old wells which have suffered such a decline in production that it is not profitable to produce them at $5 per barrel but it would be profitable at the price we pay for foreign oil?

As I see it the majority leader is only trying to save and use a domestic energy resource which we can buy at exactly the same price we are paying foreigners for the same resource. What is so bad about that? But the article in the Post made no effort to give the public any of the reasons for the WRIGHT proposal. Surely the Post knows the reasons. Must we, therefore, conclude that the front page is not a listing of world happenings, but rather that it is a presentation of the publisher's views? These views properly appear on the editorial page, but we have reached a low point in journalism when these views monopolize the front page.

PROPOSED LEGISLATION TO CORRECT INEQUITY TO CERTAIN WIDOWS OF MILITARY PERSONNEL WHO DIED IN PERFORMANCE OF THEIR DUTIES

(Mr. HAMMERSCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAMMERSCHMIDT. Mr. Speaker, during recent testimony before a subcommittee of the Committee on Veterans' Affairs, a witness representing the Veterans of Foreign Wars pointed out a technical oversight in the construction of title 38. This oversight denies medical protection to some widows of active duty personnel who died in the performance of their duties, if the widow remarries and subsequently becomes single again. The remarriage cuts off any entitlement to CHAMPUS benefits, no matter what her marital status subsequently becomes. The widow is not presently eligible for CHAMPVA, because her husband did not die of a "service-connected disability," under the present definition of that word, and thus is not considered to have been a veteran under chapter 17 of title 38. Consequently, in some cases the widow of a man who was killed in action cannot have her medical needs attended to in the same manner as the widow of a man who was wounded, and later died of the disability the wounds inflicted. This is unconscionable, and the legislation I introduce today will remedy the situation by including in the chapter 17 definition of the term "veteran" a person who died on active duty. Such a definition already applies in other areas of veterans law, including dependency and indemnity compensation (DIC), and death pension.

APPOINTMENT OF CONFEREES ON H.R. 12602 TO AUTHORIZE CONSTRUCTION AT MILITARY INSTALLATIONS FOR FISCAL YEAR 1979

Mr. PRICE. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 12602) to authorize certain construction at military installations for fiscal year 1979, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Illinois? The Chair hears none, and appoints the following conferees: Messrs. NEDZI, PRICE, CHARLES H. WILSON of California, BRINKLEY, DAVIS, KAZEN, WON PAT, WHITEHURST, BOB WILSON, and BEARD of Tennessee.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 546]

Alexander	Erlenborn	Moffett
Ambro	Evans, Colo.	Moss
Andrews, N.C.	Evans, Del.	Obey
Andrews, N. Dak.	Evans, Ga.	Ottinger
Archer	Fish	Patten
Armstrong	Flowers	Patterson
Ashbrook	Flynt	Pattison
Ashley	Ford, Mich.	Pike
Biaggi	Ford, Tenn.	Pressler
Bingham	Fraser	Pritchard
Blouin	Frey	Quie
Boland	Fuqua	Quillen
Breaux	Garcia	Richmond
Brown, Ohio	Gibbons	Rodino
Burke, Calif.	Ginn	Roncalio
Burton, Phillip	Gonzalez	Ruppe
Butler	Harrington	Santini
Byron	Harsha	Sarasin
Caputo	Heckler	Sawyer
Cederberg	Hefner	Scheuer
Chisholm	Jenrette	Sebelius
Clawson, Del	Johnson, Colo.	Shipley
Clay	Jones, Tenn.	Smith, Iowa
Cochran	Kasten	Teague
Conyers	Le Fante	Thone
Cornell	Leggett	Traxler
Cotter	McHugh	Tsongas
Davis	McKinney	Tucker
Dent	Mann	Vander Jagt
Diggs	Martin	Wampler
Dodd	Mathis	Wiggins
Downey	Mikva	Young, Tex.
Edwards, Okla.	Milford	Zeferetti
	Moakley	

The SPEAKER. On this rollcall 332 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote of the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated and after those motions to be determined by nonrecord votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

VETERANS' HOUSING IMPROVEMENTS ACT OF 1978

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12028) to amend title 38, United States Code, to improve the housing programs of the Veterans' Administration, as amended.

The Clerk read as follows:

H.R. 12028

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Housing Improvement Act of 1978".

SEC. 2. Section 802 of title 38, United States Code relating to limitations on assistance furnished for specially adapted housing for certain disabled veterans, is amended by striking out "$25,000" and inserting in lieu thereof "$30,000".

SEC. 3. Section 1802(a) of title 38, United States Code, relating to basic entitlement for home, condominium, and mobile home loans, is amended—

(1) in the first sentence, by striking out "World War II or the Korean conflict" both places it appears and inserting in lieu thereof "World War II, the Korean conflict, or the Vietnam era"; and

(2) in the second sentence, by striking out "Entitlement" and all that follows through "World War II, has" and inserting in lieu thereof "In the case of any veteran who served on active duty in two or more periods specified in the preceding sentence, or in section 1818 of this title, for which eligibility for the benefits under this chapter may be granted, entitlement derived from service during the most recent such period (1) shall cancel any unused entitlement derived from service during any earlier such period, and (2) shall be reduced by the amount by which entitlement from service during any earlier such period has".

SEC. 4. Section 1803(a)(1) of title 38, United States Code, relating to the basic Veterans' Administration loan guaranty, is amended by striking out "World War II or Korean conflict veteran" and inserting in lieu thereof "veteran eligible for benefits under this chapter".

SEC. 5. (a) Section 1810(c) of title 38, United States Code, relating to the amount of the Veterans' Administration guaranty of loans to veterans for purchase or construction of homes, is amended by striking out "17,500" and inserting in lieu thereof "$25,000".

(b) Section 1811(d)(2)(A) of such title, relating to the amount of direct loans by the Veterans' Administration to veterans for purchase or construction of homes, is amended by striking out "$17,500" both places it appears and inserting in lieu thereof "$25,000".

SEC. 6. (a) Section 1818 of title 38, United States Code, relating to eligibility for home loans of veterans who serve after January 31, 1955, is amended—

(1) by inserting "and prior to August 5, 1964, or after May 7, 1975," in subsection (a) after "January 31, 1955,";

(2) by striking out "active duty after such date" in subsection (a)(3) and inserting in lieu thereof "such active duty";

(3) by inserting "and section 1802(a) of this title" in subsection (a) after "of this section";

(4) by striking out subsection (b) and redesignating subsection (c) as subsection (b); and

(5) by striking out "Veterans who serve after January 31, 1955" in the catchline and inserting in lieu thereof "Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975".

(b) The item relating to section 1818 in the table of sections at the beginning of chapter 37 of title 38, United States Code, is amended to read as follows:

"1818. Service after January 31, 1955, and prior to August 5, 1964, or after May 7, 1975.".

SEC. 7. (a) Subsections (a) and (b) of section 1819 of title 38, United States Code, relating to mobile home and mobile home lot loans, are amended to read as follows:

"(a)(1) Notwithstanding any other provision of this chapter, any loan to a veteran eligible for the benefits of this chapter, if made pursuant to the provisions of this section, may be guaranteed if such loan is for one of the following purposes:

"(A) The purchase of a lot on which to place a mobile home already owned by the veteran.

"(B) The purchase of a new or used single-wide mobile home.

"(C) The purchase of a new or used single-wide mobile home and a lot on which to place such home.

"(D) The purchase of a new or used double-wide mobile home.

"(E) The purchase of a new or used dou-

ble-wide mobile home and a lot on which to place such home.

"(2) A loan for any of the purposes described in paragraph (1) of this subsection may include an amount determined by the Administrator to be appropriate to cover the cost of necessary preparation of a lot already owned or to be acquired by the veteran, including the installation of utility connections, sanitary facilities, and paving and the construction of a suitable pad.

"(3) Any loan made for the purposes set forth in subparagraph (C) or (E) of paragraph (1) shall be considered as part of one loan. The transaction may be evidenced by a single loan instrument or separate loan instruments for (A) that portion of the loan which finances the purchase of the mobile home, and (B) the portion which finances the purchase of the lot, plus necessary preparation of such lot.

"(b)(1) Use of entitlement under this section for the purchase of a mobile home unit shall preclude the use of remaining entitlement for the purchase of an additional mobile home unit until the unit which secured the loan has been disposed of by the veteran or has been destroyed by fire or other natural hazard.

"(2) The Administrator shall restore entitlement to all loan guaranty benefits under this chapter for the veteran when the conditions prescribed in section 1802(b) of this title have been met.".

(b)(1) Paragraph (1) of subsection (c) of such section is amended to read as follows:

"(1) Loans for any of the purposes authorized by subsection (a) of this section shall be submitted to the Administrator for approval prior to loan closing except that the Administrator may exempt any lender of a class listed in section 1802(d) of this title from compliance with such prior approval requirement if the Administrator determines that the experience of such lender or class of lenders in mobile home financing warrants such exemption.".

(2) Paragraph (3) of such subsection is amended by striking out the first sentence and inserting in lieu thereof the following: "The Administrator's guaranty shall not exceed the lesser of 50 per centum of the loan amount or the maximum loan guaranty entitlement available, not to exceed $17,500. Payment of a claim under such guaranty shall be made only after liquidation of the security for the loan and the filing of an accounting with the Administrator.".

(3) Such subsection is further amended by adding at the end thereof the following new paragraph:

"(4) The amount of guaranty entitlement available to a veteran under this section shall not be more than $17,500 less such entitlement as may have been used under this section. Use of entitlement under section 1810 or 1811 shall reduce entitlement available for use under this section to the same extent that entitlement available under section 1810 is reduced to less than $17,500.".

(c) Subsection (d) of such section is amended to read as follows:

"(d)(1) The maturity of any loan guaranteed under this section shall not be more than—

"(A) fifteen years and thirty-two days in the case of a loan for the purchase of a lot only;

"(B) fifteen years and thirty-two days in the case of a loan for the purchase of a single-wide mobile home only;

"(C) fifteen years and thirty-two days in the case of a loan for the purchase of a single wide mobile home and a lot;

"(D) twenty years and thirty-two days in the case of a loan for the purchase of a double-wide mobile home only; or

"(E) twenty years and thirty-two days in the case of a loan for the purchase of a double-wide mobile home and a lot.

"(2) Nothing in paragraph (1) shall preclude the Administrator, under regulations which the Administrator shall prescribe, from consenting to necessary advances for the protection of the security or the holder's lien, or to a reasonable extention of the term or reamortization of such loan.".

(d) Paragraph (4) of subsection (e) of such section is amended to read as follows:

"(4) the amount of the loan to be paid by the veteran is not in excess of the amount determined to be reasonable, based upon—

"(A) with respect to the portion of the loan to purchase a new mobile home, such cost factors as the Administrator considers proper to take into account;

"(B) with respect to the portion of the loan to purchase a used mobile home, the reasonable value of the property, as determined by the Administrator;

"(C) with respect to the portion of the loan to purchase a lot, the reasonable value of such lot as determined by the Administrator; and

"(D) with respect to the portion of the loan to cover the cost of necessary site preparation, an appropriate amount as determined by the Administrator;".

(e) Such section is further amended by striking out subsection (g) and by redesignating subsections (h), (i), (j), (k), (l), (m), and (n) as subsections (g), (h), (i), (j), (k), (l), and (m), respectively.

(f) Subsection (h) of such section (as redesignated by subsection (e)) is amended by striking out the third sentence thereof.

(g) Subsection (i) of such section (as redesignated by subsection (e)) is amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (h)".

(h) Subsection (j) of such section (as redesignated by subsection (e)) is amended to read as follows:

"(j) Subject to notice and opportunity for a hearing, the Administrator may deny guaranteed or direct loan financing of any mobile homes constructed by a manufacturer which fails or is unable to discharge its obligations under the warranty required by subsection (i) of this section; or in the case of mobile homes which are determined by the Administrator not to conform to the standards prescribed pursuant to subsection (h) of this section.".

(i) Subsection (l) of such section (as redesignated by subsection (e)) is amended to read as follows:

"(l) The Administrator's annual report to Congress shall include a report on operations under this section (including experience with compliance with the warranty required by subsection (i) of this section and experience regarding defaults and foreclosures) and a report on the results of mobile home plant inspections conducted by the Department of Housing and Urban Development.".

SEC. 8. Section 1811(d)(2)(B) of title 38, United States Code, is amended to read as follows:

"(B) The original principal amount of any loan made under this section, for the purposes described in section 1819 of this title shall not exceed an amount which bears the same ratio to $33,000 as the amount of guaranty to which the veteran is entitled, under section 1819 of this title, at the time the loan is made bears to $17,500. The guaranty entitlement of any veteran who is granted a loan under this section, or who before the date of the enactment of the Veterans' Housing Improvements Act of 1978 was granted a loan under this section, shall be charged with an amount which bears the same ratio to $17,500 as the amount of the loan bears to $33,000.".

SEC. 9. The amendments made by this Act shall take effect October 1, 1978.

The SPEAKER. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from Texas (Mr. ROBERTS) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill H.R. 12028, under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROBERTS. Mr. Speaker, the Veterans' Administration operates three programs to assist eligible veterans to become homeowners. They are: The loan guaranty program, the direct loan program, and a program of grants for specially adapted housing for the more severely disabled service-connected veteran.

More than 9.5 million veterans have received GI home loans valued at almost $140 billion during the past 33 years. In terms of dollar volume, a record $23 billion in home loans were granted to veterans in just the past 2 fiscal years.

Thus far in fiscal year 1978 alone, nearly a quarter of a million veterans have purchased homes with their VA benefits.

The reported bill, H.R. 12028, would liberalize the current loan guarantee, mobile home, and specially adapted housing program in order to offset inflation in housing costs during the past several years. It is a good measure and I strongly support its passage.

I now yield to the distinguished chairman of our Subcommittee on Housing, the gentleman from Georgia, Mr. JACK BRINKLEY, for a brief explanation of the bill.

Mr. BRINKLEY. Mr. Speaker, I thank the gentleman for yielding to me. On behalf of the Subcommittee on Housing, I wish to express to our chairman our appreciation for his cooperation and support in scheduling early action by the full committee in order that we could get this important measure to the floor. Important to the veteran, important to active duty military, and to the economy of this country.

Mr. Speaker, the reported bill would update the current home loan programs administered by the Veterans' Administration in order that veterans may continue to purchase homes, both conventionally built and mobile homes, in a housing market where costs continue to escalate. Inflation is a real factor in the

purchase of a home. This measure is designed to assist the veteran and, including active duty military, his/her family with ever-increasing costs of living.

H.R. 12028 would increase the maximum VA loan guaranty from $17,500 to $25,000. The maximum was last increased in 1974 and according to the Veterans' Administration the present maximum guaranty of $17,500 does not afford adequate protection in the eyes of many lenders and unless the level is raised, it will become increasingly more difficult for veterans to obtain loans in some areas of the country.

The bill would restructure the VA mobile home loan program in a way which more closely parallels the VA loan program for conventionally built homes and make certain technical changes needed for clarification reasons.

More specifically, it would eliminate the current multiple statutory maximum loan amounts for single-wide and double-wide moble homes, either attached or unattached to land, and substitute a maximum guaranty in the amount of $17,500. It would also increase the maximum term of years for which loans are financed from 12 years and 32 days to 15 years and 32 days in the case of a loan for the purchase of a single-wide mobile home only or for purchase of a lot. It would impose the same criteria for restoration of entitlement as applies to restoration of entitlement used for conventionally built homes, that is, the home must be disposed of and the loan must be paid in full. Finally, it would provide that a veteran who obtains a loan, under section 1819, will have the opportunity to use his or her partial entitlement when moving from a conventionally built home to a mobile home.

These changes would make the mobile home program more flexible by having no dollar limitations on loan amounts, while at the same time limiting the Government's exposure to liability, increasing the term for single-wide mobile home loans, and liberalizing the use and restoration of VA entitlement for mobile homes so that it is on a basis comparable to that applicable to the real estate program. The Veterans' Administration, in supporting the changes recommended in the reported bill, testified that rising costs of production, materials, and labor have increased the prices of many mobile homes to well beyond the current statutory maximums, and many veterans are being denied the opportunity to acquire mobile homes without paying substantial down payments.

The bill would increase the maximum specially adapted housing grant from $25,000 to $30,000. The Administration concurs with the committee that the increase is warranted due to the escalating costs of housing.

Finally, it would reduce from 181 days to 90 days, the minimum amount of active duty service required of Vietnam-era veterans in order to qualify for VA home loan benefits. The bill would make the more liberal 90-day military service eligibility criteria for home loan benefits, which now apply to World War II and Korean conflict veterans, also applicable to veterans of the Vietnam era.

In the 34-year history of the VA home loan programs, more than 9.5 million veterans have become homeowners with the assistance of the VA loan guaranty. This has involved mortgage fund advances valued in excess of $140 billion. In terms of dollar volume, a record $23 billion in home loans were granted to veterans in the past 2 fiscal years alone. When calendar year 1977 came to a close, 56 percent of the total number of loans guaranteed, in the history of the program, had been repaid in full. To date, the Veterans' Administration has had to pay claims on only 3.6 percent of all loans guaranteed since the inception of the program.

This, in our view, is a solid indication of the creditworthiness of veterans as borrowers. The performance in that respect is all the more remarkable considering the frequency of 100-percent loans.

The reported bill addresses several problems in the current VA home loan programs which are the direct result of inflation. If enacted, the bill will assure that veterans throughout the country will continue to be successful in the purchase of homes for themselves and their families.

Mr. Speaker, I urge the Members of the House to support this worthwhile and economically needed measure.

Attached for the RECORD is a summary of the four bills which have been consolidated into this bill, H.R. 12028:

H.R. 12028

H.R. 10268 would increase the maximum guaranty on VA home and condominium loans from $17,500 to $25,000. The amount of the guaranty was last increased by the Veterans' Housing Act of 1974. The increase was from $12,500 to $17,500.

With the increases which have occurred in the price of homes and, therefore, in the amount of loans guaranteed by the VA, the present $17,500 guaranty does not afford adequate protection to lenders. Current law authorizes a maximum guaranty of 60 percent not to exceed $17,500. For the first quarter of FY 1978, the average GI loan amount was $37,450. Lenders are, therefore, currently being provided an average guaranty of 42.7 percent, a drop of almost 3 percent from the 45.3 percent coverage provided in FY 1977, when the average GI loan amount was $34,500. This is the lowest percentage of guaranty provided since Fiscal Year 1968 when the average guaranty fell to 42.4 percent of the average loan amount.

At the current rate of decline in the percentage of coverage in the first quarter of FY 1978, the average percentage of coverage could drop below 35 percent. As the average guaranty coverage declines, lenders can be expected to either limit the size of GI loans that they make or abandon the VA loan program. All of this is, of course, caused continually escalating costs of housing.

The first year cost would be $22,000. The first five-year cost would be $4,882,000.

H.R. 11009 would restructure the VA's mobile home loan program in a way which closely parallels that for conventionally built homes and make certain technical changes needed clarification reasons.

Simply, it would eliminate the current multiple statutory maximum loan amounts for single-wide and double-wide mobile homes, either attached or unattached to land, and substitute a maximum guaranty in the amount of $17,500. It would also increase the maximum term of years for which loans are financed from 12 years and 32 days to 15 years and 32 days in the case of a loan for the purchase of a single-wide mobile home only or for the purchase of a lot. It would impose the same criteria for restoration of entitlement as applies to restoration of entitlement used for conventionally built homes; that is, the home must be disposed of and the loan must be paid in full. Finally, it would provide that a veteran who obtains a loan under section 1819 will have the opportunity to use his or her partial or remaining entitlement when moving from a conventionally built home to a mobile home.

These changes would make the mobile home program more flexible by having no dollar limitations on loan amounts, while at the same time limiting the government's exposure to liability, increasing the term for single-wide mobile home loans, and liberalizing the use and restoration of VA entitlement for mobile homes so it is on a basis comparable to that applicable to the real estate program.

The first year cost would be $56,000. The first 5-year cost would be $7,653,700.

H.R. 10269 would increase to $30,000 the maximum grant that the VA could make to certain disabled veterans to assist them in acquiring housing specially adapted to the nature of their disabilities. The specially adapted housing grant is limited to 50 percent of the total cost of the house and would not exceed the $30,000 proposed amount. In view of the escalating costs of housing, increasing the maximum specially adapted housing grant is warranted so that the majority of veterans eligible for this benefit will be able to obtain a grant which will cover the full 50 percent of the cost of acquiring a housing unit or adapting an existing one.

The first year cost would be $4,350,000. The first five-year cost would be $19,050,000.

H.R. 10356 would reduce the number of days of active duty service that a Vietnam era veteran needs to qualify for home loan benefits from 181 days to 90 days. The "Vietnam era" is defined as beginning August 5, 1964, and ending May 7, 1975. This change would place the Vietnam era veteran on par with wartime veterans of World War II and the Korean conflict. Eligibility requirements for peacetime veterans remains 181 days.

The first year cost would be $90,000. The first five-year cost would be $1,788,000.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12028, a bill to improve the housing programs of the Veterans' Administration. The amendments authorized by this measure will facilitate homeownership by younger veterans, who, because of runaway inflation, have been priced out of the homeowners' market.

This bill, Mr. Speaker, has three basic thrusts. First, it will make the grant for specially adapted housing to certain seriously disabled veterans more realistic. Under existing law, veterans whose service-connected disabilities preclude their locomotion without wheelchairs or other special devices may receive a grant of the lesser of $25,000 or 50 percent of the cost of a specially adapted home with ramps, handrails, and other specifications. Recent studies indicate that $25,000 is woefully inadequate to pay for half of such a specially adapted house. H.R. 12028 will increase this amount to $30,000.

The second major provision of this bill will increase the maximum guaranty on Veterans' Administration home loans from its present $17,500 to $25,000. Again, the increasing cost of homes has served to reduce the effect of the Government's guaranty upon the home mortgage. As a result, fewer young veterans are able to qualify for home loans, despite the guaranty authorized by the GI bill.

Finally, Mr. Speaker, this measure will simplify the procedures for obtaining a mobile home under the GI bill and will permit Vietnam veterans to qualify for GI home loans on the same basis as World War II and Korean conflict veterans with 90 days of service instead of 180 days.

Under existing law, the maximum GI loan on a mobile home is $12,500 for a singlewide unit and $20,000 for a doublewide unit with an additional $7,500 for a suitable lot. The bill before us will remove these maximums and authorize a guaranty of 50 percent of the cost of the mobile home and lot up to a maximum of $17,500.

Financing for a singlewide unit, presently limited to 12 years, would be increased to 15 years, thus reducing the monthly payments for a young veteran.

Mr. Speaker, if the young veteran is to enter the home buying market—if the GI bill housing benefit is to have any meaning for him—the amendments authorized by this proposal are necessary.

I urge that it be supported.

Mr. Speaker, I yield two minutes to the gentleman from South Dakota (Mr. ABDNOR), the ranking minority member of the subcommittee.

Mr. ABDNOR. Mr. Speaker, I rise to give my support to this bill. Before I proceed I would like to take this opportunity to thank my colleague and good friend the chairman of the Housing Subcommittee JACK BRINKLEY for the diligence with which he has spearheaded this legislation. This bill makes some very important changes in current law. The sections which provide dollar amount increases can be more than justified. I do not believe there is any question about the provision which reduces the length of service for our Vietnam-era veterans. The fourth provision poses the most significant change in the law. The changes we have suggested for the mobile home program will make it a strong viable program just like the current conventional loan program. All of this can be done with a very small outlay. The specially adapted housing grant composes the greatest part of the $4.4 million cost. The rest will be taken care of by the existing revolving fund.

These comments have been very brief. I would now like to expand on each of the points I have raised. Section 2 of this bill calls for an increase in the specially adapted housing program. Current law provides a grant of $25,000. H.R. 12028 proposes that this grant be increased to $30,000. The specially adapted housing program was constructed to meet the needs of our severely service-connected disabled veterans. It is intended that the grant will assist these veterans in aquiring suitable housing which has been or can be adapted to the special needs created by the nature of their disability. The grant is limited to 50 percent of the total cost of the house. Testimony we received indicates that the average cost of a specially adapted house was $48,510 in fiscal year 1974. In July of that year the cost averaged $53,000. In 1977 that average cost rose to $66,626. I see no reason to indicate that this trend will not continue. By combining the money available through the grant program with the conventional loan guaranty our severely disabled veterans will be able to secure suitable housing.

Section 5 of this legislation increases the loan guaranty amount from $17,500 to $25,000. Current law states that a loan will be guaranteed at $17,500 or 60 percent of the loan value, whichever is greater. In fiscal year 1977 the average GI loan was approximately $34,500. That average increased to $37,450. These figures, of course, are only averages. Lenders usually use a multiple of four when making a loan. In this case a guaranty of $17,500 would theoretically lead to a loan in the $70,000 range. This will be sufficient in most of the country. However, if one looks at places such as the Washington metropolitan area or southern California, I think you will see why the increase in the guaranty is necessary. Lenders will be induced to get active once again and our veteran home buyers will be given the opportunity to purchase the housing they desire.

Section 6 reduces the length of active duty service for Vietnam-era veterans. The provision reduces from 181 to 90 days the length of active service during the Vietnam era necessary to be eligible for a GI home loan. Considering the fact that World War II and Korean veterans are eligible for a loan with only 90 days service, this provision is quite equitable. The Veterans' Administration estimates that this change in the law will grant eligibility to approximately 168,000 additional Vietnam-era veterans.

The Veterans' Administration mobile home program was created in 1970. The purpose of the program was to assist young veterans in securing low-cost housing. Through April of this year the VA has guaranteed over 25,000 loans. As you are sure to note, this figure is quite small when compared to the conventional program. However, it must be noted that these loans have gone to those with lower incomes, as it was intended. The VA notes that the average veteran obtaining a mobile home loan in 1977 had a monthly income of $756 and assets of $1,332 compared to the veteran who applied for a conventional loan. His monthly income averaged $1,038 with assets of $4,589. It should also be noted that 75 percent of those veterans obtaining mobile home loans were Vietnam-era veterans. One other point I think should be raised is the fact that the committee has moved cautiously in the mobile home field. We have been concerned with protecting our veterans, plus the Government's investment. I think our cautious approach has paid off. We have proceeded in a logical progression which has guaranteed a solid program. The provisions included in this legislation are the next steps in the progression. H.R. 12028 makes changes that will liberalize the program and make it much the same as the conventional program. The bill makes several significant changes which I think I should comment on. The bill calls for a loan guaranty of $17,500, or 50 percent. Under current law maximum loan amounts are imposed. This has caused problems in several parts of the country. The legislation also increases the maximum terms for which loans are financed for singlewide mobile homes. H.R. 12028 also proposes to impose the same criteria for restoration of entitlement. Under current law, if a conventionally constructed home is disposed of and the loan is paid in full, the entitlement is restored. These criteria do not exist for mobile homeowners. Requirement for restoration of entitlement would create equality. I believe all of these actions will encourage veterans to apply for the loans, as well as provide the incentive for lenders to participate more actively in the mobile home program.

For all of these reasons, I urge you to join me in voting for H.R. 12028.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time.

Mr. ROBERTS. Mr. Speaker, I have no further requests for time.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 12028, as amended.

The question was taken.

Mr. BRINKLEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

UNEMPLOYMENT COMPENSATION AMENDMENTS

Mr. CORMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12232) to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes.

The Clerk read as follows:

H.R. 12232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PAY OF MEMBERS OF THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION.

(a) GENERAL RULE.—Paragraph (1) of section 411(e) of the Unemployment Compensation Amendments of 1976 (relating to pay and travel expenses) is amended to read as follows:

"(1) PAY.—

"(A) IN GENERAL.—Members of the Commission who are not full-time officers or employees of the United States shall be paid compensation at a rate not to exceed the per diem equivalent of the rate for GS–18 of the General Schedule under section 5332 of

title 5, United States Code, for each day (including traveltime) during which they are engaged in the performance of services for the Commission.

"(B) OFFICERS OR EMPLOYEES OF THE UNITED STATES.—Except as provided in paragraph (2), members of the Commission who are full-time officers or employees of the United States shall receive no additional pay on account of their service on the Commission."

(b) TECHNICAL AMENDMENT.—Paragraph (2) of such section 411(e) is amended by striking out "section 5703(b)" and inserting in lieu thereof "section 5703".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to services performed on or after March 1, 1978.

SEC. 2. DATES FOR THE SUBMISSION OF REPORTS BY THE NATIONAL COMMISSION ON UNEMPLOYMENT COMPENSATION.

(a) INTERIM REPORTS.—Subsection (f) of section 411 of the Unemployment Compensation Amendments of 1976 (relating to interim report) is amended to read as follows:

"(f) INTERIM REPORTS.—The Commission shall transmit to the President and the Congress—

"(1) an initial interim report not later than November 15, 1978, and

"(2) a subsequent interim report not later than November 15, 1979."

(b) FINAL REPORT.—Subsection (g) of such section 411 (relating to final report) is amended by striking out "July 1, 1979" and inserting in lieu thereof "March 15, 1980".

SEC. 3. DELAY OF CERTAIN EFFECTIVE DATES.

(a) RECIPIENTS OF RETIREMENT BENEFITS.—Paragraph (15) of section 3304(a) of the Internal Revenue Code of 1954 (relating to the denial of unemployment compensation to recipients of retirement benefits) is amended by striking out "March 31, 1980" and inserting in lieu thereof "May 31, 1981".

(b) EXCLUSION OF CERTAIN ALIEN FARM WORKERS.—Paragraph (1) of section 3306(c) of such Code (relating to agricultural labor) is amended by striking out "January 1, 1980" each place it appears and inserting in lieu thereof "January 1, 1982".

The SPEAKER. Is a second demanded?

Mr. BAFALIS. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California (Mr. CORMAN) will be recognized for 20 minutes, and the gentleman from Florida (Mr. BAFALIS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I yield myself such time as I may consume.

A National Commission on Unemployment Compensation was established under provisions of Public Law 94–566 for the purpose of undertaking a thorough and comprehensive examination of the Federal/State unemployment compensation system. On the basis of this study, the Commission was directed to make recommendations to the President and to the Congress with regard to possible changes in the unemployment compensation program. Public Law 94–566 called for a 13-member Commission, with 7 members to be appointed by the President and 3 each by the Speaker of the House of Representatives and the President pro tempore of the Senate.

H.R. 12232 would provide as of March 1, 1978, per diem compensation for members of the National Commission on Unemployment Compensation for each day, including traveltime, during which they are engaged in the performance of services for the Commission.

Members of the National Commission who are not full-time officers or employees of the United States shall be paid per diem compensation at a rate not to exceed the per diem equivalent of a GS–18. The heavy schedule and workload of this National Commission could impose serious financial burdens on those members whose participation on the Commission affects their regular employment. An offset of any financial burden is necessary to make it possible for all members to fully participate in this important study. This compensation is similar to that provided to members of the National Commission on Employment and Unemployment Statistics and the National Commission on Social Security.

H.R. 12232 would change the Commission's reporting dates (presently, interim report due September 30, 1978; and final report due July 1, 1979) to an initial interim report by November 15, 1978, a subsequent interim report due November 15, 1979, and a final report due March 15, 1980. The two interim reports required under H.R. 12232 would make it possible for the Commission to make recommendations on matters that Congress expects to consider before the final report of the Commission is completed.

The Commission requested the changes in reporting dates because of the delay in completing the membership of the Commission. The extension would allow the Commission sufficient time to engage in the thorough and comprehensive study of the unemployment compensation programs required under the provisions of Public Law 94–566.

H.R. 12232 would also extend from March 31, 1980, to May 31, 1981, the effective date for the provision in present law which, upon implementation, would require that unemployment compensation benefits received by an individual be reduced by the amount of any work related governmental or other retirement pay received by the individual. The delayed effective date would allow the National Commission on Unemployment Compensation enough time to study the impact of such a provision and would allow Congress enough time to act before it was implemented in light of the Commission's findings and recommendations.

H.R. 12232 would extend from January 1, 1980, to January 1, 1982, the temporary provision in present law that excludes from the Federal unemployment tax agricultural services performed by aliens who are admitted to the United States pursuant to sections 214(c) and 101(a)(15)(H) of the Immigration and Nationality Act. These sections of the Immigration and Nationality Act pertain to residents of foreign countries who do not intend to abandon such residency but who are admitted to the United States to work for a temporary period of time during peak agricultural crop seasons. This exclusion relieves farm employers from paying the Federal unemployment tax on labor performed by these specified alien farm workers. The provision is extended by H.R. 12232 for another 2 years so the National Commission on Unemployment Compensation can examine its impact and Congress might have sufficient time to respond to any recommendations from the Commission.

Mr. Speaker, I would hope that my colleagues would give full consideration of passage of this bill. Some provisions of this bill are extremely important for the National Commission to complete the mandate that the Congress gave under Public Law 94–566.

Mr. BAFALIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the minority members of Ways and Means Committee fully support these unemployment compensation provisios. We urge the adoption of this measure by the House of Representatives.

The sections of H.R. 12232 all relate, directly or indirectly, to the activities and interests of the National Commission on Unemployment Compensation, created by Congress under Public Law 94–566. All of us look to the Commission for sound guidance with respect to the key decisions we will make that will chart the future of our unemployment compensation system.

The legislation before us would provide compensation for members of the Commission who are not full-time officers or employees of the United States. It would make needed changes in the reporting requirements of the Commission. Under this proposal the Commission would submit interim reports on November 15, 1978, and November 15, 1979, and a final report on March 15, 1980.

The remaining sections of this measure extend two current provisions of law so as to hold them in place while the Commission has an opportunity to review their implications. One section would extend for 14 months the effective date of a requirement under which States must reduce an individual's unemployment compensation benefit by the amount of retirement pay he receives. Such reductions are now optional for the States.

The second section would extend for 2 years a temporary provision that excludes from the Federal unemployment tax agricultural services provided by aliens working under the specific authority of the Immigration and Nationality Act. These persons come to this country to work for brief periods of time; they return to their own countries upon completion of the work. It is appropriate that we continue to relieve farm employers of the payment of the unemployment tax on this labor until we have the guidance of the National Commission on the effects of this policy.

I urge the passage of this legislation.

The SPEAKER. The question is on the motion offered by the gentleman from California (Mr. CORMAN) that the House suspend the rules and pass the bill, H.R. 12232.

The question was taken.

Mr. SYMMS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

LIMITATION ON EXTENDED UNEMPLOYMENT COMPENSATION

Mr. CORMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12380) to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such act.

The Clerk read as follows:

H.R. 12380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (c) of section 203 of the Federal-State Extended Unemployment Compensation Act of 1970 is amended by striking out "which begin in such extended benefit period" and inserting in lieu thereof "which (1) begin in such extended benefit period, and (2) begin within 2 years after the last day of this benefit year".

(b) The amendment made by subsection (a) shall apply to weeks of unemployment beginning after the date of the enactment of this Act; except that such amendment shall not be a requirement of any State law under section 3304(a)(11) of the Internal Revenue Code of 1954 before January 1, 1981.

The SPEAKER pro tempore (Mr. SEIBERLING). Is a second demanded?

Mr. BAFALIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. CORMAN) will be recognized for 20 minutes, and the gentleman from Florida (Mr. BAFALIS) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. SPEAKER, H.R. 12380 would provide a 2-year limitation on the time within which an individual could receive any unemployment compensation benefits to which he or she is entitled under the Federal/State extended unemployment compensation program. The 2-year limitation would begin with the first day after an individual's "benefit year" ends. The "benefit year," in almost all States, is the 1-year period beginning with the day an individual files a claim for regular State unemployment compensation benefits. States would be permitted to implement the 2-year limitation immediately, but it would not be required to do so until January 1, 1981.

The Federal/State Unemployment Compensation Act requires States to provide additional weeks of unemployment compensation benefits, "extended benefits" to qualified individuals when the the national or State "insured unemployment rate" exceeds specified levels. An extended benefit period is in effect in a State when, over a 13-week period, the national insured unemployment rate equals or exceeds 4.5 percent, or when the State insured unemployment rates equals or exceeds 4 percent and is 20 percent higher than the State insured unemployment rate for the corresponding period in the preceding 2 years. The 20 percent factor may be waived when the State insured unemployment rate reaches 5 percent. Extended benefits are financed half out of Federal unemployment insurance revenues and half out of State unemployment revenues. A claimant may qualify for up to a maximum of 13 weeks of extended benefits.

Under the present law, an individual's entitlement to extended benefits ends when either: First, he exhausts his extended benefits; second, he works long enough to requalify for regular benefits; or third, the extended benefit period ends. If an individual neither exhausts his extended benefit nor works enough to requalify for regular benefits, his eligibility for extended benefits continues as long as an extended benefit period is in effect in his State, which could be several years. As a result, an individual could be eligible for extended benefits several years after he or she exhausted the regular benefits upon which the extended benefits are based, if the State has had a continuous extended benefit period in effect.

Under H.R. 12380, a 2-year limit beginning at the end of the claimant's benefit year, would be imposed on an individual's entitlement to extend benefits. This would not reduce the extended benefit entitlement of any inividual. It would merely limit the time period during which an individual could claim such entitlement.

H.R. 12380 would permit States to discard records of claimants 2 years after their benefit year expires. Records must now be retained for the duration of an extended benefit period for every claimant who exhausted regular benefits or whose benefit year expired during an extended benefit period.

H.R. 12380 would adversely affect few if any claimants. It will insure a reasonably close relationship between extended benefits and the work experience upon which they are based. And it will permit States to be relieved of a heavy and largely unnecessary burden.

I urge my colleagues to support H.R. 12380.

The SPEAKER pro tempore. The chair recognizes the gentleman from Florida (Mr. BAFALIS).

Mr. BAFALIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12380, legislation which received solid support from the minority members of the Committee on Ways and Means.

Originally suggested by State unemployment compensation officials and personnel of the U.S. Department of Labor, this measure would enhance the administrative efficiency of the extended unemployment compensation program. It would result in no additional costs; in fact, the Congressional Budget Office has stated that it could yield a small savings.

As an amendment to the Federal-State Extended Unemployment Compensation Act of 1970, this bill would limit to 2 years the time within which an individual may receive any benefits to which he or she is entitled under that extended benefits program. The 2-year period would begin immediately upon the conclusion of the individual's benefit year, which in almost all States is a 1-year period beginning the day an individual files a claim for regular unemployment benefits. The proposed policy has a precedent in the provisions of the Federal supplemental benefits program.

The purpose of this legislation is to eliminate burdensome recordkeeping which present law imposes upon the States. Presently, States must retain, for the duration of an extended benefit period, the records of every claimant who has exhausted regular benefits or whose benefits year has expired during the extended benefit period. As the committee's report indicates, for the State of Washington, which has had an extended benefit period in effect for more than 7 years, this has meant that the State has had to maintain several millions of documents of virtually no practical significance.

Under the bill before the House, a claimant's records would have to be retained until: First, the exhaustion of his or her extended benefit entitlement, or his or her requalification for regular benefits; second, reduced unemployment results in a cessation of the extended benefit period; or third, 2 years have passed since the close of the claimant's benefit year.

I urge the enactment of this legislation.

The SPEAKER pro tempore (Mr. SEIBERLING). The question is on the motion offered by the gentleman from California (Mr. CORMAN) that the House suspend the rules and pass the bill (H.R. 12380).

Mr. BADHAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

SOCIAL SECURITY AMENDMENTS FOR DISABILITY

Mr. CORMAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 10848) to amend title VI of the Social Security Act to provide that an individual who applies for supplemental security income benefits on the basis of disability shall be considered presumptively disabled if he has received social security or supplemental security income benefits as a disabled individual within the preceding 5 years, as amended.

The Clerk read as follows:

H.R. 10848

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1614(a)(3) of the Social Security Act is amended by adding at the end thereof the following new subparagraph:

(F) An individual applying for benefits under this title as a disabled individual (or as an eligible spouse on the basis of disability) shall be considered presumptively disabled if, within the five years preceding the date of the application, he was treated for purposes of this title or title II as a disabled individual but ceased to be so treated because of his performance of substantial gainful activity; but nothing in this paragraph shall prevent his performance of such gainful activity from being taken into account in determining whether he is currently disabled in fact.".

SEC. 2. Section 1631(a)(4)(B) of the Social Security Act is amended by striking out "shall in no event be considered overpayments" and inserting in lieu thereof "shall not (except where such individual applied for such benefits on the basis of disability and was presumptively disabled solely by reason of section 1614(a)(3)(F)) be considered overpayments".

SEC. 3. The amendments made by this Act shall apply with respect to applications filed on or after the first day of the month following the month in which this Act is enacted.

The SPEAKER pro tempore. Is a second demanded?

Mr. BAFALIS. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. CORMAN) and the gentleman from Florida (Mr. BAFALIS) will be recognized for 20 minutes each.

The Chair now recognizes the gentleman from California (Mr. CORMAN).

Mr. CORMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Speaker, H.R. 10848 would provide that an individual who applies for supplemental security income (SSI) disability benefits be considered presumptively disabled if, within the preceding 5 years, he or she had lost SSI or social security disability insurance status because of employment and earnings indicating ability to perform substantial gainful activity (SGA). Such an individual could begin receiving SSI benefits as soon as he or she qualifies on the basis of income and assets, whether or not a new determination of disability had been completed, and could continue to receive benefits unless and until it was determined he or she did not meet the disability requirements. In making the new disability determination, the administrative agency would not be precluded from taking into account the employment and earnings that were previously considered to be an indication of ability to perform substantial activity. If the individual is found to not be disabled, the payments which were made would be overpayments and subject to recoupment.

Under current law and regulations an individual who continues to have a serious medically determined impairment can still be found no longer eligible for SSI payments as a disabled individual if he has earnings over $230 a month, the current criteria for indicating ability to participate in substantial gainful activity.

These provisions in current SSI law and regulations create serious disincentives for the disabled to seek and hold employment. Because of their disability they are uncertain about their ability to maintain a regular job.

An individual who loses eligibility for SSI benefits because of performance of substantial gainful activity must reapply as a new applicant if he or she loses the job or experiences a reduction in earnings and wishes to reestablish eligibility for regular SSI payments. The same procedures are followed in processing the application of this person as in the processing of a new disability application. A new and complete determination of eligibility on the basis of income and assets and a new medical determination of disability has to be completed before this person can receive SSI benefits. This process may take several months and thus create a serious work disincentive for severely disabled recipients of SSI.

I also want to take this opportunity to commend my colleague from California, Congressman STARK, for his leadership in the development of this legislation. He has been particularly responsive to the special circumstances and needs of the severely disabled. He has been a leader in the efforts by the Ways and Means Committee to remove those barriers which have been faced by the disabled in their efforts to achieve independence and to become at least partially self-supporting.

I urge passage of H.R. 10848.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. CORMAN. I am happy to yield such time as he may consume to the distinguished gentleman from California (Mr. STARK), the author of this provision.

Mr. STARK. Mr. Speaker, this legislation offers a chance for the severely disabled to achieve self-sufficiency with little or no additional cost to the Government. Current law creates a fear of failure in the disabled, discouraging them from looking for employment. If a disabled person works for 9 months and earns more than $230 a month, he or she is no longer considered to be disabled in the eyes of the Social Security Administration. That is fine as long as the person is able to work. If the person is not able to continue working, or the job is terminated for some reason, that person is left with absolutely nothing to fall back upon. These people have tremendous needs, both medical and financial, and the prospects of being left without medical benefits is a great disincentive to take jobs that otherwise might be available to them. In order to requalify for SSI benefits, the disabled person must prove, once again, that he or she is still disabled. That process can take months, sometimes up to a year, to complete.

This bill is simple in concept and structure. It would allow any person who had received SSI disability payments within the past 5 years to be considered to be "presumptively disabled" if the benefits had been terminated because of the work test. The presumptive disability category would guarantee immediate benefits for that person, and medicaid eligibility, for a period of 3 months. During that time, a review would be conducted to determine if, in fact, the disability had remained unchanged or had worsened; in which case benefits would continue.

This bill does not directly affect title II disability, and was approved by a unanimous vote of the Ways and Means Committee. It has received the support of major advocacy groups around the Nation. HEW states that the current system acts to deter people from looking for work. Both HEW and CBO have projected no additional costs associated with this bill, and I believe that we can actually save money by getting more people off the rolls and into jobs.

The bill contains a provision that will allow the agency to examine prior work experience in determining the eligibility of the applicant. I would like to make it clear that the mere fact that a person has worked will not be sufficient evidence to deny benefits to anyone. The agency will have to examine all relevant factors surrounding a person's inability to work. I fully expect this bill to reinforce and incorporate the concept and practice in present law that an individual can be eligible for SSI disability payments despite a previously demonstrated ability to perform substantial gainful activity. In short, this legislation is desperately needed to enable the disabled in this country to achieve the independence they have sought for so very long.

I would also like to take this opportunity to express my gratitude to both the chairman of the subcommittee, Mr. CORMAN, and of the full committee, Mr. ULLMAN, for their assistance in and support of my efforts in this area. They share a deep commitment to the disabled in this country and share a desire to better the lives of those less advantaged than ourselves. This legislation is a small, though important, step toward the goal of giving everyone a chance to participate in our system and without the active interest of AL ULLMAN and JIM CORMAN, as well as my other colleagues who have cosponsored this legislation it would not have been possible.

In response to an inquiry by Mr. BEDELL, I would state the intent of the bill is that concurrent with the district office determining eligibility on the basis of income and assets, that a preliminary determination is made that:

First, the individual left the SSI roles only because their earnings exceeded the substantial gainful activity earnings criteria;"

Second, that the medical impairment was generally the same or related to the condition which was the original basis for eligibility for disabled payments.

This preliminary determination must be made in the time that is required to determine if the individual meets the assets or income requirements of the program.

Mr. CORMAN. Mr. Speaker, I reserve the remainder of my time.

Mr. BAFALIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to take this opportunity to commend the gentleman from California (Mr. STARK) for his diligence in bringing this before our subcommittee. The solution as has been offered here would simply provide that an individual applying for SSI as a disabled person would be considered presumptively disabled if within the preceding 5 years he was treated as disabled under either SSI or the title II disability insurance program, but ceased to be so treated because of performance of substantial gainful activity. Under this policy the individual would not face a long period without means of support while reeligibility was being determined. Benefits would resume promptly. Nevertheless, the agency could take into account the person's work experience and earnings in completing the review of the SSI application, and in the event of a finding of ineligibility, the payments made in the interim would be regarded as potentially recoverable overpayments. The cost of this change is estimated by the Congressional Budget Office to be negligible, and it would serve the goal of encouraging persons receiving income assistance to accept employment opportunities for which they may be capable. Therefore, I urge passage of this measure.

Mr. Speaker, I have no further requests for time and I yield back the remainder of my time.

Mr. CORMAN. Mr. Speaker, I have no further requests for time. I yield back the remainder of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CORMAN) that the House suspend the rules and pass the bill H.R. 10848, as amended.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order: H.R. 12028, H.R. 12232, H.R. 12380, and H.R. 10848, all by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

VETERANS HOUSING IMPROVEMENT ACT OF 1978

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 12028, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 12028, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 373, nays 0, not voting 59, as follows:

[Roll No. 547]

YEAS—373

Abdnor	Coleman	Glickman
Addabbo	Collins, Ill.	Goldwater
Akaka	Collins, Tex.	Gonzalez
Ambro	Conable	Goodling
Ammerman	Conte	Gore
Anderson, Calif.	Conyers	Gradison
	Corcoran	Grassley
Anderson, Ill.	Corman	Green
Andrews, N.C.	Cornell	Gudger
Andrews, N. Dak.	Cornwell	Guyer
	Cotter	Hagedorn
Annunzio	Coughlin	Hall
Applegate	Crane	Hamilton
Archer	Cunningham	Hammer-schmidt
Ashley	D'Amours	
Aspin	Daniel, Dan	Hanley
AuCoin	Daniel, R. W.	Hannaford
Badham	Danielson	Hansen
Bafalis	Davis	Harkin
Baldus	de la Garza	Harris
Barnard	Delaney	Harsha
Baucus	Dellums	Hawkins
Bauman	Derrick	Heckler
Beard, R.I.	Derwinski	Hefner
Beard, Tenn.	Devine	Heftel
Bedell	Dickinson	Hightower
Bellenson	Dicks	Hillis
Benjamin	Diggs	Holland
Bennett	Dingell	Hollenbeck
Bevill	Dodd	Holt
Bingham	Dornan	Holtzman
Blanchard	Downey	Horton
Boggs	Drinan	Howard
Boland	Duncan, Oreg.	Hubbard
Bolling	Duncan, Tenn.	Huckaby
Bonior	Early	Hughes
Bonker	Eckhardt	Hyde
Bowen	Edgar	Ichord
Brademas	Edwards, Ala.	Ireland
Breckinridge	Edwards, Calif.	Jacobs
Brinkley	Eilberg	Jeffords
Brodhead	Emery	Jenkins
Brooks	English	Johnson, Calif.
Broomfield	Ertel	Jones, N.C.
Brown, Calif.	Evans, Colo.	Jones, Okla.
Brown, Mich.	Evans, Ind.	Jones, Tenn.
Broyhill	Fary	Jordan
Buchanan	Fascell	Kastenmeier
Burgener	Fenwick	Kazen
Burke, Fla.	Findley	Kelly
Burke, Mass.	Fisher	Kemp
Burleson, Tex.	Fithian	Keys
Burlison, Mo.	Flippo	Kildee
Burton, John	Flood	Kindness
Burton, Phillip	Florio	Kostmayer
Carney	Foley	Krebs
Carr	Ford, Mich.	Krueger
Carter	Ford, Tenn.	LaFalce
Cavanaugh	Forsythe	Lagomarsino
Cederberg	Fountain	Latta
Chappell	Fowler	Leach
Chisholm	Fraser	Lederer
Clausen, Don H.	Frenzel	Lehman
	Gammage	Lent
Clay	Gaydos	Levitas
Cleveland	Gephardt	Livingston
Cochran	Giaimo	Lloyd, Calif.
Cohen	Gilman	Lloyd, Tenn.
Long, La.	Nolan	Spellman
Long, Md.	Nowak	Spence
Lott	O'Brien	St Germain
Lujan	Oakar	Staggers
Luken	Oberstar	Stangeland
Lundine	Obey	Stanton
McClory	Panetta	Stark
McCloskey	Pattison	Steed
McCormack	Pease	Steers
McDade	Pepper	Steiger
McDonald	Perkins	Stockman
McEwen	Pettis	Stokes
McFall	Pickle	Stratton
McHugh	Pike	Studds
McKay	Poage	Stump
Madigan	Preyer	Symms
Maguire	Price	Taylor
Mahon	Pritchard	Teague
Markey	Pursell	Thompson
Marks	Quayle	Thornton
Marlenee	Rahall	Treen
Marriott	Railsback	Trible
Martin	Rangel	Tucker
Mathis	Regula	Udall
Mattox	Reuss	Ullman
Mazzoli	Rhodes	Van Deerlin
Meeds	Rinaldo	Vanik
Metcalfe	Risenhoover	Vento
Meyner	Roberts	Volkmer
Michel	Robinson	Waggonner
Mikulski	Roe	Walgren
Mikva	Rogers	Walker
Miller, Calif.	Rooney	Walsh
Miller, Ohio	Rose	Watkins
Mineta	Rosenthal	Waxman
Minish	Rostenkowski	Weaver
Mitchell, Md.	Rousselot	Weiss
Mitchell, N.Y.	Roybal	Whalen
Moakley	Rudd	White
Mollohan	Runnels	Whitehurst
Montgomery	Russo	Whitley
Moore	Ryan	Whitten
Moorhead, Calif.	Satterfield	Wilson, Bob
	Scheuer	Wilson, C. H.
Moorhead, Pa.	Schroeder	Wilson, Tex.
Moss	Schulze	Winn
Mottl	Seiberling	Wirth
Murphy, Ill.	Sharp	Wolff
Murphy, N.Y.	Shuster	Wright
Murphy, Pa.	Sikes	Wydler
Murtha	Simon	Wylie
Myers, Gary	Sisk	Yates
Myers, John	Skelton	Yatron
Myers, Michael	Slack	Young, Alaska
Natcher	Smith, Iowa	Young, Fla.
Neal	Smith, Nebr.	Young, Mo.
Nichols	Snyder	Young, Tex.
Nix	Solarz	Zablocki

NAYS—0

NOT VOTING—59

Alexander	Frey	Quie
Armstrong	Fuqua	Quillen
Ashbrook	Garcia	Richmond
Biaggi	Gibbons	Rodino
Blouin	Ginn	Roncalio
Breaux	Harrington	Ruppe
Brown, Ohio	Jenrette	Santini
Burke, Calif.	Johnson, Colo.	Sarasin
Butler	Kasten	Sawyer
Byron	Le Fante	Sebelius
Caputo	Leggett	Shipley
Clawson, Del	McKinney	Skubitz
Dent	Mann	Thone
Edwards, Okla.	Milford	Traxler
Erlenborn	Moffett	Tsongas
Evans, Del.	Nedzi	Vander Jagt
Evans, Ga.	Ottinger	Wampler
Fish	Patten	Wiggins
Flowers	Patterson	Zeferetti
Flynt	Pressler	

The Clerk announced the following pairs:

Mr. Jenrette with Mr. Armstrong.
Mr. Santini with Mr. Frey.
Mr. Blouin with Mr. Quie.
Mr. Breaux with Mr. Wiggins.
Mr. Zeferetti with Mr. Pressler.
Mr. Shipley with Mr. Ashbrook.
Mr. Richmond with Mr. Kasten.
Mr. Garcia with Mr. Sarasin.
Mr. Le Fante with Mr. Caputo.
Mr. Moffett with Mr. McKinney.
Mr. Alexander with Mr. Wampler.
Mrs. Burke of California with Mr. Skubitz.
Mr. Byron with Mr. Quillen.

Mr. Evans of Georgia with Mr. Brown of Ohio.
Mr. Flynt with Mr. Del Clawson.
Mr. Tsongas with Mr. Vander Jagt.
Mr. Traxler with Mr. Thone.
Mr. Biaggi with Mr. Edwards of Oklahoma.
Mr. Dent with Mr. Erlenborn.
Mr. Mann with Mr. Evans of Delaware.
Mr. Harrington with Mr. Fish.
Mr. Ginn with Mr. Ruppe.
Mr. Fuqua with Mr. Sawyer.
Mr. Gibbons with Mr. Sebelius.
Mr. Flowers with Mr. Butler.
Mr. Nedzi with Mr. Leggett.
Mr. Patten with Mr. Roncalio.
Mr. Ottinger with Mr. Johnson of Colorado.
Mr. Patterson of California with Mr. Milford.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SEIBERLING). Pursuant to the provisions of clause 3(b)(3) of rule XVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all of the additional motions to suspend the rules on which the Chair has postponed further proceedings.

UNEMPLOYMENT COMPENSATION AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 12232.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CORMAN) that the House suspend the rules and pass the bill H.R. 12232, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 300, nays 81, not voting 51, as follows:

[Roll No. 548]

YEAS—300

Addabbo	Bolling	Cohen
Akaka	Bonior	Collins, Ill.
Ambro	Bonker	Conte
Ammerman	Bowen	Conyers
Anderson, Calif.	Brademas	Corcoran
Anderson, Ill.	Breckinridge	Corman
Andrews, N.C.	Brinkley	Cornell
Andrews, N. Dak.	Brodhead	Cornwell
Annunzio	Brooks	Cotter
Applegate	Broomfield	Coughlin
Ashley	Brown, Calif.	Daniel, Dan
Aspin	Brown, Mich.	Danielson
AuCoin	Broyhill	Davis
Bafalis	Buchanan	de la Garza
Baldus	Burgener	Delaney
Barnard	Burke, Mass.	Dellums
Baucus	Burlison, Mo.	Derrick
Beard, R.I.	Burton, John	Derwinski
Bellenson	Burton, Phillip	Devine
Benjamin	Carney	Dickinson
Bennett	Carr	Diggs
Bevill	Carter	Dingell
Biaggi	Cederberg	Dodd
Bingham	Chisholm	Downey
Blanchard	Clausen, Don H.	Drinan
Boggs	Clay	Duncan, Oreg.
Boland	Cleveland	Duncan, Tenn.
	Cochran	Early
	Eckhardt	Edgar
	Edwards, Ala.	Long, La.
	Edwards, Calif.	Long, Md.
	Eilberg	Lott
	Emery	Lundine
	Ertel	McClory
	Evans, Colo.	McCloskey
	Fary	McCormack
	Fish	McDade
	Fisher	McEwen
	Fithian	McFall
	Flippo	McHugh
	Flood	McKinney
	Florio	Madigan
	Foley	Maguire
	Ford, Mich.	Mahon
	Ford, Tenn.	Markey
	Forsythe	Marks
	Fountain	Marlenee
	Fowler	Marriott
	Fraser	Mathis
	Garcia	Mattox
	Gaydos	Mazzoli
	Gephardt	Meeds
	Giaimo	Metcalfe
	Gilman	Meyner
	Goldwater	Michel
	Gonzalez	Mikulski
	Goodling	Mikva
	Gradison	Miller, Calif.
	Green	Mineta
	Gudger	Minish
	Guyer	Mitchell, Md.
	Hamilton	Mitchell, N.Y.
	Hanley	Moakley
	Hannaford	Montgomery
	Harkin	Moore
	Harris	Moorhead, Pa.
	Harsha	Moss
	Hawkins	Murphy, Ill.
	Heckler	Murphy, N.Y.
	Hefner	Murtha
	Heftel	Myers, Gary
	Hightower	Myers, Michael
	Holland	Natcher
	Hollenbeck	Neal
	Holtzman	Nedzi
	Horton	Nichols
	Howard	Nix
	Hubbard	Nolan
	Huckaby	Nowak
	Hughes	O'Brien
	Hyde	Oakar
	Ireland	Oberstar
	Jenkins	Panetta
	Johnson, Calif.	Pattison
	Jones, N.C.	Pepper
	Jones, Okla.	Perkins
	Jordan	Pettis
	Kastenmeier	Pickle
	Kelly	Pike
	Kemp	Preyer
	Keys	Price
	Kildee	Pritchard
	Krebs	Pursell
	Krueger	Quillen
	LaFalce	Rahall
	Leach	Railsback
	Lederer	Rangel
	Lent	Regula
	Levitas	Reuss
	Lloyd, Calif.	Rhodes
		Rinaldo
		Robinson
		Roe
		Rogers
		Rooney
		Rose
		Rostenkowski
		Roybal
		Rudd
		Russo
		Ryan
		Scheuer
		Schroeder
		Schulze
		Seiberling
		Shuster
		Simon
		Sisk
		Skelton
		Slack
		Smith, Iowa
		Snyder
		Solarz
		Spellman
		Spence
		St Germain
		Staggers
		Stanton
		Stark
		Steed
		Steers
		Steiger
		Stokes
		Stratton
		Studds
		Stump
		Taylor
		Teague
		Thompson
		Thornton
		Trible
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vanik
		Walgren
		Walsh
		Watkins
		Waxman
		Weaver
		Weiss
		Whalen
		White
		Whitehurst
		Whitley
		Whitten
		Wilson, Bob
		Wilson, C. H.
		Wilson, Tex.
		Winn
		Wolff
		Wright
		Wydler
		Wylie
		Yates
		Yatron
		Young, Fla.
		Young, Mo.
		Young, Tex.
		Zablocki
		Zeferetti

NAYS—81

Abdnor	Gore	Moorhead, Calif.
Archer	Grassley	Mottl
Badham	Hagedorn	Murphy, Pa.
Bauman	Hall	Myers, John
Beard, Tenn.	Hammer-schmidt	Obey
Bedell	Hansen	Pease
Burleson, Tex.	Hillis	Poage
Butler	Holt	Quayle
Byron	Ichord	Risenhoover
Cavanaugh	Jacobs	Roberts
Chappell	Jeffords	Rousselot
Coleman	Jones, Tenn.	Runnels
Collins, Tex.	Kazen	Satterfield
Conable	Kindness	Sharp
Crane	Kostmayer	Sikes
Cunningham	Lagomarsino	Smith, Nebr.
D'Amours	Latta	Stangeland
Daniel, R. W.	Lehman	Stockman
Dicks	Livingston	Symms
Dornan	Lloyd, Tenn.	Treen
English	Lujan	Vento
Evans, Ind.	Luken	Volkmer
Fascell	McDonald	Waggonner
Fenwick	McKay	Walker
Findley	Martin	Wirth
Frenzel	Miller, Ohio	Young, Alaska
Gammage	Mollohan	
Glickman		

NOT VOTING—51

Alexander	Frey	Quie
Armstrong	Fuqua	Richmond
Ashbrook	Gibbons	Rodino
Blouin	Ginn	Roncalio
Breaux	Harrington	Ruppe
Brown, Ohio	Jenrette	Santini
Burke, Calif.	Johnson, Colo.	Sarasin
Burke, Fla.	Kasten	Sawyer
Caputo	Le Fante	Sebelius
Clawson, Del	Leggett	Shipley
Dent	Mann	Skubitz
Edwards, Okla.	Milford	Thone
Erlenborn	Moffett	Traxler
Evans, Del.	Ottinger	Tsongas
Evans, Ga.	Patten	Vander Jagt
Flowers	Patterson	Wampler
Flynt	Pressler	Wiggins

The Clerk announced the following pairs:

Mr. Blouin with Mr. Armstrong.
Mr. Shipley with Mr. Frey.
Mr. Jenrette with Mr. Quie.
Mr. Le Fante with Mr. Wiggins.
Mrs. Burke of California with Mr. Pressler.
Mr. Breaux with Mr. Brown of Ohio.
Mr. Patten with Mr. Ashbrook.
Mr. Traxler with Mr. Johnson of California.
Mr. Patterson of California with Mr. Wampler.
Mr. Dent with Mr. Skubitz.
Mr. Fuqua with Mr. Sarasin.
Mr. Santini with Mr. Ruppe.
Mr. Richmond with Mr. Vander Jagt.
Mr. Tsongas with Mr. Thone.
Mr. Moffett with Mr. Sebelius.
Mr. Ottinger with Mr. Burke of Florida.
Mr. Ginn with Mr. Caputo.
Mr. Flowers with Mr. Sawyer.
Mr. Flynt with Mr. Del Clawson.
Mr Evans of Georgia with Mr. Edwards of Oklahoma.
Mr. Alexander with Mr. Erlenborn.
Mr. Harrington with Mr. Evans of Delaware.
Mr. Roncalio with Mr. Kasten.
Mr. Mann with Mr. Leggett.
Mr. Gibbons with Mr. Milford.

Mrs. LLOYD of Tennessee, Mrs. SMITH of Nebraska, Messrs. BYRON, LEHMAN, ABDNOR, GRASSLEY, JACOBS, WAGGONNER, EVANS of Indiana, SHARP, CHAPPELL, SIKES, LATTA, STOCKMAN, DORNAN, DICKS, RISENHOOVER, LUKEN, JEFFORDS, and POAGE changed their vote from "yea" to "nay."

Mr. STUMP and Mr. KREBS changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LIMITATION ON EXTENDED UNEMPLOYMENT COMPENSATION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 12380.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CORMAN) that the House suspend the rules and pass the bill H.R. 12380, on which the yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 381, nays 4, not voting 47, as follows:

[Roll No. 549]

YEAS—381

Abdnor	Dornan	Lagomarsino
Addabbo	Downey	Latta
Akaka	Drinan	Leach
Ambro	Duncan, Oreg.	Lederer
Ammerman	Duncan, Tenn.	Lehman
Anderson, Calif.	Early	Lent
	Eckhardt	Levitas
Anderson, Ill.	Edgar	Livingston
Andrews, N.C.	Edwards, Ala.	Lloyd, Calif.
Andrews, N. Dak.	Edwards, Calif.	Lloyd, Tenn.
	Eilberg	Long, La.
Annunzio	Emery	Long, Md.
Applegate	English	Lott
Archer	Ertel	Lujan
Ashley	Evans, Colo.	Luken
Aspin	Evans, Del.	Lundine
AuCoin	Evans, Ind.	McClory
Badham	Fary	McCloskey
Bafalis	Fascell	McCormack
Baldus	Fenwick	McDade
Barnard	Findley	McDonald
Baucus	Fish	McEwen
Bauman	Fisher	McFall
Beard, R.I.	Fithian	McHugh
Beard, Tenn.	Flippo	McKay
Bedell	Flood	McKinney
Beilenson	Florio	Madigan
Benjamin	Foley	Maguire
Bennett	Ford, Mich.	Mahon
Bevill	Ford, Tenn.	Markey
Biaggi	Forsythe	Marks
Bingham	Fountain	Marlenee
Blanchard	Fowler	Marriott
Boggs	Fraser	Martin
Boland	Frenzel	Mathis
Bolling	Fuqua	Mattox
Bonior	Gammage	Mazzoli
Bonker	Garcia	Meeds
Bowen	Gaydos	Metcalfe
Brademas	Gephardt	Meyner
Breckinridge	Giaimo	Michel
Brinkley	Gilman	Mikulski
Brodhead	Glickman	Mikva
Brooks	Goldwater	Miller, Calif.
Broomfield	Gonzalez	Miller, Ohio
Brown, Calif.	Goodling	Mineta
Brown, Mich.	Gore	Minish
Broyhill	Gradison	Mitchell, Md.
Buchanan	Grassley	Mitchell, N.Y.
Burgener	Green	Moakley
Burke, Mass.	Gudger	Moffett
Burlison, Mo.	Guyer	Mollohan
Burton, John	Hagedorn	Montgomery
Burton, Phillip	Hall	Moore
Butler	Hamilton	Moorhead, Calif.
Byron	Hammer-schmidt	Moorhead, Pa.
Carney		
Carr	Hanley	Moss
Carter	Hannaford	Mottl
Cavanaugh	Hansen	Murphy, Ill.
Cederberg	Harkin	Murphy, N.Y.
Chappell	Harris	Murphy, Pa.
Chisholm	Harsha	Murtha
Clausen, Don H.	Hawkins	Myers, Gary
	Heckler	Myers, John
Clay	Hefner	Myers, Michael
Cleveland	Heftel	Natcher
Cochran	Hightower	Neal
Cohen	Hillis	Nedzi
Coleman	Holland	Nichols
Collins, Ill.	Hollenbeck	Nix
Collins, Tex.	Holt	Nolan
Conable	Holtzman	Nowak
Conte	Horton	O'Brien
Conyers	Howard	Oakar
Corcoran	Hubbard	Oberstar
Corman	Huckaby	Obey
Cornell	Hughes	Panetta
Cornwell	Hyde	Pattison
Cotter	Ichord	Pease
Coughlin	Ireland	Pepper
Crane	Jacobs	Perkins
Cunningham	Jeffords	Pettis
D'Amours	Jenkins	Pickle
Daniel, Dan	Johnson, Calif.	Pike
Daniel, R. W.	Jones, N.C.	Preyer
Danielson	Jones, Okla.	Price
Davis	Jones, Tenn.	Pritchard
de la Garza	Jordan	Pursell
Delaney	Kastenmeier	Quayle
Dellums	Kazen	Quillen
Dent	Kelly	Rahall
Derrick	Kemp	Railsback
Derwinski	Keys	Rangel
Devine	Kildee	Regula
Dickinson	Kindness	Reuss
Dicks	Kostmayer	Rhodes
Diggs	Krebs	Rinaldo
Dingell	Krueger	Risenhoover
Dodd	LaFalce	Roberts
Robinson	Spellman	Walgren
Roe	Spence	Walker
Rogers	St Germain	Walsh
Rooney	Staggers	Watkins
Rose	Stangeland	Waxman
Rosenthal	Stanton	Weaver
Rostenkowski	Stark	Whalen
Rousselot	Steed	White
Roybal	Steers	Whitehurst
Rudd	Steiger	Whitley
Runnels	Stockman	Whitten
Russo	Stokes	Wilson, Bob
Ryan	Stratton	Wilson, C. H.
Satterfield	Studds	Wilson, Tex.
Scheuer	Stump	Winn
Schroeder	Symms	Wirth
Schulze	Taylor	Wolff
Selberling	Teague	Wright
Sharp	Thompson	Wydler
Shuster	Thornton	Wylie
Sikes	Treen	Yates
Simon	Trible	Yatron
Sisk	Tucker	Young, Alaska
Skelton	Udall	Young, Fla.
Slack	Ullman	Young, Mo.
Smith, Iowa	Van Deerlin	Young, Tex.
Smith, Nebr.	Vanik	Zablocki
Snyder	Vento	Zeferetti
Solarz	Volkmer	

NAYS—4

Burleson, Tex.	Waggonner	Weiss
Poage		

NOT VOTING—47

Alexander	Gibbons	Rodino
Armstrong	Ginn	Roncalio
Ashbrook	Harrington	Ruppe
Blouin	Jenrette	Santini
Breaux	Johnson, Colo.	Sarasin
Brown, Ohio	Kasten	Sawyer
Burke, Calif.	Le Fante	Sebelius
Burke, Fla.	Leggett	Shipley
Caputo	Mann	Skubitz
Clawson, Del	Milford	Thone
Edwards, Okla.	Ottinger	Traxler
Erlenborn	Patten	Tsongas
Evans, Ga.	Patterson	Vander Jagt
Flowers	Pressler	Wampler
Flynt	Quie	Wiggins
Frey	Richmond	

The Clerk announced the following pairs:

Mr. Santini with Mr. Frey.
Mr. Shipley with Mr. Wampler.
Mr. Jenrette with Mr. Ruppe.
Mr. Blouin with Mr. Sarasin.
Mr. Breaux with Mr. Johnson of Colorado.
Mr. Patten with Mr. Quie.
Mr. Richmond with Mr. Pressler.
Mr. Flynt with Mr. Vander Jagt.
Mr. Le Fante with Mr. Thone.
Mr. Traxler with Mr. Sebelius.
Mr. Tsongas with Mr. Sawyer.
Mrs. Burke of California with Mr. Kasten.
Mr. Alexander with Mr. Del Clawson.
Mr. Ginn with Mr. Erlenborn.
Mr. Harrington with Mr. Caputo.
Mr. Ottinger with Mr. Brown of Ohio.
Mr. Evans of Georgia with Mr. Edwards of Oklahoma.
Mr. Flowers with Mr. Ashbrook.
Mr. Gibbons with Mr. Burke of Florida.
Mr. Patterson of California with Mr. Armstrong.
Mr. Mann with Mr. Wiggins.
Mr. Roncalio with Mr. Milford.
Mr. Leggett with Mr. Skubitz.

So (two-thirds having voted in favor thereof), the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SOCIAL SECURITY AMENDMENTS FOR DISABILITY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 10848, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. CORMAN) that the House suspend the rules and pass the bill H.R. 10848, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 351, nays 32, not voting 49, as follows:

[Roll No. 550]

YEAS—351

Abdnor	Dickinson	Jordan
Addabbo	Dicks	Kastenmeier
Akaka	Diggs	Kazen
Ambro	Dingell	Kelly
Ammerman	Dodd	Kemp
Anderson, Calif.	Dornan	Keys
	Drinan	Kildee
Anderson, Ill.	Duncan, Oreg.	Kindness
Andrews, N.C.	Duncan, Tenn.	Kostmayer
Andrews, N. Dak.	Early	Krebs
	Eckhardt	Krueger
Annunzio	Edgar	LaFalce
Applegate	Edwards, Ala.	Lagomarsino
Archer	Edwards, Calif.	Leach
Ashley	Eilberg	Lederer
Aspin	Emery	Lehman
Badham	English	Lent
Bafalis	Ertel	Livingston
Baldus	Evans, Colo.	Lloyd, Calif.
Baucus	Evans, Del.	Lloyd, Tenn.
Bauman	Evans, Ind.	Long, La.
Beard, R.I.	Fary	Long, Md.
Beard, Tenn.	Fascell	Lott
Bedell	Fenwick	Lujan
Beilenson	Findley	Luken
Benjamin	Fish	Lundine
Bennett	Fisher	McClory
Bevill	Fithian	McCloskey
Biaggi	Flippo	McCormack
Bingham	Flood	McDade
Blanchard	Florio	McEwen
Boggs	Foley	McFall
Boland	Ford, Tenn.	McHugh
Bolling	Forsythe	McKay
Bonior	Fountain	McKinney
Bonker	Fowler	Madigan
Bowen	Fraser	Maguire
Brademas	Frenzel	Mahon
Breckinridge	Fuqua	Markey
Brodhead	Gammage	Marks
Brooks	Garcia	Marlenee
Broomfield	Gaydos	Marriott
Brown, Calif.	Gephardt	Martin
Brown, Mich.	Giaimo	Mathis
Broyhill	Gilman	Mattox
Buchanan	Glickman	Mazzoli
Burgener	Goldwater	Meeds
Burke, Mass.	Gonzalez	Metcalfe
Burton, John	Goodling	Meyner
Burton, Phillip	Gore	Michel
Butler	Gradison	Mikulski
Byron	Grassley	Mikva
Carney	Green	Miller, Calif.
Carr	Gudger	Mineta
Carter	Guyer	Minish
Cavanaugh	Hagedorn	Mitchell, Md.
Cederberg	Hall	Mitchell, N.Y.
Chisholm	Hamilton	Moakley
Clausen, Don H.	Hammer-schmidt	Moffett
		Mollohan
Clay	Hanley	Montgomery
Cleveland	Hannaford	Moore
Cochran	Harkin	Moorhead, Calif.
Cohen	Harris	
Coleman	Harsha	Moorhead, Pa.
Collins, Ill.	Hawkins	Moss
Conable	Heckler	Murphy, Ill.
Conte	Hefner	Murphy, N.Y.
Conyers	Heftel	Murtha
Corcoran	Hightower	Myers, Gary
Corman	Hillis	Myers, John
Cornell	Holland	Myers, Michael
Cotter	Hollenbeck	Natcher
Coughlin	Holt	Neal
Cunningham	Holtzman	Nedzi
D'Amours	Horton	Nichols
Daniel, Dan	Howard	Nix
Daniel, R. W.	Hubbard	Nolan
Danielson	Huckaby	Nowak
Davis	Hughes	O'Brien
de la Garza	Hyde	Oakar
Delaney	Ireland	Oberstar
Dellums	Jacobs	Obey
Dent	Johnson, Calif.	Panetta
Derrick	Jones, N.C.	Fattison
Derwinski	Jones, Tenn.	Pepper

Perkins	Sharp	Van Deerlin
Pettis	Shuster	Vander Jagt
Pike	Simon	Vanik
Poage	Sisk	Vento
Preyer	Skelton	Walgren
Price	Slack	Walker
Pritchard	Smith, Iowa	Walsh
Pursell	Smith, Nebr.	Watkins
Quayle	Snyder	Waxman
Quillen	Solarz	Weaver
Rahall	Spellman	Weiss
Rangel	Spence	Whalen
Regula	St Germain	White
Reuss	Staggers	Whitehurst
Rhodes	Stangeland	Whitley
Rinaldo	Stanton	Whitten
Risenhoover	Stark	Wilson, Bob
Roberts	Steed	Wilson, C. H.
Robinson	Steers	Wilson, Tex.
Roe	Steiger	Winn
Rogers	Stockman	Wolff
Rooney	Stokes	Wright
Rose	Stratton	Wydler
Rosenthal	Studds	Wylie
Rostenkowski	Taylor	Yates
Roybal	Teague	Yatron
Runnels	Thompson	Young, Alaska
Russo	Traxler	Young, Fla.
Ryan	Treen	Young, Mo.
Scheuer	Trible	Young, Tex.
Schroeder	Tucker	Zablocki
Schulze	Udall	Zeferetti
Seiberling	Ullman	

NAYS—32

AuCoin	Jeffords	Rousselot
Barnard	Jenkins	Rudd
Brinkley	Jones, Okla.	Satterfield
Burleson, Tex.	Latta	Sikes
Chappell	Levitas	Stump
Collins, Tex.	McDonald	Symms
Cornwell	Miller, Ohio	Thornton
Crane	Mottl	Volkmer
Devine	Murphy, Pa.	Waggonner
Hansen	Pease	Wirth
Ichord	Pickle	

NOT VOTING—49

Alexander	Ford, Mich.	Railsback
Armstrong	Frey	Richmond
Ashbrook	Gibbons	Rodino
Blouin	Ginn	Roncalio
Breaux	Harrington	Ruppe
Brown, Ohio	Jenrette	Santini
Burke, Calif.	Johnson, Colo.	Sarasin
Burke, Fla.	Kasten	Sawyer
Burlison, Mo.	Le Fante	Sebelius
Caputo	Leggett	Shipley
Clawson, Del	Mann	Skubitz
Downey	Milford	Thone
Edwards, Okla.	Ottinger	Tsongas
Erlenborn	Patten	Wampler
Evans, Ga.	Patterson	Wiggins
Flowers	Pressler	
Flynt	Quie	

The Clerk announced the following pairs:

Mr. Jenrette with Mr. Ashbrook.
Mr. Blouin with Mr. Railsback.
Mr. Shipley with Mr. Ruppe.
Mr. Le Fante with Mr. Sarasin.
Mrs. Burke of California with Mr. Skubitz.
Mr. Patten with Mr. Wampler.
Mr. Ottinger with Mr. Pressler.
Mr. Santini with Mr. Quie.
Mr. Harrington with Mr. Caputo.
Mr. Downey with Mr. Del Clawson.
Mr. Evans of Georgia with Mr. Burke of Florida.
Mr. Patterson of California with Mr. Armstrong.
Mr. Tsongas with Mr. Frey.
Mr. Ford of Michigan with Mr. Johnson of Colorado.
Mr. Breaux with Mr. Kasten.
Mr. Alexander with Mr. Wiggins.
Mr. Flowers with Mr. Thone.
Mr. Flynt with Mr. Sebelius.
Mr. Mann with Mr. Sawyer.
Mr. Richmond with Mr. Edwards of Oklahoma.
Mr. Ginn with Mr. Erlenborn.
Mr. Gibbons with Mr. Brown of Ohio.
Mr. Roncalio with Mr. Leggett.
Mr. Milford with Mr. Burlison of Missouri.

So (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DOE AUTHORIZATIONS FOR FISCAL YEAR 1979

Mr. TEAGUE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12163) to authorize appropriations to the Department of Energy in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 660 of the Department of Energy Reorganization Act, for energy research and development, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. TEAGUE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12163, with Miss JORDAN in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee rose on Friday, July 14, 1978, pending was an amendment printed in the CONGRESSIONAL RECORD on June 23, 1978, offered by the gentleman from Florida (Mr. FUQUA), which is being considered as an original bill for the purpose of amendment and which had been considered as having been read and open to amendment at any point.

Are there any further amendments?

AMENDMENT OFFERED BY MR. FUQUA

Mr. FUQUA. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FUQUA: At the end of the bill, add the following new title:

TITLE VII—DEFINITION OF RESEARCH AND DEVELOPMENT

SEC. 701. Section 304 of the Energy Reorganization Act of 1974 (42 U.S.C. 5874) is amended by inserting "(a)" after "Sec. 304.", and by adding at the end thereof the following new subsection:

"(b) (1) For purposes of this Act and the Atomic Energy Act of 1954, the Federal Nonnuclear Energy Research and Development Act of 1974, and the Department of Energy Organization Act, the term 'research and development' means—

"(A) basic and applied research;

"(B) exploratory development;

"(C) technology development;

"(D) concept and demonstration development; and

"(E) operational systems development.

"(2) As used in paragraph (1)—

"(A) the term 'basic research' means systematic and intensive study directed toward greater knowledge or understanding of a specific subject, and toward the expansion of man's fundamental knowledge of nature (with or without immediate relevance to specific technology programs);

"(B) the term 'applied research' means systematic study directed specifically toward the application of new knowledge to meet a recognized need;

"(C) the term 'exploratory development' means the conduct of activities designed or intended to lead to the ultimate utilization of research results for the development of a particular application or product or to explore possible innovation in a particular area;

"(D) the term 'technology development' means the systematic application of knowledge toward proof of technology through the conduct of activities designed to provide a transition from research and exploratory development to engineering systems development to solve a particularly defined technical problem in order to achieve proof of principle, to show the technical feasibility of a process innovation, or to construct a key component of the system involved;

"(E) the term 'concept and demonstration development' includes engineering systems development activities designed to achieve standards of performance, reliability, and process function up through the stage of pilot-scale or demonstration plants, to identify solutions to meet specific functional, environmental and/or economic requirements; and

"(F) the term 'operational systems development' means large- to commercial-scale engineering design, construction, and operation of a system (e.g., full-scale prototypes) with the object of providing sufficient information to reduce the technical risks associated with scale-up from the stage of concept and demonstration development, as those risks may be perceived by manufacturers and lending institutions, through improved definition of operability, reliability, economical, and environmental impact.".

Mr. FUQUA (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

Mr. DINGELL. Madam Chairman, reserving the right to object, will the gentleman tell me here whether he seeks to amend the rules of the House in any fashion?

Mr. FUQUA. No. This does not seek to amend the rules of the House. It amends the Energy Reorganization Act of 1974.

Mr. DINGELL. Further reserving the right to object, is that matter before this body at this time—the Energy Reorganization Act?

That happens to be a matter which lies under the jurisdiction of the Committee on Government Operations; am I correct?

Mr. FUQUA. I do not think, really, that there is a change in that. The bill which we have before us amends that act in several places.

Mr. DINGELL. Is that matter within the jurisdiction of the Committee on Science and Technology?

Mr. FUQUA. I think it has certain ramifications that affects all of the committees. And it is the intent of this gentleman to help clarify some of the problems that we have had this year.

As a matter of fact, this was considered, and it was decided we should not do it when the Department of Energy was created. I had a similar amendment to offer, but I thought it might not be appropriate to offer it there. I think this amendment will give direction for the Department of Energy in the submitting of bills, as the gentleman pointed out last Friday in the discussion, so that they can be better assigned to the committees.

Mr. DINGELL. I am still curious. Is this a statute which is within the jurisdiction of the Committee on Science and Technology?

Mr. FUQUA. I think it is a definition of research and development.

Mr. DINGELL. It would be referred to the Committee on Government Operations if we follow the statute we are now addressing.

Mr. FUQUA. I think, in answer to the gentleman, the definition of research and development is very much in the charter of the Committee on Science and Technology.

Mr. DINGELL. Is this statute within the charter of the Committee on Science and Technology?

Mr. FUQUA. This was in the bill that is being amended before us today.

Mr. DINGELL. Is it referred to in the rule which establishes the jurisdiction of the Committee on Science and Technology?

Mr. FUQUA. Is it in the rule?

Mr. DINGELL. Yes, in the House rules.

Mr. FUQUA. The rule which was adopted to consider this bill?

Mr. DINGELL. Is it in the rules of the House applicable to the Science and Technology Committee?

Mr. FUQUA. Research and development is in the rule.

Mr. DINGELL. Is that statute under the rule which places this matter before the House?

Mr. FUQUA. In most of the agencies of the Federal Government, the Atomic Energy Act carried with it a definition of "research and development."

NASA has a definition of research and development. The National Science Foundation has one. Most of the agencies involved in this matter have one.

Mr. DINGELL. Madam Chairman, that is not an answer to the question that I asked.

Does the rule from the Committee on Rules, which places this matter before us, refer to the particular statute, which is basically the organization statute of the Department of Energy?

Mr. FUQUA. They make in order the substitute bill, which was agreed to by the two committees and by the Committee on Interior and Insular Affairs. With that, then, it is germane.

Mr. DINGELL. The gentleman is prejudging the matter. I think he may be keenly aware of the fact that I probably will have a point of order against the amendment, and the question of germaneness is one for the Chair, not for the gentleman from Florida (Mr. FUQUA).

I am curious: Is this the statute referred to in the rules of the House which confer jurisdiction upon the Committee on Science and Technology?

Mr. FUQUA. I am not sure whether the rules specifically grant that. However, it makes in order the amendments to the act that are referred to here.

Mr. DINGELL. The statutes relating to reorganization of the Government, though, as I understand it, lie in the jurisdiction of the Committee on Government Operations. I may be in error.

What I am trying to do is to figure out exactly what it is that my good friend, the gentleman from Florida, seeks to do here. I rather detect that he seeks to amend the House rules.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida that the amendment be considered as read and printed in the RECORD?

Mr. DINGELL. Madam Chairman, I will not object to the dispensing of the reading of the amendment. However, I wish to have it observed that I do reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Michigan (Mr. DINGELL) reserves a point of order on the amendment.

There being no objection, the amendment is considered as read and printed in the RECORD.

There was no objection.

The CHAIRMAN. The gentleman from Florida (Mr. FUQUA) is recognized for 5 minutes in support of his amendment.

Mr. FUQUA. I thank the Chair.

Madam Chairman, the purpose and the only purpose in offering this amendment is that in the last few years we have had the energy jurisdiction transferred for all of the civilian research and development work from the Joint Committee on Atomic Energy and others to the Committee on Science and Technology.

During that period of time there has been created the Department of Energy.

Since I was on the Committee on Government Operations and on the subcommittee which had jurisdiction over the creation of this new department this Member felt at that time that it might be appropriate to put a definition of "research and development" in the charter of that agency. However, other persons said that maybe it would be better in other legislation rather than put it in the Organic Act which created the agency.

Madam Chairman, what we are trying to do here is to clarify some of the matters that properly remain within the Committee on Science and Technology; and I think that is certainly appropriate under the Reorganization Act.

As was pointed out by my good friend, the gentleman from Michigan (Mr. DINGELL), on the debate on this bill last Friday, there were certain ambiguities as to whether certain jurisdiction would lie in one committee or the other.

As I pointed out in my opening statement, the Committee on Science and Technology is not legislating on any matter which it has not legislated on before. What we are trying to do through this definition is to provide a framework for the Department of Energy and to give that department some congressional direction as to basic research and with respect to getting it into commercialization, on the way to the marketplace.

I think that it follows what is being done in definitions incorporated in commonly accepted agency terminology used by the Department of Energy, by NASA, by the National Science Foundation, by the Office of Management and Budget, and by all of the main agencies which are involved in technology development.

Therefore, Madam Chairman, I would hope that my colleagues in the committee would support this amendment. I think we can clarify some of the hazy areas which have developed in the last year over some of the budgetary items of the Department of Energy.

Therefore, Madam Chairman, I urge my colleagues to vote in favor of the amendment.

Mr. WYDLER. Madam Chairman, will the gentleman yield?

Mr. FUQUA. I yield to the gentleman from New York.

Mr. WYDLER. Madam Chairman, I would just say to the gentleman from Florida (Mr. FUQUA) that I think what he is attempting to do makes eminent good sense. We have had difficulties in some of the definitions, and I think to have the Congress speak on this subject and to clarify it will serve the public interest.

Therefore, Madam Chairman, I support the gentleman's amendment.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Michigan (Mr. DINGELL) insist on his point of order?

Mr. DINGELL. I do, Madam Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. DINGELL. Madam Chairman, I make the point of order that the amendment is not germane to the bill which lies before us.

I would point out, first of all, that the burden is upon the offeror of the amendment to establish the germaneness thereof.

Furthermore, Madam Chairman, under the traditions and practices of the House as well as under the rules of the House, it is well settled that the Energy Reorganization Act of 1974 referred to is a statute relating to the reorganization of government and does not lie under the jurisdiction of the Committee on Science and Technology.

I would point out that the amendment clearly seeks to amend a statute lying under the jurisdiction of another committee.

I would point out that one of the basic tenets of the rule of germaneness is that the amendment should be of such character that the basic piece of legislation to which it is directed would inform Members of the House that there is a prospect that that amendment might be offered, so that the Members of the House would not be surprised by the offering of an amendment.

I would point out here that there is no basis on which any Member of the House might anticipate that a member of the Committee on Science and Technology or any other member of this committee would offer an amendment to the Energy Reorganization Act of 1974, a matter lying within the jurisdiction of another committee, and a proposal which set up the Department of Energy. This is simply a proposal which establishes annual authorizations for the Department of Energy.

I would point out that the amendment here offered by the gentleman from Florida seeks to change permanent law, as opposed to simply laying forth for the House the basis upon which appropriations may be made, which is the basic purpose on which this particular legislation is before the House. The amend-

ment affects the Atomic Energy Act of 1954.

I point out again that this amendment, which is offered to a 1-year authorization, is permanent legislation, defining a rather sweeping responsibility of the Department of Energy of which I am not able to advise the Chair of all the consequences, nor is the author.

In reiteration, I point out that this is an authorization bill, and it includes limitations and procedural changes. Of course, adoption of this amendment does not affect jurisdiction of any committee or affect the rules of the House. Other permanent provisions of the amendment go much beyond the provisions of an annual authorization, and deal with what is essentially permanent and lasting legislation, not only of the Atomic Energy Act, but also again, I reiterate, another statute not under the jurisdiction of this committee at all, the Energy Reorganization Act of 1974, which was referred to the Committee on Government Operations.

For these reasons, Madam Chairman, the surprise I think of the committee, the fact that in connection with an amendment to temporary or 1-year legislation the gentleman seeks to amend two statutes which are permanent legislation and of lasting character, makes this amendment not germane and out of order.

I would point out one last thing, Madam Chairman. If this amendment is to be offered to this bill, it should be offered at the end as opposed to at the place at which we are, because, if anything, it does constitute a new title. For these reasons I insist on the point of order.

Mr. FUQUA. Madam Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The gentleman from Florida is recognized.

Mr. FUQUA. Madam Chairman, I would like to point out the unanimous-consent request by the gentleman from Texas made the bill open to amendment at any point, and the amendment reads "at the end of the bill add the following new title."

I would further like to point out as to the surprise of the amendment, that on May 10, in a letter to Chairman TEAGUE from Dale Myers, the Under Secretary of the Department of Energy, which is printed on page 9 of the committee report, he states:

I consider these definitions as useful to program management—

And Mr. TEAGUE had written and requested language along the lines of defining research and development. Mr. Myers said he—

. . . thought they would be useful to your committee. We are also providing Chairman DINGELL with a copy of these definitions.

Madam Chairman, on page 24 of the bill, and on the original bill as introduced, section 504(a) states:

Section 111 of the Energy Reorganization Act of 1974 is amended by adding at the end thereof the following new subsection:

So, Madam Chairman, I maintain that the amendment is germane, that we have provided in the rule on the legislation before the committee for consideration today an amendment to the Energy Reorganization Act of 1974, and that the amendment is in order to the bill H.R. 12163.

Mr. WYDLER. Madam Chairman, I would like to be heard on the point of order.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. WYDLER. Madam Chairman, I would only point out to the Chair that in the bill the gentleman from Michigan is going to bring to the floor immediately upon the conclusion of the bill we are now considering, he amends the Department of Energy Act in many places, and I would be hard pressed to understand how he is going to defend that action when he is contending that doing this is a violation of the rules of the House.

So I cannot understand the gentleman's action in this case, since he and his committee have amended the DOE Organization Act in numerous instances in the legislation they are going to offer to the House in a very few minutes.

The CHAIRMAN (Miss JORDAN). The Chair is ready to rule.

The gentleman from Michigan (Mr. DINGELL) raises a point of order against the amendment offered by the gentleman from Florida (Mr. FUQUA) on the basis that the amendment is not germane to the legislation. The Chair would state to the gentleman from Michigan that this amendment does not amend the rules of the House. Under the rule which provides for consideration of this legislation a substitute was made in order as an original bill, the substitute which was an amendment by the gentleman from Florida (Mr. FUQUA) printed in the RECORD on the 23d of June.

In the substitute which was made in order as an original bill, the Energy Reorganization Act is substantively amended in a permanent way. The gentleman from Florida now seeks to add a new title following the "general provisions" portion of the bill to provide a definition of research and development under the aegis of the Energy Reorganization Act. That is clearly germane because of the provisions of this bill and under the precedents that have been established in interpreting and applying the rules of the House related to the question of germaneness.

The amendment obviously relates to the question of energy research and development, the subject of the pending bill. Consequently the Chair overrules the point of order raised by the gentleman from Michigan.

The question is on the amendment offered by the gentleman from Florida (Mr. FUQUA).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUJAN: Under title II, section 201, subsection b-6, page 10, line 23, strike $240,900,000, and insert in lieu thereof "$247,900,000, provided that at least $7,000,000 of the amount shall be expended for feasibility and design and tests of a small, high-field, tokamak fusion device.".

Mr. LUJAN. Madam Chairman, this amendment would provide $7 million for a 2-year program to design and test the feasibility of mechanical, structural, and thermal aspects of a small, high-density, high-field, recyclable tokamak fusion device. This approach to fusion power has been pursued by the Department of Energy with INESCO, for the past year because of its potential for near-term results in both fusion ignition physics and the possibility, if successful, of yielding commercial fusion power 10 to 20 years sooner than by current fusion program plans.

At present, work has been limited to conceptual design studies, which have determined requirements for development of small-scale integral experiments and for the achievement of practical fusion powerplants. The machines are simple, using ohmic heating to ignition, fusion alpha energy bootstrapping to power, and water-cooled copper magnet coils directly around the plasma region. No fatal flaws have been found in the basic concept, and the severe engineering requirements seem capable of being met by appropriate experimental development. However, the current effort has identified the lack of knowledge of plasma physics as the area of greatest uncertainty to further progress.

This can be rectified only by the design, construction, and testing of experimental machines at plasma conditions appropriate for power production. The first step in this direction is a program to design and test the two most critical parts of the physics experimental machine; the main magnets and first wall which bounds the plasma.

Work under the 2-year program will include detailed engineering design of these small tokamaks and construction and testing of their toroidal field magnets and first wall structures to limiting conditions of stress, strain, and heat flux. Its results will provide a firm basis for decision to build and test machines designed to reach useful fusion reactor-grade plasma conditions. If this undertaking is successful it offers the possibility of testing controlled fusion power production by 1982, in fusion devices of low-cost, which are aimed at commercial application as modular, recyclable fusion cores in powerplants.

INESCO, the company which conceived these ideas, has tried since 1976 to include this project in the Department of Energy fusion program plan. Its current studies have been supported by the department, but its aerospace engineering, small-machine, low-cost developmental approach does not fit the general mold of the main program plan. The promise of this concept is so great and the cost so small that it should be pursued urgently. Therefore, Madam Chairman, I would ask the House to adopt this $7 million amendment, so that design and feasibility testing can move forward.

Mr. McCORMACK. Madam Chairman, will the gentleman yield?

Mr. LUJAN. I am happy to yield to the gentleman from Washington.

Mr. McCORMACK. Madam Chairman, I thank the gentleman for yielding, and I want to congratulate the gentleman on bringing this amendment to the floor of the House. I have discussed this amendment with the chairman of the Subcommittee on Fossil and Nuclear Energy Research, Development and Demonstration of the Committee on Science and Technology, the gentleman from Alabama (Mr. FLOWERS) and the gentleman and I both agree with the approach the gentleman from New Mexico (Mr. LUJAN) is taking. We have analyzed the amendment and believe it presents a valid program. We want to move ahead with the program and have it proceed as rapidly as possible. This new technology has come up so quickly that it was not appropriate to consider it in the subcommittee or the full committee.

Mr. LUJAN. I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico (Mr. LUJAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUJAN: On page 3, line 6, strike "$119,675,000," and insert in lieu thereof "$123,775,000".

Mr. LUJAN. Madam Chairman, I rise to offer an amendment to H.R. 12163 which will allow an extremely promising geothermal energy technology to receive adequate funding. The particular technology I am referring to is called hot dry rock, and is already a small but very effective part of the Department of Energy's R. & D. program. My amendment would increase hot dry rock funding by $4.1 million. The hot dry rock resource, as its name implies, consists of the heat stored in rocks deep inside the earth. DOE is examining ways to convert this heat to useful energy, by introducing water into man-made fractures, heating it with the hot rock, and returning the water to the Earth's surface as steam to generate electricity or as hot water for direct heat applications.

I believe my colleagues will be surprised to learn of the potential of this energy source. The U.S. Geological Survey has estimated that the quantity of heat in rocks at depths of less than 6 miles in the United States is 24 million quads. Last year, our country used just 75 quads. If one out of every 1,000 quads could be recovered, hot dry rock could conceivably meet our Nation's energy needs for over 300 years.

Despite the abundance of this energy resource base, the hot dry rock program will suffer from the same kind of budgetary restrictions as imposed by the administration on the rest of the solar and geothermal energy programs. However, in this case the restrictions have been caused not by the administration, but by the Science Committee, which in its understandable desire to put a responsible lid on energy spending has in this instance gone a little further than necessary. Let me explain why.

Madam Chairman, hot dry rock is one program which DOE is enthusiastic about. The administration requested a fiscal year 1979 budget of $12 million for work urgently needed. Yet while the Science and Technology Committee urged DOE to be more aggressive in nearly every solar and geothermal program, the committee reduced the hot dry rock authorization by 25 percent. While the committee's justification for this action was reasonable at that time, new information has convinced me that a different course of action is well advised.

Madam Chairman, to date, hot dry rock experimental research has favorably resolved almost all major questions as to the feasibility of utilizing this resource. A successful experiment has been conducted at Los Alamos, N. Mex., where two boreholes have been connected, cold water has been pumped down and heated, and steam has been produced.

Having demonstrated the technology at one locality, DOE now proposes to continue this work and also establish a vigorous hot dry rock exploration program, to determine the resource base at other sites throughout the Nation. They requested $6 million for this latter activity, which would address a number of questions about national strategy, including:

What is the magnitude and character of the resource at various localities?

What fraction of the resource can be exploited economically?

How must the technology developed at Los Alamos be modified to adapt to different geologic situations?

Are alternative extraction methods economically preferable?

Madam Chairman, the Science and Technology Committee, believing this exploration effort to be premature, reduced DOE's request for a $6 million national hot dry rock exploration program by $4.1 million. While the committee did add $1.1 million back into the technology demonstration part of the program, I am gravely concerned that slashing the exploration program budget may impede progress with this promising source of geothermal energy.

Recently, technical field personnel have stated that the $9 million budget level as currently provided by H.R. 12163 would cripple efforts to establish a vigorous national program. I am advised that restoration of the originally proposed funding for the exploration efforts of this program, which my amendment provides, could lead to commercialization of this resource in 1988. A more deliberately paced program would delay commercialization until well into the 1990's. I do not believe this delay is necessary or advisable.

Madam Chairman, we can produce substantial amounts of energy from this virtually limitless geothermal resource in several years less time by adding a very minimal amount of money to the program. It's an investment we cannot afford to forego. I urge my colleagues to support the amendment I am offering to H.R. 12163 to increase the budget authorization for hot dry rock by $4.1 million. The facts about this technology seem to me to clearly justify this modest increase.

Mr. McCORMACK. Madam Chairman, I reluctantly rise in opposition to the amendment offered by the gentleman from New Mexico (Mr. LUJAN).

Madam Chairman, the Subcommittee on Advanced Energy Technologies and Energy Conservation Research, Development, and Demonstration has held hearings on the hot dry rock technology and has examined this matter in some detail in both the subcommittee and in the full committee.

We recognize the desire of the scientists from the Los Alamos National Laboratory to move forward as rapidly as possible with this program, but, in analyzing the budget we have come to the conclusion that it is not possible to expend this additional money constructively at this time.

I want to congratulate the scientists at Los Alamos for what they have done with hot dry rock research and development and I also want to congratulate the gentleman from New Mexico (Mr. LUJAN) who represents Los Alamos, for his support in this matter and on his hard work. However, I spoke with the gentleman from California, the ranking minority member (Mr. GOLDWATER) and he agrees that there is no justification for the request at this time.

It is my intention to hold geothermal oversight hearings later this year. There are many questions yet to be answered, not only with respect to the hot dry rock program. I point out this extra funding has not been appropriated in the House, and I recommend the amendment not be adopted.

Mr. LUJAN. Madam Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New Mexico.

Mr. LUJAN. I thank the gentleman for yielding.

I appreciate the gentleman's feelings, and I can understand how he could feel that way. As he knows, we feel it is a very important program. I might inform the gentleman that the Senate has already acted on this matter, and they did put in the full amount. I would just hate to see the House look bad when the Senate is so forward-looking, having approved funds for this project. I just want the House to share a little bit in that glory.

Mr. McCORMACK. I would suggest to the gentleman that I think the House could show the wisdom of restraint in not authorizing money that has not been appropriated and could not be used.

Madam Chairman, I again request opposition to this amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico (Mr. LUJAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LUJAN. Madam Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there further amendments?

AMENDMENTS OFFERED BY MR. MURTHA

Mr. MURTHA. Madam Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MURTHA: On page 11 (of the June 23 committee print), after line 15, insert the following new subparagraph.

(c) Mining and Energy Related Industrial Technologies Education Center/Coal Utilization Facility, preconstruction phase, $571,413.

Mr. MURTHA (during the reading). Madam Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MURTHA. Madam Chairman, I am offering an amendment requesting an increase of $571,413 in H.R. 12163, title II—fossil and nuclear energy research and development, and related activities; plant and capital equipment category, section 202, 1 B, for the preconstruction phase of the mining and energy related industrial technologies educational center/coal utilization facility.

The purpose of the amendment is to provide the U.S. Department of Energy with a clear direction and authority to construct pilot research and demonstration projects in training miners and researching coal utilization methods.

I have written the amendment broadly enough to give the Department of Energy discretion to develop new programs to demonstrate a practical approach to the transmission of technology required by the range of skills necessary for research in and the production and utilization of coal, including extraction, conversion, transportation, processing, storage, transmission, and other elements essential in increasing national coal usage.

Madam Chairman, I would like to discuss the Associated Mining and Energy Related Industrial Technologies Education Center (AMERITEC) concept which prompted this amendment. AMERITEC is an educational concept developed by an advisory committee composed of people from industry, labor, Government safety agencies, and education. AMERITEC is a response to the need to develop curricula and physical facilities with which the many occupations involved in the coal-based energy chain can be taught. The reality of inadequate educational programs for people in coal-based occupations, upon which the Nation is becoming more dependent, has been recognized by the many people who are working to get the AMERITEC concept implemented.

Madam Chairman, the Mine Safety and Health Administration within the U.S. Department of Labor completed a feasibility analysis of the AMERITEC concept in April 1978 and had the following comments to make concerning this concept: The AMERITEC concept, while relatively new 3 years ago, is essentially demonstrated as feasible by similar facilities now in existence; the AMERITEC proposal for three simulated mine sections is about the right facility size to serve an area of 25 to 50 miles in radius from the proposed location; while similar to existing facilities, AMERITEC has unqiue contributions for skill/safety training; the AMERITEC proposal is more comprehensive than existing programs in covering all job classifications; the AMERITEC structure is permanent in design; the cluster of three sections at one location provides economies of scale.

Madam Chairman, a particular concern of mine is that the coal miners of this Nation are in need of the proper and necessary training in order to achieve a greater level of productivity and safety. Increases in coal production will be essential to meet the goals outlined by the Congress and the administration for making our country less dependent on foreign sources of energy, and without programs such as AMERITEC, we simply are not going to be able to meet those goals.

The Office of Technology Assessment has acknowledged the need for personnel in mining and equipment operation areas, and they have recommended increased efforts to meet these needs. OTA also stated that to meet the estimates of increased coal production, it will require a significant increase in the number of underground coal miners, including first line supervisory personnel and coal mine engineers. The fluctuating production level of the coal mining industry over the last 25 years has resulted in a current work force composed principally of miners over 50 and under 30 years of age. Simultaneously, advanced mining techniques and machines impose a requirement for more education and special training. Combined, those factors mean we do not have the trained manpower we need to develop a prime reliance on coal.

Madam Chairman, I feel that my amendment will help solve many of the problems that the coal miner of this Nation presently faces. I feel it is a step in the right direction in helping our country meet the energy goals that we have projected.

I am hopeful that all of the Members will vote in favor of my amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. MURTHA).

The amendment was agreed to.

● Mr. EDWARDS of California. Mr. Chairman, I rise to express my interest and enthusiasm toward an accelerated program of oil recycling. Currently, there are 1.1 billion gallons of waste oil which is produced in the United States each year. Unfortunately, most of this waste oil finds its way into our rivers, streams, oceans, or is dumped into a landfill. Included in this year's DOE authorization bill is $1.2 billion for plant design and equipment optimization at Bartlesville, Okla. This project will allow blueprints and other needed planning measures to be drawn up for the eventual construction of a plant using the Bartlesville refining technique. This is a very important aspect of the total oil recycling program.

My concern here is with regard to the total money which is going into research of other methods of oil rerefining beside the Bartlesville technique. As many of my colleagues know, acid clay recycling of oil, the only commercially productive method of recycling oil in this country, is a very messy and environmentally harmful process. The sludge which is produced as a result of this particular process continues to be dumped in our environment. EPA, which is in charge of oversight and enforcement of basic environmental standards has been frustrated in their efforts to limit the pollution created by acid clay recycling plants simply because no better proven method of taking care of the country's waste oil exists.

Oil recycling must be a vital component in our country's energy conservation scenario. I would like to see the conferees, during their consideration of the energy conservation section of this bill, take as strong a stand as possible toward the promotion of oil refining.

Finally, I would like the record to reflect my interest toward alleviating one other problem area associated with the promotion of oil rerefining. I am speaking of the many institutional barriers which exist now that discriminate against the purchasing of rerefined oil. Today, the military refuses to purchase any recycled oil. Current FTC labeling requirements on recycled oil have created a consumer mistrust toward the purchasing of recycled oil and finally, many of our tax laws are geared toward encouraging the purchasing of virgin oil rather than recycled oil. Consequently in the marketplace, recycled oil is blatantly discriminated against. I believe that if these various institutional barriers were removed, our country would see a more rapid development of waste oil recycling.●

● Mr. DUNCAN of Tennessee. Mr. Chairman, it has been over a year since the President announced his intention to terminate this Nation's breeder reactor program. In the interim, I and many others have addressed this vital issue here on the floor, expressing our opposition to the President's proposal. I wish to rise now to again express my support for the continuation of the breeder program and, more specifically, my support for the continued funding of the Clinch River breeder reactor project.

My reasons for supporting the breeder program remain the same as last year, though I do feel that the passage of time has resulted in even greater justification for my position. The President's argument that the continuation of the breeder program would negatively affect the growing problem of nuclear proliferation seemed spurious a year ago, and nothing which has happened to date would indicate to me that it is any more valid today. On the contrary, other nations have continued and even accelerated their programs. I understand now the administration has more or less dropped this argument and is now pushing others as unfounded as this one such

as stating we have sufficient supplies of uranium to continue building conventional nuclear reactors and that nuclear power growth will be slower than estimated earlier.

Gentlemen, this is folly. We are an advanced and sophisticated society whose energy demands are rising, not decreasing, constantly. Further, there is no evidence of new supplies of uranium to justify canceling the breeder option. We must face the fact that the world's supplies of conventional energy sources are rapidly diminishing. The "glamour" technologies such as solar and fusion power may indeed be promising; however, our technology in these areas is still so limited that it is all but impossible to make an accurate assessment of the benefits these sources may bring. Gentlemen, what we need, what we must have, is a new energy source which we can bring on line in the next 20 years or so, an energy source which is, for all practical purposes, renewable. We need an energy source for which there is technology available now, not 50 to 100 years from now. The breeder uniquely satisfies all these requirements.

Mr. Chairman, if we assume that before the end of this century this Nation will be able to double its hydroeletric power output, triple its coal-fired power, effectively conserve energy, and bring on line some advanced technology, 40 percent of our projected electric needs will still be unmet. We cannot afford to cancel the breeder program. We cannot afford to terminate Clinch River, our opportunity, at this time our only opportunity, to demonstrate the feasibility of our breeder technology, the technology which may very well be the difference between light and dark, heat and cold, and economic well-being and chaos in the not very distant future.

Mr. Chairman, the bill before us provides for $172.5 million for the continuation of the Clinch River breeder reactor project. I urge my colleagues' support for this authorization so that we may continue to refine our knowledge of breeder technology and be ready to bring breeders on line safely and efficiently as I feel we must if we are to insure that our children and grandchildren will have the energy sources necessary to secure their lives and futures.●

The CHAIRMAN. Are there further amendments?

Mr. BROWN of California. Madam Chairman, I move to strike the last word. I apologize, Madam Chairman. I was unaware we were reaching the end of the debate on amendments so quickly.

I merely wanted to take this time not to offer an amendment but to make a statement or two with regard to the status of the bill as it stands at the present time. I feel that in general the bill represents a great deal of very fruitful work, and it seems to me entirely unfortunate that in the present form of the bill it is fated to have the same treatment at the parallel bill of last year; namely, to be vetoed by the President and to leave us without this extremely important authorizing legislation. The reasons for this are quite simple and have been already fully expressed by other members of the committee. There are probably two major amendments to major sections which the President has announced his opposition to, and with regard to the first, the Clinch River breeder reactor, this alone was sufficient for him to veto last year's bill, resulting in a delay of considerable time before the bill was then passed with the necessary corrections to have his approval.

The other section is the amendment again offered by our distinguished colleague, the gentleman from Alabama (Mr. FLOWERS), having to do with the coal project, the addition of $75 million for that purpose. The bill as it stands now is several hundred million dollars above the President's budget, because of these two factors and one or two others. It runs contrary to the President's policy as far as the expedited commercialization of breeder reactors is concerned, and this is a matter of high priority as far as the President is concerned, as well as a matter of considerable additional expense in this year's authorization.

I would not normally be concerned about a matter of a few hundred million dollars on a bill of this scope. This in itself would not be sufficient to cause me to vote against the bill, but when it is combined with the major deviation from the President's policy represented by our efforts to continue with the Clinch River project, I personally feel that I will be unable to vote for the bill.

I might point out that even the proponents of the Clinch River project have recognized the futility of attempting to force the President to modify his position and are arguing that we need this section in the bill in order that we can reach a more favorable bargain or agreement with the Senate. The Senate language, which has not been finally approved in the Senate, does give the President the option, this has been approved in the committee, the option of either terminating the Clinch River project or continuing it; or if he decides to terminate it, then to proceed with the work on an additional breeder demonstration which was, in effect, the content of the Flowers amendment.

It is the contention of those in this body who are refusing to adopt the Clinch River project that we will be able to work out some acceptable compromise in the conference committee. I am extremely dubious that with the present language in the bill we will be able to accomplish this goal.

It is a noble, it is a valiant last ditch effort, I think, to continue a project which enjoyed the support of most Members of the House, including this Member at various times; but it is a matter that to continue the battle under the present circumstances is widely recognized as being a futile gesture and one which does severe damage to our efforts to construct a sound and rational energy policy for this Nation.

I regret that it has been in part due to the Committee on Science and Technology and various of its members that we are in this position, because I know that all the Members feel that this is an extremely important bill, that it is an essential, if not a primary piece of legislation on energy.

The CHAIRMAN. The time of the gentleman from California (Mr. BROWN) has expired.

(By unanimous consent, Mr. BROWN of California was allowed to proceed for 1 additional minute.)

Mr. BROWN of California. Madam Chairman, this bill is one of the fundamental pieces of energy legislation which this House will pass this year, as so many other members of the committee have pointed out. I think we would all agree that it is highly regrettable that we now are inevitably faced with a delay which may run several months. We may, as last year, only get around to passing this in the spring of next year, without the offending matter in it and, hence, unable to affect much of the work that is done in the current fiscal year that this bill pertains to.

I think it is highly unfortunate and I think it would be extremely desirable if a few of the Members who have hung on to the last would recognize that it would be desirable at this point to change their vote, if the opportunity appears, and to pass this bill on over to the Senate in the form where this compromise can be reached.

Mr. WYDLER. Madam Chairman, I move to strike the requisite number of words.

Madam Chairman, I believe this is the end of the legislation. If I understood the words of the gentleman who just spoke, the gentleman is suggesting that Members of the House change their vote on the Clinch River project to please the option of the President of the United States.

I am going to suggest to the gentleman a different course of action. I think, frankly, that the position of the President is indefensible when we look at the energy needs of our country in the years ahead. The President is at the present time meeting with the leaders of all the Western powers in an economic conference in Bonn. Every one of the leaders at that conference except the President wants to develop breeder technology and wants their countries to go forward with a strong and active breeder program.

The President sets himself apart. He wants to hold back, he wants to look away, he wants to lead our country in a different direction.

I am one Member who thinks the President can change his mind. As a matter of fact, as we look at some of the things he has said in the last few years, it seems to me he changes his mind on practically every important issue before the country, and maybe in this case the same thing will happen. That would not be something different. He may change his mind once again. I think we at least ought to offer him the chance to change his mind, to see the error of his ways—and it is an error—and to see the shortsightedness of what he is doing. It is shortsighted to take the one project we have in the breeder field and kill it and leave us without an active breeder project.

I appeal to those Members who up to this point—and I might say this includes

some high-ranking Members—want to give the President a chance to have his policy succeed just because it is his policy. I ask that they think again about what is really best for our country in the years ahead, and that they reconsider the vote they may have cast last Friday and in the past and take this opportunity, if one is presented, to show our strong support for the breeder reactor.

That to me would be the best message this Congress could send to those leaders who are meeting in Bonn to indicate to them the strong desire of our country not only to help solve the oil problems in the near term through higher prices—and that appears to be the way they would like us to go—but also to serve the long-term needs of our country through the development of the breeder reactor.

So, Madam Chairman, I would say to the Members that I just think President Carter has shown remarkable flexibility in the last few years in his views on various matters, and I think if we give him a chance, he might continue to show that type of flexible thinking that has made it possible for him to change his mind on a great many issues. We should at least give him that chance.

Mr. BROWN of California. Madam Chairman, will the gentleman yield?

Mr. WYDLER. I yield to the gentleman from California.

Mr. BROWN of California. Madam Chairman, I respect the sincerity of the gentleman's judgment, and I note his reference to the situation in Bonn.

I would just like to inquire if the leaders of the European Community with whom the President is meeting in Bonn are the same ones who have insisted on going ahead with the Concorde supersonic transport, although the United States has not gone forward with a supersonic plane.

Mr. WYDLER. Yes, they are, indeed. And as the gentleman well knows, the Concorde supersonic transport that lands and takes off from Kennedy Airport and Dulles Airport is not an American plane; it is a European aircraft.

Unfortunately, the gentleman is correct. What he says is true. They made a decision to go ahead with it, and we made a decision not to go ahead. There is still, however, a supersonic transport flying, and it is not ours; it belongs to foreign governments.

So I do not see why the gentleman would ask us to make some sort of a similar decision in this case, although that seems to be the import of what he is suggesting.

Madam Chairman, I will conclude my remarks, if I may, but just paying a moment's respect to the chairman of the committee, the gentleman from Texas (Mr. TEAGUE). This will be the last Department of Energy bill he is going to work through the House of Representatives, and he has, of course, done, as usual, the type of job that every one of the Members of the House is proud of. He has handled himself with distinction. He has allowed all the Members to have their say but he has been strong and forceful when it has been required.

There is no Member with whom I have had more arguments in the House of Representatives than the chairman of this committee, but there is no man in this House that I as a Member of Congress respect more or like more than the chairman of the committee. I am going to miss him.

Mr. BROWN of California. Madam Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. The call will be taken by electronic device.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 551]

Alexander	Foley	Patterson
Archer	Ford, Mich.	Pressler
Armstrong	Forsythe	Quie
Ashbrook	Fraser	Rangel
Beard, R.I.	Frey	Richmond
Blouin	Garcia	Rodino
Boland	Gibbons	Roncalio
Bolling	Gudger	Rosenthal
Brademas	Harrington	Roybal
Breaux	Harsha	Ruppe
Brown, Ohio	Horton	Russo
Burke, Calif.	Howard	Santini
Caputo	Johnson, Colo.	Sarasin
Cederberg	Kasten	Scheuer
Chisholm	Le Fante	Sebelius
Clawson, Del	Leggett	Seiberling
Collins, Ill.	Lent	Shipley
Conyers	McCloskey	Shuster
Davis	McDonald	Skubitz
Dent	Maguire	Steed
Diggs	Mann	Symms
Drinan	Mathis	Thornton
Eckhardt	Meyner	Tsongas
Edwards, Okla.	Milford	Tucker
Erlenborn	Moorhead, Pa.	Udall
Evans, Ga.	Murphy, N.Y.	Wiggins
Flowers	Nichols	Wilson, C. H.
Flynt	Ottinger	Young, Tex.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SISK) having assumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill H.R. 12163, and finding itself without a quorum, she had directed the Members to record their presence by electronic device, whereupon 348 Members recorded their presence, a quorum, and she submitted herewith the names of the absentees to be spread upon the Journal.

The Committee resumed its sitting.

The CHAIRMAN. The question is on the amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of June 23, by Mr. FUQUA of Florida, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. SISK) having assumed the chair, Miss JORDAN, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12163) to authorize appropriations to the Department of Energy in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 660 of the Department of Energy Reorganization Act, for energy research and development, and for other purposes, pursuant to House resolution 1261, she reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. FISH

Mr. FISH. Mr. Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. FISH. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. FISH moves to recommit the bill H.R. 12163 to the committee on science and technology with instructions that that committee report the bill back to the House forthwith with the following amendment: On page 10, lines 16 and 17, strike the amount "$465,301,000" and substitute in lieu thereof "$306,401,000."

On page 14, line 17, strike the words beginning on line 17 through page 15, line 16, and insert in lieu thereof the following:

"SEC. 204.(a) Section 106 of Public Law 91-273, as amended, is further amended by adding at the end thereof the following new subsection:

"(d)(1) With respect to the Clinch River Breeder Reactor Project, the Secretary of Energy is authorized and directed only to complete systems design and to complete and test such selected components as are necessary and appropriate for the purposes of paragraphs (2) and (4) of this section.

(2) The Secretary shall conduct a conceptual design study on an advanced breeder reactor facility utilizing the uranium/plutonium and uranium/thorium fuel cycles. Such study shall use conceptual planning and systems design studies to serve as the design basis for a large demonstration facility, and shall address such factors as size and cost of such a facility, as well as generic, environmental, technical, and safety issues.

(3) The Secretary shall furnish to the House Committee on Science and Technology and the Senate Committee on Energy and Natural Resources progress reports on the study described in paragraph (2) commencing one year after the date of enactment of this section and each succeeding six months thereafter. The final report by the Secretary on the study shall be transmitted to the said committees no later than March 31, 1981. Such final report shall include recommendations with regard to conceptual plant design, and timing for such a facility (including estimates of time necessary to definitize design, license, construct and place such a facility in operation), and estimates of plant costs. The report shall also include a discussion of possible alternatives for industry and utilities involvement in definitive design, construction and operation of a large plant.

(4) The Secretary shall also prepare a detailed program plan for the Liquid Metal Fast Breeder Reactor Base Technology Program with particular emphasis on the sodium components development and test program, which integrated program plan shall

be transmitted to the Congress contemporaneously with the final report required under paragraph (3)."

(b) The Secretary of Energy is hereby directed to take such action with respect to contractual instruments entered into in connection with the Clinch River Breeder Reactor Project as in his judgment are necessary or appropriate to carry out section 106 of Public Law 91-273, as amended by subsection (a) of this section.

(c) There is authorized to be appropriated for Fiscal Year 1979 the sum of $55,000,000 to carry out this section and in addition the unexpended portion of any appropriations heretofore made for the Clinch River Breeder Reactor Project is authorized to be available instead to carry out the purposes of this section, as provided for in appropriation acts.".

Mr. FISH (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the motion to recommit with instructions be dispensed with and that it be printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. TEAGUE. Mr. Speaker, will the gentleman yield?

Mr. FISH. I would be delighted to yield to the gentleman from Texas (Mr. TEAGUE).

Mr. TEAGUE. Mr. Speaker, on Friday, Member after Member stood up and said that the amendment offered by the gentleman from Alabama (Mr. FLOWERS) the amendment which the gentleman from New York (Mr. FISH) is offering in his motion to recommit, would kill Clinch River. I have tried every way I could to get the amendment analyzed so as to tell me what language kills Clinch River. I do not believe it does kill Clinch River. I hope whoever talks against the motion to recommit will spell out for the Members that are here the way in which it will kill Clinch River because it will not do so.

I thank the gentleman for yielding.

Mr. FISH. Mr. Speaker, to begin with, I would like to express my appreciation to the ranking member of the Committee on Science and Technology, my colleague the gentleman from New York (Mr. WYDLER) for affording me the privilege and the opportunity of offering this motion to recommit.

As the chairman of the committee, the gentleman from Texas (Mr. TEAGUE) just told the House, basically the Flowers amendment is the product of a compromise between the chairman of the committee, the gentleman from Texas (Mr. TEAGUE), the chairman of the subcommittee, the gentleman from Alabama (Mr. FLOWERS), and the President of the United States, and, as we said on Friday, over and over again, if we are to have a bill then this compromise is an essential part of it.

I happen to have several things that I want very dearly in this measure and I would hate to see it vetoed and held up until sometime possibly next year because of the veto that we are obviously inviting.

There were 103 absences on Friday when the Committee of the Whole voted on the amendment offered by the gentleman from Alabama (Mr. FLOWERS) and that is another reason, since we consider this matter to be of such importance, to bring it forward. Not only are we guaranteed a veto by continuing the funding of Clinch River, but I believe that the President has made a major concession when he offered a major breeder design study.

I just want to make a very few points here, Mr. Speaker. In no way is the money for research and development of breeder technology that is in this bill, some $407 million, touched by this amendment.

Second—and I think this is equally important to know—under this amendment 90 percent of those who have been working on Clinch River will be kept working on breeder reactor design activities. We will, in short, be building upon what we have learned. We have progressed in our research and development on breeder technology. The new design study is considerably larger than that envisioned in Clinch River and will consider different breeder technologies as well as alternate fuel cycles to uranium—plutonium. This compromise will preserve the most important ingredient of a successful breeder program, the people who have accumulated expertise over the years. It will permit them to put their talents to use in a meaningful but standby effort which will in no way signal to the rest of the world that we have reversed our deep commitment to reducing the risk of the spread of nuclear weapons.

I submit this was a good amendment when offered on Friday and a compromise worked out by the leadership of our committee and the White House.

Mr. Speaker, I yield back the remainder of my time.

Mr. McCORMACK. Mr. Speaker, I rise in opposition to the motion to recommit.

Mr. Speaker, I want to point out to all Members of the House what we will be voting on at this time is exactly the same as the Flowers amendment which was defeated last Friday by a vote of 187 to 142. You should all know that there has been no compromise at all between the committee and the White House. There has been no agreement between the committee and the White House. The committe rejected the Flowers amendment, and did not treat it as a compromise. Further, the Flowers amendment would not save money. In the long run it will cost us much more. The Flowers amendment and the motion to recommit say that the Secretary is authorized only to complete system designs and test such components for a study of advanced reactors and a base program.

This amendment would kill Clinch River.

I urge opposition to the motion to recommit.

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. WYDLER. I thank the gentleman for yielding.

Mr. SPEAKER. I feel that the implications of the administration's counterproductive nuclear policy and the failure of the regulatory process as evidenced by the Seabrook plant fiasco are so far reaching that some remarks are in order about the philosophy behind the nuclear programs funded in this bill. Fortunately, the House affirmed its strong position on the Clinch River project on Friday but I do not feel that there was sufficient discussion on the grave consequences of the administration's vacillating nuclear policy. The only positive gesture the President has made on nuclear energy is his plant siting bill.

Over the coming decades we must rely on proven energy sources, particularly nuclear power, to a greater degree than we have in the past. If our children are to enjoy the quality of life we have today it will require national nerve to make this choice. There are two aspects of nuclear energy development which the public should be aware of. First, as a means of generating electricity it has economic advantages versus coal, oil or gas. Second, for the future of this country it is important for energy independence and foreign trade that we remain No. 1 in the nuclear league.

It is disconcerting to me that the mystique surrounding nuclear power because of its relation to weapons has led to such a distorted image of its real value. Let us look at the facts on nuclear power and its real promise.

The figures speak for themselves. In 1977, nuclear power plants produced 31 percent more electricity than in the previous year, produced 12 percent of all electricity sold, widened the cost advantage over coal, oil and gas.

What is important for tomorrow's consumer is that nuclear's economic advantages represent cost savings compared with oil and coal of more than $2 billion. If this country can pursue the nuclear option on its real merit this advantage is likely to widen.

The "breeder" reactor is a remarkable device which opens the avenue to using nuclear energy in an almost unlimited way. The "breeder" actually produces more nuclear fuel than it consumes as it generates electricity. Thus it can be used to provide fuel to feed other nuclear reactors which can be breeders or "burners" which merely consume fuel. The United States has been preparing to demonstrate this technology but within the past year our country's policy on this matter has turned completely around.

The most economical way to use breeder reactors requires reprocessing of nuclear fuel. This simply means that "spent" powerplant fuel is treated so as to extract the precious energy contained in uranium and plutonium.

As the public now knows, the President and the Congress have quite different views on breeder reactor development. The President has tried to cut back our breeder effort on the basis that reactors will lead to proliferation of nuclear weapons. The Congress feels this concern can be handled by "technical fixes" and has insisted that the United States should pursue this option vigorously.

This brings me to the question of the future U.S. role in international nuclear technology. Our traditional preeminence in this area is threatened by our present policy; let me tell you why.

To the rest of the world the U.S. policy of deemphasizing atomic power is a no-growth policy of "pull back." Other nations look in amazement at a policy designed to keep us on an oil binge and destined to let the world leave us behind in nuclear development.

This country's radical change in policy toward the development of nuclear energy and peaceful export of nuclear technology has raised grave doubts among our friends. We are losing credibility with these nations and losing business in the export of peaceful applications of nuclear energy as well.

Our reneging on past nuclear commitments not only means that this country's technological capability will be wasted but also leaves open the market to nations who may not share our concerns about proliferation of nuclear weapons.

The fact that the United States is requiring foreign countries to renegotiate the terms of nuclear agreements has literally put these countries in a mood of "quiet rage." We are destroying our image as good neighbors and raising serious questions in the international community about whether we honor the traditional American view of the "sanctity of contracts." In the case of Eastern bloc countries such as Yugoslavia we are undercutting them as they attempt to "walk the tightrope" in relations with the United States and the Soviet Union.

Other limitations of our unilateral policy are becoming clear. Developed countries in Western Europe have no intention of slowing their breeder programs.

This policy is leading to imbalance also as it is catalyzing the opposition of antinuclear groups in nations all around the world. These zealots are seizing on our well-intended but naive nonproliferation policy as evidence that nuclear power is a chancy technology.

It is no wonder then that the breeder reactor has been endorsed from many sources. In fact, Members of Congress may find some of these sources quite surprising. For instance, the NAACP, in a widely circulated report, called for President Carter to "take a more positive attitude" toward energy supply. The association said:

> We find it very disturbing to contemplate a future in which energy supply would become a constraint upon our ability to solve the critically important social and economic problems which confront black citizens. Nuclear power, including the breeder, must be vigorously pursued because it will be an essential part of the total fuel mix necessary to sustain an expanding economy.

Andrei Sakharov, Soviet civil rights leader and 1975 Nobel Peace Prize winner, called on Western nations to accelerate development of nuclear energy in a recent article in the French daily, Le Monde. He said:

> It's not merely a question of . . . upholding what is called the "quality of life." It is a more pressing matter, that of upholding the freedom of your children and of your grandchildren.
>
> It is important not only to build "ordinary" nuclear plants, but it will be indispensible to launch the construction of breeder reactors in the coming years, while giving maximum attention to their security.

He argued that the probability of the theft of fissile materials "can be minimized by taking the necessary technical and organizational measures."

The liberal journalist Richard Rovere has pointed out the perils for many of our friends and developing nations in disregarding nuclear power and embracing only soft technologies. In a recent article he wrote:

> The United States can afford (though not without cost in long-term economic growth) to forego or postpone the use of breeder reactors. But for many countries, including some of our closest allies and trading partners, a failure to use nuclear energy in its most efficient form could mean a strangling of their energy-intensive economies over the coming years.
>
> To ask the poorer countries to conserve oil and to eschew nuclear energy is to ask them to accept continued poverty as a condition of their existence.

Rovere continued:

> To ask Americans to mark time until solar energy comes into their homes and factories is to resign ourselves to a rate of unemployment—that most find intolerable.

Mr. Speaker, I want to make sure that that the House understands what they are voting on. They voted on it before. It is the same old issue. It is the Clinch River breeder reactor. It is the one project that our Nation has in the breeder field. It is an ongoing project. We have invested $800 million of taxpayers' money in it, and no matter what anyone says, the Secretary of Energy has told us he wants this amendment passed so we can kill Clinch River. The President has told us he wants this amendment passed so we can kill Clinch River and the breeder program.

For heaven's sake, do not fall into the trap of thinking we are keeping it alive. This is the death of the Clinch River project. I urge those Members over there to reconsider what they are doing.

Mrs. LLOYD of Tennessee. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentlewoman from Tennessee.

Mrs. LLOYD of Tennessee. I thank the gentleman for yielding.

Mr. Speaker, the Clinch River breeder reactor is the foundation of our long-term energy supply program. This is the only viable alternative source of energy we have to carry us into the next century. Without breeders, and breeder technology, we will have limited the role of nuclear energy to a very few years. We will exhaust our finite supplies of uranium just as we have our oil and gas. I urge the defeat of this motion.

Mr. GOLDWATER. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

I rise in opposition to this motion and point out that breeder technology has been under development for some 30 years. Eventually we will have to put this technology together and see if it works on a utility system as a reliable source of electricity, and that is precisely what the Clinch River breeder reactor program is all about—to demonstrate that this technology is viable and worth the many millions of dollars spent. In voting for this project we will not be starting something new and untried, but will be continuing a technology development program that has been approved by many Congresses and six Presidents. We must continue this program to find out if breeder technology is truly an energy option for the future. I urge my colleagues to continue their strong support for the Clinch River project.

Mr. ROE. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New Jersey.

Mr. ROE. I thank the gentleman for yielding.

I share the view that has been expressed. We fought this battle out for about 4 or 5 hours on Friday.

We fought this battle out for about 4 or 5 hours on Friday with exhaustive review.

Let me suggest, this is not an end run, I do not mean to those that rejected it; but, by golly, this Nation has to move ahead on the energy program and move ahead on breeder technology. If we allow this program to get away from us, we will set the breeder program behind and demonstration projects behind at least 10 years.

Please join with us and vote down the motion.

Mr. GARY A. MYERS. Mr. Speaker, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Pennsylvania.

Mr. GARY A. MYERS. Mr. Speaker, I thank the gentleman for yielding. The gentleman from New York (Mr. FISH) argues that by accepting this amendment we will get a much larger demonstration than Clinch River. Is it not true that all the representatives from the various nuclear equipment producers recommended in hearings that even considering the information generated during CRBR design they still recommend a plant of that size?

Mr. McCORMACK. The gentleman is correct. There is overwhelming engineering consensus that the Clinch River project should be built before the Nation proceeds to building a larger LMFBR.

Let us all remember that Russia, France, and England built and are operating liquid metal fast breeder reactors almost the same size as the Clinch River project. Germany is building an LMFBR the size Clinch River will be. Japan is operating a somewhat smaller LMFBR. All the nations are, or soon will be, ahead of us in breeder technology unless we proceed now with Clinch River.

None of the arguments have changed in the last year. If you voted for the Clinch River breeder project a year ago, vote "no" now. If you voted against the Flowers amendment on Friday, I urge a "no" vote now on the motion to recommit.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. BROWN of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 157, nays 238, not voting 37, as follows:

[Roll No. 552]

YEAS—157

Addabbo	Garcia	Nolan
Ambro	Gephardt	Nowak
Ammerman	Giaimo	Oakar
Ashley	Gilman	Oberstar
Aspin	Glickman	Obey
AuCoin	Hamilton	Panetta
Baldus	Hanley	Pattison
Baucus	Harkin	Pepper
Bedell	Harris	Pickle
Bellenson	Hawkins	Pike
Bingham	Heckler	Pritchard
Blanchard	Heftel	Pursell
Boland	Hightower	Quayle
Bolling	Holtzman	Rahall
Bonior	Howard	Rangel
Bonker	Ireland	Reuss
Brademas	Jacobs	Rogers
Brodhead	Jeffords	Rosenthal
Brown, Calif.	Jenkins	Roybal
Burton, John	Jordan	Ryan
Burton, Phillip	Kastenmeier	Schroeder
Carr	Keys	Seiberling
Cavanaugh	Kildee	Sharp
Chisholm	Kostmayer	Simon
Clay	Krebs	Solarz
Cohen	LaFalce	Spellman
Conte	Leach	St Germain
Corman	Lehman	Stark
Cornell	Levitas	Steers
Cotter	Lloyd, Calif.	Steiger
Coughlin	Long, La.	Stockman
D'Amours	Long, Md.	Stokes
Delaney	Lundine	Studds
Dellums	McDade	Teague
Dingell	McHugh	Thompson
Dodd	McKinney	Traxler
Downey	Maguire	Tucker
Drinan	Markey	Udall
Early	Marlenee	Van Deerlin
Eckhardt	Mattox	Vanik
Edgar	Meeds	Vento
Edwards, Calif.	Mikulski	Walgren
Emery	Mikva	Waxman
Evans, Colo.	Miller, Calif.	Weaver
Fascell	Mitchell, Md.	Weiss
Fenwick	Mitchell, N.Y.	Whalen
Findley	Moakley	Wirth
Fish	Moffett	Wolff
Fithian	Moorhead, Pa.	Wright
Ford, Mich.	Moss	Wylie
Fowler	Natcher	Yates
Fraser	Neal	
Fuqua	Nedzi	

NAYS—238

Abdnor	Burke, Mass.	Dicks
Akaka	Burleson, Tex.	Diggs
Anderson, Calif.	Burlison, Mo.	Dornan
Anderson, Ill.	Butler	Duncan, Oreg.
Andrews, N.C.	Byron	Duncan, Tenn.
Andrews, N. Dak.	Carney	Edwards, Ala.
Annunzio	Carter	Ellberg
Applegate	Cederberg	English
Archer	Chappell	Ertel
Badham	Clausen, Don H.	Evans, Del.
Bafalis	Cleveland	Evans, Ga.
Barnard	Cochran	Evans, Ind.
Bauman	Coleman	Fary
Beard, R.I.	Collins, Ill.	Fisher
Beard, Tenn.	Collins, Tex.	Flippo
Benjamin	Conable	Flood
Bennett	Conyers	Florio
Bevill	Corcoran	Foley
Biaggi	Cornwell	Ford, Tenn.
Boggs	Crane	Forsythe
Bowen	Cunningham	Fountain
Breckinridge	Daniel, Dan	Frenzel
Brinkley	Daniel, R. W.	Gammage
Brooks	Danielson	Gaydos
Broomfield	Davis	Ginn
Brown, Mich.	de la Garza	Goldwater
Broyhill	Dent	Gonzalez
Buchanan	Derrick	Goodling
Burgener	Derwinski	Gore
Burke, Fla.	Devine	Gradison
	Dickinson	Grassley
		Green
		Gudger
		Guyer
		Hagedorn
		Hall
		Hammer-schmidt
		Hannaford
		Hansen
		Harsha
		Hefner
		Hillis
		Holland
		Hollenbeck
		Holt
		Horton
		Hubbard
		Huckaby
		Hyde
		Ichord
		Jenrette
		Johnson, Calif.
		Jones, N.C.
		Jones, Okla.
		Jones, Tenn.
		Kazen
		Kelly
		Kemp
		Kindness
		Krueger
		Lagomarsino
		Latta
		Lederer
		Lent
		Livingston
		Lloyd, Tenn.
		Lott
		Lujan
		Luken
		McClory
		McCloskey
		McCormack
		McDonald
		McEwen
		McFall
		McKay
		Madigan
		Mahon
		Marks
		Marriott
		Martin
		Mathis
		Mazzoli
		Metcalfe
		Meyner
		Michel
		Miller, Ohio
		Mineta
		Minish
		Mitchell, N.Y.
		Moakley
		Mollohan
		Montgomery
		Moore
		Moorhead, Calif.
		Moorhead, Pa.
		Moss
		Murphy, Ill.
		Murphy, N.Y.
		Murphy, Pa.
		Murtha
		Myers, Gary
		Myers, John
		Myers, Michael
		Nichols
		Nix
		O'Brien
		Patten
		Pease
		Perkins
		Pettis
		Poage
		Preyer
		Price
		Quillen
		Railsback
		Regula
		Rhodes
		Rinaldo
		Risenhoover
		Roberts
		Robinson
		Roe
		Rooney
		Rose
		Rostenkowski
		Rousselot
		Rudd
		Runnels
		Russo
		Satterfield
		Sawyer
		Scheuer
		Schulze
		Shuster
		Sikes
		Sisk
		Skelton
		Skubitz
		Slack
		Smith, Iowa
		Smith, Nebr.
		Snyder
		Spence
		Staggers
		Stangeland
		Stanton
		Steed
		Stratton
		Stump
		Symms
		Taylor
		Thone
		Thornton
		Treen
		Trible
		Ullman
		Vander Jagt
		Volkmer
		Waggonner
		Walker
		Walsh
		Wampler
		Watkins
		White
		Whitehurst
		Whitley
		Whitten
		Wilson, Bob
		Wilson, C. H.
		Wilson, Tex.
		Winn
		Wydler
		Yatron
		Young, Alaska
		Young, Fla.
		Young, Mo.
		Young, Tex.
		Zablocki
		Zeferetti

NOT VOTING—37

Alexander	Frey	Quie
Armstrong	Gibbons	Richmond
Ashbrook	Harrington	Rodino
Blouin	Hughes	Roncalio
Breaux	Johnson, Colo.	Ruppe
Brown, Ohio	Kasten	Santini
Burke, Calif.	Le Fante	Sarasin
Caputo	Leggett	Sebelius
Clawson, Del	Mann	Shipley
Edwards, Okla.	Milford	Tsongas
Erlenborn	Ottinger	Wiggins
Flowers	Patterson	
Flynt	Pressler	

The Clerk announced the following pairs:

On this vote:

Mr. Blouin for, with Mr. Santini against.

Mr. Harrington for, with Mr. Hughes against.

Mr. Richmond for, with Mr. Breaux against.

Mr. Ottinger for, with Mr. Shipley against.

Mrs. Burke of California for, with Mr. Le Fante against.

Mr. Flowers for, with Mr. Leggett against.

Until further notice:

Mr. Alexander with Mr. Frey.

Mr. Gibbons with Mr. Ashbrook.

Mr. Mann with Mr. Ruppe.

Mr. Tsongas with Mr. Wiggins.

Mr. Patterson of California with Mr. Pressler.

Mr. Flynt with Mr. Erlenborn.

Mr. Milford with Mr. Caputo.

Mr. Roncalio with Mr. Quie.

Mr. Armstrong with Mr. Kasten.

Mr. Brown of Ohio with Mr. Sebelius.

Mr. Sarasin with Mr. Del Clawson.

Mr. Edwards of Oklahoma with Mr. Johnson of Colorado.

Mr. LENT and Mr. DERRICK changed their vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SISK). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 325, nays 67, not voting 40, as follows:

[Roll No. 553]

YEAS—325

Abdnor	Dicks	Jones, N.C.
Addabbo	Diggs	Jones, Okla.
Akaka	Dingell	Jones, Tenn.
Ambro	Dornan	Jordan
Ammerman	Drinan	Kazen
Anderson, Calif.	Duncan, Oreg.	Kelly
Anderson, Ill.	Duncan, Tenn.	Kildee
Andrews, N.C.	Eckhardt	Kindness
Andrews, N. Dak.	Edwards, Ala.	Krueger
Annunzio	Edwards, Calif.	Lagomarsino
Applegate	Ellberg	Latta
Archer	Emery	Leach
Ashley	English	Lederer
Aspin	Evans, Colo.	Lehman
Badham	Evans, Del.	Lent
Bafalis	Evans, Ind.	Levitas
Baldus	Fary	Livingston
Barnard	Fascell	Lloyd, Calif.
Baucus	Findley	Lloyd, Tenn.
Bauman	Fisher	Long, La.
Beard, R.I.	Fithian	Lott
Beard, Tenn.	Flippo	Lujan
Bennett	Flood	Luken
Bevill	Florio	McClory
Biaggi	Foley	McCloskey
Blanchard	Ford, Mich.	McCormack
Boggs	Ford, Tenn.	McDade
Boland	Forsythe	McEwen
Bolling	Fountain	McFall
Bonker	Fowler	McKay
Bowen	Fraser	McKinney
Brademas	Frenzel	Madigan
Breckinridge	Fuqua	Mahon
Brinkley	Gammage	Marks
Brooks	Gaydos	Marlenee
Broomfield	Gephardt	Marriott
Brown, Mich.	Giaimo	Martin
Broyhill	Gilman	Mathis
Buchanan	Ginn	Mattox
Burgener	Glickman	Mazzoli
Burke, Fla.	Goldwater	Meeds
Burke, Mass.	Gonzalez	Metcalfe
Burleson, Tex.	Goodling	Meyner
Burlison, Mo.	Gore	Michel
Byron	Gradison	Miller, Ohio
Carney	Grassley	Mineta
Carter	Green	Minish
Cavanaugh	Gudger	Mitchell, N.Y.
Cederberg	Guyer	Moakley
Chappell	Hagedorn	Mollohan
Chisholm	Hall	Montgomery
Clausen, Don H.	Hamilton	Moore
Cleveland	Hammer-schmidt	Moorhead, Calif.
Cochran	Hanley	Moorhead, Pa.
Cohen	Hannaford	Moss
Coleman	Harkin	Murphy, Ill.
Collins, Ill.	Harris	Murphy, N.Y.
Conable	Harsha	Murtha
Conte	Hawkins	Myers, Gary
Corcoran	Heckler	Myers, John
Corman	Hefner	Myers, Michael
Cornwell	Heftel	Natcher
Cotter	Hightower	Neal
Coughlin	Hillis	Nedzi
Cunningham	Holland	Nichols
D'Amours	Hollenbeck	Nix
Daniel, Dan	Holt	Oberstar
Daniel, R. W.	Horton	O'Brien
Danielson	Howard	Patten
Davis	Hubbard	Pease
de la Garza	Huckaby	Pepper
Delaney	Hyde	Perkins
Dent	Ichord	Pettis
Derrick	Ireland	Pickle
Derwinski	Jeffords	Pike
Devine	Jenkins	Poage
Dickinson	Jenrette	Preyer
	Johnson, Calif.	Price
	Johnson, Colo.	Pritchard

Pursell	Simon	Vander Jagt
Quayle	Sisk	Vanik
Quillen	Skelton	Vento
Rahall	Skubitz	Volkmer
Rangel	Slack	Waggonner
Regula	Smith, Iowa	Waigren
Reuss	Smith, Nebr.	Walker
Rhodes	Snyder	Walsh
Rinaldo	Spellman	Wampler
Risenhoover	Spence	Watkins
Roberts	St Germain	White
Robinson	Staggers	Whitehurst
Roe	Stangeland	Whitley
Rogers	Stanton	Whitten
Rooney	Steed	Wilson, Bob
Rose	Steiger	Wilson, C. H.
Rosenthal	Stratton	Wilson, Tex.
Rostenkowski	Stump	Winn
Rousselot	Taylor	Wolff
Rudd	Teague	Wright
Runnels	Thompson	Wydler
Russo	Thone	Wylie
Ryan	Thornton	Yates
Satterfield	Traxler	Yatron
Sawyer	Treen	Young, Alaska
Scheuer	Trible	Young, Fla.
Schulze	Tucker	Young, Mo.
Sharp	Udall	Young, Tex.
Shuster	Ullman	Zablocki
Sikes	Van Deerlin	Zeferetti

NAYS—67

Armstrong	Fenwick	Murphy, Pa.
AuCoin	Fish	Nolan
Bedell	Garcia	Nowak
Bellenson	Hansen	Oakar
Benjamin	Holtzman	Obey
Bingham	Jacobs	Panetta
Bonior	Kemp	Pattison
Brodhead	Keys	Roybal
Brown, Calif.	Kostmayer	Schroeder
Burton, John	Krebs	Seiberling
Burton, Phillip	LaFalce	Solarz
Carr	Long, Md.	Stark
Clay	Lundine	Steers
Collins, Tex.	McDonald	Stockman
Conyers	McHugh	Stokes
Cornell	Maguire	Studds
Crane	Markey	Symms
Dellums	Mikulski	Waxman
Dodd	Mikva	Weaver
Downey	Miller, Calif.	Weiss
Early	Mitchell, Md.	Whalen
Edgar	Moffett	
Evans, Ga.	Mottl	

NOT VOTING—40

Alexander	Frey	Railsback
Ashbrook	Gibbons	Richmond
Blouin	Harrington	Rodino
Breaux	Hughes	Roncalio
Brown, Ohio	Kasten	Ruppe
Burke, Calif.	Kastenmeier	Santini
Butler	Le Fante	Sarasin
Caputo	Leggett	Sebelius
Clawson, Del	Mann	Shipley
Edwards, Okla.	Milford	Tsongas
Erlenborn	Ottinger	Wiggins
Ertel	Patterson	Wirth
Flowers	Pressler	
Flynt	Quie	

The Clerk announced the following pairs:

On this vote:

Mr. Santini for, with Mr. Blouin against.

Mr. Breaux for, with Mr. Harrington against.

Mr. Hughes for, with Mr. Richmond against.

Until further notice:

Mr. Shipley with Mr. Flowers.

Mr. Le Fante with Mr. Flynt.

Mr. Alexander with Mr. Tsongas.

Mrs. Burke of California with Mr. Brown of Ohio.

Mr. Roncalio with Mr. Quie.

Mr. Gibbons with Mr. Pressler.

Mr. Kastenmeier with Mr. Caputo.

Mr. Ottinger with Mr. Edwards of Oklahoma.

Mr. Patterson of California with Mr. Erlenborn.

Mr. Wirth with Mr. Leggett.

Mr. Ertel with Mr. Butler.

Mr. Mann with Mr. Sarasin.

Mr. Milford with Mr. Del Clawson.

Mr. Wiggins with Mr. Sebelius.

Mr. Frey with Mr. Ruppe.

Mr. Railsback with Mr. Ashbrook.

Mr. McCLORY changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

COAL PIPELINE ACT OF 1978

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1252 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1252

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1609) to amend the Mineral Leasing Act of 1920, and for other purposes. After general debate, which shall be confined to the bill and shall continue not to exceed two hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs and one hour to be equally divided and controlled by the Chairman and ranking minority member of the Committee on Public Works and Transportation, the bill shall be read for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute printed in the Congressional Record of June 28 by Representative Udall of Arizona, and said substitute if offered shall be read as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio (Mr. LATTA). Pending that I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1252 provides for the consideration of H.R. 1609, the Coal Pipeline Act of 1978.

This is a completely open rule. Any germane amendment would be in order. Two hours is provided for general debate and the time is divided between the two committees to which the bill was jointly referred. One hour of general debate is allotted to the Committee on Interior and Insular Affairs and 1 hour is granted to the Committee on Public Works and Transportation. The time is to be equally divided and controlled by the chairmen and ranking minority members of the respective committees.

In lieu of the amendments now printed in the bill, the rule makes in order an amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of June 28, 1978, by Mr. UDALL of Arizona. This substitute is to be read as an original bill for purposes of amendment under the 5-minute rule.

A motion to recommit with or without instructions shall be in order prior to final passage.

Mr. Speaker, the purpose of H.R. 1609 and the substitute made in order by the rule, is to facilitate the acquisition of rights of way for coal slurry pipelines. The legislation would accomplish this objective in two ways: First, by providing rights of way across Federal land; and second by authorizing pipelines, under strict procedure, to exercise the power of Federal eminent domain.

In order for a pipeline to qualify for use of Federal eminent domain, it would be required to undergo a rigorous certification process.

The pipeline must first show it cannot obtain rights of way by negotiation. The Secretary of Interior is authorized to grant certification only after specific hearing requirements are met. These include consideration of environmental disruption, national goals for coal utilization, trade-offs between scarce water resources and energy needs, financial impact on railroads, and disposal of waste water. Findings on transportation impacts would be subject to the concurrence of the Department of Transportation and the Interstate Commerce Commission. In addition, the Department of Energy and the Environmental Protection Agency must be included in the final hearing process.

All certificated pipelines would be required to be constructed, maintained, and operated as common carriers and, thus, subject to ICC regulation. Restrictions are also placed on the ownership of pipelines by both the producers and users of coal carried by the pipeline.

The bill also specifies that existing laws regarding water allocation and use are maintained. The purpose of this provision in the bill is to assure the States that nothing in the act may be construed as infringing on a State's right to regulate its water. The bill further requires as a condition of certification that the U.S. Geological Survey conduct studies to determine the impact of water use by the pipelines on the water table at the source of the pipeline.

Mr. Speaker, as my colleagues know, there are some strongly held opinions on this legislation. I am not aware, however, of any particular controversy surrounding the rule. It is a simple, open rule which allows the maximum flexibility in the amendment process. As I stated earlier, any germane amendment would be in order. Therefore, I urge my colleagues to adopt House Resolution 1252 so that we may proceed to the consideration of H.R. 1609, the Coal Pipeline Act of 1978.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. SISK. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I am not sure the question is best put to the gentleman, since the gentleman's only duty is to bring the rule before the House; but I am wondering why the program was so

suddenly changed today when a number of us were planning to debate the civilian energy programs. Now suddenly, with at least two members of the minority very interested in this bill not in town today, and I understand the gentleman from Wyoming (Mr. RONCALIO) is also absent, why this bill has suddenly been brought up?

Is it the intention to take the bill to conclusion and vote on it, when Members who have a vital interest in it are absent from the session?

Mr. SISK. Mr. Speaker, I am glad, of course, to yield to my colleague, the gentleman from Maryland. Let this Member state that this Member does not set the schedule. It is generally my understanding, and I may be in error, that in all probability we would not be voting on this bill. It is my understanding we will rise at 5:30, and with 2 hours of general debate there is no question, I am sure, that there would not be votes on this bill today; at least, that is my understanding.

Mr. SYMMS. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Idaho.

Mr. SYMMS. Mr. Speaker, the gentleman from Wyoming (Mr. RONCALIO) has had a great deal of interest in this. I am concerned, where he is the only Member from that State and he is not here today, at least he did not answer the last vote, that this should not even be debated without the gentleman from Wyoming being here.

I wonder if anyone could clarify this for us?

Mr. SISK. Mr. Speaker, let me say to my colleague, the gentleman from Idaho, as the gentleman knows, this bill was on the schedule of the whip notice for this week. I realize there has been a change. This Member is not quite aware of it.

Mr. Speaker, I will yield at this point to my colleague, the gentleman from Arizona, for such explanation the gentleman might want to make.

Mr. UDALL. Mr. Speaker, would like to add on the point of the gentleman from California that this bill was on the list of bills to be considered last week, so it should come as no surprise for any of us that it reaches consideration today.

I was approached by the leadership a few minutes ago and the indication was that the energy bill scheduled next was being held up because some negotiations were going on about some controversial features of it.

I was asked if our committee was ready to go ahead today. My response was that the gentleman from Wyoming (Mr. RONCALIO) has had a direct and vital interest in the legislation and it was my judgment that the gentleman would not protest with us going ahead with the rule and general debate, if it were clearly understood that no amendments would be voted on today and that the major issues will be resolved tomorrow.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to my colleague, the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I appreciate the commitment of the gentleman from Arizona (Mr. UDALL) on that point because I think it would be highly unfair with absent Members to go ahead and vote on substantive matters, and with that understanding, I certainly would not object.

Mr. SISK. Mr. Speaker, I felt very certain from what I had been informed that there would be no votes today except for a possible vote on the rule.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, I appreciate my colleague's yielding.

Then it is the gentleman's understanding that the Committee of the Whole House will rise at 6 or earlier?

Mr. SISK. It is my understanding that under the normal procedure the Committee will probably rise at about 5:30. That is according to the normal schedule, and I know of no particular reason why there would be any change, I will say to my distinguished colleague, the gentleman from California.

Mr. ROUSSELOT. I thank the gentleman for that assurance.

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. SISK. I yield to the chairman of the committee.

Mr. UDALL. Mr. Speaker, it is my personal feeling and my hope that we will finish general debate by 5:30, but in any event, I will move the Committee rise at 5:30.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman.

Mr. SISK. Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this rule provides 2 hours of general debate for the consideration of H.R. 1609, the Coal Pipeline Act of 1978. Since this bill was jointly referred to two committees, the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation, the general debate time is to be equally divided between these two committees.

Some members of the Committee on Interstate and Foreign Commerce also appeared before the Rules Committee on this bill, but no general debate time was allotted to that committee because the bill was not referred there.

In lieu of the amendments now printed in the bill, this rule makes it in order to consider an amendment in the nature of a substitute by the gentleman from Arizona (Mr. UDALL). The Udall substitute will be read for amendment by title instead of by section.

Mr. Speaker, the purpose of H.R. 1609 is to facilitate the acquisition of rights-of-way by private coal carriers by pipeline across Federal and private lands.

Under this bill, rights-of-way over Federal lands would be available by complying with the terms of the Mineral Leasing Act of 1920, which is amended to extend Federal authority to grant access to coal pipelines. The legislation also authorizes the Secretary of the Interior to issue certificates of public convenience and necessity to individual coal pipeline projects determined to be in the national interest. A carrier certificated under the act would be granted the power of eminent domain for the acquisition of rights-of-way.

Mr. Speaker, the Committee on Interior and Insular Affairs reported its version of this bill by a vote of 30 to 13.

The Committee on Public Works and Transportation reported its version by a vote of 23 to 20.

Mr. Speaker, while this is a controversial bill, I support the rule so that the House may proceed to deal with the issues raised by the bill.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. SISK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. LUJAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 376, nays 7, answered "present" 1, not voting 48, as follows:

[Roll No. 554]

YEAS—376

Abdnor	Burlison, Mo.	Duncan, Tenn.
Addabbo	Burton, John	Early
Akaka	Burton, Phillip	Eckhardt
Ambro	Butler	Edgar
Ammerman	Byron	Edwards, Ala.
Anderson, Calif.	Carney	Edwards, Calif.
	Carr	Eilberg
Anderson, Ill.	Carter	Emery
Andrews, N.C.	Cavanaugh	English
Andrews, N. Dak.	Cederberg	Ertel
	Chappell	Evans, Colo.
Annunzio	Chisholm	Evans, Del.
Applegate	Clausen, Don H.	Evans, Ind.
Archer		Fary
Armstrong	Clay	Fascell
Ashley	Cleveland	Fenwick
AuCoin	Cochran	Findley
Badham	Cohen	Fish
Baldus	Coleman	Fisher
Barnard	Collins, Ill.	Fithian
Baucus	Collins, Tex.	Flippo
Bauman	Conable	Flood
Beard, R.I.	Conte	Florio
Beard, Tenn.	Conyers	Foley
Bedell	Corcoran	Ford, Mich.
Beilenson	Corman	Ford, Tenn.
Benjamin	Cornell	Fountain
Bennett	Cornwell	Fowler
Bevill	Cotter	Fraser
Biaggi	Coughlin	Frenzel
Bingham	Crane	Fuqua
Blanchard	Cunningham	Gammage
Boggs	D'Amours	Garcia
Boland	Daniel, Dan	Gaydos
Bonior	Daniel, R. W.	Gephardt
Bonker	Davis	Giaimo
Bowen	de la Garza	Gilman
Brademas	Delaney	Ginn
Breckinridge	Dellums	Glickman
Brinkley	Dent	Goldwater
Brooks	Derrick	Gonzalez
Broomfield	Derwinski	Goodling
Brown, Calif.	Devine	Gore
Brown, Mich.	Dickinson	Gradison
Broyhill	Dicks	Grassley
Buchanan	Dingell	Green
Burgener	Dodd	Gudger
Burke, Fla.	Dornan	Guyer
Burke, Mass.	Downey	Hagedorn
Burleson, Tex.	Drinan	Hall

Hamilton	Mattox	Sawyer
Hammer-schmidt	Mazzoli	Scheuer
Hanley	Meeds	Schroeder
Hannaford	Metcalfe	Schulze
Harkin	Meyner	Seiberling
Harris	Michel	Sharp
Hawkins	Mikulski	Shuster
Heckler	Mikva	Sikes
Hefner	Miller, Calif.	Simon
Heftel	Miller, Ohio	Sisk
Hightower	Mineta	Skelton
Hillis	Minish	Skubitz
Holland	Mitchell, Md.	Slack
Hollenbeck	Mitchell, N.Y.	Smith, Iowa
Holt	Moakley	Smith, Nebr.
Holtzman	Moffett	Snyder
Horton	Mollohan	Solarz
Howard	Montgomery	Spellman
Hubbard	Moore	Spence
Huckaby	Moorhead, Calif.	St Germain
Hyde	Moorhead, Pa.	Staggers
Ichord	Moss	Stanton
Jacobs	Mottl	Stark
Jeffords	Murphy, N.Y.	Steed
Jenkins	Murtha	Steers
Jenrette	Myers, Gary	Steiger
Johnson, Calif.	Myers, John	Stokes
Johnson, Colo.	Myers, Michael	Stratton
Jones, N.C.	Natcher	Studds
Jones, Okla.	Neal	Stump
Jones, Tenn.	Nedzi	Taylor
Jordan	Nichols	Teague
Kastenmeier	Nix	Thompson
Kazen	Nolan	Thone
Kelly	Nowak	Thornton
Kemp	O'Brien	Traxler
Keys	Oberstar	Treen
Kildee	Obey	Trible
Kindness	Panetta	Tucker
Kostmayer	Patten	Udall
Krebs	Pattison	Ullman
Krueger	Pease	Van Deerlin
LaFalce	Pepper	Vander Jagt
Lagomarsino	Perkins	Vanik
Latta	Pettis	Vento
Leach	Pickle	Volkmer
Lederer	Pike	Waggonner
Leggett	Poage	Walgren
Lehman	Preyer	Walker
Lent	Price	Walsh
Levitas	Pritchard	Wampler
Livingston	Pursell	Watkins
Lloyd, Calif.	Quayle	Waxman
Lloyd, Tenn.	Quillen	Weaver
Long, La.	Rahall	Weiss
Lott	Railsback	Whalen
Lujan	Rangel	White
Luken	Regula	Whitehurst
Lundine	Reuss	Whitley
McClory	Rhodes	Whitten
McCloskey	Rinaldo	Wilson, Bob
McCormack	Roberts	Wilson, C. H.
McDade	Robinson	Wilson, Tex.
McDonald	Roe	Winn
McFall	Rogers	Wirth
McHugh	Rooney	Wolff
McKay	Rose	Wright
McKinney	Rosenthal	Wydler
Maguire	Rostenkowski	Wylie
Mahon	Rousselot	Yates
Markey	Roybal	Yatron
Marks	Rudd	Young, Alaska
Marlenee	Runnels	Young, Fla.
Marriott	Russo	Young, Mo.
Martin	Ryan	Young, Tex.
Mathis	Satterfield	Zeferetti

NAYS—7

Evans, Ga.	Harsha	Symms
Forsythe	Long, Md.	
Hansen	Murphy, Pa.	

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—48

Alexander	Flowers	Patterson
Ashbrook	Flynt	Pressler
Aspin	Frey	Quie
Blouin	Gibbons	Richmond
Bolling	Harrington	Risenhoover
Breaux	Hughes	Rodino
Brodhead	Ireland	Roncalio
Brown, Ohio	Kasten	Ruppe
Burke, Calif.	Le Fante	Santini
Caputo	McEwen	Sarasin
Clawson, Del	Madigan	Sebelius
Danielson	Mann	Shipley
Diggs	Milford	Stockman
Duncan, Oreg.	Murphy, Ill.	Tsongas
Edwards, Okla.	Oakar	Wiggins
Erlenborn	Ottinger	Zablocki

The Clerk announced the following pairs:

Mr. Breaux with Mr. Ashbrook.
Mr. Hughes with Mr. McEwen.
Mr. Ireland with Mr. Stockman.
Mr. Santini with Mr. Wiggins.
Mr. Shipley with Mr. Ruppe.
Mr. LeFante with Mr. Quie.
Mr. Murphy of Illinois with Mr. Frey.
Ms. Oakar with Mr. Brown of Ohio.
Mr. Brodhead with Mr. Caputo.
Mrs. Burke of California with Mr. Edwards of Oklahoma.
Mr. Danielson with Mr. Madigan.
Mr. Richmond with Mr. Erlenborn.
Mr. Patterson of California with Mr. Del Clawson.
Mr. Harrington with Mr. Sarasin.
Mr. Diggs with Mr. Sebelius.
Mr. Flowers with Mr. Milford.
Mr. Flynt with Mr. Kasten.
Mr. Duncan of Oregon with Mr. Aspin.
Mr. Ottinger with Mr. Mann.
Mr. Blouin with Mr. Pressler.
Mr. Risenhoover with Mr. Gibbons.
Mr. Alexander with Mr. Roncalio.
Mr. Zablocki with Mr. Tsongas.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1609) to amend the Mineral Leasing Act of 1920, and for other purposes.

The SPEAKER. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 118, noes 22.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 344, nays 23, answered "present" 2, not voting 63, as follows:

[Roll No. 555]

YEAS—344

Addabbo	Boland	Coleman
Akaka	Bonker	Collins, Ill.
Ambro	Bowen	Collins, Tex.
Ammerman	Brademas	Conable
Anderson, Calif.	Breckinridge	Conte
	Brinkley	Conyers
Anderson, Ill.	Brodhead	Corcoran
Andrews, N.C.	Brooks	Corman
Andrews, N. Dak.	Brown, Calif.	Cornell
	Brown, Mich.	Cotter
Annunzio	Broyhill	Coughlin
Applegate	Buchanan	Cunningham
Archer	Burgener	D'Amours
Armstrong	Burke, Fla.	Daniel, Dan
Ashley	Burleson, Tex.	Daniel, R. W.
Aspin	Burlison, Mo.	Danielson
AuCoin	Burton, John	de la Garza
Baldus	Burton, Phillip	Delaney
Barnard	Butler	Dellums
Beard, Tenn.	Byron	Dent
Bedell	Carr	Derrick
Beilenson	Carter	Derwinski
Benjamin	Cavanaugh	Devine
Bennett	Cederberg	Dickinson
Bevill	Chappell	Dicks
Biaggi	Chisholm	Dingell
Bingham	Cleveland	Downey
Blanchard	Cochran	Drinan
Boggs	Cohen	Duncan, Tenn.
Early	LaFalce	Reuss
Eckhardt	Lagomarsino	Rhodes
Edwards, Ala.	Latta	Rinaldo
Edwards, Calif.	Leach	Risenhoover
Eilberg	Lederer	Roberts
Emery	Leggett	Robinson
English	Lehman	Roe
Ertel	Lent	Rogers
Evans, Colo.	Levitas	Rooney
Evans, Del.	Livingston	Rose
Evans, Ind.	Lloyd, Tenn.	Rosenthal
Fary	Long, La.	Rostenkowski
Fascell	Lott	Rousselot
Fenwick	Lujan	Roybal
Findley	Luken	Runnels
Fish	Lundine	Russo
Fisher	McClory	Ryan
Fithian	McCormack	Satterfield
Flippo	McDade	Sawyer
Flood	McEwen	Scheuer
Florio	McFall	Schulze
Foley	McHugh	Seiberling
Ford, Mich.	McKay	Sharp
Ford, Tenn.	McKinney	Shuster
Forsythe	Madigan	Sikes
Fountain	Maguire	Simon
Fowler	Mahon	Sisk
Frenzel	Markey	Slack
Fuqua	Marks	Smith, Iowa
Gammage	Marlenee	Smith, Nebr.
Gaydos	Marriott	Snyder
Gephardt	Martin	Solarz
Glaimo	Mathis	Spellman
Gilman	Mattox	Spence
Ginn	Mazzoli	St Germain
Glickman	Meeds	Staggers
Gonzalez	Metcalfe	Stanton
Goodling	Meyner	Stark
Gore	Michel	Steed
Gradison	Mikva	Steers
Grassley	Miller, Calif.	Steiger
Green	Mineta	Stockman
Gudger	Minish	Stokes
Guyer	Mitchell, N.Y.	Stratton
Hagedorn	Moakley	Stump
Hall	Moffett	Taylor
Hamilton	Mollohan	Teague
Hammer-schmidt	Montgomery	Thompson
	Moore	Thone
Hanley	Moorhead, Calif.	Thornton
Hannaford		Traxler
Harkin	Moorhead, Pa.	Treen
Harris	Moss	Trible
Hawkins	Mottl	Tucker
Heckler	Murphy, Ill.	Udall
Heftel	Murphy, N.Y.	Ullman
Hightower	Murtha	Van Deerlin
Hillis	Myers, Gary	Vander Jagt
Holland	Myers, John	Vanik
Hollenbeck	Myers, Michael	Vento
Holt	Natcher	Waggonner
Holtzman	Neal	Walgren
Horton	Nedzi	Walker
Howard	Nichols	Walsh
Hubbard	Nolan	Wampler
Huckaby	Nowak	Watkins
Hyde	O'Brien	Waxman
Ichord	Oakar	Weaver
Jacobs	Oberstar	Weiss
Jeffords	Obey	Whalen
Jenkins	Panetta	White
Jenrette	Patten	Whitehurst
Johnson, Calif.	Pease	Whitley
Johnson, Colo.	Pepper	Wilson, Tex.
Jones, N.C.	Perkins	Winn
Jones, Okla.	Pettis	Wirth
Jones, Tenn.	Pickle	Wolff
Jordan	Poage	Wright
Kastenmeier	Preyer	Wydler
Kazen	Price	Wylie
Kelly	Pritchard	Yates
Kemp	Pursell	Yatron
Keys	Quillen	Young, Fla.
Kildee	Rahall	Young, Mo.
Kostmayer	Railsback	Young, Tex.
Krebs	Rangel	Zablocki
Krueger	Regula	Zeferetti

NAYS—23

Abdnor	Goldwater	Rudd
Baucus	Harsha	Skubitz
Bauman	Kindness	Stangeland
Crane	Lloyd, Calif.	Studds
Davis	Long, Md.	Symms
Dornan	McDonald	Volkmer
Edgar	Mitchell, Md.	Wilson, Bob
Evans, Ga.	Quayle	

ANSWERED "PRESENT"—2

Bafalis Dodd

NOT VOTING—63

Alexander	Erlenborn	Patterson
Ashbrook	Flowers	Pattison
Badham	Flynt	Pike
Beard, R.I.	Fraser	Pressler
Blouin	Frey	Quie
Bolling	Garcia	Richmond
Bonior	Gibbons	Rodino
Breaux	Hansen	Roncalio
Broomfield	Harrington	Ruppe
Brown, Ohio	Hefner	Santini
Burke, Calif.	Hughes	Sarasin
Burke, Mass.	Ire.and	Schroeder
Caputo	Kasten	Sebelius
Carney	Le Fante	Shipley
Clausen, Don H.	McCloskey	Skelton
	Mann	Tsongas
Clawson, Del	Mikulski	Whitten
Clay	Milford	Wiggins
Cornwell	Miller, Ohio	Wilson, C. H.
Diggs	Murphy, Pa.	Young, Alaska
Duncan, Oreg.	Nix	
Edwards, Okla.	Ottinger	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 1609, with Mr. GIAIMO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Without objection, the first reading of the bill will be dispensed with.

Mr. SYMMS. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

The Clerk will read.

The Clerk proceeded with the first reading of the bill.

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent to dispense with the further first reading of the bill.

Mr. CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes, the gentleman from Kansas (Mr. SKUBITZ) will be recognized for 30 minutes, the gentleman from California (Mr. JOHNSON) will be recognized for 30 minutes, and the gentleman from Ohio (Mr. HARSHA) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I am pleased to present H.R. 1609, the Coal Pipeline Act of 1978, to the House for its consideration. This bill was jointly referred to the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation, both of which reported it favorably. The history of this legislation has been long and arduous. Many of those who oppose this type of legislation have used every conceivable instrument of procedural and parliamentary delay in hopes of assuring that this bill would not be debated on the floor of the House. One of my colleagues has remarked that this bill has often moved with the grace and speed of an arthritic snail, and I am constrained to agree. Nevertheless, I am hopeful that the arguments in favor of this important piece of legislation will finally be heard in this body and I am confident we can move forward in a responsible way.

The substitute bill we will be considering here today is the product of the efforts of both the Interior and the Public Works Committees. It is identical to the version of the bill reported by the Public Works Committee, with one exception, which I will explain in a few moments.

The purpose of this legislation is extremely simple, but it is one that is crucial to the energy needs of this Nation. The sole purpose of H.R. 1609 is to make available an alternative technology for transporting coal. At the present time, there is only one coal pipeline in operation, and it happens to be in my own State. It is owned by a subsidiary of the Southern Pacific Railroad, and has operated successfully for 8 years, demonstrating the feasibility of the technology. The major reason there are no other coal pipelines in operation today is because of an inability to obtain rights-of-way. This is primarily because the Nation's railroads, recipients of outright Federal grants of a great deal of Western land in the last century, are reluctant to see a competitor enter the coal transportation market.

Under section 3 of this bill, the Secretary of the Interior would be authorized to grant right-of-way to coal pipelines across Federal lands to the same extent and in the same manner as he can for other pipelines under the Mineral Leasing Act of 1920. H.R. 1609 also authorizes the Secretary to grant certificates of public convenience and necessity to those pipeline carriers determined, on a careful case-by-case basis, to be in the national interest. This certificate will permit the carrier to exercise the power of eminent domain, enabling it to obtain the necessary rights-of-way. The Secretary would make a comprehensive study of each pipeline proposal, taking into account energy needs, water use, environmental impact, competing modes of transportation, the relative costs of alternative modes, and the rates likely to be charged for each mode. Section 5(b) spells out the seven specific factors the Secretary must consider and make findings on. In determining whether a particular project is in the national interest, the Secretary is required to consider all the factors and the findings thereon, looking at the record as a whole. In regard to those specific factors related to transportation by other modes, the Secretary must obtain the concurrences of both the Secretary of Transportation and the Interstate Commerce Commission. Of course, an important part of the certification process would be an environmental impact statement under the National Environmental Policy Act of 1969, since certification of such a project would clearly be a "major Federal action" under that act.

Once a pipeline is certified, its operation becomes fully subject to the regulatory authority of the ICC, and it is required to operate as a common carrier. This is an extremely important part of the bill, since we are trying to put pipelines on a competitive par with the railroads. At the present time, one provision of the Interstate Commerce Act applicable only to railroads prohibits the ownership by the carirer of the commodities it hauls. This was intended to discourage vertical integration in the railroad business, thus assuring that shippers would not be unduly disadvantaged as compared to others.

However, this provision has been entirely ineffective in preventing railroads from hauling coal or any other commodity they own through a subsidiary or affiliated company. Judicial interpretations of this provision have left railroads free to haul such products unless the subsidiary or affiliate is an alter ego for the railroad itself. In this bill, we attempted to make sure that the same type of loophole would not be available to coal slurry pipelines, by imposing an objective measurement. Under section 5(d), the so-called "commodities clause," limitations are placed on the ownership of a proposed coal pipeline project by the user or supplier of the coal. Control of the pipeline by the user or supplier of coal is prohibited in this section, and the word "control" is defined in section 2(d). It is here that the present bill differs from that reported by the Public Works Committee. While the Interior Committee bill placed a 5-percent cap on such ownership, the Public Works Committee amended this provision to allow up to 35-percent ownership by the user or producer. While I feel that the Interior Committee bill better assures that pipelines certified under this act will fulfill their common carrier responsibilities and pass cost savings on to the consumer, I think the 20-percent figure in the present bill is a good compromise. Moreover, although this percentage represents a per se test of control, any actual control of a coal pipeline by the producer or user, even with an interest of less than 20 percent, would be prohibited.

Americans are by now well aware of the need to reduce our consumption of oil and natural gas, particularly as a boiler fuel. An important part of the energy program that Congress has been struggling with for more than a year is the return to the utilization of coal to satisfy a major portion of our energy needs. Whether coal conversion can be successful will depend to a large extent on the costs involved, especially costs of transportation. In my district, a rural electric cooperative committed itself to the construction of two coal-burning units, and contracted to buy the coal in New Mexico. The railroads serving that area appealed to the Interstate Commerce Commission and were granted rates for hauling coal that are more than double that of comparable shipments in the West. Ratepayers in my district will be asked to pay the eight dollars and sixty-four cents per ton covering only the transportation of the coal to the powerplant. A similarly inflated rate was granted for coal going to Houston, Tex. The ICC feels that these astronomical rates are justified, because the railroads have a monopoly over the transportation of a commodity that is now in high de-

mand. While my first reaction is that the ICC cannot take this position and maintain its role as a regulator, I feel that having an alternative technology available will help keep these rates in line.

There is a second very important reason for keeping the coal slurry pipeline alternative available. Although it is clear that the bulk of new coal production will be transported by rail, there are physical and environmental limitations that need to be considered. The tremendous increase in coal production anticipated in the next few decades will put a strain on the physical capacity of the railroads; coal pipelines can supplement the railroads to make sure the coal is moved safely, efficiently, and economically. Further, massive new coal movements by unit-train will cause serious environmental and social problems in many areas. Among them are: Noise, pollution, and community disruption. Coal pipelines would be underground, quiet, and clean.

As you might expect, the Interior Committee paid very close attention to the issue of water use before reporting H.R. 1609 by a 30 to 13 vote. That rather one-sided vote was, I believe, a result of sincere efforts by many members of the committee to provide maximum protection for Western water resources. Water is a precious commodity in the West, and there were legitimate concerns that H.R. 1609 might preempt State water allocation decisions. I believe the language of the original bill was clear in guaranteeing this would not occur, but with the changes made in the Interior Committee, there can be no doubt that the right of eminent domain will not give the applicant any water. Along with other proponents of this bill, I have maintained throughout that any State should have the right to decide whether a single drop of its water is used for moving coal, and I believe we have written that protection in this bill. In fact, the bill now affirmatively requires compliance with State water allocation and use laws, and assures that State of the power to place terms and conditions on water use. Moreover, an amendment introduced by my colleague from Wyoming, TENO RONCALIO, requires a U.S. geological survery study of the impact of any proposed pipeline, and forbids issuance of a certificate unless the findings are positive. Although I feel very strongly that this provision adds unnecessary costs and administrative delay to the certification process, is duplicative and unnecessary in light of the environmental impact statement that would be filed in all cases, and may represent an unwise Federal intrusion into State water policy, it can no longer be argued that Western water is endangered by this piece of legislation.

I might briefly mention that there are many forms of coal utilization, such as mine-mouth generation of electricity, coal liquefaction, and coal gasification, that use much more water than coal slurry pipelines, without the need for Federal powers of eminent domain. Yet, no one is telling Congress that these alternatives should not be considered by the States whose water would be used.

The coal slurry pipeline issue has been debated and studied in Congress for a number of years now. The Interior Committee has held extensive hearings in both the 94th and 95th Congresses, receiving testimony from those who wish to build and operate coal pipelines, representatives of the railroad industry, the Interior, Energy, Transportation, and Justice Departments, the ICC, EPA, and FTC, electrical utilities, and those concerned about protecting State water rights. Moreover, the Office of Technology Assessment has completed an exhaustive study of the coal slurry alternative which I think clearly demonstrates its viability under certain conditions. The study was fully considered by the two House committees that have reported this legislation. In my view, it is time to decide whether this new technology will be available as an option to be considered on a case-by-case basis, or whether we will allow one industry to foreclose a competing mode of transportation.

Mr. SKUBITZ. Mr. Chairman, I yield 5 minutes to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, my colleagues have spoken in detail and with eloquence as to the need for this legislation and as to the soundness of the bill which we bring before the House. I too wish to speak in support of H.R. 1609. However, as a Westerner, I would direct my comments to a matter of great concern to my State and to the West.

I speak today of water and water law and how the concern of Westerners regarding this most precious and scarce resource has been treated in the bill before us. The Interior Committee shared the concern of Westerners regarding the water issue and much of the time of the committee, in hearings, and in markup, centered about that issue. Every fear was heard, every doubt was received, every proposal was examined in an attempt to resolve this issue and in an attempt to leave unchanged the nature of Western water law.

No one is more concerned than I with the need to protect Western water and Western water law. I remember too well the shock that echoed throughout the West last July when the Water Resource Council released its proposed National Water Policy.

I am confident that the bill now before the House, with an exception which I will discuss later and regarding which I will propose an amendment, is a bill which protects Western water and the State of Western water law.

Let us examine the provisions of H.R. 1609 relating to water:

First. The power of eminent domain may not be used to acquire any right to use or develop water;

Second. The Secretary, prior to issuing a certificate, must consider the impact of the pipeline water requirement on the area from which coal is to be transported;

Third. The pipeline must acquire any and all permits and/or authorizations for the use of water from the source State prior to the issuance of a certificate by the Secretary; and

Fourth. Any State may condition its grant of water to a pipeline in order to effectuate a legitimate State public interest and may terminate that right for a violation of those conditions.

As well, the bill expressly states that the act shall not be construed:

First. As affecting in any way any law, regulation, or rule of law governing appropriation, use or diversion of water, or as affecting any Federal, State, or private right to water; or as granting a right to the use of water to any carrier holding a certificate of convenience and necessity issued pursuant to this act; or as superseding or modifying any State law;

Second. As expanding or diminishing Federal or State jurisdiction;

Third. As displacing, superseding, limiting, or modifying any interstate compact;

Fourth. As superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources; and

Fifth. As diminishing in any manner the authority of a State to grant or deny water use.

To my mind, there is no other language that we could add that would make the intent of the Congress any more clear that the States are to continue to exercise control over the waters within their jurisdiction. We have done the best job possible and as Westerners, as Members of Congress concerned about our Nation's water resources, we could do no more.

The States retain the authority which has always been theirs regarding water law and are thus assured of an ability to continue to make wise use of a most valued and scarce resource.

I urge my colleagues to support the adoption of this legislation.

Mr. JOHNSON of California. Mr. Chairman, I yield 10 minutes to the gentleman from Pennsylvania (Mr. ROONEY).

Mr. ROONEY. Mr. Chairman, I am sure that you are aware that my subcommittee has jurisdiction over railroads, and that the railroad industry is unalterably opposed to this legislation. I, too, am very opposed to this legislation. I would, however, like to take a few minutes to explain to my colleagues why this legislation does not merely represent different points of view between two modes of transportation as to how coal should be transported. Rather, in my opinion, this a blatant case of special interest legislation for the pipeline supporters.

So that there is no confusion, bear in mind that this legislation has nothing to do with energy or the national energy policy this Congress has been laboring so long to develop. Coal will be transported regardless of what we do here today. The only relationship this legislation has with the energy policy is that pipelines would be an unnecessary waste of energy. Unit trains use one-half to one-third as much energy to transport coal as pipelines.

From the statements being made today one is lead to believe that only railroads are in opposition to this legislation, and that this opposition is merely to protect it self-interests. This is not the case. I could give you a whole litany of those opposed to this legislation. I do not want to take the time to go through this list. Suffice to say that in addition to railroads, those opposed include labor organizations, State and municipalities, shippers, environmentalists, farmers, a number of Government agencies and departments—in short, just about all parties involved—except of course the pipeline interests who expect a financial gain.

Those of us opposed to this legislation are not trying to thwart technological progress nor are we attempting to preserve the status quo. Rather, we are trying to foster the public interest through the implementation of the national transportation policy.

As I just stated, there is practically universal opposition to this legislation. The railroad opposition, however, is not merely a self-interest. The railroad opposition is based on self-preservation. If they are unable to take advantage of increased coal production to increase the volume of traffic carried, its rate of return on investment will slip lower than its current rate of less than one-half of 1 percent. When this happens, can nationalization far behind?

Unregulated trucks and barges have skimmed high rated traffic away from the railroads, because they are not burdened to bear the heavy weight of common carrier responsibilities of transporting less desirable commodities. In good conscience, how can we add to this yoke for no other purpose than the selfish profit motive by one group?

I cannot emphasize strongly enough that enactment of this bill will be devastating to the railroad industry. Since the railroad industry is essential to our Nation's economy, a blow to its viability of the magnitude proposed by pipelines will ultimately cost the Government untold billions of dollars.

Some Members informed me that they favor this legislation promoting coal slurry pipelines, because the country needs all of the transportation that can be made available to carry the huge quantities of coal that will be needed to fill national energy needs in the future. I am sure we can all agree that we need all the transportation that can be made available for this purpose. Unfortunately, however, this legislation will not provide additional transportation—rather, at best, it will provide an alternative method of transportation. More importantly, by providing this alternative, the net result will be a reduction in the amount of transportation available. Let me explain.

The Department of Transportation recently issued a report prepared by a senior task force culminating 9 months of effort which rejected any major restructuring of the Nation's transportation system for the purpose of carrying the additional coal needed for our energy program. Of particular importance to the issue we are discussing today is the following statement:

> The lead times for assembling rights-of-way and constructing large scale pipelines are such that, under the most favorable circumstances, pipelines are likely to play only a minor role in the transportation of coal through 1985. However, Government decisions made in the near future affecting coal pipelines including decisions about transportation rates, water resources and eminent domain could well influence both public and private investment decisions which must be made soon by other modes of coal transportation, most notably the railroads.

Thus, although the railroads have an abundance of plans for increasing their capacity to haul coal, the likelihood of coal slurry pipelines siphoning off some of the major markets will place serious doubts in the private investment community, as to the feasibilty of loaning railroads the large amount of investment capital necessary to carry out these plans. At the same time, as pointed out by the Department of Transportation, the coal slurry pipelines under the most favorable circumstances will not be available to carry any appreciable quantities of coal in the next decade. If this legislation passes, it will be a number of years before coal slurry pipelines can obtain the necessary government clearances including the environmental impact statement. Railroads, on the other hand, will continue to deteriorate for the lack of financing due to the dim prospects for any additional traffic. It is, therefore, highly possible that the next decade we would have less transportation capacity than is presently available.

Pipeline proponents contend that they are not asking for any assistance, merely the right to compete. If this were true, why are we here today? There is nothing preventing them from competing with railroads on equal terms. Pipelines, however, do not want to compete on equal terms. They want the right to eminent domain—something that was only given to the western railroads—they want the right to long-term contracts—something that is not given to any railroad—they want the right to own a large share of the coal they carry—again, something that is not permitted any railroad. In short, we are here today, because the pipeline interests want us to give them privileges granted to no other private concern. This is why we have seen the most intensive lobbying in years.

There is no law prohibiting coal slurry pipelines as evidenced by the fact that one is already in existence. Pipeline interests want us to make it easier for them. Also, it is not the railroads that are preventing the construction of pipelines as evidenced by the fact that the one in existence is owned by a railroad.

My subcommittee held 2 days of hearings on coal slurry pipelines. The proponents for this legislation stated that there are two basic questions: First, "Will there be adequate capacity to move all of the coal needed to shift this country's energy base from oil and natural gas?" and second, "Will there be discipline of competition to control the significant cost of hauling coal over long distances from the mines to industries and utilities that need it?" Let me respond to these questions.

In order to determine whether the railroads have the capacity to carry all of the coal needed for the transition from gas and oil, we first must ascertain how much additional coal is involved. President Carter stated in his energy message that we should increase coal production by 1985 by at least 400 million tons. This represents a two-thirds increase in current coal production. In this regard, it should be noted that in anticipation of this increase, the rail industry began building up its coal carrying capacity in 1974, as a result of the oil embargo. The rail industry anticipated an increase greater than that proposed by the President. As a consequence, orders for coal carrying open top hopper cars averaged over 16,000 a year for the past 4 years.

There is no doubt that railroads have the capacity to utilize these cars and to carry the additional coal. This conclusion was reached in studies by the consulting and accounting firm of Pete, Marlich, and Mitchell; the Bureau of Mines; Hudson Institute; the Department of Transportation and others. The Office of Technology Assessment in its report on coal slurry pipelines issued in January 1978, stated:

> The capacity of the rail system can be expanded faster than can coal mining or electric power generation using coal.

In this regard, the Railway Progress Institute also found that the present capability of the car and locomotive builders is more than adequate to meet the equipment demands.

I am aware of the current problems many coal producers are now experiencing due to the freight car shortage. This situation was created by a number of circumstances, not the least of which was the recent strike. Nevertheless, bear in mind, however, coal slurry pipelines will not alleviate this problem. Pipelines are going to compound the problem. If railroads are deprived of carrying its share of the additional coal to be used when utilities are converted from gas and oil to coal, they will be unable to obtain the necessary revenue to provide the capital required to continue providing its essential role in our national transportation system.

The difficulties that the railroads are in today are a direct result of underutilization of its facilities. The railroads' share of the market has been decreasing steadily for a number of years. In recent years, there has been too little traffic resulting in too much unused plant capacity. The total train miles per mile of road operated are less than 50 percent of what they were at the end of World War II. This overcapacity has been the principal cause of the railroads' continual decline in profitability.

The opportunity to carry its share of the increased coal production has looked upon as the long awaited chance to reverse the declining trend of the industry without the necessity of any outside assistance. This opportunity would be taken away from the industry by the unnecessary and uneconomical construction of slurry pipelines. It should also be understood that increased coal traffic likewise

benefits shippers of other commodities by having a broader base upon which to spread the large fixed costs of operations. This broadened base results in an economy of scale for all shippers.

Conversely, of course, failure to increase traffic by carrying this coal will result in an increase in the cost of transportation for all other commodities due to the large fixed cost of operations. This increase in transportation costs must of necessity be passed on the consumer. It is these types of unnecessary cost increases that have fueled our inflation rates.

It should also be borne in mind with regard to the railroads' capacity to carry the additional coal that the railroads presently carry two-thirds of all the coal that is produced. About 11 percent of the coal is burned at the mine mouth and, therefore, does not have to be transported, and the rest is carried by barges and trucks. The barge and truck industry have every expectation that the increased coal production would be carried by them in at least the proportion to which they are carrying today's production. Thus, you may add these industries to those opposed to this legislation.

As I just stated with regard to railroads, a diminution of traffic carried by trucks and barges will in turn require them to increase rates for other products being carried and the spiral of inflation will continue.

The second point that the proponents of this legislation made during our hearings is that it is only reasonable to have competition between modes. The point is made that the coal slurry pipeline interests do not request Federal financial assistance, but rather merely the right to compete. Stated in this manner, one questions what right the railroads or any other transportation industry would have to object to competition. The proponents of this legislation are asking why one would want to prevent the birth of a new technology that requests nothing more than the right to operate. If this was in fact the case, I would be the first to agree. It is, however, not the case. It is not as simple as they would like us to believe.

As you have heard explained, the pipeline interests commence by getting an agreement with a coal source, and then obtain a long-term contract for the delivery of this coal to a utility. Contracts are to be 20 and 30 years' duration. With this contract, it then floats a bond issue, or otherwise obtains financing for the construction of the pipeline.

As can be seen, there is little risk in the whole operation. Railroads, on the other hand, are precluded from operating in this manner. Railroads are not permitted to enter into long-term contracts as they are completely regulated as common carriers.

Thus, when one carrier has a contract lasting for 30 years, how can it be contended that there is competition? Railroads most certainly cannot compete when it is effectively barred from delivering coal to the utilities for such a long period of time. If, on the other hand, the contracts were of a reasonable duration—say 5 years—there could be competition as there exists in other parts of our economy.

The contract entered into between a pipeline and a utility is what is referred to as a "through-put" contract; that is, the utility is obliged to pay for a certain amount of coal whether or not it is used. The duration of this contract precludes the utility, and thus the consumer, from receiving the benefits of any advanced technology that may be developed during this time period. Under these circumstances, how can it be contended that there would be any benefit to the consumer by having pipelines?

It should be recalled that a pipeline was built in Ohio but ceased operations after 6 years when the railroads developed the unit train. If the utilities now sign 30-year contracts and some similar type technology is developed, the consumer will be precluded from receiving the benefits.

In this instance, the pipeline was only a little over 100 miles long, so it was possible for the utility to economically write off the cost of the pipeline. This will not be the case, however, in instances where pipelines are 1,000 miles or more in length such as those presently being contemplated. Moreover, the cost of pipelines today is considerably greater than it was when the short pipeline was built. Consider the case of the Alaska pipeline. This is an indication as to the costs involved for pipelines, which must be absorbed by the consumer. The savings to consumers by means of pipelines which are being presented by proponents are computed on the basis of outmoded pipeline costs. Pipelines may actually cost seven to eight times the estimated costs, as was the case for the Alaska pipeline, and the consumers must absorb these exorbitant costs.

Proponents contend that costs would be lower to the consumer in the long run, because there is less likelihood for inflationary increases to occur with pipelines than with railroads. Again, the facts do not bear out this contention. The average rail rates, according to Bureau of Mines statistics, increased from $2.22 in 1931, to only $4.23 in 1975. Certainly, these rates show more stability than just about anything else in our economy, especially considering that longer distances are involved today than in the 1930's, due to the opening of Western mines. Moreover, even if it were true that transportation costs by pipeline would be cheaper than by railroads in a number of years hence, what justification would there be for charging today's consumer a higher rate than necessary based on a belief that in 20 years' time there would be a savings to the consumer?

The slurry pipeline interests contend that there will be immediate savings to the consumer. They are, however, unable to furnish any convincing evidence to support this contention. A National Science Foundation study showed that it will cost twice as much to build a coal slurry pipeline as to upgrade an existing rail line for equivalent service. These costs must be passed on to the consumer.

Although the pipeline interests contend that they are common carriers, in actuality they are not. A common carrier, by definition, must serve everyone—small shippers and large shippers, short distances and long distances. Railroads are required to be common carriers. Pipelines, on the other hand, are merely contract shippers. The pipelines will be built to carry the capacity of coal provided for in the contract agreed upon before construction. The pipeline would not operate efficiently unless it was filled to capacity. Thus, the pipeline would be unable to provide service to any additional customers desiring service after the pipeline is constructed. In addition, it would refuse to carry anyone's coal except that contracted for by its customers. Certainly this is not an option open to a common carrier.

Consider also the situation where the utility desires to increase its capacity and wants more coal than provided in the contract—obviously a reasonable assumption based on our ever-increasing demand for energy. The pipeline would not be able to carry this additional coal as it would already be operating at capacity. Nor would it be required to carry the coal as in the case of common carriers. A number of complaints are currently being directed at railroads for not being able to deliver sufficient quantities of coal in expanding markets. What will we do when we are locked into a limited capacity with pipelines and the existing capacity for railroads has been dissipated?

The comparability of competition on equal terms between pipelines and railroads also ceases in the event of a bankruptcy.

If a pipeline goes bankrupt, it ceases operations. If a railroad goes bankrupt, as it is truly a common carrier operating in the public interest, it is required by Chapter 77 of the Bankruptcy Act to continue operations until a reoganization can be developed. Ironically, when a pipeline ceases operations, as a common carrier a railroad is required to provide service to the utility. Similarly, as a commor. carrier the railroad is required to provide service to the utility during the period when the pipeline is being constructed. Furthermore, in the event that utilities located between the coal mine and the utility under contract desire service, railroads are required as a common carrier to provide the service, whereas the pipeline would not be required to provide the service, and in all likelihood would be unable to provide the service due to lack of capacity.

The matter of the right of eminent domain should also be clarified. Supporters of this legislation stated during the hearings in my subcommittee that the "major constraint to the construction of pipelines is the hostility of the railroad industry in general. The railroads, with an effective monopoly in the transportation of Western coal, are using their rights-of-way, many of which were given to them, to form an almost impassable barrier for coal slurry pipelines."

I believe that once and for all we should put this myth to rest. It is true that the railroads are opposed to the construction of pipelines. It is also true that the railroads will suffer irreparable damage by the construction of pipelines.

But it is not true that the railroads have blocked the use of rights-of-way. They have tried to block the use of rights-of-way, but they have not been successful. In their opposition to the construction of the pipelines, they have attempted to block rights-of-way, but in every instance, without exception, these actions have been taken to court and the pipelines have won.

It is the States and others that are blocking the pipelines. They are blocking access, because they are convinced that what the pipelines want is not in the public interest. Similarly, our granting eminent domain over the objections of the landowners and State governments for the purpose of promoting a private enterprise would be unprecedented and unjustified.

Moreover, in an attempt to lay aside the contention that it is only railroads that are preventing the pipelines from obtaining a right-of-way, I introduced H.R. 10633 in January of this year. This bill would specifically require railroads to "grant a bulk commodity carrier rights across or under, or joint ownership in or joint use of, any rights-of-way or other facilities owned or operated by such common carrier by railroad." The pipeline interests were opposed to this legislation. Pipeline interests knew that merely requiring railroads to grant rights-of-way would not solve their problem. Contending that the railroads are blocking their rights-of-way, therefore, justifying their necessity for eminent domain is an absolutely false issue.

The pipeline interests admittedly are having great difficulty in obtaining the necessary rights-of-way for the construction of the pipelines. But these rights-of-way are not being blocked by the raliroad, they are being blocked by the other interests. Granting eminent domain for the special interest of pipelines, without the normal safeguards and commonality of interest as was the case for the gas and oil pipelines, will be a disservice to all of the farmers and other citizens affected by these pipelines. If it were merely the railroads that were the obstacle to the pipelines' progress, the representatives of the pipelines would have gladly accepted my bill. This was not the case, but you have not heard them mention anything about the small farmers who are opposed to this legislation. These farmers can see no reason for granting the pipelines access across their lands.

In the remaining few minutes that I have been allotted, I would like to point out a number of the other erroneous contentions being made by the proponents of this legislation.

It is erroneously contended that the pipelines are compatible with the environment. More will be said about this point later, but at this time it should be pointed out that 1 ton of water will be required for each ton of coal placed in the pipeline. It should be noted that this water will be extracted from a number of areas where the people are unalterably opposed to having their water removed for this purpose.

Proponents of this legislation contend that one of the benefits would be that it is less labor intensive. It is incomprehensible to me to understand what advantage there would be in encouraging the displacement of today's labor force. I am sure that you are all aware of the advantages of having a stable rail labor force living in your community.

In conclusion, I would like to emphasize that it is incongruous for this Congress to enact legislation assisting the railroads on the one hand, and then enacting legislation such as this, which for no social or economic benefit to the general public would in effect negate any assistance given to the railroads. In a few weeks, I will be addressing you again. At that time, it will be for the purpose of trying to convince you of the necessity to provide additional capitalization for ConRail. I am already aware that some Members are going to take a position that the amount of funds I am requesting should be reduced. Let me say at this time—if this legislation passes today, the amount that I will be requesting at that time will be a mere pittance compared to the untold billions of dollars that I will be required to request to maintain our essential rail services. Remember, railroads are essential to our economy—pipelines are not.

I strongly urge the defeat of this bill.

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. ROONEY. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I thank the gentleman for yielding and I would just like to make the observation that the gentleman obviously has done his homework on this legislation. I know our distinguished chairman has suggested that this was probably a way to, in fact, obtain regulatory reform by the introduction of another mode of transportation. I would suggest, and I am sure that the chairman of the Subcommittee on Public Works would agree that this is not the way to obtain regulatory reform for railroads. We have that problem ahead of us and this certainly cannot be used for that purpose.

Mr. Chairman, the proposal before us has been characterized by some as a vital component of our Nation's energy policy, as the only means to transport needed supplies of coal to the East in such a way to offer consumers a savings in their energy costs. The supporters of H.R. 1609 fail to recognize that the coal slurry pipeline is so fraught with economic and environmental difficulties that any supposed benefits will be outweighed by the harmful impacts of the pipeline; that a viable alternative mode of transportation already does exist; and that in trying to solve one problem, the proposal before us will open a Pandora's box of new and more serious problems that will touch the life of every American.

The problems surrounding coal slurry pipelines are many. While my colleagues are undoubtedly already familiar with the potential negative impacts of such a pipeline, I believe that it is necessary to review the major problems posed before we reach any decision on H.R. 1609.

Coal slurry pipelines will have a negative impact on our Nation's railroads. To say that Congress should not be interested in the fate of our railroads is to ignore the vital role that they play in our transportation system. Railroads are a vital cog in our system of transporting goods throughout the country. In the past, Congress has recognized the necessary function that the railroads play and it is in the national interest that this essential service remains viable. Coal traffic is an important source of revenue for our railroads and the loss of this source will threaten the survival of some of our rail lines, resulting in cutbacks in rail services and disruptions in the transportation of other goods. The OTA, in its assessment of coal slurry pipelines, has stated that "any reductions in revenue—caused by pipelines—could represent a threat to the financial health of a particular railroad." By the year 2000, the rail industry would be deprived of $687.87 million in net operating revenues. We are all familiar with the need for Federal intervention in the rail system of the Northeast. If H.R. 1609 is passed, it could ring the death knell for other rail systems and would lead to future Federal intervention at the cost of the taxpayer.

The projected consumer benefits of the pipeline are tentative at best and the general economic disruption caused would be greater than any savings gained by a particular group of consumers.

The projected savings for consumers of electricity generated from coal transported by a pipeline is based on the estimated cost of the pipeline. One need only to look at the Alaskan oil pipeline to see that these estimates are very subjective and bear no comparison with reality. Even if the estimated costs of construction are accurate there is no guarantee that any savings will be passed on to the consumer.

Even if coal slurry pipelines do provide a savings to certain consumers, it will be at the expense of other consumers. Because of the loss in revenues, railroads will have to increase their rates for transporting goods. This will mean that the cost of coal delivered by rail will increase and that other goods transported by rail will similarly suffer a rate increase. Thus, while one's electric bill will be lower, this savings will be paid by others and will be loss due to an increase in the costs of other goods.

H.R. 1609 is contrary to our policy of reducing unemployment and will result in an increase in our unemployed. While the construction of coal slurry pipelines may result in the temporary increase in employment, the operation of a pipeline is automated and does not require many permanent employees. In contrast, the expansion of the railroads to meet the needs to transport coal would result in the creation of a large number of full-time jobs in various areas. It is also important to note that the full utilization of pipelines would result in the loss of almost 16,000 jobs in the railroad industry.

Perhaps the most serious problems associated with coal slurry pipelines are

those related to its effects on the environment. From the point of origination through the entire pipeline to the point of destination, coal slurry pipelines present real and potential irreversible environmental threats.

Under the present proposals, coal from the West will be transported to the East via the pipeline. Such proposals place a great strain on an already valuable commodity in short supply, water. In transporting coal via slurry pipeline, a 50–50 mix of coal and water is required. That means that for 1 ton of coal, a ton or 250 gallons of water is required. A single pipeline capable of carrying 25 million tons of coal per year would drain more than 6 billion gallons of water. No matter how one looks at it, that is a lot of water to take from an area where water is already scarce. The demand for water already exceeds the supply in this region. Where will the pipeline get its 6 billion gallons? Who will have to sacrifice their needed water for the pipeline? Will it be agriculture? Or the municipalities? Recreation users? Or maybe some other State using the same water source?

The construction of the pipeline will have serious effects on the surrounding ecosystems. While many of the effects may be only temporary, it is uncertain what long-lasting effects would occur. As the OTA noted:

> Although native species will eventually return, the exact balance of species types and numbers prior to disturbance will probably never occur. Especially sensitive species (including endangered ones) whose prior existence was precarious, may never return.

The potential for a pipeline rupture does exist. The effects of such a rupture are dependent on the composition of the slurry, where the rupture occurs and how much slurry is spilt. But at the very least, a rupture will result in a lengthy and expensive clean-up operation. In the worst possible situation, the slurry will enter a waterway. This would cause severe turbidity problems and if the corrosion inhibitor, hexavalent chromium, were in the slurry, it could poison fish and wildlife.

The great mystery surrounding coal slurry pipelines seems to be what will become of the water at the point of destination. We all know that four processes can be used to dewater slurry: centrifugation, chemical flocculation, vacuum filtration or heating and that the wastewater can be reused in three ways: powerplant cooling, agricultural irrigation, or direct discharge to surface waters. No one seems to know which use, if any, will be possible. The OTA report noted that:

> The ultimate use of the recovered water depends upon its chemical quality at the point where it leaves the slurry system and the technical and economic feasibility of treating it to permit alternative reuses.

We cannot act with such a crucial aspect of coal slurry pipelines unresolved. The potential environmental impacts of the discharge of slurry water are too great to be satisfied with inclusive answers and untested hypothesis.

Mr. Chairman, in the consideration of H.R. 1609, the one question that we must ask is whether the potential benefits of a coal slurry pipeline outweigh its related negative impacts. If the pipeline can pass that threshold, it is worthy of our wholehearted support. However, the economic, social, and environmental harm of a pipeline are too great and the apparent benefits too small to pass that crucial test. Passage of H.R. 1609 will result in untold economic disruption and hardship, the environment will be threatened by spills and waste, and we will be unwisely using a valuable resource. For these reasons, I urge my colleagues to oppose H.R. 1609.

Mr. HARSHA. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, before I begin my remarks I would like to address a question to the distinguished chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL).

Is it my understanding that in the gentleman's prepared statement to the committee that the gentleman said that all of the States' water rights were adequately protected in this legislation?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I would be happy to yield to the gentleman.

Mr. UDALL. Mr. Chairman, that is exactly what I said. I think they have been overprotected. We not only protect them and gave the States an absolute veto in our committee, but, in addition, we gave the Federal Government the power and obligation to make some findings. We almost have State and Federal vetoes. I think it is almost too much power but we are willing to accept it in the hope of getting this legislation passed.

Mr. HARSHA. Then the gentleman is saying that section 5(h) does in fact protect the States water rights, so that there is both the State protection and Federal protection?

Mr. UDALL. That is exactly what I am saying.

Mr. HARSHA. It, therefore, then would require the resolution of all interstate water disputes among the affected States before a certificate of public convenience and necessity could be granted?

Mr. UDALL. Just for an operation along State lines and within State boundaries, I do not think you will find very many of them, hopefully, where two States' water rights would be affected. If, so they would have to be protected if they would be involved in the project, you would have to get the consent of both States.

Mr. HARSHA. I assume that we are talking about underground water, which most of this water would be, and that more than one State claimed jurisdiction over the underground water. Although the water was extracted from State A, would a water rights dispute between State A and State B, indeed, have to be resolved before a certificate could be issued?

Mr. UDALL. If there is an underground water table that extends across the boundaries of more than one State, I would think the legislation ought to, and I think it does, protect the rights of both of those States.

Mr. HARSHA. I thank the distinguished chairman. I would also like to point out that my good friend, the gentleman from Arizona, made the statement that the railroads were objecting to granting the coal pipeline companies a meager 5 percent of the transportation of the new coal that was to be needed, and that the railroads wanted to have the right to transport all coal so that they could charge whatever rates they wanted to charge for that transportation. The gentleman also said that they then could fix their own prices, that is, make their own rates for the transportation of coal. Is that not basically what the gentleman said in his colloquy?

Mr. UDALL. If the gentleman will yield further, I think the gentleman has given a reasonably accurate summary of my remarks. I am well aware that rates are fixed by the Interstate Commerce Commission, but the history has been that whatever the railroads want, they give them, and in the Arizona case and the Texas case, which are really outrageous, the ICC said the railroads have not been making much money; they do not have any competition; here, let us give them all that the freight will bear I think that is a pretty lousy transportation policy and a pretty lousy rate policy.

Mr. HARSHA. I do want to point out that the railroads are not permitted to charge whatever rates they want. They have to file with the Interstate Commerce Commission a rate structure. They have to be able to substantiate that rate structure, and that rate structure must be found by the ICC to be just and reasonable and in the public interest. If the rates are not found to be in conformity with the law and the regulations of the ICC, then the railroads cannot collect those rates. The ICC can prohibit them from collecting those rates. They must be approved by the ICC, and they must be found to be in the public interest. So in my humble judgment, that certainly does not give the railroads carte blanche to charge whatever rates they want to charge.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield,

Mr. HARSHA. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

Is it not true that the railroads under existing law have no authority whatsoever to enter into a 20- or 30-year agreement on rates?

Mr. HARSHA. That is one of the basic problems with this legislation. The coal pipeline companies will base all of their investment on long-term, 25- or 30-year contracts, ship-or-pay contracts. They will have the right under contract to require the users to either use the coal or to pay for it, and in either case the pipeline operation will be able to obtain its profit on it.

On the other hand, the railroads cannot enter into these long-term rate contracts.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Arizona.

Mr. UDALL. May I ask my friend, the gentleman from Ohio, one question? The technology for moving coal by pipeline exists and works. It is in Arizona. Would the gentleman, if he had his way, prohibit any further use of that anywhere in the country? Does the gentleman think that our committee role is to explore a coal slurry pipeline?

Mr. HARSHA. I am not advocating any prohibition of a coal slurry pipeline. I think there are a number of things that ought to be cleared up in this legislation. I question the good judgment of giving a coal slurry operation the power of eminent domain.

Mr. UDALL. Will the gentleman give me the name and address of any railroad in this country who is going to voluntarily, without eminent domain, give a right-of-way to any coal slurry pipeline? I never heard of one.

Mr. HARSHA. I am not in possession of any information of what railroad might or might not do it. I cannot give the gentleman that information.

Mr. ROONEY. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Pennsylvania.

Mr. ROONEY. I thank the gentleman from Ohio.

For the benefit of the gentleman from Arizona, whom I am very seldom opposed to on any issue—we think alike; we act alike; we do not look very much alike; but he has been a great, distinguished colleague of mine and on many occasions came to Pennsylvania and helped me in my reelection campaign.

Let me say this to the gentleman from Arizona. The railroads do not have a monopoly on transporting coal in this country. They carry only two-thirds of the coal. The remaining is burned at the minemouth or transported by trucks and barges. In addition, it should be noted that railroads recently asked for a 7-percent increase in their rates at the ICC and they were tuned down. They received a 4-percent increase.

Four percent will not meet the cost. Nevertheless, under the ICC rules and regulations they can only charge the additional 4 percent.

I might say to the gentleman from Arizona, he talked about that apothecary in Arizona that is selling drugs in the drugstore. If it were like a railroad the ICC would have the right to control these costs.

Furthermore, I introduced H.R. 10663 which would have required the railroads to give the pipelines eminent domain but the pipeline vigorously opposed this bill because they knew it was the farmers, industry, and States that were preventing widespread use of eminent domain in the absence of any public interest.

Let me say in conclusion, and I thank the gentleman for yielding, pipelines are not competition to the railroads. Pipelines are going to destroy the railroads.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I will yield to the gentleman.

Mr. SHUSTER. Mr. Chairman, I simply wanted to make the point that the right of eminent domain is something that the coal slurry pipelines could get on a State-by-State basis, the same way other transportation modes receive their eminent domain; so this should not be construed as something that is blocking them just because the Federal Government does not grant it.

Mr. HARSHA. Mr. Chairman, the gentleman is absolutely correct. The railroads do not have a monopoly on transportation of coal. We have the bargelines and trucklines in addition to the railroads. The railroads do not have a monopoly.

Mr. Chairman. I am in strong opposition to H.R. 1609, a bill to grant the Federal power of eminent domain to private operators of coal slurry pipelines as allegedly essential to expanded use of coal in this country.

The bill, the Coal Pipeline Act of 1978, is both unwise and unnecessary to the national objective invoked in its support; namely, the claimed need to introduce a supplemental transportation technology to help meet the Nation's energy needs.

It is not needed in terms of transportation capacity. The railroad industry is demonstrably capable of expanding its facilities to meet expansion in demand well before it occurs. And it is unnecessary in economic terms, in that there is no assurance that cost savings will result or that the public will benefit from any savings achieved.

While it is not, then, a legitimate energy measure, it is unquestionably a transportation measure and an ill-advised one at that. Even though only one commodity is involved—at least initially—H.R. 1609 will profoundly affect the transportation of that commodity and all modes of transportation handling that commodity and others.

Not only does it affect all modes which transport coal, it clearly favors pipelines to the disadvantage of other modes, principally railroads. This was particularly true of the bill as reported by the Committee on Interior and Insular Affairs and remains true of the version before us, despite some improvements in that respect by the Committee on Public Works and Transportation.

So what we have here is a bill with far-reaching implications for transportation whose basic rationale evaporates upon analysis. What does not evaporate and, indeed, become most disturbing the more you look at it is the extraordinary grant of Federal authority conveyed by this bill.

I wonder how many Members in this Chamber have paused to consider the implications of granting the Federal power of eminent domain in the absence of any compelling need.

Eminent domain—Federal condemnation power—is an extraordinary grant of authority to place in the hands of a private company. It permits the overriding of private property rights otherwise protected by the Constitution, whereby the owners are secure in their use and enjoyment of their protected property and their disposition of it as they see fit.

Yet we are talking about perhaps five pipeline proposals, and some 4,200 miles of right-of-way, aggregating something like 50,000 acres potentially to be acquired.

Moreover, consider this. Today we are talking about coal pipelines. The legislation is premised on energy considerations, spurious considerations at that. Yet there is unquestioned potential for adaptation of slurry pipeline technology for the transportation of other commodities.

If enacted under the spur of energy-related rhetoric, this legislation would set a precedent; it would set the framework for future legislation and future regulation for other commodities. Having favored pipelines over railroads in this bill, what would be the rationale for any more equitable treatment in the future?

In my view, the grant of eminent domain authority to coal pipelines would have to be justified by some overriding public interest. This simply has not been done. Indeed, for several reasons, H.R. 1609 is contrary to the public interest.

Let me give nine reasons why I think the legislation is bad.

In the first place, there has been absolutely no showing that it is necessary, none whatsoever. The gentleman from Arizona admits the gentleman is only talking about 5 percent of the new coal to be transported. Of course, I think that flies in the face of the report by the Office of Technological Assessment, to which I will refer later.

And H.R. 1609 is not needed to meet the Nation's energy goals.

Proponents of the bill have argued that coal pipelines are needed because railroads will not be able to provide adequately capacity to keep pace with increasing coal production and use in the 1980's and beyond. However, the report of the Office of Technology Assessment (OTA) on coal slurry pipelines squarely refutes this argument. It concludes that there will, indeed, be adequate rail capacity to keep pace with coal production.

I might add that actual experience tends to support OTA's conclusion. The railroad industry turned in an impressive performance, with existing capacity, in meeting peak demand resulting from the massive coal purchases which occurred in the fall of 1977.

Second, this legislation encourages the wasteful allocation of water resources. Tremendous amounts of water are going to have to be used in flush this coal from the pipelines.

The recent drought dramatized the scarcity of water in the West at the same time that plans for increased energy development, including mining, electric power generation, coal gasification and liquefaction, and shale oil exploitation, all would require relatively large increases in consumption of the region's water. In each of the potential coal pipeline origin areas in the West, demand projected for the 1985–2000 period exceeds the legally available supply. In light of these facts, it simply does not make commonsense to encourage the use of vast quantities of water for transport-

ing coal when the same coal can be transported without using water.

Then in addition to that, there are very grave environmental concerns raised by this method of transporting coal, because nobody knows what is in the waste water—what chemicals and toxic substances the waste water is going to contain when it is ultimately discharged at the end of the pipeline. No one, particularly those who favor this bill and support the transportation of coal by pipeline, has ever suggested that they would recycle the water to try to save it because of its great scarcity in this country. The Environmental Protection Administration is currently conducting a study to determine the chemical characteristics of slurry waste water. One of its major concerns is whether this water contains some toxic chemicals or heavy metals in the water which will then be discharged into the waterways of the United States. This is an issue of very great concern to many of us.

Third, it fragments our transportation policy. Here for the first time we are taking a method of transportation away from the Department of Transportation and putting it in another agency, the Department of the Interior.

Fourth, in my judgment, it is a special-interest windfall.

Fifth, it represents an unwarranted depreciation of farm, residential, and commercial land prices.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. HARSHA) has expired.

Mr. HARSHA. Mr. Chairman, I yield myself 5 additional minutes.

Mr. Chairman, any of us know that when we give the Federal Government the power of eminent domain, the poor private property owner, the poor little individual who happens to own some land that a big corporation wants to go over, is almost never going to get adequate compensation for that land. In the first place, he does not have the resources to fight the large corporation, and, second, he cannot stand the economic drain on his own pocketbook of going through months and months and possibly years of litigation trying to justify the current market value of his property. Instead of dealing with another purchaser on the open market, like you and I do, he has to deal with a large corporation backed up by the power of the Federal Government in the form of eminent domain.

So this is going to depreciate the value of the land in the area where the pipeline is going to run. Certainly it is going to have a very detrimental effect upon farmland, because when we interrupt a farming operation by putting a right-of-way through the property, that affects farming practices. Any of us who are familiar with farming practices know that any interruption in the tillable land upon which we have placed a structure will ultimately be reflected in one's ability to properly till or cultivate that land.

Next, in my judgment, this benefits the economies of just a few States at the expense of the others.

And it will not help the consumer in most cases.

Coal pipelines do not have an obvious cost advantage over the other modes. In looking at four hypothetical cases, the OTA concluded that in two of the cases pipelines would be less expensive and in two cases railroads would be less expensive—even though all four cases involved circumstances favorable to pipelines. But even assuming that in some cases pipeline costs might be less than rail costs, there is no provision in H.R. 1609 to insure that these cost savings would be passed on to the consumer.

The OTA report went even further and pointed out the significant risk the public would be taking. I quote:

Pipeline financing requires long-term purchase contracts with customers, which embody significant risk given the difficulty in forecasting the future. Since the costs of errors in judgment will probably be borne largely by the public and not necessarily by the utility investors; regulatory agencies governing utilities should therefore scrutinize long-term contracts for pipeline transportation with great care.

I do not want to belabor the point but this is quite disturbing in light or our recent experience with the Alaska oil pipeline which ultimately cost almost 10 times the initial estimates.

Contrary to what the gentleman from Arizona (Mr. UDALL) indicated, there would be little or no benefit to the consumer. I do not question his integrity; I know he is very sincere in what he says, and I do not mean by that statement to cast any reflection on him. He is a good friend of mine and I have the highest respect for him, but I think in this particular case he happens to be on the wrong side of the issue.

Consumer prices will not go down as a result of this particular legislation, because the Office of Technological Assessment, after an extensive report, has said that by the year 2000 the railroad industry will lose approximately $688 million of net operating income annually. That is as much income as the railroads have made in every year since 1966, with the exception of one year.

Now, if the railroads lose that kind of net operating income and if they are going to continue to function, they will have to make up for that loss. They will have to do it in some way. They are going to have to raise their rates on the other commodities they transport. That is going to cause an increased rate of inflation on the balance of the other commodities they transport, and the consumer ultimately pays for it.

So there is not going to be any benefit to the general consumer as a result of this legislation.

Another objection I have to this is that there are inadequate safeguards for the public interest.

And finally, it would seriously weaken the railroads of this Nation. That is the case if the Office of Technological Assessment is correct in the extensive study and report they have made. And we have every right to rely on that. After all, this Congress created that Office to advise us. If we are going to accept anybody's judgment, we ought to accept theirs. They say the railroads are going to lose an enormous sum.

The impact of H.R. 1609 on railroads and their customers was summed up by the Department of Transportation, in responding to a question from the committee, as follows:

[I]ncreased production of coal, especially in the volumes forecast for the West, would provide the [railroad] carriers with more opportunities to offer unit train tariffs, the most economical and efficient form of rail transportation. Additionally, since most of the traffic will be of this type, the carriers would be able to attract financing for upgrading, rehabilitation, and maintenance projects at more attractive rates; these savings could be passed on to shippers.

To the extent that pipelines impair the ability of the railroads to attract this traffic, the carriers' ability to maintain a viable traffic base, and thus attract capital, will be reduced. Furthermore, the costs of maintaining the fixed plant would be spread over fewer shippers, thus raising transportation costs to shippers of other commodities.

It is not sound public policy to divert railroad sources of revenue at the same time that the Federal Government is carrying out policies aimed at improving and revitalizing the Nation's rail system.

Nationwide, coal accounted for 29 percent of the total traffic originated, and 13.4 percent of the freight revenue received by class I railroads in 1975. In order to meet estimates of 1985 coal production, rail transportation of coal will have to increase by two-thirds over current levels and will require an investment of over $10 billion. The prospect that coal traffic may be diverted to coal pipelines may create sufficient uncertainty to keep these investments from being made.

The OTA report estimated that, in the year 2000, the rail industry would be deprived of about $688 million in net operating revenues annually. This exceeds the net operating income for the industry for every year since 1966 except 1974. In addition, the OTA found that the reductions in revenue threatened by pipelines could endanger the financial health of individual railroads.

Railroads would be at a competitive disadvantage in relation to pipelines if H.R. 1609 were enacted without addressing the regulatory restrictions on railroads. Railroads have been prevented from entering into long-term contracts with shippers, required to meet stringent common carrier obligations, and charge rates reflecting their unprofitable as well as their profitable operations.

If that is the case, Mr. Chairman, with the billions of dollars that are already pouring into the Northeast corridor and the billions of dollars that are pouring into ConRail to try to revitalize the railroad network, there would be further losses. On top of the billions of dollars we are putting into those parts of the railroads network which the general taxpayer is subsidizing now, and with the loss of roughly two-thirds of a billion dollars annually by the rest of the railroad industry, we are going to have to pump more taxpayer subsidy into the railroad industry to try to save it from further deterioration.

In my judgment, Mr. Chairman, this legislation will be very deleterious to the welfare of the railroad industry and

ultimately to the welfare of the American taxpayer. It should not be enacted.

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I will be happy to yield to my friend, the gentleman from California.

Mr. JOHNSON of California. Mr. Chairman, I just want to call the gentleman's attention to one of the statements he made regarding the waste water. Is it true that with the Clean Water Act of 1977, every industry has to meet the proper standards at the slurry point of discharge? Is it not true that industry has to comply, and the slurry discharge has to meet proper standards?

Mr. HARSHA. The chairman is absolutely correct. But the point of my argument is that we do not even know what chemicals are going to be discharged. Since we do not know what toxic substances are going to be discharged, we do not have any regulations governing those discharges. In addition, even if we use the best available technology to clean the waste water, significant quantities of persistent toxic chemicals still may be discharged into the Nation's waters, which could result in the contamination of drinking water supplies.

Mr. JOHNSON of California. If the gentleman will yield further, all of the discharges which they do not have completely analyzed receive pretreatment before they are discharged.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, the coal slurry pipeline bill can be used by the petroleum industry and its corporate allies to extend their monopoly powers to still another important segment of the energy industry. Hence I will offer an amendment to this legislation whose purpose is to prevent the energy giants from controlling or acquiring control, either direct or indirect, on any coal pipeline which obtains a certificate of public convenience and necessity under H.R. 1609.

The absolute need for this prohibition lies in the fact that control of the transportation of energy materials by the producers or owners of those materials permits and encourages monopoly pricing of fuels as well as of the transportation thereof. We hardly need point out that most of the western coal mines on which the Nation will heavily rely for steam coal are already owned or controlled by the petroleum majors. This, in and of itself is bad enough, but if it cannot be prevented, surely these companies should not be permitted to extend their stranglehold to the transportation of the coal.

Our economic system is based on competition, and to a great degree, that is what made it as strong as it is. At a time such as this when we need to revitalize the economy and energy development we cannot afford to further lessen competition by allowing the major oil companies to own yet another part of our energy system. We urge your support for our amendment.

Mr. SKUBITZ. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. LAGOMARSINO).

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of H.R. 1609, the Coal Pipeline Act of 1978. This legislation would establish a process to grant the requisite rights-of-way across Federal lands and establish the power of eminent domain to obtain rights-of-way across private lands to permit construction of coal slurry pipelines. Without this authority those companies which have announced plans to construct slurry pipelines will have to abandon their ventures for lack of the necessary access to rights-of-way.

Coal slurry pipeline legislation has been pending before this body for several years now, but there is no question that it has assumed a much greater urgency today in light of our continuing and growing dependence on foreign energy supplies. It is certain that the coming years will see a dramatic increase in coal production and utilization to help meet America's growing energy requirements and promote energy self-sufficiency. Significant increased production of coal, however, will provide additional challenges to move this valuable domestic energy supply from the minesites to powerplants, industry, and other consumers in an efficient and reliable manner. A coordinated, efficient transportation system must be in place to insure maximum utilization of vast domestic coal reserves. Coal slurry pipelines are just one such transportation system which can be utilized to help meet this challenge.

Coal slurry pipelines can and must play a necessary role in efforts to develop and effectively utilize our coal reserves. Slurry pipelines are able to deal with extremes in terrain, can operate in all kinds of weather, can service remote areas where it may not be practical for other carriers to go, and are less susceptible to crippling labor actions.

The central controversy surrounding this legislation has dealt with the impacts coal slurry pipelines will have on scarce western water resources. Great concern was expressed by many of my colleagues from the West that construction of these pipelines could result in adverse impacts on scarce water sources. These are certainly legitimate concerns. Yet the legislation, as now constructed, clearly establishes the intent of Congress that control of any slurry water remains with the State granting the water to the system. The legislation does not interfere with State's water rights, Indian water rights, or prior or existing private water rights and any future commitment of precious water resources to coal slurry pipelines will be left solely to the discretion of the State. The Interior Committee took great pains to insure was, in fact, the intent of the legislation.

All this legislation seeks to do is to give coal slurry pipeline companies the same right of eminent domain that now exists for railroads, gas pipelines, oil pipelines, and other common carriers to enable them to compete in the marketplace.

In addition, the bill clearly states that coal slurry companies will be subject to regulation by the Interstate Commerce Commission the same as any other common carrier.

Mr. Chairman, so long as this country is dependent on expensive and unreliable foreign oil imports for energy needs we must dramatically expand our vast reserves of coal. The President, as you know, has stated that the United States must double coal production by 1985. There is now considerable skepticism, however, as to whether that goal is attainable. Many think it is not, partially because of transportation problems. In order to move the massive amounts of coal this Nation will require in the coming years in a reliable and inexpensive manner we must allow competition in the coal transportation business. Certainly coal slurry pipelines are a viable alternative and should be given the opportunity to compete in the marketplace.

I urge an "aye" vote.

Mr. UDALL. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Texas (Mr. KAZEN), the chairman of the Subcommittee on Mines and Mining.

Mr. KAZEN. Mr. Chairman, I rise in support of H.R. 1609. I do not believe that the enactment of this legislation would cost jobs in the railroad industry and I do not believe that it would deny to people in semiarid regions of the West the right to determine how and where the water resources of those areas should be used.

The opponents of this bill are the railroads—primarily the western railroads. For more than 4 years, they have successfully forestalled consideration of coal pipeline legislation by this body by obscuring facts and playing upon emotion.

The propaganda which has spewed forth from the Burlington-Northern and its sister railroads has hundreds of well meaning people convinced that enactment of H.R. 1609 will cost them their jobs. It will not. Not one railroad worker employed today will lose his job if H.R. 1609 becomes law. Why? Simply because the railroads will lose none of their present business if this legislation is enacted. They can, in fact, anticipate substantially increased coal traffic in the next decade even with the construction of coal pipelines.

The total annual coal production in the United States today is approximately 600 million tons. Our declining oil and gas reserves and heavy reliance on import oil mandates the production level of 1.2 billion tons in 1985.

The railroads haul at least 90 percent of the coal production today—nearly 5½ million tons annually. If production is increased twofold by 1985, without the construction of any coal pipelines, the railroads share of the total coal transportation volume would be more than one billion tons annually.

The presentation of the Burlington-Northern to the Committee on Interior and Insular Affairs states:

If coal slurry pipeline interests are granted the powers of eminent domain which

they seek, just one pipeline could handle 25 million tons or more coal annually. And, there has been talk by proponents of as many as 15 such pipelines.

Simple arithmetic tells us, Mr. Chairman, that, if we accept those estimates, the maximum amount of coal those 15 pipelines would haul would be 375 million tons annually, leaving the railroads with an increase of 202 million tons, or a total of 742 million tons of the projected 1985 production.

I point out, Mr. Chairman, that, in making these computations, I have elected to use the most optimistic estimates of pipeline proponents. Realistically, I think that both the railroads and pipeline proponents will agree that there would be no more than one or two pipelines at the very most by 1985 or in the foreseeable future. But, certainly, the railroad coal business will increase rather than decrease, in any event, and there simply will be no loss of present jobs.

While I am on the subject of railroad revenues and railroad jobs, I might also observe that, according to information supplied to our committee by the Burlington-Northern, between 1970 and 1976, their coal hauling revenues increased from $42 million per year to $272 million—an increase of more than 550 percent. Yet, they have sought and received higher rates at the expense of consumers.

Mr. Chairman, between them, the Union Pacific and Burlington-Northern Railroads control at least 26 percent of the estimated coal reserves in the Northern Great Plains—more than 21 billion tons.

One can only wonder whether the concern of these great railroads is not more for increased future profits and protecting the competitive advantages of their own coal reserves than it is for the jobs of their employees.

Mr. Chairman, for some time I have been a member of the Subcommittee on Water and Power Resources of the Committee on Interior and Insular Affairs. I have visited many of the arid areas of the West and I know something about their water problems. I live in and represent an area which has been experiencing a severe drought. I am concerned about the water resources of the West and I have stated consistently that I would not support a coal pipeline bill which did not protect the right of the people of each State to determine how and where their water is to be used and to say "no" to using that water for a coal pipeline if they chose to do so.

I am satisfied that H.R. 1609 does protect State water rights. If it did not, I would not support it—I would not vote for it.

Much of the debate which has surrounded the coal pipeline legislation has focused on Wyoming water. This is because the major coal pipeline project which has been proposed would be a slurry line to transport coal from northeast Wyoming to Arkansas and Louisiana. The proposal by Energy Transportation Systems, Incorporated would use approximately 15,000 acre-feet of water annually. The water would be withdrawn from an underground aquifier, part of the Madison formation, situated in northeastern Wyoming.

I believe that, in the debate on H.R. 1609, it is important for the Members to know that the use of Wyoming water for the ETSI line was resolved in favor of ETSE as long ago as 1974 by the legislature of that State.

In 1974, the Wyoming legislature met in its regular biennial budget session. Consideration of nonbudget matters at such a session must have the approval of two-thirds of the members of both houses. Upon the affirmative vote of two-thirds of the members, special legislation authorizing the State engineer to issue a permit to ETSE to withdraw water from the Madison formation for a coal pipeline was considered and approved. The State engineer, after an exhaustive study, issued the permit.

The Governor of the State of Wyoming has strongly objected to the enactment of coal pipeline legislation—primarily on the water issue. He has, however, been unable to persuade the legislature of that State to reverse its action of 4 years ago, although it has met in two budget and two regular sessions since that time.

I do not believe that those in Wyoming who oppose the ETSI line should now ask the Congress of the United States to do for them what they cannot do in their own legislature through their own elected representatives.

Let me point out that, under the provisions of H.R. 1609, no coal pipeline proposing to use Wyoming water will be granted the right to acquire rights of way through the exercise of eminent domain unless the people of Wyoming, or their duly elected or appointed officials, have first approved the use of that water.

In short, Mr. Chairman, the railroads have—to this point—successfully campaigned against this legislation on issues which are non-issues. I urge the House to reject their arguments and vote for H.R. 1609.

Mr. SKUBITZ. Mr. Chairman, I reserve the balance of my time.

Mr. UDALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. GIAIMO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1609) to amend the Mineral Leasing Act of 1920, and for other purposes, had come to no resolution thereon.

CHICAGO'S ARCHITECTURAL LANDMARKS MUST BE SAVED

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute).

Mr. ANNUNZIO. Mr. Speaker, Chicago is in danger of losing two of its oldest structures, the Rincker House and the Wrigley mansion, if steps are not taken to secure the buildings as historical landmarks.

The Wrigley Mansion, built in 1886, is an early product of Frank Lloyd Wright's Prairie school of architecture. The house was built by two of Wright's students and contemporaries, Richard Schmidt and Hugh Garden.

The Rinker house is a classic example of a German farmhouse and was built in 1851. Paul Sprague of the Illinois Historical Sites Survey has deemed the Rincker house as the best example of a Gothic revival house to be found in the city of Chicago.

But, unless these two buildings are designated historical landmarks, which is a long and complicated process, they will both be torn down to make way for the construction of high rise apartment and condominium complexes.

Mr. Speaker, Chicago has the distinction of producing some of the finest examples of architecture in the United States. But, many of these buildings have already been destroyed and without the intervention of Mayor Michael A. Bilandic, the Wrigley Mansion would have been destroyed today.

Efforts have been underway to save the Rincker House since last May, and its backers are in the middle of the tedious process of having the House designated an historical landmark. The Wrigley Mansion was saved from the wrecking ball last Thursday, when Mayor Bilandic and the Chicago Historical and Architectural Landmarks Commission temporarily halted demolition until city officials determine whether it too should be declared an historical landmark.

The Wrigley Mansion, 2466 North Lake View Avenue in Chicago, was built in 1896. The home was purchased by William Wrigley in 1910 and later bought by his son, Philip K. Wrigley, the former president of the Chicago Cubs. The Mansion has been described as a "French country home" with baroque details. But the most significant aspect of the mansion is that it is a product of Frank Lloyd Wright's Prairie School of Architecture, the residential side of the world famous Chicago School of Architecture.

The Rincker House was built in 1851 and sits on a 6-acre site on Milwaukee and Devon Avenues in northwest Chicago. Efforts have been underway since last May to save the farmhouse but the future of the building is still up in the air.

The Rincker House is a classic example of the Gothic Revival School of Architecture and one of the few remaining examples of its type. It is a clay-based masonry structure with frame sidings. All the original pieces are still intact.

This structure is not only notable for its architectural style but also for its original owner, Henry Rincker. He operated the first bell foundry in Chicago and cast the bell for Chicago's St. Peters Cathedral in 1848 and the bell for the original city courthouse in 1852.

How does a building become an official landmark? It is a complicated process that can take several months and balances on many things. The process works this way:

City residents or interested persons oppose the demolition of a certain structure. Complaints are filed with the mayor's office or directly to the Com-

mission on Chicago Historical and Architectural Landmarks. The commission then directs its staff to research the building and submit a report on its historical value. City planning commissioners then study the report and recommend either favorably or unfavorably to save the structure. Pending a favorable recommendation, the landmarks commission then notifies the owner. If the owner is in accordance with the landmark designation and signs a consent form, the matter then goes to the city council. The Committee on Economic and Cultural Development of the council studies the recommendation and makes its recommendations to the council. If the Economic and Cultural Development Committee favorably recommends a landmark status, the city council then votes on the issue.

If the owner does not sign a consent form and objects to this property being designated a landmark, an even more complex procedure occurs. Public hearings are held with the landmark commission serving as a panel. All interested citizens can testify. If the commission rules the structure should be saved regardless of the owner's objections, the recommendation is referred to the city council and the process is picked up from there as outlined above.

Mr. Speaker, these two homes are classic examples of architecture forms that are distinct to the city of Chicago. To destroy these buildings would be to destroy an irreplaceable part of our heritage.

I praise Mayor Bilandic for his intervention in the destruction of the Wrigley Mansion. I also commend the citizens of the 11th district, which I represent, for their efforts to save the Rincker House.

I plan to do everything in my power to see that these two buildings are saved, for the benefit of my district, the city of Chicago, and the Nation.

AN INVITATION TO AMBASSADOR YOUNG

The SPEAKER. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes

● Mr. GOLDWATER. Mr. Speaker, our Ambassador to the United Nations, Mr. Young, was the focus of a great deal of attention last week as a result of his statement that there are "hundreds, maybe thousands" of political prisoners in our jails. His statement was, indeed, serious. As Senator BARTLETT said, the Ambassador "not only undermined U.S. attempts to dramatize human rights violations, but (he) subverted the cause of human rights worldwide."

Receiving far less attention in the public's discussion of Mr. Young's remarks, were his allegations that supporters of Rhodesian Prime Minister Ian Smith were responsible for the massacre of white missionaries in that country. The Ambassador said further that French troops were sent Zaire to promote their own economic interests rather than rescue the beseiged whites.

To that, Mr. Speaker, I invite Mr. Young to substantiate his claim. I invite Ambassador Young to prove that black national guerrillas were not at Elim last month when the Christian missionaries were massacred. I invite Andrew Young to show us that the Katangese invasion of the Shaba province was inspired by "neocolonialist" motives. I invite our Ambassador to the United Nations to respond to the formal protest lodged by France as a result of his statement.

I am embarrassed for our country, Mr. Speaker. I call on the President and his administration to set the record straight on Ambassador Young's statements on Africa. Maybe, Mr. Speaker, that would involve an invitation that Andrew Young return home.

For the RECORD, I am having published Andrew Young's interview as it appeared in the Paris news daily, Le Matin:

ANDREW YOUNG ON SOVIET TRIAL AND AFRICA

Le Matin: How do you explain the fact that the trials of Shcharansky and Ginzburg were opened on the eve of a Vance-Gromyko meeting?

Andrew Young: Oh, it was a challenge, certainly—a gesture of independence on their part. But this will not prevent them from pursuing the SALT negotiations. And then, one never knows what will become of dissidents. After all, in our prisons as well there are hundreds, perhaps even thousands of people whom I would call political prisoners. I myself was sentenced ten years ago in Atlanta for having organized a protest movement. And three years later I was representative for Georgia. It is true that things don't change that quickly in the Soviet Union, but they do change, there also.

Le Matin: But you can't compare the two systems. . . .

Andrew Young: I don't agree with this business of opposing systems. Take the United States, for example. Today's society is quite different from what it was before Franklin Roosevelt. In the 1930s and '40s the trade union movement sparked off a radical revolution in American life, a revolution without which we surely would not be able to produce nine million cars a year today.

In the 1960s there was the civil rights and radical revolution: Today it is the women who are playing a bigger and bigger part in our economy. And this constant evolution is the rule everywhere. I think that the present Soviet dissidents could well be the salvation of the Soviet Union: They are a natural development of Soviet society which the leaders haven't yet understood.

Le Matin: But would you say that your aims and those of the French are the same in Africa?

Andrew Young: No, not at all.

Le Matin: Could you enlarge on that?

Andrew Young: No, I couldn't.

Le Matin: Why?

Andrew Young: Because I think that first of all the French are defending their own economic interests. In their dispute with the Belgians over operations in Shaba, for instance, I would say that we were closer to the Belgians, because they were motivated by humanitarian considerations. They wanted to protect their own people and also preserve the country's mining infrastructure.

Le Matin: And the French?

Andrew Young: I really don't know. I believe the French were concerned about the deficit in their balance of payments. They have difficulty in competing with the Germans, the Japanese, the Swedes. And they have always gotten out of it by developing very fruitful neo-colonial relations. . . .

Le Matin: From the moment you took up office, the unambiguous clear standpoints you have taken regarding the white regimes of Southern Africa have inspired hopes of seeing a settlement at last of one of the planet's most dramatic problems. Since then, and in spite of your ceaseless efforts, the situation seems to have grown worse, at least in Rhodesia. Could there still be a peaceful solution in that country?

Andrew Young: Everything depends on what happens in Angola. The Western powers on the Security Council are at present negotiating a settlement of the situation in Namibia. If they are successful, and if South Africa withdraws its troops which would be replaced by the "Blue Helmets" of the U.N., I would say that there would be a very good possibility of seeing a similar settlement come about in Rhodesia. In the succeeding weeks.

Le Matin: In the succeeding weeks?

Andrew Young: Yes. This region of Africa is certainly going to tip one way or the other before the end of the summer. With a settlement in Namibia, the violence will be stopped and the whites of South Africa and Rhodesia will see that it works.

Le Matin: . . . What about the recent massacres attributed to the [Rhodesian] nationalists?

Andrew Young: As far as I know, nobody really knows who is responsible for these massacres. What makes me wonder is that one of the first places attacked, for instance, was a Salvation Army school. But all the members of the central committee of Nkomo's movement were educated at the school. What is more, whether they wanted to or not, the missionaries have always helped the guerrillas a great deal. They have fed and nursed them. And when someone has saved your life you don't turn round and kill him. As far for Mugabe, he is a convinced Jesuit and his lieutenants were educated by missionaries. That is why I am very skeptical when people attribute these massacres to Patriotic Front fighters.

The first could have been the work of rebel bands running wild. But they would have been immediately put out of action. A matter of a planned operation of attacking missions—which seemed to have been confirmed in recent weeks—that could only have come from Smith's Rhodesian Prime Minister Ian Smith camp.

A TRIBUTE TO THE LATE REVEREND C. G. WEEKS

The SPEAKER. Under a previous order of the House, the gentleman from Louisiana (Mr. LONG) is recognized for 5 minutes.

● Mr. LONG of Louisiana. Mr. Speaker, during the Fourth of July recess of the Congress, I was privileged to attend, as I have for many years, one of the greatest religious events in the country, the annual camp meeting of the United Pentecostal Church of the Louisiana District. On the night of July 3, 1978, over 11,000 members were present at the tabernacle to hear the wonderful music, to join in singing praises, to pray and to be inspired by the preaching of God's word. They were led, as they have been for 25 years, by the Reverend C. G. Weeks, district superintendent. That night I stood at the pulpit with Brother Weeks and his lovely wife, and less than a week later, I received word that he had been called to his heavenly home.

Garland Weeks was born in the rural area of Vernon Parish, La., on March 18, 1908. He attended Normal College in Natchitoches, La., now Northwestern State University. In 1933 he answered the call of the ministry of the United Pentecostal Church, and had served as district superintendent of the Louisiana district for over 25 years. He was a member of general board of the United Pentecostal Church, Interna-

tional with headquarters in Hazelwood, Mo., and was the highly respected chairman of the budget committee. Since it was founded over 25 years ago, he served as vice president of Tupelo Mansion, an orphanage located in Tupelo, Miss.

He is survived by his wife Liliana, his daughter, Wanda Marie Phillips, and two grandchildren, Randy and Karen Marie Phillips.

Gov. Edwin Edwards proclaimed yesterday, July 16, as a statewide day of mourning in memory of the Reverend C. G. Weeks, a great Christian.

Our pressing legislative schedule made it impossible for me to join the thousands of mourners who gathered at Brother Weeks' funeral. But they were kind enough to read the message which I sent. I would like to include it here as an expression of my esteem for this remarkable man.

DEAR FRIENDS: It was a great shock for me to hear of the earthly passing of Brother Weeks. While I share your sorrow in this appointed day that comes to every man, I rejoice with you today knowing that Garland Weeks literally gave his life in the service of God. The memory of having felt his strong arm around my shoulders last Monday night will be precious to me hereafter. He has been a dear friend, and we all shall miss him.

Cathy and I are sincerely disappointed that we are unable to personally join you in your final tribute to this great man of God. We are thankful though that we were privileged to be with him at his last camp meeting on this Earth.

Please call me when I can be of special service to any of you. With kindest personal regards, I remain

Sincerely yours,

GILLIS LONG,
Member of Congress.●

MEXICO'S TREATMENT OF AMERICAN PRISONERS

The SPEAKER. Under a previous order of the House, the gentleman from Florida (Mr. FASCELL) is recognized for 5 minutes.

● Mr. FASCELL. Mr. Speaker, I wish to bring to the attention of the House the text of Secretary of State Cyrus Vance's most recent report to Congress on the treatment of arrested American citizens by the Government of Mexico. The report cites continuing mistreatment of U.S. citizens by Mexican authorities despite significant improvements during the last year.

For several years now the International Relations Committee and the Subcommittee on International Operations, which I have the honor to chair, have been greatly concerned about the adequacy of services rendered by the Department of State to Americans encountering difficulties abroad. Our interest in this general subject was first aroused by allegations by U.S. citizens of mistreatment at the hands of Mexican police. We investigated those charges and found that a shocking number were apparently well founded. Since that time, the State Department, with increasing vigor, has sought to improve the situation. The problem, however, can really only be solved by firm and active leadership by Mexican officials. As Secretary Vance's report indicates, the Mexican Government has been considerably helpful but much more can and must be done.

I am hopeful that President Lopez Portillo and his very able administration in Mexico will make it possible in the near future for Secretary Vance to forward to Congress a report that all our citizens arrested in Mexico have been dealt with in a manner demonstrating full respect for their human and legal rights.

Mr. Speaker, the following is the text of Secretary Vance's July 7, 1978, report to Congress:

THE SECRETARY OF STATE,
Washington, July 7, 1978.

Hon. THOMAS P. O'NEILL,
Speaker, House of Representatives.

DEAR MR. SPEAKER: In accordance with Section 408(b)(2) of the International Security Assistance and Arms Export Control Act of 1976 (P.L. 94-329), I am submitting a report on the progress which has been made toward achieving full respect for the human and legal rights of United States citizens detained in Mexico.

This report covers the period from January 15, 1978 through May 15, 1978 and updates the previous report submitted to you on March 2, 1978. During this reporting period, 212 American citizens were arrested in Mexico, an increase of 73 over the last reporting period. These figures do not include those individuals detained on minor charges (e.g. traffic violations, drunk and disorderly, etc.) and held for a few hours and then released.

An analysis of the new arrests occurring during this reporting period shows that there has been some progress toward full respect of the human and legal rights of American citizens detained in Mexico. Although the number of arrests increased considerably during this period, there were fewer complaints in most categories in proportion to the total number of arrests.

In my last report I stated that prompt notification to our consular posts in Mexico of the arrest of American citizens in that country had shown marked improvement. I am happy to report that this generally continues to be the case. Of the 212 cases reported during this reporting period, notification was considered satisfactory in 151 cases and inadequate in the remaining 61 cases.

The majority of the cases where notification was not considered satisfactory occurred in rural or remote areas where communications are extremely poor and local authorities were unaware of the requirements and procedures for reporting the arrests of American citizens to the nearest United States consular post. In this group there was also a sizable number of persons arrested who possessed Hispanic names and who did not immediately inform the arresting authorities of their American citizenship. Our consular posts continue to submit protests in each case where they consider notification to have been inadequate and have received assurances from these local officials that our consular officers will in the future be notified as promptly as possible of any new arrests of American citizens.

Physical abuse or mistreatment of United States citizens at the time of their arrest and interrogation in Mexico continues to be of serious concern to us. In my last report I indicated that there had been 20 cases of alleged mistreatment of United States citizens at the time of their arrest and subsequent interrogation. In three of those cases the allegations were substantiated. During the current reporting period I regret to state that there has been a slight increase in both the number of alleged cases of mistreatment and the number of cases where the mistreatment has been substantiated.

Of the 212 Americans arrested during the period covered by this report, 32 (15.1 percent of the total arrests) alleged mistreatment at the time of their arrest or subsequent interrogation. This represents a proportional increase of approximately 0.7 percent over the last reporting period. Of the 32 persons alleging mistreatment, the allegations were substantiated in 8 cases (3.8 percent of the total arrests) indicating a 1.6 percent proportional increase over the prior period. While this slight increase is of concern to us, I must point out that it still represents a significant decrease in the number of such cases reported to us in prior years.

As I indicated in my previous reports, however, we have registered and will continue to register strong protests with the Mexican Government over these cases of mistreatment. In this regard, it is still our belief that we cannot be satisfied with the situation of American prisoners in Mexico as long as there is even a single case of substantiated physical abuse.

In contrast to physical abuse at the time of arrest and subsequent interrogation, I am happy to report that during this same period our consular officers did not receive a single complaint of physical abuse occurring within the prisons themselves. This is the first time this has happened.

The transfer of American prisoners from Mexico to the United States under the provisions of the recently implemented Treaty on the Execution of Penal Sentences continues to run smoothly. In my last report I stated that 233 Americans had been returned to the United States in the initial transfers during the month of December 1977. Since that time an additional 66 Americans have been returned to the United States in two separate transfers which took place in the months of March and May of this year.

Further transfers are expected to take place on a monthly basis. As a result of these transfers, Mexican prisons have now been emptied of most of the long term American prisoners. Unfortunately, with the number of new arrests approximately balancing the number of prisoners transferred, we anticipate that the number of Americans imprisoned in Mexico will remain at approximately 300. This, however, represents a 50% reduction of the number imprisoned in Mexico since last year's figure which was over 600.

As an expression of our keen interest and concern over the welfare of American citizens incarcerated in Mexico, we continued a policy of visiting every prisoner at least once a month during the reporting period. Those prisoners incarcerated in institutions which are easily accessible and relatively near our consular posts were, however, visited more frequently. Visitations were particularly frequent to those prisoners who were preparing to take part in the prisoner transfers.

Our posts in Mexico continued to use funds provided by the Emergency Medical and Dietary Supplement Program to distribute multiple vitamins to all American prisoners as a diet supplement. The Embassy at Mexico City also used funds authorized by this program to pay a private doctor for a thorough medical examination of one prisoner who had been unsatisfactorily treated by prison doctors. In another consular district our post received personal assurances from the Governer of the State that medical and dental care would be improved in all prisons in the area.

During this period we continued to hold discussions with Mexican officials at various levels regarding American citizens detained in that country. We are confident that these discussions have resulted in the positive steps and actions taken by the Mexican Government toward full respect for the human and legal rights of American citizens detained in Mexico.

Sincerely,

CYRUS VANCE.●

DEVELOPMENTS IN THE TOKYO ROUND MULTILATERAL TRADE NEGOTIATIONS

The SPEAKER. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, on July 13, several major delegations to the Tokyo Round of the Multilateral Trade Negotiations being conducted in Geneva, Switzerland, issued a statement on the status of these long, complex, and very important negotiations.

I would like to enter the full text of the statement in the RECORD at this point. The Subcommittee on Trade of the Committee on Ways and Means will be holding a public briefing with Ambassador Robert S. Strauss tomorrow, Tuesday, July 18, at 2 p.m., in the main Ways and Means Committee room to discuss the status of the negotiations.

The statement follows:

1. Representatives of the major developed countries of the U.S., EC, Japan, Canada, the Nordics, Switzerland, New Zealand and Austria met last night to consider a statement on the current status of the Toyko round negotiations. (Australia was invited but could not attend.) In the early morning of July 13, the delegations concluded the meeting with a revised statement, later finalized at noon.

2. The statement is being endorsed today by most developed country delegations. Text follows:

Statement by several delegations on current status of Tokyo round negotiations. Geneva, July 13, 1978:

FRAMEWORK OF UNDERSTANDING ON THE TOKYO ROUND

The delegations of some major trading nations have reached a framework of understanding on the major elements of a comprehensive package for the Tokyo round. This framework contains the necessary elements, as may be elaborated in further negotiation between these and other participants, to ensure a successful conclusion of the negotiations in accordance with the objectives of the Tokyo declaration of September 1973.

These delegations recognize that a successful final outcome of the negotiations requires the participation of all delegations and they express their hope that all their partners will consider the framework described in this memorandum as a reasonable basis for completing a mutual agreement in the weeks ahead which will bring these negotiations to a successful conclusion. They agree for their part to ensure that the final results will lead to a strengthened and open international trading system based on increased international cooperation which should provide substantial benefits for the world trading community, in particular for developing countries.

THE SIGNIFICANCE OF THE FINAL PACKAGE

The framework established for the Tokyo round results seeks to provide the broadest scope yet attempted for extending understandings in the area of international trade and for managing issues affecting trade relations. The distinguishing features of this round are likely to be:

A major trade liberalisation programme extending over the 1980's;

A movement bringing the GATT rules more closely into line with the requirements of the next decade;

A substantially higher degree of fairness and discipline in the international trading system, to be achieved by the creation inter alia of new mechanisms for consultation and settlement of disputes in many fields;

Additional benefits for developing countries as well as measures of special and differential treatment for them inter alia in the tariff field and in several NTM codes.

It is with these aims in view that delegations have agreed on the following elements which, taken together, should lead to a successful conclusion of the negotiations based on an overall reciprocal balance.

CUSTOMS VALUATION

The delegations recognize that the draft code, which has been carefully elaborated in the course of negotiations, represents a solid basis for instituting a harmonised international system for customs valuation which will provide a uniform and fair system of valuation in conformity with provisions of the GATT.

With appropriate technical assistance the code should be acceptable to developing countries and constitute one appropriate form of contribution by them to the success of the multilateral trade negotiations.

(The delegation of Canada has not taken part in these negotiations.)

GOVERNMENT PROCUREMENT

The proposed draft text provides a basis for a code which will constitute a major step in opening government procurement to international competition by means of agreed non-discriminatory and transparency procedures under international supervision. Provisions in the draft, in particular regarding review, adjustment and possible extension of scope, should ensure balanced operation and development of this agreement in the mutual interest of participants. The delegations consider that their indicative offer lists represent a basis for continuing negotiations towards developing an agreement on a mutually advantageous basis before the end of the year. They confirm their support for specific provisions for special and differential treatment, and accept that developing country adherents will not offer full coverage at this time, but that their coverage will be expanded as their economic development needs allow. Additional benefits will be provided to the least developed countries. A final agreement will require an acceptable reciprocal participation by other developed and developing partners wishing to participate in this agreement.

CODE ON STANDARDS AND TECHNICAL REGULATIONS

The delegations agree that the draft "standards" code is in near final form and undertake to work with their partners to finalise the code in the early autumn. Important elements of the code have been agreed. These include provisions to help avoid trade distortions arising in the field of "standards" and to promote international "standards". They further agree to seek a balanced level of commitment and advantages for all adherents to the code in regard to the development of product standards and in regard to related certification requirements. This code will provide for appropriate provisions and technical assistance for developing countries.

SUBSIDIES AND COUNTERVAILING DUTIES

The delegations affirm that the present draft outline constitutes a substantial basis for developing an agreement in this area. This agreement should contain procedures for notification and consultation prior to the imposition of countervailing duties and should elaborate the provisions of GATT article VI relating inter alia to material injury so as to provide greater uniformity and certainty in their implementation, in a reasonable way, by all signatories.

The final agreement should provide improved notification and consultation procedures concerning subsidies, with regard to the effects of subsidies on the trade and production of other countries, the final agreement should elaborate the provisions of article XVI (with regard to agriculture refer to page 7) so as to strengthen the prohibition on the use of export subsidies on industrial products and clarify the provisions of article XVI:3. With regard to other subsidies, the final agreement should recognize that such subsidies are intended to promote important objectives of national policy but may have adverse effects, which signatories should seek to avoid, on the trade and production interests of other signatories. The issue of indicative guidelines is still unresolved.

The final agreement should elaborate the concept of serious prejudice as used in article XVI and provide the possibility for countermeasures within a framework of international rules and obligations, in the event there is serious prejudice to the interests of another signatory. The issue of whether these countermeasures might be authorized or unilateral is still unresolved.

In resolving the outstanding issues in negotiation, further attention will be given to the interests of developing countries whose development needs should be taken into account in relation to subsidies.

OTHER NON-TARIFF MEASURES: TRADE IN COUNTERFEITED GOODS

Taking into account the provisions of article IX as well as other relevant international agreements for the protection of trademarks, copyrights, etc., the delegations will seek actively international agreement designed to strengthen rules and procedures to counter cases of trade in counterfeited goods.

LICENSING

There are texts covering (1) automatic licensing and (2) restrictive licensing. The delegations agree that these texts contain the basis for an agreement. The primary objectives of these texts are to ensure that licensing systems are employed by all countries only when necessary, are not designed to distort trade, are transparent and are administered in a fair and equitable manner. Adherence to the final texts would represent one substantial contribution by developing countries to the Tokyo round.

RULES OF ORIGIN

This has been the subject of a bilateral understanding developed between the U.S. and the EC.

Other consultations are under way.

NON-TARIFF MEASURES NOT DEALT WITH MULTILATERALLY

The delegatons note that non-tariff measures not dealt with multilaterally are the subject of continuous and intensive bilateral negotiations.

II. INDUSTRIAL TARIFFS

The negotiations on industrial tariffs have not been completed but certain important elements of a comprehensive tariff package have been agreed. The delegations are working towards results which would represent a substantial degree of liberalisation compared with the Kennedy round. While generally following the Swiss formula designed to achieve a substantial harmonised reduction of tariffs, the delegations are proceeding to reciprocal adjustments in their initial offers involving both improvements as well as exceptions. They recognize that at this stage the detailed final results of the tariff negotiations cannot be decided and that the final results will vary between them and between different individual partners. The delegations acknowledge that there are still uncertainties with regard to certain offers in important sectors which require clarification and further negotiations. Reciprocal balance with other developed countries participating in formula reductions will also need to be reached. A high level of binding of duties by all participants is an important objective. The delegations confirm that their final offers will contain measures of special and differential treatment for developing countries; at the same time they expect adequate contributions from developing countries commensurate with their state of development.

The issue of the staging of tariff reductions remains to be resolved in the final phase of the negotiations.

AIRCRAFT

Agreement was reached on the objective of negotiating maximum freedom of world trade in commercial aircraft, parts and related equipment, including elimination of duties and to the fullest extent possible, the reduction or elimination of trade restricting or distorting effects of other measures.

STEEL

The delegations note that in the framework of the OECO, discussions are progressing on the preparation of a multi-lateral resolution on steel, under which a steel committee would be set up. The adoption of such a resolution at the appropriate moment should facilitate negotiations in the mountain on steel products.

III. AGRICULTURE

The delegations have continued intensive discussions of agriculture issues. There is mutual recognition that a positive result in agriculture is critical to the successful completion of negotiations in the Tokyo round. Definitive agreements are still to be worked out satisfactorily. Building on the degree of consensus that has evolved up to this point in the field of agriculture as well as in the MTN as a whole, it is their view that there is a sound basis to proceed to the final development of a significant package during the weeks ahead.

FOUR AREAS OF THE NEGOTIATIONS MERIT SPECIAL ATTENTION: GENERAL UNDERSTANDING ON AGRICULTURE

The delegations believe that the establishment of some fundamental understandings on the conduct of agricultural trade could provide a framework for avoiding continuing political and commercial confrontations in this highly sensitive sector in the future. Such understandings should build on a group of principles to be worked out that would lead to an improved level of international cooperation among participants in their efforts to secure adequate farm incomes, stabilization of food prices, and expansion of trade in agricultural products.

This aim could be achieved in the GATT through a systematic series of consultations, exchanges of information and the establishment of a consultative committee for reviewing and implementing the understandings and possibly coordinating the work of subsidiary bodies.

The delegations have recommitted themselves to ensure accordance with the provisions of GATT article XVI:3. The signatories thereby agree not to grant directly or indirectly any export subsidy on any agricultural product in a manner which results in the signatory granting such subsidy having more than an equitable share of world export trade in such product, account being taken of the shares of the signatories in trade in the product concerned during a previous representative period, and any special factors which may have affected or may be affecting trade in such product.

To clarify the meaning of this article to avoid misunderstandings, and thereby to reduce conflicts between agricultural exporters and importers, the delegations have committed themselves to reach a common understanding in order to avoid distortions of trade in traditional markets through the use of subsidies and to develop appropriate definitions for markets and representative periods for reference in case disputes arise.

SPECIFIC REQUESTS AND OFFERS

In relation to specific agricultural and fishery products of interest to participants, the delegations have had and are continuing intensive discussions in great detail concerning obstacles to trade the removal of which would further the expansion of world trade on a fair and equitable basis.

Although these detailed discussions continue, a sufficient number of possible actions have been reviewed to suggest that mutually advantageous improvements, including the abolition of certain non-tariff measures, can be negotiated in concrete terms early this autumn.

The elaboration of the final MTN package is subject to completion of satisfactory settlements in this area of negotiations.

COMMODITY ARRANGEMENTS

Negotiations are continuing for commodity arrangements in the four areas of wheat, coarse grains, dairy products, and meat. In grains it is noted that the differences have been narrowed to only a few key issues which are expected to be resolved well before year end. Work has been essentially completed on the framework for the dairy and meat accords. The protocols or possible annexes concerning individual products that would finalize the latter two arrangements as well as understandings with respect to access for specific related products are under negotiation.

These arrangements in commodity areas in combination with the understandings and rules emerging from the MTN provide a new framework for continuing consultation and cooperation on agricultural issues in order to avoid confrontations.

TIMING FOR COMPLETION

The delegations have committed themselves to complete the remaining tasks for bringing this package into form early in the autumn so that this can be included as an essential and significant element in the Tokyo-round results.

IV. TRADING SYSTEM

SAFEGUARDS

Recognizing the need to strengthen to effective control of safeguard actions, the delegations agree on the need for a new code, based on the proposed draft integrated text. Building on the provisions of article XIX, this code will reflect a balanced approach between exporting and importing interests and will assure that all safeguard actions are appropriately brought within the scope of the new code. It should provide greater precision for criteria and conditions for safeguard action and for notification and consultation procedures.

The question of how and under what circumstances and conditions a selective application of safeguard measures would be provided for in the code, is still a subject of intensive negotiations.

Under the code there should be a new body to supervise the operation of the agreement, review particular actions and matters affecting the operation of the code, assist in resolving disputes and effectively deter abusive and unjustified recourse to safeguard action. Where possible, by means of flexible application of safeguard action, the interests of the developing countries should be taken into account in relation to particular products and particular markets.

ISSUES RELATING TO THE FUTURE TRADING SYSTEM

In accordance with the reference in the Tokyo declaration to the need to improve the international framework for the conduct of world trade, a series of texts have been developed for full multilateral consideration. The results which are emerging in this area, which is of particular importance to developing countries, will contribute to strengthening the legal framework of the GATT and to enabling the GATT to develop its role as the world organization responsible for the expansion of international trade and for harmonious trade relations.

The provision of an enabling clause providing a basis for special and differential treatment in favor of developing countries—particularly the least developed countries—as well as for their increasing acceptance of responsibilities under the trading system as their development proceeds, will be of particular importance.

Extensive work has been carried out on dispute settlement/management procedures and possible improvements. Rules and disciplines on trade measures taken for balance of payments purposes for both developed and developing countries, and possible improvements to such rules have been discussed in depth. In addition, elaborations and/or better definitions of measures relating to export controls have been considered. There exists in all these areas a basis in the form of detailed draft texts on which, in the judgment of the delegations, a mutually acceptable solution could be successfully negotiated.

As a result of these negotiations, and as a contribution to reinforcing the future trading system, the delegations have determined to move towards uniform application of Gatt rules.

CONSULTATIVE FRAMEWORK

As previously indicated consultative provisions have been included as an integral part of the draft agreement on non-tariff measures and the delegations decided to explore the development of a general framework for improved international cooperation and consultation on agricultural trade. To further improve international cooperation in the field of trade, the delegations agree that the Gatt should be strengthened as a forum for continuing high-level international consultations with regard to trade policy and with regard to specific issues. This improved consultative framework would be designed to ensure the early discussion of trade issues with a view to promoting their solution.

STEEL COMMITTEE

The delegations note that setting up of a steel committee under the auspices of the OECD should help to develop common perspectives regarding emerging problems or concerns in the steel sector and establish, where appropriate, multilateral objectives or guidelines for government policies. The committee would provide a continuing forum for bringing into consultation interested parties. The setting up of it would contribute to a new international climate of understanding, under which current problems could be more easily solved.

The committee's objectives would be:

Ensure that trade in steel will remain as unrestricted and free of distortion as possible. Restrictive actions should be avoided and where necessary strictly limited in scope and time and in conformity with Gatt rules.

Encourage reduction of barriers to trade.

Enable governments to act promptly to cope with crisis situations in close consultation with interested trading partners and in conformity with agreed principles.

Facilitate needed structural adaptations that will diminish pressures for trade actions and promote rational allocation of productive resources with the aim of achieving fully competitive enterprises.

Ensure that measures affecting the steel industry are consistent to the extent possible, with general economic policies and take into account implications for related industries, including steel consuming industries.

Avoid encouraging economically unjustified investments while recognizing legitimate development needs.

Facilitate multilateral cooperation consistent with the need to maintain competition, to anticipate and to the extent possible prevent problems.●

FREIGHT CAR IMPORT TARIFF RELIEF PROPOSAL

The SPEAKER. Under a previous order of the House, the gentleman from Penn-

sylvania (Mr. ROONEY) is recognized for 5 minutes.

● Mr. ROONEY. Mr. Speaker, today I am introducing a measure which would suspend the import tariff on imported hopper cars, boxcars, and gondola cars, for a period of 2 years. These car types represent those most needed in the present severe freight car shortage. I recognize that this proposal is not the final answer to the shortage—but certainly it is a step we can take without delay.

Mr. Speaker, as a Representative from an industrialized district in which freight cars are built, I am acutely sensitive to the impact of foreign goods on our market. I have been informed that the 2-year suspension of the freight car tariff will not affect our domestic production. First, rail cars were imported into the United States duty free until last March without apparent harm. Second, our own industrial capacity has been reached, producing a backlog of freight car orders that extends into June of next year. Finally a substantial fraction of components for cars which we expect to be imported under this proposal would be U.S.-produced materials.●

STATEMENT RELATIVE TO CONSENT ACTION ON HOUSE JOINT RESOLUTION 738, AMERICAN INDIAN RELIGIOUS FREEDOM

The SPEAKER. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

● Mr. UDALL. Mr. Speaker, earlier today, my bill, House Joint Resolution 738, was called on the Consent Calendar. This bill seeks to protect the constitutional right of native Americans to practice their traditional religions free of unwarranted governmental interference.

The gentleman from Washington (Mr. FOLEY) reserved the right to object in order to obtain an explanation of the bill. I was unfortunately delayed in getting to the Chamber and the gentleman requested that the bill be passed over without prejudice.

I sincerely regret that we could not have passed, by unanimous consent, this legislation on a day when hundreds of native Americans have gathered here in the Nation's Capital to petition for a redress of their grievances.

It is my intention to work with the gentleman from Washington and with the leadership to see if we can still pass this symbolic bill during the week of the "Longest Walk."

Mr. Speaker, this bill is simple and straightforward and I regret the misunderstanding which has delayed its passage.

It requires the President to direct the various Federal departments and agencies to evaluate their laws and regulations to see where they may adversely impact on the first amendment right of Indian people to practice their traditional religion. Where administrative changes can be made, consistent with the enabling legislation, to eliminate unwarranted restrictions on Indian religion, the bill intends that appropriate changes be made.

Where the underlying law is determined to be the reason for such restrictions and where these restrictions are determined to be unwarranted and unnecessary, the bill contemplates that the President, in his report to the Congress, would request appropriate legislative changes.

Mr. Speaker, this country is primarily a Christian country with a large Jewish population and substantial numbers of people practicing various other European and Asian religions. Were we to consider legislation which adversely impacted upon these religions and infringed upon the first amendment right to the free exercise of religion, we would, from our own knowledge and background be aware of that impact and would modify the legislation to eliminate the offensive language.

But the traditional religions of the native American people are not our religions and we are unaware of practices, rites, and ceremonials of these religions. We have, in the past, enacted legislation where we have unknowingly brought about the infringement of the religious rights of the Indians.

Administrative regulations implementing certain laws have, again unknowingly, denied certain religious practices of the Indian people.

It is stating the obvious to say that this country was the Indians long before it was ours. For many tribes, the land is filled with physical sites of religious and sacred significance to them. Can we not understand that? Our religions have their Jerusalems, Mount Calvarys, Vaticans, and Meccas. We hold sacred Bethlehem, Nazareth, the Mount of Olives, and the Wailing Wall. Bloody wars have been fought because of these religious sites.

Yet, the Congress has in some cases passed legislation setting aside public lands as wildernesses, parks, or national forests which have contained sacred sites for Indian tribes. This has been often unwitting, but no less callous.

Most Indian religions use various birds, animals, or plants in their ceremonials or rites. These include eagle and other bird parts or feathers, animal pelts, fish, and various grasses and other plants. But, again, we have often passed laws, such as the endangered species laws, which have banned the use of these substances or have otherwise made them unavailable. Indian people have been arrested and prosecuted for possession of these articles where they were clearly used for religious purposes.

Mr. Speaker, it is not the intent of my bill to wipe out laws passed for the benefit of the general public or to confer special religious rights on Indians. It is not the intent or the effect of my bill to permit Indians to cause the extinction of a species or destroy a wilderness area in the name of religion.

It is the intent of this bill to insure that the basic right of the Indian people to exercise their traditional religious practices is not infringed without a clear decision on the part of the Congress or the administrators that such religious practices must yield to some higher consideration.

Mr. Speaker, I would hope that the gentleman from Washington and the leadership would permit us to bring this bill up again by unanimous consent this week. Some very sincere Indian people have come a long way to be here this week to express the deeply felt concerns that the rest of America is insensitive to their traditions and their rights. I had hoped that we could give them a clear sign that that is not so.●

THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978

The SPEAKER. Under a previous order of the House, the gentleman from Illinois (Mr. MURPHY) is recognized for 5 minutes.

● Mr. MURPHY of Illinois. Mr. Speaker, in the next 2 to 3 weeks this House will be considering an extremely important and extremely complex piece of legislation—The Foreign Intelligence Surveillance Act of 1978.

This bill, H.R. 7308, would authorize electronic surveillance in the United States to collect foreign intelligence information and would require that such surveillance be preceded by a judicial warrant when U.S. citizens and permanent resident aliens are likely to be involved.

Thus, the bill directly raised significant questions relating to matters of national security and civil liberties. Resolution of these questions has only come about through a lengthy process of detailed inquiry into the subtle and sensitive issues involved.

The inquiry was initiated by the Ford administration and continued by the present administration, both of which support the concepts contained in H.R. 7308. The inquiry has produced five reports from congressional committees, all of which reached the same conclusions as are represented in H.R. 7308, as amended by the permanent Select Committee on Intelligence.

The inquiry has resulted in a delicately balance piece of legislation, which in the words of Attorney General Bell, "protects both the national security and civil liberties."

This legislation passed the Senate in May, by a vote of 95 to 1. I believe it deserves the nonpartisan attention and support of all my colleagues in the House and I trust that it will not become a partisan political issue. In this regard, the words of one of our colleagues in the other body are particularly pertinent. During floor debate preceding the 95-to-1 vote in the Senate, a cofloor manager of the bill, Senator JAKE GARN, stated:

> Some have wondered what a conservative Senator such as myself was doing co-sponsoring what they thought was a liberal bill. The answer is quite simple. This is not a liberal bill. It is neither a Democratic nor a Republican bill. The tasks of balancing cherished constitutional liberties with increasingly threatened national security needs is too important to be left to partisanship.

Mr. Speaker, at this time, I insert in the RECORD editorials that have appeared in the New York Times, the Washington Post, and the Chicago Tribune. They further evidence the broad support the Foreign Intelligence Surveillance Act has commanded.

The editorials follow:

[From the Washington Post]

NATIONAL SECURITY SURVEILLANCE

No one ever thought it would be easy to draft a good foreign intelligence wiretapping and eavesdropping bill. The conflict seemed almost beyond resolution. On the one side stood the need of the government to obtain—secretly—the information about the activities inside this country of foreign governments and their agents. On the other was the necessity to protect against unnecessary intrusions on the privacy of Americans. But after more than three years of study and negotiations, committees in both Houses of Congress are now close to producing legislation that strikes a fair and workable balance between those interests.

It became clear some time ago that Congress would have to act in this field. Wiretaps, mail covers and burglaries had been undertaken against American officials, private citizens and organizations in the name of national security. Some of those may have had—by some stretch of the imagination—something to do with legitimate foreign intelligence or counterintelligence. But most of them were designed to obtain, for someone in the government, information of a purely political or personal nature. Almost all of those activities violated the spirit—and, in our view, the letter as well—of the Fourth Amendment's bar against unreasonable searches.

But the executive branch insisted there was a constitutional difference between searches for intelligence data and those for evidence of crime. And the White House, under Richard Nixon and Gerald Ford as well as earlier occupants, argued that every President has an inherent right to order whatever kind of surveillance he thought necessary to protect the national security. Those were the justifications for wiretaps and electronic bugs aimed at officials who might have leaked news stories, reporters who might have received those leaks, civil rights leaders who were planning demonstrations and politicians whose political activities were of interest.

Under the legislation that has been approved by the Senate Intelligence Committee and by a subcommittee of its counterpart in the House, those activities would be illegal unless authorized by a federal judge or—in the case of an extreme emergency—approved by a judge within 24 hours after surveillance started. Although the Carter administration is still arguing in a current espionage case that presidents have an inherent power to act on their own, it has withdrawn the Nixon-Ford insistence that Congress specifically recognize that power.

That withdrawal was the first step toward a good foreign intelligence bill. The second was the acceptance by the major intelligence agencies of the principle that in most cases judges should use a regular Fourth Amendment standard in deciding whether to grant requests for wiretapping and eavesdropping warrants. That means that if the government wants to tap the phone of an American citizen in a national security case, it will have to convince the judge a crime has been or is about to be committed—the same showing it would have to make in any other criminal case. There are many exceptions in both bills. Surveillance of employees of foreign governments is one example. But almost all of them seem to be aimed at situations in which only legitimate foreign intelligence information is being sought. In those cases, the judges can issue the warrants on far less information than would be required under regular Fourth Amendment standards.

There are still big differences between the bill that is ready for the Senate floor and the one that was passed by the House subcommittee. On most points of contention, the House version seems preferable. Among other things, it brings more cases under the tighter, criminal standard, and it requires greater efforts by the government to minimize the interception of innocent conversations. But both bills are a large stride toward getting the kind of legislation on the books that is essential to ensure that the intelligence agencies do not get out of hand again. They bode well for the other legislation that is still needed—new charters for the intelligence agencies and protection against unnecessary surveillance for American citizens abroad.

[From the New York Times, Mar. 22, 1978]

OVERSEEING, NOT JUST OVERHEARING

Washington has long been tormented by a dilemma over electronic surveillance. Does using wiretaps and bugs turn the Federal Government into Big Brother? Does failing to use them against criminals and spies make it a weak sister? The most frequently used taps and bugs, in criminal investigations, were brought under judicial supervision in 1968. But in cases assertedly involving national security, surveillance has continued to raise disquieting questions. The tapping of officials, journalists and others in the name of national security accounted for no small part of the specter called "Watergate." Now, because of commendable cooperation between the Justice Department and Congress, there is reason to hope that the dilemma may be finally and fully resolved.

The long debate over national security wiretapping and eavesdropping can be said to have turned on the terms "inherent power" and "criminal standard." Although electronic surveillance was never authorized by law, Presidents have, since an executive order issued on the eve of World War II, claimed an inherent power to tap and bug in national security cases. Expelling spies did not necessarily involve any criminal prosecution, so maintaining constitutional protections for defendants was not a concern. Still, the definition of "national security" was left entirely to the executive branch. The dangers of such unsupervised discretion are evident from disclosures not only of Watergate abuses but also of the protracted surveillance of Martin Luther King and others under the most tenuous definition of "national security."

"Criminal standard" is shorthand for the efforts, pressed by the Senate Intelligence Committee and Senator Edward Kennedy, to prevent such abuses in the future. The term refers to the 1968 law regulating taps and bugs in criminal cases. It authorizes them only if the Government goes before a Federal judge, in secret if need be, demonstrates that there is probable cause to suspect a crime and secures an authorizing warrant.

The executive branch has now accepted the principle that warrants should also be required in national security cases. But it has argued that so strict a requirement for a warrant could be disabling. What if, say, the F.B.I. knew someone was communicating with a suspected agent of a foreign government? Without knowing the nature of the conversation, how could the Government argue the probability of a crime? The conversation might be innocuous—but what if it were not?

In painstaking negotiations the Carter Administration, members of Congress and interested civil libertarians have shaped a proposed Foreign Intelligence Surveillance Act which balances the concerns of each side. The Justice Department has agreed that a statute should supersede its claims to inherent power. And the proposed law would require the Government to meet a criminal standard to secure warrants authorizing surveillance. But the nature of the standard would vary depending on the conduct under investigation. If it involved espionage or terrorism, the Government would have to show only that it "may" constitute a crime. If it involved covert political activities, the Government would have to show that a crime has been or is about to be committed.

That such a reasonable compromise could be achieved on so delicate a problem offers longer-term encouragement. The surveillance bill involves some of the same issues—and adversaries as—the larger effort, just begun, to fashion laws regulating all the activities of the nation's intelligence agencies. The surveillance bill has already won lopsided approval in the Senate's Judiciary and Intelligence Committees and awaits action on the floor; a similar version is making progress in the House. A vote for this statute would be a vote for the rule of law.

[From the Chicago Tribune, June 26, 1978]

RESTRAINING THE COUNTERSPIES

The dual purpose of the Foreign Intelligence Surveillance Bill now in the hands of the House Judiciary Committee is to protect American citizens and foreigners in the United States from uncontrolled electronic surveillance by intelligence agencies, and to do this in such a way as to interfere as little as possible with operations that are essential to the national security. These operations must be conducted in a shadowy world of spies and counterspies, where, by tradition, anything goes.

This is obviously a tough order. The present bill is being touted largely by liberals such as Sen. Edward Kennedy and Sen. Birch Bayh, men normally more interested in personal privacy than in national security. But it passed the Senate in April by the impressive majority of 95 to 1, which suggests that even conservatives generally agree that it achieves its dual purpose about as well as can be done.

It is being challenged in the Judiciary Committee by conseratives led by Rep. Robert McClory of Illinois, the ranking Republican. Mr. McClory argues that national security falls under the discretionary powers of the President and through him, the Justice Department; and that it is both wrong and risky to handicap him with legal technicalities.

The argument is a plausible one and has, in fact, been generally accepted until recently. It might still be unchallenged if the White House and Justice Department had earned a reputation for using their assumed powers with proper restraint. Unfortunately, enough evidence of past abuse has come to light since Watergate to justify nudging the pendulum back toward the protection of individual privacy.

The present bill is backed by the Carter administration and is similar to one advanced by the previous Ford administration. It gives intelligence agencies considerably more latitude in wiretapping and other forms of surveillance than is provided under domestic criminal law.

It provides that judicial warrants must be obtained in national security cases except in emergencies, when surveillance may be conducted without a court order for up to 24 hours [but for evidence thus obtained to be admissible in court, the surveillance must still be judicially approved retroactively].

It provides that these special surveillance warrants may be issued only by one of a panel of federal judges to be named by the Chief Justice of the Supreme Court. This limitation protects the individual from frivolous warrants and also protects the government from violation of secrecy.

As the bill now stands, it gives the government more latitude than it did in its original form. In our opinion, as well as the Justice Department's, the intelligence agencies should be able to live with it. And given the creeping tendency of federal officials and even judges to trespass on individual rights, the restraints in the bill are justified. It deserves to be approved by the Judiciary Committee and by the House.●

PERSONAL STATEMENT

The SPEAKER. Under a previous order of the House, the gentleman from

New York (Mr. WEISS) is recognized for 5 minutes.

Mr. WEISS. Mr. Speaker, the following states how I would have voted on three votes which I missed:

Rollcall No. 543, a vote on a motion that the conference committee meeting on H.R. 10929, the Defense Department authorization, be closed to the public when classified national security information is under consideration. The motion passed by a vote of 312 to 5 with 1 "present." I would have voted against this motion.

Rollcall No. 544, a vote on an amendment to H.R. 12163, the Department of Energy Civilian Research and Development Authorization, which sought to authorize only the completion of system design and component testing on the Clinch River breeder reactor. This amendment was rejected by a vote of 142 to 187. I was paired for this amendment and would have voted for it.

Rollcall No. 545, a vote on an amendment to H.R. 12163, which authorizes $75 million for a coal liquefaction demonstration plant. This amendment carried by a vote of 165 to 132. I would have voted against this amendment.

AMENDMENTS TO H.R. 7308 OFFERED BY MR. McCLORY

(Mr. McCLORY asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. McCLORY. Mr. Speaker, in accordance with House Resolution 1266, the rule granted on July 12 by the Rules Committee for consideration of H.R. 7308, the Foreign Intelligence Electronic Surveillance Act of 1978, I ask that the following en bloc amendments as referred to in such resolution be printed in the RECORD. They are as follows:

AMENDMENTS TO H.R. 7308, AS REPORTED, OFFERED BY MR. McCLORY

Page 39, strike out line 1 and all that follows down through line 12 on page 41 and insert in lieu thereof the following:

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 102. (a) An application for a court order under this title is authorized if the President has, in writing, authorized the Attorney General to approve applications to the Special Court having jurisdiction under section 103. A judge to whom such an application is made may, notwithstanding any other law, grant an order in accordance with section 105 approving electronic surveillance of a United States person who is a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information.

(b)(1) If the target of electronic surveillance for the purpose of obtaining foreign intelligence information is not a United States person, such electronic surveillance may be authorized by the issuance of a surveillance certificate in accordance with subsection (c).

(2) Electronic surveillance authorized under this subsection may be authorized for the period necessary to achieve its purpose, except that—

(A) if the target of the surveillance is not a foreign power, the period of the surveillance may not exceed ninety days; and

(B) if the target of the surveillance is a foreign power, the period of the surveillance may not exceed one year.

(3) Electronic surveillance authorized under this subsection may be reauthorized in the same manner as an original authorization, but all statements required to be made under subsection (c) for the initial issuance of a surveillance certificate shall be based on new findings.

(4)(A) Upon the issuance of a surveillance certificate under this subsection, the Attorney General may direct a specified communication common carrier—

(i) to furnish any information, facility, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect the secrecy of such surveillance and will produce a minimum of interference with the services that such common carrier provides its customers; and

(ii) to maintain any records concerning such surveillance or the assistance furnished by such common carrier that such common carrier wishes to retain under security procedures approved by the Attorney General and the Director of Central Intelligence.

(B) Any such direction by the Attorney General shall be in writing.

(C) The Government shall compensate any communication common carrier at the prevailing rate for assistance furnished by such common carrier pursuant to a direction of the Attorney General under this paragraph.

(c) A surveillance certificate issued under subsection (b)(1) shall be issued in writing and under oath by the Attorney General and an executive branch official or officials designated by the President from among those officials employed in the area of national security or national defense who were appointed by the President by and with the advice and consent of the Senate, and shall include—

(1) a statement—

(A) identifying or describing the target of the electronic surveillance, including a certification of whether or not the target is a foreign power or an agent of a foreign power; and

(B) certifying that each of the facilities or places at which the surveillance is directed is being used or may be used by a foreign power or an agent of a foreign power;

(2) a statement of the basis for the certification under paragraph (1)—

(A) that the target of the surveillance is a foreign power or an agent of a foreign power; and

(B) that each of the facilities or places at which the surveillance is directed is being or may be used by a foreign power or an agent of a foreign power;

(3) a statement of the proposed minimization procedures;

(4) a statement that the information sought is foreign intelligence information;

(5) a statement that the purpose of the surveillance is to obtain foreign intelligence information;

(6) if the target of the surveillance is not a foreign power, a statement of the basis for the certification under paragraph (4) that the information sought is foreign intelligence information;

(7) a statement of the period of time for which the surveillance is required to be maintained;

(8) a statement of the means by which the surveillance will be effected;

(9) if the nature of the intelligence gathering is such that the approval of electronic surveillance under subsection (b) should not automatically terminate when the described type of information has first been obtained, a statement of the facts indicating that additional information of the same type will be obtained thereafter;

(10) a statement indicating whether or not an emergency authorization was made under section 105(e); and

(11) if more than one electronic, mechanical, or other surveillance device is to be involved with respect to such surveillance, a statement specifying the types of devices involved, their coverage, and the minimization procedures that will apply to information acquired by each type of device.

Page 47, strike out lines 4 through 14 and redesignate the succeeding subsections accordingly.

Page 48, line 24, strike out ", if the target is a United States person,".

Page 52, strike out lines 11 and 12 and insert in lieu thereof the following:

(2) the factual basis exists for the authorization of such electronic surveillance;

Page 52, beginning on line 14, strike out "if a judge" and all that follows through the period on line 20 and insert in lieu thereof the following: "if the otherwise applicable procedures of this title are followed as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. In addition, if the target of such electronic surveillance is a United States person, the Attorney General or his designee shall at the time of such authorization inform a judge designated pursuant to section 103 that the decision has been made to employ emergency electronic surveillance.".

Page 52, beginning on line 23, strike out for the issuance of a judicial order".

Page 52, line 24, insert "or surveillance certificate" after "a judicial order".

Page 53, line 5, strike out "such" and insert in lieu thereof "an".

Page 53, line 5, insert "or a surveillance certificate is not issued" after "approval is denied".

Page 53 line 6, insert "or surveillance certificate" after "order".

Page 59, line 3, strike out "application, order," and insert in lieu thereof "application and order or the surveillance certificate".

Page 59, line 18, strike out "applications or orders" and insert in lieu thereof "applications, orders, or surveillance certificates".

Page 60, line 8, strike out "application, order," and insert in lieu thereof "application and order or surveillance certificate".

Page 60, line 14, insert "surveillance certificate," after "order".

Page 68, line 12 insert "or surveillance certificate," after "order".●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. GIBBONS (at the request of Mr. WRIGHT), for July 17 through 26, on account of medical reasons.

To Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. MARLENEE) and to revise and extend their remarks and include extraneous matter:)

Mr. KEMP, for 15 minutes, today.

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. EVANS of Colorado) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GONZALEZ, for 5 minutes, today.

Mr. PEPPER, for 5 minutes, today.

Mr. BINGHAM, for 5 minutes, today.

Mr. LONG of Louisiana, for 5 minutes, today.
Mr. FASCELL, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. DENT, for 5 minutes, today.
Mr. ROONEY, for 5 minutes, today.
Mr. UDALL, for 5 minutes, today.
Mr. MURPHY of Illinois, for 5 minutes, today.
Mr. WEISS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. MARLENEE) and to include extraneous matter:)

Mr. DERWINSKI in two instances.
Mr. ANDERSON of Illinois in three instances.
Mr. STOCKMAN.
Mr. MOORE.
Mr. DON H. CLAUSEN.
Mr. COLLINS of Texas in three instances.
Mr. GOODLING.
Mr. SYMMS.
Mr. BOB WILSON.
Mr. BADHAM.
Mr. SAWYER.
Mr. HYDE.

(The following Members (at the request of Mr. EVANS of Colorado) and to include extraneous material:)

Ms. MIKULSKI.
Mr. ANNUNZIO in six instances.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. BROWN of California in 10 instances.
Mr. MILFORD.
Mr. STARK in two instances.
Mr. MURPHY of Illinois.
Mr. BINGHAM in 10 instances.
Mr. MCDONALD in five instances.
Mr. LONG of Maryland.
Mr. ROGERS in five instances.
Mr. SLACK.
Mr. LAFALCE in three instances.
Mr. MCKAY.
Mrs. KEYS.
Mr. DENT.
Mr. HEFTEL.
Mr. JONES of Oklahoma.
Mr. CAVANAUGH.
Mr. FLORIO.
Mr. SANTINI.
Mr. GEPHARDT.
Mr. UDALL.
Mr. FOUNTAIN.
Mr. LEGGETT.
Mr. WOLFF in two instances.
Mr. WEAVER.
Mr. WALGREN.
Mr. CONYERS.
Mr. GARCIA.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2403. An act to consent to certain amendments to the New Hampshire-Vermont Interstate School Compact, approved by Public Law 91–21; to the Committee on the Judiciary; and

S. 2801. An act to designate the building known as the Ozark National Forest Headquarters Building in Russellville, Ark., as the "Henry R. Koen Forest Service Building"; to the Committee on Agriculture.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1582. An act relating to the settlement between the United States and the Ak-Chin Indian community of certain water right claims of such community against the United States.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

Mr. THOMPSON, from the Committee on House Administration, reported that that committee had examined and found truly enrolled bills and a Joint Resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3489. An act to amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, and for other purposes;

H.R. 4270. An act to designate the Federal building and United States courthouse in Hato Rey, Puerto Rico, the "Federico Degetau Federal Building";

H.R. 12637. An act to amend the North Pacific Fisheries Act of 1954; and

H.J. Res. 613. Joint resolution to authorize and request the President to issue a proclamation designating the first Sunday of September after Labor Day in 1978 as "National Grandparents Day."

ADJOURNMENT

Mr. EVANS of Colorado. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 31 minutes p.m.) the House adjourned until tomorrow, Tuesday, July 18, 1978, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4584. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–217, "To amend the penalty provisions for violations during excavation in public space," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4585. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–218, "To render payment to Robert J. Pierce for injuries which he received during the March 9, 1977, terrorist takeover of the District Building," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4586. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of Council Act No. 2–222, "To establish a criminal jutsice State planning agency for administering Federal grant funds pursuant to the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes," pursuant to section 602(c) of Public Law 93–198; to the Committee on the District of Columbia.

4587. A letter from the Deputy Under Secretary of the Army, transmitting a draft of proposed legislation to provide a technical perfecting amendment to the act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System and for other purposes, of October 21, 1976; to the Committee on Interior and Insular Affairs.

4588. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b; to the Committee on International Relations.

4589. A letter from the Secretary of Health, Education, and Welfare, transmitting notice of delays in the preparation of reports on shared-schedule residency training positions and the administration of the National Health Service Corps scholarship program required by sections 709 and 751(i) of the Public Health Service Act; to the Committee on Interstate and Foreign Commerce.

4590. A letter from the Secretary of Transportation, transmitting a report on the evaluation of diagnostic analysis and test equipment for small automotive repair establishments, pursuant to section 311(b) of the Motor Vehicle Information and Cost Savings Act, as amended (90 Stat. 982); to the Committee on Interstate and Foreign Commerce.

4591. A letter from the Administrator of General Services, transmitting withdrawing a prospectus proposing a succeeding lease for space currently occupied at 60 Hudson Street, New York, N.Y., previously submitted pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4592. A letter from the Comptroller General of the United States, transmitting a report on the Army's system of accounting for inventory gains and losses from commissary operations (FGMSD–78–43, July 17, 1978); jointly, to the Committees on Government Operations, and Armed Services.

4593. A letter from the Comptroller General of the United States, transmitting a report on the Interior Department's minerals availability system (EMD–78–16, July 17, 1978); jointly, to the Committees on Government Operations, and Interior and Insular Affairs.

4594. A letter from the Comptroller General of the United States, transmitting a report on the Interior Department's computerized resources information bank (EMD–78–17, July 17, 1978); jointly, to the Committees on Government Operations, and Interior and Insular Affairs.

4595. A letter from the Comptroller General of the United States, transmitting a report on improvements needed in the management of Federal materials research (EMD–78–41, July 14, 1978); jointly, to the Committees on Government Operations, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. KASTENMEIER: Committee on the Judiciary. S. 1613. An act to improve access to the Federal courts by enlarging the civil and criminal jurisdiction of U.S. magistrates, and for other purposes; with amendment (Rept. No. 95–1364). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions

were introduced and severally referred as follows:

By Mr. BROYHILL (for himself, Mrs. COLLINS of Illinois, Mr. ROSE, and Mrs. SPELLMAN):

H.R. 13491. A bill to regulate commerce by establishing national goals for the effective, fair, inexpensive, and expeditious resolution of controversies involving consumers, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GLICKMAN (for himself, Mr. PREYER, Mr. ROSE, Mr. GUDGER, Mr. STOCKMAN, Mr. BROWN of California, and Mr. FRASER):

H.R. 13492. A bill to provide for the establishment of a National Agricultural Cost of Production Board; to the Committee on Agriculture.

By Mr. CRANE (for himself, Mr. BADHAM, Mr. COCHRAN of Mississippi, Mr. HALL, and Mr. MARRIOTT):

H.R. 13493. A bill to amend the Metric Conversion Act of 1975 to provide that the functions of the Federal Government with respect to the metric system shall be limited to coordinating the conversion to such system in areas or industries which desire it, and keeping the public informed thereon, without encouraging in any way the adoption or use of such system; to the Committee on Science and Technology.

By Mr. HAMMERSCHMIDT:

H.R. 13494. A bill to amend title 38 of the United States Code in order to provide that persons who died while on active duty are to be considered veterans for the purpose of administering certain medical benefits to survivors; to the Committee on Veterans' Affairs.

By Mr. HANSEN:

H.R. 13495. A bill to provide for further diversification of the Federal Reserve Boards of Directors, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. LAFALCE (for himself, Mr. ANDERSON of California, Mr. BEARD of Tennessee, Mr. BURGENER, Mr. JOHN L. BURTON, Mrs. COLLINS of Illinois, Mr. EILBERG, Mr. EVANS of Georgia, Mr. IRELAND, Mr. LAGOMARSINO, Mrs. LLOYD of Tennessee, Mr. LUKEN, Mr. MADIGAN, Mrs. MEYNER, Mr. MURPHY of Pennsylvania, Mr. NEAL, Mr. NOWAK, Mr. PATTEN, and Mr. RISENHOOVER):

H.R. 13496. A bill to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments in the amount of personal exemption and in the individual tax rates; to the Committee on Ways and Means.

By Mr. LAFALCE (for himself, Mr. AKAKA, Mr. BRODHEAD, Mr. CLAY, Mr. EILBERG, Ms. HOLTZMAN, Mr. HORTON, Mr. MIKVA, Mr. NOWAK, Mr. PATTISON of New York, Mr. PRICE, Mr. RANGEL, Mr. RODINO, Mr. SEIBERLING, and Mr. WON PAT):

H.R. 13497. A bill to authorize the Secretary of Housing and Urban Development to establish an urban park and recreation recovery program, and for other puposes; jointly, to the Committees on Banking, Finance and Urban Affairs, and Interior and Insular Affairs.

By Mr. LEDERER:

H.R. 13498. A bill to provide mandatory social security coverage for Members of Congress, for the President and Vice President, and for Federal judges; to the Committee on Ways and Means.

By Mr. MICHEL (for himself, Mr. GILMAN, Mr. JOHNSON of Colorado, Mr. KASTENMEIER, and Mr. ROSENTHAL):

H.R. 13499. A bill to promote and coordinate amateur athletic activity in the United States, to recognize certain rights for amateur athletes, to provide for the resolution of disputes involving national governing bodies, and for other purposes; to the Committee on the Judiciary.

By Mr. PREYER (for himself, Mr. BRADEMAS, Mr. ERTEL, Mr. BROOKS, Mr. FOUNTAIN, Mr. HARRINGTON, Miss JORDAN, Mr. MOSS, Mr. RYAN, Mr. WEISS, Mr. HORTON, Mr. ERLENBORN, Mr. MCCLOSKEY, and Mr. QUAYLE):

H.R. 13500. A bill to amend title 44 to insure the preservation of and public access to the official records of the President, and for other purposes; jointly, to the Committees on Government Operations, and House Administration.

By Mr. ROE (for himself, Mr. MITCHELL of New York, Mr. GRASSLEY, and Mr. MURPHY of Illinois):

H.R. 13501. A bill to amend section 218 of the Social Security Act to require that States having agreements entered into thereunder will continue to make social security payments and reports on a calendar-quarter basis; to the Committee on Ways and Means.

By Mr. ROGERS:

H.R. 13502. A bill to amend title XI of the Social Security Act with respect to the status of professional standards review organizations and Statewide Professional Standards Review Councils; jointly, to the Committee on Ways and Means, and Interstate and Foreign Commerce.

By Mr. ROONEY (for himself, Mr. SKUBITZ, and Mr. MADIGAN):

H.R. 13503. A bill to suspend the duty on gondolas, covered hoppers, and box cars until the close of June 30, 1980; to the Committee on Ways and Means.

By Mr. ROUSSELOT:

H.R. 13504. A bill to amend the Internal Revenue Code of 1954 to repeal the provisions requiring withholding of tax on certain gambling winnings; to the Committee on Ways and Means.

By Mr. SNYDER:

H.R. 13505. A bill to promote steel trade negotiations under the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. VANIK (for himself, Mr. DUNCAN of Tennessee, Mr. GEPHARDT, Mr. GIBBONS, Mr. GRADISON, Mr. MARTIN, Mr. STARK, and Mr. STEIGER):

H.R. 13506. A bill to amend the Internal Revenue Code of 1954 to reduce by 2 percentage points the existing excise taxes on transportation of persons and property by air; to the Committee on Ways and Means.

By Mr. DANIELSON:

H.R. 13507. A bill to amend the Internal Revenue Code of 1954 to allow an itemized deduction by individuals for certain salaries or other compensation paid to certain individuals; to the Committee on Ways and Means.

By Mrs. HECKLER (for herself and Mr. SARASIN):

H.R. 13508. A bill to amend the Internal Revenue Code of 1954 to provide certain corporate income tax reductions and to increase the amount of the surtax exemption; to the Committee on Ways and Means.

By Mr. TRAXLER:

H.R. 13509. A bill to amend the Internal Revenue Code of 1954 to provide for cost-of-living adjustments in the amount of the personal exemption and in the individual tax rates; to the Committee on Ways and Means.

By Mr. EDWARDS of California:

H.J. Res. 1064. Joint resolution extending the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

H.J. Res. 1065. Joint resolution to extend the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

By Mr. KINDNESS:

H.J. Res. 1066. Joint resolution proposing an amendment to the Constitution of the United States to provide that equality of rights under the law shall not be denied or abridged by the United States or by any State on account of sex; to the Committee on the Judiciary.

By Mr. RAILSBACK:

H.J. Res. 1067. Joint resolution extending the deadline for the ratification of the equal rights amendment; to the Committee on the Judiciary.

By Mr. DERWINSKI:

H. Con. Res. 667. Concurrent resolution relating to the occupation of Czechoslovakia by Soviet troops; to the Committee on International Relations.

By Mr. KEMP:

H. Res. 1268. Resolution expressing the sense of the House of Representatives with respect to selecting a site other than the Soviet Union for holding the 1980 Summer Olympic Games; to the Committee on International Relations.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

453. Memorial of the Legislature of the Territory of Guam, relative to voting representation in Congress for the citizens of the District of Columbia and Guam; to the Committee on the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

Mr. FOUNTAIN introduced a bill (H.R. 13510) for the relief of Clater P. Killebrew, Jr., which was referred to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

504. The SPEAKER presented a petition of the Baltic Nations Committee of Detroit, Mich., relative to Soviet occupation and annexation of Estonia, Latvia, and Lithuania, which was referred to the Committee on International Relations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1609

By Mr. ABDNOR:

(Amendment to the amendment in the nature of a substitute offered by Mr. UDALL.)

—Strike out section 5(g) of the amendment in the nature of a substitute and insert in lieu thereof the following:

(g) The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use ground water for the purpose of transporting coal, unless—

(1) upon the request of any interested State, the United States Geological Survey has conducted a comprehensive study of the use of such groundwater source over the life of the coal pipeline considering whether such pipeline or the cumulative effect of such coal pipeline and other uses of the same groundwater aquifer will cause adverse impacts upon the quality or quantity of such water in surrounding areas or adjoining States;

(2) any interested State has had an opportunity to make its views known to, and such views have been given full consideration by, the United States Geological Survey regarding any study conducted under paragraph (1);

(3) the findings of any study by the United States Geological Survey under paragraph (1)

have been made available to all interested States; and

(4) any State which the Secretary, considering the findings of any study by the United States Geological Survey under paragraph (1), determines to have a valid legal interest in the groundwater to be used and beneath whose lands any part of the groundwater aquifer constituting any part of the source of groundwater to be used lies has certified to the Secretary such State's approval of the use of such groundwater for the purpose of transporting coal.

(h) The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use surface waters unless the applicant has obtained a permit for the use of such waters from the State having jurisdiction over such waters.

H.R. 1609

By Mr. BLOUIN:

(Amendment to the amendment in the nature of a substitute offered by Mr. UDALL.)

—In section 5(b) of the amendment in the nature of a substitute—

(1) in paragraph (6), strike out "and";

(2) in paragraph (7), strike out the period and insert in lieu thereof "; and"; and

(3) insert at the end thereof the following new paragraph:

(8) would adversely affect important farmlands.

H.R. 1609

By Mr. LUJAN:

—Strike all of subsection (g) and insert the following in lieu thereof:

(g)(1) The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use underground water (whether ground water or other subsurface waters) for the purpose of transporting coal, unless:

(A) The United States Geological Survey has conducted a comprehensive study of the anticipated use of such underground water source over the life of the coal pipeline and the impact of such use on the quality and quantity of the water table in surrounding areas or adjoining states considering the cumulative effect of any other coal pipelines using the same underground aquifer as a source of water; and

(B) The findings of the United States Geological Survey's study have been made available to all interested States.

(2) Any interested State shall have the opportunity to make its views known to, and shall be given full consideration by, the Secretary, regarding the study made under subsection (g)(1)(A) of this section.

(3) The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use surface or underground water for the purpose of transporting coal unless the applicant has obtained any and all permits or authorizations for the use or diversion of any surface or underground water required by the State or States having jurisdiction to issue such permits.

Page 41, line 21, strike "granted" and insert in lieu thereof "seeking".

—Strike all of subsection 5(g) and insert the following in lieu thereof:

(g)(1) The Secretary shall not approve, within the time limit provided in paragraph (A) or such extension as the Secretary may allow, such extension not to exceed a total of six months, an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use underground water (whether ground water or other subsurface waters) for the purpose of transporting coal, unless:

(A) The United States Geological Survey has conducted within 12 months of the filing of an application under Section 6 a comprehensive study of the anticipated use of such underground water source over the life of the coal pipeline and the impact of such use on the quality and quantity of the water table in surrounding areas or adjoining states considering the cumulative effect of any other coal pipelines using the same underground aquifer as a source of water; and

(B) The findings of the United States Geological Survey's study have been made available to all interested States.

(2) Any interested State shall have the opportunity to make its views known to, and shall be given full consideration by the Secretary regarding the study made under subsection (g)(1) of this section.

(3) The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use surface or underground water for the purpose of transporting coal unless the applicant has obtained any and all permits or authorizations for the use or diversion of any surface or underground water required by the State or States having jurisdiction to issue such permits.

Page 41, line 21, strike "granted" and insert in lieu thereof "seeking".

H.R. 1609

By Mr. SEIBERLING:

—On page 39, strike out lines 9 through 21, and insert in lieu thereof the following:

ANTITRUST REVIEW

SEC. 7. (a) Prior to the issuance of any certificate to section 5, the Secretary shall notify the Attorney General and the Federal Trade Commission of his consideration of the application for such certificate. The Secretary shall provide such information as the Attorney General and the Federal Trade Commission shall require to conduct an antitrust review to determine the likely effects upon competition of such certificate. The Attorney General and the Federal Trade Commission shall have 120 days from the date of receipt of such notification to conduct such review and to advise the Secretary with respect thereto, including specific findings and recommendations for the inclusion in such certificate of reasonable terms and conditions deemed necessary to protect and promote competition. An antitrust review authorized by this subsection shall be deemed to be an "antitrust investigation" within the meaning of the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.). No certificate issued under this Act may be sold, exchanged, assigned or otherwise transferred except upon approval by the Secretary following his consultation with the Attorney General and the Federal Trade Commission.

H.R. 1609

By Mr. SANTINI:

(Amendment to the amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD, June 28, 1978.)

—Section 4(a), immediately after the phrase "coal pipeline or pipelines", insert the phrase "across properties of common carriers by railroad".

H.R. 11392

By Mr. JEFFORDS:

(Amendment to the amendment in the nature of a substitute.)

—Page 49, after line 24, insert the following new section:

"SOLAR ENERGY TECHNOLOGIES COMMERCIALIZATION REPORT

"SEC. 705. (a) Not later than December 31, 1979, and at least biennially thereafter, the Secretary of Energy, acting through the Assistant Secretary for Conservation and Solar Applications, shall prepare and transmit to each House of the Congress a report with respect to the commercialization of solar energy technologies which shall—

"(1) cover each type of solar energy;

"(2) identify any legal, economic, and institutional factors inhibiting the commercialization within the United States of each type of solar energy;

"(3) provide recommendations for legislative or other actions necessary to overcome factors identified under paragraph (2) as inhibiting solar energy commercialization;

"(4) provide implementation strategy options for the commercialization of each type of solar energy which—

"(A) are formulated for each market sector and for each geographic region within the United States;

"(B) take into account the various alternatives which could result with respect to those factors identified in paragraph (2); and

"(C) cover the 5-year, 10-year, and 20-year periods which begin after the year in which such report is transmitted; and

"(5) contain recommendations as to which of the options provided under paragraph (4) would be the most appropriate for rapid and extensive commercialization of solar energy.

"(b) Funds authorized to be appropriated under section 102(4)(A) of this Act shall be available in fiscal year 1979 to prepare the report required under this section.

"(c) For purposes of this section, the term 'solar energy' includes direct and indirect solar radiation and intermediate solar energy forms such as wind, sea thermal gradients, products of photosynthetic processes, and organic wastes."

H.R. 11392

By Mr. LUJAN:

(Amendment to the amendment in the nature of a substitute.)

—Amend section 403 beginning on page 32, line 3 by striking all of subsection (i) down through and including line 12.

H.R. 11392

By Mr. RUSSO:

(Amendment to the amendment in the nature of a substitute.)

—Amend section 203 of title II of the amendment in the nature of a substitute to H.R. 11392 (printed in the CONGRESSIONAL RECORD beginning on page 18823) by adding at the end thereof the following new subsection:

(g)(1) Title II of such Act (42 U.S.C. 7131 the following) is amended by adding at the end thereof the following new section:

"SMALL BUSINESS AFFAIRS OFFICER

"SEC. 211. (a) The Secretary shall establish a position within the Department the duties and responsibilities of which shall be—

"(1) to advise and make recommendations to the Secretary with respect to the Department's existing and proposed policies, rules, regulations, procedures, and legislation relating to, or affecting, small businesses;

"(2) to provide informational assistance to small businesses, including information and advice on the responsibilities, rights, and opportunities of small businesses under such policies, regulations, procedures, and legislation; and

"(3) on the request of the Commission, to advise the Commission on matters relating to, or affecting, small businesses.

"(b) The Secretary shall appoint to the position established under subsection (a) an individual who, by demonstrated ability, background, training, or experience, is specially qualified to carry out the functions of such position.".

(2) The table of contents for such Act is amended by adding after the item relating to section 21 the following new item:

"Sec. 211. Small business affairs officer.".

H.R. 11983

By Mr. STOCKMAN:

(To the amendment of Mr. ANDERSON of Illinois.)

—In section 3, strike out section 3(a), and redesignate sections 3(b) and 3(c), as sections 3(a) and 3(b), respectively.

H.R. 11986

By Mr. VANIK:

—Page 28, line 12, strike out the quotation marks.

Page 28, after line 12, insert the following:

"SEC. 6455. AUDIT BY THE GENERAL ACCOUNTING OFFICE.

"The General Accounting Office shall audit the credits and refunds, and the recapture of such credits and refunds, under this subchapter in a manner similar to the manner in which the General Accounting Office audits similar Federal expenditures. The Comptroller General shall report periodically to the Congress the results of such audits."

Page 10, after line 5, insert after the item relating to section 6454 the following:

"Sec. 6455. Audit by the General Accounting Office.

—Page 28, line 12, strike out the quotation marks.

Page 28, after line 12, insert the following:

"SEC. 6455. AUDIT BY THE GENERAL ACCOUNTING OFFICE.

"(a) IN GENERAL.—The General Accounting Offices shall audit the credits and refunds, and the recapture of such credits and refunds, under this subchapter in a manner similar to the manner in which the General Accounting Office audits similar Federal expenditures. The Comptroller General shall report periodically to the Congress the results of such audits.

"(b) Authority to Examine Records and Witnesses.—For purposes of carrying out audits under subsection (a), the Comptroller General, or his delegate, is authorized to examine materials, to summon persons, and to take testimony, in the same manner and to the same extent as the Secretary is authorized to perform such functions under section 7602."

Page 10, after line 5, insert after the item relating to section 6454 the following:

"Sec. 6455. Audit by the General Accounting Office.

EXTENSIONS OF REMARKS

THE NAVY'S PROBLEMS IN PERSPECTIVE

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, July 17, 1978

● Mr. HARRY F. BYRD, JR. Mr. President, our Navy has been the subject of an unusual amount of attention over the past few years. Shipbuilding problems, personnel problems, and even some serious questioning of the Navy's roles and missions have led to long and sometimes heated debate within the halls of Congress and in the public.

Adm. Thomas H. Moorer, former Chief of Naval Operations, and former chairman of the Joint Chiefs of Staff, has written a short letter in the Wings of Gold magazine which may help to put some of the Navy's problems in perspective.

I ask that the text of Admiral Moorer's letter be printed in today's Extension of Remarks.

The letter follows:

THE NAVY HAS A PROBLEM

In recent weeks we have been reading doom and gloom newspaper and periodical Navy. "U.S. Navy Losing Its Greatest Battle" (San Diego Union), "The Navy Has a Problem" (Christian Science Monitor), "Battle Over Consolidation of Pilot Training Begins" (Army Times), "Decision Time for Naval Aviation" (Seapower), "Getting the Debate Over Naval Aviation in Context" (Armed Forces Journal), "Pilot Drain to Airlines Worries Services" (Aviation Week).

There is no doubt that the Navy's problems—and particularly naval air's—are severe. The American people are just beginning to recognize that the Administration's concept of the Navy's mission is only sealane control and convoy protection. Projection of force, presence, mobile based seapower are considered missions which are passe. And so, the Navy's budget is axed in favor of both Army and Air Force.

To the young pilot, NFO and air crewman in naval air, who understandably lacks historical perspective, the position of naval air does seem to be one of deterioration and slow decay. Accordingly, a great many pilots are submitting resignations. But to those of us who have watched the ups and downs of naval air for more than 40 years, the present doldrums are just one more cycle in a recurrent pattern.

To the naval aviators of World War I, the early 1920s were such a low. The need for carriers, pioneered and used by the British in the first Great War, made it obvious that the U.S. Navy should also develop carriers. The role of the airplane was expanding greatly—but the Navy was slow to perceive both of these trends.

In my early days in naval air, aviation was regarded merely as "eyes of the fleet." The battleship was almighty. I can remember on the cruiser I served on as a pilot of a scout plane, the exec of the ship frowned on engine turn-ups around the stern catapult because the plane's engines leaked oil on the spotless teak decks! Because of this our flying was curtailed.

After World War II, there was another low cycle. Secretary of Defense Louis Johnson proposed a plan in the late 1940s to reduce the Navy's carrier force to only seven ships. But in less than one year the Korean War was upon us, and every usable carrier we had was rushed back into service.

There was also a period after WWII when it was seriously doubted that jet aircraft could ever be flown from carriers. And certainly, many said, a carrier plane could never carry a nuclear weapon or be part of a long range strike force!

The next low cycle was in the mid-sixties. The carrier and the mobile air base were again in dispute. Secretary of Defense McNamara opted for conventional power for the JFK, and his young whiz kids (some of who have now become "whiz men" in the present administration) sharpened their pencils to reduce naval air once again. Pilots began to leave the Navy to take airline jobs. In Pensacola the pilot training rate fell to 1000 pilots per year.

And then came the Vietnam War; the pilot training rate doubled. The carriers were pressed into greater-than-ever service, with helicopters taking a greater role in naval air than ever before. Month after month, three, four even five and sometimes six carriers laid off Vietnam in support of a Washington-run war directed by armchair strategists.

Meanwhile, over $2 billion were spent in Vietnam to build airfields and other facilities. These several fields were stacked with helicopters, aircraft, spare parts and munitions, only to see them seized by our enemies after our withdrawal.

But we did not leave a single aircraft carrier in Vietnam. Today the present administration single-mindedly focuses its attention on Europe and a NATO war, forgetting that a NATO war of necessity must involve Russia as a major Pacific power, with 120 submarines and a large Soviet fleet in that ocean where two of our states are located. Any war in Europe is automatically a Pacific War, and the need for mobile based air-seapower will, once again, be as crucial as often before.

The world of 1978 to 2000 will be a world increasing in population, in growing, expanding third world nations, in increased nationalism in the Southern Hemisphere, and in greater dependence on trade. In our own case, the United States' need for overseas oil, for raw materials, for strategic and critical ores, will grow—not diminish. And so will our need to trade, to sell the products of our farms and factories overseas, and to maintain unity among our friends and allies.

All this adds up to greater dependence on the world's oceans as sources of power, food, minerals, oil, fish, and of course, as the highways of world trade. This means an increased need for seapower, and that must include a strong naval air organization.

This issue of "Wings of Gold" tries to look into the future of naval air and to set in context in terms of history as well as in future possibilities, the case that naval air, as in many times past, will pass through this current low cycle and prove to be, once again, one our country's great pluses in terms of national defense.

Adm. THOMAS H. MOORER,
USN (Ret.).●

HARRY BROOKS, JR., HONORED BY NAACP

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. HEFTEL. Mr. Speaker, the National Association for the Advancement of Colored People, an organization whose contributions to the minorities of America are immeasurable, each year honors men and women who have made their own lives shining examples for our Nation's youth.

Among the honors presented by the NAACP at its recent national convention was its annual Armed Service and Veterans' Affairs Meritorious Service Award. Mr. Speaker, I will let you judge the quality of the award by observing the quality of its recipients since 1975, the first year of its presentation. The honorees have included Brig. Gen. Robert Arter, Col. Benjamin Waller, Gen. (ret.) Michael S. Davison, and the late Gen. Daniel "Chappy" James, Jr.

To that illustrious company, the NAACP has now added a man who makes

Statements or insertions which are not spoken by the Member on the floor will be identified by the use of a "bullet" symbol, i.e., ●

it a habit to set examples, not only for our Nation's youth, but for all who are fortunate to know him—Maj. Gen. (ret.) Harry Brooks, Jr.

As the commanding general of the 25th Infantry Division at Schofield Barracks in Hawaii prior to his retirement 2 years ago, General Brooks made it a point to set examples for his men, and it was unit SOP for him to be out in front for the "Tropic Lightning Mile," a conditioning run like no other. Harry was out in front, too, as a man who understood the modern Army's problems and took decisive action to reconcile those problems and keep his command in fighting shape.

Harry was, and continues to be, an innovator of change and improvement. Prior to his command of the 25th Division, Harry served in Korea, where he became an exponent of Tai Kwon Do, the Korean form of karate. Harry brought the martial art with him to Hawaii, where he introduced it to his men as a part of their conditioning. He also originated a form of organized mayhem known as combat football, a combination of English rugby and American football that separated the men from the boys, but made all its participants better soldiers.

Harry has now channeled that exuberance and professionalism into the world of private business, where he is an executive with a major Hawaii-based corporation. Mr. Speaker, I am proud to know Harry Brooks as a friend, and I wish to commend the NAACP for having the wisdom to recognize him as one of America's outstanding men and an example of the American dream fulfilled.●

AGRICULTURE DEPARTMENT HONORS HIALEAH INSPECTION TEAM

HON. PAUL G. ROGERS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. ROGERS. Mr. Speaker, in a ceremony at the Sylvan Theater last month, the Department of Agriculture presented its 32d annual honor awards to employees who made outstanding contributions to the work of the Department during the past year.

I was pleased to note that among those honored was the Hialeah Inspection Team of the Food Safety and Quality Service. The team was honored for their initiative in developing a novel approach for coordinating efforts to detect antibiotic residues in cattle, and prevent the marketing of affected cattle.

I would like to extend my congratulations and commendation to the members of the team, Paul T. White, Marvin Aronofsky, Robert L. Britton, Guillermo Valazquez Ramos, Joseph R. Kaile, Robert Madero, and David Sweig. Mr. Sweig resides in West Palm Beach, in my congressional district.

Their hard work and initiative will, I am sure, make a significant contribution to the health of people of Florida and the Nation.

Mr. Speaker, at this point I would insert in the RECORD the Department's award description.

HIALEAH INSPECTION TEAM HONORED

CITATION

For exceptional contributions in detecting potential antibiotic residue cases and initiating appropriate followup activity.

JUSTIFICATION

The Food Safety and Quality Service (FSQS) is dedicated to insuring that the Nation's supply of meal and poultry is safe, wholesome, and truthfully and informatively labeled. A large share of this responsibility is borne by the 8,400 field inspection personnel who perform the on-line inspection requirements.

Meat and poultry are inspected both before slaughter (ante-mortem) and after slaughter (post-mortem). During the post-mortem examination, inspectors look for any indications of carcass abnormality or product adulteration, such as tissue inflammations, tumors, and injection sites, which would necessitate retaining the carcass for veterinary review and disposition.

Antibiotics or other drugs are frequently administered to dairy cattle in an effort to correct infections of various types. The use of the drugs would not constitute a problem if the animals were withheld from slaughter for the recommended period. However, if these recommended withdrawal periods are not carefully observed, drugs will likely be present in tissues of animals, causing adulteration. Such antibiotic residues in animal tissues can produce allergy-type reactions in people who ingest the adulterated meat and are sensitized to the particular antibiotic.

In order to prevent this type of hazard to the public, MPI has authority to take certain steps. When the slaughter inspector detects an antibiotic lesion, the carcass is identified and set aside for sampling by the veterinarian. Once a sample has been identified as having an antibiotic residue, then certain restrictions are placed on the owner or producer of the animal. When the producer/owner is ready to bring animals to slaughter, five are selected and tested. If the results reveal no antibiotic residue, then the producer/owner can again freely bring animals to slaughter.

One problem with this procedure is that a producer placed in a restricted slaughter category might not return to the same plant. At a different plant, the producer/owner may not reveal that there is an antibiotic problem, and consequently antibiotic-treated animals may be slaughtered without detection.

A group of slaughter inspectors in Hialeah (Miami) saw a special need for detecting antibiotic-injection lesions and also for developing a communication system between the Federal plants in the local areas to facilitate followup activity. Through their concern and dedication, this team was able to detect 186 injection sites in cows and calves during January 1976 through October 1977. This surveillance removed from food channels 186 carcasses that would have passed for food had the lesions not been detected. Instead these carcasses were held until laboratory analyses were completed indicating whether the product should be passed or destroyed.

In response to this need, this group, along with the area supervisor, initiated a plan to have inspectors keep a running case history of each suspect sample. Identical information is posted on the bulletin board in the inspection office at each plant. Each inspector in charge carries pocket-size cards bearing current information on active cases.

The area supervisor has now implemented this program area-wide. Now, information copies of all correspondence are exchanged between meat inspection staffs throughout Florida, so that all can be on the alert for animals which may be diverted from normal destinations. Tighter control on the movement of suspect animals is expected to result in better compliance and cooperation from herd owners and to encourage the producer to abide by the recommended drug withdrawal times.

In summary, under the residue program in Florida each inspector has knowledge of the entire area program, and consequently he has a much better control over the slaughtering of animals from a source known to have residue violations. The inspectors have become directly involved in a program where their efforts have been acknowledged, and which has resulted in team interest and increased effectiveness.

BASIS FOR AWARD

Extent of Application—Limited

Through the geographical configuration of the State of Florida this procedure is of great practical value because of the limited opportunity to move livestock elsewhere. Application of this same process in other areas would not work as well because they do not share the same circumstances.

Value of Benefit—Exceptional

This area formerly had a high level of antibiotic violations. Through this new procedure such adulterated product is now prevented from entering food channels.●

TIGHTENING UP THE BUY AMERICAN ACT

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. MURPHY of Illinois. For some time now I have been arguing that our country should be creating and protecting jobs here at home instead of exporting them abroad. I would like to share with my colleagues my July 7 Washington news column, which deals with this isssue.

The news column follows:

TIGHTENING UP THE BUY AMERICAN ACT

(By Representative MORGAN F. MURPHY)

The July 3 issue of U.S. News and World Report says that a "Buy American" campaign is rapidly gaining ground among citizens angry that their tax dollars are going to foreign firms while many domestic industries are struggling to stay afloat.

The article noted these signs of the trend:

—The Pennsylvania legislature recently passed a bill requiring that all steel used in state-funded construction projects be American-made. The action came after steel industry officials pointed out that imports—which account for one of every five tons of steel used in government buildings, and one of every four tons used in highway construction—have contributed to the laying off of some 32,000 steelworkers in the last year.

—Boston's City Council is debating whether to give U.S. manufacturers a 10 percent preference over imports, following the decision of the Massachusetts Bay Transportation Authority to order 120 subway cars from a Canadian firm for $86.3 million.

—In Arkansas, a state agency's purchase of 40 East German typewriters set off a controversy in the legislature, where a state senator promptly threatened to introduce a bill prohibiting the buying of foreign made materials for state projects.

Here in Illinois, Gov. James Thompson directed the state Department of Transportation on June 23 to reinstate for a one-year trial period the "Buy American" clause in its structural steel contracts.

Similar actions are being taken in Con-

gress, too. The same day that Gov. Thompson issued his directive to the Illinois DOT, the House showed its support for a provision requiring Amtrak to buy American goods and materials for purchases of more than $100,000.

An amendment to delete the Buy American clause, offered by Rep. William Steiger (R-Wis.), was soundly defeated by a vote of 207–93. The House also thwarted a move to weaken the provision by giving the Special Trade Representative (Robert Strauss), rather than the Transportation Secretary, the power to waive the Buy American requirement. The House turned back this effort by a vote of 178–121.

The Buy American clause in the Amtrak legislation and pending highway bills reflects an increasing concern among Congressmen that spending tax dollars on foreign products hurts American industries and workers While there is already a law on the books (the Buy American Act of 1933) to help protect U.S. industries, it is vaguely-worded and full of loopholes.

As Congressional Quarterly has noted, the biggest loopholes are provisions exempting funds spent by the Urban Mass Transportation Administration (UMTA), the Department of Housing and Urban Development (HUD), and the Environmental Protection Agency. Amtrak and the Consolidated Rail Corporation (Conrail) are also exempt from the Buy American law.

These loopholes have had an adverse impact on Chicago. Two years ago, Cleveland accepted the bid of an Italian firm, Breda, to build subway cars for the city's mass transit system. The next lowest bid was made by Pullman Standard, based in Chicago. Approval of the grant by UMTA—which picked up 80 per cent of the construction tab—deprived South Chicago of a vital boon to its local economy.

As chairman of the House Steel Caucus' subcommittee on legislation, I am disturbed that the U.S. is spending tax money on foreign-made items while major American industries are struggling to survive. At a time when thousands of U.S. workers are threatened by unfair foreign competition, this country should strengthen, not weaken, its Buy American laws. That's why I am cosponsoring legislation in the House that would extend the Buy American requirement to state and local projects that receive more than half of their funds from the Federal government. The bill would also raise the American price preference to 15 per cent above foreign bids.

The legislation has taken on a new importance now that the Carter Administration has forecast a 1978 economic growth rate barely sufficient to keep unemployment from rising. It is time that the U.S. stopped exporting jobs to other countries when thousands of jobs are badly needed here at home.●

IN SUPPORT OF BROCK ADAMS

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. UDALL. Mr. Speaker, this morning's edition of the New York Times carried an article suggesting that Department of Transportation Secretary Brock Adams was considering resignation from that post.

Not only do I think that not to be the case, but I also think that Mr. Adams is one of the most competent and effective members of the Carter Cabinet and his departure from the Cabinet would be a serious loss.

I think Brock Adams has been doing an excellent job in handling some of the most complex and thankless tasks in Government.

Mr. Speaker, the President needs his experience and his judgment—and so does the Congress.●

PAM SHRIVER

HON. CLARENCE D. LONG

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. LONG of Maryland. Mr. Speaker, I offer my congratulations to Ms. Pam Shriver, who won two rounds in the oldest and most important of tennis tournaments, Wimbledon.

Pam, a 16-year-old high school student from Lutherville, Md., has set a fine example for all Americans, not only because of her physical talent, but because of her good sportsmanship. She told a Baltimore Sun reporter, "I'm still learning, and I enjoyed playing on the center court for the first time."

A tribute to Pam in a recent Washington Post article describes her play at the tournament:

[From the Washington Post, June 30, 1978]

WIMBLEDON LOOKS REAL TO SHRIVER

(By Barry Lorge)

LONDON.—Like everyone else at Wimbledon yesterday, Pam Shriver, who has stormed into the third round of women's singles, marked time as an all-day rain forced postponement of play in the tennis championships.

Shriver came out to the All England Lawn Tennis and Croquet Club on Monday, the first day of this year's championships, and had a long curious look around the place. She wanted to see if her sport's ultimate shrine matched the vivid impressions she had formed from reading about it and watching it on television.

She roamed around the outside courts, through promenades jammed with more spectators than she had imagined. She investigated the elevated, glassed-in players' tea room, which affords a panoramic view of the premises, and gazed for a long time at the vine-covered walls that enclose Centre Court.

"That was the first thing that caught my eye as I came through the gates," said the soon-to-be-16 from Lutherville, Md. "I love ivy—the way it looks and sounds in the breeze. I'll always remember that first glimpse."

Westminster Abbey, Big Ben and Buckingham Palace would have to wait. Shriver wants to see the sights of London, but not until she is out of the tournament she has dreamed about playing for nearly half her life.

"The first memory I have of Wimbledon was the last year Rod Laver won," she said. That would have been 1969. She celebrated her seventh birthday that week, on July 4.

Now she is a Wimbledon herself, as a competitor, as excited as a young scientist making a first visit to the Royal Academy, or a budding politician checking out the halls of Parliament.

Her leisurely walk around the grounds was part of Shriver's preparation for her first match the following afternoon.

"I don't think anybody can really tell you what it's like until you actually see it and absorb the atmosphere. I thought it would be wise to come out a day early so that I wouldn't get overwhelmed by it right before my match.

"As we drove in, people crowded around the car to see who was inside. They wanted autographs. I couldn't believe that some of them knew who I was. The place has so much character, it's awesome. It's neat."

Her coach, Australian-born Don Candy, a former international player who now teaches in Baltimore, had advised her to get acclimated.

He told me that it's important to keep your mind clear when you play here. You can get swallowed up pretty easily in the surroundings," she said.

"I wanted to get off to a good start, to make the first step right," added the bright teen-ager, who wants to combine her junior and senior courses at McDonogh School in Baltimore so she can graduate and turn pro in June, a month before her 17th birthday, "because I hope to be here a few more times."

Undoubtedly she will be. Shriver is 6 feet tall, weighs 145 pounds, and is still growing. She has a fine serve and volley and is improving rapidly under Candy's tutelage. In addition to shot-making talent she seems to have a gift for match play, a court sense and an aggressive instinct that have caught the eyes of knowledgeable observers.

Shriver—a distant cousin of 1972 Democratic vice presidential candidate Sargeant Shriver ("I've never met him, but he sent me a letter when I started doing well, saying thanks for admitting you're related to me")—is one of two 15-year-olds in the women's singles draw. The other is California prodigy Tracy Austin, six months her junior.

Last year Austin—5 feet tall and weighing 90 pounds—celebrated Wimbledon's centenary by becoming the youngest player to compete in the oldest and most important of tennis tournaments. She won one round, then lost to Chris Evert, the reigning queen of women's tennis, on the center court.

Austin went on to reach the quarterfinals of the U.S. Open in September and earn No. 4 U.S. women's ranking. Her success gave hope and encouragement to other teens longing to jump from the deepening junior ranks into the women's major tournament circuit and challenge the power elite.

"The only measuring stick I had when I started playing adult tournaments was that I had played Tracy three times in the recent past and had gone three sets with her each time. Then I saw her beating top players and figured that I couldn't be that far behind," said Shriver, who is winless in six matches against Austin, still marginally behind her precocious contemporary.

Shriver doesn't have the giggling, little girl manner that makes Austin seem such an anomaly when she beats up on her tennis elders.

Because she is so tall and so mature in manner, Shriver seems too old to be worrying about Algebra II. But she is appealing, too, in a completely different way from Austin.

Shriver played her first pro tournament, the Virginia Slims of Washington, in January, and won a satellite event—the Avon Futures of Columbus, Ohio—two weeks later, winning 12 matches to go all the way from preliminary qualifying to the championship.

That earned her a berth in the Dallas Slims tournament, where she upset Dianne Fromholtz, Regina Marsikova and Kerry Reid (the No. 8, 15, and 10 seeds at Wimbledon) before losing a tough match to Evonne Goolagong in the semifinals.

Shriver has done all that was expected of her in her Wimbledon debut: won her first two rounds. Anything more will be extra cream on Wimbledon's traditional strawberries.

In her debut Tuesday, she beat Mimi Wikstedt, a chunky 24-year-old Swede, 6–3,

6–3, on court No. 4, in one of the most distracting corners of Wimbledon.

It is a difficult court to play on, separated by only a 10-foot-high green canvas backstop and a bed of shrubs and climbing roses from the bustling concourse between the outside courts and the Elizabethan-style structure that houses the center and No. 1 courts.

This concourse is always full of traffic, pedestrian and vehicular, and a bit noisy. Its sounds are those of shuffling crowds, regularly punctuated by the shrill voices of vendors peddling ice lollies and other goodies and squealing schoolgirls seeking autographs.

But Shriver turned off all intrusions nicely. She was purposeful and efficient.

"I knew from the beginning that I was going to be okay," she said. "I wasn't talking to myself. You can bet that when I'm talking to myself, I'm not concentrating."

On Wednesday Shriver beat Robin Harris, a 22-year-old Californian, 6–0, 6–0. She probably will play 14th seeded Sue Barker of Britain, a semifinalist here last year, tomorrow.

"In the beginning, in January and February, nobody knew who I was and there was no pressure at all," Shriver said. "Now, since Dallas, people have talked about Tracy and me and they expect us to win. There's more pressure.

"But I think I like the pressure."●

THOUGHTS CONCERNING THE CARE OF OLD PEOPLE

HON. JOHN M. SLACK

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. SLACK. Mr. Speaker, from time to time we consider legislation designed to help elderly persons toward solutions of their problems. Too often we have acted with the best of intentions, but would succeed only in placing authority for solutions of the problems in the hands of social welfare bureaucrats who are more interested in technique than people.

Recently I received a memorandum of suggestion about problems of the elderly from an attorney who is past his 80th year, but still maintains a lively interest in public matters, Mr. Emmette L. Moseley of Huntington, W. Va.

I recommend his comments to your attention:

There have been numerous books, pamphlets and articles written about the aging population of this country. All that I have seen were written by young people and none by anyone who has experienced getting old. Generally they seem to give a bleak picture of the aging people. They are shown to be lonely, unhappy with many other adverse qualities of personality.

I am well into my eighth decade of life. Till now I have never been lonely or unhappy myself. Those who are unhappy have no doubt always been unhappy. I find no fault with the way I have been treated by people of any age. I have been given all the courtesies that I have been entitled to. In general, people get back what they send out. I have come thus far without being afraid.

People who have lived to an old age do not die easy. Some of them take months or even a year to take leave of this state of being.

I have no fear of death but I do have a fear of what will happen during those last months or years when I am not able to protect myself and control my own body. When one goes to a hospital or a nursing home, they lose control over their body and their life. I am sure that I have many disabilities, but none are curable.

It is my desire to discuss this phase of the life of the so-called senior citizens and make some suggestions to those who desire to assist the old people.

I have watched several hundred people pass through that stage of life.

What I have to say refers to the section of the population of which I am acquainted. They consist of persons who have worked a life time, acquired a modest home and modest investment and a fairly good retirement income.

When their facilities begin to fail one of the first troubles that they begin to have is that they are unable to keep their checkbook, that for a time they write their checks and forget to fill out their stubs, and finally that they have to have someone to write the checks and have them to sign them to pay their necessary bills.

If there is a need for medical attention or treatment, he must be taken to a doctor's office where he enters a room full of patients. I always wonder then if some of the patients are not suffering from communicable diseases. The waiting patients are from babes in terms to the oldest senior citizens.

Then the time comes when the old person is not able to do the housework and cooking that is necessary to maintain their home.

Then they are taken to the emergency clinic of the hospital, most likely by ambulance. The patient is deposited in a room and told that the doctor will soon be there. Then there is a period of waiting from one-half hour to 2 hours. The doctor finally comes and determines that an X-ray or other laboratory test is necessary. The patient is then taken to the X-ray room or whatever lab test is necessary. Again there is a long waiting. Then finally the X-ray and other laboratory techniques are completed and the patient is returned to the emergency room and told that he must wait for the X-rays to be developed and read by the doctor in the clinic.

There is a great movement of people in waiting rooms. The drone of many voices.

Finally it is decided that the patient will be admitted to the hospital. After the admission, the patient is moved from place to place and given different tests and sometimes elaborate examinations including brain scans. When he is admitted the ambulance leaves.

After a few days it is decided that the patient is suffering from no disease or disability which is treatable. Then, the social workers come into the picture assisted by other medical personnel. The patient's family is then told that the patient is in need of professional nursing care and such care is not possible at home.

While the social workers are on the subject of nursing homes they inquire what health insurance the patient has and what he receives from his retirement benefits and what he receives from investments and what his investments consist of.

The privacy which he has guarded throughout life no longer exists. Although no proof may be available, it is suggested that the nursing homes obtain full knowledge of the income and estate an old man or woman has.

These people in their last years have the same desires and hopes that they have had throughout life. All of them, if they had their wish and that wish could be carried out would be to stay at home and be cared for there. I am sure they would be willing to pay from their own funds if necessary.

After all the turmoil and large amount of money spent, it has been officially decided, what was already known. Generally it is understood that the ills of old people do not respond to treatment. Custodial care is needed. There is no need for fruitless diagnostic studies. These studies are frustrating to the patient and use many valuable hours of medical and other personnel, without results. This time could be used on the care and treatment of disabilities which respond to treatment.

In addition, these old people have been greatly disturbed and confused. The Merck Manual, 11th edition, Subj: Brain Syndrome, at pg. 1163; under Treatment says:

"* * * The patient should stay in pleasant, friendly, familiar surroundings where variation in routine is minimal. He should be encouraged to continue with tasks that are still within his capacity. This promotes a sense of participation and accomplishment. * * * By working patiently with the family, the physician may be able to save them needless expense in further, fruitless diagnostic studies and also may help them arrange for custodial care. * * *"

I have observed both in hospitals and nursing homes that patients give very little trouble to the personnel. Since the advent of tranquilizers, they are, when I have visited them, been under the influence of drugs and in a semi-stupor. When walking through hallways of hospitals and nursing homes you will see them lying with head back and mouth open, not conscious of what is going on around them. I am sure that the body can fight off disease afflicting it. I am not sure whether the body can fight off disease while under the influence of drugs.

Why should these people be put through this ordeal at the close of life, and burden the wife or husband with the attempt to visit the hospital or nursing home?

I recommend:

1.) That the banks arrange to have a trust-worthy employee visit the home of the senior citizens who are no longer able to keep their bank balance current and write their checks for current expenses to see that they are properly signed and mailed. This would avoid gas and electricity being discontinued and property sold for taxes.

2.) That the medical association and government agencies cooperate and set up a system whereby private doctors will make visits when necessary to these old people at their home.

3.) That they also provide training to responsible people who know and are known to the patient, that would enable them to do such basic things as to insert a catheter and fasten on the rubber bags and other sanitary knowledge for cleanliness for the home and be able to prepare food and other necessities for the old person.

4.) That the regulations and or laws relating to medicare and medicaid be amended so that the doctor who visits the home and those who furnish the care be paid.

5.) That the Blue-Cross and other carriers of health insurance amend their health insurance policies and include the necessary expenses.

6.) That prosthetic appliances such as hospital beds, wheel chairs, walkers, and so forth be made available at home when found necessary by the physician.

How these recommendations could be put into effect would require many pages.

I fear that there are many people who will say, "these old people don't know what is good for them." To them I say, your turn will come sooner than you think.●

MY AMERICA

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. BADHAM. Mr. Speaker, at the request of one of my constituents, Mr. H. M. Burck, who is a World War I veteran, I

would like to insert a poem entitled "My America." This poem addresses a hope which all Americans, particularly those of this body, should keep in their thoughts and express in their words and deeds. I request the poem be inserted in the RECORD:

MY AMERICA

In thoughts, as wise as is her prairie sea;
In deeds, as splendid as her mountain piles;
As noble as her mighty river tides.
Let her be true, a land where right abides;
Let her be clean, as sweet as summer isles;
And let her sound, the note of liberty
For all the earth, till every man and child be free!

[Thomas Curtis Clark].●

EFT LEGISLATION DESERVES SUPPORT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. LaFALCE. Mr. Speaker, on June 15, 1978, the House Committee on Banking, Finance, and Urban Affairs unanimously passed H.R. 13007, the Electronic Fund Transfer Act of 1978. At this time I commend it to my colleagues for their consideration and support. The measure will be taken up by the full House in the very near future.

As a member of the Banking Committee, I took part in a number of public hearings which dealt with electronic fund transfer systems (EFT's) and participated in the drafting of the final version of the act. Because EFT's are in the infancy of their development, I believed that the committee had to be very careful in drafting the first piece of legislation to regulate consumer rights and responsibilities in regard to EFT's. A balance had to be struck between essential consumer protection and the creation of an atmosphere conducive to the rapid spread of EFT systems, and with one major exception, the bill successfully incorporates the necessary balance.

The original version of this bill, H.R. 8753, contained six very troublesome components which could have effectively hamstrung the further development of EFT's, but I am pleased that we were able to resolve five of those problems.

First, the final version of the bill does not mandate any prescribed billing procedures. As I said in my April 3 speech before the American Bankers Association in San Francisco, the main debate in committee revolved around "country club" billing (complete itemization of all purchases) versus descriptive billing (a shorthand accounting that considerably reduces credit paperwork) with the latter being preferable to the former. The original version of the bill made provision for country club billing, but that has been totally eliminated because of the unnecessary paperwork burden it would impose.

Second, the final version does not mandate prescribed billing rates, which had been present in the original bill. Although everyone would like an interest-free period every month on their bills, such an arrangement is clearly not a right of the consumer, but rather a service a financial institution might wish to offer, as many do.

Third, a majority of my Banking Committee colleagues and I were able to delete the reversibility of transactions section of the bill. The reversibility provisions were based on a faulty understanding of the ability to stop payment on checks and could have prevented any further implementation of EFT systems nationwide.

Fourth, H.R. 13007 will facilitate the safe distribution of debit cards for operating an EFT system, while the original language would have severely hampered financial institutions' ability to provide customers with the necessary means of access to an EFT system.

Fifth, after lengthy consultations with all interested parties, the committee was able to carefully delineate the rights and responsibilities of both financial institutions and consumers in terms of liability for unauthorized transfers. The final version, unlike the original, prescribes a negligence standard for both parties, so that the rights of both are fully protected.

The sole drawback which appeared in the original bill and remains in the final version is a provision which forbids sellers to charge more for check transactions than for EFT transactions. An attempt to delete this section, which I supported, was unfortunately defeated in the committee by a 20 to 19 vote. This is clearly an unwarranted intrusion by the Federal Government into the free enterprise marketplace and is certainly not in the consumers' real interest. I expect that an amendment deleting this provision will be offered on the House floor, and will be successful.

Despite that weakness, I believe that the committee has reported out a very responsible regulatory measure. The ABA and other spokesmen for the banking community have expressed their general satisfaction with H.R. 13007, and their particular support for the five changes which we were able to make in the Electronic Transfer Act.

I intend to fully back those changes when the bill reaches the Whole House; and I will continue to oppose any provision which would prevent financial institutions and merchants from charging the consumer less for EFT transactions than for other means of payment. I urge my colleagues to do likewise.●

THE GOVERNMENT'S RIGHT TO RUMMAGE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. STARK. Mr. Speaker, on May 31 the Supreme Court delivered an opinion which drastically cut away at the constitutional right of every American to be secure against search and seizure activities by the police. In the case of Zurcher against the Stanford Daily the Court held that the police may use an ex parte warrant to enter and search the premises of a party not suspected of any crime. The subject of the search in the case before the Court was the Stanford University newspaper, but the Court's decision reaches far beyond the press. It essentially renders every home and place of business vulnerable to a surprise search by the police. As Justice Stevens stated in his dissent in the case, "Countless law abiding citizens—doctors, lawyers, merchants, customers, bystanders—may have documents in their possession that relate to an ongoing criminal investigation."

The reaction against this decision has been widespread and vehement. Newsman, publishers, civil libertarians, and individuals across the political spectrum have declared their opposition to the Court's erosion of privacy rights. Several of my colleagues have introduced measures to restore these basic rights. In a well-reasoned editorial, the Long Beach Independent, Press-Telegram articulates the nature of the threat which the Stanford Daily decision poses to individual rights. The paper stresses the need for a legislative response to this threat such as the bill introduced by my friend and colleague, DON EDWARDS. I encourage my colleagues to read the editorial:

[From the Independent Press-Telegram, June 25, 1978]

A RIGHT DIMINISHED

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

That is the Fourth Amendment to the Constitution, and the Supreme Court has decided that it was not violated when police obtained a search warrant and rummaged through files of the Stanford University campus newspaper in a vain search for photographs of an anti-war demonstration.

The threat that decision poses to the press is great, and because the press is self-centered that threat got most of the attention when the decision was first reported.

But the decision poses a threat to all citizens. It says, for the first time, that no citizen has any protection against searches and seizures if a judge somewhere can be persuaded to issue a warrant. Even though the citizen is not suspected of committing any crime. Even though the evidence sought could be obtained by subpoena rather than search.

The Supreme Court followed the letter of the Fourth Amendment. The spirit of the Fourth Amendment escaped it.

That spirit was explained once by Justice Felix Frankfurter. "It makes all the difference in the world," Frankfurter said, "whether one recognizes the central fact about the Fourth Amendment, namely that it was a safeguard against recurrence of abuses so deeply felt by the colonies as to be one of the potent causes of the Revolution, or one thinks of it as merely a requirement for a piece of paper."

Justice Byron R. White, who wrote the majority opinion in the Stanford case, concluded it was merely a requirement for a piece of paper.

Pieces of paper are easy to come by. A seven-year check showed that of 5,569 police requests for wiretap warrants, only 15 were denied.

In Justice John Paul Stevens' dissent in the Stanford case, the spirit of the Fourth Amendment breathes again.

Until recent years, Justice Stevens noted, the history of search warrants was that they were used only to seek evidence likely to be held by those suspected of crime. Such persons could be expected to destroy evidence of their criminality. The governing interpretation of the Fourth Amendment held that there was no probable cause to issue a search warrant for lesser evidence held by others. That kind of evidence could be subpoenaed.

"Countless law-abiding citizens—doctors, lawyers, merchants, customers, bystanders—may have documents in their possession that relate to an ongoing criminal investigation," Justice Stevens noted. "The consequences of subjecting this large category of persons to unannounced police searches are extremely serious."

Rep. Don Edwards, a Democrat from San Jose, has introduced legislation to protect not only newspapers but all citizens from the kind of search the Supreme Court has sanctioned. Edwards' bill, which would become part of the Civil Rights Act of 1964, would require police agencies to use subpoenas to obtain evidence from persons who are not criminal suspects and who had not threatened to destroy evidence.

Edwards' legislation is important for the press. It is equally important for the public. The need for his bill, or something like it, is urgent.●

THE TAX REVOLT AND FOREIGN AID

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. BOB WILSON. Mr. Speaker, under leave to extend my remarks in the RECORD, I include the following:

THE TAX REVOLT AND FOREIGN AID

(By Anthony Harrigan)

Since California's voters gave overwhelming approval to a tax limitation measure—Proposition 13, the spender majority in Congress has been giving lip service to the concept of economical government.

The real test of the majority's intentions will come very soon when the House of Representatives votes on the Foreign Aid Appropriations bill.

If Congress is serious about cutting federal expenditures, it will slash billions of dollars from the foreign aid bill. It can begin by eliminating the $1.5 billion President Carter is seeking for the International Development Agency.

U.S. Rep. Robin Beard of Tennessee recently pointed out that this $1.5 billion is "a 93 percent increase over last year's appropriation."

Where do IDA funds go? U.S. Rep. C. W. Bill Young of Florida stated in recent days that "the IDA of the World Bank is considering five loans for Communist Vietnam totaling $160 million." He added that this money "will be used to develop their coal industry, energy capabilities, water control projects, etc." These loans are scheduled for repayment over a 50 year payment with nothing to be repaid during the first 10 years and during the remaining 40 years only the principal is scheduled to be repaid. No interest is to be charged.

Understand what this means. The Carter administration plans to take money from American taxpayers and send it to Communist Vietnam through the agency of the International Development Association of the World Bank.

Congressman Beard reports that last Sept. 30 in an interview with United Press International, the director of Vietnam's Central Bank, "boasted that the U.S. would pay his country $4.75 billion in par reparations and that it would be accomplished—not directly, but indirectly through the IDA of the World Bank." Apparently the communist official was right. The indirect funding of Communist Vietnam is in the foreign aid bill now before the Congress. President Carter is responsible for this funding proposal.

One wonders how this reparations plan will sit with those who fought the communists in Vietnam? And what about Americans who are paying 10 percent for a home construction loan? Won't they object to an interest free loan to communist foes of the United States?

This isn't the only devious deal in the foreign aid bill. Congressman Young has revealed that last year the U.S. sent 122,000 tons of wheat to India. The Indians turned around and shipped 100,000 tons of this to Vietnam Rep. Young is of the view that this is "a subterfuge and an attempt to send U.S. foreign aid to Vietnam indirectly through India in order to circumvent the expressed opposition of Congress to sending aid to Vietnam."

The indirect aid to Vietnam is only one reason for slashing the foreign aid bill. This bill is riddled with proposals hurtful to the U.S. interest. For example, Venezuela, which joined other OPEC nations is gouging America on oil prices, will receive $164 million in foreign aid this year.

If members of Congress don't eliminate the wasteful foreign aid spending, the voters will know who ought to be eliminated at the polls in November.●

CONFLICT OVER FEES KEEPS BARGES WAITING

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. GEPHARDT. Mr. Speaker, the New York Times recently carried an article which clearly and meaningfully explains the need to replace locks and dam 26 at Alton, Ill. As the story points out, so long as this project is tied up with the waterway user fee controversy, barges carrying valuable cargo up and down the Mississippi River will continue to face lengthy delays which raise costs and waste energy.

I believe the article will give my colleagues a good appreciation for the need to give prompt approval to H.R. 8309, the Navigation Development Act, authorizing a new and larger locks and dam 26. I encourage my colleagues to read the story and I insert it in the RECORD at this point:

CONFLICT OVER FEES KEEPS BARGES WAITING

(By Iver Peterson)

ABOARD THE BAXTER SOUTHERN ON THE MISSISSIPPI NEAR ST. LOUIS.—Capt. Claude Sexton is used to waiting.

For the skipper of a huge river tug, after all, life on the Mississippi is gaited to the languid pace of the river and the stately progress of the heavy barges that carry grain downriver from the plains and fuel and chemicals north from the refineries and ocean ports of the Gulf of Mexico.

But here, just above St. Louis, Captain Sexton had parked his three northbound ammonia fertilizer barges for more than two days, waiting to go through Lock No. 26.

That, he and other barge operators believe, is too much waiting. But Lock 26, the busiest and most clogged lock on the river, has become a hostage in a battle in Washington, a battle over the barges' right to ply the rivers free of charge.

Between locks, dredging and channel markers, the Federal Government spends about $400 million a year to maintain 15,000 miles of commercial waterways, and the Carter Administration wants the barge operators to contribute.

Lock 26, just below the confluence of the Illinois and Mississippi Rivers, enters the conflict because the 15-barge tows, 1,000 feet long, have to be broken into segments to pass through the 300-foot chamber or through the 600-foot one alongside. This leads to long waiting, and the rivermen want a new lock capable of handling all 15 barges at once. The Army Corps of Engineers had planned to spend $421 million for such a lock, just below the present one at Alton, Ill.

But the country's railroads, contending that the rivermen have an unfair advantage because the Government maintains their watery roadway without charge, joined several environmental groups in a Federal suit to block the new lock and dam.

AUTHORIZATION REQUIRED

The Federal district judge hearing the suit, in an interim finding, required the Corps of Engineers to obtain specific authorization from Congress to build the new lock. That legislation became the focus of President Carter's efforts to have the first user fees imposed on the rivermen.

The Administration favored an amendment sponsored by Senator Pete V. Domenici, Republican of New Mexico, a "railroad state," that would impose user fees equal to 100 percent of the river maintenance costs and 10 percent of the cost of new construction.

Last month, however, an amendment by Senator Russell B. Long, Democrat of Louisiana a "riverboat state," was passed instead, providing for a 12-cent-a-gallon tax on the fuel sold to barge operators. Administration critics argue that this would produce only 10 or 15 percent of the maintenance costs.

The House passed a similar fuel tax bill earlier, and the matter is now in conference. Mr. Carter has said he would veto any legislation authorizing the new lock construction that does not include comprehensive user fees, and the lock remains a hostage.

The barge operators' trade associations point out that the Northwest Ordinance of 1787 prescribes that America's inland waterways shall be "forever free without any tax, impost or duty." But they tacitly supported Senator Long's 12-cent tax amendment.

It has been estimated that the $400 million Washington spends annually amounts to a subsidy of 29 percent of the barges' total operating costs, while the Government's contribution to the operation of railroads amounts to just 6 percent.

"I think they ought to settle it so it's fair for everyone," said Captain Sexton, who has been with the Southern Towing Company for 16 of his 20 years on the river. "The important thing is to get it settled so they can build the new lock and let everybody get to work."

"We don't lose any pay" waiting at Lock 26, said David Osment, a 23-year-old apprentice steersman. "But if the company has to pay me money to wait it could hurt the company and that could hurt us. They gotta make money to pay us money."

UNLIKE THOSE ON THE BANK

That kind of concern for the company may not be typical of some workingmen, but then the crew members of the Baxter Southern do not consider themselves to be much like people who live "on the bank."

They work "day for day," staying on the river for a month at a time and earning a day off with pay for every day they work.

Their days are spent in six-hour watches, broken by like periods of easygoing boredom.

Mrs. Barnes, who has been a riverboat cook for six years and likes the job, dishes out huge meals at 5:30 A.M., 11:30 A.M. and 5:30 P.M. A recent meal loaded the messroom table with steaks, mashed potatoes, lima beans, baked beans, grits, boiled carrots, fresh baked rolls and butter, plus various pickles, relishes and bottled sauces, milk and iced tea. No alcohol is allowed on board.

"Mrs. Barnes don't say much, but she can cook," Dean Hudson, the pilot said.

A ROOM FOR WIVES

The Baxter Southern, like most large river tugs, has a guest suite complete with a dressing room and makeup mirror for wives who sometimes accompany their husbands on the boat.

"The company's pretty good about wives," a riverman known as Arkansas drawled in a booming, smoke-cured voice. "They're pretty good if it's legal, but no girlfriends. If they let girlfriends on, shoot, the boat'd go crazy."

The company evidently allows wives on board to combat the long separations that life on the river entails. Now Captain Sexton stands in the wheelhouse—where there is actually no wheel, only hydraulic tiller bars—and watches his 17-year-old son, Claude Byron, learn the difficult task of lashing the barges together.

He is not entirely happy that the boy is on the river. "I don't want him to be," the captain said. "If it wasn't that he'll be away from his family when his kids are growing up, it would be all right. But he'll be gone six months of the year if he stays on the river."●

THE FBI INDICTMENTS

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, July 17, 1978

● Mr. HARRY F. BYRD, JR. Mr. President, the July 8 edition of the Harrisonburg, Va., Daily News-Record included an excellent editorial concerning the recent indictments of three former officials of the Federal Bureau of Investigation.

The thrust of the editorial is that we should not endlessly rake the ashes of the abuses of the past, but rather focus our energies on the prevention of future abuses. I agree.

D. Latham Mims is editor and general manager of the Daily News-Record.

I ask that the text of the editorial, "The FBI Indictments," be printed in the Extensions of Remarks.

The text follows:

[From the Daily News-Record, July 8, 1978]

THE FBI INDICTMENTS

Sen. S. I. Hayakawa of California has introduced a "sense of the Congress" resolution urging that Attorney General Bell move to dismiss the indictments of three former FBI officials in New York. The resolution deserves support, and the indictments in our opinion ought to be dismissed.

The three, former acting Director Patrick Gray, former acting Associate Director Mark Felt and former Assistant Director Edward Miller, are charged with illegal acts in the investigation of terrorist organizations during the late phase of the Vietnam War. Members of these terrorist groups openly sought the violent overthrow of the United States government—and they practiced violence in the form of bombs, some of which killed people. In fact, some of the terrorists were themselves killed when a bomb they were making in the basement of a fashionable New York townhouse exploded.

In view of the temper of those times and of the threat to the public safety, it is hardly surprising that FBI agents surreptitiously entered the homes of relatives of suspected terrorists. That is not to say that their actions were proper or that they should be permitted to recur, but at a date when amnesty has been granted to draft dodgers, is it really important to prosecute FBI officials for passing constitutional limits in their pursuit of persons known both then and now to have posed a clear and present danger to the lives and property of innocent citizens?

Morale in the FBI is said never to have been lower than at present because of the indictments; however distasteful some of its work may be, it is nonetheless necessary, and it should be permitted to go on with it. The FBI remains a bulwark against the sort of terrorism that is all too prevalent in the rest of the world, and we should make sure that we will not be subjected again to such terror as pervaded the Nation a decade ago.

Let us close the books on all the horrors of the Vietnam era, taking care that our intelligence agencies do not again abuse civil liberties.●

YOUNG SHOULD GO

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. McDONALD. Mr. Speaker, as I have mentioned on previous occasions, the 82 votes that were cast against tabling my motion to impeach Andrew Young are indicative of the sentiments of the American people. As evidence of that fact, I am today placing a fine editorial from the Times-Picayune of July 14, 1978, in the RECORD. The message is loud and clear—Andrew Young is a misfit and does not represent the United States. He should be removed. The editorial follows:

YOUNG SHOULD GO

With much of the rest of the nation we have waited patiently for U.N. Ambassador Andrew Young to develop the maturity and responsibility to serve as an official representative of this country. We hoped he would rise to the task. We were wrong.

We all suffered through his many outrageous and irresponsible statements that have damaged the credibility of the United States, offended its allies and given comfort to its enemies. We were shocked when he called Cuban troops in Africa a "stabilizing" force. We shuddered when he said communism had never been a threat to him. We just gritted our teeth when he insulted our British allies and denied the legitimacy of the South African government, which our government recognizes.

When Mr. Young characterized four former U.S. presidents (Kennedy, Johnson, Nixon and Ford) as "racists," we didn't raise protest. We don't even speak out when he injected himself into the New Orleans mayoral contest, suggesting that the city was "on trial" and might be found guilty if it didn't elect a black mayor.

But Mr. Young's latest outrage is the straw that has broken the camel's back. In an interview with a French Socialist newspaper, Mr. Young charged "there are hundreds, perhaps thousands" of political prisoners in the United States. Mr. Young's asinine remark comes at a pivotal time when our government is officially protesting the Soviet trials of dissidents, men who made the mistake of taking their government's commitment to the Helsinki rights convention seriously.

Secretary of State Cyrus Vance's reaction to Mr. Young's latest outburst was reportedly unprintable. Tass, the Soviet government-controlled news agency, predictably seized on the remark as proof of political persecution in this country. The Carter White House, which has become used to defending Mr. Young, weakly responded that his view "does not reflect the policy of this administration." Several members of Congress moved to have Mr. Young impeached.

Mr. Young's irresponsible outbursts can no longer be tolerated. He is not a private citizen expressing personal views. He is an official representative of the U.S. government and his remarks are taken seriously by foreign officials. Mr. Young's childlike innocent view of the world has become more than an embarrassment. It has become dangerous and destructive of U.S. policy interests.

It is time President Carter realized that Mr. Young is not the man for such a sensitive job. As a private citizen, Mr. Young would be free to express his view without damaging this nation's credibility and prestige in the world.●

NEH CUTS ADMINISTRATIVE COSTS

HON. GUNN McKAY

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. McKAY. Mr. Speaker, we find few examples of Federal agencies that are serious about cutting administrative costs these days. I was pleased to learn of recent efforts at the National Endowment for the Humanities to put a lid on the costs of public relations. The following is a news report on the efforts of Chairman Joseph Duffey to find low-cost alternatives to expensive office equipment and furnishings.

The news report follows:

One of the smaller federal agencies has cut its public relations budget from about $744,000 to less than $600,000 by buying cheaper desks and typewriters and eliminating walls, its chairman said today.

A saving of $150,000 a year is not much by federal spending standards, but then the total budget of the National Endowment for the Humanities next year is about $146,000,000—less than one-sixth what the Pentagon spends on public relations alone.

Chairman Joseph D. Duffey escorted reporters and the head of the General Services Administration, Jay Solomon, on a tour of the new space. Solomon, an advocate of better use of federal buildings, asked permission to bring some of his design staff back to see it when it is occupied.

One example of savings: if the endowment had bought the wooden desks which the GSA prescribes, they would have cost $349 each, or a total of $10,470 for the 30 needed. Instead, the agency bought metal desks and had them painted for a total of $5,265, saving $5,215.

Many of the employees in the public relations section preferred manual typewriters over the popular electric model, so the endowment bought reconditioned manuals for $60 each rather than the electrics at $740 each. Buying them was a cultural shock to

the suppliers, officials said, since they think the government buys only the latest and most expensive models.

"The employees now think they're in the best space in the building," Duffey said. The endowment is in rented space on five floors of a commercial building, but expects to stay only about two years before moving to the old Washington Post Office Building, a Pennsylvania Avenue landmark which is about to be renovated by the GSA.

Eliminating walls made a significant saving, the agency said: 30 employees will share space normally assigned to half that number. Duffey said the space arrangement is more like that of a newspaper city room or a publishing house than the usual federal agency.

Further savings were realized by avoiding the need for individual air-conditioning ducts, light switches and fixtures, electrical outlets and other standard accoutrements.

When the space is occupied, the walls will be decorated with posters of such endowment projects as the King Tut Show, The Adams Chronicles, paintings from the Soviet Union.

The endowment anticipates additional savings by beng able to store research materials needed frequently on shelves, rather than in a basement storage area. The endowment has also cut its mailing list from an average of 7,000 to about 200 by eliminating duplications and by such devices as sending releases about Latin American projects, for example, only to those interested. Formerly, all releases went to everyone on the list, which was handled commercially.●

SUPPORT FOR ALASKAN LAND BILL

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. SAWYER. Mr. Speaker, I am inserting in the RECORD at this time portions of an editorial which appeared in the Grand Rapids Press, discussing the Alaskan National Interest Lands Conservation Act. The Alaskan land bill, H.R. 39, passed by the House May 19, and currently in the Senate Committee on Energy and Natural Resources, is significant to all as it is one of the greatest conservation measures of our time. I, along with my constituents, support this important issue and am pleased to bring this fine editorial to the attention of my colleagues.

[From the Grand Rapids Press, June 30, 1978]

THE ALASKAN LAND BILL

The U.S. Senate is confronting a very busy calendar. With the labor "reform" bill out of the way for at least the time being, there remain the nation's big four concerns to be faced up to: tax reform, energy, inflation and unemployment. A fifth major consideration—the Alaska National Interest Lands Conservation Act—demands Senate action this year as well.

Under the Alaskan Statehood Act, the 49th state was granted 105 million federal acres, or about 28 percent of the available land and water, when it entered the Union. Selection proceeded slowly and was interrupted by litigation, most notably the Alaska Native Claims Settlement Act of 1971 which gave Eskimos, Aleuts and Indians millions of dollars in grants and mineral rights plus 44 million acres of land.

In consideration for removing legal barriers to the construction of the Alaskan pipeline, conservationists insisted that Congress setaside "national interest" lands to provide for national parks, wildlife refuges and wilderness areas. Under section d-2 of the Native Claims Act this was to be accomplished no later than Dec. 18, 1978.

No amount of acreage was specified, however, and Congress has been debating that question off and on ever since. Last month, by a margin of 277-31, the House of Representatives set aside 124 million acres—an area roughly equal to the size of California. President Carter has recommended 92 million acres. The state of Alaska thinks that 25 million acres are enough.

It is in the Senate that the future of Alaska will be determined. Unless that body acts by the December deadline the government in Juneau may resume claiming the balance—or 30 million acres—of the 105 million acres to which the state is entitled.

Among the traditions still largely observed in "the highest deliberative body in the world" is senatorial courtesy. The unwritten understanding provides that in matters bearing directly on a senator's home state his colleagues will defer to his wishes. In this case, both Democrat Mike Gravel and Republican Ted Stevens have united to oppose large "withdrawals" of land to protected status. They want much more territory left open for economic development.

But even if a majority of senators choose to ignore senatorial courtesy, there is another danger to the proposals advanced by the administration and the House-passed set-aside. That danger is a filibuster lead by the Alaskans.

By far Alaska is the nation's largest state. Its 365 million acres of land and 10 million acres of inland waterways account for one-fifth the area of the United States. Its wildlands are unmatched anywhere in North America. This gift of nature is a national treasure to be jealously guarded and preserved.

When Alaska became a state, more than 99 percent of its territory belonged to the federal government. In granting statehood, Congress' offering of 105 million acres of land and water to the people of Alaska was most generous. Indeed it was the largest federal land transfer to any state in the Union, greater in fact than all past grants west of the Missouri combined.

Since then the Senate has been very helpful to the development needs of Alaska. It has expedited oil and gas pipelines, granted the most valuable development land (such as Prudhoe Bay) to the state in the 105-million acre Statehood Land Grant, and resolved the "freeze" on lands settling the Native land claims.

Now, however, it is appropriate that the Senate act in the best interest of all Americans—not just Alaskans—for it is they who own the territory in question. A strong Alaskan bill is owed this nation's future generations.●

FOUNTAIN ANNOUNCES RESULTS OF QUESTIONNAIRE

HON. L. H. FOUNTAIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. FOUNTAIN. Mr. Speaker, earlier this year I sent a questionnaire to each of my constituents in the Second Congressional District of North Carolina, and asked their opinions on several matters facing the Congress and the Nation in 1978

The response, in a word, was overwhelming. Approximately 25,000 people answered the questionnaire—and many included additional, helpful comments about some of the tough issues of the day.

So that my colleagues in the Congress might have the benefit of my constituents' thinking, the results of the questionnaire follow:

1. Do you favor legislation co-sponsored by me which would prevent HEW Secretary Califano from using the taxpayers' money to finance his massive anti-smoking campaign? 81% yes, 19% no.
2. Do you favor eliminating Saturday mail delivery as a cost-saving measure? 43% yes, 57% no.
3. Do you favor income tax credits for parents who pay for their children's college educations? 74% yes, 26% no.
4. Do you favor legislation to lower unemployment by making the federal government the employer of last resort? 37% yes, 63% no.
5. Do you favor a return to the Selective Service military draft? 59% yes, 41% no.
6. Do you favor paying a portion of the expenses of the Social Security system out of the general treasury? 53% yes, 47% no.
7. Do you favor granting amnesty to illegal aliens now in this country? 15% yes, 85% no.
8. Do you favor public financing of Congressional campaigns? 27% yes, 73 %no.
9. Do you favor stricter enforcement of criminal laws? 96% yes, 4% no.
10. Do you favor national health insurance financed by tax dollars? 32% yes, 68% no.
11. Do you favor the proposed Panama Canal treaty? 22% yes, 78% no.
12. Do you favor extending the deadline for ratification of the Equal Rights Amendment beyond March 1979? 25% yes, 75% no.
13. Do you favor the United States having military strength greater than that of the Soviet Union? 89% yes, 11% no.
14. Do you favor requiring able-bodied welfare recipients to work when jobs are available? 98% yes, 2% no.
15. Do you favor a balanced Federal budget except in time of war or other national emergency? 96% yes, 4% no.●

FEDERAL GOVERNMENT ANTI-DISCRIMINATION EFFORT

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, in a letter to the editor of the New York Times that was printed on May 30, 1978, I expressed my concern about the inadequacy of the Federal Government's existing antidiscrimination effort. As I indicated at the time, a new HUD-financed study of 40 American cities documents the short distance we have traveled since the open housing bill was enacted in 1968—and the enormous distance we have got to travel before we are rid in this country of the blight of housing discrimination.

Of all the comments that my particular letter prompted, the most insightful was provided by Mrs. Olive R. Beasley, director of public service in the State of Michigan's Department of Civil Rights. Because of the critical importance of the subject matter, and because of the thoughtful way that it is addressed in Mrs. Beasley's letter, I would like to share it with my colleagues at this time:

DEPARTMENT OF CIVIL RIGHTS,
FLINT DISTRICT OFFICE,
June 7, 1978.

HON. JOHN B. ANDERSON,
Congressman, 16th District Illinois, 1101 Longworth House Office Building, Washington, D.C.

DEAR MR. ANDERSON: I read your very perceptive article in the New York Times May 30 edition captioned—"Housing—Apartheid American Style." I heartily concur in your assessment of the impact to date of 1968 Fair Housing Act in regard to reducing or eliminating housing discrimination. The experience in Michigan supports your conclusions. There are many reasons for the perpetuation of traditional patterns and exclusionary practices including the recalcitrance of the real estate industry, (brokers and developers) through racial steering, block busting and more subtle practices to circumvent both state and federal laws; mortgage and insurance redlining practices; municipal disinvestment in areas of ethnic and racial concentration; overt and covert resistance to non-whites in white residential areas; school desegregation plans resulting in white flight to suburban areas generally tightly restricted against non-whites; deterioration of downtown business areas usually adjacent to non-white population concentrations with a high attrition of business casualties as shopping malls proliferate in peripheral and suburban areas. Also, significant is the fact of cynicism of non-whites in regard to confidence in enforcement of legislation. The general resistance to and delays in providing adequate supply of low and moderate income housing at prices minorities and the poor can afford in most of the major urban areas resulting in long waiting lists building up over the years so that when and if publicly assisted low and moderate income housing becomes available, the waiting lists consist primarily of non-whites particularly for public housing units both family complexes units and scattered site housing. These effects have been further aggravated by poor maintenance, lack of modernization programs which cause them to deteriorate and become neighborhood and area eyesores which in turn reinforce resistance to public housing projects by home owners in these and other areas. Another device which in effect constitutes block busting that realtors frequently resort to is a proliferation of for sale signs in a given neighborhood or geographic area which precipitates panic selling and flight by white homeowners. The list is endless and whether or not any legislation can correct all the root causes is questionable.

I also agree that expedited procedures for investigation and resolution are critical to success and stronger sanctions and enforcement will have a salutory effect. Whatever strengthening of existing laws is being considered will have to take into account the necessity for HUD, EDA, EPA and other federal funding agencies to tighten up enforcement of regulations, eliminate the ambiguities that have prevailed in regard to interpretation. For example, HUD Community Development block grants have been given without adequate monitoring; without prior rather than post evaluations of civil rights compliance, general disregard of A-95 Review comments from either local and state civil rights enforcement agencies or concerned voluntary civil rights organizations. Code enforcement regulations are ineffective against absentee slum landlords and even against local landlords because of cumbersome court procedures and many of them elect to abandon properties on the basis it is not economically feasible to comply with codes when enforcement attempts are made. These structures are left vacant and subject to vandalism, crime, rape or where local authorities are able to condemn properties and compel adequate boarding up they still stand as offensive eyesores in an area or neighborhood or the local unit of government is forced to demolition at great public expense. Any re-examination of contributing cause and effect require also a hard and critical look at public welfare system which too often becomes a reliable subsidy system for slum landlords.

The whole issue is a very complex one and perhaps it is necessary at this point for the Congress to reconstruct the history and experience with housing laws beginning with 1949 Housing Act designed to guarantee safe, sanitary decent housing to all citizens.

Powerful incentives are imperative today to end housing discrimination and the mistakes that have accrued through well intentioned but misguided stop gap programs since the 1949 Housing Act honored mostly by rhetoric rather than commitment of priorities and resources must be taken into account in developing any effective remedy to the perpetuation of housing discrimination.

I, and many community organizations and agencies I work with, would be extremely interested in legislative developments referred to in your article that can more effectively assure freedom of choice of residency to all citizens and particularly, the protected classes designated in state and federal anti-discrimination laws.

You are to be commended for recognition of the problem and having identified and stated so succintly and poignantly the status of housing discrimination today in the U.S.

Sincerely yours,

MRS. OLIVE R. BEASLEY,
Director, Public Service.●

IMPORTANT VICTORIES FOR THE INDEPENDENT SERVICE STATION OPERATOR

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. LAFALCE. Mr. Speaker, during the month of June, all three branches of the Federal Government took critical steps to provide the Nation's independent service station operators with essential protection from the giant oil companies.

On June 14, the U.S. Supreme Court handed down a monumental decision, Exxon Corp. against Governor of Maryland, that rebuffed a challenge by the Nation's largest oil company—a challenge that threatened the ultimate extinction of independent operators.

Only 5 days later, the President signed into law H.R. 130, called the dealer's day in court legislation, which provides protection to gas station operators from the arbitrary cancellation of their franchises.

The Supreme Court case involved a Maryland law which prohibited gasoline refiners and suppliers from owning service stations within the State. Exxon Corportion, with its battery of lawyers, filed suit claiming that the law restricted interstate competition. The oil giant said in essence that a State had no right to protect small independent operators from the competition that huge oil companies could bring to bear.

It is a well known fact that within the past decade, oil companies have attempted to carve out the most profitable service stations for their own operation. They have terminated franchise agreements without good cause, and taken over lucrative stations with their own personnel. At the same time, to reduce competition for the stations they do own and operate, they have terminated franchises on less profitable stations, putting rugged independent operators out of business.

The Maryland law represented an attempt to curtail the efforts of the major oil companies to snuff out competition in the retail end of the industry. If other States continue to permit oil companies to dispossess independent operators of their franchises, ultimately, we will end up with a gasoline distribution system in which the oil companies and their own salaried employees control the flow of oil from the spigot to the gasoline pump. Now, at least, we still have a sizable corps of independent operators at the retail end, and they must be protected.

On June 14, 1978, the Supreme Court ruled that the Maryland law is constitutional. In the same opinion, the Court upheld provisions of Maryland law which prevent oil suppliers from playing favorites with retailers—if one operator in a given geographic area is given a price reduction, the same reduction must be given to other operators. This aspect of the Maryland law insures that independent operators will not be driven out of business by unfair competition.

Now that the far-reaching Maryland law has withstood the legal challenge of the largest oil company in America, other State legislatures should look to it as a model for their own States. As a Niagara Gazette editorial recently emphasized:

> The main issue is that the power of the giant oil companies to control the retail oil market has been broken by the Supreme Court decision. The main issue is that their power to force out independent competition has been destroyed. The main issue is that small enterprises will again be able to flourish in the retail oil business. Lower prices may result—indeed are almost certain to result—but the main point is that the structure of the retail oil industry will be changed: Standard Oil is out and Charlie's corner gas station is in.

But the independent service station operator has cause to celebrate apart from the Supreme Court decision. On June 19, 1978, President Carter signed into law legislation that will protect gas station franchise holders from arbitrary lease cancellations. The law, now in effect, prohibits a franchisor from arbitrarily canceling or failing to renew a franchise agreement with a gasoline distributor or retailer. The law also requires the Energy Department to conduct a study to determinc the extent to which producers and other suppliers of motor fuel subsidize company-owned gasoline stations with funds or services derived from other operations performed by their parent companies. It is clear that such subsidization is predatory, that it is a tool employed by the majors to eliminate competition from nonsubsidized, independently operated stations, and that action should be taken to eliminate this anticompetitive practice once and for all.

I strongly supported H.R. 130, because I believe the protection that it affords the independent operator essential

for the preservation of competition in the marketplace. Consistent with this view, I have cosponsored other legislation such as H.R. 11857, the Fair Franchise Practices and Distribution Practices Reform Act, and H.R. 11749, the Franchising Termination Practices Reform Act. These measures would extend much needed protection to franchise holders in a much broader range of industries.

The recent Supreme Court decision, and the enactment of H.R. 130, are two developments that will help insure the preservation of some of America's most important small businessmen. We all have cause for celebration.●

VFW LEADER CALLS UPON CONGRESS TO FIRE ANDREW YOUNG

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. McDONALD. Mr. Speaker, some segments of the press and indeed some of my colleagues have suggested that the vote Thursday on the motion—to table my resolution of impeachment of Andrew Young—House Resolution 1267, indicated or somehow reflected the feelings of Americans on this issue. It did not. As an example of how widespread are my views and those of the 81 other Members who voted to discuss this measure, I wish to place in the CONGRESSIONAL RECORD, at this time, the call by the Veterans of Foreign Wars for the Congress to fire Andrew Young as well as the letter from the VFW commander, Mr. John Wasylik, explaining the press release. These two items are for the edification of my colleagues who may now fully comprehend how the people feel about Mr. Young's antics: The items follow:

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., July 13, 1978.

VFW LEADER CALLS UPON CONGRESS TO FIRE ANDREW YOUNG

WASHINGTON, D.C.—"This unguided missile, 'Ambassador' Andrew Young, in his most recent outburst as reported in the French newspaper, Le Matin, has left mere indiscretion and demonstrated ineptness far behind and has leveled charges against our country that he allegedly 'represents' which are the peace-time equivalent of war-time treason, i.e., giving aid and comfort to enemies of the United States.

"As has been repeatedly demonstrated in the past, as far as President Carter is concerned, Young is fire-proof and Young seemingly lacks the grace either to shut up or get out.

"For these reasons, I am calling upon the bi-partisan leadership of the 95th Congress to act in concert to secure Young's departure from government. For the name 'Young,' substitute the name 'Singlaub' and you'll have some idea of the level of hypocrisy to which we have sunk."

John Wasylik, National Commander-in-Chief of the Veterans of Foreign Wars of the United States today conveyed this "urgent request" to the leadership of the Congress "who, from all reports, share my anger and outrage."

(Ambassador Young told the French newspaper that "there are hundreds, maybe thousands, of people I would call political prisoners in U.S. jails.")

(On earlier occasions, Young termed the Cuban forces a "stabilizing influence in Africa," described former Presidents Nixon and Ford as "racists," and viewed the Swedes as "terrible racists.")

VETERANS OF FOREIGN WARS
OF THE UNITED STATES,
Washington, D.C., July 13, 1978.

Hon. LARRY MCDONALD,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MCDONALD: The action I propose with respect to Ambassador Andrew Young is contained in the enclosed press release. I urge a concerted, bi-partisan effort on the part of the leadership of the 95th Congress to the end that Andrew Young is immediately separated from his position as United States Ambassador to the United Nations.

In addition to the rationale in the enclosed press release I would add:

(a) Young's manifest inability patiently to pursue any rational, structured, government-wide foreign policy effort;

(b) His flaunting of the sense of the 380–10 vote in the House of Representatives in the matter of the Star Chamber proceedings underway in the Soviet Union affecting Anatoly Shcharansky and Aleksandr Ginzburg; and,

(c) The calculated timing of Young's latest remarks which play directly into the hands of Kremlin propagandists and clearly challenge the veracity and thrust of President Carter's characterization of the Moscow trials.

As I noted in my press release, Young is apparently "fire-proof" and will neither shut up nor get out.

Please advise me as to your reaction to my proposal that the leadership of the Congress act.

Sincerely,

JOHN WASYLIK,
National Commander-in-Chief.

A SIGNIFICANT DIFFERENCE

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Ms. KEYS. Mr. Speaker, today, we have passed important legislation for the handicapped. During the welfare reform hearings, the Public Assistance Subcommittee heard extensive testimony on the many work disincentives for the handicapped. Repeatedly witnesses noted that a major disincentive to work was the fear that if they did not succeed at a job they would be in a worse position than if they had never taken one.

Our improved vocational rehabilitation programs have increased the employment opportunities for many individuals. However, those individuals are reluctant to actually take a job when failure will mean the forfeiture of SSI and medical assistance.

H.R. 10848 is a simple, low-cost way of reducing this disincentive. By providing for presumptive eligibility, it assures that a handicapped individual can regain his benefit without waiting several months during reapplication. Thus, an individual who still meets the medical criteria will continue to receive benefits without a break. He will not be penalized for his efforts in the labor force.

This bill is only commonsense. It simply makes benefits available to those who would be eligible for them in any case. This small adjustment in the administration of the SSI program will make a significant difference for handicapped persons who wish to secure meaningful employment. I commend my colleagues for their support of this measure.●

THE A–7 WINS AGAIN IN SCOTLAND

HON. DALE MILFORD

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. MILFORD. Mr. Speaker, on October 17, 1977, I was pleased to announce in the CONGRESSIONAL RECORD that the USAF 23d Tactical Fighter Wing won the first Royal Air Force tactical bombing competition held in Scotland. I am again pleased to inform my colleagues that the same 23d Tactical Fighter Wing, again flying the A–7D Corsair II aircraft, was declared the overall winning team for the second consecutive year.

Mr. Speaker, I am sure my colleagues will join me in giving the pilots and crew of the 23d Tactical Fighter Wing a hearty "well-done."

I include a press release of the event at this point:

A–7 WINS IN SCOTLAND

LOSSIEMOUTH, SCOTLAND.—The United States Air Force 23rd Tactical Fighter Wing has flown A–7D Corsair IIs to victory for the second consecutive year in the Royal Air Force Tactical Bombing Competition.

The "Flying Tigers" of the 23rd Tactical Fighter Wing were presented the Sir John Mogg Trophy as overall winners in ceremonies Monday, July 10, at the Royal Air Force Lossiemouth Bombing Range.

The A–7Ds are built in Dallas by Vought Corporation, a subsidiary The LTV Corporation.

The 23rd Tactical Fighter Wing, based at England Air Force Base, Louisiana, was declared the overall winning team on the basis of points achieved in bombing, strafing, leadership in navigation and operational turnaround. The A–7Ds won the 1978 team competition by scoring 1,733 points of a possible total of 1,930.

The winning team represented the Air Force's Tactical Air Command, and competed against four Royal Air Force teams based in Great Britain and West Germany, which flew Anglo-French Jaguars and Hawker-Siddeley Buccaneers. The four-day competition, delayed one day by weather, was held from July 5 through July 8.

Colonel Ted Conrad of the 23rd Tactical Fighter Wing was team leader. Other members included Major Ron Brekke, Captains Dick Burroughs, Bob Gatliff, Mason Whitney, and United States Navy Lieutenant Howard Petrea. Maintenance superintendent was Chief Master Sergeant Thomas W. Neal.●

STATEMENT BY AMERICANS FOR ENERGY INDEPENDENCE

HON. W. HENSON MOORE

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. MOORE. Mr. Speaker, the proposed Department of Energy regulation to increase the entitlement for importers of foreign refined residual fuel oil on the east coast and Michigan has become the subject of intense controversy. After analysis of the proposed regulation change, I have drafted an amendment to block that portion of the regulation which increases the subsidy for foreign refined residual fuel oil because I am convinced that the regulation is not in the best interests of the Nation as a whole.

Corroborating my position is a statement submitted to the Senate Subcommittee on Energy Conservation and Regulation by Americans for Energy Independence, a nonprofit coalition composed of members of the business, labor, academic, scientific, industrial, consumer, conservation, ethnic, and religious communities through the Nation in pursuit of effective national energy policies. Its board of directors includes such notables as Dr. Hans A. Bethe, Nobel laureate, Cornell University; Mr. Otes Bennet, president, North American Coal Co.; Mr. Lloyd McBride, president, United Steelworkers of America; Mr. John N. Nassikas, former chairman of the Federal Power Commission; and Endicott Peabody, formed Governor of the State of Massachusetts.

The Americans for Energy Independence statement cautions that the proposed change in the east coast entitlements program would detrimentally affect efforts to increase domestic refinery capacity and will serve as a disincentive for U.S. refiners to retrofit their refineries to process more abundant heavy crude. The full text of the statement follows:

We appreciate your invitation to comment on Administration policies affecting to domestic petroleum refinery capacity and the relationship between the crude oil entitlements program and these policies.

The Administration utterly fails to recognize the strategic importance of domestic refineries in the context of the energy crisis. In the absence of any coherent national refinery policy each proposed DOE regulation which would impact on the nation's refinery capacity must be scrutinized carefully by Congress.

On June 15, the DOE announced a proposed expansion of the already terribly complicated entitlements program in order "to equalize subsidies nationwide for residual fuel oil." It is our position that as formulated, this proposed extension of the entitlements program would serve as a disincentive to domestic refiners to undertake the expansion and reconfiguration steps necessary to meet domestic needs.

The United States is the only major industrialized nation which cannot refine its own needs. This country is currently short some 3 million barrels of daily refinery capacity. Underscoring the strategic implications of this shortfall, the U.S. is presently incapable of refining the crude oil which will be stored in the Strategic Petroleum Reserve.[1] (The evasive DOE response to Question 11 posed by this Subcommittee suggests that Americans will have to rely on foreign refineries to process the Reserve oil. The irony of this is clear. Put bluntly, in the event of another oil embargo, New Englanders would be well advised to winter in the Caribbean.)

We are at a critical crossroads. Our domestic refineries are primarily geared to process light, sweet oils which are rapidly diminshing and becoming more valuable. The recently discovered finds here and abroad are predominantly heavy, sour crudes which produce a greater percentage of residual fuels, used for electrical generation and in industrial processing. To gear out refineries to meet what is coming on line and to meet important environmental requirements, present refineries will need retro-fitting, capacity enlargement and upgrading for efficient operation. We will also need more refineries and refineries sited throughout the country with regional needs.

To do these things will be expensive. But the expense should be weighed against jobs lost, a detrimental balance of payments and resulting inflation, and the security risk of a policy which fosters dependence on foreign refineries. We believe that the new DOE proposal as enunciated by the Secretary will preclude a role for the U.S. in processing the now more abundant types of crude.

We are sympathetic to the needs of the East Coast to prevent economic dislocation to its residents and industries, and we have no desire to exclude from the U.S. market refined products from abroad. But we think it dangerous to embark on a new open-ended entitlements program which would hold out the hope of permanent subsidies to the East Coast while providing no incentives to that region and to the refinery industry to correct a growing imbalance.

We could support the DOT's proposal if 1) it were a declining subsidy with a certain cut off date; 2) it could be guaranteed that the cost benefits would be passed through to the East Coast consumers; and 3) the expanded entitlement program were meshed with a national refineries program designed to encourage expansion and diversification of U.S. refinery capacity. We believe a program which contains these features will better serve our national energy goals without aggravating regional rivalries than the baling wire and Band-Aid approach offered by DOE.●

[1] At the present time, there is a worldwide excess of refinery capacity. In West Germany, the refinery utilization rate dropped to 65% last year. (An 85–90% rate is considered optimal.) In the Netherlands Antilles, utilization rate of the combined companies dropped from 92% in 1973 to 70% last year. February 13, 1978 *Oil & Gas Journal.*

COAL SLURRY PIPELINES

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. WEAVER. Mr. Speaker, I am pleased to submit an excellent analysis of the proposed coal slurry pipelines as the issue is presented in H.R. 1609.

COAL SLURRY PIPELINES: ISSUES AND IMPACTS

EMINENT DOMAIN

Eminent domain is a power of condemnation. It is not a popular exercise of government authority. Eminent domain is designed to be used judiciously, within very carefully drawn parameters of what constitutes "the national interest" and "a public purpose". Further, eminent domain "is founded on the law of necessity". It is not a power to be used for "pipeline promotion" or "to facilitate the acquisition of rights-of-way" for essentially private interests across Federal or private lands. Granting federal eminent domain authority to coal slurry interests would weaken and dilute the "public purpose" clause of that authority, and in the process, could set the stage for a whole host of other interests who would want to use federal eminent domain powers for other projects that may be risky, unnecessary, regionally parochial, or otherwise unworthy of "public purpose" sanction. Bechtel, for example, sponsored a study on slurry transport which noted that "the logical next step", after obtaining federal eminent domain power for coal slurry lines, would be to pursue such power for iron slurry pipelines, suggesting a need for such facilities in the Great Lakes Region.

WATER USE

Fully one-half of the substance moved in coal slurry pipelines is water. It takes about one ton of water, or 250 gallons, to move one ton of coal through a pipeline. One coal slurry pipeline could consume as much as 6 billion gallons of water per year—an amount equivalent to the water needs of a town of about 65,000 people. Three pipelines the size of the ETSI proposal would consume an amount of water equivalent to the needs of half of Wyoming's present population. And the U.S. Bureau of the Census has projected that the population of Western states will increase at double the national average through the year 2000.

WATER DEPLETION

In the Western and Great Plains states, underground aquifers, which will be increasingly relied upon for agricultural, Indian, municipal and industrial water needs in the years ahead, will not be able to accommodate both slurry needs and expansion of existing uses. For example, present uses alone, combined with the demands of three coal slurry lines, would exceed the estimated 75,000 acre feet "replacement flow" that replenishes the three-state Madison Formation, a process that would gradually lower the water table for that reservoir, possibly falling below the reach of local well fields. Furthermore, there is some indication that destination-state industries and utilities not only want the coal that is carried in slurry pipelines, but also the water.

AGRICULTURAL IMPACTS

Agricultural interests will be impacted by coal slurry development in several ways. Agricultural land and water will be directly taken for pipeline construction and operation. Shipping rates for agricultural commodities hauled by rail could be driven up in certain areas as coal slurry lines cut into the coal tonnage hauled by rail. Water prices for all water users, and especially agricultural users, will be driven up by competing and speculating coal slurry interests, thus increasing operating expenses for already hard-pressed ranching and irrigated farming operations. For these reasons and others, the National Farmers Union, the National Association of Wheat Growers, the National Farmers Organization and the American Farm Bureau Federation have all expressed opposition to coal slurry legislation.

NEW FORMS OF ECONOMIC CONCENTRATION

Federal eminent domain authority for coal slurry pipelines is the crucial link that will enable a small, interconnected web of construction, utility and mining interests to establish coalfield-to-kilowatt control over energy development in certain regions of the country. Large construction and mining interests will team up with natural gas util-

ities to form "coal slurry cartels" around each coalfield/pipeline/powerplant complex. The Department of Justice reported in May that Utah International and Peabody Coal together accounted for 52.9 percent of all coal production in the southwest. Utah International is owned by General Electric and holds the pipeline subsidiary Marcona Construction. Peabody Coal is controlled by Bechtel (15 percent), the Williams Cos. (27.5 percent), Boeing (15 percent) and the Fluor Corp. (10 percent). Each of these firms have interests in either pipeline construction, powerplant construction, or utility/pipeline/powerplant equipment and hardware. ETSI is controlled by Bechtel (30 percent) and Lehman Brothers (30 percent). Further, utilities with coal slurry interests will become involved in joint ventures for mining coal. Panhandle Eastern Pipeline and Middle South Utilities have signed a joint venture agreement with Peabody Coal for 150 to 250 million tons of coal over a 26- to 42-year period. There is nothing to prevent this kind of integration and joint venturing in the current coal slurry pipeline legislation. In fact, there has already been some maneuvering by utilities and other coal slurry interests to avoid certain Securities Act disclosures. While proponents argue that coal slurry pipelines will promote competition in coal transportation, they may in fact be laying the groundwork for yet another form of oligopoly. Such new forms of economic concentration and closed-cycle market control will be officially sanctioned by Congress with a grant of eminent domain for coal slurry lines.

PERPETUATING ECONOMIC CONCENTRATION

The pipeline and natural gas industries are clearly planning their growth-projection hopes on coal slurry pipeline development. In 1976, the president of Gulf-Interstate Pipeline Co. optimistically forecast that at least one-half of the dollar value of all pipeline construction in the 1980's could come from coal slurry pipeline development. In one sense, coal slurry pipeline legislation may contribute to the perpetuation of the growth and market power of the natural gas pipeline interests by allowing them to horizontally extend into coal pipeline development.

CAPITAL DIVERSION AND CAPITAL COMPETITION

Federal regulatory and siting incentives for coal slurry development will give pipeline interests and advantage over railroads and other industries in the capital market. Throughput contracts will enable slurry interests to obtain favorable financing and lower interest rates. Scarce capital dollars, otherwise available to railroads for rail equipment and roadbed upgrading, might not be as easy to come by once coal slurry interests secure eminent domain and federal sanction. Moreover, scarce capital spent on duplicative and unnecessary energy transportation systems will be capital unavailable to other sectors in the economy, including housing, energy conservation, health care, or solar technologies.

WATER RIGHTS

Despite protective legislative provisions to the contrary, state and Indian water rights are likely to be overturned in court due to the "national interest" weight accorded a federal grant of eminent domain. Supreme Court decisions such as *Pike* v. *Bruce Church* suggest that a ruling invoking the "commerce clause" would favor pipeline interests over a state action denying access to state waters for coal slurry purposes.

LAND AND LOCAL GOVERNMENT

According to OTA, the proposed Wyoming-to-Texas coal slurry pipeline would traverse 45 counties in 6 states. Assuming a 100-foot right-of-way, this one pipeline alone would require approximately 14,000 acres of land, much of it used for agriculture. At 15 acres per mile of pipeline, ETSI's 1,400 mile line would require 21,000 acres. Given the propensity of pipeline builders to take "the line of lease resistance", productive valley land, diagonal field crossings and a disruption of local land planning will all be in the offing if slurry interests are given federal eminent domain powers.

ENERGY USE AND ENERGY WASTE

The Office of Technology Assessment has calculated that coal slurry pipelines would require 610 Btu's of energy per ton-mile of coal moved, while railroads would require 310 Btu's per ton mile. Centrifuge technologies and possible reverse pumping of water to points of origin would require even more energy. One estimate of "energy use" for a 1,000-mile coal slurry pipeline—including coal preparation and de-watering—revealed that the energy equivalent of 1 million tons of coal would be expended in one year moving coal through a pipeline. Also, the Department of Commerce has explained that "there is a significant loss of coal and energy due to drying/separation requirements for coal slurry". Commerce finds that as much as 6 percent of the coal can be lost in these processes.

PIPELINE SPILLS AND RUPTURES

Soils and geology will vary considerably along the 1,000-mile routes of proposed coal slurry pipelines. Certain porous soils and geologic formations could serve as dispersing conduits for liquid spills. Underground water supplies and local well fields may be vulnerable to slurry contaminents should pipeline ruptures or leaks occur along these lines.

WATER POLLUTION

Coal contains trace elements such as mercury, lead, beryllium, arsenic, cadmium, selenium and others. These elements, plus the addition of corrosive-inhibiting chemicals to protect pipelines, and chemical flocculants used to separate coal from water at the plant site, will, if not treated, end up as toxic substances in local water supplies. The Environmental Protection Agency currently has no standards for coal slurry discharges. In addition, where volume and flow of water resources are affected by coal slurry takings, the ability of such waters to assimilate pollutants or absorb organic wastes will also be reduced.

TECHNOLOGY REPLACING LABOR

Coal slurry pipelines will create temporary construction jobs. However, the House Interstate & Foreign Commerce Subcommittee report has noted that "full deployment of coal slurry pipelines could ultimately cost as many as 16,000 railroad jobs." In addition to the Railway Labor Executives Association, the United Mine Workers and the International Assn. of Machinists are also opposing coal slurry pipeline legislation. Technology-intensive methods of transportation, such as coal and iron slurry pipelines, combined with already technology-intensive methods of extraction such as surface and open-pit mining, seem but one more step on the part of industry to move away from labor-demanding processes and organized labor.

COAL SLURRY INFLATION

Construction cost estimates for coal slurry pipelines (in 1976 dollars) are running at about $1 million a mile. Bechtel, a major firm among coal slurry proponents, has participated in the construction of the Alaskan Pipeline, San Francisco's BART, and Washington's METRO, projects which have all experienced substantial cost overruns. Long-term construction and purchase contracts for coal slurry lines will unload financial risk and escalating costs onto the utilities, who, in turn, will pass such costs on to their rate payers through fuel cost adjustment allowances and other rate-base mechanisms. Secondly, any loss in coal tonnage hauled by rail will impose higher rate burdens on other rail-carried commodities, especially grain and beef moving to Eastern and Midwestern markets. Higher transportation costs for agricultural commodities will mean higher food costs for consumers. Thus, coal slurry construction and operation will contribute to inflation in two basic areas: utility rates and food prices. And inflation rates for food and fuel are already rising faster than the general Consumer Price Index.

DOUBLING NATIONAL COAL PRODUCTION

According to the Carter Administration's National Energy Plan, "Coal development and production is most economical when it is near major markets." The NEP notes further that "there should be large production increases in the highly populated Eastern and Mid-West regions, where coal use in industry and utilities could grow considerably in the future." Since the overwhelming share of coal reserves east of the Mississippi River is deep-minable (approximately 90 percent), federal incentives and private investment in deep-mine technology, deep-mine health and safety, and railroad revitalization would appear to be a coal development strategy more in "the national interest" than granting eminent domain for coal slurry pipelines. Eastern deep-minue development would also be more cost-effective and would create more jobs for transportation workers as well as miners.

ANTI-TRUST AND COAL INDUSTRY STUDIES

There are a large number of perplexing and complicated questions pertaining to the operation and structure of the coal industry and allied interests in the U.S. Because of the lack of a clear understanding of the coal market and other institutional and financial arrangements relating to coal and coal development, it would be premature for Congress to enact any form of coal pipeline legislation at this time. Enactment of coal slurry pipeline legislation by Congress will unnecessarily precede several coal industry studies and planned committee investigations. One study of coal industry competiion is mandated under section 742 of the coal conversion portion of the pending Energy Bill. Congress should reasonably defer to the results of these studies before proceeding with any further consideration of coal slurry pipeline legislation.●

YOUTH UNEMPLOYMENT

HON. JOHN B. ANDERSON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. ANDERSON of Illinois. Mr. Speaker, I have spoken several times in the past about the seriousness of the teenage unemployment problem, especially among blacks. The recent news that black teenage unemployment still hovers around 40 percent compounds my concern.

The overall unemployment rate has continued to decline—from 7.5 percent in June of 1977 to 5.7 percent in June of 1978. Total teenage unemployment, although still at an unreasonably high level, has declined from 21.5 percent to 14.2 percent over the past year. But, black teenage unemployment has diminished an insignificant amount—from 40 per-

cent to 37.1 percent. The Labor Department estimates 394,000 black teenagers, ages 16–19, were unemployed in June of 1978. Countless others have undoubtedly stopped looking for work, discouraged by frequent job rejections. Total teenage unemployment is over 1,360,000—a national disgrace.

These figures are alarming and indicate that much more needs to be done to alleviate teenage joblessness. Although Congress created a Young Adult Conservation Corps last year, and although some teenagers find work through CETA, adequate job opportunities for all teenagers still do not exist.

The current situation demands innovative solutions. Our Nation cannot afford to let a generation of youngsters suffer long periods of unemployment with the resulting lack of experience and skill training. The employment deprivation caused by the inaction will haunt us for years to come.

Youngsters need special assistance in entering the job market. Besides Government-provided jobs, which should only play a small role in combating teenage unemployment, teenagers need a less restrictive minimum wage to help their employment prospects. In the past I have suggested either a youth differential to the minimum wage or a minimum wage voucher plan as methods to attack youth unemployment. Given the current unemployment situation, such solutions seem more needed.

G. William Miller, Chairman of the Board of Governors of the Federal Reserve System, in testimony before the Joint Economic Committee on June 29, 1978 agreed that the minimum wage is a barrier to youth employment and that a youth differential would be wise public policy. His views, expressed in his official capacity as the individual in charge of the Nation's monetary policy, lend impressive credence to the concept of a minimum wage offset for young people. At this time I would like to share with my colleagues the relevant portion of Mr. Miller's testimony, along with a recent Washington Post article on black teenage unemployment:

Senator ROTH. You think it would be helpful to have some type of partial exemption with respect to the teenage employment, permitting the youth to be employed at something less than the standard minimum wage?

Mr. MILLER. Senator, there is no question; I think that would be a wise move. The young people today have it very difficult, those particularly without higher education, getting the first job. But after they get a job and have had it a few years they progress very well and take up their place in society with well-paying jobs, and it is in their own self-interest to get work experience, even at a differential wage, just to get the experience. Many of them are living at home. They have less personal expenditures.

They are not married and they can afford to go through an apprenticeship, if you will, as many of us did in our years of learning. They learn what work is and what responsibility is. They learn what it means to be a part of the team and produce in one way or the other, so I think it would not be socially regressive. I think it would be progressive to them that opportunity.

[From the Washington Post, July 8, 1978]

BLACK TEEN JOBLESS AT 37.1 PERCENT

(By Charles Rowe)

Unemployment among black teenagers remains a serious problem nationwide, with the unemployment rate for black teen-agers at 37.1 percent in June, compared with 14.2 percent for all teen-agers nationally, the government reported yesterday.

According to Labor Department statistics, the unemployment rate for black teen-agers remains the highest of any population group. The June rate was down slightly from the May rate of 38.4 percent, while the rate a year ago was 40 percent.

"The situation is very serious for black teen-agers," Andrew Brimmer, a former governor on the Federal Reserve Board and now a Washington consultant, commented yesterday.

"The situation is improving very, very slowly. Not enough is being done," he said.

Brimmer noted that the slight improvement in unemployment for black teen-agers was less than the improvement for white teen-agers during the recent months. The ratio of the black teen-age unemployment rate to that for whites jumped to 3.2 in June from 2.78 in May, he calculated.

In June, 181,000 more white teenagers and 10,000 more black teenagers found jobs, Brimmer said.

Behind the difference in the employment rates for the two groups, Brimmer said, is the fact that most white teen-agers "live in the suburbs where the jobs are—where the growth is greater."

Brimmer said he would like to see continuation and expansion of government programs designed to find employment for teenagers with no job skill. Yesterday, one such program run by Youth Pride Inc. certified nearly 400 District youths for work in its summer program.

According to Camilla Brooks, director of in-school programs for Pride, their program finds jobs for economically disadvantaged students—those from families now receiving some sort of government financial assistance. The program receives government funds under the Comprehensive Employment and Training Act.

Pride Inc. works with the District's Department of Manpower and area schools to place the students in community service jobs, Brooks said.

Silva King, who accompanied her 16-year-old sister at Pride, said getting jobs for black teen-agers is "easier now than it was." She attributed the improvement to programs such as Pride's. "It's still hard in the winter time," she said, because many employment programs last only for the summer.

Barbara Bergmann, professor of economics at the University of Maryland, said the high unemployment rate for black teen-agers is "due to discrimination in large part." She said she noticed discrimination in some restaurants, which she said had never hired black employes.

"I look at black unemployment as an extremely serious problem that is not being addressed," Bergmann said. What has inhibited solutions to the problem, she said, is a fear of inflation.

"As serious as some people see the problem of inflation, it can not be more serious than getting our black teen-agers prepared for the world of work," she said.

Bergmann said she is coming around to the idea of wage and price controls as a solution to unemployment problems. The controls, she said, "would free our concern from inflation so we can begin attacking the unemployment problem."

If the nation's economy goes into a recession, Brimmer said, he expects "blacks generally and teen-agers in particular to carry a disproportionate share of the slow growth and rising unemployment." ●

ANDREW YOUNG'S LATEST COMMENT

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. GOODLING. Mr. Speaker, I should like to call my colleagues attention to an editorial which appeared in the Washington Star, July 14, 1978. The Star comments, as many have, on the foolishness and inappropriateness of Andrew Young's latest comment, which remarkably "falters at the challenge to distinguish rationally between freedom and tyranny." But it is most astonishing when we consider Andrew Young's background as a courageous fighter in the American civil rights movement.

In his work with Martin Luther King, Young exemplified and brought to life the words of W. E. B. DuBois who wrote that "there are today no truer exponents of the pure human spirit of the Declaration of Independence than American Negroes." As true exponents of "the pure human spirit," Mr. Young and those who followed him forced America to hold fast to her guiding principle "that all men are created equal." But in his failure to articulate the not too subtle distinction between the idea which gives America its unique quality and the idea which drives the Soviet tyranny, Young betrays a radical ignorance of his own role and his own achievements as a kindred spirit of Dr. King. Hold the Soviets to their guiding principle and you see the Gulag, hold America to her guiding principle and you see the Civil Rights Act of 1964. What can be said of his disgraceful talk but: "For shame, Mr. Young, for shame."

[From the Washington Star, July 14, 1978]

MR. YOUNG'S LATEST

The untimeliness of Ambassador Andrew Young's latest attack of yakkita inepta is appalling, of course. Not that there is ever a good time for mentioning U.S. prisoners of any kind in the same breath with maltreated Russian dissidents.

Some good might come of the incident, however, if we ask ourselves what dire confusion might account for Mr. Young's astonishing suggestion that U.S. prisons hold "hundreds, even thousands of people I would call political prisoners," or for his further suggestion that poverty is a common jailing offense. Mr. Young can't repeal the dictionary, or transform a plain prisoner into a political prisoner with an arbitrary label. And "nobody," he conceded later, is "in prison in the U.S. for criticizing the government."

So what prisoners did Mr. Young have in mind? Amnesty International recently listed a small number of American cases in which some political aspect figured—among them the case of the so-called Wilmington Ten in North Carolina. Even that was an adventure in misdefinition, but Amnesty International was infinitely more cautious than Mr. Young.

There does appear to be a school of thought and maybe Mr. Young belongs to it, that breaking laws in the name of some cause transforms plain criminality into political criminality. There are, concededly, times when it may. There is a form of civil disobedience whose condition is the acceptance of punishment. But the very promiscuity of its use has long since blurred crucial distinctions quite hopelessly. The Wilmington

youths convicted of fire-bombing a grocery store attracted vast, uncritical support in the liberal and civil rights communities because their crime was in some sense the offshoot of civil rights conflict. But it was not, of course, civil disobedience by any sane definition.

Mr. Young told the French reporters that he was, himself, "sentenced . . . in Atlanta for organizing a protest movement." Indeed, in the South in the '60s various minor laws against trespass, vagrancy and loitering were sometimes used by local authorities with the aim of stifling "political" purposes. But distinctions may and must be drawn. No one not even Mr. Young, was ever literally "sentenced" for organizing a protest movement. That is not a crime and never was, although it does seem to be a crime in the Soviet Union, Helsinki accords notwithstanding.

The point is that Mr. Young as a former associate of the late Dr. King has more reason than most to recall that the right to organize a protest is constitutionally protected; and that the U.S. government went to extraordinary lengths to see constitutionality vindicated against local repression. Ought he not make it his business, in conversations with the foreign press, to stress crucial distinctions and not casually blur them? Need he equate a legal system with a Bill or Rights and Habeas Corpus with a legal system designed to place individuals at the mercy of an arbitrary state?

The real problem is not Andrew Young or his tendency to sound off inopportunely. It is a frame of mind so unsure of its values as to scant vast differences rationally between freedom and tyranny. We have, as Prof. Walter Berns would have it, "forgotten the answers" to a number of fundamental questions, answers free people forget at their peril.

Mr. Young is not the only offender. He is only the most spectacular.●

VIETNAM TRIBUTE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. HYDE. Mr. Speaker, I am extremely pleased that the House of Representatives has today adopted H.R. 12261, legislation that will finally give us an opportunity to pay tribuate to those who gave their lives in Southeast Asia.

I am sure the 107 cosponsors of my original Vietnam tribute legislation contributed greatly to the progress in developing the measure passed today.

A 5-foot marble and bronze plaque is being designed for placement in the Trophy Hall of the Memorial Amphitheater at Arlington National Cemetery. Plans are tentatively set for dedication of the plaque on Veterans' Day, November 11, 1978.

The plaque will carry the inscription:

The people of the United States of America pay tribute to those members of its Armed Forces who served honorably in Southeast Asia during the Vietnam conflict.

The Purple Heart and medals, ribbons, and tributes associated with the Vietnam conflict will be mounted in a manner appropriate for display in the Trophy Hall.

Mr. Ray Constanza, Superintendent of Arlington National Cemetery, and Maj. Don Deline of the Army's Office of Legislative Affairs, took time from their busy schedules recently to personally show me a drawing of the plaque design, and where the plaque will be placed in the Trophy Hall. I was deeply moved by the time and consideration that has gone into developing a suitable tribute.

The courage and conviction, determination and devotion that the members of our Armed Forces displayed in a strange, distant, and unpopular war must place them in the very front ranks of all the heroes in our history to whom the concept of duty was more than a word.

It is uniquely appropriate that Congress put itself on record by recognizing those who, at great sacrifice, served in obedience to the law, above and beyond the call of duty.

I join the families and friends of those who paid the supreme sacrifice in expressing sincerest appreciation to my colleagues who cosponsored the original legislation, and to the members of the Veterans' Affairs Subcommittee on Cemeteries, and its chairman, the gentleman from Ohio (Mr. CARNEY), and the ranking Republican on the subcommittee, the distinguished gentlemen from Indiana (Mr. HILLIS), Mr. Constanza of Arlington National Cemetery, and Maj. Don Deline of the Department of the Army, for endorsing the concept and helping to develop an outstanding tribute to the memory of those who served in Vietnam.

At this time, I ask unanimous consent to list the cosponsors of the original Vietnam tribute legislation:

CO-SPONSORS, VIETNAM TRIBUTE

H.R. 6778, H.R. 7512, H.R. 7513, H.R. 7514, H.R. 7625, H.R. 7688, H.R. 8509, H.R. 9766, H.R. 9767, H.R. 9781, H.R. 9867, H.R. 10135.

James Abdnor, Daniel K. Akaka, Clifford Allen, Mark Andrews, Bill Archer, Les AuCoin, Robert E. Badham, Max Baucus, Edward P. Beard, and Adam Benjamin.

James J. Blanchard, Edward P. Boland, Jack Brinkley, Clarence J. Brown, Clair Burgener, James A. Burke, M. Caldwell Butler, James Cleveland, Thomas Coleman, and Silvio O. Conte.

Tom Corcoran, David L. Cornwell, Edward Derwinski, William L. Dickinson, Robert Dornan, Thomas J. Downey, John J. Duncan, Mickey Edwards, Joshua Eilberg, and David Emery.

Allen E. Ertel, Thomas B. Evans, Jr., John Fary, Millicent Fenwick, Floyd Fithian, Walter H. Flowers, L. H. Fountain, Donald Fraser, Bill Frenzel, and Louis Frey, Jr.

Benjamin Gilman, Willis D. Gradison, Jr., Charles Grassley, Tennyson Guyer, Sam B. Hall, Jr., George Hansen, Elwood Hillis, Ken Holland, Marjorie S. Holt, and Frank Horton.

William J. Hughes, Andy Ireland, John Jenrette, Jr., Jack F. Kemp, William Ketchum, Thomas N. Kindness, Robert Lagomarsino, Raymond Lederer, Joseph A. Le Fante, and Norman F. Lent.

Marilyn Lloyd, Clarence Long, Trent Lott, Stanley Lundine, Paul N. McCloskey, Jr., Larry McDonald, Robert C. McEwen, Matthew McHugh, James R. Mann, and Dan Marriott.

Romano L. Mazzoli, Joe Moakley, Robert H. Michel, Clarence Miller, Donald J. Mitchell, Austin Murphy, Stephen Neal, Bill Nichols, Richard Nolan, and James L. Oberstar.

George O'Brien, Shirley Pettis, Larry Pressler, Carl D. Pursell, Dan Quayle, Albert H. Quie, Frederick Richmond, Marty Russo, Leo J. Ryan, and Richard T. Schulze.

Ike Skelton, Gladys Spellman, Floyd Spence, Arlan Stangeland, Newton I. Steers, Jr., Bob Stump, David C. Treen, William Walsh, G. William Whitehurst, and Charles Whitley.

Charles Wilson, Larry Winn, Jr., John Wydler, Gus Yatron, C. W. Bill Young, Don Young and Robert Young.●

CAPTIVE NATIONS WEEK

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. ADDABBO. Mr. Speaker, today marks the 20th anniversary of "Captive Nations Week," a time set-aside for us to remember those living under the persecutions of tyranny. The current trials of the Soviet dissident Scharansky and Ginzburg makes especially clear the fact that most people of the world today do not live in freedom, but must endure daily what to us seems like an unbearable oppression.

I think that we Americans are perhaps a bit too complacent with our own hard won liberty. We have just celebrated the 202 anniversary of the signing of the Declaration of Independence. Our Nation is governed under the oldest written, viable Constitution in the world. Two-hundred and two years seems to be so long a period of time as to make our own freedom invincible in the face of any obstacle from without and from within. Yet, let us remember that tyranny and oppression have been the rule of government, throughout history, and not the exception, even today, in a world ruled by the few for the few.

For democracy to thrive it needs an atmosphere of free thought and liberalism not only at home, but abroad as well. For this reason, "Captive Nations Week" is an important tradition, as it forces us to remember those who are not free and encourages us to be vigilant in defense of our own liberties as well as those of others. Vigilance in defense of freedom is an idea which dates back to the glorious revolution of 1688 in Britain and which underlay the thoughts and actions of our Founding Fathers in the 18th century. Unless we remain true to our own best traditions of freedom, the American experiment will be lost.

Soviet actions in Africa have expanded their influence in that part of the world and has, therefore, threatened the cause of freedom everywhere. In Eastern Europe, millions of people still live under Soviet domination and are denied the right of meaningful self-determination. In the Soviet Union, itself, millions of non-Russians, as the current dissident trials remind us, must endure tyranny and persecution as a daily fact of life. In Cambodia and Vietnam, the reports of atrocities document terror on a scope not seen since the days of the Nazis. In fact, when we remember the so-called captive nations, we are thinking of a large proportion of the global population—all except that part which we call the Free World. For so many nations are either captive from without or captive from within. The truth of this fact must not be lost upon us if we are to maintain our own freedom.●

CAPTIVE NATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. DERWINSKI. Mr. Speaker, throughout the week, as part of the Captive Nations Week program, I will be inserting pertinent articles in the RECORD to dramatize the plight of the peoples held in bondage by the U.S.S.R. One of the most tragic stories of the captive nations is that of Lithuania, one of the small Baltic states which was swallowed up by the Soviets at the close of World War II.

Columnist John Sherwood tells the story of the Lithuanian nation as seen through the current Lithuanian chargé d'affairs in Washington, D.C. In his article appearing in the Chicago Tribune of July 13, Mr. Sherwood comments on the future of the Lithuanian legation in the United States. The article follows:

TEMPO—THE KEEPER OF LITHUANIA'S FADING FLAME

(By John Sherwood)

WASHINGTON.—There are no secretaries to answer the phone, no butlers to answer the door, no chefs in the kitchen, maids in the parlors, chauffeurs in the garage. The old mansion is dark and empty; too hot in the summer, too cold in the winter.

On the hot first floor, behind a classic iron-grilled window, works an aging, sad-eyed man without a country. He is a gentleman haunted by what was—still concerned over matters that, realistically speaking, are no longer matters of his concern. There are few telephone calls and even fewer visitors.

He wears black shoes and black, baggy trousers. A conservative striped tie splashes some color on the starched white shirt that is always buttoned at the collar and cuffs. A diplomat without portfolio, he is part of the Old World, and he looks the role as he quietly shuffles papers and sends out literature about a country that no longer exists, except in his heart.

His wife, her hair pulled back severely, is the only other person living and working in the five-story, 24-room house on 16th Street.

Madame Ona Backis is preparing a small lunch in the kitchen that overlooks an overgrown garden, and they will eat quietly together at the kitchen table, not at the large, formal table in the beautiful banquet room upstairs. She is a slight, little woman who walks with her hands clenched together in front of her.

It is all pretty much a matter of time for them now. Their patient, diplomatic waiting game has lasted nearly 40 years and will probably end soon. Their hopes are dwindling fast, along with their funds and their years. Yet, for all the personal tragedies they have suffered, they have grown old wonderfully well together and they accept the fate that they will never see any of their family again.

"It is difficult. It is very difficult," says Dr. Stasys A. Backis, 72, *charge d'affaires* at the former embassy of the former nation of Lithuania here. "I look upon the 17,000 square feet we have here as the last of Lithuania. It is the largest piece of our beloved country that is left in the world (the old Lithuanian diplomatic service maintains an apartment in Rome and a small legation in London). "We live very frugal lives. Funds are getting low, I am growing old, and there is no one to replace me."

Lithuanian funds were frozen by the United States after the Russian takeover and are administered by the Treasury Department, releasing as much from the Federal Reserve in New York as is needed. There is speculation that there are only enough funds to last a couple of more years at the most.

The U.S. government and the West have never formally recognized the 1940 Soviet takeover of Lithuania, Estonia, and Latvia, but they do recognize anyone appointed to the diplomatic service by the legitimate governments before the invasion. Estonia has a diplomatic office in New York. Latvia has a legation in Washington but it is unlike the embassy-type Lithuanian legation that serves as both the home and the office of its charge d'affaires.

"It is a tragic tale," said a State Department official familiar with the Baltic states. "We are looking at the question and the rule that a diplomat must come from the sending state."

And therein lies the problem: Since the Lithuanian delegation does not qualify as a government in exile, how can a country that no longer exists appoint a diplomatic representative? Anyway, most of the last remaining members of the old Lithuanian foreign service are in their 70s and 80s, and when they go, so, in effect, goes Lithuania.

Other small offices are maintained in New York, Chicago, Los Angeles and Toronto, mainly to serve the more than one million Lithuanian-Americans by providing historical literature about their ancestral country.

Dr. Backis' office is full of books and pictures and mementos that might well have been burned by the Russian rulers in Lithuania. In the dark hallway outside his office hangs a large map of his homeland, and he smiles as he points to the town of his birth, Joniskelis on the River Musa. He has not been there for 40 years and will never be able to return. That saddens him greatly.

"I have a brother back home," he said. "I think he is alive. I hope he is alive. I just don't know. He would be 80 years old, I last heard from him in 1976. My other brother died in Siberia." Madame Backis added: "One of my sisters was sent to Siberia, but I still have a brother and sister living. My home, my birthplace, is now a Soviet cultural center."

Showing a visitor around the darkened building, Dr. Backis pointed out various Lithuanian furnishings and decorations that manage to keep the spirit of the country alive—a rug and tablecloth, a framed Madonna of Lithuania, a rosary, rare Easter eggs, and a knight on a charger (the national emblem) hanging over a carved, wooden mantle near the Lithuanian flag of yellow, green, and red.

Dr. Backis walked up to a carved wooden Christ hanging on a wall in a somber corner. It was barely visible, because curtains were drawn to keep out the summer heat. The legation—built in the 1920s by Washington social figure Mrs. John D. Henderson, who lived in a "castle" just down the street—is not centrally air-conditioned. In the winter they walk around in sweaters to keep heating expenses down.

The envoy flicked on a wall light and, when the visitor had seen enough, flicked it out again. He did this time and time again as the tour proceeded.

Madam Backis is especially proud of a showcase of 20 costumed dolls taking part in a wedding feast. The exhibit was shown in the Lithuanian Pavilion during the New York World's Fair in 1939. It now sits in a back room on the second floor, draped in plastic dust covers.

There are few parties held here, except for the one celebrating the old country's national day, Feb. 16. Several native dishes were served then, but for the most part the buffet was limited (egg rolls and hot dogs in blankets). It was held in the old banquet room, however, but there was no festive gaiety, no dancing, toasting, or celebration.

A poignant sadness is etched in the faces of Dr. and Madame Backis, perhaps because the history of Lithuania is especially sad. Established in 1251, the Lithuanian kingdom bordering the Baltic Sea was under Russian rule from 1795 to 1915, when it fell under German occupation. In 1918 the tormented country finally achieved its restoration of independence that was to last but 20 years.

Lithuania was received into the League of Nations in 1921 and soon after set up its embassy in Washington, buying the Henderson mansion in 1923. In 1926, Lithuania and the Soviet Union signed a nonaggression pact. In 1939 a "mutual assistance" treaty was agreed upon, and Lithuania was forced to admit Soviet garrisons and to grant air bases.

On June 15, 1940, Russia demanded immediate formation of a "friendly government" and on the same day the Red Army marched in. Within two weeks, 400 members of Lithuania's intelligentsia were deported to Siberia. During this brief occupation the country suffered a loss of 45,000 people and was to suffer even more turmoil at the hands of the Germans, who marched in the following month and proceeded to execute almost all of Lithuania's Jews. The beleaguered country fell under Soviet control again in July, 1944, and villages and cities suffered widespread devastation and massacres.

In Lithuania, during 1945–46, some 145,000 natives were shipped to Siberia and hundreds of thousands of young Lithuanians took refuge in the forests. Thousands of them fled the country and there were many armed clashes between the partisans and the Soviet military and secret police.

Dr. Backis was born in 1906 and entered the foreign ministry in 1930. He lived in Lithuania until 1935 when he went to France. He came to Washington as an embassy official after the last minister died in 1957 and became charge d'affaires after Joseph Kajeckas retired in January, 1977. Now Dr. Backis, too, is hoping for retirement.

"I don't know what will happen," he says, shrugging his shoulders and anxiously rubbing his hands together. "There is no one to take over. It is very difficult. It is a very difficult situation." ●

CHARTING A COURSE OF FISCAL SANITY

HON. HARRY F. BYRD, JR.

OF VIRGINIA

IN THE SENATE OF THE UNITED STATES

Monday, July 17, 1978

● Mr. HARRY F. BYRD, JR. Mr. President, on July 1, the Washington Post published a letter to the editor from Sid Taylor, research director of the National Taxpayers Union, in which Mr. Taylor pointed out that our Government in Washington has become so huge and complex that no up-to-date organization charts are available.

As Mr. Taylor observes, this fact illustrates the confusion and complexity which now characterize the vast array of programs now operated by the Federal Government in every sphere of national life. He aptly cites proposition 13 in California as a measure of citizen attitude toward big and sprawling govern-

ment—and not just in California, but even more particularly in Washington.

I ask that the text of Mr. Taylor's letter, headlined "Charting a Course of Fiscal Sanity," be printed in the Extensions of Remarks.

The text follows:

[From The Washington Post, Saturday, July 1, 1978]

CHARTING A COURSE OF FISCAL SANITY

(Sid Taylor, Research Director, National Taxpayers Union)

The other day I tried to obtain a current organization chart of the U.S. government. None exists. The closest available document is a chart (dated Jan. 1, 1978) "Organization of Federal Executive Departments and Agencies" prepared by the Senate Governmental Affairs Committee once a year. Even this chart is woefully out of date with dozens of amendments. On top of this, no similar charts exist to clearly show the current organization and manning of the judicial and legislative branches of government.

If we don't know how our $500 billion a year federal government is organized and staffed—and where our tax money is going—how can we hope to stop deficit spending, inflation, soaring national debt, waste, mismanagement, white-collar crime, cost overruns, corruption, stealing, incompetence and ripoffs from the federal till. Bureaucracy thrives on confusion, complexity and concealment. Our Fiscal Year '79 federal budget is a mind-boggling document of 506 pages.

Back in the 1960s, we were threatened with the "missile gap." Today it's the "management gap" and inflation is the missile. "Peter principle" incompetence in dozens of federal programs at the billion-dollar level threatens to bury us. In turn, a tax explosion (federal, state, local and Social Security) has triggered a tax revolt. No wonder Proposition 13 is so popular. The American taxpayer is fed up. We now need a Proposition 14—on spending limitations—at federal levels. We also need better management techniques. The $7 billion lost, strayed or stolen in HEW programs during 1977 is merely one example. Our Social Security System has become a trillion-dollar fiscal Frankenstein. It is even overtaking our income-tax system as a new kind of taxation. However, inflation is overtaking both.

What's the answer? A good place to start would be a current and accurate organization chart of our entire federal government. Armed with this, we might finally get into the war on inflation and even return to fiscal sanity by 1984.●

RADIO-TELEVISION APPEAL AIDS SLAIN TROOPERS' FAMILIES

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. JONES of Oklahoma. Mr. Speaker, anyone who has sought the attention of the American public oftentimes has reason to believe that the messengers bearing our words are working against us. Many times, our terminology betrays a certain bias. We speak of "the media" as if it were a living, breathing creature with one central nervous system that reacts to any contact. In turn, we are often lumped together as "politicians" by members of the press, who instinctively feel that if it were not for us, they might get a clearer picture of reality.

All of this ignores the fact that there is no stereotypical "media," nor is there one central mold from which politicians are cast. Rather, we are all individuals, both reflecting and betraying our upbringing, our educations, and our communities. Recently, an event occurred in my State which both saddened me, and yet gave me renewed pride in the people that I represent in this honorable legislative body.

Three members of the Oklahoma Highway Patrol were gunned down in cold blood on an Oklahoma road. Their suffering was mercifully shortlived, but they left wives and children behind who must now attempt to make ends meet while grieving for their loss. This event was widely reported by the news industry in Oklahoma. It was a page one story, and rated such coverage due to the tragedy and senselessness of the killings. A cynic might dismiss the media's interest in this event as mere sensationalism, but not so easily dismissed are the events that followed.

KVOO radio station and KTUL television station in Tulsa did not let this story slip from their news desk into the waste can. Through the efforts of Harold C. Stuart, president of KVOO, and James C. Leake, chairman and owner of KTUL, a memorial fund was set up to allow citizens to express their sorrow in terms of helping the families of the deceased. Five hundred and four Oklahomans contributed over $14,000 to this fund, which is a tribute to the tireless efforts of Mr. Stuart and Mr. Leake in publicizing the existence of the fund and the needs of the troopers' widows—Mrs. Pat Grimes, Mrs. Houston Summers, and Mrs. Billy Young.

Money will not replace the loss felt by the families of the fallen. Money will not take the place of punishment for those eventually convicted of this crime. This effort will not produce one extra listener or viewer for Mr. Stuart or Mr. Leake. The only thing it will do is to reaffirm the basic goodness of mankind. In reaching out to those touched by this tragedy, it might bring home the gentle message that despite the emptiness and helplessness of the occasion, someone still cares. It should be a lesson to all of us—no matter what side of the camera we are on—that beneath the surface, we are all part of one family.●

WHERE'S SWEDEN HEADED—BANGLADESH NEXT STOP

HON. STEVEN D. SYMMS

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr SYMMS. Mr. Speaker, there is an ongoing struggle in this country and in this Congress between those who want to cut taxes and Government spending and those who want to increase Government involvement in our lives. There are those of us who have continually spoken up for free enterprise and the individual's right to manage his own income in the way he sees fit. And then there are those who continue to encourage more Government spending and involvement in our lives. But as the Congress continues this deficit spending, the national pie of productivity keeps shrinking.

In the July issue of the Harry Schultz Letter, a well respected international newsletter published in Lausanna, Switzerland, there is a report from Sweden discussing some of the results of its experimentation with socialism. The cost of living there has risen to an unbelievable level, and the taxes are so high that there is very little incentive to work. Most Swedes have become adept at cheating the Government and stealing from their employers.

Harry Schultz asked one Swede where she thought the country was headed, and the reply was "Bangladesh next stop."

Sweden revisited—or what has socialism wrought? It's been many years since I was last in Sweden, so it gave an excellent opportunity to contrast and compare *then* with *now*, especially as this has been, for several decades, the showcase laboratory for free world experimentation with socialism, democratically imposed.

Almost nothing is black or white. Most things are a shade of grey. Thus one can say, for the whiter side, that Sweden socialism does not manifest poverty. But then it *inherited* a "going concern", a structure of high efficiency and work ethic. Over the years it has dissipated the wealth it inherited and has borrowed, putting the future in hock. It is no show of talent, but merely a trick, to spend money you are given and also to borrow against tomorrow—thus giving the impression to outsiders your high standard of living is due to your own efforts. A masquerade.

That's no different to most of the world today, you may say. True. But as Sweden was the *1st* western nation to plant a socialist seed in its garden, it pays rich dividends to study the results, for here we have more case history than elsewhere. . . . I have some good friends there, self-employed. They introduced me to their friends—both workers and employers. Because I was introduced as a friend, they all poured out their conviction and emotions to me, especially so as I was an outsider who simply wanted to know how the country was ticking these days. This enables me to speak with a hundred tongues today. Not as an expert on Sweden, but as one who reflects and synthesizes the sincere views and observations of a pretty good cross section of Swedes.

If Zambia or some similarly stone-age country adopts socialism, it's not sociologically very significant. They don't know what they're doing; they're 99% illiterate and 100% nitwitted. So it's of no great moment. They just stumble from emergency to emergency, taking the course of least resistance. But when a highly developed, highly civilized, educated, ancient culture like Sweden elects to test socialist theories, as it did a generation ago, then its results are worthy of serious appraisal. Especially as every western nation has now embarked on some variation of this abstraction without really knowing where it will lead. Sweden has, I believe, given us the answers. Here they are:

First it's necessary to understand that tax rates here are the largest in the world, on balance. The government has its hand in everyone's pocket all the time. Taxes are both direct and indirect at incredible levels. A bottle of ordinary Scotch whiskey, for example, is $22, quality whiskey is $30. And only government stores sell it. The taxes are high because government has undertaken to provide so many "free" services. Obviously they're not really free, and when welfare is distributed by any government their han-

dling merely adds to the cost and lowers the quality.

The effects of these high taxes and widespan welfarism upon human nature should have been predictable, and were to many of us. These effects include the following:

The prime purpose of most Swedes now is to cheat the government. It was described to me as a "sickness." By doling out freebees to the masses, the common de..ominator has dropped and this, plus inflation, creates acute frustration. One result: gambling is very big now, obviously an attempt to get even or get ahead, despite hopeless odds, in a hope-free society. Another predictable manifestation is: crime. Stealing is so common now it's not regarded as much of a crime. I don't mean break and entry so much as people stealing from their employers. One large mercantile chain closed down because employee theft sapped their profits entirely. A new law says if you're under 20 and you steal less than $20 worth of goods, there is no punishment! Guess what that encourages? Theft-protection built into law.

Automatic wage deductions amount to 30% for common laborers, 45% for secretaries, and if you earn over a mere $20,000 a year, your tax rate is 80% with no nonsense about deductions. Very little is deductable anymore. A famed author was taxed 102% recently, on 100,000 Kroners income. But even these rates mask the high indirect taxes on everything you buy. All this has created black-market labor. People ask to be paid in cash, with nothing reported. It's not even whispered, but blatently asked for. There is no incentive to work if it is mainly taxed away.

Part of the reason why welfarism went so far here is Sweden's neutrality. Because it was, along with Switzerland, neutral in WWII, there was no war damage. In fact they didn't suffer at all, thus escaping life's realities in another way. The people are, in the words of my friend, "spoiled" by this shielding. Another reason it went so far is that they were first on the scene, which means: when you give people free this and that, it becomes impossible to take it away from them and they indeed want more as they become psychologically atuned to expecting government to be their provider.

Enforcement of tax law is only 3rd rate. That means you can "probably" get away with inaccurate tax returns. But maybe not. So, do you or don't you try? It makes for a schizophrenic society. Most good brains leave, I'm told. Those who stay have every penny they can manage in Switzerland and such. People are increasingly buying rare stamps and coins. "Going somewhere else" is the preoccupation of most successful people.

The schools don't like grading pupils. They want to eliminate giving a, b, c grades, which (they say) make some children feel "inferior". They ignore Mark Twain who I think it was that said: "We're all born equal, but some are more equal than others." I see this dreadful philosophy, which castrates incentive, creeping into GB. Russian isn't so silly; they put brainy children in special schools and encourage the differences. Red China, after 2 decades of trying to make everyone the same, has given that up, now has reverted to fostering brainpower.

Government has made it nearly impossible to fire anyone. (Holland has adopted this idea and suffering badly from it.) It's especially difficult to fire anyone over 40. You may have to pay 1 year's wages if you sack them. Obviously this discourages hiring. Such laws, as with minimum wages laws always hurt the people most they are designed to help. Likewise with sanctions against Rhodesia. So, unemployment is high in Sweden. Especially so for a political concept that thought it had all the answers. Indeed, I'm told the government decides everything here. This is increasingly true the world over, so as you look at Sweden you see the rest of us in perhaps 10 years.

The banks wont lend money. That sounds incredible, but it's true. They claim not to have enough cash. . . . Gradually the Swedish socialists have used up all the natural resources and or priced themselves out of the market due to excessive labor costs (eg lumber, paper, pulp, steel, iron ore). When you pay people almost as much not to work as to work, wages become noncompetitive and productivity falls. Sweden has a staggering deficit now and the 5 year outlook is grim. The deficit has risen 100% over government estimates of 12 months ago. 1 in 4 of Sweden's biggest companies had a loss last year. The 200 largest firms had a pre-tax profit margin of only 0.1% on total sales. Compares with 6.9% in 1974 and 2.3% in 1976. 1 in 6 had a loss in 1976. Now it's 25% of all the companies. The state owned firms had the biggest losses, naturally. The most profitable firm was a foreign one, Xerox, with 23%. Nobody is investing. Investment fell by 5.1%. . . . Prices, by the way are very high; it's one of the costliest places to live in the world. But the reasons for that are childishly obvious from all we've just discussed. Everything is cause and effect. Yet that principle is seemingly rarely taken into consideration, or always seen through rose(pink) colored glasses—ie, how things "should be", not how human nature works.

So *ignorance* is still our enemy. Not communism, socialism or fascism as such. In all these it is ignorance that creates the problem. Socialists say: you have certain *rights*—but no mention of responsibilities. In this manner the Swedes have soiled their pretty nest. . . . The birth rate among Swedes is very low now, due to high costs, frustration and pessimism. Yet the immigrants have a high birth rate and they dependably vote for handouts. . . . There's a new tax on *boats*. Swedes suspect it's not for income so much as control. "Where did you get the money for the boat?" The option to be anonymous has nearly disappeared. The option to even leave by boat may disappear. . . . True they had a slight swing to the right in their last election. But the chap is no Einstein, I'm told, and in any case he can't turn back the tide.

Said one Swede to me: "The Swedes are boring, complaining and preoccupied." If that were partly true, it would be the result of political conditions. . . . Oh yes, government provides virtually all housing. And naturally there is an acute housing shortage. Who wouldn't be bored, complaining and self-occupied under such pinkoeconomica? . . . Socialism destroys the individual. In a Republic or proper democracy the individual is supposed to be the society. Under socialism he is just a hapless cog. And when I say "socialism", I don't mean a fanatic cultism practiced by some remote "them". Rather, it is the political philosophy, in one shade or another, of the or a major party in every major western nation today. It wasn't 20 years ago. But it is today. So, in Sweden, you probably see you and me in some tomorrow, if we don't stop the trend. Among the silly legislation now in practice in Sweden, as a fitting climax to this report, is a social welfare program wherein fathers are urged to take time off work to stay home with the kids, to see what it's like and to give equal rights to men to stay home. The percent of fathers who are now often absent from their jobs rose from 2½% in 1974 to 5.2% in 1975 to 7½% in '76 and over 10% in '77. They took off from 26 to 42 days a year in '76–77. They get paid for being away. Absenteeism does nothing for Swedish productivity. "Whom the Gods would destroy, they first make mad" . . . I asked one Swede where she thought Sweden was headed. Her reply: "Bangladesh next stop." ●

THE SOVIET UNION HAS FORFEITED ITS RIGHT TO HOST THE OLYMPIC GAMES

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. KEMP. Mr. Speaker, I am outraged at the "kangaroo court" trials and sentencing of Alexandr Ginzburg and Anatoly Scharansky. This Soviet hypocrisy does not surprise me, however, since our correspondents have relayed to us the aura of predetermination which has characterized these so-called trials. The Soviets have lived up to speculation that these men would suffer for having brought to the attention of the world that the Soviets are not complying with the Helsinki accord, and so it is.

The Soviet Government would have us believe the lie that the harsh punishment which has been meted out is both justified and mandated by the people of the Soviet Union, some of whom were persuaded to demonstrate against the dessidents within and without the courtrooms. They would have us believe that these men are guilty of heinous crimes against the Soviet state, when in reality all they have done is to stand up for the rights which they were, however falsely, guaranteed.

Mr. Speaker, I do not believe that this deliberate suppression of the voice of individual liberty struggling in the Soviet Union is mandated by the vast majority of Soviet citizens, who realize that their Government is using these men as threatening examples of what will happen to those who might wish to follow suit. I believe that the Russian people are just as disheartened at this latest turn of events as we all are, and that they support the concepts for which Ginzburg, Scharansky, and the other brave dissidents stand—freedom of speech and the right to free movement in and out of their country. I doubt that they are given to believe that these causes are criminal despite the histrionics of their Government, and it is important for us to assure them that we will not be swayed from our support of these men and their cause by Soviet accusations and warnings against our interference. Human rights transcends political borders, and we cannot and must not tolerate the cruelty and anti-Semitism we have seen.

Mr. Speaker, other nations of the world have joined us in our outrage at the Soviet practice of trying dissidents. We must channel that frustration and anger into constructive policies which will prevent more of the same from the Soviet Government, and which will let them know in no uncertain terms that their inhumanity is deplored throughout the world.

As an important step, I would like to join my colleague Senator WENDELL ANDERSON in introducing a resolution urging that the 1980 Olympic Games be moved from Moscow. With the recent action taken against American newsmen

and in light of the Soviets' failure to guarantee the free access to the games for everyone, I feel that this latest test of our patience has mandated this resolution. I deplore the politicization of the Olympics, and I cannot abide by the abuse which the Soviet Union is doling out in all shapes and forms. The tradition of the Clympics must be preserved in peace and freedom.

I ask my colleagues to join me in urging the U.S. Olympic Federation to bring this matter before the International Olympic Federation and to garner as much support as possible among its members for the relocation of the games. Because of time constraints, Montreal would be an ideal location, since the facilities are already constructed, and I feel strongly that serious consideration should be given to this and other sites for the 1980 Games. I intend to bring this matter to the attention of the President and Secretary Vance as well, and it is my hope that although time grows short before the start of the Olympics, the Federations and the President will take action to demonstrate the strength of the free world's convictions.

Mr. Speaker, if we do not take concrete steps to protest the abuse of human rights in the Soviet Union, then all of our well-intentioned words will have no practical effect. We owe it to Aleksandr Ginzburg and Anatoly Scharansky and the other courageous men and women who have dared to live out their convictions although they knew they would suffer for it. We owe it to the Olympic athletes who deserve to compete for the coveted medals without fear of exclusion or reprisal due to nationality or political beliefs. But most of all, we owe it to ourselves to help promote the freedoms without which our world would be intolerable. I urge all of my colleagues to participate in this resolution and to do everything possible to help free the innocent men and women who have been imprisoned for daring to speak their minds to their government and to the world.●

OUR URBAN POLICY: A FIRST-RATE ANALYSIS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. GARCIA. Mr. Speaker, recently, I read a series of articles by Robert Scheer in the Los Angeles Times that most accurately pinpointed many of the root causes that have led to the devastation of the Nation's cities. I think it is critically important, if we are to begin their revitalization, that we seek out and carefully analyze what happened before we unthinkingly make the same kinds of mistakes again.

Unfortunately, Bob Scheer has found that "the problems of the cities, in large measure, are matters of race," and he amply details his premise with examples ranging from school integration to neighborhood "restoration," which he calls a "people removal process," removing, of course, only the poor and minorities from central city communities, all contributing to increasing deterioration and polarization in our major urban areas.

I recommend this perceptive article, and one that I shall insert tomorrow that analyzes current approaches to solving our urban problems, to every Member of this body, from rural and suburban districts as well as urban. For these are problems we must all work on together if our country—not only our cities—is to have a future.

LIFE IN THE CITIES: SEPARATE, UNEQUAL—AN ASSESSMENT

(Each of the nation's metropolitan areas, North and South, is very swifty dividing itself into two cities, white and black. This is not a matter of neighborhoods we have always had racial, ethnic, and economic neighborhoods; perhaps we always will. This is different. In each metropolitan area, we are setting up two geographically, politically and economically distinct civilizations—J. Skelly Wright, U.S. Court of Appeals judge in an address at Harvard law school in 1974.)

(By Robert Scheer)

A rather neat thing happened on the way to an integrated society. Neat in the sense of tidy, that is. Most of the poorer blacks and Hispanics ended up contained in the central cities—out of sight and out of mind.

It therefore is not true that the cities are no longer needed or terribly useful. They increasingly perform the function of vast holding cells for society's rejects. 60% of unemployed blacks, 60% of welfare recipients, 70% of robbers and the victims of robberies, 80% of youth gangs.

The civilization of the cities is marked by the life experiences of an underclass—people without options—children whose parents have never held a steady job, who themselves and whose own children most likely will not.

The cities, with their growing underclass, are ever more separate and unequal.

When U.S. Court of Appeals Judge J. Skelly Wright ordered the Washington, D.C., schools system integrated in 1967, the population of the city was 60 percent black and that of its schools was 90 percent black. At the time, he suggested that the white suburbs of Maryland and Virginia might be included in the busing plan—a metropolitan plan—in order to desegregate the schools. They weren't. Today, the population of Washington, D.C., is 76 percent black and that of its schools is 96 percent black.

The situation is similar throughout the country. The white "civilization" is located increasingly in the shopping malls, tract homes, country clubs, factories, new corporate headquarters and school systems of the suburbs.

The blacks and browns have the cities.

The blacks have Newark, a city of desolate rubble with children playing unattended in fields of broken glass while a black mayor presides over the graveyard of decades efforts to renew and integrate.

The blacks have Atlanta, which Jimmy Carter held up during his presidential campaign as a city that knows how to leapfrog over the racial traumas of Northern integration. But the city "too busy growing to hate" now has a school system that is nearly 90 percent black surrounded by suburbs whose schools are 90 percent white. Many of Atlanta's civic boosters put their children in private schools.

The blacks have Oakland, which has lost almost half of its white students in the past six years and which Gov. Brown says he will now make his model of urban development, West Oakland, thanks to urban renewal, is an unpopulated wasteland in search of a freeway; overpopulated east Oakland is in a dead heat with Harlem for the highest infant mortality rate in the nation.

The blacks have St. Louis, the most distressed city in the country, according to the Brookings Institution, and they have Cleveland, which may not have a school system in the fall.

And they have the nation's capital, with a school system that is almost all black because the very people in the federal government who must administer the plans for integration will not send their own children to the district's public schools.

The browns have the Bronx or at least they have what's left of it. And blacks and browns together soon will be a majority in Los Angeles and Chicago. A top Chicago official in the major's manpower office says there are now 600,000 illegal aliens in the Chicago area and adds, not for attribution:

"There seems to be a direct chain from Mexico to Chicago . . . at least half of the hotel staffs are illegals. Chicago is starting to become somewhat of a bilingual city. It's a curiously nondiscussed situation."

The cities are more segregated now because federal programs aimed at assisting and integrating the urban minority poor have accepted the borders of large cities as sacred lines drawn between stability and social experimentation, between order and violence, between Anglos and minorities.

Civil rights activists charge that busing, publicly assisted housing, job training programs effectively restrict the poor to the cities, to their ghettos and their barrios.

Such criticism of school desegregation programs has led to suits around the country—including Los Angeles—requesting the courts to adopt metropolitan solutions. This would permit pupil exchanges between central city and suburban school districts.

Judge Wright predicts that if the Supreme Court fails to endorse such metropolitan solutions "the national trend towards residential, political and educational apartheid will not only be greatly accelerated; it will also be rendered legitimate, and virtually irreversible, by force of law."

In any event, the two societies predicted in 1968 by the Kerner Commission on Civil Disorders are becoming real. Only it is less the predicted division between the whites and the blacks than it is between the haves and the have nots.

In particular it is the have nots of the cities, mostly blacks and browns, who form an underclass of people outside of the economic mainstream, people without social options and, increasingly, without a sense of social responsibility.

One hears more optimistic reports. Some of President Carter's urban advisers claim that the cities are perking up, that middle-class whites are moving back. Some argue that the gloomy figures on the racial composition of the cities are from the 1970 census and that current figures would show a more integrated urban population.

But a Times survey of officials in 25 major cities reveals that the flight of whites from the cities has continued at a consistent pace. The 1980 census will show the cities to be blacker and poorer, according to the Times survey.

White flight has been the decisive residential, educational and occupational experience of urban America since the Supreme Court's 1954 decision in Brown vs. Board of Education.

In every city in the Times survey, the white population has declined; the increase in nonwhite population since the 1970 census averaged 8% for the cities surveyed.

This phenomenon cuts across geographical lines. Many central cities as disparate as Oakland and Cleveland have gone from being 25% black in 1960 to almost half black today.

The new growth sunbelt city of Atlanta is now 60% black, as is the old industrial city

of Baltimore. The nation's capital is 76% black, Newark has a nonwhite and Hispanic population of 87%, and Los Angeles, on the other side of the continent, is close to the point of having an Anglo minority.

Since a high proportion of the Anglos left in the cities are older retired people or younger professionals without children or who send their children to private schools, the nonwhite school population figures are even greater.

A city planner in Cleveland summed it up for a reporter in tones more resigned than agitated:

"The middle-income white middle-class families are leaving. The nonwhite, the poor, the elderly and the young—the dependent population in many ways—are the ones that remain. The part of the city that is leaving is the part that has given the city its historic stability. It's pretty much the trend, with the dependent population staying. They're dependent, but there's no one to depend on because everyone else is leaving."

The burgeoning black middle class is also involved in flight from the cities' underclass but, because of racial prejudice, it's not easy for them to get away.

Racism associates all blacks with, and holds them accountable for, the problems of the ghetto. Whites tend to hold all blacks responsible for urban crime and violence, but there is no such association of innocent whites with white criminals. White suburbanites are not held responsible for their children who turn to junkies or teenage prostitutes in the big cities.

Blacks are still caught by their skin color. Ernest Green, one of the black children who walked into that school in Little Rock in 1957 and who grew up to become an assistant secretary of labor in the Carter Administration, reports his own experience:

"You get on the elevator in your suit and tie and briefcase with somebody that is white, particularly a white female, and you immediately see fear in their eyes."

Even when blacks have the money, racial barriers make it more difficult for them to get out of the cities. Harvard social psychologist Thomas F. Pettigrew estimates that while only 8% of Chicago's blacks live in the suburbs, according to the 1970 census, 46% should be expected to live there on economic grounds alone. But middle-class blacks are slowly but surely leaving the central cities and, when they stay, are tending more often to use private schools, further isolating the minority underclass.

The progress of blacks into the ranks of the middle class has been real and substantial and fully 25% of black families had an income of more than $16,000 per year in 1976 (as compared to 50% for whites). But there are also just as many poor black families and twice as many blacks out of work today as there were 10 years ago. These are the blacks who form the enduring underclass.

That underclass is marked by female-headed households and children born out of wedlock. In 1976, one-fourth of all black children were in families headed by women who were unemployed or not in the labor force as compared to 18% in 1969. In 1976, 28% of blacks were said to fall below the poverty line.

As the Labor Department's Green put it: "You have a class breakout. I mean, some of those—that's not true of all middle-class blacks—but some of those who have made it reply back much like some whites do; that (poor) people are in the condition they're in because it's their own fault . . .

"I think the gap has widened. It seems to me what the country hasn't focused on is that the issue in the '60's clearly was that no blacks, regardless of economic class, could do certain things . . . Now legally that's been thrown out and what that did was to open up access for those who had a certain amount of income and economic security. But still, for large numbers of people that didn't matter. Making that legal change didn't gain them any more access than they had before."

The type who hasn't benefitted, according to Green, is "a black kid who can find the support, can't find formal education, can't get out to where the jobs are in the suburbs, doesn't know how to deal with the system. Then you've got a continuous swirling black underclass that never understands how to manipulate the system."

While Green is quick to note the progress of some middle-class blacks and even famous ones, he observed with noticeable bitterness: "If the average black kid were to emulate O.J. Simpson in an airport he would be jailed. They would think the nigger was crazy, running through the airport, leaping over turnstiles."

A recent Washington Post series celebrated the fact that blacks are cast as typical Americans in television commercials and programs and cited this as proof of the nation's progress toward an integrated society, but in real life, when whites think of blacks, it is most often the ghetto underclass black whom they think about and whom they fear.

A Harris Poll conducted for the U.S. Department of Housing and Urban Development showed that crime and poor schools were the most important reasons for people's rejection of life in the cities. And the two are obviously connected.

Urban crime, in particular urban school violence, is a reality. The most recent national study of school violence, for example, revealed that principals in one-quarter of the senior high schools in large urban areas reported that vandalism, theft and attacks represented a fairly serious or very serious problem.

This same report concluded that the risk of robbery of a teacher is three times greater in minority schools than in predominantly white schools, the risk of attacks even greater: "A typical teacher in an urban high school stands 1 chance in 55 of being attacked within a month's time while a teacher in a rural senior high school has 1 chance in 500."

The urban crime is robbery, which is the crime of poverty. People with options do not, as a rule, perform stickups. There's no percentage in it. It's a crime of desperation—a couple of bucks, a few credit cards and, for this, the prospect of murder, death, prison.

It's all too disproportionate. Unless you're young, black, male and unemployed. That's the FBI profile of the robber—Brechtian in its brevity and precision.

The FBI: "Robbery is primarily a large city crime. Seven out of 10 robberies in the United States occurred in the cities with more than 100,000 inhabitants. These cities experienced 521 robberies per 100,000 people."

Almost 60% of those arrested for robbery in 1976 in the entire nation were what the FBI still chooses to call Negro. Blacks accounted for 52% of the prostitution arrests, 55% of all arrests for gambling, 40% of weapons violations, 47% of rape and 53% of murder.

While arrest figures may be misleading, in urban areas where blacks represent a higher percentage of the population, the proportions are substantially higher.

It is also true that blacks account for a disproportionately high number of the victims of such crimes—47% of those murdered, for example. Blacks are the main victimes of urban violence and they are the ones who must live near it.

It is not that blacks are, by nature, more violent than whites or that there are few white criminals. (Whites account for 69% of all burglary arrests, 65% of larceny arrests and 51% of rape arrests.) And it is not that most blacks today are violent.

But a disturbing number of chronically unemployed and otherwise deprived young blacks have come to view violent, criminal behavior as an option for advancement in a way that seems wildly irrational to one who has other, more acceptable, options.

This bleak picture of ghetto life did not shock Georgia state senator and civil rights veteran Julian Bond, who said:

"I go out to the federal pen here a lot and people tell me that the age has just dropped so radically. The average age of the prisoners used to be in the late 30's. Now it's in the mid-20's. This is the federal system we're talking about, not the state system. The black-white ratio has almost reversed from being about 20% black some years ago to being 40% white now.

"And you see it in all these young guys out there—Vietnam vets, bank robbers, drug people and such. Small time—all of them small time. The prison used to be filled with organized crime figures. Now it's filled with bank robbers. It used to have a lot of moonshinners in it—white country moonshiners. Now it's got black bank robbers. Bank robbery is the crime of choice among black youth. Big money. And that's what happens to those people."

Those people are only a small minority of the black population and certainly of the urban one, but they seriously affect the civilization that is possible in the modern city, from the graffiti on the trains to the lifestyles in the schools. It would be stupid—and truly—to deny it.

Which precisely why the courts ordered desegregation in the first place—to permit minority children an escape from total immersion in that grinding ghetto life. If ghetto poverty remains frozen in place at the heart of America's cities, if the school present no real options, it is to be expected that hundreds of thousands of young people will grow up unable to do anything but make life miserable for themselves and their neighbors.

The problems of the cities are, in large measure, matters of race. Yet when President Carter and his potential rival, Gov. Brown, announced their respective urban programs last fall, neither program came to grips with race as a major factor in urban decline.

The impression was one of the physical decay of cities, outmoded plants, untenable designs, older building stock rendered even more obsolete by the public preference and government subsidy (FHA, highway funds, etc.) of suburban development.

Carter's urban policy conceded that the increased concentration of the poor and blacks was one of the reasons for urban areas being in trouble. But it went no further toward a solution other than to call for a "new partnership" that would somehow increase "access to opportunities for disadvantaged people."

Neither Carter's nor Brown's program dealt seriously with busing, white flight, segregation of the schools or with the connections between the racial composition of the cities and such problems as crime, welfare costs and the high proportion of unskilled, unemployable black and brown labor in the cities.

It is as if the "urban crisis" has become an acceptable euphemism for racial problems at a time when government officials are all too aware that most white Americans no longer have any patience or tolerance for dealing with numerous government officials remarked that it is politically safer to talk about neighborhood restoration, improving building stock and attracting industry than it is to focus on the racial core of the problem and the realities of white flight.

But a central problem with the city is that while most people want to use its facilities, they just don't want to live there or have their tax dollars go there.

The Harris Poll of public attitudes toward the city done this year for HUD found that most people still regard "the American city as that place where society's economic, cultural and intellectual needs, but not its residential needs, are best met.

The survey concluded that "large cities clearly offer the best shopping, the best employment opportunities, the best health care, the best colleges and universities, the best public transportation, the best restaurants, the best selection of movies and the best plays and cultural activities."

So much for the good news.

The report added: "However, the city's image today as a place to live and raise children is overwhelmingly negative." And yes, the two main reasons for the cities being poor places to live and raise children were schools and crime, not concrete and pollution or crowded buildings and subways.

The various government strategies for saving urban America beg this key point—that white flight is not a response to the physical decay of the cities but rather to the fact that poor people have been trapped there. Obviously, most Americans feel that they neither need, nor can afford to associate with, the poor and their problems.

Is this too bitter a characterization? Try that of Drew S. Days III, a black who is an assistant attorney general in the Carter Justice Department:

"The name of the game is getting ours and to hell with everybody else. We're not really concerned about the system; we're not concerned with those children who are in the center city who go to schools that are 90 and 100 years old—we just don't care about them.

"That's the great American way. If you've got enough money to move into a certain community or if you happen to be of a certain race and you're not going to have your home firebombed when you move there, then you've lucked out. You've really made it from the American standpoint. And anybody who wants to tamper with that is going to find you very resistant."

We reject the cities because we reject the poor.

If a neutron bomb were suddenly dropped on the poor of St. Louis, New York or central Los Angeles, the housing stock would be rediscovered by affluent home buyers as quaint, conveniently located and architecturally fascinating and they would pour in money to rehabilitate those structures that are now rejected.

A less drastic people removal process is under way in a number of cities and it's called neighborhood restoration. But the brownstones and Victorian houses that are restored in Washington, D.C., New York or San Francisco become valuable only because the neighborhood is changing. Which means that the balance has swung toward more affluent and white residents, and that a security zone has been thrown up around the "new" neighborhood.

This is true, too, in Atlanta's "revitalized" neighborhoods, where the poor are pushed out economically through rising home prices and then kept out with new private police forces and intensified patrolling by the city's police.

In Los Angeles, it's a fortress complex like Bunker Hill Towers with special security locks and 24-hour security patrols.

The new downtown hotel complexes are another example of this sort of restoration of a neighborhood. It is possible to sit in security in a Hyatt Regency in a downtown section that is a jungle one block outside of the hotel sanctuary; but conventioneers need never encounter that reality.

The people-removal part of urban renewal was not accidental to the policy. It was the policy.

By 1967 urban renewal had removed 400,000 housing units from U.S. cities and built only 12,000 new units of public housing for the people displaced.

The cities, more often than not, have been victims of federal programs designed to ensure their progress. The urban renewal of the '50's—the bulldozer tactic—left deserted areas in one side of town and overcrowding in the other.

Public housing projects of immense proportions planned as alternatives to the ghettos became ghettos themselves, further isolating the poor and minorities from the rest of the population.

Shortlived and underfunded poverty programs did little more than raise expectations and then deny them. The much-touted War on Poverty never cost more per year than what the government is now planning to spend on two aircraft carriers, according to Rep. Ronald V. Dellums(D-Calif.).

Sometimes the programs for the cities continue because of bureaucratic inertia. Sometimes, being out of style or under momentary political attack, they are abandoned.

There seems inevitably to be a mindlessness that accompanies such efforts, an inability to summarize results, to monitor change, to evaluate.

This tendency to sporadic or fitful tinkering was attributed by Drew Days, the black assistant attorney general, to "a great tendency in America to go after a problem vigorously for a few years, determine that it's been solved, then walk away from it and then rediscover it maybe 10 years later and then go through the whole process once again. There's rarely been a sustained effort to deal with any of these social problems. . . . I think we're very big on ignoring it these days." ●

CYPRUS, THE BATTERED PAWN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. FLORIO. Mr. Speaker, the Nation magazine, in its July 8–15 edition, has an excellent firsthand account of what disillusionment the Carter administration has brought to this troubled island republic. Written by Christopher Hitchens who recently returned from a visit to Cyprus, the article points out that Turkish Cypriots are the victims of Turkey's occupation forces, which continue the unfortunate tradition of subjugating Cyprus to the interests of non-Cypriots.

I commend this article to my colleagues as we prepare to vote on the Turkish arms embargo which was imposed because those Turkish occupation forces, armed with American weapons supplied for NATO purposes, refuse to leave Cyprus to its own self determination. The article follows:

CYPRUS, THE BATTERED PAWN

(By Christopher Hitchens)

When Carter won election, the Cypriots proclaimed a national holiday. They were exulting chiefly at the departure of Henry Kissinger, who had conspired against them, first with the Greek colonels and then, as they saw it, with the Turkish invaders. When I last saw Archbishop Makarios, shortly before his death last fall, he had a large Jimmy Carter personal medallion in pride of place on his desk. Now, in Nicosia and in Athens, the anti-American forces can once again say "I told you so." Carter's decision to press for the end of the arms embargo, and administration support for the Turkish settlement proposals, have canceled the painful revival of trust on the Greek-speaking side of the argument.

Meanwhile, flushed with their temerity in refusing earlier to comply with discouraging advice from Washington, the Turks are now angy with Carter for not acting more decisively in their favor. Kissinger's intervention in the eastern Mediterranean in 1974 brought off the amazing triple feat of alienating Athens, Ankara and Nicosia all at the same time. The aftermath of that intervention displays the same features. And since it was Cyprus that paid the price for the overdue collapse of the Greek junta, Cyprus that paid for the apparent vindication of Turkish claims, Cyprus that still pays for Greek-Turkish rivalry over oil and minerals in the Aegean Sea, Cyprus seems the best place to start.

Not long ago, a visiting American Congressman was turned back by Turkish soldiers when he attempted to cross the "Attila line" (the name given by the Turks to their military border in Cyprus in a stunning feat of bad public relations). What angered the Congressman was not so much the peremptory treatment as the fact that the weapons being brandished at him were American.

Cypriots hear and retell this story with no little glee and Schadenfreude. They think that, ever since Dean Acheson made his famous proposal that the bulk of the island be unified with Greece, the Turks being given a canton and military base in the north to keep them quiet. America has wanted Cyprus partitioned and attached to the countries of the mainland. They know (we all know now) that the CIA overruled many within the State Department who warned against supporting the moribund Athens junta in 1974 when it attempted to annex the island. They also know that, after the failure of that scheme, the United States changed sides at the Vienna Conference and ceased to oppose a Turkish counterstroke. (The story is best told by Lawrence Stern in The Wrong Horse, Times Books.) That "peace-keeping" operation, as it was called by the Turks, killed thousands of Cypriots, made one-third of them into refugees, and took away the most fertile and prosperous 40 percent of their country. The persistence of this fait accompli is the key to what is known as the "Southern Flank" problem of NATO.

A version of the Acheson plan has indeed been consummated: Cyprus is partitioned But whereas Makarios, backed by a huge majority of Cypriots, refused to surrender the island's sovereignty, the Turks today are in de facto possession of the bulk of it. This mutated version of the Acheson solution is causing no end of trouble for a simple reason: there are many more Greeks than Turks on Cyprus (the proportions are roughly 82 to 18 percent). And the Republic of Cyprus, instead of being a pliant appendage of Athens, has an independent government still recognized by the international community.

The Turkish case is based solely on the security of Turkish Cypriot citizens (although there are Turkish generals and politicians who say that the entire island belongs to Turkey by right from Ottoman days). That security, they say with some justification, was a low priority in Cyprus after independence in 1960. Yet a stay in their military protectorate in the North reinforces the impression that the grievances of Turkish Cypriots have been used as a cover for an entirely different policy. A visit to the "Museum of Barbarism," which commemorates the vile things done by Greek Fascists in the 1960s, is obligatory and salutary. But not all murdered Turks are remembered. There is no allusion to the killing of Hikmet and Gurkan, the editors of a magazine that advocated intercommunal solidarity, who were slain when their papers threatened to

expose Turkish extremist violence. Nor is there any mention of Dervish Kavazoglu, a leftist union leader shotdown for advocating bicommunal trade unions. These things took place under the same Turkish Cypriot leadership as now prevails. At least their Greek equivalents are in jail.

Then, as one travels around the North (it was my fifth visit since partition), there are even more depressing signs. The huge army presence prevents free movement off the main roads, but it cannot silence the Turkish Cypriot press. For some time, largely unnoticed by the outside world, elements of this press have been protesting against the settlement of colonists from mainland Turkey. Dr. Fazil Kuchuk, a former Vice President of the island and one of the leaders of the Turkish Cypriot community, wrote in his paper on May 25 that the island was being turned "from paradise into hell" by this process, which may involve as many as 40,000 settlers in a population of 120,000 (who also have the 15,000-man Turkish garrison to support). Other opposition figures, like Dr. Berberoglu of the Republican Turkish Party, have told me that the distribution of expropriated Greek property is being handled in a corrupt and authoritarian manner, to benefit the imported supporters of the government and stifle Cypriot self-expression. This is to say nothing of the many Turkish Cypriots who have emigrated, and of the many more who have moved to Turkey rather than face the intimidation of the "Gray Wolf" Fascist youth movement, based on a mainland party which engages in armed struggle on the Right and was until recently a member of the coalition government. And there are the thousands of Greeks who did not flee their villages after the invasion, but who have been gradually bullied into crossing the border with whatever they can carry. Lawrence Durrell's old village of Bellapaix, once predominantly Greek, has now been emptied by a "salami tactic" of intimation and eviction. Turkish officers use it as a weekend retreat.

One stresses these points because it is often said, or implied, that the Cyprus problem is one of incompatible communities, and that the islanders have in effect brought the present disaster on themselves. This view, which has the merit of blaming the victims of the aggression they suffer ignores the way in which British, Turkish and Greek Governments have used factionalism to suit their purposes. By any standard, intercommunal relations in Cyprus were actually improving in the early 1970s. The Greek Putsch and the Turkish invasion shattered the picture, but even after both those two traumas one could see Turkish villagers crying and scooping up handfuls of earth as they were loaded onto trucks and taken to the North, leaving the keys of their houses with their Greek neighbors. Cypriots of both nationalities have learned the hard way that the differences between them are as nothing compared to their common differences with their cynical "motherland."

Bulent Ecevit, who was Prime Minister of Turkey at the time of the 1974 invasion and is now back in office after a period of isolation, finds himself in an almost classic social-democratic dilemma. The Islamic and military right-wing forces in Turkey do not like him at all, but he temporarily drew some of their teeth by moving troops into Cyprus. He is now the only man who can begin to make concessions, but if he does so he risks even more rightist violence and noncooperation than he has to bear already. He has appointed Prof. Mumtaz Soysal, a well-known radical and a political prisoner under the previous regime, as his personal envoy in the Cyprus negotiations. But even that has been too much for some of his coalition partners and not enough for the Greeks. In a sentence, Turkish proposals for the withdrawal from Greek territory offer no real concessions except on terms that are wholly unacceptable. Thus, the empty city of Famagusta will be opened to its previous thousands of inhabitants only if the city is left under Turkish administration.

The idea that an island of the size and population of Cyprus should be expected to support two entirely separate state and military machines is an unhappy one, especially with the ethnic disparities involved and the crude version of apartheid lately enfored. Consideration of past wrongs will dominate discussion on both sides for a time, but everybody knows that if Cyprus were not cursed by its geography, and if it were not so small, none of this would ever have happened. As it is, Greek Cyprus may be scheduled to go the same way as Kurdistan and Armenia (two minority causes which do not reecive very tender attention in Turkey itself).

If it did, who would mourn? Greece could probably live with it, though even the conservative Karamanlis has his public to consider, and after the seven black years of dictatorship that public has a very low opinion of American designs. Still, as one of Europe's most seasoned conservative crisis managers, he might ride the storm. The British Government has already washed its hands of its treaty obligations to Cyprus, and seems content to leave matters with Clark Clifford, Carter's special envoy on the Cyprus problem. NATO would relax, glad to be free of the great triangular screw-up that has dogged it since 1974. The Americans are only interested in removing the conflict as a source of intra-NATO friction and, of course, to prevent Cyprus from developing into an island of radicalism (over the years of negotiation with him the State Department took to calling Archbishop Makarios a "Cassocked Castro"). The Russians, who have been exploiting America's difficulties with Turkey, would resent a NATO solution in Cyprus but would be rid of the long commitment to the Cyprus cause that prevents their having an easy rapprochement with Ankara.

The problem is that Greek and Turkish Cypriots refuse to behave as if their island were uninhabited. Several years ago, when faced with apparently Byzantine intransigence from the Archbishop, George Ball banged the table and exclaimed "Goddamn it, your Beatitude"—remembering his protocol just in time. The Cypriots are no more convenient now than they were then, or than they were when Henry Kissinger referred to Makarios as "too big a man for so small an island." This is a population which is at one and the same time part of developed European culture and of the aspirations of the post-colonial world. Its traditions are generally radical, democratic and independent. To treat it as expendable would no more bring real peace between Greece and Turkey than did supporting the Athens junta. At that time, if you recall, Piraeus harbor was all-important for the Sixth Fleet and NATO. Now, apparently, it is as nothing compared to the vital strategic position of the Bosphorus. Those who originated this crisis have yet to show any evidence that they have learned from their mistakes.●

AIRBUS AND THE AMERICAN AEROSPACE INDUSTRY, PART I

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. HANNAFORD. Mr. Speaker, the sale of 23 Airbus A300's to Eastern Airlines earlier this year greatly disturbed our American aircraft companies. This is because the French and German Governments financed the Airbus sale to such a degree that our domestic corporations could not compete with the financing. The prospect of this situation being repeated should be of great concern to us, since many American airlines will be purchasing new aircraft in the coming months and continued Airbus success might have catastrophic consequences to our own aircraft companies.

On July 2, 1978, the Los Angeles Times published several informative pieces on our aerospace industry and the challenge of Airbus Industrie. Today I insert the first of three articles on this important issue.

FOUR CONTESTANTS ENTER RACE TO SELL NEW-ERA JETS

(By Linda Grant and Tom Redburn)

If, as the old saying goes, two's company and three is a crowd, the four firms in the commercial aircraft business must really be confused.

For years only two producers—Boeing Co. and McDonnell Douglas Corp.—have had any major success making jet aircraft for the world's airlines outside the Soviet Union. Lockheed Corp. belatedly reentered the commercial aircraft business in the late 1960s with its L-1011, only to find few airlines willing to invest in yet a third big plane at a time when the expected traffic growth on which they depended had failed to materialize.

But now, with the addition of the European consortium Airbus Industrie, there are four active companies vying for position in this incredibly risky business. (The British were actually the first to develop the jet transport but their planes have been commercial flops and they are no longer serious competitors on their own.)

At stake is a potential market of more than $75 billion over the next 10 years. A little less than half of the sales will be made in the United States, with the rest spread around the world. Battles to win aircraft sales have been notoriously fierce, particularly for new orders overseas, since the builder that wins an initial bid is likely to benefit from a cascade of follow-up orders. Manufacturers have spent millions on influence buying in foreign countries, help from the builder's home government has been solicited, and in some cases bribes have been paid.

A new round of buying has already begun, but this time there are some significant differences. For the first time, airlines are being forced to replace most of their first generation jets, many of which are now almost 20 years old. In addition, the entry of Airbus into the competition has shaken up the traditional American monopoly.

Boeing is the dominant commercial aircraft maker—it has captured more jetliner sales than all the other companies put together. McDonnell Douglas holds about a 29-percent share of the market with its small twin-engine DC-9 and the widebodied DC-10 trijet. Lockheed has sold only about 4 percent of the world market, relying on its L-1011 Tristar, while Airbus, which only entered the arena during this decade, holds a 2-percent share.

But even though Boeing and McDonnell Douglas are riding much higher than Lockheed and Airbus, the new aircraft derby could shake up the whole field.

The new entrant, Airbus, is making the first serious foreign invasion of the American market since United Air Lines bought 20 French Caravelles in 1960. In April, Eastern Airlines became the first U.S. carrier to order the Airbus, when it agreed to spend almost $800 million on 23 of the planes.

Airbus' virtues are being pressed on United, TWA, American and other U.S. carriers by the company's North American chief, George Warde, an ebullient, 56-year-old U.S. citizen who is a former president of American Air-

lines. He jets back and forth on the Concorde between Airbus offices in New York and Toulouse, France, to talk up "our little bird," as he calls the A300. For Airbus, a sale to United Air Lines, the industry leader, is crucial not only for its prestige but also because, says Warde, "We have to keep up our momentum (generated by the Eastern deal)."

The plane Warde is promoting would be one of the smallest wide-bodies, powered by two engines, and would seat about 200 passengers. The B10 would cost $25 to $30 million, and will be available by mid-1982 if Airbus, as expected, approves the program this summer.

It is a derivative of the larger A300 B4, which the Europeans developed in the early 1970s to fill the gap between the huge wide-bodies produced by the Americans and the smaller 727s and DC-9s which perform most of the work on shorter and medium length routes.

At the time it seemed likely a risky gamble. To the dismay of the U.S. manufacturers, Airbus forged ahead with only a few orders placed by government-backed airlines such as Air France and Lufthansa. The consortium needs to sell 360 planes to break even, and for years sales languished, the production line at Toulouse was cut back and some industry officials thought the program might die.

When world airline traffic rebounded, however, Airbus revived. Today South African Airways, Thai Airways International, and Iran Air, among others, fly the plane. The recent sale to Eastern Airlines brought orders, including options, to 138.

In contrast Boeing has sold nearly 3,500 jets in the last 20 years. One model alone, the 727, holds 25 percent of the world commercial aircraft market. With such success in the last few years, Boeing is currently sitting on over $1 billion in cash.

After the troubles getting the 747 program off the ground, however, Boeing isn't about to move precipitiously into an unknown future. The company has spent millions on slick projections of airline needs but still has only a vague idea of what the airlines will buy. "We can estimate the total passenger market," says E. H. (Tex) Boullioun, president of the commercial airplane unit, "but we can't necessarily say what the mix of airplanes will be."

Boeing has spent countless engineering hours on its airplanes, changing the configuration to try to meet every airline demand. But all that time may pay off in a highly efficient and economic design. "We think we have an edge," says Joseph F. Sutter, vice president for product development in the commercial airplane unit. "We can get," Sutter claims, "10 percent less fuel burn (than the competitive A-300 B10) with our bigger wing, lighter nacelle (engine pod), lower-drag body and supercritical wing."

At the same time, Boeing is developing a family of airplanes using many of the same parts but allowing variation in the fuselage length and the number of engines.

Boeing's large customer base (nearly every airline in the world flies some Boeing planes) gives it an advantage over the competition. But Boeing may be depending on its head start too much. "The company has been moving too slowly to secure its future market position and may be counting too much on customers to loyally 'wait for Boeing,'" writes Edmund S. Greenslet, an aerospace analyst for Merrill Lynch, Pierce, Fenner & Smith. "This approach did not work for Douglas in the 1950s and I doubt it will work any better today."

The new 767 program (the twin-engine, doube-aisle model), Greenslet argues, has a lot going for it but Boeing has placed itself in the potentially dangerous position of offering the plane as a defensive reaction to new competition rather than as an attempt to persuade airlines to dispose of other aircraft in favor of the 767. One reason is that Boeing's wildly profitable 727 would be one of the first programs affected by the shift. In addition, with Airbus also moving ahead on its new plane, Boeing could end up offering a "me too" product, which in the past has been a financial hazard.

"Why risk Boeing's net worth by reinventing the A300?" asks one industry magazine. "We'd be foolish to expect there won't be competition," replies T. A. Wilson, Boeing's chairman & chief executive. "Someone is going to launch into that market. I'd rather it be us." Adds Boullioun: "You might also ask why Ford should make automobiles when General Motors already does."

Both Boeing and Airbus needs orders for their new planes soon to have them ready in the early 1980s, when the need for airplanes should peak. For Airbus, the problem comes down to continuing to grow in the shadow of a giant. "When you take on the leader of an industry, such as Boeing," says one industry official, "you treat him like an elephant and that means you eat him one bite at a time." For Boeing, the great fear is not so much that Airbus will capture a part of the growing market but that the airlines will hesitate too long worrying about a repeat of the bloodbath a decade ago. "The worst thing that could happen to us," says Boeing's Tex Boullioun, "is not that United will pick the (Airbus) B10. In that case we'd just go back to our drawing boards. The worst would be if they decided to do nothing at all."

While the current focus is on United's and American's decisions about launching a new medium-sized jetliner manufactured by Boeing or Airbus, the other manufacturers also are counting on ample business from the coming re-equipment cycle.

The two California-based builders, Douglas Aircraft Co. and Lockheed, have adopted a more cautious stance than their competitors. Their widebodies—the DC-10 and the L-1011—were developed a decade ago for roughly the same market, and as a result, both companies were hurt. The L-1011 suffered so many difficulties that it nearly caused Lockheed to go bankrupt. To date 185 of the planes have been sold to ten customers. The DC-10 has fared better but the 295 sales to 43 customers have nevertheless disappointed management of Douglas' parent, McDonnell Douglas Corp. of St. Louis.

We do not intend to go head-on against anybody," says John Brizendine, president of Douglas. "The DC-10/L-1011 competition was enough."

As a result, Douglas is developing derivative planes from its two current programs, the hugely successful DC-9—nearly 950 DC-9s are flown by 51 operators, making it the company's only currently profitable program—and the DC-10.

Douglas last year announced the "Super 80" version of the DC-9, with 23 orders worth about $400 million from Swissair, Austrian Airlines, and Southern Airways. (Southern later changed its firm order to options.) This narrow-bodied derivative will be much longer than other versions, capable of carrying up to 170 passengers on medium hauls. Douglas estimates its development costs at a modest $120 million.

By launching the Super 80, Douglas stole a jump on the Europeans, who had aspirations for that market in their proposed Joint European Transports (JET) 1 and 2, and Boeing with its proposed 757.

In addition to the Super 80, Douglas is considering various stretched and long-range versions of the DC-10. Some carriers are already pushing the company to commit to a stretched version, and Brizendine estimates that within 12 months a decision will be made. He emphasizes, "We will let the market determine what we do and when we do it."

Another proposed DC-10 derivative, the DC-X 200, is on the drawing boards with two engines and seats for about 230. But it bumps too closely in the marketplace against the A300 B4, so Douglas is no longer marketing it intensely. "We want to pick the right slot," says Brizendine.

Finally, Douglas is talking with British Aerospace about the possibility of collaborating on an Advanced Technology Medium Range (ATMR) plane. The aircraft, which would rival Boeing's proposed 757, would be twin-engine, single-aisle aircraft that would seat 180 to 200 people. Brizendine refuses to comment on negotiations, and says only that "We will miss the market if we wait too long."

At Lockheed, derivative is also the name of the game.

Company executives believe derivatives of the basic L-1011 Tristar will eventually make the costly aircraft program profitable. In addition to the Tristar, which first flew in airline operations in 1970, Lockheed has proproposed three L-1011 derivatives, one of which is already in production.

A long-range version, with a shorter body and enlarged fuel capacity, has been sold to British Airways and Pan American World Airways. Called the Dash 500, the first copy of this plane will be delivered next year.

Lockheed hopes to adapt basically the same design, with a lower-powered engine, to the gaping market segment now filled only by the European Airbus. Other manufacturers are also eyeing this segment, and Lockheed has yet to sign a customer for the design. But it could be put into production for about $80 million in development costs, a comparatively small sum, and the company's executives are trying to persuade an airline to launch the program this year. The key disadvantage for Lockheed is that the plane, designated the Dash 400, would retain the three-engine design of the other L-1011s, which would mean the aircraft would burn slightly more fuel than its competitors.

Other alternatives, however, are impractical. Even though Lockheed has a twin-engine version under consideration, it will be much costlier and will require numerous engineering changes. And with about $400 million in start-up costs still to write off against the present L-1011 program, Lockheed supply isn't in a position to consider starting from scratch with a new plane.

Not that they would want to, company executives argue. The technological gains that are being incorporated in the L-1011 should overcome most of these drawbacks. Moreover, there should be enough business to go around, they say, given the huge need for new airplanes to replace aging fleets and permit airlines to meet growing demand.

"The clock is ticking for the airlines," says Lockheed California Co. vice president Richard W. Taylor, "and the best way for us to meet their deadlines is with versions of our basic plane adapted to the carriers' needs."

For a while it was doubtful whether Lockheed could continue in the commercial airplane business. But with the bitterly contested sale of 12 long-range Tristars to Pan Am, Lockheed is once again a serious competitor.

"We're going to be around in the 1980s," says Roy Anderson, Lockheed's chairman, "and that's when this market should really take off."

The big question remaining for all the manufacturers, from giant Boeing down the line to McDonnell Douglas, Lockheed, and Airbus, is whether the airlines are going to be willing—and able—to support four airplane builders.●

THE CASE FOR PREGNANCY DISABILITY

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Ms. MIKULSKI. Mr. Speaker, I would like to draw my colleagues' attention to an article by Willard Wirtz, "Pregnancy Pay, a Step Toward Equal Rights," which appeared in the Washington Post on July 17. Mr. Wirtz, a former Secretary of Labor and now a member of the Commission on Working Women, states that the passage of H.R. 6075 is a crucial step toward equal employment rights for women. H.R. 6075, the bill to include coverage for pregnancy in all disability plans, will come to the floor for a vote tomorrow; I urge my colleagues to support the bill. Women are over 40 percent of the entire work force. It has been well documented that women work for economic reasons. Thus it seems only fair that women should be covered when they are absent from work to have children since employees are presently covered when they have elective surgery or sustain injuries from voluntary activities, such as football games.

PREGNANCY PAY, A STEP TOWARD EQUAL RIGHTS

(By Willard Wirtz)

About two years ago, the Supreme Court was called on to decide whether a woman employee is entitled to payment under a collectively bargained disability plan for the time she has to be away from work when her child is born. The short of the court's answer was "no"—that the employer's action under the benefit plan involved in the case was not discrimination in violation of Title VII of the Civil Rights Act of 1964.

So last September the Senate passed, by a vote of 75 to 11, a bill amending Title VII to clarify the point that discrimination because of pregnancy is discrimination because of sex. The effect of this amendment would be that any sick-pay plan for non-job-related disabilities must include pregnancy disability in its coverage. This same bill—H.R. 6075, to "prohibit sex discrimination on the basis of pregnancy"—is due to come up soon in the House of Representatives.

The action taken on this bill will be a fair measure of whether we really mean what we have been saying to each other about equal-employment rights for women.

In the course of what has become an understandably emotional argument, a number of points have been emphasized that are important but probably don't go to the heart of the matter:

Sherrie O'Steen, one of the plaintiffs in the case that went to the Supreme Court, had a particularly hard time of it. Her husband had left her. When she went on unpaid leave she had to go on welfare, and the first welfare check didn't get to her until three weeks after her baby was born. Her electricity was cut off and her oil deliveries were stopped when she didn't pay her bills. She and her 2-year-old daughter and the new baby suffered a cold winter in rural Virginia.

Those factors are important. Too many women face the Sherrie O'Steen situation. But the real argument for pregnancy disability pay would be just as strong in the case of a more fortunately situated mother.

A good deal has been made of the inconsistencies that result from the present administration of disability-payment plans. Assistant Attorney General Drew S. Days III testified in support of the pending bill, pointing out that under the plan that excluded O'Steen, payments were in fact made "for elective surgery, for disabilities resulting from an employee's commission or attempted commission of an assault or battery or felony" and for "disabilities resulting from voluntary activities such as sports injuries."

The federal government's brief in the Supreme Court case noted that the "net result of the pregnancy exclusion" was to "subject only women to a substantial risk of total loss of income because of temporary medical disability."

These distinctions are ridiculous. Yet they are actually caricatures of the real point involved here.

A Department of Labor and Department of Commerce study shows that the cost of including coverage of pregnancy and related conditions in existing disability plans would be less than one-tenth of 1 cent for every dollar of wages paid. But that somehow cheapens the issue as much as it does the costs of the bill.

The real issue is simply whether loss of earnings that comes with having a baby should be borne by the working mother or whether it should be covered by the disability-compensation plans so many responsible companies and unions have agreed on as proper costs of doing business.

H.R. 6075—like the bill already adopted by the Senate—does not require any company to pay any benefits for non-job-related disabilities. It was not intended to raise benefits, but to attack discrimination. The bill says only that, if it is decided to make compensation for losses of earnings resulting from other such disabilities, those losses resulting from childbirth and related conditions cannot be excluded.

The issue comes down to whether we are ready to recognize in practice what we have agreed to in principle: that women are now equal partners in the work force. Or are we still going to hang on to a little bit of tradition's blindness and bigotry?

Women now hold 40 percent of all jobs in this country and represent 70 percent of the net growth in employment in the last decade. That makes it time—past time—to stop carrying in our thinking the baggage from a past in which men dominated the jobs that were recognized as employment, and women's work was thought of as being in the home.

Many people wish the issue being faced here were—buit it is not—whether loss of earnings from temporary non-job-related disability (including pregnancy disability) has to be covered by insurance protection. Five states have already taken that step.

Since the issue presented in H.R. 6075 is only whether pregnancy disability must be included in plans adopted voluntarily and by private agreement, the basic principle of equal-employment rights written into the Civil Rights Act of 1964 seems unquestionably applicable.●

DEVISING A RESPONSIBLE SOCIAL POLICY FOR AMERICA'S ELDERLY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. LaFALCE. Mr. Speaker, one of every 10 Americans today is 65 years of age or older. In terms of impersonal numbers, that represents 23.5 million individuals. And we are changing from a "young" society into an "older" one—population experts believe that within the next 50 years, one of every five Americans will be 65 or over. It is time that we shape a national policy equally as dedicated to improvement in the quality of life of our older Americans as our educational system is to the overall well-being of our youth.

As a nation, we have made significant strides in the right direction. Fifty years ago, social security was still only a revolutionary concept that spawned great controversy. And it was only little more than a decade ago that medicare came into existence. Today it is difficult to imagine our country without these basic programs which help assure the financial stability of elderly persons. We have come a long way, but we have a long distance still to travel before we can be totally satisfied that we have a policy that is both compassionate and realistic at one and the same time.

A well-conceived social policy for our senior citizens must include adequate health care at affordable rates, and our health care delivery system must be reprioritized to enable older Americans to maintain living arrangements of their choice. We must pursue efforts to make in-home health care a realistic alternative to institutionalization. Perhaps most importantly, we must dismantle the myths attached to "growing old"—myths which too often lead to erosion, through bias and neglect, of well deserved dignity and pride.

This year the Congress was able to play an instrumental role in demythologizing retirement. Previously, large waves of our most experienced and capable workers were forced into retirement at age 65. Whether the individual did or did not wish to continue working was immaterial—the arbitrary age cutoff indiscriminately ended the careers of all. Now, however, under the terms of the legislation enacted in this session, older persons will decide their own destinies, and make the all-important retirement decision on their own.

But there is a great deal more that the Congress can and must do to honor our commitment to elderly Americans. There are presently pending a number of initiatives that would expand the options of those senior citizens who want to remain self-sufficient as long as possible. I have cosponsored these measures, and commend them to my colleagues for their support. The Older Americans Long-term Care Act, H.R. 11571, would provide substantial Federal funds to establish long term care centers in numerous communities throughout the country. The centers would provide, coordinate and monitor a variety of home services such as nutrition, homemaker, and home health service to neighborhood senior citizens.

Another approach I have endorsed is embodied in H.R. 10738 which would remove the visit limit and certain other requirements under medicare thereby making home care services more available. The bill would also make homemaker-chore services possible. The congressional budget resolution for fiscal year 1979 includes additional outlays for medicare program improvements, and I

believe we should use the bulk of this funding for expanded home health programs. Many of the home health proposals are relatively inexpensive, particularly when viewed against the alternative of assuming the cost of greater institutionalization. Most important of all, efforts aimed at bolstering home health care preserve the freedom of choice of older Americans to utilize the health approach that best serves their physical and emotional needs.

Our medicare program is sound, but it is not as comprehensive as it must be to meet some of the most basic needs of the elderly. Three measures now pending before the Ways and Means Committee would go a long way toward making medicare the full-scale health care reimbursement system that it ought to be: H.R. 2020 would extend medicare coverage to eye care; H.R. 4368 would cover prescription drugs; and H.R. 10727 would extend coverage to foot care. Critics of these proposals charge that they would cost too much. I suggest that the critics have lost sight of the fact that people are America's greatest resource, and a vast number of our senior citizens are experiencing difficulty in making ends meet. If we are to scrimp, it should not be on health services desperately needed by our elderly, and that is why I have cosponsored these bills as well.

A final cornerstone of a coherent national policy for the elderly must be a responsible approach to the housing needs of senior citizens, one which recognizes that most individuals over 65 live on fixed incomes that cannot be stretched to cover ever-surging rent increases. Nowhere has inflation been more severe than in the costs of housing.

We should therefore continue and expand our subsidies for the development of decent housing for senior citizens at rents they can afford. In my capacity as a member of the Housing and Community Development Subcommittee, I have pushed hard for higher levels of funding for these programs, and for continual improvements in them. Among the changes we proposed this year—which the full Congress will hopefully approve within the next 2 months—is a provision to provide an $80 million program for services in senior citizen housing complexes that offer nutrition and other services to the elderly apartment dwellers.

Mr. Speaker, the proposals I have enumerated here deserve the attention and support of our colleagues. As a nation, we have the means to create a comprehensive and workable social policy to meet the needs of our senior citizens. They deserve the best we can offer.●

UNCOVERING THE HAZARDS OF NUCLEAR TESTS AND NUCLEAR WASTES

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. CONYERS. Mr. Speaker, more than 20 years ago the United States conducted nuclear tests in the atmosphere over Nevada. From 1951 until 1962, when the tests were moved underground, 87 such tests took place. For a large number of persons who were exposed either to the test blasts or dust clouds from the blasts, these atomic tests have been more than just a memory. A disproportionately large number of such persons, living in Utah and Arizona towns near to the Nevada testing site, have died of leukemia. A large number of soldiers involved in a 1957 test have suffered cancer, as have persons on the island of Rongelap, near to the former Bikini atomic test site in the South Pacific.

A perfunctory investigation in the 1960's of possible hazards from such testing proved negative. The new findings have led, however, to the reopening of the earlier investigations and to a full-scale inquiry into all the aftereffects of nuclear testing as well as exposure to nuclear wastes.

Bill Curry of the Washington Post has performed a great service in uncovering this story in two recent articles—July 2 and July 16. At a time when our military planners are seeking funds for the development of all sorts of miniaturized nuclear and neutron weapons, and are attempting to win respectability to the incredible notion that such weapons are the only things standing in the way of all-out nuclear war, an inquiry into the radiation effects of nuclear tests, weapons, and wastes ought to be given full throttle and the most searching scrutiny.

The articles follow:

THE CLOUDS OF DEATH HAUNT THE MESAS

(By Bill Curry)

ST. GEORGE, UTAH.—LeOra Hafen remembers well the day in 1956 that her 15-year-old daughter died. It was back in the days of the U.S. government's atomic bomb tests 100 miles west of here, days when her daughter would walk home from school oblivious to the mushroom cloud forming a state away.

"She was on the sofa," recalls Hafen, "and she cried 'Momma, call Dr. Kon. I'm gonna die."

"Why, Karlene," Hafen tried to reassure her, "you are not either."

"Yes, I am, Momma," replied the pretty girl, who was in her final and fatal moments of acute leukemia. "This room's just full of angels." And she closed her eyes and never moved again.

Only a month earlier, Karlene's uncle Paul, a rancher with the look of a Marlboro man, had been diagnosed as also having leukemia. Paul Hafen was a cowpuncher, rode hard, sometimes for weeks on end, to move his cattle across the rangelands of nearby Arizona, where at least once he got caught in broad daylight under the dust of a test blast cloud.

But Hafen somehow survived his leukemia until the spring of 1963, and, after his death, Max Brinkerhoff, a rancher friend out on that Arizona grazing land, began helping Hafen's widow, Helen, run the ranch.

Last Feb. 27 Max Brinkerhoff also died of leukemia. He was the fourth in a group of schoolboy chums—the others were LaVier Tait, Gayneld Mackelprang and Gail Heaton—to die of leukemia.

A collective coincidence of individual and random tragedy?

Or do their deaths, and those of so many others across this region of mesquite and mesas, represent civilian casualties of atomic weapons, people killed by their government as it tested the arms that were supposed to protect them?

From 1951 until the nation's bomb testing was moved underground in 1962, 87 above-ground nuclear tests were conducted at the Nevada proving grounds, west of here. Dr. Joseph Lyon, who runs the Utah State Cancer Registry, says that 20 to 26 of those tests sent fallout clouds into Utah.

While the southwestern part of the state received heavy fallout, wind currents carried radioactivity over an area stretching from the Grand Canyon almost to Salt Lake City. Some 20,000 people lived in the Nevada, Arizona and close-in Utah areas alone.

The true extent of any health problems is virtually unknown: the government has long maintained that there have been no adverse effects, but then no long-term or widespread study has ever been conducted here, despite decades of controversy?

But many of the people whose deaths or illnesses were examined by The Washington Post in the last month shared the common experience of having been out of doors when dark blast clouds moved overhead, and their friends and families have few doubts of the relationship between those clouds and subsequent illnesses.

"I remember one time, against a hill here in Hurricane (Utah), somebody, my mother or father, saying, 'Look, you can see the cloud,'" recalls Jimmie Humphries, 30. Eleven days ago his 32-year-old brother, Randy, a highway patrolman, died of leukemia.

Randy, Jimmie and other family members attribute the leukemia to the test blasts, and when the disease was diagnosed last summer they all joined the many others here who had long been convinced that the A-bombs were shortening the lives of many people here.

That fear has only been heightened by recent disclosures of leukemia among soldiers present at a 1957 test blast, "Project Smoky."

They are not alone. President Carter in May assigned the Department of Health, Education and Welfare to examine the effects of low-level radiation on participants in nuclear tests and workers in government nuclear facilities, citing those leukemia cases among soldiers.

In addition, HEW soon is expected to begin a high-priority reopening of the only major investigation ever conducted into the health effects of nuclear testing on civilians, which involved 2,000 schoolchildren in two southern Utah counties here.

That '60s investigation, which officials at the time acknowledged may have stopped too soon, found no adverse impact on the youngsters tested for thyroid abnormalities. Despite the admitted limits of the investigation, it has always been relied on by nuclear testing officials as proof of the safety of the nation's test activities.

But even a renewal of the HEW effort would fall short of the widespread investigation that one radiological health expert at the University of Utah says is warranted in light of the soldiers' leukemia.

"We had a whole damn region subjected to one after another of these fallout patterns over a long period of time," said Dr. Robert L. Pendleton, "and some of [the radiation] was rather high.

"There's a lot of potential health damage ticking like a bomb," he said, "and nobody's even trying to find out if there's a problem."

Both Pendleton and Dr. Dan Hoffman, an epidemiologist with HEW's Bureau of Radiological Health, also cite the 10-year-or-more delay in the appearance of thyroid abnormalities, some of which were cancerous, among residents of a Pacific island downwind of test blasts there.

Those exposed on the island of Rongelap were accidentally covered with radiation in 1954, during atomic testing on the island of Bikini, 110 miles away, when the wind shifted just before detonation.

A year before that, on May 19, 1953, a wind shift at the time of the "Project Harry" test blast in Nevada sent an unusually hot

cloud over this city, which then had a population of 4,500. Traffic was blocked, and residents were told to stay inside for hours.

Marden Brown, a painter, still remembers the Atomic Energy Commission officials washing down his half-ton blue GMC pickup truck that day, rinsing it repeatedly, trying to get all of the radioactivity off.

About 10 years later, Brown said, his malignant thyroid gland was removed.

"Harry" also possibly caught Helen Reichmann, who was out working in her garden one day about that time. Suddenly she became ill and, vomiting and feeling weak, she left her garden to lie in bed. According to her son, Lawrence, a doctor, only then did she hear on the radio the warnings to stay inside because of fallout.

She died last February of cancer, which apparently started in her stomach. "Medically, I don't know," says Dr. Reichmann about whether his mother's death was caused by the atomic tests. "But emotionally—yes, I do think so."

Those whose lives have been touched by the cancer deaths here are unanimous in their opinion that the cause was the testing, but the emotional response is varied.

There is the fear expressed by Darrell Nisson, whose 13-year-old Sheldon died of leukemia in 1959, that the human race is destroying itself. He had recognized the look of leukemia in his son after having watched 9-year-old Jessilyn Turner, two blocks away, die of leukemia.

There is frustration felt by Stanford Staheli that lives have been lost here to develop weapons that went unused when they could have ended wars. Thus, he says, the death of his son, Mason, of leukemia in 1959, was "pretty much in vain."

There is the outright bitterness of Jimmie Humphries, who says: "I'll tell you, I've been in the National Guard for 12 years and [now] it's damn hard to go down there and put that uniform on, and if I didn't think someone had to protect this country, I wouldn't do it anymore."

There is also the effort to forget, to blot out the excruciating events of death. Lorna Brush does not even care to remember the year her husband, Arthur, then president of Dixie College here, died of leukemia. The college puts the date as July 5, 1964, less than a month before Gayneld Mackelprang's death.

There is, too, the unavoidable sense of having been cheated out of life. "It has cost me my life, practically," says Vonda McKinney, whose husband, Len, died of leukemia in 1962. "Everything my husband and I had worked for for 20 years was lost. For seven years I was walking around in a state of shock."

The McKinneys live out along that same stretch of Arizona rangeland near Fredonia, where Paul Hafen and Max Brinkerhoff ran livestock, where Gail Heaton cleared land for grazing until he died last November, where LaVier Tait worked loading logs onto trucks until his death in 1975, and where Mackelprang, a school superintendent, used to hunt rocks in the valleys and in the mountains.

It is also the place where Odessa Burch could look out her bedroom window in Fredonia and see the dust clouds from the bomb blasts. She died of leukemia on Aug. 29, 1961, at age 15.

That was also near where Elmer Jackson raised cattle for years. On a late winter day in 1953, Jackson was out gathering his herd when there came from the sky "the dirtiest snow he ever saw," according to his son, Norman. There was a burning sensation. He picked up some snow and squeezed. It felt hot.

By the time Elmer Jackson could drive the 35 miles home, he could hardly see, the son said. His face was red and burned. Burns opened on his left ear and the left side of his neck, and they never healed. For the next 19 years, said Norman Jackson, the father continually dressed them with salve.

On Nov. 11, 1968, Elmer Jackson was diagnosed as having thyroid cancer, the son said, and later the family filed a claim for personal injury with the federal government. It was denied. According to the son, doctors said the skin condition was due to exposure to sun, and developed on the left side because Jackson drove south to his ranch in the morning, and north to home at night, and so his left side was more exposed to tanning.

A testing program spokesman said he could remember only one injury confirmed as having been caused by atomic testing. A man was startled by a blast and cut himself while shaving.

The Atomic Energy Commission and its successor agencies long maintained that the nuclear testing program has not been hazardous. Complaints of high leukemia incidence in this area have been investigated briefly by the government and dismissed as not unusually frequent.

"We were guinea pigs," says Irma Thomas, a St. George resident who has tried to get the government to examine its own citizens here as extensively as it has monitored fallout recipients in Japan or Rongelap and on Bikini Island.

And with the prospect of health investigators returning to this picturesque valley for follow-up study of the 2,000 schoolchildren once checked for thyroid abnormalities, Thomas remembers the time years ago when the government cars pulled up to the high school to examine children.

She remembers the as-yet-unanswered question posed by a schoolteacher back then, a question that has since become a mourning cry among many of those who grew up here:

"What have you done to us?"

VICTIMS LIVED NEAR URANIUM "TAILINGS" PILES A SMALL UTAH TOWN AND FOUR LEUKEMIA DEATHS

(By Bill Curry)

MONTICELLO, UTAH.—It takes only a minute to drive past the houses where the four leukemia victims lived; they're all just a few blocks from each other.

Una Manzanares, 12, was the first to die, Gail Barber, 11, the last. In between were Renae Heaton, 7, and Alan Maughan, 16, the captain of the high school basketball team.

They all lived within a half-mile of the old mill for where the Atomic Energy Commission for 11 years processed uranium ore for nuclear weapons. The mill put enough junk in the air, local residents say, to dirty the wash hanging out to dry, enough to corrode the chrome on automobiles and enough to literally dissolve the screens in house windows.

All in the national defense, all to keep other nations at bay with the threat of nuclear death. But some residents here say that when the threat became an actuality, it occurred here in Monticello, where in the 1960s a mysterious incidence of leukemia took four young lives in a town of 1,900 and left a former resident now living in Salt Lake City battling for his life against the disease. Statistically, there should have been only one case in 25 years.

"He was exposed to radiation somewhere or some way along the line," says Alan Maughan's father, Dale, as he cruises the quiet streets at the foot of the San Juan Mountains in southeastern Utah and points to the houses of the victims.

"If I hadn't moved here to Monticello, my boy would still be alive," he says of his move from Logan, Utah. "I firmly believe that."

Instead, Alan died of leukemia on July 5, 1966.

The mill is gone, closed in 1960. Gone too are the days when it sent readings of highly dangerous radium in South Creek to more than two times the acceptable levels and gamma radiation levels along the edges of the mill site up to 20 times those of the surrounding area.

But such facilities as this are not a matter of bygone concern, for the mill's radioactive wastes, called "tailings," remain—as they do in bizarre fashion elsewhere in the United States. In Salt Lake City, where an abandoned mill still spreads radiation across the landscape, a firehouse built on fill matter of uranium wastes is so "hot" it would be declared hazardous and closed if it were a uranium mine.

In Grand Junction, Colo., more than 600 buildings built on such fill have construction crews airhammering basements and house slabs to remove radioactivity. In Canonsburg, Pa., 120 industrial workers have been exposed to one form of radioactivity from the wastes under their buildings.

So the off-orange and dead grass on the old uranium mill site here in Monticello is only a marker similar to those elsewhere in the country. In all the U.S. government has identified 22 locations which, like Monticello, saw the grinding, crushing and extracting of uranium for national defense and remain today as toxic repositories of radioactive leftovers of the atomic age.

Their presence, and those of some 30 other former nuclear facilities, has put uncounted thousands of unwitting people nationwide on an atomic fault line, not knowing when or whether tragedy may rock their lives. Some 5,000 people in South Salt Lake City alone live within what is generally considered the danger zone of a uranium processing site—a half-mile.

There, 100 acres containing millions of tons of uranium tailings stand as a monument to the now-defunct Vitro Chemical Co.'s uranium processing facility. The Won-Door Co. next to the site recently has even abandoned its three-structure manufacturing facility to escape the health threat from the mounds of uranium waste piled up next to the buildings.

Heightened concern over these uranium mill sites comes at a time of new awareness of the delayed but potentially fatal effects of exposure to small amounts of radiation considered acceptable years ago.

For example, the U.S. Department of Health, Education, and Welfare was recently directed to oversee a broad study of civilian and military personnel involved in the nation's atomic bomb tests after a startlingly high number of soldiers at a 1957 test developed leukemia.

HEW is also expected to undertake soon a major reopening of a long-completed study of thyroid abnormalities among southwestern Utah schoolchildren exposed to radioactive fallout in the 1950's bomb tests. The original study concluded there was no increase in the abnormalities, which can lead to cancer, but officials now fear that enough time had perhaps not passed for all abnormalities to become apparent.

The Washington Post recently reported that residents in southwestern Utah and northwest Arizona blame the nuclear tests for a continuing incidence of leukemia and cancer among longtime residents.

And yesterday, health officials in Salt Lake City began examining firemen long exposed to radiation from five feet of fill hauled in 20 years ago from Vitro.

The firehouse, where about 60 people work, is the one that is so "hot" with radiation that if it were a uranium mine federal mine safety officials would close it as hazardous. Three towns in southern Utah were studied in 1967 by federal health officials for unexplained increases in leukemia. Findings were inconclusive. Some areas of the firehouse, generally the living and sleeping quarters, record five times the amount of allowable radiation that uranium miners are permitted to be exposed to.

And last week Colorado state health officials were in Grand Junction, Colo., in an effort to determine whether leukemia—occurring at twice the expected rate and concentrated in the elderly—is at all related to the old uranium processing operation there or to the extensive use of its radioactive remnants as fill matter in construction projects in Mesa County.

"We asked the powers-to-be, and he said there were no qualms—the AEC wouldn't let them [give out fill] if it wasn't safe," says Soren Sorensen of Grand Junction, remembering the days in 1966 when he obtained 10, 10-ton truckloads of uranium wastes from the old Climax Mill for the home he was building. "I called the AEC and they said there was no problem."

Seven years later, the fill under his house was removed in a federal and state-funded program that evolved from fear of the possible long-range health effects of the radioactive sand that Sorensen and others had used to level their lots.

"I kind of got scared over the deal," George Biggs said of the tailings that were under the front part of his house. The Biggs family wonders whether the radiation was related to the breast cancer of Mrs. Darlene Biggs.

"You don't know," said George Biggs. "But the quicker the tailings were gone, the better I felt. [The radiation] was pretty high, especially right in that corner"—he points to where a visitor is seated—"where the wife always set. That's why we thought maybe it caused the cancer."

All told, 6,000 structures in Grand Junction have uranium tailings deposits not counting the streets and sidewalks. G. A. (Bud) Franz, a senior health physicist with the state health department there, says some 650 buildings have been recommended for removal of the radioactive wastes.

In some houses, he said, residents were receiving as much radiation beyond normal as they would if they were to get two or three unnecessary whole-body X-rays a year.

Some $12 million is expected to be spent for the removal of the radioactive tailings in the Grand Junction area, three-fourths of the money provided by the federal government and the rest by the state.

Rep. Dan Marriott (R-Utah), citing past federal "neglect" in management of uranium mills and waste disposal, say a "serious health hazard" now exists in Salt Lake City near the Vitro wastes and elsewhere in the country.

The health threat can be either overall radiation to the entire body or from radon gas that deposits radioactive particles in the lungs and can cause cancer there.

Here in Monticello, the old uranium operation was owned by the AEC, which processed ore from 1949 to 1960. The ore was trucked in from mines around the area and stacked in mounds in an open field. After processing, the radicactive leftovers were returned to the field, and the winds, predominantly from the south, carried to the north—where all of the leukemia victims resided.

Jon Lee's mother, April, grew up in the south sector of town, right on the edge of the uranium operation. Although her son was born in 1964—after the mill had been closed and radioactive tailings covered with dirt—she believes his leukemia is somehow related to her exposure over the years to the radioactive uranium site.

Now 16, Jon, who used to live around the corner from Alan Maughan and now is a Salt Lake City resident, has been fighting leukemia for eight years, although he was once given only two years or so to live.

But the other four leukemia victims have long been gone, youngsters who spent most of their brief lives growing up so close to the uranium mill.

So ususual were their deaths that federal health officials investigated them in 1967.

Although all of the children had leukemia that can be associated with radiation, "no relationship" was found with the uranium mill, Dr. Glyn Caldwell, a cancer specialist with the Center for Disease Control, quoted from a final report on the deaths.

Caldwell acknowledged, however, that the investigation focused on viruses then thought to spead cancer.

Monticello was one of three southern Utah towns examined in 1967 for unexplainable increases in leukemia, Caldwell said. The other towns were Parowan and Paragonah in the southwestern part of the state in Iron County, which, along with Washington County, was subjected repeatedly to nuclear fallout from atomic testing in Nevada in the 1950s.

Parowan and Paragonah, with a combined population of 1,800, experienced four cases of leukemia from 1956 to 1967, two to three times the expected rate, Caldwell said. As in the case of Monticello, findings in those two towns were inconclusive.

So today the doubts and fears expressed by relatives of the Monticello victims remain over what impact the processing of uranium for nuclear arms has had on this town. "For a place this small," said Dale Maughan, "there had to be something."●

THE BRONX—A BALANCED PICTURE

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. BINGHAM. Mr. Speaker, "The Bronx"—Bronx County, N.Y., has long suffered from poor public relations. Some years ago, Ogden Nash wrote a couplet, as follows:

The Bronx?
No Thonx.

That summed it up.

And in the last year. with widespread TV coverage of fires in the South Bronx, the American public got the impression that the entire Bronx was a disaster area.

In the New York Times for July 6, Francis X. Clines wrote a fine story, which gives a balanced picture of my home country. I am glad to share it with my colleagues and other readers of the CONGRESSIONAL RECORD:

ABOUT NEW YORK: A "HIDDEN" SIDE OF THE BRONX

(By Francis X. Clines)

As good as the last World Series should have been for the Bronx, it is remembered by the Borough President for the night Howard Cosell kept showing a burning building on television.

In a Roone Arledge age, in which news and diversion are blurring together, the burning building viewed by America from a blimp offered sociological graphics that didn't eat up a lot of costly air time. The orange flame over a ways from the stadium's bright dish of light was a neat segue for the attention span that nicely set up more popular events in which Reggie finally hit those home runs and established that winning is an egocentric fact, not a boroughwide one.

"Howard Cosell," Robert Abrams, the Bronx Borough President, fairly sighs. "I can't tell you what that picture did. It reinforced the image people have of the Bronx. It is devastating in the board rooms of banks. And the TV kept showing it."

We should hasten to point out, however, that it might have been just that kind of thing that got President Carter to visit the South Bronx, for whatever that gesture may turn out to mean, and to stand there moodily as if he were Lincoln at Gettysburg.

America is like that: One quick picture is worth a thousand documentaries. And Mr. Abrams wearily acknowledges that there is nothing like the South Bronx for a quick picture, for your standard empty building as death's head, for a few lines of urban thantatopsis.

The trouble is, there is more to the Bronx than the South Bronx, but the world doesn't know it. There are dozens of solid, quiet, healthy neighborhoods north of that fistula, and Mr. Abrams is wincing lately as he goes upstate on his campaign to be elected Attorney General and finds a great recognition factor for the Bronx as South Bronx.

"I stand on this street here, and I could be in—where?—Roslyn or Jamestown," Mr. Abrams says. Actually he is in a neighborhood called Country Club over in the northeast Bronx, a place remarkable for its middle-class quietude and proud shade trees, a place kept clean and strong by a great number of civil-servant residents, among other quiet New Yorkers.

"Look," Mr. Abrams says, driving slowly, "the lawns mowed, garbage cans tight, people in their backyards. The commonplace is not news, but it's beautiful."

The worst effect of the South Bronx image, he says, is on the people still living in the rest of the borough. "They run into old friends and keep hearing, 'Oh my God—the Bronx? You're still in the Bronx?' Perception and imagery are very important in life and have a great influence on whether a person keeps a commitment to a neighborhood."

Sooner or later, everyone passes through the Bronx, but most never know it is complicated and beautiful. Chief among the ignorant are some of its own inhabitants. Mr. Abrams, for example, said he never saw a Bronx neighborhood called Riverdale until he ran for Borough President eight years ago.

"Your neighborhood was your universe," he says: "I grew up playing stickball on my block and leaving it only to go to Madison Square Garden or Yankee Stadium."

His roots are in the Pelham Parkway area, which is still looking well by the latticeshadows of the subway el. He seems entitled to his vanity as he points to the sidewalk at White Plains Road and Lydig Avenue, where his grandmother sat on a milk crate and gave out his first political pamphlet when he ran for the State Assembly 13 years ago.

"I never knew this!" Mr. Abrams says some pleasant miles later to the west, gesturing at an immense, moody-looking cooper beech street in Riverdale. He points to old estate houses in this melange of upper-income nooks and millionaires' tracts overlooking the Hudson. He stops at jewel-like carriage houses on country-lane streets. "The Bronx? This?"

He laughs, but he lives in Riverdale now. (Anyone who thinks moving from Lydig Avenue to Riverdale is mere upward mobility needs to visit the Bronx.)

As the city's boroughs go, the Bronx seems to have proportionately more ethnic yeast. The great tales of Puerto Rican and black survival in the South Bronx are still being lived, but they doubtless will rival the mythic levels of old Manhattan's Lower East Side.

Likewise it is possible to argue that in terms of spirited numbers, New York City's real Little Italy—despite the savory, better-known antecedent down in Manhattan—is now in the Belmont section of the Bronx, where Our Lady of Mount Carmel parish operates like a civic powerhouse. Just so, the Irish-Americans have Gaelic Park over in Kingsbridge, where old-country sports and politics run thick as the brogues and where

Federal agents have been known to track operatives of the Irish Republican Army.

Equally fascinating is a neighborhood called "The Amalgamated"—a middle-class, union-built stretch over by the reservoir whose Jewish labor-intellectual roots are deeply evident in social-work offices named after people like Eleanor Roosevelt and in a school district, No. 10, that is one of the best in the city.

It is a separate adventure trying to fathom the stolidity of Bronx architecture. But it is clear the city will never again have residential bargains in rooms and brick-wall quietude that the squat, six-story apartment houses of this borough supplied in Art Deco fleets in that last great growth period before the suburbs struck the city like Visigoths. Contagion creeping up the Grand Concourse from the South Bronx is eating well into some of these buildings, but healthy miles of them fan out from the upper Concourse.

The borough is so big that it contains, almost as a wildly tangential afterthought, the world's largest residential unity—Co-op City, the towered middle-class project that grew instantly and somewhat tragically by vacuuming out great residential stretches of the West Bronx. Change is just that sporadic but drastic in the Bronx.

Yet the borough is bigger than Co-op City or the South Bronx or any of its parts, and the record should note that you can wander quietly through middle-class mile upon mile, so commonplace these real parts of the Bronx that they would look boring through a zoom lens from a blimp.●

WENDELL GUNN'S TESTIMONY IN BEHALF OF THE KEMP-ROTH TAX REDUCTION ACT AND THE EFFICIENCY OF HUMAN CAPITAL

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 17, 1978

● Mr. KEMP. Mr. Speaker, last Friday, the Senate Finance Committee's Subcommittee on Taxation and Debt Management heard extensive testimony on the proposed Tax Rate Reduction Act, H.R. 8333 and S. 1860, known as the Kemp-Roth bill.

This is the legislation to provide for an average 33-percent tax rate reduction, across the board, for individuals over the next 3 years; for a reduction in the combined corporate normal tax and corporate surtax from 48 percent to 45 percent during that time frame; and for a permanent increase to $100,000 in the corporate surtax exemption. The legislation has 179 cosponsors in Congress.

Testimony was heard from Members of Congress, the administration, economists, business, and labor. It dealt with every conceivable aspect of this legislation, and I invite all my colleagues to examine the hearing record thoroughly, for it reinforces what I have been articulating before this House. I refer to the immediate need for permanent tax rate reductions.

Support for enactment of this legislation is broad; it is very broad. I think an awareness of that is why we have seen such an orchestrated attack upon it over the past 2 weeks. Its opponents have seen the 194 votes for the measure in March, the growing editorial support, the extensive news coverage, endorsement by national taxpayer organizations, the depth of the sound economic logic behind it and the consequences of that, and they have panicked.

There is no better evidence of support—and of the sound economic underpinning of it—than last week's testimony by Wendell W. Gunn, a black leader from New York and New Jersey. Mr. Gunn addressed himself directly to two very important questions: The costs to the consumer of taxes paid by the providers of goods and services, and the effect high tax rates have upon the use of human capital. Human capital is the application of the resource within each person—how much they are willing to do.

Mr. Gunn gave this example:

Following a visit to my doctor recently, I was presented with a bill. "What you did was worth only half that much," I said to him, to which he replied, "Precisely. That's exactly my share of what you pay. The IRS gets the rest." Query: Who pays the doctor's taxes.

The answer is obvious: The patients. Taken as a whole, the consumers. And it is those same consumers who lose the benefit of the work which others would produce were not it for the disincentive of higher and higher tax rates on additional dollars earned.

Mr. Gunn's testimony follows:

TESTIMONY BY WENDALL WILKIE GUNN BEFORE THE SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT OF THE U.S. SENATE FINANCE COMMITTEE

I wish to thank the members of this distinguished committee for this opportunity to share with you my personal views on the vitally important issue of taxation, specifically the Roth-Kemp tax reduction proposals. I appear before you as an interested private citizen, not representing an organization or other individual.

My reason for appearing is that I am deeply concerned about the continuing real economic contraction, and its attendant social ills, which our country has been experiencing during the last ten or twelve years. Unfortunately, a disproportionate share of the resulting hardship always falls on people who, for reasons beyond their control, are late entrants into America's economic mainstream. In addition, economic contraction necessarily pits groups and individuals against each other as they compete for shares of a shrinking pool of resources, thereby substantially negating prior social progress.

I see your deliberation here as part of a continuing search for methods of achieving the economic growth we need and, at the same time, avoiding inflation and its obviously destructive consequences. Kemp-Roth claims to be the answer. The proposal must be examined as to its effect on economic activity, unemployment and the budget deficit, and to its fairness. Kemp-Roth claims to pass on all counts. Any initiative which makes such strong claims should obviously be examined very closely. I wish to do precisely that.

The private marketplace has a remarkable ability for overcoming the so-called "inequities" in the tax code. Through private negotions and transactions, the after-tax returns to production are distributed "equitably", in spite of government attempts at manipulation. The one thing that the marketplace cannot successfully adjust for is the total amount of its production that is taken away by the government in taxes. Therefore the only truly meaningful tax reform is either a decrease of an increase in tax rates. So except for the few among us who believe that tax rates are currently exactly where an allwise divine ordinance would have them, we must only decide whether we are for tax rate decreases or tax rate increases. These are the only choices.

My own case for tax rate decreases is embodied in the following conceptual framework.

THE FRAMEWORK

The framework, based on the relationship between tax rates and tax revenues, is briefly stated as follows:

(1) For each level of government tax revenues, there are two (2) different tax rates which will produce it, i.e., a low rate at a high level of production and a high rate at a low level of production. The extreme example is that no tax revenue is collected at a zero tax rate, even though production is at a maximum. No tax revenue is collected at a 100 percent tax rate because all economic activity ceases (or takes place out of the sight of the tax collector).

(2) As tax rates increase in the low end of the range, tax revenues increase, in spite of the fact that marginally profitable enterprises are forced out of business. This occurs because the loss of tax revenues from these now-defunct enterprises is more than offset by the incremental revenues from those enterprises which remain. In the high end of the range, the opposite occurs, i.e., the loss of the tax revenues from the now-defunct enterprises exceeds the incremental revenues from those which remain, thereby leading to lower tax revenues (See Figure 1). The converse is that in the upper end of the tax rate range, lower tax rates should lead to an increase in tax revenues due to an exchange in the production base. This occurs because of the incentive effect on the marginal decision to invest or not to invest, to work or not to work, to invest in the U.S. or invest in some place offshore, etc.

(3) Because of the co-existence of high marginal tax rates and an extensive system of income transfers (welfare and unemployment benefits), changes in tax rates will have a much more pronounced effect on the supply of goods and services than on demand (see Figure 2). The sequence is as follows: tax rates rise, marginal firms go out of business, remaining firms cut back on investment, unemployment results, tax revenues decline. Because the newly unemployed must now depend on welfare and unemployment benefits, precisely the same policy change which caused a decrease in the government's ability to spend also causes an increase in the government's need to spend. The budget deficit is therefore twice adversely affected. The production of the laid-off worker drops to zero while his demand for goods and services drops only to a level commensurate with his welfare or unemployment compensation. The net effect is a simultaneous increase in unemployment and inflation commonly known as "stagflation". Conversely, a cut in marginal tax rates produces exactly the opposite effect. Support for this notion can be found in recent experiences in India, West Germany, Canada, and in our own experience following the Kennedy Administration tax cuts in 1962–63.

(4) In order for tax rate cuts to have the desired results, they must be perceived by the private marketplace as permanent. Temporary tax rate cuts can only affect temporary investment decisions.

(5) I must emphasize the distinction between the aforementioned cuts in marginal tax rates and the quite-different notion of tax rates. All of the benefits of the former accrue because of the effect on the expected profitability of Production and investment. These benefits do not result in the case of a tax rebate, simply because it is related only to previous production, which obviously cannot be altered in response. The net effect, therefore, of the tax rebate is the same as

that of a simple transfer payment, having no positive effect whatsoever on production.

TAX BURDEN AND DISTRIBUTION

Following a visit to my doctor recently, I was presented with a bill. "What you did was worth only half that much", I said to him, to which he replied, "precisely. That's exactly my share of what you pay. The IRS gets the rest." Query: Who pays the doctor's taxes?

A close look at a typical business income statement reveals the answer. The success of the business is measured by the extent to which the first line item, revenues—payments by consumers of the product—covers the sum of all the lines which follow, i.e., all expenses, including taxes. The taxes included here are of several types, but for purposes of this discussion, we shall ignore all but the most obvious. Wages and salaries include personal income taxes and employees' contribution to social security taxes. Corporate taxes include employer contribution to social security taxes and corporate income taxes. The cost of materials and supplies includes (from the supplier's income statement) all of the above plus any applicable sales and excise taxes. Not reflected in the statement are personal income taxes on dividends and sales and (in most cases) excise taxes on the final output.

Either all of the above are covered by payments from consumers of the product, with some left over for the investors, or the enterprise soon ceases to exist. All of the participants in the production process, workers, suppliers, consumers and investors, base their participation decision on their expected after-tax returns from the enterprise. In other words, they bargain with each other for a share of what remains after the government takes its share in the form of taxes listed above. They do so through price negotiations, wage and salary negotiations, buying and selling of the firm's stock, etc. Whenever one of the above taxes—any one—is increased, the equilibrium is disturbed, setting off a new round of negotiations. For instance, an increase in personal income tax rates leads to higher wage demands (workers' response), lower stock price (investor's response). An increase in corporate income tax rates or employer contribution to social security taxes leads to lower wages and salaries offered and/or higher output prices asked. In any case, everyone in the production and consumption process is worse off than before because they will distribute among themselves a smaller after-tax total.

Stated somewhat differently, a tax imposed on any factor of production is ultimately borne by all factors of production.

There has been much talk lately about integrating corporate and personal income tax, or eliminating the double taxation of dividends. As the foregoing discussion indicates, the market itself does the integration. It does not matter how many times corporate income is taxes. What matters is the total amount of tax, corporate plus personal, that is levied on income. Cut either rate and the beneficial effects will be exactly the same.

The single most destructive feature of our tax system is the graduated personal income tax. The apparent rationale is that those who earn more can afford to pay more. Ironically, the destructive effects of progressivity fall most heavily on those who earn less. As inflation increases nominal earnings, the higher tax rates lead to losses in real wages. Highly productive workers (evidenced by their high earnings) are taxed at such high marginal rates that, at the margin, leisure becomes a more attractive option. Investors, who can be taxed up to 70%, have strong incentives to invest offshore, invest in tax shelters, or simply choose more current consumption and less investment. Proponents of so called "soak-the-rich" schemes should consider the following. Increased tax rates on the rich cause the rich to become a little less rich and invest less, and cause the poor to lose vital opportunities to work at all.

KEMP-ROTH

The primary rationale of the Kemp-Roth proposal appears to be based on the conceptual framework just discussed. By cutting marginal tax rates on individuals across the board and on businesses, it would provide for non-inflationary private-sector economic expansion. It would signal abandonment by liberals and conservatives alike that inflation must be fought with unemployment and vice versa. It would release the enormous pool of energy and individual initiative that has characterized our great country since its inception. New employment would result and those Americans who, for obvious reasons, always seem to bear a disproportionate share of unemployment, would be among the greatest beneficiaries. And, believe it or not, it contains the only hope of ever achieving the elusive balance in the Federal Budget.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 18, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 19

9:00 a.m.

Energy and National Resources

To continue consideration of proposed legislation designating certain Alaska lands as national parkland.

3110 Dirksen Building

Finance

To hold hearings on S. 3223 and S. 3241, to establish a general stock ownership plan.

2221 Dirksen Building

9:30 a.m.

Governmental Affairs

Energy, Nuclear Proliferation, and Federal Services Subcommittee

To resume hearings on S. 3229 and H.R. 7700, proposed Postal Service Amendments Act.

3302 Dirksen Building

Judiciary

Antitrust and Monopoly Subcommittee

To resume oversight hearings on the ICC's price regulation in the motor common carrier industry.

2228 Dirksen Building

10:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting on pending calendar business.

322 Russell Building

Appropriations

Agriculture and Related Agencies Subcommittee.

To mark up H.J. Res. 1024, making urgent supplemental appropriations for the A.S.C.S. Department of Agriculture; S. 3085, extending through FY 82 the special supplemental and child care food programs; H.R. 13125, FY 79 appropriations for the Department of Agriculture; and on proposed second supplemental appropriations for FY 78 for the Department of Agriculture.

1223 Dirksen Building

Appropriations

District of Columbia Subcommittee

To hold hearings on proposed supplemental appropriations for FY 78 and on proposed FY 79 budget estimates for the District of Columbia.

S-126, Capitol

Environment and Public Works

To consider S. 3077, extending until September 30, 1983, the authority of the Export-Import Bank to make new commitments.

4200 Dirksen Building

Joint Economic

To continue hearings to review economic conditions, and to discuss the future outlook.

5110 Dirksen Building

Select Small Business

To resume mark up H.R. 11318, authorizations for the SBA through FY 1980; S. 836, to improve the surety bond program provided by the Small Business Investment Act; S. 2156, proposed Minority Enterprise Venture Capital Act; S. 2259, to revise procedures for insuring small business participation in Government procurement activities; and S. 3179, to create a small business and capital ownership development program.

424 Russell Building

Special on Aging

To continue oversight hearings on P.L. 95-256, to increase from 65 to 70 years the age limit for retirement under the Age Discrimination in Employment Act.

6226 Dirksen Building

2:00 p.m.

Conferees

On S. 9, to establish a policy for the management of oil and natural gas in the Outer Continental Shelf.

3110 Dirksen Building

2:30 p.m.

Appropriations

To mark up H.R. 12927, FY 79 appropriations for construction at certain military installations; H.R. 12935, FY 79 appropriations for the Legislative Branch; H.J. Res. 1024, making urgent supplemental appropriations for the Department of Agriculture; and S. 3085, extending through FY 82 the special supplemental and child care food programs.

JULY 20

9:00 a.m.

Energy and Natural Resources
To continue consideration of proposed legislation designating certain Alaska land as national parkland.
3110 Dirksen Building

Finance
To continue hearings on S. 3223 and S. 3241 to establish a general stock ownership plan.
2221 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on fraud, abuse, and waste in federally-supported health programs.
6226 Dirksen Building

9:30 a.m.

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on S. 3229 and H.R. 7700, proposed Postal Service Amendments Act.
3302 Dirksen Building

Joint Economic
To continue hearings to review economic conditions, and to discuss the future outlook.
2168 Rayburn Building

10:00 a.m.

Commerce, Science, and Transportation
Business meeting on pending calendar business.
235 Russell Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of P.L. 94-472, the Toxic Substances Control Act.
4200 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To resume markup of S. 2755, the Drug Regulation Reform Act, and S. 3115, to establish a comprehensive disease prevention and health promotion program in the U.S.
4232 Dirksen Building

Select Intelligence
To resume hearings on S. 2525, to improve the intelligence system of the U.S. by establishing a statutory basis for U.S. intelligence gathering activities.
5110 Dirksen Building

2:00 p.m.

Select Ethics
To hold an open followed by closed business meeting.
235 Russell Building

Conferees
On S. 9, to establish a policy for the management of oil and natural gas in the Outer Continental Shelf.
3110 Dirksen Building

JULY 21

9:00 a.m.

Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on H.R. 12536, Omnibus National Parks Amendments.
3110 Dirksen Building

9:30 a.m.

Judiciary
Immigration Subcommittee
To hold hearings on S. 3093, to provide for the seizure of vehicles used to illegally transport persons into the U.S.
2228 Dirksen Building

10:00 a.m.

Commerce, Science, and Transportation
To hold hearings on the nomination of Thomas F. Moakley, of Massachusetts, to be a Federal Maritime Commissioner.
235 Russell Building

Environment and Public Works
Environmental Pollution Subcommittee
To continue oversight hearings on the implementation of P.L. 94-472, the Toxic Substances Control Act.
4200 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To continue markup of S. 2755, the Drug Regulation Reform Act, and S. 3115, to establish a comprehensive disease prevention and health promotion program in the U.S.
4232 Dirksen Building

JULY 24

9:00 a.m.

Joint Economic
Economic Growth and Stabilization Subcommittee
To hold hearings on alleged mismanagement of Conrail's personnel and financial resources.
5110 Dirksen Building

9:30 a.m.

Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on proposed tax legislation of general application (S. 869, 1674, 2128, 2393, 2482, 2628, 2825, 3007, 3037, 3080, 3125 and 3301).
2221 Dirksen Building

10:00 a.m.

Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 3078, providing financial assistance to certain States to aid in the stabilization or disposal of radioactive materials.
3110 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

JULY 25

9:30 a.m.

Joint Economic
To hold joint hearings with the House Banking, Finance, and Urban Affair's Subcommittee on the City to review economic conditions, and to discuss the future outlook.
2168 Rayburn Building

10:00 a.m.

Budget
To hold hearings on the second concurrent resolution on the Congressional Buget for FY 1979.
6202 Dirksen Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 3078, providing financial assistance to certain States to aid in the stabilization or disposal of radioactive materials.
3110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on S. 2189, proposed Nuclear Waste Management Act.
1114 Dirksen Building

JULY 26

9:00 a.m.

Joint Economic
Economic Growth and Stabilization Subcommittee
To resume hearings on alleged mismanagement of Conrail's personnel and financial resources.
5110 Dirksen Building

9:30 a.m.

Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on auto odometer requirements.
235 Russell Building

Finance
Administration of the Internal Revenue Code Subcommittee
To resume joint oversight hearings with the Small Business Committee on operation of the Tax Reduction and Simplification Act (P.L. 95-30), and on Administration proposals for a new jobs tax credit.
2221 Dirksen Building

10:00 a.m.

Banking, Housing, and Urban Affairs
To mark up H.R. 10899, proposed International Banking Act.
5302 Dirksen Building

Budget
To continue hearings on the second concurrent resolution on the Congressional Budget for FY 1979.
6202 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold hearings on S. 1592, to terminate further construction of the Cross-Florida Barge Canal project.
4200 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on S. 2189, proposed Nuclear Waste Management Act.
1114 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

Rules and Administration
To receive testimony on S.J. Res. 142, authorize the Franklin Delano Roosevelt Memorial Commission to proceed with construction of the FDR Memorial, and other legislative and administrative business.
301 Russell Building

JULY 27

9:30 a.m.

Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings on conglomerate mergers and their effect on the economy, on a community, and on employees.
2228 Dirksen Building

Veterans' Affairs
To mark up S. 2828, the Veterans Disability Compensation and Survivor Benefits Act; S. 1643 and H.R. 4341, to eliminate the requirement that the VA inspect the mobile home manufacturing process; and H.R. 12257, to furnish memorial headstones to honor certain deceased veterans.
412 Russell Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To continue markup of H.R. 10899, proposed International Banking Act.
5302 Dirksen Building

Budget
To continue hearings on the second concurrent resolution on the Congressional budget for FY 1979.
6202 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on S. 2189, proposed Nuclear Waste Management Act.
3302 Dirksen Building

Select Intelligence
To resume hearings to receive testimony from former Secretary of State Kissinger on S. 2525, to improve the intelligence system of the U.S. by establishing a statutory basis for U.S. intelligence gathering activities.
5110 Dirksen Building

JULY 28

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To continue hearings on conglomerate mergers and their effect on the economy, on a community, and on employees.
2228 Dirksen Building

JULY 31

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

AUGUST 1

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on arbitration in U.S. district courts.
2253 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 2590, to amend P.L. 91–505, relating to land claims by the U.S. in Riverside, California, and S. 2774, to extend the boundaries of the Toiyabe National Forest in Nevada.
3110 Dirksen Building

AUGUST 2

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings on the quality of patient care in nursing homes.
3302 Dirksen Building

AUGUST 3

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings on the quality of patient care in nursing homes.
3302 Dirksen Building

AUGUST 4

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

AUGUST 7

10:00 a.m.
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 2475 and H.R. 10587, to improve conditions of the public grazing lands.
3110 Dirksen Building

AUGUST 8

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2533, proposed Gasohol Motor Fuel Act.
3110 Dirksen Building

AUGUST 9

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on S. 2533 proposed Gasohol Motor Fuel Act.
3110 Dirksen Building

AUGUST 10

8:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 2560, to expand the Indiana Dunes National Lakeshore.
3110 Dirksen Building

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2860, proposed Solar Power Satellite Research, Development, and Demonstration Program Act.
3110 Dirksen Building

AUGUST 15

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

AUGUST 16

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

AUGUST 17

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 18

10:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

AUGUST 22

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 28

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

AUGUST 29

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

CANCELLATIONS

JULY 27

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To resume hearings on S. 2873, proposed Ocean Shipping Act.
235 Russell Building

AUGUST 2

10:00 a.m.
Commerce, Science, and Transportation
Merchant Marine and Tourism Subcommittee
To hold hearings on H.R. 6503, to provide for a just and reasonable rate of return or profit for common carriers by water in intercoastal commerce.
235 Russell Building

SENATE—*Tuesday, July 18, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by Hon. EDWARD ZORINSKY, a Senator from the State of Nebraska.

PRAYER

The Right Reverend Bishop Papken Varjabedian, Legate of the Diocese of the Armenian Church of America, Washington, D.C., offered the following prayer:

O God and Father of us all, Thou art the author of life and the giver of every good gift, whose presence and power underlie all our lives, unto Thee do we lift up our hearts in prayer.

We ask Thy blessings upon our great country; we beseech Thee to grant the light of Thy wisdom to Thy servants, the President of the United States, to the Members of the Senate and the joy of peace to Thy people.

Grant that our Nation and the nations everywhere may enjoy perfect peace; may they put forth greater efforts to achieve peace in our world and to build bridges between people and in deed and in truth may we live as brothers and be worthy to call Thee "Our Father in Heaven."

In the name of our Savior, Christ the Prince of Peace, we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 18, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable EDWARD ZORINSKY, a Senator from the State of Nebraska, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. ZORINSKY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield back my time.

PRIVILEGE OF THE FLOOR

Mr. STEVENS. Mr. President, I ask unanimous consent that Jan Rogozinski, of my staff, have the privilege of the floor today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, we have no request for time on this side. I yield back my time.

EXECUTIVE SESSION

SMALL BUSINESS ADMINISTRATION

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the nomination of Milton B. Stewart to be Chief Counsel for Advocacy of the Small Business Administration.

The clerk will report the nomination.

The second assistant legislative clerk read the nomination of Milton B. Stewart, of New York, to be Chief Counsel for Advocacy.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978—CONFERENCE REPORT

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that the debate on the coal conversion conference report begin at 1:40 p.m. today, rather than 1:50 p.m., and that the additional 10 minutes be divided between Mr. DOMENICI and Mr. HASKELL.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor.

Mr. NELSON. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, as in legislative session, I ask unanimous consent that the debate on the conference report on the coal conversion bill begin at 1:45 p.m. today, with 15 minutes of debate—and, of course, with no quorum call in order, as previously ordered—and that the additional 5 minutes be given to Mr. DOMENICI, with no additional time to Mr. HASKELL.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SMALL BUSINESS ADMINISTRATION

The Senate continued with the consideration of the nomination of Milton D. Stewart to be Chief Counsel for Advocacy of the Small Business Administration.

Mr. NELSON. Mr. President, as Chairman of the Small Business Committee, I rise to speak on behalf of President Carter's nominee for the position of Chief Counsel for Advocacy of the Small Business Administration, Mr. Milton D. Stewart.

The President submitted Mr. Stewart's nomination to the Senate on March 2, 1978 at which time it was referred to the Small Business Committee. Shortly thereafter the nominee submitted a completed committee question entitled "Statement for Completion by Presidential Nominees." The biographical sketch included in that submission goes to the heart of Mr. Stewart's impressive qualifications to serve as Chief Counsel. He has in the past held numerous posts in Federal, State, and local governments and has been active in the academic and research communities as well.

It is the area of small business, however, that Mr. Stewart is without peer. He has been one of the chief spokespersons and leaders in the small business associations, director of several small business concerns; and was founder and chairman of the Research Council for Small Business and Professions. Earlier as a partner in a New York City law firm he also represented all types of smaller businesses.

I ask unanimous consent that a biographical summary of Mr. Stewart as it appeared in Executive Report 95–21 be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

BIOGRAPHICAL SKETCH

Milton D. Stewart was Chairman of the Research Council for Small Business and the Professions, located in Washington, D.C., from April, 1975, until December 23, 1977,

when he resigned his position. He has an extensive background of service with small businesses, the Government at all levels, and the organized small business community. He also is a lawyer and member in good standing of the New York, District of Columbia, and U.S. Supreme Court Bars.

Specifically, Mr. Stewart was founding director, vice chairman (1961) and later president (1969–74) of Creative Capital Corporation (now Clarion Capital Corporation), a major venture capital small business investment company in New York. He was a partner in the law firm of Wikler, Gottlieb, Stewart and Long in New York and the District of Columbia from 1961–69 and of Counsel to the firm from 1975–77, as a venture capital manager, serving also as a director of about six small businesses and managing a small business investment company portfolio.

Mr. Stewart is past president of the National Small Business Association (1975–77); and the National Association of Small Business Investment Companies (1966–67), of which he has been a member since 1961.

In the Executive Branch of the Federal Government, Mr. Stewart served three years in the Bureau of the Budget (1951–42) as a budget and organization and methods examiner. During that time he was detailed as executive assistant administrator of the Small Defense Plant Administration for three months in 1951. Earlier Federal service included duty on the research staff of the Bureau of Intelligence of the Office of War Information in 1942–43, and director of research of the President's Committee on Civil Rights in 1946–47.

In Washington, Mr. Stewart also served as Staff Economist on the Special Committee on Small Business of the U.S. Senate in 1946; and as Administrative Assistant in the U.S. House of Representatives to New York Representative Franklin D. Roosevelt, Jr. in 1949–51.

In State and local government in New York, Mr. Stewart was Executive Assistant Counsel and later Special Counsel to New York Governor Averell Harriman in 1955–59. He became Chief of the legal department of the New York State Thruway Authority in 1960–61. In 1949 he served as Executive Director of the New York Mayor's Committee on Unity.

Research and academic activities in the private sector included a post as research assistant to the Director of the Commission on Freedom of the Press in New York in 1944–45; an associate professorship at the New School for Social Research in New York, a lectureship on the Graduate Faculty of Public Law of Columbia University, and a research associate position with the Bureau of Applied Social Research of Columbia University (1947–48). In 1947–48, Mr. Stewart also was Executive Director of the New York State Americans for Democratic Action.

Additional experience in private industry also included his service as assistant to a partner of a private bank, the Brown Bros. Harriman and Co. in 1953–54; and the Communications Director for Nejelski and Company in New York, a management counseling firm in 1945.

Mr. Stewart was born in Brooklyn, New York, in 1922 and raised in a family retailing business, owned and managed by his parents for more than fifty years. He graduated from Stuyvesant High School in New York in 1938, received his A.B. in 1941 from New York University, and his M.S. from the Graduate School of Journalism of Columbia University in 1942 In 1953, he received his law degree from the National Law Center of George Washington University in Washington, D.C.

Mr. Stewart is the recipient of a Distinguished Service Award from the National Association of Small Business Investment Companies and a certificate of recognition from the National Small Business Association. He also shared in a citation by the American Political Science Association award to the President's Committee on Civil Rights for the "Best Publication of the year in the Field of Human Rights".

Mr. Stewart resides in Washington, D.C., and has two daughters, ages 34 and 28, and one son, age 26.

Mr. NELSON. Mr. President, I have briefly focused on the credentials of Mr. Stewart because it is important that the person named as chief counsel for advocacy have, on the one hand, extensive, first hand experience and a thorough understanding of the workings of government on all levels and branches. and, on the other hand, have empathy and a genuine appreciation of private sector issues and problems, particularly as they relate to small and independent firms. Milton Stewart amply meets all these important tests.

Immediately after receipt of the President's nomination, the Small Business Committee contacted as many as possible who knew or had worked with the nominee. Almost 6 weeks elapsed before the committee held its first confirmation hearings, allowing all interested parties ample opportunity to register their opinions with the committee regarding Mr. Stewart.

The broad support for Mr. Stewart was impressive by any standard of measurement.

To my knowledge, not since the Small Business Administration came into being in 1953 has there been such an outpouring of support for a Presidential nominee who would serve in the area of small business. Over 125 people and groups appeared in person before the committee or wrote us urging that Mr. Stewart be confirmed. Not a single one of the organizations, which collectively represented well over 1 million small businesses, had the slightest reservation about Mr. Stewart's qualifications for the position or his personal integrity. It was obvious from the testimony that a very broad spectrum of small business organizations and independent business men and women considered Mr. Stewart eminently qualified for the position of chief counsel for advocacy of the Small Business Administration.

These people spoke on behalf of national, regional, and local business groups which represented retailing, manufacturing, wholesaling, and service corporations, partnerships and sole proprietorships. Minority and women business owner affiliated organizations were heard from as well.

Every single former, living SBA Administrator, both Democrat and Republican, took the time and effort to contact the committee and endorse Mr. Stewart. Each of the following men stated that he was well acquainted with Mr. Stewart and that he unqualifiedly supported the nominee. These are all the former SBA Administrators:

Wendell B. Barnes, 1954–59; Philip McCallum, 1959–61; John E. Horne, 1961–63; Eugene P. Foley, 1963–65; Bernard L. Boutin, 1966–67; Robert C. Moot, 1967–68; Howard Samuels, 1968–69; Thomas S. Kleppe, 1971–75; and Mitchell P. Kobelinski, 1976–77. Between 1969 and 1971 the SBA Administrator was Hilary Sandival who is now deceased.

I am unaware of any other Presidential small business nominee ever receiving such strong bipartisan support and endorsement.

The minority report signed by Senator WEICKER raises four issues concerning Mr. Stewart's record. We explored these issues extensively through staff investigation and public hearing.

At the conclusion of this careful and meticulous review, the committee voted 8 to 1 to favorably report the nomination. Senators MCINTYRE, NUNN, HATHAWAY, HASKELL, CULVER, BARTLETT, PACKWOOD, and myself voted in the affirmative. The one dissenting vote was cast by Senator WEICKER.

Senator WEICKER's criticism of Mr. Stewart centers on an SEC investigation into the management of Creative Capital Corp. a publicly held small business investment company which was subject to the Investment Company Act of 1940. This investigation was terminated in 1974 when Mr. Stewart entered into a consent agreement.

For the benefit of my colleagues, I shall briefly touch upon the four alleged, highly technical violations that are addresed by Senator WEICKER in his minority views.

The first issue is that Creative Capital entered into and became responsible for a 20-year lease for space that benefited not only Creative, but an affiliated group called Comac which later became bankrupt. It is alleged that Mr. Stewart breached his fiduciary responsibility by entering into this lease transaction.

In response, I first want to say that Mr. Stewart was advised by corporate counsel that the lease transaction was permissible under section 17(c) of the Investment Company Act of 1940. Only after he was assured that the lease was in full compliance with the SEC regulations did Mr. Stewart sign the lease.

Second, the lease represented a highly attractive business opportunity for Creative. Why?

Comac controlled approximately 85 percent of Creative's outstanding shares.

Comac also controlled over 20 banks with total assets in excess of four billion dollars.

These banks were an important source of investment opportunities for Creative.

Sharing the same space with Comac heightened Creative's prestige within the venture capital community.

Comac agreed to lease 80 percent of the space leased by Creative.

Creative's majority and minority shareholders could only benefit from this arrangement. Creative would have high visibility and it would be able to select only the most attractive investment opportunities.

Regrettably, Comac was not able to occupy the space because of financial difficulties and the lease had to be termi-

nated. It should be noted, however, that the financial problems of Comac could in no way have been anticipated at the time the lease was signed.

The minority view states that Creative's shareholders were misled in an annual report which stated a substantial portion of Creative's space has been sublet.

Testimony by witnesses during the hearing and evidence furnished the committee made it clear that there was a legally binding sublease making Comac liable for 80 percent of the space. Furthermore, every detail concerning the lease was brought to the SEC's attention prior to Creative's sending its Interim Report to Shareholders. If there were any question as to whether there was adequate disclosure to the shareholders, why was it not brought to Creative's attention before the report was issued?

Another concern is that Mr. Stewart permitted Creative to finance a concern affiliated with a Comac transaction. Once it was made, Mr. Stewart is criticized for not taking affirmative action to remedy the situation.

The investment in question was in fact made while Mr. Stewart was out of the country. He had no reason to believe the investment would ever be made, let alone in his absence.

However, once he discovered the investment had been closed, he took immediate steps to remove the Comac partners from Creative's board of directors and have an independent board elected. He also was responsible for the retention of special counsel to investigate the American Mobile Home Town transaction.

After being retained, the attorney advised against bringing the matter to the immediate attention of the SEC until all facts concerning the investment had been documented. Four weeks later, all known material facts were presented to the SEC staff.

During this period of time Mr. Stewart worked to restructure the investment and recoup Creative's moneys. He was successful on both counts.

The minority view also represents that Mr. Stewart should have had Comac formally register as an investment adviser to Creative as soon as Creative came into being; or in other words, Comac should have registered with SEC stating that it would serve a management counseling role to Creative.

Counsel to Creative informed Creative's management that, based on discussions with the SEC staff, it was unnecessary for Comac to register. However, when management was preparing for Creative's first annual meeting, the SEC advised Creative that Comac should probably register. Proxy material was then mailed to the shareholders making it clear that Comac had not previously registered with the SEC. The same material sought shareholder approval of the fees previously paid Comac and approval for Comac to register as an investment adviser. At the annual meeting the shareholders did overwhelmingly vote to contract with Comac as a registered investment adviser.

The point is both the SEC and Creative's shareholders were fully informed about Comac's relationship with Creative. It was not until several years later that the SEC staff suggested that there might have been a technical violation.

Mr. President, as I read it, the central issue that Senator WEICKER is addressing is whether Mr. Stewart fulfilled his fiduciary responsibilities to the shareholders of Creative Capital Corp. The fiduciary responsibility issue was not resolved because, as I have stated, the SEC proceedings were terminated by a consent agreement. The committee members therefore believed it incumbent upon them to undertake an exhaustive de novo review of the SEC investigation and proceedings. All interested and knowledgeable parties who were familiar and thoroughly conversant with the SEC matter were queried.

It was only after a painstaking investigation and exhaustive review that eight of the nine Senators serving on the committee concluded that Mr. Stewart, throughout his tenure as president, had in mind only the best interest of his shareholders. His overall record was good. Nothing was disclosed in the hearings that challenged Mr. Stewart's honesty or personal integrity. No evidence was brought to the committee's attention that even hinted that Mr. Stewart personally benefited or was personally enriched while serving as president of the small business investment company.

In my opinion it is seriously questionable whether there was ever any merit to the SEC action as it related to Milton Stewart. In many respects the SEC conduct is a stellar example of how smaller concerns and their managers are at the mercy of a powerful regulatory agency. Expert witnesses told the committee that it would have required $50,000 to $75,000 in legal fees for Mr. Stewart to successfully prevail against the SEC. I use the word "prevail" because it was the opinion of leading securities lawyers appearing before our committee that if Mr. Stewart had chosen to use a considerable portion of his personal resources and been content to drag out the proceedings for several more years, he would undoubtedly have been exonerated of the charges.

The SEC matter is an excellent case in point of how a small entrepreneur is at a disadvantage when dealing with the Federal regulatory establishment. One of the chief advocate's responsibilities is to strive for regulatory policies that treat small business interests more equitably. Mr. Stewart is clearly qualified in this area because, as the expression goes, "he's been there"—he knows what it is like to be up against an agency with a comparatively unlimited staff and unlimited resources.

As to the specific SEC allegations, I want to assure my colleagues that I feel absolutely comfortable in urging the Senate to vote to confirm Mr. Stewart. After a complete review of the whole matter, I can see no way in which the SEC investigation reflects adversely upon Mr. Stewart's integrity or his ability or capacity to serve as the Chief Counsel for Advocacy.

The opinion of eight of nine committee members concerning the SEC allegations is affirmed by Mr. William J. Casey, chairman of the SEC at the time the private order of investigation was issued. I wish to quote from a portion of a letter Mr. Casey sent to me as chairman of the committee on March 9 of this year:

> I believe that President Carter has made an excellent appointment. I can think of no one more suited by background and interests for this important post.
>
> My conviction that Mr. Stewart is admirably suited to the post for which President Carter has nominated him has led me to read the memorandum of the SEC staff recommending that the actions against Mr. Stewart be settled, as well as papers prepared by counsel who represented him in that proceeding. It is clear that Mr. Stewart was in no way responsible for the Parsons debacle at which the SEC action was aimed.
>
> ... In my judgment, these violations were not at all clear, were technical in nature, in no way reflected on Mr. Stewart's integrity and should not now deprive the public of his experience and ability.

Another former SEC Commissioner who served during the Eisenhower administration and is now a noted securities attorney, Mr. James Sargent, said the following:

> The Commission's decision was predicated, in my view, upon the total lack of judgment of, first the staff, and then of the Commission itself. I would urge this Committee to ignore that decision totally in appraising Mr. Stewart's high qualifications by reason of his background, his long and active experience with, and his total dedication to, Small Business. He is thoroughly conversant with the enormous problems which small business must face today and is thoroughly equipped to seek positive solutions thereto.

Before concluding, I want to return to a point I made earlier when I spoke of how strongly the small business community felt about Milton Stewart.

I believe this support is critical for the primary responsibility of the Chief Counsel for Advocacy is first and foremost to function as an ombudsman for small business. If the constituency finds the nominee lacking, then surely he would find it difficult, if not impossible to carry out his advocacy mission.

Mr. Stewart has the small business community's overwhelming and enthusiastic support. Furthermore, he already has a proven track record in the advocacy area for he has been one of the leading spokespersons on small business issues for years.

In view of Mr. Stewart's outstanding record of public and private service, I urge my colleagues to affirm President Carter's choice for Chief Counsel for Advocacy of the Small Business Administration.

Mr. President, I ask unanimous consent that there be printed in the RECORD a list of those organizations who have urged that Mr. Stewart be confirmed

together with brief excerpts of some of their comments concerning the nominee. In addition, I wish to submit the complete text of the letters from Mr. Casey and Mr. Sargent.

There being no objection, the material as ordered to be printed in the RECORD, as follows

PARTIAL LIST OF GROUPS TESTIFYING OR WRITING TO COMMITTEE IN SUPPORT OF NOMINEE

1. American Association of MESBIC's, D.C.
2. American Association of Nurserymen, Inc., D.C.
3. American Association of Physical Fitness Centers, Md.
4. American Association of Small Research Companies, D.C.
5. American Council of Independent Laboratories, D.C.
6. American Federation of Small Business, Ill.
7. Automotive Warehouse Distributors Assoc., Inc., Mo.
8. Building Service Contractors Association International, Va.
9. Center for Venture Management, Wis.
10. Christian Booksellers Association, Colo.
11. Connecticut Small Business Federation, Conn.
12. Council of Small and Independent Business Associations, D.C.
13. Council of Small Enterprises, Ohio.
14. Direct Selling Association, D.C.
15. Electronic Representatives Association, Ill.
17. Independent Bakers Association, D.C.
18. Independent Business Association of Wisconsin, Wis.
19. Independent Sewing Machine Dealers of America, Inc., Ohio.
20. International Franchise Association, D.C.
21. Latin American Manufacturers Association, D.C.
22. Local and Short Haul Carriers National Conference, D.C.
23. Long Island Association, N.Y.
24. Machinery Dealers National Association, Md.
25. Manufacturers Agents National Association, Calif.
26. Menswear Retailers of America, D.C.
27. Narrow Fabrics Institute, Inc., N.Y.
28. National Association of Black Manufacturers, Va.
29. National Association of Brick Distributors, Va.
30. National Association of Catalog Showroom Merchandisers, N.Y.
31. National Association of Child Development and Education—D.C.
32. National Association of Home Manufacturers—D.C.
33. National Association of Independent Lumbermen—Va.
34. National Association of Plastics Distributors, Inc.—Penn.
35. National Association of Plumbing-Heating-Cooling Contractors—D.C.
36. National Association of Realtors—Ill.
37. National Association of Retail Druggists—D.C.
38. National Association of Small Business Investment Companies—D.C.
39. National Association of Small Research Companies—Penn.
40. National Association of Women Business Owners—D.C.
41. National Candy Wholesalers Association, Inc.—D.C.
42. National Concrete Masonry Association—Va.
43. National Council of Professional Service Firms—D.C.
44. National Electrical Contractors Association, Inc.—Md.
45. National Family Business Council—Mich.
46. National Federation of Independent Business—D.C.
47. National Home Furnishings Association—D.C.
48. National Home Improvement Council—D.C.
49. National Independent Dairies—D.C.
50. National Independent Meat Packers Association—D.C.
51. National Insulation Contractors Association—D.C.
52. National Jobbers Council—D.C.
53. National Office Machine Dealers Association—Ill.
54. National Office Products Association—Va.
55. National Paper Trade Association—N.Y.
56. National Patent Council—Va.
57. National Parking Association—D.C.
58. National Pest Control Association—Va.
59. National Shoe Retailers Association—N.Y.
60. National Small Business Association—D.C.
61. National Tire Dealers and Retreaders Association, Inc.—D.C.
62. National Tool, Die and Precision Machining Association—D.C.
63. National Venture Capital Association—D.C.
64. Pennsylvania Small Industries Coalition—Penn.
65. Printing Industries of America, Inc.—Va.
66. Smaller Business Association of New England—Mass.
67. Small Business Council—N.Y.
68. Small Business Service Bureau of New England—Mass.
69. Small Business Service Contractors Association—Va.
70. Smaller Manufacturers Council—Pa.

COMMENTS

I have absolute confidence in Mr. Stewart, based on my own personal experience and observation for the past year and a half—based on his reputation in the small business community—and based on his absolute commitment to the growth and progress of small business in this country.—A. Vernon Weaver, Administrator, Small Business Administration.

In all my years in Washington, I have never known an appointment which makes so much sense—and which holds so much promise. . . . Milton Stewart is absolutely the right man in the right place, at the right time. His dedication, his professional experience and his personal qualifications equip him perfectly for the position he has been nominated to fill.—Council of Small and Independent Business Associations, Walter Stults, Chairman.

His background clearly highlights his knowledge and ability. He has directly worked with and for many small business companies. He has had experience with government and with small business organizations. He has been deeply involved in research in areas of direct importance to small and independent businesses. Anyone who would try to challenge Milt's interest or will simply has not had occasion to work with him. His capacity for long hours of work, his unfailing enthusiasm and his capacity to inspire others are traits well known to those who have been lucky enough to spend any time with him at all.—National Federation of Independent Business, George J. Burger, Jr., Director, Federal Legislative Affairs.

Milton Stewart is no stranger to the people in our industry. He is the leading authority in this field. His enthusiasm and unselfish dedication to the cause of small business make him the ideal person for this job.—National Association of Small Business Investment Companies, Harry Fleming, Secretary.

There are few people as dedicated to maintaining a strong position for small business in the economic structure of this country as Milt Stewart. He has shown this in his dedication and unselfish service to the small business community for many years. We are convinced that Mr. Stewart has the expertise to influence the development of new programs specifically tailored to meet the needs of small business. He has the insight to speak out against those policies which would be detrimental to small business. He has the courage and the guts to shake up those in government who deserve to be awakened to the needs and problems of small business. To sum up, you cannot find a better man.—National Small Business Association, John Lewis, Executive Vice President.

EXCERPTS OF REMARKS

We were elated when we learned Mr. Stewart had been nominated for the position of Chief Counsel of Advocacy. We wholeheartedly support Mr. Stewart's nomination not only because his credentials and integrity are known to us, but because he is particularly sensitive to the needs of small business and the additional needs of minority small business.—American Association of Minority Enterprise Small Business Investment Companies, Patricia D. Jacobs, Chief Administrative Officer.

It is a job that requires a person that is truly committed to the growth of small business in this country. It requires someone who understands the entire small business community and someone who will play a very active and visible role on behalf of small business. We think Milton Stewart is such a person. His commitment to, and belief in small business are unquestioned and his knowledge about the small business community is extensive.—National Association of Women Business Owners (Co-founder and Past President); and National Council of Professional Service Firms (Member of the Board), Susan Hager.

I do not recall the precise date when I met Milton Stewart for the first time. I know for certain that I had met an advocate of small business; a man totally impressive in his knowledge, in his dedication, and in his commitment to the small business community. Milton Stewart is brilliant in mind, articulate in speech and unselfish in his devotion and service. Truly, he is a champion of small business.

Our organization joins in strongly urging prompt and favorable action on the nomination.—Menswear Retailers of America, Don J. DeBolt, Executive Director.

My personal knowledge is that he has the highest character and dedication and sincerity in the interest of small business and all of us within our organization that have met him have the highest, the deepest respect for him and support him enthusiastically. There is no doubt that Milt Stewart would bring superior intellect and factual knowledge to this job. However, his most valuable qualities are his sense of fair play and justice applied on a broad perspective.—Independent Business Association of Wisconsin, Dean A. Treptow, President.

Through the efforts of men like Mr. Stewart who have been fighting for the rights of the small business owner, we have come a long way in the last few years. But, we want to do even better. We know this Administration and the Congress is also committed to action oriented people and programs. We feel that Mr. Stewart is an example of this kind of person—who has a dedication to follow through on strong, action oriented

programs for small business. He has all of the qualifications, and then some, needed to fill the position of Chief Advocate.—Small Business Service Bureau, Inc., of New England; and Small Business Research and Development Institute, Inc. Frank Carroll, President.

The new role of Chief Counsel of Advocacy is almost uniquely suited for Milt Stewart and it is difficult for us to visualize anybody else put into this role. We are looking for a very positive person, looking for a very creative person, a very energetic person, a totally experienced person in the small business communlity. Milt Stewart is all those things, to all of us, Mr. Chairman.

He will bring a harvest of talent to a position in government that we firmly believe will become the most important non-elected position in Washington affecting small business. There is no one in the country that has the broad experience in and with government, or who has the respect of the organized small business community whether national or regional.—Smaller Business Association of New England, William Anderson, President; Lewis Shattuck, Executive Vice President.

We are proud and honored to support the candidacy of Milt Stewart for the post of Chief Counsel for Advocacy of the SBA. Rarely, in the history of the small business movement, has a man so qualified and who not only came up through the ranks but led them for many years been nominated for such a sensitive position representing all small business persons.—Small Manufacturers Council in Pittsburgh, Leo McDonough, Executive Vice President.

I have served with Mr. Stewart on Government Advisory Committees such as the U.S. Treasury and Small Business Administration. I have attended White House conferences and have appeared with him before Congressional committees. Small Business never had a more articulate representative. He understands the issues and is not awed, even in the presence of the President of the United States, when it comes to expressing the problems of we small businessmen.—Smaller Manufacturers Council (former President); and President of James Austin Company of Mars, Pennsylvania, Harry G. Austin, Jr.

Knowledge of government is still one more requisite for the man who will be the Chief Counsel. We have chosen a man to represent our views. Milton Stewart is that man. We the small business community in Cleveland, Ohio, want to work with Milt to make sure that partnership [free enterprise and government] is a success.—Council of Smaller Enterprises in Cleveland, Mary Jane Fabish, Vice Chairman.

We are asking this person to represent these enormously diverse constituencies at one focal point here in the job of Chief Counsel for Advocacy, and the vigor and openness of the behavior of the incumbent will either largely enhance or inhibit the performance in this particular position. I view this job as an opportunity; a leadership oriented person will seize this opportunity to make or break the mission and the goal of the job of advocacy for years to come. I think there is no person better qualified than Milt Stewart who is ready to fill the demands and opportunities that this job will present.—Center for Venture Management in Milwaukee, Wisconsin, John Komives, Director.

I can honestly and truthfully say that he is a man for all seasons. Seven years ago when I helped form, and was the first director of, the National Association of Black Manufacturers, Milton and I discussed the role that I was to be about and the fact that our society today required a National Association of Black Manufacturers. Milt, in spite of the fact that minorities in business was not a favorable approach, helped form and help back many items of minority legislation that you, sir, are aware of and are currently going through these Chambers. It is a man like this that I have rarely met in my 48 years.—Unified Industries, Inc., in Alexandria, Virginia, Theodore A. Adams, Jr., President.

From letters received in committee office:

The purpose of this letter is to recommend highly to your Committee that the nomination of Mr. Stewart be approved. As Deputy Administrator and later on an Administrator of the Small Defense Plants Administration, the forerunner of the Small Business Administration, it was my pleasure to know and work with Mr. Stewart. He was a high ranking staff member of the Agency at that time. Since those days I have known and worked with Mr. Stewart in several capacities. He is highly dedicated to helping small businesses. Moreover, he is exceptionally able. I feel confident he will do an outstanding job if approved by your Committee and confirmed by the Senate.—John E. Horne, Former Administrator, Small Business Administration, 1961–63 (Letter dated March 29 1978.)

I first came to know Milton D. Stewart shortly after I became Administrator of the Small Business Administration. During the time that I served, I frequently called upon Mr. Stewart for advice and for ideas. I found him to be extremely knowledgeable in the problems of small business and the needs of small businesses, and also always found him to be completely forthright. My acquaintance with Mr. Stewart has continued to this day. I very strongly support the nomination of Mr. Stewart for the position of Chief Counsel for Advocacy of the Small Business Administration. I think he would do an excellent job and would bring to the position knowledge, experience, and sound ideas.—Bernard L. Boutin, former Administrator, Small Business Administration, 1965–67 (letter dated April 3, 1978).

I would like to say for the record that I highly recommend Milton for this position. I have known him quite well for the past 7½ years and I know of his interest and concern for small business. It means something to me and I would hope it would mean a great deal to the Committee that, as I understand it, Milton has the unanimous support of all of the Small Business organizations and groups in this country.

I truly believe that Milton Stewart will be a big plus in that important job as you go forward. I am for him.—Thomas S. Kleppe, former Administrator, Small Business Administration, 1971–75 (letter dated March 31, 1978).

TEXT OF LETTERS

ROGERS & WELLS,
New York, N.Y., March 9, 1978.

HON. GAYLORD NELSON,
Chairman, Select Committee on Small Business, U.S. Senate, Washington, D.C.

DEAR SENATOR NELSON: I write to support President Carter's nomination of Milton Stewart to serve as Special Counsel of Advocacy at the Small Business Administration. I have known Mr. Stewart for some ten or twelve years now, have on several occasions been in a position to observe his performance in the financing of small businesses and have been generally aware of his long experience and dedication to that activity. Recently, in connection with my chairmanship of the Task Force on Equity Capital, I have drawn on Mr. Stewart's rich experience for advice and counsel.

I believe that President Carter has made an excellent appointment. I can think of no one more suited by background and interests for this important post.

I also know that Mr. Stewart was named in an action brought by the SEC against the Parsons banking group. I was Chairman of the SEC when that investigation was authorized. Shortly thereafter I went over to the State Department so that I was not involved in the decision to name Mr. Stewart in the action arising from the collapse of the Parsons banking empire.

My conviction that Mr. Stewart is admirably suited to the post for which President Carter has nominated him has led me to read the memorandum of the SEC Staff recommending that the action against Mr. Stewart be settled, as well as papers prepared by counsel who represented him in that proceeding. It is clear that Mr. Stewart was in no way responsible for the Parsons debacle at which the SEC action was aimed.

The Parsons group came into control of a small business investment company which Mr. Stewart and others had founded some ten years earlier. While the Parsons group was in control, there were several corporate incidents which the SEC staff considered to violate the investment company regulations. In my judgement, these violations were not at all clear, were technical in nature, in no way reflected on Mr. Stewart's integrity and should not now deprive the public of his experience and ability.

Very truly yours,

WILLIAM J. CASEY.

MAY 1, 1978.

SENATOR GAYLORD NELSON,
Chairman, Select Committee on Small Business, U.S. Senate, Washington, D.C.

DEAR SENATOR NELSON: In the first instance, let me express may deep appreciation for your having give me the opportunity to appear before the Select Comittee on Small Business on Friday, April 14, 1978, to urge a favorable vote by your Committee on President Carter's nomination of Milton Stewart to be Chief Cousel for Advocacy in the Small Business Administration.

Secondly, I would like to take this opportunity to implement the remarks I made when I appeared before your committee.

From the questions posed to me at the time of my appearance before your committee, I recognize that the committee must deal with a certain public proceedings instituted by the Securities and Exchange Commission (the "Commission") in 1972 which resulted "(s)olely for purposes of (those) proceedings" and upon the consent of Milton Stewart ("Stewart") who neither admitted nor denied the allegations in the order for such proceedings, in the imposition upon Stewart of a sixty (60) day suspension from association with any broker, dealer or investment adviser and prohibited him, during such period, from serving or acting in various other allied capacities. In my statement before your committee, I tried to put that public administrative proceeding in proper focus by analyzing the four specific areas to which that proceeding related: These were as follows:

1. That Creative Capital Corporation ("Creative") (now known as Clarion Capital Corporation) and its then investment adviser, Comac Company ("Comac"), became involved in a twenty year lease of office space at 1 New York Plaza, in New York City. Creative had agreed to sublease 80 percent of the leased area to Comac. This sublease was disclosed in documents publicly filed with the Commission to the effect that Creative's lease obligation amounted to only $35,000 per annum, not to the $35,500,000 twenty year rental for the entire leased space (of which

80 percent was to be the obligation of Comac not of creative).[1]

The Commission apparently believed that, since no sublease was actually executed, the disclosure was inadequate and, therefore, in accordance with Commission jargon, must have been "false and misleading". What the Commission patently failed to take into consideration was the fact that Comac had bound itself to take up the 80 percent portion of the lease obligation and the reason that the sublease was not actually executed was not to create a "false and misleading" impression but was rather to protect the shareholders of Creative against the possibility that Donald Parsons, the Chief Executive Officer of Creative and Comac, its investment adviser, and the principal controlling figure of the banks and two other entities all of which owned some 88 percent of the common stock of Creative, would act unfairly in making allocations of the physical space covered by the lease and of the cost of furbishing the leased space. In other words, what Stewart suspected would happen, if he were to execute the sublease was that Creative would be at the mercy of Parsons who might allocate to Comac the four corners of the top floor of 1 New York Plaza, which had glorious views and were the most desirable portions of the leased area, thus confining Creative to the least attractive of the leased space. Stewart also suspected that if the sublease were actually executed Parsons would attempt to allocate the costs so as to saddle Creative with a fair higher ratio of such costs than the 80/20 ratio provided by the understanding of the two parties and that, until Parsons provided a written allocation acceptable to Creative, Stewart did not want to execute the sublease and lock Creative into an untenable position. In my view, the failure to sign that sublease in the particular circumstances at the time was an insignificant and immaterial fact and should not have been given the weight that the Commission appears to have given it in this public administrative proceedings.

The SEC Division of Enforcement's Memorandum of December 11, 1973, which recommended that the Commission reject Stewart's offer of settlement, indicates that Stewart failed to rely on "independent" counsel but relied on the advice of a partner in Parson's law firm. (p. 9, paragraph (3)). That statement, indicative of the way the SEC approached this entire matter, is full of inuendo but makes no real substantive argument. First of all, to say that Parsons' law firm was not "independent" is meaningless where the only question was how a transaction should have been reported to the SEC. Secondly, the statement referred to implies that a lawyer is incapable of giving advice to a client where a partner of the lawyer's firm directly or indirectly owns a controlling interest in the client. This is ridiculous, because Parsons obviously had no desire to deceive the SEC over such a relatively insignificant matter.

This statement in the December 11 Memorandum is indicative of the "knee-jerk" response of the Commission and its Staff which response ignored the realities of the situation. Where Parsons owned Creative, how could Stewart have sought "independent" counsel rather than use Parsons' firm unless Parsons were an adversary? To pose the question is to answer the charge.

2. The second item involved a loan of $285,000 by Creative to one of its portfolio companies, American Mobile Home Towns, Inc. ("AMHT"). Sometime in April, 1970, Stewart was asked by Holmes, a director of Creative and one of the four partners of Comac, Creative's investment adviser, if Smith, AMHT's Chairman of the Board, would be interested in making a loan to a chain of trailer parks in Australia, known as Green Acres. Green Acres was managed by a 50 percent owned affiliate of Comac's, and therefore indirectly an affiliate of Creative's. Stewart communicated with Smith, AMHT's Chairman, and was told by him that AMHT had no interest in such a transaction. Stewart then told Holmes that the matter was "dead". Stewart then left on a vacation in Europe. In Stewart's absence the other principals of Creative, without complying with the notice provisions of the Creative by-laws, since they did not give Stewart any notice whatever of this transaction, undertook the transaction themselves and caused Creative to loan $285,000 to AMHT which in turn acquired an interest in Green Acres. Stewart did not learn of the transaction until after his return from Europe, at which time the entire transaction had been fully consummated. He was furious and directed that outside counsel conduct a thorough investigation of this matter which was done before the matter was brought to the attention of the Commission.

4. Additionally, Stewart is charged with having participated in filing, for and on behalf of Creative, false and misleading documents, i.e. annual reports and proxy statements, which did not properly reflect the above mentioned transactions.

In my oral statement before your Committee I tried to put these various transactions into proper and logical context. It is my recollection that Creative was a company, the common stock of which was controlled by some seventeen banks and by two corporations, BOC and PIC, which were in turn controlled by Donald Parsons. Parsons also controlled the seventeen banks. In addition, Parsons was the principal partner of Comac. Almost anything that Donald Parsons wanted to do with these companies, including the banks, from 1969 up until July 13, 1970, when Comac ceased to be Creative's investment adviser, Donald Parsons could have accomplished. Thus, for example, had the 1968–1969 investment advisery contract with Comac been submitted to the Creative shareholders, it was a foregone conclusion that it would have adopted overwhelmingly as it was when it was submitted to the shareholders for ratification a year later. Additionally, what the Commission has also ignored is that what Stewart appears to have been trying to accomplish was to make the investment advisery services performed by Comac be services performed directly by management because Parsons was clearly part of Creative's management. Perhaps, one can disagree with Stewart's decision in this regard but that is a question of judgment in a very gray area of the Act and certainly did not warrant a sanction that is comparable to a criminal penalty because it unreasonably and unfairly affected Stewart's ability to earn any compensation at all during the sixty (60) day suspension period.

I am confident that no court of law would have imposed such a sanction for the alleged violations which are at best highly technical including especially the violation of the transaction with an affiliate of AMHT which Stewart neither approved nor participated in except to believe that the particular transaction was "dead" prior to the time he left the country on a trip to Europe. Furthermore, Creative did not lose anything in the AMHT transaction; a transaction for which Stewart could hardly be held responsible since he neither approved the transaction nor even knew the transaction was being entered into.

As far as the lease at 1 New York Plaza is concerned, the non-execution of the sublease probably should have been disclosed more precisely in documents filed with the Commission. But here again, one has to measure the seriousness of such an alleged violation in the context of their being an 88% shareholder control which Parsons directly or indirectly owned, and also the fact that the sublease was not physically signed only for the purpose of preserving a negotiating position for Stewart on behalf of Creative in his dealings with Parsons. No matter how detailed the disclosure might have been, there certainly can be no question at all but that the 88% Parsons directly or indirectly controlled common stock of Creative would have approved the lease in whatever form had it been submitted to Creative's shareholders for their approval. At the time when this lease was entered into, the building at 1 New York Plaza was a spectacular location. The floor involved in the lease had a magnificent panoramic view of lower Manhattan, the harbor and the Verrazano Bridge. It was a fantastic place from which Creative as an SBIC could operate. As of the time the lease was entered into, there clearly was no suggestion or concern whatever that Donald Parsons' huge corporate empire would collapse. To be sure, the settlement of the lease problem caused Creative to pay some $300,000 but that payment was only because of Comac's subsequent bankruptcy which was a fact neither anticipated nor suspected at the time the lease was entered into.

The Investment Company Act of 1940 is a very complex, intricate statute. It has pitfalls and complexities that boggle the mind. It is totally regulatory and is so completely pervasive that in my judgment there are few, if any, investment companies which do not innocently violate on a day-to-day basis some provision of that Act. This is a realistic fact of life not only in the investment company field but in the entire investment banking field. The laws and regulations affecting that particular business have proliferated in recent years to an enormous extent. It is literally impossible for investment banking firms to comply with all the statutory and regulatory provisions which they are subjected to all the time. The Commission is thus in a position where it can make a case against any firm or any affiliated person of such firm at any time it chooses.

In this context, what were these violations charged against Stewart? In my judgment and considering the circumstances which existed at the time, these violations are totally de minimus. They are highly technical violations at best. Nothing more than mistakes in judgment in gray areas of the investment company field. They do not affect in any respect whatever the honesty, probity or character of Stewart. They do not justify in any sense the particular sanction which was imposed by the SEC in this public administrative proceeding for the purpose of that proceeding only and in circumstances where Stewart did not admit the violations, although to be sure for purposes of the settlement and to avoid having to expend the huge costs and expenses necessary to fight the SEC, he did not deny them either. Noncompliance with a technical provision of the statute shall not necessarily result in a violation of that statute, because, as the Supreme Court determined in *Hochfelder* v. *Ernst & Ernst* (425 U.S. 185 (1976), 47 L. Ed. 668) for a violation to occur *scienter* must be present. A recitation of these alleged violations is tantamount to disproving the element of *scienter*.

[1] See footnotes * and 13 of the SEC's Division of Enforcement's December 11, 1973 Memorandum recommending that the Commission reject an offer of settlement.

It is my strong belief derived from the record that I read of these SEC public administrative proceedings that no court of law would have found the necessary *scienter* on the part of Stewart to have justified any penalty at all. The Commission's decision was predicated, in my view, upon the total lack of judgment of, first the staff, and then of the Commission itself. I would urge this Committee to ignore that decision totally in appraising Mr. Stewart's high qualifications by reason of his background, his long and active experience with, and his total dedication to, Small Business. He is thoroughly conversant with the enormous problems which Small Business must face today and is thoroughly equipped to seek positive solutions thereto.

Finally, I have been a life long Republican. I was a Republican Presidential appointee by President Eisenhower to the Securities & Exchange Commission where I served from June 28, 1956 to October 21, 1960. While I have disagreed with most of President Carter's appointments, I thoroughly agree with the appointment of Milton Stewart to the position of General Counsel for Advocacy in the Small Business Administration. The President could not have made a better choice.

Respectfully submitted.

JAMES C. SARGENT.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that a vote occur on the nomination at 12:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that William Cherkasky, Allen Neece, Alan Chvotkin, Robert Dotchin, Stanley Twardy, and Jamie Wise of the Small Business Committee staff, and Carmen Biamante of Senator WEICKER's staff, be granted the privileges of the floor during the consideration and votes of this nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut.

Mr. WEICKER. Mr. President, I oppose the confirmation of the nomination of Milton Stewart for the position of Chief Counsel for Advocacy of the Small Business Administration.

At the conclusion of the hearings held by the Select Committee on Small Business on this nomination, I stated the following:

I think really what confronts this committee, is the standard of judgments, and standard of ability, which is to apply to a candidate for this particular position.

At the present time the small business community is definitely in a weakened position both as to laws regulations, as to the availability of capital, and as to advocacy of the interests of small business within the Congress. It is going to take a person of proven ability, proven judgment, proven integrity, of stature, to achieve a reversal of the present position of small business.

Mr. Chairman, I do not feel that the nominee of the President possesses any of those qualities, and, therefore, I will oppose his nomination.

Mr. President, I will, after my opening statement, attempt to further establish the basis for my opposition by questions directed at the chairman of the committee. But let us first understand the nominee and the position itself.

This is one of two positions in the Small Business Administration requiring Senate confirmation. I think that attests to the importance of the position. In the authorization hearings it became clear in the figures recommended by the committee that this individual would have control over a $8 million budget.

Lastly, insofar as Mr. Stewart is concerned, and in the comments that follow, I think it important to understand that we are not referring to an individual who was beset by difficulties due to his lack of education or experience. Mr. Stewart not only was a college graduate, he was a law school graduate.

Mr. Stewart did not employ the knowledge he gained in that fashion in some area of endeavor other than the law. Rather he specifically practiced the law, and he specifically practiced law which involved the Small Business Administration, the Securities and Exchange Commission, and small business investment companies.

The Senate is now confronted with the question of what standards should be applied to the nominee for this position. I do not look upon Government experience in the sense of Chief Counsel for Advocacy as being a rehabilitative process. If that is the case I suggest Mr. Stewart go elsewhere. Neither do I subscribe to the theory that the best people to have in Government are those who have themselves engaged in conduct violative of the law and, therefore, have the ability to perceive violative conduct when practiced by others. That would be what I would call the "it takes one to know one" theory. I do not feel that that kind of a character is proper for this position.

The job of Chief Counsel for Advocacy, as I have stated, is one of only two positions at the SBA which are appointed by the President with the advice and consent of the Senate. The other position is that of the Administrator.

Needless to say the position to which Mr. Stewart has been nominated is an important one. As Chief Counsel for Advocacy, Mr. Stewart would be entrusted with the responsibilities of advocating the interests of small business. You will note that I say "advocating the interests of small business" and not advocating small business interest groups. The latter have been very much in evidence on this nomination.

I hear a long list of names and organizations put forth on the Senate floor by my good colleague from Wisconsin in support of this nomination. Well, my only comment on the interests in this nomination of those groups is, I suppose, that if I were they I would want some sort of a weak sister who would rely on my support in order to have the confirmation take place. Thereafter that individual, I suppose, would be beholden to my efforts.

Indeed, if this nomination is confirmed it is strictly by virtue of: No. 1, the overwhelming number of votes on the other side of the aisle.

Since this is the desire of the administration I have no doubt that a substantial portion of those votes will be exercised on Mr. Stewart's behalf.

No. 2, it would be due to the statements put forth by previously credible interest groups and which now come forth in support of the nominee and on the basis of a record that can in no way justify that kind of support.

I think that many of the special interest groups on behalf of small business have literally destroyed their credibility in pursuit of their support of this nomination.

I am certain my colleagues will focus on the facts and not on the volume of mail in determining Mr. Stewart's qualifications for this job.

During the course of the hearings on this nomination I had the occasion to read into the hearing record an editorial which appeared in the March 4, 1971 edition of the New York Times. Although the editorial, entitled, "Standards for the SEC," discussed the Senate Banking Committee's consideration of the qualifications of William J. Casey—one of Mr. Stewart's supporters, I might add—to be chairman of the SEC, I think it is well worth reading as we consider the standards to be applied in considering this nomination. I now read into the RECORD that editorial:

STANDARDS FOR THE SEC

The general purpose of the statutes administered by the Securities and Exchange Commission is "to protect the interests of the public and investors against malpractices in the securities and financial markets." More specifically, the commission is charged with preventing anyone from selling securities by means of any "untrue statement of a material fact or any omission to state a material fact" or from engaging in "any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser".

The Senate Banking Committee has now voted to call back William J. Casey for further questioning on his qualifications to be Chairman of the S.E.C. Three weeks ago the Senate Committee tentatively approved Mr. Casey's nomination by President Nixon, but has now decided to look into a lawsuit in which he had been found guilty of plagiarism and two other cases in which he was charged with violating the securities laws. One of these securities cases was settled out of court; the other is still pending. At the same time, the S.E.C. itself is investigating the possibility that Roosevelt Raceway, of which Mr. Casey became a Director in 1967, may have inadequately disclosed to the S.E.C. the fee arrangements it had made with Mr. Casey's law firm.

The issue that the Senate Banking Committee faces is not whether Mr. Casey has committed illegal acts—the Senate is not a court of law—but whether in view of the record he can command the highest public respect. The S.E.C. Chairmanship is an unusually sensitive and important position, since the man who fills that post stands as the protector of the public interest against those who may succumb to the temptation to cut sharp corners and make a fast dollar, as well as against those who would deliberately practice fraud.

No one should be considered for membership on the S.E.C.—or any other regulatory

commission, judicial appointment or Cabinet post—who shows any evidence of disregard for the most scrupulously ethical business behavior. No one deserves such a position who has shown insensitivity to problems of conflict of interest or unwillingness to disclose past or present business and tax practice fully and with complete candor.

Such are the standards that the Senate must apply in deciding whether Mr. Casey is qualified to serve as Chairman of the S.E.C. Obviously, they are standards that should be applied to all other Presidential appointments as well.

These are the standards which we must apply to the nomination under consideration.

I do not maintain that Mr. Stewart has not disclosed his past and present conduct, nor that he has failed to disclose his past or present activities with complete candor. He has. He had no choice. They are a matter of public record. The letters from the Small Business Administration outlining his business practices were a matter of record. The consent order which he signed with the SEC was a matter of public record. So let us take a look at some of the other terms in the story which he was forced to tell, against the standards which appeared in that editorial.

No one should be considered for membership on the SEC—or any other regulatory commission, judicial appointment or Cabinet post—who shows any evidence of disregard for the most scrupulous ethical business behavior.

There is nobody on this floor who can say, relative to the record of Mr. Stewart, that his was a record of scrupulous ethical business behavior. It was a story of overreaching and illegality. This is the nominee of the President of the United States to one of the highest positions in the regulatory agency that oversees small business in this country.

No one deserves such a position who has shown insensitivity to problems of conflict of interest.

You are going to hear a record that is loaded with conflicts of interest. The unfortunate aspect of the situation is, as I stated in my opening sentences, that there is no more crucial time in a sense of gaining public support for small business than the present time. Small business is the backbone of our private enterprise system, of our economic system. A viable small business community is what will prevent a concentration of economic power in this country. We do sit in a time of lack of capital for that small business. We do live in times of overregulation, so that small business cannot get on its feet. It needs every possible type of help. However, as the principal Government advocate for small business, we choose a man whose record is flawed at the very least, spotty at best, and whose only claim to fame is that he knows the members of the small business lobbying community here in Washington.

An examination of the record compiled during the lengthy hearings process clearly shows that Mr. Stewart fails to even approach the standards that are discussed in that New York Times editorial.

This is not a matter of philosophical or partisan judgment on my part. I do not even know to what party the man belongs. I do not know whether he is conservative or liberal. But I do know this: he is a man whose judgment is faulty. That is not my judgment; it is the judgment of the Small Business Administration itself. And when it comes to terms, the Small Business Administration itself termed his judgment "lousy."

As I say, those are not the words of Senator WEICKER. They are of the Small Business Administration, of which he now seeks to become the chief officer.

There is only one way that this fellow's nomination will go through. That is due to having the votes, because, my fellow Senators, certainly the facts do not support this nomination in any way.

Mr. Stewart's proponents attempt to obfuscate the issue of his qualification for the position by offering the testimony of numerous interest groups. However, an objective examination of the facts shows that when the American public—shareholders of a publicly held corporation—placed their trust in Mr. Stewart, he failed to fulfill his obligations to them.

Obviously, this man is not going to do better with millions than he did with hundreds. When a few hundred shareholders place their faith and trust in him, he decided his own interests and the interests of another corporation were more important. He did not look out for their interests.

I always find that the track record is the best indication as to how a man or woman will perform in the future; and believe me, it is an abysmal track record that Milton Stewart has.

For the benefit of my colleagues, I will briefly summarize the facts surrounding transactions in which Mr. Stewart became involved. He served as director, president, and chief executive officer of Creative Capital Corp. which we will refer to from now on as "Creative," a SBA licensed small business investment company. Creative was a publicly held corporation. As president and chief executive officer, Mr. Stewart was responsible for the "general and active" management of Creative. Donald Parsons, with a group of other individuals, controlled Creative, through ownership of various partnerships which, directly or indirectly, owned a controlling share of Creative.

Now, also, to inform anyone concerned as to how that relationship was created, it was not an adverse interest that took over control of Cerative. If not at the specific request of Mr. Stewart, Parson's, took over control of Creative with, at the very least, Mr. Stewart's knowledge and agreement.

The central Parsons' partnership was Comac Co., which served as Creative's investment adviser. Mr. Parsons and numerous other Comac partners were also directors of Creative. And here is where we start to establish the conflict of interest. Here is Comac, the principal Parsons' partnership, acting as investment adviser to Creative,which corporation has as its president Mr. Stewart. But Mr. Stewart also has a $130,000 investment in Comac and is a limited partner in several of Mr. Parsons' partnerships.

The record compiled at the hearings discloses that by allowing overreaching on the part of Comac, while president and chief executive officer of Creative, Mr. Stewart breached the fiduciary duty which he owed to the shareholders of Creative. That was his duty. It was not to the partners of Comac, not to Donald Parsons, but to the shareholders of Creative, just as his duty would be to the small businessmen and women of this country if he is confirmed. But Stewart, knowing where his salvation came from, is far more likely to direct his allegations to the lobbying groups here in Washington, rather than to the small businessmen and women, just as his interests were geared to Comac and not to the shareholders of Creative Capital.

[Applause in gallery.]

Mr. ROBERT C. BYRD. Mr. President, may we have order in the galleries.

The PRESIDING OFFICER. There will be order in the galleries.

Mr. WEICKER. As I said, the record compiled at the hearings discloses that by allowing overreaching on the part of Comac while president and chief executive officer, Mr. Stewart breached the fiduciary duty which he owed to the shareholders of Creative. On at least two occasions, Comac used the assets of Creative to its benefit and to the detriment of Creative's shareholders. Furthermore, in proxy solicitation materials and shareholder reports, many of which were signed by Mr. Stewart, Creative omitted to disclose material facts concerning transactions involving conflicts of interest.

The whole purpose of the securities laws of this Nation, enacted in the 1930's, was to give notice to the public. That is the basis upon which the business community operates. That is the basis on which our capital market has grown to be the most trusted in the world. And believe me, as the record unfolds, Mr. President, you will see that this was the key element lacking in anything that Mr. Stewart did at that time—disclosure. Disclosure, when everything is behind him? That does no good to the shareholders of Creative who were harmed when he failed to disclose at the time.

I would say that Milton Stewart's conduct as president of Creative is an object lesson in why we enacted the securities laws which today protect the public.

One conflict-of-interest situation arose when, in order to accommodate Comac, Creative entered into a lease for more office space that it needed. Comac and the law firm headed by Parsons, which were both based in Michigan, were desirous of leasing office space in New York City. Although the landlord of the office building in which they wanted to lease space would not rent to Comac or the law firm, he would lease to Stewart, who was a personal friend. Thus, although Creative had only six employees at the time, it became primarily liable on a 20-

year lease which totaled $3.5 million for approximately 14,000 square feet of office space.

It was planned that Creative would sublet 80 percent of the space to Comac. I have heard the argument of the chairman that it would be very prestigious to have Comac on the same floor with Creative. Everything the chairman says sounds great until we get to the point where, because Comac in effect went bust, it never took over the office space. I fail to find why that is so prestigious, to have them as a sublessee, an operation such as that.

It was planned, as I said, that Creative would sublet 80 percent to Comac; however, no sublease was ever executed and due to financial problems Comac was unable to occupy the space. Creative was forced to negotiate with the landlord to obtain a release from its lease obligations and ultimately settled by paying the landlord $308,000.

That was other people's money. And when asked why the lease was entered into, Stewart responded, "Mr. Parsons had some ambitious programs."

There is only one thing wrong. Who were Mr. Stewart's loyalties to be directed toward? Mr. Parsons? Or to the shareholders who Mr. Stewart represented in the same manner as Mr. Stewart wants to represent the small businessmen and women of this country?

It seems that Stewart's loyalties lay with Parsons in this and other transactions.

But there is an additional fact. Remember what I said at the outset. Involved are not just the loyalties as between Mr. Stewart, as president of Creative, and Mr. Parsons, as managing partner of the parent company. There is also the fact that Mr. Stewart had a $130,000 interest in Comac. No other shareholder, little shareholder, had any financial interest in Comac. They would not care whether Comac went bust. They would not care about the liabilities that were incurred by Comac. But Mr. Stewart cared because Mr. Stewart had a financial interest in Comac. It is the classic example of conflict of interest. It is the textbook example. It is the law school class example of a conflict of interest. But it apparently is a conflict of interest which very cavalierly is dismissed by lobbying groups and by some of my colleagues here on the floor.

I understand the interest of Mr. Stewart in the Parsons' operation, in the light of his financial interest. But as president and chief executive officer of Creative, Stewart had a duty to the shareholders of the company and he did not exercise that duty. Instead he allowed the Parsons' group to use the assets of Creative for the Parsons' group benefit.

In addition, Stewart misled the shareholders of Creative and the investing public, about the circumstances surrounding the lease. In an annual report of Creative, signed by Stewart, it was stated that "a substantial portion of this office space has been sublet." And there never was any written lease. This is patently a fraudulent, dishonest statement. It is not something this Senator attributes to Mr. Stewart by speculation. The facts is there was no lease; the fact is that Mr. Stewart in his annual report said that there was, despite the fact that none existed.

Stewart's former law partner, who testified on his behalf, admitted that he would not have used the language. Mind you, he was there on behalf of Stewart, and he admitted he would not have used the language the annual report contained. The public was also misled at a later date when Creative failed to disclose in an interim report to Stockholders that Comac had given notice that it would not occupy the office space and, therefore, that Creative was exposed to a huge liability—a subsequent interim report, when the liability had been established, and no mention to the stockholders. That is why, among other reasons, I do not feel the man is qualified to represent millions of small businessmen and women. He would not even tell his few hundred shareholders what was going on and what the corporation's liabilities were and he specifically lied in the annual report, which is what he did.

The impropriety of Stewart's action was attested to by both documents and oral testimony given at the hearings. In a memorandum to a director of Creative, an attorney stated that Creative "was not the real party in interest" and concluded that the lease transaction "provided benefits to the Parsons' group as well as to the lessor without any benefit" to Creative. The chairman of the board of two large corporations, who succeeded Stewart as president and chief executive officer of Creative, conducted an independent review of the lease transaction. He concluded that Stewart "allowed the managing partners of the Parsons' group to use Creative to their own personal benefit and gain."

In the light of who is proposed to fill the position of Chief Counsel for Advocacy, the power, the authority, and the trust contained in the office will be utilized for the permanent benefit of Milton Stewart, in the same manner that he used that kind of power and trust in his previous executive position. Is not the power of this position to be used for the millions of small business men and women in this country?

Another conflict-of-interest situation arose when Creative loaned money to American Mobile Home Towns, Inc. ("AMHT") to finance AMHT's purchase of a mobile home trailer park in Australia. Creative's financing of AMHT, which violated the Federal securities laws, enabled Comac—again, the same Comac that Mr. Stewart had an interest in—to avoid its obligation to purchase the trailer park. By the terms of the loan agreement, Creative could not hold AMHT liable on the note which was given, but could look only to a second mortgage on the trailer park for repayment.

Pursuant to the request of a Comac partner, Stewart initiated Creative's negotiations with AMHT to induce AMHT's involvement in the trailer park. Although AMHT initially declined the proposal, Stewart was informed by the Comac partner that the deal would be pursued. Stewart had seen a deltailed Comac memorandum relating to the trailer park. He admitted that he knew that Comac had a contract to purchase the trailer park and that Comac was under time pressure to consummate the transaction. Stewart discussed, with Comac partners, possible violations of the law in connection with Creative's financing of AMHT. Stewart was also aware of the fact that there were three Comac partners on the five-member Creative executive committee which approved investments for the company, and that these three could vote to consumate any transaction.

With all that background, knowing that the deal was being pushed actively, knowing of the desire on the part of Comac that Creative enter into the transaction and assume the liability, despite the knowledge of all those facts, Stewart left for a week vacation in Europe without leaving any instructions concerning the AMHT transaction. The Comac partners on the Creative executive committee were thus able to approve, without any impediments or objections, Creative's investment in AMHT. Therefore, by using Creative's money, Comac—in which Mr. Stewart had a financial interest—was able to avoid its liability.

Furthermore, when Stewart learned that the loan transaction had been consummated, he did not exercise his power under Creative's bylaws to convene a board of director's meeting to review the transaction, nor did he exercise his inherent powers as President to retain independent counsel to investigate the matter. Nearly 2½ months passed before Stewart was directed, by Creative's board of directors, to retain special counsel to investigate the transaction. There is nothing in the minutes of Creative to indicate that Stewart took any initiative to take affirmative action to remedy the situation created by the illegal transaction. He stated at the hearing that he believed that he had telephoned the directors of Creative to inform them of the transaction, but qualified the response by saying that he was "vague on this point." Additionally, Creative's proxy solicitation materials and reports, many of which were signed by Stewart, omitted material facts concerning the circumstances surrounding the loan transaction.

I find that very unusual. Indeed, as I shall later quote, so did various and sundry Government regulatory agencies.

(Mr. MORGAN assumed the chair.)

Mr. WEICKER. Furthermore, despite his experience as legal counsel to an investment company, Stewart allowed Comac to serve as investment adviser to Creative for a period in excess of 1 year without a written contract.

That is relative of the law, as there was no written contract between Comac and Creative. We are not talking about someone with no expertise in this field. We are talking about a man who was a chief

executive officer after he was an attorney who was an "expert" in SEC law.

The failure to have a written investment adviser's contract is one of those "technical" violations which many people might be able to plead as an excuse. But Mr. Stewart? He made his living telling other people how to conform—or, I can imagine, how not to conform—with that law.

This violated a provision of the Federal securities laws which was enacted to protect against overreaching of an investment company by its adviser. Stewart's actions in connection with the lease transaction, AMHT financing and the investment adviser contract fostered Comac's overreaching of Creative's assets. That is what this story is about.

In these matters, Stewart breached his fiduciary duty to the shareholders of Creative by allowing Comac to use the assets of Creative for its benefit and to the detriment of Creative. He showed no regard for the rights and interests of the minority shareholders of Creative.

It should be noted that in connection with these three transactions, the Securities and Exchange Commission brought a public administrative proceeding against Stewart, arsons, three Comac partners, and Comac.

Apparently, the SEC did not look upon these violations as technical. Rather, indeed, the SEC testified as to the violations as being serious. But apparently the SEC's opinion is of no concern to many of my colleagues, and is of no concern to those interest groups "representing" small business at a time when small business needs credibility.

Like a dog in heat, in order to go ahead and fill this position, the various lobbying groups back the first one that comes along for the job.

Well, we might get somebody in the position. But then what happens when that person's credibility has to be relied upon to construct the laws of this country for the benefit of small business?

In response to the charges of the SEC, Stewart consented to findings that he, acting individually and in concert with others, "willfully engaged in, and willfully aided and abetted acts and practices constituting gross misconduct or gross abuse of trust or breach of fiduciary duty involving personal misconduct."

This is the man that is going to head up the agency responsible for spending $8 million worth of taxpayers' money. This is the expert in small business?

I repeat, unless we are operating on the it-takes-one-to-know-one theory, what kind of insanity is this?

It is the worst nomination that I have seen come before this body in my 8 years in the U.S. Senate. But because it does not have the publicity of a Supreme Court justice or a Cabinet member, will we just let it go through—let it glide through?

This Senator will not. Everybody who votes for this nomination votes for the record. Not my record, not my speculations, not my opinions, not my editorials, but a record that shows that Milton Stewart willfully engaged in and willfully aided and abetted acts and practices constituting gross misconduct or gross abuse of trust or breach of fiduciary duty involving personal misconduct.

That is what a vote in favor of the nomination would be for.

I suppose there is no way of disputing the individual Members' judgments on this issue. But it certainly seems to me to be valid material for close inspection by the voters of each one of our constituencies.

Mr. Stewart now offers a three-prong defense to the SEC proceeding. He says that it was technical in nature. Yet the SEC staff attorney who testified at the hearings said that the charges were serious in nature.

He claims that is technical. This town gets more and more sophisticated as to what is only a technical violation and therefore is permissible.

Everybody talks about law and order. Law and order in this country is defined of late only in terms of a black stabbing a white in an alley in an urban area. It is now defined as some Hispanic going ahead and mugging some old lady.

Law and order starts from the top. When we have a country viewing the spectacle of an attorney general that thumbs his nose at the courts of this country; when we have a government that refuses to go ahead and enforce a law, and gets, literally, kicked out of court, because of its refusal to enforce the law; when we have an FBI that says it is above the law; when Senators and Congressmen on the take and investigations who these improprieties seem to be somewhat less than thorough; and when we go ahead and have this nominee that signed that kind of consent order and we push it through; for God's sake, where do we think the law and order is going to start?

Is it the most ignorant, the least privileged of our society, who is supposed to go ahead and set the example? Or is the example supposed to be set at the top and, hopefully, thereby get the message down to the citizens of this country?

Mr. Stewart also argues that his reprimand by the SEC, which was a 60-day suspension, shows that his offenses were not serious, as the other individual respondents received harsher sanctions.

That is really a nifty definition of propriety.

I did not realize that Donald Parsons was the standard to be used in determining the propriety of one's actions.

Would any of these small businessmen and women, or the majority of them—98 to 99 percent of them—do what Milton Stewart did? I do not think so.

Indeed, my opposition to his nomination is based on what I believe is the sense of indignity of these small businessmen and women, and who set a far higher standard than that set by this administration and by the small interest lobbying groups.

I do not believe they are all mucking around the gutter, like we are in this town. I still believe that people want to look up, and they have that right to, to those that are their leaders, Stewart included.

Finally, Stewart claims that he was relying on the advice of legal counsel in the transaction. This defense is completely vitiated by the fact that the law firm was representing Comac at the same time, and that in connection with the lease transaction, the firm was a potential subtenant.

When I said that the Milton Stewart story is loaded with conflicts of interest, believe me, I meant it.

Clearly, counsel was not "independent," as it was representing both sides to the deals. Indicative of Stewart's poorly run operation is that the "advice" of counsel was rendered orally and not in writing.

Do you not think that if there is a potential conflict and you were chief executive officer, that you might have something in writing? Of course.

However, for Stewart, an oral judgment was rendered in what was a very hairline decision.

Also disturbing was a review of SBA files which disclosed that the agency in which Stewart has been nominated to serve had on several occasions questioned both Stewart's adherence to high ethical standards of business behavior and his management capabilities.

Now we are talking about comments of the SBA itself, the very agency of which Mr. Stewart wants to become a part: one of its leading members.

Now, I am not talking about the forced testimony of the Small Business Administration today, attempting to conform their opinions to the nominations of the executive branch of Government. I might add, that the SBA has been doing this rather readily, not just in this instance, but in various legislation sent down from the executive branch. We do not exactly have the advocate which we all expected 2 years ago.

But what about the SBA's comments of Stewart when he was not seeking a nomination, when he was the head of an SBIC and was not a special person, but rather, somebody to go under the microscope like everyone else.

A few examples of what was revealed at the hearings are:

First. A memorandum to the SBA Deputy Administrator of Investment indicated that the lease transaction, which was negotiated by Stewart, constituted—this is the SBA talking—"self-dealing to the prejudice of (Creative's) shareholders."

That is not my conclusion or analysis of the facts during the hearings. These were the SBA's.

Second. The SBA Deputy Administrator for Investment, after reviewing the lease transaction and AMHT financing, "admonished" the management of Creative "in view of the violations of the SBA regulations and the bad judgment used by Creative's management in conducting its affairs." As I noted earlier, Stewart was president and chief executive officer of Creative at the time of these transactions and had "general and active" management responsibility.

You are advocating to be the chief counsel for Advocacy of SBA a man who, several years earlier, came under the admonition of that organization in the sense of "violations of the SBA regula-

tions and the bad judgment used by management."

That is why we can only assume that the reason for this nomination is predicted on the it-takes-one-to-know-one theory.

That is the only reason I can see. It certainly is not that scrupulously ethical behavior which was called for in the case of the New York Times editorial on Mr. Casey's nomination. It certainly is not for action devoid of conflict of interest.

Third. In 6 of the 7 years that Stewart served as president and CEO of SBIC's, the examination reports of SBA disclosed that the SBIC's had violated SBA regulations. Several of these violations were termed serious.

But now let us move for a minute from the area of the law and strict adherence thereto to the area of judgment.

The man whose nomination is sought to be confirmed as the chief counsel for advocacy—what kind of judgment does he have? The violations reportedly were technical in nature, it has been argued, and I have tried to put that to rest. But what kind of judgment does Mr. Stewart have? Maybe, indeed, the track record of Mr. Stewart gives a minute and detailed picture of how the law is being avoided or evaded, and, therefore, he could be of value to the administration as an expert on erosion. But what about the man's judgment?

In response to a request by Stewart for SBA assistance to Creative, the then Acting SBA Administrator wrote to the Associate Administrator For Finance And Investment. Listen to the quote of the SBA when Mr. Stewart was still an ordinary man and not a nominee of a Democratic administration:

> My inclination still holds—this guy (Stewart) ought to be out. Too much lousy judgment and innuendo for me to buy Creative as a well run SBIC.

That was the statement of the then Acting Small Business Administrator.

Let me repeat it. It is not nice too hear if you are advocating the confirmation of the nomination of this man:

> My inclination still holds—this guy (Stewart) ought to be out. Too much lousy judgment and innuendo for me to buy Creative as a well run SBIC.

The SBA is saying he should not be running his own business. Here it is the year 1978, and Mr. Stewart's proponents are saying that although he should not have his own business, he should be in the SBA.

We, Senators, wonder why we all descend in the polls as an institution. Apparently, there is one standard applicable to the average man out in the street, but the minute you become a Senator or Congressman or a Presidential nominee, another standard is applied. No.

I do not care if the vote in committee was 8 to 1. I do not care if every small business group says, "We want this guy." They say that, because they want him in their pocket. I do not want him, and I do not think the American people want him—not on the basis of the kind of record which has been compiled.

In the committee hearings on the nomination, the present Administrator, Mr. Weaver, who I gather is among us here this morning, and I took part in the following dialog:

> Senator WEICKER. Mr. Weaver, it appears that the SBA felt that not only could Mr. Stewart not run an SBIC, but he had "lousy judgment."
>
> Would you like to comment, at this time, on the evaluation of Mr. Stewart by officials in the Small Business Administration?
>
> Mr. WEAVER. Well, as I said before I do not think there is any question that there were persons in SBA who criticized Mr. Stewart on many counts, judgment being one of them in this case.
>
> Senator WEICKER. Mr. Weaver, you must be aware of the fact that Mr. Stewart was named as a respondent in an SEC administrative proceeding. You must also know that Mr. Stewart consented to findings that he had aided and abetted violation of the Investment Company Act of 1940, in connection with his involvement in Creative leasing Office space in New York, loaning money to American Mobile Home Towns, Inc., allowing an investment adviser to serve without a written contract, and disseminating false and misleading proxy materials to the public.
>
> In light of the fact that the 1940 Investment Company Act codified the fiduciary obligations placed upon officers and directors of investment companies, Mr. Stewart in his consent admitted to breaching his fiduciary duties.
>
> Mr. Weaver, I cannot understand how you can recommend for a responsible Government position a person who, by his own admission breached the trust placed in him by the public, the shareholders of the company.
>
> Mr. WEAVER. I thought he agreed to the 60-day suspension without a finding of fact, but regardless, I am aware of the 60-day suspension. Of course, we regret it.

That is the way we do things in this town: When we do not like what we hear—we regret it. I would like to know how many people who have violated Federal laws and regulations had to pay the price for their violation—never mind being recommended for a high Federal position—are saying, "We regret it."

I return to Mr. Weaver's comments, without editorializing:

> Mr. WEAVER. I thought he agreed to the 60-day suspension without a finding of fact, but regardless, I am aware of the 60-day suspension. Of course, we regret it. Did I not feel so strongly about his other qualifications, I would look elsewhere but I sincerely believe he is the best man for this job and the indiscretions he has had in the past should not stop him from so serving.
>
> That, Senator, is my opinion.

Again, picking up from the hearings on February 23:

> Senator WEICKER. I remind you that Mr. Stewart signed this lease.
>
> Do you feel a man who has breached his fiduciary obligation to his shareholders, 600-some-odd shareholders, is in position to be an advocate for many thousands of small businessmen?
>
> Mr. WEAVER. Again, we do not have a perfect person before us today, but I think it is the best person.

In commenting on Stewart's request of an SBA official for a personal opinion on a matter under official investigation—which is another thing Mr. Stewart engaged in—Mr. Weaver, the Small Business Administrator, stated, "I do not think it is entirely proper."

That is a problem with this nominee, and it is the problem of the record, which has been compiled. He is not proper, and the record is not proper.

We are not a court of law here. Indeed, many of the legal determinations already have been made by the SEC, and the judgmental decisions have been made by the Small Business Administration. But we are here as a body to set the standard for leadership in this country. This is a position of leadership.

Here you have the present-day Small Business Administrator saying that one of the transactions was not entirely proper. We have a former acting SBA Administrator saying that Mr. Stewart had lousy judgment. We have the SEC alleging and Mr. Stewart admitting that he willfully engaged in—I want to be absolutely precise—willfully engaged in, and willfully aided and abetted, acts and practices constituting gross misconduct, gross abuse of trust, of breach of fiduciary duty, involving personal misconduct.

None of those quotes are my characterization. They are the characterization of members of this administration, of members of previous administrations, and of two different agencies.

I think I understand what the problem is: A lot of interest groups got their necks out in front on this nomination without knowing the full record—so far out in front that they just had to stick with it.

There is nothing wrong in admitting every now and then that a bad judgment has been made. It shows the human side and probably the very practical and real and credible side of this body. A mistake has been made. The place you correct it is right here.

There are many fine people who could fill this position. An effective advocate is desperately needed by the small businesses of this country to present their case to Congress and to the American people. Milton Stewart is not one of them.

I have some questions which I intend to ask of the distinguished chairman of the committee, so I will be glad to yield the floor at this point, in case he has comments he would like to make in response to those I just made.

Mr. SPARKMAN. Mr. President, I rise to support confirmation of the nomination of Milton Stewart as chief counsel for advocacy at the Small Business Administration, because I believe he is extremely well qualified to fill that important position.

My knowledge of Mr. Stewart goes back many years. When the Senate Small Business Committee was created in 1950, I was privileged to serve as its chairman. The committee's first major accomplishment was the establishment of the Small Defense Plants Administration to assist small businesses hurt by the Korean war. The first person assigned by President Harry Truman to get that agency underway was Milton Stewart, then serving in the Bureau of the

Budget. Soon, thereafter, my administrative assistant, John Horne, went to the Small Defense Plants Administration, first as its Deputy Administrator, then as Administrator. At that time, John Horne, Milton Stewart, and I worked closely together, to make the SDPA more effective in promoting the interests of small business.

During the intervening 27 years, I have continued to find Mr. Stewart an articulate and unswerving advocate of the role of independent business in the American economy.

Mr. Stewart has served as a congressional staff person, in the executive branch of the Federal Government, and as a top official in the government of the State of New York. From that background, he knows well how government works. He has been a venture capitalist and the chief executive officer of several small businesses, so he has seen the problems and potentials of new and growing businesses at first hand. Finally, he has been a lawyer in private practice, so he knows the workings of the law.

Mr. President, I was an early sponsor of the legislation which established the Small Business Administration in 1953 and I supported the 1976 amendments to the Small Business Act which created the position of chief counsel for advocacy at SBA, so I have hoped that the President would name an able person to carry out those duties. I commend President Carter for nominating Milton Stewart and I urge my colleagues to give concrete evidence of their support for the man and the position by voting to confirm Mr. Stewart today.

Mr. WEICKER. Mr. President, I have questions that I intend to ask of the distinguished chairman of the committee, the distinguished Senator from Wisconsin.

First, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I will try to give the background of the question first and then direct certain questions to the chairman of the committee in attempting to establish the record.

Mr. Stewart, pursuant to Parsons' instructions, lent $130,000 to Comac. Thus, Stewart had a financial interest in the success of the Parsons' group.

Mr. Stewart, in testimony before the SEC, admits that the landlord "raised the question of Comac's creditworthiness; because it was a private partnership." Accordingly the landlord would not rent to Comac.

Comac, in fact, had no assets. Its partners did not make a capital contribution. Instead, they lent money to the partnership. The company was not intended to be a profitmaking entity, but instead it invested in controversial assets, held the asset, and then turned the asset over to a newly formed partnership. Because Comac's only income was from consulting fees, it had to rely on loans to make its investments. Mr. Parsons, in response to great pressure from interested outsiders, set up an investment hierarchy. Each of the 11 original partners was given an opportunity to invest in the entity which was formed to own the asset. Outsiders who were willing to loan "working capital" to Comac was given an opportunity to become limited partners in the new partnership, according to a "pecking order" instituted by Parsons.

Yet, despite the fact that Comac was debt financed, Mr. Stewart recommended that Creative assume primary liability on a $3.5 million lease for 14,000 square feet of office space, while Creative only had 6 employees. This lease was entered into with the understanding that Comac would sublet 80 percent of the space.

Was there a written understanding between Comac and Creative that Comac would sublet 80 percent of this space at the time Comac entered into the lease?

Mr. NELSON. We had, as the Senator recalls, testimony that there was in fact a legally binding sublease between Creative and Comac. It was enforceable.

Mr. WEICKER. I think the answer is that there was no written lease entered into.

Let me ask the accompanying question: Did Comac in any way guarantee payment for its contemplated share of the office space prior to execution of the lease?

Mr. NELSON. The testimony of the lawyer appearing before the Small Business Committee—who represented Mr. Stewart and the independent Board of Directors, Mr. John Howard, was that there was a legally enforceable agreement to sublet to Comac.

Mr. WEICKER. The bottom line, I suppose, is that the obligation or the moneys paid out were paid out by Creative Capital to the tune of $308,000?

Mr. NELSON. Comac was, at least on paper, a very successful corporation. It controlled some 20 banks, with assets of over $4 billion. However, it ran into an economic downturn and went into bankruptcy, making it impossible for Comac to carry out their agreement to pay their share of the lease. Creative Capital itself was thus required to make a settlement with the lessor. There was nothing dishonest about it. It was an enforceable lease. The other sublessee went broke and simply could not pay, thereby making Creative Capital liable. There is no indication of any dishonesty on anybody's part.

Mr. WEICKER. The fact is Comac had no assets. It was debt financed entirely. That was the reason why the landlord would not engage in a lease as between himself and Comac. My question would then have to go to the next point.

As chief executive officer under those conditions does the Senator not feel that either a guarantee or some sort of a written document would be in the best interest of Creative's stockholders?

Mr. NELSON. Eighty-five percent of Creative's stock was owned by Comac. As I recall the testimony, the landlord did not want to sign the lease with a concern based in Detroit. He wanted to sign the lease only with Creative Capital which was a New York–based firm.

Mr. WEICKER. The question was raised by the landlord as to the creditworthiness of Comac. It was a question quite properly raised by the landlord, but apparently never raised by Mr. Stewart on behalf of his shareholders.

I am certain that the Senator does not care to imply that because 85 percent of the stock was owned by a particular group that the shareholders of the remaining 15 percent were not to be considered in any actions that took place.

Mr. NELSON. Of course not. I am not aware of any testimony in the 1,114 page hearing record that indicated that anybody prior to the bankruptcy had any question about the creditworthiness of Comac. Comac at the time was a huge concern. It appeared to everybody who knew anything about Comac that it was very, very successful.

Mr. WEICKER. I would respectfully refresh the memory of my colleague from Wisconsin. In the hearings before the Select Committee on Small Business, and I am now reading Mr. Stewart's statement in an investigative transcript taken by SEC, which was introduced as an exhibit in our hearings——

Mr. NELSON. What page is the Senator on?

Mr. WEICKER. In the middle of page 683. I now read from the record:

> A number of business facts and assumptions I had been making changed. And I began to view with more favor the notion of Comac's being the prime lessee and I inquired of the landlord specifically whether he would either have Comac to be the prime tenant and have Creative a sub-tenant, or have two separate leases, dividing the space.
>
> He raised the question, the first time, and at last at some point in these discussions he agreed to this, after he had first raised the question of Comac's credit worthiness; because it was a private partnership, he felt he didn't know anything about it, it was a Michigan group he didn't know anything about.

So certainly Stewart himself is saying what the chairman apparently had passed over or forgot. Yes, creditworthiness was raised by the landlord.

Mr. NELSON. I think one should read that statement in context. The landlord knew nothing about the creditworthiness because it was a Michigan corporation and a private partnership. The landlord wanted somebody signing the lease that was a New York corporation based in New York, and not some faraway partnership. The landlord did not know anything about specific Comac's creditworthiness.

Comac was a long way away. It was a private partnership, which the landlord knew nothing about.

I do not see that the Senator's reference casts any light on any aspect of this other than to demonstrate that the lessor just did not know anything about the other proposed lessee and wanted to deal with somebody who was in business in New York and not somebody whose headquarters were out of Detroit.

Mr. WEICKER. I respectfully would

disagree with my colleague on that point. I think it would have been far more preferable to have had the lessor as the nomineee for this position because apparently the doubts that occurred to him and on which he acted in arranging a lease between himself and Creative, those doubts were never resolved in the mind of the president of Creative clearly because of the conflict of interest that he had both in his financial interest in Comac and with his relationships with the Parsons group.

I will move on to the next question.

During the course of the hearings, when Mr. Stewart was queried as to why Creative entered into a 20-year lease for 14,000 square feet of office space and assumed primary liability on a $3.5 million lease, while having only six employees, he stated that "Parsons had some ambitious programs for this company."

Mr. WEICKER. This statement typifies Stewart's obeisance to Parsons and his failure to exercise independent judgment to act in the best interests of Creative's shareholders.

Walter Reebel, former vice president of Creative, stated that Parsons "exerted a great deal of influence over Mr. Stewart" and acknowledged that Stewart was "manipulated by or a captive of Mr. Parsons."

It is all a matter of record.

John J. Howard, Stewart's attorney, who testified on behalf of Stewart, stated in the record at page 414:

> In any event, be it formal or otherwise, there was no mistake on anybody's part that Mr. Parsons made all of the important decisions.

Do not these statements depict a situation in which Stewart, despite the fact that as president and chief executive officer of Creative he had a fiduciary duty to act in the best interests of the corporation's shareholders, merely acceded to the wishes of Parsons and failed to exercise independent judgment?

Mr. NELSON. I would say to the Senator that all of these points were gone into extensively during the hearings. If the Senator from Connecticut is an 85-percent owner of a corporation and selects the president, he is likely to be quite influential when he expresses his views to the president. That is obvious to anybody.

Mr. WEICKER. We are not here to judge the 85-percent owner. We are here to judge the president of the corporation who had a fiduciary duty to all of his stockholders, both 85-percent holders and 15-percent holders.

All I can assume from this is what I alluded to during the course of my earlier statements: my concerns are that Mr. Stewart's allegiances are going to be a few and not to the many.

Again I want to repeat that is speculative. What is not speculative is the description of Mr. Stewart's conduct by his peers at the time that he was in the position of chief executive officer of Creative.

I would also like to quote from a memorandum from the SEC New York Regional Office to the SEC Division of Enforcement, dated December 11, 1973. This memorandum concerned an offer of settlement by Mr. Stewart in connection with the administrative proceeding brought against him by the SEC. I quote:

> We have never suggested that Stewart was seeking any direct monetary gain by his actions. But it is very likely that he was motivated by a desire to insure his positions in Creative, which were controlled by the principal wrongdoers in the Parsons group.

The Senator from Wisconsin, along with many of Mr. Stewart's proponents, has relied heavily on statements from various interest groups. He has cited those interest groups here today. I would like to quote from a letter dated May 26, 1978, addressed to me, from James D. "Mike" McKevitt, Washington counsel for the National Federation of Independent Business. In this letter, in commenting on the SBA Office of Advocacy, which Stewart would head if confirmed, Mr. McKevitt observed that small business must be able to "rely on its own advocate within its own Federal agency for a degree of reason and political independence."

How is Mr. Stewart, who was "manipulated" by Mr. Parsons and let Parsons make all the important decisions in an attempt to retain his position in Creative, going to provide the "degree of reason and political independence" that is required of the Chief Counsel for Advocacy in light of the record?

Mr. NELSON. I think the thing that was most impressive about the testimony of 27 witnesses was the integrity, the independence, the courage, the guts, and finally, the leadership of Mr. Stewart.

After reviewing the hearing record of over 1,000 pages, and analyzing the testimony and investigating all the issues carefully, eight members of the committee, two of the three Republicans and all of the Democrats, reached the conclusion that the record on the whole unquestionably supported the nomination of Mr. Stewart. Of course, the Senator from Connecticut is entitled to reach a different conclusion. I am satisfied that the whole record refutes the conclusions arrived at by the Senator from Connecticut. So too was every other member of the committee.

To reiterate, it is the Senator's privilege to reach another conclusion, but I do not think it is supported by this record. If his conclusions were supported by the record, I, too, would be here on the floor fighting Mr. Stewart's confirmation. However, I do not think the conclusions are supported by the record in any way whatsoever.

Since I have been in the Senate, I have not seen a nominee who has had such strong and enthusiastic support. These people knew Mr. Stewart best and had worked with him for 25 or 30 years.

The Senator is, in my judgment, interpreting the record in a way that very few people have. No other member of the committee, including his two Republican colleagues, reached the Senator's interpretations or conclusions.

Mr. WEICKER. I would only respond to the distinguished Senator from Wisconsin, the chairman of the committee, Mr. President, by saying that there were not nine members present during the testimony. The hearings were conducted mostly by the distinguished chairman and myself.

Mr. NELSON. The full record has been in the committee members' hands for months. Every member of the committee was aware of the objections raised by the Senator from Connecticut before they cast their votes.

I trust the members looked at the record and made a judgment based on the merits. They clearly concluded that Mr. Stewart was qualified or otherwise they would not have voted to support Mr. Stewart's nomination.

Mr. WEICKER. Would the distinguished Senator from Wisconsin care to comment on the conclusion of the Securities and Exchange Commission in their allegation that Stewart "willfully engaged in, and willfully aided and abetted acts and practices constituting gross misconduct or gross abuse of trust or breach of fiduciary duty?"

That is not my judgment; it is the SEC's judgment. Would the Senator care to comment on that?

Mr. NELSON. In order to litigate that case, it would have required an expenditure of $50,000 to $75,000. It was the testimony of expert witnesses that Mr. Stewart would have won the case. As it was, the settlement agreed to was a tiny slap on the wrist, not for what Mr. Stewart did, but for what his colleagues did.

Let me read into the RECORD at this point what Mr. William J. Casey said. He was Chairman of the Securities and Exchange Commission at the time the SEC proceedings were initiated. The letter is dated March 9, 1978:

> DEAR SENATOR NELSON: I write to support President Carter's nomination of Milton Stewart to serve as Special Counsel of Advocacy at the Small Business Administration. I have known Mr. Stewart for sone ten or twelve years now, have on several occasions been in a position to observe his performance in the financing of small businesses and have been generally aware of his long experience and dedication to that activity. Recently, in connection with my chairmanship of the Task Force on Equity Capital, I have drawn on Mr. Stewart's rich experience for advice and counsel.
>
> I believe that President Carter has made an excellent appointment. I can think of no one more suited by background and interests for this important post.
>
> I also know that Mr. Stewart was named in an action brought by the SEC against the Parsons banking group. I was Chairman of the SEC when that investigation was authorized. Shortly thereafter I went over to the State Department so that I was not involved in the decision to name Mr. Stewart in the action arising from the collapse of the Parsons banking empire.
>
> My conviction that Mr. Stewart is admirably suited to the post for which President Carter has nominated him has led me to read the memorandum of the SEC Staff recommending that the action against Mr. Stewart be settled, as well as papers prepared by counsel who represented him in that proceeding. It is clear that Mr. Stewart was in no way responsible for the Parsons debacle at which the SEC action was aimed.
>
> The Parsons group came into control of a small business investment company which

Mr. Stewart and others had founded some ten years earlier. While the Parsons group was in control, there were several corporate incidents which the SEC staff considered to violate the investment company regulations. In my judgment, these violations were not at all clear, were technical in nature, in no way reflected on Mr. Stewart's integrity and should not now deprive the public of his experience and ability.

As to why Mr. Stewart entered into a settlement in which Mr. Stewart was allowed to continue to advise three portfolio companies, let me quote from a statement Mr. Howard made before our committee. Mr. Howard was special counsel for the new, independent board of directors of Creative Capital. Let me quote an excerpt from page 38 of the hearings.

Mr. WEICKER. This was the Mr. Howard who was Mr. Stewart's former law partner, was it not?

Mr. NELSON. Yes.

Mr. WEICKER. That would somewhat color his testimony, do you not think?

Mr. NELSON. I do not assume that because a witness was well acquainted with or was a former associate of the nominee, that he is a liar. But if that is the Senator's conclusion, so be it.

Mr. WEICKER. No, I do not make that assumption.

Mr. NELSON. This quote refers to the offer of the settlement which the SEC turned down.

Naturally, the offer was turned down. Anybody concerned with the situation knew at the time that my firm strongly advised that Stewart not take a consent suspension, that he not go through anything, but he fought it, and we agreed to go along with him, even though his special counsel would not stay with him.

Mr. Stewart was under tremendous pressure. Mr. Stults testified before about what the new chairman of Creative had reported, that Creative did not see itself continuing for 3 or 4 years under the continuing black cloud of its president having an SEC proceeding continue against him.

Mr. Stewart gave in at that point. After the 10-day offer was turned down, he submitted a 60-day offer, which was accepted.

Mr. Stewart never had his day in court. I cannot state it any more clearly.

He gave in for pure reasons of business expediency. He could not afford the fight.

It should be noted that Creative could not stand operating for 3 or 4 years under a cloud, plus Stewart could not afford the $50,000 it would have taken to defend himself.

Mr. WEICKER. I would, Mr. President, point out that Mr. Stewart certainly had $130,000 to invest in Comac, which was a Parsons enterprise.

When I hear about the Parsons debacle, and the attempts in trying to insulate Stewart from it, I conclude that Stewart was a part of it. He invested $130,000 in Comac, and became a limited partner in various Parsons' partnerships, thereby creating an inherent conflict of interest situation. And when I hear the reference to Mr. Casey, whose judgment, I might add, was not above reproach, I think of his testimony before the Senate Banking Committee at the time of his appointment to SEC. This is the same Mr. Casey who, in the course of his testimony, said at one point that "the security laws were not necessarily designed to protect all shareholders, but at times only some of them."

I hear from the distinguished chairman, who certainly has a record of championing causes of individuals and of minorities in numbers, referral to the fact that the 85 percent is important, not the 15 percent.

Mr. NELSON. If the Senator will yield——

Mr. WEICKER. No, I do not yield.

Mr. NELSON. I never said the 85 percent was important and the 15 percent was not. Let the RECORD so show.

Mr. WEICKER. Let the RECORD show that I have not yielded the floor to the distinguished Senator from Wisconsin. The distinguished Senator from Wisconsin tries to excuse the performance, as the RECORD will show, of Mr. Stewart by saying that Mr. Stewart was under the instructions of one who held 85 percent of the stock. That was his basis for explaining the actions of Mr. Stewart. But the truth is that the distinguished chairman cites a man whose testimony states that the administrative proceeding brought by the Securities and Exchange Commission was not wasted because the expediency of the matter caused Mr. Stewart to make a settlement.

Mr. NELSON. This Senator himself did not say anything about the word "expediency."

Mr. WEICKER. I would ask that the RECORD be read back, and I think the chairman will find his use of the word "expediency."

Mr. NELSON. I did not use the word "expediency" personally. It was taken from the transcript of Mr. Howard's testimony. Please do not attribute anybody else's words to the Senator from Wisconsin.

Mr. WEICKER. In explaining the judgments rendered against Mr. Stewart by the SEC, the Senator from Wisconsin utilized the testimony of Mr. Howard and utilized that testimony to explain as to why it is that the consent order was entered. Be it Mr. Howard or the Senator from Wisconsin quoting Mr. Howard, the notion of expediency is raised throughout.

Mr. NELSON. Does the Senator want to hear the correct sentence or does the Senator wish to continue to mislead the Senate in the face of the record?

Mr. WEICKER. I do not yield to the Senator from Wisconsin.

The whole nomination is riddled with expediency, riddled with it. To the extent that judgment made by the SEC, which specifically quote "misconduct" by Mr. Stewart, and statements made by the Small Business Administration as to the "lousy" judgments of Mr. Stewart—these are exact quotes, not my quotes—all these judgments are for disregarded. Apparently the record is to be polished over, cleaned up, and presented anew by the distinguished Senator from Wisconsin and a majority, Republican and Democrat, of the Small Business Committee.

I have tried to rest my arguments before this body on the basis of fact, on the basis of what has occurred, not on the basis of my opinion.

Let me state, if I might, at this juncture, the comments of another contemporary of Mr. Stewart, Mr. James Hassett, who was appointed president and chief executive officer of Creative. At about the time he succeeded Mr. Stewart in this position, the SEC commenced a private investigation of the AMHT transactions. Mr. Hassett felt it was incumbent upon him to fully investigate these matters. He prepared a document as a basis for presentation to the board of directors. I would like to read the contents of that document into the RECORD. This is Hassett speaking.

It is my unpleasant task to advise you that in my opinion Mr. Stewart violated his fiduciary obligation to Creative Capital in that he allowed the managing partners of Comac and the Parsons law firm to improperly use the credit and assets of Creative for their own personal benefit and gain.

This is not the distinguished Senator from Wisconsin speaking after the fact. This is a man who actually was on the scene and was chief executive officer and president of the corporation that Stewart once headed.

The fact concerning the lease agreement with the New York Plaza Building Company for space at One New York Plaza, as I have been able to ascertain, is as follows:

Then he goes on to recite the facts which he uncovered.

The conclusion of Mr. Hassett was:

Mr. Stewart was president and a director of the company. He was an experienced attorney. He knew that Corporate Counsel, Parsons, Tennent was party to the original transaction and that their opinion, if rendered, was tainted. He knew that Parsons, Holmes, Fisher, Leonard Wagner, directors of Creative, were partners of Comac and party to the transaction. Yet, he allowed himself to be used, and in doing so, breached his obligations to the shareholders. It is my recommendation that the Board request Mr. Stewart's resignation. In addition, the Board ought to consider the desirability of requesting those directors who approved the subject lease not to stand for re-election."

Do you know what the response was to this honest man who drew that conclusion about Milton Stewart and suggested that Stewart resign? They asked for Hassett's resignation. That is whose resignation was asked for.

In his testimony at the hearings Mr. Hassett related to the committee the scope of the fiduciary obligations placed on the president of a public corporation. I would like to read Mr. Hassett's comments into the RECORD for the benefit of my colleagues:

Mr. HASSETT. The president, and particularly the chief executive officer, of a public corporation has an absolute fiduciary obligation to the shareholders, and in the matter at hand to see that the assets of the corporation are not used to the benefit of others to the exclusion of the shareholders, and I think that is an absolute obligation to the shareholders.

Furthermore, since the board of directors of a corporation relies principally on its management and chief executive officer for information, the chief executive officer of the corporation has the responsibility to so make this information, whatever recom-

mendation it is, known, and to make recommendations, what have you.

In fact, in this situation, quite frankly, I was really in a very uncomfortable position. It was my initial reaction, having realized the nature of this particular transaction, to resign forthwith from Creative, since it was a troublesome situation. This view though was overruled explicitly by two separate attorneys that I spoke to, and I was advised by them that one, never assume a board knows what you may know, and though you may very well wish to resign, before doing so, you have an obligation to let them know what you know, and what conclusions you have come to. At that point, you have fulfilled your obligation both to the board and to the shareholders.

It is very simple. To my colleagues I ask what Mr. Hassett did when confronted with the exact same situation or state of facts that confronted Milton Stewart? He resigned, as he was in an untenable situation. He resigned, as any honorable person would have done. Mr. Stewart did not resign. Now his apologists on the floor try to obfuscate the record with the letters of some interest groups. It just will not wash. If you accept him as your nominee then you accept the entire record of the man, and you say this is the type of individual that you want because he knows the malpractices, the indecencies, and the frauds that can go on in business and, therefore, he will be useful in this slot. But acknowledge that you accept him on that basis, not on the pretense that he is a person of integrity, not that he is one who knows the securities laws and knows how they can be used to the advantage of small business in this country, not that he is going to go ahead and set an example for small business. Not on that basis.

The vote stands in the committee and the nomination of the President stands. But so does the record of Milton Stewart, and so do the comments of those who exercised independent judgment.

Mr. President, I might move on.

Mr. NELSON. Mr. President, I wonder if the Senator will yield.

Mr. WEICKER. I yield.

Mr. NELSON. There is not a division of time, but I think the Senator has proceeded for about 75 or 80 percent of the time. There are at least one or two others who wish to come to the floor and present some remarks. I wonder if the Senator would be prepared to yield so that we can at least place into the RECORD remarks of those who wish to make a statement.

Mr. WEICKER. I certainly have no objection. As the Senator knows, it was merely as a matter of convenience to the leadership and others that I have agreed to a time for a vote. I do not want to cut off the discussion of any of my colleagues. I am more than willing to go ahead and yield time so that others might express their opinions.

Mr. NELSON. Mr. President, I would like to put into the RECORD the testimony of Mr. Trenholm, who was chairman of the independent board of directors of Creative Capital. This testimony is in response to Mr. Hassett's testimony which was read into the RECORD by the Senator from Connecticut. It should be noted that Mr. Hassett was then serving as president of Creative.

Mr. Hassett made a motion that Mr. Stewart be removed as chairman of Creative. There were seven independent board members present. Of the seven members present, no one offered to second Mr. Hassett's motion.

Mr. Trenholm's testimony begins on page 557 of the hearing record:

There was not a second. There was considerable discussion on the point of the failure for a second, and the reasons I am summarizing now from memory, but I am confident this is the thrust of what happened. First of all, on the part of the board, and this is the least important, there was a general feeling that Mr. Hassett, who had been with the company officially for less than 2 months, was perhaps engaged in something that was not very seemingly for a new officer. It struck us as being something of a political maneuver to seize control.

I think to some of us, to the banks that were in the controlling interest, that owned 70 percent of the stock—they being the Union, the Provident and Commonwealth—had had a lot of discussion amongest ourselves in this 2 months interval, or 1½ months from the first of February, when Mr. Hassett originally joined; until March 19. We were concerned that so much time and energy was being spent in raking up these past transactions and not enough time being spent addressing ourselves, or the president was not addressing himself, to the portfolio.

The other reason I think that we felt that there was a failure of the second of the motion—and I think this is the more important point—was, No. 1, there was nothing that Mr. Hassett had alleged that the board by now had not only heard time and time and time and time again, but had been in the discussion of almost every single board meeting, and every single executive meeting for the past 6 months, at least.

Yet there was nothing being alleged that the SEC and the SBA were not aware of, because all of this had been disclosed on the direction and resolution of the board, and that there was nothing in what was being alleged he himself had not been privy to before he expressed an interest to join the company and took the position on the board.

There was nothing really in what he was alleging that had not been the subject of private conversations with him, and previously disclosed in the board meeting of December 17, 1970.

Chairman NELSON. I take it that there must have been one further conclusion and that is, in view of all of the circumstances and the knowledge of the board, the allegations were not of sufficient cause to lead the board to believe that Mr. Stewart should be removed. Is that correct?

Mr. TRENHOLM. I think that is a fair statement. I think, if I might make a voluntary comment—I think this is also important—there was by no means at this point a board that could be considered a captive creature.

So I think the board's deliberation was an honest one. At the end of the deliberation, and when the board was not willing to offer a second, Mr. Hassett and Mr. Stewart were invited to rejoin the meeting. Mr. Hassett was advised of his position, that it had failed for want of a second, and he withdrew it. Then I on the instructions of the board asked the two gentlemen if they thought they could make up, bury the hatchet, and go on with the business of managing Creative, and also try to unwind some of these problems that had plagued us, to the point that we were thoroughly distracted by them. They could not, neither one agreed there was any way in which they could resume the association.

At that point I had no choice but to ask Mr. Hassett for his resignation, which he extended, and left the meeting.

Mr. President, I ask unanimous consent to have printed in the RECORD at this time part of the testimony of Mr. Walter Stults, executive vice president of the National Association of the Small Business Investment Companies. Mr. Stults was also formerly minority counsel for the Small Business Committee.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

I have known Milton Stewart well and favorably for over 27 years. In 1950 and 1951, I was professional staff member for the minority—Republicans, then, too—of the Senate Small Business Committee and helped draft the legislation which established the Small Defense Plants Administration and this committee wasn't up to help the small businessman threatened by the Korean War after the act was passed by Congress and President Truman assigned Milt Stewart, an official of the old Bureau of the Budget to help organize the new agency.

He is a crusader for things he believes in. His parents owned and operated a classic example of a "Mom-and-Pop" business, so he came by his zeal for entreprenurship naturally.

He is a fighter. He has taken on many battles which many of us have felt to be quixotic. Strangely enough, though, he has been able to bring down formidable windmills with his lance, because he has convinced the powers that be, that his quest was logical and in the national interest.

I could give you a number of specific examples of his success in "hopeless" causes if I had more time.

I have worked very closely with Milt in the SBIC industry for 18 years. He formed one of the largest SBIC's and when it was involved in a fight for control he did the best job for the shareholders of the $10 million company that I could ever conceive of.

It is difficult to know after the preceding questions whether to be positive about Milt's accomplishments or try to answer some of the questions as I have knowledge of them, but I would say that he served his shareholders in the very best sense. He was never tried. He was never convicted.

The SEC itself let him go back into control of the $20 million publicly owned company after the 60 days suspension.

Milton will be here to testify on his own behalf, but I want to get on the record that nobody ever found him guilty. They never even took him to court. They never accused him, despite the words of section 17 of the Investment Company Act of 1940 which talks about affiliated transactions and the lease there, there was no money going to Milton Stewart. He was fighting for the shareholders of the company.

As was pointed out, he is a lawyer, but strangely enough small businessmen have never held that against him. Perhaps their forebearance is due to the fact that Milt has been head of a business. He is a venture capitalist and director of dozens of small businesses.

Perhaps stranger is the fact that businessmen accept Milton, though he has been a politician and a Government official. It may be that they recognize his experience and insights make him an effective operator when it comes to warding off the suffocating embraces of a too powerful bureaucracy.

Finally, Mr. Chairman, let me stress I have known Milt for 27 years, found him the person of the highest integrity. No one until to-

day have I ever heard of anyone questioning his integrity. No one until today has anyone questioned his character.

Those of us who know him best, and you are going to have 15, 16, or 17 small business people and representatives of small business people in front of you this morning, we who know him best vouch without reservation for his complete integrity.

Chairman NELSON. I wanted to ask Mr. Walter Stults one more question.

Mr. Harry Flemming who testified on behalf of the National Association of Small Business Investment Companies, states that you and he had examined the SEC charges and made a report to your board of governors.

Mr. STULTS. Yes, sir.

Chairman NELSON. What was your judgment about the charges as you looked at them?

Mr. STULTS. I was very much aware of the entire problems of the SBIC of New York which was later split into Creative Capital which was part of the Parsons group and Columbia Ventures which was part of the Olmstead group.

Throughout that time I knew that Milton was fighting a horrendous battle to keep viable a small business investment company that was being torn apart by and paralyzed by a fight for control.

Milt designed a splitup so that the company did not go down the tube. It was divided in such a way that two different management groups were in control.

Now, Mr. Chairman, I am not a lawyer and certainly not a securities lawyer, so I am not technically competent. Nonetheless, I read the letter that Bill Casey sent to you in which he said Milt Stewart was not an integral part of the Parsons debacle at Creative Capital. He was one of the bystanders that got pulled in.

I commiserated with Milt many times during that period and I knew that his every inclination was to fight the SEC all the way through the courts.

I also know evidence was given to our board by Mr. Peter Van Oosterhout, now president and chief executive officer of Clarion Capital, the new name of Creative Capital. Mr. Van Oosterhout said if Milt had fought those charges through the courts Creative Capital would have been paralyzed another 3 or 4 years. The stockholder would have got nothing; small business would have got nothing.

Milton accepted this slap on the wrist in the form of a 60-day suspension during which, incidentally, the Commission allowed him to work full time on behalf of three portfolio companies. The SEC must not have thought he was a very bad guy, did they? They let him keep right on trying to help the small businesses that Creative Capital had financed.

Peter Van Oosterhout even would have testified today except for a recent illness. He would have testified to you that Milton's action was an act of great statesmanship; it took guts on his part to accept a consent judgment. It was not an admission; it was a consent judgment that kept him out of running Creative Capital for 60 days.

Our board of governors enthusiastically supported Milton Stewart. I do not believe there is a member of te board of governors who has not had some SEC or some SBA investigator raise allegations or regulatory violations.

John Komives' point is correct. They are all driving cars. They have a chance to have a fender bender; there's no way to get around it unless you stay in your cocoon and do nothing.

Our men have all found that out and they are honorable guys. They feel Milton Stewart will be the best public servant that this committee has had a chance to confirm.

Chairman NELSON. Based, then, upon your understanding of what the charges were and without being a technical expert, did you recommend to your board that they endorse his appointment?

Mr. STULTS. Unequivocally.

Mr. NELSON. Mr. President, in conclusion I wish to say that, as chairman of the committee, I was aware of all of the criticisms leveled at Mr. Stewart before the administration sent his name down. The administration carefully looked into these various allegations and concluded that they did not reflect on the integrity, ability, and capacity of Mr. Stewart to serve in the position of chief advocate. I assigned the committee staff to look into these issues in detail, which they did. Then, in order to be sure that we had a complete record, we conducted hearings for 2 days. The hearing record on this appointment contains 1,114 pages of testimony and documentation.

We investigated in depth every single point raised by the Senator from Connecticut, who wrote the minority report. We satisfied ourselves that there was nothing in any of the testimony or any of the allegations, that reflected on the integrity of Mr. Stewart. Very, very little, if anything, reflected upon his judgment. However, I suppose using 20–20 hingsight, one can quarrel about decisions Mr. Stewart made. That is the type of criticism involved here.

I think the printed record, which has been available, overwhelmingly refutes the charges made in the minority report. In those cases where it does not specifically refute certain statistics or certain facts exactly, the overwhelming majority will put a different interpretation on those facts than the minority has. My opinion is supported by the fact that eight out of nine members of the Small Business Committee, including two of the three Republican members, voted in favor of the confirmation of Mr. Stewart.

In Executive Report 95–21, Nomination of Milton D. Stewart to be Chief Counsel for Advocacy of the Small Business Administration, the minority view addresses three SEC allegations of misconduct by Mr. Stewart.

In my judgment, the minority view does not do justice to Mr. Stewart personally nor present a balanced representation of the issues involved. To have a full appreciation and understanding of the extremely complicated issues involved in the SEC matter, one must consult the 1,114-page nomination hearing record which puts the three purported violations in an entirely different context and presents a balanced view of Mr. Stewart's conduct as President.

After a careful review and examination of the hearing record, I believe Mr. Stewart is clearly exonerated from having committed any technical violation under the Investment Company Act of 1940 (1940 act). Furthermore, the facts simply do not support the minority conclusion that Mr. Stewart breached his fiduciary responsibilities.

For the benefit of those who have not reviewed the hearing record, I would like to briefly analyze the lease transaction and the American Mobile Home Town (AMHT) financing, as both events appear in the minority view to be at issue.

Specifically it is alleged that the small business investment company (SBIC), Creative Capital Corp. (Creative), should not have entered into a lease with an affiliated party, Comac. In addition, it is stated that the shareholders of the publicly held SBIC were misled.

Mr. Stewart was directed by Creative's board of directors to enter into negotiations to secure a lease subject to compliance with the 1940 act. Counsel for Creative later reported back to Mr. Stewart that the lease contemplated by Creative was not violative of the 1940 act because it was permissible under section 17(c).

As the hearing record shows, section 17(c) of the 1940 act does permit lease transactions similar to that entered into by Creative. Thus, only after Mr. Stewart received what he believed to be competent advice of counsel, did he sign a binding lease.

It should be noted that at the time Creative entered into the lease, the landlord refused to allow Comac to cosign the lease. Nevertheless, expert witnesses testified before the committee that there was a legally binding sublease between Comac and Creative which would have precluded any disproportionate burden from falling on Creative.

In the spring of 1969 Comac "was indeed a very rapidly growing and very prosperous financial empire." Comac, which controlled 85 percent of Creative, also controlled over 20 banks and numerous real estate ventures which together totalled several billion dollars in assets. It was thought at the time that the lease could only work to the benefit of Creative. No one suspected when the lease was signed that Comac would shortly thereafter become insolvent due to an unforeseen national economic downturn.

Only after the Comac empire collapsed did the SEC engage in "Monday morning quarterbacking" with regard to Mr. Stewart. It is doubtful that the lease transaction would have ever come into question if Creative had not canceled the lease and entered into a relatively small monetary settlement with the landlord. And even if the lease had been reviewed later by the SEC, Mr. Stewart would have been able to demonstrate that he acted in totally good faith as the lease transaction was represented to be a permissible corporate endeavor by virtue of section 17(c) of the 1940 act.

As mentioned, there was no doubt by witnesses appearing before the Small Business Committee that Comac was legally bound as a subtenant. These opinions are important for a Creative shareholder report disclosed there was a sublease for part of Creative's space. The minority view categorizes this proxy disclosure as being "patently false." Such a conclusion is itself misleading.

Regarding the other primary issue, there is no question that Creative wrongfully provided financing to an existing SBIC portfolio company, AMHT, in order for AMHT to purchase a trailer park in Australia. But to suggest that Mr Stewart "showed utter contempt fo ethical business behavior," as does the minority view, is to misconstrue the facts as they were presented to the committee. A careful review of the events lead-

ing up to and after the loan was made to AMHT reveals that Mr. Stewart did everything humanly possible to protect the interests of Creative's shareholders.

Prior to leaving for a long-planned European vacation, there had been some preliminary, cursory discussions concerning a possible loan to AMHT. However, no formal investment review was initiated because AMHT indicated to Mr. Stewart that it had no interest in the Australian concern. When Mr. Stewart left the country, he was under the impression that the "deal was dead."

A letter from the National Association of Small Business Investment Companies helps explain why Mr. Stewart was justifiably under the impression that no one could reasonably expect any further action on the proposed investment.

DEAR MR. CHAIRMAN: During the April 14 hearing on the confirmation of Milton Stewart, a question was raised concerning the propriety of Mr. Stewart's leaving on vacation without leaving specific, written instructions on the AMHT financing application.

The query indicates a lack of understanding of general SBIC operating procedures. As several witnesses testified, SBICs disburse on no more than one to two of every 100 applications submitted to them. Because of that ratio, no formal file is established covering each application.

In the great majority of cases, no significant investigation is undertaken by the SBIC. I would guess that between 75% and 80% of applications are summarily dismissed for a number of reasons, including: too large; lack of SBIC expertise in the industry; inadequate application; lack of SBIC funds; need for portfolio balance; no time for review.

In the specific case at point in the Stewart hearing (the AMHT deal), Mr. Stewart undertook a typical quick check and found his contacts in the mobile home industry weren't interested, so he reported to his associates that "the deal is dead". That would be usual industry practice and I cannot conceive of any SBIC manager going beyond that to study the merits of the application, let alone the various regulatory implications. With the small staffs we have, we would consume all our time and resources in documenting turn-downs and never get an opportunity to say "yes" and make an investment.

I hope this explanation is of some value.

Sincerely,

WALTER B. STULTS,
Executive Vice President.

Nevertheless, the executive committee met in Mr. Stewart's absence to approve the financing to AMHT after structuring the terms of the transaction to not hold AMHT liable in the event of default. The meeting and subsequent approval of the executive committee was in direct contravention of company policy which stated that all executive committee members must be notified prior to the convening of the committee. Mr. Stewart and another member of the executive committee were not so notified and, therefore, did not participate in approving the loan to AMHT.

Two weeks after returning from Europe (mid-June 1970), Mr. Stewart was astounded to learn that there had been a closing of a new financing to AMHT. He immediately took steps to remove the Comac partners from Creative's board of directors and reconstruct the board with independent directors. This action was necessary for otherwise the Comac-controlled board would simply concur with the prior executive committee action and vote to ratify the affiliated transaction.

Six weeks after Mr. Stewart became aware of the AMHT situation, an independent board was elected and special counsel was retained by the board to investigate the AMHT transaction. I think it is remarkable that Mr. Stewart accomplished such a feat in such a brief period of time. In mentioning that special counsel was retained, it should be noted that the attorney advised Creative to delay contacting the SEC until the SBIC and Mr. Stewart had a better understanding as to all the facts surrounding the AMHT financing. Four weeks later, counsel did report his findings to the SEC.

What is important to understand at this point is that it was only because of Mr. Stewart's perseverance that the SEC undertook an investigation of Creative's recent activities. It is questionable whether the SEC would have otherwise ever acted.

In summary, once Mr. Stewart learned about the AMHT loan, he acted prudently and quickly to protect his shareholders. If he had taken any other course of action, the SBIC itself would have been placed in economic jeopardy. Obviously all shareholders would have been irreparably injured as a result. As it is, the SBIC is today prosperous and thriving, due in no small part to the efforts of Mr. Stewart.

The minority view also suggests that since Mr. Stewart was an attorney, he should have understood that a formal investment adviser agreement between Creative and Comac was required during the first few months of Creative's existence. The fact is that independent counsel had advised that no contract was necessary, based on discussions with the SEC staff. When it was later discovered that such anagreement was required, a contract was promptly executed following shareholder approval. Prior to securing such approvals the shareholders and the SEC were informed that no contract had existed for several months and that such a contract, as it turned out, was required under Federal regulations.

Were Creative's shareholders kept adequately informed via SEC required proxy statements? The statement before the committee of Mr. John Howard, the special counsel retained by Creative's board, should put to rest any doubt concerning that question:

I give you my personal commitment that every fact with respect to the lease and the American Mobile Home Towns investment was known to the SEC staff in Washington, because I personally gave them copies of every document, and I was literally on a day-by-day basis with them, reporting by telephone.

The proxy material I prepared as also been alleged to be deficient. I think that is outrageous. That material was put together with such care, it was circulated to everybody wo had any possible interest or connection with Creative, including ex-directors.

It was circulated to anybody we thought could possibly have any knowledge of the facts. We received comments from many people. Te proxy material was put into a condition which, hopefully, read in a fashion that the stockholders could make sense of it.

Every material fact was made known.

The minority view also raises other questions about Mr. Stewart's ability, citing as supportive evidence SBA-related documents introduced during the hearing. Two examples involve the lease and AMHT transactions. Those criticisms are without foundation for reasons I have previously discussed.

The third point raised leads one to believe that SBA found serious violations in six annual examination reports. That is simply not the case—in only one examination report did SBA admonish Creative's management, and that was directed to the lease and AMHT issues.

The fourth example cites an SBA Administrator as being critical of Mr. Stewart. The minority statement is inaccurate and misleading. The facts are that a Deputy Administrator scratched a note on an internal memorandum concerning a matter of critical concern to Creative. Mr. Stewart had expressed outrage, which believe to be justifiable, that Creative had invested millions of dollars in a concern headed by a former organized crime figure who had been given a new identity under the Justice Department's "alias program." Since this person had grossly mismanaged the portfolio company and used its assets for personal benefit, the SBIC's investment was jeopardized. Because of the Federal Government's indirect duplicity, Mr. Stewart was petitioning the SBA for help.

Mr. President, I ask unanimous consent that the full text of the letter from Mr. Stewart to SBA Administrator Kleppe, dated June 19, 1973, be incorporated at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CREATIVE CAPITAL CORPORATION,
New York, N.Y., June 19, 1973.

Hon. THOMAS KLEPPE,
Administrator, Small Business, Administrator, Washington, D.C.

DEAR MR. ADMINISTRATOR: We urgently require your assistance in enabling this licensee to cope with an unprecedented problem substantially created for it by the actions of another federal agency.

We are writing directly to you, as well as to the appropriate SBA staff personnel for the following reasons:

1. Our problem arises from the conflicting consequences of two public policies. Because another federal agency (the Department of Justice's Organized Crime Intelligence Unit) is involved, we believe you must, as SBA Administrator know about it because of your concern with executive branch relationships; not so; we don't to the best of my knowledge.

2. Our need is sufficiently urgent in terms of time that we hope you will use your good offices to arrange priority treatment for us;

3. Several units within SBA must be involved in the assistance we seek, and we should appreciate your help in designating one person to coordinate for you and for us the determinations and steps to be taken.

For about 18 months we have been involved in a continuing corporate crisis in our largest (substantially overline already) investment—the Paul Maris Co., soon to be

called San Francisco Gold. This is an apparel company in which we made our initial investment in May 1971. We have plowed more than $2½ million into this company in a thus far unsuccessful attempt to make it stable and viable, and have guaranteed more than $500,000 of its trade factor and bank debt.

Almost all of this was done in support of a seemingly promising brilliant entrepreneur—"Paul Maris." Early this year despite a seemingly spectacular increase in sales volume, a number of disquieting business developments persuaded us that we had to have a change in the management of the Company. (We had already taken temporary control of a majority of the Company's stock.)

On March 5, the Directors of the Company (all our nominees except for Maris) removed him as President and Chief Executive Officer, offering in the process to retain him as Vice President for Marketing. He responded by calling a meeting of some fifty key management and line supervisory personnel and pulled a three-day total stoppage of the factory and sales operations. In the course of that walkout, we were informed materials critical to the production operation as well as other books and records were removed. We had to bow temporarily to this "operational blackmail" to avoid the total collapse of the business since continuous production was critical to its survival.

To avoid that collapse, we agreed to allow Maris to remain as President temporarily, although not as Chief Executive Officer, a post which I assumed. Mr. Maris had forecast that if we put another $400,000 in working capital into the business, it could be stabilized. We agreed, but when the need turned out to be more than $500,000, decided we could no longer tolerate Mr. Maris in the management.

We sought legal support in the California courts, and with the assistance of a force of private agents took physical possession of the plant discharging Maris and about 25 other persons. To avoid a repetition of the removal of critical material or other sabotage, we took these steps without prior notice.

We brought in as President, Mr. Richard Banks, a Vice President of Marketing of one of the largest apparel companies in the country. Mr. Banks has since recruited a management team which is now in place.

All of this took place on April 20 and April 23. Thereafter, Maris took the following steps:

1. He made us several "take-out" proposals which would have involved our selling the business to him at a loss;

2. He conducted a concurrent "guerrilla" war against the company in the trade, urging key employees to quite and join him in a new, competitive venture, and urging major customers to cancel orders with Paul Maris Co.;

3. He began several related competitive enterprises, including one in the neighborhood of the existing plant, and entered into a contract to acquire another competitive business.

4. He brought a five million dollar lawsuit against the Licensee, and a two million dollar action against two of its officers, including the undersigned.

It should be noted that Maris had defaulted on a personal obligation to invest $350,000 in the Company, and had guaranteed $600,000 of its debt to the Licensee. The vigor (or viciousness) of his attack on the Company appeared to us to be part of a strategy designed: (a) to reduce the value of Paul Maris Co. so that we would be forced to sell to him at a loss; or (b) to destroy it so that he could acquire its market position with a new company; and (c) to pressure and intimidate us into releasing him from his guarantees.

At this point, we decided that we did not know enough about Maris, despite the Proudfoot Agency report enclosed (Appendix I) done at our request in the summer of 1972, which confirmed his self-described personal history.

At this point, the news about Mr. Maris' lawsuit against us appeared in the press as he intended it to. Fortunately for us, it brought to us confidential, essentially anonymous information which turned out to be specifically incorrect, but generally accurate. According to the information, Maris had been living a Federally created "cover" life following underworld activities which resulted in his role as an informer in a major Federal criminal trial.

With that information, it took us four weeks of intensive research and investigation, including assistance from private investigators in San Francisco, Washington, New Jersey and Switzerland to break the Federal cover which had been created. Had it not been for that information, I assure you we would not know today that Maris was the Gerald Martin Zelmanowitz described in the enclosed clippings.

We are still not certain that we understand completely the role of the Department of Justice's Unit in Mr. Maris' last three years. For example, only this past week we learned from the apparel trade press that it had discovered that Maris (as Zelmanowitz) was physically tried and convicted on several federal felony counts in October 1972, while he was allegedly running our portfolio company in San Francisco, California. And he was given a suspended sentence of three years on each of eight counts on March 29, 1973. This means to us that throughout the period he was employed by the Paul Maris Co., the Department of Justice knew where he was, knew what he was doing, and if it did not know about *our* involvement, *could* have known with very little effort.

It goes without saying that we would never knowingly have entrusted to this man responsibility for the management of this Company, and therefore of the funds we invested in it, if we had known the truth about his previous and current involvements. Not only were we not told about them; a major Federal effort designed to protect Maris from underworld reprisals was made to keep anyone from finding out about them.

What legal remedies we have now, or should have now, against the Federal government (or may have in the future in the event that we suffer a loss from this investment)—these ultimate legal questions are beyond the scope of this communication.

Our immediate concern is to do everything we can to avoid that ultimate loss by making the Paul Maris Company successful enough to enable us to recoup our investment and the enormous (for us) additional costs of coping with the consequences of the Federal cover and Maris' use of it. (One reason I have gone to some lengths above to describe Maris' recent behavior is to emphasize how uniquely destructive it has been. It serves to emphasize how relevant the Federal cover was in exposing us to activities that would have been unthinkable in a responsible person with the kind of background which Maris pretended, with Federal aid and assistance, to have.)

Both the Licensee and the new management of Paul Maris Company have been working with desperate urgency to rebuild trade confidence, credit lines, and to explore new sources of long term financing. We cannot succeed without SBA help. We confront a variety of regulatory obstacles. The publicity about this affair has materially and adversely affected the credibility with which we are viewed. There is a general fear that SBA will, now or in the future, fail to provide adequately exceptional treatment for this Licensee.

My own view (pragmatic and non-legal) which I hope you will share is that this Licensee's stockholders are entitled to every assistance with respect to this matter for which SBA can find a legal basis. We have demonstrated again and again that we are a true venture capital licensee; our stockholders understand that ours is a necessarily risk-laden business. But neither they nor their management had any reason to anticipate the extraordinary and Federally-created risk involved in the Maris situation. None of it was, of course, SBA's doing, any more than it was the Licensee's. Had SBA known of Maris' background it would never have approved the overline investments any more than the Licensee would have made them. But SBA is a Federal agency with the same obligation to mitigate possible actionable damage done by the Federal government that every Federal agency has. SBA has, in addition, a special responsibility to its Licensee and its stockholders if they are the unwitting victims of an unintentional, but nonetheless disastrous, conflict of Federal government objectives. SBA has in my experience been notably responsible and diligent in using its best efforts on behalf of its licensees many times before. The help we need is literally as "exceptionally" as the circumstances which created the need. We are unfortunately under the most severe time pressure because of the critical financial requirements of the Paul Maris Company. It is our best judgment that the Company can be made successful, and that we can, over a period of time, recoup our investment. But each day we fail to find ways to meet its current financial stringencies diminishes that prospect.

Here is our best present summary of the help we need from SBA:

1. A forthright commitment, undertaking or administrative determination that the consequences of the Maris investment will not prejudice and Licensee's standing (particularly its borrowing power and the adequacy of its capital) now or in the future.

2. Immediate designation of one responsible SBA officer to coordinate assistance for us in dealing with the Maris situation during the next 30 days. We require someone to become fully informed about this matter to whom we can refer outside inquiry about it from financial institutions, etc. We also need to be sure that there is the most rapid and sustained follow-through in several parts of SBA in Washington and in San Francisco, without the need for repeated clearances and reviews by several sets of attorneys and supervisors.

3. From the Investment Division: immediate approval of the additional overline investment we have had to make since March 15 (approximately $600,000) and approval of a further overline investment, not to exceed $500,000.

4. From SBA's Financial Assistance Division (and probably the Size Standards Board): action to facilitate the most rapid possible SBA guarantee of at least $350,000 in bank credit for the Paul Maris Company. We believe that banks and factors are available to extend this credit long-term with SBA's guarantee. As we understand it, the following regulatory exceptions may be required, for which we herewith apply:

a) *Small business size standard:* Paul Maris Company meets the SBIC size standards; its 300 present employees may, however, exceed its industry employment standard as used by SBA for its financial assistance programs. I am by no means sure that the 300-employee figure is properly

used: much of the factory labor force included is seasonal. But we do not wish to argue about this, or the proper date to be used in making this determination. This may be very material because of a substantial change between the date of the last certified audit of the Maris Company (August 31, 1972, November 30, 1972, February 28, 1973, May 31, 1973 are all possible). We ask you to find that *in this case*, the number of employees it had when we made our investment (well under 150) two years ago may be used for size standard determination. The company makes and sells a tiny fraction of 1% of its industry's output.

(b) *Amount to be guaranteed:* we believe that this case is meritorious enough and unique enough to warrant extending substantially more than the $350,000 normally used by SBA as a limit, if a legal basis can be found to do so. On another regulatory aspect, we understand that SBA has, in the past, where an SBIC has had to take control of a small business, nevertheless treated the portfolio as a small business since the SBIC was clearly going to divest—as is Creative Capital here.

(c) *Amount to be guaranteed:* A further regulatory complication may be that SBA has an outstanding guarantee ($200,000) for another small business in which Mr. Banks, the new President of Paul Maris Company, has an ownership interest. Although it is anticipated that he will be a stockholder in Paul Maris Company, he presently is not one. To the extent that this affiliation might otherwise be a bar or a limitation on the amount to be guaranteed for Paul Maris Company, we ask SBA to waive it in the instant case because of its special circumstances.

5. We should like to confer with SBA's procurement personnel about the possibility of sales by the Company through a Dallas Federal procurement office which we understand buys for military post exchanges.

It may well be that regulatory problems must be surmounted here, too; we should like to find an appropriate basis for what is presently known as the Paul Maris Company to be given treatment both as a small business and a minority enterprise, if that is feasible. Our divestment plan offers the prospect that it will ultimately be both; the fact that it cannot qualify technically today is an unavoidable consequence of the fact that we must retain ownership and control until the Paul Maris Company is on its feet and we have recouped the bulk of our investment.

It may well be that still other steps will be required, but these are the most immediate and most urgent ones of which we know. I cannot emphasize too strongly the criticality of rapid and favorable action with respect to them. In view of other Federal policies and programs, it is not irrelevant to mention that 300 jobs in San Francisco, at least 70% of them held by members of economically disadvantaged minorities, are at stake. And it is not irrelevant to mention that Paul Maris Company's new President is (and was at Bobbie Brooks) probably the highest-ranking black executive in the apparel industry (not, of course, the reason he was chosen).

We stand ready as always to submit additional information, to meet Agency personnel at your request, and to facilitate SBA's determination in every way we can.

Very truly yours,

MILTON D. STEWART,
President.

Mr. NELSON. The Deputy Administrator apparently felt uncomfortable with Mr. Stewart's criticism of another arm of the executive branch and SBA's apparent willingness to stand by and allow one of its licensees to be taken in by actions of the Justice Department, and responded by making an unkind remark about Mr. Stewart. The internal opinion of the Deputy Administrator was never conveyed to Mr. Stewart and SBA did in fact later act to assist the SBIC.

If such an event were to occur today and it was brought to the attention of the Small Business Committee, the Deputy Administrator and the Justice Department would be called before the committee. They would be asked to explain fully why it is that one part of the executive branch passively stands by while a federally regulated concern innocently funds a former organized crime figure.

Senator WEICKER has also been critical of a note that Mr. Stewart forwarded to the deputy associate administrator for investment, Mr. James Phelan. It is represented that it was improper to call upon Mr. Phelan to ask if it would be appropriate to submit a letter to SBA asking whether the SBIC would be able to obtain additional leverage and whether the regulatory problems with the SEC would cloud the SBIC's relationship with SBA.

It escapes me how this request could be construed as being improper. Mr. Stewart was asking for no special favors for either himself or the SBIC. What Mr. Stewart was attempting to do was to make certain that Creative would remain a licensee in good standing of SBA.

By the way, the letter was submitted and SBA responded by saying the licensee had no cause for concern.

Mr. President, I ask unanimous consent that that letter be included at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

CREATIVE CAPITAL CORPORATION,
New York, N.Y., March 4, 1972.

URGENT: REQUEST FOR CLARIFICATION OF LICENSEE STATUS:

Licensee No. 02/07–0023

May a licensee, also a registrant under the 1940 Investment Act, plan on uninterrupted borrowing from SBA, (or from others with a guarantee by SBA) despite the continuation of a private investigation by the SEC into possible violations by the Licensee's officers, directors or other affiliated persons of the SEC's regulations under the Investment Company Act of 1940, when:

1. The matters which are the subject of the inquiry occurred almost two years ago;

2. The SEC inquiry has been under way for more than a year with no basis on which to forecast when or how it will terminate; but with the knowledge that it may well involve three or four levels of internal administrative review at the SEC before a final determination;

3. The facts, to the extent that they are (or possibly can be) known to the Licensee have been disclosed to SBA;

4. SBA has, after nine months of its own inquiry (concededly on other regulations, but encompassing the same facts) not seen fit to call the Licensee's status into question;

5. With the approval of the SBA, change of control of the Licensee has taken place since the occurrence of the incidents which are the subject of the SEC's investigation;

6. With one exception, every individual director, officer or attorney who was a director and officer of the licensee at the time of the matters which are the subject of the SEC inquiry has resigned or formally indicated his intention to resign within the next sixty days;

7. The sole officer and director (the Licensee's Chief Executive and Chief Operating Officer, who was the Licensee's Chief Operating Officer at the time of the incidents being investigated by SEC) who was an officer and director at the time of the incidents being investigated:

(a) has cooperated with both agencies in every and any conceivable way to facilitate and speed their investigations;

(b) has for four years bent every effort to avoid the withdrawal of private capital from the SBIC program, first in SBIC-NY and then in the present licensee;

(c) has for almost two years following the widely felt collapse of the Parsons group labored to protect the Licensee from as many unfavorable consequences as possible and has almost completed a restructuring of management—all while the instant investigations were proceeding;

(d) has continued to administer a portfolio acquired by three separate prior managements, and to reshape it with new investments;

(e) is perfectly prepared to (and herewith does) assure SBA of his readiness to resign as an officer and director at its request at any time the SEC's future actions make that desirable or necessary (reserving the right to complete the discharge of his responsibilities as a consultant tothe Licensee).

8. The incidents involved in the SEC investigation *all* turn on (a) possible failures to request prior SEC approvals or orders, and there is every presumptive reason to believe that they would have been granted; or (b) "gray area" questions of disclosure on which honest differences of opinion are possible; (c) questions of legal interpretation and business judgment on which differences of opinion among competent counsel are possible; (d) technical compliance failures with no questionable grounds for the failures.

9. The Licensee's long-term ownership reorganization to bring it into full compliance with the SBA regulations cannot be completed without the affirmative clarification sought. The indirect interest of the Chase Manhattan Bank, unintended by anyone, cannot be fully or adequately eliminated without the affirmative clarification sought. It's not feasible to reduce or eliminate the ownership interest of the Bank of the Commonwealth without it.

10. The Licensee's ability to discharge its responsibility to its stockholders, to small businesses in which it presently has investments, and to small businesses presently applying to it for financing will all be gravely jeopardized by the existence of any doubt as to its ability to make full use of SBA-guaranteed borrowing power.

The Licensee's urgent need for this determination arises from its investment position. It has approximately $1.7 million in its own capital uninvested, another $400,000 of SBA funds and a bank line of short-term credit of $500,000. It has several new investments in the final stages of negotiation which will, if made require cash outlays of between $1.1 million and $1.5 million, and firm commitments of at least $500,000 in future funding, probably within a year. It will need to invest, near term, an estimated $600,000 to support existing investments. We cannot prudently close these investments—nor take a variety of other business steps we will be glad to detail—without the determination here requested.

The foregoing circumstances, we submit, warrant SBA's determining administratively that this Licensee is eligible to make full and unqualified use of its borrowing power, despite the incompleteness of the SEC's investigation. We have appended a brief statement of the matters being studied by the SEC; if there are others, we do not know of them. Should we learn of any, we will immediately notify SBA.

We submit that the determination we seek may, in the light of the facts, be properly qualified in only two ways. SBA may, if and when made necessary by the balance of the SEC's inquiry, seek the resignation or removal of the one officer and director still with the Licensee who was with the Licensee at the time of the happening of the matters under investigation. Or it may, on the disclosure of facts not now known, reconsider the determination here requested.

As a responsible (we believe) management, we are not warranted in exposing the Licensee to the risk of illiquidity and dormancy. As a responsible (we believe) management, until we have the determination we seek, we are not warranted in recruiting badly needed personnel, arranging further private credit or, quite possibly, continuing to keep our stockholders' assets at risk in the SBIC program.

We can see no possibility that any findings made or sanctions invoked by the SEC would make the determination we seek even retrospectively questionable. No matters at issue affect the Licensee as it is presently constituted, nor the Bank of the Commonwealth as it is presently constituted. Only one individual remains (of a present full-time management of four plus an Executive Committee of five plus six additional nominees for the Board of Directors—all shortly to be submitted to stockholders) who is in any way involved in the matters being investigated.

It is also worthy of note that this Licensee's stockholders have at risk in the Company more than twice the private capital required to entitle the Licensee to make full use of the maximum SBA-guaranteed borrowing power. The inability of the SEC to make a timely determination of the matters which it is investigating is hardly an adequate justification for the SBA's withholding from stockholders the benefits of the guaranteed borrowing power to which their Licensee should be entitled. We are fully aware of the fact that the SEC's staff is overworked. We are, in no sense, directly or indirectly, requesting SBA's help in bringing the SEC's investigation to a conclusion. Such a request would be improper. We seek no special treatment. What we are asking is that the SBA use its discretion reasonably in permitting this Licensee to get on with its proper task. The determination we seek will constitute no significant administrative precedent for SBA, nor any real departure from its own prior practice. This Licensee's ownership, control and management have changed fundamentally enough to warrant treating it—for the purpose of the determination here sought—as a different Licensee from the one whose conduct continues to be subject to the SEC's investigation. If the changes already reflected in the SBA's records do not document that statement to your satisfaction, we will be happy to submit a further listing of changes not yet made, but imminent.

In the event that this recital (prepared, I should note, without advice or participation of Counsel or any other officer or director), does not state a sufficient basis for the determination sought, we request an immediate conference to discuss with you the consequences for the Licensee as I see them.

We request your immediate advice as to the determination we have requested.

MILTON D. STEWART,
Chairman and President.

Mr. NELSON. Mr. President, that concludes my brief remarks concerning the conclusions reached in the minority views in Executive Report 95–21. After reviewing the hearing record and putting in context Mr. Stewart's actions at the time they occurred, I believe one can only conclude that Mr. Stewart undertook a herculean task in trying to protect his shareholders interest.

It is my judgment, based upon an extension hearing record, that Mr. Stewart is an exceptionally well qualified appointee in every respect.

● Mr. NUNN. Mr. President, I support the nomination of Milton Stewart to be the Chief Counsel for Advocacy in the Small Business Administration.

The role of the Advocacy Office in SBA is potentially the most important in the agency. Small business people often feel frustrated when trying to make their positions understood in the Federal Government. The Chief Counsel for Advocacy will take the lead in helping to assure that the small business position on Government regulation, taxes, procurement, capital formation, paperwork, and the like is brought to bear on Federal policymakers and legislators.

I sincerely believe that there is no one more singularly qualified to assume this responsibility than Milton Stewart.

In addition to representing the views of the general small business community, the Chief Counsel for Advocacy must also be attuned to the special problems of minority small business people and must represent them in the Federal Government. In this area as well, Mr. Stewart is uniquely qualified.

At the hearings on Milton Stewart's nomination, Theodore Adams, Jr., a founder and past head of the National Association of Black Manufacturers, said:

Milt Stewart has spent a lifetime involved in the fight for civil rights, beginning long before it was a popular or fashionable cause. And he has systematically and bluntly stood for the proposition that the small business community's minority and majority elements must never be divided.

Patricia Jacobs, vice president and chief administrative officer of the American Association of MESBIC's, testified that—

Many AAMESBIC members and associate members have been acquainted with Mr. Stewart for several years. His small business advocacy and his work are known and respected in the minority business community, and, without exception, members have found him to be a man of diligence, competence, and capability.

Susan Hager of the National Association of Women Business Owners said at the hearings on Mr. Stewart's nomination that—

Milt was one of our few male supporters when we first started the National Association of Women Business Owners. He was at many meetings where he has spoken up and encouraged SBA and other small business organizations to listen to women and to include us before it was really acceptable to do that sort of thing.

What is clear from these comments is that Milton Stewart has not only actively promoted the views and rights of minorities and minority small business people, but he has also been invariably at the forefront of all movements to do so.

Mr. President, I, therefore, ask that the rest of the Senate join me in support of Milton Stewart to be Chief Counsel for Advocacy in the Small Business Administration.●

Mr. ABOUREZK. Mr. President, when Congress enacted the Small Business Act of 1958, we took upon ourselves the power and the duty to insure a climate in which small business can grow, prosper, and remain competitive with big business in this country. Section 2 of the Small Business Act thus states:

It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small business concerns in order to preserve free competitive enterprise.

Today the small business community is holding its own in numbers. It represents 10.5 million firms employing 56 percent of America's working people. The other well known and widely documented figures show small business as providing 43 percent of the total GNP, and 48 percent of total business product. While these numbers point out the significance of small business to the economic health of the country, it is a sobering fact that many major forces governing our economic system present an outlook for most small businesses that is by no means bright.

Congress increasingly recognizes that the small business owner frequently loses out when the Government acts and that it has too frequently been actions by the Government that have in part caused the small business community to become the struggling entity it is today. To remedy this, S. 2498 was passed in 1976 to establish within the Small Business Administration an Office of Advocacy—an in-house representative to speak before the other agencies and departments of Government on behalf of the small business community that is at times so adversely affected by Government actions. Small Business needs an effective voice to speak up when the interests of the small business sector are threatened. Public Law 94–305 provides us with this voice.

President Carter has made the first nomination to fulfill the post of Chief Counsel of Advocacy within the Small Business Administration. His nomination was Milt Stewart, a nomination I am pleased to support on the floor today.

Congressional intent in establishing the Office of Advocacy is clear—to provide small business with an activist voice within the legislative and regulatory arena where small business most needs to be represented effectively. The Chief Counsel of Advocacy shall be charged with examining the role of small business in the American economy; he or she shall assess the true effectiveness of existing Federal assistance programs for

small business; the Advocate determines the impact of such crucial policies as taxes and Government regulation on small business; and most importantly, in my view, the Chief Counsel of Advocacy will recommend specific measures for creating an environment in which all businesses will have the opportunity to compete effectively and expand to their full potential.

Milt Stewart has the talent, experience, and commitment to small business that makes him an excellent choice for this crucial position. His impressive background in the small business community—too lengthy to dwell on here—gives him the unique expertise to be able to speak for small business, to influence the development of programs beneficial to the small business community, and to speak out against those policies which would be detrimental to small business. What is more, Milt Stewart has the courage to shake up those in Government who deserve to be awakened to the needs and problems of all small business.

Small business needs a fighter like Milt Stewart, and I am happy to support his nomination to the Office of Advocacy of the Small Business Administration. Mr. President, in this regard, I urge all my colleagues to do the same.●

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield for a unanimous consent request only?

Mr. NELSON. Yes.

Mr. ROBERT C. BYRD. I ask unanimous consent that the following subcommittees and committees may meet today, and these requests have been cleared with the other side of the aisle: the Environmental Pollution Subcommittee of the Committee on Environment and Public Works; the Committee on the Judiciary, to meet until 1 p.m. today to hold a markup session on S. 1393, legislation dealing with the constitutional rights of the institutionalized, and S. 1185, a bill to regulate interstate commerce with reference to parimutuel wagering on horse racing; and the Subcommittee on Health and Scientific Research of the Committee on Human Resources.

The PRESIDING OFFICER (Mr. HATHAWAY). As in legislative session, without objection, it is so ordered.

SMALL BUSINESS ADMINISTRATION

The Senate continued with the consideration of the nomination of Milton D. Stewart to be Chief Counsel for Advocacy.

Mr. NELSON. Mr. President, I yield the floor.

Mr. MOYNIHAN. Mr. President, I thank the Chair, and I thank my friend, the distinguished chairman of the Small Business Committee, for giving me this opportunity to speak to a matter which is of very considerable import to me.

Mr. President, I congratulate the President for nominating my old and dear friend and fellow New Yorker, Milton Stewart, for the position of Chief Counsel for Advocacy of the Small Business Administration. No better choice could have been made. I wholeheartedly and enthusiastically commend him to my colleagues for confirmation. It is with a thorough knowledge of Milton's truly remarkable abilities that I speak, for we served together for 4 years in Albany during Governor Harriman's administration.

The Select Committee on Small Business, and particularly its distinguished chairman, (Mr. NELSON), deserve high praise for the diligence and fairness with which they considered Mr. Stewart. As Senator NELSON writes, not only Mr. Stewart's background but also his personal integrity withstood the closest scrutiny. This comes as no surprise.

It is particularly appropriate that this position within the Small Business Administration be graced with a New Yorker, for no State has a larger number of small businesses than we do, fully over a million. But what makes this happy union even more promising is the widespread national support for Mr. Stewart. The National Federation of Independent Business says he has enthusiasm, stamina, and drive. The National Small Business Association praises his insight and courage. "Unselfish dedication," says the National Association of Small Business Investment Companies, "makes him the ideal person for this job." The Council of Small and Independent Business Associations proclaims him "absolutely the right man." In the same way, messages of support have poured out from all parts of my State—from New York City, Buffalo, Syracuse, Ithaca, Rochester, and Albany.

In our friendship of a quarter century, few things have impressed me more about Milton Stewart than his intelligence and above all his utter tirelessness. Much of his seemingly endless energy has already been spent in the advocacy and development of small businesses. If it is true that they have never had an adequate voice in the Federal Government, never have the signs for such a voice been more auspicious than they are today.

We have here a man who sees the goal for small business not in a limited or parochial way, but as an aspect of public philosophy. He toils as a matter of principle, as a matter of interest. We have here a perfect match of man and task.

Mr. President, as I mentioned I have known the nominee before us, Mr. Milton D. Stewart, for a quarter century. I have been involved with him in party politics, in the nominating procedures of our own party, the Democratic Party of New York State. I have been involved with him in the government of the State of New York. I think it is not inappropriate to speak a moment to the question of his performance in government. This will be, in some ways, a personal testament.

The distinguished chairman spoke to the question of the integrity of Milton Stewart. He said he would not contest the possibility that Mr. Stewart had made a mistake in judgment at some point in a long career, and I would not wish to enter any very strong view of my own about whether his judgment had been perfect on every matter. But I would like to speak to the chairman's point about integrity, because it surely is one of the marks of the business world that although a certain portion of its activities are based upon contractual obligations that are enforceable in the courts and reviewable by the SEC and similar regulatory bodies, the largest and singularly important ingredient in business relationships is trust.

Trust derives from a sense of the integrity of those with whom one is doing business. I think it is the universal testimony of the small business community that Milton Stewart has been a man of perfect trust and complete integrity. No one has questioned that.

I would like to speak to the first years in which I knew him, first as an associate of Franklin D. Roosevelt, Jr., then a Representative from the State of New York, as a member of the Bureau of the Budget, and as an associate of President Truman's who was very much involved in the President's Committee on Civil Rights in 1947.

My first extensive experience with him was when he was Executive Assistant Counsel to Governor Averell Harriman of New York, beginning in 1954 and extending for a full 4 years after that.

I was then an assistant to the Secretary of the State of New York, as was my wife, and we were part of a small official family in Albany, caught up in the affairs of a large State and a singularly important Governor.

Those were circumstances in which we came to know one another well. I particularly think I came to know Milton Stewart because of his knowledge, among other things, as the man responsible for helping to select those persons appointed directly by the Governor to public offices, places of public trust. Subsequently, with James Q. Wilson, I published an article in the American Political Science Review, in effect, upon Mr. Stewart's stewardship of this position in the State of New York.

It was a remarkable thing in the normal life of politics, this clamor for place, this quest for position and privilege and favor. It was intense, it was fervid, it was partisan, it was particularistic, and it was all the more so in a party such as ours which had then been out of office during the long and distinguished administration of Thomas E. Dewey.

So the temptation to be lax, the temptation not to examine the qualifications of an individual carefully, the temptation to look to general distributionist policies as against honestly judging the capacity of the individual involved and his trustworthiness, was extraordinary. That Mr. Stewart resisted those temptations is the very mark of integrity. I have never seen that function carried out so rigorously or so well. Not rigidly, Mr. President. Not rigidly, but rigorously.

Milton D. Stewart was a man fully conversant with the capacity for error in his fellow man. He was fully sensitive to the needs for representativeness in the public service, both geographic and ethnic, both racial and religious.

He celebrated the democratic process and rejoiced in it, but, in the end, in-

sisted on integrity and competence in persons given a public trust. He set his own standard for others.

I say it was a superb standard, a standard which will bear scrutiny now in a form and perspective that is not all that easily available.

It is now 20 years since that administration ended and of most of the men appointed with him, some are still in office, others are just leaving. To my knowledge, Mr. President, not one of the persons who passed his scrutiny has ever betrayed his confidence or misplaced his trust.

This is a test of a man. How a man judges others when they are to discharge a public trust tests him. He did it well. I would say he did it superbly.

I would ask, does it not matter that a public trust has been so well performed early in a man's career?

I think, of course, it does. I am not suggesting to my friend and neighbor from Connecticut that he should not have raised the matters that concern him, but I have offered my response.

Mr. President, I will add just a few remarks about Mr. Stewart's subsequent years. Upon leaving the administration, he engaged himself in the activities of the Small Business Investment Corporation as an attorney, as a person whose singular interest was bringing people together and growing relationships in the world.

Of this we have an experience of some two decades. I would underscore again the capacity for trust, the quality of integrity, that shine through the testaments that we have received to his performance in these two decades.

Mr. President, I ask unanimous consent to have printed in the RECORD both the distinguished chairman's splendid letter recommending Mr. Stewart's confirmation and a series of letters which I have received from small business organizations in the State of New York.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

SELECT COMMITTEE ON SMALL BUSINESS,
Washington, D.C., July 12, 1978.

DEAR COLLEAGUE: It is expected that the Senate will consider the nomination of Milton D. Stewart for the position of Chief Counsel for Advocacy of the Small Business Administration.

The newly-created statutory position of Chief Counsel for Advocacy is of critical importance to the health and welfare of the small business community. The Senate should be particularly concerned that the most able candidate is nominated for the position and, once nominated, is a person who will command the highest public respect. The members of the Small Business Committee were mindful of these concerns and therefore undertook a careful review of Mr. Stewart's backgound and qualifications for the position of Chief Counsel for Advocacy in two full days of hearings.

During the course of the confirmation hearings, the Committee carefully examined an administrative Securities and Exchange Commission proceeding involving among others, the nominee. Expert witnesses thoroughly conversant and familiar with the SEC matter appeared before the Committee. The central issue involved in the SEC proceeding was whether Mr. Stewart, as President, fulfilled his fiduciary responsibilities to the shareholders of Creative Capital Corporation, a publicly-held small business investment company which was subject to the Investment Company Act of 1940. The fiduciary responsibility issue was not resolved because the SEC proceedings were terminated by a consent agreement. The Committee members therefore believed it incumbent upon them to undertake an exhaustive *de novo* review of the SEC investigation and proceedings. All interested and knowledgeable parties familiar with the SEC matter were queried.

As a result of the Committee's painstaking investigation and hearings, eight of the nine Senators serving on the Committee concluded that Mr. Stewart throughout his tenure as President had in mind only the best interest of his share-holders. His overall record was good. Nothing was disclosed in the hearings that challenged Mr. Stewart's honesty or personal integrity.

In short, the SEC matter in no way reflects upon Mr. Stewart's ability or capacity to serve in the position to which he has been nominated.

Mr. William J. Casey, Chairman of the SEC at the time the proceedings were initiated in 1971, affirmed the judgment of the eight committee members when he wrote the following:

I believe that President Carter has made an excellent appointment. I can think of no one more suited by background and interests for this important post.

My conviction that Mr. Stewart is admirably suited to the post for which President Carter has nominated him has led me to read the memorandum of the SEC staff recommending that the actions against Mr. Stewart be settled, as well as papers prepared by counsel who represented him in that proceeding. It is clear that Mr. Stewart was in no way responsible for the Parsons debacle at which the SEC action was aimed.

. . . In my judgment, these violations were not at all clear, were technical in nature, in no way reflected on Mr. Stewart's integrity and should not now deprive the public of his experience and ability.

Another former SEC commissioner who served during the Eisenhower Administration, Mr. James Sargent, also concurred when he said:

The Commission's decision was predicated, in my view, upon the total lack of judgment of, first the staff, and then of the Commission itself. I would urge this Committee to ignore that decision totally in appraising Mr. Stewart's high qualifications by reason of his background, his long and active experience with, and his total dedication to, Small Business. He is thoroughly conversant with the enormous problems which small business must face today and is thoroughly equipped to seek positive solutions thereto.

In the committee's view, the primary responsibility of the Chief Counsel for Advocacy is first and foremost to function as an ombudsman for small business. If the constituency finds the nominee lacking, then he surely would find it difficult, if not impossible to carry out his statutory advocacy mission. The Committee thus solicited the views of all identifiable small business spokespersons to see if Mr. Stewart filled these qualifications.

Over 125 individuals responded to the Committee's inquiry. These people spoke on behalf of themselves and their respective small business organizations. All were familiar with Mr. Stewart and had dealt with him in the past on small business issues. *Not a single small business person* voiced the slightest reservation with regard to Mr. Stewart's qualifications for the position or his personal integrity. The common response was that the position of Chief Counsel for Advocacy was tailor-made for Mr. Stewart and that no one is more eminently qualified to serve in such a capacity.

All living former SBA Administrators, both Democrat and Republican, advised the Committee that they were well acquainted with the nominee and that they too vigorously endorsed Mr. Stewart. The Committee is unaware of any other Presidential small business nominee ever receiving such a strong bi-partisan support and endorsement. For that matter since the creation of SBA in 1953 the Committee has never witnessed such an outpouring of support for a nominee who would serve in the small business arena.

I urge you to review the Biographical Sketch beginning on page 2 and those sections appearing on pages 7, 8, and 9 of the enclosed Executive Report 95–21. I am confident that after doing so you will conclude that Mr. Stewart's record of public and private service on behalf of small business over the last several decades makes him outstandingly qualified to serve as a spokesmen for the country's small business men and women.

Sincerely,

GAYLORD NELSON,
Chairman.

M & T CAPITAL CORPORATION,
Buffalo, N.Y., March 8, 1978.

HON. GAYLORD NELSON,
Chairman, Select Committee on Small Business, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: It is gratifying to note that the President has nominated Milton Stewart for the position of Chief Counsel for Advocacy at the SBA.

I cannot think of anyone more qualified for this post. If you will check Mr. Stewart's background you will find that he has spent the major portion of his career working directly with small companies and with associates concerned with the welfare of small companies. He will bring to the job a wealth of related experience possessed by few people.

I became acquainted with Mr. Stewart through his work with the SBIC industry. He has always impressed me with his depth of knowledge of the problems of small business and I consider him to be one of the most informed spokesmen for the small businessman.

I believe that by confirming Milt Stewart you and your Committee would be contributing to the cause of small business. I hope he will be confirmed quickly.

Yours very truly,

HAROLD M. SMALL,
President.

SMALL BUSINESS COUNCIL,
Syracuse, N.Y., March 29, 1978.

HON. DANIEL P. MOYNIHAN,
Member of the Senate,
Washington, D.C.

DEAR SENATOR MOYNIHAN: On August 23, 1974 Public Law 93–386 was approved, which among other things, established an Office of Chief Counsel for Advocacy within the Small Business Administration.

Congress has continued to reemphasize its will and mandate that the Small Business Administration should conduct a specific activist and aggressive advocacy program on behalf of small business.

The Senate Small Business Committee confirmation hearing is scheduled for April 14, 1978. The members of COSIBA (Council of Small and Independent Business Associations) heartily endorse the nomination of F. Milton Stewart for the position of Chief Counsel for Advocacy.

We strongly urge you on behalf of small business, to support Mr. Stewart's confirmation for this position.

Sincerely,

PHILIP D. ANDERSON,
Chairman, Legislative Committee,
Small Business Council.

MAILGRAM SERVICE CENTER,
Middletown, Va.

Sen. DANIEL P. MOYNIHAN,
Senate Office Building,
Washington, D.C.

The Long Island Association (LIA) strongly and enthusiastically endorses the nomination of Milton D. Stewart to be the chief counsel for advocacy of the Small Business Administration.

Mr. Stewart would bring to these responsibilities a background and experience which would uniquely qualify him to present the viewpoint of the small business community in issues which will come before you for consideration, his involvement, interest and experience in small business matters include serving in positions of responsibility with a number of small business organizations such as the National Small Business Association as president, with government as an official of the Small Defense Plans Administration and as staff economist for the Senate Small Business Committee, as a small business executive heading his own enterprise as well as a small business investment company, as a lawyer both in the Federal and State governments and in private practice, and in the investment field with one of the leading investment firms.

In short, his varied and diverse experience makes Mr. Stewart one of the most articulate advocates on the role of small business in the Nation today.

We urge your vote for his appointment when his nomination comes before you for confirmation.

Submitted on behalf of the Long Island Association.

ROBERT V. COX,
Executive Vice President.

SMALL BUSINESS COUNCIL OF SYRACUSE,
Syracuse, N.Y., March 29, 1978.

Hon. DANIEL P. MOYNIHAN,
Member of the Senate,
Washington, D.C.

DEAR SENATOR MOYNIHAN: The members of the New York State Association of Small Business Councils strongly endorse the nomination of F. Milton Stewart for the position of Chief Counsel for Advocacy for the Small Business Administration.

The Senate Small Business Committee confirmation hearing is scheduled for April 14, 1978 and on behalf of small business we urge you to support Mr. Stewart's confirmation.

Sincerely,

Small Business Council, Greater Syracuse Chamber of Commerce; Small Business Council, Long Island Association of Commerce and Industry; Small Business Council, Buffalo Area Chamber of Commerce; Small Business Council, Rochester Chamber of Commerce; Small Business Council, Tompkins County Chamber of Commerce; and Small Business Council, Orange County Chamber of Commerce.

DAVID B. WEATHERUP,
Chairman.

MAILGRAM SERVICE CENTER,
Middletown, Va.

Senator DANIEL PATRICK MOYNIHAN,
Washington, D.C.

Long Island Association of Commerce and Industry strongly urges you to support the confirmation of Milton D. Stewart for the position of Chief Council for Advocacy at the Small Business Administration.

As a New Yorker Mr. Stewart has been known to us for many years as an active dedicated and forceful advocate for the interest of small business. He is a person of competence and integrity. His appointment will be a milestone in the Government's efforts to assist the Nation's millions of small businesses.

PATRICK J. IANNOTTA,
Chairman, Small Business Council.

Mr. MOYNIHAN. I thank the Chair.

I would like to simply read a passage or two from several of the letters.

The Small Business Council of the Greater Syracuse Chamber of Commerce writes to heartily endorse the nomination of Milton Stewart for the position and urges us on behalf of small business to support Mr. Stewart's confirmation.

I would remind the Chair and the Senate that the State of New York has the largest number of small businesses of any State in the Union. It has been a characteristic of our economy in our great cities, in particular, that enterprises begin in a small way and grow up to a vital corporate life.

We are not a State with one, two, or three major industries. What we find in our economy is over 1 million small businesses. That is an astounding number.

The executive vice president of the Long Island Association cables to strongly and enthusiastically endorse the nomination of Milton Stewart. Mr. Robert V. Cox writes:

Mr. Stewart would bring to these responsibilities a background and experience which would uniquely qualify him to present the viewpoint of the small business community in issues which will come before you for consideration. His involvement, interest and experience in small business matters include serving in positions of responsibility with a number of small business organizations such as the National Small Business Association as president, with Government as an official of the Small Defense Plans Administration and as staff economist for the Senate Small Business Committee.

The New York State Association of Small Business Councils writes to express its strong support of this nomination. This association includes Rochester, Syracuse, Buffalo, Long Island, Orange County, Tompkins County, and others.

Mr. Patrick J. Iannotta, chairman of the Small Business Council of the Long Island Association of Commerce and Industry, writes a particularly strong and personal endorsement.

Mr. Harold M. Small, president of the M & T Capital Corp. in Buffalo, writes that no one is more qualified for this post than Mr. Stewart.

Mr. President, I do not wish to prevent others from speaking who wish to do so. I see the distinguished Senator from New Hampshire has risen.

Mr. McINTYRE. Mr. President, I am pleased to speak in support of the nomination of Milton Stewart as chief counsel for advocacy of the Small Business Administration. My support is based, first, on my knowledge of the leadership and exhaustive work by Milton Stewart on behalf of small business; and second on my own awareness, based on committee work and hearings, of the need for a purposefully functioning office of chief counsel for advocacy in the Small Business Administration.

Over the last several years, I have had numerous opportunities to work with this man in areas of common interest, including research companies, development and high technology companies, and energy-related matters with small businesses. Throughout that time, Milt Stewart has impressed me with his knowledge and ability as well as his enthusiasm and capacity to inspire others.

Mr. President, Milton Stewart will bring a wealth of talent to a position in Government which I firmly believe will become the most important nonelected position in Washington affecting small business. Since leaving State government over 20 years ago, he has chosen to devote himself almost wholly to the development of small business, not simply as a business adventure in which he, himself, has been involved, but as an aspect of public philosophy to which he has committed a very large portion of his working life. He has done this as a matter of principle as well as a matter of interest. His constant objective has always been to achieve major breakthroughs for small businesses and a strong small business sector.

In pursuing these goals, Milton Stewart has established for himself an impressive background. He has been involved with small business investment companies, with small business organizations, and has served as director and/or counsel to a number of small companies and venture capital groups.

Milton Stewart's background is also widely varied. He is a lawyer, formerly a practicing partner in a New York law firm. With respect to more technical aspects of his qualifications, he has an outstanding background in research, and his research on small business development is highly regarded in the trade. In Government, he has held staff positions in both the House and the Senate and has also worked in the executive branch. His experience in business and Government combined with his legal background give him a comprehensive overview of the problems of small business. And he is respected for having the good sense to go after those things that are doable as opposed to those which may be admirable but unattainable.

Because of his experience in Washington, he knew the problems of small business were almost totally alien to the bureaucrat and most Members of Congress. Over a decade ago he fostered an interest in marshaling and strengthening the then rather anemic legislative forces in the small business sector. During his personal crusade of unification, he rose to the top office of two of the country's leading small business associations—the National Association of Small Business Investment Companies and the National Small Business Association, a feat that has yet to be duplicated.

My support for Milton Stewart also arises from my work on the Small Business Committee. Through the Subcommittee on Government Regulation and Small Business Advocacy, I have held several days of hearings dealing with the area of advocacy. In addition to the general topic of small business, the hearings

worked as an oversight on the office of chief counsel for advocacy and also reviewed the reorganization of advocacy. The hearings clearly showed that advocacy needed someone who could relate to small business, someone who understood the needs and problems of small business, but most importantly they showed the need for someone with a strong arm who would stand up and tell the Government when they were wrong.

Mr. President, small business has never had an adequate voice in the Federal Government. When major legislative proposals are made by the President or in Congress, very often little or nothing is ever known about the proposed measure's impact on small business. The small business sector, therefore, is hurt unintentionally, in a sense. But it is hurt, nevertheless. National policies which are good for all business are certainly necessary, but they are clearly not sufficient for the health of small business. It must also have policies and administrative vehicles to meet its special needs.

In the 94th Congress, the job of Chief Counsel for Advocacy was created in the Small Business Administration to provide the now missing voice of small business in the Federal decision process. The Office of Advocacy is supposed to develop the small business position on important legislative matters before Congress. It is also supposed to represent the interests of small business within the executive branch; to comment on regulatory changes and Presidential legislative and policy proposals. The office is also supposed to act as liaison between the small business sector and the Federal Government and, in this role, to help small business people make better sense of the complexities of Federal programs and bureaucracy. In addition, the office is to develop proposals for changes in the policies and activities of any agency of the Federal Government which will better fulfill the purposes of the Small Business Act and communicate such proposals to the appropriate Federal agencies.

I am convinced also that an effective and meaningful advocacy program is not only dependent upon the ability and dedication of the person who heads it, but upon the development of a reliable small business data base within the Small Business Administration. This position is wholeheartedly supported by the small business community with the foremost advocate for a data base for small business being Milton Stewart. I mention this to again emphasize this man's leadership and awareness on key issues involving small business since now both Congress and the Small Business Administration have established as a primary objective the creation of a data base for small business.

Mr. President, most small businessmen today are fed up with big government. They have had their fill of rules, regulations, and paperwork and they feel that interference and meddling in the day-to-day operation of their businesses is a serious problem that must be curtailed before it is too late. Many small businessmen feel that they have been backed up against a wall and they are desperately seeking help wherever they can find it. Many of them look to the Small Business Administration for aggressive leadership in solving their problems. These same people believe that advocacy will be the watchword of the future and that the Small Business Administration has no program that will be more important to the small business community. These same people are the very same ones who have emphatically supported Milton Stewart to head this office.

In closing, Mr. President, I believe there is a unique harmony between this man's character and personality and the requisites for a purposefully functioning Chief Counsel of Advocacy. For, in any bureaucratic system, whether governmental or private, the best of all worlds is achieved when one is able to meld a structure correctly designed to achieve the objectives of the system with personalities that have the capacity, drive, and interest to make the structure work. I believe Milton Stewart is the man to make the small business advocacy program work. I urge my colleagues to support this nomination.

Mr. MELCHER. Mr. President, the foundation of our free enterprise system has been and continues to be the resourcefulness, ingenuity, and independence of the small business community. Given the proper incentives and economic environment, small business grows and prospers, providing jobs, innovations, and the flexibility to adapt to changes dictated by the free marketplace, and in all of these, provides a benefit to the community and the Nation as well.

As inspiring as these thoughts may be, the small business community is finding itself being squeezed more and more by those forces beyond its control—taxes, paperwork, overregulation, scarce capital, and general Government indifference to the small business person's plight. The small business community's ability to compete is being eroded daily by these forces, and small businesses are becoming nothing more than economic tombstones—mere markers of what was once a more competitive and responsive economic system.

Congress has contributed to the decline of the small businesses in this country—unwittingly, perhaps, through our own additions to already burdensome regulations, inequitable tax policies, and increases in paperwork.

But we have also sought to remedy our past mistakes through enactment of programs which have had the support and cooperation of the small business community as a whole. Public Law 94-305, June 4, 1976, established within the Small Business Administration an Office for Advocacy to assist and represent small business as an advocate before the agencies of the Federal Government. This action is indeed indicative of the awareness within the Congress and the Administration of the real purpose of the Small Business Administration—to serve the total needs, interests, concerns and advancement of small business and the well-being of the people they employ as a vital force in our economy.

President Carter, acting under the mandate of Public Law 94-305, appointed Mr. Milton Stewart to fulfill the role of chief counsel for advocacy of the Small Business Administration. I am happy to support this nomination to this crucial SBA post. Milt Stewart has a wealth and breadth of experience in the small business community that is unsurpassed by any in Washington. He has truly been a fighter in the trenches. He spent 5 years as the chief executive officer of a venture capital company, 10 years working in the financial community and has intimate knowledge of how the Federal, State, and local governments really work. In all of these capacities, he has been concerned with the formulation, development, and implementation of economic policy as structured by the Government. He has monitored its impact on our society, especially as it affects small business. In addition, Milt Stewart has served as the president of two national small business groups, the National Small Business Association, and the National Association of Small Business Investment Companies.

Mr. President, the person who is fully able to fulfill the role of chief counsel for advocacy is Milt Stewart. His expertise will truly be reflected in the office that will press for the best interests of small business before all branches of the Government. Small business needs a man like Milt Stewart to speak for its continuing prosperity and survival. I am happy to join the 125 business organizations who support Milt Stewart in his nomination to be chief counsel for advocacy of the Small Business Administration.

Mr. LEAHY. Mr. President, I ask unanimous consent that throughout the day, during all votes and deliberations, Susan Branigan, of my staff, have the privilege of the floor; also, that from 12:30 to 1:30, Harry Jaffe, of my staff, have the same privilege.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President. I ask unanimous consent that the request calling for a vote on this matter at 12:30 be vitiated and that I be given 10 minutes to speak on the matter of Mr. Stewart's nomination, and that the vote occur thereafter.

Mr. NELSON. Mr. President. we have discussed this, and, so far as I am concerned. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I ask unanimous consent that Michael Shorr. of the staff of Senator JAVITS, have the privilege of the floor during the debate and vote on the Stewart nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, I should like to address myself to the issue of trust that has been raised by the distinguished Senator from New York and, more than once during the course of the debate, by the distinguished Senator from Wisconsin. I should like to address

myself to the issue of Stewart's integrity and to the issue of Stewart's judgment.

It is not my intention either to make charges in this Chamber or to speculate or to editorialize but solely to cite the record—the record as it applies to the issue of trust, to the issue of integrity, and to the issue of judgment.

First let me cite the consent order—those findings that Milton Stewart himself consented to, and let me read them verbatim. Here is the nominee about to receive judgment from the Senate. Here are the findings that he consented to. He consented to findings of misconduct in that, and I quote:

By reason of their acts and practices, in respect of the lease by Creative of office space at the Plaza described in paragraph A of this section, respondents Comac, Parsons, Holmes, Kilborne, Daugherty, and Stewart, individually and acting in concert, willfully engaged in, and willfully aided and abetted, acts and practices constituting gross misconduct or gross abuse of trust or breach of fiduciary duty involving personal misconduct in respect of Creative within the meaning of Section 36 and 36(a) of the 1940 Act.

During the period from approximately October 1969 to May 1972, respondents Comac, Parsons, Holmes, Kilborne, Daughtery and Stewart willfully caused, procured, induced, aided and abetted violations by Creative of Sections 20(a) and 34(b) of the 1940 Act and Rule 20a–1 thereunder, in that in connection with the lease by Creative of office space at the Plaza described in paragraph A of Section II herein, proxy solicitiation materials and reports were filed with this Commission by Creative and mailed to its shareholders which contained statements which, at the time and in the light of the circumstances under which they were made, were untrue or false or misleading with respect to material facts, and omitted to state material facts necessary in order to prevent the statements made, in the light of the circumstances under which they were made, from being materially false or misleading.

During the period from approximately September 1970 to May 1972, respondents Kilborne, Daughtery and Stewart willfully caused, procured, induced, aided and abetted violations by Creative of Sections 20(a) and 34(b) of the 1940 Act and Rule 20a-1 thereunder, in that in connection with the loan by Creative to AMHT described in paragraph A of Section II herein, proxy solicitation materials and reports were filed with this Commission by Creative and mailed to its shareholders which contained statements which, at the time and in the light of the circumstances under which they were made, were untrue or false or misleading with respect to material facts, and omitted to state material facts necessary in order to prevent the statements made, in the light of the circumstances under which they were made, from being materially false or misleading.

This is exhibit 1 in the historical record on the issues of Mr. Stewart's trust and integrity.

A second exhibit is the letter from James T. Phelan, SBA Deputy Associate Administrator for Investment, which concluded that:

In view of the violations of the SBA Regulations and the bad judgment used by Creative's management in conducting its affairs, the management of Creative Capital Corporation is hereby admonished for its actions in these matters.

In response to a request by Stewart for SBA assistance to Creative, the then Acting SBA Administrator wrote the Associate Administrator for Finance and Investment:

My inclination still holds—this guy (Stewart) ought to be out . . . Too much lousy judgment and innuendo for me to buy Creative as a well run SBIC.

Again, on the issue of the SEC and Mr. Stewart, I will quote from the New York Regional Office SEC Division of Enforcement and its memorandum concerning an offer of settlement by Mr. Stewart, which was rejected in connection with the administrative proceedings brought against him by the SEC:

We have never suggested that Stewart was seeking any direct monetary gain by his actions. But it is very likely that he was motivated by a desire to insure his positions in Creative, which were controlled by the principal wrongdoers in the Parsons group.

Quoting from the hearings, and I remind Senators this is in my questioning of the present SBA Administrator Vernon Weaver:

Senator WEICKER. Again, I will remind you that Mr. Stewart was responsible for the management of Creative. Thus, you are telling me that the SBA is now recommending for one of its top positions a man who was admonished for his bad judgment?

The response of Mr. Weaver:

Mr. WEAVER. Of course, it is the President's appointment, not mine, but it is my personal opinion he will do the job from what I know of him.

To go on in that same hearing:

Senator WEICKER. Finally, in connection with this SEC matter, I must submit for the record a covering note and a letter requesting clarification of Creative's status with the SBA in light of the SEC investigation.

The letter is one on Creative's letterhead and signed by Mr. Stewart which requests a determination of whether Creative could "plan on uninterrupted borrowing" from the SBA despite the continuation of an SEC investigation into the company.

The covering note is also on Creative Capital letterhead, signed by Mr. Stewart, addressed to James T. Phelan, SBA Deputy Associate Administrator for Investment. The note reads:

"DEAR JIM: I make only one claim on our friendship. I tore this off in a rage—please read it before receiving it officially or sending it to anyone else. Then call me to get my OK—After I hear what you say about its appropriateness."

I then turned to Mr. Weaver and asked Mr. Weaver:

Mr. Weaver, this letter, "making a claim" on a friendship, was sent to a high level SBA official, was written "in a rage," in connection with the serious matter of an investigation of a company and its president by the SEC.

Do you honestly feel that this is the type of person who should be serving in a position which Congress has deemed so important that it requires the Senate to approve the person holding that post?

Do you feel that this was a proper request whether in the sense of making a claim on friendship or requesting of an official of the SBA that he give a personal opinion quite aside from whatever the official opinion might be on the matter?

Mr. WEAVER. Let me see if I follow you. He wrote a letter addressed to this individual?

Senator WEICKER. Yes; and I will give you a copy of it.

Mr. WEAVER. I guess he asked him to hold the letter up until he talks to him on the telephone, is that not correct?

Senator WEICKER. Right. That is while the investigation was going on.

Mr. WEAVER. I do not think it is entirely proper, no, sir.

There you have a response to the issue of trust put forth not by Senator WEICKER in the course of this debate on this nomination but in the course of the man's career, but by the SEC, by the Small Business Administration prior to this administration, by this administration itself insofar as the Administrator is concerned, if not the President. How anyone can stand on the floor of this body and make the claim that the issue of integrity is not up for judgment here, or that the issue of the man's judgment does not have to be closely scrutinized by this body, is beyond me. As stated by the distinguished Senator from Montana, the cause of small business definitely needs credibility in its champion. And not just the cause of small business, but indeed the entire leadership of this Nation, needs a champion to have the kind of an abysmal record that is now before us as the basis for a confirmation is a disgrace not only to the administration that proposed this man but to each one of us who votes for him.

I suspect that I will not prevail in this matter. I do not know. I have not done any head counting. But there are an awful lot of forces against the position that I have taken. But I know my position to be the correct one. Correct, not in the sense of my opinion, but in the sense of the facts shown in a record that depicts self dealing, conflict of interest, lack of integrity, and lack of courage. All of these are qualities that are needed by those in small business today and by those in Government today. And that is the cause that I plead to my colleague in asking them to reject this nomination.

Mr. WEICKER. I am prepared, Mr. President, to yield back the remainder of my time.

Mr. NELSON. I wonder if the Senator would withhold that request?

Mr. WEICKER. I withhold.

Mr. NELSON. Mr. President, I ask unanimous consent that some excerpts from the testimony in the hearing record be printed in the RECORD at the appropriate place with my previous remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

MILTON STEWART—CHAMPION OF BUSINESS OPPORTUNITY FOR ALL OUR CITIZENS

● Mrs. HUMPHREY. Mr. President, it is a special pleasure for me to support the President's nomination of Milton D. Stewart as Chief Counsel for Advocacy of the Small Business Administration.

Way back in 1946 and 1947 when public support and public activity for civil rights took extraordinary courage, Milt Stewart was one of the young people who stood with Hubert Humphrey and worked for equality of entrepreneurial opportunity.

Some of the dozens of statements on Milt Stewart's behalf in the record of the hearings on his nomination make plain that his commitment to small business, to civil rights and to equality of oppor-

tunity run together and have for many years.

Here is a quote from a successful black entrepreneur, formerly executive director of the National Association of Black Manufacturers, Theodore Adams of Unified Industries, Inc. in Virginia:

Milt Stewart has spent a lifetime involved in the fight for civil rights, beginning long before it was a popular or fashionable cause. And he has systematically and bluntly stood for the proposition that the small business community's minority and majority elements must never be divided. That doesn't mean that he and I have always seen things the same way or that we always will.

What it does mean is that the only things we are going to disagree about are details and methods and timetables. Both of us are equally committed to the fullest and most equal entrepreneurial opportunities possible for all Americans . . . There isn't anybody active in the small business community—or who has been active in it for the last fifteen or twenty years—who doesn't know about Milt Stewart. But those of us concerned about civil rights as well as small business know just how far back on our fight he goes. Just this year the distinguished journalist, Robert J. Donovan, published a study of President Truman's administration and I would like to quote a couple of sentences from it. In talking about President Truman's landmark speech on civil rights to the NAACP at the Lincoln Memorial on June 29, 1947, Donovan reports:

Two members of the staff of the Committee on Civil Rights, Milton Stewart and Robert K. Carr of Dartmouth College, helped write the speech. It was an unusual statement for a President to make at that time. Speaking before ten thousand persons and to a world-wide radio audience, Truman, first President ever to address the NAACP, said:

"We cannot be content with a civil liberties program which emphasizes only the need of protection against the possibility of tyranny by the government. . . .

"We must keep moving forward with new concepts of civil rights. . . . The extension of civil rights today means not protection of the people against the government, but protection of the people by the government.

"We must make the Federal government a friendly, vigilant defender of the rights and equalities of all Americans. And again I mean all Americans."

As drafted, the speech said that, "each man must have equality of opportunity." With a pencil Truman changed this to read that each man must "be guaranteed" equality of opportunity.

How many Americans today—30 years later—are repared to go as far as President Truman and Milt Stewart were back in 1947?

Here are quotes from two women which indicate that Milt Stewart has always been as concerned about entrepreneurial opportunity for women as he has been for minorities of all kinds, in the expanding small business sector.

We were elated when we learned Mr. Stewart had been nominated for the position of Chief Counsel for Advocacy. We wholeheartedly support Mr. Stewart's nomination not only because his credentials and integrity are known to us, but because he is particularly sensitive to the needs of small business and the additional needs of minority small business.—American Association of Minority Enterprise Small Business Investment Companies; Patricia D. Jacobs, Chief Administrative Officer.

It is a job that requires a person that is truly committed to the growth of small business in this country. It requires someone who will play a very active and visible role on behalf of small business. We think Milton Stewart is such a person. His commitment to, and belief in small business are unquestioned and his knowledge about the small business community is extensive.—National Association of Women Business Owners; and National Council of Professional Service Firms; Susan Hager.

When I cast my vote for confirming Milt Stewart it will be with a very special sense that I am doing something in which Hubert would have taken great personal pleasure and pride.●

● Mr. JAVITS. Mr. President, I support the nomination of Mr. Milton D. Stewart to be Chief Counsel for Advocacy of the Small Business Administration. Mr. Stewart's nomination has received thorough review and examination in a fully adversary proceeding.

The idea of advocacy is central to the Federal commitment to our Nation's small business community. Small business has always been at the heart of American enterprise, and has faced—and faced up to—varied challenges throughout the years. In approximately the last 25 years, a significant Federal role has emerged—to facilitate small business development, to expand and improve small business opportunities and capabilities, and to help meet the ever-changing needs and challenges confronting our small business men and women.

The Senate Committee on Small Business, together with individual Senators, and our colleagues in the House of Representatives, have consistently provided the leadership and dedication necessary to help design and shape the current Federal role for small business. There are challenges ahead and a clear need for shaping the Federal role toward the future. I see a continuing commitment within the Senate committee, and throughout the Congress toward strengthening small business enterprise in forthcoming years.

The position of chief counsel for advocacy, in a sense, represents this Federal role. It reflects perhaps, culmination of the first 25 years of the Federal commitment to small business, and at the same time, initiation of a renewed commitment aimed at assuring a continuously timely and effective Federal role. The position's specific importance is demonstrated not only in its explicit statutory base, and the required Senate approval of its nominee, but also—and perhaps most fundamentally—in its basic purpose: To initiate active and assertive policy review and development on behalf of small business, its activities, and its contributions. This is a challenging responsibility that requires of its incumbent—perhaps most importantly—a complete and thorough dedication to small business, its problems, and needs.

The Senate committee conducted extensive hearings respecting Mr. Stewart's nomination, and undertook a full review, examination, and disclosure of his previous activities, as well as his potential capabilities in the position of Chief Counsel for Advocacy. I commend Senator NELSON, chairman of the Committee, Senator WEICKER, the ranking minority member, and all the committe members in their carrying out of this oversight responsibility.

I recognize that some concerns exist about Mr. Stewart. I commend Senator WEICKER for his forthright presentation. He is performing a service for all of us, by assuring full disclosure and debate. But I do not share that viewpoint.

First, Mr. Stewart, for the greater portion of his adult working life, has been associated with small business and related fields, as a direct participant and practioner, Government administrator, and as a leader within the organized small business community and during these years, Mr. Stewart has maintained an unswerving dedication to the needs and development of small business, a characteristic that is fundamental to carrying out successfully the duties of this position.

Second, the position clearly requires the capability of the incumbent to relate effectively within the executive branch, as well as with the Congress. Mr. Stewart's nomination not only reflects official administration review and approval, but also has received support from Mr. A. Vernon Weaver, administrator of the Small Business Administration. Additionally, after a thorough review, our own Senate committee reported a favorable recommendation of Mr. Stewart's nomination by a vote of 8 yeas, and 1 nay.

Finally, the position requires the incumbent to have the confidence and support of the small business community. Mr. Stewart's nomination has received strong support from the small business community throughout the country. This includes: specific supportive commentaries from individual small businessmen and women; local small business groups; as well as state and national associations. Additionally, I have received numerous statements of support for Mr. Stewart's nomination from the small business community within my own State of New York, in which Mr. Stewart resides.

The office is a challenging one that will require full cooperation within the executive branch, and full support within the Congress.

I believe Mr. Stewart's nomination to the position of Chief Counsel for Advocacy warrants Senate approval, and I shall vote for such approval.

● Mr. KENNEDY. Mr. President, it is a pleasure to give my support to the nomination of Milton Stewart as Chief Counsel for Advocacy of the Small Business Administration, and I regret that an important markup in the Human Resources Committee prevented me from participating in this floor debate.

Seldom has the Senate received a nomination for any position within the executive branch that has gained such unanimous approval and acclamation by the persons and groups affected by the nomination. With essentially one voice, the small business community in cities and towns throughout America has given its enthusiastic endorsement to Mr. Stewart's nomination.

And the reasons are not difficult to un-

cover. In a long career of services to the cause of small businesses, Milton Stewart has earned an outstanding national representation, and it is no accident now that so many who know him say that the position of Chief Counsel for Advocacy in SBA must have been created with Milton Stewart in mind.

In the course of the discussion and debate over the nomination and in the hearings held by the Senate Small Business Committee, only one discordant note has marred the chorus of praise for Mr. Stewart, and that is the series of events involving his role in Creative Capital Corp. in the early seventies.

The complex details of the transactions involved—especially the Comac lease and the AMHT financing—were thoroughly investigated by the committee. As a result of this detailed investigation, Mr. Stewart's nomination earned the overwhelming bipartisan support of the committee members.

My own study of the details of these transactions and the exhaustive hearing record leads me to the conclusion that, at worst, Mr. Stewart was far more sinned against than sinning in these transactions, and that at best he survived the scrutiny of this investigation with entirely satisfactory explanations of each of the allegations made.

In my view, the record before the Senate leads to only one conclusion—that Mr. Stewart deserves to be confirmed by the full Senate. If so, the cause of small business will be the real winner in today's debate, and I wish him a long period of outstanding service in the unique and vital advocacy role he is about to assume.●

Mr. HEINZ. Mr. President, today the Senate will consider the nomination of Milton Stewart to be Chief Counsel for Advocacy of the Small Business Administration. Mr. Stewart is an excellent choice for this position, and I urge my colleagues to confirm his nomination.

On April 14, 1978, Leo McDonough, Harry G. Austin, Jr., and Ralph L. Murray, of the Smaller Manufacturers Council, which is headquartered in Pittsburgh, testified in support of Milton Stewart's nomination before the Senate Select Committee on Small Business. Their enthusiastic support of Mr. Stewart is representative of the broad support which he enjoys from the small business community in Pennsylvania, and from across the Nation as well. I commend this testimony to my colleagues, and ask unanimous consent that it be printed in the RECORD so that they may have the benefit of the council's views.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

Mr. MCDONOUGH. Mr. Chairman and members of the committee, thank you for this opportunity to testify in support of the Senate confirmation of the nomination of Milton D. Stewart as Chief Counsel for Advocacy of the Small Business Administration.

I am the executive vice president of the Smaller Manufacturers Council, a trade association representing over 800 companies and over 70,000 employees.

The SMC is also a charter member of the Council of Small and Independent Business Associations (COSIBA) which represents over 750,000 companies throughout the United States.

I am also speaking in behalf of the Pennsylvania Small Industries Coalition (PASIC) which is the small business voice of Pennsylvania.

We are proud and honored to support the candidacy of Milt Stewart for the post of Chief Counsel for Advocacy of the SBA. Rarely, in the history of the small business movement, has a man so qualified and who not only came up through the ranks but led them for many years been nominated for such a sensitive position representing all small business persons.

Milt is past president of the National Small Business Association, past president of the National Association of Small Business Investment Companies, and has received national honors from each for his service to small business.

Milt is also a past member of the New York Bar Association and a present member of the American Bar Association.

Impressive as all of these titles and accomplishments are, I would rather tell you about the Milt Stewart I have known for the past 8 years. Of the times I have sat at hearings here in Washington where invariably Milt's testimony in behalf of small business would always be the most concise, the best prepared and given in the most honest, down to earth manner. His honesty and dedication have been the hallmark of this man. It was his unselfish attitude that helped greatly in the forming of COSIBA and in bringing both the powerful national small business associations and the grass roots regional associations together for the first time.

It would take someone who knows the diverse personalities of the constituency of these groups to appreciate the job of statesmanship Milt has performed in initiating COSIBA and later leading the group as our first chairman.

Milt has been working in every phase of small business for over 25 years and has worked well with small retailers, manufacturers, Congressmen, Senators, and Presidents.

I have never called Milt when he was too busy to answer a question, travel miles to speak in behalf of his beloved small business, or just plain say "What do you want me to do?"

After listening to all these flowery phrases, I am sure you feel that this is an appeal for his canonization, not just a confirmation hearing. Not true.

Milt has one blemish on his record. He is human. He was suspended for 60 days by the SEC for alleged involvement in four corporate matters which violated securities law.

The Commission agreed, however, that Milt could continue to carry out his normal duties in three portfolio companies in which Clarion Capital Corp., the firm in question of which he was president, had investments.

Milt, himself, brought this information to our attention months ago with a complete explanation which satisfied all the members of COSTIBA. So much, again, for his honesty and integrity.

As I said earlier:

Rarely in the history of the Small Business Movement has a man so qualified and who not only came up through the ranks but led them for many years been nominated for such a sensitive position representing all small business persons.

Thank you, Mr. Chairman.

Chairman NELSON. Thank you, Mr. McDonough. You are accompanied by Mr. Harry G. Austin, Jr. Mr. Austin, please proceed.

Mr. AUSTIN. Thank you, Mr. Chairman, for this opportunity to testify in support of the Senate confirmation of the nomination of Milton D. Stewart as Chief Counsel for Advocacy of the Small Business Administration.

I am president of James Austin Co., manufacturer of household cleaning needs products located in Mars, Pa., just north of Pittsburgh. We employ 162 persons.

During the period October 1, 1975 to September 30, 1976 I was president of the Smaller Manufacturers Council, an association of 800 manufacturing concerns employing a total of 70,000 persons. Our membership is generally from western Pennsylvania.

I have made the long drive down here specifically to testify on behalf of Milton D. Stewart because I believe in the man.

I was introduced to Mr. Stewart during my Presidency of SMC when the Council of Small and Independent Business Associations, COSIBA, was formed. Milt was one of the driving forces in making COSIBA a reality. For the first time, small businesses throughout the Nation were represented in Washington by small businessmen sharing common problems.

I have served with Mr. Stewart on Government Advisory Committees such as the U.S. Treasury and Small Business Administration.

I have attended White House conferences and have appeared with him before congressional committees. Small Business never had a more articulate representative. He understands the issues and is not awed, even in the presence of the President of the United States, when it comes to expressing the problems of us small businessmen.

Small business is labor intensive. It has always been Mr. Stewart's belief that unemployment can be solved by encouraging employment within the small business private sector.

Tax credit legislation was enacted last year, but to Mr. Stewart's chagrin, very little publicity was given it. Too few small businessmen are aware of the benefit. When the Small Business Committee of the Treasury met last December 7, Mr. Stewart pleaded that Treasury and the administration get behind the employment tax credit program and put people back to work.

Of personal interest, our local Chevrolet dealer, Mr. Tom Henry, asked me to express his appreciation to COSIBA and this committee. Based on his increased employment, he received a $13,000 tax credit on his last year's taxes. A visit to his operation today will find under construction new sales offices, employee lunchroom, and an undercoating building.

Small businessmen simply do not "bank" earnings. We felt it would be very helpful to have an example and I would hope that Mr. Stewart's involvement with SEC charges when he was president of the SBIC several years ago, will not raise questions today of his qualifications. So many times, when we small businessmen are confronted with a regulatory agency, it is financially better to settle rather than incur massive legal costs.

I heartily endorse the President's nomination of Milton D. Stewart for the position of Chief Counsel for Advocacy of the Small Business Administration.

I know of no other representative who could better serve our small business community than Mr. Stewart. Certainly through his appointment we small businessmen would have a true friend on the Washington scene.

Chairman NELSON. Thank you very much.

Our next witness is Mr. Ralph Murray.

Mr. MURRAY. Thank you, Mr. Chairman.

I am president of IDL, Inc., in Pittsburgh and vice president of the Smaller Manufacturers Council, a group of 800 companies based in the Pittsburgh area.

Our group has actively represented small business over many years and knows how essential it is to have the best possible spokesmen for the small business community.

We had felt for some time that the Small Business Administration had to have an advocate that represented the Nation's smaller companies and a means by which they could have direct input to the SBA. We were very grateful that the position was eventually formed.

Naturally, through our activity, we had in mind what we would like to have that advocate do. Ideally, we wanted an individual who would be articulate, would be intelligent, would know the needs of the small business community, would have worked directly with small businesses, would have been associated with small business associations and would know the workings of Government.

We think in Milt Stewart we have exactly that individual. I have known Milt for over 3 years now and I have worked very closely with him in our efforts to make more reasonable business taxation, product liability, and inheritance tax.

I know Milt to be able, to be genuinely interested in and to be energetic for the need of small business. I think perhaps a good illustration would be the time we were trying to change the inheritance tax laws because of the terrible impact they could have on small businesses when their principal would die.

A company which had been sold as a result of an inheritance tax and close to me in Pittsburgh—I found a company like that; that the owner had died and because of taxes they had to sell out to a conglomerate.

At the time I called Milt and asked him if this would be the company we could use as an example in our testimony and Milt's first reaction was, what is going to happen to that company?

Well, it had 60 employees and it appeared all 60 jobs were going to be lost and Milt's reaction was one of what can we do to save that particular company?

His first reaction was how can we save those jobs and then how can we use that as an example.

I think it is insight into how Milt's thinking is; his interest is not only for the small business community and for the Nation and how it is affected by the small business community, but his interest is in the individual company.

The company was eventually sold and the jobs were completely lost. We could not be more pleased than to have Milt chosen as the Advocate. We know of no better man.

We, along with the other COSIBA groups would like to say we are proud to support him as the Advocate for the SBA.

Thank you, very much.

● Mr. CHAFEE. Mr. President, I am pleased to endorse the nomination of Milton D. Stewart to be Chief Counsel for Advocacy of the Small Business Administration. He will have my strongest support for the important, though difficult, job ahead.

As the record clearly shows, Mr. Stewart has served ably in many fields. In Government he has held positions at the Bureau of the Budget, on the President's Committee on Civil Rights, as staff economist on the Senate Special Committee on Small Business, as administrative assistant to Representative Franklin D. Roosevelt, Jr., and as special counsel to Gov. Averell Harriman of New York.

He has practiced law and taught at the university level. Mr. Stewart was the founding director, vice chairman, and subsequent president of an important small business venture capital company in New York. And, certainly, not the least of his accomplishments is having served as president of the National Small Business Association from 1975 to 1977.

Mr. President, this is just a partial listing of Milt Stewart's activities and interests during his professional life. He is obviously a man of great energy, talent, imagination and dedication to the advocacy of small business.

I think what has impressed me the most, however, is the steady stream of praise and support which has flowed into my office on behalf of Milt Stewart's nomination. Confidence in his capabilities has been unanimous among the small business community.

In his testimony to the Small Business Committee, William Anderson, a fine Rhode Islander who is president of the Smaller Business Association of New England expressed what a great many small business people feel:

He will bring a harvest of talent to a position in Government that we firmly believe will become the most important non-elected position in Washington affecting small business. There is no one in the country that has the broad experience in and with Government, or who has the respect of the organized small business community whether national or regional.

Mr. President, I urge the Senate to approve the nomination of Mr. Milton Stewart to be Chief Counsel for Advocacy of the Small Business Administration. There is a job to be done, and he is the right man for the job.●

Mr. NELSON. Mr. President, all time has been yielded back?

The PRESIDING OFFICER. All time has been yielded back.

Mr. NELSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is, Will the Senate advise and consent to the nomination of Milton D. Stewart, of New York, to be Chief Counsel for Advocacy, Small Business Administration? The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK) is necessarily absent.

The result was announced—yeas 88, nays 11, as follows:

[Rollcall Vote No. 218 Ex.]

YEAS—88

Allen	Durkin	Jackson
Anderson	Eagleton	Javits
Bartlett	Eastland	Johnston
Bayh	Ford	Kennedy
Bentsen	Glenn	Leahy
Biden	Goldwater	Long
Brooke	Gravel	Lugar
Bumpers	Griffin	Magnuson
Burdick	Hart	Mathias
Byrd, Harry F., Jr.	Haskell	Matsunaga
Byrd, Robert C.	Hatch	McClure
Cannon	Hatfield, Mark O.	McGovern
Case	Hatfield, Paul G.	McIntyre
Chafee	Hathaway	Melcher
Chiles	Hayakawa	Metzenbaum
Church	Heinz	Morgan
Clark	Helms	Moynihan
Cranston	Hodges	Muskie
Culver	Hollings	Nelson
Curtis	Huddleston	Nunn
Danforth	Humphrey	Packwood
DeConcini	Inouye	Pearson
Dole	Percy	Pell
Domenici	Proxmire	Scott
Durenberger	Randolph	Sparkman
Ford	Ribicoff	Stafford
Garn	Riegle	Stennis
Glenn	Sarbanes	Stevenson
Goldwater	Sasser	Stone
Gravel	Schweiker	Talmadge
Griffin	Scott	Thurmond
Hart	Sparkman	Tower
Haskell	Stafford	Williams
Hatch	Stennis	Young
Hatfield, Mark O.	Stevenson	Zorinsky
Hatfield, Paul G.	Stone	
Hathaway	Talmadge	

NAYS—11

Baker	Hansen	Stevens
Bellmon	Laxalt	Wallop
Domenici	Roth	Weicker
Garn	Schmitt	

NOT VOTING—1

Abourezk

So the nomination was confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. McINTYRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The Senator from Wisconsin.

Mr. NELSON. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nomination of Milton D. Stewart to be chief counsel for advocacy of the Small Business Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I ask unanimous consent that Judy Affeld, of my staff, have the privilege of the floor during the debate and votes on the amendments to the Endangered Species Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

ENDANGERED SPECIES ACT AMENDMENTS OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of legislative business, and proceed to the consideration of S. 2899, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine exemptions from certain requirements of that act should be granted for such actions.

The PRESIDING OFFICER. The bill is under a time limitation. Who yields time?

Mr. STENNIS. Mr. President, I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. NELSON. Mr. President, may we have order, so that we may hear the Senator from Mississippi?

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. Mr. President, I seek recognition for the purpose of calling up an amendment.

Mr. President, I call up my amendment——

Mr. CULVER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senator will suspend until the Senate is in order. The Senate will be in order.

Mr. STENNIS. Mr. President, what is the pending business before the Senate?

The PRESIDING OFFICER. The pending question is S. 2899.

AMENDMENT NO. 3097, AS MODIFIED

(Purpose: To require that social, cultural, economic, and other benefits to the public be considered prior to stopping certain Federal actions)

Mr. STENNIS. Mr. President, I call up my amendment which was offered yesterday in modified form, and which had some debate thereon. There is an agreed time on the amendment, Mr. President.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Mississippi (Mr. STENNIS), for himself, Mr. EASTLAND, Mr. GARN, Mr. HATCH, Mr. LAXALT, Mr. YOUNG, Mr. CURTIS, and Mr. GOLDWATER, proposes amendment No. 3097, as modified:

On the first page, beginning with line 5, strike out all through line 5 on page 14 and insert in lieu thereof the following:

"SEC. 2. (a) Section 7 of the Endangered Species Act of 1973 is amended (1) by inserting immediately after 'insure,' comma and 'insofar as practicable and consistent with their primary responsibilities,' and (2) by adding immediately after the period at the end thereof the following: 'In any case involving a determination by an agency head as to what extent, if any, such action authorized, funded, or to be carried out should be modified, delayed, or terminated in order to assure, to the extent feasible, that such actions do not jeopardize the continued existence of such endangered or threatened species or result in such destruction or modification of such critical habitat of such species, such agency head shall balance the social, cultural, economic, and other benefits to the public if such action is carried out as planned against the esthetic, ecological, educational, historical, recreational, or scientific loss to the public which would occur if such species were to become extinct; but in no event shall such agency be precluded by reason of this Act or any other law from carrying out any such actions involving the construction or other establishment of any project or part thereof, without regard to whether or not such action jeopardizes the continued existence of endangered or threatened species or would result in the destruction or modification of critical habitat of such species, if such project or part is at least 50 per centum completed based upon the amount expended.'

"(b) The provisions of Endangered Species Act of 1973 shall not be applicable to any project under contract or for which construction had been appropriated as of the date of the enactment of such Act.

"(c) No action authorized, funded, or carried out in compliance with subsection (a) by a Federal department or agency shall be deemed to be a violation of section 4(d) or 9(a).".

On page 14, line 6, strike out "SEC. 4." and insert "SEC. 3.".

On page 14, line 23, strike out "SEC. 5." and insert "SEC. 4.".

On page 15, line 1, strike out "sections 6 and 7" and insert "section 6".

The PRESIDING OFFICER. This is the amendment upon which there is a 1½-hour time limit.

Mr. STENNIS. That is correct.

Mr. CULVER. Will the Senator yield?

Mr. STENNIS. I yield to the Senator from Iowa.

Mr. CULVER. The time will be equally divided, is that correct, Mr. President?

The PRESIDING OFFICER. The Senator is correct.

Mr. CULVER. I thank the Chair.

Mr. President, may we have order in the Chamber? This is an important amendment. All Members should be entitled to clearly hear this debate which will ensue.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, I yield myself 10 minutes, and I may yield myself more time before I yield the floor.

Mr. President, as the Senator from Iowa has said, this is an important amendment. The basic proposal is a committee amendment that would not only extend the operation of the law, which would otherwise expire in September of this year, but the committee amendment proposes to modify the substance of the law and set up a special committee to pass upon questions relating to endangered species.

My amendment is really directed to the committee amendment, and proposes to amend it along these lines, it being based on the Supreme Court decision, as well as the present law, in the Tellico Dam case in Tennessee. Even though it was 90 percent complete, a $116 million dam project, with about $100 million having been spent on it, and it being half completed when the original law was passed, nevertheless the Court held that, under the language of the present law, which the committee would propose to extend, with some modification, construction would be brought to a complete halt and stopped. Under the language of the law, the Court had no alternative.

Mr. President, in spite of the facts in that case being contrary, it seems to me, with all deference, to the rule of practical commonsense, I think the conclusion reached by the Court is the only one it could have reached under the wording of the law. It left no discretion and no practical alternative, really, once the facts about critical habitat of endangered species being destroyed were developed. This magnifies the situation and demands that despite the good purposes and the high motives of preserving endangered species—animal life, plant life, whatever it is—in spite of all the good points in favor of it, the law, as a practical matter, is just impossible and must be amended.

The committee agrees that there must be a modfication, but I respectfully believe it does not go far enough.

The amendment that I propose would leave intact the idea of having a law in this field for regulation, but it would modify the law to the extent that the head of the sponsoring agency would have to make a judgment under all the facts—and I will have the exact language in just a moment—and a determination in which he would have some discretion. It would include the idea of feasibility, even though "feasibility" is not the word used here. It would relate to the alternatives that he could consider. The Agency head would have a certain amount of discretion, and would have to make a judgment, and then that judgment would determine what should be done.

Of course, it would be appealable to the court, as is true in other instances, by a person aggrieved by the decision. It could be carried on to court and redetermined there, according to the guidelines of this law.

Mr. President, just what does it mean to refuse to make some meaningful modification of this law? I am not complaining about this, because it happened to be in my State. There has now been a solution to the situation. One of our interstate highways is in the process of construction—and the interstate highway is a national institution certainly presumed to affect all of our people—this was interstate No. 10 along the Southern border of the United States. That proposed right of way went through the habitat, or part of it, of the sand hill crane, a rather attractive-looking bird with a red top notch. Forty-seven of them were involved.

To deal with that matter has cost 2 years loss of time. It has caused the changing of the right-of-way of that interstate highway to the extent of $4 million in added cost for the acquisition of land for highway, the approaches, and the interchange. Four million dollars has been added. But that is not nearly all the story.

To provide what was described as an additional habitat for those 47 cranes, it is costing $18.2 million extra out of the taxpayers' pocket.

And that is at a rate—I do not have my memorandum here just now, but that is at a rate, for those 46 cranes, of $485,000 each. This is not something imaginary, a mere possibility of its happening. It has already happened. That is the situation now.

The Court held, in the other case, the Tellico Dam case, that that matter was final when the gavel fell; there was no other remedy anyone had except to comply with it, the law is just that tight. I say I think they reached the right conclusion on the present wording of the law.

What does that mean? That means that, throughout the 50 States, on every proposal, almost, that is made with reference to the construction or the building or the channeling of lakes, dams, highways or any other matter, if it is Federal property or if there is Federal money going into the project, or if it is private property and is nevertheless found to be the habitat of an endangered species, that law applies.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. STENNIS. I yield myself 5 minutes.

That law applies with the inexorable application of its deadly terms and thus it kills the project. It kills the project. What has gone into this dam now, as it stands, so far as the orginal purpose and planning are concerned, is through, over, done. That can apply and will apply to a great number of others throughout this great land—even private property, as I said, if that private property is found

to be the habitat of one of the endangered species.

The Fish and Wildlife people—and they are a respectable group—have estimated, as I recall, that there may be as many as 1 million species and separate subspecies of plants and animals that may be entitled to protection under the law if we merely extend the life of this law. With all deference, the committee amendment does not extend enough practical aid or remedy to meet these situations.

Now, what are we going to do? I have no grievance about this matter; no one has done anything to me or anyone in my State about it. But I had the privilege of being the chairman of the Subcommittee on Public Works for several years, down to but not including this year.

There we had project after project, with millions and millions of dollars, throughout this great Nation, being invested—capital investment, as we all know. Some of the greatest investments the Nation ever made in a material way is in these projects throughout our land, and more are coming. They are going to have to come. This new age demands added energy. There, time after time, in hearing after hearing, we saw the prospects of these added items of cost in the millions of dollars. So I made up my mind then that when there was a change, I was at least going to try to do something about it in a practical, effective way.

I am not asking that the law be discontinued or that the law be repealed. My amendment just sets up a remedy that provides for a board, or provides for the development of all the facts, and then a decision has to be made that is subject to court examination, subject to appeal. It has to be made within the limits of the language of this law.

They have to consider alternatives. They have to weigh the importance of the preservation of the endangered species, for one thing, against other items of the highest practical importance.

I am not an expert in this field and do not aspire to be.

Mr. CULVER. Will the Senator yield for a question at this point?

Mr. STENNIS. Yes.

Mr. CULVER. The Senator made reference to a board. Our copy of the amendment has no reference to a board.

Mr. STENNIS. The board is in the committee amendment, not mine. This relates, though, to a responsible official acting with discretion after the facts are developed. I thank the Senator for correcting me.

The PRESIDING OFFICER (Mr. NUNN). The Senator's additional 5 minutes have expired.

Mr. STENNIS. Mr. President, I was at a stopping point here, anyway. I think that outlines the main points of this amendment. Under those circumstances, I yield the floor.

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER. Mr. President, I yield to the distinguished Senator from Vermont 3 minutes.

Mr. LEAHY. I thank the Senator from Iowa.

Mr. President, we are daily confronted with difficult and many times unsolvable crises of immense magnitude. But few penetrate to the central nature of life on a planetary basis. We are not often called upon to tamper with the ultimate questions of our environment in a sweeping, potentially final stroke.

I think of the Endangered Species Act in this grand scale. This landmark law, passed in 1973 after 8 years of hearings, must not be altered by weakening amendments. I believe the 1973 act is a responsible, flexible, meticulously drafted, and efficient framework that can turn back the trend toward annihilation of this Nation's integral natural treasures, our plants, and animals.

The Endangered Species Act has worked, proven itself in over 4,500 cases of successful consultations and resolutions. If we act at all, we should strengthen, not weaken the existing law.

Ultimately, Mr. President, we are the endangered species. Homo sapiens is perceived to stand at the top of the pyramid of life, but the pinnacle is a precarious station. We need a large measure of self-consciousness to constantly remind us of the commanding role which we enjoy only at the favor of the web of life that sustains us, that forms the foundation of our total environment.

With all due respect to the planning and construction and millions of dollars invested in the Tellico Dam, I find the conflict with the snail darter no reason to emasculate the Endangered Species Act. After examining the facts and history, I find that the law works.

We might say the culprit is the Tennessee Valley Authority, not the small fish discovered in 1973.

Against the backdrop of our huge marble monuments and countless bureaucratic offices along Pennsylvania Avenue, the now notorious snail darter is dwarfed. Perhaps our perspective is warped if we belittle the very existence of an animal. Every time we tinker with the tender framework of life, there is a reaction, no mater how slight. We exist on this orbiting globe locked and joined with the environment. In a larger sense, we share the planetary gene pool with that snail darter in the Little Tennessee River.

I see the Endangered Species Act as the hub from which all our environmental protection and ecological awareness incentives radiate. I see an attack on the Endangered Species Act as a reversal of all we have learned in the past two decades about man's place on the Earth. No matter how I look at the issue, a dam is transitory, but extinction of a species is eternal.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. LEAHY. I ask for 1 more minute.

Mr. CULVER. I yield the Senator an additional minute.

Mr. LEAHY. Mr. President, we must draw the line somewhere. There comes a time when even valid arguments of jobs, money already invested and local politics pale against the imperatives of a species in jeopardy. I draw the line when a type of animal or plant will, by the actions of man, be wiped from the face of the Earth.

In particular, I would oppose any amendments that leave to the discretion of the agency involved the question of whether to proceed with a Federal project where a species is endangered. An amendment of this type borders on the absurd. Even where the threatening project is a private undertaking with some Federal funds or one which requires a Federal permit, any conflict with an endangered species must be deliberated under the existing act.

Would the Tennessee Valley Authority have balked at disturbing the snail darter, along with 16,000 acres of fertile farmland if not for the Endangered Species Act? An amendment granting more discretion to the sponsoring agency would pit whim and political fashion against national priorities and give whim the upper hand.

I also oppose amendments to add a grandfather clause to the present law. And I firmly oppose amendments that would exempt whole classes of projects from compliance with the act. Here we run the risk of sanctioning projects despite their irreversible harm to habitats supporting whooping cranes, grizzly bears, bald eagles, peregrine falcons, and others.

A grandfather amendment would totally undermine the good faith consultation process inherent and successful in the act. Through faithful and determined consultation, even projects as much as 80 percent complete can be modified to preserve and protect endangered species. Grandfather clauses, in virtually every form, would lead directly to the needless extinction of unique forms of life.

The United States does not stand isolated in the community of nations who all face ultimate environmental questions. The way we relate to our fellow species is a global, even universal, crisis. Right now this country is leading the planet in coming to grips with our power and responsibility to deal with reason and compassion to live in harmony with the plant and animal kingdom.

I am aware that certain of my colleagues, renowned for their constant, dedicated efforts to protect and preserve our environment, have concluded that the act is at present too inflexible. I remain unconvinced that this environmental law is flawed enough to weaken its intent and application.

We can balance our need for development with our responsibility to the land and other life forms. We can grow as a society based on economic growth and coexist in harmony with the world. I am not opposed to responsible development. But no amount of environmental backlash now in vogue can convince me that an entire species should be extinguished to make way for a Federal project.

Mr. President, I thank the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. Mr. President, I rise in opposition to the amendment that is

offered by the distinguished Senator from Mississippi.

Mr. President, today, in 1978, the members of any elected representative body, as well as public officials and those chosen for leadership responsibilities anywhere throughout the world, are increasingly challenged, intimidated, and in fact, frustrated by the ever-increasing complexity and enormity of the public policy problems that they are called upon to address.

We live at a time, as well, where the speed of events and the explosion of knowledge only additionally compounds that problem.

Mr. President, we live at a time where we are increasingly aware that our resources are not infinite, but finite, that our margin of error is no longer what it was at an earlier day. The consequences of our own fallibility are much more serious in their implication to perhaps even the survival of human life through decisions of each and every one of us individually and collectively as a body.

We are also increasingly aware of the unprecedented interdependency of all these questions and all these issues.

When I speak of that new set of challenges to each and every one of us, in my judgment, no issue—no issue—more starkly poses that situation than the one which we are addressing ourselves today because this question goes to some of the most difficult, unfathomable questions that have always confronted mankind since the initial discussions and rational discourse.

Those questions, Mr. President, are very fundamental ones. They go to the nature of our universe. They go to the nature of our ecosystems, and our biosphere. They go to basic questions of "What does it all mean" and whether one is intellectually and spiritually persuaded that what we experience in life is the result of some divine creation and guiding hand, or whether one believes that we are witnessing a process of natural selection.

We all have to agree that it is a most incredible and awesome thing that we are witnessing, something for which we lack, to an embarrassing degree, to an intimidating extent, genuine comprehension and understanding.

Mr. President, I am reminded of a quote by Winston Churchill in an earlier day when he made reference to the difficulty of forecasting any possible action of the Soviet Union. He once observed that "It is a riddle wrapped in a mystery inside an enigma."

Mr. President, the same thing can be said, for the most part, about the world in which we find ourselves today.

Now, what we do know for sure, Mr. President, is that in the evolution of life forms in flora as well as fauna, there is a beginning, when species and subspecies are created or evolved, they flourish for a time, and then they disappear from the Earth.

A Nigerian chieftain once observed:

I conceive that land belongs to a vast family of which many are dead, few are living and countless numbers are unborn.

Mr. President, whether we speak of mankind, whether we speak of animals, whether we speak of the Furbish lousewort, whether that period of flourishing and survival is 1 year, 1 second, or 200 million years, the species will no doubt die sometime in the natural process of extinction.

Mr. President, we are advised that this process of natural extinction is being accelerated. But it is of even a graver concern to us that the unnatural acceleration is the result of the actions of mankind on the natural, pristine environment, and the consequent degradation and threat to the viability of our ecosystem, about which we know so very little.

Mr. President, we are also advised that in prehistoric times—in prehistoric times—one species was extinguished approximately every 10,000 years. But around the year 1600, we learned that one species was extinguished every 1,000 years. Today, Mr. President, it is now estimated that from 1 to 20 species are extinguished from our global environment every single year.

Mr. President, these estimates are subject to considerable debate and discussion, but the thrust and the implication of these trends are undeniable.

We know there are some 2 million species of plant and animal life in the entire world. Now we also know that of that total number biologists estimate some 200,000—200,000—may be endangered or rare today.

Mr. President, in addition, many more will be extinct before we even know they exist because, our knowledge of biological science is so tragically behind the pace of destruction that mankind has unwittingly, unknowingly, and sometimes even, yes, consciously undertaken.

Mr. President, the cause of our accelerated pace of natural extinction is man, and it is a particular problem today because our knowledge of the biological implications of these activities which accelerate the process of extinction is so woefully inadequate.

We know that this rate is in part attributable to the consequences of commercial hunting and fishing. We know that this rate of acceleration is attributable, to some extent, to the toxic poisons that an industrial society pumps and pours into our land, into our water, and into our air.

We know that the process of extinction occurs to some extent as a result of the destruction of our forests, the alteration of our water tables, our slums, our ghettos, and, yes, even our shopping centers and our suburban development. All these consequences of so-called civilization, and progress, and society carry with them the potential systematic destruction of our ecosystem.

Mr. President, man's ability to intensify and increase his capacity to destroy, degrade, and damage the environment never has been as great as it is today. It is estimated that because of bulldozers, because of cranes, because of warfare and our sophisticated capacity to destroy each other and our natural environment, it has increased some 20 times over the last 50 years.

What is the responsibility of those of us who have an obligation, as stewards of this land during our own short cycle on this Earth, before we, too, are extinct? What is our responsibility to those generations yet unborn, and why should we be concerned about toxic pollutants in the air and in the water? What difference does it make? Why should we be concerned about it? It may cost us. We may waste $10 million in appropriations. We may have to stop a dam. We may have to stop a highway. We may have to alter the course of a flood control project. What difference does it make?

Mr. President, as the distinguished Senator from Mississippi has said, it does on the surface seem stupid to have something like a snail darter, some crazy bat, some crayfish, something called a Furbish lousewort.

So you may ask, when you are talking about Tellico and $117 million, why worry about the snail darter? When push comes to shove, who should win? Which species has the votes in the next election?

Aside from esthetic or ethical considerations, aside from the understandable and natural desire to have diversity and beauty in our world and in our environment, and aside from the continued preservation and existence of these rare and exotic species, it is also true, in my judgment, that we have the ethical and moral responsibility to pass on to future generations, in as pristine a state as possible, what we in turn have inherited, and to increase our knowledge, our awareness, and our sophistication in making discriminating determinations that are informed as to who lives, and who dies, and what are the consequences.

Mr. President, if we are going to allow plants and animals to pass out of existence, the real danger, over and above the esthetic and ethical considerations to which I have made earlier reference, is the fact that we may well be losing things of irreplaceable and incalculable value to humankind, and threatening the continued existence of mankind as we know it today. We are persuaded that even though we do not understand the mystery of this ecosystem, whether by divine creation or some other natural selection process, it is a seamless web of interdependency, possibly with some redundancy. But where and how and when the redundancy exists, we do not know.

Mr. President, some seemingly useless plant or animal might prove to be of value. We have long lists of some 600 species today which are designated as rare and endangered. We have another 2,000 waiting to go on the list. But which among those is critically important and has the kind of value to which I refer?

There is a species called the horseshoe crab. The horseshoe crab has lasted 200 million years, and it was only 3 years ago—after it was 200 million years old—that a scientist finally discovered that it had value to mankind. It was discovered that the blood of horseshoe crabs is a valuable detector of toxins in intravenous fluids.

Chemicals that have been discovered in plant life also have proven to be useful in the development of birth control pills. We are seeing countless examples in which science is beginning to find

value in what heretofore had been viewed as a useless and inconsequential species, which stood in the path of mankind's pathological pursuit of progress.

Also, Mr. President, we know that each of these species and subspecies, in some mysterious way, is part of a larger gene pool for breeding, or has medicinal value we may not yet have discovered.

Biological science is barely beyond its infancy. We know there may be redundancy in this creation, in this product of evolution, but we do not know enough to understand which should be destroyed, which should be saved.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 28 minutes remaining.

Mr. CULVER. How much time have I used?

The PRESIDING OFFICER. The Senator has used 17 minutes. The Senator from Vermont has used 4 minutes. The Senator has 24 minutes remaining.

Mr. CULVER. Mr. President, increasingly, scientists and environmentalists are coming to the conclusion that destruction of the species is directly related to the viability of the human race itself; and endangered species are really nothing more than an early warning system identifying that human habitat which, by its destruction and demise, is a threat to the environment of the continued human community as we know it today.

Mr. President, in 1973, much to the credit of Congress, it determined that we should stop this unenlightened, this indiscriminate destruction of that natural habitat, and Congress overwhelmingly passed the Endangered Species Act of 1973.

In fairness, it should be pointed out that this act has worked reasonably well—in fact, remarkably well—given the enormous complication of its implementation and administration. There have been some 4,500 consultations to balance off the need to preserve and protect these endangered species against other activities of the Federal Government.

Our committee, by way of routine oversight, began to review this bill last summer.

It came to our attention that the rigidity and the inflexibility of that act, whereby the endangered species, once designated, in every case was to be given exclusive priority against any other offsetting factors in public interest, were really having consequences of bringing forth pressures for the elimination and the emasculation of the act.

It was the judgment of our committee, after 6 days of extensive hearings, after very careful markup, that it was necessary to give this act some flexibility. We knew that even though Tellico was the most celebrated case, there were at least 12 other major projects in which the effort at consultation and the administrative resolution of conflicts between a project and endangered species had not been resolved successfully.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. CULVER. I will yield when I finish my statement. I will be delighted to yield when I finish my statement because we have time already committed on the bill and I think we have plenty of time today to speak on this.

Mr. NELSON. I am trying to help the Senator correct the record on his last statement.

Mr. CULVER. I am glad to yield to the Senator for that purpose.

Mr. NELSON. I am raising the question on 12 cases which are not going to come to Congress, and I believe the Senator has a letter from Mr. Herbst saying he does not anticipate any problem with these 12 cases. I think the record should show that.

Mr. CULVER. I will be delighted to speak to this point.

What I wanted to make clear to the Senate is that in our oversight process we had official indications of conflicts from the Fish and Wildlife Service, specifically citing 12 intractable conflicts. I have another letter from them sent when the Senator from Wisconsin received his letter which I think puts a little different slant on things. We can submit both of those for the record.

But the pertinent question for these 12 projects is: Who plays God the second time around?

The Congress is always being criticized for not getting out ahead of problems, for not anticipating, for not positioning ourselves so we can responsibly and rationally deal with the problems before we are blindsided and overwhelmed by events. The Public Works Committee was persuaded after careful consideration that it was inevitable that if not 12, then 10, then 8 conflicts would occur. We have had 4,500 consultations in the last 5 years, but it is estimated we will have 20,000 consultations next year alone. We are going to have 2,000 more plants and animals put on the endangered species list in the immediate months ahead. The potential for conflict is inevitable and unavoidable, and the committee wanted to do something that was responsible and introduce some flexibility into this act.

Mr. President, we have proposed this mechanism which in my judgment represents the most responsible and rational balancing of interests. We have a number of alternatives when these conflicts arise. Should we in the Environment and Public Works Committee be the ones to decide whether the Tombigbee Dam lives or dies? Should we be the ones to decide Tellico's fate after the Supreme Court decision? And should we be the ones to decide on each and every one of these projects in the immediate months and years ahead?

Mr. President, I say, as one who is feverently and devotedly committed to the most powerful protection of our environment and the need to preserve and protect these species, that it does not defy our power of reason to develop a mechanism which, in my judgment, gives us the flexibility we need, and gives it within a context that insulates it from the political pressures that inevitably are going to overpower any other approach. For example, you might have a Governor decide, an agency head, or the Congress, or the President decide.

So, Mr. President, we have I believe set up a system which will afford a very carefully considered process whereby this Endangered Species Committee can weigh the evidence—we have strengthened provisions for consultation—and can reach an informed judgment. The Endangered Species Committee has been weighted in its voting so that the presumption in favor of protection of the species is overwhelming.

Mr. President, I understand the Senate must now vote on the conference report on the Coal Conversion Act. I will reserve my remaining comments until after we complete action on that conference report.

POWERPLANT AND INDUSTRIAL FUEL USE ACT OF 1978—CONFERENCE REPORT

The PRESIDING OFFICER. The hour of 1:45 p.m. having arrived, the Senate will now resume consideration of the conference report on H.R. 5146, which the clerk will state by title.

The assistant legislative clerk read as follows:

Conference report on H.R. 5146, an act to amend the tariff schedules of the United States to provide for the duty-free entry of competition bobsleds and luges.

The Senate resumed the consideration of the conference report.

The PRESIDING OFFICER. Time on this conference report is limited to 15 minutes to be equally divided and controlled by the Senator from Colorado (Mr. HASKELL) and the Senators from New Mexico (Mr. SCHMITT and Mr. DOMENICI).

Who yields time?

Mr. WALLOP. Mr. President, I have a unanimous-consent request.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT and Mr. HASKELL addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. A parliamentary inquiry.

The PRESIDING OFICER. The Senator will state it.

Mr. SCHMITT. Has the agreement been changed? I believe the Senator from New Mexico had 5 minutes, the remaining time equally divided between the Senator from Colorado and the Senator from New Mexico.

Mr. HASKELL and Mr. SCHMITT addressed the Chair.

The PRESIDING OFFICER. As the agreement is spelled out each Senator from New Mexico has 5 minutes and the Senator from Colorado has 5 minutes.

Mr SCHMITT. Fine.

Thank you, Mr. President.

Mr. WALLOP. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. DOMENICI. I am delighted to yield to the Senator.

Mr. WALLOP. Mr. President, I ask unanimous consent that Sally Rogers, of Senator THURMOND's staff, be accorded

the privilege of the floor throughout the remaining debate and vote on this conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. Under the precedents of the Senate the Senator does not have enough time to ask for a quorum call, and no quorum call is in order under the agreement.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I rise just to take a few moments to indicate my support for this bill, and I shall explain to the Senate how I arrived at that.

First of all, I make it clear that if I were singularly and individually coming up with an energy plan probably it would have been considerably different than the five-part energy package that the President presented last April. However, as a member of the Energy and Natural Resources Committee for many months we have worked on trying to come up with an energy bill, the pieces of which we have divided in a rather logical way, and one has to do with a very important issue in this country, and that centers around the fact that almost since we first found natural gas we have been busy finding out ways to abuse it, waste it, literally throw it away on uses that we are now finding are absolutely the wrong thing to do, and basic among those uses that are wasteful and the exact opposite of what our Nation should be doing are twofold:

The use of natural gas to produce electricity and, second, for large industrial boilers wherever they be, proximate to the resource or distant from it, to use natural gas as the prime source of energy in their boilers and plants.

So we started with a bill that was directed at trying to cure this abuse, and I submit that if there were a market price weighted to it, I think everyone in this institution would know that I would prefer that.

But I find myself in a position where I do not want to be part of denying this country an energy package even if it is only three out of the five parts or four out of the five parts I think we need to let the people in our country and in the world know that we are going to try something; therefore, I support this approach which basically builds in a scenario starting with the proposition that we will not build any more utility furnaces that use natural gas, and I know experts might say we would not have done it anyway, but this bill prohibits it and then it starts the gradual transition for those in existence to convert, first, those that have the conversion potential within them and then all of them by 1990. However, there are some very significant exceptions. We all worked on them, and I particularly worked on them. We have exempted the small utility companies, most of which are municipally owned, 25 megawatts and under. They need not convert. That is so the consumers will not pay an inordinate price for literally little gain to the Nation.

Second, we built in some protections where a whole system can look at all of its boilers in the conversion so you do not pick them one at a time in trying to get moved toward the national standards of conversion.

Third, we built in a protection principally for the Southwest and some parts of my State where they have relatively new facilities. They are going to be able to convert slowly, and they will be able to use natural gas for peaking.

Mr. President, after President Carter unveiled the administration's national energy plan in April 1977, I was among those who were critical of that plan. I was critical because, after examining the plan, I felt that it relied much too heavily on excessive regulation and inequitable taxation to achieve its commendable objectives, while almost totally ignoring initiatives to increase domestic production of fossil fuels and encourage development and utilization of alternative energy technologies.

The legislation we are considering today was submitted by the President as an important component of what in my opinion was a flawed plan to begin with. As such, it was too flawed and was not the kind of bill I would have submitted for the purpose of encouraging and accomplishing greater utilization of this Nation's vast coal resources.

No one can argue that the purpose of this bill is invalid or that its failure to be achieved would not have serious consequence. There is no doubt that the United States had to shift away from the absolutely wasteful use of natural gas and petroleum as boiler fuels for electric power generation and large industrial uses. Given this premise, then, it was obvious that something had to be done to insure that new boilers for electric power generation and large industrial facilities would not be fired by natural gas and petroleum except in very unusual situations. It was also obvious that existing boiler use of natural gas and petroleum should be prohibited unless consumers would be adversely affected more than could be justified by the energy saving which would result from conversion to coal.

Whether reliance on market forces would have prohibited these results, or whether any one of a number of other approaches could have achieved the purposes of this bill, the reality is that this bill is the legislative vehicle we must use for conversion to coal. I say this because I feel that, imperfect and flawed though it may be, and though it may fall short of legitimate expectations, the needs this bill addresses and the purposes it serves, demand attention and action and I cannot see that we are likely to have a better legislative vehicle in the foreseeable future.

Faced with that reality, the question then becomes whether the bill requires conversion to coal which is unreasonable or counterproductive. After examining the conference report, I have concluded that the legislative process has improved the original bill so that I can support it. In my opinion, the general prohibition against the use of natural gas or petroleum in new boilers is legitimate and the mechanisms for enforcing that prohibition are reasonable.

As to existing facilities, I have also determined that the conversion requirements generally are consistent with the principle that conversion will be required within a reasonable time frame and only when conversion is economically practicable, technically feasible and environmentally acceptable. The mechanisms relating to conversion of existing facilities are necessarily complicated by the need to provide exemptions in accordance with economic, technical and environmental considerations. It is in this area where I feel that the legislative process had produced the greatest improvement in the bill as compared to the original approach.

Mr. President, let me be more specific regarding several provisions in this conference report which are beneficial to the citizens of my home State and other people in similar circumstances.

First. Assistance to areas impacted by increased or uranium production. I am pleased that under this conference report, Governors may designate, with the approval of the Secretary of Energy, areas impacted by new or existing coal or uranium activities, the latter eligible activity added at my request. Specific activities on which such designation may be based are production, processing, and transportation. Of course, the impact of these activities must be at a minimum level as measured by specific criteria listed in the bill.

Upon approval of the Governor's designation, the State or localities may receive 100 percent Federal planning grants to develop a growth management and housing plan for the impacted area. No more than 10 percent of the total appropriations for coal and uranium energy impact assistance may be devoted to planning grants.

In those situations where land is needed for public facilities and housing and financial resources for acquisition of such land is lacking at the State or local level, the land may be acquired by the Federal Government and transferred to the State or local government, subject to reimbursement under flexible terms.

Grants for land acquisition may also be made directly to States for not more than 75 percent of the cost of the land to be acquired. Grants may include the cost of site preparation, but actual housing construction costs cannot be paid for by the grants.

Second. System compliance option. The conference agreement adopted a modified version of the Senate provision for the electric utility system compliance option (modified slightly) for existing powerplants which are subject to the 1990 statutory prohibition on the use of natural gas. The advantage of selection of the system compliance option is that an electricity utility company can, by meeting certain requirements and submitting and following an approved plan, convert to coal on a systemwide basis rather than a plant-by-plant conversion.

This option is of great benefit to most electric utilities in the Southwest and will save New Mexico electricity users millions of dollars which have resulted

from a plant-by-plant conversion requirement absent this systemwide option for conversion.

Third. Permanent exemption for smaller powerplants. Smaller powerplants, where the economic and technical feasibility of force conversion to coal is subject to serious question, will not be required to convert to coal. The Secretary of Energy must grant a permanent exception to any powerplant with a capability of less than 250 million Btu's per hour, which is either not coal-capable or which would sustain a substantial reduction in related capacity if required to convert.

This permanent exception will cover many electric powerplants and most of those in New Mexico which are municipally owned and operated. This means that the citizens of smaller cities in New Mexico, which are now barely able to meet the rising cost of power generation from municipal facilities, will not be further burdened by the costs of conversion of plant equipment to utilize coal. These are substantial savings for electricity users when compared with conversion costs anticipated by the President's original plan.

This exemption is based on a modification I initiated when I learned some startling facts about the costs of converting smaller powerplants in New Mexico. Studies by New Mexico's major electrical utility, Public Service Co. of New Mexico, show it would cost as much as $500 per kilowatt to convert such units to coal from oil and natural gas. This would require $320 million in new investment for Public Service Co. of New Mexico alone. This is a significant amount of money, especially in a State such as New Mexico which has only slightly more than 1 million people.

Studies by Public Service Co. of New Mexico also show that the original capital investment for these units averaged approximately $125 per kilowatt. As a result, it is easy to see that the conversion cost could be many times the original capital investment.

Based on the above information, it did not appear that it would be economically practical to convert the small units in New Mexico to coal and I am pleased that my amendment was adopted and will insulate users of electricity from these costs.

Fourth. Permanent exemption for peakload powerplants. For any new powerplant certified to be used solely as a peakload powerplant, the Secretary must grant a permanent exception from the prohibition to use either petroleum or natural gas. This will substantially lower the costs of new construction of peakload powerplants since they will not be required to use coal.

The PRESIDING OFFICER. Who yields time?

Mr. SCHMITT. Mr. President, I greatly respect the diligent efforts of my senior colleague from New Mexico and others in the conference committee in trying to improve through compromise two bad bills. Unfortunately, in this Senator's opinion, they had an impossible task.

Mr. President, the principal points against this conference report on H.R. 5146, the Powerplant and Industrial Fuel Act of 1978, are first, that it is unnecessary; second, that it substitutes a massive dose of artificial and costly regulation for the self-regulating market system; third, it is a bad law which gives far too much lawmaking power to the Secretary of the Department of Energy; fourth, it will probably result in increased petroleum imports, not less; and fifth, its purpose is inconsistent with respect to the purposes and administration of existing environmental law.

This so-called conversion act is unnecessary because the marketplace is forcing conversion to coal to the extent permitted by environmental regulations, investment capital and coal supply.

The act goes directly counter to the public will. It should be obvious by now that our constituents want less regulation, less taxes to pay for regulation and less of the inflation caused by the cost of regulation.

The act provides essentially open-ended regulatory power to the Department of Energy through the use of the exemption process rather than the market process.

Mr. President, could we have order, please?

The PRESIDING OFFICER. The Senate will be in order.

Mr. SCHMITT. It may be that every utility can get an exemption, although I doubt it. At the very least, the enthusiasm with which proponents of the bill would impose additional paperwork, economic and judicial burdens on the public to do what the marketplace would do anyway is beyond my comprehension.

The act requires a shift from natural gas to petroleum in instances where a shift to coal is not feasible. For each such instance, the net effect will be to increase our immediate dependence on imports of high-priced petroleum.

The enforcement of the Surface Mining and Reclamation Act, the Clean Air Act and the Environmental Protection Act goes directly counter to the purposes of this Coal Conversion Act. The enforcement of the environmental laws is restricting the availability and use of coal, whereas this act has as its purpose the expansion of the use of coal. This inconsistency should be resolved before H.R. 5146 becomes law. In this context I request unanimous consent that the Evans and Novak column entitled "Energy Plan Shows Fatal Flaw," from the Nashville Tennessean for July 13, 1978, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENERGY PLAN SHOWS FATAL FLAW

(By Evans and Novak)

WASHINGTON.—A fatal flaw in President Carter's energy program was revealed last month in Denver when a federal bureaucrat halted construction of two coal-fired power plants, badly needed in the Pacific Northwest, because they violated the purest air standards on an Indian reservation.

Alan Merson, regional administrator for the Environmental Protection Agency (EPA), refused to issue a long-pending construction permit for Colstrip Plants 3 and 4 in Montana. The reason: Merson's computer model predicted that, thanks to changes in wind, the power plants would on "numerous" occasions violate the high standard of air quality established for the nearby Northern Cheyenne Indian Reservation.

Unless overruled by federal court, this one decision wipes out a $1.4 billion complex intended to triple the power output for Montana, Washington and Oregon. Energy Department officials in Washington agree with utility executives that this poses a severe power crisis for the Pacific Northwest by the mid-1980s.

But Secretary of Energy James Schlesinger is powerless to prevent this. He is hamstrung by a combination of overly restrictive environmental laws passed by Congress and overly enthusiastic environmental bureaucrats appointed by the President. Nor has Mr. Carter exerted himself to control the regulatory process.

Yet it is making a mockery of his avowed program of using coal and nuclear reactors as substitutes for imported oil. Utility executives plead they simply cannot get past the EPA and the Clean Air Act to build coal-fired plants. Even worse is the way arcane licensing regulations block nuclear power, most recently in the Nuclear Regulatory Commission (NRC) decision to halt construction of the Seabrook, N.H., reactor.

The Colstrip decision suggests the legal-bureaucratic labyrinth through which American businessmen must walk, quite often without reaching their goal.

The six power companies cooperating in the venture had argued that because two new plants were integrated with existing Colstrip Plants 1 and 2, they needed no new federal permit—an argument supported by a federal district judge. EPA disagreed, appealed the ruling, and in the meantime ordered the utilities to apply for permits. Montana state approval, meanwhile, was granted after lengthy proceedings.

In June 1976, just one month before the utilities filed for the federal permit, the Northern Cheyenne Indian Reservation's tribal council asked for a Class I air purity designation—cleaner than city dwellers ever dream about. EPA set aside the power plant application until it could study the Indians proposal. It was approved last August, upgrading the previous Class II designation that would have proved no problem for the power plants.

EPA hearings centered around rival computer studies about how many air purity violations could occur. At one point, a permit acceptance was officially stamped but not signed by administrator Merson. His final decision June 12 refused permission.

Merson dismissed computer studies by Montana Power Co. showing there would be no more than four clean air violations in five years, citing rival studies predicting "numerous" violations. While "mindful of (the) importance and widespread support for the plants," Merson showed where his priorities lie: "The inescapable fact is those units would violate air quality on the (Indian) reservation."

"It is 100 percent political," one utility executive told us. "There is a conspiracy "against the power companies to bring the nation to its knees." By worrying about "how the wind blows three or four times a year, the Northwest will be crippled by the mid-1980s."

Without subscribing to any conspiracy theory, a high Energy Department official said this of the EPA ruling: "The people of the Northwest are going to have to pay the piper in 15 years." That view is fully shared by one politically influential Northwesterner: Sen. Henry M. Jackson of Wash-

ington, chairman of the Senate Energy Committee.

Scoop Jackson has never worked harder than this past year in his uphill climb for an energy bill containing a modest element of conservation. But he has always been troubled about the lack of emphasis on new energy sources, especially coal and nuclear, that he knows must accompany conservation.

Mr. SCHMITT. Mr. President, we need a positive energy program, one with which Americans can identify, not this negative loss of faith in our free market system. We need a policy that encourages the production and use of our abundant resources of clean, natural gas, one which is consistent with our environmental laws, not a policy that attempts to artificially substitute coal more rapidly and at higher cost than we are ready to pay at this time.

I urge the Senate to show the courage necessary to defeat this bill and begin anew the process of developing a workable, positive, and commonsense energy policy.

Finally, Mr. President, there was some question recently about New Mexico's interest in coal. To fully illustrate that interest, I request unanimous consent that New Mexico State Senator and geologist Philip R. Grant's 1977 discussion of coal in our State be included in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

ENERGYTIC NEW MEXICO

(By Philip R. Grant)

III. COAL

A. General

One hundred years ago, in April 1877, the following article appeared in *Scientific American:*[1]

"The coal fields of Colfax County, to the north of Las Vegas, are the most valuable and extensive deposits within our territorial limits. After the purchase of the so-called Maxwell Land Grant by English capitalists a few years ago the new owners engaged the services of able engineers, who after surveying the Grant reported they had traced seams of coal averaging more than six feet in thickness over a tract of more than 100 square miles. More than 60,000 acres of coal! Without taking into account the thousands of hearths that could be supplied with fuel, what a vast trade this would give to a railroad extending south from Colorado! What an immense amount of steam power this would create for the manufacturer and other enterprises!"

The railroad arrived the following year, coal mining in Colfax County flourished, and the promise offered by such glowing accounts and the economic benefits to be reaped by development of vast coal reserves have been fulfilled several times in the past hundred years. But none of the coal initiatives proved permanent or long lasting. Once again, however, major developments associated with fuel shortages make New Mexico's vast coal treasure appear to be an economic bonanza.

Coal reserves account for 90 to 95 percent of all known U.S. fossil fuel resources. Coal production reached 659,175,000 tons in 1976, of which 463,058,000 tons or more than 70 percent was consumed by electric utilities. Coke and gas plants consumed 92,678,000 tons, retail dealers used 4,137,000 tons, 42,658,000 tons were exported, and other uses accounted for the balance of 56,644,000 tons.[2] About 55.5 percent of the nation's coal is produced from surface or strip mines and the rest from underground mines. 83 percent of this coal is from mines east of the Mississippi and 17 percent from western coal mines.[3]

The National Energy Plan of 1977 projects an increase in coal production of 565 million tons by 1985 if major initiatives to conserve the use of oil and gas are to be successful.[4] The National Coal Association indicates that new coal mines and major expansions of existing mines will make available an additional 507.87 million tons to the nation by 1986. This source says that western coal will supply 278.37 million tons or 55 percent of the projected increase.[5]

The major reason for rapid expansion of western coal sources is its relative accessibility through inexpensive surface mining methods and its low sulfur content. Most of the projections for additional use of western coal assume a competitive advantage for it in electricity generation or industrial consumption after adding transportation costs because less expensive environmental controls are acceptable. If, however, more stringent air quality controls become necessary in eastern market regions or new technology derived from research into fluidized-bed combustion permitting direct burning of high sulfur coal in an environmentally superior manner is successfully applied, much of the advantage for western coal may be lost. In this event, eastern coal could meet most of the expansion requirements.

Historical data indicate that the Spanish used coal as a source of fuel in New Mexico almost four centuries ago, and anthracite was mined as a commercial venture in the Cerrillos field near Madrid as early as 1835. U.S. Army troops stationed at Fort Craig mined significant amounts of coal from the Small Carthage field south of Socorro in the 1860's. Formal records on coal production, value and employment in New Mexico were kept beginning in 1882.

After the railroads entered New Mexico Territory in the late 1870's, coal mining became an increasingly important part of the economy. Production early in this century steadily advanced to a peak of about 4 million tons in 1918. Coal mining directly employed more than 4,500 persons in 1916, or 1.3 percent of the state's population of 345,000. Production declined following World War I to a level of less than 2.3 million tons during the depression years of the 30's. World War II brought a short-lived resurgence. Dieselization of the railroads, loss of the steel mill markets in Colorado, and increasing dependence on that easily transportable, clean and inexpensive fuel, natural gas, nearly finished the coal industry in New Mexico. Production was an insignificant 117,000 tons in 1958.[6][7]

A dramatic resurgence of interest in coal occurred in the early 1960's with the opening of major strip mines in northwest New Mexico's San Juan Basin in San Juan and McKinley counties. By 1965 more than 3 million tons a year were being produced to supply major new steam electric generating complexes. Kaiser Steel Corporation had reactivated the underground York Canyon mine in Colfax county in 1955 and was transporting large volumes of coking coal to their steel mills in California. By 1976 coal production had reached a record 9,690,933 tons, and long term commitments to this plentiful and versatile mineral indicate a greatly expanding future for this major industry in New Mexico. Figure 8 shows New Mexico's production trends since 1910.

B. Classification and composition of New Mexico coal

Coal, like oil and gas, is a fossil fuel that is simply a type of sedimentary rock, a result of the accumulation of thick deposits of organic debris laid down in swamps and lagoons. These were marginal to the vast continental seas covering much of New Mexico during late Cretaceous and early Tertiary time, 50 to 100 million years ago. The major coal deposits in New Mexico and elsewhere in the Rocky Mountain region are located and preserved in large sedimentary basins. The two important basins for coal occurrence in our state are the Raton Basin in the central northeast part of the state and the much larger San Juan Basin covering most of northwest New Mexico.[4]

1. Rank.[6]

The Cretaceous and early Tertiary coals in the state range from sub-bituminous A to anthracite, and are generally in the range from sub-bituminous A to high volatile C bituminous coal. The Mesaverde Group coals in the San Juan Basin are mainly sub-bituminous A or B coals in the lower part of the unit and high-volatile C to B bituminous coals in the upper beds. In general, occurrences of coal in the Fruitland Formation in the northern part of the San Juan Basin are somewhat higher in rank than those to the southeast.

The coking coals of the Raton field are of high volatile A to B bituminous rank as are the coking coals of the Carthage Field near Socorro and the Cerrillos Field near Madrid, New Mexico. The anthracite and semianthracite of the Cerrillos Field is a metamorphosed lateral equivalent of the high-volatile A bituminous coal that makes up most of the reserves in the field.

2. Coal Moisture, Ash, and Sulfur Content.[6]

Moisture content, on an as-received basis, varies widely for New Mexico coals. The range is from 1.7 percent to 21.3 percent for Mesaverde coals with an average of about 15 percent. The Fruitland coals have a moisture content of 4.5 percent to 15.6 percent with an average of near 14 percent. Moisture content range for the Vermejo and Raton coals in the Raton field is 1.9 percent to 11.2 percent, averaging about 6 percent.

Ash content also varies widely. On an as-received basis, the Raton field coals average about 1.4 percent ash, the Mesavede coals in the San Juan Basin average about 11 percent ash, with a range from 3.1 percent to 22.8 percent, while the Fruitland coals presently being mined range from 10.1 percent to 21.6 percent ash.

Sulfur content of the coals in New Mexico is in the range from 0.4 percent to 1.0 percent in most beds in the coal fields. Most of the San Juan basin coals contain at least 0.5 percent organic sulfur, and sulfate and pyritic sulfur make up about half of the sulfur in coals having as much as 1 percent sulfur.

3. Heat Value[6]

On a dry, ash-free basis, the Raton Formation coals range from 12,700 Btu/lb. to 14,340 Btu/lb. The Vermejo Formation coals range from 10,030 Btu/lb. to 13,220 Btu/lb. Mesaverde coals range from 9,800 Btu/lb. to 15,200 Btu/lb., averaging about 13,000 Btu/lb., and the Fruitland coals range from 9100 Btu/lb. to 14,100 Btu/lb. averaging about 12,100 Btu/lb. These are coals ranging from sub-bituminous B to high volatile A. Dry, ash-free analyses of the anthracites from the Cerrillos Field show a range from 14,600 Btu/lb. to 15,100 Btu/lb.

4. Coking Coal[6]

High quality coking coal occurs in the Raton and Carthage Fields and weak to moderate coking coal in the Cerrillos Field.

C. Production and use

1. Current Activities

Table 34 sets forth New Mexico coal production for selected years since 1960, together with the value of production and average price per ton.

Footnotes at end of article.

TABLE 34.—NEW MEXICO COAL PRODUCTION AND VALUE OF PRODUCTION, 1960-76

	Production in tons	Value of production	Average amount per ton
Year:			
1960	295,000	$1,747,000	$5.92
1965	3,212,000	10,710,000	3.33
1970	7,361,000	21,249,000	2.89
1971	8,175,800	26,657,000	3.26
1972	8,248,000	29,794,000	3.64
1973	9,116,851	32,498,976	3.56
1974	9,371,465	41,141,440	4.39
1975	8,748,338	61,016,223	6.97
1976	9,690,933	69,883,586	7.21

Source: U.S. Bureau of Mines 1960-72. New Mexico Bureau of Revenue, resources excise tax data 1973-76.

TABLE 35.—U.S. COAL AND LIGNITE PRODUCTION BY STATE, 1975 [8]
[Production in thousand short tons]

Rank and State	Production	Percent	Rank and State	Production	Percent
1. Kentucky	143,613	22.1	13. North Dakota	8,515	1.3
2. West Virginia	109,283	16.8	14. Colorado	8,219	1.3
3. Pennsylvania	84,137	13.0	15. Tennessee	8,206	1.3
4. Illinois	59,537	9.2	16. Arizona	6,986	1.1
5. Ohio	46,770	7.2	17. Utah	6,961	1.1
6. Virginia	35,510	5.5	18. Missouri	5,638	.9
7. Indiana	25,124	3.9	19. Washington	3,743	.6
8. Wyoming	23,804	3.7	20. Oklahoma	2,872	.4
9. Alabama	22,644	3.5	21. Maryland	2,606	.4
10. Montana	22,054	3.4	22. Alaska	766	.1
Total, 1st 10 States	572,476	88.3	23. Iowa	622	.1
11. Texas	11,002	1.7	24. Arkansas	488	.1
12. New Mexico	8,785	1.3	25. Kansas	479	.1
			26. Georgia	74	
			Total, United States	648,438	100

TABLE 36.—NEW MEXICO COAL PRODUCTION BY MINE, 1974-76

Company	County	Mine	Coal production in tons 1974 [13]	1975 [13]	1976*	1976 employees [14]
Utah International	San Juan	Navajo	6,955,000	6,073,000	6,756,000	440
Western Coal Co	San Juan	San Juan	956,688	1,245,449	1,356,000	71
Kaiser Steel Corp	Colfax	York Canyon	891,210	1,016,043	895,104	447
Pittsburgh & Midway Coal Co	McKinley	McKinley	509,417	468,000	842,339	71
Amcoal, Inc	McKinley	Sundance	100,000	0	0	22

*Note: 1976 data, personal communication, New Mexico Bureau of Mines and Public Service Co. of New Mexico. Totals may not correspond to other production statistics due to reporting requirements of different agencies.

In 1975, New Mexico ranked 12th in coal production in the U.S. The state's 8.8 million tons that year represented only 1.3 percent of the nation's 648.4 million tons. Table 25 presents the relationships of all coal producing states in 1975.

Four major mines in the state account for virtually all production. Table 36 shows production by mine for 1974, 1975 and 1976. The coal map shows the location of the mines.

In 1976 Kaiser Steel Corporation, operator of the York Canyon underground mine in Colfax county, shipped 895,104 tons of high grade coking coal to their steel mills in Fontana, California. Production has generally averaged about one million tons a year since the 1960's, all of which is transported by unit train. On occasion, small tonnages from this mine have been sold to Colorado Fuel and Iron Company's steel plant in Pueblo, Colorado and to steel mills of Ciudad Fundidora de Fierro y Acero de Monterrey, in Monterrey, Mexico. The York Canyon Mine is the only major underground coal mine in New Mexico. There is a strip mine associated with this operation, but it accounts for a very small part (9,239 tons in 1976) of production.

The vast majority of New Mexico's coal is "steam coal" used exclusively for coal-fired, steam-electric power generation, and is produced from strip mines in the San Juan Basin. The largest of these is the Navajo Mine of Utah International, Inc., an affiliate of General Electric Co., located about 15 miles west of Farmington. In 1976 it supplied 6,756,000 tons to the five unit, 2,085 megawatt (MWe) Four Corners Power Plant, operated by Arizona Public Service Company. The company's lease is on Navajo Indian Reservation land and extends from the San Juan River near the generating plant south a distance of about 20 miles. The lease is about 31,416 acres and contains an estimated 1.1 billion tons of strippable coal with an average "as received" Btu content of 9,100 Btu's per pound.[9 10 11 12] The Navajo Mine is reputed to be the largest coal mine in terms of production in the Western Hempshire,[11] although recently opened mines in Montana and Wyoming may soon surpass it.

Coal stripped from the San Juan Mine, just north and across the San Juan River from the Navajo Mine supplies the San Juan generating plant, operated by Public Service Company of New Mexico. In 1976 production was 1,356,000 tons. Western Coal Company, owned 50 percent each by Public Service Company of New Mexico and Tucson Gas and Electric Company, holds about 6,950 acres of coal leases adjacent to the generating plant, almost all of which is national resource land managed by the Bureau of Land Management. About 2,000 acres can be surface mined, while reserves on the east part of the lease may be extracted by underground mining. The lease contains an estimated 50 million tons of recoverable coal. When all four units of the San Juan power plant are operating, coal supply will be augmented by reserves controlled by Utah International or by new mines opened by Western Coal Co. in the Bisti area. Utah International operates the San Juan Mine under contract with Western Coal.[9]

The third major San Juan Basin mine is is McKinley Mine of Pittsburgh-Midway Coal and Mining Co. some 15 miles northwest of Gallup. This firm, a subsidiary of Gulf (Oil) Mineral Resources, produced 842,339 tons of coal in 1976, an 80 percent increase over 1975 production of 468,000 tons. Most of this coal is shipped by unit train to the 116 MWe Cholla generating plant at Joseph City, Arizona, between Flagstaff and Gallup, owned and operated by Arizona Public Service Co. Two additional units of 250 MWe each are scheduled for operation in 1978 and 1979, and one more 350 MWe unit is planned for 1980 at the Cholla site.[15] Pittsburgh and Midway is in the process of expanding capacity at the McKinley Mine to accommodate the 4,000,000 tons of coal required annually to operate the plant. The McKinley Mine lease covers about 11,157 acres of Navajo lands, 8,550 acres of national resource (BLM) land, and 4,695 acres owned by the Santa Fe Railroad.[12] Opened in 1961, the mine contains an estimated 200 million tons of recoverable coal with an average Btu content of 10,500 pre pound.[10]

The five units of the Four Corners Power Plant and two units of the San Juan Power Plant are located within 8 miles of each other and with a combined generating capacity of 2,737 MWe represent the largest single concentration of electrical generating facilities west of the Mississippi River.[15] The 3,673 MWe that will be in place in 1981 when units 3 and 4 of San Juan are completed will be one of the largest power complexes in the United States. Table 37 shows pertinent data on these facilities, which furnish electricity to California, Arizona, Texas and New Mexico. The oldest unit (2) of the San Juan Plant, experienced a major explosion in 1977, placing it out of service for about one year.

Footnotes at end of article.

TABLE 37.—NEW MEXICO COAL-FIRED ELECTRICAL GENERATING PLANTS, 1977

Plant and Operator	Capacity in megawatts electrical	Year in service	Ownership	Percent
Four Corners (Arizona Public Service Co):				
Unit 1	175	1963	Arizona Public Service Co	100
Unit 2	175	1963		
Unit 3	225	1964		
Unit 4	755	1969	Southern California Edison	48
Unit 5	755	1970	Arizona Public Service Co	15
			Public Service Co of New Mexico	13
			Salt River Project	10
			El Paso Electric Co	7
			Tucson Gas & Electric Co	7
Total	2,085			

Plant and Operator	Capacity in megawatts electrical	Year in service	Ownership	Percent
San Juan (Public Service Co of New Mexico):				
Unit 2	322	1973	Public Service Co of New Mexico	50
Unit 1	330	1976	Tucson Gas & Electric Co	50
Unit 3	468	1979		
Unit 4	468	1981		
Total	1,588			

Source: Various personal communications, New Mexico Public Service Commission, Public Service Co. of New Mexico, fact sheet, 4 Corners Power Plant, January 1977.

About 77.1 percent of all the coal mined in 1976 was from Indian lands, 13.8 percent came from public lands and 9.1 percent from private lands. There is no coal production on state lands.[9] 82 percent of the state's coal production is used in the state, the other 18 percent is consumed elsewhere.

2. Mining and Reclamation:

The following is excerpted from an interesting and concise description of surface mining operations at the Utah International Navaho Mine.[16]

The first physical step which takes place in any new mining area is . . . the saving of the suitable upper mantel material or topsoil. This is done by means of three 33-cubic yard self-loading scrapers.

After topsoil removal, the overburden, or waste material above the coal seam, is drilled and blasted. The next phase is stripping, the removal of the overburden. This is the process in which the coal is uncovered. The term "stripping" comes from the type of pits or strips which are created in the normal mode of operation. Each "strip" is approximately 100 feet wide and varies in length from 1 to 3 miles. The overburden removal is accomplished through the use of three large walking draglines. Each dragline weighs nearly 4.5 million pounds and has a boom length of about 300 feet. Each bucketful of material that the dragline takes amounts to about 40 to 50 cubic yards, would fill the living room of an average home, and weighs nearly 68 tons. The dragline has the capacity of walking from one pit to another at a rate of 14 feet per minute. A new dragline costs 8 to 12 million dollars and takes from one to one and one-half years to build. Stripping is the most important part of the mining operation and all other mining and reclamation activities are planned around the operation of these big machines. It should be emphasized that the draglines are used only for removing overburden and are not used for mining coal; they simply uncover the coal.

After the coal is uncovered, it must be broken up by blasting prior to handling. Once the coal is shattered, it is loaded into a 120-ton bottom dump coal hauler by a diesel-electric front-end loader. Each loader has a 23-cubic yard bucket that holds approximately 18 tons of coal. At this point the coal will either come directly into the preparation plant by truck or it may be hauled into an intermediate railroad stockpile. At the railroad stockpile, the same kind of front-end loader will dump the coal into an eleven-car train, with each car having a 125-ton capacity. Approximately ⅓ of the coal produced is hauled directly from the pit to the plant by the trucks with the rest being hauled by train.

Coal is received at the preparation plant from the train or trucks at rates up to 40,000 tons per day or an equivalent 300-car train per day. The purpose of the preparation plant is the preparation, sampling, blending, and delivery of the coal to the Four Corners Power Plant on a 24-hour per day, 7 days per week schedule. The preparation of the coal is controlled directly by an operator from a central control tower. It is crushed from a run-of-mine size of 2 or 3 foot blocks down to ¾ inch, then transported by conveyor belt through the sample tower and into the ten blend piles. Here, coal of grades varying from 6,500 to 9,200 Btu per pound are blended to a uniform blend of 8,750 Btu per pound that is the grade necessary for the efficient operation of the power plant. Each blend pile has a capacity of 30,000 tons and is slightly over a one day fuel supply. As needed, large bucket wheel reclaimers load the blended coal into some of the 7 miles of conveyor belt at rates of 1,800 tons per hour for delivery to the power plant.

Footnotes at end of article.

Waste ash generated by the power plant is dumped into the pits in the same area where the coal was originally mined. After ash disposal is completed, the overburden from the next strip is piled on top, generally to depths of 30 feet. The dragline places the overburden in the mined out strips in rows of conical spoil piles. Grading these into gently rolling topography begins the reclamation process. Rough grading is accomplished by large crawler tractors and final grading is done by a twin engine grader with a 24 foot wide blade.

After grading, the new soils are mapped and analyzed to determine topsoiling and seeding requirements by an environmental engineer. In some instances topsoil being removed from an area to be stripped is placed directly on the mined soil, or the topsoil is taken from stockpiles. The mine soil and topsoil is disced to break up overly compacted areas and to mix the interface by a special heavy duty hydraulic controlled disc pulled by a four-wheel drive tractor. Seeding is accomplished with two seed drills connected in series. Seeding rates differ with each area. Ten different seeds are used, all but two of which are native species, ten tons of which are hand collected annually. The soil is then mulched with straw or bottom ash to conserve moisture and protect the seeds during germination.

The irrigation program for a revegetated area consists of frequent irrigation during germination, followed by infrequent irrigation through the late summer. More water is applied the following spring, with net water requirements of about 12 inches.

D. Reserves

Particularly in the case of coal, since there is so much of it, distinction should be made between resources and reserves. Generally, a reserve is the part of a mineral or fuel resource known to exist and expected to be recoverable by existing techniques and economic conditions. A resource is the amount of the mineral that reasonable interpretation of data suggests is in place. In the case of coal, it may be a measured, indicated or inferred resource, depending on the confidence factor of the data. In the west, strippable coal is likely to be a reserve, while deep coal is generally considered a resource.

Coal obtained from strip or surface mining is not only easier to measure, far less expensive and safer to produce, but the average recovery of coal in place averages 90 percent, compared with about 50 percent for coal from underground mines.[17] Whether or not a coal bearing formation is economical to strip mine depends on several factors including depth of the coal (overburden), thickness of the coal seam or seams, and quality of the coal including its Btu and sulfur content, and the market for it.

In New Mexico the practical limit for dragline stripping is about 150 feet. Plans presented for coal gasification complexes and new mines indicate dragline stripping capabilities to 197 feet.[10]

In calculating the state's strippable coal reserves, coal in seams at least three feet in thickness under less than 150 feet of overburden are estimated to be 3.1 billion tons. An additional 2.8 billion tons become available if the economic limits are expanded to beds five feet or more in thickness overlain by less than 250 feet of overburden. Areas of existing strip mines constitute significant portions of the reserves available in the 150 to 250 foot category. Rehandling the existing spoil or waste areas, including the major expense and probable economic impracticability of repeating reclamation to meet stringent environmental standards, may make some of these reserves unrecoverable.

Deep coal in New Mexico, located beneath 250 feet in depth, should be classified as a resource rather than a reserve. An exception is the special economic significance and unique characteristics of the Raton area coking coal. Various estimates place the total New Mexico coal resource at between 162 and 315 billion tons.[13 18] All but about 7.8 billion tons is in the San Juan Basin. Significant coal resources outside northwest New Mexico include 4.7 billion tons in the Raton basin, about 715 million tons of which is considered high grade metallurgical coking coal; 1.3 billion tons in the Datil Mountain area; and 1.6 billion tons in the Sierra Blanca field near Carrizozo.[18]

Comparison of New Mexico's position with regard to reserves and resources is not too meaningful. Depending upon whether the estimate is based on coal rank (anthracite, bituminous, subbituminous or lignite), depth (0–3,000 feet, 3,000–6,000 feet) strippable or underground, high or low sulfur, etc., New Mexico can rank from 5th to 13th in the nation. With total measured, indicated and inferred resources remaining in the ground of almost 4 trillion tons in the U.S., New Mexico's high estimate of 315 billion tons is a relatively small 7.9 percent and would rank it fifth, behind Wyoming, North Dakota, Montana and Colorado.[17] Since the vast majority of these resources will never be produced, the significance of the figures involved means little. The interested reader may pursue these figures by consulting U.S. Geological Survey Bulletin 1412.[17]

Of interest is that the almost 6 billion tons of economically recoverable, strippable, low sulfur, subbituminous coal in the San Juan Basin represents a resource base that would last more than 600 years at the present rate of production of approximately 9 million tons per year. Even a tenfold increase could easily be accommodated if mining were the only concern.

Since the major attraction of western coal is its ease of access through stripping, relative small expense of mining and low sulfur content, it is interesting to compare New Mexico on the basis of these parameters. The reserve base of strippable bituminous coal in beds greater than 28 inches in thickness having a sulfur content less than 1 percent is 5.3 billion tons in all the states east of the Mississippi River, with West Virginia containing 3.0 billion tons of this amount.[19] Various estimates have been made for the western states, requiring a great deal of interpretation and some extrapolation to arrive at meaningful data. For example, the coal reserve base for underground mining in the west was computed by subtracting the strippable reserve base from the total reserve base by coalbed.[20] It was noted that the surface-minable reserve base of coal in Wyoming, almost all low-sulfur, subbituminous, is 23.8 billion tons.[20] Montana reported 42.6 billion tons of surface-minable subbituminous coal and lignite.[20] As about one-third of this resource is low Btu lignite, arbitrarily Montana is assigned 28.5 tons of comparable low-sulfur subbituminous coal. Alaska is the only other western state with substantial low-sulfur subbituminous coal, but virtually all of it is located on the North Slope and is uneconomic because of transportation logistics, and may be ignored. The total low-sulfur bituminous and subbituminous coal resource base then, is the 5.3 billion tons in all the eastern states and 58.2 billion tons in Montana, Wyoming and New Mexico. New Mexico's 5.9 billion tons represents 10.1 percent of the western reserve and 9.3 percent of U.S. low-sulfur strippable coal reserves, and ranks the state third in this important category. Of further interest is that the average strippable coalbed thickness in New Mexico is 11 feet, compared with 67 feet in Wyoming and 24 feet in Montana.[20]

Of the state's 121,666 square miles of total area, 14,650 square miles or 12 percent is underlain by coal deposits.[17] Two other major owners are the Navajo Tribe and the Santa

Fe Railroad (Santa Fe Industries). Perhaps 2 to 3 percent of total resource is owned by the state and other private parties. Of strippable reserves, 32 percent is on Indian land, 57 percent on federal land, 6 percent on private land and 5 percent on state land.

In the western states as a whole, the railroads as a group are the second largest owners of coal mineral rights. In the early days of the transcontinental railroads, the U.S. Government gave substantial acreage to the companies to encourage construction and, through transportation, the ultimate settlement of the west. The Santa Fe Railroad received the odd-numbered sections (one section=one square mile=640 acres) for a distance of 20 miles on both sides of the right-of-way in New Mexico. Santa Fe later traded a substantial part of their lands south of the existing Navajo Reservation to accommodate the Reservation's southward expansion. In return, the tribe gave the railroad holdings it owned east of the Reservation, permitting the firm to assemble relatively large, solid, and contiguous blocks of acreage which are now of economic importance for the coal located on them.[17]

Much of the Navajo coal is under lease and committed to various development plans. The U.S. Bureau of Land Management administers most of the federal "national resource" lands in the San Juan Basin and has issued 40,958 acres of coal mining leases. It has 86,230 acres of outstanding coal preference right applications filed prior to the cut-off date in early 1974 for BLM coal leases, pending completion of an Environmental Impact Statement on most of the basin. Some 297,915 acres, parts of which are covered by existing leases or preference right applications, were nominated for leasing by interested parties when the Bureau solicited an expression of interest in 1975, indicating that if the acreage were available it would be leased.[21]

Placing a Future Value on New Mexico coal reserves would be extremely speculative. Raw steam coal averaging 8,750 Btu per pound is being sold for about $4.50 per ton in the ground.[22] Recent studies indicate that it costs $7.53 per ton to mine coal plus 30 cents per ton for reclamation for a total, without profit, of $7.83 per ton or 41.2 cents per million Btu at existing mines. Costs will be considerably higher at new mines requiring large capital investments for equipment at inflated prices. As recently as 1975 one New Mexico strip mine indicated its cost to mine coal was $8.09 per ton while the price it received was $7.27 per ton.[23] As Table 34 indicates, the average price reported in 1976 was $7.21 per ton, which includes a higher price for coking coal than for steam coal. If, arbitrarily, a price of $10 per ton is assigned to the state's 5.9 billion tons of strippable coal, its value would approach $60 billion. It is estimated that underground mining similar to Kaiser Steel Corporation's York Canyon operation results in a cost of $25.04 per ton of cleaned coal.[23] Since there is no near term commitment for development of the vast deep resources, no reasonable value can be assigned at this time.

E. Taxes

The major direct taxes imposed on the coal industry by New Mexico are property, conservation, resources excise, gross receipts and severance tax, with new rates effective July 1, 1977.

1. *Property tax:* Assessed by the Property Tax Department. The Tax Rate is the mill levy where the mine is located. The average mill levy in 1976 in those counties with coal mines was .028595. After determining the value of property and production, assigning the statewide assessment ratio of 33⅓ percent to arrive at taxable value, and multiplying times the mill levy, the coal industry paid the equivalent of $0.0830 per ton or $804,000 in property tax in 1976.

2. *Conservation tax:* Collected by the Oil and Gas Accounting Commission. Taxable value is the severance tax base except that Indian royalties are also deductible. The 1976 Tax Rate was 18/10ths of one percent, but the effective rate was $0.0099 per ton of coal. The amount collected was about $100,000 in 1976. The 1977 Legislature raised the rate to 19/100ths of one percent effective July 1, 1977.

3. *Severance tax:* Collected by the Bureau of Revenue. Until July 1, 1977 the Tax Rate was one-half of one percent of value after deductions for processing costs and royalties paid the state or Federal Government. In 1976, the industry paid $278,753. The 1977 Legislature changed the percentage severance tax to a unit tax of $0.38 per ton of steam coal and $0.18 per ton of metallurgical (coking) coal, which became effective July 1, 1977. Had the new tax been in effect in 1976, revenues collected would have been about $3.5 million.

4. Resources Excise Tax: Collected by the Bureau of Revenue. Tax rate is ¾ of one percent of actual sale price less royalties paid to state or federal governments. In 1976 industry paid $513,902.

5. Gross Receipts Tax: Collected by the Bureau of Revenue. The Tax Rate is 4 percent of the actual value of all coal sold in intrastate commerce, less sales to state and federal governments and the governing body of an Indian Tribe or Pueblo. About 82 percent of New Mexico's coal is sold to users in the state, primarily the generating plants. Revenues from this source amounted to about $2,876,000 in 1976.

6. The state also collects advance royalty in lieu of annual rentals on state coal leases. In 1977 royalty rates were changed to 12.5 percent of value or 86 cents a ton, whichever is higher. Advance royalty collections in 1976 were $233,116, collected by the State Land Office.

The 1975 New Mexico Legislature enacted an "Electrical Energy Tax" of four-tenths of one mill ($0.0004) on each net kilowatt hour of electricity generated in New Mexico. The 19,835,017,000 kwh of net electricity produced in 1976 in the state[25] would have generated revenues of $7,934,004 from this source. However, electricity user interests outside New Mexico who consume 59 percent of the state's production[26] are challenging the tax in the U.S. Supreme Court.

On June 18, 1977 the Navajo Tribal Council imposed a "fee" of ten cents per pound for each pound of sulfur discharged into the atmosphere by coal-fired generating plants located on the Reservation. The fee will increase by 10 cents a year until the fifth year. The only New Mexico plant affected is the Four Corners Power Plant which, in 1976, discharged 55,600 tons sulfur dioxide. The first year fee would cost the plant more than $11 million.[27] Participants in electricity generation at the plant have filed suit against the Tribe in an attempt to prevent imposition of the charges.

F. Economic considerations

Coal mining in New Mexico employs 1,051 persons.[14] The Four Corners Power Plant employes 685 persons with a budgeted payroll of $12.2 million for 1977.[28] The investment in mines and generating plants is on the order of $600 million.

New Mexico is the third largest exporter of electricity (Table 17), sending about 59 percent to California, Arizona and Texas.[26] The Four Corners Plant, with generation of 11,519,700,000 kilowatt hours (kwh) accounted for 58.1 percent of the state's 1976 production of 19,835,017,000 kwh. The San Juan Plant produced 1,904,600,000 kwh or 9.6 percent of the total. Two-thirds of all electricity generated was derived from coal-fired plants.

TABLE 38.—NEW MEXICO ELECTRICITY GENERATION BY SOURCE AND FUEL, 1976[25]

Source of electricity	Kilowatt hours generated	Fuel used	Percent of electricity generated
Hydro	76,205,000		0.4
Coal	13,140,122,000	7,690,288 ton	66.2
Oil	500,437,000	1,015,858 bbl	2.5
Gas	6,118,252,000	68,224,143 mcf	30.9
Nuclear	0	0	0
Other (geothermal, wood, waste)	0	0	0
Total	19,835,017,000		100.0

The economic advantage of the use of coal to generate electricity is demonstrated by the experience of Public Service Co., New Mexico's largest utility company. In 1976, natural gas represented 43.1 percent of the total fuel used by the firm, was 72 percent of the fuel bill. Coal accounted for 55.1 percent of the company's generation and only 24 percent at the fuel cost.[32]

Table 38 demonstrates electrical generation in the state by type of generation and amount of fuel used.

In April, 1977, Hospah Coal Company, a subsidiary of Sante Fe Industries, signed an agreement with Chaco Energy Company, A Texas Utilities subsidiary, to lease coal properties owned or controlled by Hospah in the Star Lake and South Hospah areas. The lease involves extraction of about 300 million tons of coal through the year 2022. The mining operation, expected to employ several hundred people and representing an investment of several hundred million dollars, is expected to begin in the early 1980's. Plans call for production of 1.25 million tons the first year, increasing to more than 7 million tons a year by 1991. Both of the mining areas are in a remote and isolated region of the San Juan Basin (see coal map). Development is conditioned on construction of an approximately 70 mile railroad spur from Prewitt to the new mine areas, the financing of which has not been firmly committed. The Bureau of Land Management is preparing an Environmental Impact Statement on both the railroad and the mines.[30 31]

Earlier in the year, Chaco Energy announced the purchase of an undivided interest in certain coal properties held under state and federal leases by Thercol Energy Company, a Texas based joint venture including Texas Utilities. The coal involved, estimated at over 200 million tons and located primarily adjacent to the Star Lake deposits, will be developed with a single mining plan. Btu content of the coal ranges from 8,000 per pound at Star Lake and 9,500 at South Hospah. Coal will be blended to average more than 9,000 Btu and hauled by unit train to generating plants to be constructed in the Dallas-Fort Worth area.[30]

In May 1977, Gallo Wash Coal Company, a unit of Santa Fe Natural Resources and a Santa Fe Industries subsidiary, subleased its rights to Tucson Gas & Electric Company to mine and sell approximately 142 million tons of steam coal in the Gallo Wash area. Gallo Wash is about 8 miles northeast of the proposed Star Lake mining district, in the extreme southeast corner of San Juan county. TG&E intends to use the coal in a new generating plant near Springerville, Arizona, about 15 miles west of New Mexico's border on U.S. 60.[22] Two coal-fired units of 350 megawatt capacity each, Coronado 1 & 2, are scheduled for operation at this location in 1979 and 1980. A third 330 MWe unit, Springerville 1, should be operational in

Footnotes at end of article.

1984.[21] Mining at Gallo Wash should commence in 1985 with extraction of 1.8 million tons, escalating to 4 million tons annually by 1993. With full scale operation in the 1980's, about 350 people will be employed.[22]

In April 1977, Public Service Company of New Mexico, Plains Electric Generation and Transmission, and El Paso Electric Company announced plans for a five unit, 2,340 MWe coal-fired plant in the Bisti area that may cost $2.5 billion.[23] The proposed plant has since been scaled back to four units of 500 MWe each. Coal for the generating facility would come from Western Coal Company's holdings in the vicinity. Several options to provide cooling water are under examination, including pipelines from major new uranium mines that must be dewatered in the Crownpoint region.[24] About 7 million tons of coal annually would be necessary when full operation is achieved. Mining could commence as early as 1980 or 1981, with some production scheduled for Public Service Company's San Juan Plant. The first unit of the Bisti area plant would be operational between 1983 and 1985. Much of the new market for the electricity is the new uranium mining activity anticipated in the Crownpoint region beginning in the early 1980's. Public Service Co. would own 50 percent of the plant and the other two firms would own 25 percent each.

Plains Electric Generating and Transmission provides electricity to eleven electric co-ops serving 21 New Mexico counties. The firm had previously announced future plans for three 350 MWe units of coal-fired capacity to supplement its present sources and meet the anticipated demand of the co-ops. In April 1977, the Navajo Eastern Tribal office in Crownpoint announced a feasibility study of constructing a 400-500 MWe coal steam plant north of the community, to utilize strippable coal in the area.[25] It is unknown what affect the proposed Bisti plant will have on these plans.

Carbon Coal Company is to open the Gramerco strip mine north of Gallup to supply coal to the Apache 2 and 3 units of 175 MWe each, located at Benson, Arizona, between Deming and Tucson, expected to become operational in 1978 and 1979.[15] The mine is expected to produce 1.5 million tons a year.[21]

Western Gasification Company (WESCO), a joint venture of Pacific Coal Gasification Company (a subsidiary of Pacific Lighting Company of Los Angeles) and Transwestern Coal Gasification Company (a subsidiary of Texas Eastern Transmission Company of Houston) will construct major plants to extract synthetic or substitute natural gas (SNG) from coal, if Congress approves loan guarantees for the projects. WESCO has obtained rights from Utah International for coal at the south part of UI's Navajo lease and will use UI's rights to 40,000 acre feet annually of San Juan River water. One plant capable of producing 250 million cubic feet of SNG per day would require 9 million tons of coal a year, 8,200 acre feet of water, and cost $1.3 billion to build.[10] WESCO had originally proposed to build four such plants over a nine year period, with maximum construction employment of 4,300 and permanent employment of 1,600 in the mine and 2,400 in the plant.[9] The activity would be about 30 miles southwest of Farmington in a relatively remote part of the Navajo Reservation.

El Paso Natural Gas Company and Consolidation Coal Company's 40,287 acre coal lease, with an estimated 700 million tons of strippable coal, extending east from Burnham to Bisti 30 miles south of Farmington, is currently under renegotiation with the Navajo Tribe. The Tribe early in 1977 had agreed to terms requiring an advance royalty payment from El Paso of $5.6 million and 55 cents per ton or 8 percent of the mine price of the coal. The Department of Interior, which must approve leases on Indian lands, has refused to approve the lease, and is requiring the Indians to comply with provisions in the federal Coal Lease Amendments Act of 1975, mandating 12½ percent royalties. El Paso had originally planned to construct 2 coal gasification units with a total capacity of 785 million cubic feet of SNG per day. Unit one, a 288 million cubic foot plant, would require 9.5 million tons of coal annually and 10,000 acre feet of water. A six-year construction program would require 3,500 workers and permanent employment would mean 955 jobs in the mine and 1,876 to operate the plant.[9] Assuming negotiations with the Tribe results in extension of the El Paso lease, it is uncertain that the firm will pursue coal gasification. The lease represents the largest uncommitted coal reserve in the state, and it is unlikely that either El Paso or the Navajos will permit this major resource to remain unused.

As petroleum supplies dwindle, there may be additional interest in the conversion of coal to liquid hydrocarbons. The Fruitland Formation of the San Juan Basin yields 3 to 3½ barrels of oil or liquid hydrocarbons per ton. A 100,000 barrel per day operation would require 8.5 to 9.9 million tons of coal a year.[24]

G. Summary

It would appear that New Mexico's extensive coal reserves are barely on the verge of meeting their enormous potential. Present production of about 10 million tons a year is devoted 90 percent to coal-fired electrical generating plants. Expansion of existing mines and construction of new ones to accommodate more coal-fired plants in New Mexico, Arizona and Texas will require an additional 27.5 million tons of coal a year. Full production of four gasification units for the WESCO project would require an additional 36 million tons annually. Whether or not El Paso elects to go forward with a coal gasification program, their lease would support a long term project requiring 20 to 30 million tons on an annual basis. Coal presently committed in existing leases, production and announced expansion plans account for about 60 percent of New Mexico's known strippable coal reserves in the San Juan Basin.

At 82 percent, consumption and use of product in New Mexico is very high, compared to other resources. However, the state is or will be basically processing the coal—into electricity or synthetic gas—and the major benefits in terms of value added by manufacturing are still realized in other states.

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Mr. SCHMITT. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Colorado has 5 minutes.

Mr. HASKELL. I yield 2½ minutes to the Senator from Wyoming.

Mr. HANSEN. I thank my distinguished colleague from Colorado.

Mr. President, there is nothing that I can really add to the massive amounts of material that has been published about this bill, or to the things that have been said about it. This bill is a significant improvement over the coal conversion legislation that is now incorporated into ESECA. We have provided some guidance to the Secretary as to how he is to go about regulating American industry. We have provided industry with both substantive and procedural rights that they may not have had under ESECA.

The particular legislation that we consider today may not provide a great amount of savings in our oil import bill.

As a matter of fact, I do not think it will. It will force few industrial installations to convert that were not planning to do so in the absence of legislation. But, it does provide insurance to the American people that industry will do what it has committed itself to do.

I hope that today we can put this legislation behind us, and begin working on legislation on the supply side of the energy equation, where the remedies to the energy problem really lie. Nothing in this legislation, or in any of the remainder of the President's energy bill, for that matter, will help us supply our energy needs. Let us then pass this legislation, but pass it with the understanding that it is only one very small step toward the solution of our energy problems.

I reserve the remainder of my time and I yield it back to my friend from Colorado.

Mr. HASKELL. I yield a minute to the Senator from Washington.

Mr. JACKSON. Mr. President, this is the first in a series of four bills to come from our conference where we have met, as my colleagues know, over a period of many months. It is one part of the sum total of the effort that our Nation must make to really begin to get at solutions to our country's energy problems.

By 1985 this bill will save a little over 1 million barrels of oil a day. That is an important step.

I take this opportunity, Mr. President, to commend the distinguished chairman of the subcommittee, Senator HASKELL, for his outstanding leadership, and the ranking minority member, Senator HANSEN, and our colleagues on the committee, and to commend the foresight and leadership of Senator RANDOLPH who as early as 1959 saw the need and advocated a national coal policy. It has been a real bipartisan effort in putting this package together.

I hope and trust that we can carry through on the other three pieces so that we can let our country and our allies around the world know that we mean business when it comes to energy.

Mr. HASKELL. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has about a minute and a half.

Mr. HASKELL. I yield a minute to the Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the passage of this legislation—and I hope there will be few votes against it—will be, as Senator JACKSON has indicated, a clear signal and an assurance to the people of the United States that we intend to use coal. We will use our most abundant fossil fuel for, not 50, not 75, but at least 100 years. Coal is the basic resource for an energy supply in this Nation which will make us largely, perhaps wholly, independent of the other countries of the Earth.

I join in commendation for Senators JACKSON, HASKELL, and HANSEN and all who have labored in this productive effort.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HANSEN. Mr. President, I ask unanimous consent that the Senator from Colorado (Mr. HASKELL), who was so generous in yielding time to everyone else, may have 5 additional minutes in order to make his statement.

The PRESIDING OFFICER. Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object, I would not object if the unanimous-consent agreement would include an additional 5 minutes for the Senator from New Mexico.

Mr. ROBERT C. BYRD. Mr. President, the Senator from New Mexico has the right to object.

Mr. SCHMITT. Mr. President, reserving the right to object, if the Senator wishes a minute or 2 minutes——

Mr. ROBERT C. BYRD. One minute to the Senator from Colorado and 1 minute to the Senator from New Mexico.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HASKELL. Mr. President, as Senator JACKSON stated last Friday in his opening remarks on the Powerplant and Industrial Fuel Use Act of 1978, this bill, H.R. 5146, is a cornerstone for the National Energy Policy outlined on April 20, 1977, by President Carter. This is the first of the four energy reports agreed to by the Senate-House conference that will be considered by the Senate. The other cornerstone agreed to are energy conservation—H.R. 5037, public utility rate reform—H.R. 4018, and natural gas pricing—H.R. 5289.

Greater national as well as regional utilization of alternate fuels, such as coal, in lieu of natural gas and oil is essential to success in our country's quest for greater energy self-sufficiency. The pioneer Federal program in this regard is the Energy Supply and Environmental Coordination Act of 1974, which was enacted during the 94th Congress and further refined in the Energy Policy and Conservation Act of 1974—Public Law 94–163.

However, the current program is plagued with delays and uncertainty, and is inadequate to accomplish the basic purpose of transferring the industrial hope of their country to the extent practicable from natural gas and petroleum to coal and other alternate fuels. Precisely for this reason, H.R. 5146 is needed to replace existing law to provide clear guidelines and certainty to national policies for all current and potential uses of oil and gas by electric powerplants and major industrial installations. Such policies are set forth in H.R. 5146. In the absence of H.R. 5146, we would continue to be plagued with present law.

Mr. President, compared to existing law, H.R. 5146 sets forth a streamlined program to foster greater utilization of coal and other alternate fuels in lieu of natural gas and petroleum by electric utilities and major industrial installations.

H.R. 5146 fundamentally modifies the operation of the Federal coal conversion program as it applies to new powerplants and major fuel-burning installations. The measure significantly reduces the program's administrative burdens. Most importantly, it establishes a statutory prohibition on the use of natural gas or petroleum for all new powerplants and major industrial boilers, with rulemaking powers to deal with certain other facilities. The statutory prohibitions automatically apply to new boilers, unless a party subsequently obtains an exemption. The statutory prohibitions will remove the necessity under existing law for proceedings on case-by-case prohibitions for substantially all new MFBI's and powerplants; the exception is where an exemption proceeding is initiated by the applicant. This legislation thus removes the need for the Secretary to intervene in the otherwise confidential planning process of industry, prior to public disclosure of construction plans by industry.

The conference agreement also allows the owners or operators of existing MFBI's which were issued prohibition orders under ESECA which have not be-

come final by the effective date of this act to choose whether to remain subject to present law or to be covered by the provisions of H.R. 5146. A party wishing to be treated pursuant to the provisions of this bill must file with the Secretary an election clearly stating this intent, and the units as to which the election is to be effective. Parties not filing such an election will continue to be subject to the terms and provisions of ESECA.

Where a major fuel-burning installation elects to be subject to the provisions of this act it also will be subject to the substantive and procedural provisions of this bill. However, this does not mean that the Secretary must duplicate the procedures and findings already completed under ESECA. To the extent, however, that new or modified findings are specified by H.R. 5146, additional procedural protections are granted by this act, or new exemptions are created by this measure, the Secretary, of course, must comply with these additional requirements before he may issue a final prohibition order.

Mr. President, yesterday there was extensive discussion as to whether H.R. 5146 preempted any local government authority. This is not the case; the statute and the committee's response to question 17 by Senator SCHMITT are clear on this point. Nothing in this measure would directly or indirectly preempt the rights of local government, for example, to establish building codes or nuisance or zoning laws. The local laws still would be applicable. However, local laws are not permitted to frustrate national policy. The result, in the case of local building codes or nuisance or zoning laws, may well be no construction of new powerplants or major fuel-burning installations.

Mr. President, it is equally essential that we assure, and indeed insist on, the environmentally acceptable production and utilization of coal. This also is a statutory requirement of H.R. 5146.

As approved by the Senate-House conferees, H.R. 5146 would by 1985 reduce oil imports by approximately 1.0 to 1.3 million barrels of oil per day. At today's prices this will save the American consumer between $13 and $17 million per day—or $4.7 to $6.2 billion per year.

I would point out that this is one of the four bills that will be very helpful in developing an energy policy for the United States. I would hate, however, to leave the impression that nothing had been done in this area up to this time. Over the years we created ERDA and the FEA and the DOE. There has been an endless flow of legislation dealing both with conventional sources and unconventional sources of energy.

These four bills will provide some cohesion and a central thrust toward an energy policy.

I compliment my colleague the Senator from Wyoming (Mr. HANSEN), I compliment the chairman of the committee (Mr. JACKSON), and I would like particularly to compliment the distinguished Senator from West Virginia (Mr. RANDOLPH), who very early on foresaw the need for this particular piece of legislation, as well as other energy measures.

I yield back the remainder of my time, and ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have previously been ordered. The Senator from New Mexico is recognized.

Mr. SCHMITT. Mr. President, I merely wish to compliment our members of the conference committee for their diligent efforts. I wish they had been more successful, together with the House conferees, in providing a more acceptable report. I am sorry I have to oppose this measure.

I think an energy policy has yet to be devised by Congress or by the President, and only time will tell who is right.

● Mr. LAXALT. Mr. President, I would like to take this opportunity to explain why I chose not to sign the conference report on H.R. 5146, the Powerplant and Industrial Fuel Use Act of 1978. It is not because I do not support efforts to shift from the use of scarce natural gas and oil to our Nation's more abundant coal resources as a principal fuel source. Rather, Mr. President, I question the need for a mandatory coal conversion program. There is ample evidence that businesses and electric utilities are already switching to coal for economic reasons in the face of natural gas shortages and high priced imported oil without any Federal mandate.

Of far greater concern to me, Mr. President, is that within the last month several stories have appeared in the press pointing out that the United States has the lowest rate of capital investment in the world. In my view, this lack of investment is one of the real causes of unemployment in this Nation. And what is the Congress doing about this problem? We are passing major regulatory programs that in the long run can only further impede future growth.

H.R. 5146 is a perfect example of such a program. I believe this bill will have a disastrous effect on new major capital investment in this country. Giving the Secretary of Energy broad authority to forbid construction of new industry unless they construct to his specifications can only retard economic growth.

We are all aware that proponents of this legislation state that it was carefully drafted to force only those conversions that would be in the national interest. However, Mr. President, this "careful drafting" has resulted in a statute in excess of 40,000 words that will undoubtedly be enforced by regulations 10 times as long. H.R. 5146 has broad statutory prohibitions. In order to make these broad provisions work, pages and pages of exemptions are required. And, in order to see that the Secretary does not abuse this broad authority, we have established a procedure that very closely resembles an adjudicatory proceeding before the FPC except that there are even more administrative hurdles to jump.

What will be the result of all this?

First. There will be great uncertainty as to what industry can and cannot do. I believe that we are all aware that uncertainty leads to postponing and cancelling investment. Thus, we will retard our economic growth.

Second. Enormous delays will result from the administrative procedures. We all know the problems that FPC and FERC have in turning out a decision within any reasonable time frame. Even though this act will not be administered by one of these agencies, the procedures are set up so that it appears they will take as long or longer to finish.

Third. H.R. 5146 will drastically increase the Federal bureaucracy. Mr. President, I note that the administration has requested only 85 or so lawyers and administrative personnel to administer this act in 1979. I predict that the number ultimately employed will be far in excess of that. And, we must realize that the number of exemptions that will ultimately be processed will, in all likelihood, become staggering. If there are not adequate processors, it will only increase the delay.

This does not take into account the number of lawyers and accountants that will be necessarily hired by industry. It does not make much sense to me when it is necessary for a platoon of attorneys for a company to determine the right to construct a plant.

We often joke here in the Senate Chamber about the Lawyers Relief Act of 1978. Unhappily, I would like to point out to my colleagues that this may be it.

Fourth. This will result in exports of industrial capacity. If fuel restrictions prevent expansion of American business domestically, then I fear that American business will expand overseas.

The administration and the Congress seem to be trying to centralize all decisionmaking here in Washington. There seems to be a feeling around here that all intelligence resides within the confines of the Washington Beltway. Mr. President, I do not think this is so. The decision that built American industry and that provided jobs for our people were made in New York, Cleveland, Los Angeles, Tulsa, and Reno and not in Washington. In my view, Mr. President, an individual industry knows far better than the Government what its fuel requirements are. Let us let them continue to make those decisions.

Mr. President, I have just recently returned from my home State, Nevada. Again and again I heard from my constituents, "Get the Government off my back and out of my pocket." H.R. 5146 does neither, rather it exacerbates what is already an intolerable situation to my constituents.

Because of these concerns, Mr. President, I chose not to sign the conference report on H.R. 5146 and oppose its passage.●

● Mr. DOLE. Mr. President, shortly we will vote on the first part of the President's five-part national energy plan, the Coal Conversion Act. While H.R. 5146 has the laudable intention of con-

serving oil and gas, the Senator from Kansas has serious doubts about the effectiveness of this legislation and its need.

PRICE INCREASE

Mr. President, in the fall of 1973, OPEC quadrupled oil prices, making energy conservation and development a national priority. Since that time, American industry has responded quickly and efficiently to the pressures of these cost increases. Companies have been forced, wherever possible, to use fuels other than oil and natural gas. Indeed, the greatest conservation efforts by anyone today have been made by American industry in the years since the Arab oil embargo.

INDUSTRY RESPONSE

Mr. President, it is hard to believe that American industry would respond more rapidly and efficiently to the pressures of Government regulation than to the pressures of the market. The market mechanism is working well in energy-intensive industries faced with escalating costs.

In fact, no new oil or gas-fired boilers have been ordered in recent years. What this means is that the conservation problem is being solved, that the problem H.R. 5146 is designed to solve is already taken care of and that the regulation mandated by this bill may not be necessary.

Mr. President, should there be any utilities or manufacturing plants who remain unconvinced of the wisdom of turning to coal, H.R. 5146 sets up the regulatory machinery to require the replacement of oil and gas with coal. At first glance, the Coal Conservation Act prohibits the use of natural gas or petroleum in most new plants, and requires that existing plants switch to coal or alternative fuels by 1990. If these restrictions were ironclad, we might expect to meet the administration projection of an oil import savings of 2.4 million barrels per day due to coal conversion. But the bill we are considering today is riddled with myriad exemptions, temporary exemptions, permanent exemptions, special temporary exemptions, stays of prohibition, and case-by-case rulings. The Senator from Kansas questions the effectiveness of this sort of regulation.

ENERGY DEVELOPMENT

Mr. President, putting aside for a moment the questions of how effective the regulation in this act will be, and whether or not it is necessary in the first place, the Senate should consider the place of the Coal Conversion Act in the complete National Energy Act.

The long-term solution to our energy import problem is to increase domestic supplies of energy. While we can save energy through conservation, the fact remains that America's energy demand is going to increase in the future. This fact is patently clear to the Senator from Kansas, but unfortunately the administration has yet to come to realize that economic growth requires stable sources of energy. Instead of proposing an energy package that addresses this problem and attempts to encourage energy development, the administration has given us only half of an energy program.

ENERGY TAX BILL

The prospects for even this half of an energy plan are dim. The real teeth of the conversion section of the energy plan lie in the energy tax bill, currently bogged down in conference. While the Senator from Kansas has difficulty with many provisions of the tax bill, it seems that if our attempts at conservation and conversion are to meet with any success, they will require more than just the passage of the Coal Conversion Act.

Mr. President, I believe that the regulatory waffling demonstrated in this legislation reflects the basic indecisiveness of the Congress on energy matters. I intend to vote for passage of H.R. 5146, but with few expectations of its benefits and few delusions of its effectiveness.●

● Mr. STEVENS. The State of Alaska owns a large volume of royalty crude oil in the Prudhoe Bay field on the North Slope of Alaska. The State of Alaska has chosen to take this royalty crude oil from Prudhoe Bay "in kind" rather than "in cash."

After an extended process during which numerous proposals were submitted and analyzed, the State of Alaska decided a few months ago to sell up to 150,000 barrels per day of its Prudhoe Bay royalty crude oil to the Alaska Petrochemical Co. (Alpetco) over the next 27 years. The crude oil will be transported through the Alyeska pipeline to Valdez and, eventually, to the site of a 150,000-barrel-per-day refinery and petrochemical plant complex. Alpetco, which is owned by 6 of the 13 Alaska Native Corporations, Sea Train, Inc., and Alaska Interstate Co., is obligated to commit $1.5 billion toward development of the project over the 6 years following the date of the contract certification.

Pursuant to terms of their agreement with the State of Alaska, Alpetco is presently analyzing various sites for the refinery and petrochemical plant project. The sites which are being examined are located on the southern coast of Alaska, particularly in the Valdex area and on the Kenai Peninsula which is adjacent to Cook Inlet.

The people of Alaska chose to take their crude oil "in kind" in order to realize the "value added" by both refining the crude oil in Alaska and using the royalty oil as feedstock in a major, modern petrochemical plant located in Alaska. The Alpetco project will offer the people of Alaska "top dollar" for the royalty oil by paying the State the same price the producer would have paid if the royalty oil had been taken "in value;" it will provide the State of Alaska with an estimated $1.3 billion in property taxes, State corporate income taxes and gross receipt taxes over the 27-year life of the contract; it will directly provide several thousand additional permanent jobs to Alaskans; it will contribute 5 percent of the project's after tax profits, beginning the 11th year after the plant begins operation, to the Alaska Endowment Trust to further social, educational cultural and environmental conditions in Alaska; and will provide numerous other "value added" benefits to the State and its citizens. In addition, the petrochemical and refinery complex in Alaska will provide our Nation with a secure source of petrochemicals and refined projects to serve Alaska and the west coast beginning in the mid-1980's, as well as Japan and other markets in the Pacific Basin, thus reducing our balance-of-payments deficit.

The Alpetco project is a major and rather unique undertaking for Alaska, the purpose of which is to assure that the natural and depletable resources owned by the State of Alaska are managed efficiently in order that the people of Alaska will realize the full benefits of their resources. I am, however, quite concerned about the possible impact of this legislation on Alaska's ability to manage its State-owned resources in the most efficient manner possible. My concern is based on the following factors:

First, I am informed that there are several companies which own natural gas in the Kenai Peninsula area. These volumes of natural gas are now, and have been for years, "shut-in" due to the lack of a commercial market for the gas in Alaska and due to the prohibitive costs of transporting the gas out of Alaska which render it commercially marketable elsewhere. Section 103(a)(3)(B) excludes from the definition of natural gas which is prohibited from being used in new major fuel-burning installations that gas which is "commercially unmarketable—either by reason of quality or quantity," as determined by rule by the Secretary. Assuming the accuracy of my statements concerning the present and past marketability of these natural gas supplies on the Kenai Peninsula, would you envision that the Secretary could possibly exclude these natural gas supplies from the definition of natural gas so they could be used as a primary or secondary fuel in the Alpetco refinery and petrochemical plant complex?

● Mr. HASKELL. Yes, provided the installation meets the test established by the Secretary regarding "commercially unmarketable—either by reason of quality or quantity."

● Mr. STEVENS. Second, the State of Alaska's royalty crude oil from the North Slope of Alaska is relatively heavy and high in sulfur content. When refined, such crude oil yields a high percentage of a relatively low quality fuel known as residual fuel oil. I am informed that there is and will be an insufficient demand for this fuel in Alaska. As we all know, the west coast is so glutted with residual fuel oil that the administration wants to allow residual fuel oil, which is presently being produced in California from Prudhoe Bay crude oil, to be exported to markets in the Pacific Basin. Unfortunately, I am informed that those markets, and the Japanese market in particular, are also glutted.

Is there any basis in the act which would permit interim or temporary use of part of this residual oil as a primary fuel for operating the refinery if coal is not otherwise available?

● Mr. HASKELL. Yes, there are both temporary and permanent exemption on the basis of a coal availability test. Provided the petitioner satisfies this or another appropriate test the installation would be granted an exemption.

● Mr. STEVENS. Third, section 212(a) permits a permanent exemption from the prohibitions against using natural gas and petroleum if for the first 10 years of a new unit's useful life, adequate supplies of coal would not be available at a price that did not exceed the cost of imported oil. DOE, I understand, is empowered through regulations to make determinations concerning both supply and cost.

First, am I correct in assuming that the cost of coal must be based upon actual and not projected costs? For example, if a coal mine is not operating and utilizing coal resources within the area, the cost of that coal cannot simply be projected by DOE upon speculation that a coal mine might be opened at some future date and at some cost? Also, I assume that the DOE does not have and is not being granted the authority in this act to require a coal mine to be opened and transportation facilities to be built in order to have available coal resources.

Am I correct in those assumptions and will the Secretary be required to take these matters as well as the high costs associated with coal development in Alaska into consideration when developing regulations?

● Mr. HASKELL. The Secretary will be required to take such factors into consideration. However, the burden is on the petitioner that he sought the coal and it was not avaliable. The evidence supplied for the record must include the costs associated with any avaliable supplies. Similarly, evidence supplied for the record by the Secretary must be based upon other than projections and estimates—but rather actual tests of the market.

● Mr. STEVENS. I thank the Senator for his consideration of these important questions and his willingness to discuss this unique undertaking by the people of Alaska. I know the distinguished manager of the conference report shares with me a concern that the legislative history on this legislation reflect a congressional awareness of the uniqueness of the Alpetco project, the need for new domestic refinery capacity, and a concern that the Secretary of Energy clearly understands that this legislation provides him flexibility to assure that the people of Alaska are able, through the Alpetco project, to manage their depletable resources in the most efficient and profitable manner.●

● Mr. RANDOLPH. Regarding impact assistance pursuant to section 601, in specifying that the funds transferred from the Secretary of Energy to the Secretary of Agriculture are to include an appropriate portion "for additional personnel and other costs of administering the program," was it the intent of the conferees to authorize additional personnel for the Farmers Home Administration to administer this particular program?

● Mr. HASKELL. Yes; the conferees clearly intended that sufficient personnel be available to the Farmers Home Administration so as to effectively administer this critically needed energy impact assistance program. Additional personnel slots might be provided through a direct allocation to the FmHA. Whatever the means the conferees intend that the implementation of this program not be compromised by personnel shortages. Energy impact problems have been severe in the West and Appalachia for the last 5 years—we need speedy implementation of this program.●

● Mr. JOHNSTON. Am I correct in my understanding that in the case of a non-coal capable powerplant presently using natural gas as a primary energy source that switches to petroleum it can do so without the necessity of a permit under section 405?●

● Mr. HASKELL. You are correct. Section 405 applies to existing powerplants which used coal or an alternate fuel as a primary energy source during 1979. In the case you describe, petroleum may be used to replace natural gas without the requirement of a permit under section 405.●

● Mr. BELLMON. Mr. President, at long last, a piece of the energy legislation, proposed more than a year ago by President Carter, has reached the Senate floor for a final vote. It is a credit to the world's greatest deliberative body, that the legislation we are voting on today bears little resemblance to that proposed by the President.

A basic flaw runs through all the rhetoric, all the policies, all the energy proposals of this administration. The President apparently truly believes that the sky is falling; he believes that the United States is rapidly running out of oil and gas.

We are not rapidly running out of oil and gas. There is a worldwide glut of crude oil.

More natural gas is being produced around the world than we know what to do with. Much of it is being flared and wasted.

In California there is a glut of Alaskan crude and California heavy crude. In Oklahoma and Texas there is an embarrassing surplus production capacity of natural gas.

This petroleum glut is likely to last for several years and to get better before it gets worse.

The President's policies are based upon scarcity; the reality is plenty. The present energy problem is not a resource problem; it is an economic problem.

The reason there is a glut of oil and gas is that the price has gone up. Because the price has gone up, more has been produced and more is being conserved. Because the price has gone up, less has been consumed.

Because the price has gone up for gas and oil, it is generally not economic to burn these fuels under boilers. In Oklahoma, where there is a glut of gas and where much oil remains to be produced, all new electrical generating plants are expected to be either coal fired or nuclear. It is much the same all over the country. It is cheaper to burn fuels other than oil or gas in any new powerplant that is being planned.

The bill the President proposed—which this bill we are voting on little resembles—was intended to force electric utilities to quit burning oil and natural gas and to burn coal instead. Whoever drafted the President's proposals did not know much about powerplants, however, and it was quickly shown in testimony that it is almost always cheaper to build a new coal fired plant than it is to convert an oil or gas fired plant to coal.

The bill we are voting on says "you have to convert a plant burning oil or gas to coal if it is economic to do so." Now that is quite an improvement over the President's proposal. Now you only have to do things that make sense. But if it makes economic sense for a utility to convert a plant from gas and oil, which are expensive fuels, to coal, which is less expensive, then that utility will do it, anyway. So this part of the bill says "If you are going to do it, you have to do it." You might think such a law harmless enough, since it only makes you do what you would have done anyway. But what happens when there is a difference of opinion about whether conversion makes economic sense. That same bureaucrat who did not know much about powerplants says "it does make economic sense." The utility says "it does not make sense."

So the part of the bill we are considering that requires existing plants that can economically convert from gas and oil to coal to convert from gas and oil to coal accomplishes two things. Both of them bad. It employs bureaucrats to insist that conversion from oil and gas to coal makes economic sense. And it employs lawyers, lots of lawyers, on both sides, to argue it out in the courts.

The part of the bill we are considering that requires new plants to use some fuel other than oil or natural gas accomplishes nothing; the utilities are going to do that anyway.

All this bill does is to expand a bureaucracy, a bureaucracy that has shown itself to be singularly ineffective. Since the enactment of ESECA (Energy Supply and Environmental Coordination Act of 1974) 74 plants have been ordered to cease burning oil or gas. As of today not one of those plants has ceased burning oil or gas and turned to coal. In 4 years—74 attempts—zero successes.

The lack of success was, nevertheless, not without cost. Cost to the American taxpayer. Cost to the utility's ratepayers. That is why I oppose this bill. It does not have the potential for damage that the President's original proposals had. If implemented by reasonable people, it will mainly result in a group of bureaucrats

encouraging or ordering the electric utilities to do what makes economic sense—ordering them to do what they would have done anyway.●

THE NEED FOR STRONG COAL CONVERSION LEGISLATION

Mr. HEINZ. Mr. President, I want to express my support for H.R. 5146, the Natural Gas and Petroleum Conservation and Coal Utilization Act. However, my support is accompanied by a concern that the act is still not sufficiently strong to achieve the goals which prompted its introduction. As originally conceived, the act was to "foster the greater use of coal, fuels derived from coal and other fuels in lieu of natural gas and petroleum—for certain electric powerplants and major fuel-burning installations"—and thereby to "reduce the U.S. vulnerability to energy supply interruptions."

I had hoped that the long lines at gasoline service stations and the cold winters that resulted from the oil embargo and natural gas shortages had taught us the importance of energy independence. Unfortunately, the changes made in the act both by the Senate last fall and in conference, detract from its original intention and demonstrate that in fact we have not fully learned the painful lesson of dependence.

Our most immediate concern is to reduce the inappropriate and often indiscriminate use of natural gas and oil in electric powerplants and major fuel-burning facilities. These sources of energy were at one time both plentiful and inexpensive—access was virtually unlimited. This is no longer true. Natural gas and oil are valuable sources of energy and should be recognized as such but they are limited in supply and should be used in situations to which they are best suited, particularly the residential and small commercial sectors. Unfortunately, the bill as it appears today will produce no rapid change in the amount of gas used by existing plants.

Our second priority is to reduce our growing dependence on foreign sources of petroleum by promoting the use of coal where it is feasible. There should be no doubt about the feasibility of conversion; it is technically possible and environmentally safe. At a conference here in Washington just 3 weeks ago, a new technology, fluidized-bed combustion, was described in detail. In the opinion of the experts at that session, this method of combustion today will permit the use of coal for area residential heating and industrial steam production without requiring scrubbers. While we have recently approved funds for research that could possibly increase the size of our domestic oil reserves, we hesitate to take advantage of available technology that relies on the coal reserves with which this country is so abundantly blessed. Every day oil- and gas-fired plants capable of converting to coal consume scarce oil and gas which should be conserved for use in sectors to which other energy sources are not applicable.

The third objective is to promote the development of our indigenous coal resources. I am informed that the coal industry is prepared to expand production to meet our demands for domestic energy. As originally written, this act contained a clear national commitment to the use of coal that would have dispelled any uncertainties and endorsed new growth in coal development. I hope the subsequent amendments do not so completely muddle the intentions of Congress that this goal is forgotten.

Three interrelated elements are necessary to effectively implement a program for replacing oil and gas with coal; a regulatory segment to mandate conversion of major facilities, conservation taxes to bias the economics of fuel use away from industrial burning of oil and natural gas, and financial incentives to promote the investment in conversion facilities. Each element is important in creating a significant shift in fuel consumption patterns.

Unfortunately, Mr. President, the legislative history of this bill has been dominated by weakening amendments. For example, the conference eliminated provisions proposed by the Senate which would have provided financial compensation for capital and fuel costs and $10 billion in loan guarantees for buying and installing air pollution equipment. The loan program for existing powerplants that was accepted is simply not sufficient.

In addition, the provisions of the bill that had been designed to prohibit continued combustion of natural gas in industry boilers have been weakened by shifting the burden of proof from industry to the Government. These facilities, burning 3 trillion cubic feet of gas per year or 15 percent of our national demand, will be effectively permitted to continue their level of comsumption for their useful life. Gas which could be redirected to households will continue to be wasted in inappropriate uses. In addition, industry that continues to use gas will face the same risk of winter curtailments and shutdowns that have left so many unemployed in the past. By not acting to mandate conversion we are condoning policies which are clearly detrimental to our citizens and our economy.

The bill is also weakened by the Senate's failure to adopt my efforts to strengthen the act by advancing the 1990 prohibition on natural gas use by existing powerplants to 1985 and by prohibiting the use of natural gas or petroleum after January 1, 1982, by existing powerplants or major fuel-burning installations with the capability to convert to coal or other fuels. These provisions would not have imposed an unreasonable burden on industry, and could have saved an estimated 4 trillion cubic feet of natural gas equivalent. There is no justification for ignoring the potential to conserve such a quantity of a scarce resource.

The time has come for this country to come to grips with the energy problems that have plagued us and will continue to plague us in our apathy. We can no longer confidently laud our extensive coal reserves and yet remain indifferent to their development as a viable substitute. We all recognize that any change in the energy budget will generate additional short-term costs. But we must face this prospect responsibly and make our intention clear and emphatic: the long-term interests of this Nation, in this generation and beyond, will best be served by the development of abundant coal for intensive industrial uses and the conversion of scarce natural gas and oil for needier individual uses.

Although I am somewhat disappointed in the final version of this legislation, I will support it. However, it is my sincere hope that the Secretary of Energy will exercise extreme caution and consider the long-range interests of the United States when evaluating the applications for exemption from the provisions of this bill. Moreover, I urge the Department of Energy to vigorously use the mandate contained in this act to compel those existing power and industrial plants that are able to convert to coal.

The PRESIDING OFFICER (Mr. CHILES). All time has expired. The question is on agreeing to the conference report. The yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Utah (Mr. HATCH) is necessarily absent.

I further announce that, if present and voting, the Senator from Utah (Mr. HATCH) would vote "nay."

The result was announced—yeas 92, nays 6, as follows:

[Rollcall Vote No. 219 Leg.]

YEAS—92

Allen	Griffin	Moynihan
Anderson	Hansen	Muskie
Baker	Hart	Nelson
Bayh	Haskell	Nunn
Bentsen	Hatfield,	Packwood
Biden	Mark O.	Pearson
Brooke	Hatfield,	Pell
Bumpers	Paul G.	Percy
Burdick	Hathaway	Proxmire
Byrd,	Hayakawa	Randolph
Harry F., Jr.	Heinz	Ribicoff
Byrd, Robert C.	Helms	Riegle
Cannon	Hodges	Roth
Case	Hollings	Sarbanes
Chafee	Huddleston	Sasser
Chiles	Humphrey	Schweiker
Church	Inouye	Scott
Clark	Jackson	Sparkman
Cranston	Javits	Stafford
Culver	Johnston	Stennis
Curtis	Kennedy	Stevens
Danforth	Leahy	Stevenson
DeConcini	Long	Stone
Dole	Magnuson	Talmadge
Domenici	Mathias	Thurmond
Durkin	Matsunaga	Tower
Eagleton	McClure	Wallop
Eastland	McGovern	Weicker
Ford	McIntyre	Williams
Garn	Melcher	Young
Glenn	Metzenbaum	Zorinsky
Gravel	Morgan	

NAYS—6

Bartlett	Goldwater	Lugar
Bellmon	Laxalt	Schmitt

NOT VOTING—2

Abourezk	Hatch

So the conference report was agreed to, as follows:

CONFERENCE REPORT (S. REPT. NO. 95-988)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment numbered 6 of the Senate to the bill (H.R. 5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the amendment of the Senate numbered 6 and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the House amendment insert the following:

TITLE I—GENERAL PROVISIONS

SEC. 101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Powerplant and Industrial Fuel Use Act of 1978".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL PROVISIONS
Sec. 101. Short title; table of contents.
Sec. 102. Findings; statement of purposes.
Sec. 103. Definitions.
Sec. 104. Territorial application.
TITLE II—NEW FACILITIES
SUBTITLE A—PROHIBITIONS
Sec. 201. New electric powerplants.
Sec. 202. New major fuel-burning installations.
SUBTITLE B—EXEMPTIONS
Sec. 211. Temporary exemptions.
Sec. 212. Permanent exemptions.
Sec. 313. General requirements for exemptions.
Sec. 214. Terms and conditions; compliance plans.
TITLE III—EXISTING FACILITIES
SUBTITLE A—PROHIBITIONS
Sec. 301. Existing electric powerplants.
Sec. 302. Existing major fuel-burning installations.
Sec. 303. Rules relating to case-by-case and category prohibitions.
SUBTITLE B—EXEMPTIONS
Sec. 311. Temporary exemptions.
Sec. 312. Permanent exemptions.
Sec. 313. General requirements for exemptions.
Sec. 314. Terms and conditions; compliance plans.
TITLE IV—ADDITIONAL PROHIBITIONS; EMERGENCY AUTHORITIES
Sec. 401. Authority to prohibit use of natural gas in certain boilers used for space heating.
Sec. 402. Prohibition on use of natural gas for decorative outdoor lighting.
Sec. 403. Conservation in Federal facilities, contracts, and financial assistance programs.
Sec. 404. Emergency authorities.
Sec. 405. Authority to restrict increased use of petroleum by existing powerplants.
TITLE V—SYSTEM COMPLIANCE OPTION
Sec. 501. Electric utility system compliance option.
TITLE VI—FINANCIAL ASSISTANCE
Sec. 601. Assistance to areas impacted by increased coal or uranium production.
Sec. 602. Loans to assist powerplant acquisitions of air pollution control equipment.
TITLE VII—ADMINISTRATION AND ENFORCEMENT
SUBTITLE A—PROCEDURES
Sec. 701. Administrative procedures.
Sec. 702. Judicial review.
SUBTITLE B—INFORMATION AND REPORTING
Sec. 711. Information.
Sec. 712. Compliance reports.
SUBTITLE C—ENFORCEMENT
Sec. 721. Notice of violation; other general provisions.
Sec. 722. Criminal penalties.
Sec. 723. Civil penalties.
Sec. 724. Injunctions and other equitable relief.
Sec. 725. Citizen suits.
SUBTITLE D—PRESERVATION OF CONTRACTUAL RIGHTS
Sec. 731. Preservation of contractual rights.
SUBTITLE E—STUDIES
Sec. 741. National coal policy study.
Sec. 742. Coal industry performance and competition study.
Sec. 743. Impact on employees.
Sec. 744. Study of compliance problems of small electric utility systems.
Sec. 745. Emissions monitoring.
Sec. 746. Socioeconomic impacts of increased coal production and other energy development.
Sec. 747. Use of petroleum and natural gas in combustors.
SUBTITLE F—APPROPRIATIONS AUTHORIZATION
Sec. 751. Authorization of appropriations.
SUBTITLE G—COORDINATION WITH OTHER PROVISIONS OF LAW
Sec. 761. Effect on environmental requirements.
Sec. 762. Effect of orders under sections 2 of ESECA; amendments to ESECA.
Sec. 763. Environmental impact statements under NEPA.
TITLE VIII—MISCELLANEOUS PROVISIONS
Sec. 801. Coal reserves disclosure.
Sec. 802. Coal preparation facilities.
Sec. 803. Railroad rehabilitation for carriage of coal.
Sec. 804. Office of Rail Public Counsel.
Sec. 805. Retroactive application of certain remedial orders.
Sec. 806. Annual report.
Sec. 807. Submission of reports.
TITLE IX—EFFECTIVE DATES
Sec. 901. Effective date.
Sec. 902. Interim petition and consideration for certain exemptions.

SEC. 102. FINDINGS; STATEMENT OF PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the protection of public health and welfare, the preservation of national security, and the regulation of interstate commerce require the establishment of a program for the expanded use, consistent with applicable environmental requirements, of coal and other alternate fuels as primary energy sources for existing and new electric powerplants and major fuel-burning installations; and

(2) the purposes of this Act are furthered in cases in which coal or other alternate fuels are used by electric powerplants and major fuel-burning installations, consistent with applicable environmental requirements, as primary energy sources in lieu of natural gas or petroleum.

(b) STATEMENT OF PURPOSES.—The purposes of this Act, which shall be carried out in a manner consistent with applicable environmental requirements, are—

(1) to reduce the importation of petroleum and increase the Nation's capability to use indigenous energy resources of the United States to the extent such reduction and use further the goal of national energy self-sufficiency and otherwise are in the best interests of the United States;

(2) to conserve natural gas and petroleum for uses, other than electric utility or other industrial or commercial generation of steam or electricity, for which there are no feasible alternative fuels or raw material substitutes;

(3) to encourage and foster the greater use of coal and other alternate fuels, in lieu of natural gas and petroleum, as a primary energy source;

(4) to the extent permitted by this Act, to encourage the use of synthetic gas derived from coal or other alternate fuels;

(5) to encourage the rehabilitation and upgrading of railroad service and equipment necessary to transport coal to regions or States which can use coal in greater quantities;

(6) to prohibit or, as appropriate, minimize the use of natural gas and petroleum as a primary energy source and to conserve such gas and petroleum for the benefit of present and future generations;

(7) to encourage the modernization or replacement of existing and new electric powerplants and major fuel-burning installations which utilize natural gas or petroleum as a primary energy source and which cannot utilize coal or other alternate fuels where to do so furthers the conservation of natural gas and petroleum;

(8) to require that existing and new electric powerplants and major fuel-burning installations which utilize natural gas, petroleum, or coal or other alternate fuels pursuant to this Act comply with applicable environmental requirements;

(9) to insure that all Federal agencies utilize their authorities fully in furtherance of the purposes of this Act by carrying out programs designed to prohibit or discourage the use of natural gas and petroleum as a primary energy source and by taking such actions as lie within their authorities to maximize the efficient use of energy and conserve natural gas and petroleum in programs funded or carried out by such agencies;

(10) to insure that adequate supplies of natural gas are available for essential agricultural uses (including crop drying, seed drying, irrigation, fertilizer production, and production of essential fertilizer ingredients for such uses);

(11) to reduce the vulnerability of the United States to energy supply interruptions; and

(12) to regulate interstate commerce

SEC. 103. DEFINITIONS.

(a) Unless otherwise expressly provided, for the purposes of this Act—

(1) The term "Secretary" means the Secretary of Energy.

(2) The term "person" means any (A) individual, corporation, company, partnership, association, firm, institution, society, trust, joint venture, or joint stock company, (B) any State, the District of Columbia, Puerto Rico, and any territory or possession of the United States, or (C) any agency or instrumentality (including any municipality) thereof.

(3)(A) Except as provided in subparagraph (B), the term "natural gas" means any fuel consisting in whole or in part of—

(i) natural gas;

(ii) liquid petroleum gas;

(iii) synthetic gas derived from petroleum or natural gas liquids; or

(iv) any mixture of natural gas and synthetic gas.

(B) The term "natural gas" does not include—

(i) natural gas which is commercially unmarketable (either by reason of quality or quantity), as determined under rules prescribed by the Secretary;

(ii) natural gas produced by the user from a well the maximum efficient production rate of which is less than 250 million Btu's per day;

(iii) natural gas to the extent the exclusion of such gas is provided for in subsection (b); or

(iv) synthetic gas, derived from coal or other alternate fuel, the heat content of which is less than 600 Btu's per cubic foot at 14.73 pounds per square inch (absolute) and 60 degrees Fahrenheit.

(4) The term "petroleum" means crude oil and products derived from crude oil, other than—

(A) synthetic gas derived from crude oil;

(B) liquid petroleum gas;

(C) liquid, solid, or gaseous waste by-products of refinery operations which are commercially unmarketable, either by rea-

son of quality or quantity, as determined under rules prescribed by the Secretary; or

(D) petroleum coke or waste gases from industrial operations.

(5) The term "coal" means anthracite and bituminous coal, lignite, and any fuel derivative thereof.

(6) The term "alternate fuel" means electricity or any fuel, other than natural gas or petroleum, and includes—

(A) petroleum coke, shale oil, uranium, biomass, and municipal, industrial, or agricultural wastes, wood, and renewable and geothermal sources;

(B) liquid, solid, or gaseous waste byproducts of refinery or industrial operations which are commercially unmarketable, either by reason of quality and quantity, as determined under rules prescribed by the Secretary; and

(C) waste gases from industrial operations.

(7)(A) The terms "electric powerplant" and "powerplant" mean any stationary electric generating unit, consisting of a boiler, a gas turbine, or a combined cycle unit, which produces electric power for purposes of sale or exchange and—

(i) has the design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) is in a combination of two or more electric generating units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

(B) For purposes of subparagraph (A), the term "electric generating unit" does not include—

(i) any electric generating unit subject to the licensing jurisdiction of the Nuclear Regulatory Commission; and

(ii) any cogeneration facility, less than half of the annual electric power generation of which is sold or exchanged for resale, as determined by the Secretary.

(C) For purposes of clause (ii) of subparagraph (A), there shall be excluded any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 100 million Btu's per hour and the exclusion of which for purposes of such clause is determined by the Secretary, by rule, to be appropriate.

(8) The term "new electric powerplant" means—

(A) any electric powerplant for which construction or acquisition began on a date on or after the date of enactment of this Act; and

(B) any electric powerplant for which construction or acquisition began on a date after April 20, 1977, and before the date of the enactment of this Act, unless the Secretary finds the construction or acquisition of such powerplant could not be canceled, rescheduled, or modified to comply with the applicable requirements of this Act without—

(i) adversely affecting electric system reliability (as determined by the Secretary after consultation with the Federal Energy Regulatory Commission and the appropriate State authority), or

(ii) imposing substantial financial penalty (as determined under rules prescribed by the Secretary).

(9)(A) The term "existing electric powerplant" means any electric powerplant other than a new electric powerplant.

(B) Any powerplant treated under this Act as an existing electric powerplant shall not be treated thereafter as a new electric powerplant merely by reason of a transfer of ownership.

(10)(A) The terms "major fuel-burning installation" and "installation" mean a stationary unit consisting of a boiler, gas turbine unit, combined cycle unit, or internal combustion engine which—

(i) has a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 100 million Btu's per hour or greater; or

(ii) is in a combination of two or more such units which are located at the same site and which in the aggregate have a design capability of consuming any fuel (or mixture thereof) at a fuel heat input rate of 250 million Btu's per hour or greater.

(B) The terms "major fuel-burning installation" and "installation" do not include—

(i) any electric powerplant; or

(ii) any pump or compressor used solely in connection with the production, gathering, transmission, storage, or distribution of gases or liquids, but only if there is certification to the Secretary of such use (in accordance with rules prescribed by the Secretary).

(C) For purposes of clause (ii) of subparagraph (A), there shall be excluded any unit which has a design capability to consume any fuel (including any mixture thereof) that does not equal or exceed 100 million Btu's per hour and the exclusion of which for purposes of such clause is determined by the Secretary, by rule, to be appropriate.

(11) The term "new major fuel-burning installation" means—

(A) any major fuel-burning installation on which construction or acquisition began on a date on or after the date of the enactment of this Act; and

(B) any major fuel-burning installation on which construction or acquisition began on a date after April 20, 1977, and before the date of the enactment of this Act, unless the Secretary finds the construction or acquisition of such installation could not be canceled, rescheduled, or modified to comply with applicable requirements of this Act without—

(i) incurring significant operational detriment of the unit (as determined by the Secretary); or

(ii) imposing substantial financial penalty (as determined under rules prescribed by the Secretary).

(12)(A) The term "existing major fuel-burning installation" means any installation which is not a new major fuel-burning installation.

(B) Such term does not include a major fuel-burning installation for the extraction of mineral resources located—

(i) on or above the Continental Shelf of the United States, or

(ii) on wetlands areas adjacent to the Continental Shelf of the United States,

where coal storage is not practicable or would produce adverse effects on environment quality.

(C) Any installation treated as an existing major fuel-burning installation shall not be treated thereafter as a new major fuel-burning installation merely by reason of a transfer of ownership.

(13) The term "construction or acquisition began" means, when used with reference to a certain date, that—

(A) construction in accordance with final drawings or equivalent design documents (as defined by the Secretary, by rule) began on or after that date; or

(B)(i) construction or acquisition had been contracted for on or after that date, or (ii) if the construction or acquisition had been contracted for before such date, such construction or acquisition could be canceled, rescheduled, or modified to comply with the applicable requirements of this Act—

(I) without imposing substantial financial penalty, as determined under rules prescribed by the Secretary;

(II) in the case of a powerplant, without adversely affecting electric system reliability (as determined by the Secretary after consultation with the Federal Energy Regulatory Commission and the appropriate State authority); or

(III) in the case of a major fuel-burning installation, without incurring significant operation detriment of the unit (as determined by the Secretary).

(14) The term "construction" means substantial onsite construction or reconstruction, as defined by rule by the Secretary.

(15) The term "primary energy source" means the fuel or fuels used by any existing or new electric powerplant or major fuel-burning installation, except it does not include, as determined under rules prescribed by the Secretary—

(A) the minimum amounts of fuel required for unit ignition, startup, testing, flame stabilization, and control uses, and

(B) the minimum amounts of fuel required to alleviate or prevent (i) unanticipated equipment outages and (ii) emergencies directly affecting the public health, safety, or welfare which would result from electric power outages.

(16) The term "site limitation" means, when used with respect to any powerplant or installation, any specific physical limitation associated with a particular site which relates to the use of coal or other alternate as a primary energy source for such powerplant or installation, such as—

(A) inaccessibility to coal or other alternate fuels;

(B) lack of transportation facilities for coal or other alternate fuels;

(C) lack of adequate land or facilities for the handling, use, and storage of coal or other alternate fuels;

(D) lack of adequate land or facilities for the control or disposal of wastes from such powerplant or installation, including lack of pollution control equipment or devices necessary to assure compliance with applicable environmental requirements; and

(E) lack of an adequate and reliable supply of water, including water for use in compliance with applicable environmental requirements.

(17) The term "applicable environmental requirements" includes—

(A) any standard, limitation, or other requirement established by or pursuant to Federal or State law (including any final order of any Federal or State court) applicable to emissions of environmental pollutants (including air and water pollutants) or disposal of solid waste residues resulting from the use of coal or other alternate fuels or natural gas or petroleum as a primary energy source or from the operation of pollution control equipment in connection with such use, taking into account any variance of law granted or issued in accordance with Federal law or in accordance with State law to the extent consistent with Federal law; and

(B) any other standard, limitation, or other requirement established by, or pursuant to, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or the National Environmental Policy Act of 1969.

(18)(A) The term "peakload powerplant" means a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 1,500 hours.

(B) The term "intermediate load powerplant" means a powerplant (other than a peakload powerplant), the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

(C) The term "base load powerplant" means a powerplant the electrical generation of which in kilowatt hours exceeds, for any 12-calendar-month period, such powerplant's design capacity multiplied by 3,500 hours.

(D) Not later than 90 days after the date

of the enactment of this Act, the Federal Energy Regulatory Commission shall prescribe rules under which a powerplant's design capacity may be determined for purposes of this paragraph.

(19) The term "cogeneration facility" means an electric powerplant or a major fuel-burning installation which produces—

(A) electric power; and

(B) any other form of useful energy (such as steam, gas, or heat) which is, or will be used for industrial, commercial, or space heating purposes.

(20) The term "cost", unless the context indicates otherwise, means total costs (both operating and capital) incurred over the estimated remaining useful life of an electric powerplant or major fuel-burning installation, discounted to present value, as determined by the Secretary (in the case of powerplants, in consultation with the State regulatory authorities). In the case of an electric powerplant, such costs shall take into account any change required in the use of existing electric powerplants in the relevant dispatching system and other economic factors which are included in planning for the production, transmission, and distribution of electric power within such system.

(21) The term "State regulatory authority" means any State agency which has ratemaking authority with respect to the sale of electricity by any State regulated electric utility.

(22) The term "air pollution control agency" has the same meaning as given such term by section 302(b) of the Clean Air Act.

(23) The term "electric utility" means any person, including any affiliate, or Federal agency which sells electric power.

(24) The term "affiliate", when used in relation to a person, means another person which controls, is controlled by, or is under common control with, such person.

(25) The term "Federal agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States; and

(D) the government of the District of Columbia.

(26) The term "Btu" means British thermal unit.

(27) The term "Mcf" means, when used in relation to natural gas, 1,000 cubic feet of natural gas.

(28) The term "mixture", when used in relation to fuels used in a unit, means a mixture of such fuels or a combination of such fuels used simultaneously or alternately in such unit.

(29) The term "fluidized bed combustion" means combustion of fuel in connection with a bed of inert material, such as limestone or dolomite, which is held in a fluid-like state by the means of air or other gases being passed through such materials.

(b) SPECIAL RULES RELATING TO DEFINITIONS OF NATURAL GAS AND ALTERNATE FUEL.—(1) Subject to paragraph (2), natural gas which is to be used by a powerplant or major fuel-burning installation shall, for purposes of this Act (other than this subsection), be excluded from the definition of "natural gas" under subsection (a)(3)(B)(iii) and shall be included within the definition of "alternate fuel" under subsection (a)(6) if the person proposing to use such natural gas certifies to the Secretary (together with such supporting documents as the Secretary may require) that—

(A) such person owns, or is entitled to receive, at the point of manufacture, synthetic gas derived from coal or another alternate fuel;

(B) the Btu content of such synthetic gas is equal to, or greater than, the Btu content of the natural gas to be covered by this subsection by reason of such certification, plus the approximate Btu content of any natural gas consumed or lost in transportation;

(C) such person delivers, or arranges for the delivery of, such synthetic gas to a pipeline or pipelines which by transport or displacement are capable of delivering such synthetic gas, mixed with natural gas, to such person; and

(D) all necessary permits, licenses, or approvals from appropriate Federal, State, and local agencies (including Indian tribes) have been obtained for construction and operation of the facilities for the manufacture of the synthetic gas involved, except that for purposes of the prohibition under section 201(2) against powerplants being constructed without the capability of using coal or another alternate fuel, only permits, licenses, and approvals for the construction of such synthetic gas facilities shall be required under this subparagraph to be certified and documented.

(2) The application of paragraph (1) with respect to the use of natural gas by any powerplant or major-fuel burning installation shall be conditioned on the person using such natural gas submitting to the Secretary a report not later than one year after certification is made under paragraph (1), and annually thereafter, containing the following information:

(A) the source, amount, quality, and point of delivery to the pipeline of the synthetic gas to which paragraph (1) applied during the annual period ending with the calendar month preceding the date of such report; and

(B) the amount, quality, and point of delivery by the pipeline to such person of the natural gas covered by paragraph (1) which is used by such person during such annual period.

(3) In the case of any boiler subject to a prohibition under section 401, the preceding provisions of this subsection shall apply with respect to such boiler to the same extent and in the same manner as they apply in the case of major fuel-burning installations.

(4) For purposes of this subsection, the term "pipeline" means any interstate or intrastate pipeline or local distribution company.

SEC. 104. TERRITORIAL APPLICATION.

The provisions of this Act shall apply in all the States, Puerto Rico, and the territories and possessions of the United States, except that—

(1) the provisions of titles II and III (other than section 301) shall only apply to powerplants and installations situated within the contiguous 48 States, Alaska, and the District of Columbia; and

(2) the provisions of section 301 shall only apply to powerplants situated within the contiguous 48 States and the District of Columbia.

TITLE II—NEW FACILITIES

Subtitle A—Prohibitions

SEC. 201. NEW ELECTRIC POWERPLANTS.

Except to such extent as may be authorized under subtitle B—

(1) natural gas or petroleum shall not be used as a primary energy source in any new electric powerplant; and

(2) no new electric powerplant may be constructed without the capability to use coal or any other alternate fuel as a primary energy source.

SEC. 202. NEW MAJOR FUEL-BURNING INSTALLATIONS.

(a) GENERAL PROHIBITION.—Except to such extent as may be authorized under subtitle B, natural gas or petroleum shall not be used as a primary energy source in a new major fuel-burning installation consisting of a boiler.

(b) AUTHORITY OF SECRETARY TO PROHIBIT NONBOILERS FROM USING NATURAL GAS OR PETROLEUM.—(1) The Secretary may, by rule, prescribe categories (identified in such rules) of new major fuel-burning installations, other than boilers, in which natural gas or petroleum, or both, shall be prohibited from being used as a primary energy source. In identifying categories of new major fuel-burning installations pursuant to this paragraph, the Secretary shall take into account any special circumstances or characteristics of each category of such installations (such as the technical feasibility of burning coal or other alternate fuels and the size or geographic location of such installations). The application of any such final rule in the case of any new major fuel-burning installation subject to such rule shall be stayed pending a resolution (including judicial review) of any petition for an exemption for such installation which is filed with the Secretary not later than 60 days after such final rule is published under section 702(a). Any such final rule shall not apply in the case of any installation with respect to which a comparable prohibition was issued by order (or was proposed but was not issued because it was demonstrated that it could qualify for an exemption under subtitle B).

(2)(A) The Secretary may, by order, prohibit the use of natural gas or petroleum, or both, as a primary energy source in any new major fuel-burning installations other than a boiler, if such installation is not, at the time of the issuance of the proposed order, in a category identified in a final rule issued under paragraph (1).

(B) Subject to subparagraph (C), the Secretary shall not issue a final order under this paragraph with respect to any installation if it is demonstrated that there would have been granted an exemption for such installation if such prohibtion had been established by rule pursuant to paragraph (1) rather than by order pursuant to this paragraph, except that if a temporary exemption would have been granted, such a final order may be issued but may not take effect until such time as such temporary exemption would have terminated.

(C) In any case in which an order is not issued by reason of subparagraph (B) or in which the effective date of such order is delayed under subparagraph (B), the Secretary shall take such steps as may be necessary to assure the installation involved complies with the same requirements (including provisions of section 214(a)) as would have been applicable if an exemption had been granted based upon the grounds for which the order is not issued or the effective date of which is delayed.

(3) A prohibition under this subsection shall only apply with respect to an installation for which construction or acquisition began on or after the date of the publication under section 701(b) of the proposed rule or order establishing the prohibition. Any installation not subject to such a prohibition because of the preceding sentence shall be considered an existing major fuel-burning installation for purposes of title III.

SUBTITLE B—EXEMPTIONS

SEC. 211. TEMPORARY EXEMPTIONS

(a) GENERAL EXEMPTION DUE TO LACK OF ALTERNATE FUEL SUPPLY, SITE LIMITATIONS, OR ENVIRONMENTAL REQUIREMENTS.—After consideration of a petition (and comments thereon) for exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption, despite diligent good faith efforts—

(1) it is likely that an adequate and reliable supply to coal or other alternate fuel of

the quality necessary to conform with design and operational requirements for use as a primary energy source will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the cost, as determined by rule by the Secretary, of using imported petroleum as a primary energy source;

(2) one or more site limitations exist which would not permit the location or operation of such a powerplant or installation using coal or any other alternate fuel as a primary energy source; or

(3) the prohibitions of section 201 or 202 could not be satisfied without violating applicable environmental requirements.

(b) TEMPORARY EXEMPTION BASED UPON FUTURE USE OF SYNTHETIC FUELS.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) the petitioner will comply with the prohibitions of subtitle A by the end of the proposed exemption by the use of a synthetic fuel derived from coal or another alternate fuel; and

(2) the petitioner is not able to comply with such prohibitions by the use of such synthetic fuel until the end of the proposed exemption.

The effectiveness of an exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 214(b).

(c) TEMPORARY PUBLIC INTEREST EXEMPTION.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary may, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption the issuance of such exemption would be in the public interest and would be consistent with the purposes of this Act.

(d) TEMPORARY EXEMPTION FOR THE USE OF PETROLEUM BY CERTAIN INSTALLATIONS.—After consideration of a petition (and comments thereon) for an exemption from the prohibition of the use of petroleum under section 202, for an installation with a design capacity of consuming any fuel (or any mixture thereof) at a fuel heat input rate which does not exceed 300 million Btu's per hour, the Secretary may, by order, grant an exemption under this subsection for the use of petroleum if he finds that the petitioner has demonstrated, by the existence of binding contracts or other evidence, including appropriate State construction permits, that he will use coal or another alternate fuel for at least 75 percent of the annual fuel heat input rate upon the expiration of such exemption. For provisions relating to authority to receive, consider and granting (or denying) certain petitions for an exemption under this subsection, see section 902(b).

(e) DURATION OF TEMPORARY EXEMPTIONS.—(1) Except as provided in paragraph (2), exemptions under this section for any powerplant or installation may not exceed, taking into account any extension or renewal, 5 years.

(2)(A) An exemption under subsection (a)(1) may be granted for a period of more than 5 years, but may not exceed, taking into account any extension or renewal, 10 years.

(B) An exemption under subsection (b) may be extended beyond the 5-year limit under paragraph (1), but such exemption, so extended, may not exceed 10 years.

(3) If an exemption is granted for any powerplant or installation before the powerplant or installation is placed in service, the period before it is placed in service shall not be taken into account in computing the 5-year and the 10-year limitations of paragraphs (1) and (2).

SEC. 212. PERMANENT EXEMPTIONS.

(a) PERMANENT EXEMPTIONS DUE TO LACK OF ALTERNATE FUEL SUPPLY, SITE LIMITATIONS, ENVIRONMENTAL REQUIREMENTS, OR ADEQUATE CAPITAL.—(1) After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that despite diligent good faith efforts—

(A) it is likely that an adequate and reliable supply of coal or other alternate fuel of the quality necessary to conform with design and operational requirements for use as a primary energy source (i) will not be available within the first 10 years of the useful life of the powerplant or installation, or (ii) will not be available at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the cost, as determined by rule by the Secretary, of using imported petroleum as a primary energy source during the useful life of the powerplant or installation involved;

(B) one or more site limitations exist which would not permit the location or operation of such powerplant or installation using coal or any other alternate fuel as a primary energy source;

(C) the prohibitions of subtitle A could not be satisfied without violating applicable environmental requirements; or

(D) the required use of coal or any other alternate fuel would not allow the petitioner to obtain adequate capital for the financing of such powerplant or installation.

(2) The demonstration required to be made by a petitioner under paragraph (1) shall—

(A) in the case of a new major fuel-burning installation, be made with respect to the site of such installation proposed by the petitioner; and

(B) in the case of a new electric powerplant, be made with respect to the site of such powerplant and reasonable alternative sites.

(3) Notwithstanding the preceding provisions of this subsection, a powerplant which has been granted an exemption under subsection (h) may not be granted an exemption under this subsection.

(b) PERMANENT EXEMPTION DUE TO CERTAIN STATE OR LOCAL REQUIREMENTS.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary may, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) with respect to the proposed site of the powerplant or installation, the construction or operation of such a facility using coal or any other alternate fuel is infeasible because of a State or local requirement (other than a building code or a nuisance or zoning law);

(2) in the case of a powerplant, there is no reasonable alternative site for such powerplant which meets the criteria set forth in subsection (a)(1)(A) through (D); and

(3) the granting of the exemption would be in the public interest and would be consistent with the purposes of this Act.

(c) PERMANENT EXEMPTION FOR COGENERATION.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a cogeneration facility, the Secretary may, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he—

(1) finds that the petitioner has demonstrated that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used in such facility, and

(2) includes in the final order a statement of the basis for such finding.

(d) PERMANENT EXEMPTION FOR CERTAIN FUEL MIXTURES CONTAINING NATURAL GAS OR PETROLEUM.—(1) After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(A) the powerplant or installation uses, or proposes to use, a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source; and

(B) the amount of the petroleum or natural gas used in such mixture will not exceed the minimum percentage of the total Btu heat input of the primary energy sources of such powerplant or installation needed to maintain reliability of operation of such powerplant or installation consistent with maintaining a reasonable level of fuel efficiency, as determined in accordance with rules prescribed by the Secretary.

(2) In the case of a new major fuel-burning installation, the percentage determined by the Secretary under subparagraph (B) of paragraph (1) shall not be less than 25 percent.

(e) PERMANENT EXEMPTION FOR EMERGENCY PURPOSES.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that such powerplant or installation will be maintained and operated only for emergency purposes (as defined by rule by the Secretary).

(f) PERMANENT EXEMPTION FOR POWERPLANTS NECESSARY TO MAINTAIN RELIABILITY OF SERVICE.—After consideration of a petition (and comments thereon) for an exemption for a powerplant from one or more of the prohibitions of subtitle A, the Secretary may, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum if he finds that the petitioner has demonstrated that—

(1) such exemption is necessary to prevent impairment of reliability of service, and

(2) the petitioner, despite diligent good faith efforts, is not able to make the demonstration necessary to obtain an exemption under subsection (a) or (b) in the time required to prevent such impairment of service.

(g) PERMANENT EXEMPTION FOR PEAKLOAD POWERPLANTS.—After consideration of a petition (and comments thereon) for an exemption for a powerplant—

(1) in the case of a proposed use of petroleum, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to petroleum if the petitioner certifies that such powerplant is to be operated solely as a peakload powerplant; and

(2) in the case of a proposed use of natural gas, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas if—

(A) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary that the use by such powerplant of coal or any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded; and

(B) the petitioner certifies that such powerplant is to be operated solely as a peakload powerplant.

(h) PERMANENT EXEMPTION FOR INTERMEDIATE LOAD POWERPLANTS.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A on the use of petroleum by a powerplant, the Secretary may grant a permanent exemption under this subsection for such use, by order, if he finds that the petitioner has demonstrated that—

(A) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary that the use by such powerplant of coal or any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded;

(B) such powerplant is to be constructed and operated only to replace no more than the equivalent capacity of existing electric powerplants—

(i) which use natural gas or petroleum as a primary source,

(ii) which are owned by the same person who is to operate such powerplant, and

(iii) which, if they used coal as a primary energy source, would cause or contribute to such a concentration in such area;

(C) such powerplant is to be operated solely as an intermediate load powerplant;

(D) the net heat input rate for such powerplant will be maintained at or less than 9,500 Btu's per kilowatt hour throughout the useful life of the powerplant;

(E) there is no reasonable alternative site for such powerplant which meets the criteria set forth in subsection (a)(1)(A) through (D); and

(F) the powerplant is to be constructed with the capability to use a synthetic fuel derived from coal or other alternate fuel.

(2) The Secretary shall, from time to time, review each exemption granted to a powerplant under this subsection, and shall terminate such exemption when he finds that there is available a supply of synthetic fuel derived from coal or other alternate fuel suitable for use as a primary energy source by such powerplant.

(i) PERMANENT EXEMPTIONS FOR INSTALLATIONS BASED UPON PRODUCT OR PROCESS REQUIREMENTS.—After consideration of a petition (and comment thereon) for an exemption for an installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection with respect to natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) the use of coal or another alternate fuel is not technically feasible due to the necessity to maintain satisfactory control of product quality; and

(2) substitution of steam is not technically feasible due to process requirements.

(j) PERMANENT EXEMPTION FOR INSTALLATIONS NECESSARY TO MEET SCHEDULED EQUIPMENT OUTAGES.—After consideration of a petition (and comments thereon) for any exemption from one or more of the prohibitions of subtitle A for an installation, the Secretary may, by order, grant a permanent exemption under this subsection if he finds that the petitioner has demonstrated that such exemption is necessary to meet scheduled equipment outages (as defined by the Secretary by rule).

SEC. 213. GENERAL REQUIREMENTS FOR EXEMPTIONS.

(a) USE OF MIXTURES OR FLUIDIZED BED COMBUSTION NOT FEASIBLE.—Except in the case of an exemption under section 212(d) or (g), the Secretary may grant a permanent exemption for a powerplant or installation under this subtitle only—

(1) if the applicant has demonstrated that the use of a mixture of natural gas or petroleum and coal or another alternate fuel, for which an exemption under section 212(d) would be available, is not economically or technically feasible; and

(2) if the Secretary has not made a finding that the use of a method of fluidized bed combustion of coal or another alternate fuel is economically and technically feasible.

(b) STATE APPROVAL REQUIRED FOR POWERPLANT.—If the appropriate State regulatory authority has not approved a powerplant for which a petition has been filed, such exemption—

(1) to the extent it applies to the prohibition under section 201 (2) against construction without the capability of using coal or another alternate fuel, shall not take effect until all approvals required by such State regulatory authority which relate to construction have been obtained; and

(2) to the extent it applies to the prohibition under section 201 (1) against the use of natural gas or petroleum as a primary energy source, shall not take effect until all approvals required by such State regulatory authority which relate to construction or operation have been obtained.

(c) NO ALTERNATIVE POWER SUPPLY IN THE CASE OF A POWERPLANT.—(1) Except in the case of an exemption under section 212 (c) or (g), the Secretary may not grant an exemption for a new powerplant unless he finds that the petitioner has demonstrated that there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service and which can be obtained by the petitioner, despite reasonable good faith efforts.

(2) The Secretary shall forward a copy of any such petition to the Federal Energy Regulatory Commission promptly after it is filed with the Secretary and shall consult with such Commission before making any finding on such petition under paragraph (1).

SEC. 214. TERMS AND CONDITIONS; COMPLIANCE PLANS

(a) TERMS AND CONDITIONS GENERALLY.—Any exemption from any prohibition under this subtitle shall be on such terms and conditions as the Secretary determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this Act. In the case of any temporary exemption, the terms and conditions (which may include a compliance plan meeting the requirements of subsection (b)) shall be designed to insure that upon the expiration of such exemption, the persons and powerplant or installation covered by such exemption will comply with the applicable prohibitions.

(b) COMPLIANCE PLANS.—A compliance plan meets the requirements of this subsection if it is approved by the Secretary and—

(1) contains (A) a schedule indicating how compliance with applicable prohibitions of this Act will occur and (B) evidence of binding contracts for fuel, or facilities for the production of fuel, which would allow for such compliance; and

(2) is revised at such times and to such extent as the Secretary may require to reflect changes in circumstances.

TITLE III—EXISTING FACILITIES

Subtitle A—Prohibitions

SEC. 301. EXISTING ELECTRIC POWERPLANTS.

(a) GENERAL PROHIBITIONS.—Except to such extent as may be authorized under subtitle B—

(1) natural gas shall not be used as a primary energy source in an existing electric powerplant on or after January 1, 1990;

(2) natural gas shall not be used as a primary energy source in an existing electric powerplant before January 1, 1990, unless such powerplant used natural gas as a primary energy source at any time during calendar year 1977; and

(3) natural gas shall not be used as a primary energy source in an existing electric powerplant in any calendar year before 1990 in greater proportions than the average yearly proportion of natural gas which—

(A) such powerplant used as a primary energy source in calendar years 1974 through 1976, or

(B) if such powerplant began operations on or after January 1, 1974, such powerplant used as a primary energy source during the first two calendar years of its operation.

The prohibition of paragraph (1) shall be stayed with respect to any existing powerplant pending a resolution (including judicial review) of any petition for any exemption from such prohibition which is filed for such powerplant at any time after the effective date of this Act, but at least one year before the date such prohibition first takes effect.

(b) AUTHORITY OF SECRETARY TO PROHIBIT WHERE COAL OR ALTERNATE FUEL CAPABILITY EXISTS.—The Secretary may prohibit, in accordance with section 303 (a) or (b), the use of petroleum or natural gas, or both, as a primary energy source in any existing electric powerplant, if the Secretary finds that—

(1) such powerplant has or previously had the technical capability to use coal or another alternate fuel as a primary energy source;

(2) such powerplant has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without—

(A) substantial physical modification of the powerplant, or

(B) substantial reduction in the rated capacity of the powerplant; and

(3) it is financially feasible to use coal or another alternate fuel as a primary energy source in such powerplant.

The requirement of paragraph (1) shall not be considered to be satisfied unless the finding under such parargaph is made before the date of the publication of the notice of proposed prohibition under section 701(b) and is published with such notice.

(c) AUTHORITY OF SECRETARY TO PROHIBIT EXCESSIVE USE IN MIXTURES.—In the case of any existing electric powerplant in which the Secretary finds it is technically and financially feasible to use a mixture of petroleum or natural gas and coal or an alternate fuel as a primary energy source, the Secretary may prohibit, in accordance with section 303(a), the use of petroleum or natural gas, or both, in such powerplant in amounts in excess of the minimum amount necessary to maintain reliability of operation of the unit consistent with maintaining reasonable fuel efficiency of such mixture.

SEC. 302. EXISTING MAJOR FUEL-BURNING INSTALLATIONS.

(a) AUTHORITY OF SECRETARY TO PROHIBIT WHERE COAL OR ALTERNATE FUEL CAPABILITY EXISTS.—The Secretary may prohibit, in accordance with section 303 (a) or (b), the use of petroleum or natural gas, or both, as a primary energy source in any existing major fuel-burning installation, if the Secretary finds that—

(1) such installation has or previously had the technical capability to use coal or another fuel as a primary energy source;

(2) such installation has the technical capability to use coal or another alternate fuel as a primary energy source, or it could have such capability without—

(A) substantial physical modification of the unit, or

(B) substantial reduction in the rated capacity of the unit; and

(3) it is financially feasible to use coal or another alternate fuel as a primary energy source in such installation.

The requirement of paragraph (1) shall not be considered to be satisfied unless the finding under such pargaraph is made before the date of the publication of the notice of proposed prohibition under section 701(b) and is published with such notice.

(b) "AUTHORITY OF SECRETARY TO PROHIBIT EXCESSIVE USE IN MIXTURES.—

(1) In the case of any existing major fuel-burning installation in which the Secretary finds it is technically and financially feasible to use a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source the Secretary may prohibit, in accordance with section 303(a), the use of petroleum or natural gas, or both, in such installation in amounts in excess of the minimum percentage of the total Btu heat input of the primary energy sources needed to maintain reliability of operation of the unit consistent with maintaining reasonable fuel efficiency of such mixture.

(2) The percentage determined by the Secretary under paragraph (1) shall not be less than 25 percent.

SEC. 303. RULES RELATING TO CASE-BY-CASE AND CATEGORY PROHIBITIONS.

(a) CASE-BY-CASE PROHIBITIONS.—(1) Except to the extent authorized by subsection (b), the Secretary shall prohibit any powerplant or installation from using natural gas or petroleum under the authority granted him under section 301 (b), or (c) or 302 only by means of a final order issued by him which shall be limited to the particular powerplant or installation involved.

(2) The Secretary may issue such a final order only with respect to a powerplant or installation which is not, at the time the proposed order is issued, covered by a final rule issued under section (b).

(3)(A) Subject to subparagraph (B), the Secretary shall not issue a final order under this subsection to any powerplant or installation if it is demonstrated that such powerplant or installation would have been granted an exemption if such prohibition had been established by a final rule pursuant to subsection (b) rather than by order pursuant to this subsection, except that if a temporary exemption would have been granted, such a final order may be issued but may not take effect until such time as the temporary exemption would have terminated.

(B) In any case in which an order is not issued by reason of subparagraph (A) or in which the effective date of such order is delayed under subparagraph (A), the Secretary shall take such steps as may be necessary to assure the installation involved complies with the same requirements (including provisions of section 314(a)) as would have been applicable if an exemption had been granted based upon the grounds for which the order is not issued or the effective date of which is delayed.

(b) PROHIBITIONS APPLICABLE TO CATEGORIES OF FACILITIES.—(1) The Secretary may, by rule, prohibit the use of natural gas or petroleum pursuant to section 301(b) or 302(a)—

(A) in the case of any category of existing electric powerplants identified in such rule; and

(B) in the case of any category of existing major fuel-burning installations which have design capabilities of consuming fuel (or any mixture thereof) at a fuel heat input rate of 300 million Btu's per hour or greater which are identified in such rule.

(2) Each powerplant or installation to be covered by any final rule issued under this subsection shall be specifically identified in the proposed rule published under section 701(b).

(3) In prescribing any final rule under this subsection, the Secretary shall take into account any special circumstances or characteristics of each category of powerplants or installations (such as the intermittent use, size, age, or geographic location of such powerplants or installations). Any such rules shall not apply in the case of any existing electric powerplant or major fuel-burning installation—

(A) pending a resolution (including judicial review) of any petition for any exemption for such powerplant or installation which may be filed with the Secretary not later than 60 days after such final rule is published under section 702(a); or

(B) with respect to which a comparable prohibition was issued by order (or was proposed but was not issued by reason of subsection (a)(3)).

SUBTITLE B—EXEMPTIONS

SEC. 311. TEMPORARY EXEMPTIONS.

(a) TEMPORARY EXEMPTION DUE TO LACK OF ALTERNATE FUEL SUPPLY, SITE LIMITATIONS, OR ENVIRONMENTAL REQUIREMENT.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order grant such an exemption for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption, despite diligent good faith efforts—

(1) it is likely that an adequate and reliable supply of coal or other alternate fuel of the quality necessary to conform with design and operational requirements for use as a primary energy source, will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the costs, as determined by rule by the Secretary, of using imported petroleum as a primary energy sources:

(2) one or more site limitations exist which would not permit the operation of such a powerplant or installation using coal or any other alternate fuel as a primary energy source; or

(3) the prohibitions of section 301 or 302 could not be satisfied without violating applicable environmental requirements.

(b) TEMPORARY EXEMPTION BASED UPON FUTURE USE OF SYNTHETIC FUELS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary, by order, shall grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that—

(1) the petitioner will comply with the prohibitions of subtitle A by the end of the proposed exemption by the use of a synthetic fuel derived from coal or another alternate fuel; and

(2) the petitioner is not able to comply with such prohibitions by the use of such synthetic fuel until the end of the proposed exemption.

The effectiveness of an exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 314(b).

(c) TEMPORARY EXEMPTION BASED UPON USE OF INNOVATIVE TECHNOLOGIES.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary, by order, shall grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that such powerplant or installation will comply with such prohibitions at the expiration of such exemption by the adoption of a technology for the use of coal or another alternate fuel which at the time of the granting of the exemption is determined by the Secretary to be an innovative technology. The effectiveness of an exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 314(b).

(d) TEMPORARY EXEMPTION FOR UNITS TO BE RETIRED.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that such powerplant or installation is to permanently cease operation at or before the expiration of the exemption period. An exemption under this subsection is conditioned on the petitioner filing and maintaining a compliance plan meeting the requirements of section 314(b) (other than paragraph (1)(B)).

(2) Notwithstanding any other provision of this Act, an exemption under this subtitle may not be granted for any powerplant or installation once an exemption under this subsection has been granted for such power plant or installation.

(e) TEMPORARY PUBLIC INTEREST EXEMPTION.—After consideration of a petition (and comments thereon) for an exemption for a powerplant or installation from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary may, by order, grant an exemotion under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that for the period of the proposed exemption the issuance of such exemption is in the public interest and is consistent with the purposes of this Act.

(f) TEMPORARY EXEMPTION FOR PEAKLOAD POWERPLANTS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if the petitioner certifies that such powerplant is to be operated solely as a peakload powerplant.

(g) TEMPORARY EXEMPTION FOR POWERPLANTS WHERE NECESSARY TO MAINTAIN RELIABILITY OF SERVICE.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant an exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that such exemption is necessary to prevent impairment of reliability of service.

(2) Notwithstanding any other provision of this Act, an exemption under this subtitle (other than a permanent exemption under section 312(f) for the use of petroleum) may not be granted for any powerplant for which an exemption under this subsection has been granted.

(h) DURATION OF TEMPORARY EXEMPTIONS.—(1) Except as provided in paragraphs (2) and (3), exemptions under this section for any powerplant or installation may not exceed, taking into account any extension or renewal, 5 years.

(2)(A) An exemption under subsection (a)(1) may be granted for a period of more than 5 years, but may not exceed, taking into account any extension or renewal, 10 years.

(B) Subject to paragraph (3), an exemption under subsections (b), (c), and (g) may be extended beyond the 5-year limit under

paragraph (1), but such exemption, so extended, may not exceed 10 years.

(3) An exemption under subsections (d), (f), and (g) for the use of natural gas by a powerplant may not extend beyond December 31, 1994.

(4) In computing the 5-year and 10-year limitations of paragraphs (1) and (2) in the case of any exemption under this section, the period before the prohibition on the use of natural gas and petroleum would first apply (if the exemption had not been granted) shall be disregarded.

SEC. 312. PERMANENT EXEMPTIONS.

(a) PERMANENT EXEMPTION DUE TO LACK OF ALTERNATIVE FUEL SUPPLY, SITE LIMITATIONS, OR ENVIRONMENTAL REQUIREMENTS.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a permanent exemption under this subsection for the use of natural gas or petroleum, if he finds that the petitioner has demonstrated that despite diligent good faith efforts—

(A) it is likely that an adequate and reliable supply of coal or other alternate fuels of the quality necessary to conform with design and operational requirements for use as a primary energy source will not be available to such powerplant or installation at a cost (taking into account associated facilities for the transportation and use of such fuel) which, based upon the best practicable estimates, does not substantially exceed the cost, as determined by rule by the Secretary, of using imported petroleum as a primary energy source during the remaining useful life of the powerplant or installation;

(B) one or more site limitations exist which would not permit the operation of such a powerplant or installation using coal or any other alternate fuel as a primary energy source; or

(C) the prohibitions of subtitle A could not be satisfied without violating applicable environmental requirements.

(2) Notwithstanding the preceding provisions of this subsection, a powerplant which has been granted an exemption under subsection (g) may not be granted an exemption under this subsection.

(b) PERMANENT EXEMPTION DUE TO CERTAIN STATE OR LOCAL REQUIREMENTS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary may, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(1) with respect to the site of the powerplant or installation, the operation of such a facility using coal or any other alternate fuel is infeasible because of a State or local requirement;

(2) if such State or local requirement is under a building code or nuisance or zoning law, no other exemption under this subtitle could be granted for such facility; and

(3) the granting of the exemption would be in the public interest and would be consistent with the purposes of this Act.

(c) PERMANENT EXEMPTION FOR COGENERATION.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a cogeneration facility, the Secretary may, by order, grant a permanent exemption under this subsection, if he—

(1) finds that the petitioner has demonstrated that economic and other benefits of cogeneration are unobtainable unless petroleum or natural gas, or both, are used in such facility, and

(2) includes in the final order a statement of the basis for such finding.

(d) PERMANENT EXEMPTION FOR CERTAIN FUEL MIXTURES CONTAINING NATURAL GAS OR PETROLEUM.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(A) the powerplant or installation uses, or proposes to use, a mixture of petroleum or natural gas and coal or another alternate fuel as a primary energy source; and

(B) the amount of the petroleum or natural gas used in such mixture will not exceed the minimum percentage of the total Btu heat input of the primary energy sources of such powerplant or installation needed to maintain reliability if operation of the unit consistent with maintaining a reasonable level of fuel efficiency, as determined in accordance with rules prescribed by the Secretary.

(2) In the case of an existing major fuel-burning installation, the percentage determined by the Secretary under subparagraph (B) of paragraph (1) shall not be less than 25 percent.

(3) In the case of an existing electric powerplant, the Secretary may authorize a higher percentage than that referred to in paragraph (1)(B) if he finds that the higher percentage of natural gas allowed would be mixed with synthetic fuels derived from municipal wastes or agricultural wastes and would encourage the use of alternate or new technologies which use renewable sources of energy.

(e) PERMANENT EXEMPTION FOR EMERGENCY PURPOSES.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant or installation, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that such powerplant or installation will be maintained and operated only for emergency purposes (as defined by rule by the Secretary).

(f) PERMANENT EXEMPTION FOR PEAKLOAD POWERPLANTS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that—

(1) the powerplant is operated solely as a peakload powerplant;

(2) a denial of such petition is likely to result in an impairment of reliability of service; and

(3)(A) modification of the powerplant to permit compliance with such prohibitions is technically infeasible; or

(B) such modification would result in an unreasonable expense.

(g) PERMANENT EXEMPTION FOR INTERMEDIATE LOAD POWERPLANTS.—(1) After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A on the use of petroleum by a powerplant, the Secretary may, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(A) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary that the use by such powerplant of coal or any available alternate fuel as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded for such area;

(B) such powerplant is to be operated only to replace no more than the equivalent capacity of existing electric powerplants—

(i) which use natural gas or petroleum as a primary energy source.

(ii) which are owned by the same person who is to operate such powerplant, and

(iii) which, if they used coal as a primary energy source, would cause or contribute to such a concentration in such region;

(C) such powerplant is and shall continue to be operated solely as an intermediate load powerplant;

(D) the net fuel heat input rate for such powerplant will be maintained at or less than 9,500 Btu's per kilowatt hour throughout the remaining useful life of the powerplant; and

(E) the powerplant has the capability to use synthetic fuels derived from coal or other alternate fuel.

(2) The Secretary shall, from time to time, review each exemption granted to a powerplant under this subsection, and shall terminate such exemption if he finds that there is available a supply of synthetic fuel derived from coal or other alternate fuel suitable for use as a primary energy source by such powerplant.

(h) PERMANENT EXEMPTION FOR USE OF NATURAL GAS BY CERTAIN POWERPLANTS WITH CAPACITIES OF LESS THAN 250 MILLION BTU'S PER HOUR.—(1) Subject to paragraph (2), after consideration of a petition (and comments thereon) for an exemption from any prohibition of subtitle A for the use of natural gas by a powerplant, the Secretary shall, by order, grant a permanent exemption under this subsection for such use, if he finds that the petitioner has demonstrated that—

(A) such powerplant has a design capability of consuming fuel (or any mixture thereof) at a fuel heat input rate of less than 250 million Btu's per hour;

(B) such powerplant was a baseload powerplant on April 20, 1977; and

(C) such powerplant is not capable of consuming coal without—

(i) substantial physical modification of the unit; or

(ii) substantial reduction in the rated capacity of the unit (as determined by the Secretary).

(2) An exemption under this subsection may only apply to the prohibitions under section 301 and prohibitions established by final rules or orders issued before January 1, 1990.

(i) PERMANENT EXEMPTION FOR THE USE OF LNG BY CERTAIN POWERPLANTS.—After consideration of a petition (and comments thereon) for an exemption from one or more of the prohibitions of subtitle A for a powerplant, the Secretary shall, by order, grant a permanent exemption under this subsection for the use of liquefied natural gas if the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) has certified to the Secretary that the use of coal by such powerplant as a primary energy source will cause or contribute to a concentration, in an air quality control region or any area witnin such region, of a pollutant for which any national ambient air quality standard is or would be exceeded for such region or area and the use of coal would not comply with applicable environmental requirements.

(j) PERMANENT EXEMPTION FOR INSTALLATIONS SERVED BY CERTAIN INTERNATIONAL PIPELINES.—(1) After consideration of a petition (and comments thereon) for an exemption for an installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection for the use of natural gas, if he finds that the petitioner has demonstrated that—

(A) such installation's primary source of natural gas is under a contract with a pipeline between Canada and the United States which cannot be cancelled by the petitioner without his suffering substantial financial penalty;

(B) such pipeline was supplying to such installation before April 21, 1977, natural gas from Canada under such contract;

(C) such pipeline serves high-priority users within the United States service to whom would be jeopardized if service to such installation is terminated;

(D) the revenues from the transportation and sale of natural gas transported by such pipeline are essential to the economic vitality of the pipeline; and

(E) the exemption is consistent with the purposes of this Act, and the denial of such exemption would not result in natural gas being made available for any other use within the United States.

(2) For purposes of this subsection, the term "high-priority user" means any residential user of natural gas, or any commercial user whose consumption of natural gas on a peak day is less than 50 Mcf, as determined by the Secretary.

(k) PERMANENT EXEMPTION FOR INSTALLATION BASED UPON PRODUCT OR PROCESS REQUIREMENTS.—After consideration of a petition (and comments thereon) for an exemption for an installation from one or more of the prohibitions of subtitle A, the Secretary shall, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that—

(1) the use of coal or other alternate fuels is not technically feasible due to the necessity to maintain satisfactory control of product quality; and

(2) substitution of steam is not technically feasible due to process requirements.

(l) PERMANENT EXEMPTION FOR INSTALLATIONS NECESSARY TO MEET SCHEDULED EQUIPMENT OUTAGES.—After consideration of a petition (and comments thereon) for any exemption from one or more of the prohibitions of subtitle A for an installation, the Secretary may, by order, grant a permanent exemption under this subsection, if he finds that the petitioner has demonstrated that such exemption is necessary to meet scheduled equipment outages (as defined by the Secretary by rule).

SEC. 313. GENERAL REQUIREMENTS FOR EXEMPTIONS.

(a) USE OF MIXTURES OR FLUIDIZED BED COMBUSTION NOT FEASIBLE.—Except in the case of an exemption under section 312(b), (f), (i) or (j), the Secretary may grant a permanent exemption for a powerplant or installation under this subtitle only—

(1) if the applicant has demonstrated that the use of a mixture of natural gas or petroleum and coal (or other alternate fuels), for which an exemption under section 312(b) would be available, is not economically or technically feasible; and

(2) if the Secretary has not made a finding that the use of a method of fluidized bed combustion of coal or an alternate fuel is economically and technically feasible.

(b) NO ALTERNATIVE POWER SUPPLY IN THE CASE OF A POWERPLANT.—(1) In the case of an exemption under section 312(b) or (g), the Secretary may not grant an exemption for an existing powerplant unless he finds the petitioner has demonstrated that there is no alternative supply of electric power which is available within a reasonable distance at a reasonable cost without impairing short-run or long-run reliability of service and which can be obtained by the petitioner, despite reasonable good faith efforts.

(2) The Secretary shall forward a copy of any such petition to the Federal Energy Regulatory Commission promptly after it is filed with the Secretary and shall consult with the Commission before making any finding on such petition under paragraph (1).

SEC. 314. TERMS AND CONDITIONS; COMPLIANCE PLANS

(a) TERMS AND CONDITIONS GENERALLY.—Any exemption from any prohibition under this subtitle shall be on such terms and conditions as the Secretary determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this Act. In the case of any temporary exemption, the terms and conditions (which may include a compliance plan meeting the requirements of subsection (b)) shall be designed to insure that upon the expiration of such exemption, the persons and powerplant or installation covered by such exemption will comply with the applicable prohibitions.

(b) COMPLIANCE PLANS.—A compliance plan meets the requirements of this subsection if it is approved by the Secretary and—

(1) contains (A) a schedule indicating how compliance with applicable prohibition of this Act will occur and (B) evidence of binding contracts for fuel, or facilities for the production of fuel, which would allow for such compliance; and

(2) is revised at such times and to such extent as the Secretary may require to reflect changes in circumstances.

TITLE IV—ADDITIONAL PROHIBITIONS; EMERGENCY AUTHORITIES

SEC. 401. AUTHORITY TO PROHIBIT USE OF NATURAL GAS IN CERTAIN BOILERS USED FOR SPACE HEATING.

(a) EXISTING BOILERS.—The Secretary may prohibit the use of natural gas as a primary energy source in any existing boiler (other than a major fuel-burning installation) if he finds that—

(1) such boiler is used to produce steam for space heating purposes;

(2) such boiler consumes 300 Mcf or more of natural gas per day on a peak day;

(3) such boiler has, or previously had, the technical capability to use petroleum as a primary energy source;

(4) such boiler has the technical capability to use petroleum as a primary energy source or it could have such capability without—

(A) substantial physical modification of the boiler, or

(B) substantial reduction in the rated capacity of the unit;

(5) it is financially feasible for such boiler to use petroleum as a primary energy source; and

(6) such prohibition is consistent with the purposes of this Act. The requirement of paragraph (3) shall not be considered to be satisfied unless the finding under such paragraph is made before the date of the publication of the notice of proposed prohibition under section 701(b).

(b) NEW BOILERS.—The Secretary may prohibit the use of natural gas as a primary energy source in any new boiler (other than a major fuel-burning installation) if he determines that—

(1) such boiler will be used to produce steam for space heating purposes;

(2) such boiler will, by design, be capable of consuming 300 Mcf or more of natural gas per day; and

(3) such prohibition is consistent with the purposes of this Act.

(c) EXEMPTION.—The Secretary shall exempt any person from any prohibition prescribed pursuant to subsection (a) or (b) if such person demonstrates to the Secretary that an adequate and reliable source of petroleum is not likely to be available to such person during the period of the exemption.

(d) DEFINITIONS.—

(1) The term "new boiler" means any boiler for which there was not a commitment for construction or acquisition as of the date of the publication under section 701(b) of the proposed rule or order establishing the prohibition.

(2) The term "existing boiler" means any boiler other than a new boiler.

(e) METHOD OF PROHIBITION.—(1)(A) Except to the extent authorized by paragraph (2), the Secretary shall prohibit boiler fuel use of natural gas under the authority granted him in subsection (a) or (b) only by means of a final order issued by him which shall be limited to the particular boiler involved.

(B) The Secretary may issue such an order only with respect to a boiler which is not, at the time the proposed order is issued, covered by a final rule issued under paragraph (2).

(C) The Secretary shall not issue a final order under this subsection with respect to any boiler if it is demonstrated that an exemption under subsection (c) would have been granted with respect to such boiler if such prohibition had been established by rule pursuant to paragraph (2) rather than by order.

(2)(A) The Secretary may, by rule, prohibit the use of natural gas under the authority of subsection (a) or (b) in the case of any category of boilers identified in such rule.

(B) Any existing boiler to be covered by any rule issued under this subsection shall be specifically identified in the proposed rule published under section 701(b).

(C) In prescribing any rule under this subsection, the Secretary shall take into account any special circumstances or characteristics of each category of boilers (such as the technical feasibility of burning petroleum and the size, age, or geographic location of such boilers). Any such final rule shall not apply in the case of any boiler—

(i) subject to such rule pending a resolution of any petition (including judicial review) for any exemption for such boiler which may be filed with the Secretary not later than 60 days after such rule is published under section 701(b); or

(ii) with respect to which a comparable prohibition was issued by order (or was proposed but was not issued because it was demonstrated that it could qualify for an exemption under subsection (c)).

SEC. 402. PROHIBITION ON USE OF NATURAL GAS FOR DECORATIVE OUTDOOR LIGHTING

(a) PROHIBITION ON INSTALLATION OF NEW OUTDOOR LIGHTING.—Effective beginning on the date of the enactment of this Act, no local distribution company, or any industrial user of natural gas who obtains such gas under a contract between such user and a natural gas pipeline, or any agent thereof, shall install any outdoor lighting fixture using natural gas.

(b) PROHIBITION ON SELLING NATURAL GAS TO BE USED IN OUTDOOR LIGHTING.—(1) Not later than 180 days after the date of the enactment of this Act, the Secretary shall, by rule, prohibit any local distribution company (unless an exemption has been obtained under subsection (c)) from providing natural gas service for use in outdoor lighting—

(A) effective on the date such final rule is issued, in the case of any residential, commercial, or industrial customer unless a later effective date is applicable under subparagraph (B) or (C) of this paragraph;

(B) effective beginning 180 days after the date such final rule is issued, in the case of any industrial or commercial structure for which natural gas was being provided by such company for outdoor lighting use on the date of the enactment of this Act; and

(C) effective beginning January 1, 1982, in the case of—

(i) any municipal outdoor lighting fixture, and

(ii) any outdoor lighting fixture used in connection with a residence.

for which natural gas was being provided by such company for outdoor lighting use on the date of the enactment of this Act.

(2) The rule prescribed under paragraph (1) shall provide that any industrial user of natural gas who obtains such natural gas under a contract between such user and a natural gas pipeline shall be prohibited from using such natural gas for outdoor lighting (unless an exemption has been obtained under subsection (c))—

(A) effective 180 days after the date such final rule takes effect, if the industrial user was using natural gas for outdoor lighting on the date of the enactment of this Act; or

(B) beginning on the date such final rule takes effect, if such industrial user was not so using natural gas on such date.

(c) EXEMPTIONS.—(1) The Secretary shall, by order—

(A) exempt from the prohibition under subsection (a) the installation of a replacement lighting fixture for any memorial light or light of historical significance, and

(B) permanently exempt from a prohibition under subsection (b) the use of natural gas in any memorial light or light of historical significance.

if a petition for such exemption is made by a Federal, State, or local government agency or by any appropriate historical association.

(2) The Secretary shall, by order—

(A) exempt from the prohibition under subsection (a), upon a petition therefor, the installation of a replacement lighting fixture for any natural gas outdoor lighting, and

(B) permanently exempt from a prohibition under subsection (b), upon a petition therefor, use of natural gas for outdoor lighting.

which is used for commercial purposes, which is of a traditional nature, and which conforms with the cultural or architectural style of the area in which such light is located.

(3) The Secretary shall, by order, exempt any local distribution company or industrial user described in subsection (b)(2), from the rule required to be prescribed under subsection (b) concerning the continuation of such service in effect on the date of the enactment of this Act upon the filing of a petition therefor by such pipeline or company, or by any other interested person. Such exemption shall be for such period as, and to the extent that, the Secretary finds—

(A) such exemption is necessary to protect the safety of persons or property;

(B) such exemption is necessary to permit the installation of substitute lighting where no adequate outdoor lighting (other than that using natural gas) exists on the date of the enactment of this Act;

(C) compliance with such rule would entail substantial expense and would not be cost justified; or

(D) the issuance of the exemption is in the public interest and is consistent with the purposes of this Act.

(4) Determinations on any petition for an exemption under this section shall be made under criteria which the Secretary shall establish by rule, which rule shall be prescribed not later than 180 days after the effective date of this Act.

(d) PROCEDURES.—Rules and orders under this section shall be made in accordance with the provisions of section 553 of title 5, United States Code, except that determinations on any petition for exemption under this section shall be made only after interested persons have been afforded an opportunity for a public hearing. Under rules prescribed by the Secretary, the Secretary may stay the application of any prohibition under subsection (b) applicable to any person pending the resolution of any petition for an exemption for such persons.

(e) AUTHORITY MAY BE DELEGATED TO STATES.—(1) Under regulations prescribed by the Secretary, the responsibility and authority of the Secretary, the responsibility and authority of the Secretary with regard to outdoor lighting under this section may be delegated to the appropriate regulatory authority of a State if he determines that such delegation would be consistent with the purposes of this section.

(2) Any delegation under paragraph (1) shall be on terms and conditions prescribed by the Secretary and may be rescinded by the Secretary at any time by notifying the State authority of such rescission.

(3) Any State authority to which the Secretary has delegated authority under this subsection shall prepare and transmit reports to the Secretary on a periodic basis (as determined by the Secretary) on actions taken to carry out the purposes of this section.

(f) DEFINITIONS.—As used in this section—

(1) The term "outdoor lighting" means lighting by any stationary source which is not located inside any building.

(2) The term "pipeline company" means any person engaged in the business of transporting natural gas by pipeline other than as a local distribution company.

(3) The term "local distribution company" means any person engaged in the business of transportation and local distribution of natural gas and the sale of natural gas for ultimate consumption.

(4) The term "residence" means any single or multiple family dwelling unit, including commonly held areas associated with any such unit.

SEC. 403. CONSERVATION IN FEDERAL FACILITIES, CONTRACTS, AND FINANCIAL ASSISTANCE PROGRAMS.

(a) FEDERAL FACILITIES.—(1) Each Federal agency owning or operating any electric powerplant, major fuel-burning installation, or other unit shall comply with any prohibition, term, condition, or other substantial or procedural requirement under this Act, to the same extent as would be the case if such powerplant, installation, or unit were owned or operated by a nongovernmental person.

(2) The President may, by order, exempt from the application of paragraph (1) any powerplant, installation, or other unit owned or operated by any Federal agency, if the President determines that—

(A) such use is in the paramount interest of the United States and that the powerplant, installation, or unit involved is a component of or is used solely in connection with any weaponry, equipment, aircraft, vessels or other classes or categories of property which—

(i) are owned or operated by the Armed Forces of the United States (including the Coast Guard) or by the National Guard of any State; and

(ii) are uniquely military in nature; or

(B) there is a lack of appropriation for such use but only if the President specifically requested such appropriations as a part of the budgetary process and the Congress failed to make available such requested appropriations.

Such order shall not take effect until 60 days after a copy of such order has been transmitted to each House of the Congress. The President shall review each such determination every 2 years and submit a report to the Congress on the results of such review. Any powerplant, installation, or other unit permitted to use natural gas or petroleum under an exemption under this paragraph shall establish and carry out effective fuel conservation measures, as determined by the Secretary.

(3 Any powerplant, installation, or unit owned or operated by any such Federal agency shall be entitled to any exemption by the Secretary to the same extent, in the same manner, and under the same terms and conditions as would apply if it were owned or operated by a nongovernmental person.

(b) FEDERAL CONTRACTS AND FINANCIAL ASSISTANCE.—(1) In order to implement the purposes of this Act, the President shall, not later than 30 days after the effective date of this Act, issue an order—

(A) requiring each Federal agency which is authorized to extend Federal assistance by way of grant, loan, contract, or other form of financial assistance, to promptly effectuate the purposes of this Act relating to the conservation of petroleum and natural gas, by rule, in such contracting or assistance activities within 180 days after the issuance of such order, and

(B) setting forth procedures, sanctions, penalties, and such other provisions as the President determines necessary to carry out such requirements effectively, including a requirement that each agency annually transmit to the President, and make available to the public, a report on the actions taken and to be taken to implement such order.

(2) The President may exempt by order any specific grant, loan, contract, or other form of financial assistance from all or part of the provisions of this subsection if he determines such exemption is in the national interest. The President shall notify the Congress in writing of such exemption at least 60 days before it is effective.

(3) The President or any Federal agency may not use the authority granted under paragraph (1) to require compliance, including the use of coal, by any person or facility with any prohibition under other sections of this Act if such person or facility has been specifically determined by the Secretary as subject to such prohibition or has been exempted from the application of such prohibition.

(c) ANNUAL REPORT.—The President shall annually submit a detailed report to each House of the Congress on the actions taken by the President and each Federal agency to implement this section, including the progress and problems associated with implementation of this section.

SEC. 404. EMERGENCY AUTHORITIES.

(a) COAL ALLOCATION AUTHORITY.—(1) If the President—

(A) declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, or

(B) finds, and publishes such finding, that a national or regional fuel supply shortage exists or may exist which the President determines—

(i) is, or is likely to be, of significant scope and duration, and of an emergency nature;

(ii) causes, or may cause, major adverse impact on public health, safety, or welfare or on the economy; and

(iii) results, or is likely to result, from an interruption in the supply of coal or from sabotage, or an act of God;

the president may, by order, allocate coal (and require the transportation thereof) for fuel-burning installation, in accordance the use of any electric powerplant or major with such terms and conditions as he may prescribe, to insure reliability of electric service or prevent unemployment, or protect public health, safety, or welfare.

(2) For purposes of this subsection, the term "coal" means anthracite and bituminous coal and lignite (but does not mean any fuel derivative thereof).

(b) EMERGENCY PROHIBITION ON USE OF NATURAL GAS OR PETROLEUM.—If the President declares a severe energy supply interruption, as defined in section 3(8) of the Energy Policy and Conservation Act, the President may, by order, prohibit any electric powerplant or major fuel-burning installation from using natural gas or petroleum, or both, as a primary energy source for the duration of such interruption. Nontwithstanding any other provision of this section, any suspension of emission limitations or other requirement of applicable implementation plans, as defined in section 110(d) of the Clean Air Act, required by such prohibition shall be issued only in accordance with section 110(f) of the Clean Air Act.

(c) EMERGENCY STAYS.—The President may, by order, stay the application of any provision of this Act, or any rule or order thereunder, applicable to any new or existing electric powerplant, if the President finds, and publishes such finding, that an emergency exists, due to national, regional, or systemwide shortages of coal or other alternate fuels, or disruption of transportation facilities, which emergency is likely to affect reliability of service of any such electric powerplant.

(d) DURATION OF EMERGENCY ORDERS.—(1) Except as provided in paragraph (3), any order issued by the President under this section shall not be effective for longer than the duration of the interruption or emergency, or 90 days, whichever is less.

(2) Any such order may be extended by a subsequent order which the President shall transmit to the Congress in accordance with section 551 of the Energy Policy and Conservation Act. Such order shall be subject to congressional review pursuant to such section.

(3) Notwithstanding paragraph (1), the effectiveness of any order issued under this section shall not terminate under this subsection during the 15-calendar-day period during which any such subsequent order described in paragraph (2) is subject to congressional review under section 551 of the Energy Policy and Conservation Act.

(4) For purposes of this subsection, the provisions of this subsection supersede the provisions of title II of the Act of September 14, 1976 (Public Law 94–412; 50 U.S.C. 1621 and following).

(e) DELEGATION OF AUTHORITY PROHIBITED.—The authority of the President to issue any order under this section may not be delegated. This subsection shall not be construed to prevent the President from directing any Federal agency to issue rules or regulations or take such other action, consistent with this section, in the implementation of such order.

(f) PUBLICATION AND REPORTS TO CONGRESS OF ORDERS.—Any order issued under this section shall be publishd in the Federal Register. To the greatest extent practicable, the President shall, before issuing any order under this section, but in no event later than 5 days after issuing such order, report to the Congress of his intention to issue such order and state his reasons therefor.

(g) EMERGENCY USES OF NATURAL GAS OR PETROLEUM.—(1) During a temporary emergency condition (other than emergency conditions provided for under section 103(a)(5)), any person cprating a peakload powerplant or a major fuel-burning installation may, under rules prescribed by the Secretary, use natural gas or petroleum as a primary energy source in such powerplant or installation, notwithstanding any prohibition otherwise imposed by or pursuant to this Act, if—

(A) such person notifies the Secretary within 24 hours after commencing such use; and

(B) the Secretary has not notified such person that in his judgment the emergency condition does not exist or does not warrant the use of natural gas or petroleum involved.

(2) Within 90 days after the effective date of this Act, the Secretary shall, by rule, prescribe the form and content of such notices and the conditions which may constitute a temporary emergency.

(3) Hours of operation allowed under paragraph (1) shall not be included in the peakload powerplant's operating hours for the purposes of the penalties in section 723(b).

SEC. 405. AUTHORITY TO RESTRICT INCREASED USES OF PETROLEUM BY EXISTING POWERPLANTS.

The Secretary shall, by rule, require that, in the case of any existing electric powerplant which during calendar year 1977 uses coal or another alternate fuel as a primary energy source, petroleum may not be used in such powerplant as a primary energy source in excess of the quantities of petroleum used in such powerplant as a primary energy source during such year unless a permit is issued by the Secretary authorizing such increased use of petroleum. Such permit shall be issued if—

(1) the Administrator of the Environmental Protection Agency (or the appropriate State air pollution control agency) certifies to the Secretary (A) that the powerplant cannot comply with the requirements of the Clean Air Act, including any applicable implementation plan, as defined in section 110(d) of the Clean Air Act, without the issuance of such permit and (B) the petitioner has established the duration of the need for increased petroleum to comply with such plan; and

(2) the appropriate State regulatory authority has certified to the Secretary that the increased use of petroleum by such powerplant is necessary to prevent impairment of reliability of service.

Such permit shall be issued only for such period as the Secretary determines necessary under paragraph (1) or (2) for such increased use of petroleum.

TITLE V—SYSTEM COMPLIANCE OPTION

SEC. 501. ELECTRIC UTILITY SYSTEM COMPLIANCE OPTION.

(a) GENERAL RULE.—Existing electric powerplants owned or operated by an electric utility shall be considered in compliance with any prohibition under title III relating to the use of natural gas if there is in effect a plan of system compliance for such utility approved by the Secretary under subsection (b). No exemption under title III relating to the use of natural gas shall be available for any powerplant which is, or has ever been, covered by such an approved plan (other than an exemption under section 312(e)).

(b) REQUIREMENTS FOR PLAN APPROVAL.—The Secretary shall, by order, approve any plan of system compliance submitted by an electric utility to the Secretary before January 1, 1980, if the Secretary finds that such plan—

(1) identifies all powerplants owned or operated by such electric utility and indicates which of the powerplants—

(A) would be subject to, or could be subject to, prohibitions under title III relating to the use of natural gas if such plan were not approved; and

(B) of those so indicated in subparagraph (A), would be, or in the opinion of such electric utility would be likely to be, entitled to an exemption under title III relating to the use of natural gas if such plan were not approved;

(2) contains a commitment that, if such plan is approved, no new electric powerplant which is or is to be a base load powerplant owned or operated by such utility shall use natural gas or petroleum as its primary energy source (whether or not such powerplant could qualify for an exemption under title II for such use);

(3) contains a commitment (including a schedule for an orderly progression in satisfying such commitment) that, if such plan is approved, all existing electric powerplants owned or operated by such utility—

(A) subject to subparagraph (B), on and after January 1, 1995, would not use natural gas as a primary energy source, except in the case of an intermediate loud powerplant or a peakload powerplant, and then only in accordance with rules prescribed by the Secretary; and

(B) on and after January 1, 2000, would not use natural gas as a primary energy source except in the case of a temporary extension obtained under subsection (d);

(4) contains a commitment that, if such plan is approved, natural gas will not, on and after January 1, 1990, be used by powerplants owned or operated by such utility in excess of—

(A) 20 percent (or such higher percentage as may be allowed under subsection (d)(2)) of the electric utility's base period usage of natural gas, or, if lower,

(B) the electric utility's minimum peakload requirement for the calendar year;

(5) contains a commitment that, if such plan is approved, the natural gas used by such utility will be obtained only under—

(A) a contract entered into before the date of the enactment of this Act (other than under an extension or renewal of such contract occurring on or after such date); or

(B) a contract entered into on or after such date, or an extension or renewal occurring on or after such date of a contract entered into before such date, but only if such contract, extension, or renewal has been approved by the Secretary under subsection (g); and

(6) contains a 10-year forecast of such utility's demand for electricity, a 10-year construction forecast, and a 10-year financial plan, which provide a reasonable basis for concluding that the commitments in such plan will be carried out.

Approval of the Secretary under this subsection shall be conditioned on the utility involved updating on an annual basis the information contained in such plan to the extent provided under rules prescribed by the Secretary.

(c) PLAN REVISION.—A plan under subsection (b) may be revised but only if the Secretary, by order, approves such revision.

(d) EXTENSION FOR EMERGENCY OR PEAKLOAD PURPOSES.—(1) For purposes of subsection (b)(3)(B), the Secretary may extend the date specified therein for not more than 5 years with respect to the use of natural gas by any powerplant if it is demonstrated that such use of natural gas is to be—

(A) for emergency purposes consistent with section 312(e), or

(B) for peakload purposes, consistent with section 312(f).

(2) The Secretary may exempt from the requirements of subsection (b)(4) such quantities of natural gas as would otherwise exceed such requirement if it is demonstrated that such natural gas is used solely for emergency or peakload purposes described in paragraph (1)(A) or (B).

(e) DETERMINATION OF BASE PERIOD USAGE.—(1) For purposes of subsection (b)(4)(A), an electric utility's base period usage of natural gas shall be the sum of—

(A) the quantities of natural gas used in calendar year 1976 by powerplants which are owned or operated by such utility and which were placed in service on or before January 1, 1976; plus

(B) one-half of the quantities used during the first 24 calendar-months after being placed in service by powerplants which are owned or operated by such utility and which were placed in service after January 1, 1976, and before the effective date of this Act.

(2) The Secretary may allow for the substitution of a higher percentage for the 20 percent specified in subparagraph (A) of subsection (b)(4) if he determines that the utility has demonstrated that such higher percentage is necessary—

(A) because of delays which occurred, despite diligent good faith efforts, in the construction of powerplants which will use a primary energy source other than natural gas, or

(B) because it would not be feasible for such utility to comply with the requirements of such subsection (b)(4) in the absence of such higher percentage without impairing reliability of service.

(f) DETERMINATION OF MINIMUM PEAKLOAD REQUIREMENT.—For purposes of subsection (b)(4)(B), an electric utility's minimum peakload requirement for any calendar year shall be defined as the total kilowatt hours generated during the calendar year by natural gas on the system of the applicant electric utility company system divided by the aggregate capacity of all the electric powerplants in such system, but not to exceed 1,500 full-load hours per year.

(g) APPROVAL OF NATURAL GAS CONTRACTS.—The Secretary shall approve any contract, or contract extension or renewal, for purposes of applying subsection (b)(5)(B) with respect to any plan, if he determines that the electric utility which submitted such plan has demonstrated that the quantities avail-

able under such contract, or extension or renewal, do not exceed those which are necessary to meet the requirements of the powerplants under such plan. The Secretary may not approve any contract, or extension or renewal, which provides for the delivery of such natural gas after December 31, 1999.

(h) TERMS AND CONDITIONS.—Any approval by the Secretary under a subsection (b) shall be on such terms and conditions as the Secretary determines appropriate, including terms and conditions requiring the use of effective fuel conservation measures which are practicable and consistent with the purposes of this Act.

TITLE VI—FINANCIAL ASSISTANCE

SEC. 601. ASSISTANCE TO AREAS IMPACTED BY INCREASED COAL OR URANIUM PRODUCTION.

(a) DESIGNATION OF IMPACTED AREAS.—(1) In accordance with such criteria and guidelines as the Secretary of Agriculture shall, by rule, prescribe, the Governor of any State may designate any area within such State for the purposes of this section, if he finds that—

(A) either (i) employment in coal or uranium production development activities in such area has increased for the most recent calendar year by 8 percent or more from the immediately preceding year or (ii) employment in such activities will increase 8 percent or more per year during each of the 3 calendar years beginning after the date of such finding;

(B) such employment increase has required or will require substantial increases in housing or public facilities and services or a combination of both in such area; and

(C) the State and the local government or governments serving such area lack the financial and other resources to meet any such increases in public facilities and services within a reasonable time.

The Secretary of Agriculture shall prescribe a rule containing criteria and guidelines for making a designation under this subsection, after consultation with the Secretary of Labor and the Secretary of Energy, not later than 180 days after the effective date of this Act.

(2) For purposes of paragraph (1)(C), increased revenues, including severance tax revenues, royalties, and similar fees to the State and local governments which are associated with the increase in coal or uranium development activities and which are not prohibited from being used under provisions of law in effect on the date of the enactment of this Act shall be taken into account in determining if a State or local government lacks financial resources.

(3) The Secretary shall, after consultation with the Secretary of Agriculture, approve any designation of an area under paragraph (1) only if—

(A) the Governor of the State making the designation provides the Secretary in writing with the data and information on which such designation was made, together with such additional information as the Secretary may require to carry out the purposes of this section; and

(B) the Secretary determines that the requirements of subparagraphs (A), (B), and (C) of paragraph (1) have been met.

(b) PLANNING GRANTS.—(1) The Secretary of Agriculture may make a grant to any State in which there is an area designated and approved under subsection (a) for the purposes of developing a plan for such area which shall include determinations of—

(A) the anticipated level of coal or uranium production activities in such area;

(B) the socio-economic impacts which have occurred or which are reasonably projected to occur as a result of the increase in coal or uranium production activities;

(C) the availability and location of resources within such area to meet the increased needs resulting from socio-economic impacts determined under subparagraph (B) (such as any increased need for housing, or public facilities, and services); and

(D) the nature and expense of measures necessary to meet within a reasonable time the increased needs resulting from such impact for which there are no resources reasonably available other than under this section.

(2)(A) Any grant for developing a plan under this subsection shall be for an amount equal to 100 percent of the costs of such plan, as determined by the Secretary of Agriculture.

(B) The aggregate amount granted under this subsection in any fiscal year may not exceed 10 percent of the total amount appropriated for purposes of this section for such year.

(3) The Governor of a State receiving a grant under this subsection for developing a plan shall submit a copy of such plan to the Secretary of Agriculture as soon as practicable after it has been prepared.

(c) LAND ACQUISITION AND DEVELOPMENT GRANTS.—(1) In the case of any real property—

(A) within an area for which a plan meeting the requirements of subsection (b)(1) has been approved;

(B) which is for housing or public facilities determined in such plan as necessary due to an increase in employment due to coal or uranium development activities;

(C) with respect to which the Secretary of Agriculture has determined that the State and the local governments serving such area do not have the financial resources to acquire or the legal authority to acquire by condemnation; and

(D) with respect to which there has been an approval in writing by the Governor of such State that the Secretary of Agriculture exercise his authority under this paragraph;

the Secretary of Agriculture may acquire such real property or interest therein, by purchase, donation, lease, or exchange. Property so acquired shall be transferred to the State under such terms and conditions as the Secretary of Agriculture deems appropriate. Such terms and conditions shall provide for the reimbursement to the Secretary of Agriculture for the fair market value of the property, as determined by the Secretary of Agriculture. The value of any improvement of such property made after such acquisition shall not be taken into account in determining the fair market value of such property under this subsection. Amounts so received by the Secretary of Agriculture shall be deposited in the Treasury of the United States as miscellaneous receipts.

(2) Any approval by a Governor of a State under paragraph (1)(D) shall constitute a binding commitment of such State to accept the property to be acquired and to provide reimbursement for the amount of the fair market value of such property, as determined under paragraph (1).

(3) The Secretary of Agriculture may acquire property under paragraph (1) by condemnation only if he finds that—

(A) such property is not available by means other than condemnation at a price which does not substantially exceed the fair market value of such property;

(B) other real property is not similarly available which is within the same designated area and which is suitable for the purposes, to which the property involved is to be applied; and

(C) the State and the local governments serving such area lack the legal authority to acquire such property by condemnation.

(4)(A) In the case of any real property which meets the requirements of subparagraphs (A), (B), and (C) of paragraph (1), the Secretary of Agriculture may make a grant to the State in which such property is located for the purposes of acquiring such property, and for any site development which is consistent with the plan developed under subsection (b).

(B) In the case of property acquired by the Secretary of Agriculture under paragraph (1) and transferred to the State, the Secretary of Agriculture may make a grant to such unit of government for the purposes of site development which is consistent with such plan.

(C) Grants for real property acquisition or site development or both under this paragraph may not exceed 75 percent of the costs thereof, as determined by the Secretary of Agriculture.

(5) In the selection of real property for acquisition and such acquisition under this subsection, preference shall be given to real property which the Secretary of Agriculture determines at such time to be unoccupied or previously mined and abandoned.

(6)(A) Property held by the United States in trust for Indians or any Indian tribe may not be acquired by condemnation under this section.

(B) No property within the National Forest System (as defined in section 10 of the Forest and Rangeland Renewable Resources Planning Act of 1974) may be exchanged by the Secretary in any acquisition under paragraph (1).

(d) GENERAL REQUIREMENT: REGARDING ASSISTANCE.—(1) Assistance under this section shall be provided only upon application, which application shall contain such information as the Secretary of Agriculture shall prescribe.

(2) The Secretary of Agriculture may make any grant under this section in whole or in part to the local government or governments serving an area designated and approved under subsection (a), or to a council of local governments which includes one or more local governments serving such area (in lieu of making such grant solely to the State), if he has determined, after consultation with the Governor of the State, that to do so would be appropriate.

(3) The Secretary of Agriculture shall prescribe, by rule, criteria for the allocation of assistance under this section. Such criteria shall give due weight to the magnitude of the employment increase involved, the financial resources of the designated area, and the ratio of the financial burden on the area to the resources available to such area.

(4) Assistance under this section shall be provided only if the Secretary of Agriculture is satisfied that—

(A) the amounts expended by the State and the local governments involved for the same purposes for which such assistance is provided will not be reduced; and

(B) the amount of such assistance does not reflect any amount for which other Federal financial assistance is provided or on proper application would be provided.

(e) DEFINITIONS.—For the purposes of this section—

(1) The term "coal or uranium development activities" means the production, processing, or transportation of coal or uranium.

(2) The term "site development" means necessary off-site improvements, such as the construction of sewer and water connections, construction of access roads, and appropriate site restoration, but does not include any portion of the construction of housing or public facilities.

(f) REPORTS.—Any person regularly engaged in any coal or uranium development activity within an area designated and approved under subsection (a) shall prepare and transmit a report to the Secretary of Energy within 90 days after a written request to such person by the Governor of the State in which such area is located. Such report shall include—

(1) projected employment levels for such activity by such person within such area during each of the following 3 calendar years;

(2) the projected increase in employees in such area to engage in such activity during each of such calendar years;

(3) the projected quantity of coal (or uranium) to be produced, processed, or transported by such person during each of such calendar years; and

(4) actions such companies plan to take or are taking to provide needed housing and other facilities for their employees directly or by providing funds to the States or local communities for this purpose.

Copies of the report shall be provided to the Secretary of Energy and the Secretary shall, subject to the provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974, provide the report to the Secretary of Agriculture, the Governor, and the appropriate county or local officials and make it available for public review.

(g) ADMINISTRATION.—The Secretary of Agriculture shall carry out his responsibilities under this section through the Farmers Home Administration and such other agencies within the Department of Agriculture as he may determine appropriate.

(h) APPROPRIATIONS AUTHORIZATION.—(1) There is hereby authorized to be appropriated to the Secretary of Energy for purposes of this section, $60,000,000 for fiscal year 1979, and $120,000,000 for fiscal year 1980. The Secretary of Energy and the Secretary of Agriculture shall enter into an agreement for the allocation of funds appropriated pursuant to this section for carrying out their respective responsibilities under this section, including the amounts for personnel and administrative costs, and upon such agreement, the Secretary of Energy shall transfer to the Secretary of Agriculture amounts determined under that agreement.

(i) PROTECTION FROM CERTAIN HAZARDOUS ACTIONS.—Federal agencies having responsibilities concerning the health and safety of any person working in any coal, uranium, metal, or nonmetallic mine regulated by any Federal agency shall interpret and utilize their authorities fully and promptly, including the promulgation of standards and regulations, to protect existing and future housing, property, persons, and public facilities located adjacent to or near active and abandoned coal, uranium, metal, and nonmetallic mines from actions occurring at such activities that pose a hazard to such property or persons.

(j) REORGANIZATION.—The authority of the Secretary of Agriculture and the authority of the Secretary of Energy under this section may not be transferred to any other Secretary or to any other Federal agency under chapter 9 of title 5, United States Code, or under any otner provision of law, other than under specific provisions of a law enacted after the date of the enactment of this Act. The preceding provisions of this subsection shall not preclude either Secretary from delegating any such authority to any office, employee, or entity within such Secretary's department.

SEC. 602. LOANS TO ASSIST POWERPLANT ACQUISITIONS OF AIR POLLUTION CONTROL EQUIPMENT.

(a) AUTHORITY TO MAKE LOANS.—The Secretary may, in accordance with the provisions of this section and such rules and regulations as he shall prescribe, make a loan (and may make a commitment to loan) to any person who owns or operates any existing electric powerplant converting to coal or other alternate fuel as its primary energy source after the effective date of this Act for the purpose of financing the purchase and installation of one or more certified air pollution control devices for such electric powerplant.

(b) LIMITATIONS AND CONDITIONS.—A loan made under this section shall—

(1) not exceed two-thirds of the cost of purchasing and installing the certified air pollution control devices;

(2) have a maturity date not extending beyond 10 years after the date such loan is made;

(3) bear interest at a rate not less than (A) a rate determined by the Secretary of Treasury, taking into consideration the average market yield of outstanding Treasury obligations of comparable maturity, plus (B) 1 percent;

(4) be made on the condition of payment to the Secretary of a loan fee in an amount equal to (A) such insurance fee as the Secretary determines is necessary to avoid a Federal revenue loss under this section plus (B) 1 percent of the loan amount; and

(5) be made only if the Secretary finds that—

(A) the financial assistance applied for is not otherwise available from other Federal agencies;

(B) the applicant is unable to obtain sufficient funds on reasonable terms and conditions from any other source;

(C) there is continued reasonable assurance of full repayment of the principal, interest, and fees; and

(D) competition among private entities for the provision of air pollution control devices for electric powerplants using coal as their primary energy source to be assisted under this section will be in no way limited or precluded.

(c) ALLOCATION AND PRIORITIES.—In making loans or commitments to loan pursuant to this section, the Secretary shall—

(1) allocate a minimum of 25 percent of available financial assistance to existing small municipal and rural powerplants; and

(2) give priority consideration to requests for financial assistance by existing electric powerplants subject to any prohibition under title III (or under section 2 of the Energy Supply and Environmental Coordination Act of 1974).

(d) DEFINITIONS.—For purposes of this section—

(1) the term "certified pollution control device" means a new identifiable device which—

(A) is used, in connection with a powerplant, to abate or control atmospheric pollution by removing, altering, disposing, storing, or preventing the emission of pollutants;

(B) the appropriate State air pollution control agency has certified to the Administrator of the Environmental Protection Agency that such device is needed to meet, and is in conformity with, State requirements for abatement or control of atmospheric pollution or contamination;

(C) the Administrator of the Environmental Protection Agency has certified to the Secretary as not duplicating or displacing existing air pollution control devices with a remaining useful economic life in excess of 2 years and as otherwise being in furtherance of the requirements and purposes of the Clean Air Act;

(D) does not constitute or include a building, or a structural component of a building, other than a building used exclusively for the purposes set forth in subparagraph (A); and

(E) the construction of which began after the effective date of this Act.

(2) The term "small municipal or rural cooperative electric powerplant" means an electric generating unit, which—

(A) by design is not capable of consuming fuel at a fuel heat input rate in excess of a rate determined appropriate by the Secretary by rule; and

(B) is owned or operated by a municipality or a rural electric cooperative.

(e) RECORDS.—(1) The Secretary shall require all persons receiving financial assistance under this section to keep such records as the Secretary shall prescribe, including record whcih fully disclose the amount and disposition by such recipient of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall, until the later of—

(A) the expiration of 3 years after completion of the project or undertaking referred to in subsection (a); or

(B) full repayment of interest and principal on a loan made under this section, occurs,

have access for the purposes of audit, evaluation, examination to any books, documents, papers, and records of such receipts which in the opinion of the Secretary or the Comptroller General may be related or pertinent to such loan.

(f) DEFAULT.—(1) If there is a default in any payment by the obligor of interest or principal due under a loan entered into by the Secretary under this section and such default has continued for 90 days, the Secretary has the right to demand payment of such unpaid amount, unless the Secretary finds that such default has been remedied, or a satisfactory plan to remedy such default by the obligor has been accepted by the Secretary.

(2) In demanding payment of unpaid interest or principal by the obligor, the Secretary has all rights specified in the loan-related agreements with respect to any security which he held with respect to the loan, including the authority to complete, maintain, operate, lease, sell, or otherwise dispose of any property acquired pursuant to such loan or related agreements.

(3) If there is a default under any loan, the Secretary shall notify the Attorney General who shall take such action against the obligator or other parties liable thereunder as is, in his discretion, necessary to protect the interests of the United States. The holder of such loan shall make available to the United States all records and evidence necessary to prosecute any such suit.

(g) DEPOSIT OF RECEIPTS.—Amounts received by the Secretary as principal, interest, fees, proceeds from security acquired following default, or other amounts received by the Secretary in connection with loans made under this section shall be paid into the Treasury of the United States as miscellaneous receipts.

(h) AUTHORIZATION OF APPROPRIATION.—There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to carry out the purposes of this section, but not to exceed $400,000,000 for fiscal year 1979 and $400,000,000 for fiscal year 1980. Authority granted to the Secretary under subsection (a) may be exercised only to the extent as may be provided in advance in appropriation Acts.

TITLE VII—ADMINISTRATION AND ENFORCEMENT

Subtitle A—Procedures

SEC. 701. ADMINISTRATIVE PROCEDURES.

(a) GENERAL RULE MAKING.—Except to the extent otherwise provided in this section or other provisions of this Act, rules prescribed under this Act shall be made in accordance with the procedures set forth in section 553 of title 5, United States Code.

(b) NOTICES OF RULES AND ORDERS IMPOSING PROHIBITIONS.—Before the Secretary prescribes any rule or issues any order imposing a prohibition under this Act (other than under section 402), he shall publish such proposed rule or order in the Federal Register, together with a statement of the reasons for such rule or order and, in the case of a rule, a detailed statement of any special circumstances or characteristics required to be taken into account in prescribing such rule. A copy shall be transmitted to the person who operates any such powerplant or in-

stallation required to be specifically identified in such rule or order.

(c) PETITIONS FOR EXEMPTIONS.—(1) Any petition for an exemption from any prohibition under this Act or for any permit under section 405, shall be filed at such time and shall be in such form as the Secretary shall by rule prescribe. The Secretary, upon receipt of such petition, shall publish a notice thereof in the Federal Register together with a statement of the reasons set forth in such a petition for requesting such exemption or permit, and provide a period of public comment of at least 45 days for written comments thereon. Rules required under this paragraph shall be prescribed not later than 120 days after the date of the enactment of this Act.

(2) The Secretary, upon receipt of such petition, shall notify the appropriate State agencies having primary authority to permit or regulate the construction or operation of the electric powerplant or, where appropriate, major fuel-burning installation which is the subject of such petition, and, to the maximum extent practicable, consult with such agencies.

(3) The Secretary, within 6 months after the period for public comment and hearing applicable to any petition for an exemption or permit, shall issue a final order granting or denying the petition for such exemption or permit, except that the Secretary may extend such period to a specified date if he publishes notice thereof in the Federal Register and includes with such notice a statement of the reasons for such extension.

(4) Any order for the approval of a system compliance plan under section 501, and any petition for such an order, shall be treated for purposes of this title the same as an order (or petition) for an exemption.

(d) PUBLIC COMMENT ON PROHIBITIONS AND EXEMPTIONS.—(1) In the case of any proposed rule or order by the Secretary imposing a prohibition or any petition for any order granting an exemption (or permit) under this Act (other than under section 402), any interested person shall be affected an opportunity to present oral data, views, and arguments at a public hearing. At such hearing any interested person shall have an opportunity to question—

(A) other interested persons who make oral presentations,

(B) employees and contractors of the United States who have made written or oral presentations or who have participated in the development of the proposed rule or order or in the consideration of such petition, and

(C) experts and consultants who have provided information to any person who makes an oral presentation and which is contained in or referred to in such presentation,

with respect to disputed issues of material fact, except that the Secretary may restrict questioning if he determines that such questioning is duplicative or is not likely to result in a timely and effective resolution of such issues. Any oral or documentary evidence may be received, but the Secretary as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

(2) A rule or order subject to this section may not be issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence.

(e) TRANSCRIPT.—A transcript shall be kept of any public hearing made in accordance with this section.

(f) ENVIRONMENTAL PROTECTION AGENCY COMMENT.—A copy of any proposed rule or order to be prescribed or issued by the Secretary which imposes a prohibition under this Act (other than under section 402 or 404), or a petition for an exemption (or permit) under this Act (other than under section 402 or 404), shall be transmitted by the Secretary to the Administrator of the Environmental Protection Agency and the Secretary shall request such agency to comment thereon within the period provided to the public unless a longer period is provided under the Clean Air Act. In any such case, the Administrator of the Environmental Protection Agency shall be afforded the same opportunity to comment and question as is provided other interested persons under subsection (d).

(g) FEDERAL TRADE COMMISSION COMMENT.—A copy of any proposed rule or order to be prescribed or issued by the Secretary which imposes a prohibition under this Act (other than under section 402 or 404) with respect to a major fuel-burning installation or a boiler subject to section 401 or a petition by such installation or boiler for an exemption (or permit) under this Act (other than under section 402 or 404), shall be transmitted by the Secretary to the Federal Trade Commission and the Secretary shall request such Commission to comment thereon within the period provided to the public. In any such case, the Federal Trade Commission shall be afforded the same opportunity to comment and question as is provided other interested persons under subsection (d).

(h) COORDINATION WITH OTHER PROVISIONS OF LAW.—(1) Except as provided in sections 702(c)(4), 723(d)(5), and 724 of this Act, title V of the Department of Energy Organization Act (42 U.S.C. 7191, et seq.) shall not apply with respect to this Act.

(2) The preceding provisions of this section shall not apply with respect to any exercise of authority under section 404.

(3) The procedures applicable under this Act shall not—

(A) be considered to be modified or affected by any other provision of law unless such other provision specifically amends this Act (or provisions of law cited herein), or

(B) be considered to be superseded by any other provision of law unless such other provision does so in specific terms, referring to this Act, and declaring that such provision supersedes, in whole or in part, the procedures of this Act.

SEC. 702. JUDICIAL REVIEW.

(a) PUBLICATION AND DELAY OF PROHIBITION OR EXEMPTION TO ALLOW FOR REVIEW.—Any final rule or order prescribed by the Secretary imposing a prohibition or granting an exemption (or permit) under this Act shall be published in the Federal Register, and shall not take effect earlier than the 60th calendar day after such rule or order is published.

(b) PUBLICATION OF DENIAL OF EXEMPTION OR PERMIT.—Any final order issued by the Secretary denying any petition for an exemption or a permit under this Act shall be published in the Federal Register, together with the reasons for such action.

(c) JUDICIAL REVIEW.—(1) Any person aggrieved by any final rule or order referred to in subsection (a) or in section 404, or by the denial of a petition for an order granting an exemption (or permit) referred to in subsection (b), may at any time before the 60th day after the date of such rule, order, or denial is published under subsection (a) or (b), file a petition with the United States court of appeals for the circuit wherein such person resides, or has his principal place of business, for judicial review thereof. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the written submissions to, and transcript of, the written or oral proceedings on which the rule or order was based as provided in section 2112 of title 28, United States Code.

(2) Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to review the rule, order, or denial in accordance with chapter 7 of title 5, United States Code, and to grant appropriate relief as provided in such chapter. No rule or order (or denial thereof) may be affirmed unless supported by substantial evidence.

(3) The judgment of the court affirming or setting aside, in whole or in part, any such rule, order, or denial shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

(4) Subject to the direction and control of the Attorney General, as provided in section 519 of title 28, United States Code, attorneys appointed by the Secretary may appear for and represent the Secretary in any proceeding instituted under this section in accordance with section 502(c) of the Department of Energy Organization Act.

Subtitle B—Information and Reporting

SEC. 711. INFORMATION.

(a) AUTHORITY OF SECRETARY.—For purposes of carrying out his responsibilities under this Act, the Secretary may require, under the authority of this Act or any other authority administered by him, any person owning, operating or controlling any electric powerplant or major fuel-burning installation, or any other person otherwise subject to this Act to submit such information and reports of any kind or nature directly to the Secretary necessary to implement the provisions of this Act and insure compliance with the provisions of this Act, and any rule or order thereunder. The provisions of section 11(d) of the Energy Supply and Environmental Coordination Act of 1974 shall apply with respect to information obtained under this section to the same extent and in the same manner as it applies with respect to energy information obtained under section 11 of such Act.

(b) AUTHORITY OF PRESIDENT AND FEDERAL ENERGY REGULATORY COMMISSION.—In the case of responsibilities expressly given by this Act to the President or the Federal Energy Regulatory Commission, subsection (a) shall be applied as if the references to the Secretary were references to the President or the Federal Energy Regulatory Commission, as the case may be.

SEC. 712. COMPLIANCE REPORT.

Any person owning, operating, or proposing to operate one or more existing electric powerplants required to come into compliance with the prohibitions of this Act shall on or before January 1, 1980, and annually thereafter, submit to the Secretary a report identifying all such existing electric powerplants owned or operated by such person. Such report shall—

(1) set forth the anticipated schedule for compliance with the applicable requirements and prohibitions by each such electric powerplant;

(2) indicate proposed or existing contracts or other commitments or good faith negotiations for such contracts or commitments for coal or another alternate fuel, equipment, or combinations thereof, which would enable such powerplant to comply with such prohibitions; and

(3) identify those electric powerplants, if any, for which application for temporary or permanent exemption from the prohibitions of this Act may be filed.

Subtitle C—Enforcement

SEC. 721. NOTICE OF VIOLATION; OTHER GENERAL PROVISIONS.

(a) NOTICE OF VIOLATION.—(1) Whenever, on the basis of any information available, the Secretary finds that any person is in violation of any provision of this Act, or any rule or order thereunder, the Secretary shall issue notice of such violation. Any notice issued under this subsection shall be in writing and shall state with reasonable specificity the nature of the violation.

(2) Paragraph (1) shall not be construed to relieve any person of liability under the

other provisions of this Act for any act or omission occurring before the issuance of notice.

(b) INDIVIDUAL LIABILITY OF CORPORATE PERSONNEL.—Any individual director, officer, or agent of a corporation who willfully authorizes, orders, or performs any of the acts or practices constituting in whole or in part a violation of this Act, or any rule or order thereunder, shall be subject to penalties under this section without regard to any penalties to which the corporation may be subject, except that no such individual director, officer, or agent shall be subject to imprisonment under section 722, unless he also knew of noncompliance by the corporation or had received from the Secretary notice of noncompliance by the corporation.

(c) LIABILITY FOR CERTAIN PEAKLOAD OPERATION.—No person shall be subject to any penalty under this subtitle with respect to the operation of any powerplant in excess of that allowed by an exemption granted on the basis of the operation of such powerplant as a peakload powerplant if it is demonstrated to the Secretary that such operation was necessary to meet peakload demand and that other peakload powerplants within the same system as such powerplant——

(1) were unavailable for service—

(A) due to unit or system outages; or

(B) because operation of such other powerplants would result in their exceeding the hours of operation allowed under an exemption; and

(2) have not been operated other than to meet peakload demand.

(d) FEDERAL AGENCIES.—The provisions of sections 722 and 723 shall not be construed to apply to any Federal agency or officer or employee thereof acting in his official capacity.

SEC. 722. CRIMINAL PENALTIES.

Any person who willfully violates any provision of this Act (other than section 402), or any rule or order thereunder, shall be subject to a fine of not more than $50,000, or to imprisonment for not more than one year, or both, for each violation.

SEC. 723. CIVIL PENALTIES.

(a) GENERAL CIVIL PENALTY.—Any person who violates any provision of this Act (other than section 402), or rule or order thereunder, shall be subject to a civil penalty, which shall be assessed by the Secretary, of not more than $25,000 for each violation. Each day of violation shall constitute a separate violation.

(b) CIVIL PENALTIES FOR OPERATION OR USE OF FUELS IN EXCESS OF EXEMPTION.—(1) In the case of any electric powerplant granted an exemption, any person who operates such powerplant during any 12-calendar-month period in excess of that authorized in such exemption, shall be liable for a civil penalty, which shall be assessed by the Secretary. The amount of such civil penalty may not exceed $10 per barrel of petroleum or $3 per Mcf of natural gas used in operation of such powerplant in excess of that authorized in such exemption.

(2) Any person operating a major fuel-burning installation granted an exemption which, for any 12-calendar-month period, uses petroleum or natural gas, or both, in excess of that use allowed by such exemption shall be liable for a civil penalty, which shall be assessed by the Secretary. The amount of such civil penalty may not exceed $10 per barrel of petroleum or $3 per Mcf of natural gas which was used in excess of that use allowed by such exemption.

(c) PENALTIES FOR VIOLATION OF SECTION 402.—(1) Any person who violates any prohibition under subsection (b)(1) of section 402 with respect to providing of natural gas service to any person for use in outdoor lighting shall be subject to a civil penalty, which shall be assessed by the Secretary and which shall not exceed $500 for each outdoor lighting fixture involved.

(2) Any industrial user who violates prohibition under subsection (b)(2) of section 402 shall be subject to a civil penalty, which shall be assessed by the Secretary and which shall not exceed $500 per day of violation of each outdoor lighting fixture involved which was used by an industrial customer, but not to exceed $5,000 per outdoor lighting fixture involved.

(3) The penalties under this subsection shall only apply in the case of a violation by any person who at the time of the violation had knowledge or reasonably should have had knowledge that the action involved was prohibited under section 402.

(d) ASSESSMENT.—(1) Before issuing an order assessing a civil penalty against any person under this Act, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within 30 days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

(2)(A) Unless an election is made within 30 calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

(B) Any person against whom a penalty is assessed under this paragraph may, within 60 calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the receipt of the notice under paragraph (1) of the proposed penalty.

(B) If the civil penalty has not been paid within 60 calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and the facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

(C) Any election to have this paragraph apply may not be revoked except with the consent of the Secretary.

(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

(5)(A) Notwithstanding the provisions of title 28, United States Code, or of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the general counsel of the Department of Energy (or any attorney or attorneys within the Department of Energy designated by the Secretary) who shall supervise, conduct, and argue any civil litigation to which paragraph (3) of this subsection applies (including any related collection action under paragraph (4)) in a court of the United States or in any other court, except the Supreme Court. However, the Secretary or the general counsel shall consult with the Attorney General concerning such litigation, and the Attorney General shall provide, on request, such assistance in the conduct of such litigation as may be appropriate.

(B) Subject to the provisions of section 502(c) of the Department of Energy Organization Act, the Secretary shall be represented by the Attorney General, or the Solicitor General, as appropriate, in actions under this subsection, except to the extent provided in subparagraph (A) of this paragraph.

(C) Section 402(d) of the Department of Energy Organization Act shall not apply with respect to the functions of the Secretary under this subsection.

SEC. 724. INJUNCTIONS AND OTHER EQUITABLE RELIEF.

Whenever it appears to the Secretary that any person has engaged, is engaged, or is about to engage in acts or practices constituting a violation of this Act, or any rule or order thereunder, a civil action may be brought, in accordance with section 502(c) of the Department of Energy Organization Act, in the appropriate district court of the United States to enjoin such acts or practices, and, upon a proper showing, the court shall grant, without bond, mandatory or prohibitive injunction relief, including interim equitable relief.

SEC. 725. CITIZENS SUITS.

(a) GENERAL RULE.—Except as otherwise provided in subsection (b), any aggrieved person may commence a civil action for mandatory or prohibitive injunctive relief, including interim equitable relief, against the Secretary or the head of any Federal agency which has a responsibility under this Act if there is an alleged failure of the Secretary or such agency head to perform any act or duty under this Act which is not discretionary. The United States district courts shall have jurisdiction over actions brought under this section, without regard to the amount in controversy or the citizenship of the parties.

(b) NOTICE TO SECRETARY OR AGENCY HEAD.—No action may be commenced under subsection (a) before the 60th calendar day after the date on which the plaintiff has given notice of such action to the Secretary or the agency head involved. Notice under this subsection shall be given in such manner as the Secretary shall prescribe by rule.

(c) AUTHORITY OF SECRETARY TO INTERVENE.—In any action brought under subsection (a), the Secretary, if not a party, may intervene as a matter of right.

(d) COSTS OF LITIGATION.—The court, in issuing any final order in any action brought under subsection (a), may award costs of litigation (including reasonable attorney and expert witness fees) to any party, whenever the court determines such award is appropriate.

(e) OTHER REMEDIES TO REMAIN AVAILABLE.—Nothing in this section shall restrict any right which any aggrieved person (or class of aggrieved persons) may have under any statute or common law to seek enforcement of this Act or any rule thereunder, or to seek any other relief (including relief against the Secretary or the agency head involved).

Subtitle D—Preservation of Contractual Rights

SEC. 731. PRESERVATION OF CONTRACTUAL INTEREST.

(a) RIGHT TO TRANSFER CONTRACTUAL INTERESTS.—(1) If any person receives natural gas, the use of which is prohibited by the

provisions of title II or title III or any rule or order thereunder, and if such natural gas is received pursuant to a contract in effect on April 20, 1977, between such person and any other person, such person receiving such natural gas may transfer all or any portion of such person's contractual interests under such contract and receive consideration from the person to whom such contractual interests are transferred. The consideration authorized by this subsection shall not exceed the maximum consideration established as just compensation under this section.

(2) Any person who would have transported or distributed the natural gas subject to a contract with respect to which contractual interests are transferred pursuant to paragraph (1) shall be entitled to receive just compensation (as determined by the Commission) from the person to whom such contractual interests are transferred.

(b) DETERMINATION OF CONSIDERATION.—(1) The Commission shall, by rule, establish guidelines for the application on a regional or national basis (as may be appropriate) of the criteria specified in subsection (e)(1) to determine the maximum consideration permitted as just compensation under this section.

(2) The person transferring contractual interests pursuant to subsection (a)(1) and the person to whom such interests are transferred may agree on the amount of, or method of determining, the consideration to be paid for such transfer and certify such consideration to the Commission. Except as provided in paragraph (4), such agreed-upon consideration shall not exceed the consideration determined by application of the guidelines prescribed by the Commission under paragraph (1).

(3) In the event the person transferring contractual interests pursuant to subsection (a)(1) and the person to whom such interests are to be transferred fail to agree, under paragraph (2), on the amount of, or method of determining, the consideration to be paid for such transfer, the Commission may, at the request of both such persons, prescribe the amount of, or method of determining, such consideration. Upon the request of either such person, the Commission shall make such determination on the record, after an opportunity for agency hearing. In any such latter case, the determination of the Commission shall be binding upon the party requesting that such determination be made on the record of the agency hearing. The consideration prescribed by the Commission shall not exceed the maximum consideration permitted as just compensation under this section. In prescribing the amount of, or method of determining, consideration under this paragraph, to the maximum extent practicable, the Commission shall utilize any applicable contract, but in no event may the Commission prescribe consideration in excess of the maximum consideration permitted as just compensation under this section.

(4) In the event that the consideration agreed upon under paragraph (2) exceeds the consideration determined by application of the guidelines prescribed by the Commission under paragraph (1), the Commission may approve such agreed-upon consideration if the Commission determines such agreed-upon consideration does not exceed the maximum consideration permitted as just compensation under this section.

(5) If consideration is agreed upon under paragraph (2) and such consideration exceeds the consideration determined by application of the guidelines prescribed under paragraph (1), but does not exceed the maximum consideration permitted as just compensation under this section, the Commission may not require a refund of any portion of the agreed-upon consideration paid with respect to deliveries of natural gas occurring prior to the Commission's action under paragraph (4) approving or disapproving such consideration unless the Commission determines—

(A) such agreed-upon consideration was fraudulently established;

(B) the processing of the request for approval of such agreed-upon consideration under paragraph (4) was willfully delayed by a party to the transfer; or

(C) such agreed-upon consideration exceeds the maximum consideration permitted as just compensation under this section.

(c) RESTRICTIONS ON TRANSFERS UNENFORCEABLE.—(1) Any provision of any contract, which prohibits any transfer authorized by subsection (a)(1) or terminates such contract on the basis of such transfer, shall be unenforceable in any court of the United States and in any court of any State.

(2) No State may enforce any prohibition on any transfer authorized by subsection (a)(1).

(d) CONTRACTUAL OBLIGATIONS UNAFFECTED.—The person acquiring contractual interests transferred pursuant to subsection (a)(1) shall assume the contractual obligations which the person transferring such contractual interests has under such contract. This subsection shall not relieve the person transferring such contractual interests from any contractual obligation of such person under such contract if such obligation is not performed by the person acquiring such contractual interests.

(e) DEFINITIONS.—For purposes of this section.—

(1) The term "just compensation", when used with respect to any transfer of contractual interests authorized by subsection (a)(1), means the maximum amount of, or method of determining, consideration which does not exceed the amount by which—

(A) the reasonable costs (excluding capital costs) incurred, during the remainder of the period of the contract with respect to which contractual interests are transferred under subsection (a)(1), in direct association with the use of a fuel, other than natural gas, as a primary energy source by the applicable existing electric powerplant or major fuel-burning installation, exceed

(B) the price of natural gas under such contract during such period.

For purposes of subparagraph (A), the reasonable costs associated with the use of a fuel, other than natural gas, as a primary energy source shall include an allowance for the amortization, over the remaining useful life, of the undepreciated value of depreciable assets located on the premises containing such electric powerplant or major fuel-burning installation, which assets were directly associated with the use of natural gas and are not usable in connection with the use of such other fuel.

(2) The term "just compensation", when used with respect to subsection (a)(2), means an amount equal to any loss of revenue, during the remaining period of the contract with respect to which contractual interests are transferred pursuant to subsection (a)(1), to the extent such loss (A) is directly incurred by reason of the discontinuation of the transportation or distribution of natural gas resulting from the transfer of contractual interests, pursuant to subsection (a)(1), and (B) is not offset by revenues derived from other transportation or distribution which would not have occurred if such contractual interests had not been transferred.

(3) The term "contractual interests", with respect to a contract described in subsection (a)(1), includes the right to receive natural gas as affected by any applicable curtailment plan filed with the Commission or the appropriate State regulatory authority.

(A) The term "State" means each of the several States, the District of Columbia, Puerto Rico, any territory or possession of the United States, and any political subdivision of any of the foregoing.

(5) The term "interstate pipeline" means any person engaged in the transportation of natural gas in interstate commerce subject to the jurisdiction of the Commission under the Natural Gas Act.

(6) The term "Commission" means the Federal Energy Regulatory Commission.

(7) The term "contract", when used with respect to a contract for receipt of natural gas, which contract was in existence on April 20, 1977, does not include any renewal or extension occurring after such date unless such renewal or extension occurs pursuant to the exercise of an option by the person receiving natural gas under such contract.

(f) COORDINATION WITH THE NATURAL GAS ACT.—(1) Consideration paid by any interstate pipeline pursuant to this section shall be deemed just and reasonable for purposes of sections 4, 5, and 7 of the Natural Gas Act. The Commission shall not deny a pass-through by such interstate pipeline of such consideration based upon the amount of such consideration paid pursuant to this section.

(2) No person shall be subject to the jurisdiction of the Commission under the Natural Gas Act or to regulation as a common carrier under any provision of Federal or State law solely by reason of making any sale, or engaging in any transportation, of natural gas with respect to which the transfer of contractual interests is authorized under subsection (a)(1).

(3) Nothing in this section shall exempt from the jurisdiction of the Commission under the Natural Gas Act any transportation in interstate commerce of natural gas, any sale in interstate commerce for resale of natural gas, or any person engaged in such transportation or such sale to the extent such transportation, sale or person is subject to the jurisdiction of the Commission under such Act without regard to the transfer of contractual interests under subsection (a)(1).

(4) Nothing in this section shall exempt any person from any obligation to obtain a certificate of public convenience and necessity for the transportation by an interstate pipeline of natural gas with respect to which the transfer of contractual interests is authorized under subsection (a)(1). The Commission shall not deny such a certificate for the transportation in interstate commerce of natural gas based upon the amount of consideration paid pursuant to this section.

(g) VOLUME LIMITATION.—No supplier of natural gas under any contract, with respect to which contractual interests have been transferred under subsection (a)(1), shall be required to supply natural gas during any relevant period in volume amounts which exceed the lesser of—

(1) the volume determined by reference to the maximum delivery obligations specified in such contract;

(2) the volume which such supplier would have been required to supply, under the curtailment plan in effect for such supplier, to the person, who transferred contractual interests under subsection (a)(1), if no such transfer had occurred;

(3) the volume which would have been delivered, or for which payment would have been made, pursuant to such contract but for the prohibition on the use of such natural gas under title II or title III of this Act or any rule or order thereunder; and

(4) the volume actually delivered or for which payment would have been made pursuant to such contract during the 12-calendar-month period ending immediately before such transfer of contractual interests pursuant to this section.

(h) JUDICIAL REVIEW.—Any action by the Commission under this section is subject to judicial review in accordance with chapter 7 of title 5, United States Code.

Subtitle E—Studies

SEC. 741. NATIONAL COAL POLICY STUDY.

(a) STUDY.—The President, acting through the Secretary and the Administrator of the Environmental Protection Agency, shall make a full and complete investigation and study of the alternative national uses of coal available in the United States to meet the Nation's energy requirements consistent with national policies for the protection and enhancement of the quality of the environment and for economic recovery and full employment. In particular the study should identify and evaluate—

(1) current and prospective coal requirements of the United States;

(2) current and prospective voluntary and mandatory energy conservation measures and their potential for reduction of the United States coal requirements;

(3) current and prospective coal resource production, transportation, conversion, and utilization requirements;

(4) the extent and adequacy of coal research, development, and demonstration programs being carried out by Federal, State, local, and nongovernmental entities (including financial resources, manpower, and statutory authority);

(5) programs for the development of coal mining technologies which increase coal production and utilization while protecting the health and safety of coal miners;

(6) alternative strategies for meeting anticipated United States coal requirements, consistent with achieving other national goals, including national security and environmental protection;

(7) existing and prospective governmental policies and laws affecting the coal industry with the view of determining what, if any, changes in and implementation of such policies and laws may be advisable in order to consolidate, coordinate, and provide an effective and equitable national energy policy consistent with other national policies; and

(8) the most efficient use of the Nation's coal resources considering economic (including capital and consumer costs, and balance of payments), social (including employment), environmental, technological, national defense, and other aspects.

(b) REPORT.—Within 18 months after the effective date of this Act, the President shall submit to the Congress a report with respect to the studies and investigations, together with findings and recommendations in order that the Congress may have such information in a timely fashion. Such report shall include the President's determinations and recommendations with respect to—

(1) the Nation's projected coal needs nationally and regionally, for the next 2 decades with particular reference to electric power;

(2) the coal resources available or which must be developed to meet those needs, including, as applicable, the programs for research, development, and demonstration necessary to provide technological advances which may greatly enhance the Nation's ability to efficiently and economically utilize its fuel resources, consistent with applicable environmental requirements;

(3) the air, water, and other pollution created by coal requirements, including any programs to overcome promptly and efficiently any technological or economic barriers to the elimination of such pollution;

(4) the existing policies and programs of the Federal Government and of State and local governments, which have any significant impact on the availability, production or efficient and economic utilization of coal resources and on the ability to meet the Nation's energy needs and environmental requirements; and

(5) the adequacy of various transportation systems, including roads, railroads, and waterways to meet projected increases in coal production and utilization.

Before submitting a report to the Congress under subsection (b), the President shall publish in the Federal Register a notice and summary of the proposed report, make copies of such report available, and afford interested persons an opportunity (of not less than 90 day's duration) to present written comments; and shall make such modifications of such report as he may consider appropriate on the basis of such comments.

(c) AUTHORIZATIONS OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Secretary for allocation between the Department of Energy and the Environmental Protection Agency for fiscal years 1979 and 1980, not to exceed $18,000,000, for use in carrying out the purposes of this section.

SEC. 742. COAL INDUSTRY PERFORMANCE AND COMPETITION STUDY.

(a) STUDY.—The Secretary shall make a complete investigation of the performance and competition of the coal industry. The study shall be an interagency effort under the direction of the Secretary and shall include participation by—

(1) the Federal Trade Commission,
(2) the Department of Justice,
(3) the Department of Energy.
(4) the Federal Energy Regulatory Commission,
(5) the Department of the Interior,
(6) the Department of Transportation,
(7) the Department of Commerce,
(8) the Department of Labor,
(9) the Department of State,
(10) the Department of the Treasury,
(11) the Interstate Commerce Commission.
(12) the Council on Wage and Price Stability,
(13) the Tennessee Valley Authority, and
(14) the Applachian Regional Commission.

(b) COVERAGE OF STUDY.—The study shall consider the following elements relating to competition:

(1) interests in, or ownership or production of, coal reserves by firms which—

(A) own or have an interest in commodity transportation systems by rail, water, or pipeline,

(B) own or produce oil, natural gas, or uranium, or

(C) use significant amounts of coal in their possession, including electrical generation and steelmaking,

(2) prices, profitability, and levels of concentration in sales of various identifiable submarket structures in the coal industry, including the market for—

(A) steam and metallurgical coal,

(B) low-sulfur coal,

(C) lignite, anthracite, bituminous and subbituminous coal,

(D) spot sales and long-term delivery contracts, and

(E) exports,

(3) overall profitability of coal operations,

(4) capital requirements, sources and uses of funds,

(5) vertical integration of production, cleaning, processing, gasification, liquefaction, transportation, marketing, distribution, combustion, and other phases of the coal fuel cycle,

(6) the effect of interfuel ownership, vertical integration, and market concentration upon innovation, efficiency, prices and profits,

(7) costs of production, transportation, processing, and other components of coal prices for different regions and different types of mines,

(8) responsiveness of coal supply to market demand,

(9) productive capacity,

(10) productivity,

(11) economies and diseconomies of scale.

(12) distribution and flow of executive, managerial, and technical personnel between the various coal producers.

(13) management and directorate interlocks,

(14) relationships to financial institutions,

(15) government-industry relationships, including lease bidding, technology, research, development, demonstration and transfer, and personnel movement,

(16) joint ventures, consortia, and cross-ownership,

(17) identification of the major owners of coal industry stock,

(18) control of patents and technologies,

(19) barriers to greater competition in the market for coal, and

(20) Federal income tax policies.

(c) IMPACTS ON COAL-PRODUCING COUNTIES AND STATES.—The study shall evaluate the economic and social impacts upon coal-producing counties and States of present and prospective land ownership patterns and levels of income, property, severance and other taxes paid by coal producers.

(d) EXPORT OF METALLURGICAL COAL.—The study shall identify and evaluate national policies toward the export of metallurgical coal as they relate to—

(1) national security,
(2) national energy goals,
(3) balance of payments,
(4) comparative advantage in world trade,
(5) materials policy,
(6) United States and international reserves and resources, and
(7) likely future metallurgical technologies.

(e) REPORTS.—(1) Pursuant to the provisions of the preceding subsections of this section, the Secretary shall submit to the President for transmittal to the Congress such interim reports as he deems advisable and, not later than 18 months after the effective date of this Act, a comprehensive and final report to the Congress containing the findings with respect to such study and investigation. Such report may include such legislative and administrative recommendations as the President deems advisable.

(2) Before submitting a report to the Congress under paragraph (1), the President shall—

(A) publish in the Federal Register a notice and summary of the proposed report and make copies of such report available and afford interested persons an opportunity (of not less than 90 days' duration) to present written comments, and

(B) make such modifications of such report as he may consider appropriate on the basis of such comments.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be approoriated to the Secretary for allocation between the Department of Energy and the other agencies participating in the study under this section for the fiscal years 1979 and 1980, not to exceed $18,000,000 to carry out the provisions of this section.

SEC. 743. IMPACT ON EMPLOYEES.

(a) EVALUATION.—The Secretary shall conduct continuing evaluations of potential loss or shifts of employment which may result from any prohibition under this Act, including, if appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such prohibition. The results of such evaluations and each investigation shall promptly be made available to the public.

(b) INVESTIGATION AND HEARINGS.—On a written request filed with the Secretary by or on behalf of any employee who is discharged or laid off, threatened with discharge or layoff, or otherwise discriminated against, by any person because of the alleged effects of any such prohibition, the Secretary shall investigate the matter and, at the request of any party, shall hold public hearings, after not less than 30 days notice, at which the Secretary shall require the parties, including any employer involved, to present information on the actual or potential effect of such prohibition on employment and on any alleged employee discharge, layoff, or other discrimination relating to prohibitions and the detailed reasons or justification therefor. At the completion of such investigation, the Secretary shall make findings of fact as to

the effect of such prohibition on employment and on the alleged employee discharge, layoff, or discrimination and shall make such recommendations as he deems appropriate. Such report, findings, and recommendations shall be available to the public. The Secretary of Labor shall participate in each such investigation.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to require or authorize the Secretary to modify or withdraw any prohibition under this Act.

SEC. 744. STUDY OF COMPLIANCE PROBLEM OF SMALL ELECTRIC UTILITY SYSTEMS.

(a) STUDY.—The Secretary shall conduct a study of the problems of compliance with this Act experienced by those electric utility systems which have a total system generating capacity of less than 2,000 megawatts. The Secretary shall report his findings and his recommendations to the Congress not later than 2 years after the effective date of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for the fiscal year 1979 not to exceed $500,000 to carry out the provisions of this section.

SEC. 745. EMISSIONS MONITORING.

(a) MONITORING PROGRAM.—The Administrator of the Environmental Protection Agency shall conduct, on a continuing basis, a program of monitoring, to the greatest extent possible and in accordance with the applicable authorities and provisions of the Clean Air Act, the emissions from new and existing electric powerplants and major fuel-burning installations required to use coal or other alternate fuels by reason of this Act or otherwise using coal or other alternate fuels and the effect thereof on the public health, safety, and welfare and the movement of such emissions in the atmosphere and their impact on land and water and other resources and the public health in various regions of the Nation. Such Administrator shall submit an annual report to the Congress on such program. In carrying out his responsibilities under this section, the Administrator of the Environmental Protection Agency shall consult with the other Federal and State agencies concerned with the health effects of such emissions.

(b) APPROPRIATIONS AUTHORIZATIONS.—There is authorized to be appropriated to the Administrator of the Environmental Protection Agency $2,000,000 in fiscal year 1979 for the report required under section 806.

SEC. 746. SOCIOECONOMIC IMPACTS OF INCREASED COAL PRODUCTION AND OTHER ENERGY DEVELOPMENT.

(a) COMMITTEE.—There is hereby established an interagency committee composed of the heads of the Departments of Energy, Commerce, Interior, Transportation, Housing and Urban Development, and Health, Education, and Welfare, the Environmental Protection Agency, the Appalachian Regional Commission, the Farmers' Home Administration, the Office of Management and Budget, and such other Federal agencies as the Secretary shall designate. In carrying out its functions the committee shall consult with the National Governors' Conference and interested persons, organizations, and entities. The chairman of the committee shall be designated by the President. The committee shall terminate 90 days after the submission of its report under subsection (c).

(b) FUNCTIONS OF COMMITTEE.—It is the function of the committee to conduct a study of the socioeconomic impacts of expanded coal production and rapid energy development in general, on States, including local communities, and on the public, including the adequacy of housing and public, recreational, and cultural facilities for coal miners and their families and the effect of any Federal or State laws or regulations on providing such housing and facilities. The committee shall gather data and information on—

(1) the level of assistance provided under this Act and any other programs related to impact assistance.

(2) the timeliness of assistance in meeting impacts caused by Federal decisions on energy policy as well as private sector decisions, and

(3) the obstacles to effective assistance contained in regulations of existing programs related to impact assistance.

(c) REPORT.—Within 1 year after the effective date of this Act, the committee shall submit a detailed report on the results of such study to the Congress, together with any recommendations for additional legislation it may consider appropriate.

SEC. 747. USE OF PETROLEUM AND NATURAL GAS IN COMBUSTORS.

The Secretary shall conduct a detailed study of the uses of petroleum and natural gas as a primary energy source for combustors and installations not subject to the prohibitions of this Act. In conducting such study, the Secretary shall—

(1) identify those categories of major fuel-burning installations in which the substitution of coal or other alternate fuels for petroleum and natural gas is economically and technically feasible, and

(2) determine the estimated savings of natural gas and petroleum expected from such substitution.

Within 1 year after the effective date of this Act, the Secretary shall submit a detailed report on the results of such study to the Congress, together with any recommendations for legislation he may consider appropriate.

Subtitle F—Appropriations Authorization

SEC. 751. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to the Secretary for fiscal year 1979 $11,900,000, to carry out the provisions of this Act (other than provisions for which an appropriations authorization is otherwise expressly provided in this Act) and section 2 of the Energy Supply and Environmental Coordination Act of 1974.

Subtitle G—Coordination With Other Provisions of Law

SEC. 761. EFFECT ON ENVIRONMENTAL REQUIREMENTS.

(a) COMPLIANCE WITH APPLICABLE ENVIRONMENTAL REQUIREMENTS.—Except as provided in section 404, nothing in this Act shall be construed as permitting any existing or new electric powerplant or major fuel-burning installation to delay or avoid compliance with applicable environmental requirements.

(b) LOCAL ENVIRONMENTAL REQUIREMENTS.—In the case of any new or existing facility—

(1) which is subject to any prohibition under this Act, and

(2) which is also subject to any requirement of any local environmental requirement which may be stricter than any Federal or State environmental requirement, the existence of such local requirement shall not be construed to affect the validity or applicability of such prohibition to such facility, except to the extent provided under section 212(b) or section 312(b); and the existence of such prohibition shall not be construed to preempt such local requirement with respect to that facility.

SEC. 762. EFFECT OF ORDERS UNDER SECTION 2 OF ESECA; AMENDMENTS TO ESECA.

(a) EFFECT OF CONSTRUCTION ORDERS.—Any electric powerplant or major fuel-burning installation issued an order pursuant to section 2(c) of the Energy Supply and Environmental Coordination Act of 1974 that is pending on the effective date of this Act shall, notwithstanding the provisions of such section 2(c) or any other provision of this Act, be subject to the provisions of this Act as if it were a new electric powerplant or new major fuel-burning installation, as the case may be, except that if such order became final before such date, the provisions of title II of this Act shall not apply to such powerplant or installation.

(b) EFFECT OF PROHIBITION ORDERS.—The provisions of titles II and III shall not apply to any powerplant or installation for which an order issued pursuant to section 2(a) of the Energy Supply and Environmental Coordination Act of 1974 before the effective date of this Act is pending or final or which, on review, was held unlawful and set aside on the merits; except that any installation issued such an order under such section 2(a) which is pending on the effective date of this Act may elect to be covered by title II or III (as the case may be) rather than such section 2. Such an election shall be irrevocable and shall be made in such form and manner as the Secretary shall, within 90 days after the date of the enactment of this Act, prescribe. Such an election shall be made not later than 60 days after the date on which the Secretary prescribes the form and manner of making such election.

(c) VALIDITY OF ORDERS.—The preceding provisions of this Act shall not affect the validity of any order issued under subsection (a), or any final order under subsection (c), of section 2 of the Energy Supply and Environmental Coordination Act of 1974, and the authority of the Secretary to amend, repeal, rescind, modify, or enforce any such order, or rules applicable thereto, shall remain in effect notwithstanding any limitation of time otherwise applicable to such authority. Except as provided in this section, the authority of the Secretary under section 2 of such Act shall terminate on the effective date of this Act.

(d) AMENDMENTS TO ESECA.—(1) Section 11(g) of the Energy Supply and Environmental Coordination Act of 1974 is amended—

(1) by striking out paragraph (2), and

(2) in paragraph (1), by striking out "(g)(1)" and inserting in lieu thereof "(g)".

SEC. 763. ENVIRONMENTAL IMPACT STATEMENTS UNDER NEPA.

The following actions are not deemed to be major Federal actions for purposes of section 102(2)(C) of the National Environmental Policy Act of 1969:

(1) the grant or denial of any temporary exemption under this Act for any electric powerplant or major fuel-burning installation;

(2) the grant or denial of any permanent exemption under this Act for any existing electric powerplant or major fuel-burning installation, other than an exemption—

(A) under section 312(c), relating to cogeneration;

(B) under section 312(1), relating to scheduled equipment outages;

(C) under section 312(b), relating to certain State or local requirements;

(D) under section 312(g), relating to certain intermediate load powerplants; and

(3) the grant or denial of any exemption under this Act for any powerplant or major fuel-burning installation for which the Secretary finds, in consultation with the appropriate Federal agency, and publishes such finding that an environmental impact statement is required in connection with another Federal action and such statement will be prepared by such agency and will reflect the exemption adequately.

Except as provided in the preceding provisions of this section, any determination of what constitutes or does not constitute a major Federal action shall be made under section 102 of the National Environmental Policy Act of 1969.

TITLE VIII—MISCELLANEOUS PROVISIONS

SEC. 801. COAL RESERVES DISCLOSURE.

(a) DISCLOSURE.—Within 2 years after the effective date of this Act, and annually thereafter, the Secretary shall require the disclosure, pursuant to section 11 of the Energy Supply and Environmental Coordination Act of 1974, of the extent, characteristics, and productive capacity of coal reserves, or interest therein, within the United States held by any person or governmental entity, as necessary, and shall publish a summary of such information.

(b) EXEMPTION FOR SMALL RESERVES.—The Secretary may exempt small reserves from the requirements of this section if the Secretary finds that the imposition of the requirements of this section would impose an unreasonable economic burden on such person (or entity) or would not be of significant aid to achievement of the purposes of this Act, and publishes such finding in the Federal Register.

SEC. 802. COAL PREPARATION FACILITIES.

Section 102(c)(4) of the Energy Policy and Conservation Act is amended by adding at the end thereof (42 U.S.C. 6211(c)(4)) the following new sentence: "Such term also includes construction of a coal preparation plant which is designed to reduce the sulfur content of coal produced from any coal mine.".

SEC. 803. RAILROAD REHABILITATION FOR CARRIAGE OF COAL.

(a) STATEMENT OF PURPOSE.—It is the purpose of this section to facilitate and encourage the use of and conversion to coal as an energy resource in regions and States which can use coal in greater quantity as a substitute for imported petroleum.

(b) AUTHORIZATION.—There is authorized to be appropriated, for deposit in the Railroad Rehabilitation and Improvement Fund established under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 822), not more than $100,000,000. The money appropriated to the Railroad Rehabilitation and Improvement Fund pursuant to this subsection shall be expended by the Secretary of Transportation, in the same manner as other money in such Fund, to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportation of coal to regions or States which can use coal in greater quantities (whether or not such equipment or facilities were designed specifically for such purpose).

(c) CONFORMING AMENDMENTS.—(1) Section 501(2) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821(2)) is amended by inserting "(except as provided in section 803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978)" immediately after "or other features".

(2) Section 502(b) of such Act (45 U.S.C. 822(b)) is amended by inserting at the end thereof the following: "Money appropriated to the Fund under section 803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978 shall be used to provide financial assistance to railroads for maintenance, rehabilitation, improvement, and acquisition of equipment and facilities which will be used for the rail transportation of coal to regions or States which can use coal in greater quantities as a substitute for imported petroleum."

(3) Section 502(f) of such Act (45 U.S.C. 822(f)) is amended—

(A) by striking out "and" at the end of paragraph (5) thereof;

(B) by inserting between paragraphs (5) and (6) the following new paragraph:

"(6) funds as may hereafter be appropriated to the Fund as authorized under section 803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978; and"; and

(C) by redesignating paragraph (6) as paragraph (7).

(4) Section 502(i) of such Act (45 U.S.C. 822(i)) is amended—

(A) by striking out "and" at the end of paragraph (4) thereof;

(B) by striking out "Treasury." at the end of paragraph (5) and inserting in lieu thereof "Treasury and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) to carry out the purposes of section 803(a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978".

(5) Section 505(b)(2) of such Act (45 U.S.C. 825) is amended by inserting between the fourth and fifth sentences thereof the following new sentence: "With respect to funds appropriated for financial assistance under this section which were authorized pursuant to section 803 (a) and (b) of the Powerplant and Industrial Fuel Use Act of 1978, applications for such funds for the purpose of coal transportation shall be deemed to be for the provision of essential freight services.".

(6) Section 505(d)(3) of such Act (45 U.S.C. 825) is amended—

(A) by striking out in the first sentence $600,000,000" and inserting in lieu thereof "$700,000,000", and

(B) by striking out in the second sentence "$100,000,000" and inserting in lieu thereof "$150,000,000".

SEC. 804. OFFICE OF RAIL PUBLIC COUNSEL.

Section 27 of the Interstate Commerce Act is amended—

(1) by striking out "and" at the end of paragraph (4)(d),

(2) by striking out the period at the end of paragraph (4)(e) and inserting in lieu thereof "and", and

(3) by inserting after paragraph (4)(e) the following:

"(f) shall present the views of users, as well as the views of the general public and affected communities, and, where appropriate, providers of rail services in proceedings of Federal agencies concerning—

"(1) the impact of energy proposals and actions on rail transportation, and

"(2) whether transportation policies are consistent with National energy policies.".

SEC. 805. RETROACTIVE APPLICATION OF CERTAIN REMEDIAL ORDERS.

(a) GENERAL RULE.—Section 503 of the Department of Energy Organization Act (42 U.S.C. 7193) is amended by adding at the end thereof the following new subsection:

"(g) With respect to any person whose sole petroleum industry operation relates to the marketing of petroleum products, the Secretary or any person acting on his behalf may not exercise discretion to maintain a civil action (other than an action for injunctive relief) or issue a remedial order against such person for any violation of any rule or regulation if—

"(1) such civil action or order is based on a retroactive application of such rule or regulation or is based upon a retroactive interpretation of such rule or regulation; and

"(2) such person relied in good faith upon rules, regulations, or ruling in effect on the date of the violation interpreting such rules or regulations.".

(b) TECHNICAL CONFORMING AMENDMENTS.—In subsections (e) and (f) of such section 503, insert "preceding provisions of" before "this section".

SEC. 806. ANNUAL REPORT.

The Secretary shall submit to the Congress on March 1 of each year a detailed report prepared by him in conjunction with the Administrator of the Environmental Protection Agency of the actions taken under this Act and under section 2 of the Energy Supply and Environmental Coordination Act of 1974 during the preceding calendar year, and the actions to be taken. Each such report shall include data on the effectiveness of this Act in achieving the purposes of this Act.

SEC. 807. SUBMISSION OF REPORTS.

Copies of any report required by this Act to be submitted to the Congress shall be separately submitted to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

TITLE IX—EFFECTIVE DATES

SEC. 901. EFFECTIVE DATES.

Unless otherwise provided in this Act, the provisions of this Act shall take effect 180 days after the date of the enactment of this Act, except that the Secretary may issue rules pursuant to such provisions at any time after such date of enactment, which rules may take effect no earlier than 180 days after such date of enactment.

SEC. 902. INTERIM PETITION AND CONSIDERATION FOR CERTAIN EXEMPTIONS.

(a) EXEMPTIONS IN THE CASE OF CERTAIN POWERPLANTS.—In the case of—

(1) any electric powerplant which, as of April 20, 1977, has received a final decision from the appropriate State agency authorizing the construction of such powerplant, and

(2) any electric powerplant (A) consisting of one or more combined cycle units owned or operated by an electric utility which serves at least 2,000,000 customers and (B) for which an application has been filed for at least one year before the date of the enactment of this Act with the appropriate State agency for authorization to construct such powerplant,

the Secretary may receive, consider, and grant (or deny) any petition for an exemption under title II or III, notwithstanding section 901 or the fact that all rules related to such petition have not been prescribed at the time.

(b) EXEMPTIONS UNDER SECTION 211(d).—The Secretary may receive, consider, and grant (or deny) any petition for any exemption under section 211(d), notwithstanding section 901 or the fact that all rules related to such petition have not been prescribed at the time.

And the House agree to the same.

HENRY M. JACKSON,
FLOYD K. HASKELL,
WENDELL H. FORD,
J. BENNETT JOHNSTON,
JAMES ABOUREZK,
JOHN A. DURKIN,
HOWARD M. METZENBAUM,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
THOMAS L. ASHLEY,
AL ULLMAN,
RICHARD BOLLING,
THOMAS S. FOLEY,
JOHN D. DINGELL,
PAUL G. ROGERS,
BOB ECKHARDT,
PHILIP R. SHARP,
ANTHONY TOBY MOFFETT,
CHARLES WILSON,
HENRY S. REUSS,
DAN ROSTENKOWSKI,
CHARLES A. VANIK,
JAMES C. CORMAN,
JOSEPH D. WAGGONNER, JR.,
CHARLES B. RANGEL,
Managers on the Part of the House.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate numbered 6 to the bill (H.R.

5146) to amend the Tariff Schedules of the United States to provide for the duty-free entry of competition bobsleds and luges, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

TITLE I. GENERAL PROVISIONS

SECTION 101—SHORT TITLE

The conference substitute states that title II shall be cited as the "Powerplant and Industrial Fuel Use Act of 1978".

SECTION 102—FINDINGS, STATEMENT OF PURPOSES

The House bill and the Senate amendment contain many similar findings and purposes. In addition, each version includes provisions not found in the other, such as provisions relating to the rehabilitation and upgrading of railroads to transport coal and to insure adequate supplies of natural gas for certain agricultural uses. The conference substitute combines the findings and purposes of both versions, including the requirement that the program be carried out in a manner consistent with applicable environmental requirements.

SECTION 103—DEFINITIONS

Both bills define a number of terms used in the Act. Many of the definitions are identical or very similar. The conference substitute adopts the identical provisions and generally makes only technical changes in many more that are similar. The following discusses primarily those definitions that are substantially modified.

The conferees in adopting a definition of "natural gas" restate the definition of this term as it appears in the Natural Gas Act and intend that administrative and judicial interpretations of that term under the Natural Gas Act made prior to enactment of the conference substitute should apply to this definition. But future administrative and judicial interpretations of this term in the Natural Gas Act shall not apply here. The reason is that as time goes on it is likely that the two statutes would require interpretations which may not and should not apply to both. Thus, we expect the administrators and the courts to treat both laws individually insofar as this definition is concerned.

Excluded from the Natural Gas Act definition are the following:

(a) natural gas which is commercially unmarketable (either by reason of quality or quantity) as determined under rules prescribed by the Secretary.

(b) natural gas produced by the user from a well the maximum efficient production rate of which is less than 250 million Btu's per day;

(c) mixtures of natural gas and synthetic gas derived from coal and other fuels which meets the requirements of subsection (b) of this section.

All synthetic gas derived from coal or alternate fuel which is not mixed with natural gas is an alternate fuel, whatever the Btu content.

In the case of synthetic gas, a mixture of natural gas and synthetic gas derived from coal or other fuels would not be considered natural gas for the purposes of the Act if the owner meets the requirements of section 103(b).

In applying the exclusion for natural gas produced by the user from a well with a maximum efficient production rate less than 250 million Btu's per day, the conferees intend that the maximum efficient production rate mean that rate at which production may be sustained without damage to the reservoir or the rate which may be sustained without damage to the ultimate recovery of natural gas through the well.

The Senate excluded from the definition of "natural gas" synthetic natural gas derived from coal where owned by the user before entry into the pipeline. The House included synthetic natural gas in the definition of natural gas, but authorized a permanent exemption from the prohibition of the use of natural gas if the Secretary finds, among other things, that the applicant demonstrated that he owns synthetic gas derived from coal; the pipeline has been certificated to transport such gas; and all necessary permits have been obtained for the manufacture of the synthetic gas.

The conference agreement includes within the definition of "natural gas" mixtures of natural gas and high Btu synthetic gas used by a powerplant or MFBI. Synthetic gas derived from coal which is not mixed with natural gas is an alternate fuel. The conference agreement also provides a procedure in section 103(b) of the conference agreement for excluding high Btu gas which is only comprised of mixtures of synthetic and natural gas. Such high Btu gas shall be treated as an alternative fuel if the person planning to use such gas for a MFBI or powerplant files a certification with the Secretary, together with such supporting data as the Secretary may require. The person certifying must clearly demonstrate he has complied fully with conditions (A) through (D) of section 103(b) of the conference agreement. However, in the case of condition (D), he need only obtain all pertinent approvals relative to the construction of the synthetic fuels facility in order to begin construction, including Federal, State, and local approvals and, where appropriate, those of Indian tribes. But he cannot thereafter operate that plant until he has also certified to the Secretary that he has obtained not only the construction approvals, but also all approvals relative to the actual operation or use of such facility. Provision is also made for an annual report by such user.

In the case of an electric powerplant or major fuel-burning installation that cannot initially satisfy the requirements of section 103(b), the conference agreement provides temporary exemptions pursuant to section 211(b) or 311(b) of this Act for this purpose. The conditions set forth therein would, of course, have to be satisfied.

The conference agreement defines an "electric powerplant" as a stationary electric generating unit consisting of a boiler, gas turbine, or combined cycle unit, that produces electricity for sale or exchange. The unit must be by design capable of a fuel heat input rate of 100 million Btu's per hour or greater, or be an aggregation of one or more units which together are capable of a fuel heat input rate of 250 million Btu's per hour, or greater. The emphasis is on the unit. There may be several units comprising a generating facility all of which taken individually are under the threshold, but considered together meet the aggregation test. They would then be subject to the prohibitions. The Secretary may exclude from aggregation units of less than 100 million Btu's per hour where he, by rule, deems appropriate.

Excluded are nuclear generating units subject to the licensing jurisdiction of the Nuclear Regulatory Commission and any cogeneration unit which the Secretary determines on a case-by-case basis sells or exchanges for resale less than one-half of its annual electric power generation.

The conference agreement defines a "major fuel-burning installation" (which does not include an electric powerplant) as any stationary unit consisting of a boiler or a nonboiler. The conference agreement limited the coverage of the definition only to boilers, gas turbines, internal combustion engines, and combined cycle units. The conferees stress that the Secretary has no authority under this Act to regulate combustors, other than boilers, gas turbines, combined cycle units, and internal combustion engines. The size thresholds are the same as for electric powerplants. Again, the emphasis is on the unit, except for aggregation purposes.

Excluded by definition are pumps and compressors used solely in connection with the production, gathering, transmission, storage, and distribution of gases and liquids. Refineries and natural gas processing plants are not excluded. Before the exclusion applies, the owner or operator must certify to the Secretary that they are being used for such purposes and will continue to be so used. The Secretary will prescribe by rule the method, form, and content of the certification. The Secretary will also define by rule what constitutes compressors or pumps for the purpose of this exclusion.

The agreement distinguishes between new and existing electric powerplants and major fuel burning installations.

The new powerplant and MFBI definition includes any that are acquired or constructed after the date of enactment of this Act. It also includes any MFBI and powerplant the construction of which was initiated, or the acquisition thereof occurred, subsequent to April 20, 1977, but before the date of enactment of the conference agreement, unless the Secretary finds that the construction or acquisition of such facility cannot be canceled, rescheduled or modified to comply with the applicable requirements of this Act without incurring significant or operational detriment or imposing substantial financial penalty. In making a determination as to what constitutes a substantial financial penalty, the Secretary should consider the financial impact of the cancellation, rescheduling, or modification on the individual unit and the impact on the person owning, controlling or operating the facility. In this case, the "person" includes a parent corporation.

Provision is made for the Secretary of Energy to find that a plant built or acquired during the period after April 20, 1977 and before the date of enactment of this Act should not be treated as a new unit. In such case, it will be treated as an existing electric powerplant or MFBI for the purposes of this Act.

Any MFBI or powerplant that does not meet the test of a new MFBI or powerplant shall be an existing MFBI or powerplant for purposes of this Act. The conference substitute provides that an existing MFBI or powerplant which is acquired by another person after April 20, 1977 shall not be treated as a new plant merely by reason of the transfer of ownership. The transfer of title to an existing facility, including controlling stock, does not make a new unit. Once a plant is determined to be a new or an existing plant, it shall always retain that designation for purposes of the prohibitions and exemptions.

Powerplants and MFBI's issued construction or prohibition orders under the Energy Supply and Environmental Coordination Act of 1974 are discussed later in this statement.

The conference agreement also excludes existing MFBI's located on the continental shelf of the United States. In this case, the conferees intend that the continental shelf to be the area beyond the shoreline of the United States. Also excluded are existing MFBI's located in wetlands adjacent to the continental shelf. However, in both situations the exclusion only applies where coal storage is not practicable or such storage would produce adverse effects on environmental quality.

The conference substitute defines the term "construction or acquisition began" in reference to April 20, 1977, or the date of enactment of the Act. In the case of "construction", the conferees intend that the construction be substantial in terms of an actual and meaningful commitment to building the powerplant or MFBI, and more than merely clearing a site or putting in foundation pilings for the unit.

The conference agreement defines "primary energy source" to include the fuels that are used for normal operation of an MFBI or powerplant. Excluded are the minimum amounts required for unit ignition, startup, testing, flame stabilization, and con-

trol uses. Also excluded, in the case of powerplants, are the minimum amounts of fuel needed for unanticipated equipment outages, and emergencies that directly affect the public health, safety, or welfare. Both exclusions are subject to rules prescribed by the Secretary. They also are in addition to any exemptions granted elsewhere under the Act.

The conference agreement adopts the House definition of site limitation with the inclusion of the Senate provisions concerning (a) pollution control equipment or devices necessary to assure compliance with applicable environmental requirements, and (b) equipment and facilities necessary to the landing, use, and the storage of coal or other fuels.

The conferees intend that the term "site limitation" be restricted to physical limitations only that exist despite good faith efforts to overcome them. Physical limitations would include, for example, lack of available space for coal storage and handling equipment or for environmental control equipment necessary to assure compliance with applicable environmental requirements. The conferees do not intend that the term "site limitation" include such requirements of Federal, State, or local law as building codes, nuisance or zoning laws, or land use requirements which are considered in connection with specific exemption provisions.

The conference agreement defines the term "applicable environmental requirements" to include, but not be limited to, any government standard, limitation, or other requirement established pursuant to Federal or State law (including any final order of any Federal or State court) applicable to emissions of environmental pollutants (including air and water pollutants) or disposal of solid waste residues resulting from the use of coal or other alternate fuels or natural gas or petroleum as a primary energy source or from the operation of pollution control equipment. Included are variances granted or issued in accordance with Federal or State law to the extent consistent with Federal law. The reference to court orders covers only situations where the court construes or enforces Federal and State environmental laws or regulations. It does not cover local laws or regulations unless they are a part of the Federal or State law, etc.

Such definition also includes, but is not limited to, any standard, limitation, or other requirement established by, or pursuant to, the Clean Air Act, the Federal Water Pollution Control Act, the Solid Waste Disposal Act, or National Environmental Policy Act of 1969. They would also include the Wilderness Act, Fish and Wildlife Laws, and the Coastal Zone Management Act.

In agreeing to use the term "applicable environmental requirements," the conferees do not intend to refer only to those requirements which are applicable or in effect on the date of enactment of this Act. Rather, the conferees intend to include within the scope of that term any limitation, standard, prohibition or other requirement which subsequently becomes applicable under any environmental law.

For example, the conferees are aware that several regulatory changes are anticipated under the Clean Air Act. Among these expected changes are the revision of State implementation plans, the regulation of previously unregulated pollutants and sources of pollution, and the revision of certain national standards. The conferees expect and intend such new and revised regulations be counted as "applicable environmental requirements" for the purposes of this Act.

SECTION 104—TERRITORIAL APPLICATION

The conference agreement applies the prohibitions and exemptions of title II and title III to all new and existing powerplants and MFBI's located within the contiguous 48 States and the District of Columbia. The prohibitions and exemptions also apply to new powerplants located in Alaska and to new and existing MFBI's. All other provisions of the conference agreement, including the enforcement provisions, shall apply in all the States, including Alaska and Hawaii, and Puerto Rico, and the territories and possessions of the United States, and the District of Columbia.

TITLE II. NEW FACILITIES

SUBTITLE A—PROHIBITIONS

SECTION 201—NEW ELECTRIC POWERPLANTS

The conference agreement combines the House and Senate provisions prohibiting any person from using, after the effective date of this Act, natural gas or petroleum as a primary energy source in a new powerplant, except as otherwise permitted in subtitle B. It also prohibits such person from constructing a new electric powerplant without the capability to use coal or another alternate fuel.

The conference agreement, however, does not give the Secretary authority to require the specific use of coal or any particular alternate fuel. The choice of such fuel is within the discretion of the person building and operating the new powerplant. If such person fails to obtain an exemption to permit the use of natural gas or petroleum, however, the prohibition will apply and in order to build and operate such powerplant, such person will have to use coal or an alternate fuel or not build and operate the powerplant.

The prohibition applies only to the primary energy source of the powerplant as defined in section 103 of the conference agreement. Thus, the conferees do not intend to preclude the construction of units with dual-fired capability where applicable.

SECTION 202—NEW MAJOR FUEL-BURNING INSTALLATIONS

Both the House and Senate versions prohibited the use of oil and natural gas by new MFBI boilers. The Senate extended that prohibition to certain new nonboilers. The House authorized the Secretary to prohibit by rule or order the use of oil and gas by certain new MFBI nonboilers. The conferees adopted the House version.

By statute, a person is prohibited from using natural gas or petroleum in each new MFBI unit consisting of a boiler, as a primary energy source, unless an exemption from this prohibition is obtained. As in the case of new powerplants, the Secretary cannot require the specific use of coal or another alternate fuel by the MFBI. The choice is up to the owner or operator of the MFBI. The prohibition applies only to the primary energy source of the MFBI as defined in section 103 of the conference agreement. Thus, the conferees do not intend to preclude the construction of units with dual-fired capability where appropriate.

In the case of any new MFBI, other than a boiler, the conference agreement authorizes the Secretary to prohibit, by rule, categories of nonboilers from using natural gas or petroleum. In identifying categories of new MFBI's to be subject to a prohibition, the Secretary must consider any special circumstances or characteristics of each such category (such as the technical feasibility of burning coal or other fuels) which may militate against the promulgation of the rule or, at a minimum, require that the rule be crafted to overcome potential problem areas. The parenthetical statement of examples of possible special characteristics is not intended to be exhaustive. There are other examples, such as seasonal use of the MFBI's. These are all factors that the DOE must consider and give weight to, when raised.

Each rule will apply to MFBI's qualifying as new under the definitions set forth in this Act as of the date of publication of the proposed rule. In short, a rule is not intended to apply retroactively. The rule does not apply to any new MFBI while a petition for an exemption from such rule is pending. The petition, however, must be filed within 60 days after final promulgation of the rule.

The conference agreement also authorizes the Secretary to prohibit, by order, on a case-by-case basis, the use of natural gas or petroleum by any new nonboiler MFBI which is not within any category established by rule. No order may be issued if the person affected by the proposed order demonstrates that he could obtain an exemption if his MFBI had been subject to a category rule. If the powerplant or MFBI is entitled to a temporary exemption, the Secretary shall issue the prohibition but stay its effect during the exemption period, including appropriate extensions. Thus, at the end of the exemption period the prohibition order applies.

Recognizing the fact that the new MFBI's may often be constructed by one person and operated by another, the statutory prohibition runs to the use of the fuel and not the construction of the MFBI. Because it is believed that the operator of the MFBI will be in the best position to seek and obtain an exemption from the prohibition, as such person is more aware of the problems he will face in operating the plant, the conferees did not apply the prohibition against the construction of the MFBI. The conferees intend, however, that the Secretary consider petitions for exemptions at the earliest possible time, namely prior to construction of the MFBI. At the same time, it must be made very clear that no exemption is available to the user on the basis that either he or the person who built the plant acted with ignorance of the law. Also any person who acts in violation of the law or any rule or order shall not be eligible for an exemption merely because he spent large sums to his detriment.

SUBTITLE B—EXEMPTIONS

SECTION 211—TEMPORARY EXEMPTIONS

Both versions provided for temporary exemptions of up to 5 years.

The Senate version did not provide an exemption for the use of natural gas. The conferees adopted the House version which provided for temporary exemptions, to permit the use of natural gas or petroleum.

Both bills required that the person seeking a temporary exemption clearly demonstrate to the Secretary that such person will qualify for the entire period of the exemption. Unless otherwise specified in the applicable provisions, the Secretary is required to grant an exemption if he finds that the person has clearly met the tests for an exemption. The burden is on the person requesting the temporary or permanent exemption.

In those instances where a temporary exemption is authorized and there is also authorized a permanent exemption with identical criteria if the petitioner demonstrates to the satisfaction of the Secretary that he would be entitled to the temporary exemption, but for the fact that he could not comply within the time provided for such exemption, he is then eligible for the companion permanent exemption.

The conferees intend that the Secretary be flexible enough to grant a permanent or temporary exemption if the person qualifies, even though the person may not qualify for the exemption he requests or for the full time period of the requested exemption. In short, the person should not have to reapply for the exemption, assuming, of course, that the person is willing to accept the other exemption. If he does not, then the Secretary has no choice but to reject the petition.

General temporary exemptions

The criteria for granting a general temporary exemption for new powerplants and MFBI's were similar in both bills. The conference agreement combines them. Thus, a person may apply for, and based on an adequate showing, as determined by the Secretary, obtain exemptions relating to the adequacy and reliability of a supply of coal or other alternate fuels, site limitations, or for

environmental reasons. In case of each of the criteria, the petitioner must make a good faith effort to try to comply with the prohibition and show, that despite such efforts, he will be unable to do so for the period of the exemption and thus is eligible for the exemption.

Temporary exemption based upon future use of synthetic fuels

The Senate bill authorized a temporary exemption for the use of natural gas or petroleum if the petitioner was able to show that he would be in compliance at the end of the exemption period by using synthetic fuels. The House had no similar provision.

The conference agreement adopts the Senate provision with some modifications. They provide that the petitioner must clearly show that there will be compliance by the end of the exemption period through the use of synthetic fuels derived from coal or another alternate fuel, and that without the temporary exemption, the petitioner could not comply with the applicable prohibition through the use of such synthetic fuel until the end of the exemption period. The granting of the exemption and its continued application during the exemption period is subject to the petitioner filing and maintaining a compliance plan pursuant to section 214(b). This plan requires evidence of binding contracts obligating the petitioner and supplier to provide the synthetic gas. In this regard the conferees observe that the supplier or the petitioner may seek to condition any such obligation on the granting by the DOE of the exemption. This is a matter that should be handled by the lawyers for the petitioner and the supplier. The conferees intend that if such reasonable condition is adopted by the parties that the Secretary will view it sympathetically in carrying out his responsibilities.

Temporary public interest exemption

The House bill provided for a temporary and permanent general exemption where the applicant demonstrated that it would further the purposes of the legislation. The exemption was mandatory. The Senate had no comparable provision.

The conference agreement adopts the House provision with modifications authorizing the Secretary, in his discretion, to grant an exemption to use natural gas or petroleum, if he finds that the petitioner has shown that for the entire exemption period it would be in the public interest and consistent with the purposes of the Act to grant the exemption. The exemption is temporary only.

Temporary exemption for the use of petroleum by certain installations

The Senate version excluded from the statutory prohibition in the Senate bill new MFBI's which are incapable of consuming any fuel at a fuel input rate of more than 300 million Btu's per hour. It also provided for a study. The House version prohibited by statute the use of petroleum by new MFBI's which are capable of consuming any fuel at a fuel input rate of 100 million Btu's per hour or more.

The conference substitute adopts the House version. It also adopts a temporary exemption provision. If a petitioner makes a showing substantiated by contractual agreements or other evidence, including a State permit to construct, of firm plans (in the case of new MFBI's with a fuel input of not more than 300 million Btu's per hour) to utilize after the period of exemption coal or another alternate fuel for at least 75 percent of the annual fuel heat input, the Secretary at his discretion, may, before the effective date of this Act or the effective date of the regulations implementing this Act, consider and issue a temporary exemption allowing the MFBI to use petroleum for not more than 5 years.

Duration of temporary exemptions

The conference substitute, except in the case of two temporary exemptions, provides that each exemption shall not exceed 5 years. In the case of temporary exemptions due to inadequate and unreliable supplies of coal or another alternate fuel (sec. 211(a)(1)) the exemption may be up to for 10 years. In the case of the future use of synthetic fuels (sec. 211(b)), the exemption may be extended by the Secretary beyond 5 years on the same basis as the initial exemption was granted, but the total exemption period may not exceed 10 years.

SECTION 212—PERMANENT EXEMPTIONS

Permanent exemption due to lack of alternate fuel supply, site limitations, or environmental requirements

The Senate version authorized general permanent exemptions to permit the use of petroleum, but not natural gas, by either new electric powerplants or new major fuel-burning installations. The House provision provided an exemption from both the petroleum and natural gas prohibitions. The Senate and House criteria are comparable, except that the Senate provided:

(a) that the test period for determining whether or not coal or other fuels will be available is to be the majority of the useful life of the facility;

(b) physical and legal factors criteria; and

(c) coal characteristics must conform with design requirements of the powerplant;

and the House provided:

(a) the test period is to be the useful life of the facility;

(b) site limitation criteria; and

(c) the use of coal or other fuels would preclude obtaining capital.

The conference substitute provides for permanent exemptions from the natural gas and petroleum prohibitions, except where specifically noted by statute. The conference agreement combines with some modification most of the Senate and House criteria as a basis for granting a general permanent exemption for a new electric powerplant or major fuel-burning installation. The physical and legal factors criterion of the Senate was not adopted.

Just as in the case of temporary exemptions, the petitioner must make a good faith effort to try to comply with the prohibition and show that despite such efforts, he will be unable to do so for the period of the exemption and thus is eligible for the exemption.

The conference agreement adopts the House test of coal availability. However, when it is shown on a case-by-case basis that coal would not be immediately "available" but would become "available" within the first 10 years of operation of the powerplant or MFBI, construction with a dual-fired fuel capability would be required in order to build and operate the facility and a temporary exemption to use petroleum or natural gas would be granted for the necessary initial years of operation until the coal was available. This would all be determined by the DOE, after the proper showing by the applicant. If it is shown that coal will not become available at anytime during the first 10 years, a permanent exemption shall be granted.

Permanent exemption due to certain State or local requirements

The Senate authorized a permanent exemption to use petroleum or natural gas where DOE finds—

(a) that compliance with legal factors established pursuant to Federal and State law would be feasible, but compliance with local legal requirements would not be feasible, and

(b) compliance with the statutory prohibitions would not be in the public interest or would not be of significant value in serving the purposes of the Act.

The House had no comparable provision.

The conference agreement authorizes, in the discretion of the Secretary, a permanent exemption where it is demonstrated that a new powerplant or MFBI cannot comply with the prohibitions because of the existence of a State law or a local law (other than a building code, or nuisance or zoning law) which would prevent the construction or operation of such facility using coal or another alternate fuel with respect to the proposed site of the powerplant or installation, and that the exemption would be in the public interest and consistent with the purposes of this Act. This provision could include environmental laws not covered by the definition of "applicable environmental requirements" in section 103 of this Act. In the case of a powerplant, it also must be shown that there is no reasonable, alternative site for the facility which meets the criteria for a general permanent exemption.

The conferees intend that the Secretary determine the purposes of the State or local law and he certainly should not grant an exemption under this provision where it is clear that such law was established, for example, to aid the affected powerplant or installation to preclude the use of coal or alternate fuels in preference for natural gas or petroleum in order to evade the policies, purposes, and prohibitions of this Act. The conferees are particularly concerned about any collusive practices in this regard. The conferees stress that the granting of any petition for such an exemption is entirely discretionary with the Secretary.

Permanent exemption for cogeneration

The conference agreement combines the House and Senate provisions and authorizes, in the discretion of the Secretary, permanent exemptions for new cogeneration facilities.

Permanent exemption for certain fuel mixtures containing natural gas or petroleum

The conference agreement combines the Senate and House provisions providing for a permanent exemption to permit the use of mixtures of coal or another alternate fuel and natural gas or petroleum. The granting of such exemptions is conditioned on the use of natural gas or petroleum in minimum percentages necessary to maintain reliability of operation consistent with maintaining a reasonable level of fuel efficiency.

In the case of new major fuel-burning installations, the percentage shall be no less than 25 percent of the total Btu heat input.

Permanent exemption for emergency purposes

The conference agreement adopts the Senate provision with modification providing for a permanent exemption for the use of petroleum or natural gas by new electric powerplants or major fuel-burning installations where operated only for emergency purposes. The Secretary would define by rule what constitutes emergency purposes.

Permanent exemption for powerplants necessary to maintain reliability of service

The conference agreement adopts the Senate provision with modifications providing for a permanent exemption for the use of natural gas or petroleum by a new electric powerplant where necessary to prevent impairment of reliability of service. The petitioner must demonstrate that he cannot obtain a general exemption in the time required to prevent impairment of service.

Permanent exemption for peakload powerplants

Both versions allowed a permanent exemption for use of petroleum for new peakload powerplants. The Senate version also allowed such an exemption for use of natural gas for peakload purposes if the Environmental Protection Agency certified such use for air quality reasons.

The conference agreement combines these versions with modifications. To use petroleum for peakload purposes and to build a

peakload powerplant without the capability to use coal or an alternate fuel as a primary energy source, the petitioner must certify that the proposed powerplant will operate solely for peakload purposes. The Secretary will prescribe the form and manner of certification. The certification runs for the life of the powerplant. All certifications are subject, of course, to 18 U.S.C. 1001.

In order to use natural gas for a peakload powerplant and to construct one without the capability to use coal or an alternate fuel as the primary energy source, the petitioner must obtain the above certification. In addition, the EPA or the appropriate State air quality agency must certify that the use of coal or other available alternate fuels as a primary energy source will cause or contribute to a concentration, in an air quality control region or in any area within such region, of a pollutant for which any national ambient air quality standard is or would be exceeded. It is important to stress that the EPA or State agency must consider whether other available alternate fuels could be used before making such a certification.

Permanent exemption for intermediate load powerplants

The conference agreement adopts a modified Senate provision authorizing the Secretary, in his discretion, to provide a permanent exemption from the prohibitions against the use of petroleum only for new intermediate load powerplants. The petitioner, to be eligible for the exemption to use petroleum, must demonstrate that—

there exists an EPA or State certification of the type required for peakload powerplants seeking to use natural gas;

the proposed powerplant will be operated solely as an intermediate load powerplant;

the net heat input rate for the powerplant will be maintained continuously at not more than 9,500 Btu's per kilowatt hour throughout the plant's useful life;

there is no reasonable alternate site for the powerplant which meets the criteria for a general exemption;

the powerplant will be constructed with the capability of using synthetic fuels as the primary energy source; and

the powerplant is constructed and operated only to replace equivalent powerplant capacity of existing powerplants which use natural gas or petroleum of the petitioner.

In addition, the applicant must intend to use synthetic fuels derived from coal or another alternate fuel at the earliest practicable time.

The permanent exemption shall terminate automatically whenever the Secretary finds that a suitable synthetic fuel supply is available. In addition, no general permanent exemption under section 211 would be available for such new intermediate load powerplant.

Permanent exemptions for installations based upon product or process requirements

The conference agreement combines the House and Senate versions granting permanent exemptions to permit the use of petroleum or natural gas by any new MFBI where the petitioner demonstrates that the use of coal or other alternate fuels is not technically feasible due to the need to maintain satisfactory control over product quality and the substitution of steam is not technically feasible due to operational requirements.

It is important to emphasize here and elsewhere that the petitioner must not only show that coal will not meet this test, but also that other available alternate fuels are also unable to meet this test.

Permanent exemptions for installations necessary to meet schedule equipment outages

The Senate version provided an exemption for standby purposes. The House had no such provision.

The conference agreement authorizes the Secretary, in his discretion, to permit a permanent exemption for an MFBI to use natural gas or petroleum where the petitioner demonstrates that the installation will be needed solely for scheduled equipment outages, as defined. This provision does not relate to emergencies, but it is intended to provide needed flexibility for the petitioner to install a unit which would be used on a temporary basis when scheduled repairs or maintenance are required for another MFBI.

SECTION 213—GENERAL REQUIREMENT FOR TEMPORARY AND PERMANENT EXEMPTIONS

Use of mixtures or fluidized bed combustion not feasible

This conference agreement adopts a modified Senate provision that the Secretary, in granting permanent exemptions in all but two situations, must find that the petitioner has demonstrated that the use of a mixture of petroleum and coal or other alternate fuels is not economically or technically feasible. Such exemptions may only be granted if the Secretary fails to find that the use of fluidized bed combustion is economically and technically feasible. This provision does not apply in the case of the mixture and peakload exemptions.

State approval required for powerplant

The conference agreement adopts a modified House provision which requires that, in the case of a powerplant, the State regulatory authority that has jurisdiction over the proposed powerplant for ratemaking purposes must approve the proposed powerplant before the requested exemption can take effect. Thus, the petitioner can file for an exemption and the DOE shall consider the petition, but any exemption granted by the DOE for such a powerplant prior to State approval shall not take effect until the State regulatory authority acts and approves the powerplant construction or operation and informs the DOE. This requirement only applies to powerplants that are subject to the State regulatory authority.

The provision makes it clear that there are two types of approvals. One is for construction. The other is for use. The second is not required to begin construction. But both are required to use petroleum or natural gas.

No alternative power supply in the case of a powerplant

Both versions contained an alternative power supply test for powerplant exemptions. However, the Senate test did not apply to all exemptions. The House test required a certification by the Federal Energy Regulatory Commission.

The conference agreement melds these versions to require such a test for all temporary or permanent exemptions, except in the case of a cogeneration or peakload exemption. The petitioner seeking the exemption would be required to demonstrate and the Secretary must determine that, despite good faith efforts, no alternative supply of electric power is available within a reasonable distance to the petitioner's utility system and at a reasonable cost without impairing reliability of service. In granting or denying the exemption the Secretary would have to give consideration to the short- and long-term reliability of such power. Ultimately, the test of "reasonableness" will be made by the Secretary, but, of course, the conferees intend and expect that the Secretary will not be arbitrary in making these determinations. The Secretary also is required to consult with the Federal Energy Regulatory Commission before making such determinations.

Nothing in this section empowers the Secretary to order, as a condition of any exemption, pooling or wheeling, except as is authorized to do so pursuant to other law.

SECTION 214—TERMS AND CONDITIONS; COMPLIANCE PLANS

The conference agreement combines the compliance plan provision of the Senate and the terms and conditions provisions of the House into one section.

This section requires that any exemption from any prohibition under subtitle B shall be on such terms and conditions as the Secretary of Energy determines appropriate, including terms and conditions requiring the use of effective fuel conservation which are practicable and consistent with the purposes of this Act. In the case of temporary exemptions, the terms and conditions are also to be designed to insure that when the exemption period ends, the powerplant or installation will be in compliance with the prohibition.

Compliance plans will include a compliance schedule and evidence of binding contracts for fuels or facilities to produce fuel in order to comply. They must be approved by the Secretary. Such plans must be filed before the exemption is granted, and they may be required to be revised periodically.

TITLE III. EXISTING FACILITIES

SUBTITLE A—PROHIBITIONS

SECTION 301—EXISTING ELECTRIC POWERPLANTS—GENERAL PROHIBITIONS

Both bills prohibited existing electric powerplants from using natural gas on or after January 1, 1990.

The conference agreement also provides a statutory prohibition against conversion to natural gas by an existing electric powerplant that did not use natural gas as a primary energy source at any time during calendar year 1977.

The conference agreement adopts the Senate and House prohibition after the effective date, against an existing electric power plant using natural gas in greater proportions than used in calendar years 1974 through 1976, or if the powerplant began operation on or after January 1, 1974, in greater proportions than used during the first two calendar years of operation.

The conference agreement adopts the House provision authorizing a stay of the 1990 prohibition on the use of natural gas by an existing electric powerplant pending resolution of any petition for an exemption from such prohibition. Such petition may be filed at any time after the effective date of the act, but it must be filed at least 1 year prior to January 1, 1990.

Authority of Secretary to prohibit where coal or alternate fuel capability exists

The conference agreement adopts with modification the House provision which authorizes the Secretary to issue prohibitions (by order or rule) pursuant to section 303 against any existing powerplant using natural gas or petroleum if he finds prior to issuing the proposed rule or order that the powerplant has, or previously had, the technical capability to use coal or another alternate fuel.

Before issuing a notice of a proposed rule or order prohibiting the use of natural gas or oil, the Secretary has the burden to find, at the time of issuance of such proposed rule or order, that the existing powerplant is technically capable or was technically capable of using coal as a primary energy source. Any reasonable evidence of such capability, such as engineering drawings, will suffice in meeting this burden. It is not intended that the Secretary go through any hearings or exhaustive investigation to make this initial finding. It is in essence a paper search. The final rule or order, of course, concerning this test must be supported by substantial evidence. The conferees intend, however, that by the term "technical capability" that there must have existed or exists a real capability to use coal or coal derivatives. For example, the facility must not only be able or have been able to burn synthetic gas from coal or other sources, but the facilities to do so must exist or have existed including the facility to convert the coal or other fuel to such gas.

When the final rule or order is issued, the

Secretary must find that the powerplant has such capability or could have without substantial physical modification or substantial reduction in the rated capacity of the powerplant. In addition, the Secretary must find that it is financially feasible for such powerplant to use coal or another alternate fuel. The Secretary could not issue a final order if such units would have been granted an exemption had the prohibition been established by rule rather than by order.

The Secretary is not authorized by this Act to require the building of a synthetic fuels facility by the powerplant or MFBI.

One test of financial feasibility, in the case MFBI's, is the effect of the proposed rule or order in the operations of the facilities at which the unit is located and whether any required modification to effect the use of coal or another alternative fuel can take place without unreasonable shutdown of the entire facility.

Authority of the Secretary to prohibit excessive use in mixtures

The conference agreement combines the House and Senate provisions authorizing the Secretary to limit by order, on a case-by-case basis, the amounts of petroleum or natural gas used by an existing electric powerplant unit in mixtures with coal or other fuels, after a finding of technical and financial feasibility. The order would require that such amounts not be in excess of the amounts necessary to maintain reliability of operation of such unit consistent with maintaining a reasonable level of fuel efficiency.

SECTION 302—EXISTING MAJOR FUEL-BURNING INSTALLATION

Authority of Secretary to prohibit where coal or alternate fuel capability exists

The conference agreement authorizes the Secretary to issue prohibitions (by order or rule) pursuant to section 303 against an existing major fuel-burning installation unit where coal or alternate fuel capability exists in the same manner as he provided for existing powerplants. As in the case of new facilities, if the powerplant or MFBI is entitled to a temporary exemption, the Secretary shall issue the prohibition but stay its effect during the exemption period including appropriate extensions. Thus, at the end of the exemption period the prohibition order applies.

Authority of Secretary to prohibit excessive use in mixtures

The conference agreement combines the House and Senate provisions authorizing the Secretary to limit by order, on a case-by-case basis, the amounts of petroleum or natural gas used by an existing MFBI in mixtures with coal or other fuels. The order would require that such amounts not exceed the amounts necessary to maintain reliability of operation of that unit consistent with maintaining a reasonable level of fuel efficiency, except that the amount of natural gas or petroleum used in such mixture shall equal either (a) 25 percent of the total Btu heat input, or (b) a greater percentage where needed to maintain reliability of operation consistent with a reasonable fuel efficiency.

SECTION 303—RULES RELATING TO CASE-BY-CASE AND CATEGORY PROHIBITIONS

The conference agreement authorizes the Secretary to issue (1) case-by-case orders and (2) rules by category prohibiting certain existing electric powerplants or major fuel-burning installations from using natural gas and petroleum. (All existing powerplants would be prohibited by statute from using natural gas after January 1, 1990.)

The conference agreement restricts the use of category rules to existing MFBI's equal to or greater than 300 million Btu's per hour.

The proposed rules shall identify each affected unit which was initially constructed or later modified to use coal or another alternate fuel. In issuing final rules, the Secretary must find that each unit is technically and financially capable of using coal or alternate fuels without substantial physical modification of the unit or without suffering substantial downgrading of the rated capacity of the unit.

In the case of orders, the Secretary shall not issue the final order if the powerplant or MFBI would be eligible for an exemption if one had been requested. However, in the case of temporary exemptions, the Secretary shall issue a final order which will be effective at the end of the exemption period. Also, the powerplant and MFBI is required to comply with the conditions for which the exemption could be granted and the terms and conditions of section 314(a). The latter section requires compliance plans in the case of some exemptions. In the case of rules by category, exemptions from the rules are to be sought and granted or denied after the rule is finalized in the same manner as it would be sought from an exemption from a statutory prohibition.

In prescribing any rule, the Secretary must take into account, just as in the case of new MFBI's, special circumstances or characteristics, where appropriate, of each category of powerplants or installations. For example, size, age, seasonal operations or use, and geographic location, are all factors that the DOE must consider and give weight to, when raised.

SUBTITLE B—EXEMPTIONS

SECTION 311—TEMPORARY EXEMPTIONS

As noted under section 211 of this statement, both bills required that the person seeking a temporary exemption, clearly demonstrate to the Secretary that such person will qualify for an exemption for the entire period of the exemption. Unless otherwise specified in the applicable provisions, the Secretary is required to grant an exemption if he finds that the person has clearly met the tests for the exemption. The burden is on the person requesting the exemption.

The conferees intend that the Secretary be flexible enough to grant an exemption if the person qualifies, even though the person may not qualify for the exemption he requests. In short, the person should not have to reapply for the exemption, assuming, of course, that the person is willing to accept another exemption. If he does not, then the Secretary has no choice but to reject the request.

The conference agreement adopts the same criteria for the temporary exemption for existing powerplants and major fuel-burning installations as applies to new powerplants and MFBI's under title II of this Act. Similarly, the provisions for synthetic fuels, and public interest temporary exemptions for new powerplants and MFBI's are identical in substance to those for existing powerplants and MFBI's.

Temporary exemption based upon use of innovative technologies

The conference agreement adopts a modified Senate provision under which a temporary exemption to use natural gas or petroleum for an existing electric powerplant or major fuel-burning installation shall be granted where the petitioner demonstrates that such powerplant or MFBI will comply with the prohibitions by using innovative technologies, as determined by the Secretary, for the use of coal or other fuels or facilities. A compliance plan, approved by the Secretary, is required before the exemption is effective. There also must be binding contracts for fuels or facilities which will permit the unit to comply with the prohibition.

Temporary exemption for units to be retired

The conference agreement adopts a modified Senate provision granting temporary retirement exemptions for an existing electric powerplant or major fuel-burning installation to use natural gas or petroleum. A compliance plan, approved by the Secretary, would be required under which such unit would be retired. Such unit would not be eligible for any other temporary or permanent exemption once this exemption is granted. In the case of existing powerplants, no retirement exemption to use natural gas shall extend beyond December 31, 1994.

Temporary exemption for peakload powerplants

The conference agreement adopts the provision granting a temporary exemption to use natural gas or petroleum in an existing powerplant where the applicant certifies to the Secretary that such powerplant will be used solely for peakload purposes during the exemption period. This exemption cannot extend beyond December 31, 1994.

Temporary exemption for powerplants where necessary to maintain reliability of service

The conference agreement provides a temporary exemption to use natural gas or petroleum by an existing powerplant where the applicant demonstrates that such exemption is necessary to prevent impairment of reliability of service.

No exemption or renewal thereof can extend beyond December 31, 1994. However, such powerplant would be eligible to apply for a permanent peakload exemption to use petroleum beyond such date but no other exemption is authorized.

Duration of temporary exemptions

The conference agreement limits the period of temporary exemptions to a maximum of 5 years, except for the synthetic fuels, innovative technology, and reliability exemptions which may be renewed under specified conditions for up to an additional 5 years. The temporary exemption concerning the availability of an adequate and reliable supply of coal may be initially granted for a period of not to exceed 10 years.

SECTION 312—PERMANENT EXEMPTIONS

Permanent exemption due to lack of alternative fuel supply, site limitations, or environmental requirements

The Senate provision granted a general permanent exemption for existing powerplants and MFBI's from the petroleum, but not natural gas prohibition. The Senate and House criteria are comparable, except that the Senate provides (a) that the test period for determining whether or not coal or other fuels will be available is the majority of the remaining useful life of the facility;

(b) physical and legal factors criteria; and

(c) that coal must conform with design requirements.

The House provision provides for such an exemption from both the petroleum and natural gas prohibitions. The House and Senate criteria are comparable, except that the House provides that:

(a) the test period is the useful life of the facility;

(b) site limitation criterion;

(c) in the case of an existing powermant, FERC certifies that there is no alternative power supply;

(d) in the case of an existing MFBI, the use of coal would preclude obtaining capital.

The conference agreement conforms the Senate and House criteria as a basis for granting a general permanent exemption for an existing electric powerplant or major fuel-burning installation to those for new electric powerplants or major fuel-burning installations.

Permanent exemption due to certain State or local requirements

As in the case of new powerplants and installations, the conference agreement adopts a modified Senate provision authorizing, at the discretion of the Secretary, a permanent exemption where an existing electric

powerplant or major fuel-burning installation which cannot comply with a prohibition because of the existence of a State or local requirement. Such exemption also may be obtained due to a local building code or nuisance or zoning law. However, in all cases the petitioner must show that no other permanent or temporary exemption could be granted for such facility.

The conferees intend that the Secretary determine the purposes of the State or local law and he certainly should not grant an exemption under this provision where it is clear that such law was established, for example, to aid the affected powerplant or installation, to preclude the use of coal or alternate fuels in preference for natural gas or petroleum in order to evade the policies, purposes, and prohibitions of this Act. The conferees are particularly concerned about any collusive practices in this regard. The Secretary has discretion here to reject petitions in such situations.

Just as in the case of new powerplants and MFBI's, the exemption must be in the public interest and consistent with the Act's purposes.

Permanent exemption for cogeneration

The conference agreement authorizes, at the Secretary's discretion, permanent exemption for existing cogeneration facilities if the benefits of cogeneration cannot otherwise be obtained, just as in the case of new cogeneration facilities.

Permanent exemption for certain fuel mixtures containing natural gas or petroleum

The conference agreement combines the House and Senate provisions granting a permanent exemption in the case of existing powerplants and major fuel-burning installations to permit the use of mixtures of coal or other fuels and natural gas or petroleum, as for new powerplants and installations. Such exemptions would be conditioned on the minimum percentage necessary to maintain reliability of operation at a reasonable level of fuel efficiency. In the case of existing MFBI's, the percentage shall not be less than 25 percent. However, in the case of existing powerplants, the Secretary may authorize greater percentages of natural gas if he finds that such higher percentage of natural gas would be mixed with synthetic fuels derived from municipal wastes or agricultural wastes and would encourage alternate or new technologies which use renewable sources of energy.

Permanent exemption for emergency purposes

The conference agreement adopts the same modified Senate provision for permanent exemptions for the use of petroleum or natural gas for emergency purposes by an existing electric powerplant or major fuel-burning installation as was adopted for new powerplants and MFBI's.

Permanent exemption for peakload powerplants

The conference agreement adopts a modified Senate provision granting a permanent exemption to use natural gas or petroleum where the petitioner demonstrates that the existing powerplant (a) will be operated solely for peakload purposes; (b) denial of the exemption is likely to impair reliability of service; and (c) modification to meet the prohibition is technically infeasible or would result in unreasonable expense to the petitioner.

Permanent exemption for intermediate load powerplants

The conference agreement conforms the permanent exemption for existing intermediate load electric powerplants to that for new intermediate load electric powerplants. However, the alternative site and reliability of service test would not apply. A powerplant granted an exemption under section 312(g) for intermediate load purposes is not eligible for an exemption under section 312(a) provision.

Permanent exemption for certain powerplants with capacities of less than 250 million Btu's per hour

The Senate provision did not cover existing electric powerplants with fuel heat input rates between 100 and 250 million Btu's per hour which are not capable of using coal or other fuel than natural gas or petroleum. The House provision made such powerplants subject to the prohibitions.

The conference agreement adopts the House provision, but provides a permanent exemption to permit the use of natural gas or petroleum by an existing electric powerplant if the petitioner demonstrates that it (a) has a fuel heat input rate between 100 and 250 million Btu's per hour; (b) was in operation as a baseload operation on April 20, 1977; and (c) is not capable of consuming coal without substantial physical modification of the unit, or without suffering substantial reduction in the rated capacity of the unit, as determined by the Secretary.

This exemption would apply only to category rules or orders issued to such size powerplants prior to January 1, 1990, concerning the use of natural gas.

Permanent exemption for the use of LNG by certain powerplants

The conference agreement adopts the House provision as modified to grant a permanent exemption for the use of liquefied natural gas if the Environmental Protection Agency or State appropriate air pollution control agency certifies that use of coal by such powerplant will cause or contribute to a concentration in an air quality control region or any area thereof of a pollutant for which a natural ambient air quality standard is or would be exceeded and that the use of coal would not comply with applicable environmental requirements.

Permanent exemption for installations served by certain international pipelines

The conference agreement adopts a modified Senate provision granting a permanent exemption for existing MFBI's to use natural gas if the petitioner demonstrates and the Secretary finds that—

the MFBI's primary source of natural gas is under a contract with a pipeline originating in Canada which cannot be canceled by the petitioner without substantial financial penalty;

the pipeline was in existence and providing natural gas to the applicant before April 20, 1977;

the pipeline serves high priority residential users in the United States who consume less than 50 Mcf of natural gas per day on a peak day to whom service would be jeopardized if it is terminated;

the revenues from the transportation and sale of the gas are essential to the economic viability of the pipeline;

the exemption is consistent with the purposes of this Act; and

the prohibition would not result in making the gas from the international pipeline available for any other use in the United States.

Permanent exemption for installations based upon process requirement

The conference agreement grants a permanent exemption to permit the use of petroleum or natural gas by an existing major fuel-burning installation where necessary to meet product or process requirements, as in the case of new major fuel-burning installations.

Permanent exemption for installations necessary to meet scheduled equipment outages

The conference agreement includes an exemption for scheduled equipment outages for existing MFBI's, as in the case of new MFBI's.

SECTION 313—GENERAL REQUIREMENTS FOR EXEMPTIONS

Use of mixtures or fluidized bed combustion is not feasible

As in the case of new facilities, the conference agreement adopts the Senate provision requiring that before the Secretary can approve any permanent exemption for an existing powerplant or major fuel burning installation (a) the applicant must demonstrate that the use of a mixture of natural gas or petroleum and "coal or other fuel" is not technically and economically feasible, and (b) the Secretary has not made a finding that fluidized bed combustion of coal is technically or economically feasible. However, this requirement would not apply to sections 312(b), (f), (i), or (j).

No alternative power supply in the case of a powerplant

The conference agreement requires that existing powerplants seeking permanent exemptions pursuant to sections 312 (b) and (g) must meet the same "no alternative power supply" test as in the case of new powerplants.

Terms and conditions; compliance plans

The conference agreement combines the Senate and House provisions regarding compliance plans and other terms and conditions for existing facilities to conform to the provisions for new facilities.

TITLE IV. ADDITIONAL PROHIBITIONS; EMERGENCY AUTHORITIES

SECTION 401—AUTHORITY TO PROHIBIT USE OF NATURAL GAS IN CERTAIN BOILERS USED FOR SPACE HEATING

The conference agreement adopts the House provision as modified to authorize the Secretary to prohibit, by rule, the use of natural gas in existing boilers (other than a major fuel-burning installation) for space heating purposes where such boiler consumes 300 Mcf or more of natural gas on a peak day, and such boiler had, or has, the technical capability to use petroleum as of the date of publication of the rule. He must also find that the boiler has the technical capability to use petroleum as a primary energy source, or it could have such capability without substantial physical modification of the boiler or substantial reduction in the rated capacity of the boiler, that it is financially feasible to use petroleum, and such prohibition is consistent with the purposes of this Act. Each existing boiler must be identified in the proposed rule.

The provision also authorizes the Secretary to prohibit by rule or order the use of natural gas in a new boiler (other than a major fuel burning installation) for space heating purposes where such boiler consumes 300 Mcf or more of natural gas on a peak day and where the prohibition would be consistent with the purposes of the Act. New boilers mean any for which no commitment for construction or acquisition has occurred, as of the date of publication of the proposed rule or order. Provision is made for issuance of the prohibition by rule or order.

The Secretary must exempt any person from this rule if the person demonstrates that an adequate and reliable source of petroleum is not likely to be available during the period of the exemption. The Secretary determines the period or length of the exemption based on the record.

SECTION 402—PROHIBITION ON USE OF NATURAL GAS FOR DECORATIVE OUTDOOR LIGHTING

The conference agreement adopts the House provision as modified to prohibit by statute the installation of new outdoor lighting fixtures using natural gas and to direct the Secretary, in the case of existing units, to prohibit natural gas pipelines and local distribution companies from providing natural gas to residential, commercial, and industrial customers for use in outdoor lighting. (Outdoor lighting is defined as

lighting by any stationary source not located inside any building.)

Within 180 days after enactment of this Act, the Secretary shall, by rule, prohibit local distribution companies from providing natural gas service for outdoor lighting. The prohibition is effective on date of promulgation of the rule unless a later effective date is provided. In the case of any industrial or commercial structure the rule is effective 180 days after the rule is promulgated, unless, in the case of such industrial user, natural gas was not used for such purposes on the date of enactment. In such cases, it takes effect on publication. By statute, the prohibition applies to municipal and residential outdoor lights as of January 1, 1982.

The Secretary shall exempt any new or existing memorial lights or lights of historical significance upon petition to the Secretary and a certification made by a Federal, State, or local government agency or by an appropriate historic association. Similar exemptions are available for existing commercial lighting units which are of a traditional nature and which conform with cultural or architectural style of the area where the light is located. Replacement units are permitted.

The conferees intend that the Secretary's enforcement of civil penalties be reasonable. For instance, lights that are located on the users side of the meter, and are not visible from the street present problems to a company in enforcing the ban. Similarly, a light that was turned off by the company, and later reconnected by the residential user may be difficult to detect. The Secretary should provide some guidelines.

Provision is made for exemptions for industrial, residential, and municipal users for reasons of safety, time to obtain substitute lighting, costs, and because the exemption is in the public interest and consistent with the Act's purposes. The Secretary will establish criteria for exemptions. Anyone can apply for an exemption and can request a public hearing.

The authority to administer the program, in accordance with the bill, may be delegated by the Secretary to the appropriate regulatory authority of the State. The Secretary is encouraged to do so.

Under the conference agreement the penalties are not applicable to residential users. Civil penalties for violations are to be assessed against the local distribution company up to a maximum of $500 per any gaslight.

In the case of industrial users who violate the prohibitions the civil penalty shall be up to $500 per day for each gaslight with a maximum of $5,000.

The penalties apply only where the violator knows or reasonably should have known of the violation.

The conference agreement provides that rulemaking concerning each prohibition and the granting of orders shall be carried out in accordance with 5 U.S.C. 553. The provisions of section 701 of this Act are not applicable. The intent is to provide informal procedures, particularly in the case of exemptions.

SECTION 403—CONSERVATION IN FEDERAL FACILITIES, CONTRACTS AND FINANCIAL ASSISTANCE PROGRAMS

The conference agreement combines the Senate and House versions to provide that all Federal agencies, including corporations, like TVA, and such agencies as the various components of the DOE, and other executive branch entities, are subject to the prohibitions of the Act applicable to powerplants and major fuel-burning installations. These agencies could also obtain exemptions in accordance with the procedures of section 701, but civil and criminal penalties would not apply. The President may exempt an agency or delay application where it is in the paramount interests of the United States or where funds requested by the President from the Congress have not been appropriated. The first situation only applies to purely military agencies and functions.

The President is also required to issue an Executive order within 30 days after the effective date of this Act requiring Federal agencies which provide any form of Federal financial assistance through loans, grants, contracts, and loan guarantees to take steps to effectuate the purposes of this Act relating to the conservation of petroleum and natural gas, by rule, within 180 days after the issuance of the order. The order has to set forth procedures, sanctions, penalties and other provisions necessary to carry out this requirement effectively. The President is authorized to exempt specific grants, loans, contracts, or other forms of financial assistance from this requirement, but before doing so he must give the Congress at least 60 days notice.

The conference agreement also adopts a provision concerning Federal activities to make it clear that a Federal agency cannot use as a condition of financial assistance or contract activities to require compliance by any person or facility with any prohibition under other sections of this Act if such person or facility has been specifically determined by the Secretary to be subject to such prohibition or has been exempted from the application of such prohibition.

The conferees intend that federally owned, operated, or controlled electric powerplants, such as those of TVA, and MFBI's and boilers comply with the prohibitions, et cetera, of this Act to the same extent and manner as non-Federal entities, including the States. The conferees also intend that in providing financial assistance, Federal agencies should insure that such assistance is not being used to encourage the use of natural gas and petroleum, where other energy fuels or methods are available.

SECTION 404—EMERGENCY AUTHORITIES

Coal allocation authority

If the President (a) declares a severe energy supply interruption (as defined in section 3(8) of the Energy Policy and Conservation Act) or (b) finds a national or regional fuel supply shortage exists or may exist which he determines is likely to be of significant scope and duration and of an emergency nature, and which causes or may cause a major adverse impact on public health, safety or welfare or on the economy, and which results, or is likely to result, from an interruption in the supply of coal or from sabotage or an act of God, he may by order allocate coal, but not any fuel derivatives. The allocation would be for the use of any electric powerplant or MFBI to insure reliability of service or to prevent unemployment, or protect public health, safety, or welfare. The order could require the transportation of coal. The allocation order would include such terms and conditions as the President shall prescribe.

Emergency prohibition or use of natural gas or petroleum

The President also is authorized to issue an order halting the use of natural gas or petroleum by powerplants and MFBI's during an emergency declared pursuant to section 3(8) of Energy Policy and Conservation Act. Any suspension of environmental requirements must be in accordance with section 110(f) of the Clean Air Act.

Emergency stays

The President may also stay the applications of any provision of this Act or any rule or order issued thereunder, if he finds that an emergency exists due to national, regional, or systemwide shortages of coal or other alternate fuel, or there is a disruption of transportation facilities and that the emergency is likely to affect reliability of service of a powerplant.

Duration of emergency orders

In all cases, the orders by the President shall not be effective for longer than the interruption or emergency or 90 days, whichever is less. The Presidential order may be extended through an energy action which will be subject to review by the Congress. Any order issued shall remain in effect throughout the 15-day period during which any order is subject to Congressional review under section 551 of EPCA.

Delegation of authority prohibited

The President cannot delegate the authority to issue any order but he can direct Federal agencies to issue rules or regulations or take other actions necessary to implement his orders.

Publication and reports to Congress of orders

Each order must be published in the Federal Register and the President shall, to the greatest extent practicable, before issuing the order but in no event later than 5 days after doing so, report to the Congress of his intention to issue the orders and then state his reasons for it.

Emergency uses of natural gas or petroleum

Authority is provided to use natural gas or petroleum to operate a peakload electric powerplant and major fuel-burning installation during temporary emergencies. Operators of such powerplants and MFBI's must notify the Secretary within 24 hours that the emergency exists. The Secretary shall prescribe by rule what constitutes a temporary emergency. The powerplant and MFBI must halt its use of natural gas or petroleum if the Secretary so orders. The intent of the conferees is to provide a quick and informal procedure to meet temporary emergencies that may occur. It is expected that the procedure will be used sparingly. If the Secretary does not agree that the emergency exists or that its duration has ended, then such use must be halted.

The provisions of section 701 of this Act do not apply to this section.

SECTION 405—AUTHORITY TO RESTRICT INCREASED USES OF PETROLEUM BY EXISTING POWERPLANTS

The conference agreement combines the Senate and House provisions directing the Secretary to prohibit, by rule, existing electric powerplants which during calendar year 1977 used coal or another alternate fuel, or a combination of petroleum and coal or another alternate fuel from increasing their use of petroleum without a Federal permit. Such permits are to be issued only where a powerplant cannot comply with requirements of the Clean Air Act and the appropriate State regulatory authority has certified the use of petroleum is necessary to prevent impairment of reliability of service.

TITLE V. SYSTEMS COMPLIANCE OPTION

SECTION 501—ELECTRIC UTILITY SYSTEM COMPLIANCE OPTION

The conference agreement adopts the Senate provision as modified to authorize a system compliance option for existing electric powerplants using either interstate or intrastate natural gas and subject to the 1990 statutory prohibition on the use of natural gas. Election of this option would preclude any other exemption except as otherwise expressly permitted. The Secretary shall approve this opinion if the compliance plan meets certain requirements.

First, all utilities that elect this option and which have powerplants subject to the 1990 statutory deadline on the use of natural gas shall submit a system compliance plan by January 1, 1980, identifying the powerplants subject to the prohibition, those likely to fully comply by that date, and those for which a temporary or permanent exemption would otherwise be sought. The plan must contain a 10-year forecast of electricity demand, at a 10-year construction forecast, including modification of existing units, and a 10-year financial plan. The plan must be updated annually and may be modified at

such times and to the extent provided under rules provided by the Secretary.

Second, the plan must contain a commitment that no new baseload electric powerplants will be constructed by such utility after the date of enactment of this Act which will use natural gas or petroleum as their primary energy source.

Third, in lieu of all other exemptions (except the emergency exemption, which use would be identified in the plan), the plan must provide for an orderly progression of phasing out all powerplants within the entire electric utility system which use natural gas into either intermediate load or peakload powerplants by January 1, 1995. In addition, such plan must provide for final termination of the use of natural gas by all such plants in the system by December 31, 1999, except where provided for peakload powerplants. The Secretary is authorized to extend this deadline up to 5 years beyond 1999 for any unit in the system which satisfies the criteria established for peakload and emergency exemptions.

Fourth, the plan must provide for a reduction of natural gas by January 1, 1990, throughout the utility's system.

Fifth, the plan must provide for a reduction by January 1, 1990, of the use of natural gas to (a) 20 percent or less of the base period usage, or (b) the utility system peakload requirement, whichever is less.

The base period usage is the quantity of gas used in 1976 for all generation of electricity on the system plus one-half of the quantities used during the first 24-calendar months after being placed in service by powerplants owned or operated by such utility and placed in service after July 1, 1976. The utility system peakload operation requirement is a provision allowing averaging of peakload usage of gas units over the entire system. If no single unit were allowed to operate in excess of 1,500 hours, the utility would be forced to operate less efficient units for peakload service as more efficient units neared the 1,500 hour limit. This provision would allow, by application of the formula, for averaging the usage of all units, thus saving energy. If the system average does not exceed the 1,500 hour limit, such usage will qualify under the peakload operation requirement.

The plan must provide that there shall be no renewals or extensions of any existing natural gas contract or execution of any such new contracts for the electric utility system, except with the approval of the Secretary. No such contract or extension or renewal may be approved which calls for natural gas to be delivered after December 31, 1999. The Secretary shall approve any new contracts or renewals or extensions, including those under normal escalation clauses or other clauses, if they are needed to insure compliance with the plan.

TITLE VI. FINANCIAL ASSISTANCE

SECTION 601—ASSISTANCE TO AREAS IMPACTED BY INCREASED COAL OR URANIUM PRODUCTION

The conference agreement adopts the Senate provision on impact assistance as modified to provide:

Designated of impacted area

Whenever a Governor of a State identifies within that State an area or areas to be impacted by energy development such as new or existing coal or uranium producing, processing, and transportation industries and demonstrates to the Secretary that:

(a) such development has increased employment by at least 8 percent over the prior year directly (i.e., this does not include increases from non-energy activities, such as a shopping center) from coal or uranium production, processing, or transportation, or is projected to increase employment by at least 8 percent annually over the next 3 years from the same activities;

(b) such increase will require substantial public facilities and services and housing and related energy-impacted resources; and

(c) State and local governments lack the financial and other resources to cope with this increase,

the Governor may designate, subject to the Secretary of Energy's approval, the area as an energy-impacted region and notify the Secretary of Energy and the Secretary of Agriculture.

In making a designation of an energy-impacted area, a Governor must demonstrate that the State and local governments "lack the financial and other resources" to cope with the increased demand for housing, public facilities, and public services. This demonstration is to be based on existing Federal, State, and local financial resources currently available at the time of the designation. Anticipated revenues from aid and tax programs in force at the time of the designation are also to be considered.

The Governor, in demonstrating that State and local governments lack the financial and other resources to cope with this increase, shall take into account all relevant factors, including any increase in State mineral revenues which arise from the same activities but are not available to the energy-impacted region for the purposes of this section.

The Secretary of Energy, after consultation with the Secretary of Agriculture, shall approve the designation of the energy-impacted region by the Governor, if he is satisfied that the criteria (a), (b), and (c) have been demonstrated.

Planning Grants

Once approval of the Governor's designation is obtained, the Secretary of Agriculture may promptly make 100 percent Federal planning grants available to the affected States. The total amount of these planning grants shall not exceed 10 percent of the total appropriation for this program in any year.

Planning grants can be made directly to local communities including areawide councils of government, after the Secretary of Agriculture has consulted with the Governor. Such grants should not duplicate or conflict with already existing local, State, Federal, or regional planning efforts being conducted in that area.

Planning grants may be made to the State to update existing plans or to expand existing plans, where such plans are not sufficiently comprehensive.

The purposes of the plan developed pursuant to the grant are to develop a growth management and housing plan for the energy-impacted region. The plan shall identify, among other impacts, the anticipated levels of coal or uranium development within the region; the actual and projected socioeconomic impacts resulting from the energy development; and the sites and resources available within the designated region which can meet actual and projected needs in a timely and orderly fashion. The plan also shall identify the actions and aid required to meet these needs which are unavailable through any other Federal program.

Land acquisition and development grants

If any plan meeting the requirements of this section identifies areas within a designated energy-impacted region where land is needed for public facilities and housing and a State or local community lacks financial resources or legal ability to acquire such land by condemnation, the Secretary of Agriculture, subject to the approval of the Governor, would be authorized to acquire such land pursuant to this section. Such land could be acquired by purchase, lease, donation, or exchange and transferred to the State under such terms and conditions as the Secretary of Agriculture deems appropriate, including provision for reimbursement over a period of time for the fair market value of such land prior to development. Forest Service lands are not eligible for exchange.

The approval of the Governor for the acquisition of such land by the Secretary of Agriculture shall constitute a binding commitment by the State to receive such property and to reimburse the United States for it.

The Secretary may not exercise the Federal powers of condemnation unless he finds that the availability of land in the energy-impacted region is limited, the State lacks condemnation authority in the particular case, the land is not available through negotiation or otherwise, and alternate real property is not available.

In selecting areas, the Secretary of Agriculture shall give priority to acquiring tracts of land which he determines are uninhabited or were previously mined and abandoned. In the latter case, the Secretary of Agriculture must be determine that the previously mined sites are stable and are not likely to be affected by subsidence, mine fires, et cetera. Whereover possible, the Secretary of Agriculture should coordinate the development efforts with the reclamation activities of the Department of Interior's Office of Surface Mining under title IV of the Surface Mining Control Act of 1977.

General requirements regarding assistance

Grants will be authorized to be made directly that the States or local communities to acquire such lands. Grants for site development work may be combined with direct acquisition efforts by the Secretary as well as with grants to the States for acquisition. Site preparation grants may include, but are not limited to, construction of access roads within and leading to the planned housing development, construction of water and sewers within the development and extension of existing water and sewer lines to the new development. No part of the funds may be used to pay the actual construction costs of housing.

Such grants may not exceed 75 percent of the costs. The grant money must supplement, not supplant, State or local funds.

Where adequate Federal funds are available under other programs, they shall be used rather than these grants. Where existing Federal programs are providing funding to communities for site development related purposes, grants under this section should not duplicate or supersede such funding.

The Secretary of Agriculture shall prescribe, by rule, criteria for distribution of the grants. Among other considerations, he shall take into account the magnitude of the employment increase, the financial need of the energy-impacted region, and the ratio of the financial burden on the region to the resources available to such region.

The conferees recognize that these assessments are quite complex. The criteria, as well as the actual assessments, should be developed in close consultation with State and local government officials.

Reports

Any company producing or transporting coal or uranium through the areas shall prepare a report to the Secretary of DOE if the individual company is requested by the Governor. Such report shall include projected annual employment demand over the life of the operations, annual projected influx of employees from outside the area, and the actions such companies plan to take or are taking to provide needed housing and other facilities for their employees directly or by providing funds to the States or local communities for this purpose. Copies of the report shall be provided to the Secretary of Energy and the Secretary shall, subject to the provisions of section 11(d) of ESECA, provide the report to the Governor and the appropriate county or local officials, and make it available for public review. In addition, such reports should be provided to the Secretary of Agriculture.

Administration

The Secretary of Agriculture must administer this program through the Farmers Home Administration and other appropriate agencies of the Department.

Authorization of appropriations

The bill authorizes appropriations to the Secretary of Energy of $60 million for fiscal year 1979 and $120 million for fiscal year 1980 for the administration of the program, including grants and land acquisition.

For the purposes of carrying out this section, the Secretary of Energy shall transfer funds to the Secretary of Agriculture, who shall implement this program through the Farmers Home Administration and related agencies. By agreement between the Secretary of Energy and the Secretary of Agriculture, an appropriate portion of transferred funds shall be available for additional personnel or other costs of administering the program.

Protection from certain hazardous actions

Federal agencies, such as the Labor Department, which regulate the health and safety of persons working in coal, uranium, metal, or nonmetallic mines are directed to interpret and utilize their statutory authorities fully and promptly, including the promulgation of standards and regulations, to protect existing and future public and private housing, real property, persons and public facilities located adjacent to or near the operations from actions occurring at such mines that pose a hazard to such property or persons.

Reorganization

The authority of the Secretary of Agriculture and the authority of the Secretary of Energy under this section may not be transferred to any other Secretary or to any other Federal agency by reorganization plan, or under any other provision of law, other than under specific provisions of a law enacted after the date of the enactment of this Act.

SECTION 602—LOANS TO ASSIST POWERPLANT ACQUISITIONS OF AIR POLLUTION CONTROL EQUIPMENT

The conferees adopted a modified Senate provision authorizing loans for existing powerplants to finance the purchase and installation of certified pollution control devices which the Secretary determines are necessary to burn coal in compliance with any rule or order issued against such powerplant or with any statutory prohibition.

The term "certified pollution control devices" will mean a new identifiable device which is used, in connection with a powerplant, to abate or control atmospheric pollution by removing, altering, disposing, storing, or preventing the emission of pollutants which—

(1) the State certifying authority having air quality jurisdiction over the powerplant has certified to EPA that devices are needed to meet, and are in conformity with, State requirements for abatement or control of atmospheric pollution or contamination; and

(2) the EPA has certified to the FEA as being in furtherance of the requirements and purposes of the Clean Air Act. The devices (not including a building and its structural components, other than a building used exclusively for treatment) must have been constructed after the effective date of the legislation.

Priority is given to existing powerplants subject to prohibitions under this Act or ESECA. But at least 25 percent of the funds appropriated for loans must be allocated for small municipal and rural cooperative electric powerplants which by design are not capable of consuming fuel at a fuel heat input rate of greater than 250 million Btu's per hour. However, there must be a clear showing that no other financing is available and that there is an expectation of repayment.

Loans are for two-thirds of costs and shall be for not more than 10 years. The interest rate will be the Treasury rate plus 1 percent. In addition, there will include a one-time 1 percent fee to cover costs, insurance fees, and other charges.

Authorized appropriations in each of fiscal years 1979 and 1980 are $400 million.

TITLE VII—ADMINISTRATION AND ENFORCEMENT

SUBTITLE A—PROCEDURES

SECTION 701—ADMINISTRATIVE PROCEDURES

General rulemaking

Section 553 of title 5, United States Code, will apply to all rules prescribed under the Act except as otherwise provided in this section and elsewhere in this Act.

Notice of rules and orders imposing prohibitions

The conference agreement requires publication of proposed prohibition rules and orders in the Federal Register. The notice of such proposed rule or order must include explanatory material in sufficient detail to inform those affected and the public of the basis for each rule or order and, in the case of a rule, any special circumstances or characteristics will be set forth in the notice. Copies of each must be sent to those powerplants or MFBI's identified therein.

Petitions for exemptions

The Secretary will promulgate rules within 120 days after enactment of this Act governing the form and content and filing and timing of petitions for permits and exemptions. Notice of such petitions shall be published in the Federal Register, giving a minimum of 45 days opportunity for public written comment on such petitions. The notice will include a summary of the reasons for the petition to the same extent as proposed prohibition rules or orders.

The conference agreement requires that the Secretary also notify State agencies having primary authority to permit or regulate the construction or operation of powerplants or, where appropriate, MFBI's. It also requires that he consult with them on such petitions to the greatest extent practicable, recognizing the time constraints under which he must operate.

The conference agreement requires the Department of Energy to grant or deny such petitions within 6 months after the public comment period, including the public hearings period, is completed. However, the DOE can extend this time period to another date certain upon notice published in the Federal Register which sets forth reasons for the delay.

Public comment on prohibitions and exemptions

An opportunity is provided for any interested person to request and obtain a public hearing on proposed prohibition rules and orders and on petitions subject to the procedures of section 701 (b) to (e). At that hearing, such person must be able to present an oral statement and be given a reasonable opportunity to question other participants, including their experts and consultants as well as the experts of the Government (including Federal employees, officials and consultants) who participated in the development of the proposed rule or order, or in the preparation of any petition. Unlimited and duplicative questioning is not sanctioned. But the conferees intend that the Government and the petitioner and other participants at the hearing shall be subjected to reasonable questioning in order to be insured that the proposed rule or order and the petition are well-founded. It should be clearly noted that this provision is derived from a similar provision applicable to the appliance program. It, however, has been revised so that interpretations applicable to the appliance program are not appropriate here. Our objective in providing an opportunity for such questioning is to insure that all issues are fully and properly developed.

A final rule or order granting or denying an exemption or a permit or issuing a prohibition must be based on consideration of the whole record or parts thereof cited by a party and supported by and in accordance with reliable, probative, and substantial evidence.

The conferees note that the only hearings required are those on proposed prohibition orders and rules and on petitions for exemptions. No hearing is required or expected in the case of the actual order issued by the Secretary granting or denying a petition for the reason that the hearing is provided for on the petition. The adjudication provisions of 5 U.S.C. 554 and 556 do not apply here. Finally, all hearings are to be held by the DOE, not FERC.

Transcript

A transcript of every public hearing shall be kept. It shall be available for public review and for copying. Normal Department of Energy rules for paying the reproduction cost of copying shall apply.

EPA comment

The conference agreement provides for Environmental Protection Agency comment on all petitions and all proposed rules and orders, during the time for public comment, except those issued pursuant to sections 401, 402, and 404 of the Act. The EPA can also participate in public hearings and question witnesses.

FTC comment

The conference agreement provides that the Secretary request the FTC to review any petition and all proposed rules or orders issuing a prohibition or granting an exemption for a new or existing MFBI to evaluate the impact of the proposed order or rule on competition. The FTC must comment within the period provided for public comment. The FTC can also participate in the public hearings and question the participants.

Coordination with other provisions of law

The provisions of title V of the Department of Energy Act do not apply except as specifically provided.

SECTION 702—JUDICIAL REVIEW

The conference agreement provides that any rule or order prescribed by the Secretary imposing a prohibition or granting an exemption (or permit) shall not take effect earlier than 60 days after final publication. Denials of petitions for exemptions or permits shall be promptly published in the Federal Register, together with the reasons for the denial.

The conference agreement provides for judicial review in the U.S. Court of Appeals within the 60-day period by any person who is aggrieved by a rule, order, or denial.

Participation in the administrative proceeding is not required.

Department attorneys may represent the Secretary in any proceeding under this section, subject to the direction and control of the Justice Department as provided in section 502(c) of the Department of Energy Act.

SUBTITLE B—INFORMATION AND REPORTING

SECTION 711—INFORMATION

The conference agreement combines the Senate and House provisions directing that any energy information and data acquired, collected, or held by the Department of Energy pursuant to this Act shall be subject to section 11(d) of ESECA.

The Senate bill included a provision making section 11(d) of ESECA apply to all information held or collected by the DOE, including the Energy Information Administration established by the DOE Organization Act. The Secretary, FERC, and the President are given broad authority to obtain needed

data, using section 11 of ESECA, and other authorities from persons subject to the Act. The conferees did not adopt this provision, but recommended that the Congress consider it in connection with the annual Department of Energy authorization Act for fiscal year 1979. The conferees note that section 11 of ESECA is available to the EIA and that the EIA has authority to utilize it fully, as do other DOE agencies, including those administering this Act.

SECTION 712—COMPLIANCE REPORT

The conference agreement adopts the Senate requiring that any existing facility subject to the prohibitions of the Act shall on or before January 1, 1980, and annually thereafter, submit a report to the Secretary. Such report shall (a) set forth an anticipated compliance schedule for each existing powerplant; (b) indicate proposed or existing contracts or other commitments or good faith negotiations to enable compliance with such prohibitions; and (c) identify those existing powerplants for which temporary or permanent exemptions may be sought.

SUBTITLE C—ENFORCEMENT

SECTION 721—NOTICE OF VIOLATIONS: OTHER GENERAL PROVISIONS

The conference agreement provides that the Secretary must issue written notices of violation.

The conference agreement combines the House and Senate provisions so that a corporate officer would not be subject to imprisonment unless he knew of noncompliance by the corporation or had received from the Department of Energy notice of noncompliance.

The conference agreement combines the Senate and House provision regarding liability for certain peak load operations.

SECTION 722—CRIMINAL PENALTIES

The conference agreement provides that any person who willfully violates any provision of this Act (other than section 402) or any rule or order issued pursuant to this Act is subject to a fine of not more than $50,000 or imprisonment for up to 1 year, or both, for each violation.

SECTION 723—CIVIL PENALTIES

Any person who violates any provision of this Act (other than outdoor decorative lighting) or rule or order shall be subject to a civil penalty of not more than $25,000 for each violation. A separate civil penalty is provided for violations of section 402 by certain persons. In addition, the use of natural gas or petroleum in amounts in excess of those authorized in an exemption shall be subject to a civil penalty up to $10 per barrel of petroleum or $3 per Mcf of natural gas.

The Secretary shall issue notices of proposed assessments of civil penalties. The notice will inform the alleged violator that he can elect to have the assessment made after an administrative proceeding and judicial review thereof or after a *de novo* proceeding in a district court. The election may not be revoked. Lawyers for the DOE shall conduct the *de novo* proceedings.

SECTION 724—INJUNCTION AND OTHER EQUITABLE RELIEF

The conference agreement authorizes injunctive relief, including interim equitable relief in accordance with section 502(c) of the Department of Energy Organization Act.)

SECTION 725—CITIZEN SUITS

The conference agreement adopts the House provision as modified to authorize any aggrieved person to commence a civil action for mandatory or injunctive relief against any Federal agency which has responsibility under this legislation if there is an alleged failure of such agency to perform any nondiscretionary act or duty.

The civil suit must be brought in the United States district court. Notice must be provided at least 60 days prior to the filing of the suit. If the Secretary begins and diligently prosecutes the civil action to provide for compliance, the citizen suit may not begin but the person may intervene as a matter of right in the Secretary's action. Provision is made for awarding costs of litigation to any party whenever the court determines the award is appropriate. The Secretary may intervene as a matter of right.

SUBTITLE D—PRESERVATION OF CONTRACTUAL RIGHTS

SECTION 731—PRESERVATION OF CONTRACTUAL RIGHTS

Both the House and Senate passed bills contained provisions which would have allowed any person receiving natural gas pursuant to a contract and who is later prohibited from burning natural gas by the provisions of this Act, to transfer his remaining interests under such contract and receive in consideration therefor just compensation. The conferees agreed that they would generally follow the House provisions, although concepts contained in the Senate bill are also included in the agreement.

Under the conference agreement, if any person receives natural gas pursuant to a contract in effect on April 20, 1977, and such gas use is prohibited pursuant to the provisions or title II or title III, or any rule or order thereunder, that person may transfer all or any part of his interests under the contract and receive consideration from the person to whom his contractual interests are transferred. In addition, any person who would have transported or distributed natural gas with respect to which contractual interests are transferred would be entitled to receive just compensation, as determined by the Commission. In establishing just compensation for persons who would have transported or distributed natural gas that has been transferred pursuant in this section, the conferees intend that such persons be compensated for all expenditures incurred by reason of such transfer.

The agreement attempts to provide a reasonable and workable framework within which the parties to a transfer of contractual interests under this section can come to agreement regarding the consideration to be paid. Under the agreement, the Federal Energy Regulatory Commission is required to institute a rulemaking proceeding to establish guidelines, on a regional or national basis, to determine maximum consideration permitted as just compensation. In establishing these guidelines, the conferees intend that the Secretary take into consideration those factors and criteria which may be unique to a particular area or region and that he establish regional guidelines where significant differences occur.

If the parties to the transfer of contractual interests pursuant to this section agree on the amount of consideration to be paid, and this amount does not exceed the guidelines established by the Commission, this consideration shall not be subject to Commission review or modification. On the other hand, if the consideration agreed upon by the parties exceeds the Commission guidelines, the Commission may nonetheless approve such agreed-upon consideration if it determines that the consideration does not exceed the maximum consideration permitted as just compensation. In addition, the conference agreement provides that if the agreed-upon consideration exceeds the applicable guidelines but does not exceed just compensation, the Commission may not require a refund with respect to prior deliveries unless the Commission proves that there was fraud or a willful delay in the filing of a request for approval of the consideration.

If the agreed-upon consideration is paid by an interstate pipeline, the conferees agreed that the consideration paid shall be deemed just and reasonable for the purposes of sections 4, 5, and 7 of the Natural Gas Act. In addition, the conferees intend that the Commission be prohibited from denying a passthrough of any consideration paid so long as such consideration falls within the maximum amount permitted as just compensation under this section.

The conferees agreed that no exemption would be provided to any person from the obligation to obtain a certificate of public convenience and necessity for the transportation by an interstate pipeline of natural gas authorized to be transported by these provisions. However, the conferees do intend to eliminate any Commission authority to deny a certificate of public convenience and necessity for the transportation of natural gas because of the amount of consideration paid by any person pursuant to this provision In addition, the conferees agreed that no person shall be subject to the jurisdiction of the Commission under the Natural Gas Act or to regulation as a common carrier by reason of the transfer of contractual interests authorized under this section.

In the event that parties to a transfer of contractual interests pursuant to this provision fail to agree on the amount of, or method of determining, consideration, the Commission may, at the request of both parties, prescribe the amount of, or method of determining, such consideration. The conferees intend that this determination be made by order. If either party to a transfer so requests, the Commission is required to make a determination as to the amount of, or method of determining, consideration, on the record after an opportunity for hearing. In the event a party so requests such a hearing, and a determination is made on the record after an opportunity for hearing, the Commission determination shall be binding upon the party so requesting the hearing. The party not asking for the hearing will not be bound by the Commission determination.

In authorizing the transfer of contractual interests under this section, the conferees do not intend to relieve any party transferring such interests from performing any obligation under the contract. In addition, the conferees intend that the person acquiring contractual interests pursuant to this section shall assume all terms, conditions, and obligations existing under the contract. For example, contract provisions governing the place of delivery will remain in force and effect unless the parties agree otherwise.

SUBTITLE E—STUDIES

The conference agreement adopts the Senate provision requiring an 18-month national coal policy study, with an authorization of $18 million and an interagency coal industry performance and competition study, with an authorization of $18 million. Both studies require public review of the proposed reports, before they are finalized.

The conference agreement adopts the House provision requiring the Secretary to conduct on a continuing basis evaluations of potential losses of employment which may result from the application of this Act. This provision is not to be construed to require or authorize the Secretary to modify or withdraw any rule or order under this title. The Secretary of Labor shall participate in each investigation.

The conference agreement adopts the Senate provision directing the Secretary to conduct a 2-year study of the compliance problems with this title of small electric utility systems having a total generating capacity of 2,000 megawatts or less.

The conference agreement adopts the House provision requiring the Environmental Protection Agency to conduct a continuing study, with an annual report to the Con-

gress, on air pollution emissions from new and existing powerplants and major fuel-burning installations subject to this title. An authorization of $2 million for fiscal year 1979 is provided initially. The conferees consider this to be a very important function relative to the so-called acid-rain problem associated with the use of coal.

The conference agreement combines the Senate and House provisions requiring an interagency committee to study the socio-economic impacts of expanded coal production on States, local communities and the public. The study is to be completed within 1 year.

The conference provision combines the Senate and House provisions requiring a 1-year study by the Secretary of major fuel-burning installations and combustors not subject to this act.

SUBTITLE F—AUTHORIZATION OF APPROPRIATIONS

Authorization of appropriation

The conference agreement adopts the House provision authorizing $11.9 million for this program in fiscal year 1978, plus other funds authorized for the Department of Energy under the annual authorization process.

SUBTITLE G—COORDINATION WITH OTHER PROVISIONS OF LAW

SECTION 761—EFFECT ON ENVIRONMENTAL REQUIREMENTS

The conference agreement provides that the Act shall not be construed as permitting any powerplant or MFBI to delay or avoid compliance with applicable environmental requirements as a result of this Act, except where provided for in section 404 of this Act.

SECTION 762—EFFECT OF ORDERS UNDER SECTION 2 OF ESECA; AMENDMENTS TO ESECA

Effect of construction orders

The conference agreement provides that any powerplant or major fuel-burning installation which received a construction order issued under ESECA which is not finalized shall be subject to this Act as a new facility. Where such orders are finalized before the effective date they shall not be subject to this Act.

Effect of prohibition orders

The conference agreement excludes from this Act any powerplant or major fuel-burning installation to which a prohibition order was issued under ESECA prior to the effective date which is pending or final or which, on review, was held unlawful or set aside on the merits. However, an existing major fuel-burning installation subject to a prohibition order will have an opportunity to elect whether to be subject to this Act or ESECA.

SECTION 763—ENVIRONMENTAL IMPACT STATEMENTS UNDER NEPA

The conference agreement adopts the Senate provision as modified declaring that certain actions under this Act are not deemed to be major Federal actions for the purposes of section 102(2)(c) of the National Environmental Policy Act. The actions excluded would be (a) the granting or denying of any temporary exemption; and (b) in the case of existing powerplants or major fuel-burning installations, the granting or denying of permanent exemptions except in the case of permanent exemptions for cogeneration, scheduled equipment outages, State and local requirements, and intermediate load powerplants.

Consistent with the "lead agency" concept, where an EIS is required, not by reason of the coal conversion program, but because another Federal agency which also has jurisdiction over the new powerplant or MFBI determines that the proposed construction is a "major Federal action", that EIS would be deemed sufficient for the purposes of this legislation so long as it adequately considers the fuel uses that would be required.

TITLE VIII. MISCELLANEOUS PROVISIONS

SECTION 801—COAL RESERVES DISCLOSURE

The conference agreement adopts the Senate provision directing the Secretary to require disclosure of all coal reserves except small reserves.

SECTION 802—COAL PREPARATION FACILITIES

The conference agreement adopts the Senate provision adding a new definition to section 102 of the Energy Policy and Conservation Act extending the loan guarantees to coal preparation facilities associated with new underground coal production.

SECTION 803—RAILROAD REHABILITATION

The conference agreement adopts the Senate provision authorizing $100 million for rehabilitation of branch railroad lines to transport coal and coal products. Appropriations are to be deposited in the Railroad Rehabilitation and Improvement Fund (45 U.S.C. 882).

This would authorize the addition of $100 million to the Railroad Rehabilitation and Improvement Fund created by section 502 of the 1976 Railroad Revitalization and Regulatory Reform Act. Title V of that Act generally provides for improvement and rehabilitation of deteriorated, privately owned (not Government owned) rail lines which apply for funds by affording Federal low-interest loans (the "redeemable preference share" program) or Government guarantees of loans.

This provision will expand the fund and specifically earmarks loan money to upgrade marginal and branch line physical plant and equipment to carry coal or coal products to regions or States which can use these resources in greater quantities as a substitute for imported petroleum. Presently, the title V program, as administered by the Federal Railroad Administration, awards loan funds among competing applications based primarily upon the quantity of freight carried on the relevant lines for which improvement is sought. This provision defines coal carriage as an equally "essential freight service", thus giving applications for the new purpose an equally high priority for authorized funds.

SECTION 804—OFFICE OF RAIL PUBLIC COUNSEL

The conference agreement adopts the Senate provision for revisions in existing authority to provide that the existing Office of Rail Public Counsel present the views of communities and users of rail service, the general public, and, where appropriate, the railroads, before Federal agency proceedings affecting railroads concerning the impact of energy proposals and actions on rail transportation. The conferees also intend that national transportation policies be implemented in a manner consistent with the needs of national energy policy.

SECTION 805—RETROACTIVE APPLICATION OF CERTAIN REMEDIAL ORDERS

The conference agreement adopts the Senate provision.

SECTION 806—ANNUAL REPORT

The conference agreement combines the Senate and House provisions requiring an annual report by the Secretary to the Congress on March 1 of each year.

TITLE IX. EFFECTIVE DATES

SECTION 901—EFFECTIVE DATE

The provisions of this Act take effect 180 days after the date of enactment. Prior to that time, the Department of Energy is empowered to promulgate the regulations and take other actions as provided in this Act.

In a number of provisions, the conference agreement requires that the Department of Energy propose and finally promulgate regulations or rules before the effective date of the agreement. In others provision is made for issuance of rules, but no time limit is prescribed. The conferees expect the Department of Energy to move expeditiously to publish and promulgate all such rules. At the same time, the conferees also expect that the Department of Energy will provide an ample opportunity for public input and comment on all such rules.

SECTION 902—INTERIM PETITION AND CONSIDERATION OF CERTAIN EXEMPTIONS

Exemptions in the case of certain powerplants

The conference agreement adopts the Senate provision as modified to authorize the Secretary to grant exemptions, prior to the effective date, for new electric powerplants where (a) as of April 20, 1977, an appropriate State energy agency had authorized construction of such powerplant; or (b) in the case of combined-cycle units in an electric utility system serving at least 2 million customers, at least 1 year prior to enactment an application was filed with the appropriate State energy agency requesting authority to construct such powerplant.

HENRY M. JACKSON,
FLOYD K. HASKELL,
WENDELL H. FORD,
J. BENNETT JOHNSTON,
JAMES ABOUREZK,
JOHN A. DURKIN,
HOWARD M. METZENBAUM,
CLIFFORD P. HANSEN,
MARK O. HATFIELD,
Managers on the Part of the Senate.

HARLEY O. STAGGERS,
THOMAS L. ASHLEY,
AL ULLMAN,
RICHARD BOLLING,
THOMAS S. FOLEY,
JOHN D. DINGELL,
PAUL G. ROGERS,
BOB ECKHARDT,
PHILIP R. SHARP,
ANTHONY TOBY MOFFETT,
CHARLES WILSON,
HENRY S. REUSS,
DAN ROSTENKOWSKI,
CHARLES A. VANIK,
JAMES C. CORMAN,
JOSEPH D. WAGGONNER, Jr.,
CHARLES B. RANGEL,
Managers on the Part of the House.

Mr. HASKELL. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENDANGERED SPECIES ACT AMENDMENTS OF 1978

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2899. The pending business is the amendment of the Senator from Mississippi.

The Senate continued with consideration of the bill.

Mr. CULVER. Mr. President, may we have order in the Senate? But not on my time—the time to be equally divided.

The PRESIDING OFFICER. The call for order will come on the Senate's time. Neither side should be charged for that.

The Senate will be in order.

Mr. CULVER. Mr. President, I ask unanimous consent that Stewart Brahs of Senator RIBICOFF's staff be granted the privilege of the floor during debate on the Endangered Species Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. CULVER. I am glad to yield to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that John McElroy of my staff be granted the privilege of the floor during consideration of this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I ask unanimous consent that Mr. Frank Cushing of my staff be granted the privilege of the floor at all stages of proceedings on this bill

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, under the previous order, during discussion of this bill, we took out time for consideration of the coal conversion conference report. I was speaking in opposition to the Stennis amendment. I shall reserve our remaining time and ask unanimous consent that I be able to revise and extend my remarks, with some specific objections to that amendment at this place, to follow the remarks that I gave.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I shall be calling upon Senator WALLOP and Senator CHAFEE, both members of the committee, who will speak specifically to the particular concerns we have with the Stennis amendment and why we prefer the committee bill.

I reserve the remainder of my time at this time. I understand that Senator GARN wishes to speak in support of the Stennis amendment.

Mr. BELLMON. Will the Senator yield for a unanimous-consent request?

Mr. CULVER. I do not have the time.

Mr. GARN. I am happy to yield.

The PRESIDING OFFICER. Who yields time?

Mr. STENNIS. I yield time to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I ask unanimous consent that Ed King, of Senator BARTLETT's staff, may have the privilege of the floor.

Mr. GARN. I ask unanimous consent that Mr. Charles Wood, of Senator DANFORTH's staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STENNIS. Mr. President, may we have quiet? It is unseemly to yield a man time and not have the conditions for hearing him.

The time is already 5 minutes gone and we are limited.

The PRESIDING OFFICER. The Senator is correct——

Mr. STENNIS. May I have the Chair's attention?

The PRESIDING OFFICER. The Senator has the Chair's attention. The Chair is trying to get order.

Mr. STENNIS. I thank the Chair for his attention and I thank him for trying to get order.

Mr. GARN. Mr. President, just before turning to consideration of the Coal Conversion Act, I listened with great interest to my distinguished colleague from Iowa (Mr. CULVER). In his usual eloquent, articulate manner and with great moral fervor, he interjected such morality into this debate that I feel almost ashamed to rise and offer any changes whatsoever to this great act. Nevertheless, I have overcome that and decided to stand up, in any event, despite the fact that I feel somewhat chagrined that I might trample on some rare weed that may not survive because of the horrible actions of Senator STENNIS and me.

I do think that it is necessary that we have concern for endangered species—and I do. I have no idea, no reason to want to gut the act or to see it not extended. I think it was very important that the Endangered Species Act was passed in 1973, but I think what we have seen happen is what often happens in Congress. There obviously was a problem. We were building without regard to various species. We were not as concerned about the environment as we should have been. But then we passed an act that goes to the other extreme. It goes too far, and beyond correcting a problem that needed to be corrected, we create side effects that were not foreseen at the time.

Certainly, in 1973, there was a great environmental push. The Endangered Species Act passed the Senate extremely easily, with no dissenting votes. But, talking to many of my colleagues, I learn that they certainly would not have voted for it if they had known the implications and the extremes to which the act would be carried.

I think we need to face the fact that, in 1973, Congress did not say that endangered species were to be protected at any cost. If Congress had said that, it is inconceivable to me that there would not have been more mention of it on the floor or in the committee reports. What little evidence we do have, in the form of a floor colloquy by Senator TUNNEY, clearly indicates that that was not the intention of the Senate when it acted on the legislation.

There is other evidence: after the bill was passed, the Department of Interior issued regulations implementing the bill. Let me quote a little bit of the regulation (42 FR 4868–9). The regulation makes plain that neither the Interior nor Commerce Department

> intends that section 7 bring about the waste that can occur if an advanced project is halted. . . . The affected agency must decide whether the degree of completion and extent of public funding of particular projects justify an action that may be otherwise inconsistent with Section 7.

It is plain to me that this language reflects the same understanding of the 1973 act that I have. That is that a permitting agency is required to consult with the Fish and Wildlife Service over possible endangered species, but that the final decision remains with the permitting agency. It is in that direction that the Stennis-Garn amendment attempts to go.

I see no reason why we should slavishly accept the Supreme Court's interpretation of what we did, and ratify it, as we have previously done with the Clean Air Act and the Clean Water Act.

We did not intend the extreme result, as I say. I think the Supreme Court, however, was justified in its interpretation. The 1973 Congress did not realize the strictness with which they were putting provisions into this act.

We are certainly not trying to gut the act. I am getting a little bit tired of those who favor the status quo criticizing those of us who want to put some balance, commensense and reason into the act, so that we do not go back to what existed before 1973. That is all we are trying to do.

I repeat, we are not trying to gut the act. I do not recall anyone who wants to.

We are simply trying to take into account the real world. Man is, after all, part of nature. There is no justification for calling his actions unnatural, whether those actions involve building a dam or a birdhouse.

Beavers happen to build dams, too. I do not know what is any more natural about a beaver building a dam than a man building a dam. Some of the beaver dams I have seen are rather destructive. They are not very environmentally sound. Beavers cut down a lot of trees rather indiscriminately and cause flooding. In some cases, it might be very damaging.

But somehow, things that man does are not natural.

I happen to think that is a little bit of a ridiculous position.

As it happens, man is the only animal endowed by his Creator with rationality, and the ability to foresee the results of his actions, and the ability to learn from them. With that ability comes a responsibility to act in the least destructive manner possible, and to minimize the long-range consequences of his actions.

But I do not see that our ability to see into the future requires us to cease acting entirely. The present Secretary of Interior is named Cecil Andrus. Out in my part of the country, they think he got his name because he is always saying "cease drilling, cease mining, cease grazing, cease building." I do not see that we really need to stop everything. We do need to take as much care as is possible to evaluate, to consult, to consider, to weigh and balance. More than that we cannot ask, in my opinion, and I think the vast majority of people of this country agree with me.

It is commonsense and balance in considering these things, not hard, fast, inflexible rules that will take into consideration the rights of a furbish lousewart over the rights of man.

All we are trying to do with these amendments is to put a little balance back into the equation.

Some mechanism needs to be found to keep special interest groups from using the Endangered Species Act cynically, for their own purposes. I have talked to a number of "environmentalists" who do not care about some of these endangered species at all. They are using the act as a way to attack the construction of dams, grazing, drilling, mining, and any other activity they think is undesirable.

That is, in my view, an unacceptable use of the act, and certainly not intended by Congress, and one that we, as responsible legislators, ought to be concerned about. Environmentalists are just as much a special interest group as road builders, and they are entitled to no more deference. Just because they use the rhetoric of "the public interest" and claim to speak for the public is no indication that they actually do. Ralph Nader has never been elected. So how is he different from Henry Ford? Both represent special interest groups.

We ought to look at these measures on the basis of commonsense and logic and on the merits and not who is pushing them.

There is no doubt in my mind there are many who will vote against any changes in this act, not because they think the changes are unreasonable, not because they think they are not fair, but simply because they do not want to get on some environmentalist's dirty dozen list, because the environmentalists decide this act is untouchable.

I suggest we consider this on its merits, not on the interests of the roadbuilders, dam builders, or the environmentalists, and use our own commonsense in trying to arrive at some rational decisions.

One of the things we are trying to accomplish here today is to make certain that species are being protected because there is genuine interest in them as species, and not just because protecting them happens to prevent the construction of a dam that a few, unrepresentative environmentalists have decided should not be built.

Not all species are of equal value and importance. The easiest way to make that point is to ask ourselves what we do when the preservation of one species implies the extinction of another. The snail darter, for example, is said tc feed on snails, some of which are themselves endangered. I do not know that that is in fact the case, but it is certainly conceivable. If it has not happened yet, it certainly will. What do we do in that case? Probably we will opt for the darter, as a "higher" form of life.

The examples will multiply up and down the phylogenetic chain.

Nature, in her wisdom, or God in His, if you prefer, endowed this creation with considerable redundancy at the lower levels of life. There may be as many as 10 million distinct species in the world. All but a few of these are insects and plants. Interspecific differences are so minute that a lifetime of study is required to be able to tell them apart.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GARN. I ask for 2 more minutes.

Mr. STENNIS. I yield 2 additional minutes to the Senator.

Mr. GARN. Mr. President, this kind of redundancy is there for a purpose: So that the loss of an individual species will not be the catastrophe it would be if the species were the only one of its kind. There may be hundreds of species of darters, for instance.

I would be in favor of undertaking tremendous costs to preserve the bald eagle, and other major species, but that kind of effort is out of proportion to the value of the woundfin minnow, or the snail darter, or the lousewort, or the waterbug, or many others that we are attempting to protect.

We should also face the fact that Congress requires certain actions of Federal agencies which may put Federal personnel in violation of the Endangered Species Act.

For instance, under mandate by the Congress, the Fish and Wildlife Service carries out fish planting activities all across the country. Among other places, fish are planted in the Colorado River and its tributaries. There is some evidence that it is this fish planting activity, and not water diversions and withdrawals, that have brought about the endangered condition of the Colorado River squawfish.

In fact, a group of citizens are right now preparing a lawsuit which would require the resolution of this difficulty.

The congressional appropriations in support of the Tellico Dam provide another instance of conflict between the Endangered Species Act and other congressional mandates. We can expect these conflicts to grow in number if the present rigid interpretation of the act is continued.

It will not do to ignore these conflicts. We simply do not have that option. Even if we did, the conflict occurs because man has competing interests, and those interests have to be mediated. The Stennis-Garn amendment attempts to provide a mediating structure that is workable. I do not believe that this Cabinet-level committee created by the committee bill is workable.

That is really all the Stennis amendment is about, to attempt to set up a mechanism that when disputes of this kind come up, they can be mediated and a balance struck, a reasonable, workable position, rather than the hard confrontation we have now between the strict interpretation of the act and the needs of man to be able to make some of the decisions.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Will the Senator yield?

Mr. CULVER. Yes.

Mr. BUMPERS. Mr. President, I ask unanimous consent that Gary Faulkner of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I yield such time as he may desire to the Senator from Wyoming.

Mr. WALLOP. I need 10 minutes. I may take some off my time on the bill.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, I rise in reluctant opposition to my good friend's amendment. I do so knowing and sharing full well his frustration over many of the difficulties that have come up with the implementation of this law since 1973.

When the Senator said that he was determined, when the first opportunity presented, to do something about it that was practicial and effective, I say that he has done something about it that is effective in terms of the bill—but perhaps less practical.

I say to the Senator from Utah that perhaps the 1973 Congress—and the record will reveal that—did not realize the full intent of the strictness they had achieved in the drafting of the law. There are many assurances and statements in that record to the contrary, which time and the administration have shown to be misjudgments. As is frequently the case on the part of Congress, they misjudged how the bureaucracy would implement this.

When the Senator from Utah indicates that man is the only animal endowed with the ability to make rational judgments, I agree; but he has neglected to say that man is the only animal endowed with the ability to rationalize.

Mr. CULVER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. WALLOP. When man begins to rationalize contemporary needs or perceived needs, man sometimes gets needs confused with desires.

What I think the committee tried very hard to do and, in my judgment, successfully achieved, was to provide a mechanism whereby man—or in this case, the Government of the United States—would be triggered into a responsible judgment that if we were, in fact, going to condemn a species to extinction or to further endangerment, we would do it consciously, not by accident, not by rationalization, and not by default. I suppose that is where one has to take a look at the amendment of the Senator from Mississippi and come down in opposition.

First of all, it establishes two grandfather clauses, one of which is for all projects under contract or otherwise underway in 1973. I think that is an extremely vague legal definition. I seems to me that we would have to take into consideration whether or not a particular project was underway, if it had applied for various Federal permits.

Mr. McCLURE. Mr. President, will the Senator yield on that point?

Mr. WALLOP. I am happy to yield.

Mr. McCLURE. Is the Senator speaking of the original Senate amendment or the amendment as modified?

Mr. WALLOP. I am speaking of the amendment as modified.

Mr. McCLURE. Does the Senator from Mississippi agree that there is an ambiguity in what is underway, under the modified amendment? I think that may help us make a resolution of this issue.

Mr. STENNIS. Mr. President, if I may respond——

Mr. WALLOP. On the Senator's time.

Mr. STENNIS. One minute of my time.

I think the matter is cleared up. I point out the language we rely on to show that that matter is cleared up. I refer to this language:

> The provisions of the Endangered Species Act of 1973 shall not be applicable to any project under contract or for which construction funds have been appropriated as of the date of the enactment of such act.

I think that is clear.

Mr. WALLOP. The problem is this: Is the entire project under contract, or is it a contract for land acquisition only? The funds appropriated in many instances would not be Federal funds.

Mr. STENNIS. This says "any project under contract or for which construction funds have been appropriated" as of that date. If it is under contract, I think it would apply either way.

Mr. WALLOP. Would it apply to any contracts or the total contract project? There is a considerable difference. As the Senator knows, many of these things go in sequential contracts that are not done entirely at one time; nor are their construction funds entirely appropriated in any given year.

Mr. STENNIS. Is the Senator talking about a power project, for example?

Mr. WALLOP. Yes—or a highway project. Not all of those are appropriated in any given year.

Mr. STENNIS. Of course, this relates to the construction, the invasion of a habitat, and related matters. If the contract is for General Electric motors, that is a remote matter. Anything that is a project that has to do with the species for the location involved. That is what is covered here.

Mr. McCLURE. Mr. President, will the Senator yield? I apologize to the Senator for taking this time. However, in reading the first draft of the Senate's amendment, I had many of the misgivings that the Senator from Wyoming has. I think that even the modified Stennis amendment may have some ambiguity, and we should narrow that down as much as we can.

I understand the Senator from Mississippi to intend by his amendment, from the statement just made, that the contract would be a construction contract and not the preliminary engineering or any of the other contracts that might precede the construction phase; similarly, that the appropriation language to which he refers would be the appropriation of moneys for construction—a conscious congressional decision to go ahead with the construction phase of the project.

Mr. STENNIS. The Senator is correct. If the contract has been made or the money has been appropriated.

Mr. WALLOP. In any case, it is tighter than the original language, and I grant the Senator that. It caused me concern. It seems to be one more area in which litigation can take place. We do not need to give another living to a lawyer out of this outfit, because we have more than we possibly could do for the next two generations of lawyers.

To resume: The process of consultation has resolved many conflicts in cases which would be exempted by both of the grandfather clauses, and there is no reason to presume that any project cannot be modified to protect a species. The result of this amendment is a presumption that there is no modification possible to achieve protection both of the species and completion of the project.

The existing requirements for assuring against actions which might jeopardize the survival of an endangered species or its critical habitat will be greatly weakened by letting each agency have the sole judgment of the fate of a given species.

On page 2 of the modified Stennis amendment there is a very long and complicated sentence, some 20 inches long. If you take the operating language out of it, you come to a problem. It says in any case involving a determination by an agency head as to what extent such actions should be modified in order to assure that such actions do not jeopardize the continued existence of such endangered or threatened species or modification of such critical habitat of the species, and then it goes on. To qualify that, it will have to balance it against the social, cultural, economic, and other benefits, which is part of the Culver-Baker amendment. But it puts that into a conscious balancing factor, and it fails to do one thing that the Culver-Baker amendment does. That is that the Culver-Baker amendment, as modified by the committee, takes into account the benefits that might be achieved by alternative courses of action.

The PRESIDING OFFICER. The Senator's 10 minutes have expired.

Mr. WALLOP. The Senator yields himself 5 minutes from my time remaining on general debate.

Mr. STONE. Mr. President, will the Senator yield?

Mr. WALLOP. I yield.

Mr. STONE. Mr. President, I ask unanimous consent that Bruce Rowan, of my staff, have the privilege of the floor during votes on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that Mr. Ron Smith, of Senator TOWER's staff, be accorded the privilege of the floor throughout debate and votes on this endangered species bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, the Culver-Baker amendment, as modified by the committee, takes into account all those things and puts us into a conscious decisionmaking judgment, something which I think by admission of the committee has been lacking in the existing law the way it was drafted and certainly the way it has been implemented.

So what we have done is go one step further and provide a thoughtful, purposeful, conscious process by which these decisions can be made.

The ultimate effect, Mr. President, of the Stennis amendment would be to badly eviscerate the Endangered Species Act. I know it is an unkind word; I do not mean it is intentional. But the effect of it, not the intent, but the effect is basically to do just that. And it would reaffirm now, I trust, that we have lost our concern for the tragic losses which have occurred as the result of thoughtless and careless actions on the part of man.

What we are trying to do with the amendments that have been drafted to this bill is to put us into a conscious, careful, step-by-step process where we can balance needs of man, needs of progress, needs of economics, and with the rather awesome power that we have in our hands, the needs of survival of a variety of species.

To go on, on page 2 of the Stennis amendment, it states:

. . . in no event shall such agency be precluded by reason of this act, or any other law from carrying out any such actions involving the construction . . . without regard to whether or not such action jeopardizes the continued existence of endangered or threatened species . . . if such project . . . is at least 50 percent completed.

Again, I point out that there are a number of areas which have gone through the consultation process, with as much as 95 percent in their construction process completed, and have been resolved, the process has been completed, the projects have been saved and the endangered species have been saved. That is what I think the committee has tried to do in the Culver-Baker amendment, and what sadly I think the Stennis amendment fails to do.

Again, I say that I share the Senator's frustrations. But I again say his amendment goes too far, that it does not allow us even to go through the consultation process. It does not allow us even to make conscious judgments, and puts that into the hands of a committee head or an agency head whose basic problem in life is not endangered species but the efficient carrying out of whatever that agency is designed to do.

Mr. President, I yield back the remainder of the time I yielded to myself off the bill with regard to the 5 minutes that I requested that I yield to myself.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER. Mr. President, I yield at this point 6 minutes on the amendment and 4 minutes from my time on general debate, for a total of 10 minutes to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I address myself particularly to the grandfather provisions of the Stennis amendment, and I might say that this amendment really is a blockbuster.

If I might just read the language pertaining to the grandfather section:

. . . in no event shall such agency—

Let us just say it is the Department of the Interior, the Corps of Engineers, or whatever it might be.

. . . in no event shall such agency be precluded by reason of this act or any other law from carrying out any such actions involving the construction or other establishment of any project or part thereof, without regard to whether or not such action jeopardizes the continued existence of endangered or threatened species or would result in the destruction or modification of critical habitat . . .

You can do all of those things, get rid of species if such project or a part—now here it gets difficult—"if such project or a part"—I suppose that means any facet of the project—". . . is at least 50 per centum completed based upon the amount expended."

Mr. President, let us take the case of

the Tellico Dam. That is what brought this issue here, I believe. In the Tellico Dam the greatest part of those expenditures were for the acquisition of the land. Let us assume they were for the acquisition of the land for this discussion. So, under Senator STENNIS' amendment in a case where you bought a considerable amount of land and the land amounted to 50 percent of the total cost of the project, if no concrete has been poured, nothing irretrievable done, nonetheless, the project could still go ahead full blast. Again we are not talking about different kinds of species. We are talking about any endangered species. So it could be the bald eagle or it could be the grizzly bear or it could be any one of these marvelous mammals that we recognize and applaud, and I think everyone would agree should be there.

But, if 50 percent of the money is spent just for land, nothing done, no bulldozers coming in yet, on they can go regardless of what the damage might be.

And that in my opinion, Mr. President, just does not make sense, to leave that up to the head of the agency.

The second part of the grandfather clause, Mr. President, says, and I shall read it:

> The provisions of the Endangered Species Act of 1973 shall not be applicable to any project under contract or for which construction funds had been appropriated as of the date of such act.

Again, we have a situation where we could well have had the funds appropriated before the passage of this act and then all kinds of endangered species could show up.

But the Endangered Species Act would have no effect whatsoever under the language of this amendment's second grandfather clause.

I just do not think that we want to go that far in giving the liberty, the power, to an agency or to the Federal Government, that great big monster called the Federal Government, to plow ahead just because some funds had been appropriated or the project was under contract. Apparently the people of the Nation through their elected representatives want this act on the books in order to protect endangered species.

Certainly I feel that following that grandfather provision of the Stennis amendment would be extremely dangerous.

I particularly call attention to the fact that nowhere in these grandfather provisions do we deal with the nature or the value of the project. It might be a little project that is not really of extreme significance. Even as to the Tellico Dam, which brings us here today, there is considerable question as to whether it is all that valuable. But let us not get into a debate on the Tellico Dam. All we know is that under these grandfather provisions in no manner whatsoever do we consider the nature or the value of the project. We do not consider how far along the construction is, as far as concrete goes, or anything irretrievable done. Half the money could have been spent for the land alone. And we give no consideration to the species involved. There have been a lot of jokes in the Chamber here about the snail darter and how we should pay no attention to it, how it is of no consequence.

I do not agree with that. But let us assume that some people think the snail darter is of little consequence. Certainly some of the major species that could be affected by an action at least should be taken into consideration. But under this Stennis amendment, the grandfather clause, they are not taken into consideration whatsoever.

So, Mr. President, based on those two provisions alone, I strongly recommend that the amendment be rejected.

I yield back to the Senators who control the time.

Mr. STENNIS. Mr. President, I yield 5 minutes to the Senator from Idaho.

Mr. McCLURE. I thank the Senator for yielding time.

Mr. President, I shall comment a few moments, if I may, in a rather general sense on what we are trying to get accomplished here today, as I see it.

I was one of those who supported the Endangered Species Act and continue to support it, and anything that I say today must be against the background that I still believe that the thrust of the act is correct and that if we have to resolve doubts we should resolve them in a procedural way in favor of the endangered species. I think the fact that we are here today amending the bill indicates one of the problems that was inherent in the original legislation.

That was that it cannot admit of any judgment or at least did not admit of enough judgment.

There are three or four places where a judgment must be exercised. First of all, under the act there must be someone who petitions for the designation of a species as endangered. That is a judgment, a scientific judgment, which then must be made by a panel which makes the recommendation to the Department to the Secretary of the Interior, who must make the final judgment on the designation of the species as endangered or threatened.

That has been by the Secretary and under the law considered to be simply a scientific judgment. Is it a matter of scientific fact? It has not really been used at that level to exercise any judgment as to whether or not it is a significant species. It is just a question of is it a unique species.

My friend, Senator CHAFEE, has suggested that the snail darter as such may or may not be an important species, but that is not admitted of judgment under the act and perhaps, properly so. But no judgment can be applied.

It can be argued, and perhaps should be argued, that with 130 different species the threatening of one of those minute variations is not of such great significance as to invoke the protection of the act.

But so far, at least, that judgment has not been applied.

It has been suggested by my friend from Wyoming that the amendment offered by the Senator from Mississippi will not admit of any kind of negotiation. Well, it does not require negotiation, but it certainly admits of it. It is quite possible that the negotiation would go forward, although under the grandfather clause it would not necessarily require it.

I think there would be a great amount of political and moral suasion used if a significant species were endangered by the action even though the law did not require it. I am sure they would try to find some alternative. But I would certainly agree that in the past that was not the case. If they were not required to they did not look at alternatives. If they were not required to they did not see if there was a way to avoid the destruction of the species.

The question then in my mind comes down to whether or not the amendment by the committee injects enough discretion or whether the amendment offered by the Senator from Mississippi admits of too little discretion. The truth, as is usually the case, lies somewhere in between the two rather than one being absolutely good and the other absolutely bad.

There is another discretion that must be invoked after it is on the endangered species list, and that is what is a critical habitat for that species. There is nothing that really admits of the kind of discretion that I think ought to be exercised in balancing on the designation of critical habitat.

When it comes to the extension of habitat we run into some very, very unusual problems. My friends on the committee have heard this story too often, and I am not sure it ought to be repeated, but the grizzly is on the endangered species list, and certainly it is endangered in some areas but I can tell you it is not endangered in Yellowstone National Park.

As a matter of fact, the problem is that they are up to their waist if not in aligators in grizzly bears.

Grizzly bears and human beings do not cohabit well together, and since we stopped feeding grizzly bears in Yellowstone National Park, they are hungry, and hungry bears do what hungry bears do all over, they go looking for food. Sometimes they look for it in the picnic baskets; sometimes they look for food with people in cars who are in the parks; sometimes they cross the boundary and leave the park and look for it elsewhere.

That happened in my State where adjacent to Yellowstone National Park a grizzly bear, unknowingly, he did not see the signs and did not see the boundary markers, walked right out of the park and walked into an area where human being have been living for years and grizzly bears have not been living for years.

An old couple in their cabin heard this bear at their door trying to break into their cabin. They tried to scare it away and it would not scare away because it was in absolute possession of its faculties and it knew it was bigger and stronger than an old couple, so it stood outside that door and continued to try to break it.

Finally, the old man took a gun off the peg above the fireplace and shot the bear to protect himself and his wife.

The Federal Government in that particular instance said bears are more im-

portant than human beings, and that a threatened human being was not as important as a threatened member of a threatened species and, therefore, the bear must have preeminence in that man's cabin.

I do not believe that, and I do not believe my friend believes that. As a matter of fact, there is an escape clause in procedure if not in law, and that matter was tried through a local jury. The local jury thought the law was unreasonably inflexible, and the old man was exonerated even though the law makes no specfiic provision.

You would think that would be the end of the matter, but it is not, because the Federal Government, being so disturbed by the fact that the jury thought the man should be more endangered than the bear, has brought suit against him under the civil penalty clause.

My friends, that is ridiculous, absolutely and totally ridiculous, and it is that kind of ridiculous enforcement of the law, with no flexibility in it, that leaves us to seek solutions here on the floor of the Senate today through amendments to the act.

Whether the Stennis amendment is adopted, or some other, we need to have some flexibility on the designation of a species as a critical and threatened species. We need to have some flexibility on the designation of the critical habitat and the extension of the habitat. We have to have some protection of human beings involved in defense of themselves under circumstances such as I have given.

If, as a matter of fact, they act reasonably, why should they be permitted to kill another human being in self-defense but cannot kill a bear in self-defense? That kind of ridiculous application of the law obviously needs some rectification, and I hope before we finish the deliberation here we will have been able to achieve that.

I again thank the Senator for yielding.

Mr. STENNIS. Mr. President, I thank the Senator very much for his remarks.

Mr. President, I do not have much time left and I am going to be brief anyway.

I want to say this with all the emphasis that I know how. We need not fool ourselves. This is a new start since the Supreme Court of the United States held like they did and when they did some few weeks ago. There will be a great onrush now, in my opinion and in the opinion of others, to bring about the application of cutting off these endeavors of various kinds, making it applicable to this very, very overwhelmingly strict law from which there is really no appeal except what might be offered by the committee amendment, and I will come back to that in a moment.

So let us not fool ourselves now. We marched in here in 1973, and I with great respect submit it as an illustration, with the great number of laws, voluminous and far reaching as they might be, that we have to pass on here each year when the membership at large does not have much opportunity to know all that is in them, carrying such far-reaching penalties on business and on people and on every enterprise.

I mention business because when this matter really picks up now it is going to affect jobs; it will affect jobs throughout our Nation adversely. It will cut off jobs on public works, public functions, and a great host of other things that have to do with construction or change of the environment. There is no way to dodge that.

As I understand, they estimate 20,000 hearings will be involved or will be considered. The officials will be called on to pass on those matters, on that many cases, in 1 year's time, as I understand the facts.

Now, we all admit that this is an intolerable law as it is, and the committee agreed wholeheartedly with that. They submitted here, I believe, a unanimous amendment, but one written up and recommended before this Supreme Court case was decided.

So my point now is that the committee amendment admits error in the bill. It says something must be done about it, but, with great deference, it does not go far enough, whereas the amendment now before us, that we are passing on here, goes too far.

Well, you do not get perfected language written out for presentation here in the hurly-burly of debate, and so forth, and that is one good thing about an amendment; it can be cleared up or clarified and made publicly acceptable by these committees that will work on it.

So that is a part of the process. The bill has got to go to the House anyway. They have not voted out a bill yet.

But I say this will prove to be one of the most important measures, considered from either viewpoint, that we in our committee will pass on this year. Our committee will work further on it, I am sure. They are concerned about it, I am sure. But let us not just accept the finding here of a plan to create a committee to pass on it that requires five out of seven votes—five out of the seven votes on this committee or commission before the petitioner is going to get any kind of relief. Five out of seven, and two of those are professional environmentalists. It is a great profession, and there is nothing except honor attached to it, but at the same time, they will naturally lean in the other direction. Also the Secretary of the Interior is presently a very estimable man, but it is an office that, by its nature, has that same leaning.

So let us not fool ourselves. We are not setting up here an impartial commission that is going to make decisions by a majority vote.

Another thing about it is that it is written on the face of their amendment that a matter of local import only will not have any standing at all before this group. It must be either regional or national. We are shooting here, in this amendment, at a goal. Our goal is to cover the Nation and then, at a more appropriate time for preciseness, that language can be gone over and the kinks gotten out of it.

But I plead now and I urge consideration far beyond what was done before, when this bill passed not unlike passing a bill on a morning calendar call, a casual thing to do, the nice thing to do, when it was passed in 1973.

In the light of experience, in the light of the practical side of things, and in the light of this Supreme Court decision, it is found to be inadequate, and it is found that the courts cannot do anything about it, or did not do anything about it. I do not think they had any grounds to read in any discretion.

This amendment would provide some discretion, some flexibility, some exercise of power, not for or against any particular group, but that the progress of this Nation from a physical standpoint must go on, and still there will be a remedy. There is a remedy left under this amendment for the proper and reasonable protection of the snail darter, the cranes, and all the other forms, the species and subspecies of animals, plant life, fishes, lizards, and all the things that we have.

I say they have their place, but there are other activities of our human family. The people have to make a living, to maintain an economy, to make money to pay taxes, to solve transportation problems, everything else—that part of our life must go on, too. This law as it is now is crippling, and tremendous extra burdens are put on the taxpayer that I can illustrate here: Building a $100-million dam and finding out at the last minute that it is not within the law; spending $18.2 million for 47 cranes, and 3 years delay on top of all that.

So we can do a better job. One way to get at a better solution is to pass this amendment, and we will be on our way. I hope the Senate will see fit to pass this amendment, and the committee will take it on and work out a stronger and better bill.

I am ready to yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER. I want to make about a 5-minute statement.

Mr. STENNIS. When the Senator is ready to, we will both yield back our time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. Mr. President, I would request 5 minutes of time for further debate.

The PRESIDING OFFICER. The Senator has the right to designate his time.

Mr. STENNIS. Mr. President, may we have the yeas and nays?

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CULVER. Mr. President, just a final word before we vote.

In my judgment, the arguments in opposition to this amendment have been very ably outlined by the comments and statements of the distinguished Senator from Wyoming and the distinguished Senator from Rhode Island.

The ultimate effect of this amendment, or really any of its three essential components, would, in my judgment, be to eviscerate the Endangered Species Act. In my judgment Congress should reaffirm on this occasion its very fundamental concern for the tragic and incalculable losses which have occurred as a result of mankind's careless actions

and the degradation of the natural endowment of this globe.

However, Mr. President, the Committee on Environment and Public Works recognized, in the course of its oversight work about a year ago, that in the absence of introducing some rational, sensitive flexibility into this important and necessary law, there was a very serious risk of having, in time, a proliferation of irreconcilable conflicts, with the resulting pressures on Congress to weaken the act unnecessarily.

We saw this storm cloud on the horizon well before the Supreme Court decision on Tellico; but clearly that decision reaffirmed our basic concern.

Mr. President, it was for that reason that we carefully prepared S. 2899 to get out ahead of this problem, responsibly and rationally, and avoid a short-term, highly emotional and politically expedient remedy that threatened to undercut and destroy the lofty and noble purposes of the Endangered Species Act, as it was originally enacted in 1973.

Mr. President, this amendment with its grandfather clauses, would have the effect of making any project that was underway before the enactment of that law in 1973 protected against any modification, and certainly jeopardize the continued preservation of an endangered species. Mr. President, I have here a list of projects which were initiated prior to 1973. While I have had an opportunity to review them only very briefly, I have counted roughly a minimum of 650 projects under construction by the TVA, by the Corps of Engineers, by the Bureau of Outdoor Recreation, and by the Soil Conservation Service at the time of the signing of the Endangered Species Act. Such projects include flood control, watershed, navigation, erosion control, irrigation, and recreation benefits, among many others.

Mr. President, you never know when you are going to find an endangered species. You do not know the day you put the stamp of approval on the particular project, and you do not know after you have spent $50 million; you do not know how far away that time might be, because in most cases we still have continuingly not developed the necessary biological expertise.

But how about tomorrow? How about tomorrow when that protected species may well be the key to a significant scientific breakthrough, the kind of finding, that can enhance the future of mankind?

(Mr. ANDERSON assumed the chair.)

Mr. CULVER. Mr. President, this bill, S. 2899, does provide a mechanism that will introduce the necessary flexibility. It is a pragmatic and a realistic recognition of the need to have a mechanism whereby these questions in conflict can be resolved, but only after an exhaustive consultative process, and careful examination of the full range of alternative approaches, alternative designs, and alternative uses. Then and only then, after this thorough process, can that conflict be presented to this committee for ultimate resolution and disposition.

Furthermore, the bill requires that when a critical habitat designation is made, the agency involved can make no irreversible or irretrievable commitment of resources which would preclude the consideration of other alternatives to its project.

Our bill would strengthen the act and its consultative requirements. Once a project agency petitions the Fish and Wildlife Service, one of the parties to those discussions will give their judgment on whether or not there has been a good-faith effort to achieve a mutually agreeable and acceptable resolution of the conflict so as to protect the endangered species to the maximum extent.

If the Service says such a consultation has not taken place, then, Mr. President, the Committee could send the agencies back for additional consultation.

We have tried to design a committee that, unlike ourselves, is relatively free of intense lobbying and political pressures. These can be factors taken into consideration but are not in and of themselves, decisive. This commission will be composed of seven members who are relatively insulated and isolated from those pressures. They are also better equipped by background, training, and expertise to make informed, scientific, knowledgeable judgments, not to be buffeted by the political winds of the moment but to be sober in the implementation of this act.

The bill requires, in any case that five out of seven of those members approve the exemption because they determine that it satisfies some very carefully designed, explicit criteria which insure that the most excruciating and painstaking efforts have been made to reach an accommodation that will protect the endangered species. But, Mr. President, it affords an opportunity for flexibility that is informed, and this is necessary if we are going to balance the appropriate interests which are involved here.

Mr. President, Oliver Wendell Holmes once said that every principle tends to declare itself to its logical extreme but each is, in fact, bounded by the neighborhood of competing principles of policy.

Mr. President, it seems hard to find or think of a case where that observation is more pertinent or appropriate than it is today. The noble principles taken to the logical extreme of the 1973 act, as interpreted by the Supreme Court of the United States in the case of Tuau Hill, clearly are being balanced by competing principles of yet another sort. The real question before this Congress is whether we can act responsibly to adjust, to calibrate, to accommodate that competition of principles within a forum that is best equipped by its very nature and its composition to make intelligent and rational judgments in behalf of the goal of best achieving the basic and fundamental principles implicit in the original act.

Mr. President, this bill does provide a mechanism for balancing such competing values, but it does so in a responsible and rational way. For this reason I respectfully urge the defeat of the Stennis amendment because, in my judgment, it would have the consequence of fundamentally and basically destroying the original intent and purpose of this act. The 1973 grandfather provisions take no account of the species involved, the nature, or the value of the project, or the extent to which it could be modified.

Finally, Mr. President, we know that consultation has already resolved many conflicts in cases which would be exempted by the Stennis amendment. There is no reason to assume that any project cannot be modified to protect the species. This is true regardless of the year the project was initiated or its stage of completion.

Mr. President, I urge the defeat of the Stennis amendment because it does not provide the criteria upon which the appropriate balancing of these very important competing environmental, social, economic, and political values should be ultimately weighed.

Mr. STENNIS. Mr. President, I yield back the remainder of my time.

Mr. CULVER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have already been ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Melody Miller, of my office, be granted the privileges of the floor during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WALLOP. Mr. President, I ask unanimous consent that Jerry Rosen, of Senator GRIFFIN's staff, be granted the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I ask for the same privilege for Sandra Zuene of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Mississippi. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

Mr. STEVENS. I announce that the Senator from Texas (Mr. TOWER) is necessarily absent.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "nay."

The result was announced—yeas 22, nays 76, as follows:

[Rollcall Vote No. 220 Leg.]

YEAS—22

Allen	Goldwater	Scott
Bartlett	Hansen	Sparkman
Burdick	Hatch	Stennis
Curtis	Helms	Stevens
DeConcini	Huddleston	Thurmond
Eastland	Laxalt	Young
Ford	Long	
Garn	Morgan	

NAYS—76

Abourezk	Cannon	Eagleton
Anderson	Case	Glenn
Baker	Chafee	Gravel
Bayh	Chiles	Griffin
Bellmon	Church	Hart
Bentsen	Clark	Haskell
Biden	Cranston	Hatfield, Mark O.
Brooke	Culver	Hatfield, Paul G.
Bumpers	Danforth	Hathaway
Byrd, Harry F., Jr.	Dole	Hayakawa
Byrd, Robert C.	Domenici	
	Durkin	

Heinz	McIntyre	Roth
Hodges	Melcher	Sarbanes
Hollings	Metzenbaum	Sasser
Humphrey	Moynihan	Schmitt
Jackson	Muskie	Schweiker
Javits	Nelson	Stafford
Johnston	Nunn	Stevenson
Kennedy	Packwood	Stone
Leahy	Pearson	Talmadge
Lugar	Pell	Wallop
Magnuson	Percy	Weicker
Mathias	Proxmire	Williams
Matsunaga	Randolph	Zorinsky
McClure	Ribicoff	
McGovern	Riegle	

NOT VOTING—2

Inouye	Tower

So amendment No. 3097, as modified, was rejected.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3245, AS MODIFIED

(Purpose: To prohibit exemptions which would violate international treaty obligations of the United States)

Mr. PELL. Mr. President, I call up my amendment No. 3245, as modified.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Rhode Island (Mr. PELL), for himself, Mr. WEICKER, Mr. CASE, and Mr. CRANSTON, proposes amendment No. 3245, as modified.

Mr. PELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 9, between lines 16 and 17, insert the following:

(14) Notwithstanding any other provision of this Act, the Committee shall be prohibited from taking under advisement, or in any way considering for exemption, any application made to it, if the Secretary of State, after a review of the proposed Federal action and its potential implications, and after hearing, certifies, in writing, to the Committee within 60 days of any submission made under subsection (d) (1) of this section, that the granting of any such exemption and the carrying out of such proposed action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State shall, at the time of such certification, publish a copy thereof in the Federal Register.

Mr. PELL. I yield to the Senator from Connecticut.

Mr. RIBICOFF. I thank the Senator.

Mr. President, I ask unanimous consent that Mr. Stuart Brahs of my staff be granted privilege of the floor during the entire consideration and votes on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. If the Senator will yield for the same purpose, I ask unanimous consent that Jackie Abelman be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. If the Senator will yield for the same purpose, I ask unanimous consent that Tom Dougherty of Senator GLENN'S staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that Mr. William Baldwin of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, the amendment which I am proposing on behalf of myself and Senators CASE and CRANSTON a modified version of my amendment No. 3245, submitted yesterday, simply would amend the bill pending before the Senate to prohibit the Endangered Species Review Committee from taking under advisement any application submitted to it for exemption, which the Secretary of State has reviewed and determined is, or would be, in violation of an international treaty obligation of the United States.

As my colleagues are aware, the United States has entered into several treaty obligations with other nations which seek to protect endangered species, such as the Migratory Bird Treaty of 1909 with Canada, the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere signed by the United States and 16 Latin American nations, and most recently, an international agreement with the Soviet Union designed to protect 208 species of migratory birds.

Mr. President, as chairman of the Foreign Relations Subcommittee which has jurisdiction over international environmental matters, I am very much concerned that the United States honor its commitments under treaties and conventions such as these with respect to the protection of endangered species.

The amendment which we are proposing is simply to assure other nations with whom we have such treaties and agreements that, although the United States may at some point in the future exempt certain projects or actions from certain provisions of the Endangered Species Act, we have no intention of considering for exemption an action or project which is, or would be, in violation of an international treaty or other international obligation affecting endangered species.

Mr. President, because I believe it may be possible for an application to reach the Endangered Species Review Committee which might potentially be in conflict with an international agreement, I think the pending legislation is a proper forum for assuring other nations that such applications will go no further, and this amendment makes that assurance.

It is vitally important, as my colleagues know, that the United States stand by its commitments under these obligations and even one violation of an agreement made in good faith between the United States and another nation should not be permitted by any Federal action. This amendment is simply an insurance policy, written into the law, that no such violations will occur.

I hope the Senate will act favorably on this amendment to uphold those commitments to other nations.

Mr. President, this amendment would simply stress the fact that we intend to abide by our treaty obligations. When we have signed a specific treaty with another nation—for example, as we did with the Soviet Union concerning migratory birds just last week—with regard to one of those examples of wildlife that are covered by such a treaty, we cannot move by domestic law in violation of that treaty obligation; and the Department of State is limited to 60 days to put the committee on notice that this project will endanger a species that has been protected under treaty law. It does not really change the law. It simply emphasizes the fact and reassures foreign nations that we are not going to go ahead through exemptions to domestic law in violation of international treaties.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PELL. I yield.

Mr. MAGNUSON. A good example of that would be the whooping crane, which goes into Canada. We have a protectionist treaty with Canada with respect to that bird. There are some species of rare ducks about which we have treaties with Mexico and Canada.

Mr. PELL. Those are excellent examples of what I am talking about.

I have talked with the manager of the bill, and I understand the amendment might be acceptable to him.

I am willing to yield back my time.

The PRESIDING OFFICER. The Senate will be in order.

Mr. WALLOP. Mr. President, the Senator is nearly correct. It might be acceptable.

I ask the Senator if the species on international treaties are subject to the prohibition of section 7.

Mr. PELL. They would be, if they are the subject of an international treaty.

Mr. WALLOP. One of the problems I have with the amendment as drafted is the language "taking under advisement." It seems to me that that limits them totally. They cannot even consider that on the basis of a finding by the Secretary of State. The language reads:

The committee shall be prohibited from taking under advisement or in any way considering for exemption any application made to it.

It seems to me that the committee easily could be allowed to take something under advisement, to make a determination on its own.

Mr. PELL. The prohibitions under this section do not apply to those that are covered under this section.

Mr. WALLOP. They do not?

Mr. PELL. Under the convention, they do not apply. This is what I am informed. I have not read it.

Mr. WALLOP. Does the Senator agree that the language prohibiting them from even taking something under advisement is not in violation of an international treaty?

Mr. PELL. I agree that is not in violation of international law, to consider a violation of international law. The only violation is if you violate it.

Mr. WALLOP. What I mean to say by

raising the point we are talking about is that it would seem that the Secretary of State might not even be aware of it unless the committee had taken it under advisement. It might be that the process we are trying to devise is something that would clear with the Secretary of State those endangered species that might be on the international list.

Mr. PELL. Perhaps if we eliminate the words "taking under advisement"——

Mr. WALLOP. I honestly think that would be useful to the amendment and would get to what we are trying to do, because we do not want to involve this committee in trying to destroy the international treaty arrangements of the United States. It seems to me that that is a process that might take place inadvertently, as it were.

Mr. PELL. Why do we not eliminate the words "taking under advisement or in any way"?

Mr. WALLOP. I think that would make that amendment acceptable.

Mr. PELL. I do not think I need unanimous consent. I ask that the amendment be so modified, Mr. President, and I ask for a vote on the amendment.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Mr. CULVER. Does the Senator really desire a vote on the amendment?

Mr. PELL. Just a voice vote.

The PRESIDING OFFICER. Will the Senator send his modification to the desk?

The modified amendment is as follows:

(14)(A) Notwithstanding any other provision of this Act, the Committee shall be prohibited from considering for exemption, any application made to it, if the Secretary of State, after a review of the proposed Federal action and its potential implications, and after hearing, certifies, in writing, to the Committee within 60 days of any submission made under subsection (d)(1) of this section, that the granting of any such exemption and the carrying out of such proposed action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State shall, at the time of such certification, publish a copy thereof in the Federal Register.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. WALLOP. Mr. President, I ask unanimous consent that Donna Maddox, of Senator PERCY's staff, may have the privilege of the floor during debate and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Mr. President, I should like the attention of the manager of the bill, Mr. CULVER.

I understand that there may be three or four amendments that the managers may be prepared to accept, and I would call those up now.

Mr. CHILES. Mr. President, will the Senator yield to me for a moment, for a resolution not in connection with this bill?

Mr. NELSON. I yield to the Senator from Florida, without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

GRATITUDE OF THE SENATE TO WILLIAM K. BRUSSAT—SENATE RESOLUTION 518

Mr. CHILES. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 518) expressing the gratitude of the Senate to William K. Brussat.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. CHILES. Mr. President, this matter has been cleared on both sides of the aisle.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

Whereas, William K. Brussat worked for the Federal Government for almost twenty years during which time he became an internationally recognized professional in the areas of intergovernmental relations and regional planning;

Whereas, Mr. Brussat worked with the Office of Management and Budget, Division of Intergovernmental Affairs, where he was the prime analyst, author, and staff lead in developing a process known as OMB Circular A-95, that significantly facilitates State and local government evaluation, review, and coordination of Federal and federally assisted programs and projects, and that also supports gubernatorial review of federally assisted State plans and promotes coordination of federally assisted substate regional planning;

Whereas, Mr. Brussat was also involved in the developmental phases of a number of other initiatives that have strengthened Federal-State-local government relations, including the Catalog of Federal Domestic Assistance and the system for reporting grant awards on a geographic basis;

Whereas, Mr. Brussat was awarded the National Intergovernmental Award by the National Association of Regional Councils in 1971 and the Office of Management and Budget Director's Exceptional Service Award in 1978;

Whereas, Mr. Brussat's technical assistance was sought daily by a variety of governmental officials on a wide range of intergovernmental issues, and he earned the respect of numerous public administration scholars, planners, regional development leaders, and practitioners of government at all levels; and

Whereas, Mr. Brussat personified the highest standards of a career civil servant and, at a time when there is much criticism of government employees, it is important that recognition be given to those who have made substantial and valuable contributions to the processes of government: Now, therefore, be it

Resolved, That the Senate extends its gratitude to William K. Brussat for his exceptional service as an employee of the Federal Government and for the outstanding contributions he made not only to the Federal Government but also to State and local governments.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the family of William K. Brussat.

ENDANGERED SPECIES ACT AMENDMENTS OF 1978

The Senate continued with the consideration of S. 2899.

AMENDMENT NO. 3127

Mr. NELSON. Mr. President, I call up amendment No. 3127 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself and Mr. BROOKE, Mr. ABOUREZK, Mr. CRANSTON, and Mr. ANDERSON, proposes an amendment numbered 3127.

Mr. NELSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 24, insert "$750,000", in lieu of "$2,500,000".

On page 13, line 25, insert "$750,000", in lieu of "$2,500,000".

On page 14, line 1, insert "$750,000", in lieu of "$2,500,000".

Mr. NELSON. Mr. President, I modify my amendment to add at the end of the amendment the words: "The chairman of the committee shall furnish a report to the Congress at the end of fiscal year 1979. The report shall speak to the adequacy of the budget authority contained in this amendment."

The PRESIDING OFFICER. The Senator will send his modification to the desk.

The modified amendment is as follows:

On page 13, line 24, insert "$750,000", in lieu of "$2,500,000".

On page 13, line 25, insert "$750,000", in lieu of "$2,500,000".

On page 14, line 1, insert "$750,000", in lieu of "$2,500,000".

The chairman of the committee shall furnish a report to the Congress at the end of fiscal year 1979. The report shall speak to the adequacy of the budget authority contained in this amendment.

Mr. NELSON. Mr. President, this amendment simply proposes to cut the authorization for the Interagency Committee from $2,500,000 per year to $750,000 per year.

I think that $750,000 authorization is an ample authorization.

Mr. CULVER. Mr. President, the distinguished Senator from Wisconsin has proposed this reduction in the amount of money to be budgeted for the operation of the Endangered Species Committee that will be established by this bill.

The committee had difficulty in anticipating the total amount of money necessary to responsibly, effectively, and properly carry out the intentions of this legislation.

After careful consideration with the minority members of the committee, I think we all agree with the objective of

the Senator's amendment—to assure that we are not creating a costly bureaucracy.

I appreciate the Senator's agreement to modify his amendment to require a report from the committee at the end of 1 year. It seems to me that this is a judicious and prudent thing to do. We should have their judgment, after the experience they have had under 1 year's existence, as to the adequacy or inadequacy of this level of funding.

With that observation, I wish to thank the Senator from Wisconsin for making it clear that the Senate is not attempting to establish another costly bureaucracy. It is my understanding that it is acceptable to the minority as well. I move for a vote on its adoption.

Mr. NELSON. I yield back the remainder of my time.

Mr. CULVER. I yield back the remainder of my time.

The PRESIDING OFFICER (Mrs. ALLEN). The question is on agreeing to the amendment of the Senator from Wisconsin, as modified.

The amendment, as modified, was agreed to.

AMENDMENT NO. 3129

Mr. NELSON. Madam President, I call up amendment No. 3129 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself and Mr. BROOKE, Mr. ABOUREZK, Mr. CRANSTON, and Mr. ANDERSON, proposes an amendment numbered 3129.

Mr. NELSON. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 12, line 23 change the period to a colon and add the following: *"Provided,* That an environmental impact statement which discusses the impacts upon endangered and threatened species or their critical habitat shall have previously been prepared with respect to any Federal action exempted from the requirements of subsection (e) of this section by such final determination of the Committee.".

Mr. NELSON. Madam President, this amendment No. 3129 simply provides that an environmental impact statement which discusses the impact upon endangered and threatened species or their critical habitat shall have prepared on any Federal action that comes before the committee for an exemption.

This amendment would apply to a very small number of cases, actions which involve wetlands protection under section 404 of Public Law 92–500.

Mr. CULVER. Madam President, if I could just say to the Senator from Wisconsin I respect the intent of his amendment. It does seem to me difficult to imagine a situation actually arising, however, where under the very exhaustive and elaborate consultative processes that are required under this bill a project in irreconcilable conflict could actually get that far along in the process without an EIS being prepared.

But I do believe that the amendment essentially corresponds with the intent of the committee, and I do not personally have any objection to it. Perhaps the Senator from Wyoming would want to speak to this amendment.

Mr. WALLOP. Madam President, if I may engage the Senator in a dialog here, it is probably true, as the Senator from Iowa stated, that it is difficult to imagine any set of circumstances in which the impact statement on endangered or threatened species will not have been prepared.

But the Senator from Idaho, as the Senator may know, is concerned about the requirement or lack of requirement presently for an environmental impact statement regarding the designation of a critical habitat right now.

I asked the staff if they will try to locate him, because I think it is important to try to get all this discussion in at the same place.

The part of the amendment that troubles me, and I wish to have the Senator's comments on it, is not the impact on the endangered or threatened species but the phrase "or their critical habitat shall have previously been prepared." It strikes me that that may not have been the case in terms that the Senator from Idaho is looking at right now.

I wonder if that phrase is necessary after all the mandates and the requirements for consultation and findings that are necessary before anyone can even get to the Commission.

Mr. NELSON. I think the Senator from Wyoming and the Senator from Iowa are correct, that it would probably be an unusual case—it may even be a rare case—but in all cases other than those involving wetlands there has to be an environmental impact statement.

There may be a Federal dredge and fill project involving a large marsh. The project may adversely affect the habitat of an endangered species. This amendment provides that an environmental impact statement (EIS) would have to be filed before the committee acted. All other projects, actions other than 404 projecs will have an EIS for the committee to review. It is not an additional requirement.

Mr. WALLOP. I guess if it is the Senator's intention to limit this to that which has been designated critical habitat as well as the endangered or threatened species itself and not necessarily the range, I think it is acceptable.

But if it is not the Senator's intention to limit it to a habitat that has been designated, I think it would require a little bit of discussion as to what the intent was.

Mr. NELSON. All this amendment does is require that any 404 project, for example, would have to have an EIS, just like any other project before it went to the committee. Under the law (Public Law 92–500) 404 permits exempt from filing an EIS statement in certain circumstances.

Amendment 3129 does not require all 404 projects to have an environmental impact statement but only those in which an endangered species was involved, and in which there was an appeal to the committee created by the Culver-Baker amendment. So everybody, therefore, respecting endangered species involving Federal projects is treated exactly alike.

Mr. WALLOP. Then I wonder, if the Senator is talking about designated critical habitat, and I wonder if that would not be perfecting language, rather than leave it for an interpretation?

Mr. NELSON. What does designated critical habitat mean?

Mr. WALLOP. Right now the Secretary of Interior designates critical habitats.

Mr. NELSON. I do not think it ought to be expanded to say "designated." I think this amendment simply proposes to treat this kind of problem exactly the same way as all other problems that would finally get to the committee under the pending amendment. It involves a dredge and fill of wetlands, which may be a critical habitat of a threatened species, and all it says is that these actions have to have an EIS.

Mr. WALLOP. I do not quarrel with the intent of the Senator. What I am suggesting is that we do not want competing entities designating critical habitat. There is a carefully constructed entity which now designates them, and it would seem to me we do not want a court interpreting it or designating additional or lesser land as being critical habitats. That is why I suggested that as long as we are dealing with the structure of the bill as it exists and the law as it exists that the Secretary is the one who designates the critical habitat.

It would seem to me we want to limit the effect of what the Senator is trying to do in both directions, both with respect to interpretation by the court that a critical habitat might be smaller or an interpretation by a court that a critical habitat might be larger. I do not think it does violence to the intent of the Senator. I think it does exactly what is prescribed right now in the law and brings in the additional 404 requirements that he seeks.

Mr. CULVER. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. CULVER. I ask that the time be allocated to my portion of the time in opposition to the pending Nelson amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON. Madam President, as I understand, the Senator from Wyoming proposed a few moments ago to add the word "designated." Where would that change appear in his amendment?

Mr. WALLOP. Prior to the words "critical habitat."

Mr. NELSON. Is it agreeable to the Senator that we accept this amendment, with a discussion that makes clear what we are talking about?

Mr. WALLOP. It is agreeable.

Mr. NELSON. All right.

Mr. WALLOP. And it would be my interpretation of what the Senator is intending to do that the critical habitat referred to in his amendment as requiring an environmental impact statement would be that critical habitat which has been designated by the Secretary in accordance with the provisions of the Endangered Species Act.

Mr. NELSON. That states it as I understand it, and exactly the way it is intended.

Mr. WALLOP. As limited to that in both directions, to be made neither larger nor smaller by court interpretation?

Mr. NELSON. Correct.

Mr. WALLOP. I thank the Senator from Wisconsin.

Mr. NELSON. I thank the Senator from Wyoming. I yield back the remainder of my time.

Mr. CULVER. Mr. President, I suggest a vote.

Mr. McCLURE. Mr. President, will the Senator yield me 1 minute?

Mr. WALLOP. I will be happy to.

Mr. McCLURE. Mr. President, I was called from the floor for a moment. Do I understand that the Senator has now modified his amendment?

Mr. WALLOP. No, the amendment is taken as drafted, but the legislative history has made clear that the critical habitat that is referred to in the Senator's amendment is that which is designated by the appropriate agency in accordance with the Endangered Species Act as it now exists.

Mr. McCLURE. Would this require an environmental impact statement only upon the designation of the critical habitat, in the event the matter is taken to the committee?

Mr. NELSON. That is correct. If in the course of a project an endangered species is discovered, and it involves a critical habitat, the question then would not be resolved until the agency comes before the committee. An environmental impact statement would be required before the committee could act on the question of an exemption. That is all.

Mr. McCLURE. Madam President, it will be my intention to offer an amendment as a substitute for the amendment now pending.

Mr. WALLOP. Madam President, may I inquire as to the parliamentary situation if that was done?

The PRESIDING OFFICER. When all time on the amendment has been yielded back, the substitute amendment would be in order.

Mr. WALLOP. The problem is that the floor manager's impression is that the amendments have been accepted and all time has been yielded back—or does the Senator from Iowa have some time remaining?

Mr. CULVER. No, I have nothing further.

Mr. WALLOP. Then is it in order to offer the substitute before the ruling of the Chair?

The PRESIDING OFFICER. The amendment has not been adopted. When the time has been yielded back, then a substitute would be in order.

Mr. McCLURE. Then, Madam President, if the sponsor of the amendment and the manager of the bill are prepared to yield back all remaining time on the Nelson amendment, I will offer my substitute at this time.

Mr. NELSON. I yield back the remainder of my time.

Mr. CULVER. I yield back the remainder of my time.

UP AMENDMENT NO. 1419

Mr. McCLURE. Madam President, I send to the desk a substitute amendment and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes, as a substitute for the amendment of the Senator from Wisconsin (Mr. NELSON) an unprinted amendment which will be numbered 1419:

On page 13, line 23, insert the following——

Mr. McCLURE. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The amendment is as follows:

On page 13, line 23, insert the following: The Endangered Species act of 1973 is amended by adding the following new section:

CRITICAL HABITATS

SEC. 18. (a). Notwithstanding any other provision of this Act or of any other law, an action taken by any Federal department or agency involving the designation of any area or areas as critical habitats of endangered or threatened species shall be deemed to be a major Federal action significantly affecting the quality of the human environment requiring the filing of an environmental impact statement under the National Environment Policy Act of 1969; *Provided that*, in the opinion of the Secretary of Interior, a satisfactory environmental impact statement under the National Environmental Policy Act of 1969 has not previously been conducted which will satisfy the intent of this section.

(b) Said environmental impact statement as established in subsection (a) of this section shall give equal consideration to all environmental, social and economic questions arising from the proposed designation of said critical habitat; and the Secretary of Interior shall be required to make all judgment resulting from said environmental impact statement taking into equal consideration all such environmental, social and economic questions.

(c) Until such time as said environmental impact statement is completed and utilized by the appropriate Federal department or agency in making said critical habitat designation no State or Federal department or agency (or judicial decision) can delay or deny, on the basis of said critical habitat designation, any loan, grant, license, permit or other such action.

(d) The provisions of subsection (c) of this section will not apply if, at the discretion of the Secretary of Interior, he determines any such loan, grant, license, permit or other such action will result in irreversible damage to said critical habitat that may result in the extinction of any endangered or threatened species.

(e) Following any determination of the Secretary of Interior pursuant to subsection (c) of this section, the Endangered Species Committee as established in Section 7 of this Act will, within 90 days of the Secretary's decision, make a determination of whether any loan, grant, permit, license or any other such action will result in irreversible damage to said critical habitat that may result in the extinction of any endangered or threatened species. In making such determination, the Committee will review and take into consideration all available pertinent information, and, to the extent necessary, require additional information to be developed for their review and consideration before such determination is made.

Mr. CULVER. Madam President, will the Senator yield for a question?

Mr. McCLURE. Has the reading of the amendment been dispensed with?

The PRESIDING OFFICER. The amendment is not properly drafted, and so it is not in order. It does not hit the same part of the bill as the Nelson amendment. Therefore, it does not qualify as a substitute.

Mr. McCLURE. Madam President, I suggest the absence of a quorum, the time to be charged to the Senator from Idaho on the amendment which I will offer as a substitute.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. McCLURE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Madam President, I have been advised that although both the Nelson amendment and my amendment deal with the question of establishing an environmental impact statement, that they are not necessarily in conflict with each other. I ask unanimous consent to withdraw my amendment at this time.

The PRESIDING OFFICER. The Senator does not have to withdraw his amendment. It is not in order.

The question is on agreeing to the amendment of the Senator from Wisconsin.

Mr. WALLOP. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. WALLOP. I do not want the Senator from Idaho to lose his opportunity to bring up his amendment. I would like the parliamentary ruling that the two are not in conflict with each other and would not be considered as a second amendment to the same——

The PRESIDING OFFICER. The Chair does not interpret amendments. Procedurally, the amendment of the Senator from Idaho will be in order after disposition of the amendment of the Senator from Wisconsin.

Mr. McCLURE. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment (No. 3129) was agreed to.

AMENDMENT NO. 3128

Mr. NELSON. Madam President, I call up my amendment No. 3128 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself, Mr. BROOKE, Mr. ABOUREZK, Mr. CRANSTON, and Mr. ANDERSON, proposes amendment numbered 3128.

Mr. NELSON. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 16, insert a new subsection (h) as follows:

"(h) NOTICE.—The sixty-day notice requirement of section 11(g) of this Act shall not apply with respect to review of any final determination of the Committee under subsection (e) of this section granting an exemption from the requirements of subsection (a) of this section.".

Reletter subsequent subsections as subsections (i) through (l), respectively.

Mr. NELSON. This is a simple amendment.

The opportunity for review of the decisions of the interagency committee to be established by the Culver-Baker bill could be rendered meaningless without a waiver of this 60-day notice requirement. This is because any exemption granted by the committee could be acted upon before the 60-day period elapsed. To avoid that possibility and to preserve an effective opportunity for review, this amendment would waive the 60-day notice requirement for review of final decisions of the committee granting exemptions from the act.

Mr. CULVER. Has the Senator finished?

Mr. NELSON. Yes.

Mr. CULVER. Madam President, I believe this is a very useful amendment to the pending bill. Section 11(g) of the Endangered Species Act authorizes citizens to bring civil suits to enjoin any person, including governmental officers or agencies, from violating the act. That provision, however, requires that citizens who intend to bring those suits, as the distinguished Senator from Wisconsin has stated, give 60 days notice. The purpose and the intent of this statutory requirement is, of course, to afford an opportunity for the alleged violator to make the appropriate corrections and hopefully avoid litigation.

As the Senator from Wisconsin properly points out, in that if the Endangered Species Committee established under this bill were to approve an exemption in a particular case, the opportunity for review of that decision would frankly be rendered quite meaningless if we were to continue this same requirement for a 60-day notice period. Of course, the time between their decision to exempt and the requirement for a 60-day notice before a lawsuit could be initiated would, of course, create a timeframe within which the species involved could be destroyed. It would deny the opportunity for court appeal and the opportunity for judicial review of the decision by the Committee on Endangered Species.

I thank the distinguished Senator from Wisconsin for this amendment. I think it does address and correct a potential problem in the bill, and it corresponds to the intent of the Environment and Public Works Committee at the time of our drafting.

Mr. McCLURE. Will the Senator yield?

Mr. CULVER. I yield.

Mr. McCLURE. Is it the understanding of the Senator from Idaho that the amendment now offered applies only to a waiver of the 60-day notice with respect to the final determination of the committee?

Mr. CULVER. That is correct, and only in that particular case where an exemption had been granted under the provisions of S. 2899. It would not have any application in any other circumstance.

Mr. McCLURE. It would only be in the granting of an exemption by the committee in which event they could go ahead with the action that might damage or cause some irrevocable or irreversible harm to a threatened or endangered specie, but it would not apply to the opposite action of the committee. If any court action were taken to review the alternative action of the committee in denying the exemption the 60-day stay would be in effect?

Mr. CULVER. That would certainly be my understanding, but I think for purposes of legislative history the author of the amendment should be afforded the opportunity to respond to the inquiry.

Mr. NELSON. Will the Senator restate his question?

Mr. McCLURE. The committee can take one of two actions, or perhaps they could try more, they either grant an exemption or they deny an exemption. The only circumstance in which this amendment would apply is when they have granted the exemption, therefore opening the door to go forward with the action, and in no other circumstance would this exemption apply. If, for instance, the committee had refused to grant the exemption, the suspension of the 60-day notice would not be effective and the 60-day notice would be required, if the committee takes any action other than granting the exemption.

Mr. NELSON. In the case of a denial, the person who had challenged would be, I assume, challenging on the narrow ground that the committee had abused its authority.

Mr. McCLURE. And the 60-day notice requirement would be in effect in that event?

Mr. NELSON. No.

Mr. McCLURE. The only event in which it would not apply is when the committee has granted the exemption, but in no other circumstance would the 60-day notice requirement be waived under the Senator's amendment?

Mr. NELSON. That is correct.

Mr. McCLURE. I thank the Senator.

Mr. NELSON. May I make an inquiry of the Senator from Idaho?

Mr. McCLURE. Yes.

Mr. NELSON. Was it the desire of the Senator from Idaho to call up the amendment?

Mr. McCLURE. No.

Mr. CULVER. May we have a vote on the amendment? I yield back my time.

Mr. NELSON. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin.

The amendment was agreed to.

Mr. NELSON. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. NELSON. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3126

Mr. NELSON. Madam President, I call up amendment No. 3126 and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin, for himself and Mr. BROOKE, Mr. ABOUREZK, Mr. CRANSTON, and Mr. ANDERSON, proposes amendment No. 3126:

On page 1, line 4, strike everything after "1978". through "Secretary.". on page 14, line 22.

Mr. NELSON. Madam President, this amendment would strike everything in the bill except the extension of the authorization for the Endangered Species Act. I listened with interest this afternoon to the eloquent speech made by the distinguished Senator from Iowa in defense of the 1973 act. It struck me, as the Senator from Iowa spoke and when he had finished, that he had made the most compellingly eloquent defense of leaving the 1973 law as it is, without change, that I have heard from any source on or off the floor of the Senate.

I have been assuming all afternoon, after listening to that magnificent speech, that at some stage, the Senator from Iowa, who made the speech—and, I assume, also heard it—would be so persuaded by what he said that he would get up and withdraw his amendment to the Endangered Species Act. Perhaps the distinguished Senator from Iowa intends to do that at some later moment.

Mr. CULVER. Will the Senator yield?

Mr. NELSON. Yes.

Mr. CULVER. I just hope he is not holding his breath until that opportunity presents itself.

Mr. NELSON. No, I had not been holding my breath, but I had been waiting breathlessly. I do want to say that I have not before heard, in any forum, a more magnificent defense of this law. I have not heard any finer capsule outline of the history of the disappearance of the species, particularly the destruction and elimination of the species caused by the intrusions of the activities of mankind in the past 200 or 300 years, since the industrial revolution.

I just wanted to endorse what the Senator said and add to his speech just a few words in support of what really adds up to a compelling argument why the law ought to be left alone.

For almost 5 years since the Endangered Species Act was adopted unanimously in the U.S. Senate and with only four dissenting votes in the House, in that 5-year period, the law has worked very, very well indeed. I remember the debate. In fact, I remember the legislation enacted in the sixties as the first step toward the protection of endangered species. We began to take these steps based upon our growing alarm over the rapid extinction all over the world of

various species that had been here for hundreds of thousands of years.

What is the record of that act and what exactly has happened to cause the Congress and the country to get into some kind of uproar over the threat to "progress" that some people have said this act now poses?

In 5 years, there have been 4,500 consultations over projects which might or might not have had some impact on some habitat of some endangered species. After those 4,500 consultations, some of which only involved a telephone call, some of which involved much more time than that, 260 cases were identified in that 5-year period in which the proposed action was believed to threaten the habitat of an endangered species. Therefore, some resolution of that conflict between the project and the habitat of the endangered species had to be worked out.

What was the result in this whole 5-year period of all these consultations? The result was that 259 of these projects in which the habitat of an endangered species was found were worked out, the projects modified, the habitat of the endangered species protected. With one exception, the Tellico Dam in Tennessee and the snail darter. I will comment on that case momentarily.

In that case, we were dealing with a dam, or, more broadly speaking, a recreational-industrial development project which was conceived almost 40 years ago, in 1939, at a different period in history, under different circumstances, under different laws, a project designed, conceived, proposed by the Tennessee Valley Authority which under the law does not have to go through the authorizations and benefit-cost discipline of all other water resource development projects.

In fact, none of the other agencies of the Federal Government have the authority to do what the Tennessee Valley Authority did with this project in Tennessee.

What is the project that is causing such a fuss?

Well, the project is one that should not have been started in the first place. The public interest would be better served if we left the land alone. Furthermore, I think it is pretty clear that the public interest would be better served if the project were never completed, apart from any consideration whatsoever of the Endangered Species Act and the snail darter. Apart from any consideration of the snail darter or the Endangered Species Act, the project, the public interest, would be better served, if it were not completed anyway, despite the fact that $22 million has been spent in the construction phase of the dam to create an impoundment of 14,000 acres.

Now, all kinds of people who have not looked at the project, in fact, almost everyone I have talked to about the project has been under the impression that somehow or other this was an important Tennessee Valley Authority project for the purpose of producing power and controlling floods.

There is hardly anything left, if one has ever flown over the Tennessee Valley, to dam any more. They have built all the dams they need.

No, this is not a flood control project, that is coincidental. It is not a power project, that is coincidental.

It is an industrial development, flat water, recreational, residential project. That is what it is.

The $120 million project is projected to have a value of less than $1 million a year in flood control and produce $3 million worth of power.

Now, juxtapose those two figures, less than $1 million worth of flood control value, $3 million worth of offpeak power, against the agricultural loss.

As a consequence of the project, 38,000 acres of land condemned, 14,000 acres of prime agricultural land is going to be flooded. All in this impoundment.

What is the agricultural value in production and related businesses of retaining this agricultural land in production? The value is estimated to be between $38 million a year and $52 million a year in agricultural production and related activities of agribusiness. That, against less than $1 million in flood control and $3 million a year for power production.

We should not be taking 14,000 acres of prime agricultural land out of production at this stage in history. Why do we need to create some flat water recreation when there is an excess of it all around the project area.

So the fact of the matter is that we have a project that should not have been started, should not be completed, and now. as a consequence of the project being stopped, because it turns out that it involves an endangered species, everybody has joined in the stampede to modify a very good law.

Not a single episode in this 5-year period, not a single event, not a single problem, has occurred that justifies, that is a valid reason for changing the law.

Why do we not leave it alone?

As a matter of fact, Senator CULVER's speech was eloquent testimony to the fact that there need be no change in the law. It works very well. Very few laws that I know of, or anybody else knows of, work that well.

Mr. CULVER. Will the Senator yield? I just have a question. I just wondered——

Mr. NELSON. Just let me respond. I want to remind the Senator that I will be gracious to him, I attempted to get a question in this morning and I could not interrupt the Senator there in that eloquent speech. But I will yield for a question.

Mr. CULVER. As I recall this morning, the Senator from Iowa very graciously yielded upon the Senator's initial request.

Mr. NELSON Well, the Senator did.

Mr. CULVER. I am seeking reciprocity this afternoon.

Mr. NELSON. The Senator did yield. Go ahead.

Mr. CULVER. The question I have for the Senator is, If this act has worked so wonderfully, for the last 4 years, if all conflicts have been resolved by consolidation, why does he fear the Culver-Baker amendment? Clearly, by his assessment of the situation, the committee will never have any work to do, and next year will come back to us and say, "We tried but couldn't even spend that money because there were no conflicts."

The fact is that we have actually strengthened the Endangered Species Act, actually strengthened it with this bill, by requiring good-faith consultation with this requirement it will even be less likely, as far as the Senator's assessment of the problem is concerned, that the committee will ever have any business at all.

So I would wait to worry. I would wait to worry.

Mr. NELSON. Is this what the people of Iowa——

The PRESIDING OFFICER. The Senator from Wisconsin's time has expired.

Mr. CULVER. Is the Senator willing to wait to worry?

Mr. NELSON. I worry about several things.

The PRESIDING OFFICER. The Senator from Wisconsin's time has expired.

Mr. CULVER. Madam President, I oppose the amendment, and I would like to yield at this time to Senator NELSON.

Mr. NELSON. Madam President, if I understand the question the Senator from Iowa asked, the Senator from Wisconsin is worried about the amendment of the Senator from Iowa and the Senator from Tennessee.

The first thing I would be suspicious about would be the joint authorship. But we will skip that and move on.

I worry about it, because it punches a big hole in a very good law, and it permits a group of people who serve on a committee to make a decision to destroy the endangered species. Many of those people at one time or another, will have a project that comes before his committee.

What I say is that endangered species are so important, all species are so important, that our wisdom about making a decision as to which of them should survive or not is insufficient for me to trust a handful of people to make that decision for us. I think the law was very good and well thought out and very carefully designed to be sure that a handful of people could not get together and say, "We have the knowledge and we have the wisdom and we have the judgment to decide whether or not that species shall survive."

Since this 1973 law was designed to say, "You either modify the project to accommodate the habitat of the endangered species or there is no project," it is a very powerful lever which caused every case to be resolved, except the snail darter, which is a sport that is unlikely to occur again under any circumstance, in any event.

I wonder whether the Senator will yield me some time in order to finish my remarks? That would save me calling up another amendment. Or does the Senator intend to reserve the time?

Mr. CULVER. I would like to reserve the time. All I have is 15 minutes in opposition, under the previous time agreement. I suppose I have less than that now.

The PRESIDING OFFICER (Mr.

METZENBAUM). The Senator has 11 minutes remaining.

Mr. NELSON. I would not want to ask unanimous consent. I will call up another amendment, for the purpose of being able to repeat my remarks and to put material into the record.

UP AMENDMENT NO. 1420

Mr. CULVER. Mr. President, I send a substitute amendment to the desk at this time and ask for its immediate consideration. We could divide that time.

Mr. NELSON. Would the Senator permit me then to conclude my remarks, which will not take very long?

Mr. CULVER. All right. I would be delighted.

The PRESIDING OFFICER. Is the Senator from Iowa asking unanimous consent, in view of the fact that this amendment would not be in order while the first amendment is still being considered?

Mr. CULVER. Yes, I make such request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, we have 10 minutes remaining on the original Nelson amendment?

The PRESIDING OFFICER. Nine minutes remain on the original Nelson amendment.

Mr. CULVER. Can the Senator finish in that time?

Mr. NELSON. I think so.

Mr. CULVER. I yield to the distinguished Senator from Wisconsin time on the original Nelson amendment, such time as he may need.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER) proposes an unprinted amendment numbered 1420 to amendment No. 3126:

On page 6, line 6, strike the word "procure" and insert in lieu thereof "obtain".

Mr. NELSON. Mr. President, I was remarking that this law has worked very well, and no case has been made on the floor or off the floor that presents a valid rationale for changing the law. It may very well be, and I suspect that it is likely, that some of the proponents of this proposal are supporting this approach because of their perception of what the political reality is. They believe that unless some accommodation is made in the law, the forces who are making a powerful thrust for change will come up with amendments that are much more than serious, than the one designed by the Senator from Iowa and the Senator from Tennessee.

I will say—I think it is correct—that if it is politically necessary to modify the law, then I think that the distinguished authors of the pending measure have done a pretty good job of designing a modification.

However, my argument at this time is that there is no justification for modifying the law. The panic being expressed in Congress and elsewhere in the country by industrial developers, politicians, and others about the great threat to progress that the Endangered Species Act presents is a smoke screen. It does not have substance. It is, in fact, not founded on any basis of fact at all, because the act has worked very well. The Tellico Dam is not a valid case to use.

So what are we really left with when we stop to consider it?

Mr. BAKER. Mr. President, will the Senator yield for a moment?

Mr. NELSON. I yield.

Mr. BAKER. Mr. President, I have listened with great interest as the distinguished Senator from Wisconsin spoke of the political realities concerning the Endangered Species Act and suggested that the authors of the amendment before the Senate today, Senator CULVER and I, may have proposed this amendment in response to these political realities. I suspect that, in a manner of speaking, he is right; but I also suspect that it is a different type of political reality from what he had in mind.

I am absolutely convinced that after the decision of the Supreme Court in the Tellico case, if we did not build more commonsense into the Endangered Species Act, if we did not create some flexibility, if we did not create some way to relieve the tensions created by situations like Tellico, if we did not affect the realism that the law requires in the long term, the Endangered Species Act would expire; that there would be so much opposition to it that the act would be in jeopardy.

The political realities, as I think of them, are that, in the sense that we are formulating public policy, politically it is in the best interests of this country to continue to have legislation like the Endangered Species Act on the books. But if such legislation is to survive and endure, it has to be realistic.

In my view, experience has shown us so far that the present Endangered Species Act is not realistic and that the amendment proposed by the committee is not only necessary but also essential if the program is to continue.

I thank the Senator for yielding.

Mr. NELSON. Mr. President, I think the distinguished Senator from Tennessee said approximately what my guess was as to the reason for the proposal, except that I would not agree with the observation of the Senator that this law is not practical.

The argument I am making here is that all the emotional upset around the country over the Endangered Species Act because of Tellico and the snail darter is not justified by the facts. That is the argument I am making here.

Mr. BAKER. Mr. President, if the Senator will yield for another moment, I disagree most respectfully with that. I think there is no panic, no emotion. Those of us who have seen this confrontation develop over the years I think have been very patient. We have seen the litigation commence in the U.S. district court and seen that court rule in favor of the completion of the dam, to see two appeals taken and now the final culmination of the Supreme Court's decision on this matter just a few days ago. We are sitting down there in Tennessee watching as a Federal agency, the TVA, has completed or virtually completed a $116 million dam that they cannot close or use.

I think the people of Tennessee and the Tennessee Valley region have been very unemotional about it. I think they have responded with remarkable restraint. I think if I were to cater to the emotions of my constituents or if I were to speak in political tones, meaning political get-reelected terms, that what you do is simply exempt that dam, and there may be a movement to do that, maybe some people would be more pleased if we did that, if we just exempted the Tellico Dam. But I do not believe exemption for particular projects is a legitimate function of Congress.

I think the act should be adjusted to take care of those situations where the act clearly did not work, and do so carefully, dispassionately, and without emotion.

I believe the people of this country and of my region have been remarkably restrained in that respect, but I am not sure how much longer they will be if we do not bring them legislative relief in the form of the amendment proposed by the distinguished Senator from Iowa.

Mr. CULVER. Mr. President, will the Senator yield at this point as long as he is on my time?

Mr. NELSON. I yield to the Senator from Iowa.

Mr. CULVER. Have both Senators finished? I wonder if the Senator has had a chance to finish?

Mr. NELSON. I have not had a chance to say anything yet based on the 9 minutes the Senator so graciously yielded to me. We will be moving to a substitute, and I will be glad to yield to the Senator right now and maybe I can finish.

Mr. CULVER. Go ahead, finish.

Mr. NELSON. I wanted to complete my thought. I have read the RECORD, read the speeches, and read newsstories. Furthermore I have received some emotional letters, as a matter of fact, from people about the snail darter and how useless it is. My point remains, and I repeat what it has been from the beginning, that the law has worked very well. The Tellico Dam case is not a very good case because there is a very good argument that the dam should not have been started in the first place. Now that it is started, it should not be completed.

It is like one project in my State, by the way, in which there is also a great deal of emotion, the La Farge Dam. This Corps project should not have been started. It is two-thirds completed, and in my judgment it should not be completed either.

Mr. BAKER. Mr. President, will the Senator yield just for a second?

Mr. NELSON. I yield.

Mr. BAKER. I only point out that I do not know whether the dam should have been started or not, but it was started before I came to Congress almost 12 years ago and long before the Endangered Species Act was ever enacted. Maybe it was a mistake to build Tellico Dam. I do not know. But you cannot go back and undo that decision and you

cannot carry off that $116 million worth of concrete.

My point is you ought to go ahead, finish it, and make the law conform to it.

The PRESIDING OFFICER. The time of the Senator from Wisconsin has expired.

Mr. NELSON. Mr. President, let me ask the Senator. Maybe I can finish in 3 minutes. I ask the Senator from Iowa is he going to move to the substitute amendment? Then I will just take 3 minutes of that. Is that satisfactory?

Mr. CULVER. All right.

Mr. NELSON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. NELSON. Are we now then on the substitute amendment, all time having been yielded back?

The PRESIDING OFFICER. The Chair wishes to clarify that we are now on the amendment of the Senator from Iowa which is an amendment to perfect the text of the proposed amendment which is to be stricken by the amendment of the Senator from Wisconsin.

Mr. NELSON. Do I understand the Chair to be saying this is a perfecting amendment to the amendment offered by the Senator from Wisconsin?

The PRESIDING OFFICER. It is a perfecting amendment to the language which the Senator from Wisconsin proposes to strike from the original text.

Mr. NELSON. And that is the amendment which is the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON. And there are 15 minutes to a side on that amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. NELSON. Mr. President, I wish to conclude with one point—the act should not be changed. No evidence has been produced to justify a change. I simply wish to point out that, when you think about it, what we are really left with are those who think we have to modify the Endangered Species Act because some project may be affected in their area at some time in the future. What we are really left with is the position of those whose basic argument gets down to this: Someday, sometime in the vague misty future some unplanned, some unknown project not yet conceived by anyone, not yet proposed, may be stopped someday in that distant future in order to protect some unnamed species of unknown value. That is really about what the argument comes down to.

As to one final point, the committee report, the proponents of the amendment make the argument that there are on the horizon projects that are threatened by the Endangered Species Act, important economic projects for the benefit of the country which will be stopped by the act unless it is modified.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. NELSON. I thought there were 15 minutes to each side on this amendment.

Mr. CULVER. I thought the Senator wanted 3 minutes at this point.

The PRESIDING OFFICER. The Senator is correct. There are 15 minutes on each side.

Mr. NELSON. The amendment is 30 minutes, with 15 minutes to each side.

Mr. CULVER. If I could say to the Senator, we have a problem, because I have tried to generously give the Senator time on his original amendment and now we are into the substitute amendment and we do have other Members who want to speak to some of the very important points that the Senator raised.

We are going to have difficulty unless we go ahead and submit another substitute amendment or in some other way get the time necessary to address the general points that the Senator raises. I think we do wish to respond.

Mr. NELSON. The Senator from Wisconsin is speaking on his 15 minutes, and I will use it.

Let me point out to the Senator from Iowa that this unanimous-consent agreement was made on the floor with no notice to me. I very graciously said to the Senator I will not come to the floor and insist upon a request.

Mr. CULVER. Said to which Senator?

Mr. NELSON. I said to the Senator from Iowa and the Senator from West Virginia, standing there, and as an accommodation I said: "All right. I will not ask for the hour and 30 minutes that was given to the Senator from Mississippi on his main amendment." I said, "We will just call it up and try to get my statements in. If necessary, I will offer an amendment, speak to it, and withdraw it."

And I have not violated that agreement, and the Senator from Wisconsin is now speaking on that one part of the 15 minutes of the amendment the Senator offered. If the Senator wants me to offer an amendment, I will offer one right now and finish my remarks.

Mr. CULVER. Let me just say that the Senator is, of course, correct, when he says he originally was not privy to the unanimous-consent agreement entered into by the majority leader and minority leader and other members of the committee.

There was provision for, in the case of the amendment of the Senator from Mississippi, an hour and a half. When the Senator subsequently came to us it is true we said if he made that request it was our understanding that objection would be heard to changing the unanimous-consent request to give the Senator another hour and a half, because there were other Senators with similar desires to offer amendments who would make similar requests.

It is true the Senator can offer this approach to just send in a series of amendments to get the necessary time. In fact I offered one in effect, to help the Senator.

Mr. NELSON. Just what is the Senator's complaint? I am puzzled.

Mr. CULVER. I wonder what the Senator's complaint is. I asked if I could speak now on the points that the Senator has made, and apparently he feels it is inconvenient to permit that now. So I would suggest that it is true the Senator has 15 minutes. The Senator asked me before could he have 3 minutes of that time now, because technically it is my amendment pending.

Mr. NELSON. I did not ask for 3 minutes of that time. The Senator or the Chair misunderstood me. My point is, what is the Senator's complaint? I am trying to complete my remarks.

The Senator has three times interrupted. I have allowed the interruptions. The Senator from Tennessee did the same, and I allowed the interruption. Now I intend to finish my remarks. I did not notice the Senator from Iowa having interruptions in his long, long presentation today. So I would expect the same courtesy out of him and, in any event, I am going to finish my remarks.

Mr. CULVER. The Senator from Iowa's presentation, I think if you put a clock on it, is not quite, even at this stage, equal to the time the Senator from Wisconsin has already utilized.

Mr. NELSON. All right. Then make it up later this evening. But in any event I am going to finish my remarks, and I will not submit to any interruption.

The PRESIDING OFFICER. The Chair wishes to point out that there is pending the amendment of the Senator from Iowa. Under the rules the Senator from Iowa is entitled to have 15 minutes. The unanimous-consent agreement provides that in the event the manager of the bill is in favor of any such amendment or motion the time in opposition thereto shall be controlled by the minority leader or his designee.

Under the circumstances, the proponent of the amendment, the Senator from Iowa, has control of 15 minutes and the minority leader or his designee has control of the adversary 15 minutes.

Mr. BAKER. Under those circumstances I previously designated the distinguished Senator from Wyoming to stand in my place and stead in control of the time under the order.

Mr. CULVER. Mr. President, I will give the distinguished Senator from Wisconsin what time he needs of my 15 minutes to complete his statement. If necessary, we can just submit another substitute amendment at a later time and extend the time.

Mr. NELSON. I thank the Senator from Iowa.

Now, let us complete one more point. The argument has been made in the committee report and by the Senator from Iowa, using the committee report, that on the horizon is a substantial number of cases that are going to create problems. These "substantial number of cases" actually are 12 actions.

I wish to put in the RECORD two letters from the Department of Interior, Assistant Secretary for Fish and Wildlife and Parks, Mr. Bob Herbst. One letter is addressed to me, dated July 12, 1978. The other letter is dated July 14, 1978 and is addressed to the Senator from Iowa.

Now if you look at pages 2–3 of the committee report the argument is made that there is this "substantial number of actions on the horizon that are going to be stopped by the Endangered Species Act.

What does Mr. Herbst say about that? Well, Mr. Herbst says, and I quote in part from the letter addressed to me:

We are confident and hopeful that no major controversy will develop with the other projects either so long as the consultation is conducted by open-minded people with an honest desire to accomplish the concerned project, while minimizing adverse effects on the critical habitats of endangered or threatened species.

In the letter to Senator CULVER he says basically the same thing. He says:

We cannot say that one or more of the remaining nine projects on which consultation has not taken place will not result in an impasse or a conflict. That possibility always exists.

Well, a possibility always exists for almost anything. But the fact of the matter is that the Committee report, relying upon some statement of some 12 projects that may be held up, is pretty compellingly refuted by the letter from the Assistant Secretary of Interior for Fish and Wildlife and Parks.

Of those 12 "irresolvable" projects, 3 have already been resolved. That brings it to nine. In the next week or so, another one will be resolved, and that brings it to eight. Interior believes and both Herbst letters strongly reflect the belief that all these eight will be resolved.

So I suspect that within the very near future all of the cases relied upon cited by the Committee will dissolve into thin air and we will be back where we started. In the meantime we will have amended a good law and put in a gaping loophole in the current Endangered Species Act that is totally unnecessary.

If someday, sometime in the future, there were some project that nobody has yet thought about, that is so important to the economy of the Nation that it would be necessary to make some decision that might sacrifice an endangered species, why do we not wait until that occasion arrives? It is not here yet. It is the worst scenario scene that people can design. It is a scare story that has not happened and is unlikely to happen. Who is to say that the Tellico Dam, for example, is more important than any endangered species?

I ask unanimous consent to insert in the RECORD a letter from the Acting Secretary of the Interior, Mr. Joseph, who is against any change in the law; two letters from Mr. Herbst, one addressed to myself and one addressed to Senator CULVER from Iowa; an editorial from this morning's Washington Post, and an interesting article by Henry Mitchell in the Washington Post of July 7, 1978.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 12, 1978.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: This is to provide you with the views of this Department on legislation pending in the Senate to amend the Endangered Species Act of 1973.

Section 7 of the Act has been the recent subject of considerable publicity and misunderstanding and is the primary target for amendment. As you know, this section prohibits Federal agencies from authorizing, funding, or carrying out any action that may jeopardize the continued existence of endangered or threatened species or destroy or modify their critical habitats. S. 2899, scheduled to be considered by the Senate in the near future, would establish a 7-member committee to rule on exempting Federal agencies from compliance with section 7 when an "irresolvable conflict" exists. An amendment to S. 2899 to be submitted by Senators Stennis, Eastland and Garn would exempt projects underway on the date of enactment of the Act in 1973 and those projects which are half completed when a species is listed, and would modify the statutory responsibility of Federal agencies under the Act.

This Administration is firmly committed to implementation of the Endangered Species Act and is oppcsed to any substantive changes to section 7. Man's activities threaten a growing number of species with extinction. However, many endangerments and extinctions can be prevented by the protection of a relatively small area or by the careful development of land and water use projects. I believe that the section 7 consultation process has proved that there are resource development alternatives which will allow resource utilization and yet insure abundant natural diversity.

The implementation of section 7 is not having the profound adverse impact on Federal action that many believe. The Fish and Wildlife Service has carried out over 5,000 consultations under this section. In over 4 years only three cases have reached the courts, and only one of these has resulted in what some consider an impasse. Even in this case—the Tellico Dam and Reservoir project—consultations have resumed and I believe the conflict can be resolved in a mutually satisfactory way. It should be noted that all of these projects were initiated before complete environmental planning was required by the National Environmental Policy Act. At the present time, an Environmental Impact Statement prepared before a project is initiated will identify potential endangered species and other similar problems.

Obviously, the existing administrative processes are adequate in assisting Federal agencies to carry out their actions in ways which are consistent with the needs of listed species and they should be given an opportunity to increase in effectiveness as the system becomes better understood. It is significant that Federal development agencies are, to an increasing extent, seeking compliance with the Act at early stages of project formulation and development when options are easiest to address. President Carter has directed a survey of all Federal lands to identify habitat critical for listed species to avoid the possibility that such habitats will be identified too late to affect project planning. The Endangered Species Act is still in its infancy and we expect to see many of the problems encountered thus far dissipate as compliance becomes an integral part of Federal natural resource development planning.

To amend section 7 at this point would be premature and would certainly undermine the consultation process. Development agencies would be reluctant to enter into meaningful consultation if there is any possibility of an exemption. Sponsors of projects which have suitable alternatives to minimize or eliminate adverse impacts would be reluctant to implement even minor modifications.

S. 2899 would also provide an exemption from the prohibitions on possession and trade in section 9 of the Endangered Species Act for endangered or threatened raptors legally held in captivity or a controlled environment on the date of enactment of the Act of the "domestic captive produced progency" of such raptors. This Department recognizes that strict application of these restrictions at time creates obstacles to effective propagation, exchange and other activities involving captive wildlife, a result contrary to the spirit of the Act. In response to this, the Fish and Wildlife Service published a notice in the Federal Register of April 14, 1978, to treat captive populations as separate "species" from wild populations. This would provide for the listing of certain otherwise endangered species as threatened, and allow for possession, transfer, exchange and commerce in these animals. Therefore, exemptions for individual groups of animals, in this case raptors, is neither necessary nor appropriate to resolve alleged hardships.

This Administration firmly believes that the Endangered Species Act provides a sound, rational and flexible approach to resource management which should not be jeopardized because of unjustified overreaction. The Act has been given a hard test and it is working well.

Sincerely yours,

JAMES A. JOSEPH,
Acting Secretary.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 12, 1978.

Hon. GAYLORD NELSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR NELSON: Earlier this year a list of 12 Federal projects (attached) that may pose "potential consultation problems" was prepared for the Senate Subcommiteee on the Environment at the request of key subcommittee aides. It was not intended then nor is it accurate now to state that these potential consultation problems represent insurmountable obstacles that will result in "Tellico-like" situations after the consultations are completed. In fact, consultations have now been completed on three of these projects (Miami Jetport—Florida, Dickey Lincoln—Maine, and Osceola phosphate mining—Florida) and no jeopardy to the concerned endangered species was found providing reasonable precautions are taken as outlined in the Biological Opinions concerned.

We are confident and hopeful that no major controversy will develop with the other projects either so long as the consultation is conducted by open-minded people with an honest desire to accomplish the concerned project, while minimizing adverse effects on the critical habitats of endangered or threatened species. We can assure the U.S. Congress that the Department of the Interior will always approach the consultation table with this point of view.

Sincerely yours,

BOB HERBST,
Assistant Secretary for
Fish and Wildlife and Parks.

JULY 14, 1978.

Hon. JOHN C. CULVER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CULVER: At your request, this letter has been prepared to further clarify my letter to Senator Nelson dated July 12, 1978 (copy attached). Our letter was prepared to answer questions that he had about the list of 12 Federal projects that might pose potential consultation problems. My letter to Senator Nelson does not repudiate the list of 12 projects submitted to your subcommittee earlier this year at the request of key subcommittee aides. My letter simply states what that list of Federal projects was intended to convey to your subcommittee, inasmuch as there is apparent confusion on this issue.

We cannot say that one or more of the remaining nine projects on which consultation has not taken place will not result in an impasse or a conflict. That possibility always exists. We can say and we do sincerely believe that no major controversy will develop with the nine remaining projects so long as the consultation is conducted in good faith by both parties and so long as an honest attempt is made on both sides

of the consultation table to permit Federal projects that Congress has approved to be developed while doing what is necessary to protect endangered and threatened species and their critical habitats.

Our list of projects that might pose problems is based upon our ability to anticipate these kinds of problems. Our experience to date reveals that the problems that often are most vexing are those that cannot be anticipated readily. We have dealt with these effectively in the past, but it is obvious that the potential for greater complexity and a resultant increased difficulty in resolving problems is real and growing.

We remain confident that good-faith consultation is the key to the successful resolution of conflicts between projects or programs and the Endangered Species Act. Let me make it clear that I would hope and expect that most consultations will lead to a resolution satisfactory to the needs of both the species and the project. However, this is not to say that impasses will not occur.

I am pleased to reiterate that this Department will do its utmost to carry out its responsibilities under the Act and that we will always approach the resolution of conflicts in good faith.

Sincerely yours,

ROBERT I. HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

[From the Washington Post, July 18, 1978]

SAVING PROJECTS AS WELL AS SPECIES

Have dams and highways become endangered species? You might conclude that from some current attacks on the Endangered Species Act. Unless that law is drastically modified, some critics say, nondescript plants and tiny creatures are likely to be used to block a vast—but unspecified—number of vital public projects.

Such fears are overdrawn. The potential for conflicts may be fairly large, but in all cases where good-faith consultations have been made, they have produced accommodations that allow a project and an endangered species to coexist. In Maine, the Corps of Engineers has apparently found a way to transplant the Furbish's lousewort, a rare snapdragon that had gained notoriety as a possible bar to the controversial Dickey-Lincoln Dam. In other cases, life-saving results have been gained by changing a project's site, design or operations somewhat.

The consultation process has worked so well so often partly because federal agencies have had no alternative; the 1973 law flatly bars them from destroying an endangered species or its critical habitat. Now there is a real danger that changes—this week in the Senate or later in the House—could reduce or eliminate incentives to negotiate, and bring on a rash of projects that not only run roughshod over fragile species, but are environmentally less sensitive in general.

Flat exemptions for some projects would obviously have that bulldozing effect. We see much less cause for concern about the last-ditch arbitration mechanism in the Culver-Baker bill now on the Senate floor. One of its crucial elements is that the proposed review board could not even consider exempting a project unless it was satisfied that consultations had been genuinely pursued without success. That point would be made even more emphatic, and the process tightened in other ways, by several amendments that Sen. Gaylord Nelson (D-Wis.) has prepared. We urge the Senate to adopt them. They would promote the creative review that can minimize out-and-out collisions without sacrificing either species that should be saved or projects that are generally worthwhile.

[From the Washington Post, July 7, 1978]

GOOD NEWS, INDEED, FOR MISS FURBISH'S LOUSEWORT

(By Henry Mitchell)

A civilized man never knows when he may be called on to defend the citadel, so to speak, against the next charge of the barbarians with their odd cries and stone hatchets.

So it is not one day too soon for us to contemplate Miss Furbish's lousewort and what it means to this nation and how we must order ourselves in the struggle.

Miss Furbish's lousewort, as everyone will soon become aware, is a rare plant facing extinction along the banks of the St. John River in Maine. There seem to be perhaps 800 individual plants in the world, and most of them would be lost if nothing were done to protect them from the projected ruin of their natural home.

Two dams are proposed there that would obliterate Miss Furbish's lousewort's habitat.

The law of this republic forbids the use of government money for any project that would grievously damage a plant so rare as this lousewort.

But there is good news today. The Army Corps of Engineers (the dam or the goddam people, depending on your point of view) themselves discovered the existence of this rarity in their path. They themselves called attention to it, and asked the Fish and Wildlife Service (guardian of threatened louseworts) how to proceed.

This is one of the most complex situations that has come before the government in administering its laws on endangered life. Through a miracle, you might almost say, it seems probable that the Engineers will be able to save the lousewort, through propagation and transplanting to another site, short of a constitutional crisis.

Mind you, it is one thing to talk about "another site" and quite something else to find a site and establish a rare plant there so that it continues to breed.

It is enormously important, though, that the Engineers faced the problem straight, without subterfuge and lies, and the guardians of endangered life are little less than thrilled at this example of cooperation in fulfilling the law.

As things stand now, the Engineers commit themselves to finding the means to preserve the lousewort in another location. The enforcers of the law will study the solution that the Engineers find, and if all goes well, as it is expected to, there will be no objection to the dams on behalf of the lousewort.

Unfortunately, the know nothings and rooty-toot lunkheads of the continent—a species in no danger of extinction—have seized on the delightful name of the plant to make sport of the law.

We may hear much from them in the months ahead.

They are sure to point out this plant is not very handsome and has no known economic, medicinal or especially esthetic use. It could vanish completely and we would not be the poorer.

Just yesterday I noticed one of those heman type articles on the editorial page of The Wall Street Journal saying, in effect, we have lost our minds in American law.

Snail darters, Miss Farbish's lousewort anopheles mosquitoes and diamondback rattlers (it goes on) could vanish utterly and the "average voter" would say good riddance.

It is possible that the average voter would in fact say good riddance, if he relied only on a press that said the whole business of endangered species is a bucket of nonsense.

But the average voter is also the average American, and is quite capable of giving attention to something he formerly paid no attention to, and quite capable of changing his mind on Vietnam, Watergate, snail darters and louseworts.

This may be the place to mourn that four-letter Anglo-Saxon words are now so unfamiliar that "wort" is commonly mispronounced. It is like all those other words spelled with an "o" and pronounced with an "u." (Work, word, worth, whorl, worm, world and so on.) It has been in the language for only 1,100 years—too new for us to have the hang of it.

A wort is a plant.

There are many sorts of louseworts (the name, by the way, was given by shepherds who noticed that fields where this plant grew were the same fields in which their sheep had lice. It is likely that all their pastures had louseworts, or else that all their sheep had lice, no matter what the pasture; but shepherds are always looking about for something to blame their vermin on).

Many louseworts are common. You could build a dam and never give them a thought. It is just Miss Furbish's lousewort (*Pedicularis furbishiae*) that is endangered.

Why, one might ask, should there be any effort to preserve a plant with no known use beyond the production of infant louseworts?

There are several answers:

1. Our own vast ignorance of this lousewort is no guarantee that it has no "value." The rubber tree only recently came into practical economic use. The penicillin mold was not much esteemed on cantaloupes and its remarkable properties were long unknown.

2. Apart from important human uses that might be disclosed in the future, a plant of no known use to us might be of considerable use to some other creature. If there are only 800 of these louseworts, it is hardly going to turn out that the snail darter, say, desperately requires them for food. But the principle is sound, that life does not exist in a vacuum (except in the immediate vicinity of some typewriters) and what affects the plankton eventually affects the osprey.

3. Even if the plant is of no use to man or beast, there is the esthetic question of the richness and variety of the natural world. Who would want a world without tigers and rattlesnakes, lambs and leopards, Wall Street Journals and Hustlers?

As individuals we may find it possible to live out our lives in such biological and horticultural and faunal slums as downtown Manhattan, but even there the normal heart rejoices to think of wolves and quetzals flourishing in the great world, if not in the restricted prison in which some men are content to live their poor lives.

4. There is the matter of genes. They can combine and segregate in astounding ways. What the lousewort's genes may be worth, a million years from now, we have no way of knowing, but we do at least have the sense to know that once lost there is no way to recreate this stuff of life. If it is argued that men will no longer walk the earth then, that is beside the point.

5. Finally, there is the matter of human honor. Whether it is honorable to bang through the world oblivious to every thing and every creature that does not seem immediately useful for our advancement in our own poor notions (notions all too likely to change as we increase in wisdom) of what "advancement" is.

Or whether it is honorable to brood over the treasure of life and sustain and promote it, to shelter and celebrate it.

Give any man the choice and he will choose, despite his moments of insanity and

natural aptitude for going bananas now and again—he will prefer the side of grandeur and richness to the narrow rigid keyholes of locked compartments.

Whether life is a rat race or a garland is a matter of some consequence.

What we conclude, on such questions, affects not merely the lousewort, but the respect with which we hold ourselves and the way we go about doing everything we do.

Nobody is likely to argue that all life must be preserved at all costs at all times.

There may even be occasions for fights of one kind or another that do damage of one kind or another.

With the lousewort, we will hear the argument that we have a choice between a few worthless plants and two vitally important electric generating plants. But as it happens in truth, it appears we can have both the lousewort and the electricity, provided we think ahead and do not just sit on our butts making wisecracks about forms of life we know nothing of.

Sooner or later, needless to say, there will be conflicts far harder than the one presented by Miss F's one.

How we acquit ourselves then depends on how we have trained ourselves. Wars are won, they say, on playing fields at schools.

Whether we come out on the side of life or the side of electric can openers—a choice that goes to the center of what our own lives are worth—defines a great deal in the way we get on with others and the way we get on with ourselves inside our own hearts.

Some say barbarians will win, and it is worth noticing they have already put rattlesnakes on the worthless list, and no doubt tigers, bears, dogs will soon follow.

There have always been savages at the gate. The question is not so much how savages behave as how we do.

The center is going to hold. One more round.

Mr. NELSON. I thank the distinguished Senator from Iowa for all of his assistance in yielding extra time. If I have any time in the future on this bill, I will repay the Senator from Iowa with interest at whatever rate it is they charge in that State this time of year.

[Laughter.]

Mr. WEICKER. Mr. President, will the Senator from Wisconsin yield?

Mr. NELSON. I yield the floor.

Mr. WEICKER. I just rise, Mr. President, to support the position of the Senator from Wisconsin.

Mr. President, in 1973, the Senate decisively endorsed the Endangered Species Act with the intent to mitigate man's effect on the destruction of life. We wisely recognized the importance of all creatures of the Earth and how much we have yet to learn of their potential worth. Notwithstanding the aesthetic and spiritual values of such animals as the giant blue whale, and the practical medicinal benefits of minute plants, all life is part of an intricate, interdependent web. No single species, therefore, is unimportant.

The Endangered Species Act has served its purpose well. With the sole exception of TVA, Federal agencies testified before Congress that they have been able to accommodate the survival of an endangered species with the intent and purpose of their public works projects. Hundreds of conflicts have been resolved due to good faith interagency cooperation. Implementation of the act proves that man and animal can successfully live together, as they should.

I am afraid, however, that the success of this act and the logic that led to its passage will be severely undermined by the existence of a Federal project whose potential benefits should have been questioned from the start. The Tellico Dam and the seemingly innocuous snail darter are the focus of a new controversy over the alleged inflexibility of the Endangered Species Act. Understandably the idea of a 3-inch fish halting a multimillion dollar dam seems comical at face value.

Mind you, I must admit I have no special reverence for the snail darter. But, at the same time, I have no love for the Tellico Dam. In the past, TVA officials failed to reassess the value of a project that was first conceived in 1939, but not begun until 1967. Responsible persons, including the present chairman of the Tennessee Valley Authority, question the benefits of the plan if it is allowed to go full term. Closing the gates of the Tellico Dam will not only destroy the last habitat of the snail darter, but also 17,000 acres of high quality farmland, the last free-flowing section of the Little Tennessee River, and numerous historical and archeological sites, including the ancestral home of the Cherokee Indian. All this would be accomplished in exchange for a 0.0005 percent increase in TVA's energy output.

Yet, because of this one questionable undertaking, we are now ready to consider a bill, S. 2899, which will give the U.S. Government the authority to condemn a species to extinction. The Culver-Baker proposal allows a seven-person committee to provide an exemption for a project if its benefits outweigh the benefits of conserving a species. What are the criteria? Is the species edible? Does it provide for other species? Is it pretty to look at? I believe we simply do not know enough about life and its interactions necessary to maintain the health of our planet to make such decisions.

Certainly, the effect of the proposal would not be detrimental if Federal agencies truly dedicated themselves to resolving a conflict with an endangered species as they have done over the past 5 years. But there is a danger that those same agencies will now have the license to push ahead with their programs and defer the problem to the committee.

Hence, the committee will be faced with the cut and dry decision to either save a project or a species. I contend that the success of the act in the past has clearly shown that the United States Government does not have to play God and make such life and death decisions.

Therefore, I urge my colleagues to support the Nelson amendment to S. 2899. Let us not let the fate of the Tellico Dam excite us into changing a law that works.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. WALLOP. Mr. President, if I understand it correctly, we have 15 minutes?

The PRESIDING OFFICER. The Senator from Wyoming is correct.

Mr. CULVER. Mr. President, I wish to say——

The PRESIDING OFFICER. The Chair understands the Senator from Iowa has the entire 15 minutes.

Mr. CULVER. Yes.

I wish to say at the outset how very much I respect the sincerity and the integrity of the statements by the distinguished Senator from Wisconsin. If there is to be a Member of this Senate who is to be cited for leadership in the area of environment throughout the term of his service in this Chamber, it would have to be the distinguished Senator from Wisconsin and one or two others of similar stature, and commitment and concern.

Mr. President, there have been a number of statements made here with the implication that the action that the committee is recommending to the Senate is somehow being prompted and triggered in the form of a panic reaction to a problem that really and truly does not yet exist.

Mr. President, if there is a problem with regard to the legislative process, given the nature of our current public policy problems, it is our inability to anticipate problems and to get out and position ourselves responsibly and rationally in a way that, when the political pressures come, we will not do a short-sighted thing.

Mr. President, this committee began oversight hearings on this bill a year ago. We heard from the Fish and Widlife Service. We heard from the General Accounting Office. We heard from conservation and environmental interests and development interests as to the successes and as to the problems with this legislation.

It has been said that we have some 4,500 cases, and only 3 proved to be irreconcilable; one of those is the celebrated Tellico Dam case. It has been suggested that that is a case that never should have been brought, and that, in fact, the public works project should never have been built in the first place.

In all candor, the committee was not responding to that issue at the time of our initial consideration and concern. Rather, we were responding to the fact that this bill had never had oversight hearings since its enactment in 1973.

What were we told on the occasion of those hearings by the Fish and Wildlife Service? What were we told on the occasion of those hearings by the General Accounting Office, which right now is in the process, after a year, of a very thorough examination of the implementation of this act?

We were told several things. We were told, as is true, that they had an incredibly large number of cases that were unresolved, but they also said to us, "It now looks like we have some 12 cases that" in their words "are likely to present irreconcilable conflicts in the short term, in the immediate months ahead."

The Senator has mentioned that 3 of those 12 have been somewhat successfully resolved. One of them I am sure he has in mind is Dickey Lincoln. As recently as this afternoon, we do not have assurances that that, in fact, is the case.

What we did hear from GAO was this:

They said that the inflexibility of this act was having the consequence, in the administration of the act, of the Fish and Wildlife Service not withholding species from the endangered species list, for political reasons—that it was so rigid and so inflexible that, when push came to shove politically, the agency itself was intimidated by the political question. So they would negotiate, and decide if the heat was too bad, and then decide, "If so, we will not even put that species on the endangered species list."

Certainly the character and integrity of the act is not furthered under those circumstances. Quite the contrary.

We also heard from GAO that the scarcity of Fish and Wildlife Service records precluded them from even accurately estimating the number of consultations. Out of that number of 4,500 the Senator is talking about being bandied around, apparently all but 200 of them were phone calls. They were not substantive consultations.

Second, we heard from them that the Interior Department has attempted to down play evidence of present or future conflicts. That is information from the GAO.

They have been playing games, according to GAO, with the designation of critical habitats, because of the inflexibility of the act. They have also, according to the GAO, been involved in making political judgments even with regard to the presentation of biological opinions, because of the inflexibility of the act.

Mr. President, anyone who is committed, as I am, to the fundamental purposes, the objectives, and the goals of this legislation can fairly be accused of panicking or being interested in gutting this act. What is a cheaper vote than to stand here in the Senate Chamber and say "Nothing needs to be done?" I do not have any projects to answer for. I do not have any projects in my State, yet.

What we are trying to do is get out ahead of that problem, because we see now, when we are talking about the increase in the number of listings on the endangered and threatened species list, that there are 1,800 plants going on that list in the near future—1,800 more. There has been a 450-percent increase, over the total for the previous 4 years, in the number of species that are going on the list.

We also know that the Fish and Wildlife Service says that next year they are going to have 20,000 consultations, as opposed to 4,500 in the last 4 years. You do not have to be Jimmy the Greek to know that that spells trouble politically.

We already have trouble. If we do not move responsibly—and there is no political constituency for commonsense; there is no political constituency for standing in the middle of the crossfire and getting it from the right and getting it from the left—but I will tell you what we are going to get if we do not have the wisdom to adopt this amendment today. There is no question about what we are going to get here, what they are going to get in the House, what we are going to get in both places. That is an amendment that will come, not in the form of a responsible, balanced committee that we have carefully constructed. It will not come in the form of a strengthening of the consultative process where, under the provisions of our bill, we actually strengthen the assurances that there will be good faith efforts to cooperate. We are saying that when you designate an endangered species, you have to quit pouring the concrete at that very moment. We do not have that leverage under the current law. That was the problem with the old law: they said "endangered species," and started working overtime, to go from 30 percent completed up to $100 million, so no one could come in and say this 3-inch snail darter could stop that $117 million project.

We say further you cannot even get your foot in the door of this committee unless the Fish and Wildlife Service itself specifies that you have tried in good faith to work out an acceptable agreement to preserve the species.

Mr. President, if these cases come up—and they just passed a billion dollar public works program by unanimous consent in the House about 2 weeks ago—I will say to the Senate I do not want to be sitting as judge and jury in the future. Week after week, month after month, these projects will come in where we are supposed to decide the merits of those disputes, where we are supposed to decide which endangered species should be weighed and balanced in the national interest. I will tell you how they will be resolved: they will be resolved, in each and every case, with an effort to have an ad hoc singular exemption. And they will get those exemptions more often than not because of the politics and economics of the political process.

Or they will come in and say, "I have a better idea: let us let the Governor decide." We had one amendment of that kind. Or "let the agency decide," or "let the President decide," or "let some other forum decide."

Mr. President, I will take my chances with this bill, which I think is carefully drafted. Mr. Lynn Greenwalt, the Director of the U.S. Fish and Wildlife Service, testified that he thought this proposal provided—I quote the testimony of the Director of the Fish and Wildlife Service at our hearings:

> This proposal provided a practical mechanism for resolving otherwise irresolvable confrontations so long as the consultation process remains strong.

He also said that the committee's decisions, "would likely be good ones because the members have full understanding of the implications of their actions."

So, Mr. President, it seems to me that the Senate should approve the bill, which was unanimously approved by the Committee on Environment and Public Works after the most careful consideration on a bipartisan basis, in recognition of the need to provide a mechanism to introduce some flexibility, some flexibility so that we do not have the Fish and Wildlife Service playing games because of their own political fear about the consequences of doing their job under this law that currently has no flexibility. At the same time it would provide an opportunity to examine a case on its merits. This would be done by a carefully crafted group of individuals best equipped to bring informed, detached, objective judgment that is knowledgeable and relatively insulated from the political pressures and the whims of the moment and the day.

Finally we are saying, "In those cases where you exempt, those very rare cases where we are calling upon you to play God the second time around, you can do it only if you satisfy yourselves that the consultation process has been totally exhausted; you can only do it when you satisfy yourselves that these explicit criteria of national interest are met, and you can only do it if five out of seven of the member vote to exempt a project."

Mr. President, finally I would speak to someone who is really interested in the preservation and the integrity of this act and not just the issue—not just the issue of this act. We have had a number of environmental groups privately come in and whisper and wink and nod that this is what they want, "We think this will be very helpful," but they know if they are going to get their dues every year they have to keep demagoging to their constituency. Well, I do not care how the votes fall on this one, but I say one thing, I hope they get the message. I am sick and tired of that kind of politics. I am sick and tired of it. I would like them, if they are worthy of representing these outstanding groups, to have the integrity to tell them the same thing they tell me. Unless and until they do I am not interested in what they tell me, very much.

Mr. President, finally, let me just say that we do have some letters that have come in today from the National Audubon Society, for one, praising the statesmanship of this committee. That is one group that has put their money where their mouth is. They put their mouths where their constituency's money is. They have been honest and responsive, and they follow the political climate. I think they know what is in their best interests.

How long do they think we should walk the plank? How long should we have people who can possibly survive trying to do the right thing, if they know we are doing the right thing, and they speak out against us?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CULVER. Mr. President, I ask unanimous consent to continue for 1 additional minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. I am reminded of a quote by John Dewey while listening to the presentation of the Senator from Wisconsin. He said, "A man who prides himself upon acting upon principle is likely to be a man who insists on having his own way without learning from experience what is the better way."

It seems to me, Mr. President, that that is really the choice before the Congress this afternoon and for the Senate today.

Mr. President, I ask unanimous consent that the two letters referred to in the colloquy between the Senator from Wisconsin and myself from the Fish and Wildlife Service be printed at this point in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C.

Hon. GAYLORD NELSON,
U.S. Senate, Washington, D.C.

DEAR SENATOR NELSON: Earlier this year a list of 12 Federal projects (attached) that may pose "potential consultation problems" was prepared for the Senate Subcommittee on the Environment at the request of key subcommittee aides. It was not intended then nor is it accurate now to state that these potential consultation problems represent insurmountable obstacles that will result in "Tellico-like" situations after the consultations are completed. In fact, consultations have now been completed on three of these projects (Miami Jetport-Florida, Dickey Lincoln-Maine, and Osceola phosphate mining—Florida) and no jeopardy to the concerned endangered species was found providing reasonable precautions are taken as outlined in the Biological Opinions concerned.

We are confident and hopeful that no major controversy will develop with the other projects either so long as the consultation is conducted by open-minded people with an honest desire to accomplish the concerned project, while minimizing adverse effects on the critical habitats of endangered or threatened species. We can assure the U.S. Congress that the Department of the Interior will always approach the consultation table with this point of view.

Sincerely yours,

BOB HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., July 14, 1978.

Hon. JOHN C. CULVER,
U.S. Senate,
Washington, D.C.

DEAR SENATOR CULVER: At your request, this letter has been prepared to further clarify my letter to Senator Nelson dated July 12, 1978 (copy attached). Our letter was prepared to answer questions that he had about the list of 12 Federal projects that might pose potential consultation problems. My letter to Senator Nelson does not repudiate the list of 12 projects submitted to your subcommittee earlier this year at the request of key subcommittee aides. My letter simply states what that list of Federal projects was intended to convey to your subcommittee, inasmuch as there is apparent confusion on this issue.

We cannot say that one or more of the remaining nine projects on which consultation has not taken place will not result in an impasse or a conflict. That possibility always exists. We can say and we do sincerely believe that no major controversy will develop with the nine remaining projects so long as the consultation is conducted in good faith by both parties and so long as an honest attempt is made on both sides of the consultation table to permit Federal projects that Congress has approved to be developed while doing what is necessary to protect endangered and threatened species and their critical habitats.

Our list of projects that might pose problems is based upon our ability to anticipate these kinds of problems. Our experience to date reveals that the problems that often are most vexing are those that cannot be anticipated readily. We have dealt with these effectively in the past, but it is obvious that the potential for greater complexity and a resultant increased difficulty in resolving problems is real and growing.

We remain confident that good-faith consultation is the key to the successful resolution of conflicts between projects or programs and the Endangered Species Act. Let me make it clear that I would hope and expect that most consultations will lead to a resolution satisfactory to the needs of both the species and the project. However, this is not to say that impasses will not occur.

I am pleased to reiterate that this Department will do its utmost to carry out its responsibilities under the Act and that we will always approach the resolution of conflicts in good faith.

Sincerely yours,

ROBERT L. HERBST,
Assistant Secretary for Fish and Wildlife and Parks.

THE TELLICO DAM

● Mr. KENNEDY. Mr. President, throughout the well-publicized debate on the fate of the Tellico Dam, one vital fact has somehow escaped public attention. While we may have been amused by pictures of the snail darter on the front pages of major newspapers across the country, we have ignored a much more serious issue involving this project. The fact is that completion of this project will destroy the ancestral home and heritage of the Overhill Cherokee Indians.

More than 100 archaeological sites have been located in the Tellico project area, including the Cherokee towns of Tanasi, which gave its name to the State of Tennessee, and Chota, the ancient capital of the Cherokee Nation. The Cherokees have continually protested the Government's complete lack of sensitivity to the privacy of their sacred grounds. The treatment of these Indians throughout the archeological investigations has been disgraceful. I understand that the investigations involved the removal of bones and other skeletal material from the graves of ancestors of Cherokees who are living today in western North Carolina and elsewhere. Yet, TVA never received the permission of the Cherokees to examine or remove material from these grave sites, although the Cherokees have publicly protested that these actions amount to "grave robbing."

The Supreme Court decision only addressed the question of protecting an endangered species, but fortunately, it has prompted a comprehensive evaluation of the options now available to the TVA with respect to this project. S. David Freeman, TVA board chairman, has assured us that the authority will report to the Congress and the public by August 10, 1978. I have asked the TVA to explore the possibility of recreating Indian villages that once flourished in the Little Tennessee River Valley as historical and cultural resource for all Americans.

Of course, other important issues will be addressed in the report, including whether it might be possible to move the snail darter to another, more safer habitat. Protection of a scenic river and prime farmland will also be explored.

Mr. President, I believe it would be imprudent for the Senate to act to exempt the Tellico Dam from the provisions of the Endangered Species Act before the TVA has had an opportunity to issue its report. The project may be continued in a manner which best serves the interests of the taxpayers, as well as being consistent with our efforts to protect endangered species. I therefore urge my colleagues to oppose this amendment.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Iowa.

Mr. CULVER. Mr. President, I ask unanimous consent to withdraw my amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw his amendment.

The question is on agreeing to the amendment of the Senator from Wisconsin.

Mr. CULVER. Does the Senator want the yeas and nays?

Mr. NELSON. I did not intend to ask for the yeas and nays and I will not. I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. GARN. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GARN. Does the sponsor of the amendment have to have the concurrence of his cosponsors in order to withdraw an amendment?

The PRESIDING OFFICER. No, he does not.

The bill is open to further amendment. If there are no further amendment to be proposed——

Mr. CULVER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1421

Mr. WEICKER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Connecticut (Mr. WEICKER) proposes an unprinted amendment No. 1421:

On page 12, immediately after subsection (e)(2)(C), add the following:

"(D) no more than one endangered species will be affected; and

"(E) no additional species that are biologically dependent on an affected species will become threatened, endangered or extinct through such action."

Mr. WEICKER. Mr. President, S. 2899 establishes——

Mr. CULVER. Mr. President, I do not know that we have a copy of the amendment of the Senator. Are copies available?

Mr. WEICKER. I certainly want the chairman of the committee to have a copy.

Mr. President, S. 2899 establishes an Interagency Committee with the power to grant exemptions to the Endangered Species Act. The committee will have the authority to grant an exemption after weighing the benefits of a Federal agency project against the value of preserving an endangered species.

It is entirely possible, however, that action by a Federal agency could affect more than one endangered species. First, a project could threaten two unrelated species separately. Second, a project could, by endangering the future of one species, subsequently destroy another species which has a biological dependence on the first.

Biologically dependent species could be one that is part of the food chain in which the affected species belongs. By further endangering or causing the extinction of that species, the chain may be broken. Several species could, therefore, be also endangered.

Other species are dependent symbiotically in which each species give the other some essential part of its livelihood.

The Culver-Baker proposal does not address the possibility of a conflict between a Federal agency project and more than one endangered species. I suggest that, since it will be a difficult enough decision to grant an exemption for a Federal agency when it causes the extinction of one species, we rule out any possibility of an exemption when two or more species are involved. I, therefore, propose an amendment to add to section 7(e)(2) two further limitations on the granting of an exemption by the Interagency Committee, as follows:

(D) no more than one endangered species will be affected; and

(E) no additional species that are biologically dependent on an affected species will become threatened, endangered or extinct through such action.

Mr. President, I hope the committee and the managers of the bill will be able to accept this amendment. I feel it in no wise affects the point which they attempt to make in the legislation, but does take into consideration a matter which I do not believe has been thought of, either in the committee or by anyone else associated with the bill.

Mr. WALLOP. Mr. President, as much as we might like to do, I do not think the committee can accept the amendment. Partly, it puts us into a posture of absurdly creating boundaries through a rational decisionmaking process that has been designed in the Culver-Baker amendment and the committee amendments thereto. Let me see if I can explain why.

The problem that comes about with limiting it to one is that the committee would not even be able to consider some projects for the existence of an irresolvable conflict. Having failed to allow the projects affected by this amendment into the consultation process, you will find that even though balancing of alternatives is badly needed the committee will not have jurisdiction to review the particular conflict.

Second, the fact that "no additional species that are biologically dependent on an affected species will become threatened, endangered, or extinct through such action" is effectively embodied in the Culver amendment as it is now. That is, "the benefits of such action clearly outweigh the benefits alternative courses of action consistent with conserving the species or its critical habitat, and that such action is in the public interest", and "there has been a reasonable and responsible effort to resolve the conflicts which are known to exist, and the Federal agency requesting such exemption has made, subsequent to the initiation of the consultation under subsection (a) of this section, no irreversible or irretrievable commitment of resources which forecloses the consideration of modification or alternatives to such action."

I do not see how anybody could begin to come to the conclusion that you are going to find in favor of the elimination of the species only to create another endangered species in the act. I mean it is an inconceivable result the way it is.

I say to the Senator, with regard to the first, that it does nothing to limit it to a single species under the process of design. There is no cumulative value. The process is the same for 1 or for 20. The finding in each instance has to be precisely the same. So I do not see that the committee, as the Senator says, failed to consider it. I think we considered, in every instance, the problems that the Senator brings up.

Mr. WEICKER. Mr. President, I should like to establish, then, some form of legislative record with the distinguished Senator from Wyoming. Is what the Senator from Wyoming says that the points made in this amendment are already embodied in the legislation?

Mr. WALLOP. The points made in the second part of the amendment are already embodied in the legislation. The point made in the first one is an irretrievably binding restriction on the process that has been tried to be devised. What I am saying is that here is a process—if you have an irresolvable conflict, for example, one could not consider, if such came to the point, the Tennessee-Tombigbee Dam or the Columbia Dam, under this section. You just could not consider them at all if it came to an irresolvable conflict on more than one species.

The consideration for each species is exactly the same and the critical decisions that the Endangered Species Committee will have to make are the same for 1 species or 20. But they have to make similar findings for each species.

Mr. WEICKER. In their consideration, in other words, the commission would have to take where there is more than one species involved?

Mr. WALLOP. Where there is more than one species involved, the Endangered Species Committee would have to find precisely the same set of determinant factors in each instance.

Mr. WEICKER. That satisfies the first point.

The second point is also the consideration of the agency in the matter of biologically dependent species will be taken into consideration. Is that what the Senator means?

Mr. WALLOP. Especially, I might add, since the amendment of the Senator from Wisconsin requires an environmental impact statement in each instance, prior to even being able to be brought in front of the commission. Nobody can conceive of a moment in time where you would create an endangered species by the determination that you are going to eliminate an endangered species.

Mr. WEICKER. I am satisfied, on the basis of the responses given to me by the Senator from Wyoming, that the points established in the amendment are, as a matter of substance, encompassed in the bill itself.

I want to make it clearly understood, however, that our dialog will be part of that legislative history; should the legislation pass, the points mentioned in the amendment are points for consideration.

Mr. WALLOP. They sure are. I would not want to mislead the Senator that our committee bill does not contemplate that an irresolvable conflict on more than one species coulld not be presented to the Commission for decision, but their finding with regard to each species would have to be the same.

Mr. WEICKER. And, where the situation exists in the case of biologically dependent species, this is a matter that would have to be taken into consideration, with the exact result that the Senator from Wyoming correctly stated—of, in effect, creating another endangered species by breaking the food chain?

Mr. WALLOP. That is exactly right, and that would be covered, under any set of circumstances, in an environmental impact statement with regard to the habitat and species involved.

Mr. WEICKER. Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The Senator has the right to withdraw the amendment.

The amendment was withdrawn.

Mr. HEINZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee was seeking the floor.

Who yields time to the Senator from Tennessee? Does the Senator from Iowa yield time?

Mr. CULVER. Yes, I yield time to the Senator from Tennessee.

Mr. SASSER. I thank the Senator from Iowa.

Mr. President, I compliment my friend and colleague (Mr. BAKER) and also compliment the distinguished Senator from Iowa (Mr. CULVER) and the members of the Environment and Public Works Committee for developing an amendment to the Endangered Species Act which I am pleased to support.

The recent Supreme Court decision in Hill against TVA has demonstrated that the intent of Congress in passing the Endangered Species Act needs further definition.

The Court interpretation of the act is inflexible.

It is rigid.

It leaves no latitude to provide for balancing the potential benefits resulting from completion of a public works project with the value of species preserva-

tion. That is assuming that a project would endanger some species.

The thing that complicates this whole issue is the fact that some projects have been partially—or even substantially—completed.

What do we do about those situations?

How do we resolve that issue?

Is it right for this act to be applied to projects underway or even substantially completed when it is enacted?

Is it right to halt summarily these projects, as Tellico Dam in east Tennessee was halted, because of the now-famous snail darter?

So I say we have to use some commonsense and find some way to reconcile the act with the obvious need to consider the fact that some projects were underway when the act was passed.

We do not need a string of half-completed projects strung out across the country as a monument to our lack of legislative foresight.

There should be legislation to help us over this hurdle.

And that is what it is hoped the Baker-Culver amendment will do.

This committee recommendation would establish a mechanism for mediating such disputes.

This approach appeals to me as an equitable solution to this dilemma.

The case of Tellico Dam points up the need for this type of mediation.

This dam is virtually completed—and yet, because of the Endangered Species Act, it cannot be completed.

Columbia Dam is the second half of the Duck River project in Tennessee which is 70 percent completed overall. Columbia Dam itself is 30 percent complete.

I suggest that the Mediation Committee look at two scales, two yardsticks.

One is the degree of completion of the project.

The other concerns the options available that will preserve an endangered species.

Obviously, when a project is still on the drawing board, a number of adjustments can be made—project modifications, alternative proposals, other options.

But once a project is underway, then the options may become more limited.

Then the committee should bring into play, along with all other matters, consideration of the financial investment, the commitment of local government and resources and its relationship to overall area planning.

However, the time is late—very late—for abandonment of the Tellico project since the project is virtually completed.

Costs are important.

Options suggested for Tellico include removal of part or all of the structure.

Such alternatives could cost as much as $16 to $40 million—on top of the $100 million already spent on the project.

This should be compared with $2 million required to complete the project as planned and perhaps an additional several million to mitigate damages to the species.

Another consideration is the fact that Tellico was the result of a three-county planning effort over a period of years.

The project evolved in response to specific needs in the area—the need for employment, the need to reduce outmigration of young people, and similar economic factors. The area had high rates of unemployment and outmigration.

TVA, working with the people in the area, led to development of a project design which responds to these specific needs.

So the instant issue is: Do we discard all the ground rules, all of this planning and the result of the planning—Tellico Dam—and shift to a new approach?

Do we shift from expanded industrial development to emphasis on agriculture and park development?

Does that make sense after all the time, effort, and funds expended to plan for and construct the dam?

I do not think it does.

I favor a commonsense approach.

As a Senator from an affected State, I hope that we can accept this moderate amendment to the act as the best solution.

I believe this will set in motion the machinery that will solve our double dilemma in Tennessee.

Mr. President, this concludes my statement on the bill. I wonder if the managers of the bill agree with my views on this matter.

Mr. BAKER. Mr. President, will the Senator yield to me at this moment?

Mr. WALLOP. Mr. President, I yield to the Senator from Tennessee so much time as he requires.

Mr. BAKER. Mr. President, I take this opportunity to thank my colleague from Tennessee for his remarks and the important colloquy that he has engaged in. It will be materially important in the interpretation of this act if this act is, indeed, passed with the amendments that have been added in committee. I think it is a good approach and I am particularly pleased that both of us are in accord on the importance and the effectiveness of this approach to this problem.

I thank my colleague.

Mr. CULVER. Mr. President, on this one point, I wish to comment on Mr. SASSER'S concerns, then I shall be delighted to take up the amendment of the Senator from Pennsylvania.

I thank the gentleman from Tennessee for his generous remarks about the committee bill, S. 2899. He is correct in stating that among the issues considered by the Endangered Species Committee in reviewing a project are the physical state of the area affected by the action at the time of review, the range of alternatives reasonably available to the action and, of course, many other relevant factors involved.

Obviously, the action itself might already have resulted in drastic changes in the physical environment of the area, making more difficult certain alternatives which might have been present at an earlier stage of construction.

If Tellico should be appealed to the Endangered Species Committee, it would have the same right to review and consideration of all relevant issues as any other project. The decision of the committee should be based on the merits of the case, taking into consideration the benefits of alternatives to the project consistent with preserving the species.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 3232

(Purpose: To prohibit representatives of members of the Committee from casting votes or being considered for purposes of a quorum at any voting session of the Committee)

Mr. HEINZ. Mr. President, I call up my amendment no. 3232 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes an amendment numbered 3232.

Mr. HEINZ. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, between lines 16 and 17, insert the following new paragraph:

"'(14) Except in the case of a member designated pursuant to paragraph (3)(G) of this subsection, no member shall designate any person to serve as his or her representative unless that person is, at the time of such designation, holding a Federal office the appointment to which is subject to the advice and consent of the United States Senate. In no case shall any representative, including a representative of a member designated pursuant to paragraph (3)(G) of this subsection, be eligible to cast a vote on behalf of any member.".

On page 5, line 6, immediately before the period insert a comma and the following: "except that, in no case shall any representative be considered in determining the existence of a quorum for the transaction of any function of the Committee if that function involves a vote by the Committee on any matter before the Committee".

Mr. HEINZ. Mr. President, this amendment to S. 2899 is a very simple and straightforward amendment.

The amendment simply seeks to require two things. First, that with respect to the six Federal members of the seven-member Endangered Species Committee, that any representative to be named by a member of the committee to sit for him when he, the statutorily designated member, cannot be present be a Federal official serving subject to the advice and consent of the Senate.

The second requirement of the amendment is that it would preclude any proxy representation of a statutorily authorized member from sitting in at a meeting where an actual vote of the Endangered Species Committee would take place.

That is to say, only the members themselves as we designate by statute could be present when a decision to exempt or not exempt is being made.

I think in both instances, Mr. President, the decisions of this committee are so important to our country and to posterity that we do not want any nameless, bureaucrats sitting in at discursive meetings of this committee.

Equally important, we do not want any second line people sitting in when the real decisions are going to be made.

Mr. President, my amendment to S. 2899, a bill to amend the Endangered Species Act of 1973, S. 2899, would establish an Endangered Species Committee composed of the Secretary of Agriculture, the Secretary of the Army, the Chairman of the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Secretary of the Interior (where appropriate, the Secretary of the Interior in concurrence with the Secretary of Commerce), the Secretary of the Smithsonian Institution, and the Governor of the State in which the conflict exists. The committee would have the responsibility of granting or denying exemptions from section 7 of the Endangered Species Act which directs Federal agencies to assure that their actions will not harm an endangered species or habitat as determined by the Secretary of the Interior, and, for marine species, the Secretary of Commerce.

I wish to commend my colleagues on the Committee on Environment and Public Works for their attempt to preserve the integrity of the consultation process specified under section 7 of the Endangered Species Act. I commend them also for their foresight in understanding the need for a balancing of viewpoints concerning all of the alternatives to be considered. The establishment of an Endangered Species Committee to intervene in those instances where the consultation process between a project agency and the Fish and Wildlife Service has been exhausted, but conflict still exists, is indeed a logical and pragmatic approach to the fulfillment of the goal of the act.

The amendment which I offer today concerns section 7(b)(5) of the act which states:

> Seven members of the Committee or their representatives shall constitute a quorum for the transaction of any function of the Committee.

My amendment would require, first, that any representative to be named by a member of the committee, with the exception of the Governor, be a Federal official serving subject to the advice and consent of the Senate. Further and second, my amendment would preclude any representative of a statutorily authorized member from sitting in a meeting at which an actual vote will take place. That is, only members themselves must be present whenever the decision to exempt or not to exempt is made.

Mr. President, the bottom line presented by S. 2899 is simply that the Endangered Species Committee will be called upon to make the sensitive and critical decision to exempt a species from the protection of the act. I believe that such a decision, which may result in the elimination of a species of life from the face of the Earth, demands the attention of those serving at the highest levels of authority. Americans should expect, and accept, no less. Such decisions must be made after all of the evidence has been carefully considered by those who have demonstrated the leadership and judgment and the experience and the expertise to qualify them for high office. Such decisions must not be left to an unreachable, unaccountable bureaucratic designee of the Endangered Species Committee member.

In his discussion of the Senate confirmation process, my distinguished colleague, Senator EAGLETON, described this—the confirmation procedure—"essential safeguard against incompetency or conflicts of interest in high office." There are many competent, experienced people serving in high office today who have been confirmed by the Senate in their present positions, and I believe we ought specifically to call upon this resource of talented officials to serve as representatives, when necessary, on behalf of any member of the Endangered Species Committee who for some reason is unable to attend a meeting personally. Of course, I fully expect that every member will strive to be in attendance each time a meeting of this important body is called. Nevertheless, I understand that occasionally a conflict in schedule will necessitate a designee, and I want to be sure that that designee is the best person available and accountable to perform the job. I believe that those serving subject to the advice and consent of the Senate meet that criteria. And when any decision is to be made, because of its effect on posterity, we can do no less than to require that the statutorily authorized members of the committee, and they alone, make the final or fateful judgment.

I recognize that there are times when legitimate economic priorities collide with our environmental sensibilities. I appreciate and share the concern of my colleagues who believe that new legislation should not threaten our ability to protect endangered species.

The importance of this issue is well articulated by Phillip Shabecoff, an outstanding journalist, who recently wrote:

> The most devastating impact on wild animals and plants comes from the destruction of their natural habitats by human activity. As forests are leveled, wetlands drained, water tables lowered, and natural ecosystems paved over for roads, dams, shopping centers, and suburbs, the elbow room and nutrients required by a broad range of species are rapidly diminishing . . . So bleak is the picture, in fact, that the bulldozer and not the atomic bomb may turn out to be the most destructive invention of the 20th century.

Mr. President, I ask unanimous consent that the entire text of Mr. Shabecoff's article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

> The Furbish lousewort, despite its unprepossessing name, is not without a certain modest charm when it first emerges in the springtime along the steeply sloping banks of the St. John River. Its leaves are delicate and fernlike, its stem is slender and, in due season, it diffidently puts forth two or three pale yellow blossoms. By the time the boreal forest of Northern Maine has donned its brillant autumn foliage, however, the lousewort, a distant relative of the snapdragon, has turned into a brown, blowzy, utterly inelegant growth. Its leaves are curled and brittle, its stalk is withered and its seed pod, gaping and empty droops like a tired slattern. Standing among clumps of vivid red fireweed, the aging lousewort is all but invisible.
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> Yet this little weed created a furor last spring when it was reported that the plant might block construction of two massive dams planned for a $700 million hydroelectric project bigger than the Aswan Dam in Egypt. Widely believed to be extinct, the little-known lousewort was spotted growing in the path of the proposed Dickey-Lincoln power project in the summer of 1976. Because it is in danger, the lousewort has been placed on the Endangered Species List maintained by the Fish and Wildlife Service of the Department of the Interior. Long before the discovery, however, construction of the dams has been under attack by environmentalists and sportsmen for other reasons.
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> Similarly, after local conservationists in February 1976 brought a lawsuit to halt further work on the Tellico Dam, which is part of a $119-million regional development project of the Tennessee Valley Authority, the Little Tennessee River was found to be the "critical habitat" of the snail darter. Conservationists found that the three-inch fish, an endangered species, lived in the last 38 miles of clear, free-flowing water on the Little Tennessee River; it cannot live in the still water that would be created by the dam impoundment
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> Because of the growing concern that some obscure species of life may block multimillion-dollar projects, Congress has before it several amendments to the Endangered Species Act of 1973 that sponsors say would make the act "more flexible." The act, which restricts only projects involving the Federal Government, was set up to prevent the elimination of species, subspecies and population segments of plants and animals; the amendments would enable some projects to proceed even if certain species are made extinc in the process.
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> Environmentalists have regarded the 1973 act as a first line of defense for the growing number of animals and plants facing extinction. In the course of safeguarding the life of these species, however, conservationists have come up against unexpected dilemmas. The Furbish lousewort is a case in point. It was seen for the first time in 30 years in 1976, when Dr. Charles D. Richards, a botanist from the University of Maine who was working on an environmental-impact statement for the Corps of Engineers, came across a clump of the weed along a stretch of the river bank. The Corps of Engineers has long had plans to construct a pair of dams on the St. John. The Dickey-Lincoln hydroelectric project would flood much of the river valley and, in so doing, destroy half of the 800 louseworts on the riverbanks.
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> To those fighting the Dickey-Lincoln project, the plight of the Furbish lousewort poses a particularly sticky problem. While they are against any deliberate attempt to extinguish a species, they recognize that the weed is being turned into something of a political scapegoat by proponents of the dam. "The lousewort is actually damaging to our efforts to save the river, because people think it is ridiculous that a weed should hold up a project costing millions of dollars," said Wayne Cobb, former assistant director of the nonprofit Natural Resources Council of Maine, which is leading the battle to save the St. John from drowning.
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> "There are a lot of good reasons for not building those dams," said Mr. Cobb. He explained that the dams would destroy one of the last wild rivers in the East and eliminate many miles of some of the best white-water canoeing anywhere. It would submerge 88,000 acres of valuable timberland while supplying virtually no power to impoverished northern Maine because most of the electricity that would be generated is destined for the Boston area.
>
> "If you look at the energy crisis and the economics of the dam," says E. Lee Rogers, attorney for the council, "you realize Dickey-Lincoln is not the right answer—there really are better alternatives. For instance, estimates are that the dam would eventually

cost $1 billion. A study by the Audubon Society shows that if you were to take $1 billion and insulate the buildings in New England, you'd have a much greater energy savings."

It appears now that if the dam is blocked it will not be by the Furbish lousewort. Keith M. Schreiner, manager of the endangered species program for the Fish and Wildlife Service, says that official consultations with the Army Corps of Engineers have yet to begin. But he feels that there are a number of ways the issue might be resolved: "It's possible you could establish a population upstream from the impounded area. Or you could arrange for the full protection of the Furbish lousewort populations that already exist below the dam as well as in Canada."

It is the case of the Tellico Dam and the snail darter that has officials stymied. Attempts at transplanting several hundred fish into another river have been made and, according to the TVA, have thus far been successful. But transplanting an animal population is simply not as easy as transplanting a plant population. "One of the hardest things in wildlife management is to establish a viable breeding population of animals in a new habitat," says Mr. Schreiner. "For every 100 attempts, there are 95 failures." He adds that it takes years before a population can be considered successfully established.

Without a compromise, matters quickly came to a head. The howl raised by Congressmen from Tennessee and other supporters of the dam led to Senate subcommittee hearings last month on the Endangered Species Act amendments. (The case of the Tellico Dam vs. the snail darter is also before the Supreme Court.)

Partisans of the dam argue that it would provide flood control, recreational and industrial development and more power. They also assert that it would be ridiculous not to use a dam that is already almost entirely completed at a cost of $117 million. Defenders of the snail darter, on the other hand, are making a strong case that the dam is a pork-barrel scheme that would benefit relatively few people. They also argue that the Little Tennessee should be saved as the last free-flowing portion of the already abundantly dammed Tennessee River system.

At the Senate subcommittee hearing, witnesses for the Carter Administration, which backs a strong endangered-species law, pointed out that hundreds of conflicts between construction projects and endangered species have been resolved through compromise solutions and only three cases have gone to court. One concerned the Meramec Park Dam in Missouri and the Indiana bat. The Fish and Wildlife Service indicated that the dam would jeopardize the bat's existence, but a District Court ruled in favor of the completion of the dam, claiming that the entire species was not jeopardized.

Nevertheless, many Congressmen continue to feel the act is in need of revision, and several amendments have been proposed. The one considered to have the best chance of enactment is sponsored by Senator John Culver, Democrat of Iowa and chairman of the subcommittee that held the hearings, and Senator Howard H. Baker of Tennessee, the Republican Senate leader. The amendment would create an interagency review board of high-level-Government officials who could permit a Federal project to destroy a species of life if the project benefits "clearly outweigh" the value of the species. Senator Culver explains that this action will stave off other, more drastic amendments that would seriously cripple the Endangered Species Act. Not everyone agrees.

"It is just not necessary to amend the act," says Mr. Schreiner of the Fish and Wildlife Service. "Tellico Dam has been *the* only absolute impasse. In other cases, some compromise has been worked out." He and others who testified before the subcommittee worry that, if the amendment is passed, the Federal Government will be placed in the position of having to consciously extinguish a harmless species. Michael Bean of the Environmental Defense Fund, who called the 1973 act "a determined attempt to keep the concept of the biblical ark afloat," commented: "Along the way, it is true that a lot of species have fallen off the ark. Some have even been unwittingly crowded off by man himself, but never before has any species been intentionally thrown overboard."

In 1973 there were 418 species listed as endangered. Today, there are 662 life forms being protected and another 2,000 being reviewed for possible inclusion on the list. As each species is added to the endangered list, the prospects increase for conflict between the right of plant or animal to exist and the demands made by humans on the land and its resources.

A Federal dredging operation was halted to protect the critical habitat of the Higgin's eye pearly mussel.

The El Segundo blue butterfly, which lives in only a few square acres which happen to be at the end of the runway of the Los Angeles airport, is blocking expansion of the airport.

A biological opinion given early last year indicated that the Columbia Dam in Tennessee would jeopardize the existence of various endangered mussels and snails. Local representatives and senators have introduced legislation to exempt the dam from the Endangered Species Act.

Federal officials denied a permit to the Florida Power and Light Company to build a nuclear power plant in an undeveloped 10,000-acre coastal site in southern Dade County, near Miami. The power plant was to occupy a few hundred acres, with the rest of the land kept wild, but that tract was in the critical habitat of the manatee, an endangered species of aquatic mammal. The irony in this case is that the power company would probably have to sell the land, and the most likely buyer would be a real-estate developer who, unaffected by the endangered-species law, could drain the area for private housing. In the view of many conservationists, the Endangered Species Act is not strong enough in that it restricts only projects in which the Federal Government is involved.

Extinction has been a common fate for almost all species that have appeared on earth. Sooner or later, even the most powerful, dominant forms, such as dinosaurs, pass from the scene. But in modern times, human activity has speeded up the pace at which species vanish at an alarming rate. In prehistoric times, it is believed, one species became extinct every 10,000 years. Around the year 1600, the rate was about one every thousand years. Now, estimates of the extinction rate range from one a year to 20 a year, although the latter figure is regarded as high. One environmentalist figures there are now one million species, subspecies and general populations in trouble. "A lot of them will be extinct before we even know they exist," he says.

The culprit in this acceleration of "unnatural extinction" is man. Hunting, particularly commercial hunting, is one way in which humans have wiped out species. Far more frightening is the rapidly increasing toxification of the earth by industrial society. The Eastern peregrine falcon was wiped out by the pesticide DDT, which made the bird of prey's eggs too fragile to hatch. As more and more poison seeps into the air, the land, the lakes, streams, rivers and oceans, the number of endangered species will swell rapidly.

But by far the most devastating impact on wild animals and plants comes from the destruction of their natural habitats by human activity. As forests are leveled, wetlands drained, water tables lowered and natural ecosystems paved over for roads, dams, shopping centers and suburbs, the elbow room and nutrients required by a broad range of species are rapidly diminishing.

"The primary cause of extinction is not bad hunters shooting defenseless animals," says Fish and Wildlife's Keith Schreiner. "It is the change and destruction of habitat. Man's ability to change the earth has increased 20-fold over the past 50 years with the use of bulldozers and cranes and other earth-moving equipment. If enough people care, we can slow the process. But common sense tells me the future is bleak."

So bleak is the picture, in fact, that the bulldozer and not the atomic bomb may turn out to be the most destructive invention of the 20th century. The protection of critical habitats is the most publicized aspect of the work of the Fish and Wildlife Service, in large part because of the brawl between the snail darter and the Tellico Dam. Sometimes the Government acquires land to give a species room to exist. Several years ago, for example, it bought land in the Florida keys to provide *Lebensraum* for the vanishing key deer. More recently, the Federal Highway Administration agreed to buy 2,000 acres around the site of a proposed highway interchange, and turn them over to the Fish and Wildlife Service, thus preserving the critical habitat of the Mississippi sandhill crane.

Perhaps the most famous effort to save an endangered species involves the whooping crane, a stately wading bird with a haunting cry. Hunted for its beautiful feathers, the bird had all but vanished by the early 1940's, with only about 15 left in the wild. Careful nurturing by the wildlife's research center on the Patuxent River in Maryland, and in other such centers, kept the species going. This year, there are about 100 whoopers alive and the species has moved a few steps back from the edge of extinction. Nine areas in seven states have been set aside as critical habitats. And 12 whooper eggs placed in sandhill crane nests at Grays Lake National Wildlife Refuge in Idaho hatched.

Arguments for the effort and cost of protecting species are often couched in esthetic or ethical terms such as the beauty of diversity or the arrogance of man in assuming that the earth was created solely for his benefit. "There is probably nothing more criminal than destroying a life form," says Mr. Schreiner. "You are not talking about a single life but an entire species. Once a life form is gone you can never bring it back. What a tragedy!"

One problem that is viewed with growing seriousness is the reduction of the earth's aggregate gene pool with the passing of each species. By allowing plants and animals to pass out of existence, it is argued, we may be losing things of incalculable and irreplaceable value to man, if we only knew it. Who knew the value of bread mold 50 years ago? But the discovery of penicillin has saved millions of lives.

Other discoveries—such as the use of the blood of horseshoe crabs as a detector of toxins in intravenous fluids, or the chemical in a plant that was used to develop birth-control pills—suggest that "worthless" creatures and weeds may be very valuable indeed. "We don't actually know that the Furbish lousewort is not useful," says botanist Charles Richards when asked why the little weed should be saved. "Perhaps it could be used as a part of a gene pool for breeding. Perhaps it might have some medicinal value we haven't discovered yet."

Increasingly, scientists and environmentalists are coming to the conclusion that the destruction of species is directly related to the viability of the human race itself. The disappearing life forms are likened to the canaries that coal miners used to carry down

into the shafts before the advent of the safety lamp. If the canary died, it was an indication that poison coal gas was in the vicinity and that the miners themselves were in grave danger.

Today, the endangered species are an early-warning system indicating that the human habitat is becoming dangerous. Dr. George Woodwell, director of the Ecosystems Center at the Marine Biology Laboratory in Woods Hole, Mass., finds the loss of species "very frightening" and says that "it has a direct bearing on and cannot be separated from a larger problem—the biotic impoverishment of the earth, which is reducing the capacity of the environment to produce services. It is one of the great issues of our time, right up there with nuclear proliferation, the stability of government and health care. The ultimate resource is the biota—there is no other. And we are destroying it."

Environmentalists say they are accused of being alarmists. "But when you think of the tropical forests being destroyed," said Mr. Schreiner, "when you see the rampant stream pollution, the soils full of pesticides, animals poisoned to the point where they can't reproduce, well, you've got to believe we are putting ourselves out of business. And that may not be far away."

So ask not for whom the Furbish lousewort lives. It lives for you.

BIRDS AND FISH VERSUS HIGHWAYS AND DAMS

In addition to the species cited in the article above, other flora and fauna that have blocked major projects, as shown on the map on Pages 40–41, include: Brown pelican and peregrine falcon:

The landing route planned for the Space Shuttle north of Los Angeles in the Mojave Desert is of concern to the Fish and Wildlife Service. In the flight path of the shuttle are the Anacapa Islands—part of the Channel Islands—on which live one of the largest colonies of brown pelicans on the West Coast; the Channel Islands had been the nesting sites of peregrine falcons. Sonic booms caused by the Space Shuttle could disrupt the brown pelicans during the nesting season.

Red-cockaded woodpecker: These birds make old trees their habitat. In its timber-management plan for the national forests in Texas, the Forest Service would have removed the trees considered fire hazards—i.e., the very trees that woodpeckers live in. The Forest Service has accepted recommendations to modify that plan.

Whooping crane: The U.S. Air Force has agreed to restrict flights over Matagorda Island, Tex., and to eliminate bomb tests during the cranes' winter residence on the island.

Gray bat: Construction of the Harry S. Truman Dam, Mo., would have destroyed the caves in which the bats live. The Army Corps of Engineers is now modifying its plans so as to include the fencing of cave entrances.

Indiana bat: A plan to channelize the Little Auglaize River, Ohio, would destroy the tree canopy on either side of the river that is used by the bats for food and living quarters. The Soil Conservation Service is altering its plan.

Florida Everglades kite: Forty birds, or 25 percent of the world's Florida Everglades kite population, nest in a willow island in the Florida Everglades. The island would be directly in the path of aircraft to and from the proposed Miami Replacement Jetport, Fla. Such flights would prevent the birds from nesting. The Federal Aviation Administration is restudying the location of the airport.—P.S.

Mr. HEINZ. Mr. President, we have a responsibility to be sure that the mechanism we put in place to make those difficult decisions be of the highest quality possible. It is for that reason that my amendment would limit the representatives for the members of the Endangered Species Committee to those individuals serving subject to the advice and consent of the Senate.

Mr. President, it is my understanding that the committee has carefully studied this amendment and it is my understanding that there is no objection.

Mr. WALLOP addressed the Chair.

The PRESIDING OFFICER (Mr. MELCHER). The Senator from Wyoming.

Mr. WALLOP. Mr. President, the Senator is correct. I do not think there is any objection, but I want to clarify one point on page 2 of the Senator's amendment. That is that in no case shall any representative, including a representative of a member designated pursuant to paragraph (3)(G) of this subsection, be eligible to cast a vote on behalf of any member.

Would the Senator contemplate that a member of the commission be able to cast a vote in writing?

Mr. HEINZ. Does the Senator mean, would a proxy vote——

Mr. WALLOP. No, by a specific, written vote. When the question has been discussed and the decision has been made. Not the kind of situation where a member would say, "I give my proxy to you, cast it whatever way you will," but a proxy that has been designed and tailored to answer the question before the committee.

Mr. HEINZ. It is customary, I say to my good friend, that such rules are usually made by the committee themselves.

Here in the Senate we make our own rules and, as long as their rules are consistent with ours, the committees make their rules.

I do not wish to tell the committee how to operate there. But I do not think it would be inconsistent with the spirit of my amendment for the statutorily authorized member to set forth in writing with great specificity the particular issues, how he intended to vote on it, should he for some fairly extraordinary reason not be able to be there.

I would also want to see for the record, because I think it is important, a sufficient explanation with that vote so we could be sure that the vote was thoroughly thought through and sufficiently justified.

It would not be my intent to preclude that, either.

Mr. WALLOP. Nor would it be mine.

Mr. HEINZ. Although I think it has the final decision. Whether voting is going to take place in the absence of members is up to the committee. That is their final decision.

Mr. WALLOP. I would say this. The Senator has done a service by insisting we do not have some low-level bureaucrat who just acts on his own making these critical national and historical decisions.

I would suggest we would not want to encourage any loose use of proxies in this commission, so somebody cannot say, "Are you going to Chicago for that vote? I really do not feel like it, so make up my mind for me."

Mr. HEINZ. I would say to the Senator that he is precisely correct. Indeed, the intent of my amendment is to prohibit the use of any kind of blanket proxy.

Mr. WALLOP. That is good.

I think in light of that, the Senator from Pennsylvania has provided an amendment which strikes a good balance. I do not see any objection.

Mr. President, I compliment the Senator for tying this down to the more important people in the Cabinet and executive branch of the U.S. Government.

Mr. HEINZ. I thank my good friend.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HEINZ. I yield back the remainder of my time.

Mr. WALLOP. I yield back the remainder of my time.

The PRESIDING OFFICER. The question recurs on the amendment offered by the Senator from Pennsylvania

The amendment (No. 3232) was agreed to.

Mr. HEINZ. I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

AMENDMENT NO. 3115

(Purpose: To revise the purposes of the Endangered Species Act)

Mr. SCOTT. Mr. President, I call up my amendment No. 3115.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 3115.

Mr. SCOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

SEC. . Section 2(b) of the Endangered Species Act of 1973 (16 U.S.C. 1531(b)) is amended by inserting before the period at the end thereof the following: ", consistent with the welfare and national goals of the people of the United States".

Mr. SCOTT. Mr. President, this is one of a series of amendments which would revise the bill before us to include terminology that differs somewhat in the various amendments but in each instance has the effect of providing that the welfare of the human species be considered.

As indicated in some detail on Monday, it appears that the 1973 Endangered Species Act attempted in a most successful manner to concentrate on the protection of fish, wildlife and plants but neglected to give sufficient emphasis to our own welfare, to the fact that mankind is superior to animal and plant life and both are under the dominion of man.

This particular amendment, 3115, would revise section 2(b) of the 1973 Endangered Species Act to add the words "consistent with the welfare and national goals of the people of the United States." In other words, as set forth in paragraph (b) of title 16, section 1532 of the United States Code would then read as follows:

The purposes of the chapter are to provide a means whereby the ecosystems upon which endangered species and threatened species depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section, consistent with the welfare and national goals of the people of the United States.

My amendment merely adds the last few words: "consistent with the welfare and national goals of the people of the United States."

Mr. President, I hope the floor leaders will accept this amendment. I believe it is in the public interest.

Mr. President, in its opinion dated June 15, 1978, in TVA against Hill, the Supreme Court indicated Congress had commanded all Federal agencies to do nothing that would jeopardize the continued existence of an endangered species or result in the destruction or modification of the habitat of such species. It added that the language admits of no exceptions, and elsewhere indicated Congressmen uniformly deplored the irreplaceable loss to aesthetic, science and ecology and the national heritage should more species disappear.

Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SCOTT. Mr. President, on page 25 of the opinion it is stated, "as it was finally passed, the Endangered Species Act of 1973 represented the most comprehensive legislation for the preservation of endangered species ever enacted by any Nation." And on page 29 the Court stated, "the plain intent of Congress in enacting this statute was to halt and reverse the trend toward species' extinction, whatever the cost. This is reflected not only in the stated policies of the act but in literally every section of the statute." Then on page 38 the Court says, "our system of Government is after all a tripartite one with each branch having certain defined functions delegated to it by the Constitution." Later, on page 39, "it is equally and—emphatically—the exclusive province of the Congress not only to formulate legislative policies, mandate programs and projects but to also establish their relative priority for the Nation." Further along the opinion states, "we do not sit as a committee of review, nor are we vested with a power of veto."

Therefore, Mr. President, if any action is to be taken to relieve the rigidity of this act, it must be done by the Congress. In the TVA case we are told in a footnote in the dissenting opinion by Mr. Justice Powell quoting from the record in the trial court that new species of darters are discovered in Tennessee at the rate of about one a year; that 8 to 10 have been discovered in the last 5 years; that all told, there are approximately 130 species of darters; that 85 to 90 of them are found in Tennessee, 40 to 45 in the Tennessee River system and 11 in the Little Tennessee itself. Nevertheless, this one subspecies of perch, the snail darter, 1 out of 130 species of darters, has halted a project costing many millions of dollars.

Mr. President, the more important part of my remarks are the remainder.

In my own State of Virginia, the cleanup of the aftermath of three disastrous floods in the southwestern part of our State has at least been halted temporarily because there, too, another species of darters has been found along with a freshwater clam. I spoke with the Congressman representing this area with regard to the clam, and he told me that no one made any use of the clams, that if anyone ate them, it may have been the Indians, some centuries ago. But four people lost their lives in these floods, 16 counties were declared a disaster area, and property damage approximated $275 million. Yet, the work necessary to reestablish human habitats has been halted. This has been done under the Endangered Species Act, even though we are told that the human species is the highest type of animal life; that this is a Government of the people, by the people, and for the people. We are told that human life is important in our country, that we attempt to export human rights.

I hope, Mr. President, that the managers of the bill will accept the addition of the words "consistent with the welfare and national goals of the people of the United States." It would otherwise put the welfare of fish above human welfare. This is a rural and a mountainous section of Virginia; but I believe there is nothing more precious in our State and in all other States than human life. It must be protected.

I reserve the remainder of my time.

Mr. CULVER. Mr. President, I reluctantly oppose the amendment that has been proposed by the distinguished Senator from Virginia.

I believe that Congress and the U.S. Supreme Court have stated that the protection of endangered species is consistent with the welfare of the American people and, for that matter, the people of the entire world. Our ultimate view, I think, may well depend upon this and the responsibilities we carry toward our own children for the proper stewardship of this obligation.

The goals of the American people, on the other hand, are variable with time, and they often are not the same from person to person or either from Senator to Senator. What constitutes a proper goal for the welfare of the American people is a matter of constant debate. We have certain protections, of course, embedded in our Constitution and Bill of Rights that are rather generally recognized and respected. But the importance of protecting the world that we live in is in fact a timeless responsibility. Mistakes that will be made in that regard are frankly irreversible, and I think it is far better to leave the purpose of the act strong as we have presented it. S. 2899 does provide a mechanism for evaluating specific cases. It does provide us a mechanism for evaluating specific cases where welfare and goals of the people are always considered responsibly within context of the review process itself. So it is not an either/or proposition. But I do think that I will find it necessary to oppose the amendment. I believe it is unnecessary and possibly could be misunderstood.

Mr. SCOTT. Mr. President, as I understand the committee would be established by the bill before us, it would be a cabinet level committee that would consider only national and regional projects, not local, not State projects. It would require that all seven members of the committee be present to constitute a quorum. If I am wrong I am glad to hear from the manager of the bill. I have read the bill, however.

Mr. CULVER. In order to exempt a project it is necessary for five of the seven Endangered Species committee members to have satisfied themselves with regard to three explicit criteria, one of which is that the project is of either national or regional significance. But one cannot make that ultimate finding until he has completed the review process. The threshold question of what constitutes local, regional, national, or indeed international would not be made until that process is fully completed.

It is possible that you can have a local project walk in the front door, but no one would know the color of its clothes until someone makes that decision during the period that it is under review. That has to be completed under a time frame of 180 days.

Mr. SCOTT. My understanding is that that——

Mr. CULVER. Excuse me. As to the quorum question, the Senator is correct. It does require seven.

Mr. SCOTT. It is my understanding that there can be designees representing the principals, but if one individual chose not to be present or not to designate a designee to act on his behalf, there could be no meeting of that committee because there would not be a quorum. Is this correct?

Mr. CULVER. I believe that under the Heinz amendment that the Senate just accepted it would provide for the Cabinet level officer to designate a substitute. That designated substitute would have to, however, be of sufficient rank to have required Senate confirmation. Perhaps the Senator from Pennsylvania, who I see on his feet, would like to elaborate on that if any additional elaboration is necessary.

Mr. SCOTT. I might ask my friend from Pennsylvania, could the designee vote? As provided in the bill that is before us, the designee could not vote, unless it be changed.

Mr. HEINZ. Under the Heinz amendment, the designee of the statutorily authorized member of the committee could not vote.

Mr. SCOTT. Then under the bill, you have five principals who must be present and voting. Everyone must be present. You have to have seven present to constitute a quorum. Does the Senator's amendment change that?

Mr. HEINZ. No, my amendment does not change that.

Mr. SCOTT. I thank the distinguished Senator. But what I am saying is that one individual, the head of the Environ-

mental Protection Agency, the Secretary of the Interior, the head of the Smithsonian Institute, or any one of the individuals, could keep this committee from functioning. To me this just does not make sense.

Mr. HEINZ. Mr. President, will the Senator from Virginia yield?

Mr. SCOTT. If I might continue, because I am concerned about the welfare of the people of Virginia, I am concerned about the four Virginians who lost their lives in a flood in the southwestern part of Virginia. I will not yield.

Mr. HEINZ. The Senator asked about the Heinz amendment.

Mr. SCOTT. Mr. President, I will not yield.

Mr. HEINZ. I was hopeful that I could respond to the Senator.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. SCOTT. Mr. President, I am concerned about human life. To me human life takes priority over that of any fish, of any wildlife, of any species of plants. In Virginia we had three floods in 2 years. The flood reached an elevation several feet above the 100-year mark, several feet above the mark that the authorities determined that water would rise once in 100 years' time. We had several hundred million dollars worth of property destroyed. That is animal habitat, that is human habitat, and yet we are trying to protect fish.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

The Senator from Iowa.

Mr. CULVER. Mr. President, I wish to commend the Senator from Virginia not on the amendment but on the question that he has raised with regard to the procedures for quorum calls and terms of quorum to do business.

I wish to review that. I believe we are going to carry this bill over until tomorrow.

Mr. SCOTT. I do have an amendment that will change that.

Mr. CULVER. If the Senator does have an amendment on that, perhaps we can take a look at it and discuss it.

Mr. SCOTT. I thank the Senator.

Mr. CULVER. I know this is a matter that he has some concern about, and I think frankly that we could perhaps be receptive to some changes in this regard, and I wish to express appreciation to the Senator from Virginia for having brought that to the committee's attention.

Mr. SCOTT. I appreciate the Senator's comments.

Does the Senator yield back his time?

Mr. CULVER. Yes. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Virginia. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Texas (Mr. TOWER) is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "nay."

The result was announced—yeas 10, nays 86, as follows:

[Rollcall Vote No. 221 Leg.]

YEAS—10

Cannon	Helms	Stennis
Curtis	Laxalt	Young
Garn	Long	
Hatch	Scott	

NAYS—86

Allen	Goldwater	Morgan
Anderson	Gravel	Moynihan
Baker	Griffin	Muskie
Bartlett	Hansen	Nelson
Bayh	Hart	Nunn
Bellmon	Haskell	Packwood
Bentsen	Hatfield,	Pearson
Biden	Mark O.	Pell
Brooke	Hatfield,	Percy
Bumpers	Paul G.	Proxmire
Burdick	Hathaway	Randolph
Byrd,	Hayakawa	Ribicoff
Harry F., Jr.	Heinz	Riegle
Byrd, Robert C.	Hodges	Roth
Case	Hollings	Sarbanes
Chafee	Huddleston	Sasser
Chiles	Humphrey	Schmitt
Church	Jackson	Schweiker
Clark	Javits	Sparkman
Cranston	Johnston	Stafford
Culver	Kennedy	Stevens
Danforth	Leahy	Stevenson
DeConcini	Lugar	Stone
Dole	Magnuson	Talmadge
Domenici	Matsunaga	Thurmond
Durkin	McClure	Wallop
Eagleton	McGovern	Weicker
Eastland	McIntyre	Williams
Ford	Melcher	Zorinsky
Glenn	Metzenbaum	

NOT VOTING—4

Abourezk	Mathias	Tower
Inouye		

So Mr. SCOTT's amendment (No. 3115) was rejected.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. CULVER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1422

(Purpose: To define "critical habitat")

Mr. McCLURE. Mr. President, I have an amendment at the desk. I ask that it be reported.

The PRESIDIING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1422. On page 2, line 3—

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 3, insert the following:

SEC. 2. Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended:

(1) by inserting after paragraph (5) thereof the following new paragraph:

"(6) the term 'critical habitat' for a threatened or endangered species means:

"(A) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of Section 4 of this Act, on which are found those physical or biological features (1) essential to the conservation of the species and (2) which require special management considerations or protection;

"(B) 'critical habitat' for a threatened or endangered species may include specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this act, into which the species can be expected to expand naturally upon a determination by the Secretary at the time it is listed, that such areas are essential for the conservation of the species.

"(C) critical habitat may be established for those species now listed as threatened or endangered species for which no critical habitat has heretofore been established as set forth in subsection (A) and (B) of this section;

"(D) except in those circumstances determined by the Secretary, critical habitat will not include the entire geographical area which can be occupied by the threatened or endangered species."

(2) by renumbering the paragraphs thereof, including any references thereto, as paragraphs (1) through (20) respectively.

Mr. CULVER. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will come to order. The Senator from Idaho is presenting an amendment. It would help the process of the Senate this evening if we might have more order and less discussion on the floor.

The Senator from Idaho may proceed.

Mr. McCLURE. I yield to the Senator from Indiana for a unanimous consent request.

Mr. BAYH. I thank my friend from Idaho.

Mr. President, I ask unanimous consent that Eve Lubalin and Ann Church of my staff be granted the privileges of the floor during all debate and votes on S. 2899, the Endangered Species Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, the amendment which I have offered deals with the establishment of a critical habitat, the manner in which that is to be done, and primarily and most importantly, the extension of the area of the critical habitat once established.

It allows the Secretary of the Interior to establish not only the area where the endangered or threatened species is then present but that area in which they might be expected to expand. However, the designation must be made at the time they are placed on the list. For the species which are now on the list and for which no critical habitat has been established, it would permit the designation of the critical habitat area of such species and, again, the area in which they might be expected to naturally expand, if necessary, for the conservation of that species.

Mr. President, this is in response to the difficulty of how large an area should there be established and if that species then expands beyond that area must human beings then be displaced in that area.

It has become a critical problem for

those of us who live near Yellowstone National Park as the grizzly bear, which is on the endangered species list, ranges outside the park and human beings must then be displaced, even though human beings have lived there for a long while, because the bear chooses to change its place of residence.

Mr. President, I understand that the language, which we have worked out rather arduously throughout discussions all afternoon, is acceptable to the managers of the bill.

Mr. WALLOP. Mr. President, the Senator is correct. I compliment the Senator from Idaho for his genuine persistence and willingness to work out the real problems we perceived in this matter.

The Senator is quite correct. One of the things that the hearings brought out was that the Fish and Wildlife Service was having a difficult time in its own mind distinguishing between critical habitat and range. It seems to me that the Senator from Idaho has taken a definition which was operative for them and given it statutory authority, the slightly more specific nature of statutory language than is in the regulation. I compliment the Senator.

The managers on both sides accept the language. I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. McCLURE. Mr. President, I move to lay that motion on the table.

AMENDMENT NO. 3113

(Purpose: To limit the definition of threatened species to those which are of substantial benefit to mankind)

Mr. SCOTT. Mr. President, I call up my amendment numbered 3113, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia proposes an amendment numbered 3113.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill insert the following new section:

SEC. . Section 3(15) of the Endangered Species Act of 1973 (16 U.S.C. 1532(15) is amended by inserting before the period at the end thereof the following: ", and which the Secretary has determined is of a substantial benefit to mankind.".

Mr. SCOTT. Mr. President, this amendment would change the definition of the term endangered species by adding the words "and which the Secretary has determined is of substantial benefit to mankind." That is all it does. So paragraph 15 would read:

The term endangered species means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range, and which the Secretary has determined is of a substantial benefit to mankind.

Mr. President, this amendment is merely another in a series that would tend to relieve the inflexibility of the act and would complement the provisions of the bill which provide for a review committee of cabinct level known as the Endangered Species Interagency Committee.

I believe that protected, endangered, or threatened species should be those of substantial benefit to mankind. Our Government at all levels exists for the benefit of serving people. People should have dominion over fish, wildlife, and plants. Only where the lower species are of benefit to mankind are they important. That, in my judgment, does not take away from their value but, in fact, adds to their value by the concept of serving mankind.

I would hope that through a series of amendments the provisions for a cabinet-level committee can be complemented so that provision can be made to reduce the inflexibility at the local and State level as well as the regional and national level.

The Supreme Court has unequivocally said that the only recourse a citizen has for relief under this act is from the Congress, the elected representatives of the people. We want to protect our fish, wildlife, and plants which are beneficial to mankind, but when we learned of the 1.4 million species of wildlife, the 600,000 species of plants, and the 3 to 5 times those numbers when we consider the subspecies, we should segregate those which are beneficial to mankind from those which do not serve any known beneficial purpose. This would not suggest——

(Disturbance in the gallery.)

The PRESIDING OFFICER. The Senator will suspend until the Sergeant at Arms has restored order in the gallery.

Has the Sergeant at Arms restored order in the gallery?

The Senator from Virginia may proceed.

Mr. SCOTT. Mr. President, we want to protect our fish, wildlife, and plants which are beneficial to mankind, but when we learned of the 1.4 million species of wildlife and the 600,000 species of plants and the 3 to 5 times those numbers when we consider subspecies, we should segregate those which are beneficial to mankind from those which do not serve any beneficial purpose. This would not suggest the destruction of any fish, any wildlife, or plants, but would segregate those of benefit to mankind, those entitled to special protection, from those which have no known benefit.

I would hope, Mr. President, that the floor managers would accept this amendment and others to be offered later. I reserve the remainder of my time.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. Mr. President, the hour is obviously late. I will just take a moment to rise in opposition to the amendment.

The amendment would add to the current definition of the term "threatened species" the requirement that the Secretary of the Interior determine the species to be of substantial benefit to mankind. This assumes, of course, that species are all valueless unless a specific use or a particular benefit for humans can be found.

It seems to me that we can never know, Mr. President, at any given point in time what the particular value a species may or may not have for humans.

As I mentioned earlier in the day, the horseshoe crab has existed for 200 million years, and it was just 3 years ago, Mr. President, that it was determined that the blood of that animal is a detector of toxins in intravenous fluids, a very significant breakthrough in medical science.

Finally, Mr. President, I think it is safe to assume that the loss of a species is harmful, and even threatening, to mankind because we are fundamentally reliant on an ecosystem which we frankly do not fully understand.

I urge the Senate to vote in opposition to the amendment.

Mr. WALLOP. Mr. President, there is just one other point that I should like to make to the Senate before voting on the amendment of the distinguished Senator from Virginia. I understand what it is that he is trying to do, and would like to note that the committee has already looked into the problem that he states.

He seeks to give the decision as to the benefits to mankind of a given species, a given "critter" on this Earth, to one person. We have given that decision to the whole Commission after the consultation process, after the whole series of other benefits that might or might not exist in relative nature to a given project have been considered. To require a judgment on the part of one person that one species, one "critter," anywhere on this Earth, is or is not of benefit to mankind is to require that person to step into the shoes of God. I suspect that person would be most loath to do it and we would have more, not less, endangered species.

Mr. SCOTT. Mr. President, I shall be very brief. I am going to repeat something I said when my last amendment was defeated and only received 10 affirmative votes because we had less than 10 people on the floor. One of the reasons I am offering this series of amendments is that, in southwest Virginia, in a rural area, there were disastrous floods. Sixteen counties were declared a disaster area. Four people lost their lives, $275 million in property damage. The habitats of the human beings were wiped out in that area. Yet the Corps of Engineers was stopped from doing repair work because of another snail darter fish. 1 of 130 darters in the species—130 of them, and they found another snail darter in southwest Virginia. Four people lost their lives and we cannot do any repair work.

People are more important than fish. That is what I am asking you to vote for.

I am glad to yield back the remainder of my time.

Mr. CULVER. I yield back my time and request a vote on the pending amendment.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Florida (Mr. CHILES), the Senator from Mississippi (Mr. EASTLAND), the Senator from Hawaii (Mr. INOUYE), the Senator from Connecticut (Mr. RIBICOFF), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Vermont (Mr. STAFFORD), the Senator from Texas (Mr. TOWER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announced that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

I further announce that, if present and voting, the Senator from Texas (Mr. TOWER) would vote "nay."

The result was announced—yeas 2, nays 87, as follows:

[Rollcall Vote No. 222 Leg.]

YEAS—2

Laxalt	Scott

NAYS—87

Allen	Goldwater	McIntyre
Anderson	Gravel	Melcher
Baker	Griffin	Metzenbaum
Bartlett	Hansen	Morgan
Bayh	Hart	Moynihan
Bellmon	Haskell	Muskie
Bentsen	Hatch	Nelson
Biden	Hatfield, Mark O.	Nunn
Brooke	Hatfield, Paul G.	Packwood
Bumpers	Hathaway	Pearson
Burdick	Hayakawa	Pell
Byrd, Harry F., Jr.	Heinz	Percy
Byrd, Robert C.	Helms	Proxmire
Cannon	Hodges	Randolph
Case	Hollings	Riegle
Chafee	Huddleston	Roth
Church	Humphrey	Sarbanes
Clark	Jackson	Sasser
Cranston	Javits	Schmitt
Culver	Johnston	Schweiker
Danforth	Kennedy	Sparkman
DeConcini	Leahy	Stevens
Dole	Long	Stevenson
Domenici	Lugar	Stone
Durkin	Magnuson	Talmadge
Eagleton	Matsunaga	Thurmond
Ford	McClure	Wallop
Garn	McGovern	Weicker
Glenn		Williams
		Zorinsky

NOT VOTING—11

Abourezk	Inouye	Stennis
Chiles	Mathias	Tower
Curtis	Ribicoff	Young
Eastland	Stafford	

So Mr. SCOTT's amendment (No. 3113) was rejected.

RED WOLF ENDANGERED SPECIES PROJECT, CAPE ROMAIN, S.C.

Mr. THURMOND. Mr. President, besides the many other worthy programs which have grown out of the Endangered Species Act of 1973, I wish to speak up in behalf of one particular project within my own State.

I have reference to the red wolf project which is currently being conducted on Bulls Island, S.C., within the Cape Romain Fish and Wildlife Refuge.

In the fall of 1976, two red wolves were placed on Bulls Island and released in early 1977. Unfortunately, the female developed an infection and the effort failed.

However, last year, the experiment was repeated and, following release of the pair early this year, there is reason to believe the wolves have a den of pups on nearby Capers Island.

This is an important development in our endangered species program, as the red wolf is down to an estimated 50 animals in a wild state.

This species was established along the eastern coastal plains when our country was first settled but, as towns and cities developed and the population grew, the species was driven west until nearly wiped out.

It is my understanding that the fiscal year budget contains $24,000 to continue this program at Cape Romain, where employees of the Fish and Wildlife Service have given much effort to the project.

Mr. President, the red wolf project in South Carolina has met with excellent cooperation from the State Wildlife and Marine Resource Department. The managers of the project also advise that this effort has been well received by the people of our State.

The Fish and Wildlife Service has been accomplishing a great deal to help save and restore our endangered species by virtue of the 1973 act. It is unfortunate that the Government did not pay more attention to the Audubon Society and other groups earlier in order that other species might have been saved.

Two of our great ornithologists, John James Audubon and Alexander Wilson, wrote for us interesting reports on the carolina parrot, the passenger pigeon, and other birds which are now extinct. Today, South Carolina is rarely visited by the long-billed curlew, which Audubon so beautifully depicted with the city of Charleston in the background. Even today our citizens are fighting to preserve the environment to protect birds such as Bachman's warbler, a species discovered by Audubon's friend, Dr. John Bachman, of Charleston, in the early 1800's.

Mr. President, I commend the leaders in the Fish and Wildlife Service for the red wolf and other projects aimed at protecting our endangered species. We need to do more in this area, and I think the American public will gladly support such an effort.

● Mr. McGOVERN. Mr. President, the Senate is today discussing the merits of the 1973 Endangered Species Act in the context of determining what its future will be during the next 3 fiscal years. As my colleagues are aware, our options today are to leave the act as is, weaken it, or alter the way it is applied in an effort to remedy what are perceived as problems with the act.

Much of the public discussion and perception of what this act is all about centers upon the U.S. Supreme Court's recent ruling on the Tennessee Valley Authority's Tellico Dam and the effect it would have upon the snail darter's critical habitat. Those who dislike the Endangered Species Act contend this case is an example of how unwieldy and unworkable the act is, how its "inflexibility" can hold up "progress." Those favoring the act and the way in which it has worked over the last 5 years use this same example claiming that out of some 4,500 consultations which occurred between agencies as a result of the act's provisions that this is the single example of where a compromise could not be reached. They argue this is insufficient reason to weaken the act.

I feel that this celebrated case and others which have attracted public attention because certain species complicated their development do not really make the best case for either side in this debate. What is really in question here today is the day-to-day working of the act and the stories behind the 4,500 endangered species consultations which have taken place since enactment of the legislation.

I do not think our concentration upon the end result of the act, insofar as whether or not consultations were successful, adequately addresses the questions which have been raised about the act. What I sense is that there is a frustration abroad in the "development community" because of what they sense is an "environmental tilt" at work today. The reauthorization of the Endangered Species Act has become the focal point of their frustration which is more broad-based than this, the centerpiece, of environmental legislation.

The concerns which have been expressed to me have less to do with the Endangered Species Act than they do with how it, in conjunction with other environmental legislation and regulations, has opened up an incredibly complex array of environmental hurdles which must be cleared in order for development plans to advance. This act, the snail darter and Furbish's lousewort have become the symbols of frustration with environmental regulation.

The roots of this frustration are easy enough to see. Environmental laws dictate that concern for environmental impacts be taken into account in developing any project utilizing Federal funds or conceivably violating environmental standards. This has come to be accepted as a matter of course. However, the frustration comes about when after making what they perceive as "good faith" efforts to comply with the law, those same laws and regulations can be used further with the threat of environmentally-based litigation to block or stymie developments which for other than environmental reasons may be perceived as objectionable. This is regarded as harassment by those seeking to initiate developments.

In this context, fulfillment of all Federal and State requirements is not enough today. If environmental litigation is to be avoided, a development entity must also be accountable to a host of environmental groups who review environmental statements in the public interest.

An organization attempting to build a coal-fired electric generation plant to meet increasing consumer demands can believe it is acting in the public interest in seeking to build that type of plant instead of a nuclear one and by not relying upon petroleum as a fuel. But in attempting to do so they are confronted with arguments that the coal should not be mined because it disrupts land-based ecosystems, it should not be burned because it degrades air quality, it should not consume water because it depletes streams which adversely affects aquatic ecosystems and stream-bank habitat, and that it should not adversely affect wetlands. They are also reminded that if the plant is to be erected in an area where an endangered species might be affected that endangered species consultations are required.

If after attempting to answer all of those questions and explain the tradeoffs involved they are still threatened with environmental litigation because someone believes they have not adequately addressed these issues they feel frustrated. If what they were doing was simply an engineering exercise they might relish the challenge of how to meet all of these requirements, but this is not the case. They are attempting to meet customer demands and in the process of answering all of these concerns the price-tag of the planned project is increasing and will be passed-on to the consumer. In the final analysis what they are asking is: If we cannot use nuclear energy because of safety questions and cannot use petroleum because of national policy and the technology is not available for use of solar, wind and geothermal energy, how are we to meet increasingly critical demands for energy? This is the context in which the wisdom of the Endangered Species Act is questioned. This is really the bottom line of the debate confronting us.

This view is perhaps best illustrated by a letter I recently received from the Basin Electric Power Cooperative which did not address itself to the act per se, but does express the frustration which is being felt:

It has always been the position of Basin Electric that we should try to accommodate all legitimate environmental concerns. However, the law enables the (National Wildlife) Federation to raise endless questions about matters already covered in the environmental studies, to raise questions not necessarily related to the environmental acceptability of the project, to associate the whooping crane with projects having little or no relationship to this species, and to file lawsuits to delay meritorious projects. We need relief from this harrassment or we cannot fulfill our responsibilities to our consumers (over one million people living in rural South Dakota, North Dakota, Montana, and Wyoming and parts of four other states.

I do not think it was the intent of Congress that in passing the Endangered Species Act in 1973 that we wanted no development to take place in the Mississippi and Central Flyways encompassing the entire Missouri River Basin because the whooping crane is annually sited in the area. We did not intend to prevent development in the Northwest because it is the range of the grizzly bear. We did not intend to make prairie dog towns inviolate because a black-footed ferret would make a prairie dog town its home. Yet, every time a project is proposed which admittedly could affect these endangered species an extreme case is made and litigation threatened on the assumption the whooping crane will have no room to land, the grizzly bear no room to roam and the black-footed ferret no place to call home. The intent of environmental law is that these species and their habitats be taken into account and that regionally the cumulative impact on them be taken into account if a large area is their habitat, and that their critical habitat not be ruined if it is site-specific. If that is the requirement of the law and it has been met, then that should be the end of it, but too often it is not.

I think this is the reason relief is being sought from the Endangered Species Act and others.

Our action here today cannot address itself to the full spectrum and nature of this frustration as expressed by the development community, but it can relieve some of their anxieties. We can reaffirm our commitment to clean air, clean water, and protection of endangered species, yet at the same time affirm that we are not advocating no growth because of these concerns. Rather, we are committed to the best possible environment in which man and animal can coexist while providing for the needs of man.●

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business, with statements by Senators limited to 10 minutes each, so that no time will be charged against the remainder of the speeches on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:59 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 947. An act to declare certain federally owned land known as the Yardeka School land to be held in trust for the Creek Nation of Oklahoma.

The enrolled bill was subsequently signed by the President pro tempore.

At 3:15 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House has passed the following bill with amendments, in which it requests the concurrence of the Senate:

S. 785. An act to declare that all right, title, and interest of the United States in two thousand seven hundred acres, more or less, are hereby held in trust for the Paiute and Shoshone Tribes of the Fallon Indian Reservation and Colony, Fallon, Nevada, to promote the economic self-sufficiency of the Paiute and Shoshone Tribes, and for other purposes.

At 4:55 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 10848. An act to amend title VI of the Social Security Act to provide that an individual who applies for supplemental security income benefits on the basis of disability shall be considered presumptively disabled if he has received social security or supplemental security income benefits as a disabled individual within the preceding five years;

H.R. 12232. An act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes; and

H.R. 12261. An act to pay tribute to those members of the United States Armed Forces who served honorably in Southeast Asia during the Vietnam conflict.

At 6:48 p.m., a message from the House of Representatives delivered by Mr. Berry, announced that the House insists upon its amendment to the bill (S. 995) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy; requests a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. PERKINS, Mr. HAWKINS, Mr. DENT, Mr. BEARD of Rhode Island, Mr. MICHAEL O. MYERS, Mr. LE FANTE, Mr. WEISS, Mr. CLAY, Mr. CORRADA, Mr. QUIE, Mr. SARASIN, Mr. JEFFORDS, and Mr. PURSELL were appointed managers of the conference on the part of the House.

HOUSE BILLS REFERRED

The following bills were read twice by their title and referred as indicated:

H.R. 10848. An act to amend title VI of the Social Security Act to provide that an individual who applies for supplemental security income benefits on the basis of disability shall be considered presumptively disabled if he has received social security or supplemental security income benefits as a disabled individual within the preceding five years; to the Committee on Finance.

H.R. 12232. An act to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, and for other purposes; to the Committee on Finance.

H.R. 12261. An act to pay tribute to those members of the United States Armed Forces who served honorably in Southeast Asia during the Vietnam conflict; to the Committee on Veterans' Affairs.

ENROLLED BILLS PRESENTED

The Secretary of the Senate reported that on today, July 18, 1978, he presented to the President of the United States the following enrolled bill:

S. 947. An act to declare certain federally owned land known as the Yardeka School land to be held in trust for the Creek Nation of Oklahoma.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time

and, by unanimous consent, the second time, and referred as indicated:

By Mr. SASSER:

S. 3310. A bill to repeal chapter 27 of title 44, United States Code; to the Committee on Governmental Affairs.

By Mr. DOMENICI (for himself and Mr. PAUL G. HATFIELD):

S. 3311. A bill to amend the Social Security Act to provide reimbursement at a level of 100 percent to States for the administrative costs they incur in implementing the Indian Health Care Improvement Act; to the Committee on Finance.

By Mr. DOMENICI:

S. 3312. A bill entitled the Blind Veterans Disability Housing Act of 1978, to the Committee on Veterans' Affairs.

By Mr. ANDERSON:

S. 3313. A bill to direct the Secretary of Agriculture to establish a price support program for honey; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. METZENBAUM:

S. 3314. A bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of United States employees, and for other purposes, and to amend title 5 of the United States Code to permit a person aggrieved by a constitutional injury to initiate and participate in a disciplinary inquiry of the offending act or omission; to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 3315. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide for assistance to State educational agencies for counseling and related services; to the Committee on Human Resources.

By Mr. ANDERSON:

S. 3316. A bill to clarify the application of Revenue Ruling 69–502 and 76–259 to profit-sharing plans and defined benefit plans; to the Committee on Finance and the Committee on Human Resources, jointly, by unanimous consent.

By Mr. BELLMON (for himself and Mr. GARN):

S. 3317. A bill to amend the Federal Food, Drug and Cosmetic Act, the Federal Alcohol Administration Act, and the Federal Cigarette Labeling and Advertising Act to provide for Health Warning Labels on alcoholic beverages and cigarettes; to the Committee on Human Resources, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary, jointly, by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SASSER:

S. 3310. A bill to repeal chapter 27 of title 44, United States Code; to the Committee on Governmental Affairs.

FEDERAL RECORDS COUNCIL

● Mr. SASSER. Mr. President, today I am introducing legislation which will abolish the Federal Records Council and repeal chapter 27 of title 44, United States Code. At the time of enactment, chapter 27 empowered the Administrator of General Services Administration to establish a Federal Records Council, and to advise and consult with that Council in performing his Federal records management responsibilities.

The General Services Administration has recognized that this body is no longer needed. Indeed, in an executive communication of April 29, 1977 to the Vice President, the Acting Administrator recommended abolition and had the following comments about the Federal Records Council:

In 1950, when the Council was established, records management programs and services were relatively unknown and it was believed that the Federal Records Council could perform a valuable function by providing direction and leadership in the early stages of the program, as well as promote interest in and encourage the development of records management programs throughout the government.

The Council was active during the 1950's and early 1960's in guiding the growth of records management programs, but as agencies' records management activities became more sophisticated the Council's direction was no longer critical to the success of government records management programs. Gradually the Council's meetings became infrequent and eventually stopped altogether. Although the Council has not held formal meetings for the past several years, its inactive status has not hindered advances in records management.

After 27 years, records management has been recognized and accepted as a necessary and invaluable program. Several professional organizations have been formed such as the Association of Records Managers and Administrators which encourage the exchange of new ideas and techniques among records managers in and out of government. Many of these professional groups focus on specific aspects of records management such as micrographics, which the Federal Records Council did not have the resources to do.

As a result, we believe that the Council has served its purpose, and in light of current records management programs, is no longer necessary. We believe that abolition of the Federal Records Council is consistent with the Administration's desire to reduce the number of agencies and streamline the Federal Government.

Additionally at hearings of the Civil Service and General Services Subcommittee on October 17, 1977, the Deputy Administrator of GSA, and the Deputy Archivist of the United States reiterated their view that the Council's elimination would be appropriate.

When President Carter took office, he declared one of his major goals to be a reduction in the number of committees, commissions, and boards, and to streamline the Federal Government. It has been approximately 7 years since the Federal Records Council last met. I believe this lengthy period of total inactivity makes the Council a worthy candidate for abolishment, and that repealing chapter 27 of title 44 is consistent with the President's goal of streamlining the Federal Government.●

By Mr. DOMENICI (for himself and Mr. PAUL G. HATFIELD):

S. 3311. A bill to amend the Social Security Act to provide reimbursement at a level of 100 percent to States for the administrative costs they incur in implementing the Indian Health Care Improvement Act; to the Committee on Finance.

● Mr. DOMENICI. Mr. President, recognizing that the Federal Government has a historical and unique legal relationship with, and resultant responsibility to, the American Indian people, I am today introducing legislation to amend the Social Security Act to provide reimbursement at a level of 100 percent to States for the administrative costs they incur in implementing the Indian Health Care Improvement Act.

As you know, section 1911 of the Social Security Act specifically states that, with respect to Public Law 94–437—

. . . the federal medical assistance percentage shall be 100 percentum with respect to amounts expended as medical assistance for services . . .

Nowhere does the law state that administrative costs are included in this formula. This is an oversight which needs to be remedied. Unless the law is changed, States will continue to bear part of the administrative costs for services provided at Indian Health Service facilities.

While the Indian Health Care Improvement Act accepts the IHS and its conditions as a wholly Federal concern, it places the States in the middle of a Federal scheme by requiring them to pick up 50 percent of the administrative costs incurred under the act. Simply stated, through the IHCIA, the States have been stuck with half the cost of administering a program which is Federal in responsibility, operation, and purpose.

You may recall that I introduced a similar amendment to H.R. 3387 last year. My amendment was accepted by the Senate Finance Committee but was subsequently stricken by the House conferees on H.R. 3387. House conferees argued that the amendment was not considered by a committee in either the House or Senate prior to acceptance. To answer that objection, I am introducing the bill today for referral to the Senate Finance Committee.

House conferees also felt that implementation of the administrative cost reimbursement formula would cause unnecessary duplication and paperwork. This certainly need not happen. The reimbursement for administrative costs can be tied to the reimbursement for services with no need for duplication of effort or additional paperwork. The entire process, reimbursement for services and for administrative costs can very easily be accomplished in a one-step process.

Again, let me reiterate my strong belief that the States must not be expected to bear any financial burden for a program which is totally Federal in responsibility. The legislation I am introducing today will remedy this situation and provide real financial relief to the affected States. I ask unanimous consent the text of my bill be printed in the RECORD, and I look forward to prompt and favorable action on this measure.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(42 USC 1396b) Section 1. (a) Section 1903(a) of the Social Security Act is amended—

(1) by adding "plus" at the end of paragraph (5)

(2) by redesignating paragraph (6) as paragraph (7), and

(3) by adding after and below paragraph (5) the following new paragraph:

"(6) an amount equal to 100 per centum of the sums expended during such quarter, which are attributable to the proper and efficient administration of so much of the State plan as relates to the provision of medical assistance in Indian Health Service facilities which are eligible for reimbursement under the State plan pursuant to the provisions of Section 1911; plus,"

(b) The amendments made by subsection (a) shall be effective with respect to expenditures made, under State plans approved under Title XIX of the Social Security Act, beginning with Fiscal Year 1979.●

● Mr. PAUL G. HATFIELD. Mr. President, today I am cosponsoring S. 3311, amending the Indian Health Care Improvement Act (Public Law 94–437) to raise the medicaid reimbursement rate for State administrative costs from 50 to 100 percent.

The last Congress found that current Indian Health Service facilities were inadequate, inefficient, and undermanned. Rather than directly authorizing funds for needed improvements, Congress passed the Indian Health Care Improvement Act. This put IHS units under each State's medicaid plan, requiring State standards to be met before reimbursement for services could be made. The reimbursement money goes into a special fund to finance further improvements of facilities, thus acting as an incentive to raise existing standards.

However, a problem arises. The Indian Health Care Improvement Act places the States in the middle of a Federal scheme. They are forced to pay 50 percent of the administrative costs incurred in transferring money from one Federal agency to another—from medicaid to the Indian Health Service special fund. In my State of Montana, this situation causes a grave hardship, which results in the direct loss of medical services to needy citizens. Montana is required to divert $25,000 of its medicaid matching funds—funds that could be used to purchase direct medical services—to cover the cost of processing medicaid claims for the Indian Health Service.

It is unconscionable to ask a State to pick up additional administrative costs, when its State medicaid program is $7 million short in funds to meet current medical needs. At this time, Montana has refused to sign the agreement with the Indian Health Service facilities as required by the act.

Mr. President, the Indian Health Care Improvement Act requires States to pay half the cost of administering a program that is a Federal responsibility, while at the same time causing States to lose critically needed medicaid services.

The Senate considered and passed a similar measure last October to the one being introduced today. This legislation is needed to prevent the loss of medical services to needy citizens while relieving the States completely of the administrative costs involved in assisting the implementation of the Indian Health Care Improvement Act.●

By Mr. DOMENICI:

S. 3312. A bill entitled the Blind Veterans Disability Housing Act of 1978, to the Committee on Veterans' Affairs.

BLIND VETERANS DISABILITY HOUSING ACT OF 1978

● Mr. DOMENICI. Mr. President, I introduce this bill to correct the discrimination being suffered by blind veterans. Under present law, to be eligible for special housing for disabled veterans, a blind veteran must, in addition to blindness in both eyes, also be unable to use one of his legs. This is mixing apples and oranges. The needs of the blind are different from those who have lost their ability to use their legs.

Accordingly, men who have lost their sight in the service of their country are denied special design features in their housing simply because they did not also lose the use of one of their legs. This is almost too cruel to contemplate.

Among the special features needed by the blind, but not those with vision, include: safety rails on all steps, push-button ovens, formica tops on ranges for cleaning up spills, smoke alarms, brail on medicine bottles and spice jars, door locks fitted to one key, and brail washers and dryers. In short, a host of safety features that those with sight take for granted is needed by the blind.

Mr. President, I consider my bill to be no more than what a compassionate society owes those who have served it well. I hope that my bill receives rapid consideration and becomes the law of the land. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3312

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. This Act may be called the Blind Veterans Disability Housing Act of 1978.

SEC. 2. Subsection 801 (2) of Title 38 of the United States Code is amended to read as follows: "(2) which includes blindness in both eyes, having only light perception, or (3) . . ."●

By Mr. ANDERSON:

S. 3313. A bill to direct the Secretary of Agriculture to establish a price support program for honey; to the Committee on Agriculture, Nutrition, and Forestry.

NATIONAL HONEY ACT OF 1978

● Mr. ANDERSON. Mr. President, today I am introducing the National Honey Act of 1978. Although honey production does not represent a major industry in the United States, the maintenance of an adequate number of honeybee colonies is essential to the pollination of a large number of crops throughout the country.

Due to a decrease in the number of honeybee colonies, domestic honey production has declined steadily since 1963. As a result, the United States is now a net importer of honey. I do not believe it would be wise to allow this trend to continue.

The National Honey Act of 1978 is designed to promote domestic production of honey and maintain the needed number of honeybee colonies for pollination purposes within the United States. The act directs the Secretary of Agriculture, through the Commodity Credit Corporation, to establish a price support program for domestic honey for the 1979 through 1982 production years. It also authorizes the Secretary to approve agreements between producers, cooperatives, and associations to conduct needed advertising and sales programs. These promotion programs will be paid for by the producers who benefit from them.

I hope my colleagues will recognize the real need to maintain a stable number of honeybee colonies within the United States. The size of our Nation's honey industry is in no way representative of its importance to American agriculture.

Mr. President, I ask unanimous consent that the National Honey Act of 1978 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3313

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Honey Act of 1978".

SEC. 2. It is hereby recognized that honey bees are essential in the production of many agricultural crops and that it is imperative that the small, but important, honeybee industry be maintained at a level sufficient to enable it to make the maximum contribution to agriculture and food production through crop pollination. Maintenance of the desired number of honeybee colonies is impaired by the wide fluctuations in the prices of honey and the depressing effects of the large volume of imports of foreign produced honey. It is hereby declared to be the policy of Congress, as a measure of national interest and in promotion of the quality of life and the general economic welfare, to encourage the domestic production of honey in a manner that will have the least adverse effect on foreign trade, and at prices fair to both producers and consumers.

SEC. 3. (a) The Secretary of Agriculture shall, through the Commodity Credit Corporation, support the price of honey to producers thereof by means of loans, purchases, payments, or other operations. Such price support shall be limited to honey marketed during the period beginning January 1, 1979, and ending December 31, 1982.

(b) The support price for honey for the 1978 and each subsequent marketing year shall be determined by multiplying 36 cents by the ratio of (i) the average of the parity index (the index of prices paid by farmers, including commodities and services, interest, taxes, and farm wage rates, as defined in section 301(a)(1)(C) of the Agricultural Adjustment Act of 1938) for the three calendar years immediately preceding the calendar year in which such price support is determined and announced to (ii) the average parity index for the three calendar years 1972, 1973, and 1974 and rounding the result to the nearest full cent.

(c) The Secretary shall, to the extent practicable, announce the support price levels for honey sufficiently in advance of each marketing year as will permit producers to plan their production for such marketing year.

SEC. 4. If payments are utilized as a means of price support, the payments shall be such as the Secretary of Agriculture determines to be sufficient, when added to the national average price received by producers, to give producers a national average return for honey equal to the support price level therefor. The payments shall be made upon honey marketed by the producers thereof, but any honey produced prior to January 1, 1979, shall not be the subject of payments. The payments shall be at such rates for the mar-

keting year or periods thereof as the Secretary determines will give producers the support price level as herein provided. Payments to any producer need not be made if the Secretary determines that the amount of the payment to the producer or all producers is too small to justify the cost of making such payments. The Secretary may make the payment to producers through the marketing agency to or through whom the producer marketed his honey if such marketing agency agrees to receive the payments on behalf of such producers and to promptly distribute the payments to such producers. In case any person who is entitled to any such payment dies, becomes incompetent, or disappears before receiving such payment, or is succeeded by another who renders or completes the required performance, the payment shall, without regard to any other provision of law, be made as the Secretary may determine to be fair and reasonable in all the circumstances and provided by regulation.

SEC. 5. For the purpose of reimbursing the Commodity Credit Corporation for expenditures made by it in connection with payments to producers under this Act, there is hereby appropriated for each fiscal year beginning with the fiscal year ending September 30, 1978, an amount equal to the total of expenditures made by the Corporation during the preceding fiscal year and to any amounts expended in prior fiscal years not previously reimbursed.

SEC. 6. Except as otherwise provided in this Act, the amounts, terms, and conditions of the price-support operations and the extent to which such operations are carried out shall be determined or approved by the Secretary of Agriculture. The Secretary may, in determining support prices and rates of payment, make adjustments in such prices or rates for differences in grade, quality, type, location, and other factors to the extent he deems practicable and desirable. Determinations by the Secretary under this Act shall be final and conclusive. The facts constituting the basis for any operation, payment, or amount thereof when officially determined in conformity with applicable regulations prescribed by the Secretary shall be final and conclusive and shall not be reviewable by any other officer or agency of the Federal Government.

SEC. 7. The term "marketing year" as used in this Act means the twelve-month period beginning January 1 of each calendar year or, such other period, or periods for prescribed areas, as the Secretary may determine to be desirable to effectuate the purpose of this Act.

SEC. 8. The Secretary of Agriculture is authorized to enter into agreements with, or to approve agreements entered into between marketing cooperatives, trade associations, or others engaged or whose members are engaged in the production or handling of honey or the products thereof for the purpose of developing and conducting on a national, State, or regional basis advertising and sales promotion programs and programs for the development and dissemination of information on product quality, pollination, and marketing improvement, for honey or the products thereof. Provision may be made in such agreement to obtain the funds necessary to defray the expenses incurred through pro rata deductions from the payments made under section 4 of this title to producers within the production area he determines will be benefited by the agreement and for the assignment and transfer of the amounts so deducted to the person or agency designated in the agreement to receive such amounts for expenditure in accordance with the terms and conditions of the agreement. No agreement containing such a provision for defraying expenses deductions shall become effective until the Secretary determines that at least two-thirds of the producers who, during a representative period determined by the Secretary, have been engaged, within the production area he determines will be benefited by the agreement, in the production for market of the commodity specified therein approve or favor such agreement or that producers who, during such representative period have produced at least two-thirds of the volume of such commodity produced within the area which will be benefited by such agreement, approve or favor such agreement. The Secretary may conduct a referendum among producers to ascertain their approval or favor. The requirements of approval or favor shall be held to be complied with if two-thirds of the total number of producers, or two-thirds of the total volume of production, as the case may be, represented in such referendum, indicate their approval or favor.

By Mr. METZENBAUM:

S. 3314. A bill to amend title 28 of the United States Code to provide for an exclusive remedy against the United States in suits based upon acts or omissions of U.S. employees, and for other purposes, and to amend title 5 of the United States Code to permit a person aggrieved by a constitutional injury to initiate and participate in a disciplinary inquiry of the offending act or omission; to the Committee on the Judiciary.

FEDERAL TORT CLAIMS ACT AMENDMENT

● Mr. METZENBAUM. Today I introduce a bill to amend the Federal Tort Claims Act. This legislation represents the fruits of intensive negotiations between myself, the staff of the subcommittee on Citizens and Shareholders Rights and Remedies of the Senate Judiciary Committee, which I chair, the staff of the subcommittee on Administrative Practice and Procedure, chaired by the distinguished Senator from South Dakota, JAMES ABOUREZK, and the Department of Justice. This bill succeeds S. 2117, introduced September 21, 1977, and currently before my subcommittee, which represented the Department of Justice's initial attempt to amend the Federal Tort Claims Act.

The legislation I introduce today, and its predecessor, S. 2117, are both designed to immunize some Federal employees from private damage actions for tortious misconduct and to substitute the United States as the defendant in such suits. Hearings on S. 2117 revealed that the bill failed to provide mechanisms for holding Federal employees accountable for their misconduct absent their personal liability. Attorney General Griffin B. Bell acknowledged this deficiency in hearings on January 26, 1978.

In succeeding months the Department of Justice has held extensive negotiations with Members of the House and the Senate, and their staffs, as well as with a substantial number of outside groups. On May 3, 1978, Patricia M. Wald, Assistant Attorney General for Legislative Affairs, submitted a disciplinary amendment to S. 2117 to the Subcommittee on Citizens and Shareholders Rights and Remedies. That amendment was designed to provide for administrative procedures for holding Federal employees accountable for misconduct in place of the private damage actions permitted against such employees under current law.

In hearings on June 15, 1978, Barbara Allen Babcock, Assistant Attorney General for the Civil Division, Deparment of Justice, expressed the Department's willingness to continue refiining the legislation in order to respond to criticisms of the workability of the disciplinary amendment. Negotiations have continued. Last week the Department supplied the Subcommittee on Citizens and Shareholders Rights and Remedies with a complete draft of the legislation, comprised of the text of S. 2117, as refined, and the "disciplinary amendment," as modified in recent negotiations.

The legislation I introduced today, with a few exceptions, is identical to the draft submitted by the Department last week. The major difference centers on how Presidential appointees and former employees should be treated under the bill when they are accused of committing constitutional torts. The Department of Justice has rightly concluded that for constitutional and jurisdictional reasons Presidential employees, defined as employees whose appointments are subject to Senate confirmation, and former employees cannot be subjected to the administrative disciplinary proceedings applicable to other Federal employees under this legislation. The only means for holding Presidential appointees and former employees accountable for unconstitutional actions under the Department's draft is a report on their conduct. In addition, such report may be enjoined from public release under the Department's version.

Thus, the Department's proposal would replace the personal liability of Presidential appointees, as recently affirmed by the Supreme Court in Butz against Economou—June 29, 1978, and former employees with a simple report. Lawlessness at the highest levels of the Federal Government only a few years ago makes me fearful of immunizing senior Federal officials from personal liability, especially when a mere rap on their knuckles is the alternative.

Federal employees at all levels should be accountable for their misconduct. The most powerful Federal officials are in positions to cause the greatest abuses of constitutional rights. They least of all should be freed from answering for their misconduct. The legislation I introduce today permits American citizens injured by constitutional torts to sue either the United States or the Presidential appointee or former employee accused of the illegal conduct. This approach underscores my belief that senior Federal officials should be personally liable for wanton disregard of the constitutional rights of their fellow Americans.

I ask unanimous consent that the text of the bill I am introducing today be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3314

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1346(b) of title 28, United States Code, is amended by striking the period at the end of the section and adding the following: ", or where the claim sounding in tort for money damages arises under the Constitu-

tion of the United States when such employee of the Government is acting within the scope of his office or employment, or under the color thereof, such liability to be determined in accordance with applicable Federal law.".

SEC. 2(a) Section 2672 of title 28 United States Code, is amended by inserting in the first paragraph the following language after the word "occurred" and before the colon: ", or where the claim sounding in tort for money damages arises under the Constitution of the United States when such employee of the Government is acting within the scope of his office or employment, or under the color thereof, such liability to be determined in accordance with applicable Federal law".

SEC. 2(b). Section 2672 of title 28, United States Code, is further amended by inserting in the first paragraph the following language after the amount "$25,000" and before the word "shall", "or any award, compromise, or settlement based on a claim arising under the Constitution of the United States".

SEC. 3(a). Section 2674 of title 28, United States Code, is amended by inserting in the first paragraph the following language after the word "claims" and before the comma: "based upon negligent or wrongful acts or omissions".

SEC. 3(b). Section 2674 of title 28, is further amended by adding as a third paragraph the following:

"The United States shall be liable, respecting the provisions of this title relating to tort claims arising under the Constitution of the United States, to the same extent as entitlement to compensation is recognized under the tort law of the place where the violation complained of occurred, but shall not be liable for interest prior to judgment or for punitive damages: *Provided, however,* That for a claim arising under the Constitution of the United States, such compensation shall not be less than liquidated damages of $1,000, plus a reasonable attorney's fee and other litigation costs reasonably incurred, except that when the violation complained of continues for more than one day, liquidated damages shall be the higher of $1,000 or $100 a day for each day the violation continues, up to a maximum of $25,000 plus a reasonable attorney's fee and other litigation costs reasonably incurred: *Provided further, however,* That the United States shall not assert as a defense to a tort claim arising under the Constitution of the United States, the absolute or qualified immunity of the employee whose violation is complained of or his reasonable good faith belief in the lawfulness of his conduct, except that the United States may assert such a defense if the violation complained of is that of a member of Congress, a judge, a prosecutor, or a person performing the function of such a person.

SEC. 4(a). Section 2675(a) of title 28, United States Code, is amended by inserting the following language after "employment,": "or upon a tort claim for money damages arising from the violation of the Constitution of the United States by any employee of the Government while acting within the scope of his office or employment or under the color thereof,".

SEC. 4(b) Section 2675(a) of title 28, is further amended by changing the period at the end thereof to a semicolon and adding thereafter the following language:

"Provided, however, That class actions in conformity with the requirements of the Rules of Civil Procedure may be instituted for money damages for a tort arising under the Constitution of the United States if the claim presented to the appropriate Federal agency under section 2675(a) of title 28 expressly asserts the representative nature of the claim and specifically describes the class, the common interests of the claimant and such class, and the basis upon which the claimant believes he can fairly and adequately protect the interests of the class as their representative."

SEC. 5. Section 2678 of title 28, United States Code, is amended by inserting at the beginning thereof the words "Except as otherwise provided by the third paragraph of Section 2674 of this title," and changing the word "No" to "no".

SEC. 6. Section 2679(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) The remedy against the United States provided by section 1346(b) and 2672 of this title for tort claims for injury or loss of property or personal injury or death resulting from the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment or for tort claims arising from the violation of the Constitution of the United States by an employee of the Government, other than an individual who is no longer an employee of the Government at the time a claim is presented to a federal agency under this chapter and other than an appointee of the President as defined in chapter 78 of title 5, United States Code, while acting within the scope of his authority or with a reasonable good faith belief in the lawfulness of his conduct is exclusive of any other civil action or proceeding arising out of or relating to the safe subject matter against the employee whose act or omission or violation gave rise to the claim, or against the estate of such employee.

"(b)(2) In no event shall a tort claim arising under the Constitution of the United States by an employee of the Government while not acting within the scope of his authority or with a reasonable good faith belief in the lawfulness of his conduct and by an individual who is no longer an employee of the Government at the time a claim is presented to a federal agency under this chapter and by an appointee of the President as defined in chapter 78 of title 5, United States Code, lie against both the employee in his individual capacity and against the United States under sections 2675 and 1346(b) of title 28, United States Code."

SEC. 7. Section 2679(d) of title 28, United States Code, is amended to read as follows:

"(d)(1) Upon certification by the Attorney General at any time before trial that the defendant employee was acting within the scope of his office or employment, or in claims arising under the Constitution of the United States that the employee, other than an individual who is no longer an employee of the Government at the time a claim is presented to a federal agency under this chapter and other than an appointee of the President as defined in chapter 78 of title 5, United States Code, was acting within the scope of his authority or with a reasonable good faith belief in the lawfulness of his conduct, at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a United States district court shall be deemed an action against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. After such substitution the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States under this chapter and section 1346(b)."

"(d)(2) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment, or in claims arising under the Constitution of the United States that the employee, other than an individual who is no longer an employee of the Government at the time a claim is presented to a federal agency under this chapter and other than an appointee of the President as defined in chapter 78 of title 5, United States Code, was acting within the scope of his authority or with a reasonable good faith belief in the lawfulness of his conduct at the time of the incident out of which the suit arose, any such civil action or proceeding commenced in a State court shall be removed, without bond, at any time before trial, by the Attorney General to the district court of the United States of the district and division embracing the place wherein it is pending and be deemed an action brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. After such substitution the United States shall have available all defenses to which it would have been entitled if the action had originally been commenced against the United States under this chapter and section 1346(b). The certification of the Attorney General shall conclusively establish that an employee was acting within the scope of his office or employment and in claims arising under the Constitution of the United States within the scope of his authority or with a reasonable good faith belief in the lawfulness of his conduct for purposes of such initial removal. Should a district court of the United States determine on a hearing on a motion to remand held before trial on the merits that the employee defendant was not acting within the scope of his office or employment and in claims arising under the Constitution of the United States within the scope of his authority or with a reasonable good faith belief in the lawfulness of his conduct the case shall be remanded to the State court in which it was initially filed."

"(d)(3) Where an action or proceeding under this chapter is precluded because of the availability of a remedy through proceedings for compensation or other benefits from the United States as provided by any other law, the action or proceeding shall be dismissed, but in that event the running of any limitation of time for commencing, or filing an application or claim in, such proceeding for compensation or other benefits shall be deemed to have been suspended during the pendency of the civil action or proceeding under this chapter.".

SEC. 8. Section 2679 of title 28, United States Code, is further amended by adding a new subsection (f) as follows:

"(f) Where an action or proceeding under section 1346(b) or 2672 arising under the Constitution of the United States results in a judgment against the United States or an award, compromise, or settlement paid by the United States, the Attorney General shall forward the matter for such further administrative investigation or disciplinary action, including action under chapter 78 of title 5, United States Code, as may be appropriate to the head of the department or agency by which the employee whose violation or act or omission gave rise to the claim was employed.".

"SEC. 9(a). The preamble to section 2680 of title 28, United States Code, is amended to read as follows:

"Except for tort claims arising under the Constitution of the United States, the provisions of this chapter and section 1346(b) of this title shall not apply to and the United States shall not substitute itself in ———".

SEC. 9(b). Section 2680(h) of title 28, United States Code, is amended to read as follows:

"(h) Any claim arising out of libel, slander, misrepresentation, deceit, or interference with contract rights."

SEC. 10. (a) Subsections (a) through (d) of section 4116 of title 38, United States Code, are repealed, and subsection (e) of that section is amended by deletion of the designation "(e)", by deleting the words "person to whom the immunity provisions of this section apply (as described in subsection (a) of this section)," and inserting in lieu thereof the words "employee of the Department of Medicine and Surgery".

SEC. 10(b). Subsections (a) through (c) of section 224 of the Public Health Service Act, as added by section 4 of the Act of December 31, and renumbered (42 U.S.C. 233(a) through (e)), are repealed, and subsection (f) is amended by deletion of the designation "(f)".

SEC. 10(c). Subsections (a) through (e) of section 1091 of the Foreign Service Act of 1946, as added by section 119 of the Act of July 12, 1976 (22 U.S.C. 817 (a) through (e)) are repealed.

SEC. 10(d). Subsections (a) through (e) of section 1089, title 10, United States Code, are repealed. Subsection (f) is amended by deleting the words "person described in subsection (a)" and inserting in lieu thereof the words "employee of the Armed Forces, the Department of Defense, or the Central Intelligence Agency.".

SEC. 10(e). Subsections (a) through (e) of section 307 of the National Aeronautics and Space Act of 1958, as added by section 3 of the Act of October 8, 1976 (42 U.S.C. 2458(a) through (e)), are repealed, and subsection (f) is amended by the deletion of the designation "(f)", by the deletion of the words "person described in subsection (a)" and by the insertion in lieu thereof of the words "employee of the National Aeronautics and Space Administration".

SEC. 11. Section 2520, title 18, United States Code, shall not apply to civil causes of action against officers or employees of the United States while acting within the scope of their office or employment, or while acting under the color of such office or employment.

SEC. 12. The provisions of this Act shall apply to all claims and suits filed after the date of enactment hereof, and to all claims and suits pending on the date of enactment, *Provided however*, that as to such pending claims and suits, or as to any causes of action known to an aggrieved party on or before the date of enactment, such claimant, plaintiff or aggrieved party may elect to retain his right to demand a trial by jury or to request punitive damages if demanded or requested prior to the date of enactment in the case of a plaintiff who has filed suit or if such right has not expired by the date of enactment in the case of such plaintiff, claimant or aggrieved party. In a case in which a plaintiff elects to retain his right to jury demand or to request punitive damages, the provisions of Section 3 of this Act relating to liquidated damages, waiver of absolute or qualified immunity, and attorneys fees shall not apply.

SEC. 13. Title 5, United States Code, is amended by adding immediately after Chapter 77 a new chapter 78 containing a table of contents and new sections 7801, 7802, 7803, and 7804, 7805, 7806 and 7807 as follows:

"Chapter 78—EMPLOYEE DISCIPLINE

Sec.

"7801. Definitions
"7802. Administrative Inquiries Generally.
"7803. Conduct of Employees of the United States.
"7804. Conduct of Former Employees and Presidential Appointees.
"7805. Individuals and Bodies Conducting Inquiries and Review.
"7806. Regulations.
"7807. Miscellaneous.

SEC. 7801. DEFINITIONS

For the purposes of this chapter:

(a) "Person" means any person with rights recognized under the Constitution of the United States;

(b) "Federal agency" means a Federal agency, as defined in section 2671 of title 28, United States Code, which employs or employed an "employee" defined in subsection (c) of this section;

(c) "Employee" unless otherwise described, means a present "employee of the Government" as defined in section 2671 of title 28, United States Code; and "an employee paid from the appropriation for the office of the President" as defined in section 7324(d)(1)(a) of title 5, United States Code;

(d) "Appointee of the President" means an employee of the Government, other than a uniformed member of the Armed Forces or Coast Guard, a Public Health Service officer, or a Foreign Service officer, appointed by the President with the advice and consent of the Senate; and

(e) "Disciplinary action" means removal, suspension without pay, reduction in rank or pay, admonishment or reprimand, or transfer, for such cause as will promote the efficiency of the service.

SEC. 7802. ADMINISTRATIVE INQUIRIES GENERALLY

(a) A person who obtains a monetary recovery from the United States on a tort claim under section 2675 or section 1346(b) of title 28, United States Code, arising under the Constitution of the United States, may within 60 days thereafter request, as provided herein, an administrative inquiry of the conduct alleged or found to have given rise to the claim.

(b) A person who brings an action under section 1346(b) on a tort claim arising under the Constitution of the United States may, not earlier than 60 days nor more than 120 days thereafter, request, as provided herein, an administrative inquiry of the conduct alleged to have given rise to the claim.

(c) A federal agency that undertakes to conduct an administrative inquiry of the conduct of one of its employees may in its discretion invite a person believed to have been adversely affected by the conduct to participate in the administrative inquiry to the extent provided by sections 7803(b) and (e).

(d) A person who has requested an administrative inquiry under subsection (b), or who has been invited to participate in an administrative inquiry under subsection (c), may not subsequently request an administrative inquiry into the same conduct under subsections (a) or (b).

SEC. 7803. CONDUCT OF EMPLOYEES OF THE UNITED STATES

(a) A request under section 7802 (a) or (b) for an administrative inquiry with respect to the conduct of an employee of the United States shall be made to the head of the federal agency, or his designee, by which the employee is employed. The request shall be accompanied by a written statement, certified and subscribed as permitted by section 1746 of title 28, of such facts as are known to the person making the request regarding the conduct of the employee which is alleged to have violated such person's rights under the Constitution, and a request may be made with respect to the conduct of an employee whose identity is unknown if the request sets forth other information sufficient to permit the commencement of an inquiry.

(b) The inquiry shall be conducted without delay by the head of the agency or his designee. If after preliminary inquiry, the head of the agency or his designee finds that the matter is so unsubstantiated as not to warrant further inquiry, he may, upon notice to the person under this subsection, terminate such inquiry. A hearing shall be held with respect to the conduct of the employee if there is a genuine, material and substantial dispute of fact which can be resolved with sufficient accuracy only by the introduction of reliable evidence in a hearing and the decision of the agency in the matter is likely to depend on the resolution of such dispute. The person requesting the inquiry may appear and give testimony at any such hearing. In his sole and unreviewable discretion, the head of the agency or his designee may in the event of a hearing give to such person a reasonable opportunity to examine and cross-examine witnesses and to suggest witnesses to be called and documents to be produced. The head of the agency or his designee shall determine whether disciplinary action is warranted, issue a statement of findings and state the nature and degree of any disciplinary action taken, and notify the person of the action taken by the agency and the reasons therefor.

(c) Except as provided by subsection (e), within 60 days after notification of the action taken by the agency, or if no final agency action has been taken within one year after the inquiry was requested, the person may request an administrative review by the appropriate individual or body described in section 7805. The individual or body conducting the administrative review shall conduct such review without delay and may substitute its judgment as to the appropriate nature and degree of disciplinary action. If no final agency action has been taken, or if it is unable to conduct such review because it finds the record inadequate, it may remand to the agency for further proceedings or it may, in its discretion, supplement the record by taking additional evidence. In the sole and unreviewable discretion, the individual or body conducting the administrative review may in any proceeding to supplement the record give the person requesting administrative review a reasonable opportunity to examine and cross-examine witnesses. The final decision shall be transmitted to the agency, the employee and the person requesting the review, and shall include a statement of findings and a recommendation which except as provided by section 7807(d), shall be binding on the agency with respect to disciplinary action against the employee.

(d) Except as provided by subsection (e), within 60 days after the issuance of a final decision on an administrative review, the person requesting the inquiry may petition for review of the final decision by a district court of the United States, unless the conduct involved is that of a uniformed member of the Armed Forces as described in section 101(4) of title 10, United States Code, in which event he may petition for review by the United States Court of Military Appeals. The Court may deny the petition, affirm the decision, or set aside the decision and remand for further proceedings if it finds the decision to be arbitrary or capricious, or finds material factual determinations to be unsupported by substantial evidence, on the basis of its review of the decision, the reasons therefore, and the recommendation with respect to disciplinary action. The court's review shall be held *in camera* for matters specifically protected from disclosure by statute, by executive order relating to the national security, national defense, or foreign affairs, or in the court's own discretion if it determines that *in camera* review is necessary.

(e) A person shall have the right to request an administrative review under subsection (c) of this section and to petition for judicial review under subsection (d) of this section only when such person has obtained a monetary recovery from the United States on a tort claim under section 2675 or in a suit under section 1346 (b) of title 28, United States Code, alleged to have arisen under the Constitution of the United States, or when the agency or a court of the United States has found that the claim arises under the Constitution of the United States, unless the agency which conducted this inquiry under section 7803 (b) has in its discretion permitted a person to participate in such inquiry and consents to such person's making a request or filing a petition for such administrative and judicial review.

SEC. 7804. CONDUCT OF FORMER EMPLOYEES AND PRESIDENTIAL APPOINTEES

(a) A request under section 7802 for an administrative inquiry with respect to the

conduct of a former employee of the United States or a present or former appointee of the President shall be made to the appropriate individual or body described in section 7805.

(b) The individual or body conducting an administrative inquiry under this section shall conduct such inquiry without delay and may in its discretion hold a hearing. Such individual or body shall prepare a written report of the results of the inquiry which shall include a statement of findings. Such report promptly shall be served on the former employee or present or former appointee of the President whose conduct has been the subject of the administrative inquiry and not less than twenty days nor more than thirty days thereafter shall be transmitted to the person requesting such inquiry, to any other person whose rights under the Constitution of the United States are found to have been violated, and shall be made public. If, prior to the public release of the report, the former employee or present or former appointee of the President submits to the head of the agency or his designee a brief statement commenting on the substance of the report, such statement shall accompany the report when it is transmitted to any person and when it is made public.

(c) A person requesting such inquiry and a person whose conduct is the subject of an administrative inquiry under this section may, within 60 days after service upon him of the report of the inquiry, petition a district court of the United States to review the report. The court may deny the petition or set aside the report and remand it for further consideration if it finds the report to be arbitrary and capricious or finds material factual determinations to be unsupported by substantial evidence on the basis of its review of the report and the statement of findings.

SEC. 7805. INDIVIDUALS AND BODIES CONDUCTING INQUIRIES AND REVIEW

An administrative inquiry under section 7804 or an administrative review under section 7803(c) shall be conducted by:

(a) The Secretary of Defense, or his designee, with respect to a uniformed member of the Armed Forces as described in Section 101(4) of title 10, United States Code;

(b) The Secretary of the Department in which the United States Coast Guard is operating. or his designee, with respect to a member of the Coast Guard;

(c) The head of an agency with a personnel system under the Foreign Service Act of 1946, as amended (22 U.S.C. 801 et seq.), or his designee, with respect to an officer or employee of the Foreign service;

(d) The head of an agency with a personnel system under the Public Health Service Acts, as amended (42 U.S.C. 201 et seq.), or designee, with respect to an officer or employee of the Public Health Service;

(e) A body designated by the President within sixty days of enactment of this Act, other than the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, the national intelligence components of the Defense Department or the National Security Council and its component parts, with respect to the conduct of an officer or employee while engaged in intelligence activities; or

(f) The Civil Service Commission, or its designee, in any other case.

(g) A designee of a Secretary, agency head or entity described in this section, who conducts an administrative review shall not be responsible to or subject to the supervision or direction of any person who conducted the administrative inquiry under review.

(h) No person who has been an employee of the Central Intelligence Agency, the Federal Bureau of Investigation, the National Security Agency, the national intelligence components of the Defense Department or the National Security Council or its component parts during the preceeding two years may be appointed to serve on the body designated to conduct an administrative review under subsection (e) of this section.

SEC. 7806. REGULATIONS

(a) Within 90 days after enactment of this chapter, the individuals and bodies described in section 7805 shall propose such regulations as are necessary and appropriate for the implementation of this chapter.

(b) The head of each federal agency subject to the administrative review provisions of section 7803(c) shall comply with the regulations issued by the particular administrative body designated by section 7805 to review administrative inquiries conducted by that federal agency, and shall 60 days after the effective date of such regulations, issue rules, regulations and instructions not inconsistent therewith.

(c) For purposes of promulgating regulations pursuant to this section, the body designated under subsection (e) of section 7805 shall be an "agency" of the government within the meaning of 5 U.S.C. (The Administrative Procedure Act).

(d) All regulations issued under this section shall be published for public comment and subject to judicial review under chapters 5 and 7 of this title.

SEC. 7807. MISCELLANEOUS

(a) Nothing in this chapter shall affect the rights of an employee to appeal or to seek review or other means of redress of any disciplinary action taken against him which he would have under other provisions of law. To the extent that an employee has exercised rights to administrative or judicial review which are greater than those provided in subsections (c) or (d) of section 7803 to a person requesting an administrative inquiry, such person shall have the same rights as such employee. *Provided, however,* that an employee, who is the subject of a disciplinary action recommended by the Civil Service Commission, pursuant to subsection 7803(c), shall not be required by any other provision of law to take an appeal to the Commission prior to seeking judicial review of that action.

(b) An employee who is not entitled under other provisions of law to seek administrative or judicial review of disciplinary action taken against him may, if an administrative review is conducted under section 7803(c), participate in such review and give evidence or testimony if a hearing is held, and, to the extent provided by section 7803(d), may petition for judicial review of a final decision if any disciplinary action recommended under subsection 7803(c) is greater than that proposed by the employing federal agency.

(c) Nothing in this chapter shall affect the availability of defenses which an employee may raise in any administratalve or judicial proceeding.

(d) Nothing in this chapter shall require a federal agency to delay taking disciplinary action against an employee or empower the Civil Service Commission to reduce the severity of disciplinary action taken by an agency against an employee who would not have a right to seek the Civil Service Commission's review of such action under other provisions of law.

(e) Nothing in this chapter shall authorize a federal agency to delay or refrain from taking disciplinary action against an employee in the absence of a request filed under section 7802 (a) or (b).

(f) On or before June 30 of each calendar year, the President shall submit to the Speaker of the House and the President of the Senate a report for the preceding calendar year separately listing for each Federal agency the number of administrative inquiries undertaken pursuant to this chapter, a brief description of the nature of the inquiries, any administrative or judicial review thereof, and the ultimate disposition thereof.

(g) Notwithstanding any provision of law to the contrary, any party in an action for judicial review of agency action under section 7803(d) and 7804(c) shall be entitled to recover from the United States reasonable attorneys' fees, fees and costs of experts, and other reasonable costs of litigation, including taxable costs, incurred during judicial review if the court affords such person the relief sought in substantial measure. Reasonable attorneys' fees and other costs of litigation awarded under this section shall be based upon prevailing market rates for the kind and quality of the services furnished.●

By Mr. MATHIAS:

S. 3315. A bill to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide for assistance to State educational agencies for counseling and related services; to the Committee on Human Resources.

JUVENILE DELINQUENCY PREVENTION COUNSELING ACT

● Mr. MATHIAS. Mr. President, today I am introducing the Juvenile Delinquency Prevention Counseling Act, to amend the Juvenile Justice and Delinquency Prevention Act of 1974 to provide for assistance to State educational agencies for counseling and related services.

Young people today live in a world in which standards are not only changing but are changing at a faster rate than ever before. In the last 25 years, home and family life have, for better or worse, become much less important to young and old alike. I personally regret the fact that many children no longer learn moral values either at home or at church. These trends in American life have made youth uneasy and unsure of what good conduct is.

Children reflect this loss of standards. They sense the insecurity of their parents and other adults and they reflect it themselves. It is not easy to say just why some children become problems while others grow up in spite of these facts to become productive members of society. But nearly every problem case can be traced to a lack of adjustment between the child and society. Sometimes there is a basic weakness in the child himself which surfaces because of trouble in the child's environment, including the home, the family, the neighborhood and the local school.

Nearly two-thirds of a child's formative years are spent within the school system. The school's primary duty is to teach, but teaching is useful only if it gives the guidance that enables a child to lead a happy, healthy and productive life.

The bill I am introducing today would provide assistance to State educational agencies for counseling and related services to address such problems. These counseling grants would be authorized for developing educational programs and alternative schooling practices and for providing counseling to both child and family, in an effort to prevent, identify and treat incipient learning and discipline problems. Appropriations for these grants are authorized at $50 million for

fiscal year 1979, $75 million for fiscal year 1980 and $100 million for fiscal year 1981.

This bill would direct greater emphasis to the question of how to identify problem children before they get in trouble and land in court. Prejudicial counseling through training and education could help the child with problems before he reaches the point of judicial notice but when he is clearly headed in that direction.

One of the tragedies of the present situation is the complete dichotomy between the Justice Department's programs for juveniles and those at HEW. In 1973, the former Secretary of HEW and then Attorney General, Elliott Richardson, and I discussed formulating a bill to create an early-warning system on juvenile delinquency. We were extremely interested in improving the links between law enforcement and social services and Mr. Richardson's experience in both areas was unique. I am now reviving this concept with some optimism that we might still be able to merge these two streams in a way that would benefit young people in trouble. It is not my intention to fracture the programs between the Justice Department and HEW. But, I would like to see the educational community retain a vital relationship to this whole process. The current arrangements for coordination are not working.

As of September 1976, the Office for Alcohol and Drug Abuse Education Programs within the Office of Education became the Administrator of the School Violence Act within the Juvenile Justice Amendments. Since September 1976 to the present, OE was guaranteed $4.7 million to implement it. To date, they have received $1.3 million. This money comes from LEAA discretionary funds and appears to be the only program tangentially related to juvenile delinquency programs administered by OE.

The Federal Coordinating Council on Juvenile Justice and Delinquency Prevention has not met since December 1976. I understand that a second meeting has finally been scheduled for June 21, 1978. The Attorney General, the Secretary of Labor, and the Secretary of HEW all sit on that council, but it does not do much good if meetings are once every 3 years.

We must know more about the kind of aberrant behavior which is visible and detectable and which usually leads to serious problems with the young person, identifying the kind of treatment or assistance necessary and who should be involved in rendering this assistance. I urge Congress to begin to strengthen the relationship between HEW and the Law Enforcement Assistance Administration because HEW, in cooperation with the educational agencies, could devise programs in schools to detect the problem kids before they come to the courts. Several programs across this country are operating on temporary and sporadic funds. However, these programs have produced results such that if these services could be provided on a continuing and more permanent basis, schools could go far in serving the needs of their students. I hope Senators will supoprt this effort which is so very important and long overdue.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3315

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Juvenile Delinquency Prevention Counseling Act".

SEC. 2. Title II of the Juvenile Justice Delinquency Prevention Act of 1974 is amended by redesignating part D as part E and by adding after part C the following new part:

"PART D—COUNSELING AND RELATED SERVICES FOR STATE EDUCATIONAL AGENCIES

"COUNSELING GRANTS AUTHORIZED

"SEC. 256. (a) For the purpose of assisting State educational agencies in developing (1) educational programs and alternative schooling practices and (2) providing counseling, including family counseling, and related services in the context of a State effort of prevention and treatment of delinquent behavior, the Administrator is authorized to make grants to State educational agencies in accordance with the provisions of this part.

"(b) No grant may be made under this part unless the State educational agency submits an application at such time and in such manner as the Administrator may prescribe. Each such application shall contain a description of the purposes for which the grant is sought, and assurances satisfactory to the Administrator that the State educational agency will use the grant for the purposes for which application is made, and will comply with such other requirements relating to the submission of reports, methods of fiscal accounting, the inspection and audit of records and other materials, and such other rules, regulations standards, and procedures, as the Administrator may reasonably require.

"(c) For the purposes of this part the term 'State educational agency' has the same meaning as set forth in section 801(k) of the Elementary and Secondary Education Act of 1965.

USE OF FUNDS

"SEC. 257. Grants made under this part may be used solely for meeting the cost of services or providing services designed to carry out the purposes set forth in section 256(a).".

SEC. 3. Section 261(a) of the Juvenile Justice Delinquency Prevention Act of 1974 is amended—

(1) by inserting "(1)" after "(a)";

(2) by inserting after "title" the following: ", other than part D,"; and

(3) by adding at the end thereof the following new subsection:

"(b) To carry out the purposes of part D of this title there are authorized to be appropriated $50,000,000 for the fiscal year 1979, $75,000,000 for the fiscal year 1980, and $100,000,000 for the fiscal year 1981. Funds appropriated for any fiscal year may remain available for obligation until expended.".●

By Mr. ANDERSON:

S. 3316. A bill to clarify the application of Revenue Ruling 69–502 and 76–259 to profit-sharing plans and defined benefit plans; to the Committee on Finance and the Committee on Human Resources, jointly, by unanimous consent.

● Mr. ANDERSON. Mr. President, I am introducing today S. 3316, a bill to clarify the application of the Employee Retirement Income Security Act of 1974. ERISA was a giant step forward in improving our private pension system. But, as with any new law dealing with a complex subject, problems of interpretation appear and the law requires clarification.

The legislation I am introducing is prompted by the problems that were created when the Onan Corp. of Minnesota established an ERISA-qualified benefit plan. In establishing this plan the corporation chose to convert its long-established profit-sharing program into a qualified benefit plan by inserting a minimum benefit provision, a floor, into the plan and using the accumulated reserves of the profit-sharing plan to aid the financial viability of the new qualified plan.

A number of older Onan employees objected to the plan because the method of computing benefits under the new plan appear to discriminate against those of high seniority under the already established profit-sharing plan. The Department of Labor in commenting on the complaints of these Onan employees agreed with their contention that discrimination existed and argued that the plan should not be qualified because of the standards set forth in IRS Revenue Ruling 69–502. However, the Department of Labor noted that the law was ambiguous and that if Revenue Ruling 76–259 was found to be applicable, then the plan was legally qualified and could be established. The Internal Revenue Service subsequently so found and the plan will likely be qualified.

Mr. President, I believe there is considerable merit to the claims of Onan employees who have objected to the new plan. S. 3316, which I am introducing today, clarifies ERISA as it has been applied in this instance. S. 3316 provides that the standards of Revenue Ruling 69–502 will apply when a company profit sharing plan, where the company also maintains a defined benefit plan, established before the defined benefit plan and operated separately over an extensive period of time during which substantial amounts of nonforfeitable benefits have accrued to participants and these benefits are used to offset benefits provided to such participants under the defined benefit plan.

I request unanimous consent that the Department of Labor letter commenting on the Onan case be printed in the RECORD as well as the text of S. 3316.

There being no objection, the bill and letter were ordered to be printed in the RECORD, as follows:

S. 3316

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any other provision or rule of law to the contrary—

(1) Revenue Ruling 69–502 (and any other regulation, ruling, or decision reaching the same result as, or a result similar to, the result set forth in such Revenue Ruling) shall apply when a profit-sharing plan established and maintained by an employer who also maintains a defined benefit plan is established prior to the defined benefit plan and operated separately over an extensive period of time during which substantial amounts of nonforfeitable benefits have been accrued to participants and are used to offset benefits provided to such participants under the defined benefit plan, and shall not apply in a case described in paragraph (2), and

(2) Revenue Ruling 76–259 (and any other regulation, ruling, or decision reaching the same result as, or a result similar to, the result set forth in such Revenue Ruling) shall apply when an employer establishes both a profit-sharing plan and a defined benefit plan at the same time and operates both plans concurrently, and shall not apply in a case described in paragraph (1).

SEC. 2. The provisions of this Act shall apply to all years to which the Revenue Rulings to which reference is made in the first section of this Act apply.●

Mr. RONALD J. LANGER,
Chief, Technical Staff, EP/EO Division, Internal Revenue Service, St. Paul, Minn.

DEAR MR. LANGER: This letter is a comment on behalf of interested parties regarding the pension plans which have been submitted to the Internal Revenue Service (IRS) for qualification. The plans were submitted by the Onan Corporation (ONAN) and are: Application for Defined Benefit Plan (021) and Application for a Defined Contribution Plan (020).

The interested parties have requested the Department of Labor (DOL) to comment to the IRS under the authority of section 3001(b) of the Employee Retirement Income Security Act of 1974 (ERISA).

The interested parties are employees of ONAN who have participated in ONAN's profit sharing plan and have accumulated funds in their profit sharing accounts.

ONAN has now submitted two applications, one involving the qualification of a defined benefit plan and the other for the qualification of its profit sharing plan. The comments of the interested parties raise the issue of whether the two plans may be qualified inasmuch as it is suggested that the profit sharing plan is a vehicle to fund the defined benefit plan.

ONAN has cited in its application Revenue Ruling 76–259, I.R. Bulletin 1976–78, 9, which provides, in part, that a defined benefit plan that provides a stated benefit offset by the benefits provided by a concurrently operating profit sharing plan will not fail to satisfy the requirements of section 401 of the Code after September 2, 1974, merely because of the offset provision. The Revenue Ruling also provides guidelines for determining whether such a plan satisfies the accrual benefit requirements of section 411(b) of the Code.

Prior to the issuance of Revenue Ruling 76–259, the IRS ruled in Revenue Ruling 69–502, Cumulative Bulletin 1969–2, 89 that such plans would not be qualified because the profit sharing plan is not for the exclusive benefit of employees and because contributions to such plan relieve the employer of the obligation to contribute to the defined benefit plan. Also, the defined benefit plan does not provide definitely determinable benefits within the meaning of section 1.401–1(b)(1) of the regulations as such plan benefits are offset by the benefits provided by the profit sharing plan.

Revenue Ruling 76–259 does not discuss the factual problems which have been raised in the instant case. That is, whether a newly established defined benefit plan can be offset by a pre-existing profit sharing plan in which there are accumulated benefits.

DOL does not believe that this issue was addressed in Revenue Ruling 76–259. Furthermore, the legislative history of ERISA does not address the issue of pre-existing profit sharing plans with accumulated benefits. DOL believes that the issue should be addressed before the qualification of the instant plans are approved. Furthermore, consideration should be given to whether the requirement that the profit sharing account funds be transferred by employees to defined benefit plan in order to qualify for benefits under the defined benefit plan is for the exclusive benefit of the employees in the profit sharing plan.

It is our view that a distinction should be made where both the profit sharing and defined benefit plan are established at the same time and operate concurrently and where the profit sharing plan was established prior to the defined benefit plan and operated separately over an extensive period of time during which substantial amounts of benefits have accrued and vested to the participants which would be used to offset the benefits provided under the defined benefit pension plans, particularly where the benefits for new employees entering the defined benefit pension plan would be funded solely by the employer; i.e. the pension plan would be a non-contributory plan for employees. In the latter case, Revenue Ruling 69–502 would be appropriate and should be applied. Revenue Ruling 76–259 should be applicable only where the profit sharing and defined benefit plans are establised at the same time and operate concurrently.

Under the circumstances of this case, we do not believe that the instant plans should be qualified until the issues are resolved.

Sincerely,
FRED W. STUCKWISCH,
Director, Office of Regulatory Standards and Exceptions.●

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by Senator ANDERSON to amend ERISA be referred jointly to the Committee on Finance and the Committee on Human Resources.

The PRESIDING OFFICER. Without objection, it is so ordered.

By Mr. BELLMON (for himself and Mr. GARN):

S. 3317. A bill to amend the Federal Food, Drug, and Cosmetic Act, the Federal Alcohol Administration Act, and the Federal Cigarette Labeling and Advertising Act to provide for health warning labels on alcoholic beverages and cigarettes; to the Committee on Human Resources, the Committee on Commerce, Science, and Transportation, and the Committee on the Judiciary, jointly, by unanimous consent.

● Mr. BELLMON. Mr. President, I am introducing legislation today which will give the Secretary of HEW, clear authority to place warning labels on cigarettes and alcoholic beverages. Data from the National Center for Health Statistics indicated that smoking directly or indirectly accounts for 14 percent of all deaths in the United States. The health risks associated with smoking are well-known and need little elaboration. It should also be noted that alcohol abuse is the third leading public health problem in the United States and adversely affects not only 8 to 10 million alcohol abusers, but imposes tremendous burdens on families who must try to cope with this serious illness.

Alcohol abuse has been referred to as our "$42 billion hangover," as it is estimated that this represents the economic costs of this illness. The cost in terms of human suffering and unnecessary death, disease, and disability cannot be measured. Alcohol abuse is a major contributing factor in most of the leading causes of death and disability, including cancer, cardiovascular disease, cirrhosis of the liver, diabetes, accidents, suicides, and homicides. Deaths which directly result from alcohol abuse (cirrhosis of the liver, accidents, suicides), rank third as a cause of death in the United States.

In addition to these well-known risks associated with alcohol abuse, there is conclusive evidence that alcohol is directly involved in birth defects, and that the risk of fetal abnormality is correlated with the amount of alcohol consumed. These birth defects have been identified as the fetal alcohol syndrome and typically include developmental and performance deficiencies, craniofacial and limb abnormalities, and benign tumors. Both pre- and post-natal growth deficiencies are present and IQ's of affected children average 30 to 40 points below normal.[1]

Mr. President, this bill would give the Secretary of HEW authority to require health warning labels on alcoholic beverages. One of my major concerns in introducing this legislation is the growing evidence that alcohol plays a major role in certain birth defects. These defects, referred to as the Fetal Alcohol Syndrome, are highly correlated with the level of alcohol consumption.

In a recent article published in the Journal of Pediatrics, Dr. James Hanson and his associates reported that features of the Fetal Alcohol Syndrome (FAS) were found in 19 percent of the children whose mothers consumed an average of two or more ounces of alcohol per day during pregnancy. FAS features were also reported in 11 percent of the children whose mothers consumed an average of 1–2 ounces per day. Thus, there is some evidence that even moderate levels of alcohol consumption during pregnancy can have an adverse effect upon the fetus.

Mr. President, the Census Bureau estimates that there will be about 3.16 million live births in the United States this year. According to a 1974 HEW report to the Congress, surveys of American drinking practices as well as projected rates of alcohol abuse from alcohol-related diseases such as cirrhosis of the liver suggest that from 3 to 5 percent or 95,000 to 160,000 of these mothers will be heavy drinkers and from 1 to 2 percent or 31,000 to 63,000 could be diagnosed as alcoholics.

Thus, according to Dr. Hanson's findings that clear evidence of FAS is found in 11–19 percent of the children whose mothers are moderate to heavy drinkers, at least 6,000 and possibly as many as 17,000 children will be born this year with alcohol-related birth defects.

Mr. President, I am convinced that every women, even those who may have serious drinking problems, desire to produce healthy children and that most will choose to reduce consumption of alcohol if they clearly understand the risks associated with moderate or high levels of alcohol use. Unfortunately, most mothers are unaware of these risks at this time. To emphasize the need for wide dissemination of the role of alcohol consumption in birth defects, I ask unanimous consent that the text of Dr. Hanson's study be printed in the RECORD at the end of my remarks.

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[1] Kenneth Warren, "A Critical Review of the Fetal Alcohol Syndrome," National Institute of Alcohol Abuse and Alcoholism, June 1, 1977.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BELLMON. At the present time, there is no conclusive evidence concerning what may constitute a safe level of alcohol consumption by pregnant women. It is clear, however, that a definite risk is established by injection of 3 or more ounces of alcohol per day. There is some evidence that significant risks may occur at much lower levels of consumption and that periodic and very high blood alcohol concentrations are especially dangerous to the fetus. According to a recent study published in the Journal of Pediatrics, risks to the fetus are increased when smoking is combined with high alcohol consumption.[2]

Alcohol presents major health risks to individuals who may experience allergic reactions to ingredients used in alcohol beverages. Thus, a requirement that each product contain a list of ingredients could prevent unnecessary pain, suffering, or even death to certain consumers.

Finally, Mr. President, there is a growing awareness in the medical and scientific community that alcohol may produce serious and often fatal effects when mixed with other drugs. According to studies published by the New York Academy of Sciences, alcohol potentiates the depressive effects of tranquilizers and sedatives and this combination represents the leading cause of drug overdose and death in hospital emergency rooms.[3] Alcohol greatly affects the therapeutic actions of almost every class of therapeutic drugs including those used in the treatment of infections, blood disorders (including blood thinning agents used for cardiovascular disease), gout, pancreatitis, diabetes, gastro-intestinal disorders, and liver disease.[4]

Mr. President, the purpose of this proposed legislation is not to restrict any citizen who may choose to smoke or drink alcoholic beverages. It is designed, rather, to assist and promote individual responsibility for his or her own health. Individuals who choose to smoke or drink alcoholic beverages have the right and responsibility to make an informed decision and hopefully select options which at least minimize risks to themselves and to others, including unborn children. At a minimum, labels should alert pregnant women to the risks of birth defects and inform all citizens of the potential hazards of mixing alcohol with other psychoactive and therapeutic drugs. Ingredient lists should also be included to protect citizens at risk from allergic reactions.

There is considerable debate over whether or not warning labels actually serve a useful purpose. While the answer to this question is far from conclusive, there is little doubt that appropriate ingredient labels are useful and can alert high risk persons to potential dangers. Preliminary studies of the impact of labeling upon cigarette smoking are encouraging as there is some evidence of behavioral changes which reduce health risks (shift to filter cigarettes, reduction in level of consumption, and reduction in number of adults who smoke). Behavioral science research, however, suggests that information such as that provided on warning labels is most effective where there is a direct and immediate relationship between individual behavior and the consequences which follow from that behavior. This is especially true if the consequences have a significant impact upon important values and goals such as the desire of women to produce healthy babies. For example, there was a significant decrease in the use of LSD among young women when scientists reported a possible link between LSD and birth defects. On the basis of past experiences, therefore, we have every reason to believe that warning labels could be useful in reducing the risk of birth defects and related problems associated with smoking and alcohol abuse.

Mr. President, I find it difficult to understand why Congress has not adopted a consistent policy for the development of warning and informational labels for products with known potential health risks. The Secretary has delegated such authority by regulation to the Commissioner of FDA for food, drugs, and cosmetics. The legislation which I propose will promote a consistent policy by expanding this labeling authority of FDA to include alcohol and cigarettes. With regard to alcohol, the need for this legislation was created by a decision of the Federal district court for Western Kentucky (Brown-Forman Distillers Corp. against Mathews, 1976) which ruled that exclusive authority for labeling alcoholic beverages resides with the Department of the Treasury.

Mr. President, I am convinced that major improvements in the health of our citizens will not be achieved solely by continuing to pour billions of additional dollars into acute care and treatment of chronic diseases. While we must continue to provide for treatment and rehabilitation of the sick, we must begin to shift our emphasis to disease prevention and the responsibility of individuals for their own health. To achieve this goal, we must inform citizens of the health risks associated with their actions. Unfortunately, there is a large gap in the law which precludes appropriate labeling of health risks associated with alcohol consumption. As these risks such as the fetal alcohol syndrome are more clearly identified through scientific research, it becomes more and more imperative that citizens have information necessary to make responsible choices in their use of substances with known hazards. I urge my colleagues to join me in this effort to insure that cigarettes and alcoholic beverages receive appropriate warning labels in order that citizens can make informed and responsible choices in their use of these substances. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Federal Food, Drug and Cosmetic Act is amended by the addition of a new section, Section 903 (21 U.S.C. 393) as follows:

The Secretary shall prescribe, by regulations issued in accordance with the provisions of 5 U.S.C. 553, statements relating to health which shall be contained on the labeling of alcoholic beverages and the labeling of cigarettes.

SEC. 2. Section 5 of the Federal Alcohol Administration Act (27 U.S.C. 205) is amended by the addition of the underlined language in subsection (e):

(e) Labeling. To sell or ship or deliver for sale or shipment, or otherwise introduce in interstate commerce, or to receive therein, or to remove from customs custody for consumption, any distilled spirits, beer, wine, or malt beverages in bottles, unless such products are bottled, packaged, and labeled in conformity with *any regulation prescribed by the Secretary of Health, Education, and Welfare, pursuant to 21 U.S.C. 393*, and with such regulations, to be prescribed by the Secretary of the Treasury, with respect to packaging, marketing, branding, and labeling in size and fill of container . . .

EXHIBIT 1

THE EFFECTS OF MODERATE ALCOHOL CONSUMPTION DURING PREGNANCY ON FETAL GROWTH AND MORPHOGENESIS

(By James W. Hanson, M.D., Ann Pytkowicz Streissguth, Ph.D., and, David W. Smith, M.D.)

(Information on fetal hazards arising from moderate or low levels of maternal alcohol consumption is unavailable in man. In order to study this question an unselected group of pregnant women was interviewed during pregnancy regarding their alcohol intake. At the time of delivery pairs of high-risk and control infants were examined without knowledge of maternal drinking history. Of 163 infants examined, 11 were judged clinically to show signs compatible with prenatal effect of alcohol on growth and morphogenesis. Nine of these 11 came from the high risk drinking group. Only two of these infants were classified at having the fetal alcohol syndrome, and each of the mothers was a very heavy drinker. The other seven infants, who showed lesser alterations of growth and morphogenesis suggestive of fetal alcohol syndrome, were born to women who reported drinking an average of one ounce or more of absolute alcohol per day in the month prior to recognition of pregnancy. These results indicate that both moderate and high levels of alcohol intake during early pregnancy may result in alterations of growth and morphogenesis in the fetus.)

Heavy alcohol consumption during pregnancy is now widely recognized as a serious risk to the exposed fetus.[1] Although experiments in other animals,[2, 3] suggest that lesser amounts of alcohol may also have a detrimental effect on fetal growth and morphogenesis, this has not been clearly demonstrated in man. In this paper, we report the results of a prospective study of the effects on the fetus of alcohol consumption during pregnancy. Results suggest that moderate in-

[2] James Hanson, et al., "The Effects of Moderate Alcohol Consumption During Fetal Growth and Morphogenesis", The Journal of Pediatrics, Vol. 92, 1978.

[3] Vessell and Baude, Interactions of Drug Abuse, *Annuals of the New York Academy of Science*, Vol. 281, 1976.

[4] P. D. Hansten, *Drug Interactions*, Philadelphia; Lea and Febiger, 1973.

[1] Jones KL, Smith DW, Streissguth AP et al: Outcome in offspring of chronic alcoholic women, Lancet 1:1076, 1974.

[2] Chernoff GF: A mouse model of the fetal alcohol syndrome, Teratology 11:14a, 1975.

[3] Tze WJ, and Lee M: Adverse effects of maternal alcohol consumption on pregnancy foetal growth in rats, Nature 257:479, 1975.

take of alcohol during early pregnancy may also be hazardous to the developing infant.

METHODS

Abbreviations used; FAS: fetal alcohol syndrome; AA: absolute alcohol.

The subjects were 163 selected offsprings of 1,529 mothers who participated in a larger study of pregancy and health at two Seattle hospitals. All pregnant women in prenatal care by the fifth month of pregnancy at either hospital during a one-year period were eligible for this study. Eighty-five percent agreed to participate. These 1,529 mothers were interviewed during the fifth month of pregnancy regarding their alcohol and caffeine ingestion during and in the month prior to recognition of pregnancy. Also determined was their use of nicotine, drugs, and their diet during pregnancy.[4, 5] Alcohol use was determined by self-report from a quantity-frequency-variability interview and scored according to average ounces of absolute alcohol consumed daily.[6] Prior study has indicated these scores to have high reliability on reinterview one week later.[7]

TABLE I.—RELATIONSHIP OF NEONATAL ABNORMALITY TO MATERNAL ALCOHOL INTAKE PRIOR TO RECOGNITION OF PREGNANCY

	Average ounces absolute alcohol/day			
Clinical category	≥1.0	0.11–0.9 [2]	≤0.1	Total
A. Abnormal with features of FAS [3]	9	0	2	11
B. Minor anomalies not suggestive of FAS	3	2	2	7
C. Normal	58	29	58	145
Total	70	31	62	163

[1] AA score in the month preceding recognition of pregnancy.
[2] Newborn infants in this category were examined as controls to maintain the double blind on days when no mother in the light drinking category delivered.
[3] Includes 2 newborn infants diagnosed FAS.

TABLE II.—RELATIONSHIP OF NEONATAL ABNORMALITY TO MATERNAL ALCOHOL INTAKE DURING FIRST 5 MONTHS OF PREGNANCY

	Average ounces absolute alcohol/day			
Clinical category	≥1.0	0.11–0.9 [1]	≤0.1	Total
A. Abnormal with features of FAS [2]	3	4	4	11
B. Minor anomalies not suggestive of FAS	1	4	2	7
C. Normal	26	46	73	145
Total	30	54	79	163

[1] Newborn infants in this category were examined as controls to maintain he double blind on days when no mother in the light drinking category delivered.
[2] Includes 2 newborn infants diagnosed FAS.

[4] Streissguth AP, Martin DC, and Buffington VE: Identifying heavy drinkers: A comparison of eight alcohol scores obtained on the same sample, *in* Seixas FA, editor: Currents in alcoholism, vol 2, New York, 1977, Grune & Stratton, Inc., pp. 395–420.

[5] Streissguth AP, Martin DC, and Buffington VE: Test-retest reliability of three scales deriving from a quantity-frequency-variability assessment of self-reported alcohol consumption, work in progress in alcoholism, Ann NY Acad Sci 273:468, 1976.

[6] Jessor R. Graves RD, Hanson RC, and Jessor SL: Society, personality and deviant behavior: a study of a tri-ethnic-community. New York, 1968, Holt, Rinehart and Winston, Inc.

[7] Hanson JW, Jones KL, and Smith DW: Fetal alcohol syndrome, experience with 41 patients, JAMA 235:1458, 1976.

TABLE III.—AVERAGE MATERNAL ALCOHOL CONSUMPTION FOR INFANTS IN EACH CLINICAL CATEGORY

		Average ounces of absolute alcohol/day			
		Pre-recognition of pregnancy [1]		1st 5 mo of pregnancy	
Clinical category	N	X oz/day	Range	X oz/day	Range
A. Abnormal with features of FAS [2]	11	4.3	0–25.8	1.2	0–8.6
B. Minor anomalies not suggestive of FAS	7	1.4	0–6.9	.9	0–5.0
C. Normal	145	.8	0–8.6	.6	0–2.6

[1] During the month preceding recognition of pregnancy.
[2] Includes 2 newborn infants diagnosed FAS.

The mothers were predominantly white, middle class, and well educated. Two-thirds were receiving prenatal care through prepaid medical cooperative and one-third through the University of Washington Hospital and clinics, which serve a wide variety of socioeconomic classes.

Infants selected for dysmorphology evaluation were those born to mothers who either reported the average consumption of one ounce or more of absolute alcohol per day (AA score less than or equal to 1), or who reported intoxications during pregnancy with ingestion of five or more drinks per occasion. For each such infant a control infant was randomly selected from among the remaining study infants born that same day whose mothers were infrequent drinkers or abstainers. On days when no abstainers or infrequent drinkers delivered, a control infant was selected whose mother was the lightest drinker available.

Selection of the infants for dysmorphology evaluation was based on maternal drinking history, date of delivery, and hospital of birth. The socioeconomic status of the infant was not a criterion. All selection was done by a research assistant who had no information other than the date of delivery, the hospital of birth, and the mother's drinking history. The goal of the selection and matching procedure was to allow the pediatrician to examine a pair of infants at the same time at the same hospital, without knowledge of maternal drinking history.

Using this procedure, 204 infants born to study mothers were selected for evaluation. Not all could be examined due to time constraints on the pediatrician, early discharge from the hospital, or other scheduling conflicts. Three sets of twins were excluded. Thus, the subjects for the study were 163 infants, selected according to the criteria listed above who all received a dysmorphology evaluation by a pediatrician (J.W.H. or designated substitute), without knowledge of maternal drinking history.

Infants were evaluated for abnormalities of growth, development, and morphogenesis using a standard procedure. Particular attention was paid to major and minor alterations of morphogenesis characteristic of the fetal alcohol syndrome.[7]

Each infant was rated according to these criteria: (1) small size for gestational age (weight or length or both less than third percentile); (2) microcephaly (head circumference less than third percentile); (3) short palpebral fissures (palpebral fissure width less than 1.8 cm in infants greater than or equal to 36 weeks' gestational age); and (4) multiple dysmorphic features (two or more significant dysmorphic features judged by clinical observation). Features receiving positive ratings in category 4 include: broad, low nasal bridge, epicanthic folds, long philtrum, small nails, limitation of joint movement, large hemangiomas, altered palmar crease patterns, cardiac murmurs, and ear anomalies.

On the basis of the above ratings each newborn infant was placed into one of three clinical categories: (A) *features compatible with fetal alcohol syndrome:* definitely or probably abnormal with features suggestive of a prenatal effect of alcohol on growth and morphogenesis (rated abnormal on at least two of the four criteria *and* rated abnormal on either short palpebral fissures or multiple dysmorphic features); (B) *Minor abnormalities not indicative of FAS:* minor abnormalities of growth and morphogenesis not suggestive of a prenatal effect of alcohol; and (C) *Normal:* normal, including infants with normal variants and single borderline abnormalities.

RESULTS

Of the 163 infants examined, 11 were placed in group A: features compatible with FAS. Two of these infants were found to have enough features of FAS to be judged to clearly have this disorder. For each infant the diagnosis of FAS was independently suspected by the regular staff of the newborn nurseries. But mothers were described in the medical records as alcoholics and both mothers were nonwhite, although nonwhites constituted only 9% of the interviewed sample.

Nine other infants in category A were also judged to show some features compatible with prenatal effects of alcohol on growth and morphogenesis. Seven of these nine infants had mothers who had an AA score greater than or equal to 1 in the month preceding recognition of pregnancy. However, only one of these mothers also had an AA score greater than or equal to 1 during the first five months of pregnancy. No information on drinking behavior later in pregnancy was obtained.

In Table I is shown the distribution of all 163 infants according to AA scores and clinical ratings of offspring. When clinical categories B and C are combined and a comparison is made between category A and categories B and C, this 2×3 contingency table is significantly different from chance (Fisher's exact test: $P = 0.023$), indicating a significant relationship between self-reported alcohol consumption in the month preceding recognition of pregnancy and abnormalities suggestive of FAS.

The AA score in the first five months of pregnancy is compared in Table II to clinical ratings of offspring. This AA score is not significantly related to abnormalities suggestive of FAS (2×3 contingency table not significantly different from chance; Fisher's exact test: $P = 0.546$).

In Table III is displayed the average AA scores for mothers of infants in each clinical category. As anticipated, the mothers of infants with features of FAS had higher average AA scores both prior to and after recognition of pregnancy compared to the other mothers. A substantial drop in AA score during the pregnancy was noted in all categories.

Among the 163 mothers there were 16 whose prerecognition of pregnancy AA score was ≥ 2. Three of these women (19%) delivered children who were considered to have features consistent with FAS. All three of these women consumed substantially more than 2 ounces of absolute alcohol/day. Similarly, there were 54 women in the study who consumed between 1 and 2 ounces of absolute alcohol/day in the month preceding recognition of pregnancy. Six of these women (11%) delivered children who were considered to have features of FAS.

Nicotine and caffeine use were also studied, but neither was as strongly related to neonatal abnormality as was alcohol. Of the 11 infants considered to show an effect of alcohol on prenatal growth and development, four were from nonsmoking mothers, four were from heavy smokers (nicotine 16 mg or more/day), and three were from moderate smokers (< 16 mg/day). In terms of caffeine ingestion, six of these 11 infants were from

low caffeine users (equivalent of less than 4 cups of coffee/day), two were from moderate caffeine users (equivalent of 4 to 8 cups of coffee/day), and three were from heavy caffeine users (equivalent of 8 cups or more of coffee/day). The strong positive correlation between heavy use of alcohol, nicotine, and caffeine precludes further separation of these effects.

In the absence of heavy alcohol use, neither heavy nicotine use nor heavy caffeine use alone could be shown to be related to FAS. Eleven mothers were classified as heavy smokers but not heavy drinkers and 14 women were classified as moderate smokers but not heavy drinkers. None of these had infants who met the criteria for FAS. Similarly, of five women who were heavy caffeine users and not heavy drinkers and 16 who were moderate caffeine users and not heavy drinkers, none had offspring who met the criteria for FAS. While these data do not preclude the possibility of an interactive effect, they indicate that neither nicotine nor caffeine is the primary agent.

There were no women in the sample of 163 who reported taking heroin, cocaine, PCP (Serynl), morphine, or mescaline during pregnancy. One mother reported LSD use during pregnancy; she was not a heavy drinker and her infant was normal. Two mothers reported use of amphetamines during pregnancy; one was also a heavy drinker and her infant was judged to show an effect of alcohol on fetal development; the other was not a heavy drinker and her infant was normal.

DISCUSSION

These data provide a strong reason to suspect that moderate levels of alcohol consumption during early pregnancy can have an adverse effect on the fetus. Although the mothers of the two infants who had the most obvious features of FAS both drank heavily preceding and during the early stages of pregnancy, six of nine other women who had children with numerous features consistent with a prenatal effect of alcohol had AA scores between 1 and 2. This suggests that at moderate levels of maternal alcohol consumption there are recognizable signs of altered growth and morphogenesis, clinically apparent at the time of birth, in some of the exposed children. The strongest relationship between maternal alcohol consumption and fetal outcome seems to exist for drinking behavior in the month preceding recognition of pregnancy.

In the interview, subjects were asked first about how much they drank during pregnancy and then asked the same set of questions for the "month prior to pregnancy." From comments made by some women, we believe that the subjects thought of "during pregnancy" as that time after they knew they were pregnant and the "month prior to pregnancy" as the month before they knew they were pregnant. If this is true for a substantial number of subjects, and if we assume that most women did not know that they were pregnant until a few weeks after conception, it may be that the period we refer to in this paper as the "month preceding recognition of pregnancy" actually contains the first few weeks after conception. The substantial drop from "prerecognition of pregnancy" AA scores to "during pregnancy" AA scores is compatible with this explanation in that many women discussed decreasing their alcohol intake in the interest of fetal welfare. A similar decrease in drinking during pregnancy has been reported by Little and associates.[8]

The observation that drinking behavior in the immediate prerecognition of pregnancy period is more strongly related to fetal outcome suggests that the quantity and timing of alcohol intake in the earliest stages of pregnancy have important implications for fetal growth and development. This observation is of vital importance in counseling, since a woman may not be aware she is pregnant for two weeks or more. If this observation is confirmed, it will pose a serious dilemma for obstetricians and drinking mothers. At the present time, it seems prudent to advise women to reduce their alcohol intake prior to starting a pregnancy.

It appears that we can now visualize the earliest indications of a crude dose-response curve relating maternal alcohol intake to outcome of pregnancy. These data suggest that the risk of having a newborn child with FAS increases proportionately with the average daily alcohol intake. If average maternal ingestion is less than one ounce of absolute alcohol per day, the apparent risk for abnormalities appears to be low. In the range of 1 to 2 ounces of absolute alcohol/day, the risk may approach 10%. Among the women who drank an average of 2 or more ounces of ethanol daily, 19% had infants who were considered abnormal. In each of these latter instances, however the reported average daily maternal alcohol consumption was greater than 5 ounces. Previous reports [3] have suggested that in chronic alcoholic women the risk of producing a clinically abnormal child may be 40% or more.

Little is known about the predictive validity of abnormalities suggestive of FAS. Only follow-up studies will determine to what extent these abnormalities of growth and morphogenesis will be related to later development, intellectual, or behavioral problems. It is also not clear from these data how the risk to the fetus may be affected by the pattern of maternal drinking or by the duration of heavy drinking during pregnancy.

We are concerned that the children who displayed the most abnormalities of growth and morphogenesis are at a particularly high risk for abnormal central nervous system function, but no data on the point are currently available. The long-term follow-up evaluations of this group of children will provide the subject of a future report.

The authors acknowledge the cooperation of the Obstetrical and Nursing Services of Group Health Cooperatives of Puget Sound and of the University of Washington Hospital, who made this study possible. Virginia Williams, Mary Jane Lambert, and Helen Bergen-Carlsen helped with subject selection and scheduling and Helen Barr and Kelly Landreth helped with data analysis. Ms. Karen Petersen and Patricia Filer provided valuable secretarial assistance.

[8] Little RE, Shultz FA, and Mandell W: Drinking during pregnancy, A Study Alcohol 37:375–9, 1976.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the bill introduced by Senator BELLMON (for himself and Mr. GARN) be referred jointly to the Committee on Commerce, Science, and Transportation, the Committee on Human Resources, and the Committee on the Judiciary.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL COSPONSORS

S. 3060

At the request of Mr. JAVITS, the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 3060, the workers' compensation bill.

S. 3065

At the request of Mr. HANSEN, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 3065, the Investment Incentive Act of 1978.

S. 3111

At the request of Mr. PACKWOOD, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 3111, to allow taxpayers to deduct charitable contributions whether or not they use the standard deduction.

S. 3164

At the request of Mr. BAYH, the Senator from Colorado (Mr. HART) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors to S. 3164, the Citizens Privacy Protection Amendment to the Civil Rights Act of 1964.

S. 3179

At the request of Mr. NELSON, the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 3179, to amend the Small Business Act to create a small business capital ownership development program.

S. 3205

At the request of Mr. CRANSTON, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 3205, to amend the Indochina Migration and Refugee Assistance Act of 1975.

S. 3288

At the request of Mr. DOLE, the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 3288, to amend the IRC to allow a retirement savings deduction for persons covered by certain pension plans.

S. 3309

At the request of Mr. CRANSTON, the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 3309, to amend the Indochina Migration and Refugee Assistance Act of 1975.

SENATE RESOLUTION 502

At the request of Mr. DOLE, the Senator from South Dakota (Mr. ABOUREZK), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Indiana (Mr. BAYH), and the Senator from Utah (Mr. HATCH) were added as cosponsors of Senate Resolution 502, to commend American Indians participating in the Longest Walk.

AMENDMENT NO. 2792

At the request of Mr. DOMENICI, the Senator from California (Mr. CRANSTON) was added as a cosponsor of amendment No. 2792, intended to be proposed to S. 3060, to authorize continuing expenditures on Indian drought relief projects.

AMENDMENT NO. 3239

At the request of Mr. WILLIAMS, the Senator from Maine (Mr. HATHAWAY) was added as a cosponsor of amendment No. 3239, intended to be proposed to S. 2410, the Health Planning Amendments of 1978.

SENATE RESOLUTION 519—SUBMISSION OF A RESOLUTION WITH RESPECT TO A SITE FOR THE 1980 SUMMER OLYMPIC GAMES

Mr. ANDERSON (for himself, Mr. PERCY, Mrs. HUMPHREY, Mr. GARN, and Mr. WALLOP) submitted the following resolution, which was referred to the Committee on Commerce, Science, and Transportation:

S. RES. 519

Whereas, the Government of the Soviet Union continues to demonstrate a disregard for basic human rights guaranteed by the Helsinki Accords and the Soviet constitution;

Whereas, the Government of the Soviet Union has failed to indicate whether it intends to bar certain nations and news organizations from the Olympic games scheduled to be held in Moscow in the summer of 1980;

Whereas, the Government of the Soviet Union has failed to provide assurances to the world community that the 1980 Olympic games will reflect the spirit of brotherhood and true competition which characterizes the high Olympic ideals: Now, therefore, be it

Resolved, That in view of the recent actions of the Government of the Soviet Union in prosecuting political dissidents, its failure to abide by the Helsinki Accords, its attitudes and actions toward members of the news media from the United States, and the uncertainty of what its actions will be toward representatives to the Olympic games from Israel, Taiwan, and certain other nations, it is the sense of the Senate that the United States Olympic Committee should and is hereby requested to immediately take such measures as may be necessary to have the International Olympic Committee select a site for the 1980 summer Olympic games outside the Soviet Union.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the United States Olympic Committee and to the International Olympic Committee.

● Mr. ANDERSON. Mr. President, we are all painfully aware of the fact that the Government of the Soviet Union has recently stepped up the pace of its campaign against fundamental human rights and liberties. The civilized world has been distressed by trials of political dissidents and American newsmen, and by the harassment of those who do not agree with Soviet domestic and international policies.

On February 28, 1978, I wrote to Soviet Ambassador Anatoly Dobrynin requesting assurances from the Soviet Government that all qualified nations will be allowed to participate in the 1980 Olympic games scheduled to be held in Moscow regardless of political ideology. Thus far, the Soviets have ignored this request.

Rather, the American Communist Party newspaper Daily World says that the Soviets have asked the International Olympic Committee to "bar hostile reporters of newspapers, radio and television that are established to destroy the spirit of peace and friendship between the people and the principles of the Olympic movement." Furthermore, the Washington Post reported that Mr. Victor A. Ivonin, deputy chairman of the Soviet Committee for Physical Culture and Sport, refused to say whether athletes from Israel, Taiwan, or other nations with which the Soviet Union is not on friendly terms will be invited to attend the pre-Olympic Spartakaide in 1979 in Moscow.

These negative indications, combined with the Soviet Union's current campaign against human rights, leads me to believe that there is little hope that the 1980 Olympics will be free from political discrimination and harassment by the Soviet Government.

Therefore, Mr. President, I am submitting, for myself and four cosponsors, Senate Resolution 519, a resolution expressing the sense of the Senate that the Soviet Union is not an appropriate host for the 1980 summer Olympics and requesting that the U.S. Olympic Committee take all necessary steps to have the International Olympic Committee select an alternate site outside the Soviet Union.

As a member of the 1956 U.S. Olympic team, I have a deep respect for the high ideals which characterize the Olympic games. I do not lightly take the step of making an official request of the U.S. Olympic Committee since it has been, and must continue to be, an independent body, free from Government interference.

However, now is the time to change the site of the 1980 Olympics. The Olympics serve as an infrequent example of worldwide brotherhood and should not be conducted under the cloud of political oppression, harassment, and disregard for basic human rights. Nor should any nation which systematically ignores fundamental human liberties be accorded the honor that goes to any nation selected as the host for the Olympic games.

Yesterday, Mrs. Anatoly Shcharansky, wife of the convicted dissident, expressed to many of us her belief that the Soviets understand action, not words. Mr. President, I believe that passage of Senate Resolution 519 will serve notice on the Soviets that the U.S. Senate is committed to actions which will promote the spirit of true competition and brotherhood symbolized by the Olympic games.●

AMENDMENTS SUBMITTED FOR PRINTING

OLDER AMERICANS ACT—S. 2850

AMENDMENT NO. 3249

(Ordered to be printed and to lie on the table.)

Mr. BELLMON submitted an amendment intended to be proposed by him to S. 2850, a bill to amend the Older Americans Act to provide for improved programs for the elderly, and for other purposes.

PUBLIC DISCLOSURE OF CERTAIN LOBBYING ACTIVITIES—S. 2971

AMENDMENT NO. 3250

(Ordered to be printed and referred to the Committee on Governmental Affairs.)

Mr. DOMENICI submitted an amendment intended to be proposed by him to S 2971, a bill to require public disclosure of certain lobbying activities to influence issues before the Congress and the executive branch, and for other purposes.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978—S. 3084

AMENDMENT NO. 3251

(Ordered to be printed and to lie on the table.)

Mr. CHILES (for himself, Mr. MUSKIE, Mr. PROXMIRE, Mr. BELLMON, Mr. DOMENICI, and Mr. LUGAR) submitted an amendment intended to be proposed by them, jointly, to S. 3084, a bill to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation and related programs, and for other purposes.

● Mr. CHILES. Mr. President, I am submitting an amendment to S. 3084, which is cosponsored by Senators MUSKIE, PROXMIRE, BELLMON, DOMENICI, and LUGAR, to bring the spending levels for housing assistance into line with the President's budget and the first congressional budget resolution for fiscal year 1979. A package amendment adopted by the Banking Committee on an 8-to-7 vote increased the 1979 authorization levels for a variety of housing assistance programs by $8 billion over that recommended by the President and passed by the House of Representatives. The message we are hearing from the American people is that the Federal budget is already too large and we ought to be cutting it back, not making it larger.

We are not attempting to cut back on current housing programs. The $31.9 billion of nonspending commitments proposed by the President and assumed in the congressional budget resolution would allow about 375,000 additional households to receive assistance, in addition to the 2.8 million being assisted this year. Over $30 billion of that budget authority requested by the President will be used to enter new obligations; currently assisted households and projects will be paid from budget authority appropriated in prior years. Annual outlays for housing assistance would increase from less than $5 billion to about $8 billion by 1983, even if we entered no new commitments.

Our amendment, therefore, poses no threat to current recipients of housing assistance, nor does it reduce the rate at which recipients can be added. Rather, it maintains a steady rate of growth for housing programs. We believe that the last thing either public or private sector housing markets need right now is the instability which would result from a sudden increase of funding. Mr. President, I ask unanimous consent that a table comparing the funding levels in S. 3084 as reported and those implied by our amendment be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—*Impact of the Chiles amendment to S. 3084*

The Chiles amendment would conform the S. 3084 authorization for assisted housing programs to the FY 1979 First Budget Resolution targets and the President's budget. S. 3084, as reported from committee, would authorize $0.5 billion more annual contract authority for those programs than requested by the President. Because most housing contracts obligate the Federal Government to outlays for many years, that increase in contract authority produces an $8.0 billion increase in budget authority.

The following table compares the Assisted Housing contract authority and budget authority required for full funding of S. 3084 with levels required if the Chiles amendment is adopted:

Fiscal year 1979 authorizations for assisted housing
[In millions of dollars]

	Annual contract authority		Budget authority	
	S. 3084 as reported	Chiles Amendment	S. 3084 as reported	Chiles Amendment
"Section 8" leased housing programs and conventional public housing production and modernization	1,675	1,335	38,936	31,051
Public housing operating subsidies	800	729	800	729
Supplementary rent subsidies (new)	75	0	75	0
Assistance to troubled projects (new)	74	74	74	74
Congregate housing services (new)	20	20	20	20
Total assisted housing	2,644	2,158	39,905	31,874
Authority available from prior years	0	0	−6,400	−6,400
New authority required for full funding	2,644	2,158	33,505	25,474

Mr. CHILES. Mr. President, I think it is important to state for the record why we chose to reduce these programs and not some other programs which the committee increased above the level requested by the President. These housing assistance programs all support the income security function of the budget, while the other program increases appear in community development and commerce and housing credit. The budget authority increases for those functions are very small and do not pose a significant threat to the functional targets. An $8 billion breach of the target, however, is far too large to ignore.

It might be argued that this spending in excess of the budget resolution would not be inflationary because there would be little actual outlay in 1979. However, the economic impact of housing assistance is felt as soon as the commitments are made; money is borrowed to finance construction and workers are hired in advance of the actual Federal outlay. Moreover, inflationary pressures will probably get worse over the next 2 or 3 years. With interest rates beginning to soar, and Federal borrowing still high with a $50 billion deficit, any further inducement to spending will be inflationary.

The biggest dollar difference is clearly in the section 8 rent subsidy program, where the committee increased annual contract authority by $340 million over the President's budget. The Congressional Budget Office estimates that this will produce budget authority $7.9 billion in excess of the first budget resolution. The section 8 program has been accelerated and stopped several times since its inception. Every time political pressure builds for a speedup, it is followed by a slowdown. The result has been an inability for local housing authorities to develop and implement long-range plans. We do not even know how fast the private sector is willing to expand in response to Federal funding. The last administration put on a big push and obtained reservations for a large number of units, very few of which have actually been built.

I have been impressed by the commitment of the new administration to implement housing programs, but it will be a year from now until we begin to see how much of last year's budget increase actually produces new units.

The committee bill reflects the administration's proposal of a major shift of emphasis to rehabilitation. I think this makes a lot of sense, both as a strategy for neighborhood preservation and as the most cost-effective approach. However, we have never seen a large scale Federal rehabilitation program, and the President's budget would double the number of units rehabilitated. We therefore believe that this is as fast as the program can be expanded in 1 year.

Mr. President, it is important to discuss why we have entirely eliminated a new program of supplementary rent subsidies which was added in at a $75 million authorization level. This program would be purely an income maintenance program. It would entitle any low-income person living in an FHA-insured unit to cash payment sufficient to reduce his rent payment to 25 percent of his income. No new housing would result. The program would create more inequities than it would eliminate, because it would pick out one class of low-income individuals for assistance, purely on the basis of living in an FHA-insured unit. A whole new bureaucracy would have to be created to mail checks to a new group of recipients, without regard to what they are receiving under other programs. Nobody has even produced an estimate of how many low-income people are living in such units, far less any statistics on how much rent they pay. Any authorization would be simply a foot in the door for future expansion. Creating a new categorial program of this type would be the opposite of welfare reform. We believe this is just the sort of narrowly conceived program which the American people are complaining about. It has not been studied, has not been debated, and no one knows what it could ultimately cost.

Mr. President, there are many valuable program improvements in this bill, of which the Banking Committee can be justifiably proud. Our amendment does not do any violence to meeting the vital missions of improving housing and community development. Our amendment does hold the level of spending down to the responsible level already assumed by the Congress in our first budget resolution for fiscal year 1979. We believe our credibility of showing the American people that we can hold down spending and not add to the pressure of inflation depends on holding to the budget resolution totals. I therefore urge my colleagues to join in support of this amendment.●

AMENDMENT NO. 3252

(Ordered to be printed and to lie on the table.)

Mr. RIEGLE (for himself and Mr. HEINZ) submitted an amendment intended to be proposed by them, jointly, to S. 3084, supra.

AMENDMENTS NOS. 3253 AND 3254

(Ordered to be printed and to lie on the table.)

Mr. SCHMITT submitted two amendments intended to be proposed by him to S. 3084, supra.

ENDANGERED SPECIES ACT AMENDMENTS—S. 2899

AMENDMENT NO. 3255

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. CANNON, Mr. MAGNUSON, and Mr. STEVENS) submitted an amendment intended to be proposed by them, jointly, to S. 2899, a bill to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions.

AMENDMENT NO. 3256

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to S. 2899, supra.

FOREIGN ASSISTANCE AND ARMS EXPORT CONTROL—S. 3075

AMENDMENT NO. 3257

(Ordered to be printed and to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to S. 3075, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes.

SMALL BUSINESS AMENDMENTS—H.R. 11445

AMENDMENTS NOS. 3258 THROUGH 3260

(Ordered to be printed and to lie on the table.)

Mr. BARTLETT submitted three amendments intended to be proposed by him to H.R. 11445, an act to amend the Small Business Act and the Small Business Investment Act of 1958.

TAXATION OF FRINGE BENEFITS—H.R. 12841

AMENDMENT NO. 3261

(Ordered to be printed and to lie on the table.)

Mr. MELCHER (for himself and Mr. PAUL G. HATFIELD submitted an amendment intended to be proposed by them, jointly, to H.R. 12841, an act to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes.

● Mr. MELCHER. Mr. President, today I am submitting, on behalf of Senator HATFIELD of Montana and myself, an amendment to H.R. 12841, a bill to prohibit the issuance of regulations on the taxation of fringe benefits, and for other purposes. Included in this bill is a provision prohibiting the IRS from initiating action to collect retroactive taxes on certain statutory subsistence allowances to State police officers that have been declared taxable income as a result of the recent Supreme Court decision in Commissioner against Kowalski. This decision held that cash meal allowances paid to a State trooper were includable in gross income. This could lead the IRS to begin collecting retroactive taxes on subsistence allowances from our State law officers dating as far back as 1969. It has been estimated that such assessments could run as high as $7,000 on individuals who are in the $12,000 to $15,000 income bracket, threatening them with potential bankruptcy, jeopardizing their life savings, and the equity in their homes. A total of 9,000 troopers in some 15 States would be affected by the Supreme Court's decision.

In correcting this problem, H.R. 12841 is a vitally important remedy of fairness and a sound policy. However, without further amendment, Montana's 200 State highway patrolmen will miss out on the relief provided by this legislation. This is because the language of the bill, as it now stands, limits this exclusion to "statutory" subsistence allowances, and in Montana, such subsistence allowances are not provided for in the State statutes, but rather are provided as part of a negotiated agreement under the Montana law providing for negotiation on such issues.

Senator HATFIELD and I urge the Senate to support this correcting amendment to H.R. 12841 so that 200 Montana State highway patrolmen and their families are treated fairly in comparison to their counterparts in other States under our Federal tax code. Certainly, at a time when a proposal to tax the "three-martini lunch" continues to run up against strong opposition, we can hardly justify sending the tax collector after our State law officers to collect back taxes on subsistence payments on lunches they ate while on duty—whether "statutory" or "negotiated" payments.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON WATER RESOURCES

● Mr. GRAVEL. Mr. President, I wish to announce that the Subcommittee on Water Resources of the Committee on Environment and Public Works will begin hearings on August 9, 1978, on the water policy recommendations submitted to the Congress by President Carter. The initial hearing will be in Washington, D.C., in room 4200 of the Dirksen Senate Office Building to hear representatives of Federal agencies. Additional hearings will be scheduled at a later date in other areas of the country. These hearings will be important elements in the development of a congressional response to the President's initiative on water resources development.●

ADDITIONAL STATEMENTS

THE WALL STREET JOURNAL AND RHODESIAN DECISION

● Mr. HARRY F. BYRD, JR. Mr. President, yesterday's Wall Street Journal gave thoughtful consideration to the question of temporarily lifting economic sanctions against Rhodesia in order to give the internal settlement a chance.

This editorial is another straw in the wind. Since the Senator from North Carolina first raised this issue on the Senate floor on June 25, many, many persons have been giving a hard look at the goals and probable results of U.S. policy in Rhodesia.

They are asking whether it is really in the interest of the United States to support those Rhodesian leaders who are demanding, from behind the barrel of a gun, the right to institute a one-party, Marxist state in Rhodesia, whatever the wishes of the majority.

What the Helms amendment is doing is simply asking the United States to give the forces of moderation and justice an opportunity to organize elections and put together a viable government.

All political forces, including the forces of Mugabe and Nkomo, will be eligible to participate in the elections, providing that they accept the democratic principles inherent in the internal agreement. This is an eminently reasonable proposal.

The Wall Street Journal's conclusion is just on this point:

The Helms Amendment is fairly moderate in content. It doesn't ask for a dangerous commitment of American public resources; it asks only that we stop adding to the burden the transition regime has to carry. Any such measure may well come too late to play a decisive role in the Rhodesian outcome, but at least it may do something to dispel the notion that a country gains nothing by adhering to liberal principles or being a friend to American goals. The administration's policies have already done too much to create this impression, and lifting the sanctions for a while may help redress the balance.

Mr. President, I ask that the editorial be printed in the RECORD.

The editorial follows:

RHODESIAN DECISION

The U.S. Senate plans to vote this week on Sen. Jesse Helm's amendment to lift our government's sanctions against trade with Rhodesia. The suspension would last until we could see whether Rhodesia's transition government keeps its promise to introduce black majority rule at the end of this year. It was only last year that Congress supported President Carter by voting to bring the U.S. into compliance with the UN embargo on Rhodesian trade. Yet now the Helms amendment stands a good chance: A similar measure, which would have lifted the sanctions for 15 months, failed two week ago by only a narrow margin. The reasons why tell a little bit about the Carter African policy.

This past March, the Rhodesians announced the terms of their transaction to black rule. They would have universal suffrage, a number of parliamentary seats reserved for whites for a period of 10 years, a bill of rights protecting property and civil liberties, and guarantees of independence for the judiciary and civil service. The U.S. State Department did not like the settlement because its transfer of power wasn't complete enough and because it didn't give a piece of the action to the guerrillas who've been attacking the Smith regime from bases outside the country. During these past months official policy has treated the settlement with an aloof contempt, thereby not only putting the U.S. on the side of the radicals instead of moderate blacks, but also depriving us of any influence we might use to insure that the Smith regime keep its promises to the moderates.

But during these same past months, this policy has been arousing more and more restiveness. People do not much like the argument that we have to acquiesce in a guerrilla victory because all we'd do by resisting it would be to bring in the Cubans and invite a worse loss. People do not see why we should be supporting a Marxist vision of Rhodesia's future instead of a liberal one. And the graphic pictures we've been getting lately of the guerrillas' methods of warfare raise something of a doubt about their credentials as well-meaning democrats.

Hence the appeal of Sen. Helm's measure. Under normal circumstances, we'd rather not see the Congress fashioning a foreign policy independent of the Executive Branch; there are enough problems as it is in making something coherent out of our diverse interests in the world. But the Carter administration, by the special nature of its African policy and by the confusion of its behavior, has created circumstances that are not normal at all; it's hard to see what major disaster Congress would bring on by taking action this time. Unless the administration starts to show some evidence of an ability to conduct foreign policy. Congress increasingly will have to step into the breach.

The Helms amendment is fairly moderate in content. It doesn't ask for a dangerous commitment of American public resources; it asks only that we stop adding to the burden the transition regime has to carry. Any such measure may well come too late to play a decisive role in the Rhodesian outcome, but at least it may do something to dispel the notion that a country gains nothing by adhering to liberal principles or being a friend to American goals. The administration's policies have already done too much to create this impression, and lifting the sanctions for a while may help redress the balance.●

CAPTIVE NATIONS WEEK

● Mr. PELL. Mr. President, this week has been set aside as Captive Nations Week. Ever since 1959, our country has designated one week every year as a period of remembrance of the plight of the peoples of the independent nations that came under Soviet control following World War II. This year, given the apparently growing influence of the forces of repression in the Soviet Union, it is especially important for Americans to express their support for the struggles

of formerly free peoples in their search for freedom and self-expression.

As a career diplomat in Czechoslovakia in 1948, I saw firsthand what the suppression of a nation's independence and the imposition of a totalitarian system of government can do to a proud and progressive people. Later, in 1956 as head of the International Rescue Committee's European office, I was directly involved in helping the Hungarian freedom fighters who had fled their country after the brutal intervention by Soviet Military forces that ended a brief but stirring interlude of liberty in Hungary. These personal experiences have deepened my concern for the victims of Soviet imperialism.

The United States was founded on the principles of Thomas Jefferson that all men "are endowed by their creator with certain inalienable rights, that among these are life, liberty, and the pursuit of happiness." As such, we have always felt a moral obligation to offer support to those struggling to free themselves and to establish these basic rights in their own countries. Americans would be untrue to their own heirtage if they were ever to cease exercising this obligation. In this connection, we must never forget the words of a latter day patriot, Martin Luther King, when he said that "injustice anywhere is the enemy of justice everywhere."

Since 1975, the United States has another compelling reason to support the aspirations of the captive nations, namely: the Helsinki accord. This document, signed by the United States, the Soviet Union and 33 other countries, specifically upholds the right of self-determination and the right of all peoples to determine their internal and external political status. We must do what we can to insure that this obligation is fulfilled. As cochairman of the Commission on Security and Cooperation in Europe, which was established 2 years ago to monitor the Helsinki accord, I shall do my part.

The struggle for selfdetermination will be a long one, and the immediate focus of attention is on securing basic human rights in the captive nations as well as in the Soviet Union. Again, the governments signing the Helsinki accord pledged to "respect human rights and fundamental freedoms." Among the rights and freedoms stipulated in the accord are the freedom of thought, conscience, religion or belief, and the exercise of civil, political, social and cultural rights. Yet we know that these rights and freedoms have been systematically violated in Eastern Europe and the Soviet Union.

Despite this record, however, the Helsinki accord has served as a tremendous source of encouragement and inspiration to the peoples of Eastern Europe and the Soviet Union. Groups in Moscow, the Ukraine, Lithuania, Georgia, Armenia, Czechoslovakia and Poland have emerged to demand the rights and freedoms promised to them in the Helsinki accord. Although the pleadings of the brave members of these groups have been met with repression, their appeals will not be silenced, and others will come forth to carry on the struggle. Eventually they will succeed. To do so, however, they will need our continuing support.

Let us, therefore, demonstrate during this year's Captive Nations Week that the valiant struggle for human rights and selfdetermination will not go unheralded and that our effort to achieve the fulfillment of the pledges made in Helsinki 3 years ago will continue.●

GEORGE WASHINGTON AND THE DOLLAR COIN

● Mr. GARN. Mr. President, the Banking, Housing and Urban Affairs Committee has begun hearings on proposals for a new dollar coin. Involved are several matters of concern that I feel it my duty to raise.

The issue may seem insignificant when compared with the economic, social, and strategic problems facing the country, but the small act of making a change in our coinage is one that will reach the attention of every member of our society. Undoubtedly, it will become a topic of discussion in living rooms and across breakfast tables all across America.

Not only is money basic to any more-than-primitive economy, the units of currency are highly symbolic. Throughout the world and throughout history the faces of coins have been impressed with symbols considered central to the spirit of the society. This practice has continued with paper currency.

My concerns lie thus first with suggestions that the dollar coin should possibly replace the dollar bill. Whereas I recognize that there are some conveniences, in terms of vending machines, and so forth, associated with having a dollar coin, the convenience of the dollar bill, in terms of weight and personal handling, and so forth, should not be overlooked. In light of this, I am not at all convinced that it is wise to eliminate the option of either one.

I am more deeply concerned, however, with the symbolic significance, as I have mentioned. At present, the basic unit of our currency, the dollar bill, bears upon it the image of the father of our country, George Washington. To my mind, and I am sure to the minds of my colleagues and millions of Americans, this is wholly appropriate. While I have no objections to the minting of a dollar coin bearing the image of someone other than Washington, to be circulated along with the dollar bill, I could not refrain from objection if such a coin was designed to replace the dollar bill. If there is to be only one form of the dollar in circulation, I can think of no image of an American more appropriate to appear on it than that of our first President. Any other would be unacceptable and unsuitable.

Mr. President, if we are to have a new dollar coin that bears the image of someone other than Washington, then we must keep the dollar bill.

Given that this will be the likely outcome, I am concerned that the Congress may too quickly render its decision as to what image the coin should bear. I have often been critical of speed, or rather the lack thereof, with which the Congress enacts legislation and makes decisions. When considering important national symbols, however, which can only be truly national if enshrined by tradition and concensus, the deliberative process is an asset.

I have no objections, Mr. President, to honoring a woman on the dollar coin. I do object to deciding whose image that should be without adequate consideration. I ask to print in the RECORD three letters that I have received as examples of various alternatives that have been brought to my attention. Mr. President, I am sure that you and my colleagues know of others.

It may be true that various organizations have formed opinions as to whose image should appear on the dollar coin. They certainly should and have a right to be heard. These organizations, however, are not the only ones that are going to be using the coin, nor should they be the only ones consulted. I have not seen nor have I heard of any polls or any other attempts to consult the American people generally about the design of this proposed coin. I consider such a step important.

Before I can give my support to the minting of a new coin, or to what image or combination of images should appear thereon, there must be more information on the consequences and far more effort to canvass the will of the people who will be asked to live with our creation.

The letters follow:

INTERMOUNTAIN RED CROSS
BLOOD CENTER,
Salt Lake City, Utah, May 4, 1988.

Senator JAKE GARN,
Salt Lake City, Utah.

DEAR SENATOR: Having recently heard of the problem that Congress is having deciding whose likeness to put on the new dollar coin, I thought that I might write and offer my suggestion.

The mother of Red Cross, Clara Barton, is a great historical figure who has contributed greatly to the betterment of the American people. So that you might become better acquainted with Ms. Barton, I have enclosed a pamphlet discussing only a few of her many great accomplishments.

Please consider my suggestion. She deserves the honor that this coin would give.

Sincerely,

DAVID W. STAUB,
Public Relations/Information Coordinator.

MAY 28, 1978.

SENATOR GARN: In regards to legislation S. 3036, introduced by Senator Proxmire. Why do we have to have Susan B. Anthony on our new one dollar coin? Why not Molly Pitcher or even Betsy Ross at least they did something useful!

Thank you.

DEBORAH C. BROOKS.

JUNE 9, 1978.

DEAR SENATOR GARN: On Tuesday, June 6, I introduced HR 12986, legislation which I hope will resolve the controversy over which American woman's image should appear on the new dollar coin. The woman I am supporting for this signal honor is Georgia Neese Clark Gray, the first woman Treasurer of the United States. She is a great Kansas lady who far beyond Susan B. Anthony or the mythical Miss Liberty had an actual impact on the monetary affairs of our country. She was appointed by President Truman exactly 29 years ago to the day that this legislation was introduced and served as U.S. Treasurer from 1949 to 1953.

Georgia was a successful and respected midwestern banker and business leader from Richland, Kansas, when she was chosen as U.S. Treasurer. While Treasurer, she traveled across the country and made numerous speeches urging women to take active leadership roles in Government and business. She said of that time, "I never worked harder in my life than when I was U.S. Treasurer; I knew I had to make good on behalf of American women". The rising profile of American women at all levels of business and government owes a great deal to the boldness and vigor with which our first woman Treasurer pursued her duties.

In the coming weeks you and the members of your committee will approve legislation to designate the profile which will appear on the new dollar coin. I respectfully request that you consider HR 12986, and hope that you might agree that the first woman whose signature appeared on our paper money should also appear on our new dollar coin.

Sincerely,

MARTHA KEYS,
Member of Congress.●

QUALITY OF AIR SERVICE IN TENNESSEE

● Mr. SASSER. Mr. President, a recent article by Joey Ledford in the Knoxville News-Sentinel illustrates a growing problem facing air travelers in Tennessee.

I have received numerous complaints from my constituents about reductions in air service and a general decline in the quality of air service in several Tennessee communities. Some cities are suffering economic setbacks as a result of this problem.

Last month, I began a study of air service in Tennessee in an effort to obtain information on what areas of my State are being affected the most.

The News-Sentinel is providing an outstanding service to its readers by researching and publishing news stories about air service in Tennessee. I ask that the News-Sentinel article be printed in the RECORD.

The article follows:

WANNA GO TO NASHVILLE? YOU CAN'T HARDLY GET THERE FROM HERE NO MORE

(By Joey Ledford)

Knoxville air travelers have found McGhee Tyson Airport offers excellent service to New York, Atlanta, Chicago, Washington and even the West Coast.

But try to get to Nashville.

Only one of the airport's five airlines flies to the capital city. In fact, several cities are "hard to get to" from Knoxville, despite the fact that, for a city of its size, Knoxville has very good air service.

A News-Sentinel survey of air service from Knoxville to 28 cities, including the nation's 20 largest, uncovers several problem spots, including the lack of Nashville connections.

The survey concurs with McGhee Tyson's Master Plan, published in December 1977, which says, "Improvements (in service) appear to be greatly needed to and from Nashville, the eastern Great Lakes (primarily Detroit, Cleveland and Pittsburgh) and Florida, particularly Miami-Ft. Lauderdale and Tampa-Orlando."

The master plan expounds on the Florida-Knoxville connection further. "There is no direct service between Knoxville and Florida at this time, all trips requiring a change of planes at Atlanta, despite the fact that more than 50,000 people annually travel between Knoxville and the central and southern parts of Florida."

The News-Sentinel found, however, that Southern Airlines, which also offers the only nonstop Nashville flight, flies to Miami direct, but the trip involves two stops. Delta has one-stop flights to Tampa and West Palm Beach. Delta also flies to Miami, but passengers must change flights in Atlanta. Delta also has a two-stop run to Orlando.

Knoxville has several flights few cities of its size can offer. United has nonstop flights to both Washington and New York.

Despite the fact United flies nonstop to New York, several passengers have been upset at the airline's discontinuance of its daily "down and back" service to New York.

"Right now, scheduling people to and from New York has been our greatest problem," said Mrs. Kathy Goodfriend, who makes reservations for travelers through the East Tennessee Automobile Club (AAA). "United's schedule change has hurt us a lot."

Delta, which provides nearly half of Knoxville's flight schedules and transports more than 55 per cent of its passengers, offers nonstop flights to Chicago as well as Atlanta, the center of Delta's "hub" scheduling system.

Knoxville's geographic proximity to Atlanta is one reason for its better than average schedule.

Robert L. Young, Delta district marketing manager, said the airline believes using Atlanta as a hub of operations allows it to provide superior service to many cities.

"Knoxville is an important city to us." Mr. Young said.

United is the second leading Knoxville airline, providing about one-fourth of the flights and carrying about the same proportion of passengers.

The other three airlines, Southern, American and Piedmont, make up the other fourth of Knoxville's flights and passengers, who totaled 441,278 last year.

The airlines' "load factor," the percentage of filled seats, is at a high point, partly due to economical rates now being offered. At least three of the airlines said more than 60 per cent of their seats have been filled, which spokesmen called "extremely high."

As both the master plan and The News-Sentinel survey show, some cities are harder to get to than others.

"St. Louis is a rough place to get to," one sales representative admitted. Four of the five airlines offer service to St. Louis, but none of them involve fewer than two stops or "connections" with other airlines or flight changes.

Knoxville enjoys an excellent connection to the West Coast, particularly Los Angeles. United has one-stop service to L.A., while Delta reaches it by a change in Atlanta. American offers a two-stop flight through Memphis and Dallas.

In some cases, though, the schedules are reminiscent of bus line "milk runs," which stop in countless towns. Piedmont's schedule to Washington, D.C., is the most grueling flight described to The News-Sentinel.

"It has three or four stops, depending on the flight you choose," the sales agent said.

The journey takes five hours, and gives one the opportunity to tour the airports in Greensboro, Charlotte, Raleigh and Rocky Mount, N.C. United's non-stopper to D.C. takes 50 minutes.

Delta is the only Knoxville airline that can take passengers straight to Denver without a connection with another airline. The trip involves a plane change in Atlanta. Southern yesterday began a flight to the Mile High City via Memphis.

As one might expect, there also are problems in flying to the Pacific Northwest. Only United flies from here to Seattle without an airline change.

Mrs. Goodfriend said it is tougher than usual to get to the Northwest now, due to a strike of Northwest Airlines.

There also are difficulties in reaching Milwaukee and Phoenix. Southern yesterday became the first airline with direct service to Milwaukee (with four stops). Delta can take passengers to Phoenix, after a flight change in Atlanta. American flies to Phoenix with a connection in Dallas.

Only United flies to Honolulu without a connection with another airline.

It also is hard to get to Cleveland. Delta and American can team up to fly passengers there. United and Piedmont also can do it—with help from other airlines. The connections are in Cincinnati, Pittsburgh, Washington or Chicago, depending on the passenger's preference.

Delta flies nonstop to Louisville, and American flies nonstop to Memphis. Southern's flight to Memphis involves one stop.

Delta also flies direct to Boston (three stops), Columbus, Ga. (one stop), Detroit (one stop, as does Southern), and Macon (one stop).

Mrs. Goodfriend says AAA has problems with schedules to Ohio, particularly Cincinnati, Cleveland, Columbus and Dayton.

In Tennessee, she repeats the Nashville connection headache as a major problem. Memphis is hard to schedule to, and Jackson, Tenn., is "an impossibility," she said.

The airport master plan notes that June through August are the peak months for passengers. Sunday is the peak day, on the average, and Saturdays are usually the slowest.

The master plan attacks the service of American Airlines.

"The quality and continuation of service in the future by American is a matter that deserves the city's attention," the report says. American discontinued service to both Washington and New York several years ago.

Other interesting facts from the master plan include:

More than 72 per cent of McGhee Tyson passengers come from or to Knox, Anderson and Blount counties.

Atlanta is the leading city in airline passenger exchange with Knoxville, obviously because of connections with other flights there. About 8.5 per cent of McGhee Tyson passengers are going to or coming from Atlanta. Other leading destinations or origins are New York, Washington, Memphis and Chicago.

The average trip out of the airport is 575 miles.

The completion of the Interstate highway system has drastically reduced the number of flights under 300 miles.

Commuter airline service is limited to facilitating business travel between Knoxville and Nashville, although the report says in the future it likely will be extended to include Chattanooga and the Tri-Cities.

The airport annually handles 8000 tons of air cargo, a figure likely to quintuple by the mid-1990s.

McGhee Tyson has 40 weekday flight schedules, 35 of which are jet airliners.

The city administration hopes to improve air service at McGhee Tyson through a study of routes, travel patterns and flight statistics.

The initial draft of a two-month study of the situation by aviation consultants Landrum and Brown of Cincinnati is in the hands of airport officials.

Linden Gill, airport director, said the survey should result in several alternatives on how to improve Knoxville air service.

Mr. Gill said the survey, which cost $3500, will identify routes to which the airlines have claims, but do not use.

Mr. Gill said the Civil Aeronautics Board has not decided on whether to grant Braniff Airlines of Dallas a Knoxville-to-Atlanta route.

Airport activity is expanding rapidly, beyond the projections of planners. An airport release say McGhee Tyson has resulted in $75 million in benefits to the community.

Which is a fair share larger than it was in July 1934 when Ludington Airlines introduced Knoxville's first regularly scheduled flight—from Island Home Airport to Washington, D.C.●

CONGRESS ROLE IN THE UNITED STATES-UNITED KINGDOM TAX TREATY

● Mr. JAVITS. Mr. President, there is no better foreign student of the American scene than the London Economist. In an editorial in its July 8, 1978 edition, the Economist analyzed the implications of our recent action on the United States-United Kingdom Tax Treaty for our economic relations with our trading partners.

Rather than engaging in recriminations over our deletion from the United States-United Kingdom Tax Treaty of article 9(4) limiting the application by states of the unitary taxation method to British corporations, the Economist warns that our action in the tax treaty should not serve as a precedent when we in Congress will review next year the package on nontariff barriers which will result from the multinational trade negotiations underway in Geneva.

I share the concern of the Economist and urge my colleagues to pay close attention to the broader arguments made in the editorial. While it is critical that we look closely at the NTB package to insure that U.S. economic interests have been protected, we must also keep in mind the complex procedure by which the package will have been negotiated and the give-and-take on all sides which will be contained in that package. In assuming our constitutional prerogatives, we must be cognizant of our international obligations and weigh them very carefully.

Mr. President, I commend this article to the attention of my colleagues and ask that it be printed in the RECORD.

The article follows:

A DEAL IS A DEAL

The Senate's amendment of the British-American tax treaty is prerfectly constitutional but sets a bad precedent. It should be resisted.

The people who negotiate international agreements on behalf of the United States have an old man of the sea on their backs: congress. In America, unlike other countries, the legislature is not under the thumb of the administration. It feels free not only, as on energy, to amend the president's domestic proposals, but also the bargains he has made abroad. So long as this remains a bargaining weapon—"congress won't swallow that"—no one can object; the rest of the world's negotiators have only to offer less on their side. Things are quite different if congress actually exercises its rights.

It has just done so, deleting from the proposed new tax treaty with Britain the controversial clause that would have prevented British companies suffering the "unitary" tax system applied by some states, most importantly California, to multinational subsidiaries there (see *The Economist* of last week). How should the British government react?

The Confederation of British Industry thinks it should react vigorously, for fear that the unitary system should spread in America and elsewhere. The system taxes local subsidiaries not on their declared profits but on a proportion of the parent's global profits. Eg, if one sixth of your worldwide business (definable in various ways such as turnover, assets, employment or an average of such measures) takes place in Ruritania, the Ruritanians will tax your subsidiary there one one sixth of your worldwide profits. Such a system is obviously attractive to governments that suspect multinationals of ensuring their profits turn up in tax havens. But multinationals fear it could mean that genuinely unprofitable subsidiaries would be taxed on mythical earnings, while highly profitable subsidiaries in some other country that did not practise the system would be taxed on real ones. They would lose on the swings and the roundabouts as well. Moreover, even if the whole world practised the system, the sum of, say, 20 subsidiaries' turnover could be very much larger than the group's consolidated turnover, thanks to intra-group trading. So, in effect, it might in total be taxed on much more than its worldwide profit.

This shows why it was, in fact, the Americans, with hundreds of multinationals of their own, who proposed the controversial clause: the British were glad to see it offered, but somewhat surprised. Correspondingly, the British government seems disinclined to take its disappearance too tragically. The treaty, after all, includes other goodies for some British investors such as a reduction in American withholding tax, though it also includes a pretty hefty giveaway to American companies. California is having some second thoughts. And imagine starting the whole laborious negotiation from scratch again.

BE TOUGH

But toughness is the right attitude. A package is a package, a deal a deal. That would be true even if this were an isolated incident. It is not. In the 1967 Kennedy round of trade talks, part of the deal wis supposed to be abolition of the "American selling price", a device that jacks up tariffs on certain imports into the United States. Congress never abolished it. That did not matter greatly: relatively little trade was affected, and the main result was that the EEC in turn did not put into effect some concessions it had promised. But the precedent was bad.

It was very nearly followed this year over the Panama Canal treaties, all but wrecked by the Senate. And there is an agreement much more important coming up: the end of the multilateral trade talks in Geneva. Things much more important than the American selling price in the hoped-for package there will require specific action by Congress (for example, a new "material injury" clause in America's countervailing-duty law). The American delegation in Geneva has done its best, through contact with opinion at home, to make sure that whatever bargain it eventually reaches will be honoured. Nevertheless, there are American legislators who will reckon that the final package can be reopened, if Congress thinks fit.

In American constitutional practice, fine. But not in the real world. The new trade package, if it is ever put together at all, will be a very delicate one. Meddling after the event would probably not just amend it but wreck it. Those who think otherwise should be disabused now. Which means, for one thing, not allowing the American-British tax treaty to set a precedent the other way.●

SOVIET SLANDER CHARGES AGAINT TWO AMERICAN CORRESPONDENTS

● Mr. CLARK. Mr. President, I request that a letter by my distinguished colleague, JOSEPH R. BIDEN, JR., of Delaware, be printed in the RECORD. This letter, which I and 58 other Senators, including the majority and minority leaders, have cosigned, expresses to Soviet leader Brezhnev the concern of the Senate over the slander charges brought against two American correspondents, Craig R. Whitney of the New York Times and Harold D. Piper of the Baltimore Sun. The signatories urge that Mr. Brezhnev direct his personal attention to this unprecedented trial of foreign journalists. What I find particularly effective about this letter is its timeliness; the journalists' trial is scheduled for July 19. In addition, I find that the moderate tone of this letter is one that promotes further dialog and enhances communication between our country and the Soviet Union—rather than exacerbating our already strained relations. It is this positive approach that will be most effective in these trying times.

The letter follows:

U.S. SENATE,
Washington, D.C., July 13, 1978.

His Excellency LEONID I. BREZHNEV,
Chairman, Presidium of the Supreme Soviet of the U.S.S.R., Moscow, U.S.S.R.

DEAR MR. CHAIRMAN: We are writing to express our concern over the recent charges brought against two American correspondents in Moscow, Craig R. Whitney of the *New York Times and* Harold D. Piper of the *Baltimore Sun.*

While the rights and freedoms of the press differ in our respective countries, common ground for conditions under which foreign journalists exercise their profession was significantly broadened in the Helsinki Accords. At that time, the Soviet Union, along with the United States and the other signatories, pledged to "increase the opportunities for journalists to communicate personally with their sources." Further, all the signatories reaffirmed that "the legitimate pursuit of their professional activity will neither render journalists liable to expulsion nor otherwise penalize them."

It was the hope of the signatories to enhance the ability of foreign correspondents to communicate their information in as unrestricted manner as possible. Accordingly, it is our belief that the slander charges directed at the two correspondents in Moscow contradict both the spirit and the letter of the Helsinki Accords.

In view of the Helsinki Accords which the Soviet Union and the United States signed on August 1, 1975, we submit that the charges brought against the two correspondents should be dismissed. Given this unprecedented situation, we trust you will give your personal attention to this matter. Increased understanding between our peoples through information media can only be a positive force toward the relaxation of tensions that we all so ardently wish to achieve.

Sincerely,

Joseph R. Biden, Jr., Paul S. Sarbanes, Donald W. Riegle, Jr., Birch Bayh, Wendell R. Anderson, Charles H. Percy, Mark O. Hatfield, H. John Heinz, III, Jake Garn, Richard G. Lugar, William Proxmire, John A. Durkin, Sam Nunn, James Abourezk, Lloyd M. Bentsen, Ernest F. Hollings, Lawton Chiles, Clifford P. Case, James A. McClure, Orrin G. Hatch, Edward W. Brooke, Robert Dole, Carl T. Curtis, Pete V. Domenici;

Robert C. Byrd, Frank Church, Richard Stone, Daniel P. Moynihan, Claiborne Pell, Dick Clark, Harrison A. Williams, John C. Danforth, John H. Chafee, S. I. Hayakawa, Strom Thurmond, Harrison H. Schmitt, Paul D. Laxalt, Jesse A. Helms;

Alan Cranston, Thomas F. Eagleton, Muriel Humphrey, Dennis DeConcini, Floyd K. Haskell, James R. Sasser, Spark M. Matsunaga, Gaylord Nelson, John H. Glenn, Jr., Abraham A. Ribicoff, William V. Roth, John J. Sparkman, Daniel K. Inouye, Edward Zorinsky, Gary W. Hart, Patrick J. Leahy, Mike Gravel, Walter D. Huddleston, Maryon Allen, Howard M. Metzenbaum, Howard H. Baker, and Bob Packwood.
U.S. Senators.●

HATCH ACT REFORM AND CIVIL SERVICE REFORM

● Mr. GARN. Mr. President, I was disturbed last week at the unfortunate action of the House Post Office and Civil Service Committee in adopting a Hatch Act reform amendment to civil service reform legislation.

While these two issues may be related, their implications are sufficiently different to require their separate, careful consideration. To wed them together does both an injustice, and raises serious questions in my mind—and in the minds of many of my colleagues—about whether either issue will receive the scrutiny they deserve.

I am opposed to any removal of Hatch Act restrictions, especially at a time when the American people are demanding an even greater accountability from their public officials, both elected and appointed. To commingle legislation which, in my view, would politicize the civil service, with legislation which promises to make the civil service more responsible and efficient, is sheer folly.

I wish to state here and now, for the record, that I stand firmly committed to oppose this effort, and, of necessity, to engage in extended debate on a civil service reform bill which carries with it an amendment such as that adopted by the House committee.

I hope that our distinguished colleagues in the other body will refuse to accept the committee amendment when the measure comes to the floor. I express this hope because I would like to have the opportunity to join my colleagues in the consideration of civil service reform legislation, which, I believe, is a pressing and important issue. That opportunity, I am confident, would be denied to us if the question of repealing or drastically modifying the Hatch Act is added to it.●

FALSE SENILITY

● Mr. SASSER. Mr. President, I would like to express my shock at recent revelations in what could well be a great human tragedy. Last week the National Institute on Aging within the National Institutes of Health held a consensus meeting to discuss treatable diseases in the elderly. According to press reports, during this roundtable debate, 30 qualified specialists in the field of aging and mental health agreed that between 10 and 20 percent of all older Americans diagnosed as senile are actually suffering from other treatable and frequently curable diseases.

I want to commend the action of this conference in bringing to the public's attention this disturbing trend in the medical treatment of the elderly. Too often, the infirmed elderly are shut off from society because they are presumed to be untreatable. I agree with the committee's recommendation that older patients must be given more aggressive examinations to determine whether or not the patient's dementia is truly senility or if it is merely a symptom of improper drug treatments, heart disease, or advanced stages of depression.

Mr. President, because of the importance of this matter to my colleagues and the American people, I ask that the article appearing in today's Washington Post, entitled "Thousands Doomed by False Senility" be printed in the RECORD.

The article follows:

THOUSANDS DOOMED BY FALSE SENILITY
(By Victor Cohn)

Ten to 20 percent of the elderly senile do not really suffer from dementia—progressive loss of memory and brain function—but from other conditions and diseases that could be treated if doctors only recognized them, a group of experts on aging agreed last week.

This means, it was agreed, that 300,000 to 600,000 of the estimated 3 million Americans who show symptoms of brain failure are mistakenly labeled as "senile," and, as a result, often go untreated in nursing homes and mental hospitals.

"The prospect of 300,000 doomed people in the United States today who could have been restored to useful life by appropriate evaluation and treatment is staggering and demands action," said Dr. Richard Besdine of Harvard Medical School and the Hebrew Rehabilitation Center for the Aged in Roslindale, Mass.

Besdine was author of a draft report made by a six-member task force for discussion by the 30 specialists who attended a two-day Conference on Treatable Diseases in the Elderly at the National Institutes of Health in Bethesda.

One of the largest single causes of false senility, it was agreed, is drug intoxication: that is, reactions to medications. The most commonly guilty medications are tranquilizers, and among these the most common is Valium, the nation's most often used prescription drug.

Among treatable and often unspotted physical diseases that can cause brain dysfunction and mimic truly irreversible senility are heart disease, strokes, infections (including pneumonia), anemia, nerve diseases, brain tumors and blood clots, kidney or liver failure, metabolic diseases such as diabetes or thyroid problems, nutritional deficiencies (sometimes caused by faulty diet), reactions to chemicals and alcoholism.

The experts' consensus on all these points was reached at the conference which ended last Wednesday.

The gathering was one of a new series of NIH "consensus meetings" that assemble specialists to make recommendations to the medical world in newly emerging, often puzzling areas.

The idea for the meetings—the creation of Dr. Donald Fredrickson, NIH director—came from a 1977 conference on mammography, or breast X-raying. Because such X-rays may sometimes trigger as well as find cancers, the experts recommended limiting mammography to women with a far greater chance of benefiting than suffering any harm, meaning women over 50, women 35 to 49 who have had one breast cancer already and women 40 to 49 who have had mothers or sisters with breast cancer.

The breast conference was one NIH was virtually forced to hold to reassess the controversial X-ray method that NIH itself was widely funding.

But NIH has also been under the fire of critics, including members of Congress, for not doing enough to translate research findings into everyday care. The consensus conferences are one reply.

The specialists on aging and related fields gathered by NIH's National Institute on Aging included Dr. Ernest Gruenberg, chairman of mental hygiene in the Johns Hopkins School of Hygiene and Public Health; Dr. Robert Katzman, neurology head at Albert Einstein Medical College, New York, and Dr. James Baker, the Veterans Administration's associate chief for mental health treatment.

The discussions will be translated into recommendations in coming months. But there was general agreement to tell practicing doctors that:

There are indeed irreversible causes of "chronic brain syndrome," or dementia, such as repeated blood vessel blockages and various brain and nerve diseases.

They would be well advised, however, to spend more time thoroughly and aggressively examining and testing their confused or disoriented patients to exclude reversible causes.

Deep phychological depression, too, can be classed as a common and often treatable, reversible cause of apparent senility.

It is "amazing," said one doctor attending the conference, how often even a heart attack can occur in silence with no outward physical sign other than mental confusion.

"We're talking about a large group of underlying, unrecognized diseases that are usually improvable, often reversible and sometimes completely curable," said Besdine.

To say that 10 to 20 percent of the supposed senility cases have potentially reversible causes does not mean other forms of senility shouldn't be treated too, said Dr. Robert Butler, director of the National Institute on Aging.

"In all cases," he said, "the earlier the treatment, the better. The brain doesn't do very well when it is ignored over a long period of time."

Dementia is not a reason "for locking up the patient and throwing away the key," said Dr. Carl Eisdorfer, University of Washington psychiatry head.

The treatment may sometimes be as simple as withdrawing a drug or giving a drug. But often, said conferees, it must mean finding family or other "societal support" for the patient. Doctors and other health workers must themselves get out of their offices into patients' homes before they can understand their problems, the conferees agreed.

"People fear few things more than losing their minds and being 'put away' in a nursing home," said another National Institution on Aging report. Yet too many conditions are "mislabeled as 'senility'" simply because the patient is old, it said.●

KIT CARSON ELECTRIC COOPERATIVE

● Mr. DOMENICI. Mr. President, I would like to bring to your attention a letter I received recently from the Kit Carson Electric Cooperative, a rural electric cooperative operating in northern New Mexico. This small, nonprofit organization, owned by the people it serves, has written concerning the hardships brought on by the Forest Service and the Bureau of Land Management.

Regarding a 12-mile, 69–KV line the cooperative hopes to construct on Forest Service land, their debacle began with

at least 15 discussions between the cooperative's consulting engineers and the Forest Service personnel, who could not reach a decision on a final proposal. The cooperative was required to pay for a Forest Service employee to be on the job site daily to determine which trees should be cut, which should be left standing, which were to be topped, as well as where they should be cut for an access road. This process set the project back 2 years, resulting in an increase in estimated construction costs by the time the bid was let of almost $250,000. Further delays resulted in an additional increase of $49,000. Needless to say, the consumer will be footing the bill, now $300,000 more than originally estimated.

My reason for introducing this letter is to highlight the increasing deterioration of private citizens' tolerance of Federal agencies due to those agencies' indecision and inefficiency. It has not always been this way. In New Mexico, the relationship between the public and the BLM and Forest Service has historically been a cordial one. Repeated ineptness by Federal agencies has brought on a wave of hostility and frustration, however, because the public is being hit where it hurts the cost these days, in the pocketbook and by those agencies public tax dollars maintain.

It is my hope that all Federal agencies will review their policies and procedures in light of the cooperative spirit which must accompany their activities. Only in this way will the Government be truly acting in the national interest and on the principles for which it stands.

Mr. President, I ask that this letter be printed in the RECORD.

The letter follows:

KIT CARSON
ELECTRIC COOPERATIVE, INC.,
Taos, N. Mex., June 20, 1978.

Hon. PETE V. DOMENICI,
U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

DEAR SENATOR DOMENICI: I have discussed with you personally on previous occasions the problems that the Cooperative was having in dealing with the Carson National Forest personnel on construction of our 69 KV line between Questa and the Molycorp Substation, between Questa and Red River.

Our consulting engineers and our staff met with Forest Service personnel about ten times on the routing of the line, prior to staking, and at least five more times after the line was staked because Forest Service personnel could not reach a decision and required changes. We were required to pay a Forest Service employe to be on the job site daily to make on the spot decisions as to which trees should be cut and which trees left standing, or which trees were to be topped, on the right-of-way clearing, and where access roads could be constructed to reach the job site. All of these delays set the project back at least two years. The construction was originally estimated at around $350,000, and by the time the bid was let, the price had increased to $597,384.78. Because of the Forest Service imposed delays, right-of-way clearing was not completed by the original date set for completion of the project, and the estimated close-out cost of the line is $646,276.41. I am enclosing a copy of a letter received from our consulting engineer which sets out an explanation of the cost overrun. I must point out that all of these cost increases must be borne by our consumers since this is a cooperative and a non-profit organization.

In addition, a few years ago we were asked to construct a line to serve a Bureau of Land Management site on their property in the Questa area. It took the Cooperative a year to obtain a right-of-way from the Bureau of Land Management to construct the line which they had requested on their property.

I am not citing these incidents just to complain, but because I feel that you should be aware of them. I also hope that there is something you may be able to do to ease our problems in working with these organizations.

I would be very glad to meet with you at your convenience to discuss these matters further.

Sincerely yours,
JOSE M. E. RODRIGUEZ,
General Manager.●

THE 25TH ANNIVERSARY OF THE CONSTITUTION OF PUERTO RICO

● Mr. RIEGLE. Mr. President, July the 25th will mark the 25th anniversary of the Constitution of Puerto Rico. It is fitting and proper that we take a moment to recognize the achievements of our friends and countrymen in Puerto Rico and to compliment the drafters of that legal instrument which protects the lives and liberties of all the peoples of that island.

Since 1917, when possession of the island was assumed by the United States, the friendship between those of us on the mainland and those living on the island has grown and strengthened. Each has made contributions to, and enriched the lives of the other. Each has fought the struggles of the century against oppression in war, and for human dignity and security in peace.

It is, therefore, with pride that I call the Senate's attention to a resolution passed by the Pontiac City Commission in Michigan commemorating the occasion of the anniversary of the Constitution and the establishment of a republican government for the 3 million people in Puerto Rico.

Mr. President, I now send to the desk a copy of the resolution and request that it be printed in the RECORD at the conclusion of my remarks.

And I extend my congratulations to both the citizens of Puerto Rico for their successful democracy and to my friends in Pontiac City who will be celebrating this anniversary on July 23.

The resolution follows:

RESOLUTION

Whereas, the adoption of the Constitution of Puerto Rico is a milestone in the history of our democratic government, and

Whereas, the Constitution of Puerto Rico was drafted by a freely elected government of the people, by the people, and for the people and its structure and its powers is similar to that of our Federal Constitution, and

Whereas, the Constitution of this Commonwealth serves almost 3 million U.S. citizens, a republican form of government with executive, legislative, and judicial branches, and

Whereas, the date of July 25, 1978 marks the twenty sixth anniversary for this constitution throughout the United States, especially in the City of Pontiac, Michigan, where local Latin American organizations are planning a festival and flag raising ceremony on Sunday, July 23rd, and

Whereas, all Pontiac residents regardless of race, color or national origin come together in tribute to the Puerto Rican Community for their contributions to the social, economic and cultural growth of this City.

Now, therefore, Be it Resolved by the Pontiac City Commission that the week of July 23rd through the 29th be declared "Puerto Rico Constitution Week" and that all citizens of Pontiac be encouraged to take part in the July 23rd ceremonies.●

TENNESSEE AIR SERVICE COMPLAINTS

● Mr. SASSER. Mr. President, in recent months I have received complaints from a growing number of people that the quality of air service in some Tennessee cities is declining.

A recent article in the Kingsport Times-News indicates that one major airline has been the object of hundreds of complaints about the quality of service it is providing to the flying community.

Last month, I began a study of air service in Tennessee in an effort to obtain information on what areas of my State are being affected the most.

The Kingsport Times-News is providing an outstanding service to its readers by researching and publishing news stories about air service in Tennessee. I ask that the Kingsport Times-News article be printed in the RECORD.

The article follows:

SOUTHERN FLIES INTO STORM OF COMPLAINTS

Southern Airways, the only airline serving the Tri-Cities with connections to Nashville, has become the target of "hundreds upon hundreds" of complaints regarding inadequate service, says the Greater Kingsport Chamber of Commerce.

And the Times-News has learned that the Tri-City Airport Commission will meet soon with Southern Airway officials and demand that the company improve service or allow the airport to invite another airline to handle flights from the Tri-Cities to the state capital.

Airport authorities say Southern's flights to Nashville are too few and far between. Also at issue is the Metro Liner II, a 14-passenger turbo-prop used on Southern's nonstop flights to Nashville which is said to be cramped and without restroom facilities.

"It is not the type of equipment we need out at Tri-Cities," Airport Manager Bill Hart said this week. "They're charging the same rate as if it were a larger jet plane and that plane is our biggest complaint."

The problem with the Metro Liner II, says John Stroud, executive vice president of the Kingsport Chamber of Commerce, is that "it doesn't provide enough seats for those desiring the service."

"We have received hundreds upon hundreds of complaints," he said. "We have received more complaints about the Metro Liner service to Nashville than about any other single thing that has happened at this airport facility."

Southern denies the charges of poor service. On July 1, Southern pulled a DC–9 jetliner out of Tri-Cities Airport because "we were losing money and were taking an airplane from another community who needs it more."

Currently Southern Airways offers three flights to Nashville daily. The first is a morning flight on a DC–9 which stops over in Knoxville and takes over two hours for what would normally be a one-hour flight.

The other two Southern flights are nonstop Metro Liner flights which leave at midday and in the late afternoon.

Southern's public relations director, Redmond Tyler, spoke Friday from Southern's Atlanta office and said Southern's statistics indicate the airline is offering an adequate number of seats and flights.

In June, said Tyler, "we had been carrying 16 passengers on the average on a DC-9 between Tri-Cities and Nashville. Based on the average load at Tri-Cities, we did not need an 80 passenger plane.

"We have found the Metros are the answer. These are million-dollar aircraft and are ideally designed for the flights and loads in question."

In June, according to Southern's figures, the airline accommodated 984 persons from the Tri-Cities to Nashville, or an average of 33 persons per day.

"Between those three flights I say we could accommodate about twice as many passengers as we are carrying," said Tyler.

As of Friday afternoon, said Tyler, Southern's computers showed that only one of the airline's 28 flights to Nashville had been booked to capacity for this next week ending July 15.

In answering the other complaints, Southern says restroom facilities are not needed on a one-hour flight, that ample seating is available and that the Metro Liner II is "new, modern and air-conditioned."

"We have an obligation to our stockholders and we have to operate at a profit," said Tyler. "But at the same time we have to provide viable services. I think we are doing that.

"We're not in the business of parking airplanes, and by the same token we don't make money by flying them empty either."

Hart says, however, that the airport does not want Metro Liner flights to Nashville but wants service by way of a 75 to 80 passenger jetliner. The airport specifically wants a flight leaving both Nashville and the Tri-Cities every morning, with another non-stop flight leaving both Nashville and Tri-Cities in the evening.

The way service is presently run, says Stroud, "I know several people who drive, instead of fly, to Nashville—including myself." Stroud says the $56 price tag to fly one-way to Nashville is too steep for Metro Liner service.

On occasion, says Stoud, he has had to take flights from Nashville routed through Atlanta in order to get to the Tri-City Airport, and even that was cheaper. "I sat in Atlanta five hours one night, trying to get a flight to Tri-Cities because I could not book in advance," he said.

Hart said he has received 25 to 30 complaints regarding Southern's service recently, more than he's received regarding any problem in some time.

"We've approached Southern in many ways," he said, "asking them to improve their services from the Tri-Cities. We've met with them several times and we'll meet with them again."

"Naturally we've not happy," Hart said. "We've got real good service to Chicago, New York, Atlanta, Louisville, Cincinnati, Washington—but our worst service is to our capital."

Unless service changes for the better, says Hart, the Airport Commission would consider asking another airline, such as Piedmont or Allegheny, to apply to the Civil Aeronautics Board for the right to route flights to Nashville.●

RECEPTION HONORING 11 TOP MARINE SQUAD LEADERS

Mr. BARTLETT. Mr. President, on April 26 last the Noncommissioned Officers Association of the USA (NCOA) and I hosted a reception and luncheon in the Capitol honoring 11 young Marine sergeants who are the Marine Corps' top squad leaders for 1978.

The affair was held in the Vandenberg room and attended by my colleagues or their representatives from both the Senate and House, and by Marines from the local area.

The sergeants, stationed in the United States and overseas, were at the Marine Base, Quantico, Va., to compete their 14-man units against one another for the coveted title of the Marine Corps' top squad for 1978. They took time out to visit our Nation's Capital and were treated to a tour of the Capitol Building. Their host on this occasion was our former House colleague, the Honorable Fred D. Schwengel of Iowa, now president of the U.S. Capitol Historical Society.

At the luncheon each sergeant received a certificate of commendation from the NCOA. Mr. Schwengel was presented a special certificate of appreciation for supporting the luncheon and an earlier one by NCOA honoring the Navy's top recruiters for 1977. And I was honored with a beautiful plaque from the NCOA thanking me for my concern for the noncommissioned and petty officers in the U.S. Armed Forces.

I wish to publicly thank the NCOA and its representatives, Jack McKinney and Dick Johnson, for acting as my cohosts. Also, I extend gratitude to Senator "SCOOP" JACKSON of Washington, and Congressmen FRANK ANNUNZIO of Illinois, ELFORD A. CEDERBERG of Michigan, EDWARD J. DERWINSKI of Illinois, JOE D. WAGGONNER JR., of Louisiana, and BOB WILSON of California, for dropping by, and to Senators BOB DOLE of Kansas, S. HAYAKAWA of California, and DONALD W. RIEGLE of Michigan for sending representatives.

In addition to those who came by to pay their respects, some of my colleagues were kind enough to send personal written greetings to their constituent sergeants.

Appreciation also goes to Maj. Gen. Edward J. Megarr, Deputy Chief of Staff, Operations and Training, Headquarters, U.S. Marine Corps, who represented the Commandant of the Marine Corps; Sgt. Maj. Mike McCormick, sergeant major, Marine Barracks, 8th and Eye, who represented the sergeant major of the Marine Corps; and to the following representatives of the Marine veterans' organizations listed:

Col. George Dodenhoff, Marine Corps Res. Off. Assn.

Col. Bevin Cass, Marine Corps Association.

Col. Milton Irons, 3rd Marine Division Assn.

Capt. Cy Kammeier, Marine Corps League.

The sergeants, including their unit and hometown, are:

Sgt. D. O. Kearl, 1st Marine Division, Toppenish, WA.

Sgt. Grealan Linebarger, 1st Marine Div., Los Angeles, CA.

Sgt. David Orton, 1st Marine Div., Glenwood Springs, CO.

Sgt. Daniel Lansky, 2nd Marine Div., Burbank, IL.

Sgt. Phillip Pullin, 2nd Marine Div., Kilbourne, LA.

Sgt. Alan Szczepek, 2nd Marine Div., Chicago, IL.

Sgt. Daniel Bradford, 3rd Marine Div., Beaverton, MI.

Sgt. Brian Pensak, 3rd Marine Div., Coventry, RI.

Sgt. Ronald Smith, 3rd Marine Div., Pasco, WA.

Sgt. Bill Carter, 4th Marine Div., Shreveport, LA.

Sgt. Rex Mims, 1st Marine Div., Sacramento, CA.●

CORPORATE AMERICA KEENLY AWARE OF SOCIAL GOALS

● Mr. JAVITS. Mr. President, the United States is especially fortunate in having many brilliant men in leadership positions in the largest corporations and banks of America.

One of the major thinkers in this group is A. W. Clausen, president of the Bank of America. On other occasions he and his bank have been in the forefront analyzing the social responsibilities of corporate America. I believe that for the first time since 1932 the U.S. business and banking communities—the private sector—have the opportunity to make significant contributions in helping the United States meet its economic and social problems.

An important first step in fleshing out the actual approach that business could pursue was recently taken in a speech by Mr. Clausen before the Corporate Public Service Conference of the Conference Board in New York. In a speech entitled "Profits and Social Goals," Mr. Clausen has analyzed the complex relationship between government and corporate America in meeting the challenges of meeting national social goals within the constraints presented by the national economic wherewithal. He reaffirms the obligations of corporate America to meeting the legitimate goals of our society.

I share Mr. Clausen's view that the "profit-motivated corporation is the most important social institution of all time" and has much to offer America if the proper economic climate is created. Five of six jobs today are held in the private sector, thus, underlining the essential role that the private sector plays in providing employment, which is the basis of the economic strength of our country.

Mr. President, I commend the recent speech made by Mr. Clausen to my colleagues and ask that it be printed in the RECORD.

The speech follows:

PROFITS AND SOCIAL GOALS

This month marks the third anniversary of the present economic expansion—and, for all the discussion about how much longer it can run, the level of business activity is good. The nation is at peace. There is relative domestic tranquility. Many of the challenges we face, while large, are still at a point where reasonable people can aspire to deal with them effectively if we confront them forthrightly without self-deception.

These circumstances, taken together, offer an excellent interval in which to take stock of public leadership, corporate and otherwise, and, in the case of my own assignment, to re-examine the present perceptions of profits and social goals. I'm grateful for this occasion to take a fresh and searching look at where we are and where we should be heading.

It strikes me that the American nation at

this moment is arriving at an appreciation—perhaps more clearly than at any time in recent memory—of the fundamental interrelationship that exists between social objectives and economic realities.

More people and more groups, both inside and outside the business community, today openly acknowledge that profits and social goals are merely different sides of a single coin.

This growing public awareness that we can't have social gains without economic gains is of immense importance. Properly tended and encouraged, it holds out the prospect of a broad consensus of national purpose that has been lacking, or at least doubted in our earlier debates about business and society.

I shall develop my thoughts around five related points:

First, the profit-motivated corporation is the most important social institution of our time. Only in its vitality will we find the key to real social progress over the long term.

Second, corporate leaders and their several constituencies have not only relearned some traditional economic realities over the past ten years—they have discovered some new truths that are essential to survival in today's world.

Third, the agenda of unfinished pressing national and global issues suggests that government needs the resources and skills that abound in business, but conversely, business needs the constructive assistance of government. If we're going to carry the football, someone will have to provide some blocking up front.

Fourth, three dominant economic problems—inflation, unemployment, and investment disincentives—must be resolved in order to make any social headway. And . . .

Fifth, the rewards of success in making both economic and social gains are so great that we can and should be willing to put up with temporary irritations in working toward their accomplishment. The price of failure almost certainly would be the disappearance of both political and economic freedom as we've come to cherish them.

Not everyone may agree, at first blush, with my first point—that the profit-motivated corporation is the most important social institution of our time. Yet the measure of any society's success ultimately must be taken in terms of the number of citizens gainfully employed. Today more than 93 million Americans have jobs, and five out of six of these jobs are in the private sector.

Despite the weakness of profits in recent years and building anxieties about the future, our economy has generated nearly seven million new jobs since April, 1975—nearly all of them in private industry.

Explicit recognition of the essential role of business enterprise in the nation's future was a keynote of President Carter's State of the Union address this past January. "Government cannot solve all our problems, set all our goals or define our visions," he said. And at another point in the same message, he emphasized that "private business and not government must lead the expansion in the future."

The chairman of the President's Council of Economic Advisers, Charles Schultze, made much the same point in several news interviews over the past few weeks. Business deserves and should play a larger part in providing jobs and fighting inflation. To which I can only repeat: if we're going to carry the ball, we need some blocking up front.

My second point is that corporations and their leaders have not only re-learned some traditional economic realities over the past ten years but have discovered some new truths.

Let me explain that by recalling a little of where we were—in attitude particularly—in 1968. I pick that year more as a matter of convenience than as any particular benchmark in corporate social awareness. Certainly by then we found ourselves, along with government leaders, inundated with an onrush of social demands, each charged with a sense of urgency and all thrust pell-mell upon us, without the least concern for the economic feasibility or adverse consequences of attempting instant solutions.

Many of us who are members of The Conference Board, I'm sure, can recall going to meetings with advocates of one special cause or another, and as often as not we went in a spirit of defensiveness, looking more for ways to insulate ourselves from trouble than through any concern to participate in solving a problem.

I recall one business acquaintance who was put in charge of his company's Social Policy program. He grumbled bitterly—and sincerely—that his new title made him sound like a dancing master.

More than a few business executives were talking about profit maximization as the only road to social prosperity. Well, this isn't the case today, and the change is profoundly important in moving toward a national consensus for action.

Today profits and social goals are almost always spoken in the same breath. The health of our communities are recognized as directly related to our business success. We don't relegate it to separate, occasional study sessions. We live and work with the questions of environment, minorities, affordable health care, vocational opportunities, and community safety day in and day out, because they are part and parcel of making intelligent and effective business decisions.

What's more, we've learned a few things we really didn't understand or appreciate before.

We've learned what we should have known all along—that American women can be valuable additions to the labor force and to management. We've learned that our many minorities have useful and important contributions to make to our total production system as workers and managers—and we discovered that, often unwittingly, we too often have neglected or wasted this human resource.

We've learned that our natural resources—indeed, the physical resources of the whole Earth—are not unlimited but finite, and that, as with some of our human resources, we are squandering them. We've learned that expending funds on school facilities, without due respect for the quality of school faculties, does not automatically guarantee informed, skilled, or enlightened citizens.

We've learned also that government action alone does not resolve our social problems or achieve our social goals. And we've learned, or relearned, that neglect of the incentives of the marketplace can cripple even a great economic system such as our own, the envy of the rest of the world.

Naturally, you still hear beefs from those who doubt or deny that U.S. corporations have any social awareness. For them, I recommend Yogi Berra's classic advice: "You can observe a lot by just watching."

The other day Secretary of Commerce Juanita Kreps took note of what she called "innovative experimentation" by business firms. The examples she listed: The Social Critique of Arco, the Social Scorecard of Pennsylvania Banking and Trust Co., the 1975 Annual Report of Shell Oil Company, the Social Reporting Program of the American Council of Life Insurance, Practical Guidelines for Social Impact Planning and Reporting of Arthur Andersen, and the Voluntary Disclosure Code of BankAmerica (with which I have some detailed familiarity).

A recent survey by Ernst & Ernst revealed that 456 firms of Fortune's 500 industrials—more than 9 out of 10 of them—last year included details of social performance in their annual reports to shareholders. This is nearly twice the number of firms that did so in 1971.

These are rather simple examples, and totals of individual corporate projects really don't begin to do justice to the overall impact the business sector has begun to have on meeting some of our social issues.

Indeed, I am constrained to make the point that running our businesses in an efficient manner so as to generate a profit for shareholders and providing a needed product or service in itself is a socially valuable contribution.

Let me take that a notch further. The end result of any (well-run) business is a profit from a satisfied customer who has paid for a needed product or service, produced by a competent employee who has been properly compensated for his or her skill—and ultimately, with some of the profit going back into the business to keep it operating and working competitively (that is, cheaper, smarter, and better). This is hardly new but it's worth restating.

I've already mentioned that our private, profit-motivated economy created seven million new jobs since 1975. It's worth adding that, in the process, the private sector also brought a substantial number of women, minority workers, and handicapped into the mainstream of American life in the process. An economic gain was accompanied by a social gain, the dimensions of which still are not adequately appreciated.

Those of us in the corporate world should not be discouraged if our efforts are not immediately recognized. We will continue to have critics, and it's the nature of most criticism to emphasize shortcomings at the expense of accomplishments. We cannot permit the absence of applause to slow our momentum or beguile us into the nostalgic belief that we can stop by the wayside.

It is the critical die-hard who is outside the mainstream of American life, not the other way around. I detect no change in this nation's historic preference for avoiding extremes.

This brings me to my third point for today: the need for the constructive support of government. The major economic issues and the multiplying social needs of our nation are neither simple nor small in dimension. To cope with them, we will need the collaboration of all sectors of this country.

To cope with—and I don't think I'm excessively optimistic in saying, to settle and solve them—without paying a political price that is utterly intolerable, we must develop a much more intensive, open, and consistent collaboration between government and the private sector than we have managed to date.

If the evidence of the recent past means anything at all, we must conclude that such collaboration does not require further proliferation of regulation and restraint, nor new penalties on an individual's financial success.

The other day I ran across a report on the increase in regulation. Two researchers, William Lilley, of the House Budget Committee, and James C. Miller, of the American Enterprise Institute, put a caliper on federal regulation between 1970 and 1975. Their findings:

The expenditures of major "economic" agencies grew from $166 million to $428 million, which amounts to a five-year gain of 157 percent.

The expenditures of major "social" agencies grew from $1.5 billion (note, that's billion) to $4.3 billion, a gain of 193 percent.

The number of pages in the Federal Register climbed from 20 thousand in 1970 to 60-plus thousand pages in 1975, and a check with our own Legal library indicates the 1977 total was 65,603 pages. If you've ever read the Register, you'll know what a dismal

statistic that is. We still can't find effective ways to train unskilled workers, but we sure have a knack for grinding out federal "shalt nots"

My purpose is not to flail the over-regulation issue today, but to remind that the typical governmental response to a public problem is often as not in the form of the negative

We need some affirmatives for the private business sector—not subsidies necessarily, not protective fences to shield us from competition, but incentives that will encourage innovation and investment for the long haul.

In any workable collaboration between the private sector and government, we reasonably can expect regulatory agencies to base their actions on five criteria. These guidelines aren't mine, by the way. They were included in a recent analysis of the Council on Wage and Price Stability. They are:

Make regulatory decisions on the basis of sufficient information, which means seeking out inputs from the sector or industry to be regulated.

Make sure the costs of regulation don't outweigh its potential public benefit.

Consider the cost-effectiveness of individual segments of the regulation proposed.

Consider alternative approaches.

Consider the impact on the total economy as well as the single sector or industry for which the agency has jurisdiction.

This is a good list of checkpoints. The council's study indicates they are areas where regulatory agencies consistently fall short.

Point Four in the development of my theme involves the major economic issues that amount to national policy imperatives in the months, possibly years ahead.

There is no need to discuss them at length. They are more than familiar to all of us: the incubus of inflation, the continuing proportion of Americans in the civilian labor force who don't have jobs, and the faltering pace of investment in new productive capacity and efficiency.

I mention them, not to appraise the business climate but rather to emphasize that these three economic issues are more than economic in portent. They have profound impact on the noneconomic issues of our world, and ultimately on global tranquility and our own political destiny.

Each of these economic issues affect both our profit system and our national social goals.

The profit element is only one part of the total equation, but it remains a pivotal one if our economic system is to provide the new jobs we'll need between now and the close of this century, if we are to develop new plants and equipment that will permit us to fully utilize our human resources, and if we are to find new efficiencies that will permit us to lower the costs that contribute to some of today's inflation.

We can surmount these problems because each is finite and can be dealt with through the application of productivity and new technology. We can—if we have the will, the mind, the courage, and the patience to allow ourselves the time.

In the past ten years, we have moved in a hopeful direction. Time is the additional dimension we now must grapple with. And it is in terms of time that I make my fifth and final point—our solutions must be held within the context of the democratic rather than the totalitarian approach. This is perhaps the most important imperative of all. Solutions without adequate respect for private freedoms will, ultimately, solve nothing.

The challenge of matching national social goals with national economic wherewithal is not a recent American phenomenon. As a nation we have taken pride in our sense of idealism literally since our founding. Our forefathers came and settled this great land for reasons of spiritual and political freedom at least as frequently as they came for economic opportunity. In cherishing each, they achieved all.

For 300 years, we have been engaged on this continent in the building of a good, fair, prosperous, and equitable society. We owe a mortal debt to those who came before us and a moral obligation to those who will come after us to continue the work of building this society. This debt—this obligation—cannot in any meaningful way be separated from our business enterprise.

Conversely, we cannot encumber, deplete or leave unmaintained that economic system because to do so will deprive us and our children of the means to meet our finest expectations.●

GREEK ORTHODOX CONGRESS RESOLUTION ON ARMS EMBARGO

● Mr. RIEGLE. Mr. President, the Biennial Clergy-Laity Congress of the Greek Orthodox Archdiocese of North and South America was held in Detroit during the first week of this month. At their meeting, the representatives of the Greek Archdiocese passed a resolution concerning the present state of affairs on Cyprus and the involvement of the Turkish Government in the daily life of the citizens of that island.

Because we will soon be asked to pass judgment on the administration's proposal for lifting the embargo or arms sales to Turkey, I offer this resolution to the Senate for the benefit of all concerned with this issue. I believe the Congress which met in Detroit has raised important issues, worthy of our most profound consideration, and that the Congress represents a point of view which is widely held, not only among American citizens of Greek descent, but which cross all ethnic lines and is a perspective shared by the majority of our constituents.

Mr. President, I ask that the resolution I am now sending to the desk be printed at the end of my remarks.

The resolution follows:

RESOLUTION

Whereas, the Clergy and Laity of the Greek Orthodox Archdiocese of North and South America are convened in their 24th Biennial Clergy-Laity Congress in the city of Detroit, Michigan; and

Whereas, Those here assembled represent the more than 3 million Greek Orthodox Christians in the United States of America; and

Whereas, The Greek Orthodox faithful of this country feel strongly about human rights for all people everywhere; and

Whereas, We believe that our country is greatest when it pursues a consistent foreign policy based on morality which serves as a beacon for all freedom-loving and justice-seeking peoples throughout the world; and

Whereas, Since July, 1974, freedom, justice, majority rule, and basic human rights have been denied to the people of Cyprus by force of American arms in the hands of an invading and occupying Turkish Army; and

Whereas, The President of the United States has called upon the Congress of the United States to lift the partial ban on American arms shipments to Turkey despite the refusal of Turkey to comply with United Nations General Assembly Resolution No. 3212 and even though the reasons for imposing the embargo still remain; and

Whereas, The Congress of the United States will be considering and voting upon the President's request to lift the Turkish arms embargo in the near future.

Now, Therefore, be it resolved that

1. The Clergy and Laity of the Greek Orthodox Church of North and South America on behalf of the Greek Orthodox faithful of the United States call upon the elected Representatives in the Congress of the United States of America to retain the embargo on arms shipments to Turkey until Turkey is in full compliance with United Nations General Assembly Resolution No. 3212 and the reasons for the imposition of the embargo no longer exist.

2. The Clergy and Laity of the Greek Orthodox Church of North and South America on behalf of the Greek Orthodox faithful of the United States call upon the President of the United States of America to respect the will of the American people; to focus a spotlight of world attention on the violations of human rights by Turkey in the Republic of Cyprus; to publicly and forcefully call upon Turkey to comply with United Nations General Assembly Resolution No. 3212; Forthwith to support the American laws and International Agreements which maintain the arms embargo; and to unequivocally strengthen the enforcement of the embargo until such time as the reasons for its imposition are removed.●

A WEEK AT THE LAKE

● Mr. McGOVERN. Mr. President, Dr. Cedric Cummins, who is a retired professor of history at the University of South Dakota, has written a perceptive and thoughtful article for the current issue of the South Dakota Conservation Digest.

In his commentary, entitled "A Week At the Lake," Dr. Cummins has captured the spirit of a unique and time honored social and cultural ritual involving the American family. Beyond that, he has based his article on a foundation of his personal understanding and appreciation of our environment.

I recommend this article to all who believe in the traditions of our family-oriented society.

I ask that Dr. Cummins' article be printed in the RECORD.

His article follows:

A WEEK AT THE LAKE

(By Cedric Cummins)

Family groups arose that warm Saturday morning and set off along the state highways. From various distances, each eventually turned into the winding lane leading to the cluster of cabins of the resort. Early chores included checking in at the office, transferring baggage from the car, and wrestling the awkward, precious motor into place on the swaying boat. Neighbors could be seen or heard settling into adjoining units.

During the week ahead, they would share the experiences of one of the more treasured units of American culture—the family fishing resort. Veterans of past summers looked about them at the familiar lake, trees, and cabins.

Although they were not inclined to philosophize about such matters, the resort was as good a reflection of the American social revolution as the vacationers were likely to see. Their European ancestors had probably been able to fish only at the risk of dire punishment for poaching on gentlemanly preserves. But this was "people fishing," with the general public sharing in its opportunities, successes, and frustrations.

For the men, the week offered special opportunities and duties. They did most of the fishing and enjoyed a restful break from

the vocational labors back home. They were soon engaging in relaxed "men's talk" with neighbors, including the stag group occupying one of the cabins. Friendship was unmistakably proven when capture of the fourth consecutive fish was greeted with spontaneous congratulations by the angler's luckless companion.

The menfolk also had their duties, including those of cabin, boat, fish cleaning, and teaching the young son to fish. The last must be affectionately performed—and not overdone. The father who repeatedly admonished his heir to "remember what I told you" was not as effective as he imagined.

Actively participating in the fortunes of the family resort were also the women, children, and senior citizens. Unlike her husband, the wife could not regard the lake as an opportunity to "get away from it all." There were still those inescapable household chores. However, they were less demanding, giving her time to rest, read, write letters, drink coffee with the neighbors, fish if so desired, sun-bathe, and share in family joys and mishaps. After initial qualms, she had become reconciled to those boxes of night crawlers or leeches nestling alongside the vegetables in the refrigerator.

Still, it was a mixed accounting. To some extent, the wife remained an observer. But her post was a moderately relaxing one, helping her prepare for the more spirited and tiring events of the coming fall. It is doubtful if either she or her family attempted an evaluation of her exact relationship with this week. But if she had not had a relatively happy sense of fulfillment, the family resort would have succumbed long ago.

All youthful age groups were also present, from the intriguing 5 and 6 years olds, when boys displayed more masculinity than they ever would again, and girls were the epitome of grace, to the high schoolers trying to cope with the strange new chemistry within their bodies. Their joys continued to be balanced by more unhappy moments and days than the nostalgic aged are inclined to remember.

To these current youth, the lake was less an awesome, distant terrain than it had been for earlier generations. It might, in fact, offer fewer rewards of consumerism than did some of their home communities. Efforts of the resort to compete by adding playgrounds and other facilities had helped. But some of the magic was gone. Still, they played, fished, swam, pumped on the paddleboats, and water skiied, while manifesting that intriguing contradiction of the seeming need for constant activity followed by unexpected periods of supreme patience.

Some of the children related more to the fishing than did others. Daily, the more enthusiastic ones and their friends proudly counted coup upon return to the dock. The young angler who caught his first "keeper" during this particular trip would recall the exact circumstances and historical site as long as he lived.

Retired couples constituted an increased percentage of the population of these units and the world. Compared to their predecessors, release of the underwater pressure of work had not been as likely to leave them gasping on the shore like a fish. Grandpa's fishing was normally done alone and in the early morning or evening, when he brought in all that the two of them could possibly eat.

Always polite, but not unduly gregarious, they looked out of the windows at the lake and people, struck as much by the flat abdomen of the female bather as by her bulging curves.

These varying citizens ate barbecued ribs at nearby inns, relaxed, played volleyball, went swimming, and enjoyed the art and excitement of water skiing. Fishing, however, remained the most treasured prize.

At daybreak, two or three men quietly launched their boats upon the serene lake for bass fishing. By the time the last anglers had appeared at midmorning, accompanied by slamming doors and roaring motors, the early risers were back sipping coffee at their tables.

A noon lull was followed by another search for the taciturn fish, ending in late afternoon as bass and walleye fishermen celebrated vespers to the accompaniment of birds, crickets, and lowing cattle from the shore. By dark, the beaches were almost deserted. A scattering of boys were throwing out worm-baited lines for bullheads, and a small cluster of men were talking in subdued tones at one dock.

Types of fish and techniques for their capture varied. Sought in varying degrees were the uninhibited northerns, game bass, schooling crappies, tasty walleyes, wormy perch, and others. The invaluable bluegills insured food and some melodrama.

Gear varied from the traditional poles to sensitive fly rods, with spinning and casting outfits occupying the popular middle ground. With these, the anglers cast, drifted, trolled, and still-fished with corks or taut lines over the side of the boat. Recent aids such as electronic depth finders and electric motors were known in varying degrees and used experimentally.

Some fishermen succeeded better than others. There was the individual who would never quite have the feel for capturing the gill-breathing creatures. There was the silent, unheralded, successful angler. The week would be half over before some of his neighbors were aware of those strings of reputable fish appearing daily alongside his dock.

Yet, although skills thus differed, most of the resort's citizens reaped in proportion to their labors. As in office, factory, or farm, they were earning wages, with overtime for early morning and late afternoon hours. They subscribed to the ancient piscatorial maxim that "the place to catch fish is in the water." So the hard workers fished and fished. But even they rarely caught the imposing trophy of former years.

The appealing fish were not the only members of the animal world present. The nurturing weather and migrating lull brought a proliferation of wild inhabitants in the surrounding water, fields, and woods. They bred, ate, chortled, loafed, and strutted as though the summer would never end.

The herons stood like sticks among the rushes; the wild ducks landed with their feet forward, wings set, and head up; the ever-present gulls raucously shouted at their encroaching brethren in an uncivil manner as they flew to pick up the floating dead perches.

Unparalleled symbols of the wild and private were the loons. Their legs, set far back on the body, handicapped walking, but granted grace and efficiency to diving and flying. Although cautious before the human eye, their haunting, unforgettable cries sometimes filled the evening air.

Ashore, the traditional birds were joined by increasing numbers of martins as houses for them appeared in front yards. Game animals were enjoying the interim between birthing and hunting seasons. Snakes were occasionally mentioned, but seldom seen.

The dogs, more popular, appeared busy and philosophic. Those of the vacationers explored the terrain, establishing fraternal links with the past by uncovering buried bones and raising their legs on spots that had been so dedicated for many, many generations. An unowned, gaunt hound wandered from cabin to cabin. His benefactors shuddered at the thought of the impersonal winter that lay ahead for him—and granted a bonus for this bright day.

Human interest in these lakeside neighbors probably reflected a subconscious awareness of the brotherhood of those who possessed the myterious bond of life. They constituted such a miniscule part of the earth. But, daily, they lived and died a little with each other. If the most primitive among them were found on Venus or Mars, they would be studied with awe for possible answers to the natural and unnatural.

Other significant aspects of the week's environment were the indispensable cabins. Most were products of as much inbreeding as were the area's pigeons. Ancient beams, old unmatched dishes, historic scars visible through new veneer, electric stoves, and modern bathrooms reflected the changing decades. Whether or not they were shared by the haunting presence of former occupants depended on the sensitivity of the hauntee.

The cabins' owner and nostalgic renters were both aware of the current speculation as to the future of the family resort. Had its golden age ended? Increased mobility was taking potential customers to more distant places. Furthermore, fishing was declining.

Competing facilities were appearing as private cabins, mobile homes, camping sites in nearby parks, and public access landings for local citizens. Impartial time would disclose whether the resorts would be preserved by such changes as return to a more leisurely life style, new facilities, energy shortages, economics, or other influences.

But, then, the patient hills, plains, and lake were not as timeless as they appeared, either. The gouging, damming, melting glaciers that created most of them had disappeared about 10,000 years before, only "yesterday" in geologic time. Farther behind stretched eras of inland seas, mountains, and plains reaching back approximately 3.5 billion years to igneous "basement rock."

The present, therefore, was both a peaceful old age and a slow birth of future phenomenal changes. Would another glacier "soon" cover the favorite fishing spots? It would be the first one in all history to be watched gravely with foreknowledge. Present inhabitants held only a lease on the area, a very brief one.

Meanwhile, this particular week was coming to an end. At that time, the chores of arrival were reversed in a less exuberant fashion, and thoughts turned homeward. But for a few days, the people at the lake had to some degree eliminated history by returning to a life closer to nature.

Related was the very special excitement of the pull of a fish on the line, the unearthly feeling when the owl hooted deep in the woods, and the observation of the evening star from the pier at dusk. In the process, irreversible changes had occurred in the distant sun, the earth, the lake, the resort, and the vacationers. All were different. All appeared the same.●

ENERGY CROPS

● Mr. BAYH. Mr. President, the Washington Post carried an extremely interesting article yesterday about a poinsettia-like bush, until now little more than a botanical curiosity, which has been found to yield the equivalent of $20 barrel oil. The scientist responsible for this discovery, Melvin Calvin—a Nobel Prize winning chemist and member of the President's Office of Science and Technology—is betting he can cut the cost to $10 per barrel by doubling the yield that can be grown per acre.

This discovery is a perfect example of the vast potential that exists in this country for growing fuel from our farmlands and forests. The plant in question, the euphorbia Lathyris, grows in hot, dry areas unsuitable for normal agriculture. More commonly known as the caper spurge, or mole or gopher plant, its leaves contain a milky latex, which

is a mixture of hydrocarbons and water. There are about 2,000 varieties of euphorbia around the world. When the plant is harvested, the bushes are crushed, releasing the latex. When mixed with an acetone solvent it produces the equivalent of a crude oil. Dr. Calvin is convinced that by applying what we know about plant genetics to this particular spurge, we can produce a whole new plant, changing the nature of the hydrocarbon yield, with a higher btu content and low product cost.

Mr. President, growing these and other energy crops on marginal, unused and surplus lands can provide a new cash crop for our farmers, increase our domestic energy supplies, and help reverse the so-called greenhouse effect or buildup of carbon dioxide in our atmosphere due to centuries of burning fossil fuels. I have been working with the Departments of Energy and Agriculture over the past year to move ahead in our efforts to tap the vast natural resources in America to help meet our current and future energy needs. This latest discovery reinforces my resolve to move ahead in this promising area.

For the information of my colleagues, I request that the Washington Post article of July 16, "Striking Oil in Weeds," be printed in the RECORD.

The article follows:

STRIKING OIL IN WEEDS

(By Hugh Wray McCann)

If it were anyone but Melvin Calvin claiming that American farmers could be growing oil as a major cash crop before the year 2000, you'd suspect him of spending to much time in the hot California sun, fussing with his strange weeds.

Calvin, a Nobel Prize-winning chemist and a member of the President's Office of Science and Technology, has been experimenting with a poinsettia-like bush which, he says, produces oil.

On a few small plots, he has reaped man's first crop of crude oil at a commercially prohibitive yet encouraging price of $20 a barrel. Oil from Saudi Arabia costs around $10 a barrel.

Calvin is betting his Priestley Medal, the American Chemical Society's highest award, which he won this year, that he can double his yield in 1978 and cut the cost to $10 a barrel.

If he's right, then his discovery of use for a wild plant, until now little more than a botanical curiosity, could be as significant for society as the atomic bomb, which he helped develop during World War II.

Calvin also sees this weed as the solution to the so-called "greenhouse" effect, the ominous buildup of carbon dioxide in the atmosphere from 200 years of burning fossil fuels (coal, oil and natural gas), causing the planet to overheat.

The project, currently in its second growing season, is under the aegis of the Laboratory of Chemical Biodynamics at the University of California (Berkeley), where the 67-year-old Calvin heads the laboratory and teaches chemistry.

He says that at least two major multinational corporations, one of them an oil producer, have promised money for the research, which at this point is still a small university project. He feels the road to the commercial exploitation of oil plantations will open up "when the individual corporation says it's willing to spend one or two million dollars to get this thing going."

GROWS ON POOR LAND

The bush causing the excitement is the *euphorbia Lathyris*, a relative of the poinsettia. More commonly known as the caper spurge, or mole or gopher plant, its leaves contain a milky latex, which is a mixture of hydrocarbons and water.

There are about 2,000 varieties of *euphorbia* around the world. The *Lathyris* species, which reaches 4 feet in height in seven months, grows primarily in hot, dry areas unsuitable for normal agriculture. One of the places where Calvin found the bush, with its long, lance-like leaves, was on his ranch, near Healdsburg, in northern California.

Calvin won his Nobel Prize in 1961 for his work on photosynthesis, the process by which plants turn sunlight into other forms of energy. Through photosynthesis, he says, "the green plant captures the carbon dioxide from the atmosphere and, with the aid of sunshine, separates hydrogen from the water." This turns it into carbohydrate, such as a sugar, "in which there is only one oxygen atom on each carbon atom.

"Eventually some plants can take the carbohydrate and reduce it all the way to hydrocarbons, with no oxygen at all on the carbon atoms.

"This is essentially what petroleum is."

Calvin began his experiment modestly by cultivating around 800 *euphorbia Lathyris* bushes and checking the effects of water and fertilizer.

"It's as if we were back in the Stone Age," he says, "learning how to domesticate wild plants."

When the first crop was harvested, the bushes were crushed, which released the latex, and mixed with acetone as a solvent. The result was "a black oil—just like crude oil."

It cost $10 a barrel to cultivate and $10 a barrel to process.

"But this [price] doesn't allow for the improvements which I have absolutely no doubt we can make," he says. "We know every single enzyme that is required to convert carbon dioxide into hydrocarbons. This means we cannot only improve the yield by ordinary classical seed selection and cloning; we can do genetic engineering on the single cells to change the nature of the hydrocarbon yield, then take those single cells and regenerate a whole [new] plant."

The regeneration of new plants from genetically reengineered single cells has been done, he says, to the carrot, tobacco, Southern palm, Douglas fir and sugar plants.

From three or four small plots in the first season, the nation's first experimental oil plantation is now on a 10-acre site. Calvin visualizes *euphorbia Lathyris* plantations "on land which is the least productive for human use—western Texas, most of Arizona and New Mexico"—and where the sun's energy is at its maximum.

"On the basis of this experiment," Calvin says, "we know how much oil we can get per acre this year." From 43,500 plants containing 8 to 12 percent oil, "we calculate at that point about 10 barrels per acre in seven months."

BEGAN WITH EMBARGO

Calvin began searching for alternative energy sources in 1973, during the Arab oil embargo. He was one of millions of Americans who got their first, bitter taste the winter of queueing up at gas stations. "It was during the 1½- and 2-hour periods of quiet," he recalls, that he would ponder the questions of "how plants collect the energy from the sun and store it in the form of chemicals."

During his reflection, he continues, several "messages" came through. One was that the nation's supply of fossil fuels, "which were placed in the ground millions of years ago," are running out.

Another "message" had to do with the carbon dioxide danger.

Since the Industrial Revolution of the mid-1800s, the amount of carbon dioxide in the atmosphere has reached critical proportions. Normally it is a harmless gas which is absorbed by lakes and oceans and changed into oxygen by the leaves of green plants.

However, as industrialized societies turned away from burning wood to coal, oil and gas, they began to pump increasing quantities of carbon dioxide into the atmosphere at a faster rate than plants could change it back into oxygen and lakes and oceans could absorb it, says Calvin.

Scientists explain that around the earth is a carbon dioxide blanket that allows in the ultraviolet radiation of the sun but prevents the infrared radiation reflected from the earth from escaping. The result, they say, is that the earth has been gradually heating up since man started burning fossil fuels.

"Some meteorologist have suggested that a consequence will be the melting of the Antarctic ice sheet and the rise of ocean levels," he says, adding that the heat would have a "disastrous" effect on agriculture and on society in general.

Fuel derived from *euphorbia lathyris*, when burned would not add to the carbon-dioxide blanket. "If we use plants as a source of [energy] material," he explains, "the plants get most of the carbon dioxide out of the atmosphere in the first place."

Calvin thinks that the first commercially viable oil plantation is about 10 years away. "In the longer reach, however," he says, "we should learn how the plant captures the sunlight in the first place . . . I know a good bit about how, but I don't know [exactly] how." ●

TUITION TAX CREDITS

● Mr. ANDERSON. Mr. President, later this year the Senate will consider the question of tuition tax credits. Many Minnesotans have written in support, and many in opposition, to tuition tax credits. A number of letters come from those directly involved in public education. Many of these citizens feel that tuition tax credits are a direct attack on public education.

The tuition tax credit bill which has passed the Senate Finance Committee and is pending before the full Senate provides, starting with the school year 1978–79, that a tax credit equal to 50 percent of tuition and fees, with a maximum credit of $250 per student, will be provided for full-time undergraduate students in colleges, junior colleges, and postsecondary vocational schools. The credit applies to tuition and fees at public or private institutions. In 1980 the tax credit would be expanded to cover tuition and fees for elementary and secondary schools and would be increased to a maximum of $500 per student. In 1981 the tax credit would be extended to tuition and fees paid for graduate and part-time students.

The House of Representatives has already acted on a tuition tax credit proposal. It passed a bill providing for a tax credit of 25 percent of tuition for postsecondary and elementary-secondary education starting this year. Initially the maximum credit would be $100 for colleges and $50 for elementary-secondary tuition. This would increase to $250 and $100 respectively by 1980.

In the past decade, the cost of a college education has skyrocketed. The overall cost of a private college education rose 119 percent between 1964 and 1976. The cost of attending a public university increased by 99 percent dur-

ing the same period. The average annual total cost of a private university is now $4,811, with the cost of a public university now averaging $2,906.

These increasing costs are reasons why college attendance has declined in the past few years, with the sharpest declines coming from middle-income students.

All of American society benefits from young people receiving all the education that they desire. One of the most vital tasks of Government is to make education easily available to all who could benefit from it. For that reason, as Governor of Minnesota, I proposed major increases in the funding of public higher education, sought to restrain tuition increases, and, in one budget, proposed a freeze on tuition increases at public colleges and universities and opposed plans to impose tuition at Minnesota vocational-technical institutes.

Private higher education also has a real contribution to make to society and is deserving of public assistance. While the initiatives taken to aid private higher education were modest compared to the increases given to public colleges, they were justified and effective. We enacted per capita aids to directly subsidize private colleges, provided State guarantees for private college construction programs, and greatly increased State scholarship and loan programs which were available to students going to either public or private institutions. These programs were successful in restoring the financial health of a number of Minnesota colleges which faced deficit budgets.

There is no justification for the allegations that tuition tax credits for higher education represent an attack on public education by private colleges. The trend over the past decades has been clearly in the direction of public institutions, as private colleges have passed on increased costs in tuition while taxes have cushioned the impact of inflation on public colleges. In the early 1950's about 50 percent of all college students were in private institutions. Today less than 25 percent of higher education students attend private colleges and the proportion continues to decline.

The pending Federal tuition tax credit will provide much needed assistance to the 11.3 million U.S. students in public and private postsecondary institutions. It will relieve some of the burden of inflating tuition costs and reverse the trend of decreasing college attendance by middle-class students.

Those who support education must stop thinking in cliches and realize changing American educational needs and traditions. The fluid labor market, different lifestyles, economic pressures, and new types of jobs all influence the educational needs of Americans. Retraining and continuing education have become an economic necessity for many. Other Americans begin or return to college in midlife to refocus their lives or to prepare for a career. Many of these returning students are women looking to reenter the job market, and many of these women are single heads of households supporting children. College attendance among people 35 and older increased 50 percent between 1973 and 1975. These career adjustments or reentry efforts directly affect our national employment picture; yet these Americans who are trying to help themselves through education receive limited public assistance. Traditional scholarship and grant programs are not designed to assist these types of students. But a tuition tax credit will be of major assistance to these nontraditional students.

In 1980, the Senate version of the tuition tax credit bill would be extended to elementary and secondary schools. While 62 percent of the benefits for the postsecondary tuition tax credits will go to students at public institutions, all of the elementary-secondary benefits will go to students at private schools as no public elementary or secondary schools charge tuition. Approximately 5 million nonpublic school students would become eligible compared to the 11.3 million public and private postsecondary students covered.

My attitude toward education and the role of public funds at the elementary-secondary level is similar to that toward postsecondary education. Public bodies should make major investments in education to provide young people the basic skills and knowledge they need to live rewarding, useful, and productive lives. As Governor of Minnesota, I believe the principal task facing State government was to assure the fair and sufficient financing of public education.

During my tenure as Governor, State appropriations for aid to elementary and secondary education rose from $660 million to over $1.7 billion or a $1 billion increase in just 6 years. The system of State aids was reformed to compensate school districts with inadequate access to property tax funds with additional State funds; funding for education for mentally and physically handicapped children nearly tripled; additional aid was given to districts experiencing falling enrollment; and supplemental aid was provided districts with concentrations of children from socially deprived backgrounds.

Public education in Minnesota still faces problems but Minnesota's system of financing is more equitable than most States, our system is more stable than most States, and we remain one of the most generous States in the Nation toward public education as shown by Minnesota's per capita public spending on public education which is sixth highest in the Nation. Minnesota's public education problems, while serious, pale into insignificance when compared to the shortened school years, prolonged Christmas vacations, inability to meet payrolls, and chronic financial crises which afflict many major school systems around the Nation.

The way in which Minnesota reformed our school finance system, along with significant changes in aids to municipal and county governments and direct property tax relief programs also allowed us to bring property taxes under control. In 1971, when I came into office as Governor, Minnesota property taxes were 13th highest in the Nation and well above the average. In 1976, my last year as Governor, that figure had dropped to 24th and below the average. Yet Minnesota did this while maintaining the high investment in education, sixth highest in the Nation, and without sacrificing needed public services. Because Minnesota acted wisely and rationally about bringing its property taxes under control, Minnesota does not face the kind of drastic action that is now taking place in California.

Private education has a role in elementary-secondary education that is valuable. Nonpublic education provides diversity and variety in education that is highly desirable as a matter of social policy. This variety has been steadily declining over the past decades as inflation and changes in the programs that schools offer has greatly increased costs. The result has been that nonpublic education has played a steadily smaller and smaller role in American schools. In the period from 1965 to 1975, the national enrollment in public schools kindergarten through grade 8, declined slightly, from 30,563,000 to 30,545,000. In the nonpublic schools, enrollment in grades kindergarten through grade 8 declined from 4,900,000 to 3,900,000, a decline of 20 percent.

In the last 10 years the decline in enrollment in private secondary schools was 13 percent compared to a net national increase in public school secondary enrollment. In 1965 86 percent of all students were in public schools and 14 percent in private education. By the latest figures that ratio has changed to 91 percent in public education and 9 percent in nonpublic schools. Minnesota figures show a similar trend. In 1967, 14.5 percent of students in Minnesota were enrolled in nonpublic schools. In 1975, the figure was 9.5 percent.

Again, the figures show that the proportion of students in nonpublic education is declining, and, charges that tuition tax credits represent an offensive against public education are not based upon the evidence.

In addition, I do not agree with the contention that tuition tax credits violate the Constitution. The Constitution states that "Congress may make no law respecting an establishment of religion, or preventing the free exercise thereof." It is an unwarranted interpretation of the Constitution to hold that public assistance to a private educational institution, which provides the same sort of educational services as a public school, is in violation of the Constitution because the school is church related and may provide religious instruction in addition to its regular educational program. This does not constitute an establishment of religion. Others, of course, disagree. American courts have provided a contradictory set of decisions on the acceptability of various public subsidies of private education. Courts have both rejected and upheld in the last decade, extensive programs of public aid to postsecondary nonpublic education. Private colleges, often church related, receive a variety of State and Federal funds for specific educational programs and students at private colleges, including church-related colleges, are recipients

of Federal and State scholarships, grants, and loans to pay for tuition.

The courts have upheld State provision of transportation to and from private elementary-secondary schools, and State purchase of textbooks. But courts have rejected State purchase of some types of school supplies and State income tax tuition tax credits. The U.S. Supreme Court has never ruled on the constitutionality of a Federal tax credit for tuition paid to college, vocational, and elementary and secondary schools.

The lack of consensus by the Supreme Court on just what the establishment of religion prohibition means is illustrated by the Court opinion in a 1977 case which upheld the purchase of textbooks but prohibited instructional supplies such as maps, pencils, chalk, projectors, and so forth. Mr. Justice Blackmun wrote the opinion with Chief Justice Burger concurring in part and dissenting in part; Justice Rehnquist and Justice White concurred in part and filed a joint dissent in part; Justice Brennan concurred in part and dissented in part, and filed a separate opinion; Justice Marshall concurred in part, dissented in part, and filed a separate opinion; Justice Powell concurred in part, dissented in part, and filed a separate opinion, and Justice Stevens concurred in part, dissented in part, and filed a separate opinion. With the Supreme Court in such disarray, for someone to state catagorically that the pending tuition tax credit will or will not be found constitutional is on very shaky grounds. The tuition tax credit bill awaiting action in the Senate does include a provision for an expedited court test to assure that this question is answered promptly.

There are several other points about the Senate tuition tax credit bill which should be kept in mind. First, 75 percent of the benefits of the bill would accrue to college and postsecondary students. Of this, 62 percent of the benefits for postsecondary students will be for students enrolled in public institutions. Only 25 percent of the total benefits are for students in elementary-secondary nonpublic schools.

Approximately 57 percent of the benefits will go to families with incomes of $20,000 or less; 85 percent of the benefits are for families with incomes of $30,000 or less. In order to provide greater relief to low-income families the tax credit is made refundable. This will provide relief to low-income families who have no tax liability or whose tax liability is too small to benefit fully from a nonrefundable tax credit.

The Senate bill would cost the Treasury $39 million in fiscal 1978, $916 million in fiscal 1979, $1,418 million in 1980, $2,845 million in fiscal 1981, and $4,479 million in fiscal 1982. These are not small figures, but, to keep it in perspective, remember that even when fully implemented the credits would represent less than 1 percent of the Federal budget.

The bill prohibits tax credits for tuition to any school which engages in racial discrimination.

The strong feeling many people have against tuition tax credits is understandable. Much of the strong objection is based on a commitment to public education, a commitment which I share. But I do not believe that tuition tax credits will damage public education at the college level or the elementary-secondary level.

I do not believe the predictions that if a tuition tax credit is provided that there will be a massive desertion of public education for private schools. In 1971 the Minnesota Legislature passed a tuition tax credit bill which provided a credit of up to $100 for elementary students and $140 for secondary students. While these maximums are lower than those provided in the pending Senate bill, considering the inflation costs and the 50-percent limit of the pending Senate bill, the 1971 Minnesota law was comparable to the pending bill. The 1971 Minnesota law provided a credit which was usually 100 percent of the tuition of Minnesota parochial elementary schools and just under 50 percent of the tuition of parochial secondary schools.

In spite of the fact that the tuition credit in Minnesota was, in percentage terms, more generous than the pending Senate bill, in the first year the law was in effect, enrollment in parochial schools dropped 11.4 percent, nearly double the drop of the prior year. In the second year the drop was 8 percent, still larger than the 6-percent drop prior to the law and more than double the 3-percent drop that occurred after the law became void. Perhaps the drops would have been larger without the credit, and perhaps changes have occurred in public education in the last 5 years that would prompt a mass flight to private education. Such speculation is possible. But the facts are that in the years the tuition tax credit was in effect in Minnesota, there was no shift out of public education into private education.

In light of the Minnesota experience, it appears unlikely that tuition tax credits will damage public education. If, after enactment, tuition tax credits do harm public education, I will work to repeal the credits. But, I do not believe that any harm will occur. Tuition tax credits will help both public and private postsecondary education and may stop the decline of nonpublic elementary-secondary education.●

THE EIGHTH GENERAL ASSEMBLY OF THE OAS

Mrs. HUMPHREY. Mr. President, the meeting of the Eighth General Assembly of the Organization of American States, from June 21, 1978, to July 1, here in Washington, was an event of extraordinary importance for the future of the Western Hemisphere. The foreign ministers of the United States, Latin America, and the Carribbean members of the 26-nation OAS were all in attendance at this event.

Under the administration of President Carter, we have witnessed a reawakening of U.S. interest in the fortunes of its neighbors and determination to strengthen the traditional special relationship between our nations. Every Democratic administration since Franklin D. Roosevelt has demonstrated its conviction that a central element in U.S. foreign policy must be friendship and harmony with Latin America.

By visiting the OAS on four separate occasions, President Carter has expressed his belief that this regional forum provides a model for nations and peoples everywhere as they seek to create a world of peace and justice.

Under the distinguished and capable leadership of Secretary General Alejandro Orfila, the OAS has once more become a vital element for the promotion of regional cooperation in the Western Hemisphere. In their remarks to the Eighth General Assembly of the OAS both President Carter and Ambassador Orfila set down the key challenges before the OAS members. Mr. President, I wish to have printed the statements of both leaders of the regional and world community in the RECORD. I believe the Members of this body will find that these offer both visionary and highly practical assessments of the next steps before the Americas.

The statements follow:

ADDRESS BY THE SECRETARY GENERAL OF THE ORGANIZATION OF AMERICAN STATES, ALEJANDRO ORFILA

It is once again a high honor for me to address this, the highest body of our Organization, in the certainty that those who are present today will be responsive to the hopes that have been placed in this meeting.

If we look at what has happened since the the last General Assembly, at the decisions of the governing bodies and the actions of the General Secretariat, our overall view will show us both signs of vitality, and at the same time, a demand for intelligence, imagination and a firm resolve to deal with the problems that confront our countries in the last quarter of the twentieth century.

Let us recognize that the main event of the past year has been the signing of the Panama Canal Treaties, a historic moment which took place in this very chamber in the presence of the Chiefs of State and Heads of Government of the hemisphere. The subsequent ratification gave full actuality to one of the most significant events in the history of interAmerican relations. In Panama a few days ago, in a ceremony witnessed by the leaders of Colombia, Costa Rica, Jamaica, Mexico, and Venezuela, President Carter, and Head of Government General Torrijos reiterated the undisputed validity of the principles of nonintervention and free determination, crowning yet another triumph for our system.

Another significant step forward in the peaceful settlement of disputes between member states took place in November 1977, when at the headquarters of our Organization, the Foreign Ministers of Honduras and El Salvador exchanged the instruments of ratification of the Mediation Agreement they had reached earlier.

The two auspicuous events I have mentioned give us good reason to expect that other similar matters that are still pending on the political agenda of the Americas will follow a similar course.

Convinced as I am of the need for a flow of dialogue between the General Secretariat and the Permanent Council of the Organization, we have given this organ our strongest support. The Council has maintained its constant concern over the political events of the hemisphere, and has acted promptly and effectively in the face of situations demanding its attention. We can exemplify this by two of its decisions: one, to send an ad hoc

Committee of Observers to verify the events brought to its attention by the Governments of Costa Rica and Nicaragua in October 1977, and its approval, in November of the same year, of a declaration on the measures adopted by the United States on sugar imports.

In the sphere of the Inter-American Economic and Social Council, I should mention particularly the Eighth Regular Meeting of the Special Committee for Consultation and Negotiation, which was held in Santo Domi go in April of this year. This meeting continued the arduous dialogue over the U.S. Generalized System of Preferences, and it was decided to hold a meeting of government experts to look at the experiences of the period in which the System has been operating.

As to the area of the Inter-American Council for Education, Science, and Culture, it is worth mentioning that this year, 1978, sees the completion of the first decade of the Regional Educational Development Program and the Regional Scientific and Technological Development Program. They continue to be much appreciated by the national institutions that take advantage of them, as shown by the demand for services and the voluntary pledges to the Special Fund that finances them.

These Regional Programs are undergoing review, to examine the experiences of the first decade. The new program orientations are shortly to be approved by the Inter-American Council for Education, Science, and Culture.

I have wanted, since the beginning of my administration, to strengthen our ties with the specialized organizations of the Organization. The General Secretariat recently came to an agreement with the Pan American Health Organization and the Government of Argentina to hold a specialized meeting on the problem of foot-and-mouth disease and its effect on meat production.

With regard to other specialized organizations, we have had the satisfaction of celebrating over this past year two significant fiftieth anniversaries: of the Inter-American Commission of Women and of the Pan American Institute of Geography and History.

At that time, well-deserved praise was given to the work of the Inter-American Commission of Women, not just in its first stage, which was dedicated to improving the status of women on the legal and political front, but also in its more recent activities of promoting the role of women in development.

The celebration of the meritorious work of the Pan American Institute of Geography and History coincided with a meeting of the Joint Committee of the OAS and the Institute where ways to revitalize the cooperation between the two institutions were agreed upon.

The activities of the General Secretariat during 1977 are discussed in the report I have had the honor of submitting to this General Assembly in compliance with Article 118 of the Charter of the Organization. I cannot begin to summarize this work here—its aspects of manpower training, technical assistance, and the strengthening of basic institutions for the development of our countries, in particular.

My view of the Secretariat continues to be critical, in the best sense of the word, by which I mean that there can still be improvement in its organization and operations.

Nonetheless, we should list among the positive achievements an increased efficiency in the use of human resources within the Secretariat. This has allowed us to cope with a significant reduction in staff, and to expand the automated management systems. The General Secretariat has also carried out a serious examination of its structure through studies conducted on the instructions of the General Assembly. Lastly, I am able to report that construction of the new building for the General Secretariat is progressing on schedule.

Our Organization, like other international agencies, is facing a growing need to keep costs at a minimum without affecting the level of services provided. I well understand the difficult situations facing our member states in financing the activities of our Organization, and faced with these realities, I reaffirm my position, which has remained unchanged since July 5, 1975, that we should use the resources that the governments have placed at our disposal in the most effective and positive way possible to achieve the goals of the Organization.

The General Secretariat continued to develop its cooperative relations with the nonmember states, as part of our effort to broaden the Organization's framework of relations, and to multiply our resources to provide direct services to the member states.

As I reported at the time to the Permanent Council, on my trip to Europe in 1977, I saw the need for Latin America to adopt a joint position on its multilateral problems with Europe. Within the sphere of the General Secretariat, we shall continue the effort to provide a systematic flow of information, particularly through the Permanent Observers, so that interested European sectors can gain an up-to-date view of the broad Latin American questions.

The approval of the request from the Government of Austria brings to thirteen the number of observer states, with the Government of Switzerland's request still pending. Also before this Assembly for consideration is the question of granting Permanent Observer status, on a special basis, to the Holy See.

I feel that an additional result of my visit to the countries of the Middle East in 1977 was a multilateral outreach by our region toward an area of fundamental importance for today's international relations. The outcome should encourage further rapprochement with other areas of the world.

Gentlemen:

For all the vitality of the immediate past, we still have huge tasks before us. Only a determination for unity, with our sights set on the future, can inspire us.

It is our duty to rise above the differences and difficulties of the moment. We have inherited an Organization that has played an historic role, but that is today looking for a new course.

Our problems in the Americas have become much more complex. They are more in need of the foresight and imagination of the statesman than of the technical expertise of the geopolitical strategist. We cannot postpone justice for the large underprivileged masses, but the population—including our hopeful young people—is growing faster than the wealth available to be distributed. Wealth does not depend only on resources and work, but on international situations over which no one has exclusive control. The rise in expectations is being cleverly exploited by the simplistic ideologies of extremists of all kinds who are provoking polarization, when what is needed is a common effort. North and South are still seeking the formula for a more just and a more unified world.

At this difficult juncture in the North-South dialogue, stress is being laid on finding channels of understanding, forums in which global negotiations can be conducted. I am convinced that we have here, in the regional sphere, the elements for similar negotiations. The Americas can once again serve as a model: in this case, a paradigm of the North-South dialogue, a foretaste of the road the rest of the world must follow.

The disequilibrium between the highly developed countries and the so-called Third World will, in the end, be resolved by a more just accommodation. I am convinced that in the inter-American orbit, the forum of the OAS can be an effective tool with which to achieve the same result at a much lower cost in terms of waste and confrontation.

The desire on both sides for a political community composed of the United States on the one hand, and Latin America and the Caribbean on the other, has had sufficient emphasis in the past for me not to insist on it here. This basic reality makes any opposition between regionalism and globalism, between bilateral and multilateral relations, superfluous. Globalism cannot ignore the political importance of regions that have homogeneous characteristics and problems. That the opposite view is an illusion is shown by the rapid attention paid to a hitherto neglected regional block when it undergoes a crisis. The stronger we are as a region, the more prepared we shall be to confront the global problems that affect us.

In 1973, a deep concern, which until then had remained dormant, sprang up in this Assembly in the form of a "reflection on the destiny and mission of the Organization of American States." I believe that such meditation is still apropos, that it is perhaps more valid today than then. This is the moment for us to ask ourselves sincerely what we all want from each other, and how much each is prepared to give to all.

What strikes us at first glance in this meditation is that the most powerful nation on earth is living cheek by jowl within the same Organization with nations that are thought of as part of what we know as the Third World. Contrary to what one might suppose, the Organization's greatest strength lies in this disparity. This is not perhaps usually understood in its true meaning.

Just as national identities will not cease to exist, bilateral relations will not disappear, nor is it desirable that they should. But multilateral dialogue is the latest step forward in the progress of international politics. It governs attitudes by reason of the duty all bear towards each other. It gives strength to those who do not have it in the bilateral situation. It gives decisions the moral legitimacy of a pluralistic consensus that a simple declaration of force or an isolated demand cannot have on its own. It is one thing for a member state to have right and law on its side, but quite another for it to be right and to have the support of the rest of the member states.

But this forum, in whose cohesive powers I am a strong believer, raises the question of how we should use it. To make of it a place where we come in conflict is merely a way of avoiding the true state of affairs. To descend to minutia is to lose the historic opportunity it presents. The forum of the OAS is a forum of high politics and important dialogue, and should be used as such.

For any issue, it is the broad directions, the broad policies that should be looked for in this forum. Once the will and the interest of the governments are made known—with all that this sometimes implies in terms of courage and risks—instruments within the system itself will not be lacking to get down to the details of the action.

We have a Charter that is flexible and broad, that contains declarations of such universal value to us that its broad framework can encompass both novelty and diversification.

It will not be possible here to spell out the full agenda of basic issues awaiting high-level guidance of this sort: development; observance of human rights; improvement in social conditions; geopolitical disputes; financing and external debt; international trade; modernization of agriculture; transfer of technology; and so many more.

The question of the inter-American system of cooperation for development, for example, is virtually untouched. I would state again here the importance I attach to the special sessions of the General Assembly planned to deal with this matter. It would be a most opportune occasion for us to ask ourselves questions ranging from what kind of development we want to which means we shall use to bring it about.

International trade is another fundamental topic. We should once again state the advisability of using the system of consultations to seek out formulas to solve problems of common interest. The atmosphere of these consultations should be one of calm, objective, and pragmatic analysis, that should avoid unproductive confrontations.

Closely linked to this topic is the question of protectionism. The external sector of the majority of the member states has become one of the key elements in the growth of their economies. In these circumstances, the protectionist trends noted in the principal import markets of the world are grounds for serious concern. In the absence of soft financing and greater access to traditional sources of capital, it is imperative that the Latin American economies increase their foreign revenues through exports.

The debated question of human rights is another topic for this grand dialogue. The fact that between the General Assembly session held in Grenada and now, six governments (Venezuela, Honduras, Haiti, Ecuador, the Dominican Republic and Guatemala, in that order) deposited their instruments of ratification of the American Convention on Human Rights, making a total of eight governments that have ratified it, should be seen as a positive indicator of the hemisphere's interest in this problem. Only three more ratifications are now needed for the Convention to enter into force.

Diversity of opinion in this dialogue on human rights is not a negative thing, in and of itself. A monotonous uniformity of thought is fine for totalitarian societies, but not for those whose strength is in the free play of ideas, which is the very essence of the concept of democracy.

In this healthy divergence, all we have to avoid are unilateral simplifications. The two sides of the problem—violence and individual security—have been pointed out many times. Society has the right to defend itself from those who would destroy it. But let us not forget that society also destroys itself if, in defending itself, it ignores the principles that are its moral foundation and that differentiate it from its enemies.

Let us here reflect on the difficult balance that Lincoln talked about at the beginning of the American Civil War: "Must a government of necessity be too strong for the liberties of its peoples, or too weak to maintain its own existence?"

Above all, antagonisms and force must be avoided. Reality is always more complex than men's ideas about it. We would wish, therefore, that no one would impose his ideas on anyone else. In the Americas, forceful imposition has been replaced by understanding between equals.

I should like to conclude by stating again that the OAS is an apt forum, an instrument of proven usefulness for dialogue, and that it has a painstaking and productive tradition of consensus. It is our historic responsibility to know how to use these instruments in the present state of affairs. Let us once more give the world, from the Americas, the example of setting out guidelines for the future. Let each fight for what he believes to be right, without compromising his identity or his convictions. But together let us set our sights above the immediate, and contribute to building the pluralist, interdependent world that is there on the horizon for those who would see it.

Throughout the length and breadth of our Americas, in every large city and small town, in every factory and schoolroom, whether cultivating the land or their intellect, there are men and women whose well-being and human dignity is the ultimate reason behind this Organization. We are responsible to them. May awareness of them preside over our deliberations, and guide those who have the responsibility of bringing them to a worthy conclusion.

TEXT OF REMARKS BY THE PRESIDENT AT THE OPENING SESSION OF THE EIGHTH GENERAL ASSEMBLY OF THE ORGANIZATION OF AMERICAN STATES

I want to welcome you here to open the Eighth General Assembly of the Organization of American States.

Five days ago, I went to Panama. I went there to celebrate new Treaties which permit the U.S. and Panama to operate and defend the Canal on the basis of partnership, not paternalism. I went there to fulfill a pledge I made before you in this Hall of the Americas a little more than one year ago.

I went there to explain what the Treaties mean to me and to other North Americans. More than simply the fulfillment of a pledge, they are the beginning of a new era of inter-American understanding, reflecting a new spirit of commitment and cooperation.

In the process of reaching agreement, our two nations—and the many others who supported us—breathed new life into some old principles: principles of non-intervention, mutual respect, partnership, and multilateral cooperation.

What we have accomplished together will make it easier to apply these same principles to the overriding concerns of our hemisphere: peace, human rights and dignity, and economic development.

Last year on Pan American Day, I outlined the approach which my Administration would take toward Latin America and the Caribbean. Slogans would no longer suffice to describe the diversity of the Americas, nor would a single formula be helpful when our individual and common interests are so clearly global in scope. The problems of the world require that we in the Western Hemisphere think and act more broadly.

That is what I pledged to you last year on Pan American Day. Our goals remain the same:

To promote world peace and discourage international intervention and aggression.

To foster an international environment in which human rights and dignity are respected by all, and to end repression and terrorism.

And finally, to move toward a more just and equitable international economic system.

These are the most basic goals of the community of nations—and therefore of our hemisphere as well. No one nation can do the job alone—not the United States, nor any other. Only by cooperation among the nations of the Americas, and throughout the world, will we see these goals fulfilled.

We can advance toward peace with many small steps, as we remove the causes of dispute which have plagued our hemisphere.

The resolution of the Panama Canal issue should be a good omen that other disputes in our hemisphere can also be settled peacefully. Let us approach other problems—such as Bolivian access to the sea, the Honduras-El Salvador border dispute, and the future of Belize—in the same spirit of accommodation and friendship. Just as the nations of this hemisphere offered support to Panama and the United States during the Canal negotiations. I pledge today my government's willingness to join in the effort to find peaceful and just solutions to other problems.

In one year's time, it will be a century since the War of the Pacific. We should view this occasion as an opportunity to reaffirm our commitment to harmony in this hemisphere. The difficult decisions in their region can only be made by Bolivia, Peru and Chile. But we stand ready with the O.A.S., the U.N., and other countries to help find a solution to Bolivia's land-locked status that will be acceptable to all parties and will contribute to the permanent peace and development of the area.

In this same spirit we should work together to bring into effect the far-sighted Treaty of Tlatelolco, which bans nuclear weapons from Latin America. It was in this Hall last year that I pledged to sign Protocol I of that Treaty, and on May 26 I signed it. Since then, due to the encouragement of the countries that pioneered the Treaty, the Soviet Union has ratified Protocol II and Argentina has agreed to ratify the Treaty.

All but one of the countries in the hemisphere eligible to sign the treaty have now signed it. This precedent-setting treaty represents a dramatic advance for the cause of nuclear non-proliferation, and we should not rest until it is complete. I also support the efforts of those who want to extend the spirit of Tlatelolco to other areas of the world, and to conventional arms sales as well.

I believe that restrain in conventional arms sales is also central to the cause of peace. The U.S. has adopted a policy which seeks to reduce the overall sales of weapons each year, especially the most sophisticated, lethal and expensive weapons. As a major arms salesman, the U.S. bears—and accepts—a heavy responsibility for limiting this trade, but we cannot succeed alone. Our efforts will depend on the active participation of the other arms sellers and of arms recipients. Discussions among both groups have already begun.

As we make our efforts, we draw inspiration from the truly historic initiative that Venezuela and other signatures of Ayacucho are making to remove the causes of insecurity from their region, and thereby to reduce the pressures that make nations buy weapons. As the Ayacucho nations prepare for another meeting this week, I reaffirm my country's conviction that their work is bringing us closer to last peace, and I express my hope that their efforts can be expanded to other weapons purchasers and to suppliers.

We can also reduce the pressure for armaments—and for regional violence—by ensuring that all nations respect the territorial integrity of others. The intrusion of foreign military forces into local disputes can only undermine this cause. We support improvements in the peace-keeping and dispute-settling machinery of the O.A.S. and the U.N.

The rights and dignity of human beings concern us all, and must be defended and enhanced.

I am convinced that all the peoples of the Americas want a world in which citizens of every country are free from torture, arbitrary arrest, and prolonged detention without trial—free to speak and think as they please—free to participate in the determination of their own destiny.

My government will not be deterred from our open and enthusiastic policy of promoting human rights—including economic and social rights—in whatever ways we can. We prefer to take actions that are positive but where countries persist in serious violations of human rights we will continue to demonstrate that there are costs to the flagrant disregard of international standards.

Above and beyond any actions we take ourselves, we believe multilateral action can be the most effective means of encouraging the protection of human rights. Last year's O.A.S. General Assembly demonstrated our common interest in this important commitment; it set the stage for this year's events.

During the past year, the Inter-American Commission on Human Rights—one of our region's most important instruments—grew

stronger. Its budget was tripled, and it was invited by more governments to investigate and report on conditions. I commend the reports submitted to this General Assembly, and urge that their recommendations be fulfilled.

In the past year, six countries have joined Costa Rica and Colombia in ratifying the American Convention on Human Rights. Three more countries must ratify it for it to come into force. I signed the convention on June 1 of last year when my wife was in San Jose; I pledge my efforts to bring about the United States' ratification as soon as possible. We should use this General Assembly to plan for the moment when the Convention enters into force. We share the view that the present Commission will continue to carry out its mandate until a new Commission is functioning.

The governments whose leaders visited Panama for the ceremony last week have been at the front of the movement for human rights and democracy. A month ago, several of our countries spoke out in support of the democratic election process in a neighboring country.

We realize that the path from authoritarian to democratic rule can be a difficult and demanding one. During such a transition and in the midst of the electoral process, by government pledges not to intervene nor to show favoritism toward particular individuals or parties. But we will continually support and encourage political systems that allow their people to participate freely and democratically in the decisions that affect their lives.

The past year has been a measure of progress. In many countries, political prisoners have been released, states of siege lifted, or constraints on freedom of the press loosened. In the coming year, we hope for more progress. For many in Latin America, the struggle has just begun. But the direction of history toward the expansion of human rights is clear.

Where basic human rights are concerned, all of our governments must be accountable not only to our own citizens, but to the conscience of the world.

We must also devote our common energies to economic development and to the cause of social justice. Benefits of the world's economy must be more fairly shared—but the responsibilities must be shared as well.

In many ways, economic issues will be our most important foreign policy concerns in the years ahead. We plan to give increased emphasis to those economic issues which most directly affect the developing countries—particularly trade and aid.

We have not moved far or fast enough. We have not spoken often enough or candidly enough with each other. We must take every opportunity to work with all nations on these fundamental issues, and we must find new ways to discuss them.

Trade policy will become more and more important, as your economies continue their transformation, with manufactured goods making up a larger and larger proportion of your production and exports.

I have fought hard to resist protectionism, and I will continue to do so. Within the Organization for Economic Cooperation and Development—OCCD, we have urged the healthier economies to grow faster, so as to expand markets for your exports. In the Multilateral Trade Negotiations, we seek to reduce barriers to those exports.

In return, we ask you to join with us in negotiating a reduction of tariff and nontariff barriers. The middle-income developing countries have a special responsibility to help widen world trade by opening their markets to exports from other developing and industrial countries.

Some of your economies are now large and dynamic enough to provide for both domestic consumption and exports at the same time. By giving priority to creating jobs, you can alleviate poverty while stimulating your economies.

The industrial countries should help to stimulate this growth. As one step to this end, we propose to create a foundation for technological collaboration, which will help to develop and share the skills needed for economic and social growth.

The challenge of economic development is to help the world's poor lift themselves out of misery. We need to assist governments which find themselves in financial crisis, when they are willing to take sound measures of self-help. And we need to support regional and sub-regional cooperation and integration through such organizations as the Caribbean Group for Cooperation in Economic Development which is meeting this week in Washington. The recent decision by several Andean countries to establish a balance of payments support fund is a welcome contribution to regional financial stability. The little-noticed increase in intra-regional trade credits and cooperation among central banks testifies to the growing maturity and integration of Latin America.

Our agenda for cooperation is, therefore, peace, human rights, and a just international economic system in this hemisphere and throughout the world.

We set for ourselves an ambitious program last year. Much has been accomplished, but much more remains to be done.

The O.A.S. can play an important role in addressing our common problems. It has become particularly effective in the areas of human rights and peace-keeping. It will become still more effective as its internal administrative and financial structure comes to reflect the greater equality in our relationships.

I believe that the mutual respect which characterized the negotiations, debate, and conclusion of the Panama Canal Treaties can become the basis for new relationships in the hemisphere and the world. With trust and cooperation even the most difficult and serious disputes can be settled.

The other nations in this hemisphere are increasingly important to my country and to the world.

I do not expect that our views will always coincide, but I know that we share the same basic values. Working together in a spirit of mutual respect and trust we can achieve our common goals: a more just economic system, enhanced human rights and dignity, and permanent peace.

SMALL BUSINESS ASPECTS OF HOUSE WAYS AND MEANS COMMITTEE TAX PROPOSAL

Mr. NELSON. Mr. President, today House Ways and Means Committee Chairman AL ULLMAN introduced a composite tax package for Committee consideration to break the logjam on 1978 tax legislation which has existed since April 21. As outlined in press reports, the Ullman-Jones-Conable bill is in the form of a compromise between the original administration proposals and the position of the House Ways and Means Committee at the conclusion of its extensive hearings.

SMALL BUSINESS PROVISIONS OF THE COMPROMISE BILL

Our information is that the bill (H.R. 13511) will contain three provisions of great importance to the 2 million small corporations and 12 million proprietorships and partnerships in this country:

First, permanent changes in the corporate tax rates which would constitute the most progressive tax structure since the corporate tax was first imposed in 1909;

Second, doubling of first year "bonus" depreciation for all firms; and

Third, a major reduction in capital gains taxation that can have major implications for investment in new and small ventures.

As chairman of the Senate Small Business Committee, I would like to report to the Senate on the significance of these three provisions to small business and the many consequent benefits to the general economy.

SUBSTANTIAL AND PERMANENT CORPORATE RATE REDUCTIONS

First, a progressive corporate rate structure. The corporate rate reductions for taxable income under $50,000 which were enacted in 1975 for stimulation purposes are about to expire at the end of 1978.

This bill proposes a permanent progressive structure of corporate income taxes as follows:

COMPARISON OF CORPORATE RATE SCHEDULE OF WAYS AND MEANS PROPOSAL WITH EXISTING LAW

[In percent]

Taxable income	Compromise bill	Existing law (1975–78)
0 to $25,000	17	20
$25,000 to $50,000	20	22
$50,000 to $75,000	30	48
$75,000 to $100,000	40	48
Over $100.000	46	48

This proposed five-step schedule would replace the current temporary three-step scale. In our view, it develops meaningful distinctions between new, small, family, medium-sized, and large established national and multinational corporations. Because it is more realistic and more equitable to treat these very different enterprises according to their varying circumstances, this sort of change should encourage the creation of many new businesses and impart increased financial strength to existing firms which form the backbone of their communities across the Nation.

Also, together with the 1975 rate reductions, this legislation will constitute the most significant tax relief for smaller and medium-sized businesses relative to big business since at least the 1930's. It will, therefore, promote competition and exert downward pressure on prices.

On the basis of extensive study of this area over the past 4 years (including 16 days of hearings and several computer studies), our committee is able to provide a series of comparisons between the administration's original proposal, the alternative developed by the Senate Small Business Committee—and introduced as S. 2669 on March 6, 1978—and the Ullman-Jones-Conable compromise bill.

A more complete comparison of the corporate rate schedules—of the various proposals and existing law follows:

COMPARISON OF CORPORATE RATE SCHEDULES OF NELSON, ULLMAN-JONES, AND ADMINISTRATION PROPOSALS WITH EXISTING LAW

[In percent]

Taxable income	Nelson bill	Ullman-Jones bill	Administration	Existing law (1975–78)	Permanent rates (pre-1975
$0 to $25,000	15	17	18	20	22
$25,000 to $50,000	20	20	20	22	48
$50,000 to $75,000	30	30	44	48	48
$75,000 to $100,000	30	40	44	48	48
$100,000 to $150,000	40	46	44	48	48
Over $150,000	45	46	44	48	48

Thus, the Ways and Means Committee compromise proposal closely parallels S. 2669 as a five-step schedule with similar rates in each bracket. The House measure differs from S. 2669 by extending its 40-percent rate up to $100,000, rather than $150.000 in the Senate bill.

A comparison of the effect of the various alternative proposals on the basis of tax savings per firm is as follows:

COMPARISON OF AVERAGE TAX SAVINGS PER FIRM UNDER ALTERNATIVE CORPORATE TAX REDUCTION PROPOSALS

[1974 basis]

Taxable income	Number of firms	Nelson bill (S. 2669)	Administration proposal	House compromise
Losses	(1)			
$0 to $25,000	$489,023	$420	$170	$270
$25,000 to $50,000	90,603	1,500	720	1,050
$50,000 to $75,000	34,687	3,400	1,500	2,900
$75,000 to $100,000	20,171	6,700	2,400	5,300
$100,000 to $500,000	56,482	14,600	7,000	9,300
$500,000 to $1,000,000	7,846	30,000	25,400	19,000
$1,000,000 to $10,000,000	7,109	81,600	94,000	53,200
More than $10,000,000	1,154	1,940,000	2,600,900	1,000,000

[1] Of the 1,650,000 conventional (nonsubchapter S) corporations, it is estimated that about half had no income or losses in 1974 and thus would not benefit under any proposal.

The House compromise bill would thus target almost 50 percent of the tax cuts to small- and medium-sized companies under $1 million in taxable income. This would be two and one-half times the share of relief which the administration's bill would have allocated to these companies. In my opinion, the tax system has needed reform for a long time. Small companies—the heart and soul of American free enterprise—have been treated unfairly under our tax laws because, as soon as they begin to grow, they are required to pay as high a percentage of their earnings in taxes as the largest companies.

The big corporations can raise capital by selling stocks, bonds, or other money market instruments. The smaller firm has only its own profits for capital formation.

We began to remedy this situation with the temporary 3-year stimulative tax cuts in 1975, but medium-sized companies received no relief then. In fact, they have not received any real tax relief since the thirties. This bill would begin to redress the balance.

The "revenue effects" of the three proposals; that is, first order revenue losses to the Treasury without consideration of offsets, because of economic activity are as follows:

Estimated revenue loss

S. 2669 (Nelson Bill) 15, 20, 30, 40, 45=$6.0 (1979), $8.2 (1980).

Administration, 18, 20, 44=$5.8 (1979), $8.3 (1980).

House Compromise, 17, 20, 30, 40, 46=$5.1 (1979), $5.5 (1980).

It should be noted that the Senate bill (S. 2669) and the administration bill, which propose virtually identical revenue figures, did so in the context of the original tax reduction package of $25 billion. The current target is in the neighborhood of $15 or $20 billion, and the House compromise proposal is scaled down accordingly.

IMPROVING THE RECOVERY OF INVESTED CAPITAL

Second, accelerated depreciation for all smaller businesses. Since 1975, our committee has been advocating simplified and accelerated depreciation for smaller business (see testimony on tax reform before Ways and Means Committee, House of Representatives, by Senator GAYLORD NELSON, July 31, 1975, CONGRESSIONAL RECORD, August 1, 1975, pp. 26885 et seq.)

On the Senate side, we developed another bill for this purpose, S. 2742, which attempts not only to accelerate depreciation for small business in this manner, but to do so by means of a sweeping simplification of the depreciation law and 100 pages of regulations. S. 2742 would permit equipment which is now written off over an average of 10½ years to be depreciated on a simple straight line basis in 3 years. (See CONGRESSIONAL RECORD, March 14, 1978, pp. 6804 et seq.)

The House compromise bill takes a different approach: It would increase the "bonus" or extra depreciation deduction during the first year that equipment is purchased from $2,000 to a maximum $5,000 for smaller firms only. It would do so by changing the limitations under section 179 of the Internal Revenue Code from 10 percent of the first $2,000 of equipment to 25 percent of the first $20,000 for business with less than $1 million in assets.

Both the House and Senate proposals respond to the testimony taken at our 1975 small business tax reform hearings that inflation drastically reduces the value of the dollars which businesses recover through depreciation, particularly over a prolonged period such as 10 years (which seems to be the average for all industry). At the same time, the cost of replacement equipment has been rising sharply because of the same inflationary forces. So accelerated depreciation would relieve this double squeeze on small business.

We will be glad to explore further whether we can blend the House and Senate proposals to achieve both simplification and accelerated depreciation, since capital recovery is also one of the two most complicated areas of the law.

REDUCING CAPITAL GAINS TAXES

Third, reduction of taxes on capital gains as a stimulus to investment. The House bill proposes that the rate of capital gains taxation be reduced from a maximum of 49.1 percent to a maximum of 35 percent for the wealthiest taxpayers.

The testimony before our committee has been that it often takes the most promising new business enterprise 2 or 3 years to make a profit, and it is often 5 to 8 years before it is large enough to sell its stock to the public. In theory, capital gains taxation can compensate an early investor for the delay in making a profit and for inflation which may be running at 5 percent per year during that period, as well as for the additional risk of an untried venture. It does this by deferring the tax until the gain is actually realized in cash, and then excluding one-half of the gains and taxing the remainder at the individual's marginal tax bracket.

The testimony of the American Electronics Association at the Senate Small Business Committee's hearings on capital formation on February 8, 1978, was that the greatest detriment to investment in new and small enterprise was the narrowing of the differential between the taxation of ordinary income and capital gains which took place in 1969 and 1976 ("Capital Formation—Part I", hearings before the Select Committee on Small Business, February 8 and 10, 1978).

The association's panel of expert witnesses pointed out that prior to 1969 the maximum rate on earned income was 91 percent and the capital gains rate was 25 percent. This provided a differential of 66 percent to compensate for the delays, inflation, and additional risk of investing in new and growth businesses. In 1978, the differential is between 50 percent for earned income and a maximum of 49.125 percent for capital gains income.

One statistic on this point is striking: In 1969, some 698 small companies (defined as worth less than $5 million) sold registered stock issues to the public, while in the 4 years between 1974 and 1977 a total of only 61 were able to do so.

It is only commonsense that an investor with hard-earned cash is going to take a close look at Government securities, certificates of deposit, or high-grade corporate bonds, which are quite safe, and which carry a rate of return of 8 or 9 percent every year. An investor must ask: Why should that money be invested in a risky, small business where the rate of return may be zero for sev-

eral years?—especially if the difference in tax rates is less than 1 percent lower on the ultimate profits—if there are any?

And yet, the formation of new companies is absolutely vital to the economy, our defense and disarmament posture, and the social structure of this country.

The capital gains mechanism can thus help us solve many national problems, and some change to the present law is in order, as our committee's hearings make clear. The administration has also indicated its willingness to accept modifications of capital gains to assist homeowners and new ventures.

BENEFITS TO THE ECONOMY

These three provisions of the House bill would help the economy enormously, because they would strengthen small business which is a major segment of that economy.

According to the definitions of the Small Business Administration, 14 million U.S. small businesses now account for more than one-half of all private jobs, 48 percent of the business output, 43 percent of the GNP, and more than one-half of all inventions and innovations.

New and growing companies contribute disproportionately to economic strength through the generation of new jobs and new taxes. Their competition and new products and services help hold down prices. Their concern for employees and consumers reinforces community stability. Export sales of innovative enterprises are a mainstay of our balance of payments. For example, in the past few years, we have seen a classic small business development of this kind—the creation of whole new billion-dollar industries such as minicomputers, hand-held calculators, and miniature electronics for vehicles, telecommunications, and data processing. This is because entrepreneurs in this country were willing to take the risks of starting new companies and venture capital specialists were willing to invest some money in them at the beginning when the uncertainties were greatest.

SMALL BUSINESS AND JOB CREATION

The influence of small and growing business on employment is striking. The National Alliance for Business, for example, has found that companies with less than 100 workers (which have about 52 percent existing employment) account for almost 70 percent of the new jobs. About 77 percent of new employment is created in companies of less than 500 employees. These findings confirm the work of the House Small Business Committee that between 1969–76 the 1,000 largest U.S. corporations generated less than 75,000 net new jobs out of a total of 14,039,000 in the economy—only about one-half of 1 percent of the total.

A recent study by the World Bank indicates that this institution plans to increase its lending to small enterprise from $50 to $300 million (in constant dollars) between fiscal years 1977–81, because of the ability of smaller businesses to generate employment. ("Employment and Development of Small Enterprises," Sector Policy Paper, World Bank, February 1978.)

The increase in employment, in turn, has startling effects in reducing Government spending. For each 1-percent reduction in unemployment, there is a $16 billion reduction of the Federal deficit, according to congressional budget experts. Thus, a dynamic small business community, as the most powerful generator of new jobs in the economy, can help to relieve fiscal pressures on the Government.

Experience has shown that stimulating small business activity will, therefore, bring major benefits to the general economy.

PROBLEM AREAS TO BE ADDRESSED

There may be certain obstacles to the approval of legislation of this sort which our committee would like to identify, discuss, and hopefully resolve.

For example, the Treasury Department expressed opposition to a progressive rate schedule in a letter of March 31, 1978, in connection with our committee's hearings on the 1978 tax program conducted by the Senator from Colorado (Mr. HASKELL) and the Senator from Maine (Mr. HATHAWAY). (Hearings on Small Business Aspects of the 1978 Tax Program, before the Select Committee on Small Business, February 14, 20, and 28, 1978.)

The Treasury was concerned that businesses "can be divided and combined in response to tax stimuli," so that the Treasury would have a greater administrative burden in identifying identical brother/sister corporations which might be created with a primary motive of taking advantage of the lower tax rates.

In response, there is already a provision in the Internal Revenue Code, section 1563(a), that prevents multiple benefits from going to corporations where five or less shareholders own identical interests of 50 percent or more of the stock.

We entirely agree that any abuse of the law should be discouraged. In this connection we would be glad to work with the Treasury, the House, and all concerned to strengthen the applicable provisions of the tax law, so that the interests of the many legitimate businesses in raising and retaining capital are not stymied by the possibilities that a few might attempt to abuse the system.

Another Treasury argument was that a progressive rate would allow owners "to accumulate within their corporations earnings which are subject to lower rates than are applicable to other individuals." However, Treasury has pointed out on other occasions that money so accumulated in a corporation is subject to two separate taxes—the corporate tax at the time that it is retained, and the full individual income tax at the time it is paid out in salary or dividends. This has been referred to as the "double taxation" of corporate income.

It is inherently doubtful that businessmen wishing to consume their profits would accumulate them in the corporation when the primary consequence is that they pay a double tax on them.

Legitimate businessmen make the decision to hold funds in corporations for purposes of building up the business, for adding employees, purchasing equipment, for working capital, and all of the range of economic activities which we feel is so desirable.

Thus, a high tax on retained corporate earnings—and it now reaches 48 percent at $50,000—strikes at the heart of smaller business ability to retain the capital which it has earned in the marketplace for dedication to growth in good times and avoiding bankruptcy in bad times.

If a specific pattern of abuses is possible in this regard, we would likewise be willing to cooperate in strengthening the aspects of the tax system which are necessary to attack them.

As to depreciation, the House proposal of an additional $3,000 deduction in the first year will be of substantial benefit to the smaller firms; but will not help the medium-sized, growth-oriented, and independent companies very much. The maximum added tax reduction benefit for firms in the 40-percent bracket is 0.40 times $3,000 or $1,200. Further, the House provision would not simplify the present tangled law and regulations in this area.

The problems of simplifying depreciation have been referred to above. The presence of the investment credit makes it very difficult to reform the system in a way which will produce both simplicity and financial advantage for the smallest firms and consistent with revenue constraints. However, we will continue to work with the other committees of Congress which are concerned and the Treasury Department toward the goal of both simplifying and accelerating capital recovery for smaller business enterprises.

SUMMARY

The Senate Small Business Committee has long contended tax changes that treat small business more fairly will liberate enormous energies for the benefit of the entire economy—not only business owners and employees, but workers and consumers, too.

To these ends, our committee conducted extensive hearings in each of the past 4 years on small business tax reform, and a series of studies were performed for us by experts in and outside of Government.

In October 1977, we presented a thorough memorandum to President Carter and Vice President MONDALE in behalf of 30 small business organizations with 750,000 members, recommending permanent rate cuts at the $25,000, $50,000, $75,000, and $100,000 levels so the business tax system could become more progressive along the lines of the individual tax rate structure. We also suggested depreciation and accounting reform, and consideration of new and small business in any capital gain legislation recommended by the administration. (See "Shortage of Capital Causing Flight of U.S. Technology to Foreign Countries—Overhaul of Tax and Capital Formation Policies Urgently Needed for Small Business," remarks to the Senate by Senator GAYLORD NELSON, CONGRESSIONAL RECORD, January 4, 1978, pp. 39592 et seq.)

The House Ways and Means Committee proposal (H.R. 13511) containing the three tax changes we have described is a historic milestone on the road to a fairer and progressive business tax system for new and small business, and will add measurable dynamism to our free private enterprise economy.

We commend the committee on this action, and hope that legislation containing provisions along these lines can make speedy progress through both Houses of Congress and be enacted into law during 1978.

RECLAMATION LAW LEGISLATION

● Mr. HASKELL. Mr. President, as those of us from the West know, the limitation of the number of acres that any one landowner can irrigate through a Federal reclamation project is a highly contentious issue. In view of the massive Federal investment in Western irrigation projects, it is inevitable that legal constraints will be necessary to insure that the benefits of the projects are widely distributed to deserving farmers. As one who has fought in the Congress for funding for Colorado projects, I recognize that the American public will demand that the benefits of these projects should go to family farmers, rather than corporate farmers.

Fortunately, there is a growing consensus in the Congress that the current reclamation law, which limits beneficial ownership to 160 acres per person, must be modernized. Under current law no provisions are made for the differences in soil quality and growing conditions faced by American farmers, except in a limited number of instances. Yet, the row crop farming in California is significantly different from the crop production on the Colorado high plains.

As a result of my concern, more than a year ago I joined in the California hearings on the problems of abuse of the present 160-acre limitation. I became convinced that either through evasion, loopholes, or nonenforcement of the law, examples of abuse could be found that damage the credibility of the entire reclamation program and belie the significant benefits that have accrued to the family farmer in the Western States served by this program.

The future of the program depends upon the sound and fair application of the law. I therefore joined Senator NELSON in sponsoring a bill, prepared by the staff of the Small Business Committee, which I viewed as a working draft aimed at generating serious review of the issues and modernization of the 1902 reclamation law. This bill raised the acreage limitation from 160 to 320 acres and provided for higher acreage where soil quality and growing conditions demanded it. It was designed to insure that the benefits of reclamation went to the farmer who actually got his hands dirty working the land.

This legislation was introduced well in advance of the issuance of Interior Department regulations in August 1977. These overaggressive regulations brought new and changing elements into the discussion including the historically complex issue of whether private water, when commingled with project water, should be subject to acreage limitations, because of benefits from a Federal storage or distribution system.

More recently, comprehensive hearings have been held by the Senate Energy and Natural Resources Committee and additional legislation on this subject has been introduced. After reviewing these hearings and my continuing dialogue with concerned Coloradans, I have withdrawn my cosponsorship of S. 1812 as I plan to support legislation that embodies higher acreage limitations, assures more even-handed application of the law and forecloses evasion by large corporate landholders.

While I will support specific changes embodied in new legislation that has been introduced, I remain committed to the intent of the bill I introduced last year that stated:

A populous, prosperous rural society is essential to the preservation of the national character, and rural prosperity must be based on a pattern of broadly distributed ownership and operation of productive agricultural land.●

UNITED NATIONS RESOLUTION ON CYPRUS

● Mr. SARBANES. Mr. President, since the Turkish invasion and occupation of Cyprus in the summer of 1974, the United Nations has spoken a number of times on this tragic issue. Resolutions of both the Security Council and the General Assembly have been directed to restoring the sovereignty, independence, and territorial integrity of the Republic of Cyprus; the removal of all foreign military forces from the country; and the return of the refugees to their homes.

Included below are the resolutions adopted by the United Nations Security Council and General Assembly on the Cyprus problem since the Turkish invasion of Cyprus in the summer of 1974. These resolutions set out the repeated efforts which the world organization has made to rectify the tragic situation which continues to exist and to bring justice to Cyprus.

I ask that they be printed in the RECORD.

The resolutions follow:

RESOLUTIONS ADOPTED BY UNITED NATIONS SECURITY COUNCIL AND GENERAL ASSEMBLY ON THE CYPRUS PROBLEM AFTER THE TURKISH INVASION OF CYPRUS ON JULY 20, 1974

RESOLUTIONS BY THE SECURITY COUNCIL

Resolution 353 (1974): Adopted by the Security Council at its 1871st meeting on July 20, 1974:

The Security Council:

Having considered the report of the Secretary-General at its 1779th meeting about the recent developments in Cyprus,

Having heard the statement made by the President of the Republic of Cyprus and the statements by the representatives of Cyprus, Turkey, Greece and other member countries,

Having considered at its present meeting further developments in the island,

Deeply deploring the outbreak of violence and continuing bloodshed,

Gravely concerned about the situation which led to a serious threat to international peace and security, and which created a most explosive situation in the whole Eastern Mediterranean area,

Equally concerned about the necessity to restore the constitutional structure of the Republic of Cyprus, established and guaranteed by international agreement,

Recalling Security Council resolution 186 (1964) of 4 March 1964 and subsequent resolutions of the Security Council on this matter,

Conscious of the primary responsibility for the maintenance of international peace and security in accordance with Article 24 of the Charter of the United Nations.

1. Calls upon all parties to respect the sovereignty, independence and territorial integrity of Cyprus;

2. Calls upon all parties to the present fighting as a first step to cease all firing and requests all States to exercise the utmost restraint and to refrain from any action which might further aggravate the situation;

3. Demands an immediate end for foreign military intervention in the Republic of Cyprus that is in contravention of operative paragraph 1;

4. Requests the withdrawal without delay from the Republic of Cyprus of foreign military personnel present otherwise than under the authority of international agreements including those whose withdrawal was requested by the President of the Republic of Cyprus, Archbishop Makarios, in his letter of 2 July 1974;

5. Calls on Greece, Turkey and the United Kingdom of Great Britain and Northern Ireland to enter into negotiations without delay for the restoration of peace in the area and constitutional government in Cyprus and to keep the Secretary-General informed;

6. Calls on all parties to cooperate fully with UNFICYP to enable it to carry out its mandate;

7. Decides to keep the situation under constant review and asks the Secretary-General to report as appropriate with a view to adopting further measures in order to ensure that peaceful conditions are restored as soon as possible.

Resolution 354 (1974): Adopted by the Security-Council at its 1783rd meeting on July 23, 1974:

The Security Council:

Reaffirming the provisions of its resolution 353 (1974) of 20 July 1974,

Demands that all parties to the present fighting comply immediately with paragraph 2 of Security Council resolution 353 (1974) calling for an immediate cessation of all firing in the area and requesting all States to exercise the utmost restraint and to refrain from any action which might further aggravate the situation.

Resolution 355 (1974): Adopted by the Security-Council at its 1789th meeting on August 1, 1974:

The Security Council:

Recalling its resolutions 186 (1964) of March 4, 1964, 353 (1974) of 20 July 1974 and 354 (1974) of 23 July 1974.

Noting that all States have declared their respect for the sovereignty, independence and territorial integrity of Cyprus,

Taking note of the Secretary-General's statement made at the 1788th meeting of the Security-Council,

Requests the Secretary-General to take appropriate action in the light of his statement and to present a full report to the Council, taking into account that the cease-fire will be the first step in the full implementation of Security-Council resolution 353 (1974).

Resolution 357 (1974): Adopted by the Security Council at its 1792nd meeting on 14 August 1974:

The Security Council:

Recalling its resolutions 353 (1974) of 20

July 1974, 354 (1974) of 23 July 1974, and 355 (1974) of 1 August 1974,

Deeply deploring the resumption of fighting in Cyprus contrary to the provisions of its resolution 353 (1974):

1. Reaffirms its resolution 353 (1974) in all its provisions and calls upon the parties concerned to implement those provisions without delay;

2. Demands that all parties to the present fighting cease all firing and military action forthwith;

3. Calls for the resumption of negotiations without delay for the restoration of peace in the area and constitutional government in Cyprus in accordance with resolution 353 (1974);

4. Decides to remain seized of the situation and on instant call to meet as necessary to consider what more effective measures may be required if the cease-fire is not respected.

Resolution 358 (1974): Adopted by the Security Council at its 1793rd meeting on 15 August 1974:

The Security Council:

Deeply concerned about the continuation of violence and bloodshed in Cyprus,

Deeply deploring the non-compliance with its resolution 357 (1974):

1. Recalls its resolutions 353 (1974), 354 (1974), 355 (1974) and 357 (1974);

2. Insists on the full implementation of the above resolutions by all parties with the immediate and strict observance of the cease-fire.

Resolution 359 (1974): Adopted by the Security Council at its 1793rd Meeting on 15 August 1974:

The Security Council:

Noting with concern from the Secretary-General's reports on developments in Cyprus, in particular S. 11353 Add. 24 and 25, that casualties are increasing among the personnel of the United Nations Peace-keeping Force in Cyprus as a direct result of the military action which is still continuing in Cyprus,

Recalling that the United Nations Peace-keeping Force in Cyprus was stationed in Cyprus with the full consent of the Governments of Cyprus, Turkey and Greece.

Bearing in mind that the Secretary-General was requested by the Security Council in resolution 355 (1974) of 1 August 1974 to take appropriate action in the light of his statement made at the 1788th meeting of the Council in which he dealt with the role, functions and strength of the United Nations Peace-keeping Force in Cyprus and related issues arising out of the most recent political developemnt in respect to Cyprus:

1. Deeply deplores the fact that members of the United Nations Peace-keeping Force in Cyprus have been killed and wounded;

2. Demands that all parties concerned fully respect the international status of the United Nations Peace-keeping Force in Cyprus and refrain from any action which might endanger the lives and safety of its members;

3. Urges the parties concerned to demonstrate in a firm, clear and unequivocal manner, their willingness to fulfill the commitments they have entered into in this regard;

4. Demands further that all parties cooperate with the United Nations Peace-keeping Force in Cyprus in carrying out its tasks including humanitarian functions, in all areas of Cyprus and in regard to all sections of the population on Cyprus;

5. Emphasizes the fundamental principle that the status and safety of the members of the United Nations Peace-keeping Force in Cyprus, and for that matter of any United Nations Peace-keeping force, must be respected by the parties under all circumstances.

Resolution 360 (1974): Adopted by the Security Council at its 1794th meeting on 16 August 1974:

The Security Council:

Recalling its resolutions 353 (1974), 354 (1974), 355 (1974), 357 (1974) and 358 (1974),

Noting that all States have declared their respect for the sovereignty, independence and territorial integrity of the Republic of Cyprus,

Gravely concerned at the deterioration of the situation in Cyprus, resulting from the further military operations, which constituted a most serious threat to peace and security in the Eastern Mediterranean area,

1. Records its formal disapproval of the unilateral military actions undertaken against the Republic of Cyprus;

2. Urges the parties to comply with all the provisions of previous resolutions of the Security Council, including those concerning the withdrawal without delay from the Republic of Cyprus of foreign military personnel present otherwise than under the authority of international agreements;

3. Urges the parties to resume without delay, in an atmosphere of constructive cooperation, the negotiations called for in resolution 353 (1974) whose outcome should not be impeded or prejudged by the acquisition of advantages resulting from military operations;

4. Requests the Secretary-General to report to it as necessary with a view to the possible adoption of further measures designed to promote the restoration of peaceful conditions;

5. Decides to remain permanently seized of the question and to meet at any time to consider measures which may be required in the light of the developing situation.

Resolution 361 (1974): Adopted by the Security Council at its 1795th meeting, on August 30, 1974:

The Security Council:

Conscious of its special responsibilities under the United Nations Charter,

Recalling its resolutions 186 (1964), 353 (1974), 354 (1974), 355 (1974), 357 (1974), 358 (1974), 359 (1974) and 360 (1974),

Noting that a large number of people on the island have been displaced, and are in dire need of humanitarian assistance,

Mindful of the fact that it is one of the foremost purposes of the United Nations to lend humanitarian assistance in situations such as the one currently prevailing in Cyprus,

Noting also that the United Nations High Commissioner for Refugees has already been aprointed as Co-ordinator of United Nations Humanitarian Assistance for Cyprus with the task of coordinating relief assistance to be provided by United Nations programmes and agencies and from other sources,

Having considered the report of the Secretary-General contained in document S 11473,

1. Expresses its appreciation to the Secretary-General for the part he has played in bringing about talks between the leaders of the two communities in Cyprus;

2. Warmly welcomes this development and calls upon those concerned in them to pursue the talks actively with the help of the Secretary-General and in the interests of the Cypriot people as a whole;

3. Calls upon all parties to do everything in their power to alleviate human suffering, to ensure the respect of fundamental human rights for every person and to refrain from all action likely to aggravate the situation;

4. Expresses its grave concern at the plight of the refugees and other persons displaced as a result of the situation in Cyprus and urges the parties concerned, in conjunction with the Secretary-General, to search for peaceful solutions of the problems of refugees, and take appropriate measures to provide for their relief and welfare and to permit persons who wish to do so to return to their homes in safety;

5. Requests the Secretary-General to submit at the earliest possible opportunity a full report on the situation of the refugees and other persons referred to in paragraph 4 of this resolution and decides to keep that situation under constant review;

6. Further requests the Secretary-General to continue to provide emergency United Nations humanitarian assistance to all parts of the population of the island in need of such assistance;

7. Calls upon all parties, as a demonstration of good faith, to take, both individually and in co-operation with each other, all steps which may promote comprehensive and successful negotiations;

8. Reiterates its call to all parties to cooperate fully with UNFICYP in carrying out its task;

9. Expresses the conviction that the speedy implementation of the provisions of this resolution will assist the achievement of a satisfactory settlement in Cyprus.

Resolution 364 (1974): Adopted by the Security Council at its 1810th meeting, on 13 December 1974:

The Security Council:

Noting from the report of the Secretary-General of 6 December 1974 (S 11568) that in existing circumstances the presence of the United Nations Peace-keeping Force in Cyprus is still needed to perform the tasks it is currently undertaking if the cease-fire is to be maintained in the island and the search for a peaceful settlement facilitated.

Noting from the report the conditions prevailing in the island,

Noting also the statement by the Secretary-General contained in paragraph 81 of this report that the parties concerned had signified their concurrence in his recommendation that the Security Council extend the stationing of the United Nations Peacekeeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to keep the Force in Cyprus beyond 15 December 1974,

Noting also the letter dated 7 November 1974 (S 11557) from the Secretary-General to the President of the Security Council together with the text of resolution 3212 (XXIX) entitled "Question of Cyprus" adopted unanimously by the General Assembly at its 2275th plenary meeting on 1 November 1974,

Noting further that General Assembly resolution 3212 (XXIX) enunciates certain principles intended to facilitate a solution of the current problems of Cyprus by peaceful means, in accordance with the purposes and principles of the United Nations,

1. Reaffirms its resolutions 186 (1964) of 4 March, 187 (1964) of 13 March, 192 (1964) of 20 June, 193 (1964) of 9 August, 194 (1964) of 25 September and 198 (1964) of 18 December 1964, 201 (1965) of 19 March, 206 (1965) of 15 June, 207 (1965) of 10 August and 219 (1965) of 17 December 1965, 220 (1966) of 16 March, 222 (1966) of 16 June and 231 (1966) of 15 December 1966, 238 (1967) of 19 June, and 244 (1967) of 22 December 1967, 247 (1968) of 18 March, 254 (1968) of 18 June and 261 (1968) of 10 December 1968, 266 (1969) of 10 June and 274 (1969) of 11 December 1969, 281 (1970) of 9 June and 291 of 10 December 1970, 293 (1971) of 26 May and 305 (1971) of 13 December 1971, 315 (1972) of 15 June and 324 (1972) of 12 December 1972, 334 (1973) of 15 June and 343 (1973) of 14 December 1973), 349 (1974) of 29 May 1974, and the consensus expressed by the President at the 1143rd meeting on 11 August 1964 and at the 1383rd meeting on 25 November 1967;

2. Reaffirms also its resolution 353 (1974) of 20 July, 354 (1974) of 23 July, 355 (1974) of 1 August, 357 (1974) of 14 August, 358 (1974) of 15 August, 359 (1974) of 15 Au-

gust, 360 (1974) of 16 August and 361 (1974) of 30 August;

3. Urges the parties concerned to act with the utmost restraint and to continue and accelerate determined co-operative efforts to achieve the objectives of the Security Council;

4. Extends once more the stationing in Cyprus of the United Nations Peace-Keeping Force, established under Security Council resolution 186 (1964) for a further period ending 15 June 1975 in the expectation that by then sufficient progress towards a final solution will make possible a withdrawal or substantial reduction of the Force;

5. Appeals again to all parties concerned to extend their full co-operation to the United Nations Peace-Keeping Force in its continuing performance of its duties.

Resolution 365 (1974): Adopted by the Security Council at its 1810th Meeting on 13 December 1974:

The Security Council:

Having received resolution 3212 (XXIX) of the General Assembly on the "Question of Cyprus" (S 11557),

Noting with satisfaction that the above resolution was adopted unanimously,

1. Endorses General Assembly resolution 3212 (XXIX) and urges the parties concerned to implement it as soon as possible;

2. Requests the Secretary-General to report on the progress of implementation of the present resolution.

Resolution 367 (1975): Adopted by the Security Council without a vote by consensus on 12 March 1975:

The Security Council:

Having considered the situation in Cyprus in response to the complaint submitted by the Government of the Republic of Cyprus,

Having heard the report of the Secretary-General and the statements made by the parties concerned,

Deeply concerned at the continuation of the crisis in Cyprus,

Recalling its previous resolutions, in particular resolution 365 (1974) of 13 December 1974, by which it endorsed General Assembly resolution 3212 (XXIX) adopted unanimously on 1 November 1974,

Noting the absence of progress towards the implementation of its resolutions,

1. Calls once more on all states to respect the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus and urgently requests them, as well as the parties concerned, to refrain from any action which might prejudice that sovereignty, independence, territorial integrity and non-alignment, as well as from any attempt at partition of the island or its unification with any other country,

2. Regrets the unilateral decision of 13 February 1975, declaring that a part of the Republic of Cyprus would become a federated Turkish state as, *inter alia*, tending to compromise the continuation of negotiations between the representatives of the two communities on an equal footing, the objective of which must continue to be to reach freely a solution providing for a political settlement and the establishment of a mutually acceptable constitutional arrangement, and expresses its concern over all unilateral actions by the parties which have compromised or may compromise the implementation of the relevant United Nations resolutions,

3. Affirms that the decision referred to in paragraph 2 above does not prejudge the final political settlement of the problem of Cyprus and takes note of the declaration that this was not its intention,

4. Calls for the urgent and effective implementation of all parts and provisions of General Assembly resolution 3212 (XXIX), endorsed by Security Council resolution 365 (1974),

5. Considers that new efforts should be undertaken to assist the resumption of the negotiations referred to in paragraph 4 of Generaly Assembly resolution 3212 (XXIX) between the representatives of the two communities,

6. Requests the Secretary-General accordingly to undertake a new mission of good offices and to that end to convene the parties under new agreed procedures and place himself personally at their disposal, so that the resumption, the intensification and the progress of comprehensive negotiations, carried out in a reciprocal spirit of understanding and of moderation under his personal auspices and with his direction as appropriate, might thereby be facilitated,

7. Calls on the representatives of the two communities to cooperate closely with the Secretary-General in the discharge of this new mission of good offices and asks them to accord personally a high priority to their negotiations,

8. Calls on all the parties concerned to refrain from any action which might jeopardise the negotiations between the representatives of the two communities and to take steps which will facilitate the creation of the climate necessary for the success of those negotiations,

9. Requests the Secretary-General to keep the Security Council informed of the progress made towards the implementation of resolution 365 (1974) and of this resolution and to report to it whenever he considers it appropriate and, in any case, before 15 June 1975,

10. Decides to remain actively seized of the matter.

Resolution 370 (1975): Adopted by the Security Council on 13 June 1975 by 14 votes in favour and one (China) not participating:

The Security Council:

Noting from the report of the Secretary-General of 9 June 1975 (S 11717) that in existing circumstances the presence of the United Nations Peace-keeping Force in Cyprus is still needed to perform the tasks it is currently undertaking if the cease-fire is to be maintained in the Island and the search for a peaceful settlement facilitated.

Noting from the report the conditions prevailing in the Island,

Noting further that, in paragraphs 67 and 68 of his report, the Secretary-General has expressed the view, in connection with the talks in Vienna between the representatives of the two communities held pursuant to Resolution 367 (1975) of 12 March 1975, that the negotiating process should be maintained and, if possible, accelerated and that its success would require from all parties determination, understanding and a willingness to make reciprocal gestures,

Noting also the statement by the Secretary-General contained in paragraph 69 of his report that the parties concerned had signified their concurrence in his recommendations that the Security Council extend the stationing of the United Nations Peacekeeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the Island it is necessary to keep the Force in Cyprus beyond 15 June 1975,

1. Reaffirms the provisions of Resolution 186 (1964) of 4 March 1964, as well as subsequent Resolutions and decisions on the establishment and maintenance of UNFICYP and on other aspects of the situation in Cyprus;

2. Reaffirms once again its Resolution 365 (1974) of 13 December 1974, by which it endorsed General Assembly Resolution 3212 (XXIX), adopted unanimously on 1 November, 1974, and calls for their urgent and effective implementation and that of its Resolution 367 (1975);

3. Urges the parties concerned to act with the utmost restraint and to continue and accelerate determined co-operative efforts to achieve the objectives of the Security Council;

4. Extends once more the stationing in Cyprus of the United Nations Peace-keeping Force, established under Security Council Resolution 186 (1964), for a further period ending 15 December 1975, in the expectation that by then sufficient progress towards a final solution will make possible a withdrawal or substantial reduction of the Force;

5. Appeals again to all parties concerned to extend their full co-operation to the United Nations Peace-keeping Force in its continuing performance of its duties;

6. Requests the Secretary-General to continue the mission of good offices entrusted to him by paragraph 6 of resolution 367 (1975) to keep the Security Council informed of the progress made and to submit an interim report by 15 September 1975 and a definite report not later than 15 December, 1975.

Resolution 383 (1975): Adopted by Security Council on 13 December 1975:

The Security Council:

Noting from the report of the Secretary-General of 8 December 1975 (S 11900 and ADD 1) that in existing circumstances the presence of the United Nations Peace-keeping Force in Cyprus is still needed not only to maintain the cease-fire but also to facilitate the continued search for a peaceful settlement,

Noting from the report the conditions prevailing in the Island,

Noting further that, para. 68 of his report, the Secretary-General has expressed the view that in the present circumstances the best available means of making progress towards a settlement is through continued talks between the representatives of the two communities and that such talks can only be fruitful if the interlocutors are ready and authorized to engage in meaningful negotiations on all essential aspects of a settlement of the Cyprus problem,

Noting also the concurrence of the parties concerned in the recommendation by the Secretary-General that the Security Council extend the stationing of the United Nations Peace-keeping force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the Island it is necessary to keep the Force in Cyprus beyond 15 December 1975,

Noting that General Assembly resolution 3395 of 20 November, 1975 reaffirmed the urgent need for continued efforts for the effective implementation in all its parts of General Assembly resolution 3212 of 1 November 1974 which was endorsed by the Security Council in its resolution 365 (1974) of 13 December 1974,

1. Reaffirms the provisions of resolution 186 (1964) of 4 March 1964, as well as subsequent resolutions and decisions on the establishment and maintenance of the United Nations Peace-keeping Force in Cyprus and on other aspects of the situation in Cyprus,

2. Reaffirms its resolutions 365 (1974) of 13 December 1974 and 367 (1975) of 12 March 1975 and calls for their urgent and effective implementation,

3. Urges the parties concerned to act with the utmost restraint and to continue and accelerate determined co-operative efforts to achieve the objectives of the Security Council,

4. Extends once more the stationing in Cyprus of the United Nations Peace-keeping Force, established under Security Council resolution 186 (1964) for a further period ending 15 June 1976 in the expectation that by then sufficient progress toward a final solution will make possible a withdrawal or substantial reduction of the Force,

5. Appeals again to all parties concerned to extend their full co-operation to the United

Nations Peace-keeping Force in its continuing performance of its duties,

6. Requests the Secretary-General to continue the mission of good offices entrusted to him by para. 6 of resolution 367 (1975), to keep the Security Council informed of the progress made and to submit a report not later than 31 March 1976.

Resolution 391 (1976): Adopted by the Security Council at its 1927th meeting, on 15 June 1976:

The Security Council:

Noting from the report of the Secretary-General of 5 June 1976 (S 12093) that in existing circumstances the presence of the United Nations Peace-keeping Force in Cyprus is essential not only to help maintain quiet in the island but also to facilitate the continued search for a peaceful settlement,

Noting from the report the conditions prevailing in the island,

Noting also from the report that the freedom of movement of the United Nations Peace-keeping Force in Cyprus and its civil police (UNCIVPOL) is still restricted in the north of the island, that progress is being made in discussions regarding the stationing, deployment and functioning of the United Nations Peace-keeping Force in Cyprus and expressing the hope that those discussions will lead speedily to the elimination of all existing difficulties,

Noting further that, in paragraph 70 of his report, the Secretary-General expresses the view that the best hope of achieving a just and lasting settlement of the Cyprus problem lies in negotiations between the representatives of the two communities and that the usefulness of those negotiations depends upon the willingness of all parties concerned to show the necessary flexibility, taking into account not only their own interests but also the legitimate aspirations and requirements of the opposing side,

Expressing its concern at actions which increase tension between the two communities and tend to affect adversely the efforts toward a just and lasting peace in Cyprus,

Emphasizing the need for the parties concerned to adhere to the agreements reached at all previous rounds of the talks held under the auspices of the Secretary-General and expressing the hope that future talks will be meaningful and productive,

Noting also the concurrence of the parties concerned in the recommendation by the Secretary-General that the Security Council extend the stationing of the United Nations Peace-keeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to keep the Force in Cyprus beyond 15 June 1976,

1. Reaffirms the provisions of resolution 186 (1964) of 4 March 1964, as well as subsequent resolutions and decisions on the establishment and maintenance of the United Nations Peacekeeping Force in Cyprus and other aspects of the situation in Cyprus;

2. Reaffirms once again its resolution 365 (1974) of 13 December 1974, by which it endorsed General Assembly resolution 3212 (XXIX), adopted unanimously on 1 November 1974, and calls once again for their urgent and effective implementation and that of its resolution 367 (1975);

3. Urges the parties concerned to act with the utmost restraint to refrain from any unilateral or other action likely to affect adversely the prospects of negotiations and to continue and accelerate determined cooperative efforts to achieve the objectives of the Security Council;

4. Extends once more the stationing in Cyprus of the United Nations Peace-keeping Force, established under Security Council resolution 186 (1964), for a further period ending 15 December 1976, in the expectation that by then sufficient progress towards a final solution will make possible a withdrawal or substantial reduction of the Force;

5. Appeals again to all parties concerned to extend their fullest co-operation so as to enable the United Nations Peace-keeping Force to perform its duties effectively;

6. Requests the Secretary-General to continue the mission of good offices entrusted to him by paragraph 6 of resolution 367 (1975), to keep the Security Council informed of the progress made and to submit a report on the implementation of this resolution by 30 October 1976.

Resolution 401(1976): Adopted by the Security Council on the 14th December 1976:

The Security Council:

Noting from the report of the Secretary-General of 9 December 1976 (S 12253) that in existing circumstances the presence of the United Nations Peace-Keeping Force in Cyprus is essential not only to help maintain quiet in the island but also to facilitate the continued search for a peaceful settlement,

Noting from the report the conditions prevailing in the island,

Noting also from the report that the freedom of movement of the United Nations Peace-Keeping Force in Cyprus and its civil police is still restricted in the North of the island, that further progress is being made in discussions regarding the stationing, deployment and functioning of the United Nations Peace-Keeping Force in Cyprus, and expressing the hope that ways will be found to surmount the remaining obstacles.

Noting further that the Secretary-General expresses the view that the best hope of achieving a just and lasting settlement of the Cyprus problem lies in negotiations between the representatives of the two communities and that the usefulness of those negotiations depends upon the willingness of all parties concerned to show the necessary flexibility, taking into account not only their own interests but also the legitimate aspirations and requirements of the opposing side,

Expressing its concern at actions which increase tension between the two communities and tend to affect adversely the efforts towards a just and lasting peace in Cyprus.

Emphasizing the need for the parties concerned to adhere to the agreements reached at all previous rounds of the talks held under the auspices of the Secretary-General and expressing the hope that future talks will be meaningful and productive,

Noting also the concurrence of the parties concerned in the recommendation by the Secretary-General that the Security Council extend the stationing of the United Nations Peace-Keeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island, it is necesasry to keep the Force in Cyprus beyond 15 December 1976.

1. Reaffirms the provisions of resolution 186 of 4 March 1964, as well as subsequent resolutions and decisions on the establishment and maintenance of the United Nations Peacekeeping Force in Cyprus and other aspects of the situation in Cyprus;

2. Reaffirms once again its resolution 365 of 13 December 1974, by which it endorsed General Assembly resolution 3212 (XXIX), adopted unanimously on 1 November 1974, and calls once again for their urgent and effective implementation and that of its resolution 367 of 12 March 1975;

3. Urges the parties concerned to act with the utmost restraint to refrain from any unilateral or other action likely to affect adversely the prospects of negotiations for a just and peaceful solution and to continue and accelerate determined cooperative efforts to achieve the objectives of the Security Council;

4. Extends once more the stationing in Cyprus of the United Nations Peace-Keeping Force, established under Security Council resolution 186 (1964), for a further period ending 15 June 1977, in the expectation that by then sufficient progress towards a final solution will make possible a withdrawal or substantial reduction of the Force;

5. Appeals again to all parties concerned to extend their fullest cooperation so as to enable the United Nations Peace-Keeping Force to perform its duties effectively;

6. Requests the Secretary-General to continue the mission of good offices entrusted to him by paragraph 367 (1975), to keep the Security Council informed of the progress made and to submit a report on the implementation of this resolution by 30 April 1977.

Resolution 410 (1977): Adopted by the Security Council on the 15th June, 1977:

The Security Council:

Noting from the report of the Secretary-General of 7 June 1977 (S 12342) that in existing circumstances the presence of the United Nations Peace-keeping Force in Cyprus is essential not only to help maintain quiet in the island but also to facilitate the continued search for a peaceful settlement,

Noting from the report the conditions prevailing in the island,

Noting also from the report that the freedom of movement of the United Nations Peace-Keeping Force in Cyprus and its civil police is still restricted in the North of the island, and expressing the hope that ways will be found to surmount the remaining obstacles,

Noting further that the Secretary-General expressed the view that the best hope of achieving a just and lasting settlement of the Cyprus problem lies in negotiations between the representatives of the two communities and that the usefulness of those negotiations depends upon the willingness of all parties concerned to show the necessary flexibility, taking into account not only their own interests but also the legitimate aspirations and requirements of the opposing side,

Noting that due to the efforts of the Secretary-General, his staff of UNFICYP, and with the co-operation of the parties, there has been a relative improvement in the security situation, but that this evolution has yet to relieve the underlying tensions in the island,

Noting also the report of the Secretary-General of 30 April 1977 (S 12323) concerning the high level meeting under the auspices of the Secretary-General, emphasizing the need to adhere to the agreement reached at this meeting as well as to the agreements reached at the previous rounds of the talks.

Noting also the concurrence of the parties concerned in the recommendation by the Secretary-General that the Security Council extend the stationing of the United Nations Peace-Keeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to keep the Force in Cyprus beyond 15 June 1977,

1. Reaffirms the provisions of resolution 186 (1964) of 4 March 1964, as well as subsequent resolutions and decisions on the establishment and maintenance of the United Nations Peace-Keeping Forces in Cyprus and other aspects of the situation in Cyprus;

2. Reaffirms once again its resolution 365 (1974) of 13 December 1974, by which it endorsed General Assembly resolution 3212 (XXIX) adopted unanimously on 1 November 1974, and calls once again for their urgent and effective implementation and that of its resolution 367 (1975) of 12 March 1975;

3. Urges the parties concerned to act with the utmost restraint to refrain from any unilateral or other action likely to affect adversely the prospects of negotiations for a just and peaceful solution and to continue and accelerate determined co-operative ef-

forts to achieve the objectives of the Security Council;

4. Extends once more the stationing in Cyprus of the United Nations Peace-Keeping Force, established under Security Council resolution 186 (1964), for a further period ending 15 December 1977, in the expectation that by then sufficient progress towards a final solution will make possible a withdrawal or substantial reduction of the Force;

5. Appeals again to all parties concerned to extend the fullest co-operation so as to enable the United Nations Peace-Keeping Force to perform its duties effectively;

6. Requests the Secretary-General to continue the mission of good offices entrusted to him by paragraph 6 of resolution 367 (1975) to keep the Security Council informed of the progress made and to submit a report on the implementation of this resolution by 30 November 1977.

Resolution 414 (1977): Adopted by the Security Council at its 2032nd meeting on 15 September 1977:

The Security Council:

Having considered the situation in Cyprus in response to the letter dated 26 August 1977 from the Permanent Representative of Cyprus to the United Nations (S. 12387),

Mindful of the urgency of making progress in the solution of the Cyprus problem,

Recalling its previous resolutions, in particular resolutions 365 (1974) and 367 (1975),

Taking note of the statements made to the Council regarding recent developments in the new Famagusta area to the effect that there is no settlement in progress in the area,

Taking note also of the statements made by the parties concerned as well as by the Secretary-General with regard to these developments,

1. Expresses concern at the situation caused by recent developments;

2. Calls upon the parties concerned to refrain therefore from all unilateral actions anywhere in Cyprus that may affect adversely the prospects for a just and peaceful solution of the Cyprus problem and urges them to continue and accelerate determined co-operative efforts to achieve the objectives of the Security Council;

3. Reaffirms once again its resolution 365 (1974) of 13 December 1974, by which it endorsed General Assembly resolution 3212 (XXIX) adopted unanimously on 1 November 1974, and calls once again for their urgent and effective implementation and that of its resolution 367 (1975) of 12 March 1975;

4. Expresses concern at the lack of progress at the intercommunal talks;

5. Calls on the representatives of the two communities, under the auspices of the Secretary-General, to resume negotiations as soon as possible meaningfully and constructively on the basis of comprehensive and concrete proposals;

6. Requests the Secretary-General to keep the Council informed of developments that may adversely affect the implementation of the present resolution.

Resolution 422 (1977): Adopted by the Security Council on the 15th December 1977:

The Security Council:

Noting from the report of the Secretary-General of 1 December 1977 (S 12463) that in existing circumstances the presence of the United Nations Peace-Keeping Force in Cyprus is essential not only to help maintain quiet in the island but also to facilitate the continued search for a peaceful settlement,

Noting from the report the conditions prevailing in the island,

Noting also from the report that the freedom of movement of the United Nations Peace-Keeping Force in Cyprus and its Civil Police is still restricted in the North of the island, and expressing the hope that ways will be found to surmount the remaining obstacles.

Noting further that the Secretary-General expressed the view that the best hope of achieving a just and lasting settlement of the Cyprus problem lies in negotiations between the representatives of the two communities and that the usefulness of those negotiations depends upon the willingness of all parties concerned to show the necessary flexibility, taking into account not only their own interests but also the legitimate aspirations and requirements of the opposing side,

Noting that due to the efforts of the Secretary-General, his staff, and of UNFICYP, and with the co-operation of the parties, there has been a relative improvement in the security situation, but that this evolution has yet to relieve the underlying tensions in the island.

Noting also the report of the Secretary-General of 30 April (S 12323) concerning the high-level meeting under the auspices of the Secretary-General, and emphasizing the need to adhere to the agreement reached at this meeting as well as to the agreements reached at the previous rounds of the talks.

Noting also the concurrence of the parties concerned in the recommendations by the Secretary-General that the Security Council extends the stationing of the United Nations Peace-Keeping Force in Cyprus for a further period of six months,

Noting that the Government of Cyprus has agreed that in view of the prevailing conditions in the island it is necessary to keep the Force in Cyprus beyond 15 December 1977,

1. Reaffirms the provisions of Resolution 186 (1964) of 4 March 1964, as well as subsequent Resolutions and decisions on the establishment and maintenance of the United Nations Peace-Keeping Force in Cyprus and other aspects of the situation in Cyprus,

2. Reaffirms once again its Resolution 365 (1974) of 13 December 1974, by which it endorsed General Assembly Resolution 3212 (XXIX) adopted unanimously on 1 November 1974 and calls once again for their urgent and effective implementation and that of its resolution 367 (1975) of 12 March 1975,

3. Urges the parties concerned to act with the utmost restraint to refrain from any unilateral or other action likely to affect adversely the prospects of negotiations for a just and peaceful solution and to continue and accelerate determined co-operative efforts to achieve the objectives of the Security Council,

4. Extends once more the stationing in Cyprus of the United Nations Peace-Keeping Force, established under the Security Council Resolution 186 (1964), for a further period ending 15 June 1978, in the expectation that by then sufficient progress towards a final solution will make possible a withdrawal or substantial reduction of the Force,

5. Appeals again to all parties concerned to extend their fullest co-operation so as to enable the United Nations Peace-Keeping Force to perform its duties effectively,

6. Requests the Secretary-General to continue the mission of good offices entrusted to him by Paragraph 6 of Resolution 367 (1975), to keep the Security Council informed of the progress made and to submit a report on the implementation of this Resolution by 31 May 1978,

RESOLUTIONS BY THE GENERAL ASSEMBLY

Resolution 3212 (XXIX):

The General Assembly adopted on the evening of 1st November, 1974, Resolution 3212 (XXIX) by 117 votes in favour, none against, no abstentions.

The Resolution reads as follows:

The General Assembly:

Having considered the question of Cyprus,

Gravely concerned about the continuation of the Cyprus crisis, which constitutes a threat to international peace and security,

Mindful of the need to solve this crisis without delay by peaceful means, in accordance with the purposes and principles of the United Nations,

Having heard the statements in the debate and taking note of the Report of the Special Political Committee on the question of Cyprus,

1. Calls upon all states to respect the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus and to refrain from all acts and interventions directed against it;

2. Urges the speedy withdrawal of all foreign armed forces and foreign military presence and personnel from the Republic of Cyprus, and the cessation of all foreign interference in its affairs;

3. Considers that the constitutional system of the Republic of Cyprus concerns the Greek-Cypriot and Turkish Cypriot communities;

4. Commends the contacts and negotiations taking place on an equal footing, with the good offices of the Secretary-General between the representatives of the two communities, and calls for their continuation with a view to reaching freely a mutually acceptable political settlement, based on their fundamental and legitimate rights;

5. Considers that all the refugees should return to their homes in safety and calls upon the parties concerned to undertake urgent measures to that end;

6. Expresses the hope that, if necessary, further efforts including negotiations can take place, within the framework of the United Nations, for the purpose of implementing the provisions of the present resolution, thus ensuring to the Republic of Cyprus its fundamental right to independence, sovereignty and territorial integrity;

7. Requests the Secretary-General to continue to provide United Nations humanitarian assistance to all parts of the population of Cyprus and calls upon all states to contribute to that effort,

8. Calls upon all parties to continue to cooperate fully with the United Nations Peace-Keeping Force in Cyprus, which may be strengthened if necessary;

9. Requests the Secretary-General to continue to lend his good offices to the parties concerned;

10. Further requests the Secretary-General to bring the present resolution to the attention of the Security Council.

Resolution 3395 (xxx):

The General Assembly adopted on the evening of the 20th November, 1975, Resolution 3395, by 117 votes in favour, one against (Turkey), and 9 abstentions.

The resolution reads as follows:

The General Assembly:

Having considered the question of Cyprus,

Having heard the statements in the debate and taking note of the report of the Special Political Committee,

Noting with concern that four rounds of talks between the representatives of the two communities in pursuance of Security Council resolution 367 (1975) have not yet led to a mutually acceptable settlement,

Deeply concerned at the continuation of the crisis in Cyprus,

Mindful of the need to solve the Cyprus crisis without further delay by peaceful means, in accordance with the purposes and principles of the United Nations,

1. Reaffirms the urgent need for continued efforts for the effective implementation in all its parts of its resolution 3212 (XXIX) endorsed by the Security Council in its resolution 365 (1974) and to that end,

2. Calls once again upon all States to respect the sovereignty, independence, terri-

torial integrity and non-alignment of the Republic of Cyprus and to refrain from all acts and interventions directed against it,

3. Demands the withdrawal without further delay of all foreign armed forces and foreign military presence and personnel from the Republic of Cyprus, and the cessation of all foreign interference in its affairs,

4. Calls upon the parties concerned to undertake urgent measures to facilitate the voluntary return of all refugees to their homes in safety, and to settle all other aspects of the refugee problem,

5. Calls for the immediate resumption in a meaningful and constructive manner of the negotiations between the representatives of the two communities under the auspices of the Secretary-General of the United Nations, to be conducted freely on an equal footing with a view to reaching a mutually acceptable agreement based on their fundamental and legitimate rights.

6. Urges all parties to refrain from unilateral actions in contravention of its resolution 3212 (XXIX), including changes in the demographic structure of Cyprus,

7. Requests the Secretary-General of the United Nations to continue his role in the negotiations between the representatives of the two communities,

8. Also requests the Secretary-General to bring this resolution to the attention of the Security Council and to report on its implementation, as soon as appropriate, and not later than 31st March 1976,

9. Calls upon all parties to continue to cooperate fully with the United Nations Peace Keeping Force in Cyprus,

10. Decides to remain seized of this question.

General Assembly resolution 3450 (XXX) adopted on 9 December 1975:

The General Assembly:

Recalling its resolution 3212 (XXIX),

Noting resolution 4(XXI) of the Commission on Human Rights,

Gravely concerned about the fate of a considerable number of Cypriots who are missing as a result of armed conflict in Cyprus,

Appreciating the work of the International Committee of the Red Cross in this field,

Reaffirming the basic human need of families in Cyprus to be informed about missing relatives,

1. Requests the Secretary-General to exert every effort in close co-operation with the International Committee of the Red Cross in assisting the tracing and accounting for missing persons as a result of armed conflict in Cyprus;

2. Requests the Secretary-General to provide the Commission on Human Rights at its thirty-second session with information relevant to the implementation of the present resolution.

Resolution 31/12 (1976): Adopted by the General Assembly on the 12th November 1976:

The General Assembly:

Having considered the question of Cyprus,

Deeply concerned over the prolongation of the Cyprus crisis, which endangers international peace and security,

Reiterating its full support for the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus and calling once again for the cessation of all foreign interference in its affairs.

Deeply regretting that the United Nations resolutions on Cyprus have not yet been implemented,

Mindful of the need to solve the problem of Cyprus without further delay by peaceful means in accordance with the purposes and principles of the Charter of the United Nations,

1. Reaffirms its resolutions 3212 (XXIX) of 1 November 1974 and 3395 (XXX) of 20 November 1975;

2. Demands the urgent implementation of the above-mentioned resolutions;

3. Calls upon all parties concerned to cooperate fully with the Secretary-General in this regard;

4. Requests the Secretary-General to continue to provide his good offices for the negotiations between the representatives of the two communities;

5. Expresses the hope that the Security Council will consider appropriate steps for the implementation of its resolution 365 (1974) of 13 December 1974;

6. Requests the Secreary-General to follow up the implementation of the present resolution and report thereon to the General Assembly at its thirty-second session;

7. Decides to include the item entitled "Question of Cyprus" in the provisional agenda of its thirty-second session.

Resolution 35/15:

The United Nations General Assembly at its meeting on 9 November 1977, adopted Resolution 35/15 on the question of Cyprus. The vote was 116 in favor to 6 against with 20 abstentions. The opposing votes were cast by Turkey, Afghanistan, Bangladesh, Iran, Pakistan and Uganda.

Following is text of the Resolution as adopted:

The General Assembly:

Having considered the question of Cyprus,

Gravely concerned over the prolongation of the Cyprus crisis, which endangers international peace and security.

Recalling its Resolutions 3212 (XXIX) of 1 November 1974, 3395 (XXX) of 20 November 1975 and 31/12 of 12 November 1976,

Deeply regretting that the Resolutions of the United Nations on Cyprus have not yet been implemented,

Expressing concern over the lack of progress in the intercommunal talks,

Mindful of the need to solve the question of Cyprus without further delay by peaceful means in accordance with the purposes and principles of the Charter of the United Nations,

1. Calls for the urgent and effective implementation of Resolution 3212 (XXIX), unanimously adopted by the General Assembly and endorsed by the Security Council in its Resolution 365 (1974) of 13 December 1974, as the valid framework for the solution of the problem of Cyprus;

2. Reiterates its call upon all States to respect the sovereignty, independence, territorial integrity and non-alignment of the Republic of Cyprus and to cease any form of interference in its internal affairs;

3. Calls for the urgent resumption in a meaningful and constructive manner of the negotiations between the Representatives of the two communities, to be conducted freely on an equal footing on the basis of comprehensive and concrete proposals of the parties concerned with a view to reaching as early as possible a mutually acceptable agreement based on their fundamental and legitimate rights;

4. Demands that the parties concerned refrain from any unilateral actions which might adversely affect the prospects of a just and lasting solution of the problem of Cyprus by peaceful means;

5. Recommends that the Security Council should keep the question of Cyprus under constant review and adopt all practical means to promote the effective implementation of its relevant Resolutions in all their aspects;

6. Calls upon the parties concerned to cooperate fully with the Secretary-General in the performance of his tasks under the relevant Resolutions of the General Assembly and of the Security Council as well as with the United Nations Peace-keeping Force in Cyprus;

7. Decides to include the item entitled 'Question of Cyprus' in the provisional Agenda of its Thirty-Third Session and requests the Secretary-General to follow up the implementation of the present Resolution and to report thereon to the General Assembly at that Session".

Separate Vote on Paragraph 5:

A separate vote was taken on operative paragraph 5, above, which was approved by 82 in favour, to 9 against with 48 abstentions.

RESOLUTION ON MISSING PERSONS

The General Assembly's Third Committee (Humanitarian) on 12 December 1977 adopted the following consensus without discussion and without a vote:

"Concerned at the lack of progress towards the tracing and accounting for missing persons in Cyprus;

"Expressing the hope that the informal discussions now taking place to establish a joint Committee to trace missing persons are successful;

"1. Requests the Secretary General to provide his good offices through his Special Representative in Cyprus to support the establishment of an Investigatory Body with the participation of the International Committee of the Red Cross which would be in a position to function impartially, effectively and speedily so as to resolve the problem without undue delay;

"2. Invites the parties concerned to continue cooperating in the establishment of the Investigatory Body and work out the modalities with a view to activating it expeditiously".●

WORLD MILITARY AND SOCIAL EXPENDITURES

● Mr. KENNEDY. Mr. President, I would like to bring to the attention of my colleagues a few facts from the newly published "World Military and Social Expenditures—1978" by Ruth Sivard:

The world spends almost $1 million a minute on arms, 20 times more than the industrialized nations spend on aid to the developing world.

For the estimated cost of a new mobile intercontinental ballistic missile (the MX), 50 million malnourished children in developing countries could be adequately fed, 65,000 health centers opened, and 340,000 primary schools built.

The average family pays more in taxes to support the world arms race than to educate its children.

These facts alone should be reason enough for us to work to stop the arms race—as we can start to do with a new SALT agreement. The arms race is taking food from peoples mouths, keeping millions in poverty, and making adequate health care a luxury only for the rich. It brings us ever closer to nuclear war and the destruction that such a war would bring.

In a recent article in the Los Angeles Times, Richard Strout, writing under the now famous initials TRB, points to the findings of Ruth Sivard and looks to the dismal future of a world where over $400 billion per year goes to buying arms. His column is appropriately titled, "Arms That Shortchange Humanity."

As Members of the body which must decide whether to ratify SALT and other upcoming arms control agreements, we would do well to reflect on these basic facts and dangers. I ask that Mr. Strout's article be printed in the RECORD.

The article follows:

ARMS THAT SHORTCHANGE HUMANITY

(By TRB)

I've always had an odd partiality for the human race. The thought of a small dead planet spinning endlessly through space with no people on it after a nuclear war,

oppresses me. No passengers—no birds singing, no children playing. Ugh!

And yet the nightmare can't be lightly dismissed. The burden of armaments is growing all the time; even now it's questionable, if all the 50,000 nuclear bombs possessed by the United States and the Soviets were detonated at once, whether the earth would be habitable. And we have only just started.

Covering D-Day off the Normandy coast, June 6, 1944, in the U.S. Cruiser Quincy, we were pretty proud of our big bombs, called "block-busters." But the bang that comes from one of our new nuclear bombs is a quarter of a billion times greater. Block-busters: These are city-destroyers! Their aggregate explosive power is now equivalent to several tons of TNT for each person on earth.

These reflections come from reading the fourth annual report on "World Military and Social Expenditures—1978" by Ruth Leger Sivard (32 pages, $2.50; WMSE Publications, Leesburg, Va.). It is an independent analysis sponsored by six private foundations. It is issued just as the largest official gathering on disarmament that has ever assembled meets in New York—the UN's special disarmament session, to run from Tuesday through June 28. Will anything come from it but words? It is not too likely.

Mrs. Sivard was formerly chief of the economics division of the U.S. Arms Control and Disarmament Agency. She started World Military Expenditures while there.

To make a point she published tables of world expenditures for health and education alongside those for arms and bombs. Defense Secretary Laird complained that this made it harder for him to get his budget through Congress, and the Nixon administration ordered the publication stopped. Mrs. Sivard retired and continued the annual report with the aid of supporting groups including the Rockefeller Foundation. It is the equivalent, in some ways, of the annual survey by the International Peace Research Institute at Stockholm.

All right then—ready for some statistics?

The global arms bill is now $400 billion annually in public funds. There are 23 million men actually under arms with a back-up force of perhaps the same number. The arms race is out of control, stimulating price inflation (by using scarce resources for non-commercial goods), contributing to unemployment and poverty.

The world spends almost $1 million a minute on arms—20 times more than the industrialized nations spend in aid to help the poorer countries.

The average family pays more in taxes to support the world arms race than to educate its children.

Nuclear bomb inventories of the two superpowers, already big enough to destroy every city on earth seven times over, are growing. The leaders are not satisfied; they have an unobtainable goal but they want to be able to destroy each city nine or ten times over, and are busily turning out three bombs a day.

Says Mrs. Sivard: "Modern technology has made it possible to deliver a bomb across the world in minutes; women in rural areas in Asia and Africa still walk several hours a day for the family's water supply."

Had enough? It's boring, but it is probably worth spending five minutes a year in contemplating the consequences of armaments on a small, frightened planet where nobody is in charge and where everybody must guard against his neighbor.

Way back in the '20s an isolationist senator named Gerald P. Nye of North Dakota set out to show that the gullible United States had been egged into Woodrow Wilson's war by the munition makers. He held dramatic hearings. The slogan was, "Take the profits out of war," and it was believed that we would have peace, probably forever, if we controlled the "Merchants of Death."

How perplexing it all is. The United States government itself is now the world's chief arms exporter; according to the Pentagon, in 1960 through 1977 we sent arms worth $71 billion to 161 countries. It was good business. Some of the smallest, hungriest countries were most avid for arms; we sent or withheld them according to our favor.

Speakers at the U.N. Disarmament Conference are apt to mention this, and the field will be ripe for propaganda, with Russia prepared to lead the way. The Soviets have been selling arms, too, to their clients. The U.S., Russia, France and Britain account for more than four-fifths of all military sales.

The munitions trade is changing; it is no longer a kind of used-car market, but often has the latest model state-of-the-art technology. In 1975, 95 nations took major weapons systems. Only one country got long-range surface-to-air missiles in 1958; in 1975 it was 27. Last Monday the Senate approved the administration's deal with Saudi Arabia, Israel and Egypt—$5 billion.

This is all done, of course, to defend the United States. We have got so much nuclear security by now that we are no longer safe. The two great powers, the U.S. and the USSR, representing only 11 per cent of the world's population, have shaped the military competion since World War II. A mutual distrust bordering on the pathological drives them on.

The formula is crazy: An adequate defense means an offense sufficient to deter attack; this must be constructed on worst-case assumptions of the opposing threat. As the enemy responds in kind, the reality of the threat automatically grows—the dog comes closer and closer to catching its tail.

It is obvious that it can't last. Only last week the New China News Agency, speaking of Russia, declared, "War will inevitably break out some day."

The average person, all over the world, accepts this incredible situation calmly. It is regarded as the normal lot of the earth dweller.

One billion people—a quarter of the earth's population—go to bed hungry at night. It is in their countries, the report shows, that since 1960 the proportion of military expenditures has risen most.

The report is factual, statistical, rather dull. There is little editorializing.

In it you discover curious facts. Developing countries—the ones with high birth rates, short life expectancy and few doctors—invest more public revenue in arms than in education and health combined.

Another item: For the estimated cost of a new mobile intercontinental missile (the MX), 50 million malnourished children in developing countries could be adequately fed, 65,000 health centers opened, 340,000 primary schools built.●

UNITED STATES-SOVIET UNDERSTANDING

● Mr. KENNEDY. Mr. President, during a recent visit to the Soviet Union, Columnist Joseph Kraft talked over with Russian friends the deterioration in Soviet-American relations. What he discovered not only puts our differences in perspective, but in my mind reinforces the need for understanding between our two countries as we press our valid concerns about human rights and the need for East-West restraint. I ask that Mr. Kraft's article on United States-Soviet relations be printed in the RECORD.

The article follows:

UNITED STATES-SOVIET RELATIONS—THE RUSSIAN PEOPLE ARE A PROUD PEOPLE

(By Joseph Kraft)

Moscow.—The other day I went to visit some Russian friends at their *dacha* about 40 minutes' drive from Moscow. Though the weather was good, and we played tennis and swam and walked in the piney woods, my true purpose was to open an inquest.

I wanted to know what intelligent, sensitive Russians, who were not dissidents but did cherish many American values, thought about the recent deterioration of relations between the two countries. I wanted their explanation for the strange sickness, if not death, of détente.

Over lunch at a big family table served by a Lazy Susan, one of them, an economist, raised the subject for me. He said he was both "troubled and puzzled by the change in the atmosphere in relations between your country and mine. Our press and your press speak of Zbigniew Brzezinski. But I cannot believe only the adviser can be blamed."

He went on to say that he supposed President Carter must be responsible. "He is a small businessman, not a statesman. He has no clear purpose. Today he says one thing. Tomorrow the opposite. It is very hard to deal with him."

I remarked that since the illness of President Leonid Brezhnev the Russian leadership was not so easy to deal with either. Brezhnev talked détente, but various Soviet officials did things highly prejudicial to good relations. I cited the trial of two American newspapermen on charges of slander, the arrest of an American businessman, the harsh sentences meted out to Soviet dissidents and the trials of Alexander Ginzburg and Anatoly Scharansky.

Nobody bothered to assert that Brezhnev was in the pink, and I inferred that, for one reason of another, those responsible for internal security had recently gotten a greener light than in the past. But a woman doctor observed of the arrests and trials.

"Those things happen when relations between our countries are tense. You think you can press us to the wall, and read us lectures on how to behave in the field of human rights. But the Russian people are a proud people—proud of their story and proud of their achievements. When you insult us and tell us how to behave, there will be trouble."

I said that many Americans felt the Russians had compromised the spirit of détente by increasing Soviet influence at American expense in distant parts of the world. I mentioned coups in Afghanistan and Yemen. And the large Soviet and Cuban presence in Ethiopia and Angola. My host, a physicist, laughed.

"In the past," he said, "we also made what you called 'gains.' We were invited into Egypt, Syria, Iraq, even China. Then we were invited out. That's how it will always be. So none of these events are important enough to justify tension between two countries that could blow up the world."

When lunch was over, I said that since I had flown from Tokyo the previous day, I was tired and would like to take a nap. "We have debated that," the physicist said in the heavily humorous way the Russians have, "and we agree that there is a human right to take a nap. But we will wake you in exactly one hour for tennis. Punctuality is said to be the courtesy of kings, but just because the revolution ended the monarchy, that does not entitle us to be late all the time."

In fact they let me sleep for three hours. But I reverted to the punctuality remark later. I said that many Americans felt the great Russian difficulty was an economy that offered no incentives for people to work hard or be on time or develop new products and

services. If Russia was up against the wall it was because of the economy, not the American campaign on human rights. "You've cornered yourselves."

I asked the economist what he would say if he were Brezhnev and had to give a speech on the economy. He replied, "I would say that people should work harder and be more diligent."

"And what would be the people's response?" I asked. He did not answer, so I said: "They would laugh." He nodded.

"It is true," the physicist then said, "that there are great differences between our countries. But that is all the more reason to hold tightly to the few areas of cooperation. It is so hard to build them up, so easy for them to crumble." ●

DEATH OF MR. LOUIS C. HARRIS

Mr. THURMOND. Mr. President, a distinguished journalist, Mr. Louis C. Harris of Augusta, Ga., passed away on June 22, 1978.

I knew Mr. Harris for many years, and he was a man of distinction and integrity. He was a good friend and noble patriot, dedicated and sincere in everything that he undertook.

He was vice president of Southeastern Newspapers Corp. which publishes papers in Savannah, Athens, and Augusta, Ga., and in Juneau, Alaska; and was editor of the Augusta Chronicle and executive editor of the Augusta Herald. An outstanding figure in journalism, he was president of the Georgia Press Association and the Georgia Associated Press Association.

During World War II Mr. Harris was public relations officer in the 12th Air Force. After the war he was assistant public relations officer for U.S. Forces in Austria and was on the staff of General Mark Clark in Vienna and Salzburg.

Even after he was discharged from the Army, Mr. Harris was deeply interested in military affairs. In 1951 he was one of the few journalists invited to view the first atomic explosion open to members of the press. He was a three-time participant in the Army War College's national strategy seminar and visited several NATO bases in Europe. In 1966 the Department of Defense cited him for having "contributed materially to a better understanding by the general public of problems facing the Army."

My deepest sympathy is extended to Mr. Harris' wife Ann and his three sons Jeffrey P. Harris, Louis C. Harris Jr., and W. M. Harris at this time of sadness. They can take genuine solace, however, from the lifelong benefits gained by sharing this close family association.

Mr. President, in order to share the newspaper article and editorials concerning the death of Mr. Harris with my colleagues, I ask unanimous consent the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Augusta (Ga.) Chronicle, June 23, 1978]

LOUIS C. HARRIS

The Augusta to which Louis Harris first came in April of 1932 was a community far different from the thriving, growing metropolitan complex which today mourns the end of his career.

Its present, full, rich life, its values and its ideals depend in significant degree on the contribution and the qualities of leadership of the long-time editor of the Augusta newspapers. Indeed, his courageous and unselfish efforts through The Augusta Chronicle and the Augusta Herald have had their effect in the state and the nation as well.

Louis Harris' life was a success story. It was a success, however, measured not in material terms, but in his positive, constructive impact on associates, fellow citizens and the times. It is a story whose building blocks include tokens of esteem and appreciation—awards, citations and election to offices of responsibility.

But the measure of his character cannot be captured by plaques or by ink on paper. It is engraved on the hearts of friends, professional colleagues, civic co-workers, and tens of thousands of readers.

Louis Harris' rise to the top ranks of American journalism came not through any stroke of good fortune, but rather as the result of long years of conscientious unremitting work. For him, work started early, when at the age of 10 he took a job as office boy in an insurance firm which lasted for several summers. It included early contacts with many phases of American life as soon as he was graduated from high school in Alabama, when he engaged in work as a stock clerk, newspaper route carrier and laborer in western wheat harvests. There were experiences that sharpened his knowledge and appreciation of human nature on many levels and in various part of the United States. Building on that knowledge, he came to Augusta nearly a half-century ago, taking a Chronicle circulation job. There followed a series of jobs in Athens, Ga., Montgomerty, Ala., again in Augusta, and in Michigan—interrupted by service in the old Army Air Corps—which led him from circulation into the news functions of journalism. This varied experience prepared him for newspaper executive work when he returned in 1947 to The Chronicle. On these newspapers, he was successively managing editor, executive news editor and editor, along with eventual service as vice president of Southeastern Newspaper Corp.

Television viewers heard him in a recent interview commend the devoted work of young writers on these newspapers, rather than limit comment to his own career and to the illness which was shortening his life.

His commitment to maintenance of adequate national defense began before World War II when he enlisted in the Army Air Corps, attended Officer Candidate School, and advanced to the rank of captain while conducting a superior public relations program with units in North Africa and Europe. It is significant that he was one of the few journalists invited to view the first atomic explosion open to members of the press in 1951. A three-time participant in the Army War College's National Strategy Seminar, he received in 1966 a Department of Defense citation for communicating defense problems and issues.

Later, he was an effective member and officer in the Association of the U.S. Army, both in the Fort Gordon chapter and nationally. It was largely through his efforts in 1974 that Dwight David Eisenhower Army Medical Center was named, in precedent-breaking manner, for a non-medical officer, and that a granite monolith honoring General Eisenhower was placed in the Medical Center.

Without minimizing his great news writing ability—such exclusives as Senator George's retirement from politics, an analysis of Japanese-U.S. textile trade, and first news of China's building of a military road toward Thailand's borders—it may be said that his greater work was on the editorial page.

His concern for human relations made good use of his sense of humor which helped reduce problems to manageable proportions. Many of his columns brought a smile or a chuckle, and in many of his speeches he established rapport with his audience by stories illustrating in witty fashion the foibles of humanity.

Such humor, however, did not extend to any toleration of attacks on his home town. Some of his most vigorous writing was not in appraisal of political issues, important though that was, but rather in a telling dissection of the criticisms of Augusta by a few visiting sports writers who sought to beef up their coverage of the Masters Tournament with jabs at the host city.

His news and editorial duties took him, to a greater degree than most newspapermen, on foreign trips—to western European bases of NATO, to South Africa, Southeast Asia, Israel and Brazil. He was always ready to share those experiences, not only in print but also as a platform or after-dinner speaker, for which he built a well deserved reputation.

In the editorial he wrote when appointed editor in March, 1959, he stated his intention "to safeguard—and advance—the worth of our nation, the welfare of our community and the well-being of our readers."

Those promises were kept, in a manner which is deserving of the appreciation of all who knew him or knew his work.

[From the Charleston, (S.C.) and Courier, June 26, 1978]

LOUIS C. HARRIS, AUGUSTA EDITOR

One of the South's best known journalists, Louis C. Harris of Augusta, Ga., was a newspaperman with more than 45 years of service. He had friends all over the United States and in foreign countries he visited in travels abroad.

Born in Montgomery, Ala., where he was a newspaper carrier, he became assistant circulation manager of the Augusta Chronicle in 1932. Transferring to the news department, he developed skill as a writer. He also had sound judgment and boundless energy. Mr. Harris for several years was a reporter and telegraph editor for the Pontiac (Mich.) Daily Press. After service in the U.S. Army Air Corps in World War II, he returned to Georgia. Eventually he became editor of the editorial page of The Augusta Chronicle and executive editor of the Augusta Herald. He also was vice president of the Southeastern Newspapers Corp., publishers of newspapers in Savannah, Athens, Ga., and Juneau, Alaska, in addition to Augusta.

Louis Harris came up in a generation when newspapermen not only were dedicated craftsmen, but pursued the news with zest for pleasure. Looking back on his career, he once remarked that newspaper work was more fun in his day. He won many professional honors and earned the respect of Augusta citizens for forceful editorials and civic leadership. His death at age 66 after a long and grueling bout with cancer is a source of sorrow to colleagues and friends throughout the land.

[From the Columbia, (S.C.) State, June 23, 1978]

NEWSPAPER EXECUTIVE LOUIS C. HARRIS DIES

AUGUSTA, GA.—Louis Carl Harris, a longtime Southern newspaper executive who was editor of The Augusta Chronicle and executive editor of The Augusta Herald, died Thursday of cancer. He was 66.

Funeral services are scheduled at 10 a.m. Saturday at St. Paul's Episcopal Church in Augusta, with burial in Westover Memorial Park.

Harris, who had been ill for many weeks, was vice president of Southeastern Newspapers Corp., which publishes papers in Savannah and Athens, Ga., and in Juneau, Alaska, as well as in Augusta.

He was president of the Georgia Press Association in 1967 and president of the Georgia Associated Press Association in 1971.

He joined the Chronicle editorial department in 1935, served as managing editor for a Pontiac, Mich., newspaper during World War II, and then returned to Augusta.

Harris, a native of Montgomery, Ala., worked in public relations at Lowry Field, Colo., in the early stages of the war and subsequently became assistant public relations officer in the 12th Air Force. After the war he was assistant public relations officer for the U.S. Forces in Austria and was on the staff of Gen. Clark in Vienna and Salzburg.

He was among the first newspapermen to be invited to witness an atomic explosion.

He was selected for a Nieman Travel Fellowship to study the effect of the Japanese textile industry on the American textile industry, and he wrote a series of articles which were widely published.

Harris traveled extensively during his career with the Chronicle and Herald, visiting NATO installations in England, Italy, France and West Germany in 1960.

He visited the Republic of South Africa and Rhodesia in 1966 and was invited three times to participate in the National Strategy Seminar at the U.S. Army War College.

His travels also took him to Israel, Brazil and other countries

In 1966, he was cited by the Department of Defense for having "contributed materially to a better understanding by the general public of problems facing the Army."

His first wife died in 1973, and he remarried the former Ann Richards of Atlanta in 1974.

Survivors include his widow and three sons, Jeffrey P. Harris of Winchester, Va.; Louis C. Harris Jr. of Athens, Ga., and W. M. Harris of Augusta.

William S. Morris III, president and publisher of the Chronicle and Herald, called Harris "a forceful idea man, a true community leader, a defender of free enterprise, a good American and above all a Christian.

"His battle during the past two years against cancer was typical of his strength, his willingness to fight against overwhelming odds.

"He will be missed."

Julia Dyar, executive manager of the Georgia Press Association, said of Harris, "He was a friend to all, a loyal member and past president of the association.

"His life was consecrated in service to newspaper journalism."

Ron Autry, chief of the Atlanta bureau of The Associated Press, said, "Louis Harris was a strong, effective force in Georgia journalism and all of us in this craft will miss him.

"In addition to being a rare and forceful personality and a highly skilled writer, he had vigor and courage, honest and sound judgment."

SPEECH BY CHIEF JUSTICE J. WOODROW LEWIS OF THE SOUTH CAROLINA SUPREME COURT

Mr. THURMOND. Mr. President, on May 28, 1978, the new courthouse for Chesterfield County, S.C., was dedicated. Delivering the dedication speech was the chief justice of the South Carolina Supreme Court, J. Woodrow Lewis.

Chief Justice Lewis has had a distinguished career in the judicial and legislative branches of the South Carolina government. After service as a member of the House of Representatives, he was elected circuit judge. In 1961 he was elected associate justice of the South Carolina Supreme Court, and in 1975 he became chief justice. His high standards, exemplary service, and contributions to the legal profession will long be remembered.

In his dedication speech, Chief Justice Lewis spoke eloquently on the purposes of our judicial system. "No phase of government touches the life of the people more intimately than the administration of justice," Lewis said. "The purpose of our judicial system," he continued, "is to administer justice, that is, to expeditiously and efficiently dispose of the litigation presented to it. The extent of the accomplishment of these goals determines the extent to which the judicial system is fulfilling the purpose for which it was intended."

Mr. President, in order to share the full text of this speech with my colleagues, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

DEDICATION: CHESTERFIELD COUNTY COURTHOUSE

Mr. Chairman, Ladies and Gentlemen:

May I at the outset express my appreciation for the privilege, which your invitation affords me, to join the people of Chesterfield County in the dedication of this fine building. It represents your cooperative concern and pride in government and I proudly join you in this—one of your finer hours as citizens.

As I view this new structure, I cannot help but reflect upon the years of my contacts with the old Chesterfield County Courthouse, covering a period of approximately forty-five (45) years—including my private practice. My reflections center particularly upon the years when I was privileged to preside over the courts in the old courthouse, as the resident judge of this circuit. During these years it has been my good fortune to know many of the dedicated public servants who administered the government from the old building and to know many of the great lawyers who practiced at the Chesterfield County Bar and made their great contributions to the administration of justice in the county and State. A record of many of the scenes and activities that have taken place within the walls of the old courthouse would add lustre to the history of the county.

These, I assure you, are most pleaasnt memories and make it, I think, most fitting that we pay tribute to these great public servants, including members of the Bar of your county, who have labored long and well to preserve for this and future generations our democratic form of government based upon respect for law and order. We are richer because of their dedication to those principles.

A brief reference to the courthouses of this county will not, I trust, be inappropriate.

In 1669 the fundamental Constitution of Carolina drawn up by the Lord's Proprietors stated that the "whole Province shall be divided into counties". It was planned that these counties would be the basic territorial units for local government, administration of justice, granting of land and election of representatives to the Legislative Assembly. It was not until 1682 that the first three counties were laid out, Berkley, Colleton and Craven. Chesterfield County as it exists today lay within the boundaries of Craven County.

In 1769 the Province was divided into seven judicial districts. One of these was the Cheraws District. Each of these districts except Cheraws had a courthouse town bearing the same name as the district which it served. Court for the Cheraws District was held at Long Bluff.

Not until 1785 were counties laid out within the districts. Cheraws was divided into Chesterfield, Marlborough and Darlington Counties. The district court presided over by State judges continued to sit in the district capitals until 1800 when each of the existing counties became the jurisdiction of a district court and henceforth were known as districts until 1868 when they were again designated as counties. The City of Chesterfield had become the seat of justice in 1826.

During March 2d and 3d 1865 General Sherman came through Chesterfield destroying many buildings including the county courthouse which was the place of the first secession meeting. All the records were destroyed. The county's business was conducted in the "Old Methodist Church" until 1885 when a new courthouse was constructed.

It is my understanding that the old courthouse was originally constructed about 1885, with some changes and remodeling during the years. It has served well the people of Chesterfield County and South Carolina for approximately 95 years. During these years, it has been the seat of county government and the symbol of justice to the people.

While the basic principles to which the old courthouse was dedicated have not changed, the great increase in population, with its increase in the volume and types of litigation, and the increased demand for services from government have made it necessary to enlarge and improve the physical facilities for the operation of government at both the county and state level.

The need for adequate physical facilities for the operation of our judicial system has been impressed upon us as we have moved forward in the implementation of judicial reform. When we first began in 1973 to implement the newly adopted Judicial Article of our Constitution, we quickly learned that having available judges alone was not sufficient. To provide a judicial system to meet present day demands required an increase in the staffs of the offices of the clerks of court, additional court reporters, additional personnel in the solicitors' offices and the office of public defense, and additional supportive help for many of our magistrates. Record-keeping and recording systems had to be altered to provide the necessary information for management decisions.

We found, however, that with all the necessary supporting personnel and judicial manpower brought together at the same time and place, a final, necessary factor was lacking. That factor is typified by the dedication of this courthouse. We quickly learned that the judicial system of the State was limited by the physical facilities available for the housing of support personnel and the holding of court.

In the larger counties of the State, where it was necessary to operate two or more simultaneous terms of court, such could not be accomplished without the addition of courtroom space. In the smaller counties, we found that existing courtrooms and adjacent space were many times inadequate to meet the modern security and operational requirements of the greatly increased court terms.

The physical needs of our judicial system, however, are being rapidly met throughout the State. This building indicates the response of the people of this county to the need for more adequate facilities in which to operate the courts and county government. It has long been recognized in this State that the counties have the duty and responsibility to provide the physical facilities for the operation of our courts; and I trust that it will continue. It assures a local interest and cooperation so necessary for the administration of justice.

Just as the construction of this building has required the coordinated efforts of architects, contractors, electricians, plumbers, carpenters, and many others, so our judicial system coordinated effort on all levels. The judicial system is not operated just by the State,

or the county, or the municipalities alone. It requires the concerted effort of all those involved for our system to function in the proper manner.

This building will occupy, as did the old, an important place in the life of this community. It will be a repository for the documents which evidence the major transactions of the affairs of the people; the records which will be kept here are vital to the proper and orderly transfer of property by sale or death; the history of the community can be gleaned from these records; and it is in this building that your authorized officials will meet and solemnly adjudicate questions which may affect the property, the character, and the life of the citizens of this county.

This is not an ordinary building. It is distinctive. It will symbolize the seat of government and the administration of justice. It is therefore fitting that the officers of this county have erected this building which is so obviously worthy of the high uses to which it will be devoted.

While speaking of judicial reform in terms of additional personnel, additional terms of court, improved records systems, and additional physical facilities, we must not lose sight of the ultimate purpose and goal of all of our efforts for judicial reform.

No phase of government touches the life of the people more intimately than the administration of justice. The purpose of our judicial system is to administer justice, that is, to expeditiously and efficiently dispose of the litigation presented to it. The extent of the accomplishment of these goals determines the extent to which the judicial system is fulfilling the purpose for which it was intended.

We are not here just to dedicate a structure of mortar and brick. Rather it behooves us to dedicate ourselves anew to the pursuit of the cause of justice through law—a cause which has been pursued by the people of Chesterfield County throughout their long and varied history.

Justice is not a commodity to be rationed. Our judicial system must be adequately staffed and equipped to assure equal justice to all.

The permissive and complacent attitude of so many of our people in the face of an ever increasing crime rate makes a meaningful rededication to the rule of law most imperative. It has been correctly said that perhaps the lesson most needed today by our people is that of reverence for law and a willing obedience to its mandates.

I congratulate you and your leaders in providing this new facility. I believe it constitutes a commitment by the people of this county to the principle of good government and a demand that our judicial system be so administered that the cases submitted to it will be disposed of promptly and efficiently with equal justice to all. I pledge every resource at my command to the accomplishment of these goals.

RETIREMENT OF DR. MARC C. WEERSING

Mr. THURMOND. Mr. President, a distinguished educator, Dr. Marc C. Weersing, recently announced his retirement as president of Presbyterian College in Clinton, S.C., after 15 years of dedicated service.

During his tenure as president, Dr. Weersing placed a mark on Presbyterian College that will long be felt. Under President Weersing, Presbyterian College has grown from 504 students to 850 and is now fully coeducational. The faculty has almost doubled to handle an expanded curriculum, eight major new buildings have been added, and total assets have increased 300 percent—from $5 to $20 million.

Besides being an educator, Dr. Weersing has served as pastor of churches in Mississippi, Georgia, Michigan, and South Carolina and is recognized as a leader in the Presbyterian Church United States. His hard work and dedication have greatly promoted Christian education and touched the lives of thousands. He will long be remembered by Presbyterian College and by his church for his selfless devotion to his God and the high ideals of Christian education.

Mr. President, in order to share with my colleagues an editorial broadcast by Spartan Radiocasting Co., Spartanburg, S.C., and an announcement of his retirement in the Greenville News, I ask unanimous consent that the material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

A TRIBUTE TO DR. MARC C. WEERSING, PRESIDENT OF PRESBYTERIAN COLLEGE

Dr. Marc C. Weersing, distinguished Christian educator, is now completing his 15th year as the chief executive of Presbyterian College. Dr. Weersing has requested retirement no later than June of 1979; it is a propitious time then to call attention to this man's achievements. Since taking the helm of Presbyterian College in 1963, as the 14th president of this institution, he has given the college its greatest period of development. Under President Weersing, Presbyterian College has grown from 504 students to 850 and has become coeducational. The faculty has almost doubled to handle an expanded curriculum, eight new buildings have been added, and total financial assets have increased 300 percent from 5 million to 20 million dollars.

Dr. Weersing was the minister of the Spartanburg First Presbyterian Church when he moved his leadership role to education. Although a native of Grand Rapids, Michigan, he spent his entire ministry in the Deep South, having served as a pastor in churches in Mississippi and Georgia. Dr. Weersing received his Bachelor of Theology from Calvin Theological Seminary and Masters in Theology from Columbia Theological Seminary.

His extensive extra duties have included service on numerous policy making boards in church-related activities, and a term as chairman of the Governor's Committee on Vocational Rehabilitation. WSPA salutes this fine Christian-educator and congratulates Clinton, S.C. since Dr. Weersing has purchased a home there for a permanent residence after he becomes president-emeritus.

[From the Greenville (S.C.) News, Apr. 20, 1978]

COLLEGE HEAD TO RETIRE

CLINTON.—Dr. Marc C. Weersing, who has been president of Presbyterian College for 15 years, will retire next year when he reaches the regular retirement age of 65.

Trustee Chairman J. Austin Dilbeck of Atlanta said the board has accepted President Weersing's request for retirement with regret and deep appreciation for his service to the school. "Since Marc Weersing became president in 1963, Presbyterian College has gone through its greatest period of development" he said.

Presbyterian College has grown from 504 students to 850 in the last 15 years under Weersing. The faculty has almost doubled to handle an expanded curriculum, eight major buildings have been added and total assets have increased from $5 million to $20 million.

Dilbeck said he hopes Presbyterian College can complete its $10 million Second Century Fund for future strengthening while Weersing is in office. "This campaign already has produced more than $5.5 million in its first 18 months. With Marc's continued help, we hope to complete it during his remaining time in office."

The trustee executive committee has just completed appointment of a presidential search committee, Dilbeck said. The committee will begin searching for a new president immediately, and the search is expected to take most of next school year.

Weersing succeeded Dr. Marshall W. Brown as president of Presbyterian College in August, 1963. He was a member of the board of trustees at that time and served as minister of the Spartanburg First Presbyterian Church.

CAPTIVE NATIONS WEEK

● Mr. PERCY. Mr. President, this is Captive Nations Week, a week when we pay special homage to those men and women of many nations who do not enjoy the independence, liberty, and human rights accorded to us in democratic lands.

There was a time when Captive Nations Week provided a reminder to Americans of repression in Eastern Europe and elsewhere, but this year—when the violations of human freedom cover the front pages of our newspapers—Americans need no reminder. The horror of life in many countries is constantly before us. News of the deprivation of human rights in the Soviet Union and other nations comes to us with every morning's newspaper.

I would hope that churches and individuals throughout this country would commemorate Captive Nations Week by holding religious services and by praying for all the millions of our fellow human beings who live incomplete lives because they are denied their national aspirations, their right to practice their religions, their right to speak freely, their right to choose their own leaders, their right to emigrate.

For those of us who enjoy these rights, Captive Nations Week is a week to remember these harassed peoples and to determine to do everything we can responsibly do to alleviate their plight.●

THE CONCERNS OF ALBANIAN AMERICANS

● Mr. PERCY. Mr. President, 3 weeks ago I had the distinct pleasure of meeting with a group of Americans of Albanian descent in Illinois to commemorate the 100th anniversary of the Albanian Independence Movement, the founding of the League of Prizren. History recounts how, following the death of Skanderbeg, heroic chieftain of the Albanian clans, the hopes of Albanian freedom smoldered for four centuries under Ottoman rule. After meeting at Prizren in Kossova, the proud sons of the Land of the Eagle battled the Ottomans for over 30 years. The triumph of the ideals of the Prizren League led to the creation of the modern independent nation of Albania.

But Albanian independence owes much to our country, and much more to the dedication of the first generation of Albanian Americans. The educated

early arrivals from Albania worked hard to increase the literacy and to refine the spirit of nationalism of their fellow countrymen. Harvard-educated Faik Konitza, teacher and patriot, founded VATRA, the Albanian Federation of America, and kindled nationalist feeling through the inspired editorials of Dielli, the Sun, published in Boston.

World War I saw the Albanian community in the United States mobilize to aid the Allied cause. Bishop Fan S. Noli preached to American soldiers, and the Albanian American community subscribed, out of meager savings, to hundreds of thousands of dollars of war bonds. Bishop Fan Noli accompanied President Wilson to the peace conference, and the President worked hard to safeguard the newly-won Albania independence against the territorial designs of the European powers.

Americans of Albanian descent are now prominent in academia, in the professions, in business. Dr. Andrew Elia is a physician and Boston civic leader. Stavros Skendi is a professor emeritus of history at Columbia University. Prof. Stephan Peters served our country in the State Department, and Kemal Vokopola only recently retired as a legal specialist in European law at the Library of Congress. There is virtually no trade or profession that has not benefitted from contributions made by ambitious descendants of the ancient Illyrians, and we are all far the richer for their contributions.

But adversity and discrimination are no strangers to the people of the Land of the Eagle. More than a million Albanians are even now living as third-class citizens in Yugoslavia. They will soon constitute the third largest ethnic minority grouping in Yugoslavia, and Yugoslavia must recognize and accommodate itself to this fact.

Most painful, however, are the present conditions under the Communist regime of Enver Hoxha. We must ask, what does Helsinki mean, what do the covenants of the United Nations mean if families here must wait 5 years to get a single letter from a loved one in Albania? Why can not Albanian Americans travel freely back to to the country of their heritage? Albanians are a deeply religious people, yet all places of worship have been closed, and it is illegal—it is a criminal offense—to pray in Communist Albania. The denial of human rights in Kossova, in Hoxha's Albania, deprives all mankind of a part of its liberty.

The great Albanian poet and patriot, Naim Frasheri, wrote wonderful poems extrolling the rugged beauty of his homeland and the virtue of his people.

Albanian Americans have retained their love for the Land of the Eagle and have, at the same time, forged strong bonds to their new homeland. Without forsaking their own unique cultural heritage they have become successful Americans and have added much to the richness of our Nation.●

UNITED STATES AND ISRAEL CITIZENS TO BENEFIT FROM NEW "OPEN SKIES" AIRLINE AGREEMENT

● Mr. PERCY. Mr. President, within the last several hours the United States and Israel initialed an agreement for a new commercial air transportation agreement that will greatly benefit consumers in both countries through lower fares and improved service.

The agreement, which emerged from 3 weeks of arduous negotiations, can well serve as a model for such bilateral agreements with other nations.

This new agreement should also serve as a symbol of the commitment of the United States to the economic vitality of Israel by significantly increasing tourism to Israel. It is a pro-consumer agreement because it opens Israel to Americans on limited budgets who cannot afford the current high fares.

For the both sides there are five principal benefits.

First, Israel will permit low-cost charter flights from anywhere in the United States and territories. Currently, Israel only allows charters from California, Oregon, and Washington State. The new agreement also gives United States carriers an equal opportunity to compete for what promises to be heavy passenger traffic to Israel. At present, west coast tour operators must allow El Al-Israel Airlines to operate the charter, if it wishes.

Second, both sides give up the right, after the agreement is in effect 1 year, to unilaterally reject low air fares filed by airlines from the other country. The door is now open to aggressive, no-holds-barred price competition. Israel has agreed to immediately approve an attractively priced advance purchase excursion fare (APEX) offered by Trans World Airlines from the United States to Israel which it had rejected recently. Mr. Mordechai Ben Ari, executive chairman of El Al, has personally told me that he plans to reduce fares by as much as 28 percent between the two countries, as a result of this agreement.

Mr. Ben Ari announced that, after the agreement is signed, El Al will remodel two of its five passenger 747's at a cost of $500,000 per plane to test the public's acceptance of the new seating and fare arrangement which will provide for three new classes of service, namely:

Holiday class (440 seats)—no-frill service with no free meals or beverage service. Boxed cold meals and hot and cold beverages will be on sale. Seats will be placed 32 to 33 inches apart, instead of the current 34 inches. However, the seats will be pitched at a higher angle, affording the same leg room, according to El Al officials.

First class (47 seats)—first-class food service, free beverage service, and a liberalized baggage allowance. Seating will be in conventional coach seats. Fares will be comparable to today's economy class fares, but there will be no promotional or discount fares in this class. (Current economy fare from New York to Tel Aviv is $1,330.)

Third. DeLuxe class (10 seats)—will be better than first class but at today's first-class fares. Meals will be cooked to order aboard the plane; free beverage service will be provided. The free baggage allowance will be doubled. Chauffeured limousine service may be available from the passenger's home to the airport. A gift, such as a camera or tape recorder worth up to $100, will be given to each round trip passenger. (Current New York-Tel Aviv round trip fare is $2,030.)

Holiday class fares may be slashed as much as 28 percent under the current lowest economy class fares. For instance, El Al plans to offer a $449 to $499 holiday class winter round trip fare from New York to Tel Aviv for groups of 120 or more. A similar fare from Chicago would be $576 to $626, and from Los Angeles, $625 to $675. The current lowest air fare on El Al is $628 during the winter season from New York to Tel Aviv. This fare also requires an additional mandatory $45 purchase of land arrangements such as a hotel room or car rental.

Third, El Al is permitted to choose four new gateways in the United States, besides New York City which it currently services. It will receive authority for the first two gateways upon the signing of the agreement and for the second two gateways after 1 year. In a meeting in my office, Mr. Ben Ari said that the first two cities to be served by El Al will be Chicago and Los Angeles. Twice-weekly service to both cities is expected to begin no later than April 1979 with Boeing 747 jumbo jets. The Chicago flights will stop in Montreal before flying nonstop to Tel Aviv. No local passengers will be allowed to fly between Montreal and Chicago. Mr. Ben Ari said that if the Chicago boardings are heavy, El Al may schedule nonstop flights from Chicago to Tel Aviv at a future date. The Los Angeles service will feature an intermediate stop in London or Amsterdam before continuing on to Tel Aviv. Los Angeles boarding passengers will be allowed to fly to the European intermediate point on El Al.

According to Mr. Ben Ari, by late next summer Israel will most likely begin once-a-week service to Miami from Tel Aviv via Lisbon, Portugal. This is the first time nonstop service will be offered by any airline from Miami to Lisbon. Nonstop service from Boston to Tel Aviv is expected to begin at the same time.

Mr. President, the granting of these new gateways is a definite plus for U.S. consumers and not just of economic benefit to Israel. In a letter to Secretary of State Cyrus Vance on June 14, 1978, I attempted to underscore this point. I have attached a copy of that letter to my remarks. In a speech on the Senate floor on June 27, 1978, I noted that, as of that date, U.S. negotiators were of the belief that the additional gateways were strictly of benefit to the Israelis and not our citizens. Judging from the scores of letters I have received from U.S. citizens living in the new gateway cities, I would take exception to that way of thinking. It was unfortunate in these and other bilateral air negotiations that officials of U.S. cities that might receive the additional overseas service were never given a formal opportunity to present their case to the U.S. negotiating team. I would hope, in future negotiations, that civic parties are given a formal opportunity to appear before the team.

Fourth, U.S. airlines are encouraged to provide new service to Israel. Currently, Trans World Airlines is the only U.S.-flag carrier providing service to Israel. National Airlines officials have told my staff that, upon the signing of this agree-

ment, they will immediately file an application with the Civil Aeronautics Board (CAB) to fly from Miami to Tel Aviv via Amsterdam with DC-10 jumbo jets.

Fifth, a unique provision of this agreement may lead to healthy fare competition not only between Israel and the United States, but to intermediate points in Europe along the route. For instance, a third country airline which serves both countries, such as KLM Royal Dutch Airlines, will be permitted to match the lowest fare offered by United States and Israeli airlines from the United States to Israel. This should help keep fares down. However, before the third country airline like KLM is given that authorization, it would have to allow a U.S. airline like National to match its lowest fare from, for example, Amsterdam to Tel Aviv. Similarly, the Netherlands would have to allow El Al the right to match KLM's lowest fare from Amsterdam to the United States.

This agreement is an outstanding symbol of the new international aviation policy approved by President Carter. It is a policy that is proconsumer and procompetition. It is a policy that has moved us away from the narrow protectionism of the past when industry interests came before the interests of consumers.

Similarly, Prime Minister Menachem Begin of Israel should be given credit for fully supporting a new "open skies" policy advocated by Mr. Ben Ari. That policy proposes that governments and their heavy-handed economic regulation of and barriers to international aviation. Instead, international airlines would be allowed to fly into any city in the world at the lowest fares they wish to charge. I am attaching a speech given by Mr. Ben Ari before the National Aviation Club in Washington on June 22, 1978, which explains this policy and the new low-fare holiday class service El Al plans to offer.

The entire Israeli negotiating team performed brilliantly during the talks and won praise from their U.S. counterparts because of their superb preparation. The team included: Simcha Dinitz, Ambassador; Naftali Ben-Yehuda, Acting Director of the Civil Aviation Administration; Hanan Bar-On, Minister; Eitan Raff, Economic Counselor; Tamar Ben-David, Assistant Economic Counselor Gad Elron, Ministry of Foreign Affairs; Dan Shpilman, Ministry of Transport; Yerachmiel Shrem, El Al vice president for North America; and Gideon Badash, El Al director of international relations.

I met personally in late June with Mr. Ben Ari and delegation members Mr. Ben-Yehuda and Mr. Shrem together with minority staff members of the Governmental Affairs Committee, Howard Marx and Jerry Block. We found their proposals for new, low fares to Israel innovative and exciting.

Even though the outcome of these negotiations was favorable, it appeared earlier that the talks might stall when U.S. negotiators indicated, in no uncertain terms, that regardless of the number of Israeli concessions, our most important ally in the Middle East would receive only one additional gateway in the United States.

It was at that time that I spoke out on the Senate floor in favor of the need for a Senate observer at the negotiations as a way of expressing congressional interest in making certain that the need to approve new service to the four new gateways was given fair consideration by the U.S. negotiators. Within an hour after I completed my speech, the White House responded by allowing an observer from the Aviation Subcommittee of the Senate Commerce Committee to monitor the negotiations. This may have been the first time in the history of U.S. bilateral treaty negotiation that a representative from the Congress was permitted to sit in and monitor the talks.

Mr. Doug Buttry, staff counsel to the minority on the Aviation Subcommittee, expertly monitored the negotiations and briefed my staff and others daily on the negotiations. I would like to thank my colleagues Senator HOWARD CANNON and Senator JAMES B. PEARSON, chairman and ranking minority member, respectively, on the subcommittee, for making it possible for Mr. Buttrey to attend the sessions. I would also like to express my appreciation to my colleagues Senator DICK STONE of Florida and Senator EDWARD M. KENNEDY of Massachusetts for actively supporting the granting of additional gateways to El Al.

I believe two State Department officials should also be singled out for assistance in arranging for observers status for a representative of the Congress. They are Warren M. Christopher, Deputy Secretary of State, and John W. Spiegel, Special Assistant to the Deputy Secretary of State. Two members of the U.S. negotiating team also merit accolades. They are Michael H. Styles, Director of the Office of Aviation at the Department of State, and Raymond A. Young, Deputy Assistant Secretary for Policy and International Affairs in the Department of Transportation. Both worked long and hard to achieve this agreement. Both displayed remarkable sensitivity to the concerns of both sides, while placing the needs of consumers among their lead priorities. We are fortunate to have such dedicated civil servants in our Government.

Other members of the U.S. negotiating team were: Wilson Riley, Office of Aviation, State Department; Joseph McBride, Office of Israeli/Arab Affairs, State Department; Vance Fort, Office of the General Counsel, Department of Transportation; James Jones, Department of Transportation; G. Joseph Minetti, vice chairman, Civil Aeronautics Board (CAB); Mary I. Pett, Daniel C. Hedges, and Douglas V. Leister, Bureau of International Aviation, CAB. Finally, and with the highest possible praise I commend the tireless dedicated efforts of Howard Mary and Jerry Block working with Stuart Statler, minority counsel, the Permanent Investigating Subcommittee of the Government Affairs Committee who were with me every step of the way during this important development in international aviation history and Israeli-United States commercial relations.

I am appending to my remarks a complete copy of the memorandum of consultation and agreement which I understand will be signed within the next several weeks.

The material follows:

COMMITTEE ON GOVERNMENTAL AFFAIRS,
Washington, D.C. June 14, 1978.

Hon. CYRUS VANCE,
Secretary of State, Department of State, Washington, D.C.

DEAR SECRETARY VANCE: On June 26, 1978, the United States and Israel commence an important round of commercial air transportation negotiations which may lead to substantial direct benefits to the consumers and the respective economies of each country. If successfully concluded, the negotiations may result in lower fares, charter flights to Israel from anywhere in the United States, and direct wide-bodied service by El Al to Chicago, Los Angeles, Miami, and Boston.

Because of this country's special relationship to Israel, and because of the importance of these negotiations, I urge you to become personally involved. Your involvement would demonstrate to both the Israeli and the American people that our government is just as concerned about planes of peace as we are with planes of war—planes of peace not armed with rockets, but instead bearing goodwill and friendship.

The time has now come to open an aerial bridge to Israel—not just from New York City—but from every principal city in the United States, including Chicago in my own State of Illinois. Such a bridge will strengthen the philosophical, religious, and commercial ties between the two nations. At this time, more than ever, Israel must be shown that we will go that extra mile to build these bridges and not dismantle item.

Since 1968, I have been personally attempting to convince the State Department to grant additional landing rights in Chicago for El Al. However, because of protectionist policies of both governments, El Al has been limited to serving the United States through the New York gateway.

However, the Congress, the Executive Branch, and the Civil Aeronautics Board have united in the last year to redirect our domestic and international aviation policies on a path that places healthy competition, lower fares, and consumer preferences ahead of narrow protectionist policies.

On April 19, 1978, by a vote of 83-9, the Senate passed the Air Transportation Regulatory Reform Act of 1978, which I cosponsored and supported.

This proposed law gradually lessens government control of our nation's airlines. It permits airlines to lower fares and add new routes, without government interference. Although it does not cover international aviation, many of its supporters believe it should serve as a model for negotiating bilateral international agreements.

President Carter has stated that, in negotiating international air transport agreements, instead of trading restriction for restriction, we should trade opportunity for opportunity. This policy has been brilliantly and boldly implemented by CAB Chairman Alfred Kahn. It was Chairman Kahn who cast aside the protests of U.S. flag carriers to allow Freddie Laker's low-fare Skytrain to begin operations from this country to London. Mr. Kahn placed the interests of consumers who want lower fares to Europe ahead of mere protectionism. The latter may have been necessary during the early years of international commercial aviation, but clearly is no longer necessary. Frankly, we are very fortunate in Chicago that foreign-flag carriers apparently think more highly of the potential Midwest market for travel to Europe than our own

flag carriers. Only one such U.S. carrier operates out of Chicago to Europe, with year-round nonstop service to London and summer only nonstop service to Paris. Eight foreign flag carriers pick up the slack, because U.S. flag carriers chose, unfortunately, to direct most of their European-bound traffic through New York's crowded Kennedy Airport.

We are not the only nation to alter its policy during the past year. I understand that the Israeli government has already informally communicated an important projected change in policy that includes:

An "open skies" policy Both scheduled and charter operators would be able to land in any point in Israel or the United States. This removes one of the major obstacles to negotiations by permitting charters from the 47 states currently excluded by Israel.

Low fares. Airlines would be able to set fares at the level they desire. This deregulation of air fares should lead to various innovative standby, advance purchase, and regular air fares that will make travel to Israel more affordable to those wishing to travel on TWA or El Al.

In return, Israel is asking for landing rights in Chicago, Los Angeles, Miami and Boston, and additional cities which El Al may designate later. I understand that El Al wants to provide Boeing 747 one-stop service to Chicago via Montreal or Boston; 747 one-stop service to Miami via Madrid; and 747 one-stop service to Los Angeles via Amsterdam or London.

Approval of new multiple landing rights for El Al is understandably important to many Illinois and Midwest citizens who have religious and cultural ties to Israel. Currently, air service to Israel is needlessly difficult from Chicago and other cities. It usually means flying to New York City in order to transfer to an El Al wide-bodied nonstop flight to Israel. For elderly passengers, this New York stop can be especially gruelling because it may mean a time-consuming bus ride and luggage transfer between La Guardia and Kennedy Airports. The only U.S. flag carrier servicing Israel—TWA—stops in Athens en route. It uses narrow-bodied Boeing 707 equipment, which is clearly less-favored by passengers in comparison with the wide-bodied jets, according to a recent survey taken by the Airline Passengers Association. A 1977 survey showed that 70.2 percent of passengers surveyed preferred the 747 while only 2.7 percent preferred the 707.

It is clear that many of my own constituents prefer El Al because of their pride in traveling aboard an airline that embodies the achievements and hopes of Israel—an airline that is imbued with an heroic and dependable tradition. I understand, for instance, on eastbound flights over the North Atlantic, not uncommonly at least ten orthodox Jewish men (the minimum required for a religious service) gravitate to the aft section of the 747 and don their prayer shawls and phylacteries to greet the rising sun seven miles over the earth, with traditional morning prayers. At times Torahs or Biblical scrolls—a sacred symbol to the Jewish people—are cradled through the aisles.

And, sometimes, as the plane descends across the Israeli coastline, the cabin breaks out in song as Hebrew folk songs ring out over the public address system.

Additionally, El Al has an impeccable safety and security record, which must be an important consideration to any traveler heading to the Middle East. Safeguards range from rigorous pre-flight clearance checks to the use of armed escorts.

I am sure that many of my constituents, who live in Chicago and in suburbs near O'Hare International Airport, would use this new service by El Al, if approved. Some have relatives and friends in Israel. Most simply want to tour and understand the country and its daring people. Already 35,000 to 40,000 Illinois residents travel to Israel every year. The Chicago and Waukegan City Councils and the Illinois legislature will have passed resolutions favoring the new service.

Approval would clearly strengthen the Israeli economy which is heavily dependent on Western tourism. Israel today is considered one of the outstanding tourist attractions in the world to both those making a pilgrimage to the Judeo-Christian holy places and to those wishing only a relaxing vacation. A large segment of the Jewish population of 350,000 in the Midwest would undoubtedly be drawn to the new service, as well as hundreds of thousands of Christians who wish to visit the holy land.

The Israeli proposal for additional landing points should also help provide more jobs for American workers. I understand that if the U.S. Government approves these added landing sites, El Al will proceed to purchase three Boeing 747's together with spare parts, worth approximately $165 million. Israel already is negotiating with McDonnell-Douglas and Lockheed for the purchase of new intermediate-range jet equipment for its service to Europe, Iran, and South Africa.

The Star of David painted on the tail of El Al's jumbo jets will be a welcome sight in the skies over Metropolitan Chicago and other major U.S. cities, if these negotiations are successfully concluded. An aerial bridge of peace will have been established, cementing the democratic and Judeo-Christian ties that link our two countries.

Because of my personal interest in the successful outcome of these negotiations, I would like to have a representative of my staff observe the negotiating sessions. I understand that various trade, labor, and public interest groups already have been awarded such observer status. I would also appreciate a timely response to the concerns I have outlined, prior to the start of these renewed negotiations.

Sincerely,

CHARLES H. PERCY,
U.S. Senator.

HIGHLIGHTS OF ADDRESS BY MR. MORDECHAI BEN ARI, EXECUTIVE CHAIRMAN OF THE BOARD, EL AL ISRAEL AIRLINES, BEFORE THE NATIONAL AVIATION CLUB, WASHINGTON, D.C., ON "DILEMMAS AND OPPORTUNITIES IN INTERNATIONAL AIR COMMERCE"

President Reed, Honored Guests, Friends: At the outset, let me express my appreciation to the National Aviation Club for providing me with the forum for the ideas and views I intend to advance here, today. It was suggested that the theme of my talk should cover the subject of "dilemmas and opportunities in International Aviation in the Eighties" and that I should talk no more than twenty minutes

When I think about the problems of international aviation a limit of twenty minutes poses a dilemma, but I welcome the opportunities such a broad subject offers me to talk about whatever is on my mind.

Earlier this month I had the pleasure of meeting with the members of the Aviation Space Writers Association in Tel Aviv, Israel, at their first International News Conference in that country.

From what some of them have told me our country, our airline and our aircraft industry have made a deep impression on them and I would like to tell those of them present here how pleased we were to welcome them in our country

Three major problems appear to preoccupy airline management at this point in time: We are, of course, concerned, above all else, with economic survival.

We are, furthermore, struggling with the question of regulation or, as the case may be, deregulation. Is there too much of one or the other? Not enough? Should or can it be partial or total?

And, last but by any means not least, there remains the ever-present threat of terrorism in the air and on the ground, effecting our passengers, our pocket books and our peace of mind.

As far as the economy of international civil air transportation is concerned, it would take a dramatic technological breakthrough to give us an aircraft of greatly reduced production and operating costs. To my knowledge no such development is on the drawing board at the present time. In view of the fact that the future of International Civil Aviation seems to lie in mass transportation or the pleasure-motivated traveller at low fares, the solution to the economic problems of the airlines, especially on intercontinental routes, seems to point to a basic change in the service concept on scheduled carriers.

Let me be specific: the present first and economy class would have to be abolished. In their place we would introduce a three-tier service concept. This would consist of a deluxe class, superior to the current first class service standards; the current first class would become the business class, based on the 34" pitch seating configuration with service features identical to those of the present first class service. We would offer a third class service at drastically reduced fares, with a 32" pitch seating configuration, with no-frill, no free food service, which we might call something like the "Holiday Class".

A 747 aircraft, offering all three categories of service, can be equipped with 500 seats or more, resulting in per-unit cost savings of between twenty to thirty-three per cent, depending on the "Mix" of classes in the aircraft.

The concept of Holiday Class, which I first proposed five years ago, has been endorsed by the Annual General Meeting of International Air Transport Association (IATA) at Madrid last October, upon recommendation of IATA's Director General, Mr. Knut Hammerskjold. It had been partly implemented a month before by the introduction of Laker's "Sky Train".

I believe that far-reaching changes of this kind will be introduced under different names and in different variations, on most intercontinental routes of the world and especially on the North Atlantic.

Many of these changes will undoubtedly come as a result of the growing desire for deregulation by domestic as well as international carriers. Chairman Alfred Kahn of the Civil Aeronautics Board of the United States Government has shown great courage and leadership in this regard and deserves our praise and gratitude. It now remains for the international carriers to follow suit.

If all this suggests that the time has come to dispense with IATA, this conclusion would be entirely wrong. IATA has become a worldwide international system of air transportation making it possible for every passenger, freight forwarder or postal authority to reach any point in the world on a single ticket or bill of lading or postal document.

This system does not represent merely a collection of independent competing airlines. In its role as a world-wide transportation system, the international air transport industry and its well being have become a matter of public as well as national and international interest and concern.

Under the wise and skillful stewardship of Knut Hammerskjold this international organization of airlines has gained remarkable achievements to its credit and the airlines could not exist without it.

Think what aviation would be like if every airline issued a different type of ticket and observed sets of rules for the transport of passenger or freight!

We are faced with two clear cut alternatives, in response to the requirements for drastic changes in civil aviation in the

Eighties from which the public as well as the airlines would benefit: we could opt for complete regulation on traffic rights, fares and rates on a bilateral or multilateral basis. This would, inevitably, lead to the complete elimination of charter flights on intercontinental routes. The alternative would be to create a deregulatory environment of "Open Skies" with unlimited freedom of competition, without government interference. Indeed, complete freedom of the air would mean that every airline can fly from and between any place in the world it chooses, without restriction and with the right to change any fare as it deems fit. In other words, the principle of Freedom of the Air would be identical to the principle of the Freedom of the Seas.

I firmly believe that adherence to this principle of "Open Skies" or Freedom of the Skies when adopted by nations and their airlines would constitute a revolutionary step toward assuring the long-range growth and development of a healthy and dynamic international air transport system based on the principles of free competition as the best safeguard of the interests of the consumer.

If this seems like a radical, perhaps too drastic, departure from the system adhered to now by the international airlines, I think it is high time we realized that our industry has reached maturity and that we can well afford to live in an environment of free competition and enterprise.

Moreover, it is our obligation to ourselves and to the public we serve, to be bold enough and promote actively the adoption by governments of a policy of complete freedom of the air.

In this context I strongly support the far-reaching structural changes in the statutes of IATA, proposed by the executive committee of that organization. They would comprise a major step towards the goal of complete freedom of the air in a healthy worldwide aviation system.

Finally, let me say a few words about the clear and present danger of the problem of terrorism. If governments and airlines do not show greater determination to deal with the armed interference with commercial airliners and their passengers, this may pose a threat to the very existence of civil air transport.

Only a policy of "active defense" will deal effectively with this threat. I have submitted detailed proposals on this subject to IATA. The same century, which has brought us intercontinental flight and has enabled us to leap forward into space has made possible the global brotherhood of Man and has facilitated human and commercial relationships but has also placed these treasured achievements of our civilization in mortal danger. It will be up to us to show our firm resolve that we are ready to defend them through affirmative action and without fear or hesitation.

MEMORANDUM OF CONSULTATIONS

Delegations representing the Government of Israel and the Government of the United States of America met in Washington from June 26–July 18, 1978, to negotiate for an expansion in air transport opportunities by the airlines of both countries in a competitive environment. Delegation lists are attached.

The Delegations agreed to recommend to their Governments that the attached Protocol Relating to the United States-Israel Air Transport Agreement of 1950 be approved and signed by the two Governments.

The Delegations also agreed to record their understanding on the following points:

1. Should either government conclude a more liberal air transport agreement with a third country, the United States and Israel would, at the request of either Party, hold consultations to consider a further expansion and liberalization of the attached Protocol.

2. It may be desirable for the United States and Israel to conclude an entirely new air transport agreement incorporating the substantive provisions of the Protocol and possibly other up-to-date provisions. It was understood that either country could request consultations for this purpose at an appropriate time in the future.

3. It was understood that Israel could request consultations in the future to consider its request for traffic rights between United States points and points in South America and Asia.

4. The Israeli delegation stated that the Israeli authorities would immediately authorize the Apex tariff filed by Trans World Airlines on May 25, 1978.

5. With regard to the intermodal movement of air cargo in the territory of either Party, the aeronautical authorities will apply their rules and regulations in a non-discriminatory manner.

HANAN BAR-ON,
Chairman, Israeli Delegation.
MICHAEL H. STYLES,
Chairman, U.S. Delegation.

PROTOCOL RELATING TO UNITED STATES-ISRAEL AIR TRANSPORT AGREEMENT OF 1950

The Government of the United States of America and the Government of Israel,

Desiring to expand air services through elimination of restrictions and to promote an international aviation system based on competition among airlines in the marketplace with minimum governmental regulation, and

Intending to make it possible for airlines to offer the traveling and shipping public low-fare competitive services and increased opportunities for charter air services between the two countries,

Have agreed to this Protocol relating to the Air Transport Agreement between the Government of the United States of America and the Government of Israel signed at Hakirya on June 13, 1950:

ARTICLE 1

Definitions

(a) "Agreement" means the Air Transport Agreement between the Government of the United States of America and the Government of Israel signed at Hakirya on June 13, 1950.

(b) "Convention" means the Convention on International Civil Aviation opened for signature at Chicago on December 7, 1944.

ARTICLE 2

Designation and authorization

(a) Each Party shall have the right to designate an airline or airlines for the purpose of exercising the rights granted in the Agreement as amended by the present Protocol. Each Party shall be free to determine the type or types of services which its designated airlines may operate.

(b) An airline or airlines of a Party whose designation allows the exercise of scheduled air service rights shall be permitted to exercise these rights on the routes specified in the Schedule attached to the Agreement, as amended by Article 3 of this Protocol.

(c) An airline or airlines of a Party whose designation allows the exercise of the rights in Article 4 of this Protocol shall be permitted to exercise those rights in accordance with the rules applicable to charter traffic now or hereafter published by the aeronautical authorities of the Party in which the charter traffic originates, or in accordance with waivers of such rules granted for appropriate reasons. When such rules of one Party apply more restrictive terms, conditions, or limitations to one, or more, of its designated airlines, the designated airlines of the other Party shall be subject to the least restrictive of such terms, conditions or limitations. Moreover, if the aeronautical authorities of either Party promulgate rules applicable to charter traffic which apply different conditions to different countries, each Party shall apply the most liberal rule to the designated airlines of the other Party.

(b) Designated airlines shall be granted appropriate operating permission without undue delay in accordance with Article III of the Agreement.

(e) Notwithstanding paragraph (C) of Article I of the Agreement, the term "designated airline" as used in this Protocol and in the Agreement shall be deemed to refer to an airline designated pursuant to this Article.

ARTICLE 3

Routes for scheduled air services

The Schedule attached to the Agreement is amended to read, in its entirety, as follows:

"1. An airline or airlines designated by the Government of the United States shall be entitled to operate air services on the following route, in both directions, and to make scheduled landings in Israel at the points specified in this paragraph: The United States via intermediate points to Tel Aviv and beyond.

"2. An airline or airlines designated by the Government of Israel shall be entitled to operate air services on the following route, in both directions, and to make scheduled landings in the United States at the points specified in this paragraph: Israel via points in Cyprus, Turkey, Greece, Romania, Italy, Spain, Portugal, Switzerland, Austria, Federal Republic of Germany, France, Luxembourg, Belgium, Netherlands, United Kingdom, Eire, and Montreal to New York and four additional points in the United States [1] to be selected by Israel and notified to the United States, and beyond (a) one specified US point to Mexico City, and (b) any specified US points to South America and Asia without traffic rights between Montreal and US points or between US points and points beyond the United States.

"3. Each designated airline may, on any or all flights and at its option, operate flights in either or both directions, serve points on the routes in any order, and omit stops at any point or points without loss of any right to uplift or discharge traffic otherwise permissible under the Agreement, provided the service begins or terminates in the territory of the Party designating the airline.

"4. Each designated airline may, on any or all flights and at its option, operate flights on any segment or segments of the routes described in paragraphs 1 or 2 above without any limitation as to change in type or number of aircraft operated, whether or not traffic rights are available."

ARTICLE 4

Grant of rights for charter air services

(a) Each Party grants to the other Party the right for the designated airlines of that other Party to uplift and discharge international charter traffic in passengers (and their accompanying baggage) and cargo at any point or points in the territory of the first Party for carriage between such points and any point or points in the territory of the other Party, either directly or with stopovers at points outside the territory of either Party or with carriage of stopover or transiting traffic to points beyond the territory of the first Party.

(b) Charter traffic:

(i) originating outside the territory of both Parties; or

(ii) carried by an airline of one Party, originating in the territory of the other Party, and having a traffic stop beyond the

[1] Only two of these four additional points may be served until August 1, 1979.

territory of the first Party without an intermediate stopover in the territory of the first Party of at least two consecutive nights;

shall not be covered by this Protocol.

ARTICLE 5

Fair competition

(a) Each Party shall allow a fair opportunity for the designated airlines of both Parties to compete in the international air transportation services covered by the Agreement and this Protocol.

(b) Each Party shall take into consideration the interests of the other Party in its designated airlines so as not to affect unduly the opportunity for the airlines of each Party to offer the services covered by the Agreement and this Protocol.

(c) Neither Party shall limit the volume, frequency, or aircraft type operated by the designated airlines of the other Party, except as may be required for technical, operational or environmental reasons under uniform conditions consistent with Article 15 of the Convention.

(d) Neither Party shall impose or allow to be imposed a first refusal requirement, an uplift ratio, no-objection fee, or any other requirement with respect to the capacity, frequency or traffic to be carried by the designated airlines of the other Party which would be inconsistent with the purposes of this Protocol.

(e) Sections IV, V, VI, VII, and VIII of the Annex to the Agreement are deleted.

ARTICLE 6

Fares, rates, and prices

(a) Section IX of the Annex to the Agreement is amended to read in its entirety as follows:

"(A) Both Parties desire to facilitate the expansion of international air transportation opportunities over the routes specified in the Schedule attached to the Agreement, as well as in charter air transportation. This objective can best be achieved by making it possible for airlines to offer the traveling and shipping public a variety of service options at the lowest fares, rates and prices that are not predatory or discriminatory and do not represent an abuse of monopoly position. In order to give weight to this objective, each Party shall encourage individual airlines to develop and implement competitive fares, rates and prices. Accordingly, the Parties agree that fares, rates and prices should be set by each designated airline based primarily on commercial considerations in the market place and that governmental intervention should be limited to prevention of predatory or discriminatory practices, protection of consumers from the abuse of monopoly position, and protection of airlines from prices that are artificially low because of direct or indirect governmental subsidy or support.

"(B) Each Party may require the filing with its aeronautical authorities of fares and rates and of wholesale prices to be charged by designated airlines of the other Party. Such tariffs shall be filed by such airlines at least forty-five (45) days, in the case of passenger tariffs, and sixty (60) days, in the case of cargo tariffs, before the proposed date of introduction unless the Party with whom the filing is to be made permits filing on shorter notice. Neither Party shall require the filing by a designated airlines of the other Party of prices or rates charged by charterers to the public for charter traffic originating in the territory of that other Party.

"(C) If a Party is dissatisfied with a fare, rate or price or the rules governing their availability that are contained in tariffs filed with it by a designated airline of either Party for scheduled or charter air transportation between the territories of the two Parties, it shall notify that other Party as soon as possible, and in any event within 30 days of receiving notification of the fare, rate or price. Either Party may then request consultations which shall be held as soon as possible, and in no event later than 30 days of the receipt of the request.

"(D) Neither Party shall take unilateral action to prevent the inauguration or continuation of fares, rates or prices or the rules governing their availability that are contained in tariffs filed with it by the designated airlines of either Party for scheduled or charter air transportation between the terrorities of the two Parties. If a Party has expressed dissatisfaction with a fare, rate or price and requests consultations in accordance with paragraph (C) of this section, the Parties shall meet and endeavor to reach an agreement. Prior to and during such consultations, the fares, rates or prices at issue shall immediately go into effect, or continue in effect. After consultations, unless mutual agreement is reached between the Parties to suspend the fares, rates or prices in question, the fares, rates or prices shall be introduced or continue in effect as filed. If the Parties agree to disapprove a fare, rate or price, both Parties shall use their best efforts to prevent the implementation or continuation of the fare, rate or price that was mutually disapproved.

"(E)(1) If both Parties have concluded agreements with a third country which include provisions similar to those in paragraph (D) of this Section, fares, rates or prices of airlines of such third countries, for scheduled or charter air transportation between the territories of the two Parties and via such third country, shall be governed by the provisions of paragraph (D) of this Section.

"(2) In any event, each Party shall permit any airlines, including airlines of third countries, to match fares, rates and prices, including their terms and conditions, on an intra-line or inter-line basis, for service via third countries, offered by designated airlines of either Party for scheduled or charter air transportation between the territories of the two Parties, provided, however, that if an airline or airlines of that Party is providing service to or through that third country, the government of that third country permits the airlines of that Party to match fares, rates and prices offered by that third country airline for scheduled or charter air transportation between such third country and the territory of the other Party.

"(F) Notwithstanding the filing time periods set forth in paragraph (B) of this section, each designated airline shall have the opportunity to meet, on a timely basis, prices or rates charged or proposed to be charged by charterers or by other designated airlines for the carriage of cargo.

"(G) Notwithstanding paragraph (D) of this Section, either Party may take unilateral action to prevent the inauguration until August 1, 1979, of a fare, rate or price if it continues to believe that such fare, rate or price is predatory, discriminatory or an abuse of monopoly position. Such action may only be undertaken following timely consultations with the other Party, pursuant to paragraph (C) of this Section, it being understood that during such consultations such fare, rate or price shall not be permitted to become effective. The Parties shall exercise their powers under this paragraph only in exceptional circumstances and in a manner consistent with paragraph (A) of this Section."

ARTICLE 7

Flight or program approvals

(a) Each Party shall minimize the administrative burdens of filing requirements and procedures on passenger or cargo charterers and designated airlines of the other Party.

(b) A designated airline of one Party proposing to carry charter traffic originating in the territory of the other Party shall comply with the applicable rules of that other Party.

(c) Neither Party shall require a designated airline of the other Party, in respect of the carriage of charter traffic originating in the territory of that other Party, to submit more than a declaration of conformity with the rules applicable to charter traffic of that other Party or of a waiver of these rules granted by the aeronautical authorities of that other Party.

(d) Notwithstanding paragraph (c) above, each Party may require that a designated airline of the other Party provide such advance information with regard to flights as is essential for customs, airport, and air traffic control purposes.

(e) Designated airlines shall comply with established procedures in regard to airport slotting and shall provide prior notification of flights or series of flights to the relevant authorities is so required.

(f) Neither Party shall require prior approval of flights or notifications of information relating thereto by designated airlines of the other Party, except as provided in paragraphs (b), (c), (d) and (e) above.

ARTICLE 8

Enforcement

(a) The Party in whose territory the traffic originates shall, for practical purposes, have exclusive jurisdiction for the enforcement of its aeronautical rules and regulations.

(b) The Parties shall cooperate with each other on enforcement matters. Where one Party obtains evidence of a possible violation of the areonautical rules of the other Party with regard to traffic originating in that other Party's territory, it shall transmit such evidence to the other Party for investigation and appropriate enforcement action, instead of interrupting flights or interfering with traffic which originated in the territory of the other Party.

(c) Each Party may take such steps as it considers necessary to regulate the conduct of its own airlines, charterers, travel organizers, agents, forwarders or shippers offering or organizing services covered by the Agreement and this Protocol. However, such regulations shall not preclude or limit the power of the other Party to regulate, within its territory and pursuant to its domestic laws, the conduct of such organizations or individuals of the first Party.

ARTICLE 9

Aviation security

(a) The Parties reaffirm their grave concern about acts or threats against the security of aircraft, which jeopardize the safety of persons or property, adversely affect the operation of air services and undermine public confidence in the safety of civil aviation. The Parties agree to provide maximum aid to each other with a view to preventing hijackings and sabotage to aircraft, airports and air navigation facilities and threats to aviation security. They reaffirm their commitments under and shall act consistently with the applicable provisions of the Convention on Offenses and Certain Other Acts Committed on Board Aircraft, signed at Tokyo on September 14, 1963, the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on December 16, 1970, and the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, signed at Montreal on September 23, 1971. The Parties shall also act consistently with applicable aviation security provisions established by the International Civil Aviation Organization. Each Party agrees to observe the security provisions required by the other Party for entry into its territory and to take adequate measures to screen passengers and their carry-on items. When incidents or threats of hijacking or sabotage against air-

craft, airports or air navigation facilities occur, the Parties shall assist each other by facilitating communications intended to terminate such incidents rapidly and safely. Each Party shall give sympathetic consideration to any request from the other for special security measures for its aircraft or passengers to meet a particular threat.

(b) Article V of the Agreement is amended by lettering the existing paragraph "(a)" and adding the following paragraph (b): "The competent aeronautical authorities of each Party may request consultations concerning the safety and security standards and requirements maintained and administered by the other Party relating to aeronautical facilities, aircrew, aircraft, and the operation of the designated airlines. If, following such consultations, the competent aeronautical authorities of either Party find that the other Party does not effectively maintain and administer safety and security standards and requirements in these areas that are equal to or above the minimum standards which may be established pursuant to the Convention, they will notify the other Party of such findings and the steps considered necessary to bring the safety and security standards and requirements of the other Party to standards at least equal to the minimum standards which may be established pursuant to the Convention, and the other Party shall take appropriate corrective action. Each Party reserves the right to withhold or revoke, pursuant to Articles III or VII, the operating authorization or technical permission of an airline or airlines designated by the other Party, in the event the other Party does not take such appropriate action within a reasonable time."

ARTICLE 10

Commercial operations

(a) The airlines of one Party shall have the right, in accordance with such laws and regulations as may pertain, to establish offices in the territory of the other Party for business purposes and for the promotion and sale of their services.

(b) The designated airline or airlines of one Party shall have the right, in accordance with the laws and regulations relating to entry, residence and employment of the other Party, to bring in and maintain in the territory of the other Party those of their own managerial, technical, operational and other specialist staff who are required for the provision of air services.

(c) Each designated airline shall have the right to perform its own ground handling in the territory of the other Party or to use the services of an authorized agent of its choice. Such agents shall be freely authorized, subject to the availability of airport facilities.

(d) Each Party grants to each designated airline of the other Party the right to engage in the sale of air transportation in its territory directly and, at the airline's discretion, through its agents. Each airline shall have the right to sell such transportation, and any person shall be free to purchase such transportation, in the currency of that territory or in freely convertible currencies of other countries. These rights shall, however, be available only to the extent authorized by the aeronautical authorities of the country of the airline concerned.

(e) Each designated airline shall have the right to convert and remit to its country on demand local revenues in excess of sums locally disbursed. Conversion and remittance shall be permitted without restrictions at the rate of exchange applicable to current transactions and remittance.

(f) User charges shall be established at reasonable and non-discriminatory levels, consistent with the costs of providing the relevant services or facilities, and be equitably apportioned among categories of users.

(g) Each Party shall use its best efforts to secure for the designated airlines of the other Party on a reciprocal basis an exemption from taxes, charges and fees imposed by state, regional and local authorities on the aircraft and regular equipment of such airlines and on the items listed in paragraphs (b) and (c) of Article IV of the Agreement, as well as from fuel throughput charges, in the circumstances described in those paragraphs, except to the extent that the charges are based on the actual cost of providing the service.

ARTICLE 11

Entry into force

The provisions of this Protocol shall be applied from the date of its signature.

Done at ———, in duplicate, this——— day of ——, 1978.

For the Government of the United States of America:

For the Government of Israel: ●

NEW STUDIES ON ARSON CONFIRM THAT GOVERNMENT CONTROL EFFORTS ARE INEFFECTIVE

● Mr. PERCY. Mr. President, the crime of arson besets our Nation's urban areas like an epidemic of the plague. In a recent year it was estimated that arson in America cost about 1,000 lives and $2 billion in insurance payments.

Futhermore, arson causes countless personal injuries and inflicts psychological hardship on hundreds of innocent victims each week. It destroys property, saps community morale, drives commerce away from the inner-city, and erodes urban tax bases.

But there are those who benefit from arson. Throughout our Nation, groups of modern-day pirates conspire to torch buildings and defraud insurance companies for profit. Their vicious crimes are difficult to detect and even harder to prosecute successfully. Eye witnesses are rare. Physical evidence must be analyzed closely. Due to poor training and coordination, investigations of suspicious fires often get lost in the communication gap between local fire and police agencies.

At the same time, privacy laws prevent insurance companies from sharing information on suspicious fires with law enforcement officials. And the Federal Government has so far offered almost no assistance in curbing this national scourge.

All of these factors combine to make arson one of the fastest growing crimes. Until very recently, however, arson was widely overlooked and poorly understood. Certainly the ordinary citizen did not worry much about it. Most people felt that arson injured only insurance companies which could easily afford to pay off on a few fraudulent claims. This view has fast disappeared as enormous arson losses force companies to charge higher and higher premiums for property insurance. By driving insurance premiums upward, arson drains the pocketbook of every American homeowner or businessman with a need for property insurance.

Even while national concern grows, however, knowledge about arson remains insufficient. We are only beginning to learn how torches practice their villainous craft, how arson-for-profit conspiracies operate, how insurance and law-enforcement practices may actually contribute to the profitability of arson. With so much to be learned, we should be grateful to see new studies which expand our knowledge of the arson problem. Four such studies are now available, three from the General Accounting Office and one from the Illinois Legislative Investigating Commission.

At my request last August, the GAO launched a comprehensive assessment of the adequacy of current Federal programs dealing with the prevention, investigation, and prosecution of arson offenses.

The three portions of the GAO study have all now been released, revealing the overall weakness of the Federal response to arson for profit.

The first GAO report, transmitted in early spring of this year, confirms that there is no concerted Federal law enforcement effort to curb the growing incidence of arson in America. The four Federal agencies charged with law enforcement responsibilities in arson-related crimes—the FBI, the Internal Revenue Service, the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms, and the Postal Service—told GAO that—

> No evidence existed to support the contention that arson-related crime is a serious national problem or that greater federal effort is warranted.

The agencies make this preposterous contention despite the fact that there has been no Federal effort to determine the severity of the arson problem.

Although the Postal Service and ATF have lately begun to take more aggressive initiatives, the Federal law enforcement community generally accords low priority to arson crimes. The GAO recommends that the Attorney General "take the lead in developing information needed to assess the seriousness of the arson problem and, based on the results, develop an appropriate Federal law enforcement strategy."

The second GAO report reveals that almost nothing has been done by the Federal Government to help local law enforcement agencies combat arson. No Federal programs currently exist to develop new arson detection technology, to instruct local fire departments in such detection, or to train State and local prosecutors to handle complex arson cases. Although the need for Federal assistance to local antiarson programs is greater than ever, the Law Enforcement Assistance Administration, with over $2 billion at is command, spends less than one-tenth of 1 percent of its assistance money—$1.7 million—to help local communities battle the crime.

The final GAO report, released in June of this year, indicates that State-operated FAIR plans actually encourage arson-for-profit by:

> Insuring inner-city properties at replacement cost rather than true market value, thus providing a financial incentive to burn dilapidated buildings;

> Insuring policies without sufficient scrutiny of the physical condition of the properties or the record and character of applicants; and

> Requiring 30-day notice prior to policy cancellation even for deteriorating and abandoned properties likely to be torched at any time.

Several state FAIR plans have taken steps to remedy these shortcomings. Use of the "broad evidence rule" allows several plans to consider purchase price, rental, and tax-assessed values to compute replacement costs and to guard against overinsuring. Several plans have altered their underwriting guidelines, permitting greater leeway to deny, limit, or modify coverage.

Due to poor communication, these innovations have not been widely shared between the individual plans. Furthermore, the FIA, with responsibility to monitor and improve the practices of FAIR plans, has failed to encourage practices to reduce arson-for-profit.

To reduce the incidence of FAIR plan insurance fraud, the GAO report urges that FIA regulations be revised to:

Require FAIR plans to adopt procedures to eliminate the over-insuring of properties;

Require FAIR plan underwriters to consider information on the "character" of an applicant, as is done elsewhere in the insurance industry; and

Permit FAIR plans to use a 5-day cancellation notice.

The GAO surveys demonstrate the need for a more aggressive and unified attempt by all law enforcement units to tackle arson-for-profit head on.

At the request of the Illinois General Assembly, the Illinois Legislative Investigating Commission recently completed a comprehensive study of the arson situation in Illinois. Entitled "Arsons" and published in May 1978, that study focuses on the Illinois arson problem, but discusses several issues of national relevance.

This report's most important contribution is its discussion of the difficulty of getting an arrest or conviction in an arson case. The problems include jurisdictional squabbles between police and firefighters, poorly trained arson investigators, and lack of prosecutorial expertise for complex arson cases.

In one unique section, the commission reports on its own arson investigation. Chicago's Bomb and Arson Squad closed the file on this particular fire when several neighbors testified they had seen youthful vandals playing near the property. The State crime lab examined remains from the fire and found no evidence of accelerants. However, the commission's inquiry told a different story. In addition to neighbors, the commission interviewed former tenants of the burned building, the owner, and representatives of the Illinois FAIR plan, which insured the property. A review of the records revealed that the owner had filed previous fire claims with the FAIR plan, though he denied this. Other aspects of the owner's testimony ran contrary to facts uncovered elsewhere by the commission. Furthermore, an independent laboratory found conclusive evidence of accelerants on submitted samples. The commission's investigation proved not only that an arson had occurred, but also that the prevailing investigative expertise and techniques were insufficient to uncover it.

The Illinois study presents one of the most thorough and comprehensive discussions of arson I have seen to date. It demonstrates the need for a multipronged national effort to reduce arson-for-profit, combining the efforts of police and firefighters, prosecutors, the insurance industry, all levels of government, and private citizens. Thomas Hampson, Dennis Hamilton, and Charles Ekdahl, all investigators with the commission, deserve particular praise for their role in preparing this well-conceived and researched study.

Mr. President, both the GAO series of reports and the Illinois commission report warrant the attention of everyone interested in gaining a fuller understanding of arson. For the convenience and information of my colleagues, I would request that excerpts from these reports be reprinted in the RECORD.

The excerpts follow:

[First GAO Arson Report]

Washington, D.C., April 5, 1978.

Hon. CHARLES H. PERCY,
Ranking Minority Member, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.

DEAR SENATOR PERCY: Your August 2, 1977, letter requested that we review a number of issues concerning "arson-for-profit." Your major concerns related to:

Adequacy of controls over the insurance coverage property owners can obtain.

Research and development of arson detection techniques, and training of arson investigators.

Activities of Federal law enforcement agencies to prevent, detect, and prosecute this type of crime.

As agreed with your office, we will give you a report on each of the three areas. This report discusses the authority, activities, and plans of Federal law enforcement agencies regarding arson-related crime.

FEDERAL AUTHORITY AND COORDINATION FOR ARSON-RELATED CRIMES

Arson is not generally a Federal crime. There are two exceptions to this rule. First, 18 U.S.C. 81 makes arson a Federal crime if committed at a location where the Federal Government exercises special maritime or territorial jurisdiction. In general, and as defined by 18 U.S.C. 7, special maritime or territorial jurisdiction of the United States includes

The high seas;

Federal property held under exclusive or concurrent jurisdiction of the United States; and

Property purchased or otherwise acquired by the United States with the consent of the State legislatures, if the property is initially acquired to erect a fort, magazine, arsenal, dockyard, or other necessary building.

Second, some Federal agencies administer Federal property that is not within the special maritime or territorial jurisdiction of the United States. By issuing regulations, some of these agencies have made arson a Federal misdemeanor on the Federal property they administer.

In general the Federal Government will investigate and prosecute arson only if a Federal law is violated in conjunction with the arson crime. For example, suspects in arson-for-profit cases are usually accused of transmitting insurance claims and other correspondence through the United States mails. If the Federal mail fraud statute (18 U.S.C. 1341) is violated, Federal law enforcement agencies may become involved in investigating the mail fraud and indirectly the arson. Enclosure I lists the Federal statutes covering arson-related crime which various law enforcement officials said their agency could investigate.

The Federal Government has not considered arson-related crimes an enforcement priority; therefore, the Government does not have a unified, coordinated program specifically designed to prevent, detect, investigate, and prosecute these crimes. Four Federal law enforcement agencies—the Department of Justice's Federal Bureau of Investigation (FBI); the Department of the Treasury's Internal Revenue Service (IRS) and Bureau of Alcohol, Tobacco, and Firearms (ATF); and the United States Postal Service—investigate arson-related crimes; however, coordination among these agencies is limited, usually informal, and on a case-by-case basis. Justice's organized crime strike forces, operating in various cities throughout the United States, will also investigate and prosecute arson-related crimes if organized crime is involved.

The consensus of these law enforcement agencies was that no evidence existed to support the contention that arson-related crime is a serious national problem or that a greater Federal effort is warranted. The Federal Government, however, has not made any attempt to determine the severity of the arson problem.

CURRENT FEDERAL LAW ENFORCEMENT EFFORTS IN THE ARSON AREA

Federal law enforcement agencies involved with arson-related crimes do not collect data which would demonstrate the severity of the arson problem. Therefore, they are not in a position to delineate their previous efforts or to identify the actions needed to cope with the arson issue.

During 1978 the Postal Service plans to give more investigative attention to suspected arson-related insurance fraud schemes and to separately identify and report these cases. ATF officials said that they are revising their statistical reporting system to acquire arson-related information. Neither the FBI nor the IRS had plans to separately identify arson offenses within their internal statistical reporting systems.

None of the four agencies considered arson a priority investigative area and therefore did not have a program designed to deal specifically with arson. ATF, however, is currently establishing arson task forces in several cities. This initiative was prompted by a special project conducted by its Philadelphia District. In January 1977 the Special Agent-in-Charge of ATF's Philadelphia District independently initiated a special project—which he termed a task force—to investigate arson in the Philadelphia area. The task force was established by an informal cooperative agreement between ATF, the local police, the local district attorney, and the local fire marshal. Under the agreement ATF assumed leadership in all arson investigations in the Philadelphia area, with active participation and cooperation from the other officials. As of December 7, 1977, the task force was conducting 15 arson investigations. ATF officials said that all of these investigations involved matters cognizable under 18 U.S.C. 844(i),[1] but that collateral violations of the racketeering statutes (18 U.S.C. 1950, 1961–1968) were also being investigated.

Officials said that the idea for the arson task force was, in part, the result of two arson investigations conducted by ATF in Philadelphia. The first was an investigation of an arson case previously investigated by the Philadelphia Police Department. Local citizens groups had protested that the police had arrested, and the court convicted,

[1] 18 U.S.C. 844 (i) is a criminal statute that deals with the destruction of or damage (by an explosive) to property used in or affecting interstate or foreign commerce.

an innocent person. The local U.S. attorney asked ATF to reinvestigate the case. Officials said their investigation led to the arrest and conviction of the individuals who actually committed the crime and the release of the innocent person. In the other case, the U.S. attorney asked ATF to investigate a fire bombing of a Philadelphia hotel. Investigators found traces of gasoline in an oxidized state which, according to officials, has an explosive capability. Although ATF officials believed that 18 U.S.C. 844 (i) had been violated, the U.S. attorney elected to prosecute the case under statutes dealing with mail fraud and interstate transportation in aid of racketeering. The defendant received a 3-year prison sentence.

On October 14, 1977, the Special Agent-in-Charge of the Philadelphia District, as a result of his experience, recommended instituting ATF-led arson task forces in other U.S. cities. ATF headquarters approved this recommendation in January 1978, and its plans to establish arson task forces in 18 additional cities. (See enclosure II.) An official estimated that the new task forces would not be operational until June 1978.

Although Federal organized crime strike forces are not set up specifically to investigate and prosecute arson cases, the strike forces have investigated arson-related crimes when organized crime was involved. For example, the Buffalo, New York, organized crime strike force became interested in arson cases about 3 years ago. At that time the Erie County District Attorney established a task force of local officials to look into the local arson problem. The task force had two prime suspects it associated with many of the arsons, but it could not get enough evidence against them to make a case. The strike force assisted by identifying a number of suspicious insurance claims and tracing them through various corporate records, deeds, and other documents, looking for an association with the two suspects. They found it. The two individuals pled guilty to charges of mail fraud, and each received a 5-year sentence. The Buffalo strike force recently indicted the entire hierarchy of a Rochester organized crime family engaged in an arson-for-profit ring and, as of December 14, 1977, had one arson-related investigation pending.

HAS ARSON BEEN A WIDESPREAD PROBLEM? IS A GREATER FEDERAL PRESENCE NEEDED?

Law enforcement agency officials contacted said that no evidence existed to demonstrate that arson-related crime was a widespread problem or that a greater Federal involvement in the arson area should be initiated. As previously mentioned, the Federal Government has not made an attempt to quantify arson-related crimes to determine their severity. Agency officials were willing to reconsider arson as a priority area if evidence became available to justify an expanded effort. The Postal Service and ATF appear to be taking a more aggressive initiative in the arson area. (See p. 3.) ATF officials supported their initiative with the following statistics:

Incendiary bombings increased 200 percent nationwide in 1976 over 1975.

Forty-nine percent of the fires of incendiary, suspicious, or unknown origin in New Jersey in 1975 were never investigated.

Sixty-two percent of the arsons committed in the United States involved the use of flammable liquids or accelerants; of that number 90 percent had an explosive capability when aerated.

In addition to establishing ATF-led arson task forces, ATF is planning to establish an "Explosive Academy" at the Federal Law Enforcement Training Center, Glynco, Georgia, which will include instruction on arson investigation.

In summary, although the Postal Service and ATF have taken some initiatives to combat arson, the rest of the Federal law enforcement community does not view this particular crime as deserving any special priority. There is insufficient hard evidence to accurately gage the magnitude of the arson problem, and consequently, to gage the propriety of the Federal posture concerning it. We recommend that the Attorney General take the lead in developing information needed to assess the seriousness of the arson problem, and based on the results, develop an appropriate Federal law enforcement strategy.

As agreed with your office, we did not obtain formal agency comments on this report. However, we discussed its contents with agency officials and considered their views in preparing the report. Because of your plans for hearings on the arson problem and your desire to release this report at the hearings, we plan no further distribution of the report until that time, or until you publicly announce its contents.

We want to direct your attention to the fact that this report contains a recommendation to the Attorney General. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions he has taken on our recommendations to the Senate Committee on Governmental Affairs and the House Committee on Government Operations not later than 60 days after the report's date and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the report's date. Your release of this report will enable us to send it to the four Committees for the purpose of setting in motion section 236 requirements. We trust this information will meet your needs.

Sincerely yours,

ELMER B. STAATS,
Comptroller General,
of the United States.

ARE FEDERAL PROGRAMS ADEQUATE TO DEAL WITH ARSON PROBLEMS?

Hon. CHARLES H. PERCY,
Ranking Minority Member, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.

DEAR SENATOR PERCY: On August 2, 1977, you asked us to assess the adequacy of current Federal programs dealing with the detection, investigation, and prosecution of arson offenses. It was agreed that we would respond to your request in three separate reports.

This report pertains to the following areas of your request:

Research and development of arson detection techniques and equipment.

Training of arson investigators and prosecutors.

Programs and funding for State and local arson investigators and prosecutors.

Your office agreed that our review would include only Federal programs funding State and local investigators and prosecutors where such programs are specifically directed at the arson problem.

We made our review primarily at the National Fire Prevention and Control Administration, Department of Commerce, Washington, D.C. We interviewed agency officials and reviewed records on Federal arson prevention and control plans and programs. We also obtained information at the Fire Research Center, Department of Commerce, Gaithersburg, Maryland; the Law Enforcement Assistance Administration and the Federal Bureau of Investigation, Department of Justice; and the Bureau of Alcohol, Tobacco and Firearms, Treasury Department; all in Washington, D.C.

Our review showed that only one Federal program is directed at the areas specified in your request. This program is the Fire Administration's training course for arson investigators which is scheduled to begin in April 1978. The Fire Administration also plans to develop an arson detection training program for fire service personnel and an arson prosecutor training program for State and local public attorneys.

BACKGROUND

Arson is the act of burning property for an improper purpose. It is difficult to prove arson because evidence is usually destroyed in the fire and, normally, there are no witnesses.

The extent of the arson problem is not known and reliable statistics are not available. However, the Insurance Information Institute estimated national arson-related property losses in 1975 at over $1.4 billion, while the Insurance Service Office estimated the national arson-related fire losses at over $4 billion. The National Fire Prevention and Control Administration and the American Insurance Association recognize the need for better data on the arson problem and are currently improving the data.

The socioeconomic factors which motivate arsonists contribute to the complexity of the problem. Such motives include profit, revenge, spite, jealousy, vandalism, crime concealment, intimidation, and pyromania.

The National Fire Prevention and Control Administration, created by the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2201 *et seq.* (1976)), as emerged as the Federal focal point for providing arson intervention programs to States and local communities. The Fire Administration's role in the arson area is to reduce arson through education, training, research, public information, and data collection and analysis.

The Law Enforcement Assistance Administration has no program directed at the arson problem; however, at the time of our review, it was making plans to study what its role should be. This agency awards grants to State and local governments for activities decided on by the grantees, including arson-related activities.

The Bureau of Alcohol, Tobacco and Firearms has no programs for training arson investigators and prosecutors, or researching arson detection techniques and equipment. As part of the overall training of its agents, however, instruction covers fire-bombing methods, bomb scene searches and investigations, and recognizing incendiary devices. Also, laboratory analysis is performed to identify fire accelerants.

The Fire Research Center, as authorized by the Federal Fire Prevention and Control Act of 1974, has been studying the psychological motivations of fire setters and is conducting one arson-related research program—a survey of laboratory methodology in analyzing fire accelerants.

Within the Federal Bureau of Investigation, arson investigation is not a high priority. Only a few arson investigations have been conducted, and the Bureau believes that training program for arson investigators is not justified because of the small number of such cases within its jurisdiction.

FEDERAL RESEARCH AND TRAINING PROGRAMS

A number of plans have been formulated to meet needs in the areas of research into arson detection techniques and equipment and training for arson investigation, detection, and prosecution; however, only one program—a training course for arson investigators—has been developed.

In a series of seminars in early 1976, 36 experts identified and ranked nine arson areas needing Federal intervention. The results were published by the Fire Administration in its September 1976 report "Arson: America's Malignant Crime." The areas are summarized in appendix I.

Two of the nine areas were arson detection, investigation, and prosecutor training (fourth highest ranking) and research and development on tools for arson investigations (eighth highest ranking). Details on Federal efforts directed at these two areas are pre-

sented in the following sections and are tabulated in appendix II.

RESEARCH INTO ARSON DETECTION TECHNIQUES AND EQUIPMENT

Fire service personnel need equipment that is better suited for detecting arson at the fire scene. A federally sponsored study identified research needs which the Fire Administration is attempting to follow up; however, there is still no Federal program for research on arson detection techniques and equipment.

In addition to the Fire Administration's report identifying research needs in arson detection equipment, the Fire Research Center prepared a report in 1976 which identified the evaluation of arson detection equipment used in the field as a desirable program. Research needs for arson detection equipment were further identified in a 1976 report prepared for the Law Enforcement Assistance Administration. This study was made to assess the arson problem and determine whether there were technical solutions to alleviate it. One conclusion was that a more sensitive and reliable vapor detector and a smoke and soot analyzer are needed. The vapor device would detect residues of such fire accelerants as gasoline. The smoke and soot device would detect the presence of fire accelerants through analysis of these fire byproducts.

As part of its fiscal year 1979 arson effort, the Fire Administration had planned to identify the needs of users for arson detection techniques and equipment. We were told that equipment being used in arson detection work was not designed for such use. By assessing existing devices and the state of the art, the Fire Administration would develop the needed characteristics, for example, sensitivity, portability, and cost, of an arson detection device and the techniques for using it. Fire Administration officials told us that this planned program was eliminated for budgetary reasons.

ARSON INVESTIGATOR TRAINING COURSE

The Fire Administration, in conjunction with the Lincoln Land Community College, recently developed an arson investigator training course. By 1982 the Fire Administration plans to have given the course to 4,000 investigators. The Lincoln Land Community College was granted $69,400 to develop this course for increasing the levels of proficiency in fire and arson investigations. The course is based on material from related Federal agency programs, elements of various State and local training programs, and advice solicited from investigators who were asked to review course plans. The course will be given to students beginning in April 1978, after pilot testing by the Fire Administration. The Fire Administration plans to give the course to 200 investigators during fiscal year 1978 at an estimated cost of $42,000, not including per diem and other expenses for the students. These will be the responsibility of the students' sponsoring organizations. This financing arrangement may have some adverse effect on getting students assigned to the course.

In addition to formal course instruction through the National Fire Academy, the course materials will be duplicated and distributed to 200 State and local entities for their training use at an estimated cost of $29,000. There are some risks associated with this method of investigator training. The local entities have no obligation to teach the course, and there is no assurance that they have the required teachers or funds. No Federal funds are to be provided.

The Fire Administration does not yet have a formal method to measure the effectiveness of its Fire Academy courses, but it is developing evaluation methods for all its programs. For the investigator training course, initial evaluation will be based on student feedback through course critiques. After the first year of the course, the Academy plans to recall about 50 "trained" investigators to reevaluate and update the course content.

PLANS FOR ARSON DETECTION TRAINING

Presently, there is no training program for fire service personnel in arson detection; however, the Fire Administration plans to develop such a course to begin in mid-1978.

Fire service personnel, being first on the fire scene, should know what to look for in a fire of suspicious origin. The Fire Administration is planning a training course (24 hours of instruction) to train instructors who will then teach fire service personnel the procedures to follow when arson is suspected. Much of the course content will come from the arson investigator training course prepared by the Lincoln Land Community College. Plans are to have the course ready by July 1978 to be given over a 4-month period to 250 local fire service instructors in 10 regional areas. According to present plans, these instructors should give the course to about 100,000 firefighters over the next 5 years.

There are no plans to fund the instruction at the local level. Such an incentive might be helpful to insure wide dissemination of the course, particularly to the volunteer firefighters who make up the greater portion of the Nation's firefighting force.

PROSECUTOR TRAINING

There is no Federal program for training public attorneys at the State and local level to prosecute arson cases. The Fire Administration believes such training is needed, and a program is planned for development during fiscal year 1979. The Fire Administration is considering establishing formal training seminars to be conducted through an educational institution.

Law Enforcement Assistance Administration representatives told us that they rely on State and local governmental units to identify their needs. They said that no requests have been received for funds to train public attorneys in prosecuting arson cases.

FEDERAL PROGRAMS AND FUNDING FOR STATE AND LOCAL INVESTIGATORS AND PROSECUTORS

We found no Federal program specifically directed at funding State and local arson investigators and prosecutors. The Law Enforcement Assistance Administration's grants to State and local governments, in some cases, include funds for arson-related purposes, such as equipment, laboratory analysis support, and training of investigators. In most cases these grants are multipurpose and the portion to be used for arson-related activities cannot be identified from the agency's records. During fiscal years 1975–77, the Law Enforcement Assistance Administration records showed that it awarded 25 such multipurpose grants amounting to $2.6 million. In addition to the multipurpose grants, it awarded 49 grants amounting to $1.7 million in fiscal years 1975–77 which were to be used solely for arson-related activities. (See app. III.)

During our review we noted that Federal agencies were funding other arson efforts, such as development of a model arson law, development of a method for predicting fires, and various studies of the arson problem. This information gives additional perspective to the Federal role in combating arson, and we have listed these activities in appendix IV.

Because only one Federal program has been developed in the research and training areas mentioned in your request—a course for arson investigators—and the course has not yet been made available to local investigators, a good basis does not exist to judge the effectiveness of the course. Generally, Federal resources devoted to research, training, and funding of State and local investigators and prosecutors are small.

There has been no Federal commitment for a coordinated and concerted effort at helping State and local communities deal with the arson problem through research or training and funding for State and local investigators and prosecutors. We believe this is due partly to the (1) lack of good data on the extent of the arson problem and (2) need for a better definition of the roles and responsibilities of the various public and private organizations concerned.

At your request, we did not take the additional time to obtain written agency comments. The matters covered in the report, however, were discussed with Fire Administration officials and their comments are incorporated where appropriate.

Because you plan hearings on the arson problem and will release this report at the hearings, we do not plan to further distribute it until that time or until you publicly announce its contents.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

ARSON-FOR-PROFIT: MORE COULD BE DONE TO REDUCE IT

WASHINGTON, D.C.

B–171019.

Hon. CHARLES H. PERCY,
Ranking Minority Member, Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate.

DEAR SENATOR PERCY: Your letter of August 2, 1977, requested assessment of the adequacy of current Federal programs dealing with the detection, investigation and prosecution of arson offenses. One of your specific concerns was the extent to which the Federal Riot Reinsurance Program and the Fair Access to Insurance Requirements Plans established by the States provide an incentive for arson-related insurance fraud. We reviewed the arson-related insurance fraud problem—arson-for-profit—in Fair Access to Insurance Requirements Plans and found that:

Certain Fair Access to Insurance Requirements Plans are overinsuring property and creating an incentive for arson-for-profit.

Fair Access to Insurance Requirements Plans need greater underwriting authority to deny or limit insurance coverage to high-risk property owners.

Appendix I contains the detailed results of our review.

Your questions concerning Federal research and development of arson detection techniques and arson investigator training; and Federal law enforcement agencies' activities to detect, investigate and prosecute arson offenses were provided in separate reports (PSAD–78–88 dated April 24, 1978, and GGD–78–47 dated April 5, 1978, respectively). Your specific questions concerning Fair Access to Insurance Requirements Plans are answered in this letter.

We interviewed officials and obtained written information, regulations or operating policies from the Federal Insurance Administration and the National Fire Prevention and Control Administration in Washington, D.C.; nine Fair Access to Insurance Requirements Plans—Delaware, District of Columbia, Illinois, Maryland, Massachusetts, New York, Pennsylvania, Rhode Island, and Washington—six insurance companies, and two insurance industry trade associations. Appendix III contains a listing of organizations we contacted during our review.

Fair Access Plans and the Federal Riot Reinsurance Program are authorized under the Urban Property Protection and Reinsurance Act of 1968, as amended, (12 U.S.C. 1749 bbb *et seq.* (1976)). These Plans are privately owned and operated organizations, operating much like private insurance companies, but are established primarily by State legislation. The Plans provide essential property insurance to urban and other areas

where the insurance industry will not provide coverage. Although Fair Access Plans operate under the supervision of the States' insurance authorities, the Federal Insurance Administration of the Department of Housing and Urban Development reviews Plan operations to assure that Plans are providing essential property insurance.

The Federal Riot Reinsurance Program, administered by the Federal Insurance Administration, provides private insurance companies riot reinsurance to protect them during riots against excess losses on company-insured properties. To purchase riot reinsurance, a company must be participating in a Fair Access Plan.

Both Fair Access Plan and insurance industry officials believe that arson-for-profit is a serious problem in the Plans, as well as in the private insurance market. The significance of the problem, however, could not be demonstrated because of the lack of specific data on the extent of the problem. Officials have indicated that inadequate investigation of arson cases by both local government and Plans, and the difficulty of proving the insured's involvement, are factors which allow arson-for-profit cases to go undetected. In certain cities in Massachusetts and Pennsylvania, investigations by two of the nine Plans we contacted have identified organized crime involvement in arson-for-profit.

According to Plan and insurance industry officials, one of the major incentives for arson-for-profit is overinsurance; providing an amount of insurance exceeding property market value. The District of Columbia, Illinois, and New York Plans are providing insurance to property owners without attempting to determine property values. As a result, property owners may be insuring their properties for amounts exceeding property values and, therefore, create an incentive for arson. Officials from these Plans believe that it is meaningless and costly for them to establish property values at the time insurance is provided because, in the event of fire, the payment for the resultant claim is based on the property's actual cash value at the time of loss. Other Plans, however, were limiting coverage to the market value of the property at the time insurance was written.

Also, the Maryland, Massachusets, and Pennsylvania Plans were generally providing insurance in amounts that property owners desired until a few years ago. These Plans now provide insurance coverage generally at market value thus attempting to provide only enough insurance to indemnify property owners for their losses. Plans officials believe that preventing overinsurance is an important step in reducing arson-for-profit in the Plans.

Many Fair Access Plan officials believe that the Plans are encouraging arson-for-profit by providing insurance coverage to almost everyone requesting it. Until the Plans get additional underwriting authority from the Federal Insurance Administration to deny, limit, or modify insurance coverage, certain Plan officials believe little can be done. One Federal insurance Administration official, however, said that Administration regulations do not require Plans to insure everyone and that the Administration is more concerned that Fair Access Plans are not denying coverage unfairly or unnecessarily. Five of the nine Plans we visited are making or have recently made some changes concerning the conditions under which they will insure properties, but Plan officials agreed that additional changes can and should be made. Most Plans apparently, are not aware of changes that other Plans have made to reduce arson-for-profit.

Answers to your questions are summarized below.

1. How do Fair Access to Insurance requirements Plans determine the amount of coverage to be given to a property owner? Can the owner insure for any amount he desires, even beyond fair market value?

The amount of coverage that Plans will provide varies. Some Plans base the amount of coverage to be given to a property owner on the market value of the property using such values as owner's purchase price. The Massachusetts Plan, for example, uses tax assessed value, purchase price, and the most recent selling prices of properties in the neighborhood as found in real estate transfer directories. The Pennsylvania Plan will insure up to 150 percent of the purchase price if the amount of insurance is less than $50,000. Of the nine Plans we visited, however, three (District of Columbia, Illinois and New York) generally provide property owners any amount of coverage they want without regard to property values. (See pp. 13–16 of app. I.)

2. Can the Fair Access to Insurance Requirements Plan refuse to insure for the full amount requested by the owner? Can it refuse coverage altogether?

Although Fair Access Plans can refuse to insure for the full amount requested, three of the nine we visited do not. Of the nine Plans, six do refuse to insure for the full amount requested if it is more than the Plan determines to be the property value. All the Plans that we contacted said that they can refuse coverage altogether, however, there are limited reasons for refusing. As a result, almost everyone is provided insurance. The Illinois Plan is refusing to insure only about one of every 100 applicants. Plan officials of seven of the nine Plans said that the Federal Insurance Administration requires them to insure almost everyone, although an Administration official said that this was not true. Program regulations appear to support the Administration's position. (See pp. 17–21 of app. I.)

3. Is there any provision for less-than-full payment on a claim if the insurer can prove that the insured allowed his property to deteriorate significantly before the damage in question?

Generally, depreciation (deterioration) is considered in paying claims. In seven Fair Access Plan-States—none of which we visited—however, deterioration is not considered when settling claims for total property losses. Property owners are paid the full face amount of their policies. (See pp. 16–17 of app. I.) In four of the nine States that we visited, the basis used for determining the amount to pay under a claim is the property's "actual cash value" at the time of loss. Actual cash value is defined as replacement cost less depreciation.

Deterioration is, therefore, considered to some extent when settling claims in these States. Fair Access Plans, however, generally insure properties in economically declining neighborhoods in which replacement cost less depreciation can be much greater than the market value of the properties. In such cases, Fair Access Plan-insured property owners may be paid more than the market or sales value of their properties. In the other five States that we visited, other property values, such as market value, rental and economic value are considered, in addition to replacement cost less depreciation. Property owners in these States, therefore, are not likely to be overcompensated for fire losses. The above mentioned seven States that we did not visit use either the basis used in these five States or the actual cash value basis to settle claims for partial property losses thus, considering detrioration at least to some extent.

You also requested that we determine how the program could be altered to remove the incentive to destroy unprofitable or deteriorating but well-insured buildings. We believe that the Federal Insurance Administration should take a leadership role in helping Plans reduce arson in Plan-insured properties. We make recommendations to the Secretary of Housing and Urban Development for certain revisions in the Administration's regulations. (See app. II.)

As requested by your office, we did not give the Federal Insurance Administration an opportunity to formally comment on this report. Its contents, however, were generally discussed with Administration officials, and their comments were included in the report as appropriate. As you requested, we will not distribute this report until just prior to your hearings or until you publicly announce its contents. At that time we will send copies to various standing committees in the House and Senate, such as Appropriations, Government Operations, and the Administration's legislative committee: Senate Committee on Banking and Urban Affairs and House Committee on Banking, Finance and Urban Affairs. We will also provide copies to the Secretary of Housing and Urban Development, the Administrator, Federal Insurance Administration, and the Director, Office of Management and Budget.

A detailed discussion on the results of our review is presented in appendix I and our conclusions and recommendations to the Secretary of Housing and Urban Development are presented in appendix II.

Sincerely yours,

ELMER B. STAATS,
Comptroller General
of the United States.

[APPENDIX II]

CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

FAIR Plan and insurance industry officials believe that arson-for-profit is a serious problem in the FAIR Plans as well as in the private insurance market. Due to the lack of specific data, the significance of the problem cannot be demonstrated.

Providing insurance in an amount exceeding property value is considered an important incentive for arson-for-profit. Of the nine FAIR Plans we contacted, three are providing insurance to property owners without attempting to determine the property values, thus providing owners the opportunity to overinsure. Officials from the three Plans believe it meaningless and costly to determine value at the time insurance is provided because claims are paid on the basis of property value at the time of loss. Other FAIR Plans, however, are now establishing property value when insurance is provided and attempting to limit coverage to that value. Using a number of values, such as purchase price, selling price of similar properties in the immediate area, and tax assessed values property value can be reasonably estimated. Guarding against overinsuring removes an important incentive for arson-for-profit.

In case of fire, claims are paid at actual cash value or replacement cost less depreciation. Insurance proceeds based on this value can provide property owners more than the market value of their properties. This is an incentive for arson-for-profit which does not exist in States that have adopted the "broad evidence rule," allowing consideration of other property values, such as market, rental, and economic values.

Many FAIR Plan officials believe Plans are encouraging arson-for-profit by providing insurance to almost everyone who requests it. Certain FAIR Plan officials believe there is little they can do until FAIR Plans receive additional underwriting authority from FIA to deny, limit or modify insurance coverage. Other FAIR Plans we visited are making or have recently made changes in their underwriting criteria. We believe that some of these changes would be useful to other FAIR Plans. Because there is little communication among the FAIR Plans, however, the Plans are not aware of all that others are doing to control arson. FAIR Plan officials agreed that more can and

should be done to provide greater underwriting flexibility to FAIR Plans.

FAIR Plan officials believe that the character and attitude of the insured should be considered in the Plan's determination to grant coverage. Such information would include the owner's history of fires, his personal or business's financial condition, tax arrearages, and other moral hazard factors.

Seven of the FAIR Plans we visited disagreed with FIA's requirement that a 30-day notice must be given before a policy can be cancelled. FAIR Plan officials believe the requirement is unreasonable when the Plan knows an insured building is going to be burned. The 30-day requirement is generally longer than most States require for insurance companies. Some FAIR Plan officials have suggested a 5-day requirement which has been approved by FIA for the Rhode Island FAIR Plan, subject to case-by-case approval by the State insurance department.

RECOMMENDATIONS

We recommend that the Secretary of Housing and Urban Development direct the Administrator, Federal Insurance Administration to revise FIA regulations to:

Require that all FAIR Plans establish property value at the time of underwriting and eliminate the practice of giving property owners any amount of insurance desired.

Require all FAIR Plans to obtain and consider information concerning the character of the property owner in its determination of insurability, as the insurance industry does.

Permit FAIR Plans to use a 5-day cancellation notice with State insurance department approval in each instance.

We also recommend that the Administrator discuss the desirability of adopting the broad evidence rule basis with State insurance authorities in those FAIR Plan-States that require insurance payments at actual cash value without consideration of market value.

ARSONS: A REPORT TO THE ILLINOIS GENERAL ASSEMBLY

INTRODUCTION

The alarming increase in the number of arsons in Illinois and the corresponding loss of life and destruction of personal property led the late State Senator Norbert A. Kosinski to sponsor Senate Resolution 474. This resolution asks the Commission to investigate the arson problem and recommend legislative remedies. Senator Kosinski had a personal interest in combating arsons, since his own neighborhood on Chicago's northwest side has been hard hit by arsons in the past few years.

In 1976, 44 persons in Illinois died in fires deliberately set. This was an enormous increase over 1975 when there were two arson victims. Arsons in 1976 totaled almost $22 million in property damage and the projected losses for 1977 indicate that the property damage bill will climb even higher.

The news media has made the public painfully aware of the impact of arsons in Chicago's Humboldt Park, Lakeview and Uptown neighborhoods. Charred shells of buildings line blocks of these communities—the sad remains of arson-for-profit schemes, indiscriminate vandalism and revenge fires. In January, 1976, headlines announced the tragedy at Wincrest Nursing Home where 23 senior citizens lost their lives in a fire apparently set by an arsonist. The media has recently reported the deliberate torching of several Chicago suburban restaurants, allegedly the work of the so-called "Greek Mafia."

Arsons affect all of us in this State. It is a unique crime which combines the elements of violence and fraud. Thus, it is sometimes categorized as both a "street crime" and a "white collar crime." In almost every arson case, there is the possibility that someone could have been killed or injured.

There is also the ripple effect of an arson. In the case of a torched business, jobs and tax revenue to the municipality are lost. Arson of residential property is not only an eyesore and blight to the neighborhood—it also removes the property from the tax rolls, increasing the tax burden on the remaining taxpayers. Typically, available housing units are lost, and in many cases those persons least able to afford alternative housing are displaced. Arsons also consume scarce government resources for fire-fighting, investigations and prosecution. Finally, there is the loss to the insurance company which must pay on the fraudulent claim and ultimately pass on its loss to other property owners in the form of higher premiums.

During the course of the Commission's investigation, the General Assembly moved swiftly to pass several bills aimed at reducing the number of arsons. The new "Class X" legislation made important changes in the "Aggravated Arson" statute (which was passed in 1977) and stiffened the penalty to a minimum of six years and a maximum of 30 years in prison, without benefit of probation, work release or conditional discharge. Another bill requires insurance companies to share information about their insured with law enforcement officials in the case of a suspicious fire. In return for its cooperation, the insurance company is absolved of any liability. Another bill prohibits insurance companies from paying insurance claims over $5,000 until the property owner provides assurance that all outstanding taxes are paid. These bills are more thoroughly discussed in Chapter 6 of this report.

In order to learn the dimensions of the arson problem, our investigators interviewed police and fire officials, representatives from the insurance industry, prosecutors, State Fire Marshals, public adjustors, private arson investigators, crime lab technicians, medical examiners, even convicted arsonists.

The second chapter of this report discusses the extent of the arson problem in Chicago, throughout Illinois and across the nation. Lack of proper record keeping and incomplete statistics make it difficult to measure the growth of the arson problem. This chapter describes the most prevalent forms of arson in Illinois, as a result of vandals and arson-for-profit schemes.

Chapter 3 of this report examines the motives for committing arson and includes a profile of a convicted arsonist. Our investigators interviewed 18 convicted arsonists all incarcerated in Illinois prisons. Although none of them could be considered a prototype arsonist, these interviews provided us with information on how someone goes about hiring a torch and the role of the middleman in an arson-for-profit scheme.

This chapter also includes a description of the typical arson-for-profit scheme. In this case, an individual purchases property and lets it deteriorate, while milking it of all possible profits. At the same time, the owner insures the property for well over what he paid for it or its current market value. Often a third party is hired to torch the property while the owner establishes an alibi. Unless someone is convicted of the crime or the insurance company wins a civil suit, the insurance company must honor the fraudulent claim.

Chapter 4 contains the heart of our report, an analysis of the arson problem and the difficulty of getting an arrest and conviction. In this chapter, arson is dubbed the "elusive crime" because it is so difficult to detect and prove. The jurisdictional squabble over who should handle an arson investigation is one problem, as is the lack of training for the arson investigators. There are the technical problems of gathering and packaging evidence, since most of it is burned in the fire or destroyed in the aftermath of clean up and demolition. Samples of evidence from the fire scene must be analyzed by the State Crime Lab for traces of accelerant. Human error and unsophisticated equipment interfere with this step of the investigation.

An arson investigation must begin at the hint of a suspicious fire, long before it is definitely determined that arson caused the fire. Our investigators learned first-hand how difficult it is to develop enough evidence to get an arsonist arrested and ultimately convicted. Many prosecutors hesitate to take arson cases for fear it will hurt their prosecution/conviction record. Judges have often never handled an arson case, and juries tend to decide against the insurance company in cases which depend totally on circumstantial evidence.

Insurance companies have often been a roadblock in arson investigations. Until the passage of recent legislation, law enforcement officials had to use a subpoena to get information about an insured property owner from his insurance company. The company feared being held liable for the information provided and subject to a lawsuit. Insurance companies have also taken few precautions to make certain that the property that they insure is really up to building and fire code regulations. They argue that the cost of inspecting all the properties that they insure is prohibitive.

This plethora of problems helps to explain why the national arrest statistics for arson is 10 percent of all those cases categorized as incendiary and the national conviction rate of those arrested is less than one percent.

To develop a first-hand understanding of the difficulties inherent in an arson investigation, our investigators checked out a suspicious residential fire in Chicago's Humboldt Park neighborhood which is described in detail in Chapter 5. Our investigation and the laboratory analysis of samples taken from the fire indicated that arson had been committed, however we did not develop enough evidence for an arrest. Our investigation also demonstrated that the Chicago Police Department's Bomb and Arson Unit investigation of this same property may have been a bit cursory.

Chapter 6 contains a catalogue of the programs established to combat arsons in Illinois. A number of professional organizations, the State Fire Marshal's office, and most recently the Illinois Department of Law Enforcement are all involved in arson detection and prevention.

Our investigators traveled to Seattle, Houston and New York City to learn how other major urban areas handle the arson problem. These comparisons are contained in Chapter 7. In each city, an arson unit has been established, requiring inter-agency cooperation to investigate arsons. All three cities agree that this approach is working, that arsons are being reduced and that arrests and convictions are up.

Finally, in Chapter 8 the Commission concludes that the arson problem requires a two-pronged attack: expanding prevention efforts and upgrading arson detection.

In the area of prevention, more responsibility must be assumed by the private insurance companies and the federally-mandated FAIR Plan. Insurance agents need to know more about the individual and the property that they are insuring. There are enough well established signals to warn them of a bad insurance risk. Administrative guidelines of the Illinois FAIR Plan must be re-examined in light of the physical condition of most of the property located in major urban areas, where by default, the FAIR Plan has become the insurer of last resort.

The Commission also calls for more vigorous enforcement of building codes and fire codes by the building departments and the State Fire Marshal's office. Buildings with hazardous code violations which affect health

and safety should be whisked into Housing Court, and in those cases where this condition is not eradicated swiftly, the property should be demolished at the owner's expense.

Law enforcement becomes involved in the arson problem only after the crime has been committed. This should be considered a second line of defense. With the new laws recently passed by the State better arson investigations may be possible and stricter sentences handed down to offenders. However, the jurisdictional squabble between the Illinois Department of Law Enforcement and the State Fire Marshal's office, over who should handle arson investigations throughout the State must be resolved immediately.

To reduce arsons, more arson training is needed for investigators on an ongoing basis. And the insurance company must continue to challenge claims and sue suspected arsonists in civil court when there is not enough evidence for a criminal conviction. Only if these steps are taken—coupled with increased news media coverage about arson—can the enormous problem of arson be diminished.

ARSON—THE ELUSIVE CRIME

On January 30, 1976, fire raged through the Wincrest Nursing Home in Chicago. The fire killed 23 senior citizens trapped helplessly inside. Denise Watson, a soft-spoken, 23-year old nurse's aid at the Home was later charged with arson and murder. In November, 1977, Ms. Watson was acquitted of those charges since the circumstantial evidence against her was not enough for a conviction.

In 1976, there were a total of 44 deaths attributed to arson in Chicago alone and well over a thousand deaths nationwide. The arson problem continues unchecked in cities, suburbs and rural areas.

Many news reports of fires include the phrase a "routine arson investigation has been ordered." In many instances arson is suspected but we rarely hear any follow-up that someone has been arrested or finally that someone has been convicted of the crime. The statistics tell the story of why arson is the safest crime to commit. In the period between January 1st and August 31, 1977, there were 2,113 fires in Chicago, according to the Metropolitan Chicago Loss Bureau. Of this total, the Bureau reports that 636 were arson, 117 showed "suspicion of arson" and 521 were of an "undetermined origin." The Chicago Police Department's (CPD) Bomb and Arson Unit investigated more than 500 of these arson cases in the same time period, and the unit made more than 290 arrests. However, there have been very few convictions and a number of cases are still pending. These figures for Chicago can be projected for the country to show that arson is indeed an elusive crime.

A. The Difficulty of Getting an Arrest or Conviction in an Arson Case

1. The Jurisdictional Question

Arson is unlike any other crime in one respect: investigations must be conducted long before it has even been established that a crime was committed. If recent events bear any lesson, firemen should not assume that a fire was accidental. In fact, in major urban areas, the reverse seems to be true, there is usually an initial suspicion of arson which must be proven or disproven.

Arson is also a crime which falls between the cracks bureaucratically. Is it the fire department's responsibility or the police department's? More importantly, whose responsibility should it be? The answer to this question varies with the individual asked. Naturally, fire department officials contend that they are the best equipped to handle arson investigations. They argue that they know fire characteristics and burn patterns, and since each fireman runs the risk of serious injury at any fire, he has an intrinsic interest in determining the cause of the fire.

The police department, on the other hand, prides itself on combating crime, investigating and interrogating witnesses, following leads and checking out clues. Policemen also have the power to arrest individuals and are familiar with taking a case to court and testifying under oath. Therefore, they argue that they are best equipped to investigate arsons.

In Chicago, the Police Department's Bomb and Arson Unit has full responsibility for handling all arson investigations. Several firemen are assigned to the unit, but it is primarily composed of police detectives. It used to be the other way around. Up until January, 1976, the Chicago Fire Department investigated arsons with cooperation from the Police Department. Reasons for the shift are vague: duplication of efforts; budget constraints and manpower considerations are the publically-stated reasons. The shift still bothers former Fire Commissioner Robert Quinn, who has recommended that arson investigations be returned to the Fire Department.

Ultimately, both the Police and Fire Departments must be involved in an arson investigation. No single agency is involved from initial discovery through prosecution, so cooperation between the two agencies is critical in solving arson cases.

In many rural or less populated portions of the country, volunteer firemen handle fires. Their primary purpose is to extinguish the fire. They pay little attention to preserving evidence or doing a full-scale arson investigation.

The jurisdictional dispute and the lack of expertise of most volunteer fire departments has led to the popularity of the "task force" concept. An arson task force typically consists of police, firemen, representatives from the insurance industry, prosecutors and representatives from the State Fire Marshal's office. The expertise of a number of persons is combined since a combination of skills is necessary to conduct a complete and thorough arson investigation. Many city officials have learned from experience that it is impractical, if not impossible, to combine all of the investigative skill needed in an individual with only a police or fireman's background. The Task Force concept is founded on the notion that the basic responsibility for detecting and investigating arson fires should not be split between departments and that combined skills are better.

Our investigators visited the Seattle and Houston Arson Units to get an idea of how they were conceived, their manpower, budget and results (see Chapter 7). To summarize, the Seattle Arson Investigation Unit is under the direct supervision of the Fire Chief. Two police detectives, who volunteered for the assignment, are part of the unit. All members of the Seattle Unit carry arms and have arrest powers. They prepare their own cases and often testify in court. Their results after two years are impressive; the number of cases solved has doubled and the dollar loss from fires has dropped about 25 percent, they claim.

The Houston Arson Squad is also under the jurisdiction of the Fire Department. Unlike Seattle, there are no policemen on the Arson Squad; instead the firemen have received extensive training in criminal procedure and investigating. The firemen are also given police powers to arrest and carry arms. The police department may get involved in the case of a homicide or a burglary coupled with arson. Officials in both cities describe the combined arson unit approach as a productive and logical way to solve the jurisdictional dispute.

2. *Problems in gathering evidence and the lack of training for arson investigators*

No other crime scene, except a bombing, is characterized by as much destruction and disorder as an arson. Ashes, soot and charred remains amid debris and rubble characterize the fire scene. Water and foam left after the fire has been extinguished can further impede the search for clues and evidence. It is a dirty job.

The fire scene can also be dangerous for the investigator. Falling plaster, loose boards and exposed wiring all frustrate the search for evidence of accelerants. The imminent collapse of portions of the building make the work even more treacherous. The shell of the building left open to the elements makes work in the winter difficult and unpleasant.

In addition to the destruction caused by the fire, the investigator is also hampered by the clean-up and salvage operations which begin the minute the fire is extinguished. Telltale evidence of accelerants may be carelessly removed from the fire scene. Unlike a murder or a burglary scene, it is difficult, if not impossible, to cordon off the fire scene and preserve evidence.

By accompanying several arson investigators to the fire scene, our Commission investigators learned first-hand that much can be determined about the origin of the fire by a trained investigator in spite of the above-mentioned handicaps. The investigator can tell how fast the fire burned, whether the doors and windows were locked or open at the time of the fire, and he can trace the path the fire followed. The remnants of the fire really tell the story to a trained eye. Clues are everywhere and some can even be found months after the fire has been extinguished. However, good arson investigators are hard to find.

Unfortunately, in Illinois and throughout the country there is very little professional training for the arson investigator. In fact, members of the CPD's Bomb and Arson unit receive minimal training in arson investigation—new recruits learn primarily through on-the-job exposure.

With obstacles like these, it is little wonder that many fires are never investigated. As a result of poor investigations, a number of fires are placed in the nebulous category of "unknown cause" or "suspicious," which simply further understates the arson problem. Both the police and fire departments want to improve their statistics and solve crimes. Labeling a fire an arson tends to reduce their success rate since the criminal is rarely arrested and if arrested he is less likely to be convicted.

There is a special problem of investigating arsons in rural areas, where there is often no local law enforcement agency and where firefighters are typically volunteers. Robert E. May, former State Fire Marshall in Illinois, called arson "the most neglected crime on Earth," in an article which appeared in Police Chief magazine in July, 1974. "About 75 percent of all firefighters in the United States are volunteers," he said. (It is estimated that 80 percent of Illinois fire departments are volunteer.) These fire fighters typically do not determine the cause of the fire since they are neither trained nor paid to do so. Their job is simply to extinguish the fire. When these municipalities ask for assistance, the State Fire Marshall has been given the responsibility to determine the fire's cause and origin. The Illinois Department of Law Enforcement is available to assist the local authorities with the investigation and prosecution.

In a "Survey and Assessment of Arson and Arson Investigations," prepared for the National Institute of Law Enforcement and Criminal Justice in 1976, 20 prominent arson investigators were asked to identify and rank current needs in arson investigations. All 20 respondents cited increased training for arson investigators as the number one priority. This included the technical aspects of fire and fire investigations as well as police methods of criminal investigation. Increased manpower was ranked second and a compu-

terized, nationwide arson investigation data system ranked third.

Both Houston and Seattle have extensive training programs for their arson investigators (see Appendices G and I). Lincoln Land Community College in Springfield has received a federal grant to develop a model training program for the National Fire Prevention Control Administration. After this curriculum is developed and tested, it will be made available to police and fire departments across the country. A less extensive curriculum will be made available to interested colleges and universities.

3. Analyzing evidence and the State crime laboratories

The obvious way to check for the use of an accelerant at the scene of a fire is to smell gasoline, or find an empty gas can near the fire scene. Even in Hollywood, arson investigations are not that easy. It takes a careful investigator, who knows where to look for remnants of an accelerant, to dig up glass fragments, fingerprints beneath soot, or a hint of accelerant on a portion of a floor beam. Once bits of evidence are discovered, they must be properly packaged, preserved and shipped off to the State Crime Lab for further verification.

Analysis of evidence in the case of a suspected arson is anything but an exact science. The equipment developed is imperfect and the technicians who must make some sense of the analysis have had minimal training and are vulnerable to human error. These factors alone make analysis of arson evidence dubious.

The State Bureau of Identification has eight crime laboratories located throughout the State. During 1976 these eight crime laboratories received the following number of arson investigations:

Maywood	137
Joliet	81
Rockford	38
Quad-Cities	32
Springfield	52
Fairview Heights	78
De Soto	77
Pekin	32
Total	527

The Bureau had only 10 crime scene technicians for the entire State. Because of this limited manpower they respond only to major investigations and rely heavily on the work done by the local law enforcement departments. A crime scene technician must have two years of general law enforcement experience. There is no formal training procedure, instead it is all "on-the-job training."

State laboratory technicians are not permitted to testify in civil proceedings, according to the Illinois Revised Statutes. Our investigator checked with the State's Attorney and learned that immunity would have to be granted to the lab technician before he could testify. The applicable portion of the revised statutes reads:

Chapter 38, Section 206–207:

Records not to be public. No file or record of the Department hereby created shall be made public, except as may be necessary in the identification of persons suspected or accused of crime and in their trial for offenses committed after having been imprisoned for a prior offense; and no records shall be given or furnished by said Department to any person, bureau or institution other than as herein provided. Violations of this Section shall constitute a Class A misdemeanor.

In the course of our investigation we heard a number of complaints about the work at State crime labs in Illinois, for example, it often takes three to four weeks to get back results on evidence sent in for analysis. The labs are overloaded with work and much of their time is spent analyzing drug samples. The lab technicians are generally low paid so that there is frequent turnover in the positions which can create even more delays. The equipment used in the State labs is not as sophisticated as it could be; thus, evidence which is dated or contaminated in packaging becomes worthless as a sample. By contrast, the private laboratories seem to have much more sophisticated equipment which can detect traces of accelerants long after the fire has been extinguished.

These criticisms of the State crime labs in Illinois are the same ones used against the labs in Seattle and Houston. It appears that the few private detection labs in the country have much more accurate and sensitive equipment than what the State labs can afford. In a number of civil court cases, lawyers tend to rely on the private laboratories because of their detection capabilities and their unrestricted availability to testify.

Several prosecutors mentioned that arson investigators do not spend enough time trying to gather solid, physical evidence in arson cases. More often the investigator hopes for a confession or an eyewitness, both of which are infrequent. Thus, the gathering and analysis of evidence is another bottleneck to getting arson arrests and convictions.

4. The prosecutor's problem

Statistically, arson is the safest crime to commit. There is less than a one percent conviction rate nationwide. The lack of direct evidence makes it very difficult to take an arson case to criminal court where guilt must be proven "beyond a reasonable doubt." The jurors in a criminal case are hard-pressed to send someone to jail based on circumstantial evidence. Without an eyewitness or a confession it is difficult for the prosecution to make a criminal charge of arson stick. There appears to be more hope in civil court, where one needs only "a preponderance of evidence" to prove that an individual has tried to defraud an insurance company.

Prosecutors in Chicago, Houston and Seattle told our investigators that they hesitate to take arson cases because of what it will do to their prosecution/conviction rate, since the odds are against their winning a conviction.

Houston arson investigators said that a major stumbling block in getting an arson case into court or an indictment necessary for a warrant is the District Attorney's office. A felony review officer must review the case prepared by the arson investigator and decide whether there is enough evidence for an indictment. In many instances, the District Attorney does not want to bother with a case which relies totally on circumstantial evidence.

On the other hand, John B. Holmes, Jr., Assistant District Attorney for Harris County, Texas, was critical of the arson investigators. He said that too often they rely on confessions instead of depending on rules of evidence and interviewing techniques.

Several prosecutors interviewed felt that lawyers should head up arson investigating units or be involved with an investigation from the beginning to help shape the collection of evidence. In Bronx County, New York, five assistant district attorneys are assigned full-time to monitor investigative efforts on arson. Their office believes that arson investigations must begin "before the cinders have cooled." The assistant district attorneys "review and evaluate all arson arrests, present appropriate cases to the grand jury, and conduct all plea negotiations and trials relating to arson matters. Cases are assigned to an assistant district attorney who is responsible for the case from the time the complaint is filed through the completion of the trial." (The South Bronx area is one of New York City's poorest neighborhoods. In a Fortune magazine article, "How Government Helped Ruin the South Bronx," Herbert E. Meyer reported that "between June, 1974, and June, 1975, 2,250 families were burned out of their apartments, and in 1974, 40 civilians and three firemen died in fires. Half of those caught for setting fires have been juveniles 15 years old or younger.)

Lieutenant Edward R. Neville, head of CPD's Bomb and Arson Unit, voiced another complaint about the court system. As with many other crimes, a common defense used by an accused arsonist is that of mental incompetency, which could preclude him from ever standing trial. The problem is further compounded when the suspect is determined to be in need of psychiatric counseling and sent to an institution. If, at some point during the counseling, it is determined that the individual has made sufficient progress, he is released without ever standing trial.

Finally several arson investigators complained that there is a lack of public awareness on the problem of arsons. The public needs to be more informed of the arson problem and what to do about it. This must be a shared responsibility which involves law enforcement, fire officials and the media.

5. Making the punishment fit the crime

Governor James Thompson recently signed into law a bill which creates a "Class X" category for serious crimes including murder, rape, and "aggravated arson." This legislation not only stiffened the penalty for conviction of aggravated arson, it included another class of persons under its protections: anyone who is injured by fire. The new legislation provides:

A person commits aggravated arson when by means of fire or explosive he knowingly damages, partially or totally, any building or structure, including any adjacent building or structure, and (1) he knows or reasonably should know that one or more persons are present therein or (2) any person suffers great bodily harm, or permanent disability or disfigurement as a result of the fire or explosion or (3) a fireman or policeman who is present at the scene acting in the line of duty, is injured as a result of the fire or explosion.

Under the Class X legislation, a person convicted of aggravated arson could be sentenced to prison for not less than six years nor more than 30 years. The court could also order a fine, restitution, or both. The individual convicted of this crime would not be eligible for "probation, periodic imprisonment or conditional discharge." The fact that Illinois has reclassified arson into a more serious crime should be considered as a model for other states. Any person who commits arson and knowingly:

1. Damages any real property, or any personal property having a value of $150 or more, of another without his consent; or

2. With intent to defraud an insurer, damages any property or any personal property having a value of $150 or more . . .

is guilty of a Class 2 felony which means a minimum prison term of one year and a maximum term of 20 years. The individual could also be fined up to $10,000. He would be eligible for parole in three years.

According to the Property Loss Research Bureau, arson kills about 1,000 persons a year nationally, including about 45 firemen, and it is one of society's most costly crimes when compared to other major crimes. According to the Federal Bureau of Investigation's (FBI) Uniform Crime Report, the average robbery in 1976 cost the victim about $338, the typical motor vehicle theft cost $1,741, and the average incendiary fire cost $6,433 (*See appendices A and B*).

A number of law enforcement officials complain that there is a problem in gathering solid statistics on incidents of arson

because it is only classified as a Part II offense in the Uniform Crime Reports.

Records on Part I crimes—which include criminal homicide, forcible rape, robbery, aggravated assault, burglary, larceny-theft, and motor vehicle theft—are kept by local officials and reported regularly to the FBI. So there is a centralized collection of data and published reports showing trends in these crime areas. For Part I crimes, local officials report volume, trend, rate, clearance of cases, number of persons arrested, number charged, and the nature of each offense.

Arson, on the other hand, is batched with lesser crimes like counterfeiting, vandalism, gambling, drunkenness, and disorderly conduct. Most law enforcement officials feel that arson should be elevated to the Part I status along with the other major crimes. For Part II crimes, police agencies report only arrest information to the FBI. More detailed statistics would help authorities and the insurance companies improve their attack on this fast-growing crime.

B. The Insurance Companies' Role

Losses from arson cost insurance companies an estimated $2,000,000,000 nationally in 1976 (according to industry statistics), and the cost to society is much higher if one considers the ripple effect of crime. Employees lose jobs. Cities lose tax dollars. Property is damaged. Neighborhoods are blighted. Insurance rates soar for everyone. Faced with ever-increasing claims, the insurance industry is beginning to fight back by challenging claims in court.

The insurance industry has been severely criticized for being lax in writing insurance policies, for example: extending coverage to someone who has had a series of suspicious fires; or an individual who wants to insure his property for much more than its fair market value—even though the building is located in a declining neighborhood and riddled with code violations.

Until recently, insurance companies were afraid to withhold, question or delay payment on insurance claims for fear of a liability suit. For the same reason, insurance companies rarely cooperated with law enforcement officials in divulging information about their customer, unless they were served with a subpoena.

Under a new Illinois law, passed September 6, 1977, insurance companies are now bound to alert State fire and law enforcement officials of suspicious fires and provide access to their files. This information can include "any insurance policy relevant to a fire loss under investigation, policy premium payment records, history of previous claims made by the insured for fire loss, and any material relating to the investigation of the loss, including statements of any person, proof of loss, and any other relevant evidence."

In return for such cooperation, the insurance company is relieved of liability in any civil or criminal matter which might arise. Failure to cooperate with law enforcement officials or to release information is punishable with a fine up to $100.

Insurance companies' involvement in the overall arson problem can be traced to the insurance agent's initial decision to grant or deny an individual fire and hazard protection. Typically, at the time that this decision is made, the insurance broker has no knowledge of the insured's financial positfon, whether his properties have a history of suspicious fires, or the actual condition of the building itself. Representatives from the industry explain that it would be much too costly for them to send an inspector out to investigate every property that they insure. They claim it is cheaper for them to take their chances and pay for the few fraudulent claims they receive as a result of arsons. Economically, it is hard to make a case that the insurance industry should spend more on arson prevention than on after-the-fact investigations.

One of the best defenses an insurance company has against arson is a civil court case. Fire claims typically go into court when an insurance company refuses to pay a claim resulting from a suspicious fire. The policyholder sues for payment and the insurance company becomes the defendant in a civil case.

As mentioned previously, to win the case, the insurance company must prove by a preponderance of evidence that fraud was committed by the insured and that the claim should be denied. With the new immunity law, which opens communication channels between insurance companies and law enforcement officials, the insurance company is more likely to cooperate in litigation. However, insurance companies must carefully select their cases, since their reputations often hinge on quick payments to the insured. The Unfair Claims Practices Act still requires payment of certain claims within specific periods of time.

The insurance company can try to prove that there was "willful misrepresentation" in the policy or an "increase in hazard." The insurance company can also call the insured as a witness in the case. Polygraph test results have limited admissibility in civil courts. For example, the fact that the insured either refused to take a polygraph or flunked the test, can be used by the insurance company as evidence that no malice is involved in their decision to withhold payment on a claim.

C. Arson-For-Profit

Arson-for-profit is another area of great concern for insurance companies. Illinois law stipulates that an insurance company must pay actual cash value (which is replacement cost less depreciation) in cases of total loss. In today's real estate market there is often an enormous discrepancy between the fair market value of a property and its replacement cost. What this means is that an insured who owns a dilapidated property in a marginal neighborhood can insure this property for more than its fair market value. For example, assume the owner purchased the property for $20,000 two years before. Repairs were left unattended so that the property became run down, and its market value decreased to $15,000. At the same time, the owner took out an insurance policy on this property for $50,000. The building is totally destroyed by fire, and by law the insurance company must pay the amount for which it was insured. The insurance company cannot argue after-the-fact that it was insured for more than it was worth, since the cost of replacing the building at today's building and labor costs could well exceed $100,000.

Since there are so few inspections at the time the insurance policy is taken out or at the time the coverage is increased, the insurance company rarely knows that a property is under- or over-insured in advance. The owner, in this example, realizes a $30,000 windfall on his initial investment of $20,000. The only remedy to this dilemma appears to be on-site inspections of select property by insurance agents and an appraisal of the property before a fire insurance policy is written. In the case of a property already insured, the only alternative is to fight the fraudulent claim in civil court.

Walter D. Swift, Vice President of Property Claims Services, for the American Insurance Association, has suggested several facts an insurance agent should know about his client before writing a fire insurance policy:

1. Check to see if the property is bought for investment purposes;

2. Watch for unexpected or unusual increases in the amount of insurance coverage requested;

3. Note an unusual number of prior loss claims;

4. Determine whether the property is vacant or unoccupied.

Again, the industry's argument is that such a thorough inspection program costs too much to administer.

1. The fair access to insurance requirements (FAIR) plan

a. Background

In direct response to the racial riots and other major civil disturbances of the late 1960s, the United States Congress passed legislation creating a "Federal Riot Reinsurance Program," in 1968. This program was intended to help private insurance companies, which had previously suffered tremendous losses as a result of riots and other civil commotion in many American cities. As a condition to qualify for the "Federal Riot Reinsurance Program," the property insurance industry had to agree to develop and administer state-wide programs which would make "necessary property insurance coverage against fire, crime and other perils more readily available for residential, business, and other properties meeting 'reasonable underwriting criteria'." This program, which is administered by the insurance industry, is called the FAIR Plan or "Fair Access to Insurance Requirements Plan."

According to Illinois statute, this program is designed to provide basic fire and hazard insurance to applicants in urban areas "whose property is insurable in accordance with reasonable underwriting standards, but who, after diligent efforts, are unable to procure such insurance through normal channels."

The FAIR Plan does not offer a complete homeowner's policy. It does not include theft or liability coverage. Since its inception, the Illinois FAIR Plan has underwritten over 70,000 policies which account for over $2,000,000,000 in liability, according to Charles F. Cliggett, Director of the Illinois FAIR Plan. Over 90 percent of these policies cover property in Chicago, 5 percent cover property in East St. Louis and the remaining 5 percent are scattered throughout the State. (*A list of municipalities which are eligible for FAIR Plan coverage is included in Appendix D.*) Cliggett said his office writes between 150 and 175 policies a day. Over 283 insurance companies participate in this Illinois Plan and share the risk of insuring in these select urban areas in order to avoid the insolvency of any single company.

The FAIR Plan is not a federal reinsurance program. However, Cliggett explained, it should be considered a subsidy program, since the private consumer must ultimately pay higher rates so that insurance companies can pool their resources for the FAIR Plan.

b. Program Administration

The FAIR Plan does not impose strict underwriting criteria. In fact, over 95 percent of the requests for FAIR Plan coverage are granted. It is almost impossible to deny this fire hazard insurance to someone except for extreme circumstances, Cliggett explained. If there is an unusual hazard, unrepaired fire damage, or a large apartment building which is more than 35 percent vacant, we won't write a policy, Cliggett said. Failure to pay the insurance premium is another reason to deny a new policy or cancel an existing one, and evidence that a convicted arsonist owns or inhabits the property is grounds for refusal to insure. Building code violations or action taken against a property in Housing Court are not sufficient grounds to deny coverage, Cliggett said.

In multifamily dwellings of more than five units and on all mercantile properties, inspections are ordered before a policy will be written. There is never an inspection of an owner-occupied, single family dwelling

before a policy is written. The FAIR Plan uses four private inspection firms: Equifax, Calumet Inspection Company, Inspection Services, Inc., and Hooper-Holmes Bureau, Inc. These inspectors use a checklist like the one shown in Appendix D. They only look for violations which could lead to a fire and increase the insurance risk on the property. The FAIR Plan cannot take into account the condition of neighboring property or the general neighborhood in deciding whether to write an insurance policy on the property.

If a building has hazards which are revealed in the inspection, a "conditional policy" will be written and a surcharge is made on each category of infractions: for example, problems with the heating system or faulty wiring. Supposedly, these properties are to be reinspected on a regular interval and if the hazards are corrected, the surcharge is dropped. However, Cliggett said most owners either will not or cannot afford to make the necessary repairs, so they continue to pay the higher premium.

FAIR Plan rates are currently lower than those of conventional insurance companies for single-family homes, but they are slightly higher for commercial property, Cliggett said. As a result, the Illinois FAIR Plan has requested a rate increase and this matter is now pending before the Illinois Department of Insurance.

c. Percy Criticizes the Program

Because the FAIR Plan accepts almost any property as an insurable risk, it has been severely criticized as a catalyst for the arson problem. Last August, Senator Charles Percy publically criticized the FAIR Plan and charged that the program promoted arson-for profit-schemes: "This program facilitates arson-related insurance fraud by permitting any property owner in a core-city area to insure his holdings far beyond the market value and to burn them for the proceeds." Percy added, "because these insurance companies operate these pools on a cost-plus basis, they often have little incentive to contest suspicious claims or to prevent the over-insurance of deteriorated properties."

Percy asked the Government Accounting Office (GAO), the investigative arm of Congress, to investigate the program and to propose changes that would remove the incentive to destroy unprofitable or deteriorating but well-insured buildings. He also asked the GAO to evaluate the current federal training programs for arson investigators and prosecutors, the funding available at the State and local levels to halt arson, and the development of arson detection techniques and equipment. The final report of this GAO investigation has not yet been released.

d. Illinois Insurance Officials React to Criticism

John F. Novak, Claims Manager of the Illinois FAIR Plan and Assistant Manager of the Metropolitan Chicago Loss Bureau, described Percy's criticism of the FAIR Plan as "ludicrous." The FAIR Plan has never operated on a cost-plus basis; in fact, it consistently operates at a loss which the insurance industry must absorb, he said. In 1976, the Illinois FAIR Plan had $4,000,000 in losses. This compares to a total figure of $41,000,000 lost nationwide since the inception of the FAIR Plan in 1968, Charles Cliggett said.

Both Novak and Cliggett refuted the allegation that the FAIR Plan facilitates arson-for-profit. Novak feels that it is not the FAIR Plan itself which contributes to arson; rather it is the social and physical condition of the inner-city which contributes to arson. Since the FAIR Plan serves only these areas, it is not hard to understand why it has a higher number of arson fires than the private insurance carriers. Both men argued that arson-for-profit existed long before the FAIR Plan was created.

Novak said that arson fires should be broken down into two broad categories: those set by the owner to collect insurance money (first-party arsons), and revenge fires, neighborhood vandal fires, pyromaniac fires, etc. (third-party fires). The ratio of first-party fires to third-party fires is one to seven. Of the first-party fires, only one-third manage to cheat the insurance company in the claim. In the other category of fires, the owner is the innocent victim, and the insurance company must pay the claim. Novak told our investigators that the only way to combat these third-party fires is through better law enforcement and tougher courts.

Each year the FAIR Plan pays out more money in claims for fire damage, and it is clear that in many instances it is paying fraudulent insurance claims resulting from incendiary or suspicious fires. Senator Charles Percy and other law enforcement officials criticize the FAIR Plan for being too lax in checking on the properties that it insures and too slow to cancel policies on those properties that become potential fire targets.

In the course of our investigation, we concluded that every property is not necessarily an insurable risk and that the FAIR Plan is not legally or morally bound to insure all properties. After reviewing the FAIR Plan's underwriting criteria, we also came to the conclusion that it could be more cautious in the risks that it does accept, insist on more information from the property owner, and gather more information on the property itself. In short, we found that the current underwriting criteria of the FAIR Plan needs to be reevaluated in light of the growing arson problem in Illinois' urban areas.

We tried to learn how and if these underwriting changes could be implemented by the FAIR Plan. Our inquiries led us in a complete circle. The Director of the FAIR Plan, Charles Cliggett, felt that his hands were tied because of the legislative intent of the program, and regulations established by the United States Department of Housing and Urban Development (HUD) and the Illinois Department of Insurance. Charles Mathias, Director of the Illinois Department of Insurance, said that it would be difficult to change the underwriting criteria because of the HUD guidelines and intent of Congress but the FAIR Plan could initiate such action and his office would have to approve the policy changes.

Finally, Robert J. DeHenzel, Director of Review and Compliance for the Federal Insurance Administration of HUD, said that other states have made changes in their underwriting criteria. He explained that the federal guidelines, written in 1970, have been left purposefully vague so that states could adopt regulations to fit their specific needs. He encouraged the Illinois FAIR Plan to initiate some changes and submit them to the State Department of Insurance for review. In fact, he volunteered to participate in any discussion of what could be done to alleviate the situation which perpetuates arson-for-profit schemes in Illinois.

The simple fact is that the Illinois FAIR Plan could go ahead and initiate some changes, but it has not done so. Instead of trying to reduce the potential for arson through better screening of properties and as a result reducing its losses, the FAIR Plan has filed a request for a rate increase with the Department of Insurance. The Department must share in the blame, since it has really not paid close attention to the underwriting criteria that the FAIR Plan uses. In fact, a recent Department audit of the FAIR Plan makes no criticism or comment of the underwriting criteria. Instead, the audit concentrates on the business assets of the Plan, such as record keeping, accounting and contracts for services.

In 1972, the Illinois FAIR Plan initiated a policy which permitted a five-day cancellation notice to owners of insured property which represented a serious hazard. The policy, called "constructive abandonment," was approved on a trial basis by both the Illinois Department of Insurance and the Federal Insurance Administration. Under this program, a property owner would receive a five-day cancellation notice, instead of the customary 30-day notice, if the FAIR Plan found one or more of the following conditions present:

At least 65 percent of the rental units in the building were left unoccupied and at least 25 percent of said unoccupied units are left unprotected against trespass;

In the case of a building occupied only by the owner or a building with only one or two tenants (one of which may be the owner), at least 50 percent of the square footage in the building is unoccupied and a portion of said . . . footage is left unprotected against trespass; and

Fire damage exists and the insured has stated or otherwise indicated that the damage will not be repaired. The insured's statement must be made orally or in writing to Association staff . . . and shall be documented in the Association file in the form of a loss report.

Supporting evidence of this abandonment situation had to be presented to the Department of Insurance for its approval prior to sending the five-day cancellation notice.

This practice worked well until Illinois passed a law mandating 30-day notices for cancellation of fire insurance policies. This procedure was even recommended to other FAIR Plan states by the Property Insurance Plans Service Office, the trade association for all FAIR Plans. This Commission recommends that the FAIR Plan, in conjunction with the State Department of Insurance, seek an amendment to the law so that the "constructive abandonment policy" can be reinstated.

e. Action Taken by Other FAIR Plan States

DeHenzel described what other state FAIR Plans have tried to do to combat the arson problem. In New York City, the FAIR Plan's underwriting department has a direct tie-in to the City Building Department's computer. The FAIR Plan can learn the assessed valuation of a property, and can obtain records of property tax payments and code violations. These factors may be taken into consideration along with results of an inspection of the actual condition of the house, when deciding whether to accept or refuse insurance coverage. These additional factors cannot be the only criteria used to deny coverage.

In some states, when property suffers fire damage and it is not repaired before another fire occurs, the owner is unable to collect the full value of his policy. For example, on a property insured for $20,000, the first fire does $5,000 worth of damage, for which the owner is reimbursed. If the property is not repaired before a second fire destroys the structure, the property owner would only be eligible to collect $15,000. This policy of automatic reduced coverage required approval by both the state regulatory agency and HUD, and it had to be clearly stated in the insurance policy, DeHenzel said.

In Illinois (and many other states), the FAIR Plan is required to pay the actual cash value of a property when a claim is filed. Actual cash value refers to the replacement cost of the structure less depreciation. This formula for figuring claims becomes a definite problem in urban areas where the actual cash value of a property may be much higher than the market value of the structure. This discrepancy between the two assigned values on the structure—market value and actual cash value—make arson-for-profit schemes possible. In California and New York, how-

ever, the courts have permitted the FAIR Plan to take into account outside factors in settling a claim, for example, the fact that the property was in deteriorating condition before the fire or that previous fire damage had been left unrepaired.

In light of changing economic conditions and pressure on the FAIR Plan to be more cautious, some state FAIR Plans have taken action to deter arson-for-profit schemes through alterations in underwriting practices. In fact, the Property Insurance Plans Service Office, the trade association for all state FAIR Plans, is currently developing underwriting guidelines to deal with the arson problem. Once these guidelines are approved by its Board, they will be forwarded to the State FAIR Plans and the Government Accounting Office (which is in the process of reviewing the FAIR Plan nationally). The National Association of Insurance Companies is also developing underwriting guidelines which will try to combat the potential insurance fraud resulting from arson.

In the course of our investigation, we were told that any significant changes in the administration of the FAIR Plan would be criticized as discriminatory and harmful to those property owners who have nowhere else to turn. The counter to that argument is the fact that a property owner still has the right to appeal the FAIR Plan decision if he feels he has been denied insurance unfairly.

2. Arson rings and the potential involvement of the crime syndicate in arsons

The exact involvement of organized crime in arson is not known. However, Senator Charles Percy announced in late August that evidence collected by prosecutors in several cities indicates that there is an insurance fraud racket operating on an interstate basis. He said that organized rings of arsonists are providing a package of services to financially strapped building owners in Boston, New York, Chicago, Philadelphia, and elsewhere. He said that crime syndicate figures offer a combination scheme to defraud insurance companies, including inflationary property values, arranging insurance coverage, burning a building and collecting and distributing the insurance proceeds.

A committee of the International Association of Arson Investigators concluded in 1973 that "criminal syndicates" at the local level were becoming more and more involved in fraud-type fires. They noted that in Portland, Oregon, and Detroit, Michigan, these organized rings were made up of repair contractors, public adjusters and agents working in tandem with "torches" to burn for profit.

In Chicago, the FBI and the United States Attorney recently broke up an arson ring and won a conviction against Anthony Tinghino and Barry Tucker. They were each sentenced to three years in prison and six years probation and have appealed their conviction. Tinghino and Tucker, both public insurance adjusters, were indicted March 2, 1977, for arranging to torch four businesses in a plot to collect over $75,000 in insurance. The indictment charged that the two men established the four businesses, stocked them with merchandise, often purchased on credit, for the sole purpose of burning them. According to the indictment, the two men hired others to pretend to own the firms. They also arranged to obtain inflated invoices on merchandise which enabled them to pad their fire losses. Individuals responsible for the investigation and adjustment of the fire losses were bribed. As a result, Zurich American Insurance Company paid $54,800 in fradulent fire claims and Reliance Insurance Company paid $20,000.

The specific charges against the two involved several federal laws: conspiracy to use the mails to defraud; mail fraud; and traveling in interstate commerce to advance a fraud. Mail fraud charges stem from using the mail to create the phony businesses and filing insurance claims with the companies. The interstate travel and commerce charge resulted from the shipment of merchandise from other states, as well as the travel to other states by persons alleged to be fronting for Tinghino and Tucker.

At the time of the indictment, former United States Attorney Samuel K. Skinner said "this investigation is not complete. It has become apparent to this office and the FBI that there is an arson ring operating in this city. The scheme is carried out with help of some persons inside insurance companies."

Boston was recently stunned by the assortment of prominent individuals allegedly involved in a major arson ring which caused more than 33 fires scattered throughout Suffolk County. A dozen real estate brokers and land operators, six lawyers, lenders, and private public adjusters, a retired State police lieutenant, a retired captain of the Boston arson squad, a retired Chelsea fire captain and others were indicted in October 1977. In all, there were 121 indictments, and Assistant Attorney General Stephen Delinsky, who headed the investigation, said, "I think we have only hit the tip of the iceberg." These indictments covered fires which destroyed property worth $6,000,000 and killed three people.

In Peoria, Illinois, a group involved in local arsons was also implicated in fires in three other counties. This arson-for-profit scheme involved purchasing a house and counterfeiting repair bills to reflect large expenses for rehabilitation work never done. The building would then be sold on installment contract to a co-conspirator for a grossly inflated price. Insurance would be taken out by the new owner, then the house would be torched and the conspirators would collect the insurance money.

Several federal laws can be applied in cases involving arson rings and potential crime syndicate figures. The federal agency which claims to have the most active record in combatting arson is the United States Postal Inspection service, which attacks arson through mail fraud. Sending false and inflated insurance claims through the mail constitutes mail fraud, and arson need not be proven. The 1970 Organized Crime Control Act, which prohibits the conduct of business in a racketeering manner, can also be applied against arson rings involving two or more persons.

D. Problems in Reporting and Obtaining Arson Statistics

It is generally agreed that the arson problem in Illinois and in the United States is getting worse, that year after year more persons are killed in incendiary fires and more property is destroyed. This belief, however, is very difficult to prove since there is no good national data bank on arsons. Statistics are based as much on informed estimates as provable facts. In order to get a picture of current arson trends and the magnitude of the problems, one must rely on a variety of sources. Each year the National Fire Protection Association (NFPA) makes an estimate of the number, losses, and causes of building fires. (Beginning in 1978, NFPA will no longer list causes.) These statistics are based on a sample of 2,000 out of a possible 24,000 fire departments in the country and reports from the State Fire Marshals' Offices. Fires are also classified by type of occupancy and NFPA maintains statistics on motor vehicle fires. Estimates for the previous year are published each September in the National Fire Protection Association monthly *Fire Journal*.

Statistics on the number of arrests for arson are published in the FBI Uniform Crime Reports. In 1975, the Uniform Crime Report recorded 18,600 arrests for arson; meanwhile the National Fire Protection Association estimated over 114,000 incidents of arson in 1974 alone. There are no sources of national data on the adjudication, sentencing or incarceration of arsonists. Several states, including California, maintain this data on a statewide basis.

Fire department reports typically classify the causes of fire into five general categories:

Accidental—for example, defective equipment, electrical wiring, careless smoking, children playing with matches, and other unintentional causes;

Natural—lightning;

Incendiary—intentionally set fires, including fraud fires;

Suspicious—suspected of being incendiary; and

Unknown causes—no cause established.

Legally, the cause of a fire must be assumed accidental or natural until proven otherwise. Because of a variety of factors previously discussed—poorly trained arson investigators and destruction of evidence—a number of fires get classified as "unknown causes" which seriously understates the actual arson problem. Many arson experts believe that at least half the fires labeled "unknown cause" are actually intentionally set.

According to the American Insurance Association, without a general repository of fire loss information, investigators are generally unable to identify the following types of insurance fraud: claims involving ownership by crime syndicate figures; evidence on organized arson rings; cases where an owner acquires duplicate insurance from two or more companies—after which he torches his property and collects from multiple companies; "straw ownerships," which conceal the true identity of the property owner; and interstate arson-for-profit schemes.

Many FAIR Plans, metropolitan loss bureaus, insurance companies and others have developed their own data banks with various degrees of public accessibility and sophistication. The newly-created Illinois Department of Law Enforcement, which is now responsible for arson investigations throughout the State, intends to establish a computerized data bank of arson investigation information for the use of law enforcement officials throughout the State.

The American Insurance Association (AIA) recommended the creation of the "Property Insurance Loss Register." This would be a voluntary, self-sustaining, non-profit, service association, sponsored and financed by subscribing insurance companies writing property and casualty insurance. It would be administered for the benefit of these companies by AIA. Its stated objectives include:

1. To accumulate records of property loss claims as they occur and to make this information available to subscribers as an aid in combating the crime of arson and other insurance fraud; and

2. To compile these records so that they will be available for statistical research.

This Register will include losses of $500 on up, adjusters will prepare reports on specific forms. The original copy of the form will be sent immediately to a central collection agency and coded into a computer. The facility will be open to all licensed insurance companies and all other insurance-industry related entities on a subscription basis.

The Loss Register will be used exclusively for evaluation of loss claims by the subscriber and investigators and will not be used for insurance underwriting, policy cancellation or renewal.

Whatever form this or any computerized data bank takes, the following general information would be most useful to investigators (taken from p. 72 of the "Survey and Assessment of Arson and Arson Investigations" prepared for the National Institute of Law Enforcement and Criminal Justice in 1976):

Names, aliases, and *modus operandi* of previously arrested arsonists;

Unsolved arson fires, fraud fires, and fires suspected to be the work of organized crime;

Potential arson suspects, such as persons who have made many fire loss claims and, owners of overinsured property;

Unscrupulous insurance agents, brokers and adjusters; and

Crooked fire repair and salvage contractor.

The problem in creating any sort of centralized data bank in this subject area will be to resolve conflicts with the "Privacy of Information Act" and the applicable anti-trust laws.

E. Board-Up Services and Public Adjusters

Besides the firemen, police, neighbors and those with macabre interests, one often finds a public adjuster hanging around a fire scene, especially in Chicago. On a ride-along with the Chicago Fire Department, our investigators watched first-hand as public adjusters, individuals who adjust the fire damage for the insured, solicited business.

The Commission investigators, accompanied by fire investigators, stopped at a fire scene and were surveying the damage when two independent insurance adjusters approached them attempting to locate the owner of the building. The men carried radio scanners which enabled them to immediately respond to all fire alarms. The Fire Chief on the scene said that these adjusters often beat the firemen to the fire! When questioned, the adjuster explained that his company gets 10 percent of the final adjustment for their service. This particular company also "arranges" for board-up services at the fire scene; in fact, the two businesses are connected. These adjusters seemed to prey on the fright and confusion of the owner and tried to convince him that he needed to be represented in settling with his own insurance company. An adversary situation is immediately set up between the insurance company and the insured.

Insurance companies also hire independent adjusters. One of the largest firms is the General Adjustment Bureau, Inc. (GAB) which was started shortly after the Chicago Fire and has become nationwide in scope. Owned by United Airlines, GAB receives its assignments through requests made by insurance agents, and then works with the insured and the insurance company to settle claims. GAB goes to the fire scene, diagrams the damaged areas to be reconstructed, and establishes the value of the structure.

The GAB adjuster also prepares a written set of instructions for the contractors doing the rehabilitating work. These instructions include a complete breakdown of the work to be done, products to be used and the unit cost of each. The individual selects his own salvaging company and contractors.

GAB often gets involved with public adjusters with whom it must reluctantly work, although GAB scrutinizes their work very carefully. Edward A. Beckemeier, District Manager of the GAB, said he has found that the public adjuster's figures "always seem to be inflated." He said that they will add a few inches here and there to the room dimensions so that, if anyone ever checked, they would find that the building ends up several feet longer than it was originally.

In the course of our investigation, several allegations were made against public adjusters. We did not find any proof of wrongdoing or illegal activity, except as has been noted, in the federal case against Barry Tucker and Anthony Tinghino, both public adjusters convicted of 12 counts relating to arson.

Officials from several insurance companies in Illinois agreed with this negative view of public adjusters—especially Chicago-area public adjusters. Outside of Cook County there seems to be fewer public adjusters, so the problem is diminished. However, our investigators did hear allegations against several public adjusters in Belleville and in the East St. Louis area. (This area is second to Chicago in number of arsons reported.)

The Commission asked several other states about the role of the public adjuster. In Washington, public adjusters are licensed by the state. To qualify an individual must be at least 18, a resident of the state, a "trustworthy" person, and have experience or special education "in handling loss claims under insurance contracts of sufficient duration and extent reasonably to make him competent to fulfill the responsibility of an adjuster." He must also pass a competency test and be bonded.

In Texas, public adjusters are not licensed. Officials interviewed in Houston said that adjusters were no problem since so few of them are in business. The reason there is no business for a public adjuster in Houston is that the insurance company's own claims adjusters provide speedy service, we were told.

In Missouri, public adjusters are not licensed, and in the St. Louis area fire officials said that there have been problems. Some fire department personnel were taking $25 referral fees from public adjusters. Missouri fire officials would like to see the state license these businesses and establish a stiff ethical code.

Several Illinois officials from insurance companies, the State Fire Marshal's office and police and firemen recommended that the State license public adjusters. FBI Agent Joseph Doyle, who was instrumental in getting an indictment on Tinghino and Tucker, said that they should be licensed by the State and a background investigation should be done on each individual to make certain that he does not have a criminal record. He suggested that the Illinois Department of Registration and Education be given full power to suspend or revoke public adjusters' licenses in instances of misconduct or illegal activities. (*See Appendix J for the Commission's bill on licensing public adjusters.*)

CONCLUSIONS AND RECOMMENDATIONS

A. Arson in Illinois and Arson Prevention

The Commission's arson investigation identified arson committed by vandals and arson-for-profit schemes as the most costly and prevalent forms of arson being committed in the State. These two types of arson can be dealt with in a limited fashion, whereas fires set by a pyromaniac, or a person in a state of rage are virtually impossible to prevent.

Our research revealed that there is a direct correlation between Chicago communities with a large number of abandoned buildings and intentionally set fires. These structures become likely targets for vandals and gangs to commit arsons. Steps must be taken to remove or rehabilitate these structures and eliminate the temptation for the arsonist.

Lately, community groups in Chicago have played a key role in compelling local government to inspect these properties and drag the owners into Housing Court. Unfortunately, there is often a six month delay before any corrective action is taken and in the meantime, the structure remains a likely target for arson. The Commission recommends that the Chicago Corporation Counsel review Housing Court's legal procedures in an effort to streamline this process.

In those instances where it is economically feasible to rehabilitate the structure, the property owner should be referred to one of the City's rehabilitation assistance programs. Since this financial and technical assistance is only available in select communities, we recommend that the City of Chicago—in conjunction with private lending institutions—consider making this type of program available throughout the City.

In many instances, the owner of abandoned properties in Chicago is the United States Department of Housing and Urban Development (HUD). These structures are caught in the tangle of foreclosure. The Commission recommends that the City and HUD work out an agreement to insure that these buildings are properly managed and either boarded up or occupied on an interim basis until such time as the property is resold or demolished.

In neighborhoods with high concentrations of unattended properties, it may be necessary to create special arson task forces to patrol the area, similar to those created in the Uptown and Humboldt Park communities of Chicago. At the same time, building code inspections and enforcement should be concentrated in these neighborhoods.

The other prevalent form of arson is that for profit. Weaknesses in insurance underwriting procedures, and the current economic climate which creates rapidly escalating property values, have made arson-for-profit schemes attractive.

The best offense against arson-for-profit is for the insurance agencies to know more about the property and the owner that they insure. By providing insurance coverage, an insurance company is insuring a property owner against economic loss. Therefore, the insurance company's decision whether to insure that property should be based upon the financial condition of the owner and the existing physical condition of the property.

Understandably, the insurance company cannot inspect every property that it insures or require financial disclosure statements on every owner. But our investigation revealed several indicators that would alert an insurer to make careful examination into the potential risk of insuring a property. These include: extensive code violations; accumulated debris; unrepaired fire damage; a high vacancy rate over a long period of time; or requests for dramatic increases in fire protection coverage.

We must stress that the insurance industry should screen its clients more closely and challenge suspected fraudulent claims in criminal and civil court. With the passage of the new insurance immunity legislation, the Commission anticipates closer cooperation between law enforcement officials and the insurance industry to ward off arson-for-profit schemes.

B. The need for closer cooperation among fire prevention agencies

As has been stated throughout this report, the Commission concludes that fire prevention is the first line of defense against arsons. However, we found a number of incidents where inspectors responsible for enforcing building and fire codes did not bring violations to the proper attention of authorities or share information with one another to insure that the property owner was forced to bring his property into compliance.

In May, 1977, 164 people died in a tragic fire at the Beverly Hills Supper Club in Southgate, Kentucky. Although the fire has been attributed to blatant code violations and unsafe conditions, the irresponsibility of a variety of public officials and the lack of coordination between agencies provides some lessons for Illinois. Illinois can learn from this Kentucky fire and take immediate steps to prevent a similar tragedy.

In an investigative report prepared for the Governor of Kentucky by a special task force in September, 1977, glaring code violations and shoddy construction were identified as the cause of the fire—violations which had either been noted or ignored by inspectors.

However, Beverly Hills (Supper Club) continued to operate although many of these code violations were known by the insurer, the operators and owners, and were noted as concerns as a matter of record in the (state) fire marshal's office. A frequent thread running through the testimony indicates that

many officials relied on someone else to correct the situation, each in turn believing either that he was without power to act or that the other had acted. The only participants in the tragedy who were clearly ignorant of the latent danger hidden behind walls and within concealed spaces, were the patron-victims. (Page G–2, excerpt from the *Investigative Report.*)

Inspectors for the City of Southgate, the State Fire Marshal's office and the Kentucky Fair Access to Insurance Requirements (FAIR) Plan, which insured the property, had all visited the Supper Club and were aware of serious code violations. The inescapable question is why were hazardous conditions at the Supper Club, which had previously been brought to the attention of state and local officials, permitted to continue until the tragedy occurred.

Ideally, fire prevention efforts should involve numerous agencies at the local and state level, each one acting as a check against the other for the protection of the general public and the property owner.

C. Recommended responsibilities for various agencies involved in arson prevention or detection

As a result of our investigation, the Commission has submitted its recommendations for improving arson prevention and detection services throughout the State. In some instances, we recommend that an agency fulfill its legislative mandate and perform the function that it has been delegated; in other instances, we ask agencies to expand their responsibility. Finally, in some cases, we recommend legislative change.

1. The Voluntary Insurance Industry

Over the past few years, the Illinois insurance industry has taken great strides in educating their own claim adjusters in detecting arson and most recently in developing public awareness on the topic of arson. It has sponsored a statewide "hotline" number to receive calls on suspected arson or arsonists, and it is in the process of setting up an "Informants Program" in the Chicago metropolitan area. This program would provide a monetary award to individuals who provide law enforcement officials with information leading to the arrest or conviction of an arsonist. We applaud these actions and urge the industry to go further with public awareness campaigns on fire prevention and arson.

But our primary recommendation to the insurance industry, both the voluntary market and the FAIR Plan, is to learn more about the property that it insures and the owner of that property. This can be accomplished by asking the owner questions about his financial means, history of fire claims, etc. and thorough on-site inspections of the property *prior* to accepting the insurance risk.

We recommend that the insurance companies cooperate in sharing information on the condition of property inspected with local code enforcement authorities and vice versa.

Two laws recently passed by the State legislature should assist the insurance industry in arson detection. Insurance companies are now required to release information to authorized law enforcement officials in cases of suspicious fires, and the companies will not be held liable in any future legal action which may be taken against them by their insured. Also, insurance companies are now prohibited from paying insurance claims over $5.000 until the owner proves that he has paid all tax liability and where applicable, the demolition expense.

In cases where there is insufficient evidence for a criminal conviction, we urge the insurance companies to vigorously pursue civil redress. Testimony from various prosecutors revealed that publicizing the fact that fraudulent claims will be challenged can create a deterrant effect.

The Commission requests that the media assist in publicizing the arrests and convictions of arsonists and report cases where an insurance company files a civil suit against an insured, challenging an insurance claim following a suspicious fire.

The Commission also supports the insurance industry's efforts in establishing a nationwide data bank, as described in Chapter 6. A centralized record keeping service would aid insurance companies and law enforcement agencies in determining properties that have multiple coverage, repeated fire claims, and other information of importance that could help prevent or deter arson crimes.

2. Fair Access to Insurance Requirements

In the Chicago metropolitan area, the Illinois Fair Access to Insurance Requirements (FAIR) Plan insures the majority of residential properties that are victims of incendiary or suspicious fires. According to the Chicago Metropolitan Loss Bureau figures, between January 1st and August 31, 1977, the FAIR Plan had 143 incendiary fires which amounted to $2,991,497 in claims. By contrast, the regular market had 79 incendiary fires for a total of $1,129,493.

The correlation between the FAIR Plan and properties that are being torched is too obvious and reoccurrent to ignore. It stands to reason that the properties most likely to be torched by vandals are those in the worst condition And typically, the owner of these properties cannot get fire protection insurance from the voluntary insurance market and must resort to the FAIR Plan.

After reviewing the applicable federal and state statutes and talking with representatives from the Illinois Department of Insurance, we conclude that the FAIR Plan can and must tighten its underwriting criteria. This can be accomplished by simple administrative change. According to the FAIR Plan's attorney, a change in state law is not necessary to alter the FAIR Plan's criteria for insuring property, as long as it exercises "reasonable underwriting criteria" and stays within the legislative intent of the program.

The Commission believes that the FAIR Plan must make a closer examination of the owner and the property that it insures. In our discussions with officials from the FAIR Plan, they agreed with being more selective in the properties they insure but complain that the State and HUD will not let them.

Yet, in conversations with the Illinois Department of Insurance, we learned that the FAIR Plan officials could go ahead and alter their underwriting criteria on their own and that the Department of Insurance would most likely concur. Rather than continue to say "we cannot," we recommend that the governing board of the FAIR Plan, in conjunction with the appropriate officials from the Illinois Department of Insurance and the Federal Insurance Administration, review the current underwriting criteria with the goal of making certain that the FAIR Plan is not burdened with blatant insurance risks.

Several years ago, the Illinois FAIR Plan experimented with a policy of "constructive abandonment," which permitted an existing FAIR Plan policy to be cancelled with only five days notice (instead of 30 days). Under this policy, serious dangers or a dramatic change in the condition of the insured property, allowed the policy to be cancelled quickly. The Illinois Department of Insurance and the Federal Insurance Administration approved this policy change on an experimental basis. Although the new policy seemed to be successful, State law was amended to mandate 30 days notice to cancel insurance coverage, thereby eliminating the experimental policy.

The Commission discovered that in urban areas the condition of property can change dramatically overnight. Therefore, we recommend that legislattion requiring 30 days notice of insurance cancellation be altered to allow the FAIR Plan to reinstate a policy of "constructive abandonment."

The Illinois FAIR Plan, like other state FAIR Plans, is, in effect, a public subsidy program. The individual insurance companies participating in the FAIR Plan directly or indirectly pass on their costs associated with this program to their policyholders in the form of higher premiums. We conclude that those policyholders, who pay for voluntary insurance coverage, have a right to know exactly how much of their premium payment goes to the FAIR Plan. Therefore, we recommend that the State require that this contribution be shown separately on every premium bill [this is now being done in Ohio].

Last fall, Senator Charles Percy asked the General Accounting Office (GAO) to review the Federal Riot Reinsurance Program, which is the enabling legislation for the FAIR Plan. Senator Percy said that there is reason to believe the FAIR Plan helps to encourage arson-for-profit schemes. The Department of Insurance and the governing board of the Illinois FAIR Plan should review and become familiar with this document once it is published.

In general, our investigation of the FAIR Plan reflects that, until recently, the Illinois FAIR Plan has been allowed to function with little direction or supervision. We are aware that the Department of Insurance recently completed an audit of the FAIR Plan and criticized the administration of the program. We are also aware that the FAIR Plan's request for a premium rate increase was recently denied by the Department of Insurance. We recommend that the decision on the rate increase be deferred until the underwriting criteria are reviewed.

3. Illinois Department of Law Enforcement

Last summer, the General Assembly passed Public Law 80–56, which reorganized the Illinois Department of Law Enforcement (IDLE). Under the new reorganization, the State Fire Marshal's office will determine the cause and origin of a fire, when requested to do so by a municipality. Once it is determined that the fire is of a suspicious nature, the Fire Marshal's office will relinquish the investigation to IDLE.

This change in the law has created some confusion between IDLE's and the State Fire Marshal's responsibilities. At the time of this report, this matter is still under discussion. Therefore, the Commission does not wish to take a stand on this matter since the law is new and the administrative agencies involved have not had the opportunity to work out a clear division of responsibility.

Instead, we will state the options as we see them. On one hand, arson should be viewed as a crime just like burglaries, murder, embezzlement, etc., and therefore, logically belongs under the supervision of IDLE for investigating purposes. Arson investigations must begin immediately, while the fire is still smoldering and evidence and leads are fresh. So it makes sense to have one agency responsible for an arson investigation from the beginning all the way through prosecution.

On the other hand, the State Fire Marshal has the personnel and experience to determine cause and origin of a fire and has developed working relationships with the local authorities, not only in investigating arsons, but in carrying out routine fire prevention inspections.

4. The State Fire Marshal's Office

Although the arson investigation function was transferred to IDLE, the State Fire Marshal retains the responsibility for fire pre-

vention throughout the State and responsibilities previously held. Throughout our investigation, we were hampered by the lack of reliable statistics on fires in Illinois and specifically arsons. We realized an arson problem existed, but we could not accurately measure whether it had grown and/or to what extent. The State Fire Marshal has the responsibility for determining the reporting method to be used by all fire departments in the State in recording fires of any type: suspicious, incendiary or undetermined. The State Fire Marshal must insist that the various municipalities, particularly the City of Chicago, comply with this request for information in the format prescribed by the State Fire Marshal's office.

We recommend that the State Fire Marshal join with other states in recommending that arsons be transferred from a Part II crime to a Part I crime in the FBI Uniform Crime reporting statistics. This measure would improve the statistics available on arsons both locally and nationally.

5. Arson Investigations in Chicago

Our investigation of arsons in Chicago revealed that a number of suspicious fires are not being detected and that not enough attention is being given to investigating them. Under the current arrangements, the Bomb and Arson Unit works under the Chicago Police Department. Investigators are called to the scene of a fire only when a Fire Battalion Chief determines that there is a "suspicion of arson." In many instances, the Bomb and Arson Unit arrives long after the fire has been extinguished, resulting in the destruction of valuable evidence, as well as other investigative leads. We also observed that there is the tendency to downgrade the fire to "undetermined origin."

For these reasons, we recommend that the arson investigating function be returned to the Chicago Fire Department. We also recommend that the Chicago City Council pass the appropriate legislation granting firemen assigned to this unit full authority to investigate an arson case from beginning to end.

Based on our interviews in Seattle and Houston, we believe the Fire Department to be the most logical and qualified agency to conduct arson investigations. The Chicago Fire Department will still require the continued cooperation of the Chicago Police Department and the prosecutors in making arrests and convictions. On an as-needed basis, policemen should be assigned to this arson unit.

6. Municipal Authorities

We recognize municipal authorities have a great deal of power through code compliance and regular building inspections to assist in fire prevention. In the City of Chicago, a property buyer may ask for a "certificate of compliance" with local housing and fire codes before he will enter into agreement to buy property. There is a small fee for this certificate. We agree that this is a useful safeguard and can help in reducing the number of deteriorating and abandoned properties so prevalent in Chicago neighborhoods and elsewhere throughout the state. We recommend that local municipalities consider passing the appropriate legislation which would require a certificate to be issued before a property changes hands. This would serve as a safeguard against existing hazards.

In Chicago, special arson task forces have been created for select neighborhoods in response to community group pressure to investigate the arson problem. We recommend that similar special units be established in other neighborhoods and municipalities through the state as needed. At the same time, these neighborhoods should receive concentrated code compliance inspections. The local building department should work in harmony with law enforcement to upgrade some of the properties that are the most likely targets of vandals committing arson.

In the Humboldt Park community, on Chicago's northwest side, a pattern of arsons appeared and, as a result, a special federal grand jury convened to study the matter and determine if a conspiracy was involved. It is recommended that federal and/or state grand juries be convened as necessary when there is an apparent increase or likely pattern of arsons in a community.

7. Trade Associations and Professional Organizations

Throughout our investigation, we were impressed by the efforts of several professional organizations and trade associations in their assistance to local authorities in the detection of arson and in a public awareness campaign on the problem.

In downstate Illinois, organizations like the Southern Illinois Arson Investigator's Association (SIAIA) have been formed to investigate arsons in several counties. Manpower and financial resources have been pooled to help combat a common problem. We recommend that the State consider providing some financial assistance to organizations such as SIAIA in the form of training or for the purchase of equipment used in arson detection.

8. Community Groups

The assistance of community groups, especially in Chicago neighborhoods, has proven invaluable to law enforcement officials in preventing and detecting arsons. They provide vital services by monitoring activities around abandoned properties, applying pressure on various levels of government to reduce the number of vacant and deteriorating properties, and working with law enforcement officials to identify arsonists. Other community groups must get further involved in working closely with law enforcement officials to reduce the incidents of arsons and identify suspected arsonists.

D. A legislative proposal to license public adjusters

Finally, the Commission recommends that legislation be adopted to license and regulate Public Adjusters. The Commission's "Public Adjuster's Licensing Act" is included as Appendix J, of this report. This Act requires any person who adjusts or settles claims for an insured to be licensed by the Illinois Department of Insurance. In order to qualify for a license, an applicant must demonstrate good character as well as familiarity with the terms and effects of insurance contracts.

The Act requires an applicant to file a $5,000 bond with the Department of Insurance as a protection for parties who may be injured by fraudulent or unfair practices by a licensee. Under this Act, an insured who enters into a contract with a public adjuster within 72 hours of his loss has the option of voiding that contract within 10 days. This legislation also imposes fines as well as the suspension or revocation of licenses for violations of the Act.

It is hoped that this bill will protect persons who have undergone the traumatic experience of an insurance loss from being further prey for unscrupulous public adjusters. Several states have recognized the need to regulate public adjusters and have passed legislation similar to that which is included with this report. The Commission urges the General Assembly to provide this same protection for citizens of Illinois and adopt this bill.●

SEX DISCRIMINATION BASED ON PREGNANCY

Mr. WILLIAMS. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 995.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives insisting upon its amendment to the bill (S. 995) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WILLIAMS. Mr. President, I move that the Senate agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, and Mr. STAFFORD conferees on the part of the Senate.

NEW YORK CITY FINDS A COOL BILLION IN ITS BANK ACCOUNT

Mr. PROXMIRE. Mr. President, I should like to call attention to an article appearing in today's New York Times that reports that New York City had a billion dollar cash surplus on hand at the start of its new fiscal year, on July 1, 1978. The article speaks of city officials' "embarrassment at having $997 million in the bank after several years of crying poverty."

Mr. President, I fail to see why a city with a billion dollars of excess cash in the bank needs $1.65 billion in Federal loan guarantees, which is what the Senate has provided within the last couple of weeks. Unfortunately, that is exactly what is being provided in the conference report on the New York City Loan Guarantee Act which has just been filed today.

Back last February, the Committee on Banking, Housing, and Urban Affairs issued a unanimous report stating that New York City could meet its financing needs on its own, without additional Federal assistance. That report noted the progress the city had made toward cutting spending and bringing its budget into balance, and it pointed out exactly where the city could meet its financing needs—from its traditional sources, the banks and the pension funds. The report stood up then, and it stands up now. And the fact that the city now has $1 billion in the bank is good evidence that the bill about to be passed and signed into law is unnecessary.

One good result which I hope can yet issue, based on the existence of this $1 billion, is the possibility that the city may never use, and the Secretary of the Treasury never be authorized to issue, any of the $325 million in guarantees of seasonal financing conditionally provided in the conference report. I opposed those guarantees to the end, because I believe that no case at all can be made for guarantees of seasonal as well as long-term financing, and that in fact this would be a step backward for the city. The conference report authorizes such guarantees for the first year only, and only if the city pension funds' legal capacity to do such financing is ex-

hausted. Given the fact that the city has this cash surplus, and that its peak seasonal needs are now estimated to be less than $1 billion in this fiscal year—an amount which it should be well within the capacity of the banks and the city pension funds to pick up—I strongly doubt that the Federal guarantees for seasonal financing will be needed, or authorized, or even requested by the city.

Mr. President, I ask unanimous consent that the New York Times article be printed in full in the RECORD:

There being no objection, the article was ordered to be printed in the RECORD, as follows:

NEW YORK UNVEILS A BIG CASH BALANCE

(By Lee Dembart)

New York City had a cash balance on July 1, the start of the current fiscal year, of nearly $1 billion, almost twice as much money as had been previously projected, city officials said yesterday.

The amount includes $330 million of real-estate taxes that were prepaid in June, which means that the city's cash needs are assured probably until September, when it plans to resume its seasonal borrowing. City financial officials said yesterday that they expected New York to try to sell short-term notes to the public no later than November.

The prepayment of the real-estate taxes was made necessary last month when the willingness of the municipal pension funds to make $700 million in loans was in doubt. At the end of the month, the funds bought $564 million in bonds, which, combined with the $330 million of prepaid real-estate taxes, resulted in the swollen cash balance.

Officials at City Hall and the City Comptroller's office could not say yesterday how much of the cash on hand reflected a true budget surplus. "That is a number that is very difficult to come by," said a senior official on the Comptroller's staff.

Part of the difficulty in assessing the true size of the surplus is that much of the cash balance is spoken for.

$975 MILLION IN SEASONAL LOANS

The contract agreement that the city entered into with most of its unions last month calls for using $216 million of the 1978 money to pay for wage increases in 1979 and 1980 and more than $80 million more to pay the 1978 cost-of-living adjustments that the workers will receive this year.

The data on the city's cash balance were contained in a cash-flow report for the current fiscal year that was prepared for Donald D. Kummerfeld, executive director of the Emergency Financial Control Board, by Deputy Mayor Philip L. Toia.

According to Mr. Toia's projections, the city will need $975 million in seasonal loans this year, starting with $225 million in September and October, increasing to $325 million in November and dropping off to $100 million in December and January.

As now contemplated, most of the seasonal borrowing will be done privately with the clearinghouse banks and the municipal pension funds. But the city will try to sell some of its short-term debt publicly, probably in November and possibly in October, depending on when the auditors complete their examination of the city's books for the last fiscal year.

Completion of the audit is a prerequisite for the city's notes to receive an investment rating. Last fall, a city note sale was scuttled after the notes received the lowest investment-grade rating.

EMBARRASSED BY RICHES

The cash-flow projection for the fiscal year also shows a reduction in the annual state advance from $800 million to $100 million, in part as a result of converting the short-term debt into long-term bonds and in part as a result of the city's desire to show that it can stand on its own two feet.

All of the explanations of how the cash balance came into being and how officials plan to spend it could not disguise their embarrassment at having $997 million in the bank after several years of crying poverty.

As recently as last fall, the cash balance for June 30 was projected in the $200 million to $300 million range.

After the first of this year, it became clear that the agencies were overbreaking their spending and that capital construction was proceeding at a slower rate than had been anticipated.

For most of the spring, the projected cash balance swung between $500 million and $600 million, a figure that was raised by the real-estate tax prepayments, officials said.

Nonetheless, one official who is intimately involved in the city's finances said yesterday, "We're not surprised that the cash is this great. All of us looking at the numbers suspected that the cash would be larger than was estimated during the spring."

WHICH COUNTRIES HAVE NOT RATIFIED THE GENOCIDE CONVENTION?

Mr. PROXMIRE. Mr. President, I have often cited to this body the vast number of countries that have ratified the Genocide Convention. To date, 82 nations have acted to define and outlaw the crime of genocide.

Eighty-two nations easily constitute a majority of the countries in the world. However, this number is far from unanimous, and one might well ask, "Which are the countries that have not acceded to the treaty?"

Mr. President, let me mention a few of the more prominent members of that minority of countries that have yet to go on record against genocide.

One country not a party to the Genocide Convention is Uganda, whose atrocious behavior toward other nations has continually shocked the world.

Cambodia, another country whose apparent unconcern for basic human rights has recently come to the attention of the world community, has yet to sign the Genocide Convention.

Rhodesia and South Africa, which, because of apartheid, have long born the the reprobation of the world, have not out-lawed genocide.

Mr. President, by refusing to ratify the Genocide Convention, the United States keeps company with some of the most odious regimes in the world today. Yet if we look instead toward those countries we call our allies, we find a very different story.

The entire North Atlantic Treaty Organization has ratified the Genocide Convention, except for Luxembourg, Portugal, and ourselves.

Except for New Zeland, Thailand, and the United States, every country in the Southeast Treaty Organization has ratified the Genocide Convention.

Trinidad and Tobago, the Dominican Republic, Bolivia, and the United States have not ratified the Genocide Convention, but every other nation in the Organization of American States has gone on record against genocide.

Of the 41 states belonging to these 3 treaty organizations, 33 have ratified the Genocide Convention. Mr. President, with most of our allies lined up on the other side of this issue, one cannot help but suspect that we are on the wrong side.

We must part company with the repressive regimes that have not signed this treaty and join with our allies to ratify the Genocide Convention.

Mr. President, I yield the floor.

AUTHORIZATION TO RELEASE MATERIALS—SENATE RESOLUTION 520

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. RIBICOFF I submit a resolution and ask for its immediate consideration. It has been cleared on all sides.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 520) to authorize the release to the Department of Justice of certain materials, documents and other information obtained by and in possession of the Senate Committee on Governmental Affairs.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

● Mr. RIBICOFF. Mr. President, this resolution would authorize the release to the Department of Justice of materials, documents and other information in the possession of the committee.

The Justice Department, by letter of June 1, has requested access to certain materials in the possession of the committee and the opportunity to interview three staff members of the committee.

The requested materials were obtained by the committee in the course of its investigation of T. Bertram Lance. Accordingly, it is necessary to obtain the consent of the Senate to release them.

This resolution would grant such consent in accordance with the privileges of the Senate and rule XXX of the Standing Rules of the Senate.●

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The preamble was agreed to.

The resolution (S. Res. 520), with its preamble, was agreed to, as follows:

S. RES. 520

Whereas, by letter dated June 1, 1978, the Department of Justice has formally requested access to certain materials, documents and information obtained by and in the possession of the Senate Committee on Governmental Affairs; and

Whereas, the requested materials, documents and information were obtained by the Committee in the course of a Committee investigation of T. Bertram Lance; and

Whereas, by the privileges of the Senate of the United States and by Rule XXX of the Standing Rules of the Senate, materials and documents in the possession of the Committee may not be released and information secured by staff employees of the Senate pursuant to their official duties may not be revealed without the consent of the Senate: Therefore, be it

Resolved, That in accordance with the re-

quest of the Department of Justice of June 1, 1978, the Senate Committee on Governmental Affairs is authorized, at the discretion of and at the direction of its Chairman, to provide the Department of Justice with certain materials, documents and information in its possession obtained in the course of a Committee investigation of T. Bertram Lance.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to John C. Keeney, Acting Assistant Attorney General, Criminal Division, Department of Justice.

ORDER FOR RECOGNITION OF SENATOR MORGAN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow Mr. MORGAN be recognized for not to exceed 15 minutes after the two leaders, under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RESUMPTION OF CONSIDERATION OF THE ENDANGERED SPECIES ACT—S. 2899

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after Mr. MORGAN completes his statement tomorrow, the Senate resume its consideration of the endangered species bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE HERMOSILLO DECLARATION ON COMBATING DRUGS AT THE INTERNATIONAL LEVEL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 909, House Concurrent Resolution No. 265.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 265) to endorse the Hermosillo Declaration on Combatting Traffic in Drugs at the International Level and urge the President to encourage other nations to cooperate in eradicating narcotics trafficking.

The PRESIDING OFFICER (Mr. PAUL G. HATFIELD). Is there objection to the present consideration of the concurrent resolution?

Mr. BAKER. Mr. President, I rise to advise the majority leader that this item is cleared on our calendar and we have no objection to its passage.

Without objection, the Senate proceeded to consider the concurrent resolution.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (H. Con. Res. 265) was agreed to.

The preamble was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-978), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE RESOLUTION

The concurrent resolution calls for Congressional endorsement of the Hermosillo Declaration on illicit drug trafficking, and encourages other nations to adopt it as well. It also urges the President to persuade other nations to cooperate in an international effort to eradicate narcotics trafficking, to eliminate the illicit production of opium, and to stamp out the criminal elements who thrive on these activities.

BACKGROUND

In May 1977, the 17th United States-Mexican Interparliamentary Conference was held in Hermosillo, Sonora, United States of Mexico. The Interparliamentary Group devoted considerable time to study the seriousness and magnitude of the global narcotics problem, after which it took the unprecedented step of using the interparliamentary meeting to achieve a specific policy goal. The legislators from the United States and Mexican Congresses unanimously agreed to adopt a declaration aimed at awakening the world's consciousness to the horrors of drug abuse.

The declaration was signed on May 28, 1977, and reads as follows:

DECLARATION OF HERMOSILLO ON COMBATING TRAFFIC IN DRUGS AT THE INTERNATIONAL LEVEL

Whereas the legislators of the United States and Mexico attending the Seventeenth Interparliamentary Meeting held in Hermosillo, Sonora, have made a detailed study of the circumstances directly fostering the growing illicit traffic in narcotics between our two countries and on the world level, as well as of the historical events that have inclined large sectors of the population to the use of such drugs, as a result of our deliberations, and as the legitimate direct representatives of our two peoples, we hereby

Declare it is the will of the peoples and governments of the United States and Mexico to:

Energetically and definitively condemn, without reservations of any kind, the illegal cultivation of all plants that may be used to obtain substances which, when employed as narcotics, cause grave and often irreparable damage to people's health;

Tenaciously and untiringly prosecute by every possible means—within the context of our respective countries' Constitutions and laws—the traffic in such drugs both within and across our borders, and establish effective and far reaching cooperation to that end among the authorized agencies of our two governments as well as among non-governmental institutions and civic groups.

We further declare that in addition to the economic conditions, leading to the increased consumption production and traffic in drugs in the United States of America and in Mexico, events and situations have occurred throughout the world since the beginning of the 20th Century that have resulted in the creation of an atmosphere of skepticism, discouragement and apprehension. This in turn has fostered the large-scale use and abuse of narcotic drugs by large numbers of our populations and particularly by young people; the inhuman traffic in such substances is mainly handled by organized crime.

The world's youth, dismayed and apprehensive because of the successive world, regional and local wars in this century; the threat of nuclear warfare; the deterioration of living conditions; social insecurity; unemployment; discrimination of various types, and the lowering of educational and cultural levels, has been tempted to respond to this situation by seeking means of escape in a flight from hostile reality, and to lose faith in life and in their own destiny. All this has made them easy prey to the proliferating drug addiction and other serious deviations and vices that afflict humanity in our times.

Drug traffic and the illegal sale of narcotics are particularly harmful to certain regions of the world but are not exclusive problems of any one country or social-political regime. Heroin and other harmful drugs do not respect boundaries and attack or threaten to a greater or lesser degree every nation and especially the youth of all countries.

For these reasons, both Mexican and U.S. legislators, faithfully interpreting our feelings, our concern and the most fervent desire of our peoples declare that it is the responsibility of the public institutions and competent authorities of our nations to become deeply involved, reinforce and extend to the utmost the fight against the cultivation, traffic, use and abuse of drugs, and to this end adopt all the legislative, judicial, political and economic measures that will lead to the eradication of this far-reaching problem.

We thus make a cordial and urgent appeal to all governments and peoples of the world to take a stand against narcotics traffic once and for all and to establish a system for international cooperation, essential for a decisive fight against an illegal and criminal activity that represents a degenerative threat to the culture of the nations of the world and to the general well-being of mankind.

We therefore recommend and demand that energetic, preventive, prosecuting and punitive measures be taken to discourage the cultivation of drug producing plants in order to suppress narcotics traffic. But at the same time we draw your attention to a historic need for offering our youth, faced with the threatening specter of wars, nuclear extermination, unemployment, oppression, social injustice and the denial of freedom and opportunities for progress and a productive life, a firm alternative of peace, jobs, creativity, justice and freedom that presents a vital new perspective and new horizons for human fulfillment, so that youth, reconciled by the promise of a dignified, vigorous and just life, will turn its back on demoralization and moral distintegration, which lead to drug addiction and other self-destructing habits of mankind.

The U.S. and Mexican legislators hereby subscribe to this Declaration of Hermosillo to salvage the morality, health and the joy of living of our peoples.

HERMOSILLO, SON., *May 28, 1977.*

(Signatures of all members of both delegations).

The Chairman of the American and Mexican delegations, in the joint communique customarily issued at the conclusion of each U.S.-Mexican Interparliamentary Conference, emphasized the importance each delegation attached to the declaration in the following statement:

Both delegations, by the "Declaration of Hermosillo" manifested their irrevocable decision to cooperate with their respective governments in order to intensify and reinforce the fight against the growing use and traffic of drugs and to this end adopt any legislative measures that may lead to the total eradication of this serious evil that is a scourge of humanity.

ORDER VITIATING ACTION ON H.R. 4007

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the act of the Committee on Finance on June 26, 1978, in reporting H.R. 4007 and filing of the report thereon be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REFERRAL OF S. 3115

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that if and when reported by the Committee on Human Resources, S. 3115 be referred to the Committee on Commerce, Science, and Transportation, for that committee to consider title III and report the bill within 45 legislative days of its being referred to that committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR REFERRAL OF S. 3117

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 3117 be jointly referred to the Committees on Human Resources and Commerce, Science and Transportation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR PERCY ON THURSDAY, JULY 20, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, after the two leaders or their designees have been recognized under the standing order, Mr. PERCY be recognized for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO THE CONSIDERATION OF S. 3084

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the endangered species bill the Senate proceed to the consideration of Calendar Order No. 801, S. 3084, the housing bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS FROM WEDNESDAY, JULY 19, 1978, UNTIL 9:45 A.M., THURSDAY, JULY 20, 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business on tomorrow it stand in recess until 9:45 a.m. on Thursday.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until 9:45 a.m. tomorrow. The motion was agreed to; and at 7:36 p.m., the Senate recessed until tomorrow, Wednesday, July 19, 1978, at 9:45 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate July 18, 1978:

SMALL BUSINESS ADMINISTRATION

Milton David Stewart, of New York, to be Chief Counsel for Advocacy, Small Business Administration.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Tuesday, July 18, 1978*

The House met at 12 o'clock noon.

The Reverend John R. Nakonachny, Ukrainian Orthodox Church of Holy Ascension, Maplewood, N.J., offered the following prayer:

In the name of the Father, and the Son, and the Holy Spirit:

Almighty God, Thou hast not created man in Thine own image to be enslaved by totalitarianism or godless communism. During this 20th annual Captive Nations Week, we implore Thee, in Thy compassion, to bless those who suffer persecution in such nations as Ukraine, whose proud people were the first to be subjugated and committed to forced labor camps, exile, mental institutions, and even subjected to a mandate famine—for belief in God, freedom, justice, private property—all human rights. Sustain and enlighten them, O Lord, in the hope and belief that they may see a new day of freedom in their lands.

Bless, O Father, our President, the Members of the Senate, and this, the House of Representatives. May Thy Holy Spirit guide them, that they may have a care only for what will promote good government. Give them such a sense of duty that no self-interest shall turn them from it. Grant them the strength and courage to stand without compromise in the defense of human rights for all oppressed people.

We ask this in Thy name for holy art Thou and unto Thee we ascribe glory to the Father, and the Son, and the Holy Spirit, now and ever and unto ages of ages. Amen.

CALL OF THE HOUSE

Mr. BAUMAN. Mr. Speaker, under rule I, clause 1, of the rules of the House, I make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

Without objection, a call of the House is ordered.

There was no objection.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 556]

Addabbo	Fraser	Pressler
Alexander	Frey	Ruppe
Ambro	Garcia	Santini
Andrews, N.C.	Gephardt	Scheuer
Archer	Gibbons	Sebelius
Armstrong	Goldwater	Shipley
Ashbrook	Harrington	Shuster
Ashley	Harsha	Solarz
Burke, Calif.	Heckler	St Germain
Burton, Phillip	Hightower	Stark
Clawson, Del	Kasten	Teague
Conyers	Le Fante	Thornton
Dent	Leggett	Tsongas
Diggs	McCloskey	Tucker
Drinan	McEwen	Udall
Evans, Colo.	McFall	Ullman
Evans, Del.	McKinney	Van Deerlin
Flowers	Meeds	White
Flynt	Mikva	Wilson, C. H.
Ford, Mich.	Milford	Young, Tex.
Ford, Tenn.	Moffett	

The SPEAKER. On this rollcall 370 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J. Res. 135. Joint resolution designating the weekend of or preceding April 29 of 1979, as "Days of Remembrance of Victims of the Holocaust."

PERMISSION FOR COMMITTEE ON RULES TO FILE CERTAIN PRIVILEGED REPORTS

Mr. SISK. Mr. Speaker, I ask unanimous consent that the Committee on Rules may have until midnight tonight to file certain privileged reports.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman explain to us the necessity for this unanimous-consent request?

Mr. SISK. If the gentleman will yield, actually, the Committee on Rules is sitting. We have actually completed one hearing. I have that report prepared.

The other matter pending, of course, is the matter of the noise pollution bill. We will expect to report a rule early in the afternoon. I am simply asking permission to have until midnight tonight to file reports which are, of course, privileged reports.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

REQUEST FOR PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT THIS AFTERNOON WHILE THE HOUSE IS IN SESSION

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may be permitted to sit this afternoon on the markup of House Joint Resolution 638.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, can the gentleman tell us what the necessity for the meeting is?

Mr. EDWARDS of California. If the gentleman will yield, the chairman of the committee, the gentleman from New Jersey (Mr. RODINO), has a real need to get back to New Jersey for a very serious family problem, as we know.

Mr. BAUMAN. I understand that. The question I am putting to the gentleman is what the legislation before the committee is and what action will be taken on that.

Mr. EDWARDS of California. If the gentleman will yield, the legislation is the extension of the ERA.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, is it the intention to mark that up during the session?

Mr. EDWARDS of California. If the gentleman will yield, yes, we intend to mark it up this afternoon.

Mr. BAUMAN. Mr. Speaker, I would hope, since 10 Members are required to object, that 10 Members will object.

Mr. Speaker, I object.

The SPEAKER. Objection is heard. The Chair will state it takes 10 Members to object. The objectors will have to remain standing.

(Messrs. ROUSSELOT, BADHAM, SYMMS, EDWARDS of Oklahoma, JEFFORDS, HILLIS, BEARD of Tennessee, SNYDER, and MOORHEAD of California also objected.)

The SPEAKER. A sufficient number have objected.

Objection is heard.

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO MEET TOMORROW WHILE HOUSE IS IN SESSION

Mr. NIX. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service may be permitted to meet at any time while the House is in session for the remainder of the week.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, could the distinguished chairman of the Committee on Post Office and Civil Service tell us what urgency this matter has?

Mr. NIX. If the gentleman will yield, Mr. Speaker, we intend to continue the markup of a bill.

Mr. ROUSSELOT. Mr. Speaker, my understanding is that we have been told that the committee cannot meet today. Therefore, the gentleman is only asking for which days, Wednesday, Thursday, and Friday; is that right?

Mr. NIX. The gentleman is correct.

Mr. ROUSSELOT. There are some problems which some of us have with other bills which are to be brought on the House floor.

As the gentleman knows, I personally, as a member of the committee, support the general legislation for civil service reform with a few exceptions.

Why can we not just meet, for instance, tomorrow? We do go into session at 10 o'clock; is that not right? Why can't we just meet within that time frame in the morning?

Could the gentleman ask for permission on a day-to-day basis? Would the gentleman be willing to ask that the committee meet just tomorrow?

Mr. NIX. If the gentleman insists, I will do that.

Mr. ROUSSELOT. I think it would be better if we did it that way.

Mr. NIX. All right. Mr. Speaker, I modify the request to make it that the Committee on Post Office and Civil Service may be permitted to meet tomorrow while the House is in session.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Further reserving the right to object, Mr. Speaker, the gentleman is asking for tomorrow only; is that correct?

Mr. NIX. I am asking for tomorrow only; that is correct.

Mr. ROUSSELOT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania that the Committee on Post Office and Civil Service may be permitted to meet tomorrow for markup during the legislative session?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON THE ENVIRONMENT AND THE ATMOSPHERE OF COMMITTEE ON SCIENCE AND TECHNOLOGY TO MEET TODAY DURING 5-MINUTE RULE

Mr. BROWN of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on the Environment and Atmosphere of the Committee on Science and Technology may be permitted to meet this afternoon for the purpose of a hearing only, despite the fact that the House is meeting under the 5-minute rule.

The SPEAKER. Is there objection to the request of the gentleman from California?

Mr. ROUSSELOT. Reserving the right to object, Mr. Speaker, we have this very important coal slurry pipeline bill, and there are very competent members of the gentleman's subcommittee who have a wealth of technological experience to offer during the debate on the bill. Can they be absent during its consideration?

Mr. BROWN of California. If the gentleman will yield, Mr. Speaker, I expect that only possibly one or two of them will be absent.

Mr. ROUSSELOT. This meeting will be for testimony only; there will be no markup of any bill; is that correct?

Mr. BROWN of California. Correct. I might tell the gentleman that at least one of the witnesses has traveled across the country. It would be a severe hardship to him if we did not go ahead today.

Mr. ROUSSELOT. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PRIVATE CALENDAR

The SPEAKER. This is Private Calendar day. The Clerk will call the first individual bill on the Private Calendar.

KWONG LAM YUEN

The Clerk called the bill (H.R. 1798) for the relief of Kwong Lam Yuen.

Mr. WYLIE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Ohio?

There was no objection.

MORRIS AND LENKE GELB

The Clerk called the bill (H.R. 3084) for the relief of Morris and Lenke Gelb.

Mr. BAUMAN. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

IRENE HOFFMAN

The Clerk called the bill (H.R. 5612) for the relief of Irene Hoffman.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

RECOMMITTAL OF H.R. 10210 FOR THE RELIEF OF MARTINA NAVRATILOVA TO COMMITTEE ON THE JUDICIARY

The Clerk called the bill (H.R. 10210) for the relief of Martina Navratilova.

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the bill, H.R.

10210, be recommitted to the Committee on the Judiciary.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

BALL STATE UNIVERSITY AND THE AMERICAN ASSOCIATION OF COLLEGES FOR TEACHER EDUCATION

The Clerk called the bill (H.R. 1415) for the relief of Ball State University and the American Association of Colleges for Teacher Education.

Mr. ROUSSELOT. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

H. F. MULHOLLAND AND THE ESTATE OF JOHN OAKASON

The Clerk called the bill (H.R. 12047) for the relief of H. F. Mulholland and the estate of John Oakason.

There being no objection, the Clerk read the bill, as follows:

H. R. 12047

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of section 31(c) of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 188(c)), the Secretary of the Interior is authorized and directed to receive, consider, and act upon a petition of H. F. Mulholland and the estate of John Oakason, lessee of record of terminated Oil and Gas Lease Numbered W 11843, for reinstatement of said lease if such petition is filed within ninety days after the effective date of this Act, together with the required rental, if any, including back rental accruing from the date of termination of the lease, notwithstanding the time limit for payment of such rental set forth in section 31(c) (30 U.S.C. 188(c)). The date of termination of the primary term of said lease as reinstated shall be May 31, 1984.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PROVIDING FOR REINSTATEMENT AND VALIDATION OF CERTAIN U.S. OIL AND GAS LEASES

The Clerk called the bill (H.R. 6463) providing for reinstatement and validation of U.S. oil and gas leases numbered U–12871, U–12872, U–12874, U–12875, U–12876, U–12877, U–12878, U–12881, and U–13666.

There being no objection, the Clerk read the bill as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior of the United States or his authorized agents or representatives, United States oil and gas leases numbered U–12871, U–12872, U–12874, U–12875, U–12876, U–12877, U–12878, and U–12881 shall be held not to have terminated by operation of law or otherwise on December 1, 1975, but shall be deemed to be in full force and effect for the term of said leases, provided, that rentals for subsequent years are paid or tendered within the time required by the terms of such leases.

That, notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior of the United States or his authorized agents or representatives, United States oil and gas lease numbered U–13666 shall be held not to have terminated by operation of law or otherwise on April 1, 1976, but shall be deemed to be in full force and effect for the term of said leases, provided, that rentals for subsequent years are paid or tendered within the time required by the terms of such leases.

With the following committee amendment:

Page 1, beginning on line 3, strike out all after the enacting clause and insert in lieu thereof the following:

That notwithstanding any decision to the contrary heretofore made by the Secretary of the Interior of the United States or his authorized agents or representatives, subject to the requirements of section 2 of this Act:

(a) United States oil and gas leases numbered U–12871, U–12872, U–12874, U–12875, U–12876, U–12877, U–12878, and U–12881 shall be held not to have terminated by operation of law or otherwise on December 1, 1975, but shall be deemed to be in full force and effect for the term of said leases provided that rentals for subsequent years are paid or tendered within the time required by law and the terms of such leases.

(b) United States oil and gas lease numbered U–13666 shall be held not to have terminated by operation of law, or otherwise on April 1, 1976, and the term of said lease is hereby extended to a date 24 months after the effective date of this Act and so long thereafter as oil or gas is produced in paying quantities, provided that rentals for subsequent years are paid or tendered within the time required by law and the terms of such lease.

SEC. 2. Within thirty days after the effective date of this Act, the Secretary shall give notice to the last record holder of the oil and gas leases listed in the first section of this Act of the amount of unpaid rental then accrued under said leases or that would have accrued had the leases not terminated. Within thirty days after receipt of such written notice, the last record holder of such leases, their successors or assigns, shall tender payment of the amount of rental to the Secretary. If payment is not made within the required time, the provisions of this Act shall terminate and be of no force and effect with respect to those leases for which payment was not made.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MARITIME MEDALS

The Clerk called the bill (H.R. 13235) for the relief of James Thomas Lantz, Jr., David D. Bulkley, and Arthur J. Abshire.

There being no objection, the Clerk read the bill, as follows:

H.R. 13235

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of Public Law 84–759, or of any other law, the Secretary of Commerce shall issue to each of the following individuals, in full recognition of his service as a seaman in the United States Merchant Marine during World War II, the following decorations and indicia of service:

(1) To James Thomas Lantz, Junior, of Columbus, Ohio:

(A) The Atlantic War Zone Bar.
(B) The Combat Bar with Star.
(C) The Defense Bar.
(D) The Merchant Marine Victory Medal.
(E) The Honorable Service Button.
(F) The Merchant Marine Emblem.
(G) The Presidential Testimonial Letter.

(2) To David D. Bulkley, of West Redding, Connecticut:

(A) The Atlantic War Zone Bar.
(B) The Pacific War Zone Bar.
(C) The Mediterranean-Middle East War Zone Bar.
(D) The Merchant Marine Victory Medal.
(E) The Honorable Service Button.
(F) The Merchant Marine Emblem.
(G) The Presidential Testimonial Letter.
(H) The Certificate of Substantially Continuous Service.

(3) To Arthur J. Abshire, of Columbus, Ohio:

(A) The Merchant Marine Emblem.
(B) The Atlantic War Zone Bar.
(C) The Pacific War Zone Bar.
(D) The Combat Bar.
(E) The Merchant Marine Victory Medal.
(F) The Honorable Service Button.
(G) The Presidential Testimonial Letter.
(H) The Certificate of Substantially Continuous Service.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

EASTERN TELEPHONE SUPPLY & MANUFACTURING, INC.

The Clerk called the bill (H.R. 10161) for the relief of Eastern Telephone Supply & Manufacturing, Inc.

Mr. BOLAND. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER. This concludes the call of the Private Calendar.

MANAGEMENT OF WEATHER RESOURCES

(Mr. BROWN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BROWN of California. Mr. Speaker, I have just received an advance copy of a report entitled "Management of Weather Resources" which I wish to commend to the attention of my fellow Members. It was prepared by a distinguished committee pursuant to a requirement imposed by Public Law 94–490 on the Department of Commerce for a report setting forth a national policy for weather modification.

The committee, chaired by Harlan Cleveland, was composed of expert scientists, economists, and lawyers, State and local officials, users of weather modification services, environmentalists and others highly experienced in governmental and policy affairs. It was a very capable, dedicated, and hard working group. The report, which is their personal product, is an exciting report. It

deserves your close attention and consideration.

Its assessment concludes that beneficial modification of the weather is a desirable national goal and that that goal is attainable. There are of course several provisos, but they seem reasonable. First a careful long-term program of R. & D. needs to be developed; second, a relatively modest financial investment needs to be made; and lastly, the organization of the government for this activity needs to be greatly strengthened. Their proposal on the latter is novel and pioneering. Any change from the status quo is bound to be resisted and this would be no exception. Yet the need for a bold change is clear and the proposal has appeal. I intend to study it carefully for that reason and because it is central to the entire report.

We are now awaiting the formal transmission of the report to the Congress by the Secretary of Commerce. I look forward to receiving her comments.

IN DEFENSE OF AMBASSADOR ANDREW YOUNG

(Mr. WHALEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHALEN. Mr. Speaker, in the general hubbub of controversy surrounding Andy Young's press interviews, some of his notable achievements have been overlooked. Chief among these have been steady progress toward a political settlement in Namibia and cautious tireless approach toward a solution in Rhodesia/Zimbabwe. Both of these situations have demanded unusual skill and finesse from Young in dealing with intransigent protagonists as well as prideful and nervous interested parties. He has succeeded in his efforts with flying colors.

I have had the honor and pleasure of serving under Ambassador Young as part of his U.N. team and I can personally testify to his extraordinary diplomatic skills and inspirational guidance. It is hard for me to imagine what other U.S. public figure could have accomplished as much as he has, both at the U.N. itself and during ticklish rounds of shuttle diplomacy.

The recent news on Namibia is notably encouraging and pays special tribute to an able American. I urge my colleagues to join me in complimenting him on his fine performance.

COMMITTEE ON MERCHANT MARINE AND FISHERIES COMPLIMENTED

(Mr. WYLIE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WYLIE. Mr. Speaker, I would simply like to say a few brief words pertaining to two Merchant Marine veteran constituents of mine, Mr. James T. Lantz and Mr. Arthur J. Abshire, who were the subject of a Private Calendar bill today.

When Mr. Lantz first came to me and asked my assistance to obtain certain decorations and indicia of service, he indicated it came from a desire on his part to install a sense of patriotism and pride in America in his young grandson. The fact that he justly earned these medals and never received them was not all that important to him until he related his World War II experiences to his grandson. His grandson looked up to and admired him, and he wanted this evidence that he had served his country so courageously during World War II.

I felt that Mr. Lantz should receive these medals simply because they had been earned even though the authorizing authority had expired. Thereafter, Mr. Abshire, learning, I surmise, of my actions on behalf of Mr. Lantz, wrote asking for similar assistance. Since there was ample evidence on file to verify Mr. Lantz' and Mr. Abshire's undeniable entitlement to the medals and indicia of service, I felt a private bill was not only in order but just recognition for their services on behalf of their country.

As Chairman MURPHY has aptly reported, nowhere has there been opposition offered countering the merits of this legislation. If anything, departmental personnel and committee members were sympathetic and concerned, most hoping relief would be afforded. No one felt denying such a simple, well-deserved request to veterans who so unselfishly served our country was justified.

I want to express my sincere thanks to Mr. MURPHY, Mr. METCALFE, and the members of the Committee on Merchant Marine and Fisheries for bringing this matter to the floor and congratulate Mr. Lantz and Mr. Abshire.

A BILL FOR THE RELIEF OF H. F. MULHOLLAND AND THE ESTATE OF JOHN OAKASON

(Mr. MARRIOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARRIOTT. Mr. Speaker, I have introduced the bill H.R. 12047 for the relief of H. F. Mulholland and the estate of John Aakason. This is an important bill because it allows the reinstatement of a very valuable producing oil and gas lease, numbered W-11843. This was terminated due to the failure of the lessees to properly endorse their rental payment check. Similar legislation passed the 94th Congress, but adjournment prohibited conference agreement.

I appreciate your support of this legislation to clear up this problem. Thank you very much.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair desires to make an announcement.

Pursuant to the provisions of clause 3(b) of rule XXVII, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

After all motions to suspend the rules have been entertained and debated, and after those motions to be determined by "nonrecord" votes have been disposed of, the Chair will then put the question on each motion on which the further proceedings were postponed.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12443) to amend section 201(a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy, as amended.

The Clerk read as follows:

H.R. 12443

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201(a) of the Immigration and Nationality Act is amended to read as follows:

"SEC. 201. (a) Exclusive of special immigrants defined in section 101(a)(27), and immediate relatives of United States citizens as specified in subsection (b) of this section, the number of aliens born in any foreign state or dependent area who may be issued immigrant visas or who may otherwise acquire the status of an alien lawfully admitted to the United States for permanent residence, or who may, pursuant to section 203(a)(7), enter conditionally, shall not in any of the first three quarters of any fiscal year exceed a total of seventy-seven thousand and shall not in any fiscal year exceed a total of two hundred and ninety thousand.".

SEC. 2. Section 202(c) of the Immigration and Nationality Act is amended to read as follows:

"(c) Any immigrant born in a colony or other component or dependent area of a foreign state overseas from the foreign state, other than a special immigrant, as defined in section 101(a)(27), or an immediate relative of a United States citizens, as defined in section 201(b), shall be chargeable for the purpose of the limitation set forth in section 202(a), to the foreign state, and the number of immigrant visas available to each such colony or other component or dependent area shall not exceed six hundred in any one fiscal year.".

SEC. 3. Section 203(a) of the Immigration and Nationality Act is amended to delete "201(a) (1) or (2)" each place it appears in paragraphs one through seven and by substituting in lieu thereof "201(a)".

SEC. 4. (a) There is established a Select Commission on Immigration and Refugee Policy (hereinafter in this section referred to as the "Commission") which shall be composed of—

(1) four members appointed by the President, one of whom shall be designated by the President as Chairman;

(2) the Secretary of State, the Attorney General, the Secretary of Labor, and the Secretary of Health, Education, and Welfare;

(3) four members appointed by the Speaker of the Hosue of Representatives from the membership of the House Committee on the Judiciary; and

(4) four members appointed by the President pro tempore of the Senate from the membership of the Senate Committee on the Judiciary.

(b)(1) A majority of the Commission shall constitute a quorum for the transaction of its business, but the Commission may provide for the taking of testimony and the reception of evidence at meetings at which there are present not less than four members of the Commission.

(2) Each member of the Commission who is not otherwise in the service of the Government of the United States shall receive the

sum of $100 for each day spent in the work of the Commission, shall be paid actual travel expenses, and per diem in lieu of subsistence expenses, when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code. Each member of the Commission who is otherwise in the service of the Government of the United States shall serve without compensation in addition to that received for such other service, but while engaged in the work of the Commission shall be paid actual travel expenses, when away from his usual place of residence, in accordance with chapter 57 of title 5, United States Code.

(c) It shall be the duty of the Commission to study and evaluate, in accordance with subsection (d), existing laws, policies, and procedures governing the admission of immigrants and refugees to the United States and to make such administrative and legislative recommendations to the President and to the Congress as are appropriate.

(d) In particular, the Commission shall—

(1) conduct a study and analysis of the effect of the provisions of the Immigration and Nationality Act (and administrative interpretations thereof) on (A) social, economic, and political conditions in the United States; (B) demographic trends; (C) present and projected unemployment in the United States; and (D) the conduct of foreign policy;

(2) conduct a study and analysis of whether and to what extent the Immigration and Nationality Act should apply to the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the other territories and possessions of the United States;

(3) review, and make recommendations with respect to the numerical limitations (and exemptions therefrom) of the Immigration and Nationality Act on the admission of permanent resident aliens;

(4) assess the social, economic, political, and demographic impact of previous refugee programs and review the criteria for, and numerical limitations on, the admission of refugees to the United States;

(5) conduct a comprehensive review of the provisions of the Immigration and Nationality Act and make legislative recommendations to simplify and clarify such provisions;

(6) make semiannual reports to each House of Congress during the period before publication of its final report (described in paragraph (7)); and

(7) make a final report of its findings and recommendations to the President and each House of Congress, which report shall be published not later than September 30, 1980.

(e)(1) The Commission is authorized to appoint and fix the compensation of a staff director and such other additional personnel as may be necessary to enable the Commission to carry out its functions without regard to the civil service laws, rules, and regulations. Any Federal employee subject to those laws, rules, and regulations may be detailed to the Commission, and such detail shall be without interuption or loss of civil service status or privilege.

(2) Staff members of the Committee on the Judiciary of the Senate or of the Committee on the Judiciary of the House of Representatives may be detailed to serve on the staff of the Commission by the chairman of the respective committee. Staff members so detailed shall serve on the staff of the Commission without additional compensation except that they may receive such reimbursement of expenses incurred by them as the Commission may authorize.

(f) The Commission may call upon the head of any Federal department or agency to furnish information and assistance which the Commission deems necessary for the performance of its functions, and the heads of such departments and agencies shall furnish such assistance and information, unless prohibited under law, without reimbursement.

(g) The Commission is authorized to make grants and enter into contracts for the conduct of research and studies which will assist it in performing its duties under this section.

(h) The Commission shall cease to exist upon the filing of its final report, except that the Commission may continue to function for up to sixty days thereafter for the purpose of winding up its affairs.

(i) There is authorized to be appropriated the sum of $700,000 to carry out the provisions of this section.

(j) Notwithstanding any other provision of this Act, no payment, or authorization to make payments or to enter into contracts under this Act, shall be effective except to such extent, or in such amounts, as are provided in advance in appropriations Acts.

SEC. 5. Notwithstanding any other provision of law, any refugee, not otherwise eligible for retroactive adjustment of status, who was or is paroled into the United States by the Attorney General pursuant to section 212 (d)(5) of the Immigration and Nationality Act before September 30, 1980, shall have this status adjusted pursuant to the provisions of section 203(g) and (h) of that Act.

The SPEAKER pro tempore (Mr. MURPHY of New York). Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. EILBERG) will be recognized for 20 minutes, and the gentleman from New York (Mr. FISH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have included within the motion to suspend, a committee amendment which is designed to accomplish three separate purposes.

The first portion of the amendment was adopted during the full Judiciary Committee's deliberations and would set an authorization ceiling of $700,000 for the expenses of the Select Commission on Immigration and Refugee Policy established by the bill.

The second portion of the amendment was suggested by the House Budget Committee to overcome violations of section 401 (a) and (b) of the Budget Act. I am advised that with this amendment the Budget Committee has no objections to the consideration of this legislation.

Finally, the last portion of the amendment creating a new section in the bill would authorize the retroactive adjustment of status for refugees who have been or will be paroled into the United States. Under current law, this type of relief is only available to Cuban and Indochina refugees. Consequently, this section would remove this inequity by allowing an automatic retroactive adjustment of status for all refugees after they have been in the United States for a period of 2 years. My colleagues may wonder why this matter is being brought to the floor in this unusual manner. The answer is that this is an emergency measure which must be addressed before the Congress adjourns.

As I have noted, this amendment will allow some 5,000 refugees to adjust their status immediately without waiting in line for several years; thereby providing equal treatment for all categories of refugees. We have just been advised by the Department of Justice as to their strong support for such a provision, and we have also received strong letters of support from the various voluntary agencies for this type of legislation which will treat all refugees on an equal basis for purposes of adjustment of status.

Secondly and equally important, the bill with this amendment will "free up" some 8,000 refugee numbers for use by "boat case" refugees in Indochina. Members and staff of my subcommittee have just returned from Southeast Asia where they visited "boat camps" in both Thailand and Malaysia: The situation is "critical" and unless additional refugee numbers are provided in the immediate future, it is clear that these governments will prevent new arrivals and begin to once again push boats out to sea.

Consequently, it is the committee's intention that these additional numbers be allocated, to the maximum extent possible, to Indochina boat cases. Since we consider this provision to be an emergency measure, we have limited its duration to the life of the Select Commission. During this 2-year period the Select Commission will be able to consider this matter in detail, and this subject will also be addressed in general refugee legislation which is now working its way through my subcommittee and the full Judiciary Committee.

Mr. Speaker, the enactment of the 1965 amendments to the Immigration and Nationality Act, abolishing the national origins quotas on immigration into the United States, marked the beginning of the process of removing from U.S. immigration policy distinctions based on an alien's country of origin. That process continued last Congress when we extended the Eastern Hemisphere preference system to natives of the Western Hemisphere.

Present law, however, still retains a distinction between Eastern and Western Hemisphere aliens in that it imposes a 170,000 limitation on immigration for the Eastern Hemisphere and 120,000 for the Western Hemisphere.

This clean bill—which is wholeheartedly supported by the administration—would remove this hemispheric distinction without increasing total immigration into the United States. Enactment of the bill would thus be consistent with the immigration reform process begun by the landmark 1965 amendments and carried forward by the Western Hemisphere law approved in 1976. In short, it would remove the last vestiges of disparity in the treatment of an alien based upon his place of birth by merging both the hemispheric ceilings into one worldwide ceiling.

Another beneficial result of this change will be the accommodation of a greater number of refugees within present statutory limits, without resort to the Attorney General's discretionary parole power.

Another section of the bill would establish a Select Commission on Immigra-

tion and Refugee Policy. There is a paucity of hard data in this country on the impact of immigration, both legal and illegal. This is indeed disturbing when you consider that our immigration law has not been reviewed in over 25 years and that almost every aspect of the American community is affected by immigration. In my judgment, it is vital that every effort be made to reevaluate our immigration policy, and that it be done in a comprehensive fashion. It is imperative that: our policy be tailored to present day needs; that outdated provisions and restrictions in the law be removed; and that innovative, forward-looking changes be made where they are warranted.

This need for a long-range study of this nature was recognized in 1976 by the President's Domestic Council on Illegal Aliens established to study the problem of the undocumented worker, and by the Comptroller General of the United States in a recent GAO report entitled "The Need to Reassess U.S. Immigration Policy." Testimony has also been received by my subcommittee on behalf of the Departments of Justice and State in strong support of the commission concept.

I might add that testimony before other committees of Congress and discussions with experts in the immigration field reveals a clear consensus on the need for, and desirability of, creating an Immigration Study Commission. I am aware of no opposition to this noncontroversial legislation, and I therefore urge approval of a bill which not only makes needed change in our present immigration policy but also establishes a mechanism for recommending future such changes.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12443, and urge my colleagues to do likewise.

This bill represents the next logical step beyond our actions in 1965, establishing a preference system for immigrants from countries of the Eastern Hemisphere, and, during the last Congress, extending that system to immigration from Western Hemisphere nations. This bill combines the two existing and identical systems from each hemisphere into one worldwide system. It does not increase the number (290,000) of persons eligible to immigrate to this country pursuant to the preference system.

The bill would have the beneficial effect of allowing the use of more of the presently authorized refugee numbers. At this time, due to the definition of the term "refugee" in our immigration law (sec. 203(a)(7)) all of the 7,200 numbers annually authorized in the Western Hemisphere are not used whereas the numbers annually authorized in the Eastern Hemisphere (10,200) are oversubscribed. This bill will allow authorized numbers, a total of 17,400 per year to be used, where needed, on a worldwide basis.

The bill also establishes a Select Commission on Immigration and Refugee Policy. I feel this is a most appropriate and needed step to completely review our underlying policy dealing with not only immigration, but refugees as well. We have had to enact programs on an ad hoc basis as each crisis occurred that resulted in large numbers of refugees. Our program to accept, and aid, the refugees from Southeast Asia is the most recent example. Our subcommittee has struggled with this problem for many years, and I fully agree that a long-range U.S. policy in this regard is most necessary. The Commission established by this bill is charged with making such recommendations, as well as to review our existing immigration statute which has not been thoroughly reexamined since 1952.

Therefore, I am pleased to join the gentleman from Pennsylvania in urging my colleagues to vote to suspend the rules and pass H.R. 12443.

Mr. EILBERG. Mr. Speaker, I yield such time as he may consume to my colleague, the gentleman from Georgia (Mr. EVANS).

Mr. EVANS of Georgia. Mr. Speaker, I have just returned from a trip to the Far East to investigate the drug and refugee situations in Thailand and certain other countries in that area of the world.

During the course of that trip I had the opportunity of meeting at length with Mr. Kriangsak, the Prime Minister of Thailand, in order to discuss the refugee problem in that country. It was clear to me that the problem has reached critical proportions and unless efforts are made to expand resettlement opportunities in third countries the situation will worsen dramatically within the next few months. The Governments of Thailand and Malaysia want to be assured of onward movement of refugees before they will agree to provide even temporary asylum. I do not believe the answer lies entirely in moving Indochina refugees to third countries, and for this reason I raised the issue of local settlement in Thailand with the Prime Minister. He agreed to consider this possibility; and I believe the United States has a responsibility to develop a balanced approach in terms of insisting on significant resettlement numbers in Thailand and by offering expanded resettlement opportunities in the United States, particularly for the Vietnamese boat cases.

I can assure my colleagues that the emergency provision we are now considering is urgently required, and I urge your support.

Mr. EILBERG. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SCHEUER).

(Mr. SCHEUER asked and was given permission to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, the bill before us, H.R. 12443, to amend the Immigration and Nationality Act and to establish a Select Commission on Immigration and Refugee policy, has undergone thorough investigation by Chairman EILBERG and the Immigration Subcommittee, and comes highly recommended by experts in the field of immigration.

In testimony before the House Select Committee on Population this spring, witness after witness urged that a comprehensive review of immigration policy be undertaken so that an assessment can be made of the impact of immigration policies and administrative procedures on the labor market, on educational and social services, on demographic change, and on the conduct of foreign policy.

If the Immigration and Naturalization Service tells us that hundreds of thousands of aliens without documents slip through the border without being apprehended every year, to say nothing of the INS's inability to seek out visa-abusers, then the present immigration law is not enforceable. If the Department of Labor tells us that of all the legal immigrants admitted to the United States last year, only a handful—6 percent—are labor certified by that Department, our present law is not relevant as a fine-tuning mechanism for our economy. And if it cannot respond to the boat people drifting in Southeast Asia with no place to go, then it is without heart or human compassion.

Urging a comprehensive review of immigration law is not a novel idea, Mr. Speaker. The GAO, in 1976, urged the reassessment of U.S. immigration policy, as did the Domestic Council Committee on Illegal Aliens last year. The proper vehicle for this review would be a Select Commission as proposed by Mr. EILBERG.

Foreign policy objectives, humanitarian concerns and the protection of the domestic labor market must be blended into a policy which is enforceable, equitable, consistent with the highest American traditions, and in harmony with contemporary developments. Only through a comprehensive approach can all these requirements be met. I believe that a Select Commission is the proper instrument for the evaluation of U.S. immigration policy, and I strongly urge my colleagues to support Mr. EILBERG's excellently conceived measure.

● Mr. STEERS. Mr. Speaker, I rise in support of H.R. 12443, and I would like to commend my distinguished colleague from Pennsylvania and chairman of the Immigration, Citizenship, and International Law Subcommittee, Mr. EILBERG for amending H.R. 12443 to incorporate my legislation, H.R. 11508.

This recent amendment will provide equity under our law for thousands of paroled refugees from the Soviet Union and Chile. If H.R. 12443 becomes law, these individuals will receive the same treatment under the law that is presently accorded paroled refugees from other countries.

It is ironic indeed that these Soviet refugees, leaving one impersonal, encumbered bureaucracy, should come to the United States, the land of freedom, only to confront another seemingly uncaring bureaucracy.

H.R. 12443 will render the treatment of these refugees fair, and I once again applaud Mr. EILBERG for his amendment.

I would like to insert into the RECORD at this point correspondence I have had with the Immigration and Naturalization Service on the question of my bill, H.R. 11508, which will be implemented by H.R. 12443 as amended:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 15, 1978.

Mr. LEONEL J. CASTILLO,
Commissioner, Immigration and Naturalization Service, Department of Justice, Washington, D.C.

DEAR MR. CASTILLO: I have recently introduced a bill, H.R. 11508, that would allow paroled refugees the same treatment under the law as conditional refugees regarding the computation of their permanent resident status.

At the present time, conditional refugees must be in the U.S. several years before they can apply for permanent resident status. They then must have permanent resident status for five years, but this time is computed from the date they entered the United States. Paroled refugees must wait an initial period before receiving permanent resident status, but their five year wait begins the day they receive permanent resident status, *not* the day they entered the U.S.

In some cases, these paroled refugees entered the U.S. the same day as conditional refugees, but they must wait years longer to acquire citizenship. It is the aim of this bill to allow for the equal treatment of both groups of refugees regarding these time limits.

I would appreciate the Immigration and Naturalization Service's estimate of the total number of persons who would be affected by this bill. A categorical breakdown of those affected by nationality would also be helpful.

As we are operating under the constraints of a legislative deadline, your expedition in this matter would be greatly appreciated. In addition, if you have any thoughts or recommendations on this bill, I would be very interested in hearing those.

Thank you for your consideration of this letter.

Sincerely yours,
NEWTON I. STEERS, Jr.

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND
NATURALIZATION SERVICE,
Washington, D.C., March 30, 1978.

Hon. NEWTON I. STEERS,
House of Representatives,
Washington, D.C.

DEAR MR. STEERS: Reference is made to your letter of March 15, 1978, regarding H.R. 11508. The approximate number of aliens paroled as refugees under section 212(d)(5) of the Immigration and Nationality Act over the last three fiscal years is as follows:

FY 1978 (1st and 2nd Quarters only):	
Indochinese	7,000
Soviets	5,000
Total	12,000
FY 1977:	
Indochinese	15,000
Soviets	4,000
Chileans	700
Cubans	554
Total	20,254
FY 1976:	
Indochinese	11,000
Cubans	2,800
Chileans	800
Total	14,600

It should be noted that Cubans paroled into the United States as refugees are eligible for a 30 month rollback in the date of their record of lawful admission for permanent residence under the Act of November 2, 1966 (P.L. 89-732, 80 Stat. 1161). Paroled Indochinese refugees are entitled to have their record of admission for lawful permanent residence created as of March 31, 1975 or the date of arrival in the United States, whichever is later, under the Act of October 28, 1977 (P.L. 95-145, 91 Stat. 1223). Therefore, these groups of refugees are already eligible for the benefit conferred by your bill. As a purely technical matter, it seems to me that a procedure providing for the creation of a record of admission for lawful permanent residence as of the date of arrival in the United States in the case of a paroled refugee would be preferable to the procedure you have selected, which applies only for purposes of section 316 of the Act.

Since the Department of Justice has not yet been asked to report on H.R. 11508, it would be premature for me to express a view on the merits of your bill at this time. I hope that this reply will be of assistance to you.

Sincerely,
LEONEL J. CASTILLO,
Commissioner.●

● Mrs. COLLINS of Illinois. Mr. Speaker, I rise in support of H.R. 12443, which would eliminate the last vestiges of discrimination on the basis of nationality, from our Nation's immigration policy.

Under current law, natives of independent countries in the Eastern Hemisphere are limited to 170,000 immigrant visas a year while natives of countries in the Western Hemisphere are limited to 120,000. This system has a particularly inequitable effect on the admission of refugees for which the 10,200 available for Eastern Hemisphere applicants are, by far, inadequate to meet the needs of refugees from Communist and Communist-dominated countries while, at the same time vacancies continue to exist in the 7,200 visas available for refugees from the less repressive regimes in Latin America. In addition, the arbitrary limit on the number of immigrants from the West relegates a large proportion of these individuals to an illegal status. By combining the two ceilings into a single worldwide ceiling of 190,000 immigrants, including 17,900 refugees, the new system contained in this legislation promises to be both more equitable and more flexible with respect to unforeseen economic developments as well as political contingencies.

The legislation before us would also establish a 16-member Select Commission on Immigration and Refugee Policy with members drawn from the House and Senate Judiciary Committees, four Federal departments with a direct interest in immigration (State, Justice, Labor, and HEW), and four members appointed by the President. The Commission would be instructed to study and evaluate existing laws, policies, and procedures governing the admission of immigrants and refugees to the United States and to make administrative and legislative recommendations to the President and Congress. At a time when our immigration policies are under severe pressure along with our capacity to assist refugees from politically repressive regimes, the results of this inquiry will, I am certain, be eagerly awaited.

Mr. Speaker, the Statue of Liberty has long stood as a symbol of our Nation's willingness and capacity to provide a haven for those whose native lands have not been able to provide them with basic human rights and human needs. I urge my colleagues to join me in support of this legislation, which adds substance to that symbol in these troubled times.●

Mr. FISH. Mr. Speaker, I have no further requests for time.

Mr. EILBERG. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the bill H.R. 12443, as amended.

The question was taken.

Mr. BADHAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 3, rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 12443, just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylania?

There was no objection.

IMMIGRATION AND NATURALIZATION OF ADOPTED CHILDREN

Mr. EILBERG. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12508) to amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children.

The Clerk read as follows:

H.R. 12508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 203(a)(8) of the Immigration and Nationality Act is amended by adding the following sentences: "No immigrant visa shall be issued under this paragraph to an adopted child or prospective adopted child of a United States citizen or lawfully resident alien unless (A) a valid home-study has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States; and (B) the child has been irrevocably released for immigration and adoption: *Provided,* That no natural parent or prior adoptive parent of any such child shall thereafter, by virtue of such parentage, be accorded any right, privilege, or status under this Act. No immigrant visa shall otherwise be issued under this paragraph to an unmarried child under the age of sixteen except a child who is accompanying or following to join his natural parent.".

SEC. 2. Section 204(c) of the Immigration and Nationality Act is amended to delete the language "no more than two petitions may be approved for one petitioner in behalf of a child as defined in section 101(b)(1)(E) or (F) unless necessary to prevent the separation of brothers and sisters and".

SEC. 3. Subsection (e) of section 204 of the Immigration and Nationality Act is renumbered subsection (f) and a new subsection (e) is inserted to read as follows:

"(e) Notwithstanding the provisions of subsections (a) and (b) no petition may be approved on behalf of a child defined in section 101(b)(1)(F) unless a valid homestudy

has been favorably recommended by an agency of the State of the child's proposed residence, or by an agency authorized by that State to conduct such a study, or, in the case of a child adopted abroad, by an appropriate public or private adoption agency which is licensed in the United States.".

SEC. 4. Paragraphs (1) and (2) of section 320(a) of the Immigration and Nationality Act are amended to delete the word "sixteen" and substitute in lieu thereof the word "eighteen" and subsection (b) of section 320 is amended to read as follows:

"(b) Subsection (a)(1) of this section shall apply to a child adopted while under the age of sixteen years who is residing in the United States at the time of naturalization of such adoptive parent, in the custody of his adoptive parents, pursuant to a lawful admission for permanent residence.".

SEC. 5. Paragraphs (4) and (5) of section 321(a) of the Immigration and Nationality Act are amended to delete the word "sixteen" and substitute in lieu thereof the word "eighteen", and subsection (b) of section 321 is amended to read as follows:

"(b) Subsection (a) of this section shall apply to a child adopted while under the age of sixteen years who is residing in the United States at the time of naturalization of such adoptive parent or parents, in the custody of his adoptive parent or parents, pursuant to a lawful admission for permanent residence.".

SEC. 6. Subsection (b) of section 322 of the Immigration and Nationality Act is amended to read as follows:

"(b) Subsection (a) of this section shall apply to a child adopted while under the age of sixteen years who is residing in the United States, in the custody of the adoptive parent or parents, pursuant to a lawful admission for permanent residence.".

SEC. 7. Section 323 of the Immigration and Nationality Act and the title preceding that section are hereby repealed.

SEC. 8. The table of contents, title III, chapter 2, is amended by deleting the following:

"Sec. 323. Children adopted by United States citizens.".

The SPEAKER pro tempore. Is a second demanded?

Mr. FISH. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. EILBERG) will be recognized for 20 minutes, and the gentleman from New York (Mr. FISH) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania (Mr. EILBERG).

Mr. EILBERG. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill which the Judiciary Committee brings to the floor today is a noncontroversial bill which is eagerly awaited by adoptive parents throughout America.

This bill removes the limitation in the Immigration and Nationality Act which now restricts the number of foreign adopted children which may be granted an immigration preference. The present limitation of two per family can make the adoption of a third foreign child immeasurably time consuming and difficult. This is because the third child must be processed as a nonpreference immigrant, rather than as an immediate relative. This can mean a tremendous difference in waiting time. This present limitation does not determine whether an adopted child will immigrate, but rather when he will do so. The limitation does not function as a qualitative control. Therefore, the only real effect of the present limitation is to greatly frustrate American families in effecting the admission of children whom they have adopted or are in the process of adopting.

During the hearing held by the Subcommittee on Immigration, Citizenship, and International Law, the Departments of State and Justice, and HEW all testified in support of removing this limitation. The testimony of several of our colleagues, as well as communications from numerous interested parents and adoption agencies, shows that this limitation causes untold hardship to families and that it does not serve any useful purpose. Under present law, the Attorney General is charged with the responsibility of insuring the suitability of the adoptive parents and the proper placement of the child. This bill retains these safeguards, and it also adds to them by strengthening and expanding the adoption home-study requirement.

In cases where children are immigrating for adoption under the law of one of the States, the bill requires that a valid home-study must be performed by the State of proposed residence or by an agency authorized by that State to perform the study. In cases where a child is adopted under the law of a foreign country, the bill requires that the study be performed by an agency licensed to perform such studies by one of the States in the United States.

The term "agency" as used in the bill is intended to mean an organization or an individual.

In short, the bill improves intercountry adoption procedures and strengthens our ability to prevent improper placements through this route.

On the subject of naturalization, present law requires an adopted alien child, who is usually of tender years, to reside in the United States for 2 years prior to filing a naturalization petition or having such a petition filed in his behalf. This requirement does not apply to natural born children.

Testimony by the administration and other observers has unanimously described the requirement as unnecessary and inconvenient, and there has been unanimous support for eliminating this residence requirement. H.R. 12508 does this, and thereby provides the same naturalization procedure for adopted children and natural born children of U.S. citizens.

This bill also incorporates provisions which would raise the age under which a child automatically derives citizenship from the naturalization of his parents from 16 to 18. Legislation accomplishing this objective has been passed unanimously by the House on several previous occasions, but the Senate did not act on those provisions. It was considered appropriate and timely therefore to insert such provisions into the instant legislation since they relate directly to the naturalization of both natural born and adopted children.

The bill before you today also requires all petitions for children under 16 who seek admission through the nonpreference category as adopted children, to meet the same homestudy requirement as children being adopted through the preference route. The bill provides that no other children under 16 may be admitted as permanent residents through nonpreference unless accompanying or following to join their natural parent.

We have correspondence from many American families who are eagerly awaiting passage of H.R. 12508. This legislation will immediately and directly benefit deserving families, and will strengthen present safeguards in the immigration process as it relates to adopted children. We have reviewed this bill in detail with the responsible officials in the administration and they have endorsed it; 45 Members of Congress have introduced or cosponsored similar legislation. No opposition to this bill has been expressed from any source.

The House should note that we have consistently passed private bills waiving the two petition limitation.

One purpose served by private bills is to demonstrate and identify the need for public legislative reform in a particular area. We believe that the private bills waiving this limitation have long since demonstrated the need for public legislation. In light of the many such private bills by many Members of this body, which are now pending, surely passage of this public bill is the more equitable and efficient approach to this problem.

I urge passage of H.R. 12508.

Mr. FISH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join with subcommittee chairman EILBERG in support of the bill, H.R. 12508, dealing with alien adopted children.

This bill would remove the present restriction that limits to two the number of petitions by which adoptive parents can confer immediately relative status on alien children so they may be admitted to the United States. As you know, the demand for adoptible babies far exceeds the supply. As a result, U.S. citizens have increasingly turned to adoption of alien children. The number of petitions approved by the Immigration and Naturalization Service to admit alien adopted children increased from 1,912 in fiscal year 1966 to 6,913 in fiscal year 1976, an increase of 361 percent in 10 years—see page 71 of Alien Adopted Children hearings.

At present, two petitions are allowed to an adoptive parent or parents, to admit alien children for adoption. Many qualified parents wish to adopt more than two alien children. A private immigration bill is the only present method of waiving that two-petition limit, and during the 94th Congress we enacted 16 private laws, covering 24 children, which waived the two-petition limit. The subcommittee did not turn down any similar bills. We always assured ourselves through the home study procedure that the adoptive parents were capable of properly caring for another child.

The bill we report requires such a favorable home study before a visa can be issued to children adopted abroad, or to a child coming to the United States to be adopted, including those coming under the nonpreference category. This

latter category has been misused in the past to circumvent the requirements for children coming to the United States for adoption.

The bill also allows adopted children to acquire derivative citizenship through the procedure of their parents' naturalization, a right presently enjoyed by natural children of alien parents. This right would be available to children adopted under the age of 16 who at the time of their parents naturalization were in the custody of such parents.

The bill also raises the age from 16 to 18 years for children, adopted or natural, to acquire derivative citizenship through the naturalization of their alien parent or parents. A similar bill has passed the House during three recent Congresses—90th, 91st, and 92d.

To recap, the law as it would be if this bill were enacted, is as follows:

First. To qualify for immediate relative status, an adopted child must be under the age of 14 either when adopted abroad, or when a petition is filed on his or her behalf to come to the United States to be adopted. This bill would not change this provision.

Second. The adoptive parents then must complete the adoption procedures for children coming for adoption. If these are completed prior to the date the adopted child reaches the age of 16 years and the parent or parents are thereafter naturalized before that child reaches 18, the child derives citizenship through the parent's or parents' naturalization.

Third. Natural born children of alien parents who are under the age of 18 years when their parents are naturalized also derive citizenship through their parents naturalization.

Fourth. Children, natural or adopted, beyond the age of 18 years would not acquire derivative citizenship because they can petition for naturalization on their own behalf.

The subcommittee, through the private bill procedure, has determined that the present provisions of the Immigration and Nationality Act dealing with adopted children are unfair and can serve to work hardship on adoptive parents and adopted children alike. We feel the changes made in this bill are necessary to avoid such hardships and I urge you to support this bill as reported. The changes in H.R. 12508 will eliminate the need for individual petition consideration and does so under formalized procedures.

Mr. Speaker, I yield such time as he may consume to my friend, the gentleman from California (Mr. DON H. CLAUSEN).

Mr. DON H. CLAUSEN. Mr. Speaker, I rise in strong support of H.R. 12508, a bill to allow for the adoption of more than two alien children and to expedite their naturalization.

As a cosponsor of similar legislation, I commend the distinguished gentleman from Pennsylvania (Mr. EILBERG), the chairman of the Subcommittee on Immigration, Citizenship, and International Law, and the ranking Republican, Mr. FISH, for their efforts in shaping a bill which meets the concerns of everyone involved in this issue and keeps the needs of the children as the highest priority. I would also like to recognize my colleagues on the full House Judiciary Committee for their willingness to bring this legislation to the floor of the House of Representatives.

Current law prohibits the filing of more than two petitions for immediate relative status in behalf of a foreign-born child unless to prevent the separation of siblings. The numerical limitation does not apply to nonpreference applications.

I believe it is a tragedy that a family which has two foreign-born children and who would like to have more and are able and willing to offer love and a good home cannot do so under the present law unless they enter the difficult and lengthy waiting period associated with a nonpreference application.

Waiting for a visa can be risky and sometimes fatal for a child. A resident in my congressional district became personally aware of these risks when during a 13-month wait for their Vietnamese son to obtain a passport and U.S. visa, he contracted polio in the orphanage which resulted in severe paralysis of both legs.

As a result of this legislation, children brought to the United States for adoption will be better protected than they are at present. Under current law, families seeking to adopt a third foreign-born child under the nonpreference process need only meet very minimal standards. The family can bypass an adoption agency and is only required to demonstrate it can financially support another child. Our bill would require a valid adoption home study by a licensed State agency or U.S. licensed agency abroad prior to granting a nonpreference or immediate relative status visa for an alien child adopted abroad or coming to the United States for adoption. In other words, the families would be carefully screened to determine if they have the financial and emotional resources to meet the needs of another child.

I strongly recommend that my colleagues vote in favor of the legislation so that waiting families can offer a warm and loving home to children in urgent need of one.

Mr. FISH. Mr. Speaker, I am happy to yield such time as he may consume to the gentleman from Vermont (Mr. JEFFORDS).

Mr. JEFFORDS. Mr. Speaker, I would like to commend Chairman EILBERG, the gentleman from Virginia (Mr. HARRIS) and the gentleman from New York (Mr. FISH) for their excellent work on the legislation. I have followed it closely and given my support to its concepts from the very beginning. It is necessary to make these changes bringing the laws more in line with present day adoption practice being careful to provide safeguards to protect the interests of the child and society. I believe this legislation goes a long way in achieving this end. I have heard from a number of my constitutents, both adoptive parents and individuals interested in the international adoption process, expressing the frustrations and emotional traumas involved in meeting the requirements of the present laws. I would like to share with you a particular experience. A couple, in my home State of Vermont, adopted a second child that was brought into the country through the I–600 petition process. The child had contracted a disease and died soon after it was adopted. When they attempted to adopt another child, they found that there was no way, except for the strenuous process outlined by the chairman, that this could be done. This added considerable emotional strain to their already trying situation. I am pleased that this legislation will preclude other families from experiencing similar stress. Also, I would like to express my sincere appreciation to the Vermont Adoption Agency, particular Dorothy Moss and Susan Soule for the work they have done in this area and their assistance to me in recognizing the need to extend opportunities to orphans and the number of families skilled at and sensitive to the special needs of orphan children. Mr. Speaker, I am pleased that this need is being recognized and that, today, we have the opportunity to express that need by supporting this important piece of legislation.

Mr. FISH. Mr. Speaker, I have no further requests for time.

Mr. EILBERG. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. HARRIS).

Mr. HARRIS. Mr. Speaker, I urge my colleagues to lend their support to H.R. 12508, a bill I have introduced to facilitate the immigration and adoption of alien adopted children.

This bill, which is neither controversial nor complex, makes several important changes in the immigration law affecting alien adopted children. In so doing, it is cetrain to bring a long-awaited sigh of relief to many American families who have adopted, or are planning to adopt, children from overseas.

Basically, H.R. 12508 accomplishes four things:

It eliminates the two petition limit on the number of children that can be adopted by an American family;

It lifts the 2-year waiting period for naturalizing alien adopted children;

It improves the safeguards in the adoption process by requiring that valid homesites be conducted prior to the admission of adopted children, and assuring that children admitted to the United States for adoption have someone legally responsible for their care; and,

It allows alien adopted children to "derive" their citizenship through the naturalization of their parents, and extends the age for "derivative" citizenship from 16 to 18.

I would like to emphasize some of the reasons behind changing the immigration law dealing with alien adopted children. Under present law, most individuals are prevented from adopting more than two alien children, regardless of their ability to care for additional children. In addition, the present law also requires adopted children to reside with their parents for 2 years after completion of the adoption process before the child's application for naturalization can be considered.

These provisions in the immigration law create needless headaches for adoptive parents, and have set up unnecessary barriers to the immigration of foreign orphans eligible for adoption in the United States. If a prospective parent is able to care for more than two children, I see no reason to automatically limit the number of alien children a person can adopt. Under this bill, the two-children-per-family limit on alien adopted children will be lifted, and a provision improving the home studies required for adoption will assure the children go to families able to give them proper care.

Similarly, upon completion of the adoption process, there is no reason to require the adopted child to live with his parents for 2 years before the child can file for naturalization. Aside from creating complications for adoptive parents when it comes time to register their children in school, this provision in the immigration law serves little purpose, since it is highly unlikely that a child would do anything to jeopardize his naturalization during the 2 years after adoption.

The third major change made by this legislation deals with home studies on prospective adoptive parents. Under present law, home studies are guided by State regulation rather than Federal statute, and my be conducted by an immigration officer, if required in the State of the child's proposed residence. H.R. 12508 will require that all adoptive parents complete valid home studies conducted by an agency authorized to give such studies in the State where the child is to live. In cases where the child is adopted overseas, the home study must be conducted by an agency licensed in the United States.

Another part of this provision limits the issuance of nonpreference visas to minors under 16 who are accompanied by, or traveling to join, their natural or adoptive parents in the United States. This provision will offer additional protection to both children and their adoptive parents, since under present law, children coming to this country via nonpreference visas—instead of the more common immediate relative visas—can be issued visas without the knowledge or consent of their natural parents.

Finally, H.R. 12508 equalizes the treatment of alien adopted children under immigration law with that of other alien children, by allowing them to derive their citizenship through the naturalization of their parents. Under present law, only natural-born children are eligible for derivative citizenship, and then, only until they are age 16. H.R. 12508 will raise the age for derivative citizenship from 16 to 18, for both alien adopted, and other alien children.

H.R. 12508 will make relatively small changes in the immigration law, but it will make a big difference in the lives of many parents adopting alien children. It will lift the two-child-per-family visa limitation and the 2-year waiting period for naturalization; and it will make sure that children coming to this country have every reasonable guarantee of proper care under the law when they arrive. Again, I urge my colleagues to support this legislation.

Mr. EILBERG. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. SISK), but first I would like to note that he was the original sponsor of this legislation. The gentleman from California brought this problem to the attention of the subcommittee at least four Congresses ago, and he has diligently supported enactment of this legislation ever since.

Mr. SISK. Mr. Speaker, I thank my colleague, the gentleman from Pennsylvania (Mr. EILBERG), for yielding this time to me.

At this point in time I wish to commend my colleague, the gentleman from Pennsylvania, and his subcommittee, as well as all Members on both sides of the aisle, for the work they have done on this legislation.

As my colleague indicated, I started back in the sixties working on this problem because we had the experience of sponsoring a number of private bills.

After having paid tribute to my colleagues here on the floor and, particularly, to the subcommittee chairman, the gentleman from Pennsylvania (Mr. EILBERG), for their work, I would like to pay tribute to some of the staff people. Sometimes we as Members of Congress, who depend so heavily not only upon our personal staff but also upon our committee staffs to do many of the things that are necessary and carry the burden in many cases, fail to recognize the real contributions the staff people have made.

I have a young lady on my staff, Miss Gwen Luty, who has been with me many years. She has done outstanding work on this particular subject over a period of some 10 years, and I want to take this opportunity to pay tribute to her for her devotion to this subject matter that arises because of her concern not only for the parents-to-be of these youngsters but for the youngsters themselves. I wish also to pay tribute to the staff of the subcommittee chaired by the gentleman from Pennsylvania (Mr. EILBERG) and to the staff of the Committee on the Judiciary for the cooperation they have rendered to Miss Luty over the years. She spent a good deal of time talking to them and discussing some of the problems that were inherent in this legislation.

Mr. Speaker, I appreciate my colleague's yielding me this time so I could have the opportunity to pay this compliment to these people who do such yoemanlike jobs on our staffs, and I urge the passage of the bill.

● Mr. FRENZEL. Mr. Speaker, I rise in support of H.R. 12508, which if passed would allow families to adopt more than two foreign children and equalize the naturalization procedure.

I am sure I am not alone in learning of families who have adopted two foreign children and desire to adopt a third, but cannot because of the numerical limitation. We also have families who have had the tragedy of losing one of their adopted children and are prohibited from adopting again.

Under the present law, we are denying homeless children the love and security a family can provide. It is my hope that all Members will join me in support of this legislation.●

Mr. EILBERG. Mr. Speaker, I have no further requests for time.

Mr. FISH. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the bill, H.R. 12508.

The question was taken.

Mr. MOTTL. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3, rule XXVII, and the Chair's prior announcement, further procedings on this motion will be postponed.

GENERAL LEAVE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

PLOT ALLOWANCE TO STATE VETERANS IN U.S. CEMETERIES

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12252) to amend title 38 of the United States Code in order to require the Administrator of Veterans' Affairs to pay a $150 allowance to any State or any agency or political subdivision of a State in reimbursement for expenses incurred in the burial of each veteran in any cemetery owned by such State or agency or political subdivision of a State, if the cemetery or section thereof is used solely for the interment of veterans.

The Clerk read as follows:

H.R. 12252

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 903(b) of title 38, United States Code, is amended to read as follows:

"(b) In addition to the foregoing, if such a veteran, or a veteran eligible for a burial allowance under section 902 of this title, is not buried in a national cemetery or other cemetery under the jurisdiction of the United States, the Administrator—

"(1) in any case in which any such veteran is buried in any cemetery or section thereof which is solely used for the interment of persons eligible for burial in a national cemetery and is owned by any State or any agency or political subdivision of a State, shall pay such State, agency, or political subdivision $150 as a plot or interment allowance; and

"(2) in any case in which any such veteran is buried in any cemetery other than one described in paragraph (1) of this subsection, shall pay a sum not exceeding $150 as a plot or interment allowance to such person as he prescribes, except that if any part of the plot or interment expenses of a burial to which this paragraph applies has been paid or assumed by a State, any agency or political subdivision of a State, or the employer of the deceased veteran, no claim for such allowance shall be allowed for more than the difference between the entire amount of the expenses incurred, and the amount

paid or assumed by any or all of the foregoing entities.".

SEC. 2. This Act shall take effect on October 1, 1978.

The SPEAKER pro tempore (Mr. MCFALL). Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

Th SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the reported bill is designed to provide some incentive for States to establish, operate and maintain veterans' cemeteries. It is identical to a bill which was unanimously adopted by the House on May 18, 1976. Unfortunately, the other body failed to act on the measure. There is now some interest in the other body and it is our understanding the Senate Committee on Veterans' Affairs has already held hearings on a bill identical to H.R. 12252.

Testimony before our Subcommittee on Cemeteries and Burial Benefits suggests that this bill will be well received by State and local governments and I urge that the bill be adopted.

I yield to the distinguished gentleman from Ohio, the Honorable CHARLES CARNEY, the very able chairman of our Subcommittee on Cemeteries and Burial Benefits, for a brief explanation of the bill.

Mr. CARNEY. Mr. Speaker, the reported bill, H.R. 12252, is designed to encourage States to establish, operate and maintain veterans' cemeteries. The bill would require the Administrator of Veterans Affairs to pay a $150 plot or interment allowance in any case where an eligible veteran is buried in a cemetery or section of a cemetery which is owned by any State or any agency or political subdvision of a State, and which is used solely for the interment of veterans.

Under current law, the Administrator, at his discretion, may pay a plot or interment allowance not exceeding $150 for the burial of any eligible veteran, if such veteran is not buried in a national cemetery or other cemetery under the jurisdiction of the United States.

The intent of the $150 plot allowance now provided is to reduce the demand for burials in national cemeteries by compensating, at least partially, for plot or interment expenses incurred for veterans not buried in such cemeteries. Currently, States or local governments are not reimbursed for the cost of burial of veterans in cemeteries within their jurisdiction. Removing the present restrictions on payments of the allowance to States or State entities should provide some additional incentive for States to establish, operate, and maintain veterans' cemeteries without expanding the bureaucracy within the Veterans' Administration. In the long run, the committee feels it will save the Government money. As my colleagues know, most veterans' organizations have advocated the establishment of a national cemetery in every State.

Mr. Speaker, this legislation was originally introduced by the Honorable EDWARD P. BEARD, a distinguished member of the committee, and a ranking member of our Subcommittee on Cemeteries and Burial Benefits. The measure was passed unanimously by the House 2 years ago; however, the other body failed to take any action on the bill. We understand there is support for the reported bill in the other body and hearings have been held by the Senate Committee on Veterans' Affairs. When we adopt the bill today, I expect the measure to be favorably considered by the other body before the Congress adjourns.

Mr. BEARD of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. CARNEY. I yield to the distinguished gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Speaker, I am very, very grateful that this bill has arrived at this point. I feel very confident that the bill will receive favorable consideration in the Senate. At the present time, if this bill passes, it will affect the States of Rhode Island, Colorado, Maryland, and Maine.

Basically, as has already been stated, the bill will provide $150 per interment to the State or political subdivision which is responsible for burying veterans in veterans' cemeteries.

Mr. Speaker, I think this legislation is long overdue, and I would certainly urge my colleagues in the Congress to support this measure.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12252, which will provide for an interment allowance to be paid to States, or political subdivisions thereof, when they create veterans' cemeteries used solely for the burial of veterans.

Presently, when a veteran is buried in a State cemetery, his survivors receive the difference between the total expense for the burial and any amount they might have been reimbursed, not to exceed $150. The State itself receives nothing. This legislation would provide for $150 to be given the State, or its appropriate subdivision, when it creates a cemetery, or cemetery section, exclusively for veterans. Thus, the Federal Government would be supplementing these State veterans' cemeteries on a per capita basis.

This legislation will solve a number of problems, Mr. Speaker. By encouraging States to create veterans' cemeteries, it will ease the load on Federal cemeteries, many of which are nearly full. It will also allow veterans who are not happy with the prospect of being buried in a Federal cemetery far from home, even out-of-State, to be buried near home, and still rest in a place of honor reserved for those who have served in our Nation's military. The notion of paying such an interment allowance to the State agency will help fund the State cemetery systems, on an equitable and target-effective basis.

I might also remind my colleagues that an identical bill to this one was overwhelmingly passed by the House in 1976, only to die in the other body. I once again recommend it to Members of this body as good legislation.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HILLIS), the distinguished ranking minority member of the subcommittee, for further explanation of and comments on this bill.

Mr. HILLIS. Mr. Speaker, I rise in support of H.R. 12252 which will provide an allowance to the States for expenses incurred in the burial of our veterans. A similar piece of legislation passed the House of Representatives during the 94th Congress but no action was taken on it by the other body. If enacted into law, the bill will provide a new source of funds for States to assist in establishing a veterans' cemetery. As we all know many of the cemeteries within the national cemetery system are being closed because of limited space and enactment of this bill will provide another method for our veterans to be buried close to home with their comrades.

Removing the present restrictions on payments of the interment allowance to States will provide an incentive for States to establish, operate, and maintain veterans' cemeteries without expanding the bureaucracy within the Veterans' Administration.

I urge your favorable consideration of this bill and am hopeful the Senate will act expeditiously as well.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. WYLIE), a member of the committee.

Mr. WYLIE. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise to voice my support of the legislation which we have before us. My distinguished colleagues who have previously spoken have done a very good job outlining the need for this legislation. I will not dwell on those points. However, I do feel that I should speak about the effect this bill will have in deterring the demand placed on the national cemetery system. The provisions in the bill provide incentives for States to take an active participation. Today we have nearly 30 million veterans in this country. Those who served in World War II are nearing the age of 60. As time rolls on they will be utilizing our system. The system will face considerable strains. If States and localities provide cemeteries for our veterans we will be better equipped to meet the needs of the veteran population. I would also note that this bill will assist those States which have already chosen to provide veterans' cemeteries. H.R. 12252 is a good bill which deserves your support.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time and reserve the balance of my time.

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill will save us considerable money on national cemeteries, and I hope my colleagues will support it.

● Mr. LEGGETT. Mr. Speaker, we have approached a point at which the existing

veterans' burial program is in need of reexamination. More specifically, I speak of the need to review the present law regarding plot or interment allowances for eligible veterans, in view of the space limitations which we are currently experiencing in our national cemeteries. In my view, we should pursue a program whereby allowance payments made to States or State entities would provide an increased incentive for States to operate and maintain veterans' cemeteries.

As my colleagues are aware, existing law grants the Administrator of Veterans' Affairs discretion in deciding upon burial allowances. An amount not exceeding $150 as a plot or interment allowance may be awarded if the veteran is not buried in a national cemetery or a cemetery under the jurisdiction of the United States. Under the present program's structure, adjustments are made to the amount assumed by the Federal Government based on the degree to which a State or subdivision of a State, or the employer of a deceased veteran has assumed burial expenses. While the $150 plot allowance provided by the National Cemeteries Act of 1973 has acted to partially reduce the demand for burials in national cemeteries by compensating for plot or interment expenses incurred for veterans not buried in such cemeteries, further relief action is needed. This becomes especially clear in view of the fact that States and subdivisions therein are not presently reimbursed for the cost of burial or interment of veterans in cemeteries within their jurisdiction. I am of the belief that modifications in the present law which encourage more States to establish cemeteries for the burial of veterans would be most appropriate at this time, as the present limitation on payments to the States has tended to negate the intent of the $150 burial allowance.

In addressing this issue, I would like to express my vigorous support for H.R. 12252, as this bill will act to assist in reducing the demands presently placed on our overburdened national cemeteries. In removing the Administrator's discretion and requiring the payment of the $150 plot or interment allowance in cases where eligible veterans are buried in a cemetery or section of a cemetery owned by a State, agency, or political subdivision of any State, we are moving in a direction to relieve much of the increasing burden.

In addition to the benefit just mentioned, H.R. 12252 will further allow for the burial of deceased veterans at locations nearer to their relatives and other loved ones by broadening the spectrum of possible burial locations.

In view of the need to revise the present law to more adequately reflect today's demands and Federal obligations, while keeping in mind that the Congressional Budget Office estimates cost of enactment to be relatively insignificant, I urge my colleagues to adopt H.R. 12252.●

The SPEAKER pro tempore (Mr. MCFALL). The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 12252.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

HOSPITAL CARE FOR VETERANS IN U.S. TERRITORIES

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 12011) to amend section 601 of title 38 of the United States Code in order to provide for a continuation of the authority of the Administrator to furnish hospital care to certain veterans living in a State, territory, Commonwealth, or possession of the United States not contiguous to the 48 contiguous States, and for other purposes.

The Clerk read as follows:

H.R. 12011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 601(4)(C)(v) of title 38, United States Code, is amended by striking out the semicolon and "but authority under this subclause (v) shall expire on December 31, 1978".

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, under current law the Administrator of Veterans' Affairs is authorized to contract with private facilities for the provision of hospital care to veterans in any State, commonwealth or possession of the United States which is not contiguous to the 48 States. This is necessary because there are no VA hospitals available to provide such care, except in Puerto Rico.

The present authority for these contracts will expire December 31, 1978.

The reported bill would extend the Administrator's authority to provide hospital care for eligible veterans indefinitely, to insure the continuation of care of veterans located in these localities on the same basis as has been provided in the past. Every Member of the House would agree that veterans in these areas are entitled to the same medical services and benefits that are available to veterans of the 48 contiguous States. I therefore urge my colleagues to support the bill.

Mr. Speaker, the following figures show the status of veterans being hospitalized, both by contract and in VA hospitals, in the States, territories, commonwealths, and possessions of the United States not contiguous to the 48 contiguous States for fiscal year 1977:

FISCAL YEAR 1977

State or territory	Veterans (total)	Average daily census of vets receiving hospital care at VA expense	Average veteran patient load per 1,000 veterans
Alaska	41,000	75	1.83
Hawaii	93,000	88	.95
Virgin Islands	4,500		
Puerto Rico	156,500		
Total	161,000	(1)	7.65
Guam	4,700		
Canal Zone	2,900		
American Samoa	7,200		
Trust Territory of Pacific	2,800		

[1] 608 contract; 624 VA hospitals.

The data for the 48 contiguous States for the same period are as follows:

FISCAL YEAR 1977

State or territory	Veterans (total)	Average daily census of vets receiving hospital care at VA expense	Average veteran patient load per 1,000 veterans
48 contiguous States	29,478,000	(1)	2.55

[1] 491 contract; 74,661 VA hospitals.

Mr. Speaker, I commend the distinguished gentleman from Virginia, the very able chairman of our Subcommittee on Medical Facilities and Benefits, the honorable DAVE SATTERFIELD, for his early action in recommending the bill to the full committee, and now yield to him for a brief explanation of the bill.

Mr. Speaker, I yield the balance of our time to the gentleman from Virginia (Mr. SATTERFIELD).

Mr. SATTERFIELD. Mr. Speaker, section 601(4)(C)(v) of title 38 authorizes the Administrator of Veterans' Affairs to contract with private facilities for the provision of hospital care to veterans in any State, Commonwealth, or possession of the United States which is not contiguous to the 48 contiguous States. While it applies to all such localities, it particularly applies to the States of Alaska and Hawaii where there are no VA hospitals.

The purpose of H.R. 12011 is to extend authority for these contracts beyond December 31, 1978, when existing authority will expire.

There are two factors which justify extension of this authority. First, it offers the only feasible method for providing medical service to veterans who reside in a noncontiguous State or in a Commonwealth or possession of the United States where there are no veterans hospitals or other medical facilities operated by the Veterans' Administration. Enactment of this measure will insure only that veterans in these areas, especially in Alaska and Hawaii, will have access to medical benefits which veterans in the 48 contiguous States enjoy.

Second, passage of H.R. 12011 will not tie the hands of Congress in the future. In the event a VA hospital is constructed in any of these areas and I should make it clear that none are now contemplated, authorization for that area may be elim-

inated simply by an amendment to this section.

By eliminating a termination date the beneficiaries of the measure will be assured of continuing care. At the same time the program will continue under the positive control of Congress through the appropriations process and continuing oversight of the Veterans' Affairs Committee. Action by the Veterans' Affairs Committee was unanimous.

Mr. Speaker, this bill will provide an essential extension of authority to provide equal medical service to eligible veterans in locations other than the 48 contiguous States which have no VA facilities to provide such service.

I urge its passage.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 12011, which guarantees veterans living in an area not contiguous to the continental United States the same hospital treatment that all other veterans are entitled to. A veteran from Alaska or Hawaii or Guam fought the same wars and made the same sacrifices as other veterans, and obviously deserves the same array of benefits. As one example of the dedication of veterans from these areas, it is interesting to note that our Guamanian veterans died in Vietnam at a rate of more than three times the national casualty rate in that war—73 Guamanians out of a population of less than 100,000 were killed in action. The citizens of these outlying areas did not ignore us then, and we should not forget them now.

This legislation merely provides for an indefinite extension of an ongoing program which otherwise would terminate at the end of this calendar year. As such, it involves no additional cost to our taxpayers. I should note that the administration favors only a 1-year extension, presumably based on the unlikely chance that VA hospitals will be proposed within the next year that would make the law unnecessary. If no facility were proposed, we would again be required to extend the legislation next year. I believe the best approach is the one the Veterans' Affairs Committee proposes in this legislation: Permanent legislation which could, in turn, be rescinded if a VA facility were ever constructed.

Mr. Speaker, I yield 2 minutes to the distinguished member of the subcommittee, the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, the bill currently under consideration, H.R. 12011, is a very fundamental piece of legislation which, if enacted into law, will continue the existing authority of the Veterans' Administration to furnish hospital care to veterans living in Alaska, Hawaii, or U.S. possessions not contiguous to the United States. All of the 48 contiguous States have at least 1 VA hospital—Alaska, Hawaii, and other U.S. territories do not. Veterans in these areas where there are no VA facilities are entitled to the same benefits provided to the veterans in the 48 continguous States. This bill will eliminate the necessity of further extensions by the Congress. At such time that the Veterans' Administration constructs or plans to construct hospitals in these areas we will have to amend this legislation. However, the VA has no plans for the construction of medical facilities in these areas at the present time. I urge the passage of this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time.

Mr. SATTERFIELD. Mr. Speaker, I yield 2 minutes to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 12011.

This bill is to amend section 601 of title 38 of the United States Code in order to provide for the extension of the authority of the administration to furnish hospital care to certain veterans living in a State, territory, Commonwealth, or possession of the United States not contiguous of the 48 contiguous States. Basically, H.R. 12011 will insure continued hospital care of veterans in these localities on the same basis as has been provided in the past. The extension of such fee-basis authority is needed to enable the Administrator to continue to provide hospital care to eligible veterans located there.

The provision of hospital care for veterans living in Puerto Rico should continue as in the past. The San Juan Veterans' Administration Hospital is operating near capacity and it has one of the highest occupancy rates in the entire VA system.

In fiscal year 1976, there were 1,866 outpatient visits per 1,000 veterans in Puerto Rico, compared with an average 547 per 1,000 in the 48 contiguous States, 1,704 in the District of Columbia, and 885 in the highest of the 48 contiguous States, Arkansas. With respect to hospital care, the average daily census per 1,000 veterans hospitalized at VA expense in Puerto Rico was 7.05, compared with 2.70 in the 48 contiguous States.

Furthermore, according to 1970 census data, the median income per veteran-headed family in Puerto Rico was $5,425 per year in 1969, which was approximately $2,700 less than the lowest figure for any State, Arkansas, $8,141; and slightly more than 8 percent of all veterans in Puerto Rico are receiving a veteran's pension (which is provided on a needs basis) as compared to 3.4 percent of all veterans worldwide, according to the Senate's Committee on Veterans Affairs.

It has been pointed out that the VA's only hospital in Puerto Rico, the San Juan VA Hospital, is being fully utilized for veterans whose need for hospitalization is clear and that the San Juan hospital is clearly incapable of meeting the existing demand for care. The indicators of this are that the San Juan VA Hospital receives a higher number of applications per year than any VA hospital in the United States; that the acceptance rate of applications at the San Juan Hospital—49 percent—is far below the average of 81 percent for all other VA hospitals; and the occupancy rate at the San Juan hospital is 92.9 percent, which is among the highest occupancy rates in the VA hospital system.

With this background data, Senator ALAN CRANSTON, chairman of the Senate Committee on Veterans' Affairs, on October 7, 1977, requested a GAO study to review the VA medical care program in Puerto Rico. As a result and among other recommendations, GAO recommended that a comprehensive assessment is needed for the health care needs of veterans in Puerto Rico.

The extension of the authority of the Administrator of the VA as provided in H.R. 12011 is of the utmost importance to the veterans in Puerto Rico. Until the GAO assessment study is completed, no action should be taken by the House or the Senate that will alter the status of the existing program. H.R. 12011 should be passed and I urge you to vote for it.

The SPEAKER pro tempore. (Mr. MCFALL). The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 12011.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. ROBERTS. Mr. Speaker, I ask unanimous consent to revise and extend my remarks, and that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the bills H.R. 12252, H.R. 12011, and H.R. 11891.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

INCREASE FOR DISABLED VETERANS REQUIRING CONSTANT MEDICAL ATTENTION

Mr. ROBERTS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 11891) to amend title 38, United States Code, to provide for a two-step aid and attendance compensation payment system for certain severely disabled veterans.

The Clerk read as follows:

H.R. 11891

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 314(r) of title 38, United States Code, relating to rates of service-connected disability compensation, is amended by inserting "or, in the case of a veteran in need of constant medical aid and attendance, at the rate of $900 per month," before "subject to the limitations".

SEC. 2. The amendment made by the first section of this Act shall take effect on October 1, 1978.

The SPEAKER pro tempore. Is a second demanded?

Mr. HAMMERSCHMIDT. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. ROBERTS) and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) each will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. ROBERTS).

Mr. ROBERTS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the reported bill is a very deserving piece of legislation. It will not affect very many veterans, but those it will benefit are our most severely disabled service-connected veterans, and I strongly support the bill.

I now yield to the gentleman from Mississippi, SONNY MONTGOMERY, the very able chairman of our Subcommittee on Compensation, Pension, and Insurance, for a brief explanation of the bill.

Mr. MONTGOMERY. Mr. Speaker, I thank my chairman for giving me this opportunity to briefly explain the bill H.R. 11891, which has come about as a result of several studies conducted by the paralyzed veterans of America.

Under current law, additional compensation is payable to veterans with service-connected disabilities so severe as to require aid and attendance. Under the provisions of H.R. 11886 which has already been passed by the House, this amount would be increased to $600 monthly.

This bill is designed to provide additional support for the most severely service disabled veteran. Essentially, it provides an added allowance of $300 monthly supplementing the present aid and attendance allowance for a small category of severely disabled veterans. The added allowance or second level, goes to those requiring "constant medical aid and attendance" as opposed to a base level aid and attendance payment of those whose needs could be met by regular unskilled, nonmedical care.

Basically, all of the veterans for whom this provision would apply are catastrophically disabled and are confined to wheelchairs or bedridden. Many require assistance with such tasks as getting up in the morning, getting dressed or even eating.

In summary, the bill will provide a two-tier, aid and attendance allowance that would benefit some 3,000 catastrophically disabled veterans at a first-year cost of $11.2 million.

It has been suggested that the gross cost of this additional allowance would be partly offset by the savings to the Government realized by those veterans who would otherwise be hospitalized at Government expense. In a survey undertaken by the paralyzed veterans of America, they report that it costs approximately $116 a day to hospitalize a veteran in a VA hospital.

Mr. Speaker, the bill meets a real need. I can assure my colleagues the cost is within our budget allocation.

I urge that the bill be adopted.

Mr. BEARD of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Rhode Island.

Mr. BEARD of Rhode Island. Mr. Speaker, I certainly join with my colleague, the gentleman from Mississippi (Mr. MONTGOMERY), in support of this worthwhile legislation.

I do not think it is too much to ask. As indicated, it is a small amount of money for the few who really need this help.

I certainly give my support to H.R. 11891.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 11891, which will create a two-tier aid and attendance allowance, awarding an additional $900 a month in aid and attendance allowance, rather than the current $563 a month, for those service-connected veterans who are so seriously disabled that they require constant medical aid and attendance.

This legislation, if passed, will continue the current rate of $563 above regular compensation for veterans who can be attended by unskilled, nonmedical assistants. The very seriously disabled, however, would receive the higher amount of $900, in order to offset additional expenses brought on by the requirement of constant trained medical care. There are now approximately 3,000 veterans who would fit into this category. They are mostly quadriplegics, so totally disabled that they are unable to do anything for themselves. These are proud individuals who once were the cream of the crop, physically, of our Nation. It is tragic enough that their service to our country resulted in wounds and injuries that now require them to be fed and bathed and dressed by others. It is our affirmative obligation to see that they are provided the best care available.

Paying these deserving veterans an extra $337 a month to help defray the costs of round-the-clock care will, in many instances, obviate the need for them to become institutionalized, at an average cost to the taxpayers of $116 a day. It will also help preserve their dignity, and whatever independence they are now able to maintain, I heartily recommend this legislation to my colleagues.

Mr. HILLIS. Mr. Speaker, will the gentleman yield?

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. HILLIS), a member of the subcommittee.

Mr. HILLIS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I strongly support H.R. 11891 which would provide a two-step aid and attendance compensation system for certain severely disabled veterans and urge my colleagues to vote for the bill as well. Under present law, severely disabled veterans are entitled to an additional $563 monthly if they are in need of aid and attendance by another person. The remedy contained in H.R. 11891 is that there are varying levels of assistance required—some need constant aid while others are capable of caring for themselves occasionally. This bill will provide $900 per month for the most severely disabled—those in need of constant medical aid and attendance—and $563 for those who can partially care for themselves. All of the veterans for whom this new provision would apply—approximately 3,000—are catastrophically disabled. Virtually all are confined to wheelchairs or are bedridden.

I urge a favorable vote for this needed legislation.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 11891, a bill to increase aid and attendance allowance for severely disabled service-connected veterans who require constant medical treatment.

There are a good number of veterans in Puerto Rico who will be greatly benefitted by the enactment of this legislation. The sensitivity demonstrated by the House Committee on Veterans' Affairs in providing for a two-step aid and attendance compensation payment system for certain severely disabled veterans, is worth praising. There are veterans for whom the current level of aid and attendance will be sufficient to meet their needs. But, for those veterans in constant medical aid attendance, this legislation is a must that will give them some relief. I agree with the committee that in addition to the mental and emotional strain caused by such disability, enormous financial pressures often exist. H.R. 11891 recognizes the expenses associated with being disabled as in the case of those confined to wheelchairs or are bedridden.

I support this legislation and urge you to vote for it.

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill, H.R. 11891.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROHIBITION OF SEX DISCRIMINATION BASED ON PREGNANCY

Mr. HAWKINS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6075) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy, as amended.

The Clerk read as follows:

H.R. 6075

Be it enacted by the Senate and House of Representatives of the United States of America assembled, That title VII of the Civil Rights Act of 1964 is amended as follows:

SECTION 1. Section 701 is amended by adding thereto a new subsection (k) as follows:

"(k) The term 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related

purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 703(h) of this title shall be interpreted to permit otherwise. As used in this subsection, neither 'pregnancy' nor 'related medical conditions', as they relate to eligibility for benefits under any health or temporary disability insurance or sick leave plan available in connection with employment, may be construed to include abortions, except where the life of the mother would be endangered if the fetus were carried to term: *Provided*, That nothing herein shall preclude an employer from providing abortion benefits or otherwise affect bargaining agreements in regard to abortion.".

SEC. 2. (a) Except as provided in subsection (b) the amendment made by this Act shall be effective on the date of enactment.

(b) The provisions of the amendment made by section 1 of this Act shall not apply to any fringe benefit program or fund, or insurance program which is in effect on the date of enactment of this Act until one hundred and eighty days after enactment of this Act.

SEC. 3. Until the expiration of a period of one year from the date of enactment of this Act or, if there is an applicable collective-bargaining agreement in effect on the date of enactment of this Act, until the termination of that agreement, no person who, on the date of enactment of this Act is providing either by direct payment or by making contributions to a fringe benefit fund or insurance program, benefits in violation of this Act shall, in order to come into compliance with this Act, reduce the benefits or the compensation provided any employee on the date of enactment of this Act, either directly or by failing to provide sufficient contributions to a fringe benefit fund or insurance program: *Provided*, That where the costs of such benefits on the date of enactment of this Act are apportioned between employers and employees, the payments or contributions required to comply with this Act may be made by employers and employees in the same proportion: *And provided further*, That nothing in this section shall prevent the readjustment of benefits or compensation for reasons unrelated to compliance with this Act.

The SPEAKER pro tempore. Is a second demanded?

Mr. SARASIN. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from California (Mr. HAWKINS) will be recognized for 20 minutes and the gentleman from Connecticut (Mr. SARASIN) will be recognized for 20 minutes.

The Chair now recognizes the gentleman from California (Mr. HAWKINS).

Mr. HAWKINS. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, Congress enacted title VII of the Civil Rights Act of 1964 to prohibit discrimination in employment on the basis of race, color, religion, sex or national origin. However, in the case of Gilbert against General Electric, the Supreme Court ruled on December 7, 1976, in a 6-to-3 decision that the exclusion of pregnancy from an employer's disability benefits plan did not constitute sex discrimination under title VII.

H.R. 6075 was introduced during the first session of the 95th Congress to clarify congressional intent that sex discrimination includes discrimination based on pregnancy and specifically to define the standards which require that pregnant workers be treated the same as other employees on the basis of their ability or inability to work. This legislation reflects no new legislative mandate of the Congress nor effects changes in practices beyond those intended by title VII. On the contrary, the narrow approach of the bill is simply to eliminate confusion by expressly clarifying that the definition of sex discrimination in title VII includes pregnancy-based discrimination.

The Subcommittee on Employment Opportunities conducted hearings on this legislation on April 6 and June 29, 1977. One of the witnesses who testified before the subcommittee was also one of the plaintiffs in the Gilbert case. Sherrie O'Steen presented the subcommittee with vivid testimony of the economic consequences which she suffered as a result of denial of disability benefits for pregnancy.

Required by her employer, GE, to stop working after her 6th month of pregnancy, Sherrie O'Steen turned to every source to maintain her existence when her husband left her. But society turned its back on this young mother: GE stopped paying her. Welfare delayed payments until after the birth of her baby.

For the months of November and December 1972, Sherrie O'Steen, her new baby, and her 2-year-old daughter lived in an unlighted and unheated house in rural Virginia with only cold sandwiches and water for sustenance.

So, she joined the class action suit to insure that other mothers-to-be could be spared her anguish.

And on December 7, 1976, in Gilbert against General Electric, the Supreme Court of the United States joined the others in turning their backs on this pregnant woman and other pregnant workers.

Sherrie O'Steen went to her last forum, the Congress of the United States, and pointedly asked that this bill pass so that "no one will ever have to suffer as I suffered during the time of my pregnancy."

Today, we have the opportunity to insure that genuine equality in the American labor force is more than an illusion and that pregnancy will no longer be the basis of unfavorable treatment of working women.

On behalf of Sherrie O'Steen and all working women in America, I ask for your support of this legislation.

The major provisions of the bill as reported by the committee are:

A new subsection (k) is added to section 701 of title VII which clarifies that the prohibitions against sex discrimination in the act include discrimination in employment based on pregnancy, childbirth, or related medical conditions. The bill makes clear that fringe benefit programs must treat women affected by these conditions the same as other employees based on their ability or inability to work. However, many Members of the committee were troubled by the fact that an employer would have to pay for abortions unnecessary to preserve the life of the mother. Therefore, the committee amended the bill to allow an employer to deny sick leave, disability, and health benefits for abortion except where the life of the mother would be endangered if the fetus were carried to term. The committee amendment intends that if a woman suffers complications from an abortion, medical payments, and disability or sick leave would be covered.

The bill also specifies an immediate effective date for the prohibition of discrimination on the basis of pregnancy. However, the bill provides for a 6-month delay for the effective date of fringe benefit provisions. This delay is designed to provide employers with a reasonable period of time in which to set up the administrative mechanism for providing those benefits.

The bill also prohibits the reduction of benefits as a means of compliance with the act for a period of 1 year or until the expiration of the collective bargaining agreement in effect on the date of enactment. However, the benefits may be reduced at any time for reasons unrelated to compliance with the act. Moreover, where employers and employees share the costs of presently existing benefits, employers will be permitted to apportion the costs of any benefit required as a result of this legislation.

It is important to note that this legislation would not require an employer to have a temporary disability plan or provide other employee benefits. Rather, the bill requires that employers who currently provide benefits for other disabilities must provide the same benefits for pregnancy. In addition, the bill requires that employers who provide medical benefits for employees would have to cover medical and hospital costs of pregnancy on the same basis.

H.R. 6075 does not prevent the control of potential abuses or malingering in disability benefits programs as long as these controls are nondiscriminatory. For example, an employer could require a physician's certification of the employee's inability to work or an examination of the employee by the company's physician to confirm medical disability. However, these requirements must apply to all disabilities, not just pregnancy.

While recent attention has focused on the exclusion of disability benefits for pregnancy, the Court's decision in the Gilbert case also adversely affects pregnant workers with respect to other employment policies such as mandatory maternity leaves, denial of sick leave pay and loss of seniority because of pregnancy leave. These policies would be prohibited upon enactment of H.R. 6075.

This legislation is urgently needed in order to insure the equal treatment of men and women in the workplace, especially with respect to fringe benefit programs. Because many of the disadvantages imposed on women are predicated upon their capacity to become pregnant, genuine equality in the American labor force is no more than an illusion as long as employers remain free to make pregnancy the basis of unfavorable treatment of working women.

Mr. Speaker, I urge my colleagues to vote for H.R. 6075.

Mr. SARASIN. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I rise in support of H.R. 6075. In doing so, I want to urge the Members to listen carefully to this debate and to keep in mind precisely what it is that this bill would and would not do.

It would require employers of 15 or more employees to provide coverage for pregnancy, childbirth, and related medical conditions for their employees, in their temporary disability, sick leave, and health insurance plans on the same terms as all other disabling conditions are covered. It would not require any coverage at all where no temporary disability, or sick leave, or health insurance plan is provided. It would not require extending coverage beyond job-related disability if that is all the existing coverage provides. It does not apply to any fringe benefit plan in effect on the date of enactment until 180 days after enactment, which should permit sufficient time to make necessary adjustments. For a period of 1 year after enactment, or until the expiration of an applicable collective-bargaining agreement, an employer would not be permitted to reduce benefits or contributions to a fund for any employee in order to come into compliance with the act.

With the exception of one provision relating to the coverage of abortions, this bill is identical to S. 995, which passed the Senate last September 16 by a vote of 75 to 11. The substance of this bill was regarded as required by the title VII prohibition on the basis of sex from the time final regulations were promulgated in November of 1965 until December 7, 1976, when the U.S. Supreme Could held (6–3) in General Electric Co. against Gilbert that title VII does not require equal treatment of pregnancy disability. This bill would restore the interpretation of title VII prior to that decision, an interpretation which was upheld by six different U.S. circuit courts of appeals prior to the Supreme Court decision.

This bill also provides equal treatment of pregnancy disability nationally, which I think is essential. Today, 10 States have statutes with requirements identical to this bill, and in one other the highest State court has ruled that title VII will continue to be applied as it was before the Gilbert decision. The States have authority under the Constitution to go beyond requirements of Federal law in these matters, so long as their laws do not conflict with the Federal law. So I think it is economically and socially desirable to have a consistent treatment of the rights of women in employment throughout the United States.

Mr. Speaker, without going into all the fine points of the legal argument in the Gilbert case, let me simply say that I agree wholeheartedly with the dissent of Justice Stevens. In discussing the rule that excluded pregnancy disability from coverage under a temporary disability policy, he said:

> By definition, such a rule discriminates on account of sex; for it is the capacity to become pregnant which primarily differentiates the female from the male.

Before addressing the reasons why I am so firmly convinced that this bill should become law, let me address the most controversial feature in the committee-reported bill—the provision which would exclude from required coverage any abortion "except where the life of the mother would be endangered if the fetus were carried to term." I opposed that amendment in the committee because I did not want to see that very difficult and very emotional issue raised in the context of this bill, particularly in view of the fact that some States are going to require such coverage as a part of their equal employment opportunity laws whatever we do here. But the amendment was adopted 19 to 12, and I fully support the bill with the amendment. I want the House to understand my position on this, because I think there are some very persuasive reasons for voting for this bill as reported.

First, we have to understand the amendment in the context of this bill. This bill, without the amendment, would require covered employers to include benefits on account of elective abortions, even if they were morally opposed to doing so. It would require such coverage even if a union's membership overwhelmingly opposed it on religious or moral grounds and the employer agreed with them. One of our colleagues sent around a "Dear Colleague" letter on the issue saying the amendment should be deleted because the issue should be left to the collective-bargaining process. That is a misreading of the situation. The bill without the amendment takes the whole issue out of the collective-bargaining arena. If comprehensive health or disability insurance is provided employees for non-job-related disability, pregnancy disability must be included as defined in the bill and cannot be bargained away. What the amendment does, then, is to make coverage of abortions where the life of the mother is not at risk an optional matter. They can be included if the employer chooses. They can be included as a part of a collective-bargaining agreement. All the amendment does is to say that coverage of elective abortions is not mandatory. That is a completely different situation from any we have dealt with before, where we were debating whether Federal funds should be used to pay for elective abortions.

To summarize, Mr. Speaker, this bill as amended simply removes compulsory coverage of abortions where the life of the mother is not at risk; it leaves that coverage permissive, elective, and a subject of collective bargaining. I think that is a fair posture for the Federal Government in this extremely sensitive area, and one with which most citizens would agree.

I know there is dissatisfaction among those who oppose this provision with the procedure we are utilizing which does not permit amendment. But the procedure is being used, not to stifle debate but to speed up the process toward enactment. The debate is useful, but to delay this important bill further in order that those who oppose the abortion provision could offer an amendment to strike it—an amendment which we all know would fail by a wide margin—is not in the best interest of this legislation or of the vast majority of working women who urgently need the protection of this legislation. The cold fact is that whatever procedure we utilize, this House is not going to approve a bill without the abortion provision in it. The other body rejected a similar provision by only three votes last September, and there is some question from the reported debate whether most of those voting fully understood the impact of the amendment offered by Senator EAGLETON.

The benefits of this legislation are obvious. What is not so obvious is that protection for the income of women employees during the 6 to 8 weeks they may be away from work to have a child is becoming an economic and social imperative. Whether one approves or not, the fact is that the most dramatic change in the American workforce in the past decade is the growth of employment of women. Fifty percent of all women aged 16 and above are employed; they constitute 42 percent of the current American workforce of 100.3 million workers. This compares to 35 percent of the workforce in 1965.

Even more to the point of this bill, 61.4 percent of American women in the age group 25 to 34 years—the group among whom most births occur—are now employed. This compares to only 45 percent of that age group in 1970, a mere 8 years ago. This dramatic increase simply comfirms what our sociologists have been observing: that more and more women are choosing to have both a career and a family and that this has profound implications for our society.

Among those implications is that even a temporary loss of a working woman's income is very often a severe blow to the family economy. In a great many cases the woman is the sole or main wage-earner in the family; in even more cases the wife is not working as a matter of convenience to supply the funds for luxury items, but as a matter of necessity to help provide for necessities of life. It may well be, as some have observed, that some of yesterday's luxuries are today's necessities—but such observations almost invariably are made by those who enjoy today's luxuries, to say nothing of all the necessities.

Increasingly the working wife and mother has become a commonplace in our society. Protecting her income is protection of family income. Providing pregnancy disability benefits as a required part of a non-work-related disability benefit package encourages working women to have children. It tends to remove a major reason for elective abortion—the fear of lost income. So this bill is a profamily, prolife bill which merits our support.

Mr. Speaker, this bill restores equity to the treatment of fringe benefits in employment under title VII. Some have argued that pregnancy is not a sickness or injury, but a voluntary condition. In the overwhelming majority of cases that is, of course, true. But it is also true that under most temporary disability plans if a man—or a woman, for that matter—voluntarily plays football or goes skiing and breaks an arm or a leg they are covered. Or if they voluntarily consume

alcohol or drugs with adverse health effects they are covered for it. Typically, all sorts of purely effective surgical procedures are covered. So I have never been persuaded by that argument against covering pregnancy disability.

Finally, there is the issue of costs. Of course, there are no Federal appropriations involved. There will be additional costs to employers, and in most cases to both employers and employees, for increased insurance premiums where pregnancy disability is not now covered, or covered with limitations which would not be permissible after this legislation becomes effective. Many, and perhaps most, major employers provide most or all of the required coverage. Cost estimates have ranged from a completely unrealistic $130 million for disability alone to a high (and probably inflated estimate) of $2.5 billion by groups opposed to the legislation. The estimates are difficult to make because there has been no thorough analysis of existing health plan coverage for pregnancy. But even the maximum costs are minuscule when spread among all covered employers and employees. They fade into insignificance in a $2 trillion economy.

Mr. Speaker, the costs of not enacting this legislation are enormous and they will continue to fall solely on working women and their families. As in the case of the plaintiff in the Gilbert case, they will in many instances involve additional public welfare costs. Then there will be the tragic loss from abortion by working women who feel that they or their children cannot afford a substantial income loss due to pregnancy and childbirth. Finally, there is the moral loss if our national equal employment opportunity law continues to be interpreted in a way which singles out women for unequal treatment in major fringe benefit programs.

For all of these reasons, I urge that the bill be approved.

Mr. HAWKINS. Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island (Mr. BEARD).

Mr. BEARD of Rhode Island. Mr. Speaker, I wholeheartedly support H.R. 6075.

I think it is important that the Members not be confused as to my particular amendment. This amendment does not diminish the legal rights of any party by imposing any moral, religious, or ethnic convictions of one group of people, and really it goes to the contrary.

What the amendment to this bill really states is that a manufacturer or an organization will not be forced to pay for abortions unless the life of the mother is in danger. I think it is in that category that the amendment should be considered.

It also provides for collective bargaining. If they can provide through collective bargaining abortion rights in this particular bill, my amendment would not apply; or if it was done by agreement of the organization or the company, it would not apply.

So I do not think this is taking anyone's rights away. It is making it so we are not forcing down someone's throat the enforcement of that right or the duty of having to pay for abortions, although that may be contrary to that particular organization's or individual's belief.

On that point I just want to say that I certainly do support the bill, including, of course, my amendment, in its entire scope, and I hope my colleagues will join in that support. When we get to the conference, I believe there will certainly be full support, and this bill will finally give us some balance for the sake of the millions and millions of women who are affected by this legislation.

Mr. SARASIN. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, in the course of the 95th Congress, we have had to make many difficult legislative decisions. Today, as we consider H.R. 6075, the pregnancy disability bill, I believe we are faced with one of the most difficult choices of this session. We must decide whether to vote for H.R. 6075 on its merits because it is a vitally necessary piece of legislation, or whether to vote against the bill because we are morally opposed to an antiabortion amendment, which was added in committee by Representative EDWARD BEARD.

Although I have these grave reservations, I have decided to support this bill because I believe this will be the only opportunity we will have to vote on this issue during this session of Congress. H.R. 6075 is being considered today under the procedure of suspension of the rules, which means that we must cast our vote either for or against the entire bill, with a two-thirds majority required for passage. This procedure does not allow an opportunity to debate or delete the antiabortion provision. I deeply regret that the Democratic leadership has used the suspension procedure—abused it would be more accurate—to achieve that result.

We have before us a bill of critical importance to all women in this country, and particularly workingwomen, one that will provide rights workingwomen should have had years ago. The Supreme Court ruled in 1976 that it was not discrimination based on sex for an employer to refuse to pay workingwomen benefits for pregnancy-related disabilities, even though workers may receive disability payments for all other medical conditions. The Court made it clear that in order to overturn the ruling, Congress would have to pass a law prohibiting discrimination against pregnant workers.

H.R. 6075 accomplishes this. It amends title VII of the Civil Rights Act of 1964 to prohibit sex discrimination in employment on the basis of pregnancy, childbirth, or related medical conditions. In so doing, it affords workingwomen the opportunity for comprehensive medical protection which men have and insures that they are protected against all forms of employment discrimination against sex. I applaud the intent of this legislation.

While many employers hold the view that women will become pregnant and leave the labor force, making them "marginal workers," the facts belie this erroneous assumption.

In the post-World War II era, there has been a dramatic shift in the composition of the female work force. Younger women have entered the working world in greater numbers. Women ranging from 25 to 34 years of age now represent 61.4 percent in the labor force population. This increase is surprising since the majority of women in this age bracket are mothers with dependent children in the home.

The Bureau of Labor Statistics reported last week that the percentage of working age women holding temporary or permanent jobs reached a new high of 56 percent in 1977. Therefore, this legislation, which requires that pregnant workers be treated the same as other employees on the basis of their ability or inability to work—will help provide equal employment opportunities for millions of women—the goal of title VII of the Civil Rights Act of 1964.

However, there is one provision in this bill, added in committee, which I find completely unacceptable. It grants employers the option to deny their employees coverage for abortions under any medical, health or disability plans. I believe that this amendment subverts the original purpose of this legislation because it adds another limitation on the rights of female employees in a bill designed to free them of discrimination based on sex.

The addition of this abortion amendment is particularly disheartening when we consider that the bill is designed to make pregnancy a realistic option for working women. It is also astounding to me that this bill should have become the vehicle for what I consider to be an anti-choice abortion amendment when abortion has not been an issue in this regard. In his dissenting views in the committee report on the bill, my colleague from New York, TED WEISS stated that at least "half the States now interpret their fair employment practices legislation to prohibit sex discrimination on the basis of pregnancy and child birth." Indeed, no States have included any antiabortion language in their laws concerning pregnancy disability. I also think it is highly significant that during hearings held on the pregnancy disability bill, no employers testified for the amendment.

Last September, the Senate overwhelmingly passed pregnancy disability legislation. Those of us who are morally opposed to the Beard amendment can only hope that it will be deleted when this legislation reaches conference.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. WEISS).

Mr. SARASIN. Mr. Speaker, I also yield 2 minutes to the gentleman from New York (Mr. WEISS).

The SPEAKER pro tempore (Mr. SISK). The gentleman from New York (Mr. WEISS) is recognized for 4 minutes.

Mr. WEISS. Mr. Speaker, I appreciate the courtesy of the distinguished chairman of the Subcommittee on Employment Opportunities, the gentleman from California (Mr. HAWKINS), and the ranking minority member, the gentleman from Connecticut (Mr. SARASIN), in yielding me this time.

Mr. Speaker, I rise in opposition to

suspending the rules and passing H.R. 6075, and I do so for two reasons:

First. The bill as reported by committee substitutes a new form of discrimination for the one it seeks to eliminate. The purpose of the original pregnancy disability legislation—of which I am a cosponsor—was to insure equal treatment of women in employment related matters. This was to be accomplished by providing a legislative remedy for an adverse Supreme Court decision which said that women workers who became pregnant did not have to be covered by disability plans.

During committee consideration an amendment was adopted which gives the employer sole discretion concerning coverage for abortion in employee benefit packages. An employer may, therefore, veto coverage for abortion even if he has not contributed to his female employee's health and benefit plan.

In contrast, male employees—regardless of whether they have contributed to their own health plans or not—will continue to be covered for all surgical procedures without the review and approval of the employer. The discriminatory aspect of this provision could not be more blatant.

Second. I oppose this motion because I am troubled by the procedure under which we are considering this legislation. I had hoped that H.R. 6075 would come to the floor with an open rule so that I could present for discussion and debate a motion to strike the provision allowing employer discretion over abortion coverage. The presence of this provision renders this bill controversial, to say the least. As such, I do not believe that it should be considered under suspension of the rules.

The Members of this House should be able to assume with confidence that bills which are considered on the Suspension Calendar are either minor or without controversy, preferably both. Otherwise we will be called upon to give them the close scrutiny which this system has been established to preclude. Improper use of the Suspension Calendar is not only unfair to Members of the House but jeopardizes the continued existence of the Suspension Calendar.

For both of these reasons I urge a "no" vote.

Mr. Speaker, I include at this point my dissenting views which appeared in the report accompanying H.R. 6075, as follows:

PROHIBITION OF SEX DISCRIMINATION BASED ON PREGNANCY—DISSENTING VIEWS OF MR. WEISS

The original concept of this legislation was to provide a legislative remedy for an adverse Supreme Court ruling which said that women workers who become pregnant did not have to be covered by disability plans. H.R. 6075, as originally proposed, is an amendment to the Civil Rights Act of 1965; its purpose being to insure equal treatment of women in employment-related matters.

In appending an anti-abortion rider to this legislation, the committee has been diverted from the original purpose of protecting the rights of women employees to protecting the rights of their employers. I voted against the bill as reported with the anti-abortion language because it adds a new form of discrimination in place of the one it seeks to eliminate.

ANTI-ABORTION LANGUAGE WILL NOT PROTECT EMPLOYERS: IT WILL MAKE THEM TARGETS

There is a great irony about the decision of the committee. Every member knows that employers and their representatives are quite capable of presenting their views on issues which come before us; during the course of the 95th Congress, every member of the committee has received literally thousands of pieces of correspondence concerning such issues as common situs picketing, minimum wage, and labor law reform, to name just a few. Yet not one employer who allegedly would be protected by the anti-abortion provision has come forward to promote it.

It is logical to ask, why? Because this amendment will not protect employers; it will turn the focus of the battle over abortion directly on to them. I am sure that there will be attempts by the opponents of abortion coverage to have major corporations eliminate such coverage in their benefit plans; likewise, smaller businesses will be subject to pressure to alter their benefits packages. I am sure that neither employers nor labor unions bargaining collectively with them will be pleased by such a prospect.

UNEQUAL TREATMENT OF WOMEN WILL CONTINUE: EARNED BENEFITS MAY BE DENIED THEM

While exposing employers to new—and unexpected—pressures, the anti-abortion provision will perpetuate unequal treatment for women workers. Health benefits are not gifts of the employer to the employee; like wages and other fringe benefits, they are earned. In many cases, employees are contributing to their health benefit plans; according to figures made available by the Social Security Administration, one-third of all health plans are contributed to solely or in part by employees. The discriminatory aspect of the anti-abortion language is obvious: Male employees—regardless of whether they have contributed to their health plans or not—would be covered for all surgical procedures; female employees—even if there is no employer contribution—would be subject to employer discretion concerning coverage for abortion. The discriminatory aspect could not be more blatant.

THE COMMITTEE'S ACTION EFFECTS HEALTH INSURANCE PLANS WITHOUT KNOWING HOW THEY OPERATE

Unlike the issue of pregnancy disability, the abortion exclusion has not been adopted with any understanding of current health insurance practices. There are 51,600 different health insurance plans available to 58.2 million Americans in the private sector who contribute some $27.1 billion for coverage. Fifty-five percent of these plans are negotiated; 45 percent are not.

ABORTION COVERAGE IS NOW COMMON

According to the National Association of Insurance Commissioners, and the Health Insurance Association of America, abortion coverage is now common in most health insurance plans. Spokesmen for these representatives of the industry indicated to members of my staff that currently there is no ban on specific surgical procedures either by law or regulation regarding private insurance coverage.

FINANCIAL CONTRIBUTION OF EMPLOYERS IS "INSIGNIFICANT"

I know that one of the concerns of the members of the committee who approved the abortion exclusion was the fear that some employers would be forced to make great financial contributions to abortion services if the amendment had not been adopted. Industry representatives have stated to my office that there are no industrywide statistics on abortion, but added that abortion as a procedure affecting insurance premiums is "insignificant."

Also, insurance industry representatives were unable to predict that precluding abortions would result in a lowering of premiums to employers; they were not able to speculate as to what percentage of the average health plan premium would be applied for abortion services. Again, they did say it would be insignificant.

MOST LIKELY RESULT OF THE ANTIABORTION AMENDMENT: NO CHANGE IN PREMIUMS AND A LOSS OF COVERAGE

As a result of the adoption of this amendment, we may find ourselves in a situation where there is no change in the employer's contribution for health benefits, but benefits which are earned by women and which they currently have would be eliminated.

RELIGIOUS INSTITUTIONS ARE PROTECTED

The other major concern of many members of the committee is whether religious institutions would be forced to provide abortion coverage by virtue of this legislation. They would not, Senator Jacob Javits, in his presentation before the Senate, stated that it was not the intention nor design of the sponsors of this legislation to interfere with the first amendment rights of a church which has a religious tenet respecting abortion; the church's position, according to Senator Javits, is protected under the first amendment.

Also, as we know, section 702 of the Civil Rights Act, allows religious institutions to hire solely members of their own faith. It is doubtful that an employee-member of a church which prohibits abortions would seek abortion coverage from the church. Indeed, there has never been a court case concerning failure to cover abortions by either a secular or religious institution.

STATES HAVE PROMOTED SIMILAR LEGISLATION WITHOUT EXCLUSIONS

The States have taken an active role concerning pregnancy disability legislation. Half the States now interpret their fair employment practices legislation to prohibit sex discrimination on the basis of pregnancy and child birth. Connecticut and Minnesota have recently adopted legislation based on the unamended version of H.R. 6075. Not one State has anti-abortion language in its laws concerning pregnancy disability and in not one State is there legislative activity to include such a ban.

SUPPORT FOR AN UNAMENDED BILL COMES FROM BOTH SIDES OF THE ABORTION DISCUSSION

The very nature of this bill—unamended—is to help women carry their pregnancies to term. In its original form, the legislation was supported by a diverse coalition of prolife, labor, and women's organizations. Many of these groups believe that an abortion provision is unnecessary in this legislation.

During the June 29, 1977, hearing which the Subcommittee on Employment Opportunities conducted, Dr. Dorothy Czarnecki, a representative of the American Citizens Concerned for Life, of Philadelphia, Pa., responded in the following manner when I asked her if this legislation, H.R. 6075, increases the likelihood of abortion:

"Dr. CZARNECKI. This legislation would save babies in my opinion. It would encourage a woman to keep a pregnancy or do what she wants. It gives the woman a choice."

In further questioning, I asked:

"In the event a female employee decides to abort a pregnancy, do you think that the employee should be denied medical coverage and disability from complications resulting from the medical procedure?

"Dr. CZARNECKI. I feel we should treat this as a condition, period."

The list of supporters for this legislation without an abortion amendment is endless; it includes many groups with whom all of us work regularly:

AFL–CIO, AFSCME, Leadership Conference on Civil Rights, NEA, League of Women Voters, United Auto Workers, United Steel Workers, International Ladies Garment Workers

Union, Coalition of Labor Union Women, American Association of University Women.

ONE GROUP, ALONE, LOBBIED FOR THE AMENDMENT

The only group which actively came forward to promote the anti-abortion provision was the United States Catholic Conference, the conference of bishops, and never at a public hearing. In fact, there is not a single word of testimony on the record supporting the anti-abortion amendment in this bill.

PREGNANCY DISABILITY COVERAGE FACES AN UNCERTAIN FUTURE AS A RESULT OF THE ANTI-ABORTION LANGUAGE: WOMEN WILL SUFFER

During the course of the 95th Congress, the Members of Congress have had 11 opportunities to make their position known on the issue of Federal funding of abortion; unlike the Hyde amendment, this legislation, unamended, does not involve public subsidization of abortion.

We are now faced with the prospect that pregnancy disability legislation will not be enacted this year as a result of the fears of the members of this committee. The Senate has voted not to append an anti-abortion rider to their version of this legislation; our 5-month battle over the Hyde amendment which stalled the Labor-HEW appropriations will likely be repeated. As a result, women, whose rights we have sought to protect, will suffer.

Finally, the Members of Congress must realize that as a result of amending H.R. 6075 with an abortion prohibition, we must prepare ourselves for a legislative agenda which will require our voting on abortion at every turn. If this legislation, which can be considered nothing but "pro-life," must be amended by those who oppose abortion, no bill which comes before the House of Representatives can be insured of freedom from such an amendment.

The crowning irony is that the anti-abortion amendment not only undercuts the very purpose of this legislation but it would undercut as well the aim of the "pro-life" forces to encourage women to carry their pregnancies to term. The aim of the amendment's proponents has tragically misfired. The amendment is anti-employer, anti-labor, anti-woman, and anti-life. It is my sincere hope that in the final analysis, the anti-abortion rider to this legislation will not prevail.

Mr. BEARD of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Rhode Island.

Mr. BEARD of Rhode Island. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from New York (Mr. WEISS) mentioned discrimination, that this bill gives the sole power to the employer to discriminate. That is not true at all. That is not true. It allows for collective bargaining. It allows for negotiation if they have a contract.

Mr. WEISS. It only occurs if there is a negotiation process which allows for it. Most employees, unfortunately are not represented by unions in those instances, it is solely up to the employer. What you are going to be doing is putting the burden on unions and employers to be subjected to pressure on pro- and anti-abortion matters. It just simply is not appropriate or right.

Mr. BEARD of Rhode Island. Mr. Speaker, I disagree with the gentleman.

Mr. SARASIN. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. QUIE).

Mr. QUIE. Mr. Speaker, I rise in strong support of this legislation. Originally, when the U.S. Supreme Court made its decision in the case of Gilbert against General Electric Co., I know a number of people felt we should not enter into this area. They felt we should not make it a civil right that a woman employee will be able to receive pregnancy disability benefits on the same basis that other temporary disabilities are covered. After the study in our committee, we came to the conclusion, and I strongly came to that conclusion, that this is necessary in order for women employees to enjoy equal treatment in fringe benefit programs. It should be a civil right as long as employers are providing this kind of disability insurance and sick leave and health insurance to their employees for other health reasons.

Also, when the gentleman from Rhode Island (Mr. BEARD) offered the amendment to exempt from required coverage any abortion except one necessary to protect the life of the mother, I supported the amendment.

There are some who feel it is unwise to bring this up under suspension of the rules, thus denying an opportunity to offer an amendment to strike the abortion language. However, if one looks at the vote of this body at previous times, I think one would expect that a strong majority would be supporting the provision added by Mr. BEARD of Rhode Island. Therefore, I do not find it offensive to use this procedure to expedite enactment of this legislation.

I believe that this is a good piece of legislation and ought to be adopted. It will protect the income of millions of working women to the benefit of their families. This bill will strengthen the American family in a period in which we are seeing a dramatic increase in the number of working wives and mothers. I urge my colleagues to support it.

Mr. HAWKINS. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii (Mr. AKAKA).

Mr. AKAKA. Mr. Speaker, I commend the chairman and the subcommittee for their leadership in carrying this bill toward passage.

Mr. Speaker, I support this bill H.R. 6075, which requires that employers treat disabilities arising from pregnancy just as any other disability.

The State of Hawaii has required exactly that since 1973 with great success. Hawaii is one of five States requiring employers to provide disability insurance so that when employees are unable to work, they will receive a partial income replacement to tide them over. Since 1973, the Hawaii temporary disability insurance law has included within the definition of disability those disabilities caused by pregnancy or termination of pregnancy.

One of the concerns raised about H.R. 6075 has been that insuring pregnancy disability will significantly raise the employer's disability insurance costs. The Hawaii experience thus far has indicated that major increases will not occur. In fact, according to information compiled by the Hawaii Disability Compensation Division and submitted at the subcommittee hearings on this bill, only two of the six major temporary disability insurers in Hawaii have raised rates between 1970 and 1975, and those increases were minor. Four companies actually lowered their rates after pregnancy was included because they had overestimated their costs.

Another concern I have heard expressed is that the average duration of women's compensated disabilities will greatly increase when employers include pregnancy disabilities in their plans. Again, the Hawaii experience indicates that this problem is unlikely to materialize. In 1975, the average duration figure for women actually was lower than that for men, even though pregnancy disabilities were included in the calculations. The average duration for men was 5.1 weeks; the average duration for women was only 4.4 weeks.

This bill is of great importance to working women in this country—80 percent of whom will become pregnant at some point during their worklife. The bill simply requires that pregnant workers be fairly and equally treated. The Hawaii experience with equal treatment under the State disability insurance law suggests that the price of equality will be minor and the benefits substantial.

Mr. SARASIN. Mr. Speaker, I have no further requests for time.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, I rise in support of H.R. 6075, the pregnancy disability bill, which is a legislative initiative to remedy the Supreme Court's holding in Gilbert against General Electric, whereby an employer was permitted to discriminate against a woman on the basis of pregnancy, denying her sick leave or disability income, while allowing all types of other medical conditions, including cosmetic surgery. This is tantamount to discrimination on the basis of sex, and should come under the purview and guarantees of the Civil Rights Act of 1964.

In today's economy, whereby women constitute 41 percent of the labor force, and total 25 million workers, it is imperative that we provide for their welfare and job security. Most of these women are in their childbearing years. This bill will facilitate a woman's choice to conceive and bear children without facing undue economic hardships.

I especially wish to support the Beard amendment, which we approved in the full committee. The Beard amendment prevents an employer from being forced by an act of Congress to partially or fully underwrite the cost of nontherapeutic abortions. This amendment is strongly supported by the U.S. Catholic Conference, the National Right to Life Committee, and the Church of Jesus Christ of the latter Day Saints.

I urge you to support the bill as adopted by the Education and Labor Committee.

Mr. HAWKINS. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, I rise in support of H.R. 6075, a bill to prohibit sex discrimination on the basis of pregnancy.

This bill is necessary because of a ruling by the Supreme Court in *General Electric Co.* v. *Gilbert*, 429 U.S. 125 (1976), which held that it was not a violation of title VII of the Civil Rights Act for General Electric's disability insurance plan to exclude coverage for women with pregnancy-related disabilities.

H.R. 6075 seeks only to clarify what most feel was the original intent of Congress in enacting the Civil Rights Act—that the title VII prohibitions against sex discrimination in employment include discrimination based on "pregnancy, childbirth, or related medical conditions." This was the position of the EEOC and the overwhelming majority of the Federal courts which addressed the issue prior to the Gilbert decision.

The bill simply adds a new subsection (k) to section 701 of title VII which makes it clear that the act's prohibitions against sex discrimination include discrimination in employment based on pregnancy, child birth or related medical conditions.

No new programs are created. No Federal funds are involved. The bill does not provide for any new paperwork or reporting requirements, nor does it require the establishment of any new benefit programs where none currently exist. The bill merely requires equality in treatment where such programs exist.

While the committee added antiabortion language which I opposed, the effect of the language is to leave the issue of coverage for abortions up to local employers and the collective bargaining process. While I believe this language is unnecessary and undesirable, those who support the bill believe that the overwhelming majority of disability insurance plans will eventually contain this type of coverage.

So in spite of that language, I am going to fully support H.R. 6075. This is an important issue for the women of this country, and we can delay no further in ending this type of discrimination. I urge my colleagues to support this legislation.

Mr. HAWKINS. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. CHISHOLM).

Mrs. CHISHOLM. Mr. Speaker, I rise in support of this legislation clarifying prohibitions against sex discrimination under title VII of the Civil Rights Act of 1964. Through broadening certain prohibitions, H.R. 6075 would make it illegal to discriminate against employees based on pregnancy, child birth, or related medical conditions.

While it may be obvious to my colleagues that I support this bill because it affords some 41 percent of this Nation's labor force some greater degree of protection and security without fear or reprisal due to their decision to bear children, I also strongly support the manner in which this legislation comes before the House for consideration.

As a member of the Rules Committee, I can speak with some degree of authority in insisting that the Suspension Calendar must be further utilized as a vehicle to consider important legislative issues. The Rules Committee now faces a backlog of at least 60 bills that await hearings for a rule. In addition, a very large number of bills have received rules, but have also been stalled in reaching the floor for consideration by the full House. I think all of us would be disturbed if we were unable to vote on pregnancy disability legislation due to the inability of the House or the Rules Committee to facilitate its swift passage to the floor. While we cannot discount our legislative process which permits adequate time for debate and amendments, I feel strongly that a single issue is at stake.

The issue is whether or not we as leaders of this country will assure equality at the workplace for pregnant workers. We must seize this opportunity to make a stand on this issue and to assure, before the end of the 95th Congress both the House and Senate will give the President legislation to correct a grave inequity in this Nation's labor practices.

Mr. SARASIN. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I thank the gentleman from Connecticut for yielding.

Mr. Speaker, I reluctantly rise to oppose this legislation. I do so reluctantly because I do recognize that it is a major step forward in terms of coverage for millions of women in this country on a subject that I have fought for, for many years, including the time when I was a staff person in the California State Legislature. I drafted the first legislation to provide this benefit to women in California.

But my concern here is with the amendment dealing with abortion, which I believe is another governmental statement and intrusion into the private lives of women. In this case, whereas the former speaker on this subject, the gentleman from New Jersey (Mr. THOMPSON) just said that no governmental moneys are expended, we yet find ourselves intruding into the collective bargaining arrangements between employers and employees and suggest somehow we are going to do something, when in fact all the testimony is to the contrary.

What I think we have really is the makings of a very discriminatory statement against those women we are trying to help when we suggest that in their case the Government is going to speak with an official voice and try to create a presumption of how those plans are being made.

It is for that reason I reluctantly oppose this legislation. I would hope that perhaps we would submit it to the full House for full debate. I say that without even the greatest confidence that the views I hold would prevail, but I think it is a matter of that importance because it will have, when it leaves this House, if it does, the official stamp of the Federal Government directing in what case those plans will be made under directives of the Federal Government and discriminating against those women who seek to take advantage of other services.

Mr. SARASIN. Mr. Speaker, again I rise in support of the bill and urge its passage.

I disagree with the statements of the gentleman from California that somehow we are entering into the negotiating process. I think we have left that process free.

I urge support of the bill.

● Mr. LAFALCE. Mr. Speaker, I urge my colleagues to support H.R. 6075, the bill to prohibit sex discrimination based on pregnancy. The purpose of this civil rights legislation is to eliminate sex discrimination in disability and insurance programs on the basis of pregnancy by amending title VII of the Civil Rights Act of 1964 to clearly include among the prohibited discriminations those based on pregnancy, childbirth, and related medical conditions in employee health benefit plans.

This bill is a necessary measure to counteract recent Supreme Court decisions that have endorsed sex discriminations in employers' insurance programs. In Gilbert against General Electric the Supreme Court did a great disservice to working women of childbearing age by ruling that exclusion of pregnancy from disability benefit plans did not violate title VII of the Civil Rights Act. The Court's holding, that an employer has a right to discriminate against pregnant workers, was contrary to many previous decisions in lower district courts and courts of appeals. The New York State Court of Appeals has, in fact, ruled in exact opposition to the Supreme Court's holding in Gilbert.

Furthermore, exclusion of pregnancy related disabilities from coverage under title VII was never the intention of Congress as evidenced by the Equal Employment Opportunity Commission guidelines to its implementation.

Clearly this unjustifiable and blatant discrimination based on sex has created an intolerable situation and must be remedied.

In the Gilbert case, the Supreme Court held that exclusion of benefits on the basis of pregnancy was not sex discrimination because it related to "condition" rather than "gender" H.R. 6075 will solve this problem by simply stating that such discrimination is indeed prohibited by title VII. As was intended by the original act, all workers would be treated the same in regard to health insurance coverage, where the issue is not the gender or condition of the employee but ability to work.

The participation of women in today's work force is growing, and whether that participation is by choice, economic necessity, or both, it is an aberration of justice to allow inequality among workers to continue. In recent years, the greatest increase in labor force participation by women has been within the 20 to 34 age group, the most fertile childbearing years. During these years, it is likely working women are building up job experience and seniority, making plans for continued participation in the work force.

Women should be encouraged to remain in the work force and should not face potentially catastrophic consequences from loss of a job or seniority owing to pregnancy. Employers who believe pregnant women are unable to continue working or do not desire to return to work are imposing stereotypical notions on their employees which are archaic and undocumented by available statistics. The Supreme Court's ruling

in Gilbert has served to reinforce the outdated argument that women depend upon men, and not their jobs, for support.

A ruling such as this has no place in a society which professes equality. H.R. 6075 will bring us one step closer to equality and the end of sex discrimination in the business world.●

● Mrs. COLLINS of Illinois. Mr. Speaker, I rise today in support of H.R. 6075, Pregnancy Disability Benefits, which would end widespread abuse of pregnant women in the workplace.

As a result of the recent U.S. Supreme Court ruling in General Electric Co. against Gilbert which held that discrimination on the basis of pregnancy did not constitute sex discrimination under title VII of the Civil Rights Act of 1964, I and 116 of my colleagues in the House cosponsored H.R. 6075 which amends title VII to expand the statutory definition of sex discrimination to include pregnant workers.

The need for enactment of H.R. 6075 is clear. In Gilbert, the Supreme Court ruled that General Electric's (GE) practice of providing insurance to employees for a variety of conditions including vasectomies, hair transplants, and cosmetic surgery, while denying the same benefits to women disabled by pregnancy did not discriminate against those women employees. The Court's ruling, therefore, allows employers to discharge pregnant employees on the basis of their condition, to be placed on maternity leave or to lose other employment benefits such as seniority.

Opposition to this legislation has focused on the allegation that the cost of implementation is prohibitive; however, the Department of Labor estimate of the cost of impact of H.R. 6075 indicates that expansion of fringe benefit coverage to include pregnancy disability would not result in significant cost increases for the employer. A labor report stated, "(T)emporary disability insurance contributions represent only 1.4 percent of the wage package for covered workers in private industry and H.R. 6075 will increase that percentage to only 1.5 percent."

I urge my colleagues to join me in ending the practice of discrimination based on pregnancy by expediting approval of H.R. 6075.●

● Mr. GARCIA. Mr. Speaker, I sadly rise in support of H.R. 6075, the bill to amend title VII of the Civil Rights Act to prohibit pregnancy as grounds for discrimination against women. I have grave reservations about perpetuating one form of repellent and injurious discrimination at the same time as I seek to end another.

Mr. Speaker, the case, General Electric against Gilbert, that gave rise to the need for this legislation is a New York case, originally. As many of you know, I served in the New York State Legislature, and the question of pregnancy disability is not a new one for me. It was one of the first, and always one of the most difficult, that the organized women's issue lobbyists chose to grapple with in Albany. They argued long and hard. And they were well-prepared. And eventually they won. And they won without any limiting amendments, and they won in the face of heavy lobbying by the insurance industry and the business lobby. It is almost beyond my comprehension why that struggle is still being waged.

This piece of legislation is simple justice. Those who argue against insurance coverage for pregnancy-related disabilities can only be those with a financial interest. Surely, it is not those who care about human and civil rights for all Americans, and those who have realistically assessed the costs of this change in our laws.

It is interesting to me that those who would deny a woman a right to an abortion have joined with those who feel such limitations are heinous in support of this bill. It is clear that to defeat this bill would strike a blow against those women who want to have children. The U.S. Department of Labor last week released statistics that indicate that 56 percent of all American women work. Most of them work because they must, and I have often wondered how many prospective mothers we have lost because they knew they would not have any income at the time it was needed most.

Passage of this legislation is a truly life-affirming act that we can all encourage. But it is, as well, with its severe and unfortunate limitation, a difficult bill to support. I do so reluctantly, with the hope that the conferees on the bill will carry with them a sense of the House that the offensive language in the bill will be eliminated.●

● Mr. GOLDWATER. Mr. Speaker, I rise in opposition to H.R. 6075, which would amend the Civil Rights Act and which would, in effect, mandate that any company which provides a health benefit plan or a disability plan include pregnancy benefits. I fully realize that my opposition could be interpreted as a vote against motherhood—it is not—it is a vote against further, unwarranted Federal interference in what should be a negotiable item between labor and management. I mean, what are we next going to mandate? Eye or dental care?

I have heard persuasive arguments today in support of the Beard amendment, and the crux of those arguments is that inclusion of abortion benefits should be a negotiable item between employers and employees. I even heard one argument that we should not "shove abortion benefits down the throats of employers." Fine, I agree, but then what gives the Federal Government the right to shove maternity benefits down their throats?

Let me give you an example of what I am talking about. About 3 years ago one of my legislative assistants' husband's company took a vote amongst its covered employees on the question of providing maternity benefits under their health insurance plan. The employees voted overwhelmingly against the extra coverage at the extra cost, but guess who voted for it? Men. The women who voted against it were single; were covered by their spouses' plan; or were not planning on any additional children. I have heard a lot about freedom of choice today, but apparently these employees are not going to be left with any choice whatsoever—they are going to have to pay for maternity benefits whether they want them or not.

This bill does not give an employer an opportunity to deny disability benefits if the woman chooses not to return to work. Yes; a lot of women do return to their jobs—and I believe their jobs and their seniority should be protected. But, it is also a rather common practice for a woman to quit working for a lengthy time in order to raise thier children. This is not uncommon. I personally know of many such cases. Does this mean that these particular women may receive what amounts to severance pay not available to any other employee? Under this bill, that is precisely what we are mandating.

In closing, I would like to emphasize that I have nothing against private employers providing maternity benefits, and I have no objection to employees demanding those benefits in their labor negotiations—I personally think it is a good benefit. However, I believe that is precisely where the issue should remain—within the jurisdiction of labor-management negotiations. In short, I do not believe it is proper, reasonable, or fair for the Federal Government to dictate terms and benefits of private insurance plans.●

● Mr. WHALEN. Mr. Speaker, I am pleased that the House finally is voting on pregnancy disability legislation.

This issue first arose in late 1976, when the Supreme Court delivered its decision in the case of General Electric Co. against Gilbert. The Court held that it was not a violation of the Civil Rights Act to offer a comprehensive health plan but to deny benefits to pregnant workers.

Many of us on Capitol Hill immediately objected to the Court's decision, saying that it certainly was our intent that title VII of the Civil Rights Act should protect all workers, pregnant or otherwise, from sex discrimination. Soon after the Gilbert decision representatives from labor and public interest organizations met with a group of congressional staffers, including a representative from my office, to draft corrective legislation.

In March of 1977 I joined GUS HAWKINS and dozens of our colleagues as an original sponsor of H.R. 6075, a bill to protect pregnant workers from sex discrimination in employment benefits, especially health and disability plans. Given the obvious need for the legislation, it has been very disappointing to see how long it has taken for the House to take up this very simple bill.

Part of the problem, of course, was the addition of the Beard amendment in committee earlier this year. That says that even though health and disability plans must extend to pregnant workers, employers can elect to deny benefits in cases involving abortions.

Mr. Speaker, it is well known that I am a staunch opponent of abortion. I have consistently supported legislation to make abortions illegal and to cut off Federal funds that might be used to pay for abortions. Nevertheless, I object to the Beard amendment that was added to H.R. 6075. In my opinion it is unnecessary and inappropriate.

First, there is the basic fact that we cannot continue to inject the abortion issue into every passing bill that is remotely related to the subject. This is a very emotional and divisive issue that can tie up the legislative process for weeks. In fact, I expect that inclusion of the Beard amendment in this legislation will prompt a sharply contested conference with the Senate that could otherwise be avoided.

Second, there is the important point that when we legislate to end sex discrimination in health and disability plans we are stepping into a traditional labor-management relations issue. I have no qualms about doing this in broad terms, to enforce the letter and the spirit of the Civil Rights Act. But, I believe we should exercise restraint in legislating with regard to specific items, such as coverage of benefits for abortion. Remember, we are dealing now with a subject that is legal and which does not involve the expenditure of any public money.

As I stated in a "Dear Colleague" letter that I sent around on May 1, what really is at issue in the Beard amendment is the question of labor-management relations. Employee benefits are properly a matter for negotiation between the parties. So long as abortions remain legal in this country, I do not think this proposed intervention into a negotiable contract issue is appropriate.

Having said all this, I must also note that I intend to vote for passage of H.R. 6075—including the Beard amendment. I do so because it is brought before us under a suspension of the rules, on a take it or leave it basis. We have no opportunity to amend this legislation today.

It is my hope that my colleagues, including those who oppose the Beard amendment as I do, will join in support of H.R. 6075, so we can get this legislation into conference and on its way to the President's desk.●

● Mr. TSONGAS. Mr. Speaker, although I cannot be here today to vote in favor of the pregnancy disability bill, I want to express my strong support for this legislation. If women—more than 40 percent who now work—are ever to have equal employment opportunities, we must entitle them to disability coverage for pregnancy.

By simply adding to Federal law a definition of sex bias—that it includes discrimination "on the basis of pregnancy, childbirth or related medical conditions," this Congress would go a long way toward assuring women equality in the job market. It would assure that women who work either out of choice or necessity are not penalized for having a family. It would also put an end to an unrealistic and unfair system that forces women to choose between family and career—clearly a function of sex bias in the law, which no longer reflects the conditions of women in our society.●

● Mrs. BURKE of California. Mr. Speaker, I rise in support of H.R. 6075, a bill to prohibit sex discrimination based on pregnancy. This bill is particularly important to me since I was the first Member of Congress ever to be granted maternity leave while serving in the House of Representatives.

This bill is of great economic importance to all workingwomen for the simple reason that women work for the same reasons that men do: compelling economic necessity. Today, there are more than 18 million workingwomen whose husbands earn less than $10,000 per year. Of that number, 6 million have husbands earning less than $5,000 per year. Since the Bureau of Labor Statistics reports that it now costs almost $11,000 to provide a low standard of living for an urban family of four, it is fair to say that these women are working to provide food, clothing, and shelter for themselves and their families and not for extravagant luxuries.

More women are working than ever before. Between 1960 and 1974, the greatest increase in the labor force participation by women occurred within the 20 to 34 age group, the most fertile child-bearing years. By 1975, 40 percent of our work force was composed of women.

However, while 40 percent of our labor force has some type of disability coverage, only 40 percent of these benefit plans include pregnancy disability coverage. This means that of the 12.5 million women workers covered by sick and accident disability insurance, fewer than 5 million are protected in any way from wage loss or provided medical compensation for pregnancy disability. This means that millions of vulnerable women may be fired or forced to take unpaid leave. They may be denied medical and sick leave benefits at a time when they need them most.

I would like now to address the question of leave time. The average leave time under most pregnancy disability plans is 6 weeks. However, two factors contribute to misleading statistics concerning pregnancy leave. For example, many employers may require women workers to leave work months before they are disabled. For another, many employers impose arbitrary dates for returning to work based on the old stereotype that women are unable to continue working or do not desire to return. However, the Equal Employment Opportunity Commission has reported in Senate hearings that women workers consistently go back to their jobs when they have that opportunity: in 1976, 73 percent returned to work after an average absence of 47.5 days after delivery.

It is now considered desirable by the medical profession that pregnant women continue their usual activities until they go into labor and a former president of the American College of Obstetricians and Gynecologists has testified that most women are fully recovered and able to resume work within a few weeks after delivery.

H.R. 6075 is an important bill because it takes note of the changing role of women in the work force. On behalf of our workingwomen and their families, I urge my colleagues to support this fair and much-needed legislation.●

● Mr. MICHAEL O. MYERS. Mr. Speaker, ever since the Supreme Court decision in Gilbert against General Electric in 1976, there has been great need for legislative action to insure the equal treatment of women in the work force. I am pleased that H.R. 6075 to amend title VII of the Civil Rights Act of 1964 has finally been considered by the House of Representatives.

This legislation will clarify the original intent of Congress that sex discrimination in title VII includes pregnancy-based discrimination. At a time in this country's history when full equality for women in the workplace is being recognized as one of our highest priorities, it is imperative that we set aside discrimination based on pregnancy. The right of women to work and their right to bear children cannot be considered mutually exclusive.

There was once a time in this Nation when most women of child-bearing age did not have to work in order to provide a decent living for themselves and their families. This is no longer the case. With severe inflationary problems most families find it necessary to have both adults working. The second income is no longer used primarily for luxury items, but more and more just to maintain a mid-level standard of living for the family. To penalize these women for needing to work undermines the fabric of our society.

Women in the work force are a necessary and most productive asset to our Nation. To deny them pregnancy benefits when men receive benefits for almost any type of medical service is clearly discriminatory.

This Nation has always stood for full equality for all its people. I am pleased to be a Member of the House of Representatives at a time when it acts to insure that this equality extends to the women of our Nation who must work and who also choose to continue in the role of mother. It is time that these women are commended for their dual contribution to our society and not penalized for it.

I strongly support the actions of this body in passing the amendments to title VII to include pregnancy disability benefits and I urge all my colleagues to do likewise.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HAWKINS) that the House suspend the rules and pass the bill H.R. 6075, as amended.

The question was taken.

Mr. BADHAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous matter on the bill H.R. 6075.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

AMERICAN INDIAN RELIGIOUS FREEDOM

Mr. UDALL. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 738), American Indian Religious Freedom, as amended.

The Clerk read as follows:

H.J. RES. 738

Whereas the freedom of religion for all people is an inherent right, fundamental to the democratic structure of the United States and is guaranteed by the First Amendment of the United States Constitution;

Whereas the United States has traditionally rejected the concept of a government denying individuals the right to practice their religion, and, as a result, has benefited from a rich variety of religious heritages in this country;

Whereas the religious practices of the American Indian (as well as Native Alaskan and Hawaiian) are an integral part of their culture, tradition and heritage, such practices forming the basis of Indian identity and value systems;

Whereas the traditional American Indian religions, as an integral part of Indian life, are indispensable and irreplaceable;

Whereas the lack of a clear, comprehensive, and consistent Federal policy has often resulted in the abridgement of religious freedom for traditional American Indians;

Whereas such religious infringements result from the lack of knowledge or the insensitive and inflexible enforcement of Federal policies and regulations premised on a variety of laws;

Whereas such laws were designed for such worthwhile purposes as conservation and preservation of natural species and resources but were never intended to relate to Indian religious practices and, therefore, were passed without consideration of their effect on traditional American Indian religions;

Whereas such laws and policies often deny American Indians access to sacred sites required in their religions, including cemeteries;

Whereas such laws at times prohibit the use and possession of sacred objects necessary to the exercise of religious rites and ceremonies;

Whereas traditional American Indian ceremonies have been intruded upon, interfered with, and in a few instances banned: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

SEC. 2. The President shall direct the various Federal departments, agencies, and other instrumentalities responsible for administering relevant laws to evaluate their policies and procedures in consultation with native *traditional* religious leaders in order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices. Twelve months after approval of this resolution, the President shall report back to the Congress the results of his evaluation, including any changes which were made in administrative policies and procedures, and any recommendations he may have for legislative action.

The SPEAKER pro tempore. Is a second demanded?

Mr. JOHNSON of Colorado. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

Mr. CUNNINGHAM. Mr. Speaker, I object and on that I demand tellers.

Tellers were ordered, and the Speaker pro tempore appointed as tellers Mr. UDALL and Mr. CUNNINGHAM.

The House divided, and the tellers reported that there were yeas 38, nays 2.

Mr. CUNNINGHAM. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 396, nays 2, not voting 34, as follows:

[Roll No. 557]

YEAS—396

Abdnor	Cochran	Gephardt
Akaka	Cohen	Giaimo
Ammerman	Coleman	Gilman
Anderson, Calif.	Collins, Ill.	Ginn
	Collins, Tex.	Glickman
Anderson, Ill.	Conable	Goldwater
Andrews, N.C.	Conte	Gonzalez
Andrews, N. Dak.	Corcoran	Goodling
	Corman	Gore
Annunzio	Cornell	Gradison
Applegate	Cornwell	Grassley
Archer	Cotter	Green
Armstrong	Coughlin	Gudger
Ashley	Crane	Guyer
Aspin	Cunningham	Hagedorn
AuCoin	D'Amours	Hall
Badham	Daniel, Dan	Hamilton
Bafalis	Daniel, R. W.	Hammer-schmidt
Baldus	Danielson	
Barnard	Davis	Hanley
Baucus	Delaney	Hannaford
Bauman	Dellums	Hansen
Beard, R.I.	Derrick	Harkin
Beard, Tenn.	Derwinski	Harrington
Bedell	Devine	Harris
Beilenson	Dickinson	Hawkins
Benjamin	Dicks	Heckler
Bennett	Diggs	Hefner
Bevill	Dingell	Heftel
Biaggi	Dodd	Hillis
Bingham	Dornan	Holland
Blanchard	Downey	Hollenbeck
Blouin	Drinan	Holt
Boggs	Duncan, Oreg.	Holtzman
Boland	Duncan, Tenn.	Howard
Bolling	Eckhardt	Hubbard
Bonior	Edgar	Huckaby
Bonker	Edwards, Ala.	Hughes
Bowen	Edwards, Calif.	Hyde
Brademas	Edwards, Okla.	Ichord
Breaux	Eilberg	Ireland
Breckinridge	Emery	Jeffords
Brinkley	English	Jenkins
Brodhead	Erlenborn	Jenrette
Brooks	Ertel	Johnson, Calif.
Broomfield	Evans, Colo.	Johnson, Colo.
Brown, Mich.	Evans, Del.	Jones, N.C.
Brown, Ohio	Evans, Ga.	Jones, Okla.
Broyhill	Evans, Ind.	Jones, Tenn.
Buchanan	Fary	Jordan
Burgener	Fascell	Kastenmeier
Burke, Calif.	Fenwick	Kazen
Burke, Fla.	Findley	Kelly
Burke, Mass.	Fish	Kemp
Burleson, Tex.	Fisher	Kildee
Burlison, Mo.	Fithian	Kindness
Burton, Phillip	Flippo	Kostmayer
Butler	Flood	Krebs
Byron	Florio	Krueger
Caputo	Foley	LaFalce
Carney	Ford, Mich.	Lagomarsino
Carr	Ford, Tenn.	Latta
Carter	Forsythe	Leach
Cavanaugh	Fountain	Lederer
Cederberg	Fowler	Leggett
Chappell	Fraser	Lehman
Chisholm	Frenzel	Lent
Clausen, Don H.	Fuqua	Levitas
	Gammage	Livingston
Clay	Garcia	Lloyd, Calif.
Cleveland	Gaydos	Lloyd, Tenn.
Long, La.	Panetta	Snyder
Long, Md.	Patten	Solarz
Lott	Patterson	Spellman
Lujan	Pattison	Spence
Luken	Pease	St Germain
McClory	Pepper	Staggers
McCloskey	Perkins	Stangeland
McCormack	Pettis	Stanton
McDade	Pickle	Stark
McDonald	Pike	Steed
McEwen	Poage	Steers
McFall	Pressler	Steiger
McHugh	Preyer	Stockman
McKay	Price	Stratton
McKinney	Pritchard	Studds
Madigan	Pursell	Stump
Maguire	Quayle	Symms
Mahon	Quie	Taylor
Mann	Quillen	Teague
Markey	Rahall	Thompson
Marks	Railsback	Thone
Marlenee	Rangel	Thornton
Marriott	Regula	Traxler
Martin	Reuss	Treen
Mattox	Rhodes	Trible
Mazzoli	Richmond	Udall
Meeds	Rinaldo	Ullman
Metcalfe	Risenhoover	Van Deerlin
Meyner	Roberts	Vander Jagt
Michel	Robinson	Vanik
Mikulski	Rodino	Vento
Mikva	Roe	Volkmer
Milford	Rogers	Waggonner
Miller, Calif.	Roncalio	Walgren
Miller, Ohio	Rooney	Walker
Mineta	Rose	Walsh
Minish	Rosenthal	Wampler
Mitchell, Md.	Rostenkowski	Watkins
Moakley	Rousselot	Waxman
Moffett	Roybal	Weaver
Montgomery	Rudd	Weiss
Moore	Runnels	Whalen
Moorhead, Calif.	Russo	White
	Ryan	Whitehurst
Moorhead, Pa.	Santini	Whitley
Mottl	Sarasin	Whitten
Murphy, Ill.	Satterfield	Wiggins
Murphy, N.Y.	Sawyer	Wilson, C. H.
Murphy, Pa.	Scheuer	Wilson, Tex.
Murtha	Schroeder	Winn
Myers, John	Schulze	Wirth
Myers, Michael	Sebelius	Wolff
Natcher	Seiberling	Wright
Nedzi	Sharp	Wydler
Nichols	Shuster	Wylie
Nix	Sikes	Yates
Nolan	Simon	Yatron
Nowak	Sisk	Young, Alaska
O'Brien	Skelton	Young, Fla.
Oakar	Skubitz	Young, Mo.
Oberstar	Slack	Zablocki
Obey	Smith, Iowa	Zeferetti
Ottinger	Smith, Nebr.	

NAYS—2

Myers, Gary	Wilson, Bob

NOT VOTING—34

Addabbo	Flynt	Mitchell, N.Y.
Alexander	Frey	Mollohan
Ambro	Gibbons	Moss
Ashbrook	Harsha	Neal
Brown, Calif.	Hightower	Ruppe
Burton, John	Horton	Shipley
Clawson, Del	Jacobs	Stokes
Conyers	Kasten	Tsongas
de la Garza	Keys	Tucker
Dent	Le Fante	Young, Tex.
Early	Lundine	
Flowers	Mathis	

So a second was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. MURPHY of New York). The gentleman from Arizona (Mr. UDALL) will be recognized for 20 minutes, and the gentleman from Colorado (Mr. JOHNSON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, this is the last of the seven suspension bills today. I did not think it would take very much time. I

will use my 5 minutes, and I think that is all the debate we will have on our side.

Mr. Speaker, this is a simple bill, a sense of Congress joint resolution, which seeks to protect the constitutional rights of native Americans to practice their traditional religion free of unwarranted governmental interference.

This bill was on the Consent Calendar yesterday. The gentleman from Washington (Mr. FOLEY) reserved the right to object in order to get an explanation of the bill. Working with him between yesterday and today, I have sent the bill to the desk with a modest amendment to strike a phrase requiring Government agencies to implement changes in the law to accommodate religious practices of Indians where infringements have been identified. That is the responsibility of Congress.

The only other amendments in the bill are technical.

Mr. Speaker, this bill just requires the President to direct the various Federal departments and agencies to evaluate their laws and regulations to see where they may adversely impact of the first amendment right of Indian people to practice their traditional religion. Where administrative changes can be made, consistent with the enabling legislation, to eliminate unwarranted restrictions on Indian religion, the bill intends that appropriate changes be made.

Where the underlying law is determined to be the reason for such restrictions and where these restrictions are determined to be unwarranted and unnecessary, the bill contemplates that the President, in his report to the Congress, would request appropriate legislative changes.

Mr. Speaker, this country is primarily a Christian country with a large Jewish population and substantial numbers of people practicing various other European and Asian religions. Were we to consider legislation which adversely impacted upon these religions and infringed upon the first amendment right to the free exercise of religion, we would, from our own knowledge and background be aware of that impact and would modify the legislation to eliminate the offensive language.

But the traditional religions of the native American people are not our religions and we are unaware of practices, rites, and ceremonials of these religions. We have, in the past, enacted legislation where we have unknowingly brought about the infringement of the religious rights of the Indians.

Administrative regulations implementing certain laws have, again unknowingly, denied certain religious practices of the Indian people.

It is stating the obvious tc say that this country was the Indians long before it was ours. For many tribes, the land is filled with physical sites of religious and sacred significance to them. Can we not understand that? Our religions have their Jerusalems, Mount Calvarys, Vaticans, and Meccas. We hold sacred Bethlehem, Nazareth, the Mount of Olives, and the Wailing Wall. Bloody wars have been fought because of these religious sites.

Yet, the Congress has in some cases passed legislation setting aside public lands as wildernesses, parks, or national forests which have contained sacred sites for Indian tribes. This has been often unwitting, but no less callous.

Most Indian religions use various birds, animals, or plants in their ceremonials or rites. These include eagle and other bird parts or feathers, animal pelts, fish, and various grasses and other plants. But, again, we have often passed laws, such as the endangered species laws, which have banned the use of these substances or have otherwise made them available. Indian people have been arrested and prosecuted for possession of these articles where they were clearly used for religious purposes.

Mr. Speaker, it is not the intent of my bill to wipe out laws passed for the benefit of the general public or to confer special religious rights on Indians. It is not the intent or the effect of my bill to permit Indians to cause the extinction of a species or destroy a wilderness area in the name of religion.

It is the intent of this bill to insure that the basic right of the Indian people to exercise their traditional religious practices is not infringed without a clear decision on the part of the Congress or the administrators that such religious practices must yield to some higher consideration.

Mr. Speaker, I have received a letter from Assistant Attorney General Patricia M. Wald which indicates the support of the Justice Department for this legislation.

The letter states that it is the Department's understanding that this resolution, in and of itself, does not change any existing State or Federal law. That, of course, is the committee's understanding and intent. I ask that this letter be included in the RECORD at this time.

DEPARTMENT OF JUSTICE,
Washington, D.C., July 11, 1978.

Hon. MORRIS K. UDALL,
Chairman, Committee on Interior and Insular Affairs, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Department of Justice would like to take this opportunity to comment briefly on H.J. Res. 738, a joint resolution concerning American Indian religious freedom.

As you are aware, H.J. Res. 738 was favorably reported by your Committee to the full House on June 19, 1978; a similar resolution, S.J. Res. 102, passed the Senate on April 3, 1978. As House Report No. 95-1308 (to accompany H.J. Res. 738) notes at page 5, although the Department of Justice did not comment on the House resolution, we did testify on the Senate version. Our Senate testimony reflected that Administration support for the resolution hinged upon two assumptions: first, that the religious freedom protected by this resolution be the same as that enjoyed by other religions, in accordance with the first amendment; and second, that the resolution not be construed as affecting any provision of existing State or Federal law.

Senate Report No. 95-709 (to accompany S.J. Res. 102) makes clear the intent of the Select Committee on Indian Affairs that the resolution is to be construed in a manner consistent with our assumptions. It confirms at page 6 that the resolution's purpose is "to insure for traditional native religions the same right of free exercise enjoyed by more powerful religions. However, it is in no way intended to provide Indian religions with a more favorable status than other religions, only to insure that the U.S. Government treats them equally." It also provides at page 12 that "no changes in existing law are made by Senate Joint Resolution 102".

With those explicit assurances as to Congressional intent, the Department of Justice can fully support the resolution.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PATRICIA M. WALD,
Assistant Attorney General.

Mr. Speaker, I urge the adoption of this resolution.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I have spoken to the chairman of the committee, the gentleman from Arizona (Mr. UDALL), about this. There certainly is not a person in this room who would want to deny any U.S. citizen the full rights of religious freedom. One of the things that particularly concerns me is, frankly, why we need this piece of legislation, or this resolution. I would submit to the Members that every one of us, during our oath of office, took an oath to uphold the U.S. Constitution, which does guarantee every U.S. citizen the full right of religious freedom.

These native Americans happen to be U.S. citizens and have been U.S. citizens for at least 54 years. However, once again, because of what might be some bureaucratic rules and regulations, there are certain Members who believe that we have some citizens being denied their rights. I would question the extent to which we would want to go. It seems to me, if my history is not too erroneous, that the Mormon Church, in the fulfillment of its members' religious rights, was not allowed to keep the practice of polygamy.

Yet, we have here a specific resolution which says, "You will have the right to access property, to enter upon it."

Are we saying that that is all public property, or does it also include private property?

As to the use of peyote and other hallucinogens, I frankly do not know what the traditional Indian religion encompasses; but we should understand that in this report there is specific mention of that.

Mr. Speaker, I have taken this well before to talk about my concern and I think the concern of other Members with this matter of constitutional law. Every time we address the problem of treaty Indians, and these are the only native Americans who have these alleged special rights, what we are doing is to compound the problem we have with respect to reinterpreting the Constitution as far as equal protection under the law is concerned, with no special class of U.S. citizen over another U.S.citizen .

Mr. Speaker, I would respectfully yield to the chairman if he would care to answer. What is the definition of an American Indian?

Mr. UDALL. If the gentleman will yield, Mr. Speaker, the definition, I think, is well contained in all the statutes which

spell out the various rights of the American Indian people.

However, for the purpose of this little sense of Congress resolution, it is anyone who undertakes to practice religion and calls himself a native American and has these kinds of religious rights.

Mr. CUNNINGHAM. Mr. Speaker, would the chairman concur that if one of our Members should say that he is practicing the American Indian religion, he would be authorized ingress to and egress from private property and/or would be authorized to use peyote?

Mr. UDALL. We will make the gentleman an honorary member of the Navaho Tribe if he wants to take that kind of position. However, I suppose that in the same way in which someone can embrace the Jewish faith or the Catholic faith, if someone honestly and sincerely wants to embrace the American Indian native way of religious ceremony, I suppose a person can do that if he chooses.

The joint resolution on page 3 specifically talks about the traditional religions of the American Indian, Eskimo, Aleut, and native Hawaiians.

Mr. CUNNINGHAM. Just to continue, Mr. Speaker, and not hold the Members too long, I know there are other issues to be voted upon.

Mr. Speaker and my colleagues, I would hope that the Members would just step back from this issue for a second and take a good look at what we are about to do.

Should we pass this resolution? It is not a question of voting against or for religious freedom per se; but I contend that it is simply a continuation of a patchwork solution to what I and other Members believe to be a serious constitutional problem.

Mr. WYDLER. Mr. Speaker, will the gentleman yield?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Speaker, I would like to ask the gentleman wrom Washington (Mr. CUNNINGHAM) a question. If he cannot answer it, I would like to ask the chairman of the committee to answer it. Do we have a list anywhere of these places to which the American Indians, whoever that group may be after the definition we just got, present American Indians or those who decide to become American Indians, can go at any moment and practice their religion accordingly?

The SPEAKER pro tempore. The time of the gentleman from Washington (Mr. CUNNINGHAM) has expired.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield 3 additional minutes to the gentleman from Washington (Mr. CUNNINGHAM).

Mr. WYDLER. Mr. Speaker, will the gentleman yield further?

Mr. CUNNINGHAM. I yield to the gentleman from New York.

Mr. WYDLER. To continue, Mr. Speaker, do we have a list of the locations which the people described in that definition can enter at any time in order to practice their religion? Where are these places? Do we have a list of those anywhere?

Do we know where they are? Are they subject to discovery as time goes on, or what?

Mr. UDALL. Mr. Speaker, if the gentleman will yield, we do not keep a list of places where Baptists, Episcopalians, or Catholics hold various kinds of rites and ceremonies. Government has no business keeping lists of this kind. All this simple little resolution says to the Forest Service, to the Park Service, to the managers of public lands is that if there is a place where Indians traditionally congregate to hold one of their rites and ceremonies, let them come on unless there is some overriding reason why they should not. I do not find that offensive.

Mr. WYDLER. Maybe the gentleman does not, but we know Baptists go to their churches; they own their churches.

Mr. UDALL. Sometimes they have sunrise services out in the forest.

Mr. WYDLER. If the gentleman will let me finish, we know where they are going to go. I happen to know that out on Long Island, which like most parts of the United States, for example, was inhabited by Indians at one time, they are constantly finding new burial grounds. They start to dig and find a new burial ground. What do we do in a case like that? Does everything stop?

Suppose a group of Indians decided that many years ago somebody used a particular area to pray in. Does that become a wilderness area, or what? I do not understand how this is going to operate. I really do not.

Mr. UDALL. This has nothing whatever to do with private property. It addresses property that is all federally owned, lands largely in the West and Alaska. It addresses areas that traditionally have been used by Indians and native Americans for ceremonies. It simply says to our managers of public lands that they ought to be encouraged to use these places. It has no teeth in it. It is the sense of the Congress.

Mr. CUNNINGHAM. Mr. Speaker, if I may reclaim my time, I would beg to differ respectfully with the chairman, because the way I read this, the language does not specifically preclude access to private property. It simply says that they have the right of ingress and egress.

Mr. JOHNSON of Colorado. Mr. Speaker, I yield five minutes to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Speaker and Members, I think that we are perhaps taking this issue a bit too lightly in these days, unfortunately, when we are pressing to extend equality and protection to endangered species, whether or not they are and to give certain special rights to certain classes of Americans. Particularly today, when we have Indians marching on the Capitol. I think in our headlong rush to change the face of America, that we may be going a little too far, too fast.

I commend my distinguished colleague from Washington (Mr. CUNNINGHAM) for trying to slow down the House for just a minute so that we might take stock of what it is we are attempting to do; and would ask the author of the resolution—who is well known for his rhetoric in this House—what exactly it is that we are doing.

In quoting from the report that we have before us, talking about denials of access to Indians, "* * * to certain physical locations. Often, these locations include certain sites—a hill, a lake, or a forest glade—which are sacred to Indian religions."

Whose hill? Whose lake? What forest glade? We do not know where these exist. We do not know, truly, whether or not this is a bona fide Indian religion because we do not know anything about the Indian religions and that is probably unfortunate, but nevertheless the fact of the matter. The case is not as simple as with Mormons or Catholics or Jews or Baptists. In this case we have only the rhetoric of the author telling us that perhaps any hill, any lake, or perhaps any forest glade might, on the request of one Indian or a group of Indians—however small—be set aside for some ostensibly religious purpose, whether it is wilderness, whether it is the home of endangered species, whether it is the site of drug abuse. I think we are rushing a little bit fast to bring something about that may come back to haunt our consciences in the future.

That is the first part of what I would direct to the gentleman.

The second is that we are saying now in the use of lands, be they private or public under lease, that we will get all set with permits, all set through the various commissions: planning commissions and zoning commissions, coastal and resources commissions all set to create some worthwhile and needed piece of work: a facility along the coast of California or a powerplant in Arizona or a coal-burning plant in Colorado, where at the last minute after all the permits have been obtained, an Indian approaches and says: "Hold on there. You are violating my religious burial grounds."

My question to the gentleman, my question to the Members of the House is: How do we know this is an Indian burial ground? How do we know really some specific Indian ceremony is going on there?

Do we need to rush into this perhaps premature resolution to deny the rights of all other Americans for some questionable right that may or may not exist by the passage of this resolution? I would sincerely ask my colleagues to take to heart what we are actually doing here. Does it disrupt the normal progress of America in trying to lay out a questionable right for those who perhaps in some instances have abused those rights?

I ask my colleagues to take this into consideration.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to a distinguished "Indian," the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Speaker, I thank my eminent chairman.

I would say that I hope any chance this resolution had for passage was not doomed when I rose to speak for it. I hope we can keep an open mind long enough to realize that it is not conveying any right to anybody or any land to anybody. It says simply that Congress shall have a policy of protecting and preserving—

. . . for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions . . . including but not limited to access to sites . . .

I would say Red Rocks is a religious site for all humans when on each Easter morning there are gathered many thousands to feel that "Christ is risen; let us rejoice and be glad."

This bill does not grant title to anybody. It asks for the continuation of long-established practices in America. Our courts have always and long made excellent distinctions when a contest has arisen between a right of private property, and a freedom of religion. Nothing in this will abrogate those rights. I think it is a good and sensible resolution. Let us get on with a decision, and get on to a far more important matter today and defeat the bill on the coal pipeline.

Mr. BLOUIN. Mr. Speaker, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Iowa.

Mr. BLOUIN. Mr. Speaker, briefly I commend the gentleman for bringing this into perspective. I would hate to think we live in a country that provides for progress provided religion does not interfere with it. I think it is something that goes hand in hand with what this Nation for 200 years, as long as we have been a formal government, has worked with. Religion is not in conflict with progress in this Nation. I would hope it would or hope it should extend to the rights of Indians as well.

Mr. UDALL. Mr. Speaker, I yield the gentleman from Wyoming 2 additional minutes.

Mr. Speaker, I did not know the gentleman was going to make a plug against the coal pipeline bill on my time, but I hope we can get on with the passage of the coal pipeline bill.

Mr. BONKER. Mr. Speaker, if the gentleman will yield, I might point out that article I of the U.S. Constitution provides that Congress shall make no law respecting the establishment of a religion or prohibiting the free exercise thereof and yet this resolution goes on to do just that by having the United States protect and preserve a religion for a particular sect. I really believe there may be some constitutional problems with this resolution as it relates to article I of the Constitution.

Mr. RONCALIO. I would say that if we were sure that we would have constitutional problems with it then we should vote against it but I cannot conceive how Americans can hold out against such a measure as this which is simply to give the Indians the right to exercise their religion and giving them egress to places in order to do it.

Mr. UDALL. Mr. Speaker, the last speaker on our side is the gentleman from Oklahoma (Mr. RISENHOOVER) and I yield the gentleman 1 minute.

Mr. RISENHOOVER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I had thought that in the 3½ years that I have been privileged to be here that I had heard every possible position that could be taken pro and con on every issue, but this is so basic that I really cannot conceive of this happening, especially at a time when we have the native Americans assembled in Washington, D.C., looking in on this body, or that we would in any way question the right of a group of people to exercise their freedom of belief.

The Indians are no more going to partake of narcotics in connection with their religion than the Mormons in their religion are going to practice polygamy. Various State laws already deal with issues such as this. All this bill does is assure the Indian people the right to practice their religion on public property, on Federal property.

As far as the question of cemeteries are concerned, in my congressional district there are some 9 or 10 cemeteries that the U.S. Corps of Engineers has had to relocate, because it was believed to be in the public good to do so. I do not think that others can be deprived from moving cemeteries if they can truly be defined as cemeteries. The fact is, I have never heard of anybody objecting to the moving of cemeteries if it was for the public good.

This is simply a resolution for the preservation of the freedoms of the American Indians to practice their various religions.

Mr. DICKS. Mr. Speaker, will the gentleman from Arizona yield?

Mr. UDALL. I yield to the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Speaker, I would inquire of the gentleman from Arizona (Mr. UDALL) whether there were hearings held on this resolution?

Mr. UDALL. No, there were no hearings held on the resolution. It just seemed so simple and so self-evident that it was merely a statement of policy that we just took it up in full committee and passed it unanimously.

Mr. DICKS. Mr. Speaker, the only point I am raising is that there are some very serious charges which have been made, as I read the report of the committee, in that we are infringing upon and denying certain rights to the Indians, and I would like to see a documentation of those things. I am concerned, if there is this kind of thing going on, that we ought to have it documented on a case-by-case basis so that we could use that when we discuss this with the agencies, so that we can have a complete record as to how they are handling it.

Mr. UDALL. Mr. Speaker, I might point out to the gentleman from Washington (Mr. DICKS) that this bill did pass in the Senate and that they held hearings. Their record was available to our committee.

Mr. DICKS. I thank the gentleman.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the joint resolution (H.J. Res. 738) as amended.

The question was taken.

Mr. CUNNINGHAM. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 3 of rule XXVII, and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 3, rule XXVII, the Chair will now put the question on each motion on which further proceedings were postponed in the order in which that motion was entertained.

Votes will be taken in the following order:

H.R. 12443, H.R. 12508, H.R. 12252, H.R. 12011, H.R. 11891, H.R. 6075, and House Joint Resolution 738, all by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

IMMIGRATION AND NATIONALITY ACT AMENDMENTS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 12443, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the bill H.R. 12443, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 396, nays 20, not voting 16, as follows:

[Roll No. 558]

YEAS—396

Abdnor	Burton, John	Edwards, Ala.
Akaka	Burton, Phillip	Edwards, Calif.
Ammerman	Butler	Edwards, Okla.
Anderson, Calif.	Byron	Eilberg
	Caputo	Emery
Anderson, Ill.	Carney	English
Andrews, N.C.	Carr	Erlenborn
Andrews, N. Dak.	Carter	Ertel
	Cavanaugh	Evans, Colo.
Annunzio	Cederberg	Evans, Del.
Applegate	Chappell	Evans, Ga.
Armstrong	Chisholm	Evans, Ind.
Ashley	Clausen, Don H.	Fary
Aspin		Fascell
AuCoin	Clay	Fenwick
Badham	Cleveland	Findley
Bafalis	Cochran	Fish
Baldus	Cohen	Fisher
Barnard	Coleman	Fithian
Baucus	Collins, Ill.	Flood
Bauman	Collins, Tex.	Florio
Beard, R.I.	Conable	Foley
Beard, Tenn.	Conte	Ford, Mich.
Bedell	Conyers	Ford, Tenn.
Bellenson	Corcoran	Forsythe
Benjamin	Corman	Fountain
Bennett	Cornell	Fowler
Bevill	Cornwell	Fraser
Biaggi	Cotter	Frenzel
Bingham	Coughlin	Fuqua
Blanchard	Crane	Gammage
Blouin	Cunningham	Garcia
Boggs	D'Amours	Gaydos
Boland	Daniel, Dan	Gephardt
Bolling	Daniel, R. W.	Giaimo
Bonior	Danielson	Gilman
Bonker	Davis	Ginn
Bowen	Delaney	Goldwater
Brademas	Dellums	Gonzalez
Breaux	Dent	Goodling
Breckinridge	Derrick	Gradison
Brinkley	Derwinski	Grassley
Brodhead	Devine	Green
Brooks	Dickinson	Gudger
Broomfield	Dicks	Guyer
Brown, Calif.	Diggs	Hagedorn
Brown, Mich.	Dingell	Hall
Brown, Ohio	Dodd	Hamilton
Broyhill	Dornan	Hammer-schmidt
Buchanan	Downey	
Burgener	Drinan	Hanley
Burke, Calif.	Duncan, Oreg.	Hannaford
Burke, Fla.	Duncan, Tenn.	Hansen
Burke, Mass.	Early	Harkin
Burleson, Tex.	Eckhardt	Harrington
Burlison, Mo.	Edgar	Harris

Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kemp
Keys
Kildee
Kindness
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Miller, Calif.
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Runnels
Russo
Ryan
Santini
Sarasin
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Stockman
Stokes
Stratton
Studds
Thompson
Thone
Thornton
Traxler
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—20

Archer
de la Garza
Flippo
Glickman
Gore
Kelly
Kostmayer
Livingston
Lott
McDonald
Miller, Ohio
Montgomery
Mottl
Rudd
Satterfield
Skelton
Spence
Stump
Treen
Waggonner

NOT VOTING—16

Addabbo
Alexander
Ambro
Ashbrook
Clawson, Del
Flowers
Flynt
Frey
Gibbons
Hightower
Kasten
Le Fante
Milford
Ruppe
Shipley
Tsongas

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Ashbrook.
Mr. Le Fante with Mr. Ruppe.
Mr. Shipley with Mr. Frey.
Mr. Ambro with Mr. Kasten.
Mr. Alexander with Mr. Del Clawson.
Mr. Flowers with Mr. Hightower.
Mr. Flynt with Mr. Gibbons.
Mr. Tsongas with Mr. Milford.

Messrs. SKELTON, LIVINGSTON, and ARCHER changed their vote from "yea" to "nay."

Mr. BROYHILL changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 3(b)(3), rule XXVII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

IMMIGRATION AND NATURALIZATION OF ADOPTED CHILDREN

The SPEAKER pro tempore. (Mr. MURPHY of New York.) The unfinished business is the question of suspending the rules and passing the bill, H.R. 12508.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Pennsylvania (Mr. EILBERG) that the House suspend the rules and pass the bill H.R. 12508, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 413, nays 0, not voting 19, as follows:

[Roll No. 559]

YEAS—413

Abdnor
Akaka
Ammerman
Anderson, Calif.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Findley
Fish
Fisher
Fithian
Flippo
Flood
Florio
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pease
Pepper
Perkins
Pettis
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—19

Addabbo	Flynt	Pickle
Alexander	Frey	Railsback
Ambro	Gibbons	Ruppe
Anderson, Ill.	Hightower	Shipley
Ashbrook	Kasten	Tsongas
Clawson, Del	Le Fante	
Flowers	Pattison	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Ruppe.
Mr. Shipley with Mr. Ashbrook.
Mr. Le Fante with Mr. Frey.
Mr. Ambro with Mr. Hightower.
Mr. Alexander with Mr. Del Clawson.
Mr. Flowers with Mr. Railsback.
Mr. Flynt with Mr. Gibbons.
Mr. Tsongas with Mr. Anderson of Illinois.
Mr. Pickle with Mr. Pattison of New York.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PLOT ALLOWANCES TO STATE VETERANS IN U.S. CEMETERIES

The SPEAKER pro tempore. The unfinished business its the question of suspending the rules and passing the bill, H.R. 12252.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 12252, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 407, nays 9, not voting 16, as follows:

[Roll No. 560]

YEAS—407

Abdnor	Brown, Ohio	Daniel, R. W.
Akaka	Broyhill	Danielson
Ammerman	Buchanan	Davis
Anderson, Calif.	Burgener	de la Garza
Anderson, Ill.	Burke, Calif.	Delaney
Andrews, N.C.	Burke, Fla.	Dellums
Andrews, N. Dak.	Burke, Mass.	Dent
Annunzio	Burleson, Tex.	Derrick
Applegate	Burlison, Mo.	Derwinski
Archer	Burton, John	Devine
Ashley	Burton, Phillip	Dickinson
Aspin	Butler	Dicks
AuCoin	Byron	Diggs
Badham	Caputo	Dingell
Bafalis	Carney	Dodd
Baldus	Carr	Dornan
Barnard	Carter	Downey
Baucus	Cavanaugh	Drinan
Bauman	Cederberg	Duncan, Oreg.
Beard, R.I.	Chappell	Duncan, Tenn.
Beard, Tenn.	Chisholm	Early
Bennett	Clausen, Don H.	Eckhardt
Bevill	Clay	Edgar
Biaggi	Cleveland	Edwards, Ala.
Bingham	Cochran	Edwards, Calif.
Blanchard	Cohen	Edwards, Okla.
Blouin	Coleman	Eilberg
Boggs	Collins, Ill.	Emery
Boland	Collins, Tex.	English
Bolling	Conable	Erlenborn
Bonior	Conte	Ertel
Bonker	Conyers	Evans, Colo.
Bowen	Corcoran	Evans, Del.
Brademas	Corman	Evans, Ga.
Breaux	Cornell	Evans, Ind.
Breckinridge	Cornwell	Fary
Brinkley	Cotter	Fascell
Brodhead	Coughlin	Fenwick
Brooks	Crane	Findley
Broomfield	Cunningham	Fish
Brown, Calif.	D'Amours	Fisher
	Daniel, Dan	Fithian
		Flippo
		Flood
		Florio
		Flowers
		Foley
		Ford, Mich.
		Ford, Tenn.
		Forsythe
		Fountain
		Fowler
		Fraser
		Frenzel
		Fuqua
		Gammage
		Garcia
		Gaydos
		Gephardt
		Giaimo
		Gilman
		Ginn
		Glickman
		Goldwater
		Gonzalez
		Goodling
		Gore
		Gradison
		Grassley
		Green
		Gudger
		Guyer
		Hagedorn
		Hall
		Hamilton
		Hammer-schmidt
		Hanley
		Hannaford
		Hansen
		Harkin
		Harrington
		Harris
		Harsha
		Hawkins
		Heckler
		Hefner
		Heftel
		Hillis
		Holland
		Hollenbeck
		Holt
		Holtzman
		Horton
		Howard
		Hubbard
		Huckaby
		Hughes
		Hyde
		Ichord
		Ireland
		Jacobs
		Jeffords
		Jenkins
		Jenrette
		Johnson, Calif.
		Jones, N.C.
		Jones, Okla.
		Jones, Tenn.
		Jordan
		Kastenmeier
		Kazen
		Kelly
		Kemp
		Keys
		Kildee
		Kindness
		Kostmayer
		Krebs
		Krueger
		LaFalce
		Lagomarsino
		Latta
		Leach
		Lederer
		Lehman
		Lent
		Levitas
		Livingston
		Lloyd, Calif.
		Lloyd, Tenn.
		Long, La.
		Long, Md.
		Lott
		Lujan
		Luken
		Lundine
		McClory
		McCloskey
		McCormack
		McDade
		McDonald
		McEwen
		McFall
		McHugh
		McKay
		McKinney
		Madigan
		Maguire
		Mahon
		Mann
		Markey
		Marks
		Marlenee
		Marriott
		Martin
		Mathis
		Mattox
		Mazzoli
		Meeds
		Metcalfe
		Meyner
		Michel
		Mikulski
		Mikva
		Milford
		Miller, Calif.
		Miller, Ohio
		Mineta
		Minish
		Mitchell, Md.
		Mitchell, N.Y.
		Moakley
		Moffett
		Mollohan
		Montgomery
		Moore
		Moorhead, Calif.
		Moorhead, Pa.
		Moss
		Mottl
		Murphy, Ill.
		Murphy, N.Y.
		Murphy, Pa.
		Murtha
		Myers, Gary
		Myers, John
		Myers, Michael
		Natcher
		Neal
		Nedzi
		Nichols
		Nix
		Nolan
		Nowak
		O'Brien
		Oakar
		Oberstar
		Obey
		Ottinger
		Panetta
		Patten
		Patterson
		Pattison
		Pease
		Pepper
		Perkins
		Pettis
		Pickle
		Pike
		Poage
		Pressler
		Preyer
		Price
		Pritchard
		Pursell
		Quayle
		Quie
		Quillen
		Rahall
		Railsback
		Rangel
		Regula
		Reuss
		Rhodes
		Richmond
		Rinaldo
		Risenhoover
		Roberts
		Robinson
		Rodino
		Roe
		Rogers
		Roncalio
		Rooney
		Rose
		Rosenthal
		Rostenkowski
		Rousselot
		Roybal
		Rudd
		Runnels
		Russo
		Ryan
		Santini
		Sarasin
		Satterfield
		Sawyer
		Scheuer
		Schroeder
		Schulze
		Sebelius
		Seiberling
		Sharp
		Shuster
		Sikes
		Simon
		Sisk
		Skelton
		Skubitz
		Slack
		Smith, Iowa
		Smith, Nebr.
		Snyder
		Solarz
		Spellman
		Spence
		St Germain
		Staggers
		Stangeland
		Stanton
		Stark
		Steed
		Steers
		Steiger
		Stockman
		Stokes
		Stratton
		Studds
		Stump
		Symms
		Taylor
		Teague
		Thompson
		Thone
		Thornton
		Traxler
		Treen
		Trible
		Tucker
		Udall
		Ullman
		Van Deerlin
		Vander Jagt
		Vanik
		Volkmer
		Waggonner
		Walgren
		Walker
		Wampler
		Watkins
		Waxman
		Weaver
		Weiss
		Whalen
		White
		Whitehurst
		Whitley
		Whitten
		Wilson, Bob
		Wilson, C. H.
		Wilson, Tex.
		Winn
		Wolff
		Wright
		Wydler
		Wylie
		Yates
		Yatron
		Young, Alaska
		Young, Fla.
		Young, Mo.
		Young, Tex.
		Zablocki
		Zeferetti

NAYS—9

Armstrong	Benjamin	Vento
Bedell	Brown, Mich.	Wiggins
Bellenson	Johnson, Colo.	Wirth

NOT VOTING—16

Addabbo	Ambro	Clawson, Del
Alexander	Ashbrook	Flynt
Frey	Le Fante	Tsongas
Gibbons	Leggett	Walsh
Hightower	Ruppe	
Kasten	Shipley	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Frey.
Mr. Shipley with Mr. Ashbrook.
Mr. Le Fante with Mr. Del Clawson.
Mr. Ambro with Mr. Kasten.
Mr. Tsongas with Mr. Leggett.
Mr. Alexander with Mr. Walsh.
Mr. Flynt with Mr. Ruppe.
Mr. Gibbons with Mr. Hightower.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HOSPITAL CARE FOR VETERANS IN U.S. TERRITORIES

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 12011.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 12011, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 415, nays 0, not voting 17, as follows:

[Roll No. 561]

YEAS—415

Abdnor	Broyhill	Derrick
Akaka	Buchanan	Derwinski
Ammerman	Burgener	Devine
Anderson, Calif.	Burke, Calif.	Dickinson
Anderson, Ill.	Burke, Fla.	Dicks
Andrews, N.C.	Burke, Mass.	Diggs
Andrews, N. Dak.	Burleson, Tex.	Dingell
Annunzio	Burlison, Mo.	Dodd
Applegate	Burton, John	Dornan
Archer	Burton, Phillip	Downey
Armstrong	Butler	Drinan
Ashley	Byron	Duncan, Oreg.
Aspin	Caputo	Duncan, Tenn.
AuCoin	Carney	Early
Badham	Carr	Eckhardt
Bafalis	Carter	Edgar
Baldus	Cavanaugh	Edwards, Ala.
Barnard	Cederberg	Edwards, Calif.
Baucus	Chappell	Edwards, Okla.
Bauman	Chisholm	Eilberg
Beard, R.I.	Clausen, Don H.	Emery
Beard, Tenn.	Clay	English
Bedell	Cleveland	Ertel
Bellenson	Cochran	Evans, Colo.
Benjamin	Cohen	Evans, Del.
Bennett	Coleman	Evans, Ga.
Bevill	Collins, Ill.	Evans, Ind.
Biaggi	Collins, Tex.	Fary
Bingham	Conable	Fascell
Blanchard	Conte	Fenwick
Blouin	Conyers	Fish
Boggs	Corcoran	Fisher
Boland	Corman	Fithian
Bolling	Cornell	Flippo
Bonior	Cornwell	Flood
Bonker	Cotter	Florio
Bowen	Coughlin	Flowers
Brademas	Crane	Foley
Breaux	Cunningham	Ford, Mich.
Breckinridge	D'Amours	Ford, Tenn.
Brinkley	Daniel, Dan	Forsythe
Brodhead	Daniel, R. W.	Fountain
Brooks	Danielson	Fowler
Broomfield	Davis	Fraser
Brown, Calif.	de la Garza	Frenzel
Brown, Mich.	Delaney	Fuqua
Brown, Ohio	Dellums	Gammage
	Dent	Garcia

Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—17

Addabbo
Alexander
Ambro
Ashbrook
Clawson, Del
Findley
Flynt
Frey
Gibbons
Hightower
Kasten
Le Fante
Ruppe
Shipley
Steers
Tsongas
Whalen

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Ashbrook.
Mr. Shipley with Mr. Findley.
Mr. Le Fante with Mr. Kasten.
Mr. Ambro with Mr. Ruppe.
Mr. Flynt with Mr. Whalen.
Mr. Tsongas with Mr. Frey.
Mr Gibbons with Mr. Del Clawson.
Mr. Hightower with Mr. Alexander.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

INCREASE FOR DISABLED VETERANS REQUIRING CONSTANT MEDICAL ATTENTION

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 11891.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. ROBERTS) that the House suspend the rules and pass the bill H.R. 11891, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 14, as follows:

[Roll No. 562]

YEAS—418

Abdnor
Akaka
Alexander
Ammerman
Anderson, Calif.
Anderson, Ill.
Andrews, N.C.
Andrews, N. Dak.
Annunzio
Applegate
Archer
Armstrong
Ashley
Aspin
AuCoin
Badham
Bafalis
Baldus
Barnard
Baucus
Bauman
Beard, R.I.
Beard, Tenn.
Bedell
Beilenson
Benjamin
Bennett
Bevill
Biaggi
Bingham
Blanchard
Blouin
Boggs
Boland
Bolling
Bonior
Bonker
Bowen
Brademas
Breaux
Breckinridge
Brinkley
Brodhead
Brooks
Broomfield
Brown, Calif.
Brown, Mich.
Brown, Ohio
Broyhill
Buchanan
Burgener
Burke, Calif.
Burke, Fla.
Burke, Mass.
Burleson, Tex.
Burlison, Mo.
Burton, John
Burton, Phillip
Butler
Byron
Caputo
Carney
Carr
Carter
Cavanaugh
Cederberg
Chappell
Chisholm
Clausen, Don H.
Clay
Cleveland
Cochran
Cohen
Coleman
Collins, Ill.
Collins, Tex.
Conable
Conte
Conyers
Corcoran
Corman
Cornell
Cornwell
Cotter
Coughlin
Crane
Cunningham
D'Amours
Daniel, Dan
Daniel, R. W.
Danielson
Davis
de la Garza
Delaney
Dellums
Dent
Derrick
Derwinski
Devine
Dickinson
Dicks
Diggs
Dingell
Dodd
Dornan
Downey
Drinan
Duncan, Oreg.
Duncan, Tenn.
Early
Eckhardt
Edgar
Edwards, Ala.
Edwards, Calif.
Edwards, Okla.
Eilberg
Emery
English
Erlenborn
Ertel
Evans, Colo.
Evans, Del.
Evans, Ga.
Evans, Ind.
Fary
Fascell
Fenwick
Fish
Fisher
Fithian
Flippo
Flood
Florio
Flowers
Foley
Ford, Mich.
Ford, Tenn.
Forsythe
Fountain
Fowler
Fraser
Frenzel
Fuqua
Gammage
Garcia
Gaydos
Gephardt
Giaimo
Gilman
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Grassley
Green
Gudger
Guyer
Hagedorn
Hall
Hamilton
Hammer-schmidt
Hanley
Hannaford
Hansen
Harkin
Harrington
Harris
Harsha
Hawkins
Heckler
Hefner
Heftel
Hillis
Holland
Hollenbeck
Holt
Holtzman
Horton
Howard
Hubbard
Huckaby
Hughes
Hyde
Ichord
Ireland
Jacobs
Jeffords
Jenkins
Jenrette
Johnson, Calif.
Johnson, Colo.
Jones, N.C.
Jones, Okla.
Jones, Tenn.
Jordan
Kastenmeier
Kazen
Kelly
Kemp
Keys
Kildee
Kindness
Kostmayer
Krebs
Krueger
LaFalce
Lagomarsino
Latta
Leach
Lederer
Leggett
Lehman
Lent
Levitas
Livingston
Lloyd, Calif.
Lloyd, Tenn.
Long, La.
Long, Md.
Lott
Lujan
Luken
Lundine
McClory
McCloskey
McCormack
McDade
McDonald
McEwen
McFall
McHugh
McKay
McKinney
Madigan
Maguire
Mahon
Mann
Markey
Marks
Marlenee
Marriott
Martin
Mathis
Mattox
Mazzoli
Meeds
Metcalfe
Meyner
Michel
Mikulski
Mikva
Milford
Miller, Calif.
Miller, Ohio
Mineta
Minish
Mitchell, Md.
Mitchell, N.Y.
Moakley
Moffett
Mollohan
Montgomery
Moore
Moorhead, Calif.
Moorhead, Pa.
Moss
Mottl
Murphy, Ill.
Murphy, N.Y.
Murphy, Pa.
Murtha
Myers, Gary
Myers, John
Myers, Michael
Natcher
Neal
Nedzi
Nichols
Nix
Nolan
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Panetta
Patten
Patterson
Pattison
Pease
Pepper
Perkins
Pettis
Pickle
Pike
Poage
Pressler
Preyer
Price
Pritchard
Pursell
Quayle
Quie
Quillen
Rahall
Railsback
Rangel
Regula
Reuss
Rhodes
Richmond
Rinaldo
Risenhoover
Roberts
Robinson
Rodino
Roe
Rogers
Roncalio
Rooney
Rose
Rosenthal
Rostenkowski
Rousselot
Roybal
Rudd
Runnels
Russo
Ryan
Santini
Sarasin
Satterfield
Sawyer
Scheuer
Schroeder
Schulze
Sebelius
Seiberling
Sharp
Shuster
Sikes
Simon
Sisk
Skelton
Skubitz
Slack
Smith, Iowa
Smith, Nebr.
Snyder
Solarz
Spellman
Spence
St Germain
Staggers
Stangeland
Stanton
Stark
Steed
Steers
Steiger
Stockman
Stokes
Stratton
Studds
Stump
Symms
Taylor
Teague
Thompson
Thone
Thornton
Traxler
Treen
Trible
Tucker
Udall
Ullman
Van Deerlin
Vander Jagt
Vanik
Vento
Volkmer
Waggonner
Walgren
Walker
Walsh
Wampler
Watkins
Waxman
Weaver
Weiss
Whalen
White
Whitehurst
Whitley
Whitten
Wiggins
Wilson, Bob
Wilson, C. H.
Wilson, Tex.
Winn
Wirth
Wolff
Wright
Wydler
Wylie
Yates
Yatron
Young, Alaska
Young, Fla.
Young, Mo.
Young, Tex.
Zablocki
Zeferetti

NAYS—0

NOT VOTING—14

Addabbo
Ambro
Ashbrook
Clawson, Del
Findley
Flynt
Frey
Gibbons
Hightower
Kasten
Le Fante
Ruppe
Shipley
Tsongas

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Findley.
Mr. Shipley with Mr. Del Clawson.
Mr. Ambro with Mr. Ashbrook.

Mr. Le Fante with Mr. Frey.
Mr. Flynt with Mr. Kasten.
Mr. Gibbons with Mr. Ruppe.
Mr. Tsongas with Mr. Hightower.

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PROHIBITION OF SEX DISCRIMINATION BASED ON PREGNANCY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill H.R. 6075, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HAWKINS) that the House suspend the rules and pass the bill H.R. 6075, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 376, nays 43, not voting 13, as follows:

[Roll No. 563]

YEAS—376

Akaka	Clausen, Don H.	Ford, Mich.
Alexander	Clay	Ford, Tenn.
Ammerman	Cleveland	Forsythe
Anderson, Calif.	Cochran	Fountain
Anderson, Ill.	Cohen	Fowler
Andrews, N.C.	Coleman	Fraser
Andrews, N. Dak.	Collins, Ill.	Frenzel
Annunzio	Conable	Fuqua
Applegate	Conte	Gammage
Archer	Conyers	Garcia
Ashley	Corman	Gaydos
Aspin	Cornell	Gephardt
AuCoin	Cornwell	Giaimo
Bafalis	Cotter	Gilman
Baldus	Coughlin	Ginn
Barnard	Cunningham	Glickman
Baucus	D'Amours	Gonzalez
Bauman	Danielson	Goodling
Beard, R.I.	Davis	Gore
Beard, Tenn.	de la Garza	Gradison
Bedell	Delaney	Grassley
Benjamin	Dellums	Green
Bennett	Dent	Gudger
Bevill	Derrick	Guyer
Biaggi	Derwinski	Hall
Bingham	Devine	Hamilton
Blanchard	Dickinson	Hammer-schmidt
Blouin	Dicks	Hanley
Boggs	Diggs	Hannaford
Boland	Dingell	Hansen
Bolling	Dodd	Harkin
Bonior	Dornan	Harrington
Bonker	Downey	Harris
Brademas	Drinan	Harsha
Breaux	Duncan, Oreg.	Hawkins
Breckinridge	Duncan, Tenn.	Heckler
Brinkley	Early	Hefner
Brodhead	Eckhardt	Heftel
Brooks	Edgar	Hillis
Broomfield	Edwards, Ala.	Holland
Brown, Calif.	Edwards, Calif.	Hollenbeck
Brown, Mich.	Edwards, Okla.	Holt
Broyhill	Eilberg	Holtzman
Buchanan	Emery	Horton
Burgener	English	Howard
Burke, Calif.	Erlenborn	Hubbard
Burke, Fla.	Ertel	Huckaby
Burke, Mass.	Evans, Colo.	Hughes
Burlison, Mo.	Evans, Ga.	Hyde
Burton, John	Evans, Ind.	Jacobs
Burton, Phillip	Fary	Jeffords
Byron	Fascell	Jenkins
Caputo	Fenwick	Jenrette
Carney	Findley	Johnson, Calif.
Carr	Fish	Jones, N.C.
Carter	Fisher	Jones, Okla.
Cavanaugh	Fithian	Jones, Tenn.
Cederberg	Flood	Jordan
Chappell	Florio	Kastenmeier
Chisholm	Flowers	Kazen
	Foley	Kelly
Kemp	Murphy, N.Y.	Simon
Keys	Murphy, Pa.	Sisk
Kildee	Murtha	Skelton
Kindness	Myers, John	Slack
Kostmayer	Myers, Michael	Smith, Iowa
Krebs	Natcher	Smith, Nebr.
Krueger	Neal	Snyder
LaFalce	Nedzi	Solarz
Lagomarsino	Nichols	Spellman
Latta	Nix	Spence
Leach	Nolan	St Germain
Lederer	Nowak	Staggers
Leggett	O'Brien	Stanton
Lehman	Oakar	Stark
Levitas	Oberstar	Steed
Livingston	Obey	Steers
Lloyd, Calif.	Panetta	Steiger
Lloyd, Tenn.	Patten	Stockman
Long, La.	Patterson	Stokes
Long, Md.	Pattison	Stratton
Lott	Pease	Studds
Lujan	Pepper	Symms
Luken	Perkins	Taylor
Lundine	Pettis	Teague
McClory	Pickle	Thompson
McCloskey	Pike	Thone
McCormack	Pressler	Thornton
McDade	Preyer	Traxler
McEwen	Price	Trible
McFall	Pritchard	Tucker
McHugh	Pursell	Udall
McKay	Quayle	Ullman
Madigan	Quie	Van Deerlin
Maguire	Quillen	Vander Jagt
Mahon	Rahall	Vanik
Mann	Railsback	Vento
Markey	Rangel	Volkmer
Marks	Regula	Walgren
Marriott	Reuss	Walker
Martin	Rhodes	Walsh
Mathis	Richmond	Wampler
Mattox	Rinaldo	Watkins
Mazzoli	Risenhoover	Waxman
Meeds	Roberts	Weaver
Metcalfe	Rodino	Whalen
Meyner	Roe	White
Michel	Rogers	Whitehurst
Mikulski	Roncalio	Whitley
Mikva	Rooney	Whitten
Milford	Rose	Wilson, Bob
Miller, Ohio	Rosenthal	Wilson, C. H.
Mineta	Rostenkowski	Wilson, Tex.
Minish	Rousselot	Winn
Mitchell, Md.	Roybal	Wirth
Mitchell, N.Y.	Russo	Wolff
Moakley	Santini	Wright
Moffett	Sarasin	Wylie
Mollohan	Sawyer	Yates
Montgomery	Scheuer	Yatron
Moore	Schroeder	Young, Alaska
Moorhead, Calif.	Sebelius	Young, Fla.
Moorhead, Pa.	Selberling	Young, Mo.
Moss	Sharp	Young, Tex.
Murphy, Ill.	Shuster	Zablocki
	Sikes	Zeferetti

NAYS—43

Abdnor	Goldwater	Rudd
Armstrong	Hagedorn	Runnels
Badham	Ichord	Ryan
Bellenson	Ireland	Satterfield
Bowen	Johnson, Colo.	Schulze
Brown, Ohio	Lent	Skubitz
Burleson, Tex.	McDonald	Stangeland
Butler	McKinney	Stump
Collins, Tex.	Marlenee	Treen
Corcoran	Miller, Calif.	Waggonner
Crane	Mottl	Weiss
Daniel, Dan	Myers, Gary	Wiggins
Daniel, R. W.	Ottinger	Wydler
Evans, Del.	Poage	
Flippo	Robinson	

NOT VOTING—13

Addabbo	Frey	Ruppe
Ambro	Gibbons	Shipley
Ashbrook	Hightower	Tsongas
Clawson, Del	Kasten	
Flynt	Le Fante	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Frey.
Mr. Shipley with Mr. Ashbrook.
Mr. Le Fante with Mr. Ruppe.
Mr. Ambro with Mr. Gibbons.
Mr. Tsongas with Mr. Del Clawson.
Mr. Hightower with Mr. Flynt.

Messrs. TAYLOR, ARCHER, FLOWERS, BEARD of Tennessee, and MONTGOMERY changed their vote from "nay" to "yea."

Mr. RYAN and Mr. ABDNOR changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

AMERICAN INDIAN RELIGIOUS FREEDOM

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the joint resolution (H.J. Res. 738) as amended.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL) that the House suspend the rules and pass the joint resolution (H.J. Res. 738) as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 337, nays 81, not voting 14, as follows:

[Roll No. 564]

YEAS—337

Abdnor	Clay	Garcia
Akaka	Cleveland	Gephardt
Alexander	Cochran	Giaimo
Ammerman	Coleman	Gilman
Anderson, Calif.	Collins, Ill.	Glickman
Anderson, Ill.	Conte	Goldwater
Andrews, N.C.	Conyers	Gonzalez
Andrews, N. Dak.	Corcoran	Gore
Annunzio	Corman	Gradison
Applegate	Cornell	Grassley
Armstrong	Cornwell	Green
Ashley	Cotter	Gudger
Aspin	Coughlin	Guyer
Bafalis	D'Amours	Hamilton
Baldus	Danielson	Hanley
Beard, R.I.	Davis	Hannaford
Bedell	Delaney	Harkin
Bellenson	Dellums	Harrington
Benjamin	Dent	Harris
Bennett	Derrick	Harsha
Bevill	Derwinski	Hawkins
Biaggi	Diggs	Heckler
Bingham	Dodd	Hefner
Blouin	Dornan	Heftel
Boggs	Downey	Hillis
Boland	Drinan	Holland
Bolling	Duncan, Oreg.	Hollenbeck
Bonior	Duncan, Tenn.	Holtzman
Bowen	Early	Horton
Brademas	Eckhardt	Howard
Breckinridge	Edgar	Hubbard
Brinkley	Edwards, Ala.	Huckaby
Brodhead	Edwards, Calif.	Hughes
Brooks	Eilberg	Hyde
Broomfield	Emery	Jacobs
Brown, Calif.	English	Jeffords
Brown, Mich.	Erlenborn	Jenkins
Broyhill	Ertel	Jenrette
Buchanan	Evans, Colo.	Johnson, Calif.
Burgener	Evans, Del.	Johnson, Colo.
Burke, Calif.	Evans, Ind.	Jones, N.C.
Burke, Fla.	Fary	Jones, Okla.
Burke, Mass.	Fascell	Jones, Tenn.
Burleson, Tex.	Fenwick	Jordan
Burlison, Mo.	Fish	Kastenmeier
Burton, John	Fisher	Kazen
Burton, Phillip	Fithian	Kemp
Byron	Flippo	Keys
Caputo	Flood	Kildee
Carney	Florio	Kindness
Carr	Flowers	Kostmayer
Carter	Ford, Tenn.	Krueger
Cavanaugh	Forsythe	LaFalce
Cederberg	Fountain	Lagomarsino
Chappell	Fowler	Latta
Chisholm	Fraser	Leach
Clausen, Don H.	Frenzel	Lederer
	Fuqua	Leggett
	Gammage	Lehman
		Levitas

Lloyd, Tenn.	Patten	Solarz
Long, La.	Patterson	Spellman
Long, Md.	Pattison	St Germain
Lujan	Pease	Staggers
Luken	Pepper	Stanton
Lundine	Perkins	Stark
McCloskey	Pickle	Steed
McDade	Pike	Steers
McFall	Poage	Steiger
McHugh	Pressler	Stokes
McKay	Preyer	Stratton
McKinney	Price	Studds
Maguire	Pursell	Teague
Mahon	Quayle	Thompson
Mann	Quie	Thone
Markey	Quillen	Thornton
Marks	Rahall	Traxler
Marriott	Railsback	Trible
Mathis	Rangel	Tucker
Meeds	Regula	Udall
Metcalfe	Reuss	Ullman
Meyner	Rhodes	Van Deerlin
Mikulski	Richmond	Vander Jagt
Mikva	Rinaldo	Vanik
Miller, Calif.	Risenhoover	Vento
Miller, Ohio	Rodino	Volkmer
Mineta	Roe	Walgren
Minish	Rogers	Walsh
Mitchell, Md.	Roncalio	Wampler
Mitchell, N.Y.	Rooney	Watkins
Moakley	Rose	Waxman
Moffett	Rosenthal	Weaver
Mollohan	Rostenkowski	Weiss
Moore	Roybal	Whalen
Moorhead, Pa.	Rudd	White
Moss	Runnels	Whitehurst
Mottl	Russo	Whitley
Murphy, Ill.	Santini	Whitten
Murphy, N.Y.	Sarasin	Wilson, Bob
Murphy, Pa.	Sawyer	Wilson, Tex.
Myers, John	Scheuer	Winn
Myers, Michael	Schroeder	Wirth
Natcher	Schulze	Wolff
Neal	Sebelius	Wright
Nichols	Seiberling	Wylie
Nix	Sharp	Yates
Nolan	Sikes	Yatron
Nowak	Simon	Young, Alaska
O'Brien	Sisk	Young, Mo.
Oakar	Skubitz	Young, Tex.
Oberstar	Slack	Zablocki
Obey	Smith, Iowa	Zeferetti
Ottinger	Smith, Nebr.	
Panetta	Snyder	

NAYS—81

Archer	Gaydos	Montgomery
AuCoin	Ginn	Moorhead, Calif.
Badham	Goodling	Murtha
Barnard	Hagedorn	Myers, Gary
Baucus	Hall	Nedzi
Bauman	Hammer-schmidt	Pettis
Beard, Tenn.	Hansen	Roberts
Blanchard	Holt	Robinson
Bonker	Ichord	Rousselot
Breaux	Ireland	Ryan
Brown, Ohio	Kelly	Satterfield
Butler	Krebs	Shuster
Cohen	Lent	Skelton
Collins, Tex.	Livingston	Spence
Conable	Lloyd, Calif.	Stangeland
Crane	Lott	Stockman
Cunningham	McClory	Stump
Daniel, Dan	McCormack	Symms
Daniel, R. W.	McDonald	Taylor
de la Garza	McEwen	Treen
Devine	Madigan	Waggonner
Dickinson	Marlenee	Walker
Dicks	Martin	Wiggins
Dingell	Mattox	Wilson, C. H.
Evans, Ga.	Mazzoli	Wydler
Findley	Michel	Young, Fla.
Foley	Milford	
Ford, Mich.		

NOT VOTING—14

Addabbo	Frey	Pritchard
Ambro	Gibbons	Ruppe
Ashbrook	Hightower	Shipley
Clawson, Del	Kasten	Tsongas
Flynt	Le Fante	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Ashbrook.
Mr. Shipley with Mr. Del Clawson.
Mr. Le Fante with Mr. Frey.
Mr. Ambro with Mr. Gibbons.
Mr. Hightower with Mr. Kasten.
Mr. Tsongas with Mr. Pritchard.
Mr. Flynt with Mr. Ruppe.

Messrs. MAZZOLI, BAUCUS, and KREBS changed their vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 102), American Indian religious freedom, a similar joint resolution to the House joint resolution just passed, and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 102

Whereas the freedom of religion for all people is an inherent right, fundamental to the democratic structure of the United States and is guaranteed by the First Amendment of the United States Constitution;

Whereas the United States has traditionally rejected the concept of a government denying individual's the right to practice their religion and, as a result, has benefited from a rich variety of religious heritages in this country;

Whereas the religious practices of the American Indian (as well as Native Alaskan and Hawaiian) are an integral part of their culture, tradition and heritage, such practices forming the basis of Indian identity and value systems;

Whereas the traditional American Indian religions, as an integral part of Indian life, are indispensable and irreplaceable;

Whereas the lack of a clear, comprehensive, and consistent Federal policy has often resulted in the abridgment of religious freedom for traditional American Indians;

Whereas such religious infringements result from the lack of knowledge or the insensitive and inflexible enforcement of Federal policies and regulations premised on a variety of laws;

Whereas such laws were designed for such worthwhile purposes as conservation and preservation of natural species and resources but were never intended to relate to Indian religious practices and, therefore, were passed without consideration of their effect on traditional American Indian religions;

Whereas such laws and policies often deny American Indians access to sacred sites required in their religions, including cemeteries;

Whereas such laws at times prohibit the use and possession of sacred objects necessary to the exercise of religious rites and ceremonies;

Whereas traditional American Indian ceremonies have been intruded upon, interfered with, and in a few instances banned: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That henceforth it shall be the policy of the United States to protect and preserve for Native Americans their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiian, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites.

SEC. 2. The President shall direct the various Federal departments, agencies, and other instrumentalities whose duties impact on Native American religious practices to evaluate their policies and procedures in consultation with Native religious leaders in order to determine and implement changes which may be necessary to protect and preserve Native American religious cultural rights and practices. Twelve months after approval of this resolution, the President shall report back to Congress the results of his evaluation, including any changes which were made in administrative policies and procedures, and any recommendations he may have for legislative action.

MOTION OFFERED BY MR. UDALL

Mr. UDALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. UDALL moves to strike out the preamble and all after the resolving clause of the Senate joint resolution, (S.J. Res. 102), and to insert in lieu thereof the preamble and the provisions of House Joint Resolution 738, as passed, as follows:

Whereas the freedom of religion for all people is an inherent right, fundamental to the democratic structure of the United States and is guaranteed by the First Amendment of the United States Constitution;

Whereas the United States has traditionally rejected the concept of a government denying individuals the right to practice their religion and, as a result, has benefited from a rich variety of religious heritages in this country;

Whereas the religious practices of the American Indian (as well as Native Alaskan and Hawaiian) are an integral part of their culture, tradition and heritage, such practices forming the basis of Indian identity and value systems;

Whereas the traditional American Indian religions. as an integral part of Indian life, are indispensable and irreplaceable;

Whereas the lack of a clear, comprehensive, and consistent Federal policy has often resulted in the abridgement of religious freedom for traditional American Indians;

Whereas such religious infringements result from the lack of knowledge or the insensitive and inflexible enforcement of Federal policies and regulations premised on a variety of laws;

Whereas such laws were designed for such worthwhile purposes as conservation and preservation of natural species and resources but were never intended to relate to Indian religious practices and, therefore, were passed without consideration of their effect on traditional American Indian religions;

Whereas such laws and policies often deny American Indians access to sacred sites required in their religions, including cemeteries;

Whereas such laws at times prohibit the use and possession of sacred objects necessary to the exercise of religious rites and ceremonies;

Whereas traditional American Indian ceremonies have been intruded upon, interfered with, and in a few instances banned: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, used and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.

SEC. 2 The President shall direct the various Federal departments, agencies, and other

instrumentalities responsible for administering relevant laws to evaluate their policies and procedures in consultation with native traditional religious leaders in order to determine appropriate changes necessary to protect and preserve Native American religious cultural rights and practices. Twelve months after approval of this resolution, the President shall report back to the Congress the results of his evaluation, including any changes which were made in administrative policies and procedures, and any recommendations he may have for legislative action.

The motion was agreed to.

A motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 738) was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and that I may include extraneous matter with my remarks on the joint resolution (H.J. Res. 738).

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PROHIBITION OF SEX DISCRIMINATION BASED ON PREGNANCY

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent that the Committee on Education and Labor be discharged from the further consideration of the Senate bill (S. 995) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy, a companion bill to the bill H.R. 6075, which we passed earlier this afternoon, and ask for immediate consideration of the Senate bill in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, the request made by the gentleman from California (Mr. (HAWKINS) is not clear to me. Could the gentleman explain his request?

Mr. HAWKINS. Mr. Speaker, if the gentleman will yield, there are several motions which will be made. I am asking now that the Committee on Education and Labor be discharged from further consideration of Senate bill S. 995, which is now in the Committee on Education and Labor. This is the companion bill to the pregnancy disability bill which we passed earlier this afternoon. If this is adopted it is my intent then to move to strike all after the enacting clause of S. 995 and to insert in lieu thereof the language which the House adopted this afternoon.

Then, following that, I will ask that the position of the House be sustained and that a conference with the Senate be requested.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman for his explanation and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 995

An act to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That section 701 of the Civil Rights Act of 1964 is amended by adding at the end thereof the following new subsection:

"(k) The terms 'because of sex' or 'on the basis of sex' include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in section 703(h) of this title shall be interpreted to permit otherwise."

SEC. 2. (a) Except as provided in subsection (b) the amendment made by this Act shall be effective on the date of enactment.

(b) The provisions of the amendment made by section 1 of this Act shall not apply to any fringe benefit program or fund, or insurance program which is in effect on the date of enactment of this Act is providing 1978, or one hundred and eighty days after enactment of this Act whichever is the greater time period.

SEC. 3. Until the expiration of a period of one year from the date of enactment of this Act or, if there is an applicable collective-bargaining agreement in effect on the date of enactment of this Act, until the termination of that agreement, no person who, on the date, of enactment of this Act is providing either by direct payment or by making contributions to a fringe benefit fund or insurance program, benefits in violation with this Act shall, in order to come into compliance with this Act, reduce the benefits or the compensation provided any employee on the date of enactment of this Act, either directly or by failing to provide sufficient contributions to a fringe benefit fund or insurance program: *Provided*, That where the costs of such benefits on the date of enactment of this Act are apportioned between employers and employees, the payments or contributions required to comply with this Act may be made by employers and employees in the same proportion: *And provided further*, That nothing in this section shall prevent the readjustment of benefits or compensation for reasons unrelated to compliance with this Act.

MOTION OFFERED BY MR. HAWKINS

Mr. HAWKINS. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. HAWKINS moves to strike out all after the enacting clause of the Senate bill, S. 995, and insert in lieu thereof the provisions of H.R. 6075, as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 6075) was laid on the table.

APPOINTMENT OF CONFEREES ON S. 995, PROHIBITION OF SEX DISCRIMINATION BASED ON PREGNANCY

Mr. HAWKINS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 995) to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy, with the House amendment, insist on the House amendment and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California? The Chair hears none, and, without objection, appoints the following conferees: Messrs. PERKINS, HAWKINS, DENT, BEARD of Rhode Island, MICHAEL O. MYERS, LE FANTE, WEISS, CLAY, CORRADA, QUIE, SARASIN, JEFFORDS, and PURSELL.

There was no objection.

CONFERENCE REPORT ON H.R. 12426, NEW YORK CITY FINANCIAL ASSISTANCE ACT OF 1978

Mr. MOORHEAD of Pennsylvania submitted the following conference report and statement on the bill (H.R. 12426) to authorize the Secretary of the Treasury to provide financial assistance for the city of New York:

CONFERENCE REPORT (H. REPT. NO. 95–1369)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12426) to authorize the Secretary of the Treasury to provide financial assistance for the city of New York, having met, after full and free conference, have agreed to recommend and do recommend to their respective House as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "New York City Loan Guarantee Act of 1978".

TITLE I—LOAN GUARANTEES

DEFINITIONS

SEC. 101. For the purpose of this title, the term—

(1) "city" means the city of New York;

(2) "State" means the State of New York;

(3) "Secretary" means the Secretary of the Treasury;

(4) "independent fiscal monitor" means an agency, board, or other entity authorized by the law of the State which has the authority to control the fiscal affairs of the city during the entire period for which assistance under this title will be outstanding and which authority the State has covenanted will not be substantially impaired during such period;

(5) "financing agent" means any agency or instrumentality of the State duly authorized by the law of the State to act on behalf of or in the interest of the city, and no other subdivision of the State, with respect to the city's financial affairs;

(6) "city indebtedness" means indebtedness for borrowed money of (A) a financing agent, but only if the proceeds thereof are advanced to or applied for the benefit of the city, or (B) the city; and

(7) "fiscal year" means a fiscal year of the city, except in section 111.

GUARANTEE AUTHORITY

SEC. 102. (a) Upon the written request of the city and the Governor of the State, the Secretary may guarantee the payment, in whole or in part, of interest, principal, or both, of city indebtedness in accordance with this title, but any such guarantee shall cease to be effective not later than fifteen years after the date of the issuance of the city indebtedness involved.

(b) A guarantee under this title is effec-

tive only with respect to city indebtedness which is issued or is to be issued to employee pension funds of the city or of the State, or of any agency of the city or of the State, and shall terminate whenever such indebtedness is sold or otherwise disposed of by such a fund (other than to a successor in interest not involving a change in beneficial ownership).

(c) Whenever the payment of principal and interest on city indebtedness is guaranteed under this title, the Secretary shall assess and collect from the issuer, no less frequently than annually, a guarantee fee computed daily at a rate of no less than one-half of 1 per centum per annum on the outstanding principal amount of city indebtedness guaranteed hereunder. All funds received by the Secretary in payment of such fees shall be paid into the general fund of the Treasury. The Secretary may periodically escalate the guarantee fee to induce the obligor to enter the public credit markets.

CONDITIONS OF ELIGIBILITY

SEC. 103. The Secretary may make guarantees under this title only if—

(1) there is a reasonable prospect of repayment of the city indebtedness to be guaranteed in accordance with its terms and conditions;

(2) the Secretary determines that the city is effectively unable to obtain credit in the public credit markets or elsewhere in amounts and terms sufficient to meet the city's financing needs;

(3) the interest rate on such city indebtedness is reasonable, taking into consideration current average market yields for other obligations guaranteed by the United States;

(4) during the four-year period ending June 30, 1982, the long-term and seasonal borrowing needs of the city (other than borrowing assisted or to be assisted under this title) will be met through commitments from the State, an agency of the State, private sources, or through public credit markets, in amounts which will be sufficient to enable to city, when the guarantee authority conferred by this title has terminated, to meet all of its long-term and seasonal borrowing needs through the public credit markets, and for the purpose of making such determination, the Secretary may assume that all other conditions under this section are and will be fufilled;

(5)(A) the independent fiscal monitor is requiring the city to adopt and adhere to budgets covering all expenditures other than capital items, the results of which would not, for fiscal years of the city beginning after June 30, 1981, show a deficit when reported in accordance with generally accepted accounting principles and, for fiscal years of the city beginning on or prior thereto but after June 30, 1978, to make substantial progress toward that goal, and, for each fiscal year of the city beginning prior to June 30, 1981, but after June 30, 1978, is requiring the city to adopt and adhere to budgets covering all expenditures other than capital items, the results of which would not show a deficit when reported in accordance with accounting principles established under State law;

(B) the city has submitted to the Secretary, with the approval of the independent fiscal monitor, in such detail and in accordance with such accounting principles as the Secretary may prescribe, a plan for bringing all of its expenditures other than capital items into balance with its revenues for each of the first three full fiscal years of the city beginning after June 30, 1978, and the city agrees to publish, after the completion of each fiscal year covered by the plan, an analysis reconciling its actual revenues and expenditures with projected revenues and expenditures, and to publish periodic projections which reflect the impact of the plan on tax rates; and

(C) the city submits, with the approval of the independent fiscal monitor, in such detail as the Secretary may prescribe and in accordance with generally accepted accounting principles, a plan for bringing all of its expenditures other than capital items into balance with its revenues no later than the final fiscal year of the four year period which begins with the fiscal year beginning July 1, 1978, and the city is required, on or before the first day of each fiscal year thereafter during which city indebtedness guaranteed under this title is outstanding, to have prepared and submit a plan covering the four year period beginning with such fiscal year which will result in budgets which would not show a deficit when reported in accordance with accounting principles set forth in subparagraph (A);

(6) the independent fiscal monitor demonstrates to the satisfaction of the Secretary that it has the authority to control the fiscal affairs of the city for the entire period during which assistance under this title will be outstanding;

(7) the city has agreed—

(A) to obtain and submit to the Secretary, as soon as practicable after the close of each fiscal year of the city during which the Secretary may make guarantees under this title or during which any city indebtedness guaranteed hereunder is outstanding, an opinion of independent public accountants setting forth the results of an audit by such accountants of the financial statements of the city for such fiscal year, which opinion shall describe any deviation in the preparation of such financial statements from generally accepted accounting principles applicable to governmental bodies and shall state that the audit of such financial statements was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as were considered necessary under the circumstances; and

(B) to establish an audit committee which shall assist in the determination of areas of inquiry for, review the progress of, and evaulate the results of, audits to be conducted by such independent public accountants, and which shall consist of the mayor of the city, the comptroller of the city the president, of the city council, two individuals with expertise in municipal finance, and two officers or employees of two different firms of independent public accountants which are not engaged either by the city or by the comptroller of the city, such individual and such officers or employees of such firms to be selected by the independent fiscal monitor;

(8)(A) in the case of guarantees issued after June 30, 1979, the State has furnished to the Secretary satisfactory assurances that the amount of financial assistance to be provided by the State to the city during the fiscal year in which such guarantee is to be issued will not be less than the amount of such assistance which was provided during the fiscal year ending June 30, 1979, except during any fiscal year for which the city has presented a budget which the Secretary has determined is balanced in accordance with generally accepted accounting principles; and

(B) the State or an agency of the State, subject to and in accordance with applicable State law, when any guarantee hereunder is made by the Secretary, shall deposit in a fund approved by the Secretary, an amount which, together with all amounts previously so deposited in such fund, shall equal not less than 5 per centum of the principal of and of one year's interest on the then outstanding city indebtedness then guaranteed under this title, and which shall, under the direction of the Secretary, be used to pay, or to reimburse the Treasury for paying, principal and interest which the city fails to pay, the payment of which is guaranteed under this title, but in no case will the fund be used to pay or reimburse an amount in excess of 5 per centum of the principal amount of and of one year's interest on all guaranteed city indebtedness outstanding on the date of the failure;

(9) the city has agreed, in addition to other efforts undertaken by the city to increase employee productivity, to establish a productivity council (A) which shall consist of representatives of the city government and of city employee unions, (B) which shall develop and seek to implement methods for enhancing the productivity of the city's labor force, and (C) which shall have a representative of the independent fiscal monitor as an observer, and the independent fiscal monitor shall review and report, not less than annually, on the development and implementation of such methods, such report to be published and made available to the public, and transmitted to the Secretary;

(10) the city has agreed to offer to sell for distribution to the public its short-term notes in fiscal years 1980, 1981, and 1982 and its long-term bonds in fiscal years 1981 and 1982, unless the Secretary determines that any such offer would be inconsistent with the financial interests of the city;

(11) the city has agreed that—

(A) following the fiscal year ending June 30, 1982, and during any fiscal year thereafter in which a guarantee under this title is outstanding, the city will pay or provide for the payment of city indebtedness then guaranteed hereunder, giving priority to city indebtedness having the longest maturity or maturities, in a principal amount not less than 15 per centum of the net proceeds of city indebtedness issued in public credit markets during such year, except that the Secretary may modify or waive such 15 per centum requirement to the extent he determines that its application (i) would substantially impair the city's ability to meet its essential capital needs, or (ii) would substantially overburden the market for long term city indebtedness; and

(B) as soon as practicable after the Secretary determines that the city has demonstrated its ability to meet its long-term credit needs through public credit markets, the city will implement a program satisfactory to the Secretary of refunding any outstanding city indebtedness guaranteed under this title for the purpose of achieving complete repayment of such indebtedness at the earliest practicable date, taking into consideration such factors as the Secretary deems appropriate, including the effect of such refunding on the city's need to maintain the city's continued access to public credit markets for its long-term credit needs; and

(12) the city and the State are meeting their respective obligations under this section.

Any determination by the Secretary that the conditions set forth in this section have been met shall be conclusive, such determination to be evidenced by the making of such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of the holder of such city indebtedness, except for fraud or material misrepresentation on the part of such holder. The Secretary is authorized to determine the manner in which such guarantees will be issued and, in addition to the terms and conditions required by this section, to require from, or agree to with, the city, a financing agent, the holders of the city indebtedness guaranteed, and any other party in interest such other terms and conditions as he may deem appropriate, including provision of security for the repayment of amounts paid pursuant to any guarantee under this title. Any such other term or condition may be modified, amended, or waived in the discretion of the Secretary.

LIMITATIONS ON GUARANTEE AUTHORITY

Sec. 104. (a)(1) The authority of the Secretary to extend guarantees under this title shall not at any time exceed $1,650,000,000 in the aggregate principal amount outstanding.

(2) During the fiscal year beginning on July 1, 1978, not to exceed $750,000,000 shall be available for the guarantee of city indebtedness—

(A) of which not to exceed $500,000,000 shall be available for the guarantee of city indebtedness maturing more than one year after its date of issuance, and

(B) of which not to exceed $325,000,000 shall be available for the guarantee of city indebtedness maturing in one year or less after its date of issuance, but only to the extent authorized by the provisions of subsection (b).

(3) During the fiscal year beginning on July 1, 1979, not to exceed the sum of—

(A) $250,000,000, and

(B) $750,000,000 reduced by the principal amount of city indebtedness guaranteed prior to July 1, 1979, and outstanding on the date on which the guarantees are made under this paragraph,

shall be available for the guarantee of city indebtedness maturing more than one year after its date of issuance, except that no guarantees may be made under this paragraph if prior to July 1, 1979, either the Senate or the House of Representatives agrees to a resolution stating in substance that it disapproves such guarantees.

(4) During the fiscal year beginning on July 1, 1980, not to exceed the sum of—

(A) $325,000,000, and

(B) $1,000,000,000 reduced by the sum of (i) the principal amount of city indebtedness guaranteed under paragraphs (2)(A) and (3) and outstanding on the date on which the guarantees are made under this paragraph, and (ii) the amount, if any, covered by a resolution agreed to by the Senate or the House of Representatives pursuant to paragraph (3),

shall be available for the guarantee of city indebtedness maturing more than one year after its date of issuance, except that no guarantees may be made under this paragraph if prior to July 1, 1980, either the Senate or the House of Representatives agrees to a resolution stating in substance that it disapproves such guarantees.

(5) During the fiscal year beginning on July 1, 1981, not to exceed the sum of—

(A) $325,000,000, if the Secretary determines, in accordance with generally accepted accounting principles, that the city has presented a balanced budget, and

(B) $1,325,000,000 reduced by the sum of (i) the principal amount of city indebtedness guaranteed under paragraphs (2)(A), (3), and (4) and outstanding on the date on which the guarantees are made under this paragraph, and (ii) the sum of the amounts, if any, covered by resolutions agreed to by the Senate or the House of Representatives pursuant to paragraphs (3) and (4),

shall be available for the guarantee of city indebtedness maturing more than one year after its date of issuance.

(b) The Secretary may guarantee the payment of principal or interest, or both, on city indebtedness issued prior to January 1, 1979, and maturing prior to July 1, 1979, but only to the extent that the Secretary determines, after taking into account any commitments the employee pension funds of the city have made with respect to the purchase of city indebtedness maturing more than one year from its issuance, that the employee pension funds of the city are not able to provide sufficient amounts of seasonal financing as required under section 103(4) of this title without being considered to have failed to meet the requirements of section 401(a) of the Internal Revenue Code of 1954 (as such requirements apply to such pension funds) or being considered to have engaged in a prohibited transaction described in section 503 (b) of the Internal Revenue Code of 1954.

REMEDIES

Sec. 105. (a) The Secretary shall take such action as may be appropriate to enforce any right accruing to the United States or any officer or agency thereof as a result of the issuance of guarantees under this title. Any sums recovered pursuant to this section shall be paid into the general fund of the Treasury.

(b) The Secretary shall be entitled to recover from the borrower, or any other person liable therefor, the amount of any payment made pursuant to any guarantee agreement entered into under this title, and upon making any such payment, the Secretary shall be subrogated to all the rights of the recipient thereof.

(c) Notwithstanding any other provision of law, the Secretary shall provide for the withholding of any payment from the United States to the city or State which may be or may become due pursuant to any law and offset the amount of such withheld payment against any claim the Secretary may have against the city or State pursuant to this title.

(d) The remedies prescribed in this title shall be cumulative and not in limitation of or substitution for any other remedies available to the Secretary or the United States.

(e) With respect to any debt of the United States arising under this title, for the purposes of section 3466 of the Revised Statutes (31 U.S.C. 191), the term "person" includes the city and any financing agent. Notwithstanding the provisions of such section, the Secretary is authorized to waive, wholly or partially, the priority for the United States established thereunder with respect to any indebtedness of the city or the financing agent issued after the effective date of this title (other than any indebtedness the proceeds of which are applied to the repayment prior to the stated maturity thereof of indebtedness outstanding on or before the effective date of this title owed to the lender of such proceeds) if, in his judgment such waiver is necessary to facilitate the ability of the city to meet its financing needs. No waiver under the preceding sentence shall by its terms subordinate the claims of the United States to those of any creditor of the city or any financing agent.

(f) The Secretary may bring a civil action in any United States district court or any other appropriate court to enforce compliance with the provisions of this title, any agreement related thereto, or any provision of State law related thereto, by the city, the State, the financing agent, the independent fiscal monitor, or any official of any of the foregoing, or any other party to any such agreement, and such court shall have jurisdiction to enforce such compliance and enter such orders as may be appropriate.

INSPECTION OF DOCUMENTS

Sec. 106. At any time a request for a guarantee is pending or indebtedness guaranteed under this title is outstanding, the Secretary is authorized to inspect and copy all accounts, books, records, memorandums, correspondence, and other documents of the city or any financing agent relating to the city's financial affairs.

GENERAL ACCOUNTING OFFICE AUDITS

Sec. 107. The General Accounting Office is authorized to make such audits as may be deemed appropriate by the Comptroller General of all accounts, books, records, and transactions of the city and any financing agent. No guarantee may be made under this title unless and until the city and any financing agent agree, in writing, to allow the General Accounting Office to make such audits. The General Accounting Office shall report the results of any such audit to the Congress.

REPORTS TO CONGRESS

Sec. 108. Within three months after the date of enactment of this title, and at six-month intervals until June 30, 1982, and thereafter at twelve-month intervals, the Secretary shall transmit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report containing a detailed statement of his activities under this title.

SEVERABILITY

Sec. 109. If any provision of this title is held to be invalid, or the application of such provision to any person or circumstance, is held to be invalid by a court of competent jurisdiction, the remainder of this title, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TERMINATION

Sec. 110. The authority of the Secretary to make guarantees under this title terminates on June 30, 1982. Such termination does not affect the carrying out of any contract, guarantee, or other obligation entered into pursuant to this title, or the taking of any action necessary to preserve or protect the interests of the United States arising hereunder, except that no commitment to guarantee the payment of principal or interest on city indebtedness under this title shall be effective after such date.

AUTHORIZATION

Sec. 111. (a) There are authorized to be appropriated beginning October 1, 1978, and to remain available without fiscal year limitation, such sums as may be necessary to carry out this title.

(b) Any other provision of this title to the contrary notwithstanding, the authority of the Secretary to make any guarantee under this title shall be limited to such extent or amounts as are provided in advance in appropriation Acts.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

Sec. 201. Taxability of Certain Federally Guaranteed Obligations

(a) Certain Federally Guaranteed Obligations.—Section 103 of the Internal Revenue Code of 1954 (relating to interest on certain governmental obligations) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Certain Federally Guaranteed Obligations.—Any obligation the payment of interest or principal (or both) of which is guaranteed in whole or in part under title I of the New York City Loan Guarantee Act of 1978 shall, with respect to interest accrued during the period for which such guarantee is in effect, be treated as an obligation not described in subsection (a).".

(b) Obligations May Not Be Acquired by Federal Financing Bank.—Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire any obligation the payment of interest or principal of which has at any time been guaranteed in whole or in part under title I of the New York City Loan Guarantee Act of 1978.

(c) Effective Date.—The amendments made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

And the Senate agree to the same.

Henry S. Reuss,
William S. Moorhead,
James J. Blanchard,

BRUCE F. VENTO,
J. W. STANTON,
STEWART B. MCKINNEY,
DAN ROSTENKOWSKI,
WILLIAM R. COTTER,
BARBER B. CONABLE, JR.
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
H. A. WILLIAMS,
EDWARD W. BROOKE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 12426) to authorize the Secretary of the Treasury to provide financial assistance for the city of New York, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—LOAN GUARANTEES

GUARANTEE AUTHORITY AND CONDITIONS OF ELIGIBILITY

The House bill authorized the Secretary to guarantee payment of obligations and provided further that the Secretary could make guarantees under title I only if certain statutory conditions of eligibility were met, along with any additional terms and conditions the Secretary might require at his discretion.

The Senate amendment authorized the Secretary to guarantee, and enter into commitments to guarantee, city indebtedness, and provided further that the Secretary could not guarantee or commit to guarantee any city indebtedness unless he determined at the time such guarantee or commitment to guarantee was made that the statutory conditions were met, along with the Secretary's additional terms and conditions.

The conference report contains the House provision, with an amendment to substitute the Senate language on "city indebtedness."

The conferees want to avoid a possible interpretation under the Senate language which might have permitted the Secretary to make a commitment to guarantee over the four years of the guarantee program on the basis of an initial review of compliance with the statutory conditions, but without any subsequent review before releasing guarantees committed in future years in order to determine whether all of the conditions were still being met.

The conferees agree that the authority to guarantee includes also the authority to commit to guarantee. Thus nothing would preclude the Secretary from entering into a commitment to provide guarantees as part of a financing package covering the full four years of the guarantee program. However, the conferees intend that the Secretary determine that all the conditions provided in title I have been met and are being met on a continuing basis before he enters into such a commitment and before he actually provides any guarantees. The Secretary can do this either by reviewing compliance with the statutory conditions directly or by including such requirements in the provisions of any credit agreement pursuant to this title.

MATURITIES OF GUARANTEES

The House bill provided that the maximum length of any guarantee provided could be up to 15 years. The Senate amendment provided for a maximum length of 15 years for the first $1 billion of city indebtedness guaranteed, and 10 years for any additional guarantees.

The conference report contains the House provision.

GUARANTEES TO GO ONLY TO PENSION FUNDS

The Senate amendment provided that city indebtedness guaranteed under this title would be issued only to employee pension funds of the city and the State, and that the guarantee would terminate when such indebtedness was sold or otherwise disposed of by these pension funds. The House bill contained no comparable provision.

The conference report contains the Senate provision. The conferees intend by this action to confine strictly the precedent set by this legislation and to make it clear that this type of Federal credit assistance is unlikely to be made available to other cities. Furthermore, it is unlikely that any other cities have employee pension funds of sufficient size to be able to participate in financing arrangements of the nature and extent contemplated by this legislation.

CREDIT AVAILABILITY

The House bill required, as a condition to the making of guarantees, that the Secretary determine that the city is effectively unable to obtain credit through traditional sources in amounts and terms sufficient to meet its financing needs. The Senate amendment required the determination by the Secretary that credit was not otherwise available to the city or a financing agent on reasonable terms.

The conference report contains the House provision.

UNGUARANTEED FINANCING COMMITMENTS

The Senate amendment contained a provision directing that guarantees be provided only if the Secretary determined that the remainder of the city's long-term borrowing needs (other than those to be assisted under the Act) and all of its seasonal borrowing needs during the four-year period ending June 30, 1982, would be met through commitments from the State, an agency of the State, private sources, or through public credit markets in amounts which would be sufficient to enable the city to meet all of its long-term and seasonal borrowing needs in the public credit markets after the termination of the guarantee program on June 30, 1982.

The House bill required that the Secretary be satisfied that a substantial portion of the long-term financing needs of the city would be met through commitments from the State, an agency of the State, private sources, or through public credit markets before providing any guarantees.

The conference report contains the Senate provision, with conforming and clarifying amendments. The conferees agree that the purpose of this legislation is to provide New York City with sufficient Federal credit assistance to enable it to meet all of its financing needs on its own as soon as possible, and no later than the fiscal year following the termination of the guarantee authority provided under this title.

The conferees agree that this objective can be achieved only if the city is able to obtain sufficient amounts of financing on an unguaranteed basis, in addition to that provided under the guarantee program, so that it cannot only maintain solvency on a day-to-day basis but also accomplish all of the elements of its four-year financing plan. City, State, and administration officials have stated that the city needs at least $4.5 billion in long-term financing over the four years, in order to restore its capital plant and to complete all of the other actions necessary to bring its long-term and seasonal borrowing needs down to manageable levels after June 30, 1982, and to confine them to real capital and real seasonal needs. In order to make the determination required by this subsection, the Secretary must make certain that the necessary financing commitments from other sources in sufficient amounts are formally agreed to and in place before he provides any guarantees pursuant to this title. Furthermore, the Secretary is directed to make certain on an ongoing basis that these commitments have been met and will be met in full as scheduled as a condition for providing additional guarantees as authorized.

The conferees assume that any long-term and seasonal borrowings which the city obtains after the guarantee program expires will come from offerings of securities in public credit markets. Such offerings may be made through public sales or private placements.

Since the city's ability to regain full market access depends also on its meeting the other conditions of this title, such as the balanced budget requirement, the conference report contains a clarifying provision that, in making his determination under this subsection, the Secretary may assume that all other conditions under this title are and will be fulfilled.

The conferees also intend that such determination regarding future market access be understood to apply to the fiscal year after the guarantee authority terminates and for a reasonably foreseeable period of time thereafter.

BALANCED BUDGETS

The House bill and the Senate amendment both contained provisions requiring the city to have a budget balanced in accordance with generally accepted accounting principles by fiscal year 1982 and thereafter for as long as Federal guarantees remain outstanding, and to make substantial progress toward that goal in the intervening fiscal years, but with certain language differences. The conference report includes the provisions of both bills, with clarifying amendments. The intent of the conferees' agreement is to require both that the city adopt and adhere to balanced budgets on a year-by-year basis in accordance with the relevant accounting principles, and that the city submit plans for achieving and maintaining such balanced budgets during the period of the guarantee program and so long as the guarantees provided under that program are outstanding.

The Senate amendment referred to budgets which the city is required by the independent fiscal monitor to adopt and adhere to, the results of which would not show a deficit when reported in accordance with generally accepted accounting principles, for fiscal year 1982 and thereafter, and which would not show a deficit when reported in accordance with accounting principles established under State law, for fiscal years 1979, 1980, and 1981. The House bill contained no such provision.

The conference report contains the Senate provision. The conferees note that existing State law requires such balanced budgets. The conferees agree that the city must ad-

here to as well as adopt such balanced budgets. Otherwise, the goal of having the city fully back in the public credit markets after the guarantee program expires will not be accomplished. Such adherence can be demonstrated only by audits of the citys' financial statements prepared at the end of each fiscal year, as required under this title. The Secretary is directed to refer to such financial statements and the results of audits conducted thereon in making his determinations as to whether the city is complying with the requirements of this subsection.

The House bill referred to plans required to be submitted, with the approval of the independent fiscal monitor, which would bring the city's operating expenses into balance with its revenues in accordance with generally accepted accounting principles for fiscal year 1982 and thereafter for as long as Federal guarantees remain outstanding. The Senate bill contained no such provision.

The conference report contains the House provision, with an amendment clarifying that such plans are to be annually submitted four-year plans. The conferees note that existing State law already requires such plans.

The conference report also contains language taken from the Senate amendment providing that "all expenditures other than capital items" must be brought into balance with revenues, rather than referring to "operating expenses." This is to make clear that expenditures for operating and capital purposes are to be kept separate and that, during and after the period in which the operating expenses now funded out of the capital budget are phased out, as required, no additional operating expenses are to be included in the capital budget. It should be noted that generally accepted accounting principles do not permit this practice under any circumstances.

Both bills contained provisions requiring the city to submit plans, with the approval of the independent fiscal monitor, which would bring the city's operating expenses into balance with its revenues in accordance with accounting principles prescribed by the Secretary, for fiscal years 1979, 1980 and 1981. In addition, the city was required to agree to publish, after the completion of each of these fiscal years, an analysis reconciling its actual revenues and expenditures with those projected in the plan, and also to publish periodic projections reflecting the impact of the plan on tax rates.

The conference report contains this provision with an amendment to replace the term "operating expenses" with the term "all expenditures other than capital items," for the reasons noted above.

The conferees agree that for fiscal years 1979, 1980 and 1981, the three years prior to the year in which the city is required to have a budget balanced in accordance with generally accepted accounting principles (fiscal year 1982), the city's budget must be balanced in accordance with accounting principles established under State law in effect as of the date of enactment of this Act. These accounting principles permit the city to exclude temporarily certain operating expenses funded out of the capital budget and certain accrued pension liability, with the requirement that these amounts be eliminated by fiscal year 1982, at which point the city will be required to adhere to generally accepted accounting principles only. Furthermore, the conferees agree that the Secretary may prescribe stricter accounting principles, should he deem it necessary. He could do this either in connection with existing State law or in the event of a change in State law.

The conferees note that under this provision and under section 101(4) (Definitions), there is required to be in place an independent fiscal monitor, an agency established under State law which has the authority to control the fiscal affairs of the city during the entire period for which the guarantees provided under this Act shall be outstanding and which authority the State has covenanted will not be substantially impaired during such period. Legislation to accomplish this has now been passed by the New York State Legislature and signed into law by the Governor. Under this law, the independent fiscal monitor is directed to require a balanced budget according to generally accepted accounting principles by fiscal year 1982 and thereafter. There are two very narrow exceptions permitted under this authority, which may be invoked only to avoid a substantial adverse impact on essential services. One would permit a phase-in of any change in generally accepted accounting principles, so long as this is done in a reasonably expeditious manner. The other allows a waiver for unforeseen circumstances, provided that any deficit resulting therefrom is made up in the following fiscal year. The Secretary is authorized to take into account the provisions of State law in making any determinations required under this title.

AUTHORITY OF THE INDEPENDENT FISCAL MONITOR

The House bill contained a provision requiring the independent fiscal monitor to demonstrate to the satisfaction of the Secretary that it has the authority to control the city's fiscal affairs during the entire period in which Federal guarantees are outstanding. The Senate amendment contained no such provision.

The conference report contains the House provision.

ANNUAL INDEPENDENT AUDITS

The House bill and the Senate amendment both required the city to agree to obtain annual independent audits of its financial statements. The Senate amendment listed certain subjects to be covered in the auditors' opinion and provided for an audit committee with specified membership.

The conference report contains the Senate provision with an amendment deleting from membership on the audit committee the requirement of two representatives of financial institutions holding city securities, and providing instead for membership of two individuals with expertise in municipal finance.

STATE FINANCIAL ASSISTANCE

The Senate amendment provided that, in the case of guarantees issued after June 30, 1979, the State had to furnish to the Secretary satisfactory assurance that the amount of financial assistance which would be provided to the city during the city fiscal year in which the guarantee was to be issued would not be any less than the amount of State assistance provided to the city during the city's 1979 fiscal year. However, such assurances did not have to be furnished for any fiscal year during such period for which the city presented a budget which the Secretary determined was balanced in accordance with generally accepted accounting principles. The House bill had no such provision.

The conference report contains the Senate provision.

STATE RESERVE FUND

The Senate amendment required the State, or an agency of the State subject to and in accordance with applicable State law, to establish a reserve fund in which would be deposited amounts equal to not less than 5 percent of the principal of and of one year's interest on the guaranteed city indebtedness then outstanding. In the event that the city defaulted on the payment of interest or principal on any guaranteed indebtedness, the money in this fund would be used to make payments or to reimburse the Treasury for payments made due to the default. The total amount of money paid out of this reserve fund in the event of a default was not to exceed 5 percent of the principal of and of one year's interest on all guaranteed indebtedness outstanding on the date of the default. The House bill contained no such provision.

The conference report contains the Senate provision.

PRODUCTIVITY COUNCIL

The Senate amendment contained a provision requiring the establishment of a productivity council to develop and implement methods to enhance the productivity of the city's labor force. The House bill contained no such provision.

The conference report contains the Senate provision with an amendment deleting the requirement that the independent fiscal monitor be represented on the council and providing instead that the role of the independent fiscal monitor be that of an observer. In addition, the independent fiscal monitor is required to review and report annually on the work of the council.

MARKET TEST

The Senate amendment contained a provision requiring the city to agree to offer to sell short-term notes in fiscal years 1980, 1981 and 1982, and also long-term bonds in fiscal years 1981 and 1982. Under certain conditions, this requirement could be waived by the Secretary. The House bill contained no such provision.

The conference report contains the Senate provision.

REFUNDING OF THE GUARANTEED OBLIGATIONS

The Senate amendment required that, beginning in the first fiscal year following the expiration of the guarantee authority and during any fiscal year thereafter in which there is guaranteed indebtedness oustanding, the city should devote not less than 15 percent in principal amount of the net proceeds of new city long-term borrowing in the public capital markets during such year to the repayment or refunding of the guaranteed indebtedness, giving priority to that having the longest maturity or maturities. The Secretary was permitted to modify or waive this 15 percent requirement in any year to the extent that he determined that its application would substantially impair the city's ability to meet its essential capital needs.

The House bill contained no such provision.

The conference report contains the Senate provision, with an amendment permitting the Secretary also to modify or waive such requirement to the extent that he determines that its application would substantially overburden the market for long-term city indebtedness.

The Senate amendment also contained a provision directing the Secretary, as soon as practicable after the city has demonstrated its ability to meet its credit needs through the public credit markets, to require the city to agree to implement a program of refunding any outstanding obligations guaranteed under this act for the purpose of achieving complete repayment of such obligations at the earliest practicable date. The Secretary was further directed, in implementing this provision, to take into consideration such factors as he deemed appropriate, including the effect of such refunding on the city's need to maintain the city's continued access to public credit markets. The House bill contained no such provision.

The conference report contains the Senate provision.

PERFORMANCE BY CITY AND STATE

The Senate amendment contained a provision requiring the determination by the Secretary that the city and State are complying with the enumerated conditions in section

103 before issuing guarantees. The House bill contained no such provision.

The conference report contains the Senate provision.

OTHER TERMS AND CONDITIONS

The Senate amendment authorized the Secretary to require from, or agree to with, the city, a financing agent, holders of city indebtedness (guaranteed or committed to be guaranteed) and any other party in interest, such other terms and conditions as he might deem appropriate, including provision of security for the repayment of amounts paid pursuant to any guarantee. The House bill required the city to agree to comply with any other terms and conditions which the Secretary deemed appropriate. The Senate amendment also authorized the Secretary to determine the manner in which such guarantees would be issued. The House bill contained no such provision.

The conference report contains the Senate provisions.

AMOUNT OF GUARANTEE AUTHORITY, ANNUAL LIMITATIONS, AND ONE-HOUSE VETO

The Senate amendment provided guarantee authority in the total amount of $1.5 billion in aggregate principal amount outstanding, but subject to annual limitations as follows: not to exceed $500 million for fiscal year 1979, to be increased by not to exceed $500 million for fiscal year 1980, to be increased by not to exceed $250 million for fiscal year 1981, and an additional amount not to exceed $250 million to be available in any fiscal year covered by this Act in which the Secretary determines that the city has a budget balanced in accordance with generally accepted accounting principles. The Senate amendment further provided that the increase in guarantee authority provided for fiscal years 1980 and 1981 would not take effect if, prior to the beginning of such fiscal year, either the Senate or the House of Representatives passed a resolution of disapproval of such increase in guarantee authority.

The House bill provided guarantee authority in a total amount not to exceed at any one time $2 billion in principal and accrued interest. No additional limitations were placed on that authority.

The conferees agree to a substitute amendment providing guarantee authority in the total amount of $1.65 billion in aggregate principal amount outstanding, and incorporating the annual limitations and one-House veto features of the Senate amendment, but with a number of further amendments. Under the conference substitute, there is a guarantee authority available for fiscal year 1979 in an amount not to exceed $750 million, of which up to $500 million is available for guarantees of long-term city indebtedness, and up to $325 million is available for guarantees of seasonal financing, subject to the conditions of section 104(b), as described in this joint statement under the heading "Guarantees of Seasonal Financing". In fiscal year 1980, there is new guarantee authority provided in an amount not to exceed $250 million, plus the carryover of any unused portion of the $750 million in guarantee authority provided in fiscal year 1979, all of which may only be used for guarantees of long-term city indebtedness, and all of which is subject to a one-House veto. In fiscal year 1981, there is new guarantee authority provided in an amount not to exceed $325 million, plus the carryover of any unused portion of the $1 billion in guarantee authority provided in fiscal years 1979 and 1980, except for any amounts disapproved through passage of a one-House veto, all of which may only be used for guarantees of long-term city indebtedness, and all of which is subject to a one-House veto. In the final year of the program, fiscal year 1982, there would be new long-term guarantee authority provided in an amount not to exceed $325 million, only if the Secretary determines that the city has presented a budget balanced in accordance with generally accepted accounting principles. Furthermore, there is to be available the carryover of any unused portion of the $1.325 billion in long-term guarantee authority provided in three prior fiscal years, except for any amounts which have been disapproved through passage of a one-House veto.

In adopting this substitute, the conferees agree to retain the one-House veto and annual limitations as contemplated by the Senate amendment, but to increase the amounts to be available under the annual limitations and to authorize guarantees of seasonal financing for the first year only. The conferees agree that the annual limitations and the one-House veto provisions will provide a basis for continuing oversight of the guarantee program to ensure that all conditions are met and commitments kept, in order to protect the Federal interest and achieve the basic goals of the guarantee program.

GUARANTEES OF SEASONAL FINANCING

The Senate amendment provided that the guarantees would be limited to long-term financing, by defining "city indebtedness" to mean indebtedness for borrowed money with a stated maturity of more than one year from the date of issuance thereof. The House bill contained no such limitation and therefore guarantees for either long-term or seasonal financing purposes could be provided over the life of the Act.

The conference report contains a substitute limiting the availability of guarantees for seasonal financing to an amount not to exceed $325 million, such guarantees to be provided only to the extent that the Secretary determines (a) that such guarantees will be applied only to city indebtedness issued prior to January 1, 1979, and maturing prior to July 1, 1979, and (b) that after taking into account any commitments made by the employee pension funds of the city to purchase long-term city indebtedness on both a guaranteed and unguaranteed basis, the Secretary determines that such pension funds are not able to provide sufficient amounts of seasonal financing as required under section 103(4) of the conference report without being considered to have failed to meet the requirements of section 401(a) of the Internal Revenue Code of 1954 (as such requirements apply to such pension funds) or being considered to have engaged in a prohibited transaction described in section 503(b) of the Internal Revenue Code of 1954.

This language confines the availability of guarantees of seasonal financing to the first year of the guarantee program, fiscal year 1979, when such guarantees are most likely to be needed. Such guarantees may be provided only to the extent that the full amount of seasonal financing which the city needs in that (over and above commitments obtained from other private sources and any anticipated sales in the public credit markets) cannot be provided on an unguaranteed basis by the city pension funds due to limitations on the aggregate amount of their holdings of city indebtedness, as may be imposed by legislation currently pending before the Ways and Means and Finance Committees. This legislation relates to the tax benefits afforded employees and their beneficiaries under tax-qualified pension plans, and to trusts which are a part of such plans, under the Internal Revenue Code of 1954. The LeLevant sections of the Code include section 401(a), which requires that a qualified plan be for the exclusive benefit of employees or their beneficiaries, and section 503(b), which prohibits certain transactions. Such exemptions were provided to the city employee pension funds under Public Law 94-236, which related to obligations committed to be purchased by the city pension funds pursuant to the Amended and Restated Agreement of November 26, 1975.

WAIVER OF SECTION 3466 PRIORITY

The House bill and the Senate amendment both invoked Section 3466 of the Revised Statutes (31 U.S.C. 191) giving priority to debts owed the Federal Government in the event of insolvency or bankruptcy of the city. The Senate amendment authorized the Secretary to waive the priority right, in whole or in part, with respect to new city indebtedness (except for indebtedness issued to a lender to accelerate payment of indebtedness already held by that lender) if he determined that the waiver is necessary to help the city sell its obligations in the public credit markets. The House bill contained no waiver provision.

The conference report contains the Senate provision.

RIGHT OF CIVIL ACTION

The Senate amendment provided a right of civil action to permit the Secretary to go to court to enforce compliance with the provisions of the Act, any agreement related thereto, or any provision of State law, by the city, the State, the financing agent, the independent fiscal monitor, or any official of any of the foregoing, or any other party to any such agreement.

The House bill contained no such provision.

The conference report contains the Senate provision with an amendment to clarify that the authority provided in this section applies only to State law related to the provisions of this Act. This would include, but not be limited to, any present or future State laws bearing on the independent fiscal monitor, the financing agent, and the city's ability to fulfill all of the conditions of the Act.

GENERAL ACCOUNTING OFFICE AUDITS

The House bill required the prior written agreement of the city and any financing agent to audits by the General Accounting Office as a condition to the issuance of guarantees. The Senate amendment contained no such requirement. The House bill authorized such audits at the discretion of the Comptroller General, and required the results of the audits to be reported to the Congress. The Senate amendment authorized such audits at the discretion of the Comptroller General and the Secretary, and required the results of the audits to be reported to the Congress and the Secretary.

The conference report contains the House provision.

SEVERABILITY

The Senate amendment contained a provision that, if any provision of the legislation is held invalid by a court of competent jurisdiction, the other provisions of the legislation would not be affected thereby. The House bill contained no such provision.

The conference report contains the Senate provision.

AUTHORIZATION OF APPROPRIATIONS

The House bill provided that sums appropriated to carry out the provisions of the legislation would be available beginning October 1, 1978. The Senate amendment contained no date for the availability of appropriated sums.

The conference report contains the House provision.

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

FEDERAL TAXABILITY OF GUARANTEED CITY INDEBTEDNESS

The House bill provided that interest accrued on city indebtedness which is guaranteed under the provisions of title I will be subject to Federal income taxation so long

as the guarantee is in effect. The Senate amendment contained no such provision.

The conference report contains the House provision.

The conferees provide for taxability of indebtedness guaranteed under title I to avoid establishing a precedent for tax-exempt Federally guaranteed obligations. Section 103 of the Internal Revenue Code of 1954 presently provides for the taxation of interest on arbitrage bonds and certain industrial development bonds issued by a State or local government.

An obligation which combined a Federal guarantee and a tax exemption for interest would be more desirable to investors than U.S. Treasury obligations (which are taxable) or other obligations issued by State or local governments (which are tax-exempt but not Federally guaranteed). Although the conference report provides for the taxability of guaranteed city indebtedness, the conferees do not intend this to be a precedent for the tax treatment of non-guaranteed obligations of State or local governments.

The conferees do not expect the taxability of interest on guaranteed indebtedness to adversely affect the market value of the guaranteed city indebtedness because, under the conference report, (1) guaranteed obligations may only be sold to New York State and City employee pension funds which are presently accorded tax-exempt status, and (2) the guarantee will lapse if the obligations are sold or otherwise disposed of by such pension funds.

FEDERAL FINANCING BANK

The House bill prohibited the Federal Financing Bank from acquiring any of the obligations guaranteed under title I.

The Senate amendment contained no such provision.

The conference report contains the House provision.

HENRY S. REUSS,
WILLIAM S. MOORHEAD,
JAMES J. BLANCHARD,
BRUCE F. VENTO,
J. W. STANTON,
STEWART B. MCKINNEY,
DAN ROSTENKOWSKI,
WILLIAM R. COTTER,
BARBER B. CONABLE,
Managers on the Part of the House.

WILLIAM PROXMIRE,
JOHN SPARKMAN,
H. A. WILLIAMS,
EDWARD W. BROOKE,
Managers on the Part of the Senate.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT THIS AFTERNOON DURING THE 5-MINUTE RULE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be allowed to sit this afternoon while the House is in session under the 5-minute rule for the purpose of marking up House Judiciary Resolution 628, the equal rights extension.

The SPEAKER pro tempore. Is there objection to the request of the gentlemen from California?

Mr. BAUMAN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from California (Mr. EDWARDS) if 10 Members, as the rule requires, object to this markup session during the 5-minute rule, is it the intention of the leadership of the Committee on the Judiciary to force the members of the Committee on the Judiciary to stay after the House has adjourned for the purpose of marking up this legislation and to conclude the markup tonight?

Mr. EDWARDS of California. Mr. Speaker, if the gentleman will yield, no, we are not forcing anybody, but we would like to complete the bill today.

Mr. BAUMAN. Mr. Speaker, further reserving the right to object, it is my information that the committee leadership has told the members of the Committee on the Judiciary that if 10 members do object, and I think very well that 10 members might object, that the committee will be forced to stay on tonight to finish the markup. If that is to be the case, then the gentleman from Maryland now speaking is not constrained to object to an arrangement that will prove to work a hardship on other members.

Mr. RODINO. Mr. Speaker, if the gentleman will yield, I would like to advise the gentleman from Maryland (Mr. BAUMAN) that the chairman of the committee had already notified the members that we are intending to complete work on the legislation today, no matter how long it takes to do so.

Mr. BAUMAN. So that the answer is yes, that you intend to keep your committee here tonight after the House has concluded its business if you do not receive permission to do so now?

Mr. UDALL. Mr. Speaker, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Arizona.

Mr. UDALL. This may be academic. We are going to move to go into the Committee of the Whole House on the State of the Union for further consideration of the Coal Pipeline Act of 1978 in just a moment. There are 75 minutes of general debate left, and I understand all of it or nearly all of it will be used, which means that the Committee on the Judiciary will not be under the 5-minute rule obligation until about 5:15 o'clock anyway, and the leadership has indicated it wanted the committee to rise at 5:30, so it looks like this may be academic.

Mr. BAUMAN. The gentleman from Arizona has explained the academic nature of the situation. I have also talked with the minority members of the Committee on the Judiciary who would prefer not to be discommoded, so, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California (Mr. EDWARDS)?

There was no objection.

COAL PIPELINE ACT OF 1978

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1609) to amend the Mineral Leasing Act of 1920, and for other purposes.

The SPEAKER pro tempero. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H. R. 1609, with Mr. MIKVA (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Monday, July 17, 1978, the gentleman from Arizona (Mr. UDALL) had consumed 11 minutes; the gentleman from Kansas (Mr. SKUBITZ) had consumed 8 minutes; the gentleman from California (Mr. JOHNSON) had consumed 10 minutes; and the gentleman from Ohio (Mr. HARSHA) had consumed 15½ minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield 4 minutes to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I hope that the gentleman from Texas may not be considered a parochial legislator. I have tried both, in regard to the matters that have come before this body concerning gas and in matters coming before this body today on transportation of energy to represent a national position. Let me say that one of the most important things about this bill is that it makes it possible to send from a region which now produces about 37 percent of the gas produced in this Nation; that is, from my State of Texas, a great amount of that gas for use in the Nation for the highest and best use; that is, for residential use and use as a feedstock. If we prudently use this gas through this century, we will have sufficient gas to use for these higher uses through this century. If we use gas for boiler fuel purposes we will run out of gas for the higher uses much more quickly.

Presently, 70 percent of that gas which is produced in Texas is used in intrastate commerce; that is, in Texas. The reason for that is that the price is high enough to afford the base upon which all present dryland production rests. Of this amount, 2.33 t.c.f. was used intrastate for industrial purposes in 1975. This is 91 percent of the intrastate use; 44 percent was used for generating electricity. By 1990 all electric generation except that for peak loading must go to other fuels besides gas—that means coal, primarily.

By 1985, 10 times as much coal must go to Texas as presently goes there. That is the reason it is so important for this industrial area to get a substitute for gas so that gas can go to the East, gas can go to the Midwest and to the West and to the rest of the country for its highest and best use.

I suggest to you that this bill is essential both for the prudent distribution and use of energy in America and for the very survival of the industrial sectors of the country that have been built on gas.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, I commend the gentleman for his very worthwhile efforts in this regard and wish to associate myself with the gentleman's remarks.

Mr. ECKHARDT. Mr. Chairman, I thank the gentleman and I might mention, it is in the gentleman's own city of San Antonio that freight rates for a ton of coal have gone up from $10.93 in October 1976 to $11.37 in November 1976, then in November 1977, to $11.94. Now the rate is $12.42 raised to that point in June 1978. This is an increase of 13.6 percent. During that time the price of coal has decreased by 2.6 percent.

Mr. SKUBITZ. Mr. Chairman, I yield 3 minutes to my colleague, the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. Mr. Chairman, what we have here is a special interest bill—a bill that says we are going to give a corporate entity the power of eminent domain. We are going to give a corporate entity the power of condemnation of private property. In this bill, corporations will have the power to cross the richest valleys or the poorest agricultural land. They will have the power to run a pipeline through your backyard or the power to cross drainage or irrigation systems without the OK of the property owners. It is estimated by the Environmental Policy Center that a pipeline from Wyoming to Texas will take 14,000 acres, and I think we know that those rights-of-way will cross agricultural land without regard for farming practices.

What we are doing is granting this very significant power of eminent domain to a relatively unregulated common carrier pipeline.

As a matter of fact, the Office of Technology Assessment report states that the railroads could haul the coal cheaper if it were not for the regulations and requirements. In addition, this Congress should take into account the very probable cost overruns that could develop when coal pipeline companies actually get into the construction. We saw cost overruns in the Alaska pipeline—a line that started out with an estimate of $1.2 billion and ended up at $8 or $9 billion. In the final analysis it will be the consumers that pay for those overruns, so let us not swallow the story about how great this is going to be for the consumers.

My colleagues, I ask you, is this cost before or after the pipelines buy the water? Or is it after they treat or sell the water at the point of destination? What are they going to do with the water at the point of destination? At the present time there is no complete study to tell us what the condition of the water will be at destination. What will be the environmental impact of 6 billion gallons of polluted water per year on the quality of water? Where is 6 billion gallons of water going to come from to operate a single pipeline? Where are the pipelines going to get this water?

They will get it from the arid West where the coal reserves are located, of course. It will come from Montana, Wyoming, North and South Dakota. And that, my friends, is the most important point of all. Some of these areas average less than 14 inches of rainfall a year. Therefore the corporate proponents of this bill are looking to the underground aquifers.

Let us not buy the argument that the States can control the sale of this water. Why? Because Wyoming cannot control Montana's water. Dakota cannot control Wyoming's water. And Montana cannot control the sale of water by either State or the sale of water from Indian reservations.

Yet each is affected by any withdrawals of the other. Any one could sell water depleting the aquifer, draw down the domestic water tables and do irreparable damage to aquifers that have taken thousands of years to charge. This is water that small towns, ranches and others critically depend on for their daily supplies. Take away the domestic water and you have devastated the land just as surely as it would have been devastated by a nuclear holocaust, for without water there is no habitation, no farms, no livestock, no recreation, no wildlife, no people.

At this very moment in the Federal court in Montana, the U.S. Government as trustee for the Crow and Cheyenne Indian tribes is suing between 3,000 and 4,000 private persons for all, not part, but all, of the water arising on, flowing through, or under those two very sizable reservations, which incidentally, have millions of tons of coal.

I will introduce an amendment to prohibit the Secretary from approving a pipeline which is dependent in whole or in part on water secured from an Indian tribe until the water of that tribe has been quantified by volume.

The problems with this legislation keep increasing rather than diminishing.

But paramount is this issue of eminent domain. This power has traditionally been for a public purpose. I suggest that if this bill passes we will be prostituting the concept of the public purpose in favor of a few corporate giants.

Mr. JOHNSON of California. Mr. Chairman, I yield 3 minutes to the genteleman from New Jersey (Mr. HOWARD), the chairman of our Subcommittee on Surface Transportation.

Mr. HOWARD. Mr. Chairman, the basic purpose of this legislation is to permit coal pipelines to acquire rights-of-way, if such rights-of-way cannot be acquired by negotiation. The Secretary of Interior would have the power to grant rights-of-way for coal pipelines across Federal lands. If such rights-of-way cannot be obtained by negotiation, the bill would permit the coal pipelines to exercise the power of Federal eminent domain. The use of this power is contingent on the acquisition of a certificate of public convenience and necessity from the Secretary of Interior. Eminent domain cannot be used for rights-of-way across Federal or State lands or lands held in trust for Indians or an Indian tribe. Certificated pipelines will be subject to control and operation as common carriers by the ICC. Public hearings are required and shall include such issues as environmental disruption, impact on railroad economics, and the effect of water disposal. The Departments of Energy, Transportation, the EPA, and the ICC must participate in final hearings.

The pipelines are to be constructed underground to the maximum extent practicable. The bill contains ample language to assure congressional review and disapproval of regulations promulgated by the Secretary. The legislation sets out civil and criminal penalties and provides for antitrust review by the Department of Justice and the Federal Trade Commission.

The final major feature of H.R. 1609 states existing water rights are completely protected. They have the total right to grant, deny, or condition use of water for transportation of coal through a certificated pipeline. Prior to certification, a geological study must be conducted by the U.S. Geological Survey showing the effect that the use of groundwater by a proposed pipeline will have.

Mr. HARSHA. Mr. Chairman, I yield 7 minutes to the distinguished gentleman from Pennsylvania (Mr. SHUSTER), the ranking minority member of the Subcommittee on Surface Transportation.

Mr. SHUSTER. Mr. Chairman, I thank the distinguished ranking minority member of the full committee for yielding this time to me.

Mr. Chairman, 2 years ago this Congress created a National Transportation Commission and charged that Commission with the responsibility of coming up with recommendations for a long-term transportation policy for America.

As the chairman of that commission, one of the first things I learned was that we cannot have a balanced transportation system in America unless we recognize that an essential ingredient is the fair treatment of the various transportation modes by the Federal Government. Indeed one of the reasons for some of the transportation problems we have in America today stems from the lack of fair treatment on the part of the Federal Government of the various modes.

I would suggest to the Members today that there are at least three reasons why this legislation before us should be defeated.

The first reason is that this legislation puts Congress on a path of providing special favors to one particular mode—the coal slurry pipelines.

The issue before us today is not whether we should be for or against the coal slurry pipeline, as some would have us believe the issue should be drawn; but, rather, the issue is: Should we give the special favor of Federal—and I underline the word "Federal"—eminent domain to one mode, when most other modes do not have that particular favor.

Most of the modes must go to the

States to get their right-of-way, their eminent domain, and why should this Congress provide to one particular mode, to the coal slurry pipeline, Federal eminent domain, something that most other transportation modes do not have? Indeed, this is a special favor, one that is not needed. Let the coal slurry pipelines go to the various States and get the right of eminent domain, State by State, just the way most of the other modes do.

For this first reason, the fact that this is a special favor for one mode, I urge that this bill should be defeated.

Second, it should be defeated because this is anticompetitive legislation. We were told yesterday that this legislation would create more competition. And the example was used that having two drugstores in a community certainly is better than one drugstore.

Let us continue that analogy for a moment. If you put a second drugstore in the community and then you say you are going to have to sign a contract to buy all of your drugs from that drugstore for the next 30 years, how much competition, indeed, is that creating?

In the long run, it is running counter to competition. Even worse, if you have a 30-year contract that you are going to have to sign to buy your drugs from this one drugstore, you are going to have to estimate in the beginning how many drugs you are going to need, and in the next 30 years you are going to have to take those drugs and pay for them whether you need them or not. I say that is some "competition."

It is another example of special favoritism to the coal slurry pipeline.

Certainly, the railroads cannot come forward and get these 30-year, long-term commitments. It is not permitted by the ICC.

So that is the second reason this legislation should be defeated. It is really anticompetitive, in the long run.

The third reason already touched upon is the ravenous consumption of scarce water. Indeed, it takes 1 ton of water to move 1 ton of coal.

But even worse, let me share with the Members something which happened in the Texas State Legislature less than a year ago. We are told that the coal slurry pipeline is going to be beneficial to Texas. On August 29, of last year, after passage by the Texas Legislature the Texas Governor signed into law coal slurry pipeline legislation. And listen to what it says:

> . . . the right of eminent domain granted under this chapter to such pipelines shall not include and cannot be used to condemn water or water rights for use in the transportion of coal by pipeline; and provided further that no Texas water from any source shall be used in connection with the transportation, maintenance or operation of a coal slurry pipeline. . . .

So I can only say to my good friends from Texas: What chutzpah they must have down Texas way to push the Feds to open the spigots of the upper arid West for their benefit, while prohibiting the use of their own Texas water for coal slurry pipelines.

This legislation should be rejected. It should be rejected because it is an unnecessary Federal power grab. Coal slurry pipelines can get their eminent domain from the States, just like the other modes. This should be rejected because it gives special favors to one mode of transportation that other modes do not enjoy. And it should be rejected because it siphons scarce water from the arid West.

Mr. Chairman, in closing, let me quote what the distinguished gentleman from Wyoming (Mr. RONCALIO) said in testimony before the Committee on Public Works on this matter, referring to the coal slurry pipeline bill:

> This is the most dangerous precedent for the people of the arid West that I have ever seen.

Mr. Chairman, this legislation should be defeated.

Mr. JOHNSON of California. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana (Mr. BREAUX), the chairman of the subcommittee of the Committee on Public Works and Transportation which handled this legislation.

Mr. BREAUX. I thank my chairman for yielding.

Mr. Chairman, I also appreciate the compliment of the gentleman from California (Mr. JOHNSON). I was only acting chairman of the subcommittee, but I appreciate the compliment of the chairman of the full committee.

Mr. Chairman, I think there has to be something good about this legislation when we find the gentleman from Arizona (Mr. UDALL) and myself on the same side of the legislation advocating responsiveness to the problems which are facing us in the energy areas. This is an all-encompassing bill.

Mr. Chairman, as I listened to the arguments as to why we should not pass this bill, I was reminded of an old gentleman in Louisiana who was absolutely convinced that if we did anything to advance the airplane as a means of transportation, it would only destroy the automobile in the United States of America.

That sort of analogy simply is not true. No. 1, this legislation does not really involve any Federal funds. It is not the Federal Government which is involved in building a coal slurry pipeline. It is going to be built by private industry. It is only going to be built by private industry if they make a determination that it is in their economic interest. I think it is, and I think they think it is also.

However, Mr. Chairman, I am particularly disturbed by people who say that we should not allow private industry to build a coal slurry pipeline to bring coal to the customers at a cheaper rate because it is going to harm some one segment of our economy, namely, the railroads.

I think we have passed legislation to try to help railroads practically every other month in this Congress, and I have supported the legislation at times when I thought it was in the country's interest. However, the fact is that this legislation is not going to hurt the railroads. If the railroads are in need, this Congress should address that problem. I think we have. We have passed bills in this Congress to help them financially, to keep them on their feet, to prop them up, and to make them competitive with other modes of transportation.

Mr. Chairman, merely because one segment has problems we certainly should not sit on progress and say, "You might do damage to the railroads. Therefore, we are not going to allow the coal slurry pipeline to go forward."

That is not in the interest of this country.

Mr. Chairman, one aspect of the bill which gave me a particular problem in the committee was the fact that the legislation says that if one is either the owner of the coal or one of the ultimate users of the coal, he cannot also participate in the construction and operation of the coal slurry pipeline.

I oppose that because I think they all should be allowed to participate. It is a free-enterprise society, and I think there is enough protection to see that a monopoly is not created in the sense that a coal slurry pipeline, No. 1 has to be operated as a common carrier; and any license that will be carried out will be subject to review by the ICC in order to prevent any exorbitant charges from being made.

The committee has on this point agreed to a compromise. I would have preferred no limitation whatsoever. However, the committee, I think, in the wisdom of the committee and in its fairness, and in an effort to try to get something we could report out, has agreed to a figure of 20 percent as being the amount of control that cannot be exceeded.

Mr. Chairman, I think that is a good compromise, and I support it.

Mr. SKUBITZ. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, by now I am certain that every Member of the House is aware of H.R. 1609. It is an unusual bill. Simply stated, it gives to a private interest group the awesome power of Federal eminent domain. I call it an awesome power, Mr. Chairman, because it is just that. It is a license to take any man's property for token compensation. It is a license to subrogate individual interest for corporate gain.

Now, there is nothing new or novel about private interests trying to use public power in order to get rich. What is novel is that such an effort has progressed as far as the floor of the House of Representatives. Seldom has this body gone so far to help so few.

Simply stated this is what this bill is all about:

First. It is another attempt to ride on the coattail of the energy crisis. It gives the Secretary of the Interior the power to give a private group the right of eminent domain. The right to take anyone's property: railroad, farmers, businessman.

Second. It is an effort to subrogate individual interest, not for the public interest, but for corporate gain.

Third. It is an effort to circumvent the established procedure of requiring that a proposed carrier prove to the appropriate Federal agency, the ICC, whether a request to create a new sys-

tem of transportation is needed and in the public interest. It transfers that decisionmaking away from the ICC and States to the Department of the Interior.

Do not get me wrong. There are times when the public interest necessitates the use of the power of eminent domain. Traditionally, we have left that power to the States, because it is at that level of government where the public interest can best be measured. Only in the rarest circumstances has the Federal Government ever given private interest the power to exercise Federal eminent domain.

This effort to give a private group the right of eminent domain has been with us now for 16 years.

Mr. Chairman, in April and May of 1962, the Senate Commerce Committee conducted comprehensive hearings on S. 3044, which was a bill almost identical to the one before us today. That was back in the 87th Congress. That bill did not pass, but promotional legislation proposals for coal slurry pipelines have been around ever since, a period of over 16 years.

Each time Congress has analyzed the issue, it has decided against providing a special benefit for the promoters of coal pipelines. I hope that this 95th Congress will continue the tradition of the past.

It is well-known, Mr. Chairman, that I oppose this legislation. I am the ranking member on two of the committees which have a vital concern in this matter. I am the ranking Republican on the Committee on Interior and Insular Affairs which first considered H.R. 1609. I am also the ranking member on the Transportation and Commerce Subcommittee of the Interstate and Foreign Commerce Committee.

We have in H.R. 1609, Mr. Chairman, one of those issues which becomes more undesirable the more that one learns about it.

During the last Congress, I took advantage of a brief period of hospitalization to thoroughly study pages and pages of testimony which had been presented with respect to this matter before the Interior Committee. After studying all of the evidence, I prepared a series of 13 separate statements which I made on the House floor in order to share with my colleagues the full range of issues involved in granting the coal slurry interests the power of Federal eminent domain.

I ask unanimous consent, Mr. Chairman, to insert these statements in the RECORD immediately following my remarks.

I urge my colleagues to consider my arguments carefully. H.R. 1609 on its face appears to be a simple bill. In reality, it is an extremely unusual bill that grants special privileges to a few and causes great problems for the rest of us. Fortunately, education seems to result in more and more of my colleagues voting against this legislation. Last February, when the Interior Committee voted on H.R. 1609, the vote was 30 to 13 in favor of the bill. The Committee on Public Works and Transportation voted on the bill in May. The vote then was 23 to 20 in favor of the bill. The Committee on Interstate and Foreign Commerce had 30 days in which to consider the legislation. Two weeks ago, that committee voted in strong opposition to the bill by a vote of 19 to 9. It is clear to me that the more Members know about the effects of this legislation, the more likely we are to be against it. I am confident that the trend toward rejection of H.R. 1609 will continue here on the floor of the House.

H.R. 1609 GRANTS EXTRAORDINARY BENEFITS TO A FEW IN PRIVATE INDUSTRY

Mr. Chairman, the heart of this bill is contained in section 4. That section grants to the coal slurry interests the power of eminent domain. Let us take a moment to examine the issue of eminent domain.

Eminent domain is the power of the Government to take an individual's land for a public use where there is a public interest. Notice, Mr. Chairman, that normally it is the Government that exercises the right of eminent domain. Normally, it is the State government, rather than the Federal Government. I have been able to find only two examples where the Federal Government has given private interest groups the right to exercise eminent domain.

The first instance was with respect to completion of our oil pipeline network. That right was given under the emergency power in the time of World War II. At that time, there was a clear national emergency and it was in the public interest to see that that pipeline be created. To my knowledge, there was no objection to that action and I merely point out to my colleagues that no such national emergency exists today.

The other example where the Federal Government gave to a private interest the power of eminent domain is with respect to the natural gas pipeline. That, by the way, is the only instance where the statute itself specifically grants the Federal power of eminent domain. In 1947, amendments to the National Natural Gas Pipeline Act of 1938 also contained a comprehensive and total Federal regulation of natural gas transmission by pipeline. It was in those amendments that the gas pipeline interests were given the right of Federal eminent domain.

The constitutionality of that action was tested in the case of *Thatcher* v. *Tennessee Gas Transmission Company*, 180 F. 2d 644 (5th Circuit, 1950). The court upheld the constitutionality of the eminent domain provision primarily because there was a need for natural gas transmission in this country and there was no other way to transport natural gas except by interstate pipeline. Let me repeat, Mr. Chairman, the constitutionality of Federal eminent domain for natural gas pipelines was upheld, because there was no other way to transport natural gas. Let me quote from the opinion of the court:

> Implicit in the provisions of the statute are the facts, among others, that vast reserves of natural gas are located in States of our nation distant from other States which have no similar supply, but do have a vital need of the product; and that the only way this natural gas can be feasibly transported from one State to another is by means of a pipeline. None of the means of transportation by water, land or air, to which mankind has successively become accustomed, suffices for the movement of natural gas.

This is not the case with coal.

Mr. Chairman, I do not base my conclusion upon idle speculation. You will recall that several committees of Congress asked the Office of Technology Assessment to do a comprehensive study of coal slurry pipelines. In January of this year, they released their report. Let me read from page 18 of the OTA report:

> The capacity of rail systems can be expanded faster than can coal mining or electric power generation using coal provided the necessary investments in local rail facilities are made.

What then is the justification for granting the coal slurry pipeline interests the power of Federal eminent domain? Unlike the oil pipeline situation, there is no crisis. About 11 percent of the coal mined in this country is converted to electric energy at the mouth of the mine. That does not have to be transported. Of the coal that has to be transported, railroads haul three-quarters of it now. Both OTA and the Secretary of Transportation agree that railroads can haul 300 to 400 percent as much coal as is now being hauled.

What then is the reason for granting Federal eminent domain to the coal slurry interests? I am afraid that the only interest is to benefit a few private companies and individuals who see the development of coal pipelines as the way to make a fast buck.

Most of us in Congress spend all of our time trying to enact laws which benefit the public. Sometimes we are so busy that we do not take the time to learn much about private companies. I want to mention just a couple of things concerning two of the major companies which are involved in promoting H.R. 1609.

Bechtel, Inc., is a giant engineering and construction firm. From all that I know, they do a good job in the engineering and construction field. In the consulting area, I am afraid some of their efforts may be self-serving. Three years ago, they were given a contract for over $400,000 to study the feasibility of coal slurry pipelines by the Department of Interior. Needless to say, that study concluded that coal slurry pipelines were feasible.

If partisan politics were important to me, I suppose I would support Bechtel in their efforts. George Shultz, a former Secretary of the Treasury during the Nixon administration, is now president of Bechtel Corp. Caspar Weinberger, the former Secretary of HEW during the Nixon administration, is a vice president of Bechtel. Peter G. Peterson, a former Secretary of Commerce in the Nixon administration, is chairman of the board of Lehman Brothers.

I am certain that those individuals are very capable men with respect to the pri-

make a pipeline work. As that pipeline were also good public servants. I, for one, however, do not believe that we should now use public law to benefit private companies. The first reason, then, Mr. Chairman, that I oppose this legislation is that it grants an extraordinary benefit to a few private companies who want to corner the energy market. The second reason that I oppose the legislation is that there is no reason for it. Simply stated, our present transportation system has the capacity to move all the coal that will be mined in the years to come.

H.R. 1609 IS NOT NECESSARY FOR THE TRANSPORTATION OF ALL THE COAL WE CAN PRODUCE

Mr. Chairman, it is to the advantage of the proponents of H.R. 1609 to allege that the coal pipeline issue is an energy issue. It is no more an energy issue than building the SST. As a matter of fact, as with the SST, coal pipelines would use energy but they would not produce 1 Btu. The coal slurry issue is a transportation issue notwithstanding the fact that my colleagues on the Interior Committee got involved with it. As a transportation issue, one has to ask a very basic question. Do we need it in order to transport coal? The answer is "No."

President Carter in his energy address to Congress called for an increase in the present production rate of coal from 640 million tons per year to more than 1 billion tons per year by 1985. I think the increased production is a good idea. The only question we have with respect to this bill is—can the railroads handle the increased coal production? The answer is "Yes."

Railroads now transport three quarters of all the coal that is transported in this country. Day in and day out that transportation is taking place. I am certain that the chairman of the Interstate and Foreign Commerce Committee, and the chairman of the Transportation and Commerce Subcommittee of that committee, Mr. STAGGERS and Mr. ROONEY, respectively, would wholeheartedly agree with me that railroads can do their job. We speak with some expertise since our committee is deeply involved in railroad legislation day in and day out.

The railroads themselves have testified before every committee that has considered this legislation. In their testimony, they have assured Congress that they can move all the coal which is or will be mined in this country.

Now, Mr. Chairman, I realize that proponents of this special interest legislation have been alleging that railroads cannot do the job. The Slurry Transport Association put out a pamphlet attempting to scare the people in the Midwest about the fact that mile-long trains would bottle up traffic in every Midwestern city. The solution to that problem if it is one is to build bypasses around our major communities. The Secretary of Transportation's task force pointed out that we have a number of Federal programs already instituted for the purpose of providing grade crossing separations. There are a number of ways to alleviate traffic congestion brought about from railroad trains going through towns. It is the day that trains do not go through towns that we must worry about. That, Mr. Chairman, would be a tragedy for all America. I say this because railroads carry lots of things other than coal. The special interest legislation we have before us today might promote the transportation of coal but in doing so it would unleash upon all of us problems almost too numerous to mention.

H.R. 1609 ENCOURAGES THE MISUSE OF PRECIOUS WATER SUPPLIES

Mr. Chairman, while no need has been demonstrated for the development of coal slurry pipelines, one of its major disadvantages has been the misuse of scarce water resources. Evidence contained throughout the thousands of pages of testimony given to the Interior Committee sounded the alarm against wasting water which is so scarce in the Southwest. The focus of that water waste has been the Southwest, because the three major coal slurry pipelines proposed envisioned coal moving from Wyoming and Colorado to California, Texas, and Arkansas.

The amount of water it takes to slurry coal through a pipeline is mind-boggling.

A recent article in Newsweek magazine pointed out that already water allotments of the Colorado River exceed the amount of water available in that river. What would happen if additional demands were placed on that water supply, because of coal slurry pipelines? The bill is not really clear on that point. In Interior Committee we attempted to protect water rights as best we could. However, questions still remain. Might not some court give a high priority to water for coal pipelines, because Congress in giving Federal eminent domain for that pipeline had placed a high priority on it?

I am not a lawyer versed in Western water rights. Neither am I a constitutional lawyer—and I question—whether we have such an authority on the committees that handle this bill. Nevertheless, let me mention something that bothers me a great deal about this bill and it should bother every Congressman from the West and every Congressman interested in the taxpayer.

In an effort to protect the rights of a State to protect its own water righs, the Interior Committee put this language into this bill. I quote from section 5, paragraph G of the bill:

> The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use underground water (whether groundwater or other subsurface waters) for the purpose of transporting coal, unless the United States Geological Survey has conducted a comprehensive study which demonstrates that the use of such underground water source over the life of the coal pipeline, and considering the cumulative effect of any other coal pipelines using the same underground aquifier as a source of water, will not cause a source of water, will not cause a significant adverse impact on the quality and quantity of the water table in surrounding areas on adjoining States.

Sounds great does it not? The Geological Survey of the United States conducts its survey and makes its report available to States and for surface waters. Based on this assurance the Secretary can certify a coal slurry pipeline. What happens then when several years later the Geological Survey finds it made a mistake. I might add, Mr. Chairman, the chances of this happening would not be unusual. The Geological Survey made gross mistakes concerning the petroleum reserves. That mistake in part accounts for the late realization of the energy crisis we see today.

Moreover, Mr. Chairman, no one in the Geological Survey nor the National Academy of Sciences nor even the House Interior Committee knows much about underground water levels. We do know for example, that the black MESA pipeline, which is a small pipeline compared to the one proposed by ETSI, will lower the water table serving the Indians by at least 100 feet. We do know that underground water surface water can be used up. What happens, Mr. Chairman, when the Geological Survey says we made a mistake and there will not be enough water to go around.

I assume, Mr. Chairman, that the State will attempt to tell the pipeline to stop using the water, so that it can be allocated for a more important purpose. The pipeline on the other hand will probably say we relied on the good faith of the Government and spent $5, $10, or $15 billion building the pipeline and somebody has got to pay us for our efforts. They may remind us, Mr. Chairman, that the fifth amendment to the Constitution guarantees that private property cannot be taken without due process and just compensation. Who will pay? The State or Uncle Sam?

I do not know, but I do believe in one way or the other the taxpayer will be left holding the bag.

H.R. 1609 ADVERSELY AFFECTS FARMLANDS

Mr. Chairman, farmers are affected by this bill in at least three ways. First of all, they are affected by the eminent domain provisions which means that they must permit pipelines to criss-cross their land. In my own State of Kansas, farmers already find that it is not easy to live with oil pipelines going across their lands. Inspectors periodically walk the land in order to inspect the pipelines and from time to time there are incidents making it difficult for farmers to coexist with oil pipelines. This bill would merely encourage the intrusion of another pipeline across their valuable land and at eminent domain prices.

Second, the pipeline itself may create an obstacle for the farmer to efficiently utilize his land. The pipeline we are talking about is not small in size. As a matter of fact, it is a 3-foot-high pipeline which may or may not be buried under the ground. Section 11 of the bill states that all pipelines shall be underground "to the maximum extent possible." I am not sure what that "maximum extent possible" means. At a minimum, I would think all pipelines should be underground, if we are to avoid dividing sections of land with 3-foot-high coal pipelines that prohibit either man or beast from easily crossing.

I also wonder what happens to a coal pipeline when it freezes. As you will recall, it is gallons of gushing water that

make a pipeline work. As that pipeline goes over the high mountains of Wyoming on a cold day, what is to keep it from freezing? Farmers in that area of the country may find their fields covered with coal particles once a frozen pipeline has burst.

Perhaps the greatest harm that will come to our farmers is that they will be faced with higher transportation costs when shipping their grains to market by rail. I will more fully explain this problem later on in my remarks. Let it suffice to say at this point that railroads need a certain return on investment in order to keep the railroad system going. The coal pipelines anticipated with enactment of this bill would siphon off over $600 million worth of business from the railroads in the year 2000. Someone will have to make up that lost revenue since no one is suggesting that we eliminate railroads entirely. It will be the Midwest farmers who will have to make up the slack in rail revenues. Mark my words, this bill will first affect the farmers' land and then their pocketbook.

H.R. 1609 WOULD ADVERSELY AFFECT RAILROADS

Mr. Chairman, 4 or 5 years ago, the Association of American Railroads had a former astronaut who would ask frequently on television, "America's railroads, who needs them?" Needless to say, there were dozens of answers to why we all needed railroads. So much is transported by rail that we often take railroad transportation for granted.

Three-quarters of the coal that moves in this country moves by rail. When one looks at all freight that moves in this country, nearly 40 percent travels by rail. All of us in this body know that railroads are important. Those Members from the Northeast know it particularly well, because when railroads went bankrupt in that part of the country, they learned firsthand what it is like to have a nonfunctioning railroad system.

In response to the problems in the Northeast, this Congress created ConRail. So far, we have pumped nearly $2 billion into ConRail in an effort to make it work. Within the next few weeks, this body will be asked to authorize an additional $1.3 billion for ConRail. That is a lot of money and I think it is justified even though the railroads in the Northeast have little direct effect on those of us in Kansas. I bring this matter simply to remind my colleagues that railroads are important to the national economy.

Unfortunately, the rate of return on investment in the railroad industry is not as good as it should be. For the 12 months ending in March of this year, railroads had a return on investment of about seven-tenths of 1 percent. That compares with a return on investment of about 20 percent for manufacturing generally. In financial terms, railroads had their worst year last year since the depression year of 1932.

Coal traffic constitutes about 20 percent of the total business for railroads. If railroads' only business was coal, their poor rate of return would suggest that perhaps we should have coal pipelines instead of railroads. Such is not the case, however. Railroads transport every imaginable commodity from iron ore to finished cars; from grain to cornflakes; from sand and gravel to television sets.

All of this, Mr. Chairman, is shipping on a railroad system which in this world is second to none. There are over 200,000 miles of track serving thousands of communities. The track, the signal system, the equipment and the terminals all need constant improvement and quite frankly at this point in time the industry does not have enough money to do all that needs to be done. There is, simply stated, a shortfall between the capital which is needed for railroad improvements and the capital that is available. That shortfall runs into the billions of dollars. Enactment of H.R. 1609 would divert potential business from the railroads thereby increasing the capital shortfall.

As I pointed out earlier, the OTA study indicated that coal pipelines would be handling $687 million worth of coal business in the year 2000. That $687 million worth of coal business would be traveling by rail otherwise. Railroads would make a profit from that business. That profit would help to build the Nation's railroads.

What happens, Mr. Chairman, if the profit is not there. Someone will have to make up the difference. The first group who would make up the difference would be the other shippers by rail. Those shippers would make up for it in the form of higher freight rates. The second area that would be required to make up the difference would be the taxpayer. Instead of containing ConRail in the Northeast, we could well be moving the concept across the country in order to provide railroads with the necessary money for modernizing their systems.

H.R. 1609 WOULD MEAN HIGHER TRANSPORTATION RATES FOR THE ENTIRE SHIPPING PUBLIC

Mr. Chairman, railroads have to be permitted to make money if they are going to remain in the private sector. To the extent that coal pipelines create additional excess transportation capacity, they will have a tendency to reduce a railroad's chances of making money.

The farmer who ships grain from Kansas will be faced with higher rates in order to make up for the lost coal business. The automobile manufacturer from Detroit will be faced with higher rates in order to make up for the lost coal business. The wood chip manufacturer from the State of Washington will be faced with higher freight rates. The New England stone quarries will be faced with higher shipping rates and eventually the peanut farmers in Georgia will be faced with higher shipping rates in order to make up for lost coal profits.

The time has come, Mr. Chairman, for us to stop promoting one private interest by eroding the strength of our existing common carrier system. Railroads are important. They transport 40 percent of our national freight and we as a nation need them not only for national defense but to do business on a day-by-day basis.

I oppose H.R. 1609, because it grants extraordinary benefits to a few in the private coal pipeline business.

I oppose H.R. 1609, because it is not needed for coal transportation.

I oppose H.R. 1609, because it creates a whole series of new problems of economic concentration; wasteful use of water; headaches for farmers; a weakening of railroads and higher transportation rates for the public.

In short, Mr. Chairman, we do not need this bill and it benefits the few at a great cost to the many.

Mr. Chairman, I include the following material:

[From the CONGRESSIONAL RECORD, May 26, 1976]

"COAL SLURRY PIPELINE—1"

Mr. SKUBITZ. Mr. Speaker, most Members of the House are aware of the so-called coal slurry pipeline bill, H.R. 1863, now before the Interior Committee, is a bill to grant Federal powers of eminent domain to coal slurry pipelines. To say that the bill has created widespread interest is an understatement. The interest has not only been widespread, but is very intense because of the economic and social implications of the legislation.

The bill is before the Interior and Insular Affairs Committee because it would amend the Federal Mineral Leasing Act. As the ranking minority member of that committee, I have participated in the hearings and carefully examined all of the testimony contained in the 1,250-page hearing record. To date, the committee has not voted on the merits of the proposal put forth by H.R. 1963. However, we are scheduled to consider the matter in markup on June 9.

H.R. 1863 is not a simple piece of legislation because of the tremendous impact it can have on this Nation's transportation policy. During the extensive hearings we had on the legislation, I found that the proposal raises a multitude of complex issues which will have a far-reaching effect on our economy. Recently, I was able to utilize a period of hospitalization following an operation to carefully study the entire 1,250-page hearing record. I realize that most Members of this body will not be afforded the luxury of having the time to study in detail the evidence contained in the hearing record. Quite frankly, much of the evidence in that record is contradictory and it is often difficult to separate fact from fiction.

During the next several weeks, I intend to insert material into the RECORD which I believe will be helpful to all of my colleagues in examining all of the facts involving the coal slurry pipeline issue.

At the outset, I would like to point out that I have come to the conclusion that H.R. 1863 should not be enacted into law. I should also add that my views are diametrically opposed to those of the administration, even though, as ranking minority member of the Interior Committee, I would have supported the administration if there was any way that I could have done so consistent with my own analysis of the proposed legislation. Unfortunately, my analysis of the coal slurry pipeline issue is that it would be unwise policy with respect to both energy and transportation. As one of the ranking minority members of another House Committee—Interstate and Foreign Commerce—I have been deeply involved with both the national energy crisis and rail transportation. The coal slurry pipeline legislation could seriously undo any progress we have made in these two areas.

In the weeks to come, I shall present a series of separate statements dealing with this issue. In each statement, I shall be as objective as I can in hopes that the material will be of assistance to my colleagues who must at some point analyze as I have the coal slurry pipeline issue. Tomorrow, I shall discuss "Coal Slurry Pipeline-Energy against Transportation Issue" because supporters and opponents of the coal slurry pipeline

legislation have often created confusion as to the real need for the pipeline.

On Tuesday, June 1, I shall speak to "Rail Transportation of Coal—A Backdrop to the Coal Slurry Pipeline Issue." On Wednesday, June 2, I will examine the "Effect of Coal Transportation on Railroad Economic Viability."

On Thursday, June 3, I shall discuss "Innovative Rail Hauling of Coal" in order to fully lay before the Members the chief competitor and existing alternative to the coal slurry pipeline. These three topics will have a threefold purpose: One, to place the transportation of coal by rail in perspective; two, to set forth the potential undermining of the "Railroad Revitalization and Regulatory Reform Act of 1976" (Public Law 94-210), which was just enacted last February, and three, to demonstrate the expansion potential of coal transportation by rail.

On Friday, June 4, I will discuss "The Slurry Pipeline Lobby." In this discussion, I will simply point out the individuals and organizations which are promoting the Federal use of eminent domain to assist in the construction of the pipeline.

On June 7, I shall discuss "STA Obstruction of Fact Finding," which will be my assessment of the evidence put forth by a group called the Surface Transportation Association having the same initials, but no relationship to the Surface Transportation Act, which was a popular bill before the last several sessions of Congress. On Tuesday, the subject of my statement will be "Rails Can Move Coal Without Need For New Laws." In this statement, I will go into detail about the nature of the eminent domain powers to be given those who would like a coal slurry pipeline. This will include a discussion of the uniqueness of this type of legislation as well as the additional hazard contained in the legislation which permits eminent domain for the purpose of obtaining an easement rather than outright purchase. This latter possibility will deprive many farmers and ranchers in my part of the country full use of their land without the benefit of full compensation.

On Wednesday, June 9, my statement will be "Slurry Needlessly Exploits Valuable Water Resources."

My statement on Thursday, June 10, will continue on the same lines on the subject "Slurry Sludge Is Environmentally Unsound," and on Friday, June 11, "The Gushing Threat of the Slurry Pipeline" will examine the potential for additional environmental danger should pipeline be ruptured.

On Monday, June 14, I will examine "The Inability of the Slurry Pipeline To Be a Common Carrier." One of the arguments often advanced to support Federal intervention in the matter of the coal slurry pipeline is that the pipeline would be a common carrier. Unfortunately, the very nature of the pipeline makes it impossible for it to be a common carrier and at best it will be a limited contract carrier available to basically a single coal-producing area.

On June 15, I shall discuss "The Interlocking Nature of the Slurry Pipeline Lobby." The relationships and interrelationships between the various groups supporting a coal slurry pipeline is reminiscent of corporate interminglings around the turn of the century. My statement on this day will document and outline all of the interrelationships so that my fellow Members may judge for themselves whether or not such a venture will be in the public interest.

On Wednesday, June 16, I shall discuss "The Slurry Pipeline's Exploitation of Consumers in the South and Southwest." At the present time, it is the South and Southwest that will be most directly affected by the coal slurry pipeline. The evidence revealed to date indicates that consumers of electricity in those areas of the country will be open to great exploitation.

Finally, on Thursday, June 17, I will conclude my series of statements by addressing "Separating Fact From Fiction on the Slurry Pipeline."

I am hopeful that the series of statements on the House floor and in the CONGRESSIONAL RECORD will serve as a basis for every Member of this body to determine for himself the wisdom of the coal slurry pipeline. None of us in this body want to be branded as thwarters of technological progress. At the same time, however, we do not want to advance a foolhardy project simply in the name of technological progress. We may want to make sure that such a project does not advance if it is to do irreparable damage to our Nation's rail transportation system.

[From the CONGRESSIONAL RECORD, May 27, 1976, page 15753]

COAL SLURRY PIPELINE—II: ENERGY VERSUS TRANSPORTATION ISSUE

Mr. SKUBITZ. Mr. Speaker, yesterday I made a statement before the House concerning a so-called coal slurry pipeline bill, H.R. 1863, which can be found on page 15521 of the RECORD. This legislation would grant Federal powers of eminent domain to coal slurry pipelines.

Now, today, I want to address the problem of whether coal slurry pipelines relate to energy or transportation. Since under the rule—a 1-minute speech must be limited to 300 words—I am extending my remarks to discuss the subject of how coal slurry pipelines relate to energy or transportation more in detail at this time. However, I wish to point out that a coal slurry pipeline cannot produce a kilowatt of energy. The legislation before the Interior Committee simply represents a plan to superimpose an additional transportation mode on an existing system.

I think it is clear that in the legislation under consideration we are not talking about a measure to increase the supply of energy—it would not do that. We are talking about a measure to fill an imagined gap in the transportation system—there is no gap.

We are, I suggest, talking about legislation to grant a special and totally unprecedented privilege to a small group of promoters seeking to use our legitimate concern about the Nation's energy needs as an opportunity to pocket some fast bucks.

[From the CONGRESSIONAL RECORD, May 27, 1976, page 15877]

"COAL SLURRY PIPELINE—2" ENERGY VERSUS TRANSPORTATION ISSUE

Mr. SKUBITZ. Mr. Speaker, yesterday I made a statement before the House concerning a so-called coal slurry pipeline bill, H.R. 1863, which can be found on page 4986, of the RECORD. This legislation would grant Federal powers of eminent domain to coal slurry pipelines.

Legislation to grant the Federal right of eminent domain to builders of coal slurry pipelines has been presented by its proponents as an energy measure.

It is not an energy measure. It is a transportation measure and should be so regarded by the Congress.

Coal produces energy. The vast reserves of Western low-sulfur coal hold a bright promise for the provision of a substantial portion of this Nation's energy needs.

But a coal slurry pipeline cannot produce a kilowatt of energy. The legislation before the Interior Committee simply represents a plan to superimpose an additional transportation mode on an existing system.

At present, only one—relatively small—coal slurry pipeline is in operation in the United States. Its operations are not significant to the total coal transportation picture. Yet hundreds of millions of tons of coal are transported satisfactorily, efficiently, and economically.

If no more coal slurry pipelines are built, coal will continue to be transported—even if production in the West increases many times over. Railroads haul more than 60 percent of all the coal mined in this country. It is a profitable portion of the rail business. Testimony delivered before the Interior Committee indicates that the railroads are ready, willing and eager to haul every nugget of coal that can be produced.

So we do not need coal slurry pipelines to provide us with coal for energy. If the coal is mined, it will be moved.

The only real energy issue involved in this measure is an indirect one—the fact that the transportation of coal, however accomplished, will consume energy.

Coal slurry pipelines will consume more energy than would the use of unit trains for the same job. There are steps involved in the slurry pipeline process—pumping, dewatering, drying—which are not necessary in the movement of coal by unit train.

According to a study done for the Wyoming Department of Planning and Economic Development, the total coal slurry operation would consume about 750 Btus per ton-mile versus 300 Btus per ton-mile for unit train movement of coal.

In another study, the Hudson Institute estimated that a 1,300-mile rail operation using diesel power would be three times as energy-efficient as a 1,000-mile coal slurry pipeline using electric power.

So coal slurry pipelines are not producers of energy; they are consumers of energy—to a greater degree than the transportation mode pipeline promoters would like to supplant. Yes, I said supplant, not supplement.

Yet another misapprehension about the coal slurry pipeline is the notion that it would result in the production of less expensive energy than could be produced with the use of coal transported by rail.

Certainly, the cost of transportation will play a role in the cost of electric power produced by coal. It is a relatively small component, but it is there.

Based on all the evidence thus far produced, however, there is no valid basis for the assumption coal slurry pipelines could transport coal more economically than unit trains. A study done for the National Science Foundation, which is a part of the Interior Committee's hearing record, has determined that it would cost twice as much to build a coal slurry pipeline as to upgrade an existing rail line for equivalent service.

The pipeline cost figure so often thrown around is an estimate of $750 million for a 1,036-mile pipeline from Wyoming to Arkansas. Frankly, it is difficult to place too much credence in that estimate, because of the way it has been used. In one pronouncement by the promoters, the cost is pegged at $750 million in 1975 dollars; in another, the cost is said to be $750 million when completed at the end of the decade, assuming historical inflation trends return.

The estimate is ominously reminiscent of the estimate of $900 million advanced in 1968 for the 850-mile Alaska oil pipeline. That estimate was inflated to $2 billion in 1973; it is now $7 billion and the pipeline is not completed.

Estimates of pipeline operating costs are similarly elusive. The ones advanced by proponents are obviously based on a perfect, trouble-free operation—and this is just not realistic.

The alleged pipeline cost advantage over railroads is supposed to come from the fact a high percentage of the pipeline costs will be fixed costs, while the major portion of the rail costs would be variable operating costs. Fixed costs being less directly vulnerable to inflation, the assumption is that, over a pe-

riod of years, the rail would climb higher than the pipeline rate. This dependence on high inflation seems at odds with the statement I quoted earlier assuming low inflation to keep pipeline construction costs down.

It is revealing, I think, that the rate comparison most often cited by pipeline proponents is one calculated by the president of a utility corporation, not a potential pipeline operator. One would be inclined to assume such a person would have ready access to figures upon which to base computations, at least so far as his own operation goes.

Mr. Floyd Lewis, president of Middle South Utilities, on page 749 of the Interior Hearings Report on Coal Slurry Pipeline Legislation (Serial No. 94–8) cited the comparison that $14 billion would be saved over 30 years by the use of pipeline-delivered coal in preference to rail-delivered coal.

Mr. Lewis does not document how he arrived at such figures and as far as I can perceive, the figures were arrived at by plucking from the air a pipeline rate of $7 per ton versus a rail rate of $11.80 per ton. Neither figure has any validity. Most authorities believe the initial pipeline rate would be higher than the initial rail rate.

The error was then compounded by applying unequal inflation percentages to the two rates Four percent was applied to a small percentage of the pipeline rate, producing a rate, after 30 years of $8.40 per ton. Five percent was applied to the entire rail rate—not a percentage thereof—to produce a rate, after 30 years, of more than $50 per ton.

All this proves, I submit, is that if you allow one team to choose the ground, make the rules and apply them capriciously, you should not be surprised at the final score. After all, is it not significant that the individual who supplied the figures will be a huge consumer of coal who is interested in keeping the price of coal as low as possible. Naturally, in the make-believe land of speculation one in Mr. Lewis' position would like to have the threat of potential competition and keep the railroads from raising their rates.

To sum up, I think it is clear that in the legislation under consideration we are not talking about a measure to increase the supply of energy—it would not do that. We are not talking about a measure to fill an imagined gap in the transportation system—there is no gap. We are not talking about a measure to reduce the cost of energy—because there is no reason to believe that would happen.

We are, I suggest, talking about legislation to grant a special and totally unprecedented privilege to a small group of promoters seeking to use our legitimate concern about the Nation's energy needs as an opportunity to pocket some fast bucks.

In my next statement, which will be Tuesday, June 1, 1976, I shall speak to "Rail Transportation of Coal—a Backdrop to the Coal Slurry Pipeline Issue."

[From the CONGRESSIONAL RECORD, June 1, 1976, 16078]

"COAL SLURRY PIPELINE (3)"—RAIL TRANSPORTATION OF COAL—A BACKDROP TO THE COAL SLURRY PIPELINE ISSUE

Mr. SKUBITZ. Mr. Speaker, as I said May 27, 1976, the measure to grant the right of eminent domain to the builders of coal slurry pipelines has been presented to the Interior Committee through a fundamental error as to its nature.

The measure is not energy legislation, it is transportation legislation. To uphold the fiction that the construction of coal slurry pipelines is necessary to serve the Nation's energy needs, proponents have asserted that existing systems; namely, the railroads—cannot keep pace with predicted increases in coal production.

This assertion has no basis in fact.

During the Interior Committee hearings on the coal slurry legislation, Stephen Alles, president of the American Association of Railroads, said on page 913 of the hearings record that—

"We know that the railroads carried 391 million tons of coal in 1974.

"We know that coal represented 13.6 percent of all rail ton miles.

"Thus, if coal ton-miles doubled while other traffic remained the same, the result would be only a 13.6 percent increase in total rail traffic spread over 10 years. Admittedly, the increase would affect individual railroads unevenly but, if the slurry pipeline proponents are trying to say that a 13.6 percent increase in traffic, spread over a decade, would place an unbearable strain on this industry, that, I submit, is foolishness—especially in the light of the fact that total rail traffic has grown 15 percent in the past three years alone.

"Naturally the rail industry does not expect total rail traffic to remain the same over the next 10 years. Our projections—and the government's—call for a 50 percent increase over the next decade. And let me emphasize that this projection was made—and plans to keep pace with it begun—before the energy crunch occurred."

Before the energy crisis produced lower thermostats and a determination to reduce American dependence on foreign oil, coal production had been in a decline. Along with it, rail transportation of coal declined.

With little warning, coal production increased sharply in late 1973. Railroad traffic in all commodities was reaching record levels at the same time, and backlogs in car building shops were high. Nevertheless, railroads were able to keep pace with the growing coal production. And they have continued to keep pace. In 1975, the industry handled 9.5 percent more coal tonnage than in 1973.

It seems obvious that further increases are ahead. Some have predicted a doubling of coal production nationally, over the next 10 years, but that may be a bit optimistic.

But assuming a miracle would happen could the railroads be able to haul the coal? Mr. Alles, on page 913 of the report, continues:

"Now let us assume that the coal portion of total rail traffic increases by 100 percent instead of 50 percent. That would mean that our projections are off by about 7 percent—that the increase in total rail traffic would be 57 percent instead of 50 percent. I think you will agree this is a manageable variation.

"In present service involving both unit trains and other service 12,000 cars can handle 25 million tons of coal a year. This means, that if the railroads maintain their present 67 percent share of the traffic, they would need to add about 15,485 cars per year to meet the average increase. To meet the largest increase projected in any one year, they would need to add 29,280 cars.

"There is now a backlog of 19,373 hoppercars on order and total car orders during 1974 amounted to 27,086, as already noted.

"Moreover, greater use of unit train service—which is highly likely—would reduce car needs still further. Using the type of unit train service operated today by some railroads, 4,000 cars could handle 25 million tons per year.

"A report prepared by Peat, Marwick, Mitchell & Co. for the Federal Energy Administration, the Commerce Department and the Department of Transportation assumed even greater coal production increases and nevertheless concluded that railroads could do the job.

"In fact, 25 million tons of coal per year is not a particularly large amount for today's railroads. Mr. Menk's railroad, the Burlington Northern, routinely operates with trains carrying 10,000 net tons over 1,000 route miles with a five-day turnaround. A simple calculation would indicate that 25 million tons could be handled on this basis by dispatching a train about every three-and-a-half hours—not particularly heavy traffic."

So in summary, what sort of capacity increase would be required? It has been estimated that the industry will need to install about 41,000 open top hoppers over the next 10 years to maintain its present coal capacity. That figure takes both car retirements and expected improvements in efficiency into account. To double coal capacity, the industry would have to install an additional 63,000 to 120,000 cars over the decade. The variation is due to the possibility of different types of service. A great number of unit trains in the total service "mix" would tend to reduce car requirements.

What all this means is that the railroad industry can double its coal capacity by adding as few as 10,400 a year or no more than 16,100 cars a year.

In 1975, the industry installed 21,748 coal cars—indicating that it should have little trouble keeping up with the projected need.

Now, let us consider another facet of the situation—timing.

It is my understanding—based on Bureau of Mines statistics—that a leadtime of 4 to 5 years is necessary to bring a new mine into production.

With this kind of advance notice, virtually any railroad would have plenty of time to prepare to handle the coal but would be produced by a new mine. At the very worst, the waiting periods for rail equipment have not been longer than about 2 years.

However, the railroad industry is not alone in its belief that it can handle the coal that can be mined.

I have noted that the administration favors the legislation before the Interior Committee. The Bureau of Mines released an information circular in 1975 which followed the administration line on the subject, this was information circular 8690, "Long Distance Coal Transport: Unit Trains or Slurry Pipeline." However, the study which prompted the circular found that railroads would be equal to the task of coal-hauling.

Let me quote:

"The capacity of the railroads to cope with substantially more western coal does not seem to be an unduly serious matter. The railroads can probably enlarge their capacity to handle larger amounts of coal as rapidly as their potential competitors can be constructed."

Let us go on.

The accounting firm of Peat, Marwick, Mitchell & Co.'s report included three scenarios based on different estimated additional tonnages of coal to be shipped by rail through 1990, along with the hopper car requirements implied by each scenario. Even the scenario involving the largest requirement was not beyond the reach of the railroads, based on current car installations.

I am aware that the foregoing has been a relatively dry recital of figures and estimates.

But I believe it vital for this body to view the proposed legislation in its true light.

If the railroads are, indeed, equal to the task of hauling all the coal that will be produced in the coming years—and I believe I have demonstrated that they are—then it should be clear that H.R. 1863 is not mandated to meet the Nation's energy requirements. In fact, that legislation will imperil the health of one of the Nation's most needed industries.

The wrong step here can place in jeopardy all that the Congress has recently done to insure that the railroads continue to play their essential role in our existing national transportation system.

[From the CONGRESSIONAL RECORD, June 2, 1976, page 16247]

"COAL SLURRY PIPELINE—4" EFFECT OF COAL TRANSPORTATION ON RAILROAD ECONOMIC VIABILITY

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, 1976, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

On May 26, 1976, I discussed the question of eminent domain, which can be found on page 15521 of the RECORD. On May 27, 1976, I discussed the fact that this is transportation legislation not energy legislation, this can be found on page 15877. Tuesday, June 1, 1976, I spoke of the railroad's capability of handling the increased coal production, this is on page 16078.

This is a continuation of my presentations concerning the coal slurry pipeline issue. Today, I would like to discuss the threat that slurry pipelines offer to the survival of this country's railroad industry.

Last June, Mr. George Stafford, Chairman of the Interstate Commerce Commission, appeared before the House Interior and Insular Affairs Committee in regard to House bill 1863. The ICC is charged with the development and preservation of a sound national transportation system; the agency has been subject to various criticisms, but certainly no knowledgeable person suggests that it favors any one transport mode over another. With that in mind, permit me to read a short portion of Mr. Stafford's statement dealing with slurry pipelines and railroad viability.

"Substantial diversion of the railroads' coal traffic through destructive competition would plainly have a devastating effect on an already crippled industry. At a time when Congress has committed billions of dollars in an attempt to maintain a workable railroad system in this country, it is important to note that railroads derive more revenue from coal than from any other commodity—over $1.4 billion annually, or about 10.5 percent of their total revenue. Diversion of coal traffic could result in railroads having to reduce their service to coal producing areas, further depriving them of revenue and perhaps forcing them to increase their rates on other commodities to cover operating costs. In some cases, such diversions could pose a threat to a railroad's very existence."

I doubt that there is anyone in the country better able to judge the effects of one mode of transportation on another than Mr. Stafford and his staff. If they are alarmed at the threat of the pipelines, should we not also be concerned?

In order to understand why the slurry lines would be harmful to the health of the railroads, we must look at the basic economics of the industry. Mr. John H. Lloyd, president and chief executive officer of the Missouri Pacific Railroad Co., testifying before our Interior Committee on page 977 of the hearings said, and I quote:

"It has been recognized for years that a basic problem of the nation's railroads has been the fact that they were forced to operate with, to maintain, and to pay taxes upon, an excessive physical plant. Otherwise stated, the railroads have long suffered because of an inability to attract sufficient volumes of traffic to fully utilize their inherent advantage of being able to handle tremendous tonnages at unit costs which notably decrease as a function of increased volumes. The present subject provides an illustration of the type of situation which has contributed to the railroads' problems. For many years, truck lines have been permitted to selectively skim of high-rated traffic without having to bear the truly common carrier burdens of transporting less desirable commodities; barge lines have similarly been permitted to limit their movements to bulk commodities moving over publicly provided right-of-ways between major port cities. In the case of both of these competing modes, much of this selective handling or skimming of desirable freight has been permitted under the provisions of legislative exemptions, which permit the bulk of competitive truck and barge traffic to be moved without certification or other regulation, to which the railroads are uniformly and stringently subject at all times. Now that an opportunity has arisen for the railroad industry to handle large volumes of coal—a commodity which they have a proven ability to transport most efficiently—it would be unthinkable to foreclose such increased handling by encouraging the construction of a slurry pipeline, the economics of which are, at best, highly suspect, and the environmental and water-related problems of which are obvious. Because the railroads continue to have a physical plant greatly in excess of that needed for the volumes of traffic moved thereover, it would be a grave disservice to the rail industry and to the shipping public generally to permit construction of a selective pipeline to aagin deprive the railroads of an opportunity to increase the efficiency of their already existing physical plant."

Railroads have huge investments in their physical plants and facilities. Consequently, their profitability depends, in a large part, on the amount of volume they handle. In recent years, they have lost an increasing amount of profitable traffic to trucks and barges, neither of which has this fixed cost burden because of the Government financing the highways and waterways on which they operate. This skimming has prevented railroads from operating to their full capacity, and as a result, unit costs have remained high and profit levels low or nonexistent.

The development of the western coal fields, however, has the potential for changing this situation for a major part of the industry. The opportunity to handle large volumes of coal, and thereby make efficient use of excess physical capacity, will allow this depressed industry to improve its financial position and, hence, it will be able to buy additional equipment and improve track and other properties. Also, additional volume helps to hold rates down. For example, according to Bureau of Mines statistics the leverage which volume brings to bear on unit costs was demonstrated during the period 1965 to 1975, when the percentage of the delivered coal price represented by rail freight cost declined from 41 percent to 17 percent. Mr. Speaker, permit me to incorporate at this point the comparison of FOB mine realization and railroad rates in bituminous coal—United States—1931 through 1975, as prepared by the U.S. Bureau of Mines:

COMPARISON OF F.O.B. MINE REALIZATION AND RAILROAD RATES ON BITUMINOUS COAL—UNITED STATES—1931 THROUGH 1975

Year	U.S. coal production (million tons)	Average realization coal f.o.b. mine	Average rail rates	Total	Percent of destination value: Coal	Percent of destination value: Rail rates
1931	382.1	$1.54	$2.22	$3.76	41.0	59.0
1932	309.7	1.31	2.26	3.57	36.7	63.3
1933	3?3.6	1.34	2.20	3.54	37.9	62.1
1934	359.4	1.75	2.15	3.90	44.9	55.1
1935	372.4	1.77	2.24	4.01	44.1	55.9
1936	439.1	1.76	2.25	4.01	43.9	66.1
1937	445.5	1.94	2.17	4.11	47.2	52.8
1938	348.5	1.95	2.27	4.22	46.2	53.8
1939	394.9	1.84	2.23	4.07	45.2	54.8
1940	460.8	1.91	2.22	4.13	46.2	53.8
1941	514.1	2.19	2.22	4.41	49.7	50.3
1942	582.7	2.36	2.31	4.67	50.5	49.5
1943	590.2	2.69	2.30	4.99	53.9	46.1
1944	619.6	2.92	2.21	5.13	56.9	43.1
1945	577.6	3.06	2.20	5.26	58.2	41.8
1946	533.9	3.44	2.27	5.71	60.2	39.8
1947	630.6	4.16	2.49	6.65	62.6	37.4
1948	599.5	4.99	2.74	7.73	64.6	35.4
1949	437.9	4.88	3.00	7.88	61.9	38.1
1950	516.3	4.84	3.09	7.93	61.0	39.0
1951	533.7	4.92	3.16	8.08	60.9	39.1
1952	466.8	4.90	3.35	8.25	59.4	40.6
1953	457.3	4.92	3.33	8.25	59.6	40.4
1954	392.0	4.51	3.23	7.74	58.3	41.7
1955	464.6	4.50	3.24	7.74	58.1	41.9
1956	500.9	4.82	3.45	8.27	58.3	41.7
1957	492.7	5.08	3.57	8.65	58.7	41.3
1958	410.4	4.86	3.58	8.44	57.6	42.4
1959	412.0	4.77	3.45	8.22	58.0	42.0
1960	415.5	4.69	3.40	8.09	58.0	42.0
1961	402.9	4.58	3.40	7.98	57.4	42.6
1962	422.1	4.48	3.32	7.80	57.4	42.6
1963	458.9	4.39	3.21	7.60	57.8	42.2
1964	486.9	4.45	3.11	7.56	58.9	41.1
1965	512.0	4.44	3.13	7.57	58.7	41.3
1966	533.8	4.54	3.01	7.55	60.1	39.9
1967	552.6	4.62	3.00	7.62	60.6	39.4
1968	545.2	4.67	3.01	7.68	60.8	39.2
1969	560.5	4.99	3.10	8.09	61.7	38.3
1970	602.9	6.26	3.41	9.67	64.7	35.3
1971	552.2	7.07	3.70	10.77	65.6	34.4
1972	595.4	7.66	3.67	11.33	67.6	32.4
1973	591.7	8.53	3.71	12.24	69.7	30.3
1974	601.0	15.00	3.95	18.95	79.2	20.8
1975	[1] 628.0	[1] 20.00	[2] 4.23	24.23	82.5	17.5

[1] U.S. Bureau of Mines forecast.
[2] Estimate based on 7 percent authorized general rate increases permitted to date during 1975.

Source: U.S. Bureau of Mines except as noted.

This is all the more remarkable when you consider that during the past several years the average distance of coal haul has increased as the mines in the West have opened up.

Increased coal traffic will provide another related benefit to the railroads and to the shippers of all kinds which depend on them. I refer to the fact that for many years railroads have had difficulty in attracting capital, either equity or debt, because of depressed levels of return on investment. Especially in recent years of capital shortages, railroads have been at a distinct disadvantage competing in the money markets with other borrowers having better earning capacity. However, reasonable prospect of long-term increases in coal traffic, which characteristically generates good profits, will provide the incentive for lenders to look more favorably on railroads. Given that prospect, they can be expected to provide the funds necessary for the equipment and plant improvements required to meet the public's shipping needs of every kind.

Enhancement of railroad borrowing capacity is vital, considering the huge investments that even today the railroads are attempting to make in order to handle tomorrow's coal tonnages. One railroad, the Burlington Northern, proposes to spend over a billion dollars on cars and locomotives and on improvements in track and related facilities. I quote from pages 956–58 of the hearings, wherein Mr. Louis Menk, chairman and chief executive officer, Burlington Northern, Inc., stated:

"You have been told that the need will be so great in years ahead that the railroads probably won't be able to do the job. From this false premise which demeans 500,000 railroad men and women, you are urged to conclude that the Nation must confer the power of eminent domain on coal slurry lines.

"I think the pipeline crowd's credibility is biodegradable and will dissipate as we expose their arguments to fresh air.

"Certainly, this could embarrass members of the Federal energy establishments who demonstrably have no understanding of rail capacities and potentials and who have been led to embrace the rail potential concept that is about as appropriate to the Nation's needs as the windup light bulb.

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"My assurance that railroads can perform the coal transport job ahead is based on an extraordinary amount of research into the needs of western coal. We learned with the greatest possible accuracy how much coal will be mined in our territory, when and where it will be mined, where it will be shipped and what routes it would follow on. On the basis of this information, we developed plans for the step-by-step expansion of our fixed plants and our car and locomotive fleets. This will permit us to increase our unit train coal traffic from the 8.2 million tons of last year to the 140 to 150 million tons that is expected to be moving in just 60 months.

"Computer similation have enabled us to develop careful plans for expansion improvements and to estimate with precision that in the next 60 months, we will need $448 million for roadway, $468 million for locomotives and $590 million worth of new cars, that is a $1½ billion total in private capital.

"In view of the opportunities and risks implicit in the, involving the coal situation, my company would have been foolhardy had we not studied the potential competition from slurry lines. For that matter, recognizing that our farflung tracks could double as pipeline routes, we considered participating in slurry lines. This was accomplished through a 2 year study carried out with the Bechtel firm and the Peabody Coal Co. We proved to our satisfaction that except for special size slurry lines in our territory cannot be self-supporting in the foreseeable future. However, we were impressed that Bechtel wants very badly to get contracts to engineer and/or build these enormously expensive facilities."

While much of the problem is obscured for many of us by the financial and transportation jargon employed by witnesses in essence it is quite simple. It is very much like the case of a man who takes on a 25-year mortgage to buy a fourplex. He plans on receiving rental income which will pay the interest and the principal on the mortgage and leave him a little for profit. If, however, in 5 years a rent-subsidized apartment is built next door and two of his renters move to the new structure, he is in deep financial trouble. He is still obligated to repay his mortgage; yet his income flow is severely diminished. About all he can do in a case like this is try to make up the lost income by increasing rents of the remaining renters and that will probably drive them out. The result is bankruptcy.

So it is with the railroads and the threat to their coal business represented by slurry lines. The Burlington Northern has estimated that it would fall short of earning its capital charges by more than $100 million if five of the proposed lines are built. The only possible way to make up this shortfall would be by raising rates on other commodities and this step entails the risk of losing this business also. The alternatives are subsidy or bankruptcy since they would be left with only the smaller markets to handle in bits and pieces. Consider also the adverse effect on railroad employment and the loss of thousands of actual and potential jobs. The communities involved would suffer.

Abandonment of branch lines could result, particularly those which service coal mines. In my view, it would almost certainly lead to rate increases and to cutbacks in equipment purchase commitments. Especially vulnerable to injury are the eastern lines. Mr. Jervis Langdon of the Penn Central has observed that one of the contributing factors to the bankruptcy of that company was loss of coal business, a real prospect in light of the beneficiation process described by Messrs. Jack A. Horton and John Morgan of the Department of Interior, would severely injure the ConRail system. Other roads are also clearly in jeopardy.

In closing, I would remind this body that the Congress has just committed over $6 billion of Federal funds to shore up faltering portions of the railroad industry. To now turn around, put slurry pipelines in a position to completely undermine major portions of the industry would, in my view, be a mistake of the highest order. I trust you will join me in seeing to it that this mistake is not made.

[From the CONGRESSIONAL RECORD, June 3, 1976 16586]

"COAL SLURRY PIPELINE—5" INNOVATIVE RAIL HAULING OF COAL

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

I have discussed the question of eminent domain, this can be found on page 15521 of the May 26 RECORD; the fact that this is transportation legislation not energy legislation, page 15877 of the May 27 RECORD; the railroad capability of handling the increased coal production, page 16078 of the June 1 RECORD; and the effect of coal transportation on railroad economic viability, page 16246 of the June 2 RECORD.

Now today I want to discuss the topic of the railroads hauling of the coal.

Since under the rule—a 1 minute speech must be limited to 300 words—I am taking a special order to discuss the innovative rail hauling of coal.

The unit train concept is a relatively new one which represents a major step forward in terms of man's ability to move huge volumes of bulk commodities over long distances at low cost levels. This service is very expensive by any standard, notwithstanding the effects of inflation. As a result, remote coal supplies not heretofore economically useful have become a vital energy source.

By way of definition, "unit train" is a term applied to a set of equipment dedicated to a particular service. It may consist of 3 to 7 locomotives and 100 or more cars. It is its mode of operation which distinguishes the unit train from conventional rail service. It is designed to be loaded at one origin and runs uninterruptedly to a single destination. Like any well-run industrial process, the unit train operates continuously.

A key element is the use of modern high-speed loading and unloading facilities that function without the necessity to switch out separate cars. In short, the necessary operating efficiency for this high-cost equipment is attained by continuous movement, bypassing terminals, avoiding switching or any interference from other rail operations. Accordingly, unit trains stop only for fueling, crew changes, and inspections. Given these conditions, a unit train can make a 1,000-mile delivery and return to the mine for another load in as little as 4 days.

In the future the outlook for unit train operation may be even brighter. There is every reason to believe that unit train technology will produce still further improvements in productivity.

The evidence thus makes it clear that railroads are not on their last legs; modern rail technology is our best hope for the efficient utilization of coal at the largest possible number of locations. Surely we should not pass legislation which would impair this basic transportation resource—as would H.R. 1863.

[From the CONGRESSIONAL RECORD, June 3, 1976. 16740]

"COAL SLURRY PIPELINE—5" INNOVATIVE RAIL HAULING OF COAL

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, 1976, I have called attention to the House of a bill, H.R. 1863, the Coal Slurry Pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

On May 26, I discussed the question of eminent domain, which can be found on page 15521 of the RECORD. On May 27, I discussed the fact that this is transportation legislation not energy legislation, this can be found on page 15877. June 1, I spoke on the railroad's capability of handling the increased coal production, this is on page 16078. Yesterday I spoke of the threat that slurry pipelines offer to the survival of this country's railroad industry, this can be found on page 16246.

This is another in my series of presentations concerning the grant of eminent domain to coal slurry pipelines as proposed by H.R. 1863.

Today, I would like to discuss the railroad's innovative hauling of coal.

The bankruptcy of Penn Central and other eastern carriers has led some to believe that rail technology is outdated and that therefore we need a new transport mode to meet the massive job of hauling the Nation's coal. These people are susceptible to contentions that slurry lines are a "magic bullet" which would solve the Nation's energy crisis. They labor under a misapprehension which I hope I can dispel by today's discussion of unit train transportation.

The unit train concept is a relatively new one which represents a major step forward in terms of man's ability to move huge volumes of bulk commodities over long distances at low cost levels. This service is very inexpensive by any standard, notwithstanding the effects of inflation. As a result, remote coal supplies not heretofore economically useful have become a vital energy source. It is no exaggeration to say that unit train economics have revolutionized traditional bulk commodity logistics; specifically, they have mitigated the impact of the present fuel "crunch" by allowing the use of low-cost western coal by utility companies located more than a thousand miles from the mine. They have saved the Nation immense quantities of petroleum fuels and have reflected monetary savings for electric consumers amounting to hundreds of millions of dollars. These savings will be multiplied as the years pass. Moreover, unit train technology continues to advance.

I am told that it is entirely reasonable to expect substantial future improvements in productivity.

By way of definition, "unit train" is a term applied to a set of equipment dedicated to a particular service. It may consist of three to seven locomotives and 100 or more cars. It is, however, its mode of operation which distinguishes the unit train from conventional rail service. Mr. John Morgan, Associate Director of the Bureau of Mines, on page 350 of the hearings record had inserted a Bureau of Mines study "Comparison of Several Systems for Providing Coal Based Energy to Users 1,000 Miles Southeasterly From Eastern Wyoming Coal Fields—Four Modes of Energy Transportation and Electricity Versus Gas as the End Use Energy Form," and I quote:

"The unit train is a management technique that permits efficient planning through long-range contractual commitment of producer and consumer and dedication of equipment. Specifically, a unit train consists of a dedicated set of haulage equipment loaded at one origin, unloaded at one destination each trip, and moving in both directions on a predetermined schedule.

"The unit train combines three principal factors: design efficiency, equipment balance, and intensive use. To achieve the lowest possible transportation cost, all elements of the operation must be in balance; the loading, haulage, and unloading facilities must be designed and scheduled for intensive use

but not to a degree that would bring intolerable maintenance costs; and the haulage capacity must be in balance with supply, with consumer's needs, and with amortization requirements.

"In terms of freight rates in effect, the unit train is not a unit train until so designated by the carrier and negotiations for the rate completed. Cooperation between the shippers, the carrier, and the consumer is essential to planning for successful operation which will justify the lower rates.

"Lowest transportation costs can be realized when a unit train movement is accomplished on a single line haul. When more than one carrier is involved, the additional capital cost for motive power and additional operating costs will be reflected in higher tariff rates.

"Generally, unit train rates have no fixed relationships to rates for other origins and destinations, or to single car shipments. In fact, unit train rates are now in effect for coal moving from Western mines to markets in the Midwest over routes where no single car rates had formerly existed. As previously indicated, rates for unit train movement of coal are individually negotiated, subject to a ICC limitation that the rates not require a designated portion of a shipper's freight to be a part of the negotiated agreement. However, it has been accepted, by the ICC, that minimum loads of coal and minimum annual tonnages do not restrict shipments provided the total output from the mine is above the minimums or could be increased above them."

Like any well-run industrial process, the unit train operates continuously. According to Mr. Louis Menk, chairman and chief executive officer, Burlington Northern, Inc. on page 918 of the hearings record a key element is the use of modern high-speed loading and unloading facilities that function without the necessity to switch out separate cars. In short, the necessary operating efficiency for this high-cost equipment is attained by continuous movement, bypassing terminals, avoiding switching or any interference from other rail operations. Accordingly, unit trains stop only for fueling, crew changes, and inspections. Given these conditions, a unit train can make a 1,000-mile delivery and return to the mine for another load in as little as 4 days.

When operated at high volume such a system requires top quality track and roadbed. Heavyweight rail is needed; ties must be closely spaced, and top-grade ballast must be used. Modern signal systems are essential. Cars and locomotives must be built to high standards. According to Bureau of Mines statistics on page 351 of the hearings locomotives cost about $500,000 each and cars upward of $25,000, thus a single unit train can represent an investment of $5 million. This of course, is in addition to the fixed facilities which are essential to its operation.

In previous discussions I pointed out that a railroad functions most efficiently and at a low cost when its physical plant is extensively utilized. The savings thus realized can then be reflected in terms of reduced electric rates paid by individual electric consumers. As a matter of fact, Mr. Louis Menk testifying before the Interior Committee pointed out that the present boom in western coal production probably would not have come about had it not been for the development of the unit coal train concept. When utility companies were searching for new fuel sources that would meet the then new stack emission standards they at first thought the extensive reserves of low-sulfur, subbituminous coal in the West was economically beyond their reach because of traditional transport cost levels. Fortunately, unit train technology and advances in loading and unloading equipment were simultaneously developed to meet this fuel need.

An additional and special virtue of rail transportation is the flexibility offered by that mode even when considered in terms of large unit train operations. While flexibility is a relative concept, so far as low-cost bulk commodity carriage is concerned, the unit train cannot be matched by any other surface carrier including slurry pipelines in particular. This flexibility is based on the existing extensive rail network which reaches virtually every part of the country.

This permits service to and from every possible origin and destination, just as it permits rerouting around problem areas. Because cars and locomotives can be reassigned, changes in delivery volume can be easily accommodated. Alternate coal sources can be reached to provide for the blending of fuels or to take account of production problems, such as mine strikes.

Pipelines can do none of these things. According to testimony of George M. Stafford, Chairman of the Interstate Commerce Commission, on page 669 of the hearings testified, and I quote:

"In terms of engineering and operation, a slurry pipeline must be designed for an optimum throughout and must be kept filled. The flow rate must be kept near the optimum for economic operation. In order to double the capacity of a given slurry line, four times the pumping power and fuel is needed. That is why slurry lines are designed for an optimum throughout with a resultant lack of operating flexibility."

They will have relatively little ability to serve new customers and obviously will reach but one source area and one or a few destinations. Their ability to adjust to varying fuel demands is limited and while stockpiles can be used, it is no easy matter to store powdered coal or coal slurry. Moreover, a stoppage of a pipeline or of production at the time it serves obviously could cause very great difficulties for the coal user. I suggest, therefore, that in making our judgment as to the public interest issues involved in H.R. 1863, we ought to keep very much in mind the virtues of railroad flexibility and contrast them with the rigidity of pipeline operations.

In the future, the outlook for unit train operation may be even brighter. As I said before, there is every reason to believe that unit train technology will produce still further improvements in productivity. Such things as larger and lighter cars, longer trains, replacement of diesel power with electric locomotives and even revised labor agreements could all have significant leverage in improving present unit train cost efficiency. Also, I understand there is a possibility that coal beneficiation processes can be developed and remove much of the moisture from western coal. This would reduce rail shipping costs by providing fuel users with a processed coal containing more Btu's per ton than does mine-run coal. Therefore, less coal would have to be shipped to meet the users' heat needs.

In speaking of future improvements in productivity it is again important to contrast the rail mode with the slurry pipeline. Believe me, the utility which is locked into a 30-year throughput contract with a coal slurry pipeline cannot provide electric consumers the benefit of any similar improvements in transport efficiency. What improvements can there be in a pipeline buried in the ground already employing pumps which now approach maximum theoretical efficiency? Certainly the pipeline proponents hold out no prospect of any consequential advances.

To sum up, the unit train concept and its application to coal transportation compels these important conclusions:

First. Unit trains are a relatively recent innovation in rail transportation which has been developed, tested, and brought to a high level of efficiency during the last 10 to 15 years.

Second. Unit trains allow a high degree of insulation against the problems of inflation because of the economies of scale inherent in the constant movement of large volumes of coal over existing fixed plant.

Third. The cost efficiencies of unit trains have been a prime means of meeting the energy crisis by permitting the easy substitution of abundant coal for scarce petrofuels.

Fourth. Rail unit train delivery offers flexibility of delivery which cannot be matched by slurry pipelines.

Fifth. There is a strong possibility that unit train technology will substantially advance in the future. Utilities tied to a pipeline, however, would be unable to benefit from any foreseeable improvements in pipeline operation.

The evidence thus makes it clear that railroads are not on their last legs; modern rail technology is our best hope for the efficient utilization of coal at the largest possible number of locations. Surely, we should not pass legislation which would impair this basic transportation resource—as would H.R. 1863.

[From the CONGRESSIONAL RECORD, June 7, 1976, 16805]

"COAL SLURRY PIPELINE—6"—THE SLURRY PIPELINE LOBBY

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, 1976, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

On May 26, I discussed the question of eminent domain, which can be found on page 15521 of the RECORD. On May 27, I discussed the fact that this is transportation legislation, not energy legislation, this can be found on page 15877. June 1, I spoke on the railroad's capability of handling the increased coal production, this is on page 16077, June 2, I spoke of the threat that slurry lines offer to the survival of this country's railroad industry, this can be found on page 16246. On June 3, I spoke of the railroad industry's innovative rail hauling of coal, this is on page 16740 of the RECORD.

This is another in my series of presentations concerning the grant of eminent domain to coal slurry pipelines as proposed by H.R. 1863.

Today, I would like to discuss the slurry pipeline lobbyist.

So far, I have confined my discussion of H.R. 1863, to its merits or lack thereof. I have discussed misconceptions about the nature of the proposed legislation. I have discussed misconceptions about the alleged benefits of pipeline operation. And I have explored the effects that enactment of this legislation would surely have upon the existing transportation network.

I intend, as I have indicated, to further discuss questions bearing directly on pipeline operations and on the movement of coal.

Today however, I would like to concentrate my attention—and yours—on the interest of some of those who want this bill passed—and the means being used to accomplish their purpose.

The most obtrusive advocate of the coal slurry pipeline is the Bechtel Corp., an engineering and construction firm. Bechtel joined with Lehman Brothers and Kansas-Nebraska Natural Gas to create Energy Transportation Systems, Inc., the company that would operate the first planned pipeline, the one between Wyoming and Arkansas and now from there to La. (Baton Rouge I believe).

The president of Bechtel Corp. is George Schultz, former Secretary of the Treasury. A vice president of Bechtel is Caspar Weinberger, former Secretary of Health, Education, and Welfare.

Peter G. Peterson, former Commerce Secretary, is chairman of the board of Lehman Brothers.

I do not mean to suggest that there is anything automatically improper about Government officials taking jobs in private industry. Or that companies with such officials should be barred forever from any endeavor which would require them to seek governmental action. And, most specifically, I do not suggest any improper activities by the individuals I have mentioned.

I do not charge that the fact that some of these individuals once held high positions in the present administration helped in securing administration support for their goals. However, as the lady said about her chicken soup—it could not hurt.

I do know that there has been intensive lobbying on this legislation—lobbying that serves as denial of the proponents' claim that this is a simple, routine measure.

For example, a look at the hearing record shows that, when ETSI officials appeared to testify on the legislation, they brought along their general counsel, which seems natural enough. And, under the kind of circumstances we are dealing with here, it might also be natural that their general counsel is Paul Haerle, who also happens to be the national committeeman of the Republican Party in California.

This relationship—and the ones cited earlier—were reported in a Scripps-Howard News Service story that appeared in the Rocky Mountain News of March 29, 1976.

That same story also took note of the fact that the newly formed Slurry Transport Association—an organization apparently formed for the sole purpose of lobbying for eminent domain legislation—has hired as its head the former Clerk of this House, W. Pat Jennings. Again, I suggest no impropriety. But again, it can not hurt.

These relationships were also traced in a story that appeared in the March 29 edition of the Wichita, Kans., Eagle. And, just 2 days later in that same paper, it was reported that Kent Frizzel, who had been Under Secretary of Interior, had been considered for appointment to the Secretary's post, but was rejected because he had once raised legal questions concerning coal slurry pipelines. In addition, I understand that Frizzell and a number of his lawyers are now parting company with the Department of Interior. It will be interesting to see what they now have to say.

In a series of articles during October 1975, Reporter Steve Aug, of the Washington Star, outlined events that led Senator ABOUREZK to call for an investigation of possible conflict of interest involving that same Department of the Interior and the Bechtel Corp.

According to the stories, Bechtel approached the Office of Coal Research—as it was then known but which is now part of the Energy Research and Development Administration—and offered to conduct a study involving the relative merits of slurry pipelines to conduct a study involving the relative merits of slurry pipelines versus railroads. The offer was not only accepted but Bechtel was paid some $418,000 for the study—which, not surprisingly, concluded that under certain circumstances it would be cheaper to ship coal by slurry pipeline than by rail.

There has been, in fact, considerable maneuvering in the area of studies of coal and coal transportation, but that is a subject I intend to deal with separately.

I do think, at this point, we should try to examine motives. Why are the proponents fighting so hard for this bill?

Frankly, the notion of operating a coal slurry pipeline—in the fact of all the problems I see associated with the business—does not seem all that attractive to me.

The problems associated with running a slurry pipeline do not apply to the construction of a slurry pipeline. Presumably the Bechtel Corp. expects to get that job. It has a 40-percent interest in ETSI.

Now, let us see what could happen. ETSI executes a 30-year through-put contract to deliver coal to a utility. The contract is used as a financing vehicle to raise the funds for construction. Bechtel builds the pipeline and gets paid for the job. Lehman Brothers, the other principal partner does the financing and also gets paid. At that point, it is up to ETSL. If the pipeline firm makes money, Bechtel and Lehman Brothers both take cuts based on their respective ownership of 40 percent. And Kansas-Nebraska for 20 percent. If ETSI fails, that is tough—to the extent that they lose their nominal investment in ESTI. But that could be offset many times over by profits from the construction job and the financing operations.

In the Washington Star, dated May 25, 1976, an article appeared by John Holusha entitled "Big Steel's Chief No Word Mincer"—which makes one wonder U.S. Steel has taken chips in the game.

In that article Mr. Holusha discusses the controversy that now exists between the United States Steel and the pollution-control agencies of the Government—but sprinkled in that article are these very interesting statements and I quote:

"A current dispute on this point with government officials in the suburban Pittsburgh area seemed behind Speer's decision to hold a full-blown press conference yesterday to make the less-than-extraordinary announcement that the company would build a large diameter pipe-making facility in Texas."

Permit me to restate the last five lines:

"... that the company would build a large diameter pipeline facility in Texas."

And then the article quotes Mr. Speer as saying, "the political environment" of an area "necessarily has to play a part" in "investment decisions."

He said:

"The Environment at Baytown, Texas, seemed more to his liking, Speers said."

He continued:

"Spear said that the local building trades had signed the equivalent of a non-strike agreement so the new plant can be completed by early 1978.

"The date is important, he said, because it has to be ready to supply pipe for the proposed Alaskan natural gas pipeline and proposed coal slurry pipelines."

One begins to wonder how many chips U.S. Steel has taken in the game as it relates to the slurry pipeline.

I point out that those proponents of the establishment of the slurry pipeline are not "bush leaguers" and that if they get into this game, the stakes are pretty high.

That is, of course, only a scenario. There is no way to know for certain that it is a correct assessment of the motives of those lobbying for passage of this measure.

[From the CONGRESSIONAL RECORD June 8, 1976, 16902]

"COAL SLURRY PIPELINE—7": SHOULD A STUDY BY THE OFFICE OF TECHNOLOGY ASSESSMENT PRECEDE CONGRESSIONAL ACTION ON A SLURRY PIPELINE BILL?

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, 1976, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

On May 26, I discussed the question of eminent domain, which can be found on page 15522 of the RECORD. On May 27, I discussed the fact that this is transportation legislation not energy legislation, this can be found on page 15522. June 1, I spoke on the railroad's capability of handling the increased coal production, this is on page 15878. June 2, I spoke of the threat that slurry lines offer to the survival of this country's railroad industry, this can be found on page 16246. On June 3, I spoke of the railroad industries innovative rail hauling of coal, this is on page 16740. Yesterday, I spoke of the slurry pipeline lobby, which is on page 16805.

Proponents of this legislation are saying that a proposed study of coal slurry pipelines by the Office of Technology Assessment—a study requested by a number of Representatives and Senators—is not necessary. They are saying that a number of studies have already been done.

However, the OTA staff, in proposing to do a study of its own, came to the conclusion that the existing data are incomplete and without thorough documentation and that virtually all the existing studies are tainted by bias.

An examination of recent history with regard to this subject certainly upholds this conclusion.

I have already mentioned the incident in which the Bechtel Corp. was able to obtain a Government contract for a study that involved comparisons of coal transportation modes—but that is only one example.

During the Interior Committee's hearings, John M. Huneke, a vice president of Energy Transportation Systems, Inc., quoted from a study called "U.S. Energy Prospects—An Engineering Viewpoint," done by the National Academy of Engineering.

That study concluded, among other things that the construction of coal slurry pipelines would be a necessity. A look at appendix A however, reveals that the chairman of the task force which produced it is a vice president of the Bechtel Corp.—which, you will recall, is part owner of ETSI.

The Bureau of Mines Information Circular 8690, from which I quoted in an earlier stateemnt, makes use of a wide variety of references. But the comparisons of transport costs used—which favor pipelines—come from magazine articles written by E. J. Wasp, vice president of ETSI, and his associates.

Traffic World, a magazine of some repute in the transportation industry, recently reported on a new study, done by Ebasco Services, Inc. That study was extremely favorable to coal slurry pipelines.

An examination of the annual report of the Halliburton Co. reveals that that company owns Ebasco. Halliburton also owns Brown & Root, a firm which wants to build one of the planned slurry pipelines. Further, one member of the Halliburton Board of Directors is an officer of Lehman Bros. Another member is the chief executive officer of Brown & Root.

There is, by the way, an antitrust suit pending to force divestiture of Ebasco, and a restraining order requires that Ebasco be operated as a separate company.

So far, I have talked about studies favorable to the pipeline proponents. But what happens when a study comes along that is less favorable? The answer can be found in a series of articles by Washington Star Reporter Steve Aug, to which I alluded yesterday.

A study called, the coal future was done by the University of Illinois Center for Advanced Computation for the National Science Foundation. That study "reflected unfavorably on the economics of coal slurry pipelines," in the words of Mr. Aug.

In a story headlined, "Pressure by Bechtel Lawyer Shifts Scholar's Coal View"—which is a part of the hearing record—it was reported that a law firm representing Bechtel persuaded the National Science Foundation to require a disclaimer on the report.

In addition, the opportunity was obtained for a consulting firm hired by the Bechtel law firm to write a rebuttal to the original study.

The result—which no doubt is considered valuable—is that, during the hearings a witness, Floyd Lewis, president of Middle South Utilities, was able to tell the Interior Committee that the report was not endorsed by

the National Science Foundation and that it is not a valid study.

The precise colloquy, from the hearing record, is thus:

"Mr. LEWIS. Based on the advice that has come to me, yes. I do not believe that a study done by a professor in Illinois, as I recall, is a valid study. I think it has errors in it.

"Mr. SANTINI. What are those errors?

"Mr. LEWIS. I cannot tell you. I am not personally technically competent in that area.

"Mr. SANTINI. Well, I am not personally technically competent in that area, either. And, unlike Mr. Lewis, I am not prepared to label any study invalid just because I don't agree with the findings. However, if I had to choose between a study written by a professor in Illinois working under a grant from an independent organization and a study—or even several studies—written by employees of a firm with a financial interest in the results, I know which one would be my first choice."

All this only points up to the need for a truly independent, truly unassailable study. And such a study has been proposed by the staff of the Office of Technology Assessment.

But, suddenly, the pipeline proponents don't seem to want a study.

According to a story in the May 18 edition of the Wall Street Journal, and I quote:

"Pipeline backers are telling the Office to forget the proposed study. They say there's been plenty of studying already."

That story also notes "intense lobbying by the slurry pipeline interest" which it says upset some at OTA.

How successful was this lobbying? I only know that a May 18 meeting of the OTA board to vote on the proposal was canceled. It was eventually rescheduled for May 27, then postponed until June 2. The June 2 meeting was held, but a vote on the proposal was postponed.

The study proposed by the OTA staff would address itself to a great number of questions which I believe to be vital to proper consideration of this legislation.

I do not believe the Interior Committee, or any committee, or the Congress, should act without the benefit of such a study.

I do not believe that this study should be permitted to be derailed by a consortium of special interests.

[From the CONGRESSIONAL RECORD, June 10, 1976, 17594]

"COAL SLURRY PIPELINE—8" RAILROADS CAN HAUL COAL WITHOUT THE NEED FOR NEW LAWS

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

I have discussed the question of eminent domain; this can be found on page 15522 of the May 26 RECORD; the fact that this is transportation legislation not energy legislation, page 15878 of the May 27 RECORD; the railroad capability of handling the increased coal production, page 16078 of the June 1 RECORD; the effect of coal transportation on railroad economic viability, page 16246 of the June 2 RECORD; on June 3, I spoke of the railroad industries innovative handling of coal, this is on page 16740 of the RECORD; on June 7 I spoke of the slurry pipeline lobby, which is found on page 16805 of the RECORD; and yesterday I spoke on should a study by the Office of Technology Assessment precede congressional action on a slurry pipeline bill, this is on page 16902.

Today I intend to discuss the fact that railroads can haul coal without a need for new laws. In the discussion surrounding H.R. 1863, we have heard over and over again, the proposition that this is a simple bill.

Proponents do not want us to talk about water, or energy, or cost, of the effect on existing transportation modes. They say those issues are not relevant to this legislation, which—they say—is a simple matter of granting eminent domain for the construction of coal slurry pipelines. This argument in itself is an admission that a slurry pipeline does not produce an ounce of energy.

I think those issues are not only relevant, but vital.

However, for today, let us examine this allegedly simple issue of eminent domain.

The pipeline proponents say eminent domain for slurry pipelines is a matter of equity—of giving them the right to compete with railroads who do have eminent domain powers. In response, may I say that let it go before the ICC and request common carrier status first and show its need and necessity.

The railroads draw their eminent domain powers from the States. The pipeline people have tried this route, but have not met with notable success. In fact, the legislatures of Kansas and Nebraska have turned them down.

So they have come to Congress seeking the Federal eminent domain—asking the Congress to override the wishes of those who would be directly affected. They are asking for the Federal right of eminent domain, a right that has never been granted in circumstances analogous to those involved here. Natural gas pipelines were built with Federal eminent domain, but natural gas cannot be feasibly carried except by pipeline. And the movement of natural gas is strictly regulated. Neither characteristic applies to coal slurry pipeline.

Whether pipelines are built or not, coal will move. And the railroads can move it without benefit of an act of Congress.

The pipeline proponents would have you think that it is only railroad opposition that stands in their way. But the hearing record is replete with examples of other opposition—from environmentalists to western Governors to stockgrowers and others.

The very question of eminent domain for pipelines is tricky. We are talking about an operation which—for the most part—runs underground. The surface is, theoretically, returned to its previous use. When property is taken for continuing use, a value can be rather simply set. But, what will be considered just compensation for what amounts to an easement, rather than an outright purchase?

If the pipeline builders must buy land, or negotiate with property owners for easements, the property owner has the opportunity to determine what the land is worth to him. With eminent domain hanging over them, farmers especially fear they will be deprived of the full use of their land but compensation will be held down, based on the proposition that the surface is still available to them.

During the testimony of Al H. Chesser, president of the United Transportation Union, the concept of eminent domain as a subsidy was kicked around—and a member of the Interior Committee commented that eminent domain is not considered to be a subsidy.

The member is right. Is it not. But does anyone here doubt that, by using eminent domain powers to obtain easements, the pipeline builders will be able to obtain their right-of-way at a fraction of what it might otherwise cost?

Recently, Mr. Speaker, legislation was enacted which established ConRail. That legislation will be the subject of litigation for years to come. The basic issue in the litigation will be whether or not the creditors and stockholders of the eight bankrupt railroads in the Northeast had their property taken without due process of law. In that particular case, I am confident that the court will find that ConRail was an income-based reorganization, thereby giving the creditors and stockholders more value than they would otherwise expect. Consequently, I know that the court will agree with us that there was no taking of property without due process.

The same principle applies with respect to the coal slurry pipeline, but the outcome would be entirely different. In each and every case. I suspect lengthy litigation would be required to determine the value of an easement. For the owners of the land where the easement would be required, little, if anything, could be done to assure fair compensation.

There are those who argue that the generosity of the Federal Government to the railroads around the turn of the century should justify equal generosity to those promoting the coal slurry pipeline in 1976. That argument is not only out of date, but also misses the point that the railroads were needed to develop the West, while there is an easy alternative to the coal slurry pipeline for the transportation of coal. Nevertheless, I think it is worth taking several minutes to discuss the matter of Federal land grants to railroads.

Mr. Stephen Ailes, president of the Association of American Railroads, discusses the matter on page 996 of the hearings. He states:

"More than 92 percent of the railroad mileage in the United States was built entirely by private enterprise—without benefit of Federal land grants.

"The primary purpose of the grants—limited to a few trail-blazing railroads—was not to help those railroads, but to open up a vast new area, mostly west of the Mississippi, for settlement and development.

"The grants were not "gifts" but part of a business transaction that ultimately resulted in the railroads' repaying the Government more than 10 times the value of the lands received."

Mr. Speaker, may I add this was in the form of rate reductions. Mr. Ailes also states:

"Railroads were neither the first—nor the last—to receive land grants. Developers of wagon roads and canals received 10,007,687 acres, and thousands of individual farmers later were given up to 640 acres each in the form of homesteads.

"The railroads received a total of 131,250,-534 acres—specifically for the purpose of providing them with the necessary security for borrowing the money needed to finance construction."

As for the argument advanced by the proponents of eminent domain for slurry pipelines that it is warranted because pipeline operators should have a right to compete, this is nonsense.

If such an argument were valid, every would-be service station operator could—without equal justice—petition the Congress for help in securing a choice location so that he might make more fuel available.

Can you imagine it? Here comes a person who wishes to open a brand X station. But the location he wants is the property of the local brand Y dealer. So, says the would-be newcomer, give me the power to seize a part of his land, in order that I might compete with him.

Finally, the slurry proponents say Federal eminent domain is necessary because, without it, the pipelines cannot be built.

If that is so, it is easy to see why they are trying so hard to get this bill enacted. But Congress does not pass laws because a group of promoters need them to do business. Con-

gress passes laws because the public needs them. And I do not believe that the public needs coal slurry pipelines.

[From the CONGRESSIONAL RECORD, June 11, 1976, 17795]

"COAL SLURRY PIPELINE—9" SLURRY NEEDLESSLY EXPLOITS VALUABLE WATER RESOURCES

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

I have discussed the question of eminent domain, this can be found on page 15521 of the May 26 RECORD; the fact that this is transportation legislation not energy legislation, page 15877 of the May 27 RECORD; the railroad capability of handling the increased coal production, page 16078 of the June 1 RECORD; the effect of coal transportation on railroad economic viability, page 16246 of the June 2 RECORD; on June 3, I spoke of the railroad industries innovative handling of coal, this is on page 16740 of the RECORD; on June 7 I spoke of the slurry pipeline lobby, which is on page 16805, June 8 I spoke on the question of whether a study by the Office of Technology Assessment should precede congressional action on a slurry pipeline bill, this is on page 16902, yesterday I spoke on the fact that railroads can haul coal without the need for new laws, this can be found on page 17594.

Today I intend to discuss the problem of slurry pipelines needlessly exploiting valuable water resources. There is, perhaps, no more troublesome question about the pipelines than that of their voracious use of water.

Remember, we are talking about a region of this country in which water is a scarce commodity. History tells of killings over water in the West.

The Energy Transportation Systems, Inc., pipeline—the one furthest along in the planning stage—would draw its water from the Madison Formation. According to Dr. Perry H. Rahn of the South Dakota School of Mines and Technology, on page 1034 of the hearings he states "it would use 9,000 gallons of water per minute—for the life of the pipeline. That life, according to pipeline proponents, may range from 30 to 75 years."

In testimony before the Interior Committee, Dr. Rahn expressed his concern about the use of ground water for the ETSI project. On page 1045 of the hearings he also characterized as "erroneous" a statement by the former Wyoming State engineer that recharge to the Madison in the area of the ETSI project is estimated at 150,000 acre-feet per year. Dr. Rahn estimated the recharge at 8,000 acre-feet per year—a little more than half the amount that ETSI would take out for its pipeline.

In conclusion, Dr. Rahn said, and I quote:

"In terms of recharge, it can be seen that the Wyoming State Engineer and ETSI have hastily produced some numbers which have little scientific value. The numbers are, however, being used to support the goals of the project."

John L. McCormick, of the Environmental Policy Center, on page 852 of the hearings expressed concern similar to that of Dr. Rahn, noted, in addition, that a 1,000-mile pipeline would need from 10 to 20 pumping stations, each with a standby water supply of up to 18.7 million gallons.

Pipeline proponents tend to brush the water question aside, or respond—when they do—with a comparison to the water needs of a coal gasification or mine-mouth generation operation. Nobody questions that mine-mouth generation may use more water than coal slurry pipelines—but the salient fact is that those are not the only choices for coal. The railroads offer a choice that does not involve the loss of water in arid regions.

I believe I detected a certain note of exasperation with the pipeline proponents, and their attitude about water concerns in the statement of our colleague, the gentleman from Wyoming, Mr. TENO RONCALIO.

Mr. RONCALIO does not, apparently, share all my concerns about the coal slurry pipelines—but he does share my concern about water use. He said on page 50 of the hearings and I quote:

"I have never opposed the construction of the ETSI pipeline so long as the ETSI people would follow through with what I thought was the basic amendment; that they would make an appropriation to the Corps of Engineers on the Missouri River and tap surplus floodwaters and bring that water into Wyoming and let some of that water be used to help lubricate their pipeline."

But, Representative RONCALIO found, this was not to be the case. The ETSI pipeline would get all its water from the Madison Formation. And so he told the committee:

"It is the same old shell game, over and over again, and I could not be more adamant in my objection to considering this legislation until we get a guaranteed statement from the people who are building these lines about how many are proposed and why cannot an acceptable percentage of the water be piped in and used to help lubricate this coal and the water that is in the formations in Wyoming be left for the agricultural needs of that part of the country."

I believe the pipeline proponents have made some attempts to satisfy Mr. RONCALIO. I don't know whether they have been successful. I do know that their suggestions are highly questionable.

In a story in the Casper, Wyo. Tribune of December 31, 1975, Mr. RONCALIO'S objections were noted and connected with an ETSI offer to buy the sewage of two Wyoming towns.

According to the story, ETSI would build treatment plants and use the treated sewage to provide a portion of its water needs.

There are a couple of things wrong with this idea. First, ETSI has not, in subsequent representations, altered its estimates of the cost of building the pipeline to reflect the additional cost of buying and treating sewage. This leads me to believe that either they are not really serious about it—or that their cost estimates, already low in my estimation, contain a truly remarkable elasticity.

The second thing wrong with the proposition is that it would not change the amount of water to be exported from Wyoming to Arkansas. If sewage can be treated to move coal, it can obviously be treated for use closer home.

The so-called solution is like trying to make a rope longer by cutting a length off one end and tying it to the other end.

The pipeline proponents have also talked of piping water in from the Missouri River Basin. According to E. J. Wasp, Vice President of ETSI, on page 831 of the hearings and I quote:

"Now what seems to us to be a much more viable alternative rather than recycling would be to go to the main stem Missouri reservoirs which are only about 288 miles away from the coal fields and there is a serious study underway by South Dakota to have a joint-use pipeline which would take water from away high, drop off some of the water in the western part of the State for municipalities and continue that water on to the coal fields."

But as the statement of Mr. RONCALIO indicates, they have talked of this before and it came to nothing. Obviously it would increase their costs. Then too, they could meet with opposition to taking large amounts of water from the Missouri. In fact the question of the legality of such a move has never been fully answered.

Mr. Speaker, we should all take a minute to consider the implications of what I have just said. The possibility exists that a number of river basins established for a certain purpose might have their water diverted in order to enhance the profits of a coal slurry pipeline. Will any river basin be protected from such an eventuality? As I have pointed out, the powers behind the coal slurry pipeline seem willing to go to any length to make their scheme work. Large amounts of water could be taken from the Missouri River Basin, it has been suggested. I've got news for you, it would be illegal to transfer that water for a coal slurry pipeline without the enactment of legislation and we who live in the area have something to say about that.

Thomas Kleppe, Secretary of the Interior, is apparently making things even more difficult for the pipeline people. In a story in the Minneapolis Tribune of May 28, 1976, he was quoted as saying that unless he sees a satisfactory proposal for returning the water to its source after use, the pipelines are a "no-no."

I do not know how the pipeline proponents will deal with that one. In a statement before the Interior Committee on page 702 of the hearings, Darrell MacKay, vice president of the Northwest Pipeline Corp., which hopes to build a slurry pipeline, said recycling the water would increase the unit cost of transportation of the coal by about 38 percent. He said the increase is so substantial that it would make the project not viable, and it would not move forward.

Similar sentiments are expressed in testimony on page 831 of the hearings by E. J. Wasp, who said it would cost an additional $250 million to build a recycle line.

There is an obvious answer to this problem: Do not build the pipelines.

If the pipelines are built, water would seem to be an insurmountable problem—not for the pipeline operators, who will, after all, have the water, but for the other potential users of water in the region.

But if the pipelines are not built, there will be no problem for anyone.

I submit that the Congress would be making a serious error if it takes an action that would encourage the needless waste of a vital resource.

I submit that questions on water use—the amounts, the sources, and the effects on the region—must be answered completely, specifically, and satisfactorily before H.R. 1863 is advanced beyond its present point.

[From the CONGRESSIONAL RECORD, June 14, 1976, 17889]

COAL SLURRY PIPELINE—10 SLURRY PIPELINES ARE ENVIRONMENTALLY UNSOUND

Mr. SKUBITZ. Mr. Speaker, beginning with May 26, I have called attention to the House of a bill, H.R. 1863, the coal slurry pipeline bill, which is now pending before the House Interior Committee. This bill would grant Federal powers of eminent domain to the slurry pipelines.

I have discussed the question of eminent domain, this can be found on page H4986 of the May 26 RECORD; the fact that this is transportation legislation not energy legislation, page 15877 of the May 27 RECORD; the railroad capability of handling the increased coal production, page 16078 of the June 1 RECORD; the effect of coal transportation on railroad economic viability, page 16246 of the

June 2 RECORD; on June 3, I spoke of the railroad industries innovative handling of coal, this is on page 16740; on June 7 I spoke of the slurry pipeline lobby, which is on page 16805, June 8 I spoke on the question of whether a study by the Office of Technology Assessment should precede congressional action on a slurry pipeline bill, this is on page 16902, June 10 I spoke on the fact that railroads can haul coal without the need for new laws, this can be found on page 17594, and on June 11, I spoke on how slurry needlessly exploits valuable water resources, which can be found on page 17795.

Today I intend to discuss the question of whether slurry pipelines are environmentally unsound.

Those who are advocating passage of H.R. 1863, the Coal Slurry Pipeline Act, have made a number of claims as to the environmental desirability of coal pipeline operations.

Those claims become somewhat tenuous when you consider the fact that John L. McCormick of the Environmental Policy Center—an organization that represents a number of environmental and public interest groups, as well as farmers and ranchers—appeared before the Interior Committee in opposition to H.R. 863.

This would seem to indicate that environmentalists do not agree with pipeline proponents as to the environmental purity of the pipeline.

Of course, one of the biggest environmental problems about the pipelines is their massive water requirement, which I discussed in June 11—but there are other problems.

The pipeline proponents seem to base their claims largely on the fact that a slurry line will be underground in most areas. Therefore, they say, it is out of sight and invisible—not like a coal train.

But, to me—and to others—the underground operation is bothersome.

According to Mr. McCormick on page 852 of the hearings and I quote:

"A pipeline designed to move 25 million tons of coal a year will have a holding capacity of 855,000 tons of coal."

This coal will, of course, be in the form of sludge—pulverized coal mixed with water. However, this is not a solution. It is, rather, suspension.

This fact is important because if, for any reason, the line is shut down—if the slurry stops moving—the coal will quickly settle out of the water and plug the line.

According to the Hudson Institute Report on page 122, to prevent this from happening, the pipeline operators will have, along the pipeline route, a number of dump ponds into which the slurry can be flushed in case of malfunction. But "pond" is an innocent-sounding word for something designed to hold 3,660,000 acre-feet of coal sludge. These "ponds" would have to be about 10 acres large and about 8½ feet deep.

Questions have been raised about what happens to the sludge once it has been drained into the ponds. Slurry people say they will pump it back into the lines, but it is not clear whether the cost of doing so is a part of their cost estimates. But, whatever happens in these ponds, it is not nearly so devastating as what can happen if the line breaks underground or at a stream. If the line ruptures, 3,660,000 acre-feet of coal sludge could come gushing out—where? In a cornfield? In a pasture? In a running stream or lake?

Certainly, it can be cleaned up—but how long will it take? And what permanent damage might it do to the site of the rupture?

And while we are talking about land, let's consider the physical operation of constructing a slurry pipeline. According to Prof. Iraj Zandi on page 731 of the hearings, while construction is going on, the builders will need access to a strip of land 100 feet wide and more than 1,000 miles long. We do not know precisely what route the pipeline will follow, but it is certain that a lot of land will not get planted that year. And it probably will not get planted for several years, because running heavy machinery over land and digging ditches and filling them back in is not exactly conducive to good soil conditions—unless, of course, the pipeline builders intend to be careful to put the topsoil back on top, just the way it was before they started.

Now, let us see what happens when the sludge reaches its destination. Before it can be burned, the water must be removed and the resulting slurry "cakes" dried somewhat.

According to the report recently released by the Hudson Institute, there are a number of problems with this process which have cropped up in the only operating coal slurry pipeline in this country, the Black Mesa Line. It seems there are jam-ups in the centrifuges and incomplete burning and other problems, including an everpresent danger of fire.

And what about the coal that gets burned? The whole point of a boom in western coal is that it has a low-sulfur content and can produce electric power with less air pollution than other kinds of coal.

But the kind of facility that would use 25 million tons of coal a year would increase air pollution—even with low sulfur coal. There is no such facility now. Middle South Utilities, the potential customer of the ETSI line, wants to build one, but—the hearing record shows—has been forbidden to do so by the Arkansas Public Service Commission.

Electric power—possibly produced by burning coal—would also be used to pump the coal sludge through the pipeline.

And, although there is little to choose between the amount of energy used to move sludge through a pipeline and the amount of energy used by unit coal trains to produce the same number of ton-miles, pipelining involves a dewatering and drying process, which railroads do not. According to a study prepared for the Wyoming Department of Planning and Economic Development, the total pipeline process would consume 750 Btu's per ton-mile, while a unit train operation would consume 300 Btu's per ton-mile.

The point of all this is to demonstrate that coal slurry pipelines would not exercise a beneficial effect on the environment of the West. In fact, they would do the opposite.

I suggest that, in the absence of any demonstrated need for the sevices of slurry pipelines—and I do not believe that such a need has been demonstrated—the Congress would be making a serious error in passing a law that would result in their proliferation and in the environmental damage they would bring.

[From the CONGRESSIONAL RECORD, June 16, 1976, 18719]

"COAL SLURRY PIPELINE—11" THE INABILITY OF THE SLURRY PIPELINE TO BE A COMMON CARRIER

Mr. SKUBITZ. Mr. Speaker, today I intend to discuss the inability of the slurry pipeline to be a common carrier.

Mr. Speaker, the concept of whether or not coal slurry pipelines are common carriers is important to undertsand. For those who support legislation which would permit the construction of the coal slurry pipeline, the tag common carrier enhances their case that such an action would be in the public interest. After all, the common carrier concept has been the sole reason that we have given certain groups privileges which are in the nature of monopoly privileges. The telephone company, for better or worse, was made a common carrier primarily for two reasons. First, it required a great deal of capital to institute a comprehensive telephone system; second, once instituted, the system could be available for anyone in the community to use. Note that the second characteristic of a common carrier is that anyone in the commnuity should be able to use it.

In the area of transportation, railroads were given operating rights throughout the country on the condition that they would be common carriers, that it, that the railroad would take anyone's freight shipment no matter how small or infrequent.

Likewise, operating rights are given to motor carriers on the condition that they be common carriers. They have to take the skim milk with the cream or else the special privileges given them are revoked.

The proponents of H.R. 1863 insist that coal slurry pipelines would be common carriers. According to the proposed legislation they would be called common carriers. Nevertheless, it is my contention that coal slurry pipelines cannot truly be common carriers.

It seems to me that what we have here is a reverse twist on an old saying. We have something that does not look like a duck, does not act like a duck and does not make noise like a duck. Nevertheless, certain people insist upon calling it a duck.

Does that make it a duck? I don't think so.

There are certain characteristics which are generally understood to be distinctive of common carriage.

Common carriers, for example, may not discriminate among shippers. Generally speaking, they must accept any properly tendered traffic and treat shippers equally as to rates.

Coal slurry lines would not meet these characteristics.

In testimony before the Interior Committee, Burlington Northern chairman, Louis Menk described the way the pipeline promoters intend to do business. His description has been confirmed by the promoters themselves in their published materials.

No coal slurry pipeline will be built until its operators have concluded a throughput contract with a customer for the delivery of coal. The throughput contract guarantees that the customer will take delivery on—or at least, pay for—a specified annual tonnage of coal for a long period of time—usually 20 to 30 years. Railroads, by the way, have not been permitted to enter into such contracts.

In the case of the Energy Transportation Systems Inc., pipeline, what is being discussed is the delivery of 25 million tons of coal per year to Arkansas Power & Light—an affiliate of Middle South Utilities—for about 30 years. I do not mean to suggest that such contract now exists—I do not know if it does or not. But the president of Middle South outlined such an arrangement—while making a different point—in testimony before the Interior Committee.

This interesting colloquy took place during the hearings before the Interior Committee and I quote from page 772 where Mr. Lewis, president of Middle South Utilities says:

"Mr. LEWIS. Being a very capital-intensive type of investment—which means a big pile of money—I do not think it is possible for such a project to be built without firm commitments from customers who will provide the wherewithal to service the huge capital required to build the project. I think they have to know that going in.

"Mr. STEIGER. Could you advise the committee as to the discussed lengths of such a relationship, the length of time?

"It seems to me again that you have a unique problem in that the pipeline has to be amortized, and the fossil fuel burning plant has to be assured a product, so you are talking about a 30-year amortization of the fossil fuel generating plant. Do you enter into any negotiations on a 30-year basis?

"Mr. LEWIS. Yes, sir. Our discussions have been in terms of 30 years or longer."

Mr. Lewis complained that the railroads would not discuss a 30-year contract—now Mr. Lewis and the members of the commit-

tee know that under the Interstate Commerce Act the railroad cannot quote a 30-year contract. Nor can any other regulated common carrier—the rates are regulated by the Commission. So we see that giving common carrier status under this act we are giving them an advantage over any other regulated common carrier.

During the testimony of Mr. Lewis and his explanation of how the pipeline would be required to serve a certain group—would serve only ETSI—Mr. Seiberling on page 772 makes this statement:

"Mr. SEIBERLING. So this is not really a common carrier in the sense we usually think of it, because once the line is built it will be built to serve a certain group or individual company, and no one else is going to be interested in getting in on that line unless there happens to be excess capacity at that time."

Other testimony revealed that the planned capacity of the ETSI pipeline will be 25 million tons a year.

So whom are they trying to kid about common carriage?

This is contract carriage, pure and simple. Remember, ETSI does not buy the coal for resale to the power company. It just carries it. It will be carrying the coal of the shipper from whom the power company bought the coal. Let us call him Shipper X.

Now, let us suppose that Shipper Y shows up at the mouth of the ETSI pipeline with a load of coal which he would like to have sent to Arkansas. How is the pipeline going to carry it? The pipeline is already carrying a capacity load.

Contrast this with a railroad situation. Railroads may operate unit trains which have certain resemblances to the pipeline operation. But they may not commit their entire capacity to such service. They are required to retain the capability to serve smaller shippers, whose movements may not justify unit train service. So the situation that I have described with regard to the pipeline could not exist on a railroad.

A pipeline's very nature makes it impossible for it to function as a true common carrier. There is no network of pipelines contemplated. Rather, what is contemplated is a number of discrete operations, each carrying specific tonnages from one point to one point.

The economics of pipelining make capacity—or near-capacity—operations essential. And the throughput contract device assures an insulation from competition.

Railroad testimony has called this operation cream-skimming—and this seems an apt characterization.

Not only is it not common carriage—it is destructive of common carriage.

I have little doubt that railroads, as private businesses, would seek to maximize their profits by seeking to concentrate on unit train movements of coal. However, as common carriers, railroads are required to provide service to all shippers—small, large or occasional. They may not concentrate exclusively on the large shipments. In return for this requirement, railroads are supposed to be protected by controls on entry into their markets.

What this legislation would do is encourage a new transportation mode to enter the coal market and skim away its most profitable segments—leaving the true common carriers with the dregs.

Summing up, I would say that it is certainly possiole for the Congress to pass a law mandating that a vulture will henceforth be called a duck. But the inevitable result would be a certain lowering in the quality of duck soup.

[From the CONGRESIONAL RECORD, June 18, 1975, 19313]

"COAL SLURRY PIPELINE—12" PIPELINES POSE DANGER TO CONSUMERS

Mr. SKUBITZ. Mr. Speaker, with the strongest pitch of those who seek the passage of H.R. 1863, the Coal Slurry Pipeline Act, is based on the claim that pipelines would deliver coal at lower rates than would be charged by the railroads.

Mr. Floyd Lewis, the president of Middle South Utilities and a potential pipeline customer, told the Interior Committee that $14 billion could be saved over a 30-year-period by using pipeline-delivered coal instead of coal delivered by the railroads.

Close examination revealed that Mr. Lewis had arrived at this figure by assigning unrealistically low rates to pipelines and unrealistically high rates to railroads and then applying a constant 4-percent annual escalation to a tiny portion of the pipeline rate while applying a constant 5-percent annual esacalation to the entire rail rate. He also assumed level deliveries of 25 million tons of coal per year for 30 years despite the fact that the utility would not use that kind of tonnage every year—and despite the fact that Middle South has been forbidden to build the kind of utility complex that could burn that much coal.

The recently released Hudson Institute Report suggested that pipeline rates would start out substantially higher than rail rates and—because of the admittedly lower vulnerability to inflation inherent in the pipeline operation—would eventually be passed by the rail rate. But the Hudson Report estimated that this might not happen for 17 to 20 years.

If the Hudson estimates are accurate, the effect would be that today's utility customers would pay a higher price than necessary in order that some hypothetical savings might be realized by customers 20 years in the future. And remember—those so-called savings would be in inflated dollars, thus lessening their value still further. Assuming that the savings would indeed be passed along—when they came along—it could hardly be considered prudent management to deliberately seek a higher price today in order to get a lower price 20 years from now.

But let us try to get at this thing from another angle. Let us suppose that the pipeline claims are true and that the customers of Middle South's subsidiary, Arkansas Power and Light, and the customers of utilities served by the other planned pipelines would get power at a lower rate than would otherwise be possible. I do not believe it, but let us grant it for the moment.

What about all the other consumers? The damage caused to the railroads by the pipelines' cream-skimming would surely result in higher rail rates than would otherwise occur. Thus, those who bought electric power generated by rail-delivered coal would pay much more, in order that a select few could pay less. And, of course, rail rates would not just rise on coal. They would rise on the whole range of commodities carried by the railroads, increasing retail prices on a great number of consumer goods.

The worst thing is that damage to the railroads, necessitating rail rate increases, would come even if the pipelines fail to live up to their claims. The traffic would still be denied to the railroads.

Permit me to quote from the hearings on page 920, here Mr. Menk points out that a 2-year study carried on by the Burlington Northern and the Bechtel Corp. the major participant in ETSI would not turn a profit:

"In view of the opportunities and risks entailed in the evolving new opportunities for the transportation of western coal, my company would have been fool-hardy in the extreme had we not carefully studied the potential competition from slurry lines. For that matter, as the owner of extensive railroad rights of way that easily could serve as pipeline rights of way, we thoroughly considered the feasibility of our own participation in the coal slurry line business. This work was accomplished during a two-year study carried out in cooperation with Bechtel, Inc., a major construction engineering company and one of the companies that, with Lehman Bros., the New York financiers, is now joint-venturing Energy Transportation Systems, Inc. We have also examined and remain up to date as to anticipated needs for coal by Middle South Utilities a company, which it will be recalled, is a principal corporate sponsor of the eminent domain bills. In any event, our joint study—which ran the gamut of modern costing techniques, including elaborate computer programs—demonstrated to our satisfaction that, save for possible special situations, coal slurry lines in our territory probably will not be self-supporting in the foreseeable future. We were impressed, however, with the fact that Bechtel wants very badly to get contracts to build these enormously expensive facilities. We were impressed also with the many policy considerations which compel the conclusion that usually slurry line construction is contrary to the public interest."

I have already discussed the low estimates of the ETSI spokesmen. Their profit computations are apparently based on these estimates—yet the estimates do not take into account modifications in the system that they themselves have outlined. Certainly, the estimates do not allow for any sort of problem in construction or operation.

For example, to operate at top efficiency the pipeline must operate at, or near, capacity. But, as I have pointed out, no facility exists which could use the capacity of the planned ETSI line. If the line operates at much less than capacity, unit costs go up dramatically.

According to the testimony of pipeline proponents, unit costs will also go up dramatically if there is a requirement that the water used be returned to its source—as a recent statement by Interior Secretary Kleppe suggests might be the case.

So what would happen if the pipelines are built and then are unable to match rail unit train rates? Possibly everyone could end up paying more for electric power. Another possibility—distressingly real to those of us who have been in Congress for several sessions—is that the pipeline operators will come back to Washington in search of a subsidy, basing their supplication on the same questionable claims of necessity they are now using.

All of this points to the need for study. For study by the Office of Technology Assessment. For careful review of this proposed legislation by a committee charged with viewing it in the light of its effect on the national transportation system.

[From the CONGRESSIONAL RECORD, June 21, 1976, 19521]

"COAL SLURRY PIPELINE—13" SEPARATING FACT FROM FICTION

Mr. SKUBITZ. Mr. Speaker, this is the last of the series of presentations I have planned on the subject of H.R. 1863, the Coal Slurry Pipeline Act. I doubt that it is the last time I will address myself to the subject.

However, I think it appropriate, at this time, to attempt some sort of summation of the points I have raised and attempt to see where they lead us.

First and foremost, it should be clear that H.R. 1863 is not an energy bill. It is a transportation bill and should be considered in light of its effects upon the Nation's transportation system. I believe that the evidence shows that those effects would be deleteri-

ous—that the construction of coal slurry pipelines could damage our common carrier railroads, to the detriment of all who depend upon rail service.

This, alone, would be enough reason for the defeat of this legislation.

It should also be clear that the operation of coal slurry pipelines would create a massive and continuing drain on western water resources that have long been a source of concern. A single pipeline would export 6.5 billion gallons of water a year from Wyoming. Pipeline promoters have offered no solution for this problem. Instead, they have maintained that there is no problem—or if there is, it is not relevant to the legislation.

This alone, would be reason enough for the defeat of this legislation.

Pipeline proponents have failed to demonstrate a public need for their services. Independent sources have agreed that railroads can develop sufficient capacity to handle all increases in coal production. Nor have pipeline promoters succeeded in making a convincing case that their operations would benefit the consumers of electric power. The only set of comparative rate figures which have been offered by the promoters can be easily shown to be based on faulty calculations.

And the promoters' assertion that their operations would provide some form of rate discipline for the railroads has been shown to be the reverse of the truth. In fact, the pipelines' operations, based, as they would be, on exclusive throughput contracts, would actually bring about a reduction in competition and would likely force railroad rates higher on the traffic remaining to them.

These factors, alone, would be reason enough for the defeat of this legislation.

Grave questions have been raised—but not really answered—about the potential threat to the environment posed by the possibility of pipeline breaks, about the comparatively greater energy requirements of pipeline operations and about difficulties in the dewatering process, which have resulted in centrifuge jam-ups, incomplete burning and fire danger.

I have discussed the opposition to this legislation by environmentalists, farmers and ranchers. It has been noted that slurry backers have failed to obtain the right of eminent domain on the State level in key States.

This, too, would be reason enough for the defeat of this legislation.

I have discussed the ways in which pipeline proponents have engaged in sly games with the Congress, with the Government and with the public. They have obtained a government grant to perform a study in their self-interest. They have attempted to discredit—through legal maneuvering—studies which were not to their liking. And they have engaged in an attempt to head off a truly independent study of the issues by the Congressional Office of Technology Assessment.

This—to my mind—would be reason enough for the defeat of this legislation.

The proponents of coal slurry pipelines have come to the Congress seeking the Federal right to eminent domain. This right has never been granted in analogous circumstances. To justify such unprecedented action on the part of the Congress, the proponents should be required to prove an overwhelming public need for their services.

They have not proven it.

To justify such action, they should be required to demonstrate public benefits that could be achieved in no other way.

They have not done so.

Instead, they seem to base their pleas to the Congress on assertions of equity that turn out, upon examination, to be demands for privilege.

Taken in total, the record does not show a public interest in the construction and operation of coal slurry pipelines. Rather it shows that the construction and operation of coal slurry pipelines would threaten injury to the public interest.

Taken one by one, the reasons for refusing to grant special privilege to the builders of coal slurry pipelines are convincing.

Taken in total, I believe they are compelling.

Mr. Chairman, "The Big Sluice," by Ed Slavin, appears in the July-August issue of Crossroads (formerly Coal Patrol) a magazine dealing with coal development and its effect on people. Copyright 1978 by Brophy Associates, Inc., nonprofit research organization located in Washington, D.C., and edited excerpts follow:

[From Crossroads, July–August 1978]

THE BIG SLUICE

(By Ed Slavin)

Water has been to the American West what coal has been to Appalachia. For more than a century, the economic development of the vast arid areas of the West has depended on the availability of water in much the same way that the economic development of Appalachia depended on the availability of coal.

The key difference is that where coal has been abundantly available—so much so that overproduction once caused cutthroat cost-cutting and endless grief—water in the West has always been in scarce supply. To get their hands on it, westerners have been willing to trade copious supplies of cash, political influence, and, on occasion, gunfire. "Water doesn't flow downhill," westerners say. "It flows toward money."

Now money, water, and coal are being mixed, in a formula that smells strongly of more trouble to come. To understand the formula, it's necessary to look at each of its components, especially the most important one: money.

The development of the West's coal resources at a suddenly accelerated pace in recent years means a financial bonanza for those who are privileged to carry it eastward to market. Today, as in the past, extremely powerful railroads—the Burlington Northern, Union Pacific and Southern Pacific principal among them—have a lock on western coal transportation and have considerable power to ratchet prices upward through the influence they wield with the Interstate Commerce Commission. Tomorrow, if a number of equally well-heeled corporate giants have their way, a network of coal pipelines will crisscross the nation, sharing the job of moving billions of tons of coal; and the companies that build and operate those pipelines will sluice off the same kind of staggering profits that would otherwise have gone exclusively to the railroads. Over the 15 to 20 years when western coal can be expected to enjoy a growing share of the energy market, those profits may be measured in the high billions.

The shoot-out between the railroaders and the pipeliners catches Congress and the Carter Administration in the middle of Main Street at high noon. The pipelines can't be built without Federal legislation giving them the power of eminent domain—the right to cross the railroads' rights-of-way. The pressure for and against such legislation builds with every new ton of capacity that western mines bring on line. The railroads and a coalition of environmental groups have held off the pipeliners thus far. But the pipeliners have massive resources and are gradually acquiring some skill at using them on Capitol Hill. They now have the support of many key Congressmen and Senators, as well as much of the Carter Administration (which speaks on this issue, as on most, with several conflicting voices) and may yet get their cherished legislation unless new opposition develops.

In their defense, the pipeliners argue that the railroads are guilty of attempting to restrain trade. There's much truth to the argument. Historically, the development of any transportation system has encountered fierce opposition from those already in place. Barge companies fought the railroads 150 years ago. Railroads tried to stop highway construction, and fought the building of oil pipelines.

"I don't know how we ever got air mail," says Rep. Morris Udall (D., Ariz.), a key supporter of pipelines. "The railroads are simply saying, in a burst of raw political power, you want to compete with us and we're not going to let you. That's what they're asking Congress to do—kill a method of competition." Udall and others like him argue that without the pipelines, the railroads will be free to raise transportation rates at will.

This is the kind of argument that many Congressmen love. There's nothing more American, more wholesome, than the idea of voting for competition. What right-minded citizen could possibly be against it? But the fact that large numbers of presumably patriotic citizens don't buy the argument suggests that it may be flawed. To find out, it's necessary to take a look at how a pipeline works—and how well.

In principle, a coal pipeline is simple. To move coal through a pipe, you first crush it and pulverize it until it takes on roughly the consistency of sugar. Then you mix this powdered coal with some sort of liquid medium. You don't have to use water—you could use oil or methanol made from coal, but these involve some uncertainties in terms of cost and the state of technological development. So the medium of choice for the proposed western pipelines is water.

You mix each ton of coal with roughly the same weight of water—about 200 gallons of water. Then you dump this slurry into your pipeline and send it on its way. Pumping stations along the line keep the slurry moving at a speed of about four miles an hour.

In theory, you can move coal slurry efficiently in this fashion over very long distances. The longest proposed pipeline would move Wyoming coal about 1400 miles to power plants in Arkansas and Louisiana, taking about two weeks for a ton of coal to move from the mine to the boiler. A unit train is much faster, of course, but the capacity is much lower: perhaps a million tons per train per year compared to a capacity of about 25 million tons per year for the pipeline. It's hard to keep that many trains running over a single stretch of track.

At the power plant, you dump the water and burn the coal. You don't send an empty train back; the coal just keeps coming. No muss, no fuss. No waiting for hopper cars. No delivery delays caused by the vagaries of weather, equipment failure, or labor disputes (especially the last—unlike railroads, pipelines can be run by supervisory personnel during a strike). It's a nice, closed system, ideally suited to today's needs, capable of moving a commodity in enormous quantities over great distances with impressive reliability.

And, from an environmental standpoint, the pipeliners insist that their way is much to be preferred over the railroads. Pipelines, they point out, create no "noise, dust, fires, traffic tieups or accidents."

The pipeline lobbyists also insist that the proposed coal slurry lines are to be financed "entirely with private capital" and with no government subsidies of any kind. Accordingly, pipelines "have had to prove themselves to their customers, lenders, and investors, all of whom are very sophisticated and businesslike in analyzing a project's value."

So there you have the coal slurry pipeline,

in principle. In practice, the situation is much more complex.

It's not that the basic technology of slurry pipelines is anything new. The first slurry patent was granted in 1891 and there have been few major changes since. Coal moved from river barges to a London power plant via pipeline as early as 1914, and numerous pipelines of varying length and diameter are in use today in the United States and all over the globe, carrying oil, gas, and a whole shopping list of other commodities.

Most, however, are short. Only two coal slurry pipelines have ever been built in the United States. The first, a 108-mile-long line in Ohio, was first operated by Consolidation Coal in 1957 as a means of forcing railroads to lower their rates. When they did better than that (by introducing highly efficient unit trains, which carry only coal and run on a continuous, nearly non-stop schedule from mine to power plant) the Ohio pipeline ceased to be competitive and was shut down. The second pipeline has been operated since 1970. It moves coal 275 miles from Peabody Coal's Black Mesa mine in Arizona to a power plant in Nevada. The proposed new pipelines would dwarf both of these projects, not just in length but in other important respects, starting with the amount of capital that would be required to build them.

For example, a proposed 900-mile pipeline from the San Luis Valley in western Colorado to a utility in Texas would need, among other things, more than 243,000 tons of steel, requiring more than 3 billion thermal-kilowatt-hours of energy to produce. While the steel industry could use the business, the idea of dumping that much energy into building a new pipeline raises eyebrows when a parallel railroad line is already in place.

The pipeliners have a way of glossing over questions like that. They choose to emphasize instead the comparative costs of moving a single commodity by pipelines and railrods, all other things being equal. But all other things are not equal. The railroads are already in place. And they can move more than one commodity.

Looking at the various hypothetical pipeline routes, Congress's Office of Technology Assessment (OTA) has estimated that it would typically require 610 BTU's of energy to move a ton of coal through a pipeline compared to 390 over a railroad. Admittedly, any such comparison can be challenged. Conditions vary from place to place. Railroad equipment wears out and requires replacement (so do pipelines, but less often).

But railroads have the obvious advantage of versatility. You can ship cows or canaries or Chevrolets over the same steel rails that carry coal, but pumping them through a pipeline tends to lower their market value. And if ever the happy day should come when national transportation policy gives people a high priority, the countryside looks better from a train than from inside a pipeline. The fact is that a coal slurry pipeline has a very limited value compared to rails; under the right circumstances it can move one product better, at least arguably, but at some risk of making it more expensive to ship everything else that still has to go by rail or truck. That's a dubious kind of cost-effectiveness.

Railroads are admittedly subject to unpredictable downtime, but so are pipelines, with consequences that can be severe. Coal sitting in a stopped train is likely to be affected only in severe winter weather, but failure of the pumps along the pipeline can be critical. If the slurry stops moving for any length of time, the coal settles out and can clog the pipe. To flush it requires a great deal of additional water under pressure, creating some risk of rupturing the pipe or disabling other pumps; while the pipe remains clogged, slurry mixture must be kept in holding ponds at the pumping stations, which can mean problems with evaporation and percolation—slurry seeping into the ground and contaminating any water with which it comes into contact. In severe cases of either evaporation or percolation, a by-product would be the remaining powdered coal, unmanageable and ready to be blown all over the surrounding terrain.

Then there's always the problem of what to do with the water when you get the slurry to the power plant. Some of the coal will settle out, with the water being run off, but vacuum filtration and centrifuging are also necessary, and these involve energy. And they don't separate all of the finely ground coal from the water. In order not to lose the coal, chemicals called flocculants are added to the water. That's an additional cost, and it adds chemical contaminants to the water (and to the air, since some of the chemicals remain with the coal and are burned).

By assuming that by hook and crook you can separate most of the coal from its medium, are you left with pure water—or water at least pure enough so that you can run it off without worrying about where it ends up? That's a good question. It's intended that the coal slurry will move anaerobically, which means without air, as a way of controlling corrosion within the pipe. Scientists don't know much about how coal and water react in the absence of air. But separating them at the end of the line—particularly after a two-week trip together—may turn out to be a very tricky business. Coal is more than meets the eye: it contains mercury, lead, beryllium, arsenic, fluorine, cadmium, selenium and a batch of other free riders. If they stay with the coal we wind up breathing them. If they stay with the water we drink them. Ask a dozen scientists to describe the comparative risks, and you get a dozen answers. To the pipeliners, that doesn't seem to suggest any need for caution. It's the old microwave-oven theory: let's just go ahead and develop it, and somebody else can worry about the consequences, some other time.

Pipe corrosion may be a serious problem. In some cases, removing air from the slurry may not control it. If that's the case, the pipeliners will have to dump corrosion-inhibiting chemicals into the slurry. These are powerful substances that do not simply fade away when they reach the end of the line . . . nor when they leak out along the way. They are toxic, and could be lethal to any wildlife (or people) unlucky enough to drink pipeline waste water from which these chemicals have not been laboriously removed.

The potential environmental effects of a slurry spill are thus considerable. If a network of pipelines comes into being, covering thousands of miles, the chances of a major spill sooner or later are great. There have been at least two spills on the comparatively minor-league Black Mesa pipeline. One took place when the pipeline opened. Another spill occurred last year, when a human error caused the pipeline to back up and burst. OTA's investigators have noted that high pipeline pressures mean that small leaks can develop very quickly into major ruptures; the longer the pipeline, the greater the opportunity for such ruptures to occur in remote places where detection, even with sophisticated automatic sensors, may be difficult.

Buried pipelines would be less vulnerable to some hazards, but a leak could go undetected longer and could even be difficult to trace to its source. And even buried pipelines would be vulnerable to being washed out by floods.

Nobody knows exactly what to do with the wastewater at the end of the line. Even assuming that the water could be satisfactorily purified, it would be illegal to dump it into rivers and streams without a discharge permit from the Environmental Protection Agency. As yet there are no federal standards for slurry discharges. It's possible that the dirty water might be mixed with clean local water for use in power plant cooling systems and agricultural irrigation. Again, however, the potential side effects of such use are pretty much a mystery. OTA director Russell Peterson says this is a critical problem which simply hasn't received sufficient attention. The Department of Energy has only just begun to study it, and another study by Montana State University is due out in September.

Not surprisingly, some politicians slated to be on the receiving end of pipelines are not very excited about them. Sen. Dale Bumpers (D., Ark.), whose constituents theoretically would benefit from lower electric rates made possible by building the proposed Wyoming-Arkansas pipeline, told a Senate subcommittee last year that he would support pipeline legislation only if the slurry wastewater were shipped back to the point of origin. (Since that time, Bumpers—who chairs the Subcommittee currently considering the slurry bill—has done a flip-flop, and now lukewarmly supports pipelines, arguing that the railroads need competition. That's the main argument being pushed by the politically powerful utilities in Arkansas. It's ironic to hear utilities—which operate as pure monopolies—arguing for competition.)

In fact as much as 60 percent of the wastewater could be recycled, according to a variety of studies. If that's the case, why haven't the pipelines seized on that fact as a way of rebutting the environmentalists?

The answer appears to be that they would have to build another pipeline for the wastewater, thus creating for themselves a situation very much like the railroads' problem of having to send empty trains back to the mines. They would lose their theoretically greater efficiency. They might convert a few environmentalists, but they would lose the economists. And economists—especially those who work for big banks—are more important when it comes time to raise capital.

The merits of recycling wastewater have been clouded by apparent disagreement within the industry. In response to the claim that recycling would be prohibitively expensive, Rep. Teno Roncalio (D., Wyo.) revealed at a January 22 hearing that the Northwest Pipeline Company, which wants to build a slurry line from Wyoming to Oregon, had planned to recycle its water and dropped the idea only after learning that it would be embarrassing Energy Transportation Services, Inc. (ETSI), which wants to build a line from Wyoming to the deep South and has staunchly opposed recycling. ETSI and Northwest share seats on the board of directors of the Slurry Transport Association, the industry's lobbying arm, and Roncalio says of ETSI that he has "never seen a company so determined to get their own way." He has vowed to fight ETSI's proposed pipeline "to the death" (a threat that may not have caused the pipeliners much concern, since Roncalio is retiring from Congress this year).

All of these issues would seem to cast a long shadow across the pipelines and their supporters. But we haven't talked about what is probably the biggest problem of all, which is where to find the enormous volumes of water—already scarce water—needed to start coal on its way and keep it moving, day and night, around the clock.

It's this problem more than any other that gives many westerners nervous fits, especially when they look at the federal Census Bureau estimates that the population of the West will be growing at twice the national rate between now and the end of the century. Those people and their communities will need water So will the pipelines. It's not at all clear that there will be enough for everybody.

The Black Mesa pipeline gulps a bit more than a billion gallons of water a year—about 2,700 gallons a minute—sucked up from five wells sunk deep beneath a parched Navajo reservation. The wells tap into the principal aquifer in the region. The aquifer—a water-bearing rock formation some 3,000 feet beneath the mesa—is composed of pure unpolluted fossil water deposited thousands of years ago. In a study of the region, EPA has pointed out that Peabody's slurry line doesn't need pure water, and has recommended that alternate wells be dug into briny water unsuitable for other uses. Peabody has ignored the recommendation.

Meanwhile, the U.S. Geological Survey has calculated that pumping out the aquifer for the pipeline will lower the water table at Kayenta, north of the Mesa, about 100 feet over the life of the pipeline. Other communities, some of them hundreds of miles from the pipeline source, could be similarly affected—just how much, nobody knows.

This is a region which might get 15 inches of rainfall in a good year (compared to about 45 in West Virginia) and more typically gets 6 to 8 inches. The aquifer feeds surface springs which, in turn, form much of the limited year-round water supply. The future of these springs is uncertain. Since nobody ever thought of pulling so much water out of the Navajo aquifer before, nobody knows what the consequences may be a generation from now.

Don't forget that Black Mesa is a dwarf operation compared to the pipelines currently contemplated. For the fabulously rich coalfields of eastern Wyoming alone, three major pipelines are known to be on the drawing boards. Estimates vary somewhat as to the volume of water that each will consume, but testimony suggests that a safe figure is 15,000 acre-feet per year—nearly 5 billion gallons a year per pipeline. That's about equal to the volume of water that a city of 65,000 people would consume in a year (Cheyenne, Wyoming's largest city, has a population of 41,000). Three such pipelines would sluice off the water needs of nearly 200,000 people a year—more than half the population of the whole state.

If water supplies were inexhaustible, these comparisons would be meaningless. But Wyoming faces a water crisis. State officials, watching their population mushrooming as energy industries develop in their energy-rich state, may sooner or later have to decide which gets higher priority: people or pipe.

Ever since it got excited about building a slurry pipeline from eastern Wyoming to Arkansas and Louisiana, Energy Transportation Services, Inc. (ETSI) has been reassuring Wyoming politicians about the water problem. In 1974—a year when Democrat Ed Herschler won the race for governor by campaigning against pipelines—ETSI was awarded water rights by the state legislature on the basis of ETSI's own reports on test wells drilled into the Madison aquifer, a large limestone reservoir underlying large parts of Wyoming, Montana and South Dakota. ETSI said its test showed the Madison water to be "brackish, saline and unpotable" and therefore unfit for the needs of Wyoming's people. The legislators accordingly gave ETSI the right to withdraw up to 15,000 acre-feet of Madison water per year.

Independent studies since that time have indicated that much of the water in the Madison Formation may, in fact, be of better quality than the water available now in some of Wyoming's towns and cities. It is, in other words, exactly the kind of reservoir that Wyoming's people will probably need sooner or later.

Whether ETSI deliberately conned the legislators is unclear, but many of them think so. It was a time when they were more than ordinarily awash in the politics of coal. Republican Governor Stanley K. Hathaway was busily leasing out all of the state's remaining coal lands—Sen. Gary Hart (D., Colo.) later called it a "leasing spree"—to oil companies and other energy interests at remarkably low rates. Subsequently, when President Gerald Ford was persuaded to give the defeated Hathaway the job of Secretary of the Interior, Hathaway ran into a storm of opposition, and resigned, suffering from "fatigue and depression," after six weeks in office. Back in Wyoming practicing law, he now represents companies such as Exxon and Pacific Power and Light, and his law partner represents Peabody Coal. Meanwhile Wyoming legislators have introduced proposals—unsuccessfully, thus far—to take back the water rights granted to ETSI, and a request for an official investigation failed by a single vote.

Geologists are only now beginning to understand the charactristics of the Madison aquifer, and a federal study of Wyoming water is several years away from completion. Meanwhile the available information suggests strongly that nobody in his right mind would permit construction of a pipeline—let alone three of them—without knowing more about the possible consequences.

State geologists think that about 75,000 acre-feet of water flows into the Madison Formation each year. If they're right it's not possible to pump more than 75,000 acre-feet out of this hidden reservoir without starting to drain it.

Current Wyoming consumption of Madison water is estimated at roughly 25,000 acre-feet per year, and Montana and South Dakota draw off another 8,000. That's a total of 32,000 acre-feet being used now by the people, cattle, and industry of three states, with no pipelines in existence.

ETSI's proposed pipeline, with its 15,000-acre-foot thirst, would thus draw off almost half as much water as the three states combined. Add the other two pipelines, and you have 45,000 acre-feet being sucked out of the aquifer by pipelines alone. And it could be more: when the pipelines aren't operating at full capacity (which could be much of the time, since their capacity is much greater than the maximum output of any single U.S. mine) they will require much more water to keep going. Even assuming no increase in other water uses, the total drawdown of the Madison Formation could rapidly exceed 75,000 acre-feet per year, and you would thus begin draining the reservoir. This is no idle exercise in arithmetic: the Wyoming state geologist says his office has already received applications to remove more than 100,000 acre-feet of water per year from the Madison Formation.

How long would it take to run dry? Nobody knows. As it starts to drain, what happens to the water table in Wyoming, Montana, and South Dakota? Well, nobody's just sure. But Governor Herschler, testifying before the Senate Interior Committee earlier this year, did relay the concern of Wyoming geologists that fresh water nearer the surface will start moving down to take the place of water lifted from the Madison Formation.

For Wyoming, that could be a one-way ticket to disaster. Average rainfall in eastern Wyoming is less than 16 inches a year—not much better than Black Mesa. Most of the state's groundwater is unfit for consumption, according to EPA. Pipeline companies may be able to sink wells thousands of feet to tap aquifers, but the townspeople, farmers, and ranchers of Wyoming can't handle that kind of financial outlay. If surface water begins sinking beyond their reach, it could require only a couple of abnormally dry years to turn much of the state into a dust bowl. Even if such a cataclysm doesn't occur, the time could come—and not that far off—when Wyoming's towns and cities would start withering, simply for lack of water to support their expanding populations.

Meanwhile, the state will have become, in effect, a water colony, sluicing its most precious resource by the billions of gallons to Arkansas and Louisiana. That sounds suspiciously like the Appalachian experience, but it goes a step further: Appalachia ships out coal, the West will ship out coal and water.

All things considered, then, it may seem hard to understand why Congress is inching toward legislation that will clear the way for the pipelines—legislation that Jimmy Carter supports. At best, pipelines appear to be unnecessary; at worst they could become a nightmare for the nation.

But decisions in Washington have a logic all their own. To understand the continuing seesaw battle between pipeliners and their opponents, it's well to remember the old western saying that water flows toward money. There's a great deal of financial (and therefore political) clout sloshing around in the slurry fight. To begin with, there is much more to ETSI than meets the eye.

Energy Transportation Services, Inc. is not just a bunch of good old boys looking for a better way to get coal to the nice folks in the South. Behind ETSI is a muscular collection of corporate bigtimers, led by one of the world's largest construction companies, one of the world's largest investment banking houses, and the world's largest coal company.

Involved in virtually every existing slurry project in the world has been the engineering brain and financial brawn of the Bechtel Corporation, a giant in the field of pipeline construction. Its oil pipelines cross Arabia, Canada, western Europe and South America. Headquartered in San Francisco, Bechtel is a privately-held company which doesn't have to file financial reports with the Securities and Exchange Commission in Washington and is more than ordinarily closed-mouthed about its projects. As *Fortune* commented in an admiring 1975 profile: "No outsider can buy a share of stock and financial information is almost never published." Putting it bluntly, company chairman Stephen D. Bechtel, Jr., told *Fortune*: "We don't have to be responsible to a lot of public stockholders at annual meetings."

At a time in history when at least a few stockholders are raising questions about the ways companies spend money in the political arena, Bechtel's shyness is understandable. The company does more than $40 billion in business annually, nearly half of it abroad. In addition to pipelines, it builds power plants, refineries, fertilizer plants, liquified natural gas systems, mines, hotels, airports, "and other industrial, infrastructure, and natural resource projects."

Bechtel is ready when you are: if you're the Brazilian government and you want to build nuclear reactors, Bechtel is just a phone call away. A subway system for San Francisco? Just say the word. An airport in Saudi Arabia to accomodate the jets newly acquired from the United States? Sure thing. The company first mushroomed during the federally-financed construction of Hoover Dam in 1981, then got fat from the practically endless construction work underwritten by the federal government during World War II, and has never stopped hustling since.

By all accounts, Bechtel is managed with more than ordinary skill. Occasionally somebody goofs: in 1969 the company was convicted of bribery in connection with building an oil pipeline in New Jersey (the conviction was later reversed on a technicality) but that kind of thing doesn't come to light very often. Bechtel boasts, in fact, that although many of the projects it works on are awarded through competitive bidding, the company is likely to get the job even if it doesn't come in with the lowest bid—because it does such a good job of maintaining warm friendships with the people (and governments) it works for.

Bechtel's vast projects require immense transfusions of capital. When you need money, one of the best places to go is the sprawling New York investment house of

Lehman Brothers, Kuhn Leob, whose president, Peter G. Peterson, was Richard Nixon's Secretary of Commerce (George Schultz, Nixon's Secretary of Labor, is one of the three presidents of Bechtel, which has three co-equal divisions).

Bechtel and Lehman Brothers jointly control ETSI; each has a 30 percent share. They will thus control the pipeline—its construction and its operation. The remaining 40 percent is split between United Energy Resources of Houston and Kansas-Nebraska Natural Gas Company.

The folks who control ETSI are not just involved in moving coal. They're heavily involved in mining it as well. Kansas-Nebraska last year formed a subsidiary, Wyoming Fuels Company, to develop coal and uranium deposits. But there is another, far more significant link between the pipeline and the mines.

ETSI expects to sign contracts with Peabody Coal Company—the nation's largest producer—for most of the coal that will initially be sluiced into its pipeline. In the complex world of antitrust law, Peabody is a special case. Last year after a bitter struggle in the courts, the Federal Trade Commission finally succeeded in splitting Peabody away from its parent company, Kennecott Copper, which had acquired Peabody in 1968. Basically, the government objected to the merger because Kennecott, after deciding to get into the coal business, had done so by acquiring Peabody rather than developing its own mines and expertise and entering the market competitively. In so doing, FTC said, Kennecott had violated the laws prohibiting restraint of trade, and eventually the courts upheld FTC's position.

Peabody floated around in the marketplace for a while last year before being acquired by the Peabody Holding Company—a consortium of six companies. One of them is Bechtel, which owns 15 percent of Peabody today. That's enough, in the view of many court decisions, to exercise substantial leverage over company policy.

Becthel thus effectively controls not only the biggest pipeline proposed for the United States but also the mining of the commodity to be shipped through it. The situation is further clouded by the fact that three of the other Peabody consortium companies (the Williams Companies, Fluor Corporation, and Boeing) have interests in coal slurry pipelines—a fact of which the Federal Trade Commission was unaware, according to FTC sources, when it approved the sale of Peaobdy to the new holding company.

Offhand, it doesn't seem to have proved much to spend all that time in court forcing Kennecott to let go of Peabody only to have Peabody grabbed up by a clutch of corporate giants looking for a quick way to get a leg up in the lucrative western coal business. It's certainly arguable that Bechtel and its partners could have gone into coal mining on their own; in busting up Kennecott-Peabody, the FTC was saying that's what free enterprise and competition are all about. But the Bechtel group found a way to take a short-cut instead. Whether this amounts to restraint of trade is something that FTC staffers are just beginning to look at. Hardly any attention has been paid to this question during the pipeline legislative waltz on Capitol Hill.

It's no small or simple issue. It's reasonable to assume that Bechtel will make good use of the market leverage it has acquired through Peabody and ETSI. Bechtel could, for example, offer utilities a package deal under which Bechtel would build their boilers, mine the coal, and ship it to them—with all these neatly dovetailed in long-term agreements. A deal like that, while clearly a way to freeze out legitimate competition in probable violation of the anti-trust laws, could be buried under so much paper and legal gibberish that the government's snoopers might never figure it out.

And this is just one possibility. When you control a means of transportation, you can make it available to your competitors—in this case, coal companies other than Peabody trying for the same markets—or you can find ways to deny them access to it.

The railroads did that with such skill and ferocity that the first great federal regulatory agency, the Interstate Commerce Commission, had to be created to calm them down. But that was a century ago and the railroads today treat the ICC with something close to disdain. They can make hopper cars available in copious quantities to some mines while never quite managing to cope with mysterious shortages at others, and they can play complicated rate-making games with almost any commodity they carry. That's one reason they have so few allies in their battle against the pipeliners.

The Bechtel-ETSI Peabody connection should be seen in the perspective of a coal industry which has been all but totally transformed in recent years. Fifteen years ago it was still dominated by coal companies. Today the biggest names in the industry tend to rhyme with oil. The oilmen share some of their control with a handful of steel companies, utilities, railroads, chemical companies and construction firms which have all either grabbed off a piece of the action or are trying to. Bechtel got into the game late but got in big. The questions is: When does all this concentration of clout become too much to take?

Congress has always been skittish about confronting that question, the citizens who want to break up the corporate giants generally can't be counted on to reward a sympathetic congressman at election time. A friendly corporation, on the other hand, can be a joy to behold when you're trying to finance a campaign. Even relatively independent politicians like Representative Udall seem to sidestep the issue. Udall supports pipelines as a way of creating a little competition for the railroads, which have had a lock on the economics and politics of his part of the country all too long. But if you're only trading one variety of restraint-of-trade for another, it's hard to see the point of going through the exercise.

Bechtel knows how to move through the political corridors of Washington, for the most part quietly. The company stubbed its toe—uncharacteristically—in 1975. The National Science Foundation undertook a study of pipeline economies. When it turned out to be unfavorable, a lawyer from Bechtel's Washington legal representatives (the exceptionally well-plugged-in firm of Hogan and Hartson) insisted that NSF attach a disclaimer statement noting that the report's conclusions were those of the academics who had been paid to do it, and were not necessarily those of NSF or the federal government. This maneuver meant that the railroads and environmentalists could not claim that an official government study supported their arguments—a small point, perhaps, but the kind of thing that can help sway a Congressional committee.

At approximately the same time, however, Bechtel had approached the Office of Coal Research in the Interior Department with an unsolicited proposal to study the economics of coal pipelines. Bechtel, as part-owner of a pipeline company, was in a clear conflict of interest. But Bechtel never volunteered anything about its interest in ETSI to Interior, and nobody at Interior bothered to ask. Instead, the federal government gave Bechtel $413,000 to produce a report which concluded—big surprise—that pipelines could carry coal cheaper than railroads.

The report was just what the pipeliners needed: an official federal study supporting their cause. Unfortunately for them, Washington Star reporter Steven Aug got wind of what had happened and broke the story. Senator James Abourezk the maverick Democrat from South Dakota, took it from there, holding hearings which embarrassed both Bechtel and the government. When Ford Administration bureaucrats lamely argued that Bechtel was the only company qualified to study the economics of slurry pipelines, Abourezk produced a list of 27 other companies that could have done the job. It was, said Abourezk, a blatant conflict-of-interest situation. The hearings undoubtedly damaged the credibility of the pipeliners on Capitol Hill. But the experience didn't intimidate them.

When Senator Gary Hart wrote to a Denver constituent that "this sort of subtle corruption of our government by giant companies like Bechtel is indefensible, and must be ended at once," the letter in due course found its way into the record of a hearing on pipelines held by the Nebraska state legislature. Within days, Hogan and Hartson had fired off an angry five-page letter to Hart, claiming that Bechtel was the innocent victim "of a sinister campaign to divert attention from the merits of the coal slurry pipeline concept, which threatens the monopoly of the railroads." Ed McElwain, the former legislative assistant to Hart who had written the "subtle corruption" letter, remembers feeling very intimidated by the arrogance of Bechtel's Washington representatives. McElwain says he didn't have any great love for the railroads—he was just upset that "this company would try to exert such control over the flow of information about a technology with no proven benefits and untold potential dangers."

McElwain and other Capitol Hill staffers agree that the pipeliners for the most part have been pretty sorry lobbyists. "They'll never get what they want," he says, "until they come clean with Congress and tell the truth about costs and benefits." Well, that's one point of view. But truth in lobbying is an elusive goal. The pipeliners appear to have been learning from past mistakes, and their lobbying effort this summer is extensive.

Their trade group, the Slurry Transport Association (STA) is described by an employee as a small operation, but its director is W. Pat Jennings, former clerk of the House of Representatives and a man who knows his way around the cloakrooms of Congress. Like most industry associations, STA gets out slick brochures arguing the merits of its cause, assembles testimony for Congressional hearings and puts material together for propipeline Congressmen to use as their own. Pipeliners will line up speakers for any group that wants to hear their pitch. They will make much of having the support of people like Mo Udall, the theory being that Udall is perceived as an environmentalist Congressman and would never support pipelines unless he was convinced of their merit.

The pipeliners have also had the enthusiastic support of Sen. J. Bennett Johnston, Jr. (D., La.), chairman of the Senate Subcommittee on Energy Conservation and Regulation. In committee sessions and on the Senate floor, Johnston, who can be counted on to carry the flag for the oil industry, has done the same for the pipeliners. Last year, for example, he attempted to attach a propipeline rider to the federal strip-mining bill during floor debate (he got caught at it and had to retreat when it came time to catch a plane to Louisiana for a paid speaking engagement).

Pound for pound, the pipeliners are matched by the railroads, whose lobbying arm—the Association of American Railroads (AAR) is a long-established influence-peddler led by the likes of George Smathers, former Senator from Florida and a classic greaser-of-skids during his years on Capitol Hill. AAR makes no secret of its fanatic opposition to pipelines and will dump armloads of propaganda on anyone who's interested.

When Wyoming's Governor Herschler, testifying to Congress in January against pipelines, said he wasn't in town to argue the case of the railroads, pipeliners in the hearing room laughed out loud. They had seen him that morning having breakfast with vice presidents of the Union Pacific and Burlington Northern, two AAR lobbyists and an AAR lawyer.

Not surprisingly, the champions of each side have made wild claims about the other. The railroads have not been above inferring that the pipelines could put them all next to the Penn Central in bankruptcy. The pipeliners have suggested that the railroads alone can't possibly handle the increased coal traffic from the West, and that whole sections of the country could starve for lack of energy unless the pipelines are permitted across the railroads' rights-of-way.

Happily, the public has been given a dispassionate assessment of the situation in an Office of Technology Assessment report on slurry pipelines released a few months ago. On the one hand, says OTA, the railroads won't be knocked out of the box by pipeline competition; they'll still carry most of the coal and scuttle off with most of the profits. They just won't get all of them.

On the other hand, the OTA study concludes that if pipelines were not built, the nation would not starve for coal from the West. "The introduction of coal slurry pipelines," says OTA, "is not likely to affect materially the rate of coal resource development and use on a national scale."

As soon as it appeared, the OTA report was quickly scissored by both sides looking for support. Both sides now cite it to back up their arguments. The pipeliners, for instance, point to sections of the report which suggest that under ideal circumstances pipelines can be more cost-effective than railroads. The railroaders point out that ideal circumstances are few and far between in the real world. And they quickly shift the subject back to water: the OTA report flatly concludes that pipelines will compete directly with other possible uses for limited supplies of western water. And so it goes, with each side scrambling for credibility.

Federal Election Commission records show that the scramble has also been going on where it really counts: in contributions to politicians at election time (see box).

Tracking the money dispensed by each side is, however, a tricky business at best. It's common political practice to conceal contributions by having them come from parties only indirectly affected by an issue. Thus, for example, the pipeliners can count on the building trades unions to give money to propipeline politicians; pipeline construction would mean jobs for members of these unions. Rep. Bob Eckhardt of Texas, who introduced the pipeline legislation in the House, appears in FEC records as receiving nothing from pipeline companies—but got $4,300 last time around from the building trades unions.

For the unions, the issue is uncomfortable. The railroad unions, fearing layoffs if the pipelines are built, oppose them. The construction unions support them. Caught in the middle, the AFL–CIO executive board has opted to sit this one out. The United Mine Workers are on record against pipelines, because the UMWA sees them as nothing more than a way of further subsidizing western coal expansion at the expense of the more labor-intensive mines of the Midwest and Appalachia. But Capitol Hill staffers say that the UMWA hasn't lobbied effectively on the issue, probably because the union's internal disarray gets in the way of lobbying effectively on anything. On the other hand, the National Coal Association, whose members have no great love for the railroads, and are eager to exploit western coal resources, is pro-pipeline.

The issue is still further confused by the position taken by Mo Udall, chairman of the House Interior Committee. At first glance, Udall's pro-pipeline stand can be seen as simply reflecting his enthusiasm for doing almost anything to cut into the power of railroads in the West. He points out that one railroad—the Burlington Northern—controls 80 percent of the coal traffic in the West and that the Interstate Commerce Commission, in his view, is nothing more than a wholly-owned subsidiary of the railroads, willing to grant fright rate increases whenever they want. Competition from pipelines, Udall suggests, may be the only way to get coal transportation prices under control.

But his position appears to be a mix of principle and practical politics. The rural electric co-operatives are a potent political force in Udall's home state of Arizona, and they are understandably ticked off about a recent ICC decision that permitted the railroads to double the rate for moving coal from Wyoming to their power plants. They have been pushing hard for pipelines for several years, and it isn't entirely surprising to find Udall pushing with them.

The water issue doesn't seem to bother him much. He maintains that the pending pipeline legislation is drafted to give states "the absolute right" to determine their own water-use priorities. His position has been so cheering to the pipelines that they flew him out to Las Vegas in March at their expense to speak to a conference of slurry enthusiats.

On balance, it's difficult to believe that Udall really thinks the states can protect their water resources without federal help. He comes from a state where giant companies like Anaconda Copper have traditionally played with the legislature like old tomcats fooling around with young mice. Somehow, a match between the Wyoming legislature, on the one hand, and the massed forces of Bechtel-Lehman-Peabody-and-the-who's-who-of-Houston on the other side seems uneven at best. Anyone who has ever witnessed the spectacle of a coal-state legislature selling its favors in an election year can only view Udall's optimism with some jaundice.

Udall has, moreover, devoted much of his career to building a reputation as a staunch foe not only of concentrated economic power but of government subsidies to big business—subsidies that most often take the form of tax breaks or payments for dubious cost over-runs. Unfortunately, the pipeliners very likely will sooner or later want such subsidies, for two reasons.

First, the cost of constructing pipelines has almost certainly been underestimated, if only because the impact of inflation is so hard to assess. Taken together, the pipelines would constitute one of the largest construction projects of the century. Recent experience suggests that massive cost over-runs are inevitable. The Alaska pipeline project—which was Bechtel's—wound up costing ten times as much as was estimated. The San Francisco subway system, also built by Bechtel, escalated from $775 million to $1.3 billion during construction. The cost of Washington's Bechtel-managed subway system has already doubled, from $2.5 billion to more than $5 billion, and it's years away from completion. Pipeliners are talking about building slurries for a million dollars a mile. Some engineers believe that this rule-of-thumb figure is already out of date, years before construction would get under way.

Railroads lobbyist William H. Dempsey gleefully predicts a time when "pipeline operators go hand in hand with coal producers and utility officials to the government. And they say 'Here we have great amounts of money invested not only in a pipeline but in the facilities to prepare coal for pipeline use and in the facilities to process coal delivered by the pipeline. Think of the cost to the consumer if we have to scrap all this. The public interest demands a subsidy.' And the pipeline would keep on operating." The railroads darkly hint that pipeline costs have been deliberately underestimated to win support from utilities.

Second, in the event that the pipelines should ever actually be confronted by one or more angry state legislatures, and told that the water tap is about to be turned off, they would be forced (assuming they lost the inevitable litigation) to convert to some other slurry medium. In theory, this would be possible, using fluids derived from coal itself—but the present technology for coal conversion requires vast volumes of water. Necessarily, a crash program to improve conversion technology would be launched. And the public, as always in such cases, would pay for it.

This isn't idle theorizing. Russell Long's Senate Finance Committee would process this kind of special legislation. Last fall, the staff of the Joint Committee on Taxation—of which Long is co-chairman—listed several areas of energy technology which should be considered for special tax breaks. Coal slurry was among them, suggesting strongly that if and when the day comes that the pipeliners go to Congress hat in hand, they will find a smiling Russell Long & Co. waiting to accommodate them.

In this, the Year of Proposition 13, it would be nice to believe that Congress would spend the rest of the summer taking another look at any pending legislation whose effect is to subsidize somebody's pet project at the direct expense of the rest of us. But that's probably wishful thinking. The immediate question facing Congress, as far as pipelines are concerned, is whether or not to pass a law giving them the right of eminent domain—the right to cross the railroads' right-of-way. On its face, that appears to be a narrow issue, and many Congressmen treat it that way.

When they do, they obscure two much larger issues: first, whether they will be encouraging the growth of yet another form of economic concentration; and second, whether they will be working at cross-purposes with the need to develop a truly national transportation policy that benefits the American people as a whole.

Both of these issues have been addressed in a report newly prepared by the Transportation and Commerce Subcommittee of the House Interstate Commerce Committee. The report bluntly warns that H.R. 1609—the House pipeline bill—"facilitates and encourages economic concentration in the ownership, transportation, and distribution of energy resources" just when Congress is being asked to do something about the concentration that has already been permitted to develop over the years.

The linkage between Bechtel, Peabody, and ETSI is the kind of thing the report specifically cites: the building of a tightly controlled cartel with a lock on production and distribution of energy in sufficient quantities to affect the energy marketplace as a whole. If we pass H.R. 1609, the report says, we will "foster and encourage such anticompetitive activity to the detriment of the consumers of electric power." Which is us.

In fact, the cartel is, if anything, more far-flung than Congress knows, because it involves not only the production and transportation of coal-slurry energy but its consumption as well—all three points of the energy triangle. Here's how that link-up has taken place:

(1) Peabody, partially controlled by Bechtel, mines the coal that goes into the Bechtel-built pipeline and is moved by ETSI, substantially Bechtel-controlled, to Middle South Utilities, the big regional electric utility holding company on the receiving

end. Middle South is just another customer, not connected to the supplier—right? Wrong.

(2) Middle South Utilities is involved in a joint venture with Peabody and Panhandle Eastern Pipeline to mine coal near Gillette, Wyoming—the area where the ETSI pipeline will originate. The contract calls for stripping up to 210 million tons of coal over a period up to 42 years, with production beginning in 1983. That's about when the pipeline would go into operation if Congress clears the way.

(3) Thus there are direct self-serving links between the producers, transporters, and consumers of Wyoming's coal. But you would not know that from reading Middle South's annual 10-K report to the federal Securities and Exchange Commission. With respect to its coal development plans in the West, Middle South states only that it is negotiating with "non-affiliated parties" to get the coal moved to its generating stations.

Middle South appears, in point of fact, to be affiliated up to its ears. It not only has a connection to Peabody and, through Peabody, to ETSI and Bechtel; through a subsidiary it is also a member in good standing of the Slurry Transport Association. Floyd Lewis, president of Middle South, told me he didn't think that meant his company had violated SEC rules prohibiting giving false or misleading information in 10-K reports. Middle South's membership in the slurry club, he said, is no different from belonging to the Chamber of Commerce of the United States. But by belonging to STA, Middle South is a party at interest in a particular legislative battle—which would appear to be very different from simply belonging to a general-interest lobby like the Chamber.

Trade associations have generally been successful at avoiding anti-trust prosecution, even though they clearly provide a convenient forum for cutting deals. More than 200 years ago Adam Smith wrote that business men never meet without talking about "conspiracy against the public, or in some diversion to raise prices," but STA president Pat Jennings says it isn't that way at all. No way. If STA members had that kind of thing in mind, he says, they'd have to be holding rump sessions somewhere "in the dark of night." He works hard at making a conspiracy among the pipeliners, construction companies, electric utilities, and coal companies belonging to STA sound downright impossible. Some years ago the courts in a memorable case involving General Electric and Westinghouse concluded that these well-known arch rivals had been conspiring like crazy in the dark of night, and several of the nation's outstanding industrialists went to the slammer as a result. When you turn over a rock, bugs crawl out. But not many rocks among Washington's trade associations are ever turned over.

Coal slurry people are likely to respond that Peabody, the coal supplier, isn't really all that much linked to the coal movers and coal consumers because Bechtel is, after all, only one of five companies controlling Peabody. But that argument crumbles with the discovery that three of the others (Fluor, Williams, and Boeing) all have slurry interests. (Boeing may be just a big airplane-builder to you, but the company is planning a pipeline from the western coalfields to the Pacific coast to serve the coal export market). They appear more than ordinarily interested in using Peabody to gain entrance into lucrative new markets; Fluor, for instance, wants to build a pipeline from Kentucky, Illinois, and Indiana to Florida, and Peabody's principal mines are clustered in those three states.

In the Southwest, Peabody's new parent companies appear to have acquired extraordinary market leverage with extraordinarily little effort. The Justice Department's recent report, *Competition in the Coal Industry*, notes that in 1974 more than 52 percent of coal production in the six-state southwest coal market was controlled by just two companies: Peabody and Utah International. Since then, Utah International has been acquired by General Electric; through subsidiaries, GE builds pipelines and has even worked with Bechtel on a pipeline project in Brazil. This kind of coziness between GE (number 9 on *Fortune's* list of the 500 largest U.S. companies) and Bechtel (number one in *Engineering News-Record's* list of construction companies ranked by dollar volume of new contracts) suggests that the prospects for heavy competition in southwest coal are, to put it mildly, poor.

It seems pretty clear, in fact, that a great big pipeline cartel is out there on the runway, motors revving, waiting only for the Congressional green light to take off. The authors of the House Interstate Commerce Committee's pipeline report, although not fully aware of the dimensions of the new cartel, have suggested that it cannot be thought of as benevolent.

Pointing out that the U.S. has, on paper at least, a transportation policy with the goal of building common-carrier systems of sufficient scope and flexibility to meet the needs of "all shippers of every commodity," the report observes that building special-interest pipelines will take us in just the opposite direction.

Coal is a breadwinner for the railroads because it is increasingly a high-volume item which can be loaded at a single point (a major mine) and off-loaded the same way (at a major power plant), as opposed to the more traditional and less efficient system of loading a train at different mines and unloading here and there. Pipelines are efficient only if they can grab off precisely the same kind of traffic, leaving railroads to deal with smaller producers whose output is less predictable and must be loaded at different points all over the landscape. Do this enough, the report says, and "the inevitable result" would be to undermine whatever improvements can be expected in the operating efficiency of the railroads in the future.

Even allowing for the obvious fact that the House Interstate Commerce Committee, like the Interstate Commerce Commission itself, is much influenced by the railroads, the staff report tends to buttress the conclusion that there are very few persuasive arguments in favor of coal slurry pipelines.

Except one: the power of the pipeliners and the companies behind them. The energy with which they are currently lobbying Congress to give them eminent-domain legislation suggests that they feel a compelling sense of urgency about getting their bill this year. The legislation is already being encumbered with provisions they don't like—providing for review of anti-trust implications, for instance—and they seem to sense that further delay will only give their opponents time to develop more of the details of the pipeline cartel, details which have only just now begun to make an impression on Capitol Hill.

To a great extent, Bechtel and the other pipeliners have bet a very large wad on this one horse. *Pipeline Industry Magazine* in 1976 projected that fully half of all pipeline construction in the 1980's would be coal slurry lines. Without an eminent-domain bill, the industry faces the possibility of a real nose-dive over the next decade. It's understandable for the industry to try to perpetuate its profitability, but it hasn't been candid with Congress about its motivation.

Instead, the pipeliners lean heavily on apple-pie arguments about the healthiness of competition and the sanctity of eminent-domain. After all, natural gas pipelines have eminent-domain. Why not coal slurry?

Like most of their arguments, this one sounds okay at first blush. But the Supreme Court has held that natural gas pipelines are entitled to use the power of eminent-domain to condemn land only because they are the only practicable way of shipping natural gas long distances. Coal pipelines demonstrably are not the only way to ship coal. Thus, anybody who feels a pang of concern about protecting our Constitutional rights against unwarranted seizure of property can feel nervous about giving something to the coal pipeliners that they haven't earned. Today the railroads; tomorrow you or me.

Understandably, many people in Washington don't see the issue that way. To them it's more a case of a political shoot-out in which there are no good guys—only different varieties of villains. When the firing stops and the smoke clears, the one with the most ammunition—spell that m-o-n-e-y—will have won.

Either way, they argue, the republic won't collapse. And it probably won't. But if pipeline legislation muscles its way out of Congress this year, we will at least have further proof (if any was needed) that legislation, like water and coal slurry, tends to flow toward cash.

LEGISLATION

Legislation to grant coal pipeliners the right of eminent domain—in essence, the right to go into federal court against anyone who refuses them permission to build pipelines across private property—was introduced in Congress as early as 1962 but never made any headway until the OPEC oil embargo of 1973 triggered new concern over energy shortages. That year a slurry bill passed the Senate but died in the House.

In 1976 both the House and Senate sidelined the issue by asking the Congressional Office of Technology Assessment (OTA) to study the merits of slurry pipelines vs. railroads. Efforts to move a bill in 1977 foundered because the OTA study had not been completed. When it was released in January, 1978, both sides seized on it as supporting their arguments (see text) and the battle to pass a bill in 1978 heated up dramatically, although it has received compartively little attention from the press.

Rep. Bob Eckhardt (D., Tex.) and Sen. J. Bennett Johnston (D., La.) are the principle slurrymongers. Johnston's bill (S. 707) has been through hearings in a subcommittee of the Senate Energy Committee but is not yet scheduled for floor action. Eckhardt's bill (H.R. 1609) passed the House Interior Committee by a vote of 30–13, then squeaked through the House Public Works Committee by a 23-20 vote. Opponents got another crack at it thanks to a maneuver by House Speaker Tip O'Neill, who gave the House Interstate Commerce Committee time to report out a separate bill (instead, a subcommittee reviewed Eckhardt's bill and strongly recommended against passage). As Crossroads went to press, H.R. 1609 was tentatively scheduled for floor action and amendments by July 17. Principal provisions of the bill include:

Coal pipelines would apply to the Interior Department for "certificates of public convenience and necessity" granting them the right to go to court to condemn land for their own rights-of-way. This would apply not only to the resisting railroads but to any property owner with whom the pipeliners couldn't successfully negotiate access.

Before granting certificates, the government would have to hold hearings and consider the comparative costs and environmental effects of pipelines and railroads, as well as the effect of pipelines on railroads' financial health. A pipeline using underground water could not be certificated until the U.S. Geological Survey performed a study of water availability.

Decisions over pipeline water allocation would be left up to the individual states. Aside from concern over the ability of the state legislatures to withstand heavy political pressure from the pipeliners (see text),

the bill's opponents say that from a legal standpoint this provision is meaningless. They argue that when Wyoming water enters a pipeline headed for Louisiana, for example, it enters interstate commerce—and the federal government has exclusive jurisdiction over interstate commerce, which suggests in their view that no state could hope to prevail in court in an attempt to shut off water to a pipeline.

Before certification, the Justice Department and the Federal Trade Commission would have to determine whether a proposed pipeline would involve any anti-trust violations. Not surprisingly, industry lobbyists led by the American Petroleum Institute (API) are vigorously working to defeat this provision.

Pipelines would be subject to Interstate Commerce Commission regulation as common carriers. How this would work in practice is unclear, since common carriers, such as trucks and trains) must accept all freight tendered. Pipelines loading and off-loading at single points and highly dependent on sustained high volume without interruption would have little incentive to offer their services to any but the largest producers.

Other provisions require underground construction where practicable, provide for land reclamation, and exempt the existing Black Mesa pipeline from the requirements of the bill.

The two House Committees which have reported out pipeline bills have differences between them over several provisions. One is significant—a commodities clause which basically says that you can't use your slurry line to ship coal in which you have a controlling interest. The House Interior Committee bill would define control as 5 percent; the Public Works bill upped the figure to 35 percent. Under the Public Works bill, Bechtel—owning 15 percent of Peabody Coal and 30 percent of ETSI—would not have to divest itself of either interest. Lobbyists are expected to fight hard for the higher figure.

Many senators and congressmen have been the recipients of thousands of dollars in contributions from a variety of political action committees (PAC's) operated by companies and trade unions with a real or potential interest in slurry lines, but neither the lobbying disclosure laws—which are more loophole than law—or the campaign finance laws require contributions to be specifically identified by issue. Although sources among both pipeliners and the railroaders freely estimate that more than a million dollars will have been spent lobbying both sides of the pipeline bill this year, it will be impossible to verify that figure from the skeletal reports received—often months late—by the Federal Election Commission, the Secretary of the Senate, and the Clerk of the House.

And some reporting is downright ludicrous. Energy Transportation Systems, Inc. (ETSI), which helps spearhead the pipeline legislation effort with a full-time Washington lobbying operation, reports that it spent only $228.36 on lobbying during the first three months of 1978. Of that amount, a grand total of $50 is identified as having been spent on salaries and other employee compensation.

The pipeline bill is the kind of issue that can richly reward congressmen who play their cards right by appearing open to arguments by both sides . . . This kind of tightrope-walking is what separates the survivors from the also-rans in Congress.

It will continue to work that way as long as the financing of congressional campaigns remains unchanged. Most congressmen—althouh all would deny it—are forced by the necessity of constantly raising huge campaign chests to go to the highest bidder. Until we have public financing of their campaigns, that's not going to change.

Mr. UDALL. Mr. Chairman, I yield 3 minutes to the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. I thank my chairman for yielding. I will not use the 3 minutes.

Mr. Chairman, if over the last 3 years that this matter has been of concern to those of us in the Committee on Interior and Insular Affairs and from the West those proponents of coal slurrying would have stated to those of us who were uncomfortable, because of water usage, "OK, we will commit not to use more than, say, one-fourth or one-fifth of our allocated 20,000 acre-feet a year from ground water, and we will find the balance from surplus surface waters," I would not now oppose H.R. 1609. If the proponents of this bill had said they would find some way to recycle substantial portions of the water they have to use, and even though it is not energy efficient, they would do it, because they respect the fact that we are in an arid area and drawing our wells down in reserves of potable water, I would not now oppose the bill. But they did not do that. As a matter of fact, they were almost adament in saying, "We know what is best. We know what we are doing, so we will thank you to leave us alone and we will continue our way." So I have to come down through these last months hoping to find some compromise and hoping to find some understanding of all these conflicting matters between the people of the West using free water and the proponents of this bill. I am sorry no meeting of the minds ever took place, and no attempt to sit down and resolve our water shortage ever took place. In the meanwhile, we have 20,000 acre-feet of water a year granted for energy transportation, and we were told this water is not fit for human consumption, or not potable water.

I have a copy of the Wyoming State Tribute of Thursday, July 6, 1978, showing a record loan of $15 million by the Wyoming State Farm Loan Board and a $7.5 million loan by the Farmers Home Administration to the city of Gillette, Wyo., to drill a series of wells in the Madison Limestone Formation for municipal water use in Gillette. They may even distribute it without treatment for the use of the people of Gillette, Wyo.

I am again calling this to the attention of the Members. If they have some respect for the people of Wyoming and some respect for the people who live in the arid West, they will not vote for this bill; they will vote it down.

Again I thank the gentleman for yielding.

Mr. JOHNSON of California. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. If I have any more time, I will be glad to yield.

Mr. JOHNSON of California. Mr. Chairman, I yield 3 additional minutes to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, will not the gentleman agree with me that when we discussed this bill and then marked it up in the Committee on Public Works and Transportation we covered the very point the gentleman is making. I told the gentleman then that the way most people solved this problem was by the use of surplus water. The gentleman just stated that if surplus water was available the gentleman would be in support of the legislation.

Many States are doing this very thing; mainly for potable water. In our own State of California, we are taking floodwaters that are troublesome and harmful in the wintertime and putting them into offstream reservoirs and calling upon them in the time of need for use. This type of water could be used in the slurry pipeline system.

States water rights are protected under this legislation. The most reasonable place to get water for pipeline use would be to store surplus water or floodwater in those regions where we have floods on the major rivers.

In Wyoming, Montana, and the Dakotas, there are floods almost yearly. If needed, there could readily be built offstream storage reservoirs to reclaim these floodwaters for pipeline use. We have three of those working in the State of California today and we are going to be able to use that reclaimed water for many purposes.

Certainly if one can negotiate a deal for the use of either the surplus storm water or the reclaimed water in those States that have large coal beds this would solve the problem. Would not the gentleman agree?

Mr. Chairman, would the gentleman yield 2 additional minutes?

Mr. JOHNSON of California. Mr. Chairman, I yield 2 additional minutes to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I wish I could have devoted as much time to the gentleman's committee, on which I am honored to serve, as I did on the Committee on the Interior on which I served for 10 long years, but I could not. I was involved in my own work in the Committee on the Interior; but if in Wyoming we could have had offstream reservoirs, as the gentleman alludes to on the surface, there would be no problem on the slurry pipelines by the proponents, Bechtel, Lehman, and others. They did not say, "Let's put a collar up to Cody, Wyo., because the Bureau of Reclamation tells us that we can store 200,000-acre feet, whether or not we have good years and bad years, and have it available." They did not do that. They used the same 1907 approach, with the same 1907 technology, just ramrod this through and get all the water they want, because it is down there and they could get the politicians to give them a 20,000-acre permit and they say, "We'll go get it."

That is a little crude, but that is what they did. There was no attempt made to find out how surface water could be retained at flood stage.

Two Governors, one Republican and one Democrat alluded to the fact there is between 2-million- and 3-million-acre feet of waters that run unappropriated. The water goes in all four directions; the Snake River in one, the Big Horn and Powder in one, the North Platte in one and Green River to the south. Nothing has been done to store a foot of this to help with this particular problem and yet we are going to make a slurry line a

commitment now of 20,000-acre feet a year of groundwater.

The gentleman and I both know that once that commitment is made, no matter what damage this does to the water table, it will be an irrevocable commitment once that water is channeled into interstate commerce, and no relief will be available to States like my State of Wyoming for water once that commitment is made.

I fly between Denver and Cheyenne quite often. Last Saturday I flew from Denver to Cheyenne, and 6 o'clock came around and I encountered a delay. I was up all night trying to fly home. During the flight I noticed at least 200 circular springs—and I counted them—sprinkling water in the area between Cheyenne, Wyo., and Denver and from around Greeley and Fort Collins up to Cheyenne. I can imagine what that is doing every year to the water tables in that area. It is endangering the aquifers. All we have is the aquifer in some areas; that is the biggest reservoir and can be the only supply of potable water that we have.

Mr. Chairman, I submit that we jeopardize that water supply with this plan, and this could do irreparable damage to the people of my State.

Mr. JOHNSON of California. Mr. Chairman, the point I was making with the gentleman is that had there been consideration for surplus water or reclaimed water, I assumed he could support the bill. I think that is exactly what is going to happen.

Mr. RONCALIO. Or, Mr. Chairman, if we could recycle the water. Under some other plan I would support the bill.

Mr. Chairman, I did want to make reference to the Conoco Oil Co.

The CHAIRMAN pro tempore (Mr. FOLEY). The time of the gentleman from Wyoming (Mr. RONCALIO) has expired.

Mr. SKUBITZ. Mr. Chairman, may I inquire, how much time do I have remaining?

The CHAIRMAN pro tempore. The gentleman from Kansas (Mr. SKUBITZ) has 2 minutes remaining.

Mr. SKUBITZ. Mr. Chairman, I yield my remaining 2 minutes to the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, I thank the gentleman from Kansas (Mr. SKUBITZ) for giving me this time.

I just want to say that I share the same concerns the gentleman from Kansas (Mr. SKUBITZ), the gentleman from Wyoming (Mr. RONCALIO), and others have about the possibility of a shortage of water if we build this slurry pipeline.

Out in some of our areas of the country water is a very precious commodity. It is a very limited commodity.

I notice in the Office of Technology Assessment report on the coal slurry pipeline that the demand for water expected in the period between 1985 and 2000 will exceed the legally available supply and any new demand for water will be at the expense of some other use.

Therefore, that is the basis of my concern, and I would like to ask the ranking minority member of the Committee on Interior and Insular Affairs this question:

Under section 5(g), which was referred to, would a State like my State of South Dakota qualify as a State having a valid legal interest in withdrawals of ground water that occur in the State of Wyoming, but which will draw from the Madison aquifer which underlies South Dakota as well?

Mr. SKUBITZ. Mr. Chairman, I am very pleased that I can qualify my ability as a lawyer before I speak.

In my opinion—and the gentleman can take it for what it is worth—I feel that since the water is gone in Wyoming, even though it affects the water in the gentleman's State, he does not have any rights. That is what the other side would have to admit. That is what would happen in a sense. I think all this water is really in interstate commerce.

Mr. ABDNOR. Mr. Chairman, may I just say this is in reference to the remarks of the gentleman from Ohio (Mr. HARSHA). He engaged in a colloquy yesterday with the chairman of the Committee on Interior and Insular Affairs, and I was pleased to note that it sounded as though South Dakota would have some authority in this case.

Mr. Chairman, may I ask the gentleman his opinion on that?

Mr. HARSHA. Mr. Chairman, if the gentleman will yield, my understanding of the bill is that the State of South Dakota would qualify as a State having a valid legal interest in withdrawals of ground water that occur in the State of Wyoming, but which will draw from the Madison aquifer which underlies South Dakota as well.

The CHAIRMAN pro tempore. The time of the gentleman from South Dakota (Mr. ABDNOR) has expired.

Mr. HARSHA. Mr. Chairman, I yield 1 additional minute to the gentleman from South Dakota (Mr. ABDNOR).

Mr. Chairman, if I may continue and if the gentleman will yield further, it is my judgment that the water rights of South Dakota would be affected by withdrawals from the Madison aquifer in Wyoming and the water rights of both States would be protected.

It is also my judgment that under the bill the water rights of all States affected would have to be taken into consideration and the States be given the right to exercise their water rights. As we indicated yesterday, all interstate water disputes would have to be resolved before a certificate could be issued. Thus, all States would be protected. This is certainly the intent of the provisions in H.R. 1609.

Now, in my colloquy with the gentleman from Arizona (Mr. UDALL) yesterday that was my opinion, and I am of the opinion that he would likewise answer in the affirmative.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the chairman of the committee.

Mr. UDALL. Mr. Chairman, in carrying on the colloquy I had with the gentleman from Ohio (Mr. HARSHA) yesterday, I want to state that this bill is not intended to affect or change or alter or amend State water rights in any respect. We have never agreed to any plan of trying to change State water rights. What I stated yesterday was my own view of what those water rights are.

Mr. Chairman, clearly the State of South Dakota has a concern, and it has some rights.

The CHAIRMAN pro tempore. The time of the gentleman from South Dakota (Mr. ABDNOR) has again expired.

Mr. UDALL. Mr. Chairman, I yield 1 additional minute to the gentleman from South Dakota (Mr. ABDNOR).

Mr. Chairman, if the gentleman will yield further and if I may continue, the State of South Dakota has some water rights and they ought to be protected. But we cannot and we do not change them in this bill. I want to assure the gentleman that we protect whatever water rights South Dakota has today, and that will be true whenever this bill is passed and signed.

Mr. ABDNOR. Mr. Chairman, I am sure the gentleman understands my interest, and I want to be sure we have some rights in the allocation of our ground water for transportation of coal. I am concerned, because of the great need for water in that particular area and the great effect this could have on our aquifer.

Mr. Chairman, I thank the gentleman for his remarks.

Mr. UDALL. Mr. Chairman, may I ask, what is the status of the time remaining?

The CHAIRMAN pro tempore. The gentleman from Arizona (Mr. UDALL) has 9 minutes remaining, the gentleman from California (Mr. JOHNSON) has 10 minutes, and the gentleman from Ohio (Mr. HARSHA) has 6½ minutes remaining.

Mr. UDALL. Mr. Chairman, I might say that with regard to my time I only have a small block set aside for myself to close debate, and I may yield back some of my time. I have no time to yield at this point.

Mr. JOHNSON of California. Mr. Chairman, I yield 4 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, I am delighted that we have reached this point so the coal slurry pipeline bill can be debated and decided by the full House of Representatives.

Four years ago, I introduced the original coal slurry pipeline bill at a time when our Nation was experiencing the Arab oil embargo, when we were looking for different forms of energy to replace the traditional oil and gas, and when we were looking for ways to get that energy to the ultimate consumer in the most efficient and inexpensive way. I believed then, as I believe today, that the competition which the coal slurry pipeline will give to delivering coal to the ultimate consumer is going to be in the best national interest of this country and is an integral part of our national energy policy.

This has been an emotional issue for many people from the Western United States and there has been a great deal of rhetoric about the coal slurry pipeline. I think there has also been a lot of misinformation and accusations, and I think some things need to be straightened out.

For example, there are those among

us who believe that this is going to be a Federal handout in the form of Federal funds to purchase land to build a coal slurry pipeline for some private interest. That simply is not true, and that should be clarified, because some of my colleagues have asked me that question in the last 2 days.

There are a couple of legitimate arguments against the coal slurry pipeline. One of them is that the competition the coal slurry pipeline will give will force many railroads out of business. It is an argument, but it is not a factual argument. I do not think it will stand the test and be a reasonable argument.

In the first place, the railroads and coal slurry pipelines have been competitors before. In the late fifties in Ohio the pipeline and the railroads competed for business in transporting coal; and in that particular instance, the railroads were more competitive than the pipelines and the pipelines lost out in the competition and closed up. The railroads and the pipelines compete in Arizona today. And they compete very successfully, from the standpoint of the consumer.

It has been pointed out in the testimony before the Committee on Interior and Insular Affairs that if we are going to use coal in a significant manner in this country there simply are not enough railroads to transport all of the coal that will be needed to do the job to move the coal from the Western United States to its ultimate consumer. So, therefore, the argument that the railroads will be put out of business is simply nonsense and is not an actual or a viable argument.

Another legitimate argument has to do with the environmental issue on the use of water from the Western United States. That problem has been resolved in this bill by leaving the water exportation decision in the hands of the individual State governments.

That is that the States themselves will have to determine whether or not water can be exported from those States outside of those States.

Presumably, if you believe in States' rights, if you believe in local government, if you believe that the local government at the State level can best determine the use of its own water, then this bill gives them that right to determine whether that water can be exported. And if they do not give permission to export it, the coal slurry pipeline fails. There are many arguments for the coal slurry pipeline. One argument is that we need to have this form of transportation to get this very precious energy resource to the ultimate consumer. There is a consumer argument, because by transporting it and having the competition between the railroads and the coal slurry pipelines, you will get coal at a more reasonable cost.

Mr. HARSHA. Mr. Chairman, I yield such time as he may consume to the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Chairman, I rise in opposition to H.R. 1609, the Coal Pipeline Act of 1978. In the National Coal Policy Act of 1976, which I introduced during the 94th Congress, the possibility of using a coal slurry pipeline as a transportation alternative was noted, along with the problems this method might encounter. However my proposal did stress the need to investigate this method of coal transportation, in order to determine, one way or the other, its feasibility.

The measure before us today does not have my support. Recent experience with the Alaskan oil pipeline has well demonstrated the security risks associated with such a venture. Studies by the Office of Technology Assessment and the Department of Transportation have shown the coal slurry concept itself to be impractical.

To the most important and far-reaching effect of this measure appears to be its impact upon long-term employment and coal production levels. Even under the best circumstances, no pipelines can be constructed for a number of years. While pipeline construction would provide a temporary increase in employment for that purpose. it would result in a long-range decrease that would severely affect railroad employees and those persons with related coal industry positions. By upgrading our railbeds and the supply of rail cars. a greater number would benefit from permanent employment resulting from increased coal production and transportation by the rail system. An influx of western coal into the East, with the construction of this pipeline, could also seriously jeopardize coal mining jobs. in addition to employment in the transportation field.

In the interim our rail system is flexible, it is already established, it is extensive and nationwide, it can serve either high- or low-volume shipping needs, it is adaptable to other uses, and it provides more job opportunities. The proposed coal slurry pipeline is inflexible, is not yet established, is not extensive or nationwide—as it could not serve a diverse number of destinations on a cost effective basis, cannot serve low-volume needs, is not adaptable to other uses, and will severely impact on future levels of employment in the coal industry.

Environmentally, the proposed Coal Pipeline Act of 1978 does not appear to have the arguments weighing in its favor. East of the Mississippi River there are adequate rail lines for the transportation and distribution of coal to diverse areas. West of the Mississippi River the water problem is the most substantial argument against such a pipeline. In addition to the enormous amounts of water needed to utilize the method of transportation, the added problem of getting rid of this water at the destination of the coal is quite serious. Since it has been established that it would not be economically feasible to attempt to recycle the water used for this purpose, the severe impact of the loss of these amounts of water to the arid States in the West must be considered as an additional cost of this proposal. Also, the question of disputes with regard to ground water rights and usage, and interstate disputes on this issue, could place legal obstacles to any timely construction and use of a pipeline.

For these reasons, I believe the costs associated with this proposal could be put to better use is assisting our rail system in its need for upgrading and expansion. I urge you to vote against this unnecessary and unfair legislation.

Mr. HARSHA. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Chairman, I rise in opposition to H.R. 1609.

Certainly I do not have the time nor will I take the time to repeat all of the arguments against this legislation. I would, however, like to associate myself with the thoughtful remarks of the gentleman from Ohio (Mr. HARSHA), of the gentleman from Pennsylvania (Mr. ROONEY), and of the gentleman from Kansas (Mr. SKUBITZ).

Mr. Chairman, I think if the Members will read their remarks carefully, they will have a good overview of some of the reasons this legislation should be opposed.

I was very disappointed today to speak to several of my colleagues about this legislation. Some of them had some rather strong views about it; but generally speaking, I do not think many Members of the House have particularly strong views either for or against this legislation. My disappointment was that so few had taken the time and trouble to read the minority views offered here by the committee on which I serve, the Committee on Public Works and Transportation, or by the Committee on Interior and Insular Affairs.

Mr. Chairman, that is regrettable. In view of the fact that we will not be voting on this legislation until tomorrow, hopefully, besides the handful of Members we have on the floor tonight, there may be some legislative assistants or administrative assistants watching this debate on our new television system.

Mr. Chairman, it is my hope that they will take the time and trouble to read the minority views of the two committees. I also commend to them the majority views; but in this particular case I think the minority views have done a little better job in getting to the heart of the matter.

Mr. Chairman, those who view this bill as an energy bill. as the sponsors choose to do, may see it in one perspective; but it is not an energy bill. It is a transportation bill, and there is just no way by which we can change it from a transportation bill into an energy bill. It is a transportation bill. It came to the Committee on Public Works and Transportation. We only had two brief hearings on it. Questions asked of the Department of Energy have not yet been even answered. There was a hurried markup, and it went to another transportation committee, the Committee on Interstate and Foreign Commerce, under some arrangement which I do not pretend to understand. However, they are not allowed to have any time, apparently, during this debate.

Again, I think essentially we have to look at it as a transportation bill.

Mr. Chairman, in the minority views in the report of the Committee on Public Works and Transportation we dwell at some length on the OTA's conclusions in their report.

It seems to me a very happy situation which we have in Congress when we spend millions of dollars to get ourselves the best advice in town—for ex-

ample, from the OTA, the Office of Technical Assessment—and after we get their best advice and counsel, which the taxpayers are paying millions of dollars for, we just ignore it; we totally ignore it.

Mr. Chairman, it is the same situation with the Department of Transportation.

We allude to this in our minority views, this business about this legislation hurting the railroads. I did not say that. Our minority in the committee did not say that. The Department of Transpotration said that. The gentleman from Oklahoma (Mr. JONES), who just spoke on this legislation, addressed himself to the fact that this legislation was not going to hurry the railroads. He obviously has not read the Department of Transportation's testimony. The Department of Transportation said that this legislation is going to hurt the railroads.

Mr. Chairman, let me quote what the Department of Transportation said:

[I]ncreased production of coal, especially in the volumes forecast for the west, would provide the [railroad] carriers with more opportunities to offer unit train tariffs, the most economical and efficient form of rail transportation. Additionally, since most of the traffic will be of this type, the carriers would be able to attract financing for upgrading, rehabilitation, and maintenance projects at more attractive rates; these savings could be passed on to shippers.

To the extent that pipelines impair the ability of the railroads to attract this traffic, the carriers' ability to maintain a viable traffic base, and thus attract capital, will be reduced. Furthermore, the costs of maintaining the fixed plant would be spread over fewer shippers, thus raising transportation costs to shippers of other commodities.

There it is in a nutshell. It is going to hurt the railroads. There is no way we are going to get away from that. It is based on testimony of the Department of Transportation.

Why does the Department of Transportation know all about railroads including how they are losing money? Because we are pouring billions of dollars down the rathole to keep Amtrak and ConRail going.

It is just another hardship for the poor old taxpayers, involving them in another big deal to pay out a whole lot of money to support weakened railroads. With our left hand we are weakening the railroads, and with our right hand we are going to pay out that taxpayers' money to help those railroads. We all agree we must have a viable railroad system in our country. In short, this matter has not been given enough thought and study.

Mr. Chairman, I urge my colleagues again to read our minority views. Questionable savings to the consumer, the water problems at both ends of the pipe, equity concerns, transportation concerns, and environmental concerns are all discussed, convincingly I hope.

Mr. JOHNSON of California. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Chairman, I am pleased to look out and see that I am in concurrence here with the gentleman from Texas (Mr. ECKHARDT) and the gentleman from Arizona (Mr. UDALL) on the importance of this bill. The reason that this bill is important to all Americans derives from the fact that currently we rely for 75 percent of our Nation's energy on oil and gas and for only about 16 percent on coal. The keystone of the President's energy package is an increased reliance upon coal. If we are to enlarge that use of coal, particularly for the production of electricity, and if we are too free the more refined fuels of natural gas and oil, which have fewer polluting effects, for better and higher purposes than generating electricity, then we must enlarge our use of coal. We must, therefore, widen the opportunities to transport it as efficiently as possible.

Whether it be by means of an energy bill or of a transportation bill, the real need is to get coal to those points at which it can be used for the production of electricity, and to get it there as economically as possible.

In the area I represent, the city of San Antonio was asked to convert to coal. The citizens have taken on massive capital conversion costs in order to produce the necessary facilities. They were then required to purchase the cars needed for the transportation of coal. They were initially told that it would cost $7.94 per ton to transport it. They have already had this rate increased to $11.94, and now the railroads are seeking further increases to $18 per ton. The railroads have, in my judgment, unconscionably increased the cost of transportation after requiring a city to purchase cars, and after the city had already made a very heavy capital investment in order to use coal for producing electricity.

Now, if the railroads were to face some kind of potential competition by the coal slurry pipelines, and if the consumers in this Nation who are being required to convert to coal were at least to have some sort of option about how it is to be transported, clearly it would be in the national interest. We cannot stand in the way of technological advancement.

It has been said at one point that the railroads can handle it all, can haul it all. So can the railroads haul all the passengers in this country if we wish to stop using motor cars, if we wish to stop using airplanes, but that would not necessarily be in the country's best interest. Simply to say that the railroads can handle it all is not enough.

The CHAIRMAN pro tempore (Mr. LEDERER). The time of the gentleman from Texas has expired.

Mr. UDALL. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas (Mr. KRUEGER).

Mr. KRUEGER. Mr. Chairman, the opponents of this legislation have argued that it is antienviromental. It seems a strange thing that MORRIS UDALL would be a champion of antienvironmental legislation. His name alone should be enough to guarantee that this is proenvironmental legislation. It will save many cities from noise. It will save us from the possible derailments that could come from overtaxed railway lines, and it certainly is a means of keeping our options open about the future. What we are asking for in this legislation is simply an option on how to transport coal. We are asking that a particular industry not stand in the way of that option.

Mr. Chairman, I have supported railway revitalization acts, but this should not be a railway revitalization act. This should be an act to get energy as cheaply and as efficiently and economically as possible to the people of this country, to get coal to the people of Texas and other gas-producing States and in turn free up additional amounts of our gas and other fuels for the people elsewhere.

That is why, in spite of the fact that I represent an area that looks upon water as something even more precious than oil, I, nonetheless, recognize that it is important to proceed with this legislation, and I urge the adoption of the committee position.

Mr. HARSHA. Mr. Chairman, I yield 1½ minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman from Ohio for yielding.

I take this time to inquire about something I have been wondering about. What happens to the water at the coal receiving end of the pipeline? We heard a colloquy a short time ago about the water rights. Now, when we have the coal slurry, and we have the fine coal mixed with the water, and the water must be separated at the receiving end from the coal, what happens then? We have a coal pipeline running from Cadiz, Ohio to Cleveland in Ohio which sent the slurry to a utility company in the Cleveland area, we did not have the EPA, when that pipeline was constructed. Now we do have the EPA, which will control the discharge of polluted water. What plans do we have? Can anybody answer that, as to how we would clean up the water on the discharge end of the pipeline?

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, all this bill provides is that on a case-by-case basis they apply and they get a permit. Before the Secretary can give them a permit to build one of the pipelines, they have to have a plan to clean up the water and to comply with the clean air and clean water laws. It depends on what plans they have at the discharge end to clean up and handle it, but we do not give them the permit and they do not have the eminent domain until they have a plan to comply with the clean water and clean air laws.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, the gentleman is correct in what he is saying.

The CHAIRMAN pro tempore. The time of the gentleman from Ohio (Mr. MILLER) has expired.

Mr. UDALL. Mr. Chairman, I yield the gentleman 1 additional minute.

Mr. MILLER of Ohio. Mr. Chairman, I thank the gentleman for yielding the additional time.

Mr. HARSHA. Mr. Chairman, I also thank the gentleman for yielding.

Mr. Chairman, we have no information available on what chemicals or what toxic substances will be leached from the coal by the water, and the Environmental Protection Agency is presently conducting studies to make that determination.

It is the feeling of many of us that we should delay the consideration of this legislation until the EPA knows what kinds of toxic substances and chemicals we are dealing with and so the best technology to eliminate those substances from the water can be determined and utilized.

Mr. MILLER of Ohio. Mr. Chairman, can the gentleman say the technology is available today to overcome that kind of problem?

Mr. HARSHA. There are no standards today as to dealing with the coal slurry discharge, but the engineering judgment of the EPA is that the available technologies or techniques would apply. However research into these large scale uses of the water for coal slurry pipelines is necessary and must be utilized.

Mr. JOHNSON of California. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the legislation before us, the Coal Pipeline Act of 1978, expands the authority of the Secretary of Interior in two ways—

First, it amends section 28 of the Mineral Leasing Act to allow the Secretary to grant rights-of-way for coal pipelines across Federal lands. Presently, the Secretary is empowered with similar authority for oil and gas pipelines.

Second, H.R. 1609 would allow the Secretary to grant certificates of public convenience and necessity to coal pipelines. With this certificate, a pipeline may exercise the power of Federal eminent domain to acquire their rights-of-way, where negotiations have failed to convey such land as is necessary for pipeline construction.

Importantly, the eminent domain power contemplated by this bill may not be utilized to acquire rights-of-way across Federal or State lands, or across lands held in trust for an Indian or an Indian tribe. It is likewise significant that the power cannot be used to acquire any right to develop or use water.

Pipelines certificated under this act would be constructed, maintained, and operated as common carriers subject to regulation under the Interstate Commerce Act.

The bill, in its present form, mirrors the concerns of both the Committees on Interior and Insular Affairs and Public Works and Transportation with regard to the procedure for certification under this act. The expertise of these committees has developed language which will more than adequately assure that the appropriate aspects of environmental impact, energy equity, and competition among transportation modes be examined before a certificate is issued, furthermore—the transportation-related findings are subject to the concurrence of the Secretary of Transportation and the Interstate Commerce Commission. Any pipeline certificated under this act will have undergone the scrutiny of the Departments of Energy, Interior, Justice, and Transportation, as well as the Environmental Protection Agency, the Interstate Commerce Commission, and the Federal Trade Commission.

Much concern has been voiced by the railroad industry over the grave impact that passage of this legislation would have on that industry. Fears that introduction of coal slurry pipelines would bring about an inequitable competitive situation leading to serious financial harm to the railroads are unfounded.

Certainly the enactment of the Railroad Revitalization and Regulatory Reform Act of 1976 was a broad-based measure aimed at improving and revitalizing the Nation's railroad industry. Congress certainly has shown its clear intent to aid this industry, not harm it. Every safeguard is built into the procedure for certification under H.R. 1609 to assure that those agencies which best can reflect the railroad needs have input into the certification process.

Further, in a notice of proposed policy change, the Interstate Commerce Commission announced on May 17 of this year that it proposes to issue a general policy statement permitting the filing in tariff form of railroad contract rates. In its decision in ex parte 347, western coal investigation guidelines for railroad rate structure, the Commission stated that:

> It believes that there is nothing inherently unlawful in railroads and shippers voluntarily entering into long-term commitments for the transportation of a specified volume of freight at agreed rates.

Thus, railroads will be placed on the same footing as coal slurry pipelines as they compete for service to the consumer.

Now, the question of cost savings to the consumer would depend on many factors. However, when the pipeline becomes operable, it will be subject to the regulatory control of the ICC. Transportation charges will likewise be subject to the full control of that independent agency.

Concern has also been expressed over the vast amounts of water which will be appropriated for the slurry of coal through these pipelines. It has been pointed out at every juncture, but should again be stated, the enactment of H.R. 1609 does not appropriate a single drop of water. Rather, extreme caution was taken to assure that existing water rights are preserved. Section 4 and 9 of the bill are explicit on this point. Subsection 4 (c) makes it clear that eminent domain cannot be used to acquire any right to use or develop water. While, section 9 clearly states that existing water laws are not to be effected.

This important legislation is not a solution for movement of all of our projected coal requirements in the years to come. However, I believe it will aid in meeting the administration's goal of coal conversion as a source for boiler fuel by 1985. Even with the passage of this legislation, railroads will continue to carry the bulk of the coal traffic. This act will not result in the financial destruction of the great rail industry of this Nation, but it will provide a means for development of competition for those wishing to transport coal in the future. This competition should be healthy for all modes of transportation, and while financial success for slurry transport of coal cannot be assured, passage of this act is certainly in keeping with the American system of free enterprise which has always been assured.

Mr. Chairman, I urge the passage of this legislation.

Mr. Chairman, I also want to say to the members of the committee who are here that we have just received a letter from the Secretary of Energy, Mr. Schlesinger, wherein he does approve the bill and we will put it in the record at this point.

DEPARTMENT OF ENERGY,
Washington, D.C., July 18, 1978.

Hon. HAROLD T. JOHNSON,
Chairman, Committee on Public Works and Transportation, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: As the House of Representatives considers H.R. 1609, the Coal Pipeline Act of 1978, I wish to reiterate Administration support for legislation which grants certification of public convenience and necessity for coal slurry pipelines. The availability of the coal slurry pipeline option would provide an additional potential method to help the nation meet its coal utilization goals. Enabling legislation for such pipelines is needed, and the Adminstration backs the early enactment of such legislation.

I would also like to reiterate the Administration's support for amendments which were transmitted to the House Committee on Public Works and Transportation and the Committee on Interior and Insular Affairs on March 21 of this year. These amendments in our judgment provide a proper balancing of energy, natural resources and transportation interests, and the Administration continues to believe that adoption of these amendments is needed before action on coal slurry pipeline enabling legislation is completed by the Congress.

Sincerely,

JAMES R. SCHLESINGER,
Secretary.

● Mr. DEVINE. Mr. Chairman, I come from a State which I believe had the first coal slurry pipeline. That pipeline was built during the 1950's and it proved to be a very expensive operation but served an important purpose for public utilities. The pipeline was installed at a time when railroads still delivered coal on a more or less haphazard basis.

As soon as the pipeline began operations, the Interstate Commerce Commission decided that it was time to permit railroads to haul coal in unit trains. It is ironic, Mr. Chairman, that coal slurry is the primary cause for giving the railroad industry the efficiency of the unit train.

I am opposed to H.R. 1609 for primarily two reasons: First of all, there is no doubt in my mind but that railroads can haul all the coal that can be mined in this country. If they charge public utilities too much to transport that coal, it is up to the ICC to require lower rates. If the ICC cannot do the job, then the Congress should require lower transportation rates for coal if in fact railroads are exploiting a monopoly position. What we should not do is trigger the development of unnecessary transportation capacity solely for the purpose of putting electric utilities in a position to dicker for a lower transportation price.

Mr. Chairman, not only do I see no need for coal pipeline legislation, but I am troubled by the fact that we again are ramming the power of the Federal Government down the throats of the States. Traditionally, States have exercised the power of eminent domain. This bill bypasses the States and gives to the Federal Government the power of Federal eminent domain for coal pipelines. I think this is just another incident of Washington believing it knows more and better than the people in the State about how that State's business should be conducted. It appears to me that this legislation is being pushed simply because several States refused to give the coal pipeline interests the power of eminent domain. At present, no other private companies except natural gas companies are given the Federal power of eminent domain. I think we should keep it that way.

I urge the defeat of H.R. 1609 because it is unneeded and an unwarranted intrusion on the rights of States to control the power of eminent domain.●

Mr. UDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I believe that we have just about concluded the general debate and I would just make a few observations in summing it up for our side.

What this bill does is to give to a common carrier, the coal slurry pipelines, what we have traditionally given throughout the country to other kinds of common carriers whom we have given the power of eminent domain at the State and Federal levels to the oil pipelines, the water pipelines, the electric utilities, and we are merely giving this to another new technology, and I believe we should do so out of a sense of fairplay, and because it is in the public interest, to a new common carrier. This will assure confidence in a critical new area of energy, as it expands the delivery process of coal.

It is a consumer's bill.

Events have already shown it is the way to protect the consumers and the electric utility companies to produce energy through an alternative means of the transportation of coal.

This is also an environmental bill. For instance, if you have got to choose between a unit train moving through your town every 5 or 10 minutes if you live in Kansas, Nebraska, or Montana, or having a pipeline underground to move the coal through that community, I think it is clear what the choice would be in view of the environmental considerations involved.

Further, Mr. Chairman, I hope that my colleagues will not be deceived or misled on this water issue.

We have preserved the absolute right of veto to the States on any occasion to say no, for any reason, no matter how selfish, that not one drop of water can leave say the State of Montana, or the State of Wyoming, and so forth, without the consent of the people. And I might add that the Wyoming legislature approved this by a two-thirds vote because of that language.

So I hope that the Members will not be misled by the water argument.

We all need railroads. I am for a strong railroad system. I am prepared to support legislation to revitalize railroads. I think we need an interstate railroad system as good as our Interstate Highway System. But we are going to double the production of coal, and there is enough for everybody. There is enough new business for both the railroads and for this new technology.

We have had a lot of tears shed here in this debate about the economic plight of railroads. We have just begun the expansion of coal. Today the Washington Post reports on its financial page that Burlington Northern, the Nation's longest railroad, reported yesterday a sharp increase in second quarter profits. Directors also voted to increase the transportation and natural resources firm's dividend rate. The president attributed the earnings growth to a 21-percent increase in coal shipments and a 9-percent gain in grain loadings for St. Paul-based coal.

We have only begun, and the railroads are going to make a lot of money out of this new coal we are going to mine. What we are saying is that this small percentage of this coal production is more economical to move by coal slurry pipeline, and we want to have that opportunity.

This bill we present today is the product of two committees. The gentleman from California (Mr. JOHNSON) and I and others on the committee reached a compromise, and we bring to the Members, to the floor, a blended bill that is essentially the work of those two committees. I ask, in closing, how the Members can be against a bill that is supported by the gentleman from California, Mr. JOHNSON; the gentleman from Texas, Mr. WRIGHT; the gentleman from Louisiana, Mr. WAGGONNER; the gentleman from Texas, Mr. ECKHARDT; the gentleman from Ohio, Mr. SEIBERLING; the gentleman from Oklahoma, Mr. JONES; the gentleman from Louisiana, Mr. BREAUX; the gentleman from California, Mr. LAGOMARSINO; the gentleman from New Mexico, Mr. LUJAN; and the gentleman from California, Mr. DON H. CLAUSEN, which crosses the whole spectrum of ideology here in the House? I think it suggests this is a good, sound bill. It is in the public interest, and people of all persuasion can support it.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. I thank the gentleman for yielding.

Mr. Chairman, I rise in full and complete support of the Coal Pipeline Act of 1978. H.R. 1609 represents the intensive, careful effort of the Interior and Insular Affairs Committee and the Public Works Committee on which I am privileged to serve. This bill will permit an important new and innovative, economically viable technology to bring to market a portion of America's growing demand for coal. While so doing, the language adopted by the Interior and Public Works Committees, on which I serve, protects Western water law and the rights of States to make important decisions regarding the use of their water in coal slurry. As a matter of fact, the members of the Interior Committee will remember that I took the position of opposing the advancement of this legislation through the Interior Committee until satisfactory language for the protection of basic State water rights was accepted by the committee.

Comprehensive testimony during the course of the hearings revealed a very deep and genuine concern by witnesses and representatives from the States of South Dakota, Colorado, Wyoming, Montana, and Nebraska as to the potential adverse impact this proposal might have on the Madison Aquifer and the general water tables in those States.

Once the water rights issued was resolved, I found myself favorably impressed with this new and innovative alternative transportation system that could have a very significant impact on adding to our flexibility in managing and developing the various energy alternatives in this important section of the United States.

As well, careful consideration is given to the impact of this legislation upon other aspects of our Nation's economic and transportation system. This is a balanced bill, which deserves the support of all Members of this body concerned with the need for this Nation to achieve a degree of energy independence.

I would like to address very briefly the matter of Federal eminent domain which is the most fundamental aspect of this legislation. Eminent domain, as my colleagues well know, is the power of the sovereign to take property for public use upon making just compensation to the owner.

Yet the question that is asked so often by opponents of this legislation is, why not leave it up to the States? Why not let each State adopt eminent domain provisions for coal slurry pipelines? There are a number of reasons why such a course is unwise. One concerns the need for quick action by this country to assure the availability of transportation to meet our energy needs. The adoption of the State eminent domain provisions would take months and years. It is possible that some States under intense pressure from railroad lobbyists would never adopt eminent domain statutes for the purposes of coal pipelines. Yet there is a larger question which prevents State eminent domain legislation from offering a viable alternative. That is the constitutional question involved in the case of intermediate States. A fundamental requirement of the doctrine of eminent domain is that the power be only exercised for a public purpose. In the case of the State in which slurry originates, such a purpose is served. The use of water from that State, the use of coal from that State, jobs in that State due to coal slurry undoubtedly meet the requirement for serving a public purpose. In the destination State where the coal arrives by way of slurry, the use of the coal in that State, the generation of power in that State, the increased jobs in that State once again would undoubtedly meet the requirement for serving a public purpose. Even in an adjoining State through which a slurry line passes, a public purpose may be served if power

generated in the destination State is returned by powerline to that State. Here once again a public purpose has been served. But what of the case of the true intermediate State, the State through which the pipeline merely passes. No jobs have been generated. No water utilized. No coal delivered. No power produced. Just a pipeline on its way from one State to another. It could well be that in this case no public purpose has been served and the use of that State's eminent domain power for a coal slurry pipeline would be unconstitutional. Even if the Supreme Court were to declare that it was not unconstitutional, such a decision would come after years and years of litigation.

They are years we cannot afford to wait, with the demands for energy increasing every day.

The coordinated committee effort between the Interior and Public Works Committees has resulted in the development of a number of safeguards. The Secretary can issue the certificate of public convenience after notice and hearing and only after considering certain criteria and making findings that show the issuance of the certificate is in the national interest. This process is designed to assure that the issuance of the certificate will be compatible with sound economic, environmental, regulatory, social, and transportation policies.

In conclusion, the overall purpose of the legislation is to provide a controlled method for acquiring rights-of-way for coal pipelines in certain circumstances, subject to certain limitations and to economic regulation as a common carrier.

In light of the many energy problems we face and the absolute dependence on adequate energy sources for the development of our economy, I am compelled to state that the passage of this legislation is in the national interest.

Mr. UDALL. Mr. Chairman, I yield back the remainder of my time.

The CHAIRMAN pro tempore (Mr. LEDERER). Pursuant to the rule, it shall be in order to consider an amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of June 28 by Representative UDALL of Arizona, if offered as an original bill for the purpose of amendment in lieu of the amendments now printed in the bill.

The Clerk will read section 1 of the original bill.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may cited as the "Coal Pipeline Act of 1977."

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. UDALL

Mr. UDALL. Mr. Chairman, I offer an amendment in the nature of a substitute printed in the CONGRESSIONAL RECORD of June 28.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. UDALL: Strike all after the enacting clause and insert in lieu thereof the following:
That this Act may be cited as the "Coal Pipeline Act of 1978".

Mr. UDALL (during the reading). Mr. Chairman, I ask unanimous consent to dispense with further reading of this amendment. It is printed in the CONGRESSIONAL RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

Mr. RONCALIO. Reserving the right to object, Mr. Chairman—and I do not intend to—may I ask the Chairman if he intends to rise at 5:30?

Mr. UDALL. Mr. Chairman, if the gentleman will yield, as soon as the amendment is read, I intend to ask unanimous consent that it be open to amendment at any point, and then at that point I will move that the Committee rise.

Mr. SKUBITZ. Reserving the right to object, Mr. Chairman, I will advise the gentleman from Arizona (Mr. UDALL) that at this moment I have no objection to the substitute, but I do object to his second unanimous consent request that we amend at any point. I insist that we take it up section by section.

Mr. UDALL. Mr. Chairman, if the gentleman will yield, the gentleman is within his rights, and I renew my unanimous-consent request that the reading of the amendment be dispensed with at this time and considered as read. It is printed in the CONGRESSIONAL RECORD.

The CHAIRMAN pro tempore. The amendment has to be read by sections. The Clerk has read section 1.

Mr. UDALL. When section 1 has been read, I will move that the Committee rise, Mr. Chairman. I ask unanimous consent that section 1 of the amendment in the nature of a substitute be considered as read.

Mr. RONCALIO. Mr. Chairman, I withdraw my reservation of objection.

Mr. SKUBITZ. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BINGHAM) having assumed the chair, Mr. LEDERER, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1609) to amend the Mineral Leasing Act of 1920, and for other purposes, had come to no resolution thereon.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the bill just debated, H.R. 1609.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

INTERSTATE SMUGGLING OF CIGARETTES

(Mr. LUKEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

CIGARETTE SMUGGLING SHOULD BE A FEDERAL OFFENSE

Mr. LUKEN. Mr. Speaker, I would like to bring to the attention of the House, H.R. 8553, a bill to make the interstate smuggling of cigarettes a Federal offense punishable by up to 2 years in prison and a $10,000 fine. This legislation, recently reported by the Subcommittee on Crime is now pending before the full committee. Everyone agrees that this problem is very serious. Hundreds of millions of dollars are going into the coffers of organized crime. Honest businessmen are being driven out of business. No single State can possibly control this problem. We must not put off taking action any longer.

The States have been unable to control cigarette smuggling because cigarettes are relatively easy to transport across open State borders. In addition, more and more criminals are being attracted into this activity because the profits are so high due to the existing tax differentials between States. These differentials can run as high as 19 cents per pack of cigarettes. Cigarette smuggling also is attractive because the current penalties are generally very light and although it is an interstate problem, it is not a Federal offense.

For these reasons, I believe that it is time for the Federal Government to come to the aid of the States by taking strong actions to make the smuggling of cigarettes a Federal offense with a fine of $10,000 and 2 years imprisonment. I have cosponsored similar legislation because it seeks to do precisely this.

This problem is becoming more and more controlled by organized crime. There has been testimony presented in recent hearings that proves organized crime is receiving tens of millions of dollars from cigarette smuggling, and that it is their second highest source of revenue. The only activity from which they earn more is narcotics' sales. The money they earn from cigarette smuggling goes to finance their other activities such as gambling, and prostitution. We cannot allow this activity to continue, and indirectly condone it by failing to enact strict Federal laws, and by not making it a Federal offense.

Testimony has shown that revenue losses from uncollected taxes to individual States has approached $400 million. The losses to my own State of Ohio has exceeded $300 million. Some States on the east coast such as New York and Pennsylvania have lost even more than Ohio.

In addition to the revenue losses of the States, cigarette smuggling is driving honest, legitimate wholesalers out of business. In some areas it has been estimated that more than one-third of all wholesalers have folded due to cigarette smuggling. Honest businessmen who have to cope with rising prices and the general ill-effects of inflation should not have to put up with having their businesses destroyed due to cigarette smuggling.

The problem of cigarette smuggling has become so pervasive and involves so many dollars that even the Departments

of Justice and Treasury, who in the past have opposed making cigarette smuggling a Federal crime, have now come out in favor of such legislation. This is an important development because it shows that Federal agencies have become aware of the extent and criminal implications of allowing cigarette smuggling to continue unimpeded by Federal legislation. This legislation is desperately needed and should not be put off any longer.

I would like to make one additional observation before closing. Some Members of this Congress are against legislation to make cigarette smuggling a Federal crime because they feel the problem will be solved by legislation which will do away with the extremes in tax differentials between States. I agree that this type of legislation is also needed, but we have no assurances that this legislation could possibly be enacted this session. I am in favor of making cigarette smuggling a Federal crime now so that our law enforcement officers and the States will have immediate help to deal with the problem.

The Congress and the rest of the country is agreed on the extent of the problem and on the need for legislation, let us not hesitate any longer before enacting it. The honest people of this Nation should not be pawns in this smuggling racket. Every day we wait only drains needed money from the paychecks of honest people, and fills the pockets of organized crime.

GEOTHERMAL FUNDING—H.R. 12163

(Mr. PICKLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PICKLE. Mr. Speaker, yesterday, had he been present on the floor, I had intended to engage in a colloquy with the distinguished chairman of the Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration, Hon. WALTER FLOWERS.

We face a problem in the funding of our national geothermal program which must be resolved at some point or it will continue to face the committee and the House as a whole. The problem concerns the development of the geopressured geothermal resources of the Texas and Louisiana gulf coasts.

This resource is unique in nature. It combines three forms of energy in one—energy from the Earth's natural heat, energy from hydraulic pressure, and energy in the form of natural gas dissolved in the geopressure waters. It proves once again that Mother Nature does not always conform to the jurisdictional categories of man's institutions—including subcommittees of the House of Representatives.

Nevertheless, we have to recognize that the Congress and the executive branch have a duty to see that all three of these resources are carefully developed—with no one resource taking precedence over the other two. We have here a resource that is uniquely fossil and nonfossil, electrical and nonelectrical, and we should work together to see that all the possibilities of this resource are fully developed.

The DOE authorization which the House is currently considering (H.R. 12163) contains two fundings for development of these geopressured resources. One is a funding of $26.4 million for geopressured technology. The second is an additional funding of $10 million for the development of geopressured methane. These two authorizations come out of the Subcommittee on Advance Energy Technologies and Conservation Research, Development and Demonstration, and the Subcommittee on Fossil and Nuclear Energy Research, Development, and Demonstration, respectively.

The explanation in the report of the funding from the Advanced Energy Technologies Subcommittee outlines timetables and goals affecting all three energy components. The explanation in the report explaining the funding from the fossil subcommittee seems to emphasize the production of methane to the exclusion of other considerations.

The appropriations, which have already passed the House, do not divide this function, and have a single figure for this program.

I urge the Science Committee in its continuing work on this bill with the Senate and in conference to insure that the three facets of geopressured energy are pursued in the expenditure of all moneys allocated to this general program.

It is understandable that under the geothermal methane program methane would be stressed. And we recognize that is the basic reason for that appropriation. However, it should equally be understood that we are not going to ignore the other components of the geopressured resource in developing this aspect of the program.

Besides the common sense of this approach, the State of Texas has clearly laid out in law and regulation that the geopressured resources is to be conservatively developed: that is to say, no one resource is to be developed at the expense of either of the other two. We should seek to cooperate with this State law as we seek to cooperate with many other State laws all over the country in our energy and other national programs.

The main theme to remember at this point, I think, is that there are still several unanswered questions about all three of these energy components. That is why we have this Federal research and development program in the first place. It is too early in the game to make conclusions about what reservoirs and wells will be best for what kinds of production.

I hope the committee will keep in mind that we are trying to find out all we can about the three properties of the geopressured resource. We must not allow ourselves to be sidetracked on to one of the components no matter how favorable a finding may be.

I thank the members of the Science Committee for their strong support of the geopressure program, and I hope we will be able to work together in the future for the full development of this valuable natural resource.

THE NEED TO DEVELOP OUR NATION'S OIL SHALE RESOURCES

(Mr. McKAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McKAY. Mr. Speaker, the Congress is currently giving active consideration to a number of measures designed to encourage the early development of the Nation's vast oil shale resource. These initiatives reflect a growing awareness that shale oil represents one of the most promising domestic sources of alternative liquid fuels. The present rate of oil shale development is not commensurate with the potential of this resource to contribute to our domestic energy supply, and today I am offering a bill to provide Federal assistance in the development process.

The creation of a commercial oil shale industry will not be easy. It will involve heavy private investment, careful environmental and reclamation safeguards, and highly sophisticated technical planning and execution. At least in the initial stages of commercial development, it appears that Federal financial assistance will be necessary if we expect shale oil to make a timely contribution in meeting our demand for liquid fuels.

While the development of oil shale necessarily involves costs and risks, the potential payoff for our Nation is immense. The volume of oil contained in our domestic oil shale deposits exceeds all of the petroleum reserves in the Middle East, and more than 80 percent of the commercially viable deposits are located in the public domain. Thus, commercialization of oil shale will not only reduce the Nation's dependence on foreign oil, but it will also increase the value of a vast public asset.

THE PENDING BILLS

Last October the Senate adopted a shale oil production credit of $3 per barrel as part of the Energy Tax Act. The administration supports a modified version of the Senate production credit as the most direct and effective incentive to stimulate private investment in commercial shale oil production. The proposed production tax credit has broad support among private oil shale developers, and I urge my colleagues who are conferees on the Energy Tax Act to accept this constructive feature of the Senate bill.

In the meantime, the House has strengthened the Department of Energy's research and development program for oil shale by appropriating funds to begin a modular demonstration of first-generation above-ground retorting technology. The demonstration would be conducted under the Department's established cost-sharing authority, and the experience and information gained from the demonstration should be extremely valuable in designing and construction of future commercial plants.

More recently, the Senate has passed a "Federal Oil Shale Commercialization Test Act," and similar bills have been introduced in the House. These bills would authorize the Department of Energy to enter into contracts for the construction and operation of up to three

modular demonstration projects. The projects would be located on the naval oil shale reserve or an unencumbered tract of public land. The demonstration projects would follow the so-called GOCO approach of government ownership and contractor operation.

THE NEED FOR FLEXIBILITY

I believe all of the bills just described can assist in expediting the orderly development of oil shale, and I submit that each of the respective approaches should be available in order that all promising projects and technologies will have an opportunity to be tested and demonstrated. It is naive to think that any single project or process will provide a panacea to solve the difficult task of oil shale development, and it would be wrong to assume that any single program can obtain definitive answers on the ultimate viability of shale oil recovery. It is much more likely that each project and each technology will make a contribution toward the development of a commercial industry, and it is therefore important that both the Federal Government and private industry be encouraged to pursue all promising options.

I therefore support all of the pending measures to stimulate oil shale development opportunity which should be pursued. I also want to emphasize that there is no conflict or inconsistency among the various bills and that each measure has its own purposes, goals, and area of applicability.

For example, the $3-per-barrel tax credit passed by the Senate and favored by the administration is aimed at the advanced existing projects which are ready for construction. The private sponsors of these projects have already invested years of work and millions of dollars in extensive site preparation, environmental monitoring, and plant design and engineering. Industry spokesmen have indicated that the production tax credit could accelerate investment in actual construction of these projects.

The "GOCO" bills, on the other hand, are not designed to assist or accelerate existing projects. These bills would involve new Federal demonstration projects financed entirely with appropriated funds. It would take several years of preliminary work before these new projects could reach the readiness status of the most advanced existing projects. When development does occur, however, the Government will maintain control over the projects, which will maximize the ability to acquire valuable technical, economic, and environmental data and to make it broadly available for use by potential developers in the future.

The cost-shared demonstration module funded by the House pursuant to the Department of Energy's current authority differs from both the production tax credit and the GOCO bills. Under its present authority, the Department could elect to conduct the demonstration at an existing project site, which would facilitate the negotiation of a private contribution toward the project cost. Use of an existing project site will also permit construction to begin at an early date. At the same time, the Department's supporting role will enable it to enter into a cooperative agreement to assure that the Government obtains information and technology rights commensurate with its financial contribution.

It is important to note that there would be no duplication or overlap between the proposed production tax credit and the demonstration programs contemplated by the GOCO bills or the Department's current cost-sharing program. Any project built under the GOCO program would be federally owned and would not participate in the production tax credit. On the other hand, if a private project received Federal assistance under a grant or cost-sharing program, the Senate bill provides for a proportionate reduction in the applicable production tax credit.

A LIBERALIZED GOCO BILL

In accordance with the views I have just outlined, I wish to join with my colleagues who are seeking to expand the authority of the Department of Energy to include a GOCO demonstration program. I believe, however, that the pending GOCO bills can be improved and strengthened by relaxing some of the rigid provisions which might constrain administration of the program and hamper its effectiveness. I therefore offer my own version of the Federal Oil Shale Commercialization Test Act. My bill is similar to the GOCO bills sponsored by my colleagues, except in the following respects.

ELIGIBILITY OF EXISTING PROJECTS

The pending bills identify the Naval Oil Shale Reserve as the presumptive location for the projects, and give the Secretary the alternative of using a new tract of public lands under certain circumstances. My bill offers a third option of using an existing project location where site preparation or other preconstruction work has already been performed. This alternative could enable the Secretary to shorten lead time and to reduce the necessary amount of Federal expenditure.

COST-SHARING OPTION

My bill would also give the Secretary the option of using the traditional vehicle of cooperative cost-sharing with private industry instead of requiring fully funded government contracts as envisioned by the pending bills. While there are advantages in the GOCO concept, the availability of cost-sharing as an option for one or more of the three projects may allow the Department to negotiate substantial private contributions and thus reduce the necessary level of Federal outlays.

PATENT POLICY

The pending GOCO bills depart from the patent policy provisions governing the Department of Energy's nonnuclear program by prohibiting the Secretary from negotiating waiver of the technology rights which would otherwise vest in the United States. I believe the traditional waiver and licensing authority under the existing Nonnuclear Act (P.L. 93–577) may be needed in order to secure the participation of the most qualified companies with valuable experience and proprietary technology, and my bill would rely on this authority. The negotiation of waivers could be particularly warranted under the cost-sharing option contained in my bill since one of the principal criteria for granting a waiver is the extent of a contractor's contribution toward project costs.

DISPOSITION OF PRODUCTS

The pending bills would permit the Secretary to use, store or sell the shale oil produced by the projects, but all commercially valuable products would have to be sold at public auction. My bill would give the Secretary wide discretion in determining the proper disposition of such products and would require only that the manner of disposition be prescribed in the governing contract or cooperative agreement. Providing for the entry of shale oil into the normal flow of petroleum processing and distribution will be a difficult but important part of any commercialization effort, and I believe the Secretary and the private participants involved should have maximum flexibility to dispose of products in an economical and technically feasible manner.

PLANT SIZE

My bill also increases the maximum size for a project from 10,000 to 50,000 barrels per day. While some developers have plans to build modular units of 10,000 barrels per day as an interim step in commercialization, no qualified expert considers a 10,000 barrel-per-day project to be a genuine commercial-scale operation. Most experts agree that the economies of scale necessary for commercial viability require a capacity of 50,000 barrels per day, and some of the most experienced developers have no plans to build a modular facility as an interim step. Thus, my bill would permit the Department to test the viability of shale oil production at either the modular level or the commercial-scale level, or both, depending on its own analysis of the costs and the benefits to be obtained.

THE 20TH OBSERVANCE OF CAPTIVE NATIONS WEEK

The SPEAKER pro tempore (Mr. BINGHAM). Under a previous order of the House, the gentleman from Pennsylvania (Mr. FLOOD) is recognized for 60 minutes.

GENERAL LEAVE

Mr. FLOOD. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and to include extraneous matter, and I ask unanimous consent that all Members may have 5 legislative days in which to extend their remarks on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. FLOOD. Mr. Speaker, as on the occasion of many a previous Captive Nations Week observance, this 20th observance coincides with a worldwide indignation shown toward the barbarism and brutality of Soviet Russian "justice."

While our President was issuing his proclamation of the 1978 Captive Nations Week, Moscow was staging its kangaroo trials of Alexander Ginzburg, Anatoly

Scharansky, and Viktoras Petkus. The last, a Lithuanian Catholic activist, received the least publicity and the stiffest sentence of 15 years. This is not without significant meaning for the captive non-Russian nations in the U.S.S.R. Last year the Ukrainian Helsinki monitors, Rudenko and Tykhy, received similarly stiff sentences. And the unending story of perverse Soviet Russian justice goes on and on.

TIME FOR PERSPECTIVE

Once again, Mr. Speaker, this 20th Captive Nations Week observance is a time for us to gather perspective. The massive condemnation of the three trials—in the name of human rights, of the violation of the Helsinki Accords, of civilized existence itself—was necessary but also long overdue.

Our Fascell Commission reeks with documented cases of Soviet Russian barbarity since World War II. National churches were obliterated, such as the Ukrainian Orthodox and Catholic Churches in Ukraine, and there was not even a humanitarian peep in the West.

In gaining perspective, the first point for us to recognize is that the Ginzburg-Scharansky-Petkus episode is only one among countless recorded and unrecorded ones. The process of Soviet Russian barbarity is a continuous and cumulative one, with only qualitative differences between Stalin's crude techniques and Brezhnev's reliance on psychiatric wards, drugs and so-called labor camps. In both cases, the laws have been rigged to suppress individual, civil and national rights.

The second vital point for perspective now relates to national rights. This is what captive nations is all about. Democracy and fair justice in Russia are not possible so long as the national rights of all the captive non-Russian nations in the U.S.S.R. are repressed short of individual national independence and freedom.

Soviet Russian totalitarianism, feeding on its imperio-colonialism within the U.S.S.R., would not last for long. Indeed, the Soviet Russian world threat would be extinguished. This, Mr. Speaker, is the significance of this 20th observance. Drenched in firm politico-moral principles, Public Law 86–90 calls for thought and action toward the liberation, freedom and independence of all the captive nations, particularly the majority of them in the U.S.S.R.

This does not mean war; it does mean stop being hypocritical about the profession of our principles and employing all means short of war to realize them. The President's dictum "Cooperation or Confrontation" fits the captive nations idea and thesis to a "t".

Looking ahead, many analysts shall be waiting to see what the effective linkage will be between human rights and the captive nations idea.

Mr. Speaker. related to my observations are a number of items that serve to elaborate my points, and I request that they be appended.

They are: First. text of Public Law 86–90; Second. the President's proclamation; Third. AFL–CIO President George Meany's statement; Fourth, the message and column by Dr. Lev E. Dobriansky of Georgetown University and chairman of the National Captive Nations Committee; Fifth, an article on the captive nations rallies in America; and Sixth, a religious appeal by the Most Reverend Basil H. Losten of Stamford, Conn.

PUBLIC LAW 86–90 ESTABLISHING CAPTIVE NATIONS WEEK

The Captive Nations Week Law was passed by the US Congress and signed into law by President Dwight Eisenhower during the Spring of 1959. In accordance with this law, the President has issued a proclamation each year since 1959. Many state governors and mayors, including New York State and City, have also issued a similar proclamation each year.

THE CAPTIVE NATIONS WEEK RESOLUTION

Whereas the greatness of the United States is in large part attributable to is having been able, through the democratic process, to achieve a harmonious national unity of its people, even though they stem from the most diverse of racial, religious and ethnic backgrounds; and

Whereas this harmonious unification of the diverse elements of our free society has led the people of the United States to possess a warm understanding and sympathy for the aspirations of peoples everywhere and to recognize the natural interdependency of the peoples and nations of the world; and

Whereas the enslavement of a substantial part of the world's population by Communist imperialism makes a mockery of the idea of peaceful coexistence between nations and constitutes a detriment to the natural bonds of understanding between the people of the United States and other peoples; and

Whereas since 1918 the imperialistic and aggressive policies of Russian communism have resulted in the creation of a vast empire which poses a dire threat to security of the United States and of all free peoples of the world; and

Whereas the imperialistic policies of Communist Russia have led through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Rumania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, and others; and

Whereas these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and of their individual liberties; and

Whereas it is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be steadfastly kept alive; and

Whereas the desire for liberty and independence by the overwhelming majority of the people of these submerged nations constitutes a powerful deterrent to war and one of the best hopes for a just and lasting peace; and

Whereas it is fitting that we clearly manifest to such people through the appropriate and official means the historic fact that the people of the United States share with them their aspirations for the recovery of their freedom and independence; Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue a proclamation designating the third week in July 1959 as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate ceremonies and activities. The President is further authorized and requested to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world.

CAPTIVE NATIONS WEEK, 1978

(A proclamation by the President of the United States of America)

By a joint resolution approved July 17, 1959 (73 Stat. 212), the Eighty-Sixth Congress authorized and requested the President to proclaim the third week of July in each year as Captive Nations Week.

For more than two hundred years our Nation has sustained the belief that national independence, liberty and justice are the fundamental rights of all people. Today we reaffirm our commitment to these principles. In particular, we pay tribute to those individuals and groups who demonstrate their attachment to these principles in their own country and throughout the world.

Now, therefore, I, Jimmy Carter, President of the United States of America, do hereby designate the week beginning July 16, 1978, as Captive Nations Week.

I invite the people of the United States to observe this week with appropriate ceremonies and activities and to renew their dedication to the cause of all people who seek freedom, independence, and basic human rights.

In witness whereof, I have hereunto set my hand this eleventh day of July, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and third.

JIMMY CARTER.

STATEMENT BY GEORGE MEANY, PRESIDENT, AFL–CIO—COMMEMORATING CAPTIVE NATIONS WEEK, JULY 16–20, 1978

On this 20th observance of Captive Nations Week, the AFL–CIO called upon the labor movements, the nations and peoples of the Free World to redouble their efforts on behalf of individuals who are denied their basic freedoms and liberties.

The American labor movement has consistently supported the struggle of human rights since its inception and applauds those organizations who have courageously spoken out on behalf of those who are silenced. We must not permit political or economic expediency to dull our words. Those individuals actively involved in this struggle look to us for support and assistance. They must be continually assured that their trust is not misplaced.

The Twelfth Constitutional Convention of the AFL–CIO stated in December, 1977 that "Abuses and threats to basic human rights are the most searching issues that divide the world today, and the clearest tests of American ideals and resolve. Where these issues are concerned, whether in Southern Africa, Chile, Uganda or the Soviet Union, there are no longer any purely internal affairs."

The AFL–CIO recognizes the vicious contempt shown to subjugated people in nations captured by totalitarian forces. It further recognizes the fraudulent intent of the Soviet Union in signing the Helsinki Accords. For these reasons, American labor will work tirelessly to seek freedom for the peoples of Eastern Europe and in every other region where suppression of liberty has become the norm and human rights are violated.

This July 16–22 marks the 20th Observance of Captive Nations Week. As you know, the traditional Week is based on the Captive Nations Week Resolution passed by Congress in 1959 and signed by President Eisenhower into

Public Law 86–90. Every President since, as well as most Governors and large-city Mayors, have annually proclaimed the Week. On this "20th" and considering the state of super-power affairs, we most warmly invite your participation to make this the most resounding Week yet.

By documented record, no idea for global thought and action has worried Moscow more than the captive nations idea as defined in the resolution. Only recently, Georgiy Arbatov, head of Moscow's "think tank" lectured a U.S. exchange group last December on the need to liquidate this idea and the Week if "detente" is to continue. In March, Members of the House Armed Services Committee were confronted by rubber-stamps in the Supreme Soviet, criticizing individual Members for their contribution to Congress' volume "The Bicentennial Salute to the Captive Nations" and openly crying "Do you want to break up our 'country'?"

Why this deep Moscow concern? Because the idea casts the real image of the USSR and Moscow's policy, and the Week reminds free people everywhere of this. The USSR is not a country; it is an empire of many conquered nations. The empire is not devoted to real peaceful coexistence and communism; its hallmarks are totalitarian control and Soviet Russian imperialism. The President's Annapolis address was laudable in many respects, but it erred gravely in conceiving the USSR as "a nation." Similarly, Solzhenitsyn's Harvard sermon was admirable for its stress on moral criteria, but it, too, erred in its misplaced concreteness, vaguely "the strategy of communism" rather than the real strategy of Soviet Russian imperialism, centered in Moscow. Global image is primary to Moscow for the pursuit of its goals; the captive nations *in toto* idea and the Week mirror the real from the Potemkinistic fake image.

Let's tell it like it is on (1) July 18 in the Senate and in the House where by special order Representatives Flood and Derwinski will lead the observance (2) at a reception that same day, 5–7 p.m. in the Senate Caucus Room and (3) on July 20 at a luncheon followed by seminars for your staff in the Rayburn Building. We look forward to your full support, with gratitude and all best wishes on the "20th."

Sincerely,

LEV E. DOBRIANSKY,
Georgetown University.

WORLD OUTLOOK

(By Lev E. Dobriansky)

WHAT HAPPENED TO HUMAN RIGHTS?

The 20th observance of Captive Nations Week will take place this July 16–22.

Public Law 86–90 states that the President is "authorized and requested" to issue a Captive Nations Week proclamation each year "until such time as freedom and independence have been achieved for all the captive nations of the world."

A GRAND RETREAT

Disenchanted with detente, the American people received with considerable elation President Carter's early human rights declarations. Of course, a close relationship exists between human rights and captive nations, which impinge on all spheres of human existence.

Unfortunately, the growls of the Russian bear soon brought about a marked retreat in the Carter administration's advocacy of human rights. At the recent Belgrade conference, the question was not even mentioned in the final communique.

Globally, instead of directing the human rights policy toward the totalitarian world, the Administration has singled out allies for attack, permitting Moscow to tighten its grip over the captive nations and continue to brazenly fish in troubled waters.

In the past, haunted by an inordinate desire to placate Soviet Russian imperialism, some American luminaries have tried without success to oppose Captive Nations Week. The net effect of their attempts has been a progressive dilution of Captive Nations Week Presidential proclamations. The erosion process peaked last July when President Carter, beset with bad advice and administrative ineptness, almost ignored the annual proclamation.

SOVIET SENSITIVITY

Yet, no single event has aroused such vehement protest by Moscow as the Captive Nations Week resolution.

Again this year, Moscow has launched with renewed vigor a frontal attack on our traditional observance.

Underlying the Kremlin's sensitivity is that the resolution officially exposes Soviet Russian imperialism as the real force of international unsettlement and conflict while pointing to the existence of non-Russian captive nations within the ersatz Soviet state. Without the abundant resources of these captive nations Russia would be reduced to a second-rate power.

Another essential element in the resolution is our moral commitment to peoples and nations and their fundamental rights of complete national self-determination. In other words, the resolution underwrites the illegitimacy of every Communist regime.

Pressing hard on the captive nations would not lead to war. A constant and imaginative focus would instead deepen Moscow's insecurity within its empire, giving it cause to think twice about dangerous adventures elsewhere.

On this 20th observance of Captive Nations Week, three guidelines come to the fore: (1) a vivid understanding of Congress' resolution and the Captive Nations Law; (2) an overall capability of armed strength to support their implications and the security of the non-totalitarian world; and (3) a national intelligence and will to rationally combine the two.

[From "America," June 22, 1978]

RALLIES FOR CAPTIVE NATIONS REVIVED

(By Taylor Grey)

WASHINGTON.—The 20th anniversary of Captive Nations Week will be observed throughout the free world July 16–22, giving patriots a fresh opportunity to reflect upon the recent spread of communist influence.

Captive Nations Week was first officially proclaimed in 1959, following years of spontaneous outpourings of sympathy for the oppressed peoples of Soviet-occupied Europe by patriots in the U.S. and other free countries. The congressional resolution establishing the annual observance was largely the work of Prof. Lev E. Dobriansky. Dr. Dobriansky is a world-renowned authority on communism who is on the faculty of Georgetown University here.

At first, the Captive Nations Week Proclamations were clarion calls for the liberation of the countries in Eastern Europe which had been invaded by the Soviet communists. These included not just the well-known "East bloc" countries, such as Poland, Hungary and Czechoslovakia, but also long-time Soviet conquests such as Ukraine as well as Latvia, Lithuania and Estonia. These proclamations were issued by President Dwight Eisenhower.

PROCLAMATION GUTTED

Unfortunately, after Eisenhower retired, the Captive Nations proclamations were gutted by his successor, John F. Kennedy. Where Eisenhower "named names," Kennedy merely spoke in vague generalities, not even mentioning the Soviet Union. With the precedent established by Kennedy, no succeeding President could strengthen the proclamation.

In fact, last year, President Jimmy Carter even attempted to get away with issuing no Captive Nation Weeks proclamation at all. His scheme miscarried only after patriotic activists and anticommunist groups brought pressure to bear.

NEW SPIRIT

This year, however, a new spirit seems to have caught hold of the Captive Nations observance. Rallies are being planned in cities throughout the U.S., including New York, Chicago, Pittsburgh and many others. In addition, plans are already in the works for massive observances in the Republic of anticommunist nations.

Here in the U.S., Dr. Dobriansky has already been in touch with the White House and is trying to get President Carter to issue the proclamation as early as possible, perhaps by early June.

Dr. Dobriansky agreed that this year's observance of Captive Nations is especially significant, not just because it is the 20th anniversary, but also because of the recent increase in communist influence in the world.

CAPITOL HILL ACTIVITIES

Dr. Dobriansky is preparing activities on Capitol Hill to coincide with Captive Nations Week. One will be an assembly in the Senate Caucus Chamber, to which members of Congress will be invited to speak. The other will be a seminar on the House side for the benefit of members of congressional staffs. The purpose of the seminar will be to educate the staffers about the reasons for and history of Captive Nations Week.

As chairman of the National Captive Nations Committee, Dr. Dobriansky is working closely with members of Congress who have long been champions of the Captive Nations. One of these is Rep. Edward Derwinski (R-Ill.). Derwinski's office told The Spotlight that Derwinski is planning to have time set aside during Captive Nations Week for the House to discuss the plight of the Captive Nations.

CAPTIVE NATIONS WEEK APPEAL TO ALL CLERGY, RELIGIOUS AND PEOPLE OF GOD

Sunday, July 16, 1978, commences the 19th annual observance of Captive Nations Week. After a number of wars one would hardly believe that nations would be faced with brutal suppression of people behind Iron Curtains in Europe, Asia and Africa. It seems that the just have died in vain. Godless oppressors have put many nations—among them, the Ukrainians—into bondage. Wake up, Free World, and guard our basic freedoms! Learn what Communism is all about and how the Communists operate. We have been fortunate in the United States in recent years in not having as much Communist infiltration as other countries have had, but our day is coming, and terrorism of all kinds will become much more prevalent. "The conscience of the world is horrified by the hypothesis that our peace is nothing but a truce and that our incontrollable conflagration can be suddenly unleashed." (Pope Paul VI to V. P. Mondale).

Let us pray the Almighty God, that He might send us a Washington with his just laws. Remember the prayerful address of the great bard of Ukraine Taras Shevchenko to the Mother of God:

"Just and Holy Mother,
Blessed among women,
Mother of the Son of God on earth,
Do not let us perish in slavery . . ."

Millions of our enslaved brothers and sisters await our help, but most of all our prayers for their perseverance in holy faith, for constancy and fidelity in religion and national ideals.

Let us commemorate Captive Nations Week with humble and sincere prayers to the Lord for a better fortune for all enslaved people. On Sunday, July 16th, after each liturgy, pray for our persecuted Church and suffering

brethren; that God have mercy, enlighten the free, and give strength and guidance to those in cruel bondage.

Most Reverend BASIL H. LOSTEN,
Bishop of Stamford.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I want to commend the gentleman from Pennsylvania (Mr. FLOOD) for once again this year taking this special order to commemorate Captive Nations Week, and I certainly want to join in the views that the gentleman has expressed.

Mr. Speaker, historians will someday look back upon this era and point to events of the past 2 weeks as indicative of the moral and political bankruptcy of current American foreign policy.

Last week the current U.S. Ambassador to the United Nations informed the world that his country contains "hundreds, perhaps even thousands, of people whom I would call political prisoners." Young's misguided, foolhardy, and obscene comparison of political freedom in our land with the oppressive tyrrany in the Soviet Union, during the very week that the courageous dissidents Anatoly Scharansky and Alexander Ginsburg were being sentenced to long, probably fatal, prison sentences, should have resulted in his immediate dismissal by the President. Instead, Mr. Carter slapped Young's hand and made him promise that it would not happen again. And Mr. Young promptly refused to withdraw the substance of his statement.

This week has been Captive Nations Week: the week Americans are joined in solemn remembrance of the fact that fully half of the world's people live under the most oppressive tyranny known to man, communism. No other system of political tyranny ever recorded in the chronicle of mankind has killed so many millions of people for no other reason but the fact that they did not share the horrible vision of their executioners.

The Carter administration proclaims that human rights are the very centerpiece of American foreign policy. If that is true, why has the administration virtually ignored Captive Nations Week? What better opportunity to demonstrate in words and actions our concern about the systematic denial of human rights than the week when we remember those millions who toil under the lash of Communist masters the world over?

Lee Edwards, a well-known Washington, D.C., political affairs observer devoted his weekly column this week to this issue. Those of us who believe that America can and should stand as a beacon of hope and truth to the enslaved of the world can only look with dismay upon the actions of the President in this sad instance. I commend Mr. Edwards' analysis to my colleagues and I again thank the gentleman from Pennsylvania for taking this special order.

Mr. Speaker, the Lee Edwards column is as follows:

THE RIGHT SIDE: CARTER FAILS CAPTIVE NATIONS—AGAIN

(By Lee Edwards)

Last year, Jimmy Carter almost became the first American president not to issue a proclamation making the third week of July as Captive Nations Week—that special time during the year when millions of Americans pause to remember the more than 1 billion human beings who live, but not by their choice, under communist tyranny.

A great uproar of protest from public and private leaders, many of them Democrats, forced Carter to change his mind and belatedly release a Presidential proclamation three days into Captive Nations Week.

This spring, White House aides reassured Prof. Lev. E. Dobriansky, chairman of the National Captive Nations Committee and author of the proclamation first signed by President Dwight D. Eisenhower in 1959, that there would be no repetition of last year's fiasco. They had learned their lesson, was the clear implication.

Well, it is true that President Jimmy Carter proclaimed July 16–22 as Captive Nations Week and that the proclamation was released in plenty of time, in fact the day before Russian dissidents Anatoly Scharansky and Alexander Ginzburg went on trial for treason and anti-Soviet activities in the Soviet Union.

The Captive Nations proclamation offered a unique and timely opportunity for President Carter to stress his firm support of the cause of human rights and national independence. The occasion called for eloquence and commitment. What Mr. Carter gave us was bureaucratese and vapidness.

"For more than two hundred years," said the President, "our Nation has sustained the belief that national independence, liberty and justice are the fundamental rights of all people. Today we reaffirm our commitment to these principles.

"In particular," he said, "we pay tribute to those individuals and groups who demonstrate their attachment to these principles in their own country and throughout the world."

"Attachment"? Is that the best word the President and his speechwriters could come up with to describe the live-and-death sacrifices which Scharansky, Ginzberg and all the other dissidents are making? What a depressingly circumspect word—"attachment".

Mr. Carter added: "I invite the people of the United States to observe this week with appropriate ceremonies and activities and to renew their dedication to the cause of all people who seek freedom, independence, and basic human rights."

That was it—no mention of dissidents, the Soviet Union, Helsinki, communism or even totalitarianism of the right as well as the left.

Mr. Carter's proclamation was dull, lifeless, perfunctory. It screamed indifference.

What could he have said? Here is what George Meany, head of the AFL–CIO, said about Captive Nations Week:

"The AFL–CIO recognizes the vicious contempt shown to subjugated people in nations captured by totalitarian forces. It further recognizes the fraudulent intent of the Soviet Union in signing the Helsinki Accords.

"For these reasons, American labor will work tirelessly to seek freedom for the peoples of Eastern Europe and in every other region where suppression of liberty has become the norm and human rights are violated."

The Meany statement lives—it breathes—it bites. Obviously, the AFL–CIO cares about Captive Nations Week and is not just going through the motions.

What could President Carter have *done* to give Captive Nations Week an added dimension at this critical time when the Soviet Union is grotesquely mocking its signing of the Helsinki Accords?

Sen. Robert Dole of Kansas has recommended that the U.S.:

1. Postpone SALT negotiations pending Soviet compliance to the Helsinki Accords.

2. Demand the release of the 12 Soviet monitors of the Helsinki accords.

3. Suspend scientific exchanges pending Soviet compliance to Helsinki.

4. Make sure that minority republics like Georgia, Lithuania and Ukraine are invited to the 1980 conference on the accords.

5. Explore the possibility of rejecting the Helsinki agreement as a "failed document" that was not pursued by the Soviets with good faith.

Sen. Henry Jackson of Washington has urged the President to disapprove the transfer of vital American technology to the Soviet Union. He referred to two pending requests now on Carter's desk:

1. Dresser Industries proposes to build a multi-million dollar plant in the Soviet Union that would turn out tungsten carbide oil drilling bits essential to the further development of Soviet energy resources.

2. Sperry wants to sell the TASS News Agency a Univac computer vastly larger than any comparable system previously sold the Soviets and with capabilities greatly in excess of existing transfer guidelines.

Jimmy Carter cannot evade or avoid his responsibilities in the matter of captive nations and peoples. It was, after all, President Carter who in February 1977 wrote Russian dissident Andrei Sakharov, "We shall use our good offices to seek the release of prisononers of conscience."

Now, when brave resolute men like Scharansky and Ginzburg face death, is the precise time for the President to use his "good offices" to the greatest extent possible. Is he? Or is Mr. Carter contenting himself with the bare minimum of deed and word so as not to prevent any "progress" on his precious SALT talks.

I wonder: if the Soviets treat their commitment to the Helsinki accords so casually and cynically, then what value is their word and their pledge to SALT?

Mr. FLOOD. Mr. Speaker, I thank the gentleman from Maryland for his comment.

● Mr. LENT. Mr. Speaker, I am proud to participate in the observance of Captive Nations Week and to commemorate the brave struggles of Eastern European peoples in maintaining their national identities. The essence of Captive Nations Week is that nations of individuals have basic human rights. President Carter, despite his highly publicized human rights concerns, is apparently unwilling to take the next step to promote basic rights of captive nations. Presumably, Mr. Carter fears antagonizing the Soviets. However, as the farcical trials of Anatoly Scharansky, Alexander Ginzburg, Viktoras Petkus, and others have so graphically demonstrated, the Soviet Government has little regard for basic rights of individuals, let alone those of entire nations. Unless the United States finds the backbone to carry the banner of freedom for captive nations, the tragedies of these individuals will continue to be magnified a millionfold by the Soviet empire's assimilation of East European countries. The brave struggles of these nations to maintain their national identities even after decades of Soviet occupation evidence the strength of these exemplary peoples.

The Soviet take-over and succeeding events compose some of the blackest days in the bloody 20th century and might well have broken the spirit of the 100 million captives but for their indomitable courage. Beginning with the unholy alliance between the malignancy of Nazi

Germany and the savagery of Stalin and continuing after Germany's defeat, the Soviet Union forcibly consummated its designs for East European territory. To destroy the resistance and to promote assimilation into the Soviet empire, mass deportations were begun. Families ripped apart, hundreds of thousands were dragged to the bleak wasteland of Siberia. During these deportations, thousands died. Of these who survived, thousands more perished later, murdered by the Gulag Archipelago.

Despite these catastrophes, the East European States tenaciously hold to their identities, language, and culture. Much East European literature and art reflect this commitment to ancestral soil and traditional values. This steadfast courage must not lack reward. The United States must do everything possible to hasten the day when the bright sun of freedom will once again shine upon these troubled nations.●

● Mr. BROOMFIELD. Mr. Speaker, Captive Nations Week, 1978, assumes a special significance, particularly in light of our Government's recent human rights response to the Soviet Union's decision to place two prominent dissidents on trial.

Recently, our Secretary of State declared that the Moscow trials of Anatoly Scharansky and Alexander Ginzburg "violate fundamental principles of justice"—that they were being tried "for asserting fundamental human rights guaranteed in international agreements entered into by their government."

The trials of Scharansky, Ginzburg, and others, staged with Stalinist-like controls, are yet another chapter in the continuing story of captive repression. Furthermore, the humiliating harassment and arrests of these people continue to undermine the spirit of the Helsinki Agreement to which the Soviets are signatories.

When the international agreement which resulted from the Helsinki Conference on Security and Cooperation in Europe was completed in 1975, it raised humanitarian hopes among many captive people throughout the world. At this time, however, progress in the areas of freer movement of people, ideas, and information—and thus human rights—has received serious setbacks. In the past year numerous members of such human rights monitoring groups as the Helsinki Watch and the Ukrainian Public Group have undergone continued Russian repression, imprisonment, and even exile.

The repression of human rights has always been at the heart of the "captive cause." In European captive nations, as well as the Soviet Union, the People's Republic of China, and Southeast Asia, millions of people, entrapped by communism, yearn for the rights of self-determination, freedom to visit friends and relatives, freedom of worship, freedom of speech. As the captive cries for individual freedom and rights go out, however, they are never answered—they are only punished: Yuri Orlov—7 years imprisonment followed by 5 years of internal exile; Alexander Ginzburg—8 years imprisonment; Anatoly Scharansky—13 years imprisonment; Viktoras Petkus—10 years imprisonment and 5 years in Siberian exile.

This ongoing repression and punishment—this picture of slavery—exemplifies the appalling condition of men and women who must live captive to communism. To be sure—it is a tragic way of life, for it shows the mastery of the Communists over peoples' minds—a markedly rigid mastery imposed upon people who are yet captives.

At the same time, however, those captives continue to somehow persevere in their struggle against the mastery of communism. Although conditions among the captive people are disturbing—they are not without hope. As the famous Polish writer Czeslaw Milosz once said in his work the Captive Mind:

> . . . the quest will never end, and hope will always remain.

There is no doubt that the captive countries continue to struggle against suppression and suffering—and cry out for help—and they particularly look to our Nation whose concerns have always been the preservation of freedom and human rights. As a result, we as a nation must also persevere and speak out in this struggle—to stand for freedom and dignity throughout the world. In this way, we can—in a spirit of compassion, determination and encouragement—provide new hope for all people who are yet denied their God-given rights of religious, cultural, and national expression.●

● Mr. YOUNG of Florida. Mr. Speaker, the news media has been paying special attention to the plight of certain individuals in the Soviet Union who have been accused of committing "crimes" against that Communist Government. Their sentence for these alleged "crimes" is a number of years in prison. Although a great deal has been said by the administration and the press with regard to these individuals, there has been a lack of official comment and public outcry about the captivity of nations by the Soviet Union and the life-long "imprisonment" of millions who have not been accused of any crime.

This week, July 16 to 22, marks the 20th observance of Captive Nations Week and gives us the special opportunity to remind the world that the Soviet Union holds captive more than just a few dissidents. The purpose of this week is to express support for all nations held in subjection by the Soviet Union. Among the many nations are: Bulgaria, Armenia, Czechoslovakia, Estonia, Latvia, Lithuania, Hungary, East Germany, Poland, and Romania.

Our Nation carries a great burden and responsibility as the leader of the free world and the champion of oppressed peoples everywhere. We take for granted many of the rights that the citizens of these captive nations are denied. Our leaders have made human rights a major consideration of our foreign policy, but the basic human right of freedom of the individual is still denied to many millions. We must not take this obligation lightly. Our Nation was founded on the principles of liberty and democracy which were spelled out in our Constitution and Declaration of Independence. The human right of freedom knows no political or geographical boundaries and we who have lived under a free government for all of our lives must be concerned with the plight of these captive people.

Captive Nations Week offers each of us the opportunity to express the moral support these individuals need. We are committed to freedom and need to protest the continuation of this unnatural servitude of nations, their resources, and their citizens. We must continue to speak strongly for those who cannot speak for themselves because of the brutal tyranny of another government.

The observance of Captive Nations Weeks remind all of us just how precious our freedom is. Through the combined efforts of freedom-loving people throughout the world, the 21st observance next year may find the citizens of some of these nations enjoying the independence that we know is the natural right of every man.●

● Mr. LAGOMARSINO. Mr. Speaker, the national observance of Captive Nations Week serves to remind us of a harsh truth which many people have forgotten, or would like to forget. That harsh truth is that the world is divided between those nations where the principle of human liberty is still sacred, and those barbaric tyrannies which are implacable foes of human rights and human nature. These tyrannies are now engaged in a ferocious drive to extend their dominion over a host of peoples in an attempt to satiate their boundless desires.

With each passing year the observance of Captive Nations Week becomes increasingly poignant as many in the West turn a deaf ear to the piteous cries of the oppressed. This can only be accounted for by the spiritual malaise which grips Western civilization. As Solzhenitsyn observed in his AFL–CIO speech of June 30, 1975:

> It is almost a joke now in the Western world, in the 20th century to use words like good and evil. They have become almost old fashioned . . .

This is certainly the dominant view of Western intellectuals and those political leaders under their sway. If these groups do not take good and evil seriously, how can they be expected to see the threat posed by a voracious Soviet imperialism, or how can they be expected to see that the relationship between the Soviet Union and the nations of Eastern Europe is that which exists between master and slave?

We who recognize and abhor tyranny when we see it, we who entertain no illusions about the mellowing of the Soviet Union, and we who proclaim our stance by participating in the commemorative activities of this week; are an anathema to those intellectuals. And they will label us with the most powerful term of vituperation in their lexicon—calling us "cold warriors." Fortunately, for the sake of human liberty throughout the world, the so-called cold warriors are not yet on the endangered species list.

At this point we cannot examine the causes of the West's spiritual malaise, but we can point to some of its more recent manifestations. As an official in

the State Department, Helmut Sonnenfeldt depicted the master-slave relationship existing between the Soviet Union and Eastern Europe as an "organic" one which is best left undisturbed in the interests of peace. In his Notre Dame commencement address, President Carter chided us for our "inordinate fear of communism." And our Ambassador to the United Nations, Andrew Young surveyed the desolation wrought by the Cuban conquerors in Africa, and called it "peace."

For those who doubt what is at stake in the contest between freedom and barbarism we say: "Let them look at the captive nations." One can see human nature put to the rack, and one can view the slow destruction of the human spirit caused by life in the totalitarian anthills of Eastern Europe. Or if that lesson does not suffice, one could view the havoc and slaughter consuming hundreds of thousands in Cambodia. And above all, let us not forget the fate of the captive people within the captor nations themselves. Our current concern with the plight of Ginzburg and Scharansky must not prevent us from seeing that what is happening to these individuals is the norm and not the exception in the Soviet Union. Indeed, the Soviet Union and Communist China can best be characterized as vast, ghastly charnel houses. In his letter to the Soviet leaders, Solzhenitsyn calculated that 66 million souls have been liquidated by the Communist Party of the Soviet Union, and only God knows how many millions have suffered a similar fate in Communist China.

Now the Soviet collossus strides forth, wielding its power with unprecedented boldness, and with utter contempt of our response. We may use the verses written by Lord Byron of Napoleon, and justly apply them to the Soviet Union, which is truly a nation:

Whose game was empires, and whose stakes were thrones,
Whose table Earth—whose dice were human bones.

The immediate course of action to which these reflections lead us is clear—we must not allow the Soviet Union to attain a preponderance of military power, for they would surely exploit such an advantage ruthlessly. Should we fall behind in military strength, the words Churchill wrote for the preface to his volume "The Gathering Storm" could well become the epitaph of this generation:

How the English-speaking peoples
Through their unwisdom,
Carelessness, and good nature
Allowed the wicked to rearm.

For such folly, we would assuredly be cursed by all succeeding generations.

Human liberty is quite fragile and has found a home in but few nations on the face of the Earth. These nations are like candles—tiny points of illumination in an otherwise baleful totalitarian night. Yet as long as men live, there remains the hope that human nature will yet assert itself against totalitarian enthrallment. I close with these words of hope, spoken by a man who later lived to see his captive people become free; on the 4th of July in 1852, Frederick Douglass proclaimed:

The fiat of the Almighty, "Let there be light," has not yet spent its force. No abuse, no outrage, whether in taste, sport, or avarice, can now hide itself from the all-pervading light.●

● Mr. KEMP. Mr. Speaker, once again the American people are gathering together with speeches and solemn ceremonies to remind the world that millions of people today are suffering under the terrible yoke of communism.

The captive nations today include Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Armenia, Azerbaijan, Georgia, Albania, Serbia, Croatia, Cossackia, and others.

Within the past 5 years, the Soviet influence has been felt in lands ranging from Vietnam to Laos to Angola. The Iron Curtain is wider now than at any time before.

All too often, the world community has justified its complacency with these aggressive acts of the Soviet Union by arguing that the people of these countries have livelihoods and food to eat, and are not unhappy. The events of this past week strongly refute that theory. The "kangaroo court" trails of Alexandr Ginsburg, Anatoly Scharansky, and Viktoras Petkus, a Catholic activist from Vilnius, Lithuania who was given a maximum sentence of 15 years, are gruesome evidence of the harsh punishment which is meted out by the Soviet authorities on anyone who dares to oppose the persecution and suppression of individual rights and liberties within the Soviet Union. The prison camps in Siberia are tangible evidence that a modern-day "holocaust" is going on right now in the U.S.S.R. for any who speak out against the system.

There can be no freedom-loving person on the face of this earth who does not abhor this deliberate destruction of the human will and spirit. This testimony in the chambers of the U.S. Congress bears witness to the fact that the United States does not, and will not, forget its brothers and sisters imprisoned behind that formidable Iron Curtain.

Mr. Speaker, in this Captive Nations Week, I believe that those nations of the world who have joined us in their outrage at the Soviet oppression of its citizens—whether of Russia or the captive nations—must channel our frustration and anger into constructive policies which will prevent more of the same from the Soviet Government, and which will let the U.S.S.R. know in no uncertain terms that their inhumanity is deplored throughout the world.

As an important step in that direction, I have introduced a resolution in the Congress urging that the 1980 Olympic games be removed from Moscow. Among other things, the Soviet Union has already begun testing the waters with regards to the politicization of the games, as witnessed by the recent actions taken against American newsmen and the Soviets' refusal to guarantee free access to the games for everyone. The tradition of peace, freedom, and politically unhindered competition for the Olympics has already been violated by the Soviet Union, and it has forfeited its right to host these games.

While we must do everything in our power to oppose the Soviets' treatment of its dissidents, we must also never forget the bondage that the peoples of the captive nations live under every day. We must never give up the fight for the freedom and self-determination of the captive nations everywhere, and I urge my colleagues to stand firm in their resolve in this most important matter of human rights, and of opposition to tyranny.●

● Mr. RINALDO. Mr. Speaker, for the last 20 years we have observed the third week of July as Captive Nations Week. Yet the years have witnessed the lengthening of the list of subjugated countries of the world, and the tightening of control over those nations.

In light of the trials of Soviet dissidents Anatoly Scharansky and Aleksandr Ginzburg, this year's commemoration of Captive Nations Week is especially meaningful. The captive nations issue has always been closely interwoven with the issue of human rights. The citizens of the Soviet Union, of her satellites, and of the countries she has annexed have never enjoyed those basic rights we in this country regard as "inalienable." Instead, as in the case of Aleksandr Ginzburg, they can be sentenced to 8 years of hard labor for "agitation and propaganda," that is, for daring to speak out against oppression.

Since the end of World War II, the great Western empires have been liquidated and liberated countries have swollen the rolls of the United Nations—from 51 countries in 1946 to 149 in 1978. During this same period, not one uprising against Russian domination has been successful. Not one satellite country has received independence or the human rights guaranteed in the Helsinki accords, so willingly subscribed to by the Soviet Union in 1975. Instead, Eastern Europe and the Baltic States remain enslaved under aggressive Soviet domination.

The Baltic countries of Latvia, Lithuania, and Estonia have endured Soviet occupation and repression since the early 1940's. Yet they have maintained their dreams of national liberty and freedom for the individual. Today over 100 million non-Russians yearn for the freedoms we are privileged to enjoy. In continuing their struggle against oppression, they look to us as a Nation which symbolizes their aspirations for national integrity and for basic human dignity.

Mr. Speaker, our concern over the just desire of these nations to govern themselves should be evidenced throughout the year, not just during Captive Nations Week. Nor should our concern be manifested only by polemics. We need an unwavering and consistent policy, easily comprehensible both to our friends and to those who persist in territorial aggression and in the violation of human rights.

First, we must continue to refuse to accept the forcible incorporation of Latvia, Lithuania, and Estonia into the Soviet Union, insist on the withdrawal of Soviet troops from all captive nations

and the return of exiles from prisons and labor camps in the U.S.S.R.

Second, we must diligently and consistently articulate our moral indignation over the denial of personal and civil liberties in many countries of the world. By doing so, we give heart to the oppressed who seek their right to speak, act and live freely.

Third, we must not be timid about exerting economic influence to enforce international agreements on civil and political rights. While increased trade and communications between subjugated countries and the West will ease the isolation of these states and inevitably increase their demand for personal freedom, I see no way our national interest or the interests of these friends will be served by providing millions of dollars worth of sophisticated computer equipment—such as Sperry Univac—to the Soviet Government or to their news agency, Tass.

Surely, we and our allies can and should exert effective economic pressures at this time to communicate our abhorrence of the kangaroo courts in the Soviet Union. As the gentleman from New York, Senator JAVITS, stated on the floor of the Senate on July 14:

> Our action in this matter may well be judged in the light of history as having been the turning point as to whether this world will not be worth living in, or whether the conscience of mankind will at last prevail over the forces of evil . . . and the forces of tyranny.

Last, Captive Nations Week must serve as a warning never to take our freedoms for granted. It is appropriate that Captive Nations Week should fall during July along with the celebration of American independence. When we commemorate our own hard-won independence, we should keep in mind that if we wish to safeguard our own liberty, we must help the Communist-enslaved peoples of the world to regain their freedom. While many Americans are linked by family heritage to the Captive Nations, we are all linked by principle.

No one has expressed it better than John Donne in the 17th century:

> No man is an island unto himself. Every man is a piece of the continent . . . a part of the main. Every man's death diminishes me because I am involved in all mankind.●

● Mr. McCLORY. Mr. Speaker, with recent public condemnations of Soviet human rights violations by the White House as well as the State Department, I feel it is extremely important and appropriate for the body to observe and remember the plight of the Baltic nations of Estonia, Latvia, and Lithuania on this, the 20th anniversary of Captive Nations Week observations.

The proud people of Estonia, Latvia, and Lithuania have been constantly and systematically suppressed since their nations were forcibly annexed by the Soviet Union. As reports from these three Baltic States continue to be received from dissidents monitoring Soviet compliance with the Helsinki Agreement, it is apparent that the Soviet state continues to deny the basic human rights it agreed to uphold under the Basket III provisions of the Helsinki accord.

Mr. Speaker, for 38 years the proud people of Estonia, Latvia, and Lithuania have continued to dissent despite continued oppression and denial of self-determination. The struggle for Baltic freedom in Estonia, Latvia, and Lithuania does not simply take place inside these countries, but it also takes place in the United States.

Mr. Speaker, I am privileged to serve in the 13th Congressional District of Illinois which has a large and active community of Estonians, Latvians, and Lithuanians. Fortunately, these Baltic people have been able to uphold and preserve, in this free Nation, their rich Baltic heritage which has been all but smothered in the homeland in which it was born. Despite agreement to human rights provisions and promises of free flow of information, the Soviet state still holds these once free countries in political captivity.

The cause of the Baltic nations of Estonia, Latvia, and Lithuania deserves international attention and recognition the United States should be proud to provide.●

● Mr. DINGELL. Mr. Speaker, this marks the observance of the 20th anniversary of Captive Nations Week. It is imperative that we again affirm our support for the millions of people who are denied national self-determination and basic human rights.

It is incredible that today, in this last quarter of the 20th century, people are subjected to the indignities of life without freedom. Despite all the advances in education and science and technology, there are those millions who suffer, whose expression of national spirit and aspirations for freedom are cruelly suppressed.

The headlines of the past week have served to remind us well of the ever-present tyranny and the courageous struggles which continue daily for freedom. On this occasion we stand together with the peoples of the captive nations whose undaunted sacrifice and commitment are the foundation of mankind's quest for freedom.●

● Mrs. HOLT. Mr. Speaker, it is appropriate that we observe Captive Nations Week each year to tell the world that we remain committed to the ideal of the self-determination of peoples.

Thirty-three years after the end of World War II, the Soviet Union continues to hold Poland, Czechoslovakia, Hungary, and other nations in bondage. The ancient state of Lithuania has been wholly absorbed into the Soviet Union. National spirit still lives in the Ukraine, despite long oppression by its Russian rulers.

The Soviet Union has built an immense war machine for the purpose of expanding its empire. The free nations of Western Europe are threatened by the massive buildup of Soviet power on their eastern flank.

From time to time in recent years, with episodes of détente to encourage us, many people in the Free World have tended to forget the dark and cruel force that confronts us.

In recent weeks and months, however, the nature of Soviet power has been revealed to the world in stark clarity. Dissent within the Soviet Union is being smashed with brutal force that reminds the world of the Stalin era.

The prison labor camps, described by Alexander Solzhenitsyn as the "Gulag Archipelago," are once again recalled to the consciousness of the world's peoples. Again we are reminded that people are sent to harsh imprisonment, with heavy labor and inadequate food, for no crime except voicing or printing their political beliefs.

This is the nature of the system that confronts us. This is the nature of the system that seeks to dominate the world.

As we observe Captive Nation Week, let us recommit ourselves to the defense of freedom.●

● Mr. RODINO. Mr. Speaker, I would like to join my colleagues in the 20th observance of Captive Nations Week, July 16–22, 1978.

In the past two decades the United States has annually set aside the third week in July to reiterate its firm and vocal opposition to the subjugation of the Eastern and Central European peoples. This includes the nations of Cossackia, Armenia, Byelorussia, Georgia, Turkesstan, the Ukraine, Estonia, Latvia, Lithuania, Bulgaria, Serbia, Croatia, Romania, Czechoslovakia, Hungary, and Poland.

Mr. Speaker, recent news accounts form the Soviet Union concerning the trials of Soviet dissidents have made it depressingly clear that for many, freedom remains a dream. The tremendous frustration of this unfulfilled dream is felt strongly by the peoples of the Captive Nations. Millions of people have lost the freedom of national self-determination, but they have not lost their will to dissent. From small committees for human rights, to large communities guided by the church they have dramatized fundamental political and social issues. They assert their liberty in the face of repression. For this, we, the American people should admire and encourage them.

Liberty, as Alexis de Tocqueville saw it, is the sort of virtue few men aspire to because it demands courage in adversity and perseverance amidst acquiescence. Yet the people of the Captive Nations, in large numbers, exemplify this virtue. The Poles stand by the Church though it is officially condemned. The Ukrainians rebuff attempts to smother their native language. The Georgians and Lithuanians, and Estonians and Latvians demand greater cultural autonomy. These are hopeful signs that the passion for liberty is unabated and that the pursuit of this elusive goal has not been in vain.

Mr. Speaker, I am proud to join my colleagues in this very important and timely observance of Captive Nations Week and I stand committed to speak out for freedom and human rights for all the peoples of the world.●

● Mr. McDADE. Mr. Speaker, as we observe the 20th anniversary of Captive Nations Week we are faced with a current situation in which the basic principles of human rights are endangered.

In the past few weeks we have seen the Soviet Union openly and blatantly defy the 1975 Hesinki accords on Human Rights signed by Soviet President

Leonid Brezhnev. The trials of the Soviet dissidents are clearly an attack on the freedom of each and every individual in the Soviet Union and throughout the world.

We, in the United States, have championed the interest of captive nations for many years. However, this year we are confronted with a new challenge, that of a vigorous, renewed attack on human rights by the Soviet Union. Thus, as we commemorate the 20th observance of Captive Nations Week, we must do so with a renewed commitment to defend the economic, political, and intellectual freedoms of all peoples.

The United States, along with the rest of the world, must be prepared to take firm action against all violations of basic human rights.

This Nation must not ignore the threat of communism to the rest of the free world. We must not let ourselves be deceived into believing that the countries of Eastern Europe, the Baltic, Southeastern Asia, and Africa are free of Communist domination. Communism is the driving force in many of these countries and we must make every effort to contain it and prevent it from spreading to other parts of the world. It is imperative that we apply diplomatic pressure on the governments of captive nations to provide their people with their God-given rights.

And thus, in celebrating the 20th anniversary of Captive Nations Week, we overwhelmingly reaffirm our undying support to all captive nations in their fight against oppression. We accept the role of leader and model of international freedom accorded to all human beings and we will strive to achieve this goal of international freedom. The demand for human rights remains a high priority for the United States.●

● Mr. CLEVELAND. Mr. Speaker, it is time once again for an annual proclamation of Captive Nations Week. Unfortunately, the world situation has not improved in 1978; so it is especially appropriate for the citizens of the United States to reflect on the hardships and suffering inflicted upon the peoples of those nations unwillingly under Communist rule. Relations between the United States and the Soviet Union appear to be deteriorating, and many unresolved difficulties obstruct the right to self-determination. Nations such as Estonia, Latvia, and Lithuania, which celebrated the 60th anniversary of the Declaration of Independence this year, have been under the totalitarian rule of the Soviet Union for the past 36 years.

Just as the people of our great Nation fought diligently for freedom 202 years ago, so too must we dedicate ourselves to preserving it and assisting less fortunate people around the world achieve theirs. It is imperative that the people of the United States, during the observance of the 19th annual Captive Nations Week, commit ourselves to the preservation of peace and the right to self-determination for all freedom-loving countries.

This year, certain significant circumstances serve to stress the importance of the observance of Captive Nations Week, and the seriousness of the plight which is affecting these freedom-loving people. The trials of Soviet human rights activists Anatoly Scharansky and Alexander Ginzburg on charges of treason and slander, for example, show that the Soviets have violated their earlier pledges. No matter what has been said by Soviet officials during the past decade, a dictatorship is still a dictatorship. The cases of Scharansky and Ginzburg demonstrate the internal repression and denial of basic human rights in the Soviet Union today. These cases, along with Soviet activities in Africa and the Middle East, should serve as reminders to every American of the danger and seriousness of Soviet aggression. It is said that Captive Nations Week must be observed again this year; that the peoples of those captive nations continue to be repressed by the Soviet Union.

The observance of Captive Nations Week is a commendable action. It is a good beginning toward the establishment of world peace. America is, and always has been, in a position to lead the rest of the world in the struggle for peace and freedom. We, as proud Americans dedicated to this vital cause, must use our strength to lead world opinion in such a direction that the countries we commemorate during Captive Nations Week gain the chance to become free and independent states.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Connecticut (Mr. SARASIN) is recognized for 5 minutes.

● Mr. SARASIN. Mr. Speaker, on July 13, 1978, I was absent for part of the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 541: H.R. 15: Education amendments. The House rejected an amendment in the nature of a substitute to the committee amendment in the nature of a substitute that sought to provide block grants for all Federal aid to education programs, distribute funds to States based on the number of children enrolled, and permit States to spend the funds to improve education pursuant to State law, "no"; and

Rollcall No. 542: H.R. 15: Education amendments. The House passed the measure to extend for 5 years certain elementary, secondary, and other education programs, "yes."

Mr. Speaker, on July 14, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 543: H.R. 10929: DOD authorization—The House agreed to a motion that the conference committee meetings on the measure be closed to the public at such times as classified national security information is under consideration, except that any sitting Member of Congress shall have the right to attend any closed or open meetings, "yes";

Rollcall No. 544: H.R. 12163: DOE research and development authorizations. The House rejected an amendment that sought to authorize the Secretary to complete only the systems design and component testing on the Clinch River breeder reactor project, to conduct a study on an advanced breeder reactor facility utilizing the uranium/plutonium and uranium/thorium fuel cycles, and to prepare a detailed program plan for the liquid metal fast breeder reactor base technology program, "no"; and

Rollcall No. 545: H.R. 12163: DOE research and development authorizations. The House agreed to an amendment that authorizes $75 million for a coal liquefaction demonstration plant, "yes."

Mr. Speaker, on July 17, 1978, I was absent from the legislative session of the House of Representatives. Had I been present, I would have voted in the following fashion:

Rollcall No. 547: H.R. 12028: Veterans' housing improvement. The House passed the measure, amended, to amend title 38, United States Code, to improve the housing programs of the Veterans' Administration, "yes";

Rollcall No. 548: H.R. 12232: National Commission on Unemployment Compensation. The House passed the measure to amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation, "yes";

Rollcall No. 549: H.R. 12380: Extend unemployment compensation eligibility. The House passed the measure to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such act, "yes";

Rollcall No. 550: H.R. 10848: SSI presumptive disability. The House passed the measure, amended, to amend title VI of the Social Security Act to provide that an individual who applies for supplemental security income benefits on the basis of disability shall be considered presumptively disabled if he has received social security or supplemental security income benefits as a disabled individual within the preceding 5 years, "yes";

Rollcall No. 552: H.R. 12163: DOE research and development authorizations. The House rejected a motion to recommit the bill to the Committee on Science and Technology with instructions to report it back forthwith containing an amendment that would authorize the Secretary to complete only the systems design and component testing on the Clinch River breeder reactor project, "no";

Rollcall No. 553: H.R. 12163: DOE research and development authorizations. The House passed the measure to authorize appropriations to the Department of Energy in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 660 of the Department of Energy Reorganization Act, for energy research and development, "yes";

Rollcall No. 554: H.R. 1609: Coal pipeline. The House agreed to the rule (H. Res. 1252) under which the bill was being considered, "yes"; and

Rollcall No. 555: H.R. 1609: Coal pipeline. The House agreed to resolve itself into the Committee of the Whole, "yes."●

RESULTS OF THE GREAT DECISIONS 1978 OPINION BALLOTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

● Mr. WHALEN. Mr. Speaker, last year, as you may recall, I inserted into the CONGRESSIONAL RECORD the results of the Foreign Policy Association's (FPA) 1977 Great Decisions Opinion Ballots. I recently received the FPA's 1978 survey results which are shown below.

The FPA is well known in this body, as well as throughout the Nation for the meritorious service it has performed toward broadening public perception of the U.S. role in the global community and how it relates to the quest for world peace.

The eight subject areas surveyed are of major current importance. They are the balance of power, Middle East, human rights, international development, dilemmas of world energy, Japan and America, Canada and Mexico, and the people and foreign policy.

As a member of the House International Relations Committee, I found the opinions expressed in the poll to be highly informative and I commend them to my colleagues. I would also like to extend my appreciation to Carter Burgess and his associates for another outstanding year.

Mr. Speaker, at this time I am pleased to insert into the RECORD the results of the Great Decisions 1978 Opinion Ballots:

[In percent]

	Approve	Go along without enthusiasm	Oppose	No opinion
Topic 1: Human rights (total number of ballots tabulated—6,170):				
1. To promote better worldwide observance of human rights, the United States should:				
(a) Speak out vigorously to protest violations of human rights wherever they occur	28	29	28	15
(b) Work mainly through "quiet diplomacy" and play down public pronouncements	46	30	11	13
(c) Not attempt to influence other governments directly, but set a good example by protecting and enlarging human rights here at home	50	21	16	13
2. In deciding its economic and military policy toward other countries, the United States should:				
(a) Deny or sharply curtail aid, trading privileges and other benefits to governments that grossly violate human rights	27	29	25	19
(b) Be guided much more by economic and security interests than by human rights considerations	13	31	33	23
(c) Decide each case separately, withholding benefits where this promises to improve the human rights situation without endangering major U.S. interests	63	19	10	8
3. In its relations with the Soviet Union, the United States should:				
(a) Give priority to preventing war and stopping the arms race, even if this means placing less emphasis on human rights violations in the Soviet Union	49	23	9	19
(b) Give priority to inducing the Soviet Union to show more respect for human rights, even if this interferes with efforts to promote international peace and security	9	24	38	29
(c) Give equal emphasis to both the above	35	19	18	28
Comment, 17 percent. No comment, 83 percent.				
Topic 2: Global power balance (total number of ballots tabulated—4,608):				
1. With regard to the SALT II negotiations with the Soviet Union, the United States should:				
(a) Enter into a SALT II treaty along the lines being discussed by United States and Soviet negotiators in late 1977, even though the military balance might not be as favorable to the United States as congressional critics would wish	32	34	21	13
(b) Refuse to sign a SALT II treaty unless the Soviets agree to a balance more favorable to the United States than had been achieved as of late 1977, even though this might cause the SALT negotiations to break down	25	23	33	19
2. With regard to the neutron bomb, the United States should:				
(a) Deploy the neutron bomb in Europe regardless of objections from the Soviet Union or our own allies	11	15	49	25
(b) Deploy the neutron bomb in Europe only if our allies agree	34	28	21	17
(c) Abandon the neutron bomb project entirely	23	11	44	22
3. With regard to the strategic situation in Africa, the United States should:				
(a) Support any African government or group that is reliably anti-Communist, regardless of its position on racial, territorial or other issues in the region	10	21	50	19
(b) Support black majorities that are pressing for equal rights in southern Africa, even when this may conflict with some U.S. strategic interests	28	33	21	18
(c) Minimize our involvement in Africa except as necessary to protect our economic and commercial interests	33	25	26	16
Comment, 13 percent. No comment, 87 percent.				
Topic 3: Middle East (Total number of ballots tabulated—4,629):				
1. In its approach to the Arab-Israeli dispute, the United States should:				
(a) Use its influence to support the position of the Israeli Government	17	28	39	16
(b) Make it clear that the United States will intervene with its Armed Forces if Israel's existence is threatened	15	21	50	14
(c) Work with NATO allies and the Soviet Union to bring about a settlement based on Israeli withdrawal from most of the occupied territories in exchange for secure borders and full diplomatic recognition by the Arabs	56	22	15	7
(d) Be prepared to join with NATO allies and the Soviet Union in guaranteeing such a settlement	45	26	14	15
2. In regard to the Palestinian problem, the United States should:				
(a) Insist that the PLO recognize Israel's right to exist within secure borders as a condition of its participation in negotiations for a settlement	66	18	9	7
(b) Insist that Israel negotiate with the PLO in return for such recognition	42	27	18	13
(c) Use its influence to persuade Israel to accept a Palestinian homeland to be created out of territories now occupied by Israel	34	26	24	16
(d) Support the position that Israel's border should extend to the Jordan river and that no Palestinian homeland should be created	9	13	56	22
Comment, 18 percent. No comment, 82 percent.				
Topic 4: World energy (total number of ballots tabulated—5,458):				
1. In its energy policy during the next decade, the United States should:				
(a) Accept dependence on oil imports as a fact of life, and make such concessions to the Arab nations as may be necessary to keep the oil flowing	5	21	58	16
(b) Sharply increase our efforts to become much less dependent on foreign energy supplies, even if this involves hardships, higher taxes and environmental problems	68	22	7	3
2. If the United States is to achieve as much energy self-sufficiency as possible during the next decade, it should:				
(a) Place primary emphasis on conservation of energy	36	24	12	28
(b) Place primary emphasis on developing additional sources of energy in the United States	45	19	10	26
(c) Place equal emphasis on both	70	14	6	10
3. With regard to nuclear energy, especially the "plutonium cycle," the United States should:				
(a) Urgently seek world agreement to ban the use of plutonium for energy until a way is found to prevent its diversion into nuclear weapons	46	23	20	11
(b) Accept the plutonium cycle and rely on international inspection and other existing safeguards to help prevent the further spread of nuclear weapons	22	28	32	18
Comment, 19 percent. No comment, 81 percent.				
Topic 5: International development (total number of ballots tabulated—4,916):				

	Approve	Go along without enthusiasm	Oppose	No opinion
1. In providing economic aid to the less-developed countries (LDC's), the main purpose of the United States should be:				
(a) To advance human rights and democratic institutions in the receiving countries	36	37	11	16
(b) To eliminate poverty and improve the quality of life in the receiving countries, regardless of their political orientation	43	30	15	12
(c) To safeguard the security of this country and advance American foreign policies	31	33	18	18
(d) To combine idealism and self-interest in whatever way seems appropriate in each case	45	25	17	13
2. The proportion of our gross national product that the United States devotes to aiding the LDC's should:				
(a) Be increased	28	15	30	27
(b) Be decreased	13	13	40	34
(c) Remain about the same	31	25	18	25
3. In regard to trade with the LDC's, the United States should:				
(a) Protect American jobs by limiting imports of competing manufactures from countries with low labor costs	23	31	28	18
(b) Try to assure the LDC's a fair price for their raw materials and improved access to United States markets for their manufactures	52	28	7	13
(c) Refrain from interfering with the free market in the international exchange of goods and services	28	30	21	21
Comment, 13 percent. No comment, 87 percent.				
Topic 6: Japan and America (total number of ballots tabulated—4,575):				
1. With regard to trade between Japan and the United States, the United States should:				
(a) Use quotas, higher tariffs, or other barriers to limit Japanese imports so as to protect American industries and jobs, even if this may cause retaliation	14	22	49	15
(b) Leave trade barriers at their present level	13	40	26	21
(c) Take a "free trade" stance, favoring lower trade barriers by both countries and encouraging producers who cannot compete with imports to shift to other products	51	19	19	11
2. With regard to American ground forces in Korea, the United States should:				
(a) Persist in the present plan to phaseout U.S. ground forces from South Korea by 1980 but to keep Air Force units in place	48	25	18	9
(b) Insist on concessions from North Korea (for example, a guarantee that it will respect the territory and independence of South Korea) as a price for withdrawal of American ground forces	28	28	26	18
(c) Abandon the phaseout plan and keep U.S. ground forces in South Korea as long as necessary to deter a North Korean attack	21	19	44	16
Comment, 11 percent. No Comment, 89 percent.				
Topic 7: Canada and Mexico (Total number of ballots tabulated—3,456):				
1. In its relations with Canada, the U.S. should:				
(a) Support the Canadian Government's efforts to prevent the secession of Quebec and to maintain Canada as one nation	47	19	24	10
(b) Make it clear that we recognize the right of Quebec to become independent if that is what most Quebeckers want	14	24	45	17
(c) Show understanding toward restrictions on United States business in Canada, in view of Canada's need to protect its national identity	45	32	11	12
(d) Oppose trade restrictions by either Government, and let market forces shape United States-Canadian economic relations	44	25	16	15
2. In its relations with Mexico, the United States should:				
(a) Promote a special relationship, treating Mexico more favorably in regard to trade, migration, capital, etc., than we would if it were not our next-door neighbor	52	24	14	10
(b) Follow the same economic policies toward Mexico as we would toward any other developing country	30	25	29	15
(c) Grant permanent residence and the right to apply for citizenship to aliens from Mexico and other countries who have been in the United States illegally since 1970 but are otherwise law-abiding	38	27	25	11
(d) Take a hard line toward all illegal aliens, step up deportations, strengthen border patrols, and so on	26	23	34	17
(e) Impose stiff penalties on U.S. employers who knowingly hire illegal aliens	43	21	21	15
Topic 8: People and foreign policy (total number of ballots tabulated—3,018):				
1. A citizen who is concerned with our international relations should:				
(a) Work to influence the broad directions of U.S. foreign policy		68		
(b) Be thoroughly informed on a limited number of issues, and try to contribute to foreign policies that have to do with these issues		66		
(c) Leave policymaking to the President and Congress, but weigh their foreign policy actions when voting in the next election		33		
(d) No reply		2		
	1	2	3	4	5
2. Which of the following kinds of activity would you most like to see increased, or done better, so as to help citizens play a role in foreign policy? (Please write "1" by your 1st choice, "2" by your 2d, and so on.)					
(a) Foreign policy discussions between policymakers and ordinary citizens across the nation, either televised or face-to-face	46	19	11	9	0
(b) Foreign policy conferences between policymakers and leaders of major national organizations	23	17	18	18	1
(c) Foreign policy coverage in the news media	28	25	17	12	0
(d) International studies in schools and colleges	24	18	21	18	1
(e) Other	2	1	0	1	3
3. In writing legislation and voting on foreign policy issues, each Member of the House and Senate should:					
(a) Try to reflect the dominant views among his or her constituents			22		
(b) Act according to his or her own best judgment of the national interest			64		
(c) Follow the recommendations of the President and the Secretary of State			7		
(d) No reply			7		
4. In conducting our nation's foreign policy during the past year, do you feel that the U.S. Government's attitude, on balance, has been:					
(a) Too tough			3		
(b) Too weak			44		
(c) About right			36		
(d) Undecided			17		
5. One final question. Would you say you have changed your opinions in a fairly significant way as a result of taking part in the Great Decisions program?					
(a) Yes			36		
(b) No			38		
(c) Undecided			26		

QUESTIONING THE ADMINISTRATION'S POSITION ON BEEF IMPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. GRASSLEY) is recognized for 10 minutes.

● Mr. GRASSLEY. Mr. Speaker, I noted with interest the text of a statement released last Friday, July 14, 1978, in Topeka, Kans., by Vice President MONDALE regarding beef imports.

First I would like to say that I was pleased with several of the comments. At the same time, however, I question why the concern for the well-being of cattlemen is being raised now after the damage has already been done. Vice President MONDALE said:

> The President has asked me to make clear that he is not considering and has no intention of considering the imposition of price controls of meat.

I was pleased to hear that, and I know beef producers in Iowa and throughout the country were also pleased to hear it. Price controls never work and only serve to distort the signals of the marketplace. Price controls on beef prices would be very unfair to the beef producers who have just begun to recover some of the losses they have been suffering.

In addition, Vice President MONDALE stated:

We have rejected a policy, such as that pursued in 1972, 1973, and 1974, of totally open-ended beef imports.

In my statement on June 8, 1978, I said:

I fear the current decision to renegotiate quotas may not truly reflect the significance of the administration's action. Indications are that not much more beef is available in the world market than the amount the renegotiations are to allow to be imported. Does this mean that if there had been more beef available in the world market the quotas would have been larger—or, in effect, is the administration lifting the quotas but hiding its action under the guise of renegotiated quotas?

Others have expressed the same concern, and I stand by the earlier statement. Consequently, in my opinion, the statement that the administration rejects a policy of open-ended beef imports to be somewhat misleading.

Vice President MONDALE further states:

Our policies are designed to promote a profitable cattle industry and stable retail prices. These two objectives are not only consistent; they can only be achieved if they are pursued hand in hand. And last month's action on meat imports . . . was taken with both goals in mind. Finally, we are exploring ways to overcome a problem that cannot be measured in dollars and cents but is no less important to the future of our livestock industry . . . the legacy of distrust toward government that grew out of the price freeze and the removal of all control on beef imports during the early 1970's.

The action taken last month by the administration did very little for the consumer in the way of lower retail beef prices. While at the same time this action was very detrimental to the cattle industry. Corn Belt cattle feeding operations had negative returns for cattle marketed in 15 of the last 23 quarters. The action taken did nothing to overcome the problem of mistrust of Government by the cattlemen.

In my opinion, the action taken last month was another example of the "cheap food" policy which persists is this administration. This is a prime example where members of the President's Cabinet or other close advisers of the President advocating some other policy "win out" over those speaking for agriculture when it came to a question of the interest of the American farmer.

In summary, I feel that those in the administration responsible for last month's action now recognize that they underestimated the reaction to the beef import decision and realize they made a poor political decision. In my opinion, the statement released last Friday was an attempt to rectify the damage done and put forth an image of being concerned for the welfare of cattlemen and other farmers. I believe they have underestimated the farmers in this country. Most farmers will see the statement in its true light.

Besides, the promised drop in hamburger of 5 cents a pound—as promised to the consumer by President Carter—has not materialized either.●

INTERNATIONAL DEREGULATION OF AIRLINES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I would like to call the attention of my colleagues to a speech made on June 27 at the Aero Club of Washington by Dr. Umberto Nordio, executive chairman of the board of Alitalia, Italy's world airline.

Dr. Nordio's remarks have been acclaimed by experts from the industry as one of the best speeches they have heard in years on the subject of international deregulation.

Excerpts from Dr. Nordio's speech entitled "International Deregulation: Can It Work, and at Which Price?" follow:

The international sky chieftains, of which your humble speaker happens to be one, are almost solidly skeptical of the value of the present CAB air transport policy when applied to the international market. They wonder whether the instruments chosen by the CAB to implement their aims do not happen to be, like those of Captain Cook for observing Venus, inadequate for the purpose. I am very grateful to this Club, Mr. President, for the opportunity I am being given today to voice some of our concerns before such a highly qualified audience.

To begin with, even in this case there seems to be a quadrant purportedly to be recovered: it is the joint fare-setting function, which some think should be taken away from IATA . . . it was entrusted to IATA by the governments 32 years ago for a very practical reason. In the environment of 32 years ago it was thought that coordination of fares was a necessary part of the job of offering to the public a planet-wide network of air services like the one we know today. It was also thought that this part of the job would be better left with the scheduled airlines themselves, rather than making it dependent on bilateral treaties between governments that did not have a common negotiating forum as the one the airlines had in IATA.

Critics of this arrangement claim that it removes the competitive stimulus, that it favours high levels of fares and puts a premium on inefficiency. This statement flies in the face of facts and is contradicted by past and present history. IATA statistical data indicate that from the early fifties well into the late sixties, per mile per seat yields came tumbling down following the decline of costs and at times anticipating it . . . From the late sixties on, per unit yields have never been able to catch up with the rise of unit costs. Still today international carriers' revenues do not follow for full recovery of all capital and financial charges that will be needed to renew our fleets, at current interest rates.

Even when IATA represented almost the totality of international carriers of any significance, there was lively competition within IATA. Today, not even two-thirds of the total number of international passengers fly on scheduled IATA services. The rest fly on other services, scheduled or nonscheduled. Here lies the competitive stimulus, here lies the need for efficiency. Indeed, it was mostly because of this competitive situation that IATA conferences were unable to reach agreement last year on fares in certain areas. This resulted in a spate of new lower fares being introduced in the scheduled market. And all this happened while the fare setting function was still entrusted with IATA, not because it had been removed.

What is therefore to be gained by discontinuing approval of IATA fare agreements by the CAB, in todays environment which anyway exposes IATA scheduled carriers to heavy competitive pressure from all kinds of carriers who are not members of IATA? Very wisely governments are already making sure that an adequate number of these carriers remain operative outside IATA, to keep on providing this beneficial competitive pressure. Is that not sufficient? And would not this course allow the preservation, as well, of that other unique feature of the IATA set-up, which a sizable part of the traveling public still wants, that is the access to a world-wide, coordinated air transport network with interchange facilities?

We find it rather perplexing that the CAB Chairman should assume that government negotiators—acting, let us not forget, in a number of separate, unrelated bilateral negotiations—would have a better chance than IATA to come out with a satisfactory fare structure for a planet-wide scheduled network, which also serves a lot of interline and infra-line traffic. A satisfactory fare structure does not simply mean cheap fares for more people. It means rather a reasonable variety of fares designed to attract all the traffic that can be carried while still preserving the airlines' capability to operate economically.

There already are some subsidized airlines within IATA. They never were the prime movers of the fare setting machinery as long as it was in the hands of IATA. Will this continue to be true when the various bilateral fare setting machineries will be in the hands of governments?

I will presently come back to the matter of subsidies. Before that, allow me a few brief comments on this curious brand of international deregulation based on taking away pricing from the industry to hand it over to governments.

The advertised aim of this proposed measure is to guarantee cheap fares for the consumer. But low fares clearly depend on high load factors. High load factors can only be achieved if there are not too many seats chasing not enough passengers. If there must be some government intervention in the matter of international air traffic—and I believe there must and there will be—wouldn't it be more apt to direct bilateral negotiations towards programming adequate and convenient development of capacity offered, rather than to establishing levels of fares, which are the tail end of the chain?

Pricing could then be left to the industry, where it belongs. Filing with governments of course would still be required, and possibly government approval as well, though I believe that the latter might be made superfluous by skillful handling of the capacity control stick by governments. Capacity of both scheduled and supplemental carriers would be gauged in such a manner as to allow high load factors but also to prevent unsatisfied demand from pushing fares upwards. Competition between scheduled and nonscheduled would also be made to work towards the same end.

Now let us go back to the theme of subsidies, a theme over which international air carriers do worry a lot . . . When trying to prescribe for the international market the same medicine which he believes was successful in invigorating the airlines operating in the U.S. domestic market, Chairman Kahn seems to overlook the fundamental difference between the two markets. In the United States, carriers are private, profit oriented enterprises. They will unfailingly play by the rules of the free market game, to the point of accepting disappearance if they cannot make it in the rat-race. It is brutal, but it works. The reason it can work is that the numerous U.S. international airlines operate in the environment of a fundamentally vigorous and resourceful economy, which has, so far, been able to absorb the social shocks caused by the death of business concerns.

In the international air transport market there are all kinds of airlines: private, semi-private, subsidized or outright government owned. They will not all respond in the same way to competitive pressure. The free

market game rules will not be observed simply because this is not a free market and no persuasive talk or forceful action by the CAB will transform it into one. The economical environment in which many international airlines operate is sensitive and fragile. In many countries the disappearance of the flag international carrier would cause unacceptable social and economical traumas. The government would have to intervene. Our worry is that at this stage an abrupt U.S. drive for lower fares may get out of control and add quite a few airlines to the subsidy list.

There is more to civil aviation than just cheap fares and more travellers. There are the jobs it creates, the high technological content and its fallout into other fields, the physical and intellectual rapprochement between faraway communities. All this cannot simply be measured by the number of passengers carried. And all this so far has been achieved, in most of the industrialized countries, without the outlay of taxpayers' money, by self-supporting business enterprises . . .

Until just yesterday the checks and balances of bilateral negotiations, multilateral conferences, separate carriers associations, a measure of individual freedom of action and a measure of government intervention, have resulted, by way of sound empiricism, in a de facto system which may be somewhat irrational and can certainly be improved. It has had, however, the outstanding merit of preserving, in most industrialized countries, the delicate equilibrium between profitability and social obligations of the air carriers. We are desirous to improve this system, we welcome government action to this effect, but we believe that it is of the utmost importance that in doing so this equilibrium be preserved.

International airlines are not advocating the status quo. We are not advocating inaction on the part of the U.S. or other governments. Indeed, we are aware of the need for change, of the new demands the industry of air transport must meet. The major international airlines have promoted and guided an effort which we hope will be successful in a few days, to revise certain IATA structures and procedures that were obsolete and did not respond any more to the requirements of today's environment. Anyway, IATA itself is not important; it is not an end, it is an instrument. If it does not work, we will discard it and build another one that will.●

THE UNITED STATES SHOULD ACT TO TRANSFER THE 1980 SUMMER OLYMPIC GAMES FROM MOSCOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. DRINAN) is recognized for 5 minutes.

● Mr. DRINAN. Mr. Speaker, the Soviet Union's continuing campaign of increased persecution of Soviet Jews and political dissidents poses for the United States and other nations the difficult question of how to effectively protest repression in the U.S.S.R. without going so far as to jeopardize all relations with the Soviet Union or to risk stimulating increased repression. Such calculations, however, cannot be permitted to take precedence over the moral imperative to protest such actions as the trials of Anatoly Scharansky, Aleksandr Ginsburg, Yuri Orlov, and others.

We have the opportunity to take action which will be effective and which will also fulfill our obligation not to say or do anything which might indicate our acquiescence in the recent Soviet crackdown on Jews and dissidents. This opportunity is afforded us by the scheduled 1980 Summer Olympic games in Moscow. These games will mark the first time the Olympiad has been held in a Communist country, and Soviet authorities have looked forward to them for years as an opportunity to demonstrate to the world the "human face" of communism. Their actions in recent months have proved the contrary: The Soviet Union's brutally repressive and anti-Semitic policies render that nation unfit to serve as the host country for the Olympic games.

In 1936, the Nazi Government of Germany looked forward to the Berlin Olympics in a similar way, as a showcase for the accomplishments of Nazism. Despite the readily apparent totalitarian and anti-Semitic nature of the Nazi regime, the United States did not protest or seek to relocate the games. Instead, we acquiesced in a Nazi request and removed two sprinters of the Jewish faith from the 4-by-100-meter relay team. This acquiescence in discrimination stands as one of the saddest chapters in U.S. Olympic history. We should not now repeat that gross by participating in an Olympiad in Moscow under banners proclaiming peace, harmony, and justice, while Anatoly Scharansky, Aleksandr Ginsburg, and thousands of others languish in Soviet prisons and labor camps because of their religion, their desire to emigrate, or their defense of human rights.

The U.S.S.R. has also indicated its inability to stage an Olympiad in keeping with this competition's high ideals by its refusal to state explicitly that all nations, including Israel and Taiwan, will be able to participate in the games on an equal basis with other nations. Neither have the Soviet authorities provided adequate guarantees of free, uncensored media coverage and reporting of the games. The criminal charges filed recently against the Moscow correspondents of the New York Times and the Baltimore Sun confirm the fundamental inability of the Soviet regime to permit the functioning of a free press.

I have today introduced a resolution calling upon the U.S. Olympic Committee to take all action necessary to bring about the transfer of the 1980 Summer Olympic Games from Moscow to a site outside the Soviet Union. This is similar to legislation filed in the Senate by WENDELL ANDERSON. The resolution which I have introduced also calls upon the USOC to actively consider withdrawal from the games and the establishment of an alternate athletic competition, open to all nations, at a site outside the U.S.S.R. if transfer from Moscow is not approved by the International Olympic Committee. Should relocation from the U.S.S.R. prove impossible, the U.S. Olympic Committee is urged to take the lead in exploring the feasibility of an alternate, "Freedom Olympics" elsewhere.

Montreal, site of the 1976 games, has the capability to stage the 1980 Olympics on short notice, as most facilities remain intact. I hope that the U.S. Olympic Committee will begin to press for the relocation of the games immediately. Adoption of the resolution which I have filed today would help to achieve this and would also serve notice on the Soviet Government that we are prepared to back up our verbal protests with concrete and effective action.

The text of the resolution follows:

H. RES. 1274

Resolution expressing the sense of the House of Representatives with respect to the selection of a site other than the Soviet Union for the 1980 summer Olympic Games

Whereas the Government of the Soviet Union has demonstrated an increasing disregard for fundamental human rights guaranteed by the Helsinki Final Act and the United Nations Universal Declaration of Human Rights;

Whereas this disregard for human rights has included the systematic persecution of Soviet Jews and critics of the Soviet Government;

Whereas the Soviet Government has failed to provide adequate assurances that the 1980 summer Olympic Games will be open to all nations and all news organizations and has filed criminal charges against two American journalists: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that the United States Olympic Committee is hereby requested to (1) immediately take such measures as are necessary to bring about the transfer by the International Olympic Committee of the 1980 summer Olympic Games from Moscow, U.S.S.R., to a site outside the Soviet Union; and (2) should such transfer prove impossible, to actively consider withdrawal from the 1980 summer Olympic Games and the establishment, along with other nations, of an alternate international athletic competition at an appropriate site outside the Soviet Union.

SEC. 2. The Clerk of the House of Representatives shall transmit copies of this resolution to the United States Olympic Committee and to the International Olympic Committee.●

LEGISLATION TO REDUCE AIRLINE EXCISE TAXES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, yesterday I introduced a bill with cosponsors Mr. DUNCAN of Tennessee, Mr. GEPHARDT, Mr. GIBBONS, Mr. GRADISON, Mr. MARTIN, Mr. STARK, and Mr. STEIGER to reduce two airline excise taxes by 2 percent. This legislation would reduce the passenger ticket tax from 8 to 6 percent, and the tax on domestic air freight from 5 to 3 percent. The bill would benefit the public by reducing ticket prices.

This bill is a substitute for H.R. 11986, the Noisy Aircraft Revenue and Credit Act, which would transfer 2 percent of the current excise taxes to the airline industry to purchase new aircraft—ostensibly for noise control. If the airport and airway trust fund is in surplus for the original purposes under which it was established, the tax imposed on the public should be reduced for the benefit of the public.

With inflation running at over 7 percent and no end in sight, I think any efforts to reduce prices should take precedence over unjustified gifts to the airline industry. Inflation abatement should

take precedence over Government gifts in the guise of noise abatement.

I urge my colleagues to support this bill.●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina, (Mr. FOUNTAIN) is recognized for 5 minutes.

● Mr. FOUNTAIN. Mr. Speaker, because I was absent, with official leave, from the House last week as a member of the International Relations Committee delegation to mainland China, I missed several rollcall votes. Had I been present and voting, I would have voted as follows:

MONDAY, JULY 10

Rollcall No. 519: H.J. Res. 613, National Grandparents Day, "yea."

Rollcall No. 520: H.J. Res. 1007, Asian/Pacific American Heritage Week, "yea."

Rollcall No. 521: H.J. Res. 773, National Port Week, "yea."

Rollcall No. 522: H.R. 13087, substitute Treasury checks, "yea."

Rollcall No. 523: H.R. 12106, National Transportation Safety Board, "yea."

Rollcall No. 524: H.R. 12536, National Parks and Recreation Act of 1978, the Thompson amendments relating to the Middle Delaware River and the Delaware Water Gap National Recreation Area, "no."

TUESDAY, JULY 11

Rollcall No. 525: H.J. Res. 1024, Agriculture supplemental appropriations, "yea."

Rollcall No. 526: H.R. 11827, surface mining authorization, "yea."

Rollcall No. 527: H.R. 12536, the Baucus amendment relating to the Glacier National Park, "aye.'

Rollcall No. 528: H.R. 12536, the Symms amendment relating to the Hells Canyon National Recreation Area, "aye."

Rollcall No. 529: H.R. 12536, the Oberstar amendment relating to the Upper Mississippi River, "aye."

Rollcall No. 530: H.R. 12536, the Oberstar amendment relating to the St. Croix River, "aye."

WEDNESDAY, JULY 12

Rollcall No. 532: H.R. 12536, final passage, "no."

Rollcall No. 533: Senate Concurrent Resolution 95, Soviet trials, Zablocki motion to table an appeal of a ruling of the chair, "yea."

Rollcall No. 534: Senate Concurrent Resolution 95, passage, "yea."

Rollcall No. 535: House Concurrent Resolution 599, export of uranium to India, resolution of disapproval, "yea."

Rollcall No. 537: H.R. 15, education amendments, Quie amendment relating to compensatory education programs and incentive grants, "aye."

Rollcall No. 538: H.R. 15, Edwards amendment relating to limiting the count of AFDC children for compensatory education formula purposes, "aye."

THURSDAY, JULY 13

Rollcall No. 539: House Resolution 1267, impeachment resolution, Wright motion to table, "yea."

Rollcall No. 540: H.R. 15, Kildee substitute for Holt amendment relating to community education grants, "no."

Rollcall No. 541: H.H. 15, Ashbrook substitute to the committee amendment, "no."

Rollcall No. 542: H.R. 15, final passage, "yea."

FRIDAY, JULY 14

Rollcall No. 543: H.R. 10929, DOD authorization, Price motion to close conference committee meetings at certain times, "yea."

Rollcall No. 544: H.R. 12163, DOE research and development authorizations, Flowers amendment relating to Clinch River breeder reactor project, "no."

Rollcall No. 545: H.R. 12163, Flowers amendment authorizing funds for a coal liquefaction demonstration plant, "no."●

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. AMBRO) is recognized for 5 minutes.

● Mr. AMBRO. Mr. Speaker, several weeks ago, the President's Domestic Affairs Adviser Stuart Eizenstat told me of his interest in meeting with a representative group of private and public sector leaders on Long Island in my congressional district to explain administration policies to them and to learn of their views and opinions. About 2 weeks ago, Mr. Eizenstat asked me to arrange such a meeting, and, after coordinating the meeting witih dozens of Long Island officials and businessmen, we agreed on a time, date and location on Long Island today at 4 p.m.

Since I am Mr. Eizenstat's contact with this group and must introduce him in just a few hours, it is with great reluctance that I must miss several key votes this afternoon on the House floor.

To dispel any later doubt about my position on these issues I would like to indicate for the RECORD how I would have voted had I been here and not on Long Island with a very large and important group of local opinionmakers and leaders and one of the President's closest advisers.

Specifically, I would like to indicate my position in regard to H.R. 6075, the pregnancy disability bill and H.R. 11983, the Federal Election Commission Authorization Act.

For some time, I have indicated that I was in favor of the Beard amendment to the Pregnancy Disability Benefits Act. Since the bill, as reported out of the Education and Labor Committee does contain that Beard language on abortion, it was my intention to vote in favor of the bill under a suspension of the rules. Because of my absence, I have asked the pair clerk to pair me in favor of H.R. 6075.

For my entire tenure as a Member of this House of Representatives, I have been a strong and active supporter of public financing of congressional elections. This afternoon, we may once again be given an opportunity to cast a vote on this important matter. If I were present, I would vote against the previous question on the rule so that a substitute rule would be offered which would make in order an amendment to provide partial public financing of House general elections beginning in 1980. I would then vote in favor of that public financing amendment and final passage of the entire bill. I have asked the pair clerk to pair me against the previous question on the rule, in favor of the public financing amendment, and in favor of the entire bill.●

GAO REPORT UNDERLINES IMPORTANCE OF LAND TRANSFER PROVISIONS OF ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 10 minutes.

● Mr. UDALL. Mr. Speaker, there has deservedly been considerable public discussion of the provisions of the Alaska National Interest Lands Conservation Act (H.R. 39), which the House passed, 277 to 31, on May 19. For the most part, attention has focused on the portions of the bill which would protect and preserve the American people's heritage of Alaska's "crown jewels" through the creation or expansion of national parks, national wildlife refuges, wild and scenic rivers, national forests, and wilderness areas.

However, a recent report by the Comptroller General underscores the importance of another aspect of H.R. 39, namely, the provisions to expedite the transfer of Federal lands to Native corporations, in fulfillment of the Alaska Native Claims Settlement Act of 1971.

When the Subcommittee on General Oversight and Alaska Lands of the Committee on Interior and Insular Affairs began consideration of H.R. 39 and other similar bills in the last session of this Congress, we found that administrative delays and legal complexities had grievously delayed the land transfer provisions of the Native Claims Settlement Act. After holding oversight hearings on this subject, the subcommittee determined that we should do everything possible to speed up the transfer of land entitlements to the Native corporations and groups. At the same time, along with the Subcommittee on Indian Affairs and Public Lands and the Senate Committee on Energy and Natural Resources, we requested that the General Accounting Office look into the causes of the delays, and make recommendations on how best to expedite land transfers. I am happy to say that the current administration, under the leadership of Secretary of the Interior Cecil Andrus and Assistant Secretary Guy Martin, have taken important steps to speed up implementation of the Settlement Act. However, the Comptroller General has now issued his report on this matter, and it reiterates what the Interior Committee and the House have decided: namely, that legislative action is also required.

For example, the Comptroller General recommends that "to help insure that Native corporations have the opportunity to realize the benefits of the tax-exempt(ion) provisions of the act . . . the Congress should amend the act to read that the tax-exempt period shall not begin until land title has been transferred." And that is exactly what

section 804 of H.R. 39 does. Similarly, the other provisions of title VIII include legislative conveyances of "core townships" to the Native villages located thereon; means of expediting the transfer of other Native lands; clarification of easements criteria; and establishment of a "land bank" which would afford Native corporations choosing to do so to further shield their lands from development pressures.

The House bill also includes provisions, developed cooperatively by the State of Alaska and the Department of the Interior, which would expedite the fulfillment of the State of Alaska's remaining land entitlement under the Alaska Statehood Act.

Mr. Speaker, this is another example of the balanced nature of the House-passed Alaska National Interest Lands bill, H.R. 39, and another reason why this legislation merits prompt and favorable consideration by the other body.

For the benefit of our colleagues, I am attaching the Digest of the June 21st report of the Comptroller General entitled "Land Title Should Be Conveyed to Alaska Natives Faster."

LAND TITLE SHOULD BE CONVEYED TO ALASKA NATIVES FASTER

For a variety of reasons, the Department of the Interior has not been able to rapidly convey title to Alaska Native corporations as envisioned by the Congress. Six years after the Congress enacted the Alaska Native Claims Settlement Act in December 1971, the Native region and village corporations had received title to only about 20 percent and 7 percent, respectively, of their land entitlement. The Department estimated in its fiscal year 1978 budget that it would take another 6 to 13 years before title to the land would be conveyed to Alaskan Natives.

On September 9, 1977, GAO briefed Department officials on the problems causing delays in conveying title to Alaska Natives and suggested actions that would help minimize the delays. Since the briefing, the Department has completed its own review and has taken action to resolve many issues delaying land title transfers, but more could be done.

WHY LAND TITLE SHOULD BE PROMPTLY TRANSFERRED

Alaskan Native corporations need title to lands selected in order to develop the lands' valuable natural resources to generate income so that the self-sufficiency of the corporations can be maintained. The success or failure of Native corporations depends on several factors, including corporate management and investment opportunities. Without legal title to their lands, the corporations' ability to develop profitable business enterprises is impeded—timber cannot be harvested, oil and gas wells cannot be drilled, and minerals cannot be developed—and some of the funds awarded to them under the Settlement Act are being used to pay for operating expenses rather than financing development of natural resources. (See p. 6.)

Further, the period of time Native corporations have for developing revenue sources before State and local taxes on lands can become due in 1992 is being reduced. Delays in conveying land title to Native corporations have also

—impeded community development in some Alaskan villages;

—delayed the use of land selected by the State under the Alaska Statehood Act; and

—delayed reconveying title of village corporation land to local residents, businesses, nonprofit corporations, and governments. (See p. 6.)

HOW LAND TITLE CAN BE CONVEYED FASTER

The Department of the Interior had not adopted policies needed to resolve issues delaying the transfer of funds to Alaska Natives until March 1978. The policies and improvements approved by the Secretary in March 1978, if properly implemented, could result in transferring land faster. In addition, the Secretary needs to

—obtain legislation clarifying easement criteria,

—revise easement agreements used to transfer land pending the outcome of litigation to include provision for future congressional action, and

—identify unused Federal lands and make them available to Native corporations. (See p. 14.)

Easement Criteria Should Be Included in Law

The Secretary has been unable to get all involved parties to agree on the kind of easements the act authorizes him to reserve on Native corporation land. As a result, the Secretary's easements criteria for such things as recreation, hunting, transportation, and utilities were immediately challenged in court, and nearly all land conveyance has been stopped since June 1976. In March 1978 the Secretary approved new easement criteria as a result of a court ruling against the earlier criteria. The involved parties, however, do not agree on the new criteria, so new court challenges may result. Rather than issue regulations with new easement criteria and risk continued delay from further court challenges, the easement criteria developed by Interior should be included in the act if agreeable to the Congress. Land title can then be transferred with fewer delays from court litigation. (See p. 15.)

Revised Easement Agreements Needed

The lawsuits challenging the Secretary's authority to reserve easements caused Interior to temporarily stop conveying land title to Native corporations on June 4, 1976, until it could devise a means to continue, pending a court ruling. To get around this, the Department began negotiating separate easement agreements with Native corporations so that title could be conveyed despite the litigation. However, the Department's easement agreement requirements (1) delayed some land title conveyances that were otherwise ready to be processed because the Departments policy to negotiate an agreement only with regional corporations made it impossible for a village corporation that had met the requirements for conveyance to obtain title until two-thirds of the applicable village corporations in the region signed the agreement and (2) substantially increased Interior's workload by complicating the conveyance and appeal process.

Since September 1977 the Department has taken steps to prevent its easement agreement requirements from further delaying land title transfers to village corporations that had met the requirements for conveyance. The Department is also taking steps to modify the signed agreements by eliminating the provisions that unnecessarily increase Interior's workload and by not including these provisions in future agreements. Although these revised easement agreements can accelerate transfer of land being delayed by court litigation, the agreements should be revised to also include a provision allowing easement changes if new easement criteria are adopted by the Congress. (See pp. 19 to 22.)

Unused Federal lands need to be made available to Native corporations

When some Federal agencies voluntarily reported unused land as excess, such lands were transferred to other agencies rather than reinstated as public lands available for Native corporation selection. Unused lands not voluntarily reported excess by Federal agencies had not been identified by either the Secretary or the Joint Federal-State Land Use Planning Commission, as required by the act.

In March 1978 the Secretary approved procedures for identifying unused lands not voluntarily declared excess by agencies. If these procedures are properly implemented, they should provide an adequate process for both the Commission and the Department to work together to implement their respective requirements under the act. However, the fair and just settlement provided in the act requires recovery of land that was voluntarily declared excess by agencies but lost from Native selections because the Department had not established an effective means to reinstate such lands as public land available for Native corporation selection, as required by the act. There is also a need for the Department to clearly define Native corporations' rights to unused land and assure that they are properly recognized in the Federal property disposal procedures. (See pp. 22 to 27.)

Future court litigation needs to be minimized

Conveying land title has been delayed and substantial legal costs have been incurred by Native corporations because of extensive court litigation. Native corporation representatives and Government officials agree that substantial litigation will probably continue. However, future court litigation might be minimized by using an administrative review board or commission with authority greater than the present Alaska Native Claims Appeals Board and through legislative solutions to more issues.

Reducing the need for future court litigation could (1) reduce the substantial drain on Native corporation resources caused by legal fees and long delays and (2) would support Chief Justice Burger's proposal to reduce the workload of overburdened Federal courts by handling more disputes out of court. The Department's March 1978 secretarial policy papers describing how numerous land problems in Alaska would be resolved need to be revised to include an analysis of ways to minimize future court litigation. (See pp. 33 to 39.)

Regional Corporations Need To Be Monitored

The Department has not monitored regional corporations to insure that they function in accordance with the act. In September 1977 GAO advised Department officials that since regional corporations were eligible to receive benefits under the act only as long as they were organized and functioned in accordance with the act, some oversight was necessary. GAO believes the secretarial policy papers should be supplemented to identify regional corporations' functions that should be monitored. (See pp. 39 and 40.)

RECOMMENDATIONS TO THE SECRETARY OF THE INTERIOR

To prevent further delays and reduce future legal challenges to the Department's easement criteria, the Secretary of the Interior should propose legislation to the Congress to amend section 17(b) of the act to include the easement criteria developed by the Department of the Interior. (See p. 31.) The Secretary should also:

Revise easement agreements used to transfer lands pending the outcome of court litigation to include a provision to retroactively adjust easements reserved on Native corporation land, should amendments to the act require new easement criteria. (See p. 32.)

Insure that Native corporations' rights to unused agency lands, as provided under the act, are defined and protected by Federal property disposal procedures. (See p. 32.)

Review all Federal land transfers in Alaska since December 18, 1971, and identify as public lands available to Native corporations

those land disposals to which they have a right under the act. (See p. 32.)

Prepare secretarial policy papers analyzing the issues of how court litigation can be minimized and how regional corporations can be monitored to determine whether they function in accordance with the act. (See p. 40.)

RECOMMENDATION TO THE CONGRESS

To help insure that Native corporations have the opportunity to realize the benefits of the tax exempt provision of the act before taxes are assessed on their land, the Congress should amend the act to read that the tax exempt period shall not begin until land title has been trasferred. (See p. 13.)

FORMAL REVIEW AND COMMENTS NOT OBTAINED

In order to meet the requesters' reporting requirements, GAO did not submit this report to the Department for formal review and comments. However, responsible agency officials by whom the report was reviewed were in basic agreement with the report.●

PERSONAL STATEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. OTTINGER) is recognized for 5 minutes.

● Mr. OTTINGER. Mr. Speaker, due to previous, longstanding commitments in my district, I was unable to be in attendance on July 17, 1978. The following states how I would have voted on the votes which I missed:

Rollcall No. 547, a vote on H.R. 12128, which would amend title 38, United States Code, to improve the housing programs of the Veterans' Administration. This bill passed by a vote of 373 to 0. I would have voted "aye."

Rollcall No. 548, a vote on H.R. 12232, which would amend the Unemployment Compensation Amendments of 1976 with respect to the National Commission on Unemployment Compensation. This bill passed by a vote of 300 to 81. I would have voted "aye."

Rollcall No. 549, a vote on H.R. 12380, which would amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such act. This bill passed by a vote of 381 to 4. I would have voted "aye."

Rollcall No. 550, a vote on H.R. 10848, which would amend title VI of the Social Security Act to provide that an individual who applies for supplemental security income benefits on the basis of disability shall be considered presumptively disabled if he has received social security or supplemental security income benefits as a disabled individual within the preceding 5 years. This bill passed by a vote of 351 to 32. I would have voted "aye."

Rollcall No. 552, a vote on a motion to recommit H.R. 12163, DOE authorizations for fiscal year 1979, with instructions. This motion was rejected by a vote of 157 to 238. I would have voted "aye."

Rollcall No. 553, a vote on H.R. 12163, which would authorize appropriations to the Department of Energy. This bill passed by a vote of 325 to 67. I would have voted "nay."

Rollcall No. 554, a vote on House Resolution 1252, the rule which provided for the consideration of H.R. 1609, the Coal Pipeline Act of 1978. This resolution passed by a vote of 376 to 7. I would have voted "aye."

Rollcall No. 555, a vote on a motion that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of H.R. 1609 to amend the Mineral Leasing Act of 1920. This motion carried by a vote of 344 to 23. I would have voted "aye." ●

REINTRODUCTION OF THE SUSAN B. ANTHONY COIN ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. OAKAR) is recognized for 5 minutes.

● Ms. OAKAR. Mr. Speaker, I am reintroducing my bill to place the portrait of Susan B. Anthony on the proposed dollar coin. The Treasury Department who originally desired to place the head of "Miss Liberty" on this new coin, has now deferred the decision to Congress. In her testimony before the Senate Banking, Housing and Urban Affairs Committee several days ago, Mrs. Stell Hackel, Director of the Mint, stated that "they will defer the decision as to who will be placed on the coin to the Congress." Under questioning by Senator PROXMIRE, who chaired the hearing on the proposed coin, she reiterated this position, and told the chairman, that they would be happy to abide by whatever decision the Congress made.

That is why I am reintroducing this bill, Mr. Speaker, with additional cosponsors bringing the number to 60. This is the first opportunity we have had to honor all women of this country, with the portrait of a woman who was primarily responsible for women being able to participate in the political life of this country. Susan B. Anthony led the fight for women suffrage. She dedicated her life to the cause. That is why it is most fitting, Mr. Speaker, that the first circulating coin in our Nation's history to memoralize an American woman who actually lived. Truly Susan B. Anthony mirrors the importance of women being given full participation in our democracy by having the right to vote.

H.R. 13520

A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Susan B. Anthony Dollar Coin Act of 1978".

SEC. 2. Section 101(c)(1) of the Coinage Act of 1965, as amended (31 U.S.C. 391(c)(1)), is amended by striking out "1.500" and inserting in lieu thereof "1.043" and by striking out "22.68" and inserting in lieu thereof "8.5".

SEC. 3. (a) The one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, shall bear on the obverse side the likeness of Susan B. Anthony.

(b) Subject to subsection (a) and the limitations contained in section 3517 of the Revised Statutes, as amended (31 U.S.C. 324), the Secretary of the Treasury may prescribe such design for the one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, as he deems appropriate.

SEC. 4. Section 203 of the Act of December 31, 1970 (31 U.S.C. 324b), is amended by striking out "initially" and by inserting "(d)" after "section 101".

SEC. 5. Until January 1, 1979, the Secretary of the Treasury may continue to mint and issue one-dollar coins authorized under section 101(c)(1) of the Coinage Act of 1965, as such section was in effect immediately prior to the date of enactment of this Act.●

CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. BLANCHARD) is recognized for 5 minutes.

Mr. BLANCHARD. Mr. Speaker, as was stated earlier by the gentleman from Pennsylvania (Mr. FLOOD) and others, this week is Captive Nations Week. I think recent events graphically demonstrate some of the reasons why those of us in the Congress and in the United States ought to recognize the illegal occupation of several nations by the Soviet Union and the need to encourage a search for national identity by those nations and those individuals

TWENTIETH ANNIVERSARY OF CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 10 minutes.

Mr. DERWINSKI. Mr. Speaker, it is with recognition of the special impact of the captive nations issue at this point in our foreign relations, that I note the impressive participation by so many Members of the House in this years' captive nations events.

Since this third week in July was first established as Captive Nations Week in 1959, the battle for freedom against the tyranny of communism has had its ups and downs. Some pessimists have maintained that people subjugated by the Communists would find it impossible to overthrow the tyrannical regimes that rule over them. However, I believe that there is more cause to be optimistic than ever before in the postwar period. May I take this opportunity to make my point:

This week by coincidence, the trials of Soviet prominent dissidents, Anatoly Scharansky, Alexander Ginsburg, Viktoras Petkus, and Yuri Orlov, and the conviction of Craig Whitney, of the New York Times and Harold Piper of the Baltimore Sun, demonstrate the determination of the Soviets to maintain iron control in their country. These trials represent a blatant repudiation of the Soviets' obligation to respect the rights of their citizens under the Helsinki agreements.

The people in the Baltic States, Lithuania, Latvia, and Estonia, continue their resistance against Russification. They have preserved their nationalistic integrity as weapons in their attempts to combat the ideology of communism.

The Georgians, numbering more than 3 million, are famed for their nationalistic spirit. Recently, thousands of Georg-

ians poured into the main street of Tbilisi in protest against a proposed phrase in a new republic constitution that would weaken the status of the Georgian language. In a major concession, the effort was reversed.

Under pressure from the people of Yugoslavia, the government of that country has methodically asserted its independence in foreign policy despite continued pressure from the Soviet Union. The Government of Romania has also undertaken many initiatives to maintain their national individuality.

The Armenians are still another captive people who have managed to maintain their culture, their national church, and identity although they also are forcibly held captive within the U.S.S.R.

In Asia, our emphasis during Captive Nations Week is to insist that the United States continue to recognize the Republic of China and to maintain our defense treaty with that longstanding ally. After all mainland China is the largest prison camp in the world.

Mr. Speaker, I could go on and on, but many details and other thorough analysis have been provided by my colleagues. The people of the United States recognize that our major concern must be to assist these captive nations regain their rights and freedom of self-determination and justice.

In a hard-hitting article, Bob Wiedrich of the Chicago Tribune of July 17, discusses trade with the Reds, and I wish to insert this article at this point to conclude my remarks:

AMERICA IS FOOLISH TO TRADE WITH REDS

(By Bob Wiedrich)

By now, the rest of the free world must view the United States as a nation of fools, hypocrites, or venal capitalists.

On the one hand, Jimmy Carter publicly denounces the Soviet Union for the denigration of human rights within its borders.

But at the same time, the American government and business community foster foreign trade relations that serve only to strengthen the Russian bear and his Communist consorts with technology that someday could destroy our freedoms.

Forget, for the moment, the horrors visited upon Soviet dissidents.

Consider instead the brutalization and harassment of American citizens by Soviet authorities at a time when American businessmen are seeking to increase the $1.6 billion in sales they made to Moscow last year.

Granted, only about $500 million of that was in sophisticated technology. The bulk of American exports to Russia was in grain.

But it was the technology that gave the Soviets a jump of a generation or two in scientific and industrial knowledge that probably saved them billions of dollars more in research and development costs.

And we conducted that volume of trade while our President stepped up his campaign for human rights throughout the world and the Communists accelerated their efforts to crush all dissident thought in the Soviet Union.

Now, things are ever worse.

An American businessman has been jailed on trumped-up charges. Two American reporters have been harassed on phony charges. The Communists have further dramatized their contempt for Carter's human rights policies by sentencing two prominent dissidents to long prison terms.

And still American businessmen troop off to Moscow and various Soviet satellites to conduct business as usual.

You can argue that mostly we sell the Russian only grain. But grain fills bellies. And full bellies serve to further stifle dissent among the Soviet masses.

So on the one hand, the United States is only giving lip service to the cause of individual liberty in Soviet Russia while actually enhancing the muscle tone of an oppressive, tyrannical dictatorship that even shoves American citizens around.

So whom are we kidding?

Does Jimmy Carter really mean what he says when he talks about widespread Soviet violations of the Helsinki human rights accords? Is his outspoken support of convicted dissidents Alexander Gingburg and Anatoly Scharansky really on the square?

Or is this all a clever device to use an internal Soviet problem to gain domestic political support by playing on the American dedication to individual rights for everyone everywhere in the world?

I would hate to think so. I would prefer to believe that Jimmy Carter embarked on his human rights crusade out of conviction. And that he and his advisers failed to forsee the possible foreign policy consequences of their decision.

Because by only talking about human rights in Soviet Russia instead of imposing sanctions against Moscow, the Carter administration has cast all of us as supporters of an absolutely hypocritical stance.

The Soviet need our technical know-how far more than we need their cash.

Besides, they and their East European satellites have been buying much of the stuff on the cuff to the tune of $47 billion in indebtedness to the West.

Further, what modern advances they haven't purchased they have stolen from the United States through industrial espionage, patent violations, and the wholesale looting of privileged information from microwave telephone conversations between American businessmen.

It will not serve the cause of human rights for the Carter administration merely to cancel an occasional U.S. technology deal with Russia.

Nor will it enhance the integrity of the American business community in the eyes of the world to continue selling American goods that support a dehumanized regime as it grinds individual liberty into the Soviet muck.

Twice in the past year, I have accompanied delegations of American businessmen as they trudged off in search of business in Communist capitals. Each time, I have wondered what motivated them beyond the making of a few more bucks.

I believe strongly in the capitalist system. I believe in free trade. I believe in open competition.

But I am getting a bellyful of capitalist companies that have prospered under a democratic system, but think nothing of feeding the beast that is the enemy of democracy.

Detente is great when it truly is a two-way street. But we are dealing with a bunch of liars with a terrible inferiority complex that can't stand public criticism.

So Jimmy Carter ought either to tone down his pronouncements about human rights and work more subtly behind the scenes. Or he should declare to the world that America will not sell another transistor or grain of wheat to the Soviet Union until it stops making a mockery of human dignity.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. DERWINKSI. I am pleased to yield to my distinguished colleague, the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I want to commend the gentleman from Illinois (Mr. DERWINSKI) for taking this time to bring to the attention of the Members of the House and the entire Nation the significance of Captive Nations Week.

Mr. Speaker, this week marks the 20th anniversary of Captive Nations Week, an anniversary designated by President Eisenhower when he signed Public Law 89–90. It has been observed by every succeeding President, memorializing the plight of those nations overpowered by the brutal tyranny of the Soviet Union, including: Armenia, Azerbaijan, Byelorussia, Cossackia, Georgia, Idel-Ural, North Caucasia, Ukraine, Far Eastern Republic, Turkistan, Mongolia, Estonia, Latvia, Lithuania, Albania, Bulgaria, Poland, Romania, Czechoslovakia, Hungary, and East Germany.

The recent trials of Orlov, Scharansky, Petkus, and Ginzburg have underscored the Soviet's disdain and violation of human rights. The persecution of its own citizens and the 100 million persons living in Eastern and Central Europe; the harassment by Soviet authorities of "refuseniks" and political dissidents—including incarceration in the infamous gulags—the sadistic application of psychology to maim rather than to heal its political prisoners: Sovietization of non-Russian peoples within the U.S.S.R.; imprisonment of Soviet Jews and other "prisoners of conscience" whose only crime was to seek immigration from the Soviet Union; the refusal by the Soviet Union to allow Nobel Laureates Boris Pasternak and Andrei Sakhorov to travel to Oslo to receive their prizes, and the exile of Alexander Solzhenitsyn from the U.S.S.R.: is an endless litany of Soviet atrocities familiar to the entire world.

Despite the fact that the third week in July has been designated as Captive Nations Week each year since 1959, the Soviet Union chose this month to bring about the trials of Soviet dissidents Anatoly Scharansky, Alexander Ginzburg, Viktoras Petkus, and Yuri Orlov, reminding the world of their determination to stifle freedom and human rights and demonstrating once again their low regard for human dignity.

The Soviet's systematic violation of basic human rights of both individuals and ethnic groups has become the focus of increasing public attention and concern—following the execution of the 1975 Helsinki Accords. While the Helsinki Agreement has been applauded as a milestone on the road of human rights, it has been an uphill struggle to monitor Communist compliance with the provisions of the final act. Regretably, convoluted interpretation, and in some instances, blatant defiance and disregard for the Helsinki accords, resulting in mass imprisonments and intensified persecution of those hopeful of enjoying the human rights provisions agreed upon at Helsinki, have been widespread in the Soviet Union and in the Eastern bloc nations.

We have also recently observed the duplicitous manner in which Eastern bloc nations—attempting to win the favor of Western nations—engage in projecting an image of independent-minded, liberal regimes struggling against Soviet domination. But behind

this facade, many of these countries systematically persist in wholesale, blatant violation of the rights of ethnic and minority group citizens.

This year, Captive Nations Week is more than a reminder of the duplicity of Soviet domination, it is recognition that the people under the Red heel are beginning to stir. It is a recognition of the nationalistic movements rocking the Baltic states of Estonia, Latvia, and Lithuania, of the neonationalistic tendencies which have forced the Soviets to ease back in the oppression of Georgian nationalism, and it is recognition of such courageous dissenters as Scharansky, Ginzburg, Petkus, and Orlov, and their copatriots, who are not afraid to risk all for the cause of human rights.

Mr. Speaker may this 20th Captive Nations Week be among the last before the beacon of freedom shall fully shine upon the captive peoples of Eastern Europe.

"NEW" NAMIBIA'S PROSPECTS

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SIKES. Mr. Speaker, Southwest Africa, or Namibia, has been the subject of controversy for several years. Now there are prospects for an early settlement of the dispute about achieving an independent Namibia. This progress has been possible in considerable part, because of the continuing efforts of the United States and its allies, Britain, France, Canada, and West Germany.

A part of the problem has been the insistence of the United Nations in supporting an organization known as SWAPO. This organization, which is based in Angolia and armed by the Russians, has claimed to be the principal bargaining agent for Namibia nationalism. This claim has been contested by South Africa, which insists upon a government representative of all the tribes which make up the populace of Southwest Africa.

For nearly 2 years, despite the affirmative efforts by the Western powers SWAPO has refused to participate in an election by which a new government could be chosen. They wanted to specify ground rules which, in essence, would eliminate the presence of South Africa and leave the field open to SWAPO. That organization now has agreed to participate in an election, which, hopefully, will permit the emergence of Namibia as an independent state.

In an unusually candid discussion, the Washington Star, on Sunday, July 16, spelled out the problems involved in establishing a representative government in Namibia. I submit for reprinting in the CONGRESSIONAL RECORD:

"NEW" NAMIBIA'S PROSPECTS

Quite a lot of celebratory things are being said and written about last week's settlement for South West Africa, or Namibia. The agreement, if it sticks, will finally end a South African mandate over the territory that dates back to League of Nations days.

The mandate was legally voided long ago by the United Nations, and by a mid-Sixties decree of the International Court of Justice. But South African has clung stubbornly to *de facto* military and administrative control.

Certainly Namibia will be a prize for its ultimate possessors, whoever they are to be. It is rich in copper, diamonds, uranium and other valuable minerals. It is also ethnically chactic and underpopulated.

Somewhat the same tensions have been playing over Namibia that are present in the struggle over the future of Rhodesia. Essentially, the question was what brand of nationalists would prevail, moderate or militant, and with whose collusion. At the so-called Turnhalle conference, there was an attempt to muster a biracial consensus for an "internal" political settlement under the auspices of the Interparliamentary Union.

But the Turnhalle coalition, looking to a democratically-elected constituent assembly, and once favored by the South African government, soon lost ground to the more militant and ruthless Southwest Africa People's Organization (SWAPO). Armed by the Russians, SWAPO has made itself by force, repression and assassination the principal bargaining agent for Namibian nationalism and has been rewarded by U.N. recognition and the acquiescence of South Africa, the U.S. and interested Western Europeans. It was the agreement of the SWAPO leader, Sam Nujoma, to a Western plan accepted in April by the South Africans that sealed the settlement last week.

The decisive factor, exciting so much optimistic comment, is that the five "frontline" African states joined in pressing a Western plan on Mr. Nujoma. That is interpreted as a sign of new moderation.

But there is no escaping the fact that SWAPO's is a victory of the strongest, though neither the most democratic nor the most peaceful, of the many Namibian nationalist factions. No accurate verdict on its claims could fail to note, for instance, its own total lack of internal democracy.

"As a result of disagreements over internal elections of their own officers," wrote Julian Amery in Policy Review last fall, "over 1,000 SWAPO supporters are now being held in detention camps outside Namibia at the request of one faction of the SWAPO leadership. Twelve of the leading dissenters, including Andreas Shepanga, are being imprisoned without trial in the Dodoma Prison in Tanzania. This of course hardly bodes well for the fate of democracy in Namibia." Hardly!

SWAPO, moreover, is thought to be responsible for the assassination in late March of this year of Chief Clemens Kapuuo, a moderate black leader whom many considered the leading candidate to be first president of an independent Namibia. He was shot with Russian guns which only SWAPO is known to possess. That is the way SWAPO deals with rivals.

Such, then, are the bargaining agents for a "new" Namibia whom the U.S. and its allies have chosen to support, out of the same legalistic considerations that govern U.S. policy toward Rhodesia.

Possibly no new regime in Namibia could have been immaculately conceived, without treachery and bloodshed; and obviously, the moderates of the Turnhalle coalition were neither ruthless nor aggressive enough to survive their rivalry with SWAPO. The bloody tactics may even be forgotten if the agreement with Mr. Nujoma works. It is a wise man who can foresee the ultimate outcome.

It is also possible, even probable, that in the words of Macbeth bloody instructions will return to plague the inventor. A Namibian regime originating in cynical disregard of human rights may not easily abandon the rough tactics that brought it to the threshold of power. It may govern as it came to power. Mandates may be brutal, but so may governments also—especially if they get their start in the fashion of SWAPO.●

ESTABLISHING STANDARDS: THE CHALLENGE OF THE FUTURE

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD, and to include extraneous matter.)

● Mr. SIKES. Mr. Speaker, down-to-Earth, commonsense commentaries on current educational programs and the direction they are taking us is not readily available. There are a number of reasons; They are sometimes couched in language that is inscrutable for the average person, and they are too idealistic to be logical. In simpler terms, they are impractical. It is the application of the impractical to the learning methods of the students of today which contributes to the lack of practical education for many of these students.

My attention has been called to a paper by Dr. Eltse B. Carter, chairman of the humanities division at Northern Virginia Community College in Annandale, Va., entitled "Establishing Standards: The Challenge of the Future." I read her paper and was sufficiently impressed to read it again. Now, I have read it a third time. It makes enough sense to justify wider distribution in the Congress. I submit it for printing in the CONGRESSIONAL RECORD:

ESTABLISHING STANDARDS: THE CHALLENGE OF THE FUTURE

(By Elsie B. Carter)

(NOTE.—Elsie Carter is Division Head of Humanities at Northern Virginia Community College, Annandale Campus, Annandale, Va.)

Although the title of this paper speaks of "establishing standards," the position taken here is rather one of re-establishing a point of reference that was abandoned sometime during the decade roughly spanning the years 1965–1975. Many of us anticipate a return to an intellectual climate in which a vital mark of the educated person is the facility with which he can use precise and varied spoken and written English and can with ease adapt his language to his audience.

Unfortunately, during the romantic rebellion that began in the late 1960's, assumptions with deadly implications for education, and consequently for us here, gained currency. These assumptions are corruptions of the democratic process.

The first assumption is that standardized tests are invalid measures of student potential and progress because they incorporate cultural standards not common to all components of our society.

The facts seem to indicate that most of the decline in test scores recently is attributable to falsely egalitarian developments in the schools and society. Those developments have nothing to do with the imposition of uncommon or unfair cultural standards but, according to the panel investigating the decline in SAT scores, they are the result of relaxed teaching and learning standards, of television, of changes in the role of the family, and of unprecedented turbulence in the nation's affairs. Critics notwithstanding, the *validity* of the SAT, at least as a predictor of college performance, *has increased.*

That panel points to the central importance of restoring the traditions of critical reading and careful writing. It further says "there is clearly observable evidence of diminished seriousness of purpose and attention to mastery of skills and knowledge in the schools—in the home and in society generally." It points to grade-to-grade promotions, grade inflation, tolerance of increased absenteeism, lowering of the demand levels of textbooks and other teaching and learn-

ing materials—and to the reduction of homework.

And Herblock shows us a young man in cap and gown, proudly showing his high school diploma, saying to his father, "Read me what it says, Dad."

Another assumption in vogue, also a corruption of the democratic process, is that open admissions and affirmative action are inherently desirable instruments of a desirable democratic leveling process—and that if the student is unable to master the subject matter, then the subject matter must be adjusted to the student rather than the student's being required to make the necessary leap to the subject matter.

Upward mobility in education used to be considered one of the hallmarks of American democracy, but recently, instead of urging people to move upward, to achieve, to be the best of themselves, to reach the highest levels of their minds, we have assured them that all are equal, one level of accomplishment as good as another—that any way you look at it, one voice is as important as another—regardless of education and training. Instead of raising the standards of literacy, we have assured the people that there are none.

Solicitor General Wade McCree, distinguished black jurist, speaking to the graduates of Howard University this past spring, said that only through vastly improved achievements will blacks win the full racial equality they have been striving for. He called upon the graduates to promote respect for intellectual achievement and a command of "Standard English" among jive-talking ghetto young people.

Many other distinguished blacks are now saying that it is the very essence of racism to say that blacks and other minorities should not be taught to speak standard English. They say that to treat them as a special group—not to expect to bring them up to the same standard as others—is racism of the very worst kind.

The 1974 resolution of the CCCC that accepted as valid "all regional ethnic and social dialects of American English," a resolution now known as the "Students' Right to Their Own Language," has had an enormous influence on college freshman English instruction—and for the worst. It clearly goes against our understanding and appreciation of accepted grammar and syntax—the common universe of educated discourse. It goes against our traditional ideas of orderly communication and of literacy.

The influence of this resolution is for the worst, because, as you know, we are still receiving great number of students in our colleges, particularly in our community colleges, who cannot speak, who cannot write, who in short are not able to communicate with their professors and often, in any real sense, with each other—and who do not see the need to do so. "You know what I mean," they say. And those students are not by any means all minorities. The real tragedy of this situation is that educating them is nearly impossible—because in many cases not only can they not speak and write and read, they cannot see the need to do so. Because they feel, because they have emotions, because they "express themselves" (certainly not in words, but somehow—through body language mostly), they are unable to recognize that they are crippled, that they are the walking wounded, the handicapped.

The real intention of the CCCC was, perhaps, to speak out against discourtesy. There is no question but that minorities should be dealt with in the most patient, gentle, and gracious manner. But there are many who believe that it is the heritage of all citizens to develop their capabilities to the limits, who believe it is important that colleges give everyone—without regard to race or anything else—the very same opportunities to develop the very same competencies: to read with understanding, to listen intelligently, to think clearly, in short, to achieve that which is highest within oneself. An extension of that second assumption—and it, too, is a corruption of American democracy—is that elitism is alien in, but egalitarianism essential to, education in a democracy. (Strange, isn't it, that we adulate the sports super star, even help him to become one, but impede and denigrate the super intellect.)

The elite in education are those who achieve, those who can do. They are the ones who have learned to read creatively and intelligently, to listen actively; to think logically and clearly; to present ideas in both written and spoken form. The elite in education are those who, because they have achieved intellectual independence, are capable of broad insights, unique vision. We hope they will be our leaders. Colleges should help all students—without regard to anything—all students who want help. We must help them to believe, with Joseph Addison, that—

"Education is a companion which no misfortune can depress, no crime can destroy, no enemy can alienate, no despotism can enslave. At home a friend, abroad an introduction, in solitude a solace and in society an ornament. It chastens vice, it guides virtue, it gives at once grace and government to genius. Without it, what is man?—a splendid slave, a reasoning savage."

The recent romantic rebellion has revived Rousseau's doctrine of the noble savage as well as some of the concomitants of that doctrine, particularly the elevation of sentiment over intellect. Because of the romantic notions now abroad, American democracy has fallen into bad times. American democracy has fallen into bad times when the notion of egalitarianism has led our young people into the gutter for their language—a language based on a series of grunts which are nothing more than physiological manifestations of sentiment, of feeling, of escape.

American democracy has fallen into bad times when it denies its young people the right to upward mobility by assuring them that they are all so "OK" that they need not make the trip upward.

American democracy has fallen into hard times when its most traditional proponents—its educators tell its young people that they need not learn the language of the educated—that they have a right to their own language—a right to their own ignorance.

American democracy has fallen into bad times when the dialogue heard in its educational institutions sounds like the Mad Hatter's Tea Party. And why shouldn't it? The blind are leading the blind: Faculty, staff, students, and administrators, none sure of their roles, all with equal voice, deliberate with greatest seriousness the most inconsequential minutiae.

Despite the bleakness of the picture that has been painted, there may be some hope for the perpetuation of academic excellence and of traditional standards of literacy. There will always be some well educated people. Most of them will come from the small private college (where it is still possible for the institution to advocate academic excellence, to have excellence as its purpose). Nevertheless, some of them will learn in public institutions in spite of the uncertainty of purpose in the institutions and among their faculties.

It is still possible for a great many to learn in community college.

I should like to make the following recommendations for English in the two-year college:

1. Administer an English placement exam to all students—the open-door policy notwithstanding. Students can then be placed in sections where they can learn.

2. Offer a variety of freshman composition courses especially designed to accommodate the numerous achievement levels of the students entering. At the very least, there should be:

Remedial sections, carrying no transfer credit.

Freshman composition with additional laboratory time, carrying three quarter hours of transfer credit.

(Some students need more time and more instruction but can learn to write, given that time and help. A great many students fall into this category.)

Freshman composition designed to challenge the college freshman who is truly freshman level.

I think it is time, moreover, that we resurrect the idea of honors sections. In our zeal to be fair, to treat everyone the same, we have neglected our most talented, our brightest students. We have not challenged them as we should.

What I have described is an approach to the first quarter of freshman composition for the transfer student.

There are a great many other students who are not verbally oriented, do not want to be and cannot be forced to become so. We should, therefore, offer a communications skills course to them, practical in its purposes and applications, and flexible enough to help the students directly in reaching their occupational goals.

3. Develop equitable systems for evaluation of programs and faculties. Faculties have so far systematically and successfully resisted any real evaluation:

They have argued that what they teach cannot be measured. (I argue that there is a body of content in freshman composition—and that you can measure the learning of it).

They have argued that evaluation by the administration might be unfair. (It might be.)

They have argued that evaluation by their peers might lead to personality conflicts and might also be unfair. (It might be.)

They have resisted student evaluation because they feel the students do not know how to evaluate, and they fear that evaluation might lead to personality contests—or, worse, the grade inflation.

They have resisted attempts at program evaluation for many reasons, including the fear that it will lead to faculty evaluation.

And they argue that there simply is no way to evaluate the teaching of writing.

Surely there is not one way to evaluate the teaching of writing and writing programs. There are many ways. And I believe that the faculties know what they are.

Given the present political climate, it seems clear that either faculties will evaluate their own programs or evaluation will be effected by legislative fiat. Legislatures throughout the country are establishing competency standards for high school and college graduates, and there is no reason to believe that their efforts will cease.

In summary then, I recommend:

1. That placement exams be given to students.

2. That a variety of courses and levels of courses be offered.

3. That faculties get serious about evaluating their own performance and their English programs.

4. And finally, that faculties reestablish literacy standards, seriously, intelligently, and quickly, for both themselves and their students.

The word game is over.

In a democracy, the permissiveness pendulum swings back and forth—toward and away. The permissiveness manifested in the romantic rebellion of the 60's and early 70's is swinging away because of the excesses associated with it. I close with this reminder from Aristotle—1717 Version:

"If one of the meanest capacity were asked what was the wonder of the world, I think the most popular answer would be man.

"He being the little world to whom all things are subordinate.
Agreeing in the genius with sensitive things
All are animal but differing in the species
For man alone is endowed with Reason."●

ACHIEVEMENTS SOW SEEDS FOR LASTING LEADERSHIP

(Mr. SIKES asked and was given permission to extend his remarks at this point in the RECORD and to incude extraneous matter.)

● Mr. SIKES. Mr. Speaker, one of the best known among those frequently seen on Capitol Hill is Joseph V. Machugh. His has been a presence that is appreciated for his friendly assistance in a dozen little ways to every Member. Joe keeps us alerted about what is happening on the floor, what is the timing on a vote, what is the schedule for the day, et cetera, et cetera, et cetera. He does these things as a labor of love for he loves the institution of Congress and respects its Members.

Joe is also a thinker and a writer. His writings are sound, thought-provoking, and they are helpful.

I am impressed by a very recent article from Joe's pen. It is entitled "Achievements Sow Seeds for Lasting Leadership." In my opinion, it deserves not only to be printed in the CONGRESSIONAL RECORD, but should have wide circulation. I submit it for that purpose:

ACHIEVEMENTS SOW SEEDS FOR LASTING LEADERSHIP

Increasingly used today as symbol of strength or influence is the word clout, meaning striking hard. Muhammad Ali won his match with a clout to the jaw; one credit-card concern asserts its card carries clout; in Congress where fiscal power centers around control of appropriations—clout counts conspicuously. Those examples readily convey idea of strength; but when influence is implied—the meaning is stretched, justified perhaps by "poetic license" allowing deviation from strict facts by writers for intended effect. More important than hybrid use of the term is concept of achievement—doing significant jobs well Yet, irrespective of excellence of performance, it will remain but half-done unless and until also made known to all persons with a right to know about the task.

Public and private officials have varying degrees of power. The writer is intrigued by a cogent aphorism: "Power is 'a heady wine' and best sipped slowly." All officials desire to be leaders. How their powers were exercised is a test of leadership. Once in office, there is an almost irresistible urge to exercise power—forthwith! Premature use of authority can be a mistake. Americans "look up to" their leaders and might resent an exercise of power too early. Lawyers revel in stating: "Time is of the essence!" Holy Writ says: "There is a season and a time to every purpose under the heaven." During any large gathering Main Event always comes last. If the President of the United States is scheduled to speak, his Address will be "the finale!"

Gradualness is a pervasive process in many facets of life. It may be a Law—fashioned by Omniscient Providence as an integral part of "A Grand Design" for the continuing welfare of all mankind. Some folks say it is an inexorable Monitor evolved by Nature itself—in adjustment to changing conditions of life. Maybe "believing Deists" might ask their dissenting brethern: "Who created that Nature—at whose Shrine so avidly they worship?" At any rate, gradualness does provide a "cushion of time" for human planning and preparation plus precluding a "plethora of panic" stemming from untimely responsibility suddenly thrust upon human beings—before they are ready for it.

How do officials become leaders? One way—attend panel meetings where complex problems are analyzed and resolved, especially watching contributions by experienced panelists. When serious surgery is needed, effort is made to get "Top Expert in the Field." How did that Surgeon become an Expert? Probably first performing minor operations and then "growing into greatness—gradually!" For, obviously, Hospital Interns don't perform major operations.

Every official should start with small problems; then prepare for more difficult tasks. If this sounds simplistic—isn't the "end-aim of all human communication—elementary clarity of understanding?" Moreover, when most complicated matters thoroughly are understood—they, too, "seem quite simple!" When one does well in a chosen area "word gets around." Nothing succeeds like success, which feeds on itself. Performance and persuasion are a logical team. The former builds reputation, following which effective persuasion can ensue! The proper timing for such persuasion is—not right after winning election (or selection)—but after winning wide respect for sound performance! Performance and persuasion are building-blocks that make a firm foundation for climbing Life's ladder of success—to the top! In other words: "Achievements Sow Seeds for Lasting Leadership!"

(Composed July 10, 1978, by: Joseph V. Machugh, 225 A Street, NE., Washington, D.C. 20002, (Lincoln 4-5790.) © 1978, Joseph V. Machugh.)●

POLICE MISCONDUCT AGAINST HISPANICS

(Mr. BROWN of California asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BROWN of California. Mr. Speaker, the Justice Department's recent decision not to prosecute in the case of Santos Rodriguez brings to light one of the most serious domestic problems we face today. Although I am not fully aware of the merits of this particular case and I am sure that the decision of the Justice Department was based on a full and rational consideration of this case, the death of Santos Rodriguez, a 12-year-old boy handcuffed at the time he was slain, stands to show us all the severity of the problem of police abuse and misconduct.

This problem is particularly acute in the Hispanic community. Along with the Santos Rodriguez case, the Justice Department is currently considering 212 other incidents of police misconduct against Hispanics. In one of those cases, the case of Joe Campos Torres, the Justice Department has decided to seek prison terms for three officers convicted of drowning a young Hispanic in their custody. It is only through vigorous enforcement of the existing civil rights laws that these abuses will be redressed.

It is our task as legislators to see that these issues are being addressed. If we do not assume our responsibility as leaders and legislators, the people will seek their own action through their own means. Last May, 14 people were injured and 40 people arrested in a demonstration over the killing of Mr. Campos Torres. Just last Sunday, July 16, the Washington Post reported a demonstration by 700 people over the shooting death of a Hispanic at the hands of law enforcement officers. When our constituents demonstrate against the laws and institutions designed for their protection, it becomes our task to address their concerns.

While this administration and the Nation stands outraged at the violations of human rights abroad, we should be equally outraged at the violations of domestic human rights.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows to:

Mr. ADDABBO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. DERWINSKI, for 10 minutes, today.

(The following Members (at the request of Mr. HAGEDORN) to revise and extend their remarks and include extraneous matter:)

Mr. SARASIN, for 5 minutes, today.
Mr. MCDADE, for 5 minutes, today.
Mr. WHALEN, for 5 minutes, today.
Mr. GRASSLEY, for 10 minutes, today.

(The following Members (at the request of Mr. KILDEE) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. BIAGGI, for 60 minutes, today.
Mr. DRINAN, for 5 minutes today.
Mr. VANIK, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. FOUNTAIN, for 5 minutes, today.
Mr. GIAIMO, for 15 minutes, today.
Mr. AMBRO, for 5 minutes, today.
Mr. UDALL, for 10 minutes, today.
Mr. OTTINGER, for 5 minutes, today.
Ms. OAKAR, for 5 minutes, today.
Mr. BLANCHARD, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HAGEDORN) and to include extraneous matter:)

Mr. SARASIN.
Mr. DERWINSKI in two instances.
Mr. DORNAN in two instances.
Mr. BADHAM.
Mr. ROBINSON.
Mr. FRENZEL in two instances.
Mr. DUNCAN of Tennessee.
Mr. STEERS.
Mr. RHODES.
Mr. DON H. CLAUSEN.
Mr. SAWYER.
Mr. MARRIOTT.
Mr. STEIGER in two instances.

(The following Members (at the request of Mr. KILDEE) and to include extraneous matter:)

Mr. MURPHY of Illinois.

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. HEFNER.
Mr. GARCIA in 10 instances.
Mr. EILBERG in 10 instances.
Mr. MOORHEAD of Pennsylvania.
Mr. APPLEGATE.
Mr. MATHIS.
Mr. TEAGUE in two instances.
Mr. WRIGHT.
Mr. MAZZOLI.
Mr. JACOBS in two instances.
Mr. BAUCUS in two instances.
Mr. ROSENTHAL in two instances.
Mr. MURTHA.
Mr. LAFALCE in two instances.
Mr. MICHAEL O. MYERS.
Mr. MITCHELL of Maryland.
Mr. BARNARD.
Mr. DINGELL.
Mr. FRASER.
Mr. BRECKINRIDGE.
Mr. RISENHOOVER.
Mr. WALGREN.
Mr. VENTO.
Mr. BRODHEAD.

SENATE JOINT RESOLUTION REFERRED

A joint resolution of the Senate of the following title was taken from the Speaker's table and, under the rule referred as follows:

S.J. Res. 135. Joint resolution designating the weekend of or preceding April 29 of 1979, as "Days of Remembrance of Victims of the Holocaust"; to the Committee on Post Office and Civil Service.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 947. An act to declare certain federally owned land known as the Yardeka School land to be held in trust for the Creek Nation of Oklahoma.

BILLS AND JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. THOMPSON, from the Committee on House Administration, reported that that committee did on July 17, 1978 present to the President, for his approval, bills and a joint resolution of the House of the following title:

H.R. 3489. To amend section 216(b) of the Merchant Marine Act, 1936, to entitle the Delegates in Congress from the District of Columbia, Guam, and the Virgin Islands to make nominations for appointments to the Merchant Marine Academy, and for other purposes;

H.R. 4270. To designate the Federal building and United States courthouse in Hato Rey, Puerto Rico, the "Federico Degetau Federal Building";

H.R. 12637. To amend the North Pacific Fisheries Act of 1954; and

H.J. Res. 613. To authorize and request the President to issue a proclamation designating the first Sunday of September after Labor Day in 1978 as "National Grandparents Day."

ADJOURNMENT

Mr. BLANCHARD. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 3 minutes p.m.), under its previous order, the House adjourned until tomorrow, Wednesday, July 19, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXI, executive communications were taken from the Speaker's table and referred as follows:

4596. A letter from the Acting Secretary of the Interior, transmitting certification that an adequate soil survey and land classification has been made of the lands shown in revised tabulations for the North Loup Division, Pick-Sloan Missouri Basin program, and that the lands to be irrigated are susceptible to the production of agricultural crops by means of irrigation, pursuant to Public Law 83–172; to the Committee on Appropriations.

4597. A letter from the Administrator, U.S. Environmental Protection Agency transmitting the sixth annual report on the administration of the ocean dumping permit program, covering calendar year 1977, pursuant to section 112 of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended; to the Committee on Merchant Marine and Fisheries.

4598. A letter from the Administrator, U.S. Environmental Protection Agency transmitting the annual revisions to the five-year plan for environmental research, development and demonstration, pursuant to section 5 of Public Law 94–475, together with the comments of the Science Advisory Board, pursuant to section 8(c) of Public Law 95–155; to the Committee on Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REUSS: Committee on Banking, Finance and Urban Development. Report on allocation of budget authority and outlays for fiscal year 1979 (Rept. No. 95–1365). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. S. 1103. An act to permit States the reciprocal right to sue in the Superior Court of the District of Columbia to recover taxes due the State; with amendment (Rept. No. 95–1366). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. S. 2511. An act to restrict the possession and carrying of pistols, other firearms, and other dangerous weapons by members of the District of Columbia Department of Corrections to periods of time when they are on duty and authorized by the Director of the District of Columbia Department of Corrections (Rept. No. 95–1367). Referred to the Committee of the Whole House on the State of the Union.

Mr. DIGGS: Committee on the District of Columbia. S. 2556. An act to change the name of the District of Columbia Bail Agency; with amendment (Rept. No. 95–1368). Referred to the House Calendar.

Mr. MOORHEAD of Pennsylvania: Committee of conference. Conference report on H.R. 12426 (Rept. No. 95–1369). Ordered to be printed.

Mr. LEHMAN: Committee on Post Office and Civil Service. House Joint Resolution 682. Joint resolution to provide for the designation of a week as "National Lupus Week"; with amendment (Rept. No. 95–1370). Referred to the House Calendar.

Mr. LEHMAN: Committee on Post Office and Civil Service. House Joint Resolution 684. Joint resolution to authorize the President to issue a proclamation designating the week in November which includes Thanksgiving Day in each year as "National Family Week"; with amendment (Rept. No. 95–1371). Referred to the House Calendar.

Mr. LEHMAN. Committee on Post Office and Civil Service. House Joint Resolution 946. Joint resolution to designate October 7, 1978, as "National Guard Day"; (Rept. No. 95–1372). Referred to the House Calendar.

Mr. ULLMAN: Committee on Ways and Means. H.R. 13335. A bill to amend part A of title IV of the Social Security Act to provide additional fiscal relief for States and political subdivisions with respect to the costs of certain welfare programs; with amendment (Rept. No. 95–1373). Referred to the Committee of the Whole House on the State of the Union.

Mr. SISK: Committee on Rules. House Resolution 1277. Resolution providing for the consideration of H.R. 13385. A bill to provide for a temporary increase in the public debt limit (Rept. No. 95–1374). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ULLMAN (for himself, Mr. JONES of Oklahoma, and Mr. CONABLE):

H.R. 13511. A bill to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes; to the Committee on Ways and Means.

By Mr. ARCHER:

H.R. 13512. A bill to amend the Communications Act of 1934 to establish orderly procedures for the consideration of applications for the renewal of television and radio broadcasting licenses; to the Committee on Interstate and Foreign Commerce.

By Mr. BLOUIN (for himself, Mr. NOLAN, and Mr. PRESSLER):

H.R. 13513. A bill to provide that certain interstate pipelines may be constructed only if the route of such pipeline complies with certain priorities, an environmental impact statement is prepared with respect to the pipeline, and the person constructing the pipeline agrees to pay certain attorneys fees incurred by landowners affected by the pipeline; jointly, to the Committees on Interior and Insular Affairs, Interstate and Foreign Commerce, and Public Works and Transportation.

By Mr. BREAUX:

H.R. 13514. A bill to name a certain Federal building in Shreveport, La., the "Joe Waggonner Federal Building"; to the Committee on Public Works and Transportation.

By Mr. DUNCAN of Tennessee:

H.R. 13515. A bill to direct the Secretary of Housing and Urban Development to encourage each public housing agency to have at least one resident of a public housing project as a member of the governing board of such agency; to the Committee on Banking, Finance and Urban Affairs.

By Mr. EILBERG (for himself, Mr. FARY, Mr. YATRON, Mr. WINN, Mr. SISK, Mr. CORRADA, Mr. BEVILL, Mr. WAXMAN, Mr. YOUNG of Missouri, and Mr. GARCIA):

H.R. 13516. A bill to make the birthday of Franklin Delano Roosevelt a legal public holiday; to the Committee on Post Office and Civil Service.

By Mr. KEMP:

H.R. 13517. A bill to amend the Federal Railroad Safety Act of 1970 to direct the Secretary of Transportation to establish fire safety requirements for locomotives in order to minimize the danger of fires along railroad rights-of-way; to the Committee on Interstate and Foreign Commerce.

By Mr. McKAY:

H.R. 13518. A bill to test the commercial, environmental, and social viability of various oil shale technologies, and for other purposes; jointly, to the Committees on Armed Services, and Interior and Insular Affairs.

By Mr. MATHIS:

H.R. 13519. A bill to amend the Internal Revenue Code of 1954 to provide pre-1969 tax treatment for capital gains; to the Committee on Ways and Means.

By Ms. OAKAR (for herself, Mr. CAVANAUGH, Mr. RAILSBACK, Mr. PEASE, Mr. DRINAN, Mr. HANLEY, Mrs. BURKE of California, Mrs. PETTIS, and Mr. AUCOIN):

H.R. 13520. A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the $1 coin, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. ROYBAL (for himself, Mr. ANDERSON of California, Mrs. BURKE of California, Mr. GOLDWATER, and Mr. MOORHEAD or California):

H.R. 13521. A bill to repeal the act of June 23, 1936, to preserve to the city of Los Angeles all of its existing rights, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SIMON (for himself, Mr. MITCHELL of Maryland, Mr. BAUCUS, Mr. BEILENSON, Mr. BEVILL, Mr. BOLAND, Mr. BRODHEAD, Mr. DE LUGO, Mr. DRINAN, Mr. DUNCAN of Tennessee, Mr. DUNCAN of Oregon, Mr. EDWARDS of California, Mr. EILBERG, Mr. FASCELL, Mr. JACOBS, Ms. KEYS, Mr. KREBS, Mr. LEHMAN, Mr. METCALFE, Mr. PANETTA, Mr. PEPPER, Mr. RANGEL, Mr. REUSS, Mr. ROE, and Mr. VENTO):

H.R. 13522. A bill to provide for the issuance of a commemorative postage stamp in honor of Dr. Ralph J. Bunche; to the Committee on Post Office and Civil Service.

By Mr. SIMON (for himself, Mr. MITCHELL of Maryland, Mr. AKAKA, Mr. DELLUMS, Mr. DERRICK, Mr. GARCIA, Mr. HEFNER, Mr. HEFTEL, Mrs. HOLT, Mr. HORTON, Mr. CHARLES WILSON of Texas, and Mr. SEIBERLING):

H.R. 13523. A bill to provide for the issuance of a commemorative postage stamp in honor of Dr. Ralph J. Bunche; to the Committee on Post Office and Civil Service.

By Mr. SMITH of Iowa (for himself, Mr. PICKLE, Mr. CORMAN, Mr. CONTE, Mr. BEARD of Tennessee, Mr. BRINKLEY, Mr. CAPUTO, Mr. DUNCAN of Tennessee, Mr. EDGAR, Mr. FOWLER, Mr. HOWARD, Mr. KAZEN, Mr. LEACH, Mr. MARKEY, Mr. MOORHEAD of California, Mr. MURPHY of Illinois, Mr. SEBELIUS, Mr. SIMON, and Mr. TRAXLER):

H.R. 13524. A bill to amend the Internal Revenue Code of 1954 to provide tax relief to small businesses by establishing a graduated income tax rate for corporations; to the Committee on Ways and Means.

By Mr. TEAGUE (for himself, Mr. CARNEY, Mr. HILLIS, Mr. ROBERTS, Mr. HAMMERSCHMIDT, Mr. SATTERFIELD, and Mr. MONTGOMERY):

H. R. 13525. A bill relating to the employment of cemetery superintendents and assistant superintendents by the American Battle Monuments Commission; to the Committee on Veterans' Affairs.

By Mr. WALKER (for himself, Mrs. SPELLMAN, Mr. EVANS of Georgia, Mr. BEVILL, and Mr. PATTERSON of California):

H.R. 13526. A bill to require certain foreign persons and agents acting on behalf of foreign persons to record their purchases of agricultural land with the Secretary of Agriculture; to the Committee on Agriculture.

By Mr. OTTINGER:

H.J. Res. 1068. Joint resolution prohibiting trade and cultural and educational exchanges between the United States and the Soviet Union until such time as Anatoly Scharansky and Aleksandr Ginsburg are set free and the Soviet Union otherwise meets its commitments under the Helsinki Final Act; to the Committee on International Relations.

By Mr. BEARD of Tennessee (for himself, Mr. TREEN, Mr. NICHOLS, Mr. DERWINSKI, Mrs. LLOYD of Tennessee, Mr. BOB WILSON, Mr. LAGOMARSINO, Mr. McDONALD, Mrs. HOLT, Mr. YOUNG of Alaska, Mr. DEVINE, Mr. WALKER, Mr. BADHAM, Mr. LOTT, Mr. ICHORD, Mr. MILFORD, Mr. MADIGAN, Mr. EDWARDS of Oklahoma, Mr. HAGEDORN, Mr. TRIBLE, Mr. CRANE, Mr. ROBINSON, Mr. SIKES, Mr. VANDER JAGT, and Mr. MICHEL):

H. Res. 1269. Resolution to express the sense of the House that the Secretary of Defense should rescind his directive permitting in absentia discharges for deserters; to the Committee on Armed Services.

By Mr. BRECKINRIDGE (for himself, Mr. WAGGONNER, Mr. MIKVA, Mr. DUNCAN of Tennessee, Mr. ASHLEY, Mr. MOORE, Mr. WHITEHURST, Mr. McDADE, Mrs. CHISHOLM, Mr. EDGAR, Mr. FLOOD, Mr. FORD of Michigan, Mr. FORD of Tennessee, Mr. GILMAN, Mr. HAGEDORN, Mr. HYDE, Mr. KINDNESS, Mr. LIVINGSTON, Mr. MARKS, Mr. MARRIOTT, Mr. PATTERSON of California, Mr. RINALDO, Mr. ROBINSON, Mr. SPENCE, and Mr. STUDDS):

H. Res. 1270. Resolution relating to voluntary pooling of clerk-hire funds; to the Committee on House Administration.

By Mr. BRECKINRIDGE (for himself, Mr. BINGHAM, Mr. LEDERER, Mr. AMMERMAN, Mr. APPLEGATE, Mr. BONKER, Mr. LAGOMARSINO, Mr. STOCKMAN, Mr. YOUNG of Alaska, Mr. DOWNEY, Mr. FISH, Mr. HUBBARD, Mr. ECKHARDT, Mr. CORNWELL, Mr. CORCORAN of Illinois, Mr. ANDREWS of North Carolina, Mr. ANNUNZIO, Mr. MURPHY of Illinois, Mr. NIX, Mr. STEED, Mr. PRICE, Mrs. SCHROEDER, Mr. CHARLES H. WILSON of California, and Mr. DICKS):

H. Res. 1271. Resolution relating to voluntary pooling of clerk-hire funds; to the Committee on House Administration.

By Mr. BRECKINRIDGE (for himself, Mr. WON PAT, Mr. BEDELL, Mr. SKELTON, Mr. WEAVER, Mr. MURPHY of Pennsylvania, Mr. HANLEY, Mr. FLIPPO, Mr. GREEN, Mr. HIGHTOWER, Mr. DERRICK, Mr. FORSYTHE, Mr. MARKEY, Mr. LLOYD of California, Mr. LEGGETT, Mr. DAN DANIEL, Mr. MITCHELL of Maryland, Mr. GEPHARDT, Mr. DELLUMS, Mr. ROYBAL, Mr. ROSENTHAL, Mr. HAMILTON, Mr. CHARLES WILSON of Texas, Mr. RISENHOOVER, and Mr. MURPHY of Illinois):

H. Res. 1272. Resolution relating to voluntary pooling of clerk-hire funds; to the Committee on House Administration.

By Mr. BRECKINRIDGE (for himself, Mr.McDADE, Mr. WALKER, Mr. ULLMAN, and Mr. SYMMS):

H. Res. 1273. Resolution relating to voluntary pooling of clerk-hire funds; to the Committee on House Administration.

By Mr. DRINAN:

H. Res. 1274. Resolution expressing the sense of the House of Representatives with respect to the selection of a site other than the Soviet Union for the 1980 summer Olympic games; to the Committee on International Relations.

By Mr. FRASER (for himself and Mr. VENTO):

H. Res. 1275. Resolution urging the United States and Canada to cooperate in their efforts to improve the quality of air in the boundary regions; to the Committee on International Relations.

By Mr. STOKES:

H. Res. 1276. Resolution providing for the further expenses of the Select Committee on Assassinations; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

454. By the SPEAKER: Memorial of the Legislature of the State of California, relative to Federal reclamation laws; to the Committee on Interior and Insular Affairs.

455. Also, memorial of the Legislature of the State of New York, relative to the regulation and taxation of the insurance business by the States; to the Committee on the Judiciary.

456. Also, memorial of the Legislature of the State of California, relative to foreign steel imports; to the Committee on Ways and Means.

457. Also, memorial of the Legislature of the State of California, relative to multiple employer trusts; jointly, to the Committees on Education and Labor, and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRINKLEY:

H.R. 13527. A bill for the relief of Bertha Knight Manuel; to the Committee on the Judiciary.

By Mr WAXMAN:

H.R. 13528. A bill for the relief of Olivia Manaois Abrasaldo; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

505. By the SPEAKER: Petition of the American Veterans of World War II, Korea and Vietnam, Department of Massachusetts, Boston, Mass., relative to unionization, honorable service, and strengthening the armed forces of the United States; to the Committee on Armed Services.

506. Also, petition of the American Veterans of World War II, Korea and Vietnam, Department of Massachusetts, Boston, Mass., relative to lifting the arms sales embargo to Turkey; to the Committee on International Relations.

507. Also, petition of the North Atlantic Ports Association, Inc., Baltimore, Md., relative to toll stability for passage of vessels through the Panama Canal; to the Committee on Merchant Marine and Fisheries.

508. Also, petition of the American Veterans of World War II, Korea and Vietnam, Department of Massachusetts, Boston, Mass., relative to hospital care and employment services for veterans; to the Committee on Veterans' Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7308

By Mr. McCLORY:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Foreign Intelligence Electronic Surveillance Act of 1978".

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TITLE II—CONFORMING AMENDMENTS

Sec. 201. Amendments to chapter 119 of title 18, United States Code.

TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

SEC. 101. As used in this title:

(a) "Foreign power" means—

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations, not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism or activities in preparation therefor;

(5) a foreign-based political organization, not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

Such term shall not apply to any United States person solely upon the basis of activities protected by the first amendment of the Constitution.

(b) "Agent of a foreign power" means—

(1) any person other than a United States person who—

(A) acts in the United States as an officer, member, or employee of a foreign power; or

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the foreign policy or security interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in candestine intelligence activities for or on behalf of a foreign power under circumstances which indicate that such activities are contrary to the foreign policy or security interests of the United States;

(B) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for on on behalf of a foreign power; or

(C) conspires with or knowingly aids or abets any person engaged in any activity described in subparagraph (A) or (B).

Such term shall not apply to any United States person solely upon the basis of activities protected by the first amendment of the Constitution.

(c) "International terrorism" means activities that—

(1) involve violent acts or acts dangerous to human life that are or may be a violation of the criminal laws of the United States or of any State, or that might involve a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnaping; and

(3) occur totally outside the United States, or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimiate, or the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve or may involve a violation of chapter 105 of title 18, United States Code, or that might involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means—

(1) information that relates to and, if concerning a United States person, is necessary to the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power on an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to and, if concerning a United States person, is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto;

(3) the intentional acquisition, by an electronic, mechanical, or other surveillance device, of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) "Minimization procedures", with respect to a particular electronic surveillance, means specific procedures, reasonably designed in light of the purpose and technique of the surveillance, to minimize the acquisition, retention, and dissemination of nonpublicly available information concerning unconsenting United States citizens consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information. To achieve such minimization, the Attorney General shall adopt procedures which shall include, where appropriate—

(1) provisions for the destruction of unnecessary information acquired through the surveillance;

(2) provisions with respect to what information may be filed and on what basis, what information may be retrieved and on what basis, and what information may be disseminated, to whom, and on what basis;

(3) provisions for the deletion of the identity of any United States ciitzen acquired through the surveillance if such identity is not necessary to assess the importance of or to understand the information;

(4) provisions relating to the proper authority in particular cases to approve the retention or dissemination of the identity of any United States citizen acquired through the surveillance;

(5) provisions relating to internal review of the minimization process; and

(6) provisions relating to adequate accounting of information concerning United States citizens that is used or disseminated.

In addition, the procedures shall include provisions that require that nonpublicly available information that is not foreign intelligence information, as defined in subsection (e)(1), shall not be disseminated in a manner which identifies any individual United States citizen, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or to assess its importance; and shall allow for the retention and dissemination of information that is evidence of a crime that has been, is being, or is about to be committed and that is to be retained or disseminated for the purpose of preventing the crime or of enforcing the criminal law.

(h) "United States person" means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporataion or an association which is a foreign power, as defined in subsection (a) (1), (2), or (3).

(i) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(j) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(k) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(l) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(m) "Contents", when used with respect to a communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

(n) "State" means any State of the United States, the District of Columbia, the Com-

monwealth of Puerto Rico, any territory or possession of the United States, and the Trust Territory of the Pacific Islands.

AUTHORIZATION OF ELECTRONIC SURVEILLANCE TO OBTAIN FOREIGN INTELLIGENCE INFORMATION

SEC. 102. (a) Electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information may be authorized by the issuance of a surveillance certificate in accordance with subsection (h). If the target of the electronic surveillance is a United States citizen, the issuance of a certificate under oath and signed by the President stating that such electronic surveillance would be in accordance with the criteria and requirements of this title shall also be required.

(b) Electronic surveillance authorized under subsection (a) may only be performed according to the terms of a surveillance certificate issued in accordance with subsection (h).

(c) Electronic surveillance may be authorized under this section for the period necessary to achieve its purpose, except that—

(1) if the target of the surveillance is not a foreign power, the period of the surveillance may not exceed ninety days; and

(2) if the target of the surveillance is a foreign power, the period of the surveillance may not exceed one year.

(d) An electronic surveillance authorized under this section may be reauthorized in the same manner as an original authorization, but all statements required to be made under subsection (h) for the initial issuance of a surveillance certificate shall be based on new findings.

(e)(1) Notwithstanding any other provision of this title, if the Attorney General or Deputy Attorney General determines that—

(A) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before the requirements of subsection (a) can be followed; and

(B) the factual bases exist for the issuance of a surveillance certificate under subsection (h) to approve such surveillance,

the Attorney General or Deputy Attorney General, as the case may be, may authorize the emergency employment of electronic surveillance if, as soon as is practicable, but not more than forty-eight hours after the Attorney General or Deputy Attorney General authorizes such surveillance, the requirements of subsection (a) are met as they would have been.

(2) If the target is a United States citizen, the Attorney General or Deputy Attorney General shall notify the President at the time of such authorization that the decision has been made to employ emergency electronic surveillance.

(3) If the Attorney General or Deputy Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title be followed.

(4) If electronic surveillance is authorized under this subsection, it shall terminate when the information sought is obtained or after the expiration of forty-eight hours from the time of authorization, whichever is earliest. In the event that the requirements of subsection (a) are not met, all information obtained or evidence derived from electronic surveillance authorized under this subsection shall be destroyed within forty-eight hours of such determination, except that a record of the facts surrounding the Attorney General's or Deputy Attorney General's authorization and the failure to meet the requirements of subsection (a) shall be made and preserved with all other records which under this title are required to be retained.

(f) Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment; and

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test;

(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance; or

(3) train intelligence personnel in the use of electronic surveillance equipment, if—

(A) it is not reasonable to—

(i) obtain the consent of the persons incidentally subjected to the surveillance;

(ii) train persons in the course of surveillances otherwise authorized by this title; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no contents of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g)(1) Upon the issuance of a surveillance certificate under this section, the Attorney General may direct a specified communication or other common carrier, or a landlord, custodian or other specified person, to—

(A) furnish any information, facility, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect the secrecy of such surveillance and will produce a minimum of interference with the services that such common carrier or person provides its customers; and

(B) maintain any records concerning such surveillance or the assistance furnished by such common carrier or person that such common carrier or person wishes to retain under security procedures approved by the Attorney General and the Director of Central Intelligence.

(2) Any direction by the Attorney General under paragraph (1) shall be in writing.

(3) The Government shall compensate any common carrier, landlord, custodian, or other specified person at the prevailing rate for assistance furnished pursuant to a direction under paragraph (1).

(4) Any individual may, for reasons of conscience, refuse to comply with a direction from the Attorney General under paragraph (1).

(h) A surveillance certificate issued under subsection (a) shall be issued in writing and under oath by the Attorney General and an executive branch official or officials designated by the President from among those officials employed in the area of national security or national defense who were appointed by the President by and with the advice and consent of the Senate, and shall include—

(1) a statement—

(A) identifying or describing the target of the electronic surveillance, including a certification of whether or not the target is a United States citizen;

(B) certifying that the target of the surveillance is a foreign power or an agent of a foreign power; and

(C) certifying that each of the facilities or places at which the surveillance is directed is being or may be used by a foreign power or an agent of a foreign power;

(2) a statement of the basis for the certification under paragraph (1) that—

(A) the target of the surveillance is or is not a United States citizen;

(B) the target of the surveillance is a foreign power or an agent of a foreign power; and

(C) each of the facilities or places at which the surveillance is directed is being used or may be used by a foreign power or an agent of a foreign power;

(3) a statement of the proposed minimization procedures;

(4) a statement that the information sought is foreign intelligence information;

(5) a statement that the purpose of the surveillance is to obtain foreign intelligence information;

(6) if the target of the surveillance is a United States person, a statement that the information sought cannot reasonably be obtained by normal investigation techniques;

(7) if the target of the surveillance is not a foreign power, a statement of the basis for the certification under paragraph (4) that the information sought is foreign intelligence information;

(8) a statement of the period of time for which the surveillance is required to be maintained;

(9) a statement of the means by which the surveillance will be effected;

(10) if the nature of the intelligence gathering is such that the approval of an electronic surveillance under subsection (b) should not automatically terminate when the described type of information has first been obtained, a statement of the facts indicating that additional information of the same type will be obtained thereafter;

(11) a statement indicating whether or not an emergency authorization was made under subsection (e); and

(12) if more than one electronic, mechanical, or other surveillance device is to be involved with respect to such surveillance, a statement specifying the types of devices involved, their coverage, and the minimization procedures that will apply to information acquired by each type of device.

USE OF INFORMATION

SEC. 103. (a) Information acquired from an electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this title shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used for or disclosed in any proceeding with the advance authorization of the Attorney General.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Before any State or political subdivision thereof may enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof must receive from the Attorney General an authorization to so use such information. Upon receiving such authorization, the State or political subdivision thereof shall notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e) and the Government concedes that information obtained or derived from an electronic surveillance pursuant to the authority of this title as to which the moving party is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding, the Government may make a motion before the court, or if the case is before a court of a State or a subdivision thereof, then before the United States district court of the judicial district in which the case is pending, to determine the lawfulness of the electronic surveillance. Such motion shall stay any action in any court or authority to determine the lawfulness of the surveillance. In determining the lawfulness of the surveillance, the court shall, notwithstanding any other law, if the Attorney General files an affidavit under oath with the court that disclosure would harm the national security of the United States or compromise foreign intelligence sources and methods, review in camera the surveillance certificate and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making such determination, the court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials if there is a reasonable question as to the legality of the surveillance and if disclosure would likely promote a more accurate determination of such legality.

(g) Except as provided in subsection (f), whenever any motion or request is made pursuant to any statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain surveillance certificates or other materials relating to surveillance pursuant to the authority of this title, or to discover, obtain, or suppress any information obtained from electronic surveillance pursuant to the authority of this title, and the court or other authority determines that the moving party is an aggrieved person, if the Attorney General files with the court of appeals of the circuit in which the case is pending an affidavit under oath that an adversary hearing would harm the national security or compromise foreign intelligence sources and methods and that no information obtained or derived from an electronic surveillance pursuant to the authority of this title has been or is about to be used by the Government in the case before the court or other authority, the court of appeals shall, notwithstanding any other law, stay the proceeding before the other court or authority and review in camera and ex parte the surveillance certificate and such other materials as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the court of appeals shall disclose, under appropriate security procedures and protective orders, to the aggrieved person or his attorney, portions of the surveillance certificate or other materials relating to the surveillance only if necessary to afford due process to the aggrieved person.

(h) If the court pursuant to subsection (f) or the court of appeals pursuant to subsection (g) determines the surveillance was not lawfully authorized and conducted, it shall, in accordance with the requirements of the law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the court pursuant to subsection (f) or the court of appeals pursuant to subsection (g) determines the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(i) Orders granting motions or requests under subsection (h), decisions under this section as to the lawfulness of electronic surveillance, and, absent a finding of unlawfulness, orders of the court or court of appeals granting disclosure of surveillance certificates or other materials relating to a surveillance shall be binding upon all courts of the United States and the several States except the courts of appeals and the Supreme Court, and shall be final orders for purposes of appeal.

(j) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents may indicate a threat of death or serious bodily harm to any person.

CONGRESSIONAL OVERSIGHT

SEC. 104. On a semiannual basis the Attorney General shall fully inform the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate concerning all electronic surveillance under this title. Nothing in this chapter shall be deemed to limit the authority and responsibility of those committees to obtain such additional information as they may need to carry out their respective functions and duties.

PENALTIES

SEC. 105. (a) OFFENSE.—A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by statute; or

(2) violates section 102(a), 102(b), 102(d), 102(e), 103(a), 103(b), 103(j), or 107 or any order issued pursuant to this chapter, knowing his conduct violates such section or such order.

(b) DEFENSE.—(1) It is a defense to a prosecution under subsection (a)(1) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction;

(2) It is a defense to a prosecution under subsection (a)(2) that the defendant acted in a good faith belief that his actions were authorized by and taken pursuant to a surveillance certificate or otherwise did not violate any provision of this title, under circumstances where that belief was reasonable.

(c) PENALTY.—An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.—There is Federal jurisdiction over an offense in this section if the person was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY

SEC. 106. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power as defined in section 101 (a) or (b)(1)(A), respectively, who has been subjected to an electronic surveillance or whose communication has been disclosed or used in violation of section 105 of this chapter shall have a cause of action against any such person who committed such violation and shall be entitled to recover—

(1) actual damages, but not less than liquidated damages of $1,000 or of $100 per day for each day of violation, whichever is greater;

(2) punitive damages, where appropriate; and

(3) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

RETENTION OF RECORDS

SEC. 107. All surveillance certificates and all documents used to support the issuance of surveillance certificates shall be retained for a period of not less than twenty years and shall be stored at the direction of the Attorney General under security procedures approved by the Director of Central Intelligence.

TITLE II—CONFORMING AMENDMENTS

AMENDMENTS TO CHAPTER 119 OF TITLE 18, UNITED STATES CODE

SEC. 201. Chapter 119 of title 18, United States Code, is amended as follows:

(a) Section 2511 (2)(a)(ii) is amended to read as follows:

"(ii) Notwithstanding any other law, communication common carriers, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire or oral communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Electronic Surveillance Act of 1978, if the common car-

rier, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

"(A) a court order directing such assistance signed by the authorizing judge, or

"(B) a certification under oath and signed by a person specified in section 2518(7) of this title or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provision of the information, facilities, or technical assistance required. No communication common carrier, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance or the device used to accomplish the interception or surveillance with respect to which the person has been furnished an order or certification under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. No cause of action shall lie in any court against any communication common carrier, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of an order or certification under this subparagraph.".

(b) Section 2511(2) is amended by adding at the end thereof the following new provisions:

"(e) Notwithstanding any other provision of this title or section 605 or 606 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Electronic Surveillance Act of 1978, as authorized by that Act.

"(f) Nothing contained in this chapter, or section 605 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications by a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Electronic Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Electronic Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire and oral communications may be conducted.".

(c) Section 2511(3) is repealed.

(d) Section 2518(1) is amended by inserting "under this chapter" after "communication".

(e) Section 2518(4) is amended by inserting "under this chapter" after "wire or oral communication" both places it appears therein.

(f) Section 2518(9) is amended by striking out "intercepted" and by inserting "intercepted pursuant to this chapter" after "communication".

(g) Section 2518(10) is amended by striking out "intercepted" and by inserting "intercepted pursuant to this chapter" after "communication" the first place it appears therein.

(h) Section 2519(3) is amended by inserting "pursuant to this chapter" after "wire or oral communications" and after "granted or denied".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 301. The provisions of this Act and the amendments made hereby shall become effective upon the date of enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedures of this Act, if that surveillance is terminated or a surveillance certificate authorizing that surveillance is obtained under title I of this Act within ninety days following such date of enactment.

(Amendments to the text.)

—Page 32, strike out lines 4 through 25 and insert in lieu thereof the following:

(2) any person who—

(A) knowingly engages in clandestine intelligence activities for or on behalf of a foreign power under circumstances which indicate such activities are or may be contrary to the foreign policy or security interests of the United States;

(B) knowingly engages in sabotage or international terrorism or activities in preparation therefor, for or on behalf of a foreign power; or

(C) conspires with or knowingly aids or abets any person to engage in any activity described in subparagraph (A) or (B).

—Page 32, line 6, strike out "gathering".

Page 32, strike out lines 10 through 16.

Page 32, line 17, strike out "(C)" and insert in lieu thereof "(B)".

Page 32, line 21, strike out "(D)" and insert in lieu thereof "(C)".

Page 32, lines 23 and 25, strike out "subparagraph (A), (B) or (C)" and insert in lieu thereof "subparagraph (A) or (B)".

—Page 39, after line 10, insert the following new clause (and redesignate the succeeding clauses accordingly):

(i) a foreign government or any component of a foreign government, whether or not such government is recognized by the United States;

—Page 45, line 9, strike out "or" and insert in lieu thereof "and".

H.R. 7308

By Mr. BOB WILSON:

(Amendment in the nature of a substitute.)

—Strike out all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Foreign Intelligence Surveillance Act of 1978".

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TITLE III—EFFECTIVE DATE

Sec. 301. Effective date.

TITLE I—ELECTRONIC SURVEILLANCE WITHIN THE UNITED STATES FOR FOREIGN INTELLIGENCE PURPOSES

DEFINITIONS

SEC. 101. As used in this title:

(a) "Foreign power" means—

(1) a foreign government or any component thereof, whether or not recognized by the United States;

(2) a faction of a foreign nation or nations; not substantially composed of United States persons;

(3) an entity that is openly acknowledged by a foreign government or governments to be directed and controlled by such foreign government or governments;

(4) a group engaged in international terrorism or activities in preparation therefor;

(5) a foreign-based political organization, not substantially composed of United States persons; or

(6) an entity that is directed and controlled by a foreign government or governments.

(b) "Agent of a foreign power" means—

(1) any person other than a United States person, who—

(A) acts in the United States as an officer, member, or employee of a foreign power; or

(B) acts for or on behalf of a foreign power which engages in clandestine intelligence activities in the United States contrary to the interests of the United States, when the circumstances of such person's presence in the United States indicate that such person may engage in such activities in the United States, or when such person knowingly aids or abets any person in the conduct of such activities or knowingly conspires with any person to engage in such activities; or

(2) any person who—

(A) knowingly engages in clandestine intelligence gathering activities for or on behalf of a foreign power, which activities involve or may involve a violation of the criminal statutes of the United States;

(B) pursuant to the direction of an intelligence service or network of a foreign power, knowingly engages in any other clandestine intelligence activities for or on behalf of such foreign power, which activities involve or are about to involve a violation of the criminal statutes of the United States;

(C) knowingly engages in sabotage or international terrorism, or activities that are in preparation therefor, for or on behalf of a foreign power; or

(D) knowingly aids or abets any person in the conduct of activities described in subparagraph (A), (B), or (C) or knowingly conspires with any person to engage in activities described in subparagraph (A), (B), or (C).

(c) "International terrorism" means activities that—

(1) involve violent acts or acts dangerous to human life that are or may be a violation of the criminal laws of the United States or of any State, or that might involve a criminal violation if committed within the jurisdiction of the United States or any State;

(2) appear to be intended—

(A) to intimidate or coerce a civilian population;

(B) to influence the policy of a government by intimidation or coercion; or

(C) to affect the conduct of a government by assassination or kidnapping; and

(3) occur totally outside the United States or transcend national boundaries in terms of the means by which they are accomplished, the persons they appear intended to coerce or intimidate, or the locale in which their perpetrators operate or seek asylum.

(d) "Sabotage" means activities that involve or may involve a violation of chapter 105 of title 18, United States Code, or that might involve such a violation if committed against the United States.

(e) "Foreign intelligence information" means—

(1) information that relates to and, if concerning a United States person, is necessary to the ability of the United States to protect against—

(A) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

(B) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

(C) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

(2) information with respect to a foreign power or foreign territory that relates to

and, if concerning a United States person, is necessary to—

(A) the national defense or the security of the United States; or

(B) the conduct of the foreign affairs of the United States.

(f) "Electronic surveillance" means—

(1) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire or radio communication sent by or intended to be received by a particular, known United States person who is in the United States, if the contents are acquired by intentionally targeting that United States person, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes;

(2) the acquisition by an electronic, mechanical, or other surveillance device of the contents of any wire communication to or from a person in the United States, without the consent of any party thereto, if such acquisition occurs in the United States;

(3) the intentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes and if both the sender and all intended recipients are located within the United States; or

(4) the installation or use of an electronic, mechanical, or other surveillance device in the United States for monitoring to acquire information, other than from a wire or radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes.

(g) "Attorney General" means the Attorney General of the United States (or Acting Attorney General) or the Deputy Attorney General.

(h) "Minimization procedures", with respect to electronic surveillance, means—

(1) specific procedures, which shall be adopted by the Attorney General, that are reasonably designed in light of the purpose and technique of the particular surveillance, to minimize the acquisition, retention, and dissemination of nonpublicly available informaton concerning unconsenting United States persons consistent with the need of the United States to obtain, produce, and disseminate foreign intelligence information;

(2) procedures that require that nonpublicly available information, which is not foreign intelligence information, as defined in subsection (e)(1), shall not be disseminated in a manner that identifies any individual United States person, without such person's consent, unless such person's identity is necessary to understand foreign intelligence information or assess its importance;

(3) notwithstanding paragraphs (1) and (2), procedures that allow for the retention and dissemination of information that is evidence of a crime which has been, is being, or is about to be committed and that is to be retained or disseminated for the purpose of preventing the crime or enforcing the criminal law; and

(4) notwithstanding paragraphs (1), (2), and (3), with respect to any electronic surveillance approved pursuant to section 102 (a), procedures that require that no contents of any communication to which a United States person is a party shall be disclosed, disseminated, or used for any purpose or retained for longer than twenty-four hours unless a court order under section 105 is obtained or unless the Attorney General determines that the information may indicate a threat of death or serious bodily harm to any person.

(i) "United States person" means a citizen of the United States, an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act), an unincorporated association a substantial number of members of which are citizens of the United States or aliens lawfully admitted for permanent residence, or a corporation which is incorporated in the United States, but does not include a corporation or an association which is a foreign power, as defined in subsection (a)(1), (2), or (3).

(j) "United States", when used in a geographic sense, means all areas under the territorial sovereignty of the United States and the Trust Territory of the Pacific Islands.

(k) "Aggrieved person" means a person who is the target of an electronic surveillance or any other person whose communications or activities were subject to electronic surveillance.

(l) "Wire communication" means any communication while it is being carried by a wire, cable, or other like connection furnished or operated by any person engaged as a common carrier in providing or operating such facilities for the transmission of interstate or foreign communications.

(m) "Person" means any individual, including any officer or employee of the Federal Government, or any group, entity, association, corporation, or foreign power.

(n) "Contents", when used with respect to a communication, includes any information concerning the identity of the parties to such communication or the existence, substance, purport, or meaning of that communication.

AUTHORIZATION FOR ELECTRONIC SURVEILLANCE FOR FOREIGN INTELLIGENCE PURPOSES

SEC. 102. (a)(1) Notwithstanding any other law, the President, through the Attorney General, may authorize electronic surveillance without a court order under this title to acquire foreign intelligence information for periods of up to one year if the Attorney General certifies in writing under oath that—

(A) the electronic surveillance is solely directed at—

(i) communications exclusively between or among foreign powers, as defined in section 101(a)(1), (2), or (3); or

(ii) the acquisition of technical intelligence from property or premises under the open and exclusive control of a foreign power, as defined in section 101(a)(1), (2), (3); and

(B) the proposed minimization procedures with respect to such surveillance meet the definition of minimization procedures under section 101(h); and

if the Attorney General shall report such minimization procedures and any changes thereto to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence at least thirty days prior to their effective date, unless the Attorney General determines immediate action is required and notifies the committees immediately of such minimization procedures and the reason for their becoming effective immediately.

(2) An electronic surveillance authorized by this subsection may be conducted only in accordance with the Attorney General's certification and the minimization procedures adopted by him.

(3) With respect to electronic surveillance authorized by this subsection, the Attorney General may direct a specified communication common carrier to—

(A) furnish all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such a manner as will protect its secrecy and produce a minimum of interference with the services that such carrier is providing its customers; and

(B) maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished which such carrier wishes to retain. The Government shall compensate, at the prevailing rate, such carrier for furnishing such aid.

(b) Applications for a court order under this title are authorized if the President has, by written authorization, empowered the Attorney General to approve applications to the Special Court having jurisdiction under section 103, and a judge to whom an application is made may, notwithstanding any other law, grant an order, in conformity with section 105, approving electronic surveillance of a foreign power or an agent of a foreign power for the purpose of obtaining foreign intelligence information, except that the Special Court shall not have jurisdiction to grant any order approving electronic surveillance directed solely as described in paragraph (1)(A) of subsection (a) unless such surveillance may involve the acquisition of communications of any United States person.

SPECIAL COURTS

SEC. 103. (a) There is established a Special Court of the United States with jurisdiction throughout the United States to carry out the judicial duties of this title. The Chief Justice of the United States shall publicly designate at least one judge from each of the judicial circuits, nominated by the chief judges of the respective circuits, who shall be members of the Special Court and one of whom the Chief Justice shall publicly designate as the chief judge. The Special Court shall sit continuously in the District of Columbia.

(b) There is established a Special Court of Appeals with jurisdiction to hear appeals from decisions of the Special Court and any other matter assigned to it by this title. The Chief Justice shall publicly designate six judges, one of whom shall be publicly designated as the chief judge, from among judges nominated by the chief judges of the district courts of the District of Columbia, the Eastern District of Virginia and the District of Maryland, and the United States Court of Appeals for the District of Columbia, any three of whom shall constitute a panel for purposes of carrying out its duties under this title.

(c) The judges of the Special Court and the Special Court of Appeals shall be designated for six-year terms, except that the Chief Justice shall stagger the terms of the members originally chosen. No judge may serve more than two full terms.

(d) The chief judges of the Special Court and the Special Court of Appeals shall, in consultation with the Attorney General and the Director of Central Intelligence, establish such document, physical, personnel, or communications security measures as are necessary to protect information submitted to or produced by the Special Court or Special Court of Appeals from unauthorized disclosure.

(e) Proceedings under this title shall be conducted as expeditiously as possible. If any application to the Special Court is denied, the court shall record the reasons for that denial, and the reasons for that denial shall, upon the motion of the party to whom the application was denied, be transmitted under seal to the Special Court of Appeals.

(f) Decisions of the Special Court of Appeals shall be subject to review by the Supreme Court of the United States in the same manner as a judgment of a United States court of appeals as provided in section 1254 of title 28, United States Code, except that the Supreme Court may adopt special procedures with respect to security appropriate to the case.

(g) The Chief Judges of the Special Court and the Special Court of Appeals may, in consultation with the Attorney General and Director of Central Intelligence and consistent with subsection (d)—

(1) designate such officers or employees of the Government, as may be necessary, to serve as employees of the Special Court and Special Court of Appeals; and

(2) promulgate such rules or administra-

tive procedures as may be necessary to the efficient functioning of the Special Court and Special Court of Appeals.

Any funds necessary to the operation of the Special Court and the Special Court of Appeals may be drawn from appropriations for the Department of Justice. The Department of Justice shall provide such fiscal and administrative services as may be necessary for the Special Court and Special Court of Appeals.

APPLICATION FOR AN ORDER

SEC. 104. (a) Each application for an order approving electronic surveillance under this title shall be made by a Federal officer in writing upon oath or affirmation to a judge having jurisdiction under section 103. Each application shall require the approval of the Attorney General based upon his finding that it satisfies the criteria and requirements of such application as set forth in this title. It shall include—

(1) the identity of the Federal officer making the application;

(2) the authority conferred on the Attorney General by the President of the United States and the approval of the Attorney General to make the application;

(3) the identity, if known, or a description of the target of the electronic surveillance;

(4) a statement of the facts and circumstances relied upon by the applicant to justify his belief that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(5) a statement of the proposed minimization procedures;

(6) a detailed description of the nature of the information sought and the type of communications or activities to be subjected to the surveillance;

(7) a certification or certifications by the Assistant to the President for National Security Affairs or an executive branch official or officials designated by the President from among those executive officers employed in the area of national security or defense and appointed by the President with the advice and consent of the Senate—

(A) that the certifying official deems the information sought to be foreign intelligence information;

(B) that the purpose of the surveillance is to obtain foreign intelligence information;

(C) that such information cannot reasonably be obtained by normal investigative techniques;

(D) that designates the type of foreign intelligence information being sought according to the categories described in section 101(e); and

(E) including a statement of the basis for the certification that—

(i) the information sought is the type of foreign intelligence information designated; and

(ii) such information cannot reasonably be obtained by normal investigative techniques;

(8) a statement of the means by which the surveillance will be effected;

(9) a statement of the facts concerning all previous applications that have been made to any judge under this title involving any of the persons, facilities, or places specified in the application, and the action taken on each previous application;

(10) a statement of the period of time for which the electronic surveillance is required to be maintained, and if the nature of the intelligence gathering is such that the approval of the use of electronic surveillance under this title should not automatically terminate when the described type of information has first been obtained, a description of facts supporting the belief that additional information of the same type will be obtained thereafter; and

(11) whenever more than one electronic, mechanical or other surveillance device is to be used with respect to a particular proposed electronic surveillance, the coverage of the devices involved and what minimization procedures apply to information acquired by each device.

(b) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the application need not contain the information required by paragraphs (6), (7)(E), (8), and (11) of subsection (a), but shall contain such information about the surveillance techniques and communications or other information concerning United States persons likely to be obtained as may be necessary to assess the proposed minimization procedures.

(c) The Attorney General may require any other affidavit or certification from any other officer in connection with the application.

(d) The judge may require the applicant to furnish such other information as may be necessary to make the determinations required by section 105.

ISSUANCE OF AN ORDER

SEC. 105. (a) Upon an application made pursuant to section 104, the judge shall enter an ex parte order as requested or as modified approving the electronic surveillance if he finds that—

(1) the President has authorized the Attorney General to approve applications for electronic surveillance for foreign intelligence information;

(2) the application has been made by a Federal officer and approved by the Attorney General;

(3) on the basis of the facts submitted by the applicant there is probable cause to believe that—

(A) the target of the electronic surveillance is a foreign power or an agent of a foreign power: *Provided*, That no United States person may be considered a foreign power or an agent of a foreign power solely upon the basis of activities protected by the first amendment to the Constitution of the United States; and

(B) each of the facilities or places at which the electronic surveillance is directed is being used, or is about to be used, by a foreign power or an agent of a foreign power;

(4) the proposed minimization procedures meet the definition of minimization procedures under section 101(h); and

(5) the application which has been filed contains all statements and certifications required by section 104 and, if the target is a United States person, the certification or certifications are not clearly erroneous on the basis of the statement made under section 104(a)(7)(E) and any other information furnished under section 104(d).

(b) An order approving an electronic surveillance under this section shall—

(1) specify—

(A) the identity, if known, or a description of the target of the electronic surveillance;

(B) the nature and location of each of the facilities or places at which the electronic surveillance will be directed;

(C) the type of information sought to be acquired and the type of communications or activities to be subjected to the surveillance;

(D) the means by which the electronic surveillance will be effected;

(E) the period of time during which the electronic surveillance is approved; and

(F) whenever more than one electronic, mechanical, or other surveillance device is to be used under the order, the authorized coverage of the devices involved and what minimization procedures shall apply to information subject to acquisition by each device; and

(2) direct—

(A) that the minimization procedures be followed;

(B) that, upon the request of the applicant, a specified communication or other common carrier, landlord, custodian, or other specified person furnish the applicant forthwith any and all information, facilities, or technical assistance necessary to accomplish the electronic surveillance in such manner as will protect its secrecy and produce a minimum of interference with the services that such carrier, landlord, custodian, or other person is providing that target of electronic surveillance;

(C) that such carrier, landlord, custodian, or other person maintain under security procedures approved by the Attorney General and the Director of Central Intelligence any records concerning the surveillance or the aid furnished that such person wishes to retain; and

(D) that the applicant compensate, at the prevailing rate, such carrier, landlord, custodian, or other person for furnishing such aid.

(c) Whenever the target of the electronic surveillance is a foreign power, as defined in section 101(a) (1), (2), or (3), and each of the facilities or places at which the surveillance is directed is owned, leased, or exclusively used by that foreign power, the order need not contain the information required by subparagraphs (C), (D), and (F) of subsection (b)(1), but shall generally describe the information sought, the communications or activities to be subjected to the surveillance, and the type of electronic surveillance involved, including whether physical entry is required.

(d)(1) An order issued under this section may approve an electronic surveillance for the period necessary to achieve its purpose, or for ninety days, whichever is less, except that an order under this section shall approve an electronic surveillance targeted against a foreign power, as defined in section 101(a) (1), (2), or (3), for the period specified in the application or for one year, whichever is less.

(2) Extensions of an order issued under this title may be granted on the same basis as an original order upon an application for an extension and new findings made in the same manner as required for an original order, except that an extension of an order under this chapter for a surveillance targeted against a foreign power, as defined in section 101(a) (4), (5), or (6), may be for a period not to exceed one year if the judge finds probable cause to believe that no communication of any individual United States person will be acquired during the period.

(3) At the end of the period of time for which electronic surveillance is approved by an order or an extension, the judge may assess compliance with the minimization procedures by reviewing the circumstances under which information concerning United States persons was acquired, retained, or disseminated.

(e) Notwithstanding any other provision of this title, when the Attorney General reasonably determines that—

(1) an emergency situation exists with respect to the employment of electronic surveillance to obtain foreign intelligence information before an order authorizing such surveillance can with due diligence be obtained; and

(2) the factual basis for issuance of an order under this title to approve such surveillance exists;

he may authorize the emergency employment of electronic surveillance if a judge designated pursuant to section 103 is informed by the Attorney General or his designee at

the time of such authorization that the decision has been made to employ emergency electronic surveillance and if an application in accordance with this title is made to that judge as soon as practicable, but not more than twenty-four hours after the Attorney General authorizes such surveillance. If the Attorney General authorizes such emergency employment of electronic surveillance, he shall require that the minimization procedures required by this title for the issuance of a judicial order be followed. In the absence of a judicial order approving such electronic surveillance, the surveillance shall terminate when the information sought is obtained, when the application for the order is denied, or after the expiration of twenty-four hours from the time of authorization by the Attorney General, whichever is earliest. In the event that such application for approval is denied, or in any other case where the electronic surveillance is terminated and no order is issued approving the surveillance, no information obtained or evidence derived from such surveillance shall be received in evidence or otherwise disclosed in any trial, hearing, or other proceeding in or before any court, grand jury, department, office, agency, regulatory body, legislative committee, or other authority of the United States, a State, or political subdivision thereof, and no information concerning any United States person acquired from such surveillance shall subsequently be used or disclosed in any other manner by Federal officers or employees without the consent of such person, except with the approval of the Attorney General if the information may indicate a threat of death or serious bodily harm to any person. A denial of the application made under this subsection may be reviewed as provided in section 103.

(f) Notwithstanding any other provision of this title, officers, employees, or agents of the United States are authorized in the normal course of their official duties to conduct electronic surveillance not targeted against the communications of any particular person or persons, under procedures approved by the Attorney General, solely to—

(1) test the capability of electronic equipment, if—

(A) it is not reasonable to obtain the consent of the persons incidentally subjected to the surveillance;

(B) the test is limited in extent and duration to that necessary to determine the capability of the equipment; and

(C) the contents of any communication acquired are retained and used only for the purpose of determining the capability of the equipment, are disclosed only to test personnel, and are destroyed before or immediately upon completion of the test;

(2) determine the existence and capability of electronic surveillance equipment being used by persons not authorized to conduct electronic surveillance, if—

(A) it is not reasonable to obtain the consent of persons incidentally subjected to the surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to determine the existence and capability of such equipment; and

(C) any information acquired by such surveillance is used only to enforce chapter 119 of title 18, United States Code, or section 605 of the Communications Act of 1934, or to protect information from unauthorized surveillance; or

(3) train intelligence personnel in the use of electronic surveillance equipment, if—

(A) it is not reasonable to—

(i) obtain the consent of the person incidentally subjected to the surveillance;

(ii) train persons in the course of surveillances otherwise authorized by this title; or

(iii) train persons in the use of such equipment without engaging in electronic surveillance;

(B) such electronic surveillance is limited in extent and duration to that necessary to train the personnel in the use of the equipment; and

(C) no content of any communication acquired are retained or disseminated for any purpose, but are destroyed as soon as reasonably possible.

(g) Certifications made by the Attorney General pursuant to section 102(a) and applications made and orders granted under this title shall be retained in accordance with the security procedures established pursuant to section 103 for a period of at least ten years from the date of the application.

USE OF INFORMATION

SEC. 106. (a) Information acquired from an electronic surveillance conducted pursuant to this title concerning any United States person may be used and disclosed by Federal officers and employees without the consent of the United States person only in accordance with the minimization procedures required by this title. No otherwise privileged communication obtained in accordance with, or in violation of, the provisions of this title shall lose its privileged character. No information acquired from an electronic surveillance pursuant to this title may be used or disclosed by Federal officers or employees except for lawful purposes.

(b) No information acquired pursuant to this title shall be disclosed for law enforcement purposes unless such disclosure is accompanied by a statement that such information, or any information derived therefrom, may only be used in a criminal proceeding with the advance authorization of the Attorney General.

(c) Whenever the Government intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, against an aggrieved person, any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the Government shall, prior to the trial, hearing, or other proceeding or at a reasonable time prior to an effort to so disclose or so use that information or submit it in evidence, notify the aggrieved person and the court or other authority in which the information is to be disclosed or used that the Government intends to so disclose or so use such information.

(d) Whenever any State or political subdivision thereof intends to enter into evidence or otherwise use or disclose in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of a State or a political subdivision thereof, against an aggrieved person any information obtained or derived from an electronic surveillance of that aggrieved person pursuant to the authority of this title, the State or political subdivision thereof shall notify the aggrieved person, the court or other authority in which the information is to be disclosed or used, and the Attorney General that the State or political subdivision thereof intends to so disclose or so use such information.

(e) Any person against whom evidence obtained or derived from an electronic surveillance to which he is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding in or before any court, department, officer, agency, regulatory body, or other authority of the United States, a State, or a political subdivision thereof, may move to suppress the evidence obtained or derived from such electronic surveillance on the grounds that—

(1) the information was unlawfully acquired; or

(2) the surveillance was not made in conformity with an order of authorization or approval.

Such a motion shall be made before the trial, hearing, or other proceeding unless there was no opportunity to make such a motion or the person was not aware of the grounds of the motion.

(f) Whenever a court or other authority is notified pursuant to subsection (c) or (d), or whenever a motion is made pursuant to subsection (e) and the Government concedes that information obtained or derived from an electronic surveillance pursuant to the authority of this title as to which the moving party is an aggrieved person is to be, or has been, introduced or otherwise used or disclosed in any trial, hearing, or other proceeding, the Government may make a motion before the Special Court to determine the lawfulness of the electronic surveillance. Unless all the judges of the Special Court are so disqualified, the motion may not be heard by a judge who granted or denied an order or extension involving the surveillance at issue. Such motion shall stay any action in any court or authority to determine the lawfulness of the surveillance. In determining the lawfulness of the surveillance, the Special Court shall, notwithstanding any other law, if the Attorney General files an affidavit under oath with the Special Court that disclosure would harm the national security of the United States or compromise foreign intelligence sources and methods, review in camera the application, order, and such other materials relating to the surveillance as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the Special Court may disclose to the aggrieved person, under appropriate security procedures and protective orders, portions of the application, order, or other materials if there is a reasonable question as to the legality of the surveillance and if disclosure would likely promote a more accurate determination of such legality, or if such disclosure would not harm the national security.

(g) Except as provided in subsection (f), whenever any motion or request is made pursuant to any statute or rule of the United States or any State before any court or other authority of the United States or any State to discover or obtain applications or orders or other materials relating to surveillance pursuant to the authority of this title or to discover, obtain, or suppress any information obtained from electronic surveillance pursuant to the authority of this title, and the court or other authority determines that the moving party is an aggrieved person, if the Attorney General files with the Special Court of Appeals an affidavit under oath than an adversary hearing would harm the national security or compromise foreign intelligence sources and methods and that no information obtained or derived from an electronic surveillance pursuant to the authority of this title has been or is about to be used by the Government in the case before the court or other authority, the Special Court of Appeals shall, notwithstanding any other law, stay the proceeding before the other court or authority and review in camera and ex parte the application, order, and such other materials as may be necessary to determine whether the surveillance of the aggrieved person was lawfully authorized and conducted. In making this determination, the Special Court of Appeals shall disclose, under appropriate security procedures and protective orders, to the aggrieved person or his attorney portions of the application, order, or other materials relating to the surveillance only if necessary to afford due process to the aggrieved person.

(h) If the Special Court pursuant to subsection (f) or the Special Court of Appeals pursuant to subsection (g) determines the surveillance was not lawfully authorized and conducted, it shall, in accordance with the

requirements of the law, suppress the evidence which was unlawfully obtained or derived from electronic surveillance of the aggrieved person or otherwise grant the motion of the aggrieved person. If the Special Court pursuant to subsection (f) or the Special Court of Appeals pursuant to subsection (g) determines the surveillance was lawfully authorized and conducted, it shall deny the motion of the aggrieved person except to the extent that due process requires discovery or disclosure.

(i) Orders granting or denying motions or requests under subsection (h), decisions under this section as to the lawfulness of electronic surveillance, and, absent a finding of unlawfulness, orders of the Special Court or Special Court of Appeals granting or denying disclosure of applications, orders, or other materials relating to a surveillance shall be final orders and binding upon all courts of the United States and the several States except the Special Court of Appeals and the Supreme Court.

(j) In circumstances involving the unintentional acquisition by an electronic, mechanical, or other surveillance device of the contents of any radio communication, under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States, such contents shall be destroyed upon recognition, unless the Attorney General determines that the contents may indicate a threat of death or serious bodily harm to any person.

(k) If an emergency employment of electronic surveillance is authorized under section 105(e) and a subsequent order approving the surveillance is not obtained, the judge shall cause to be served on any United States person named in the application and on such other United States persons subject to electronic surveillance as the judge may determine in his discretion it is in the interest of justice to serve, notice of—

(1) the fact of the application;

(2) the period of the surveillance; and

(3) the fact that during the period information was or was not obtained.

On an ex parte showing of good cause to the judge the serving of the notice required by this subsection may be postponed or suspended for a period not to exceed ninety days. Thereafter, on a further ex parte showing of good cause, the court shall forego ordering the serving of the notice required under this subsection.

REPORT OF ELECTRONIC SURVEILLANCE

SEC. 107. In April of each year, the Attorney General shall transmit to the Administrative Office of the United States Courts and to Congress a report setting forth with respect to the preceding calendar year—

(a) the total number of applications made for orders and extensions of orders approving electronic surveillance under this title; and

(b) the total number of such orders and extensions either granted, modified, or denied.

CONGRESSIONAL OVERSIGHT

SEC. 108. On a semiannual basis the Attorney General shall fully inform the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence concerning all electronic surveillance under this title. Nothing in this title shall be deemed to limit the authority and responsibility of those committees to obtain such additional information as they may need to carry out their respective functions and duties.

PENALTIES

SEC. 109. (a) OFFENSE.—A person is guilty of an offense if he intentionally—

(1) engages in electronic surveillance under color of law except as authorized by statute; or

(2) violates section 102(a)(2), 105(e), 105(f), 105(g), 106(a), 106(b), or 106(j) or any court order issued pursuant to this title, knowing his conduct violates such an order or this title.

(b) DEFENSE.—(1) It is a defense to a prosecution under subsection (a)(1) that the defendant was a law enforcement or investigative officer engaged in the course of his official duties and the electronic surveillance was authorized by and conducted pursuant to a search warrant or court order of a court of competent jurisdiction.

(2) It is a defense to a prosecution under subsection (a)(2) that the defendant acted in a good faith belief that his actions did not violate any provision of this title or any court order issued pursuant to this title, under circumstances where that belief was reasonable.

(c) PENALTY.—An offense described in this section is punishable by a fine of not more than $10,000 or imprisonment for not more than five years, or both.

(d) JURISDICTION.—There is Federal jurisdiction over an offense under this section if the person committing the offense was an officer or employee of the United States at the time the offense was committed.

CIVIL LIABILITY

SEC. 110. CIVIL ACTION.—An aggrieved person, other than a foreign power or an agent of a foreign power, as defined in section 101(a) or (b)(1)(A), respectively, who has been subjected to an electronic surveillance or whose communication has been disseminated or used in violation of section 109 shall have a cause of action against any person who committed such violation and shall be entitled to recover—

(a) actual damages, but not less than liquidated damages of $1,000 or $100 per day for each day of violation, whichever is greater;

(b) punitive damages; and

(c) reasonable attorney's fees and other investigation and litigation costs reasonably incurred.

TITLE II—CONFORMING AMENDMENTS

AMENDMENTS TO CHAPTER 119 OF TITLE 18, UNITED STATES CODE

SEC. 201. Chapter 119 of title 18, United States Code, is amended as follows:

(a) Section 2511(2)(a)(ii) is amended to read as follows:

"(ii) Notwithstanding any other law, communication common carriers, their officers, employees, and agents, landlords, custodians, or other persons, are authorized to provide information, facilities, or technical assistance to persons authorized by law to intercept wire or oral communications or to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, if the common carrier, its officers, employees, or agents, landlord, custodian, or other specified person, has been provided with—

"(A) a court order directing such assistance signed by the authorizing judge, or

"(B) a certification in writing by a person specified in section 2518(7) of this title or the Attorney General of the United States that no warrant or court order is required by law, that all statutory requirements have been met, and that the specified assistance is required,

setting forth the period of time during which the provisions of the information, facilities, or technical assistance is authorized and specifying the information, facilities, or technical assistance required. No communication common carrier, officer, employee, or agent thereof, or landlord, custodian, or other specified person shall disclose the existence of any interception or surveillance with respect to which the person has been furnished an order or certification under this subparagraph, except as may otherwise be required by legal process and then only after prior notification to the Attorney General or to the principal prosecuting attorney of a State or any political subdivision of a State, as may be appropriate. No cause of action shall lie in any court against any communication common carrier, its officers, employees, or agents, landlord, custodian, or other specified person for providing information, facilities, or assistance in accordance with the terms of an order or certification under this subparagraph.".

(b) Section 2511(2) is amended by adding at the end thereof the following new provisions:

"(e) Notwithstanding any other provision of this title or section 605 or 606 of the Communications Act of 1934, it shall not be unlawful for an officer, employee, or agent of the United States in the normal course of his official duty to conduct electronic surveillance, as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, as authorized by that Act.

"(f) Nothing contained in this chapter, or section 605 of the Communications Act of 1934, shall be deemed to affect the acquisition by the United States Government of foreign intelligence information from international or foreign communications by a means other than electronic surveillance as defined in section 101 of the Foreign Intelligence Surveillance Act of 1978, and procedures in this chapter and the Foreign Intelligence Surveillance Act of 1978 shall be the exclusive means by which electronic surveillance, as defined in section 101 of such Act, and the interception of domestic wire and oral communications may be conducted.".

(c) Section 2511(3) is repealed.

(d) Section 2518(1) is amended by inserting under this chapter" after communication".

(e) Section 2518(4) is amended by inserting "under this chapter" after both appearances of "wire or oral communication".

(f) Section 2518(9) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after "communication".

(g) Section 2518(10) is amended by striking out "intercepted" and inserting "intercepted pursuant to this chapter" after the first appearance of "communication".

(h) Section 2519(3) is amended by inserting "pursuant to this chapter" after "wire or oral communications" and after "granted or denied".

TITLE III—EFFECTIVE DATE

EFFECTIVE DATE

SEC. 301. The provisions of this Act and the amendments made hereby shall become effective thirty days following enactment of this Act, except that any electronic surveillance approved by the Attorney General to gather foreign intelligence information shall not be deemed unlawful for failure to follow the procedure of this Act, if that surveillance is terminated or an order approving that surveillance is obtained under title I of this Act within ninety days following the designation of the chief judges pursuant to section 103 of this Act.

H.R. 8729

By Mr. PEPPER:

(Amendment to the text of H.R. 11986, as reported when offered as an amendment.)

—Strike lines 9 and 10, beginning with "issued" to "1958," of section 6453, (d), (2), (B) on page 16 of H.R. 11986 as reported.

H.R. 11392

By Mr. OTTINGER:

(Amendment to the amendment in the nature of a substitute (committee print of June 23, 1978)).

—Page 29, strike out line 6, strike out "In preparing any" and all that follows down through and ending on line 23.

—Page 30, line 21, strike out subsection (f), beginning on line 21 and ending on line 6 of page 31.

Page 31, line 7, strike out "(g)" and insert in lieu thereof "(f)".

EXTENSIONS OF REMARKS

JUDGE WALTER LOGAN FRY

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. SEIBERLING. Mr. Speaker, June 6, 1978 marked the death of Administrative Law Judge Judge Walter Logan Fry, an honored resident of my district. His passing prompts me to remark briefly on Judge Fry's judicial professionalism and to his role—and that of all administrative law judges—in the increasingly complex and important work of the federal system.

Judge Fry was raised in Akron, Ohio, in a neighborhood rich in the diversity of Americans of Appalachian, African, English, Italian, German, Greek, Polish, and other national and ethnic origins, drawn together by the phenomenal expansion of the rubber and rubber tire industry at the turn of the century.

A graduate of East High School and Ohio University Judge Fry received his law degree from Akron Law School, now a part of Akron University. Firestone Tire, during the depression, sent him to its affiliated bank in Monrovia, Liberia, where he managed the bank's affairs for 3 years. On his return, he traveled through Europe, only to witness Hitler conduct a thunderous, frightening harangue in Munich.

When World War II later erupted, Judge Fry joined newly formed Goodyear Aircraft as a member of the original training group, following which he enlisted in the Navy recruiting service.

After the war, Judge Fry commenced a 34-year career in the Federal civil service in OPA/OPS, the Veterans' Administration, the Internal Revenue Service (Gift and Estate Tax) and, for 16 years, as hearing examiner and administrative law judge for the Bureau of Hearings and Appeals, DHEW, including 3 years as ALJ in charge of the Cleveland, Ohio, office.

Judge Fry took great pride in his work. As an administrative law judge, he performed pursuant to the adjudicatory procedures required by the Administrative Procedure Act of 1946, which establishes procedures to insure the independence and impartiality of the administrative process. Like Federal district and appellate judges, administrative law judges are exempt from performance evaluations by their agencies, receive periodic increases in pay without certification by their agencies, and can be removed only for cause established by the Civil Service Commission. Thus, as recognized in House Report 95–321 and Senate Report 95–697, discussing Public Law 95–251, Judge Fry held "a position with tenure very similar to that provided for Federal judges under the Constitution."

This independence and impartiality must be retained for the administrative law judge performs a vital role in our increasingly complex society. And because of the diversity and complexity of this work, the administrative law judge should accordingly be evaluated not like "all other civil servants," but rather, according to those standards by which U.S. district judges are evaluated.

Judge Fry exemplified this sense of impartiality and independence. He worked long and ably to secure for his fellow citizens those benefits which the country has deemed necessary for those who have become disabled and for whom employment opportunities are no longer available. Judge Fry approached this important responsibility with dedication and fairness. We will miss him.●

TWENTIETH OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. RONALD A. SARASIN

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. SARASIN. Mr. Speaker, the week of July 16 to 22 marks the 20th observance of Captive Nations Week. This annual occurrence serves as a reminder to the free world that there are less fortunate people who do not share the advantages of national independence.

The nations of Eastern Europe and Asia which live under the dominance of a stronger neighbor cry out for justice and equal status in the world community. They yearn for the day when their national cultures can once more flourish and their political freedoms can once more be maintained. Their present existence is one of subservience and as such, it is a condition which we cannot tolerate.

Particularly hardpressed in this situation are the states of the Baltic area which were absorbed by the Soviet Union early in the Second World War. These nationalities, which have suffered a long history of occupation and control, have maintained their national self-consciousness throughout their trials. Out of respect for their courage and perseverance, we must never accept their status as permanent, but must make every effort to return their cultural and political independence to them.

Toward this end, I have sponsored House Concurrent Resolution 177, a measure which calls for independence of Latvia, Lithuania, and Estonia. It advocates the withdrawal of all Russian and other nonnative agents from these republics and the return of all Baltic exiles from Soviet prisons and labor camps. These objectives would be accomplished under the auspices of the United Nations.

The United Nations has always represented the ideal of self-determination for both the individual and the state. Captive Nations Week celebrates this ideal by expanding it to an international level, but it simultaneously mourns the absence of self-determination in many nations. Let this week bolster our resoluteness to correct this wrong.●

CARL SNOWDEN

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. MITCHELL of Maryland. Mr. Speaker, on Friday, June 9, 1978 the citizens of Anne Arundel County gave a community salute to Carl Snowden. This young man is my friend who has demonstrated concern for the community since he was 16 years old.

Carl Snowden is a lifelong resident of Anne Arundel County. Mr. Snowden, who was born on June 17, 1953, is the son of Mr. and Mrs. William Snowden of Annapolis, Md. He has eight brothers and sisters. He is presently employed as the chief program officer for the Anne Arundel County Community Action Agency and in addition is the host-moderator of WANN radio station's "Community Viewpoint."

Mr. Snowden is a 1971 graduate of Key School, a private institution in Annapolis, Md. He attended the University of the District of Columbia as well as classes at Anne Arundel Community College. At the age of sixteen he took an active interest in human rights and civil rights and has been active ever since. In 1970 he was arrested while protesting discrimination against blacks in Anne Arundel County.

In 1970 he organized a boycott for classes in the area of black studies at Annapolis Senior High School; which later became part of the curriculum at the institution. In 1972 he organized the Poor Peoples Rights Organization, which was designed to improve the plight of poor and black people in Anne Arundel County. In 1973 he worked with Mrs. Martha Wood of the Parents Association in filing a complaint against the Anne Arundel County Public School System for violation of the 1964 Civil Rights Act with HEW who found that the school system was in violation. In 1974, he worked closely with Delegate Kenneth L. Webster (40th Legislative District in Baltimore City) in order to get legislation passed to make the late human rights activist Martin Luther King Jr.'s birthday a legal State holiday. In 1975 he worked with tenants in organizing the longest "rent strike" in the history of the State of Maryland and negotiated over a million dollar settlement for the beleaguered community. In 1976 he joined the black student organization, UJIMA, at Anne Arundel Community College in filing a discrimination complaint with the Maryland Human Relations Commission, which resulted in the college hiring its first full time black faculty members. In addition he worked with other community groups in preserving Mt. Moriah

A.M.E. Church and the Anne Arundel County Legal Aid Bureau; was one of the founders of VOTE, which sponsored the first black political convention in 1977. Mr. Snowden is the third vice president of the Anne Arundel County Branch of the NAACP.

That is quite a record for a man who has just reached the age of 25.

I believe you will share my thought that America needs many, many more Carl Snowdens.●

TRIBUTE TO JOHN O. GRAY

HON. JIM WRIGHT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. WRIGHT. Mr. Speaker, on June 30, John O. Gray of Washington, D.C., retired from his position as assistant executive director of the Air Force Association. Mr. Gray has been a key member of the national headquarters staff of that fine organization for more than 21 years and has played a leading role in the association's impressive growth in size, influence, stature, and prestige. Additionally, over an even longer period of time, Mr. Gray compiled a distinguished record of accomplishment as an officer in the U.S. Air Force Reserve, from his entry on active duty in June 1941, to his retirement as a brigadier general in 1969. I want to call the attention of my colleagues to the career of this outstanding military and civilian leader.

Born in Boston, Mass., Mr. Gray lived most of his young life in the Northwest. He is a graduate of the University of Idaho and still calls Spokane, Wash., his hometown.

He entered active military service in 1941 as a second lieutenant commissioned from the Army Reserve Officer Training Corps. After a tour at Lubbock Army Air Base in Texas, he served for 4 years in Europe with the 8th Air Force.

During the Korean conflict he was recalled to duty as a lieutenant colonel and served with Headquarters, U.S. Air Force, in Washington. Later he served a 4-year tour of duty in the Air Force's Office of Information, in charge of Reserve Forces activities.

In 1957 he joined the national staff of the Air Force Association in Washington, D.C., and was the association's project director for the golden anniversary celebration of the Air Force in that year.

In October 1957, Mr. Gray became the association's administrative director and soon became its assistant executive director, director of military relations, and military affairs editor of the Air Force magazine, the association's official journal.

In these capacities he supervised many of the administrative and operational functions of the association. He worked closely with the association's executive director in the programing and supervising of seminars, symposia, and conferences conducted annually throughout the country. His work brought him in contact with U.S. Air Force officials at all levels, other Department of Defense and Government agencies, civilian organizations, the Congress, and representatives of free-world nations.

Mr. Gray also served as administrative director of the Aerospace Education Foundation, an educational affiliate of AFA.

He is in the Retired Air Force Reserve as a brigadier general. Among his military decorations are the Legion of Merit and Bronze Star Medal.

Over the years Mr. Gray has accumulated many friends, admirers, and well-wishers, among which I count myself. He has always set high standards for himself, professionally and personally, and has always lived up to them.

Directly and indirectly, as a civilian leader in military affairs and as an Air Force officer, he has served the United States and its interests with honor, with dedication, and with talent. I am sure my colleagues join me in wishing him well in his retirement.●

MONUMENT TO DARTER IS TOURIST ATTRACTION

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. DUNCAN of Tennessee. Mr. Speaker, as my colleagues are aware, the publicity and controversy surrounding the Supreme Court's June 15 decision in the Tellico Dam/snail darter case has by no means disappeared. In no area is this more evident than in my own Second Congressional District of Tennessee wherein the Tellico project lies. For the residents of this area, the people who have seen many of their hopes for a better future smashed by this decision, this case represents the ultimate in bureaucratic folly. This sentiment is evident in the following editorial which appeared in the Athens, Tenn. Daily Post-Athenian on June 19. I commend its reading to my colleagues.

MONUMENT TO DARTER IS TOURIST ATTRACTION

Tennessee has been forging ahead in tourism for the past few years.

It now has an attraction that is unequaled in any of the other 49 states.

A multi-million dollar monument to a three inch fish.

To make the monument even more commanding it has a no less body than the Supreme Court as publicity agent.

The court says the three-inch snail darter is so rare that its habitating waters must not be disturbed, only viewed from the balustrade of a huge overlook of concrete and steel erected at the cost of millions.

However the vantage point can be reached nicely by a driveway which is almost inlaid with dollars.

The monumental dam should be a double pronged attraction. Nowhere else in the United States can one see the combination of the majesty of three-inch fish and the stupidity of interpretative court rulings.

But the view from the top of the dam is magnificent. On one hand can be seen the tiny darter monarchs holding sway in their water hideway. On the other is a panoramic view of better living for thousands of persons, which didn't materialize and sub-level existence continues.

Tourists should love visiting Little T dam.●

SEYMOUR L. KATZ

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. ROSENTHAL. Mr. Speaker, it gives me great pleasure to pay tribute today to a distinguished member of the Queens community, Mr. Seymour L. Katz, upon his completion of serving for 3 years as president of the Queens Council for Soviet Jewry. As an active and dedicated advocate for the liberation of Jews in the Soviet Union, Seymour served as a delegate to the Brussels Conference on Soviet Jewry in 1976 and visited the Soviet Union to meet with persons wishing to emigrate to Israel. The "refuseniks" Seymour met became his lasting and special friends. He is in constant phone contact with them, sends frequent "care packages" and ceaselessly petitions Soviet and American officials on their behalf. It was Seymour who brought the plight of refuseniks I recently "adopted"—Carmella and Vladimir Raiz—to my attention.

Under Seymour's leadership the Queens council organized numerous rallies and vigils around New York City and hosted the annual "Freedom Seder," in which I have had the privilege to participate, to honor recent Soviet emigrants and to pray for those unable to celebrate the Passover in the Soviet Union.

Seymour has been a leading figure in the Jewish affairs of the borough of Queens for over 20 years, serving as a founder and vice president of the New York Region of United Synagogue, Queens chairman of the N.E.P. program for the Jewish Theological Seminary, United Synagogue representative to the Synagogue Council of America and one of the American representatives on the board of directors of the World Council of Synagogues. He also served as a member of the board of directors of the Solomon Schecter School of Queens, the Queens UJA Cabinet and synagogue chairman of Queens Israel Bonds.

In recognition of his dedication and service to the Queens Jewish community and the cause of Soviet Jewry, Seymour was recently elected honorary president of the Queens Council for Soviet Jewry and vice chairman of the Greater New York Conference on Soviet Jewry.

With great respect and admiration for Seymour's selfless dedication to the Queens community and oppressed Soviet Jewry, I am pleased to join in my community's praise and appreciation for Seymour L. Katz.●

COAL SLURRY PIPELINES

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. TEAGUE. Mr. Speaker, the bill H.R. 1609, better known as the coal slurry pipeline bill will no doubt be one of the most debatable issues before the U.S. Congress this session.

Several years ago, during my tenure as chairman of the Office of Technology Assessment, I directed that a study be done on this issue for the benefit of the Members of this body. The study was completed several months ago, and I am sure that every Member of this body has received a copy of that study.

Because the bill was scheduled for consideration, the Office of Technology Assessment has published a one page position paper on the subject as a result of their study. A copy of this paper follows:

COAL SLURRY PIPELINES

Comparison of the costs of unit trains and slurry pipelines concluded that, depending on specific conditions of a given route, either mode can represent the least costly means of transporting coal if one ignores regulatory distortions and unquantifiable social impacts. Which mode is cheaper in a given instance can be determined only by a detailed economic and engineering evaluation.

Without the power of eminent domain at either the Federal or State level, coal slurry pipelines will have great difficulty competing with railroads. Without eminent domain, the pipelines would have to redirect routes, thereby increasing their costs and reducing their ability to compete successfully with established railroads.

On the other hand, if the pipelines are granted the power of eminent domain, they could enjoy significant advantages over the railroads because of regulatory restrictions on the latter's ability to enter into long-term contracts with selected customers.

Water availability is a central issue. Although transportation of coal by slurry pipelines will require much less of the mine region's water per ton of coal than onsite gasification or electric power generation, pipelines do represent a substantial potential demand on remaining unallocated resources. Sufficient unused quantities of suitable water exist, although they are not necessarily legally available, for the transportation of nearly 200 million tons per year from Western coal-producing areas. However, diverting water for slurry pipelines now would limit the options for future uses of that water. Eminent Domain legislation could inadvertently alter the balance of Federal and State authority over water resources. Unless such alteration is intended, care should be taken to avoid that consequence.

One environmental area of uncertainty involves the substances that will be present in the slurry water after it has been separated from the coal at the end of the pipeline. The Department of Energy is now sponsoring experiments to clarify this problem.

The environmental impacts of the water use, its discharge, and the construction of the pipelines must be weighed against the noise, land-use disruption, and rail-highway crossing accidents and inconvenience associated with moving the same coal by rail.

Railroad financial health probably would be affected less by a substantial pipeline industry than by adverse rate regulation or diminished productivity gains of railroads in the future.

Further, slurry pipeline development should have no significant impact on the achievement of projected levels of coal use on a national scale.

Copies of the OTA report, "A Technology Assessment of Coal Slurry Pipelines," are available from the U.S. Government Printing Office. The GPO stock number is 052-003-00523-9; the price is $3.25. Copies for congressional use are available by calling 202-224-8996.●

REMARKS FOR THE RECORD

HON. DOUG BARNARD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. BARNARD. Mr. Speaker, as a member of the Subcommittee on Housing of the House Committee on Veterans' Affairs, it is my pleasure to serve with a fellow Georgian who has established himself as an expert in the field of veterans' housing. I refer to the distinguished chairman of the Subcommittee on Housing, Representative JACK BRINKLEY who has developed a level of competence that has drawn the admiration of veterans' organizations and industry spokesman as well.

JACK BRINKLEY is a friend to the veteran and the veteran's family through his untiring work to legislatively improve and update the Veterans' Administration housing programs. In an article in the trade journal of the mobile home industry, he has also been acknowledged as a friend of the housing industry.

I request permission to insert this article in the CONGRESSIONAL RECORD:

MERCHANDISER TALKS WITH JACK BRINKLEY—A FRIEND ON THE HILL

In the words of one industry Washington, D.C. insider, "Jack Brinkley is a Congressman who cares. His interest has gone far beyond the scope of his district."

For the mobile/manufactured housing industry, who has felt itself an outsider on Capitol Hill, this is good news indeed. Better still, Brinkley, representing the Third District of Georgia (which includes that now fabled community of Plains), has taken a position of leadership in revitalizing the Veterans' Administration Home Loan and Specially Adapted Housing Programs.

As chairman of the Subcommittee on Housing of the House Committee on Veterans' Affairs, the industry has benefited from his activities for veterans.

With the termination of the Vietnam era, the question arose as to whether eliminating loan guaranty entitlement for post-Vietnam peacetime veterans would be consistent with the Administration's goal of eliminating duplicative Federal programs. Under Brinkley's leadership, it was determined that the VA Home Loan Programs would continue for all veterans and for active duty members of the military who have served more than 180 days.

In the 94th Congress, Brinkley sponsored legislation leading to the enactment of the Veterans' Housing Amendments Act of 1976. The act included a provision of an increase in the mobile home loan guaranty from 30 percent to 50 percent.

Currently, the Congressman's initiatives include House passage of a bill to eliminate duplicative VA inspection of mobile home manufacturing plants and restructuring the VA Mobile Home Loan Program to closely parallel the program for site-built homes.

The restructuring would be accomplished through H.R. 11009. The bill would eliminate the current multiple statutory maximum loan amounts for single and multi-sectional mobile homes, either attached or unattached to the land, and substitute a maximum guaranty in the amount of $17,500. It would also increase the maximum term of years for which loans are financed from 12 years, 32 days to 15 years, 32 days in the case of a loan for the purchase of a single-sectional mobile home only or for the purchase of a lot.

In addition, it would impose the same criteria for restoration of entitlement as applies to restoration of entitlement used for site-built homes—the home must be disposed of and the loan must be paid in full.

Finally, the bill would provide that a veteran who obtains a mobile home loan will have the opportunity to use his or her partial or remaining entitlement when moving.

The House Veterans Committee recently approved the legislation and it is not expected to meet any major resistance in the House.

How does Congressman Brinkley view the industry and his role as a legislator? MERCHANDISER talked with him in his office in Washington, D.C. recently to find out.

"Legislation is a partnership situation, I think," Brinkley explained. "You represent many interests. Besides the general public and veterans, there is a concentration of mobile home manufacturers and suppliers in my District in Georgia. When we touch down in their lives, all of a sudden it indirectly impacts on lenders and many other groups.

"So simply, my service on the Veterans Committee provides me with a vehicle to do that which we perceive to be good and right not only for veterans, but for the other people we represent. Hopefully, we improve the lot of all of them at the same time.

"Now, as you know, we have a severe housing shortage in this country. Even on the Veterans Committee, my thrust has been toward better housing and better medical. I think those are the two big issues which contribute a great deal to the quality of life. And so, if we can spill over from the Veterans Committee to the Housing Committee we've accomplished something.

"It has to be understood that when you talk about housing, you're directly laced to quality of life, and a lot of people can't afford expensive site-built homes.

"I think this will become increasingly evident in the future, so when witnesses come before our committee and testify about the excellence of mobile homes, their livability, their life expectancy, it gives us an option for the future for the man and woman who cannot afford site-built homes.

"They can go with mobile homes, which can be attached to real estate or can be moved if people choose to do so.

"From pictures we have been given, we see what can be done with a little imagination and by choosing the right lot for a mobile home. Some multi-sectional homes do not look any different from site-built homes. They have eye appeal, comfort and safety—we in the Congress are very safety conscious these days, and I think the industry is, too.

"During oversight hearings, Committee Counsel Elizabeth Lunsford and other staff members visited mobile home manufacturers, lenders, retailers and communities. We have been tremendously impressed with the quality of construction in these homes.

"Visits have been made in California, Florida, Georgia, Nevada, New Mexico and Texas. I should point out that although we haven't been north of the Mason-Dixon Line—yet—we have had quite a bit of conversation with people in Illinois, Indiana and Michigan.

"We certainly have had quite a bit of cooperation and support.

"I think the VA deserves a bouquet too, at this point. It can be aggravating because sometimes we don't always fully understand the rules and methods they must employ. But George Alexander, who is just a peach of a man, Mr. Coon, and Mr. Malone have just been fine. We have received splendid cooperation from the VA."

Moving on the future areas of interest, Brinkley commented on the possibility of placing mobile homes on private land in the VA real estate program.

"I think there is a trend in that direction," he said, "and we are taking a look at the possibility of future action in that area. However, in discussing it with the VA, we think perhaps that it is an area that might better be handled administratively.

"The way I see it today, there's not a pressing need to solve this because it can evolve and take care of itself, provided we make the guaranty for mobile homes realistic enough. We're hopeful that the $17,500 ceiling will relate to the mobile home purchase as well as the lot.

"If that's not realistic, it should be raised but there are a number of things to be worked out in the marketplace.

"So, at this time the way I see it, mobile homes serve a market of people who have less resources as a general rule, and the more moderate price can be handled under the laws we are trying to adjust upwards. In the future, that might change."

On another aspect of the VA program, Brinkley had an idea of his own. Asked about paperwork, he first said, "I'm not real sure there is a paperwork problem although perhaps any paperwork is a problem. It's a relative problem. While the paperwork involved in the VA program is certainly more complicated than with a conventional loan, I don't think it's any worse than other federal programs.

"You have to look at the protection being afforded to the people participating in the program.

"But I am aware that the VA is attempting to cut down on the time involved. There are now stations that can process out a loan application in about two days. And as the program expands, hopefully the people who man the stations will expand, and that will help.

"But you know, you've struck a responsive chord with me. Regardless of the way things have always been or what the perceived needs are, I think this is a fertile field we can consider.

"If we can practice what we preach, simplicity and the cutting of red tape, we can look into this and see if the VA can't be the leader in reducing paperwork to the very basic needs. If we can do that, we will have done our part toward improving the quality of life which I keep referring to. I'm sure most federal forms are too complicated. We hear about it every day in this office.

"I will undertake this experiment. With the knowledge of the VA, Ms. Lunsford will pretend that she is a mobile home purchaser and go through all the steps—fill out all of the paper a mobile home purchaser must. Then we'll evaluate and see if there's a redundancy, if the forms are too long, too complicated, whatever. We'll know first hand that way. We will have experienced it.

"In addition to our own experience, we'll follow a specific case, unbeknownst to VA, to see what treatment John Q. Public is receiving."

Another industry problem Brinkley has given some thought to is home movement.

"The industry has expressed concern about the varying rules on movement of homes 14 feet in width, and I have some concern about this too.

"My philosophy is to let each state deal with its own internal affairs, but carriers of mobile homes often move interstate. In the future, if the states do not get their act together. I think Congress will move in to fill that vacuum and provide some consistency.

"In some cases, it's cheaper to move a mobile home, for example, from Tennessee into Georgia, rather than ship it to northern Georgia from a southern plant in the state. But I have heard that there has been some problem between state rules.

"I believe the states have the right to limit where these homes will be moved, but as for the number of personnel needed, pilot vehicles and the like, these are fairly basic things that ought to have one standard. Where homes are permitted to be moved by the states, I believe there should be one standard."

Asked whether he had any reservations about the durability or life expectancy of mobile homes, Brinkley responded, "Absolutely not."

"I think that mobile homes will last indefinitely.

"I'll tell you this much, there's a lot of maintenance and replacement that goes into a site-built house. With the quality of materials and craftsmanship in today's mobile home, if they are given the same maintenance and if parts are replaced, they will just last indefinitely.

"I have no reservations or concerns about the 15 year term we're extending it to. That's just a drop in the bucket.

"I consider mobile homes permanent homes—a valuable investment that will last a family for a lifetime.

"I'm impressed with the state of the art as it is today. The mobile home industry is the wave of the future—and perhaps the wave of the present—in fulfilling the housing needs of the American people.

"We don't have the resources to continue to go the way we have in the past. The manufacturers know the needs of the buying public and they're trying to meet those needs. They have made remarkable strides to this point. But I know that when we turn the page, go to the next chapter, there will be even greater technology employed and even greater innovative techniques used by the industry.

"If there were any area in which the industry might improve, I suggest it would be the lots on which homes are placed. More communities are needed where the landscaping is more natural, where people could permanently put their home, plant flowers and a garden—put down roots. This would make mobile homes even more attractive.

"I think I'd get one myself."●

STRASBURG, OHIO, CELEBRATING 150TH BIRTHDAY

HON. DOUGLAS APPLEGATE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. APPLEGATE. Mr. Speaker, it is an honor for me to bring to the attention of this House and its distinguished Members an event in my congressional district. It is the celebration of the 150th birthday of one of the leading cities I represent; namely, Strasburg, Ohio, located in Tuscarawas County.

Needless to say, the residents of this community are planning many activities for their sesquicentennial which is planned for August 4, 5, and 6 of this year. There will be plays, dances, and parades. In addition, there will be a junior Miss Sesquicentennial queen chosen to reign over the event.

Strasburg and the surrounding area is rich in history and has contributed much to the great State of Ohio. The people of the area are very proud of the development they have contributed to, and for good reason. This city, once just a mere settlement, is now a thriving, active, and successful city.

Mr. Speaker, on behalf of the 18th Congressional District, I would like to express my sincere congratulations to Strasburg, its city officials, and its people on the celebration of this great event.●

LEAA EXTENSION BILL BEST VEHICLE FOR FUTURE DEBATE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. MAZZOLI. Mr. Speaker, on July 10, I joined Chairman RODINO and several other of our colleagues in sponsoring the administration's proposal to restructure LEAA.

The bill, developed with the strong leadership of Senator EDWARD KENNEDY, and the cooperation of the administration, is the product of months of hard work and compromise. As a result the bill may well be as the Washington Post editorialized on July 17, 1978: "the best solution anyone has thought of to LEAA's problems."

However, among those of us who support the bill as a vehicle for hearings and eventual markups there are concerns about specific points of the bill.

In general I support the five major goals of the bill:

First, to give local governments more control over LEAA money;

Second, to encourage innovation in criminal justice through Federal research and incentive grants to local governments;

Third, to increase the overall budget of LEAA;

Fourth, to reduce the number of earmarked funding categories and increase the amount of money that can be spent as priorities indicate; and

Fifth, to streamline and reorganize the agency's internal workings to cut redtape and bureaucratic delay.

However, I am concerned that the bill does not go far enough in fulfilling these goals. Particularly, I believe that we must carefully examine the control that State governments will have over the money spent by large local governments.

The bill is an improvement over current practices, but the system of setting "Statewide priorities" to which local governments must conform, may give States too much authority to overrule local criminal justice decisions.

I am inserting the Post's editorial for my colleagues' information:

THE FUTURE OF LEAA

The Law Enforcement Assistance Administration was created in 1968 in the fond belief that it would provide an answer to the nation's crime problem. Ten years and $6

billion later, LEAA is a case study in how a good idea can be strangled by red tape, bureaucratic ineptitude and political in-fighting. While its efforts have produced some improvement in local law-enforcement agencies in some parts of the country, almost no one thinks the results have been worth the price. LEAA must be either drastically changed or put out of its misery.

Despite the campaign rhetoric that suggested President Carter would urge the abolition of LEAA, the administration is now arguing that the agency is worth saving. The program it has proposed, devised largely by Sen. Edward M. Kennedy (D-Mass.), would streamline the agency's operations, reduce and break up its bureaucracy and keep the dollars flowing from Washington. It is an ingenuous solution ot LEAA's problems because there is something in it to answer almost every critic of LEAA's performance.

For those who think there have been too many federal strings attached to the money local governments get, this proposal assigns 70 percent of LEAA's funds to a block-grant program. State and local governments will know in advance how much they are going to get and can decide themselves on how to spend it within certain restrictions. For those who think there have been too few federal strings attached, the other 30 percent of LEAA's funds would be controlled by Washington and made available to local governments—mostly those with major crime problems—on a matching basis for innovative law-enforcement programs. For those who claim local governments have had trouble finding the matching funds, the proposal lets local governments use the federal dollars they get through block grants to match the dollars they want under the other program.

The same balancing act runs through the administrative aspects of the proposal. State governments would lose much of the control they now exercise over how local governments spend LEAA money. LEAA would lose much of the control it has over the major portion of its grants. But LEAA would gain even wider discretion than it has had over where and how 30 percent of its funds are spent.

Anyway you look at it, that is a nice mixing of the approach to federal aid urged unsuccessfully by former president Richard Nixon and the traditional, many-strings-attached view of congressional Democrats. It gets some money to help law-enforcement agencies into almost every community (the District of Columbia would get $1.5 million off the top and Fairfax County would get $643,000, for example) and yet leaves Washington with enough funds to try to guide local governments into exceptionally useful programs.

The proposal, in other words, is the best solution anyone has thought of to LEAA's problems—if you believe there ought to be an LEAA. Frankly, we are not yet entirely sure about whether the federal government ought to be in the business of helping and guiding local governments in solving what is clearly a local problem: crime control. LEAA was created in the hope that some federal money and some federal guidance could produce miracles. Clearly, that hasn't happened. Is it better for Washington to try to focus its guidance more sharply and continue to send local governments a little money (the $600 million or so Congress has been willing to spend is only a drop in the bucket of law-enforcement costs)? Or is it better for Washington simply to get out of the guidance business entirely and turn back to the states both the problem and the revenue? The Carter-Kennedy proposal asserts the former course is wiser. Its proponents will need to present a strong case at the congressional hearings to persuade us they are right.●

HUMAN RIGHTS IN CUBA

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. DORNAN. Mr. Speaker, how fate plays with the lives of men and nations. The most famous dissident trials of modern history, the trials of Ginsburg and Shcharansky, have become the occasion of yet another act in Mr. Young's comedy of the absurd. In the gigantic moral confrontation between the United States and the Soviet Union, we are treated to comic relief.

Mr. Young's remarkable mouth aside, it is heartening to see the outpouring of moral support from this House for the Soviet dissidents Anatoly Shcharansky and Alexander Ginsburg. But we have no excuse to be selectively outraged. The trials and the sufferings of these two men are representative of the trials and sufferings of many others. The Soviet totalitarian sewer has swallowed hundreds of thousands, no, millions of human beings while the West closed its eyes and covered its ears. Christians and Jews, Ukrainians, Lithuanians, Latvians, Poles, Hungarians, Romanians, and Estonians, have long known life in the Soviet concentration camps. Some are learning only very recently what historians, writers, and journalists have been trying to tell them for decades: We are dealing with a brutal regime, whose excesses have rarely, if ever, been surpassed by the most vicious dictators throughout history.

While we focus our attentions on the plight of these two brave men, we should not forget that their struggle is against a type of totalitarian system that has been imported into our own hemisphere. We should remember that the very same methods, the same political and administrative structure of repression and terror exists only 90 miles from the shores of this Republic.

Mr. Speaker, of course, I am speaking of Fidel Castro's Cuba. And I think the time is right to press this point home: Human rights violations are never more severe than they are in Communist countries. And in Cuba, we have a system of repression and internalized violence against dissidents that most closely approximates that of Soviet Russia. And yet, listen as I may, I hear only conspicuous silence.

Cuba is a study in grotesque contrasts. It is like an ugly painting. Once a glittering jewel in the Caribbean Sea, it is now an incredibly dour, regimented society. The beautiful Caribbean Sun is itself mocked by the cold, gray totalitarian order that smothers the very life of the island's people.

I have just finished reading the preliminary drafts of a study to be published by the Council for Inter-American Security, "Castro's Gulag: The Politics of Terror." Mr. Frank Calzon, the author of this important work, observes that, according to Castro's own figures, Cuba holds five to eight times as many political prisoners per capita as does the Soviet Union. President Carter puts the number of political prisoners at anywhere between 15,000 and 20,000. He is joined in this estimate by former President of Venezuela, Romulo Betancourt. Prof. Edward Gonzalez, of the University of California at Los Angeles, puts the number at anywhere between 25,000 and 80,000 political prisoners. Estimates vary, but the numbers, all agreed, given the size of the population, are horrendously high. And, as Mr. Calzon reveals, they come from all walks of life and hold a variety of political opinions.

The Calzon study reveals the horrible conditions endured by the prison inmates. In dark, damp, ill-ventilated dungeons, thousands of these human beings languish. They suffer from brutality, malnutrition, and a lack of medical attention. Some are confined to solitary cells where they have lost track of night or day, but rot in what must seem to be an endless misery. Before succumbing to despair, many breathe their last in the cramped confines of their cells.

Mr. Speaker, I ask you to imagine for a moment the extent of this suffering. I ask you to allow your mind's eye to penetrate this oppressive, quiet blackness. True, the silence is occasionally broken by the gruff orders of a prison guard or the screams of a helpless innocent being systematically tortured or beaten into submission, pleading for mercy where none is to be found. But otherwise, it is as if these unfortunates are being buried alive. They are literally entombed in the nether world of the totalitarian political order. And their worst fear is that they may fall victim to the sin of despair. Their greatest hope is that, in putting their faith in the conscience of free and civilized people, the awful silence will finally be broken. They pray that those of us who breathe the clean, free air of liberty will hear their stifled cries.

Will we hear them? Will pressure be brought to bear on the arrogant dictator who daily castigates us? Will the export of his vile totalitarianism in Africa and other parts of the world eventually be stopped?

Mr. Speaker, history sadly reveals that the justice or nobility of a cause is no assurance of its success. The eventual liberation of political prisoners in Cuba will not occur until the truth of their condition is widely publicized. It was therefore painful for me to learn that there are those who will continue to ignore the truth, even when it is brought to their attention by a fellow countryman who endured imprisonment in Cuba, Mr. Frank Emmick. In the interests of this cause, I am inserting two related stories, published in the July 1978 edition of the Conservative Digest, into the RECORD, and I pray that we "Remember Huber Matos."

[From the Conservative Digest, July 1978]

ANOTHER MEDIA COVERUP: CUBAN JAILS

THE EASTERN PRESS HAS IGNORED THE DRAMATIC STORY OF AN AMERICAN IMPRISONED IN CUBA FOR 14 YEARS

If by some miraculous circumstances an American reporter visiting Cuba could interview an American political prisoner, he

would have a hot story. If the prisoner were able to describe frankly and fully the inhuman conditions under which he had been forced to live and if he charged that there were 40,000 political prisoners in Cuba, over ten times the number admitted by Castro, the reporter would have an even hotter story.

It is almost inconceivable that the two most influential papers in the United States and our three television news organizations would spurn such a story, refusing to tell the public about this cry from the Cuban Gulag.

This is almost what happened in mid-March. There were some differences. There were several reporters involved, and they did not have to go to Cuba and try to accomplish the impossible feat of getting such an interview with a prisoner under the watchful eye of Castro's guards.

The prisoner, Frank Emmick, was available to them in Washington at a press conference arranged by the American Security Council, Mr. Emmick, who was released on Jauary 1, 1978, after spending over 14 years in Castro's jails as a political prisoner, was talking to the press for the first time since his release. And he was willing to tell all.

The story he told rivals the accounts of man's inhumanity to man that we find in the works of Aleksandr Solzhenitsyn. But he was talking of things that had happened to him, an American businessman, on an island only 90 miles from Florida over the last 14 years—not about events that occurred in faraway Siberia in the days of Stalin.

TV CAMERAS MISSING

He told his story, reading a 13-page prepared statement and answering frankly all the questions thrown at him by the journalists who attended. Among those attending were reporters from the two wire services, AP and UPI. Both filed good stories about what Frank Emmick had to say.

Conspicuously missing were the cameras of ABC, CBS and NBC. Also missing, we discovered, were reporters for this country's two most influential newspapers, the New York Times and the Washington Post. Noting their absence, Phil Clarke of the American Security Council had copies of Frank Emmick's prepared statement delivered by messenger to their nearby newsrooms. And, of course, both papers had available for their use the AP and UPI stories, as did the TV news bureaus.

But Frank Emmick's story, which would have been so hot if he had been able to tell it three months earlier when he was still in prison in Cuba, was of no interest to the Times, the Post and the networks. They carried not one word about what he had to say.

Frank Emmick was an American businessman in Cuba when Fidel Castro seized power. He was engaged in freezing and exporting frog legs, and he was considered the largest single producer of this product in the world. His troubles began when the U.S. broke diplomatic relations with Cuba and Emmick notified the Cubans that he was suspending production. On January 31, 1961, he was taken by five militiamen, savagely beaten and thrown into the ocean and left for dead.

FORBIDDEN TO LEAVE

He miraculously survived, and the next morning he went to the Swiss embassy. He was advised to leave the country because his life was in danger. A Swiss diplomat accompanied him to the airport, but he was denied permission to leave on the pretext that he owed some bills. He pointed out that the Cuban government was confiscating his assets, which were 16 times his liabilities in value, but to no avail.

He was left alone until September 1963, when he was arrested and charged with being the chief of the CIA in Cuba. Emmick said he was never a CIA agent, much less a thief.

Although the Times, the Post and the networks spared Fidel Castro the embarrassment of exposing Frank Emmick's story to public view, the Washington Star did report the press conference. Even though it omitted the worst parts and the estimate of 40,000 political prisoners, the story enraged the Cuban liaison mission in Washington. Rep. Frederick Richmond (D-N.Y.) told AIM that the Cubans called him in a state of near hysteria.

Rep. Richmond in turn called Mr. Emmick at his home in Toledo, Ohio, and brutally unbraided him for having told his story to the press. According to Emmick, he cautioned the congressman that he had recently suffered a third heart attack, to which this millionaire liberal congressman from Brooklyn responded, "I don't give a goddamn about your heart attacks."

Rep. Richmond told AIM that he was upset because Emmick had come to Washington and not visited him, his benefactor. Worse yet, he had "fallen into the hands of this Clarke, who runs some right wing organization." (This is a reference to Phil Clarke, who is on the staff of the American Security Council). "Instead of coming to me, he sold out to Clarke," Richmond said. "He is dead broke and is being paid by this outfit," the congressman added.

CONGRESSMAN FURIOUS

Asked if he had any evidence that the American Security Council was paying Emmick, the congressman amended his statement to say that he "supposed" he was being paid. (Clarke says ASC only paid for Emmick's trip from Toledo to Washington.)

Rep. Richmond told us that Frank Emmick was "a silly old fool" and that he wouldn't believe any of what he had to say. He felt that by telling his story to the press, Emmick had worsened the chances of getting the four other American political prisoners released. Rep. Richmond said that he had called the CIA to see if they could "shut Emmick up," but there was nothing they could do.

We pointed out that Emmick said that he had an agreement with one of the other American prisoners that whoever got out first would go public and tell the truth about the treatment they had received. Richmond said, "That is baloney."

PRISONER'S STORY IGNORED

AIM asked both the New York Times and the Washington Post why they failed to carry any story on Frank Emmick. At the time of writing, we have had no reply from the Times. Mr. Seib, the ombudsman for the Post, has informed us that (a) the reporter who was supposed to cover the news conference had to see his doctor instead, and (b) the wire stories were not used because the editors tend to give preference to stories by members of the paper's own staff, and the Emmick story was squeezed out by other news.

Would the media have shown a similar lack of interest in Emmick if he had been released from prison in Chile and had told a similar tale of mistreatment? We have previously shown that the media are far more inclined to report human rights violations in anti-Communist countries than in Communist lands.

Frank Emmick is frightened by this. He spoke out because he sees America beset by "a well-organized and determined enemy which aims to destroy us, using whatever means at its disposal to gain its objective . . ." He thought it important that we be warned again of the nature of this enemy. The suppression of his warning by the media tends to underscore his fears.

He sounds like Solzhenitsyn. Are they both "silly old fools"?

FRANK EMMICK TELLS HIS STORY

(In January, Frank Emmick, an American businessman, returned to the United States after having spent 14 years in Cuban prisons. Mr. Emmick, 63, who lives in Toledo, Ohio, was accused of having been head of the Central Intelligence Agency in Cuba and was sentenced to 30 years in prison in 1963. He was released after a trip to Havana by Reps. Frederick W. Richmond (D-N.Y.), and Richard Nolan (D-Minn.). This article is adapted from a speech in Washington in March 1978.)

On the morning of September 12, 1963, my house was completely surrounded by a score of security personnel. I was taken to their headquarters, commonly called G-2. There I was arrested and accused of being the chief of the Central Intelligence Agency in Cuba.

Of course, I was greatly shocked since I've never been a CIA agent, let alone the chief. I was under continuous interrogation at all hours of the day and night. I was not permitted to get in touch with the Swiss embassy. So I was surprised when Rep. Charles O. Porter and several newsmen were authorized to interview me in October 1963. There I was told by the Cuban authorities that the death penalty was going to be imposed.

INHUMAN TREATMENT

Several weeks after this interview, I was taken out of G-2 with a black hood over my head, forced to lie down on the floor of a car, with three guards resting their feet on my body and their rifles sticking into me.

I was driven to some place in Havana and placed in a completely dark refrigerated room, stripped down to my underclothes and forced to sleep uncovered on the floor for eight days. It was so dark that I couldn't see my hands in front of me, and I could move about only by using the walls as my guide.

After five months, I was transferred to the old La Cabaña fortress in Havana and again held incommunicado.

This dungeon consisted of four usable "galleries" where approximately 650 political prisoners were jammed like sardines, forced to sleep on an old, poorly cemented floor, with little ventilation, and where the sun, moon or the stars could never be seen.

The sanitary conditions were shocking—only four toilet holes in the floor for the whole population, water rationed by the cup twice a day and, on occasion, a bath with a bucket and can if you were lucky.

At night the conditions were inhuman, with no mattresses, pillows, or sheets. We used sacks or whatever material was available and fought for a measly inch of space to rest our bodies.

It was from this dungeon that 159 of my fellow inmates and friends were taken out and executed. I heard the commands and the roar of the firing squads 159 times in a period of approximately nine months.

I was called and taken to trial three times. However, the trials were suspended because my attorney demanded the presence of observers from Geneva. I finally was tried on April 9, 1964, with Geneva observers present as well as accredited Western diplomats from non-Communist countries. The trial was a joke, a travesty of justice, with absolutely no positive proof. I was condemned to 30 years. I was lucky.

TERROR ON ISLE OF PINES

On September 11, 1964, I was taken to the Isle of Pines prison—commonly known as the "island of terror" or Cuba's "Devil's Island." Here the political prisoners were assigned to forced labor, but those classified as "dangerous persons" were ordered to hard work in the marble quarry.

These work brigades meant eventual death for most, for if you had escaped being shot at the pole, you were a sure mark here. Dozens of prisoners have been assassinated and hundreds beaten up, bayoneted or severly mistreated at the whim of a guard or by official order.

Three days after my arrival, I was called out to work in the quarry. However, I refused. Three days later, I was returned to La Cabaña fortress.

Back at the fortress, I was placed in one of the 12 galleries above the ground with condemned political prisoners. The conditions were atrocious. Between 4,500 and 5,000 men, confined in an old fortress that never accommodated more than 500 persons, now jammed to the ceiling with four-tier beds located everywhere possible.

The men were forced to sleep three under each tier, one in the aisle between tiers, on hammocks made of sugar sacks four tiers high, between the four-tier beds and in the main aisle from the rear to front entrance—right up to the toilets, all in a room only 110 feet long.

POLITICAL PRISONERS SHOT

At this prison, as in the others, the firing squads operated at full force. There were anywhere from 20 to 25 executions per week, to as many as 27 in one night. I am speaking of 1964. Among us there were no common prisoners, only political prisoners—men from all walks of life, whose only crime was their revulsion of Communism.

One would be surprised how much a human can endure under such conditions if he has the faith and the courage of his convictions. The will to fight for a moral cause gives an individual super resistance powers that he never knew he possessed. It is the survival of those determined and willing to sacrifice all to resist the plague of Communism.

In 1970, Mr. Emmick was transferred to a prison in Guanajay, about 25 miles from Havana.

On June 10, 1973, though suffering from the heart condition angina pectoris, I was transferred to the second floor of a building that obliged me to climb 40 stairs to reach my cell. Climbing stairs for an aging patient is often fatal, but my objections were ignored.

STRICKEN PRISONER NEGLECTED

Eleven days later, I had a severe heart attack. Injections for pain administered by my fellow prisoners saved my life, because I had to wait nine and a half hours before I was finally transferred to a military hospital in Havana. By then, I had double pneumonia as well. It was touch and go for three days. In December we were transferred to La Cabaña again. Conditions did not improve. I didn't receive any mail from my family. None of my letters had been received since 1970.

During the 1976 presidential campaign, conditions improved immensely. However, an enormous shortage of medicine persisted and expired medicines were re-dated or no medication at all was dispensed.

When President Carter was elected, there was jubilation among the prison's administrative officers. They bent over backwards to be good to us and then, suddenly on December 9, 1977, we were transferred to a new model prison in a convoy escorted by thousands of officers and troops.

From the outside the buildings look modern and attractive. With a combination of lively colors, they do not look like prison buildings. But once inside, it was a horrendous castle of isolation and mental torture.

I've attempted to give you but a few of the true facts of my 14 years, 3 months and 18 days imprisonment on this island, encircled by barbed wire of Fidel Castro and his Communist masters.

INFANT FOSTER MOTHER

HON. MICHAEL O. MYERS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. MICHAEL O. MYERS. Mr. Speaker, I read an article recently in the June 22 issue of Philadelphia's Catholic Standard and Times that I would like to share with my colleagues. It tells the story of Mrs. Helen Parris, a resident of my district, who for the last 8 years has been an infant foster mother to over 50 children. Mrs. Parris has given unfailingly of her time, her money, and most especially, her love to care for infants in their first few months of life.

In reading this article I was most impressed with Mrs. Parris' selfless service to those childern less fortunate than her own. In a time when it is so easy to believe that by human nature people are selffish, self-centered, and self-agrandizing, I was pleased to be reminded that individuals such as Mrs. Parris are still with us.

Her dedication and concern for others has set an example that we can all learn from. I was touched to read about Mrs. Parris and I am sure you will join me in commending her for her excellent service to her community and for her selfless outpouring of love for others.

The article follows:

[From The Catholic Standard and Times, Thursday, June 22, 1978.]

'YOUNG MOTHER HUBBARD' OPENS HOME TO INFANTS

(By John Bloomfield)

To her neighbors, she is "Young Mother Hubbard." To Sister John Regina, M.S.B.T., administrator of Catholic Social Services' (CSS) Unmarried Parents Department, she is "a very unique individual." To her children, she is simply "Mama."

Mrs. Helen Parris, a 40-year-old South Philadelphia, is indeed all of these things, although she considers herself "just an average woman."

What makes her unique? Helen Parris is an infant foster mother. She has been an infant foster mother for eight years—to 54 children. She hopes to continue for many more children, for as long as she can.

Mrs. Parris will admit that hers is not the easiest job in the world. Its basic responsibilities entail receiving a child directly from the hospital, usually at four days old, and caring for him for a period of time until the mother decides whether to keep or place her child for adoption. This period generally lasts for three months, although it is sometimes longer. In addition, Mrs. Parris takes the children to the doctor, occasionally arranges Baptisms, keeps in constant touch with CSS concerning the child's progress, and undertakes the arduous task of being a surrogate mother, day in and day out, for a seemingly endless stream of children.

Sister John Regina, who has come to know Mrs. Parris well since their association first began, admits that such zealousness is a rare commodity. "There are a few families who are similar to Mrs. Parris in the constant care of children, but most need a rest every now and then. She just happens to have an abounding love for babies. The more she has, the happier she is. She's unique in many ways."

Mrs. Parris, who claims that her house has looked like a nursery for as long as she can recall, has three children of her own in addition to a teenage foster child and the infants. She generally cares for two babies at a time. In cases of emergency, however, she sometimes finds herself with three. Coming from a family of seven herself, she has been around children nearly every day of her life. "I do this because I want to," she states: "I don't want to impress anyone."

Although Mrs. Parris is given an allowance for the care of each child, she regularly exceeds this limit and supplements the allowance from her own income. "I treat every one as if they were my own. If you cannot feel for them, it is not going to be a rewarding experience. You have to know this when you start. To tell you the truth, I think it's a lot of fun," she said.

Although most children leave after a three month period, many do stay longer. One child was with her until he was two-and-a-half years old. "It's not healthy to have a child for a long time," she observes. "It becomes very difficult to let them go. That's the only part I don't enjoy. You feel a sense of loss each time a baby leaves."

However, this feeling is always allayed with the prospect of receiving yet another child. "I still find it very exciting to get a call from CSS, saying, 'We have another baby for you.' "●

VOTE NOT RECORDED

HON. W. G. (BILL) HEFNER

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. HEFNER. Mr. Speaker, upon reading the CONGRESSIONAL RECORD for Thursday, July 13, 1978, I have found that my vote was not recorded on the final passage of H.R. 15, the Education Amendments of 1978. This both perplexes and distresses me. It perplexes me because I was present on that day and voted on every rollcall and recorded vote, including the vote on the Ashbrook substitute bill immediately preceding the vote on final passage. I voted for final passage using the electronic device but for whatever technical or mechanical reason, my vote was not recorded. This distresses me, too, because I have been and will continue to be a supporter of Federal aid to our States and local communities for education. The bill passed by the House on Thursday is one of the most essential pieces of legislation considered by Congress this year. It represents a new effort to reestablish education as one of the highest priorities of our society.

President Carter stated this as one of his goals in his education message to Congress last spring, and we, in the Congress, have responded to his challenge. The bill, and the appropriations legislation we have already passed, commit the Federal Government to the largest increase in funding for education in 15 years. In a time of concern over Federal spending and the tax burden on our citizens, this bill illustrates our feeling that money spent on the education of our children is the best possible kind of investment in the future. I am proud to have supported this bill even if the official record does not indicate my strong support on final passage.●

PITTSBURGH, THE SMOKY CITY NO MORE

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, Pittsburgh for too long has carried the unfair label "The Smoky City." Often the first thing visitors to Pittsburgh do, after they marvel at the city's charm and beauty, is remark how clean the city's sky is.

A major clean air campaign begun in the early 1950's transformed Pittsburgh from a city with poor air quality to one with healthy, clean air.

Yesterday's Washington Post carried an article about how one company, Duquesne Light, is doing its part to maintain the air quality around our city. I would like to include that article in the RECORD at this time.

IN ONCE-SOOTY PITTSBURGH, DUQUESNE LIGHT HAS SCRUBBED UP ITS ACT—FOR $300 MILLION

(By James L. Rowe, Jr.)

PITTSBURGH.—Years ago, the story has it, pilots used to know that they were approaching Pittsburgh's airport from the heavy black plume above the smokestacks at Duquesne Light Co.'s generating plant on Brunot Island.

When they saw the smoke, they knew it was time to turn for the airport.

Today, the navigational aids—both in the cockpit and at the airport—are much improved. And that is for the good because pilots can no longer rely on Duquesne Light for guidance.

Brunot Island no longer throws much soot into the Pittsburgh air. Once a heavy coal-burning plant that supplied a large portion of the Pittsburgh area's electric needs, Brunot Island today burns expensive, but relatively clean, heating oil to supply this city's electric needs during periods of peak demands. Other times, the plant doesn't operate.

But here, in the middle of one of the biggest coal-mining regions in the United States, Duquesne Light could not transform all of its coal-fired generators to oil. While it did shut down some very old coal-burning plants as well as convert Brunot Island into a peak-load facility, the company could not afford to close all its old coal plants and build enough new ones to supply the electricity needed here.

When Congress passed its clean air laws in 1970, industries and local environmental control agencies across the country were put on notice that they would have to take serious, and often expensive, steps to clean up the dust and noxious gases that their industrial processes were putting into the atmosphere.

And in Pittsburgh, heavily industrialized as it is and trapped in a river basin by the Allegheny Mountains, the clean-up probably has been as difficult as for any city in the country.

The Carter administration is becoming concerned about how much environmental regulations contribute to inflation and is examining whether there may be more efficient ways to reach the same air and water quality goals without interfering with the industrial process or adding to costs as much as federal mandates have in the past.

Although Pittsburgh is no longer the nation's most important steel producer (the Chicago area has been for several years), steel mills—many of them old—are everywhere and still the worst contributor to Pittsburgh's air quality problem. But coal-burning utilities run a close second.

Pittsburgh's atmosphere is far from pristine, even today, notes Ronald Chleboski, deputy director of Allegheny County's Health Department, but the improvement in recent years has been marked. Both dust and sulphur dioxide emissions have been reduced by more than half since 1971. In 1974 Pittsburgh had 21 "episodes" in which pollution was so bad that industry was required to curtail output. "In the last 12 months we've had only two," Chleboski said.

Nonetheless, Allegheny County, remains a "non-attainment area" in the jargon of the federal Environmental Protection Agency. That means, among other things, that new industrial sites cannot open up in Pittsburgh unless a plant producing a like amount of pollution is shut down. At several of the county's monitoring stations there is more dust in the air than 75 micrograms per cubic meter that the federal regulations call acceptable. Two monitoring stations register more sulphur dioxide than is considered ambient.

Duquesne Light Co., which serves about 537,000 customers, was the first major company in the Pittsburgh area "to come forth with a total program for all their facilities," Chleboski said. At other companies we "often had to go after sources (of pollution) on a one-at-a-time basis."

The Duquesne plan included shutting down an old coal-burning facility, converting from coal to oil at its plant that supplies steam to downtown office buildings as well as shifting Brunot Island to a peak-load oil-burning facility.

But the company still needed the power it generated from two older coal-burning plants—Elrama and Phillips. At the same time, under the law (prescribed for new equipment by the federal EPA but adapted by Pennsylvania authorities to apply to already existing facilities) the utility was required to sharply reduce the amount of sulphur dioxide and particulates (dust) it was putting into the air at these two stations.

When the plants were built decades ago, they were equipped with so-called mechanical dust collectors and electric precipitators that in the case of Phillips collected between 85 and 90 percent of the dust that was created by burning coal to make steam to power turbines to make electricity.

At neither plant was there any equipment to remove the sulphur dioxide gas emitted by the burning coal (in fact, no technology existed that would remove sulphur dioxide when the facilities were built).

But in 1973, at a cost of more than $50 million, the Phillips station was retrofitted (jargon for putting new devices on an old facility) with a system of gigantic cone-shaped scrubbers to wash pollutants out of the emissions. Phillips also got a high smokestack to dissipate in the upper atmosphere what the company could not remove with its scrubbers, as well as an elaborate holding tank-disposal system to get rid of the wet sludge created by the scrubbers.

Today, the Phillips plant (like its Elrama cousin where another $50 million was spent) catches 99 to 99.5 percent of the particulates (most of the time) and 83 percent of the sulphur dioxide, according to Steve L. Pernick Jr., manager of environmental affairs for Duquesne Light.

But it has been a costly clean-up that goes far beyond the $105 million Duquesne estimates it spent on Elrama and Phillips or the $300 million in total it has shelled out for pollution abatement on all its old and new plants, notes Pennsylvania public utility commissioner Helen O'Bannon.

"The operating costs are enormous—whether it's the high price of low-sulphur coal, the disposal problems, or the maintenance of the facilities. We've found out this stuff is tricky. It doesn't always work the way you think it's going to."

The acid in the scrubbers often corrode the steel interior. Scrubbers clog up with sludge. The fans that move the dirty air have had their problems. Even the smokestack fell prey to acid attacks and had to be reworked.

O'Bannon, whose commission must pass on all rate increase requests from Duquesne Light, figures that 18 to 20 cents of every revenue dollar at Duquesne "has something to do with pollution abatement." That means Duquesne customers pay about 18 percent of their electric bills to clean up the environment.

Pernick estimates that the operating costs add about $10 to $12 to the $22 to $23 the utility pays for each ton of coal. In 1977, Duquesne Light estimated its operating costs at $249 million, of which pollution control accounted for $67 million. Curiously, the utility's net income was just about $67 million last year too.

O'Bannon said that the increasing costs of generating electricity and the increasing complexity of installing and maintaining anti-pollution equipment will make it hard for utility commissions to stay out of areas that used to be the prerogative of management—including what sorts of technologies a utility should adopt.

"There are extremely costly, sophisticated decisions to be made and utility management nationwide is not of the caliber to deal with these diverse systems. They are very one-product oriented. They don't deal well in cost-constrained environments.

"And increasingly, as the capital expenditures grow, utilities are coming in and asking for an up-front guarantee. If the project goes bust, they want to make sure they can still include it in their rate base."

Before there were pollution controls, of course, everyone in the Allegheny Valley paid the costs of pollution—with their lungs, their health and frequent paint jobs on their houses. Now the customers of the industry that caused the pollution pay more directly for the cleanup costs. In the case of a steel mill product, a Pittsburgh resident might have been subsidizing with his health the cost of a car bought by a New Yorker.

Economists call this internalizing (putting into the price of the product) a cost that had been borne externally.

Because of the more local nature of a utility those who benefit from the clean air or water are generally the same people who are paying the higher electricity rates.

At older plants like Phillips, where pollution-control devices were fitted on existing generating equipment (there are six boilers and four turbines), the problems are even greater than at new facilities, like Duquesne's Bruce Manfield stations, two of which are open and one of which is under construction.

"Because the scrubbers are so unreliable, there's a limit on our generating capacity at Phillips," Pernick complained. "Of the four scrubbers at Phillips, usually one is out. That gives us a reliability factor of 75 percent, compared with 85 to 90 percent for our boilers."

Furthermore, because the system is old, some outside air leaks in and gets cleaned along with the noxious discharges from the boilers. Since the scrubbers can only handle a certain volume of air, the generating capacity is further limited.

"Phillips has a capability of generating 380 megawatts," Pernick said. But it can be counted on for only about 280 megawatts with the pollution equipment.

Under the rules, noted O'Bannon, companies are not permitted to install any form of scrubber bypass, so that it could continue

to generate in an emergency if the scrubber broke down. When the scrubber goes down, so does generating capacity. She said she would like to see the rules changed so that utilities could temporarily bypass scrubbers in an emergency.

Pernick said that so far no brownouts or black outs have been caused by an environmentally caused shutdown of capacity, but said the threat is always there.

The four steam turbines and six boilers at the Phillips plant are housed in an eight-story, two-football field long building about six miles from Pittsburgh airport. To house the scrubbers Duquesne Light built a similarly sized edifice directly behind the generating plant.

The dirty gases poured off the boilers are sent first through a mechanical dust collector that shakes the big pieces of soot out of the air. Then the air shoots through electric precipitators that attract more dust from the air. Then the smoke is sucked through a 20-foot by 16-foot duct that crosses from the top of the generating plant across to the scrubber building.

The four, 50-wide scrubbers are connected in sequence. When one of the scrubbers is down for maintenance or repairs, as is usual Duquesne officials say and which was the case on a recent day in late June, the company has to reduce the rate at which it fires its boilers in order not to generate more smoke than the scrubbers can handle.

Gas is sucked into the cylindrical scrubber from the top and is bombarded with a high-speed mix of water and magnesium oxide lime. The lime-water mist absorbs most of the remaining dust and about 83 percent of the carbon dioxide. The water droplets fall to the bottom of the scrubber (producing about a ton of sludge for every three tons of coal burned) while the clean gas continues on and emerges from the top of the 340-foot smokestack located at the back of the scrubber building.

The water-lime-dust-sulphur dioxide residue is washed into clarifying tanks. The water is separated out and put back into the scrubber system. The sludge is treated and disposed of in a landfill up the road.

Not only does this complicated system of anti-pollution devices often break down the system consumes about 10 percent of the electricity generated at Phillips, electricity the company otherwise could sell.

The Carter administration is reviewing environmental regulation to see if the rules should be rewritten to give industries a clean air and water goal but not mandate how an industry must achieve those goals. Many industries, such as steel, complain that they could have attained the same level of pollution control much more efficiently and cheaply than the ways they were ordered to do it by states and the federal Environmental Protection Agency.

Pernick, however, doubts that Duquesne would have done things much differently. Unlike a steel mill, where the processes are many and the sources of pollution multitudinous, there is only one important source of air pollution at a generating site: the smokestack. And, as unreliable as the wet scrubber may be, Duquesne officials say they think it is the best way to eliminate soot and sulphur from the air.

There are newer, more exotic systems such as fluidized bed boilers, but Pernick said the company will probably stick with scrubbers.

So far, the Pennsylvania Public Utility Commission has permitted companies to pass on in higher rates the full capital and operating costs of anti-pollution equipment, O'Bannon said. But, she said, "It is getting to be more of a nitty problem. EPA standards are getting more stringent, but no one is taking a look at the costs and the benefits."

At present, O'Bannon said, "We're saying environmental regulations are reasonable. I have no problems paying all the costs. We've gotten by for too long paying only the direct costs while people here have respiratory problems."

But, she said, "We've got to ask what our goals are. Is it 100 percent pure, 100 percent of the time, or should there be some recognition of technological fallibility and costs." ●

AIRBUS AND THE AMERICAN AEROSPACE INDUSTRY, PART 2

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. HANNAFORD. Mr. Speaker, the success of Airbus Industrie in selling its A300 aircraft to Eastern Airlines and in being a viable competitor in current sales negotiations with other airlines underscores the fact that the American aerospace industry no longer enjoys a hegemony in the world marketplace. American companies have been of two minds on the problem: should they attempt to fight the foreign competition, perhaps with Government support, or should they join the foreign competition in some form of multinational consortia?

I insert an article on this situation from the July 2 Los Angeles Times:

UPSTARTS BAFFLE AEROSPACE ESTABLISHMENT

For years the European aviation companies have been treated like junior partners in an old-time firm. But now that the resurgence of the European industry has shown how much they've grown up, the American aerospace companies are divided on whether to let the upstarts join their club.

Recently, for instance, Harry Gray, the chairman of giant United Technologies Corp., which dominates the jet engine market through its Pratt & Whitney division, ran into George Warde, chief of North American operations for the European consortium, Airbus Industrie. It was not a friendly encounter.

In April Airbus had made its first sale of airplanes in the United States, to Eastern Air Lines for about $800 million. A couple of weeks later, at the United Technologies annual meeting, Gray blasted the Airbus sale, along with the purchase by Pan American World Airways of Lockheed L-1011 Tristars using British Rolls-Royce engines, charging that the deals "point up a disturbing trend. More and more, we find ourselves competing for commercial business both against other engine manufacturers and against foreign governments."

When Warde and Gray met, the head of the American firm was not eager to defend his remarks for, ironically, not only does Pratt & Whitney compete against the Airbus, usually equipped with General Electric engines; it also is spending about $25 million to certify its engines for use on the Airbus. In fact, after Warde chided Gray for suggesting that the financial help rendered by European governments and banks undercut free competition, Gray replied that press reports had twisted his meaning. Never mind that the company report after the meeting confirmed the accuracy of the press accounts.

Many U.S. aerospace firms are, for the first time, facing Harry Gray's dilemma with the Europeans: should they compete—or collaborate? Some, like United Technologies, are trying to have it both ways.

The question goes to the heart of the international position of the American aviation industry. Since World War II, U.S. industry has overwhelmed nearly every non-Communist nation with its commercial planes and military weapons. The aerospace industry is the second largest exporter in the United States, by annual dollar volume, surpassed only by agriculture. With a few minor exceptions, such as the French independent company Dassault-Berguet, foreign aviation firms have played a subordinate role, serving as suppliers and subcontractors for the U.S. industry.

Bolstered by the huge internal U.S. market and the cross-over benefits from military spending, the aerospace industry is one of the few remaining cornerstones of American economic imperialism.

The Europeans, however, are becoming increasingly independent. "If our government doesn't act to correct this trend," warns Gray of United Technologies, "our nation could face erosion of its long-time leadership in the commercial aircraft market."

Keeping the Europeans in their place won't be easy, though, for they have come to resent their second-class status. The symbol of their newly won independence is the Airbus. American companies, for a change, are serving as subcontractors to the European project. Although the Airbus has yet to turn a profit, its prospects have improved enough to spur the Europeans to consider future airplanes, such as a smaller Airbus and a family of new planes to be called JET (Joint European Transport). JET is a British idea for forming a pan-European partnership in direct competition with American companies.

This conflict—the growing pride and independence of the European industry, backed by solid financing, arrayed against the continuing technological leadership of the United States—will come to a head in the next few months. The issue is whether Great Britain will throw its weight behind an American or a European commercial airplane project.

"It's the most important aviation decision for the remainder of this century," Gen. Jacques Mitterand said recently in an interview with the New York Times. Mitterand is the director of Aerospatiale, a big aerospace concern owned by the French government and one of the key partners in the Airbus project. "The future of Europe's civil aircraft industry depends on what the British government decides in the next few months."

The French and West Germans want British Aerospace, the government-owned company, to join the Airbus consortium. For the British, this arrangement holds out the promise of full partnership, but at a price. Not only would the British company have to buy into the project, but the power plant would be jointly developed by the French and General Electric rather than built by Rolls-Royce, the government-owned engine company.

Tugging in the other direction is a plan of Seattle-based Boeing Co., which has offered to give Britain a share of the new 757, the company's proposed medium-sized, narrow-body jet seating about 160 passengers. Boeing's appeal is that its programs have generally been highly successful—an important consideration to the loss-plagued British aircraft industry—and the deal would allow the British to build the wings, engines and engine casings. The price, however, would be continuing minor-league status in a Boeing-led program, and giving up at least one of the JET planes.

"I realize that the British resent being subcontractors," says E.H. (Tex) Boullioun, president of the Boeing commercial airplane unit. "But in order to keep the costs under control, we think we have to be in charge."

More recently, McDonnell Douglas proposed a deal to overcome the drawbacks of the other two programs. Instead of sub-

ordination, McDonnell Douglas is willing to offer partnership to both the British and the Europeans. By wrapping all three participants around an airplane package based on its preliminary designs for an advanced-technology medium-range (ATMR) transport, McDonnell Douglas hopes to challenge arch-rival Boeing in a key market with comparatively little risk. Britain would build Rolls-Royce engines for the plane and would share two-thirds of the airframe construction with other Europeans. But it is questionable whether the Airbus partners would find the proposal as attractive as Britain would.

To further complicate the already bewildering variety of choices, Lockheed Corp., which has forged a firm relationship with Rolls-Royce, is trying to entice the British by allowing them leadership on a program to modify the L–1011 Tristar for the medium-sized market.

The alternatives have split the British government into warring factions. One group, led by Rolls-Royce and the government airlines, British Airways, is lobbying for the Boeing deal because of the 757. British Airways wants to buy it and Rolls-Royce wants to build engines for the potentially lucrative program. British Aerospace, on the other hand, opposes the Boeing proposal because it would relegate the British company to being a subcontractor and would not offer enough financial advantages. Within British Aerospace, however, advocates of the all-European JET are pitted against those who favor the McDonnell Douglas proposal. At the same time, the Europeans are pushing for a quick, favorable decision.

The reason for the intense struggle is that British backing would provide important financial and technical help in launching an expensive new aircraft program, while practically guaranteeing British Airways as a customer of the chosen project and weakening the attractiveness of competitive planes.

The British government would also back the project by providing loan guarantees and other financial assistance. The terms of financing are becoming a crucial, new factor in aircraft sales—particularly in sales to U.S. airlines.

When Lockheed sold 12 L–1011s recently to Pan American World Airways, the British government, with its stake in the Rolls-Royce engines powering the L–1011, guaranteed the financing on the entire aircraft. In the past, such guarantees had been limited to the engine financing.

The British financing of the Pan Am sale and the terms arranged for Eastern Air Lines to buy the Airbus have aroused protests from aerospace executives like United Technologies' chairman Gray, Boeing's treasurer J.B.L. Pierce, and politicians close to the U.S. aerospace constituency. What is new is that for the first time, the Americans are facing a competitor who can invade their home market with substantial export help.

"Whether the terms involved (in the Airbus deal) are more or less favorable than those of our own Export-Import Bank will be a never-ending debate," says Edmund Greenslet, an aerospace analyst for Merrill Lynch, Pierce, Fenner & Smith. "The real issue, of course, is that those terms are available to United States airlines on the A300, whereas Export-Import financing is not."

The American firms have no choice but to match the European terms. "All other things being equal," says United Airlines president Richard Ferris, "financing will determine what we buy."

United is expected to decide soon whether to buy the new Boeing 767, the Airbus A300 derivative, or a combination of both. The United Sale is considered crucial to the plans of both Boeing and Airbus for launching new aircraft programs.

With so much riding on the pending decisions it is easy to see why all the aerospace firms are trying to win over the Europeans at the same time they are competing against them.

Whatever happens in the next few months, the Europeans have fundamentally changed the rules of the aerospace game. There's more competition, cooperative arrangements will become even more crucial in gaining access to markets, and U.S. airlines are fair game for the outsiders. Whether the Americans like it or not, the Europeans are joining the club.●

SHOULD INSURANCE COMPANIES HAVE TO SELL THEIR EMPLOYEES' GOLF COURSE TO PAY LIABILITY CLAIMS?

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. LaFALCE. Mr. Speaker, recent insurance company advertisements appealing to members of the public who serve on juries have not escaped the caustic wit of that great American commentator-humorist, Art Buchwald. In a recent column (Washington Post, July 18, 1978) he fantasizes himself a member of a jury in an "open-and-shut" negligence case, where the only issue is the amount of damages for four orphaned children.

In his inimitable style, Mr. Buchwald urges the other jurors to say, "Enough is enough. We will not reward people for negligence committed by another party"! He argues to the other members that so long as insurers "don't have to pay off, they can build skyscrapers, invest in the stock market, float real estate loans and sponsor some of the best programs on television." If they must pay claims, insurers will then be forced to raise premiums.

His fantasy concludes by his advising the jurors that, while he will abide by their decision, it will be on their conscience when the insurance company is forced to sell its employees' golf course to satisfy the claim.

The article follows:

CAPITOL PUNISHMENT—WHAT ARE INSURANCE COMPANIES FOR IF IT ISN'T TO TAKE RISKS?

(By Art Buchwald)

We see the advertisements in newspapers and magazines. They are paid for by the insurance companies appealing to the public who may serve on juries. Every time we award a plaintiff a settlement in an accident case, we are only hurting ourselves. It isn't the insurance companies who will suffer, we are told, but the public, because when we decide in favor of the plaintiff the companies, have no choice but to raise our rates.

I don't know about you, but the advertisements have persuaded me.

I have this fantasy that I'm on the jury of a giant negligence case. We've heard all the evidence and we are now back in the jury room trying to arrive at a verdict.

The foreman of the jury speaks first. "All right. This is an open and shut case. The truck driver rammed into the victim's car killing both parents and leaving four orphans. The evidence indicated the brakes on the truck were faulty and the trucking company sent it out on the road anyway. How much money do we award the children?"

"Wait," I cry. "There's more at stake than that. What about the trucking company's insurance people? What will happen to them if we award a sizeable sum of money to the children?"

"They'll have to pay it," a juror says.

"But it will eventually come out of our pockets—yours and mine."

"What the hell are you talking about?"

"Don't you read the ads?" I said. "Every time a jury awards a large sum of money to the victims of an accident, we, the public, have to eventually pay for it. The insurance companies aren't in business for their health."

"What are they in business for?" another juror wants to know.

"To serve the public. They collect premiums from all of us to protect our lives and property. As long as they don't have to pay off, they can build skyscrapers, invest in the stock market, float real estate loans and sponsor some of the best programs on television. But if they have to start paying off on their policies they can get in serious financial difficulties, and then we, the policy holders, have to bail them out."

"Are you saying we shouldn't award the plaintiffs in this case any money because the insurance company will get hurt?"

I reply, "All I'm saying is we should think about it carefully. Why should we punish a poor insurance company, which, if it loses the case, will only punish us?"

"That's what insurance companies are for," a juror retorts. "They're supposed to take risks. The insurance business is nothing more than a giant crap game, and it's their job to pay off when they lose."

"That is exactly the attitude that is driving insurance rates up all over the country. Every time a case gets to court we say, 'Let the insurance company pay through the nose.' Why can't we be the first jury to say, 'Enough is enough. We will not reward people for negligence committed by another party.' Don't you see? We have it in our power to stop spiraling insurance costs once and for all."

"What have you been smoking?" one of the jurors asks.

"All right," I shout. "I'll go along with whatever award you want to make. But when the insurance company has to sell its employes' golf course to pay for this case, it will be on the conscience of every person in this room." ●

AGAINST H.R. 12232

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. FRENZEL. Mr. Speaker, yesterday I was obliged to vote against H.R. 12232 for the sole and simple reason that it defers the date after which unemployment compensation would be reduced by the amount of any work-related governmental or other retirement pay received by the claimant.

Our law never intended that unemployment compensation should be paid to pension recipients. This Congress specifically provided that pension income would be deducted from unemployment compensation in 1980. H.R. 12232 extends that date to 1981, thus extending for a year the right to double dip.●

THE SNAIL DARTER AND THE TVA

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. SAWYER. Mr. Speaker, I am inserting in the RECORD at this time an editorial from the Grand Rapids Press which appeared on Monday, July 3, 1978. It comments upon and takes a closer look at the circumstances that led up to the Supreme Court's controversial decision regarding the Snail Darter and the Tellico Dam. I am pleased to bring this fine editorial to the attention of my colleagues:

[From the Grand Rapids Press, July 3, 1978]

THE LOWLY SNAIL DARTER

The three-inch snail darter, a rare and endangered species of fish, has suffered great abuse since its discovery in 1973 along a 17-mile stretch of the Little Tennessee River. But none so great as that generated by last month's Supreme Court decision that the 1973 Endangered Species Act bars completion of the Tennessee Valley Authority's $116 million Tellico Dam and Reservoir project. "You've got to be kidding," seems the general response.

Now that the guffawing may be dying down it is time to take a closer look at the circumstances which led to the confrontation between big dam and little fish. It is a lesson in the arrogance of bureaucracy and, more specifically, how the paper pushers in the federal government chose to disregard the specific wishes of Congress.

In 1966 Congress appropriated money for construction of the dam, and land acquisition began within the year. But in persuading the lawmakers that the project was worth the taxpayers' investment, the TVA people first had to establish a "positive cost-benefit ratio." This was obtained in a most curious fashion.

Farm land required for the impoundment was condemned and taken, the normal procedure in such cases. But adjacent property was acquired as well. Why? Well, it seems TVA intended to sell the property to a private corporation for the development of a new "planned community." Profit on the sale was then plugged into the required positive cost-benefit ratio and—presto!—the project was justified. The courts agreed.

In other words, a federal agency condemned the land of owner X with the specific intention of reselling it to other private persons at a profit. Whether or not the public good is served, is expropriation under such conditions forthright or fair? Not by any standards—except the state's.

That is mild stuff, however, compared to the events which followed. At the time the snail darter was discovered in 1973, the TVA had spent $36 million on the project, most of which was for land acquisition. As Chief Justice Warren Burger observed in the 6–3 majority opinion, provisions of the Endangered Species Act are "explicit" and the law's language "admits of no exception."

So, in compliance with the law, did work on the dam cease? Did TVA immediately begin to revise its plans to salvage some of the project benefits, or did it ask Congress to amend the Endangered Species Act? No is the answer to all of these questions. Instead TVA undertook a 24-hour construction schedule.

This was done for obvious reasons. It was anticipated that if enough dam could be completed before the courts required those in authority to follow the law, the news media would have a lot of fun with this "little fish vs. big dam" battle. How correct they were. Television and the press, with the notable exception of Charles Mohr of the New York Times, fell for it hook, line and sinker.

Obscured in this controversy, however, is a fact of life that the public and our lawmakers had better take note of. The Tellico experience, as Roger Conner of the West Michigan Environmental Action Council recently remarked, amply demonstrates "that federal bureaucracies cannot be moved even by an unequivocable command from Congress." That is the real message of Tellico.

Lastly, it should be said that the Government Accounting Office report on the project suggests that the discovery of the snail darter—coinciding as it did with the private company's abandonment of the "new town"—offered an opportunity to reevaluate and redesign the multi-purpose project around a free-flowing river. Had TVA done so, it would have achieved most of the project's purposes capable of attainment, spared the snail darter which requires a free-flowing stream habitat to survive and saved the taxpayers several tens of millions of dollars to boot.

Instead the snail darter is considered a joke and TVA is preceived as the hero, as Congress prepares to amend the tiny fish out of the Endangered Species Act and into extinction.●

BALTIC NATIONS REMEMBERED

HON. WILLIAM M. BRODHEAD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. BRODHEAD. Mr. Speaker, from its beginnings the United States has been committed to the principle of self-determination, or the right of people to choose their own form of government. Unfortunately, the Soviet Union has chosen to callously disregard this principle in its illegal occupation of the Baltic nations—Latvia, Estonia, and Lithuania—and in its harassment of the citizens of these countries. I believe the United States must never acquiesce in this infamous action, and I have introduced House Concurrent Resolution 276 to reaffirm our longstanding policy of nonrecognition of the Soviet Union's annexation of the Baltic nations.

On June 18, 1978, people of Latvian, Estonian, and Lithuanian descent from the Detroit area met to commemorate the 38th anniversary of the forcible occupation of the Baltic republics by the U.S.S.R. A resolution was adopted at this gathering, and I wish to share it with my colleagues:

THE BALTIC NATIONS COMMITTEE OF DETROIT, INC.

We, the Americans of Estonian, Latvian, and Lithuanian descent residing in the Metropolitan Area of Greater Detroit, County of Wayne, in the State of Michigan, gathered in a meeting on June 18, 1978, at the Lithuanian Cultural Center to commemorate the 38th year of the forcible occupation of the Baltic Republics by the Soviet Union and the 37th anniversary of the first mass deportation of hundreds of thousands of the Baltic people to slave labor camps in Siberia, at a Commemorative Concert Sponsored by the Baltic Nations Committee of Detroit, Inc., did unanimously adopt the following:

RESOLUTION

Whereas, we are concerned that security and peace in Europe can be maintained only if all European Nations including Estonia, Latvia and Lithuania, who by aggression of the Soviet Union, have been deprived of their national freedom and independence, regain those rights that are theirs under international law; and

Whereas, the forcible annexation of the Republics of Estonia, Latvia and Lithuania 38 years ago by the Soviet Union as a result of the notorious Molotov-Ribbentrop Pact was an act of aggression committed in violation of treaties and agreements valid between these States and the Soviet Union and cannot have any legal or binding effect under international law. The Soviet Union cannot, therefore, claim that the problem of the Baltic States is her domestic affair; and

Whereas, the annexation of the Republics of Estonia, Latvia and Lithuania by the Soviet Union is not only legally void, it cannot be justified by possible claims, that it was necessary for Soviet Security and whereas, the United States Senate unanimously passed Resolution 319 on July 26th in the Bicentennial Year of 1976 of our Republic stating that United States should continue not to recognize this illegal occupation. Now, therefore be it

Resolved That the United States raise the question of this hideous occupation at the International Political Conferences as the most pressing issue and as a fitting tribute to the just aspiration to liberty and freedom by those oppressed people; and

That we respectfully request the U.S. Government to bring up at all future world forums the HUMAN RIGHTS question in the Baltic States and other Soviet Russian occupied countries. We emphasize again the illegal occupation of our homelands and therefore, respectfully request the President of the United States to use his good office to help to restore freedom to the Baltic States of Estonia, Latvia and Lithuania, as well as to all Captive Nations, and

That although today our thoughts are with the people of Estonia, Latvia and Lithuania, we also are concerned about the future of all Captive Nations occupied by the Russian Communist Imperialists, and

That we again warn the Western Powers against signing conciliatory agreements with the USSR, such as the agreement that was signed at Helsinki Security Conference with the USSR! The failure of the USSR to permit free emigration of separated families from the occupied Baltic States; and

That no "Powers" ever should have the right to decide the future of: Estonia, Latvia and Lithuania! Only the Baltic peoples themselves have the solemn right to choose their political and cultural structure, as Sovereign States with proud heritage of many thousands of years on the Baltic shores; and

That the Baltic people will never accept the incorporation of Estonia, Latvia and Lithuania into the Soviet Union; and

That we send this Resolution to the President of the United States of America and copies thereof to the Vice-President of the United States of America, the Speaker of the House of Representatives, the Secretary of State, our Senators and Congressmen representing the State of Michigan in Congress, and to the press.

Done at the Lithuanian Cultural Center, 25335 West Nine Mile Road, Southfield, Michigan, this 18th day of June, 1978.

KALLE EELNURME,
Chairman.
RAIMOND TRALLA,
Secretary.●

HAPPY BIRTHDAY MR. YOUNG

HON. ROBERT E. BADHAM

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. BADHAM. Mr. Speaker, it is again my pleasure to bring to the attention of

my colleagues that July 18 is once again upon us and that this date is the birthday of John Rathbun Young of Newport Beach, Calif. This big man of warm heart will again celebrate his birthday with a group of prominent Newport Beach citizens who gather to pay tribute to Mr. Young on the occasion of his birthday.

Of particular note this year is the fact that Mr. Young because of his longstanding desire of contribution to community has undertaken construction of a sewage treatment plant in Texas to enhance the ecological and environmental balance of the waterways in that State.

Because of his continued contributions to his community and others, I know that my colleagues would want to join me in wishing Mr. Young a most happy day on the occasion of his 45th birthday.●

A NEW BEGINNING IN MIDDLE EAST TALKS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. ROSENTHAL. Mr. Speaker, this week heralds the first direct political negotiations between Egypt and Israel since Egypt suspended talks in Jerusalem last January. In a castle 45 miles from London, Secretary Vance today opened meetings with the foreign ministers of Israel and Egypt in what could be the point of departure for future Middle East negotiations.

But if this conference is to mean anything, all parties to a Middle East settlement must recognize what a commitment to negotiate entails. Real negotiation means ending the pattern of rhetoric and recrimination that has characterized Middle East communications. Real negotiation means that Israel and Egypt must stop corresponding by press release. Real negotiation dictates that Israel, Egypt, and the United States declare a moratorium on preconditions, public declarations, and the media blitz that has sent even the most optimistic Middle East observer scurrying for cover.

Since January, there have been more than 20 meetings between high level Middle East an U.S. officials. Countless press statements have emanated from Cairo, Jerusalem, Washington, and points in between. And during the past 6 months, our Ambassador-at-Large has engaged in three intensive rounds of shuttle diplomacy. However, despite all the apparent movement, progress toward a Middle East settlement has been disappointing. All to often, momentum toward peace has been pursued for momentum's sake. The time has come for Israel and Egypt to sit down and hammer out their problems together.

To this end, the United States should use the Leeds Castle conference to reemphasize its commitment to a peace settlement negotiated directly by the states of the region and not imposed by any outside power. The search for commitments to a final solution in advance of negotiations is doomed to failure. Long-range questionaires, peace plans submitted to third parties, and rejections broadcast over the airwaves are not substitutes for direct talks.

Particularly disconcerning of late has been American pressure on Israel. In Washington, Israel's position has been unfairly and inaccurately labeled as the obstacle to peace. Such pressure only serves to raise expectations in Egypt and other Arab nations that the United States itself will effect a new accord. Thus the Arabs have little incentive to negotiate head to head.

In fact, Egypt has had a positive incentive to harden its stand. Israel's concrete and detailed peace plan was rejected by the Arabs without discussion. Jordan continues to demand a comprehensive agreement in advance of negotiations. And Egypt's first written proposal, which includes elements long ago rejected by Israel, leaves out any mention of an ultimate peace treaty or United Nations Security Council Resolution 242, hitherto agreed upon by all sides as the basis for negotiations.

The recent sales of sophisticated warplanes to Egypt and Saudi Arabia were advocated on the basis that they would increase Arab self-confidence and willingness in negotiations for a peace settlement. Since the Senate vote, however, the Saudis have not changed their position of refusing public encouragement for the peace process, and Egypt has even spoken of renewed war.

The United States must now prod the Saudis into bringing their influence to bear on both Egypt and Jordan. Unofficial reports indicate that Saudi Arabia supports peace. But we have yet to see that powerful Arab nation make a tangible, public display of its support for a negotiated settlement.

In particular, King Hussein's participation is critical to the success of any negotiations. President Sadat cannot be expected for very long to carry the burden of representing him. Jordan must be encouraged to drop its demand that preconditions be met in advance of any direct involvement on its part; real negotiations do not require a preconditioned statement of principles.

Mr. Speaker, neither side of the Middle East conflict has a monopoly on the truth, yet is not enough for any nation to simply profess a desire for peace. What is needed now is a commitment by all parties involved to a process of hard bargaining. It is in the setting of face-to-face talks that deeprooted mutual distrust can best be dispelled, that the oft-blinded cries and countercries of public opinion can be set aside.

I am most encouraged by the meeting last week between President Sadat and Israeli Defense Minister Ezer Weizman. Hopefully, that meeting—characterized by its one-on-one nature and an absence of undue press attention—will signal a new beginning in Middle East talks.

The United States still has an important role to play in bringing the parties together and in creating a climate of trust and understanding. Let us hope such a climate will be fostered in England this week.●

THE VETERANS HOME LOAN PROGRAM

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. TEAGUE. Mr. Speaker, on July 17 the House of Representatives passed the Veterans Housing Improvements Act of 1978 to update and restructure one of the finest Federal programs ever devised by Congress. Escalating housing costs, the needs of severely disabled veterans for increased specially adapted housing grants, and the evolution of the mobile home industry made it clear that basic changes were needed to help veterans purchase the housing they need.

Passage of this legislation came just after the 34th anniversary of the veteras home loan program. Since June 22, 1944, more than 10 million veterans have borrowed over $115 billion under the program to buy, build. and improve their homes. Most of these veterans did not have sufficient funds to make the required down payments on their first homes. It permitted them to realize their dreams of homeownership.

I think it interesting, Mr. Speaker, that the credit record of veterans since the first VA home loan was granted has been excellent. Claims paid to lending institutions on these loans amount to only about 3.6 percent. That low figure is even more remarkable when it is considered that a large percentage of them were 100 percent loans.

The program was originally conceived as one method of fighting against the serious economic and social problems of readjustment faced by the millions of men and women being discharged at one time from the Armed Forces. It was proposed as an alternative to a cash bonus for two reasons: it would be less expensive to the Government and it would better serve the needs of veterans.

Credit was considered to be the key feature of the program. The Government would give the veteran the means to obtain favorable credit to shelter his family and start his own business if he had the other qualifications.

The maximum guaranty in that first bill was $2,000 and that has been gradually raised to meet market conditions until the bill just passed contains a $25,000 maximum guaranty. Other changes have been made over the years which revised the program from a readjustment benefit for those just getting out of service to a long-range housing benefit with no expiration date.

The veterans home loan program is a true American success story, Mr. Speaker. It has remained dynamic, changing with the changing times. It has helped veterans, and it has helped the homebuilding and lending industries. It has helped our Nation grow and prosper.

The bill just passed will take the program into the future where it can continue as a positive force for America and its defenders.●

PANAMA CANAL TRANSFER RESISTANCE CONTINUES

HON. J. KENNETH ROBINSON

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. ROBINSON. Mr. Speaker, despite the signings, the ratification with reservations and the ceremonial exchange of documents, the giveaway of the Panama Canal is not being accepted by a great many citizens. I am confident that, in Virginia, indignant objection to this transaction remains the majority view.

Under leave to extend my remarks in the appendix, I include two editorials which appeared in the Daily Advance of Lynchburg, Va., on June 24, 1978.

Although I am mentioned in one of the editorials in connection with remarks of mine here on June 14, 1978, I want to emphasize that I drew heavily at that time on background material and logical argument presented to the other body by Senator JESSE HELMS of North Carolina.

I also include an article by M. Stanton Evans which appeared in Human Events on July 15, 1978.

The material follows:

[From the Lynchburg, Va. Daily Advance, June 24, 1978]

AS EXPECTED

Most of us opposing the giveaway of the Panama Canal figured the Panamanians wouldn't abide by any of the agreements they chose not to.

Now, it develops, according to Sen. Jesse Helms, R-N.C., Panama already has rejected the six critical reservations and understandings adopted by the Senate in order to push through that still incredible ratification.

The Panama foreign ministry takes the position the following have no legal standing:

The Nunn reservation to permit negotiations for the stationing of U.S. troops in Panama after the year 2000.

The hotly discussed DeConcini defense reservation.

The Hollings-Heinz-Bellmon reservation providing that the U.S. is not obligated to pay any balance under the contingency payment provision in the year 2000.

The Brooke reservation providing that the ratification documents be exchanged not earlier than March 31, 1979.

The Cannon reservation that the Panama Canal Commission reimburse the U.S. Treasury for interest on investments and amortization of assets.

The Danforth understanding that toll rates need not be set at levels to cover contingency payments.

Maybe, the administration will discover eventually the reality of this affair much in the manner it suddenly discovered inflation and the Russian-Cuban interference in Africa.

HOW TO CONTROL POLITICIANS

There is one difficult but simple way the people of this country can regain control of their government from the politicians and bureaucrats.

And that is just to flat out deny them the money they always need and take for the never-ending schemes that surface.

In essence, that is what Proposition 13 did in California. Specifically, it sliced property taxes, but the effect of that was to cut off the flow of dollars from that bottomless pit government seems to think exists.

In the same fundamental manner the Virginia Taxpayers Association is proposing a method to bring an abrupt halt to the giveaway of the Panama Canal by President Carter and the Senate.

The VTA is calling on members of the Senate and the House of Representatives to "refuse to appropriate any taxpayer funds whatsoever for implementing the fradulent, null and void treaties, which are gravely damaging to the United States economy and national security. American taxpayers under the treaties are held to be liable for all deficits from the operations of the canal for the next 20 years." The VTA sees "taxpayer outrage" over what the President and the Senate did.

The VTA is incensed further over President Carter's recent visit to Panama to exchange official documents, which the Virginia group says was in defiance of the Brooke Reservation prohibiting exchange of such ratification instruments earlier than March 31, 1979.

Some of the background for the VTA stand came from Rep. J. Kenneth Robinson, Republican from the 7th District.

The Virginia organization claims Panama already has repudiated the U.S. version of the treaties, a position with some substance as discussed in the following comment.

[From Human Events, July 15, 1978]

THERE IS NO PANAMA CANAL TREATY

(By M. Stanton Evans)

After all the fuss and feathers and acrimonious debate, there is no treaty on the Panama Canal.

Oh, there is a document all right—two documents, in fact—debated at length in the U.S. Senate and celebrated by President Carter and Panama dictator Torrijos in an exchange of pleasantries a couple of weeks ago. In that sense, there is a treaty. But in the sense that really matters, meaning an understanding that is mutually agreed to and mutually binding on the contracting parties, there is no treaty.

The point was made in a speech last month by Sen. Jesse Helms (R.-N.C.). He noted that the problem which had plagued the treaty negotiations from the beginning had persisted through the period of ratification: The documents were taken to mean one thing in Washington and quite another in Panama City. And since the point of a treaty is to define and govern the rights of the contracting parties, such chronic ambiguity undercuts the very purpose of the exercise.

The most recent, and most serious, manifestation of this problem concerns the reservations added to the treaties by the Senate. These provisos, revolving around such matters as the procedure for keeping American troops in Panama and the right of the United States to intervene to protect the canal, were essential to the passage of the treaties. If they had not been adopted, the Administration could not have mustered the votes required for ratification.

"Ironically," Helms observes, "the treaties could not have passed without the very Senate amendments which Panama now repudiates. Most of the Senate sponsors of these changes announced publicly that their support of the treaties was conditioned upon acceptance of the changes in question. Without the votes of the sponsors, there would have been five or six fewer votes for the treaties themselves. And, of course, it is a matter of record that each treaty passed with only one vote to spare."

Moreover, it was stressed in floor debate by such treaty supporters as Sam Nunn of Georgia, Edward Kennedy of Massachusetts and Paul Sarbanes of Maryland that only if Panama accepted the reservations tacked on by the Senate could the treaties go into force. Sarbanes, for instance, quoted one authority on international law who stated, "that any changes or amendments inserted by one party as a condition of ratification must be accepted by the other party if the treaty is to come into legal effect."

On this explicit basis, the Senate adopted a series of treaty reservations, the most famous being the language proposed by Sen. Dennis DeConcini (D.-Ariz.) reserving to the United States the right of acting "independently" to keep the canal open to international traffic.

Other reservations included Sen. Nunn's proviso for keeping troops in Panama after 1999, reservations by Sen. Howard Cannon (D.-Nev.), Ernest Hollings (D. S.C.), John Heinz (R.-Pa.) and Henry Bellmon (R.-Okla.) concerning finances, and the reservation by Sen. Edward Brooke (R.-Mass.) asserting that the articles of ratification could not be exchanged until implementing legislation passed the House of Representatives (already violated).

Now it develops, with no fanfare to speak of, that Panama has repudiated virtually all of these reservations, and in particular has repudiated our official interpretation of the Nunn and DeConcini reservations bearing on the right of military intervention. In an official state document published April 26, the Panamanian Foreign Ministry revealed its own interpretation of the treaty reservations, in every instance denying or strongly modifying the reading of these documents by our Senate.

The most ominous of these repudiations concerns the DeConcini reservation, which the Panamanians find to be without real meaning because of other language adopted by the Senate. Panama says the Church amendment affirming the principle of nonintervention negates the impact of DeConcini's motion: "With it, the DeConcini reservation has been rid of its imperialistic and interventionist claws, and the enforcement of the principle of nonintervention has been re-established. The specter of new interventions at the end of the 20th Century, which rightly caused concern to all Panamanians, has been eliminated."

In other words, we think we have a right of intervention to protect the canal, against any and all threats (including threats from Panama), and the Panamanians think we don't. Similar ambiguity afflicts the Nunn reservation, the amendments concerning finances, and so on. What we have here is not a treaty, but a standing invitation to further conflict. ●

WHAT EXACTLY IS THE PUBLIC TELLING US ABOUT TAXES?

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. MURTHA. Mr. Speaker, last month I took a polling sample of Pennsylvania's 12th Congressional District to test citizens' attitudes about taxes. The nearly 2,000 replies to the question were balanced among all parts of the district.

The questions and results looked like this.

Q.1. From your standpoint, please tell me if you feel local property taxes are too high, too low, or about right.

[In percent]

Too high	76
Too low	0
About right	21
Not sure	3

Q.2. Everyone would like to reduce taxes. If you could choose one of the following list of taxes to reduce first, which would you choose? In other words, which of these taxes would you most like to see the government reduce? (Check one.)

[In percent]

Property tax	43
Federal income tax	37
Social security	5
Sales tax	4
State income tax	2
Gasoline tax	2
Per capita tax	1
Undecided	6

NOTE.—Responses arranged by percentages; did not appear on questionnaire in this order.●

INFLATIONARY RECESSION DISCUSSED

HON. DAWSON MATHIS

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. MATHIS. Mr. Speaker, recently I asked Federal Reserve Board Chairman William Miller to comment on an article by Dr. Milton Friedman in which Dr. Friedman prescribed a cure for inflation. The article, entitled "Inflationary Recession" (Newsweek, April 24, 1978), said that the United States had experienced three periods of inflationary recession in 1967, 1969–70, and 1973–75, and that a fourth was on the way. Blaming the continuing cycles on Federal spending and wild swings in monetary growth by the Federal Reserve, Dr. Friedman summarized his solution to the problem as follows:

What is the right policy now? That is easy to say, hard to do. We need a long-term program dedicated to eliminating inflation. The Fed should announce that is proposes to increase M_2 at the annual rate of, say, 8 percent during 1978, 7 percent during 1979, 6 percent during 1980, 5 percent during 1981; and 4 percent during 1982 and all subsequent years. To relieve the fiscal pressures on the Fed, such a monetary policy should be accompanied by a budget policy of reducing Federal spending as a fraction of national income—also gradually but steadily.

Such a monetary and fiscal program would eliminate inflation by 1983—for good. Such a gradual program would avoid economic disruption. Indeed, the confidence it engendered might well foster a vigorous and healthy expansion in investment and economic activity—and even a stock-market boom.

The difficulty with this prescription is to make it credible. Promises are one thing. Performance, as have learned, is something else again. The program is technically feasible. But is it politically feasible not only to announce it but to stick to it? I doubt that it currently is. I hope I am wrong. But, just in case I am not, hold on to your hats as the inflation roller coaster goes on its not-so-merry way.

Chairman Miller responded saying "it is not practical to adopt in advance a specific program to reduce monetary growth rates by a set amount each year, as Dr. Friedman suggests". In a letter of rebuttle, Dr. Friedman said, "Unfortunately, Chairman Miller's comments on my proposal for an announced 5-year policy of monetary deceleration are strictly in the Federal Reserve tradition of blandly dismissing all criticism by undocumented assertion."

Mr. Speaker, Congress must ultimately make a decision on how to solve this serious economic problem, and I request that the dialog between Chairman Miller and Dr. Friedman be reprinted in the RECORD.

FEDERAL RESERVE SYSTEM,
Washington, D.C., May 9, 1978.

Hon. DAWSON MATHIS,
Chairman, Subcommittee on Oilseeds and Rice, Committee on Agriculture, House of Representatives, Washington, D.C.

DEAR CHAIRMAN MATHIS: This is in reply to your letter of April 21, 1978, in which you ask for my views on a monetary program proposed in a recent article, a copy of which you enclosed, by Dr. Milton Friedman.

In the last section of his article Dr. Friedman asserts that "We need a long-term program dedicated to eliminating inflation." I agree wholeheartedly. Monetary policy has a critical role to play in such a program, but it cannot alone bear the whole burden of combating inflation. For an anti-inflation program to be effective without undue risk of economic disruption, the co-operation of all important economic sectors must be obtained. This means, among other things, that fiscal policy must be prudent and that business and labor must show restraint in price and wage decisions.

With regard to monetary policy, the record indicates that the Federal Reserve considers a slowing of monetary growth rates, including M–2, to be a major objective of policy for the longer run. But the pace at which growth rates can responsibly be slowed depends in large part on the pace at which built-in inflationary forces are wrung out of the economy. Thus, it is not practical to adopt in advance a specific program to reduce monetary growth rates by a set amount each year, as Dr. Friedman suggests. Such a commitment would require faith that the program will not prove disruptive and would seem to suggest that any future information which indicates the need for a change in the program, no matter how clear the evidence, would be ignored. The dangers in such an approach might be suggested when it is realized that the 4 percent rate of growth in M–2 that Dr. Friedman sets as a goal for 1982 would be the lowest rate of growth in that aggregate since 1960, except for the "credit crunch" year of 1969.

In brief, the Federal Reserve is firmly determined to work toward growth rates in the monetary aggregates that are consistent with a noninflationary economy. However, with such a policy monetary growth rate objectives need to be continually assessed on the basis of incoming evidence about the performance of the economy and adjusted to changing economic circumstances.

Sincerely,

BILL.

HOOVER INSTITUTION,
Stanford, Calif., June 8, 1978.

Hon. DAWSON MATHIS,
Chairman, Subcommittee on Oilseeds and Rice, Committee on Agriculture, U.S. House of Representatives, Washington, D.C.

DEAR CHAIRMAN MATHIS: I appreciate your having sent to me a copy of Chairman G. William Miller's letter of May 9, 1978 commenting on the anti-inflation monetary program that I proposed in my Newsweek column of April 24, 1978.

I certainly agree with Chairman Miller that prudent fiscal policy—a point I also made in my column. But both would be most effective if a firm and credible commitment could be made by the Administration on the one hand, and the Federal Reserve on the other, to a long-term program to reduce federal spending as well as the rate of monetary growth. Unfortunately the rest of Chairman Miller's comments are purely defensive and not responsive to my suggestions for change in Federal Reserve policy.

As a student of Federal Reserve history, I have examined many of the documents coming from the System during its sixty-five year existence. In addition, I have myself had dealings with the Board of Governors—its chairman and members of its research staff—for over three decades. In all those documents, in all my personal experience, I have yet to find a single instance in which the Board was forthcoming to any outside criticism or suggestion. Its consistent reaction has been to write a strictly defensive brief explaining why its policies and procedures are the only possible and reasonable policies and procedures. I recognize that this is standard bureaucratic procedure. But hope springs eternal and I had hoped that a new chairman who as a businessman has had to face facts and correct error might introduce greater responsiveness.

Unfortunately, Chairman Miller's comments on my proposal for an announced five-year policy of monetary deceleration are strictly in the Federal Reserve tradition of blandly dismissing all criticism by undocumented assertion.

His only answer is that the Fed knows best, that it must be free to adjust its mouth-to-mouth policy "to changing economic circumstances." But this discretionary policy is precisely the policy that the Fed has followed for sixty-five years—every chairman has said that the Fed must not be bound by rules or commitments, that it must be free to "lean against the wind," and similar standard clichés. The evidence is clear that this policy has been highly defective. I need not repeat the litany of failure documented fully in Anna Schwartz's and my *Monetary History of the United States, 1867–1960,* nor remind you of the Federal Reserve's contribution to both inflation and recession in the period since that covered in our book—including the credit cruch of 1969 that Chairman Miller refers to as well as that of 1966. The one feature of Federal Reserve discretionary policy that has been consistent throughout its sixty-five years has been its tendency to swing from one extreme to the other thereby destabilizing rather than stabilizing the economy.

On this record, the case is enormously strong for precisely the kind of firm precommitted policy I propose in my column. Surely that would give the community a far firmer basis for making its plans than the present frantic waiting each Thursday afternoon for the latest monetary numbers in the vain hope of being able to divine the next mercurial shift in Federal Reserve policy. A firm committed policy would provide an effective gradual transition to a lower rate of inflation without serious disruption. By contrast, I predict that continuation of the present Federal Reserve discretionary policy will continue to make the Fed an engine of both inflation and recession.

Mr. Miller refers to the Federal Reserve's determination "to work toward growth rates in the monetary aggregates that are consistent with a noninflationary economy." I applaud that determination—but we have heard it expressed repeatedly during the whole eight years of Chairman Burns's

tenure, yet the determination has not been accompanied by performance. On the contrary, the *actual* behavior of the monetary aggregates has fostered inflation. Just in the past two years, the target rates have been reduced, while actual rates of monetary growth have risen. Perhaps under the new chairman, the determination will be made effective—but surely the past record gives little basis for confidence that it will be.

It is not irrelevant that the Fed has been announcing monetary targets for a year ahead only because the Congress has required it to. The Fed opposed that measure and prior to Congressional Resolution 133, to the best of my knowledge, it had never in over six decades set itself, let alone made public, a target for as much as a year ahead.

I summarized the case for replacing the fine-tuning policies of the Fed with a monetory rule in a *Newsweek* column of February 7, 1972, of which I enclose a copy. Had such a rule been adopted and adhered to then, the country would have been spared most of the inflation of 1973–74, most of the recession of 1974–75, and the recent acceleration of inflation. We would be experiencing zero to 3 percent inflation now instead of 6 to 9 percent inflation heading toward double digits.

Sincerely yours,

MILTON FRIEDMAN,
Paul Snowden Russell, Distinguished Service Professor of Economics, University of Chicago and Senior Research Fellow, Hoover Institution●

THE ROAD TO PROSPERITY—PART XII—DEAD HEAT ON A MERRY-GO-ROUND

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. STEIGER. Mr. Speaker, during the recent Byrd subcommittee hearings on the Investment Incentive Act, Martin Feldstein of Harvard University and the National Bureau of Economic Research presented testimony summarizing two recent studies he has undertaken on the taxation of capital gains. The first study evaluated the harsh effect of inflation on the taxation of capital gains. The second study analyzed the relation between the tax rate on capital gains and the selling of stock.

The Treasury Department has made only two extensive analyses of capital gains taxation over the last two decades. One study was done in 1962, the other in 1973. Dr. Feldstein relied on the 1973 data for his study. Even though this was a bad year for the stock market—and thus distorts the percent of capital gains represented by stock transactions—it is the only data we have.

Capital gains tax applies to a sold asset regardless of how long it was held—as long as it was at least 1 year. Consequently, the inflation factor is quite severe for assets which have been held a long time. Even though there may be a large nominal gain, the real capital gain can be negligible because of inflation. The Feldstein study found that, in 1973, individuals paid capital gains tax on $4.6 billion of nominal capital gains on corporate stock. When adjusted for inflation, this nominal gain was a real loss of nearly $1 billion. Yet, the individuals had to pay tax. This is one of the problems which arises when capital is treated as income.

The second study was actually two ministudies using different data. Both studies indicated that capital gains tax rates have a very substantial effect on individuals' decisions to sell corporate stock. It was determined that two-thirds of the proceeds from the sale of stock were reinvested immediately. More was reinvested later, and less than one-third was used for current consumption. This reinforces the concept that capital gains is an important part of our capital stock.

The study also determined that a 25-percent maximum tax rate in 1973 would have encouraged nearly double the amount of stock sales, from $29.2 billion to $49.5 billion. The total value of net gains realized would have been threefold over the actual amount. The lower tax, in other words, would have meant greater tax revenue. It should be stressed that the increase in revenue does not depend on increased investment or economic activity. All it depends on is a lower tax.

The Washington Post ran another of its editorials against the Steiger amendment. The argument is that only those who sell a principal residence deserve capital gains tax relief and that inflation is not a problem. I would suggest the writer of the editorial read the Feldstein studies, and other material which I will be placing in the RECORD. The Feldstein testimony and Post editorial are attached.

THE TAXATION OF CAPITAL GAINS

(Martin Feldstein) [1]

I am very pleased to be here this morning. During the past three years, I have been doing research on the taxation of capital gains on corporate stock. I think the findings of that research bear directly on the proposals that you are currently considering.

This morning I will summarize briefly the results of two studies. The first describes the way that inflation affects the taxation of capital gains. The second deals with the impact of the capital gains tax rate on the selling or corporate stock and the realization of capital gains. I am submitting copies for the record of two papers that provide more complete reports of these studies.[2]

INFLATION AND THE TAXATION OF CAPITAL GAINS

Inflation distorts all aspects of the taxation of personal income but is particularly harsh on the taxation of capital gains. As you know, when corporate stock or any other asset is sold, current law requires that a capital gains tax be paid on the entire difference between the selling price and the original cost even though much of the nominal gain only offsets a general rise in the prices of consumer goods and services. Taxing nominal gains in this way very substantially increases the effective tax rate on real price-adjusted gains. Indeed, many individuals pay a substantial capital gains tax even though, when adjustment is made for the change in the price level, they actually receive less from their sale than they had originally paid.

In a recent study at the National Bureau of Economic Research, we measured the total excess taxation of corporate stock capital gains caused by inflation and the extent to which this distortion differs capriciously among individuals. For this study we used the Treasury Department's sample of individual tax returns for 1973. Our sample consisted of over 30,000 individuals and more than 230,000 stock sales in 1973. Although the individuals are not identified, the sampling rates are known; the sample can therefore be used to construct accurate estimates of totals for all taxpayers.

We found that in 1973 individuals paid capital gains tax on $4.6 billion of nominal capital gains on corporate stock. When the costs of these shares are adjusted for the increase in the consumer price level since they were purchased, this gain becomes a loss of nearly $1 billion.

The $4.6 billion of nominal capital gains resulted in a tax liability of $1.1 billion. The tax liability on the real capital gains would have been only $661 million. Inflation thus raised tax liabilities by nearly $500 million, approximately doubling the overall effective tax rate on corporate stock capital gains.

Although adjusting for the price change reduces the gain at every income level, the effect of the price level correction is far from uniform. In particular, the mismeasurement of capital gains is most severe for taxpayers with incomes under $100,000. Exhibit I compares the nominal and real capital gains and the corresponding tax liabilities for each income class. The first row presents the net capital gains as defined by the current law. Row 2 represents the corresponding real net capital gains. In the highest income class, there is little difference between nominal and real capital gains; in contrast, taxpayers with incomes below $100,000 suffered real capital losses even though they were taxed on positive nominal gains.

The tax liabilities corresponding to these two measures are compared in rows 3 and 4. In each income class up to $50,000, recognizing real capital gains makes the tax liability negative. At higher income levels, tax liabilities are reduced but remain positive on average; the extent of the current excess tax decreases with income.

Inflation not only raises the effective tax rate, but also makes the taxation of capital gains arbitrary and capricious. Individuals who face the same statutory rates have their real capital gains taxed at very different tax rates because of differences in holding periods. For example, among taxpayers with adjusted gross incomes of $20,000 to $50,000, we found that only half of the tax liability on capital gains was incurred by taxpayers whose liabilities on real gains would have been between 80 and 100 percent of their actual liabilities. The remaining half of tax liabilities were incurred by individuals whose liabilities on real gains would have been less than 80 percent of their actual statutory liabilities.

In short, our study showed that inflation has substantially increased—roughly doubled—the overall effective tax rate on corporate stock capital gains. Although this estimate relates to 1973 (because that is the only year for which data of this type is available), the continuing high rate of inflation means that the tax distortion for more recent years is likely to be even greater.

CAPITAL GAINS TAX RATES AND THE SELLING OF CORPORATE STOCK

Although there has long been speculation about the extent to which high tax rates on capital gains deter individuals from selling

[1] President, National Bureau of Economic Research, and Professor of Economics, Harvard University. The viewpoints expressed here are my own and not necessarily those of either the NBER or Harvard.

[2] M. Felstein and J. Slemrod, "Inflation and the Excess Taxation of Capital Gains", National Bureau of Economic Research (to be published in the National Tax Journal, June 1978) and M. Feldstein and S. Yitzhaki, "The Effects of the Capital Gains Tax on the Selling and Switching of Common Stock", Journal of Public Economics, 1978.

stock, there has been little hard evidence on the subject. In collaboration with two colleagues, I recently completed what I believe are the first econometric estimates of the effect of capital gains tax rates on the selling of corporate stock and the realization of capital gains.

We actually carried out two studies using two quite different bodies of data. Both studies indicate that capital gains tax rates have a very substantial effect on individuals' decisions to sell corporate stock.

The first study analyzed the experience of a random sample of high income investors whose portfolio behavior was recorded in a special survey carried out by the Federal Research Board in 1963. An important finding in an analysis of that data was that two-thirds of the value of the proceeds of corporate stock sales were reinvested in corporate stock and other financial assets within 1963. Since some of the remaining one-third of the proceeds were held in cash and reinvested in the following year, the data indicate that less than one third of the proceeds of corporate stock sales were used to finance current consumption.

The evidence in that study showed that the amount that individuals sell is quite sensitive to their tax rate. For example, on the basis of our statistical estimates of the tax rate sensitivity of individual selling, we calculated the effect of removing the 25 percent ceiling that was in effect in 1963 and taxing individuals at one-half of their ordinary income rates. We found that this change would have reduced the value of corporate stock sales by 23 percent.

Our second study used the same 1973 Treasury sample that I referred to a few moments ago in discussing the the effects of inflation.[3] This analysis again found that individuals' selling of corporate stock is very sensitive to their tax rates. We used this estimated behavior to calculate the effects of changes in the 1973 law. We found that limiting the rate of tax on long-term gains to 25 percent would have nearly doubled corporate stock sales, from $29.2 billion to $49.5 billion.

The Treasury data also permitted us to evaluate the impact of differences in tax rates on the amount of capital gains that individuals realize. We found that the realization of gains is even more sensitive than the selling of stock. Using the statistically estimated tax sensitivity, we calculated that limiting the capital gains rate to 25 percent would have caused an almost three-fold increase in the total value of net gains realized in 1973. Because of this great increase in the realization of gains, the reduction in tax rates would have substantially increased capitals gains tax revenues. Our calculation indicates that the tax revenues on corporate stock capital gains would have more than doubled if the tax rate had been limited to 25 percent.

Let me emphasize that this estimate of extra revenue does not depend on any assumed increase in share prices, in investment or in economic activity. The extra revenue results directly and immediately from the "unlocking" of gains that would not otherwise be realized. A favorable impact on share prices and total economic activity would, of course, increase revenue further. But even without such stimulating effects, the evidence indicates that reducing the tax rate or corporate stock capital gains would increase both total tax revenue an the taxes paid by high income individuals.

That concludes my summary of the studies of capital gains taxation. I hope that you find that these facts are useful to you as you consider proposals to reduce the taxation of capital gains.

[3] This study is reported in M. Feldstein, J. Slemrod and S. Yitzhaki, "The Effects of Taxation on the Selling of Corporation Stock and the Realization of Capital Gains," National Bureau of Economic Research, 1978.

EXHIBIT 1

CAPITAL GAINS AND ASSOCIATED TAX LIABILITIES

[In millions of dollars]

	Adjusted gross income class								
	Less than zero	Zero to $10,000	$10,000 to $20,000	$20,000 to $50,000	$50,000 to $100,000	$100,000 to $200,000	$200,000 to $500,000	More than $500,000	All
1. Nominal capital gains	86	77	21	369	719	942	1,135	1,280	4,629
2. Real capital gains	−15	−726	−895	−1,420	−255	437	839	1,125	−910
3. Tax on nominal capital gains	1	−5	23	80	159	215	291	374	1,138
4. Tax on real capital gains	0	−25	−34	−52	58	141	235	337	661

[From the Washington Post]

THE STEIGER AMENDMENT

The Steiger amendment evokes strong feelings. The amendment, you will recall, would cut capital-gains taxes, mainly for people with large incomes. We observed the other day that it is an offense to public morality. Since then we have heard from a good many of our readers; a sample of their letters appears on this page today. While you would not quite call it an avalanche of denunciation, it is a spirited reply. Rising to the bait, we shall now offer a few more thoughts on capital gains and taxes.

The hypothetical middle-income couple in our example had bought their house years ago for $35,000 and recently sold it for $135,000, for a capital gain of $100,000 and a tax on that gain of $17,490. A number of readers observe that if the original purchase was in 1955 almost exactly half of that capital gain is pure inflation The purchasing power of $35,000 in 1955 is the same as $84,000 today. Those letters bitterly ask whether it is fair to assess taxes on appreciation and is merely the result of inflation rather than a rise in real value.

That's a serious and important question of equity. But wait a minute. If we want to be absolutely fair—and who in this litigious country will settle for anything less?—we have to note that our hypothetical couple didn't pay cash for their house. Like most of us they bought it with a 20-year 5-percent mortgage. The inflation adjustment has to be made not for the date when they bought the house but the dates when they actually paid the money—that is the dates of the 240 monthly payments. We also have to note that our hypothetical couple has taken tax deductions all those years for their mortgage-interest payments. They deducted at the nominal rate—which is 5 percent. The real rate is the nominal rate minus inflation. For most of the years since 1968 the real rate on a 5-percent mortgage has actually been negative—that is the bank was paying our couple for having borrowed its money. If Congress is going to let them adjust their capital gains for inflation won't consistency compel it to require them also to adjust all of those past mortgage payments and deductions for the same inflation?

If it did, they would need a computer to figure out their tax return. No sane person would seriously support the idea. But the point is that you can't stop with just one figure. If the tax code is to take account of inflation, it leads to a brain-busting series of adjustments to adjustments to adjustments.

The Steiger amendment would do only one thing for the couple in our example, and it has nothing to do with inflation. It would exempt sales of homes from a rule called the minimum tax, saving our couple about $4,000 of their $17,490 capital-gains tax. That's a reasonable thing to do. Last January, in fact, President Carter proposed doing precisely that.

But the Steiger amendment goes much further. It would abolish the minimum tax altogether, and lower the rates of capital-gains taxes for everybody in the highest brackets. The amendment's author, Rep. William A. Steiger (R-Wis.), says that he wants to encourage productive investment in industry—a laudable purpose. It's possible to write tax legislation that woud encourage that kind of investment specifically. But his amendment would give the same breaks to everyone making money trading in land, paintings, antiques and gold. That's not productive investment, and there's no reason whatever to encourage it with expensive new tax benefits.

A final note on homeowners: Most people buying houses on mortgages, in the current inflation, are doing well out of it. The victims are the thrifty souls who financed the mortgages by putting their money into savings accounts. Inflation is cruelly unfair. It enriches borrowers. The people who get sheared are the savers and lenders.●

PROPOSITION 13 AS VIEWED FROM PENNSYLVANIA

HON. JOSHUA EILBERG

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. EILBERG. Mr. Speaker, the recent passage of proposition 13 in the State of California has caused many of us here in Congress and our fellow legislators in State capitols to focus new attention on the need for tax reform.

I believe that before any of us rush headlong to embrace action similar to that taken by California voters, the people and legislators of every State should assess their own needs, and should compare their own situation to that of California's.

A comparison between Pennsylvania and California, for instance, shows that

Pennsylvania has been light years ahead of the Golden Gate State in keeping property taxes down, and in not permitting surpluses to develop in our budget without returning revenue in the form of tax cuts.

Essentially, many people in California believed that State government refused to control spending and taxation, and so the people took matters into their own hands. This simply has not been the case in Pennsylvania.

Specifically, when proposition 13 was passed in California, that State had accumulated a surplus as large as Pennsylvania's entire general fund budget. On the other hand, when Pennsylvania was faced with a $400 million surplus in 1974, our Government returned those funds to the people in the form of reduced State income and corporate net income taxes.

Property taxes are the local form of support for school districts and municipalities. They are generally considered to be too inflexible, and therefore the most burdensome of all forms of taxation. Pennsylvania has reduced property taxes for senior citizens through a rebate program, and a number of legislative proposals have been considered that would shift from a reliance on the property tax to a more equitable income tax.

Nevertheless, the question remains: Are property taxes too high in Pennsylvania as they obviously were in California?

Recent data indicate that property taxes in Pennsylvania are quite low compared with other States. In comparing property taxes per $1,000 of income, our citizens pay $30 compared to a national average of $45. We are 36th in the Nation. Californians pay $64 per $1,000 of income. They are sixth in the Nation.

Looking at it another way, a comparison of property taxes paid per person shows our rate at $176. We also rank 36th in the Nation by this measure. Californians pay $415 per person. They are fourth in the Nation.

Other comparisons between our two States show:

In 1975–76, California had the third highest tax burden in the country with $964 per capita in State and local taxes. Pennsylvania's burden was $684 per capita, ranking us 24th among the States.

California spending by State and local governments was sixth in the Nation compared to Pennsylvania's ranking of 28th.

California has a graduated income tax which was substantially increased and eventually led to the $5.3 billion general fund surplus. Pennsylvania's flat income tax is at a lower level now than it was in 1971.

California's surplus will take up the slack for the cutback in property taxes for probably the next year. After that, the State may experience an enormous reduction in services.

Pennsylvania has no surplus to cover a reduction in property taxes that already compare favorably with other large States. These are the facts and should be considered accordingly in any comparison with the situation in California.

ANNIVERSARY OF THE DEATH OF GENERAL MIHAILOVICH

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. DERWINSKI. Mr. Speaker, yesterday, July 17, marked the anniversary of the execution by the Yugoslav Communists of Gen. Draza Mihailovich, leader of the nationalist resistance forces in Yugoslavia during World War II.

On this occasion, I think it appropriate to remind the House:

That General Mihailovich rescued over 500 American airmen during the course of 1944 and arranged for their safe evacuation by air to Italy;

That for this and other services to the Allied caunse Mihailovich was posthumously awarded the Legion of Merit in the Degree of Supreme Commander by President Truman:

That the National Committee of American Airmen Rescued by General Mihailovich 3 years ago petitioned Congress for permission to erect a memorial to Mihailovich as an enduring expression of their gratitude to the man who saved their lives;

That this monument is to be erected with publicly subscribed funds, that is, at no expense to the Government;

That this project has been strongly endorsed by the American Legion at its last annual convention;

That authorizing legislation has twice been passed by the Senate, without dissenting vote;

And that parallel legislation, sponsored by almost 50 Members of the House, has been pending in the Subcommittee on Libraries and Monuments since January of last year.

It is my earnest hope that the subcommittee will move expeditiously to report this legislation out so that the House will have an opportunity to vote on it before the close of the session.

I would like to say a few more words of tribute to Mihailovich.

The Communist Government of Yugoslavia executed General Mihailovich as a traitor. But it was Mihailovich who raised the banner of continuing resistance to the Nazis at a time when the Communists were still collaborating with them. Mihailovich's early resistance may very well have been instrumental in saving Moscow by slowing down the Nazi advance—indeed, at the time of his execution, the New York Times suggested a statue in Red Square dedicated to Mihailovich, savior of Moscow.

Hitler himself offered 100,000 gold marks for Mihailovich, dead or alive. Many thousands of Mihailovich supporters paid with their lives for their commitment to freedom.

I ask unanimous consent to insert into the RECORD at the concluson of my remarks the text of an article entitled "The Mihailovich Tragedy," written by the famed Yugoslav dissident, Mihajlo Mihajlov, who is now in the United States. This article appeared in the respected American weekly, The New Leader, on February 3, 1975. Almost immediately thereafter Mihajlov was sentenced to 7 years at hard labor. I call attention to the fact that Mihajlov in this article states that, after examining he entire record of the Mihailovich trial, he concluded that "Mihailovich was guilty of only one crime: fighting the Communists."

[From the New Leader, Feb. 3, 1975]

DISENTANGLING HISTORY: THE MIHAJLOVICH TRAGEDY

(By Mihajlo Mihajlov)

NOVI SAD—Last October 23, Djuro Djurovich, 74 years old and ailing, was sentenced to five years in prison by a Belgrade court on charges of writing hostile articles for foreign publications. Djurovich had his first brush with Yugoslav law in 1945, while secretary of the National Committee formed by General Draja Mihajlovich—chief rival to Marshal Josip Broz Tito during World War II. Having subsequently served 17 years of a 20-year sentence, he recently wrote a book about his incarceration and sent part of the manuscript to friends in Paris. Although none of it has been published so far, he was convicted under Article 109 of the Criminal Code, covering actions that "aim at overthrowing the existing order."

The Djurovich trial has again focused public attention here on one of the most painful questions facing the Yugoslav Communists: their attitude toward the Mihajlovich movement. The General was shot in 1946, yet articles, books and films designed to show that he was essentially not an adversary of the Nazi conquerors have continued to appear every year. His opponents contend that from the very begining he was a German collaborator, but this claim is substantiated mainly by the fact that he also fought against the Communists.

Ironically, the more the official propaganda tries to villify Mihajlovich, the more it provokes reservations among unprejudiced observers. A mere comparison of the present complete myth with the history of the Yugoslav internal struggle, as described by the very same Communist press immediately after the War, casts doubt upon everthing the regime is attempting to prove. In addition, many secret documents from the British, American and German government archives now available in the West have shed new light on the relations of both the Allies and the Axis to the competing Tito and Mihajlovich movements. A pattern has emerged, in fact, that explains why Tito won, though some important causes of Mihajlovich's defeat remain hidden.

To comprehend the full complexity of the bitter contest between the two men, waged during the Fascist occupation, one must go back briefly to the formation of the Kingdom of Yugoslavia. It was created in 1918 by a merger of the Kingdom of Serbia, the Kingdom of Montenegro ——— and Croatia and Slovenia, previously parts of Austro-Hungary. The new state of Southern Slavs was burdened with many national, social and political problems from the outset. The most serious was the antagonism between the two biggest nationalities, the Eastern Orthodox Serbs and the Catholic Croats, who speak the same language yet have a different historical past and different social mores.

It would have been difficult to resolve the existing social-political contradictions even in a state with well-established democratic traditions, let alone under the semi-authoritarian regime of the Karadjordjevich

Serbian royal dynasty. But the fatal mistake of the rulers was their unwise attitude toward the Communists—and it must be admitted, regretfully, that the Russian emigrés in the country played no small part in the development of that attitude.

The Communist movement in Yugoslavia, as well as in the rest of Europe, experienced a great upsurge right after World War I. Had it been left alone to exist in a framework of democratic laws, it would never have become the iron-disciplined organization it became the moment the party was outlawed and Communist activity was persecuted in many ways, including long prison terms that only encouraged Communist fanaticism and underground activity.

Many of the Russian emigrés in Yugoslavia, who were fully accepted by the government and people, repaid the kindness by raising the level of theater, opera and ballet in the country, and by helping considerably to advance the teaching of science in the universities. At the same time, there were extreme Rightist elements among the emigrés who had a harmful influence on the policies of the Yugoslav Kingdom toward the Communists. (After the Axis overran Yugoslavia, those authoritarian Russian emigrés formed a voluntary military movement of 10,000 men to fight the Bolsheviks on the Eastern Front. Instead, they were used by the German High Command in German uniforms to fight as a so-called "Russian Guard Corps" throughout World War II against Tito's Partisans, and they lost three-quarters of their number in battle.)

In short, because the King lacked wide popular support, the two-week-long campaign of Hitler and Mussolini against Yugoslavia in April 1941 ended with the shameful capitulation of the Yugoslav Army, the flight of the government to the West, and the total partition of the country by German, Italian, Hungarian, Bulgarian, and Albanian occupiers. Two puppet states were set up: a formally independent Croatia, where power was seized by the Croatian fascists, the "Ustashis," and Serbia, which was occupied by the Germany Army and found itself in the same position as Pétain's France. The Communist party took a detached stand and thanks to the alliance then in force between Hitler and Stalin, it embraced the slogan, "We should not participate in an imperialist war."

It was in these circumstances that Draja Mihajlovich, a colonel of the Army's General Staff and a professor at the Higher Military Academy, decided not to be taken as a prisoner of war by the Germans and with a group of his officers took off for the mountains to organize a resistance. Within only a few months the lines were drawn between his forces and the Germans and Ustashis. Except for England, from April–July 1941 Hitler was resisted only by Mihajlovich, who was properly named the first rebel of Europe.

Then, after Hitler attacked the Soviet Union, the Communist party of Yugoslavia quickly changed its line and started to organize a resistance too. By the fall of 1941 both Mihajlovich's and Tito's detachments were fighting the German occupiers. The leaders of the two movements met personally three times from September to November to negotiate a possible unification of their military units, but they did not arrive at any agreement and soon started an internecine war.

Since the Croatian national movement had tied its destiny to the German Reich, it was clear that the struggle for power in the country following the expected defeat of Germany would be between Tito and Mihajlovich. Moreover, Ustashi atrocities served to replenish the bloodied ranks of the two men, with most of the Serbs joining Mihajlovich and the Croatian anti-Fascists joining Tito.

The German and Italian occupiers tried to interfere as little as possible, knowing that the internecine struggle would totally paralyze the anti-Hitler movements and hoping that an opportune moment they would thus succeed in crushing both leaders. Documents available now, though, prove that Hitler regarded Mihajlovich as the more dangerous enemy than Tito, because it was Mihajlovich whom the majority of the Serbian people supported during almost all of the War and they made up approximately 50 per cent of this multinational country.

Mihajlovich (who was promoted to the rank of general and named minister of war by the departing royal government) received full Allied support during the first years of the War, and the British BBC was a mouthpiece of his movement. For its part, the Soviet Union opened Radio Free Yugoslavia in Tbilisi to serve as the mouthpiece for Tito. At the end of 1943 the Communists formed a new Yugoslav government, the Anti-Fascist Assembly, and three months later the Mihajlovich movement created its National Committee. The Committee was supported by leaders from almost all of prewar Yugoslavia's political parties, including the Socialist and Democratic parties. Djuro Djurovich, a long-time correspondent for the Yugoslav press from London and Paris (where he earned his PhD), a lawyer by training and a prominent Democratic party politician by profession, was elected secretary.

In the interval between the creation of the Communist Assembly and the Committee, however, an event occurred that decided the future direction of Yugoslavia—an event whose underlying causes still have not been fully uncovered because the explanation for it given by all involved could merely have been the immediate reason for what happened. In any case, in December 1943 Prime Minister Winston Churchill of Great Britain sharply altered his policies toward the Yugoslav insurgents and, under the pretext that Tito's Partisans were doing more damage to the Germans than Mihajlovich's forces, shifted the full weight of his support to Tito.

That step could not have been a concession to Stalin, for the Teheran conference was then under way and Churchill's decision provoked Stalin's strongest suspicions. He even proposed that Churchill and President Franklin D. Roosevelt continuing helping both movements, evidently having little hope that Tito would ultimately prevail. Churchill not only persisted in his plan, but he resolutely prevented the Americans from continuing to send aid to Mihajlovich (the Balkans comprised England's political zone of interest), although American communications officers remained in Mihajlovich's headquarters until the end of 1944.

This basically sealed the fate of the Yugoslav civil war. Mihajlovich stopped receiving any help from the Allies, while the aid for Tito's Partisans—arms, uniforms, strong air support, medical supplies, transportation of the wounded by military ships to Italy, and so on—grew from day to day. BBC broadcasts ceased mentioning Mihajlovich and sometimes even attributed his military success during the last battle with the Germans to the Partisans. In the middle of 1944, as the result of strong pressure from Churchill, the King's government-in-exile in London signed a pact with Tito and dissociated itself from Mihajlovich. Nevertheless, until the arrival of the Red Army under Marshal Fyodor Ivanovich Tolbukhin, Mihajlovich's forces in eastern Yugoslavia far exceeded the Communist forces.

At the beginning of 1945, threatened by Tito's detachments and the Red Army, part of Mihajlovich's movement followed the retreating German armies into Italy. The General himself declined the Allies' offer to evacuate him and his entire general staff to Malta, and with 10,000 men decided to continue the struggle in the mountains of Yugoslavia. In the near future, he felt, the Communists' forcible collectivization would surely arouse sharp resistance from the peasantry (which did indeed occur, but three years later after Tito's 1948 clash with Stalin).

In March 1946 the Communist secret police succeeded in trapping Mihajlovich. Four months later he was shot, marking the end of the Yugoslav civil war.

One can only guess at Churchill's motives. Undoubtedly, the fact that Tito was inflicting greater damage on the Germans than Mihajlovich played a significant role. In their struggle for power the Partisans did not spare either themselves or others, and they never paid the least attention to the outrages committed by the Germans in return—the shooting of 100 hostages for each German soldier lost, and the burning of entire villages. On the contrary, this seemed to gladden the Communists, for it reinforced the flight of the population to the ranks of the insurgents. Mihajlovich's detachments acted more cautiously in this respect, refusing to purposely incite German reprisals against the peaceful population. They recognized that until the Allies arrived, an open, aggressive war with the German occupying armies could not bring anything but enormous casualties.

Still, at the time that Churchill shifted his full support to Tito few people doubted the Nazis' defeat, and Churchill had to realize that his policy change would do more to bring about the Communists' victory in Yugoslavia than to harm the Germans. In all probability, the British Prime Minister decided that no matter who the Allies helped, Tito would win the civil war, and therefore it was necessary to establish the best relations possible beforehand.

To be sure, the Mihajlovich movement suffered from the weaknesses characteristic of all anti-Communist movements, without exception, throughout history. To begin with, it lacked a positive philosophy for building a new society and failed to understand that the Communist *idea* cannot be fought by force of arms alone. Furthermore, the patriotic notion of a "united and indivisible" Yugoslavia and the worshipping of traditional national-Serbian Orthodox values clearly provided an inadequate ideological platform for a multinational country. The absence of a political organization and the impossibility of disciplining the whole movement exclusively by military means under conditions of guerrilla warfare and inadequate communications was another weakness.

The last led some commanders in different parts of the country to become virtual local autocrats, who often compromised the whole movement by slaughtering Communist sympathizers and Muslims. And General Mihajlovich himself, despite his great personal valor, was better suited for the role of a "patriarch" (as his entourage jokingly referred to him) than a stern insurgent leader. Nevertheless, Mihajlovich was brought down not only by his shortcomings, but *to an equal degree* by the attitude of the democracies toward one of the two most pro-Western, anti-Hitler resistance movements (the other being the Polish national movement of Generals Anders and Bor-Komarovsky).

Once, after he had already left office, Churchill said his stake on Tito was his biggest mistake during the War. Yet it is hard to believe the sincerity of that statement because of the existing proof that he very well knew what a Partisan victory would lead to. By no means did he believe Tito's constant, solemn promises not to introduce one-party dictatorship in Yugoslavia, although he was forever convincing the British Parliament of their sincerity.

Brigadier Fitzroy McLean, who represented the British Army at Tito's headquarters, de-

scribes in his memoirs an extremely interesting conversation between himself and Churchill following the Prime Minister's decision to stop supporting Mihajlovich. In briefing Churchill, McLean expressed his conviction that a Partisan victory would bring a Communist system to Yugoslavia no different from the Soviet one. Churchill looked at him coldly and asked:

" 'McLean, do you intend to live in Yugoslavia after the War?'

" 'No sir.'

" 'Neither do I'."

In the summer of 1946 in Belgrade, three months after a cagey secret police maneuver has resulted in Mihajlovich's capture, a Moscow-style demonstration trial was hastily arranged. The role of the general prosecutor was played by the present foreign minister, Milosh Minish. General Mihajlovich behaved in a way that made one wonder about what he had been subjected to in prison: He answered questions irrelevantly, did not understand many of them, and once even fell asleep during the court examination.

The court did not want to hear out the witnesses presented by two brave defense counsels (who later paid for their bravery), and the special hand-picked audience was raging. Yet, even after reading the official and obviously doctored stenographic record of the trial—in which there was no place for the remarks and full speeches of the defense, or the defendant's statement—it becomes perfectly clear that Mihajlovich was guilty of only one crime: fighting the Communists.

Everything else, like the charges of collaboration and of intensifying the fratricidal war, was either untenable and pure fiction, or could just as well have been brought against the Communists. But, of course, what we have here is a double standard: When the Partisans conducted negotiations with the Germans and Italians that was a military ruse, and when Mihajlovich did the same thing it was collaboration; when the Partisans attacked the General's detachments that was war with quislings, and when the General attacked the Partisans that was intensifying the fratricidal war.

The most curious charge against the General was that he had negotiated with the Germans in the fall of 1944. As was widely known, those negotiations were carried on in the presence of the United States representative, Colonel McDowell, and the German High Command in Yugoslavia offered to surrender to the Western Allies represented by Mihajlovich. The British and Americans declined this one-sided offer, unsuccessfully demanding a full German surrender to Tito and the Red Army, too. Apparently the court wanted to show that the Western Allies were making agreements with the Germans behind the back of the Soviet Union.

The General was shot. The same fate was shared by thousands of active fighters in his movement, and tens of thousands of others were subjected to severe persecutions that threaten his sympathizers to this day. It cannot be said that Western public opinion was very indignant over these events; it was the first year, the "honeymoon year," after the War. Most of the protests came from hundreds of American fliers who had been shot down above Yugoslavia and saved by Mihajlovich's forces. Many of them recalled the farewell speech the General gave to a group of 250 Americans who were returning home in the summer of 1944:

"Your leaders will soon realize what a grave mistake they have made. The Germans are already on their deathbed, and after they are defeated, Stalin and his servants won't need you any longer. You have armed them and strengthened them for your own misfortune, because they will turn all their strength against you. One cannot be under any delusion: Communism and democracy cannot coexist. The day has not yet arrived when a lamb can sleep safely near a wolf . . . both Stalin and Tito are going to be against you. I will no longer be able to see with my own eyes how right I was . . . but it is your destiny to comprehend how blind you have been. When you realize all this, it might be too late."

The honeymoon year went quickly and governments in the West, albeit somewhat belatedly, began to remember the General. In 1948 President Harry S Truman posthumously awarded Mihajlovich an honored American decoration for "high merit in the Allied struggle for victory over the enemy." General de Gaulle also spoke well of him in his memoirs.

The young generations in Yugoslavia, naturally, know very little about the true history of the civil war. And it is possible to sustain the sugary myth—Partisans fought heroically against the tremendous number of German divisions and numerous quislings, among whom the bearded followers of General Mihajlovich figured prominently (in accordance with national tradition, many of the men vowed not to shave until the country was free)—only under a complete ban on all unofficial statements. A reintroduction of freedom of the press would undoubtedly lead immediately to reevaluating the civil war and particularly Mihajlovich's role.

All doubt about this was removed three years ago, during the peak of the so-called "liberalism" here, when Yugoslavia's best weekly, *Nin*, published a strange article in connection with the 30th anniversary of the armed uprising, entitled, "Forgive us, history!" Notwithstanding the official story that the entire anti-German revolt began after an appeal in July 1941, the article said, big and bloody battles were already being fought in June against the Ustashis and the Italian Army in Herzegovina, involving artillery, planes and large Army formations. But this was somehow "overlooked," the article continued, because the leaders of this initial, spontaneous uprising later became outstanding commanders in Mihajlovich's detachments. Alas, not overlooked was the firing of the editor of *Nin* during the subsequent crushing of "liberalism."

Any regime after Tito's that does not at least partly rehabilitate Mihajlovich and his movement will merely be prolonging a dictatorship that prevents the healing of the civil war wounds. . . .

It is not only the quiet debate stimulated by the trial of Djuro Djurovich that led me to set down my thoughts about the Mihajlovich movement. I first met Djurovich under strange circumstances. In November 1966, a day before I was to start a one-year prison term given to me by the court in Zadar, I stopped to say goodbye to an elderly lawyer who is an acquaintance of mine. He had with him a tall, thin, gray-haired man who kept silent all the time, and to whom I did not pay much attention, missing his name altogether.

The next day I entered the prison in the town of Pozharevac and after 10 days I was transferred suddenly to the central prison in Belgrade for reinvestigation. I had been formally convicted not because my articles had appeared in the Western press, but because of my attempt to establish an independent journal, which is not punishable under the Yugoslav laws. The arrested members of the editorial board of our journal were already awaiting me. They had previously prepared the first issue and had been continuing publication work, refusing to be intimidated by the fact that I had actually been convicted.

During the new investigation the interrogator insisted throughout that I confess about the person I had contracted from the high leadership of Mihajlovich's movement. Since up to that time they had been trying to accuse me of nonexistent connections with the Croation nationalists, I just chuckled, assuming that this was simply an attempt to create a Serbo-Croation "balance." But the interrogator reminded me of the encounter with the gray-haired old man in the house of my lawyer acquaintance (I was followed day and night), and only then did I really learn who I had met. At the new trial in Belgrade, where I was sentenced to three and one half years in prison, they did not bring up the encounter.

Last year I again met Djurovich by accident in a friend's house in Belgrade, and I told him about the attempt to link me with him. It was news to him. He invited me then to stop by sometime. I went to visit him briefly in December 1973 and found him bedridden with rheumatism. A week later he was arrested and taken off to prison; last October, almost a year afterward, he finally received his day in court—and five-year prison sentence.●

MAINTAINING AMERICAN MILITARY CEMETERIES IN FRANCE

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. TEAGUE. Mr. Speaker, last week I alerted my colleagues that the U.S. Ambassador to France, Arthur A. Hartman, has proposed that seven World War I American military cemeteries now maintained by the American Battle Monuments Commission be turned over to the supervision of foreign nationals rather than being maintained by American personnel.

I recently expressed my dissatisfaction with this proposal to the Secretary of State and based on the reply I received from the State Department that they apparently plan to proceed with Ambassador Hartman's recommendation, I am introducing a bill today which would require that personnel employed as cemetery superintendents and assistant superintendents shall be citizens of the United States. There follows a copy of my letter to the Secretary of State and the response received regarding this matter:

JUNE 8, 1978.

Hon. CYRUS R. VANCE,
Secretary of State, Department of State, 2200 C Street NW., Washington, D.C.

DEAR MR. SECRETARY: This is in reference to the consideration being given by the Department of State to decrease the need for American Superintendents at American overseas military cemeteries in order to improve our balance of payments.

American memorials and overseas military cemeteries are administered by the American Battle Monuments Commission. Legislation relating to the American Battle Monuments Commission comes within the jurisdiction of the Committee on Veterans' Affairs, of which I am the senior Member. Consequently, I have enjoyed a long and continuous relationship with Members of the Commission and have visited a number of the overseas memorials and cemeteries.

All of these cemeteries administered by the Commission are a credit to the United States. These cemeteries represent a perpetual memorial to those citizens who made the supreme sacrifice in the national interest. It is fitting and proper, therefore, that such memorials be administered by Americans, especially when we realize that

these overseas cemeteries are visited by large numbers of Americans each year. By having the memorials operated by American Superintendents, we are demonstrating to the relatives and friends of those interred therein, that by their presence, our country really cares.

I want you to know that I am personally opposed to any plans to replace the Superintendents and Assistant Superintendents at our American memorials and overseas military cemeteries with foreign nationals. In keeping with my views on this issue, I am enclosing copies of correspondence by the Disabled American Veterans to the respective Chairmen of the Subcommittees on Appropriations which approve funds for the American Battle Monuments Commission.

There is no justification for replacing Americans in the positions of Superintendents and Assistant Superintendents at these overseas shrines. I want you to know, therefore, that I will support legislation that would prohibit such a transfer, should legislation be necessary.

Sincerely,

OLIN E. TEAGUE,
Member of Congress.

Enclosures.

DEPARTMENT OF STATE,
Washington, D.C., July 12, 1978.

Hon. OLIN M. TEAGUE,
House of Representatives.

DEAR MR. TEAGUE: On behalf of Secretary Vance, I am replying to the letter which you addressed to him on June 8, regarding proposals which could alter staffing arrangements in France for the American Battle Monuments Commission (ABMC). I would like to summarize the facts concerning these proposals and assure you that neither the Department of State nor Ambassador Hartman desires to curtail a program which maintains American cemeteries abroad according to highest standards of excellence.

The President's general concern about overseas staffing does not relate primarily to balance of payments or to immediate budgetary savings but rather to a desire to limit and reduce the number of U.S. officials who are resident in foreign countries. In order to identify any excessive employment of American citizens overseas, the President directed last year that staffing for all programs operating abroad be carefully scrutinized, using a Zero Base budgeting approach. Agency headquarters as well as our ambassadors were asked to complete separate reviews of staffing.

Each American ambassador is responsible by statute (22 U.S.C. 2680a) for directing, coordinating and supervising all U.S. Government employees within his jurisdiction. Moreover, President Carter has personally charged each ambassador to keep the number of U.S. Government personnel at the minimum necessary to meet national objectives. Ambassador Hartman offered his recommendations only after very serious consideration and in response to a clear Presidential mandate and requirement.

Responding to the same Presidential concern, ABMC management last year identified up to seven American positions (Assistant Superintendents of World War II cemeteries in Europe) for elimination if the President should order such a reduction. At that time, ABMC cautioned against such reductions, stating that the personnel occupying those seven positions were being trained to replace Superintendents nearing retirement. It is worth noting that General Donaldson (ABMC Paris), in discussions with Ambassador Hartman, also identified these seven Assistant Superintendent slots for elimination if ABMC should be required to lower its staffing levels.

After reviewing the general prospects for overseas reductions as identified by all agencies on the one hand and by our Chiefs of Mission on the other, the President at a March 1978 Cabinet meeting approved action to follow through on recommendations submitted by various American ambassadors.

The inter-agency mechanism for taking such action, Monitoring Overseas Direct Employment (MODE), was instituted by a directive of the National Security Council. Its procedures required that reduction recommendations undergo very careful scrutiny before final decisions are reached. Any agency affected, including the ABMC, has full opportunity to comment and participate. In addition, we have provided copies of your letter to those who are addressing the issues. So far, no decision has been made affecting ABMC personnel levels. However, an initial staff review has been prepared, outlining the facts and arguments for and against. It concludes that more data are needed before the issue should go forward for final decision. The concerned parties will be contacting ABMC headquarters for this purpose.

Those charged with decisions in this inter-agency process are fully sensitive to the depth of feelings represented in your letter and others received on this subject.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.●

THE COBRA'S NEW STRIKE

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. VENTO. Mr. Speaker, I would like to call the attention of my colleagues to the article in Newsweek for July 24, 1978, which sums up extremely well the facts and the issues in the current Northwest Airlines strike.

I want to commend the writers of this succinct article.

THE COBRA'S NEW STRIKE

A Minneapolis executive flies home from Boston—via Dallas. Montana ranchers who want to fly between Billings and Helena, only 225 miles apart, find themselves passing through Denver, a detour of nearly 1,000 miles. And in North Dakota, east-west air traffic slowed to a virtual standstill. So it goes these days, all across the northern tier of states from Illinois to Washington, as the strike by 1,500 pilots of Northwest Airlines moves well into its third month. There is no apparent settlement in sight, and for one curious reason: with both sides cushioned from the impact, neither has much economic incentive to end the dispute. That leaves only one real victim. "The public is the silent party in this strike," complains North Dakota tax commissioner Byron Dorgan. "It pays the cost but doesn't sit at the bargaining table."

On the surface, at least, the Northwest strike turns on fairly orthodox labor demands: better fringe benefits, longer rest periods and higher pay. But the real controversy centers on an unusual pooling arrangement among fifteen carriers, the Mutual Aid Pact (MAP), which not only can allow an airline to stay in the black during a long strike, but may also prolong the walkout because management has less to lose.

Formed in 1958 and periodically approved by the Civil Aeronautics Board, MAP assesses members on an annual basis and uses the funds to pay up to half of a struck airline's normal operating expenses. Since the maximum MAP payment was raised nine years ago, the average strike against members has more than doubled in length, to 78 days, compared with 11.5 days for nonmember airlines. "MAP is just a sham," says Northwest pilot and union official Gene Kragness. "On the one hand, the CAB is advocating laissez-faire capitalism, and on the other hand, it is supporting this blatant restriction of free trade."

An Industry Joke: Northwest, the seventh-largest U.S. carrier, is the main beneficiary of MAP, but that's hardly surprising, given its labor record: the industry joke is that the company should change its name to "Cobra Airlines—we strike at anything." Over the past two decades, Northwest has taken strikes with astonishing regularity—four in the last eight years alone—and collected an estimated $180 million from the MAP pool, nearly $80 million during the current walkout.

Some member carriers are growing critical of Notrhwest's dips into the MAP pool; they worry that the attenion paid to its regular "welfare checks" could result either in a CAB ruling or new legislation to scrap the arrangement. Eastern Airlines, for one, withdrew from MAP last week, saying it had paid out $74 million and received only $26 million over the years. Direct competitors also complain that Northwest is playing both sides of the street. Even as it accepts MAP payments, the carrier has continued to fly on a limited basis with cockpit crews recruited from management and a handful of nonstriking pilots—and, says the competition, only on the most lucrative runs.

Pinchpenny: In the best of times, Northwest chairman Donald Nyrop runs a pinchpenny operation—the line is headquartered in a windowless, hangarlike building at the Twin-Cities airport. Now it's tighter still, with all but 2,000 of his 10,000 employees furloughed. The result: give the MAP payments, the sale of several planes, and reduced wage and fuel costs, Northwest will show a second-quarter profit of at least $10 million, analysts predict, compared with $16.6 million in the first quarter before the walkout.

Most Northwest employees also take the strike in stride. "We really look foward to a strike," says stewardess Barbara Vignere, who is married to a Northwest co-pilot. "They're usually in the summer, so we plan on taking vacations then." The Vigneres can enjoy themselves; on layoff because of the strike, she is receiving $488 unemployment compensation a month. Meanwhile, her husband gets $700 a month from the union's strike fund. Still, the strike is no picnic. The pilots who are still flying say they have been harassed crossing picket lines, received death threats and voodoo dolls and have even found pipe bombs in their cars.

The public, meanwhile, is caught in the middle. Northwest is the only major carrier serving much of Montana, North Dakota, Minnesota and Washington, and economic losses have been considerable: Montana says it lost $13 million in the first month of the strike and North Dakota $8 million. The strike stranded a batch of needed measles vaccine in Denver, and kept buyers from reaching Bismarck, N.D., for a major auction of oil and gas leases. Worse, Northwest has continued to sell tickets as long as schedued departure is at least two weeks away—and, according to CAB attorneys, hasn't given customers adequate notice that the flights might be canceled. At the same time, other airlines are taking advantage: CAB investigators found that some ticket holders were being forced to pay premiums of up to $150 to transfer to other airlines, though CAB rules prohibit the practice.

Will a settlement come anytime soon? Given Northwest's track record, optimists are hard to find. Still, the pressures on both sides are building. The CAB is now pondering whether to renew MAP—and if the board doesn't take a tougher line, congressmen from states affected by the strike may well sponsor legislation to kill the pact. Some

striking pilots are also growing restive; captains with high seniority already make $85,000 a year—they seek a boost of at least $11,000—and strike-fund payments hardly come close to the lost income. And the airline itself is in much the same position: even with MAP, it's losing the chance to cash in on the current boom in air travel.●

TODAY'S NAZI THREAT

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. LaFALCE. Mr. Speaker, it has been 34 years, since the Allies buried the original National Socialist movement in the rubble of the "Thousand Year Reich." Because its crimes were so monumental in scope, and because its nature was so permeated with evil, everyone expected that the world had seen the last of the Nazis. Recent events in Illinois and elsewhere have demonstrated that such evil is not so easily extirpated.

Nazism must be rigorously and vigilantly combated, in order to insure that the world is never again exposed to the full horror of a National Socialist movement in power. One of the most effective weapons in this struggle is a sure knowledge of that movement and its strength both here and abroad. For that reason, I would like to draw my colleagues' attention to an incisive article which appeared in the Buffalo Jewish Review on July 7, 1978. This article, titled "American Nazis Are 'Virtually' No Threat," dispassionately assesses the strengths and weaknesses of today's National Socialist movement and in a highly commendable fashion avoids both complacency and hysteria.

The article follows:

[From the Buffalo Jewish Review, July 7, 1978]

ACCORDING TO JEWISH LEADERS AMERICAN NAZIS ARE "VIRTUALLY" NO THREAT

(Ed. note—This article on Nazi parties in the United States, and accompanying articles in this issue of the "Buffalo Jewish Review," were written exclusively for this newspaper. They are the first in a periodic series of reports in the "Jewish Review" on threats to Jewish life in this country.)

The National Socialist Party of Chicago plans to hold a Supreme Court-sanctioned rally in Chicago's Marquette Park on Sunday.

It probably won't be the last public demonstration by the ideological descendants of Adolf Hitler.

And it certainly isn't the first.

As early as the 1930s, brownshirt members of the Amerikadeutscher Volkbund paraded through the Yorkville section of New York City, declaring a boycott of Jewish merchants.

In these anti-Semitic acts, the Nazis are not alone.

Groups such as the Ku Klux Klan—which revived the myth of Jews as Christ-killers and called for boycotts of Jewish businesses in the 1920s—and the Defenders of the Christian Faith and Father Charles E. Coughlin's National Union for Social Justice have aided the Nazis' propagation of anti-Semitism.

The defeat of Germany in World War II, the Nuremberg Trials, and continual reminders of the atrocities of the Holocaust put the Nazi label into disrepute for a long time. But recent years have seen a rise in the notoriety, if not the numbers, of Nazi and neo-Nazi groups in this country and abroad.

For instance:

. . . Canada—Two members of the Western Guard Party (the Canadian name for the Nazi Party) were sentenced to prison terms last year for smashing windows and painting swastikas on property of Jews and Blacks.

. . . England—The National Front, led by a man who was a leader in Britain's National Socialist Movement, has become the country's fourth largest political party.

. . . Brazil—After police raided a meeting this year of Nazi supporters in the summer resort of Itatiaia, they found a "vast quantity of Nazi propaganda," including a German edition of Hitler's "Mein Kampf," and "The Protocols of the Elders of Zion."

. . . Holland—The Amsterdam Court of Law this year banned political activities by the Nederlandse Volksunie—the former National-Socialistische Bond—on the grounds that "its activities and actions appear to border on criminality."

. . . West Germany—Members of neo-Nazi groups appear publicly in black-and-brown Nazi uniforms in Hamburg and other large cities, Jewish shopkeepers have received anonymous telephone threats, Jewish gravestones have been painted with swastikas, Nazi literature has been distributed on street corners.

Swastika badges were sold at an ice skating event in West Berlin, Hitler's officer's cap brought $2,900 at an auction.

German officials say neo-Nazi parties are "not yet" a threat to the government.

Officials of Jewish organizations in this country say the same thing.

American Nazis are "not a big threat," says Saul Sorrin, who last year wrote a report on "Individual Freedom" for the National Jewish Community Relations Advisory Council.

American Nazis are "virtually no threat," says Milton Ellerlin, on the staff of the Trends Analyses Division of the Domestic Affairs Department of the American Jewish Committee, for whom he wrote a report on American Nazis this year. "Anti-Semitism in the United States today is in disrepute. You cannot build a political movement on 'Kill niggers and Jews'."

The main danger posed by Nazis in this country, Ellerlin says, is isolated outbursts of violence by Nazi sympathizers, often inspired by Nazi literature.

Recent activities by Nazi followers in this country include the following:

. . . Two students at the Rabbinical College of America in Morristown, N.J., were threatened by a man wearing a Nazi SS uniform and an accomplice with a gun.

. . . Neo-Nazi newspapers were placed in mailboxes in Westerlo, N.Y., a rural area outside of Albany.

. . . Residents of Elmira, N.Y., reported receiving postcards with the messages "Jude Raus," "Heil Hitler," and "Hitler was right."

. . . The National Socialist White Workers Party opened the "Rudolf Hess Bookstore" across from a synagogue in a southwest edge of San Francisco. The bookstore was closed after 50 angry Jews wrecked the store.

. . . The Detroit National Socialist Movement was evicted by police from its headquarters/bookstore on the city's southwest side, following complaints from residents of the area.

. . . The National Socialist White People's Party's candidate for Mayor of Milwaukee received 4,764 votes—about five percent of the total—during a 1976 primary election. Two Nazi candidates for the Milwaukee School Board received 5,150 and 6,305 votes during a 1977 primary election.

2,064 VOTES IN CHICAGO

. . . Frank Collin, leader of the National Socialist Party of Chicago, received 2,064 votes—16% of the total—in a 1975 election for City Alderman.

. . . A Nazi candidate for Mayor of Houston received 975 votes, and a Nazi candidate for the city council in a North Carolina city received 424 votes.

. . . Jesse Stoner, leader of the Georgia National States Rights Party, ran for Governor of the state on a platform which included the gassing of Jews. He received more than 18,000 votes in 1970. In 1974, running for the State Senate on the same platform, he received more than 42,000 votes. He ran for Lt. Governor in 1974 on the same platform; he received more than 71,000 votes.

And there have been periodic marches and rallies by Nazi groups in Chicago, St. Louis, San Jose and Washington, D.C.

What do these people want?

"They want publicity," says Sorrin. "They have a deseprate need to be motivated."

"They are looking for personal aggrandizement," says Ellerlin. Ellerlin says no Nazi will likely be elected to any political office in this country "in the foreseeabe future."

Ellerlin estimates that the total number of Nazi party members in this country is no more than 1,500–2,000. Other authorities say the total is as low as 500–1,000.

"BASICALLY ILLITERATE"

The Nazi party members are "the flotsam and jetsam of society," Ellerlin says. He says they tend to be white, male, lower-middle class, with "very little if any" education beyond high school. They are "basically illiterate," he says.

Ellerlin says the Nazi parties in this country have no ties with former Nazis from Germany who now live here.

The Nazi element in the U.S. is divided among at least 13 groups, all of which splintered off the original American Nazi Party founded by George Lincoln Rockwell in the mid-1950's. Rockwell was killed by a disgruntled Nazi party member in 1967.

Some of the Nazi groups in the U.S. are:

. . . The National Socialist White People's Party—Rockwell changed the name of the American Nazi Party to the NSWPP, shortly before he was killed, to mute its foreign flavor.

The NSWPP is based in Arlington, Va., is led by Matthias Koehl, a Milwaukee native who was a top Rockwell aide for five years, and claims a membership of 100 "hard-core" members and 500 dues-paying supporters. Sub-divisions of the NSWPP include the National Socialist Youth Movement and the National Socialist Women's Organization.

The NSWPP has units in northern Virginia, Chicago, Cleveland, Los Angeles, Milwaukee, Minneapolis, and in the San Francisco and Tracy-Stockton areas of California. It publishes two monthly periodicals, White Power and the NS Bulletin, and has an estimated annual income of $70,000–$100,000.

The NSWPP is affiliated with the World Union of National Socialists.

COLLIN'S GROUP

. . . The National Socialist Party of America—This group is based in Chicago in a two-story storefront building called "Rockwell Hall."

The NSPA was founded by Frank Collin, 33, who was expelled from the NSWPP in 1970 on the grounds that he has a Jewish father. Collin has consistently denied that report.

The NSPA's total membership is estimated to be no more than 100. Collin's group is the one that has threatened to march in Chicago and Skokie.

. . . The National Socialist White Worker's Party—The NSWWP has headquarters in San Francisco, and units in Houston, New Jersey, Rhode Island, Texas and elsewhere in California. Its leader is Allen Vincent, a self-styled "graduate of California penal institutions."

Vincent was the head of Rockwell's National Socialist Youth Corps.

Meetings of the NSWWP open with the recitation: "I pledge allegiance to Adolf Hitler, the immortal leader of our race. . ."

. . . The National Socialist Movement—The NSM is based in Cincinnati, and is headed by James Mason, who has sought an alliance of Nazi groups with the KKK and other racist organizations.

The NSM has units in Cincinnati and Detroit.

"WHITE CONFEDERACY"

. . . The United White Peoples Party—The UWPP is based in Cleveland, and has about a dozen members. It is headed by "Colonel" Casey Kalemba, who has tried to form a national Nazi coalition called the "White Confederacy."

UWPP members have invaded and disrupted meetings of the Cleveland City Council.

. . . The American White Nationalist Party the AWNP is based in Columbus, Ohio, and is led by a pair of brothers who have prison records.

. . . NSDAP—Auslands Organization (German Nazi Party Overseas Organizations)—This group has headquarters in Lincoln, Nebraska, and has four or five young supporters. The group's leader, Gerhard Lauck, claims strong organizational ties with secret neo-Nazi cells in West Germany.

. . . The National Socialist Liberation Front—Many of the members of this small, California-based group carry firearms, making it the most violent of the Nazi splinter groups. It was founded by Joseph Tomassi, former West Coast leader of Rockwell's Nazi Party. Tomassi was killed by a NSWPP member in 1975.

The NSLF is now headed by David Rust of Panorama City, CA., who was sentenced to prison in 1977 after conviction on a federal firearms charge of possessing a silencer. The NSLF has an eastern headquarters in Newport-Wilmington, Del., and has recruited members in California prisons.

GAY NAZIS

. . . The National Socialist League—This group has units in Los Angeles, San Francisco and San Diego, and individual members in Louisville and Chicago. The Los Angeles branch is for gay Nazis.

. . . The White Power Movement—The creation of a commercial printer in Reedy, W.Va., this is not a membership group, but a propaganda mill described as "the largest distributor of anti-Semitic literature in the United States. It supplies many of the materials offered by Nazi groups, the KKK and other hate groups.

Several attempts have been made in recent years to unify these groups. All have failed. Similar attempts to unify U.S. Nazi groups with the KKK, and the National States Rights Party, also have failed.

"A discord produced by clashing personalities and ambitions" has kept the Nazi groups in a state of disunity, according to an Anti-Defamation League *Facts* reports.

Nazi groups in the U.S. are considered so ineffectual that the Federal Bureau of Investigation abandoned its surveillance of them several years ago.

BARRATROUS LEGISLATION

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. PICKLE. Mr. Speaker, for some time now I have advocated an amendment to our truth-in-lending law. I maintain that for the law to be fair to both borrowers and lenders the law should contain a substantial rule. In other words, for meaningless, de minimis, harmless violations in disclosure, the lender would not be strictly liable.

Presently, the law gives a remedy no matter what the intent or impact of a technical violation.

This has caused the lenders to be harassed and liable in law suits dreamed up by attorneys; and has caused the consumers to face disclosure statements so confusing (so as to be legal technically) that the statements are meaningless.

Some Federal courts agree with my position, and have just blatantly ridiculed the law in written opinion.

I ask permission to place another court decision in the CONGRESSIONAL RECORD exposing the need to amend the truth-in-lending law.

As a flavor of this opinion, rendered by Judge Robert F. Chapman of the U.S. District Court, D. South Carolina, I want to quote just one tame line from the opinion:

This barratrous legislation transforms loan documents into contest puzzles in which prizes are awarded to those who can uncover the technical defects.

I commend this to all Members of the House.

HARRIET V. WILSON, PLAINTIFF,

v.

ALLIED LOANS, INC., DEFENDANT

[Civ. A. No. 77-803]

United States District Court, D. South Carolina, Columbia Division, March 14, 1978.

Suit was brought by borrower alleging that forms used by lender violated the federal Truth in Lending Act. On cross motions for summary judgment, the District Court, Chapman, J., held that: (1) lender, which actually acquired a security interest in any appliances or furniture acquired by the borrower within ten days of the loan date, violated the regulations by failing to disclose such interest; (2) since initial charge was not withheld from the amount financed, that initial charge was not required to be labeled as a prepaid finance charge," and (3) disclosure of $159.63 figure on form labeled "Net cash from chart," representing $167.24, the amount financed, less payments for credit insurance policies and eight cents for documentary stamps, was not confusing, misleading or inconsistent with disclosure requirements.

Judgment for plaintiff.

Marshall T. Walsh, Gaines & Walsh, Spartanburg, S.C., for defendant.

ORDER

Chapman, District Judge.

Since Congress, in all of its wisdom, has determined that federal district courts should preside over consumer complaints against finance companies relating to technicalities in language used in loan documents in which the lofty sum of $100 is at issue, this Court must now proceed to wade through the morass of technical regulations issued by the Federal Reserve Board in an attempt to reach the merits of this case.

Defendants made two installment loans to the plaintiff in which she borrowed $167.24 to be repaid in seven monthly payments of $28. Defendant secured this loan by taking a security interest in a range and set of bunk beds owned by plaintiff. In bringing this suit, plaintiff alleges that the forms used by defendant violated the Federal Truth in Lending Act, 15 U.S.C. § 1601 et seq., and that she is entitled under that Act to a judgment in the sum of double the amount of the finance charge or $100,[1] whichever is greater, plus costs and attorney fees. 15 U.S.C. § 1640. This matter is presently before the Court on cross motions for summary judgment.

[1] Plaintiff alleges that the disclosures made by the defendant on the loan document violated the Act in three ways. First, plaintiff alleges that the defendant failed to disclose that it was taking a security interest in after acquired consumer goods. She bases this claim on 15 U.S.C. § 1639(a)(8) which states that a creditor must disclose "a description of any security interest held or to be . . . acquired by the creditor in connection with the extension of credit, and a clear identification of the property to which the security interest relates."

Pursuant to 15 U.S.C. § 1604, the Federal Reserve Board promulgated the following regulations governing disclosure of security interests:

"12 C.F.R. § 226.8(b)(5)—In any transaction subject to this section, the following items, as applicable, shall be disclosed: (5) A description or identification of the type of any security interest . . . acquired by the creditor in connection with the extension of credit, and a clear identification of the property to which the security interest relates . . . . If after-acquired property will be subject to the security interest . . . this fact shall be clearly set forth in conjunction with the description or identification of the type of security interest . . . acquired."

"12 C.F.R. § 226.8(a)—All of the disclosures shall be made together on either (1) the note . . . on the same side of the page [as the creditors] signature; or (2) one side of a separate statement which identifies the transactions."

In this case, all information relating to each loan is contained on a single document. This document contains the full text of the note and the full disclosure of the loan terms on the front side. The text of the security agreement starts on the bottom of the front page and continues on the back. The document clearly discloses on the front page, in accordance with the statutes and regulations, that a security interest is acquired in certain property identified as a range and a set of bunk beds. The alleged defect in the form is the fact that terms on the reverse side [2] of the form extend the security interest to "all other goods of the same class now or hereafter acquired." Defendant argues in opposition to plaintiff's motion for summary judgment that no interest was acquired in after-acquired property because South Carolina law severely limits the effect of after-acquired property clauses with respect to consumer goods. S.C.Code Ann. § 36-9-204 (4)(b) (1976) provides:

"No security interest attaches under an after-acquired property clause to consumer goods other than accessions when given as additional security unless the debtor acquires rights in them within ten days after the secured party gives value."

Defendant's argument would be correct but for the 10 day provision. If state law had totally invalidated after-acquired interests in consumer goods, the language on defendant's form would have had no effect and no disclosure of a security interest in after-acquired property would have been necessary because no such interest would have been "acquired." Unfortunately for the defendant, since it actually acquired a security interest in any appliances or furniture acquired by plaintiff within ten days of the loan date, it violated the regulations by failing to disclose this interest. See *Ecenrode* v. *Household Fin. Corp. of South Dover*, 422 F.Supp. 1327 (D.Del.1976). Since this violation is apparent from the face of the loan document, there is no factual issue and plaintiff is entitled to a summary judgment as to this claim.

Despite the fact that this Court feels com-

[2] So much information is required to be printed on the face of the instrument that notes will soon be printed and rolled up as a Roman scroll.

pelled by the statutes and regulations to award the plaintiff the penalty established by the Truth in Lending Act, this result is absurd in light of the realities of this case. This barratrous legislation transforms loan documents into contest puzzles in which prizes are awarded to those who can uncover the technical defects. Unfortunately, these prizes are not paid by the sponsor of the contest, the government, but by finance companies who attempt to make a fair profit by loaning money while at the same time trying to insure that the loans will be repaid. They must necessarily use form documents which are sufficiently flexible to cover a wide variety of situations presented by both consumer and commercial loans. A penalty is imposed on the defendant in this case even though it has acted in good faith and despite the fact that plaintiff has sustained no damages. The violation in this case results from a minor technicality which arises from the operation of the 10 day rule relating to after-acquired security interests in consumer goods. The 10 day interest acquired was surely unwanted by the defendant, unimportant to the plaintiff, and unexpected by both parties. It gave no meaningful security to the defendant and its full disclosure to the plaintiff would undoubtedly have had no effect on plaintiff's decision to obtain the loan from the defendant.

(2) Plaintiff's second complaint about defendant's form is that an initial charge was withheld from the proceeds of the credit extended but was not labeled with the term "prepaid finance charge" as required by the regulations. The general disclosure requirements are set forth in 15 U.S.C. § 1639 and the relevant requirements and defendant's compliance with them follow:

(a) Any creditor making a consumer loan or otherwise extending consumer credit in a transaction * * * shall disclose each of the following items, to the extent applicable:

"(1) The amount of credit of which the obligor will have the actual use, or which is or will be paid to him or for his account * * *. [Defendant disclosed this amount to be $154.63.]

"(2) All charges, individually itemized, which are included in the amount of credit extended but which are not part of the finance charge. [Defendant disclosed itemized charges made for various types of credit insurance and documentary stamps which totaled $7.61.]

"(3) The total amount to be financed (the sum of the amounts referred to in paragraph (1) plus the amounts referred to in paragraph (2)) [Defendant stated that the amount financed was $167.24.]

"(4) * * * the amount of the finance charge. [The finance charge was stated to be $28.76.]"

The manner and specifity of the disclosures required by § 1639 are outlined in 12 C.F.R. § 226.8. After a circuitous jumping between paragraphs and subparagraphs this regulation eventually establishes a requirement that any amount withheld by the creditor from the "credit extended" be labeled with the term "prepaid finance charge." The clarity of the explanation of this requirement is apparent without a need for comment from the following quotations from § 226.8:

"(c) In the case of a credit sale, in addition to the items required to be disclosed under paragraph (b) of this section, the following items, as applicable, shall be disclosed:

"(6) Any amounts required to be deducted under paragraph (e) of this section using, as applicable, the terms 'prepaid finance charge' and 'required deposit balance' and, if both are applicable, the total of such items using the term 'total prepaid finance charge and required deposit balance.' "

(d) In the case of a loan or extension of credit which is not a credit sale, in addition to the items required to be disclosed under paragraph (b) of this section, the following items, as applicable, shall be disclosed:

"(1) The amount of credit, excluding items set forth in paragraph (e) of this section, which will be paid to the customer or for his account or to another person on his behalf, including all charges, individually itemized, which are included in the amount of credit extended but which are not part of the finance charge, using the term 'amount financed.'

"(2) Any amount referred to in paragraph (e) of this section required to be excluded from the amount in subparagraph (1) of this paragraph, using, as applicable, the terms 'prepaid finance charge' and 'required deposit balance,' and, if both are applicable, the total of such items using the term, 'total prepaid finance charge and required deposit balance.' "

(e) The following amounts shall be disclosed and deducted in a credit sale in accordance with paragraph (c)(6) of this section, and in other extensions of credit shall be excluded from the amount disclosed under paragraph (d)(1) of this section, and shall be disclosed in accordance with paragraph (d)(2) of this section:

"(1) Any finance charge paid separately, in cash or otherwise, directly or indirectly to the creditor or with the creditor's knowledge to another person, or withheld by the creditor from the proceeds of the credit extended."

As if this explanation of the "prepaid finance charge" requirement were not confusing enough, the Federal Reserve Board made matters worse by issuing the following "interpretation" of this requirement codified as 12 C.F.R. § 226.819:

"(a) Section 226.8(c)(6), 226.8(d)(2) and 226.8(e)(1) require that certain finance charges be disclosed as "prepaid finance charges." They also require that such prepaid finance charges be excluded or deducted from the credit extended in arrising at the "amount financed." The question arises whether add-on, discount or other pre-computed finance charges which are reflected in the face amount of the debt instrument as part of the customer's obligation, but which are excluded from the "amount financed," must be labeled as "prepaid" finance charges.

"(b) The concept of prepaid finance charges was adopted to insure that the "amount financed" reflected only that credit of which the customer had the actual use. Precomputed finance charges which are included in the fact amount of the obligation are not the type contemplated by the "prepaid" finance charge disclosure concept. Although such precomputed finance charges are not to be included in the "amount financed," they need not be regarded as finance charges "paid separately" or "withheld by the creditor from the proceeds of the credit extended" within the meaning of § 226.8(e) to require labeling "prepaid" under §§ 226.8(c)(6) and 226.8(d)(2). They are "finance charges," of course, to be disclosed under §§ 226.8(c)(8) and 226.8(d)(3).[3]"

This interpretation clarifies the concept of prepaid finance charges like mud clarifies water. The regulation and interpretation repeatedly use the phrase "credit extended" as a starting point for determining whether a charge is a "precomputed finance charge" or a "prepaid finance charge." The term "credit extended," however, is never defined by the regulations. Only the term "credit" is defined as meaning "the right granted by a creditor to a customer to defer payment of debt, incur debt and defer its payment, or purchase property or services and defer payment therefor." 12 C.F.R. § 226.2(1). How is the lender to know whether a part of the finance charge is withheld from the "proceeds of the credit extended" unless he knows what the term "credit extended" means? In the instant case, if the credit extended is $196.00 (the total of the payments), then the $10.03 initial charge is withheld from the proceeds of the credit extended and it should have been labeled as a "prepaid finance charge." If, on the other hand, the credit extended is $167.24 (the amount financed) then the $10.03 initial charge was not withheld from the proceeds of the credit extended and no "prepaid finance charge" label was required. Since no definition of "credit extended" is contained in the regulations, this Court defines the term as it relates to this case to be synonymous with "amount financed." Accordingly, since the initial charge was not withheld from the amount financed, that initial charge was not required to be labeled as a "prepaid finance charge." Defendant, therefore, is entitled to a summary judgment as to this claim.

[3] Plaintiff's third complaint is that the loan documents contained "information which is confusing, misleading and inconsistent with the Disclosure requirements of 12 C.F.R. § 226.6(c)." That section of the regulations provides that any additional information disclosed by the lender "[not] be stated, utilized, or placed so as to mislead or confuse the customer. . . ." Plaintiff contends that this regulation was violated by the disclosure of the $159.63 figure labeled on the form as "Net cash from chart." Plaintiff complains that the form gives "no explanation as to what these figures . . . represent nor is it indicated as to how this might be calculated." The Court does not understand why plaintiff is confused by the $159.63 figure. The form clearly shows that the amount financed is $167.24. Plaintiff could have acepted that amount in cash; however, she elected to purchase various credit insurance poliices. These policies and the eight cents deducted for documentary stamps totaled $7.61 which, when deducted from the amount financed of $167.24, equals $159.63. It is quite clear that this figure results from the deduction of the insurance and stamps from the amount financed. Furthermore, there is nothing confusing or misleading about the label "net cash from chart." The form contains a chart showing, inter alia, the amount financed and the various insurance charges and the $159.63 net cash figure is clearly obtained from the figures on this "chart." There is no merit to plaintiff's complaint about this figure and the defendant is, accordingly, granted summary judgment on this issue.

It is, therefore, ordered, in accordance with the foregoing discussion, that judgment be entered in favor of the plantiff in the amount of $100 plus costs of this action plus a reasonable attorney fee of $150.00.

And it is so ordered.●

[3] Anyone capable of deciphering 12 C.F.R. 226.8 and its "interpretation" should be working as a cryptographer at the Pentagon and not for a bank or loan company.

THE 160-ACRE LIMIT AND OTHER RECLAMATION ISSUES

HON. MAX BAUCUS

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. BAUCUS. Mr. Speaker, one of the tough issues facing this Congress is updating of reclamation law. Last August the Secretary of Interior announced proposed rules to enforce the 160-acre limit

on lands irrigated by Federal reclamation projects. These proposed rules—blocked for now by a Federal court order—precipitated a huge uproar that pointed out the need for Congress to update the Reclamation Acts.

I cannot stress strongly enough how important it is for the Interior Committee and its Subcommittee for Water and Power Resources to take positive action this year. I realize we face very tough issues, but the problems will not go away if we ignore them.

During the past year, the Water and Power Resources Subcommittee and its staff have had ample opportunity to study problems in the current reclamation law. They have held an extensive series of hearings and have heard from many of those affected in the Western States.

Next year there will be a new committee chairman and a new staff. In addition, the Interior Department will have completed its environmental impact statement and will be free to enforce the regulations it has drafted for administering reclamation lands.

Farmers throughout the Western States are on a hotseat. They do not know what acreage limitation and residency requirements are going to apply. These issues are too important to be left to the discretion of the Secretary of Interior. It is time for Congress to clearly state its intentions.

I have introduced H.R. 11638 which is identical to S. 2606, introduced by Mr. CHURCH in the Senate.

Our bill calls for a limitation of 1,280 acres of leased and owned land per family unit. It provides for equivalency formulas to increase the acreage on lands of limited productivity. Also, the bill provides that residency will not be a requirement for receiving project water.

I believe that H.R. 11638 provides a reasonable compromise toward resolving some of the tough reclamation issues. But certainly other viewpoints are going to have to be considered. Let me stress again that I think it is essential for Congress to pass a bill as soon as possible.

I have discussed reclamation law extensively with farmers and water user groups. Last year I held a hearing in Montana to study reclamation issues. We have some special problems, and I would like to take this opportunity to explain some of them.

In Montana, out of 3,638 owners of federally irrigated land, only 179 are in excess of current acreage limitations. For farms that have excess acreage, the average excess is 124 acres per farm.

I point this out not as an indication that the problem of excess acreage is minor, but to show that large accumulations of farmland are not occurring in Montana irrigation districts. Farming by outside corporations is virtually unknown on irrigated lands in Montana. We do not have anything that compares with the Southern Pacific Land Co. situation in California.

Economic studies and testimony of farmers show that the 160-acre limit is too restrictive for Montana. There has been an enormous amount of discussion about an acreage limit that might be more acceptable. The conclusion is that there is no "magic number" that can apply to all areas and conditions.

I think we all agree, though, that some increase in the limitation is essential. The new acreage limitation should be large enough so farmers can have economically viable operations. That requires at least the 1,280 acres called for in the legislation I have introduced. Also, an equivalency formula must be included to deal with special problems in areas like Montana where soils are poor and growing seasons short.

The minimum acreage necessary to support a family depends on many factors. These include soil quality factors that have been considered in some equivalency formulas. But other considerations may be even more important.

These include length of growing season, availability of markets, and transportation costs. Transportation is a critical factor in Montana agriculture. Distance limits our ability to market bulky commodities and perishables. It costs as much as $1 per bushel to freight our grains to west coast markets.

Crops that can be grown and marketed also have a lot to do with farm income. Acreage required for a family unit is enormous in the Milk River Valley in northern Montana, where major crops are hay and small grains. Smaller acreages are sufficient along the Yellowstone River, where there are markets for sugar beets and corn silage.

Thus, necessary size per family unit varies from area to area and might change over time as conditions change in the farm economy. A simple blanket increase in acreage limitation is not the ideal. Ideally, the acreage restriction should be determined separately for each project or area and be subject to periodic review. Input of local farmers, bankers and agricultural experts should be given major consideration in setting acreage limits.

Acreage limitations should be on the basis of family units, not the per-person limit presently imposed. A farmer should not be forced to dispose of land in the event of a divorce or loss of a child.

Also, family corporations and partnerships should be eligible to receive project water. For business purposes, many families have incorporated their businesses or formed partnerships. These organizations should be eligible to receive water for the same amount of acreage as if the individuals involved had not formed corporations or partnerships.

Our current reclamation law does not address the question of leasing. However, the Interior Department's proposed rules included a limitation of 160 acres on the amount of land an individual could lease. Certainly this is a question that Congress must address.

Leasing has become an integral part of the farm economy. Something like 60 percent of all farmland in the United States is leased.

Young people trying to start farming today must be able to lease land. Irrigated land in Montana costs $1,000 or more per acre, and beginning farmers just do not have the capital to buy their own land. Also, the return per acre is often low, and substantial acreages are necessary to make economic units.

Leasing is necessary so that farmers can retire but continue to receive the income and security an irrigated farm provides. Without the possibility of leasing, a farmer who became sick or injured would have to give up his land.

To summarize, leasing is an essential part of the farm economy and must be considered as part of any new reclamation law amendments.

Next, I would like to address the question of residency. Probably more Montanans would be in violation of the proposed 50-mile residency requirement than the 160-acre limitation. The 1926 amendments to the Reclamation Act do not mention residency, and the residency requirement has never been enforced.

Distances are vast in Montana. In many cases, irrigated farms produce winter feed for livestock ranches, and these farms are often more than 50 miles from ranch headquarters. Residency requirements would hamper the ability of families to pass land on to their children.

In one example I am familiar with, two brothers own a farm they inherited from their parents. One brother farms the land, the other works in a distant town. Under the administration's proposed regulations, the brother in town would have to sell his share of the land because he does not reside on it. Again, the residency requirement would work what I believe is an unnecessary hardship.

The aim of the residency requirement is to prevent outside interests from controlling agricultural land. A more reasonable approach might be a restriction on ownership by corporations that do not get a major part of their income from agriculture. I believe that this kind of approach would minimize outside ownership without putting unnecessary restrictions on legitimate farming families.

Next, I would like to discuss commingling of waters. The Interior Department's position appears that acreage restrictions should apply wherever Bureau of Reclamation projects provides any part of an irrigator's water. Farmers are concerned that the administration might take this to the limit and that the Bureau's authority might be extended to cover almost all irrigated lands.

We in Congress should specify that the Bureau's authority extends only to the proportion of the farmer's landholdings that are actually irrigated by Federal water.

Finally, I would like to mention a problem involving State land in Montana. When Montana became a State, the enabling act provided that ownership of sections 16 and 36 in each township would be held in trust by the State for supporting the school system. In Montana, the board of land commissioners has adopted a policy of not disposing of school trust land because the board cannot obtain a better long-term investment for the continued support of the schools.

To require the State to dispose of land it owns in project areas certainly does not make sense. These lands are leased by a large number of landowners. I believe this leasing meets the objective of the original acreage limitation, which

is to maximize the number of project landowners.

Amendments to the reclamation law should provide that each family leasing State land be eligible to receive project water to the extent of the acreage limitations established for private land.

The 1902 reclamation law is clearly outdated. The issues must be resolved now, so that farmers on reclamation lands can intelligently plan for the future. We must amend the reclamation law so that it truly allows the survival of family farms.

Again, I would urge Congress to act as soon as possible to resolve the issues of acreage limitation, residency, and leasing.●

"T'S AND BLUES": A NEW SUBSTITUTE FOR HEROIN

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. MURPHY of Illinois. Mr. Speaker, a new kind of drug abuse has surfaced in Chicago. The phenomenon, known as "T's and Blues," is another sad chapter in the history of drug abuse. Let us hope it will not be a long one. I would like to share with my colleagues a news column I have written on this subject, which follows below:

"T'S AND BLUES"

(By Representative MORGAN F. MURPHY)

In the past year, a new kind of drug abuse has appeared in the Chicago area. Because heroin addicts have found that the quality of "Mexican mud" has deteriorated, some have turned to an ingenious, but destructive substitute known as "T's and Blues."

The "T's" are Talwin, a pain-killing drug composed of synthetic opium; the "Blues" are pyribenzamine, a common antihistamine. When tablets of these two prescription drugs are ground together and injected intravenously, they produce a high similar to that of a heroin trip.

Last February, Peter Karl of WLS–TV and the Better Government Association (BGA) uncovered evidence that Chicago's Mohawk medical clinic was handing out T's and Blues prescriptions like candy. According to records sampled by Karl and the BGA, Mohawk wrote more than 2,300 prescriptions, mostly for Talwin and pyribenzamine, over just one weekend. Most of these prescriptions went to persons on Public Aid, which picked up a two-day bill for $8,000. The investigation prompted the closing of the clinic in late February.

A number of signs point to the increased abuse of Talwin and pyribenzamine. Among them: (1) Cook County Medical Examiner Dr. Robert Stein attributes the deaths of 39 county drug users to T's and Blues over a recent six-month period. (2) Chicago Police Lieutenant Fred O'Reilly says that some Chicago murders are directly related to the use of Talwin and pyribenzamine. (3) Investigators of the Illinois Dangerous Drug Commission found that between March 13 and April 9 Talwin was detected in 22 per cent of the drug addicts seeking admission to Chicago area drug treatment programs. (Not all abusers of Talwin, of course, are heroin addicts. Some are simply tablet abusers who have developed a strong dependence on the drug, much like heavy users of Valium.)

Just why Talwin and pyribenzamine came to be used as a heroin substitute is not known. One drug expert speculates that a "smart cookie" with pharmacological knowledge dreamed up the concoction. Whatever its origin, T's and Blues are fraught with danger. Alex Panio of Northwesterns' Department of Psychiatry says that the addictive potential of T's and Blues is "just like heroin, but with more complications." Side effects include respiratory problems, hallucinations, and severe withdrawals.

The WLS–TV news stories have triggered state and Federal agencies into action. Last April the Illinois Dangerous Drug Commission recommended that Talwin be classified as a Schedule II drug. That means Talwin would be considered a dangerous narcotic, making it harder for addicts to obtain the drug legally and easier for law officers to identify illicit sources of supply. In addition, the state Schedule II list carries stiff penalties for illegal trafficking. Final determination of Talwin's classification will not be made until the commission holds a public hearing on August 1.

At the Federal level, an advisory panel to the Food and Drug Administration (FDA) has recommended that the agency place Talwin on Schedule IV of the Controlled Substances Act. This list carries fewer restrictions and lighter penalties than Schedule II. Inasmuch as the T's and Blues phenomenon has been generally confined to the Chicago area, it is doubtful that the FDA would call for a stricter classification at this time.

The House Committee on Narcotics Abuse, of which I am a member, is closely following developments relating to T's and Blues abuse. The committee wants to determine more fully the nature and scope of this latest drug plague, and what Federal and state action is needed to combat this problem.●

TAX CUTS THAT PRODUCE BIGGER DEFICITS DEFEAT EFFORT AGAINST INFLATION

HON. ANDREW JACOBS, JR.

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. JACOBS. Mr. Speaker, I insert three editorials from the Indianapolis Star which argue wisely against so-called pump priming tax cuts which produce bigger deficits to defeat the effort against inflation:

[From the Indianapolis Star, Oct. 25, 1975]

MORE PIE IN THE SKY

The Ways and Means Committee of the United States House of Representatives has voted for lowered personal income taxes but has rejected the idea of coupling tax reduction to proportionate limitation of Federal spending.

The coupling principle has been debated often before but is a particularly hot item just now because of President Ford's proposal earlier this month for a $28 billion tax-cut package tied to equivalent reduction in spending. Mr. Ford's specific proposal was not before the committee at this time, but the idea was.

Although some individual taxpayers probably would be affected differently, the committee action approved a plan which in general would extend a reduction in income taxes applying to this year's income and originally enacted as a one-year recession-fighting measure. The amount of revenue involved is estimated at $12 billion on this year's incomes and $12.7 billion on next year's.

Before doing that the committee voted down a proposal to make the extended tax deduction subject to House Budget Committee action trimming an offsetting amount from the next Federal budget. It also voted down an alternative proposal to delay action on a tax cut until the budget target is set.

Thus in practical effect the Ways and Means Committee took the position that this bit of goodies should be handed to the taxpayers without any effort to balance it with spending restraint so as to avoid increasing the deficit. It voted for a continuation of the kind of fiscal irresponsibility that has saddled the nation with income-eating inflation.

The votes were almost on straight party lines, with 21 Democrats forming the inflation-ignoring majority while 12 Republicans and four Democrats formed the minority voting for the more sensible and responsible course of tying tax cuts to spending cuts.

Reduction in the grinding burden of Federal taxes is highly desirable. We're all for it. But it is self-defeating if it merely increases the deficits and thus increases inflationary pressure.

[From the Indianapolis Star, Dec. 10, 1975]

OLD-FASHIONED HORSE SENSE

With heavy Democrat backing the House of Representatives last week passed a bill to cut taxes that would make no comparable cut in Federal spending.

President Ford repeatedly has warned that cutting taxes and thus Federal revenues without also cutting Federal spending must inevitably put the Federal government deeper in debt and the nation deeper into inflation.

Benefits people might expect from a tax cut therefore would largely be wiped out by higher living costs, the President maintains.

But that simple truth seems to have escaped the large, heavily Democratic majority which hustled the tax-cut measure through the House.

One Democrat who wouldn't run with the pack, however, and voted against the measure—though he favored some of its provisions he considered tax reforms—was Indiana's 11th District Representative Andrew Jacobs Jr.

Commenting on his vote against the seemingly popular measure, Jacobs said:

"The problem with the bill . . . is that it contains the general tax cut and it deceives the public into believing there is money to provide a tax cut. With a $74-billion deficit (projected for fiscal year 1976) there isn't enough money to justify a tax cut, so I voted for reality and against inflation."

In his dissenting view published with the report on the bill by the House Ways and Means Committee, of which he is a member, Jacobs speaks of "competing to see how much nonexistent money the government can give away through further tax cuts." He adds:

"A general tax cut should await two events. First, Federal spending should be cut . . . to the point where there is a budget surplus. Second, and this will seem really old-fashioned, the government should then apply that surplus to retirement of the $600-billion national debt.

"When the national debt is reduced to a manageable and serviceable size and a new era of frugality has been firmly established, some portion of a budget surplus should be used . . . for the beginning of a general tax cut.

"When I suggested these ideas in the Ways and Means Committee, the response from most of my colleagues could best be described as puzzled silence."

Jacobs' ideas may be old-fashioned—sure, old-fashioned horse sense. And as to that "puzzled silence" bit—well, doesn't that perfectly spell out the almost total lack of sense in money matters that for years has led too many in Congress to act more like enemies than friends of the American people?

[From the Indianapolis Star, Dec. 16, 1975]

STALLING THE TAX-CUT HOAX

The failure of Democratic leaders in the United States House of Representatives to

whip up a two-thirds vote to override President Ford's veto of the presumably "popular" tax-cut bill indicates that more than a third of the members are hanging on to their common sense.

It is almost certain that those representatives who stubbornly insisted that the proposed extension of this year's reduction in income taxes would be a hoax have been sustained by support from the folks at home.

And this could only be because those folks at home—their voters—understand the fact that cutting taxes while spending more and more borrowed money in the end would cost the people more, not less, through inflation.

Perhaps there is hope that such understanding also may be spreading among constituents of other representatives and may in time spread to the representatives themselves.

It's not that Mr. Ford doubtless wouldn't like to see a tax-cut extension as much as anyone else. A politician, he might be expected to relish a bill to keep taxes down in an election year. But he had said repeatedly he would veto the measure because it provided for no equivalent restraint on government spending. Thus it could only increase the Federal deficit and thus even further hike the rate of inflation.

The nation can be grateful that a veto-sustaining number of representatives agreed with his position.

Since the Federal government long since has been jockeyed into vast inflation-breeding debt by almost endless congressional voting for ever-more-expensive Federal programs, the President's argument against cutting Federal taxes without cutting Federal spending to match would seem irrefutable.

Not to the majority in Congress, however. In its blatant foisting on the President of a cut-taxes-but-not-spending bill, the Democrat-controlled Congress all too obviously was intent on the disreputable political dodge of "buying" votes in an election year with airy unconcern for what comes after the election is safely over.

Surely the American people deserve better than that. And that is precisely the President's point in refusing, himself, to be party to such barefaced political skulduggery.●

CHAIRMAN CLEMENT ZABLOCKI SUMMA CUM LAUDE

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. STEIGER. Mr. Speaker, it is not every day that we find a news analysis 100 percent favorable to a Member of Congress. It is so rare, indeed, that when reporter Frank Aukofer had completed a score of interviews and found that no one had anything unfavorable to say, this correspondent for the Milwaukee Journal felt constrained to tell his readers: The assessment you are about to read is an accurate report even though entirely favorable to its subject. Reporters must write what they find.

Mr. Aukofer's subject is the eminently fair and conscientious chairman of the House Committee on International Relations, the Hon. CLEM ZABLOCKI. The article appeared in the Journal of July 9 and contains tributes from several of our colleagues. It is a pleasure to submit this item for the benefit of readers who might otherwise miss it.

ZABLOCKI GETS PRAISE APLENTY

(By Frank A. Aukofer)

WASHINGTON, D.C.—If they ran honors programs for House committee chairmen, Rep. Clement Zablocki would be ranked summa cum laude.

The Latin phrase means "with highest praise" or "with highest distinction," both of which sum up the collective opinion of expert observers of Zablocki's stewardship as chairman of the House International Relations Committee.

After serving on the committee for more than a quarter of a century, the Milwaukee Democrat took over as chairman in January, 1977, at the beginning of the 95th Congress. In the 18 months since then, he has led the committee with a quiet competence that has earned him high marks everywhere.

Is more than a score of interviews with committee members and staff, Carter administration officials and outside observers, no substantial criticism emerged. Even Zablocki's severest critic, who tried to deny him the chairmanship, had no negative comments.

Such a paean worries a reporter, who frets over being accused of writing a puffpiece in hometown press. But reporters must write what they find.

At 65, Zablocki is at the peak of his congressional career. He is enjoying himself immensely, although he confided that if his wife, Blanche, had not died last year he might have retired at the end of this year.

"After 30 years, I thought Blanche and I should reap some of the benefits from the fat pension," he said. "Now I'm working for nothing. But I felt I owe it to the government."

With his reason for retirement gone, Zablocki talks about working as long as he can do a good job, as long as his health holds out.

There are drawbacks to the chairmanship—constant demands on his time, both during and after working hours—but Zablocki enjoys the prestige.

"Being the chairman of one of the most important committees is a great honor," he said. "I'm just human enough to like being called 'Mr. Chairman.' If they say I'm a good chairman it makes me very happy."

Indeed, Zablocki should be ecstatic. Consider the attitude now of Rep. Benjamin Rosenthal (D-N.Y.), a committee member who ran a determined campaign in late 1976 and early 1977 to prevent Zablocki from becoming chairman after the retirement of Rep. Thomas E. Morgan (D-Pa.).

As part of his effort to persuade the Democratic Caucus to reject Zablocki, Rosenthal published a 40 page indictment saying that, for a number of reasons, Zablocki was not qualified for the job.

PRAISE BY ROSENTHAL

But in a recent interview, Rosenthal said he could not even remember what the criticisms were. He said Zablocki was doing a competent, workmanlike job as chairman, had improved the committee staff and had been evenhanded in his treatment of committee members and the staff.

Moreover, Rosenthal said that Zablocki had not retaliated against him in any way. "I haven't seen any vindictiveness," he said, "although I wouldn't blame him if he had been vindictive."

Rep. David R. Obey, Democrat of Wausau, who also works on foreign affairs issues as a member of the foreign operations subcommittee of the Appropriations Committee, echoed that opinion, saying he did not think there was a vindictive bone in Zablocki's body.

Obey said he also admired what he said was Zablocki's total lack of demagogy or playing on popular prejudices for political gain.

Over and over, those interviewed about Zablocki's performance mentioned his fairness.

"I regard him as an unusually good chairman," said Paul Warnke, director of the Arms Control and Disarmament Agency, who has testified many times before the committee. "He's an extraordinarily fair minded man, which is important in foreign affairs."

LIKED BY NEWCOMERS

Zablocki's evenhandedness has extended to the Republican minority and to the newest committee members.

"He's first rate," said a Republican who did not want to be quoted by name. "He has a lot of experience, he's a fine human being, he's accessible and he's fair to everybody. Foreign policy is one area where we ought to be as bipartisan as possible. I think Clem really believes that."

Rep. Donald Pease, a freshman Democrat from Ohio, said:

"I have never felt in any way that I was a junior member. He doesn't talk status or length of service. One's comments or amendments are judged on the basis of merit, not on how long you've been on the committee."

Zablocki's operating principle as chairman is to do what is in the national security interest of the U.S. Although he does not always agree with the administration, he tends to give it the benefit of the doubt in foreign affairs matters.

That puts him at odds with some members, such as Rosenthal, who believe the committee ought to be more of an adversary of the president.

Zablocki is highly regarded by administration officials, who consult with him and respect his judgment on issues. Although most of the attention is focused on the Senate during the recent debate over Carter's sale of warplanes to Israel, Egypt and Saudi Arabia, the administration relied on Zablocki's reading of his committee.

GOOD JUDGMENT

"He really does have good judgment," said Brian Atwood, deputy assistant secretary of state for congressional relations, who works closely with the committee. "He feels things through. He knows where his committee and the House is on any given issue. Over the weeks as we fought that battle (over the warplane sale), his prediction was right on."

Atwood traveled with Zablocki earlier this year on his first trip abroad as chairman. Over a three-week period, a group of congressmen led by Zablocki visited seven Mideast countries.

"He did a fantastic job," Atwood said.

Zablocki is not regarded as an intellectual in foreign policy, nor is he a great orator. But most of those interviewed regarded that as an advantage, saying that intellectuals and orators tended to have ego problems, which Zablocki does not have.●

RESULTS FROM THE CITIZENS RESPONSE SURVEY OF THE FIRST DISTRICT OF ARIZONA

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. RHODES. Mr. Speaker, I would like to bring to the attention of all my colleagues in the House the results of the second citizens response survey from Arizona's First Congressional District. I am pleased to report that the 38,000 citizens of the first district who answered this survey have contributed to one of the largest responses ever received in any congressional poll.

Of special interest to both my colleagues in Congress and the inhabitants of 1600 Pennsylvania Avenue is the first district's rating of both the 95th Congress—that is, the one with the 2 to 1 Democrat majority—and the administration. I believe that one of Washington's most famous Congress-watchers,

Mark Russell, has given a clear insight into the priorities of this Democrat controlled Congress. "Congress earlier restored citizenship to Robert E. Lee, and made George Washington a five-star general. Which should give you an idea when we can expect an energy bill."

Now, I give you the opinions of the 38,000 citizens Arizonans who responded to the citizens response survey.

A. For some time a proposal has been under consideration for a freeway to connect with Interstate 10 through the center of Phoenix (so-called Moreland Corridor Freeway). These plans now call for a depressed freeway with parks and landscaping on the sides of the road. With this proposal in mind, would you favor the construction of such a freeway?

(1) Yes, I favor the construction of the freeway ---------- 74.9
(2) No, I do not want the freeway ---- 23.2

B. After the House passed the Equal Rights Amendment, the amendment had to be ratified by two-thirds of the states in seven years.

The seven years will expire in March, 1979. Legislation is now pending in the House to extend the ratification date an additional seven years. Do you favor this legislation to extend the ratification period for the ERA?

(1) Yes, I favor an extension ---------- 27.5
(2) No, I do not favor the extension -- 71.7

C. The role of the Federal government in providing health care services has been considered by the Congress for over 30 years. The 95th Congress has been no exception, and talk of a "national health insurance" program has received considerable attention. Do you feel the role of the Federal government should be to:

(1) Entitle all Americans to complete health benefits, federally financed and administered ---------- 11.9
(2) Be responsible for financing health care for the aged, poor, disabled, and persons experiencing catastrophic illness costs ---------- 23.5
(3) Provide federally financed economic incentives toward the purchase of private health insurance plans, such as income-tax deductions for health insurance benefits ---------- 18.7
(4) Require employers to pay for adequate private health insurance plans for employee groups ---- 4.2
(5) Avoid any further involvement in the health insurance/health care industry ---------- 24.2

D. On December 6, 1977, the House voted to ban federal funding of abortions with the following exceptions.

When the life of the mother would be endangered if the pregnancy were carried to term.

When the pregnancy results from rape or incest, and such rape or incest has been reported promptly to a law enforcement agency or public health service.

When severe and long-lasting physical health damage to the mother would result if the pregnancy were carried to term.

Do you support:

(1) A total ban on the use of federal funds ---------- 31.9
(2) Federal funding only under the conditions listed above ---------- 42.2
(3) No restrictions on the use of Federal funds ---------- 18.9
(4) Undecided ---------- 4.3

E. Do you favor further controls, registration, or licensing on firearms?

(1) Yes ---------- 29.0
(2) No ---------- 69.9

F. Legislation to reform the welfare system is being studied in Congress. What do you believe should be the major emphasis for welfare reform legislation?

(1) Change the present system of providing relief through many different programs, such as food stamps or housing assistance, to one flat cash payment ---------- 8.6
(2) Pay only the minimum wage to workers in public jobs ---------- 4.7
(3) Toughen the requirements for people who apply to receive welfare -- 71.4
(4) Leave the system as it is now ------ 2.9

G. The recent coal strike re-opened the debate regarding whether strikers should receive food stamp benefits. Do you feel striking workers should be entitled to food stamps?

(1) Yes ---------- 13.6
(2) No ---------- 85.2

H. Now only Americans who do not have access to private pension plans are able to set up tax-free Individual Retirement Accounts (IRAs). Do you believe that:

(1) The system should be changed, so that all Americans would be eligible for an IRA, whether or not they participate in another pension plan ---------- 60.6
(2) The system should be kept as it is, so that only Americans who are unable to participate in private pension plans are eligible for IRAs ---------- 35.7

I. Last year, the Administration began negotiating with Cuba to improve relations and end the trade embargo the United States imposed in the 1960s. However, negotiations have been suspended because Cuba has continued its military presence in Africa. What do you believe is the proper course of action in dealing with Cuba?

(1) Grant Cuba full recognition and halt the trade embargo ---------- 5.0
(2) Continue the negotiations, not linking them to Cuban aggression in Africa ---------- 9.1
(3) Before improving relations, insist that Cuba reduce its involvement in Africa ---------- 40.4
(4) Postpone the negotiations indefinitely ---------- 41.4

J. Congress is debating the pros and cons of financing Congressional campaigns with federal tax dollars. The fundamental issue of this complex legislation is whether or not the financing of Congressional campaigns by the federal government is a proper use of tax dollars.

(1) I do support the use of tax dollars to finance Congressional campaigns ---- 15.7
(2) I do not support the use of tax dollars to finance Congressional campaigns ---- 82.8

K. President Carter has been in office for over 15 months. How would you rate the performance of his Administration in meeting the challenges, both domestic and foreign, that confront our nation?

(1) Excellent ---------- 2.1
(2) Good ---------- 9.8
(3) Fair ---------- 23.5
(4) Poor ---------- 61.7
(5) No opinion ---------- 1.9

L. How would you rate the 95th Congress, which began in January 1977, in meeting the challenges that confront our nation?

(1) Excellent ---------- 0.4
(2) Good ---------- 5.5
(3) Fair ---------- 35.4
(4) Poor ---------- 53.8
(5) No opinion ---------- 3.8

Please indicate the issue you feel is most important.

(1) Inflation ---------- 41.8
(2) Unemployment ---------- 3.0
(3) Growing federal deficits ---------- 22.0
(4) Crime ---------- 4.1
(5) Soviet/Communist aggression ----- 6.8

●

THE RUSSIANS ARE COMING

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. DON H. CLAUSEN. Mr. Speaker, we hear a great deal these days about the declining strength of the U.S. Navy and the increasing strength of Soviet forces.

However, it is often difficult for my colleagues to assess the credibility of the reporter or individual making the judgment or analysis. We are all aware that relative offensive and defensive military capabilities are a very complicated matter, and it takes a real expert to accurately assess the true situation.

So that my colleagues may have the benefit of the observations and viewpoints of a real expert, I am entering into the RECORD a speech made by Rear Adm. Edwin M. Wilson, USNR, at his recent retirement ceremony. Admiral Wilson is a World War II naval aviator, and has served in the Naval Air Reserve as executive officer and commander of jet fighters squadrons and the air wing staff of the Naval Air Station of Alameda. He has completed 36 years in the Naval Air Reserve with duties as the west coast representative for the Naval Air Reserve.

But, Admiral Wilson's activities have not been confined to naval interests. He is also a Mason, a Shriner and a member of the Bohemian Club and the Commonwealth Club of San Francisco. He is currently an insurance broker in Santa Rosa, Calif.

His remarks follow:

It is great to look out and see some of my fellow naval aviators and officers from World War II. Especially from bombing eleven. We had some great times, some rough moments and we won World War II. The last war our military has been allowed to win.

It's nice to see so many of my fellow reservists. Especially those who were with me in fighter squadron 872, jet fighter squadron 878, the captain's study group, and the air wing staff.

For many years I have been telling organizations all around this country of ours, that the Soviets are coming. Why? Because we are their goal. Goals are strong motivation to dedicated persistent people. In our lifetime we have seen many goals achieved and we as individuals have achieved goals in our own lives. . . .

We got into World War II because we did not believe Hitler when he laid out his goals in Mein Kampf, and which he almost achieved.

It is amazing to me that with all the communist's writings and manifestor's spelling out how they are going to take over the world, people doubt their goal and don't recognize their moves and progress in achieving that goal. You and I must be determined to stop them. Destiny has made the United States the leader and final hope of the free world, and only 20 percent of the world's population is free. We are also the last hope of religions of the world. Should the communists continue their fantastic progress, they will not only eliminate freedom in the world but also all religions. As the gospel hymn goes, you, and we in the armed forces are not only fighters for freedom, we are indeed Christian soldiers, as well as soldiers for all religions. I firmly believe that a "showdown" with the Soviets is inevitable. No

empire or country has ever built a war machine as large as the Soviets, not even Hitler, and not eventually use it. We must prepare for the worst and hope for the best.

What is the position of the United States Navy in our 202d year? In spite of vast technological advances we are threatened now by the Soviets as we were threatened by the British over 200 years ago. In a world covered 75 percent by navigable water we are an island nation with 69 of our 72 strategic materials coming from overseas. One of those materials is oil and we must import 50 percent of our needs in order to survive as a modern industrial society.

With the Soviets operating over 335 submarines, and over 100 in reserve, they are in a powerful position to cut supply lines and effectively blockade the free world ports. They have 435 subs, we have 118. Just remember World War II and what the German subs did to us and they started with only 55 slower, smaller subs.

Only our Navy can protect, and keep open the vital sealanes of the free world.

Yes, sea control is our Navy's No. 1 mission, with the overseas protection of power our second.

Can we accomplish those two missions? It will be difficult as our Navy is being scuttled. In 1968 at the height of the Vietnam war we had 976 ships. We now have 485. We have less ships than we had in 1939. At the end of World War II we had 119 aircraft carriers. We now have 13. It takes 6 to 8 years to build a modern warship, so, we cannot sit back and think, that should the need arise, we can produce them like transistor radios.

While we decommission ships, the Soviets commission them. The English editor of Jane's Fighting Ships charges that the growing Soviet fleet "has outrun the legitimate requirements of national defense" and must be considered "intended for aggressive action." He pointed out that the Soviet Union has spent 50 percent more than the United States on shipbuilding in the past 10 years.

Admiral Sergi Gorshkov, commander in chief of the Soviet Navy for 20 years says, "The flag of the Soviet Navy now proudly flies over the oceans of the world. Sooner or later the U.S. will have to admit that it no longer has mastery of the seas." So, they're not looking for parity but for domination.

The motto of the Pearl Harbor Survivors' Association should be tattooed on our brains, "Keep America Alert . . . Remember Pearl Harbor?" Major General Frank Schober, commanding general of the California National Guard, told a Commonwealth Club of California audience. "If we don't turn around American understanding of where we are going in national defense, the United States stands a good chance of becoming a 'Finlandized' satellite of the Soviet Union within ten years."

Our Navy needs more men, ships and planes to meet this challenge. As mentioned before, 75 percent of the world is covered by navigable waters. We need more aircraft carriers, for aircraft carriers are absolutely necessary to protect sealanes, and to be Johnny-on-the-spot in trouble areas. Our carriers have fighter, attack and anti-sub aircraft for full sea control. Our strategy is based on moving quickly from one location to another, and to be able to exert power with our aircraft to support amphibious landings, "to sink" enemy submarines and to maintain air superiority for the preservation of naval surface ships, troops ashore, and allied merchant ships. An aircraft carrier is an instant airfield—no construction or base supplying is required. Aircraft carriers are expensive, but not as costly as overseas air bases.

Those bases are fixed targets and are subject to political and military vulnerability. We ended World War II with 1100 costly major overseas bases. Now, we're down to less than 40 in 53 years or crises since World War II, we have not lost an aircraft carrier nor have we had one damaged by hostile action. Only our own misguided politicians have done what the Communists dedicated to world domination have not been able to do, and that is to remove most of our aircraft carriers from the seas. As I mentioned before, we had 119 aircraft carriers at the end of WW II and now we have 13. Aircraft carrier critics say our aircraft carriers are vulnerable to surface-to-surface missiles. They have to be less vulnerable than any shore based fixed target or airfield which can be programmed into the missile—you cannot program a moving target. Will there ever be a better missile than the World War II Japanese Kamikaze pilots and planes? Yet not one fleet carrier was ever sunk during World War II by Kamikazes. Today our carriers are heavily protected by surface ships, attack submarines, aircraft, electronic countermeasures and missiles, and are moving targets. The new aircraft carriers have 2000 water tight compartments. The supercarrier Enterprise, during accidental explosions on the flight deck, took the equivalent of 8 to 9 surface to surface missiles and could have landed aircraft the next day. Our carriers now have steel decks instead of the World War II wooden decks. We now have only jet fuel aboard which is must less volatile than aviation gas. Bear in mind, that for eight years, our carriers operated off Vietnam within striking range of the enemy, yet no aircraft carrier or a plane aboard was damaged by enemy action. At the same time, 400 U.S. planes were destroyed and 4000 were damaged on South Vietnamese air bases, and we have now lost every expensive airfield we built there.

Obviously carriers are not so vulnerable, as the Soviets are now building them, and, even if carriers were vulnerable we should have more of them because they are absolutely necessary for our survival.

A positive plus for national defense is our naval air reserve. We now have the same aircraft flown in the fleet. Our squadrons, wings, and air groups are fleet size. For the first time since World War II the regular Navy allows our Reserve squadrons to operate from carrier decks. We are ready for any emergency, but need more men and women as does the regular Navy. Our Navy needs individuals of the highest caliber to operate, maintain and support its sophisticated ships, aircraft and electronic equipment. Today's Navy offers job opportunities which are not only unique and challenging, but offer true job and professional satisfaction. The bicentennial brought us a resurgence of patriotism and pride in our country. Service in our Navy can demonstrate an unequaled patriotic commitment to the survival of our United States. So we should individually encourage young people to serve in the Navy and give Navy recruiters referrals.

It is hard to believe but we spend 3 times more to support people on the welfare rolls than we spend for all our worldwide military commitments. The cost of our new cars and repairing old cars is a great as our whole military budget. We now appropriate more money for the Health, Education and Welfare Department than we do for national defense, and bear in mind, when the Soviets strike we won't be able to stop them with food stamps. As a sage long ago said, "If a nation does not choose to support its own military establishment, that nation might be forced to support that of its enemy."

Unfortunately, this could happen to us.

A FEW PERSONAL REMARKS

To be a naval aviator has to be one of the most challenging, exciting, and rewarding experiences a man could ever desire. It certainly has been for me.

Only those who have had their Navy Wings of Gold put on for the first time can really appreciate the thrill and satisfaction of that great moment. For me that momentous day was 36 years ago and my pride in my Navy Wings has never diminished. Nor has my admiration for my fellow naval aviators.

As I conclude my naval air career I will borrow and change a line from that great American, General Douglas MacArthur.

We should steadfastly dedicate ourselves to the defense of our great country and our freedom. To accomplish this great purpose we *must* support, strengthen and perpetuate the Navy Air Corps, the Navy Air Corps, the Navy Air Corps, the Navy Air Corps.●

LEUKEMIA DEATHS

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. MARRIOTT. Mr. Speaker, on Thursday, July 20, the House Interior Energy and Environmental Subcommittee, of which I am a member, will begin markup on legislation to clean up 22 radioactive uranium tailings piles in the United States, 3 of which are in my home State of Utah. These sites, the most hazardous being the "Vitro" site in the heart of Metropolitan Salt Lake City, are tragic souvenirs of America's infant days of nuclear development when the potential hazards posed by waste material from uranium production were unknown if not actually ignored.

The Federal Government had contracted with now defunct private operations to produce uranium from ore in the 1950's and 1960's. Now, years later, we discover that the leftover tailings are themselves still radioactive, emitting a known cancer-causing gas, radon, which may already be responsible for the loss of human life.

The legislation I have introduced calls on the Government to clean up the mess they have caused. In prior hearings, the Government has accepted the responsibility and we will be working out the details of the remedial action this week.

But as a striking example of the seriousness of the problem, I offer my colleagues the following article from the Washington Post on Sunday, July 16, 1978 written by reporter Bill Curry:

[From the Washington Post, July 16, 1978]

A SMALL UTAH TOWN AND 4 LEUKEMIA DEATHS—VICTIMS LIVED NEAR URANIUM 'TAILINGS' PILE

(By Bill Curry)

Monticello, Utah.—It takes only a minute to drive past the houses here, where the four leukemia victims lived; they're all just a few blocks from each other.

Una Manzanares, 12, was the first to die, Gail Barber, 11, the last. In between were Renae Heaton, 7, and Alan Maughan, 16, the captain of the high school basketball team.

They all lived within a half-mile of the old mill where the Atomic Energy Commission for 11 years processed uranium ore for nuclear weapons. The mill put enough junk in the air, local residents say, to dirty the wash hanging out to dry, enough to corrode the chrome on automobiles and enough to literally dissolve the screens in house windows.

All in the national defense, all to keep other nations at bay with the threat of nuclear death. But some residents here say that when the threat became an actuality, it occurred here in Monticello, where in the 1960s a mysterious incidence of leukemia

took four young lives in a town of 1,900 and left a former resident now living in Salt Lake City battling for his life against the disease. Statistically, there should have been only one case in 25 years.

"He was exposed to radiation somewhere or some way along the line," says Alan Maughan's father, Dale, as he cruises the quiet streets at the foot of the San Juan Mountains in southeastern Utah and points to the houses of the victims.

"If I hadn't moved here to Monticello, my boy would still be alive," he says of his move from Logan, Utah. "I firmly believe that."

Instead, Alan died of leukemia on July 5, 1966.

The mill is gone, closed in 1960. Gone too are the days when it sent readings of highly dangerous radium in South Creek to more than two times the acceptable levels and gamma radiation levels along the edges of the mill site up to 20 times those of the surrounding area.

But such facilities as this are not a matter of bygone concern, for the mill's radioactive wastes, called "tailings," remain—as they do in bizarre fashion elsewhere in the United States. In Salt Lake City, where an abandoned mill still spreads radiation across the landscape, a firehouse built on fill matter of uranium wastes is so 'hot" it would be declared hazardous and closed if it were a uranium mine.

In Grand Junction, Colo., more than 600 buildings built on such fill have construction crews airhammering basements and house slabs to remove radioactivity. In Canonsburg, Pa., 120 industrial workers have been exposed to one form of radioactivity from the wastes under their buildings.

So the off-orange and dead grass on the old uranium mill site here in Monticello is only a marker similar to those elsewhere in the country. In all, the U.S. government has identified 22 locations which, like Monticello, saw the grinding, crushing and extracting of uranium for national defense and remain today as toxic repositories of radioactive leftovers of the atomic age.

Their presence, and those of some 30 other former nuclear facilities, has put uncounted thousands of unwitting people nationwide on an atomic fault line, not knowing when or whether tragedy may rock their lives. Some 5,000 people in South Salt Lake City alone live within what is generally considered the danger zone of a uranium processing site—a half-mile.

There, 100 acres containing millions of tons of uranium tailings stand as a monument to the now-defunct Vitro Chemical Co.'s uranium processing facility. The Won-Door Co. next to the site recently has even abandoned its three-structure manufacturing facility to escape the health threat from the mounds of uranium waste piled up next to the buildings.

Heightened concern over these uranium mill sites comes at a time of new awareness of the delayed but potentially fatal effects of exposure to small amounts of radiation considered acceptable years ago.

For example, the U.S. Department of Health, Education and Welfare was recently directed to oversee a broad study of civilian and military personnel involved in the nation's atomic bomb tests after a startlingly high number of soldiers at a 1957 test developed leukemia.

HEW is also expected to undertake soon a major reopening of a long-completed study of thyroid abnormalities among southwestern Utah schoolchildren exposed to radioactive fallout in the 1950s bomb tests. The original study concluded there was no increase in the abnormalities, which can lead to cancer, but officials now fear that enough time had perhaps not passed for all abnormalities to become apparent.

The Washington Post recently reported that residents in southwestern Utah and northwest Arizona blame the nuclear tests for a continuing incidence of leukemia and cancer among longtime residents.

And yesterday, health officials in Salt Lake City began examining firemen long exposed to radiation from five feet of fill hauled in 20 years ago from Vitro.

The firehouse, where about 60 people work, is the one that is so "hot" with radiation that if it were a uranium mine federal mine safety officials would close it as hazardous. Three towns in southern Utah were studied in 1967 by federal health officials for unexplained increases in leukemia. Findings were inconclusive. Some areas of the firehouse, generally the living and sleeping quarters, record five times the amount of allowable radiation that uranium miners are permitted to be exposed to.

And last week Colorado state health officials were in Grand Junction, Colo., in an effort to determine whether leukemia—occurring at twice the expected rate and concentrated in the elderly—is at all related to the old uranium processing operation there or to the extensive use of its radioactive remnants as fill matter in construction projects in Mesa County.

"We asked the powers-to-be, and he said there were no qualms—the AEC wouldn't let them [give out fill] if it wasn't safe," says Soren Sorensen of Grand Junction, remembering the days in 1966 when he obtained 10, 10-ton truckloads of uranium wastes from the old Climax Mill for the home he was building. "I called the AEC and they said there was no problem."

Seven years later, the fill under his house was removed in a federal and state-funded program that evolved from fear of the possible long-range health effects of the radioactive sand that Sorensen and others had used to level their lots.

"I kind of got scared over the deal," George Biggs said of the tailings that were under the front part of his house. The Biggs family wonders whether the radiation was related to the breast cancer of Mrs. Darlene Biggs.

"You don't know," said George Biggs. "But the quicker the tailings were gone, the better I felt. [The radiation] was pretty high, especially right in that corner"—he points to where a visitor is seated—"where the wife always set. That's why we thought maybe it caused the cancer."

All told, 6,000 structures in Grand Junction have uranium tailings deposits not counting the streets and sidewalks. G. A. (Bud) Franz, a senior health physicist with the state health department there, says some 650 buildings have been recommended for removal of the radioactive wastes.

In some houses, he said, residents were receiving as much radiation beyond normal as they would if they were to get two or three unnecessary whole-body X-rays a year.

Some $12 million is expected to be spent for the removal of the radioactive tailings in the Grand Junction area, three-fourths of the money provided by the federal government and the rest by the state.

Rep. Dan Marriott (R-Utah), citing past federal "neglect" in management of uranium mills and waste disposal, says a "serious health hazard" now exists in Salt Like City near the Vitro wastes and elsewhere in the country.

The health threat can be either overall radiation to the entire body or from radon gas that deposits radioactive particles in the lungs and can cause cancer there.

Here in Monticello, the old uranium operation was owned by the AEC, which processed ore from 1949 to 1960. The ore was trucked in from mines around the area and stacked in mounds in an open field. After processing, the radioactive leftovers were returned to the field, and the winds, predominantly from the south, carried to the north—where all of the leukemia victims resided.

Jon Lee's mother, April grew up in the south sector of town, right on the edge of the uranium operation. Although her son was born in 1964—after the mill had been closed and radioactive tailings covered with dirt—she believes his leukemia is somehow related to her exposure over the years to the radioactive uranium site.

Now, 16 Jon, who used to live around the corner from Alan Maughan and now is a Salt Lake City resident, has been fighting leukemia for eight years, althought he was once given only two years or so to live.

But the other four leukemia victims have long been gone, youngsters who spent most of their brief lives growing up so close to the uranium mill.

So unusual were their deaths that federal health officials investigated them in 1967.

Although all of the children had leukemia that can be associated with radioactive, "no relationship" was found with the uranium mill, Dr. Glyn Caldwell, a cancer specialist with the Center for Disease Control, quoted from a final report on the deaths.

Caldwell acknowledged, however, that the investigation focused on viruses then thought to spread cancer.

Monticello was one of three southern Utah towns examined in 1967 for unexplainable increases in leukemia, Caldwell said. The other towns were Parowan and Paragonah in the southwestern part of the state in Iron County, which along with Washington County, was subjected repeatedly to nuclear fallout from atomic testing in Nevada in the 1950s.

Parowan and Paragonah, with a combined population of 1,800, experienced four cases of leukemia from 1956 to 1967, two to three times the expected rate, Caldwell said. As in the case of Monticello, findings in those two towns were inconclusive.

So today the doubts and fears expressed by relatives of the Monticello victims remain over what impact the processing of uranium for nuclear arms has had on this town. "For a place this small," said Dale Maughan, "there had to be something." ●

SWAPPING LIFE INSURANCE POLICIES

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. LaFALCE. Mr. Speaker, academics who have been studying life insurance have found case after case where it may be advantageous to cash in an old insurance policy and replace it with a new one, with a resulting savings of many thousands of dollars.

As a recent article in the July 1978 Money notes, a careful comparison between the existing policy and other policies must be undertaken. Such an analysis would include comparing costs, which should take into account both premiums and dividends, as well as the annual buildup of cash values. A thorough analysis may disclose that in some cases a "savings" doesn't begin for a number of years; however, the ultimate savings may be dramatic.

If comparative costs do warrant switching, passing the medical examination for the new policy is imperative before dropping the old policy. Further, bear in mind that most policies provide that during the first 2 years the policy is voidable if the policyholder has made untrue statements, and no benefits are payable in the event of suicide.

In all events, the article does underscore the need to evaluate existing in-

surance policies in order to assure that the consumer is receiving the most for his premium dollar. The article follows:

[From Money, July 1978]

HOW TO SAVE $7,000 ON YOUR LIFE INSURANCE

INFLATION HAS TURNED MANY POLICIES INTO BAD BARGAINS. WITH A LITTLE PATIENCE YOU CAN FIGURE OUT IF YOURS IS AMONG THEM—AND WHAT TO DO ABOUT IT

(By Joseph S. Coyle)

Swapping life insurance policies is one of the few things insurers and consumer advocates have long agreed about. Their advice: don't do it. It exposes you, they point out, to the predatory practice called "twisting"—when an agent interested only in his commission persuades a policyholder to make a costly switch. With cash-value life insurance, commonly called whole life, you probably have so much invested in the front-end load—the agent's commission plus insurance company overhead—that dropping out and starting over would be prohibitive. And since you're older than you were when you took out your existing policy, the premiums on a new one would probably be higher and the medical exam might be tougher to pass.

Now, however, academics who study life insurance are turning up case after case where cashing in a policy and replacing it with a new one—even if it's exactly the same type—can save many thousands of dollars. It's often not easy to dig up the data you need to make valid comparisons, and even on close examination many old policies will turn out to be just as good a buy today as when you took them out. But in more and more cases, the payoff is well worth the trouble. Reason: inflation has driven up the return that insurance companies get on their investments, thereby allowing them to charge lower premiums and hand out higher dividends than they could have otherwise.

A 100 PERCENT IMPROVEMENT

For example, William Scheel, an associate professor of finance at the University of Connecticut, found that a policyholder could get amazing results by dropping a 15-year-old $50,000 Travelers whole life policy, replacing it with a Northwestern Mutual Life policy and putting the cash surrender value of the old policy in a savings account at 5 percent interest. After 20 years, he would have accumulated $72,421 in death benefits plus savings, instead of only $55,239 if he held onto the old policy. In 40 years, the difference would be nearly two to one—$109,488 vs. $55,451.

Scheel and others believe that such situations abound, particularly—as in this case—when the existing policy pays no dividends (a "nonparticipating" policy) and the replacement does. The huge difference in total benefits in Scheel's example comes primarily from the dividends paid out under the new policy, which grow steadily over the years. The compound interest that accumulates on the proceeds of cashing in the old policy makes the switch even more beneficial. (One caveat: these particular results apply only to the two policies studied, and not to any other policies of the two insurance companies involved.)

What makes life insurance so eminently swappable are the enormous disparities in its pricing. Costs of similar coverage can vary as much as 400 percent. Tempting as the possible savings may be, however, the would-be switcher confronts a fog of diversity—in dividends, premiums, cash values and other policy provisions, not to mention the variety of policy types. Premiums taken alone are misleading: two seemingly identical policies may have vastly different net costs—figures that take into account premiums, dividends and cash values—because one insurer gets a higher rate of return on investments, or retains less for expenses or profits, than the other. Policies that do not pay dividends have lower premiums than those that do, but they're usually more costly in the long run.

Scheel and other industry critics are fired up by two things. First, inflation has brought such significant cost changes in life insurance that the chances to replace old policies advantageously have multiplied in recent years. Second, there's a new tool—a system of indexes—that can help you make cost comparisons between old and new policies for the first time.

Because term insurance, the other most common form of life insurance, is pure protection, it builds up little or no cash value and dividends, if any, are fairly small. So inflation isn't a factor that's likely to make a new term policy more attractive than an older one. Term and whole life have different advantages and drawbacks, and if you're considering switching from one to the other, you can use the cost-analysis techniques to take a hard look at your existing coverage.

INFLATED RETURNS

Scheel and his allies point to one of inflation's most prominent byproducts—high interest rates—as the underlying reason why many older whole life policies are no longer competitive. Says E. J. Moorhead, a veteran actuary who is now a consultant to the Federal Trade Commission: "Ten years ago many companies were earning 4 percent or so on their investments, but today it's more like 7½ percent." This higher return is the result of inflation's impact on the interest rates of the bonds that insurance companies invest in so heavily. That tends to translate into lower premiums and higher dividends on newer policies.

Nor are replacement aficionados cowed by the high initial costs of frontend-loaded policies. They argue that a cost-conscious consumer should be concerned only with future outlays since that is where savings will come from anyway. At times, too, the cash surrender value of an existing policy can help make a swap especially attractive.

Before you delve into the shifting masses of figures involved in policy-to-policy cost comparisons, you can check your policies for several symptoms that suggest a switch may be in order:

If the policies a company is currently selling are relatively high in cost, chances are its older ones are too. One increasingly popular device for comparing new policies is an "interest-adjusted index," which translates dividends, premiums, cash values and what your money could be earning elsewhere into one number reflecting cost per $1,000 of coverage The lower the number, the better the buy. Any insurance company can supply such index figures for its policies. You can also consult Interest-Adjusted Index, published yearly by the National Underwriter Co., or the annual Best's Flitcraft Compend. Many agents and large public libraries keep one or the other. The New York State Insurance Department offers free its highly regarded Consumers Shopping Guide for Life Insurance, which also compares many policies by the interest-adjusted method. (Write to Publications Unit, New York State Insurance Department, Agency Building, 1 Empire State Plaza, Albany, N.Y. 12223.)

Nonparticipating policies bear close scrutiny. Since they pay no dividends and therefore provide no easy way for insurers to sweeten benefits, they tend to suffer most from inflation.

If you carry more than $50,000 of whole life, "you're a prime candidate for replacement," Scheel asserts. "This doesn't mean that you should automatically switch to term policies, though. You can replace some existing whole life policies and still save a lot."

If you have accumulated a number of small policies with face amounts of $10,000 or under, you are probably better off consolidating your coverage.

Companies that have trouble holding onto policyholders are likely to have more expensive policies, because high lapse rates cost insurers money. Best's Insurance Reports, an annual publication available in public libraries, ranks insurance companies on the basis of lapse rates, among other things.

If you detect any such signs that your life coverage is a loser, it may well be worthwhile to take the trouble to compare your present policy with a possible replacement. This involves collecting data from both insurance companies and working up a cost index based on the interest-adjusted method. While some ambitious policyholders may want to do all this by themselves, an agent looking for new business is your likeliest collaborator.

You start by writing directly to the home office of your present insurance company for the first half of the comparison information you will need. (The address is usually on the first page of your policy.) For a whole life policy, the request letter might read like this:

I wish to decide whether to continue my insurance under policy [give the policy number] or to replace it. Please provide me with a statement showing year-by-year information for the next 20 years on:

1. Regular policyholder dividends and terminal dividends. [Omit this line if the policy pays no dividends.]
2. Cash surrender values.
3. Premiums, excluding the charge for guaranteed-issue rider and accidental-death benefits, if any.
4. Death benefits, excluding accidental-death benefits, if any.

Also please give me a statement of:

5. Current cash surrender value of paid-up additions or cash value of dividend accumulation.
6. Current balance of policy loans. [Omit this if there are no outstanding loans.]

It's vital to make clear that you're considering replacement. According to Scheel, one large insurer regularly disregards requests for such information until it has received three letters from a policyholder; then, unless it is convinced that its policy is in jeopardy, it replies that the work involved in complying would be too costly.

The next step: finding an insurance company whose policies are attractively priced. The three volumes mentioned above—"Best's Flitcraft Compend," "Interest-Adjusted Index" and New York State's "Consumers Shopping Guide for Life Insurance"—are good sources.

Once you have picked an insurer, call its local agent and tell him you are considering replacement. Tell him how much coverage you need, and that you will require an interest-adjusted cost comparison between your policy and the one he will propose. (Using interest-adjusted cost instead of some other basis, such as the traditional "net cost" or "ledger cost," is critical in order to take into account the interest your premium dollars would be earning if you invested them elsewhere at 5 percent.)

The agent you call may never have done what you are asking for—a comparison of the cost of a policy already in force with that of a proposed replacement. Or he may protest that the competitive information needed would be too hard to get. He may well come around, however, when you tell him you have the information for your present policy—including projected ("illustrated," in industry jargon) dividends, which are probably the toughest thing to pry loose from an insurance company. If the agent is unfamiliar with the interest-adjusted method or denigrates it, find another agent. When you give the new agent the data sent to you by your original insurer, insist that he in turn go to his home office for the data he

will need to complete the comparison; that is the only reliable source of projected dividends.

Now you or your agent will be able to do a cost-comparison analysis. To show how this works. Money asked Scheel to construct an example. He chose an existing nonparticipating special whole life policy issued in 1973 to a 35-year-old man by Citizens Life & Casualty. The candidate to replace it was a dividend-paying whole life policy to be paid up at age 90 offered by Northwestern Mutual Life. Both are $25,000 policies.

Scheel calculated the policyholder's interest-adjusted outlay on each policy to date and then extended this number annually for 20 years. For each year, he added the previous year's cash outlay to that year's premiuum and multiplied by 1.05 (the 5 percent interest adjustment); then he subtracted that year's dividend. In the first year's calculation for the old policy, he added the cash surrender value to the premium.

The proposed Northwestern Mutual policy has a premium of $609 and regular annual dividends of $59.75. So the premium multiplied by 1.05 minus the dividend equals $579.70—the interest-adjusted outlay for the first year. And so on, out to 20 years for each policy. Then he made the crucial calculations to arrive at what he calls the surrender cost index. For each year, he subtracted the cash surrender value from the interest-adjusted outlay.

The lower the surrender cost index, the better. In the case of the two sample policies, the replacement would start saving you money after five years and have a net cost after 20 years that is $7,178 lower than the old one ($4,326 vs. $11,504). This is one reason for doing the arithmetic for more than a year or two; for the first four years, the switch would not yet make economic sense. Like wines, some policies improve with age and others turn sour.

Scheel believes that using a second index along with the surrender cost index yields an even better idea of what you stand to gain or lose by swapping. While the surrender cost index probes savings, the other one—called the death benefit index—shows how much of the money that your beneficiaries get is the insurance company's and how much is what you paid in. To arrive at the death benefit index, you simply subtract your net outlay to date from your policy's face value.

In the Scheel example of the two $25,000 policies, the replacement policy offers a better protection deal from the start. After 20 years, with the old policy, you would have put up nearly $23,000 for $25,000 of coverage, with the replacement, only $13,500 is your own money—a difference of nearly $10,000. When you have to put up a lot more money to get the same protection, you could either be getting more protection for your money or cutting your costs. (For a more detailed guide that will help you and your agent make cost comparisons, send a self-addressed envelope with 30 cents worth of stamps to William Scheel, School of Business Administration, University of Connecticut, Storrs, Conn. 06268.)

AN AVENGING ANGEL

Once the replacing agent has produced the surrender cost index for both policies, it is a good idea to let the agent who sold you your old policy take a look at it. He may well assume the pose of an avenging angel, since many successful whole life agents consider replacement heretical and dangerous. This righteous indignation should help expose any flaws in the replacing agent's proposal.

Now you can decide whether it's worthwhile to replace your old policy. Sometimes the cost evidence is so clear and substantial that there is no real question whether to jump or stay put. Sometimes one policy outperforms its competitor during certain years but not in others. If you are clear about your basic insurance needs and aims, deciding should be no real problem.

If you do come down on the side of switching, bear in mind some procedural matters that can be critical. Make sure that you have passed the medical exam for the new policy before you drop the old one. Otherwise you may wind up uncovered or paying premiums that will make your trashed policy seem like a bargain in retrospect. Also, remember two important provisions that apply during the first two years of most policies: the insurer can void the contract if the policyholder made statements that turn out to be untrue, and no benefits are paid in case of suicide.

Before long it may get easier to obtain the information you need to compare policies. Critics are drawing a larger and larger audience for their complaints that consumers are wasting millions on expensive life insurance policies because they have no easy way to compare costs. The Federal Trade Commission has a study on cost disclosure under way. Some state insurance commissioners are considering a requirement that both the replacing and the existing insurer supply consumers with certain cost information. And insurance companies pushing bargain-priced term policies are drumming hard on cost comparisons.

The underlying target—more and more vulnerable as inflation puffs on—is the savings element in cash-value life insurance. "Do consumers realize that the average yield on their savings is zero, or even negative, if the policy is surrendered within the first 10 years?" FTC chairman Michael Pertschuk asked at a recent symposium on consumers and life insurance in Washington. "Are they aware that even after 20 years, the average yield is only about 2¼ percent to 3½ percent?"

IN TURBID WATERS

At the same meeting, Gordon Gaddy, president of Fireman's Fund, an insurance company, suggested that some big insurers with billions of dollars of whole life policies on their books may have to bite the bullet and provide a massive upgrading of benefits for these older policies in order to make them more competitive and less vulnerable to replacement. "Whole life was fine before inflation," moaned Roy Anderson, an Allstate vice president and a beleaguered whole life spokesman at the same meeting.

The new comparison techniques make clear that there's plenty of room to save money by swapping one whole life policy for another. Yet at present it is plainly asking too much to expect most consumers to negotiate such turbid waters. Making it easier for them to compare costs could mean a new lease on life for whole life.●

BALANCE(S) OF POWER SERIES, BOOK III(A)(i)—NATO'S CENTER CORE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, as I have explained previously in my July 10, 1978, CONGRESSIONAL RECORD statement, book III of my "Balance(s) of Power" series features developments in the different areas of the world which are potentially damaging to U.S. security interests, specifically in competition with those of the Soviet Union. Nowhere in the world do U.S. interests face a more clear and credible threat than across the NATO-Warsaw Pact boundary.

In book I of the series, appearing in the CONGRESSIONAL RECORD from March 1976, to December 1977, our relative position in Europe was shown to be in decline. This trend is detailed impressively in the following selection from the Armed Forces Journal International, June 1978, entitled "NATO's Lost Decade." It is attributed to Justin Galen, pen name of a former senior Department of Defense civilian official. The first part of the article follows:

HOW THE UNITED STATES GAVE THE WARSAW PACT A SURPRISE ATTACK CAPABILITY

The U.S. is seriously debating NATO's vulnerability to a Warsaw Pact attack for the first time in nearly a decade. Members of the Senate as diverse as Sam Nunn and Gary Hart have written thoughtful discussions of NATO's vulnerability to a Warsaw Pact surprise attack. Military experts like Lt. General James A. Hollingsworth have completed extensive studies of NATO strengths and weaknesses. General Alexander Haig has gone far beyond the usual cliches in seeking improvements to NATO forces.

The FY 79 Posture Statements of the Secretary of Defense and Chairman of the Joint Chiefs provide dramatic new frankness regarding NATO's problems. Secretary of Defense Harold Brown's annual report is particularly striking. It completes the shift in U.S. thinking begun in Secretary Rumsfeld's FY 1978 Posture Statement, and for the first time in a decade, states that the Warsaw Pact has a major capability for surprise attack.

"The most dangerous contingency would be an attack on NATO by the Warsaw Pact . . . and it could be undertaken by ready forces already deployed in Europe as well as these forces after having been heavily reinforced, in a matter of weeks, from the U.S.S.R."

Other analysts and commentators have begun to address the risks inherent in the Warsaw Pact build-up. Virtually all, however, have focused on the changes which have taken place on the Warsaw Pact side of the balance. Few commentators have discussed the trends in NATO which also contributed to the current increase in Warsaw Pact capabilities. As a result, many analysts have overstressed the extent to which the changes in the Warsaw Pact threat should be viewed as provocative or as a demonstration of hostile intentions.

An examination of NATO's historical assessment of the threat, and how this assessment has influenced NATO strategy, makes Soviet and Warsaw Pact actions seem less provocative, and indicates that the build-up of Warsaw Pact "surprise attack" capabilities tells little about Soviet intentions. At the same time, such a history reveals serious weakness in NATO's strategy and force structure.

These weaknesses in NATO are, if anything, more dangerous than a unilateral Soviet build-up because they have been self-inflicted, and because they are largely the responsibility of the United States. It is far easier for an Alliance to react to an outside threat than to deal objectively with its own shortcomings and failures. Above all, it is far easier to "cry wolf" at the Warsaw Pact, than to admit that NATO's failure to modernize its strategy and force planning have made a major contribution to NATO's vulnerability.

"SURPRISE ATTACK" BEFORE THE M'NAMARA ERA

During its first fifteen years of existence, NATO slowly shifted from initial force goals for the "Center Region" of nearly 100 divisions to roughly a third of that force. In the process, NATO came to rely on a "shield" of regular forces which formed a "tripwire"

which would launch NATO's "sword" of "theater" nuclear weapons. In short, NATO gradually shifted from strategy designed to defend by matching Soviet and Warsaw Pact forces in active military strength, to a strategy of deterence which relied on a screening defense by interior NATO forces and the threat of nuclear war.

As might be expected, however, U.S. and NATO military officials fought each of the incremental reductions in NATO's force goals, and every shift away from war fighting capability to a reliance on deterrence. By the early 1960s, this resistance had taken a form that created critical problems for the U.S. and its Allies. SHAPE, and the then co-located U.S. command headquarters in Europe, had begun to assess the threat, and approach force planning, in a way that "halted any useful effort"?

MAKING THE RUSSIANS TEN FEET TALL

SHAPE produced highly exaggerated estimates of the threat as a justification for setting high NATO force goals. It used such exaggerations of the threat to maintain and increase NATO forces, and as a rationale for maintaining NATO's unity of command. In the process, SHAPE set impossibly high force goals for each member country to meet an impossibly high estimate of the threat. No member nation had the political support to budget the forces SHAPE "required," and the vast gap between NATO force goals and national reality made the improvements which nations could fund seem militarily unimportant. Thus, SHAPE's assessment of the threat had the effect of paralyzing any serious effort to create an effective defense which the forces member nations could fund.

DEMANDING COMBAT READINESS OR NOTHING

Yet, the SHAPE assessment of the threat was highly biased. For all practical purposes, SHAPE assumed that Warsaw Pact forces were fully combat ready.

SHAPE focused its attention on keeping the level of NATO combat ready or "M-Day" forces as high as possible. SHAPE treated member country reserve or reinforcement units as "failures" to meet NATO force goals. It virtually ignored unit quality in emphasizing unit numbers, and assigned the same high priority to all force improvements.

This SHAPE emphasis on M–Day forces and on unit numbers crippled any practical effort at force planning.

THREATENING SUICIDE TO PREVENT MURDER

SHAPE then tried to meet the growing gap between its force goals and the actual size of the forces member nations would provide with the threat of theater and strategic nuclear retaliation. It did so long after the growing strength of Soviet nuclear capability began to make such threats both dangerous and unrealistic.

With the best intentions, SHAPE and many member military staffs gradually froze their thinking around an inflexible effort to threaten member nations into doing the impossible. The result was a sense of decay and futility, and a growing division between the NATO military and its civilian masters.

THE M'NAMARA REACTION

Secretary McNamara reacted to this situation almost immediately after taking office. The SHAPE position conflicted sharply with this new "system analysis" approach to NATO planning, and it froze the new initiatives he wished to take in NATO. McNamara directed his analysts to make an independent assessment of the threat.

The result was that McNamara's analysis of the threat differed completely from SHAPE's assessment. It concluded that Warsaw Pact forces had critical weaknesses and could only attack after substantial mobilization and full reinforcement from the Western U.S.S.R. This conclusion was based on three major weaknesses in Soviet and Warsaw Pact capabilities:

1. U.S. STRATEGIC AND THEATER NUCLEAR SUPREMACY

The level of political and military deterrence in Europe was then so high that there was little significant probability that an attack would occur. The U.S. held a massive lead in strategic weapons and theater nuclear weapons. NATO forces had offensive strike capabilities which greatly exceeded those of Soviet Tactical Aviation and Eastern European air forces. The Soviets could not quickly seize Europe.

Because the Warsaw Pact would suffer massive casualties and hardly risk nuclear war, there was no reason for NATO to maintain a high level of readiness to meet a surprise or sudden Warsaw Pact attack.

2. THE LACK OF WARSAW PACT READINESS AND CAPABILITY IN THE FORWARD AREA

Warsaw Pact forces at that time were not equipped or ready to launch a surprise attack. Soviet support forces had low manning levels; Soviet divisions had poor armored infantry mobility; Soviet artillery was unarmored, and towed by underpowered and obsolete wheeled tractors. Soviet munition stocks seemed low. Warsaw Pact army level and unit training was unrealistic, Soviet tanks had limited cruise and endurance ranges, and the refueling capability of Pact support forces was limited. Soviet ground forces had no effective mobile air defense capability. The forces of Russia's European allies were even less ready, and more poorly equipped.

Warsaw Pact air forces had no effective attack aircraft, and all Warsaw Pact air forces had limited forward operating capability and endurance over NATO territory when flying from their fixed air bases. Warsaw Pact standardization was worse than in NATO. Warsaw Pact systems for command, control, and communications (C^3) were inflexible and defensive. Targeting capabilities were poor, and Warsaw Pact theater nuclear systems were limited in number and had poor performance capability.

Most importantly, these perceptions of Warsaw Pact capabilities and intentions were supported by all available intelligence on Soviet plans and exercises. The overwhelming weight of intelligence evidence indicated that the Soviet Union planned to go to war only after it previously mobilized its Category II and III divisions in the Western USSR; after the entire Warsaw Pact doubled its active manning by calling up reserves for combat units and support forces; after all members of the Pact methodically moved and re-deployed their forces into several new fronts along the NATO border, and after the USSR moved much of its Tactical Aviation forces into newly established or activated air bases in the forward area.

3. NATO'S SUPERIORITY IN RESOURCES

An examination of defense resources revealed NATO was spending much more on defense than the Warsaw Pact, and had virtual equality in military manpower.

Much of NATO's apparent weakness in combat strength came from poor leadership, a weak planning and budgeting system, a lack of the proper force improvement priorities, and the lack of a standardized or integrated effort.

Although later study has shown that the CIA estimates of Soviet and Eastern European defense expenditures at the time were probably too low, it is almost certain that this aspect of the McNamara re-appraisal was valid when it was first made, and is still valid today.

While the U.S. reduced its defense ecort steadily between 1969 and 1976, Allied nations cumulatively spent far more on defense than the Eastern European nations, and kept their total military manning levels far more constant than did the U.S.

THE IMPACT OF THE RE-APPRAISAL OF THE THREAT

These new conclusions regarding the threat provided Secretary McNamara with the rationale for moving the U.S. and NATO toward a new approach to force planning. This new approach is generally referred to as the strategy of "flexible response." They sought a revolutionary improvement in NATO's organization and structure.

Specifically, the new view of the threat allowed the U.S. to sponsor the following changes in NATO strategy and force planning:

TRADE-OFFS BETWEEN READINESS AND NEW EQUIPMENT

It gave credibility to the concept that NATO could safely fund force improvements and reserve forces at the response of M-Day Readiness and added unit numbers. This allowed Allied countries to cope with the phase-out of U.S. MAO aid; thus, the Allies could fund suitable force quality for a more limited number of units, rather than try to fund the impossible force levels "required" by SHAPE.

REDUCING THE THREAT TO AN AFFORDABLE SIZE

It reduced the overall Warsaw Pact threat to a level where it seemed practical for the U.S. and its Allies to fund an effective *conventional* defense. NATO's superior unit quality meant it had no need to match Warsaw Pact divisions or aircraft on the one-for-one basis suggested by SHAPE.

PROVIDING PREDICTABLE WARNING

NATO's ability to rely on weeks of warning, because of its ability to detect a Soviet build-up from the USSR, also meant that NATO's relatively low cost reserve forces could become effective by the time the Warsaw Pact attacked. It seemed practical to assume NATO could defend indefinitely in its forward defense positions.

MAKING CONVENTIONAL OPTIONS AFFORDABLE

It allowed NATO to end its dependence on theater nuclear weapons. The changes in readiness requirements meant that NATO should be able to pay for the strength and modernization required to defend conventionally. It allowed "flexible response", rather than reliance on a conventional "tripwire" which was really no more than a prelude to all-out theater and strategic war.

PERMITTING U.S. AND BRITISH WITHDRAWAL

It removed much of the pressure to keep deployed in West Germany. It allowed both countries to cut their forces in Germany by promising to return them in time to defend before the Warsaw Pact could attack. This made the U.S. "Reforger" concept far less politically sensitive.

ACHIEVING "FLEXIBLE RESPONSE"

This "new realism" seemed hopeful and exciting when it was developed in the early 1960's. It offered NATO hope and purpose, where none existed under the conditions set forth by SHAPE.

During the early and mid 1960's, Secretary McNamara was gradually able to get the political support to force this new view of the threat, and new approach to NATO planning, on the Services, the Joint Chief of Staff, and U.S. military intelligence community. He simultaneously created a strong civilian force planning office on the U.S. delegation to NATO and NATO International Staff, and began to put pressure on NATO to change its strategy and assessment of the threat.

THE SUDDEN DEATH OF "NEW REALISM"

Unfortunately for NATO, the push that led to "flexible response" was the last major initiative that Secretary McNamara took before he became hopelessly enmeshed in Vietnam. By 1967, McNamara and most of his senior staff focused almost exclusively on the U.S. build-up in Vietnam. They had little time for Europe, and without active U.S. leadership, other political pressures

came to dominate NATO planning. These pressures destroyed any hope for major progress, and locked the U.S. and its Allies into positions that made effective NATO planning impossible. In fact, the "new realism" behind "flexible response" died almost at the strategy's birth. This death had several other causes and effects:

THE RUN-DOWN OF U.S. AND BRITISH FORCES

The U.S. and U.K. started a process of reductions and attrition which the U.S. continued throughout its involvement in Vietnam and which Britain still continues.

The British cuts were initially the most troublesome in terms of their impact on the other NATO Allies. It was the U.S. cuts, however, which proved critical. At one point, so many key U.S. specialists were sent to Vietnam that the U.S. did not have a single brigade in Europe that was combat ready.

U.S. cuts discredited U.S. pleas for improved Allied forces, and cast serious doubt on the integrity of the U.S. appraisal of the threat and balance. After 1968, no European nation was willing to fully trust U.S. leadership.

FORCE CUTS BY THE OTHER ALLIES

Almost inevitably, Belgium, Denmark, and the Netherlands reacted by cutting their forces or withdrawing them from Germany, without making compensating improvements. West Germany increased its manpower and expenditures, but slowed its pace of re-armament and increased its reliance on reserves so much that Germany's readiness became highly questionable.

FRENCH WITHDRAWAL

French withdrew from NATO's integrated military command structure even before the new NATO strategy was "fully agreed upon." This deprived NATO not only of its ability to rely on one of Europe's largest armies, navies and air forces; but cost NATO virtually all of the common lines of communications which the U.S. and NATO had funded between 1945 and 1966.

France's withdrawal also began a steady run-down in the quality and size of French forces that still continues, and NATO was never able to fund the replacement of most of its lost lines of re-supply.

THE IMPACT OF MBFR

Negotiations with the USSR on Mutual Balanced Force Reductions proved the crowning blow to both "new realism" and any hope of implementing a true "flexible response." The U.S. initiated the MBFR talks in NATO less than two years after it persuaded NATO to adopt its new strategy, and the U.S. motives behind the effort were transparent and had nothing to do with arms control.

The NATO Allies were fully aware that Secretary Kissinger was using MBFR, and the promise of further force cuts, to soothe Senator Mansfield and allow the U.S. to support its build-up in Vietnam. In fact, many Allies came to distrust the U.S. so much that they feared a U.S. and Soviet deal over SALT and MBFR at the expense of Europe.

1968–1974: THE ERA OF FACADE WITHOUT PURPOSE

It is a tribute to U.S. and Allied politicians, military officers, and civil servants that NATO not only survived this period, but kept the downward trend in NATO's total forces under relative control, kept its defense expenditures high, made many individual force improvements, and preserved a facade of unity and purpose.

Although Allied manning in the Center Region dropped during 1968–1974, the cuts in total manpower, and in most measures of force strength, were far less than many U.S. experts had privately predicted.

Unfortunately, these real achievements, and the preservation of a strong facade, were not enough to cope with the improvements that began taking place in the Warsaw Pact. Dedication at the staff level could not deal with the broad and critical weaknesses in NATO's overall force structure that "flexible response" and the "new realism" had been intended to overcome.

In summary, the splintering of NATO's total force strength in the Center Region into National Corps Zones exacerbated NATO's decline in strength and readiness during 1968–1974, as NATO mal-deployed its land force strength to the wrong areas, and deprived itself of tactical and strategic mobility.

NATO's strongest element, the West German Army, had no way to rely on its Belgium, Dutch or even British Allies, and faced problems in contingency planning of an almost impossible magnitude.

The second strongest element in NATO, the U.S. Army, was deployed where its strength was least needed and other NATO forces would have been more suitable, and an almost "Maginot line" defense adopted because of its lack of armored mobility. The U.S. became locked into the less critical defensive position in the South, and had been cut off from NATO's integrated command from its logical LOCs by French withdrawal.

This made NATO critically vulnerable to an attack against its weakest Corps Zones, particularly if the Warsaw Pact should attack before these zones could be defended by NATO forces that would have to be deployed from far to the rear.

THE PARALYSIS OF "FORWARD DEFENSE"

The second major problem NATO failed to deal with was the heritage of its strategy of "forward defense." In the years before 1966, NATO gradually committed itself politically and militarily to defending as close as possible to the F.R.G. border. This strategy suited German political sensitivities, but it prevented NATO from sacrificing even a limited amount of West German territory so it could concentrate its armored forces against the main Warsaw Pact thrust.

"Forward defense" forced each NATO country in the Center Region to deploy virtually all its combat forces to provide a continuous static defense of NATO's long border with East Germany and Czechoslovakia. No NATO Army had the strength to both defend the entire border area, and maintain suitable mobile reserves in its Corps sector. It also locked NATO's best armored units in forward positions where it would be difficult to re-concentrate them and move them to meet the main line of Warsaw Pact advance.

The "forward defense" strategy had several other negative effects:

The West German border is not always a logical defensive line. There are many areas, particularly in the North and far South, where NATO should logically use terrain and water barriers, and towns or built-up areas, much further to the rear for its initial defensive positions.

It takes time to move to a forward defense position, and could take NATO units far more time to move defensive positions to the border than it would take a surprise attack by Warsaw Pact units to overrun them.

A "forward defense" has roughly the same effect as blowing up a balloon. It stretches NATO forces to a near breaking point to cover all the border area with static defenses. A Soviet armored thrust then has the effect of sticking a pin into this balloon. If it penetrates, NATO has no clear way to repair the structure before it collapses. With its forces spread piece-meal, NATO cannot concentrate, counter-thrust, or maintain a mobile defense in depth.

A "forward defense" exacerbates NATO's readiness and National Corps Zones problems in a destructive synergy. If any Corps Zones are weak, NATO cannot easily redeploy to cover them. Further, the gaps between Corps Zone boundaries are particularly vulnerable. "Forward defense" tends to make all of NATO no stronger than its weakest link.

At the tactical level, "forward defense" means that NATO must disperse its tanks and advanced anti-tank weapons, its artillery, and other major firepower systems to support the entire front. This increases the effect of NATO's numerical inferiority in major weaponry and artillery range, and greatly dilutes the firepower it can concentrate in one area. Almost inevitably, it also complicates NATO's problems of providing support, air cover and air defense, and close air support.

In general, "forward defense" bears a striking and unfortunate resemblance to the Anglo-French Plan D, which dispersed French forces before the German Blitzkreig in World War II. It also, almost by definition, is probably the worst possible strategy NATO could adopt for the German people. It does nothing to increase deterrence. It encourages Warsaw Pact tactical "adventures" in a crisis, and maximizes the probability that German civilians will suffer if war occurs.

NATO'S DEFENSIVE MOVEMENT PROBLEM

The defense of National Corps Zones, and the strategy of "forward defense," must be carried out by NATO divisions which are locked into caserne locations. Most of these casernes are poorly located for a "forward defense" strategy, and they force NATO combat units to make extremely complex defensive movements when they go from their peace-time locations to defensive positions in their National Corps Zone at the border.

While the details of these moves are classified, they are so complex that maps of such movements look something like a cross between a mare's nest and a diagram of the Gordion Knot. These movements also make NATO exceptionally vulnerable to surprise attack since the Warsaw Pact can often move to a NATO defensive position from its casernes more quickly than the NATO border.

NATO'S INDECISION IN AIR POWER

The fourth major problem NATO failed to address was its collective indecision as to the future structure of its air power. While individual NATO air forces improved their equipment during 1968–1974, and some major improvements occurred in NATO's command structure. NATO lacked the cohesion and leadership to properly modernize its forces in the Center Region.

NATO's airpower is ultimately dependent on national airpower.

Led by Lt. Generals David Jones and John Vogt, NATO did manage to integrate many aspects of 2 ATAF and 4 ATAF during 1968–1974, and laid at least the foundation for an integrated air defense and ground environment. Unfortunately, many other problems were left unsolved:

NATO never fully came to grips with developing an integrated approach to passive and active air base defense and dispersal. Each Nation pursued somewhat different approaches, and many NATO air bases remain vulnerable to air attack.

Air forces can only operate flexibly with each other if they use almost identical air intercept, interdiction, and close air support tactics. Almost all NATO air forces and armies use somewhat different interdiction and close air support tactics.

A similar integration must occur in avionics and air munitions capabilities, yet between 1968 and 1974, NATO sharply increased the diversity and incompatibilities between its I.F.F., intercept avionics and missiles, and weapons delivery and air-to-ground missiles. The lead which USAF obtained in avi-

onics and missiles had the ironic effect of making it particularly difficult for the U.S. to operate with Allied forces.

One of the most critical requirements of the new strategy of "flexible response" was the need to replace NATO's reliance on a nuclear strike posture, and quick reaction alert (QRA) nuclear strike aircraft, which were reserved for a single nuclear mission, with effective conventional air attack capabilities and the ability to fly large numbers of conventional attack sorties against Warsaw Pact armor. By and large, NATO's air forces failed to accomplish this during 1968–1974. They collectively did not buy sufficient munitions, they did not train properly, and above all, they did not develop an effective and coordinated approach to stopping Soviet armor.

NATO made little real progress in all-weather or night warfare attack capability during 1968–1974, although Warsaw Pact land forces greatly improved their attack capabilities and/or both conditions.

NATO's Nike-Hercules high altitude SAM defenses became obsolete during the late 1960's. They can now be easily suppressed by saturation, ECM, or maneuver avoidance techniques by modern Soviet fighters. While improvements took place in SAM-Aircraft C^3 coordination, NATO's SAM defenses were never properly modernized.

NATO's low altitude air defenses evolved in total choas. While new Soviet fighters acquired long-range, low altitude capability, each NATO country pursued a different course. Many NATO combat units still lack effective short-range, low-altitude, all-weather air defenses, and most are vulnerable in respects no longer applicable to Soviet land forces.

These problems were also heightened by competition between NATO arms manufacturers. Each nation attempted a patchwork fix for its air force using its own equipment or co-produced systems. The frequent result: "improvements" which made things worse because they increased incompatibilities between national air forces.

The inability of NATO air forces to concentrate on killing Soviet armor, their focus on long, slow wars and initial air supremacy, and the vulnerability of their bases and support facilities, has left NATO as a whole more vulnerable to unreinforced and surprise attacks. At the same time, it has ensured that NATO's air forces are weakest where NATO's land forces were weakest.

NATO'S LACK OF STANDARDIZATION OF TACTICS AND STRATEGY

With the previous exceptions in the case of air warfare, the partial paralysis of NATO force planning during 1968–1974 meant that each nation had to develop its own individual force structure, tactics, and strategy with little leadership from the NATO Military Committee, SHAPE, or the United States.

This created countless additional incompatibilities in NATO tactics and strategy at every level of war fighting, and these became institutionalized as nations invested in different weapons and tactical technologies. Each incompatibility made NATO growingly vulnerable to a Warsaw Pact attack that required cooperation by different NATO armies and air forces.

Each also increased the "learning curve" NATO forces would have to go through cooperating across National Corps Zones, and made NATO more vulnerable to a Warsaw Pact attack launched before NATO armies and air forces could improvise some pattern of cooperation between forces that had suddenly been re-deployed and brought to their war-time strength with partially trained manpower.●

OPENING JOBS TO OUTSIDERS

HON. DONALD M. FRASER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. FRASER. Mr. Speaker, for outsiders who do not know their way around Washington or do not have the right contacts, getting a job with the Federal Government has become an almost hopeless task.

With the creation of the Civil Service 95 years ago, the politically dominated "spoils" system was exchanged for what is an insidious hiring system, dominated by those already inside the Government. The "old-boy network"—not merit—determines who gets Federal jobs.

I am concerned that Federal Government jobs are virtually closed to outsiders. And I am concerned that women and other highly talented outsiders are being alienated from their own Government by this system.

The closed Federal hiring system is one more provocation that adds to the public's growing resentment of the Federal Government. This and other dissatisfactions with all levels of government eventually culminate in happenings such as proposition 13.

Outsiders, if given a chance, could stimulate improved performance and greater productivity in Government. As the Congress considers legislation to reform the civil service system for the first time in nearly a century, I think it is important to look closely at the inadequacies of the existing selection process. We need to open up the Government to outsiders at all levels.

I would like to call attention to the following news comment by Mike Causey that points up the problem:

[From the Washington Post, July 6, 1978]

OPENING JOBS TO OUTSIDERS

(By Mike Causey)

Only about 500 "outsiders" each year manage to clear all the bureaucratic hurdles and grab one of the 180,000 mid-management jobs in government that pay from $26,000 to $36,000 to start.

Carter administration officials are concerned about the relatively small number of individuals who come into government each year into important administrative, technical and managerial jobs.

Although thousands of vacancies come up annually at the Grade 13, 14 and 15 levels, the majority of them are filled in-house by government workers who have seniority and expertise and who know when vacancies occur and how to get them.

White House officials say that entering the government at the middle and upper levels can be a difficult and perplexing chore for someone who doesn't know the ropes.

For example, more than 18,000 people were rated "qualified" for GS 13, 14 and 15 level jobs last year. That means they met relatively high standards of work, education and related experience, and were qualified, in the government's eyes, for those senior level jobs. Of that number, only about 500 actually were hired in nonscientific occupations.

To make it easier for aggressive, qualified outsiders, the Civil Service Commission—as reported here yesterday—will cancel blanket "hunting licences" for everybody now rated "eligible" for senior level jobs. The ratings meant they had met minimum standards and could be called on and considered when jobs at those GS 13 through 15 levels came up.

Under the new system, which will begin in mid-August, outsiders seeking midlevel federal jobs will have to be more persistent in pursuing them, keeping up with openings and applying to the agency or CSC (usually CSC) when they find a job that matches their talents and skills.

Instead of getting an "eligibility" rating and then waiting to be called, the new system will mean that the more aggressive jobseekers will be the only people considered for most midlevel positions. The would-be job hunter will first have to find the job, then establish his or her eligibility. Officials believe it could increase the in-take of outsiders into the well paying management jobs, and will certainly reduce the number of people now eligible for blanket consideration but who, in fact, stand little chance of ever being called for a job interview.

Contrary to the report here yesterday CSC officials say that few agencies will be given the authority to rate candidates for midlevel jobs and accept applications directly. In most cases the commission will continue to do that, although some agencies will be authorized to handle their own rating and hiring in time.●

SCHARANSKY DISPLAYS COURAGE IN FACE OF SOVIET OPPRESSION

HON. NEWTON I. STEERS, JR.

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. STEERS. Mr. Speaker, as my distinguished colleagues know, on Friday, July 14, Anatoly Scharansky was found guilty by a Soviet court of spying for the United States and of Soviet agitation, when in reality, his major "crime" was to try to monitor Soviet compliance with the Helsinki accords. The court sentenced Mr. Scharansky to 13 years imprisonment: 3 years in prison and 10 years at hard labor. This brutal sentence symbolizes the Soviet's attempts of political and ethnic oppression, and a basic disregard for human rights. It is tragic that in the 20th century a person can be convicted for asserting his basic human rights and liberties.

Unfortunately, Mr. Scharansky is only one of many who is victimized by this political oppression and abridgement of human rights. Many other activists have received severe sentences for alleged crimes against the Soviet Union.

A statement, made by Mr. Scharansky before the verdict was declared, best characterizes the injustice and inequity that now exists in the Soviet Union as well as the great courage and determination of this man, Anatoly Scharansky.

I would like to insert Mr. Scharansky's statement at this point:

HAPPY TO HAVE LIVED WITH MY CONSCIENCE

(The following is a partial text of the statement by Soviet dissident Anatoly Scharansky yesterday to a Moscow court before the verdict and sentencing. It is based on notes taken by Scharansky's brother, Leonid, who attended the trial.)

In March and April [this year] during questioning, those who were conducting the investigation warned that with the position I had taken during the investigation, and which I am following here in court, I face a firing squad, or at least, 15 years in prison.

If I agreed to cooperation with the investigation with the aim to liquidate the Jewish emigration movement, I was promised quick release and reunion with my wife [who lives in Israel]. Now, as never before, I am far from this dream.

It seems I should be sorry about that, but it is not so at all. I'm happy. I'm happy that I lived honestly and in peace with my conscience, and never lied even when I was threatened with death. I am happy to have helped people. I'm proud that I made acquaintance and worked together with honest and brave people such as [Andrei] Sakharov [Yuri] Orlov, [Alexander] Ginzburg, followers of traditions of the Russian intelligentsia.

I'm happy to be a witness to the process of liberation of Jews of the U.S.S.R. I hope that those absurd charges against me, and in addition, against the whole of the Jewish emigration movement, will not prevent my people from liberation. My friends and relations in the emigration movement for life with my own wife, Avital, in Israel.

[For] more than 2,000 years, my people [have lived] in Russia. But wherever the Jews went, every year, they repeated, "Next year in Jerusalem." Now as never before, I'm far from my people, from Avital, and I'm facing long and hard years of detention.

I say, addressing my people and my Avital—"next year in Jerusalem!"

To the court which is going to pronounce the verdict already prepared, I have nothing to say."●

CATTLEMEN CLAIM LOSS

Hon. Theodore M. (Ted) Risenhoover

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. RISENHOOVER. Mr. Speaker, on June 7, the eve of President Carter's announcement to increase beef imports by 200 million pounds, I warned about the devastation of such a move both to cowboys and consumers.

I have received a letter from Bill Brunk, president of the Adair County, Okla., Cattlemen's Association, who reports that my predictions have unfortunately come true.

Cattlemen have suffered a 20-percent loss, Brunk reports, and there has been no reduction in retail beef prices. I ask unanimous consent to place Mr. Brunk's letter in the RECORD for my colleagues to study.

ADAIR COUNTY
CATTLEMEN'S ASSOCIATION,
July 13, 1978.

Hon. THEODORE M. RISENHOOVER,
House of Representatives,
Longworth House Office Building,
Washington, D.C.

DEAR MR. RISENHOOVER: The members of the Adair County Cattlemen's Association of the state of Oklahoma are most concerned about the increased imports of foreign beef and its effect on the market price received by American Cattlemen.

After experiencing 3 to 4 lean years and producing beef at a financial loss, we were most enthusiastic when the market situation indicated a strong signal of increased price.

It appeared, to we beef cattlemen, that we should again increase our herds to a level whereby a financial gain could be attained should the market trends hold or even increase.

Then all of a sudden we received another administrative jolt and set back when the President increased the beef imports resulting in an immediate drop in the beef cattle prices received by farmers. All this did was increase the beef in New Zealand by 30% and reduced the price received by farmers in the United States by 0.12 per pound or about 20%. If this was put into effect to reduce inflation it hasn't worked. There has been no reduction in the price of beef and beef products on the retail level.

It is high time for all politicians to remember a bit of history. A nation is only as strong as its agriculture. We go on record, demanding that American farmers and ranchers be recognized and supported in their endeavors that make and keep America a strong nation. Don't let foreign influence weaken our nation through our agricultural endeavors.

Any thing you can and will do to increase agriculture stability in these good old U.S.A. will be deeply appreciated.

Sincerely,

BILL BRUNK, *President,*
Adair County Cattlemen's Association.●

CLYDE M. JACKSON

HON. WILLIAM S. MOORHEAD

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. MOORHEAD of Pennsylvania. Mr. Speaker, I lost a friend this past weekend when Clyde Jackson died.

My relationship with Clyde goes back more than 10 years when he founded the United States Black Front in Pittsburgh.

I worked with Clyde on a variety of economic development proposals for the city and just 2 weeks ago he and I testified together before the House Judiciary Committee on a bill of mine to lift the surety bond requirements from small and minority contractors doing business with the Federal Government.

Clyde was struck down in the prime of his life. As president of the Greater Pittsburgh Business Development Corp., he was just beginning to realize some of his development goals for our community.

In the past 10 years, I spent many a fevered occasion with Clyde working on this proposal or that. He was a man possessed, possessed with the idea that he could get a piece of that American economic pie for the black community. And because of Jackson, many black businessmen and workers, who otherwise might have been denied, will get a piece of that pie.

I note with great sorrow the passing of a fine man, a man who never stopped trying to improve for the community the conditions he found around him.

I extend my sympathy to Clyde's wife and family.

I would like to include in the RECORD at this time an obituary from the Pittsburgh Press.

CLYDE M. JACKSON

Clyde M. Jackson, 52, founder of United Black Front, an organization designed to promote minority businesses and employment, died Saturday at Presbyterian-University Hospital.

Mr. Jackson of 1875 Linton St. founded Wylie Centre Industries, the only black-owned nail manufacturing plant in the world, and was responsible for securing the first federal economic development grant for minorities in Pittsburgh.

Raised in Soho and on Wylie Avenue in the Hill District, Mr. Jackson was president of the Greater Pittsburgh Business Development Corp. at the time of his death.

Survivors are his wife, Mary, a son, Clyde Jr.; two stepsons, Fred and Alvin Glass; four sisters, Mrs. Elmira Lovejoy, Mrs. Katie Lee Stoves, Mrs. Clara Benton and Mrs. Isrella Lee Stephens; five brothers, James, William, Norman, Raymond and John; and one grandson, all of Pittsburgh.

Friends will be received from 7 to 9 tonight at West Funeral Home, 2215 Wylie Ave., Hill District.

Services will be at 11 a.m. tomorrow at Bethel African Methodist Episcopal Church at Morgan and Webster avenues.

Burial will follow at Greenwood Cemetery, O'Hara Township.●

WILLIAM BURNS OBSERVES 25TH ANNIVERSARY WITH KDKA-TV NEWS

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. MURPHY of Pennsylvania. Mr. Speaker, today marks the 25th anniversary of William M. Burns with KDKA television news. Bill Burns, as he has been known to literally millions of people throughout the years, has distinguished himself as a pioneer in television news in many aspects. KDKA itself is the heart of the history of the broadcast industry and Bill Burns has made himself part of that heart. Throughout his distinguished career, Bill Burns has reported on the events that have touched the lives of Pennsylvanians ranging from the human dramas that evolved daily on the streets of his city of Pittsburgh, Pa., to the interviews with Presidents and other international figures. Throughout it all he has never failed to pay attention to the details of the craft that has made him the consummate professional that he is. Even as he is now a major public figure he still seeks the street assignments, the long hours in the editing room, and the careful search at the typewriter for the right phrase to capsulize the events of the day for the thousands who depend on him for their news.

But his service goes beyond his own chosen profession as commendable as it has been. He served his country in World War II with the 30th Infantry serving as a staff sergeant and was severely wounded in action participating in the historic invasion at Normandy, that turned the tide of the war.

He has been a father and family man who can take pride in the contributions that his grown children are now making to southwestern Pennsylvania. He is fortunate as a father to see his son Michael as an attorney with a distinguished Pittsburgh law firm and his daughter,

Patti who joined KDKA's news department in 1974, continuing in her father's profession with excellence.

With this sterling record already behind him he continues to serve his public and it is my wish that he continue to do so for many years to come with my thanks and gratitude for a job well done.●

DO WE HAVE AN URBAN POLICY?

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. GARCIA. Mr. Speaker. In yesterday's CONGRESSIONAL RECORD I shared with you the first in a series of articles by Robert Scheer that recently appeared in the Los Angeles Times. The second article in the series presents an assessment of our current plans for turning our cities around again. It is, tellingly, I feel, headlined "Urban Plans: Much Talk, Little Action". Mr. Scheer paints a pessimistic and bleak picture of what the Federal and local administrations have done and are planning to do. I insert this article with the hope that as we proceed, during the next months, to act on President Carter's urban policy proposals, that this picture is before us as a goad to change what must be changed and support what should be supported so that we create a policy with teeth and guts that will give the lie to a negative view of our cities' futures.

[From the Los Angeles Times, June 23, 1978]

URBAN PLANS: MUCH TALK, LITTLE ACTION

(By Robert Scheer)

(This is one of a series of articles by Robert Scheer examining the U.S. urban crisis. This segment concludes an assessment that has identified the urban crisis with an expanding underclass of poor people—mostly minorities.)

Can Jimmy Carter save the South Bronx before Jerry Brown rebuilds West Oakland?

Urban strategies having now become the rage, there is hot competition among candidates, officeholders, think tanks, private enterprise and a myriad of special-interest pleaders to produce the freshest, fattest, most comprehensive . . . brochure.

To date, the emphasis has been rather more on the packaging of strategies than on implementing actual programs.

This is understandable since programs are passe—they cost a great deal of money, probably don't work and get middle America upset, or so it is widely believed.

It is also widely believed, at least among those who are paid to grasp such matters, that middle America has had it with the problems of the blacks, Hispanics and the poor—having done so much for them.

In fact, however, we have no way of knowing what has been done for the poor or the cities.

When Carter's advisers first began developing his urban program, they discovered that information on the effect of what had gone on before was scattered and most often worthless.

They knew that the Bronx was in trouble but no one knew how much federal money had gone into the Bronx and what it had accomplished.

Although Carter was to double funding for Comprehensive Employment Training Act programs, his aides confessed that there were no accurate figures on whether CETA employees had gone on to find permanent jobs in the private sector. There was simply no national followup on what happened to CETA employees after they left the program.

School desegregation has represented perhaps the greatest federal impact on the cities through the federal courts but also through the Department of Health, Education, and Welfare. Yet the continuing effect of court-ordered desegregation never entered into the months of discussion, study and meetings that produced Carter's urban policy.

It was treated as a passe issue even though for many cities and presumably at HEW and the Justice Department, it remains a very live one. Not one of the scores of high Administration officials interviewed for this series was aware of the fact that busing was very much an issue for Los Angeles and Columbus, Ohio, to name two of dozens of cities.

When pressed on this, Jack Watson, the White House assistant in charge of coordinating the President's urban program, responded: "I don't think busing is much of an issue now. You know, I have not thought about busing in a long time. I've not discussed busing in the context of this urban policy at all.

"I know that busing remains an issue in the cities across the country and I know that educational problems that are caused by busing have not been adequately addressed, so that I don't think it's an irrelevant issue.

"But I think it's an issue that this policy (the President's urban program) didn't address as a free-standing one . . . Did we look at Los Angeles and Cleveland and Wilmington and other cities and get assessments of the degree of volatility of their education situation? The answer is no."

Ralph Schlosstein, top assistant on the urban policy to White House aide Stuart Eizenstat, said he had never discussed busing and its impact on the cities with anyone in government while assembling the Administration's urban policy.

"I think it's one of those things that is under the rug, quite frankly," he said.

"It's an issue that, politically, every politican would love to see settled in the courts. . . . Whenever you get a hot one like this, it is very easy to fall onto the judicial system rather than to rely on the legislative process."

But if the Administration is not willing to discuss busing, then it is quite possible that it is not serious about dealing with the urban problem.

It is understandable that politicians are hesitant to deal with busing, even on the presidential level, but it is difficult to imagine intelligent planners spending a good deal of time on the plight of the cities without considering this facet of the problem.

These planners tend to make public pronouncements that in no way jibe with their private perceptions. Schlosstein said with refreshing candor during one interview:

"I have dozens of friends who are what I consider to be really committed, confirmed city-livers—which I am—and, you know, when their children come of school age it's a very, very tough thing to stay in the city. A lot of them don't. . . . I mean it's a schizoid existence."

One of those who does send his children to the public schools of the District of Columbia is Ernest Green, a black assistant secretary of labor. But he observed that most of his associates who have school-age children—black and white—don't, and he added:

"When some young black kid in the ghetto tells you that liberals are full of ———, that's what he means—that you say one thing and you do another. I think that both middle-class blacks and whites that want to have some impact on schools have got to keep their kids in there and fight for quality education."

Busing is the main program in existence today aimed at assimilating the underclass of poorer minorities into the mainstream. However, there is widespread agreement that it is not doing that for the central city if for no other reason than that there are not enough whites left to bus.

Los Angeles is an exception because some of its suburbs are "captured" within its extensive city lines, but even here whites may be in short supply in the near future.

Both Carter and Brown urban renewal programs are designed apparently in the hope that busing will just go away. Yet if middle-class white families are attracted back to the central city in appreciable numbers, as is the hope of the Carter plan, then they will fall once again under court-ordered desegregation, which is why few of those now coming back have school-aged children.

It is difficult to conceive of an urban program that does not take busing into account, but that is the fact with the current proposals. This is not the fault of the Carter Adminisration alone.

As the busing issue illustrates, the incoming Administration was confronted by two serious problems in developing an urban strategy. First, Carter's urban strategy inevitably carries the baggage of past programs designed to solve problems of poverty and racial discrimination centered in the cities.

Second, whatever the inherent weaknesses of the Kennedy/Johnson domestic program, it never had much of an opportunity to prove itself because eight years of Republican administrations were aimed more at dismantling than implementing it.

For example, busing as a means toward integration in the North in the late 1960's and '70's was ordered by the courts but administered on the Federal level by Republican Presidents who made clear their disbelief in the tactic.

The combination of exaggerated claims and failure to implement—as seen in the busing controversy—runs through most of the social programs which in retrospect almost seem designed to fail.

As Ernest Green stated: "I think that busing, as were many of the Great Society programs in the '60's, was oversold as to what was going to be the outcome. And that refusal to see this as a long-term proposition both in terms of white folks as well as blacks is to just overbill, overpromise and then when we're unable to deliver the goods everybody says: 'Well, ——, that proves it. It was a failure.' "

Whether because of, or despite, those social programs, the central cities' populations are now blacker and poorer than when the effort to desegregate American life began.

And the problem of the city increasingly centers around an underclass of the minority poor who are insufficiently educated and trained to find work in a modern economy. Although the Administration will now spend some additional funds on vocational job training programs through unions and industry, the schools remain the serious vehicle for advancement.

And there seems little doubt that the central city schools are a disaster, providing neither integration nor quality education.

There is even a serious possibility that some major city school systems will not be able to open in the fall for lacking of funding.

The central city schools, having become predominantly nonwhite and Hispanic, are denied access to the wealth and skills of the middle class, which has departed for the suburbs.

Whatever the causes of white flight, it has produced a situation in which black and Hispanic children in many central cities cannot get an integrated education unless pupil transfer is extended to the suburbs.

According to a U.S. Civil Rights Commission survey last year in the 26 largest cities, three out of four black children are assigned to what the report termed "intensely segregated schools"—that is, more than 90 percent minority.

It stated that: "The problem is growing worse, not better . . . Increasingly the boundaries between cities and suburbs have become not merely political dividing lines but barriers that separate people by race and economic class."

The future of school desegregation in these large urban areas, the commission wrote, dies beyond the city line.

"If we are correct in these conclusions, a metropolitan school desegregation remedy is required under the Constitution and applicable Supreme Court decisions," the commission wrote.

To date the Supreme Court has not accepted this conclusion, but proponents of the metropolitan solution think that the court has left the door open in its instructions in the Detroit case and in its handling of the Wilmington, Del., case, where a metropolitan solution is in the works.

One of the first to suggest that a metropolitan plan might be necessary was U.S. Court of Appeals Judge J. Skelly Wright. In his 1967 decision ordering Washington, D.C., schools to spend the same amount of money on black pupils as on white pupils, he noted:

"The plan . . . should anticipate the possibility that integration may be accomplished through cooperation with school districts in the metropolitan suburbs . . . . Certainly if the jurisdictions comprising the Washington metropolitan area can cooperate in the establishment of a metropolitan transit authority, the possibility of such cooperation in the field of education should not be denied . . . ."

This "metropolitan solution," which many civil rights groups now are pushing in court cases across the country, including Los Angeles and Atlanta, sounds innocent enough. But to many suburbanites, it challenges the very roots of their civilization.

When the affluent school districts of Great Neck and Scarsdale voluntarily sought to bring in some students from the New York City school system, according to New York's former Commissioner of Education Ewald Nyquist, "In both cases there was so much hostility among community members that plans for implementation were dropped. The affair triggered the dismissal of the superintendent of schools."

He recounted a similar experience with a suburb outside of Buffalo, the town of Williamsville, which was going to accept 100 minority children from Buffalo to add to its school population of 11,000.

"There was such a furor . . . the plan was dropped," the commissioner said. He concluded:

"As you can see from some of these examples, I am all for metropolitan desegregation, and it is probably the only solution for certain suburban districts and large cities. But I do not have the power as State Education Commissioner to order it, and New York State will not, for the foreseeable future, remove the legal barriers to accomplish it."

The resistance is so widespread that when Congress came up with funding to reward school districts in the suburbs that would voluntarily devise such plans, it found no takers, and the funding program was terminated in 1974.

One expert, Edgar G. Epps, professor of urban education at the University of Chicago, discounts the prospects for any voluntary plan for merger of the problems of suburban and urban communities because "the fear of racial and economic integration" has reached a "level which approaches paranoia. The current polarization of central city and suburban residents has such strong racial motivation that mergers (between city and suburb) are virtually impossible in the near future."

That is why proponents of the metropolitan approach look to the courts for a push in that direction. In his much-quoted Harvard law school address on the 20th anniversary of the decision in Brown vs. Board of Education, Judge Wright declared that if the Supreme Court were to continue to act as if the crossing of school district lines in desegregation cases were not permissible, "the national trend toward residential, political and educational apartheid will not only be greatly accelerated; it will also be rendered legitimate, and virtually irreversible, by force of law."

The court has continued to act that way and the trend toward "apartheid" has accelerated.

Three cases where the metropolitan plan has been ordered by the lower courts are Indianapolis, Louisville and Wilmington. In the latter case, which is just being implemented and which is on appeal, 82% of the students were black while fewer than 6 percent of suburban students were.

Louisville three years ago became the first city in the country to implement court-ordered metropolitan desegregation. There is disagreement among observers over whether it is working well. But a recent study by state and local education in Kentucky recommends the metropolitan plan as offering the best hope for minimizing white flight.

In any event, other cities are girding for similar encounters with their suburbs.

The mood of the pessimist was summarized by David Segal, a city planner in Philadelphia, whose school system is on the brink of bankruptcy and under pressure by the state to come up with an acceptable desegregation plan. Segal said, "There is too much hostility between the city and the suburbs for a metropolitan plan to work. If Philadelphia tries to export its problems to the suburbs you'd have a revolution on your hands."

Given the intensity of this situation, the Carter Administration simply has sought to avoid the entire matter.

The same can be said for California's Gov. Brown.

When pushed, politicians in both Washington and Sacramento deny that they have authority to act. Brown says it is the federal government and the courts that have authority over the schools. And the Carter staffers say it is the state governments that must act to redistrict schools and, in general, incorporate the city into the economic life of its surrounding area.

The busing controversy illustrates the larger problem of an urban underclass isolated from mainstream America, which is now centered in the suburbs.

Just as the predominantly white suburbs are unwilling to accept minority students from the cities, they have rejected government programs which would assist the minority poor, though they would bring additional federal income into their communities.

As Labor Department and HUD officials make quite clear, the suburbs reject the subsidized housing or job-training programs out of fear—that they will attract the minority poor from the inner cities.

Many suburbanites have come to define their security by their distance from the outstanding social problems of American life.

The real issue is whether the urban poor are to be permitted to live within mainstream America or whether the central cities shall continue their progression toward becoming American Sowetos—zones for the unwanted poor.

Without access to the skills, jobs, good schools and the money in the suburbs, the cities will stagnate.

As Carter aide Schlosstein put it: "In a lot of cities you have a situation where the strongest tax base is outside the central cities. Even the most depressed cities—take Cleveland, for instance. The surrounding area is a healthy one. You know, you have some of the wealthiest people in the country living in Shaker Heights in the suburbs of Cleveland.

"Well, the courts have made a decision not to bus across or tax across these lines . . . The city supports the symphony, the museums, the zoo, the airport, the parks, the central business district where all these people work, and the city gets zero dollars from those people other than what they spend in the city. . . .

"Twenty per cent of the people in the country live in the central cities. As a result, it is expected that a higher percentage of new federal building and defense contracts will be let to industries in the cities. There is also a program of tax credits to attract new industry and an investment bank to guarantee loans."

One congressional critic of the program, Rep. Ronald V. Dellums (D-California.), said: "So what else is new? It's more cosmetics. The amount of money spent ($12 billion) is so small for so many hundreds of cities it's a joke."

White House assistant Schlosstein responds, accurately enough, that this is the first time that any administration has bothered to formulate an urban policy. And it is possible that this package will do more for the cities than any previous program. But most insiders agree that it remains a meager response to an immense problem.

To the Georgia state senator and black civil rights activist, the current "accommodation" is proof that "racism is no longer embarrassing. It's acceptable now. It's defensible. And maybe it's because we have such a scarcity of things and people feel so possessive about the few things they do have—their homes, their jobs, their schools—that these attitudes become perfectly permissible. They're defending these traditional American values."

Bond's prediction is that the poor will be maintained in their current status. "I mean 25 years of just being sort of frozen in place. What's happened is that we've developed this permanent underclass. You know, the American myth and fact used to be that people sort of moved in and out went up and down.

"There's always been this little knot at the bottom. But now this little knot of people at the bottom has become larger, No. 1, and has become permanent, No. 2. The mother's a welfare case, the child is a welfare case, the child's child is a welfare case and they all live with the grandmother who's a welfare case."

So maybe the cities will remain the containers for the poor and knots of unemployed males on street corners, some maximizing their energy to make dope deals in order to get a little high, the rest just waiting . . .

Perhaps the cities will be left with the dubious achievement of black political power to preside over burned-out buildings, gouging landlords, welfare cheats, poverty pimps and the majority of poor people who never commit crimes but who are its most frequent victims, trying against hopeless odds to raise children properly so they won't have to live this way.

And the cities will have become the final homeland of a minority underclass of unskilled, uneducated, unmotivated people who are no longer in need as a source of cheap labor on Southern farms or in the textile and garment industries and who will not now go back from where they came.

PRISONER MALTREATMENT IN NORTHERN IRELAND

HON. DOUGLAS WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. WALGREN. Mr. Speaker, in coordination with the Congressional Irish Caucus, I want to draw the attention of my colleagues to one of the many cases of prisoner abuse in Northern Ireland documented by Amnesty International. Similar to 77 other such cases of prisoner maltreatment, this case involves British troops and Irish prisoners at Castlereagh Barracks in Northern Ireland.

Case No. 62 involves a male arrested in 1977 and taken to Castlereagh Holding Centre. During his 3-day detention, it is alleged that he suffered severe beatings about the head and stomach. His captors tortured him as they bent his wrists and arms behind his back. In addition, he was thrown against a wall and choked until he was unconscious.

When No. 62 was released, he was examined by his own doctor. The findings indicated a punctured ear drum, damage to other parts of his left ear, and severe bruising over much of his body. The cause of these injuries was the beating he suffered while he was detained and in the complete control of authorities in Northern Ireland.

Mr. Speaker, we all should be deeply troubled by cruel violations of human rights throughout the world. Violence against individuals held in prison is no different whether it be in South Africa or Northern Ireland. I want to offer case No. 62 as a reminder of the tragic strife and violence in Northern Ireland. It is my sincere hope we can prevail upon the British Government to put a stop to these kinds of violations of human rights and move toward a just settlement of the Northern Ireland situation.●

SENATE—*Wednesday, July 19, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 9:45 a.m., on the expiration of the recess, and was called to order by Hon. MURIEL HUMPHREY, a Senator from the State of Minnesota.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

Our Father-God, our need is our prayer. So we thank Thee for this hallowed moment each day when we lift our vision above all duty, all contention, all stress and allow Thy gentle, cleansing, and renewing spirit to flow through our being. Without Thee we do less than our best. With Thee, our best efforts surprise us and make us glad in Thy service.

We are grateful for this moment when there comes to us the hush of solemn thoughts, vistas of splendor, windows of insight, visions of a better Nation and a better world. Grant us wisdom higher than our own, strength mightier than our own, and wills conformed to Thy will.

Breathe through the things that are seen the peace of the unseen and the eternal. We pray in the Redeemer's name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The second assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 19, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable MURIEL HUMPHREY, a Senator from the State of Minnesota, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mrs. HUMPHREY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Journal of the proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Environmental Pollution Subcommittee of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Thursday and Friday of this week to hold hearings on the Toxic Substances Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Subcommittee on Health and Scientific Research of the Committee on Human Resources be authorized to meet during the session of the Senate on Thursday and Friday of this week to consider S. 2755, the Drug Regulation Reform Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate today to hold a markup session on S. 3077, the Export-Import Bank Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Madam President, I have nothing further.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. BAKER. Madam President, I have no requirement for my time, except to say that I observed the distinguished present occupant of the Chair this morning in her presentation on network television comport herself with great dignity and credit to the Senate.

I yield back the remainder of my time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from North Carolina (Mr. MORGAN) is recognized for not to exceed 15 minutes.

GOVERNMENT INTRUSION

Mr. MORGAN. Madam President, I wish to speak briefly this morning in the Senate on Government intrusion into the lives of individual Americans, a subject on which I have spoken numerous times here on the floor of the Senate.

As a member of the Senate Intelligence Committee, as a cosponsor of Senator KENNEDY's bill to control Government wiretapping and of the bill to bring our intelligence community under the rule of law, I have long been concerned with need to prevent the Government from intruding on the civil liberties of individual Americans. This is a difficult task when dealing with national security, for we must balance the rights of 1 person with the need to protect 200 million.

When we are not dealing with the national security of our country, the problem becomes much less complex. We must never forget that it is our insistence on the protection of individual civil liberties more than virtually any other society, that has made this the best country in the world.

Nearly 200 years ago, Thomas Jefferson told us that:

> The natural process of things is for liberty to yield and government to gain ground.

Recent actions, involving the Social Security Administration, brought these thoughts to mind. This incident is especially instructive, for it clearly demonstrates the difficulty in protecting liberty against government.

Social Security Administration officials in North Carolina were asked by Secre-

tary Califano and Sara Craig, HEW's principal regional official in Atlanta, to clip newspaper articles from local papers and monitor radio and TV broadcasts, dealing with the negotiations between HEW and the North Carolina State Board of Higher Education over alleged civil rights violations and the appropriate affirmative action response.

These instructions reached the attention of the Atlanta Constitution. Thereafter, I wrote Secretary Califano describing my concern over this activity, and have just received his prompt and frank reply. I will later ask unanimous consent that all three items be printed in the RECORD immediately following this statement.

This incident raises several serious issues. Social security employees were asked to engage in actions for which they have no legal authority. We also have a possible abuse of social security trust funds. The Atlanta Constitution quoted a final memo filed after the information gathering was over:

> This project required a great deal of time because it was necessary to telephone the manager two or three times each day, bundle up material, get it typed, etc.

These issues pale next to the specter of another Government agency getting involved in intelligence operations, and this is what we have here.

In my following remarks, I intend no personal criticism of Secretary Califano. I believe him when he says that this "has been a normal function of the Social Security Administration for many years." Furthermore, to an extent, I appreciate his attempt to remain aware of public attitudes. All too often Federal bureaucracies are accused of being insensitive to local needs and desires.

Secretary Califano told me that:

> Some social security staff officials clipped articles in their local newspapers and reported on radio broadcasts that they heard.

These activities were the result of a "very limited request and no 'big brotherism' or political chores were involved." And I will even concede that the orders were given and carried out for the best of motives.

But, when is the request no longer limited? When is "big brotherism" involved?

We have here another Government agency establishing the beginnings of an intelligence-collecting agency. Not too long ago, we were faced with the IRS having collected information, from the media, about potential taxpayers, filing it away, and rapidly building up over 300,000 files. Small projects begun for innocent purposes can easily become large and harmful.

In the case we have before us here, I am interested in knowing what happens to the collected information now that the original reason for gathering it is no longer with us. Has it been thrown away, as it should have been, or, as is more likely, has it been filed away for possible future use?

It is also difficult for me to see the need for such information gathering. If a person is denied a loan by the Small Business Administration, one does not need to be a sage to determine how he will feel. Similarly, the reaction of political leaders anc. the media, in North Carolina, to the possible loss of $90 million of Federal aid to the State university system should have been obvious. In any case, few opportunities were lost in communicating these feelings directly to the Secretary.

While it might possibly be appropriate to collect some types of information, others should not be collected. Initially, the social security employees were asked to monitor the reaction to Secretary Califano's speech on March 22.

Later, they were asked to report on a meeting of UNC's board of governors, and then on the visit of Vernon Jordan, Director of the National Urban League, to North Carolina. If the first request was not inappropriate, it would seem clear that the last two most certainly were. These latter two requests were not for reports on "public opinion and media reaction," which the Secretary stated was normal and appropriate, but were for intelligence, pure and simple. I believe that this reporting on individual activities indicates that Mr. Califano may have some trouble drawing the admittedly fine distinction between monitoring radio media and collecting data on individuals. This is most serious, for, as Justice Brandeis told us:

> The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding.

We would all be much safer if these lines did not need to be drawn; rather, this type of information gathering should be completely banned, except when undertaken by a limited number of authorized agencies to protect the security of the people of the United States.

There have been recent reports about the failure of the Social Security Administration to adequately protect the information it collects on the millions of people who belong to the system. Here again, we have an example of a failure on the part of HEW and Social Security to properly respect the rights and liberties that each American is supposed to have. I find this tendency disturbing. It is time for liberty to gain, and for Government to give ground.

Madam President, I ask unanimous consent that an article from the Atlanta Constitution dated May 14, 1978, entitled "Social Security Workers Used in School Desegregation Battle," a copy of a letter from Mr. Joseph A. Califano, Jr., addressed to me, dated July 6, 1978, along with my letter to Mr. Califano, dated May 18, 1978, be printed at this point in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SOCIAL SECURITY WORKERS USED IN SCHOOL DESEGREGATION BATTLE

(By Leonard Ray Teel)

Social Security employees and equipment were used this spring to help Health, Education and Welfare Secretary Joseph Califano Jr. in his school desegregation battle with North Carolina authorities.

On directions from high-level HEW officials, workers paid from Social Security trust funds were ordered to monitor public reaction in the news media to Califano's warning that North Carolina's predominantly white colleges might lose federal funds.

In offices across North Carolina and in the Atlanta regional headquarters, Social Security executives were called upon in March and again in April for priority reports dealing with the desegregation dispute, which Sara Craig, the top HEW official for the South, concedes is "politically loaded."

North Carolina was part of President Carter's solid support in the 1976 election. But public officials took a stubborn stand behind their university system, which they insist leads the South in quality education.

Califano has announced he is withdrawing his order to withhold the federal funds, an order he felt might contribute to further segregation of the 16-campus system.

More political chores such as a information-gathering project are expected by Social Security because HEW and North Carolina officials are still butting heads over a desegregation plan acceptable to Califano's new leadership at HEW.

The mission this spring for Social Security employees, handily located in communities across the state, was to monitor radio, television, and newspapers.

They were told by HEW to note the reactions of the state's leaders to Califano's March 22 speech threatening to "defer" certain federal funds targeted by HEW lawyers, if no acceptable desegregation plan was reached by the HEW deadline.

The first information gathering effort began the day of the speech, March 22. Social Security employees in 11 offices from Asheville in the west to Greenville in the east used their sophisticated electronic communications network to report the news coverage and comments of public officials.

Employees in field offices relayed information to Social Security's southern regional headquarters in Atlanta's 101 Marietta Tower. The first reports were being filed within 12 hours of Califano's speech.

The morning after the speech, the information files Social Security had assembled were turned over to HEW's southern headquarters five floors below in the 101 Marietta building.

From there, the pertinent information was forwarded to HEW's deputy undersecretary for intergovernmental affairs in Washington, Dr. Eugene Eidenberg, a top Califano aide.

Although the first rush was completed within 18 hours, Social Security employees continued throughout that week sending more information.

Then in April, records show that HEW used the Social Security system again. This time, HEW wanted reports on a meeting of the North Carolina university system's board of governors. Then the federal agency asked for information about the visit to North Carolina of Vernon Jordan, executive director of the National Urban League and a past critic of the Carter administration's policies toward blacks.

HEW's view is that the state still maintains the vestiges of de jure segregation in universities which HEW says do not offer blacks and whites equal educational opportunities. Using Social Security workers to gather information this spring was proper, HEW officials feel.

But although Social Security has been under HEW since 1953 and has shouldered HEW's Medicare program since 1965, the agency is not used to running such political errands.

Robert Ball, Social Security chief under Presidents Kennedy, Johnson and Nixon until 1973, says that former HEW secretaries allowed Social Security officials to operate fairly independently.

After the first political chore in North Carolina, one suspicious Social Security ex-

ecutive who prefers to remain anonymous leaked a copy of the files.

"Strange use of trust fund monies," he said. "Big Brother already is watching you but you just don't know it."

Social Security's Southern regional commissioner, Gordon Sherman, says he was only doing his job in ordering his managers or stand-ins to get the information for HEW.

Referring to Califano, Sherman said: "He's my boss."

Sherman said he did not send HEW a bill for the Social Security services. He did not have any idea of labor and electronics costs involved in the watchdog operation.

At HEW, officials saw no violations of Social Security's function or its trust fund in the North Carolina mission.

HEW's Ms. Craig regarded the operation as routine.

"We're in this together," said Ms. Craig, who remembered that she personally asked Sherman to alert Social Security employees for Califano's March 22 speech.

"Information," she said, "is the name of the game." With the network's cooperation, Califano "can make a better decision," she added.

"I don't feel like it cost him (Sherman) anything," Ms. Craig said, referring to the possible expense of trust funds.

"I cautioned Gordon that I didn't wish to make any unreasonable request," she said.

"There was a great deal of urgency," Ms. Craig conceded. She said HEW wanted to get the information "as quickly as we could."

Sherman said Ms. Craig telephoned him on a Sunday, March 19, three days before Califano's speech. He immediately assigned the job to his "special projects" coordinator.

When the project was finished, the coordinator, Alan Harris, filed a final memo, which said in part:

"During the week of March 20 and continuing through March 27, the Special Projects Staff worked closely with nine district (actually 10) offices in the state • • • SPS coordinated the project for the ORC (Office of the Regional Commissioner-Social Security), PRO (Principal Regional Office-HEW, Ms. Craig) and HEW Washington.

"This project required a great deal of time because it was necessary to telephone the managers two or three times each day, bundle up material, get it typed, etc. But, the project was successfully completed as requested • • •"

In the end, the Social Security files contained the names, and media-expressed opinions, of a variety of North Carolina officials about Califano's speech.

Among them were Gov. James B. Hunt Jr., quoted as saying he was deeply disappointed in Califano's decision; U.S. Sen. Jesse Helms, reported as saying he would filibuster against HEW's budget; and the state's attorney general, Rufus Edmisten, quoted as saying people can never tell what HEW standards are.

Also named in the dispatches from the Social Security offices were University of North Carolina President William C. Friday, University of North Carolina Board of Governors Chairman William A. Johnson and other campus officials such as Winston-Salem State University Chancellor Douglas Covington.

More such watchdog chores are expected by Social Security executives.

Ms. Craig indicated that Social Security employees, scattered as they are throughout the communities and not bearing the stigma of outside "federal bureaucrats," are natural information gatherers.

"They're out there," she said. "They're out there 24 hours a day • • • Those people are astute observers. I would want to feel free to go and ask them, 'What's your gut feeling?'"

MAY 18, 1978.

Hon. JOSEPH A. CALIFANO, Jr.,
Secretary, Health, Education and Welfare, Independence Avenue, SW., Washington, D.C.

DEAR JOE: While I understand your desire to assess as quickly and accurately as possible public reaction to Administration positions, and appreciate the attention given to the reaction of North Carolina officials to those positions, it was a bit disturbing to read in the Atlanta Journal and Constitution that the Atlanta regional office of HEW had directed Social Security employees, on several occasions, to report on specific events surrounding the University of North Carolina desegregation controversy. HEW's implementation of a special statewide information gathering network through the use of Social Security employees, if the article was correct, was ill-motivated and at the very least constituted a waste of taxpayers' money.

I have no quarrel with and agree that the reaction of public officials to planned Administration policies is a significant factor in the decision making process. I do not feel it is proper, however, to assign Social Security employees, who have their own functions to perform, the chore of being HEW's surreptitious political watchdog.

The Atlanta Journal and Constitution noted that, "More such watchdog chores are expected by Social Security executives." I would hope that employees of Social Security offices be allowed by your Department to perform their normally assigned tasks and that in the future information gathering on the political reaction to HEW's policy be conducted by the appropriate office within your Department.

Sincerely,

ROBERT MORGAN.

SECRETARY OF HEALTH,
EDUCATION, AND WELFARE,
Washington, D.C., July 6, 1978.

Hon. ROBERT MORGAN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MORGAN: This is in response to your letter asking that I respond to an article that appeared in the Atlanta Journal and Constitution.

Because I wanted to be informed about the view of local institutions and citizens, Sara Craig, our Principal Regional Official in Atlanta, requested that articles be clipped from local North Carolina newspapers on the negotiations between this Department and the State of North Carolina Board of Higher Education. The request was very limited and no "big brotherism" or political chores were involved.

Some social security staff clipped articles in their local newspapers and reported on radio broadcasts that they heard. The HEW Regional Office was notified of this media coverage and it, in turn, notified Department officials here in Washington. All information sent was taken from the public record of media coverage, and no attempt was made to enter into the discussion of the desegregation of the education systems. The amount of work done involved little time and most of the coverage was noted by local employees in the course of their usual daily activities.

I understand that it has been a normal function of the Social Security Administration for many years to report on public opinion and media reaction to policy issues of concern to the agency and HEW. We believe this is an appropriate function of local social security officials, as grass roots representatives of the Department.

I am confident that no work of the district offices went unattended because of the request to expedite transmission of articles reflecting the public's view of the complex and sensitive issues involved in our negotiations with North Carolina.

Sincerely,

JOSEPH A. CALIFANO, Jr.

Mr. MORGAN. Madam President, I yield back the remainder of my time, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ENDANGERED SPECIES ACT AMENDMENTS OF 1978

Mr. CULVER. Madam President, what is the pending business?

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 2899, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 2899) to amend the Endangered Species Act of 1973 to establish an Endangered Species Interagency Committee to review certain actions to determine whether exemptions from certain requirements of that act should be granted for such actions.

The Senate resumed the consideration of the bill.

Mr. HAYAKAWA addressed the Chair.

The ACTING PRESIDENT pro tempore. The time for debate on this bill is under control. Who yields time?

Mr. CULVER. Madam President, I yield such time as may be desired to the distinguished Senator from California.

The ACTING PRESIDENT pro tempore. The Senator from Iowa has 8 minutes remaining.

Mr. CULVER. Madam President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. CULVER. It is my understanding that the distinguished Senator from California, who has just been recognized, has an amendment pending at the desk. I ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. Will the Senator from California please send his amendment to the desk?

UP AMENDMENT NO. 1423

(Purpose: To provide for cooperative agreements with respect to plants)

Mr. HAYAKAWA. Madam President, I submit an amendment and ask for its consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1423:

At the end of the bill add the following new section:

SEC. 6. (a) Section 6(c) of the Endangered Species Act of 1973 (16 U.S.C. 1535(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E) respectively;

(3) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii) respectively;

(4) by striking out "subsection" in the matter preceding subparagraph (A) (as so redesignated) and inserting in lieu thereof "paragraph";

(5) by striking out "endangered species or threatened species" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "endangered or threatened species of fish or wildlife";

(6) by striking out "paragraphs (3), (4), and (5) of this subsection" in clause (i) (as so redesignated) and inserting in lieu thereof "subparagraphs (C), (D), and (E) of this paragraph";

(7) by striking out "subparagraph (A) and this subparagraph" in clause (ii) (as so redesignated) and inserting in lieu thereof "clause (i) and this clause"; and

(8) by adding at the end thereof the following new paragraph:

"(2) In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species of plants. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this Act. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this Act, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species of plants and threatened species of plants, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

"(A) authority resides in the State agency to conserve resident species of plants determined by the State agency or the Secretary to be endangered or threatened;

"(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this Act, for all resident species of plants in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

"(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of plants; and

"(D) provision is made for public participation in designating resident species of plants as endangered or threatened; or that under the State program—

"(i) the requirements set forth in subparagraphs (C) and (D) of this paragraph are compiled with, and

"(ii) plans are included under which immediate attention will be given to those resident species of plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (i) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 4(d) or section 9(a)(1) with respect to the taking of any resident engandered or threatened species.".

(b) Paragraph (16) of section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) (formerly paragraph (13) and redesignated paragraph (16) by section 2 of this Act) is amended by striking out "fish or wildlife" and inserting in lieu thereof "fish, wildlife, or plant".

Mr. CULVER. Will the Senator be kind enough to yield for a unanimous-consent request?

Mr. HAYAKAWA. Indeed.

Mr. CULVER. Madam President, on behalf of Senator LEAHY, I ask unanimous consent that Sue Brannigan be accorded the privilege of the floor during the course of debate and any votes on this measure.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. HAYAKAWA. Madam President, I propose an amendment dealing only with section 6 of the Endangered Species Act of 1973.

This amendment would allow the Secretary of the Interior to enter into cooperative agreements with the States for the management, conservation and protection of endangered and threatened species of plants.

The amendment simply corrects an oversight in the Endangered Species Act of 1973. Under section 6 of this act, the Secretary of the Interior is authorized to enter into a cooperative agreement to provide Federal financial assistance to any State which establishes and maintains an adequate and active program for the management, conservation, protection, and restoration of endangered and threatened species. The Department of the Interior has interpreted the language in this act to apply only to fish and wildlife, and not to plants. My amendment would correct this oversight, by adding a new subsection 2 under section 6(c) of this act, so that the Secretary of the Interior may also enter into cooperative agreements with States for plant programs. This would provide Federal financial assistance to States for the development of programs for the protection of endangered and threatened species of plants.

Under this new subsection 6(c)(2), in order for a State agency to qualify for a cooperative agreement, the State agency responsible for the management of the plant programs would not need to have the power to acquire land or aquatic habitat or interests therein. This authority to acquire habitat is required for the State agency responsible for the administration of fish or wildlife programs. The reason for this difference is that in some States, the authority for the protection of endangered and threatened plants rests with a different State agency than the agency responsible for the protection of fish or wildlife. In some cases, we would be offering the States money for the protection of endangered and threatened plants, and at the same time we would be making it impossible for the States to qualify for these funds.

In order to qualify for a cooperative agreement for plants under this amendment, the States would not have to comply with subsection 6(C)(4) of the original act pretaining to the State agency's authority to acquire land. Yet 6(C)(1) of the original act says that the authority must reside in the State agency to "conserve resident endangered species in order to qualify for a cooperative agreement.

The word "conserve" is defined in the act as having the power to use all methods and procedures which are necessary to protect endangered or threatened species, which includes habitat acquisition and maintenance. By deleting subsection 4 under section 6(C) of the original act, in drafting a new subsection 6(C)(2), it is my intention to eliminate this problem of the power of acquisition for the State agency, a problem that would probably come up quite frequently without this exception. Under section 6(C)(2) which establishes cooperative agreements for plants, it is my intention that the term "conserve," shall not have to include the power to acquire land or aquatic habitat by the State agency in the development and protection of endangered and threatened species of plants under cooperative agreement.

Madam President, I would like to make it very clear that this amendment is in no way intended to bring plants under section 7 of the Endangered Species Act of 1973. The amendment that I am offering is intended to bring money into the States in order to aid them in developing their endangered and threatened plant programs. The purpose is to help and encourage States with these programs, and not to discourage them.

Let me make it clear that the cooperative agreements language for plants is intended to leave a great deal of discretion up to the individual States in developing their endangered and threatened plant programs. This language is not intended to provide an incursion by the Federal Government into these programs. It is my intention in offering this amendment that the States have a great deal of choice and flexibility in developing and conducting programs for endangered and threatened plants, and for entering into cooperative agreements for these plant programs in order to qualify for Federal funds under section 6(c) of the act.

Madam President, I would like to state for the record that my staff has attempted to work out language that is consistent with the goals of the majority and minority members of the Senate Committee on Environment and Public Works, and with the goals of the Department of the Interior. Although we have not had enough time to run this proposal through the proper channels at the Department of the Interior and at the Office of Management and Budget for official approval, this amendment does have the tacit approval of the Department of the Interior; it is consistent with testimony made by official representatives of that agency before congressional committee during hearings on the Endangered Species Act.

I have also received the official support of the California Native Plant Society for this amendment, and would like to give special thanks to Alice Howard, who is their chairman of the rare plant committee. In addition I would like to thank Mr. Lloyd Bell, the commissioner of public lands of the Department of Natural Re-

sources of the State of Washington for his hard work on this amendment.

I am submitting many, many letters for the RECORD, from people who have written from all across the country expressing their support for the inclusion of plants under the cooperative agreements section of the Endangered Species Act. Let me quote from a letter from Huey D. Johnson, secretary for resources in the State of California. With respect to amending section 6 of the Endangered Species Act he writes,

I would support an amendment to extend to rare plants the elements of the Act presently in force for rare animals. The omission of plants from the present Act has prevented federal agencies from cooperating with and assisting the state in developing and maintaining a program to identify and protect rare plants.

Madam President I ask unanimous consent that these other letters of support for my amendment be printed in the RECORD at this point.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

UNIVERSITY OF CALIFORNIA, IRVINE,
Irvine, Calif., July 5, 1978.

Senator S. I. HAYAKAWA,
Room 6217, Dirksen Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: As a Botanist I write in support of the the addition of ". . . and plants . . ." to the Eendangered Species Act.

Sincerely yours,

JOSEPH ARDITTI,
Professor.

NORTH CAROLINA BOTANICAL GARDEN,
Chapel Hill, N.C., July 10, 1978.

Senator ROBERT MORGAN,
Senate Office Building,
Washington, D.C.

DEAR SENATOR MORGAN: North Carolina's natural heritage is one of the most varied interesting, and economically important of any in the Nation. It is also the most amenable to realistic conservation once we have appropriate conservation policies based upon realistic biological appraisals of the organisms, and special habitats, concerned.

Good appraisals depend, in turn, upon appropriate field studies and valid research by qualified professional botanists and zoologists. The proposed amendment to the Endangered Species Act of 1973 to add the words "and plants" to Section 6(c), and the related change to redefine appropriate State agencies to deal with the botanical aspects of the bill, will insure that rare *plants* as well as rare animals share in the Federal and State funds that may be made available for the critical biological research in the months and years ahead. Valid biological research on both plants and animals will serve the cause, not only of responsible conservation, but also the cause of responsible and necessary development, and will thus be of mutual benefit to all. As a professional botanist and as a citizen of North Carolina, I ask your strong support of this modest but important change in the 1973 Rare and Endangered Species Act.

Sincerely,

C. RITCHIE BELL,
Professor of Botany.

OREGON STATE UNIVERSITY,
Corvallis, Oreg., July 7, 1978.

Hon. S. I. HAYAKAWA,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: I am writing as as interested citizen, as well as a professional botanist, to offer my strongest support for your amendment to Section 6 of the Endangered Species Act of 1973, in which you propose that the section be broadened to include plant species as well as animal species.

Plant species that are threatened or endangered in their existence are already protected by the terms of this Act and can be listed according to its provisions. Much research is still needed before all the qualifying plant species can be identified, studied, and proposed for conservation, however. Your amendment will allow the federal government to participate in this research through cooperative agreements with the states.

Persons like myself, who have been deeply involved in state, local, and regional efforts to locate and conserve the rare species in our native flora are deeply grateful for your interest. The legislative changes that you propose will be a vital step towards the intended goals of the Endangered Species Act and will serve the true purposes of that Act in promoting the necessary scientific research for plant and animal conservation. We need this federal help to gather the basic data on which accurate and knowledgeable judgements can be made in the future.

Sincerely yours,

KENTON L. CHAMBERS, Ph.D.

DEPARTMENT OF NATURAL RESOURCES,
Olympia, Wash., July 10, 1978.

Hon. S. I. HAYAKAWA,
Dirksen Senate Office Building
Washington, D.C.

DEAR SENATOR HAYAKAWA: I understand from telephone communication between your staff and my staff that you are considering entering a floor amendment to the Endangered Species Act. Your amendment would cause Section 6c of the Act to firmly attach endangered and threatened plants to the Act for federal fund matching purposes and would allow federal matching funds to be used for research and surveys to aid in establishing the list.

Both of these minor changes in the Act are important to our program in the State of Washington and are critical to the program of endangered plant management in many other states.

I would like to point out that we do, indeed, at present have a very stringent act of which sections 7 and 9 could cause many difficulties to the states unless Section 6c is amended to aid the states in compliance.

Sincerely,

BERT L. COLE,
Commissioner of Public Lands.

DEPARTMENT OF FISH AND GAME,
Sacramento, Calif., July 11, 1978.

Hon. S. I. HAYAKAWA,
U.S. Senator,
Senate Office Bldg.
Washington, D.C.

DEAR SENATOR HAYAKAWA: The California Department of Fish and Game appreciates your interest in the preservation of endangered and threatened plant species.

It is our understanding that you plan to introduce an amendment to Sec. 6c of the Endangered Species Act of 1973 that would essentially provide that qualifying states could receive grant-in-aid assistance for programs that involve endangered and threatened plants. Such a provision would materially aid this Department in carrying out its current and future obligations involving endangered and threatened plants.

We heartily endorse this concept and wish you success with your proposal.

Sincerely,

E. C. FULLERTON,
Director.

MISSOURI DEPARTMENT OF CONSERVATION,
Jefferson City, Mo., July 11, 1978.

Hon. S. I. HAYAKAWA,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.
Attention: Mary Goedde.

DEAR SENATOR HAYAKAWA: The Missouri Department of Conservation recognizes the importance of protecting endangered plant species. We support the concept of an amendment to the Endangered Species Act of 1973 that would provide for funding of research on endangered plants under state cooperative agreements with the U.S. Fish and Wildlife Service.

Your concern for such an amendment is appreciated.

Sincerely,

LARRY R. GALE,
Director Designate.

NATIVE PLANT SOCIETY OF OREGON,
Portland, Oreg., July 7, 1978.

Senator S. HAYAKAWA,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: The Native Plant Society of Oregon sincerely appreciates your efforts to have the word (plants) included in Sec. 6 of the Rare and Endangered Species Act. Unless plants are included, this Bill if passed, will pertain to only half of the biological world, which means that at some future time another Bill will have to be proposed to cover rare and endangered plant species. Now is the logical time for plants to be included in this Act.

For the sake of the plant world we wish you well with your presentation.

Sincerely yours,

RUTH M. HANSEN,
President.

UNIVERSITY OF RHODE ISLAND,
Kingston, R.I., July 6, 1978.

Senator S. I. HAYAKAWA,
Dirksen Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: I write in support of amending the Rare and Endangered Species Act of 1973 to include plants. As a botanist, I recognize the importance of plants as part of the natural world, and as a natural resource to be conserved. The United States Congress should also recognize the importance of plants by amending the Rare and Endangered Species act to include them.

Sincerely,

RICHARD L. HAUKE, Ph. D.,
Professor of Botany.

JULY 11, 1978.

Senator S. I. HAYAKAWA,
Senate Office Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: California native plant society very pleased you propose with committee support to amend section 6, 3, 2 endangered species act to include plants, will be very helpful to states having

or wanting to launch plant protection program.

ALICE HOWARD,
Chairman.

THE NEW YORK BOTANICAL GARDEN,
Bronx, N.Y., July 11, 1978.

Senator S. I. HAYAKAWA,
6217 Dirksen Building,
Washington, D.C.
Attention: Ms. Mary Goede

DEAR SENATOR HAYAKAWA: Please be informed that I strongly endorse the amendment I understand you will introduce to the Senate, calling for inclusion of plants in Section 6 (Cooperative State Agreements) of the Endangered Species Act.

Although species turnover in nature is a natural process, it has been so disrupted and accelerated by the activities of mankind that the net result is intensifying impoverishment of natural diversity in our flora and fauna. Owing to the localized occurrence of threatened and endangered species, the effort to investigate the phenomenon of species endangerment is probably best generated at the state level but will undoubtedly require incentives in the form of scholarships or research grants at the Federal level.

Without explicit inclusion of plants in Section 6, it is difficult if not impossible to move ahead with the badly needed research I have referred to.

Sincerely yours,

HOWARD S. IRWIN,
President.

ST. CLAIR SHORES, MICH.,
July 10, 1978.

Hon. S. I. HAYAKAWA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HAYAKAWA: The Michigan Cactus and Succulent Society strongly supports an amendment to Section 6(c) of the Endangered Species Act to provide for cooperative agreements with the states for protection of endangered plants. In fact, we have asked several Michigan members of Congress to sponsor such an amendment. Your help on this matter is very much appreciated. Thank you very much.

Like many other local groups, we are trying as hard as we can to bring about responsible attendance to this problem. Enclosed is a copy of our conservation report for 1977.

I convey my regards to Ruth Braley, a "fellow member" of the Birmingham Unitarian Church, and a note that all is well at BUC.

Sincerely yours,

KATHLEEN KEPNER,
Conservation Chairman.

MICHIGAN CACTUS AND SUCCULENT SOCIETY
ANNUAL REPORT ON CONSERVATION FOR 1977

At the request of our incoming president, Lou Kilbert, I submit this report to the membership on our activities to protect endangered plants and recommendations for the 1978 year.

As your conservation chairman, I want to thank you all for your steadfast support and understanding of the need to preserve our native wild plants. I wish I could tell you that attendance to the problem of saving plants from extinction is now well underway. While some progress has been made, we all know that the problem is still quite critical. Literally thousands of cacti are ripped out of the desert each year for sale on the market. For example, a Christmas gift catalog featured a collected rainbow cactus as a "pet plant". The side of the stem was pierced by artificial eyes and the apex with blue straw flowers. Said to be a handsome size of 4 to 6 inches, this damaged plant was offered for $7.95. Actually such a plant can be purchased wholesale for twenty cents. One company in Texas, one of the largest wholesalers of collected cacti, advertises for "small dealers" 100 blooming size plants for $20.

Recommendation: Consumers Guide. While we do not waste our money buying at inflated prices a half-dead cactus that has been taken from the desert, the public does not know. I would suggest that our Society carefully prepare a leaflet that would give the facts to the consumer. Why are cultivated cacti preferred over collected ones? How can you tell a cultivated cactus from a collected one and with very concrete illustrations on how to examine the plant?

The following quotation taken from Dr. George W. Folkerts' paper "Endangered and Threatened Carnivorous Plants of North America" given before a symposium held by the New York Botanical Garden tells why plants should be left where they are in habitat.

"Some researchers have suggested that as long as viable cultivated stock is present concern about wild populations should be minimal, since restocking could presumably be done. I totally disagree with this viewpoint for several reasons: first, when the habitats are destroyed there will be no appropriate sites left to restock; second, accidents could easily eliminate rare genetic types in cultivation unless they were extensively grown and distributed; and third, plants from every known deme would have to be retained in order to insure preservation of the natural genetic variability. Finally, the greatest worth of these plants lies in their ecological, scientific, esthetic, and educational value as a component of the natural ecosystems in which they occur. All species should certainly be maintained in cultivation, but neither this, nor transplanting specimens to sites where they are not native, can be considered solutions to conservation problems." Source: The New York Botanical Garden, Extinction Is Forever, The Status of Threatened and Endangered Plants in the Americas, 1977, P. 311. Copyright. Permission for use granted by letter 11/23/77.

Recommendation: Public Education. Another project is to help promote distribution of a new book entitled Endangered Plants by Dorothy Childs Hogner, 1977. As an organization, we have recommended the book to the state department of education, the state library and others. Each member can also help by recommending purchase of the book by your local library and also use as a resource for nature study classes and science classes in your local schools.

We might also consider the preparation of a slide-talk program that deals with endangered plants with specific reference to cacti. Perhaps we might find out if we could put up a bulletin board exhibit on endangered plants in the Eliza Howell Nature Center.

Recommendation: that our Society take out group membership with the Michigan Natural Areas Council. According to their brochure, "The Michigan Natural Areas Council has as its goal the preservation of areas of outstanding scenic beauty or scientific value which are representative of the full variety of Michigan's natural wealth." Dr. John H. Beaman is president of the Council; he is also chairman of the state's plant technical committee whose responsibility is to propose species of plants to be listed for protection under the state law. We share a common interest with the Michigan Natural Areas Council, and it would be helpful in our conservation work to become a member. Membership costs $5 a year.

REPORT ON PENDING MATTERS

We submitted testimony to the U.S. Senate Subcommittee on Resource Protection at the July 19–22 hearings on the Endangered Species Act of 1973. We proposed several changes in the Act to improve features relating to plant protection including extension of financial assistance to plants as well as animals. Dr. Sylvia Taylor representing the Michigan Department of Natural Resources testified in person that the endangered plant program needed funding. I have reported previously on encouraging responses from our congressmen on this matter as well as others relating to plant protection.

For some time, we have been interested in the California desert planning project being undertaken by the U.S. Bureau of Land Management. And very recently, we sent a petition to the Riverside, Calif. office expressing our concern relating to unrestricted use of off-road vehicles in the Mojave Desert. We are having our name placed on their mailing list to receive further reports on developments, and will continue to monitor the situation.

There seems to be an increase in interest in plant protection in 1977 even though there were no major breakthroughs. Publicity of the problem continues to be important such as the article in *Horticulture*, January 1978, "In Arizona there's a cactus law, a cactus cop to enforce it, and a million dollar rustle". In Texas, there is no law and the situation there continues to be very serious. And we have heard reports of increased commercial collecting pressures in Mexico with trucking of the cacti across the border.

KATHLEEN KEPNER,
Conservation Chairman.

UNIVERSITY OF WASHINGTON,
Seattle, Wash., July 7, 1978.

Senator S. I. HAYAKAWA,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: I have learned that you are supporting an amendment to the Endangered Species Act that will provide for effective protection of rare and endangered plants. Specifically it is the critical wording of Section Six that is needed: Providing for Cooperative Agreements with funding between the Federal Agencies and the States. It is also important that such Cooperative Agreements be contracted for research and inventory work toward the development of final species lists for the states.

In the state of Washington, the inventory phase of rare plant protection has proceeded to the stage where we can point to habitats that need protection. The State Department of Natural Resources Task Force on Rare and Endangered Plants, the Nature Conservancy's Natural Heritage Program and the Washington Native Plant Society now critically need the capacity to effect funded Cooperative Agreements between our state agencies and the Federal government. This will permit us to proceed with the actual protection of critical habitats for some of our rare plant species.

We are most pleased to note your interest in this matter and support your efforts on behalf of rare plant preservation in the United States.

Sincerely,

ARTHUR R. KRUCKEBERG,
Professor of Botany.

SOUTHERN OREGON STATE COLLEGE,
Ashland, Oreg., July 7, 1978.

Senator S. I. HAYAKAWA,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: I would like to endorse your efforts to include plants in the Endangered Species Act by amending Section 6 with . . . *and plants.* It is important to protect plants as well as animals. We never know what genetic information may be possessed by a population of plants that

may eventually be important in man's affairs. If such plants are lost because of man's callous disregard for his fellow inhabitants of the earth, we will lose a significant and important part of our natural heritage.

I wish you good fortune in your efforts to include plants in the Endangered Species Act in the same way that animals are included in Section 6.

Sincerely,

FRANK A. LANG,
Professor of Biology.

LOS ANGELES, CALIF., *July 13, 1978.*

Senator S. I. HAYAKAWA,
Senate Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: Urge amendment to section 6 of the Endangered Species Act to allow States to enter into cooperative agreements wih U.S. Fish and Wildlife Service for a plant protection program.

Dr. MILDRED E. MATHIAS,
Emeritus Professor of Botany.

JULY 1, 1978.

Hon. S. I. HAYAKAWA,
U.S. Senate, Washington, D.C.

DEAR SIR: I recently learned of an amendment you have introduced to amend the Endangered Species Act so as to provide the opportunity for cooperative programs with the states for plants as well as animal species of wildlife. Unfortunately, the item I read did not provide the number of your bill.

While I feel the Endangered Species Act of 1973 is generally working well, and the Fish and Wildlife Service has by now developed appropriate regulations and initiated the process of consultation with other agencies, I do agree more equitable consideration of plants is appropriate because plants as well as animals merit the attention and protection offered by this important piece of conservation legislation. Because of the various attempts to weaken the Act in the current Congress, I am reluctant to indicate support for any amendment, even yours, for a meritorious and well-intentioned amendment can easily become a vehicle for further modifications deleterious to the present values of the Endangered Species Act. I do not feel the urgency for inclusion of plant studies in cooperative agreements is so high as to require risking other amendments should your proposal reach the floor of the Senate or House.

As you know, there are already a great number of state-based programs for study and protection of endangered or threatened plant species, with the work of the California Native Plant Society in your state being a leading example. Some of this work is already supported by Federal funds, through means other than the 6(c) cooperative agreements. Should there be urgent need for further federal funding of endangered plant survey and conservation research, I suggest you examine alternatives such as the various Heritage or Diversity Conservation bills (e.g., S. 1820) rather than the Endangered Species Act at this time.

Thus, I agree with the intent of your proposal, but feel the effects we desire can be reached for the present time by other means than an amendment to the Endangered Species Act. I thank you for your consideration of my views.

Yours truly,

LARRY E. MORSE.

CARRBORO, N.C.,
July 7, 1978.

Senator S. I. HAYAKAWA,
Dirksen Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: I strongly support the proposed amendment which would replace "wildlife" with "wildlife and plants" in several sections of the Endangered Species Act of 1973. The reasons for including plants are both obvious and abundant. Plants are the basis for the existence of "wildlife", and the fragility of the complex interactions between the two is just beginning to be realized. The legal standing of species of plants is as inherent as that of animal species. To develop realistic conservation policies, appropriate field studies of the plants and animals concerned need to be made by qualified biologists. Studies of not only rare animals, but rare plants as well, need to be supported by state and federal agencies with funds which this legislation would make available.

Sincerely,

GUY L. NESOM.

NATIONAL RURAL ELECTRIC
COOPERATIVE ASSOCIATION,
Washington, D.C., July 11, 1978.

Hon. S. I. HAYAKAWA,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: S. 2899, a bill to amend the Endangered Species Act of 1973 is scheduled to be considered by the Senate this week. We are asking for your support of amendments which would introduce balance and flexibility into the Act.

The Act, as written, prohibits any change or modification whatsoever to the habitat of plant and animal life designated by the Secretary of the Interior as threatened or in danger of extinction. Senator Stennis has introduced an amendment (No. 3097) which would allow each Federal agency head the discretion to exempt projects under its jurisdiction. The Stennis amendment would also allow exemption of projects that were started before original passage of the Act in 1973.

NRECA believes that the Stennis amendment is badly needed to inject an element of reason into the natural specie preservation issue. If for any reason this amendment is unsuccessful we ask your support of amendments which would: restrict the listing of endangered species to those species of significant scientific or practical value to society; allow a proposed project to proceed if its effect on a listed species is to modify its habitat but not cause extinction; provide an unbiased mechanism for weighing the relative benefits and losses to society of a proposed project and the endangered species which its construction would affect; permit completion of projects initiated prior to 1974 and these essentially complete at the time an injunction to stop them is filled.

Our membership will be most appreciative of your help on this legislation.

Sincerely yours,

ROBERT D. PARTRIDGE,
Executive Vice President
and General Manager.

THE NEVADA STATE MUSEUM,
Carson City, Nev., July 7, 1978.

Senator S. I. HAYAKAWA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HAYAKAWA: It has just come to my attention that you plan to introduce an amendment to Section 6 of the Endangered Species Act of 1973. I am supportive of the inclusion of plants along with fish and wildlife as a program basis for a state to enter into a cooperative agreement with the federal government. As the intent of the law was to protect plants as well as fish and wildlife, plants should also be included in this section.

Sincerely,

ANN PINZL, *Botanist.*

MISSOURI BOTANICAL GARDEN,
July 7, 1978.

Hon. S. I. HAYAKAWA,
Dirksen Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: The introduction of your Bill to amend the Endangered Species Act of 1973 to require that state programs for the conservation of endangered and threatened species established for the purpose of entering into cooperative agreements under the Act provide authority to conserve species of plants as well as species of fish and wildlife is in my opinion an excellent step very much in line with the best interests of the people of the United States. The destruction of natural ecosystems in our country is proceeding very rapidly indeed, and it is entirely appropriate that the federal government take an interest in the rationalization of knowledge about our native species of plants as well as animals. As you know, the Fish and Wildlife Service has grown up through the years in line with the interests of hunters and fishermen and its responsibility has gradually been extended to include non-game species of animals. The preservation of plants is however fundamental to any proper preservation of animals through conservation of their natural habitats, and therefore a most appropriate addition to this legislation which in turn is based on the historical charge of the Fish and Wildlife Service.

It is estimated that of the 15,000 to 20,000 species of plants that occur in the United States, perhaps 1,000 could be classified as threatened or endangered. In other words, these are plants which are very restricted in range and which in some cases would be threatened by certain extinction if activities now under way were allowed to continue. In order or preserve these plants which in some cases could be moved to other situations where they could possibly become naturalized, or possibly moved to botanical gardens and thus dispersed widely to insure their preservation, we must know a great deal more about their natural habitats, occurrence, reproduction and other characteristics.

As I understand your proposed amendment it would allow states to mount programs to study their own threatened and endangered species of plants and determine these characteristics which are critical for survival and then to be eligible for federal matching grants for such programs. Such a move would be an excellent way in which to insure that the states many of which are quite interested in this problem would be able to study and inventory their own threatened and endangered plants effectively, and it would also insure an effective constructive federal-state partnership for this purpose. I therefore support it strongly.

As you are well aware, we are all dependent upon green plants for food. Only green plants have the capacity for capturing the energy of sunlight and converting it into a form available to man and other animals. As the world's food situation becomes increasingly acute, we shall all have to turn increasingly to plants as a regular source of protein, since the conversion of plants to animal protein involves the loss of about 90% of the energy available initially. In addition, the many medicinally important chemicals that have been discovered in plants give promise of many more to be discovered and ample reason in themselves for the preservation of our existing plants. I am taking the liberty of including some additional publications in this area.

Finally, it is my hope that the excellent legislation which you have now introduced will not be confounded by issues arising over the Tellico Dam and Furbish Lousewort controversies. The application of laws regarding the conservation of threatened and endangered species of plants or animals is a matter for the courts to decide and the establishment of such laws is a matter for Congress. The exact nature of appropriate endangered species legislation is something which we are collectively attempting to determine at present, and doubtless Congress will eventually enact new laws designed for similar purposes but perhaps somewhat different in scope.

That is a matter for future deliberation and consultation, but what I would like to stress here is that your proposed legislation does not in any way imply a certain attitude or a certain set of laws regarding preservation: it merely implies that we the people of the United States will have the opportunity to study to the fullest extent our own native plants and animals to understand the conditions under which their survival is threatened, and thus to have the information on which to base intelligent decisions concerning such plants and animals. I believe therefore that what you are introducing is an important and significant change in the legislation definitely in the public benefit and clearly not assuming any particular attitude towards the actions that should be taken in the face of the information that may be derived if this legislation is passed. It therefore has my unreserved support and I commend you for introducing this amendment.

Your sincerely,

PETER H. RAVEN,
Director.

Attachments.

[From Frontiers, Spring 1978]

GUEST EDITORIAL

(By Peter H. Raven)

The changing ecosystems described in the following articles are incredibly complex aggregations of plants and animals that developed during the course of millions of years of evolution. As systems, they function efficiently in their particular physical settings to mediate the cycling of water and other chemical substances, to capture a portion of the sun's energy, and to expend that energy gradually and in a way that results in the greatest stability for the overall system. Today, we are modifying these ecosystems directly into ones more suited to our own purposes. We are also modifying them indirectly, and with uncertain results, by such means as pollution and trampling. The tragedy of all this is that we know very little about the systems we are destroying and that we are doing very little to learn more.

Ecology as a science is perhaps half a century old. During that half century, the population of the United States has more than doubled, our urban population has tripled, our energy consumption per person has doubled and our daily use of water per person has doubled also. As our capacity to answer these demands by modifying the environment has increased rapidly, our knowledge about the systems that sustain life on this planet has merely crept ahead. Although we demonstrate a periodic obsession with the energy problem, we have yet to show we possess the collective will to implement a national plan for solving it. We are nowhere near being able to deal with our soil, our water and our forests in a comprehensive way, and yet they are much more important than energy to our long term national survival.

It has become a popular myth in the United States to think of ourselves as ecologically aware, and we therefore tend to assume that much financial support is being given to basic research on the environment. In fact, out of a total Federal budget for research and development estimated at $27.9 billion for fiscal 1979, no more than $60 million is proposed to be spent for basic research in the environmental sciences. Although problems, such as those involving certain kinds of pollution with highly visible effects or the extermination of certain species of large animals, catch the fancy of the public from time to time, the basic knowledge that would allow appropriate solutions of these problems when they occur is being sadly neglected.

Unlike the U.S.S.R., Japan and Europe as a whole, we do not even have a national inventory of our native plants much less the kind of national program we would need if we were going to determine our ecological priorities in a meaningful way. Local exploitative land use with a minimum of interference appears to be the mode, but we must learn to use our resources on the basis of ecologically sound principles if anything but the most immediate financial return is to be a concern. For the sake of future generations, we must cherish those modified remnants of wild lands, often very modest in scale, that are still with us and we must also teach our children to learn about them and thus to appreciate them. Even within our own lifetimes, prosperity will increasingly depend upon comprehensive national inventories such as the National Heritage program currently under consideration, and especially on increased levels of funding at all levels for basic ecological research. Ecology must become more than a slogan for the self-righteous, and sound planning for the future must become a part of our daily reality, if our country is to have a future to match its past.

[From Frontiers, July 1976]

THE DESTRUCTION OF THE TROPICS

(By Peter H. Raven)

The notion that humans could, and indeed should, attempt to classify and name all other kinds of organisms goes back some three centuries. Even in the 16th century, naturalists had begun to write books including several thousand kinds of plants or animals instead of the several hundred that would be familiar in any one local area.

The Swedish botanist Carolus Linnaeus began our modern system of naming plants and animals in the mid-18th century. Linnaeus and his contemporaries, from the vantage point of northern Europe, thought that the number of species of plants and animals in the world was relatively limited—probably no more than 50,000 in all. Exploration of the tropics, where probably two-thirds of all species of organisms occur, had barely begun, and collecting was mostly confined to the vicinity of the seaports, where weeds and a few aggressive kinds of animals had spread widely all over the tropical portions of the world.

So far, names have been given to approximately 1.5 million kinds of plants and animals, but for the great majority of these, we know only a name, a very few characteristics and a locality. Probably fewer than half of these species have been mentioned anywhere in the literature even once following their original description.

In order to assign a name to a plant or animal it is necessary to publish a description with the name and to associate the name with a particular specimen. This specimen becomes the type of the species and, like the standard meter, becomes a reference point for assigning that name to any individual collected subsequently.

How many species remain to be named? Estimates vary, but the numbers of new species that are routinely encountered in many groups of organisms, particularly in collections from the tropics, suggests that there are at least twice as many yet to be named as have already been given names. Naturally, the distribution of these unnamed and mostly unknown species is not equal. In temperate regions, perhaps a million of the estimated 1.5 million species have been named; but in the tropics, no more than one in six—perhaps 500,000 of an estimated three million species—have been brought to the attention of science.

Our chances of collecting and naming these "missing" species, so that any record of their existence might be made available to future generations, or so that anything about their potentially useful or other properties might be known, is decreasing rapidly. The reason is the rapid growth of human populations, especially in the tropics. The Food and Agriculture Organization of the United Nations (FAO) estimates that about 40 percent of the tropical forests of the world have been destroyed during the past 150 years. Virtually all of the remainder will have been cut before the end of this century, during which time the populations of all tropical countries will at least double, given present rates of growth.

According again to the FAO, by the year 1985 some 26 tropical countries, with an aggregate population of 365 million people, will be unable to provide sufficient food to allow their inhabitants to avoid gradual starvation. In addition, there is a rapidly increasing population of some 400 million people who make their living by slash and burn techniques in tropical forests, growing crops for a year or two and then moving on. Since all of the tropical forests will be destroyed during the next 25 years, it is difficult to avoid the conclusion that up to a billion people will starve to death in the tropics during the next three decades. During this period all natural communities in the tropics will be totally destroyed before we can even begin to understand them or to learn how to use them for human benefit.

It was not until the explorations of the great German scientist Alexander von Humboldt in Latin America from 1799 to 1804 that the immense richness of tropical life began to be appreciated. In the American tropics alone, the richest in terms of species of plants and animals of the world's three major tropical areas, there are probably over a million unnamed and mostly uncollected species of organisms. A majority of these will become extinct during the next 25 years, and most will never have been collected even once by the time they disappear from the face of the earth. Most tropical countries, struggling under the burden of explosive population growth and inadequate food supplies, a severe energy shortage and runaway inflation, simply do not have the resources to study the biological communities upon which they are dependent, or to build up the kinds of institutions that would allow them to do so. The so-called developed countries of the world, a few of which have the capacity to produce an excess of food, are devoting relatively insignificant levels of effort to the tropics, even though world stability ultimately depends on what happens there.

Billions of dollars have been spent on the exploration of the moon, and we now know far more about the moon than we do about the rainforests of say, western Colombia. The moon will be there far longer than these forests, and perhaps longer than the human race also. In the forests are found the most complex interacting systems on earth, systems which might even hold the key to our survival, and about which we know practically nothing. Would it not be prudent, during this our Bicentennial Year, to consider allocating more funds for the study of tropical plants and animals while we are still able to do so?

H.R. —

A bill to amend the Endangered Species of 1973 to require that State programs for the conservation of endangered and threatened species established for the purpose of entering into cooperative agreements under such Act provide authority to conserve species of plants as well as species of fish and wildlife, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (c) of section 6 of the Endangered Species Act of 1973 is amended—

(1) by striking out "or wildlife" each place it appears in paragraphs (1), (2), and (5),

and inserting in lieu thereof, "wildlife or plants";

(2) in paragraph (3) by—

(A) inserting "surveys, research and other" after "conduct"; and

(B) by striking out "and wildlife" and inserting in lieu thereof, "wildlife and plants, and to identify and develop lists of any resident endangered species or threatened species";

(3) in subparagraph (B) by striking out "and wildlife" and inserting in lieu thereof, "wildlife and plants".

SEC. 2. Paragraph (13) of section 3 of such Act is amended by striking out "or wildlife" and inserting in lieu thereof, "wildlife or plants".

SEC. 3. Paragraph (5) of subsection (a) of section 2 of such Act is amended by striking out "and wildlife" and inserting in lieu thereof, "wildlife and plants".

SEC. 4. The amendments made by this act shall apply to—

(1) any State program with respect to which a cooperative agreement under section 6 of the Endangered Species Act of 1973 is entered into after the date of the enactment of this Act; and

(2) any State program with respect to which such a cooperative agreement was entered into on or before the date of the enactment of this Act, on or after the date of the first annual reconfirmation of findings required by section (6c) of such Act which is made with respect to such program not less than six months after the date of the enactment of this Act.

I strongly support this bill because plants are the basic resource for all animals including man.

A. J. SHARP,
Past Vice President A.A.A.S.

UNIVERSITY OF MARYLAND,
College Park, July 5, 1978.

Senator S. I. HAYAKAWA,
Room 6217 Dirksen Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: I am enclosing a copy of a bill to amend the Endangered Species Act of 1973 with which I understand you are associated. This version of the bill has a few minor changes designed to incorporate "plants" into the wording and intent of the bill. To conserve species of fish and wildlife, without at the same time recognizing the immeasurable importance of plants, is shortsighted, if not dangerous. There is no exaggeration intended when I say that were it not for plants, especially green plants, life for animals, including humans, would be impossible on earth. It is, therefore, of utmost importance that we understand and recognize the essential contribution which plants make to all other kinds of life on this planet.

I hope you will be favorably disposed to change the wording of your bill to incorporate the word "plants" whenever "fish and wildlife" are mentioned.

Respectfully yours,

WILLIAM LOUIS STERN,
Professor of Botany.

Enclosure.

H.R. —

A bill to amend the Endangered Species Act of 1973 to require that State programs for the conservation of endangered and threatened species established for the purpose of entering into cooperative agreements under such Act provide authority to conserve species of plants as well as species of fish and wildlife, and for other purposes.

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SEC. 3. Paragraph (5) of subsection (a) of section 2 of such Act is amended by striking out "and wildlife" and inserting in lieu thereof, "wildlife and plants".

SEC. 4. The amendments made by this act shall apply to—

(1) any State program with respect to which a cooperative agreement under section 6 of the Endangered Species Act of 1973 is entered into after the date of the enactment of this Act; and

(2) any State program with respect to which such a cooperative agreement was entered into on or before the date of the enactment of this Act, on or after the date of the first annual reconfirmation of findings required by section (6c) of such Act which is made with respect to such program not less than six months after the date of the enactment of this Act.

[Telegram]

LANSING, MICH.,
July 12, 1978.

Hon. S. I. HAYAKAWA,
U.S. Senate.
Washington, D.C.

DEAR SENATOR HAYAKAWA: We understand that oversight hearings on the Endangered Species Act of 1973, P.L. 93-205, are currently being argued on the floor of the Senate and that possible amendments to section 7 are receiving considerable attention.

Please remind interested Senators that section 6, cooperation with the States contains a serious oversight which also deserves the attention of the Senate. Federal and Michigan endangered threatened species laws address problems of fish wildlife and plants section 6 of the Federal act however only refers to fish and wildlife.

It should be specified in section 6 that cooperative agreements with the States are to maintain adequate and active programs for the conservation of endangered and threatened species of fish, wildlife and plants.

Correction of this shortcoming will enhance the ability of the State conservation departments to effect compatible implementation of the Federal Endangered Species Act of 1973 and the endangered species act of the several States.

HOWARD A. TANNER,
Director, Michigan Department of Natural Resources.

DEPARTMENT OF NATURAL RESOURCES,
Atlanta, Ga., July 10, 1978.

Hon. S. I. HAYAKAWA,
U.S. Senate,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: It has come to my attention that you intend to offer, during consideration of S. 2899, a floor amendment to the Endangered Species Act of 1973, specifically to Section 6 thereof, which provides authority for state cooperative programs. The amendment would include plant species within the scope of state cooperative programs where presently they are excluded. I support such an amendment because it would better complement the existing federal program by enabling and encouraging the development of comprehensive state programs for both plants and wildlife. A reading of the legislative history, before and after passage of the original legislation, seems to indicate this approach was intended. Your amendment clarifies this intent.

The experience of the Georgia Department of Natural Resources in the development of its endangered species program suggests the wisdom and administrative efficiency of tying plant and wildlife elements together. In 1977, Georgia became the twentieth state to receive cooperative agreement funds from the Fish and Wildlife Service to carry out its endangered wildlife programs. The same type of criteria-based approval which qualified Georgia for cooperative funds for wildlife should be available for our protected plant program. Managing for both plant and wildlife species is a mutually compatible effort.

Furthermore, this authority for State cooperative plant programs would encourage states to acquire the necessary state legislative authority to initiate implementation. Currently, only a few states would be able to take advantage of this amendment, but the interest shown by other states in inquiring about our Departmental program indicates that the eligible number of states is likely to increase significantly. Recognition of state plant programs in the Endangered Species Act, with the availability of federal funds, would provide the necessary degree of encouragement.

The 1977 amendments to Section 6 gave state wildlife programs broader authority to enter into cooperative programs. Similar encouragement needs to be given to states to begin, or to continue developing, sound programs for the conservation of endangered and threatened species of plants.

Sincerely,

JOE D. TANNER.

DEPARTMENT OF NATURAL RESOURCES,
Lansing, Mich., July 7, 1978.

Attention Ms. Goedde.
Hon. S. I. HAYAKAWA,
U.S. Senate,
Dirksen Building,
Washington, D.C.

DEAR SENATOR HAYAKAWA: Ms. Mary Goedde of your staff contacted me this morning to announce your intention to offer an amendment to Section 6(c) of the Endangered Species Act of 1973 from the floor of the Senate.

Michigan and California were among the first 11 states to sign cooperative agreements with the U.S. Fish and Wildlife Service to conduct programs for conservation of endangered and threatened species. Our state programs have, therefore, had the maximum possible experience in implementing agreements pursuant to Section 6(c) and have a responsibility to report the successes and the problems associated with the agreements.

Ms. Goedde explained that you have a copy of the 1977 oversight hearing transcript before the Subcommittee on Resource Protection, Senate Committee on Environment and Public Works, in which I covered the Michigan program in detail. I'm sure you will conclude from that testimony that Michigan, like California, is seeking a balanced comprehensive program which will develop reasonable ways to ensure the survival and enhancement of all endangered and threatened species. Like those working on endangered species problems in California, I have found that the lack of a provision for plants in Section 6(c) of the federal Endangered Species Act is a serious hinderance to the attainment of a balanced program. Correction of

this oversight in an otherwise excellent section will go a long way to help us implement the spirit of both the federal and state Endangered Species Acts.

On behalf of the Michigan program, I applaud your constructive approach to amending the 1973 Endangered Species Act. We support your efforts to improve Section 6(c) to provide cooperative assistance to states for endangered and threatened species of fish, wildlife and plants.

Sincerely,

DR. SYLVIA M. TAYLOR,
Coordinator,
Endangered Species Program.

[Telegram]

CLAREMONT, CALIF.,
July 12, 1978.

Senator S. I. HAYAKAWA,
U.S. Senate,
Washington, D.C.:

Please support the addition of plants to section 6 for provisions for cooperative agreements with States for plant protection programs.

ROBERT F. THORNE,
Rancho Santa Ana Botanic Gardens.

NORTHERN NEVADA
NATIVE PLANT SOCIETY,
Reno, Nev., July 7, 1978.

Senator S. I. HAYAKAWA,
U.S. Senate,
Washington, D.C.

DEAR SENATOR HAYAKAWA: The members of the Northern Nevada Native Plant Society strongly support your proposed amendment adding plants to fish and wildlife in Section 6 of the Endangered Species Act thereby allowing interested states to enter into cooperative agreements with the Federal Government to protect plants as well as fish and wildlife.

Thank you very much for your interest in our native plants and their protection.

Sincerely,

MARGARET J. WILLIAMS,
Executive Director,
Northern Nevada Native Plant Society.

Mr. HAYAKAWA. I thank the Chair.

Mr. CULVER. Madam President, I wish to express the appreciation of the Environment and Public Works Committee to the distinguished Senator from California for raising this issue.

I think he is to be commended for bringing to the attention of the Congress and, specifically, for consideration on this reauthorization, what I think was very likely an oversight at the time of the original enactment of this legislation in 1973.

Several States, as the Senator has noted, are carrying out very successful and progressive programs to protect endangered plant species and the Federal money to support them should not be restricted just to animal life.

So I certainly have no objection to the amendment.

It is my understanding that the distinguished ranking minority member of the subcommittee, Mr. WALLOP, may well have some questions for clarification of the legislative history. I yield to him at this time for that purpose.

Mr. WALLOP. I thank the Senator from Iowa. I echo his statements as to the value of the amendment from the Senator from California.

In the past, assurances have been given on behalf of amendments which were not interpreted as such. So I thought it was necessary, and I beg the Senator's indulgence, because I think the Senator has carefully covered each of the points here in his presentation, that we review several points to clearly state the Senator's intent.

First of all, I understood the Senator from California to say that in his inclusion of plants into section 6 and the use of the word "conserve," that it was not his intent to use the entire definition as it appears in the act with regard to the provisions, that it would include the necessity to acquire land.

Mr. HAYAKAWA. The Senator from Wyoming is quite correct.

Mr. WALLOP. Also, that the States involved would have to ask for this authority, and that it could not be laid on them.

Mr. HAYAKAWA. That is correct. It does not interfere with the States.

Mr. WALLOP. And I think the Senator was quite clear in his speech that his amendment did nothing to enhance the Federal authority to regulate plants, either in section 7 or the prohibition section.

Mr. HAYAKAWA. That is correct.

Mr. WALLOP. Third, the present law, in combination with this amendment, would allow States to apply for funds under section 6 for only those plants they wish to manage.

Mr. HAYAKAWA. That indication is quite clearly stated by the amendment.

Mr. WALLOP. I think it is, too, and I beg the Senator's indulgence. But I do think that sometimes it is necessary to get the attention of the bureaucracy.

Mr. HAYAKAWA. I thank the Senator from Wyoming for helping us stress these particular points.

Mr. WALLOP. Madam President, that clears it up and should provide sufficient legislative history to enhance the Senator's amendment.

I compliment him and congratulate him again on it.

I yield back my time.

Mr. CULVER. Madam President, I yield back my time and ask for a vote on the amendment.

The ACTING PRESIDENT pro tempore. Does the Senator from California yield back his time?

Mr. HAYAKAWA. I yield back my time.

The ACTING PRESIDENT pro tempore. All time has been yielded back. The question is on agreeing to UP amendment No. 1423 of the Senator from California.

The amendment was agreed to.

Mr. WALLOP. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CULVER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3255

(Purpose: To place the National Oceanic and Atmospheric Administration on the Endangered Species Committee, in lieu of the Smithsonian Institution)

Mr. HOLLINGS. Madam President, I call up my amendment and ask that it be stated.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. HOLLINGS) proposes an unprinted amendment numbered 1423:

On page 4, lines 9 through 11, strike out all following "Interior" but before the period.

On page 4, line 12, striking out all following "(F)" and insert in lieu thereof the following: "The Administrator of the Nationa. Oceanic and Atmospheric Administration.".

On page 10, lines 21 through 23, strike out all following "where appropriate" and before "shall prepare", and insert in lieu thereof the following: "the Administrator of the National Oceanic and Atmospheric Administration)".

Mr. HOLLINGS. Madam President, this amendment is supported by the leadership of the Committee on Commerce, Science, and Transportation—HOWARD W. CANNON, chairman, and JAMES B. PEARSON, the ranking minority member—as well as WARREN MAGNUSON and TED STEVENS. It is also my understanding that the amendment is acceptable to the authors of the Culver-Baker compromise.

The purpose of the amendment is to place the National Oceanic and Atmospheric Administration on the interagency Endangered Species Committee, in lieu of the Smithsonian Institution. The National Oceanic and Atmospheric Administration (NOAA) carries out responsibilities under the Endangered Species Act presently, and there is strong feeling among the membership of the Commerce Committee that as such, NOAA should be a full member of the interagency committee. In addition, NOAA has knowledge and experience that would be useful to this committee.

On the other hand, the Smithsonian Institution, truly a venerable one, is in a quite unique position within the Federal Government. As established, it is part of the Federal establishment, but is not really a Federal agency, per se. It has, for example, no rulemaking or regulatory authority to speak of. Furthermore, there is an even deeper policy question here concerning the role of the Smithsonian, one that I understand my friend, Senator JACKSON, is concerned about, as well as those of us cosponsoring this amendment. We all have grave doubts as to whether it is either appropriate or wise for the Smithsonian to embark on this task. Both legally and from a policy point of view, it would be quite a departure from the current responsibilities of the Smithsonian. Because of this, I understand that Senator JACKSON, as a regent of the Smithsonian, is in support of this amendment.

I have also looked carefully at the balance in membership that the Culver-Baker compromise seeks to achieve in the interagency committee. I am convinced that by placing NOAA on the committee in lieu of the Smithsonian, this balance would not be harmed. And I understand that the authors of the Culver-Baker compromise have no objections to it either.

I believe, then, that this amendment will solve several problems, one being the uncomfortable position that the Smith-

sonian finds itself in, and the other being an appropriate role for NOAA as an agency with endangered species responsibilities. I urge my colleagues to support this effort.

Madam President, the makeup of the seven-man committee does not include the Secretary of Commerce in a direct fashion, only in an ancillary way. Section (e) of the present wording of the proposed bill reads:

And where appropriate, the Secretary of the Interior, in concurrence with the Secretary of Commerce.

It will be noted that in the Endangered Species Act as it was passed in 1973, section 1532(10) reads:

The term "Secretary" means, except as otherwise herein provided, the Secretary of the Interior or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Number 4 of 1970.

In other words, the Commerce Department, through its administrator, was given a fundamental and basic responsibility under the Endangered Species Act.

Under section 1542, the Commerce Department was given a special authorization to carry out its duties. In the ensuing years, it has corralled the expertise and the staff to administer properly its responsibilities under the act.

At the present time, there are numerous endangered species being administered by the Commerce Department, such as the following categories: whales; blue whale, bowhead, finback, gray, humpback, right whale, sei whale, sperm whale; turtles: hawksbill, leatherback, Atlantic ridley; fish; shortnosed sturgeon; seals: Hawaiian monk seal.

In other words, here was an agency with a fundamental responsibility; and it is interesting that the Secretary of Agriculture and the Army and others were included, but this agency was not. I am glad the managers of the bill now have gone along with this oversight, so that we can include the Department of Commerce, through the administrator of the National Oceanic and Atmospheric Administration.

It was the desire of the managers of the bill that balance be maintained, and the suggestion was made that the secretary of the Smithsonian Institution be supplanted here by the administrator of NOAA. I have no particular feeling about this. I understand, of course, that the Smithsonian Institution is a Federal agency, but it has no regulatory or rulemaking powers.

The Senator from Washington (Mr. JACKSON), who is a cosponsor of the amendment, pointed out the desire of the members of the advisory committee and others at the Smithsonian Institution that they not be included in this committee. Therefore, the balance is maintained by the replacement of the secretary of the Smithsonian Institution by the administrator of NOAA.

Mr. WALLOP. Madam President, it is my understanding that the Senator from Iowa (Mr. CULVER) and the majority members have agreed to this amendment. We on the minority side agree to it as well.

The Senator has found a problem that we in the committee had not anticipated with respect to the Constitution of the United States—the inclusion of the Director of the Smithsonian Institution.

I must say that the Smithsonian was reluctant to become involved in it, for reasons other than constitutional ones, but that reluctance apparently has been served by this amendment.

I think the inclusion of NOAA is an adequate substitute for what the subcommittee tried to do.

I see no problems with this amendment. I compliment the Senator for bringing the constitutional question to our attention.

Mr. ROBERT C. BYRD. Madam President, will the Senator yield?

Mr. WALLOP. I yield.

Mr. ROBERT C. BYRD. On behalf of Mr. CULVER, I accept the amendment and compliment the distinguished Senator from South Carolina for his foresight and effort in bringing forth this amendment.

Mr. HOLLINGS. I thank the Senator from Iowa, the Senator from Wyoming, and the majority leader for their cooperation in this regard, and I ask for the adoption of the amendment.

Mr. ROBERT C. BYRD. Madam President, I yield back the remainder of the time on this side.

Mr. HOLLINGS. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HOLLINGS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3238

(Purpose: To rewrite and improve the Endangered Species Act)

Mr. GARN. Madam President, I call up at this time my amendment No. 3238.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an amendment numbered 3238.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

On page 1 strike all after the enacting clause, and insert in lieu thereof the following:

That this Act may be cited as the "Endangered Species Act Amendments of 1978".

SEC. 2. The Endangered Species Act of 1973 (16 U.S.C. 1531–1543) is amended by striking section 2 and all subsequent sections and inserting the following:

CONGRESSIONAL FINDINGS AND DECLARATION OF PURPOSE AND POLICY

"SEC. 2. The Congress finds and declares that—

"(a) (1) various species of wildlife and plants in the United States have been rendered extinct as a consequence of inadequate concern and conservation;

"(2) other species of wildlife and plants have been so depleted in number that they are in danger of or threatened with extinction;

"(3) these species of wildlife and plants are of esthetic, ecological, educational, historical, recreational, and scientific value to the Nation and its people;

"(4) the United States has pledged itself as a sovereign state in the international community to conserve to the extent practicable the various species of wildlife and plants facing extinction, pursuant to—

"(A) migratory bird treaties with Canada and Mexico;

"(B) the Migratory and Endangered Bird Treaty with Japan;

"(C) the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere;

"(D) the International Convention for the Northwest Atlantic Fisheries;

"(E) the International Convention for the High Seas Fisheries of the North Pacific Ocean;

"(F) the Convention of International Trade in Endangered Species of Wild Fauna and Flora; and

"(G) other international agreements.

"(5) encouraging the States and other interested parties, through Federal financial assistance and a system of incentives, to develop and maintain conservation programs which meet national and international standards is a key to meeting the Nation's international commitments and to better safeguarding, for the benefit of all citizens, the Nation's native flora and fauna.

"(b) The purposes of this chapter are to provide a means whereby the ecosystems upon which species endangered or threatened species by human influence depend may be conserved, to provide a program for the conservation of such endangered species and threatened species, and to take such steps as may be appropriate to achieve the purposes of the treaties and conventions set forth in subsection (a) of this section.

"(c) It is further declared to be the policy of Congress that all Federal departments, agencies and instrumentalities shall seek to conserve endangered species and threatened species and shall utilize their authorities in furtherance of the purposes of this Act insofar as it is practicable and consistent with the primary purposes of these departments, agencies, and instrumentalities.

"DEFINITIONS

"SEC. 3. For the purposes of this chapter:

"(a) The term 'commercial activity' means all activities of industry and trade, including but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling: *Provided, however*, That it does not include exhibition of commodities by museums or similar cultural or historical organizations.

"(b) The terms 'conserve,' 'conserving,' and 'conservation' mean to use and the use of all methods and procedures which are prudent and reasonable to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, critical habitat acquisition, and managements, propagation, live trapping, transplantation, and regulated taking.

"(c) The term 'Convention' means the Convention on International Trade in Endangered Species of Wild Fauna and Flora, signed on March 3, 1973, and the appendices thereto.

"(d) The term 'endangered species' means any species which is determined pursuant to the provisions of this Act to be in danger of extinction throughout all or a portion of its range other than a species determined by the Secretary to constitute a pest whose protection under the provisions of this Act would present an overwhelming and overriding risk to man.

"(e) The term 'critical habitat' means—

"(1) for a threatened or an endangered species, the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (i) essential to the continued existence of the species, and (ii) which require special management considerations or protection;

"(2) when the Secretary so determines, critical habitat for an endangered species can include areas meeting qualifications of paragraph (1) of this subsection into which the species can be expected to expand naturally;

"(3) except in those unusual circumstances determined by the Secretary, critical habitat should not include the entire geographical areas occupied by the species.

"(f) The term 'foreign commerce' includes, among other things, any transaction—

"(1) between persons within one foreign country;

"(2) between persons in two or more foreign countries;

"(3) between a person within the United States and a person in a foreign country; or

"(4) between persons within the United States, where the wildlife in question are moving in any country or countries outside the United States.

"(g) The term 'import' means to land on, bring into, or introduce into; or attempt to land on, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States.

"(h) The term 'person' means an individual, corporation, partnership, trust association, or any other private entity, or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State or political subdivision thereof, or of any foreign government.

"(i) The term 'plant' means any species of the plant kingdom, and includes seeds, roots, and other parts thereof.

"(j) The term 'Secretary' means, except as otherwise herein provided, the Secretary of the Interior or the Secretary of Commerce as program responsibilities are vested pursuant to the provisions of Reorganization Plan Numbered 4 of 1970; except that with respect to the enforcement of the provisions of this Act and the Convention which pertain to the importation or exportation of terrestrial plants, the term means the Secretary of Agriculture.

"(k) the term 'species' means a group of physically similar organisms capable of interbreeding but generally incapable of producing fertile offspring through breeding with organisms outside this group.

"(l) The term 'State' means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and the Trust Territory of the Pacific Islands.

"(m) The term 'State agency' means any State agency, department, board, commission, or other governmental entity which is responsible for the management and conservation of plant or wildlife resources within a State.

"(n) The term 'take' means purposefully to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct which is inimical to the continued existence of an endangered or threatened species. It does not include effects from normal forestry, farming, ranching, or water management practices.

"(o) The term 'threatened species' means any species determined pursuant to the provisions of this Act which is likely to become an endangered species within the foreseeable future throughout all or a portion of the range.

"(p) The term 'United States,' when used in a geographical context, includes all States, possessions, and territories.

"(q) The term 'wildlife' means any species of the animal kingdom not normally domesticated and includes any part, product, egg, or offspring thereof, or the dead body or parts thereof.

"DETERMINATION OF ENDANGERED SPECIES AND THREATENED SPECIES

"SEC. 4. (a) GENERALLY.—(1) The Secretary shall by regulation determine whether any species is an endangered species or a threatened species because of any of the following factors:

"(A) the present or threatened destruction or adverse modification of its existing habitat;

"(B) overutilization for commercial, sporting, scientific, or educational purposes;

"(C) disease or predation;

"(D) the inadequacy of existing regulatory mechanisms; or

"(E) other manmade factors affecting its continued existence.

"(2) With respect to any species over which program responsibilities have been vested in the Secretary of Commerce pursuant to Reorganization Plan Numbered 4 of 1970—

"(A) in any case in which the Secretary of Commerce determines that such species should—

(i) be listed as an endangered species or a threatened species; or

(ii) be changed in status from a threatened species to an endangered species;

he shall so inform the Secretary of the Interior, who shall list such species in accordance with this section;

"(B) in any case in which the Secretary of Commerce determines that such species should—

(i) be removed from any list published pursuant to subsection (c) of this section; or

(ii) be changed in status from an endangered species to a threatened species;

he shall so inform the Secretary of the Interior who, if he concurs shall implement such action; and

"(C) the Secretary of the Interior may not list or remove from any list any such species, and may not change the status of any species which are listed, without a prior favorable determination made pursuant to this section by the Secretary of Commerce.

"(3) Critical habitat of an endangered or threatened species shall be designated concurrently with determination of that species' status.

"(4) When such determination and designation are made, there shall be an analysis of the effects of such actions on environmental quality and economic development.

"(b) BASIS FOR DETERMINATION.—(1) The Secretary shall make determinations and designations required by subsection (a) of this section on the basis of sound scientific and commercial data available to him and after consultation with the affected States, interested persons and organizations, other interested Federal agencies, and, in cooperation with the Secretary of State, with the country or countries in which the species concerned is normally found or whose citizens harvest such species on the high seas; except that in any case in which such determinations involve resident species of wildlife, the Secretary of the Interior may not add such species to, or remove such species from, any list published pursuant to subsection (c) of this section, unless the Secretary had first—

"(A) published notice in the Federal Register and notified the Governor of each State within which such species is then known to occur that such action is contemplated;

"(B) allowed each such State ninety days after notification to submit its comments, recommendations, and concurrence except to the extent that such period may be shortened by agreement between the Secretary and the Governor or Governors concerned; and

"(C) published in the Federal Register a summary of all information, comments, and recommendations received by him which relate to such proposed action.

"(2) In determining whether or not any foreign species is an endangered species or a threatened species, the Secretary shall take into consideration those efforts, if any, being made by any nation or any political subdivision of any nation to protect such species, whether by predator control, protection or management of habitat and food supply, or other conservation practices, within any area under the jurisdiction of any such nation or political subdivision, or on the high seas, or which substantially revises existing information regarding the subject species.

"(c) LISTS.—(1) The Secretary of the Interior shall publish in the Federal Register, and from time to time he shall by regulation revise, a list of all species determined by him or the Secretary of Commerce pursuant to this Act to be endangered species and a list of all species determined by him or the Secretary of Commerce pursuant to this Act to be threatened species. Each list shall refer to the species contained therein by scientific and common name or names, if any, and shall specify with respect to each such species over what portion of its range it is endangered, or threatened.

"(2) The Secretary shall, upon the petition of an interested person under section 553(E) of title 5, conduct a review of any listed or unlisted species proposed to be removed from or added to either of the lists published pursuant to paragraph (j) of this subsection, but only if he makes and publishes a finding and a summary of the evidence which in his judgment warrants such a review.

"(3) Any list in effect on December 27, 1973, of species of fish or wildlife determined by the Secretary of the Interior, pursuant to the Endangered Species Conservation Act of 1969, to be threatened with extinction shall be republished to conform to the classification for endangered species or threatened species, as the case may be, provided for in this chapter, but until such republication, any such species so listed shall be deemed an endangered species within the meaning of this chapter. The republication of any species pursuant to this paragraph shall not require public hearing or comment under section 553 of title 5.

"(4) No species resident in a foreign nation shall be listed without concurrence of that nation.

"(d) Whenever any species is listed as a threatened species pursuant to subsection (c) of this section, the Secretary shall issue such regulations as he deems necessary and advisable to provide for the conservation of such species. The Secretary may by regulation prohibit with respect to any threatened species any act prohibited under section 9 (a) (1) of this Act, in the case of wildlife, or section 9(a)(2) of this Act, in the case of plants, with respect to endangered species; except that with respect to the taking of

resident species wildlife, such regulations shall apply in any State which has entered into a cooperative agreement pursuant to section 6(a) of this Act only to the extent that such regulations have also been adopted by such State.

"(e) REGULATIONS.—(1) Except as provided in paragraphs (2) and (3) of this subsection and subsection (b) of this section, the provisions of section 553 of title 5 (relating to rulemaking procedures) shall apply to any regulation promulgated to carry out the purposes of this chapter.

"(2)(A) In the case of any regulation proposed by the Secretary to carry out the purposes of this chapter—

"(i) the Secretary shall publish general notice of the proposed regulation (including the complete test of the regulation) in the Federal Register not less than sixty days before the effective date of the regulation;

"(ii) the Secretary shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in subparagraph (i); and

"(iii) if any person who feels that he may be adversely affected by the proposed regulation files (within sixty days after the date of publication of general notice) objections thereto and requests a public hearing thereon, the Secretary may grant such request, but shall, if he denies such request, publish his reasons therefor in the Federal Register.

"(B) Neither subparagraphs (A) of this paragraph nor section 553 of title 5 shall apply in the case of any of the following regulations and any such regulation shall, at the discretion of the Secretary, take effect immediately upon publication of the regulation in the Federal Register:

"(i) Any regulation appropriate to carry out the purposes of this chapter which was originally promulgated to carry out the Endangered Species Conservation Act of 1969.

"(ii) Any regulation (including any regulation implementing section 6(g)(2)(B)(ii) of this Act) issued by the Secretary in regard to any emergency posing a significant risk to the well-being of any species of wildlife, but only if (I) at the time of publication of the regulation in the Federal Register the Secretary publishes therein detailed reasons why such regulation is necessary, and (II) in the case such regulation applies to resident species of wildlife, the requirements of subsection (b)(1)(A) of this section have been complied with. Any regulation promulgated under the authority of this clause (ii) shall cease to have force and effect at the close of the one hundred twenty-day period following the date of publication unless, during such one hundred twenty-day period, the rulemaking procedures which would apply such regulation without regard to this subparagraph are complied with.

"(3) The publication in the Federal Register of any proposed or final regulation which is necessary or appropriate to carry out the purposes of this Act shall include a complete and factual analysis by the Secretary of the data on which such regulation is based and shall clearly show the relationship of such data to such regulations.

"LAND ACQUISITION

"SEC. 5. (a) The Secretary of the Interior shall establish and implement a program to conserve (A) native wildlife or plants which are listed as endangered species or threatened species pursuant to section 4 of this Act. To carry out such program, he—

"(1) shall utilize the land acquisition and other authority under the Fish and Wildlife Act of 1956, as amended, the Fish and Wildlife Coordination Act, as amended, and the Migratory Bird Conservation Act, as appropriate; and

"(2) is authorized to acquire by purchase, donation, or otherwise, lands, waters, or interest therein, and such authority shall be in addition to any other land acquisition authority vested in him; and

"(3) is authorized to compensate persons for financial loss when he determines that such persons have suffered financial losses directly caused by the requirements of this Act or of regulations promulgated by the Secretary pursuant to authority provided by this Act, either of which create conditions whereby a person must manage lands owned by him in a manner which eliminates financial gain which would otherwise accrue if such land were managed in the absence of requirements to conserve animals or plants which are listed as endangered species or threatened species pursuant to section 4 of this Act.

"(b) Funds made available pursuant to the Land and Water Conservation Fund Act of 1965, as amended, may be used for the purpose of acquiring lands, waters, or interests therein under subsection (a) of this section.

"(c)(1) Any person who seeks compensation under this section shall apply therefore in such a manner and form as the Secretary shall by regulation prescribe.

"(2) The Secretary shall not take any action with respect to any application made under paragraph (1) unless the applicant submits to the Secretary such evidence as the Secretary may require which substantiates the claim that the loss was caused by the implementation of this Act or regulations promulgated thereunder.

"(3) No compensation for any loss shall be made under this section until the Secretary, after conducting an appropriate investigation, is satisfied that the facts submitted by the applicant therefore are accurate and substantiate the loss as having been caused by implementation of this Act or regulations promulgated thereunder.

"(4) Compensation shall not be paid under this section for any loss unless application for such compensation is made before December 31, 1978, or before the close of one year after the date regulations are promulgated by the Secretary under this Act which affect the management of a person's land.

"(5) The amount of the compensation paid to any person under this section shall be equal to the economic gain foregone due to requirements to manage that person's lands to conserve endangered species or threatened species listed pursuant to section 4 of this Act.

"(6) The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section.

"(7) Until September 30, 1979, there are authorized to be appropriated not to exceed $1,000,000 to carry out the provisions of this section.

"COOPERATION WITH STATES

"SEC. 6. (a) GENERALLY.—In carrying out the program authorized by this Act, the Secretary shall cooperate to the maximum extent practicable with the States. Such cooperation shall include consultation with the States and private property owners concerned before acquiring any land or water, or interest therein, for the purpose of conserving any endangered species of threatened species.

"(b) MANAGEMENT AGREEMENTS.—The Secretary may enter into agreements with any State for the administration and management of any area established for the conservation of endangered species of threatened species listed pursuant to this Act. Any revenues derived from the administration of such areas under these agreements shall be subject to the provisions of section 401 of the Act of June 15, 1935 (49 Stat. 383; 16 U.S.C. 715s).

"(c) COOPERATIVE AGREEMENTS.—In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species listed pursuant to this Act. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this Act. Unless he determines, pursuant to this subsection, that the State program is not in accordance with this Act, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed and adequate and active program for the conservation of endangered species and threatened species, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

"(1) authority resides in the State agency to conserve resident species determined by the State agency or the Secretary to be endangered or threatened pursuant to this Act;

"(2) the State agency has established conservation programs, consistent with the purposes and policies of this Act, for some or all resident species of wildlife in the State which are determined to be endangered or threatened pursuant to this Act and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

"(3) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of wildlife listed pursuant to this Act; and

"(4) the State agency is authorized to establish programs, including the acquisition of land or aquatic habitat or interests therein, for the conservation of resident endangered species or threatened species.

"(d)(1) ALLOCATION OF FUNDS.—The Secretary is authorized to provide financial assistance to any State, through its respective State agency, which has entered into a cooperative agreement pursuant to subsection (c) of this section to assist in development of programs for the conservation of endangered and threatened species. The Secretary shall make an allocation of appropriated funds to such States based on consideration of—

"(A) the international commitments of the United States to protect endangered species or threatened species;

"(B) the readiness of a State to proceed with a conservation program consistent with the objectives and purposes of this Act;

"(C) the number of endangered species and threatened species listed pursuant to this Act within a State;

"(D) the desirability and reasonable expectation of restoring endangered species and threatened species within a State; and

"(E) the relative urgency to initiate a program to restore and protect an endangered species or threatened species in terms of survival of the species.

So much of any appropriated funds allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which it is available for expenditure is authorized to be made available for expenditure by the Secretary in conducting programs under this section.

"(2) Such cooperative agreements shall provide for (A) the actions to be taken by the Secretary and the States; (B) the benefits that are expected to be derived in connection with the conservation of endangered species; (C) specific anticipated economic impacts of these actions; (D) the esti-

mated expenditures required to accomplish these actions; and (E) the share of such expenditures to be borne by the Federal Government and by the States; except that—

"(i) the Federal share of such program costs shall not exceed 66⅔ per centum of the estimated program expenditures stated in the agreement; and

"(ii) the Federal share may be increased to 75 per centum whenever two or more States have a common interest in one or more endangered or threatened species, the conservation of which may be enhanced by cooperation of such States, enter jointly into an agreement with the Secretary.

The Secretary may, in his discretion, and under such rules and regulations as he may prescribe, advance funds to the State for financing the United States pro rata share agreed upon in the cooperative agreement. For the purposes of this section, the non-Federal share may, in the discretion of the Secretary, be in the form of money or real property, the value of which will be determined by the Secretary, whose decision shall be final.

"(e) REVIEW OF STATE PROGRAMS.—Any action taken by the Secretary under this section shall be subject to his periodic review at no greater than annual intervals.

"(f) CONFLICTS BETWEEN FEDERAL AND STATE LAWS.—Any State law or regulation which applies with respect to the importation or exportation of, or interstate or foreign commerce in, endangered species or threatened species is void to the extent that it may effective (1) permit what is prohibited by this Act or by any regulation which implements this Act, or (2) prohibit what is authorized pursuant to an exemption or permit provided for in this Act or in any regulation which implements this Act. This Act shall not otherwise be construed to void any State law or regulation which is intended to conserve migratory, resident, or introduced fish or wildlife, or to permit or prohibit sale of such fish or wildlife. Any State law or regulation respecting the taking of an endangered species or threatened species may be more restrictive than the exemptions or permits provided for in this Act or in any regulation which implements this Act but not less restrictive than the prohibitions so defined.

"(g) TRANSITION.—The prohibitions set forth in or authorized pursuant to sections 4(d) and 9(a)(1)(B) of this Act shall not apply with respect to the taking of any resident endangered species or threatened species (other than species listed in appendix I to the Convention or otherwise specifically covered by any other treaty or Federal law) within any State—

"(1) which is then a party to a cooperative agreement with the Secretary pursuant to subsection (c) of this section (except to the extent that the taking of any such species is contrary to the law of such State); or

"(2) except for any time within the establishment period when—

"(A) The Secretary applies such prohibition to such species at the request of the State, or

"(B) the Secretary applies such prohibition after he finds, and publishes his finding, that an emergency exists posing a significant risk to the well-being of such species and that the prohibition must be applied to protect such species. The Secretary's finding and publication may be made without regard to the public hearing or comment provisions of section 553 of title 5 or any other provision of this Act; but such prohibition shall expire 90 days after the date of its imposition unless the Secretary further extends such prohibition by publishing notice and a statement of justification of such extension.

"(h) REGULATIONS.—The Secretary is authorized to promulgate such regulations as may be appropriate to carry out the provisions of this section relating to financial assistance to States.

"(i) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of this section, there is authorized to be appropriated through the fiscal year ending June 30, 1977, September 30, 1981, not to exceed $10,000,000.

"INTERAGENCY COOPERATION

"SEC. 7. The Secretary shall review other programs administered by him, and when appropriate, utilize such programs in furtherance of the purposes of this Act. All other Federal departments, agencies, and instrumentalities shall consult with the Secretary, and shall utilize their authorities insofar as practicable and consistent with their primary purposes, in furtherance of the purposes of this Act, by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. *Provided, however,* That those departments, agencies, and instrumentalities with in-house wildlife expertise need consult only as they desire or upon published request to do so by the Secretary. When authorizing, funding, or carrying out major Federal actions, such departments, agencies, and instrumentalities shall adopt measures to avoid significant, direct adverse effects of such major Federal actions on the conservation of endangered species or threatened species or on their critical habitat. No action taken after complying with this section shall be deemed a taking as defined by this Act.

INTERNATIONAL COOPERATION

"SEC. 8. (a) FINAL ASSISTANCE.—As a demonstration of the commitment of the United States to the worldwide protection of endangered species and threatened species, the President may, subject to the provisions of section 724 of title 31, use foreign currencies accruing to the United States Government under the Agricultural Trade Development and Assistance Act of 1954 or any other law to provide to any foreign country (with its consent) assistance in the development and management of programs in that country which the Secretary determines to be necessary or useful for the conservation of any endangered species or threatened species listed by the Secretary pursuant to section 4 of this Act. The President may provide assistance (which includes, but is not limited to, the acquisition, by lease or otherwise, of lands, waters, or interests therein) to foreign countries under this section under such terms and conditions as he deems appropriate. Whenever foreign currencies are available for the provision of assistance under this section, such currencies shall be used in preference of funds appropriated under other authority of this Act.

"(b) ENCOURAGEMENT OF FOREIGN PROGRAMS.—In order to carry out further the provisions of this Act, the Secretary, through the Secretary of State, shall encourage—

"(1) foreign countries to provide for the conservation of wildlife including endangered species and threatened species listed pursuant to section 4 of this Act;

"(2) the entering into of bilateral or multilateral agreements with foreign countries to provide for such conservation; and

"(3) foreign persons who directly or indirectly take wildlife in foreign countries or on the high seas for importation into the United States for commercial or other purposes to develop and carry out with such assistance as he may provide, conservation practices designed to enhance such wildlife and their habitat.

"(c) PERSONNEL.—After consultation with the Secretary of State, the Secretary may—

"(1) assign or otherwise make available any officer or employee of his department for the purpose of cooperating with foreign countries and international organizations in developing personnel resources and programs which promote the conservation of wildlife; and

"(2) conduct or provide financial assistance for the educational training of foreign personnel, in this country or abroad, in wildlife, or plant management, research, and law enforcement and to render professional assistance abroad in such matters.

"(d) INVESTIGATION.—After consultation with the Secretary of State and the Secretary of the Treasury, as appropriate, the Secretary may conduct or cause to be conducted such law enforcement investigations and research abroad as he deems necessary to carry out the purposes of this Act.

"(e) CONVENTION IMPLEMENTATION.—The President is authorized to designate appropriate agencies to act as the Management Authority or Authorities pursuant to the Convention. The agencies so designated shall thereafter be authorized to do all things assigned to them under the Convention, including the issuance of permits and certificates. The agency designated by the President to communicate with other parties to the Convention and with the Secretariat shall also be empowered, where appropriate, in consultation with the State Department, to act on behalf of and represent the United States in all regards as required by the Convention. The President shall also designate those agencies which shall act on behalf of and represent the United States in all regards as required by the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere.

"PROHIBITED ACTS

"SEC. 9. (a) GENERALLY.—(1) Except as provided in sections 6(g), 7, and 10 of this Act, with respect to any endangered species wildlife listed pursuant to section 4 of this Act, it is unlawful for any person subject to the jurisdiction of the United States to—

"(A) import any such species into, except any such species from the United States;

"(B) take any such species within the United States or the territorial sea of the United States;

"(C) take any such species upon the high seas;

"(D) possess, sell, deliver, carry, transport, or ship, by any means whatsoever, any such species taken in violation of subparagraphs (B) and (C);

"(E) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

"(F) sell or offer for sale in interstate or foreign commerce any such species; or

"(G) violate any regulation pertaining to such species or to any threatened species wildlife listed pursuant to section 4 of this Act and promulgate by the Secretary pursuant to authority provided by this chapter.

"(2) Except as provided in sections 6(g), 7, and 10 of this Act, with respect to any endangered species of plants listed pursuant to section 4 of this Act, it is unlawful for any person subject to the jurisdiction of the United States to—

"(A) import any such species into, or export any such species from, the United States;

"(B) deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity, any such species;

"(C) sell or offer for sale in interstate or foreign commerce any such species; or

"(D) violate any regulation pertaining to such species or to any threatened species of plants listed pursuant to section 4 of this Act and promulgate by the Secretary pursuant to authority provided by this Act.

"(3) However, no action undertaken after compliance with section 7 shall be deemed to be a taking as defined by this Act.

"(b) SPECIES HELD IN CAPTIVITY OR CONTROLLED ENVIRONMENT.—The provisions of this section shall not apply to any wildlife in captivity or in a controlled environment on December 28, 1973, if the purposes of such holding are not contrary to the purposes of this Act; except that this subsection shall not apply in the case of any fish or wildlife held in the course of a commercial activity.

"(c) VIOLATION OF CONVENTION.—(1) It is unlawful for any person subject to the jurisdiction of the United States to engage in any trade in any specimens contrary to the provisions of the Convention, or to possess any specimens traded contrary to the provisions of the Convention, including the definitions of terms in article I thereof except that possession of specimens or species parts acquired before ratification of the Convention is not prohibited.

"(2) Any importation into the United States of wildlife shall, if—

"(A) such wildlife is not any endangered species listed pursuant to section 4 of this Act but is listed in appendix II to the Convention.

"(B) the taking and exportation of such wildlife is not contrary to the provisions of the Convention and all other applicable requirements of the Convention have been satisfied,

"(C) the applicable requirements of subsections (d), (e), and (f) of this section have been satisfied, and

"(D) such importation is not made in the course of a commercial activity,

be presumed to be an importation not in violation of any provision of this Act or any regulation issued pursuant to this Act.

"(d) IMPORTS AND EXPORTS.— (1) It is unlawful for any person to engage in business as an importer or exporter wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered species or threatened species, and (B) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants without first having obtained permission from the Secretary.

"(2) Any person required to obtain permission under paragraph (1) of this subsection shall—

"(A) keep such records as will fully and correctly disclose each importation or exportation of wildlife or plants made by him and the subsequent disposition made by him with respect to such wildlife or plants;

"(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his places of business, and opportunity to examine his inventory of imported wildlife or plants and the records required to be kept under subparagraph (A) of this paragraph, and to copy such records; and

"(C) file such reports as the Secretary may require.

"(3) The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

"(e) REPORTS.—It is unlawful for any person importing or exporting wildlife (other than shellfish and fishery products which (1) are not listed pursuant to section 4 of the Act as endangered or threatened species, and (2) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants to fail to file any declaration or report as the Secretary deems necessary to facilitate enforcement of this Act or to meet the obligations of the Convention.

"(f) DESIGNATION OF PORTS.—(1) It is unlawful for any person subject to the jurisdiction of the United States to import into or export from the United States any wildlife (other than shellfish and fishery products which (A) are not listed pursuant to section 4 of this Act as endangered species or threatened species, and (B) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes) or plants, except at a port or ports designated by the Secretary of the Interior. For the purpose of facilitating enforcement of this chapter and reducing the costs thereof, the Secretary of the Interior, with approval of the Secretary of the Treasury and after notice and opportunity for public hearing, may, by regulation, designate ports and change such designations. The Secretary of the Interior, under such terms and conditions as he may prescribe, may permit the importation or exportation at nondesignated ports in the interest of the health or safety of wildlife or plants, or for other reasons, if in his discretion, he deems it appropriate and consistent with the purpose of this subsection.

"(2) Any port designated by the Secretary of the Interior under the authority of section 4(d) of the Act of December 5, 1969 (16 U.S.C. 666cc-4(d)) shall, if such designation is in effect on December 27, 1973, be deemed to be a port designated by the Secretary under paragraph (1) of this subsection until such time as the Secretary otherwise provides.

"(g) VIOLATIONS.—It is unlawful for any person subject to the jurisdiction of the United States to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in this section.

"EXCEPTIONS

SEC. 10. (a) PERMITS.—The Secretary may permit, under such terms and conditions as he may prescribe, any act otherwise prohibited by section 9 of this Act for scientific purposes or to enhance the propagation or survival of the affected species.

"(b) HARDSHIP EXEMPTIONS.—(1) If any person enters into a contract with respect to a species of wildlife or plant before the date of publication in the Federal Register of notice of consideration of that species as an endangered species and the subsequent listing of that species as endangered species pursuant to section 4 of this Act will cause undue economic hardship to such person under the contract, the Secretary, in order to minimize such hardship, may exempt such person from the application of section 9(a) of this Act to the extent the Secretary deems appropriate if such person applies to him for such exemption and includes with such application such information as the Secretary may require to prove such hardship; except that no such exemption may be granted for the importation or exportation of a specimen listed in Appendix I of the Convention which is to be used in a commercial activity.

"(2) As used in this subsection, the term 'undue economic hardship' shall include, but not be limited to—

"(A) substantial economic loss resulting from inability caused by this Act to perform contracts with respect to species wildlife entered into prior to the date of publication in the Federal Register of a notice of consideration of such species as an endangered species:

"(B) substantial economic loss to persons who, for the year prior to the notice of consideration of such species as an endangered species, derived a substantial portion of their income from the lawful taking of any listed species, which taking would be made unlawful under this Act; or

"(C) curtailment of subsistence taking made unlawful under this Act by persons (i) not reasonably able to secure other sources of subsistence; and (ii) dependent to a substantial extent upon hunting and fishing for subsistence; and (iii) who must engage in such curtailed taking for subsistence purposes.

"(3) The Secretary may make further requirements for a showing of undue economic hardship as he deems fit. Exceptions granted under this section may be limited by the Secretary in his discretion as to time, area, or other factor of applicability.

"(c) NOTICE AND REVIEW.—The Secretary shall publish notice in the Federal Register of each application for an exception or permit which is made under this section. Each notice shall invite the submission from interested parties, within thirty days after the date of the notice, written data, views, or arguments with respect to the application; except that such thirty-day period may be waived by the Secretary in an emergency situation where the health or life of an endangered species is threatened and no reasonable alternative is available to the applicant, but notice of any such waiver shall be published by the Secretary in the Federal Register within ten days following the issuance of the exemption or permit. Information received by the Secretary as a part of any application shall be available to the public as a matter of public record at every stage of the proceeding.

"(d) PERMIT AND EXEMPTION POLICY.—The Secretary may grant exceptions under subsections (a) and (b) of this section only if he finds and publishes his finding in the Federal Register that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the unnecessary disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 2 of this Act.

"(e) ALASKAN NATIVES.—(1) Except as provided in paragraph (4) of this subsection the provisions of this chapter shall not apply with respect to the taking of any endangered species or threatened species, or the importation of any such species taken pursuant to this section, by—

"(A) any Indian, Aleut, or Eskimo who is an Alaskan Native who resides in Alaska; or

"(B) any nonnative permanent resident of an Alaskan native village;

if such taking is primarily for subsistence purposes. Nonedible byproducts of species taken pursuant to this section may be sold in interstate commerce when made into authentic native articles of handicrafts and clothing; except that the provisions of this subsection shall not apply to any nonnative resident of an Alaskan native village found by the Secretary to be not primarily dependent upon the taking of wildlife for consumption or for the creation and sale of authentic native articles of handicrafts and clothing.

"(2) Any taking under this subsection may not be accomplished in a wasteful manner.

"(3) As used in this subsection—

"(A) the term 'subsistence' includes selling any edible portion of wildlife in native villages and towns in Alaska for native consumption within native villages or towns; and

"(B) the term 'authentic native articles of handicrafts and clothing' means items composed wholly or in some significant respect of natural materials, and which are produced, decorated, or fashioned in the exercise of traditional native handicrafts without the use of pantographs, multiple carvers, or other mass copying devices. Traditional native handicrafts include, but are not limited to, weaving, carving, stitching, sewing, lacking, beading, drawing, and painting.

"(4) Nothwithstanding the provisions of paragraph (1) of this subsection, whenever the Secretary determines that any species of fish or wildlife which is subject to taking under the provisions of this subsection is

an endangered species or threatened species, and that such taking materially and negatively affects the threatened or endangered species, he may prescribe regulations upon the taking of such species by any such Indian, Aleut, Eskimo, or non-Native Alaskan resident of an Alaskan Native village. Such regulations may be established with reference to species, geographical description of the area included, the season for taking, or any other factors related to the reason for establishing such regulations and consistent with the policy of this Act. Such regulations shall be prescribed after a notice and hearings in the affected judicial districts of Alaska and as otherwise required by section 103 of the Marine Mammal Protection Act of 1972, and shall be removed as soon as the Secretary determines that the need for their imposition has disappeared.

"(f) PRE-ACT ENDANGERED SPECIES PARTS EXEMPTION; APPLICATION AND CERTIFICATION; REGULATION; VALIDITY OF SALES CONTRACT; SEPARABILITY OF PROVISION.—(1) As used in this subsection—

"(A) The term 'pre-Act endangered species part' means—

"(i) any sperm whale oil, including derivatives thereof, which was lawfully held within the United States on December 28, 1973, in the course of a commercial activity; or

"(ii) any finished scrimshaw product, if such product or the raw material for such product was lawfully held within the United States on December 28, 1973, in the course of a commercial activity; or

"(iii) any finished product, of plant or animal origin, if the raw material for such product was lawfully held within the United States on December 28, 1973; or on the date the source species was listed as endangered pursuant to this Act.

"(B) the term 'scrimshaw product' means any form which involves the etching or engraving of designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea.

"(2) The Secretary, pursuant to the provisions of this subsection, may exempt, if such exemption is not in violation of the Convention, any pre-Act endangered species part from one or more of the following prohibitions:

"(A) The prohibition on export from the United States set forth in section 9(a)(1)(A) of this Act.

"(B) Any prohibition set forth in section 9(a)(1)(E) or (F) of this Act.

"(3) Any person seeking an exemption described in paragraph (2) of this subsection shall make application therefor to the Secretary in such form and manner as he shall prescribe, but no such application may be considered by the Secretary unless the application—

"(A) is received by the Secretary before the close of the one-year period beginning on the date on which regulations promulgated by the Secretary to carry out the subsection first take effect;

"(B) contains a complete and detailed inventory of all pre-Act endangered species parts for which the applicant seeks exemption;

"(C) is accompanied by such documentation as the Secretary may require to prove that any endangered species part or product claimed by the applicant to be a pre-Act endangered species part is in fact such a part; and

"(D) contains such other information as the Secretary deems necessary and appropriate to carry out the purposes of this subsection.

"(4) If the Secretary approves any application for exemption made under this subsection, he shall issue to the applicant a certificate of exemption which shall specify—

"(A) any prohibition in section 9 of this Act which is exempted;

"(B) the pre-Act endangered species parts to which the exemption applies;

"(C) the period of time during which the exemption is in effect, but no exemption made under this subsection shall have force and effect after the close of the three-year period beginning on the date of issuance of the certificate; and

"(D) any term or condition prescribed pursuant to paragraph (5) (A) or (B), or both, which the Secretary deems necessary or appropriate.

"(5) The Secretary shall prescribe such regulations as he deems necessary and appropriate to carry out the purposes of this subsection. Such regulations may set forth—

"(A) terms and conditions which may be imposed on applicants for exemptions under this subsection (including, but not limited to, requirements that applicants register inventories, keep complete sales records, permit duly authorized agents of the Secretary to inspect such inventories and records, and periodically file appropriate reports with the Secretary); and

"(B) terms and conditions which may be imposed on any subsequent purchaser of any pre-Act endangered species part covered by an exemption granted under this subsection; to insure that any such part so exempted is adequately accounted for and not disposed of contrary to the provisions of this chapter. No regulation prescribed by the Secretary to carry out the purposes of this subsection shall be subject to section 4(f)(2)(A)(i) of this Act.

"(6)(A) Any contract for the sale of pre-Act endangered species parts which is entered into by the Administrator of General Services prior to the effective date of the subsection and pursuant to the notice published in the Federal Register on January 9, 1973, shall not be rendered invalid by virtue of the fact that fulfillment of such contract may be prohibited under section 9(a)(1)(F).

"(B) In the event that this paragraph is held invalid, the validity of the remainder of this Act, including the remainder of this subsection, shall not be affected.

"(7) Nothing in this subsection shall be construed to—

"(A) exonerate any person from any act committed in violation of paragraph (1)(A), (1)(E), or (1)(F) of section 9 prior to the date of enactment of this subsection; or

"(B) immunize any person from prosecution for any such act.

"PENALTIES AND ENFORCEMENT

"SEC. 11. (a) CIVIL PENALTIES.—(1) Any person who knowingly violates, or who knowingly commits an act in the course of a commercial activity which violates, any provision of this Act, or any provision of any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a)(1), (A), (B), (C), (D), (E), or (F); (a)(2), (A), (B), or (C); (c); (d) (other than a regulation relating to recordkeeping or filing of reports); (f); or (g) of section 9 of this Act, may be assessed a civil penalty by the Secretary of not more than $10,000 for each violation. Any person who knowingly violates, or who knowingly commits an act in the course of a commercial activity which violates, any provision of any other regulation issued under this Act may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation. Any person who otherwise knowingly violates any provision of this Act, or any regulation, permit, or certificate issued hereunder, may be assessed a civil penalty by the Secretary of not more than $1,000 for each such violation. No penalty may be assessed under this subsection unless such person is given notice and opportunity for a hearing with respect to such violation. Each violation shall be a separate offense. Any such civil penalty may be remitted or mitigated by the Secretary. Upon any failure to pay a penalty assessed under this subsection, the Secretary may request the Attorney General to institute a civil action in a district court of the United States for any district in which such person is found, resides, or transacts business to collect the penalty and such court shall have jurisdiction to hear and decide any such action. The court shall hear such action on the record made before the Secretary and shall sustain his action if it is supported by substantial evidence on the record considered as a whole. The penalty for persons who unknowingly violate any provision of this Act shall be forfeiture of species.

"(2) Hearings held during proceedings for the assessment of civil penalties authorized by paragraph (1) of this subsection shall be conducted in accordance with section 554 of title 5. The Secretary may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpena served upon any person pursuant to this paragraph, the district court of the United States for any district in which such person is found or resides or transacts business upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(b) CRIMINAL VIOLATIONS.—(1) Any person who willfully and knowingly commits an act which violates any provision of this Act, or any permit or certificate issued hereunder, or of any regulation issued in order to implement subsection (a)(1) (A), (B), (C), (D), (E), or (F); (a)(2) (A), (B), or (C); (c); (d) (other than a regulation relating to recordkeeping, or filing of reports); (f); or (g) of section 9 of this Act shall, upon conviction, be fined not more than $20,000 or imprisoned for not more than one year, or both. Any person who willfully and knowingly commits an act which violates any provision of any other regulation issued under this Act shall, upon conviction, be fined not more than $10,000 or imprisoned for not more than six months, or both.

"(2) The head of any Federal agency which has issued a lease, license, permit, or other agreement authorizing the use of Federal lands, including grazing of domestic livestock, to any person who is convicted of a criminal violation of this Act or any regulation, permit, or certificate issued hereunder may immediately modify, suspend, or revoke each lease, license, permit, or other agreement, directly related or connected with the specific violation for which conviction was obtained. The Secretary shall also suspend for a period of up to one year, or cancel, any Federal hunting or fishing permits or stamps issued to any person who is convicted of a criminal violation of any provision of this Act or any regulation, permit, or certificate issued hereunder. The United States shall not be liable for the payments of any compensation, reimbursement, or damages in connection with the modification, suspension, or revocation of any leases, licenses, permits, stamps, or other agreements pursuant to this section.

"(c) DISTRICT COURT JURISDICTION.—The several district courts of the United States, including the courts enumerated in section 460 of title 28 shall have jurisdiction over any actions arising under this Act. For the purpose of this Act, American Samoa shall

be included within the judicial district of the District Court of the United States for the District of Hawaii.

"(d) REWARDS.—Upon the recommendation of the Secretary, the Secretary of the Treasury is authorized to pay an amount equal to one-half of the civil penalty or fine paid, but not to exceed $2,500, to any person who furnishes information which leads to a finding of civil violation or a conviction of a criminal violation of any provision of this Act or any regulation or permit issued thereunder. Any officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his official duties shall not be eligible for payment under this section.

"(e) ENFORCEMENT.—(1) The provisions of this Act and any regulations or permits issued pursuant thereto shall be enforced by the Secretary, the Secretary of the Treasury, or the Secretary of the department in which the Coast Guard is operating, or all such Secretaries. Each such Secretary may utilize by agreement, with or without reimbursement, the personnel, services, and facilities of any other Federal agency or any State agency for purposes of enforcing this Act.

"(2) The judges of the district courts of the United States and the United States magistrates may, within their respective jurisdictions, upon proper oath or affirmation showing probable cause, issue such warrants or other process as may be required for enforcement of this Act and any regulation issued thereunder.

"(3) Any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the department in which the Coast Guard is operating, to enforce this Act may detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation or exportation. Such person may make arrests without a warrant for any violation of this Act if he has reasonable grounds to believe that the person to be arrested is committing the violation in his presence or view, and may execute and serve any arrest warrant, search warrant, or other warrant or civil or criminal process issued by any officer or court of competent jurisdiction for enforcement of this Act. Such person so authorized may search and seize, with or without a warrant, as authorized by law. Any wildlife, property, or item so seized shall be held by any person authorized by the Secretary, the Secretary of the Treasury, or the Secretary of the department in which the Coast Guard is operating pending disposition of civil or criminal proceedings, or the institution of an action in rem for forfeiture of such wildlife, property, or item pursuant to paragraph (4) of this subsection, except that the Secretary may, in lieu of holding such wildlife, property, or item, permit the owner or consignee to post a bond or other surety satisfactory to the Secretary, but upon forfeiture of any such property to the United States, or the abandonment or waiver of any claim to any such property, it shall be disposed of (other than by sale to the general public) by the Secretary in such a manner, consistent with the purposes of this Act, as the Secretary may by regulation prescribe.

"(4)(A) All wildlife or plants taken, possessed, sold, purchased, offered for sale or purchase, transported, delivered, received, carried, shipped, exported, or imported contrary to the provisions of this Act, any regulation made pursuant thereto, or any permit or certificate issued hereunder shall be subject to forfeiture to the United States.

"(B) All guns, traps, nets, and other equipment, vessels, vehicles, aircraft, and other means of transportation used to aid the taking, possessing, selling, purchasing, offering for sale or purchase, transporting, delivering, receiving, carrying, shipping, exporting, or importing of any wildlife or plants in violation of this Act, any regulation made pursuant thereto, or any permit or certificate issued thereunder shall be subject to forfeiture to the United States upon conviction of a criminal violation pursuant to subsection (b)(1) of this section.

"(5) All provisions of law relating to the seizure, forfeiture, and condemnation of a vessel for violation of the customs laws, the disposition of such vessel or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this Act, insofar as such provisions of law are applicable and not inconsistent with the provisions of this Act; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Treasury Department shall, for the purposes of this Act, be exercised or performed by the Secretary or by such persons as he may designate.

"(f) REGULATIONS.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating, are authorized to promulgate such regulations as may be appropriate to enforce this Act, and charge reasonable fees for expenses to the Government connected with permits or certificates authorized by this Act, including processing applications and reasonable inspections, and with the transfer, board, handling, or storage of wildlife or plants and evidentiary items seized and forfeited under this Act. All such fees collected pursuant to this subsection shall be deposited in the Treasury to the credit of the appropriation which is current and chargeable for the cost of furnishing the services. Appropriated funds may be expended pending reimbursement from parties in interest.

"(g) CITIZEN SUIT.—(1) Except as provided in paragraph (2) of this subsection any person may commence a civil suit on his own behalf—

"(A) to enjoin any person, including the United States and any other governmental instrumentality or agency (to the extent permitted by the eleventh amendment to the Constitution), who is alleged to be in violation of any provision of this Act or regulation issued under the authority thereof; or

"(B) to compel the Secretary to apply, pursuant to section 6(g) of this Act, the prohibitions set forth in or authorized pursuant to section 4(d) or 9(a)(1)(B) of this Act with respect to the taking of any resident endangered species or threatened species within any State.

The district courts shall have jurisdiction, without regard to the amount in controversy or the citizenship of the parties to enforce any such provision or regulation, as the case may be. In any civil suit commenced under subparagraph (B) the district court shall compel the Secretary to apply the prohibition sought if the court finds that the allegation that an emergency exists is supported by substantial evidence.

"(2)(A) No action may be commenced under subparagraph (1)(A) of this section—

"(i) prior to sixty days after written notice of the violation has been given to the Secretary, and to any alleged violator of any such provision or regulation;

"(ii) if the Secretary has commenced action to impose a penalty pursuant to subsection (a) of the section; or

"(iii) if the United States has commenced and is diligently prosecuting a criminal action in a court of the United States or a State to redress a violation of any such provision or regulation.

"(B) No action may be commenced under subparagraph (1)(B) of this section—

"(i) prior to sixty days after written notice has been given to the Secretary setting forth the reasons why an emergency is thought to exist with respect to an endangered species or a threatened species in the State concerned; or

"(ii) if the Secretary has commenced and is diligently prosecuting action under section 6(g)(2)(B) of this Act to determine whether any such emergency exists.

"(3)(A) Any suit under this subsection shall be brought in the judicial district in which the violation occurs.

"(B) In any such suit under this subsection in which the United States is not a party, the Attorney General, at the request of the Secretary, may intervene on behalf of the United States as a matter of right.

"(4) The court, in issuing any final order in any suit brought pursuant to paragraph (1) of this subsection, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing party, whenever the court determines such award is appropriate, providing that the party to whom award is to be made has petitioned the Court for such relief prior to issuance of any final order.

"(5) The injunctive relief provided by this subsection shall not restrict any right which any person (or class of persons) may have under any statute or common law to seek enforcement of any standard or limitation or to seek any other relief (including relief against the Secretary or a State agency).

"(h) COORDINATION WITH OTHER LAWS.—The Secretary of Agriculture and the Secretary shall provide for appropriate coordination of the administration of the Act with the administration of the animal quarantine laws (sections 101 to 105, 111 to 135b, and 612 to 614 of title 21) and section 1306 of title 10. Nothing in this Act or any amendment made by this Act shall be construed as superseding or limiting in any manner the functions of the Secretary of Agriculture under any other law relating to prohibit or restrict importations or possession of animals and other articles and no proceeding or determination under this Act shall preclude any proceeding or be considered determinative of any issue of fact or law in any proceeding under any Act administered by the Secretary of Agriculture. Nothing in this Act shall be construed as superseding or limiting in any manner the functions and responsibilities of the Secretary of the Treasury under the Tariff Act of 1930, including, without limitation, section 1527 of title 19, relating to the importation of wildlife taken, killed, possessed, or exported to the United States in violation of the laws or regulations of a foreign country.

"ENDANGERED PLANTS

"SEC. 12. The Secretary of the Smithsonian Institution, in conjunction with other affected agences, is authorized and directed to review (1) species of plants which are now or may become endangered or threatened and (2) methods of adequately conserving such species, and to report to Congress.

"CONFORMING AMENDMENTS

"SEC. 13. (a) Subsection 4(c) of the Act of October 15, 1966 (80 Stat. 928, 16 U.S.C. 668dd(c)), is further amended by revising the second sentence thereof to read as follows: 'With the exception of endangered species and threatened species listed by the Secretary pursuant to section 4 of the Endangered Species Act of 1973 in States wherein a cooperative agreement does not exist pursuant to section 6(c) of that Act, nothing in this Act shall be construed to authorize the Secretary to control or regulate hunting or fishing of resident fish and wildlife on lands not within the system.'

"(b) Subsection 10(a) of the Migratory Bird Conservation Act (45 Stat. 1224; 16 U.S.C. 715i(a)) and subsection 401(a) of the Act of June 15, 1935 (49 Stat. 383; 16 U.S.C. 715s(a)), are each amended by striking out 'threatened with extinction,' and inserting in lieu thereof the following: 'listed pursuant to section 4 of the Endangered Species Act of 1973 as endangered species or threatened species,'.

"(c) Section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(a)(1)) is amended by striking out:

" 'THREATENED SPECIES.—For any national area which may be authorized for the preservation of species of fish or wildlife that are threatened with extinction.'

and inserting in lieu thereof the following:

" 'ENDANGERED SPECIES AND THREATENED SPECIES.—For lands, waters, or interests therein, the acquisition of which is authorized under section 5(a) of the Endangered Species Act of 1973, needed for the purpose of conserving endangered or threatened species of fish or wildlife or plants.'

"(d) The first sentence of section 2 of the Act of September 28, 1962, as amended (76 Stat. 653, 16 U.S.C. 460k-1), is amended to read as follows:

" 'The Secretary is authorized to acquire areas of land, or interests therein, which are suitable for—

" '(1) incidental fish and wildlife-oriented recreational development,

" '(2) the protection of natural resources,

" '(3) the conservation of endangered species or threatened species listed by the Secretary pursuant to section 4 of the Endangered Species Act of 1973, or,

" '(4) carrying out two or more of the purposes set forth in paragraphs (1) through (3) of this section, and are adjacent to, or within the said conservation areas, except that the acquisition of any land or interest therein pursuant to this section shall be accomplished only with such funds as may be appropriated therefor by the Congress or donated for such purposes, but such property shall not be acquired with funds obtained from the sale of Federal migratory bird hunting stamps.'

"(e) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407) is amended—

"(1) by striking out 'Endangered Species Conservation Act of 1969' in section 3(1)(B) thereof and inserting in lieu thereof the following: 'Endangered Species Act of 1973';

"(2) by striking out 'pursuant to the Endangered Species Conservation Act of 1969' in section 101(a)(3)(B) thereof and inserting in lieu thereof the following: 'or threatened species pursuant to the Endangered Species Act of 1973';

"(3) by striking out 'endangered under the Endangered Species Conservation Act of 1969' in section 102(b)(3) thereof and inserting in lieu thereof the following: 'an endangered species or threatened species pursuant to the Endangered Species Act of 1973'; and

"(4) by striking out 'of the Interior such revisions of the Endangered Species List, authorized by the Endangered Species Conservation Act of 1969,' in section 202(a)(6) thereof and inserting in lieu thereof the following: 'such revisions of the endangered species list and threatened species list published pursuant to section 4(c)(1) of the Endangered Species Act of 1973.'.

"(f) Section 2(1) of the Federal Environmental Pesticide Control Act of 1972 (Public Law 92-516) is amended by striking out the words 'by the Secretary of the Interior under Public Law 91-135' and inserting in lieu thereof the words 'or threatened by the Secretary pursuant to the Endangered Species Act of 1973.'

"REPEALER

"SEC. 14. The Endangered Species Conservation Act of 1969 (sections 1 through 3 of the Act of October 15, 1966, and sections 1 through 6 of the Act of December 5, 1969; 16 U.S.C. 668aa—688cc-6), is repealed.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. Except as authorized in sections 5 and 6 of this Act, there is authorized to be appropriated—

"(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1979, not to exceed a total of $25,000,000 for the fiscal year ending September 30, 1980, and the fiscal year ending September 30, 1981, to enable the Department of Interior to carry out such functions and responsibilities as it may have been given under this chapter; and

"(2) not to exceed $2,500,000 for the fiscal year ending September 30, 1979, and not to exceed a total of $3,000,000 for the fiscal year ending September 30, 1980, and the fiscal year ending September 30, 1981, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this chapter.

"MARINE MAMMAL PROTECTION ACT OF 1972

"SEC. 16. Except as otherwise provided in this Act, no provision of this Act shall take precedence over any more restrictive conflicting provision of the Marine Mammal Protection Act of 1972.

"SEC. 17. This Act shall take effect on the date of its enactment.".

Mr. GARN. Mr. President, the legislation before us, the Endangered Species Act Amendments of 1978, raises the deepest of philosophical questions. It challenges us to find the niche which man should occupy in the overall scheme of things, and to balance his constructive and destructive abilities. To a great extent, it is our success as society that enables us to consider these questions. Never before has any society had the material abundance, and the leisure time, to put such questions to itself. All of man's past history is taken up with the struggle to feed and clothe himself, to protect himself against the power of natural forces, against encroachments by wild plants and animals, and against neighbors who might be bigger, stronger, or more warlike than he.

Having now reached a plateau where material wants are to a great extent satisfied, the American society has paused, looked about it, and asked itself if what it has created is desirable, or permanent. The questions are real ones, and they deserve full consideration, in all their implications. It will not do to say, simply: "We can go on as we have done," or 'We must return to a simpler time." The first answer means, in the long run, the exhaustion of physical resources, and perhaps the moral exhaustion of our people. The second answer will consign millions of people to death and physical misery. The fact is that we are able to support today's population only by the use of technological development, and intensive use of resources. "Small is beautiful" sounds good, but it is really economics as if only some people mattered.

Science teaches us that everything in the physical world tends toward stasis, toward the elimination of differences. Ultimately, then, all species will be endangered, and will, one by one, go out of existence. In that sense, the attempt to preserve every species is fruitless. It cannot be done. But that is in the long run. I am reminded of the woman who was listening to an astronomer explain that in a billion years or so, the Sun would burn out. "Oh no!" she cried. "What's the matter?" asked the scientist, "you would not be here in a billion years." "Oh, a billion. I thought you said a million."

In the meantime, there is a great deal we can and should do, to preserve diversity. It was in that spirit that Congress, first in 1969, and then in 1973, passed legislation to provide attention and protection to species whose continued existence was in jeopardy. Unfortunately, as a society, and as a Congress, we have competing responsibilities. Beyond the need to protect the environment, we are also responsible for the provision and preservation of aspects of our society which are judged desirable by the American people. These include food and water, electricity and other forms of power, and the materials we use to make everything from hospital beds to golden spittoons for Las Vegas casinos.

Some of the uses to which we put our physical wealth are honorable and noble; others are certainly not that useful. But it is the essence of a free society that individuals are left to make the judgment for themselves.

The legislation of 1973, which we are seeking to amend today, was passed by the overwhelming margin characteristic of environmental legislation in the first flush of the movement, in the late 1960's and early 1970's. As I recall, the vote was 92 to 0; 5 years later, we have had some time to see what developed from that bill, and to analyze what we have done. Obviously, were the bill to come before us today, it would not command the same majority. That is not to say that it would not pass, or that it should not. But certainly there would be more questioning of it than there was in 1973. And that is to the good. If we do not learn from our experience, we are more foolish even than we look in some of the Herblock cartoons.

It has been said that the 1973 act is working well, and needs no adjustment. After all, there have been 4,500 "consultations" over potential conflicts, and only one, the Tellico Dam, has reached the courts. Is that not a record to be proud of? It is, of course, but there are contributing factors that may need a little attention.

To begin with, some of the 4,500 consultations involved no more than a phone call. We need to recognize that the Fish and Wildlife Service expects as many as 20,000 consultations in fiscal year 1979, a fivefold increase.

Second, we are only at the beginning of our experience with the Endangered Species Act. Over 1,800 plant species and 100 animal species have now been proposed for designation as endangered or threatened; more than 40 different habitats are being considered for designation as critical. And I point out to the Senate

that some of these "habitats" are of enormous size. The entire Colorado River drainage is the critical habitat for the bonytail chub, an endangered species. Senator McCLURE has already brought to the attention of the Senate the problems coming with the designation of the habitat of the grizzly bear, and the extension of that habitat into areas formerly, but no longer, occupied by the bear.

The Committee on Environment and Public Works took testimony from scientists who testified that the endangered species legislation could be used to stop any Federal construction project if someone so desired. All that would be required is a little time, a few dedicated workers, and the act as it now stands interpreted. A team of investigators would be able to find a species, perhaps previously unknown, whose existence would, under the Supreme Court's interpretation, be stopped.

Third, there is some evidence that the Office of Endangered Species has delayed listing certain species as endangered where they might interfere with a Federal project, for fear of congressional reprisals on this legislation now before us. The committee report on the bill makes precisely this point. And the Secretary of Interior has been quoted as admitting that:

> With the endangered species list there is no question that it is being used in some instances to bring a halt to a project. The problem is not with the endangered species but with the people and the project involved. That is an instrument by which they use to bring the projects to a halt.

Fourth, the Interior Department is in some cases listing a species as endangered, but it is not designating the habitat as critical. The Colorado squawfish, for example, has been designated as endangered, but its habitat, which is the entire Colorado River basin, has not been designated as "critical." The reason, I suspect, is that such a designation would provoke a political confrontation that the species would lose.

The species in question is badly served by this process, as are the citizens in the area. The delay in listing a species, or designating a habitat, for political reasons, may permit damage to the species that could have been avoided through consultations and negotiations, were the act itself being interpreted in anything less than a procrustean manner. The very rigidity of the Supreme Court's interpretation may be defeating the purposes of the act.

Finally, the committee report warns us that there are many more Federal actions underway which threaten to pose the kind of irresolvable conflict which resulted in the Tellico case, and that as the number of species listed and habitats designated increases, the number of potential conflicts can only increase at the same pace.

For these reasons, it would be a mistake to conclude from experience to date that the act is "working well," and that there is no need to modify it. Indeed, the analysis I have just gone through suggests the directions in which the modifications should take place.

Last week I introduced a comprehensive rewrite of the 1973 Endangered Species Act. I apologize to my colleagues for not having introduced it sooner, but like everyone else around here, I have more to do than my staff can accomplish. I note that the hearings on the bill now before us have not yet been printed, and will not be for another 2 weeks or so. In any event, the amendment I introduced embodies what I see as a rational balance between the competing responsibilities we have as Senators, the responsibility to preserve the political and economic system which enables us to be concerned about species other than ourselves, and the responsibility to act on that concern.

In view of the time limitation, it is not my intention to debate this amendment at length, but I would like to take a few minutes and go through it, section by section, explaining how it differs from present law, and from the Culver-Baker bill which is before us. I do that in the hope that it will serve as a vehicle for future discussion, and that some of the principles in it will contribute to the present debate.

Section 1: No change.

Section 2: This section contains the congressional findings and declaration of purpose of the act. I have made only a few changes in this section, to broaden the focus of our concern to both plants and animals, and to direct it to aspects of our activity that we can realistically do something about. For instance, I feel that we should concentrate on our native flora and fauna, and not attempt to interfere with the activities of other countries. We should also concentrate on human activities, recognizing that the forces of nature are still largely beyond our control.

Perhaps most significantly, I have added language to this section which clearly and explicitly recognizes that as a Federal Government, we have obligations other than the preservation of species, and recognizes that sometimes those obligations may conflict with the desire to protect species and species diversity.

Section 3: This is the definitions section, and I have made a number of changes. The term "conserve" is changed, for example, by substituting the words "prudent and reasonable" for the word "necessary" in the present act. This change is designed to recognize that methods and procedures which are necessary to the preservation of a species are not necessarily either prudent or desirable. For instance, the preservation of a given species might conflict with an overwhelming national defense requirement. The definition is also changed to provide for enhancement of habitat. Under present interpretations, enhancement is permitted under very limited circumstances; my amendment seeks to permit "net enhancement," even if some critical habitat is destroyed. Netting out enhancement and destruction is not permitted under the present regulations.

The term "endangered species" itself is changed to make clear that we are talking about species designated under this act, and not about species that might have been designated under the laws of a State or another country. I would also permit the designation of a species as endangered even in some portion of its range that is less than "significant." So that I am not misunderstood, what I am trying to do here is to permit the protection of a major species, such as the alligator, which may be threatened in a restricted geographical locale, but is not over its entire range, or even over a significant part of its range. With the degree of flexibility written into my proposal in other places, it is my hope that this provision could not be used to defeat the purposes of the proposal.

My definition of "endangered species" would permit the extirpation of any declared pest, and not just insects, as under the present act. I have mentioned the smallpox virus before. As it is now, the virus cannot be extirpated, consistent with the act, since it is not an insect. There might also be cases where even vertebrates might be so noxious that they should be eliminated. The restriction to insects is too rigid, and there is no good reason for it.

My definition of critical habitat would require that it be designated at the same time as the species is listed as endangered. I would like to prevent the kind of delay we are now experiencing. I also seek to keep the portion of the natural range of the species that must be designated as critical less than the entire range of the species.

My definition of "species" is revised in a more biologically defensible way. The present definition has given rise to a certain amount of confusion. Let me repeat, however, that what I am interested in is flexibility. A species does not have to be endangered over its entire range in order to be endangered.

I have redefined "take" to include only actions purposely taken to harm an endangered species. The reasoning here is clear. Malicious activity should be prohibited, but normal land management practices, carried out on private lands and without Federal involvement should not be reached.

Section 4: This section deals with the process for determining an endangered or threatened species. My amendment would also include under this section a provision for the designation of critical habitat, at the same time as the species is determined to be endangered or threatened. In order to achieve the goal of protecting an endangered or threatened species, the Federal land manager or permitting official must know not only of the status of the species, but of the habitat on which its continued existence exists. The present act has no requirement for the designation of critical habitat, though that is now done by regulation. As mentioned earlier, the delay is confusing and potentially harmful to the species in question.

This amendment would also add a requirement that the designation of a

species and habitat carry with it an analysis of the effects of the designation on the environmental quality and economic development. What we are looking for here is not necessarily an environmental impact statement, though that may occasionally be necessary, but some kind of assessment of the environmental question, and an assessment of the economic impacts of such a designation.

The designations under this section shall be made on the basis of sound data. The present requirement is that decisions be made on the basis of "the best" information available. Now as it happens, the best that may be available may be a courthouse—or laboratory—rumor. "Hey, professor, I heard that Clarence's fritillary is endangered." While that may be the best information available, it is far from sound, and the designation of an endangered species should not be made on it. Besides, there may always be debate over what data are "the best," while it is usually possible to get agreement that data are "sound," even when individual scientists may not agree with them.

Also in this section I have tried to counter some of the criticism of the present process for listing species as endangered. I have expanded the range of information that has to be made available to the public, and tried to assure that proposed designations receive proper scientific scrutiny. Since few scientists read the Federal Register, my amendment would require the Fish and Wildlife Service to offer to the appropriate scientific journals a summary of the proposal for listing of species and designation of habitat. We cannot, obviously, compel the editors of these journals to carry the notices, but if the scientific community is going to criticize the present process, I think it likely that they will avail themselves of this proposed revision.

I have added a provision prohibiting the listing of species in other countries as endangered without their consent. Unless we obtain the concurrence of foreign governments, we are gratuitously insulting them, and unlikely to gain their cooperation. If we want to prohibit the importation of a foreign species, or products made from foreign species, let us do so directly, and not exercise what amounts to an ecological imperialism which is insulting to other countries. Many countries are still more concerned with feeding and clothing their populations than they are with preserving esoteric species of wildlife. That is an understandable position, and we should respect it. We are more likely to gain our own ends if we refrain from insulting other nations.

I have eliminated the "similarity of appearances" portion of this section, since I am informed that there are adequate tests available to make a determination of species identity.

Section 5: This section deals with land acquisition. I have provided some compensation for losses caused by the act which do not result directly from land acquisition, and have established a new procedure for compensation for taking. Since this is a new procedure, I have limited the authorization of 1 year, after which we should consider the actual operation of this provision. Some of my colleagues have suggested that it would be better to prohibit the use of eminent domain in acquiring land under this act, and I confess that I am attracted by that idea. However, in this amendment, I have not gone that far.

Section 6: The section dealing with State cooperation has been broadened to include consultation with private landowners, which in many cases may avoid conflicts that now arise. My amendment also provides more flexibility to the States in the kind of programs that can be considered acceptable. We should be well past the day when we operate on the basis of a monopoly of wisdom in Washington. If a State chooses not to designate a specific species as endangered, for example, that should not invalidate the State plan. The Federal Government can retain responsibility for that species, without rejecting the entire State program.

Section 7: This section, on interagency cooperation, is generally considered to be the heart of the act. It is here, of course, that the changes I am suggesting in the act are most critical.

In the case of TVA against Hill, the Supreme Court concluded that it had been Congress intent to provide endangered or threatened wildlife and plants the highest possible degree of protection from Federal actions. All other national goals, the Court said, must fall in the face of a threat to an endangered species.

That interpretation is, in my opinion, patent nonsense, and it is not the interpretation put upon the act by the Congress in passing it. It is not even the only possible interpretation of the legislative history of the act available to the Court. In my opinion, the Chief Justice read the legislative history very selectively, and I may have more to say on that subject at another time.

However that may be, the Court may have done us a favor in this case if his threat to take the Congress seriously is heeded. As I have said elsewhere, we should be careful about the vague and fuzzy language we write into law. There is always a chance that it will be taken seriously. That threat should keep us from passing the Humphrey-Hawkins bill, the natural diversity bill, and a host of other well-intentioned, but vague pieces of legislation.

The fact is that however desirable it may be to preserve an endangered species, and I for one count it as desirable indeed, there may be considerations of health, well-being, or national defense, which must take precedence. In some circumstances, there may even be considerations of convenience and comfort which should take precedence. As interpreted by the court, the act at present provides no mechanism for balancing these interests.

To overcome that problem, my proposal adds the words "insofar as practicable and consistent with their primary purposes" to describe the way in which agencies and instrumentalities of the Government are to carry out their obligation to preserve endangered species. No doubt I will be accused of gutting the act by this suggestion, but I just have to reject that charge. I am trying to take reality into account. It does us little good to stand, like King Canute, commanding the tides not to come in. We will be far better off to evaluate the situation, and devote our time and energy into doing the best we can for all species, consistent with the other requirements the nature of our society lays upon us. There is nothing particularly crass or mercenary in that stance. It is certainly preferable to a blind opposition to a lifestyle which has given us the possibility of even considering the problem.

In his book "The Twenty-Ninth Day," environmentalist Lester R. Brown cites approvingly an article by Thomas Lovejoy, to the effect that—

> Common sense now argues against trying to save all forms of threatened life and that humans ought to concentrate on helping the fittest survive . . . concentrating all available energies and resources on the most important (ecologically and biologically) of those that remain might pay off.

Interestingly, Lovejoy points out that the elimination of individual species, and the "biotic impoverishment" that accompanies that elimination is an "irreversible process." It is indeed, and it will remain so, no matter how many endangered species acts we pass. We should be concentrating on minimizing the damages of man and his activities, instead of decrying them and seeking to eliminate them entirely.

In my amendment to this section, I have tried to take into account the fact that many of the agencies dealing with the public lands have wildlife expertise of their own, thus reducing the need for consultation with the Fish and Wildlife Service. However, I do provide that the FWS can intervene on its own initiative, where necessary.

Once the consultation process has been completed, and approval given to the project or action, my amendment makes clear that any incidental harm to an endangered species which might then occur would not be considered a "taking" under the act.

Section 8: I have made no significant changes in the international cooperation section.

Section 9: This section deals with prohibited acts, and, along with section 10, has been particularly onerous to the scientific community, to pet handlers and dealers, and to the managers of zoos. I do not flatter myself that my proposal solves all the existing problems, but I think it should result in considerable improvement.

The most significant change is to return the burden of proof to the enforcing agency, where hundreds of years of Anglo-American jurisprudence have placed it. I see no reason to presume an individual or organization guilty until he is able to prove himself innocent. The Environmental Protection Agency has made widespread use of the "rebuttable

presumption" of guilt in recent years, but I do not find it defensible.

The committee reports that "large amounts of time and money have been committed to compliance with these regulations, although little may be accomplished by control of museum specimens. There is little evidence that such controls have any appreciable effect on existing populations of endangered species." Under those circumstances, we would be better advised to accept a more traditional approach to enforcement, and proving guilt, rather than requiring others to prove innocence.

Section 10: This section deals with permits required under the act. I have eliminated the 1-year time limit on the hardship exemption, and restored the burden of proof to the prosecuting agency, as in section 9.

Section 11: The ony significant change in this section, dealing with penalties, is to make the penalties applicable only to knowing violations. In cases where the violation was unknowing possession of an endangered species, the penalty is reduced to forfeiture alone.

Section 12: No changes.

Section 13: No changes.

Section 14: No changes.

Section 15: The length of the authorization is reduced under this section to 1 year, and $25 million is authorized. I feel that we should review this act fairly regularly for the next few years, in view of its potential impact, and that yearly authorizations are quite appropriate to that end.

Section 16: No changes.

Section 17: No changes.

As I said yesterday, as I look at the act passed in 1973, I do not think the Senate and the House of Representatives at that time had any vision whatsoever the law would be interpreted so specifically, so narrowly, and would be used so cynically by certain environmental groups. We are getting into blades of grass, bony tail chubs, louseworts, weeds, and all sorts of things that interfere with legitimate projects of man.

It is the typical overreaction to a problem that we see when Congress acts on a real problem. We did not have sufficient concern for species other than ourselves, but then we pass a law that goes far to the other extreme, far beyond what was necessary to correct the real problem.

It seems to be typical that we swing from one side to another and are not able to grab the pendulum in the middle and stop it with some commonsense and some balance.

But I try to use commonsense, and I recognize that with the environmental pressures on this body, sometimes we do not act with the commonsense that we should. There is absolutely no point in voting now on a comprehensive rewrite of the bill which my amendment is, which I think would make a workable balanced bill where we could preserve legitimate species that should be preserved and yet still have a balance with our desire to preserve economic development, jobs for human beings, and some of those things that I think are rather important as well.

I recognize the realities of what is going on in this body, and that I would probably receive so few votes that I will not put my colleagues to the test of voting on it. So it is my intent to withdraw the amendment.

I do, however, simply repeat that I would hope this would serve as a vehicle for the future, and that we start looking at a more comprehensive rewrite, because I predict the bill as it will pass with the Culver-Baker amendment will not solve the disputes and the problems.

I think the makeup of the committee is bad, although the intent to solve the problems is good. Where you have to have a super majority of five out of seven to vote in favor of an exception—in other words, only three out of the seven have to vote in favor of the species, the weed, blade of grass, or whatever it is, the man-made project is sure to lose. It is stacked in that way to begin with.

Certainly we should have considered, at least, a simple majority. And when you have all the various high Cabinet-level officials, with more pressing duties, who are on this seven-member board, I suspect that they will send their subordinates, their environmental advisers to conferences and meetings, and I suspect that when they vote, there will be very few times that the species, whatever it is, however remote its importance, will not win.

I am sorry. I would hope that some of the amendments we consider today might cut the size of that committee, to cut it down in size so as not to be so cumbersome, or to make the decisions of a simple majority prevail, and require the principals to be at the meetings, no matter how busy, rather than sending their designees, rather than sending some second- or third-rate appointee to sit in on the discussions and meetings when an exception is asked for.

Madam President, at this point, with that discussion, and with the hope that at some time in the future my amendment might serve as the basis for a comprehensive rewrite of this act, so that it can work as it was intended to in 1973, I withdraw my amendment.

Mr. WALLOP. Madam President, will the distinguished Senator withhold his withdrawal briefly?

Mr. GARN. Yes. I am happy to yield to my colleague from Wyoming.

Mr. WALLOP. I thank the Senator from Utah. I would express to him an awareness of, indeed a sympathy with, the frustrations that he shares with me over some of the ways the 1973 act has been interpreted and implemented and, indeed, even the way the Supreme Court necessarily interpreted it to us in its decision in the Tellico case.

To go much further than the provision of the Culver-Baker amendment at this time would, I think, not be in the best interests of either the country or trying to solve the Senator's perceived problems.

They are real problems, and I do not blame him. I share his concern that the entire Colorado River Basin could be, in one fell swoop, declared a critical habitat. I for my State and the Senator from Idaho for his State have expressed continued concern with the attempts of the Fish and Wildlife Service to designate enormous regions of our States as critical habitats for the grizzly bear.

The Senator is correct when he talks about the rigidity of the original law, but the Culver-Baker amendment goes a long way toward reducing it, and goes a long way toward resolving some of the problems that existed earlier with the Tellico case, and potentially exist with respect to other ones.

There has been some significant success with it, and some major confrontations between projects and species, which appear to be continuing on both sides.

I also share with the Senator a concern about any who would use this law, not primarily to preserve species, but primarily to impede man's ability to construct or to provide changes in his environment. I think those people are digging the graves of a number of other species, and I think that irresponsibility may, if continued, trigger just the kind of reaction the Senator brings up.

On the other hand, I do feel that we have seriously attempted to address the problems in a conscientious way, and I think we have recognized the problems the Senator and others have brought up. I think we have recognized certain realities, and that we are in fact going to have to make some decisions at some point. But I do not think it would be wise at this time to go much further.

That is not to say that other amendments will not be offered. Some may be accepted, some debated, and some even voted into the process that we have designed at the committee and subcommittee level. But I would hope Congress would not act too quickly in loosening these procedures. After all, we are not talking about, again, a permanent action, but a bill that will run out and will have to be renewed. We have that time fixed at 3 years, after which congressional review can take place again. We always have the privilege, at any time within the 3 years, of seeking ways to resolve critical problems.

The mechanism was consciously designed, as the Senator well knows, to weigh heavily on the side of the species. That design was interpreted by the Supreme Court in its opinion in the Tellico Dam decision, in which it stated:

> Here we are urged to view the Endangered Species Act "reasonably" and hence shape a remedy that "accords with some modicum of commonsense and the public weal." But is that our function? We have no expert knowledge on the subject of endangered species, much less do we have a mandate from the people to strike a balance of equities on the side of the Tellico Dam. Congress has spoken in the plainest of words, making it abundantly clear that the balance has been struck in favor of affording endangered species the highest of priorities.

That is the rigidity which the Senator addresses, that exist in the 1973 act. That is the rigidity with which we have tried, in a conscientious way, to deal. It is my hope, and I will grant that it may be a vain hope, that responsible people will act responsibly, and that irresponsible people will cease their dilly-dallying

with things which are not directly committed to the intents and purposes of this act and the purposes set out, as a national policy, to protect and enhance endangered species of plants and animals.

On the other hand, I would hate to turn it to a point where responsible people could not, in good conscience, have a mechanism to rescue what in their opinion was in fact an endangered species or class.

So I thank the Senator. I understand what he is saying. I also appreciate the fact that he is going to withdraw his amendment. I assure him that others do hear what is being said, and will probably look at this, as the days and years go along, with whatever form this bill takes out of Congress.

Mr. GARN. I thank the Senator from Wyoming. I would make a further point that I do not disagree with the Supreme Court's decision. I think they were correct. They had no choice. The law was written so narrowly in 1973 that they had to interpret it that way.

My major problem has been, after reading all of the record from 1973 of the committee hearings, that I do not think it was Congress intent to do that restrictive. There is no evidence whatsoever in the legislative language or the report language to back that up, or in the legislative supplemental report.

So most of us who have been trying to modify it have not been trying to make major changes that will be interpreted as gutting the act, but merely to return to what apparently was the intent of the Act of 1973. We have done this in connection with the Clean Water Act, and we have done it in connection with the Clean Air Act. On the Clean Air Act, all we said in the preamble was "to improve the quality of the air."

Some judge interpreted that as meaning nondegradation of air. So in environmental measures, we came back last year and made that part of the law, but it certainly was not part of the Clean Air Act of 1970 that "improved" and "enhanced" be interpreted to mean that you could have no degradation in air quality in areas that were cleaner than the primary and secondary health standards.

I do not intend to go back and debate that, but I merely want to make that point that I certainly think it would not be rushing too far to adopt many of these amendments, to return to what the intent was. There are many who would like to do away with the act completely. I am certainly not one of those. I am certainly not one who wants to take away protection from the endangered species. But I do want to achieve a better balance.

Madam President, I ask that my amendment be withdrawn at this time.

The ACTING PRESIDENT pro tempore. The Senator has that right. The amendment is withdrawn.

AMENDMENT NO. 3256

(Purpose: To require the designation of critical habitat at the same time as a species is determined to be endangered or threatened)

Mr. GARN. Mr. President, I call up amendment No. 3256, and ask that it be considered.

The PRESIDING OFFICER (Mr. FORD). The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an amendment numbered 3256.

Mr. GARN. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, add a new section 6, as follows:

SEC. 6. (1) Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended by adding a new subsection (20), as follows:

"(20) The term 'critical habitat' means—

"(A) for a threatened or an endangered species, the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (i) essential to the continued existence of the species, and (ii) which require special management considerations or protection;

"(B) when the Secretary so determines, critical habitat for an endangered species can include areas meeting qualifications of paragraph (A) of this subsection into which the species can be expected to expand naturally;

"(C) except in those unusual circumstances determined by the Secretary, critical habitat should not include the entire geographical area occupied by the species.".

(2) Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended by adding new subsections (3) and (4) as follows:

"(3) Critical habitat of an endangered or threatened species shall be designated concurrently with determination of that species' status.

"(4) When such determination and designation are made, there shall be an analysis of the effects of such actions on environmental quality and economic development.".

Mr. GARN. Mr. President, I send a modification of my amendment No. 3256 to the desk.

The PRESIDING OFFICER. The clerk will state the modification.

The assistant legislative clerk proceeded to read the modification.

Mr. GARN. Mr. President, I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modified amendment is as follows:

On page 15, add a new section 6, as follows:

SEC. 6. (1) Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended by adding a new subsection (20), as follows:

"(20) The term 'critical habitat' means—

"(A) for a threatened or an endangered species, the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (i) essential to the continued existence of the species, and (ii) which require special management considerations or protection;

"(B) when the Secretary so determines, critical habitat for an endangered species can include areas meeting qualifications of paragraph (A) of this subsection into which the species can be expected to expand naturally;

"(C) except in those unusual circumstances, determined by the Secretary pursuant to a determination in paragraph (B), critical habitat should not include the entire geographical area occupied by the species.".

(2) Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended by adding a new subsection as follows:

"(3) Critical habitat of an endangered or threatened species shall be designated concurrently with determination of that species' status, except in those cases where:

"(A) an emergency exists because no critical habitat information is available or there are other contingencies;

"(B) there are species listed before enactment of the Endangered Species Act of 1973."

Mr. GARN. Mr. President, this amendment deals with the designation of critical habitat under the act. It may well be the case, Mr. President, that the designation of critical habitat is more important than the designation of an endangered species itself. In many cases, it will not be until habitat is declared to be critical to the continued existence of an endangered species that it will have impacts in the real world. Certainly, it is not until habitat is determined to be critical that Federal agencies can begin the kind of consultative process contemplated by the Culver-Baker amendment, or other amendments offered during this debate.

When a Federal land manager begins consideration of a project, or an application for a permit, it is essential that he know, not only of the existence of an endangered species, but also of the extent and nature of the habitat that is critical to the continued existence of that species. Unless he knows the location of the specific sites on which the endangered species depends, he may irrevocably commit Federal resources, or permit the commitment of private resources to the detriment of the species in question.

That is the thrust of this amendment. It simply requires that at the time a species is declared to be threatened or endangered, the appropriate habitat be designated as critical. Obviously, an analysis of the environmental and economic effects of this designation should be made, but the amendment does not make them controlling. They must simply be stated for the record.

It is also my intent that the extent of "critical habitat" not necessarily be coterminous with the entire range of the endangered or threatened species. In fact, I would expect that in most cases it would not be.

Mr. RANDOLPH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. WALLOP. Mr. President, I believe the Senator from Utah would like unanimous consent to amend the amendment that he sent to the desk.

The PRESIDING OFFICER. It is the Senator's prerogative to modify his

amendment further. If he wishes to do so at this time, he may.

Mr. GARN. Mr. President, I send a further modification to the desk.

The amendment, as further modified, is as follows:

On page 15, add a new section 6, as follows:

Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended by adding a new subsection as follows:

"(3) Critical habitat of an endangered or threatened species shall be designated concurrently with determination of that species' status, except in those cases when:

"(A) an emergency exists because no critical habitat information is available or there are other contingencies;

"(B) there are species listed before enactment of the Endangered Species Act of 1973."

Mr. WALLOP. Mr. President, essentially what the modification of the Senator from Utah has done is simply to strike from his amendment that which the Senator from Idaho (Mr. McCLURE) already amended in the bill yesterday. The amendments are similar.

He was trying to avoid the redundancy of duplicating provisions.

As I understand it, the effect of the amendment of the Senator from Utah is to require that at the same time a species is listed, its critical habitat be designated. Is that correct?

Mr. GARN. That is correct. We modified it so that there was an emergency procedure whereby, if particular habitat information was not available, they could designate endangered species without having to designate critical habitat.

With those two modifications, I agree to both of them, and am satisfied with the amendment.

Mr. WALLOP. Mr. President, so far as the minority is concerned, the amendment is acceptable.

Mr. RANDOLPH. Mr. President, as I understand it, the able Senator from Utah is presenting an amendment which, consonant with what has been done at an earlier time in this Chamber, provides for a more orderly manner. Is that correct? Is that what the Senator desires?

Mr. GARN. That is correct. The major point of the amendment is that if you designate endangered species without knowing what the critical habitat is, the committee that is being set up by the Culver-Baker amendment may not have enough information on which to judge the impact. This requires that at the time they place a plant or animal on the endangered species list, they also designate the critical habitat, if they can.

Mr. RANDOLPH. I think it is a realistic approach.

Mr. WALLOP. It is also my understanding that with respect to those species which already are designated, there is a time period in which those critical habitats can be designated. This is future designation.

Mr. GARN. That is correct. It does not go back prior to 1973.

Mr. RANDOLPH. That is why I spoke of the orderly procedure. It sets itself in that mold. Is that correct?

Mr. GARN. That is correct.

Mr. NELSON. Mr. President, will the Senator yield?

Mr. GARN. I yield.

Mr. NELSON. I would like to be clear on this point. Does the amendment mandate that at the time the Secretary of the Interior decides to place a species on the endangered species list, the critical habitat of the species shall be identified?

Mr. GARN. That is correct. However, there is an escape clause in it that says if the critical habitat information is not available, in the event of an emergency type situation, where it is necessary to place a species on the endangered species list, they do not have to. So there is an escape clause. In the event it is necessary to place something on the endangered species list quickly in order to preserve it, and they do not have sufficient data on which to designate the critical habitat, they do not have to.

Mr. NELSON. I am just trying to puzzle out in my mind what this language means, what the implications are, and what the potential for lawsuits is.

Obviously, if a species is identified as endangered, it has to exist in some kind of habitat. But suppose the Secretary says, "We know this is an endangered species simply because, from all the reports of scientists, there are very few left. But we are not certain where that habitat is, except that we know it exists right here." Obviously, that is the habitat where the plant or the species, whatever it is, exists. So he has identified an endangered species, but he says, "I know this is part of its habitat, but we don't know where else the habitat is or what the dimension of the habitat is." Where is the Secretary left under your amendment?

Mr. GARN. I point out to the Senator that one of the major reasons for this amendment is that we sincerely want to protect the endangered species. Placing it on the list does not necessarily do that. If you do not have the area designated for its critical habitat necessary for its continued existence, then you may have infringements upon that area that could endanger the species.

On the other hand, it also would allow people who are looking at projects, and so on, to look into the future and decide whether or not they would be able to go ahead with their projects.

It seems to me that you have a cart without a horse, or vice versa, unless you try to put them together. The emergency clause takes care of situations in which it simply is not possible to be done. They do not know, and they cannot get the information to do it at the same time.

Mr. NELSON. I certainly agree with the Senator that whenever the habitat can be identified, it should be; because if you are going to protect it, you must know where the habitat is located.

I have not had a chance to study this amendment, and I wonder whether the Senator can respond to this question: If an endangered species is identified by the Secretary, and he proposes to put it on the endangered species list, but he states at the time, "We cannot give you a specific description of its habitat, except that it is found as of now right here, but the department is now proceeding to investigate to determine where its habitat is located," could he be prohibited at that point from placing the species on the endangered species list?

Mr. GARN. No, that was the purpose of the emergency clause that was put in the amendment. I modified my amendment.

Mr. WALLOP. It is the present policy to designate habitat and species at the same time. The Wildlife Administration have seen this and find the amendment acceptable.

Also, it is my understanding that the Senator from Utah does not contemplate that the species and its habitat as designated first on the list are forever coupled and engraved in marble; that the habitat may be expanded or contracted, as the needs of the species require at a given moment.

Mr. GARN. There is nothing that would prohibit anyone from changing that designation, if new information became available.

Mr. WALLOP. Mr. President, I yield back the remainder of my time.

Mr. GARN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment, as modified, was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3125

Mr. NELSON. Mr. President, I call up amendment 3125 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON), for himself, Mr. BROOKE, Mr. ABOUREZK, Mr. CRANSTON, and Mr. ANDERSON, proposes an amendment numbered 3125.

Mr. NELSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 12, after the word "unless", insert the following: ", in the case of any action for which a substantial and irretrievable commitment of resources had been made before the possible adverse effects of such action upon endangered or threatened species or their critical habitats were made known either as a result of such agency's own review of its activities or as a result of information furnished to such agency by the Secretary,".

On page 11, line 21, insert a new clause (iii) as follows:

"(iii) a substantial and irretrievable commitment of resources had been made before the possible adverse effects of such action upon endangered or threatened species or their critical habitats were made known either as a result of information furnished to such agency by the Secretary; and".

On page 11, line 21, renumber existing clause (iii) as (iv).

Mr. NELSON. Mr. President, this amendment addresses itself to the exemption process that is provided in the Culver-Baker bill, S. 2899.

Everyone agrees that the consultation process is important. I think there are some ways we can strengthen that process, thus improving the Culver-Baker amendment from an environmental point of view.

The Washington Post, as a matter of fact, comments on this point in its July 18 editorial endorsing some strengthening provisions to the exemption and consultation process.

I ask unanimous consent that that editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

SAVING PROJECTS AS WELL AS SPECIES

Have dams and highways become endangered species? You might conclude that from some current attacks on the Endangered Species Act. Unless that law is drastically modified, some critics say, nondescript plants and tiny creatures are likely to be used to block a vast—but unspecified—number of vital public projects.

Such fears are overdrawn. The potential for conflicts may be fairly large, but in all cases where good-faith consultations have been made, they have produced accommodations that allow a project and an endangered species to coexist. In Maine, the Corps of Engineers has apparently found a way to transplant the Furbish lousewort, a rare snapdragon that had gained notoriety as a possible bar to the controversial Dickey-Lincoln Dam. In other cases, life-saving results have been gained by changing a project's site, design or operations somewhat.

The consultation process has worked so well so often partly because federal agencies have had no alternative; the 1973 law flatly bars them from destroying an endangered species or its critical habitat. Now there is a real danger that changes—this week in the Senate or later in the House—could reduce or eliminate incentives to negotiate, and bring on a rash of projects that not only run roughshod over fragile species, but are environmentally less sensitive in general.

Flat exemptions for some projects would obviously have that bulldozing effect. We see much less cause for concern about the last-ditch arbitration mechanism in the Culver-Baker bill now on the Senate floor. One of its crucial elements is that the proposed review board could not even consider exempting a project unless it was satisfied that consultations had been genuinely pursued without success. That point would be made even more emphatic, and the process tightened in other ways, by several amendments that Sen. Gaylord Nelson (D-Wis.) has prepared. We urge the Senate to adopt them. They would promote the creative review that can minimize out-and-out collisions without sacrificing either species that should be saved or projects that are generally worthwhile.

Mr. NELSON. Mr. President, amendment No. 3125, simply limits the availability of the exemption process to a narrow range of cases consisting of those Federal actions for which a substantial and irretrievable commitment of resources had been made before the adverse effects of such actions upon endangered species were made known to the agency sponsoring the action.

The Senator from Iowa and I agree completely on at least this one fundamental fact. We both agree that the consultation process presently required by the act has been remarkably successful in identifying solutions that allow development to continue without jeopardizing the survival of endangered species.

Accordingly, I am satisfied that the Senator from Iowa and I share the strong conviction that nothing should be done which would undermine or harm the effectiveness of the consultation process in that broad range of cases where it is presently working so well. I believe that this conviction requires that whatever exemption is carved out from the existing requirements of the act be limited to the very narrow range of cases that post actual or potential problems.

Because of the experience with Tellico Dam and because of a very small number of other Federal projects which the Senator from Iowa and the Senator from Tennessee believe may come into conflict with endangered species in the future, the Culver-Baker bill was drafted to establish a procedure whereby these projects could be eligible for an exemption from the requirements of the act. Both Tellico Dam and the various other projects that have been identified as possibly involving major conflicts with the act have one important characteristic in common. They each involve a situation in which a substantial and irretrievable commitment of resources had been made to the project before its possible adverse effects upon endangered species were made known to the agency sponsoring it. However, the Culver-Baker bill does not limit the exemption mechanism it creates to projects sharing this important characteristic. Rather, its exemption mechanism is equally available to all Federal actions, even those that are still in the planning or early development stage.

Clearly, the Culver-Baker bill offers an overly broad, it seems to me, solution to the narrow range of problem cases it purports to address. Moreover, by creating the opportunity for exemptions to be granted to all types of projects, regardless of the extent of the resources committed to them, the Culver-Baker bill threatens to destroy the consultation process for the very types of projects for which it has thus far worked exceedingly well and for which it should otherwise continue to work well. This threat arises because the possibility of being granted an exemption will almost certainly encourage Federal agencies to dig in their heels and become intransigent and inflexible during consultation. The rewards to them can be very great—they could be granted an exemption without modifying their project proposal at all. Their risks are very small—if the exemption is denied, they can then go back and be reasonable, making the compromises that they must make under the law in its present form. Moreover, it is unlikely that the Endangered Species Committee will be able to police against this threat to the consultation process which we all agree is very important. A very fine line separates bad faith consultation from "hard-nosed" consultation. In most cases, it is unlikely that the committee will be able to distinguish the two, and thus the result will be to undo the effectiveness of the current consultation process, which is so important and works so well under the current law.

What can be done to minimize this serious threat? This amendment would minimize it by limiting the range of cases which the committee can hear to those actions for which a substantial and irretrievable commitment of resources had been made before the possible adverse effects of such actions on endangered species were made known to the agency sponsoring the action. This limitation will insure that all other actions, which by their nature must be amendable to redesign, relocation, or other modification, continue to be subject to the effective consultation procedures of existing law.

Will this amendment preclude from consideration for an exemption a totally new project which everyone might agree is in the public interest? Although the theoretical possibility exists that at some time in the future a compelling worthy project will be conceived which, from the moment of its inception, can only be located in a particular place, can only be built in a particular manner, can only be operated in a particular way, and which is irreconcilably in conflict with the survival of an endangered species, it must be admitted that a project of the type hypothesized has not yet occurred.

Moreover, if the act is to be amended so as to provide the opportunity for an exemption to be granted for this unique project; the same opportunity will be created for the vast range of new projects which can be redesigned, which can be relocated, or which can be otherwise modified so as to avoid their endangered species conflicts. The creation of that opportunity, however, will expose the chance of resolving those conflicts through the consultation process to the grave risks I have described. On balance, it seems clear that a solution which could destroy the effectiveness of the act for the broad range of cases, or if not destroy it, at least seriously compromise it, presently being satisfactorily resolved should not be created just to accomodate this theoretical concern for a project which as yet has not materialized.

Next, this amendment encourages agencies to commit their resources to a project before they make any effort to determine whether endangered species might be affected by it? No. The Federal regulations that implement section 7 of the Endangered Species Act today require each agency to review its activities and to identify those which may adversely affect endangered species. The Secretaries of the Interior and Commerce may also review the activities of other agencies and identify those which have such effects. In addition, NEPA, the Fish and Wildlife Coordination Act, and other Federal statutes require agencies to make early assessments of the environmental effects of their actions.

Assuming, however, that an agency might ignore all these requirements and

rush ahead with development so as to assure itself eligibility for consideration for an exemption, it is almost certain that an agency willing to do that for a project would also be unwilling to compromise in the consultation process. Moreover, if this objection has any merit, then it is already applicable to the Culver-Baker bill, for an agency has under that bill the same incentive to build quickly and foreclose the consideration of alternatives before it begins consultation. Thus, for that agency and that project, the Culver-Baker amendment in its present form offers no greater safeguard than it would if amended by my amendment.

For all these reasons, it is clear that this amendment would continue the effective functioning of the act for that broad range of cases where it presently works well, yet would provide that the Culver-Baker exemption process be available for the few cases that are thought to pose serious conflicts.

Mr. President, how much time does the Senator from Wisconsin have on this amendment?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. NELSON. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. Mr. President, this amendment (No. 3125), the so-called Nelson amendment, really constitutes a "reverse grandfather" provision. Yesterday the Senate, in my judgment wisely, soundly rejected another form of grandfather clause to exempt from consideration by the Endangered Species Committee a large category of projects.

Mr. President, as I say, this is really a reverse grandfather clause, because it would allow into the review process only those projects which are substantially completed when the conflict is discovered; and apparently it is the intention of the author of this amendment to limit the cases for review to those large, celebrated projects such as Tellico.

Mr. President, this amendment does have some superficial appeal, but I see very real and substantial problems with it, and in my judgment its adoption would be very undesirable indeed.

The reason why I feel that way, Mr. President, is that this amendment has the effect of requiring that a substantial commitment of resources be made before a project can be considered for an exemption. This actually will, in my judgment, have the effect of discouraging agencies from undertaking a sound biological inventory early in the project's stages, and it may also have the effect of deterring any real inclination to engage in good faith discussions and negotiations early in the planning stage.

Consider the case of the Dickey-Lincoln Dam that we hear so much about today. I know the Fish and Wildlife Service has said that there is no problem with Dickey-Lincoln.

But there are a number of contingencies that must be met before the matter is put to rest. The Fish and Wildlife Service says, "If the fellows on the other side of the table will be kind enough not to take issue with us, there will be no problem."

That reminds me of our SALT negotiators. You know, if those Soviet fellows would do only what we want them to do on Backfire, on the short-range missiles, on the neutron bomb, and on all the other matters, we would not have any problems. That is the way the Fish and Wildlife Service talks about Dickey-Lincoln.

That project involves several hundred million dollars, and it is still in the planning stage.

This amendment could have the force and effect of accelerating the move toward construction. That is apparently what happened with Tellico.

This amendment says the only way you can have any hope for receiving an exemption is to get in there and build; then the damage is done. I thought this act was to preserve and protect the integrity of the environment. What do we want to say, "Just unleash the bulldozers and build, build, build so you can go in for an exemption, so that maybe there will be enough money spent?

That is the whole trouble with this statement. While it is alleged to serve environmental interests, it could have just the opposite effect. And what constitutes "a substantial and irretrievable commitment of resources?"

What on earth is that? Is there a lawyer in the house? Substantial to whom? Irretrievable to whom?

This is nonsensical. We do not even say 50 percent or 40 percent. Forty percent of what? Forty percent of the first trucks you buy? Forty percent of the total project? At what point is the design stage?

Mr. President, can we always assume that there is always an alternative available for projects in their early stages? No. How can you assume there will always be an alternative available at early stages in these projects? There is nothing magical about the time of creation or inception. How can every single case automatically be assumed to be resolvable? Nonsense.

What if the perfect project came along? The Senator from Wisconsin said he could not envision one, or he said it was at least a hypothetical.

Well, perfect to whom? The implication is that the word "perfect" should mean one with overwhelming national interest.

A lot of people do not think Dickey-Lincoln is in the national interest. A lot of people do not think Tellico is in the national interest. A lot of people do not think Seafarer is in the national interest. What if we are talking about an anti-submarine warfare center that because of a particular geologic formation cannot be located elsewhere?

What about the MX? A lot of us may personally feel that it may or may not be desirable. But what if the Soviets develop an increasing capacity in the mid-1985 time-frame to put at risk a high percentage of our own land-based missile systems so that we have to go to the MX? What will be the multiple aim point basing mode? Will it be in a lake; in a trench? Will we dig a lot of holes and move it around? We may have to dig a hole where the Furbish lousewort lives. If the tradeoff will be the nuclear annihilation of 200 million people, I submit you may have a case where in the early planning stages you will want to consider an exemption and not tell the DOD, "Go ahead and build the thing and if you built it enough to spend $30 million, then we will tell you you should not have done it in the first place."

Mr. President, this is really going to introduce greater inflexibility during consultation.

We provide responsibly in the Culver-Baker substitute that once that designation is made the agency will have to stop dead in its tracks and we say they have to consult. We require that. The pressures on them are far more real and serious.

The Senator from Wisconsin says they may not negotiate in good faith. Well, they may not. What happens if they do not? Then they knock on the door and want an exemption. But nobody answers the door, because before accepting the case, upon receiving that petition through the transom, the first thing the committee must do is to hand it to the Fish and Wildlife Service, who have been one of the parties to the previous negotiations, and say, "We want you to look at their petition and their request for a possible exemption. But before we seriously entertain such a request, we want you to certify that the agency has exhausted every good faith consultative effort to reach an accommodation of this situation."

Mr. President, you cannot ask for anything more than that. That is a protection that is clear, powerful, and strong. It gives the Fish and Wildlife Service the opportunity to say, "You know these fellows have just been real nasty to work with. They have been arrogant; they have been indifferent; they have been bureaucratic. They do not care about the Furbish lousewort. These fellows are not pleasant. Do not pay any attention to them. We want to keep talking to them a while." They will not get in for an exemption and they will not build one single thing until they shape up and genuinely, as a result of mutual consent, come exhausted and throw themselves at the feet of this committee and beg for help.

Mr. WALLOP. Will the Senator yield for one additional comment at that point?

Mr. CULVER. Yes.

Mr. WALLOP. S. 2899 as it is right now provides essentially for the cessation of work once the conflict is discovered. I think that is indeed the protection the Senator from Wisconsin seeks. Once a conflict is discovered which turns out to be irreconcilable after consultation, an agency can seek redress from the committee.

However, once the conflict is discovered, everything stops until it is resolved. I think that is the protection the Senator seeks. I thank the Senator for yielding.

Mr. CULVER. I thank the Senator for his very proper statement.

Mr. President, we cannot assume that there is always going to be an alternative in the early project stages. I do not want

to see Federal agencies encouraged to go ahead and build and destroy and additionally aggravate the environment.

And if the perfect project does come along under the provisions of this proposed amendment it could not be reviewed.

Finally, Mr. President, as an additional consideration in opposing the amendment, I believe that it would invite the opportunity for serious risk of cost overrun. As the Senator from Wyoming has stated, the review process that we have set up in S. 2899 provides for proper consideration and weighing of the stage of construction—that will be a factor—along with all these other factors. I would urge rejection of the amendment.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. CULVER. I reserve my 1 minute.

The PRESIDING OFFICER. Who yields time?

The Senator from Wisconsin.

Mr. NELSON. Mr. President, the Senator's interpretation of the amendment and his rhetoric about it is about 100 or a possible 101 percent wrong. What the amendment does is simply narrow the cases under which this committee procedure may be used for purposes of an exemption. For 2 days we have been here, and the committee report has been out for a long, long time, but not a single case has yet been listed, not a single project has not been settled, by the Endangered Species Act. There are not any on the horizon.

The argument is made that, "Somehow or another you have to expand to make exemptions for projects that may come some day."

All this amendment does is to say that this process of exemption is not available unless there has been a substantial and irretrievable commitment of resources.

The Senator from Iowa says, "What does that mean?" Well, the Senator designed the bill himself and has given the committee the responsibility of making definitions. There is no definition in the Culver-Baker amendment about what a region is. Would the Senator stand up and tell us what is a region? Five miles? 10 miles? One county? Ten counties? What is a region?

Mr. CULVER. Well, I——

Mr. NELSON. Will the Senator answer on his own time?

[Laughter.]

Mr. CULVER. The Senator has quite a thing about time. I respect that.

Mr. NELSON. The committee will make the definition. What we are trying to do here is preserve a consulting process that has worked, and it has worked because they did not have an escape hatch to make an appeal.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. NELSON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Iowa has 1 minute remaining.

Mr. CULVER. Mr. President, I yield back the remainder of my time and call for a vote on the amendment.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment of the Senator from Wisconsin. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON), the Senator from New York (Mr. MOYNIHAN), the Senator from Rhode Island (Mr. PELL) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Missouri (Mr. DANFORTH), is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

The result was announced—yeas 25, nays 70, as follows:

[Rollcall Vote No. 223 Leg.]

YEAS—25

Abourezk	Kennedy	Ribicoff
Bayh	Leahy	Riegle
Biden	Matsunaga	Sarbanes
Brooke	McGovern	Stafford
Case	Metzenbaum	Stone
Chafee	Nelson	Weicker
Durkin	Packwood	Williams
Heinz	Percy	
Humphrey	Proxmire	

NAYS—70

Allen	Goldwater	McClure
Anderson	Gravel	McIntyre
Baker	Griffin	Melcher
Bartlett	Hansen	Morgan
Bellmon	Hart	Muskie
Bentsen	Haskell	Nunn
Bumpers	Hatch	Pearson
Burdick	Hatfield,	Randolph
Byrd,	Mark O.	Roth
Harry F., Jr.	Hatfield,	Sasser
Byrd, Robert C.	Paul G.	Schmitt
Chiles	Hathaway	Schweiker
Church	Hayakawa	Scott
Clark	Helms	Sparkman
Cranston	Hodges	Stennis
Culver	Hollings	Stevens
Curtis	Huddleston	Stevenson
DeConcini	Inouye	Talmadge
Dole	Jackson	Thurmond
Domenici	Javits	Tower
Eagleton	Johnston	Wallop
Eastland	Laxalt	Young
Ford	Long	Zorinsky
Garn	Lugar	
Glenn	Magnuson	

NOT VOTING—5

Cannon	Mathias	Pell
Danforth	Moynihan	

So Mr. NELSON's amendment No. 3125 was rejected.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SCOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CULVER. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Senators will take their seats and refrain from talking. Senators will please take their seats or remove themselves from the Chamber.

UP AMENDMENT NO. 1424

(Purpose: To authorize the President to grant an exemption to prevent recurrence of a natural disaster in a federally declared disaster area)

Mr. SCOTT. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. DECONCINI). The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an unprinted amendment numbered 1424.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 22, insert the following new paragraph and renumber subsequent paragraphs accordingly:

"(1) Exemptions in Presidentially Declared Disaster Areas—In any area which has been declared by the President to be a major disaster area under the Disaster Relief Act of 1974, the President is authorized to make the determinations required by subsections (e) (2) and (g) of this section for any project for the repair or replacement of a public facility substantially as it existed prior to the disaster under sections 401 or 402 of the Disaster Relief Act of 1974 or for any authorized Federal project, and which the President determines (1) is necessary to prevent the recurrence of such a natural disaster and to mitigate the potential loss of human life, and (2) to involve an emergency situation which does not allow the ordinary procedures of this section to be followed. Notwithstanding any other provision of this section, the Committee shall accept the determinations of the President under this subsection."

Mr. SCOTT. Mr. President, this is a substitute for my printed amendment 3122. It is an amendment that was drafted from my printed amendment by the staff of the committee, and I believe it has the approval of the managers of the bill.

This amendment would add an exception to the committee's bill for federally declared disaster areas. It would authorize the President to grant an exemption for federally funded public works, for repairs which are necessary in his opinion to prevent a recurrence of a natural disaster.

This exemption would be granted only for projects or repairs in a location as a result of a natural disaster and where the President had made a declaration that it was a Federal disaster area.

Mr. President, all Senators are familiar with catastrophes in their States such as flooding, which have tragic conseqeunces and are of concern to our constituents. When these natural disasters occur, no Senators want the people of their States to witness a paralysis of Government action because of the Endangered Species Act.

As indicated yesterday, in the mountainous southwestern portion of Virginia we frequently have suffered from flooding in the past, and sometimes extensive damage to property and loss of human

life have resulted. This amendment would acknowledge that our concern for human suffering, wherever it exists, outranks our concern for the mere possibility that some obscure form of life might become extinct; that we would use our judgment based on the legislation now before us. I urge that the Senate add some flexibility to the rigidity of this act.

Mr. President, I ask the distingished floor leader of the bill if he will comment at this time.

Mr. CULVER. Mr. President, I commend the Senator from Virginia for offering this amendment. It is narrowly drafted. We have had an opportunity to work with him on his proposal

As I understand the Senator's amendment, it would authorize the President to make the determinations required under subsections (e)(2) and (g), and thereby grant an exemption, in two cases. First, it covers the repair or replacement of a public facility damaged by a natural disaster to substantially the same facility as existed prior to the disaster. Second, it covers authorized Federal projects, such as those for flood control, which are vital to avoid future loss of life in the disaster area. Both cases are limited to those which the President determines necessary to prevent a recurrence of the disaster. The amendment will apply only to those instances involving an emergency where the ordinary exemption procedures would not operate quickly enough to avoid future disaster losses.

Mr. President, I yield back the remainder of my time.

Mr. SCOTT. I yield back the remainder of my time. A voice vote will be fine.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

AMENDMENT NO. 3233

(Purpose: To amend provisions relating to the voting requirements of the Committee)

Mr. SCOTT. Mr. President, I call up my printed amendment No. 3233.

The PRESIDING OFFICER. The amendment will be stated. The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 3233.

Mr. SCOTT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

On page 5, line 4, strike out "Seven" and insert in lieu thereof "Five".

On page 5, strike out the text beginning after the period on line 11 through line 13.

Mr. SCOTT. Mr. President, under the bill before us, on page 5, it is provided that seven members of the committee or their representatives shall constitute a quorum. The committee consists only of seven members, and a quorum would be every member of the committee. To me, this does not seem reasonable. I thought at first that it might be a misprint.

One member, one of the seven, could absent himself from the committee, and then no decision could be made. He could ask that his representative not attend, and then there would not be a quorum. This could frustrate the operation of the committee.

These are Cabinet-level officials, and they have a lot of other work to do. It would seem reasonable that a quorum to transact business might be reduced from seven to five. This is the thrust of the amendment.

I have talked with the floor leaders on both sides of the aisle, and I understand that this amendment is acceptable to them.

Mr. WALLOP. Mr. President, I again compliment the Senator from Virginia. I think he has added a measure of flexibility to this, and has made it possible to avoid a circumstance in which one person, by virtue of any personal decision or other kind of decision, might essentially have veto power, simply by failing to show up at meetings of this commission. That certainly was not the intent of the committee or the subcommittee. The Senator is quite correct, so far as I am concerned, and the committee is willing to accept the amendment.

Mr. CULVER. Mr. President, the amendment is acceptable.

I also express the appreciation of the committee to the Senator from Virginia. I think the amendment will be useful.

I had an opportunity to review it last night. It was suggested that all members should be present to have a quorum because of the importance of the matters under discussion and the desire to have the contributions from each of the various agencies which comprise the committee.

However, I think the Senator from Virginia is correct in pointing out some of the consequences in terms of the committee's ability to conduct business. I commend him on the amendment, and the committee is delighted to accept it.

Mr. SCOTT. Mr. President, I appreciate the courtesy and the kind remarks of the floor leaders on both sides of the aisle.

I yield back the remainder of my time.

Mr. WALLOP. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment having been yielded back, the question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SCOTT. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CULVER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3119

(Purpose: To require a majority vote of the Committee in order to grant an exemption)

Mr. SCOTT. Mr. President, I call up my amendment No. 3119.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 3119:

On page 5, line 10, strike out "five" and insert in lieu thereof "four".

Mr. SCOTT. Mr. President, this amendment is simple. On page 5 of the bill, it indicates that the committee shall not grant any exemption from the requirements of subsection (a) of this section to the head of any Federal agency for any action authorized, funded, or carried out by such agency unless five members of the committee vote to grant such exception. The vote of the committee members shall not be delegated to any person.

I understand there has been some amendment to some portions of page 5—I am not sure just what it is—by the distinguished junior Senator from Pennsylvania.

We have just agreed that five shall constitute a quorum, and this paragraph says that in order for any action to be taken, there shall be a vote of five members and that the vote cannot be delegated to anyone else, which again means that there must be a unanimous vote, should only five members be present, which would constitute a quorum. My amendment would reduce the quorum necessary from five to four.

In other words, if seven members were present, it would be a bare majority of four—four out of seven. If five members were present, constituting a quorum, or six members were present, constituting a quorum, there still would have to be four votes.

It would have to be a majority, in any instance, to grant an exemption. It seems reasonable to have a simple majority. That is what is ordinarily provided for in the Senate. That is what is provided for in the committees of the Senate. That is what is provided for in basic parliamentary procedure. A quorum generally consists of a majority. Many believe it would be most difficult for five out of the seven members of this committee to favorably affirm an exemption, even though the criteria for such an exemption appear stringent. I believe that in the best interests of the people of this country that a majority vote should be the rule rather than a 5-member vote.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER and Mr. NELSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. CULVER. I yield to the distinguished Senator from Wisconsin.

Mr. NELSON. Mr. President, I have another commitment that requires me to leave the Chamber briefly. However, this is a very important amendment. I do not happen to agree with the distinguished Senator from Virginia. But in any event, it is an important amendment, and I cannot stay at the moment to participate in the discussion, but I think we should have a rollcall vote on it.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CULVER. I thank the Senator.

Mr. NELSON. I thank the Senator from Iowa.

Mr. CULVER. Mr. President, I rise in opposition to this amendment.

As the distinguished Senator from Wisconsin has observed, this is a very important amendment in terms of the implication to the operation of this bill.

The Environment and Public Works Committee worked extremely hard to strike a balance in the review process itself so that species protection would remain strong but there would also be a degree of flexibility in the act.

We had to balance two competing policy goals and objectives, and a critical element of this balance is the requirement for a super-majority vote on exemptions.

Mr. President, one might ask why is it necessary to require that super-majority. I think there are precedents available to us in some other situations in which similar policy concerns are present.

For example, in jury trials, we require 12 citizens to be unanimous in the opinion that a person is guilty of an alleged crime. At least one reason for this is that the consequences of human error are so great and a determination of guilty so severe to the individual before the court, that the burden should be particularly heavy.

Mr. President, the consequences in the case of an endangered species are great also. As we discussed today and yesterday, we are largely ignorant of the significance of the various endangered species as they become known to us. The permanent disappearance of a life form which had been evolving for some 3.5 billion years is a consequence we little understand or appreciate.

We spoke yesterday about the invaluable medical breakthroughs that have been realized from species which for hundreds of millions of years of their existence we thought to have no apparent value.

If we are going to give the enormous burden to this committee to be the judge and jury and make a determination under these difficult circumstances of limited scientific knowledge, it seems, clearly, that at a minimum the burden should be very great indeed so that we avoid the risk and danger of error and the possible irreplaceable and incalculable consequences of misjudgment.

There is another precedent that occurs in the rules of this body itself, the Senate. The Senate was designed with rules to protect the rights of individual Members, and we make possible that protection with a cloture vote, because the right of free speech, the opportunity to afford maximum chance for truth to prevail, is best enhanced by affording this protection against the danger of errors in judgment of a temporary majority.

Mr. President, it seems to me again we have an example where the protection for the rights of an individual is acknowledged, and given this unusual priority it seems to me only appropriate that similar treatment be accorded to the judgment questions involving the survival or extinction of an endangered species.

The committee has generally resisted changes in the composition of the Endangered Species Committee. We have accepted the excellent recommendations of the distinguished Senator from Virginia on some other procedural aspects of its deliberations, but I think on this issue on the vote required for exemptions the committee feels very strongly, and would have to vigorously oppose the amendment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. SPARKMAN). The Senator has 10 minutes remaining.

Mr. SCOTT. Mr. President, this is an amendment which I feel is a good amendment. The floor leaders of the bill both have been most kind in accepting the other two amendments. I did not intend to ask for a rollcall vote. That was asked for by another Senator as is his right.

I believe this is a good amendment. I believe that a majority decision is the type of decision that we should have, but I will not pursue the matter any further and if the floor managers are prepared to yield back their time, I will be glad to yield back my time.

Mr. WALLOP. Mr. President, we are prepared to yield back our time.

Mr. CULVER. Mr. President, I call for a vote on the Scott amendment. The yeas and nays have been ordered and I request the clerk to call the roll.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Virginia. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Montana (Mr. HATFIELD), the Senator from Hawaii (Mr. INOUYE), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

Mr. STEVENS. I announce that the Senator from New Mexico (Mr. DOMENICI) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

The result was announced—yeas 23, nays 69, as follows:

[Rollcall Vote No. 224 Leg.]

YEAS—23

Bartlett	Garn	McClure
Burdick	Hansen	Nunn
Byrd, Harry F., Jr.	Hatch	Sasser
	Helms	Scott
Cannon	Huddleston	Stevens
Curtis	Johnston	Thurmond
Eastland	Laxalt	Tower
Ford	Long	Young

NAYS—69

Allen	Bumpers	Culver
Anderson	Byrd, Robert C.	Danforth
Baker	Case	DeConcini
Bayh	Chafee	Dole
Bellmon	Chiles	Durkin
Bentsen	Church	Eagleton
Biden	Clark	Glenn
Brooke	Cranston	Gravel
Griffin	Magnuson	Riegle
Hart	Matsunaga	Roth
Haskell	McIntyre	Sarbanes
Hatfield, Mark O.	Melcher	Schmitt
	Metzenbaum	Schweiker
Hathaway	Morgan	Sparkman
Hayakawa	Moynihan	Stafford
Heinz	Muskie	Stevenson
Hodges	Nelson	Stone
Hollings	Packwood	Talmadge
Humphrey	Pearson	Wallop
Jackson	Pell	Weicker
Javits	Percy	Williams
Kennedy	Proxmire	Zorinsky
Leahy	Randolph	
Lugar	Ribicoff	

NOT VOTING—8

Abourezk	Hatfield, Paul G.	Mathias
Domenici	Inouye	McGovern
Goldwater		Stennis

So Mr. SCOTT's amendment (No. 3119) was rejected.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. WALLOP. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1425

(Purpose: to require wider dissemination of proposed designations of endangered species)

Mr. GARN. Mr. President, I call up my unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The second assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an unprinted amendment numbered 1425.

Mr. GARN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GARN. Mr. President, I will read the amendment myself.

On page 15, add a new section 6, as follows:

SEC. 4(f)(2)(A) of the Endangered Species Act (16 U.S. 1533) is amended by adding a new paragraph (ii) as follows, and renumbering as appropriate:

"(ii) The Secretary shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in (i) above; and".

Mr. CULVER. Mr. President, I cannot hear the Senator.

The PRESIDING OFFICER. Let there be order in the Senate.

Mr. GARN. I am happy my distinguished friend from Iowa wants to listen to me. I appreciate that.

This is a very simple amendment, Mr. President. I have had some concern with the process by which endangered species are designated, sometimes in very small groups. In fact, there are some stories about just one scientist saying, "This is an endangered species."

Obviously, they are required to publish these designations in the Federal Register. What I am trying to do is counter some of the criticism of the present processes for listing species as endangered. I have expanded the range of information to be made available to the public.

I tried to assure the proposed designations receive proper scientific scrutiny. Since few scientists read the Federal Register, my amendment would require the Fish and Wildlife Service to offer the appropriate scientific journal the substance of the Federal Register notice designating an endangered species and critical habitat. We cannot, obviously, compel the editors of these journals to carry or print the notices, but if the scientific community is going to criticize the present process, I think it is likely that they would avail themselves of the proposed information due to this revision.

So, very simply, obviously, we cannot, by law, make anybody publish something. There are not very many scientific journals of the type that I am referring to. I expect that it would be a matter of making some copies available of what is in the Federal Register so that they could, if they chose, print them.

Simply, then, I am trying to obtain wider dissemination of these designations to scientific-type people so that they can have their input before the designations are made final.

Mr. WALLOP. Mr. President, the amendment is acceptable. It does no violence to the bill and it may provide some service.

The Senator from Wyoming is concerned that members of the press in the scientific community are perhaps no more motivated to find something on their own than members of the press in certain other areas of the world who want everything gathered and handed to them on a plate. To the extent that it provides that kind of service, I think it is probably a useful amendment.

One would have to note with a certain degree of sadness that this still might not be of sufficient interest to them to proceed to use it. Nonetheless, as the Senator has pointed out, nobody will require them to publish it. By providing this, perhaps they may be moved from a lethargic state into one of making some scientific assessment of the determinations of the Secretary. As far as I am concerned and as far as the committee is concerned, the amendment is perfectly acceptable.

We are prepared to yield back the remainder of our time.

Mr. GARN. I am prepared to yield back my time.

The PRESIDING OFFICER (Mr. HATHAWAY). Does the Senator from Iowa seek recognition?

Mr. CULVER. I do not seek recognition.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GARN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT 1426

(Purpose: Revising the definitions of "endangered species" and "threatened species")

Mr. BARTLETT. Mr. President, I call up my unprinted amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BARTLETT) proposes unprinted amendment numbered 1426.

Mr. BARTLETT. I ask unanimous consent that further reading be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 15, add the following new sections:

Sec. ( ) Section 3(4) of the Endangered Species Act of 1973 (16 U.S.C. 1532(4)) is amended as follows:

(1) Strike the words, "a significant portion", and insert "the essential portion".

Sec. ( ) Section 3(15) of the Endangered Species Act of 1973 (16 U.S.C. 1532(15)) is amended as follows:

(1) Strike the words, "a significant portion", and insert, "the essential portion".

Mr. BARTLETT. Mr. President, I am submitting an amendment to change the definition of "endangered species" and "threatened species." My definition provides that the danger of "extinction" must occur throughout "all or the essential portion" of the range. This new language eliminates the previous reference to "a significant portion" of the species' range, and should eliminate those interpretations such as have occurred in Oklahoma.

My staff have reviewed the legislative history of Public Law 93–205, including the Senate and House reports, the final conference report and the floor debate in both houses. Specifically, they were looking for some narrative discussion of the language contained in these definitions; however, after reviewing these items, no specific discussion was found.

This, I note, is not surprising, since the language appears to be reasonably clear on its face, and therefore, I assure that neither the Senate nor the House Committees felt it necessary to discuss the matter at all.

Looking at the words in light of what I thought at the time, I must agree that the language appears quite clear, and I note that I did vote for the Endangered Species Act. However, in considering this language after agency application, I am now concerned that we were mistaken.

My perception of the words, "extinction throughout all or a significant portion of its range," has changed because of an experience with the Endangered Species Act in my own State of Oklahoma.

The leopard darter, a small minnow, inhabits several small rivers and creeks in Oklahoma and adjacent States. It was recently designated as a threatened species under the act with all of the benefits which accrue with this designation. The minnow has thereby stopped the construction of Lukfata Dam on the Glover River. Lukfata is a multipurpose project including water storage for both commercial and human use and flood protection. The project also significantly improves the rate of stream flow which is evidenced in an increase in the number of days available for recreation—primarily canoeing. This flow in itself is important to the leopard darter because it allegedly needs this free flowage to flourish.

The estimates by the Corps of Engineers of the effect of the dam on the Leopard Darter's loss of range are 12 percent. There are no estimates as to what the impact of the increased stream flow might have in the way of increasing its range. There are allegations by environmental groups that the range would be decreased by more than 12 percent; however, I am unaware of any substantive figures. Therefore, we are left with one estimate of a relatively small impact with additional unsupported allegations of a greater impact by environmental groups.

The area, on this slim basis, has been left without the benefit of the reservoir.

I do not personally believe that 12 or 20 percent or even some other relatively small figure was contemplated by Congress when they adopted the language defining endangered and threatened species in this case.

The definition of the word "all" is fairly obvious, and I will not belabor the Senate by reviewing dictionary definitions, but the word "significant" as defined in Webster's New World Dictionary of the American Language or in Funk and Wagnall's Modern Guide to Synonyms and Related Words, does not specifically fit the usage of the act, but I believe that the definitions and synonyms provide a guide as to what was intended by the committee. I would like to briefly read parts of both of these books.

WEBSTER'S NEW WORLD DICTIONARY

Sig-nif-i-cant (-kant) *adj.* [*L. significans*, prp. of *significare*, to SIGNIFY] 1. a) having or expressing a meaning b) full of meaning 2. important; momentous 3. having or conveying a special or hidden meaning; suggestive 4. of or pertaining to an observed departure from a hypothesis too large to be reasonably attributed to chance [*a significant* statistical difference]—n. [Archaic] something that has significance; sign—sig-nif'i-cant-ly *adv.*

FUNK & WAGNALLS MODERN GUIDE TO SYNONYMS AND RELATED WORDS

Significant, consequential, grave, important, momentous, serious, vital, weighty.

These words refer to factors that are outstanding, crucial, or that have considerable force or effect. Significant suggests something that is outstanding because it is especially meaningful or excellent; no urgency or forcefulness is necessarily suggested by the word, however: a *significant* trend in the public-opinion polls; a *significant* but often overlooked masterpiece of Hellenistic art. Consequential stresses that something is meaningful, cannot be overlooked, or has considerable impact on succeeding events, especially of a negative nature: a *consequential* contribution to the theory of cultural diffusion; a *consequential* decision to refuse the colonists representation in Parliament. In another context, the word can often refer merely to the possessing of wealth or status: the town's two or three most *consequential* businessmen.

Important, the most general of these words, is also considerably less formal than the preceding words. As its root "import" suggests, it may refer to something that is

rife with meaning, but it can also suggest almost every sense that any other word here more specifically points to. In any case, the word has been weakened by overuse, especially in the superlative, referring now to anything mildly interesting, noteworthy, or of value: one of the most *important* battles of the war; an *important* new talent; an *important* trend toward smaller families.

Momentous and vital both refer to things that are crucial or essential. *Momentous* stresses the great and immediate impact of an event, though it also points to *significant* ramifications or results, like *consequential*, but without any suggestion that these need be undesirable: a *momentous* turning point in evolution; the *momentous* decision to drop the atom bomb on Hiroshima. *Vital*, in contrast to *momentous*, can indicate an element that is organic and essential to the well-being or functioning of the whole: a *vital* organ of the body; raw materials *vital* to the war effort. Deriving from the Latin word for life, it often means crucial or of life-and-death importance: a *vital* error; a *vital* question. It can also describe something dynamic, full of life and energy: a *vital* young executive; a fresh, *vital* work of art.

With grave and serious, the emphasis shifts to something that is urgent or crucial and that promises to have an extremely undesirable outcome. *Grave* is the more restricted of the two, specifically suggesting something that may well have a fatal conclusion: a *grave* illness; a pilot in *grave* danger. Occasionally the word can refer more generally to something ponderous or solemn, with no suggestion of a negative outcome: addressing me with a *grave* manner; a *grave* treatise on the new science of ethology. *Serious*, like *important*, is considerably less formal and more general than the other words here. It does suggest the crucial, ponderous, or solemn, like *grave*, but with less emphasis on urgency and even less on negative eventualities. Like *important*, the word has been weakened by overuse, especially in the superlative: one of the most *serious* flaws in his character. Categorically, the word can distinguish the sober from the pleasant, light, or comic: a *serious* expression on his face; a *serious* discussion. In this use, it is a milder substitute for *grave;* here, neither word necessarily suggests something unusually meaningful or effective.

Weighty refers to factors that are not easily disregarded: *weighty* considerations that militated against an immediate counterattack. But it can also refer to a decisive preponderance or to presentations that are excessively lengthy, abstruse, or solemn: *weighty* data that disproved the argument for spontaneous generation; a *weighty* treatment of the origins of Roman fertility cults. See CONCLUSIVE, OUTSTANDING.

Antonyms: insignificant, MARGINAL, TRIVIAL, *unimportant.*

WEBSTER'S NEW WORLD DICTIONARY

Es-sen-tial (e sen'shal) *adj.* [ME. *essencial* < LL. *essentialis:* see ESSENCE] 1. of or constituting the intrinsic fundamental nature of something; basic; inherent [an *essential* difference] 2. absolute; complete; perfect 3. absolutely necessary; indispensable; requisite 4. containing, or having the properties of, a concentrated extract of a plant, drug, food, etc. [an *essential* oil] —*n.* something necessary or fundamental; indispensable, inherent or basic feature or principle —es. sen'tial.ly *adv.*

SYN.—essential, in strict usage, is applicable to that which constitutes the absolute essence or the fundamental nature of a thing and therefore must be present for the thing to exist, function, etc. [food is *essential* to life]; an indispensable person or thing cannot be done without if the specified or implied purpose is to be achieved; *requisite* is applied to that which is required by the circumstances or for the purpose and generally suggests a requirement that is imposed externally rather than an inherent need [the *requisite* experience for a position]; *necessary* implies a pressing need but does not always connote absolute indispensability.

If the distinguished floor manager would further indulge me, I would like to briefly review the definition of essential which more accurately reflects the intention of the act.

I believe that this amendment will resolve the confusing application of the Endangered Species Act, and retain sufficient protection to insure that we do not decimate various species.

Mr. President, as I said, my amendment changes two words in the definition of "endangered species" and "threatened species." It changes "a significant" to "the essential portion."

The definition of the term "endangered species" means any species which is in danger of extinction throughout all or a significant portion of its range other than a species of the class of insects determined by the Secretary to constitute a pest whose protection under the provisions of this act would present an overwhelming and overriding risk demand.

So the change is in the language from "throughout all or a significant portion" of its range to "throughout all or the essential portion" of its range. The same change would be made in the definition of the term "threatened species."

My interest was directed to this because of the situation in Oklahoma in which the Lukfata Dam, which was just in the process of being commenced, was stopped by a decision that the leopard darter loss of range of 12 percent did threaten the extinction of the leopard darter and brought out the fact that the word "significant" does not really provide the definitive meaning that I think was intended or is necessary in both of these definitions.

The Corps of Engineers testified that the range would be decreased by 12 percent with the construction of the dam. Environmental groups testified that it would be more than that, although they did not give definite and substantive figures.

I feel that this amendment provides the opportunity in the definition for consideration to be given to varying percentages which might be much more pertinent and accurate to the situation than would be evident with the language that is now in the two definitions.

Mr. President, I yield back the remainder of my time.

Mr. WALLOP. Mr. President, before the Senator yields his time——

Mr. BARTLETT. I withhold the yielding of the time.

Mr. WALLOP. The Senator has come across a flaw in the original act which is minor but, through interpretation, as is sometimes the case, has become major. I ask the Senator if he would basically agree that his definition of "essential" would be that portion of its range that does not necessarily imply that the species must be endangered over the vast majority of its range or even the most crucial part of its range; in other words, if "essential" means that portion of the range necessary for the continued survival and recovery of the species.

Mr. BARTLETT. Yes, I agree with that definition of the word "essential" and I think it is important that that be understood.

Mr. WALLOP. Mr. President, if that is the meaning and definition that is basically agreed upon as the definition of the word "essential," it provides no problems to the committee or the subcommittee and we are perfectly willing to accept the amendment. We yield back the remainder of our time.

The PRESIDING OFFICER. Do both sides yield back?

Mr. BARTLETT. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. WALLOP. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BARTLETT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

Mr. CULVER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. CULVER. I think a Senator can observe that there is an absence of a quorum at any time. There is no amendment pending. We are in session. How else could you determine if we are going to have business?

The PRESIDING OFFICER. Under the unanimous-consent agreement, a Senator must have sufficient time. If there is a sufficient amount of time, it is charged to the Senator's time.

Mr. CULVER. I do not want to use any of my time to call for a quorum, necessarily.

The PRESIDING OFFICER. The rule is that a Senator must charge it to his time or the Senator can seek unanimous consent that it be charged to nobody's time.

Mr. CULVER. I ask unanimous consent that it be charged to no one's time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1427

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1427.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 22, insert the following new section and renumber the following section accordingly:

"Sec. 5. The third sentence of section 11 (a)(1) is amended by inserting the word 'knowingly' after the word 'otherwise.'"

Mr. McCLURE. Mr. President, the statute now requires that in the event of a criminal offense, it be done willfully, and in the civil offense section, all but one portion of that section requires that the offense have been done knowingly.

This amendment simply would add in the one remaining portion of the civil penalty section that for the imposition of a $1,000 civil penalty, the offense have been committed knowingly.

the aisle. It is my understanding that managers of the bill on both sides of the aisle. It is my uderstanding that they are willing to accept this amendment.

Mr. CULVER. Mr. President, I support the amendment offered by the distinguished Senator from Idaho. We have carefully worked it out for both the majority and the minority. We express the appreciation of the committee for his constructive suggestion.

Mr. McCLURE. I thank the Senator. I yield back the remainder of my time.

Mr. CULVER. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CULVER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1428

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1428.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 22, insert the following new section and renumber the following sections accordingly: "Sec. 6. Section 11(a) is amended by adding a new subsection at the end thereof as follows:

(3) Notwithstanding any other provision of this Act, no civil penalty shall be imposed if it can be shown by a preponderance of the evidence that the defendant committed this act based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.

Mr. McCLURE. Mr. President, this amendment would add a third subsection to the civil penalty section, saying that if a person acted in the good-faith belief that he was acting in self-defense, there would be no penalty. It would be a bar if it is established by a preponderance of the evidence that he did act in good faith.

This, as Senators know, arises out of an instance in which an elderly couple in Idaho, when threatened by a grizzly bear, killed the bear in self-defense and then were prosecuted by the Federal Government. The jury, believing that the man acted with all good motives, did return a verdict of acquittal. However, he had to go to the expense and the pain and the stress of having been charged with a criminal offense for doing nothing but protecting himself and his wife in their home.

It might be well to note that since the jury has acquitted the gentleman, the Federal Government is seeking to impose the civil penalty as a means of punishment for something which most of us would say was a justified act.

It seems to me to be totally wrong for us to say that self-defense is an adequate reason to take the life of another human being but not a sufficient reason to take the life of an animal that threatens life or the well-being of a person who is forced to defend himself.

Mr. President, I have discussed this amendment with the managers of the bill on both sides of the aisle. It is my understanding that they are prepared to accept this amendment.

Mr. CULVER. Mr. President, that is correct. Again, I commend the Senator from Idaho for these proposals. I think they address some areas in the law that perhaps have had some recent experience of misunderstanding, and they will eliminate that kind of ambiguity. I commend him, and the committee supports the amendment.

I yield back the remainder of my time.

Mr. McCLURE. I thank the Senator from Iowa.

I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CULVER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1429

(Purpose: Relating to the act of self-defense)

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1429.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 14, line 22, insert the following new section and renumber the following section accordingly:

"Sec. 7. Section 11(b) is amended by adding a new subsection at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, it shall be a defense to prosecution if the defendant committed the o ense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species."

Mr. McCLURE. Mr. President, this is a corollary to the last amendment which I offered and which was adopted. The last amendment dealt with the right of self-defense in the civil penalty section. This one deals with the right of self-defense under the criminal penalty section of the Endangered Species Act.

It is identical to the last amendment, with the exception that the civil penalty section requires the person who has committed the act to establish by a preponderance of the evidence that he acted in good faith. This omits the preponderance of evidence test, because it is in the criminal section, and he is entitled to the presumption of innocence and the reasonable doubt test.

I have discussed this amendment with the managers of the bill on both sides of the aisle, and it is my understanding they are prepared to accept the amendment.

Mr. CULVER. Mr. President, I rise in support of the amendment of the Senator from Idaho. I wish to thank him for it.

I yield back the remainder of my time.

Mr. McCLURE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment was agreed to.

Mr. McCLURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CULVER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CULVER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, it is my understanding that the Senator from Idaho has an amendment.

UP AMENDMENT NO. 1430

(Purpose: Relating to the payment of claims in connection with critical habitat designation)

Mr. McCLURE. Mr. President, I have an amendment at the desk which I ask the clerk to state.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes unprinted amendment numbered 1430.

Mr. McCLURE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

(5) Section 11 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1540), is amended by adding at the end thereof the following new subsections:

"(j) (1) The Secretary of the Interior shall receive, consider, and pay any claim, for compensation from any petitioner for bodily injury, economic, or other loss incurred or sustained by the petitioner, received by the Secretary in accordance with this subsection if he determines that such claim is in accordance with regulations issued pursuant to this subsection, and if he determines that such claim arose out of or in connection with any critical habitat designation or endangered or threatened specie activity, pursuant to this Act.

"(2) Any claim pursuant to this section shall be filed at such time, and in such manner, and shall contain such information as the Secretary shall by regulation prescribe.

"(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Mr. McCLURE. Mr. President, I am not going to belabor this subject very long. I have discussed this with both majority and minority staff, and I understand that the staff on both sides of the aisle has problems with this amendment. However, it does raise an issue which must be addressed at some time, and that is the question of who is responsible for the damage which occurs as a result either of the designation of habitat or the economic loss that accrues because of the designation of habitat or of a species or the depredation of a species that is on the endangered species list and thus protected and the person who suffers loss has no recourse.

It seems to me sometime we are going to have to address that question very directly. Perhaps we have not had enough study, as has been urged upon me at this time, to determine whether or not the exact formulation of this language or even the philosophy of this proposed amendment is appropriate to be enacted in this bill at this time.

It is a broader subject in some ways, but it is certainly not so overbroad but what we could look at it either in terms of what the Endangered Species Act does or upon the depredation question more generally thinking.

We have been restricted in our control of predators, whether they are endangered or not, with great economic loss to the livestock industry of the West, and that is not my sole purpose in this amendment, but that is part of the motivation for the amendment.

Mr. President, I know that the staff and the Senator from Iowa and the Senator from Wyoming are sincerely interested in the problem. I have talked to both of them about it. Sometime we must find an answer.

I am happy to yield to the Senator from Iowa for his comments on the problem as well as on the amendment.

Mr. CULVER. Mr. President, I wish to express my appreciation to the Senator from Idaho. I think, as he has indicated, he has introduced essentially a major new policy area for our consideration. I respect his acknowledgement that this is a matter that we should very carefully review at the staff and committee level, and I look forward, as I know the distinguished Senator from Wyoming does, to working with him on this in the immediate months ahead. I do think it is a subject that merits additional consideration and review.

I appreciate him bringing it to our attention.

Mr. McCLURE. I thank the Senator from Iowa for those comments.

The Senator from Wyoming well knows from his own experience and from the experience of his friends and neighbors in Wyoming that we can in our State suffer loss as the result of the predation by animals on the endangered species list, and there is no way to control the predation, there is no recovery for the loss, because of predation. If society as a whole said this species is worthy of protection and the Government says we are going to protect the species regardless of what it may do to others, then it seems to me society as a whole has a responsibility to make whole the damage that results from that action by our Government.

I am happy to yield to the Senator from Wyoming.

Mr. WALLOP. Mr. President, I thank my colleague from Idaho, and he well knows that in the hearings we both expressed these concerns continually. It is not without a certain amount of frustration from time to time that we have been met with a rather bland stare from those who administer this act who sort of say, "So what?" And we had some rather pathetic, even some rather amusing stories presented to the committee in testimony about confrontations with endangered species by the unfortunate citizen who happens to come in contact with it. Not the least of these was the cattleman from Minnesota who was harassed continually by the Service for trying to shoo the endangered species; namely, the wolf, away from his cattle while they were eating them. It is pretty hard to ask a man to sit and smile and say that he is doing a service to mankind while his own living is being devoured in front of his eyes.

The idea of compensation, and to whom and how and when it should apply, is a serious topic which perhaps merits frankly more time than we have given it yet.

But, nevertheless, I give the Senator my assurances that, given any chance at all to work with the subcommittee chairman on this, I will look at it seriously and try to come up with some responsible solution to the problem.

Mr. McCLURE. I thank my colleagues on the committee, because I know both of them have a sense of concern not only for the endangered species, but also for the livelihood and the rights of American citizens. It is a serious problem that must be addressed, and I am conscious of the fact that very likely I could not get the amendment adopted over the opposition of the committee, and I understand the reasons for the opposition, but I do think it is something we are going to have to address without waiting too much longer or we will have done some injustice to some small people, a small injustice by national scale perhaps, but an injustice to them which is major in its proportions.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. CURTIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CURTIS. How much time is fixed for the consideration of amendments not heretofore at the desk?

The PRESIDING OFFICER. Thirty minutes, to be equally divided.

Mr. CURTIS. I ask unanimous consent that I may offer an amendment, and that the debate may be limited to 40 minutes, 20 minutes on each side.

The PRESIDING OFFICER. Is there objection?

Mr. CULVER. I object.

The PRESIDING OFFCER. Objection is heard.

Mr. CULVER. Under the unanimous-consent agreement there is an agreement for a limitation of half an hour on any amendment, to be equally divided. We have adhered to that for 2 days of debate, and I respectfully have to interject an objection to the Senator's request for that reason.

The PRESIDING OFFICER. Objection is heard.

Mr. CURTIS. Mr. President, I ask unanimous consent that I may offer an amendment, that the debate thereon be limited to 30 minutes, and that the amendment, when offered, will have the same status as those amendments that were at the desk when the unanimous-consent agreement was entered into.

Mr. CULVER. Reserving the right to object, was the request for 30 minutes?

Mr. CURTIS. Yes, the same time.

The PRESIDING OFFICER. The Senator is correct.

Mr. CULVER. I address a parliamentary inquiry to the Chair.

The PRESIDING OFFICER. The Senator will state it.

Mr. CULVER. What is the import of the Senator's request with regard to the characterization of the treatment of the amendment as being accorded the same status?

The PRESIDING OFFICER. All amendments have the same status. Those amendments that come under the 30-minute time limitation did not have to be at the desk at the time the agreement was entered into. The limitation would pertain to any amendment offered in the course of the consideration of the bill. So the request of the Senator from Ne-

braska is really not necessary from the standpoint of time thereon.

Mr. CURTIS. I would like to have a ruling on it, however.

Mr. CULVER. A point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. CULVER. Does this in any way alter the issue of germaneness, or set a precedent?

The PRESIDING OFFICER. Under the original unanimous-consent agreement, all amendments to the bill must be germane, and the effect of the request of the Senator from Nebraska would be to waive the germaneness requirement.

Mr. CULVER. A parlimentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. CULVER. This is a very important matter. As floor manager of the bill, I would like to have a clarification. I have been advised, although I have not had an opportunity to study it carefully, that it is likely that the amendment being offered by the distinguished Senator from Nebraska may not be germane. I want to protect our right to exercise that objection at the appropriate time. What would be the appropriate time? I want that right to be protected.

The PRESIDING OFFICER. The Chair would state that the Senator could object to the unanimous-consent request, and then there would be no question.

Mr. CULVER. Mr. President, I object to the unanimous consent request of the Senator from Nebraska.

The PRESIDING OFFICER. The objection is heard.

Mr. CULVER. I ask unanimous consent that there be a quorum call at this time, and that the time for the quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

UP AMENDMENT 1431

(Purpose: To authorize the use of the chemical heptachlor for a limited period to control grasshoppers)

Mr. CURTIS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. CURTIS), for himself and Mr. MCGOVERN, proposes an unprinted amendment 1431.

Mr. CULVER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 6. (a) Notwithstanding any other provision of law or regulation, the chemical heptachlor may be utilized in the States of Nebraska, Colorado, Kansas, Wyoming, and Oklahoma, in limited areas, such as road ditches and field margins, for the purpose of eradicating or controlling grasshoppers.

(b) The provisions of this section shall terminate upon the expiration of the forty-five day period following the date of the enactment of this Act.

Mr. CULVER. Mr. President, I have been advised that under the unanimous-consent agreement which has been entered into, and which we have been operating under for the last 2 days of debate, and on a review of the amendment, the amendment does appear to be nongermane and unrelated to the Endangered Species Act, which we are now in the process of attempting to reauthorize.

The amendment relates to the Federal control of insecticides, which is more properly the jurisdictional preserve of the Senate Agriculture, Nutrition, and Forestry Committee. It is also my understanding that at an appropriate time, under the rule, it will be in order for me to object to even the consideration of this amendment.

In deference to the Senator from Nebraska, and in recognition of the interest that this subject, understandably and naturally, commands in so many of our States, I am satisfied that it would be appropriate to afford an opportunity for the distinguished Senator from Nebraska to speak to his amendment. I wish to respectfully advise him that upon completion of the 15 minutes allotted under the unanimous-consent rule, I will be compelled to exercise my right to object. I would urge him at the earliest opportunity to seek consideration of this important matter before the appropriate vehicle in the Senate.

With that understanding, Mr. President, I reserve the remainder of my time.

Mr. CURTIS. Mr. President, I yield myself 5 minutes.

Mr. President, I do not believe there will be an objection to this amendment on the ground of germaneness. There is no general germaneness rule in the Senate.

Here is a very extreme emergency. In several States we have had a mass invasion of grasshoppers. Within the last 20 minutes a call went from my office to the appropriate State office in the capitol at Lincoln and asked for an estimate of the damages. They said they could come up with no exact figure, but it ran into the millions and millions of dollars.

A farmer by the name of Cliff Kusaie, of Brule, Nebr., in a telephone conversation reports that in his 50 years of farming he has never seen such a severe grasshopper plague.

The EPA will bar any chemical that is effective. They recommended one. It cost this farmer $19.25 a gallon and did not do any good.

There is a chemical, called heptachlor, which is effective. State officials have recommended it. Professors trained in science and in the use of pesticides at the University of Nebraska have come to Washington and begged the EPA to permit it. What response do they get? None. They talk about they do not want to take any action without publishing something in the Federal Register, which will require weeks and weeks. In the meantime, individuals are being destroyed.

The grasshoppers are costing tens of thousands of dollars, eating up the corn and the beans.

We are resorting to the same thing we had to do to get the Alaska pipeline built. There are people down there in that agency who do not care anything about the economy of the United States. They were not concerned about our energy crisis. They fiddled and fiddled and finally the Congress had to say, "We are going to build the pipeline."

What I am asking the Senate to do today is to permit the use of heptachlor in the States of Colorado, Kansas, Wyoming, Oklahoma, and Nebraska in the ditches, on the margins of fields, and so on, in limited areas, for a period of 45 days.

Mr. President, this Government has done enough to damage and destroy agriculture. We faced a crisis this spring. This Government braced its feet and said, "We will do nothing to raise target prices or loan prices." The bureaus will not grant relief.

Does anyone want to take the responsibility of denying the Senate the right to vote on this amendment which would permit the use of a chemical that over the years has been used, which is effective, which would be a temporary thing to meet an emergency for 45 days, and limited in its use to five States? Furthermore, no one is going to use it unless they need it.

Mr. President, we may be dealing with an endangered species here. This total disregard by the Government of the United States for the welfare of farmers facing a disaster is something serious. We cannot have our private system of agriculture for long if we go on with that sort of treatment.

Mr. President, how much of my 5 minutes have I used?

The PRESIDING OFFICER. The Senator has used 4 minutes.

Mr. CURTIS. Mr. President, I reserve the remainder of my time and yield 5 minutes to the distinguished Senator from Kansas.

Mr. DOLE. Mr. President, first I would like to be added as a cosponsor to the amendment of the Senator from Nebraska, if he has no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the Senator from Nebraska has clearly stated the problem. We have an infestation of grasshoppers. It has spread in pockets throughout the range lands as well as milo, corn, sugarbeet, and alfalfa fields, and not only in the States mentioned by the Senator from Nebraska, but also the State of Texas.

I am wondering if, at the appropriate time, the Senator from Nebraska might want to add the State of Texas to the amendment.

Mr. CURTIS. I shall be happy to.

Mr. DOLE. The most serious areas of concern are eastern Colorado, parts of southwestern Nebraska, and northwestern Kansas. In addition to the grasshopper problem, we also have what we call a chinch bug problem. The farmers have made their complaints known earlier. They complained that EPA-approved pesticides—mostly Sevin-4 oil, carbaril, parathion, and malathion—are too expensive—they are about $3 an acre—and lacking in residual kill power, making several applications necessary.

As the Senator from Nebraska pointed out, most farmers are receiving less than the cost of production for their commodities and they cannot afford $3 to $6 or $9 an acre for these particular chemicals.

After some confusion, EPA has now determined that certain additional pesticides may be used even though they are not specifically registered for use against grasshoppers. This list includes three chlorinated hydrocarbons: Toxaphene, endrin, and lindane. Some farmers are now using these chemicals and getting better results. Altogether, about 20 chemicals can be used legally against grasshoppers, although most are only marginally effective.

As indicated by the distinguished Senator from Nebraska, the farmers would like to use heptachlor and that would be permitted in the amendment.

We have had actions taken by officials in the State of Nebraska—in fact, all the affected States—local officials and State officials. I should like to have printed in the RECORD at this point a copy of a telegram from the distinguished Governor of the State of Kansas, Robert Bennett, in which he expresses his disappointment to the officials of the Environmental Protection Agency for their failure to act expeditiously. They are now talking about 40 to 60 days.

There being no objection, the telegram was ordered to be printed in the RECORD, as follows:

TOPEKA, KANS.,
July 13, 1978.

Senator BOB DOLE,
Dirksen Senate Office Building,
Capitol Hill, D.C.

I am extremely disappointed at the insensitivity, as evidenced by this morning's meeting in Topeka, on the part of the Environmental Protection Agency to the insect emergency in Kansas and other States. I suggest that you immediately proceed with legislation in Congress to remedy this situation and to allow the use of now-restricted insecticides, with the appropriate safeguards, during such emergencies as we face today in the midwest. The world's food supply is too precious to be destroyed by a headstrong Federal agency.

Governor Exon of Nebraska and I this afternoon are preparing a resolution for introduction Friday at the meeting of the Midwestern Governors Conference supporting such action, we are working for conference support from other Governors.

Meanwhile, we are conferring with our own State Department of Agriculture officials on the possibility of making formal application for use of restricted pesticides and urge your support if it is filed.

ROBERT F. BENNETT,
Governor of Kansas.

Mr. DOLE. It just seems to this Senator that it is urgent, it is an emergency. Unless action is taken very soon, unless we can eradicate the infestation in the grasshopper population—three per square yard is considered safe. We now have a population reaching 8 per square yard and certainly, rangeland and crops are threatened.

The current population in these areas is running over 30 grasshoppers per square yard in some of the highly infested areas, much greater than what we might consider safe or even consider threatening.

The amendment offered today would allow the use of this chemical, heptachlor. It is reportedly available in sufficient supply to be used for no more than 45 days after enactment of this legislation, in a rigidly controlled application procedure, to eradicate this grasshopper infestation. Unless the use of this chemical is permitted for this limited time, fall feedgrains, soybeans, and sugar beets will be threatened in a six-State area.

In addition, the wheat crop which is about to emerge from the ground this fall is threatened. We should remember, this is the major crop in the high plains area.

Heptachlor is currently authorized for protection against other insects in feedgrains and flax. Therefore, adequate supplies exist. Limited use of this chemical in these areas would enable our farmers to promptly stop this threat.

It seems to me that the Governors of two States bringing this request to the EPA Friday—they are threatened with a delay of from 40 to 60 days. If we could persuade the floor managers of this bill to let us add this amendment, I think we might save millions and millions of dollars in this six-State area. We might encourage the EPA officials to act more expeditiously when the Governors and others from Kansas and Nebraska present their request on Friday to the Environmental Protection Agency.

In addition, I might add that the Environmental Protection Agency has indicated they are not going to grant the exemption and this amendment will be helpful.

I thank the distinguished Senator from Nebraska for introducing his amendment.

Mr. CULVER. A parliamentary inquiry.

The PRESIDING OFFICER (Mr. MCGOVERN). The Senator will state it.

Mr. CULVER. How much time does the Senator from Nebraska have remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 5 minutes remaining.

Mr. CULVER. I thank the Chair.

Mr. WALLOP. Will the Senator yield to me 1 minute?

Mr. CURTIS. I shall be happy to. I already lost 1 minute at the desk. I had 15 minutes, I used 4 minutes, yielded 5. I should have 6 minutes left.

The PRESIDING OFFICER. The Senator is correct. He has 6 minutes left.

Mr. WALLOP. I thank the Senator.

Mr. President, I want to associate myself with the Senator's remarks about the bumbling stupidity that is depriving farmers and grains users of their livelihood over a silly argument as to whether this is the year to engage in grasshopper control. In my State, while they fiddle, Rome literally burns, because next year, the infestation will be that much greater; the problem will be that much more expensive for the United States. And this President seeks always to limit the drain on the Federal budget.

The Senator from Nebraska is asking for an immediate response to an immediate, real problem. For us to continue to fiddle and to allow these bureaucratic inefficiencies to get in the way of real response to a genuine problem is absurd.

I thank the Senator for yielding.

Mr. CURTIS. Mr. President, I yield myself 3 minutes.

Nebraskans have been battling the insects for weeks with all available chemicals. Nebraska's State agriculture department has already expended its entire emergency fund to help farmers pay for the repeated spraying of their fields. State officials have come to Washington to see the EPA because they want to be allowed to use a chemical with a residual capability. The chemicals now being used can kill grasshoppers on contact. However, the effect is gone in a day or two, and the dead insects are soon replaced by thousands of healthy, hungry ones.

EPA is being asked to allow limited use of a chemical such as heptachlor with residual properties only in limited areas such as road ditches and field margins, and only until the grasshoppers are beaten back to a manageable level.

Here is something significant: Regional EPA officials who have seen the situation firsthand are supportive of this request. Mr. President, unfortunately, the farmers in Nebraska and other parts of the Midwest do not have the time necessary to convince Washington of the seriousness of the situation. By the time the message gets through, the corps will be gone.

It is not only bureaucratic inefficiency, it is cruel and unjust for the EPA not to use all the power they have to act immediately; but they will not do it.

Mr. President, I ask unanimous consent that my amendment be amended to include the State of Texas.

Mr. DOLE. If the Senator will yield, we are just advised that the grasshoppers are now reaching both Dakotas, North and South Dakota.

Mr. CURTIS. I ask unanimous consent to amend my amendment to include Texas, South Dakota, and North Dakota.

The PRESIDING OFFICER. The Senator has that right.

The amendment was modified, as follows:

On page 2, line 3, after "Wyoming," insert the following "Texas, South Dakota, North Dakota,"

Mr. CURTIS. I yield to the Senator from Kansas.

Mr. DOLE. I only ask for time to ask unanimous consent to have printed in the RECORD at this time a letter from the administrator of the Animal and Plant Health Inspection Service, APHIS, in which he specifically discusses the problem in my State of Kansas.

I can say to other Senators who may have an interest that the problem is just as grave in Texas, Colorado, Oklahoma, and Nebraska; it is reaching Wyoming and North and South Dakota. I hope that perhaps we can end this infestation with prompt action now.

As the Senator from Kansas indicated just a few moments ago, if those managing the bill could be persuaded to let us add this to the bill, it might help some of our Governors who are coming to Washington and submitting their application to EPA on Friday if the Environmental Protection Agency clearly knew what the intent of the U.S. Senate is.

I thank the distinguished Senator from Nebraska for yielding.

I ask unanimous consent that the APHIS letter be made a part of the RECORD following my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE,
Washington, D.C., July 14, 1978.

Hon. ROBERT F. DOLE,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DOLE: Thank you for your telegram of July 11 informing us of the special grasshopper control meeting called by Kansas Governor Bennett at Topeka, Kansas, on July 13.

Representatives of this Department were present at the meeting. They described the Department's participation in grasshopper control. The focus of the meeting centered on the possbilities of lifting the ban on the use of certain persistent insecticides for grasshopper and chinch bug control. Representatives from the Environmental Protection Agency were on hand to respond to this question.

The Department is vitally interested in the current grasshopper situation, having participated in grasshopper work with the States and growers since 1934. This year we have shared in control programs on rangeland in eight States, involving a total of 724,000 acres.

While we cannot participate directly in control of grasshoppers in crops, we do provide technical advice wherever needed. By mutual agreement between the Department and the affected States, we withdrew from cropland control in 1950. Since then, grasshopper control has been a farmer responsibility, the same as for other general crop pests such as corn rootworms, green bugs, and alfalfa weevil.

It is encouraging that the State of Kansas has made funding assistance available to help their farmers and ranchers to combat grasshoppers in their cropland areas. The State Extension Service and the State Department of Agriculture appear to be fully alert to the situation and are providing assistance to growers to the extent possible.

The grasshopper situation in Kansas is reported to be light to heavy, but localized, in farming areas with the heaviest populations in southwestern counties. Protection of corn, soybeans, and alfalfa is needed in these areas.

We appreciate your interest in this important crop protection problem. A similar letter is being sent to Senator Pearson and Congressman Sebelius.

Sincerely,

F. J. MULHERN,
Administrator.

Mr. CURTIS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. CULVER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The time of the Senator from Nebraska has expired.

Mr. CULVER. Mr. President, I yield back the remainder of my time and I do so making the point of order that the amendment is not germane to the pending bill and should be ruled out of order by the Chair.

Under our unanimous-consent agreement there was such an understanding. This amendment is clearly not in order and I make that point of order at the present time.

The PRESIDING OFFICER. Under the unanimous-consent agreement under which the present bill is pending, it was agreed that amendments would have to be germane. This amendment does clearly, in the opinion of the Chair, introduce new matter and, therefore, is not germane.

The Chair sustains the point of order.

Mr. CULVER. Mr. President, I wonder at this time if the Senator from Wisconsin is prepared to go forward.

It is my understanding that Senator BAKER is being called to the floor.

Mr. WALLOP. He is on his way to the floor.

Mr. CULVER. So perhaps we could start on that amendment.

Mr. McCLURE addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

UP AMENDMENT NO. 1432

(Purpose: to add to the Act a new section: "Critical Habitats")

Mr. McCLURE. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes unprinted amendment numbered 1432.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 23, insert the following: The Endangered Species Act of 1973 is amended by adding the following new section: "Critical Habitats"

SEC. 18. (a) Notwithstanding any other provision of this Act or of any other law, an action taken by any Federal department or agency involving the designation of any area or areas as critical habitats of endangered or threatened species shall be deemed to be a major Federal action significantly affecting the quality of the human environment requiring the filing of an environmental impact statement under the National Environment Policy Act of 1969: *Provided*, That, in the opinon of the Secretary of Interior a satisfactory environmental impact statement under the National Environmental Policy Act of 1969 has not previously been conducted which will satisfy the intent of this section.

(b) Said environmental impact statement as established in subsection (a) of this section shall give equal consideration to all environmental, social and economic questions arising from the proposed designation of said critical habitat; and the Secretary of Interior shall be required to make all judgment resulting from said environmental impact statement taking into equal consideration all such environmental, social and economic questions.

(c) Until such time as said environmental impact statement is completed and utilized by the appropriate Federal department or agency in making said critical habitat designation no State or Federal department or agency (or judicial decision) can delay or deny, on the basis of said critical habitat designation, any loan, grant, license, permit or other such action.

(d) The provisions of subsection (c) of this section will not apply if, at the discretion of the Secretary of Interior, he determines any such loan, grant, license, permit or other such action will result in irreversible damage to said critical habitat that may result in the extinction of any endangered or threatened species.

(e) Following any determination of the Secretary of Interior pursuant to subsection (c) of this section, the Endangered Species Committee as established in Section 7 of this Act will, within 90 days of the Secretary's decision, make a determination of whether any loan, grant, permit license or any other such action will result in irreversible damage to said critical habitat that may result in the extinction of any endangered or threatened species. In making such determination, the Committee will review and take into consideration all available pertinent information, and, to the extent necessary, require additional information to be received for their review and consideration before such determination is made.

Mr. McCLURE. Mr. President, I will be very brief on this matter. It is not my intention to prolong the discussion unnecessarily. But the designation of critical habitat for endangered species can have a major impact upon the economy of certain areas.

My amendment would require that an environmental impact statement be prepared and filed prior to the designation of such critical habitat areas.

This subject is a subject of a bill which I have introduced, and it was also an amendment which I offered in committee which the committee rejected. At the time it was rejected in the committee, I indicated to the committee I would offer it again on the floor because I think this is a subject which ultimately cannot simply be ignored.

In the adoption of the amendment of the Senator from Utah (Mr. GARN) with regard to the simultaneous designation of critical habitat at the time endangered species are added to the list, there is a further complication to the procedural requirements.

I am not certain, Mr. President, that I am prepared to say I know how that would be resolved or am I certain I can say how to approach the question of requiring the designation of critical habitat

to weigh all of the factors which must be weighed.

We in this debate have said so often that I hesitate to repeat it that I am not in favor of destroying the act. I am in favor of protecting endangered species. I do want this act to tilt in favor of protection of the species in case of any reasonable doubt.

We have tried to inject in this some judgment and some discretion for those instances in which there is an overriding concern and benefit to mankind that is greater than the protection of the particular habitat for particular species.

It seems to me, to be able to do that, to be able to discharge that responsibility, which we are saying should be discharged in every case, requires them to develop all of the information which would be required in an environmental impact statement.

Now, an environmental impact statement is complex. It requires a great deal of study, and it would take at least 13 months, I suspect, at a minimum to prepare an EIS on the designation of critical habitat.

It is not my desire to impose that kind of delay in every case, but, certainly, to impose that delay in the instance of the imminent destruction of species that needs the protection while an EIS is being prepared.

But I do believe the agency that makes the designation, that seeks the designation of a species as threatened or endangered, and seeks to set aside critical habitat, must ultimately be able to bear the burden of inquiry that they have considered not just the welfare of the endangered species, but the relative value of that minute subcategory with overriding considerations, if, indeed, they exist.

I know some people read those words and say, "Well, it is simply a weighing of destruction of a species against an economic gain," and that certainly is not what I mean, and I do not think it is the meaning of the Endangered Species Act.

But there must be some kind of judgment imposed, as in the snail darter case, where we have 130 different varieties of snail darter. It is not the destruction of species which is being threatened in the Tellico Dam case. It is the minute variation of a species that has many different variations which is threatened, if at all.

I do not know how anyone can argue that we ought not have the best information possible before such a designation is made. Certainly, it is even more critically important for the designation of habitat than it is with respect to the addition of a species to the list, because the size, the scope, the contour, the extent of the habitat which is designated, is a matter of judgment, much more so than is the designation of the species or the addition of species to the list.

Mr. President, I know that the committee has had trouble with this suggestion, as have I, and the majority of the committee decided that they would not accept the amendment.

But I think the majority of the committee at the time they rejected the amendment recognized the validity of the arguments with respect to the necessity for developing information. It is in that spirit which I offer the amendment again today.

I would at this time yield to the Senator from Wyoming for his comments with respect to the amendment.

Mr. WALLOP. Mr. President, on our time, I would have to oppose it, but not because I do not understand the concerns and the problems the Senator from Idaho speaks of.

The basic difficulty we have in accepting it is that it makes a requirement in each instance of designation of critical habitat that the provisions of NEPA will apply, that an EIS will be filed. It is possible that there will be many that will not be major Federal actions.

The Endangered Species Act is silent on it at the moment, and in its silence it surely does not prohibit suits to compel that environmental impact statements be filed under the provisions of NEPA if the action is determined to be a major Federal action.

I think it is a sounder way to proceed at the moment, particularly in light of the amendments which have been accepted on the floor, in requiring simultaneous designation of habitat at the same time of listing a species.

Otherwise we would have a situation in which, in every instance, the 13-month to 18-month to 24-month delay and the challengeable provisions of the environmental impact statement would become, as it were, the dominant factor in the consideration of the critical habitat at the moment. I do not think that would be the Senator's intent, and surely it would not be in the interest of the species. The subject is not closed in this Senator's mind.

The Senator from Idaho raises a good point. I am not really certain that it is a wise thing to require an environmental impact statement under the provisions of NEPA and the declaration that, in every instance, designation of a habitat as being critical is in fact a major Federal action.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. WALLOP. I yield.

Mr. McCLURE. Mr. President, I do not think we are going to use all the time on either side, because I am persuaded that there is some difficulty in the adoption of this amendment. However, I want to focus for just a moment on the suggestion that the Senator has made, that the amendment would require an EIS in every instance and that might be burdensome; that the present law does not forbid an EIS requirement in those circumstances where it is a major Federal action; that the act is basically silent; and that it is possible that the requirement for an EIS on designation of a species or a habitat may require an EIS under existing law.

I want to underscore that, so that if I withdraw this amendment, as I intend to do, the RECORD will not indicate that, in the absence of the amendment, there is no possibility that an EIS is required; because I agree with the Senator from Wyoming that with no prohibition in the present law, it may be construed to be a major Federal action requiring an environmental impact statement, and that would have to be judged upon the facts of each case.

Mr. WALLOP. I think that is correct. It would be a determination for the courts to make as to whether or not any thing that we could determine in any given designation would be a major Federal action, and certainly not something that we could determine in any manner of detail here on the floor, in this kind of debate. The act is silent. It neither ecourages nor prohibits an EIS requirement. I believe that is a matter that the courts will have to decide.

Mr. McCLURE. Mr. President, I believe that the amendment of the Senator from Wisconsin, which was offered and accepted yesterday, requiring an environmental impact statement to be filed upon the action of the committee established under this bill, is a constructive addition. While he was looking at primarily Federal projects under section 404, or similar projects, it does not necessarily confine itself to those, and it may indeed require an EIS in some conditions where an EIS would not now be required.

Mr. WALLOP. If the Senator will allow me, I should like to clarify a point.

The Senator from Wisconsin will agree, I think—it was his amendment—that the environmental impact statement required under his amendment is not an impact statement on the section of the committee.

Mr. McCLURE. No. It is not, because the bill itself exempts the action of the committee from the requirement of an EIS. But it does say that an EIS must have been prepared before the committee can take its action.

Mr. WALLOP. That is correct.

Mr. McCLURE. However, recognizing that only a Federal agency head has the right to submit a matter to the committee, there is a broad range of issues which never may reach the committee, because it is a very constrained and very limited group that ever will have the opportunity to be presented to the committee.

My point in mentioning this amendment was only from the standpoint that at least within that narrow range, we now would have a requirement for an EIS; but we have not made a positive requirement in the broader range that is not within the scope of review by the committee. It would be that broader range for which I would seek to find a solution.

However, recognizing not only the difficulties that were inherent in the amendment originally but also the original difficulties that have come to the fore as a result of the amendments adopted on the floor, it may be wise for us to see later how we can make this fit in without being unduly burdensome on some very minor matters that nevertheless could be taken care of without a major impact, but still leave it open to the possibility, under basic law, that an environmental impact statement may be

required in suitable cases under the law now existing.

Mr. WALLOP. I thank the Senator. What the Senator suggests is not impossible, though I suggest to him that it will not be easy, either.

We will pursue it at his suggestion and direction, and that of others, as it goes along, to see if we can find some means by which a responsible solution to the problems he points out can be found.

Mr. McCLURE. I thank the Senator. I do not want to be understood to be abandoning the attempt, but only recognizing the condition in which we find ourselves today, and that it would be wiser to counsel together over a longer period of time and perhaps be able to find a solution to the problem that would be mutually agreeable

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

AMENDMENT NO. 3133

Mr. NELSON. Mr. President, I call up amendment no. 3133.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. NELSON) for himself, Mr. BROOKE, Mr. ABOUREZK, Mr. CRANSTON, and Mr. ANDERSON, proposes an amendment numbered 3133:

On page 12, line 11, after "no" strike "reasonable" and insert in lieu thereof "feasible".

Mr. NELSON. Mr. President, I call up this amendment solely for the purpose of engaging in a brief colloquy with the distinguished Senator from Tennessee (Mr. BAKER).

This amendment strikes the word "reasonable" that appears on page 12, line 11 of the bill and inserts in lieu thereof the word "feasible".

Although this amendment changes only one word of S. 2899, it is nonetheless a most important word. The section of the bill this language would change speaks to the grounds and criteria that the Interagency Committee must consider in determining that an exemption from the Endangered Species Act should be granted. The committee may grant an exemption from the law if the committee determines on the record that "(A) there is no reasonable and prudent alternative to such action;".

The term "reasonable and prudent" does not appear to have a legal meaning. It is not a term of art whose definition has been clearly litigated and defined.

The term "feasible and prudent" on the other hand, is a term of art. It is used in section 4(f) of the Department of Transportation Act of 1966 (49 U.S.C. 1653(f)) and section 138 of the Federal Aid Highway Act of 1968 (23 U.S.C. 138). The term has been the subject of much litigation which eventually resulted in its definitive interpretation by the Supreme Court in the case of *Citizens To Preserve Overton Park* v. *Volpe*, 401 U.S. 402 (1971). Thus, there is certainty as to its meaning which will facilitate the work of the Interagency Committee while discouraging unnecessary litigation. "Reasonable and prudent" has no such existing case law.

According to the existing case law, the word "feasible" as used in 23 U.S.C. 138 and 49 U.S.C. 1653(f) means, in effect, "consistent with sound engineering." The term "prudent" has been construed to mean "not presenting unique problems."

Therefore, if the grounds for granting an exemption were narrowed to "feasible and prudent" rather than "reasonable and prudent" as in the bill, the committee would have to determine that as a matter of sound engineering it would not be feasible to build the project in any other manner. The use of the term "prudent" is of secondary importance.

This bill breaks a good deal new ground, much of this is undefined and will be the subject of litigation if this approach becomes law. It seems to me only reasonable that we stick with known meanings and definitions whenever possible.

I note in reading the bill, on page 12, starting at line 8, that the committee may only grant an exemption for any action under subsection (e) of this section if it determines on the record that—then starting on line 11—(a) there is no reasonable and prudent alternative to such action.

We know from the Supreme Court decision what the words "feasible and prudent" mean. I am not aware of any interpretation of the meaning of "reasonable" in the phrase "reasonable and prudent." I understand that the Senator from Tennessee has a comment to make on that; if so, I will yield for that purpose at this time. Then I would like to ask the Senator two or three questions.

Mr. BAKER. Mr. President, I thank the Senator, and I ask him to yield so that I can address myself to that point.

Mr. NELSON. I yield to the Senator from Tennessee.

Mr. BAKER. I am, indeed, familiar with the term "feasible" as it has been defined by the courts in this general field. As a matter of fact, that term is used in section 4(f) of the Highway Act, in which has caused considerable controversy in my State of Tennessee with respect to the Overton Park Expressway in Memphis.

It is because of that and the interpretation that the court in that case that I feel I have some familiarity with the likely interpretation which might be applied in the future to the term "feasible" versus the choice by the committee of the language "reasonable and prudent."

As I understand the amendment which was offered by the distinguished Senator from Wisconsin the change to "no feasible and prudent alternative" would bring about what I believe is a fundamental change in the nature of the committee amendment. It would change one of the principal elements of congressional guidance given to the Endangered Species Committee in their consideration of exemptions from the requirements of the Endangered Species Act as now contemplated by this bill.

The committee bill provides that where there is "no reasonable and prudent alternative" to a proposed Federal action, relaxation of requirements of the Endangered Species Act is permissible.

But as I understand the amendment of the distinguished Senator from Wisconsin, his proposed amendment would apply a "no feasible and prudent alternative" standard to the decisionmaking process.

At first glance it appears that the difference between these standards is minimal. This might be true were it not for judicial interpretation of the "no feasible and prudent" test contained in section 4(f) of the Department of Transportation Act and in section 138 of title 23, United States Code, the so-called parklands provision. In the leading case applying section 4(f) the Supreme Court read that provision as denying the Secretary of Transportation authority to make wide-ranging balancing judgments. To limit the authority of the Endangered Species Committee in this manner would be contrary to the whole intent of the proposed amendments to the Endangered Species Act, offered by the distinguished Senator from Iowa and myself.

The value of the term "reasonable" is that it permits members of the Endangered Species Committee to consider a wide range of factors. It is the intent of the Environment and Public Works Committee that the Cabinet-level panel established by S. 2899 in evaluating alternatives examine not only engineering "feasibility," but also environmental and community impacts, economic feasibility and, other relevant factors. In other words, the Environment and Public Works Committee believes that use of the term "reasonable" rather than "feasible" gives more flexibility to the Endangered Species Committee in its review of "irresolvable" conflicts arising under the Endangered Species Act.

Mr. President, this is my view of the material and operative divisions between "no feasible and prudent alternative" and "no reasonable and prudent alternative."

I urge that the Senate reject the amendment, with deference and respect to my colleague from Wisconsin, and carry out the clear intention of the managers of the bill and of the committee reporting the bill to make sure that there is flexibility far beyond the feasible test established in the Overton Park case and other litigation.

Mr. NELSON. Mr. President, if the Senator from Tennessee will yield for a couple questions, section 7(e)(2)(C) of the Culver-Baker amendment requires the Endangered Species Committee to determine whether the benefits of the proposed action clearly outweigh the benefits of alternative courses of action. Section 3(9) defines the term "alternative courses of action" to mean all alternatives, not just those that are limited to original project objectives and agency jurisdiction. I take this to mean that the Endangered Species Committee has a broad duty to consider all alternatives.

Is that the interpretation of the Senator from Tennessee?

Mr. BAKER. Mr. President, it is my interpretation. I might add, however,

that in the colloquy between my distinguished colleague from Tennessee, Mr. SASSER, and the Senator from Iowa (Mr. CULVER) on yesterday concerning this same point the question came up concerning the weight that the Endangered Species Committee should place on the percentage or stage of completion of a Federal activity being reviewed and thus while the Endangered Species Committee should consider all alternatives, as the distinguished Senator from Wisconsin suggests, this additional factor, that is, the stage and percentage of completion, as identified by Senator SASSER on yesterday, it seems to me must also be given weight in the Endangered Species Committee's considerations.

Mr. NELSON. Then I take it that the language of "all alternatives" certainly at least then would include all alternatives that are feasible in the sense of being consistent with sound engineering practices. Does the Senator agree with that?

Mr. BAKER. Mr. President, I agree with that. I think very clearly that "feasible" in the sense of engineering practice is well within the scope of the contemplation of this language, and I agree with that interpretation.

Mr. NELSON. Am I correct, then, in saying that the Culver-Baker amendment is not directing the committee to consider a narrower range of alternatives than it would consider if the standard were "feasible and prudent?"

Mr. BAKER. No. Mr. President, we are not requiring them to consider a narrower range of alternatives. We are saying, however, that the term "reasonable and prudent" as distinguished from "feasible and prudent" gives them more flexibility than would be the case under "feasible" and that within that scope the committee may take in account objectives or alternates other than the original project and that they may consider as well the percentage or degree of completion of the project as identified by Senator SASSER on yesterday.

In a word, Mr. President, as to the point that I think the Senator from Wisconsin is reaching for, that is to say, can the Endangered Species Committee go into alternative possibilities other than or in addition to the original design, the answer is clearly yes.

But they also must take account of reality, as I see it, and that is the degree or percentage of completion of the project and the added flexibility that is given this factor in applying the reasonableness test as distinguished from the test of feasibility. I believe that we are not saying materially different things and I have no particular difficulty in suggesting to the Senator from Wisconsin that his view. which is more restrictive and less flexible than mine. is clearly included within my interpretation of the act.

Mr. NELSON. All right.

With that understanding and legislative history, I think it clarifies the phrase "reasonable and prudent" and gives it a good legislative history. So I am prepared to yield back the remainder of my time and withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. NELSON. Mr. President, will the Senator yield to me 1 minute off the bill so that I may make some insertions in the RECORD?

Mr. CULVER. Mr. President, I yield to the Senator from Wisconsin a minute for that purpose.

Mr. NELSON. Mr. President, respecting the colloquy we just had, I ask unanimous consent to print in the RECORD a letter from the Office of the Solicitor, signed by James G. Webb, Associate Solicitor, Conservation and Wildlife; two memorandums from the American Law Division, the Library of Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WASHINGTON, D.C.,
July 18, 1978.

Hon. GAYLORD NELSON,
U.S. Senate
Washington, D.C.

DEAR SENATOR NELSON: The Solicitor's Office of the Department of the Interior has, at your request, reviewed the language in S-2899 and notes that the "reasonable and prudent" standard it contains bears a strong resemblance to the "feasible and prudent" test of Section 4(f) of the Department of Transportation Act of 1966. 49 U.S.C. § 1653(f). We therefore wish to offer the following legal observations about this similarity.

The "feasible and prudent" standard in Section 4(f) of the 1966 Act has already run the gauntlet of litigation and was succinctly defined by the Supreme Court in the landmark case of *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402 (1971). The "feasible" half of that standard was held by the Court to delineate the range of alternatives that the Department of Transportation had to assess before it could fund the construction of a road through a park or other enumerated categories of public land. Basically, the DOT would be required to assess the prudence of all alternative routes that as a matter of sound engineering principles, were capable of construction.

The "reasonable and prudent" standard in S-2899 has not been incorporated into other statutes and thus lacks the certainty of judicial interpretation that the feasible and prudent" test has under Section 4(f). In addition, the "reasonable" half of the standard in S-2899 itself fails to convey the requirement of objectivity in determining the scope of alternatives to the project under review; it leaves unclear the range of alternatives to be considered by the Interagency Committee. It is true that elsewhere in the Culver-Baker bill there is language requiring the Committee to consider *all* alternatives to the project. It seems logical that all alternatves which are feasible from the point of view of sound engineering principles would certainly be included within the scope of the Committee's consideration. It therefore would add clarity and simplicity to the Committee review process to utilize the feasibility test under Section 4(f) since it already appears to be implicity included within the concept of "reasonableness" under S-2899. That is, there is nothing in S-2899 which evidences an intent to prevent the consideration of alternatives which would be covered by the "feasible and prudent" test itself. Given that conclusion, there is little to be gained by adopting the "reasonable and prudent" standard in S-2899. Its outward appearance as some sort of new standard of review would only invite unnecessary litigation by environmental interests over its meaning.

I hope this analysis will prove to be useful in your deliberations on S-2899.

Sincerely yours,

JAMES D. WEBB,
Association Solicitor,
Conservation and Wildlife.

WASHINGTON, D.C., *June 14, 1977.*

From American Law Division.

Subject: Applicability of Case Law Interpreting the Phrase "No Feasible and Prudent Alternative" in 49 U.S.C. Sec. 1653 (f) to Interpretation of the Same Phrase in a Proposed Bill.

This memorandum responds to your request that the contents of our phone conversation on the topic noted above be committed to writing.

We discern no reason why one could not make an argument that the case law interpreting the phrase "no feasible and prudent alternative" as used in 49 U.S.C. Sec. 1653(f) could not reasonably be made applicable to use of the phrase in the bill forwarded for our consideration. The role envisioned for the phrase in the bill as a condition precedent for the taking of certain actions appears to be similar to the role played by the phrase in 49 U.S.C. Sec. 1653(f). Thus, the bill provides that where there is "no feasible and prudent alternative" to constructing a project at its intended site, the bar of the Endangered Species Act against jeopardizing an endangered species or its critical habitat shall not apply—*i.e.*, if "no feasible and prudent alternative," then some environmental harm will be tolerated. Section 1653(f) provides that where there is "no feasible and prudent alternative" to constructing a highway project at its intended site, the bar of the Department of Transportation Act against use of public parkland for such purposes shall not apply—once again, if "no feasible and prudent alternative," then some environmental harm will be tolerated. Furthermore, the case law evolved in litigation under sec. 1653(f), dealing as it does with highway construction, seems readily transferable to the Federal public works projects with which the proposed bill deals.

The fact that a body of case law interpreting a previous enactment could be used in interpreting a subsequent enactment does not mean that a court will necessarily do so, of course. While courts often indulge the presumption that a legislature is aware of existing statutes when enacting new ones, the fact that the Department of Transportation Act was enacted over a decade ago in the context of an unrelated issue could be viewed by a court as undermining the value of that Act for interpretation of the proposed amendment to the Endangered Species Act.

Whatever the probability that a court would make the connection between the two enactments solely on the basis of similarities of phrasing, it is certain that the probability would be greatly increased by Congress making its intentions express. This could be done by defining "no feasible and prudent alternative" in the bill itself. A recent example of an express definition in terms of an earlier use of a term is the definition of "wilderness" in section 103(a) of the Federal Land Policy and Management Act of 1976, Pub. Law 94-579:

"The term 'wilderness' as used in section 603 shall have the same meaning as it does in section 2(c) of the Wilderness Act" (78 Stat. 809; 16 U.S.C 1131-1136).

An alternative to express definition in the statute would be to include a statement to the desired effect in a committee report accompanying the proposed bill. In either event, you may wish to specify whether "no feasible and prudent alternative" as used in the bill is to be interpreted in accordance

with the case law under sec. 1653(f) as it existed at the time of your bill's enactment, or as it continues to evolve in litigation under sec. 1653(f).

ROBERT MELTZ,
Legislative Attorney.

WASHINGTON, D.C.,
April 8, 1977.

From American Law Division.

Subject: Case Law Interpretation of the Phrase "No Feasible and Prudent Alternative" in 49 U.S.C. sec. 1653(f) and 23 U.S.C. sec. 138.

In response to your request on the subject noted above, enclosed are excerpts from a pertinent ALR annotation: "Construction and Application of Sec. 4(f) of Department of Transportation Act of 1966 (49 U.S.C. sec. 1653(f)), As Amended, and Sec. 18(a) of Federal-Aid Highway Act of 1968 (23 U.S.C. sec. 138)," 19 A.L.R. Fed. 904 (1974).

The discussion below reviews the case law developed since the 1974 publication of the above annotation, case law largely affirming and elaborating the annotation cases.

In the leading case noted in the annotation, *Citizens to Preserve Overton Park, Inc.* v. *Volpe*, 401 U.S. 402 (1971), the Supreme Court interpreted the term "prudent" in light of the statute's overall purpose of protecting parkland, holding that—

"The few green havens that are public parks were not to be lost unless there were truly unusual factors present in a particular case or the cost or community disruption resulting from alternative routes reached extraordinary magnitudes."

At 413. This interpretation, the court stated, requires that the Secretary of Transportation have only a small range of choices to make, rather than a wide-ranging authority to balance competing interests. Citing and applying this language is the decision in *Environmental Defense Fund* v. *Brinegar*, 6 ERC 1577, 4 ELR 20534 (E.D.Pa. 1974), the court concluding that—

"It is difficult to draw any inference but that the Secretary did not fully appreciate the narrow constraints within which his authority was to be exercised when he approved the use of 42 acres of Saucon Park for the southern bypass."

Also relying on the *Overton Park* view of "feasible and prudent" is *Brooks* v. *Coleman*, 518 F. 2d 17 (9th Cir. 1975), in which the court found a given alternative infeasible as a result of its involving several "truly unusual factors":

"The additional impact created by the viaduct on the . . . picnic area and nature trail (also a 'parkland' protected under the Department of Transportation Act), the absence of examples of successful use of the [alternative in question] in the United States, the intensified problems of icing and snow removal . . ., and the unusual safety problems that would be presented during the construction of the overhanging viaduct structure."

At 19–20.

In *Brooks* v. *Volpe*, 380 F.Supp. 1287 (W.D. Wash. 1974), an earlier phase of the litigation noted above, the court held unequivocally that an alternative highway routing which itself makes use of lands protected by the Department of Transportation Act is not a "feasible and prudent alternative." An authority, the court cited the annotation-discussed case of *Finish Allatoona's Interstate Right, Inc.* v. *Brinegar*, 484 F.2d 638 (5th Cir. 1973).

In *Coalition for Responsible Regional Development* v. *Brinegar*, 518 F.2d 522 (4th Cir. 1975), the court was faced with an alternative that had been held infeasible by the district court largely because of a State law blocking financing of the alternative. The circuit court reversed, stating:

". . . the inability of West Virginia to finance the construction of the bridge from the proceeds of the sale of bonds heretofore authorized, even if that inability be established under State law, is not alone a valid reason to justify the conclusion that the Lewis Hollow site is not a feasible and prudent alternative . . . To hold otherwise would permit a state, by self-imposed restrictions, to nullify the declared purpose of Congress that parkland not be used for non park purposes unless there is no feasible and prudent alternative. There is in this record no showing that West Virginia could not finance construction of the bridge from sources other than the proceeds from the sale of these bonds."

* * * * *

"We draw this teaching from the portion of the opinion in *Overton Park* [indicating] that cost is a subsidiary factor in all but the most exceptional case (from which we infer that a preferred form of financing is also subsidiary) . . ."

Not mentioned in the annotation, but possibly relevant, is the decision in *Arlington Coalition on Transportation* v. *Volpe*, 458 F.2d 1323 (4th Cir. 1972). There, the court addressed the effect of sections 4(f) and 138 on projects ongoing at the time of enactment:

"Congress did not intend that all projects ongoing at the effective date of the Acts be subject to these sections. At some stage short of completion the costs already incurred in a project could so outweigh the possible benefits of altering or abandoning the proposed route . . . that because of the stage of progress alone "no feasible and prudent alternative to the use" [of parkland] would exist and "all possible planning to minimize harm would have been done."

However, the court emphasized that in light of the protective policy declared in sections 4(f) and 138, and the National Environmental Policy Act, sections 4(f) and 138 are applicable to a project—

"Until it has reached that stage of progress where the costs of altering or abandoning the proposed route would *certainly* outweigh whatever benefits might accrue therefrom, and that doubts about whether this stage has been reached must be resolved in favor of applicability." (Emphasis in original.)

At 1335.

ROBERT MELTZ,
Legislative Attorney.

The PRESIDING OFFICER. Are there further amendments to be proposed?

Mr. CULVER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. CULVER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, it is my understanding that there is one remaining amendment.

Mr. WALLOP. There are other Senators who have amendments.

Mr. CULVER. In any event, Senator SCOTT is now apparently ready to request the consideration of his amendment. I would then hope we could move to passage as soon as possible. We will try to make every effort to accommodate those Senators who have amendments pending.

Mr. SCOTT. Mr. President, I have 12 different amendments to the bill, all of which I believe are meritorious.

Mr. CULVER. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Senate will be in order.

Does the Senator from Virginia now offer his amendment?

Mr. SCOTT. I have some time on the bill, Mr. President. I was just making that statement as a prelude to offering an amendment.

The PRESIDING OFFICER. Who yields time?

Mr. SCOTT. I have the time in my own right.

The PRESIDING OFFICER. The Senator is recognized.

Mr. SCOTT. Mr. President, even though I do have these 12 amendments, the leadership on both sides of the aisle, the managers of the bill, have been most kind and cooperative. My efforts to have an amendment adopted which they oppose have not been successful.

AMENDMENT NO. 3234, AS MODIFIED

(Purpose: To authorize exemption from Endangered Species Act in certain cases involving critical military installations)

Mr. SCOTT. Now, Mr. President, I call up my amendment No. 3234. I ask that the amendment at the desk be modified, as it has been changed.

The PRESIDING OFFICER. Will the Senator send a copy of the amendment, as modified, to the desk?

Mr. SCOTT. I do, Mr. President.

The PRESIDING OFFICER. The amendment, as modified, will be stated.

The assistant legislative clerk read as follows:

The Senator from Virginia (Mr. SCOTT) proposes an amendment numbered 3234, as modified.

Mr. SCOTT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCOTT. Mr. President, this amendment is one which relates to highly critical national defense projects. The original amendment was a little bit stronger and more to my liking, but in an effort to compromise and to have the amendment accepted, it now reads as follows:

On page 9, between lines 16 and 17, insert the following:

(14) Notwithstanding any other provision of this Act, in any case in which the National Security Council determines that the failure of the Committee to grant an exemption from the requirements of subsection (a) of this section to the head of a Federal agency in connection with any Federal action involving a critical military installation would have an adverse effect on the security of the United States, the National Security Council is authorized to notify the Committee, in writing, and upon the receipt of such notice the committee shall give immediate consideration to such determination.

Mr. President, as I say, I feel something like this is important. Suppose a bird of some endangered species was in front of an intercontinental ballistic missile. They could not release that mis-

sile. To me that would be a ridiculous offense.

I do not believe any commander worth his salt would pay any attention to the Endangered Species Act. I think he would go ahead and release the missile, but he would be disobeying the law and he would be subject to a fine of $20,000 and imprisonment for up to a year.

I think a lot of portions of this bill are utterly absurd. Without this amendment, I believe that it would be unreasonable. I hope the amendment will be accepted by the managers of the bill.

Mr. CULVER. Mr. President, I appreciate the opportunity on behalf of the committee to say that this is acceptable. The committee has had an opportunity to discuss it with the Senator from Virginia. I think it is extremely important, as to actions which do involve, as the Senator has suggested, matters of highly sensitive and critically important national security consideration—installations of that character. Certainly before decisions are made in this area, we should have the opportunity to have the counsel and the recommendations as to the importance of these actions on our national security.

I thank the Senator for offering this amendment and we will accept it. I think it has been cleared on the other side.

I yield back my time if the Senator is ready.

Mr. SCOTT. I appreciate the comments of the distinguished floor leader of the bill. I yield back my time.

Mr. CULVER. I yield back the remainder of my time. I ask for the vote.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment was agreed to.

Mr. DOLE. Mr. President, I had discussed a possible amendment with the floor leaders of the bill and, after a thorough discussion, have determined not to offer the amendment. At this point, so that perhaps the other body might at least be apprised of the idea that we thought might be an improvement in the composition of the committee, I ask unanimous consent that following my statement, there be printed a copy of the amendment.

The PRESIDING OFFICER. Without objection, is is so ordered.

(See exhibit 1.)

Mr. DOLE. Mr. President, S. 2899 mandates the formation of an Endangered Species Committee, which would resolve conflicts between Federal projects and endangered animals and plants. After determining that negotiations, as required by the 1973 act have been carried out in good faith, the committee is responsible for either granting or denying exemptions to the act.

The Senator from Kansas favors this approach. It offers the potential for a balancing of viewpoints, both pro-environment and pro-development. It insures that any committee decision will be tempered by dissent.

COMPOSITION OF COMMITTEE

The Senator from Kansas is, however, concerned about the composition of the Endangered Species Committee. In addition to the Governor, it will include three Cabinet Secretaries, the Secretary of NOAA, the Administrator of the Environmental Protection Agency, and the Chairman of the Council on Environmental Quality. It seems that by loading the committee with bureaucrats, all with a vested interest in the outcome of the conflict, we are almost guaranteeing that the committee decision will be neither objective nor in our best interest. It is difficult to imagine the representative of the Department of the Army voting against a Federal project, when more than likely it will be his own Corps of Engineers constructing the project. On the other hand, it would be only natural for the Secretary of the Interior and the EPA administrator to favor the preservation of a species while giving less than full consideration to the merits of a public works project.

Mr. President, one of the advantages of the Baker-Culver amendment is that it takes these sort of decisions out of the court system, and has them handled by a group better trained to adjudicate matters regarding the value of a plant or animal species, or the cost-benefit analysis of a reservoir or highway. I applaud these goals and my amendment, if adopted, will strengthen this principle.

DOLE PROPOSAL

I propose that, rather than having six bureaucrats serve on the Endangered Species Committee, those six departments and agencies submit to the President lists of candidates from the private sector for each slot on the Committee. The President would nominate one member from each of the six lists, subject to confirmation by the Senate. The members would serve one 4-year term each, and would be paid at a level equal to that of other Government consultants. While this will increase the expenses of the Committee marginally, I believe that the $750,000 authorization in S. 2899 is sufficient to absorb this modest increase.

OTHER EXAMPLES

Mr. President, my idea is not a new one. Numerous Government commissions and councils work along exactly these lines. These include the Advisory Commissions on Intergovernmental Relations, the Pension Benefit Guarantee Corporation, Indian Education, and the U.S. Metric Board. The finest example, however, is the Marine Mammal Commission.

In the 92d Congress, the Marine Mammal Commission was formed in just this manner. Since that time, the Commission has worked remarkably well. Contrary to the claims of those who opposed it at the time, it has not resulted in a mammoth bureaucracy, but in fact has operated for the last 5 years with a full-time staff of only 10. This year's budget request from the Commission was 10 percent below last year's. It is the Senator from Kansas' belief that our experience with this Commission offers every reason to believe that the Endangered Species Committee will prove just as useful.

EXPERTISE AND OBJECTIVITY

Mr. President, the advantages of this amendment are several. Requiring members to be drawn from the private sector will insure that Committee decisions are made by experts in ecology, engineering, and social planning, rather than by a bureaucrat. Committee members, who would be limited to one term, would surely make decisions with more objectivity and independence than a Government employee eager to feather his cap, or that of his department.

SAVINGS OF TAX DOLLARS

Lastly, Mr. President, my amendment has a potential savings of millions of tax dollars. The Environment and Public Works Committee estimates that the number of major conflicts, like the Tellico Dam case, will dramatically increase in the near future. The committee concept will take these cases out of the court system and have them handled by a body tailormade to consider them. This will greatly reduce the cost and length of such conflicts, while removing the burden from the court system.

Mr. President, I believe that this measure includes appropriate safeguards for plants and animals threatened with extinction, while allowing a mechanism whereby this goal can be weighed against the need for development. Passage of my amendment will insure that the decisions of the Endangered Species Committee will be intelligent, unbiased, and in our best interest.

The Senator from Kansas is aware of the amount of time spent on the endangered species bill. After this bill is disposed of, it must still go to conference with a House bill, yet to come out of committee.

It is my understanding that during markup of S. 2899, the committee considered an approach similar to the one I propose. Furthermore, it is my impression that considerable sentiment exists in the Senate for this type of alteration.

Mr. President, I shall not offer my amendment at this time, if I might respectfully encourage the floor leaders of this bill to investigate this option in conference with the House.

EXHIBIT 1

On page 4, beginning with line 3, strike out all through line 18 and substitute the following:

"(A) The Governor of the State which is affected by the action for which an exemption is sought (or in the case of an action affecting more than one State, the Governors of all such States who shall cast collectively a single vote on the Committee as determined among such Governors).

(B) The remaining six members shall be appointed by the President. The President shall make his selection from lists submitted to him by the Secretary of Agriculture, the Secretary of the Army, the Secretary of the Interior, the Secretary of the Smithsonian Institution, the Chairman of the Council on Environmental Quality, and the Administrator of the Environmental Protection Agency, of individuals knowledgeable in the fields of ecology and resource management, and who are not in a position to profit from their actions as members of the Committee. The President shall select one member from each of the six lists, subject to the advice and consent of the Senate. No member of the Committee may, during his period of service on the Committee, hold any other position as an officer or employee of the United States except as a retired officer or retired civilian employee of the United States.

(1) The term of office for each member shall be four years. No member is eligible for reappointment; except that any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and is eligible for reappointment for one full term. A member may serve after the expiration of his term until his successor has taken office.

(ii) The President shall designate a Chairman of the Committee (hereafter referred to in this chapter as the "Chairman") from among the members he appoints.

(iii) Members of the Committee, except the Governor of any State, shall be compensated at a rate equal to the daily equivalent of the rate for GS–18 of the General Schedule under section 5332 of Title 5, for each day such member is engaged in the actual performance of duties vested in the Committee. Each member shall be reimbursed for travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons in Government service employed intermittently."

On page 4, strike lines 19 and 20.

On page 4, line 21, strike "(B)" and substitute "(4)".

On page 5, strike lines 3, 4, 5 and 6, and substitute the following:

"(5)(A) Seven members of the Committee shall constitute a quorum for the transaction of any function of the Committee. The Governor of the affected State may designate a representative to act in his stead."

On page 5, strike lines 14 and 15.

On page 5, line 16, strike "(D)" and substitute "(C)".

On page 5, line 18, strike "(E)" and substitute "(D)".

On page 9, strike line 18 and substitute the following:

"the confirmation by the Senate of a majority of the members identified in (3)(B), such members shall".

The PRESIDING OFFICER. Are there further amendments?

Mr. SCOTT. Mr. President, I have a motion to recommit the bill, S. 2899, to the Committee on Environment and Public Works, with instructions to the committee to consider such amendments thereto as will give priority to the welfare of mankind over the protection of fish, wildlife, and plants.

Mr. CULVER. Will the Senator yield just on this point?

Mr. SCOTT. Yes, of course.

Mr. CULVER. Mr. President, I should like to advise the Senator from Virginia that it is my understanding that we have at least one more Senator who does have an amendment to offer. I wonder if he wants to withhold that motion to recommit until completion of that amendment? It will be more properly in order at that time, although I know it is in order at any time.

Mr. SCOTT. Mr. President, let me take just a minute to explain this. Then I am going to withdraw the motion.

Mr. CULVER. I thank the Senator.

Mr. SCOTT. Mr. President, that has been the thrust of the argument that I have been making since the beginning of consideration of this bill. I have this motion. The only reason—perhaps the only two reasons—that I do not propose to push this motion are: One, because of the kindnesses that have been shown by the floor managers of the bill; and also because of the lickings they have given me on the amendments where they did not agree with me. I do not have much hope that I would be successful if I offer the motion.

I do think, Mr. President, that when we have any legislation that does not first give consideration to the rights of the citizens of the United States, to the human species, we are going in the wrong direction. I fear for the future of our country when we let environmental constraints, when we let constraints of various kinds that are not related to the people, take precedence over the welfare of the public.

Mr. President, I withdraw the motion.

The PRESIDING OFFICER. The motion of the Senator from Virginia has been withdrawn.

Are there further amendments?

Mr. WALLOP. Mr. President, I suggest the absence of a quorum and ask that the time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may have not to exceed 10 minutes without the time being charged to either side.

The PRESIDING OFFICER (Mr. HARRY F. BYRD, JR.). Is there objection? The Chair hears none.

QUIET COMMUNITIES ACT OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that under those circumstances and within the context of that order, the Senate proceed to the consideration of Calendar Order No. 805.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3083) to extend the authorizations for the Noise Control Act of 1972, to expand the quiet communities program, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. CULVER. Mr. President, the Quiet Communities Act of 1978, reauthorizes our national noise control program at a level of $15 million for fiscal year 1979 and $17 million for fiscal year 1980. Unfortunately, noise is popularly perceived as being less critical to human health than other environmental problems. It is certainly one of the most neglected of environmental issues, and most Americans do not seem to be aware that something can be done about it.

Millions of Americans today live in areas where noise is not just a nuisance, but may actually be responsible for serious health problems, ranging from hearing loss to hypertension to heart disease and even mental disorders. Hearing loss is the most common occupationally induced disease in the United States. Most people who live in major urban areas perceive noise as an important problem of city life. Those who have spent much time in quiet rural areas are even more acutely aware of the annoying consequences of excessive noise.

Since 1973, the Department of Housing and Urban Development has performed an annual housing survey in an effort to determine the quality of housing in various parts of the country. Included has been a series of questions concerning local neighborhood conditions. Noise has ranked consistently as the most frequently mentioned undesirable condition in residential neighborhoods. It is striking to note that noise was mentioned three times as often as crime in the 1976 survey.

The Noise Control Act of 1972 must be reauthorized by Congress this year. The act has been extended twice by the Senate over the last 6 years, but the recent set of hearings conducted by this Subcommittee on Resource Protection is the first comprehensive examination of the program by the Senate during this period. The subcommittee reviewed the effectiveness of the act and its implementation by the Environmental Protection Agency (EPA) in order to determine whether significant changes should be made in the requirements of the regulatory program.

The subcommittee began its oversight of our national noise control program in Des Moines, Iowa, on March 18. This was followed by 2 days of hearings in Washington, D.C., on April 4 and 5. Testimony was received from witnesses representing the EPA, the General Accounting Office, and the Department of Transportation, as well as from representatives of several States, the National League of Cities, the scientific, academic and business communities, and citizens organizations.

Mr. President, I believe we were able to develop a thorough view of the focus of our national noise control effort. All things considered, the regulatory program to reduce noise has been ineffective. It enjoys little of EPA's resources or attention, and its budget is on the decline. In addition, much of the real authority over transportation noise is lodged in agencies which were created to promote transportation.

Second, though the law directs the Agency to "coordinate" Federal noise research efforts EPA has no noise research program of its own. The Agency's own 5-year plans for its total environmental research efforts have failed even to mention noise. Since passage of the Noise Control Act in 1972, the total Federal effort in noise research has fallen by nearly 50 percent, from $55 million to roughly $30 million.

Third, public awareness of the adverse health effects of environmental noise is less acute than that for other environmental problems. Numerous witnesses spoke of the need for public education programs to increase this awareness. Partly for that reason, State and local programs are also weak. EPA's role with

respect to States and localities has been limited to technical assistance, with no Federal grant program.

Fourth, EPA has devoted most of its resources to identifying major noise sources and developing standards for noisy products (surface transportation and construction equipment) at the point of manufacture. While these Federal standards preempt State and local actions, EPA lacks the tools and resources to enforce them. Furthermore, as witnesses pointed out, product regulation will have little effect in the absence of complementary efforts to regulate the use and maintenance of noise-producing machines. This is true because the growth in the number of noise sources will offset most of the decreases in noise emissions from regulated individual sources. The problem will be further aggravated by increases in power and mobility of many noise sources, as well as the continuing trend to urban settlement.

LOCAL NOISE CONTROL EFFORTS

As I indicated, in its efforts to implement the Noise Control Act, EPA has concentrated on setting standards and regulations for major sources of noise at the point of manufacture. This undoubtedly has some merit as part of a total approach to noise control. But it is clear that, unless our State and municipal governments become more involved in a complementary way, there will be little progress.

A growing number of communities have recognized this need. Since 1972, the number of cities and towns with noise ordinances based on acoustic standards has grown from less than 200 to more than 1,100. Private citizens are taking it upon themselves to initiate programs for noise reduction in their communities. Much of the work has been done with very little financial support, often with the use of volunteers. I am concerned that EPA may have misdirected its efforts by pushing only for Federal standards and regulations and often ignoring the essential involvement of local governments. It is now time to shift the emphasis to a more balanced approach, with States and cities taking an active role.

During our subcommittee hearings in Des Moines, we heard extensive comments by local officials from Des Moines and Council Bluffs, Iowa, to the effect that expanded programs of technical assistance and public information on the part of EPA would be essential if their own local programs were ultimately to be successful.

Des Moines was the first city in the Nation to participate in a new EPA program called ECHO, which stands for "Each Community Helps Others." This innovative program has been established to allow communities with some experience and expertise in noise control efforts to share their knowledge with neighboring cities and towns. Similar efficient and low-cost efforts are underway in communities all across the country, as citizens begin to get their concerns about noise across to their local officials. Nevertheless, testimony from many cities and States indicated without exception that there is a major need for fundamental training and technical assistance from EPA.

The committee proposes in S. 3083 to encourage such a change of focus by directing the Environmental Protection Agency to undertake a comprehensive program of research, technical assistance, and discretionary grants to support State and local government programs.

NOISE RESEARCH

EPA's Office of Research and Development has carried out no noise research for several years, having originally conducted a modest program in the beginning. The Committee considers the national needs in this area to be largely unmet, however, and it has included $4 million for this purpose in H.R. 11302, the Environmental Research, Development, and Demonstration Act of 1979.

I am concerned that research on noise control technologies has been neglected by both the Federal Government and by the private sector. While the major responsibility for developing the needed technology rests with industry, in many cases investment by the Federal Government is necessary to help bring new technology into the marketplace to stimulate industry developments.

The bill we are considering today specifically mandates a noise research program directed by EPA in support of its own noise abatement efforts as well as those of State and local governments. The committee had extensive testimony from scientists, physicians, audiologists, and others who uniformly spoke of the great need for research on the psychological and physiological effects of noise, the economic impacts of noise in property values, noise control technologies and other related areas. This bill addresses those needs.

QUIET COMMUNITIES PROGRAM

During the past year EPA has made an initial attempt to demonstrate widely the feasibility and benefits of noise abatement efforts. It has done so by concentrating some of its resources in one community; namely, Allentown, Pa., which was the first participant in the quiet communities program. The cornerstone of the bill before us is an expanded quiet communities program which is to include modest grants to States, units of local government and authorized regional planning agencies. This new approach is for the specific purpose of identifying the nature and extent of noise problems within a community, then establishing noise control programs, which include abatement plans around major sources of noise. These programs can be used to evaluate and demonstrate different techniques for controlling noise, whether they be novel approaches to zoning, construction of noise barriers along freeways or some other mechanism.

In providing discretionary grants for the quiet communities program, EPA should choose communities with a willingness to work closely with the Agency in demonstrating and evaluating institutional and technological approaches to noise control which have not been well documented. The communities should also exhibit a commitment to noise control, and have a willingness to continue the program after the EPA involvement is complete. The Administrator should also determine that the project will lead to significant benefits to the public health.

PETITION FOR NEW NATIONAL STANDARDS

The bill also provides a new procedure by which State and local governments can participate more effectively in EPA's regulation of noise emissions of new products. Section 5 amends Section 6 of the Noise Control Act of 1972 to allow a State or local government to petition the Administrator of EPA at any time after the promulgation of regulations to revise a noise emission standard if a more stringent standard for a major source is necessary to protect the public health and welfare. The Administrator must publish receipt of any such petition in the Federal Register, and within 90 days must respond by either publishing a revision or publishing a notice of any decision not to revise the regulation.

The committee is concerned that some States and committees may feel that their freedom to regulate certain noise sources is greatly limited by the preemption clauses in the 1972 Noise Control Act. However, the Act explicitly provides the right of any State or local government to establish and enforce controls on environmental noise through the licensing, regulation or restriction of the use, operation or movement of any noise sources.

This new provision in the bill should provide a formal means by which the State and local governments may petition EPA for more stringent national standards on those few noise sources which have been regulated by that agency.

PUBLIC EDUCATION

In order to fill the need for more extensive public education programs at all levels of government, S. 3083 provides direction and support for production of materials designed for use in schools, on radio and TV programs and in other public forums. Such an effort has the dual advantage of alerting people to the insidious effects of noise on their health, and also letting them know that noise is not a fact of life that cannot be changed.

In addition to the public education efforts, the bill also directs EPA to develop and implement training and education programs designed to support State and local noise abatement offices. This need was expressed probably more than any other by public officials who appeared before our committee, both in Iowa and in Washington.

The committee considers it to be important for EPA to establish stronger non-governmental ties with the private sector to support the move to control environmental noise. These ties should include educational institutions, professional associations and private enterprise. The bill directs the establishment

of regional centers for technical assistance which use the capabilities of universities and private organizations. For example, the University of Iowa is considered one of the leading centers in the Nation in dealing with noise-induced hearing disorders. The Administrator may wish initially to establish several such centers around the country in order to develop the mechanisms for communication and coordination for future efforts of the same kind.

In carrying out the programs described above, the Administrator is instructed to make maximum use of senior citizens and persons eligible for participation in programs under the Older Americans Act. Testimony of several witnesses, including Mr. Ed Ryan of Dubuque, Iowa, who spoke on behalf of the American Association of Retired Persons and the National Retired Teachers Association, indicated that there is both the interest and the enthusiasm on the part of the senior citizens to participate in noise control programs. The committee considers the maintenance of existing citizen interest and support to be extremely important.

AVIATION NOISE

I am also concerned about the apparent failure of cooperation between the Environmental Protection Agency and the Federal Aviation Administration (FAA), which has primary responsibility for the regulation of aviation noise. The 1972 Noise Control Act envisioned a cooperative effort by these two agencies for the development of standards and procedures to control and abate aircraft noise. Under the 1972 arrangement, EPA is to submit to the FAA proposed regulations which EPA determines are necessary to protect the public health and welfare. The FAA in turn is to consider such a proposal, publish it in a notice of public rulemaking, hold a hearing and within a reasonable time either prescribe the regulations as submitted by EPA or modified, or publish in the Federal Register a notice that it is not promulgating regulations submitted by EPA.

EPA testified at our hearings that it has been "totally frustrated" in trying to fulfill its responsibility in aviation noise control. EPA stated that it has been ineffective in influencing the FAA's decisions despite 11 regulatory proposals it has submitted. This is attributed to a fundamental difference in policy between these two Agencies. EPA believes aircraft designed in future years should incorporate the best available technology. The FAA, however, has not been willing to require aircraft to be built in the late 1970's and early 1980's to meet standards that are any quieter than those achieved by current aircraft (the DC–10's L–1011's, and the later Boeing 747's). The FAA, in short, refuses to push the technology.

In many instances in recent years, Congress has adopted environmental legislation aimed at pushing research to improve pollution control technologies. This worthwhile approach should apply to the FAA's regulation of aircraft noise no less than it applies to efforts to improve the quality of our air and water. Section 3 of the bill amends section 611 of the Federal Aviation Act, as amended by section 7 of the Noise Control Act of 1972, to require the FAA to respond to EPA's proposed aircraft regulations within 90 days after the required hearing, rather than within "a reasonable time." It also requires the FAA to provide a detailed analysis of and response to all documentation submitted by EPA in support of the proposed regulations, in the event that the FAA decides not to promulgate them. The committee expects the FAA to view EPA's recommendations as valid and necessary, and further that the FAA should promulgate the new standards unless it can provide specific reasons to show that they are unsafe or are otherwise inconsistent with the considerations in subsection (d) of section 611 of the Federal Aviation Act of 1958, as amended.

The lack of cooperation in the past between EPA and the FAA is extremely unfortunate. I hope that future relations between the two Agencies will become more productive and that each can contribute something of value in the public interest as we continue to grapple with this most serious noise issue.

ENFORCEMENT

EPA has not pursued a vigorous enforcement program under the Noise Control Act. In fact, the Agency's budget contained no funds for any significant amount of enforcement until fiscal year 1976, which was $385,000.

Of the $10.6 million requested in the President's fiscal year 1979 budget, enforcement accounts for $916,000 and 22 people, 2 fewer than in fiscal year 1978. To remedy this problem, and to support the extensive program of assistance to State and local noise control programs, this bill authorizes $15 million for fiscal year 1979 and $17 million for fiscal year 1980 for enforcement activities.

The Agency's tools for enforcement will be enhanced by providing the additional flexibility afforded by civil penalties. At present, criminal penalties can be assessed, but knowledge or willfulness must be proved by the Government. The committee did not believe the Administrator should be allowed to levy administrative penalties, as was requested by the Agency.

Testimony from EPA as well as the General Accounting Office and the Federal Highway Administration indicated that overall enforcement of existing standards would be improved with this additional option.

CONCLUSION

In comparisons with other programs in EPA and in other Federal agencies the budget authority we are dealing with here today appears relatively small. But I must emphasize once again the real need we have in our country for effective noise abatement efforts.

The authorizations in this bill reflect the level of funding which the committee believes is necessary to carry out the new tasks discussed in section 2 relating to a comprehensive program of technical assistance to States and their subdivisions.

Mr. President, I am confident that the enactment of this legislation will enhance efforts to control excessive noise all across the country.

We can take steps to reduce the noise in our lives and we need not live in a world in which our health is affected and our privacy and tranquility are invaded by unwanted sounds. I urge the Senate to adopt S. 3083. Thank you.

UP AMENDMENT NO. 1433

Mr. CULVER. Mr. President, I send to the desk an amendment on behalf of the Committee on Environment and Public Works and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Iowa (Mr. CULVER) proposes unprinted amendment No. 1433:

On page 7, after line 12, insert the following:

SEC. 7. (a) Section 1002(a)(4) of the Solid Waste Disposal Act is amended by deleting the hyphen between the words "solid" and "waste" in the last line.

(b) Section 1004 of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (8) by striking out everything after "improvement of land";

(2) revising paragraph (10) by striking out "disposal" and inserting in lieu thereof "management";

(3) by revising paragraph (29) to read as follows:

"(29) The term 'solid waste management facility' includes (A) any resource recovery system or component thereof, (B) any system, program, or facility for resource conservation, and (C) any facility for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid wastes, including hazardous wastes, whether such facility is associated with facilities generating such wastes or otherwise.".

(c) Section 1008(a)(3) of the Solid Waste Disposal Act is amended by striking out "title IV" and inserting in lieu thereof "subtitle D".

(d) Section 1008(b) of the Solid Waste Disposal Act is amended by striking ", pursuant to this section" and by inserting after "suggested guidelines" each time it appears the phrase "or proposed regulations under this Act".

(e) Section 2003 of the Solid Waste Disposal Act is amended by inserting "Federal agencies," after "to provide".

(f) Section 3002 of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (5) by striking out the semicolon after "subtitle" and substituting a coma, and by striking out "and" and inserting in lieu thereof "or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052); and"; and

(2) revising paragraph (6) by adding a close parenthesis after "subtitle" the first time it appears.

(g) Section 3003 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (a)(4) by striking out the period after "subtitle" and substituting a comma, and by adding at the end thereof "or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052)."; and

(2) revising subsection (b) by striking out "subtitle" after "the regulations promulgated by the Administrator under this" and inserting in lieu thereof "section".

(h) Section 3005(a) of the Solid Waste Disposal Act is amended by inserting "treat-

ment, storage, or" after "and upon and after such date the".

(i) Section 3006(c) of the Solid Waste Disposal Act is amended by striking out "required for" whenever it appears in the subsection and inserting in lieu thereof "of".

(j) Section 3007(a)(1) of the Solid Waste Disposal Act is amended by striking out "or disposed of" and inserting in lieu thereof "disposed of, or transported from".

(k) Section 3008 of the Solid Waste Disposal Act is amended by (1) revising subsection (d)(1) to read as follows:

"(1) transports any hazardous waste identified or listed under this subtitle to a facility which does not have a permit under Section 3005 (or 3006 in the case of a State program), or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052),"; and (2) revising subsection (d)(2) to read as follows:

"(2) treats, stores, or disposes of any hazardous waste identified or listed under this subtitle without having obtained a permit under Section 3005 (or 3006 in the case of a State program) or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052)."

(l) Section 4007(C) of the Solid Waste Disposal Act is amended by redesignating subsection "(C)" as "(c)".

(m) Section 6001 of the Solid Waste Disposal Act is amended by inserting "or management" between "disposal" and "of solid waste".

(n) Section 6002 of the Solid Waste Disposal Act is amended by—

(1) deleting "(A)" after "(1)" in subsection (c) and changing "(B)" and "(C)" to "(2)" and "(3)", respectively; and changing "(i)", "(ii)", and "(iii)" to "(A)", "(B)", and "(C)", respectively;

(2) in subsection (c)(3) as redesignated, striking "Contracting" and inserting in lieu thereof "After the date specified in any applicable guidelines prepared pursuant to subsection (e) of this section, contracting"; and

(3) inserting in the second sentence of subsection (e) after "containing such materials" the phrase "and with respect to certification by vendors of the percentage of recovered materials used".

(o) Section 6004 of the Solid Waste Disposal Act is amended by —

(1) revising subsection (a)(1)(A) by striking out "disposal" and inserting in lieu thereof "management";

(2) revising subsection (a)(1)(B) by striking out "disposal" and inserting in lieu thereof "management"; and

(3) revising subsection (b) by striking out "Secretary" and inserting in lieu thereof "Administrator".

(p) Section 7002 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (c) by striking out "section 212" and inserting in lieu thereof "subtitle C"; and

(2) revising subsection (e) by striking out "requiring" and insert in lieu thereof "require".

(q) Section 7003 of the Solid Waste Disposal Act is amended by striking out "for" before "contributing to the alleged disposal".

(r) Section 7007 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (b)(1)(A) by striking out "disposal" and inserting "management"; and by striking out "resources" and inserting "resource".

(2) revising subsection (b)(1)(B) by striking out "disposal" and inserting "management"; and

(3) revising subsection (c)(3) by striking out "disposal" and inserting "management" in lieu thereof.

(s) Section 8001(a) of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (2) by striking out "disposal" and inserting "management" in lieu thereof; and

(2) revising paragraph (13) by inserting "treatment," after "for purpose of"

(t) Section 8002 of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (1) of subsection (g) by inserting a comma between "shale" and "liquefaction";

(2) revising paragraph (1) of subsection (j) by inserting "the Secretary of Energy, the Chairman of the Council of Economic Advisors," before "and a representative of the Office of Management and Budget,";

(3) revising paragraph (2) of subsection (j) by striking "(2)(D)" and inserting "(1)(D)" in lieu thereof;

(4) revising paragraph (3) of subsection (j) by striking "(2)(D)" and inserting "(1)" in lieu thereof; and

(5) revising subsection (1) by striking out "required under subsection (a), (h), (i) and (j)" and inserting in lieu thereof "required under subsections (a), (h), and (i)".

(u) Section 8003(a)(3) of the Solid Waste Disposal Act is amended by striking out "discarded materials" and inserting "solid waste" in lieu thereof.

(v) Section 8004(a)(1) of the Solid Waste Disposal Act is amended by striking out "discarded material" and inserting "solid waste" in lieu thereof.

Mr. CULVER. Mr. President, this amendment makes a series of technical amendments to the Solid Waste Disposal Act adopted in 1976. They constitute minor clarifications of that act. They have been cleared with the majority and minority on the Committee on Environment and Public Works and discussed with our counterparts in the House.

The PRESIDING OFFICER (Mr. STEVENSON). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WALLOP. Mr. President, the Quiet Communities Act of 1978, which has been favorably reported to the Senate by the Committee on Environment and Public Works, continues the noise control program of the Environmental Protection Agency for fiscal years 1979 and 1980. This program is a very modest part of the EPA's environmental protection mission. The administration proposed a budget for fiscal year 1979 of $10.6 million for the noise abatement, control, and enforcement functions of the Office of Noise Abatement out of a total regulatory budget of $1,127.5 million. EPA's budget reflects virtually no noise research effort by that agency, although the EPA does have a mandate to coordinate Federal noise research programs.

Although noise pollution is perceived to be a relatively less important Federal environmental problem than air or water pollution or the proliferation of pesticides and toxic substances, the committee is persuaded that noise pollution is a genuine threat to public health which deserves at least some attention by the Nation's environmental watchdog agency.

The appropriate role for the Federal Evironmental Protection Agency in noise abatement and control was further defined through the hearings conducted by this committee's Subcommittee on Resource Protection in March and April of this year. The bill which has emerged from our committee places new emphasis on assistance to States and local governments as the most appropriate regulators of noise-producing activities, and a new emphasis on research and technical assistance as the appropriate functions of the Federal agency. Accordingly, the Quiet Communities Act authorizes and directs the Administrator of EPA to undertake a Federal noise research program, with grant authority, in such areas as noise control technologies, development of monitoring techniques, economic impacts of noise, and economic incentives to control noise. EPA is also directed to expand its quiet communities program to include discretionary grants to States and localities or regional planning agencies for the purpose of identifying noise problems and establishing noise control and abatement programs of their own.

The bill also establishes a procedure to involve States and local governments in the development of Federal product regulations. It is a formal means for those jurisdictions to petition the EPA for more stringent national noise emission standards for regulated products, which would then be applicable throughout the country.

In addition to these major features, the bill authorizes civil penalties for violations of the act, giving the administrator greater flexibility in the enforcement of noise emission regulations. The law now provides only for criminal penalties. The committee did not approve administrative penalties as the administration had requested.

The committee altered slightly the procedure now followed in the development of regulations to control aircraft noise. Any regulations proposed to the FAA by the EPA requires a response from FAA within a time certain (90 days) and any disagreement by FAA must be accompanied by specific facts and reasons to demonstrate that such proposed regulations are unsafe or are otherwise inconsistent with section 611 of the Federal Aviation Act.

Finally, this bill authorizes $15 million for fiscal year 1979 and $17 million for fiscal year 1980. This is more than the administration's request ($10.6 for fiscal year 1979) in order to support the new tasks I described earlier.

During our consideration of this bill, questions were raised about the value of such a small program whose effectiveness has been disappointing in the past. The committee believes that the health implications of noise pollution is worth the attention of the Congress and the Environmental Protection Agency. Certainly the program has suffered from the inattention of these institutions in the past. Having directed the EPA away from its preoccupation with the development of product regulation and toward the support of State and local efforts, Congress should give the agency this addi-

tional time and opportunity to demonstrate the effectiveness and desirability of a Federal role in the abatement of environmental noise pollution.

The PRESIDING OFFICER. Are there further amendments?

Mr. CULVER. Mr. President, there are no further amendments. I ask for a vote at this time on the noise legislation, the Quiet Communities Act.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The bill, as amended, was passed, as follows:

S. 3083

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Quiet Communities Act of 1978".

SEC. 2. Section 14 of the Noise Control Act of 1972 is amended to read as follows:

"QUIET COMMUNITIES, RESEARCH, PUBLIC INFORMATION

"SEC. 14. To promote the development of effective State and local noise control programs, to provide an adequate Federal noise control research program designed to meet the objectives of this Act, and to otherwise carry out the policy of this Act, the Administrator shall, in cooperation with other Federal agencies and through the use of grants, contracts, and direct Federal actions—

"(a) develop and disseminate information and educational materials to all segments of the public on the public health and other effects of noise and the most effective means for noise control, through the use of materials for school curricula, volunteer organizations, radio and television programs, publication, and other means;

"(b) conduct or finance research directly or with any public or private organization or any person on the effects, measurement, and control of noise, including but not limited to—

"(1) investigation of the psychological and physiological effects of noise on humans and the effects of noise on domestic animals, wildlife, and property, and the determination of dose/response relationships suitable for use in decisionmaking, with special emphasis on the nonauditory effects of noise;

"(2) investigation, development, and demonstration of noise control technology for products subject to possible regulation under sections 6, 7, and 8 of this Act;

"(3) investigation, development, and demonstration of monitoring equipment and other technology especially suited for use by State and local noise control programs;

"(4) investigation of the economic impact of noise on property and human activities; and

"(5) investigation and demonstration of the use of economic incentives (including emission charges) in the control of noise;

"(c) administer a nationwide Quiet Communities Program which shall include, but not be limited to—

"(1) grants to States, local governments, and authorized regional planning agencies for the purpose of—

"(A) identifying and determining the nature and extent of the noise problem within the subject jurisdiction;

"(B) planning, developing, and establishing a noise control capacity in such jurisdiction, including purchasing initial equipment;

"(C) developing abatement plans for areas around major transportation facilities (including airports, highway, and rail yards) and other major stationary sources of noise, and, where appropriate, for the facility or source itself; and

"(D) evaluating techniques for controlling noise (including institutional arrangements) and demonstrating the best available techniques in such jurisdiction;

"(2) purchase of monitoring and other equipment for loan to State and local noise control programs to meet special needs or assist in the beginning implementation of a noise control program or project;

"(3) development and implementation of a quality assurance program for equipment and monitoring procedures of State and local noise control programs to help communities assure that their data collection activities are accurate;

"(4) conduct of studies and demonstrations to determine the resource and personnel needs of States and local governments required for the establishment and implementation of effective noise abatement and control programs; and

"(5) development of educational and training materials and programs, including national and regional workshops, to support State and local noise abatement and control programs;

"(d) develop and implement a national noise environmental assessment program to identify trends in noise exposure and response, ambient levels, and compliance data and to determine otherwise the effectiveness of noise abatement actions through the collection of physical, social, and human response data;

"(e) establish regional technical assistance centers which use the capabilities of university and private organizations to assist State and local noise control programs;

"(f) provide technical assistance to State and local governments to facilitate their development and enforcement of noise control, including direct onsite assistance of agency or other personnel with technical expertise, and preparation of model State or local legislation for noise control; and

"(g) provide for the maximum use in programs assisted under this section of senior citizens and persons eligible for participation in programs under the Older Americans Act.".

SEC. 3. The fourth sentence of section 611 (c)(1) of the Federal Aviation Act, as amended by section 7 of the Noise Control Act of 1972, is amended by striking "a reasonable time" and inserting in lieu thereof "ninety days", and by adding before the period "and a detailed analysis of and response to all documentation or other information submitted by the Environmental Protection Agency with such proposed regulations".

SEC. 4. Section 11(a) of the Noise Control Act of 1972 is amended by inserting "(1)" after "(a)" and by adding the following new paragraph:

"(2) Any person who violates paragraph (1), (3), (5), or (6) of subsection (a) of section 10 of this Act shall be subject to a civil penalty not to exceed $10,000 per day of such violation."

SEC. 5. Section 6 of the Noise Control Act of 1972 is amended by adding the following subsection:

"(f) At any time after the promulgation of regulations respecting a product under this section, a State or political subdivision thereof may petition the Administrator to revise such standard on the grounds that a more srtingent standard under subsection (c) of this section is necessary to protect the public health and welfare. The Administrator shall publish notice of receipt of such petition in the Federal Register and shall within ninety days of receipt of such petition respond by (1) publication of proposed revised regulations in accordance with subsection (c)(3) of this section, or (2) publication in the Federal Register of a decision not to publish such proposed revised regulations at that time, together with a detailed explanation for such decision.".

SEC. 6. Section 19 of the Noise Control Act of 1972 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 19. There are authorized to be appropriated to carry out this Act (other than for research and development) $15,000,000 for the fiscal year ending September 30, 1979, and $17,000,000 for the fiscal year ending September 30, 1980.".

SEC. 7. (a) Section 1002(a)(4) of the Solid Waste Disposal Act is amended by deleting the hyphen between the words "solid" and "waste" in the last line.

(b) Section 1004 of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (8) by striking out everything after "improvement of land";

(2) revising paragraph (10) by striking out "disposal" and inserting in lieu thereof "management";

(3) by revising paragraph (29) to read as follows:

"(29) The term 'solid waste management facility' includes (A) any resource recovery system or component thereof, (B) any system, program, or facility for resource conservation, and (C) any facility for the collection, source separation, storage, transportation, transfer, processing, treatment, or disposal of solid wastes, including hazardous wastes, whether such facility is associated with facilities generating such wastes or otherwise.".

(c) Section 1008(a)(3) of the Solid Waste Disposal Act is amended by striking out "title IV" and inserting in lieu thereof "subtitle D".

(d) Section 1008(b) of the Solid Waste Disposal Act is amended by striking ", pursuant to this section" and by inserting after "suggested guidelines" each time it appears the phrase "or proposed regulations under this Act".

(e) Section 2003 of the Solid Waste Disposal Act is amended by inserting "Federal agencies," after "to provide".

(f) Section 3002 of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (5) by striking out the semicolon after "subtitle" and substituting a comma, and by striking out "and" and inserting in lieu thereof "or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052); and"; and

(2) revising paragraph (6) by adding a close parenthesis after "subtitle" the first time it appears.

(g) Section 3003 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (a)(4) by striking out the period after "subtitle" and substituting a comma, and by adding at the end thereof "or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052)."; and

(2) revising subsection (b) by striking out "subtitle" after "the regulations promulgated by the Administrator under this" and inserting in lieu thereof "section".

(h) Section 3005(a) of the Solid Waste Disposal Act is amended by inserting "treatment, storage, or" after "and upon and after such date the".

(i) Section 3006(c) of the Solid Waste Disposal Act is amended by striking out "required for" whenever it appears in the subsection and inserting in lieu thereof "of".

(j) Section 3007(a)(1) of the Solid Waste Disposal Act is amended by striking out "or disposed of" and inserting in lieu thereof "disposed of, or transported from".

(k) Section 3008 of the Solid Waste Disposal Act is amended by (1) revising subsection (d)(1) to read as follows:

"(1) transports any hazardous waste iden-

tified or listed under this subtitle to a facility which does not have a permit under section 3005 (or 3006 in the case of a State program), or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052),"; and (2) revising subsection (d)(2) to read as follows:

"(2) treats, stores, or disposes of any hazardous waste identified or listed under this subtitle without having obtained a permit under section 3005 (or 3006 in the case of a State program) or pursuant to title I of the Marine Protection, Research, and Sanctuaries Act (86 Stat. 1052.)".

(l) Section 4007(C) of the Solid Waste Disposal Act is amended by redesignating subsection "(C)" as "(c)".

(m) Section 6001 of the Solid Waste Disposal Act is amended by inserting "or management" between "disposal" and "of solid waste".

(n) Section 6002 of the Solid Waste Disposal Act is amended by—

(1) deleting "(A)" after "(1)" in subsection (c) and changing "(B)" and "(C)" to "(2)" and "(3)", respectively; and changing "(i)", "(ii)", and "(iii)" to "(A)", "(B)", and "(C)", respectively;

(2) in subsection (c)(3) as redesignated, striking "Contracting" and inserting in lieu thereof "After the date specified in any applicable guidelines prepared pursuant to subsection (e) of this section, contracting"; and

(3) inserting in the second sentence of subsection (e) after "containing such materials" the phrase "and with respect to certification by vendors of the percentage of recovered materials used".

(o) Section 6004 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (a)(1)(A) by striking out "disposal" and inserting in lieu thereof "management";

(2) revising subsection (a)(1)(B) by striking out "disposal" and inserting in lieu thereof "management"; and

(3) revising subsection (b) by striking out "Secretary" and inserting in lieu thereof "Administrator".

(p) Section 7002 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (c) by striking out "section 212" and inserting in lieu thereof "subtitle C"; and

(2) revising subsection (e) by striking out "requiring" and insert in lieu thereof "require".

(q) Section 7003 of the Solid Waste Disposal Act is amended by striking out "for" before "contributing to the alleged disposal".

(r) Section 7007 of the Solid Waste Disposal Act is amended by—

(1) revising subsection (b)(1)(A) by striking out "disposal" and inserting "management"; and by striking out "resources" and inserting "resource".

(2) revising subsection (b)(1)(B) by striking out "disposal" and inserting "management"; and

(3) revising subsection (c)(3) by striking out "disposal" and inserting "management" in lieu thereof.

(s) Section 8001(a) of the Solid Waste Disposal Act is amended by—

(1) revising paragraph (2) by striking out "disposal" and inserting "management" in lieu thereof; and

(2) revising paragraph (13) by inserting "treatment," after "for purpose of"

(t) Section 8002 of the Solid Waste Disposal Act—is amended by—

(1) revising paragraph (1) of subsection (g) by inserting a comma between "shale" and "liquefaction";

(2) revising paragraph (1) of subsection (j) by inserting "the Secretary of Energy, the Chairman of the Council of Economic Advisors," before "and a representative of the Office of Management and Budget,";

(3) revising paragraph (2) of subsection (j) by striking "(2)(D)" and inserting (D)" in lieu thereof;

(4) revising paragraph (3) of subsection (j) by striking "(2)(D)" and inserting "(1)" in lieu thereof; and

(5) revising subsection (1) by striking out "required under subsection (a), (h), (i) and (j)" and inserting in lieu thereof "required under subsections (a), (h), and (i)".

(u) Section 8003(a)(3) of the Solid Waste Disposal Act is amended by striking out "discarded materials" and inserting "solid waste" in lieu thereof.

(v) Section 8004(a)(1) of the Solid Waste Disposal Act is amended by striking out "discarded material" and inserting "solid waste" in lieu thereof.

Mr. CULVER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENDANGERED SPECIES ACT AMENDMENTS OF 1978

The Senate continued with the consideration of S. 2899.

The PRESIDING OFFICER. The Senator from Idaho.

UP AMENDMENT NO. 1434

(Purpose: Removing certain condemnation authority)

Mr. McCLURE. Mr. President, I have an amendment which I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Idaho (Mr. McCLURE) proposes an unprinted amendment numbered 1434.

Mr. McCLURE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

SEC. 6. (a) Section 5 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1534), is amended by adding at the end thereof the following new subsection:

"(c) Notwithstanding any other provision of this Act or any other law, the Secretary shall have no authority to acquire, by condemnation, any lands, waters, or interest therein, for purposes of this Act.".

Mr. McCLURE. Mr. President, I have offered this amendment only for the purpose of drawing attention to a problem which does not yet exist, but is going to exist. The potential for harassment is very apparent. The potential for substantial distortion of the economy in various places and possible injustice is evident.

Mr. President, the amendment which I have sent to the desk would remove condemnation authority for the purposes of acquiring critical habitat. I say that it does not now exist as a major problem because, as a matter of fact, my information is that they have exercised the right of condemnation only twice. In one of those two instances the exercise of condemnation was a friendly lawsuit in order to clear up the title to the land in question. The other was with respect to the habitat for the bald eagle under circumstances in which I am sure most of us would have found it justifiable to protect the habitat and to use that power of condemnation.

But with a growing list of species that will be added to the endangered or threatened species list, with the expansion of the great number of plants and insects that will be going onto the endangered species list, the potential for the acquisition of private property through the condemnation power is very large.

I am very much concerned that the Congress express itself at the earliest possible date to restrict the potential for an overextensive use of the power of condemnation and to signal very clearly that if the power of condemnation is used excessively that Congress is prepared to act to limit or to remove that power.

I think the administrative agencies must be put on notice that the Congress is not simply unaware that the potential exists, but is very much aware, but because of the fact that it has been used with restraint, it is not now a problem and does not need to be acted upon now, but, if it does become a problem, Congress will act very quickly and very positively in those instances.

Mr. SCOTT. Will the Senator yield?

Mr. McCLURE. I am happy to yield to the Senator from Virginia.

Mr. SCOTT. Mr. President, I remember some 20 or 30 years ago when I was an attorney in the condemnation section of the Department of Justice that under Federal law there was a provision under which land could not be taken under the power of eminent domain, either for this purpose or for some closely related purpose, and time causes the exact substance of the bill to escape me.

I had an amendment that I intended to offer and the floor manager of the bill talked me out of it. So I did not offer it.

But I do have sympathy with the proposal that the distinguished Senator from Idaho has just expressed. I think he would have others that would agree with him because we are talking about forcefully, against the will of the individual citizen, taking his property.

Now, he would receive just compensation. But sometimes that is not an adequate substitute and he might prefer to keep his property rather than to give it to the birds.

I commend the distinguished Senator.

Mr. McCLURE. I thank the Senator from Virginia.

There is in the law now the authority to protect the endangered species. Condemnation is not necessary to protect the endangered species. They can be protected without the condemnation of the land.

It may very well be that the landowner would prefer to continue to own the land subject to the restrictions of protection that are imposed, rather than having his land condemned and transferred out of his ownership forever.

The endangered species might get re-

moved from the endangered species list or, indeed, it might become extinct, some changed circumstances which would remove the land from the burden and then restore it to his full use if he still owned it.

But if it has been condemned by the Government for this purpose, it is condemned forever and the property owner would have no possibility of recovery of that land in the event it was no longer needed for that purpose.

As I said, Mr. President, this has not been abused. My reason for offering the amendment at all is simply to point to the possibility for abuse and to provide a kind of red flag for the agencies that Congress is going to be watching it very carefully and if there is any overextensive use of it, Congress, in all likelihood, will move very promptly to limit or remove this authority.

I am happy to yield to the Senator from Iowa.

Mr. CULVER. I think the purpose and intent of the Senator's amendment, the extent to which he suggests, does send a signal to the Fish and Wildlife Service that we are going to be extremely sensitive to how or what degree of care and consideration they give, under their existing authority and the right of eminent domain, to acquire lands for critical habitat.

In some instances, as the Senator knows, a case is possible in which there is a friendly condemnation, as opposed to one requiring legal eminent domain action.

It is my understanding that every effort is made by the Fish and Wildlife Service to reach agreement with the landowner, because these condemnation situations are extremely expensive. They are never less than the appraised valuation. Awards reportedly have been as high as 300 percent of appraised value. I think they also try to avoid condemnation because of the added time and expense that are required. However, I believe this is authority that could be abused.

With respect to the suggestion the Senator makes that the subcommittee take a look at overall policy with respect to Fish and Wildlife Service rather than dealing with it here separately, we have never, to my knowledge—perhaps the Senator from Idaho can correct me—we have never, as a committee or a subcommittee, carefully reviewed this. That is something that might be appropriate as we go forward—an examination of the overall policy, rather than trying to deal with it separately here.

Mr. McCLURE. The Senator from Iowa is correct. To my knowledge, we have not looked at that policy question. We deal with it every time it passes by us, in much the same fashion that we do here today, saying that it is a potential problem, we should take a look at it, and the agency should know that we are watching it very carefully.

I am reminded, Mr. President, of the restrictions that are imposed upon agencies by an understanding that is not written into the law, that they will restrain themselves in the use of authority; and then, after a period of time, they forget that, or the people who knew of that understanding leave, and suddenly they are back to the problem that was restrained by the understanding.

Mr. CULVER. With all due respect to the Senator, I would like to think that the work of our subcommittee has made it very clear to the Fish and Wildlife Service that we are interested in what they are doing, and that we are not necessarily uncritical of every aspect of their activity. If they have someone in their employ who reads the legislative history of this debate, which I assume they will—tomorrow morning, I hope—they will be wise enough to make sure that the very appropriate expressions of concern that the Senator has made on this occasion are respected. There are more formal ways, through congressional oversight, as the Senator well knows, by which we can more systematically review this policy.

As I said, it has been useful to give this reminder, and we will be watching it carefully.

It is important that our staffs be sensitive to it. We should make sure that we are properly informed as to what the practices are to guard against the kind of abuses to which the Senator is sensitive.

Mr. McCLURE. I thank the Senator from Iowa, and I agree with him entirely. I appreciate the support and concern he has shown for this problem, or this potential for a problem.

I do not think any one of us wants it to become a problem. We want to be able to say 2 years, 5 years, or 10 years from now that it has not been a problem and that there has been no abuse. The only way we will be able to say that is that the agencies look at it with the knowledge that we are looking at it very carefully and that we are going to try to balance the equities as we see them, in a sensitive regard for the rights of citizens as well as the implementation of this law.

I thank the Senator for his contribution.

Mr. President, I withdraw the amendment.

Mr. CULVER. I thank the Senator.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. WALLOP. Mr. President, how much time remains on the bill?

The PRESIDING OFFICER. Seven minutes remain to each side.

Mr. WALLOP. Mr. President, I yield 3 minutes to the distinguished Senator from Vermont.

Mr. STAFFORD. Mr. President, I appreciate the Senator from Wyoming yielding this time to me.

First, I compliment the distinguished Senator from Iowa (Mr. CULVER) and the distinguished Senator from Wyoming (Mr. WALLOP) for the fine job they have done as the comanagers of this important piece of legislation from the Committee on Environment and Public Works. They have done a fine job, and I appreciate it, as I am sure all our colleagues do and the country will.

Mr. President, I have taken this time today particularly because I want to make a few brief remarks—indeed, all too brief—to express my admiration and commendation of the chairman of the full Committee on Environment and Public Works, the distinguished Senator from West Virginia (Mr. RANDOLPH). This bill, like so many others, is a result of his strong and effective leadership.

In my 18 years as a Member of Congress, I can frankly say that I have never served with a chairman who has been more considerate of the members of his committee than JENNINGS RANDOLPH; or one who has been more responsive to the concerns of all the members; or one who has shown more interest in effective legislation. Indeed, I cannot imagine any chairman surpassing the senior Senator from West Virginia in those regards.

When confronted with a problem, JENNINGS RANDOLPH responds with effective legislation, not a partisan fight. It is this spirit that gets things done; a spirit that produces results, not bickering. JENNINGS RANDOLPH listens with genuine concern and interest to every member, no matter how junior, and without partisan regard. He never forces a vote before everyone has had the opportunity to participate fully and present views. Perhaps his fairness can best be judged by the fact that whether he wins or loses, he does so with graciousness and generosity.

Mr. President, JENNINGS RANDOLPH is a truly outstanding chairman of the Committee on Environment and Public Works. It is a great and distinct honor for this Senator from Vermont to serve with him. Senator RANDOLPH graces this Chamber.

Mr. President, I thank the Senator from Wyoming for yielding time to me.

Mr. WALLOP. Mr. President, I thank the distinguished ranking minority member of the Committee on Environment and Public Works, not only for his remarks about the chairman but also for his efforts in behalf of the minority, as we seek to wrestle with the problems that come before the committee.

I also thank Senator CULVER and the majority staff and the minority staff, whose services have been most useful and most helpful from the very inception of the hearings on this bill to the moment, when we are about to bring the deliberations on it to a close in the Senate. It has been a pleasure working with them.

I believe that much needed improvements in the bill and the act have been made. A step toward flexibility, where none existed, and a process for arriving at a decision, where none existed, have been achieved in a most responsible manner.

With that, Mr. President, I thank Senator CULVER, and I yield back the remainder of my time.

Mr. CULVER. Mr. President, I also express my appreciation to the staff. Both the majority and minority staffs have worked hard and conscientiously over a period of a year in the development and production of much of the work that has gone into the last 2 days. They are George Jacobson, Kathy Kor-

pon, Dick Oshlo, Patty MacDonald, Jim Range, Phil Cummings, and Mike Choukas.

I also express my admiration and gratitude to the distinguished Senator from Wyoming, without whom, frankly, this legislation could not have been developed successfully. His contributions throughout the consideration of this measure have proven to be invaluable, and his work on the floor during the last 2 days is self-evident in that regard.

● Mr. MUSKIE. Mr. President, I commend the chairman of the Resource Protection Subcommittee, Mr. CULVER, for his efforts in developing and reporting the bill before us. I recognize the difficulty of reconciling the critical interests involved here. The potential conflict between priority national goals and the very existence of irreplaceable species is not pleasant and provides mortals with little sound foundation for judgment. The committee bill should help us avoid such confrontations as much as possible and assure that when such confrontations are unavoidable they will be resolved at the highest levels of the executive branch.

I doubt that there can be a perfect resolution of the conflicts with which we are concerned here today. The bill before us attempts to bring the best resources of the Government to bear on the exercise of the best judgment of Cabinet-level officials. I do not envy the task of the Endangered Species Committee but an easier or more attractive solution to this dilemma has not been presented.

I think it would be appropriate in the context of debate on these amendments to the Endangered Species Act to relate the ongoing efforts to resolve potential problems between the Dickey-Lincoln hydroelectric and flood control project in Maine and a plant, the furbish lousewort recently listed as an endangered species by the U.S. Department of the Interior Fish and Wildlife Service.

The furbish lousewort was for many years considered an extinct species until extensive studies of the upper St. John Valley, conducted in preparation for the environmental impact statement on the Dickey-Lincoln project, discovered several colonies of the plant along the bank of the St. John River within the area that will be impounded by Dickey Dam. A potential conflict between the endangered species act and Dickey-Lincoln project was immediately apparent and was frequently referenced by individuals and groups who opposed the Dickey-Lincoln project for other reasons.

Recognizing the potential conflict, the Corps of Engineers, even before the furbish lousewort was officially listed as an endangered plant, began informal conversations with the U.S. Fish and Wildlife Service to attempt to avoid conflict. The corps launched investigations to locate additional colonies and to determine habitat requirements for the plant. Their efforts were successful and additional colonies of the plant were discovered outside the impoundment area and it appeared that the plant could be transplanted or propagated by seed to other suitable habitat. With this groundwork laid it was not long after the plant was officially listed as an endangered plant, that the Fish and Wildlife Service recommended a conservation program "to resolve the Furbish Lousewort/Dickey-Lincoln Conflict." In the announcement of the proposed conservation program the Fish and Wildlife Service commended the corps for its efforts to avoid conflict. I ask unanimous consent that the announcement of the recommended program and related correspondence from the Director of the Fish and Wildlife Service be entered in the RECORD at the conclusion of my remarks.

Mr. President, the announcement by the Fish and Wildlife Service is not the final word on the potential conflict between the furbish lousewort and the proposed Dickey-Lincoln Dam. The Corps of Engineers is now reviewing the recommendations for mitigating action to determine their appropriateness, feasibility and cost. As the Fish and Wildlife Service noted the corps is continuing its efforts to find means of preserving the furbish lousewort while proceeding toward construction of Dickey-Lincoln. We are perhaps fortunate in the case of Dickey-Lincoln that only a portion of the habitat for the furbish lousewort is threatened by the Dickey-Lincoln project and even those threatened colonies can apparently be transplanted or propagated by seed in alternate suitable habitats. Ironically enough, it might happen that construction of the Dickey-Lincoln project, will enhance the prospects for survival of this plant thought extinct before the project was conceived.●

● Mr. BROOKE. Mr. President, I confess I view it as a tragedy that these amendments have come before the Senate at all. We are engaged in the ludicrous undertaking of revising an act which works. Hundreds of potential conflicts between projects and endangered species have been resolved in good faith interagency consultations. This act is not inflexible or intransigent. Human needs and other species' needs have been shown to be reconcilable in all but two cases which went to litigation. And those two cases, one of which is, of course, the Tellico Dam, could probably have been worked out as well, had the agencies involved been willing to try to compromise, as in all the other cases. As TVA's new Chairman David Freeman has readily admitted, TVA's past refusal to acknowledge the Department of the Interior's authority under the act put insurmountable obstacles in the way.

And there is no reason to think future projects are more threatened than past ones. It is, I confess with mixed feelings that I note the Dickey-Lincoln Dam will not be held up for the furbish lousewort after all, as new habitats are being found for that flower. Some allege the proposed listing of 1,000 new endangered plants is a problem. But, in fact, most of the plants proposed for listing occur in Hawaii and California at high altitudes.

In Hawaii the greatest threat to plant species is not development, but the introduction of nonnative plant species and the presence of feral goats, pigs, cows and other grazing animals. There is simply no reason to believe that the regulations and procedures that have resolved conflicts up to now will not continue to do so.

It is even more shameful that so blatantly questionable a project as the Tellico Dam has prompted this move to weaken the Endangered Species Act. Not only has the GAO recently thrown the cost-benefit ratio of the dam into serious question, but in addition, the TVA's Chairman has informed the Senate that we may expect a reevaluation of the project by August 10. Thus we have the spectacle of the Senate of the United States wasting one of its precious remaining legislative days rushing to amend a law that works perfectly well to save a project that may be declared useless by its own sponsoring agency in 3 weeks' time.

Mr. President, my distinguished colleague from Wisconsin is performing an especially heroic act. I know he shares my belief that the Endangered Species Act should remain intact. Yet he has been willing to assume the unpleasant task of working out and defending on the Senate floor the best possible compromise. This kind of leadership is especially valuable and rare and I am pleased to have cosponsored the Senator's amendments and to support these efforts.

However, I am deeply troubled by the new system being proposed. And I believe all of us who are concerned about the preservation of the widest possible variety of species will have to keep a very close watch on the operations of this new committee.

The criteria it will use do not involve any scientific cost/benefit evaluation of a threatened species' actual or potential value. The considerations reviewed are purely political ones. I think this is a dangerous approach. And, worse, the membership of the committee has only the appearance of diversity. In point of fact—it represents one vote—that of the President of the United States, the chief executive officer of every agency on the committee. While he or she may in the future be indifferent to the fate of some projects, big dramatic projects are very likely to become Presidential campaign issues and be decided at the top. Most administrations are likely to have sufficient cohesion that the Presidential opinion will be definitive.

Mr. President, there is no denying that these changes represent a significant politicization of the Endangered Species Act and that these alterations are an unfortunate occurrence. Conservationists should doubtless prepare to exercise even greater vigilance and to engage in more litigation than has previously been necessary. While we can be glad we have fought back many of the regressive attacks on this law, today's victories can provide us no real joy.

Clearly, we must all redouble the effort to keep the American people aware of the importance of protecting the natural diversity of our ecosystem.●

Mr. ROBERT C. BYRD. Mr. President, I ask for third reading.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. CULVER. Mr. President, we have two requests. I ask unanimous consent that following those two requests for time we move immediately under the unanimous-consent agreement to final passage of the bill.

Mr. ROBERT C. BYRD. Mr. President, time will have to be yielded back before we go to final passage. I wish to have 3 minutes yielded to me also.

Mr. CULVER. All right.

I am delighted to yield to the distinguished chairman, Senator STENNIS.

Mr. STENNIS. Mr. President, I shall take less than 1 minute.

I wish to highly commend the two floor managers of this bill, for the work they have done, and others on their committee that helped them.

I have been concerned, Mr. President, about what is happening under the present law and think that it is too severe.

I had an amendment yesterday that was not agreeable to the majority, and that is all right. If there had been a vote on striking out, though, this committee amendment, I would have voted against the proposal to strike it out because I think the committee amendment, so-called in debate here, is a distinct improvement over the present law, and I am going to support the bill for that reason on final passage. I do express the hope, though, that the debate, interests, manifestations that helped with the added activity now under the Supreme Court decision will emphasize more thoroughly the importance of this matter and what it means and that both objectives can be taken care of better and, therefore, this committee amendment will not be too strictly construed but will be allowed practical running room or operation room to carry out the purpose.

I thank the Senator for yielding.

Mr. CULVER. Mr. President, I yield 1 minute to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. The Senator better make it 2 minutes.

Mr. CULVER. I yield 2 minutes to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, the current law, namely, the Endangered Species Act of 1973, it seems to me, at least insofar as it has been administered, has been too stringent and too severe.

I support and commend the two managers of the bill for the legislation which has been brought to the Senate. These amendments to the 1973 Act will make the current law more practical, more reasonable, and for that reason I shall vote in favor of the legislation before the Senate today.

Had an effort been made, as I understood at one time that it would be, to strike the amendments which were presented to the Senate by the Senator from Iowa (Mr. CULVER), I would have voted against that because something needs to be done to make the present law more reasonable. I think the amendments before the Senate do that.

I commend my colleague from Virginia, Mr. SCOTT, for an amendment which he presented to the Senate today and which was approved by the Senate. Senator SCOTT's proposal reduces from seven to five the number of members on the committee which would constitute a quorum. It is a seven-person committee. When a seven-member committee is appointed and the law requires for a quorum in order to transact business that all seven of those be present, it seems to me that is not a very reasonable proposal. The Senator from Virginia, my colleague (Mr. SCOTT) presented an amendment to the Senate to reduce that number from seven to five so that five members being present would constitute a quorum and business could be conducted.

So I congratulate and commend my colleague. He improved the pending legislation.

Mr. SCOTT. I appreciate the kind words of my colleague.

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. CULVER. Mr. President, I yield to the distinguished majority leader.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Senator.

The Endangered Species Act of 1973 was a first step toward establishing a comprehensive policy to protect flora and fauna faced with extinction. The law directs the Secretary of the Interior to maintain a list of imperiled species of plants and animals. Those which appear on the list are subject to the protections embodied in the act, including a prohibition against Federal action which would do them harm.

For the past 5 years the Endangered Species Act has indeed provided the means to preserve our threatened wildlife. The central purpose of the act remains valid. It is necessary and desirable at this time, however, to perfect the law so that it will better meet current needs. Difficulties have arisen which were unforeseeable at the time of passage.

Specifically, section 7 of the act flatly prohibits any activity involving a Federal agency or Federal funds which would do harm to an endangered plant or animal species. This affects such ventures as Federal participation in highway or dam construction. The result has been that several national priorities are on a collision course. The need to protect our environment must be balanced against our requirements for energy, transportation, and economic development.

The bill before us, S. 2899, amends the existing law by creating a special panel responsible for resolving conflicts between the sanctions in the Endangered Species Act and the development of necessary Federal projects. The Endangered Species Interagency Committee, to be chaired by the Secretary of the Interior, would be composed of six Cabinet level officials and the Governor of the State in which the conflict occurs. The committee would be authorized to grant exemptions from section 7 of the act.

A stringent set of criteria must be met in order for a Federal project to receive a section 7 exemption. The committee would be required to make detailed findings that proper consultation between the Federal project agency and the Fish and Wildlife Service has occurred and that other reasonable and responsible efforts to resolve the conflict have been made by the project agency.

Furthermore, the committee would have to determine that no prudent alternative to an exemption exists. In this way, the Endangered Species Committee would provide solutions to deadlocked conflicts without abandoning the chief principles of the existing law. No exemption would be granted without the affirmative vote of at least five of the seven committee members.

In addition to this important substantive change, S. 2899 provides the authorization to the Fish and Wildlife Service through fiscal year 1981 for the purpose of administering the endangered species program. The bill also authorizes funds for the operation of the Endangered Species Committee through fiscal year 1981.

I commend the distinguished Senator from Iowa (Mr. CULVER), chairman of the Resource Protection Subcommittee of the Environment and Public Works Committee, who has again demonstrated his industry and ingenuity in the formation and management of the Endangered Species Act amendments. His knowledge in this area has proved invaluable to the Senate.

The chairman of the Environment and Public Works Committee, my distinguished colleague from West Virginia, JENNINGS RANDOLPH, has helped steer S. 2899 through the legislative process. Time and again he has shown his skill and expertise in this area.

Senator WALLOP, the ranking minority member of the Resource Protection Subcommittee, provided able management on this measure, and I commend him.

Senator BAKER, the distinguished minority leader, has contributed a great deal to S. 2899, as he does every day to the operation of the Senate.

The ranking minority member on the Committee on Environment and Public Works, Senator STAFFORD of Vermont, has also been an active and able and effective participant in this matter.

I, therefore, compliment all of these Senators and all the members of the committee. I thank all Senators who have participated in the debate, those who have offered amendments, and I feel that they have contributed a service not only to the country but to the Senate which is the institution which we all serve.

I support this measure and am sure the Senate will act favorably upon it.

Mr. CULVER. Mr. President, I wish to thank the majority leader for his very kind comments.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 2899.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CULVER. Mr. President, I call for a final vote.

I believe the yeas and nays are in order on this legislation. I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CULVER. Mr. President, I yield back the remainder of my time.

Mr. WALLOP. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question, is, Shall the bill pass?

On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON) and the Senator from Montana (Mr. HATFIELD) are necessarily absent.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) would vote "yea."

Mr. STEVENS. I announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

The result was announced—yeas 94, nays 3, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—94

Abourezk	Glenn	Melcher
Allen	Goldwater	Metzenbaum
Baker	Gravel	Morgan
Bartlett	Griffin	Moynihan
Bayh	Hansen	Muskie
Bellmon	Hart	Nunn
Bentsen	Haskell	Packwood
Biden	Hatch	Pearson
Brooke	Hatfield, Mark O.	Pell
Bumpers	Hathaway	Percy
Burdick	Hayakawa	Randolph
Byrd, Harry F., Jr.	Heinz	Ribicoff
Byrd, Robert C.	Helms	Riegle
Cannon	Hodges	Roth
Case	Hollings	Sarbanes
Chafee	Huddleston	Sasser
Chiles	Humphrey	Schmitt
Church	Inouye	Schweiker
Clark	Jackson	Sparkman
Cranston	Javits	Stafford
Culver	Johnston	Stennis
Curtis	Kennedy	Stevens
Danforth	Laxalt	Stevenson
DeConcini	Leahy	Stone
Dole	Long	Talmadge
Domenici	Lugar	Thurmond
Durkin	Magnuson	Tower
Eagleton	Matsunaga	Wallop
Eastland	McClure	Weicker
Ford	McGovern	Williams
Garn	McIntyre	Young
		Zorinsky

NAYS—3

Nelson	Proxmire	Scott

NOT VOTING—3

Anderson	Hatfield, Paul G.	Mathias

So the bill (S. 2899) was passed, as follows:

S. 2899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Endangered Species Act Amendments of 1978".

SEC. 2. Section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) is amended—

(1) by inserting after paragraph (4) thereof the following new paragraphs:

"(5) The term 'Federal agency' means any department, agency, or instrumentality of the United States.

"(6) The term 'critical habitat' for a threatened or endangered species means:

"(A) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the provisions of section 4 of this Act, on which are found those physical or biological features (i) essential to the conservation of the species and (ii) which require special management considerations or protection;

"(B) critical habitat for a threatened or endangered species may include specific areas outside the geographical area occupied by the species at the time it is listed in accordance with the provisions of section 4 of this Act, into which the species can be expected to expand naturally, upon a determination by the Secretary at the time it is listed, that such areas are essential for the conservation of the species;

"(C) critical habitat may be established for those species now listed as threatened or endangered species for which no critical habitat has heretofore been established as set forth in subparagraphs (A) and (B) of this paragraph; and

"(D) except in those circumstances determined by the Secretary, critical habitat will not include the entire geographical area which can be occupied by the threatened or endangered species.";

(2) by inserting after paragraph (7) thereof the following new paragraphs:

"(8) The term 'irresolvable conflict' means, with respect to any action authorized, funded, or carried out by a Federal agency, a set of circumstances under which, after consultation as required in section 7(a) of this Act, completion of such action would (A) jeopardize the continued existence of an endangered or threatened species, or (B) result in the adverse modification or destruction of a critical habitat.

"(9) For purposes of subsection 7(e)(2)(C) the term 'alternative courses of action' means all alternatives and thus is not limited to original project objectives and agency jurisdiction."; and

(3) by renumbering the paragraphs thereof, including any references thereto, as paragraphs (1) through (20), respectively.

SEC. 3. Section 7 of the Endangered Species Act of 1973 (16 U.S.C. 1536) is amended to read as follows:

"INTERAGENCY COOPERATION

"SEC. 7. (a) CONSULTATION.—The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act. All other Federal agencies shall, in consultation with and with the assistance of the Secretary, utilize their authorities in furtherance of the purposes of this Act by carrying out programs for the conservation of endangered species and threatened species listed pursuant to section 4 of this Act. Each Federal agency shall insure that any action authorized, funded, or carried out by such agency does not jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary after consultation as appropriate with the affected States, to be critical, unless such agency is granted an exemption for such action by the Committee pursuant to subsection (e) of this section.

"(b)(1) ESTABLISHMENT OF COMMITTEE.—There is established a committee to be known as the Endangered Species Committee (hereinafter in this section referred to as the 'Committee').

"(2) The Committee shall review any application submitted to it pursuant to subsection (d) of this section and determine in accordance with subsection (e) of this section whether or not to grant an exemption from the requirements of subsection (a) of this section for the action set forth in such application.

"(3) The Committe shall be composed of seven members as follows:

"(A) The Secretary of Agriculture.

"(B) The Secretary of the Army.

"(C) The Chairman of the Council on Environmental Quality.

"(D) The Administrator of the Environmental Protection Agency.

"(E) The Secretary of the Interior.

"(F) The Administrator of the National Oceanic and Atmospheric Administration.

"(G) The Governor of the State which is affected by the action for which an exemption is sought (or in the case of an action affecting more than one State, the Governors of all such States who shall cast collectively a single vote on the Committee as determined among such Governors).

"(4)(A) Members of the Committee shall receive no additional pay on account of their service on the Committee.

"(B) While away from their homes or regular places of business in the performance of services for the Committee, members of the Committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5 of the United States Code.

"(5)(A) Five members of the Committee or their representatives shall constitute a quorum for the transaction of any function of the Committee, except that, in no case shall any representative be considered in determining the existence of a quorum for the transaction of any function of the Committee if that function involves a vote by the Committee on any matter before the Committee.

"(B) The Committee shall not grant any exemption from the requirements of subsection (a) of this section to the head of any Federal agency for any action authorized, funded, or carried out by such agency unless five members of the Committee vote to grant such exemption.

"(C) The Secretary of the Interior shall be the Chairman of the Committe.

"(D) The Committee shall meet at the call of the Chairman or five of its members.

"(E) All meetings and records of the Committee shall be open to the public.

"(6) The Committee may appoint and fix the pay of such personnel as it deems desirable.

"(7) The staff of the Committee may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Service pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

(8) The Committee may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS–18 of the General Schedule.

"(9) Upon request of the Committee, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Committee to assist it in carrying out its duties under this section.

"(10)(A) The Committee may for the purpose of carrying out its duties under this sec-

tion hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Committee deems advisable.

"(B) When so authorized by the Committee, any member or agent of the Committee may take any action which the Committee is authorized to take by this paragraph.

(C) Subject to the Privacy Act, the Committee may secure directly from any Federal agency information necessary to enable it to carry out its duties under this section. Upon request of the Chairman of the Committee, the head of such Federal agency shall furnish such information to the Committee.

"(D) The Committee may use the United States mails in the same manner and upon the same conditions as other Federal agencies.

"(E) The Administrator of General Services shall provide to the Committee on a reimbursable basis such administrative support services as the Committee may request.

"(11) In carrying out its duties under this section, the Committee may promulgate and amend such rules, regulations, and procedures, and issue and amend such orders as it deems necessary.

"(12) For the purpose of obtaining information necessary for the consideration of an application for an exemption under this section the Committee may issue subpenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents.

"(13) To the extent practicable within the time required for action under subsection (e) of this section, and except to the extent inconsistent with the requirements of this section, the consideration of any application for an exemption under this section and the conduct of any hearing under subsection (e) of this section shall be in accordance with sections 554, 555, and 556 of title 5, United States Code.

"(14) Notwithstanding any other provision of this Act, the Committee shall be prohibited from considering for exemption, any application made to it, if the Secretary of State, after a review of the proposed Federal action and its potential implications, and after hearing, certifies, in writing, to the Committee within sixty days of any submission made under subsection (d)(1) of this section, that the granting of any such exemption and the carrying out of such proposed action would be in violation of an international treaty obligation or other international obligation of the United States. The Secretary of State shall, at the time of such certification, publish a copy thereof in the Federal Register.

"(15) Except in the case of a member designated pursuant to paragraph (3)(G) of this subsection, no member shall designate any person to serve as his or her representative unless that person is, at the time of such designation, holding a Federal office the appointment to which is subject to the advice and consent of the United States Senate. In no case shall any representative, including a representative of a member designated pursuant to paragraph (3)(G) of this subsection, be eligible to cast a vote on behalf of any member.

"(16) Notwithstanding any other provision of this Act, in any case in which the National Security Council determines that the failure of the Committee to grant an exemption from the requirements of subsection (a) of this section to the head of a Federal agency in connection with any Federal action involving a critical military installation would have an adverse effect on the security of the United States, the National Security Council is authorized to notify the Committee, in writing, and upon the receipt of such notice the Committee shall give immediate consideration to such determination.

"(c) REGULATIONS.—Not later than ninety days after the date of enactment of this section, the Committee shall promulgate regulations which set forth the form and manner in which applications by the heads of the Federal agencies for review of actions by such agencies shall be submitted to the Committee and the information to be contained in such applications. Such regulations shall require that information submitted in an application by the head of any Federal agency with respect to any action of such agency include, but not be limited to—

"(1) a description of the consultation process carried out pursuant to subsection (a) of this section between the head of such Federal agency and the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service; and

"(2) a statement describing why such action cannot be altered or modified to conform with the requirements of subsection (a) of this section.

"(d) SUBMISSION OF APPLICATIONS.—(1) The head of any Federal agency may submit an application for review of any action of such agency to the Committee if, in the opinion of the head of such agency, such agency has complied with the requirements of subsection (a) of this section and that an irresolvable conflict exists with respect to such action. Such application for review shall be submitted in accordance with the regulations promulgated by the Committee under subsection (c) of this section.

"(2) The Director of the Fish and Wildlife Service (or where appropriate the Administrator of the National Oceanic and Atmospheric Administration) shall prepare and submit to the Committee within thirty days of any submission made under paragraph (1) of this subsection his comments concerning such submission.

"(e)(1) REVIEW AND DETERMINATION.—After the Committee receives the application and comments submitted pursuant to subsection (d) of this section, the Committee shall review such application and comments and—

"(A) determine, with respect to the action which is the subject of such application, whether or not—

"(i) the requirements of the consultation process described in subsection (a) of this section have been met; and

"(ii) there has been a reasonable and responsible effort to resolve the conflicts which are known to exist, and the Federal agency requesting such exemption has made, subsequent to the initiation of the consultation under subsection (a) of this section, no irreversible or irretrievable commitment of resources which forecloses the consideration of modification or alternatives to such action; and

"(iii) an irresolvable conflict exists; and

"(B) if it makes positive determinations under clauses (i), (ii), and (iii) of subparagraph (A), determine and publish in the Federal Register, within one hundred and eighty days after receipt of the application and response required in subsection (d) of this section and after notice and public hearing on the record, whether or not to grant an exemption from the requirements of subsection (a) of this section to the head of such Federal agency for such action.

"(2) The Committee may only grant an exemption for any action under subsection (e) of this section if it determines on the record that—

"(A) there is no reasonable and prudent alternative to such action; and

"(B) the action is of national or regional significance; and

"(C) the benefits of such action clearly outweigh the benefits of alternative courses of action consistent with conserving the species or its critical habitat, and that such action is in the public interest.

"(f) NATIONAL ENVIRONMENTAL POLICY ACT.—No final determination of the Committee under subsection (e) of this section shall be considered a major Federal action under the terms of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.): *Provided*, That an environmental impact statement which discusses the impacts upon endangered and threatened species or their critical habitat shall have previously been prepared with respect to any Federal action exempted from the requirements of subsection (e) of this section by such final determination of the Committee.

"(g) MITIGATION.—In those instances where the Committee determines that an exception is warranted under subsection (e) of this section the Committee must assure that the action approved for such exemption incorporates all reasonable mitigation measures deemed necessary by the Secretary to minimize adverse impacts upon the affected endangered or threatened species or its critical habitat including but not limited to live propagation, transplantation, and habitat acquisition and improvement. The Federal agency or department receiving such exemption shall include the costs of such mitigation measures within the overall costs of continuing the proposed action.

"(h) NOTICE.—The sixty-day notice requirement of section 11(g) of this Act shall not apply with respect to review of any final determination of the Committee under subsection (e) of this section granting an exemption from the requirements of subsection (a) of this section.

"(i) EXCEPTION ON TAKING.—Notwithstanding sections 4(d) and 9(a) of this Act or any regulations promulgated pursuant to such sections, any action for which an exemption is granted under subsection (e) of this section shall not be considered a taking of any endangered or threatened species with respect to any activity which is necessary to carry out such action.

"(j) EXEMPTIONS IN PRESIDENTIALLY DECLARED DISASTER AREAS.—In any area which has been declared by the President to be a major disaster area under the Disaster Relief Act of 1974, the President is authorized to make the determinations required by subsections (e)(2) and (g) of this section for any project for the repair or replacement of a public facility substantially as it existed prior to the disaster under section 401 or 402 of the Disaster Relief Act of 1974 or for any authorized Federal project, and which the President determines (1) is necessary to prevent the recurrence of such a natural disaster and to mitigate the potential loss of human life, and (2) to involve an emergency situation which does not allow the ordinary procedures of this section to be followed. Notwithstanding any other provision of this section; the Committee shall accept the determinations of the President under this subsection.

"(k) AUTHORIZATION.—There is authorized to be appropriated to carry out this section not to exceed $750,000 for fiscal year 1979, not to exceed $750,000 for fiscal year 1980, and not to exceed $750,000 for fiscal year 1981. The Chairman of the Committee shall furnish a report to the Congress at the end of fiscal year 1979. The report shall speak to the adequacy of the budget authority contained in this subsection.

"(l) The authority granted to the Endangered Species Committee established in this section shall terminate on September 30, 1981.".

SEC. 4. Section 9(b) of the Endangered Species Act (16 U.S.C. 1538) is amended by inserting "(1)" after "(b)" and by adding the following new paragraph:

"(2) The provisions of this section shall not apply to any raptor legally held in captivity or in a controlled environment on the effective date of the Endangered Species Act Amendments of 1978, or the domestic captive

produced progeny of any legally held raptor: *Provided*, That such raptor has not been intentionally returned to a wild state. Persons holding such raptors must be able to demonstrate that the raptors do, in fact, qualify under the provisions of this paragraph. Such persons shall maintain and submit to the Secretary on request such inventories, documentation, and records as are reasonable and as the Secretary may by regulation require: *Provided*, That such requirements shall not unnecessarily duplicate the requirements of other rules and regulations promulgated by the Secretary.".

SEC. 5. The third sentence of section 11(a)(1) is amended by inserting the word "knowingly" after the word "otherwise".

SEC. 6. Section 11(a) is amended by adding a new subsection at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, no civil penalty shall be imposed if it can be shown by a preponderance of the evidence that the defendant committed an act based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.".

SEC. 7. Section 11(b) is amended by adding a new subsection at the end thereof as follows:

"(3) Notwithstanding any other provision of this Act, it shall be a defense to prosecution if the defendant committed the offense based on a good faith belief that he was acting to protect himself or herself, a member of his or her family, or any other individual from bodily harm, from any endangered or threatened species.".

SEC. 8. Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"Except as authorized in sections 6 and 7 of this Act, there are authorized to be appropriated—

"(1) not to exceed $25,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $23,000,000 for the fiscal year ending September 30, 1979, not to exceed $25,000,000 for the fiscal year ending September 30, 1980, and not to exceed $27,000,000 for the fiscal year ending September 30, 1981, to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act; and

"(2) not to exceed $5,000,000 for the fiscal year ending September 30, 1977, and the fiscal year ending September 30, 1978, not to exceed $2,500,000 for the fiscal year ending September 30, 1979, not to exceed $3,000,000 for the fiscal year ending September 30, 1980, and not to exceed $3,500,000 for the fiscal year ending September 30, 1981, to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act.".

SEC. 9. (a) Section 6(c) of the Endangered Species Act of 1973 (16 U.S.C. 1535(c)) is amended—

(1) by inserting "(1)" after "(c)";

(2) by redesignating paragraphs (1) through (5) as subparagraphs (A) through (E), respectively;

(3) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectfully;

(4) by striking out "subsection" in the matter preceding subparagraph (A) (as so redesignated) and inserting in lieu thereof "paragraph";

(5) by striking out "endangered species or threatened species" in subparagraph (D) (as so redesignated) and inserting in lieu thereof "endangered or threatened species of fish or wildlife";

(6) by striking out "paragraphs (3), (4), and (5) of this subsection" in clause (i) (as so redesignated) and inserting in lieu thereof "subparagraphs (C), (D), and (E) of this paragraph";

(7) by striking out "subparagraph (A) and this subparagraph" in clause (ii) (as so redesignated) and inserting in lieu thereof "clause (i) and this clause"; and

(8) by adding at the end thereof the following new paragraph:

"(2) In furtherance of the purposes of this Act, the Secretary is authorized to enter into a cooperative agreement in accordance with this section with any State which establishes and maintains an adequate and active program for the conservation of endangered species and threatened species of plants. Within one hundred and twenty days after the Secretary receives a certified copy of such a proposed State program, he shall make a determination whether such program is in accordance with this Act. Unless he determines, pursuant to this paragraph, that the State program is not in accordance with this Act, he shall enter into a cooperative agreement with the State for the purpose of assisting in implementation of the State program. In order for a State program to be deemed an adequate and active program for the conservation of endangered species of plants and threatened species of plants, the Secretary must find, and annually thereafter reconfirm such finding, that under the State program—

"(A) authority resides in the State agency to conserve resident species of plants determined by the State agency or the Secretary to be endangered or threatened;

"(B) the State agency has established acceptable conservation programs, consistent with the purposes and policies of this Act, for all resident species of plants in the State which are deemed by the Secretary to be endangered or threatened, and has furnished a copy of such plan and program together with all pertinent details, information, and data requested to the Secretary;

"(C) the State agency is authorized to conduct investigations to determine the status and requirements for survival of resident species of plants; and

"(D) provision is made for public participation in designating resident species of plants as endangered or threatened; or

that under the State program—

"(i) the requirements set forth in subparagraphs (C) and (D) of this paragraph are complied with, and

"(ii) plans are included under which immediate attention will be given to those resident species of plants which are determined by the Secretary or the State agency to be endangered or threatened and which the Secretary and the State agency agree are most urgently in need of conservation programs; except that a cooperative agreement entered into with a State whose program is deemed adequate and active pursuant to clause (i) and this clause shall not affect the applicability of prohibitions set forth in or authorized pursuant to section 4(d) or section 9(a)(1) with respect to the taking of any resident endangered or threatened species.".

(b) Paragraph (16) of section 3 of the Endangered Species Act of 1973 (16 U.S.C. 1532) (formerly paragraph (13) and redesignated paragraph (16) by section 2 of this Act) is amended by striking out "fish or wildlife" and inserting in lieu thereof "fish, wildlife, or plant".

SEC. 10. Section 4(a) of the Endangered Species Act of 1973 (16 U.S.C. 1533) is amended by adding a new subsection as follows:

"(3) Critical habitat of an endangered or threatened species shall be designated concurrently with determination of that species' status except in those cases when—

"(A) an emergency exists because no critical habitat information is available or there are other contingencies;

"(B) there are species listed before enactment of the Endangered Species Act of 1973.".

SEC. 11. Section 4(f)(2)(A) of the Endangered Species Act of 1973 (16 U.S. 1533) is amended by adding a new paragraph (ii) as follows, and renumbering as appropriate:

"(ii) the Secretary shall offer for publication in appropriate scientific journals the substance of the Federal Register notice referred to in (i) above; and".

SEC. 12. Section 3(4) of the Endangered Species Act of 1973 (16 U.S.C. 1532(4)) is amended as follows: strike the words, "a significant portion", and insert "the essential portion".

SEC. 13. Section 3(15) of the Endangered Species Act of 1973 (16 U.S.C. 1532(15)) is amended as follows: strike the words, "a significant portion", and insert, "the essential portion".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. CULVER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to the consideration of S. 3084, which will be stated by title.

The legislative clerk read as follows:

A bill (S. 3084) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation and related programs, and for other purposes.

Mr. FORD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Time for debate on this bill is limited to 4 hours, to be equally divided and controlled by the Senator from Wisconsin (Mr. PROXMIRE) and the Senator from Massachusetts (Mr. BROOKE), with 1 hour on any amendment in the first degree, except one to be offered either by Senator PROXMIRE, Senator MUSKIE, or Senator CHILES, on which there shall be 2 hours, and with 30 minutes on any amendment in the second degree, debatable motion, appeal, or point of order.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without the time being taken from either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURKIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURKIN. Mr. President, I ask unanimous consent that Bob Miller and Ed Tanzman, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HODGES. Mr. President, I ask the same privileges for Sandy Elden of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I ask unanimous consent that Tom Woodberry and Rick Farrell, of my staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Banking, Housing, and Urban Affairs be given access to the floor during consideration of S. 3084. Ken McLean, Robert Malakoff, Jo Ann Barefoot, Michael Barton, James Schuyler, Theresa Watson, Doris I. Thomas, Robert Locklin, Carolyn Jordan, Tony Cluff; T. J. Oden, of Senator McINTYRE's staff; David Gogal, of Senator LUGAR's staff; Joseph Kinney, of Senator MORGAN's staff; Richard Aks, of Senator GRAVEL's staff; Stuart Brahs, of Senator RIBICOFF's staff, and Eric Raskin, of Senator ABOUREZK's staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STONE. Mr. President, I ask unanimous consent that Mr. Craig Wolfson, of my staff, have the privilege of the floor during the consideration of the housing and urban bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that Betty McKay, of Senator HAYAKAWA's staff, and Sally Crossman, of Senator STEVENS' staff, may have the privilege of the floor.

Mr. LEAHY. Mr. President, I make a similar request for Susan Brannigan, of my staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

At the request of Mr. NELSON, Alan Chvotkin of the Small Business Committee staff was granted the privileges of the floor during the consideration and votes on S. 3084, the Housing and Community Development Act.

Mr. PROXMIRE. Mr. President, the Committee on Banking, Housing, and Urban Affairs, on May 15, 1978, reported S. 3084, the Housing and Community Development Amendments of 1978. This is a committee bill, drafted on the basis of 11 days of public hearings and 3 days of committee markup.

The proposed legislation would extend the basic housing and community development programs conducted by the Department of Housing and Urban Development and the Farmers Home Administration. It would, in addition:

First, increase the Federal emphasis on the rehabilitation and conservation of housing by amending the section 8 housing assistance program and by broadening and expanding the section 312 rehabilitation loan and the urban homestead programs.

Second, provide HUD with new tools to help restore the financial condition of rental housing projects which have not been able to absorb increased costs particularly for utilities and taxes and, at the same time maintain rents which can be afforded by lower income families.

Third, authorize HUD to provide additional needed services for residents of publicly-assisted housing projects.

Fourth, establish Federal policies for dealing with the growing problem of involuntary displacement of lower income persons from their homes and neighborhoods.

Fifth, authorize the Farmers Home Administration to initiate a new program to assist low income, rural homebuyers and owners.

Sixth, create a Neighborhood Reinvestment Corporation to carry on the work begun by the Federal Home Loan Bank Board's Neighborhood Housing Services Office.

While the committee bill is largely based on the administration's proposals, it provides spending authorization that is far in excess of that proposed by the administration. The committee bill would authorize $3.5 billion in funding for fiscal year 1979. This is $913 million more than the authority requested by the administration. Because housing assistance payments extend over a number of years, the difference between the committee recommendation and that of the administration is even greater. The committee recommendation would exceed $9 billion over the life of the bill.

I feel very strongly that the committee bill has gone too far in authorizing new spending. I said this when the committee voted the bill out. I repeated my concern in a statement of additional views to the committee report. As we begin debate on the bill today, I feel compelled to bring this issue, again, to the attention of the Senate.

Inflation is clearly our No. 1 problem today. A higher level of Federal spending contributes to that problem. The administration is fully aware of this—and has proposed a budget to limit the Government's spending. While I do not agree with all of the administration's budget proposals, I do believe that its requests for housing and community development assistance are reasonable in the context of a budget that is deep in deficit, in an economy in which we have reduced unemployment consistently and in which prices have been rising very, very sharply, and an economy in which, in the last year, we have added 4 million additional jobs.

We must today, strike a balance between our continuing obligation to help those who are economically less fortunate and our need to limit spending in order to maintain a strong economy. In order to reach a proper balance, I intend to support efforts to reduce the spending level authorized by the committee bill; at the same time, however I shall work for adoption of the bill. I believe, as I said in the statement of additional views, that:

> The substance of the Housing and Community Development Amendments of 1978, the bill reported by the Committee on Banking, Housing, and Urban Affairs, is needed legislation. But . . . its substance is flawed by recommendations for excessive spending.

A summary of the seven titles contained in the bill supports this conclusion. Title I, Community and Neighborhood Development and Conservation, would significantly advance the Nation's priority for preserving its existing housing and neighborhoods. It would authorize a major expansion of the section 312 rehabilitation loan and the urban homesteading programs, together with important changes designed to increase the effectiveness of these programs. The section 312 loan program, which provides 3 percent interest rate loans for up to 20 years has proved to be a popular and effective means for achieving housing rehabilitation. Under the committee bill, the program would be amended to give:

First, a higher priority to loans for lower income families;

Second, a sliding scale of interest rates ranging between 3 percent and the Treasury's borrowing rate, based on family income in order to improve targeting of Federal subsidies;

Third, increased loan limits for nonresidential properties in order to keep pace with recent inflation; and

Fourth, greater attention to rehabilitation of multifamily properties.

The bill would authorize $370 million in rehabilitation loans annually in fiscal year 1979 and fiscal year 1980.

Title I would also broaden the scope of the urban homesteading program and significantly increase its funding level. The bill would authorize HUD to acquire suitable properties from the Veterans' Administration and to make grants to localities to facilitate the inclusion of locally owned properties in the homesteading program. The bill would also establish a setaside of section 312 rehabilitation loans to provide localities with predictable funding for loans for urban homesteading and an earmarking of homestead funds for a demonstration of multifamily homesteading.

Title II of the bill would authorize housing assistance payments for 100,000 units of housing above the approximate 377,000 requested by the administration; section 8 assistance for units undergoing moderate rehabilitation; and a special program to provide housing for handicapped persons under the section 202 program. Title II would also authorize a demonstration program to mitigate crime and vandalism in public housing, and a new program to restore the financial soundness of certain multifamily rental properties insured or assisted under HUD programs. HUD would be authorized $74 million in fiscal year 1979 to help some 130,000 units with annual operating assistance to maintain their economic soundness. In addition, the bill would authorize $75 million in supplementary rental assistance to provide rent relief for very low income tenants in all FHA insured properties. The bill would also establish certain tenant rights in HUD projects predominantly serving low and moderate income persons and new management policies for HUD owned residential projects.

Title III would extend FHA insurance and a number of other housing related programs for an additional year.

Title IV would establish a new program to provide services, such as housekeeping assistance and meals, for low-income elderly and disabled individuals residing in publicly-assisted housing. These sup-

portive services are essential to maintaining frail elderly persons in independent living arrangements and have been found to be cost-effective in maintaining individuals outside costly institutional accommodations. The legislation would provide a total of $165 million over the period of fiscal year 1979–1983, and would be expected to reach 45,000 persons in need of services by 1983.

Title V, rural housing, would extend the housing programs of the Farmers Home Administration, and, in addition, authorize a new program to assist very low-income rural families, in light of the unavailability of decent rental housing in most rural areas, to become homeowners. The new program would provide for the recapture of assistance payments at the time of disposition of the property and would give the Secretary of Agriculture broad discretion in developing the new program.

Title VI would formalize and expand the experimental programs currently conducted by the urban reinvestment task force under the auspices of the Federal Home Loan Bank Board and other Federal agencies. The creation of this Neighborhood Reinvestment Corporation was authorized in legislation passed by the Senate last year.

Title VII would amend various housing acts in order to provide for increased exemptions under the Interstate Land Sales Disclosure Act, increased participation by mortgage bankers in the programs of the Federal Home Loan Mortgage Corporation, a prohibition of expenditures by HUD for the purpose of implementing the Department's proposed reorganization of multifamily and community planning and development functions. It would further declare that HUD should implement its housing programs in a manner that minimizes the involuntary displacement of lower income persons from their homes and neighborhoods. HUD would be required to study and report to the Congress its recommendations for dealing with this growing problem.

This brief summary of the committee's bill indicates that this is needed legislation. It addresses major housing issues, including rehabilitation, maintaining and managing financially troubled rental properties, rural housing, and a number of others.

Mr. President, I urge this body, after careful consideration of these issues and of the need to strike a proper balance between the requirements of a healthy economy and our social obligation to provide all Americans with decent housing in a suitable environment, to pass the substance of S. 3084, the Housing and Community Development Amendments of 1978.

Mr. President, I yield the floor and reserve the remainder of my time.

I yield to the Senator from Kentucky for a unanimous-consent request.

Mr. FORD. Mr. President, I ask unanimous consent that James Fleming and Martha Maloney of my staff be granted privilege of the floor during debate and votes on this legislation.

The PRESIDING OFFICER. (Mr. SARBANES). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent on behalf of Senator ALLEN that Mr. C. Rayburn Barton be granted privilege of the floor during debate and voting on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that James Stasny of my staff be granted privilege of the floor during consideration of this bill and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, the same request for Mark Gorman.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. I make the same request for Barbara Washburn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. BROOKE. Mr. President, the distinguished chairman of our committee has outlined the major provisions of Senate 3084, the Housing and Community Development Amendments of 1978. He has also expressed his own serious concern about the funding levels in this bill, particularly the level of housing assistance for low-income families and the elderly.

Although I recognize our responsibility to hold down Federal spending and sense the "Proposition 13" fever which has taken hold in both Houses of Congress, I strongly believe that housing for low-income families and the elderly is one national priority which should not be lightly disregarded in our rush to slice the Federal budget.

Public housing serves our lowest income families and elderly—over 40 percent of the public housing units are occupied by the elderly with a median income of $2,800 a year. Most of these people would have no other source of decent housing. And the national vacancy rate for the public housing program is 2.8 percent, with waiting lists of 2 to 3 years and longer in most urban areas and in rural areas.

The section 8 housing assistance program has primarily served "very low-income" people—with incomes under 50 percent of the median income for the area. A large proportion of the households receiving benefits under this program are elderly women living alone and families headed by females with children.

Mr. President, I just cannot see why our lowest income citizens must bear a disproportionate burden when we begin to devise ways of holding down Federal spending.

I strongly believe that we must hold down Federal spending. We must show fiscal responsibility. We must cut back on inflation.

It is my belief that this bill strongly reaffirms our national commitment to our cities and rural areas and to providing decent housing for our low- and moderate income families and the elderly.

This bill contains a number of elements which support that basic commitment. First, recognition of the importance of preserving our neighborhoods and existing housing stock and providing needed new housing. Second, new initiatives to deal with the particular problems of financially distressed multifamily housing projects, increasing crime and vandalism in our public housing projects, the unavailability of services for frail elderly and the handicapped. and the involuntary displacement of low- and moderate-income people from their homes due to federally related housing rehabilitation and community development activities. Third, authorization levels which are sufficient to meet our national commitment.

In keeping with our commitment to preserving neighborhoods and existing housing stock, there are several provisions in the bill which are aimed at protecting the substantial public and private investment in our inner cities.

To meet the critical unmet need and demand for low-rent housing, this bill provides an authorization to support the production of approximately 450,000 dwelling units under the section 8 and conventional public housing programs. This production level is only a modest increase over fiscal year 1978 levels, and is a far more realistic response than the 360,000 units which could be produced at the administration's requested funding level. In addition to providing housing for low-income families and the elderly, this program will support local strategies designed to preserve existing housing stock by providing sufficient funding for approximately 100,000 units of substantially rehabilitated housing. A new moderate rehabilitation program is also authorized in this bill. Under this program, section 8 assistance payments will be made to owners of low-income rental housing who agree to upgrade their properties. It is estimated that 39,000 units of housing will be provided under this new program in fiscal year 1979.

This bill also significantly increases the authorization for the 312 rehabilitation loan program, under which low-interest loans are made to owners to help them rehabilitate residential properties. In addition, provisions are included to encourage and facilitate the use of 312 loans for the rehabilitation of low- and moderate-income multifamily housing in which over 70 percent of central city tenants live.

Mr. President, many inner-city homeowners simply cannot afford to secure loans to rehabilitate their homes. This is particularly true for over 4.5 million low-income elderly homeowners who live on relatively fixed incomes and have housing costs that exceed 25 percent of income. To assist these homeowners to fix up their homes, this bill creates a homeownership rehabilitation program which makes a new form of section 8 assistance available to reduce the housing costs of lower-income homeowners who obtain private rehabilitation loans. This new program will directly stimulate neighborhood revitalization and

complement ongoing rehabilitation efforts in inner-city neighborhoods. It will also permit low-income families and elderly persons to exercise their pride of ownership by obtaining loans to prevent the decline in the quality of their homes, and to remain in their neighborhoods.

To further assist in the revitalization and stabilization of deteriorating neighborhoods, this bill would make permanent the successful urban homesteading program which has been operated by HUD on a demonstration basis. As currently administered, this program transfers foreclosed, vacant FHA properties to cities which then transfer the properties for as little as one dollar to individuals for rehabilitation. This bill expands funding to encourage the participation of more cities in the program, and also expands the program to include properties acquired by the Veterans' Administration and units of local government. This bill also assures a predictable source of financing for rehabilitation of these single-family properties, by earmarking $70 million of 312 funds for use with the urban homesteading program. A portion of earmarked funds would also be used in a demonstration program in multifamily urban homesteading.

To assure the continued availability of public housing as decent housing for low-income families and the elderly, this bill provides $800 million for public housing operating subsidies as a prudent investment in management and maintenance of the Nation's public housing stock. Mr. President, the national investment in our public housing stock is approximately $20 billion. In the 40 years since the public housing program began, 1.2 million units have been constructed, which currently house 3.4 million persons.

The public housing modernization program acts as an essential component of our national effort to maintain and upgrade existing public housing projects and to preserve our cities. Modernization funds have been used to improve living conditions, correct physical defects, and achieve operating efficiency in public housing projects.

This bill provides that of the new annual contributions contract authority provided, at least $50 million must be used for the modernization of public housing projects. This funding level represents a modest $7.5 million increase above the fiscal year 1978 funding level. These additional funds will be used to help meet the enormous backlog of unfunded modernization needs, and would also be used to meet new energy conservation requirements and to provide accessibility for the handicapped in public housing.

Mr. President, the principle of preservation of existing housing stock also extends to the stock of multifamily subsidized housing built under the section 221(d)(3) and section 236 programs which are in various stages of financial distress. To address the problems facing distressed multifamily projects, this bill would establish a new program to restore or maintain the financial soundness of these projects and to assure that they maintain their character as housing for low- to moderate-income persons. In addition to management improvements, $74 million is authorized to provide operating assistance payments to owners of these projects. As part of the strategy to assist troubled projects, the bill includes an authorization of $75 million for rental relief for very low-income tenants in FHA-insured subsidized multifamily projects to assure that they pay no more than 25 percent of their incomes for rent.

Elderly persons comprise over 20 percent of the residents of section 236 projects, and have a median income of $3,620 as compared to $6,207 for nonelderly residents. The impact of the troubled projects strategy on very low-income elderly would be quite significant.

Mr. President, we are all aware of the severe problems of crime and vandalism in public housing projects, and the victimization of residents, particularly the elderly. In a major survey conducted by Louis Harris and sponsored by the National Council on the Aging, the elderly ranked fear of crime as the single most serious problem they faced—a greater problem than health, income, or loneliness. The fear of crime and the threats to their security have led many residents to restrict the use of their environment or to abandon public housing projects at a time when the demand for this housing is increasing. We can ill afford to let this enormous investment in our public housing stock be lost; nor can we ignore our statutory commitment to provide a safe living environment for these low-income people.

As a first step to beginning to attack the problem of crime in public housing, this bill provides for a public housing security demonstration program for the development and evaluation of improved, innovative community anticrime and security methods and techniques which will mitigate the level of crime in public housing projects and surrounding neighborhoods.

A similar public housiing security proposal was overwhelmingly adopted by House of Representatives in its housing authorization bill. This is a vitally needed program which could assist in the preservation of inner-city neighborhoods.

With regard to meeting the housing needs of the elderly, this bill provides an authorization of $800 million for the section 202 program of housing for the elderly or handicapped, with a $50 million setaside for the development of rental housing to meet the needs of the handicapped. Congregate housing for low-income persons has been authorized in law since 1970; however, no program for providing congregate housing combined with supportive services has ever been implemented. This bill would provide an authorization of funding for a new congregate public housing services program for the frail elderly and handicapped. The meals, social services, housekeeping, and personal services provided under this program will help these elderly individuals to remain in their homes, and will cost only a fraction of the cost involved when elderly persons are unnecessarily hospitalized and institutionalized.

Finally, with regard to involuntary displacement of low- and moderate-income people, this bill contains a statement of policy that, in carrying out federally related urban development and housing rehabilitation activities, the Federal Government should take the utmost care to minimize the displacement of persons from their homes and neighborhoods. The Secretary of HUD would be required to study the problem of privately and publicly caused displacement, and report to the Congress her findings and recommendations by January 1979. In the meantime, there are provisions in this bill which make section 8 assistance available to minimize displacement in connection with the homeowner rehab program, as well as guidelines intended to minimize displacement under the 312 rehabilitation program.

Mr. President, careful consideration and deliberation have gone into the formulation of this year's housing bill, and I am extremely proud of the product of the committee's efforts. This bill is comprehensive, makes the most effective use of the funds authorized and, I believe, goes far toward meeting our commitment to providing for the needs of low- and moderate-income Americans. I strongly urge my colleagues to support this bill.

Mr. PROXMIRE. Mr. President, I yield 10 minutes to the Senator from Alabama.

I might say, in case there is someone in the Senate who does not understand it—I think we all do—that Mr. SPARKMAN has been "Mr. Housing" for many years. For at least 43 years that I believe he has been in Congress, he has been associated with housing, and almost every important housing bill that has been enacted has been a Sparkman bill. I think we should recognize that.

Inasmuch as he supports the position that the chairman takes in this matter, I think that should give it particular acceptance. [Laughter.]

Mr. SPARKMAN. I thank the chairman. I do not see any need to make a speech, after that. [Laughter.]

Mr. President, I do want to say a few things in support of this bill. I support it completely.

By the way, I say to the Senator from Wisconsin, that was 42 years, not 43.

I have enjoyed my connection with housing programs. I believe the first one I really had anything to do with was the old Homeowners Loan Corporation, back in 1934; then the public housing bill of 1938.

I am proud to be able to say that I helped write what I have considered over the years as the basic housing act, the Housing Act of 1949. I particularly recall that in that act I proposed an amendment, which was adopted, which was title V. That title V provided for rural housing.

I am glad to say that throughout the years we have had a very fine housing program, both for urban areas and for rural areas—for those who were able to own their own homes and those who have had to rent their homes.

This is one of the best acts we have had. The support in the committee was solid—at least, very strong. It is a very fine act and deserves the support of the Senate.

In the Housing Act of 1949, to which I just referred, Congress declared its intent to bring about the realization of "a decent home and a suitable living environment for all American families."

I have said many times that I think this is the establishment of a real housing program and is the basic act upon which all our housing legislation has been based since that time—a decent home in good surroundings. I believe in another place it refers to safe and sanitary housing, particularly in rural areas.

In the 32 years that I have served as a Member of the Senate—when we made reference to the 42 years, that included 10 years in the House of Representatives—and of the Banking Committee—I was placed on that committee when I first entered the Senate—during all of that time I have worked with my colleagues to make good on that commitment that we placed in the Housing Act of 1949.

I believe S. 3084 evinces a continued effort to make that dream of a decent home and suitable living environment a reality for the millions of Americans who continue to need the assistance of the Federal Government.

While S. 3084 is more modest in scope than the 1949 act or the 1974 Housing and Community Development Act, it does contain a number of provisions which are worthy of recognition and our unqualified support:

The bill would provide funding for more than 400,000 additional units of section 8 leased housing, public housing and Indian housing units. This represents a substantial commitment to meeting the tremendous and largely unmet housing needs of our lower-income citizens. In addition, there would be increases in public housing operating subsidies and modernization funds.

S. 3084 would significantly increase funding for the very popular section 312 low-interest direct loan program. This program makes its possible for homeowners of modest means to obtain loans, at favorable rates and on favorable terms to rehabilitate their homes. Such rehabilitation may be integral to a particular community's efforts to conserve its basic housing stock and to revitalize declining neighborhoods. In addition, a welcome emphasis is placed on the use of these loans to rehabilitate multifamily structures, since many low-income persons live in rental structures, particularly in our larger cities.

A new flexible subsidy for HUD's inventory of federally assisted troubled multifamily projects would be authorized by title II of S. 3084. We have learned that saving existing housing stock is often much more cost-effective than allowing them to deteriorate to such an extent that they must be replaced, often at twice the cost as the original structures. By providing for a project subsidy, many projects currently in default on their mortgage payments, or which have had their mortgages assigned to the Secretary, can be salvaged. A special attempt is also made to target assistance to very low-income tenants, many of whom are paying considerably more than 25 percent of their incomes for rent.

The problem of housing for the elderly has remained very serious. The Housing Act of 1959 provided new direct loan and mortgage guarantee programs for sponsors of housing for the elderly. Yet, we have come to recognize that supportive services are often needed. S. 3084 would provide contract authority to public housing authorities to provide such services on a congregate basis to elderly residents of public housing projects.

Finally, a new homeownership subsidy program would be authorized by S. 3084 for users of the direct loan programs of the Farmers Home Administration. The Rural Housing Subcommittee, of which I am a member, found, in the course of its hearings, that many very low-income families in rural areas own their own land, but cannot afford to build a home. In addition, many rural counties have few rental units or public housing authorities. This new program will meet a very serious problem which is unique to rural communities.

Obviously, much remains to be accomplished in improving our housing and community development programs. Far too many Americans continue to inhabit substandard dwelling units. In addition, many communities, large and small, urban and rural, still are economically distressed, lacking the means to revitalize themselves economically and physically. However, I believe that the genius of the American people and the perseverance of its representatives will ultimately combine to solve these problems. I believe that S. 3084 is part and parcel of that promise and goes far toward its realization.

Mr. President, I should like to pay my compliments to the chairman of our committee who has steered this bill through the committee and now on the floor. He has done a tremendous job, and I am glad to extend my compliments and congratulations to him.

May I say Senator BROOKE is not here——

Mr. PROXMIRE. He is right here.

Mr. BROOKE. Yes. I am right here. I am sorry.

Mr. SPARKMAN. I want him to be somewhere so he can hear me.

Mr. BROOKE. Yes. I am right here to hear the Senator. I always listen to him.

Mr. SPARKMAN. Senator BROOKE serves as the ranking minority member. He is always right there with good ideas, good programs, and he knows how to work for them.

I compliment him on the tremendous job that he has done over the years that he has been on that committee.

Mr. BROOKE. Mr. President, I associate myself with what our distinguished chairman, Senator PROXMIRE, said about Senator SPARKMAN, and I now thank the distinguished chairman of the Housing Subcommittee, Senator SPARKMAN, for his very kind and very generous words concerning me.

Mr. President, for the 12 years that I have been in the Senate, I have had the great fortune of serving on the Banking, Housing, and Urban Affairs Committee, and I have been greatly honored to now serve as the ranking Republican on that committee. I have always served on the Housing Subcommittee under the dynamic leadership of the Senator from Alabama (Mr. SPARKMAN) who has really been my mentor, my counselor, and my inspiration in working on housing concepts for the past 12 years.

So I simply add to what Senator PROXMIRE has said to him. Senator SPARKMAN's name will always be remembered in this country as Mr. Housing. He has no peer. I shall always defer to him. And I am just truly grateful that I have had the opportunity to serve with a man such as JOHN SPARKMAN who has done so much for the people in this country.

He really has believed what Congress said some years ago—that we are going to give the American people decent, safe, and sanitary housing. And what we have today is largely attributable to the work that he has done over the years.

I would be remiss if I did not bring that to the attention of the Senate, even though I am sure the Senate is very well aware of what JOHN SPARKMAN has done in so many fields. In particular, in the field of housing, he has served as the distinguished chairman not only of the Housing Subcommittee, but also of the full Banking Committee. Senator SPARKMAN is the predecessor of our now distinguished chairman, Senator BILL PROXMIRE, for whom I also have great admiration and respect.

● Mr. RIEGLE. Mr. President, S. 3084, the Housing and Community Development Amendments of 1978, is progressive, responsible legislation. This bill proposes to begin attempting some innovative solutions to the critical housing problems that all Americans face, particularly those living in distressed communities and those of low and moderate income.

Our Nation faces a number of interrelated housing problems:

Escalating housing costs for both homeowners and renters, increases that particularly hurt low-income persons and those on fixed incomes;

The deterioration of inner-city neighborhoods;

The continuing existence of grossly physically inadequate housing in many rural areas;

The severe financial problems and physical deterioration of the multifamily housing sector, both subsidized and unsubsidized—a crisis the magnitude of which we are only beginning to realize;

The displacement of low-income persons from neighborhoods being "revitalized," as property values and taxes rise and rental units are converted to owner-occupied units.

Many of these problems reflect an intensification of the traditional problems of housing and neighborhoods in this country: Decent housing is a very expensive commodity, and this wealthy Nation still has vast numbers of citizens with inadequate income to afford decent housing and many other basic necessi-

ties—a crisis that is only exacerbated when the poor are segregated into separate areas from the rest of our society.

As reported by the committee, S. 3084 takes some innovative, albeit limited, steps to deal with some of these problems. S. 3084 provides for a major increase in subsidized housing starts in order to provide a more adequate supply of decent, affordable housing for low-income persons, who are increasingly being priced out of the housing market. Provisions in the bill seek to restore financial soundness, reduce excessive rents, and deal with crime in the subsidized multifamily housing projects we have built over the last 40 years for low-income persons under the section 236 program, the public housing program, and other programs. The bill sets forth a new Federal policy that Federal housing and community development programs should minimize the involuntary displacement of people from their homes and neighborhoods, and requires HUD to make recommendations on how to deal with the displacement problem. For the first time in several years, the bill provides new subsidy programs, more flexible and workable than those we have used previously, for homeownership—a Farmers Home Administration "deep subsidy" homeownership program for the rural poor, and a section 8 homeownership rehabilitation program that will help low-income persons rehabilitate their homes without incurring excessive increases in housing costs. And the bill would create a Neighborhood Reinvestment Corporation that, building on the successes of the Urban Reinvestment Task Force of the Federal Home Loan Bank Board, would promote partnerships of lenders, city officials, and neighborhood residents to help turn around declining, but basically sound neighborhoods.

Among the key provisions adopted by the Senate Banking Committee was a major expansion, redirection, and reform of our housing rehabilitation efforts—major changes that were originally proposed by my bill S. 2726, the Housing Conservation Act of 1978. A more modest expansion, with some similar changes, was later endorsed by President Carter as part of his national urban policy.

I am pleased that the Senate Banking Committee incorporated S. 2726 into the committee bill essentially intact, since this legislation responds to important housing needs facing urban neighborhoods and distressed communities across the country. Housing rehabilitation is increasingly recognized as a pressing need for a variety of reasons: To conserve resources and deal with high housing costs by making better use of our existing stock; as a tool for neighborhood revitalization; and simply to improve housing conditions and quality for our citizens. Based on projections from locally prepared housing assistance plans, almost 10 million housing units in this country are suitable for rehabilitation—a vast need, which our current housing rehabilitation efforts have only begun to touch.

S. 2726, as incorporated into the committee bill S. 3084, would respond to the need by expanding the successful section 312 rehabilitation loan program—currently operating on a miniscule level, irregular starts-and-stops in funding—to a level of 40,000–50,000 rehabilitated units a year. This expansion would allow many more communities to become involved in this locally administered program, as well as enabling already participating communities to expand their housing rehabilitation efforts.

The committee bill also incorporates the provisions of S. 2726 that would direct more housing rehabilitation efforts to our multifamily housing sector—principally to the small buildings with 5 to 30 housing units in which over 70 percent of tenants in central cities live. These multifamily buildings comprise a major part of physically deteriorating housing stock in need of rehabilitation, and this physical deterioration problem is likely to intensify as the multifamily housing sector faces increases financial problems. A recent study by Michael Stegman, professor of city and regional planning at the University of North Carolina, concludes, on the basis of the available evidence, that "financial distress in the unsubsidized multifamily sector is sufficiently great to warrant serious national concern" and that "operating problems in the uninsured (multifamily) sector are currently serious, and likely to become more acute." These financial problems are no doubt related to survey data showing that 19 percent of all renters indicate an interest in moving, because of structural housing deficiencies, compared to just 4 percent of all homeowners. HUD data also show that—accountable to neighborhood residents with respect to the project being proposed, 55 percent of housing units in need of rehabilitation are rented, not owner-occupied.

These statistics on the deterioration of rental and multifamily housing are particularly troublesome when we consider that disproportionate numbers of the poor and minorities are tenants. The median income of all renters is less than 60 percent of homeowners' income. And while only 35 percent of all non-Hispanic whites were renters in 1975, 56 percent of all black households, and 57 percent of all Hispanic households occupied rental housing. The deterioration of rental and multifamily housing is a serious problem for cities, but a disaster for low-income and minority groups.

Despite the enormous need for the rehabilitation of multifamily housing in our cities, very little is currently being done. Less than 10 percent of cities surveyed by HUD are currently using their rehabilitation loan program to help rehabilitate multifamily properties. Largely, this is because multifamily housing rehabilitation presents a number of difficult problems, possible displacement of existing tenants if the rehabilitation results in increased rents; possible abuses of a rehabilitation program by investor-owners out to make a quick buck.

S. 2726, as incorporated into S. 3084 would help deal with the problem of dilapidated multifamily housing by targeting a portion of the increases in section 312 funds at multifamily rehabilitation. At the same time, the provisions of S. 2726 and S. 3084 are designed to deal with these potential problems of multifamily property rehabilitation in a creative way. HUD would be required to make every possible effort to minimize tenant displacement caused by multifamily housing rehabilitation, including providing rent subsidies and establishing reasonable limits on rent increases. HUD would also be required to carefully review at the past management and maintenance performance record of the investor-owned applying for a loan.

I believe these provisions, and particularly the antidisplacement provisions, represent an important step forward in Federal housing and community development policy. For one of the first times, a new Federal neighborhood revitalization program has strong antidisplacement provisions built into the basic structure of the program, provisions that are designed to insure that this neighborhood revitalization program helps the existing residents of the neighborhood, not simply the municipal tax base. We need the comprehensive antidisplacement policy that is called for by S. 3084, but we can begin by insuring that any new or major modifications of Federal programs provide strong protections for existing neighborhood residents.

Mr. President, a strong housing policy is essential to our country—to insure decent and affordable housing for all Americans, particularly the poor, and to rehabilitate and renew our cities and other distressed communities. S. 3084 represents an important step forward toward a strong national housing policy. I hope the Senate will adopt the bill without weakening amendment that would thwart or distort the thrust of this important legislation.●

● Mr. JAVITS. Mr. President, I would first like to pay tribute to our distinguished colleague, JOHN SPARKMAN of Alabama. His unstinting efforts on behalf of better housing for all our citizens have led to some of the most significant advances in housing legislation in our time.

Removed as his own life experiences may have been from poverty and hunger, his understanding and deep sympathy with slum dwellers in big cities are a remarkable tribute to his humanity. He has shown a profound sensitivity, as well as a legislative comprehension, which are his finest attributes.

Because of his impending retirement, S. 3084 is the last comprehensive housing bill that will bear his name. But it is the latest in a long line of triumphs. His accomplishments read like a list of what the Government can successfully do for housing in this country. Author of the original slum clearance and urban renewal program, sponsor of the college housing loan program, original sponsor of the veterans' housing legislation, originator of the homeowners and rental assistance program for lower income groups—these are but a few of the many

contributions he has made during his years as a member and as the chairman of the Senate Banking Committee.

As a former member of the committee, I had the privilege of working closely with Senator SPARKMAN on many pieces of legislation, and I can attest to the fact that he has either sponsored or been an integral part of almost every new or innovative housing program on the books today.

His tenure in the Senate has been one marked with great victories for the American people; he has clearly earned the title "Mr. Housing."

May I also at this time commend two other distinguished colleagues of mine, the majority and minority floor managers of this legislation, Senators PROXMIRE and BROOKE, for their invaluable leadership in developing this bill.

This legislation contains several important initiatives which move us toward our goal of a decent home for every American:

Expansion of section 312 to multifamily housing;

Inclusion of homes held by the Veterans' Administration and by local governments in the urban homesteading program;

Supportive services to maximize the effectiveness of congregate public housing facilities; and

Homeownership assistance to low-income rural families.

Expansion of the section 312 program to multifamily housing adds another weapon to the arsenal needed to revitalize our older American cities. As the committee report states, 55 percent of units needing rehabilitation are rental ones; and the vast majority of these are in multifamily buildings. There are many urban areas in New York State which have older multifamily housing stock in need of renovation and, therefore could utilize this program effectively. In fact, if the history of the 312 program is repeated, the success of this expansion will greatly outweigh the funds available.

The proven effectiveness of the urban homesteading program will be enhanced by the inclusion of homes held by the Veterans' Administration and local governments. Local governments will thus be given additional options in selecting homes for urban homesteading so that they may target efforts in areas of greatest need or special concentration of urban revitalization efforts. Recent changes in New York City law which decrease the time the city takes for action for delinquent taxes will result in greatly increased numbers of "in rem" properties held by New York City. The authority to dispose of them through urban homesteading coupled with the grants for payment of back taxes will be a small but nevertheless meaningful assistance provided by the Federal Government in the revitalization of New York City.

I am pleased to note that the committee bill incorporates a demonstration program in multifamily urban homesteading assistance board under the auspices of the Cathedral Church of St. John the Divine in New York City. This is just one of many innovative programs that New Yorkers have created to help themselves and to make New York a more liveable city.

Another is the Community Preservation Corporation, which I will describe in a later phase of this debate.

But even housing alone is not enough for many of our elderly and handicapped to live an independent life—additional services are needed to save them from unwanted institutionalization. This bill includes an important supplement to our public housing program by providing services to those who cannot live independently. The enhanced human dignity permitted by this provision is reward enough. But the economics of the program is an added benefit. It is a wise use of resources indeed to provide these additional services and to avoid the much more costly—and certainly less humane—institutionalization.

Although many of the new programs that would be established by this legislation assist our urban dwellers, the committee bill prudently incorporates an important new program for our rural homeowners. It would provide assistance to low-income homeowners to reduce costs of homeownership to 25 percent of income. Because rural dwellers are not concentrated in cities, their plight is not as often recognized, and yet it is equally severe. I commend the committee for including this important measure.

Mr. President, I would like to call your attention finally to two programs reoverauthorized by the legislation—the National Institute of Building Sciences and the college housing loan program.

I had the privilege to sponsor, the National Institute of Building Sciences established in 1974 to develop standards for the building industry and provide assistance to private industry in the development of more economical and sound methods of construction. NIBS is to become a nongovernmental organization, but the startup costs are needed to provide sufficient strength to attract support from private industry. Only one-tenth of the authorized funds have been appropriated—certainly an insufficient amount to give the Institute the opportunity to establish itself. The extension of the authorization through 1982 will give NIBS the time to accomplish its goals.

The college housing loan program would also be extended by this legislation. Colleges continue to need assistance for a variety of good reasons. The Federal Government is requiring them to improve access for the handicapped. The energy crisis necessitates modifications for conservation. And the toll taken by years of wear needs to be rectified. This program can provide assistance with little additional cost to the Government through the use of its revolving fun. I commend the committee highly for including it in the bill.

Mr. President, one final comment. Section 714 of the bill permits mortgage lenders that are approved for participation in any of the National Housing Act's insurance programs to sell loans to the Federal Home Loan Mortgage Corporation—"Freddie Mac." The committee report at pages 52 and 53 in referring to these mortgage lenders substitutes the term mortgage bankers. I have been assured by the distinguished chairman of the Committee, Mr. PROXMIRE, that the language of the bill does not and was not intended to restrict the section to mortgage bankers but to include all approved mortgage lenders.

For example, we have in New York City a special mortgage lending corporation—the Communist Preservation Corporation. CPC, as it is called, has been making excellent progress in stemming the tide or urban decay in two New York City neighborhoods, Crown Heights and Washington Heights.

CPC was established in 1974 by the 11 commercial bank members of the New York Clearing House and 28 New York City savings banks. Its purpose is to provide mortgage financing for the rehabilitation of residential buildings within New York's older neighborhoods. This year, CPC's 39 sponsoring banks have greatly expanded its scope—increasing its financing capabilities to in excess of $100 million.

A priority item on CPC's agenda is to be able to sell mortgages on rehabilitated buildings which it originates to secondary market institutions such as Freddie Mac. In this manner, a broad range of financial resources, both local and national, could be directed toward the revitalization of New York City.

I am pleased that CPC, as an approved FHA mortgagee, as well as other approved mortgage lenders, will be fully authorized to sell mortgages which they originate directly to FHLMC pursuant to the provisions of this bill.●

● Mr. WILLIAMS. Mr. President, one of our most firmly established national goals is the assurance of decent, affordable shelter for all our people.

Although we have made significant strides since this goal was first enunciated in the National Housing Act of 1949, its achievement has continued to elude us.

Still, our obligation to improve housing conditions in this country remains as clear today as it did almost 30 years ago.

S. 3084, the housing authorization legislation which the Senate considers today, reaffirms our commitment to better housing by recognizing that we must not only strengthen ongoing programs, but we must also be willing to try new and innovative methods of addressing the Nation's housing needs.

I heartily endorse this legislation and urge its approval.

Among the most important features of the legislation are:

First. A new rental assistance authorization for fiscal year 1979 to cover 450,000 units of new, substantially rehabilitated, and existing housing under the section 8 and public housing programs;

Second. A program of assistance to troubled projects under the section 236 and section 221(d)(3), in order to insure their economic stability;

Third. A program to ease oppressive rent burdens on very low-income tenants in FHA-insured projects;

Fourth. Expansion of the section 312 rehabilitation loan program in recognition of the important place that the rehabilitation of both single and multifamily structures holds in our urban revitalization efforts; and

Fifth. Reauthorization and improvement of a wide range of housing programs essential to rural residents.

I am especially pleased that the legislation incorporates my Congregate Housing Services Act, which I introduced as separate legislation, earlier this year.

This legislation, which over a third of the Senate has cosponsored, would provide frail elderly and younger handicapped residents of public housing the social services they need to maintain independent lifestyles and to avoid unnecessary placement in full-care institutions.

I want to call my colleagues attention to the fine contribution that the distinguished chairman of the Senate Special Committee on Aging (Mr. CHURCH) made in the development of this response to the needs of elderly and handicapped individuals.

Mr. President, the provision for congregate housing services is most essential.

Across the country today, upwards of a million and a half elderly and handicapped people with modest incomes face the prospect of nursing homes simply because they can no longer prepare their own meals or do heavy housework.

It is true that they suffer varying degrees of disability that limit their capacity to perform normal daily tasks.

But they are not helpless, and they have no need for institutional care.

They can continue to live in their own households if provided such support services as meals and assistance with housekeeping and personal care.

Unfortunately, such specialized housing environments are almost nonexistent for functionally impaired people who must live on small fixed incomes and are unable to purchase the services they need.

As a result, their housing choices are limited—either removal to some form of institution where they do not belong, or placement with relatives and friends who are usually ill equipped to accept them.

This gap in our range of housing alternatives has been acknowledged for a number of years.

In 1970, Congress passed legislation requiring the Secretary of Housing and Urban Development to encourage the development of "congregate housing" for low-income people.

Congregate housing puts basic support services together with residential shelter with special features, such as common dining areas, so that functionally impaired people can continue to enjoy substantial independence.

Eight years later, the number of congregate housing projects for low-income individuals can be counted on two hands.

The problem lies in the inability of existing social service programs to match the current law's structural requirements for congregate housing projects.

The law requires such projects to have units without kitchens and to have common dining facilities where meals can be prepared.

Buildings with these features demand absolute guarantees of uninterrupted social services.

However, these services are not available in all areas, nor are they always accessible to those who need them.

Most importantly, existing social service programs are seldom funded on a long-term, continuing basis.

No one is going to build a specially designed project that can become unusable when planned social services become unavailable.

This is what has happened, and as a result, few congregate housing projects for low-income people exist across the country today.

The congregate housing provisions of S. 3084 would forge, for the first time, the inseparable link between shelter and services that has been lacking for low-income people with functional disabilities.

As reported by the committee, the program would be initiated for public housing residents.

HUD would enter into 3-to-5 year renewable contracts with local housing authorities to fund social services that these agencies would provide to their impaired tenants, either directly or through local service providers.

Social services would be specified in plans that the housing authorities would draw up in close coordination with local social service agencies, medical professionals, and tenants themselves.

HUD would fund the most acceptable plans submitted, but would not be permitted to fund services sufficiently available on a long-term basis from any other sources within the community

Through this approach, HUD would fill a wide gap in our existing social service delivery systems.

The legislation also revises the current law's structural requirements for congregate housing projects, so that elderly and handicapped tenants of existing buildings could take part in the program, and so that new congregate housing facilities could be successfully constructed.

The bill would authorize a total of $165 million over a 5-year period, which should be enough to handle the need for congregate housing services among public housing residents.

Not only does this expenditure fill an essential social need, but it also makes good economic sense.

With this program, we can provide necessary support services to people in their own households, at a third or a half the cost of nursing care.

The congregate housing title of S. 3084, I believe, will insure the implementation of congregate housing as the meaningful housing option that Congress has intended it to be.

An amendment to S. 3084 will be offered by the distinguished ranking member of the Senate Special Committee on Aging (Mr. DOMENICI) in order to extend congregate housing services coverage to residents of section 202 projects.

I am pleased to join in offering this amendment.

I firmly believe that we should make congregate housing services available to all who need and want them.

At the same time, I have been mindful that we must not overload HUD's capacity to perform the new function created for it under the legislation.

We want to make sure that the new program of congregate housing services works as efficiently as possible.

The amendment would add 15,000 people to the program's eligibility pool, and would provide $45 million spread over 5 years to accommodate them.

This would enable us to address the needs of a particularly vulnerable group of elderly and handicapped citizens without overburdening the program at its inception.

It is a responsible, necessary amendment, and I am hopeful that it will be adopted.

Before I close my remarks, I must express some concern about amendments in S. 3084 to the Interstate Land Sales Act.

These amendments exempt from the act land sales which are intrastate in nature, or incidental to intrastate sales.

While I believe that these amendments are well intended, I am concerned that in their present form they may not solve the problems they are designed to solve and, in fact, may actually create additional problems for both consumers and developers.

In my judgment, the hearings held by the Senate Banking Committee this past May, just after the markup of S. 3084, confirmed the existence of these problems.

As the original sponsor of the Interstate Land Sales Act, I continue to believe that these amendments would best be considered separately in the context of comprehensive oversight and review of the entire act and its administration by HUD.

Mr. President, despite my deep misgivings about S. 3084's provisions on interstate land sales, I believe that the Senate Banking Committee has fashioned a most commendable product, and I hope that the Senate will give it speedy approval.●

Mr. BROOKE. Mr. President, I understand Mr. DURKIN is ready with an amendment if he could proceed.

Mr. DURKIN. I thank the Senator from Massachusetts and the Senator from Wisconsin.

UP AMENDMENT NO. 1435

(Purpose: To permit the financing of solar units in certain Federal housing programs)

Mr. DURKIN. Mr. President, I call up the amendment that is at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Hampshire (Mr. DURKIN), for himself, Mr. HART, Mr. HATHAWAY, Mr. INOUYE, and Mr. MCGOVERN, proposes an unprinted amendment No. 1435.

Mr. DURKIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, between lines 3 and 4, insert the following:

SOLAR UNITS

SEC. 213. (a) It is the purpose of this section to promote and extend the application of viable solar energy installations as the most dependable, pollution-free and desirable source of energy for residential single-family and multifamily housing units.

(b)(1) The Secretary, in carrying out programs and activities under section 312 of the Housing Act of 1964, section 202 of the Housing Act of 1959, and section 8 of the United States Housing Act of 1937, shall permit the installation of solar units which are economically feasible.

(2) For the purposes of this section, the term "solar units" means—

(A) solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer or of the passive type based on convective, conducive, or radiant energy transfer or some combination of these types,

(B) photovoltaic cells and related equipment,

(C) a product or purpose the primary purpose of which is conservation of energy through devices or techniques which increase the energy efficiency of existing equipment, methods of operation, or systems which use fossil fuels, and which is on the Energy Conservation Measures List of the Secretary of Energy or which the Secretary determines to be consistent with the intent of this subsection,

(D) equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy,

(E) equipment the primary purpose of which is district heating,

(F) hydroelectric power equipment,

(G) wind energy conversion equipment, or

(H) engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in subparagraphs (A) through (G).

(c) The Secretary shall develop, within 12 months after the date of enactment of this section, guidelines to determine the long-term economic feasibility of solar units, as compared to conventional energy sources. These guidelines shall take into account factors which shall include but are not limited to the following—

(1) capital requirements, interest charges, projected operating and maintenance costs for solar units, and

(2) projected increases in the cost of other energy sources in the city, town, or region for comparable housing which generally meets applicable model building codes, insulation and other standards recommended by the American Society of Heating, Refrigerating and Air Conditioning Engineers, the National Electric Manufacturers Association, or other standards or codes acceptable to the Secretary.

(d) The Secretary shall take such steps as may be necessary to promote the installation of economically feasible solar units in residential single-family and multifamily housing, taking into account the interests of low-income homeowners and renters. These actions shall include the implementation of a plan of action to publicize the availability and feasibility of solar units to current or potential recipients of assistance under the programs and projects of the Department of Housing and Urban Development.

(e) The Secretary shall, in conjunction with the Secretary of Energy, transmit to the Congress, within 18 months after the date of enactment of this Act, a report setting forth—

(1) the number of solar units which were contracted for or installed or which are on order under the provisions of subsection (b)(1) of this section during the first 12 full calendar months after the date of enactment of this Act;

(2) the number of solar units within each region of the Department of Housing and Urban Development which are projected to be contracted for, installed, or under order by the end of calendar year 1985, under all programs and projects within the Department of Housing and Urban Development;

(3) recommendations to increase the number of units referred to in clause (2) of this section to the maximum feasible number of solar units which could be contracted for, installed or placed under order by the end of calendar year 1985 given a reasonable range of economic assumptions and specifying alternative Federal incentives which might be used and the costs of each;

(4) recommendations as to the most effective Federal incentives and actions to increase the affordability of solar units in single-family or multifamily housing units during the first five years after the installation of the applicable solar units; and

(5) an analysis of the feasibility of using community-scale solar energy and other alternative energy approaches and their applicability to activities carried out under title I of the Housing and Community Development Act of 1974.

Mr. DURKIN. Mr. President, the amendment I am offering has a single purpose. It is designed to clarify the congressional intent to foster an economically viable solar energy industry and to make sure that cost-effective solar units are eligible for funding under our housing assistance and housing-related community development programs.

My amendment has several provisions. It declares the congressional purpose to promote viable solar units in housing. It states that the installation of economically viable solar units is permissible under the provisions of the sections 8, 202, and 312 programs. It requires HUD to develop guidelines which can be employed by owners and by local housing officials to determine the economic viability of solar installations. It also requires HUD to publicize solar generally in connection with its programs. Finally, HUD is required to report to Congress within 18 months on its current solar activities and to make recommendations on future policies to promote economically viable solar installations.

Mr. President, we are approaching the time when the solar and alternative energy industry will be commercially viable and can stand on its own feet. It is true that we are not there quite yet. I would agree that current economic realities, rather than foot-dragging, has operated to limit the application of solar energy in housing programs as well as elswhere. But it is time to move on and build on the considerable research and development that is now going on, the demonstrations that are underway, and in particular on the growing enthusiasm for solar applications that we see in this country.

One of the requirements in this amendment will have HUD develop a series of policy alternatives that the administration and Congress can consider in developing future policy. This reporting requirement is designed to stimulate the development of these alternative scenarios, to give us a basis for choice. But the time to begin the commercialization of solar energy is now.

The amendment has been carefully drawn to achieve these limited, though important, purposes. It will not require any increase in direct appropriations for these programs. Nor will it lead to the development of a vast new bureaucracy in the Department of Housing and Urban Development or elsewhere. It is designed to liberate, not to restrict—to allow owners and tenants who apply for aid under these programs to install solar units if they wish and if the units make economic sense.

Over the past few years we have made considerable progress in the development of solar and other alternative energy sources. We have come to realize that the use of ever more expensive fossil fuels for heat and light is neither desirable nor in many cases necessary. Even though solar energy is still in its infancy, and even though there has been little research and development in the area—we have already reached the point where for some applications solar is economically competitive with conventional energy sources.

The most authoritative survey of the state of solar energy today is the recent study by the Office of Technology Assessment. This new study unequivocably concludes that solar hot water systems are competitive with all-electric systems in most parts of the United States today, if costs are measured over the life of the systems. Hot water heating makes up 3.5 percent of our total energy demand. Furthermore, solar systems now are or soon will be competitive with electric space heating in many areas of the country. Space heating uses up another 18 percent of our energy demand. By the mid-eighties solar units should be competitive with oil and gas heat, based on current economic forecasts. Taken together, then, solar units already do or soon will make economic sense for users of up to 21½ percent of our Nation's energy demand. This is the equivalent of millions of barrels of oil a day.

Furthermore, these favorable dollars and cents figures do not take into consideration the important macroeconomic and environmental advantages that solar energy offers. Solar energy is the cleanest, most inexhaustible, and most available source of energy we know today. The Congress has repeatedly recognized the importance of developing solar energy to the national economy and the national welfare.

Solar energy is here now, and ready for commercial exploitation. The Congress has been forthcoming in providing research and development money, and demonstration money. We should now begin to consider the next step, which is to promote the commercial use of solar units where that use makes economic sense.

Federally assisted housing is ideally suited for this effort. Most of this housing is located in the cities and towns

where the costs and environmental consequences of conventional energy sources are the highest. Even with Federal help, the burden of soaring utility costs falls particularly harshly on the recipients of aid under these programs. And the promise of solar—environmentally but also economically—is therefore all the more important in these areas.

Mr. President, with this amendment we are not trying to divert housing assistance dollars into exotic technologies. We are trying to stimulate the introduction of a technology that is already proven, and which can be shown to lower costs within a few years. This provision will help meet the comparatively heavy front-end costs of solar installations while giving the owners or tenants the benefits of reduced monthly utility bills. It will also stimulate the development of a more farseeing energy policy among State, local, and Federal housing officials.

This amendment has deliberately been designed to give HUD wide discretion in developing solar policy. We do not prescribe particular methodologies or approaches. We have left this to HUD. We intend to promote the development of flexible standards, to be updated in accordance with evolving solar technology and changing costs of energy. The clear intent here is to allow for evolution and not to lock the Federal Government into any rigid standards, codes, or formulas.

Nevertheless, it is important that the economic advantages of solar energy should be calculated on a long-term basis. Solar installations usually have rather high initial capital costs and very low operating and maintenance costs. The important thing is to take a long-range view of comparative costs and benefits.

Mr. President, I am aware that other legislation bearing on solar energy is currently pending in the Congress. There is not any contradiction in purpose or operations between this narrowly focused amendment and these other, more general provisions. Similarly, I would expect that in carrying out the provisions of this amendment the Secretary would consult with the Department of Energy and other Federal agencies now engaged in the development of alternative energy sources.

Mr. President, as I said earlier, housing is a missing link in our efforts to forge a strong solar program. This amendment helps supply that link, without hurting the housing effort or breaking the budget. It is useful and it is necessary.

Mr. President, the amendment is needed because while HUD says that solar is permitted under these programs now, I think it is essential that we clarify it and set it forth clearly in the law.

HUD has indicated to my office that they have no objection, and I understand the amendment has been cleared on both sides of the aisle, and there is no opposition.

Mr. PROXMIRE. Mr. President, if the Senator will yield, we have a little different view from that of HUD. I support this amendment. I think it is a good amendment and I will be happy to do my best to take it.

But I understand that HUD's problem is they are now conducting feasibility studies, the feasibility of solar energy. They recognize it has great potential, and the Durkin amendment would help emphasize that. As I understand it, the Durkin amendment would encourage HUD to emphasize solar resources in housing rehabilitation and housing production. But there should be caution in the fact that the development of solar, the state of the art, is new and we should be concerned that low- and moderate income persons may be left vulnerable to purchasing unknown products that might not work properly.

I am also informed by the staff of the Banking Committee that HUD opposes the reporting requirement and would like section 213(d), the reporting requirements, to be dropped.

Mr. DURKIN. Mr. President, I might point out two things: No. 1, the guidelines are to be written by HUD itself, and their concern that there is potential for a rip-off for low-income people should be adequately taken care of by the fact that they are publishing the guidelines.

There was some confusion as to HUD's position. HUD supported this, then they opposed it. They said the President's prime program is housing. We pointed out to them not so long ago one of his prime programs was solar energy, and HUD informed us about 4 hours ago that they had no objection to the bill. You may have more recent communication than I, but the last word we had from HUD was that it was a green light.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. DURKIN. I would be happy to yield.

Mr. BROOKE. Mr. President, I think this is an excellent amendment. Certainly the day of solar energy has arrived. And I think the financing of solar energy ought to be in the housing bill, and that solar energy should be encouraged where it is economically feasible. I think it makes a lot of sense.

The Senator from New Hampshire states that there is a requirement that HUD develop guidelines within a year to determine the long-term feasibility of the solar units; is that not correct?

Mr. DURKIN. I apologize to the Senator. I was speaking to my aide.

Mr. BROOKE. There is a requirement, as I understand it, that HUD develop guidelines within a year to determine the long-term feasibility of solar use?

Mr. DURKIN. That is correct.

They are in charge of the guidelines. The reporting requirement is so that they will let us know just what they are doing and keep us apprised so that we can apply pressure on them to do more than they have heretofore done in this area. I do not think this is a problem. I mean there is not going to be a fellow going around selling tenants instant solar ice cream makers, and what have you. I do not think the potential is there for the ripoff. HUD has complete authority to resolve that problem in the guidelines they set forth under the requirement of the act.

Mr. PROXMIRE. Mr. President, if the Senator will yield, if the Senator will permit, as I understand it, the problem HUD has is that the Secretary, under the Durkin amendment, is required to report to Congress within 18 months of the date of enactment of this act on the number of solar units contracted for, the number of solar units within each Federal region projected to be contracted for, and recommendations to increase the number of specified in section (d)(2) of the section, and so forth.

In spite of the reservation that they have, I think that we could take this to conference and, perhaps, modify it and provide a little more flexibility in the reporting requirement and thus meet HUD's objections.

We will take the amendment in its present form without requiring the Senator from New Hampshire to modify it. Would that be acceptable?

Mr. DURKIN. I appreciate that.

I think there is a bit of concern in HUD that in making that 18-month report if they have not moved down this road that the report requires them to confess that they have not done much, and no agency wants to confess that they have not done much. This amendment applies pressure so that they do.

Mr. BROOKE. I repeat, I think it is an excellent amendment, and I think we can work with this in conference and clear it with HUD.

I move for its adoption.

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. BROOKE. I yield back the remainder of my time.

Mr DURKIN I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded back, the question is on agreeing to the amendment of the Senator from New Hampshire.

The amendment was agreed to.

Mr. DURKIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DURKIN. I thank the distinguished chairman and the distinguished Senator from Massachusetts.

Mr. DOMENICI. Mr. President, will the Senator yield?

I ask unanimous consent that Tony Arroyos of my staff be granted floor privileges during the consideration and votes on this measure.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that Mr. Dick Friedeman of Senator DOLE's staff be granted the privilege of the floor during the consideration of the housing and community development bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1436

(Purpose: To insure fair participation of smaller communities in community development programs)

Mr. HATHAWAY. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The second assistant legislative clerk read as follows:

The Senator from Maine (Mr. HATHAWAY), for himself, Mr. DURKIN, Mr. MUSKIE, and Mr. MORGAN, proposes an unprinted amendment numbered 1436.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert the following new subsection at the end of section 103 of the bill:

(c) Title I of such act is amended by adding the following new section at the end thereof:

"FAIR PARTICIPATION FOR SMALL COMMUNITIES"

"SEC. 120. No community shall be barred from participating in any program authorized under this Title solely on the basis of population, except as expressly authorized by statute."

Mr. HATHAWAY. Mr. President, I ask unanimous consent that a member of my staff, Tom Downing, and a member of Senator NELSON's staff, Peter Connolly, be granted the privileges of the floor during the consideration of this measure and all votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATHAWAY. Mr. President, the purpose of the amendment I am offering is to assure many of our smaller communities that they are treated equitably in the distribution of community development funds. The basic concern is that these smaller communities not be discriminated against in their eligibility for community development funding because of their size.

The amendment implements my basic belief that HUD programs ought to be available to small communities just as they are to large cities. The needs of these communities are often just as severe as those of the major urban areas of the Nation.

This amendment is similar in intent to one that I successfully sponsored last year, the set-aside of 25 percent of urban development action grant (UDAG) funds for smaller cities. It does not call for any specific set-aside for smaller communities. It merely prohibits any discrimination solely on the basis of population.

There are a number of examples of the attitude toward smaller communities that I hope this amendment will help to end. For instance, HUD allows communities of over 50,000 to take advantage of a "unique distress factor" to qualify for action grant funds. There is no justification for depriving smaller communities of the benefits to be gained from including such a factor in their applications. In addition, HUD does not allow smaller communities to participate in the loan guarantee program. Smaller communities receiving comprehensive grants ought to be allowed to participate in that program as well.

Proposed rules for the small cities program that did not go into effect would have barred communities of under 2,500 from participating in the comprehensive program unless they could provide capacity or previous experience. This cutoff seems entirely arbitrary and would not be allowed by my amendment.

This amendment was inspired by the amendment that Representatives GRASSLEY and WATKINS offered on the floor, without opposition, to the House version of this bill. The purpose of this provision is basically the same. However, in consultation with the Department of Housing and Urban Development, the wording has been made more precise. I believe that this version is more acceptable to the Department.

I do not think that this amendment would restrict the ability of the Secretary to differentiate between discretionary communities based on the crucial factor of need. The Secretary in making these discretionary community development funds available to communities under 50,000 population should take into consideration the different abilities and needs that these smaller urban communities have. For instance, many of these communities might lack the technical expertise that larger communities have. We would expect the Secretary to recognize the lack of technical expertise as an activity on which the smaller community might need more assistance.

I believe that the amendment under consideration would forbid the Secretary, unless expressly authorized by statute, to discriminate "solely on the basis of population," in the words of the amendment, without tying her hands regarding the equitable distribution of community development funds based on need.

In summary, this amendment will not impede HUD's ability to effectively administer programs. Rather, it will insure that smaller communities are dealt with fairly and that their eligibility for funds will not be subjugated to HUD's urge to tailor programs to its own needs or its administrative convenience.

I have discussed this amendment with the floor manager and with the Senator from Massachusetts (Mr. BROOKE) and I understand it is agreeable to them. I certainly would yield to the Senator.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I think this is an excellent amendment. It recognizes the fact that small communities have not received equitable treatment, which I think is correct, from UDAG or community development allocations; and I think this provides the kind of emphasis we would support. We overlooked this matter in committee, and I am delighted that the Senator from Maine is calling it to the attention of HUD in this effective way. I am happy to support the amendment.

Mr. BROOKE. Mr. President, I am pleased to support the amendment. I, too, think it is an excellent amendment. I think the Senator from Maine is doing us a great service by proposing this amendment.

I believe this amendment is also contained in the housing bill of the House of Representatives.

Mr. HATHAWAY. The Senator is correct.

Mr. BROOKE. They have very graphically introduced that in the House, I believe; and I think it is excellent that we can take this amendment to conference and give some assurances to small communities that they will not be discriminated against solely on the basis of their population.

Mr. HATHAWAY. I thank the Senator from Massachusetts and the Senator from Wisconsin, and yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. All remaining time having been yielded back, the question is on agreeing to the amendment of the Senator from Maine.

The amendment was agreed to.

Mr. HATHAWAY. I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who yields time?

AMENDMENT NO. 3251

Mr. CHILES. Mr. President, I call up an amendment that I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), for himself, Mr. MUSKIE, Mr. PROXMIRE, Mr. BELLMON, Mr. DOMENICI, Mr. LUGAR, Mr. ROTH, and Mr. THURMOND, proposes an amendment numbered 3251:

On page 13, line 8, strike the numeral and insert in lieu thereof "$1,334,950".

Mr. CHILES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 13, line 8, strike the figure "$1,675,043,000", and insert in lieu thereof "$1,334,950,000".

On page 14, line 24, strike the figure "$800,000,000" and insert in lieu thereof "$729,000,000".

On page 29, delete lines 5 through 25.

On page 30, delete lines 1 through 16.

Renumber all sections appearing thereafter, and all references to such sections appearing in other sections, accordingly.

Mr. CHILES. I ask unanimous consent that the names of the following additional cosponsors be added to the amendment: Mr. JOHNSTON, Mr. NUNN, Mr. BIDEN, Mr. GARN, and Mr. HARRY F. BYRD, JR.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair inquires of the Senator from Florida whether this is the amendment provided for in the unanimous-consent agreement as to which there is an exception to the general time limit?

Mr. CHILES. It is. What is the time on the amendment?

The PRESIDING OFFICER. The time is 2 hours on the amendment.

Mr. CHILES. I yield myself such time as I may use.

Mr. President, I am submitting an amendment to S. 3084, which is cosponsored by Senators MUSKIE, PROXMIRE, BELLMON, DOMENICI, LUGAR, JOHNSTON,

NUNN, BIDEN, GARN, and HARRY F. BYRD, JR., to bring the spending levels for housing assistance into line with the President's budget and the first congressional budget resolution for fiscal year 1979.

Mr. MUSKIE. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. CHILES. I yield.

Mr. MUSKIE. Mr. President, I request unanimous consent that the following members of the Budget Committee staff be granted floor privileges during Senate consideration of S. 3084, the housing and community development amendments of 1978:

Karen Williams, Don Campbell, Liz Tankersley, Jill Scheu, John McEvoy, and Rick Brandon; also Peter Connolly of Senator NELSON'S staff, Thomas Downey of Senator HATHAWAY'S staff, Tony Arroyo of Senator DOMENICI'S staff, and Dick Freeman of Senator BROOKE'S staff.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I ask unanimous consent that the name of the Senator from Mississippi (Mr. STENNIS) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, a package amendment adopted by the Banking Committee on an 8-to-7 vote increased the 1979 authorization levels for a variety of housing assistance programs by $8 billion over that recommended by the President and passed by the House of Representatives. The message we are hearing from the American people is that the Federal budget is already too large and we ought to be cutting it back, not making it larger.

We are not attempting to cut back on current housing programs. The $31.9 billion of nonspending commitments proposed by the President and assumed in the Congressional budget resolution would allow about 375,000 additional households to receive assistance, in addition to the 2.8 million being assisted this year. Over $30 billion of that budget authority requested by the President will be used to enter new obligations; currently assisted households and projects will be paid from budget authority appropriated in prior years.

Annual outlays for housing assistance would increase from less than $5 billion to about $8 billion by 1983, even if we entered no new commitments. Our amendment therefore poses no threat to current recipients of housing assistance, nor does it reduce the rate at which recipients can be added. Rather, it maintains a steady rate of growth for housing programs. We believe that the last thing either public or private sector housing markets need right now is the instability which would result from a sudden increase of funding.

Mr. President, I ask unanimous consent that a table comparing the funding levels in S. 3084 as reported and those implied by our amendment be printed in the RECORD at this point.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE I.—*Impact of the Chiles Amendment to S. 3084*

The Chiles amendment would conform the S. 3084 authorizations for assisted housing programs to the FY 1979 First Budget Resolution targets and the President's budget. S. 3084, as reported from committee, would authorize $0.5 billion more annual contract authority for those programs than requested by the President. Because most housing contracts obligate the Federal Government to outlays for many years, that increase in contract authority produces an $8.0 billion increase in budget authority.

The following table compares the Assisted Housing contract authority and budget authority required for full funding of S. 3084 with level required if the Chiles amendment is adopted:

FISCAL YEAR 1979 AUTHORIZATIONS FOR ASSISTED HOUSING

[In millions of dollars]

	Annual contract authority		Budget authority	
	S. 3084 as reported	Chiles amendment	S. 3084 as reported	Chiles amendment
Section 8 leased housing programs, and conventional public housing production and modernization	1,675	1,335	38,936	31,051
Public housing operating subsidies	800	729	800	729
Supplementary rent subsidies (new)	75	0	75	0
Assistance to troubled projects (new)	74	74	74	74
Congregate housing services (new)	20	20	20	20
Total assisted housing	2,644	2,158	39,905	31,874
Authority available from prior years	0	0	−6,400	−6,400
New authority required for full funding	2,644	2,158	33,505	25,474

Mr. CHILES. Mr. President, I think it is important to state for the RECORD why we chose to reduce these programs and not some other programs which the committee increased above the level requested by the President. These housing assistance programs all support the income security function of the budget, while the other program increases appear in community development and commerce and housing credit. The budget authority increases for those functions are very small and do not pose a significant threat to the functional targets. An $8 billion breach of the target, however, is far too large to ignore.

It might be argued that this spending in excess of the budget resolution would not be inflationary because there would be little actual outlay in 1979. However, the economic impact of housing assistance is felt as soon as the commitments are made; money is borrowed to finance construction and workers are hired in advance of the actual Federal outlay. Moreover, inflationary pressures will probably get worse over the next 2 or 3 years. With interest rates beginning to soar, and Federal borrowing still high with a $50 billion deficit, any further inducement to spending will be inflationary.

The biggest dollar difference is clearly in the section 8 rent subsidy program, where the committee increased annual contract authority by $340 million over the President's budget. The Congressional Budget Office estimates that this will produce budget authority $7.9 billion in excess of the first budget resolution. The section 8 program has been accelerated and stopped several times since its inception. Every time political pressure builds for a speedup, it is followed by a slowdown. The result has been an inability for local housing authorities to develop and implement long-range plans. We do not even know how fast the private sector is willing to expand in response to Federal funding.

The last administration put on a big push and obtained reservations for a large number of units, very few of which have actually been built. I have been impressed by the commitment of the new administration to implement housing programs, but it will be a year from now until we begin to see how much of last year's budget increase actually produces new units. The committee bill reflects the administration's proposal of a major shift of emphasis to rehabilitation. I think this makes a lot of sense, both as a strategy for neighborhood preservation and as the most cost-effective approach. However, we have never seen a large scale Federal rehabilitation program, and the President's budget would double the number of units rehabilitated. We therefore believe that this is as fast as the program can be expanded in 1 year.

Mr. President, it is important to discuss why we have entirely eliminated a new program of supplementary rent subsidies which was added in at a $75 million authorization level. This program would be purely an income maintenance program. It would entitle any low income person living in an FHA-insured unit to cash payment sufficient to reduce his rent payment to 25 percent of his income. No new housing would result. The program would create more inequities than it would eliminate, because it would pick out one class of low-income individuals for assistance, purely on the basis of living in an FHA-insured unit.

A whole new bureaucracy would have to be created to mail checks to a new group of recipients, without regard to what they are receiving under other programs. Nobody has even produced an estimate of how many low-income people are living in such units, far less any statistics on how much rent they pay. Any authorization would be simply a foot in the door for future expansion. Creating a new categorical program of this type would be the opposite of welfare reform. We believe this is just the sort of narrowly conceived program which the American people are complaining about. It has not been studied, has not been debated, and no one knows what it could ultimately cost.

Mr. President, there are many valuable program improvements in this bill, of which the Banking Committee can be justifiably proud. Our amendment does not do any violence to meeting the vital missions of improving housing and com-

munity development. Our amendment does hold the level of spending down to the responsible level already assumed by the Congress in our first budget resolution for fiscal year 1979. We believe our credibility of showing the American people that we can hold down spending and not add to the pressure of inflation depends on holding to the budget resolution totals. I, therefore, urge my colleagues to join in support of this amendment.

(Mr. LEAHY assumed the chair.)

Mr. PROXMIRE. Will the Senator yield?

Mr. CHILES. I yield.

Mr. PROXMIRE. I commend the Senator on his amendment. It is an essential amendment if we are going to avoid the inflationary effect of going far over the budget. The Chiles amendment would correct that. The Chiles amendment would move us back in several significant areas to the budget requested by the President. I might point out, incidentally, that our calculations are a little different than those of the Senator from Florida. I have taken that $8 billion, too, but my staff people tell me it is $10.6 billion. Whether it is $8 billion or $10.6 billion over what the President requested it is a whale of a lot of money.

Of course, that is way out in time. It is about $620 million a year, but the contract will have to be paid for over a long period, depending on the particular contract 20, 30, or 40 years. In any event, the Committee bill makes a long-term commitment of a whale of a lot of money at a time when inflation has become a more serious problem.

What the Senator is asking is that we maintain the present level of 375,000 housing starts requested by the administration and not go to another 100,000 starts in an inflationary period. It makes all the economic sense in the world to me.

As the Senator has pointed out, the victims of inflation are not fat cats who can take care of themselves; the victims of inflation are the low-income, moderate-income people, who, theoretically, would be benefited by the committee proposal of building and assisting 475,000 units now.

I think what the Senator is doing is logical and reasonable. It is in keeping with both the request by the President and the budget resolution which the Senate adopted only a few weeks ago. It seems to me that for us to go way over the budget resolution, as we would in the committee bill, would likely break discipline and make it extremely hard for us to comply with the budget resolution in other respects. I realize this is not an appropriation bill. I realize the Appropriations Committee might come under this. In the past, the Appropriations Committee, as the Senator knows, has very closely matched the authorization in this particular bill.

I think it is especially important here that we recognize what the Senator has pointed out, that the President has requested a reasonable level, that the Senate has provided a substantial amount for housing, and let us stick to that level and not go over it.

Mr. CHILES. I thank my distinguished colleague. I believe he is absolutely right in what he says. We now have the administration committed to a substantial increase in the housing program to be done on a level, steady growth formula. That is really what the housing industry needs. One of the worst problems that we have had is that we have had this acceleration and then completely pulled back. What happens is there has to be higher cost housing. It causes shortages. Right now we are seeing tremendous starts in the housing market. It is not a time of having the economy needed to be stimulated more, because we are seeing this tremendous interest rate and the shortage of materials starting to develop. Now is the time that we want to have some kind of a level commitment. I think that is what HUD has come up with, and I think that is what the administration has come up with. That is what the Budget Committee bought.

I at one time argued with the Budget Committee, "What are you doing coming in with these new units?" They said, "We think there needs to be an acceleration of this program, a commitment that we are going to do it on a steady basis." I have to say the administration has been following that plan. I think that to follow on their budget is to allow that to happen.

Mr. MUSKIE. Will the Senator yield?

Mr. CHILES. I yield such time as the Senator may desire.

Mr. MUSKIE. Mr. President, I congratulate the distinguished Senator from Florida, who is a member of the Appropriations Committee and of the Budget Committee. I would like to emphasize what has already been emphasized by the floor manager of the bill (Mr. PROXMIRE), and Mr. CHILES, that this amendment would simply reduce the authorization of funding for assisted housing programs from the very high levels now included in the bill to levels that were requested in the President's budget which can be accommodated by the first budget resolution of the Congress.

I have in my hand, Mr. President, a letter from Secretary Harris reaffirming her support for the levels in the President's budget as against the levels found in the pending legislation.

I ask unanimous consent that the letter from Secretary Harris be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

SECRETARY OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., July 19, 1978.

Hon. EDMUND S. MUSKIE,
Chairman, Committee on Budget, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request, I am pleased to take this opportunity to reaffirm my support for the Administration's fiscal year 1979 budget authority request for Annual Contributions for Assisted Housing. As you know, HUD's 1979 budget proposes the enactment of $24,650,950,000 of new budget authority for the Section 8 and Public Housing programs.

I believe that the budget requests submitted on behalf of this Department are sound and fully justified, in light of the balance which must be struck between competing national priorities and the Nation's housing needs. I have frequently stated that I shall oppose with equal vigor and efforts to disrupt that balance, either by adding to or reducing the level of funding we have requested. That continues to be my position.

Sincerely yours,

PATRICIA ROBERTS HARRIS.

Mr. MUSKIE. This amendment, Mr. President, deals only with those elements of the bill that pose significant threats to the budget.

I would like to add at this point my congratulations to Senator PROXMIRE and to Senator BROOKE for the overall quality of this bill. What we have tried to do is to bring into line those elements of the bill which pose a threat to the budget.

So, Mr. President, I am convinced that the Chiles amendment is responsible, that it is necessary, and, thirdly, that it is in the best interests of national housing policy and the people that policy is intended to serve.

Let me say why the amendment is responsible, Mr. President.

Let me describe the relationship of S. 3085 to the fiscal 1979 first budget resolution.

If the reported bill were fully funded, budget authority targets for the housing assistance mission of function 600 would, according to our figures, be breached by $8 billion, even after funds available from prior year balances are taken into account. Moreover, if the assisted housing program levels that would be authorized by this bill were to be maintained through 1983, budget authority over the next 5 years would total $220.7 billion, and outlays would total $31.4 billion. This would exceed the first resolution 5-year mission targets by more than $45 billion in budget authority and more than $1 billion in outlays.

It is important to remember how the Congress arrived at those first budget resolution targets. They reflect a very broad consensus, Mr. President, about the proper level of housing assistance. In the January budget, the President included $25.6 billion in budget authority and $4.4 billion in outlays for assisted housing programs. According to CBO estimates, this level of budget authority would be sufficient to provide housing assistance to an additional 375,000 households, or about the level of activity HUD has maintained over the past 2 years.

After considering all the other demands on the Federal budget, the Senate Budget Committee recommended budget authority and outlay targets to the Senate that would accommodate the full amount of the President's request for assisted housing programs, and that recommendation was accepted by the Senate. No amendment was offered on the floor to increase or decrease the targets for that mission when the first budget resolution was debated on the floor.

The President's request, Mr. President, was also accepted in the House version of the first budget resolution for fiscal year 1979. In fact, there was such broad agreement on the funding levels ap-

propriate for assisted housing that this was one of the rare conferences in which assisted housing was not an issue of disagreement between the Senate and the House during the budget conference.

Mr. President, the Chiles amendment, therefore, would simply reduce the authorization levels for assisted housing to make them consistent with the President's request and the first budget resolution targets.

Second, Mr. President, the amendment is necessary for reasons which Senator PROXMIRE has outlined. Whatever we put in this bill will tend to drive appropriations. The HUD-independent agency subcommittee has not yet completed markup on its appropriation bill. If this authorization is approved by the Senate as it comes out of committee it will undoubtedly tend to drive appropriations upward.

The third point I would make, Mr. President, needs additional emphasis. That is that this amendment is also in the best interests of a consistent, strong and effective national housing policy.

I think this is a particularly important point to make. The system for delivering housing services is extremely delicate, complex, and sensitive. The link between our votes in this Chamber and the improvement of a family's housing is a long chain of events. If Federal housing assistance is to be delivered efficiently, not only must many offices in HUD operate smoothly, but also the efforts of a host of State and local agencies, banks, developers, and other organizations must be coordinated.

If that system is to operate effectively, all of the participants need to have confidence that the Federal commitment is assured and that Federal policy will be relatively constant for some time to come. That system cannot tolerate a rollercoaster ride of big spending followed by spending cuts. Mr. President, did we not learn that costly lesson when the crash housing programs of 1970 through 1972 created conditions that allowed the enemies of housing assistance to shut down the Federal housing programs in 1973? The signals going out from this Chamber should increase confidence in the Federal commitment to housing, not undermine it.

Mr. President, Federal housing programs are still recovering from the shock of the 1973 moratorium. We should give these programs a chance to work. We should give the appropriate committees of the Congress, the administration and others the chance to solve the many problems that remain with these programs.

HUD has demonstrated that it can commit budget authority at a level of about 380,000 units per year. Much progress has been made. But housing starts under section 8 are still lagging. Private financing is still not flowing to these projects as had been expected. The programs still are not responding fully to the needs of large, low-income families. The planning of State and local governments for housing is still not adequate. The attention of everyone should be directed to those problems, and should not be distracted by the problems of trying to process big increases in spending.

Frankly, Mr. President, I do not believe the funding levels authorized by the reported bill could be maintained in the Federal budget in future years. As you know, the Federal housing programs are designed so that a constant level of funding does not mean that a constant number of families receive assistance. It means that a constant number of new families are added to an ever-growing base of families that are receiving assistance. CBO estimates that at current activity levels—that is, at annual funding levels that permit about 375,000 additional families to receive housing assistance each year—outlays for assisted housing would rise from $3.8 billion in 1978 to $7.9 billion in 1983.

Mr. President, I submit that is a substantial commitment which the first budget resolution continues, underlines, and supports.

The percentage of the total Federal budget devoted to assisted housing would rise over those years from 0.8 percent to 1.2 percent. That is an increase of 50 percent under the first budget resolution targets. In fact, at relatively constant levels of funding, outlays for assisted housing would continue to climb absolutely and as a percentage of the total Federal budget until they reached a level between $30 and $40 billion two or three decades from now.

Those are the perspectives, Mr. President, that we should bring to these proposals for increases in budgets in future years. The implications of those numbers will become very clear to future Congresses and to the taxpayers who will bear those future costs. Grandiose gestures to drive up budget authority this year can only set the stage for equally striking slashes in budget authority in future years. The funding levels proposed in this bill would undermine Federal housing programs and would not well serve the families those programs are meant to help.

It is reassuring to note that the amendment in committee that led to this large increase in authorization passed by only one vote. I understand that the distinguished chairman and a number of other Banking Committee members strongly opposed the high authorization levels that were reported from the committee.

The amendment now before us enables the full Senate to improve the bill. The amendment is responsible. It is necessary. And it is in the best interests of national housing policy and the people that policy is intended to serve.

It is for these reasons, Mr. President, that I support the amendment of the Senator from Florida.

Mr. BELLMON. Mr. President, are we under controlled time?

The PRESIDING OFFICER. The Senator is correct. The amendment is under controlled time.

Mr. BELLMON. Will the Senator yield me 5 minutes?

Mr. CHILES. I yield 5 minutes to the distinguished Senator from Oklahoma.

Mr. BELLMON. Mr. President, I rise in support of the Chiles amendment.

I have supported an active Federal Government role in expanding the supply of housing and in providing housing subsidies to families and individuals who could not otherwise afford decent housing. It seems to me the housing area offers unique opportunities to promote both improved living standards and economic growth.

For the most part, I believe the bill before us chooses an appropriate mix of Federal responses to the challenges facing the Nation in the areas of housing and community development.

I am pleased, however, to be a cosponsor of the amendment offered by Senator CHILES to reduce the budget authority provided for subsidized housing under this bill. The bill, as reported, would exceed the allowance for assisted housing under the first budget resolution by $8 billion. It would also exceed the request of the President by that amount. It would raise substantially the new start commitments for subsidized rental housing at a time when there are still serious questions about the effectiveness and the long-term directions of the programs involved.

Mr. President, those of us sponsoring this amendment are not trying to stop the expansion of Assisted Housing programs. Indeed, the bill, even after approval of this amendment, will still authorize at least 375,000 new housing units to be started in fiscal year 1979. This is approximately the same new start level as in fiscal year 1978. These units will cost the Federal Government approximately $31 billion over the next 35 or 40 years.

Under the current approach to providing housing to low-income people, we are building very large future obligations for the Federal Government. Within the next 5 years, the annual outlays for assisted housing will double—from about $4 billion to about $8 billion per year—even if we have no more new starts beyond those already authorized. That level of outlays will continue for most of the next 40 years, even if we do not authorize any more units. We ought not to speed up the rate of new commitments without the most serious and most deliberate consideration. That kind of study has not gone into the increased authorization proposed in this bill.

We have seen, in recent months, the effects of poorly planned housing subsidy programs. The bill now before us includes an authorization of $74 million in bail-out money for privately built, rent-subsidy projects constructed a few years ago under programs similar in concept to section 8 of the Housing Act, under which the bulk of the authorization now before us would be spent. I would hope we have learned some lessons from such earlier program experiences; I am not convinced that we have yet. Rapid growth of the section 8 program puts the Federal Government in the same kind of contingent liability position—on a much larger scale—than the old programs did. The Congressional Budget Office is now beginning a much-needed study of the potential future costs of these programs. I am hopeful that this study will provide us better assurance

that we are not creating a major problem for future Congresses through our present approaches to financing housing assistance.

Mr. President, I am very concerned that the physical condition and quality of services in some of our public housing projects are not as good as they should be. This amendment will hold the fiscal year 1979 operating subsidies for public housing projects to $729 million—the level recommended by the President, as opposed to the $800 million level reflected in the reported bill. Again, I want to stress that this is not a cut. The fiscal year 1978 level is $685 million, so if this amendment is approved, we will still be allowing a $44 million increase over fiscal year 1978.

In short, Mr. President, even after approval of this amendment, the assisted housing programs will experience substantial growth. We ought not to blow the budget or take the kinds of risks that would be entailed in approving the full authorization reflected in the bill. I urge adoption of the amendment.

Mr. President, I ask unanimous consent that Missey Mager and Robert Fulton of my staff may have the privilege of the floor during debate and vote on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. If the Senator will yield for a unanimous-consent request, Mr. President, I ask unanimous consent that two members of my staff, Bill Buechner and Jack Albertine, be granted privilege of the floor during debate on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that Roger Sindelar of my staff be granted privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HEINZ. Mr. President, I ask unanimous consent that Bill Reinch and Frank Shafroth of my staff be granted privilege of the floor during debate on this matter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that George Kuhn of Senator MOYNIHAN'S staff, Everett Wallace of Senator BAKER'S staff, and Barbara Block of Senator PERCY'S staff, be granted privilege of the floor during debate and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BROOKE. How much time does the Senator from Pennsylvania need?

Mr. HEINZ. Five minutes.

Mr. BROOKE. I yield 5 minutes to the distinguished Senator from Pennsylvania (Mr. HEINZ).

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I rise in opposition to the amendment offered by my good friend and colleague from Florida (Mr. CHILES).

As I understand his amendment, it would reduce the spending levels for housing assistance back to the original levels recommended by the administration.

I understand his good intentions in this regard. But my decision to speak on behalf of the bill and against his amendment, as acted on by the Banking Committee, is not, I might say, necessarily an easy decision.

I am a member, as I think Senator CHILES knows, and Senator BROOKE knows, of the Budget Committee. I feel very strongly about the principle of congressional leadership in bringing about a balanced budget.

I do strongly support, as I know my good friend from Maine (Mr. MUSKIE), chairman of our committee, does, the budget process. But on this issue I am, for compelling reasons, required to dissent.

When we acted in the Budget Committee, early this year, on the administration's housing requests, we set a goal of providing some 400,000 units of additional section 8 or public housing. This number itself would, at best, meet only about 65 percent of current estimated housing needs, and is substantially less than the number of reservations of units under this same program in fiscal year 1977. That is to say, the last fiscal year for which we have statistics.

Nevertheless, this number was targeted and we agreed to make the availability of 400,000 units a priority.

Unfortunately, after the Budget Committee had completed action on the first budget resolution, we learned that two errors had been made in the administration's computations. To begin with, the administration figures did not take into account the impact inflation would have on our targets. Nor were we given the actual breakdown of differences in costs for providing new and rehabilitated section 8 units versus existing units. The combination of these factors would reduce the assistance available under this proposed amendment to approximately 360,000 units, not the 400,000 units we in the Budget Committee thought reasonable at that time. That is, obviously, very far short of what we felt was adequate then and, of course, it is well below the original request of the administration.

Thus, to say that Senator CHILES' amendment merely seeks to reduce spending levels to the President's proposed levels is not consistent with the original intent of the administration or the Budget Committee. The amendment before us would reduce assistance to those in great need far more than I think was ever intended.

I would like to emphasize to my colleagues the critical nature of this issue. In our country, some 3.8 million households are paying more than 50 percent of their income for rent. I am not speaking of families who can afford that rent either. I am speaking of families who have no alternative—the 50 percent, in almost every case, represents a family with an annual income under $10,000. The rental costs must be taken from food, medical, clothing, and other essential expenses. Any decrease in assisted units will add to this number of impacted households. Ironically, it will inevitably lead to greater budget expenditures. For if these persons are forced to expend such a significant portion of their incomes on housing related costs, they will be forced into greater reliance on the Federal Government to meet other needs.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HEINZ. Could the Senator yield an additional 5 minutes?

Mr. BROOKE. Yes.

The PRESIDING OFFICER. The Senator is recognized for an additional 5 minutes.

Mr. HEINZ. Mr. President, the amendment before us would also have the most grievous repercussions for those of our citizens who have no one to turn to for assistance. When we reduce Federal funding for public housing, the very first to feel the impact are the elderly and the handicapped. We have learned from testimony that many of these persons already are uncomfortable and fearful. That fear is two-fold. First, the very nature of their environs makes them forgotten victims. Just as the elderly and the handicapped would be the first to suffer from the impact of this amendment, so too are they most often the first target of criminals.

We are talking about frail people. We are talking about defenseless people. We are talking about people with a very small voice in the councils of the powerful.

Second, for many of these persons, uncertainty about their future is their most constant companion. Will tomorrow bring a notice of eviction, because the social security check will not cover the rent increase? Will the waiting list to receive Federal housing assistance remain endless because they are balancing the budget in Washington?

I submit that to be old in America is a harsh and lonely existence for too many elderly citizens, for too many of the poorest of the poor, for too many handicapped of all ages—decent, sanitary and safe housing is not measurable in any economic terms. It is the thread of living. When one's family has deserted one to fate—that fate is cruel. I know that my colleague from Florida has seen the unkind facade of being old and homeless, of being scared and cold, of being forgotten by those bureaucrats in the Federal Government, who somehow always manage to take care of themselves.

I know my colleague from Florida is a compassionate man. My colleague, the Senator from New Mexico, (Mr. DOMENICI) with whom I am cosponsoring an amendment on congregate housing today, has clearly recognized the plight of these helpless citizens.

There are few in this body, however, who are as devoted and concerned as the ranking minority member of the Banking Committee (Mr. BROOKE).

His unstinting efforts to create a home for the forgotten and hopeless citizens of our country merits our commendation and support. His work, and the respect

he has earned, are not for spending, but for very perceptive leadership he has offered to the committee and the Senate to secure an opportunity for a home for each and every citizen of this country.

The amendment before us is an attempt to balance the needs of our budgetary process and needs for housing in this Nation. The amendment should balance the ability of families' budget. It should be responsive to our guarantee to house each and every American in a manner which any of us in this Chamber could accept. To do otherwise is to reject our responsibility and to mock the most basic of human rights. Sadly, this amendment would deprive one economic class of citizens—the elderly and the handicapped in particular—who can least afford it. Although I am sympathetic to the goal of spending limits, it seems to me that this should be done in a manner which is consistent with the needs and abilities of the people we serve. In this instance, it appears that we have done the opposite, and we would be penalizing those least able to help themselves.

I urge my colleagues to give careful consideration to the product of our committee's deliberations and conclusions. The housing needs of our poor will not fade away. They cannot be ignored, and they will become more expensive the longer we fail to address them head on.

My colleagues should recognize that one of the reasons why this is going to impact on our senior citizens and on our handicapped is that we have mandated, quite properly, housing assistance plans that are going to be focusing this year, and for many years to come, on family housing. As that need is met and mandated, it is required that we meet it through these housing assistance plans that are part of any community program. The sad fact is that as we squeeze down the number of units to 300,000 and less, the people who are going to be squeezed are those I mentioned earlier—namely, our elderly and our handicapped, those with the smallest and most timid voices in the councils of the powerful.

I think the Senate is a compassionate and wise budgetary body, and I urge my colleagues to reject this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. Mr. President, I yield 4 minutes to the Senator from New Hampshire.

Mr. McINTYRE. I thank the Senator.

Mr. President, I support the pending amendment to reduce the committee's recommended spending levels for housing assistance to those contained in the President's budget request and the first congressional budget resolution. This is a difficult issue for me and I am sure that my colleagues feel the same way. Housing is a basic essential of life and our citizens have a right to expect safe, decent, and adequate shelter. The question before us, however, is not whether Congress and the Federal Government support adequate housing for our citizens. What we must consider is the proper amount of limited funding Congress can provide for each budgetary function. To do otherwise is totally irresponsible.

If we are to turn the tide on increasing budget deficits we must recognize our limitations. Each Federal program has its particular group of advocates—and how does one choose housing assistance over health care or numerous other important programs. The choices are hard and they are difficult. But they must be made. Inflation must be controlled. Inflation hurts everyone—young and old—rich and poor. Inflation caused by huge Federal deficits will not help us provide adequate housing for our people. Inflation, if unchecked, will destroy our national housing efforts.

The administration proposal is lean. There is no doubt about that. But Secretary Harris assured the committee it was reasonable. I personally would like to see a greater commitment to housing but how will it be done? By cutting other worthwhile programs or by simply printing deficit dollars? If we are concerned about our economic health we must make some hard decisions. This has been such a decision for me but I know of no alternative other than increasing our deficit spending burden, which I believe is an unacceptable alternative.

The PRESIDING OFFICER. Who yields time?

Mr. BROOKE. Mr. President, how much time does the Senator desire?

Mr. RIEGLE. Four or 5 minutes.

Mr. BROOKE. I yield 5 minutes to the distinguished Senator from Michigan.

Mr. RIEGLE. I thank the Senator for yielding.

Mr. President, I oppose this amendment. So far as I can determine, the real effect of this proposed amendment is to produce enormously exaggerated cuts in budget authority by hurting the poor.

This amendment is "targeted," but in a most peculiar way—it targets for drastic budget cutbacks the three programs in this bill that are of most immediate help in providing decent, affordable housing for low-income Americans. The amendment would completely eliminate a small rent-subsidy program for very low income tenants in subsidized housing projects. Even though these projects were built to provide affordable housing for the poor, over 35 percent of the tenants in these projects pay over 30 percent of their income for rent, and 10 percent pay over 50 percent of their income for rent. Is the elimination of rent subsidies for these tenants a fair and humane way to cut the budget? I think not.

The amendment would drastically cut back on operating subsidies for public housing projects; 3.4 Americans now live in public housing. Over 1.3 million of these public housing residents are elderly tenants, with an average income of $2,800 per year. The amendment would not even allow for a sufficient increase over last year in operating subsidies to fully account for inflation; the amendment would lead to deferred maintenance and physical deterioration of these projects, causing us much higher repair costs in the future.

Finally, the amendment would make a 20 percent cut in the number of new subsidized housing units provided this year. Many, perhaps even a majority, of these subsidized housing units would be for the elderly poor, who are often priced out of the private housing market today.

In addition to its adverse effects on the poor, this amendment makes no sense in terms of national housing policy. Vacancy rates in multifamily housing are currently 5 percent, down from the 6 percent rates of 1974 and 1975, and rents are beginning to rise rapidly. At the same time, the purely private multifamily housing sector is facing severe problems, as a growing credit crunch discourages new construction, and as rising operating costs cause severe financial problems for owners of multifamily properties. Michael Stegman, a professor of city and regional planning at the University of North Carolina, concluded in a recent study that "operating problems in the—multifamily—sector are currently serious, and likely to become more acute." Given these factors discouraging new construction of multifamily projects, publicly subsidized housing is becoming an increasingly important element of multifamily new construction, with HUD subsidies accounting this year for over one-fourth of new construction of multifamily properties with five or more units. The amendment would cut back on subsidized housing construction at exactly the wrong time, and contribute to further rapid increases in rents, something we do not want.

Mr. President, an amendment like this is politically appealing; it cuts back on housing assistance to low-income renters who do not have great political clout, while leaving alone other programs that aid those with a stronger political voice. But I urge my colleagues today to speak out for the interests of the low-income persons not represented here today, and to vote to defeat this amendment, to stick with the bill reported by the committee, because it addresses an urgent set of needs. In fact, we are not doing all we should. But at least we are making a good faith effort to respond within very tough budget constraints. I hope the Senate will view it as such and that my colleagues will defeat this amendment.

PRIVILEGE OF THE FLOOR

The following Senators requested and, by unanimous consent, the privilege of the floor was granted in behalf of the following staff members: Mr. RIEGLE: Tim Bartik; Mr. KENNEDY: Mr. Urwitz and Mr. Parker; Mr. DANFORTH: Chris Brewster; and Mr. SCHMITT: Stephen Beck.

Mr. BROOKE. Mr. President, I must strongly oppose the amendment of the distinguished Senator from Florida. As I understand it, this amendment would cut funding for low-income housing by 90,000 units in fiscal year 1979, would cut operating subsidies for public housing by $71 million and would eliminate a vitally needed new program to reduce crime and vandalism in public housing, and would eliminate a $75 million program to provide rent relief for very low-income ten-

ants in FHA-insured subsidized multifamily housing.

I believe that it is cruel to look to our lowest-income citizens and the programs which will help to solve their serious housing problems as the front line in our battle against inflation.

These three programs which have been singled out by the proponents of this amendment are directed toward benefiting families and elderly persons of limited incomes. The section 8 housing assistance program has primarily served elderly women living alone and families headed by females with children. About 20 percent of the recipients of section 8 assistance—or their spouses—are handicapped or disabled. And a majority of the recipients are "very low-income" persons—whose incomes are below 50 percent of median income for the area and receive most of their income from social security, pension benefits, or other public assistance.

The public housing program actually serves an even lower-income population. The median income of families living in public housing is $3,750 a year; for elderly residents the median income is $2,800. And over 40 percent of our Nation's public housing units are occupied by the elderly. The national vacancy rate in public housing is 2.8 percent, and there are more than 3 million families in urban and rural areas who are waiting to get into public housing. I do not have to remind you of the statistics regarding substandard and overcrowded housing in our Nation's large cities or rural areas.

In light of this tremendous need, the amendment of the distinguished Senator from Florida would cut back the funding level for low-income housing—section 8 and public housing—from 450,000 units in fiscal year 1979 to 360,000 units. This represents 20,000 fewer units than HUD will place under reservation this year and 28,000 fewer units than in fiscal year 1977. In fact, in the 12 months preceding fiscal year 1977, under Secretary Carla Hills' leadership, HUD placed 475,000 units under reservation—when the section 8 program was just beginning to hit its stride. And you are all aware of the tremendous ground that must be recovered because of the tragic low-income housing moratorium of 1973.

The 450,000-unit level in the committee bill represents a real commitment to the housing needs of lower-income people, whose housing costs are increasing at an extremely rapid rate.

As both the AFL–CIO and the National Housing Conference have stated regarding this amendment, the additional units of low-income housing will help to counteract the inflation which has been generated by the short supply of rental housing, particularly for low- and moderate-income families and elderly. To the extent that this problem can be eased by the increased supply of housing provided in this bill, the entire Nation would benefit.

Regarding public housing operating subsidies, the cut proposed by this amendment is no less damaging. It would severely cripple our public housing authorities in our older cities. And it is clear that public housing tenants—many of whom are elderly living on fixed incomes—are in no position to pay for increased utility and operating costs without cutting into their meager budgets for food and other essentials.

In addition, the operating subsidy program serves to protect our $20 billion national investment in a program which provides decent housing for almost three and one-half million persons. I believe that it is "penny-wise and pound-foolish" to cut back on a program which can help maintain these units in decent and safe condition. The cost of replacing these units would be prohibitive, but the distinguished Senator from Florida seeks to cut substantially a prudent investment which helps to protect a $20 billion Federal resource in public housing.

Finally, I am most dismayed by the provision in this amendment to eliminate a new program to assist very low-income tenants living in HUD-subsidized housing built under the section 221(d)(3) and section 236 housing programs. the lowest income people living in these projects—those with 50 percent of median income or less—to 25 percent of their income. Many tenants are already receiving this relief under the rent supplement and section 8 programs. This program would help to reach families and elderly who are left out of those programs and are currently paying disproportionate amounts of their income for rents. In section 236 projects, 25 percent of the tenants are currently paying between 31 and 50 percent of their incomes for rent. And 9 percent of the tenants are actually paying over 50 percent of their incomes for rent.

This program will be of particular benefit to the elderly since elderly tenants in section 236 housing have very low incomes. While the median income for nonelderly tenants in section 236 housing is $6,200 a year, the median income for elderly tenants is only $3,600.

These tenants will not be served by HUD's proposed flexible subsidy which is also contained in this bill. Funds under the flexible subsidy will be used to replace the existing "deep subsidy" and rent supplement programs and will provide no relief to very low-income tenants who are not currently receiving assistance under these programs. The remaining funds under the HUD program will assist projects in financial difficulty, and unless the tenants live in one of those projects to be assisted, they will receive no assistance.

Mr. President, I believe that the funding levels in the committee bill represent a reasonable and balanced approach to meeting the housing needs of our lower-income families and the elderly. I urge my colleagues to reject this amendment which would turn our backs on the national commitment which the Senate has always supported to meet the needs of all Americans for decent shelter in a safe and suitable environment.

Let me add that the Chiles amendment is opposed by the following organizations:

AFL/CIO.
National Housing Conference.
National Rural Housing Coalition.
Ad Hoc Low Income Housing Coalition.
National Leased Housing Association.
National Association of Housing and Redevelopment Officials.
National League of Cities.
National Association of Counties.
Council of State Housing Finance Agencies.
National Housing Law Project.
National Center for Urban Ethnic Affairs.
League of Women Voters.
United Auto Workers.
National Committee Against Discrimination in Housing.
American Association of Homes for the Aging.
American Friends Service Committee.
American Jewish Committee.
Catholic Conference on Urban and Ethnic Affairs.
Americans for Democratic Action.
Center for Community Change.
Consumer Federation of America.
Housing Assistance Council.
National Association for the Advancement of Colored People.
National Association of Social Workers.
National Council of Jewish Women.
National Federation of Settlement and Neighborhood Centers.
National Urban Coalition.
National Urban League.
National Tenants Organization.
Shelterforce.
United States Catholic Conference.
Women's Lobby.
National Conference of Catholic Charities.
National Association of Housing Cooperatives.
Washington Office—United Presbyterian Church.
Lutheran Housing Coalition.
American Association of Retired Persons.
Rural America.
National Retired Teachers Association.
American Institute of Architects.
National Housing Partnership.

And public housing authorities, tenant organizations, and legal services organizations throughout the country.

Mr. President, I say to you there are probably many others who fear if this amendment is agreed to that will spell disaster and tragedy for low-income people who are living in housing and who need housing in this country.

Mr. WILLIAMS. Mr. President, will the Senator yield?

Mr. BROOKE. I am very pleased to yield to my distinguished colleague on this committee who has done so much himself for elderly housing in this Nation. How much time does he need?

Mr. WILLIAMS. Just 2 minutes.

The PRESIDING OFFICER. The Senator is recognized for 2 minutes.

Mr. WILLIAMS. Mr. President, I need just 2 minutes to state that I concur completely in the strong and, I hope persuasive, statements of the Senator from Massachusetts. I not only concur but I commend him for all that his statement means to the people we have been trying to reach over the years in order to provide them with a decent place to live. These are people who will not have a decent place to live unless they have some assistance, and I particularly emphasize those who have the hardest road in life, low-income, elderly Americans. These

are the ones who, I think, are especially hard hit by any cuts in the well-thought-out program of assistance we have in three areas of this bill.

I know that the motivation to be prudent with our authorizations is sound. We cannot argue with that. But it seems to me it is most imprudent to cut this kind of corner on those whom we are reaching with this bill for housing.

For example, to cut $71 million from operating subsidies for public housing, we know what that will mean. Public housing in so many areas of the country has now become old and deteriorating. Some of it is up to 40 years old. Maintenance is, of course, a very severe and heavy problem for the managers of that housing. To cut down on operating assistance means that this old housing will deteriorate further, and become shells and with that comes severe problems for the people who must live there. This is particularly harsh.

The reduction in section 8 in the amount of 90,000 units puts us way below what we have been authorizing in years past. Since the need is increasing it is imprudent, in my judgment, to reduce below what we have done in the past.

The other area that is particularly harsh, in my judgment, is the provision that would eliminate special rental assistance for the troubled 236 program. The Senator from Massachusetts has indicated that people in some of that housing are paying up to 51 percent of their income just for housing. We have examples of people paying up to 75 percent of their income just for housing, and to cut a rental assistance program for them down to zero when there is this particular human need documented is not only, in my judgment, imprudent, it is unwisely inhuman, and I strongly urge, with the Senator from Massachusetts, that we not take that action, that we not take this amendment.

Mr. BROOKE. I thank my colleague.

How much time does my distinguished senior Senator desire?

Mr. KENNEDY. Seven minutes.

The PRESIDING OFFICER. The Senator is recognized for 7 minutes.

Mr. KENNEDY. I would like to make a statement and then ask my colleague and friend from Massachusetts just a couple of questions.

Mr. President, I oppose the amendment of the Senator from Florida. The savings promised by the amendment are questionable. But the implications for the poor and the elderly and the homeless are not. The amendment would deprive families of new housing. It would deprive the elderly of the operating subsidies necessary to keep public housing in decent shape; it would deprive low income people of the rent assistance that they need in order to leave some funds for the other necessities of life.

Those who want to cut this authorization do not say that the aid is not necessary; they do not say that we have enough decent housing for our citizens; they do not say that the housing which now exists is in good condition and is likely to remain so.

Mr. President, the proponents of this amendment talk about the budget deficit and the rate of inflation. I agree that we must pledge ourselves to the fight against these problems. But let us not begin the fight by depriving the poorest and most vulnerable while leaving lavish housing subsides for the wealthy. Let us not begin the fight with small outlays while ignoring tax subsidies whose impact on the budget and the rate of inflation is far larger. And let us not begin the fight with savings which may easily be lost next year in the intensified problems that those so-called savings create.

The bill reported out of the Banking Committee deals with conventional home mortgage insurance programs, flood insurance, commercial development, and research. But this amendment singles out of that authorization those programs which aid those most in need of Federal housing programs—low-income households, particularly those which consist of elderly persons. And we must look at other areas of the budget—the $7 billion we spend on the Highway Trust Fund while we move to cut housing programs.

Mr. President, I do not believe that this is a just place to make the fight against inflation and I do not believe that it is an effective place. What is more, the savings realized are small, and many may easily evaporate in the years to come.

First, the amendment proposes to cut 90,000 units from the authorization for new section 8 and public housing units. But the outlays each year for these 90,000 units are small: They should not be confused with the authority given for the next 40 years. Next year's outlay for authority given this year will be about $60 million—and, of course, only a small part of this stems from the extra units which this amendment seeks to cut.

Second, the amendment proposes to cut $71 million in operating subsidies for next year. If subsidies for publically assisted housing are cut, public housing agencies would have no choice but to let needed repairs go undone, to reduce and eliminate services, and to defer essential maintenance. The new public housing security program could not be implemented. When those buildings deteriorate it is public property which is deteriorating. When those buildings are in such a shamble that they must be closed up, it is the Federal Government which takes the bath. When HUD acquires properties by foreclosure and resells them it loses 65 percent of its capital investment.

Third, the amendment proposes to cut $75 million in rent subsidies. The current subsidy programs would cost around $190 million this year. The operating program proposed to take their place, together with the amount added by the Banking Committee comes to $149 million. So, cutting $75 million more would represent a great retreat from current programs. It would force some to go to costly institutions which are either public or more heavily subsidized; it would force others to double up with ensuing deterioration to property. Those who resist rent increases which they cannot pay for, force the housing authorities into cutting back on maintenance, endangering the projects.

So, we must add to the list: for not only are the cuts unjust, and not only are there far better ways to fight inflation and the deficit: but the supposed savings are questionable.

Mr. President, finally, we must get to the crowning reason why we should not approve these cuts: they work a terrible hardship on people who need public housing.

Let us not forget that 70 percent of the units that would be cut by this amendment would be occupied by the poor elderly. The average elderly household in public housing has an income less than $3,000 a year: In other HUD subsidized housing it is around $3,600 a year. Let us not forget that over half of the people in HUD assisted housing pay over a quarter of their income for rent, leaving very little for whatever else that they need. It is these people whose deprivation will be made all the worse by this amendment.

Just 10 years ago, a distinguished commission chaired by our esteemed friend and colleague, the late Senator Paul Douglas, told us that we needed to produce some 6 million assisted units in the 10 years between then and now. We have not come close. If we were to adopt this amendment, we would fall even further behind, literally leaving millions of deprived Americans out in the cold. We need more than the 450,000 units that are proposed in the authorization: and we certainly cannot afford to abandon our goals by cutting back still further to only 360,000 units.

Mr. President, I oppose this amendment. I oppose it for the elderly who will not be housed. I oppose it for the families which will be left in squalor. I oppose it because it picks on the poor. I oppose it because it is not the effective way to fight deficits and inflation. I oppose it because its savings are questionable.

I hope that I am joined by my colleagues.

Now, if I might address a few questions to my colleague. He made a very eloquent statement in his appeal to the Senate that it should not be the poor and the elderly who bear an undue burden because of the problem of inflation.

I think he has illustrated both his knowledge of these programs and, by the attention to his work on the committee, his efforts to try to make the programs more effective.

I would like to ask my colleague for some perspective about where we are in terms of housing for the neediest people in our country as compared to the minimum goals established by the Douglas Commission.

Paul Douglas was one of the most thoughtful commentators on the needs of poor people in this society. His commission, indicated that we needed approximately 600,000 units a year to meet the minimum standards for the poor people in the country. Is it not true that over the last 8 to 10 years we have just about barely reached two-thirds of that goal? Would the Senator just make a brief comment how this amendment would affect our ability to reach that goal?

Mr. BROOKE. My colleague is absolutely correct. As a matter of fact, I think our distinguished chairman (Mr. PROXMIRE) proposed that 600,000-unit

goal as a minimum, and that is the bare minimum. We are nowhere near that.

What this amendment would do would be to cut back even further from that goal. What we do in the bill produces 450,000 units of low-income housing. What this amendment would do would be to cut that by 90,000 units. It would take us back even below the level HUD was able to produce prior to 1977.

So not only are we not advancing, we are going back. So we are not anywhere near the minimum goal of 600,000 units, as my distinguished colleague has observed.

Mr. KENNEDY. So if this amendment is accepted, we would produce a little over half of our yearly minimum needs, let alone making up the cumulative gap of previous years.

Mr. BROOKE. That is correct, approximately half.

Mr. KENNEDY. I think it is important to put it at least in some kind of perspective.

Second, I would like to ask where these housing units are going. Are they targeted at areas of most important need and most important shortages? What would be the impact of this amendment on those communities?

Mr. BROOKE. If I may respond to my distinguished colleague, these units are targeted at the urban centers and in the rural areas of America, not in the well-off areas, as the Senator has pointed out. That is where the need is the greatest and that is where the units are located.

Mr. KENNEDY. Beyond this, would the Senator comment on the importance of these operating subsidies.

The Senator knows full well what has happened when we have seen the deterioration of housing units in our own part of the country, in the greater Boston area and in Columbia Point. If this amendment were to be accepted, would you not get a reduction of maintenance, a reduction of services, and a gradual deterioration of a facility. Time and time again does this end up with HUD stepping in and the Federal Government taking the bath?

Mr. BROOKE. The Senator is exactly correct. This is what I referred to when I said "penny wise and pound foolish." It certainly is not cost effective.

We have an investment of $20 billion in public housing in this country, and if we cut back here, we are cutting back on money which is essential to maintain that investment. And it is not only an investment in dollars; it is primarily an investment in human lives, because millions of people are in need of safe and decent public housing.

We must have a sufficient level of operating subsidies. These operating subsidies must reflect the fact that utility costs have skyrocketed. Oil costs are high. Inflation has not bypassed public housing, any more than it has bypassed any other area in the country. Public housing authorities have to pay more for services and operations.

In New York a few years ago, it was true that every time the cost of oil went up a penny it cost the public housing authority a million dollars more. Where is this money coming from? It cannot come from the poor who live there—who, thank God, have to pay no more than 25 percent of their income for rent. If it were not for the 25 percent rule, they would not be able to afford to live in public housing today.

To cut back on the operating subsidies, as this bill would propose, could put those public housing authorities out of business, and the Federal Government would end up, as my distinguished colleague says, just taking a bath. HUD would end up operating these projects itself because the public housing authorities around this country just do not have the money to operate these projects.

So this is a very dangerous cut. It is a cut in terms of human life, but it is also a cutback in a very important and significant investment by the Federal Government.

Mr. KENNEDY. Let me put a final question to my colleague. The Senator has commented upon the importance of the continuation of the operating subsidies. I would be interested in his comment on rent subsidies.

Would it not be likely that escalating rents would force many elderly people out of public housing units, requiring them to go into an institutional unit, in many instances into high-cost hospitals?

Take the number of people 60 or 65 years of age, or older, that are in hospital rooms or nursing homes when they should not be there. They should be in a different climate and receiving other kinds of services, at a very considerable saving and in much more humane circumstances.

Am I not correct, is it not the Senator's experience that if we cut back on these rent subsidies, effectively we will be squeezing people out of these housing units and forcing them into other institutions?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KENNEDY. I would be interested in the Senator's comment.

Mr. BROOKE. Mr. President, as the Senator knows, for he is the very distinguished chairman of the Health Subcommittee, 25 percent of the persons living in nursing homes really do not have to be there. There is no other place for them to live, and they are sent off to nursing homes or hospitals or other institutions.

The one thing the elderly fear most is institutionalization; and finally we are coming to the conclusion that it is not even cost-effective for us to institutionalize the elderly citizens of this country.

If you talk to them, they say, "My God, do not put me in this nursing home or in an institution." But if we keep cutting back here, there will be no other place for them to go, it will be costing us more money, and they will not be living in dignity in the decent housing they would rather live in.

So I would hope the Senate would look at it from that point of view, that the elderly would suffer.

Mr. MUSKIE. Mr. President, will the Senator yield?

Mr. BROOKE. Yes.

Mr. MUSKIE. I have listened with interest to all this talk about cutting back.

Mr. BROOKE. Yes.

Mr. MUSKIE. May I remind the Senator that the amounts provided in the budget resolution were adopted by the Senate in May without any amendment being offered on the floor?

The Budget Committee acted on the basis of the President's recommendations in January and the recommendations of the committee in March. We made our recommendation fully funding the President's recommendation. No amendment was offered on the floor. The House of Representatives, responding to the same information, adopted the same number, and the issue was not even in conference. There was no issue.

No one argued then that we were "cutting back" anything.

Mr. BROOKE. Will the Senator yield?

Mr. MUSKIE. As a matter of fact, the statement I have already given this afternoon indicates that we would continue adding 375,000 families a year, which is the present level.

We are not cutting one family. Just the opposite—we are adding many new families to a growing base of those already receiving housing assistance. Even at the higher cost of housing, we would be continuing to add 375,000 families a year, and we are projecting this through 1983 at a cost of $175 billion. And in that 5-year period, the percentage of the Federal budget devoted to assisted housing will grow by 50 percent, under the level projected in the budget resolution.

Yet I hear all this talk about how we have cut the budget for assisted housing.

Mr. BROOKE. Will the Senator yield?

Mr. MUSKIE. How we have ignored the poor, how we have ignored the elderly.

I reject that implication. You can always establish a larger need. There are a lot of needs that the Federal budget has to meet that are not going to be met totally by this budget, and the Senator knows that. I could go through them program after program, function after function, why we could not meet the total need as argued by Senators.

But now we hear, after all these months, that the first budget resolution represents cuts—when no question was raised earlier, without an amendment to the budget resolution being raised on the floor, without an issue between the two Houses in conference. I reject that argument.

I accept the notion that the housing problem is a grave problem in this country, even for the middle class, because of the displacements caused by inflation in housing costs. I do not contend that we meet the total need in this budget. But to contend, because we have not met the total need, that we have cut the budget is an argument, as I say, which I must reject.

Mr. BROOKE. Mr. President, the distinguished Senator from Maine certainly did not mean to say the total need, because the minimum need is 600,000 units, as we have already said. Certainly that is not the total need.

The Senator served on the Banking,

Housing, and Urban Affairs Committee. He served on that committee when I was a member of the committee. So he is well aware of the housing needs of this country.

Everything is relative. You talk about cutting back to 375,000 units. But the reality is that the funding level you propose would not produce 375,000 units, it will only produce 360,000 units, which is below this year's level and below last year's level and below the level of the year before that.

Mr. MUSKIE. The figures we have are 375,000 additional households each year through 1983.

This is the first challenge of those figures that I have heard on the floor in connection with the budget resolution.

Mr. BROOKE. That has changed; 360,000 units, not 375,000 units.

Mr. MUSKIE. This is CBO's projection, 375,000, and it is the latest CBO projection. CBO is the agency we have created to give us these figures.

Mr. BROOKE. We have a change in assumptions from HUD which produced the 360,000-unit estimate. That is what we have.

Mr. MUSKIE. We created CBO to give us the latest information. I put in the RECORD earlier a letter from Secretary Harris supporting the President's request, which is fully funded by the first budget resolution. The Senator certainly has the prerogative of challenging the first budget resolution, as any Senator does, or to offer his own priorities. I do not challenge that. But my blood boils when I am told on July 19, after having considered this subject for all these months, with all the opportunities for everybody, including the Senator from Massachusetts, to correct my judgments on the floor of the Senate in connection with the first budget resolution, that we are cutting when all of the information is to the contrary. It does make my blood boil, and the Senator knows my blood boils easily.

Mr. BROOKE. I have been exposed to it before. I do know that. All I am saying is that when we talk about cutting back we are talking about cutting back from this year's funding level and the previous year's funding level. We are not talking about the budget resolution.

Mr. MUSKIE. We are not cutting according to the projections in the Congressional Budget Office. If the Senator wants to challenge those projections, that is his prerogative, but I have found CBO to be a very useful and reliable guide on these numbers. By their numbers we are not cutting back, and even with inflation raising the cost of housing units we are raising the dollars. So we raise the dollars to maintain the same numbers of units. These are CBO's numbers as of today. If we are going to use a variety of authorities for these numbers we are not ever going to agree on a budget.

Mr. BROOKE. The Senator is increasing the dollar amounts but the units cost more, as my distinguished colleague well knows.

Mr. MUSKIE. I have just said that the dollars we provided are more than last year in order to sustain the same number of units.

Mr. BROOKE. But there are fewer units that can be provided with that dollar figure. That is the point I am making.

Mr. MUSKIE. But CBO is saying the units are the same. If the Senate chooses to accept the Senator's 360,000 units instead of CBO's 375,000 units, that is fine. But I am simply telling the Senate that CBO's numbers are 375,000 and that is the same level as before. Where the Senator gets his 360,000 units I do not know, but I get my numbers from CBO and I am charged to get my numbers from CBO. We check with CBO constantly. I never come to the floor without checking with CBO on my numbers because I know they are subject to challenge if I do not. So those are the numbers. The Senator can reject them if he wishes.

Mr. BROOKE. It is not a matter of rejection. As I understand the numbers from HUD, in fiscal 1978 we will have 380,000 units; in fiscal 1977 there were 388,000 units, and under this amendment we would have 360,000 units. So that is 20,000 units less than 1978 and 28,000 units less than fiscal 1977. That is the record and that is correct.

Mr. MUSKIE. All I can say to the Senator is that from our experience in the past, CBO's numbers have been more accurate than HUD's. That was true under the previous administration as well as this one. CBO has developed an excellent capability for numbers so I rely on them. They are my right hand.

Mr. CHILES. I yield 2 minutes to Senator Proxmire.

Mr. PROXMIRE. I would like to reinforce what the distinguished Senator from Maine has said. Listening to the Senator from Massachusetts one gets the idea that we are so hard-hearted that we are cutting the program ruthlessly. We are accepting HUD's recommendation. This is what Secretary Harris is asking for and what President Carter is asking for. He has been criticized for having too big a budget. Everybody I have heard has said that $500 billion is too much. We are coming in at his level and, of course, at the level of the congressional resolution, which, the distinguished Senator from Maine pointed out properly, we adopted in May without any dissent.

Let me take a minute to point out the fact that we did adopt my amendment as our housing goal in 1968, 6 million housing starts over the decade. We never achieved that at all. We averaged less than 300,000 during the past 10-year period. So to argue that by coming in below 600,000 we are being cruel and unrealistic, and betraying what we have done in the past, simply is not the fact. The fact is that the administration's proposal is above what we have provided, on the average, during the last 10 years.

We also have to recognize, as Senator CHILES properly pointed out, that we are in a very inflationary period. We are in a period when housing starts have been well above the average. We are in a period when we must recognize that an increase could represent an inflationary element in our economy.

There are few events that are more inflationary than a sudden increase in housing. What the Senator from Florida is trying to do in his amendment is simply to maintain a steady, consistent pattern of assistance to housing rather than have the program go up and, as the Senator from Maine and the Senator from Florida have pointed out so well, to discredit the program in the long run.

Mr. CHILES. The Senator is absolutely correct, and he makes his point so well. The people who really suffer the most when we get into this kind of inflationary spiral that we are in right now are the very people we are talking about trying to assist. We know we cannot assist them all today or tomorrow or next year. There is no way of trying to do that so let us try to do something so that what we say we can do we can accomplish and we will not add the stop-start program again. Further, that we are going to do it in a consistent way that the housing industry will know and be able to gear up, that all the suppliers will be able to know. It will not be inflationary because we are doing it on that basis, and we are not going to be adding more money to that deficit, which is $50 billion.

We have a deficit when we have a recession, we have a deficit when inflation starts, and we have a deficit when recovery starts. People say, "You told us we had to have a deficit because we had a recession and we had to stimulate spending." We did stimulate spending. On the Budget Committee we tried to accommodate that. Now as we try to build something to get out of that recession we are going to add more to that deficit. The very people who get hurt the most are the ones we come in here and talk about trying to protect with this kind of an arrangement.

Mr. BROOKE. Will the Senator yield?

Mr. CHILES. I yield.

Mr. BROOKE. I do not think anybody here criticizes the Budget Committee's responsibilities. Everybody knows what the Budget Committee is trying to do. We are trying to live within congressional budget limitations and congressional ceilings. I think that is good; I think that is sound. But there is a question of priorities and where do we place them.

The chairman said this is a consistent level. How can one say it is a consistent level when we are 20,000 units below the reservations of 1978 and 28,000 below 1977? Where is the consistency? I do not know where the Senator is getting his figures. He keeps saying CBO, CBO, CBO. Does CBO not have to get their information and data from HUD?

Mr. MUSKIE. CBO undertakes in every way possible to get independent figures. Of course it takes HUD data. It does not ignore the executive branch. But it has developed a capacity not only in this field but in the field of agriculture, education programs, in health, to estimate costs because that is a specific charge the Congressional Budget Act imposed upon them. They have developed an excellent capability. That has been my experience with them. I am not just picking their number for this particular program as evidence of their reliability. Their reliability has been consistent. We have checked with their numbers on the eve

of the debate on the floor so that we are not relying on numbers that might have changed on the basis of more recent experience or unforeseen circumstances. We stay right on top, as close as we can, so that we have the numbers. I want that thoroughly understood.

Mr. CHILES. My friend from Massachusetts has pointed out that the question is one of priorities. I certainly concur in that.

(Mr. GRAVEL assumed the chair.)

Mr. CHILES. What the distinguished chairman of the Budget Committee has been saying, I think, is that the question of priorities should have been argued in April at the time we had the budget resolution on the floor, at the time that we were saying how much we would put in housing and how much we would put in roads and how much we would spend for education. That is when we come in with a figure of how much we think there is going to be in revenue and how big the deficit is going to be—a $50 billion deficit. At that time is when Senators can offer amendments to say, "We think the priorities should be changed; we think there should be more money put in housing."

That was done the year before in the Budget Committee. The Budget Committee lost on an amendment that was put on to change the priorities on housing. I resisted that; I think the Budget Committee did. But we lost on that amendment because we were debating it then on the priorities.

Now, after we have established the priorities, to come in and say, "We are going to add to the budget authority," then I think it is the duty of the Budget Committee to say, "We need to resist that because it is going to break all of our targets." And how are we going to say to the next person or the next group that comes in and says "Our needs are not being met"—certainly, we are not meeting the needs of many areas.

That is why we have a Budget Committee, because we finally decided that if we were meeting the needs or trying to meet the needs of everybody, we would have a deficit every year. Because the way we spent money was, we put out an appropriation, no one added it up. At the end of the year, we sort of added up and saw how much we had appropriated, how much we were over the budget and that was the deficit. Then we started floating bonds.

Finally, we said we are going to try to do it a little better way, try to estimate, before we spend it, how much we would need to spend, what our priorities are for spending that, and so on. That is how the budget is supposed to work.

If we are going to go through that and it does not mean anything and we can come in and change that, then we might as well not have a Budget Committee or a budget process.

Mr. BROOKE. If the Senator will yield, this Senator respects the budget process. I think all Senators respect the budget process. I do not think the Senator is trying to say that we are bound in every instance by what the Budget Committee has done.

I do not know whether there was any action taken on the floor. Senator HEINZ did introduce an amendment in committee at the time this budget resolution was being considered, as I understand it.

Before the Senator responds. I just want to clarify one point, and I hope the record will show this fact. It can be corrected if we find out from the CBO that this is incorrect. HUD did not use a 6-percent inflation rate. It used an inflation rate of zero. That is how I understand that the estimate was reduced to 375,000 units. Then there was a change in housing assistance plans by localities toward more expensive new units. That reduced the figure down to 360,000 units. I hope the distinguished chairman of the Budget Committee will have that verified, because I do not want him to think that I have given him any data which is not based on fact. That is the fact as we have it. That is why I used the 360,000 unit figure rather than the 375,000 unit one.

Mr. MUSKIE. First, may I make the point that what we are talking about is not something the Budget Committee did; we are talking about a resolution the Congress of the United States adopted.

Mr. BROOKE. Yes.

Mr. MUSKIE. Second, the factors the Senator refers to as having produced the figure of 360,000 are exactly the factors used in CBO's analysis. In fact, an analysis even more comprehensive than that is done by CBO.

They are not children at this estimating business. They understand that, although the overall inflation rate was 6.5 percent, it varies and they apply this variation, giving it as much precision as possible, in calculating costs.

Finally, I say to the Senator that since he prefers HUD's position on the number of units, it is HUD that supports the numbers in the Chiles amendment. It is Secretary Harris who says this will enable them to continue their programs.

I shall read what she says in a letter dated today:

> I believe that the budget requests submitted on behalf of this Department are sound and fully justified, in light of the balance which must be struck between competing national priorities and the Nation's housing needs. I have frequently stated that I shall oppose with equal vigor and efforts to disrupt that balance, either by adding to or reducing the level of funding we have requested. That continues to be my position.

Mr. BROOKE. Does the Senator know that the Secretary of HUD, Mrs. Harris, asked OMB for 600,000 units, which is the housing goal we have discussed earlier?

Mr. MUSKIE. I would expect that. The first year that the Budget Committee was in existence, Senate committees asked us for $50 billion more than we were able to provide. Of course, they make their best estimate of the needs that they think ought to be served. Then we have to strike a balance.

I am not suggesting that we are the last word as to what might be justified in any particular program; the committees are. But we have the responsibility of bringing them all together in some kind of balance. Then the conference approves or disapproves, or modifies our recommendations. We all understand that process.

Now we have come to the point where we have to discipline ourselves to meet those numbers. This is the first challenge of the year to the resolution that we adopted on May 15, just 2 months ago. We are going to have to prepare a second resolution that will have to be completed by September 15. The same constraints are going to exist, but working with a $50 billion deficit. Nobody likes it, including, I am sure, the Senator from Massachusetts. Nobody likes those numbers. So we are trying to maintain discipline. And we have to make the case.

If the Senate decides that we did not provide enough in the budget resolution, and it does not meet their purpose, then, in the Senate prerogative, it ought to change those totals. But I hope we would do so without any misapprehension as to what the resolution provides.

It was our understanding at the time that the first resolution provided full funding for continued housing programs. And may I remind the Senator that, continuing the level of funding that is in the first budget resolution, the percentage of the total Federal budget that will be devoted to assisted housing will increase by 50 percent in the next 5 years. That means it will grow faster, given the first budget resolution, than almost any other function in the budget.

Those are important numbers, because when you add 375,000 or 360,000 additional families a year, whatever that number is, you add it on top of last year's layer of additional families, and each of those layers establishes obligations for 15 to 40 years, depending upon the program.

Our projections show that in 20 to 30 years, annual outlays for housing will run $30 to $40 billion.

I do not know how much good it does to try to evision those numbers, because a lot of things are going to happen—inflation and all the rest of it. Nevertheless, it gives a picture of the trend that is being established in the first budget resolution. As long as that is understood, if the Senate wants to accelerate that trend or make the curve steeper, that is the Senate's prerogative. But I want the Senate to understand where we are. That is my only responsibility.

Mr. BROOKE. I thank the Senator.

Mr. President, how much time is remaining on this amendment?

The PRESIDING OFFICER. Sixteen minutes remain to the proponents and 17 minutes to the opponents.

Mr. BROOKE. Sixteen and seventeen?

The PRESIDING OFFICER. The Senator is correct.

Mr. BROOKE. I yield 5 minutes to the distinguished Senator from New York.

Mr. JAVITS. Mr. President, I rise to oppose the amendment. I have had no particular design to participate actively in this part of the debate, having other matters relating to the housing bill which I wish to attend to. I was really brought to my feet by two points.

By the way, we are not dealing with people who have any mean feelings about the poor or aged or do not want them

housed properly. I think Senator MUSKIE made that very clear on both sides. We are dealing as intelligently as we can with people who have comparable motivations.

The difficulty, as I see it, is twofold. One, the point was made that we are really serving these people the best if we abate inflation, and that would do them more good than more housing.

That I cannot agree with.

Second, is the question of competing national priorities, which I shall discuss more fully later.

Well, as is popularly said, Mr. President, that is why we made erasers on pencils. If we do not do the right thing and subsequent events indicate we have not done the right thing, then our authority is to do it right.

I was one of the founders of the budget business. I was a member of that organizing group. I could not stay with it because of our rules about the number of committees one would have. I sat, however, in the original organizing meetings in which we acquired our staff, set up a budget office, and so forth.

One thing was made very clear, Mr. President, and that is that while the budget would be a discipline, it would not be a straitjacket. The Senate ultimately could work its will, depending on the equity.

That, as I see it, is the plea which Senator BROOKE is making, and Senator KENNEDY and others, that the Senate work its will depending on the equities, but bearing in mind the disciplines of the budget resolution.

I deeply believe the amendment challenging the issue is perfectly proper, but I believe it should be defeated for the reasons which I will state.

In the first place, housing is one of the key benefits, one of the key goods, that we give our elderly people and our lower income people. It is the one thing which the Government has a participation in supplying which has a direct and immediate effect upon the tranquility of their lives and their opportunity to enjoy decent and orderly lives. Therefore, our bias should be to supply it when it is needed.

There is no arguement whatever with Senator BROOKE's thesis that it is needed and that to reduce it now because of the effects of inflation and of our monetary situation represents a retrogression from the degree of our progress in the past. We should not saddle it upon this particular group, unless we did it during some dire national emergency situation.

I do not see, Mr. President, when we are debating agricultural subsidies, and subsidies for ships and planes and roads and the military budget, that any of these considerations suddenly intrude. On the contrary, we argue about the merits of whether we should or should not undertake a given program. But we certainly should not argue about the fact that we are doing too much for a people who need it very urgently or too much for a situation in which we deeply believe.

Secondly, Mr. President, on the issue of inflation, I submit to my colleagues that housing is not inflationary. That is something we have been fighting around here for a long time. We have been fighting this because the bookkeeping of the United States in this regard happens to be cockeyed—and it is—unlike the bookkeeping of any business concern.

This bookkeeping says that it does not matter what your assets are. People go around tearing their hair about the national debt without ever comparing it to its proportion of the gross national product. That has been going down and down and down rather than up and up and up.

It is the same with this housing situation. We are adding to the basic and fundamental resources of a country when we build and preserve housing. Therefore, we may be spending more, but we have more.

Finally, the idea that construction is straining at the labor market or the material supply market contradicts the findings of every economist who is studying the situation, including all the banking economists.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. JAVITS. One additional minute.

Mr. BROOKE. Yes.

Mr. JAVITS All agree, and we know in New York we have 20 percent unemployment in the building trades, and in most other parts of the country it is double the normal unemployment. There is no dearth whatever of raw materials in respect of housing.

For all those reasons, Mr. President, because it is desirable social policy, because it adds to the real wealth of the country, including the tranquility of its people, and because it serves an urgently necessary human need, I urge rejection of the amendment.

Mr. BROOKE. I thank my distinguished colleague.

I just want to point out to him, this whole question of cost effectiveness which we are talking about I raised before the distinguished Senator from New York came into the Chamber, that we have in public housing alone a $20 billion investment.

Mr. JAVITS. Exactly.

Mr. BROOKE. Which we have to protect. In the area of HUD-assisted housing, HUD has been selling some of those projects they acquired at 3 cents on a dollar. Three cents on a dollar. So we are losing money.

I just cannot understand why we cannot get that point across, that building housing will help this economy. It will give us additional revenues for the economy and we are protecting our substantial dual investment.

So it is not a matter of wasted money or money going into a vacuum at all. Yet time after time we have to fight for housing. I think it is the most important investment we can make.

Mr. JAVITS. Housing, health, and education are all keys to the future of this country.

Mr. BROOKE. If we have good health, people will be productive. If they are educated, they will be productive. If they have housing to live in, they will be productive, and that will return revenues.

Mr. President, are there any more speakers on this amendment?

Mr. CHILES. I am ready to yield back the remainder of my time.

Mr. BROOKE. Again, I forgot the Senator from Florida has the time on this. If the Senator from Florida is ready to yield back his time, I am ready to yield back our time. I know of no one who wants to speak so I yield back the remainder of my time.

Mr. MORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

UP AMENDMENT NO. 1437

(Purpose: To reduce certain authorizations)

Mr. MORGAN. Mr. President, I send to the desk an amendment in the second degree.

The PRESIDING OFFICER. The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 1437.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 2 in lieu of the figure "$1,334,950,000" insert "$1,366,000,000".

Strike out the figure "$729,000,000" and insert "$760,000,000".

Strike out the remaining amendments, and insert in lieu thereof the following:

On page 3, lines 18 and 19, strike out "$370,000,000" each place it appears, and insert in lieu thereof "307,500,000".

On page 11, line 2, strike out "$45,000,000" and insert in lieu thereof "19,500,000".

On page 30, line 14, strike out "$75,000,000" and insert in lieu thereof "$30,000,000".

Mr. MORGAN. Mr. President, I have mixed feelings on the Chiles-Muskie amendment. I feel very strongly about the budget process. I have tried as consistently as I could through the last 2 or 3 years to support the chairman of the Budget Committee in trying to keep within the budget resolution.

The chairman, Senator MUSKIE, told me earlier that my consistency on budget issues is high. I feel very strongly about the budget process now. But I also understand the arguments of the distinguished Senator from Massachusetts (Mr. BROOKE), because I have sat on the Housing Committee for nearly 4 years. While these programs are complex, and I do not purport to know exactly how many units have been constructed and how many there will be under this amendment, I am impressed very much with the importance of all these programs.

So, in my own way, working with some of the staff, we have come up with a substitute which I hope will do not what both sides want but a substitute that I hope both sides could live with.

The Chiles-Muskie amendment, as I understand it, would delete from the budget outlay $486 million. My substitute would delete exactly the same amount of money. While, of course, it is impossible for me to state on the floor exactly the

difference in budget authorizations, it is our estimate that it would be about the same.

This is what I propose, and I hope the Senate will accept it as a substitute for the Chiles amendment. In doing so, we will accommodate those who believe very strongly, as does the Senator from Massachusetts, and I hope that at the same time the Budget Committee would feel comfortable with what we would do in this amendment.

I propose in section 8 housing to make the following cuts:

The committee recommended $1.675 billion. The Chiles amendment would cut that to $1.334 billion. I propose to delete part of that cut and to put it back to $1.366 billion, which would make a total cut there of $309 million.

With respect to public housing subsidies, the committee proposed $800 million. The Chiles amendment would cut that to $729 million. I would increase this level to $760 million, somewhat of a split between the two levels.

In section 312, the rehabilitation program, the committee authorized $370 million. The Chiles amendment does not affect this program. My substitute would reduce this level to $307 million, a reduction of about $63 million.

With respect to urban homesteading, the committee authorized $43 million. The Chiles amendment does not affect this program. I would reduce urban homesteading to $19.5 million, a reduction of about $26 million.

As to the low-income rent supplement which the Chiles amendment would delete completely, the $75 million level of the committee, I would delete $49 million and leave $26 million, which I think would leave a viable program for the first year. Then, of course, Congress could, next year, discontinue or delete this program.

So what I have offered is a compromise amendment which would delete the same amount of money in authorization as the Chiles amendment, and I believe it would not do undue damage to the programs that Senator BROOKE is concerned with and on which he has spent many hours in the Banking Committee during the last 4 years.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. PROXMIRE. Mr. President, I think the Senator from North Carolina has exactly the right objective, and ordinarily I would be happy to accept it. But I have trouble with two phases of this.

One is that the first part of it, the section 8 part, in which the Senator says he would provide, as I understand it, $1.366 million, compared to the Chiles $1.334 million——

Mr. MORGAN. That is right.

Mr. PROXMIRE. The difficulty is that the administration level is $1.195 billion. So the difference between the Morgan proposal and the admnistration proposal would be about $3 billion with the runout, because this is run out over a period ranging from 10 to 40 years. It seems to me that that would be a very considerable burden that the Budget Committee and the administration really did not contemplate.

Mr. CHILES. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. CHILES. Mr. President, I ask unanimous consent to modify my amendment in line 2, to change the $1,334,950,000 to $1,195,043,000. Those are the proper figures that the administration has given us. We did not pick up their carryover, and they have given me that corrected figure. I ask unanimous consent to change that.

Mr. BROOKE. Does that cut it back further?

Mr. CHILES. No. It really carries out the intent of what we said we were doing, because of the carryover they had.

Mr. BROOKE. Mr. President, reserving the right to object, I understand that this modification would further cut funds for low-income housing.

Mr. PROXMIRE. It would put it at the same level as the administration.

Mr. BROOKE. That is not the Chiles amendment which we have been discussing for 2 hours. Now the Senator wants to submit another amendment reducing the level of funding to the administration level.

Mr. CHILES. All the figures we have talked about, units and everything else, are based on this number. That is why I am seeking the right to modify it.

Mr. BROOKE. I would hate to object to anything that the Senator from Florida would ask for, but I hope he will not press that, because this represents a further cut.

Mr. PROXMIRE. It simply would go to the bill on page 8, line 25, where the figure is $1.195 billion. That is what Senator CHILES initially expected to do; that is what he wanted. It was simply a technical mistake that he made in providing the $1.334 billion figure; $1.195 billion is in the bill, and he wants to go to that figure.

Mr. BROOKE. Is the Senator from Florida saying that it was a technical mistake of $139 million?

Mr. CHILES. Yes.

Mr. BROOKE. That is a pretty big technical mistake.

Mr. CHILES. If the Senator objects——

Mr. BROOKE. No. Was that the Senator's intent?

Mr. CHILES. That was my intent. Every figure we used was based on the fact that we would use that number.

Mr. BROOKE. If that was the Senator's intent, I will not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. I say this to the Senator from North Carolina: I think the Senator from North Carolina knows how strongly I feel about any cutback in these programs. However, I believe this amendment would distribute more equitably the burden of cuts among all the programs in the bill which are over the President's budget. Presumably, that is what the Senator from North Carolina is attempting to do by his amendment to the Chiles-Muskie amendment. Is that correct?

Mr. MORGAN. That is correct.

Mr. BROOKE. It would preserve, as I understand it, some additional section 8 and public housing units. Is that correct?

Mr. MORGAN. That is correct.

Mr. BROOKE. It seems to me that if the real basis of the Chiles-Muskie amendment is that this would be budget busting, this is an amendment that we should all accept, since it does not change the amount of the cut at all. Is that correct?

Mr. MORGAN. It does not.

Mr. BROOKE. It merely gives us a more equitable distribution.

Mr. PROXMIRE. I think that possibly we could do this, but it would mean that the Senator from North Carolina also would modify his amendment to make it $1.195 billion for the section 8 program, which is the administration's proposal.

Mr. BROOKE. I would agree with that, because if that was the spirit of the Chiles' amendment—and that is what the Senator from Florida has said, and I did not object on that basis—I think it would be only fair for the Senator from North Carolina to cut back the total figure, so that it would be the same figure but with a more equitable distribution.

Mr. MORGAN. I agree with that, and I ask unanimous consent that the amendment be so modified.

Mr. BROOKE. Then, I ask that we accept that modification. Is that agreeable?

Mr. CHILES. I have no objection to modifying his amendment.

Mr. PROXMIRE. It requires unanimous consent, because of the time limitation.

Mr. MORGAN. I ask unanimous consent for modification of the amendment as stated.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

The amendment of Mr. MORGAN, as modified, is as follows:

On page 1, line 2, in lieu of the figure "$1,195,043,000" insert "$1,366,000,000".

Strike out the figure "$729,000,000" and insert "$760,000,000".

Strike out the remaining amendments, and insert in lieu thereof the following:

On page 3, lines 18 and 19, strike out "$370,000,000" each place it appears, and insert in lieu thereof "$307,500,000".

On page 11, line 2, strike out "$45,000,000" and insert in lieu thereof "$19,500,000".

On page 30, line 14, strike out "$75,000,000" and insert in lieu thereof "$30,000,000".

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be counted and that the quorum call be for not more than 5 minutes so that I may get the amendment technically correct.

The PRESIDING OFFICER. Is there objection?

Mr. MUSKIE. Mr. President, reserving the right to object, and I shall not object, I ask the Senator is this section 8 housing and he wants to adjust his number to accommodate the number of the Chiles amendment? Will he still add $32 million to the new Chiles number? Is that his proposal?

The PRESIDING OFFICER. Is there

objection to the request of the Senator from North Carolina?

Mr. CHILES. Mr. President, reserving the right to object, I am trying to understand now what the modification is.

The PRESIDING OFFICER. The Senate will be in order so we can hear what is going on. I think this matter will be more efficiently resolved if we are in order.

The Senators will withhold.

The Senator may proceed.

Mr. MORGAN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be counted and that the quorum call last for a period not to exceed 5 minutes. We have a technical flaw in our amendment which we need to correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. MORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection; it is so ordered.

Mr. MORGAN. Mr. President, first I ask unanimous consent that my amendment may be modified with regard to the first section by striking out $1,366,000,000, and inserting in lieu thereof $1,227,000,000.

The PRESIDING OFFICER. The Senator has the right to modify his amendment.

Mr. PROXMIRE. That would be above the administration level, right?

Mr. MORGAN. That would be above the administration level by $30 million.

Mr. PROXMIRE. You see the difficulty is that there is a runout, so you have to multiply by about 20 to get the full budget impact over the years.

Mr. MORGAN. That, of course, would be a debatable subject as to whether or not we would want to cut it out next year. The Congress would have the right to eliminate this program next year.

Mr. PROXMIRE. What is the Senator talking about? Is he talking about section 8?

Mr. MORGAN. Section 8 housing.

Mr. PROXMIRE. It involves a legal contract. We had a big debate in the Senate on this last year. The difficulty with this is you cannot cut off the contract. It is a commitment for as long as the program lasts. The contract has to be honored; is that not correct, Senator MUSKIE? It is my understanding that that is why we had great difficulty last year, and the Senate resolved it, in my view unfortunately, as counting this long-term runout money.

Mr. MORGAN. Suppose I get the amendment in order and then we will try to go from there.

So I ask that the amendment be modified, as I indicated.

The amendment, as further modified, is as follows:

On page 1, line 2 in lieu of the figure "$1,195,043,000" insert "$1,227,000,000."

Strike out the figure "$729,000,000" and insert "$760,000,000".

Strike out the remaining amendments, and insert in lieu thereof the following:

On page 3, lines 18 and 19, strike out "$370,000,000" each place it appears, and insert in lieu thereof "$307,500,000".

On page 11, line 2, strike out "$45,000,000" and insert in lieu thereof "$19,500,000".

On page 30, line 14, strike out "$75,000,000" and insert in lieu thereof "$30,000,000".

Mr. MORGAN. Mr. President, I ask unanimous consent that my amendment, as modified, be in order, and that it also be in order that the Senator from Florida be able to offer an amendment deleting that portion with regard to low-income rent supplements.

The PRESIDING OFFICER (Mr. MATSUNAGA). Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, if the Senator will yield, I still have a problem now with how you want your amendment to read. It is my understanding, that the runout on this would be $2 billion or more over the administration's request over the life of the contract, and there is no way it can be reached in the future, because the U.S. Government made a contract with a landlord and that contract, of course, has to be honored.

Mr. MORGAN. The life of the contract is over a period of some 10 or 12 years.

Mr. PROXMIRE. It could be up to 40 years, 40 years for maximum, but it could be 20, 30 or 40 years.

Mr. MORGAN. I am still of the opinion that the next Congress or a future Congress can reduce that level as leases terminate in order to bring the level in line.

Mr. PROXMIRE. Well, the staff disagrees with that. They say there could be some slight adjustment, but it has always been regarded as entitlement money unless, of course, we want to breach our word and say we will not keep it.

Mr. MORGAN. Let us put it this way: If the program is worthwhile, and I think it is, and I feel very strongly about it, as has been supported during the committee hearings, if the program is worth $1,195,000,000 as the President has recommended and as the whole committee recommended, $1,675,000,000, we are cutting about $400 million from what the committee did, so even if we had its effect down the road, it would be minimal in terms of what the full committee did. The budget outlay would still be within this budget resolution.

Mr. PROXMIRE. The Senator is correct. There is no question, but what it is an improvement over what the committee did, and a very marked improvement, but still substantially over the budget over the full 40-year span.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MORGAN. I do yield.

Mr. BROOKE. I would like to ask the chairman if he would respond to my question as to how he arrived at the $2 billion figure. At maximum, it would be $32 million multipled by 40 years, and even if you ran it out to 40 years it would only amount to $1.2 billion. In addition, there is no assurance that it would run out 40 years. I do not understand how the Senator arrived at $2 billion.

Mr. PROXMIRE. As is true so often the Senator is correct. This would be $600 million, 20 times $32 million. It is still $640 million higher than the administration is requesting. I was wrong when I said $2 billion. It was a rapid calculation which was in error. I think the Senator is correct.

Mr. CHILES. I think the difference is the $2 billion figure which would be taking the maximum. I think CBO is taking the normal spendout of what they would spend. It would be around $650 million, so I think the Senator was right when he gave the outside figure and said it would be $2 billion.

Mr. BROOKE. It could not be $2 billion under any circumstances.

Mr. CHILES. If we went out to the maximum I think it could.

Mr. BROOKE. It would be $1.2 billion if you ran it out to the maximum of 40 years, but you do not compute all units at the maximum cost. That is the point I was making, and I think the Senator is conceding that point.

Mr. MORGAN. Let me say one final word, if I may, before we vote.

With regard to section 8 housing the amount of money contained in my substitute amendment is about $450 million less than what the Housing Committee said after listening to testimony many months.

On the public housing subsidies we are $140 million less than what the Housing Committee determined.

On rehabilitation we are $63 million less than what the Housing Committee determined.

On urban homesteading we are about $25 million or $26 million less.

On low-income rent supplement we are $49 million less.

So, in essence, we are now taking as much budget authority out of the housing bill as the Chiles amendment did, and we would be within the budget resolution and, at the same time, we would be funding some very badly needed programs.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. I wish to speak against the substitute. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. CHILES. I think the substitute is a change from what we find in the committee bill. The numbers are reduced, but I would point out to the membership it is still above the budget figure. It goes over function 600 in the budget. It goes over by some $600 million, so it reaches beyond the budget figure.

In addition to that, it still creates an entirely new program for low-income assistance in FHA housing. Now, to me, we do not know what it is going to cost. We do not know how many potential recipients there can be of this program, but we can tell it creates low-income assistance for FHA housing.

What about somebody who lives in low-income veterans housing? What about somebody who has a conventional loan in low-income housing? You are not going to do anything for that person, so you are going to discriminate really between low-income people and as to who

can get assistance and who cannot, and you are starting off an entirely new program.

No one knows what the potential cost of this new program can be. No one has given any figures as to how many people who are now in FHA housing would qualify for this assistance, up to 25 percent of need. We do not have any way of knowing that. So we are starting, with this authorization in this substitute, with an entirely new program that could break the bank. That is exactly what it could do. And once you start that program, and start funding it, you are going to say, "Wait a minute, we gave some of these funds; what is the need?"

We have talked about what the need is in housing. We have started in housing until we have a need, and now we are castigated because we are only funding 375,000 units a year. We are castigated on that.

What is the need going to be in FHA assistance, for those people who cannot pay? And if you start FHA assistance, are you going to be able to assist VA, or any other conventional loan?

Why should we start a program which we really have not looked at, when we do not have any idea of the potential need? That, to me, is the great danger of this substitute, but that is the path we would be treading.

You may say, "There is only $25 million in here; it does not cost anything." The whole thing we are trying to do in a budget process is discipline ourselves. What are the 5-year costs? What are the 10-year costs of what we are potentially starting?

Every program we now have, running into these tremendous figures, started at a few million dollars. That is all this will cost now, a few million dollars. But if you look down the line, to get enough to provide assistance to every needy person in FHA housing—every low income person, that is all it says—up to 25 percent of their needs, you break the bank.

That is what this would do, and I think we should defeat the substitute.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. CHILES. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. BROOKE. Mr. President, when the Senator from Florida and the Senator from Maine first introduced their amendment, it was my belief, and I think the Senate's belief, that they were primarily if not solely concerned with staying within the budget resolution. We argued that for about 2 hours. Now it appears to me that the Senator from Florida, at least, has changed his position now that the Senator from North Carolina has come in with a compromise amendment. The compromise amendment does not add anything to the budget at all, but merely more equitably distributes the money among the housing programs that are contained in this bill.

What the Senator from Florida now wants to do is to change the program that we spent the hours and days of hearings in the Housing Committee to develop. So he is going far beyond his original intent, which was to keep us within the budget.

The Senator from North Carolina has proposed a compromise which keeps us within the budget. I happen to disagree with what the Senator from North Carolina would do, because I think we need more for housing in this country today. But at least I believe that the Senator from North Carolina, in his amendment, makes a more equitable distribution of those housing funds and at the same time stays within the budget resolution.

The program that the Senator from Florida does not like is just a 1-year program. It does not carry it any further. The cost of the 1-year program is $25 million. And if the Senator from Florida does not like it he can come back and change it next year.

But what the Senator from Florida is now doing is not arguing about the budget resolution, because, under the Morgan amendment we are not budget busters. We are staying within the budget and are merely distributing the funds in a more equitable manner.

I think that is much more sound than the original Chiles amendment. Therefore, although I would not like to see us restricted to the amount of money that would be contained in the Morgan amendment, I would support the Morgan amendment as the lesser of two evils. At least it does not bust the budget, and we are all budget conscious today. Even I am budget conscious; I want the Senator from Florida to understand that.

Much as we want to do something here, we are penalizing the senior citizens and low-income people in this country, and I hope we will not do that by at least adopting the Morgan amendment, which does give them a better break insofar as the distribution of these funds is concerned, and yet stays within the budget resolution.

Mr. MUSKIE. Mr. President, we began the floor discussion——

The PRESIDING OFFICER. Who yields time to the Senator from Maine?

Mr. CHILES. I yield to the Senator from Maine.

Mr. MUSKIE. Mr. President, we began the floor discussion with the assumption that, with respect to section 8 housing, the Morgan amendment would be modified to coincide with the Chiles number.

That is not the case, and because it is not the case, the Morgan amendment adds $32 million in contract authority, which translates into annual contracts of $650 million in function 600 above the budget resolution.

In addition, on operating subsidies, further analysis of the Morgan substitute indicates that it adds $30 million in operating subsidies above the budget resolution; and for the rent supplement program, it adds $26 million above the budget resolution in that aspect.

Now, in function 450, the Morgan substitute does reduce by $8 million the section 312 rehabilitation program, and by $25 million the urban homesteading program. So those cuts bring the net budget impact to $673 million above the budget resolution.

The PRESIDING OFFICER. The time of the Senator has expired. Does the Senator from Massachusetts yield to the Senator from Maine?

Mr. MUSKIE. May I ask the Senator from Florida for a few more minutes?

Mr. CHILES. I yield such time as the Senator needs.

The PRESIDING OFFICER. It is the Senator from Massachusetts who needs to yield. All time of the Senator from Florida has expired.

Mr. PROXMIRE. Mr. President, I yield the Senator 2 minutes on the bill.

The PRESIDING OFFICER. Does the Senator yield 5 minutes on the bill?

Mr. PROXMIRE. Two minutes.

Mr. MUSKIE. Two minutes will be enough.

So there is still a budget impact, although it is substantially reduced, of course, from the committee bill. But the real hole in it is the one the Senator from Florida identified, the addition of rent supplements under the FHA program. There is absolutely no information upon which to base or project any intelligent estimate of the cost. We are opening a big door to future commitments; and to resist those pressures in the future is a monumental challenge to the Senate or to Congress. No one knows what that cost eventually will be.

These costs in the housing field are cumulative. Earlier I told the Senate that what is in the budget resolution, without these additions we are talking about, will mean, 20 or 25 years down the road, annual budget outlays for assisted housing of $30 billion to $40 billion. That is without adding these new programs.

Unfortunately, we are trying to analyze this new program in a very few minutes at the end of a long day, and I am afraid we are not going to really focus on the implications. But I make that statement in the brief 2 minutes that have been given to me, and I urge the Senate to consider it.

Mr. MORGAN. Mr. President, in just a few words, my amendment reduces the budget outlay by $595 million, and brings it within the budget resolution. Maybe not in the same categories, but that is the role of the Housing Committee. That is why we have debated this subject months and months for.

There is one program, the low-income rent supplement program, on which the Housing Committee authorized $75 billion. My amendment cuts that down to $26 million. It is a 1-year program, and can be terminated at the end of the year. And, as I say, this brings it within the budget resolution, and also gives due credit to the months and months of work of the Housing Committee.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. MORGAN. I yield.

Mr. BROOKE. I think the Senator from North Carolina is exactly correct We are all in favor of the Budget Committee. but we do not want the Budget Committee to come in and set the programs for the authorizing committees.

Every Senator can stand on this floor and put in an amendment to eliminate any program. We are not arguing that

at all. What the Senator from North Carolina has done is that he has stayed within the budget resolution and reallocated the funds more equitably. That is the whole difference between what he has tried to do and what the Chiles-Muskie amendment would do.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. BROOKE. I ask for one additional minute on the bill.

The PRESIDING OFFICER. The Senator has control of the time. The Senator can yield time to himself.

Mr. BROOKE. I yield myself 1 minute.

All I am trying to say is that: Though I disagree again with what the Senator from North Carolina has done insofar as the actual money amounts are concerned, I do believe that he has performed the Senate a great service by seeing that there is an equitable distribution for low-income and elderly citizens in the allocation of housing funds, at the same time staying within the budget resolution. Therefore, reluctantly, I will have to support his amendment, and I hope that the Senate will support his amendment as well.

HOLDING THE LINE ON FEDERAL EXPENDITURES

● Mr. BIDEN. Mr. President, I rise to state my support for the Chiles-Muskie-Proxmire amendment cutting $8 billion in budget authority from the housing assistance program.

Mr. President, given today's current high rate of inflation, I believe that it is necessary for us to scrutinize every budget increase with a great deal of care. Continuing Federal expenditures will only serve to increase the Federal deficit. Frankly, I am concerned that our present level of Federal spending may be overstimulating the economy.

The result of this overstimulation is further inflation in both the housing market and other sectors of the economy. Inflation in the housing market will make it only more difficult for low-income people not in public housing to afford housing. I believe that the 375,000 units proposed by the administration is an adequate increase in the number of low-income units to be constructed for any 1 year. To authorize an additional 80,000 would create serious inflationary pressures in the economy.

I am also concerned with the impact of the present committee auhorization on the Senate budgetary process. The Senate Budget Committee voted twice to reject amendments which would increase the budget authorizations for housing assistance. Both the House and the Senate agreed to the first budget resolution which kept the budget authority for housing at the same level as the President's original request.

Now here we are attempting to increase the level of spending for the housing authorization by other means. If Congress is serious about the budget process then I think we have an obligation to keep spending within the limits that we have previously prescribed in the first budget resolution.

To do anything less I feel is irresponsible. We have been reading about the impact of Proposition 13 and what it means and what it does not mean. One lesson is clear, people are tired of watching Congress continually vote more money for pet projects—whether they be defense spending, housing, or social services—and worrying about the consequences later. When we set budget goals each year and then turn right around and exceed them, people have a right to be skeptical.

I believe that the Senate should be serious about making our budgetary process work and reject the committee recommendation before we exceed both the President's request and the first budget resolution for fiscal year 1979.●

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) would vote "yea."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Oregon (Mr. HATFIELD), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea".

The result was announced—yeas 42, nays 47, as follows:

[Rollcall Vote No. 226 Leg.]

YEAS—42

Abourezk	Hathaway	Nelson
Allen	Helms	Packwood
Bayh	Huddleston	Pell
Brooke	Humphrey	Randolph
Byrd, Robert C.	Inouye	Riegle
Case	Javits	Sarbanes
Chafee	Johnston	Schmitt
Clark	Kennedy	Schweiker
Cranston	Long	Sparkman
DeConcini	Matsunaga	Stevens
Dole	McGovern	Stevenson
Durkin	Metzenbaum	Talmadge
Glenn	Morgan	Weicker
Gravel	Moynihan	Williams

NAYS—47

Baker	Garn	Melcher
Bartlett	Goldwater	Muskie
Bellmon	Griffin	Nunn
Bentsen	Hansen	Pearson
Biden	Hart	Percy
Bumpers	Hatch	Proxmire
Burdick	Hayakawa	Roth
Byrd, Harry F., Jr.	Heinz	Sasser
Cannon	Hodges	Scott
Chiles	Jackson	Stafford
Church	Laxalt	Stennis
Danforth	Leahy	Stone
Domenici	Lugar	Thurmond
Eagleton	Magnuson	Tower
Ford	McClure	Wallop
	McIntyre	Zorinsky

NOT VOTING—11

Anderson	Hatfield, Mark O.	Mathias
Culver	Hatfield, Paul G.	Ribicoff
Curtis	Hollings	Young
Eastland		
Haskell		

So Mr. MORGAN's amendment was rejected.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CHILES. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida. The clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. Mr. President, on this vote I have a live pair with the distinguished Senator from South Dakota (Mr. MCGOVERN). If he were present and voting he would vote "nay." If I were permitted to vote, I would vote "aye." Therefore, I withhold my vote.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Iowa (Mr. CLARK), the Senator from Iowa (Mr. CULVER), the Senator from Mississippi (Mr. EASTLAND), the Senator from Colorado (Mr. HASKELL), the Senator from Montana (Mr. HATFIELD), the Senator from South Carolina (Mr. HOLLINGS), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Connecticut (Mr. RIBICOFF) are necessarily absent.

I further announce that, if present and voting, the Senator from Connecticut (Mr. RIBICOFF) and the Senator from Minnesota (Mr. ANDERSON) would each vote "nay."

Mr. STEVENS. I announce that the Senator from Nebraska (Mr. CURTIS), the Senator from Kansas (Mr. DOLE), the Senator from Oregon (Mr. HATFIELD), the Senator from Oregon (Mr. PACKWOOD), the Senator from Virginia (Mr. SCOTT), the Senator from Connecticut (Mr. WEICKER), and the Senator from North Dakota (Mr. YOUNG) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

On this vote, the Senator from Kansas (Mr. DOLE) is paired with the Senator from Oregon (Mr. HATFIELD). If present and voting, the Senator from Kansas would vote "yea" and the Senator from Oregon would vote "nay."

The result was announced—yeas 60, nays 21, as follows:

[Rollcall Vote No. 227 Leg.]

YEAS—60

Allen	Bentsen	Byrd, Harry F., Jr.
Baker	Biden	Cannon
Bartlett	Bumpers	Chafee
Bellmon	Burdick	

Chiles	Hodges	Percy
Church	Huddleston	Pro mire
Danforth	Inouye	Randolph
DeConcini	Jackson	Roth
Domenici	Johnston	Sasser
Eagleton	Laxalt	Schweiker
Ford	Leahy	Stafford
Garn	Long	Stennis
Glenn	Lugar	Stevens
Goldwater	Magnuson	Stone
Griffin	McClure	Talmadge
Hansen	McIntyre	Thurmond
Hart	Melcher	Tower
Hatch	Morgan	Wallop
Hathaway	Muskie	Zorinsky
Hayakawa	Nunn	
Helms	Pearson	

NAYS—21

Bayh	Humphrey	Pell
Brooke	Javits	Riegle
Case	Kennedy	Sarbanes
Cranston	Matsunaga	Schmitt
Durkin	Metzenbaum	Sparkman
Gravel	Moynihan	Stevenson
Heinz	Nelson	Williams

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Robert C. Byrd, for.

NOT VOTING—18

Abourezk	Haskell	McGovern
Anderson	Hatfield,	Packwood
Clark	Mark O.	Ribicoff
Culver	Hatfield,	Scott
Curtis	Paul G.	Weicker
Dole	Hollings	Young
Eastland	Mathias	

So Mr. CHILES' amendment was agreed to.

Mr. CHILES. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, with statements therein limited to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT OF THE ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION—MESSAGE FROM THE PRESIDENT—PM 200

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

I herewith transmit the Annual Report of the Saint Lawrence Seaway Development Corporation for 1977. This report has been prepared in accordance with Section 10 of the Saint Lawrence Seaway Act of May 13, 1954.

JIMMY CARTER.

THE WHITE HOUSE, *July 19, 1978.*

MESSAGES FROM THE HOUSE

At 1:29 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 6463. An act providing for reinstatement and validation of United States oil and gas leases numbered U–12871, U–12872, U–12874, U–12875, U–12876, U–12877, U–12878, U–12881, and U–13666;

H.R. 10581. An act to provide for the distribution of certain judgment funds awarded by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation;

H.R. 11891. An act to amend title 38, United States Code, to provide for a two-step aid and attendance compensation payment system for certain severely disabled veterans;

H.R. 12011. An act to amend section 601 of title 38 of the United States Code in order to provide for a continuation of the authority of the Administrator to furnish hospital care to certain veterans living in a State, territory, Commonwealth, or possession of the United States not contiguous to the forty-eight contiguous States, and for other purposes;

H.R. 12028. An act to amend title 38, United States Code, to improve the housing programs of the Veterans' Administration;

H.R. 12047. An act for the relief of H. F. Mulholland and the estate of John Oakason;

H.R. 12163. An act to authorize appropriations to the Department of Energy in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 660 of the Department of Energy Reorganization Act, for energy research and development, and for other purposes;

H.R. 12380. An act to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such Act; and

H.R. 12443. An act to amend section 201 (a), 202(c) and 203(a) of the Immigration and Nationality Act, as amended, and to establish a Select Commission on Immigration and Refugee Policy

ENROLLED BILL SIGNED

At 2:15 p.m., a message from the House of Representatives delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1291. An act to declare that certain lands of the United States situated in the State of Oklahoma are held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and to authorize the Secretary of the Interior to accept conveyance from the Cheyenne-Arapaho Tribes of Oklahoma of certain other lands in Oklahoma to be held in trust by the United States for such tribes.

The enrolled bill was subsequently signed by the President pro tempore (Mr. EASTLAND).

The message also announced that the House has passed the following bills in which it requests the concurrence of the Senate:

H.R. 12252. An act to amend title 38 of the United States Code in order to require the Administrator of Veterans' Affairs to pay a $150 allowance to any State or any agency or political subdivision of a State in reimbursement for expenses incurred in the burial of each veteran in any cemetery owned by such State or agency or political subdivision of a State, if the cemetery or section thereof is used solely for the interment of veterans;

H.R. 12508. An act to amend the Immigration and Nationality Act to facilitate the admission into the United States of more than two adopted children, and to provide for the expeditious naturalization of adopted children; and

H.R. 13235. An act for the relief of James Thomas Lantz, Junior, David D. Bulkley, and Arthur J. Abshire.

HOUSE BILLS REFERRED

The following bills were read twice by their titles and referred, as indicated:

H.R. 6463. An act providing for reinstatement and validation of United States oil and gas leases numbered U–12871, U–12872, U–12874, U–12875, U–12876, U–12877, U–12878, U–12881, and U–13666; to the Committee on Energy and Natural Resources.

H.R. 10581. An act to provide for the distribution of certain judgment funds awarded by the Indian Claims Commission to the Confederated Tribes and Bands of the Yakima Indian Nation; to the Select Committee on Indian Affairs.

H.R. 11891. An act to amend title 38, United States Code, to provide for a two-step aid and attendance compensation payment system for certain severely disabled veterans; to the Committee on Veterans' Affairs.

H.R. 12011. An act to amend section 601 of title 38 of the United States Code in order to provide for a continuation of the authority of the Administrator to furnish hospital care to certain veterans living in a State, territory, Commonwealth, or possession of the United States not contiguous to the forty-eight contiguous States, and for other purposes; to the Committee on Veterans' Affairs.

H.R. 12028. An act to amend title 38, United States Code, to improve the housing programs of the Veterans' Administration; to the Committee on Veterans' Affairs.

H.R. 12047. An act for the relief of H. F. Mulholland and the estate of John Oakason; to the Committee on Energy and Natural Resources.

H.R. 12252. An act to amend title 38 of the United States Code in order to require the Administrator of Veterans' Affairs to pay a $150 allowance to any State or any agency or political subdivision of a State in reimbursement for expenses incurred in the burial of each veteran in any cemetery owned by such State or agency or political subdivision of a State, if the cemetery or section thereof is used solely for the interment of veterans; to the Committee on Veterans' Affairs.

H.R. 12380. An act to amend the Federal-State Extended Unemployment Compensation Act of 1970 with respect to an individual's eligibility period for benefits under such Act; to the Committee on Finance.

H.R. 13235. An act for the relief of James Thomas Lantz, Junior, David D. Bulkley, and Arthur J. Abshire; to the Committee on Commerce, Science, and Transportation.

HOUSE BILL PLACED ON THE CALENDAR

The following bill was read twice by title and placed on the calendar:

H.R. 12163. An act to authorize appropriations to the Department of Energy in accordance with section 261 of the Atomic Energy Act of 1954, section 305 of the Energy Reorganization Act of 1974, section 16 of the Federal Nonnuclear Energy Research and Development Act of 1974, and section 660 of the Department of Energy Reorganization Act, for energy research and development, and for other purposes.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 19, 1978, he presented to the President of the United States the following enrolled bill:

S. 1291. An act to declare that certain lands of the United States situated in the State of Oklahoma are held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and to authorize the Secretary of the Interior to accept conveyance from the Cheyenne-Arapaho Tribes of Oklahoma of certain other lands in Oklahoma to be held in trust by the United States for such tribes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary, without amendment:

H.R. 1420. An Act for the relief of Umberto Ruffolo (Rept. No. 95–1017).

S. 1951. A bill for the relief of Jozef Swiderski (Rept. No. 95–1018).

By Mr. HUDDLESTON, from the Committe on Appropriations, with amendments:

H.R. 12927. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1979, and for other purposes (Rept. No. 95–1019).

By Mr. EAGLETON, from the Committee on Appropriations, with amendments:

S. 3085. A bill to extend and amend the special supplemental food program and the child care food program, and for other purposes (Rept. No. 95–1020).

By Mr. EAGLETON, from the Committee on Appropriations, without amendment:

H.J. Res. 1024. A joint resolution making urgent supplemental appropriations for the Department of Agriculture, Agricultural Stabilization and Conservation Service, and for other purposes (Rept. No. 95–1021).

By Mr ABOUREZK, from the Committee on the Judiciary, with amendments, an amendment to the title, a preamble, and amendments to the preamble:

S. Res. 502. A resolution to commend the Native Americans participating in the Longest Walk (Rept. No. 95–1022).

By Mr. WILLIAMS, from the Committee on Banking, Housing, and Urban Affairs, without amendment:

S. Res. 521. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2715. Referred to the Committee on the Budget.

By Mr. McGOVERN, from the Committee on Agriculture, Nutrition, and Forestry, without amendment:

S. Res. 522. An original resolution waiving section 303(a)(4) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3085, a bill to extend and amend the special supplemental food program and the child care food program, and for other purposes. Referred to the Committee on the Budget.

By Mr. SASSER, from the Committee on Appropriations, with amendments:

H.R. 12935. An act making appropriations for the Legislative Branch for the fiscal year ending September 30, 1979, and for other purposes (Rept. No. 95–1024).

By Mr. WILLIAMS, from the Committee on Human Resources:

Report pursuant to Section 302(b) of the Congressional Budget Act of 1974 (Rept. No. 95–1023).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following executive reports of committees were submitted:

By Mr. EASTLAND, from the Committee on the Judiciary:

Robert E. Hauberg, of Mississippi, to be U.S. attorney for the southern district of Mississippi;

Anthony Bertoni, of Michigan, to be U.S. marshal for the eastern district of Michigan; and

Clinton T. Peoples, of Texas, to be U.S. marshal for the northern district of Texas.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

APPOINTMENT OF CONFEREE

Mr. TOWER. Mr. President, I ask unanimous consent that the appointment of the Senator from Virginia (Mr. SCOTT) to the conference on H.R. 10929 be vitiated and that in his place there be appointed the Senator from Utah (Mr. GARN).

The PRESIDING OFFICER. Without objection, it is so ordered.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. ANDERSON:

S. 3318. A bill for the relief of Maria Fatima Suzette P. DeMira; to the Committee on the Judiciary.

By Mr. BURDICK (by request):

S. 3319. A bill to amend the Public Works and Economic Development Act of 1965, as amended; to the Committee on Environment and Public Works.

By Mr. HATHAWAY (for himself and Mr. WEICKER):

S. 3320. A bill to amend the Internal Revenue Code of 1954 to provide a credit for investment in original issue stock of small- and medium-sized corporations; to the Committee on Finance.

By Mr. BENTSEN (for himself and Mr. MATSUNAGA):

S. 3321. A bill to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes; to the Committee on Finance.

By Mrs. ALLEN (for herself, Mr. SPARKMAN, Mr. TALMADGE, and Mr. NUNN):

S. 3322. A bill to consent to the Historic Chattahoochee Compact between the States of Alabama and Georgia; to the Committee on the Judiciary.

By Mr. WILLIAMS (by request):

S. 3323. A bill to amend the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GRAVEL:

S. 3324. A bill to amend section 111 of title 17, United States Code, to clarify for purposes of copyright liability the status of delayed secondary transmissions by certain retransmission services located outside the continental United States; to the Committee on the Judiciary.

By Mr. ANDERSON (for himself and Mr. HATHAWAY):

S.J. Res. 147. A joint resolution designating July 18, 1979, as "National P.O.W.–M.I.A. Recognition Day"; to the Committee on the Judiciary.

By Mr. INOUYE (for himself and Mr. CANNON):

S.J. Res. 148. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the seven calendar days beginning September 17, 1978, as "National Port Week"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATHAWAY (for himself and Mr. WEICKER):

S. 3320. A bill to amend the Internal Revenue Code of 1954 to provide a credit for investment in orginal issue stock of small and medium-sized corporations; to the Committee on Finance.

SMALL BUSINESS INVESTMENT INCENTIVE ACT OF 1978

● Mr. HATHAWAY. Mr. President, I am introducing with my distinguished colleague, LOWELL WEICKER, the Small Business Investment Incentive Act of 1978.

The capital needs of small business are one of the key factors in the sustained economic growth and employment opportunities of this country. In May, Senator WEICKER and I held hearings in New York for the Small Business Committee on the capital needs of small businesses.

Testimony from many distinguished witnesses have contributed to a deep understanding of the problems confronting businessmen in raising equity capital.

Mr. James Davant, chairman of the board of Pain Webber, Inc., showed the magnitude of this problem:

In recent years, however, as the demand for outside capital has intensified, the supply has diminished and companies of all sizes have had trouble raising equity. There were 1,792 new equity issues in 1969. Last year there were only 214.

For smaller companies, the decline was much more precipitous. In 1969, companies with a net worth of less than $5 million sold 548 new issues totaling nearly $1½ billion. In 1975, these smaller companies offered only four new issues for a total of a little over $16 million. The SEC's figures for regulation A offerings—issues under $500,000—show the same steep decline. In 1972, 650 "reg A" offerings raised $256 million. Last year, 124 "reg A" offerings produced only $46 million.

The drop in initial public offerings, which we can safely presume to come mainly from smaller companies, was even sharper. In 1972, 646 initial public offerings raised about $3.3 billion; last year, 46 such offerings raised about $264 million, a 92 percent drop * * *

As the supply of capital has dwindled, the system which channels capital into business has become more and more centralized. In

recent years, the individual investor has become an endangered species. More and more investment money is being channeled into business through financial institutions, which are less and less willing to invest in smaller businesses. And the securities industry, which links investors and businesses of all sizes, has been contracting and consolidating. All these conditions have impaired the access of smaller businesses to the financing they need to grow.

Perhaps the most serious of these problems for the Nation's smaller businesses is the steady withdrawal of the individual investor from the Nation's capital markets. The number of individual investors, after reaching an all-time high of 32.5 million in 1972, declined 18 percent in the next 5 years. Now only about 25 million people own equities. Individuals have been net sellers of about $5 billion of corporate stock a year for the last 5 years, and these individuals have traditionally been the principal source of capital for smaller businesses.

Furthermore, debt financing has become a crushing burden on small businessmen as the equity markets have been constricted. Mr. Arthur Levitt, chairman of the American Stock Exchange explained this problem very clearly at our hearing:

With the decline of equity investment, debt financing has now become the major source of capital. In 1977, the amount of debt financing was 10 times as large as equity financing, in contrast to less than 5 times as much in 1972. The debt-to-equity ratio of American business, particularly smaller companies, has become uncomfortably high—the average debt-equity ratio for American manufacturing companies rose to nearly 40 percent in 1977. This increase in debt makes these companies increasingly vulnerable to changing credit conditions, and more depend on banks and other lenders. Consequently, it tends to place the emphasis on caution at the expense of corporate initiative and innovation. Furthermore, a high debt-equity ratio makes corporate shares more volatile and speculative. These results are not healthy either for our society or economy.

It is clear that economic growth, employment and innovation will be increased by tax policies which promote capital mobility and encourage savings and investment. By encouraging investment, through appropriate tax measures, there will be an increase in the capital stock and therefore the Nation's production and employment potentials.

One method of stimulating new equity capital investment is a tax credit for stock investments in small businesses.

The bill will provide a credit against tax of 10 percent of the first $7,500 investment in qualifying new stock issues during the taxble year. The maximum credit would be $1,500 in the case of a joint return. Dependent children and foreign citizens would be ineligible for the credit. The credit would be recaptured if the stock is disposed of in any way before being held more than 1 year except for transfers by reason of death or gift. In these cases the stock must be held by the transferee for a period of time so that the total holding period is more than 1 year from the date of the original purchase.

The credit is available only for investment in common or preferred stock newly issued for cash in a public offering. The offering company must have net equity of less than $25 million. In addition, the aggregate sales price of the stock may not exceed $25 million.

A "public offering" includes all primary security issues of stock registered with the SEC for immediate cash sale to the public pursuant to the requirements of the Securities Act of 1933 or regulation A issued under section 3(b) of that act.

To assure that the equity capital is issued to small businesses for their active operations, there is a requirement that the credit be available only if there has not been an acquisition of the company's stock within the previous 6 months which exceeds 10 percent of the aggregate sales price of the issuing stock.

Another requirement is that the company and any members of a consolidated group shall not have passive investment income which exceeds 20 percent of gross receipts for the year. This provision is intended to assure that the equity capital be devoted to active business activities.

It is estimated that the annual revenue loss would be approximately $100 million.

I believe this bill will provide a needed incentive to bring individual investors back into the stock market and thereby provide equity financing for small businesses throughout the country.●

● Mr. WEICKER. Mr. President, I am pleased to join Senator HATHAWAY in introducing this legislation to amend the Internal Revenue Code of 1954 to provide for a credit for investment in new issues of stock of small- and medium-sized corporations. By encouraging the participation of individual investors in the capital markets, this bill will help to solve the critical problem of providing equity capital for America's small businesses.

It is imperative that the private sector provide for the Nation's future employment needs. Smaller, growth-oriented businesses hold the key to solving these needs, as shown by the results of a study conducted in 1976 by the development fund of MIT. The job formation rates of 16 companies were compared from 1969 to 1974. Six of the companies were giants, with sales in the billions; five were smaller companies built on new technologies.

Even though their total sales were less than one-fortieth of those in the largest group, the five small companies created 35,000 new jobs in 5 years, while the six giants only created a total of 25,000 jobs. Thus, despite the gross size disparity, the smaller firms created 10,000 more jobs than the established giants.

Further evidence of the enormous potential for job creation was adduced by the American Electronics Association ("AEA") at a hearing held by the Select Committee on Small Business. A study of AEA members disclosed that the employment growth rates for young companies—less than 20 years old—were 20 to 115 times greater than for the companies more than 20 years old.

According to the Commerce Department, the Nation will require 1.5 million new jobs annually until 1985. As evidenced by the MIT and AEA studies, smaller businesses, with their capacity to produce new jobs, will play a key role in satisfying this need. Yet, these companies are unable to obtain the equity financing they need to enable them to grow and provide jobs.

THE CAPITAL FORMATION PROBLEM

As ranking minority member on the Select Committee on Small Business, I recently chaired hearings on the capital formation problem confronting this Nation's smaller businesses. The severity of the problem was attested to by an outstanding array of individuals representing diverse interests. Their testimony conclusively confirmed that these smaller businesses, which are a principal source of new ideas, new jobs and economic growth, are not able to obtain the equity financing which is instrumental for growth.

In its January 16, 1978, issue, Business Week summarized the extent of the capital formation problem as follows:

. . . (C)apital spending is falling far short of what the country needs to keep up with a growing labor force and an insistent demand for higher incomes. And there is considerable evidence that new companies and small companies are not getting money to grow on. The stock market is demoralized, and stock prices are so low that all companies—both large and small—are having trouble raising equity money.

Economists have expressed great concern over the expected gap between the need for new investment and the funds which will be available to meet the need. A New York Stock Exchange estimate projects a cumulative capital gap of $650 billion by 1985. A 1977 study conducted for the Financial Executives Research Foundation was no more encouraging. This study concluded that the total gap between capital needs and anticipated savings for the next 10 years would be approximately $1 trillion, depending on the rate of inflation.

The decline in the number of public equity securities offerings supports these dire predictions. According to figures compiled by the Securities and Exchange Commission (SEC), there were 698 underwritings for companies with less than $5 million in assets in 1969. However, only 80 companies of that size made public offerings in the 4 years from 1974 to 1977. The offerings in 1969 raised almost $1.5 billion, whereas the offerings for the 4-year period combined to produce merely $415 million. Equally disturbing is the decline in the number of corporations, of all sizes, making first-time public offerings. In 1972, 633 unseasoned corporations went public and raised nearly $1.7 billion. However, there were only 125 initial offerings in the 3-year period from 1975 to 1977, and these first-time offerings raised just $459 million. The situation is not improving, as shown by the fact that there were only six initial offerings during the first 3 months of 1978, and these raised merely $10 million.

Another indication of the difficulty which small businesses are having in obtaining equity capital is that the number of regulation A offerings—offerings of less than $500,000—which were filed with the SEC shrank from 998 in 1972 to 158 in 1977. Of those regulation A offerings which were filed, the 650 which cleared

in 1972 raised $256 million, while the 124 which cleared in 1977 raised only $46 million. In the first 3 months of 1978, only 36 regulation A offerings have cleared the SEC, raising merely $12 million.

As shown by these and other statistics, the scarcity of equity capital has effectively foreclosed most smaller companies from "going public," which is the traditional first step for companies on their way to becoming larger ones.

THE EXODUS OF INDIVIDUAL INVESTORS FROM THE CAPITAL MARKETS

At the same time that these smaller, growth-oriented companies are being squeezed out of the capital markets, individual investors have been steadily withdrawing from these markets. In addition to denying small businesses an important source of capital, this flight of the individual investor from the securities market has resulted in a growing concentration of economic power in too few hands. Perhaps most importantly, because the individual's stake in the economic system has been sharply curtailed, he is less likely to fight to protect it. This alarming trend therefore threatens to undermine the essence of our free enterprise system.

The number of individual investors, after reaching an alltime high of 32.5 million in 1972, declined by 18 percent over the past 5 years to a level where only about 25 million Americans now own stock. Individuals have been net sellers of approximately $5 billion of corporate stock annually over the last 5 years. Arthur Levitt, Jr., chairman of the American Stock Exchange, discussed the extent of the flight of the individual investor in his testimony before the Senate Finance Committee on June 29.

(T)he participation of the average American citizen in equity investments in American enterprises has over the years been an essential factor in the relative harmony of various groups within our economic system. Since 1970 we have seen a drastic downturn in individual shareownership. By 1975, the United States shareholder populations had dropped . . . more than 18 percent, and the shareholder percentage of the entire population was down to 11.8 percent, or scarcely one in eight. The percentage of shareholders with total investments of under $10,000 fell from 62 percent to less than 50 percent; those with total investments of under $5,000 fell from 41 percent to less than one-third.

Equally disturbing are the findings of a recent survey that there will be relatively few new American stockholders in the immediate future. Of those who are former owners of stock, only 8 percent indicated that they might again become shareholders; and of those who had never owned stock only 2 percent thought they might acquire stock this year. Also, the fact that the average age of American shareholders increased from 48 to 53 between 1970 and 1975 demonstrates that America's young adults are not continuing in the tradition of citizen ownership and that the shareholder population can be expected to continue to decline unless effective measures are taken to make equity investment more attractive.

The individual investor has been replaced by financial institutions, which traditionally have been less willing to invest in small businesses. For example, although institutions owned, by value, less than 15 percent of New York Stock Exchange (NYSE) common stock in 1949, they now own more than 33 percent. In 1976, institutions were responsible for more than 70 percent of the value of all shares traded on the NYSE, while individuals accounted for less than 30 percent. Twenty years ago, these proportions were the opposite. Institutions have also become increasingly active in the market for stocks traded on the American Stock Exchange. Further evidence of the increased domination of financial institutions in the capital markets is found in the fact that in 1976 over 80 percent of the funds raised by new issues of debt and equities were invested by institutions.

The potential ramifications of this trend are quite disturbing. The decrease in the number of individual investors and the concomitant dominance of financial institutions portends an increased concentration of economic influence in the hands of a powerful few. And if the individual does not have a stake in our economic system, he will not fight to protect its viability and integrity. John Whitehead of Goldman, Sachs & Co. discussed the impact of the flight of the individual from the capital markets in testimony given before the Senate Small Business Committee:

I would suggest that the very essence of the American system is involved with the stock ownership of our great American corporations spread very broadly. When we have 30 million stockholders, we avoid concentration of power and concentration of ownership that I think all of us feel is an important part of America and that possibly distinguishes us from other developed countries such as Japan and Germany where their large corporations are not broadly owned, and where there is a concentration of ownership in the hands of a small number of institutions.

Clearly it is extremely important to the future of our free enterprise system to get the individual investor back into the equity markets.

THE SMALL BUSINESS INVESTMENT INCENTIVE ACT OF 1978

Mr. President, the Small Business Investment Incentive Act of 1978 which Senator HATHAWAY and I have coauthored addresses these two serious problems.

The Congress is presently considering numerous legislative proposals designed to stimulate risk capital investment. One such bill is S. 3065, which I cosponsored. Because S. 3065 would roll back the capital gains tax to the pre-1969 levels, its effect will be felt by companies of all sizes and will have a salutary effect on the entire economy. The Small Business Investment Incentive Act of 1978 targets its benefits at specific groups, and accordingly its effects will not be as widespread. This bill, which is based on a proposal initally made by members of the American Stock Exchange in testimony before the House Ways and Means Committee and subsequently discussed at hearings held by the Senate Finance Committee and Small Business Committee, directs its benefits at two essential factors in the nation's economic system: middle-income investors whose participation is necessary to insure the viability of our free enterprise system; and the small- and medium-sized corporations which provide the principal source of new ideas, new jobs, and new growth. Thus, although the benefits of this legislation are directed to limited groups, they are directed at key elements of our free enterprise system.

Mr. President, I would suggest that under the name of "tax reform," our Government's recent tax policies have in fact forced the individual investor from the capital markets. The risk inherent in investing in a small business has been increased by the economic uncertainties caused by inflation, increasing Federal regulations, and a breakdown in the distribution system for small business securities. Concomitant with this increased risk there has been a reduction in the possible rewards to be reaped by the investor. The maximum tax rate for capital gains, coupled with preference taxes and the minimum tax, is nearly double what it was in 1969. The effect of these changes in the tax laws is that the effective capital gains tax rate has been increased to a point where it is almost as high as the ordinary income tax rate. Because the risk-to-reward ratio for investors has been substantially altered, investors have turned away from risk capital investments. Therefore, it is apparent that something must be done to make equity investment more attractive to the individual.

The Small Business Investment Incentive Act of 1978 will provide the stimulus needed to get the individual investor to participate in the solution of the capital formation problem of America's small and medium businesses. Pursuant to this bill, the investor will be given a credit against tax of 10 percent of the first $7,500 investment in qualifying new stock issues during the taxable year. In the case where a joint return is filed, a credit of 10 percent would be given on the first $15,000 invested. Dependents would be ineligible from the credit, thereby preventing a child who has income from a trust fund from applying the credit against the tax on the trust fund or other investment income. The credit would be recaptured if the stock is disposed of in any way before being held more than 1 year. The only exceptions to the recapture rule are for transfers of ownership by reason of death or gift, and even in these cases the stock must be held by the transferee until a time more than 1 year from the date of original purchase.

Utilizing a credit, as opposed to a deduction, and limiting the credit to a specific dollar amount, assures that the benefits of this legislation will flow primarily to middle income taxpayers, whose participation in the marketplace is essential to the viability of our free enterprise system. A tax credit for investors, such as this, is a concept that the tax laws have recognized as instrumental in the stimulation of investment in other areas.

As I stated earlier, small and medium businesses provide the greatest potential for job creation. However, these are the same corporations which are experiencing the greatest difficulties in raising capital. Therefore, the benefits of this legislation are aimed at these businesses.

Pursuant to this bill, the credit is available only for investment in common or preferred stock newly issued in a public offering of less than $25 million by a corporation with a net equity of less than $25 million. The term "public offering" includes all primary security issues of stock registered with the SEC for immediate cash sale to the public pursuant to the requirements of the Securities Act of 1933 or regulation A of that act. The size limitation imposed on the issuing corporation is based on findings made by the 1977 SBA Task Force on Venture and Equity Capital. This task force recommended that "pension fund managers—should be relieved—of ERISA restrictions in investing up to 5 percent of pension funds in companies having less than $25 million in net worth and larger companies having limited marketability for their securities." A review of corporations with equity capital less than $25 million discloses that the limited marketability for their securities brings them within the guidelines recommended by the task force.

The revenue impact of this legislation will be directly proportional to the new capital brought into the market. In 1976 and 1977 a total of approximately $1.6 billion in new issues would have qualified for the credit. Thus, the initial revenue reduction for these 2 years combined would have been only $160 million. A preliminary study has indicated an initial annual direct revenue loss of approximately $100 million. However, any direct revenue loss would be more than offset by the gains in employment and economic growth caused by the strengthening of the capital structure of the Nation's small and medium businesses. Furthermore, this dollar approach does not measure the social utility of providing a broader base of ownership for the American economy which will result from increasing the participation of individuals in our free enterprise system.

We welcome the support of our colleagues in this legislation to encourage the participation of individual investors in the serious problem of providing equity financing for our Nation's smaller businesses.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3320

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Small Business Investment Incentive Act of 1978".

SEC. 2. ALLOWANCE OF CREDIT.

(a) In General.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting after section 44B the following new section:

"SEC. 44C. INVESTMENT IN ORIGINAL ISSUE STOCK OF SMALL- OR MEDIUM-SIZED CORPORATIONS.

"(a) General Rule.—In the case of an individual who is a citizen or resident of the United States there is allowed, as a credit against the tax imposed by this chapter for the taxable year, an amount equal to 10 percent of the adjusted basis (within the meaning of section 1011) of the taxpayer for incentive stock (as defined in subsection (c)) acquired for money during the taxable year.

"(b) Limitations.—

"(1) Credit not allowed to certain dependents.—No credit is allowable under subsection (a) to an individual with respect to whom a personal exemption deduction is allowable for the taxable year to another taxpayer under section 151(e).

"(2) Credit not to exceed $750.—The credit allowed by subsection (a) for any taxable year shall not exceed $750 ($1,500 in the case of a joint return).

"(3) Application with other credits.—The credit allowed by subsection (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31 and 39.

"(4) Certain taxes not considered taxes imposed by this chapter.—For purposes of this section, any tax imposed for the taxable year by section 56 (relating to minimum tax for tax preferences), section 72(m)(5)(B) (relating to 10 percent tax on premature distributions to owner-employees), section 402(e) (relating to tax on lump sum distributions), section 408(f) (relating to additional tax on income from certain retirement accounts), section 531 (relating to accumulated earnings tax), section 541 (relating to personal holding company tax), or section 1378 (relating to tax on certain capital gains of subchapter S corporations), and any additional tax imposed for the taxable year by section 1351(d)(1) (relating to recoveries of foreign expropriation losses), shall not be considered tax imposed by this chapter for such year.

"(c) Definition of Incentive Stock.—

"(1) In general.—For purposes of this section, the term 'incentive stock' means original issue common or preferred stock registered under section 12 of the Securities Exchange Act of 1934 offered in an unrestricted offer to the public—

"(A) which is issued by a domestic corporation the equity capital (within the meaning of the last sentence of section 1244(c)(2)) of which does not exceed $25,000,000 immediately before such offering, and

"(B) which is part of an issue of stock the aggregate sale price of which does not exceed $25,000,000.

"(2) Controlled Corporations.—In the case of a corporation which is a member of a controlled group of corporations (as defined in section 1563(a)(1)), the equity capital of all members of the controlled group shall be treated, for purposes of paragraph (1)(A) this subsection, as the equity capital of the issuing corporation.

"(3) Stock acquired more than 180 days after issuance; stock acquired by underwriter.—No stock shall be treated as incentive stock for purposes of this section if it is first purchased more than 180 days after the date on which it is issued. No acquisition of stock by an underwriter in the ordinary course of his trade or business as an underwriter, whether or not guaranteed, shall be treated as an acquisition for purposes of subsection (a).

"(4) Certain redemptions and refinancing issues not treated as incentive stock.—An issue of stock which, but for this paragraph, would be treated as incentive stock under ths section shall not be treated as incentive stock if, within 180 days before the date of issuance, the issuing corporation (or any other corporation which is a member of the same controlled group of corporations, within the meaning of section 1563, as the issuing corporation) has acquired stock (including acquisition by way of redemption) of the issuing corporation or of any other member of the controlled group with an aggregate purchase price in excess of 10 percent of the aggregate sale price of the issue of incentive stock.

"(5) Investment company stock not treated as incentive stock.—Stock issued by an investment company shall shall not be treated as incentive stock. For purposes of this paragraph—

"(A) a corporation shall be treated as an investment company if the corporation has gross receipts for the taxable year in which the stock is issued more than 20 percent of which consist of passive investment income (as defined in section 1372(e)(5)(C)), and

"(B) in the case of a corporation which is a member of a controlled group of corporations within the meaning of section 1563(a), subparagraph (A) shall be applied—

"(i) first, to the issuing corporation by itself, and

"(ii) then, by treating the gross receipts and passive investment income of the controlled group as the gross receipts and passive investment income of the issuing corporation.

"(d) Disposition of Incentive Stock Before It is Held for More Than 12 Months.—

"(1) Disposition before filing return for taxable year of acquisition.—No credit is allowable under subsection (a) with respect to incentive stock acquired during a taxable year which is not held by the taxpayer on the date established by law for filing a return of tax for that taxable year, if, as of that date, the taxpayer has disposed of the stock after holding it for less than 12 months and one day.

"(2) Other premature dispositions.—If during any taxable year incentive stock is disposed of by the taxpayer before the stock has been held by the taxpayer for more than 12 months, then the tax under this chapter for the taxable year shall be increased by the amount of the credit claimed by the taxpayer for any preceding taxable year with respect to the acquisition of such stock.

"(3) Exceptions.—Paragraphs (1) and (2) of this subsection shall not apply in the case of the disposition by bequest or gift unless—

"(A) the bequest or gift is deductible under section 170 (determined without regard to the limitations contained in subsection (b)), 2055, or 2522, or

"(B) the recipient disposes of the stock before the stock has been held for more than 12 months (including any periods of time during which the stock was held by the original purchaser).".

(b) Clerical Amendment.—The table of sections for such subpart is amended by inserting immediately after the item relating to section 44B the following new item:

"SEC. 44C. INVESTMENT IN ORIGINAL ISSUE STOCK OF SMALL- OR MEDIUM-SIZED CORPORATIONS.".

(c) Conforming Amendments.—Subsection (b) of section 6096 of such Code (relating to designation of income tax payments to Presidential Election Campaign Fund) is amended by striking out "and 44B" and inserting in lieu thereof "44B, and 44C".

(d) Credit Not Allowed to Estates and Trusts.—Subsection (a) of section 642 of such Code (relating to special rules for credits against tax for estates and trusts) is amended by adding at the end thereof the following new paragraph:

"(3) Investment in incentive stock.—An estate or trust shall not be allowed the credit against tax for investment in incentive stock provided by section 44C.".

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply with respect to taxable years begin-

ning after December 31, 1978 and to stock acquired after the date of enactment of this Act. For purposes of the preceding sentence, stock acquired before January 1, 1979, shall be treated (except for purposes of section 44C (c) (3) and (d) of the Internal Revenue Code of 1954) as acquired on the first day of the first taxable year of the taxpayer beginning after December 31, 1978.●

By Mr. BENTSEN (for himself and Mr. MATSUNAGA):

S. 3321. A bill to amend the Internal Revenue Code of 1954 to reduce income taxes, and for other purposes; to the Committee on Finance.

1978 TAX REDUCTION ACT

● Mr. BENTSEN. Mr. President, today Senator MATSUNAGA and I are introducing legislation to provide a $15-billion tax cut which includes a reduction of about $10 billion for individuals and $5 billion for business. This legislation also includes several tax reform proposals to prevent abuses.

Rising prices and unreasonably high taxes make it harder and harder for the average American family to make ends meet. Every American is aware of the increased costs of food, clothing, health care, and housing. Inflation also has the effect of boosting wage earners into higher tax brackets. It is essential that Congress and the President work together in the weeks ahead to enact a responsible tax cut to give much needed relief to the American consumer. My bill would provide, for example, a reduction in Federal income taxes of about $105 for a family of four with an income of $12,500 while it would provide a tax cut of about $145 for a family making $20,000 a year. A tax cut of this size would provide significant relief to all taxpayers without aggravating the already serious problem of inflation. A much larger tax cut would run the risk of fueling inflation and boosting the Federal deficit which would clearly be counterproductive.

This legislation would provide about $10 billion of new tax cuts for individuals through adjustments in individual tax rates, increases in the standard deduction and an increase in the personal exemption from $750 to $1,000. This proposal will provide relief for all taxpayers. The increase in the personal exemption to $1,000 will be particularly beneficial to lower- and middle-income families who receive a disproportionate share of the burden of inflation.

The Federal Government takes far too much money out of the earnings of the American consumer through excessive taxes. The legislation I am introducing today will provide significant relief to all taxpayers from this burden.

This bill also provides about $5 billion of tax reductions for business.

Small business would benefit from the provisions for a graduated corporate income tax rate, targeted jobs tax credit and special depreciation rules. Americans too often forget the indispensible role of small business in promoting healthy competition in our economy, creating jobs for a growing work force and developing innovative ideas and products. Small business, in many ways, is the essence of our country's promise and it is essential to provide reasonable tax relief to this important sector of our economy. Greater competition in our economy will help hold down prices.

My bill includes a targeted jobs tax credit which will encourage businesses to hire new employees by reducing the costs of labor. This will help get people off of welfare rolls and into permanent jobs in the private sector. The jobs tax credit directly addresses the unemployment problem by providing an incentive, particularly, for small- and medium-sized businesses, to hire new employees. Most measures to reduce unemployment bring on inflationary pressures and increase government spending. A jobs tax credit, which I first introduced in 1975, will help reduce both unemployment and inflation and puts those unemployed on private payrolls.

Larger firms would benefit from the reduced corporate tax rates and the permanent extension of the 10 percent investment tax credit in this bill. The maximum corporate tax rate would be reduced from 48 to 46 percent. These changes will encourage greater investment for the expansion and modernization in our economy and to insure that we can remain competitive in the world markets. We cannot have high employment and a balanced budget without high levels of business investment. The Nation needs increased investment to boost productivity and private jobs.

Of the many factors that influence economic growth rates, none is more important than the level of capital investment. A strong rate of new capital investment is required to generate sustained economic growth. However, during the 1960's, the United States had the worst record of capital investment among the major industrialized nations of the free world. A study prepared by the Department of the Treasury indicates that total U.S. fixed investment as a share of national output between 1960 through 1973 was 17.5 percent. The U.S. figure ranks last among a group of 11 major industrial nations; our investment rate was 7.2 percentage points below the average commitment of the entire group.

We must be concerned with increasing the productivity of the American economy, because productivity is the key to solving both our unemployment and our inflation problems.

This bill would also remove capital gains as a preference item for purposes of computing the minimum and maximum tax. This change would have the effect of reducing the top tax rate on capital gains to 35 percent. Economic growth in our Nation depends on the availability of a sufficient supply of risk capital for innovative firms which have the greatest job creation potential. In recent years there has been a significant decline in the number of venture capital investments. This has been detrimental to our entire economy. We may never know how many potential Xeroxes or Polaroids have failed to get started over the past several years for a lack of venture capital. This translates into lost job opportunities for the American worker. A reduction in the maximum capital gains rate would help remedy this problem.

This country has prospered for two centuries because our free market economy has welcomed the person with a new idea; the individual entrepreneur, the small businessman, who was willing to risk his capital in return for the prospect of a reasonable reward. We have not succeeded as a nation by playing it safe. Today the risks of investment, of a new enterprise are as great as ever, but the prospect of reasonable reward for success is greatly diminished.

You cannot force individuals to invest in risk situations. They will go in only if they think they will keep some of it if they win. With unreasonably high tax rates, individuals will only put their money in conservative investments such as municipal bonds and mortgages. They will go into safe investments.

In 1969 there were 548 underwritings of new companies with a net worth of less than $5 million each. In 1976 the number of these smaller new companies offering their stock for public sale had fallen to 38. The amount of venture capital generated by such offerings during the period 1969–75 went from a high of $1.4 billion in 1969 to a low of $13 million in 1974.

My proposal would offer potential investors the incentive to take the risks inherent in equity investing which is so important in expanding job opportunities and providing a larger tax base for our Government. Venture capital must be available so that today's new and promising company can—10, 20, or 30 years from now—become the "new IBM."

The legislation I am introducing today also includes several proposals to eliminate some tax shelters and other abuses in our tax system and to simplify our tax system.

This is a balanced $15 billion tax proposal which will provide relief for the consumer, help create new jobs in the private sector and stimulate business investment.

Although some have advocated a tax cut of over $100 billion a year, this would be fiscally irresponsible at the present time. According to a broad spectrum of experts who recently testified before the Senate Finance Committee and the Joint Economic Committee. a tax cut of that magnitude would increase consumer prices, boost interest rates and substantially increase the Federal deficit. Inflation is the cruelest tax of all. It would be totally counterproductive to enact a tax cut that actually increases inflation.

Mr. President, I would now like to briefly summarize the provisions of my bill.

I. INDIVIDUAL INCOME TAXES

A. INDIVIDUAL TAX RATES

Individual tax brackets would be widened by 6 percent of taxable income in excess of the so-called zero bracket amount and there would be rate cuts in certain brackets.

In addition, the zero bracket amount—$2,200 for single persons and $3,200 for married couples—would be increased to $2,300 for single persons and $3,400 for

married couples. This would have essentially the same effect as an increase in the standard deduction to these amounts.

B. GENERAL TAX CREDIT AND PERSONAL EXEMPTIONS

The present $750 personal exemption for each taxpayer and dependent would be increased to $1,000. The general tax credit would be allowed to expire. (The general tax credit equals the greater of (1) $35 for each personal exemption, or (2) 2 percent of the first $9,000 of taxable income in excess of the zero bracket amount.)

C. ITEMIZED DEDUCTIONS

1. STATE-LOCAL NONBUSINESS GASOLINE TAXES

The provision of present law which permits itemized deductions for State and local taxes on gasoline, diesel, and other motor fuels not used in business or investment activities would be repealed. Repeal of this provision would help promote our goal of reasonable energy self-sufficiency. At a time when we are almost 50 percent dependent on overseas sources of oil, we should not continue to encourage the use of gasoline through tax deductions.

2. POLITICAL CONTRIBUTIONS

The provision of present law which permits itemized deductions for certain political contributions up to $100 per year—$200 in the case of a joint return—would be repealed. The provision of present law which permits an income tax credit equal to one-half of such political contributions, but not more than $25—$50 in the case of a joint return—would be retained.

The elimination of the deduction for political contributions will result in all taxpayers receiving equal tax benefits from their political contributions. Significant simplification will be achieved since tax forms and instructions will be shortened. Individuals will no longer need to make alternative computations to determine whether the credit or deduction is more advantageous to them. At the same time, contributions to political campaigns will not be greatly reduced.

3. MEDICAL EXPENSES

The provision of present law which permits itemized deductions for one-half the cost of medical and hospitalization insurance premiums—up to $150, without regard to the general limitation that medical expenses are deductible only to the extent exceeding 3 percent of adjusted gross income, would be repealed. In addition, the special limitation in present law which permits deduction of medicine and drug costs only to the extent the costs exceed 1 percent of the adjusted gross income would be repealed. Also, under this revision only insulin and prescription medicine and drugs would be eligible for the medical expense deduction.

As a result of these modifications, the full amount of medical and hospitalization insurance premiums, the costs of prescription medicine and drugs—and nonprescription insulin—and other qualifying medical expenses would be deductible to the extent that they exceed 3 percent of adjusted gross income. This change would provide substantial tax simplification. The existing medical expense deduction is far too complex.

D. UNEMPLOYMENT COMPENSATION

The current exclusion from taxable income for unemployment compensation paid pursuant to Government programs would be phased out at higher levels of income. The amount of unemployment compensation excluded would be reduced by one-half of the excess of gross income—including unemployment compensation—over $20,000 for single taxpayers, and over $25,000 for married taxpayers.

The tax-free nature of unemployment compensation may increase the incentive to remain unemployed. The exclusion may contribute to some extent to the period of unemployment and the cost of maintaining unemployment coverage. This is clearly an unintended effect which should be remedied.

E. TAX SHELTER PROVISIONS

1. CHANGES IN THE "AT RISK" RULE

The "at risk" loss restrictions of present law, which now apply to four specified activities—farming, oil and gas, motion pictures, and equipment leasing—would be extended to apply to all activities except real estate.

In addition, the provision would be amended to provide for recapture of previously allowed deductions where there were withdrawals of amounts originally placed at risk.

These changes were suggested by the Treasury Department to eliminate tax abuses. For example, the following tax shelter investments were advertised for direct sale to individual owners at the end of 1977: master phonograph records, lithographic plates, books, Christmas trees, gold mining, and research and development. These investments were generally priced within the reach of upper middle class taxpayers. For example, a gold mine was sold by the square foot. Tax incentives do not appear justified for these activities. The purpose of the "at risk" proposal is to deny "leveraged" tax deductions in these cases.

2. AUDITS OF PARTNERSHIPS

A civil penalty would be imposed against a partnership for failure to file—or late filing of—a partnership return. Also, the general 3-year period of present law—in which a person may be assessed additional income tax for a particular year—would be extended with respect to income, deduction and credit items which have been passed through from certain partnerships to that person. The period in which assessment of additional income tax liability could be made for these items would generally be 4 years after the date the partnership return is filed. This provision would only apply where the tax liabilities of 100 or more persons could be affected by the pass-through of partnership items.

This proposal was also recommended by the Treasury Department. Since a meaningful audit at the partnership level places great emphasis on the partnership return, the timely and proper filing of such return should be encouraged. The absence of civil penalties under current law for late filing and failure to file is inconsistent with this objective. Thus, under the proposal, the partnership return will be treated as a tax return rather than as an information return. Late filing and failure to file partnership returns will be subject to penalties.

F. DEFERRED COMPENSATION

Specific rules would be provided to exclude from gross income a certain amount of deferred compensation under so-called nonqualified deferred compensation arrangements. Rules would apply to deferred compensation arrangements in both the public and private sectors.

Deferred compensation arrangements should be allowed to continue with reasonable limitations to prevent real abuses. Under my bill, for example, a limitation of 25 percent of compensation would be applied on excludible compensation. In addition, a nondiscrimination rule would be applied to the public sector.

One employee reportedly received $80,000 tax free under a deferred compensation arrangement in the private sector and this $80,000 was only from a part-time job. We cannot ask the average worker to pay tax on his full income when wealthy persons receive such large portions of tax-exempt compensation. Clearly, these abuses are unacceptable to the American people and undermine public confidence in our tax laws.

II. BUSINESS TAX REDUCTION PROPOSALS

A. CORPORATE RATE REDUCTIONS

The corporate tax rate applicable to the first bracket of taxable income—$0 to $25,000—would be reduced from 20 to 17 percent. The rate applicable to the second bracket—$25,000 to $50,000—would be reduced from 22 to 20 percent.

In addition, two additional brackets would be created. The corporate tax rate on the third bracket—$50,000 to $75,000—would be 30 percent and the rate on the fourth bracket—$75,000 to $100,000—would be 40 percent. Finally, taxable income in excess of $100,000 would be taxed at 46 percent—rather than 48 percent.

B. INCREASE INVESTMENT CREDIT LIMITATION TO 90 PERCENT

The 50-percent limitation on the amount of investment tax credits that can be used to reduce tax liability in excess of $25,000 for any taxable year would be increased to 90 percent, phased in at an additional 10 percent per year.

C. INVESTMENT CREDIT FOR POLLUTION CONTROL FACILITIES

The full investment credit would be allowed for pollution control facilities which are eligible for an election to use 5-year amortization, except to the extent the facility has been financed with tax-exempt industrial development bonds. Present law treatment limits the investment credit on pollution control facilities for which the taxpayer elects 5-year amortization to one-half of the credit that otherwise would be available.

D. TARGETED JOBS CREDIT

A tax credit of 50 percent of FUTA wages—the first $6,000 of wages per employee—would be provided for hiring:

First, AFDC recipients who register for the WIN program; second, handicapped individuals; and third, individuals of

ages 18 through 24 who are members of households which are eligible for food stamps. Wages eligible for the credit would be limited to 20 percent of the total FUTA wages paid by an employer. The current general jobs tax credit would be allowed to expire at the end of 1978.

E. SMALL BUSINESS PROPOSALS

1. SUBCHAPTER PROVISIONS

The proposal makes three modifications for subchapter S corporations: first, allows 15 or fewer shareholders for its initial election; second, treats husbands and wives owning subchapter S corporation stock, regardless of how the stock is held, as one shareholder for purposes of determining whether the subchapter S shareholder limitation has been complied with; and third, if an election under subchapter S is terminated because the corporation ceases to qualify as a small business corporation, but subsequently qualifies for a later year, treats the filing of a timely return as a subchapter S corporation for the later year as a binding request for consent to a new election.

2. SMALL BUSINESS CORPORATION STOCK

A corporation would be permitted to issue up to $1,000,000 of section 1244 stock—as opposed to the $500,000 limitation of present law—potentially subject to ordinary loss treatment. The maximum amount treated as an ordinary loss from the sale or exchange of section 1244 stock for a taxable year would increase to $50,000—$100,000 in the case of a joint return. In addition, the requirement that the section 1244 stock be issued pursuant to a plan would be repealed.

3. SPECIAL DEPRECIATION RULES FOR SMALL BUSINESS

The additional first year depreciation allowance—section 179—would be modified in three respects. First, the percentage allowable would be increased from 20 to 25 percent. Second, the base amount for the cost of eligible depreciable tangible property would be increased from $10,000 to $20,000—in the case of a joint return, the amount would be increased from $20,000 to $40,000. As a result of these two changes, the amount deductible would be increased from $2,000—20 percent of $10,000—to $5,000—25 percent of $20,000. In the case of a joint return, the amount deductible would be increased from $4,000—20 percent of $20,000—to $10,000—25 percent of $40,000. Third, the provision would be made applicable only to a taxpayer whose adjusted basis in depreciable assets as of the beginning of the taxable year did not exceed $1 million.

III. EXTENSION OF TEMPORARY TAX REDUCTIONS

A. EARNED INCOME CREDIT

The earned income credit which equals 10 percent of the first $4,000 of earned income and phases out if income rises between $4,000 and $8,000 would be made permanent.

B. INVESTMENT CREDIT

The present 10 percent investment credit and the $100,000 used property limitation scheduled to expire at the end of 1980, would be made permanent.

IV. SIMPLIFIED PENSION PLAN

The Internal Revenue Code would be amended so that businessmen would be given the option to establish a "simplified pension plan." Employers would make contributions up to the annual $7,500 Keogh limitation but these contributions would be made directly into separate individual retirement accounts for each employee. The minimum Keogh standards would apply.

This combination Keogh-IRA plan would be advantageous to both employers and employees. The businessman would not have to establish a separate trust fund for the company pension plan since the annual contributions will go directly into individual retirement accounts for the employees. This would substantially reduce paperwork and redtape. Employees would benefit from "portability" under this proposal since the employee would take his individual retirement account with him upon a change of jobs.

Hearings on my pension simplification amendments to the tax code were recently held by the Pension Subcommittee of the Senate Finance Committee, which I chair. My proposal was supported by the Treasury Department, representatives of pension plan participants, as well as business groups.

V. CAPITAL GAINS

A. ALTERNATIVE CAPITAL GAINS

The election for individuals to have the first $50,000 of long-term capital gains taxed at an alternative rate of 25 percent would be repealed.

B. MINIMUM AND MAXIMUM TAX

The proposal would delete capital gains from the list of tax preferences under both the minimum and maximum taxes. This change would reduce the maximum capital gains rate to 35 percent.

Mr. President, I urge the Members of the Senate to support the bill that Senator MATSUNAGA and I are introducing.●

By Mr. WILLIAMS (by request):

S. 3323. A bill to amend the Securities Act of 1933, the Securities Exchange Act of 1934, and the Trust Indenture Act of 1939; to the Committee on Banking, Housing, and Urban Affairs.

INDUSTRIAL DEVELOPMENT BONDS LEGISLATION

● Mr. WILLIAMS. Mr. President, at the request of Chairman Harold M. Williams of the Securities and Exchange Commission, I am introducing a bill to amend the Federal securities laws concerning industrial development bonds.

The proposed legislation has several objectives:

First, to subject industrial development bonds to the registration requirements of the Securities Act of 1933 by amending that act and the Trust Indenture Act of 1939.

Second, to subject such bonds to the filing and qualification provisions of the Trust Indenture Act of 1939 and the periodic reporting requirements of section 15(d) of the Securities Exchange Act of 1934.

Third, to conform the Securities Exchange Act of 1934 to certain provisions of the Securities Act of 1933, resulting in a simplification of the application of the Federal securities laws to industrial development bonds.

The SEC views industrial development bonds that are funded by an industrial or commercial enterprise as conceptually indistinguishable from other corporate debt securities. The commission believes that, to the extent industrial development bonds are payable from payments by an industrial or commercial enterprise, the industrial and commercial entity obligated on these bonds should be treated the same as other corporate entities that seek financing in the public securities markets and should provide investors with the information required to be disclosed pursuant to the registration and periodic reporting provisions of the Securities Act and the Securities Exchange Act.

In addition, the SEC has identified emerging enforcement problems involving the public offering or trading of these bonds. An increasing number of enforcement actions involving industrial development bonds have been brought by the SEC and many others are under investigation. There have also been a substantial number of defaults on these bonds—41 since January, 1975.

A final reason is the more general concerns which have been raised about municipal securities and the protections afforded the investing public under the Federal securities laws. Today, these laws exempt municipal securities—including industrial development bonds—from all but the antifraud provisions. Earlier this year, I introduced S. 2339, the Municipal Securities Full Disclosure Act to require all issuers of municipal securities to make and distribute disclosure documents and annual reports prepared on a uniform and standardized basis. By proposing this separate legislation, the SEC would single out for different and more detailed regulation by the SEC industrial development bonds.

Mr. President, the Subcommittee on Securities is interested in all matters affecting the protections afforded to investors under the Federal securities laws and the confidence these laws instill in the public securities markets. In my judgment, there is no single area where the potential for fraud and misrepresentation is greater than in the municipal securities markets. For this reason, S. 2339 and the bill I am introducing today by request place in clear focus some of the important issues which the Congress will face in future years concerning the field of municipal finance and the appropriate role of the Federal Government in assisting and regulating the process by which State and local governments finance their essential activities. It is my intention to resume active exploration and consideration of these issues in hearings some time later this year.

Mr. President, the SEC has provided the following materials: a section-by-section analysis of the proposed legislation; a statement of the commission's support for the bill, including a discussion of the status of these bonds under

the Federal securities laws, and case histories of investor abuses and a record of defaults since January 1975. I ask unanimous consent that the bill and these accompanying documents be printed in the RECORD.

There being no objection, the bill and the documents were ordered to be printed in the RECORD, as follows:

S. 3323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a) Section 2(4) of the Securities Act of 1933 is amended—

(1) by striking out "and" before "except that with respect to fractional undivided interests"; and

(2) by inserting before the period at the end thereof the following: "; and except that in the case of industrial development bonds (as defined in section 103 (b)(2) of the Internal Revenue Code of 1954, as amended), with respect to any part of the obligation which is payable from payments by an industrial or commercial enterprise under a lease, sale, loan on other agreement, the term 'issuer' means the industrial or commercial enterprise that is the obligor under the terms of the industrial development bond arrangement: *Provided, however,* that 'issuer' shall not mean such industrial or commercial enterprise if (1) the obligation is payable from the general revenues of a governmental unit, specified in section 3 (a) (2) of this title, having other resources which may be used for the payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by, or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise, but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section or an instrumentality thereof".

(b) Section 3 (a) (2) of such Act is amended by—

(1) striking out "or any security which is an industrial development bond" and all that follows through the semicolon following "does not apply to such security"; and

(2) by inserting after "or any certificate of deposit for the foregoing;" the following: "except that in the case of industrial development bonds (as defined in section 103 (b)(2) of the Internal Revenue Code of 1954, as amended), the foregoing exemption shall not apply with respect to any part of the obligation which, pursuant to section 2 (4) of this title, is issued by a commercial or industrial enterprise;".

SEC. 2. (a) Section 3 (a)(8) of the Securities Exchange Act of 1934 is amended—

(1) by striking out "and" before "except that with respect to equipment-trust certificates"; and

(2) by inserting before the period at the end thereof the following: "; and except that in the case of industrial development bonds (as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended), with respect to any part of the obligation which is payable from payments by an industrial, or commercial enterprise under the terms of a lease, sale, loan or other agreement, the term 'issuer', except for purposes of subsection (d), means the industrial or commercial enterprise that is the obligor under the terms of the industrial development bond arrangement: *Provided, however,* That 'issuer' shall not mean such industrial or commercial enterprise if (1) the obligation is payable from the general revenues of a government unit, specified in section 3 (a)(29) of this title, having other resources which may be used for the payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by, or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise, but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section or an instrumentality thereof".

(b) Section 3(a)(12) of such Act is amended by inserting after "and 17A of this title;" the following: "and industrial development bonds (as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended) which, pursuant to section 3(a)(8) of this title, are issued by a commercial or industrial enterprise shall not be deemed to be 'exempted securities' for purposes of section 12(k) of this title;".

(c) Section 3(a)(29) of such Act is amended by inserting a period after the phrase "excludable from gross income under section 103(a)(1) of such Code" and striking all that follows such phrase.

(d) Section 3(a)(29) of such Act is further amended by striking out "(c)" wherever it appears in such section and inserting in lieu thereof "(b)".

(e) Section 15B(d)(1) of such Act is amended by adding at the end thereof the following new sentence: "However, this paragraph shall not limit the Commission's authority with respect to any municipal security which is an industrial development bond (as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended) which, pursuant to section 3(a)(8) of this title is issued by a commercial or industrial enterprise.".

SEC. 3. Section 304(a)(4) of the Trust Indenture Act of 1939 is amended by striking out "(A)" and by striking out the entirety of clause (B).

SEC. 4. The amendments made by sections 1, 2, 3 and 4 take effect on————————.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C., May 1, 1978.

HON. HARRISON A. WILLIAMS, JR.,
Chairman, Subcommittee on Securities of the Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, D.C.

DEAR SENATOR WILLIAMS: I enclose for your consideration a legislative proposal which I have today transmitted, on behalf of the Commission, to Walter F. Mondale, President of the Senate, and to Thomas P. O'Neill, Speaker of the House. The attached proposal would, by amending the Securities Act of 1933 and the Trust Indenture Act of 1939 to delete the existing exemption for certain industrial development bonds, subject such bonds to the registration requirements of the Securities Act of 1933, the filing and qualification provisions of the Trust Indenture Act of 1939, and the periodic reporting requirements of Section 15(d) of the Securities Exchange Act of 1934. In addition, the proposal would conform the Securities Exchange Act in certain respects to provisions contained in the amendments to the Securities Act, and also would, by obviating the need for the "separate security" rubric presently contained in Commision Rules 131 under the Securities Act and 3b-5 under the Securities Exchange Act, simplify the provisions of the federal securities laws applicable to industrial development bonds.

In the recent past, an interest has been expressed by members of the Congress and of the Commission in upgrading via federal standards the disclosure provided to investors in municipal securities. In this regard, the Commission believes that industrial development bonds, which in substance are obligations of a business enterprise, are sufficiently distinct from other municipal securities to warrant treatment under a separate regulatory framework.

Commissioner John R. Evans, addressing the Municipal Finance Officers Association on November 4, 1977, expressed the view that "[b]ecause industrial revenue bonds are payable from revenues received by a governmental entity under the terms of a contractual agreement with a private enterprise and do not have the backing of the general credit and taxing power of the governmental issuer, and in light of [industrial development bond] abuses which have had an adverse impact on municipal securities markets, such bonds should be subjected to the full panoply of the registration requirements of the Securities Act, including pre-offering review by the SEC, as well as the periodic reporting requirements of the Securities Exchange Act of 1934."

Most recently, Commissioner Roberta S. Karmel, speaking before the Society of Municipal Analysts on April 13, 1978, stated that, "[i]t is evident that reform is needed in the area of industrial development bonds. . . Investors have been subject to undue risk based on questionable political premises and legal distinctions." Commissioner Karmel indicated that she is concerned about the exempt status of industrial development bonds under the federal securities laws because such bonds are in substance corporate not municipal debt, a number of abuses related to these bonds have developed in recent years, and the kind of political accountability that gives the investing public an input in municipal financing is absent in the case of industrial development bonds.

As these bonds are virtually indistinguishable in economic substance from corporate debt securities, the proposed legislation, which would subject industrial development bonds to the registration requirements of the Securities Act, the filing and qualification provisions of the Trust Indenture Act and the periodic reporting requirements of the Securities Exchange Act would in the Commission's view provide a suitable framework for increased federal regulation of such bonds. Moreover the abusive practices and numerous defaults involving industrial development bonds that have recently come to the Commission's attention indicate that independent of Congressional action on municipal securities disclosure legislation application of the federal securities laws to industrial development bonds are proposed in the attached legislative recommendation is warranted in order to provide needed and appropriate protections to investors in such bonds.

The views expressed here and in the accompanying materials are those of the Commission and do not necessary represent the views of the President. These materials are being simultaneously submitted to the Office of Management and Budget. We will inform you of any advice received from that office concerning the relationship of those materials to the program of the Administration.

Sincerely,

HAROLD M. WILLIAMS,
Chairman.

SECURITIES AND EXCHANGE COMMISSION,
Washington, D.C. May 1, 1978.

HON. THOMAS P. O'NEILL, JR.,
Speaker of the House, House of Representatives, Washington, D.C.

DEAR MR. SPEAKER: I am pleased to transmit, on behalf of the Commission, the attached legislative proposal, which would

amend the Securities Act of 1933 and the Trust Indenture Act of 1939 to delete the existing exemption for certain industrial development bonds, and the Commission's recommendation that the proposal be enacted into law. The proposed legislation would subject industrial development bonds to the registration requirements of the Securities Act of 1933, to the filing and qualification provisions of the Trust Indenture Act of 1939, and to the periodic reporting requirements of the Securities Exchange Act of 1934 by application of Section 15(d) of that Act. In addition, the proposal would conform the Securities Exchange Act in certain respects to provisions contained in the amendments to the Securities Act, and also would, by obviating the need for the "separate security" rubric presently contained in Commission Rules 131 under the Securities Act and 3b-5 under the Securities Exchange Act, simplify the provisions of the federal securities laws applicable to industrial development bonds.

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Sincerely,

HAROLD M. WILLIAMS,
Chairman.

SEC. 2. (a) Section 2(4) of the Securities Act of 1933 is amended to strike the word "and" beginning the phrase "and except that with respect to fractional undivided interests", to strike the period at the end of such section, and to add at the end the following new clause: "and except that in the case of industrial development bonds (as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended), with respect to any part of the obligation which is payable from payments by an industrial or commercial enterprise under a lease, sale, loan or other agreement, the term 'Issuer' means the industrial or commercial enterprise that is the obligor under the terms of the industrial development bond arrangement: *Provided*, however, that 'issues' shall not mean such industrial or commercial enterprise if, (1) the obligation is payable from the general revenues of a governmental unit, specified in section 3(a)(2) of this title, having other resources which may be used for the payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by, or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise, but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section or an instrumentality thereof."

(b) Section 3(a)(2) of such Act is amended by striking out "or any security which is an industrial development bond" and all that follows through the semicolon following "does not apply to such security."

(c) Section 3(a)(2) of such Act is further amended by inserting after the phrase "or any certificate of deposit for the foregoing;" the following new clause: "except that in the case of industrial development bonds (as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended), the foregoing exemption shall not apply with respect to any part of the obligation which, pursuant to section 2(4) of this title, is issued by a commercial or industrial enterprise;"

SEC. 3. (a) Section 3(a)(8) of the Securities Exchange Act of 1934 is amended to strike the word "and" beginning the phrase "and except that with respect to equipment-trust certificates", to strike the period at the end of such section, and to add at the end the following new clause: "and except that in the case of industrial development bonds (as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended), with respect to any part of the obligation which is payable from payments by an industrial or commercial enterprise under the terms of a lease, sale, loan or other agreement, the term "issuer", except for purposes of section 3(d) of this title, means the industrial or commercial enterprise that is the obligor under the terms of the industrial development bond arrangement: *Provided, however*, that "issuer" shall not mean such industrial or commercial enterprise if, (1) the obligation is payable from the general revenues of a governmental unit, specified in section 3(a)(29) of this title, having other resources which may be used for the payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by, or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise, but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section of an instrumentality thereof.

(b) Section 3(a)(12) of such Act is amended by inserting after the phrase "and 17A, of this title", the following new clause: "and industrial development bonds (as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended) which, pursuant to section 3(a)(8) of this title, are issued by a commercial or industrial enterprise shall not be deemed to be "exempted securities" for purposes of section 12(k) of this title".

(c) Section 3(a)(29) of such Act is amended by inserting a period after the phrase "excludable from gross income under Section 103(a)(1) of such Code" and striking all that follows such phrase.

(d) Section 3(a)(29) of such Act is further amended to reletter "(b)" wherever "(c)" currently appears in such section.

(e) Section 15B(d)(1) of such Act is amended by adding at the end thereof the following new sentence: "However, this paragraph shall not limit the Commission's authority with respect to any municipal security which is an industrial development bond (as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended) which, pursuant to section 3(a)(8) of the title is issued by a commercial or industrial enterprise;"

SEC. 4. Section 304(a)(4) of the Trust Indenture Act of 1939 is amended by deleting the parenthetical "(A)" and by striking out the entirety of clause (B) of the section.

SEC. 5. The amendments made by Sections 1, 2, 3 and 4 shall, take effect ———.

SECTION-BY-SECTION ANALYSIS

This bill would amend the Securities Act of 1933 ("Securities Act") to delete the exemption from registration under that Act for industrial development bonds (or "industrial revenue bonds" as they are often called) that meet certain qualifications set forth in Section 103 of the Internal Revenue Code of 1954 ("included" industrial development bonds) and would amend the Trust Indenture Act of 1939 ("Trust Indenture Act") to delete the exemption for "included" industrial development bonds.[1] Although the amendments would delete the exemption for "included" industrial development bonds contained in Section 3(a)(2) of the Securities Act, an exemption for certain of these bonds issued under specified conditions which generally involve essentially governmental projects would be preserved. In addition the bill would amend the Securities Exchange Act of 1934 ("Securities Exchange Act") to conform that Act to certain of the Securities Act amendments and to give the

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Footnotes at end of article.

Commission authority under Section 12(k) of that Act to suspend trading in industrial development bonds issued by industrial or commercial enterprises. Finally, Section 15B (d)(1) of the Securities Exchange Act would be amended to expressly authorize the Commission to require industrial or commercial issuers of industrial development bonds to file documents with the Commission prior to the sale of such bonds However, other than the amendment to Section 12(k) of the Securities Exchange Act, the bill would not affect the status of "included" industrial development bonds as exempt municipal securities under that Act.[2]

The amendments are intended to put the industrial or commercial enterprise that is the obligor under the industrial development bond arrangement on parity with corporate entities issuing other types of debt securities with respect to the applicability of the registration and prospectus delivery requirements of the Securities Act, the reporting requirements of the Securities Exchange Act and the filing and qualification provisions of the Trust Indenture Act. In this regard, the Commission believes that it would be inappropriate to include industrial development bonds within the purview of general municipal securities legislation such as that currently pending in the Senate[3] because the significant differences between industrial development bonds and other municipal securities warrant separate treatment.

Section 2(a)[4] would amend Section 2(4) of the Securities Act to specify that in the case of industrial development bonds (as the term is defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended) the private enterprise is the issuer of any part of the obligation which is payable from payments by that enterprise under the terms of the industrial development bond arrangement. This definition corresponds to the conditions presently set forth in Rule 131[5] under that Act, 17 CFR 230.131, under which the issuance of an industrial development bond by a governmental entity also is deemed to involve the issuance of a "separate security" by an industrial or commercial enterprise which is obligated under the terms of an industrial development bond arrangement to make what are, in effect, debt service payments on the bonds. This "separate security" issued by the private enterprise represents the interest of the bondholders in the contractual obligation of the private enterprise under the terms of the industrial development bond arrangement, and, in the absence of an available exemption, is subject to the requirements of the Securities Act, Securities Exchange Act and Trust Indenture Act.

Thus, in the instances where an industrial development bond issue would have involved a "separate security" under Rule 131, the industrial or commercial enterprise would, under the proposed amendments, be the issuer of the bonds; no "separate security" would be involved.[6] In this regard, it is important to note that although under the proposed amendments there would generally be a single issuer, the amendments would contemplate more than one issuer if more than one enterprise were obligated on the bonds or if the governmental unit were obligated to pay a portion of the debt service payments. When a governmental entity is obligated to pay all or a part of the debt in the event the industrial or commercial entity defaults, that portion of the obligation would be deemed issued by the governmental entity.

In this regard, it is important to note that Section 2(a) also incorporates the conditions set forth in Rule 131(b) under which an obligation would not presently involve a "separate security", thereby preserving the existing exemption for such bonds which generally involve essentially public projects. Such securities would, as obligations issued by a governmental unit, be exempted under Section 3(a)(2) of the Securities Act. Thus, the amendments would not affect revenue bonds issued by a governmental unit specified in Section 3(a)(2) of the Securities Act to finance a public project operated by or on behalf of and under the control of the governmental unit (such as municipal water systems, transportation facilities, municipal recreational facilities or certain housing projects). Nor would it affect revenue bonds which are to be funded by payments under a lease arrangement if the facility is part of a public project which, as a whole, is owned by and under the general control of a governmental unit (such as airports). Finally, any part of the obligation represented by the bonds which is payable from the general revenues of a governmental unit other than payments received from the industrial or commercial enterprise under the industrial development bond arrangement also would remain exempt.

Section 2(b) would amend Section 3(a)(2) of the Securities Act to eliminate the present exemption from registration under that Act for "included" industrial development bonds.[7] It should be noted, however, that any such bonds which are not issued by an industrial or commercial enterprise pursuant to amended Section 2(4) of the Securities Act would be securities issued by a governmental unit and would be exempted under Section 3(a)(2).

Section 2(c) would further amend Section 3(a)(2) of the Securities Act to provide expressly that Section 3(a)(2) does not exempt industrial development bonds which are issued by an industrial or commercial enterprise pursuant to Section 2(4) of that Act. Because under the proposed amendments the issuer of an industrial development bond would be a private entity, rather than a governmental entity, this amendment may be technically unnecessary. However, the amendment is appropriate because industrial development bonds have traditionally been considered government securities and, in fact, it is the governmental entity's name that appears on the face of the bonds. Further, we believe this amendment also will serve to underscore that certain of these bonds which would not be issued by an industrial or commercial enterprise would retain a Section 3(a)(2) exemption.

The combined effect of the amendments to the Securities Act would be to subject "included" industrial development bonds or any portion of an obligation represented by such bonds whose payment depends on revenues received from an industrial or commercial enterprise, to the registration and other provisions of the Securities Act. This is accomplished by specifying that industrial development bonds are not exempt securities and by defining "issuer" to be the industrial or commercial enterprise for any part of the obligation for which payments by that enterprise under the terms of the industrial development bond arrangement provide the source of debt service payments. However, the amendments would preserve the exemption for certain of these bonds by providing that under specified circumstances the commercial or industrial enterprise is not the issuer. In those instances, the bonds are obligations issued by a governmental unit, and therefore exempted by Section 3(a)(2) of the Securities Act.

The Commission believes that the approach reflected in these amendments, which under appropriate circumstances designate an industrial or commercial entity to be the issuer of the bonds, is preferable to the current "separate security" approach reflected in existing Rules 131 and 3b-5, 17 CFR 230.131 and 17 CFR 240.3b-5, because it is conceptually clearer and less cumbersome, and because it would give nongovernmental issuers of these bonds statutory notice of their important obligations under the federal securities laws. The amendments are necessary to provide industrial development bondholders with important information regarding the business operations and financial position of the corporate entity, the real source of their bond debt service payments, and also because of emerging enforcement problems involving industrial development bonds.

With deletion of the exemption under the Securities Act, nongovernmental issuers of "included" industrial development bonds would become subject to the reporting provisions of Section 13 of the Securities Exchange Act via the application of Section 15(d) of that Act. It is not anticipated that the proposed amendments would create any additional obligations under Section 12 of the Securities Exchange Act because the requirements for applicability of Section 12(g) of that Act are framed in terms of nonexempted equity securities rather than exempted debt securities,[8] and Section 12(b) would be applicable only in the event that a class of industrial development bonds is registered on a national exchange.

Section 3(a) would amend Section 3(a)(8) of the Securities Exchange Act to designate the industrial or commercial enterprise as the issuer (except for purposes of Section 3(d) of that Act) of any industrial development bond or any part of an obligation evidenced by such a bond which is payable from payments by the industrial or commercial enterprise. The conditions set forth in subsection (b) of Rule 3b-5 under the Securities Exchange Act are incorporated in Section 3(a) of the bill to make it clear that such bonds issued for certain public purposes are excluded. This amendment is intended only to conform the conceptual approach to industrial development bonds in the Securities Exchange Act with the approach these amendments establish in the Securities Act; this Section is not intended to affect the exempt status of "included" industrial development bonds under the Securities Exchange Act.

Section 3(b) would amend Section 3(a)(12) of the Securities Exchange Act to provide that industrial development bonds which are issued by an industrial or commercial enterprise shall not be "exempted securities" for purposes of Section 12(k) of that Act. As a consequence the Commission would have authority to suspend trading in such securities pursuant to Section 12(k). This amendment is necessary for an effective enforcement of the periodic reporting requirements of the Securities Exchange Act.

Section 3(c) would amend Section 3(a)(29) of the Securities Exchange Act to clarify that "excluded" industrial development bonds also are municipal securities. Currently, the "separate securities" of Governmental issuers of "excluded" industrial development bonds are municipal securities subject to the regulatory structure established by the Securities Acts Amendments of 1975,[9] while the associated "separate securities" of business enterprises are subject to applicable provisions of the Securities Exchange Act outside of that structure. As the bill would designate the business enterprise as the issuer and contemplates recision of Rule 3b-5, the amendment is necessary to preserve appropriate regulation of "excluded" industrial development bonds as municipal securities under the Securities Exchange Act.

Section 3(d) would further amend Section 3(a)(29) of the Securities Exchange Act to correct the references to Section 103 of the Internal Revenue Code of 1954 to reflect a subsequent amendment of that section of the Code which deleted former subsection (b) of the Code and redesignated former subsection (c) as subsection (b).[10] Section 3(e) would amend Section 15B(d)(1) of the Securities Exchange Act to make it clear that the Section does not limit the authority of the Commission to require any commercial or industrial issuer of an industrial development bond to file documents with the Commission prior to the offering of such securities.

Section 4 would amend Section 304(a)(4) of the Trust Indenture Act to delete the exemption for "included" industrial revenue bonds.

Section 5 would provide the effective date for the bill.

FOOTNOTES

[1] At present, "included" industrial development bonds are exempt from the registration provisions of the Securities Act pursuant to Section 3(a)(2) of that Act. Although Section 3(a)(2) does not exempt all tax-qualified industrial development bonds, an "included" industrial development bond, as described in Section 3(a)(2), is one on which the interest would be excludable from gross income under the Internal Revenue Code of 1954, as amended, by virture of either:

(a) Section 103(b)(4) (B) through (G) of the Internal Revenue Code, which extends the income exclusion coverage to interest on industrial development bonds of any principal amount where substantially all of the proceeds are to be used to provide sports facilities, convention or trade show facilities, airports, docks, wharves, mass commuting facilities, parking facilities, or storage or training facilities directly relating to any of the foregoing, sewage or solid waste disposal facilities, or facilities for the local furnishing of electric energy, gas or water, and air and water pollution control facilities, but specifically not for residential real property for family units; or

(b) Section 103(b)(6) of the Internal Revenue Code which provides for the exclusion from gross income of interest on industrial development bonds in an aggregate face amount of not more than five million dollars substantially all of the proceeds of which are to be used for the acquisition, construction or improvement of land or property of a character subject to the depreciation allowance or to redeem part or all of a prior issue which was issued for such purposes.

[2] "Included" industrial development bonds would continue to be exempted Securities for purposes of the Securities Exchange Act except Sections 12(k), 15, 15A (other than subsections (b)(6), (b)(11) and (g)(1) thereof) and 17A. [In this regard, it should be noted parenthetically, that "(g)(2)" appears erroneously in ex-exemptive Section 3(a)(12) in lieu of "(g)(1)"].

[3] S. 2339, the "Municipal Securities Full Disclosure Act of 1977" was jointly introduced on December 1, 1977 by Senators Proxmire, Williams and Javits. The bill is a revised and expanded version of S. 2969, legislation which was considered by the Senate during the 94th Congress, but was not enacted. Like its predecessor in the last Congress, S. 2339 would subject issuers of industrial development bonds to certain requirements under proposed Section 13A of the Securities Exchange Act. However, these obligations would be identical to those applicable to issuers of any municipal security, and would not require that any documents be filed with the Commission.

[4] Section references are to sections of the bill unless otherwise indicated.

[5] Rule 131 states in relevant part:

Definition of Security Issued Under Government Obligations.

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any governmental unit specified in Section 3(a)(2) of the Act which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale, or loan arrangement, by or for industrial or commercial enterprise, shall be deemed to be a separate "security" within the meaning of Section 2(1) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) An obligation shall not be deemed a separate "security" as defined in paragraph (a) hereof if, (1) the obligation is payable from the general revenues of a governmental unit, specified in Section 3(a)(2) of the Act, having other resources which may be used for the payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section or an instrumentality thereof.

Rule 3b-5 under the Securities Exchange Act, 17 CFR 240.3b-5, is identical in substance.

[6] It is anticipated that the Commission will rescind Securities Act Rule 131, 17 CFR 230.131, and substantively identical Securities Exchange Act Rule 3b-5, 17 CFR 240.3b-5.

[7] Nongovernmental issuers of industrial development bonds which do not meet the qualifications under Section 103 of the Internal Revenue Code of 1954 which are enumerated in Section 3(a)(2) of the Securities Act and in Section 3(a)(29) of the Securities Exchange Act ("excluded" industrial development bonds) are presently required to register under the Securities Act and are subject to the requirements of the Securities Exchange Act and Trust Indenture Act on the theory that they are issuers of "separate securities", pursuant to Rule 131 under the Securities Act and substantively identical Rule 3b-5 under the Securities Exchange Act.

[8] "Equity security" is defined in Section 3(a)(11) of the Securities Exchange Act.

[9] Pub. L. 94-29, 89 Stat. 97 (June 4, 1975).

[10] Pub. L. 94-455, Title XIX, Sec. 1901(a)(17)(B), (C), (Oct. 4, 1976).

STATEMENT OF THE SECURITIES AND EXCHANGE COMMISSION IN SUPPORT OF PROPOSED INDUSTRIAL DEVELOPMENT BOND LEGISLATION

I. INTRODUCTION

This bill would amend the Securities Act of 1933 ("Securities Act") to delete the exemption from registration under that Act for industrial development bonds that meet certain qualifications set forth in Section 103 of the Internal Revenue Code of 1954 ("included" industrial development bonds), and would amend the Trust Indenture Act of 1939 ("Trust Indenture Act") to delete the corresponding exemption under that Act for such industrial development bonds.[1] However, the bill would preserve the exemption for such bonds which are issued under certain specified conditions generally involving essentially governmental projects. In addition, the bill would amend the Securities Exchange Act of 1934 (the "Securities Exchange Act") to conform that Act to certain of the amendments made by the bill to the Securities Act. The bill would not, however, affect the status of "included" industrial development bonds as "exempted securities" under the Securities Exchange Act,[2] except to give the Commission authority to suspend trading pursuant to Section 12(k) of that Act. The amendments are intended to put the industrial or commercial enterprise that is the obligator under the industrial development bond arrangement on a parity with corporate entities issuing other types of debt securities with respect to the applicability of the registration and reporting requirements of the Securities Act and Securities Exchange Act, and the filing and qualification provisions of the Trust Indenture Act.[3]

The Commission believes that industrial development bonds that are funded by payments by an industrial or commercial enterprise are conceptually indistinguishable from other corporate debt securities.[4] Because the purchaser of an industrial development bond, in effect, invests in a private enterprise, sufficient disclosure to permit an informed evaluation of the private entity's viability and chances for success should be available to an investor prior to the purchase.

Thus, as reflected in our legislative proposal, the Commission believes that, to the extent industrial development bonds are payable from payments by an industrial or commercial enterprise, the industrial and commercial entities obligated on these bonds should be treated the same as other corporate entities that seek financing in the public securities markets, and should provide investors with the information required to be disclosed pursuant to the registration and periodic reporting provisions of the Securities Act and Securities Exchange Act. These concerns are underscored by the numerous enforcement problems which have developed in recent years involving the public offering or trading of these bonds[5] and by the resurgence in industrial development bond financing.[6]

The legislative history of the federal securities laws indicates that a primary reason for the municipal securities exemptions was the lack of "recurrent demonstrated abuses."[7] In addition, it was felt that speculative abuse was not likely to occur on any significant scale because the vast majority of investors in municipal securities were institutions, banks and other persons with expertise in financial and investment matters.[8]

However, the numerous abuses involving industrial development bonds which have developed in recent years indicate that these factors are no longer as compelling, and that an exemption for these bonds is no longer warranted.[9] The Commission believes that the registration and reporting requirements of the federal securities laws are an appropriate framework for increased federal regulation of industrial development bonds, and that application of these provisions would provide needed safeguards for investors.

II. HISTORY OF STATUS OF INDUSTRIAL DEVELOPMENT BONDS UNDER THE FEDERAL SECURITIES LAWS[10]

Since 1936, a variety of arrangements involving industrial development bonds have been utilized by municipalities to attract new commercial enterprise into their communities.[11] As noted by one commentator:

The industrial development bond financing technique took on a certain typical form. A municipality would agree to issue bonds to finance the construction of a factory for a private corporation. The corporation would in turn agree to "rent" the factory for the exact amount needed to pay the interest and amortize the principal of the bonds. Generally speaking, the bonds were revenue bonds in that principal and interest were payable only out of the rent, and the municipality assumed no obligation for repayment of either the principal or interest on the bond. Often the private corporation was given an option to "purchase" the facility for a nominal sum at the end of the bond payout period.[12]

The primary benefit to private enterprise

Footnotes at end of article.

from industrial development bond arrangements was low cost financing; because the bonds were considered governmental securities, they were accorded tax-exempt status under the Internal Revenue Code and also were exempt from the registration and reporting requirements of the federal securities laws.[13] These exemptions led critics to charge that industrial development bonds were merely a means of financing private enterprise at the expense of the federal treasury.[14] In 1968, Congress responded by amending Section 103 of the Internal Revenue Code to narrow the tax exemption for industrial development bonds.[15] At least one of the reasons for this amendment was a growing awareness that the increasing use of industrial development bonds could disrupt the market for traditional municipal bonds.[16]

In 1968, the Commission, also aware of the growing problems associated with industrial development bonds, was re-examining their status under the federal securities laws. The Commission recognized that a bondholder in substance depended on the financial success of the private enterprise user, rather than the credit of the municipal issuer, for debt service payments on the bond. Therefore, the Commission determined that the contractual obligation of the private enterprise under the industrial development bond arrangement involved a "separate security" which did not fall within the municipal securities exemptions under the federal securities laws. This position was codified by the adoption of Rule 131, 17 CFR 230.131, under the Securities Act of 1933, and Rule 3b-5, 17 CFR 240.3b-5, under the Securities Exchange Act of 1934. As a result, full compliance with the Securities Act, the Securities Exchange Act and the Trust Indenture Act was required.[17]

As the Commission stated in the release announcing proposed Rules 131 and 3b-5, 17 CFR 230.131 and 17 CFR 240.3b-5:

> The proposed rules do not question the availability of the exemption, provided in Section 3(a)(2) of the Securities Act, to the obligations of municipalities or of the states or their political subdivisions or instrumentalities. Such exemption is not available, however, to the separate security issued by the private company. Absent an exemption under the Act, the securities of the private company will be subject to the registration and prospectus delivery requirements of Section 5 of the Securities Act. Registration will not be required by the municipality or other political subdivision or instrumentality.[18]

Thus, Rules 131 and 3b-5 had no effect on the governmental security exemptions under the Securities Act and the Securities Exchange Act for traditional municipal revenue bonds.[19] Moreover, the rules applied only to that part of an industrial development bond obligation which is payable from payments by the private enterprise.[20]

Despite the limited thrust of these rules, however, on August 10, 1970, Congress amended Section 3(a)(2) of the Securities Act and Section 3(a)(12) of the Securities Exchange Act to exempt "included" industrial development bonds from those Acts.[21] In practical effect, the exemptions for "included" industrial development bonds provided by the amendments following the adoption of Rules 131 and 3b-5 served only to exempt the "separate securities" of private enterprises embodied in "included" industrial development bonds; the associated governmental obligations in both "included" and "excluded" industrial development bonds simply retained their exempt status and were unaffected by the amendments. The "separate securities" of private enterprises embodied in "excluded" industrial development bonds remained subject to the requirements of the Securities Act, the Securities Exchange Act and the Trust Indenture Act, by operation of Rules 131 and 3b-5.[22]

III. COMMENTS ON OTHER PENDING LEGISLATION

As indicated above, in view of emerging enforcement problems involving industrial development bonds and because in economic substance these bonds are the obligations of the private enterprise, the Commission believes that they should be treated as such for purposes of the registration and reporting requirements of the federal securities laws; investors in industrial development bonds which are payable from the profits of a commercial enterprise should not be accorded fewer protections than those provided to investors in other corporate bonds under the federal securities laws. We do not believe that other pending legislative proposals, relating to municipal securities generally, would provide an adequate regulatory framework for industrial development bonds.[23]

On December 1, 1977, Senators Proxmire, Williams and Javits introduced S. 2339, the "Municipal Full Disclosure Act of 1977." S. 2339 would amend the Securities Exchange Act to add a new Section 13A, which would provide limited disclosure requirements for "municipal securities", a term which encompasses "included" industrial development bonds.[24] Subject to exemptions comparable to those contained in the Securities Act, the bill would require an issuer that offers or sells an issue of municipal securities to prepare a distribution document prior to such offer or sale. In addition, an issuer with more than $50 million of municipal securities outstanding during any portion of a fiscal year would be required to prepare an annual report and report of any events of default for that fiscal year. Although municipal securities issuers would have an obligation under proposed Section 13A to make the required reports and distribution documents publicly available, they would not be required to file these documents with the Commission.

Disclosure schedules contained in subsections (b)(2) and (c)(2) of proposed Section 13A would set the parameters for disclosure that could be required under that Section. These schedules, which would require disclosure of items of information such as the issuer's tax authority and collection experience, the issuer's current budget, economic and demographics data, as well as other items relevant to a traditional offering of securities by a municipal issuer, are not particularly well suited and, in some instances, are inapplicable to industrial development bonds.[25] As indicated above, in the case of industrial development bonds, the municipality is merely a nominal issuer, and payment of principal or interest must necessarily depend on the financial operations of a private enterprise. Under such circumstances, disclosure should focus on the business operations and financial position of the private enterprise. Therefore, the Commission believes that disclosure comparable to that which is ordinarily required under the federal securities laws from corporate issuers of debt securities would be equally appropriate for industrial or commercial issuers of industrial development bonds.

The Commission also believes that in the interest of investor protection, and to promote the efficiency of the industrial development bond market, the frequency of disclosure should reflect the rate at which the investment risk is likely to change. The tax base and other indicia of the economic health of a municipality are likely to change rather slowly. However, private enterprises, which are susceptible to shifts in the economy and product demand, are likely to have greater variations in revenues. The more frequent disclosures which are required by the periodic reporting provisions of the Securities Exchange Act would provide more meaningful information to investors in industrial development bonds than the annual report contemplated by proposed S. 2339.[26]

In addition, S. 2339 contains express liability provisions which would delineate the responsibilities under the federal securities laws of municipal securities issuers, underwriters and other participants in the public offering and trading of municipal securities. Although these liability provisions are modeled, in part, on Sections 11 and 12 of the Securities Act and Section 8 of the Securities Exchange there are a number of modifications of these provisions which, in our view, may be inappropriate, particularly in the context of industrial development bonds.

One example of this problem is that the bill does not hold underwriters of municipal securities in a competitively bid underwriting to the traditional "due diligence" standard.[27] The Commission's experience with corporate issuers subject to its jurisdiction indicates that the underwriter, in carrying out its due dilgence obligations, has provided a strong impetus for complete and accurate disclosure.[28] In light of the fact that industrial development bond offerings are conceptually indistinguishable from competitive bid offerings of traditional corporate bond offerings, and in view of the emerging abuse in this area, the Commission believes that the reduction of underwriters' due diligence obligations in such offerings would deprive public investors of an important and necessary safeguard.

Other areas of concern include the issuer's affirmative due diligence defense[29] the requirement that reliance be demonstrated as a precondition to liability in connection with a material misstatement or omission in a distribution document,[30] and the provision that the remedies set forth in the bill with respect to a materially misleading distribution document are exclusive remedies with respect to municipal securities issuers, underwriters and experts.[31]

The Commission recognizes that traditional municipal securities are sufficiently different from corporate securities to warrant a separate regulatory framework and that some deviation from the current liability provisions in the federal securities laws may be necessary accommodations to unique features of the municipal securities markets. However, in light of the numerous defaults and emerging enforcement problems involving industrial development bonds, S. 2339, which would provide investors in "included" industrial development bonds with fewer safeguards and more limited disclosures than are provided to investors in "excluded" industrial development bonds and in other corporate bonds under the Securities Act and under the reporting requirements of the Securities Exchange Act, does not appear to be a sound legislative approach to increased federal regulation of industrial development bonds.

IV. INDUSTRIAL DEVELOPMENT BOND ABUSES

The problems discussed above are not merely matters of academic concern, since the record shows that the weakness in existing regulation has resulted in abuses. In recent years the Commission has brought an increasing number of enforcement actions involving industrial development bonds, numerous industrial development bond arrangements are currently under investigation, and a substantial number of defaults have come to our attention.[32] The discussion below includes a list of cases together with a very brief explanation of each situation, to indicate, in general terms its relevance to the legislative proposal. We have limited the list to a selection to cases which we believe have particular significance to the proposed legislation.[33]

In the cases described below, application

Footnotes at end of article.

of the registration and prospectus delivery requirements of the Securities Act and the periodic reporting requirements of the Securities Exchange Act, as is proposed in the Commission's legislative recommendation, might well have served to deter the abuses. Appropriate disclosure to investors would have permitted them to make investment decisions based on an informed evaluation of the risks involved. In addition, as we indicated above, the Commission's experience with corporate issuers subject to its jurisdiction indicates that due diligence obligations, particularly with respect to underwriters, have provided a strong impetus for complete and accurate disclosure. In the case of broker-dealer abuses, the broad dissemination of current information required of issuers pursuant to the Securities Act registration requirements, and the Securities Exchange Act periodic and current reporting requirements would provide an effective supplemental restraint on improper selling practices.

One example, *Securities Exchange Commission* v. *Astro Products of Kansas, Inc.*, 76–359, D. Ka. (October 26, 1976), a pending enforcement action, involves the offer and sale of $2,200,000 in industrial development bonds to promote an industrial project in Haysville, Kansas. The Commission is seeking an injunction against Astro Products of Kansas, Inc. ("Astro Products") and certain other participants in the bond offering for alleged violations of the registration [34] and antifraud provisions of the Securities Act as well as the antifraud provisions of the Securities Exchange Act. The Commission has asserted that the underwriters sold the bonds on the basis of unverified information supplied by the promoters. It is alleged that as a result the underwriters misrepresented material facts, including the financial condition of the corporate issuer, the use of proceeds and the qualifications of the individuals who were to manage the project. In addition, the Commission has alleged that one of the promoters misrepresented the feasibility of the proposed enterprise as well as his expertise in the product line to be manufactured by Astro Products.

Securities and Exchange Commission v. *Adventure Line Manufacturing Co., Ltd.*, 77–1013, D. Ka. (Jan. 18, 1977), which involves alleged material misstatements and omissions in connection with an industrial development bond offering totaling $1,200,000 and sold to more than ninety investors, is a second illustration of the need for application of the registration requirements in connection with the public offering of industrial development bonds. Pursuant to an agreement between A. H. Speer Co. ("Speer Co."), a municipal securities dealer, and Adventure Line Manufacturing Co. Ltd. ("Adventure Line"), Speer underwrote the offering and Mr. Andrew H. Speer ("Speer") became Chairman of the Board of Adventure Line. The Commission has asserted that in connection with the offering, Adventure Line, Speer Co., and Speer failed to disclose material facts, including the fact that prior to the bond offering the company was experiencing financial difficulties so severe that insurance premiums were not paid, withholding taxes were overdue, checking accounts were overdrawn and payroll obligations had not been met. Moreover, although the undated, four-page offering circular stated that the proceeds of the offering were to be used for the purchase of land and equipment, the Commission alleged that the proceeds were, in fact, used to restructure Adventure Line's debt obligations for the benefit of company insiders and to relieve cash flow problems. In addition, the Commission alleged that the offering circular contained misstatements regarding the tax-exempt status of the interest on the bonds, the financial condition of Adventure Line and other material facts necessary to permit purchasers of the bonds to evaluate the investment on an informed basis. On January 20, 1977 Speer consented to an order of permanent injunction.

In *Bache Halsey, Stuart, Inc.* Securities Exchange Act Release No. 12847 (October 1, 1976), the Commission found, based on its order for administrative proceedings and the offer of settlement from Bache Halsey Stuart, Inc. ("Bache"), that Bache had been the underwriter for a $4.8 million industrial development bond offering to finance the expansion of the Palatine Dye Company ("Palatine"). Following the offering Bache maintained a market in the bonds and purchased and sold the bonds to its retail customers. During this time, Bache did not provide its customers with current information regarding the financial position of Palatine. In fact, Palatine's financial condition was deteriorating, and eighteen months after the offering Palatine filed a petition in bankruptcy. In connection with the settlement, Bache agreed partially to reimburse its customers for their losses and to establish internal operating procedures to safeguard customers investing in industrial development bonds.

Securities and Exchange Commission v. *Western States Plastics, Inc.*, 77–0408, W.D. Okla. (April, 1977) involves three industrial development bond offerings totalling $4.8 million by Midwestern Oklahoma Development Authority ("MODA") on behalf of three corporate entities. The Commission has alleged that MODA, in approving the bond issues, relied upon unverified representations made by the promoters. In addition, the Commission has alleged that certain participants in the offerings diverted proceeds for their own use, and that the sales material misrepresented the financial condition of the corporate issuer, the use of proceeds from the offering, and several other material facts relevant to an informed investment decision.

Securities and Exchange Commission v. *R. J. Allen & Associates Inc.*, CCH Fed. Sec. L. Rep. ¶ 94,920 (S.D. Fla. 1974) is a classic example of abuse by a broker-dealer in the purchase and sale of $4.5 million in industrial development bonds. R. J. Allen & Associates, Inc. ("R. J. Allen") sold highly speculative industrial development bonds to the general public and, in particular, to returning Vietnam prisoners of war, using misleading representations and high pressure sales tactics. Although the facts upon which the action was based occurred prior to the Securities Acts Amendments of 1975,[36] and involved many of the abuses by brokers and dealers in the marketing of securities which those amendments were intended to prevent, we believe the court's description of industrial development bonds is apposite.

These bonds while generally included in the class of "municipal bonds" are of a particular type in that they are not generally obligation bonds of a political entity, nor are they backed by the full faith and credit of any municipality, state, or local taxing unit. Rather, their viability depends in full measure upon the ability of the company funded by the proceeds from the bond sales to generate sufficient revenues to meet the principal and interest payments due on the bonds. As such, IDR's are speculative, high-risk securities includable in the class of "municipal bonds" only because of the tax-exempt feature of the interest payments made to investors in them.[37]

In addition to actions brought by the Commission, a number of private actions relating to fraudulent offerings of industrial development bonds have been instituted. *Cohen* v. *Marine Protein Corp.*, CCH Fed. Sec. ¶ 96,267 (S.D.N.Y. 1977), for example, involves $2.5 million in industrial development bonds issued by the city of Mammoth Spring, Arkansas in December, 1972 on behalf of Marine Protein Corp. ("Marine Protein") to finance the construction of high density fish breeding silos to be filled with local spring water. The plaintiffs have alleged that the bonds were offered and sold on the basis of information that failed to disclose material facts regarding the financial position of the corporate issuer, the speculative nature of the investment, and the use of proceeds of the issue.

In this regard, the plaintiffs allege that in contrast to a prospectus prepared a few months earlier for a February, 1972, Marine Protein stock offering, which unlike the bond prospectus had been filed with the Securities and Exchange Commission, the Marine Protein bond prospectus failed to disclose several material risk factors. Among the risks set forth in the stock prospectus and which the plaintiffs contend were not disclosed in the bond prospectus were the following: (1) Since its start up in 1969 Marine Protein had sustained substantial losses and as yet had no commercial sales; (2) Marine Protein would be entering a highly competitive business; (3) Marine Protein had no facilities in operation; and (4) Marine Protein foresaw the need for additional financing in the near future. The district court has denied class certification as to the disclosure issues, but granted class certification for the plaintiffs' additional allegations that the opinion legended on the bond certificates falsely stated that interest paid on the bonds would be exempt from federal taxation.

In *McCrystal* v. *Barnwell County*, South Carolina, 422 F. Supp. 219 (S.D.N.Y.) 1976) the plaintiffs, seven individual purchasers, brought an action under the antifraud provisions of the federal securities laws for alleged fraud in the sale of industrial development bonds. The bonds were issued by Barnwell County to finance construction of a plant for Anchorage Carolina Corporation ("Anchorage"). Plaintiffs are suing bond counsel, counsel to Barnwell County, an accounting firm that conducted an audit of Anchorage in connection with the offering, Anchorage, certain directors of Anchorage, and the underwriter.

The plaintiff's have alleged that the South Carolina statute authorizing the issuance of industrial development bonds, as well as the "custom and practice of the market for industrial revenue bonds of the type represented by the Barnwell bonds," required the County Board to make a feasibility study of the project to be financed by the bonds. The plaintiffs allege that this study was not performed, despite the County Board's representations to the contrary. They also allege that opinion letters issued by the County's counsel, representing that the bonds were lawfully issued, were rendered with knowledge that such statements were false or with such reckless disregard of the facts as to amount to fraud. Finally, the plaintiffs have alleged that the offering circular contained at least 21 misstatements or omissions of material fact. The district court has transferred the case to the District of South Carolina, concluding that a change of venue is proper because the bulk of testimony on the issuer of liability would involve South Carolina defendants.

A recent criminal case, *United States* v. *George Mariscal*, CR 78–80 (Ariz. March 9, 1978) is a further example of the need for the type of safeguards that would be provided to investors in industrial development bonds if the proposed legislation is enacted. In March of this year, Phoenix attorney George Mariscal was indicted by a federal grand jury on fraud charges stemming from a $1.2 million industrial development bond issue to finance the construction of a hydroponic farm near Las Cruces, New Mexico.[38] The indictment alleges that in connection with the bond offering Mariscal made false representations to investors regarding the use or proceeds of the offering, the association with the project of experts in the field of hydroponic agriculture, and the availability of assets for use in financing if events required an infu-

Footnotes at end of article.

sion of additional capital. In addition, it is alleged that Mariscal submitted fictitious applications of expenses incurred in construction of the hydroponic facility, while diverting "substantial amounts of monies" to his own personal use.

The cases cited herein and the defaults listed in the attached Appendix B suggest that even as strengthened by the 1975 Securities Acts Amendments, in many instances the present regulatory framework has not, in fact, elicited sufficient and reliable information on which to base an investment decision. The Commission's proposal would, by promoting dissemination of information in an expedient and effective manner, provide needed protections to investors in industrial development bonds.

FOOTNOTES

[1] At present, "included" industrial development bonds are exempted from the registration and prospectus delivery provisions of the Securities Act by Section 3(a)(2) of that Act, which, however, does not exempt all tax-qualified industrial development bonds. An "included" industrial development bond, as described in Section 3(a)(2), is one on which the interest is excludable from gross income under the Internal Revenue Code of 1954 by virtue of either:

(a) Section 103(b)(4)(B) through (G) of the Internal Revenue Code, which extends the income exclusion coverage to interest on industrial development bonds of any principal amount where substantially all of the proceeds are to be used to provide sports facilities, convention or trade show facilities, airports, docks, wharves, mass commuting facilities, parking facilities, or storage or training facilities directly relating to any of the foregoing, sewage or solid waste disposal facilities, or facilities for the local furnishing of electric energy, gas or water, and air and water pollution control facilities, but specifically not for residential real property for family units; or

(b) Section 103(b)(6) of the Internal Revenue Code which provides for the exclusion from gross income of interest on industrial development bonds in an aggregate face amount of not more than five milion dollars if substantially all of the proceeds are to be used for the acquisition, construction or improvement of land or property of a character subject to the depreciation allowance or to redeem part or all of a prior issue which was issued for such purposes.

However, the practical effect of the exemption in Section 3(a)(2) of the Securities Act is to exempt the "separate securities" of private enterprises which pursuant to Rule 131, 17 CFR 230.131, under that Act, are embodied in industrial development bonds. Thus, the "separate securities" of commercial enterprises embodied in "included" industrial development bonds are exempted by Section 3(a)(2), while the "separate securities" of commercial enterprises embodied in industrial development bonds which do not meet the qualifications described in Section 3(a)(2), ("excluded" industrial development bonds) are not so exempt. The "separate securities" of governmental entities of all industrial development bonds are governmental obligations exempted by Section 3(a)(2). The exemption for "included" industrial development bonds in Section 3(a)(12) of the Securities Exchange Act should be analyzed in a similar fashion. *See, infra* at pp. 7–12 for a more detailed discussion of the existing exemptions under the federal securities laws for industrial development bonds.

[2] "Included" industrial development bonds would continue to be "exempted securities" within the meaning of Section 3(a)(12) of the Securities Exchange Act except for purposes of Section 12(k) of that Act, and such bonds would remain "municipal securities" under Section 3(a)(29) of that Act. Accordingly, "included" industrial development bonds would be "exempted securities" under the Securities Exchange Act except for purposes of Sections 12(k), 15, 15A (other than subsections (b)(6), (b)(11), and (g)(1) thereof), and 17A of that Act. It should be noted, parenthetically, that in Section 3(a)(12) of the Securities Exchange Act "(g)(2)" erroneously appears rather than "(g)(1)".

In this regard, it should be noted that issuers of "included" industrial development bonds would be subject to periodic reporting requirements through application of Section 15(d) of that Act. It is not anticipated that the bill would result in any additional obligations under Section 12 of the Securities Exchange Act because Section 12(g) is applicable to non-exempted equity securities, not exempted debt securities, and Section 12(b) would be applicable only if a class of industrial development bonds is registered on a national exchange. "Equity security" is defined in Section 3(a)(11) of the Securities Exchange Act.

[3] As we indicated in note 1, *supra*, an industrial or commercial obligor on an issue of industrial development bonds that does not meet the qualifications described in Section 3(a)(29) of the Securities Exchange Act ("excluded" industrial development bonds) is presently subject to the requirements of the Securities Act, the Securities Exchange Act, and the Trust Indenture Act, because it is the issuer of a "separate" non-exempted security under Securities Act Rule 131, 17 CFR 230.131, and Securities Exchange Act Rule 3b–5, 17 CFR 240.3b–5. *See*, discussion *infra* pp. 7–12 for a more detailed explanation.

[4] In general, industrial development bonds are payable in whole or in major part from revenues received by a governmental unit in accordance with the terms of its contractual agreement with a private enterprise, and are not secured by the general credit and taxing powers of the governmental unit. As a result, the holder of an industrial development bond must depend on the financial health of the participating private entity, not the municipality, for the payment of part, and often all, of the principal and interest. For a more detailed discussion of industrial development bond arrangements, consult the sources cited in note 5 of Appendix A.

[5] *See* pp. 19–27, *infra* for a discussion of recent Commission enforcement actions and private litigation involving industrial development bonds and Appendix B for a list of industrial development bond defaults that have come to the Commission's attention.

[6] Between 1960 and 1968, industrial development bond financing increased from $70 million to between $1.5 and $2 billion and from an average size of $2 to $7 hundred thousand to $80 to $140 million. McDaniel, *Federal Income Taxation of Industrial Revenue Bonds: The Public Interest*, 1 Urb. Law. 157, 158–9. The 1968 amendments to the Internal Revenue Code, which restricted the availability of the tax exemption, severely reduced the volume of industrial development bond financing in 1969. However, the exceptions provided by the amendments, particularly for pollution control facilities (Section 103(b)(4)(F) of the Internal Revenue Code of 1954, as amended), have led in recent years to the sale of large amounts of industrial development bonds. Twentieth Century Fund, *Building a Broader Market*, 45, 48–49 (1976).

Sales of industrial development bonds excluding industrial aid pollution control bonds totalled $450 million in 1976 and over $2 billion in 1977, a greater than 300% increase, and industrial development bonds for pollution control alone totaled over $2.6 billion. The average size of industrial development bond issues for pollution control in 1977 was $13 million, while the average size in 1977 for all other industrial development bond issues was $7.3 million. *See* Appendix C.

[7] H. R. Rep. No. 85, 73rd Cong. 1st Sess. 7 (1933).

[8] *Hearings on S. Res. 84, S. Res. 56 and S.R. 97 Before the Senate Committee on Banking and Currency*, 73rd Cong. 2d Sess. 7443 (1934).

[9] Moreover, some commentators believe that rising personal incomes and inflation have produced an increased participation of individual investors in the municipal securities markets. *See* 123 Cong. Rec. 19263 (daily ed., Dec. 1, 1977). (Statement of Senator Williams before the Senate Committee on Banking, Housing and Urban Affairs when introducing S. 2339, "The Municipal Securities Full Disclosure Act of 1977"; *Cf.* Twentieth Century Fund, *supra*, at pp. 72–74. *But see* an essay by Robert W. Doty, based on materials prepared by John E. Peterson, concerning municipal securities disclosure, due diligence, and investor protection to be published in the May 1978 issue of the *Journal of Law and Contemporary Problems*.)

Further, it has been stated that municipal securities were exempted from the registration and reporting requirements of the federal securities law for "obvious political reasons." Landis, *The Legislative History of the Securities Act of 1933*, 28 Geo. Wash. L. Rev. 29, 39 (1959). And more recently, in connection with municipal securities legislative proposals it has been argued that the Securities Act registration requirements and the Securities Exchange Act provisions that require filing of periodic and current reports, could have an adverse impact on the ability of municipalities to raise capital for public purposes. Industrial development bonds, however, are issued primarily to finance private, rather than traditionally public projects. From a historical standpoint, then, and at present, it does not appear that this rationale is valid when applied to industrial development bonds.

[10] *See* Appendix A for a more comprehensive discussion of industrial development bonds.

[11] The first state authorization of industrial development bonds was the Mississippi "Balance Agriculture with Industry" plan of 1936, Miss. L. 1st. Ex. Sess. (1936) C. I., Now Miss. Code Sec. 8936 *et seq.*

[12] McDaniel, *Federal Income Taxation of Industrial Revenue Bonds:* The Public Interest, 1 Urb. Law 158 (1969).

[13] Section 3(a)(2) of the Securities Act; Section 3(a)(12) of the Securities Exchange Act.

[14] *See, e.g.*, Spiegel, *Financing Private Ventures With Tax-Exempt Bonds: A Developing Truckhole in the Tax Law*, 17 Stan. L. Rev. 224 (1965).

[15] Revenue and Expenditure Control Act, Pub. L. No. 90–364, Sec. 107, 82 Stat. 251 (June 27, 1968).

[16] McDaniel, *supra* at p. 162.

[17] Securities Act Release No. 4921 and Securities Exchange Act Release No. 8388 (August 28, 1968) announced the adoption of Rule 131 under the Securities Act, 17 CFR 230.131, and Rule 3b–5 under the Securities Exchange Act, 17 CFR 240.3b–5. These rules identified those circumstances in which industrial development bonds issued by a governmental entity would be considered by the Commission to also involve the issuance of a "separate security" by a private enterprise. The rules are identical in substance.

Rule 131 states in relevant part:

Definition of Security Issued under Government Obligations:

(a) Any part of an obligation evidenced by any bond, note, debenture or other evidence of indebtedness issued by any governmental unit specified in Section 3(a)(2) of the Act which is payable from payments to be made in respect of property or money which is or will be used under a lease, sale or loan arrangement, by or for industrial or commercial enterprise, shall be deemed to be a separate "security" within the meaning of Section 2(1) of the Act, issued by the lessee

or obligor under the lease, sale or loan arrangement.

(b) An obligation shall not be deemed a separate "security" as defined in paragraph (a) hereof, if (1) the obligation is payable from the general revenues of a governmental unit, specified in section 3(a)(2) of the Act, having other resources which may be used for payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such subsection, or an instrumentality thereof.

[18] Securities Act Release No. 4869; Securities Exchange Act Release No. 8248 at pp. 1–2.

[19] Release No. 4921, *supra* at p. 2. In 1970, Rules 131 and 3b–5 were amended to make it clear that a "separate security" of a private enterprise would not be deemed to exist in situations where facilities of a public project as a whole was owned by, and under the general control of a governmental entity. Securities Act Release No. 5055; Securities Exchange Release No. 8850 (March 31, 1970).

[20] Release No. 4921, *supra* at pp. 2–3.

[21] Employment Security Amendments of 1970, Pub. L. No. 91–373, Sec. 401, 84 Stat. 718 (August 10, 1970).

[22] *See* Securities Act Release No. 5103; Securities Exchange Act Release No. 9106 (November 6, 1970).

[23] Several municipal securities legislative proposals have been introduced in this Congress. However, as S. 2339 appears to be the most viable option and, in fact, is a revised and expanded version of S. 2339, a bill that was considered by the last Congress and supported by the Commission, we deal only with S. 2339 in our discussion of pending legislation. *See Hearings Before the Senate Committee on Banking, Housing and Urban Affairs on S. 2969 and S. 2574*, 94th Cong., 2d. Sess. 27–30 (1976).

It is important to note that the views expressed herein with respect to S. 2339 deal only with the treatment of industrial development bonds under that bill and are not intended as the Commission's general comments on S. 2339.

[24] S 2339 would be applicable to "municipal securities" as that term is defined in Section 3(a)(29) of the Securities Exchange Act. Section 3(a)(29) provides:

(29) The term "municipal securities" means securities which are direct obligations of, or obligations guaranteed as to principal or interest by, a State or any political subdivision thereof, or any agency or instrumentality of a State or any political subdivision thereof, or any municipal corporate instrumentity of one or more States or any security which is an industrial development bond (as defined in section 103(c)(2) of the Internal Revenue Code of 1954) the interest on which is excludable from gross income and section 103(a)(1) of such Code if, by reason of the application of paragraph (4) of (6) of section 103(c) of such Code (determined as if paragraph (4)(A), (5) and (7) were not included in such section 103(c)), paragraph (1) of such section 103(c) does not apply to such security.

As indicated *supra* at pp. 12, governmental obligations embodied in both "excluded" and "included" industrial development bonds are, and traditionally were, exempted municipal securities. Therefore, S. 2339 would affect the securities of governmental entities embodied in "excluded" and "included" industrial development bonds, and the securities of nongovernmental entities embodied in "included" industrial development bonds.

S. 2339 does not contain any amendment to the Securities Act. As a consequence, "included" industrial development bonds would continue to be exempt under Section 3(a)(2) of the Securities Act from the disclosure requirements of the Securities Act. By reference to Section 304(a)(4) of the Trust Indenture Act, they also would be exempt from the provisions of the Trust Indenture Act. "Excluded" industrial development bonds (more precisely the "separate securities" of private enterprises embodied in "excluded" industrial development bonds) would continue to be subject to the disclosure requirements of the Securities Act and the provisions of the Trust Indenture Act. All industrial development bonds would continue to be subject to the antifraud provisions of Section 17 of the Securities Act.

[25] The only disclosure provision that would apply directly to revenue bonds is subsection (c)(2)(I) of proposed Section 13(A). That subsection would require that the distribution document include a description of the project or enterprise to be financed from the proceeds of the offering and any available financial or engineering feasibility studies.

[26] Unlike S. 2339, the legislation recommended herein would, by application of Section 15(d) of the Securities Exchange Act, require industrial or commercial issuers of industrial development bonds to file periodic and current reports. In this regard, it should be noted that under Section 15(d) the obligation to file such reports may terminate as soon as the fiscal year following the year in which a company's registration became effective, if each class of securities covered by the registration statement are held of record by less than three hundred persons. In addition, if an issuer has more than one class of securities outstanding, such issuer may have Securities Exchange Act reporting obligations independent of any obligation arising by virtue of the industrial development issue.

[27] Subsection 13A(g)(2)(B)(i).

[28] In 1977, 22% of the industrial development bond issues and 38% of the total dollar volume of industrial development bonds were sold at a public competitive bidding. *See* Appendix C.

[29] Subsection 13A(g)(2)(A).

[30] Subsection 13A(g)(1)(C).

[31] Subsection 13A(i).

[32] *See* Appendix B.

[33] Relevant documents from the Commission's files would, of course, be available should Congress wish to consider any particular Commission action in greater detail.

[34] The Commission has contended that because the misapplication of proceeds rendered the tax exemption unavailable, the exemption from registration in Section 3(a)(2) of the Securities Act, which is framed in terms of the tax exemption, was also unavailablie.

[35] Hydroponic farming involves growing plants in a nutrient solution rather than soil.

[36] Pub. L. No. 94–29, 89 Stat. 97 (June 4, 1975).

[37] *Securities and Exchange Commission* v. *R. J. Allen & Associates, Inc.* CCH. Fed. Sec. L. Rep. ¶ 94,920 at 97,154 (S.D. Fla. 1974).

Appendix A

Industrial Development Bonds

I. Introduction

Industrial development bonds (or "industrial revenue bonds" as they are frequently called) [1] are debt instruments issued nominally by a governmental entity to finance the construction or acquisition of a facility for ultimate use by a private business enterprise. The facility financed by such bonds is the subject of a contractual agreement (typically a lease) [2] between the governmental entity and the private enterprise, providing for payments by the latter to the former in an amount calculated to fully sustain debt service requirements on the bonds.[3] Principal and interest on the bonds is payable from the revenues received by the governmental entity under the terms of its contractual agreement with the private enterprise. The bonds are not backed by the general credit and taxing authority of the governmental entity in whose names the bonds are issued; the governmental entity is generally obligated on the bonds only to the extent of applying contract revenues received from the private enterprise to the payment of bond principal and interest.[4]

II. History of Industrial Development Bonds Under the Federal Securities Laws

The industrial development bond came into being soon after the Second World War. Beginning in 1946, a number of state legislatures, in an effort to stimulate industrial development and attract new commercial enterprise into their states, passed laws authorizing local government entities to issue revenue bonds to finance the construction or acquisition of plant facilities for use by private business concerns.[5] The plant facilities financed by the bonds were constructed or acquired in accordance with specifications of the private user, and payments under the contractual agreement between the governmental issuer and private user were calculated to fully sustain such issuer's debt service obligations on the bonds.

Like municipal revenue bonds, industrial revenue bonds were not backed by the general credit and taxing authority of the governmental entity-issuer; principal and interest on the bonds were payable from the contract revenues received by the governmental entity from the private enterprise-user.

In the typical revenue bond project, the municipality agrees to construct and equip a manufacturing plant in accordance with plans and specifications approved by a private corporation and then lease it to the corporation for a term of twenty-five years. A rental is fixed which will amortize the bonded indebtedness and pay the interest charges during the term of the lease. The agreement usually is a net lease, under which the lessee is obligated to maintain the premises and to pay all insurance premiums. Both the facility and the bonds are tax exempt. At the close of the primary term, the lessee usually has an option to extend at a nominal rent, often by successive short-term renewals. In many instances the lessee has an assured occupancy for a total period of fifty to sixty years. The lease usually can be freely assigned or the premises sublet without the consent of the municipality. It is also common for the lessee to be granted an option to purchase during the primary term by satisfying the municipality's debt and interest charges, or after the close of the primary term, by paying a nominal sum. Although the city, therefore, holds title to the land and facility, the corporation is guaranteed the right to use the facility for virtually all of the useful life, so long as it pays the principal debt and interest, discharges its duties to maintain the facility, and keeps it properly insured.[6]

In addition to lease arrangements, essentially the same kind of industrial development bond financing was effected by a governmental entity loaning the proceeds of the bond issue to a private concern or selling the financed project to a private concern on a deferred payment basis with the payment schedule calculated to fully sustain debt service requirements on the bonds.[7]

The primary benefit to private enterprise from industrial development bond arrangements was low-cost financing, based on use of a governmental entity's name and the tax-exempt status of government bond interest. This use of government privilege by private enterprise received substantial criticism.

Although municipal industrial bonds are governmental securities in form, in effect they are simply obligations of private businesses to which the name and tax exempt status of the nominal issuer have been transferred.[8]

Footnotes at end of article.

Until the Internal Revenue Code was amended in June of 1968 to restrict the tax exemption for interest on industrial development bonds,[9] however, private enterprises in industrial development bond arrangements reaped the full benefits of favorable government bond tax treatment.

As industrial development bond arrangements grew in popularity as a means of stimulating local economic expansion, the number and principal amount of industrial development bond offerings grew rapidly. Problems arose as local investors were often found not able to absorb all industrial development bond issues. These bonds in large amounts began to be offered and sold in interstate commerce.

Around the time the Treasury Department began a reexamination of the tax exemption extended to industrial development bonds,[10] the Securities and Exchange Commission also began a review of their exempt status under the federal securities laws. The Commission ultimately concluded that the governmental entity was only the nominal issuer of the industrial development bonds; bondholders in substance looked to the credit of the private enterprise-user, rather than the credit of the governmental issuer, for ultimate payment of principal and interest on the bonds. Accordingly, the obligation of the private enterprise did not come within the governmental entity exemptions under the federal securities laws and full compliance with the Securities Act of 1933 (the "Securities Act"), the Securities Exchange Act of 1934 (the "Securities Exchange Act"), and the Trust Indenture Act of 1939 (the "Trust Indenture Act") was required. On August 28, 1968, the Commission codified this approach by announcing the adoption of Rule 131 under the Securities Act ("Rule 131") and Rule 3b–5 under the Securities Exchange Act ("Rule 3b–5") (sometimes collectively referred to as the "Rules").[11]

Rule 131 and Rule 3b–5

Rule 131 and Rule 3b–5 constituted a definitive statement of the Commission's position on industrial development bonds. The Rules identified an interest in contractual obligations of a private enterprise-user in certain industrial development bond arrangements as a "separate security" issued by the private enterprise subject to the requirements of the Securities Act, Securities Exchange Act, and Trust Indenture Act. Rule 131 and Rule 3b–5 defined those circumstances where industrial development bonds issued by a governmental entity would be deemed by the Commission to involve the issuance of a "separate security" by a private enterprise. The Rules are substantively identical. Rule 131 states in relevant part:

Definition of Security Issued Under Government Obligations:

(a) Any part of an obligation evidenced by any bond, note, debenture, or other evidence of indebtedness issued by any governmental unit specified in Section 3(a)(2) of the Act which is payable from payments to be made in respect of property or money which is or will be used under a lease, sale or loan arrangement, by or for industrial or commercial enterprise, shall be deemed to be a separate "security" within the meaning of Section 2(1) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) An obligation shall not be deemed a separate "security" as defined in paragraph (a) hereof if, (1) the obligation is payable from the general revenues of a governmental unit, specified in Section 3(a)(2) of the Act, having other resources which may be used for the payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in such section, or (3) the obligation relates to a facility which is leased to and under the control of an industrial or commercial enterprise but is a part of a public project which, as a whole, is owned by and under the general control of a governmental unit specified in such section or an instrumentality thereof.[12]

It must be noted that Rule 131 and Rule 3b–5 did not affect the governmental entity exemption under Section 3(a)(2) of the Securities Act and Section 3(a)(12) of the Securities Exchange Act. The Rules merely recognized that certain industrial development bonds embodied two separate securities that were differently affected by the governmental entity exemptions of the Acts—one security issued by the governmental entity itself (representing the interest in the "conduit" obligations of the governmental entity under the industrial development bond arrangement) that was exempt, and one security issued by the private enterprise (representing the interest in the obligation of the private company under the industrial development bond arrangement) that was not exempt. As noted in the release announcing proposal of the rules:

"Industrial revenue bonds" generally are instruments issued in the name of a government or its instrumentality to finance the acquisition of a revenue producing facility which is leased to a private commercial or industrial company, to whose specifications the facility is usually created. The principal and interest on the bonds are payable from the proceeds of the lease, and the bonds are not backed by the taxing power and general credit of the governmental instrumentality in whose name they are issued. Such a bond is an instrument that represents: (1) an obligation on the part of a government or its instrumentality to perform certain acts, usually to collect the rental under the lease and to use it to discharge interest, sinking fund and other monetary obligations contained in the instrument; and (2) an interest in the obligation of the private company to make payments under the lease in order to provide funds for payment by the governmental instrumentality in whose name the bond is issued of principal and interest on the bond. Since the purchaser of an industrial revenue bond looks principally, if not entirely, to the lease payments for the payment of principal and interest on the bond, he is in reality purchasing an interest in the lease obligation of the private company. The new rules are proposed for the purpose of identifying the interest in the obligation of the private company as a separate "security" issued by the private company. These rules do not relate to, and have no effect on, the obligation of the government or its instrumentality nor does it require registration by the government or instrumentality. The purpose of the rules is to provide prospective investors with adequate information concerning the nature of the obligation of the private lessee and sufficient information about the lessee and its business as well as the terms, nature and identity of the persons involved in the distribution to enable investors to make informed investment judgments.

Since the typical industrial revenue bond financing plan represents a financing by a private company, investors should be given information concerning the business, prior experience, fiscal responsibilities and earnings of the company that has leased the facility, as well as the terms and conditions of the lease arrangement. The municipality or other governmental unit usually has no significant obligation under the bond, except to the extent of applying lease payments received from the private company to the payment of principal and interest. The investor cannot look to the municipality for interest payments or repayment of the principal; he can look only to the possibility of success or failure of the private company. The municipality serves as a conduit through which the amounts payable under the lease arrangement flow from the private company to the bondholder. In these circumstances, the investor is offered an interest in an obligation of the private company which is a "security" within the meaning of the securities acts and should have the benefit of the disclosures required by the Securities Act of 1933 and the Securities Exchange Act of 1934 when applicable (and the Trust Indenture Act of 1939).[13]

The proposed rules do not question the availability of the exemption, provided in Section 3(a)(2) of the Securities Act, to the obligations of municipalities or of the states or their political subdivisions or instrumentalities. Such exemption is not available, however, to the separate security issued by the private company. Absent an exemption under the Act, the securities of the private company will be subject to the registration and prospectus delivery requirements of Section 5 of the Securities Act. Registration will not be required by the municipality or other political subdivision or instrumentality.[14]

Rule 131 and Rule 3b–5 have no affect on the governmental entity exemptions under the Securities Act and Securities Exchange Act as applied to revenue bonds issued to finance a revenue-producing project that is operated or used by a governmental, rather than private business, entity (the traditional "municipal revenue bond").

The rule is directed to financing plans in which any part of the principal and/or interest on a bond, note, debenture or evidence of indebtedness issued in the name of a government or its instrumentality is payable from payments which are to be made under a lease, sale or loan arrangement by private enterprise for property or money to be used by industrial or commercial enterprises. The rule does not have the effect of requiring registration of revenue bonds issued by a State, a political subdivision, a municipality or a public instrumentality to finance a revenue producing public project operated by such issuer, such as toll roads, municipal water systems, transportation facilities, or revenue bonds which are to be funded by payments under a lease, sale or loan arrangement if the user of the facility or property is a State or a political subdivision or public instrumentality of a State or a municipality which is the lessee or obligor.[15]

The "separate security" concept of Rule 131 and Rule 3b–5 relates only to that part of an obligation evidenced by an industrial revenue bond which is payable solely from contractual payments of a private business enterprise.

Thus, if the lease obligation is in an amount less than the principal amount of the bonds, registration would be required of only that portion, representing the lease obligation. Similarly, if a facility were leased to two separate lessee companies, each of which was obligated to make lease payments representing a portion of the principal amount of the bonds, each would be required to register its respective portion of the lease obligation.[16]

Further, if a governmental entity having taxing authority or other resources guarantees payment of industrial development bond obligations in the event of contract default by the private enterprise, a "separate security" of the private enterprise would not be deemed to exist under the Rules.[17]

The industrial revenue bond exemption

On August 10, 1970, Congress enacted Section 401 of the Employment Security Amendments of 1970 ("Section 401").[18] Section 401 provided for the amendment of Section 3(a)(2) of the Securities Act and Section 3(a)(12) of the Securities Exchange Act to exempt from those Acts any issue of industrial development bonds issued for certain specified purposes or issued in a face amount not exceeding five million dollars ("included" industrial development bonds). In

Footnotes at end of article.

practical effect, Section 401 served to exempt from the requirements of the Securities Act, Securities Exchange Act, and Trust Indenture Act [19] the Rule 131 and Rule 3b–5 "separate securities" of private enterprises embodied in "included" industrial development bonds.

Section 401 states:

(a) Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c) (relating to exempted securities) is amended by adding at the end of paragraph (2) the following: "or any security which is an industrial development bond (as defined in section 103(c)(2) of the Internal Revenue Code of 1954) the interest on which is excludable from gross income under section 103(a)(1) of such Code if, by reason of the application of paragraph (4) or (6) of section 103(c) of such Code (determined as if paragraphs (4)(A), (5), and (7) were not included in such section 103(c)), paragraph (1) of such section 103(c) does not apply to such security";

(b) Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c) (relating to exempted securities) is amended by inserting after "any municipal corporate instrumentality of one or more states"; in paragraph (12) the following: "or any security which is an industrial development bond (as defined in section 103(c)(2) of the Internal Revenue Code of 1954) the interest on which is excludable from gross income under section 103(a)(1) of such Code if, by reason of the application of paragraph (4) or (6) of section 103(c) of such Code (determined as if paragraphs (4)(A), (5), and (7) were not included in such section 103(c)), paragraph (1) of such section 103(c) does not apply to such security";

(c) The amendments made by this section shall apply with respect to securities sold after January 1, 1970.

Generally speaking, Section 401 exempts under Section 3(a)(2) of the Securities Act and Section 3(a)(12) of the Securities Exchange Act all industrial development bond issues, the interest on which would be excludable from gross income by virtue of either: (1) Section 103(b)(4)(B) through (G) of the Internal Revenue Code, of 1954, as amended (the "Internal Revenue Code") which extends the income exclusion coverage to interest on industrial development bonds of any principal amount where substantially all of the proceeds are to be used to provide sports facilities, convention or trade show facilities, airports, docks, wharves, mass commuting facilities, parking facilities, or storage or training facilities directly relating to any of the foregoing, sewage or solid waste disposal facilities, or facilities for the local furnishings of electric energy or gas, air and water pollution control facilities, and facilities for the furnishing of water if available on reasonable demand to the public, but specifically not for residential real property for family units; or (2) Section 103(b)(6) of the Internal Revenue Code, which provides for the exclusion from gross income of interest on industrial development bonds in an aggregate face amount of not more than five million dollars substantially all the proceeds of which are to be used for the acquisition, construction or improvement of land or property of a character subject to the depreciation allowance or to redeem part or all of a prior issue which was issued for such purposes.[20]

In its release announcing the amendment of Section 3(a)(2) of the Securities Act and Section 3(a)(12) of the Securities Exchange Act pursuant to Section 401, the Commission expressly noted that Rule 131 and Rule 3b–5 would continue to apply to industrial development bonds not specifically exempted from the Act by Section 401 ("excluded" industrial development bonds). The Commission also stated that the antifraud provisions of Section 17 of the Securities Act and Section 10 of the Securities Exchange Act would continue to apply to all industrial development bonds, notwithstanding the exemption of any of such securities from other provisions of those Acts.[21]

In addition, it is important to note the governmental obligations in both "excluded" and "included" industrial development bonds, already exempt under Section 3(a)(2) of the Securities Act and 3(a)(12) of the Securities Exchange Act, were not affected by the amendments of those Sections by Section 401. As noted in the Commission's release announcing proposal of Rules 131 and 3b–5:

The new rules are proposed for the purpose of identifying the interest in the obligation of the private company as a separate "security" issued by the private company. These rules do not relate to, and have no effect on, the obligation of the government or its instrumentality nor does it require registration by the government or instrumentality.[22]

In practical effect, therefore, the exemptions for "included" industrial development bonds provided by Section 401 following the adoption of the Rules served only to exempt the "separate securities" of private enterprises embodied in "included" industrial revenue bonds; the associated governmental obligations in both "included" and "excluded" industrial development bonds simply retained their exempt status and were unaffected by the amendment.

In summarizing the present status of industrial revenue bonds under the federal securities laws, it can be stated that the "separate securities" of private enterprises (as defined in Rule 131 and Rule 3b–5) embodied in "included" industrial development bonds are exempt from the requirements of the Securities Act, Securities Exchange Act, and Trust Indenture Act. The "separate securities" of private enterprises embodied in "excluded" industrial development bonds are subject to the requirements of the Securities Act, Securities Exchange Act, and Trust Indenture Act. The "separate securities" of governmental entities embodied in either "included" or "excluded" industrial development bonds are exempt from the requirements of the Securities Act, Securities Exchange Act, and Trust Indenture Act. However, the antifraud provisions of the Securities Act, Securities Exchange Act, and Trust Indenture Act are fully applicable to the "separate securities" of both governmental entities and private enterprises embodied in "included" and "excluded" industrial development bonds.[23]

FOOTNOTES

[1] The term "industrial development bond" used in the federal securities acts is in practice equivalent to the term "industrial revenue bonds."

[2] Usually the contractual agreement is in the form of a lease, sale or loan arrangement.

[3] More than one private industrial or commercial enterprise may be involved in an industrial development bond arrangement, in which case contract payments from the private users to the government obligor are made in a cumulative amount calculated to fully sustain debt service requirements on the bonds.

[4] This discussion is only a general description of a typical industrial development bond arrangement. For a more definitive discussion on the varied forms of such arrangements, consult the sources cited in note 5.

[5] The first such plan of this type was the Mississippi "Balance Agriculture With Industry" plan of 1936, Miss. L. 1st Ex. Sess. (1936) c. 1, now Miss. Code sec. 8936 et seq.; *see* Note, *The Liabilities of Municipalities for State and Federal Securities Fraud in the Issuance of Industrial Development Bonds*, 30 Okla. L. Rev. 703 (1977); McDaniel, *Federal Income Taxation of Industrial Revenue Bonds: The Public Interest*, 1 Urb. Law. 157 (1969); Note, *The Proliferation of Industrial Revenue Bond Financing: Ban the Bond?* 41 Temp. L. Q. 289 (1968); Abbey, *Municipal Industrial Revenue Bonds*, 19 Vand. L. Rev. 25 (1965); Spiegel, *Financing Private Ventures with Tax-Exempt Bonds: A Developing "Truckhole" in the Law*, 17 Stan. L. Rev. 224 (1965); Pinsky, *State Constitutional Limitations on Public Industrial Financing: An Historical and Economic Approach*, 111 U. Pa. L. Rev. 265 (1962–63); Loss, *Securities Regulation* 563–564 (2d ed., 1961); Note, *The "Public Purpose" of Municipal Fniancing for Industrial Development*, 70 Yale L.J. 789 (1961); Armstrong, *"Municipal Inducements"—The New Mexico Commercial and Industrial Project Revenue Bond Act*, 48 Calif. L. Rev. 58 (1960); Note, *Legal Limitations on Public Inducements to Industrial Location*, 59 Colm. L. Rev. 618 (1959); Note, *Incentives to Industrial Relocation: The Municipal Industrial Bond Plans*, 66 Harv. L. Rev. 898 (1953);

[6] Pinsky, *supra* note 5 at 313–314.

[7] *See* note 5.

[8] Note, *Incentives to Industrial Relocation: The Municipal Industrial Bond Plans*, *supra* note 5 at 906.

[9] The present restrictions on the tax exemption for interest on industrial revenue bonds can be found in Section 103 of the Internal Revenue Code of 1054. Prior to amendment in 1968, Section 103 of the Internal Revenue Code provided in relevant part:

"(a) General Rule—Gross income does not include interest on—

(1) the obligations of a State or Territory or a posession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia. . ."

[10] *See* Renegotiations Amendment of 1968, Pub. L. No. 90–634, 82 Stat. 1345; Revenue and Expenditure Control Act Pub. L. No. 90–364 82 Stat. 251 (June 27, 1968). At least part of the reason for this amendment was an indication that the use of industrial development bonds was about to outpace the funds entering the market for tax-exempt bonds, threatening to disrupt the market for traditional government bonds and forcing municipal bonds rates up. McDaniel, *supra* Note 5 at 162.

[11] Securities Act Release No. 4921; Securities Exchange Act Release No. 8388 (August 28, 1968).

[12] 17 C.F.R. 230.131. Rule 3b–5 states in relevant part:

Non-exempt securities issued under governmental obligations.

(a) Any part of an obligation evidenced by any bond, note debenture or other evidence of indebtedness issued by any governmental unit specified in Section 3(a)(12) of the Act which is payable from payments to be made in respect of property or money which is or will be used, under a lease, sale or loan arrangement, by or for industrial or commercial enterprise, shall be deemed to be a separate "security" within the meaning of Section 3(a)(10) of the Act, issued by the lessee or obligor under the lease, sale or loan arrangement.

(b) An obligation shall not be deemed a separate "security" as defined in paragraph (a) of this section if, (1) the obligation is payable from the general revenues of a governmental unit, specified in Section 3(a)(12) of the Act, having other resources which may be used for the payment of the obligation, or (2) the obligation relates to a public project or facility owned and operated by or on behalf of and under the control of a governmental unit specified in such section or (3) the obligation relates to a facility which is leased to and under the control of an in-

dustrial or commercial enterprise but is a part of a public project which, as a whole is owned by and under the general control of a governmental unit specified in such section, or an instrumentality thereof.

[13] This release also states: "Consideration should also be given to the applicability of the Trust Indenture Act of 1939 to the securities identified in the rules." Securities Act Release No. 4869; Securities Exchange Release No. 8248, at p. 2 (Feb. 1, 1968). In the release announcing adoption of the Rules, the Commission stated:

The Commission has determined, based on a number of lease obligations that have recently been registered, that existing rules, proceedings and policies under the Trust Indenture Act of 1939 are adequate in connection with the applicability of that Act to the securities identified in the rules. Securities Act Release No. 4921; Securities Exchange Act Release No. 8388 at p. 2.

[14] Securities Act Release No. 4869; Securities Exchange Act Release No. 8248 at pp. 1–2.

[15] Securities Act Release No. 4821; Securities Exchange Act Release No. 8388 at p. 2. In 1970, the Rules were amended to make it clear that a "separate security" of a private enterprise would not be deemed to exist in situations where certain facilities of a public project as a whole was owned by, and under the general control of, a governmental entity. Securities Act Release No. 5055; Securities Exchange Act Release No. 8850 (March 31, 1970).

[16] Securities Act Release No. 4921; Securities Exchange Act Release No. 8388 at p. 3.

[17] *Id.* at pp. 2–3. *See also* Section 3(a)(2) of the Securities Act and Section 3(a)(12) of the Securities Exchange Act. The "separate security" of the private enterprise would be deemed not to exist only to the extent of the guarantee by the governmental entity.

[18] Pub. L. 91–373, Title IV, § 401(a), 84 Stat. 718.

[19] Section 401 did not actually embody an exemption for "included" industrial development bonds under the Trust Indenture Act. In its release announcing the enactment of Section 401 the Commission noted:

Section 401 contains no reference to the Trust Indenture Act of 1939. Section 304(a)(4) of the Trust Indenture Act provides as follows:

Sec. 304. (a) The provisions of this title shall not apply to any of the following securities:

* * * * *

(4) any security exempted from the provisions of the Securites Act of 1933, as heretofore amended, by paragraph (2), (3), (4), (5), (6), (7), (8), or (11) of subsection 3(a) thereof.

Because of the words "as heretofore amended" in Section 304(a)(4), securities exempted from the provisions of the Securities Act of 1933 by amendments to that Act subsequent to 1939 are not exempt from the provisions of the Trust Indenture Act. Accordingly, Section 304(a)(4) does not provide an exemption for industrial development bonds covered by Section 401 even though that Section amends Section 3(a)(2) of the Securities Act of 1933 [It should be noted, parenthetically, that the word "heretofore", as it refers to amendments of the Securities Act of 1933, was erroneously omitted from Section 304(a)(4) as it appears in the United States Code.]

There would appear to be little point, in light of the policy considerations underlying the enactment of Section 401, in releasing municipalities from the obligations of registering certain issues of industrial revenue bonds under the Securities Act of 1933 or the Securities Exchange Act of 1934, while still requiring the filing and qualification of trust indentures covering those same bond issues under the Trust Indenture Act of 1939. With this in mind, the Commission has attempted to follow the intent of Congress in this matter. Accordingly, the Commission has determined that it will not take action against any issuer of industrial revenue bonds, the registration of which under the Securities Act of 1933 or the Securities Exchange Act of 1934 is no longer required by virtue of the amendments contained in Section 401, if such issuer should offer for public sale any such issue of industrial revenue bonds, without filing or qualifying under the Trust Indenture Act of 1939, the trust indenture covering such bonds. Notwithstanding the position herein expressed by the Commission with regard to certain issues of industrial revenue bonds, the antifraud provisions of Sections 323 and 324 of the Trust Indenture Act of 1939 shall continue in full force and effect. Moreover, as to those issues of industrial revenue bonds not specifically excluded from the provisions of the Securities Act of 1933 and the Securities Exchange Act of 1934 by Section 401, all provisions of the Trust Indenture Act of 1939 remain in full force and effect.

Securities Act Release No. 5103; Securities Exchange Act Release No. 9106 (November 6, 1970).

The amendment to Sections 3(a)(2) of the Securities Act and 3(a)(12) of the Exchange Act exempting "included" industrial development bonds was apparently deleted inadvertently in Act of December 14, 1970, Pub. L. No. 91–547, Secs. 27(b) and 28(a), 84 Stat. 1434–5. However, Act of December 23, 1970, Pub. L. 91–567, Secs. 6(a) and (b), 84 Stat. 1498–9 reamended those Sections of the Securities Act and The Securities Exchange Act. In addition, Section 6(c) of Public Law 91–567 amended Section 304(a) of the Trust Indenture Act to exempt "included" industrial development bonds from the provisions of that Act.

The Securities Acts Amendments of 1975, Pub. L. No. 94–29, Sec. 3(3), 89 Stat. 97 (June 4, 1975), transferred the existing description of municipal securities from exemptive Section 3(a)(12) of the Securities Exchange Act to definitional Section 3(a)(29) of that Act, and inserted in its place a provision stating that municipal securities are exempted securities except for purposes of certain specified sections of the Act.

[20] See a more definitive analysis of Section 401 Securities Act Release No. 5103; Securities Exchange Act Release Release No. 9106.

[21] *Id.* at p. 3.

[22] Securities Act Release No. 4869; Securities Exchange Act Release No. 8248 at p. 2.

[23] It could be argued that the "separate securities" of governmental entities in "included" industrial development bonds are twice exempted—once by the governmental entity exemption of Section 3(a)(2) and Section 3(a)(12) and once by the "included" industrial development bond exemption.

APPENDIX B.—*Defaults involving industrial development bonds since January 1975**

Aircraft Manufacturing Conversions, Inc., Tuskegee, Ala	$4,750,000
Metro Meat Packing Co., St. Paul, Minn.	4,750,000
Rimrock Oil & Gas Co., Irrigation Fuel Authority, Fort Cobb, Okla.	4,600,000
Johnnie Walker Medical Electronics, Inc., Mt. Vernon, Ala.	4,000,000
Eufala Enterprises, Natural Gas Authority, Wellston, Okla.	3,585,000
Palatine Dye Co., Montgomery County, N.Y.	3,360,000
Anchorage Carolina Corporation, Barnwell County, S.C.	2,900,000
Southern Brick & Masonry Mfg. Co., Gallaway, Tenn.	2,800,000
Appalachian Industries, Inc., Banks County, Ga.	2,775,000
Marine Protein Corp., Mammoth Spring, Ark.	2,500,000
Astro Products of Kansas, Inc., Haysville, Kans.	2,200,000
Chill Can Industries, Inc., Midwestern Oklahoma Development Authority	1,900,000
International Organics, Inc., Seaway Port Authority of Duluth, Minn.	1,585,000
Medical Directions, Inc., Gallaway, Tenn.	650,000
Circuit Technology of Oklahoma, Inc., Midwestern Oklahoma Development Authority	350,000
Eufala Enterprises, Industrial Development Authority, McIntosh County, Okla.	350,000
Precision Optical Laboratories, Inc., Gallaway, Tenn.	315,000
Crestwood of Oklahoma, Inc., Midwestern Oklahoma Development Authority	300,000
Lee & Hodges, Inc., Midwestern Oklahoma Development Authority	200,000
Arkansas Valley Industrial Development Authority	**
Nu-Pro., Inc., Industrial Development Authority, Noble County, Okla.	**
Industrial Development Authority, Cushing, Okla.	**
Da-See, Inc, Industrial Development Authority, Claremore, Okla.	**
Homes & Structures, Inc., City of Pittsburg, Kans.	**
Virginia Metal Products, Campbell County, Va.	**
Detroit Authority Development Revenue Bonds	**
Morganstern Manufacturing Co., Hamilton, Mont.	**
All Enterprise, Inc., Tuskegee, Ala	1,500,000
Servisteel Pickling Corp., Bell City, Ala.	1,500,000
Sunshine Manufacturing Co., Frisco City, Ala.	1,500,000
Wyoming Oil & Gas Co., Buffalo Valley Gas Authority, Okla.	1,470,000
Business Envelope Mfg. of Tennessee, Clinton, Tenn.	1,350,000
Eufala Enterprises, Oklahoma Utility Authority (minimum)	1,300,000
Harper Industries, Inc., Midwestern Oklahoma Development Authority	1,300,000
Toltec Agrinomics, Inc., Las Cruces, N. Mex.	1,200,000
Americas Corp. (Practical Development Corp.), Elkton, Tenn	940,000
Eufala Enterprises, Keystone North Utility Authority, Okla.	900,000
Wham T. Corp., Fayette County, Tenn	850,000
Winner Boats, Inc., series '72	750,000
Dickson, Tenn., series '68	500,000
Western States Plastics, Inc., Midwestern Oklahoma Development Authority	700,000

* SOURCE.—Records of the Securities and Exchange Commission. As the data was collected informally in connection with the administration by the Commission of the federal securities laws, it is incomplete in some respects. In this regard, it should be noted that the actual number of defaults may substantially exceed what is presented herein.

** Amount unknown.

INDUSTRIAL DEVELOPMENT BONDS FOR POLLUTION CONTROL

Ranges of issue size (in thousands)	Long-term volume by size and type of issue for 1977			
	Dollar distribution		Percent distribution	
	Volume [1]	Number	Volume	Number
0 to 499	0	0	0	0
500 to 999	2	3	.08	1.48
1,000 to 2,499	57	36	2.18	17.73
2,500 to 4,999	145	40	5.51	9.70
5,000 to 9,999	331	46	12.55	22.66
10,000 to 24,999	627	41	23.79	20.20
25,000 to 49,999	1,016	29	38.58	14.29
50,000 to 99,999	456	8	17.31	3.94
Greater than 99,999	0	0	0	0
All issues	2,634	203	100.00	100.00

[1] Volume is denoted in millions of dollars.

INDUSTRIAL DEVELOPMENT BONDS OTHER THAN POLLUTION CONTROL

Ranges of issue size (in thousands)	Long-term volume by size and type of issue for 1977			
	Dollar distribution		Percent distribution	
	Volume [1]	Number	Volume	Number
0 to 499	10	33	0.45	10.54
500 to 999	28	40	1.23	12.78
1,000 to 2,499	188	140	8.17	44.73
2,500 to 4,999	191	55	8.31	17.57
5,000 to 9,999	127	19	5.51	6.07
10,000 to 24,999	212	14	9.20	4.47
25,000 to 49,999	175	5	7.62	1.60
50,000 to 99,999	188	3	8.18	.96
Greater than 99,999	1,180	4	51.33	1.28
All issues	2,299	313	100.00	100.00

[1] Volume is denoted in millions of dollars.

Type of issue	Negotiated		Competitive		Private placement	
	Volume [1]	Number	Volume	Number	Volume	Number
Industrial development bonds other than pollution control	1,347	213	820	67	131	32
Industrial development bonds for pollution control	1,815	142	1,378	53	263	32
All issues	3,212	355	2,198	120	394	64

[1] Volume is denoted in millions of dollars.

Type of issue	Volume [1]		Number	
	1977	1976	1977	1976
Industrial development bonds other than for pollution control	2,285	451	359	284
Industrial development bonds for pollution control	2,614	[2] 1,966	228	[2] 199
All issues	4,899	2,417	587	483

[1] Volume is denoted in millions of dollars.
[2] Figures are estimated. ●

By Mr. GRAVEL:

S. 3324. A bill to amend section 111 of title 17, United States Code, to clarify for purposes of copyright liability the status of delayed secondary transmissions by certain retransmission services located outside the continental United States; to the Committee on the Judiciary.

● Mr. GRAVEL. Mr. President, today I am introducing a perfecting amendment to the copyright law which will clarify the legal status of certain secondary transmissions in offshore areas where, due to their remote location, programing is transmitted on a delayed basis from tapes rather than directly off the air.

The copyright law was amended in 1976 to clarify the status of these secondary transmissions. Governmental bodies and other nonprofit organizations were exempted in clause (4) of section 111 (a) from copyright infringement during secondary transmissions. Included in this exemption was a protection for translators. Translators are low power broadcasting stations which receive incoming signals of a television station off the air and simultaneously amplify the incoming signal then "translate" them to a different output frequency, and then retransmit them to the community or area to be served.

Translators are used extensively throughout Alaska in tandem with a satellite transmission system. However, because of the extreme distances and ruggedness of the terrain, it is not always possible to receive the signals directly off the air from the originating television station. In this case a system of delayed broadcasting from program tapes has been employed.

Because of the definitional limitation contained in subsection (f) of section 111 of the copyright law as amended, there is some question as to whether or not offshore transmission services included in section 111(a)(4) are fully covered from infringement. Congress did, however, recognize the comparable problem faced by cable television systems in offshore areas and allowed for the taping and delayed broadcast of programing by those systems in section 111 (e) and (f). It is my feeling that Congress did not intend to leave any question as to this provision's application to other governmental and nonprofit organizations operating translators.

This bill clarifies the conditions under which secondary transmission services located in certain offshore areas and specified in subsection (f) may tape copyrighted programing and retransmit it on a delayed basis without infringing the rights of copyright owners. Offshore translators which broadcast on a delayed basis will be exempt from copyright infringment liability in the same manner as translators which retransmit broadcast signals simultaneously. The proposed amendment does not expand or restrict the class of services which are eligible for the exemption contained in section 111(a)(4) of the act.

Mr. President, section 1 of my bill imposes the same conditions and limitations on offshore transmission services included in section 111(a)(4) as are applicable to cable television systems located outside the continental United States by section 111(e) of the copyright law.

They are designed to control the use of tapes authorized by this section. They include compliance with detailed transmission, recordkeeping, and other requirements by an owner or officer of the service. Where there is no owner or officer of the service because a governmental entity is the licensee or for other reasons, the responsibility for compliance with these requirements shall rest on any duly elected or appointed officials or other appropriate person. Section 111 (e)(3) regarding exclusivity protection agreements between cable systems and broadcast stations is not intended to be applicable because the kind of services contemplated by section 111(a)(4) do not enter into such agreements.

Section 2 amends the definition of a secondary transmission. Section 111(f) currently defines secondary transmissions so as to include nonsimultaneous retransmissions only for certain offshore cable systems. As amended, the activities of transmission services in those offshore areas which are exempt under section 111 (a)(4) from copyright liability and which retransmit programing on a delayed basis will also qualify as secondary transmissions under the definitional section.

Mr. President, I sincerely hope that the Senate will act expeditiously on this legislation. I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3324

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 111(e)(1) of title 17, United States Code, is amended—

(1) by inserting "or a secondary transmission service described in paragraph (4) of subsection (a)" immediately after "system" the first time it appears; and

(2) by striking "and sections 509 and 510" and inserting in lieu thereof ", section 509, and, if such transmission is by a cable system, section 510".

(b) Section 111(e)(1)(A) of such title is amended by inserting "or to the public

by a secondary transmission service" immediately before the semicolon.

(c) Sections 111(e)(1)(C) and 111(e)(1)(D) of such title are each amended—

(1) by striking out "owner or officer" each time it appears and inserting in lieu thereof "owner, officer, or official, in the event there is no owner or officer,"; and

(2) by inserting "or secondary transmission service" immediately after "system" each time it appears.

(d) Section 111(e)(1)(E) of such title is amended—

(1) by inserting "or at the site of the transmitting facility if a secondary transmission service described in paragraph (4) of subsection (a)" immediately before the semicolon at the end thereof; and

(2) by striking out "owner or officer" and inserting in lieu thereof "owner, officer, or official, in the event there is no owner or officer,".

(e) Section 111(e)(1)(F) of such title is amended by inserting "or secondary transmission service" immediately after "system".

(f) Section 111(e)(2) of such title is amended—

(1) by inserting "or a secondary transmission service described in paragraph (4) of subsection (a)" immediately after "system" the first place it appears; and

(2) by inserting "or secondary transmission service" immediately after "system" each time it appears thereafter.

(g) Section 111(e)(2)(A) of such title is amended by inserting "or at the site of the transmitting facility of the secondary transmission services" immediately after "systems".

(h) Sections 111(e)(2)(B) and 111(e)(2)(C) of such title are each amended by inserting "or secondary transmission service" immediately after "system" each time it appears.

(i) The subsection heading for section 111(e) of such title is amended by inserting immediately before the period at the end of the heading the following: "AND GOVERNMENTAL BODIES OR OTHER NONPROFIT ORGANIZATIONS".

SEC. 2. The second paragraph of section 111(f) of title 17, United States Code, is amended—

(a) by inserting "or a secondary transmission service described in paragraph (4) of subsection (a)" immediately after "'cable system'"; and

(b) by inserting "or secondary transmission service" immediately after "system" the second time it appears.●

By Mr. ANDERSON (for himself and Mr. HATHAWAY):

S.J. Res. 147. A joint resolution designating July 18, 1979, as "National POW-MIA Recognition Day"; to the Committee on the Judiciary.

NATIONAL POW-MIA RECOGNITION DAY

● Mr. ANDERSON. Mr. President, I am today introducing along with my distinguished colleague Senator HATHAWAY, Senate Joint Resolution 147, to designate July 18, 1979, as "National POW-MIA Recognition Day." A companion measure, House Joint Resolution 963, was introduced in the House of Representatives by Congressman WILLIAM S. MOORHEAD and is cosponsored by 243 Members of the House.

Mr. President, we are introducing this resolution today to give special recognition to the POW's and MIA's who have served our country and sacrificed so much for the United States and their families.

It is easy for us all to forget the heroic sacrifices made by these men in the service of their country in Vietnam, Korea, World War II, World War I or earlier conflicts. These men have endured hardships that run the gamut from the ordinary rigors of prison camp life, to inhuman torture, brutal treatment, and death. Their families, too, have lived through the agony of uncertainty: there is no way for them to know if the ones they care for are living or dead.

America, now blessed with peace, too easily forgets the special sacrifices of her POW's and MIA's. The National Recognition Day proposed in Senate Joint Resolution 147 would be a one-time observance celebrated next July 18, and serve to remind all Americans of these sacrifices and symbolize our continuing indebtedness to her POW's and MIA's. July 18 was selected to coincide with the national meeting of the Ex-Prisoners of War, Inc. in Pittsburgh, Pa.

Mr. President, I am honored that my colleague Senator HATHAWAY is joining me today in introducing this resolution. Some Senators may not be aware that Senator HATHAWAY was a prisoner of war during World War II. As a navigator in the Army Air Corps, he took part in a number of bombing missions in Europe. While on a mission over Romania's Ploesti oil fields, the B-24 bomber 20-year-old BILL HATHAWAY was navigating was shot down. He was wounded, taken prisoner, and spent several months in a Romanian prisoner of war camp. Senator HATHAWAY was later awarded the Purple Heart, the Air Medal, and the Presidential Unit Citation.

Mr. President, it is an honor for me to introduce Senate Joint Resolution 147 today to remind all citizens of the sacrifices BILL HATHAWAY and thousands of other Americans have made over the years in the service of their country.

I ask unanimous consent that the text of Senate Joint Resolution 147 be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 147

Whereas the United States has fought in many wars;

Whereas thousands of Americans who served in such wars were captured by the enemy or are missing in action;

Whereas many American prisoners of war were subjected to brutal and unconscionable treatment by their enemy captors in violation in international codes and customs for the treatment of prisoners of war and many such prisoners of war died from such treatment;

Whereas it is uncertain whether those Americans missing in action are alive or dead and such uncertainty has caused their families to suffer acute hardship; and

Whereas the sacrifices of American prisoners of war and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 18, 1979, is designated as "National P.O.W.-M.I.A. Recognition Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.●

By Mr. INOUYE (for himself and Mr. CANNON):

Senate Joint Resolution 148. A joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning September 17, 1978, as "National Port Week"; to the Committee on the Judiciary.

NATIONAL PORT WEEK

● Mr. INOUYE. Mr. President, for myself and Senator CANNON, I introduce a Senate joint resolution authorizing and requesting the President of the United States to issue a proclamation designating the 7 calendar days beginning September 17, 1978, as "National Port Week."

Mr. President, this joint resolution, which has already passed the House, recognizes the importance of our coastal and inland ports to the economy of the United States.

Inasmuch as very few legislative days remain before September 17, I urge the Senate give expeditious consideration to the resolution.●

ADDITIONAL COSPONSORS

S. 551

At the request of Mr. INOUYE, his name was added as a cosponsor of S. 551, the Victims of Crime Act of 1977.

S. 2020

At the request of Mr. CRANSTON, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 2020, a bill to amend the Longshoremen's and Harbor Workers' Compensation Act to clarify the act's coverage.

S. 3037

At the request of Mr. DECONCINI, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 3037, to provide for the administration of the Internal Revenue Code of 1954 without regard to certain revenue rulings relating to the definition of the term "employee".

S. 3093

At the request of Mr. HUDDLESTON, the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 3093, the vehicle seizure bill.

S. 3265

At the request of Mr. ROTH, the Senator from Nebraska (Mr. ZORINSKY) was added as a cosponsor of S. 3265, to amend the Internal Revenue Code of 1954 to allow an individual to exclude from gross income the gain from the sale or exchange of the individual's principal residence.

SENATE RESOLUTION 503

At the request of Mr. ROBERT C. BYRD, the Senator from New Jersey (Mr. CASE)

was added as a cosponsor of Senate Resolution 503, condemning the harassment of Western journalists by the Soviet Union.

SENATE RESOLUTION 519

At the request of Mr. ANDERSON, the Senator from Washington (Mr. JACKSON), the Senator from New Jersey (Mr. CASE), and the Senator from Ohio (Mr. METZENBAUM) were added as cosponsors of Senate Resolution 519, expressing the sense of the Senate that the 1980 Summer Olympics should be held outside the Soviet Union.

AMENDMENT NO. 2449

At the request of Mr. KENNEDY, the Senator from Vermont (Mr. STAFFORD) was added as a cosponsor of amendment No. 2449 intended to be proposed to S. 2850, a bill to establish the National Home-Delivered Meals Act of 1978.

SENATE RESOLUTION 521—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. WILLIAMS, from the Committee on Banking, Housing, and Urban Affairs, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 521

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2715, a bill to amend the Securities Exchange Act of 1934 to authorize appropriations for the Securities and Exchange Commission for fiscal years 1979–1981, and for other purposes. Such waiver is necessary to permit consideration of S. 2715. Because of the press of business within the committee and within the Senate, the Committee was unable to hold hearings on S. 2715 until May 18, or to consider the bill until earlier this month.

SENATE RESOLUTION 522—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. McGOVERN, from the Committee on Agriculture, Nutrition, and Forestry, reported the following original resolution, which was referred to the Committee on the Budget:

S. RES. 522

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a)(4) of such Act are waived with respect to the consideration of S. 3085, a bill to extend and amend the special supplemental food program and the child care food program, and for other purposes.

Such waiver is necessary to permit consideration of new spending authority to become effective in fiscal years for which the first concurrent resolution on the budget has not been agreed to. Specifically, S. 3085 provides new spending authority under section 401(c)(2)(C) for the special supplemental food program to become effective in fiscal years 1980, 1981, and 1982, prior to the adoption of the first concurrent resolutions on the budget for such years.

The history of the special supplemental program is one of uncertainty brought about through the impoundment of program funds and the resulting administration of the program by court order. It is essential that sponsors of the special supplemental food program know in advance what funds they will have available in order to plan effective program operations.

SENATE CONCURRENT RESOLUTION 96—SUBMISSION OF A CONCURRENT RESOLUTION AUTHORIZING PRINTING

Mr. BAYH submitted the following concurrent resolution, which was referred to the Committee on Rules and Administration:

S. CON. RES. 96

Resolved by the Senate (the House of Representatives concurring), That there be printed for the use of the Senate Select Committee on Intelligence six hundred copies of book II of the final report of the Senate Select Committee To Study Governmental Operations With Respect to Intelligence Activities, Ninety-fourth Congress, second session, entitled "Intelligence Activities and the Rights of Americans" (S. Rept. 94–755).

AMENDMENTS SUBMITTED FOR PRINTING

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978—S. 3084

AMENDMENT NO. 3262

(Ordered to be printed and to lie on the table.)

Mr. GARN submitted an amendment intended to be proposed by him to S. 3084, a bill to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes.

AMENDMENT NO. 3263

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN (for himself and Mr. NUNN) submitted an amendment intended to be proposed by them, jointly, to S. 3084, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON ARMS CONTROL, OCEANS AND INTERNATIONAL ENVIRONMENT

● Mr. SPARKMAN. Mr. President, subsequent to the sequential referral of S. 2053, the Deep Seabed Mineral Resources Act, to the Committee on Foreign Relations, the Subcommittee on Arms Control, Oceans and International Environment will hold a hearing on August 17, 1978, at 10 a.m. in room 4221 of the Dirksen Senate Office Building. Anyone wishing to testify should contact Abner E. Kendrick, chief clerk of the Committee on Foreign Relations at 224–4615.●

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

● Mr. STONE. Mr. President, I am announcing a 10 a.m. meeting of the Agriculture Subcommittee on Foreign Agricultural Policy on Friday, July 21. The purpose of this meeting will be to continue the markup on export promotion legislation.●

IMMIGRATION SUBCOMMITTEE

● Mr. DECONCINI. Mr. President, on July 11, 1978, I announced that the Immigration Subcommittee will hold hearings on S. 3093, a bill to provide for the seizure of vehicles used to illegally transport persons into the United States, on July 21, 1978.

I wish to make notice that due to the unavailability of certain witnesses, the hearings have been canceled. I hope to reschedule the hearings at a later date.●

SPECIAL COMMITTEE ON AGING

● Mr. CHURCH. Mr. President, as chairman of the Special Committee on Aging, I would like to announce a committee hearing on "Medicaid Anti-Fraud Programs: The Role of State Fraud Control Units," on July 25 at 10 a.m., in room 1202, Dirksen Senate Office Building.

Major agenda items for the inquiry are:

Progress in the implementation of the medicare/medicaid antifraud and abuse amendments calling for the creation of State fraud control units.

Steps being taken by HEW to encourage the formation of these units.

Status of State fraud control unit program after the termination of 90-percent Federal share funding on October 1, 1980.

Steps being taken to implement the provisions of the amendments which call for ownership and management disclosure of medicaid providers, a key provision relating to effective investigation of provider fraud.

Witnesses invited for this hearing are: Charles F. C. Ruff, Deputy Inspector General, Department of Health, Education, and Welfare; Frank Beal, Deputy for Operations, Health Care Financing Administration; Charles J. Hynes, deputy attorney general for Nursing Homes, Health and Social Service, New York; Steve Press, chairman, Health Care Subcommittee, the National Council of State Public Welfare Administrators.●

SUBCOMMITTEE ON PARKS AND RECREATION

● Mr. JACKSON. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Parks and Recreation.

The hearing is scheduled for July 26, beginning at 10 a.m., on July 31, beginning at 9 a.m., and August 4, beginning at 9 a.m., in room 3110 of the Dirksen Senate Office Building. Testimony is invited regarding the following sections of H.R. 12536, as passed the House of Representatives:

July 26:
Title IV—Wilderness.
Sec. 702—Addition of Rio Grande Segment.
Sec. 704—Preparation of Development Plan for Upper Mississippi.
Sec. 707—Addition of the American segment.
Sec. 708—Addition of Missouri segment.
Studies:
Sec. 721—Gila River, N.M.
Sec. 722—Kern River (North Fork), Ca.
Sec. 723—Shenandoah River, Va. and W. Va.
Sec. 724—Loxahatchee River, Florida.
Sec. 725—Ogeechee River, Georgia.
Sec. 726—Salt River, Arizona.
Sec. 727—Gila River, Arizona.
Sec. 728—Verde River, Arizona.
Sec. 729—San Francisco River, Arizona.
Sec. 730—Fish Creek, New York.
Sec. 731—Black Creek, Mississippi.
Sec. 732—Sheepcott River, Maine.
Sec. 733—Cacapon River, W. Va.
Sec. 734—Madison River, Montana.
Sec. 735—Escatawpa River, Alabama and Mississippi.

Sec. 736—Myakka River, Florida.
Sec. 737—Soldier Creek, Alabama.
Sec. 738—Brazos River, Texas.
Sec. 739—Red River, Kentucky.
Secs. 740 & 741—Administrative provisions.
Authorizations for funding:
Sec. 751—Eleven Point River.
Sec. 752—Rogue River.
Sec. 754—Salmon River.
Sec. 755—Chattooga River.
Sections 761 and 767.
Sec. 608—Oak Creek Canyon and Chiricahua National Monument Studies.
Sec. 612—Hells Canyon National Recreation Area.
S. 2706—to designate certain lands in the State of Wisconsin as wilderness.
July 31:
Sec. 101(5)—Canaveral National Seashore.
Sec. 303—Acquisition and disposal of lands.
Sec. 317—Golden Gate National Recreation Area.
Sec. 318—Point Reyes National Seashore.
Sec. 503—Pine Barrens Area, New Jersey.
Sec. 504—Edgar Allan Poe National Historic Site.
Sec. 602—Ridgelands Area Study.
Sec. 605—Historic Sites for Presidents.
Sec. 613—Irvine Coast—Laguna, California Study.
Sec. 615—Highway of Flags Servicemen's Memorial.
Sec. 617—Albert Einstein Memorial.
Sec. 620—Voyageurs National Park.
August 4:
Sec. 323—Fire Island National Seashore.
Sec. 501—Guam National Seashore.
Sec. 506—Saint Paul's Church, Eastchester.
Sec. 507—Kaloko-Honokohau National Historical Park.
Sec. 509—Palo Alto Battlefield National Historic Site.
Sec. 514—Maggie L. Walker National Historic Site.
Sec. 551—Continental Divide National Scenic Trail, North Country National Scenic Trail, Overmountain Victory Trail Study.
Sec. 616—Theodore Roosevelt National Park.
S. 2848—Fort Saint Jean Baptiste de Natchitoches.

For further information regarding the hearing, you may wish to contact Ms. Laura Beaty at 224–7144.

Those wishing to testify or who wish to submit a written statement for the record should write to the Subcommittee on Parks and Recreation, room 3106, Dirksen Senate Office Building, Washington, D.C. 20510.●

ADDITIONAL STATEMENTS

PRESIDENT CARTER AS WILEY COYOTE

● Mr. GARN. Mr. President, the President has now told world leaders that he is determined to raise the price of oil produced in the United States to world market prices. He informs them that he has several tools in his kit to accomplish that end, and that if the Congress does not accommodate him, by passing a crude oil equalization tax, that he will use them.

The whole situation reminds me of the Roadrunner cartoons. I suppose everyone in the Senate has seen them, and knows what I am talking about. In these cartoons, Wiley Coyote goes to extraordinary lengths to catch the roadrunner. He spends enormous sums of money at the Ace Novelty Co., buying rocket-powered skates, elaborate false landscapes, freight trains, and so on.

I often wondered, Mr. President, why Mr. Coyote did not simply head for the nearest restaurant, and order himself a roadrunner dinner. Why did he persist in the fruitless chase after a quarry that could so much more easily be had another way?

Watching President Carter seek the world market price of oil, I have the same reaction. Why does he expend huge sums of political capital to purchase a crude oil equalization tax? If he wants the price of U.S. oil to rise to world market prices, why does he not simply ask Congress to decontrol oil? With his support, that could very easily be achieved, and it would have the effect of raising the price of U.S. oil to world market prices.

Though President Carter has not said why he does not take this easier course, the newspapers suggest that decontrolling domestic oil would cost the consumer 7 cents per gallon for gasoline at the pump. But even Wiley Coyote knows that an increase in the price of crude is an increase in the price of crude, whether it results from decontrol or from new taxes. The impact on retail gasoline prices is going to be the same.

Of course, there is considerable evidence that an increase in the price of crude would have no effect on gasoline prices at retail at all. Theoretically, it should not have, since economics teaches us that prices are set on the marginal cost, and not on the average cost. Since the marginal gallon of gasoline already comes from world market price oil, it already reflects that cost. If we do not trust the theory, we could note that the Department of Energy is seeking decontrol of gasoline prices anyway, since the gasoline market is soft at retail, and most gasoline is being sold at prices below the legal maximums.

So none of it makes any sense. We will have to rely on the intuitive feeling we had all along about Wiley Coyote. He refuses the easy way out because, when push comes to shove—so to speak, he enjoys falling off cliffs, running into walls, and being blown up in accidental explosions. President Carter, it would seem, shares his masochism.●

SENATE RESOLUTION 512—THE LONGEST WALK

● Mr. BAYH. Mr. President, it is with great pleasure that I join my colleagues as a cosponsor of the resolution commending the American Indians for the successful completion of their spiritual Longest Walk. The Longest Walk is a peaceful, spiritual effort to educate the public concerning the rights of Indians as well as their way of life. I think it is important that we all recognize the cause which brought the American Indians to the Nation's Capital. All they are asking is that we honor the rights and privileges which have been theirs for centuries. We must all act in good faith in this matter. To do anything less would be a mockery of our commitment to a group of Americans who certainly have a right to a lot more than what we have given in the past. For this reason, I will support this resolution and will lend the leaders of the Longest Walk a helping hand whenever and wherever I can. I certainly hope that my colleagues will join in making the same commitment so that our fellow Americans, the American Indians, can return to their homes with the knowledge that they do have friends in the U.S. Senate.●

CAPTIVE NATIONS WEEK

● Mr. BROOKE. Mr. President, recent events in the Soviet Union have provided a very sober background for our observance of Captive Nations Week. The return of Stalinesque show trials have indicated, in a most revealing way, the barbarism of what is called "justice" in the Soviet Union. The Shcharanskys, the Orlovs, the Slepaks are only the tip of the iceberg. In Latvia, Lithuania, Estonia, the Ukraine, Byelorussia and elsewhere in the Soviet empire, the struggle for human rights is being waged by the true heroes of our time. The spirit of Taras Shevchenko in the Ukraine lives in the person of Valentyn Moroz. In the Baltic, the names of Tonnisson, Basanavicius and Kalnins are etched indelibly on the honor scroll of human rights. Captive Nations Week should be dedicated to these courageous souls who are on the front lines of the battle.

The search for freedom and personal dignity has been a continuous one throughout history. It has not lost its capacity to inspire men and women in our own time.

Many of our ancestors experienced "captivity" in the form of religious, racial, or political subjugation by others. Thus, we should have a special affinity for those in the Soviet empire who suffer under the yoke of tyranny.

Captive Nations Week draws international attention to one of the most insidious forms of human rights violations that of a concerted assault on the social, cultural and political heritage of nations forcibly incorporated into an empire. Nowhere is such an assault more evident than in the situation that exists in the Baltic Nations.

The proud history of Latvia, Lithuania and Estonia belie any myths proffered by the Soviet leaders about "peaceful socialist revolution," or "voluntary incorporation" in a program of Russification. Indeed, the Baltic nations have sought to maintain their separate identity and their desire for self-determination even when faced with extensive Soviet efforts to destroy their individual cultures including the attempt to impose Russian as a "universal" language.

Actions designed to undermine the ethnic and social structures of the Baltic nations have met with resistance both from within these countries and from many of the thousands of individuals in this country and elsewhere who proudly trace their origins to the Baltic area. In the Commonwealth of Massachusetts thousands of citizens of Lithuanian, Latvian and Estonian origin, while making outstanding contributions to their State and this country, have not forgotten their sacred obligation to the countries of their origins to speak out in defense of freedom and the right of individuals and nations to preserve their ethnic heritage.

It is important that all Americans

appreciate and sustain the commitment of the captive nations to principles upon which our system of government is based and through which we enjoy the unprecedented degree of freedom that is ours. Let us remember the plight of those who are unable to experience the liberties we enjoy. In the Baltic nations, in the Ukraine, in Byelorussia, and elsewhere. the vast majority can neither express their views openly and publicly nor can they receive undistorted information about the world. They hunger for the freedom of information that we take so readily for granted in this country.

A further right they are deprived of is that of free and open communication and personal contact with loved ones. The Helsinki accords supposedly guaranteed greater respect for this right. The Soviet leaders have made a mockery of it by their actions. Many families in the captive nations remain involuntarily separated. Hope for their unity is, in most cases, a forlorn one. Family unity, a seemingly inalienable right for us, is only a dream for these individuals.

The Kremlin appears resolute in its efforts to destroy those in the Soviet empire who have the courage to sacrifice everything for their dream of individual and national freedom. We have a solemn obligation to be equally or more resolute in our efforts to indicate to those suffering repression in the captive nations that our commitment to their dream is an enduring one and that their sacrifice on the altar of freedom will not be in vain.●

COLORADO BUILDING AND CONSTRUCTION TRADES COUNCIL

● Mr. HART. Mr. President, the Colorado Building and Construction Trades Council has recently completed a fundraising drive to support the Colorado Special Olympics, an athletic program for the mentally handicapped. I would like to take this opportunity to commend the 70 local building trades unions in Colorado for the fund-raising events they sponsored in virtually every area of the State throughout the month of May.

The Colorado Special Olympics coordinates a year around athletic program for over 7,000 mentally handicapped children and adults in Colorado. The entire State benefits from this year-round activity as well as the many mentally handicapped individuals who are given an opportunity to compete. The time and effort so generously donated by the members of the Colorado Building and Construction Trades Council insures that the Colorado Special Olympics will enjoy another successful year in 1978.

I submit for the RECORD the following article from the Colorado Labor Advocate regarding the fundraising drive held by the Building and Construction Trades Council.

The article follows:

COLORADO BUILDING TRADES TO BACK HANDICAPPED SPECIAL OLYMPICS

In a move unique in its five-year history, the Colorado Building and Construction Trades Council AFL–CIO has pledged the support of its 30,000 members to the Colorado Special Olympics, an athletic program for the mentally handicapped. Joe Donlon, Business Manager for the Council, announced that fund-raising events are being held throughout May by the 70 local Building Trade unions in Colorado. Donlon said proceeds will be turned over at the Fourth Annual KHOW/London House benefit for the Colorado Special Olympics Sunday, June 4.

Colorado Special Olympics was given a unanimous vote of support at the recent statewide, quarterly meeting of the Building Trades Council in Colorado Springs. Strong response by the membership prompted the State Office of the Colorado Building and Construction Trades Council to kick-off the month-long drive with a $500 donation. "The men and women of the Building Trades are proud to have this opportunity to support the Colorado Special Olympics," said Donlon. "We believe the entire state of Colorado benefits from this special year-round athletic program, and, even more important, Special Olympics is a chance for the mentally handicapped to prove what they can do."

Fund-raising efforts will be held in Denver, Boulder, Fort Collins, Colorado Springs, Pueblo, Grand Junction, Greeley, Montrose, Trinidad, Leadville, Steamboat Springs, La Junta, Lamar, Alamosa, Durango, Glenwood Springs, Florence, Craig, Fort Morgan, Golden and in other areas of Colorado where union members are represented on a statewide basis.

The Colorado Special Olympics provides year-round athletic activity for over 7,000 mentally handicapped children and adults in the state. Nationally, Special Olympics is headed by Eunice Kennedy Shriver and sponsored by the Joseph P. Kennedy Foundation with Senator Ted Kennedy serving as director.

Colorado Special Olympics last year, collected $20,000.●

IDAHO CITIZENS COMMENT ON WILDERNESS

● Mr. McCLURE. Mr. President, the Forest Service has recently released a draft environmental impact statement (EIS) on a roadless area review and evaluation (RARE II) of 67 million acres on National Forest lands. These lands are mostly in the West, however eastern National Forests are affected also.

A guest opinion article in the Idaho Statesman written by Lester Kelley and Marsha Schriver presents a point of view on the wilderness issue that deserves careful consideration. The authors of the article are part of a group of 29 from Idaho, Oregon, Washington, and Montana who will be visiting with Senators, Representatives and administration officials the week of July 24. Their concern is on the management of the public lands and land use decisions affecting western jobs and resource potential for housing, products from minerals, and other multiple use considerations.

I ask that the article be printed in the RECORD.

The article follows:

HOW MUCH WILDERNESS LAND DOES IDAHO NEED?

(By Lester Kelley and Marsha Schriver)

This is a response to a guest opinion by Mark Ingram, Director Idaho Conservation League, in the April 22 Statesman and to the present RARE II request for public response. In brief, our question is: How much wilderness does Idaho need? Our group, Association of Idaho Citizens Inc., believes 3.4 million acres is more than enough and asks the return of the rest of the RARE II lands to multiple uses which will include a large hunting and recreation use and which can be enjoyed by the largest percentage of both residents and non-residents.

Limitations to logging by RARE II studies and appeals by environmental groups has closed mills and diminished county revenues.

Ingram's guest opinion made an effort to compare economic benefits of the back-country recreation "valued at $70 million annually" to the timber cut in the national forests south of the Salmon River "selling for $21 million per year."

We have been able to confirm that the stumpage value cut in 1977 was $21.8 million on national forest lands south of the Salmon River. When we looked into the $70 million for the back-country hunting value, we find that in 1973 a group of outfitters and guides made a two-sheet tabulation which arrived at $63.762 million as the "total direct/indirect and induced monies to economy by O/G's."

A four-year update to this table could inflate the $63.8 million to $70 million for 1977.

Our group certainly agrees that the "back-country" hunting is important to our economy and should have all the credit it rightfully deserves.

Since the $70 million annual value figure of Ingram is derived from the outfitters' and guides' tabulation, we can see a number of questionable items.

First of all, nearly half of their value figure is contributed by the "out-of-state" travel costs ($28.5 million). How this travel cost relates to a bare timber stumpage value of $21 million escapes our analysis, and other items are equally irrelevant.

To be truly comparable, the hunting and fishing license fees for the back country could be compared to the stumpage.

As near as we can determine, back-country hunting fees paid in fiscal year 1976–77 were $2.77 million of the $5.96 million total for the state. This $2.77 million fees for "back country" licenses would be a more proper comparison to the $21.8 million log stumpage than comparing the stumpage to the $70 million absurb, meaningless O/G game value used by Ingram.

The $21.8 million annual stumpage amount could reasonably be multiplied by 10 to get its economic value to Idaho. This would give a value of the timber industry for Idaho of $218 million per year for this area alone.

A rather generous figure has been used by the U.S. Forest Service where they maintain that the value of the timber industry to the nation is computed by multiplying stumpage value by 25. They claim this gives the timber industry's contribution to the gross national product. This would be $550 million annually from this part of Idaho.

In either case we know the timber value to Idaho does not stop at the stumpage value and there is no way Ingram can compare stumpage value to an inflated back-country hunting and recreation value stated to be $70 million.

The stumpage value of $21.8 million does contribute 25 percent or $5.4 million to the back-country funds so they can keep the roads open for the sportsmen and recreationists and provide schools for the back-country counties.

Ingram by innuendo attempts to convince his readers that a huge expanded wilderness area is needed for preservation of elk hunting in Idaho. By checking the elk harvest in the game units both largely in the wilderness or primitive areas and the units mostly outside but continguous, we find that 72 percent of the elk harvest in 1975 and 1976 was made not near or in the wilderness or primitive areas but in areas served by highways and roads and much of it logged and some with mining operations.

As a rapup, we can agree that hunting (elk and deer both) is a good recreational use

of our national forests, but only 28 percent of the harvest was in or near the present wilderness and primitive areas.

In the reprint of Ingram's guest opinion by the Pocatello Idaho State Journal for April 30, he states: "Erosion from a 20-year-old dredging operation in Bear Valley still feeds silt into the Middle Fork Salmon River drainage." The Porter Brothers dredging operation in Bear Valley used settling ponds and chemicals to precipitate and settle out mud and silt from the digging ponds and their methods were so successful that sparkling clear potable water was returned to Bear Valley Creek.

Spring floods will naturally cut a small amount from stream banks. This occurred in an instance where Fish and Game requested stream pattern changes. Now, both the Fish and Game and mining operators know it is prudent to have geologists and hydrologists study the drainage pattern before making stream flow changes to minimize any chance for siltation.

If the small square pond from which the last dredge was salvaged and shipped to Bolivia were filled, natural regrowth would cover that small area and the results of the dredging operation could not be detected either from an air or ground survey.

Finally, keep in mind that Bear Valley remains a tremendous reserve of uranium, columbian, thorium, tantalum and several other rare earth metals which are needed today.

Ingram scoffs at the timber council's warning that 50 percent of the forest lands could become wilderness. Ingram also throws up a smoke screen by comparing the now-designated wilderness area to the entire state. This again tries to relate apples to bananas.

Our chief interest should be the ratio or percentage of the presently designated wilderness and primitive areas to the area of total national forests in Idaho. This relationship is 3.4 million acres to 20.3 million acres of national forest lands in Idaho, or nearly 17 percent.

The other lands now candidate for wilderness inclusion are: wilderness study—1,597,000 acres, inventoried roadless—6,616,000 acres; and uninventoried roadless—250,000 acres or a total of 8,463,000 acres, or nearly 42 percent of the national forest lands in Idaho.

How much of this 42 percent that will become wilderness is the basic concern of both multiple use proponents and the single use preservationist groups.

We note a warning by the N.W. Mining Association which predicts that if RARE II lands can't be taken as instant wilderness they plan to get it by other methods.

Look back to what happened to Gospel Hump. Under that so-called compromise 80 percent of the area under consideration was taken for instant wilderness returning only 20 percent to multiple use.

If Gospel Hump is any yardstick (and so far it's the one we have) then the preservation groups will want to lock up 50 percent of the national forests of Idaho despite Ingram's denial.

Just what do we now have for wilderness? This is effectively 3.4 million acres or 5,313 square miles. This area can be visualized as a rectangle 53 miles wide by 100 miles long. In actuality the designated wilderness areas stretch over a length of nearly 200 miles north to south and a width varying between 20 and 50 miles east to west.

Again let's ask your question, Ingram. It's not how much more wilderness but how much less is needed? U.S. Forest Service surveys reveal that only 4 percent of the recreationists using the national forests enter wilderness areas. Then, the conclusion is entirely reasonable that single-use wilderness lands of Idaho should not exceed a total of 1,000,000 acres, and not anywhere near the 3,400,000 acres now designated.

These designated wilderness areas now totaling 3.4 million acres will become similar to the Sherwood Forest administered by a Sheriff of Nottingham in the tales of Robin Hood.

A permit will be needed for the more fortunate few to even enter the area on foot and the chainsaw ban will probably be extended to cover flights by airplanes leaving the few remaining hunting ranches stranded and accessible only by pack string.

Citizens of Idaho must unite to question any additions to the 3.4 million acres or our lumber, mining, and common man recreation will be sharply reduced and as producing state our potential diminished.

Any encroachment of the wilderness boundary lines into RARE II lands must be watched as one line proposed covers highly valuable mineral and timber roaded areas.

ILLEGAL ALIENS

● Mr. HUDDLESTON. Mr. President, the rising tide of illegal aliens entering this country is posing a problem which will have a serious impact upon the quality of life in the United States.

It is becoming increasingly obvious that existing laws are insufficient to deal with the problem of illegal aliens and that Congress must act as soon as possible to discourage this type of illegal entry.

On July 16, 1978, an article by Christopher Dickey focusing on this problem in the Washington area appeared in the Washington Post. Mr. Dickey's investigations reveal that illegal aliens and their employers operate in a manner which is an open mockery of our existing immigration laws. I believe that revelations such as this highlight the urgent need to enact tough new laws which not only discourage aliens from attempting to enter the United States illegally but will also act as a significant deterrent against their employment once they are here.

I ask that this article be printed in the RECORD.

The article follows:

THE IMMIGRANT WORKER PLOY: KEEPING BUSY WITHOUT A CARD

(By Christopher Dickey)

Standing amid the opulence of his Tiberio Ristorante, Giulio Santillo was trying to explain the difficulty in distinguishing who is who and what is what when dealing with immigrant workers.

To make his point, he called over a Central American who was vacuuming the restaurant floor. "He has worked here two times," said Santillo, who asked the man in Spanish what his name was the first time. "Raul Amaya." And now? "Francisco Hernandez." Both laughed.

Santillo makes no secret of the fact that he was an illegal immigrant 3½ years ago when he opened Tiberio Ristorante at 1915 K St. NW. "Don't make a mistake, I came first class," he said. But not until he had been in business seven months did he obtain the "green card" that allowed him to work legally in the United States.

No secret either is that, from hot dog stands to haute cuisine, an increasing number of workers in Washington restaurants come from overseas or south of the Mexican border. Many come illegally.

Ten years ago, dishwashers and busboys, salad makers and assistant cooks—the lowest paying restaurant jobs—were held mainly by black Americans from Washington and the South. Today, they are likely to come from El Salvador or Bolivia, or any of 100 other developing nations.

It is impossible to say how many are here. In 1977, the U.S. Immigration and Naturalization Service registered almost 14,000 aliens in the District of Columbia, more than 50,000 in Virginia and about 60,500 in Maryland.

The number of illegal immigrants is thought to be considerably higher, but the only available statistics are for the relatively small number who are caught. Almost 6,000 illegals were apprehended in Maryland, Virginia and the District of Columbia during fiscal year 1977.

In a normal month, according to INS District Director Joseph Mongiello, immigration investigators visit from 12 to 15 restaurants in the area searching for illegal aliens and most often find them.

Whatever the exact numbers, the obvious presence of so many foreign workers—especially so many here illegally—infuriates many U.S. citizens.

"They still don't have enough jobs for even the citizens and the legal people who are here," local political activist Calvin Rolark told a hearing before the City Council's Committee on Employment and Economic Development earlier this year. Rolark said he worked his way through college waiting on tables. Now, he said, when he enters a restaurant, "people don't even understand what I'm saying. If they are illegal aliens, let them get the hell out of the country."

William Larkin of Anacostia told the same hearing that his son "had to go to Bethesda to work as a busboy because Spanish-Speaking people have it locked up here in Washington." He left the hearing amid a shouting match.

The bill that was being considered then and still in committee would make it a crime to hire undocumented workers in the city. Several states including Virginia, have passed such measures, and a similar federal law proposed by President Carter also remains in committee. Polls indicated that as many as three-fourths of U.S. citizens would support such laws.

The legislation is opposed almost universally by Hispanic and other ethnic groups who fear potential discrimination against anyone legal or not, who has a foreign appearance or accent. Both Congress and the City Council are far from passing such laws.

Meanwhile, nowhere is the increasing number of foreign workers more evident than in restaurants serving, among other people, the nation's lawmakers.

Already about 20 percent of the membership of the Hotel and Restaurant Employees Union, Local 25, consists of people from foreign countries, according to executive secretary Ron Richardson. He said he thinks that most of them have green cards but that their presence in the union indicates the industry's employment trend.

"The lower paid jobs are more and more being taken by foreign workers rather than black Americans," Richardson said. Blacks in D.C. aren't always willing to settle for the lowest paid jobs any longer. The blacks have realized that there are ways to advance in society, and they don't want to take a dead-end job."

Richardson and city restaurant owners often have serious differences, but on that point they appear to agree.

"Who wants those jobs," asked Dominique D'Ermo, owner of Dominique's Restaurant at 1900 Pennsylvania Ave. NW. "Blacks are not interested in scrubbing floors and doing those dirty things. But somebody's got to empty the garbage, and you don't smell like Chanel No. 5, you know."

Many employers feel that foreign workers are more diligent, trustworthy and reliable than U.S. citizens who apply for the lowest paid jobs.

"They have a different concept of things," D'Ermo said recently as he sat in the dark, wood-and-stained-glass elegance of his restaurant's dining room. "They live in a different jungle. We live in a jungle of vices. They live in a jungle of fresh air and poverty. They come here and they see running water and they get a paycheck every week and they think this is paradise."

While D'Ermo had a drink with some of his patrons a 41-year-old Salvadorian, who said he has no green card, was scouring pots under the bright lights of the white-tiled kitchen.

Why had he come to the United States? He looked surprised that any one should ask. "To make more money. I can't raise my family in El Salvador," he said through a waiter who acted as interpreter.

The dishwasher said he had tried in vain for most of his life to support his wife and 10 children on the $2 he earned each day in Central American cotton fields.

He decided to come to the United States but was not eligible for an immigrant visa since he had no special skills. Finally, he paid a smuggler, called a "coyote," $800 for passage here. He took a bus to the Mexican border and one night was led across the river to Laredo, Tex. From there he went to Houston and took a midnight flight to Washington, where he has worked ever since.

At Dominique's, he said, he can earn about $460 a month, plus meals. He said he lives with several other Central Americans in an apartment near Columbia Road NW. He said that now he can send about $300 a month to his family in El Salvador for food and clothes.

Like other workers in his situation, he no longer must fear for his family's survival. His greatest worry is that he will be caught by "La Migra," the Immigration and Naturalization Service, and deported.

Since, for the moment, no legal sanctions can be taken against employers of undocumented workers, the threat that "La Migra" poses for Washington's restaurant owners largely is an inconvenience but one that some are unwilling to risk. The manager of the Monocle Restaurant at 107 D St. NE., for instance, hires a number of foreign workers but said he always checks their green cards. As he put it: "The Immigration walks into your place and takes half your help—that is a penalty, too."

Other restaurateurs are considerably more casual. They say they are glad to have anybody who will do the work for the $2.80-an-hour minimum wage and simply do not bother to check immigration status.

"I never even thought about it," said Bernard Gorland, owner of the Sans Souci at 726 17th St. NW. "I hear about those raids on other restaurants, but I guess an accident is not an accident until it happens to you."

Even restaurants that have been raided, some of them several times, often continue to hire undocumented immigrants.

"It's no use to ask them if they have green cards," Dominique D'Ermo said. "You know they don't have any."

Others resort to tactics that avoid the question. "Someone comes to me with a dusky skin and a Spanish accent, and they are very nervous," recounted one owner of a well-known Italian restaurant. "I say to them, 'Oh, you are from Puerto Rico (and thus a U.S. citizen).' And there is this great sigh of relief between us. 'Si. Si. I am from Puerto Rico.' "

In such ways as restaurant owners and their employes caught in a web of half-truths and deceptions dictated by attempts to avoid immigration problems, while obeying other laws.

Employers are required, for instance, to obtain Social Security numbers from their workers. But some, such as Giulio Santillo at Tiberio, settle for any number their employes give. "What they do sometimes is take a telephone number and add two digits," Santillo said.

On other occasions, they may have bought forged cards or simply borrowed cards from friends. "I demand to see the Social Security card," one Georgetown restaurateur said. "And I say, 'Is this your name?' And of course he will say 'yes.' Whether it is or not. And I say 'okay, that is what I am going to call you as long as you are here.' "

Many restaurant owners feel they are compensated for problems that arise from hiring foreign workers by the devotion and attitude of such employes, although that loyalty may arise from insecurity.

"It's a question of respect for the job, for the place where they work," said Barnard Gorland of Sans Souci. "I have one Spanish-speaking guy whose wife called this morning and said, 'Oh, my husband is so sick and can't come in.' She offered to come in herself. With a black guy, you might be lucky to get a call.

"I'm not putting down blacks," said Gorland, who said he employs several blacks, "but many of them, they work here and there for a few weeks or months, just long enough to get welfare."

Even after a kitchen staff is reduced by an Immigration raid, some employers have no difficulty replacing the arrested workers, because the workers' friends show up almost immediately to apply for the vacant jobs.

Dominique's was raided a few months ago and "within one hour," D'Ermo said, "a whole new batch of people were waiting at the door."

Some restaurateurs feel a moral obligation to help their arrested employes fight deportation, others do not make such efforts. But even deported persons often return to the United States, sometimes going through the cycle twice or several times.

Occasionally, owners said, their deported employes are back on the job within a month after having told their friends about the wonders of the United States. "You send one back," a downtown restaurateur said, "and three of them are coming in."

Many workers and employers believe that subterfuges and communication networks existing now would stifle effectively any efforts to enforce proposed laws against hiring illegal aliens.

The Virginia law has been in effect since Jan. 1, but no cases have been prosecuted, according to the state Department of Labor and Industries.

Some employers who said they try to obey the Virginia law contend that they face serious problems.

Ulysses Auger II, director of operations for Blackie's House of Beef and a dozen restaurants his family owns in the metropolitan area, said he had to dismiss 40 percent of his daytime staff at the Black Crystal restaurant in Crystal City when the law went into effect.

"I've been getting ulcers over there," he said. "The turnover has increased 500 percent. My manager asked one guy (an American) to wash a wall, and he pulled a knife on him."

Proponents of "employer sanction" laws argue that employers prefer illegal immigrants because they are so vulnerable to exploitation. As a result, their presence depresses wages and keeps U.S. citizens, particularly unskilled young people, unemployed.

Whether such laws, if or when they are enforced, would offer any solution to U.S. employment problems is not yet clear.

As the nation grapples with what President Carter has called "one of our most complex domestic problems," immigrants continue to come. In some countries, such as El Salvador, they have heard that Washington is the most promising city in the promised land.

"Here they have more work, more opportunity. In restaurants in Washington, they pay more than anywhere," a Salvadorian busboy said.

If deported, he said, he almost certainly would return. Already, he said, he has saved the money for the trip. He would take another job, perhaps to try to work his way into a chef's position. Then he might be able to get legal resident alien status because federal law permits the issuance of green cards to some illegal aliens who hold jobs, such as chef, that few Americans appear to want. The busboy looks forward to a future that, for all its dangers, seems brighter than anything he has known.●

MORGAN CALLS FOR STRONG CHILD NUTRITION POLICY

● Mr. DOLE. Mr. President, recently my distinguished colleague from North Carolina, Senator ROBERT MORGAN, addressed the Association of School Food Service personnel in his home State. I am certain his eloquent remarks outlining the history of school meals from the early 1900's to the present will be of interest to all of us whose constituents have been served—and served well—by this federally supported nutrition program.

Next Sunday, July 23, the 66,000-member American School Food Service Association will open its 32d annual meeting in New Orleans. I am looking forward to participation in that event.

It is fitting that we recognize ASFSA for the contribution and commitment it has made to school meal programs by printing the remarks of Senator MORGAN in the RECORD.

The address follows:

SOME THOUGHTS ON THE NEED FOR A STRONG CHILD NUTRITION POLICY

It is a pleasure for me to appear before you to discuss some of my thoughts on the need for a strong Child Nutrition Policy. The policies and programs that our Nation has are, at best, not fully integrated into a meaningful Child Nutrition policy. We have, at present, the makings of such a policy. We have a strong, but incomplete, School Lunch Program. We also have a School Breakfast Program and the beginnings of a Nutrition Education effort. But the circle is not complete. While the programs mentioned above represent a positive force in the lives of our children, there are negative forces pulling in the opposite direction, one of the most important being television advertising directed at children.

While I would like to spend some of my time talking about the need for an overall Child Nutrition policy, I will pay especially close attention to a matter of much interest to each of you, the School Lunch Program. But before I start on this specific subject, it would be useful to talk briefly about where these programs fit into the general picture of Federal programs and the Federal budget. The Federal Government has several nutrition programs of which the school-centered Child Nutrition programs are a significant part. This year the Federal Government will spend an estimated $2.8 billion on the food programs that are operated in conjunction with schools. This amount is less than one-half of one percent of the Federal budget for the coming year.

In fact, the Federal Government will spend more money in two days than it will cost to

run these programs for an entire year. While this expenditure may seem large in absolute terms—and it is—it must also be pointed out that this program feeds nearly 27 million children every day of the school year, children who may not otherwise have the opportunity for a hot, nutritious lunch.

Now these programs did not just happen. They have been the result of much hard work by organizations' such as yours, Parent-Teacher Associations, and farm groups. These programs did not fully develop until after World War II, a time when our society became increasingly mobile and less family-oriented. I am not saying that we could ever go back to the days that preceded World War II. As much as I would like to return to these more simple days, that is unrealistic. We must live in the world of today and tomorrow, and concern ourselves with spending time and energy on solving modern problems. The National School Lunch Act, which was passed in 1946, was just that—a modern response to a modern problem.

The National School Lunch Act of 1946 was not the first nutrition effort in this country. Previously, local governments and private charities were deeply involved in feeding hungry school children. Much of this effort dated back to the early 1900's and the influential book HUNGER by Robert Hunter. Hunter's words were poignant, both then and now. Let me quote: ". . . the poverty of any family is likely to be most serious at the very time when the children most need nurture, when they are most dependent, and when they are obtaining the only education which they are ever to receive. Guidance and supervision of the parents are impossible because they must work; the nurture is insufficient because there are too many mouths to feed; learning is difficult because hungry stomachs and languid bodies and thin blood are not able to feed the brain. The lack of learning among so many poor children is certainly due, to an important extent, to this cause." Hunter continues: "It is utter folly, from the point of view of learning, to have a compulsory school law which compels children, in that weak physical and mental state which results from poverty, to drag themselves to school to sit at their desks, day in and day out, for several years, learning little or nothing. If it is a matter of principle in democratic America that every child shall be given a certain amount of instruction, let us render it possible for them to receive it, as monarchical countries have done, by making full and adequate provision for the physical needs of the children who come from the homes of poverty."

Hunter's words, almost singlehandedly, set the Nation in motion. Various groups—womens' groups, labor unions, and civic organizations—began to develop programs at the local level. Unfortunately, the Congress was not as responsive. At that time, it was thought that a national School Lunch Program would be centered in the cities and that such a program would drive rural poor into the already crowded cities. Meanwhile, cities such as Philadelphia, Boston, Milwaukee, St. Louis and Cincinnati, among many others, developed programs to bring children proper nourishment during the school day.

As one might expect, rural schools had special problems. Almost without exception there was no room available for setting up a kitchen and dining area to provide warm lunches for children. Rural children travelled long distances to schools, often with only cold sandwiches of dubious nutritional value. It was the ingenuity of individual teachers who met the need in many places. Children took turns in bringing different dishes which were warmed over the stoves which heated the school room.

The 1930s brought the Great Depression, a period which impoverished millions of Americans. Fortunately, America was more dollar short than it was food short. President Roosevelt devised a common sense plan for addressing this problem. The President directed the USDA to purchase surplus farm commodities, which had depressed farm prices, and directed that these commodities be made available to schools for a lunch program. This program was the beginning of the Commodity Distribution Program that continues today as part of our School Lunch Program.

By the end of World War II, adequate political support had developed for a National School Lunch Program. In 1946, Congress mandated a permanent School Lunch Program. Since then, with encouragement of your organization and other civic groups, including farmers, Congress has developed this program into a truly comprehensive national effort. Today, this program feeds 27 million children daily in virtually every public and nonprofit private school in the country. This program is truly a strong example of how public needs, which cannot normally be met with through our system of free enterprise, can be effectively dealt with by the Federal Government.

Today, the School Lunch Program offers subsidized lunches to all children, regardless of income, and free or reduced price lunches to children of poor families. Congress has not only acted to improve this important program over the past three decades, but it has also acted to create a School Breakfast Program. This program is especially interesting to me, not only for its potential, which is large, but also in the way in which it was created. As many of you know, this program was begun in 1966 as a series of pilot projects. By adopting a pilot approach, Congress was in a better position to establish the effectiveness of this program.

In this Session of Congress, we are currently debating how much this program should be expanded. The Senate has a bill, S. 3085, the Child Nutrition Amendments of 1978, which would extend the breakfast program substantially to serve more than the 2.5 million students it reaches today. I will support this legislation in some form, primarily because of the high percentage of working mothers that we have in North Carolina.

In this past Session of Congress, we enacted some major reforms which offer great promise. The most impressive of these reforms has to do with a new Nutrition Education program. This program will provide a means for teaching our children proper nutrition. At this time, it is too early to tell how the states will utilize these funds and what impact this new program will have on the plate waste problem.

I am very interested in this program and I am carefully following its development in North Carolina. There may be a tendency by local administrators to view this program as another Federal giveaway. This will not be the case in North Carolina. I anticipate that the State will employ a distinguished nutritionist for overseeing this educational effort, one that will bring North Carolina a first-rate program. As many of you know, the philosophy behind the approach adopted by the Congress is that this program would be developed at the state level, not by edict from Washington. Our hope was to have 50 different programs. Then, after two years, we could determine which programs are worth developing into a model for the Nation.

Another challenge brought about by the recent legislation is the possibility of cashing out the commodity programs—providing cash in place of food commodities. Currently, Congress spends about $330 million on this program which provides commodities including peanuts, dairy and poultry products to our schools. The idea behind this approach is that commodity distribution is expensive and that schools, if given the cash, could do a better job. I do not subscribe to this point of view.

First, the USDA can acquire these commodities at a much less cost than local school districts. Second, these commodities are surplus commodities and the purchase of these products helps alleviate depressed price conditions for farmers. I fully realize that there have been problems with this approach, yet I remain convinced that it makes much better sense than going on a totally cash basis.

The Congress also acted last year to return to the Department of Agriculture the authority to ban junk food from being sold on school grounds until after the last class period has ended. Recently, the USDA issued preliminary regulations to stop the sale of foods such as soda pop and candy bars. This effort, combined with the new Nutrition Education program, will help reverse the serious plate waste problem that has brought so much unfavorable attention to our School Lunch Program.

While we have made significant strides in the past ten years, we must do better. One of the areas of improvement would be the enactment of a Universal Free School Lunch Program, which I introduced. I believe, very strongly, that such a program is long overdue. My philosophy regarding this program is very simple: the School Lunch Program should be as much a part of our educational program as textbooks and bats and balls.

My proposal has been criticized by various individuals. The opposition says that this program would be very expensive. I think that the opposite is true. These individuals simply have not examined, as I have, the time and cost of local School Districts and State Governments in administering the current program of free and reduced price lunches. Others oppose this approach on the grounds that they do not want to provide the children of rich parents with free lunches. My response to this argument is that the costs and benefits of a totally free approach would be less than the costs and benefits of the current program. In order to determine whether or not this is true, I have introduced legislation for a pilot program of free lunches. Incidentally, I note that Hoke and Edgecomb Counties in North Carolina have already determined that such an approach is feasible and they are running a totally free lunch program. At this time, I am optimistic that my proposal will be included in a bill which the Senate will act on by late summer.

Perhaps a more serious challenge concerns legislation pending before the House and Senate which would transfer the Child Nutrition programs from the USDA to a proposed Department of Education. I want you to know that I intend to vigorously oppose this transfer.

There are several reasons for my opposition. The first is that the USDA has a proven capability for running these programs. The second reason I have is because studies indicate that such a transfer would cause the prices of school lunches to increase. Not surprisingly, Ralph Nader, hunger activists, cattlemen, peanut growers and your organization have decided to oppose the transfer.

I cannot conclude my comments tonight without sharing some of my concerns to you on the problem of food advertising directed at children. I am stunned by the advertising that children see on television, especially the advertising of sugar-coated cereals. Something has to be done about this advertising

in the near future, if our child nutrition programs are to make sense. It is no wonder that the eating habits of our young are so bad. The fundamental issue here is whether or not children can distinguish between advertising and regular programming. Along this line, I would like to quote Dr. Richard Feinbloom of the Harvard Medical School: "To children, normally impulsive, advertisements for appealing things demand immediate gratification. An advertisement to a child has the quality of an order, not a suggestion."

My principal concern here has more to do with the fact that North Carolina is largely a rural state. Not surprisingly, rural people today are largely dependent upon television as their primary source of information. Studies have shown that 90 percent of our rural homes have a TV, but only a third subscribe to a daily newspaper. Therefore, rural children are much more vulnerable to advertising which leads to poor nutritional habits.

Now, I am as concerned about the long arm of the Federal Government as you are. We must keep in mind that television is broadcast over the public airwaves and that all TV stations are licensed to operate in the public interest. In this area, children's food advertising, the television media are not acting in the public interest. I have encouraged industry to correct this shortcoming. If they are unwilling, I will seriously consider introducing legislation to remedy this problem.

My comments in this area would not be complete unless I linked TV advertising with the plate waste problem. Clearly, there is a relationship between the two. We simply cannot allow this type of advertising to continue and pretend to have a child nutrition policy.

In my remarks I have traced the development of our programs, talked about some of the problems and prospects, and explained the relationship of various Federal child nutrition efforts. I believe that we have the makings of a strong child nutrition policy, but that the circle will only be complete when we look at what is happening in the realm of TV advertising. Certainly, we need to move forward to the establishment of a universal free school lunch program. Also, we must carefully watch and build upon the nutrition education effort that soon will be underway. In the final analysis, we must remember that we are concerning ourselves with the welfare of our children and what we do, or don't do, concerning their welfare will determine the America that we have tomorrow. I submit that we have no more precious resource than our youth and that the young of this Nation must be protected and encouraged in ways that offer our country and world a brighter tomorrow.

I fully appreciate this opportunity to share my thoughts with you.●

THE GRAIN CAR SHORTAGE

● Mr. McGOVERN. Mr. President, each year South Dakota and the rest of the Midwest experience rail car shortages for the shipment of grain. These recurring shortages, while creating substantial financial and economic hardships for farmers and farming communities, generally subside by the end of the year. However, this past year we have experienced the worst grain car shortage in the history of railroading in this country.

Early last spring as the shortfall in car availability approached crisis proportions, the Interstate Commerce Commission ordered the railroads to make additional cars available in the Midwest for the shipment of grain. The order was rescinded several weeks later due to pressure from other industries experiencing car shortages. However, those actions did not even begin to resolve the shortage.

This week, as several States begin to harvest wheat, elevators are still full of 1977 grain. The elevators cannot buy new grain until they can ship out existing supplies. The farmers' own grain bins are full, necessitating emergency measures to construct additional storage.

The causes of the perennial shortage revolve around national problems of poor car utilization and car control, inadequate amounts of rolling stock for peak period shipping and the fact that railroads are only residual shippers of agricultural commodities. Traditionally, at the onset of harvest, many shippers utilize a combination of trucks and barges for grain shipments because of their comparatively low rates.

Truck and barge rates are not regulated and may fluctuate according to supply and demand. On the other hand, rail rates are fixed and constant all year around. Consequently, as demand increases, truck and barge rates rise to a point equal to or above rail rates. At this point, agricultural shippers converge upon the railroads as they have become the least expensive mode of transport. This, and the physical lack of cars create the traditional shortages. The extreme crisis of last winter was caused by several additional factors. However, that situation has never been fully resolved and we are facing the potential for an even worse shortage this year.

South Dakota and other grain States cannot withstand additional car shortage crises. Our economy is dependent upon the farmer and the agricultural industry. It is crucial that we have timely shipments of grain. If we do not act very quickly, we will find our grain States in the midst of another critical shortage, creating economic disruptions throughout the region.

Mr. President, I ask that an article that appeared in the July 11, 1978 edition of the Sioux Falls Argus-Leader be printed in the RECORD.

The article follows:

AS GRAIN RIPENS: BOXCAR SUPPLY SHORT

(By Chuck Raasch)

While thousands of acres of South Dakota grain are ripening for harvest, the critical railroad boxcar shortage has left a substantial backlog of grain in country elevators.

But the ultimate effects of what some state officials are calling a "serious" grain storage problem will probably be dumped into the farmers' laps.

In April, state grain officials complained they couldn't ship 1977 grain out of South Dakota because there weren't enough boxcars being made available to elevators. The Interstate Commerce Commission ordered railroad companies to make more cars available to those elevators, but state officials said Monday the elevators' shipping woes haven't been solved.

And now, with harvest 10 days away in many parts of South Dakota, the grain storage problem has become acute.

"There's a shortage of boxcars, no doubt about that," said Cliff Anderson, Aberdeen, executive director of the Farmers Elevator Association of South Dakota. "Nobody can get their grain out."

Anderson said he couldn't estimate the amount of grain backlogged in South Dakota elevators, but he said the amount is "substantial" and called the grain storage problem "serious."

"People have money tied up in this grain, and some at a high rate of interest," he said. We need to get it out before the harvest, but we're not going to be able to.

I've gotten calls (from elevator owners) from all over," he said. "They're telling me things like they've got $200,000 worth of grain they can't get out, and these aren't even the largest elevators."

The storage problem this year is compounded by the fact that farmers in many parts of South Dakota are expecting high yields on their crops, according to Dale Gullickson, a marketing specialist with the state agriculture department.

Because elevators may not be able to store the 1978 crop, farmers will have to find places on their own farms to keep the grain.

And one-year grain reserve programs offered by the federal government are beginning to mature, meaning that if farmers can't deliver the grain to their local elevators, they'll have to extend the reserve contract until they can deliver the crop.

In South Dakota, there are more than 42 million bushels of wheat, 26.5 million of oats and 8.1 million of barley contracted under the one-year reserve program and stored on farms, according to Wayne Testerman, head of the state Agricultural Stabilization and Conservation Service.

In addition, there are more than 24 million bushels of wheat, 4 million of barley, 13 million of oats and 7.5 million of corn stored on farms under the three-year reserve, Testerman said.

If a farmer has grain stored on a loan program and can't deliver when the loan matures, he can extend the contract," Testerman said. "But the cold part about the whole matter is it's his responsibility to move that grain on time—the railroad problem is kind of his problem, although we consider it our problem, too."

Testerman said delivering the matured-contract grain hasn't been a problem yet this year, but he said the situation could become worse if farmers aren't able to move the government grain when loans become mature.

And he said the number of farmers buildgrain bins on their farm is up considerably this year.

"Really, I've heard they can't even supply the bins being ordered," he said.

The ASCS facility loan program provides farmers loans to build grain storage facilities at an interest rate of 7 percent, Testerman said.

But there is no compensation available to the farmer who is forced to build more storage if he can't deliver government-contracted grain because of the boxcar shortage.

Other state officials agreed with Testerman, saying the number of grain bins and grain-storage sheds being built in South Dakota this year is up considerably.

Tom Kelley, chairman of the State Cement Plant Commission, attributed much of the increased demand for cement in the state this year to heavy grain-bin construction.

And Anderson said farmers are "building everything they can get their hands on" in anticipation of a heavy harvest.

The state's grain hauling woes are compounded by the fact that most of the state's rail lines are in poor shape and can't handle the 100-ton jumbo hopper cars which are replacing out-dated 40-ton boxcars.

Arnie Stenseth, head of the South Dakota Division of Railroads, said his office has been "swamped" with calls from elevator owners and farmers, but he said not much can be done to alleviate the shipping problems.

"It's all day long," Stenseth said of the calls. "They're frustrated, some are scared, and they can't understand why the railroads can't get them the cars."

Stenseth said the boxcar shortage problems could have been eased if railroads had better anticipated harvests. But he said many railroads companies, like the Milwaukee Road, simply don't have enough boxcars to go around.●

PROPOSED TRANSFER OF SCHOOL LUNCH AND CHILD NUTRITION PROGRAMS FROM USDA TO NEW DEPARTMENT OF EDUCATION

● Mr. TALMADGE. Mr. President, the Committee on Government Affairs on Tuesday completed its markup of S. 991, a bill to create a new Cabinet-level Department of Education.

The proposed Department would take over a number of Federal educational functions, most of which are now concentrated in the Department of Health, Education, and Welfare.

I long have favored the creation of such a Federal Department of Education.

I believe that Federal programs to assist in the education of our children would be better and more effectively administered in a separate department under an independent Secretary of Education.

Education is what the new Department is supposed to be all about. It is intended to deal with education—not with welfare, not with health, not with food and nutrition—but with education.

However, the bill, as approved in committee markup, would not restrict the new Department to educational activities only. The bill would put the Department in the business of child feeding by transferring the child nutrition programs—including school lunch—that are now in the U.S. Department of Agriculture to the proposed Department of Education.

Mr. President, I consider this to be a very severe flaw in the bill. If enacted, Congress would be creating a new Department of Education and Child Feeding rather than a centrally focused, clearly defined Department of Education.

The proposed transfer of the school lunch program raises unnecessary questions that could well pose a threat to the long overdue establishment of a Federal Department of Education.

The child nutrition programs—which have the school lunch program as their centerpiece—constitute one of the most worthwhile and creative activities of the Federal Government.

They contribute in a unique and substantial way to the strength and health of the Nation by providing school children with the opportunity of a hot, nutritious daily meal. They both protect and nuture one of our Nation's most precious human resources—our children.

These programs also contribute in a major way to the Nation's agricultural economy through the commodity distribution programs of USDA. Through this activity, agricultural commodities in temporary surplus are utilized in the best possible way—as food on the tables of the Nation's school lunch rooms. The school lunch program is thus a classic example of the perfect merger of the agriculture and child nutrition concerns of the Nation.

The school lunch and related child nutrition programs have been administered effectively and efficiently by the Department of Agriculture since their inception. They have been expanded and improved dramatically over the years under USDA management.

It would be a severe blow to summarily uproot these well-organized and established programs. It would be a grave mistake to take them away from competent, proven hands and place them in an untried and untested new Federal Department that will be run, as it should be, by professional educators.

Mr. President, there are many in and out of the Senate who share my strong concern for the fate of the school lunch program as proposed under S. 991. All 18 members of the Committee on Agriculture, Nutrition, and Forestry joined in a letter on April 18 to the chairman of the Government Affairs Committee (Mr. RIBICOFF) expressing our opposition to the school lunch transfer.

Last Thursday, I joined with the chairman of the Nutrition Subcommittee (Mr. MCGOVERN) and with the ranking minority member of the full Committee and the Nutrition Subcommittee (Mr. DOLE) in another letter to Senator RIBICOFF restating our opposition to the transfer. Our letter was in response to a floor statement he made on this matter on July 10.

Among other things, our letter pointed out that the American School Food Services Association, representing 70,000 administrators who direct, manage, and work in school nutrition programs at the State and local levels, strongly oppose transferring these programs from USDA. This position is shared by the Children's Foundation, the Community Nutrition Institute, the Food Research and Action Center, American Academy of Pediatrics, and other prominent organizations concerned about child nutrition. We fail to see how these authoritative and responsible experts in the field of child nutrition and child feeding can be ignored.

The effort to prevent the transfer of the school lunch program from USDA to the proposed Department of Education thus far has been to no avail. Last Friday, an amendment offered by the Senator from Illinois (Mr. PERCY) to delete the authority for the transfer from S. 991 lost in the Committee of Government Affairs by a 7-to-8 vote. An eighth member of the committee who was announced as favoring the amendment was not present for the vote. But if he had been present, the amendment would have lost on an 8-to-8 tie vote.

The committee did amend the bill to retain funding jurisdiction over the commodity purchase program in USDA. But this is merely a diversion. This would simply add to the bureaucratic confusion in administering the child nutrition programs and is a transparent attempt to obscure the disruption and uncertainty the bill, as written, will pose. The potential victims of this disruption and uncertainty are the children of America.

I regret that the amendment to prevent the transfer of these programs lost in committee. But I am encouraged that it had the support of half of the members. I wish to compliment the Senator from Illinois (Mr. PERCY) for his able presentation in behalf of the amendment and to thank the members of the committee who supported him.

This fight is far from over. The evenly divided decision of the Committee on Government Affairs is just the opening round.

The Senate Committee on Agriculture, Nutrition, and Forestry earlier today unanimously reaffirmed its opposition to the school lunch transfer. Others who share our concern are equally determined and dedicated.

Our opposition to the school lunch transfer should not be confused with the merits of a Cabinet-level Department of Education. Indeed, six members of the Committee on Agriculture, Nutrition, and Forestry were among the original cosponsors of S. 991, the Department of Education bill. Likewise, four other original cosponsors, who are members of the Committee on Governmental Affairs, supported the amendment to delete the transfer authority.

I understand that the Senator from Illinois will offer his amendment for consideration by the full Senate when the bill reaches the floor. I intend to join as a cosponsor of the amendment, and I have asked all members of our committee to do likewise. I also urge other Members of the Senate who feel as we do about the school lunch program to join as cosponsors.

I can assure the Senate that this issue will be thoroughly debated when the bill reaches the floor, and every Member of the Senate will have the opportunity to vote on the future fate of these great and vital child nutrition programs.

Mr. President, I ask that the two letters to the chairman of the Committee on Governmental Affairs from members of the Committee on Agriculture, Nutrition, and Forestry be printed in the RECORD.

The letters follow:

U.S. SENATE,
Washington, D.C., July 13, 1978.

HON. ABRAHAM RIBICOFF,
Chairman, Governmental Affairs Committee, Washington, D.C.

DEAR MR. CHAIRMAN: We have read with interest your statement in the Congressional

Record of July 10 with regard to the transfer of the child nutrition programs from the Department of Agriculture to the proposed Cabinet-level Department of Education that would be created under S. 991.

While recognizing that this is an issue on which reasonable people can differ, there are a number of points we wish to make that we feel provide compelling reasons why the child nutrition programs, including school lunch, should remain in the Department of Agriculture.

First, we do not believe that the Department of Education could—or should—"meet all the developmental needs of children" as you state. If that were the goal of the new department, it would mean transferring the Child Health Assessment Program, the National Institute of Child Health and Human Development, the Maternal and Child Health and Crippled Children Services, and a host of other child development programs of the Federal government. It is our understanding that these programs are not proposed to be included within the jurisdiction of the Department of Education.

We—and we believe we speak for all members of the Committee on Agriculture, Nutrition, and Forestry—respectfully disagree that "education and nutrition are inextricably linked." If that were the case, it would be logical to transfer the Special Supplemental Food Program, the Emergency Food and Nutrition Educational Program, the Food Stamp Program, and nutrition research to the Department of Education. But this is not proposed.

Indeed, we believe that it is nutrition and agriculture that are "inextricably linked." This would also appear to be the perception of the Senate in formally adding "Nutrition" to the jurisdiction and name of the Committee on Agriculture and Forestry under S. Res. 4.

We also cannot accept the implication of your July 10 statement that the Department of Agriculture traditionally has been unreceptive to nutrition issues. A study of the development of Federal involvement in this area clearly indicates otherwise.

The original mandate creating the Department of Agriculture in 1862 envisioned U.S.D.A. as being involved with the issues of food production and consumption. The first appropriation by the Congress to a Federal agency specifically for studies in human nutrition was made to the Department of Agriculture in 1893.

Later, the Research and Marketing Act of 1946 elaborated upon this general mission, provided specific legislative authority, and directed the Secretary of U.S.D.A.:

"To conduct and to stimulate research into the laws and principles underlying the basic problem of agriculture in its broadest aspects, including but not limited to . . . research into the problems of human nutrition and the nutritive value of agricultural commodities, with particular reference to their content of vitamins, minerals, amino and fatty acids, and all other constituents that may be found necessary for the health of the consumer and to the gains or losses in nutritive value that may take place at any stage in their production, distribution, processing and preparation by the consumer. Including such investigations as have for their purpose . . . the maximum contribution by agriculture to the welfare of the consumer."

The Food and Agriculture Act of 1977 passed by the Congress less than a year ago, declared:

"That there is increasing evidence of a relationship between diet and many of the leading causes of death in the United States; that improved nutrition is an integral component of preventive health care; that there is a serious need for research on the chronic effect of diet on degenerative diseases and related disorders; that nutrition and health considerations are important to United States Agriculture policy."

Most recently, the Secretary of Agriculture, Bob Bergland, told the Congress:

"We think this country must develop a policy around human nutrition, around which we build a food policy for this country and as much of this world as is interested. And in that framework we have to fashion a more rational farm policy. We've been going at it from the wrong end in the past."

Central to the development of a national nutrition policy is the Nation's food programs: food stamps, school lunch, school breakfast, and WIC, among others. These programs which represent the Nation's backbone in the fight against hunger must be built upon as we broaden our knowledge in the area of nutrition and begin to address other important nutrition issues: obesity, the relationship between diet and disease, nutrition research, food labelling, and nutrition education.

Indeed, as we progress into these other issues the food programs may provide a valuable source of information for consumption data, a forum for nutrition education, and perhaps other research information. In short, it is of paramount importance that the United States have a coordinated food and agriculture policy. To accomplish that goal we are strongly persuaded that these two areas must remain united in the Department of Agriculture.

Rather than suffering from neglect at U.S.D.A., the child nutrition programs have enjoyed consistent growth and expansion, as you acknowledged. This is true not only of the school lunch program, but of other U.S.D.A. administered feeding programs as well. Nor do we understand why an Assistant Secretary for Child Nutrition in the Department of Education would be in a stronger advocacy position for the child nutrition program within the administration than is the existing Assistant Secretary for Food and Consumer Services in the Department of Agriculture.

Finally, we are aware, as you pointed out, that a number of state school administrative offices support the transfer of the school lunch program to the Department of Education. These officials have responsibility for all education activities in their respective states. But we believe it is significant that the American School Food Services Association (ASFSA) representing 70,000 administrators who direct, manage, and work in school nutrition programs at the state and local levels strongly oppose the school lunch transfer. These are the professionals who have direct responsibility for feeding the Nation's 25 million children who daily participate in the school lunch program.

The ASFSA position is shared by the Children's Foundation, the Community Nutrition Institute, the Food Research and Action Center (FRAC), American Academy of Pediatrics, and other prominent organizations concerned about child nutrition. We think the people who make up these organizations are in the best position to advise Congress on this crucial question.

We appreciate the opportunity to make these observations to you and to your colleagues on the Senate Governmental Affairs Committee as you prepare to complete mark-up on S. 991.

Sincerely,

HERMAN E. TALMADGE,
Chairman, Senate Committee on Agriculture, Nutrition, and Forestry.
GEORGE MCGOVERN,
Chairman, Subcommittee on Nutrition.
ROBERT DOLE,
Ranking Minority Member, Senate Committee on Agriculture, Nutrition, and Forestry; and the Subcommittee on Nutrition.

U.S. SENATE,
Washington, D.C., April 18, 1978.

Hon. ABRAHAM RIBICOFF,
Chairman, Governmental Affairs Committee, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: We are writing with regard to the provision in S. 991 which would transfer the child nutrition programs, including the school lunch program, from the Department of Agriculture to a new Department of Education.

While many of us support the concept of a Department of Educattion, all of us believe that transferring the child nutrition programs to the Department of Education would be detrimental to the programs, to the children of the Nation and to American Agriculture. It might well jeopardize the creation of the Department.

The school lunch program has grown and developed within the Department of Agriculture. It makes no sense at all to transfer the child nutrition programs out of the Department of Agriculture at the very time it is becoming increasingly clear that food, agriculture, and nutrition are interrelated.

Transferring the child nutrition programs would, in our opinion, lead to elimination of commodity support for the program, undercut the nutritional aspects of the program, and remove the school lunch program as a mechanism of the disposal of surplus commodities. In addition, it would greatly undercut the effectiveness of the Department of Agriculture.

The school lunch program today constitutes the only effective means through which the Secretary of Agriculture can provide price and market stability to those farm commodities that do not enjoy the protection of government price support programs. This is accomplished through direct USDA purchases of those commodities when in surplus supply—such as beef, pork, poultry, eggs, fruits, potatoes and other vegetables—for distribution through the school lunch program.

If this program is stripped from the Department of Agriculture and placed in the new and untested hands of a Department of Education, this closely related and mutually beneficial agriculture and nutrition function will be greatly weakened, if not destroyed, and the children would suffer. The function should remain in a single Department that will have concern and jurisdiction for both. To divide the function would probably mean over a period of time that distribution of surplus commodities through the school lunch program would be replaced by a straight cash subsidy program. That would be highly detrimental to both the recipients and producers of farm commodities in temporary surplus.

The proposal to shift the child nutritional programs to a new Department of Education will, if successful, encourage further predatory raids on functions and activities of the Department of Agriculture. Indeed, such raids already are being organized. If the dismemberment of USDA is allowed to succeed, this century-old Department will become little more than an empty shell, incapable of serving either farmers or consumers.

The role of "food and nutrition" in our agriculture policy has increased dramatically in recent years. This interdependence will grow in future years. It must not be divided at this critical juncture.

The bounties of our land must be divided between the competing demands of foreign sale, foreign humanitarian donation, domestic sale, and our domestic food programs.

Nutrition is no longer viewed as a "fad" but as an important policy issue with major consequences for American agriculture as well as our Nation's health.

In short, it is of paramount importance that the United States have a coordinated food and agriculture policy—and to accom-

plish that goal these two areas must be united in the Department of Agriculture.

We believe this has always been the historic role of the Department of Agriculture.

The original mandate creating the Department in 1862 required it "to acquire and to diffuse among the people of the United States useful information on subjects connected with agriculture in the most general and comprehensive sense of the terms . . ."

The first appropriation by the Congress to a Federal agency specifically for studies in human nutrition was made to the Department of Agriculture in 1893.

Later when the National School Lunch Act was passed in 1946 "to safeguard the health and well-being of the Nation's children and to encourage the domestic consumption of nutritious agricultural commodities", the Secretary of Agriculture was chosen to administer the program.

The Food and Agriculture Act of 1977 noted: "nutrition and health considerations are important to United States agriculture policy."

Most recently, the Secretary of Agriculture, Bob Bergland, told the Congress:

"We think this country must develop a policy around human nutrition, around which we build a food policy for this country and as much of this world as is interested. And in that framework we have to fashion a more rational farm policy. We've been going at it from the wrong end in the past."

Central to the development of a nutrition policy is the Nation's food programs: Food stamps, school lunch, school breakfast, and WIC. These programs, which represent the Nation's backbone in the fight against hunger, must not be taken from the Department of Agriculture just as we broaden our investigations in the area of nutrition and begin to address other emerging nutritional issues, including obesity, the relationship between diet and disease, nutrition research, food labelling, and nutrition education. Indeed, as we progress into these other issues, the food programs may provide a valuable source of information for consumption data, a forum for nutrition education, and perhaps other research information.

GAO, in a recent report on nutrition research, found a "lack of central focus and coordination" to be the number one barrier to progress in the area.

We feel certain that progress in evolving a food and agricultural policy is equally dependent on having a central focus. If the development of a national energy policy demanded a new Department of Energy to coordinate and pull together all aspects of the problem, then we insist that the same principle applies to the development of a national food, nutrition, and agriculture policy. The nutrition programs should not be sent to other agencies or department; indeed the food-related functions of other departments should be consolidated within the Department of Agriculture.

We, therefore, strongly urge you, Mr. Chairman, to reconsider that provision of S. 991 and of the President's proposal which would transfer the child nutrition programs to a new Department of Education.

Sincerely,

Herman E. Talmadge, Chairman; George McGovern; John Melcher; Kaneaster Hodges, Jr.; Richard G. Lugar; Henry Bellmon; Milton R. Young; Richard (Dick) Stone; Jesse Helms; S. I. Hayakawa; Bob Dole; James O. Eastland; James B. Allen; Walter D. Huddleston; Dick Clark; Patrick J. Leahy; Edward Zorinsky; Carl T. Curtis.

SENATOR CHURCH ADDRESSES THE AFRICA SITUATION

● Mr. CLARK. Mr. President, a great deal of attention has been focused on U.S. policy toward Africa in recent months. The most critical issue that has been raised is whether or not we are about to slide back into a cold war mentality or face our challenges with reason and intelligence.

Senator CHURCH addressed this subject in an article in Newsday published on June 19. He asks: "Are the Russians really coming in Africa"; and if so, What are we to do about it?"

The distinguished Senator from Idaho has examined this issue in an objective and, in my judgment, incisive way. I ask to have the article printed in the RECORD.

The article follows:

[From Newsday, June 19, 1978]

IN AFRICA, ARE THE RUSSIANS COMING?

(By FRANK CHURCH)

Shortly after his election, President Carter announced that a new era had emerged in American foreign policy. The United States, he asserted, was no longer encumbered by "an inordinate fear of communism which once led us to embrace any dictator who joined us in our fear."

We were also led to believe that Africa was the least likely place to expect a great power confrontation. Secretary of State Cyrus Vance declared "we can neither be right nor effective if we treat Africa simply as . . . a testing ground of East-West competition . . . A negative, reactive American policy that seeks only to oppose Soviet or Cuban involvement in Africa would be both dangerous and futile."

Barely halfway through his first term of office, President Carter appears to be sharply reversing the direction he set for American foreign policy, resurrecting the Cold War syndrome he so eloquently derided at the outset of his administration. Once again, "the Russians are coming" theme has come into vogue.

This is not wholly surprising. In the 1950's, the Sino-Soviet conspiracy dominated American perceptions until we discovered that the Chinese were enemies, not friends, of Moscow. In the 1960s, we fought the longest war in our nation's history on the premise that the Chinese would otherwise control Indochina, only to witness in the wake of the communist victory the expulsion of the Chinese from Vietnam and hostilities between that country and Cambodia.

In the 1970s, the scene has shifted to Africa, and we are again in danger of repeating the historic error of plunging simplistically into the same kind of Cold War thinking that has distorted our understanding of critical international issues, locked us into inflexible positions, and drawn us into overseas ventures without properly analyzing the actual dimensions of the communist threat we face.

Over the past several months, the administration has steadily sounded the alarm about the build-up of Cuban forces in Africa. Broadside salvos have been directed at restrictions which were said to tie the President's hands, and linkage has been hinted at between Cuban activities in Africa and a Strategic Arms Limitation Treaty with the Soviet Union, our highest foreign policy priority. These issues came to a head with the crisis in Zaire, to which we and our allies responded with immediate concern. However, what began as a justifiable rescue mission was twisted into an African Mayaguez incident—a show of force against an alleged communist-backed invasion of a western ally.

The attempt to lay ultimate responsibility for the Zaire crisis at the doorstep of the Cubans, without giving due attention to the internal origins of a conflict that is as old as the country itself, is the latest indication of "the Russians are coming" theme. The administration has fallen back upon that theme to justify a tougher line with Moscow and possible military involvement in black Africa.

Future historians may identify the Zaire crisis as the turning point at which a carefully nurtured African policy aimed at eliminating racism was sacrificed by what our own President previously described as "an inordinate fear of communism which * * * lead us to embrace (a) * * * dictator who joined us in our fear," in this case, Zaire's President Mobutu, who has mismanaged and misled his country into bankruptcy and revolt.

There are many dangers in this reversion to Cold War ritual. It is the height of folly to pin U.S.-Soviet relations on the outcome of regional conflicts where we have no vital national interests at stake.

If the American public reaches the conclusion that Cuban troop withdrawal from Africa is a precondition for detente, this will dash all hopes of concluding a SALT agreement in the near future. We cannot roll back the Cubans unless we are willing to get as deeply involved in Africa as they are. On the other hand, if Cuban involvement occurs in yet another country in Africa and we do nothing to back up our rhetoric, then we become, in effect, a paper tiger, opening the door to further Soviet and Cuban adventures with impunity.

The Cold War mentality also creates inaccurate assessments of Soviet accomplishments. The fact of the matter is that the Soviet Union and Cuba have thus far achieved no stable strategic strongholds in Africa. Moscow and Havana play a key role in only two important countries out of 50 in the entire continent—Ethiopia and Angola, both of which are deeply embroiled in continuing civil wars with heavy costs in men, material and money for their communist allies.

Moreover, the overall Soviet record in Africa has been poor. The Russians have either been expelled from, or stymied in their efforts to gain footholds in, Egypt, Sudan, Somalia, Ghana and Nigeria, all recipients of Soviet military support which have protected their newly won independence from Russian domination. Even Guinea and Congo (Brazzaville), formerly stamped as solid pro-Soviet countries, have turned toward the West within the past several months.

The United States, by contrast, has never had better relations with Africa than during the first year and a half of the Carter administration. This had permitted Washington to take the lead in negotiating diplomatic solutions to the conflicts in Rhodesia and Namibia, two of the most explosive situations in Africa.

The heightened American influence was dramatically illustrated by the President's historic visit to Nigeria, the largest, richest, and most powerful country in black Africa. On three separate occasions, it had refused to allow former Secretary of State Henry Kissinger to enter the country.

A sudden shift in Carter's African policy at this time, placing anticommunism above our support of majority rule, would surely destroy the continent-wide political advantage we currently enjoy and allow the Russians to parade themselves as the real champions of African liberation.

Perhaps the gravest danger incurred by indulging in Cold War politics, however, is the further polarization of the racial and ideological forces in southern Africa. It is not insignificant that for the first time since President Carter was elected, South Africa's apartheid Prime Minister John Vorster praised the President for his action in Zaire.

Are we acting in our own self-interest by encouraging the minority regimes to believe that, if "the Russians are coming," we may, in the final analysis, defend them?

Or are we deluding them, as well as ourselves, by fostering exaggerated images of the communist threat in an area of the world whose real enemies come not from foreign lands but from the internal scourges of racism, poverty and instability?

We would be wise to heed the advice of Secretary Vance who last year urged that "our best course is to help resolve the problems which create opportunities for external intervention" in Africa instead of pursuing our present preoccupation with chasing the quixotic windmills of Soviet misadventures.●

A RATIONAL ALTERNATIVE: THE GOLD MEDALLION ACT

● Mr. HAYAKAWA. Mr. President, I have cosponsored The Gold Medallion Act of 1978, a bill which stipulates that the first 1.5 million ounces of gold sold by the U.S. Treasury in the year after enactment be distributed in the form of 1-ounce and ½-ounce gold medallions.

The 1-ounce gold medallion would have stamped on its face the Statue of Freedom which stands atop the dome of the Capitol building. The reverse would have on it the likeness of the Great Seal of the United States.

The face of the ½ ounce medallion would be stamped with a design symbolizing the rights of individuals, and captioned with the words, "Human Rights." The reverse of this medallion would also picture the Great Seal of the United States.

Recently, this Gold Medallion Act was offered as an amendment to the Witteveen Facility bill.

In May 1978, when the U.S. Treasury began selling gold, its stated intent was to restore equilibrium to the U.S. balance of payments. Of course, the imbalance is so great and the amount of gold the Treasury is selling is comparatively so minute, that we cannot hope that this measure can, by itself, be effective. Indeed, it is only by dramatically altering our present economic policies that we can hope for any improvement at all. Nevertheless, the Treasury had its hopes, and one of them was that its gold be brought by Americans.

Yet what do we see happening? At present, gold is sold in 400-ounce bricks at $70,000 apiece, far beyond the means of the average American. Of the 300,000 ounces sold last May, 90 percent, or 270,000 ounces, was purchased by foreign interests, primarily banks.

It would seem only fair to return to U.S. citizens the gold that they and their relatives were forced by law to deposit in Fort Knox in the 1930's.

The American people want gold—1.5 million ounces of it were imported last year. But not in 400-ounce bricks. This gold was purchased in the considerably less hefty form of bullion coins—Krugerrands, Austrian 100 krona, and Mexican 50 peso pieces.

Since there is such a large demand for gold in small quantities, the present system of disposing of it in 400-ounce units so that it is unobtainable to the American public, is indefensible. Not only is it wrong, it is bad business. Some estimate that the Federal Government stands to profit a minimum of $10 million more from the sale of 1.5 million ounces of gold in medallion—rather than brick—form.

Currently, there are fears in some quarters that people will start using these gold medallions as money. After all, the Treasury would hardly consider the use of gold medallions as a medium of exchange a great victory in its campaign to "demonetize gold."

Before condemning these medallions prematurely, however, one must realize that whether or not the Gold Medallion Act is passed, 1 ounce gold pieces will continue to be available to the American public. As I have mentioned before, 1.5 million ounces of gold in the form of bullion coins, were imported last year. The most famous, or infamous, of these bullion coins is the Krugerrand. Despite the fact that the Krugerrand has become to many a symbol of South African apartheid, one-third of the 3.3 million Krugerrands sold last year went to Americans.

The Human Rights and Freedom medallions would have no monetary value stamped upon them. They would assume the role now played by the Krugerrand. No one seems to worry about the Krugerrand being used as money. The South African coins are used as investments, as collector's items, and sometimes even as jewelry.

Those who consider gold a barbaric relic, worth $7 an ounce, and "useful only for filling teeth," would be delighted to learn of one Georgia-based dental supply company that is urging dentists to buy Krugerrands, to be melted down for use as dentistry gold. And although Krugerrands can be used as a means of transaction in Gold Clause contracts, I realize that they are to be considered merely a commodity, not legal tender. No one is worrying about Krugerrands becoming coins of the realm—there is no need to feel any more threatened by bullion coins made from U.S. gold.

I am sure that U.S. citizens, if given the choice, would prefer to buy gold from the U.S. Treasury I want to give them the chance to "buy American." Besides, the Treasury can make money on the deal.●

THE ARMS EMBARGO AGAINST TURKEY

● Mr. BIDEN. Mr. President, Monday morning's Washington Post carried a penetrating analysis of why the arms embargo against Turkey should not be lifted at the present time. The author of this article is my distinguished colleague from Rhode Island, Hon. CLAIBORNE PELL. I recommend this article to my colleagues without reservation, and I ask that it be printed in the RECORD.

The article follows:

CLAIBORNE PELL: THE CASE AGAINST LIFTING THE TURKISH ARMS EMBARGO

Now is not the time to lift the arms embargo against Turkey. To do so would undermine the rule of law, would call into question our commitment to human rights, would make a Cyprus settlement more difficult, and would strengthen the anti-U.S. and anti-NATO forces in Greece.

RULE OF LAW

The Arms Export Control Act limits military aid to "internal security" and "legitimate self-defense" purposes and provides that aid cannot be resumed until the president determines that a "violation has ceased." Congress imposed the embargo only after President Ford refused to enforce this law in response to the Turkish invasion of Cyprus in 1974. To lift the embargo while the violation of American law continues and the requirements for restoring military aid have not been met would be a repudiation of our law and would communicate to the world that we are not serious about controlling the use of U.S. arms.

The argument that the law has been upheld by our having imposed the embargo for 3½ years does not wash. The embargo has never been rigorously applied or used by any administration as leverage with Turkey. The Ford administration opposed the embargo from the beginning, tried to overturn it after it was enacted and, when all else failed, got congressional approval for sizable exemptions from the embargo based on assurances that they would promote Turkish flexibility on Cyprus.

The Carter administration has also sought exemptions, bringing the total to a whopping $600 million since the embargo was imposed, and is asking for more in combined military and economic aid for Turkey in 1979 than was provided just prior to the embargo. Even before President Carter decided to oppose the embargo, his ambassador in Turkey, Ronald Spiers, undercut the embargo by stating in an interview in Ankara on January 24, 1978, that "the embargo doesn't serve any American interest." It is not the embargo that has failed, but rather the policy of increasingly relaxing it and thereby rewarding Turkish intransigence on Cyprus.

The charge that the embargo has been selectively applied to Turkey rings hollow. Even Secretary of State Cyrus Vance would not support such a charge when he testified before the Senate Armed Services Committee on June 28. Congress did nothing when Turkey initially invaded Cyprus in July 1974, but acted only after the "second invasion" of Cyprus in August 1974 when Turkey expanded its area of control from less than 10 percent to almost 40 percent of Cyprus. Furthermore, Congress did not make the embargo effective for another six months, by which time it was clear that Turkey would not withdraw even after it achieved what purports to be its objective of protecting Turkish Cypriots. No other case of an actual or suspected misuse of American arms has been as flagrant as Turkey's.

HUMAN RIGHTS

The prestigious European Commission on Human Rights last year found Turkey guilty of systematic killings of civilians, rape, torture, extensive looting and refusal to allow refugees to return to their homes. Amnesty International and ASME Humanitas of West Germany documented similar violations. While it may be difficult to obtain an ironclad indictment of Turkey, the evidence so far is at least sufficient to warrant the continuation of what has turned out to be a very limited embargo. Also, how could we retain our credibility regarding the sanctions we have imposed in Latin America on human-rights grounds, or the Soviet Union through the Jackson-Vanik amendment, if we did not uphold the law with respect of Turkey?

CYPRUS SETTLEMENT

Since Turkey has not responded to the annual relaxation of the embargo, there is no incentive to change if the final vestige of America's tangible expression of interest in a Cyprus settlement is removed. Much is made of Turkey's April settlement proposal, but it is so unresponsive to Greek Cypriot concerns and so damaging in its effort to create, in effect, two separate Cypriot states, that it can only be characterized as a crude propaganda ploy. The offer to reduce from 40 percent to 39 percent the amount of territory for the Turkish Cypriots, who constitute only 18 percent of the island's population, is particularly outrageous.

Turkey has already succeeded in ensuring that a Cyprus settlement will involve some kind of bizonal arrangement, but the continued presence of its troops can only cause the Greek Cypriots to resist negotiating the terms of this new reality. In this connection, why is it wrong for the United States to apply pressure on Turkey through the embargo, but all right for Turkey, through its occupation, to apply much greater pressure on the Greek Cypriots? As long as the Turkish troops remain, the embargo is necessary to ensure that Cyprus is not bargaining from weakness.

EFFECT ON GREECE

Lifting the embargo would be perceived in Greece as giving Turkey carte blanche for the use of American arms in the eastern Mediterranean. Tensions between Greece and Turkey are high because of their dispute over the division of the continental shelf in Aegean. Greece would, therefore, be understandably disturbed if we lifted the embargo now. Anti-U.S. and anti-NATO sentiment is already strong in Greece, and lifting the embargo would increase the prospect that the Karamanlis government will be succeeded by an anti-Western one.

In the rush to mollify Turkey and prevent it from breaking with NATO—a possibility that Turkish Premier Bulent Ecevit flatly ruled out during his recent visit to the United States—it should be borne in mind that Greece has already severed military ties with NATO because of the Cyprus invasion. Lifting the embargo would derail the effort to restore those ties.

Both Greece and Turkey are essential to NATO, but what might be gained with Turkey by lifting the embargo is likely to be more than offset by the deterioration of relations with Greece. In this connection, the recovery of the use of our four intelligence-collection bases in Turkey is no longer so important as it was once thought to be, as we have been able to develop alternative sources for most of the information previously collected in Turkey. Former defense secretary Melvin Laird put it bluntly when he said as long ago as August 1975 that "we don't need Turkey to verify a SALT agreement."

Since the embargo has not significantly slowed the flow of amrs to Turkey, it has become largely symbolic; but that symoblism is important as a sign of America's disapproval of Turkey's actions in Cyprus. As a presidential candidate, Jimmy Carter said that "we would be negligent of the moral issues and courting disaster if we fail to couple the improvement in relations with Turkey with improved progress on the Cyprus issue." That statement was valid in 1976 and continues to be today.●

ADDRESS BY EZRA TAFT BENSON

● Mr. GARN. Mr. President, I wish to submit for the RECORD the remarks given by Ezra Taft Benson, the former Secretary of Agriculture and a distinguished citizen of the United States, in a speech on April 22, 1978, to the Sons of the American Revolution of the Brigham Young University, Provo, Utah.

Ezra Taft Benson has long been a strong proponent of American democracy and states these feelings in his speech entitled "Freedom—Our Priceless Heritage." America is a choice land, a land whose strength and sovereignty is due to the precious God-given freedoms established by our Founding Fathers in the Constitution. President Benson's concern, however, is that this precious freedom is being taken for granted by Americans today, who fail to realize that freedom is not irrevocable. Communistic political philosophy is becoming all too prevalent and he warns of the need to guard against such infiltration of subversive beliefs. Americans need to stand up and be counted with those who framed our Constitution and re-kindle that flame of patriotism they exemplified. I commend this speech to my colleagues and urge their serious consideration of the message it contains.

The speech follows:

FREEDOM—OUR PRICELESS HERITAGE

Humbly and gratefully I stand before you. It is an honor and a pleasure to address you.

I am not here to tickle your ears or entertain you. I shall speak to you frankly and honestly. You are a great patriotic organization which I hope and trust will respond to my humble message. I love this great nation.

Just for a moment, if you will, consider how very fortunate we are to be living in this land of America. The destiny of this country was forged long before the earth was even created.

This choice land—choice above all other lands was set apart by God to become the very cradle of freedom. Men of unflinching courage established this nation and under God's guiding hand provided a constitution, guaranteeing freedom to every one of its citizens.

Under this blessing, this miracle of freedom, America prospered and thrived . . . and became the envy of every other nation in the world.

The freedom Americans enjoy today is the priceless heritage our Founding Fathers bequeathed to—you and to me!

But—how many of us thank God, our Heavenly Father, for the blessing of citizenship in this sweet land of liberty?

How many of us understand and appreciate our hallowed Constitution which has made our freedom possible?

Few indeed, I fear. For rarely in the annals of human history has a nation of free people been more careless of their liberty—than we Americans. We take our precious God-given freedom for granted.

God-given freedom? Let me explain.

It is my firm belief that the Constitution of the land was established by men whom the God of Heaven raised up unto that very purpose. It is my firm belief, also, that the God of Heaven guided the Founding Fathers in establishing it for His particular purposes. But God's purpose is to build people of character, not physical monuments to their material accumulations.

The founders of this republic had deeply spiritual beliefs. Their concept of man had a solidly religious foundation. They believed "it is not right that any man should be in bondage to another." They believed that men were capable of self-government and that it was the job of government to protect freedom and foster private initiative.

And because of private initiative America became a living miracle. Private initiative produced our free economic system which made this nation—boom! We became prosperous . . . powerful . . . secure . . and influential in the affairs of the world

Our free enterprise approach to marketing and economics has afforded us the highest standard of living of any people anywhere—together with the freedom to enjoy it.

America has been a glorious experiment in freedom . . . freedom of the individual . . . but more particularly freedom of the mind. And when the mind is free to plan, devise, and dream . . . then nothing is impossible, and the horizons of limitation are swept back and back.

Such is the blessing of freedom.

But today freedom is decaying in the United States of America. Why?

Perhaps Americans have forgotten how to love their country. Are we oblivious, so soon, to the meaning of the Declaration of Independence—that blessed Document which secured for us those inalienable rights to Life, Liberty, and the Pursuit of Happiness . . . without government interference?

Have we forgotten, too, the sacrifice in blood and treasure of those patriots who signed the Declaration of Independence?

Are you aware that just about every independent nation in the world, including the United States, is facing the threat of Communist domination? It's a fact—the truth of which our news media appears to be entirely ignorant. It is a very real threat—and the American people will have to decide whether they want to live under freedom or communism. America's foreign policy today is one of appeasing and abetting the Communist powers. It is a policy that can only lead to disaster!

Let us remember that the lamps of freedom in so many tear-stained lands have been extinguished. The very term—liberty—has been expunged from the vocabulary of those subjugated peoples.

My friends, freedom is not something that grows on trees. Freedom needs to be cherished and guarded—constantly. It must never be taken for granted. The moment we cease to be vigilant . . . The moment we lose interest in how our government is being run—the more likelihood there is of ruthless men controlling it, and thereby controlling us.

George Washington, the Father of our country, noted that:

"The general government . . . can never be in danger of degenerating into a monarchy, an oligarchy, an aristocracy, or any other despotic or oppressive form—so long as there shall remain any virtue in the body of the people." (*George Washington Writings*, 11:219)

And what does "virtue in the body of the people" mean? It means that only a virtuous, principled, moral people can continue to enjoy the blessed freedom that our Heavenly Father intended for us to have.

An electorate with high moral standards will support political candidates with equally high standards—representatives who can be trusted with the reins of leadership.

Thomas Jefferson maintained that:

"A departure from principle in one instance becomes a precedent for a second; that second for a third; and so on, till the bulk of the society is reduced to mere automatons of misery, to have no sensibilities left but for sin and suffering." (*Thomas Jefferson Works* 7:14)

We must see that the vital issue of "good government" is a matter of principle . . . of morality. When moral values degenerate—

when the people turn their backs on God, become immoral and take the line of least resistance—then those they select to represent them in the halls of government will be carbon copies of themselves. The result can lead only to chaos and the eventual loss of our freedom.

Let us, for a moment, consider freedom from the viewpoint of those millions who have lost theirs. Residing in our country today is a Rumanian Lutheran minister, Richard Wurmbrand. Following the invasion of his country by one million Russian troops, in August of 1944, Reverend Wurmbrand organized the Underground Church. His adventures read like a cloak and dagger thriller as the Church met secretly at midnight in the basements and attics of private houses, in barns, and in desolate forests.

The pastor smuggled himself aboard troop trains, and even penetrated Russian Army barracks, to preach the word of God to the soldiers.

Finally, he was captured by the Secret Police, and for 14 agonizing years was tortured in a Communist prison in an attempt to wring from him the names of the members of his church. But his tormentors were unable to break him. Eventually, his freedom was purchased—as the Communists were short of money—and he and his family came to the United States.

Let the Reverend Richard Wurmbrand state in his own words what America means to those who are today suffering in the vile Communist jails:

"Every freedom-loving man has two fatherlands; his own and America. Today, America is the hope of every enslaved man, because it is the last bastion of freedom in the world. Only America has the power and spiritual resources to stand as a barrier between militant (Godless) Communism and free peoples. America is the repository of the hopes and prayers of enslaved millions. It is the last 'dike' holding back the rampaging floodwaters of militant Communism. If it crumples, there is no other dike; no other dam; no other line of defense to fall back on.

"I have seen fellow prisoners in Communist jails beaten, tortured, with fifty pounds of chains on their legs—praying for America . . . that will remain free. I, too, have shared this prayer with my fellow prisoners. Now I share a great concern for America. This gives me the right and duty to speak out.

"A native of Rumania, I have been an eyewitness to my 'first' fatherland's betrayal, overthrow and fall to Communism. It was not through sheer, brute military force of the Soviets—but through a subtle and infinitely clever betrayal from within which paved the way for the final physical takeover. I wept when I saw it happen before my eyes. But now that I have come to America, I have been astonished beyond words, and deeply grieved—as I see the same symptoms, the same step-by-step betrayal which overthrew my country.

"It is like a nightmare which I have lived through, happening again . . . coming back a second time. I spoke out without counting the cost when I saw Rumania being betrayed. I will not now remain silent as I see the same symptoms . . . the same tragedy beginning to happen to my second fatherland, America." (*The Wurmbrand Letters*, p. 9)

Richard Wurmbrand's wife had also suffered at the hands of the Communists. And when they arrived in this land of freedom in 1967, all they wanted to do was—walk—to touch our trees and admire our beautiful flowers.

Some time later, members of our government were stating publicly that Communism was mellowing. So, Reverend Wurmbrand appeared before a Congressional Committee, stripped to the waist, and displayed the terrible scars, holes, and burns on his torso—his own body a mute testimony to the fact that Communism has not mellowed . . . nor would it ever mellow. This evil force of the anti-Christ will continue to plague mankind until steps are taken to erase it from the face of the earth. Communism is an abomination which must not be tolerated by freedom-loving peoples.

Is it possible that this great nation could fall beneath the jackboot of Communism?

The answer is yes—because socialism or liberalism, Communism's twin sister, has now become America's dominant political philosophy. If we are to stop our headlong rush toward Red rule . . . Americans must see through the false promises and premises of Socialism . . . avoid the booby-traps of Welfarism . . . repudiate the illusory free lunch . . . and condemn the fantasy of so-called "blessings" of cradle-to-the-grave security. If we continue to succumb to these blandishments—then, we are in the gravest danger of losing our sovereignty and our precious liberty.

History teaches that when individuals have given up looking after their own economic needs and transferred a large share of that responsibility to the Government, both they and the Government have failed.

At least twenty great civilizations have disappeared. The pattern is shockingly similar. All, before their collapse, showed a decline in spiritual values, in moral stamina, and in the Freedom and responsibility of their citizens. They showed such symptoms as deficit spending . . . excessive taxation . . . bloated bureaucracy . . . Government paternalism—and generally a rather elaborate set of supports, controls, and regulations, affecting prices, wages, production, and consumption.

One might well ask: "Why is the political climate changing in the United States?"

It is happening because we have changed. At one time, Americans were the most independent people in the world. Why, we invented the word—independence! We forged a Declaration of Independence, and challenged the tyrant King George of England—and all his powers—to dispute it. We stood tall for freedom—and we made our point!

What great men were those early Americans. They were men of unyielding principle . . . men of inflexible patriotism—a shining example of what each one of us should be today.

Compare them with a group of our U.S. senators and congressmen, who swore a solemn oath of office to uphold and preserve the sovereignty of these United States—and yet pushed for a new Declaration—a new Declaration of Interdependence!

If ratified, this decree would have stripped this nation of her sovereignty, her independence—and forced the U.S. to become a slave State in a ruthless world government.

Those representatives of the American people who signed such a document were not acting in the interests of the United States—but in the interests of our enemies.

Yes, those heroes who founded this republic were moral men . . . men of God. They believed in the divine destiny of America . . . and knew that they were setting out on a great adventure . . . a noble experiment in freedom.

Referring to this divine cause, George Washington observed in his First Inaugural Address:

"No people can be bound to acknowledge and adore the Invisible Hand which conducts the affairs of men more than those of the United States.

"Every step by which they have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency . . ." (George Washington, First Inaugural Address)

The War of Independence ended on October 19, 1781. Now, the United States did not actually come into existence until June of 1788—when the Federal Constitution was accepted by nine states. On April 6, 1789, the Constitution . . . went into operation as the basic law of the United States when the electoral college unanimously elected George Washington as the first president of the nation.

But there were two vitally important conditions that had to be thrashed out and agreed to. These were certain restrictions necessary to—

One: Protect the private citizen against improper use of force.

And two: Prevent the federal government from meddling in the affairs of the state governments.

George Washington knew how dangerous unbridled government could be to the individual. We should heed his sage words today. He warned:

"Government is not reason; it is not eloquence; it is force! Like fire, it is a dangerous servant and a fearful master!" (George Washington)

Perhaps William Shakespeare had something similar in mind when he contemplated opportunists in government. He wrote:

"Man, proud man! dressed in a little brief authority, plays such fantastic tricks before high heaven—as makes the angels weep." (William Shakespeare, quoted in *Vision* by Leonard Read, p. 62)

The winning of that "War of Destiny" against England definitely marked a turning point in human affairs. The right to own property was at last legally recognized, and this right was extended to every citizen in the land. It is another of those blessings of freedom that we tend to take for granted today.

We should give sober thought to the fact that when a nation falls into the clutches of Communism—all private property is confiscated. That is—the private property of the citizens. Their masters are immune, of course, from their own legislation!

So the citizens and their possessions belong to the State. There is no longer freedom of possession . . . freedom of choice . . . or freedom of movement.

There is no longer any freedom!

Frederic Bastiat, A French economist, statesman and author, who lived in the dark days of the French Revolution, put it so succinctly when he wrote:

"What is this liberty, whose very name makes the heart beat faster and shakes the world? Is it not the union of all liberties—liberty of conscience, of education, of association, of the press, of travel, of labor, or trade? In short, is not liberty the freedom of every person to make full use of his faculties, so long as he does not hurt other persons while doing so?

"Is not liberty the destruction of all despotism—including, of course, legal despotism? Finally, is not liberty the restriction of the law only to its rational sphere or organizing the right of the individual to lawful self-defense; of punishing injustice?" (Frederic Bastiat, *The Law*, p. 51)

I am sure that all of us here would agree with those sentiments. But how many of us will listen and take the wisdom of those words to heart?

My friends, We the People, are solely to blame for what is happening in our country today. As American citizens, we have neglected our responsibilities and shirked our civic duties. We have been negligent watchmen on the tower of freedom; and

debauched government is the price we are paying for our carelessness.

Irresponsible government has sired all those evils which are plaguing us like festering sores: runaway inflation . . . sky-high taxation . . . bankrupt national and foreign policies . . . the emasculation of our once formidable armed services . . . control of our public schools . . . and the scuttling of our free enterprise system—that beautiful concept which put iron into the blood of a young, gangling nation and helped it grow big, strong, and husky. The list of these evils is long and depressing.

Now we come to the big question—and not one of us can afford to dodge it: What must we do to turn our nation around—and set our ship of state on a sane course? What steps must we take to prevent ourselves from sharing the fate of millions upon millions of captive peoples around the world?

History warns us that great nations topple when the people fail to demand principle in government. We Americans have failed to stand up for our great Constitution . . . that immaculate standard of freedom.

The late J. Edgar Hoover put his finger squarely on our problem in his—message of faith and dedication. He wrote:

"Today, the Constitution is our most priceless inheritance—our bulwark against encroaching tyranny. But the Constitution, which belongs to each of us and is our greatest protection, will continue to be the effective guardian of our rights only as long as each American recognizes his responsibilities and discharges them accordingly. Unless we know the Constitution of the United States, we cannot understand it. If we do not understand it, we cannot give it the support necessary to preserve it as the protector of our liberties and the foundation of our Federal Republic. If we remain in ignorance of our Constitution, how can we defend it?

"Our forefathers left us a free government which is a miracle of faith—strong, durable, marvelously workable. Yet it can remain so only as long as we understand it, believe in it, devote ourselves to it, and when necessary, fight for it.

"It is up to each one of us to keep the house of liberty in good repair." (*Our Constitution*, Robert B. Weaver, p. 1)

How can a nation keep its house of liberty in good repair—when we, the people, lose interest in government . . . lower national and personal moral standards . . . turn away from God and those timeless values of integrity and principle?

When we lose our morality, we lose our freedom. It's as simple as that.

William Penn said:

"Men will either be governed by God, or ruled by tyrants."

It is clear then what we must do—study the Holy Scriptures, learn God's Word . . . and keep His Commandments. And then, we should study our Constitution so that we will understand and appreciate our fabulous heritage of freedom.

No human being has ever improved on the Divine concept of Freedom; it has been tried, tested, and provided in the "crucible" of America.

It works—as all God's ideas work. There is no substitute—anywhere—for freedom.

What we desperately need in America—now—is a rebirth of patriotism—a rededication to the Spirit of Valley Forge!

Patriotism is one of the intrinsic principles of freedom. Freedom cannot live for long without patriotism. And if we scorn or mock patriotism, as so many Americans do, do we deserve to keep our freedom?

What is patriotism? George Washington asked his father about the meaning of patriotism. August Washington considered a moment, then replied:

"Patriotism is certainly one of the most important virtues, and interestingly it includes many of the other major laudable qualities. Patriotism includes honesty and integrity. We cannot conceive of a patriot who is not a man of sterling integrity. It includes a spirit of service to others; the patriot willingly offers his life to serve the general cause. He must, therefore, be unselfish to a high degree. Patriotic service infrequently involves sacrifice, the sacrifice of one's life, if need be.

"We think of the patriot as the strong man who protects the weak, just the opposite from the bully, who is essentially a selfish tyrant who lives by preying on those of lesser strength or ability.

"A patriot is a man who yearns for freedom for himself and is willing to fight to get it for his fellow men as well. Every nation has its traditional hero-patriots. The thought of their deeds spurs each generation to do its patriotic duty.

"No nation can be great, no people can have self-respect unless they have patriotism." (*The Making of George Washington*, William H. Wilbur, p. 87)

President Theodore Roosevelt, a forceful champion of America, gave his views on patriotism:

"Patriotism," he said, "means to stand by the country. It does not mean to stand by the President or any other public official save exactly to the degree in which he himself stands by the country . . .

"Every man who parrots the cry of 'stand by the President' without adding the proviso 'so far as he serves the Republic' takes an attitude as essentially unmanly as that of any Stuart royalist who championed the doctrine that the King could do no wrong. No self-respecting and intelligent free man could take such an attitude." (Theodore Roosevelt, *Works*, Vol. 21, pp. 316, 321)

It is good to hear the ringing words of Americans who love their country. I think that one of the most destructive problems we have in our country at present stems from the fact that too many of our leaders do not love America. And their actions prove it!

Without a doubt, one of the most glorious pages in American history—was written by the gallant defenders of the Alamo, in the Siege of 1836.

For twelve harrowing days 150 rough, two-fisted frontiersmen withstood the raw fury of the Mexican Army. Pounded by cannon . . . assaulted by wave after wave of seasoned Mexican fighting men—the lion-hearted Americans fought to the very last man—with guns, knives, fists and boots. Their battle cry: "God and Texas; Victory or death!" reechoes down through the corridors of time like a clarion call!

Those intrepid adventurers gave their lives unstintingly for Texas and America!

The last letter written by William Barret Travis, commander of the Alamo, portrays graphically the calibre of men those first Texans were. On the second day of the siege Travis wrote:

"To the People of Texas and All Americans in the World—

"Fellow Citizens and Compatriots: I am besieged with a thousand or more of the Mexicans under Santa Ana. I have sustained a continual bombardment and cannonade for 24 hours and have not lost a man. The enemy has demanded a surrender at discretion, otherwise the garrison is to be put to the sword, if the fort is taken. I have answered the demand with a cannon shot, and our flag still waves proudly from the wall. I shall never surrender or retreat. Then I call on you in the name of Liberty, of patriotism and everything dear to American character, to come to our aid with all dispatch. The enemy is receiving reinforcements daily and will no doubt increase to three or four thousand in four or five days. If this call is neglected, I am determined to sustain myself as long as possible and die like a soldier who never forgets what is due his honor or that of his country. Victory or death! Signed—William Barret Travis, Lt. Col.-Commandant." (*The Alamo*, John Myers Myers, p. 129)

Let us always remember the Alamo!

Throughout the ages brave men have fought for a cause . . . fought for freedom. But—

There are some people who hesitate to get into this fight for freedom because it's controversial, or they're not sure if we're going to win. These people have two blind spots.

First, they fail to realize that life's decisions should be based on principles—not on Gallup polls. There were men at Valley Forge who weren't sure how the Revolution would end, but they were in a much better position to save their own souls and their country than those timid men whose major concern was deciding which side was going to win, or how to avoid controversy.

After all, the basic purpose of life is to prove ourselves—not to be with the majority when it's wrong. We must discharge responsibilities not only to our church, home and profession, but also to our country. Otherwise, we do not merit the full blessings of a kind Providence.●

PROGRESS LAGGING IN EXPANDING WORLD FOOD PRODUCTION

● Mrs. HUMPHREY. Mr. President, an article by Boyce Rensberger appeared in the New York Times on Sunday, July 16, concerning declines in agricultural productivity in developing countries and their increasing vulnerability to a worldwide food shortage.

The article highlights the continuing trend, evident over the past several years, of declining productivity in agriculture, carrying with it grave implications for a future world food crisis. I am particularly concerned that ineffective governments of developing countries and declining aid levels from developed countries are identified as significant factors contributing to the decline. Further, I find it truly alarming that there is still lacking a more orderly system to insure an adequate and balanced supply of grain to meet the needs of millions of people in the developing world, such as through a coordinated program of international grain reserves. Under current conditions, it is deplorable that temporary surpluses only serve to depress grain prices and farm incomes in this country when at the same time hunger and malnutrition are widespread and may even be growing elsewhere throughout the world.

I recall vividly the searing accounts of the famine in Bangladesh only a few years ago, and I want to do all I can to urge that the United States play a leading and effective role in helping halt the declining trend as it affects food production, and hopefully reverse it. In that

connection, I am pleased that the foreign aid authorization bill recently passed by the Senate provides for increased funds for agricultural and rural development and provides greater flexibility for assisting poor people in developing countries increase their incomes and living standards and produce more food for their own benefit.

Mr. President, I ask that the New York Times article be printed in the RECORD.

The article follows:

LAG IN WORLD FOOD OUTPUT RENEWS FEAR OF FAMINE

(By Boyce Rensberger)

Per-capita food production in most developing countries declined in 1977, according to figures made public by the World Food Council, the top United Nations agency monitoring the global food situation.

The decline extends a trend of eroding agricultural productivity that has continued for several years and is causing concern about a possible world food crisis.

The report was just one of several gloomy assessments of the world food situation that have emerged from a meeting of the World Food Council last month in Mexico City.

Among the developed countries, it was then reported, food production grew only slightly during 1977—at a rate well below that considered necessary to keep up with population growth. During the 1970's, food production in both developed and developing countries has been growing at a slower pace—2.4 percent a year—than during the 1960's, when it rose 2.8 percent a year. Four percent is the rate of increase that experts think would be necessary for major progress in eradicating hunger and malnutrition.

AFRICA IS HIT HARDEST

Progress has been slowest in African countries, where food-production increases during the 1970's have fallen to 1.3 percent a year, half the pace of the previous decade and about half the rate at which the population is increasing on that continent.

The slowdown of agricultural progress in developing countries is attributed to several factors, including bad weather, wars, disarray in government agricultural development programs and declining levels of aid from developed countries. In 1976, the last year for which figures are available, foreign aid from all countries for development of agriculture in the third world declined by 9 percent in real terms.

Although three good crop years have dimmed memories of the waves of famine that ended in 1975, food experts note that the recovery has been caused more by favorable weather than by any effort to improve the ways in which food is produced or distributed.

Many more people in developing countries are vulnerable to a food shortage than ever before, according to figures recently issued by the Food and Agriculture Organization of the United Nations. The estimated number of people suffering chronic malnutrition has risen to 455 million from 400 million at the beginning of the decade.

DROUGHT IN NORTHERN AFRICA

Though recent harvests have been good in many places, some regions are suffering. Last September, for example, drought returned to parts of northern Africa, triggering a serious food shortage that continues to require substantial food aid. Abnormal food shortages have developed in many other African countries as well as in Afghanistan, Indonesia, Laos, Lebanon, Nepal and Vietnam.

Many food experts fear that the momentum to improve world agriculture, a force built up during the last food crisis and culminating in the 1974 World Food Conference in Rome, may have been lost before it could achieve any lasting gains.

"The world food system is not being seriously modified to eradicate hunger and malnutrition," said John Hannah, executive director of the World Food Council, at last month's Mexico City meeting, which brought together ministerial-level representatives from the 36 countries elected to the council by the United Nations General Assembly.

"There has been a reluctance on all sides," Dr. Hannah said, "developed and developing countries, and the international agencies, to face up to the resolutions of the World Food Conference, and there is a reluctance to address these food problems in a way that would show promise that the goals of the conference can be achieved."

Perhaps the most dismaying aspect of the current situation, in the view of many food experts, is that even though many countries are producing more grain than they are consuming, the excess is not being put into a coordinated system of international grain reserves. Instead, the surplus remains on the market, where it only serves to depress grain prices—and farm income.

Under such circumstances, the reaction of most farmers is to cut back on production. In the United States, for example, the Department of Agriculture has viewed the bountiful harvests of 1976 and 1977 with alarm and taken steps to cut the acreage devoted to grain production. It is expected that grain harvests this year and the next will be substantially below what is possible. To absorb the surplus, increased quantities of grain are being fed to livestock.

If, as the 1974 World Food Conference urged, an international grain-reserve system had been created, it could have absorbed the excess production, holding it for use in the next potential famine, without depressing grain prices. Many world food experts give the establishment of such a system high priority on the list of what needs to be done to end the threat of famine.●

IN MEMORIAM: LT. (JG) PATRICK KILCLINE; LT. CMDR. WILLIAM C. MATTHEWS

● Mr. HAYAKAWA. Mr. President, we all recognize the hazards inherent in military life, but most often we associate them with combat rather than with the peacetime which we are fortunate to enjoy today. Such is not the case when the demands of training for combat readiness in our Nation's defense are in many respects as hazardous by nature as combat itself. I was pointedly reminded of that fact earlier this week when I learned of an aircraft and its crew being lost from the carrier *Constellation* during flight operations southwest of San Diego.

The mission commander of the exercise in progress, Lt. Cmdr. William Charles Matthews of San Diego, a naval flight officer, was in the back seat of that aircraft. A 1968 graduate of the U.S. Naval Academy, Commander Matthews was married and had a son.

The pilot of that aircraft was a 25-year-old lieutenant (jg), Patrick Kilcline, assigned to Fighter Squadron 211. He was the son of a Navy family which includes three other naval officers, his father, Adm. Tom Kilcline, brother Tom, and sister Kathleen, the first two of whom are also naval aviators. He and his wife, Georgene Gibbs Kilcline, lived in San Diego near the naval air station at Miramar. He received his naval aviators wings last year after having graduated from the Naval Academy in 1975.

During his Naval Academy years, Pat Kilcline displayed that full range of professional and personal skills which made him a welcome candidate to those seeking men to fly the Navy's high-performance jet fighters. The profession of navy pilot or flight officer today demands an agile mind, excellent physical condition, and a factor called motivation which combines an indefinable mixture of aptitude, courage, personal discipline, and a great desire to fly.

The Navy flier's job is short on glamour, but long on demands, stress, and the hazards inherent in military aviation. Flying a large aircraft at high speeds from the moving deck of an aircraft carrier, day or night, in good weather and bad, is enough challenge for any man. It takes special men in terms of intelligence, technical skill, and courage to attempt such a job. The same qualities are in great demand elsewhere in our society, where they are more substantially compensated financially than they are on military pay scales.

What is it that makes a man want to do those things which Comdr. Bill Matthews and Lt. Patrick Kilcline and others like them choose as their life's work? They do not do it for the money, nor for the glamour, not for praise or vainglory, all of which are in short supply in the hard, practical world of naval aviation. Certainly it is, in part, a love of flying, and pride in flying the finest aircraft which the skill of their countrymen and their Nation's technology can produce. Perhaps it is partly in the values of duty, service, and love of country first awakened by their family upbringing and education in the early days of their youth, although you could get few of them to admit it. In each man, too, is the individual sense of purpose, known only to himself, which completes the formula.

There are all sorts of motivations which drive our complex society. One of the indispensable ones is that which seeks to preserve that society, its values, people, and institutions from the depredations of those who would undermine, conquer, or destroy them. The fulfillment of that essential task includes the need for men who are willing to take upon themselves personal hardship, danger, separation from their loved ones, and a myriad of other disciplines associated with their uniquely important craft. There is not and never will be in our free society a substitute for such men or the job which they must do. Someone must always have the watch, someone must always be the sentinel, and someone must climb into a cockpit and launch into the morning sky.●

ADDRESS BY NEAL A. MAXWELL

● Mr. GARN. Mr. President, a man who is highly esteemed by his business associates and admired by millions of people throughout the world for his uncompromising position on moral values de-

livered a speech to the Rotary Club of Salt Lake City. This gentleman, Neal A. Maxwell, is presently serving the State of Utah as a member of the Utah Board of Regents. Neal Maxwell has been an advocate of many youth-oriented programs and has continuously emphasized the value of education, and importance of the development of a society with high values.

Mr. Maxwell's remarks centered on the prohibitive costs of a value-free society—

A standardless society will also find itself dear to the costly lessons of history.

Take away a consciousness of eternity and see how differently time is spent.

I would like to recommend this excellent address to my colleagues. It is timely and of great benefit to all of us.

The address follows:

THE PROHIBITIVE COSTS OF A VALUE-FREE SOCIETY

I appreciate the chance to be with the Rotary Club of Salt Lake City within which are so many whom I admire and call friends.

In the literature of Rotary, familiar to all here, are standards which help guide Rotary and which had much to do with the creation of Rotary itself. One of Rotary's criteria reads, "Is it the truth?" Note that this very question assumes the existence of a standard by which truth can be tested. Another Rotary standard, "Is it fair?", assumes a standard of justice by which certain things can be measured. Not a standard, of course, like metric measurements or yards and feet, but a spiritual standard that is constant even though it may often be applied imperfectly by imperfect people.

Such values involved more than Rotarian rhetoric. When men and women protest an injustice, they often fail to see either the assumptions or the implications in their protest. C. S. Lewis once wrote to a protesting near-believer as follows:

"You say the materialist universe is 'ugly.' I wonder how you discovered that! If you are really a product of a materialistic universe, how is it you don't feel at home there? Do fish complain of the sea for being wet?"

The Rotary motto of "Service Above Self" assumes the presence of certain instinctive values attesting that man is more than an animal. It would be ludicrous to have such a standard if it were, in fact, out of the reach of Rotarians. Indeed, our very reaching and stretching tell us much about who we are. Also in your literature is a statement stating how, at one point in the early history of Rotary, it became clear that "camaraderie alone could not sustain the organization, and soon service to the community" became Rotary's binding strength. Early Rotarians had rediscovered an old truth about human nature. It was said by the Scottish minister, George MacDonald, that love of one's neighbor is "the only door out of the dungeon of self."

I commend Rotary not only for its deeds of service but for its continued assertion of basic values. Example and eloquence may not create conviction or produce belief in others, but that which no one bothers to assert, or to defend, soon ceases to be believed.

I come to you today as one who endorses Rotary's statements but also the assumptions that underlie them, for I accept, with most if not all of you, the existence of certain absolute truths in the universe from which there has been a severe slipping away on the part of many. The slippage has occurred, I fear, without awareness on the part of many as to what happens when we move to a spiritually standardless society. Beliefs or the lack of them do affect behavior.

Lest any here be anxious about whether I will take a theological turn in my remarks today, let me simply say that many of the standards and values in the great religions of the world are held far more in common than some realize.

Besides, we cannot fail to notice we are at one of the hingepoints of history when, as Hermann Hesse said, "... a whole generation is caught ... between two ages, between two modes of life and thus loses the feeling for itself, for the self-evident, for all morals, for being safe and innocent.",

For today's purposes, what I mean by self-evident morals and basic values are fundamental truths such as the Ten Commandments, which are so much a part of our Judeo-Christian heritage. These values resist rationalization and redefinition, and any amendments to the Ten Commandments would come from the same Source as did those original commandments. We are, of course, free to obey or not to obey those commandments. We are not free to try to amend them to read, for instance, "Thou shalt not commit adultery except between consenting adults." We may, by legislation and regulation, vainly try to create a zone of private morality. But there is, ultimately, no such thing as private morality; there is not an indoor and an outdoor set of Ten Commandments. Neither is it useful to cite human shortfalls as an excuse to abandon all absolutes, because striving and falling short of accepted standards is very different from having no standards at all.

There is an ecology that pertains to human nature just as there is an interrelatedness pertaining to nature. This spiritual ecology embodies certain laws which, if violated, will produce certain consequences. These laws, though less acknowledged, are as irrevocable and active as the laws of nature. They do not cease to operate simply because we do not recognize them, any more than one is protected from the consequences of eating a poisonous toadstool just because he believes it to be a mushroom.

We had better want the consequences of what we believe or disbelieve because the consequences will come! If you desire specific sample statistics concerning the shift to standardlessness, let me simply give you several ad lib.

You could supply your own impressions and your own statistics. Either way, we see what happens to behavior when, as Earl Rovit warned, the phrase, "Why not?", ceases to be a question and becomes an answer.

The high costs, indeed the prohibitive costs, of living in a standardless society are also incurred in so many secondary ways. For instance, a society which is uncertain of its basic values will engage in endless and expensive experimentation of both a governmental and a personal variety. The Frenchman, La Rochefoucauld, could have been describing so many of our modern experiments when he said, "There goes another beautiful theory about to be murdered by a brutal gang of facts."

Few such recent experiments in America have been more costly and counter-productive than some in our schools. Pupil test scores are declining and the costs of education are increasing. The move to relevancy has produced a curriculum, some of which is irrelevant to basic skills such as reading and writing. Pass-fail courses and the inflating of grades are milder symptoms. Taxpayers are often paying at least twice to teach some pupils how to read, and in many cases, it is still not happening! Our schools and colleges must respond to genuine needs for changes, but there are times when to be fashionable is to fail one's foremost constituents.

These things are not said simply to scold the schools as if the failures were located there and there alone. Nonfunctioning families bear much of the blame. The fact is that basic values are interactive and so are the basic institutions which have rested upon these bedrocks values. Alter the basic beliefs and you alter the chemistry of society.

In education or elsewhere, it is difficult to say which came first—the reluctance to measure or the reluctance to be measured. But, in the end, the results are the same. In this connection, too many have been too slow to see the implications in the conclusion, "If there is no divine reward or punishment related to my personal performance, why should there be any mortal concern with merit?" The underlying assumptions in such a conclusion are in gross error, but the logic is relentless!

Functional illiteracy in America in certain age groups. This is in addition to a more massive economic illiteracy about how our system works which is an even more ominous failure. Even though our governments are bigger and more powerful than ever, many in the rising generation know less and less about how we are governed.

Value-free experimentation is extremely costly—both in terms of money and of souls, and it creates the worst slum of all—the slums of the human spirit, for many students and citizens are starved for earned self-esteem, and are bored with the underwhelming that goes with unbelief. A standardless society will also find itself deaf to the costly lessons of history. Winston Churchill chose as a stern warning motto for his concluding volume of the History of World War II these words: "How the great democracies won the war, and thus were able to resume the follies which had so nearly cost them their lives." A value-free society focuses upon things like "me" and "now"—it has little sense of history out of which to fashion the future. If nothing lies ahead of men, how vital is memory? A healthy regard for the past is usually accompanied by a healthy regard for the future; and a lack of one usually means the lack of the other.

But how can a society set priorities if there are no basic standards? Are we to make our calculations using only the arithmetic of appetite?

A society not based upon key values like loving our neighbor will inevitably subsidize selfishness and will place a premium upon an apostate form of individualism at the expense of community. Bear in mind, for instance, that if we do not see ourselves as more than temporary, biological brothers, our behavior changes. When we repudiate our traditional relationships with God and man, it is so much easier to repudiate not only debt but to repudiate relatives. If one really has no relative, to whom do such people belong? Why, to that collective catch-all, society, of course! But as we generalize responsibility for relatives we particularize loneliness and misery.

Yet if self-interest is the final determinant, why should we be inconvenienced by the needs of others?

We have been used to speaking of our political system (as envisioned by the founding fathers) as one in which opinions collide constitutionally, wherein vested interests cancel each other out, or tame each other before a safe majority is formed, or, at least, in which vested interested are brought out into light by the democratic process. Indeed, this system has served us well. Winners and losers have played out the drama almost always within constitutional constraints as turns have been taken at the levers of power by different majorities. What was not allowed for fully, however (nor could it be), is what happened when government, instead of remaining a referee, first became a participant and then became a possibly permanent majority itself.

It remains to be seen whether or not our nation can tame big government. There is, frankly, no precedent for the dismantling, even partially, a welfare state, especially in peaceful and constitutional ways. Such a Goliath will not go quietly to surgery.

S. M. Lipset, a keen analyst of political things, observed that in addition to the happy consequences of democracy, that democracy tends to produce two unwanted side effects—bureaucracy and apathy. These are not inevitable side effects, but they are probable side effects. We are experiencing these symptoms in America. Yet, alas, Thomas Jefferson said our Republic's future rested on the assumption that our citizens were to remain attentive and informed.

The shift in values has produced another shift in political point of view. George F. Will, the perceptive Pulitzer Prize columnist, noted just one example in the difference between the old liberalism and a new liberalism.

"The old liberalism delivered material advantages that were intended to enable people *to live the lives they had chosen*. The new liberalism, typified by forced busing and affirmative action and the explosive growth of regulation, administers 'remedies' to what society's supervisors consider *defects in the way people live*." (Emphasis added.)

Decrease the belief in God, and you increase the numbers of those who wish to play at being God—by being "society's supervisors." Such "supervisors" deny the existence of divine standards, but are very serious about imposing their own standards on society.

It is no accident that the lessening, or loss, of belief in certain absolute truths, such as a belief in God and immortality, has occurred at the same time there has been a sharp gain in the size and power of governments in many portions of the world.

Once we remove belief in God from the center of our lives as the Source of truth and as a Determiner of justice, a tremendous vacuum is created into which selfishness surges, a condition which governments delight in managing. Trends become a theology. A religion of regulations emerges in which tens of thousands of regulations seek to replace Ten Commandments.

And with this secular religion comes a frightening insistence on orthodoxy enforced by the withdrawal and bestowal of benefits. Such governments inevitably tend to enlarge taxes and to stunt their citizens. John Stuart Mill observed:

"A state which dwarfs its men, in order that they may be more docile instruments in its hands even for beneficial purposes, will find that with small men no great things can be accomplished; and that the perfection of machinery to which it has sacrified everything will in the end avail it nothing, for want of the vital power which, in order that the machine might work more smoothly, it has preferred to banish."

This dwarfing of the individual is one of the prohibitive costs of a value-free society! The state will never wither away in a spiritually standardless society. It will simply swell and become more strong, more ominous, and more serious. Maxwell Anderson had a line in one of his plays in which a discouraged character asks plaintively why governments can't be "small and funny" any more.

Dietrich Bonhoeffer was a martyr in 1945 to a big and serious state grown impatient with Bonhoeffer's allegiance to God instead of to the "Fuhrer." Bonhoeffer wrote: "If Christian teaching does not guide us in the use of freedom and God is denied, all obligations and responsibilities that are sacred and binding on man are undermined."

The costs of Fascism were devastating. The costs of Communism are cruel and incredible. And even the garden variety versions of each of these secular philosophies are surely no bargain. When "God is denied" all sacred obligations and responsibilities "are undermined."

Can we really afford a society in which we do not believe in the principle of work? Inflation has several causes, but any lasting cure must include increased productivity. Besides, work is a spiritual necessity even if it is not an economic necessity, which it is.

Can we really afford a society in which the family, our basic institution, is further diminished? Most of us revolt at the idea of having children raised by the state, but step by small step we are moving in that direction. If our society's success depends on having a critical mass of citizens with a sense of fair play, justice, love and concern for others, where do citizens usually acquire those crucial virtues, if we acquire them at all? We usually acquire them first and best in the family. The family garden, as has been said, is still the best place to grow happy humans. Society already pays terrible costs for the products of tragically-flawed families, but further undermine the average family, and the costs will be catastrophic.

What we do with the family is going to determine what happens to our whole society. The wise Catholic writer, G. K. Chesterton, observed years ago that only men to whom the family is sacred will ever have a standard by which to criticize the State, because "they alone can appeal to something more holy than the gods of the city."

The basic strands which have bound us together socially have begun to fray and some of them have snapped. Even more pressure is then placed upon the remaining strands. Just because the giving way is gradual will not prevent it from becoming total. For instance, schools which fail put even more pressure upon the institution of the family and vice versa. A lowering of standards or discipline in the one means great difficulty in the maintenance of standards and discipline in the other.

Given the tremendous asset that the family is, we must do all we can within constitutional constraints to protect it from predatory things like homosexuality and pornography. Of pornography Ronald Butt wrote in the London Times:

"The history of the Roman arena instructs in how the appetite of a people can be created by what is fed to it—the upper classes of Rome were systematically addicted by their ruler to the frenzy and titilation of sadistic violence by a steady progression from less to more until the Roman character itself was conditioned to a coarse insensibility to suffering."

We need to reflect on how many of our sad trends represent a "steady progression from less to more."

If the family is not basic, however, and is not something of immense value, why worry about wrecking it?

Our whole Republic rests upon the notion of "obedience to the unenforceable," upon a tremendous emphasis on inner controls through self-discipline. The historians, Will and Ariel Durant, observed that, "If liberty destroys order, the hunger for order will destroy liberty." But keeping liberty and order in tension balance requires tremendous self-discipline in the citizenry of a nation.

Can we really afford the ultimate costs of governments which, in lieu of self-discipline, impose more and more outer controls?

But if liberty is not basic, why worry over such trends?

If we are immortal, however, we are immensely more important than a government which may only last a moment in the expanse of eternity.

But if there were no God and we were merely transients, then what is wrong with governments pushing us around? Indeed, what is really wrong about anything at all?

Our value crisis gathered some of its momentum because at first it produced an artificial sense of new freedom. Morris West warned:

"Without the Faith, one is free, and that is a pleasant feeling at first. There are no questions of conscience, no constraints . . . It is only later that the terror comes. One is free—But free in chaos, in an unexplained and unexplainable world. One is free in a desert, from which there is no retreat but inward, toward the hollow core of oneself." (*The Devil's Advocate*)

There was also produced an artificial sense of security in secularism. A good example of this is what has happened to our Social Security system in America. Principles gave way to political promises, and the secular theology with its "cast your care upon Social Security" has now exposed its hollowness—like the billboard outside Chicago ten years ago that read, "Borrow enough from us to get completely out of debt." Sad as it is to say it, the hard choices ahead for the nation regarding our Social Security system could pit the young against the old and the middle class against the poor. The System is scarcely "Social" in such a setting; likewise, the financial unsoundness of the System scarcely deserves the word "Security." What we have is thus neither social nor security. Ahead of us are more days of reckoning than just the one noted many times in the Bible.

But those who do not believe in ultimate personal accountability are not as likely to be concerned with the forms of proximate accountability for each of us.

Those who lack self-restraint will see little need, for example, for governments to discipline public spending.

We must not dismiss too quickly the importance of believing in the reality of immortality. A friend, Dick Hazelett, wrote perceptively about what happens when life is:

". . . Continually dampened by thought of its own continuous annihilation, then only fleeting pleasures remain, unconnected in time . . . When pleasures become disconnected, the intense ones stand out . . . like branches stripped of leaves . . . Raw experience as such becomes the goal. Work becomes drudgery, nature becomes boring . . . children are nuisances (which they then become), sympathy and affection are perceived as 'sticky' . . . chastity is no longer worth the sacrifice, and freedom isn't worth a fight."

Different beliefs do make for different behaviors; what we think does affect our actions; concepts do have consequences. As Christopher Booker said:

"When men cease to aspire to the ideal, the the good, to self-restraint—whether in their hearts or in their lives—they do not just stand still, but actually turn the other way, finding self-fulfillment in self-indulgence, and in . . . those three ultimate expressions of the totally self-centered life: sex, violence, and insanity."

We must bear in mind that while there are obvious differences as to what all the basic truths and values are, that having such tactical differences is very unlike the sad conclusion that there are no such basic truths at all. When these basic divine truths do not play a significant role in our lives, it creates much ambivalence over issues such as the relationship of personal property and political majorities. Few things are more frightening to see than envy when it is politicized.

If we are not committed to certain truths, ambiguity will replace absolutes, tentativeness will replace truth, regulations measured by the pound instead of by principles will replace liberty, a tenured bureaucracy will replace democracy, and hesitancy will replace heroism.

Once society loses its capacity to declare that some things are wrong *per se*, then it

finds itself forever building temporary defenses, revising rationales, drawing new lines —but forever falling back and losing its nerve. A society which permits anything will eventually lose everything!

Take away a consciousness of eternity and see how differently times is spent.

Take away an acknowledgement of divine design in the structure of life and then watch the mindless scurrying to redesign human systems to make life pain-free and pleasure filled.

Take away regard for the divinity of one's neighbor, and watch the drop in our regard for his property.

Take away basic moral standards and observe how quickly tolerance changes into permissiveness.

Take away the sacred sense of belonging to a family or community, and observe how quickly citizens cease to care for big cities.

Business-oriented Rotarians are quick to look for the bottom line in their endeavors. In the case of a value-free society, the bottom line is clear—the costs are prohibitive!

A value-free society eventually imprisons its inhabitants. It also ends up doing indirectly what most of its inhabitants would never have agreed to do directly—at least initially.

Can Rotarians and those like them turn such trends around? There is still a wealth of wisdom in the people of this good land even though such wisdom is often mute and in search of leadership. People can often feel in their bones the wrongness of things long before pollsters pick up such attitudes or before such attitudes are expressed in the ballot box. But it will take leadership and articulate assertion of basic values in all places and personal behavior to back up such assertions.

Even then, time and the tides are against us, so that courage will be a key ingredient. It will take the same kind of spunk the Spartans displayed at Thermopylae when they tenaciously held a small mountain pass against overwhelming numbers of Persians. The Persians could not dislodge the Spartans and sent emissaries forward to threaten what would happen if the Spartans did not surrender. The Spartans were told that if they did not give up, the Persians had so many archers in their army that they would darken the skies with their arrows. The Spartans said simply, "So much the better, we will fight in the shade!"

Thank you for listening.●

GENERAL STOCK OWNERSHIP PLANS

● Mr. GRAVEL. Mr. President, on July 19, 1978, I testified before the Finance Committee on general stock ownership plans. I ask that my statement before the committee be printed in the RECORD.

The statement follows:

GENERAL STOCK OWNERSHIP PLANS

Mr. Chairman: I want to talk about six trillion dollars. That is a rough estimate of the capital growth our economy will experience before the turn of the next century. The question we must ask ourselves is who will own this six trillion dollars? If we do not take some dramatic action soon it will be the same people who own our existing wealth; it will be the wealthiest 5 percent of our people who today control 50 percent of our wealth, it will be the same 1 percent which owned 25 percent of America in 1925 and who own 25 percent today, the same 1 percent who own 60 percent of all corporate bonds, 50 percent of all corporate stock and receive half of all corporate dividends paid in America. I repeat, half of all corporate dividends paid in America today go to 1 percent of our population. Unless we act soon the years will pass with the rich getting richer, and when nothing has changed by the year 2000 the nation will have us to blame.

Mr. Chairman, you have been the leader in addressing this vexing issue of capital concentration. I have lauded and supported your efforts. The Employee Stock Onwership Plan, the TRASOP, and a range of other ESOP legislation was an important first step in the expansion of capital ownership. But, the ESOP alone is not sufficient to prevent the continuing concentration of American wealth. Its contribution limitations and narrow focus on employees does not allow for rapid expansion of stock ownership.

In order to effectively address the question of "who will own America's new wealth" we must adopt new programs with broader focus. We must move beyond programs benefitting employees exclusively, and we must do it soon. I have introduced a bill, S. 3223, which would allow the more rapid expansion of capital ownership in America. This bill provides for the expansion of stock ownership plans beyond employees to the general public and therefore I refer to it as General Stock Ownership Plan.

The General Stock Ownership Plan would be sponsored by state governments, but would not involve state ownership. Indeed, the GSOP concept has become important to me and my state as an alternative to state ownership of private industry. The GSOP merely allows the use of a states' credit power to build exquity ownership into its citizens.

How would the GSOP work?

1. A state government would establish a trust to hold and distribute stock to the people of the state.

2. Each resident of the state would have an equal interest in any stock acquired by the trust.

3. The trust would borrow money to invest in corporate stock.

4. Earnings from the investment would be used to pay off the loan.

5. The stock would be distributed to the individual beneficiaries, the citizens of the state, putting equity ownership and dividend income into the citizens' hands.

In putting legislative flesh on the GSOP bones I was aiming at two goals, rapid amortization of acquisition financing and the vesting of actual ownership in the hands of the citizens. To accomplish these objectives S. 3223 changes various provisions of the tax law with respect to a General Stock Ownership Plan adopted by a state. I would like to run down briefly the changes made by S. 3223 and then explore how these changes and the GSOP concept interface.

The major changes wrought by S. 3223 are as follows:

1. A new type of tax exempt trust may be created by the state to hold GSOP stock and act on behalf of the states' citizens to borrow money; buy, hold, and distribute stock, and pass through dividends.

2. Dividends and other payments by a corporation on stock held by the trust are deductible to the corporation (eliminating the corporate tax on these payments).

3. The trust must annually pay out all dividends received. The dividends can be used for trust expenses, debt retirement, or they may be passed through to the citizens of the state. Dividends would be taxable to a citizen/beneficiary when received from the trust.

4. The trust will hold stock on behalf of each citizen of the state and must distribute out the participants' stock upon request after the participant has been in the plan for five years. Upon this distribution the recipient citizen has no tax liability.

5. However, when the citizen beneficiary sells his distributed stock he is taxed at ordinary income rates on the full proceeds of the sale.

6. The GSOP may use tax exempt bonding in its financing.

Much of what the GSOP does could be accomplished under existing law. It would merely require direct state ownership of the profitable enterprise with distribution of profits through a refundable state income tax credit. But this approach would not put real ownership in the hands of individuals and would put control of the investment in the hands of bureaucrats. The GSOP proposal by passing through voting rights on the trust stock puts control in the hands of the people who have an economic interest, rather than a political interest in the viability of the enterprise.

Our economic system is in deep trouble. Millions of our people do not have sufficient incomes to keep body and soul one. With the laudable goal of aiding these unfortunate many we have developed an incomes policy to provide a minimal standard of living. But, this incomes policy, paying government income to people unable to earn their way, costs money. To finance it we raise taxes, we take income away from producers and pay it to those who cannot produce. We transfer income, and this income transfer by the Federal Government has grown from $32 billion in 1967 to $188 billion in 1977. The burden of these programs threatens to swamp us and we look for ever more ingenious tax devices to raise the necessary funds. In final surrender we accept that an annual budget deficit of "only" $50 billion is acceptable. It is time for us to move away from playing Robin Hood. If our economic system is allowed to operate properly we need not take from the rich and give to the poor. If we develop programs such as the one I am suggesting the poor, even without jobs, would have sufficient income from capital to survive without transfer payments.

Let me show you what a GSOP might mean to Ameircans even on a limited scale. Assuming the adoption of my bill and the creation of a GSOP trust by the State of Alaska we might find the following:

1. The trustees negotiate for purchase of an interest in the Trans Alaska Oil Pipeline. Based on original cost and interest on equity it is not unreasonable to hypothesize that an interest of 15.8 percent could be purchased for approximately $1.5 billion.

2. To finance this purchase the GSOP issues $1.5 billion of tax exempt bonds. Moody average interest rate for all such bonds outstanding in March this year was about 5.5 percent. Annual debt service for the trust would then be about $123,820,000. The actual purchase would be made by a corporation organized by the trust and capitalized with the proceeds of the $1.5 billion loan to the trust.

3. Based on data filed with the Federal Energy Regulatory Commission by British Petroleum a 15.8 percent interest in the oil pipeline can be expected to generate annual revenues of $406,794,000 with the current tariff of $6.35 per barrel and the allocated thoughput of 64 million barrels per year.

4. The cost of operation are projected by BP to be approximately 80,452,000 annually.

Using the numbers we find that if the corporation paid all its income to the trust (and therefore incurred no tax liability) after debt service each and every citizen of Alaska could receive a dividend check of $500 per year. And once the debt was retired this dividend could jump to over $800 per citizen per year in 1978 dollars.

Now I understand that $500 per year may not mean much to many of you, but in parts of Alaska where the per capita income is less than $3000 per year it can make a significant contribution. And this is just the beginning.

Based on the same data a GSOP with a $10 billion investment (less than the projected cost of the proposed Alaska Gas Line) could guarantee $13,332 per year for a family of four. In addition to this income the family would own a block of stock which becomes more and more valuable as the debt is retired. They can borrow against it, use it for their financial statements so important in buying a home, and pass it on to their children. They may even sell it to cover catastrophic expenses if need be, just like you and I can do with our assets.

This proposal has been criticized as being State ownership. It is not. Ownership and control of the enterprise lies with the citizens voting their stock as any other shareholder. The potential for conflict exists between the GSOP and the sponsoring State Government. It is with forethought that this is so. I am trying to create conflict and institutionalize it at an acceptable level. In fact, this conflict presently exists between the government, in its role as regulator of our economic institutions, and those institutions themselves as they seek to perform, in an unfettered manner, their economic functions of allocating resources by rewarding productivity.

Unfortunately, the government is all powerful and at times oppressive. The excessive growth of government can be mitigated if we give the individual citizen a greater role in our economic institutions. With a stake in our economic success, the citizen may choose to exercise his collective power over government, which is absolute in a representative society, to stop it from excessive and harmful regulatory activity. By keeping the decision making power at the individual level we assure more checks and greater balance between those who govern and those who are governed.

In America there is a direct link between the capital concentration and the malaise which has stricken our economy. In order to address the economic injustice which is the symptom of high concentration of wealth the government pursues policies which hinder economic development. To achieve economic equity we transfer income from the upper and middle classes to the poor. We are faced with the dichotomy of cutting taxes for the rich to encourage capital investment and economic growth because they are the ones with the most capital to invest thereby insuring that they will continue to be so. At the same time we create nonproductive, noneconomic jobs and preserve existing but inefficient jobs because a majority of our people still reply on labor for their incomes. We have pursued policies which cannot help but bring about the demise of our economic system.

The fact is that the crisis in our economy today is tied directly to our attempts to treat an economic disease, insufficient income by attacking the symptom of insufficient jobs rather than the cause, a lack of capital diffusion sufficient to produce income for all our people.

As I said before, we must get moving. The key to both economic health and economic equity lies in spreading the ownership of the productive instruments of our society: our corporations. We can begin to treat the root of our problems if we can spread among all citizens the ownership of the companies which produce the nation's wealth. The General Stock Ownership Plan is one means of achieving this widespread ownership without confiscating the property of the wealthy and without creating a monolithic socialist state. It is up to us Gentlemen, who will own the next $6 trillion of America's wealth. The General Stock Ownership Plan is a step toward assuring that a large proportion of that new growth goes to a new group of capital owners.

I would like to take just a moment to address another bill which I have introduced and which is relevant to our discussions during this hearing. The bill is S. 3291 and it increases the contribution limitations for ESOPs from 25% of payroll to 50% of payroll. This bill raises a question as to the nature of the ESCOP. ESOPs developed under the qualified pension provisions of the Internal Revenue Code in order to take advantage of tax exempt trusts and the deductibility of employer contributions. However, the ESOP is not primarily a pension plan, but a means of broadening the ownership of American capital wealth. As such, the contribution limitations adopted from qualified retirement plans are inappropriate. By expanding these contribution limitations on ESOPs we make these plans a more flexible tool for the leveraged acquisition of stock on behalf of employees in small and medium size companies. Adoption of this legislation would be a small, but important step in encouraging the broadening of stock ownership through Employee Stock Ownership Plans.●

THE THIRD SENATE OFFICE BUILDING

● Mr. DANFORTH. Mr. President, I believe it is an outrage that the U.S. Senate is having a third office building constructed at a probable cost to the taxpayers of $200 million. I ask that the June 21 editorial in the San Francisco Examiner on this subject be printed in the RECORD.

The editorial follows:

THE SENATE'S NEW PLEASURE DOME

Some day the dictionary will include Faroukism" to describe the wasting of public funds for personal pleasure, the way King Farouk of Egypt did during his reign between 1936 and 1952.

If no one else coins the word, the U.S. Senate will by insisting on putting up the most lavish federal building in the history of the republic.

Item: up until now, the most expensive structure erected in Washington is the FBI's J. Edgar Hoover Building, finished in 1975 for a mere $126 million.

Item: The record is about to be broken. A new office complex, named for Michigan's Sen. Philip A. Hart who died in 1975, is scheduled to be roofed over in 1981 at a probable cost of $200 million.

Item: Fifty senators, some of whom have voted against "wasting" funds on public housing for others, will have offices with 18-foot ceilings, festooned with brass and marble and paneled with expensive wood.

Item: To make the senatorial palace thoroughly Farouk-like, it will house a rooftop restaurant and a gymnasium replete with such lawmaking necessities as tennis, handball and basketball courts. All of it paid for by you know who.

Sen. William Proxmire of Wisconsin goes from Egypt to Persia for his comparison of costs. The Hart building, he said, is something "that would make a Persian prince green with envy."

Sen. John H. Chafee of Rhode Island weighs it against another federal expenditure a few years back, complaining that the Hart memorial "would be at least 10 times as costly as the Louisiana Purchase."

Senators may deserve office regal enough for Egyptian kings and Persian princes, but can the country afford them?

We urge readers who think the Senate is going too far in pursuing the comforts of tax-supported luxury to write to Senators Cranston and Hayakawa today. Senator Chafee, who has introduced a bill to abolish the project, also would be happy to hear from you.●

FUNDING FOR PUBLIC BROADCASTING

● Mr. INOUYE. Mr. President, shortly the Senate will consider S. 2883, a bill to authorize advance-year funding for public broadcasting, and otherwise improve and strengthen the system.

The Public Broadcasting Act of 1967, had its genesis in the report of the Carnegie Commission on Educational Television. In that report the commission said, and I quote:

If we were to sum up our proposal with all the brevity at our command, we would say that what we recommend is freedom. We seek freedom from the constraints, however necessary in their context, of commercial television. We seek for education television freedom from the pressures of inadequate funds. We seek for the artist, the technician, the journalist, the scholar, and the public servant freedom to create, freedom to innovate, freedom to be heard in this most far-reaching medium. We seek for the citizen freedom to view, to see programs that the present system, by its incompleteness, denies him.

When Congress enacted the Public Broadcasting Act, therefore, we recognized that to achieve this freedom, ideally the system should be independent of both sponsor domination and the inevitable pressures involved in the appropriations process; and that permanent, long-range financing was essential for that kind of independence.

Pending its development and growth, however, Congress felt it was wiser to fund the system through the authorization/appropriation process.

Presently, Congress provides multiyear authorizations for activities of the Corporation for Public Broadcasting, and 2-year "forward funding," that is, appropriation of public broadcasting funds 2 years in advance of the year the appropriation is to be spent.

S. 2883, is a good bill which will permit the continued growth of public broadcasting pending a plan for permanent, long-range financing at an adequate level. As the committee stated in its report to accompany S. 2883:

Excellence in public broadcasting will be realized only when significantly higher levels of funding are made available, on a consistent basis. The Committee expects that, by the time the authorization contained in this bill expires, . . . the Congress will be prepared to provide the increased support and stability necessary to realize that excellence.

Mr. President, like every human institution, the track record of our public broadcasting system is not without fault. But compared with its achievements and potential, those faults are minor, in my judgment.

There are those who would criticize S. 2883 as not being restrictive enough, and others who would criticize the legislation as inhibiting the growth of public broadcasting. I would urge all of these critics to put aside their misgivings, and support S. 2883, as a fair and reasonable next step in the continuing development of the medium.

I wish to commend the distinguished chairmen of the Communications Subcommittee and the full Committee on Commerce, Science and Transportation, Senators HOLLINGS and CANNON, respec-

tively, for their roles in developing S. 2883. I would be remiss if I did not also extend those sentiments to Senator MAGNUSON, the former chairman of the committee, whose foresight and leadership was in large measure responsible for the enactment of the Television Facilities Act of 1962, and the Public Broadcasting Act of 1967.

Mr. President, the very first chapter of the Carnegie Commission's report describes the opportunity which public television holds for the American people, and it begins with a quote from a letter to the commission from the author, E. B. White. I would like to repeat that quote:

Noncommercial television should address itself to the ideal of excellence, not the idea of acceptability—which is what keeps commercial television from climbing the staircase. I think television should be the visual counterpart of the literary essay, should arouse our dreams, satisfy our hunger for beauty, take us on journeys, enable us to participate in events, present great drama and music, explore the sea and the sky and the woods and the hills. It should be our Lyceum, our Chautauqua, our Minsky's, and our Camelot. It should restate and clarify the social dilemma and the political pickle. Once in a while it does, and you get a quick glimpse of its potential.

Mr. President, more and more frequently public television is, to use Mr. White's phrase, offering us a "glimpse of its potential," and what human vistas are opened to us when it does.

In my own State, for example, Hawaii Public Television has a statewide network operating KHET, Channel 11 Honolulu and KMEB, Channel 10 Wailuku. Although it is a middle-sized organization by public broadcasting standards, it serves 43 percent of the State's population on a regular basis according to the latest Nielsen report. It will soon be able to serve more, I am told, with the expansion of the transmission system supported by grants from the HEW educational broadcasting facilities program and the Hawaii State Legislature.

In January of this year, national audiences viewed a program produced by Hawaii Public Television entitled DAMIEN—a 90-minute dramatic production dealing with the life of a Belgian missionary who worked in the service of lepers on the island of Molokai in the 19th century.

Cecil Smith of the Los Angeles Times described the production as "an oddity inasmuch as almost all of the public television worth watching either comes from England or from one of the major production centers: Los Angeles, Boston, New York, Pittsburgh:

DAMIEN is totally Hawaiian in origin and execution, produced and directed at Hawaii's public television station.

Terrence O'Flaherty of the San Francisco Chronicle, in a favorable review of the program, concluded that DAMIEN is "one of the most important programs of the year, because it is evidence of the vigor and professionalism of the tributary television theaters of the PBS network. What other riches lie there untapped?", he concluded.

Mr. President, Hawaii Public Television has been able to improve significantly its services to the people of Hawaii—and to provide to national audiences a program as spectacular as DAMIEN—because of increased support, both moral and financial, from the local community and from national entities. Important grants have come from the Corporation for Public Broadcasting, the educational broadcasting facilities program of HEW, and the National Endowment for the Humanities. Hawaii Public Television is, of course, only one of more than 150 public television licensees in this country. With more funding being made available to the entire system, we might, in fact, be able to tap those "other riches" to which Terrence O'Flaherty referred.

I strongly support S. 2883 which provides a much-needed increase in Federal funding for public broadcasting.●

AMERICANS RECOGNIZE INFLATION AS SERIOUS

● Mr. HANSEN. Mr. President, Fletcher L. Byrom, chairman, Committee for Economic Development, spoke recently before the New York Financial Writers' Association on Inflation: Addiction and Withdrawal.

The speech calls attention to the fact that we seem to be institutionalizing inflation as a national way of life and details the consequences of such an action.

Because Mr. Byrom's remarks are so pertinent and timely, and state in a most succinct manner what we face if we do not institute a responsible fiscal policy, I ask that the talk be printed in the RECORD.

INFLATION: ADDICTION AND WITHDRAWAL

I am at heart an optimist. I'd rather talk about the best that is possible than the worst that is probable. To prove it, I'd like to open our discussion of inflation by pointing to the one encouraging recent development on this front. Any pinpoint of light in a black sky raises hope that we may find a way out.

For more than a decade, we have treated inflation first as a mere annoyance and later as a temporary headache that might go away on its own or yield to medication. Now a substantial majority of the American people recognize inflation as our most serious economic problem, possibly a migraine, crippling in its effects and likely to be with us longer than we would wish. In looking for remedies, we want to make sure we don't get hooked on drugs and that may be more damaging than the original ailment.

The shift in attitudes is recorded in various opinion polls, which can be overlooked, but it is even more evident in political arousal, which cannot. We have seen the successful tax revolt in California. We have seen the new prominence of fiscal issues in primaries around the country. We have seen spreading discontent with the insufferably high costs of many public sector programs introduced in the past 15 years.

So far, the symptoms have not abated. This changing political climate has not reduced the inflation rate by so much as a single percentage point. But it is the necessary first treatment if we are serious about ending the nausea, dizziness and pain that accompany our national migraine. If our political institutions fail to respond, we will surely deepen our addiction to an inflationary way of life that is gradually but ruthlessly transforming the basic character of the American economy.

This way of life was not imposed upon us by some malevolent external force. By and large, we brought it upon ourselves, starting a dozen years ago. We had high employment and, at the same time, pressure from the rising costs of two wars which, at the time, had broad public support—the military action in Vietnam and the Johnson Administration's domestic war against poverty. Between 1964 and 1966, the rate of inflation began its climb with a jump—hold your breath—from 1.2 per cent to 3.4 per cent. Shucks, today we can move that many points practically overnight.

Periodically throughout those years, the Committee for Economic Development did its best to advocate a more vigorous fight against inflation, on both the demand side and the supply side. An early-warning statement in 1966 urged quick counterinflationary action. CED called for a budgeted $3 billion debt-retirement surplus to be achieved by reductions in government expenditures and, if necessary, by a temporary tax increase, to be enacted early in 1967.

Unhappily, by the time the tax surcharge became law in October, 1967, the genie was already out of the bottle. Nobody since has had the political fortitude to pop it back in. It is still roaming the land, and our public policies and private actions have tended to aggravate the inflationary impetus.

Our subsequent experience has been harsh. We have had not simply an irreversible wage and price rise, but a painful series of inflationary jolts that have taken on the now familiar configuration of the rising spiral.

It is that spiral—along with the continuing expectation or acceptance of permanent inflation—that seems to threaten disaster. And the disturbing point to keep in mind is that this society—through successive Administrations and Congresses—made conscious decisions that carried us farther along the route. For political reasons—translate that as the politicians' reading of the public will—we chose at the onset of this spiral a guns and butter policy. Never mind that history had been tugging at our sleeves to warn us that such a course always resulted in catastrophe.

We have since compounded the original mistake, and reinforced the addiction, by a succession of decisions—both political and social, and quite bipartisan—that have had the pernicious side effect of progressively institutionalizing inflation as a national way of life, unpleasant but inevitable, like traffic jams and postparty hangovers. We have stopped asking whether inflation can be held at the two per cent level. What we're worried about is whether the past decade's underlying trend of six per cent inflation may be giving way to a new pattern of seven or eight or even ten per cent.

I do not discount the external shocks of the 1970s that have been largely beyond our control, such as the cartel-dictated increases in oil prices and the periodic harvest shortfalls abroad that have placed unexpected demand pressures upon our agricultural stocks and prices. But I do think the record shows we have been guilty of exporting as much inflation as we have imported. What matters is how we as a society have responded to inflationary pressures, whether domestic or foreign.

On the oil question, for example, we had ample and timely warning. The Paley Commission assessed the coming problem in 1952 and laid out a national minerals and resources strategy. That strategy is still largely untapped, like those beautiful coffee-table books we buy and, after a while, persuade ourselves we have read, even though we have only flipped past the pictures. More to the point, the oil supply and price crisis came to a head nearly five years ago and we are nowhere near anything that could be called a coherent energy policy today.

Now, here's a piece of irony for you. We have been taking some steps to halt infla-

tionary pressures, yes, but those steps have been largely ineffective. At the same time, we have adopted measures that have further institutionalized our acceptance of inflation, and those measures have worked magnificently.

We are now in that advanced stage of addiction where we make anticipatory wage and price increases and where both industry and the consumer take inflationary considerations into account when deciding whether to accelerate or delay major purchases. We have indexed Social Security benefits and veterans' pensions. Cost of living allowances—COLA's—are built into two- and three-year union contracts, which in turn set the pace for catch-up efforts by the nonunion labor sector.

So we have these conscious decisions embedded in labor contracts, plus the proliferation of public sector jobs, especially at the state and local levels, and the result is an increasingly thick layer of insulation between wage trends and the natural market competition that takes place as labor supply and demand shift. Indeed, with a powerful push from organized labor, Washington recently mandated an inflationary rise in the minimum wage. With comparable pressure from the farm sector, we now have inflationary support prices for agricultural produce. Government transfer payments for health, welfare and other social purposes are all more or less riding quickly upward on the same crowded escalator.

During this same period, we have created a ponderous structure of regulatory interventions into the market place. Many of the regulations were designed for what cannot be challenged as socially desirable ends, to influence the social performance of corporations, individuals and units of government at all levels. They cover—and as I tick off this list, I want you to reflect upon how many of these areas there are in which it would have been unthinkable, during most of our history, for the Federal government to intervene—they cover the hiring, promotion and retirement of employees of private and public enterprises, and the protection of their safety and health; the impact of public and private activities upon the environment; the quality and delivery of health care, education and police protection; the fuel-efficiency and safety of public and private transportation; price competitiveness within particular public service industries. I could go on.

The decisions to mandate the values and standards represented by such regulations were made through the democratic political process, by a society that decided it had reached the level of affluence needed to afford these goals. They were dictated in part by what Daniel Yankelovich has called "a galloping psychology of entitlement."

These were decisions our society had every right to make. I applauded many of them, with the reservation that they should not ignore other basic goals, including the obligation to institute reforms efficiently in ways that would reinforce the market system that makes them possible, rather than supplanting it. I felt we had an obligation to administer the reforms in ways that would not create inflationary disincentives to the normal and healthy growth of the wealth-producing sectors of the economy.

Unfortunately, few of these obligations are being met. To put it simply, we went too far.

Most of the new regulatory bureaucracies have been mandated not to strengthen market incentives for reaching social goals, but rather to bypass the market. For example, we should have put a cost on undesirable levels of pollution. That would have given industry a clear incentive to find the most efficient ways to reduce pollution. It would have marshaled the best minds of industry for the kind of effort for which it is famous.

Instead, we have established a costly regulatory bureaucracy to define, police and haphazardly enforce standards of its own devising in every corner of the society where pollution exists or might break out or might be discovered if enough people spend enough time and enough money looking for it. In this sense, we have used the force of law to impose costs upon industry. Those costs have to be internalized. They can only be passed on in higher prices to the consumer.

We have emphasized methodology rather than results. If I hire someone to wash my car, I'm not going to tell him what kind of soap to use, how hot the water should be, whether he should use rotary strokes or a back-and-forth movement. What I want is a clean car, and I'm going to reward him if I get it and maybe punish him if I don't.

We have also tacked onto our market economy a superstructure of sometimes ridiculous and often contradictory regulations. These not only are directly inflationary in their effect, but also suppress the real genius of the market system—its capacity, in Charles Schultze's words, for "harnessing the 'base' motive of material self-interest to promote the common good."

The most devastating effect of these changes, and of the institutionalized inflation that they produce and exacerbate, is the progressive liquidation of the capital base of the nation's economic system. This is happening rapidly—and perhaps irreversibly—because of the high fixed costs of new physical capital; the long lead time needed to expand or modernize capacity, or to enter a new product area; outmoded accounting practices and taxing policies; and wholly unrealistic depreciation policies.

What we wind up with is a very inadequate real return on investment. And that, my friends, is the name of the game. Nobody—corporation, small entrepreneur or individual stockholder—wants to commit money without at least the hope of getting it back along with that little bit more that makes the risk worthwhile.

In a number of industries, profitability is not high enough to justify investment in either expanded capacity or improved production efficiency. For starters, I can name steel, nonferrous metals, railroads and airlines, the utilities and probably paper—not exactly insignificant segments of our economy.

The alternative, already under discussion for some problems, is public subsidy, which stands well along the downhill road to nationalization of basic industries. And the death stroke will be administered by the declining competitiveness of some of these industries, not only in foreign markets, but against imports in our own domestic markets.

We have a high-wage, high-capital-cost economy. We can't continue to be internationally competitive or preserve our unique and central role in the interdependent global economy unless we sustain our comparative advantage in efficiency and productivity by use of economies of scale. Yes, productivity involves worker skills and attitudes. But it also demands, especially in capital-intensive industries, an investment in research and development, and the application, through capital investment, of technological innovations that reduce unit costs and lead to the introduction of new and more efficient products and processes. The best and most willing workers in the world can't do the job unless they have the tools.

Inflation discourages precisely the kind of long-term capital investment that leads to improved productivity and technological innovations. Between 1960 and 1965, a period of relatively light inflation, annual productivity gains averaged 3.5 per cent and thus helped to stabilize unit labor costs in the face of rising wages. Between 1965 and 1975, productivity gains averaged only 1.1 percent per year, huffing and puffing far behind the rate of inflation. In the first quarter of this year, productivity may have actually declined.

Even in those high technologies where the United States is unquestionably still supreme, there appear to be bottlenecks in converting our achievements into new consumer products. No one, I think, contests U.S. leadership in such advanced defense-related technologies as electronics and photo-optics. Yet it is Japan, and not the United States, that dominates world markets in consumer electronic goods and quality cameras. In fact, the U.S. share of world exports of manufactured goods is shrinking, from 24 percent in 1968 to 20 percent in 1977.

Obviously, we need to take a closer look at the Federal tax and regulatory policies that discourage private-sector investment risk in research and the subsequent development of innovative products and more efficient production processes, which would raise our productivity and improve our posture in international competition.

Our lagging productivity casts a shadow over an otherwise gratifying achievement. We have reduced unemployment by creating four million new jobs over the past 12 months, an all-time growth record. The disturbing fact is that this 4.5 percent increase in employment gave us only a 3.7 percent increase in the production of goods and services. We may not be scraping the bottom of the barrel, but we're having to dig deeper to get less.

The distortion is ominous. There are indications that labor shortages may be emerging for various types of skilled jobs at the same time that we face a continuing need to find employment for new entrants into the labor force, especially youths and women. If so, we can expect in the near future, another turn of the wage-inflation wrench. Moreover, the current job growth is not making an adequate dent on the problem of structural unemployment among the growing pool of undereducated, underskilled blacks, Hispanics and whites. Their exclusion from the active labor force not only inflates our basic social costs, but is a waste of human resources. CED has recently issued a study on how to deal more effectively with this festering economic and social problem. The title is "Jobs for the Hard-to-Employ—New Directions for a Public-Private Partnership."

We have lived to see that we can have inflation and unacceptable rates of unemployment at the same time. Now the real aim of public policy should be to turn this paradox around, to achieve an end to inflation and a high rate of employment at the same time. It can be done, but it will require an economy more productive than we have. We need a more skilled labor force, but we need also more efficient and innovative spurs to capital formation.

The most destructive consequences of our current inflationary addiction is the liquidation of the nation's capital base. This insidious process is eroding our international competitiveness. It depresses the international value of the dollar. It mortgages our capacity to create future wealth and jobs. It hastens the transformation of our private enterprise system into a government-administered economy, with the eventual threat of government ownership. It fattens the inflationary worm that feeds upon it.

No number of quick fixes will get us over this addiction. The only remedy we know that will work is withdrawal—the old cold-turkey treatment.

The place to start is at the Federal budget. Federal Reserve Board Chairman G. William Miller has called for the budget to be brought into balance by 1982. That suits me fine. Earlier would be better. It would entail cutting the 1979 deficit to below $50 billion and

trimming it more in succeeding years. Such fiscal discipline would be painful, but immensely therapeutic. If I may mix medical metaphors, I believe this necessary surgery is the right way to break our addiction and restore some measure of business and consumer confidence in the possibility of winding down the inflationary spiral.

By reducing the ratio of GNP that is taken by Federal spending, we will in effect free resources for productive use in the private sector. It is imperative that such a shift be buttressed by more realistic depreciation guidelines and other programs to provide greater incentive for capital investment in modernization and expansion of capacity.

The entire Federal regulatory structure needs to be put under the microscope. In addition, we need to tighten our focus upon those specific regulatory and tax policies that adversely affect our export performance. We must reconsider—in light of the policies and performance of our most successful trading partners—the range of incentives that will encourage American industry to raise exports closer to our present import level.

Import protection—another quick fix proposed by the desperate junkie—is not the answer. It would very quickly bring retaliation, a contraction of international trade, and higher domestic prices in the protected industries. The solution is to encourage and reward industrial efficiency, not to promote and protect inefficiency.

Over the longer run, we may contemplate those levels of tax reduction for both individuals and business, that will result in further healthy shifts of resources from the public sector to the private and that will further invigorate our private enterprise economy.

We will be told that stern measures—including the cancellation or significant reduction of a promised tax cut—will be difficult if not impossible for Congress to consider in a midterm election year. I think this is a faulty reading of the mood and expectations of the American people. Recent events in California and elsewhere tell me that voters are outraged at political handling of the inflationary burden at every level of government.

I believe it is the responsibility of CED—and of other seriously concerned organizations and individuals—not simply to fan the fires of discontent, but to offer sound and constructive policy alternatives that will enable this nation of inflation addicts to go straight again.

The people are sending a message to Washington and to their state legislatures. The tune is getting louder, and the words go something like this: "We taxpayers demand responsible actions to stop inflation. If we don't get it quickly, we will act rebelliously, and maybe irrationally. We will use initiatives, referendums, campaigns to amend state constitutions. We will be at the polling places in November. And if all that doesn't work, we hate to think of what we might do next."

By my estimation, fiscal responsibility is the number one economic issue in the public mind. Both the White House and Congress would be well advised to catch up with popular opinion by finding new ways to cut and trim. President Carter campaigned on that promise, and won the election with its help. He can't complain if he is held to it and, who knows, he might find the response refreshing in November of 1980.

Of this much I am confident: Federal budgetary restraint is the necessary first step if we are to restore enough confidence to stop the anticipatory wage, price, consumption and investment decisions that have been pushing the inflationary spiral upward. Only a responsible fiscal policy can choke off the dangers of an expansionary monetary policy resulting from the need to monetize deficits. There is no other way.

With luck, we can slow or decelerate the spiral, but that, in a sense, will be only remedial. We need a cure, yes, but we also should be looking for a vaccination against future infection. The medicine I propose would deinstitutionalize inflation by renovating the grossly inefficient—and antiproductive—tax and regulatory structure that contaminates our body economic and inhibits its ability to renew itself.

The disease is epidemic. Except perhaps for some opportunistic speculators, I know of no one who is not hurt by inflation—corporate manager, merchants, the poor, the unemployed, the elderly, consumers in general, the operators of philanthropic organizations, and the leaders of our own government in their attempt to maintain our posture among the powers of the world.

We can all now see the damage that has been done and the destruction that is threatened, and there is a strong possibility that the American public perceives as well as any of us what Arthur Okun describes as "self-inflicted wounds." What we need to rediscover, before it is too late, is how once again to mobilize private interests for the public good.

I must stop. After this long recitation of distress, my head is throbbing, and I hope it isn't migraine. Thank you.●

JUDICIAL REVIEW OF VA DECISIONS—S. 364

● Mr. CRANSTON. Mr. President, in the fall of 1976 the Senator from Colorado (Mr. HART) proposed a measure that would have provided for judicial review of Veterans's Administration decisions and made other changes relating to VA procedures. Senator HART planned to offer this measure as an amendment to the Veterans' Education and Employment Assistance Act of 1976, but agreed to refrain from that action after the then-Chairman of the Veterans' Affairs Committee, Senator Vance Hartke, promised to hold comprehensive hearings on the various issues raised by Senator HART's proposal if it were introduced in the 95th Congress.

In January of 1977, Senator HART did introduce his proposal as S. 364, a bill which provides for judicial review of Veterans' Administration decisions, for bringing the VA rulemaking processes under the Administrative Procedure Act, and for the repeal of the $10 statutory limitation on the fee payable to an attorney for representation of a veteran or survivor before the VA. In fulfillment of my predecessor's promise, I scheduled hearings to consider the various issue raised by S. 364, the first congressional hearings on the question of judicial review of VA decisions since 1963 and the first ever such hearings before the Senate Committee on Veterans' Affairs.

Mr. President, five such hearings were held by the committee. The first, which I chaired, was in San Francisco, Calif., on June 3, 1977. The second, chaired by my able colleague, the Senator from Florida (Mr. STONE), was in Pensacola, Fla., on August 25, 1977. The third such hearing, again at a regional location, was in Columbia, S.C., on August 31, 1977. This hearing was chaired by our colleague from South Carolina (Mr. THURMOND). The final hearings, which I chaired, were held here in Washington on September 21, 1977, and October 19, 1977.

During the course of these hearings, Mr. President, the committee heard from a wide range of witnesses. The VA testified as did the Department of Justice. Representatives of the American Bar Association were also heard as were representatives from various veterans' organizations, other organizations concerned with veterans and with providing services to veterans, and other concerned parties. In addition, members of the committee have shown deep interest in this measure, which is of such great importance to veterans and their families and to the VA.

Mr. President, from the excellent testimony received at those hearings, it became apparent that there were a host of very complex issues under the rubrics of judicial review, administrative procedure, and attorneys' fees, and that, while S. 364 had served very well to focus needed attention on the issues, a more comprehensive bill was needed that would include provisions more detailed and specifically tailored to the VA claims, adjudication, and rulemaking processes and to the circumstances of veterans and survivors with claims before the VA. Numerous staff meetings have already been held on these issues. The task of researching and drafting such a substitute has been a very time-consuming procedure, particularly since the interest generated by the hearings has been further reflected in a continuing flow of correspondence from interested parties from across the country.

Because the draft substitute will be so significantly different from S. 364, in content although not in purpose, the committee believes that it is important that such a draft be widely circulated for further comment from interested parties and that additional hearings be held on a more detailed measure before the committee takes further action.

Mr. President, given the need for this further action and the very crowded state of the Senate's legislative calendar at this time and the lack of activity on this issue in our House counterpart committee, it is clear that it is no longer possible to address this matter effectively at this stage of the 95th Congress. As I have discussed with my friend from Colorado (Mr. HART), I propose that the committee staff continue its work on the substitute measure and circulate the draft to all interested parties for their comments and criticisms this fall. Thereafter, early in the next Congress, either Senator HART or I will introduce a new measure. I will then schedule hearings on it, and bring the measure to the committee no later than May 1, 1979, for disposition.

Various individuals and organizations are anticipating Senate action on this issue in this session, and their strong interest in these matters has continued. I believe that, given the complexity of the issues and the lack of a real opportunity properly to consider this matter at this time, this change in schedule is necessary and will give all interested

parties a much better opportunity to express their views on the type of detailed legislation that I intend to bring before the committee, as well as afford the committee and the Senate necessary time for careful deliberation.

Mr. President, in closing, I want to express my sincere appreciation to the Senator from Colorado (Mr. HART) for his leadership, continuing commitment, and helpful cooperation in this important matter. I know that his overriding concern here is to achieve congressional action that will benefit the Nation's veterans.●

AMERICA NEEDS MANAGEMENT

● Mr. LUGAR. Mr. President, I have recently had the fortunate opportunity to review the commencement address of Mr. Clifton B. Cox to the 1978 graduates of the Krannert Graduate School of Management at Purdue University, West Lafayette, Ind. Mr. Cox is the vice chairman of the Greyhound Corp., and is truly one of our Nation's most dynamic business leaders.

His address, entitled, "America Needs Management," is simply outstanding. Mr. Cox has concisely expressed a philosophy which I and many of my colleagues fully support.

Mr. President, I commend Mr. Cox's remarks to each of my colleagues, and I ask that the text of his address be printed in the RECORD.

The text follows:

AMERICA NEEDS MANAGEMENT

I am very pleased and honored to have been invited here today to speak with you and to share with you some of the concerns and apprehensions that trouble me both as a citizen and in my capacity as a representative of corporate America.

Several days ago, in preparing my remarks for today, I realized that in treating the topic, "America Needs Management" my first draft of those remarks had more than a little ring of the pessimistic about them. In fact, I had unwittingly drafted a remarkable variation on Gresham's Law: "Bad news drives out good." I quickly went back and rewrote a second draft, because the fact is, I do not feel pessimistic about our nation, its future, the economy, the free market system or the future of private enterprise. While I am, perhaps, more than a little concerned about certain national trends and policies, I believe . . . in concert with the vast majority of Americans . . . that our system is still far superior to anything else or any other country.

That does not necessarily stop me from criticizing it, but it does make me desist from unthinkingly flaying it! I am a little like Thurber who, when asked, "How's your wife?" is supposed to have answered, "Compared to what?"

I am optimistic about America for a number of reasons, not the least of which is found in the character of the American people. We have, as a nation, a remarkable vitality . . . we tackle problems with an unquenchable optimism; we somehow, when faced with obstacles, generate a coping mechanism; and much to the wonderment (and sometimes the chagrin!) of the rest of the world, we have an unusual ability to adjust and innovate. In 200 years, without having either the world's largest population or its greatest natural resources, the U.S. has become the richest nation in the world, and in 1978 our gross national product will pass the $2-trillion mark.

Nevertheless, I confess to a high degree of anxiety about many of the directions we are taking in our political, social and industrial endeavors, and about the fact that, while lauding our ability as a nation to cope, coping has somehow become a way of life for us . . . we seem as a nation constantly to be reeling from one crisis to the next.

The time is, in my opinion, long overdue for us to take a long and penetrating look at our national problems and priorities. As a father and grandfather, I have been the unwitting audience for a lot of pop music in recent years, and, despite my best efforts at cultivating deafness, some of it has penetrated. One such song poses some interesting questions, "Do you know where you're going to? Do you like the things that life is showing you? Where are you going to? Do you know?"

I am fearful that as a nation, we can't answer those questions . . . that we are, instead, ad libbing our way through national policy. And in my opinion, what is needed is to apply to their solution some of the very sophisticated correctives and planning and management techniques that make our corporations run. We need more management talent.

While this observation may seem typically self-serving, coming as it does from a representative of American business, I would offer for your judgment that fact that the impetus for America's 200 years of accomplishment came from American business and industry, which places great stress on competition, individual achievement and reward, and the referendum of the market place wherein inefficient companies are weeded out under the pressure of competition and even efficient producers must constantly improve their operations and invest in order to survive.

Winston Churchill described it best when he said ours is a "system of unequal prizes." And it is precisely that fact that gives it its flexibility and its strength.

I am convinced that America needs that same management know-how in government and in labor. And, in fact, America needs in business an even better quality of management than is presently operating therein. Let me explain.

The government of the United States was established and charged with the responsibility of performing certain tasks, while adhering to the Jeffersonian principle that the best government is the least government.

In fact, just 177 years ago, Jefferson in his first inaugural address described that government: "A wise and frugal government, which shall restrain men from injuring one another, shall leave them otherwise free to regulate their own pursuits of industry and improvement and shall not take from the mouth of labor the bread it has earned."

That government was never designed and never given a mandate to increase the standard of living of its citizens. That task fell to the ingenuity and the diligence of each individual citizen.

Yet today in this country we have a government edifice which, in fiscal 1979, has a recommended budget of a half trillion dollars, a deficit of $61 billion, and a national debt of $873 billion. Just to pay the interest on a debt of that magnitude costs Americans $49 billion annually.

By way of putting this financial nightmare into some kind of perspective, consider:

That the net profit of all corporations in the U.S. in 1977 was a scant $102 billion, barely one-fifth of the Federal Government's proposed new budget.

That the net profit of all U.S. farmers is only around $22 billion, roughly equivalent to the current budget of the U.S. Department of Agriculture.

That the net profit of all oil companies is only around $12 billion, slightly less than the Department of Energy's proposed 1979 budget appropriation.

The point of this is that at least the U.S. consumer received goods and services in return for the money he paid to the oil companies, the farmers and the manufacturing and service sectors. But that which he paid in taxes to support this huge governmental edifice I describe was too often non-productive dollars which gave little or questionable value in return, which took resources out of the economy and which fueled inflation.

While even men of good will may not be able to agree on the appropriate size for government, they all must concur that if government grows faster than the private sector that supports it, we are all in deep trouble. And that is precisely what has happened. Today there are 15 million public employees in the U.S. To quote Jefferson again . . . a man of rare perception . . . he characterized government employees as a group from which "few die and none resign."

One respected economist, Allan Meltzer, estimates that the government has grown anywhere from 75 percent to 100 percent faster than the private sector during much of our nation's history. If government programs continue to escalate as they have in recent years, we can confidently expect that by the year 2000 more than 50 percent of our Gross National Product will be required to support the Federal Government. Put another way, six months of the year we will all be working for Uncle Sam, since he will be the recipient of half of our income.

Yet everyone agrees that these vast sums of money are being spent neither wisely nor well. This situation cries for management tools to be brought to bear on the administration of government.

How government has reached these proportions, while doing an inept job is difficult to understand. Surely there is a dichotomy in the fact that government has flourished at the same time that it has been something less than a rousing success.

The welfare system is acknowledged to be a dismal failure: the Social Security System was on the brink of bankruptcy for having paid out or promised benefits that far outstrip its revenues. And nearly all the agencies that promised to protect the consumer, preserve the environment, channel energy resources, and reform unsafe working conditions, have made their primary goal the maintaining and increasing of their budgets and their staffs.

I had often heard it premised that one of the reasons why government has grown by such quantum leaps is because it is too much trouble to investigate the true worth of existing government programs. I dismissed that as absurd until several weeks ago when I read in the paper that a certain politician was not in favor of zero-based budgeting. His reason: He couldn't in good conscience support zero-based budgeting, he said, because he didn't think the nation possessed the tools to judge whether existing government programs were effective or not. Therefore, lacking any motivation to the contrary, he concluded it was better to keep on funding them, regardless of their cost.

Have we as a nation become so totally irresponsible that we allow such utterances and such political lunacy to go unchallenged?

The same management tools that force industry to operate on the basis of strict cost-benefit analyses, are precisely the tools we should be applying to government at all levels, because government is the most conspicuous consumer in the history of mankind, and so it has always been.

Two hundred years ago, Adam Smith wrote, "Great nations are never impoverished by private enterprise, though they sometimes are by public prodigality and misconduct. It is the highest impertinence and presumption, therefore, in kings and ministers to pretend to watch over the economy of private people, for kings and ministers are themselves always, and without exception, the greatest

spendthrifts in the society. Let them look well after their own expense and they may safely trust people with theirs. If their own extravagance does not ruin the state, that of their subjects never will."

No less than government, labor too needs management. We have reached the point in this country where labor can tell Congress which laws to pass . . . can tell the President and the courts that laws proclaimed will not be obeyed . . . can prevent willing workers from showing up on the job through intimidation and threats to life, loved ones and property.

The result is that this nation, which so far excelled any other country in its ability to produce goods better, faster and at less cost, has today fallen so far behind in the area of productivity that we have effectively become a no-growth nation. Both Germany and Japan have been increasing productivity much faster than the U.S.

It has become imperative that we redress the structural imbalances in our economy, specifically, the imbalance of power between labor and management, as well as labor and government with the object of bringing wage rates into line with productivity.

Not only have wages been divorced from parallel productivity gains in recent years, but we have been embracing and advancing labor policies which specifically hinder and decrease productivity.

I am not an anti-labor man. I believe organized labor has wrought tremendous positive benefits for the country over the years. But the pendulum has swung so far in the opposite direction that today it is industry which needs championing.

Labor must face up to the unpopular fact that increases in wages can only be justified by increases in productivity. To do otherwise is to accept that America, whose incredible productivity was the model for the rest of the world, has accepted a no-growth policy.

Today, many individuals and groups espouse a no-growth philosophy, stoutly advancing the concept of flash-freezing our economy and our society exactly as it is. I have a marvelous cure for that individual. Let him visit a low income farm family such as the one in which I grew up, and tell them that he bears glad tidings—that they are going to stay exactly as they are! I guarantee the authorities will shortly thereafter notify his next of kin to claim his remains.

We have fallen to a new low in productivity in the U.S. because we have lost that awareness of just what benefits productivity bears in its wake . . . lower prices, more jobs, availability of more goods to more people, a lid on inflation, and a higher standard of living for all.

And those who have not forgotten that payback have oft times deliberately chosen to ignore it because it was politically expedient to do so. I was, for example, a member of a committee of The Productivity Commission established in the U.S. by the President in 1972. The committee suggested to the Commission, among other measures, that it be endowed with the same powers as The National Labor Relations Board and if any labor contract were written in this country that had a non-productive provision or a counter-productive clause that it could be declared invalid.

I don't have to tell you the fate of that recommendation. It was received with precisely the kind of enthusiasm a missionary might display were he invited to dine with cannibals.

Men, machines, money and materials go into the making of products. And that is a combination that Americans have excelled at capitalizing on in the past. No one is more adept at developing technology, making a product, and then marketing the results. It is the thing we do best, despite having somehow lost sight of it. And somehow we must recapture this sense of unity, of "high purpose."

Somehow we must get labor, government and business to accept a philosophy of working together in which every one does not get everything he wants, but everyone gets enough of what he wants to pull together for the common good.

Government and business must share along with labor a portion of the blame for losing this vision. Environmentalism and OSHA have often lowered our sights and diminished our dreams and made us fearful of progress. At one time, for instance, the U.S. contemplated 1,000 nuclear plants to produce energy by the year 2,000. Today that number has shrunk to 400, and it is certain that even fewer will actually be built in the long run.

As for business, it is ominous that spending for research and development in the U.S. has fallen sharply in recent years so that today it is a mere 2.2 percent of the Gross National Product. This is partly because research often does not yield a profitable return until well into the future, and more and more managers see that future as highly uncertain, and are timid about going forward with expansion plans. Several years ago America had 80 percent of the new inventions. Today we have only 60 percent. Germany and Japan are spending the same percentage on research as we are.

Business, as I mentioned early in my remarks, needs better management than it presently has . . . the kind of management that resists unreasonable wage demands, that has the courage to speak out for what needs to be done, listens to and rewards its employees for their innovation and creativity.

There is a myth in America that government creates money . . . that it generates wealth. It doesn't. Government can do many things . . . it can take money from one enterprise and give it to another. It can take from the productive sector and underwrite the social service sector. It can allocate, re-distribute, appropriate and spend. But it cannot generate wealth. That ability resides only in the private sector. Government has nothing of its own, apart from what we as workers and taxpayers give it.

American needs to bring management tools to government so that we may develop a philosophy of growth . . . one which recognizes the needs of the vulnerable and meets those needs without creating and maintaining an unwieldy and inefficient welfare bureaucracy.

America needs to bring management tools to labor so that systems are devised in which labor and management work together and share the rewards when the system operates well . . . and share the penalties when it doesn't.

America needs to bring better management tools to business, so that it is not fearful of competing in world markets and doesn't look to government to bail it out at every turn.

Thirty years ago I sat where you are today and, like you, I made the decisions and the choices that were important to me. Later I moved from the academic arena to business, and when offered an influential position in government, I still chose to stay in the private sector because I felt that it was there I could make the greatest contribution in the areas that mean the most to me. But who knows . . . one of you may be the one who will some day take on management responsibilities in labor and change the face of that movement. Another might choose to buck the tide in government and slowly but surely change the nature of that institution. Regardless of what area you work in, a true management person has a chance to fill an aching void and provide the leadership we need.

As I said at the beginning of my remarks, I worried that I might sound pessimistic . . . a doomsayer or a latter-day Chicken Little confidently predicting that the sky was in imminent danger of falling.

So let me leave you with a hopeful thought. Along with Tennyson I think the prospects for mankind are endlessly fascinating and that you will be the generation to offer the invitation to the rest of us to, "Come take my hand, 'tis not too late to seek a newer world."

Because for all the problems and the anxieties, so many things, including the human spirit, are of an enduring nature. Several years ago I heard a very wise and witty man advise the young that there were still mountains to climb, wine to drink and golden girls and lads to kiss. And I am pleased to advise you that these commodities are in boundless supply and may you enjoy them in abundance.●

EXPORT POLICY

● Mr. INOUYE. Mr. President, in 1977 the United States suffered a record trade deficit of $31 billion on a cost, insurance, and freight basis. For the first half of 1978, the deficit is running at an even higher rate in excess of $40 billion.

In response to this poor performance, President Carter has established an interagency task force on export policy. Regrettably, the report is now about a month overdue and, according to press reports, is being diluted by the White House staff. The fate of this praiseworthy effort raises serious question about the commitment of the administration to resolving this serious problem and its understanding of the nature and ramifications of the trade gap.

The problem besetting exporters is vividly illustrated in the following article. The Department of Justice, in the belief that its proper role in these difficult economic times is to be an adversary of business has adopted a hostile and critical view toward the formation of Webb Pomerene Associations, which offer a means for companies to band together to enhance the competitiveness of American firms. Indifferent to the fact that American power is no longer predominant in the world economy, the Department shows little sensitivity to the new needs and conditions which are undermining American industrial and commercial competitiveness.

I have introduced a bill, S. 2700, to amend the Webb Pomerene (Export Trade) Act to make it more attractive for American companies engaged in the service trades. A companion bill has been introduced in the House by Representative JOHN JENRETTE. I would hope that the administration, as part of its evaluation of our export programs and policies, would decide to support this legislation and utilize it to further this Nation's international trade objectives.

I ask that an article about this matter be printed in the RECORD.

The article follows:

WEBB-POMERENE: WASHINGTON SENDS BUSINESS MIXED SIGNALS

In the report that Commerce Secretary Juanita Kreps is giving President Carter from her department's task force on improving U.S. exports, one inconspicuous item calls for expanding the old (1918) and obscure Webb-Pomerene Act. The act allows U.S. exporters to band together for joint

marketing, to set uniform contract terms and even to fix prices—provided they do not make agreements with foreign producers or take actions that adversely affect the U.S. domestic market. In short, it provides for an exemption from the Sherman and Clayton Acts at the water's edge. Predictably, the Justice Department's anti-trusters are leery of the whole idea.

The Webb Act now covers only product exports. But the Commerce Department and some congressmen would like to extend this (under bills now pending in both Houses) to include services. Thus construction or engineering or architectural firms, for example, could bid jointly on foreign projects, thereby competing better against the package bids of other international bidders.

"The Webb Act represents the underpinnings of what could become the U.S. equivalent of Japan's trading companies," says Frank A. Weil, Assistant Secretary of Commerce for Industry and Trade. "The fundamentals are there, but [the Act] has never been much used by the American business community."

One reason for this is that few Webb Act associations have succeeded. Of over 250 formed in the last 60 years, only 30 survive, and few of these could be called successful. None has had enough control over its product to fix prices; the main successes have been in arranging joint transport, winning bulk orders and (most important) setting up international marketing networks. Today there are successful associations in phosphate rock, pulp, paper and paperboard, movies and perhaps in sulfur (now under severe pressure from foreign producers). But enough have crumbled in areas like copper, abrasives and carbon black so that Webb associations last year racked up less than 2% of U.S. exports, *vs.* 17.5% at their peak in 1930.

This decline has been at least speeded by the thinly veiled hostility of the Justice Department, which has long viewed Webb-Pomerene as a kind of monopoly incubator. Some Webb associations have faced antitrust prosecutions over the years, charged with conspiring with foreign comeptitors or adversely affecting U.S. prices. Most of these cases came up in the late 1940s and early 1950s, when companies that wanted to export could easily do so on their own; however, the resulting nervousness among businessmen about Webb associations continues today.

"For the recommendations of the Commerce Department to be effective," says Vincent Travaglini, director of the office of international finance and investment at Commerce, "we must increase the credibility of the Webb Act antitrust exemption among businessmen. Many of them are now gun-shy of the whole thing." Adds Frank Weil: "Justice takes a rather parochial view of a lot of these issues. We just hope they let others in our society take a more balanced view of the whole international picture."

But Justice's trustbusters continue to wave the bloody shirt of monopoly. The Antitrust Division's Douglas Rosenthal says: "How can we attack OPEC as a price-fixing cartel and be very sanctimonious about Webb associations? You know, the antitrust laws make a great whipping boy for the fact that the associations haven't been very successful in our history."

This knee-jerk bureaucratic reaction notwithstanding, the fact is that many U.S. products should be able to benefit from the Webb Act. Not so much the machinery and high-technology products that make us the bulk of U.S. exports and that compete on quality and uniqueness, but bulk commodities, notably farm products. U.S. broiler producers are now considering setting up a Webb association, and soybean and rice are possibilities. Extending the Act to include services would help construction firms and the like compete against the joint bids of foreign cartels.

"It used to be argued that the U.S. should repeal the Webb Act because it would set an example and maybe get some of the Common Market countries to repeal their [export cartel] laws," says Marcus A. Hollabaugh, senior partner in Foley, Lardner, Hollabaugh & Jacobs, a Washington law firm specializing in Webb-Pomerene. "This is crap. Maybe when we had a favorable balance of trade and wanted to be a good Uncle Sam, that was okay. But to make that argument in a situation like we have now is just asinine, if you ask me."

If only the bureaucrats would get their act together!●

HALT CONSTRUCTION OF THE HART BUILDING

● Mr. CHAFEE. Mr. President, on July 14, I introduced an amendment to the legislative appropriations bill which would rescind all unspent funds that have been appropriated for construction of the new Philip A. Hart Senate Office Building.

Today, the Appropriations Committee completed its consideration of that bill, without taking any action on my amendment. However, Senator PROXMIRE, a member of the committee and a cosponsor of my amendment, attempted to get a vote on the issue with a similarly worded amendment of his own.

Unfortunately, the amendment was tabled. Nonetheless, when that bill comes to the floor, I intend to request a vote on my amendment. In the meantime, I feel it is important to respond to one critical point which I am told was made repeatedly by members of the Appropriations Committee.

That point was we are crowded into an average of about 60 square feet per staff member, while each person should have the approximately 150 square feet the Hart Building would give them.

Do any of us really believe that if the Hart Building is completed, we will keep our staffs at the size they are now, and everyone will lounge around in 150 square feet? Look at the facts. Our staff has doubled in the past 10 years, and the Architect of the Capitol has estimated staffs will grow by about another 3,000 people in the next 10 years.

In other words, we will simply fill that newly available space, and everyone will be back down to the Senate standard of 60 square feet. Then we will start talking about squandering Federal moneys on a fourth building for ourselves.

The time has come to draw the line, bite the bullet, and start reversing the trend of an ever-growing bureaucracy. I am beginning to think it must have been some kind of miracle back in the early 1950's, when 96 Senators functioned very nicely in just one building.

I think it might be helpful to summarize the main points in this issue. To do that, I ask that the briefing paper I submit be printed in the RECORD.

The information follows:

CHOICE CONFRONTING SENATE ON HART BUILDING COSTS

COSTS TO COMPLETE

Presently appropriated, $85 million.

Architect's estimate early in 1978, based on initiating interior construction in August 1978. GAO says the $122 million figure is unrealistically low, $122 million.

Likely final cost based on past pattern of cost inflation of the Hart Building and completion in 1981, $213 million.

COST TO TERMINATE

Estimate: $30,990,000 as follows:

1. Expended as of July 1, $15,990,000.

2. Plus $15,000,000, in contract termination costs based on negotiations, not contractors wish-list. Termination costs as estimated by the contractors: $15,000,000 to halt the $34,-180,000 superstructure contract and restore the Dirksen Building; maximum of $3,000,000 for exterior marble contract; and possibly $2,200,000 to terminate the outside architect's contract.

COST FACTORS NOT INCLUDED ABOVE IN "COSTS TO COMPLETE"

(1) Further Delays: The Architect has said his $122 million figure is based on awarding the "interior" contract (estimated cost of $55,516,000) by the end of this month (July). No request for bids has yet been issued. Once it occurs (possibly next week) it is likely to take a minimum of four months before an award is made, with construction not occurring until sometime after that. Thus, at least four more months have been lost with further cost inflation.

(2) Interior Furnishings: Cost unknown.

(3) Renovations to Dirksen and Russell Buildings to expand existing Senate offices: costs unknown.

(4) Cost of added staff filling available space in new building—estimate at $50,000,-000 yearly (2,500 employees at an average of $20,000 each).

(5) Added costs for maintenance, police, heating, cooling of new building: unknown.●

25TH ANNIVERSARY OF STATION KLAS–TV

● Mr. CANNON. Mr. President, on July 22, 1978, Nevada's first television station, KLAS–TV in Las Vegas, will celebrate its 25th anniversary. On that same date in 1953, at 7 p.m. to be exact, the switch was pulled bringing power to the transmitters at channel 8.

Since that day, the growth of television communications in Nevada has been as substantial as the growth of the State itself. Las Vegas and Reno are now served by a full complement of network, independent and public broadcasting outlets which bring quality television throughout our State.

KLAS has played a prominent role in that growth. The Hughes Tool Co., which became a fixture in Nevada during the 1960's, bought the station in 1968. A new transmitter site atop a ridge overlooking the Las Vegas Valley was selected shortly thereafter and better reception soon became a reality for Las Vegas viewers.

The next step in the Station's development came a little over a year ago with construction of a modernistic broadcast center just off the famous Las Vegas Strip. Station officials believe they have the most sophisticated and most current plant in the country.

On-air operations and production control rooms are independent of each other, thus affording the production department flexibility to function during regular broadcast hours. As a result, the production department has become heavily involved in local, regional, and national production as befits the city universally known as "the Entertainment Capital of the World."

The latest development regarding KLAS was its sale to Landmark Commu-

nications, Inc., of Norfolk, Va., which owns and operates a number of broadcast outlets and newspapers. Station officials believe this move portends continued growth and improvement.

As with most successful businesses, KLAS–TV has played a major role in community activities. A top-rated news team, substantial public affairs programming and a leadership role in such projects as the Jerry Lewis telethon for muscular dystrophy have earned it widespread praise.

This 25th anniversary of KLAS–TV is a proud moment for station officials, but it is also a milestone in our State's development. Nevadans have seen their State grow and prosper over the past quarter-century and the success of KLAS is a fitting example of that progress.●

ADDRESS BY DR. ROBERT N. BUTLER ON "WHY SURVIVE?—2078"

● Mr. GLENN. Mr. President, the population of the United States is becoming increasingly older.

Nearly 200 years ago when our Nation declared its independence, only about 2 percent of all Americans were 65 years or older.

By 1900, there were 3 million older Americans, accounting for 4 percent of the total population.

During the 20th century, the number and proportion of elderly grew rapidly and steadily. In 1966, our Nation reached a milestone when senior citizens represented 1 out of every 10 Americans.

And today, one out of every nine persons in the United States is an older American.

This demographic change has important and potentially far-reaching effects for our society today as well as tomorrow.

The Senate Committee on Aging, of which I am a member, will conduct 3 days of hearings on the impact of the graying of our population on "Retirement, Employment, and Lifelong Learning."

Colleges and universities throughout the country are also directing attention to the social and other implications of increased longevity.

One example is the University of Minnesota, which recently held a conference on "Frontiers in Aging: Life Extension."

That conference focused on several important and fundamental questions, including:

Is it possible to substantially prolong physical and mental health?

What biological, cultural, social, and other factors affect longevity?

Are there ethical implications for increased longevity?

What is the relationship of quality of life to extending life?

What impact will increased lifespan have upon our social, political, and economic institutions?

One of the major speakers at this conference was Dr. Robert N. Butler, the director of the National Institute on Aging.

Dr. Butler provided a sequel, in a sense, to his Pulitzer prize winning book, "Why Survive?—Being Old in America." This time, however, his subject was more futuristic, "Why Survive?—2078."

He made many thoughtful and powerful points in his presentation. He concluded on an upbeat in offering an optimistic opinion that our Nation will view extended life expectancy as a triumph.

Dr. Butler said,

In the past, society has adapted to such major changes as the industrial revolution, and there is no reason to think that it will not adapt now to our demographic revolution. In time, perhaps we will come to view extended life expectancy as the triumph it really is and stop entertaining romantic notions of life in the past.

Mr. President, the Aging Committee is scheduling hearings on retirement policy as the population becomes increasingly older. As a prelude to those hearings, I commend Dr. Butler's speech to Members of the Senate and ask that it be printed at this point in the RECORD.

The speech follows:

WHY SURVIVE?—2078

Man has searched for centuries for a Fountain of Youth, and our literature is replete with allusions to that quest. Jonathan Swift wrote in "Thoughts on Various Subjects" that "Every man desires to live long, but no man would be old." Eugene Ionesco put it even more succinctly: "Why was I born, if it was not forever?" A question that we must consider, though, is why longevity is so important to us. Are we afraid of facing the fact that we will all someday die? Do we look for immortality because we are reluctant to face the problems of today? Or is it simply an innate element of human nature to struggle to survive as long and as well as possible?

The title of this speech, Why Survive?—2078, is meant to be provocative. Some might ask why we should bother to try to survive to 2078, since life in the later years is often fraught with poor health and limited finances. Others would counter that we are at last coming to a point at which a healthy, vigorous old age is possible, even likely. We have the opportunity here today to examine what the future might hold as we discuss how an extended life will affect all aspects of our existence.

In this century, we have achieved a vast increase in life expectancy—from 49 years in 1900 to 73 years in 1976. These gains are the result of advances in the prevention and treatment of childhood diseases and a reduction in maternal mortality. Only 41 percent of the babies born in 1900 reached age 65; in 1974, some 74 percent reached 65. In contrast to the startling gain made in preventing infant and child mortality, the gain in life expectancy between ages 65 and 80 has been more modest. In 1900, 33 percent of those who reached age 65 survived to age 80; in 1974, the figure was 51 percent.

Our longevity is a reflection of the fact that we are now able to live out a greater portion of our intrinsic life span. That is, our life expectancy—the number of years each individual can expect to live, based on statistical probability—has increased. Life span itself—the inherent length of life of a particular species or organism—has remained unchanged in this century, and apparently throughout recorded history.

Although how long one lives is clearly important, of greater concern is the quality of those years. Society was not prepared for the increased life expectancy of this century, and as a result too many elderly have spent their "golden years," poor, dependent, and sick.

George A. Sacher, winner of the Gerontological Society's 1976 Kleemeier Award, has defined gerontology as more than decline; it is also a process of accumulated wisdom and continued growth. In Sacher's words, "Gerontology is not the science of aging, for that definition is a concession of defeat. It should be considered to be the science of life in the aspect of its finitude, because this more general definition puts aging in proper perspective with longevity and death, and points to the possibility of an evolutionarily and humanistically meaningful transcendence of that finitude as a result of future biological research." In other words, future biological research may lead to a true extension of the human life span, but this extension can be made meaningful and valuable by fitting it within the framework of a social system which has made the changes necessary to adapt to longer living members.

Sacher's thought reminds us that we must view the elderly as a human resource, not as useless members of society. Extended life expectancy should lead to new social roles for the elderly; they could participate in civic and political activities, or could join the growing ranks of health and service providers. The elderly have significant contributions to make to society, if we only let them.

People often anxiously ask what the impact of life span extension will be. While we cannot know this for certain, we can speculate on how a scientific breakthrough in life span extension would change society. One possible result is indicated by the events of this century, where increased life expectancy has led to numerous derangements and dislocations that have left many elderly in poor health, with little money, and with low social status. But this is only one possible outcome, and the purpose of a conference such as this one is to stimulate us to use our imaginations and accept the challenge to consider how we would form a society with greater numbers of vigorous older people.

There has been much talk about the extension of life through the use of sophisticated technology to overtreat dying people, including the elderly. With respect to older people, there is indeed some unnecessary overtreatment and mistreatment—overuse of diagnostic technology and therapeutic drugs, such as tranquilizers. But on a national basis, what is much more common is the undertreatment of the elderly, who with proper care could be restored to active and effective status. The absence of the basic principles of geriatric medicine in medical education is partly responsible for this problem. The NIA is encouraging the incorporation of geriatric medicine into the curricula of American medical schools, residency programs, and the continuing education courses of already practicing health practitioners. The rapidly increasing numbers of old people in this country and the spiraling health costs related to their care makes this an especially appropriate time to introduce medical students, physicians, and other health practitioners to the special procedures of primary care which are necessary to treat their older patients. If geriatric medicine is not introduced into medical school curricula, we lose the opportunity to interest future health practitioners in geriatrics or aging research. We also miss a chance to improve service delivery to the old and thus contain health care costs.

The coordinators of this conference have distilled the issue of life span extension to the following five questions, which I will touch upon in my talk and which will be dealt with in more detail by other speakers. The questions are:

1. Is it possible to substantially prolong physical and mental health?
2. What social, biological, or cultural factors affect longevity?
3. What are the ethical implications for increased longevity?

4. How does quality of life relate to life extension?

5. How will increased life span alter social, political, and economic institutions?

RESEARCH ON AGING

The National Institute on Aging (NIA) was created in 1974 to conduct and support biomedical, social, and behavioral research and research training related to the aging process and the diseases and special problems and needs of the aged in America. This broad mandate allows us to examine all aspects of aging and develop a knowledge base about the aging process. We hope to find ways to reverse, delay, or in some other way ameliorate the deleterious affects of human aging, and in this way enhance the overall quality of life. These efforts would also contribute to increased life expectancy, as would the research being conducted by the other National Institutes of Health. For example, if the work of the National Heart, Lung, and Blood Institute to eradicate cardiovascular disease is successful, it has been estimated that theoretically more than eleven years would be added to the average human life expectancy. This increase is only theoretical because the elimination on one disease would leave people vulnerable to others. The absence of heart disease, for example, might mean that more people would die of cancer. A more realistic estimate of the increase in life expectancy as the result of the eradication of heart disease would be four years.

Ludwig Aschoff, a German pathologist, wrote in 1938 that "It is my conviction that natural death in human beings never occurs, or only in rare instances. Autopsies which have been made on the very old always show a pathological cause." Yet, as we learn to prevent or treat more and more diseases that were once mass killers, we move to the point at which aging, not disease, becomes the limiting factor in life expectancy. Seventy to eighty percent of all deaths now occur after age 60. Clearly, we must investigate basic cellular and molecular biology if we are to unravel the secrets of how and why people age. If we can develop an understanding of the variables that lead to cell senescence, we might be able to selectively target cells and induce senescence. A prime candidate for this activity would be the cancer cell which in its pattern of wild prolific growth could be viewed as diametrically opposed to the aging cell. Such studies might provide us with the means to cure cancer and a host of other diseases.

Another reason that we need more research on the basic biology of aging is that we don't have biological markers with respect to age. People age at different rates, yet we have no way to measure an individual's biological age throughout the course of life. The implications are clear: how could we test a "life expanding" drug if we have no way to evaluate its effect on the aging process?

While basic research of this sort may not have the extension of the life span as its main goal, it is possible that the ability to extend life might be a fringe benefit. As the Russian gerontologist Zhores Medvedev put it, "The new effective methods of research on the nature of age changes puts us not at the end of the road leading to control over the life span but rather only on the first hill on this road; we can see now how high the mountains behind this hill are and how many long and diverse ways lead there, whereas many of us some time ago had hoped to find only one short path."

It is interesting to contrast the Soviet attitude toward life span extension with our own. We wrestle with the moral and ethical issues of an extended life span; we hold conferences and write entire books on the subject. The Russians, however, see an extended lifespan as a desirable goal that is in harmony with the Socialist viewpoint. Professor Grigory Pitzkhelauri, a Georgian gerontologist, expressed this sentiment in "People of High Longevity in the Central Asian Republic of Georgia:" "We, the Soviet people, are not frightened by the problem of 'aging' of the population which so excites the rulers in the capitalist countries where old age is the saddest and most burdensome period of life." Labor is considered to be the source of longevity, and intellectual work is said to strengthen cerebral activity in later life. The role of heredity is minimized, and major emphasis is placed on the socioeconomic aspects of life. The Russians see the keys to a long life as being self-restraint, self-control, and knowing how to suppress negative emotions.

THEORIES OF AGING

Over the years, a number of theories have been advanced in an attempt to explain how and why cells, organisms, and people age. No single theory or group of theories has yet explained all aspects of aging, although many have added key pieces to the jigsaw puzzle.

Observing sex differences in longevity, the fact that life span of species are fairly consistent, and statistical data which show that the death rate is greater when both parents have died young, many scientists have postulated that life span is genetically determined. This theory holds that the genes of an organism contain a "program that determines life span."

Another genetic theory of aging assumes that aging is due to somatic mutation and the gradual accumulation of mutated cells that do not function properly. A related theory postulates that cell death is the result of "errors" introduced in the formation of key proteins, such as enzymes. These errors are thought to result in the creation of proteins that do not perform normally.

Other theories of aging focus attention on factors that can influence the expression of a genetically determined "program." One of these is the "wear and tear" theory, which holds that animals and cells simply wear out, like machines. An example of "wear and tear" is the accumulation of waste products such as lipofuscin—the so-called "age pigment"—which might interfere with cellular function.

The formation of cross-links between or within molecules of collagen has been shown to cause a loss of elasticity with age in tendons and skin. The "cross-linking" theory of aging assumes that similar cross-links form in other biologically important molecules, such as enzymes, and alter their structure and shape so that they are unable to carry out their functions in the cell.

Still another set of theories views aging as the manifestation of a disruption of cellular interactions. This approach would explain the decrease in immune capacity that has been shown to occur with advancing age. The autoimmune theory of aging assumes that immune cells somehow lose their ability to distinguish the body's own cells, and attack them as they would foreign substances.

Longitudinal studies such as the one being conducted at the NIA's Gerontology Research Center in Baltimore can provide valuable information on normal aging that will help elucidate the hows and whys of the aging process. Dr. Nathan Shock, who established the Baltimore Longitudinal Study in 1958 and directed the Gerontology Research Center for nearly twenty years, has pointed out that all the theories put forth to date have attempted to explain aging in terms of cellular and molecular changes. In reality, he has noted, age changes are much more marked in the overall performance of an individual than in those cellular processes that can be measured. The decline with age in the ability to perform muscular work, for example, is much greater than any changes that can be detected in the enzyme activities of the muscles that perform the work. Dr. Shock postulates that aging in an individual may be due to a breakdown in the control mechanisms that are required in a complex activity.

The only clear fact that has come out of all this theorizing is that much more research needs to be done on the biology of aging, so that we can prevent decline and disease, or treat what we cannot prevent, and thus improve the quality of life by extending the years of health and vigor.

Many "cures" for aging or keys to renewed youth have been proposed, but to date none has been proven effective in clinical trials. At best, many of these treatments may only be harmless curiosities, but not enough is known about their long-term dangers. The ingestion of antioxidants such as Vitamin E, for example, is thought to combat the effects of free radicals (part of the "wear and tear" theory of aging). Similar claims have been made for the effectiveness of Gerovital, hyperbaric oxygen treatments, and even a "No Aging Diet" consisting mainly of fish.

The purported anti-aging remedy Gerovital has been widely used in Europe and South America for the past 25 years. Based on simple procaine, the pain killer used by dentists, Gerovital is claimed to delay the aging process and alter the causes of common chronic diseases which sometimes appear in middle and later life. Developed by Dr. Ana Aslan, Director of the Institute of Gerontology and Geriatrics in Bucharest, Romania, Gerovital has attracted worldwide attention and drawn many famous visitors to the Romanian clinic. According to Dr. Aslan, Gerovital will do everything from relieving the symptoms of psychiatric disorders to alleviating the physical distress of chronic degenerative disorders, restoring natural pigment to skin and hair, and adding years to the recipient's life. However, presently available studies do not support these claims and carefully controlled clinical trials are needed to evaluate Gerovital's effectiveness in these areas.

Gerovital has been shown to be useful as an antidepressant. An American study which compared the antidepressant effects of Gerovital with those of a highly regarded antidepressant and a placebo revealed that Gerovital worked as well as the approved antidepressant and significantly better than the placebo. Preliminary evidence also suggests that Gerovital may act to inhibit the functioning of monoamine oxidase (MAO), an enzyme found within the cells of most tissues which has been tentatively associated with depressive illness.

The main problem with these treatments is that they do not address the basic cause or causes of aging; they can at best only provide relief from some of the decrements associated with the aging process.

LONGEVOUS POPULATIONS

A frequent question that comes up in discussions of life span extension is the validity of claims of exceptional longevity in certain populations, most notably in Ecuador, Hunza, and Soviet Georgia. At a recent meeting sponsored by the National Institute on Aging and the Fogarty International Center, Dr. Richard Mazess of the University of Wisconsin at Madison and Dr. Sylvia Forman of the University of California at Berkeley disclosed that those persons thought to be centenarians in Vilcabamba, Ecuador, are not. In cooperation with Ecuadorian scientists, Drs. Mazess and Forman conducted systematic studies of naming patterns, observed the frequency of age exaggeration, studied population migration patterns, and investigated civil and church records. Based on these findings, they compiled a list of persons born before the year 1900 and found that the oldest was 96.

According to the investigators, much of the confusion stems from the custom of passing a family name from one generation to the next. Because of this, the actual re-

corded birth dates of those persons living in Vilcabamba are frequently confused with those of their parents and grandparents. In addition, a common practice is to give a surviving child the same name as that of a sibling who has died. Consequently, a person's age is often the sum total of more than one family member.

The scientists also found that after the age of 60, many villagers begin to exaggerate their ages. Increased world-wide attention has exacerbated this phenomenon. "We had one woman who told an Italian television crew she was 146," Dr. Mazess said. "She said she had her last kid when she was 115."

According to Dr. Alexander Leaf of Harvard Medical School, who first brought public attention to the long-living Ecuadorians, there is still much that can be learned by looking at the people of Vilcabamba and other long-living populations. For one thing, the incidence of atherosclerosis in people 80 and over is uncommonly low. In the United States, the number of deaths caused by this hardening of the arteries peaks at age 80. In addition, Dr. Mazess' work shows that there are fewer bone fractures in elderly Vilcabambans despite the loss of bone density that is common in old age. This is perhaps attributable to the physical activity that goes along with life in the mountains.

Zhores Medvedev has written about the importance of certifying the validity of claims of longevous populations in a paper on "Caucasus and Altay Longevity." If longevity is proven to vary according to geographic area, it supports the belief that there is "a real secret of longevity, and that the life span can easily be controlled and prolonged by some comparatively simple external factors. This pattern of life span variations in the human race would favor the theory predicting one or two (or a few) *main* causes of aging, and one or two aging rate control mechanisms dependent upon external factors." However, Medvedev claims that there is no evidence that long-living populations exist in Soviet Georgia, and ascribes the claims of longevity to several social factors. First, a great deal of honor is accorded the very old, and a great deal of local and national publicity make being extremely old a very desirable status. The Soviet Union considers a record number of centenarians a "special social achievement," and therefore encourages such claims while discouraging critical scientific studies. Finally, Medvedev speculates that Stalin, who was a Georgian, has a personal interest in perpetuating the accounts of longevous populations in this area, both to reassure himself and to convince others that he would live to a healthy old age. Still, we must maintain an open mind about the Abkhazians of the Caucasus.

Although claims of exceptionally long-living populations have yet to be substantiated, demographic studies have shown some variation in life expectancy related to geographic area. Minnesota, for example, is second only to Hawaii for longest average life expectancy. Such data indicate the need for demographic and epidemiological studies of geographical areas, racial and ethnic groups, and families to determine the interplay between biology, social status, and environment in longevity.

NIA RESEARCH

NIA research is aimed at understanding the aging process so that we may accomplish the following:

1. Extend the healthy middle years of life;
2. Equalize the life expectancy between men and women and among various racial and ethnic groups;
3. Maximize the opportunity for more and more people to live out their inherent life spans; and,
4. Extend the human life span.

Through research on the great integrative systems of the body, we hope to improve the quality of life in the later years. For instance, research on the central nervous system may help us overcome the enormous toll taken by organic brain disease; research on hormones may help us maintain the physical health of women in the postmenopausal years; and research on the immune system may help us maintain and in some cases restore the resistance to pathogens that decline with aging. In addition, certain life style studies—such as the effects of nutrition and physical fitness—may eventually help us to prevent disease and disability in old age.

We are particularly interested in the reasons for the differential life expectancy between men and women and among racial and ethnic groups. Women currently live an average of eight years longer than men while blacks, Hispanics, and American Indians face a less than average life expectancy. We have established a unit of Epidemiology, Demography, and Biometry to be the focal point for these studies. In addition, this year we have added women to our ongoing Baltimore Longitudinal Study of Aging which has regularly examined over 1000 men ranging in age from 20 to 96 since its inception in 1958. Because the women are for the most part wives and daughters of the male participants, we will also be able to do longitudinal studies of families.

One interesting finding that has come out of the Longitudinal Study is that mild and moderate obesity do not appear to affect longevity, despite past reports to the contrary. The estimated percent of body fat in 50- to 89-year-old men who have survived was a trivial 1% less than those who died. Other studies have yielded similar results; for example, a survey in Alameda County, California, in men and women aged 50 to 89 showed the highest mortality in the leanest and most obese groups, but revealed little or no difference in mortality in those groups ranging from their "desirable" weights up to 30% overweight. It would seem that obesity not only has risks and hazards, which have been well-studied, but also counter-balancing survival benefits which are not well understood and which therefore deserve further study.

Another area that holds promising practical results is the study of the role of receptors in the aging process. Receptors, which are the means by which hormones transmit messages to target cells, appear to decline in number with advancing age. In addition to examining why an older person has fewer receptors, NIA scientists are studying whether certain chemicals can stimulate the cell to produce more receptors, with the hope that this will enable the individual to regain some of the hormonal effects that are lost with age.

CONCLUSION

Life span extension is not simply a biological issue. It may begin as such, but it quickly moves beyond the sphere of science to involve society as a whole. The consequences of an extended life span would be far-reaching, and would necessitate changes in many aspects of our society. However, one does not need to be a prophet to predict what sort of changes will need to be made; all that is necessary is a thoughtful examination of the efforts of the increase in life expectancy in this century. The poverty, dependency, low social status, and age prejudice that victimize and afflict many elderly today indicate what life would be like if more and more people lived longer and society did not make the necessary adjustments. In my optimistic opinion these problems are temporary derangements, brought about by our lack of preparation for the Graying of America. In the past, society has adapted to such major changes as the industrial revolution, and there is no reason to think that it will not adapt now to our demographic revolution. In time, perhaps we will come to view extended life expectancy as the triumph it really is and stop entertaining romantic notions of life in the past. Even so, the prospect of a longer life span would require us to rethink the present system of work and retirement, as well as to devise ways to alleviate added drains on the earth's resources, increased pollution, and less space.

The Futures Group of Glastonbury, Connecticut, was awarded a National Science Foundation Grant to study the possible effects of extensions in life expectancy and life span. Theodore Gordon, the President of the Futures Group, reported their findings at the recent meeting of the American Association for the Advancement of Sciences. They used the Delphi system of analysis, in which a panel of experts is given a series of individual interrogations interspersed with feedback of other panelists' opinions with the goal of reaching consensus. Partly because the responses are anonymous, it is felt that Delphi goes beyond the realm of what is known or can be predicted statistically, to incorporate an element of intuition. The Futures Group predicted that even if life-extending technologies were available today, their effects would not be felt until well into the next century, because these technologies would probably have to be applied starting at an early age. If there are no major medical breakthroughs, the number of elderly is expected to increase from 22 million to 46 million by 2025. However, the Futures Group speculates that if the major diseases of old age are controlled, there are likely to be 74 million Americans over 65 by 2025, or 23 percent of the population.

These changes would, of course, have tremendous social and economic consequences. Gordon notes that since the health and vigor of older Americans is expected to improve as life expectancy increases, retirement ages would probably have to be extended. This, in turn, would necessitate new systems to manage a larger work force—these might include shared work, part-time work, and shorter work weeks. Health care costs could be expected to decrease as more and more people reach a healthy old age. Finally, the large numbers of elderly would make that group a potentially strong political force, but Gordon predicts that this would not be translated into actual influence because the aged are traditionally a heterogeneous group, politically as well as in other spheres. My own view is that this final thought would not prove true. Older people would indeed become an influential voting bloc.

In recent testimony before the House Select Committee on Aging as a part of hearing on "Aging in the World of Tomorrow," Alex Comfort made a thoughtful statement on why research on aging should continue: "Any intervention which alters the so far constant pattern of mortality with age, however small, will remove the floor from under all actuarially based forecasting, because once life span is actively manipulated we cannot estimate the likelihood of further change. Insurance, demography, pension computation, and Social Security forecasts will all become contingent. For this reason alone, I think this country has to engage far more actively in this type of research if only to determine its limits. We know that aging is potentially modifiable; if it is modifiable, it will eventually be modified."

In his book "Prolongevity," Albert Rosenfeld wrestles with the possible effects of a significantly extended life span—and who is to say that once we are able to increase the life span moderately, we wouldn't want to go one step further and increase it substantially? If we lived for, say, three hundred

years, Mr. Rosenfeld wonders, would we prize our lives—and those of others—more, or less? Would having more time make us lazy and less adventurous—would we lose our intensity? Or would we use the added time to learn more, to experience more, and to grow and create? George Bernard Shaw, in "Back to Methusaleh," expressed his feeling that an extended life span would be a decided advantage. He wrote: "Men do not live long enough. They are, for all purposes of high civilization, mere children when they die."

Ernest Becker, quoting Jacques Choron, pointed out that "the postponement of death is not a solution to the problem of the fear of death . . . there still will remain the fear of dying prematurely." Becker himself took this view one step further when he wrote in "The Denial of Death": "The smallest virus or the stupidest accident would deprive men not of ninety years but of 900—and would be then ten times more absurd . . . and ten times more threatening."

Even if we are able to extend life, we do not want to end up like the mythical Tithonus, who was granted immortality by the gods but not eternal youth and vigor. To avoid that fate, we must direct our efforts first to extending the healthy, productive middle years of life, which will in turn improve the quality of life. For it is quality, not quantity, that is ultimately of paramount importance. Montaigne expressed this when he wrote of his own old age that "Especially at this moment when I perceive that my life is so brief in time, I try to increase it in weight. I try to arrest the speed of its flight by the speed with which I grasp it and to compensate for the haste of its ebb by my vigor in using it. The shorter my possession of life, the deeper and fuller I must make it."●

HART SENATE OFFICE BUILDING

● Mr. LUGAR. Mr. President, the cost of the Philip A. Hart Senate Office Building was estimated at $48 million when the money was first appropriated in 1972. In the intervening years, the cost has escalated to over $122 million, with the prospect of costs passing the $200 million mark before completion.

Already the cost of operating our congressional offices has exceeded the $1 billion level. It is my belief that the construction of this lavish new building is an irrational expense which will only serve to assure the continued growth of Senate staffs and legislative budgets.

With the money expected to be spent on the Hart Building, seven of Indiana's most expensive projects could have been built—with millions of dollars remaining. I am certain that the people of my State believe that this money should be more wisely spent for the benefit of all Americans.

For these reasons, I have announced my support of the Chafee amendment, legislation which will halt the construction of the multimillion-dollar building and change the site into a street level park with underground parking for the public. The amendment provides us with the opportunity to stop this project before any greater damage is done.●

THE STATE DEPARTMENT ON RHODESIA AND REBUTTAL BY BISHOP MUZOREWA AND PRIME MINISTER SMITH.

Mr. HELMS. Mr. President, yesterday the Department of State at its press briefing chose to attack the idea of lifting sanctions against the transitional government in Rhodesia. Once again, the State Department, in another outburst of Andy Young mentality, has brought out all the stale trappings of its worn-out policies, trying to convince Americans that there is some merit to the idea of forcing the democratic parties of Rhodesia to accept the demands of the so-called Patriotic Front—revolutionary terrorists who want to impose a one-party Marxist state at the point of a gun.

As Bishop Muzorewa pointed out this morning in an address at the Georgetown University Center for Strategic and International Studies, the external forces are men who are no better than, to use the Bishop's phrase, "Murder Incorporated." And as for the lifting of sanctions being "illegal" and contrary to international law, Prime Minister Ian Smith in Salisbury told reporters that the lifting of sanctions had been first proposed to him by the U.S. Secretary of State in 1976, provided that a transition to multiracial government were put in effect. At that time, no one suggested that the lifting of sanctions by the United States would be "illegal."

Mr. President, so that the entire record can be clear, I ask unanimous consent that the following documents be printed in the RECORD at the conclusion of my remarks:

First. The transcript of the State Department briefing.

Second. The address of Bishop Muzorewa at Georgetown.

Third. The statement of Prime Minister Smith in Salisbury of July 18.

Fourth. The summary of a question and answer session with Prime Minister Smith by AP on July 19.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ANSWER TO QUESTION TAKEN AT THE NOON PRESS BRIEFING, JULY 17, 1978

Q. What is the Department's view on the Helms Amendment?

A. Senator Helms' proposed amendment to the International Security Assistance Bill would place the United States in open defiance of the United Nations and international law by permitting trade with Rhodesia. It would severely undermine our credibility as negotiators in the Rhodesian conflict.

The recent Namibian developments demonstrate what we can accomplish when our position as an honest broker, seeking to end minority rule peacefully, is accepted by the parties. This is the same role we and the British have taken in the Rhodesian negotiations. We have benefited greatly from it throughout Africa.

The external parties—the Patriotic Front—now accept many of our essential principles, including neutrally supervised elections and a UN role during the transitional period. They have also agreed to attend a meeting of all the parties. The internal parties are themselves committed to holding elections. The question is whether the parties can be brought together in an agreed arrangement that can head off a growing civil war.

Congressional support for the Helms amendment would be viewed as a major reversal of American policy. It would damage our relations throughout Africa, and reduce our ability to urge a fair settlement on the Patriotic Front. It would remove an incentive for the internal parties to negotiate about an inclusive, balanced agreement. It would undercut African governments which agree that peaceful settlements to these problems are possible, without resorting to increased foreign intervention.

Without negotiations among the parties, there will be further conflict in Rhodesia, with greater human suffering, greater polarization between the parties, and greater opportunities for foreign involvement.

GIVE DEMOCRACY A CHANCE IN ZIMBABWE

(By Bishop A. T. Muzorewa)

I am on a mission to the United States of America. My mission is to the freedom loving people of the United States and, through them, to the peoples of the free world. My mission is from the freedom loving people of Zimbabwe/Rhodesia, both black and white, and all seven million of them. In a sense, I represent the democratic forces of Southern Africa because my country holds the key to the survival of democracy in Southern Africa.

I have come to rouse and invoke the democratic conscience of America. I have come to demand that America must honour her traditional principle of justice, human rights and national sovereignty and that America must immediately come to the immediate help of nascent democracy in Rhodesia/Zimbabwe where this bud of democracy is, at this very moment fighting for its very existence.

I have also come to America to correct the distortions and outright ignorance regarding the events in Zimbabwe. I feel it a duty to put the record straight in justice to the seven million people of Rhodesia/Zimbabwe whom I represent at this moment.

I wish to start putting our situation into its proper context. The black people of Zimbabwe embarked on a struggle for the democratic way of life more than two decades ago. Our struggle began as a struggle against British imperialism and British Colonialism, much in the same way that the fathers of the American nation embarked on a similar struggle more than 200 years ago. Our own struggle acquired an additional enemy along the way and in the form of white minority rule. After bolstering up white minority rule through granting the whites self government in 1923 and establishing and condoning UDI in 1965, the British slipped into the background hoping that their legal and moral responsibility for Zimbabwe would somehow resolve itself.

The black people of Zimbabwe initially struggled via the orthodox peaceful agitation of political parties. There was a whole series of these political parties. Each one of them consistently demanded democratic reforms. Each one of them demanded one person one vote. Each one of them demanded majority rule and the transfer of power from the minority to the majority. These same democratic demands are the demands of the black majority in Zimbabwe today. The British and the minority regimes consistently and persistently rejected the black demands and the black organisations were successively proscribed. It was then, in the late sixties that the black people resorted to the armed struggle. It must be made clear that the objectives of the armed struggle were the same: one person one vote, majority rule and the necessary mechanics of transferring power from the minority to the majority. There were no other objectives.

It will be remembered that several abortive and half-hearted attempts were made by the British and the minority regimes to meet the black demands and to settle the crisis and bloody conflict and the eventual war precipitated by the continuous denial of black democratic aspirations. Meanwhile, a separate quarrel had developed between the British and the minority regime, a quarrel which

resulted in the filial rebellion of the UDI of 1965. This other quarrel did not alter the legitimacy and intensity of the black demands. Indeed, this other quarrel was and still is an irrelevant side issue, being a quarrel within the camp of our joint enemies.

One attempt to resolve the Rhodesian problem was when, back in 1971, the British and the Smith minority regime agreed on the so-called Smith/Home Settlement Proposals. The black people fought against these Proposals on several counts. No black person had been consulted in their formulation. The Proposals appeared primarily geared toward legalising UDI. The Proposals sought to maintain the status quo and they were simply another rejection of our demands that power be transferred from the minority to the majority on the basis of universal adult suffrage.

I wish to point out, in all humility, that I personally led the black opposition to the Smith/Home Proposals. We exercised the democratic power proffered when the Pearce Commission came to Zimbabwe to test the acceptability of the Proposals and for the first time ever, the black majority exercised their democratic power and their sovereignty and voted the Proposals out. We conclusively demonstrated our ability and capacity to decide our own destiny, to decide what was good for us and what was not good for us. We weighed the Proposals against our principles and we found them wanting and we rejected them. Our massive and sovereign word was taken for its full democratic value and was accepted as final. That is what we expect of the outside world. We expect this that that outside world, whether they be friend or foe, must allow us to be the sole authority in the interpretation of the principles of our struggle. That is what democracy is surely all about is it not, the voice of the majority must be paramount?

The black majority of Zimbabwe continued to fight and frustrate any attempts to foister a sell-out settlement upon them. We wanted a settlement and we wanted peace but never at any price and certainly never at the price of one person one vote and genuine majority rule. Our efforts bore fruit. Our struggle and the war and the sanctions broke the back of the minority regime and wore down its resistance to the establishment of a democratic society.

In November 1977, Mr. Smith asked for talks. Two black leaders and I accepted his petition. Two other leaders, my fellow Zimbabweans Joshua Nkomo and Robert Mugabe chose to refuse. Mr. Smith entered into talks not because we had shifted our demands but because he had changed towards the inevitability. I accepted this petition as sincere. I am often asked how can we be certain of Mr. Smith's sincerity, how can we be assured that he had changed from the evasiveness which had been identified with his politics. I believe that people do change. Mr. Smith, after all, was an old adversary and the one thing I have learned in our struggle is to study the enemy and know him. In November 1977, the Smith we were dealing with was a man turned or forced to turn into a statesman by the reality of his own position. I accepted his declared position that he had accepted the transfer of power on the basis of one person one vote. To this date, I have had no cause to doubt his commitment to the surrender of power to the majority.

A fact not always realised is that we entered into the negotiations on our own terms. These terms were the basic nationalist demands made over the years. I will give these terms:

(a) That the negotiations be inclusive of all the black nationalist parties and that the door be left open for participation of all black leaders of Zimbabwe.

(b) That the objectives of the talks be the working out of the mechanics of the transfer of power from the minority to the majority on the basis of universal adult suffrage with the voting age at 18 years and above for all persons whether they were black or white.

(c) That the negotiations be within the framework of the then current Anglo-American Proposals.

(d) That due recognition be given to the role and well earned and deserved status of the nationalist guerrillas during our struggle by transforming them into the national Zimbabwe Army.

The proof of Mr. Smith's sincerity lies in the fact that he accepted these terms as absolute non-negotiable in our situation. We negotiated for three full months. We gave we took until we sweated out the Agreement signed on March 3, 1978. I want to stress that peace was not the primary objective of this Agreement. I want to stress that we did not set out to find ways and means of ending the war. The Agreement was rather the achievement of liberation from minority rule, the oppressiveness and suppressiveness which had plunged our country into a bloody war. The Agreement was a blow for democracy in a country which, since 1890, had never tasted democracy. It was a blow for democracy in a region then and currently threatened with bloody and chaotic transfers of power and the consequent exploitation of the chaos by external totalitarian forces determined to create a Godless, anti-Christ, one party Marxist regimes. The March 3 Agreement was a blow for economic and political stability in a region where independence often means more misery and hunger and ruined national economies. We avoided the tragedy of killing the goose which lays the golden egg. We have avoided the emotional unrealism so often common at the attainment of majority rule.

Having said that, it is essential to stress the potential for peace inherent in the March 3 Agreement. The Agreement meets the objectives of the war in being a blue print for democracy and freedom and majority rule. The war which has raged in Zimbabwe has been a franchise war. The Agreement countered this by conceding one person one vote. The war in my country had been a violent protest against racial discrimination and the Agreement specifically provided for the elimination by the Transitional Government of racial discriminations. The war has been an armed protest against black poverty and black unemployment and lack of black economic opportunities. The Agreement killed this seed of war by deliberately providing for economic viability and stability and progress after majority rule through measures to retain white confidence and thereby to retain capital and economic skills. Zimbabwe, we are determined, must never be a banana republic. Our national flag must never stand for hunger and poverty as has been the case in some African states I could name. With the active cooperation of our economically productive minorities, we cannot go wrong. Given our already established status as a semi-industrialized nation, given resources, and given our well developed economic infrastructure, we can only be economically viable, all things being equal as I shall explain later.

The Agreement met another prerequisite of peace in another respect. It provided for rehabilitation of nationalist guerrillas through the projected provision of employment and educational facilities. While the war was the last desperate bid to secure the transfer of power from the minority to the majority, the March Agreement was the last possible arrangement to achieve a relatively peaceful and orderly transfer of power to a democratic, stable and prosperous Zimbabwe.

I have given an objective analysis of the March 3 Agreement within the context of the Zimbabwe struggle for majorty rule and independence. I now wish to respond to questions repeatedly put to me about the Agreement, my personal role in it and the prospects of the whole Agreement in the light of its implementation. I am, for instance, told that the Agreement falls short of expectations, a criticism which does not define these expectations, I am told that the Agreement is not perfect, again without being told by what standard perfection is being measured. Arguments are freely thrown around that the Agreement is a fraud, a trick on the part of Mr. Smith through which he intends to buy time with a view to reversing the whole thing later and reasserting the authority of the previous minority regime. It is also regularly put to me that the only answer rests with some sort of all-party conference and that peace is only possible when we bend to the demands of the so-called Patriotic Front. Time is long overdue that we explode a few myths floating around this part of the world.

I am one of the first people to accept that the Agreement is not perfect. I know it is not perfect because I negotiated it and I gave and took and I compromised in the normal manner of all negotiations. The Agreement is not perfect because nothing, and I mean nothing, can be perfect in this imperfect world, let alone in a negotiated constitution of any given country. We all have to strive towards an ideal and our progress towards the ideal must needs be determined by the circumstances of our particular situation. To give an example from the American experience, the attainment of independence for the United States was not achieved through perfect means. There was a bloody war. There were massacres and there were killings and it took no less than 13 years before the constitution of the United States could be written out and its principles spelt out. During that 13 years, the USA had to contend against the reality of its situation. During that 13 years, the United States was in effect in a state of transition. The same can be said of virtually every one of the former colonies in Africa and the Third World. No country emerged with a perfect transitional arrangement or first constitution. In 1958, Dr. Julius Nyerere, for example, was forced to accept not less than three separate and racial voters' rolls in the face of intense domestic and international criticism. In Tanganyika in 1958, the 8 million odd blacks were represented in Parliament by 10 people while the 71,000 odd whites were represented by, again 10 people and the equally small number of Asians had a representation of 10. These odd arrangements took Tanzania to full sovereignty despite their glaring imperfections. Zambia today is still virtually in a state of transition. 14 years after independence, unable as it is to eliminate serious colonial economic hang ups. Angola replaced the Portuguese with the Cubans and may have to start a whole new struggle for freedom and independence—from the Cubans. The tenuous independence of Mozambique is sustained by the gold and expertise of apartheid South Africa despite all appearances. In both Angola and Mozambique, the colonial Portuguese settlers unceremoniously dismissed at independence have all been officially invited back.

We in Zimababwe have at least been honest. From the very onset, we have declared our intention to retain white skills and capital while at the same time fulfilling our beliefs in individual human rights. It would be foolish for anyone, let alone a Zimbabwean, to pretend that the whites have not held absolute political and economic power for 87 years. It would be foolish and wildly unrealistic for anyone to advocate that this white influence be eradicated in a matter of months and still expect the economy to remain viable and independence meaningful. In any event, I do not believe that our white people should be driven into the sea, as the

Patriotic Front so loosely shout. These same white people know no other home being born and bred Zimbabweans.

I believe that the overriding significance of the March 3 Agreement is that it puts power in the hands of the majority. Power is power. Power of the nature held by the majority under our constitution is more than sufficient to adjust any deficiencies in the March 3 Agreement if it is evident that deficiencies are not in the national interest. That is my answer to this particular claim that the Agreement is not perfect, a claim which seems to have so much currency in this part of the world.

It has been contended in the Senate of the United States that the March 3 Agreement is nothing but a ruse on the part of Mr. Smith to buy time and later to reassert the authority of the former minority regime. This contention must be out of ignorance of the situation and indeed Southern Africa. If that is the case, then I find it pardonable. But let me make it categorically clear that there is no more time for whites and Mr. Smith to buy in Zimbabwe. The age of minority rule is gone and burned. Over the past ten years, the war of liberation has pervaded the whole fabric of Zimbabwean life. Since March 3, 1978, major and crippling inroads have been made into the whole philosophy and rationale of minority rule. We now have such a radically changed situation that rightist white members of the Rhodesia Front are now clamouring for the eradication of racial discrimination, the cornerstone of minority rule. All but 123 detainees have been released from detention centres previously established to stifle demands for majority rule. The execution of political prisoners has now been halted during the current review of all cases of a political nature. Previously, political prisoners used to be executed every Monday at Salisbury prison. The March 3 Agreement has put an end to that. Radical and bold measures have been taken to create a freer political atmosphere and to relieve the tight constriction of emergency regulations. Formerly proscribed black political organisations such as ZAPU led by Mr. Joshua Nkomo and the ZANU faction led by Mr. Robert Mugabe are now as free as all other organisations, and in their case to castigate the March 3 Agreement and to advocate violence and more bloodshed. A new constitution, being framed by the people who will live under it, is all but complete.

Additionally, elaborate plans and schemes are in the final stage of completion regarding administrative details for the forthcoming general elections. There are comprehensive plans for the registration of the 3 million odd voters. There are plans for the delimitation of the 100 constituencies. There are contingency plans to meet all unforeseeable situations. We have, for instance, allowed for the situation where security considerations might retard the effective registration of voters and have made arrangements for voters to cast their vote upon the production of adequate identification. We have altered the direction of the ship of state in thought, word and deed toward our set goal of majority rule on December 31, 1978. It is now totally impracticable and out of the question that there could be a reversion to minority rule.

The white people have, at long last, seen the light. They know that they have this choice between the order and peace and security of the March 3 Agreement and the bloodshed and chaos of war to the bitter and followed by possible foreign and dictatorial rule.

Let me say a word about the coming elections. That there will be elections before December 31 must never be in doubt. Elections before that date, and majority rule on that date are among the most fundamental reasons why I for one put my signature to the March 3 Agreement. Security considerations do not allow me to be specific about the actual timing of the elections. It is sufficient to say that the elections will be held before December. it is also necessary to stress that we wish these elections to be fair and free. There is no reason why they should not be fair, open and free. Mr. Joshua Nkomo's party is as politically active as my own or any other party. Mr. Robert Mugabe's party is as politically active inside Zimbabwe as any other. All parties are in fact campaigning already around the March 3 Agreement. Let me also stress another thing. The Transitional Government shall welcome the supervision of the election by the United Nations, the OAU or any such international body wishing to be assured that the elections will be free. Indeed, the State Department or the Kremlin for that matter, could send observers if they so wish.

It is not easy for outsiders to realize that the Transitional Government has done much. We are after all building up a new society, a new state, out of the virtual ruins of the previous one. Much of our efforts at this stage must needs be at foundation level, out of the vision of observers. This, and security considerations are some of the reasons why our successes of achieving an effective ceasefire appear not obvious. Yet, there are right now areas in Zimbabwe in which nationalist guerrillas live side by side with government forces. Observers do not and cannot know that people like me are in daily direct contact with guerrillas. I have a contact group of literally hundreds whose task is to communicate with guerrillas. Now and again, these contact people come up against groups which represent forces hostile to our objectives of order and democracy and some deaths have occurred. Much as I regret them, these deaths are relatively few.

The mass media makes much of the killings of missionaries and white farmers. These killings are taking place throughout the war. Of late, the external forces which seem to control those elements hostile to the democratic processes now developing in Zimbabwe appear to have directed that there be spectacular deaths in Zimbabwe for no other reason than to give the appearance of the escalation of the war. Sick propaganda is the reason behind these tragic killings of innocent and unarmed workers of God and harmless villagers. This trend wil no doubt continue. I find it horrific and callous that the sacred lives of God's people should be worth nothing but propaganda value to the forces now threatening Zimbabwe.

The question has also been posed to me why racial discrimination is still prevalent in Zimbabwe. Admittedly, if I had my own way, racial discrimination, at least in its legislative forms, would have been a thing of the past. Be as it may, a great deal of attention is now being given to this issue. A thorough study is now almost complete and we are about ready to start cleaning our statute books of discriminatory legislation. In a couple of weeks, the question will no longer be relevant. I ought to know since I have just completed a term as Chairman of the Executive Council.

I am also often asked why we have not dismantled the so-called Protected Villages. It is not true that nothing has been done in this respect. We have in fact opened up three Protected Villages as a Pilot scheme. We are now studying the results of this scheme, especially as they relate to probems of rehabilitation. In other words, we are moving towards the abolition of the principle and practice inherent in these objectionable Protected Villages.

Contrary to a popular and deliberately cultivated belief outside Zimbabwe, the Transitional Government of which I am a part is not a tool of Mr. Smith. Indeed, it is an insult to my integrity to suggest this. I accept that Mr. Smith is not exactly a heroic champion of majority rule. It would be miraculous if he were. I accept that Mr. Smith is now preoccupied with promoting the interests of the minorities he leads. That in fact is now his residual political role in our situation. The white people do act strangely at times. But given that they are going through a traumatic experience and given that there is now effective power sharing between black and white, such strange behaviour has to be tolerated for some time.

I am certain that the brief analysis of the current situation in Rhodesia/Zimbabwe serves to correct the distorted versions one finds current abroad. You will now no doubt wish to know from me what Zimbabwe expects of America and the West.

A short while ago, I addressed an International Conference in South Africa on the subject, "The Changing World Order and its Implications for Southern Africa." The appeal I made to the West is particularly applicable to America. Part of my address said,

"Certainly the United States . . . with a strong economic base, was in a better position than the European powers to adopt a posture of guardian of the free world. Its failure to sustain that role is perhaps a commentary on democratic systems of government . . . Furthermore, it is now unfortunately very clear that Africa has become the most significant factor in a new phase of big power confrontation and, unless this situation can be resolved, there will be two losers—Africa and one other. Conversely there will be only one winner and it is highly unlikely to be Africa . . . It seems that Africa is now an element in the battle for world peace. While the situation persists in which one of the big powers is prepared to take chances in the pursuit of its strategic aims and the other remains unsure and unwilling to take risks, there can be only one logical outcome."

That in a nutshell, is the crux of America's challenge over Zimbabwe. I have argued that the surest answer to this problem is that Africa in general and Zimbabwe in particular, must immediately assume an economic viability as the chief weapon against political instability and against the encroachment on Africa's sovereignty by the marauding of imperialism of communism and Marxism. I have called for economic wars and not shooting wars in Africa. I have warned against the dangers of vacuum politics in Africa in the face of the West's virtual withdrawal from the battle for peace and for democracy in Africa. I am now repeating that America and the West have an obligation to help Africa and Zimbabwe with the economic stability we need to survive. Let me relate this more closely to the situation in Zimbabwe.

The international sanctions against Zimbabwe have all but crippled the economy. The international community applied these sanctions in order to obtain a situation whereby the minority regimes would concede majority rule. I came over to the United States myself, back in 1972, and pleaded for the application of sanctions in order that Mr. Smith would be forced to concede to our demands for majority rule. Sanctions have served this purpose. Mr. Smith has succumbed to the black demands for majority rule. Power is right now being transferred from the minority to the majority. The country is right now being handed over to the majority through a process which will be completed on December 31, 1978.

Unless these sanctions are immediately lifted, we, the black majority, will have inherited a hollow shell of a heritage, despite the fact that we have and are striving to retain the present technological skills. More important and in keeping with my general theme unless the economy gets going again soon, we shall have ushered in a Zimbabwe

too weak, crippled and spent out to resist the powerful and armed interferences which may threaten our country and its popularly elected government. I want America to help give us a base on which to build a democratic society. America must throw its freedom loving spirit towards giving democracy a fighting chance in Zimbabwe.

Another appeal I have for America is this. The United States must help nurse the policy of reconciliation now taking place in Zimbabwe. America must assist us in our major task to turn our society from the policy of racial confrontation towards one of reason and order. My appeal is that America switches off its current diplomatic hostility to the March 3 Agreement because this hostility will kill the seeds of democracy. In the same vein, America must stop flirting with the international forces, some of which are vowed dictatorships, which are seeking to destroy us. I am sometimes not clear whether America fully appreciates the nature of the only alternative to the March 3 Agreement. Let me give some of the salient aspects of this alternative.

The alternative is the establishment of an anti-democratic, anti-human rights, anti-free enterprise and anti-Christian regime in Zimbabwe. The Patriotic Front, which the western press has chosen to lionise, is nothing short of Murder Incorporated, formed as it was for the express purpose of achieving a military take over favoured by the forces behind it. This Patriotic Front is nothing more and nothing less than an uneasy and unholy alliance each of whose partners enjoys very little support inside Zimbabwe and is therefore deadly afraid of the ballot box.

Much is made outside Zimbabwe of the patriotic Front's control of nationalist guerrillas. I want the outside world to realise that the majority of the nationalist guerrillas have not been fighting for any one leader or person or party. The majority of them will follow a government elected by the people. Most of them have rejected the idea of being used as pawns by self-centred external forces.

Another myth which needs exploding is this that the mooted all-party conference is some sort of magical formula which will solve Rhodesia's problems overnight, it is forgotten that we all trooped to that other all-pary conference at Geneva under much the same delusion only to discover that the same Patriotic Front had orders to frustrate any efforts towards democracy, peace and order. To this day, nobody has enlightened me on exactly how the proposed all-party conference is essential in the interest of Zimbabwe. Nobody has told me how the miracle will be achieved to persuade the Patriotic Front to accept democracy and the sovereigny of the majority.

It was after all as recent as 19 May, 1978 when Mr. Nkomo publicly declared, "There shall be no elections in Zimbabwe because we are going to disrupt the elections and I can assure you of that because we are at war."

Nobody has ever explained to me why the British and American Governments have chosen to ignore the voice and wishes of the majority and why they are advocating for a black minority government in Zimbabwe a thing they would never countenance in their own countries. Having said all that, I wish to make it absolutely clear that I am not opposed to an all-party conference. I am a democrat by upbringing and in outlook. I am a staunch adherent to the principle and desirability to national unity and purpose centredness and national harmony. I demonstrated this in 1971 and 1974 when I was at the centre of nationalist unity talks efforts towards which were adversely affected by Mr. Nkomo. I am a Zimbabwean nationalist and as such am only subject to the interests of the people and the country.

If it is determined that this all-party conference will be in the national interest, I shall of course attend it. But if it is, as it appears to be, a device to achieve the personal political liberation of Mr. Joshua Nkomo and a face saving device for Mr. Nkomo and Dr. Kaunda using the U.S. and the U.K. as pawns, then it becomes a non-starter.

Let me pose a question to the United States. Would the United States permit those blood thirst sugar growing islanders, the Cubans, to bludgeon and hack their way to Washington, D.C. and install a one-party Marxist puppet regime? Why, we ask, does the United States condone if not encourage such a prospect for Zimbabwe? We are not asking for military assistance because we have the will to defend our borders. All we want is respect for the sovereignty of the people of Zimbabwe.

We want our efforts towards democracy supported and recognised. We want, in the name of justice, America to stop ruining our economic heritage for the sake of appeasing an economically ruined Zambia of Kaunda and for the sake of trading our natural and inalienable rights for Nigerian oil. We want it noted that Rhodesia under the Transitional Government has a historical and constitutional and moral right to object to the continued U.N., legislative action against free trade and, indeed, against any trade at all. The argument of the legality or illegality of UDI now makes legal nonsense. One of these days, some state in the U.N. might just question the legality of the government of the United States, referring to that other UDI by America hundreds of years ago.

I am aware of the specious argument that it is not proved that the majority of the people of Zimbabwe do support the March 3 Agreement. Let me give a few reminders. The signatories to the March 3 Agreement between them represent about 90 percent of the people of Zimbabwe. Recent surveys, some by American journalists, have put the support enjoyed by my own party at 70 percent, a percentage I regard as highly conservative.

On Palm Sunday, March 19, this year, I addressed a rally in Salisbury which was attended by an estimated 800,000 people. Recently, I visited the Mtoko operational area on the border with Mozabique and my rally there attracted over 20,000 people. In June this year, I addressed a rally in Bulawayo and we attracted over 60,000 people. This is in Joshua Nkomo's own home town and in the heart of an area which he claims to have his largest support.

The outside world, gullible to the propaganda peddled by the Patriotic Front, demands that we must prove the popular support of the people for the March 3 Agreement. This is not the kind of question I bother to respond to back home. The United African National Council which I lead is the majority party and is a democratic party. Before I entered into negotiations with Mr Smith, I sought and obtained a mandate from my party following who reflect the majority in Zimbabwe. The party gave me a mandate before going to the Geneva Conference. When the Salisbury negotiations ground to a stalemate because I was not prepared to compromise on a particular issue, I had to call a special consultative and representative meeting before accepting a compromise position. That was not all. I met with the Central Committee of my party each day of the negotiations before and after each session of negotiations. Together we reviewed progress and plotted the next step. I believe all parties to the negotiations did the same. We all took our people along with us and they were fully consulted at each stage. This is more than proof that the March 3 Agreement has the support of the majority of the people of Zimbabwe, proof which will be substantiated in the forthcoming one person one vote elections.

Let me end by throwing America's own ideals back into its face in the fervent hope that America will rise to the challenge posed by the current situation in my country.

Like America, we wish to create a Zimbabwe and a society in which we can say we have a government of the people, by the people, for the people and a society in which we too can say, "In God We Trust." America today champions human rights all over the world. Must Zimbabwe be an exception? Our efforts to create a society in which basic individual rights, regardless of race, colour or creed, are patently clear. America remains blind to these endeavours. Indeed, for our pains and democratic convictions, the enemies of democracy seek to intensify armed attacks upon us while America sneers at us. I am reminded of a statement by one of America's greatest men, Thomas Woodrow Wilson, when he said:

"I fancy that it is just as hard to do your duty when men are sneering at you as when they are shooting at you."

Still on American ideals, let me remind you of another Wilsonian democratic ideal when he said:

"America lives in the heart of every man everywhere who wishes to find a region where he will be free to work out his destiny as he choosed."

We are in Zimbabwe striving against heavy odds to create this society where every person will be free to work out his own destiny and where the people remain the sole arbiters of their own destiny. We therefore have a claim on America.

It was again Thomas Woodrow Wilson who commanded in the name of democracy, "No nation is fit to sit in judgement upon any other nation." I want this American ideal invoked in respect to Zimbabwe. The whole world has chosen to sit in judgement upon us because we are being abandoned at the very moment of our democratic birth. Little tin pot dictators running bankrupt banana republics sit in judgment over our soverign will. America itself finds it fit to sit in judgment over our sovereign will. America informs us that our efforts are inadequate and forgets that our efforts present the only possible change for American type democracy in Southern Africa. I find it hard to believe that American ideals have sunk so low as to side with the totalitarian forces now actively mobilizing against the democratic beginnings of Zimbabwe. I find it incredible that America actively denies the 7 million people of Zimbabwe the right to work out their own destiny as they choose. I find it unacceptable that our heritage in Zimbabwe should be traded for a mess of Nigerian oil. I pray hard that America will respond to this challenge and rediscover its conscience in respect of Zimbabwe.

Thank you ladies and gentlemen.

PRESS STATEMENT

At a Press Conference in Salisbury on July 18, 1978, the Prime Minister made the following principal points:

1. He rejected as "madness" the Anglo-U.S. proposal for a new all-party conference. "It would be disastrous under present circumstances," he said, adding that the government would only attend such talks if there was some breakthrough in the constitutional impasse. He stressed that another Geneva fiasco would prove counterproductive and that the government had no intention of surrendering to the demands of the Patriotic Front.

2. He agreed that that there were difficulties in ending the terrorist war quickly but stressed that progress had been made and hopefully there would be a de-escalation.

3. He said the new Constitution should be ready for detailed consideration by the gov-

ernment in the next two or three weeks. This would be followed by a referendum among the white electorate on its provisions and after that there would be one man one vote general elections.

4. He refused to be drawn on what would happen if the white electorate rejected the constitutional proposals. He said, "I refuse to be diverted into that sort of negative defeatist thinking."

5. He rejected as "a Dr. Owen story" suggestions that he was willing to attend an all-party conference while his black partners were not. "It would be disastrous under the present circumstances," Mr. Smith said. He accused the Anglo-Americans of flirting and playing along with the Patriotic Front.

6. The Prime Minister stressed that the present Anglo-U.S. Plan appeared to be to hand over political and security force control to the Patriotic Front. "It would be madness," he said, "For Rhodesia to walk into that sort of trap."

7. The Prime Minister stressed that the interim government was a "going concern" and that this could be halted if it agreed to go to a conference, "particularly as such a conference is almost guaranteed to fail."

8. Mr. Smith said, "We are going to make a success of this agreement of ours—a way of life that will be an example to the rest of Africa."

On July 19, 1978, the following questions were put by Associated Press to the Prime Minister:—

Question: A United States State Department spokesman said yesterday that efforts in the Senate to lift the U.S. embargo against Rhodesia would damage U.S. relations with other African nations and would be in confidence of the U.N. and international law. Would you care to comment?

Answer: I find this statement quite incredible in the light of the Anglo-American Proposals which were put to me in Pretoria in September 1976 and which I accepted. Let me remind you that at that time the British and American governments gave me a firm and positive assurance that if I accepted majority rule, sanctions would be lifted. There was no mention of U.N. concurrence or of international law. I have accepted majority rule; the multi-racial interim government is established and is doing all the things contained in those British and American proposals, including the preparations for the one-man one-vote elections before the end of the year. These are indisputable facts which are in no way altered by the refusal of the Patriotic Front to participate in the transitional government, despite numerous invitations.

Question: The spokesman also said that lifting sanctions now would make it difficult for the U.S. government to exert influence on the Patriotic Front.

Answer: The true position is exactly the reverse. Lifting sanctions now, even for the temporary period proposed, would have the immediate effect of bringing it home to the Patriotic Front that they will have to change their present intransigent attitude and their stated policy of getting control of Rhodesia "through the barrel of a gun. I find this remark by the spokesman somewhat devious in view of the clear intention of the State Department to use the continuation of sanctions to force the transitional government to hand over Rhodesia to the Communist terrorists of the Patriotic Front.

It is beyond comprehension that in this regard the present American and British Administrations share a common aim with Russia, namely to deliver Rhodesia to Marxism. Equally incomprehensible is the refusal of the American and British governments to give any support or encouragement to the multi-racial transitional government, which is determined to preserve in our country the principles of a free democracy and to keep it aligned to the West.

GEORGE MEANY CRITICIZES EXPORT OF U.S. JOBS

Mr. HELMS. Mr. President, Mr. George Meany, president of the AFL–CIO, recently criticized the export of U.S. jobs at a joint industry-labor press briefing. In particular, he pointed to the appalling loss of over 350,000 job opportunities in the textile and apparel industry over the past decade. I was privileged to attend that joint briefing along with other colleagues from the Senate and House delegations from the textile States. We are all particularly aware of the significance of Mr. Meany's remarks, because we see the problems which the textile industry as a whole is facing.

The notion that so-called "free trade" is beneficial to the Nation in the long run is a myth that has been assiduously perpetrated for 40 years. The "long run" is evidently running out. Mr. Meany points out that the latest figures show that America is importing much more in manufactured products than it exports. The United States used to be the preeminent nation in the world for industrial production; but after 40 years of "free trade" we find that the United States is losing its proportionate share of the world market.

The reasons for this decline are many; but doubtless the principal one is that "free trade" does not exist, not even as an ideal. As we look around the world, we see that the preferred way of doing business is not through competitive "free trade," but through officially sanctioned restraints in trade, through legal cartels, State-trading companies, and so forth. Indeed, the rise and expansion of nonmarket economies throughout the world not only reduces the prospect of competition and free enterprise, but makes the market subject more and more to political intervention for purposes remote from legitimate trade interests.

For example, the astounding rise of textile imports from the People's Republic of China threatens to become a major problem for the textile industry in the United States. The latest information is that the Communist Chinese are importing the latest technology, as well as experts in quality control and fashion, in order to sell their goods in Western markets—that is, in the United States. Such merchandise will never be sold in China itself; it is designed only to undercut U.S. production. The workers are paid only a pitiful fraction of what U.S. workers are paid; the price charged to U.S. buyers is not set by true costs of production, but by manipulated prices designed to undersell the current market price in the United States.

The United States is a free country; but the workers in a Communist country are not free. They are not free to chose their places of employment, and they are not free so seek better working conditions. They are not even free to join a labor association if they choose. Although Mr. Meany and I have often disagreed on domestic labor policy, we always have agreed on the right of workers everywhere to join unions if they choose. In Communist countries, it is a particularly egregious breach of economic freedom that makes it impossible for there to be "free trade" between countries where there is no freedom for workers, and countries like ours where free labor association is possible.

It is also important that in a nation like ours, no one need be prisoners of an ideology laid down by the State. The recent joint press briefing of textile labor and industry offcials is a sign of a healthy democracy demonstrating that in a free country interests which often appear to be opposed in their daily dealings can put aside those differences to unite for the national good.

Mr. Meany is a man of strong opinions, and I applaud his strenuous efforts to promote fair trade policies for the United States—policies that will benefit all Americans, instead of just those of certain multinational and international industrial and banking corporations that seek to make most of their profit outside of the United States, at the expense of American jobs. Indeed, he has been a healthy influence upon American foreign policy in recent years, and has helped alert the Nation to many of the international dangers facing this Nation.

Mr. President. I ask unanimous consent that the full text of the statement by Mr. George Meany at the joint labor-industry press briefing be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

REMARKS BY GEORGE MEANY

Last December, the AFL–CIO Convention called for a U.S. trade policy which would create "healthy, fair trade that will build a strong American economy."

We are here today to report that, in the six months since that statement, trade problems have grown in size and complexity and the damage to American industry and jobs—which are, of course, labor's main concern—is even greater today.

Today we are going to be talking about a specific industry. The point I think worth noting is that we could deliver the same kind of an adverse report on many industries. In other words, this industry is not unique. In terms of the problems it faces, caused by trade policies that badly need correcting and updating, it is all too typical.

These are the facts:

U.S. manufacturing jobs have failed to recover from the 1974–1975 recession.

Employment in goods-producing industries decreased almost 500,000 between December 1973 and December 1977.

During the last four years, imports of manufactured products rose more than 70 percent.

The trade deficit for 1978, thus far, is substantially above the record 1977 deficit.

The corporate and union leaders who are here today will talk with you about the detailed problems of this industry. I would like to emphasize one major point:

The U.S. is and must remain a major manufacturing nation.

The most recent figures show that America is importing much more in manufactured

products than it exports and that's a dangerous situation.

The U.S. cannot allow any industry—and that specifically includes the textile and apparel industry, which is the largest job-providing manufacturing industry in the country—to be destroyed by unfair trade competition.

This industry has already lost over 350,000 job opportunities over the past decade and is currently losing jobs at the rate of 20,000 annually.

But what is even more important is that the unemployment problem in many other industries is worse or nearly as bad.

The government must never forget the human side of unemployment. In this industry, for example, the work force includes a very large number of minorities, new immigrants and women. The factories are concentrated in the centers of the largest cities and in small towns. For people living in these areas, there are no alternative jobs available.

The country is the poorer for their lost production and the extra costs of maintaining workers, who want jobs and can't get them, must be borne by all the rest of the work force.

George Allen used to say, "The future is now." That certainly applies to the problems of international trade.

PRESERVING HUMAN FREEDOM THROUGH RATIFICATION OF THE GENOCIDE TREATY

Mr. PROXMIRE. Mr. President, many years ago one of the greatest stateswomen of our time, Eleanor Roosevelt, made an impassioned plea for human liberties in all nations of the world. She called this country's attention to flagrant violations of individual rights across the globe.

She said:

The basic problem confronting the world today is the preservation of human freedom for the individual and consequently for the society of which he is a part. We are fighting this battle again today as it was fought in the time of the French Revolution and at the time of the American Revolution. The issue of human liberty is a decisive now as it was then.

Mrs. Roosevelt spoke these words 30 years ago, but the same could have been written today. Despite thousands of lessons through history on man's inhumanity to man, we still witness barbarous acts in many areas of the world and gross examples of the deprivation of human rights. One need only look at the represssive regimes of South America and Africa for examples of torture and assassination, and to Cambodia and the Soviet Union for further proof of contemporary disregard for human rights.

Eleanor Roosevelt spoke only a short time after we had gone to war to protect our allies from a totalitarian menace. In her words:

The field of human rights is not one in which compromise is possible.

Mr. President, we have compromised in the field of human rights. By refusing to ratify an international treaty which would outlaw the crime of genocide, we have weakened our commitment to human liberties.

The time for compromise is over. The Genocide Treaty has stood before this body for 29 long years. Any further delay can only be interpreted by other nations as a signal of our indifference to individual rights.

If we wish to create a world tomorrow where the preservation of human freedom prevails, we can delay ratification of this treaty no longer.

CONSOLIDATED CLERKS OF COURT REVISION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 917.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 3107) to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy,

There being no objection, the Senate proceeded to consider the bill.

The bill was considered, ordered to be engrossed for a third reading, read the third time, and passed as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraphs (2) and (3) of subdivision a of section 62 of the Bankruptcy Act (11 U.S.C. 102(a) (2) and (3)) are amended to read as follows:

"(2) The actual and necessary office and other expenses of referees shall be authorized and approved by the Director, including compensation of clerical, stenographic, and other assistants of referees at rates fixed by the Director, at rates not less than the rates for comparable services prevailing in the respective offices of the clerks of the several district courts, and the costs of establishing and maintaining their offices with equipment and supplies, adequate for their efficient and economical operation, including mechanical equipment and devices and law libraries. Such expenses may be allowed when authorized by a judge of the judicial district or districts in which a referee serves in cases of emergency where it is not feasible to secure prior authorization of the Director.

"(3) When, in the opinion of the Director, the public interest requires it, he may, on the recommendation of a referee, which recommendation shall state facts showing the necessity for the same, allow the referee to employ necesssary clerical, stenographic, and other assistants. All employees of the referee shall be utilized under the direct supervision of the referee exclusively in the processing of bankruptcy cases. The referee may at his pleasure remove any assistant in his employ. The authority of the referee to employ, direct, and remove assistants may not be exercised by anyone other than the referee. The Director may utilize funds collected or appropriated for the referees' salary fund and the referees' expense fund pursuant to section 40c of this Act, to pay the salaries of only such clerical, stenographic, or other assistants as are employed under the direct supervision of the referee in the office of the referee: *Provided, however,* That salaries of the employees of the Bankruptcy Division of the Administrative Office of the United States Courts may also be paid out of such funds. If the office of the referee shall become vacant, the employment of his assistants shall not thereupon be terminated: *provided, however,* That during such vacancy the Director may terminate the employment of any assistant, if, in his opinion, the services of such assistant are no longer needed.".

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER THAT H.R. 12508 AND H.R. 12443 BE HELD AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 12508 and H.R. 12443 be held at the desk until the close of business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PRINTING OF S. 2899

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that S. 2899, the Endangered Species Act Amendments of 1978 be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—S. 3075

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 772, S. 3075, the foreign security assistance bill, is made the pending business, with the understanding that it will not be called up this week, there shall be 4 hours on the bill to be equally divided between Mr. SPARKMAN and Mr. CASE; 1 hour on any amendment in the first degree; 30 minutes on any amendment in the second degree; 20 minutes on any debatable motion, appeal, or point of order if such be submitted to the Senate; 4 hours on an amendment relating to the Turkish embargo; 4 hours on a Percy amendment; 4 hours on a Helms amendment; 2 hours on a Tower amendment; 1½ hours on a Baker amendment; 30 minutes on an amendment by Mr. CURTIS; and provided further that on any amendment attempting to repeal the so-called Clark amendment there be a 2-hour time limitation, and that the agreement be in the usual form.

Mr. STEVENS. Mr. President, reserving the right to object, I assume those times are all equally divided.

Mr. ROBERT C. BYRD. Yes, they are.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Does the Senator from West Virginia have any idea when that bill will be laid before the Senate? That is for next week; it is not for this week.

Mr. ROBERT C. BYRD. No. It would be called up, I should say, Monday.

Mr. STEVENS. I thank the Senator.

Mr. ROBERT C. BYRD. Mr. President, I yield the floor at this time to Mr. DOLE to call up a resolution which I have just cleared on this side of the aisle at the request of Mr. ABOUREZK.

The PRESIDING OFFICER. The Senator from Kansas.

COMMENDING NATIVE AMERICANS PARTICIPATING IN THE LONGEST WALK

Mr. DOLE. Mr. President, I call up S. Res. 502 and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 502) to commend the Native Americans participating in the Longest Walk.

There being no objection the Senate proceeded to consider the resolution which had been reported from the Committee on the Judiciary with amendments as follows:

On page 1, line 1, strike "Native Americans" and insert "American Indians";
On page 1, line 3, strike "Native Americans" and insert "American Indians";
On page 1, line 4, strike "Native Americans" and insert "American Indians";
On page 1, line 6, strike "Native Americans" and insert "American Indians";
On page 1, line 11, strike "Native Americans" and insert "American Indians";
On page 2, line 2, strike "Native Americans" and insert "American Indians";
On page 2, line 4, strike "Native Americans" and insert "American Indians";

Mr. DOLE. Mr. President, I ask unanimous consent that the distinguished Senator from Alaska (Mr. STEVENS) be made a cosponsor of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, the resolution we are considering, Senate Resolution 502, is one I introduced last month to commend the American Indians who have participated in the longest walk. They selected this cross-country walk as a peaceful expression of their concern regarding current issues.

I am pleased to have as cosponsors the Senator from California (Mr. CRANSTON), the Senator from Colorado (Mr. HASKELL), the Senator from South Dakota (Mr. MCGOVERN), the Senator from South Dakota (Mr. ABOUREZK), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Indiana (Mr. BAYH), and the Senator from Utah (Mr. HATCH).

CALIFORNIA TO WASHINGTON, D.C.

Last February, a group of Indians left California to walk to Washington, D.C. Their coast-to-coast march was organized as a religious and spiritual walk to focus attention on the American Indian in today's society. They emphasized that the American Indian culture is a living culture, and that it holds a special place in the history and development of the United States. Indians participating in the walk are also concerned about attempts they see to take resources and responsibilities away from the Indian population. In general, they are worried that agreements previously solidified through treaties with the United States are now being questioned.

INDIAN CONCERN

The Indians fear that public sentiment is beginning to turn against them. They are troubled that Indian civil rights will receive little respect if more powerful forces line up against the tribes. I think that at this time of anxiety, it is particularly important for us to recognize and affirm the human rights of all citizens, both at home and abroad.

THE WALK

Last Saturday, the Indians arrived in Washington after 5 months of walking through the winter cold, the spring storms, and the summer heat. They have crossed over mountains, plains, and seemingly endless miles of highway in their walk to Washington.

As reports about the walk filtered East, many of us were concerned about whether or not order could be maintained in a demonstration of its size and nature. Many of us remembered earlier Indian demonstrations and were apprehensive.

I have been pleased to discover that Indians participating in the walk have lived up to the high standards which they set for themselves. Throughout the 3,000-mile trip, a ban on drugs, alcohol, and firearms was rigidly enforced by the Indians. I have heard enough reports to convince me that the walkers have left their campsites clean, often accomplished only after picking up trash left by previous campers.

THE WALK REACHES WASHINGTON

Since the Indians arrived in Washington, they have provided opportunities for members of Government to address them and to discuss current topics of concern. The fears of disorder based on memories of the past have not materialized.

The walkers have demonstrated many traditions of their culture and religion to a curious American public. I think that we as a nation have been enriched as a result of the longest walk.

CONCLUSION

The walk has helped to remind us of the early beginnings of the United States. We remember that the colonists were frequently dependent on the Native Americans for teaching them survival techniques in a new land. Finally, the longest walk serves to remind us that we have a responsibility to honor historical decisions of the past and to reason together to resolve today's concerns.

I hope that my colleagues will join me in support of Senate Resolution 502. Through the longest walk, the American Indians selected a peaceful, orderly way to express their views. I think they deserve recognition for what they have accomplished.

The PRESIDING OFFICER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to en bloc.

The resolution was agreed to.

The preamble was amended and agreed to.

The resolution, with its preamble, is as follows:

S. RES. 502

Whereas American Indians have played a special and unique role in the development of the United States;

Whereas the American Indian culture is a living culture;

Whereas American Indians from many different tribes are walking from California to Washington, District of Columbia, to focus attention on the concerns of American Indians;

Whereas this walk has become known as the Longest Walk and is a spiritual and peaceful walk; and

Whereas one purpose of the Longest Walk is to provide an opportunity for participants to meet with officials of the United States Government to discuss the concerns of American Indians: Now, therefore, be it

Resolved, That the Senate recognizes and honors the American Indians participating in the Longest Walk for their efforts to provide a peaceful and meaningful opportunity for the discussion of the concerns of American Indians.

SEC. 2. The Secretary of the Senate is directed to transmit a copy of this resolution to the leaders of the Longest Walk.

The title was amended so as to read:

A resolution to commend the American Indians participating in the Longest Walk.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

SPECIAL ORDER FOR TOMORROW; ORDER FOR CONSIDERATION OF HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow after the two leaders have been recognized and after the order that has been entered previously, Mr. MELCHER may speak for 15 minutes, after which the Senate resume its consideration of S. 3084, Housing and Community Development Amendments of 1978.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, what are the orders for the record of Senators tomorrow?

The PRESIDING OFFICER. The Senator from Illinois (Mr. PERCY) for not to exceed 15 minutes, and the Senator from Montana (Mr. MELCHER) for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. All right.

Mr. President, I ask unanimous consent that either of those Senators may proceed first.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the normal time for the two leaders be vitiated on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. This has been cleared with Mr. BAKER.

RECESS UNTIL 9 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that

the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and at 8:05 p.m., the Senate recessed until tomorrow, Thursday, July 20, 1978, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 19, 1978:

IN THE ARMY

The following-named Army National Guard of the United States officer for appointment to the grade of major general as a Reserve commissioned officer of the Army and to the grade of major general, Army of the United States, under the provision of title 10, United States Code, sections 593a, 3385, 3442, and 3447:

To be major general

Brig Gen. Emmett Hudson Walker, Jr., [redacted].

The U.S. Army Reserve officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371, and 3384:

To be major general

Brig. Gen. Forrest Anderson Abbott, [redacted].

Brig. Gen. Wilbur James Bunting, [redacted].

Brig. Gen. John Quill Taylor King, [redacted].

Brig. Gen. Robert Lorenzo Lane, [redacted].

Brig. Gen. Frederick Hebel Lawson, [redacted].

Brig. Gen. Thomas Lee Merrill, [redacted].

Brig. Gen. Harry Hart Treadaway, [redacted].

To be brigadier general

Col. Louis Holmes Ginn, III, [redacted].
Col. James Paul Harley, [redacted].
Col. Daniel Bruce Johnson, [redacted].
Col. Angelo David Juarez, [redacted].
Col. Donald Edward Lehman, [redacted].
Col. William Barton Merryman, [redacted].
Col. Harley Lester Pickens, [redacted].
Col. Theodore R. Sadler, Jr., [redacted].
Col. Manila Grant Shaver, [redacted].
Col. Charles Morris Sirhal, [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3385:

To be major general

Brig. Gen. Robert Darrell Weliver, [redacted].

To be brigadier general

Col. Raymond Davis Atkins, [redacted].
Col. Colin Charles Campbell, [redacted].
Col. Richard Francis Corcoran, [redacted].
Col. Robert Stuart Davis, [redacted].
Col. Richard Daniel Dean, [redacted].
Col. George Henry Gray, [redacted].
Col. Theodore Ernest Herman, [redacted].
Col. Curtis Arthur Jennings, [redacted].
Col. Vincent William Lanna, [redacted].
Col. James Bracken Lee, [redacted].
Col. Charles Rodney Painter, [redacted].
Col. Anthony Louis Palumbo, [redacted].
Col. Donald Harry Remick, [redacted].
Col. Patrick Martin Roach, [redacted].
Col. Elmer Lewis Stephens, [redacted].
Col. Ansel Martin Stroud, Jr., [redacted].
Col. Herbert Thomas Taylor, Jr., [redacted].
Col. Edward William Waldon, [redacted].
Col. John Burl Webb, Jr., [redacted].

The Army National Guard of the United States officers named herein for appointment as Reserve commissioned officers of the Army, under the provisions of title 10, United States Code, sections 593(a) and 3392:

To be brigadier general

Col. Joaquin Balaguer-Rivera, [redacted].
Col. Joe Edmund Burke, [redacted].
Col. Charles Edward Hupe, [redacted].
Col. William John Jefferds, [redacted].

HOUSE OF REPRESENTATIVES—*Wednesday, July 19, 1978*

The House met at 10 o'clock a.m.

The Chaplain, Rev. Edward G. Latch, D.D., offered the following prayer:

Mend your ways, live in peace, and the God of love and peace will be with you.—II Corinthians 13: 11.

O God and Father of us all, we thank Thee for the gift of a new day fresh from Thy hand. Help us to use it to live cleanly, to labor creatively, and to love confidently that we may keep our spirits lifted to high levels of thought and action. May we have the courage to carry our responsibilities with honor, the strength to overcome our difficulties, and the faith to live with Thee this day and all our days. Abide with us and help us to abide with Thee that we may be channels through whom peace, justice, and good will may come to new life in our Nation and in our world. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Chirdon, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment bills of the House of the following titles:

H. Con. Res. 265. Concurrent resolution to endorse the Hermosillo Declaration on Combatting Traffic in Drugs at the International Level and urge the President to encourage other nations to cooperate in eradicating narcotics trafficking.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 995) entitled "An act to amend title VII of the Civil Rights Act of 1964 to prohibit sex discrimination on the basis of pregnancy," agrees to a conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. WILLIAMS, Mr. RANDOLPH, Mr. PELL, Mr. NELSON, Mr. RIEGLE, Mr. JAVITS, Mr. SCHWEIKER, and Mr. STAFFORD to be the conferees on the part of the Senate.

CALL OF THE HOUSE

Mr. CHARLES H. WILSON of California. Mr. Speaker, I move a call of the House.

A call of the House was ordered.

The call was taken by electronic device, and the following Members failed to respond:

[Roll No. 565]

Anderson, Ill.	Ashley	Bonior
Andrews, N.C.	Baucus	Brodhead
Archer	Beilenson	Broomfield
Armstrong	Bevill	Brown, Calif.
Ashbrook	Bolling	Brown, Mich.
Burke, Calif.	Garcia	Pattison
Byron	Giaimo	Pike
Caputo	Gibbons	Pressler
Cavanaugh	Harris	Quie
Chisholm	Heckler	Rangel
Clawson, Del	Hefner	Reuss
Conable	Hightower	Rhodes
Conyers	Howard	Rodino
Corcoran	Ireland	Rogers
Crane	Johnson, Colo.	Rose
de la Garza	Kasten	Rostenkowski
Dellums	Kelly	Ruppe
Dent	Kostmayer	Santini
Diggs	LaFalce	Scheuer
Dingell	Le Fante	Shipley
Dornan	Leggett	Solarz
Duncan, Oreg.	McDonald	Staggers
Edwards, Calif.	McKinney	Stanton
Edwards, Okla.	Mann	Teague
Evans, Colo.	Meeds	Tsongas
Evans, Del.	Milford	Tucker
Evans, Ind.	Miller, Calif.	Ullman
Flippo	Murphy, N.Y.	Waxman
Flowers	Neal	White
Flynt	Nichols	Wiggins
Ford, Mich.	Nolan	Wilson, Tex.
Ford, Tenn.	Ottinger	Young, Alaska
Fraser	Patten	Young, Tex.
Frey	Patterson	Zablocki

The SPEAKER pro tempore (Mr. STUDDS). On this rollcall 330 Members have recorded their presence by electronic device, a quorum.

By unanimous consent, further proceedings under the call were dispensed with.

THE PLIGHT OF THE BRAILOVSKY FAMILY

(Mr. MAGUIRE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MAGUIRE. Mr. Speaker, in the spirit of the continuing "vigil for freedom" of a group of Members of Con-

gress, I want to introduce the House to the family of Viktor Brailovsky in Moscow. Viktor and his wife Irina are both accomplished scientists, he a doctor of cybernetics and she of mathematics. Both held high positions in their fields until they applied for exit visas for themselves and their children, Leonid and Dalia in October 1972. Their applications were not approved, and in November 1972 both Mr. Brailovsky and his wife lost their jobs. After years of harassment, they requested an official explanation as to why permission to exit had been denied. They were told that Moscow State University, where Irina had worked, objected to her emigration because she had access to secret information, which she says was not so. They gave Viktor permission to leave, but he would not without his wife and family.

As usual, the logic of this does not ring true. Irina Brailovsky had not had access to the computers at Moscow University for almost 6 years, certainly sufficiently long enough for any information she might have had, of which she claims to have had none, to become outdated.

Despite continued harassment by the KGB, Brailovsky has remained active in Soviet Jewish emigration circles. He now heads a seminar for refusenik scientists in Moscow. He has been imprisoned and interrogated for his activities. He has been questioned in connection with Anatoly Scharansky and was warned that he too could face arrest on charges of espionage and treason. As we all know from the press reports on the Scharansky trial, these are not empty threats. What has happened in that case, as in the case of Uri Orlov and many others is an abomination.

This is not the time for the U.S. Congress to relax and see what will happen. We must act on our belief in the importance of human rights so that what has happened to such great men as Orlov and Sakharov and Ginzberg and Scharansky and Brailovsky will never again occur.

PERMISSION FOR SUBCOMMITTEE ON IMMIGRATION, CITIZENSHIP, AND INTERNATIONAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TODAY DURING 5-MINUTE RULE

Mr. EILBERG. Mr. Speaker, I ask unanimous consent that the Subcommittee on Immigration, Citizenship, and International Law of the Committee on the Judiciary be permitted to sit today, July 19, 1978, during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman assure us that there will be no legislation involved?

Mr. EILBERG. That is correct.

Mr. ROUSSELOT. And there was no opportunity to change the time because of witnesses?

Mr. EILBERG. That is correct. We have witnesses from out of town.

Mr. ROUSSELOT. I appreciate the gentleman's reply, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SUPPORT FOR THE ZEFERETTI RESOLUTION

(Mr. BURLESON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURLESON of Texas. Mr. Speaker, the Society of Former Special Agents of the Federal Bureau of Investigation, Inc., of which I am a member, recently adopted a resolution, by unanimous vote, which calls for the dismissal of the indictment against former FBI officials, the payment of legal fees by the Department of Justice, and the support of Congressman ZEFERETTI's resolution, seeking dismissal of the Gray, Felt, and Miller charges.

Because of the importance and timeliness of this issue, I submit for the RECORD the resolution of the board of directors of the Society of Former Special Agents of the FBI and commend them for their action.

RESOLUTION

Be it Resolved that the Society of Former Special Agents of the FBI request that the federal indictments of L. Patrick Gray III, W. Mark Felt, and Edward S. Miller be dismissed by the Attorney General as not being in the best interests of the American citizens or of this nation; and

Be it Further Resolved that the policy of the Attorney General, which has denied legal representation by the Department of Justice or reimbursement for the legal expenses for private counsel in the defense of employment-related activities, be reversed and such legal expenses paid; and

Be it Further Resolved that the Society continue to extend its full facilities, including the use of its Special Agents Legal Fund, Security National Bank, 2000 M St., N.W., Wash., D.C. 20036, to those present and former FBI Agents who have been indicted or threatened with criminal or other action, as a result of their official investigation of terrorist activities; and

Be it further resolved that the Society insist that a full and complete investigation be conducted to ascertain the identities and involvement of all higher authorities in the Department of Justice and other branches of government who had knowledge and approved of FBI procedures; and

Be it further resolved that the Society endorse the Congressional Resolutions introduced by Senator Hayakawa and Representative Zeferetti, and commend them to all Members of Congress who are concerned about the future security of our country and the effectiveness of the FBI; and

Be it further resolved that this Resolution be forwarded to the President of the United States, the Attorney General of the United States, members of the United States Senate, members of the United States House of Representatives, and released to the news media.

President, Frank L. Price, San Diego, California; President-Elect, Charles H. Stanley, N. Little Rock, Arkansas; Immediate Past President, James L. McGovern, Atlanta, Georgia; Secretary, Henry W. Anderson, Milford, Connecticut; Treasurer, Francis P. Grealy, Crestwood, New York; and Northeast Region Vice President, Arthur P. Duffy, Garden City, New York.

Mid-Atlantic Region Vice President, Lewis H. Bunker, Bethesda, Maryland; Southeast Region Vice President, Joseph A. Sizoo, Whispering Pines, North Carolina; North Central Region Vice President, George J. Frye, Jr., LaPorte, Indiana; South Central Region Vice President, G. Lawrence Keller, Wichita, Kansas; Western Region Vice President, Asa S. Bushnell III, Tucson, Arizona; and Members-at-Large: John K. Burge, Kansas City, Missouri; Warren L. Love, Arlington, Virginia; and James E. Hastings, Miami Shores, Florida.

LEV LUKYANENKO IMPRISONED—ANOTHER HUMAN RIGHTS VIOLATION

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, in the Ukrainian town of Gorodnya the trial of Lev Lukyanenko on charges of anti-Soviet agitation and propaganda began on July 17. Like Tykhy and Rudenko, Lukyanenko is a member of the group which was protesting violation of the human rights provisions of the Final Act signed at Helsinki. In prison for 15 years between 1961 and 1976 as a member of the Workers' and Peasants' Union, Lukyanenko renounced his Soviet citizenship in August of last year, requesting the right to leave the U.S.S.R. In December he was arrested once again, having been implicated in the cases of Tykhy and Rudenko. And so another name is added to the long list of those who are imprisoned for attempts to exercise the rights to which their Government agreed nearly 3 years ago.

SECRETARY CALIFANO—AN EXPERT ON SHAM AND AFFRONTERY

(Mr. MARTIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN. Mr. Speaker, Secretary of HEW Califano has announced his opinion that the Broyhill bill to work with hospitals to control costs—is, in his opinion, a sham and an affront to the administration. That comes from an acknowledged expert on shams and affrontery.

Secretary Califano's standing in North Carolina is such that his attack on our esteemed colleague will only enhance the political security of our legislative friend.

It needs to be pointed out that the original proposal by the Califano administration to control hospital costs was itself a sham. It forbids control of labor costs and would, if enacted, be a limit only on improving health care. All it would cut out is surgery and laboratory analysis. His plan, Mr. Speaker, is a sham, and an affront to the American people whose health care system he wants to Britainize.

COAL PIPELINE ACT OF 1978

Mr. UDALL. Mr. Speaker, I move that the House resolve itself into the Commit-

tee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1609) to amend the Mineral Leasing Act of 1920, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 1609, with Mr. LEDERER (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, July 18, 1978, the Clerk had read section 1 of the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL), which is being read as an original bill for the purpose of amendment.

Are there any amendments to section 1?

Mr. UDALL. Mr. Chairman, in an attempt to expedite proceedings, I ask unanimous consent that the entire amendment in the nature of a substitute which is now under consideration as an original bill be considered as read, printed in the RECORD and open to amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The balance of the amendment in the nature of a substitute beginning with section 2 is as follows:

DEFINITIONS

SEC. 2. As used in this Act, the term—

(a) "carrier" means any carrier of coal by coal pipeline that is subject to any of the provisions of this Act;

(b) "Secretary" means the Secretary of the Department of the Interior;

(c) "right-of-way" includes necessary land or other property for the location of pipelines, pumping stations, pressure apparatus, tanks or other stations, equipment, or appurtenances required for the proper operation of a coal pipeline or pipelines; and

(d) "control" means the power to exercise control by whatever means; and any person who (1) is a director of a carrier or of any other person, or (2) owns in excess of 20 per centum of the voting stock (or any like evidence of participation) of a carrier or of any other person shall be deemed to have the power to exercise control of such carrier or other person, as the case may be.

RIGHTS-OF-WAY ON FEDERAL LANDS

SEC. 3. Subsection 28(a) of the Mineral Leasing Act of February 25, 1920, as amended by the Act of November 16, 1978 (87 Stat. 576), is further amended by inserting the word "coal," between "natural gas," and "synthetic".

EMINENT DOMAIN

SEC. 4. (a) Except as provided in subsection (b), when any carrier cannot acquire by negotiation the right-of-way required to construct, operate, and maintain any proposed coal pipeline or pipelines, such carrier may acquire the same by the exercise of the power of eminent domain in the district court of the United States for the district in which such property is located or in the courts of the State in which such property is located.

(b) The power of eminent domain shall not be exercised to acquire (1) lands owned by the United States or by any State, or (2) lands held in trust by the United States for an Indian or Indian tribe.

(c) Nothing in this Act shall be construed to permit the United States, the Secretary, or a coal pipeline operator to acquire any right to use or develop water through the exercise of the power of eminent domain.

CERTIFICATION OF PUBLIC CONVENIENCE AND NECESSITY

SEC. 5. (a) The power of eminent domain granted pursuant to this Act may be exercised only by a carrier holding a certificate of public convenience and necessity issued by the Secretary of the Interior. The Secretary is authorized to issue such a certificate if the Secretary finds, with respect to the particular project of the carrier as to which said power is sought, that the project is in the national interest and provides the capacity necessary to fulfill the requirement of a common carrier of coal, as determined by the Secretary. In addition to other factors customarily considered in determining common carrier status in the case of pipeline common carriers, the Secretary shall consider contracts for the carriage of coal which are in existence or proposed as of the date of the application for certification and may also consider such contracts for such carriage as may reasonably be anticipated, at the time of issuance of the certificate, to be entered into after such date. In determining the size of the pipeline to be certificated, the Secretary shall take into account the resultant cost to ultimate consumers of services or products affected by such transportation.

(b) In making the findings required in (a) of this section the Secretary shall consider and make findings on the extent to which the project—

(1) would help meet national needs for coal utilization, considering, among other matters, alternate routes or means of transportation of coal and the relative costs of such alternative routes or means;

(2) may be impeded or delayed unless granted the power of eminent domain;

(3) involves disruption to the environment, as compared with disruption from other routes or modes of transportation or other methods of utilization of the coal resources involved;

(4) considers the balance between the energy needs of the area to be benefited by the project and the water requirements and other impacts on the area from which coal is to be transported;

(5) would be likely to impair the financial integrity of other common carrier modes of transportation or the level or type of transportation services any such mode is able to offer;

(6) will be likely to result in lower rates for the transportation of coal than would be in effect if such coal were transported by a common carrier by railroad under part I of the Interstate Commerce Act; and

(7) would unduly impact on the surface and ground water at the point of destination and disposal of such water on the environment.

The Secretary's findings as to whether a project is in the national interest shall be based on the record as a whole taking into consideration each of the criteria set forth in this subsection. The Secretary's findings under paragraphs (1), (5), and (6) of this subsection must be concurred in by the Secretary of Transportation and the Interstate Commerce Commission.

(c) The Secretary shall require as a condition of issuance of a certificate of convenience and necessity under this Act that any pipeline for which such certificate is issued be constructed, operated, and maintained as a common carrier, in fact, fully subject to rate and charge regulation by the Interstate Commerce Commission as provided in the Interstate Commerce Act. Any violation of such condition shall be enforced as provided in such Act, and nothing in this paragraph shall be construed to limit, impair, or otherwise affect any provision of such Act.

(d)(1) No carrier certified under this Act shall transport any coal mined by it or under its authority or which it may own in whole or in part, or over which it may have any control, direct or indirect, except that such a carrier may transport coal which it owns after it is mined and before it enters the pipeline or during shipment for the sole purpose of achieving transportation and storage economies through blending and commingling of coal acquired from several coal producers or for several coal users, if the Secretary determines that such ownership of the coal facilities the achievement of such transportation and storage economies and is in the national interest. The transportation and storage charges permitted under the preceding sentence by the Secretary shall be included in tariffs filed with the Interstate Commerce Commission. The Interstate Commerce Commission shall have the same authority respecting rate regulation under part I of the Interstate Commerce Act in the case of coal which a carrier owns under the preceding sentences as the Commission has in the case of coal owned by any person other than such a carrier.

(2) The prohibition contained in subsection (d)(1) shall not apply to the construction, ownership, and operation of a feeder line for the purpose of gaining access to a coal pipeline by any person who would otherwise be ineligible if—

(A) the carrier has declined a formal request to construct, own, and operate the feeder line;

(B) the owner of the feeder line will operate the line as a common carrier for any excess capacity in the feeder line; and

(C) the Secretary has determined that an exemption from subsection (d)(1) is in the public interest.

(3)(A) No certificate of public convenience and necessity may be issued to any carrier which controls, is controlled by, or is under common control with any person which uses or will use coal transported by the carrier or which supplies coal to the pipeline and (B) no carrier granted the power of eminent domain under this Act may control, be controlled by, or be under common control with any such person.

(4) The penalties and enforcement provisions of section 8 shall not apply to this subsection, but whenever, on the basis of any information available to it, the Interstate Commerce Commission finds that any carrier or other person is in violation of paragraph (1) or (3)(B) it shall notify such carrier or other person. If such violation extends beyond the thirtieth day after the date of such notice, the Commission shall, after notice and opportunity for hearing, issue an order requiring such carrier or other person to comply. Failure to obey any such order shall be subject to the same penalty as provided for in section 16(8) of the Interstate Commerce Act (49 U.S.C. 16(8).

(e) If the Secretary determines, in the course of the consultations and findings required by subsection (b) or the hearings required by section 6 that the project right-of-way may be utilized for additional uses compatible with operations of the project line, the Secretary may, in his discretion, require as a condition to the grant of a certificate of public convenience and necessity that the particular project right-of-way be subject to such compatible uses.

(f) The Secretary shall require the additional use described in subsection (e) only if he by rule—

(1) finds—

(A) the additional use is a compatible use and

(B) conditioning the issuance of the certificate upon the availability of the right-of-way for the additional use is in the public interest, and

(2) establishes reasonable provisions for the payment of compensation for the additional use to the person otherwise entitled to the exclusive use.

(g)(1) The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use underground water (whether groundwater or other subsurface waters) for the purpose of transporting coal, unless—

(A) the United States Geological Survey has conducted a comprehensive study which demonstrates that the use of such underground water source over the life of the coal pipeline, and considering the cumulative effect of any other coal pipelines using the same underground aquifier as a source of water, will not cause a significant adverse impact on the quality and quantity of the water table in surrounding areas or adjoining States, and

(B) the applicant has obtained any and all permits or authorizations for the use of any surface or underground water required by the State or States having jurisdiction over the surface waters to be used, or having a valid legal interest in the underground waters to be used and beneath whose lands the underground aquifier lies constituting the source of the underground water to be used.

(2) Any other interested State shall have the opportunity to make its views known to, and shall be given full consideration by, the Secretary regarding any determination made under subsection (g)(1)(A) of this section.

PROCEDURE

SEC. 6. (a) Applications for a certificate of public convenience and necessity under this Act shall be filed with the Secretary pursuant to such regulations as the Secretary may prescribe. Each carrier applying for a certificate shall reimburse the Secretary for administrative and other costs incurred in processing the application as the Secretary shall prescribe.

(b) A certificate authorized by section 5 may be issued only after public notice and public hearings in accordance with this section.

(c) The carrier shall publish, in accordance with regulations promulgated by the Secretary, a notice that it has filed an application for a certificate of public convenience and necessity under this Act in a newspaper of general circulation in each county in which the project will be located. The notice shall, among other things, specify to the greatest extent practicable the land which would be subject to the power of eminent domain.

(d) The Secretary shall publish in the Federal Register a notice of the receipt of each application under this Act.

(e) Upon the receipt of an application for a certificate of public convenience and necessity with respect to a particular project, the Secretary shall request the Secretary of Transportation and the Interstate Commerce Commission to make recommendations with respect to the impact of the proposed project on other modes of transportation. The Secretary of Transportation and the Interstate Commerce Commission shall submit such recommendations to the Secretary within six months after the date of the Secretary's request.

(f) The Secretary shall hold at least one public hearing in each State in which the project involved will be located. Any interested person may present relevant material at any hearing. After all hearings in each State are concluded, the Secretary shall hold at least one public, formal adjudicatory hearing in accordance with the provisions of section 554 of title 5, United States Code, in the District of Columbia at which the Secretary of Transportation, the Interstate Commerce Commission, the Secretary of Energy, and the Environmental Protection Agency shall, and other Federal, State, and local agencies may, participate.

ANTITRUST REVIEW

SEC. 7. (a) The Secretary shall not issue any certificate pursuant to section 5 of this Act unless it has received the advice of the Attorney General of the United States and the Federal Trade Commission that such action would not restrain trade, further monopolization, substantially adversely affect competition, or otherwise create or maintain a situation in contravention of the antitrust laws. The issuance of a certificate under this Act shall not be admissible in any way as a defense to any civil or criminal action for violation of the antitrust laws of the United States, nor shall it in any way modify or abridge any private right of action under such laws.

(b)(1) Nothing in this section shall be construed to bar the Attorney General or the Federal Trade Commission from challenging any anticompetitive situation involved in the operation of a coal pipeline.

(2) Nothing contained in this section shall impair, amend, broaden, or modify any of the antitrust laws.

(3) As used in this section, the term "antitrust laws" includes, but is not limited to, the Act of July 2, 1890, as amended; the Act of October 15, 1914, as amended; the Federal Trade Commission Act (15 U.S.C. 41 et seq.); and sections 73 and 74 of the Act of August 27, 1984, as amended.

ENFORCEMENT AND PENALTIES AND JUDICIAL REVIEW

SEC. 8. (a) At the request of the Secretary, the Attorney General may institute a civil action in the district court of the United States for the district in which the affected operation is located for a restraining order or injunction or other appropriate remedy to enforce any provision of this Act or any regulation or order issued under the authority of this Act.

(b) If any carrier shall fail to comply with any provision of this Act, or any regulation or order issued under the authority of this Act, after notice of such failure and expiration of any period allowed for corrective action, such person shall be liable for a civil penalty of not more than $5,000 for each and every day of the continuance of such failure. The Secretary may assess and collect any such penalty.

(c) Any person who knowingly and willfully violates any provision of this Act, or any regulation or order issued under the authority of this Act, or makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this Act shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than six months, or both.

(d) Whenever a carrier violates any provision of this Act, or any regulation or order issued under the authority of this Act, any director, officer, or agent of such corporation or entity who authorized, ordered, or carried out such violation shall be subject to the same fines or imprisonment as provided for under subsection (c) of this section.

(e) Petitions for judicial review shall be filed in the court of appeals of the United States for the circuit in which the pipeline's originating point of coal transportation is located.

CONSTRUCTION OF LAW

SEC. 9. (a) In granting a State water permit or authorization to a pipeline granted a certificate of public convenience and necessity under this Act any State may, to effectuate a legitimate State public interest, condition pursuant to State law the water rights of such pipeline. The State may limit or terminate the right of a pipeline to transport water for coal pipeline use if so required by such conditions.

(b) Nothing in this Act, including the exercise of the power of eminent domain authorized by this Act, shall be construed—

(1) as affecting in any way any law, regulation, or rule of law governing appropriation, use or diversion of water, or as affecting any Federal, State, or private right to water; or as granting a right to the use of water to any carrier holding a certificate of convenience and necessity issued pursuant to this Act; or as superseding or modifying any State law, regulation, or rule of law governing the acquisition and administration of water rights so as to excuse any person from compliance with such law, regulation, or rule of law in acquiring or maintaining water rights necessary in connection with the operation of a coal pipeline;

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, or interest in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States and the Federal Government;

(4) as superseding, modifying, or repealing existing laws applicable to the various Federal agencies which are authorized to develop or participate in the development of water resources or to exercise licensing or regulatory functions in relation thereto; or

(5) as diminishing in any manner the authority of a State to grant or deny water use or establish or place terms or conditions regulating or limiting such use in any water permit or authorization, which authority such State would have in the absence of this Act.

REGULATIONS

SEC. 10. (a) The Secretary is authorized to promulgate such rules and regulations as he deems necessary to carry out the purposes of this Act.

(b)(1) Notwithstanding any other provision of this Act, simultaneously with promulgation or repromulgation of any rule or regulation under this Act, the Secretary shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2) of this subsection, the rule or regulation shall not become effective, if—

(A) within ninety calendar days of continuous session of Congress after the date of promulgation, both Houses of Congress adopt a concurrent resolution, the matter after the resolving clause of which is as follows: "That Congress disapproves the rule or regulation promulgated by the Secretary of the Interior dealing with the matter of , which rule or regulation was transmitted to Congress on .", the blank spaces therein being appropriately filled; or

(B) within sixty calendar days of continuous session of Congress after the date of promulgation, one House of Congress adopts such a concurrent resolution and transmits such resolution to the other House, and such resolution is not disapproved by such other House within thirty calendar days of continuous session of Congress after such transmittal.

(2) If, at the end of sixty calendar days of continuous session of Congress after the date of promulgation of a rule or regulation, no committee of either House of Congress has reported or been discharged from further consideration of a concurrent resolution disapproving the rule or regulation and neither House has adopted such a resolution, the rule or regulation may go into effect im-

mediately. If, within such sixty calendar days, such a committee has reported or been discharged from further consideration of such a resolution, or either House has adopted such a resolution, the rule or regulation may go into effect not sooner than ninety calendar days of continuous session of Congress after such rule is prescribed unless disapproved as provided in paragraph (1) of this subsection.

(3) For purposes of paragraphs (1) and (2) of this subsection—

(A) continuity of session is broken only by an adjournment of Congress sine die; and

(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of thirty, sixty, and ninety calendar days of continuous session of Congress.

(4) Congressional inaction on, or rejection of, a resolution of disapproval shall not be deemed an expression of approval of such rule or regulation.

UNDERGROUND CONSTRUCTION

SEC. 11. All coal pipelines subject to this Act shall, to the maximum extent practicable, consistent with environmental protection, safety, and good engineering and technological practices, he buried underground and on all rights-of-way replace on the disturbed areas sufficient topsoil, so that a vegetative cover can be reestablished at least equal in extent of cover as that which sustained the natural vegetation in the area.

RELATIONSHIP TO INTERSTATE COMMERCE ACT

SEC. 12. Except where otherwise provided by this Act, the provisions of part I of the Interstate Commerce Act (24 Stat. 379) as amended (49 U.S.C. 1–40) shall be applicable to coal pipelines subject to this Act.

APPLICABILITY TO EXISTING PIPELINES

SEC. 13. This Act shall not be applicable to the line or route or operations of any carrier of coal by coal pipelines which was in bona fide operation on January 1, 1978.

SEPARABILITY OF PROVISIONS

SEC. 14. If any provision of this Act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

AMENDMENT OFFERED BY MR. LUJAN

Mr. LUJAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. LUJAN: Strike all of subsection 5(g) and insert the following in lieu thereof:

(g)(1) The Secretary shall not approve, within the time limit provided in paragraph (A) or such extension as the Secretary may allow, such extension not to exceed a total of six months, an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use underground water (whether ground water or other subsurface waters) for the purpose of transporting coal, unless:

(A) The United States Geological Survey has conducted within 12 months of the filing of an application under Section 6 a comprehensive study of the anticipated use of such underground water source over the life of the coal pipeline and the impact of such use on the quality and quantity of the water table in surrounding areas or adjoining states considering the cumulative effect of any other coal pipelines using the same underground aquifer as a source of water; and

(B) The findings of the United States Geological Survey's study have been made available to all interested States.

(2) Any interested State shall have the opportunity to make its views known to, and shall be given full consideration by, the Secretary, regarding the study made under subsection (g)(1) of this section.

(3) The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use surface or underground water for the purpose of transporting coal unless the applicant has obtained any and all permits or authorizations for the use or diversion of any surface or underground water required by the State or States having jurisdiction to issue such permits.

Page 13, line 21, strike "granted" and insert in lieu thereof "seeking".

Mr. LUJAN [during the reading]. Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

Mr. LUJAN. Mr. Chairman, although the amendment is quite simple, it really addresses what I consider to be a very complex matter and which I am sure the House will agree is a complex matter. We have always recognized that it is the States and only the States that have any authority to allocate water. Now this bill, as it has come to the floor, has in it a clause that says that the U.S. Geological Survey will conduct a study and then will make a determination. The USGS under the bill must make a determination that the pipeline will not cause a significantly adverse impact on the quantity or quality of the water table in the surrounding area or in adjoining States.

I have no objection and I do not think anyone has any objection at all to the Geological Survey conducting a comprehensive study. As a matter of fact I think it should be done. It is very necessary that the USGS do this.

The thing we quarrel with is that the USGS must make a finding that a pipeline will not cause a significantly adverse impact. That gets the hand of the Federal Government into the allocation of water, which is reserved to the States.

My amendment simply seeks to clarify that and to get any determination by the Federal Government out of it. Just leave it up to the States.

As a matter of fact, Mr. Chairman, I am not the only one who feels that way about it. The National Conference of State Legislatures at their annual meeting in Denver, Colo., on July 6 of this year passed a resolution that says the National Conference of State Legislatures opposes the amendment placed in the bill, that wording which is now in the bill, which would give the U.S. Geological Survey a veto power over the States' rights to allocate underground water use for slurry pipelines.

Mr. Chairman, my only plea is that we leave the determination on how a State will use its water in the hands of the State and not have the Federal Government dictating to a State how a particular State will use its water.

Mr. RONCALIO. Mr. Chairman, I rise in opposition to the amendment.

It is not with enthusiasm or pleasure that I take the floor in opposition to my friend, the gentleman from New Mexico (Mr. LUJAN), who is one of the finest lawmakers in this body. I have a profound respect for him and I have worked with him on the Interior Committee for many years. I do so in an effort to try to protect western water.

The argument of the gentleman is specious and without merit when he says that the State will not control its own water. The State controls its own water, but if ever anybody wants to have the Federal Government take eminent domain over water in Wyoming, there should be qualified experts to say that there will be no damage to the water tables.

This has nothing to do with preempting the States' water rights. Let them build the pipeline by getting eminent domain from the States. But if they want Federal eminent domain, I believe we must have a positive that there will be no damage to water tables and hydrologic balances.

Mr. Chairman, I rise in opposition to the amendment because it strikes at the very heart of a carefully worked out solution to the problem of coal slurry lines as they relate to underground water use. The bill reported by both the Interior Committee and Public Works Committee contains compromise language approved by a 27 to 16 vote of the Interior Committee which seeks to place limits on groundwater use. Specifically, the right of Federal eminent domain would not be granted to a slurry line which would use underground water to slurry coal until the geologic formation containing the water has been thoroughly studied, and reliable evidence has been accummulated to indicate that groundwater use first, will not lower water tables, second will not dry up naturally subirrigated lands, and third will not bring about a reduction in the quality of water used for domestic or agricultural purposes. In short, groundwater use for coal slurry lines granted the right of Federal eminent domain (as opposed to State eminent domain) would be prohibited until we at least have adequate data to ascertain whether unacceptable interstate impacts could be avoided. Nothing, and I repeat nothing, in the legislation would impair a slurry project's ability to get eminent domain from the individual States, as is the current status of the law.

The primary reason this groundwater provision is so vital to the Western States is that so little is currently known about our underground water resources. To complicate matters, ground water law is still in its infancy, with the States, Federal Government, Indian tribes, and private parties all jockeying for rights and controls. In all likelihood, it will be years, if not decades, before underground water rights in the West are quantified to the point where interested parties can reasonably ascertain their rights and liabilities and take effective action to protect those rights. As such, the area of underground water rights is currently a free for all, in which I submit it would constitute sheer folly to permit large-scale water extractions for industrial use . . . especially before we even know the basic facts about the groundwater formations we plan to use. It would be

even worse for the Federal Government to prematurely place its stamp of approval, and confer the ominous power of Federal eminent domain, on a coal slurry project whose groundwater use could severely impact groundwater uses and flows in other States.

The Madison Formation in Wyoming and surrounding States is the classic case in point. Although Wyoming has unilaterally allocated up to 20,000 acre-feet per year of Madison Formation water for use in the ETSI pipeline, we do not even know the recharge rate of the formation. If Wyoming is correct, damage to the water table may be minimal. However, if Wyoming is wrong, the repercussions may drastically affect Federal lands, Indian lands, and lands in other States—particularly South Dakota. At the time Wyoming allocated the water to ETSI, it was represented, and the State believed, that the water was brackish and unfit for domestic or agricultural use.

Four years later we find that not only is the water of high potability and far superior than that currently in use in nearby portions of South Dakota and Wyoming, but that the city of Gillette has authorized a $15 million project to tap the Madison Formation. This project will rely on Madison Formation wells to provide the total domestic water supply for some 35,000 people in the communities of Gillette and Moorcroft, Wyo. The water is deemed a desirable replacement for the existing inadequate supply even though it must be pumped up several hundred feet and over a distance of 40 miles to reach Gillette. And, this is the same water which ETSI and others have but recently insisted was far too expensive for near-term domestic or agricultural use.

The bill's underground water provisions should, therefore, remain unchanged for the following reasons:

First, it applies to ground water only; surface water use is permitted subject to acquiring the necessary State water use permits or authorizations.

Second, it does not prohibit the use of groundwater. It only conditions the issuance of a Federal eminent domain certificate on a showing that the use will not adversely impact water tables to the detriment of other potential users.

Third, the use of groundwater often has interstate ramifications which also impact Federal and Indian lands. A unilateral State decision on groundwater may not adequately protect these interests and may actually constitute groundwater mining to the detriment of others.

Fourth, while the Federal Government, Indian tribes and other States can take legal action to protect their groundwater rights, this action could languish in the courts for many years, leaving these interests at the mercy of unilateral State action. In addition, if little is known about underground water flows and recharge rates, proof of water table damage may be extremely difficult or impossible to trace back to its cause.

Fifth, despite what we have written into this bill, the danger always exists, and is shared by many water law experts, that a billion dollar interstate coal pipeline, which has been judged by the Federal Government to be in the public interest, and deserving of Federal eminent domain, may acquire a constitutionally protected status which will dwarf the power of the States to regulate or challenge water use once the water is flowing in interstate commerce.

Sixth, there are millions of acre-feet of unallocated surface water—surface water whose use and flow, unlike ground water, is easily quantified, monitored, measured, and governed by a body of law which is fairly well established—which can be used to move coal, and which should be used before we tamper with precarious ground water balances. Ground water mining is proving very costly in north Texas, California and other areas of the West . . . must we repeat the same mistakes in the Northern Great Plains?

Seventh, if the Federal Government is going to make a determination that a proposed coal slurry line is in the national interest and therefore merits a certificate of public convenience and necessity, it should at least do so on the basis of complete factual data. I submit this data is missing for ground water formations, and unless adequate ground water studies and findings are made, the Government's decisionmaking process will be deprived of a critically important factor.

Eighth, the bill does not interfere with the States' rights to allocate their water, nor does it empower the Secretary of Interior to allocate one drop of water for coal slurry pipelines. Rather, it supports the State's rights by absolutely requiring all State water use permits and authorizations. At the same time, it conditions issuance of a Federal certificate of public convenience and necessity upon certain findings that ground water use will not infringe upon the rights of private citizens of other States, the Federal Government, or Indian tribes.

Ninth, if a Federal certificate of public convenience and necessity is denied under the bill because of ground water problems, the slurry line applicant can:

Reapply for a line using surface waters,

Incorporate recycling so that groundwater use will not adversely impact water tables, or

Attempt to secure a right-of-way under State laws, as he would have to do in the absence of this legislation.

In summary, H.R. 1609 in its present form does not close the door to coal slurry pipelines or Federal eminent domain for such lines. Rather, it only asks that ground water not be used for slurrying coal until enough is known about its use to determine that the impacts will not adversely affect other users. To do otherwise, is to permit the development of the West's remaining water resources without the benefit of adequate study and planning. We should have learned by now that this is not the way to proceed * * * especially with a resource so precious, and still relatively unresearched, as ground water.

Once again here is the matter that appeared in this morning's paper on the city of Gillette, Wyo. That community has grown from a population of 12,000 to 13,000 to probably 60,000 people in some 10 years, and it has to have a place to produce water for its citizens. They have just committed better than $22 million for the development of water wells, drilling down to the Madison limestone formation, in order to recover water that might not even require treatment for consumptive use by human beings.

I would say the Lujan amendment will remove the last protection in the bill against the leverage of Federal eminent domain being used to take water for slurry pipelines.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. Is it true that this proposed amendment would remove one of the safeguards which now exists in the bill protecting the adjacent States?

Mr. RONCALIO. I think that that is true.

I happen to dislike the bill whether the amendment is defeated or not, and I will vote against it. But the amendment is not good legislation and would only make the bill that much less secure and safe so far as western water is concerned.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from Utah (Mr. MARRIOTT).

Mr. MARRIOTT. Mr. Chairman, I thank the gentleman for yielding to me and I want to ask the gentleman his opinion regarding this amendment if a State wanted to grant water under the bill would this amendment say they could not do so unless they meet other requirements?

Mr. RONCALIO. No, it does not say they should not do so unless they meet other requirements. But the committee bill would require, before getting a permit for Federal eminent domain, that the U.S. Geological Survey would have to come up with results on the wells they have drilled, and for which they have appropriated millions of dollars in the last few years, to demonstrate that there would not be damage done to underground water supplies.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. RONCALIO. I yield to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, I thank the gentleman for yielding.

Let me state that if the State of Utah, for example, wants to grant the use of its water for a pipeline and the U.S. Geological Survey says that they cannot do so because they have not made a positive finding showing it will not adversely affect the water for future use, even if the State of Utah wants to do this the Federal Government can tell the State of Utah, under the wording in the bill, that they cannot grant that right.

Mr. RONCALIO. I must hopefully recover my time and say that simply is not so, that is not the case. The State of Utah can grant a permit to whoever it wishes and whenever it wishes.

Mr. LUJAN. Not under this bill.

Mr. RONCALIO. The State of Utah can do what it wants to do with its water

and the State of Wyoming can also do what it wants to do with its water. It is only when the pipelines ask for Federal permission to condemn land, then the USGS would have to prove underground water use will not damage the water supply.

I must take respectful exception to what the gentleman said, it is not so.

Mr. UDALL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from New Mexico (Mr. LUJAN). Let me tell the Members why.

One of the fundamental principles we have tried to establish in this legislation is that States' right are going to be observed and protected. We have tried to nail it down beyond any argument that the States will have an absolute veto, for reasonable cause or unreasonable cause. A State, for any reason, ought to to be able to veto the exportation of even a pint of water beyond its borders for any reason. If the State of Wyoming or the State of New Mexico or the State of Utah wants to export its water, it can, but it cannot do so if a Federal agency can come in and veto the whole project by making a finding that the project will make a significant impact on the quality of the water supply, whether we have States' rights protected, or we do not. The Lujan amendment keeps the concept of providing every State with an absolute veto and keeps the Federal Government out of it. Either you have a Federal veto or you have a State veto. We should not have that, and the believers in States' rights ought to be behind the Lujan amendment.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to my colleague, the gentleman from Kansas (Mr. SKUBITZ).

Mr. SKUBITZ. If I understand this amendment correctly, it provides that a study be made, and after the study is made that the Geological Survey will not be able to make a recommendation; is this correct? It cannot recommend a certificate. It holds to the States the right to make the certificate.

Mr. UDALL. No. That is not what the bill now provides.

Mr. SKUBITZ. I am not talking about the bill; I am talking about the amendment that is before us.

Mr. UDALL. I want to explain on my own time, if the gentleman will let me, where we are. The bill provides that the USGS must make a study and that no permit can be issued unless the USGS makes certain findings. The gentleman from New Mexico (Mr. LUJAN) says we mandate the study and then the States must be furnished with the study—all of the States. Not just the States where the water is coming out, but the adjoining States must be given the study, and then the State of origin has an absolute veto for any reason.

Mr. SKUBITZ. The State has the right of veto?

Mr. UDALL. We enlarge and enhance the right of veto in the Lujan amendment. We make it very clear beyond any doubt that there is an absolute State veto.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Utah.

Mr. MARRIOTT. I thank the gentleman for yielding.

The gentleman from Texas (Mr. ECKHARDT) and I got our heads together, as the chairman, the gentleman from Arizona (Mr. UDALL) will recall, and came up with what we thought was a States' rights amendment. The committee accepted that amendment. Does this new amendment now offered by the gentleman from New Mexico (Mr. LUJAN) strengthen that position or weaken that position?

Mr. UDALL. It strengthens the State's position. It is in accordance with the kind of amendment the gentleman was offering. It gives the State an absolute veto, for any reason, instead of having the Federal presence hanging over you and violating the State's decision, as the gentleman from New Mexico (Mr. LUJAN) pointed out.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

The gentleman talked kind of fast in his response. Let us suppose that the study is made under the gentleman's amendment. The report concludes that the issuance of a certificate could do damage to the State of South Dakota, we will say, but they want to drill the well in Wyoming. Can Wyoming go ahead and issue the certificate at that moment under the amendment, even though it is to the detriment of South Dakota?

Mr. UDALL. The Secretary in making a decision is required to take into account the impact on South Dakota. Besides, South Dakota has water rights, certain water rights, which we do not affect in this bill in any way.

Mr. SKUBITZ. Oh, yes, it does affect the ones in South Dakota. May I have time to ask the gentleman from New Mexico (Mr. LUJAN) a question?

Mr. UDALL. I yield to the gentleman.

Mr. SKUBITZ. Is it the understanding of the gentleman from New Mexico (Mr. LUJAN) that under his amendment even if the study concludes and the Secretary goes forth with a finding that, a well in Montana could affect water in South Dakota, that Wyoming could go ahead and issue a contract for water out of the area?

Mr. LUJAN. If the gentleman from Arizona (Mr. UDALL) will yield, in the first place that question that the gentleman has asked has nothing at all to do with this section of the bill.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ROUSSELOT, and by unanimous consent, Mr. UDALL was allowed to proceed for 3 additional minutes.)

Mr. UDALL. I yield to the gentleman from New Mexico who is responding.

Mr. LUJAN. I thank the gentleman for yielding.

The question the gentleman from Kansas asks has absolutely nothing to do with this amendment. The bill states now that the USGS must make a positive finding that it will not adversely affect the water in the area. All I am saying is let the USGS make the study but not make any kind of finding. Let the State of Wyoming or the State of Montana, or the State of South Dakota, or the State of Utah, or the State of New Mexico, make that determination, not the Federal Government. The USGS will simply make the study and hand it to the States and the States make that determination.

Mr. SKUBITZ. That is exactly the point I am making. They hand the States the study.

Mr. LUJAN. That is exactly right.

Mr. SKUBITZ. And Wyoming goes right ahead and says, "OK, a certificate may be granted," even though it may work to the detriment of the State of South Dakota that is going to be affected because of the drain of the water from the Madison Formation.

Mr. LUJAN. When there is a problem about water rights between two States, those are normally taken care of by interstate compact. We do not want the Federal Government to come in and tell us how we can proceed.

Mr. SKUBITZ. I agree with the gentleman's point that the water actually belongs to both States, and once you contract water that way and try to withdraw it, you cannot do so because that water is actually in interstate commerce, as the gentleman admits by his statement. Somebody is going to have to pay damages at that time.

Mr. LUJAN. I do not see what this has to do with this amendment at all. This amendment simply says the USGS will make a study and give it to the States. We are big boys out West. We understand. We understand water law much better than the majority of the Members of this body. We can make our own decisions.

And I am saying, do not put that heavy Federal hand on us again. We have enough expertise to work out our own problems.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. UDALL. Mr. Chairman, I have the time, and I want to concur very strongly with what the gentleman from New Mexico has said. The bill as now written, absent the Lujan amendment, gives the Federal Government the right to say what is the impact of water in any State. The Federal Government should not have that authority. The States should have that authority and the States should be rallying behind the Lujan amendment.

Mr. HARSHA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, under the amendment offered by the gentleman from New Mexico (Mr. LUJAN), approval of a certificate by the Secretary of the Interior would be conditioned on the issuance of permits for the use of water for transporting coal by the State with jurisdiction to issue such permits; that is, the State where the water happens to be located will be allowed to issue the permit. The adjoining States which also draw from that underground table would be cut out of the process.

That is the crux of the gentleman's amendment. His amendment takes away States' rights, if you will, of the surrounding States, which have a very valid and a very important interest in this underground water.

If you want to take away the rights of the adjoining States, then you vote for the amendment. If you want to sustain the rights of the adjoining States, which also have a valid interest in this underground water, then you vote down the amendment.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I think the gentleman is mistaken. I can understand his concerns for trying to preserve the rights of the States. That is what we are trying to do. If my friend would only see it properly, he would end up supporting the amendment; because, after all, that change also says that the finding must be made and these permits must be obtained by the authority that is going to transport the coal and get the permit for use or diversion of any surface or underground water required by the State or States—plural; State or States—having jurisdiction to issue such permit.

Mr. HARSHA. That is the crux.

Mr. LUJAN. It is both singular and plural.

Mr. HARSHA. But, the adjoining States may not have jurisdiction to issue permits when the well is dug in another State.

Mr. LUJAN. All of those things must be taken into consideration by the Secretary.

Mr. HARSHA. Not under your amendment.

Mr. LUJAN. The USGS, under the present wording, can prevent them from operating their well. Let me just point that one thing out. The National Association of State Legislators, meeting in Denver just this month, why do they want that section knocked off? Why do they agree that my amendment should be passed if it is against States' interest? It is clearly in the interest of the States, and State legislatures have recognized it and they agree with what we are trying to do here.

Mr. HARSHA. The answer to that is that they do not understand the gentleman's amendment any more than the gentleman understands it. The gentleman's amendment clearly says that only the State from which the water is extracted, where the well is physically located, can issue a permit. The adjoining State, which has a valid legal interest in that water, has lost its rights under the gentleman's amendment.

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Montana.

Mr. MARLENEE. I believe the gentleman from Ohio is absolutely correct. But they cannot issue a permit if the other States are adversely affected—that is the key: Adversely affected—or demonstrate that they will not be adversely affected.

What are we going to do if one of the States adjoining another decides that they are going to issue a permit for water, and issues the water to the pipeline company, and they find then that it is adversely affecting the water tables, and the USGS had already said it is going to adversely affect the water table. What will the adjoining State do then? Can they turn it around?

The courts have never reversed a water decision to this time where that water is beneficially being used, we will never be able to turn around once the permit is issued and the water is granted.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I rise in opposition to the coal slurry pipeline proposal. It is evident that the environmental consequences of such a massive undertaking, and the resultant impact it will have on scarce water resources in the West, far outweigh the arguments in favor of this exotic form of transportation.

I am concerned over the impact this proposal will have on the available water resources in the arid West. Conservative estimates place the annual water requirement at 20,000 acre-feet. The water for this massive operation is scheduled to be drawn from the Madison Formation, near Gillette, Wyo. We first heard that the water which is sought was not potable, thus would not impact the municipal water demands. However, we have recently heard conflicting reports that the water was, indeed, potable thus causing damage to the local water demands. Additionally, in my estimation, adequate water replacement rates in existence at this formation, have not been conclusively demonstrated. I should add that appropriate officials in the White House have also agreed with these concerns and have expressed their opinion that the potable water resources should not be jeopardized.

Mr. Chairman, I also have another serious concern over this controversial proposal. This involves the projected impact this project will have on this Nation's struggling railroads. The recent Office of Technology Assessment report supports my contention that the railroads future demands, to a great extent, depend on increased utilization of the lines to transport such commodities as coal. By denying this vital transportation sector the availability of this increased traffic, we are denying the railroads of a viable, profitable future. The studies show that the railroads will be capable of handling the increased traffic, with a minimal impact on the environment, thus enhancing their financial position in the coming years.

Finally, I am persuaded by the conclusion reached in the Office of Technology Assessment report which stated that the current regulatory framework does not guarantee that choices between slurry pipelines and rail will necessarily minimize the cost of coal transportation. Thus, the question of whether this proposal will reduce or minimize any future residental energy costs has not been answered.

Mr. Chairman, the concerns expressed by my colleagues from the States that will be forced to relinguish their water resources for this exotic venture, along with the serious concerns that I have for the future of our railroads, brings me to the conclusion that this proposal is not in the best interest of the American public.

I, therefore, urge my colleagues to reject this controversial proposal.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I would like to have the attention of the author of the amendment, the gentleman from New Mexico (Mr. LUJAN).

I think the gentleman from Ohio (Mr. HARSHA) has raised a very significant point, and I would like to have some satisfaction with respect to it.

I think the amendment takes away the degree of protection of the adjacent State which could be impacted. I wonder whether the gentleman could tell me where in the amendment specifically it says that the adjacent States would be protected from any adverse impact on the groundwater commonly referred to as the Madison aquifer?

The CHAIRMAN. The time of the gentleman from Ohio (Mr. HARSHA) has expired.

(By unanimous consent, Mr. HARSHA was allowed to proceed for 2 additional minutes.)

Mr. HARSHA. Mr. Chairman, the gentleman is absolutely correct, because that is the crux of the Lujan amendment.

Under his amendment the adjoining State cannot block it, cannot interfere with it, and cannot do anything about it. The reason for this is quite simple because the State in which the withdrawal is made can issue a permit regardless of the effect on the adjoining State.

Mr. LUJAN. If the gentleman will yield, Mr. Chairman, it is no different than it is now. If the State of Texas, for example, wants to drill a well in a basin which may be both in New Mexico and in Texas, there is not a thing that we in New Mexico can do about it. That is the way the law is right now on ground water. It does not change that one bit.

The affected State, in the instance of this legislation, should it not like it, can go to the Secretary of the Interior and say, "Do not issue that permit to construct this pipeline until our concerns are resolved."

Mr. VENTO. Mr. Chairman, will the gentleman yield?

Mr. HARSHA. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Chairman, I appreciate the gentleman's yielding.

The point is to strike the language "having a valid legal interest in underground water."

That is stricken in the gentleman's amendment. There is just a reservation with respect to jurisdictional disputes.

The gentleman also qualifies the amendment so that the study done by the Geological Survey is only addressed to water not used for coal, and that is different from the language put in in

the Committee on Interior and Insular Affairs. I think we have to consider all the uses of water. The gentleman's amendment does not do that.

Second, the gentleman qualifies it by modifying the time framework. There is a time frame for extending the permit use by the Secretary of the Interior, and the gentleman has put in a time limit in terms of the Geological Survey study, 12 months, which, again, may or may not be correct, depending on the problem we are trying to resolve. I think what is really important is the total impact.

Of course, talking about the Secretary of the Interior having the opportunity to look at it is reasonable. If the State makes a mistake, there ought to be that type of backstop protection with regard to water use.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, in this debate two separate matters have been discussed. One was the matter which the gentleman from Nevada (Mr. SANTINI) was talking about. That is the question of whether or not the courts may protect a Federal interest after permits have been granted by a State or have been withheld by a State.

Mr. Chairman, that was addressed by the Marriott amendment. This amendment does not affect the Marriott amendment. The Marriott amendment did this very desirable thing: It provided that the State might qualify the use of its water, setting various categories of desirable use of water, starting, say, with residential use, going through agricultural use, and going through industrial use and providing as the last qualified use, coal slurry, and then saying that if the water table is unduly lowered so as to threaten the higher uses, that the State may enforce the terms of its permit against the pipeline and that the Federal Government shall not treat that nor shall the courts treat it as an interference or as a burden on interstate commerce.

We can do that, because the supremacy clause is in favor of the U.S. Government; and, of course, the Congress may deal with that question and say that the supremacy clause is not applicable, because the Federal Government agrees, in effect, with the State. That is what we did under the Marriott amendment.

Under this amendment, we have a different matter involved entirely. As the gentleman from New Mexico (Mr. LUJAN) has pointed out, in the original language the question of whether or not there was an interference by removal of water from a given well with the water of another State was left to a determination by the Geological Survey, which is a Federal agency. There has been complaint about that.

The really active language in this provision is the last paragraph, which says the following:

> The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use surface or ground water . . . underground water required by the State or States having jurisdiction to issue such permits.

Therefore, the State having jurisdiction to issue the permit makes the determination. We do not affect existing groundwater law. Of course, there are disputes between States as to who has jurisdiction to issue the permit, but we do not want to get into that question; and under the Lujan amendment we do not.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, I appreciate the gentleman's yielding.

The very real problem, it seems to me, which is created here is the fact that several States are impacted by the water decision that we make in this legislation.

The Madison formation underlies or supplies water to several States.

My question goes to this hypothesis: Suppose, for example, the State of Wyoming makes a decision under which it agrees to run 20,000 acre-feet of water a year through this pipeline.

Under the present structure of both Federal and State law, there is absolutely nothing the States of Nebraska, South Dakota, and any other affected State could do to supersede that agreement between Wyoming and Pipeline. It is a matter of general public interest, I would submit, rather than single State interest. In that context, we crafted this amendment that says USGS must make a finding that it will not adversely impact also on South Dakota and Nebraska.

If this amendment goes through, that stopgap or safeguard, it seems to me, would be eliminated.

Mr. ECKHARDT. The ultimate determination under the original provision with respect to the question of whether or not removal of ground water would impact a given State was given to a Federal agency. That is the first time that we have ever admitted or agreed that a Federal agency should make that determination.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(At the request of Mr. LAGOMARSINO and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 2 additional minutes.)

Mr. ECKHARDT. Mr. LUJAN, I am sure, recognizes what Mr. SANTINI is saying, that at some point in our history we are going to have to select an arbitrator for disputes between States on water use. But, the question that Mr. SANTINI raises exists in every question having to do with the use of water. Indeed, it would be much more serious in the use of water for agriculture, because a great deal more water and a great deal of water from easier-to-gain sources is involved in those uses.

Presently, though, the question of the States' rights to the use of water rests on a court decision as to whether that water is within the jurisdiction of the State, and whether the jurisdictional water of that State is interfered with by another State. Mr. LUJAN does not disturb that situation.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from California.

Mr. LAGOMARSINO. Mr. Chairman, is it not true that under present law any use of the water from underground formations that might impact another State is entirely without—at least, we hope it is—without the jurisdiction of the Federal Government?

Mr. ECKHARDT. That is correct.

Mr. LAGOMARSINO. And whatever remedy there might be is between the States themselves. For example, whether or not Burlington Northern Railroad can go ahead with the plan, which it had a short time ago, to build a coal slurry pipeline, none of this would come into effect, because there would be no rules whatever, or mine-mouth electricity generation, or coal gasification, which uses much more water than a coal slurry pipeline.

Mr. ECKHARDT. Exactly.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I appreciate what the gentleman has just said. There are those in this Chamber today who want to create new law as to how to settle disputes between the States. Now, maybe that is a question that needs to be addressed, but I do not believe, as the gentleman from Texas also believes, that we should address it in this bill. There ought to be, perhaps, a comprehensive study as to whether those changes—there are some changes—need to be made, how to resolve disputes between States, but this is certainly not the vehicle.

One other point: The water officials in my State, and I am sure in your State, always tell me that if there is a dispute——

The CHAIRMAN. The time of the gentleman from Texas has again expired.

(At the request of Mr. HARSHA and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. LUJAN. I would like to finish one thought that I have. To my friends from the other States who are on the opposite side of this amendment, let me remind them that their water officials from those States will normally tell them, as they tell me, that if there is a dispute between New Mexico and, say, Colorado, "Let us resolve it; don't bring the Federal Government in to resolve it for us."

That is the Bible that I hold to in water law, to let the States clear up any disputes they have among themselves.

Mr. ECKHARDT. Mr. Chairman, may I reply briefly to the gentleman, and then I will yield to the gentleman from Ohio (Mr. HARSHA).

I think that is exactly correct. And under this language, if the States themselves agreed with respect to their jurisdiction over underground water, this provision would give them absolute authority to enforce their agreement. But it would not permit the U.S. Geological Survey to say: "You are wrong. We are going to change it."

I yield now to the gentleman from Ohio (Mr. HARSHA).

Mr. HARSHA. Mr. Chairman, I thank the gentleman for yielding.

It should be obvious to everybody on the floor now that this issue of States' water rights is a very emotional issue, and that States' water rights are very sacred commodities, and that the law is susceptible to a number of different interpretations, as this amendment is, as is obvious by the colloquy and the debate, and this is one very profound reason why this bill should never see the light of day.

Mr. ECKHARDT. Mr. Chairman, if I may reclaim the remainder of my time, let me say these difficult questions of water rights, until we resolve them finally, we ought to leave to the States, just as the amendment does. It carves this bill around the State's authority to control its water, as has been done in the amendment offered by the gentleman from Utah (Mr. MARRIOTT) and also the pending amendment.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Utah.

Mr. MARRIOTT. Mr. Chairman, I would like to ask the gentleman this question: Without the Lujan amendment, is it not a fact that the USGS could substantially limit and even have a veto power over the Marriott amendment that we worked so hard to get in? Could that weaken those provisions without the Lujan amendment?

Mr. ECKHARDT. I really do not think that the two amendments address the same question, but the original language is extremely confusing, because it makes the Geological Survey make a determination and then it leaves the certifying power to the Secretary, which would probably be bound by another Federal agency's determination, and then it provides something concerning the State's protecting its underground water. I think it is conflicting within itself.

The CHAIRMAN. The time of the gentleman from Texas has expired.

(On request of Mr. MARRIOTT, and by unanimous consent, Mr. ECKHARDT was allowed to proceed for 3 additional minutes.)

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Utah.

Mr. MARRIOTT. Mr. Chairman, if the States and the USGS come up with two different opinions about the situation, whose opinion prevails? That is the question I have. If the State wants to submit to a coal slurry pipeline and the USGS says no, it will affect Montana or Idaho or someplace else, who has the ultimate decision?

Mr. ECKHARDT. There is one way it could affect this amendment and that is this. Suppose, for instance, one State grants a permit on condition that it may withdraw its permit if the permitted use begins to draw down its water table. And suppose the USGS says it does not draw down the water table at all; as a matter of fact, the water table, if it is affected at all, is affected in another State. Under the Marriott amendment it is provided that the State may enforce its limitations on its permit at any time without the Federal Government or the courts holding that such is a burden on interstate commerce, if it were not a burden on interstate commerce at the time the condition was made.

I think that if the USGS made a separate and different determination from the State that originally granted the permit, this might reopen the question of whether or not the State's enforcing of its rights constituted a burden on interstate commerce, and in that sense the gentleman is correct.

Mr. MARRIOTT. In that sense then the Lujan amendment would correct that situation.

Mr. ECKHARDT. The Lujan amendment absolutely corrects that, because it leaves the final determination to the State having the water rights.

Mr. MARRIOTT. I thank the gentleman.

AMENDMENT OFFERED BY MR. ABDNOR AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. LUJAN

Mr. ABDNOR. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. ABDNOR as a substitute for the amendment offered by Mr. LUJAN: Strike out section 5(g) of the amendment in the nature of a substitute and insert in lieu thereof the following:

(g) The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use groundwater for the purpose of transporting coal, unless—

(1) upon the request of any interested State, the United States Geological Survey has conducted a comprehensive study of the use of such groundwater source over the life of the coal pipeline considering whether such pipeline or the cumulative effect of such coal pipeline and other uses of the same groundwater aquifer will cause adverse impacts upon the quality or quantity of such water in surrounding areas or adjoining States;

(2) any interested State has had an opportunity to make its views known to, and such views have been given full consideration by, the United States Geological Survey regarding any study conducted under paragraph (1);

(3) the findings of any study by the United States Geological Survey under paragraph (1) have been made available to all interested States; and

(4) any State which the Secretary, considering the findings of any study by the United States Geological Survey under paragraph (1), determines to have a valid legal interest in the groundwater to be used and beneath whose lands any part of the groundwater aquifer constituting any part of the source of groundwater to be used lies has certified to the Secretary such State's approval of the use of such groundwater for the purpose of transporting coal.

(h) The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline which proposes to use surface waters for the purpose of transporting coal unless the applicant has obtained a permit for the use of such waters from the State having jurisdiction over such waters.

Mr. ABDNOR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment be considered as read and printed in the RECORD.

The CHAIRMAN (Mr. GIAIMO). Is there objection to the request of the gentleman from South Dakota?

There was no objection.

Mr. ABDNOR. Mr. Chairman, I have been following the remarks of the Members in the House with a great deal of interest and have been getting ready to enter into the debate at any moment, but I thought I would wait until the opportunity arose for me to explain my amendment and the difference between the two amendments now pending before us.

Mr. Chairman, I have a substitute for the Lujan amendment. I consider this a perfecting amendment because everyone who has expressed an interest in this bill has supported the absolute right of the States to control allocation of their water resources. That is exactly what my amendment would do.

There are those who have argued the existing language of H.R. 1609 is adequate in this respect, but I am not so sure that it is. My amendment is superior for the following reasons:

First. It clearly establishes that the role of the USGS is advisory to the States only. Under the existing language of the bill USGS would be required to make determinations which have traditionally been reserved to the States. It would be highly ironic if, even as we are all paying lip service to States' rights, these determinations by USGS turn out to limit the discretion of the States.

Second. The existing language somewhat confusingly states that a permit for surface water rights must be granted to a coal pipeline proposing to use underground water. My amendment alleviates this confusion by separating ground water and surface water into distinct subsections and by making it clear that pipelines proposing to use only surface waters must obtain rights to use these waters from the State having jurisdiction over them before the Secretary could act.

Third. My amendment changes the reference to "underground water" to read "ground water." I am informed "ground water is the proper term, as interpreted by professional water law experts.

Fourth. My amendment affords all interested States the opportunity to provide input into the USGS study, but it would be the States—not the USGS—which would use the findings of the study to determine whether the adverse impacts would be significant.

Fifth. The findings of the USGS would be made available to all interested States, and those States having a valid legal interest in the water to be allocated would have to approve the allocation before the certificate of public convenience and necessity could be granted.

Sixth. Finally, under my amendment, if the Secretary of the Interior determines a State which is adjacent to the State in which the withdrawals will occur has a valid legal interest in the ground water to be used, the approval of the adjacent State would be required before the Secretary could grant the right of eminent domain to a coal pipeline. The Secretary would base his decision on the results of the USGS study.

This provision would afford States which have a valid interest in the water to assert that right more quickly, efficiently, and cheaply than having to go to court as they would have to do under ex-

isting law and the existing language of the bill. At the same time, if a State does not concur in the results of the USGS study or the determination of the Secretary, that State would still have the same legal avenues open to it that would be available under existing law or the existing language of the bill.

While Mr. LUJAN and I agree the existing language of the bill is inadequate, my amendment is stronger than the gentleman's amendment for the following reasons:

First. It uses the technically proper term, that is "groundwater," to refer to the subsurface water with which we are concerned.

Second. The Lujan amendment charges the USGS to consider the cumulative effects of coal pipelines only. My amendment requires that the cumulative effects of all uses be taken into account.

Third. My amendment requires consultations with the States prior to completion of the USGS report. Under the gentleman's amendment, consultation would occur only after the USGS had completed its study and published its report.

Fourth. Finally, and most importantly, my amendment clearly requires the approval of all States having a valid interest in the water to be used. Under the Lujan amendment only the State in which the withdrawal would occur would have to approve—even though the interests of another State could be adversely affected.

This is a States' rights amendment. It expressly precludes the Secretary from infringing on traditional State water allocation authorities because the approval of the affected State—not the Secretary or the USGS—would be required. At the same time adjacent States could not capriciously interfere in the affairs of another State having authority to grant the water right because the Secretary, on the basis of the findings of the USGS, would have to agree they have a valid interest in the water to be allocated.

I would like to be able to support H.R. 1609 because I believe the opportunity should be afforded for coal pipelines to be considered on a case-by-case basis for the contributions they may make to our national energy transportation system. Unless the problems addressed in my amendment are corrected, however, I shall vote against enactment and urge my colleagues to do likewise.

At this point in the RECORD I would like to include a telegram I have received from Governor Kneip indicating that he shares my concerns.

PIERRE, S. DAK., *July 17, 1978.*

Representative JAMES ABDNOR:

Congress is currently debating the fate of the eminent domain question as it relates to coal slurry pipelines. The issues revolving around the coal slurry pipelines were vigorously debated in the 1977 legislative session. A bill to authorize the use and delivery of Missouri River Water to Energy Transportation System Inc. for coal slurry purposes was passed by the legislature. I found it necessary to veto that particular bill. As indicated in my veto message I did not oppose the concept of coal slurry pipelines but rather requested a more detailed evaluation of the impacts of a West River pipeline on South Dakota. Those studies are being carried out. South Dakota stands to gain much from the delivery of water into its western areas but recognizes economics dictates that coal development must help finance the project. The President has emphasized coal development in our national energy program. Transportation through coal slurry pipelines is a technology that can enhance the national energy position, as long as exporting regions are provided the means to protect their water and other natural resources it is believed any undue roadblocks should be removed from coal slurry pipeline developments. Thus, I would like to see Congress pursue this legislation in an expeditious manner for the benefit of South Dakota and the nation. I hope you will support this concept during the consideration of pending legislation.

Sincerely,

RICHARD F. KNEIP,
Governor of South Dakota.

Mr. SEIBERLING. Mr. Chairman, if the gentleman will yield, the gentleman is making a good point, and it would be very helpful if we could have a copy of the gentleman's amendment so we could have his exact language.

Is the amendment printed in the RECORD?

Mr. ABDNOR. Yes, it is printed in the RECORD.

Mr. SEIBERLING. Will the gentleman state for the benefit of the other Members what page it is on?

Mr. LUJAN. Mr. Chairman, if the gentleman will yield, it is on page 21226.

Mr. SEIBERLING. I thank the gentleman.

Mr. MARRIOTT. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Utah.

Mr. MARRIOTT. I thank the gentleman for yielding.

Under the gentleman's amendment, does an adjoining State have the right to severely restrict the State of origin?

Mr. ABDNOR. If the adjoining State has a valid legal interest in the water to be used.

Mr. MARRIOTT. What kind of restrictions could they impose on the other States?

Mr. ABDNOR. They would have to give their approval of the use of the water for the purpose of transporting coal.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. PRESSLER, and by unanimous consent, Mr. ABDNOR was allowed to proceed for 3 additional minutes.)

Mr. ABDNOR. Without approval of the adjoining State the Secretary could not grant the right of eminent domain to a coal pipeline.

Mr. MARRIOTT. So the adjoining State has veto power over an original State?

Mr. ABDNOR. Yes, that is right, if the adjoining State has a valid legal interest in the water to be used.

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

Is it not correct that that is true only if there has already been a finding by the USGS that the adjoining State is affected, the water level is affected?

Mr. ABDNOR. No. Under my amendment the U.S. Geological Survey study is advisory only.

Mr. SHUSTER. Yes, and do they not then determine if, indeed, the water level is affected in the adjoining State?

Mr. ABDNOR. No. If an adjoining State feels it has a valid interest, the Secretary would determine whether he agrees, on the basis of the evidence generated by the Geological Survey's study. In that limited sense I have to admit the Secretary would be given a new authority.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

I respect what the gentleman in the well is trying to do. However, I must take issue with his amendment. Let me just ask the gentleman this: Since when do we leave it up to a Secretary of the Federal Government, to any secretary, to determine the legal rights of States? The gentleman, by his amendment, is giving that right to the Secretary to determine the legal rights of States. This is one issue and this is one point where the States would not want to have the Federal Government involved. They should leave it up to the courts to determine what the legal status of water is in a particular State. I certainly could not agree with the gentleman on this point of allowing the Secretary to determine the legal status of the water in his State, in my State, or any other State.

Mr. ABDNOR. Shouldn't an adjacent State whose water will be adversely affected have the opportunity to exercise its valid legal rights?

Mr. KAZEN. Except that we do not give that right to the Secretary as the gentleman would want to do under this amendment.

Mr. ABDNOR. How should it be done?

Mr. KAZEN. The courts do it, or they do it by interstate compact.

Mr. ABDNOR. This is part of the reason for my concern. Maybe we are not ready for this type of legislation, because many States do not have this type of compact worked out at this time, and this could be an extremely serious situation.

Mr. KAZEN. But I will say to the gentleman that that is the way to do it. I do not think that by legislation we should set a precedent of telling the Secretary of the Interior or the Secretary of Commerce, or anybody else, that he shall determine the legal rights of the States.

Mr. PRESSLER. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from South Dakota.

Mr. PRESSLER. I thank the gentleman for yielding.

I would like to make a comment on that. I think what this boils down to is this. The State of South Dakota has the Madison Formation under it. The State of Wyoming could tap into that. It is nice to say the States have their rights, but we are looking for some protection for both the Missouri River water in South Dakota and the Madison Forma-

tion. That is why this is an important amendment to South Dakota. Maybe the reality of this whole discussion here is that South Dakota water is going to be used in a coal slurry pipeline. That is why I am opposed to it.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. SKUBITZ, and by unanimous consent, Mr. ABDNOR was allowed to proceed for 1 additional minute.)

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding. I will address my question to my colleague here.

What this amendment proposes to do, as I see it, is that if South Dakota feels that its rights or its water is being endangered by the drilling of a well in the State of Wyoming, a protest by the State of South Dakota would be sufficient to stop the State of Wyoming from granting a contract; is that correct?

Mr. PRESSLER. If the gentleman from South Dakota (Mr. ABDNOR) will yield, it would not be sufficient to stop it, but it would have to be considered as an input.

Mr. SKUBITZ. Oh, "considered." I thought it did the other.

Mr. ABDNOR. Again we go back to those words "valid legal interest." If a State has a legally valid interest in the water to be used, that State could stop it from being used for coal transportation insofar as the Federal right of eminent domain is concerned. A well conceivably could go within a block of the South Dakota State line. It could affect South Dakota every bit as much as Wyoming. It is absolutely imperative that the adjoining State have that right, and that is what I am attempting to do here. Maybe we need a better definition of "valid legal interest."

Mr. SHUSTER. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from Pennsylvania.

Mr. SHUSTER. I thank the gentleman for yielding.

I point out that the gentleman's amendment does say—

> Any State which the Secretary, considering the findings of any study . . . determines to have a valid legal interest in the groundwater . . .

So South Dakota simply cannot say to Wyoming, "You cannot drill a well." It must have been determined that the drilling will, indeed, affect the level of the water in South Dakota, and then once that is determined, according to the gentleman's amendment, the State's approval for use of such ground water for the purpose of transporting coal will, indeed, serve as a veto; but there must first be the finding that your water level is affected.

Mr. ABDNOR. The Geological Survey makes a report. That is where it ends, right there.

Mr. SHUSTER. The finding is made by the Secretary.

Mr. ABDNOR. The Secretary and the States.

Mr. SHUSTER. Based on the USGS.

Mr. ABDNOR. Yes, based on the evidence accumulated by the USGS.

Mr. PRESSLER. Mr. Chairman, will the gentleman yield?

Mr. ABDNOR. I yield to the gentleman from South Dakota.

Mr. PRESSLER. Mr. Chairman, I was going to make the point that the Madison formation makes the basis of the ground water of half of South Dakota. That is what we are talking about, the ability of Wyoming that this will make the rights lower, to take away the irrigation rights of South Dakota and also the possibility of trying to tack into the river water, either in North or South Dakota and will lessen the generating power. That is the issue here. That is why the amendment is so good. It will give South Dakota some protection.

The coal slurry pipeline would be hurt the worst of all States in terms of ground water and possibly river water.

Mr. ECKHARDT. Mr. Chairman, I move to strike the requisite number of words. I rise to speak against the amendment.

Mr. Chairman, I believe that if the persons interested in the issue who are supporting the amendment fully knew the effects of this amendment, they would prefer the Lujan amendment. This amendment says that the Secretary shall not approve an application unless the applicant has obtained a permit for the use of such waters from the State having jurisdiction over such waters.

The question is, what State has jurisdiction over such waters? That is determined under this amendment by the Secretary of the Interior only after he considers the recommendation of the U.S. Geological Survey; so the Secretary could determine that ground waters that are underlying a given State are actually not waters over which that State has total jurisdiction.

Under the provisions of the Lujan amendment, it is provided that the Secretary shall not issue an application for a certificate unless the States having jurisdiction to issue such permits have granted such permits, and it leaves the question as to the determination of the rights of that State to be determined as between States in the courts or by voluntary agreement between the States involved.

This amendment has the faults of the original language in spades, because the original amendment was at least somewhat ambiguous as to whether or not the States could come back in and deny the use of the ground waters; but this amendment clearly gives to the Secretary, only on the advice of the Geological Survey, authority to determine to which State the ground waters should be attributed.

Now, I do not think we want to do that in this statute. I think in dealing with this amendment we deal with questions that should be left to the agreement between the States or to the determination between those States by the courts. Here an administrative agency would have the final say and that final say would probably be judged in the courts on the basis of whether the agency acted arbitrarily and capriciously, not as an origiinal proposition for court decision.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, would the gentleman not agree that this is making new water law, and that it should be left for some other forum in which it should be considered?

We do not do that when we want to punch a hole in the ground and get some water for a cooling tower or for irrigation. It is the same problem that exists, taking the water, perhaps lowering the water level, and using it for a cooling tower. It is simply an amendment meant to cripple the bill, because we are imposing a condition on the coal slurry pipeline that we do not impose on any other use of water.

Mr. ECKHARDT. As a matter of fact, Mr. Chairman, it may work the other way. The Secretary may decide he is going to be real favorable to the coal slurry pipeline and permit water to be determined as jurisdictional water of the State that wants to grant the water rights. It cuts both ways.

But in either case it seems to me to be an unfair approach, and it goes too far into the basic water law and into the granting of water rights.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. JOHNSON of Colorado. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

The CHAIRMAN. Members standing at the time the unanimous-consent request was agreed to will be recognized for 1 minute and 10 seconds each.

(By unanimous consent, Mr. ECKHARDT and Mr. LUJAN yielding their time to Mr. UDALL.)

(By unanimous consent, Messrs. SKUBITZ, HARSHA, MARLENEE, and BAUCUS yielding their time to Mr. SANTINI.)

The CHAIRMAN. The Chair recognizes the gentleman from Nevada (Mr. SANTINI).

Mr. SANTINI. Mr. Chairman, this battle that is raging this morning was waged extensively in our Interior committee. The witnesses who came before the committee—and there was a large number of them—addressed themselves to the water problem. It is not too surprising that the water problem, testimony was, at best, inconclusive.

In my opinion, both the pending amendments should be defeated.

The basic issue we are examining in the context of these two amendments is:

What kind of legislative constraint are we going to place on the granting of the Federal power of eminent domain to private companies to protect the State's water rights.

Right now each State is protected from unilateral invasion of its ground water rights, because it has to enter into a bi-State or tri-State compact before those water rights can be affected. Nobody can make that decision for the State or impose a negative result on the State.

However, this bill purports to ask for a generous exercise of Federal eminent domain power over every one of these water basin States. In the process of granting this Federal eminent domain, the committee, after arduous work and hours of debate and deliberation, came to the resolve that if we are going to create this Federal power, there must be some form of Federal constraint on the exercise of this power as it affects the State's water rights.

This is the language that we presently have in the committee bill. This is the language that struck the balance that got this bill out of committee.

Presently the States, individually, could grant the eminent domain authority to this pipeline. However, the pipeline company does not want to go State by State to get the power to cross hundreds of miles of the United States of America, because they know they cannot get that authority—because of the critical issue of water, No. 1; and the critical issue of farmland, No. 2.

So they are coming in here with the sweeping request to erect their giant vacuum cleaner in Wyoming, and let it suck the water out to wherever. And now the gentleman from New Mexico's amendment would eliminate the protection of the USGS finding that such pipeline must be in the "public interest" before 15,000 to 20,000 acre-feet of water can be sucked out of the Madison Formation and flushed out on the end of the line. I think it is the very least that can be expected.

I think this bill represents a gross invasion of the State's water right prerogatives that has not been witnessed on this House floor in its history. And is it not anomalous that, when the strip mining bill was before us, this very same kind of provision or protection was stuck into that bill? If there was going to be any drawdown in the water table, you could not get the permit. The bill language is not anything new or innovative in terms of legislative history. How can we now ignore the "public interest" finding as we consider sucking up all of that water in the Madison Formation and shipping it out to other regions of this Nation.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, would the gentleman cast an "aye" or "no" vote on the Abdnor amendment?

Mr. SANTINI. I say "no" on both amendments.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I thank the gentleman for yielding, and I would like to say that words of greatness are being uttered here. I want to associate myself with my Nevada friend's classic remarks and commend the gentleman for his position.

Mr. SANTINI. Mr. Chairman, I thank the gentleman for his observation.

Mr. PRESSLER. Mr. Chairman, will the gentleman yield?

Mr. SANTINI. I yield to the gentleman from South Dakota.

Mr. PRESSLER. What about the rights of the State of South Dakota in this whole episode? So far as the Madison Formation is concerned, if our water tables are lowered, what protection does the State of South Dakota have if the two amendments are defeated, especially the Abdnor amendment?

Mr. SANTINI. To my mind, the principal deficiency of the Abdnor amendment is that it is convoluted thinking, translated in the sense that, on the one hand, we are going to give States a voice and, on the other hand, we are going to give the Secretary the decisionmaking.

I recognize the very legitimate and well-intentioned objective, but the objectives are in contradiction at this time. You cannot have both. You are setting the precedent whereby the Secretary of the Interior would be making a decision about the propriety of shipping water out of South Dakota. I think that is a very bad precedent.

Mr. PRESSLER. If the gentleman will yield further, South Dakota's main source of water is the Madison Formation.

Mr. SANTINI. Certainly.

Mr. PRESSLER. What protection do we have for that water?

Mr. SANTINI. I would suggest to the gentleman that the protection the gentleman has is the language that is presently contained in the committee bill without either the Abdnor amendment or the amendment offered by the gentleman from New Mexico.

Mr. PRESSLER. What language is that?

Mr. SANTINI. That language says that the USGS must make its determination that it is in the public interest for Wyoming to ship that water out to wherever.

The CHAIRMAN. The Chair recognizes the gentleman from South Dakota (Mr. PRESSLER).

Mr. PRESSLER. Mr. Chairman, I would like to pursue that point.

The gentleman makes the point that here we have a situation which it is highly likely that the survey would show that it might be in the public interest to take our water. However, the State of South Dakota would be left with substantially reduced water tables, with lessened chance for irrigation, with less water for power; and with great water problems within our State and no recourse. In this whole coal slurry pipeline debate and discussion, it is the State of South Dakota which is hurt the worst. I strongly oppose the coal slurry pipeline.

Mr. Chairman, it seems to me that the Abdnor amendment would give us some protection. To my knowledge, there is nothing in the bill which does that.

Would someone read me a part of the bill, without the Abdnor amendment, that would give us some recourse? I think we would just be left without any.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. PRESSLER. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I am new referring to page 19435 of the June 28 CONGRESSIONAL RECORD, specifically, to subsection (2) and section 9(a).

This language was put in specifically for the State of South Dakota. That is the State which has a legal interest because the water in the Madison formation came in part from the Black Hills of South Dakota over, perhaps thousands of years. It is the water in which the gentleman's State has an interest, and that language protects South Dakota

Mr. PRESSLER. How does it protect South Dakota? This language will not protect my State.

The CHAIRMAN. The time of the gentleman from South Dakota (Mr. PRESSLER) has expired.

The Chair recognizes the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Chairman, I raised some points in the colloquy with the gentleman who is a member of the Committee on Public Works and Transportation, and I think both of these amendments are not necessary, especially the Lujan amendment.

I understand the motives of the gentleman from South Dakota (Mr. ABDNOR), but I think that if we look at the language of the bill, we will find the protections.

Mr. Chairman, the Lujan amendment does strike out language. It qualifies the review of the Geological Survey so that it is to look at only the effect of coal pipelines, excluding the other uses of water both in quality and quantity.

Of course, Mr. Chairman, this water use is a very real fact of life. It is not necessarily the specific use. It is the cumulative effect of all different uses of water.

Second, the amendment has limitations. It provides extension authorization by the Secretary. It puts a 12-month limit on the study of the Geological Survey, whether that is appropriate or not.

Probably the most damaging thing it does is to strike out language on page 31 of the bill so that only a jurisdictional right has legal standing, it strikes out the committee language "a valid legal interest in underground water;" therefore excluding States that are affected.

This is exactly the case, in South Dakota, and other Western States which the Abdnor amendment is concerned. We need backstop authority by the Secretary to review the general impact and access the water impact on a regional basis before the certificate of public convenience is approved.

The CHAIRMAN. The Chair recog-

nizes the gentleman from Colorado (Mr. JOHNSON).

Mr. JOHNSON of Colorado. Mr. Chairman, as the existing bill stands, the Secretary of the Interior can refuse to give a permit even if a State says that it is all right.

The Lujan amendment says that the State having jurisdiction has the final say and that the Secretary cannot issue a permit without a State's making a final determination.

The Abdnor amendment states that the adjoining States have a veto through the Secretary of the Interior, and that gives it Federal authority which they do not have now under present law because there are no laws which govern underground water rights between the States. We do not have underground compacts between the States, as we do on the surface.

At the present time the State of Wyoming can tap the Madison formation for agriculture or other purposes and use it without restriction. That, perhaps, is not the way it should be; but that is the present state of the law.

Mr. Chairman, if we adopt the Abdnor amendment, it seems to me we are giving the Secretary of the Interior authority to make a legal determination that Wyoming cannot mess around with the Madison formation without the approval of the Secretary of the Interior or the approval of the State of South Dakota.

That is not anything which we want to do. Therefore, it seems to me that, given a choice with respect to the existing bill or the Lujan amendment or the Abdnor amendment, the Lujan amendment is the preferable choice.

The CHAIRMAN. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I do not want to get into the middle of a fight between different Western States over water matters. It must be clear by now that this is the hottest issue in the bill. I would, however, like to point out that this bill was very carefully balanced so as to reconcile these conflicting interests. If you want a bill on a coal slurry pipeline, then we had better stick with the committee's language, which, in my view, fully protects all the States that have a legitimate interest on its impact.

Of course, the Lujan amendment would not do that. It would say that if the State approves this matter, that is the end of it, no matter what happens to the adjoining State.

The Abdnor amendment adds nothing of substance to the bill. The bill itself, however, says that in addition to getting approval of the State, the Secretary has to have the USGS make the survey and do the other things required in the bill.

Therefore, again, if you really want a bill, we had better stick with this language because if we make the kind of changes which are being talked about here, in my view, we will blow the bill itself right out of the water.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, the amendment I have offered does not say that if the State has permitted it, the pipeline can go ahead.

Mr. SEIBERLING. But that is the effect.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. SEIBERLING) has expired.

The Chair recognizes the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, first let me say that under present language of the Lujan amendment and under the present language of the bill, the report by the U.S. Geological Survey saying that there will be no significant adverse effect may be so for the Nation as a whole, but it may not be true for a particular State such as South Dakota. That is what concerns me. What is significant to South Dakota may not be significant to the USGS.

Let me point out that under my amendment a State which has a valid interest in the water has a chance to assert that right more quickly, efficiently, and cheaply, than having to go to court. But, the State still has the right to go to court even though the Secretary rules against them. We do not take the right away from a State to go to court against another State, just as it must do under present law. I wish we would remember this as we vote on these amendments.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, we have learned in the last hour what everybody already knew, that Western water law is emotional, deepseated, and complicated. If I know one thing, it is that we must terminate this. We cannot settle in Congress Western water law. We should not even try; we should not make an attempt to do so.

What some of the opponents of the bill have been trying to do all along is to defeat it or to water it down so that it will be ineffective. What they are really saying now is, "You cannot build a slurry pipeline anywhere in the United States unless you settle all the water problems." The proper posture is, "We pass, we decline."

We say that anybody who can get a Western water right, who can get the necessary water to build a pipeline, who can get the necessary permit; that is all this says, that they are going to have the same right as oil, gas, and all other kinds of pipelines have to get rights of eminent domain. What we say in the bill and what we ought to say is that, "If you have a water right and meet the other conditions, then we will give you a certificate."

Now then, the Abdnor amendment is really bad news for all the reasons that have been stated. It lets the Secretary of the Interior settle water rights. The Secretary decides whether one State has a valid legal water claim in the West. That is very bad. I can live with the original language in the bill, but everybody was talking States rights, and I did not want the Federal Government to move in through an agency that is not even a legal agency, the USGS, which does not have legal expertise, to settle water rights. So, the Lujan amendment seemed to me to make good sense.

We are leaving it up to the States. The State of Wyoming for any reason, however outrageous or selfish, can say, "You cannot export the water."

Let me finally make this point. It has been made several times, but some of my colleagues do not understand it. If this bill were to be put out of commission, never heard from; if all coal slurry pipelines were to be banished forever from the Earth, we would still have a serious problem between Wyoming and South Dakota. Today in Wyoming you have a water right. You can drill a well, erect buildings, and send electricity down the line. South Dakota cannot do a blasted thing about it. We do not seek to change that. We say, let South Dakota and Wyoming settle their water disputes through the courts, or let them come to Congress with a definite bill to settle western water rights.

But, in this bill let us leave it alone. The way to leave it alone, the way to enforce States rights, is to accept the Lujan amendment, vote down the Abdnor substitute, and then we will have absolute States rights so that the States have the veto we have promised them all along in this legislation. They are well protected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from South Dakota (Mr. ABDNOR) as a substitute for the amendment offered by the gentleman from New Mexico (Mr. LUJAN).

The question was taken; and on a division (demanded by Mr. LUJAN) there were—ayes 3, noes 31.

So the amendment offered as a substitute for the amendment was rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New Mexico (Mr. LUJAN).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. LUJAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

The Committee again divided; and on a division (demanded by Mr. ECKHARDT) there were—ayes 18, noes 24.

So the amendment was rejected.

Mr. UDALL. Mr. Chairman, there are just a few amendments left. I have consulted with the respective authorities, and I ask unanimous consent that all debate on the amendment in the nature of a substitute and all amendments thereto close at 1 o'clock.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona (Mr. UDALL)?

Mr. KAZEN. Mr. Chairman, reserving the right to object, I ask the chairman how many amendments there are.

Mr. UDALL. There are some printed in the RECORD, but I am aware only of four or five that are going to be offered.

The CHAIRMAN. The Chair will advise the gentleman there are seven amendments at the desk.

Mr. KAZEN. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: Immediately following paragraph 5(d)(3) and before paragraph 5(d)(4) insert a new paragraph (4) as follows:

"(4)(A) No certificate of public convenience and necessity may be issued to any carrier which controls, is controlled by, or is under common control with any person, association, or corporation which, together with its affiliates, produces, refines, transports, or markets at retail a daily worldwide average of at least 1,600,000 barrels of crude oil or the equivalent natural gas or products of petroleum refining if such person, association, or corporation:

"(i) controls mineral deposits in two or more of the following classes:

"(a) coal, including hydrocarbons associated with coal, but excluding coal found as a small fraction of a deposit containing coal and other marketable minerals;

"(b) oil or natural gas;

"(c) geothermal steam; and

"(d) uranium and other fissionable material; or

"(ii) engages in two or more of the following:

"(a) owning or controlling deposits of, or producing petroleum or natural gas;

"(b) refining petroleum;

"(c) transporting by pipeline petroleum, products of petroleum, or natural gas; or

"(d) marketing petroleum, products of petroleum refining, or natural gas; or

"(iii) enters or participates in a joint venture with any other person, association, or corporation, which, with its affiliates, produces, refines, transports by pipeline, or markets at retail a daily worldwide average of at least 1,600,000 barrels of crude oil or the equivalent in natural gas or products of petroleum refining, unless such joint venture has been specifically approved and authorized by the Secretary by notice published in the Federal Register and is operated in accordance with such regulations as the Secretary may promulgate to ensure, protect, and promote competition.

"(B) The Secretary, in consultation with the Federal Trade Commission and the Attorney General, may conduct such hearings and require the submission of such information as he deems necessary to determine compliance with this paragraph by any such person, association, or corporation.

"(C) For purposes of this paragraph—

"(i) the term 'control' includes having or acquiring effective power or influence to deny to others the acquisition or use of a substantial portion of the materials or facility, whether such power or influence is actual or legal, and whether such power or influence may be exercised directly or indirectly, through ownership or control of stock or other securities, through affiliates, through representation on a board of directors or similar body, through interlocking directorates, through election of one or more officers, or through any stockholder, agency, trust, joint venture, lease, or contractural agreement or arrangement, or otherwise, but the fact that a contractual arrangement provides for the supply of all or a portion of the requirements of a person, association, or corporation for a material or a reasonable time period shall not, in itself, be deemed to constitute control. Control shall be presumed to exist whenever any person, association, or corporation owns 10% or more of the outstanding voting securities of another corporation or association.

"(ii) the term 'affiliate' means another person, corporation, or association which controls, is controlled by, or is under common control with, such person, corporation, or association.

Renumber the remainder of Section 5 accordingly.

Mr. WEAVER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

Mr. WEAVER. Mr. Chairman, the purpose of the amendment is to prevent the energy giants from controlling or acquiring control either directly or indirectly of any coal pipeline for which a certificate of public convenience and necessity is required under H.R. 1609.

My amendment simply keeps the major oil companies from controlling 10 percent or more of any coal pipeline coming into existence by such certificate. That is all it does; keeps any major oil company from controlling 10 percent or more of any such pipeline.

Procedures in the bill now for antitrust are woefully deficient. Antitrust proceedings against the oil companies in the past have failed dismally. H.R. 1609 countenances the "take or pay" kind of contract which no true common carrier can employ. Indeed, by its very nature, with long-terms contracts a necessity, coal slurry pipelines are really not common carriers.

I feel at the very least the Committee on the Judiciary should have reviewed the antitrust considerations in this bill. The absolute need for this prohibition lies in the fact that the control of transportation of energy material by producers or owners of those materials permits and encourages monopolistic pricing of fuel as well as the transportation thereof.

I would make the point we discovered in one of our hearings that the oil company that controls the geyser steam in California had a clause in the contract with the utility to whom it sold the steam that if the price of oil went up, then the cost of the steam, regardless of the cost of production of the steam, would go up commensurately.

My amendment would prevent, over the long run, allowing a monopolistic oil company owning coal pipelines. My amendment keeps the major oil companies from controlling 10 percent or more of such pipelines.

I would think that the committee would be willing to accept my amendment.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I am grateful to my colleague, the gentleman from Oregon (Mr. WEAVER) in making this point, and if the gentleman would be kind enough to withdraw this amendment I can give the gentleman assurance, I believe, because the pipeline in Wyoming is not so monopolistically controlled. The first proposed slurry is to be owned by Energy Transportation Services, Inc., Bechtel Corp. of San Francisco and Lehman Bros. of New York. The second is proposed by the Northwest Pipeline Co. of Salt Lake City, which is publicly owned, and the third, is to run to Texas, which runs from Wyoming to Houston, I believe is not going to be owned by any major energy company.

That being the case, instead of having this bill clouded up with so much material which is unneeded, I would think that the gentleman from Oregon (Mr. WEAVER) would be kind enough to withdraw the amendment.

Mr. WEAVER. Mr. Chairman, I very much thank the gentleman from Wyoming (Mr. RONCALIO) for his remarks, but if that is, indeed, the case about coal slurry pipelines, then I would ask why we do not accept my amendment since it will not interfere with the kind of ownership we want? Indeed, otherwise there would be no reason why oil companies could not later on purchase those pipelines, something which under my amendment they could not do.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, if it be true that the oil companies have no interest presently, then what evil is the gentleman attempting to cure that relates to the oil companies? What about other companies, coal companies, steel companies or banks, utilities? What evil is he addressing here?

Mr. WEAVER. The gentleman just said that the purpose is to prevent an oil company from purchasing a coal slurry pipeline later on, even though they do not own them now. Now we do not know who really owns these pipelines.

The gentleman says why not banks? Well, when the banks become controlled by the oil companies, or vice versa, then I think we had better start doing something about it. But the oil companies now control the major coal reserves in the country. You are going to give them control of oil, you are going to give them control of coal, you are going to give them control of uranium, you are going to give them control of geothermal, you are going to give them control of the transportation of coal, and I say to the gentleman, my good friend the distinguished Member from Texas (Mr. ECKHARDT), my God, when will it all stop?

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment sets forth the principle that I have urged, and we have worked on similar things in our committee. We worked with the gentleman from Oregon. The question before this House today is whether we are going to have a coal slurry pipeline bill or not.

The more we can load it down with extraneous matters, with emotional and divisive matters, the more difficult it is going to be to get this kind of legislation passed. Although I agree with the gentleman in principle, I strongly oppose the amendment, and the passage of it would obviously sink the bill. I have a hunch that some of those who are opposed to a coal slurry pipeline would like to see something like this.

We have strong antitrust provisions in the bill. The amendment offered by the gentleman from Ohio (Mr. SEIBERLING) strengthened the bill by calling for a study of concentration in the energy industry with regard to these pipelines. I think that takes care of the matter.

This is a very mischievous amendment in this context. I very strongly oppose it and hope it will be defeated.

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Ohio.

Mr. HARSHA. I thank the gentleman for yielding.

It is my understanding the gentleman is opposed to either vertical divestiture or horizontal divestiture.

Mr. UDALL. I favor vertical divestiture, and horizontal divestiture, and diagonal divestiture, and every other kind, but this is not the place for that fight.

Mr. HARSHA. Will the gentleman yield further?

Mr. UDALL. I yield to the gentleman.

Mr. HARSHA. Has the gentleman gone on record as supporting either one of these divestitures?

Mr. UDALL. I am in favor of all kinds of divestiture, but not here in this bill.

Mr. HARSHA. Does this not meet one of those definitions?

Mr. UDALL. Yes, I suppose it does.

Mr. Chairman, I ask unanimous consent that all debate on the pending amendment close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. VENTO. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. ECKHARDT. Mr. Chairman, I rise to speak against the amendment.

I am against divestiture, but if I were for divestiture, this has nothing to do with that issue. Divestiture relates to a vertical or a horizontal monopoly. There is absolutely no showing that the oil companies come into any of the area of either transportation, production, or use of the coal slurry carried in the pipelines. If one wished to prevent ownership which might ultimately be directed to destroying the young industry, one would make it impossible for a railroad to have an interest in a coal slurry pipeline because they might wish to defeat the competition of coal slurry pipelines in order that they might carry all the coal. But an oil company has no more interest in destroying the pipeline than, say, an insurance company or a steel company, or what-have-you.

The point is that this amendment simply strikes at a given industry with no relation to a monopolistic situation whatsoever. There is no reason why the oil companies should be restrained as compared to any other company. I cannot help but believe that the purpose of this amendment is simply to find some extraneous enemies to the act, and by adding a provision of this nature to make it more difficult to pass it. I hope I am not convincing any who are not already determined to vote against the bill to vote in favor of the amendment. But the amendment is mischievous. The amendment is irrelevant. The amendment does not address any real evil.

The provisions now contained in the bill that there may be no controlling interest by either the supplier of coal or the user of the slurry are sufficient to take care of any real problem. Let investment money flow where it will flow, unless an actual evil is identified.

I urge opposition to the amendment.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Texas.

Mr. KAZEN. I thank the gentleman for yielding.

I fully agree with what the gentleman has said. We do not see a provision here prohibiting a railroad from owning a pipeline. In fact, the only existing one, the Black Mesa, is owned, wholly owned, by a wholly owned subsidiary of Southern Pacific.

Mr. ECKHARDT. The difficulty in that situation, too, is that if the railroads owned the pipelines, then where do we find the competition that can bring about fair pricing? Nevertheless, I do not object to a railroad owning pipelines. I do not think we ought to make a distinction between any industry unless it is related in the line of supply.

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. ECKHARDT. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman for yielding.

The gentleman knows my amendment is not a divestiture amendment. It simply does one thing only. It keeps major oil companies from owning more than 10 percent of a coal slurry pipeline; that is all.

Mr. ECKHARDT. That is correct. It is not a divestiture amendment because the oil companies do not presently hold, nor do they intend to seek, control of the pipelines so far as I am aware.

Mr. WEAVER. Mr. Chairman, why not accept the amendment, if the gentleman has no worry on that score, except for the amendment?

Mr. ECKHARDT. Because in the long run I think capital from all sources should go into all desirable investments.

Mr. WEAVER. So the gentleman does hope the oil companies do invest in pipelines?

Mr. ECKHARDT. I hope that all interested capital invests in pipelines, but I do not wish them to control it.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I will not take the entire 5 minutes. I am as concerned about moving along today in terms of the schedule, as is the chairman, Mr. UDALL. I think that this amendment addresses itself to a very deep concern that I have and that other Members should have with regard to whether or not the large oil companies are going to be limited in terms of their participation in their energy ventures specifically in the development of coal pipelines. We hear the chorus and the litany of concerns with regard to adequate incentives for petroleum production; but the truth is that they are entering and buying and have more interest in controlling uranium, coal, and other energy supplies in this country, as opposed to this increase in production of domestic oil. That is simply what is happening and as a consequence an ever increasing amount of oil is imported.

This amendment strives to qualify coal pipeline ownership. We have today horizontal integration of coal and uranium with regard to the oil companies. They have license to buy in these areas and are proceeding at a rapid pace.

With regard to the Justice Department and the enforcement of the antitrust provisions, I think the record speaks for itself as to their efforts and feeble attempts to deal with 7-, 8-, and 10-year-old cases and the records of failure are legion.

I disapprove as do many of my colleagues of the out-of-court settlements, especially with regard to uranium, and recognize the inability of the Justice Department in trying to deal with monopolistic practices which are in violation of antitrust laws.

We are dealing with the ICC who would regulate and set fees with regard to these coal pipelines. We do not control the cost of the coal materials that pass through these pipelines. The only control at this juncture we have is eminent domain. Usually that is segmented and is divided up among the States.

In this case we are overriding that segmentation of eminent domain and putting in its place the eminent domain of the National Government: So it is the last opportunity we will have to voice our concern or opposition to the vertical divestiture of coal companies.

Vertical integration has not occurred yet as many of my colleagues have pointed out, but the lines are not built yet. Vertical divestiture certainly can and may very likely occur in the future resulting in the integration of these pipelines from coal mines to the ownership of the very utilities that deliver the services at the consumer end will complete the monopolistic circuit.

The way to help safeguard against this phenomenon is by the adoption of this amendment. I believe this legislation is essential to help maintain competition, lower consumer prices and improve public service in this most important utility field. At the same time, we need a positive, well-defined energy program—one which will advance vigorous, meaningful programs as espoused by President Carter—and one which provides incentives

for people to adopt voluntary conservation programs of various kinds.

Although we are constantly deluged with studies that report a "real" gas shortage, recent private and Federal statistics indicate that many years of natural gas resources are available at present consumption rates. It is a fact that no law and no political rhetoric will increase the fossil fuel supply; it is finite. But the last thing we need is the stress of contrived shortages by oil companies which results in immediate unemployment and economic setbacks.

Today it is a fact that our large oil and energy industries have impaired competition in our private enterprise system necsary to keep prices artificially inflated. For years, oil companies have succeeded in circumventing, by legal maneuvers, antitrust legislation in the courts. The result is obviously higher and higher prices for consumers.

I support this amendment, because I believe it is time for Congress to act. The divestiture amendment before us would prevent control by the major oil industries, it would prevent any one of these companies from controlling coal pipelines. This vertical divestiture prohibition by these companies from engaging in more than one state of the oil and gas process, and would result in the separation of control and production of mineral deposits, refining, transportation, and retail sales. A third, and equally important provision, would prohibit joint ventures among any of the 11 major oil companies which produce, refine, transport, or sell more than 1,600,000 barrels of oil daily. If approved by the Attorney General, however, two or more companies would be allowed to participate in a limited joint venture.

I sincerely believe that congressional action this session is essential to insure competition between our energy companies and to protect consumers from the continuing spiral of energy prices. If left undone, OPEC will continue to dictate and reap windfall profits under such circumstances.

My decision to support this amendment was based on a long study of the performance of the energy industry and the concentration through merger and joint venture which has over the years destroyed more efficient and more innovative and competive independent firms at every level.

The behavior of the energy giants since 1973 has demonstrably been to the profit of themselves and OPEC (the Organization of Petroleum Exporting Countries). Before the Senate Judiciary Committee recently, Prof. Morris Adelman of MIT concluded from his studies:

> The cartel governments use the multinational companies to maintain prices, limit production, and divide markets. This connection, I submit, is the most important strategic element in the world oil market.

Sheik Yamini, the Saudi Arabian petroleum minister, in a paper presented at American University in Beirut in 1969, described the anticonsumer role the vertical integration of the majors play in supporting the restrictive policies of OPEC. At that time he said that if their production operations were separated from refining and marketing, the interests of the companies "would be identical with that of the consumer; namely, to buy crude oil at the cheapest price. They would put their full weight behind efforts to drive down crude oil prices, and in that they would undoubtedly succeed * * * (The result would be) a dramatic collapse of the price structure, with each of the producing countries trying to maintain its budgeted income requirements in the face of the declining prices by moving larger volumes of oil to the market."

In supporting divestiture, the Senate Judiciary Committee pointed out:

> Separating refining from crude production would eliminate the danger that major integrated firms could use their control of crude for predatory purposes. One of the major consequences of the enormous increase in the world market price of crude is that the price of domestic "old" crude now far exceeds its actual cost of production. Since oil crude is largely in the hands of majors, there is the possibility that with the removal of the price controls, allocation, and entitlements programs, this advantage could be effectively used to destroy competition at the refining and marketing levels.

I am very mindful of the need to save energy and that higher prices for petroleum products are widely suggested as the most effective way to encourage conservation. If higher pricing is, indeed, desired, I suggest rather than subsidize the OPEC countries with billions of dollars and with enlargement of the international trade deficits which are causing worldwide economic disaster, that after divestiture, schedules of judicial tax penalties can easily be devised for that purpose. That way, tax revenues can be generated and made available for development of alternative fuel sources, subsidies, and a variety of other socially useful purposes without adding to inflation.

According to Professor Adelman, again:

> The industry's contention that vertical integration helps efficiency, is unfounded. Common ownership of these activities, by one company, neither saves money nor costs any. (There are bound to be some exceptions to the rule; relatively, they are unimportant.) Most companies became integrated long ago for reasons that are now history. They have stayed integrated because there is no reason to change.

I believe that the subject of divestiture and the restoration of competition in the energy industry is extremely important and appropriate, because a new authority and problem is created by this measure H.R. 1609.

I strongly support the Weaver amendment and urge my colleagues to do the same.

Mr. GAMMAGE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon (Mr. WEAVER).

The amendment was rejected.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment in the nature of a substitute and all amendments thereto close at 12:40 o'clock p.m.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

Mr. SYMMS. Mr. Chairman, I object.

Mr. MARLENEE. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. UDALL. Mr. Chairman, I move that all debate on the pending amendment in the nature of a substitute and all amendments thereto close at 12:45 o'clock p.m.

The CHAIRMAN. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and on a division (demanded by Mr. SYMMS) there were—ayes 30, noes 9.

So the motion was agreed to.

The CHAIRMAN. Members standing at the time of the limitation will be recognized for 2½ minutes each.

PARLIAMENTARY INQUIRY

Mr. ICHORD. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. ICHORD. Mr. Chairman, was the limitation on this amendment and all amendments thereto?

The CHAIRMAN. The limitation was on the bill, or on the amendment in the nature of a substitute.

AMENDMENT OFFERED BY MR. ICHORD

Mr. ICHORD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. ICHORD: At the end of section 5 of the amendment in the nature of a substitute, add the following new subsection:
>
> (h) No carrier may enter into any contract or agreement with any person to transport coal for a period of time which is longer than the longest period of time during which any common carrier by railroad may transport coal for any person pursuant to any contract or agreement authorized under the Interstate Commerce Act.

Mr. ECKHARDT. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Texas (Mr. ECKHARDT) reserves a point of order on the amendment, and the gentleman from Missouri (Mr. ICHORD) is recognized in support of his amendment.

Mr. ICHORD. Mr. Chairman, I only have about a half minute, and I cannot say very much in that time. I just want to say that this is not a railroad amendment, it is not a coal pipeline amendment, but it is an amendment in the interest of the people of the United States.

What is good for the goose is good for the gander. What is fair for the railroads is fair for the pipelines.

I offer this amendment in a spirit of fairness and for the protection of the American people. We should not give coal slurry pipelines an advantage over railroads, because railroads are an existing transportation unit in being right now to transport coal.

I am in favor of progress, I am in favor of technology. Just as the wheel replaced the sled, the railroads replaced wagons, and to a great extent airplanes and automobiles have replaced railroads. We should not deny ourselves improved technology to meet the energy crisis. It may well be that pipelines will replace railroads in the transportation of coal, because they are more efficient and can perform the task at less cost.

We need to use improved technology, but it is unfair to permit a coal slurry pipeline to have longer contracts than railroads.

Mr. Chairman, that is all I ask in this amendment. I just ask that they both be treated the same.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. ICHORD. I yield to the chairman of the committee.

Mr. UDALL. Mr. Chairman, there is nothing in the ICC provisions, nothing in the act or the regulations that prohibits railroads from having long-term contracts. They simply in many cases do not seem to want them.

Why should we arbitrarily, in a bill to grant eminent domain to a different mode of transportation, impose a restriction that might or might not be appropriate for railroads?

Mr. ICHORD. Mr. Chairman, I am simply stating to the gentleman that I am not putting any restrictions in against coal slurry pipelines that are not already in against railroads. I just say that they shall not have contracts longer than the "longest period of time" that railroads may have contracts.

There is some question as to how long railroads can have contracts. I have been advised by some experts that in many cases they can have only a 1-year contract. I have been advised that in other cases they can have 5 years. But I do not care whether it is 1 year, 5 years, or 50 years; they should both be treated the same way in order to better serve the welfare of the American people.

Mr. UDALL. They are treated the same. We do not prohibit anything in the case of railroads.

Mr. ICHORD. And I am not prohibiting it here either. I just say we should treat them the same.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Texas (Mr. ECKHARDT) insist upon his point of order?

Mr. ECKHARDT. Mr. Chairman, I do regretfully insist on my point of order.

The CHAIRMAN. The Chair will hear the gentleman.

Mr. ECKHARDT. Mr. Chairman, I think this amendment is doing much more than affecting just coal slurry pipelines. The provision is as follows:

> No carrier may enter into any contract or agreement with any person to transport coal for a period of time which is longer than the longest period of time during which any common carried by railroad may transport coal for any person pursuant to any contract or agreement authorized under the Interstate Commerce Act.

As I read this amendment it amends the Interstate Commerce Act to provide that the period of time permissible or required or limit for a railroad to permit a contract is applicable to all other carriers.

It is, of course, true that the Interstate Commerce Commission has stated that the Commission believe that there is nothing inherently unlawful in railroads and shippers voluntarily entering into long-term commitments for the transportation of specified volumes of freight at agreed rates.

PARLIAMENTARY INQUIRY

Mr. GARY A. MYERS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. GARY A. MYERS. Mr. Chairman, the point the gentleman from Pennsylvania wants to ask the Chair is: On whose time is the gentleman from Texas (Mr. ECKHARDT) speaking?

The CHAIRMAN. The Chair will state to the gentleman that it comes out of the total allocation.

Mr. GARY A. MYERS. Mr. Chairman, I only point that out to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I will be very brief. I think the gentleman's comment is well taken.

Mr. Chairman, this tends to limit the Interstate Commerce Act and provide regulations with respect to the exercise of authority with respect to all carriers, not just carriers by coal pipeline.

Mr. ICHORD. Mr. Chairman, I desire to be heard briefly on the point of order.

The CHAIRMAN. The Chair recognizes the gentleman from Missouri.

Mr. ICHORD. Mr. Chairman, I would point out to the Chair that it does not touch the Interstate Commerce Act at all. It does not touch the operations of railroads at all. All it says is that these contracts shall not be permitted to be longer than those permitted by the railroads.

The CHAIRMAN (Mr. GIAIMO). The Chair is ready to rule.

The Chair has had opportunity to study this amendment. The term "carrier" as defined in the Udall substitute which would apply to this amendment means carrier of coal by coal pipeline. It does not refer to other types of carriers. The limitation involved in the amendment offered by the gentleman from Missouri (Mr. ICHORD) applies to the duration of contracts of coal slurry pipeline carriers. It only refers to the duration of railroad contracts as a term of measurement. It does not seek to reach out to contracts of other types of carriers beyond the coal pipeline carriers and, therefore, does not affect railroad contracts or any carriers in other ways. Therefore, the amendment is germane.

The point of order is overruled.

The Chair recognizes the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, the amendment addresses a sort of nonissue. The railroads have contended that they may not make long-term contracts. The ICC has stated that there is no such limitation. But there may be different situations with respect to the term of contract by the various types of carriers. A pipeline must be financed, initially, for a single purpose. A railroad, of course, was financed long ago for carriage of multiple commodities.

An amendment of this type, which ties the ICC to a rigid Procrustean bed with respect to the time of contract, would be a very bad thing to do here today. I agree, if the Chair interprets this, as he did, to apply to only the coal slurry pipeline, he is certainly correct on the point of germaneness. But I still urge, as a matter of policy, this very widely changes the discretion of the ICC on such matters, and I would certainly urge a "no" vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Missouri (Mr. ICHORD).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. ICHORD. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count. Fifty-six Members are present, not a quorum.

The Chair announces that pursuant to clause 2, rule XXIII, he will vacate proceedings under the call when a quorum of the Committee appears.

Members will record their presence by electronic device.

The call was taken by electronic device.

QUORUM CALL VACATED

The CHAIRMAN. One hundred Members have appeared. A quorum of the Committee of the Whole is present. Pursuant to clause 2, rule XXIII, further proceedings under the call shall be considered as vacated.

The Committee will resume its business.

The CHAIRMAN. The pending business is the demand of the gentleman from Missouri (Mr. ICHORD) for a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. GARY A. MYERS

Mr. GARY A. MYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. GARY A. MYERS: At the end of the amendment in the nature of a substitute add the following new section:
>
> STUDY
>
> SEC. 15. Within two years of the commencement of operation by any carrier subject to the provisions of this Act, the Secretary, in consultation with the Secretary of Energy and the Secretary of Transportation, shall study the nationwide impact of such carriers upon other common carrier modes of transportation. If the results of such study exhibit an undue financial advantage by such carriers nationwide over other common carrier modes of transportation, the Secretary shall study and recommend to Congress concepts to provide temporary financial relief for adversely affected common carrier modes of transportation.

Mr. GARY A. MYERS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection

to the request of the gentleman from Pennsylvania?

There was no objection.

The CHAIRMAN. Does the gentleman from Pennsylvania insist upon his 5 minutes to which he is entitled?

Mr. GARY A. MYERS. I hope to use less than 5 minutes and will keep in mind other Members wish to use their time allotments.

Mr. Chairman, the intent of this amendment simply is to require that within a 2-year period after the time the first such carrier begins operation, that a study with recommendations be made to the Congress based as to the impact and possible temporary financial relief as a result of that impact of these carriers.

I realize that one of the arguments used in the Public Works Committee against this amendment was that the bill requires a study. But beginning on page 31, the instructions to the Secretary on issuing a certification of public convenience and necessity, we see the study always is referring to the carrier, so the study is for a certification of public convenience and necessity to a specific carrier for which application is made.

The study here is made whether or not an application is pending and the Secretary will have to recommend to the Congress whether there are temporary reliefs that should be considered for new carriers. As a suggestion, he or she might recommend additional carriers have a surcharge applied against them and they would know that before they build the carrier. The Secretary, perhaps, may recommend a trust fund for temporary relief of other carriers and he or she could recommend grandfathering in all current carriers.

So I think the main point here is that nowhere in the bill does it require that Congress be informed of a significant study of the impact and possible ways of continuing to build these carriers while providing temporary relief, very similar to the ICC relief that would have to be given to other industries if they are harmed by imports of their products.

Mr. UDALL. Would the gentleman be inclined to support this bill if his amendment were added to the bill?

Mr. GARY A. MYERS. The gentleman does support this bill, and did in the committee when it did not approve this amendment, and I do intend to support the bill.

Mr. UDALL. Since it is only a study involved, even though I have more objections to the tilt of it than the substance of it, I personally could live with the amendment.

Mr. GARY A. MYERS. I thank the gentleman for his remarks.

I point out Congress could move in this direction even though this study not be made. The only thing this does is require whatever information is gained be given to Congress in these areas.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. GARY A. MYERS. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, could we possibly be coming up with another subsidy of some kind? If it is determined the pipelines are not the most economical way to ship coal, could it then be that we are looking at financial guarantees for pipelines?

Mr. GARY A. MYERS. No; actually it goes the other way.

If the Secretary finds that pipelines are a burden to other carriers he could, in effect, recommend the use of a special surcharge to any additional pipeline before the issuance of a certificate of public convenience and necessity, that they would fund a trust fund which would temporarily relieve those other carriers. It does not require Congress to take any specific action, it requires the Secretary to give us the information on which we might act.

Mr. LUJAN. But it is limited to a study?

Mr. GARY A. MYERS. It is limited to a study.

Mr. SKUBITZ. Mr. Chairman, do I have any time on this amendment?

The CHAIRMAN. The Chair will state that the gentleman from Kansas (Mr. SKUBITZ) has 45 seconds remaining. Does the gentleman wish to be recognized on this amendment?

Mr. SKUBITZ. No, I do not, Mr. Chairman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. GARY A. MYERS).

The amendment was rejected.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. KAZEN).

Mr. KAZEN. Mr. Chairman, in the debate on H.R. 1609, we have heard considerable discussion of the effect on the railroads if we expand the coal slurry delivery system. We have heard argument on the use of water and its effect on Western States. Attention has been given to the possible future role of the pipeline companies. I believe it is time that we consider the consumers, and especially the families for whom utility bills have been an increasing burden when they plan their home budgets.

I have been following a railroad rate case, currently before the Interstate Commerce Commission, because I have been concerned about citizens of my district, already burdened with high electric bills and facing major increases if San Antonio's municipally owned electric utility must pay the higher rates that the railroad asks.

Let me provide here the information that is provided in the ICC record and then call Members' attention to a newspaper headline yesterday. On October 13, 1976, the ICC set the rate for coal, shipped to the city public service board of San Antonio by Burlington Northern, at $10.93 a ton. That price included use of coal cars which the city public service board was required to provide. The railroad would not haul the coal unless the utility bought its own cars. This was done at a cost of $25 million.

The city public service board had to do the heavy maintenance on those cars—and the shop for that work cost almost $5 million more.

Then there were subsequent rate increases—the coal shipping costs went to $11.37, and then to $11.94, and only last month to $12.42 a ton. Now Burlington Northern is asking a new rate of $18.23 a ton, even though the ICC has been told that existing rates provide Burlington Northern a return of more than 20 percent after taxes. And where must the money come from? From the users of city public service board electricity—the industrial and residential customers in Greater San Antonio. I point that out for your consideration when the railroad's economic condition is considered.

We have heard sad tales of the railroads' plight. Crocodile tears were shed. We were told they were going out of business—that they need protection.

But yesterday's Washington Post, at the top of its business page, carried the headline "Burlington Railroad Shows Large Profit, Increases Dividend." The news story reports that Burlington Northern reported a sharp increase in second quarter profits. The figure is $36.7 million for the 1978 period, compared to $14.7 mililon a year earlier, as revenues jumped—and "jumped" is the newspaper's term—19 percent to $630 million.

The Burlington president, Norman Lorrentzen, attributed the earnings growth to a 21-percent increase in coal shipments and a 9-percent gain in grain loadings.

All very good news to Burlington stockholders, who will get a 12-percent increase in dividends, and probably they are hoping for more if the Interstate Commerce Commission approves the requested rate increase. But I ask you to think of the utility customers in San Antonio, Tex. I believe they have a right to ask whether the Burlington Northern, with its present monopoly contract on coal shipped to the city public service board, should make increasing profits while homeowners struggle to pay their utility bills.

Some of you may have had the same wire that came to me from another railroad president, asking for votes against this bill. That telegram said in part "this bill is an unconscionable grab for private privilege at public expense to benefit the wealthy few." And it closed with the righteous statement "both the moral and practical interest of your district require a vote against H.R. 1609."

My answer is "baloney, Mr. Railroad President." We can understand why you don't want competition in coal shipping, but don't ask us to believe that it is the moral position, or that it meets the practical interests of our people. I say a vote against this bill is an unconscionable grab for private privilege to benefit the wealthy few—and the wealthy few do not happen to be the electricity customers in my district. You certainly should not be the one to talk about morals, when you want your monopoly preserved, at the expense of utility customers."

I grant that we have to consider the railroads' important role in our economy. But please, I urge you, consider the utility customer, too, and his important role in that economy.

The CHAIRMAN. The Chair now recognizes the gentleman from Texas (Mr. CHARLES WILSON).

Mr. WAGGONNER. Mr. Chairman, will the gentleman yield?

Mr. CHARLES WILSON of Texas. I yield to the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Chairman, and my colleagues of the House, I want to follow up a little bit further with the statement by the gentleman from Texas (Mr. KAZEN), with reference to the Burlington Northern.

Let me say that, in addition to the situation the gentleman described, in September of 1974—and I have a copy of the agreement here in my hand—Burlington Northern entered into an agreement with the Kansas City Southern Railway and Southwestern Electric Power Co. to deliver coal to our part of the country for Southwestern Electric Power Co. plants. They had an escalator clause on an annual basis built into it. Burlington Northern said yes, we signed the agreement, but we are not going to live up to it. We have got to have more money, just as they asked $18 for a ton in the Texas case, they have escalated the freight price in our area. They say that they cannot make money but here in my hand is their financial story which shows they are making more money than they ever made and they admit profits are up because they are hauling coal. Their word is no good and their signature is no good.

They need some competition. Some day a slurry line will be built. Why not do it now?

The CHAIRMAN. The Chair recognizes the gentleman from Wyoming (Mr. RONCALIO).

Mr. RONCALIO. Mr. Chairman, I ask unanimous consent that I may be permitted to split the 45 seconds allotted to me between the gentleman from West Virginia (Mr. STAGGERS), and the gentleman from Nevada (Mr. SANTINI).

The CHAIRMAN. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The CHAIRMAN. The Chair now recognizes the gentleman from West Virginia (Mr. STAGGERS).

Mr. STAGGERS. Mr. Chairman, I would like to make one or two points that I believe have been overlooked. First, this is a bill that is injurious to the consumers of America. It locks up coal traffic under 30-year contracts with pipelines and forecloses competition. They talk about competition and there is none. If the railroads lose the coal traffic, then other freight rates will increase and so will the prices to consumers. The bill will be inflationary.

Pipelines will result in the loss of 16,000 railroad jobs, according to the OTA report.

What about the sludge disposal at the end of the pipeline where perhaps you will have up to 6 billion gallons of polluted water, that have not been disposed of along with the other problems of the pipelines. I do not know what they are going to do with it, or whether they are going to make another ocean down there from it.

I say that the bill should be defeated overwhelmingly because it is a special interest bill all the way.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from California, Mr. JOHNSON.

Mr. JOHNSON of California. Mr. Chairman, we have had this bill under consideration for a number of years. It was considered and reported by the Committee on Interior and Insular Affairs and the Committee on Public Works and Transportation, I think it is a needed bill. I think all interested parties are protected under it. It does give the power of eminent domain to those who build the slurry pipelines. A careful reading of the bill shows that the States and their water rights; other concerned Federal agencies such as Transportation and ICC and environmental concerns are given full and proper consideration before a pipeline can be built. Let us use this technology to move coal and help solve our energy problems.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Kansas (Mr. SKUBITZ).

Mr. HARSHA. Mr. Chairman, will the gentleman yield?

Mr. SKUBITZ. I yield to the gentleman from Ohio.

● Mr. HARSHA. Mr. Chairman, before ending my remarks I would like to comment briefly on H.R. 1609 as reported by the Committee on Public Works and Transportation.

The Committee on Public Works and Transportation gave considerable attention to H.R. 1609, found a number of serious defects and made significant improvements. While I personally have reservations as to the need for or the wisdom of this legislation, there is no question that the public works version is a far superior product.

For example, the Public Works Committee added an amendment to prevent any regulatory imbalance in favor of pipelines. I sponsored this amendment to section 5(c) of H.R. 1609 which added the words "in fact" to the first sentence of that section.

The purpose of the amendment was to bring the language of the bill in line with decisions of the U.S. Supreme Court which recognize a distinction between those carriers which might be common carriers by law and those which are operated as common carriers in fact.

Before the amendment was added, section 5(c) provided that as a condition of a grant of a certificate of public convenience and necessity to a coal pipeline, the pipeline would be required to be constructed, operated and maintained "as a common carrier." However, the Supreme Court has held that those pipelines which are merely common carriers by law are only subject to the reporting requirements of the Interstate Commerce Act, while those pipelines which are "common carriers, in fact" are subject to the full regulation of rates and charges under the act.

The report of the Interior Committee (H. Rept. 95-924, part 1, page 19) indicated that in return for the right of eminent domain, "certificated pipelines would be subject to rate and operational regulation by the Interstate Commerce Commission." Also, proponents of the bill stated that coal pipelines should operate as common carriers fully subject to the regulatory provisions of the ICC. Therefore, my amendment inserted language to make it clear that pipelines will be subject to the rate and charge regulations of the ICC.

A second amendment added by the Public Works and Transportation Committee requires the concurrence of the Department of Transportation and the Interstate Commerce Commission with respect to the transportation findings made in connection with the issuance of a certificate of public convenience and necessity.

H.R. 1609 delegates to operators of coal pipelines the Federal power of eminent domain if the operator obtains a certificate of public convenience and necessity from the Department of the Interior. Such a certificate can be issued if the Secretary of the Interior determines that the proposed project is in the national interest. In making this determination, the Secretary of the Interior must consider seven findings which he is required to make under subsection 5(b) of H.R. 1609. Three of the seven findings relate to transportation matters.

Under H.R. 1609 as reported by the Interior Committee, the role of the Department of Transportation and the Interstate Commerce Commission was limited to making recommendations with respect to the impact of the proposed project on other modes of transportation. While the Secretary of the Interior was required to consider the recommendations of DOT and ICC, he could either accept or reject them. That is, he was only required to include them in his deliberations.

The Public Works Committee concluded that this limited role for DOT and ICC was not adequate. Testimony before the committee clearly established that transportation was the foremost issue in making a determination whether to issue a certificate of public convenience and necessity. While the Secretary of the Interior is experienced in matters of State water rights, environmental matters and oversight of Federal lands, the committee concluded that he did not have sufficient expertise to handle the difficult transportation issues that had to be resolved before issuing a certificate.

Therefore, the committee adopted a proposal, which was offered by the distinguished gentleman from California (GLENN ANDERSON) and which was modified at my request, to require the concurrence of the Department of Transportation and the Interstate Commerce Commission in the transportation-related findings of the Secretary of the Interior.

The amendment, which added a new sentence to section 5(b) of H.R. 1609, reads as follows:

The secretary's findings under paragraphs (1), (5), and (6) of this subsection must be

concurred in by the Secretary of Transportation and the Interstate Commerce Commission.

This statutory language makes it clear that the Secretary of Interior cannot issue a certificate of public convenience and necessity under H.R. 1609 unless the Department of Transportation and the Interstate Commerce Commission have concurred in the transportation-related findings. If DOT and the ICC do not concur in these findings, then the Secretary of the Interior cannot issue the certificate. In other words, concurrence by the ICC and DOT is a condition precedent to the issuance of a certificate. This is to insure that transportation issues have been adequately addressed during the certification process.

Once DOT and the ICC concur in the transportation findings, then the Secretary of the Interior must consider them in making the deterimination as to whether to issue a certificate. He may issue a certificate even though the transportation findings may be adverse. For example, the Secretary of the Interior may find that the overwhelming national interest dictates that a certificate be issued despite the fact that there would be an adverse impact on other transportation modes.

In addition, the Committee on Public Works and Transportation adopted two amendments which I offered relating to water supply.

There was an ambiguity in the Interior bill suggesting that a pipeline project might not have to receive both State water permits and a favorable finding from the U.S. Geological Survey with respect to impact on ground water. The Public Works Committee removed that ambiguity and made it clear that both are required.

The Interior bill would have applied water-supply protection only to the more arid Western States. Our committee, recognizing both the national scope of the water shortage problem and the potential of coal pipelines in the Midwest and Northeast adopted my suggestion to apply this protection nationwide.

While I am opposed to H.R. 1609, Mr. Chairman, I did want to make it clear that the Committee on Public Works and Transportation made a number of significant improvements in the bill and that it is vastly superior to the original bill which the committee considered.●

Mr. SKUBITZ. Mr. Chairman, let us call a spade a spade. This matter is a transportation measure; it is not an energy bill. We already have an excess of transportation capacity in this country. As my Chairman has just said, if we want the rate still lower, this rate can be lowered. But again it points out that this matter is a transportation problem, not an energy problem.

May I say to my colleague, the gentleman from Louisiana (Mr. WAGGONNER), that rates for rail transportation are not set by the railroad. They have got to go before the Interstate Commerce Commission and ask for a raise and prove their case before those rates will be granted to them.

Regarding the figures he talked about on the profits of the Burlington Northern, he forgot to tell us the fact that the majority of those profits comes from nontransportation activities.

The CHAIRMAN. The time of the gentleman has expired.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, this is a key energy bill. It is a bill for competition. It is a bill for consumers. It is a sound environmental bill. It is the product of a very broad coalition. I ask again who in this House could be against a bill that is supported by the gentleman from California, Mr. JOHNSON; the gentleman from Texas, Mr. WRIGHT; the gentleman from LOUISIANA, Mr. WAGGONNER; the gentleman from Texas, Mr. ECKHARDT; the gentleman from Ohio, Mr. SEIBERLING; the gentleman from Oklahoma, Mr. JONES; the gentleman from Louisiana, Mr. BREAUX; the gentleman from California, Mr. LAGOMARSINO; the gentleman from New Mexico, Mr. LUJAN; the gentleman from California, Mr. DON H. CLAUSEN; and everybody else? I think that indicates the broad support we have and the balance and compromise that we have put together in bringing this bill to the floor. I urge that it be passed.

The CHAIRMAN. Are there other Members who seek recognition for the purpose of offering amendments, other than those printed in the RECORD? If not, the Chair recognizes the gentleman from Montana (Mr. MARLENEE).

AMENDMENT OFFERED BY MR. MARLENEE

Mr. MARLENEE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MARLENEE: add to section 5, a paragraph (h);

(h) The Secretary shall not approve an application for a certificate of public convenience and necessity for a coal pipeline for which the operation will be dependent, in whole or in part, on water acquired in any way from an Indian tribe unless the reserved water claimed by the tribe from whom the water is to be secured for the coal pipeline has been quantified by volume.

Mr. MARLENEE. Mr. Chairman, we have addressed the relationship between States; but no recognition has been given to the fact that the Indian tribes are seeking recognition as sovereign nations and are making demands for all the water arising on or flowing through or under a reservation; all, not some, but all of the water, and under that concept no State has any control of water use on a reservation.

At this very moment in the Federal court in Montana, the U.S. Government as trustee of the Crow and Cheyenne Indian Tribes are sueing between 3,000 and 4,000 private individuals for all, not part, but all, of the water arising on, running, through or under those two very sizable reservations.

I would call to the attention of my colleagues that situated on these two reservations is some of the most valuable and most abundant coal in this country, and the Crow Nation is currently negotiating leases on this mining.

I have heard from reliable sources that the coal slurry pipeline interests are also looking toward Indian water and toward the Indians for water for their pipelines, water that might not otherwise be available from the State of Montana under Montana water laws or under the provisions of this bill.

Mr. Chairman, until this issue is resolved before this body on what the water rights are for Indian reservations, there can be no resolution of the problems we now face in the Western States. We recognize that the Indians have water rights, but that cannot mean all of the water. There has got to be a sharing, just as we in the Western States have attempted to do with compacts and agreements between the States.

This amendment does not say that the Indians cannot use water for coal pipelines. It does not seek to limit their water claims, but it does say that they cannot sell the water until they know what their share is. It says to the 4,000 ranchers who now face the mighty Federal Government in court seeking to strip away their water that the Congress is not going to allow the Indians to sell a single drop of water to be transported to Texas until the pie has been split, until the States and tribes and the Federal Government can agree on who has what and whose right it is to sell to whom.

For this body to do otherwise would be to turn their backs on these hardy men and women who have carved their lives in the prairies of Montana and Wyoming.

Without water, this body might as well tell them to move off the land, for it would be desolate and dry.

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I appreciate the gentleman's efforts in fighting to preserve that which we have. I take this opportunity to show there are 47 members of the Interior Committee; 7 are authors of this bill, the other 40 members are not authors of this bill; so I would think this should be thought about when we vote.

Mr. MARLENEE. So, Mr. Chairman, let us at least adopt this simple amendment, for without it surely the Indians will suffer the most. They will either sell water that they might not have in a future settlement, thereby depriving their own basic needs and other basic needs like domestic and agriculture, small towns and municipalities.

Let us at least quantify and maintain the status quo until this question can be resolved.

Mr. Chairman, I yield to the gentleman from New Mexico (Mr. LUJAN).

Mr. LUJAN. Mr. Chairman, as I see the amendment, the important word there is "quantify", that it must be quantified for Indian tribes the amount of water they are entitled to.

Could the gentleman tell me if a great number of tribes have had their water quantified, or a small number of tribes, or almost all of them?

Does the gentleman have any indication of that? That is the only part that bothers me.

Mr. MARLENEE. There has been no qualification of Indian water rights of any kind up to this date in Montana that I know of.

The CHAIRMAN. The time of the gentleman from Montana (Mr. MARLENEE) has expired.

The Chair will announce that all time on this bill or this amendment in the nature of a substitute has expired, and the Chair is recognizing only Members for the offering of amendments that have been printed in the RECORD. Those Members will have 5 minutes to speak in favor of the amendment, and 5 minutes will be allowed in opposition to the amendment.

Does the gentleman from Arizona (Mr. UDALL) rise in opposition to the amendment offered by the gentleman from Montana (Mr. MARLENEE)?

Mr. UDALL. I do, Mr. Chairman.

The CHAIRMAN. The gentleman is recognized.

Mr. UDALL. Mr. Chairman, this is a very bad amendment. It is guaranteed to make sure that not a drop of water on any Indian reservation is ever devoted to a coal pipeline.

We learned this morning in about an hour's debate that western water law is complex, emotional, and very, very involved. We decided, I think very wisely, that we were not going to get involved in writing or interpreting western water law, that we are going to leave it where we find it. We are going to let the disputes be settled in the courts; we are going to leave the decision to the separate jurisdictions in the settling of disputes on water rights, and the courts will handle this whole thorny problem.

We are not in this bill treating Indians any differently than States. There is nothing in the bill saying that the States have to quantify their water rights before they grant a permit to a pipeline. But this amendment says that before an application can be approved on water acquired from an Indian tribe for the building of a coal slurry pipeline, the reserved water must be quantified.

What is quantification? What is involved here? Involved are lawsuits. We are starting to have these lawsuits, and Indian tribes are filing them all over the country, demanding that the Federal courts decide how much water they should have and how much can be allocated to them and how much to the States.

The main reservations where coal exists have not yet had this done. This is a process that takes decades; it is not a process of just years.

By this amendment we are saying to our Indian friends, "You have no right to decide whether your coal is going into a pipeline. We are putting an extraordinary burden on you to go to court and get the water rights quantified before anything is done."

Mr. RONCALIO. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Wyoming.

Mr. RONCALIO. Mr. Chairman, I know that my good friend, the chairman of the committee, would not want to misstate the facts. There is also the fact that it is not Indians who are particularly excepted from this quantification. The States are exerting their rights in the courts, especially in the 10th Circuit Court of Wyoming, and I just wish to point that out.

Mr. UDALL. The State courts have held that everyone has to have their water rights quantified, but we cannot do that in a year or even in a decade.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I think the gentleman has made a good point, and let me quote from the CONGRESSIONAL RECORD the effect the Black Mesa pipeline has and will have on the water table.

The RECORD stated that the Black Mesa pipeline gulps up more than a billion gallons of water a year, water which is all "deep beneath a parched Navajo reservation."

But the Navajos are letting it go, and the U.S. Geological Survey, according to the article, has calculated that pumping out the aquifer will lower the water table at Kayenta, north of the mesa, about 100 feet over the life of the pipeline. The two points I want to make is that only the Lord knows the amount and build up of a water table. Second, what you talk about is State agreement on surface water. This is below service and when "push comes to shove" to settle water disputes on subsurface water it will be considered interstate water with the State having an undivided interest.

Mr. UDALL. Mr. Chairman, these water rights belong to the Navajos and the Hopis, and they have a right to make whatever decision they wish to make regarding the sale of coal, and I do not want to say to them that they have to sue the State of Arizona and sue all the other water users in Arizona before they can enter into a pipeline contract.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Texas.

Mr. KAZEN. Furthermore, Mr. Chairman, the amendment says that the water may be "water claimed by the tribe," and that is a can of worms all by itself. How much water does that tribe have?

By this amendment we are really locking this water up for years and years.

Mr. UDALL. Exactly, and we should not try to settle water rights in this bill.

Mr. DON H. CLAUSEN. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. DON H. CLAUSEN. Mr. Chairman, I think the fact that the gentleman from Montana (Mr. MARLENEE) has presented this amendment does at least point up the very serious concern felt on the part of water users.

One of the reasons I voted against the previous two amendments and decided to stay with the committee version on protecting State water rights is that I believe this bill is fine tuned. But what we are faced with—and I think we might as well let the world know it—is that if those States served by the Madison aquifer want to keep from having the Federal Government preempt their State water rights, they are going to have to develop a multi-State compact to address those water problems and concerns unique to their area. The compact should be structured to address the needs and water supply potential so as to develop a meaningful water conservation, development and management plan designed to protect the area of origin.

Mr. UDALL. Mr. Chairman, I agree with the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Montana (Mr. MARLENEE).

The question was taken; and on a division (demanded by Mr. RONCALIO) there were—ayes 7, noes 19.

So the amendment was rejected.

AMENDMENT OFFERED BY MR. SEIBERLING

Mr. SEIBERLING. Mr. Chairman, I offered an amendment, which was printed in the RECORD on page H6847.

The Clerk read as follows:

Amendment offered by Mr. SEIBERLING: On page 39, strike out lines 9–21, and insert in lieu thereof the following:

ANTITRUST REVIEW

SEC. 7. (a) Prior to the issuance of any certificate pursuant to section 5, the Secretary shall notify the Attorney General and the Federal Trade Commission of his consideration of the application for such certificate. The Secretary shall provide such information as the Attorney General and the Federal Trade Commission shall require to conduct an antitrust review to determine the likely effects upon competition of such certificate. The Attorney General and the Federal Trade Commission shall have 120 days from the date of receipt of such notification to conduct such review and to advise the Secretary with respect thereto, including specific findings and recommendations for the inclusion in such certificate of reasonable terms and conditions deemed necessary to protect and promote competition. An antitrust review authorized by this subsection shall be deemed to be an "antitrust investigation" within the meaning of the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.). No certificate issued under this Act may be sold, exchanged, assigned or otherwise transferred except upon approval by the Secretary following his consultation with the Attorney General and the Federal Trade Commission.

Mr. SEIBERLING (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Ohio (Mr. SEIBERLING) is recognized for 5 minutes.

Mr. SEIBERLING. Mr. Chairman, before I proceed, let me say that this amendment relates to the antitrust review section of the bill, section 7, and I have another amendment at the desk which also relates to that, copies of which have been passed out to the chairmen and ranking minority Members on both sides. I ask unanimous consent that they may be considered en bloc, in the interest of saving time.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. KAZEN. Mr. Chairman, reserving the right to object, how many of these were printed in the RECORD?

The CHAIRMAN. One amendment.

Mr. KAZEN. Mr. Chairman, further reserving the right to object, that is the only one I would like to hear.

Mr. SEIBERLING. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. Further reserving the right to object, Mr. Chairman, I yield to the gentleman from Ohio.

Mr. SEIBERLING. Mr. Chairman, let me simply state, before the gentleman objects, that I have a copy of this second amendment, the chairmen have copies, and the ranking minority Members on the other side of the aisle have copies. I will be glad to furnish the gentleman with a copy. I am willing to have both amendments stand or fall together. If the gentleman wants, I will offer them separately.

Mr. KAZEN. Further reserving the right to object, did the gentleman say that both of them were printed in the RECORD?

Mr. SEIBERLING. If the gentleman will yield, no, but copies have been passed out, and both amendments deal with the same subject matter in the same section of the bill.

Mr. KAZEN. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio (Mr. SEIBERLING) that the amendments be considered en bloc?

There was no objection.

(The second amendment offered by Mr. SEIBERLING is as follows:)

Amendment offered by Mr. SEIBERLING: On page 39, strike out lines 22–25 and insert in lieu thereof the following:

(b)(1) Notwithstanding subparagraph (2) or the status of a coal pipeline as a common carrier subject to the Interstate Commerce Act, the Attorney General and the Federal Trade Commission are authorized to challenge any anticompetitive situation involved in the operation of a coal pipeline.

Mr. SEIBERLING. Mr. Chairman, these two amendments deal with section 7 of the bill, which is the antitrust review section, and they try to do, basically, three things.

First of all, let me say that they all would, in essence, conform the antitrust section to the comments on this section that were received by the Interior Committee, as well as the Commerce Subcommittee, from the Federal Trade Commission, and they would also bring the section into line with the majority of such provisions in other bills which have been enacted by the House. It would also make clear that the fact that the bill would require coal slurry pipelines to be common carriers subject to the Interstate Commerce Act would not exempt them from the FTC's jurisdiction under the Federal Trade Commission Act.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, in the debate earlier this morning in connection with the amendment offered by the gentleman from Oregon (Mr. WEAVER), designed to address the problem of oil companies owning pipelines, I pointed out that the gentleman would be offering these amendments, and that they are standard amendments adopted in our committee in other energy legislation this year. I think these amendments just basically strengthen the antitrust and competitive aspects of the bill. I find them acceptable, and I think the gentleman from California (Mr. JOHNSON) agrees with me.

Mr. JOHNSON of California. Mr. Chairman, I accept the amendments.

Mr. SEIBERLING. Mr. Chairman, I want to say they are not precisely the same as all of the other amendments we adopted, but in substance they conform.

I thank the Chairman.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SEIBERLING. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I have no objection to the amendments.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio (Mr. SEIBERLING).

The amendments were agreed to.

AMENDMENT OFFERED BY MR. BLOUIN

Mr. BLOUIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BLOUIN: In section 5(b) of the amendment in the nature of a substitute—

(1) in paragraph (6), strike out "and";

(2) in paragraph (7), strike out the period and insert in lieu thereof "; and"; and

(3) insert at the end thereof the following new paragraph:

(8) would adversely affect important farmlands.

The CHAIRMAN. The gentleman from Iowa (Mr. BLOUIN) is recognized for 5 minutes.

Mr. BLOUIN. Mr. Chairman, my amendment is a simple but essential one. It would require that the Secretary of the Interior consider the adverse effects of a coal slurry pipeline on important farmland before deciding on the issuance of a certificate of public convenience and necessity. My amendment essentially would add an eighth requirement to the list of factors which the Secretary must consider under the Udall substitute.

Mr. Chairman, there are some who believe that section 5(b)(3), which requires that the Secretary consider disruption to the environment, addresses my concern regarding farmlands. However, it is my belief that important farmlands are not viewed with the same priority as other environmental factors. Specifically mentioning important farmlands will insure that they receive the attention they deserve.

Mr. Chairman, consideration of important farmlands in this type of legislation is not without precedent. The strip mining bill which we passed just this past year provides protection for prime farmland. In that law the Secretary of the Interior, together with the Secretary of Agriculture, may grant a permit to mine prime farmland only if there is a determination that the operator has the technological capability to restore mined areas within a reasonable time to equivalent or higher levels of yield as nonmined farmland in the surrounding area.

Since the enactment of that law, the Soil Conservation Service has issued a final ruling defining different types of farmland; and the definition of "important farmland" that I use in this section is identical to the definition used in that rule.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Texas.

Mr. KAZEN. Mr. Chairman, I thank the gentleman for yielding.

This is the point I wanted to make. What kind of lands are important farmlands? To the owner, farmlands, regardless of what they are, are important.

Mr. BLOUIN. According to the Soil Conservation Service, as they have defined the term, it includes prime and unique farmland, and farmland important to the State and locality.

To go on, the latter two categories are defined as "nearly prime farmlands which economically produce high yields of crops when treated and managed according to acceptable farming methods."

"Prime" is defined as that "farmland that produces the highest food and fiber yield while expending the least amount of energy and causing the least damage to the environment."

"Unique" is defined as land on which specialty crops are grown, such as fruit and vegetables.

Mr. JEFFORDS. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Vermont.

Mr. JEFFORDS. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the amendment by the gentleman from Iowa. This is an extremely critical issue and just recently the House Committee on Agriculture expressed its deep concern when it passed legislation entitled the "Agricultural Land Retention Act."

I would suggest that the very future of the American family farm in this country rests almost entirely on the land issue. With the success or failure of our farmers' ability to produce food rest our position in the world market and our ability to maintain a positive balance of trade.

Every effort must be made to allow our most productive land to remain available for that purpose. Today much of our production takes place on marginal land. At future times of intense pressure this marginal land will fail us. It is land that should never have been removed for soil conserving practices and must be returned to that status as soon as possible. We are losing approximately 2 to 3 million acres of our essential land annually.

We only have about 25 million surplus acres readily available. One of the biggest offenders in destroying this land is our own Federal Government. The construction of this pipeline would be another prime example of this. Following are other examples of how the Federal Government spends millions to destroy our most productive land. We must make every attempt to retain this country's food production abilities. This amendment will help. Let me give you examples of poor present Federal policy.

In Suffolk County, N.Y., we find the Veterans' Administration proposing the condemnation of about 600 acres of prime farmland for a new national cemetery. This acreage represents 2 percent of the county's prime farmland base and nearby the Government already owns thousands of acres of nonprime farmland which could be used for this purpose. This is the county which has voted millions of dollars to purchase development rights to protect its dwindling farmland.

In spite of objections from local governments, local farmers, several concerned organizations, and agencies it appears the VA will move ahead with condemnation rather than use other land already in Federal hands.

This type of Federal irresponsibility must stop.

Another illustration is in Boise, Idaho where, during 1973 and 1974, hundreds of acres of irrigated cropland and desert rangeland near Boise were converted to subdivisions through the financing programs of Farmers Home Administration.

Stung by criticism from the State government and other Federal officials, Farmers Home has revised their guidelines so that now they discourage subdivisions that are not located within or next to a town or village or that take prime farmland when other feasible options exist.

In New Jersey, a regional sewer system was proposed that would have gone down the middle of a prime agricultural valley with a new trunk sewer. State officials complained loudly pointing out that the sewer would make the farmland so valuable for urban development that it could no longer stay in agriculture. The first response of the Federal officials was that they had no responsibility for determining land use. They just paid for the sewer line, then local government could control the land use through zoning. The State argued back, saying that if the sewer were built, local zoning could never withstand the pressure for urbanization, and that the Feds were essentially making the land use decision that the valley should be urban just by financing the sewer. The State won out, and the sewer was not built. Today, the Environmental Protection Agency is trying to develop a new policy for making those kinds of sewer decisions, in an attempt to prevent their program from causing the conversion of prime farmland. I commend their efforts, and think Congress should back them up with a policy statement that would make all Federal agencies do likewise.

I could go on and on listing examples where our Federal Government is negligent in this area. The passage of this amendment certainly is a step in the right direction in an effort to turn this situation around. Much more needs to be done, however, if this Nation's farmlands are to be preserved.

Mr. BLOUIN. Mr. Chairman, I thank my colleague.

With respect to one of the very good points he has made, I would like to quote briefly from a report of the Office of Technology Assessment.

They said:

> Construction of a pipeline requires trenching by blasting and excavation with backhoes, stockpiling of soil, installation of pipe, and backfilling.
>
> Since 100 percent rights-of-way are required, as much as 12 acres per mile of pipeline can be impacted.

Mr. Chairman, that is right from their 1978 report. A hypothetical pipeline from Wyoming to Texas could require 11,000 acres of land in 40 rural counties.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Texas.

Mr. ECKHARDT. Mr. Chairman, I want to commend the gentleman for what seems to me to be a useful addition to the bill and one deserving reasonable and valid consideration by the agencies.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I also want to commend the gentleman for offering this amendment, I think that all points are to be considered when approving a project if it is in the national interest and that we should move ahead with it. If it is not in the national interest to do away with these farmlands, then the project should not go ahead.

Mr. BLOUIN. Mr. Chairman, I thank the gentleman.

Energy is important and limited resource; so is farmland.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Kansas.

Mr. SKUBITZ. Mr. Chairman, I want to commend the gentleman on his amendment. I support it.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. BLOUIN. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, in light of the definition which the gentleman gave in answer to the question of the gentleman from Texas (Mr. KAZEN) as to what is important farmland, I think the amendment sets forth the purposes of the bill and is consonant with the language of the bill. Therefore, Mr. Chairman, I am prepared to vote for the amendment.

Mr. BLOUIN. Mr. Chairman, I thank my colleague.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. BLOUIN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SANTINI

Mr. SANTINI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. SANTINI: Section 4(a), immediately after the phrase "coal pipeline or pipelines", insert the phrase "across properties of common carriers by railroad".

Mr. SANTINI (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. UDALL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we have had this fundamental concept in this country, and I think most countries have it, of eminent domain. It is a power that belongs to the sovereign, and in this case to the people. It says that if we have got oil and that the best way to get it to where it is needed in Ohio is a pipeline, then we give them the power to cross anyone's land and condemn a right-of-way across anyone's land—State, private, railroad, any land.

It is a very common right that is exercised in this country. It is what we gave the good old friendly railroads when they built the railroads West. We gave them power to cross anybody's land because it was in the public interest to open it up, to build railroads to get commodities back and forth between East and West.

This is the last amendment I know of that is pending and we are going to vote in a minute. If the Members want to wreck this bill, and I think there are some who do, the perfect way to do it is to vote for this amendment, because what the amendment offered by the gentleman from Nevada (Mr. SANTINI) says is that if we have a pipeline going from Wyoming to Texas, if we have eminent domain we can get across a railroad, but we cannot go across private property except a railroad. I suspect that is why he offered the amendment, to kill the bill.

We were very generous with the railroads when they were opening up the country. We gave them all kinds of land, we gave them every other section of land across the western part of the country.

And now the time has come for us to give help to other carriers, so they may compete with the railroads, and the railroads do not want us to give eminent domain to the other carriers.

Mr. ECKHARDT. Mr. Chairman, if the gentleman will yield, for instance, if the T. & P. Railroad has a T. & P. Oil Company, what happens to them? If there is a strip of land that runs along the T. & P. Railroad, held by a subsidiary, the subsidiary is not a common carrier and condemnation cannot apply under this amendment.

Mr. UDALL. That is precisely the point. The railroads have alternate sections of land across the West. The amendment does not apply to all railroad property. It applies to railroads. One cannot run a pipeline anywhere across the West with-

out running into some of this railroad property.

Mr. ECKHARDT. The gentleman knows very well the right of eminent domain gives him the right to go into court and establish that it is in the public interest to acquire that land. The pipeline cannot simply go and take land without establishing that there is a public use and necessity for that land.

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Nevada.

Mr. SANTINI. The point is they have that right now in the individual States if they want to pursue it. But they want the Federal power to intercede because they have been rejected in the individual States because it is not in the public interest. Now the pipeline company wants the Federal Government to bail them out.

If the gentleman will yield further, the Federal Government has never conferred this power where there is an alternative mode of transportation. It is a most dangerous precedent.

Mr. UDALL. The reason they need the Federal eminent domain is this: If they have coal in Montana which is to be burned in Louisiana and it is to go across five States, that may not be in the public interest of any of those intervening States to have the pipeline go across. It is in the interest of the country to have the coal go to Louisiana and to have the coal burned there, but we would not let them use the most efficient way to get it there.

Mr. SANTINI. That is a valid point, but that issue is addressed in the OTA report. They are not in an isolated context where they cannot get the coal there now. They have an alternative mode of transportation available.

Mr. UDALL. But we are going to double the production of coal and the railroads are going to get most of it and the pipeline carriers are going to get maybe 5 percent. The railroads want that extra 5 percent, so they will have a monopoly and then they can fix the prices through their agent, the ICC. And this bill is not going to let them do that, and I think we ought to reject the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Nevada (Mr. SANTINI).

The question was taken; and on a division (demanded by Mr. SANTINI) there were—ayes 23, noes 25.

So the amendment was rejected.

● Mr. ROONEY. Mr. Chairman, yesterday, in his closing remarks, Congressman UDALL made reference to an article in yesterday's newspaper reporting the fact that the Burlington Northern Railroad announced the largest profits in its history during the second quarter of this calendar year. He then went on to interpret this fact to mean that the railroads do not need additional coal traffic as they are already viable.

My good friend and colleague has completely misinterpreted the news about the Burlington Northern Railroad. As the article points out, the company made a profit of $36.7 million during the quarter from all of its operations. But the railroad operations, however, accounted for only $12 million of this amount. Last year, the company lost $10.7 million from railroad operations. It was because of this large turnaround from a sizable deficit to a reasonable profit that made the news.

Nevertheless, even record breaking profits for railroads are inadequate. The Burlington second quarter profit represents a 1½ percent return on investment. With such a low rate of return from one of the major carriers in the industry, imagine what the others are like.

The recent turnaround in Burlington's profitability is reportedly due to increases in coal and grain traffic. The increase in grain traffic is due to the fact that very little grain was transported last year. Thus, the amount of profit received last quarter is not anticipated to be repeated.

Last year the railroad industry had an average rate of return of 1.26 percent. No other industry had such a low rate of return. Burlington's current rate of 1.5 percent is not much above average for the industry. Moreover, the railroad industry ranks last in a listing of 73 industrial groups. Considering just major transportation groups, a comparison shows why railroads have difficulty competing. In 1976, the last year for which statistics are available, the railroads had a rate of return of 1.8 percent whereas motor carriers had a rate of return of 23.7 percent, water carriers 1.8 percent. and pipelines 26 percent. Moreover, for the 12 months ending in March, the rail industry rate of return slipped to 0.6 percent.

The pipelines' rate of return should also be compared to the Houston Power & Light Co. which had a rate of return in 1977 amounting to 14.4 percent and San Antonio Power Co. which had a rate of return of 13 percent.

It is the power companies and the pipelines that believe the railroad charges are too high. Power company rates are controlled by public utility commissions and railroad rates are controlled by the Interstate Commerce Commission. The major difference between the two is that the power companies are guaranteed a minimum rate of return usually amounting to 6 percent. The railroads, on the other hand, have no such guarantee. As I said, even record breaking profits by a major railroad such as the Burlington Northern do not approach a 6-percent rate of return.

Yesterday another colleague, my friend, Mr. KRUEGER, mentioned that the railroads had increased rates to the San Antonio Power Co., by unconscionable amounts after the company had committed itself to conversion to coal. Again, this matter should be put into perspective. First, as I just mentioned, the rates charged by railroads are regulated by the Interstate Commerce Commission. Second, in the matter of the rates charged to San Antonio, this matter is in court and has not been settled as yet. Regardless of the outcome of the court case, it should be noted that the matter is being settled in the normal democratic manner, and the existence or threat of a coal slurry pipeline would have minimal effect on this particular case. Allegations have been made by the proponents that with pipelines the price of electricity to the consumer would be reduced. I remind my colleagues that the opponents to this legislation have repeatedly pointed out that this is not the case. No evidence has been given to indicate that the prices will be reduced.

The difference for Burlington between a $10.7 million loss last year and a $12 million profit is indicative of the sensitivity of railroads to the traffic proposed to be carried by pipelines. As I said in my statement Monday, the railroads need this additional coal traffic in order for them to receive a minimum of profit. If they are denied this traffic, we will have a rash of bankruptcies similar to those we experienced earlier in this decade in the Northeast. The next group of bankruptcies will probably include a number of railroads such as ConRail that have already taken considerable Federal funds to reorganize.●

The CHAIRMAN. If there are no further amendments, the question is on the amendment in the nature of a substitute offered by the gentleman from Arizona (Mr. UDALL) as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. GIAIMO, Chairman of the Committee of the White House on the State of the Union, reported that that Committee having had under consideration the bill (H.R. 1609) to amend the Mineral Leasing Act of 1920, and for other purposes, pursuant to House Resolution 1252, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. HARSHA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 161, nays 246, answered "present" 1, not voting 24, as follows:

[Roll No. 566]

YEAS—161

Addabbo	Biaggi	Burton, John
Akaka	Bingham	Burton, Phillip
Alexander	Boggs	Chappell
Ambro	Bolling	Chisholm
Anderson, Calif.	Bowen	Clausen, Don H.
Anderson, Ill.	Breaux	Cochran
Andrews, N.C.	Breckinridge	Collins, Tex.
Archer	Brooks	Conable
Ashley	Brown, Calif.	Corman
Badham	Broyhill	Cornwell
Beilenson	Burke, Calif.	Cotter
Bennett	Burke, Mass.	Danielson
	Burleson, Tex.	

de la Garza	Livingston	Roybal
Delaney	Lloyd, Calif.	Runnels
Dellums	Long, La.	Ruppe
Dodd	Lott	Ryan
Eckhardt	Lujan	Sarasin
Edwards, Okla.	Lundine	Sawyer
English	McClory	Scheuer
Ertel	McCloskey	Schulze
Fary	McCormack	Sebelius
Fascell	McFall	Seiberling
Fisher	Mahon	Sharp
Fountain	Marriott	Sisk
Fuqua	Martin	Smith, Iowa
Gammage	Meeds	Solarz
Garcia	Meyner	Stark
Gaydos	Michel	Steed
Gephardt	Milford	Steers
Glickman	Miller, Calif.	Steiger
Goldwater	Mineta	Stratton
Gonzalez	Mitchell, N.Y.	Stump
Gudger	Montgomery	Thompson
Hammer-schmidt	Moore	Thornton
	Moorhead, Calif.	Treen
Hanley		Tucker
Hannaford	Myers, Gary	Udall
Harrington	Myers, John	Vanik
Harris	Myers, Michael	Waggonner
Hollenbeck	Neal	Walgren
Horton	Nix	Watkins
Howard	Panetta	Waxman
Huckaby	Patterson	Weiss
Johnson, Calif.	Pattison	Whitten
Jones, Okla.	Pettis	Wiggins
Jordan	Pickle	Wilson, Bob
Kazen	Pike	Wilson, C. H.
Kemp	Pritchard	Wilson, Tex.
Kostmayer	Quayle	Winn
Krebs	Risenhoover	Wright
Krueger	Roberts	Wydler
Lagomarsino	Roe	Young, Alaska
Leggett	Rosenthal	Young, Mo.
Lehman	Rousselot	Zeferetti

NAYS—246

Abdnor	Dicks	Hyde
Ammerman	Diggs	Ichord
Andrews, N. Dak.	Dingell	Ireland
	Downey	Jacobs
Annunzio	Drinan	Jeffords
Applegate	Duncan, Oreg.	Jenkins
Armstrong	Duncan, Tenn.	Jenrette
Aspin	Early	Johnson, Colo.
AuCoin	Edgar	Jones, N.C.
Baldus	Edwards, Ala.	Jones, Tenn.
Barnard	Eilberg	Kastenmeier
Baucus	Emery	Keys
Bauman	Erlenborn	Kildee
Beard, R.I.	Evans, Colo.	Kindness
Beard, Tenn.	Evans, Del.	LaFalce
Bedell	Evans, Ga.	Latta
Benjamin	Evans, Ind.	Leach
Bevill	Fenwick	Lederer
Blanchard	Findley	Lent
Blouin	Fish	Levitas
Boland	Fithian	Lloyd, Tenn.
Bonior	Flippo	Long, Md.
Bonker	Flood	Luken
Brademas	Florio	McDade
Brinkley	Flowers	McDonald
Brodhead	Foley	McEwen
Broomfield	Ford, Mich.	McHugh
Brown, Mich.	Ford, Tenn.	McKay
Brown, Ohio	Forsythe	McKinney
Buchanan	Fowler	Madigan
Burgener	Fraser	Maguire
Burke, Fla.	Frenzel	Mann
Butler	Giaimo	Markey
Byron	Gilman	Marks
Carney	Ginn	Marlenee
Carr	Goodling	Mathis
Carter	Gore	Mattox
Cavanaugh	Gradison	Mazzoli
Cederberg	Grassley	Metcalfe
Clay	Green	Mikulski
Cleveland	Guyer	Mikva
Cohen	Hagedorn	Miller, Ohio
Coleman	Hall	Minish
Collins, Ill.	Hamilton	Mitchell, Md.
Conte	Hansen	Moakley
Conyers	Harkin	Moffett
Cornell	Harsha	Mollohan
Coughlin	Hawkins	Moorhead, Pa.
Cunningham	Heckler	Moss
D'Amours	Hefner	Mottl
Daniel, Dan	Heftel	Murphy, Ill.
Daniel, R. W.	Hightower	Murphy, N.Y.
Davis	Hillis	Murphy, Pa.
Derrick	Holland	Murtha
Derwinski	Holt	Natcher
Devine	Holtzman	Nedzi
Dickinson	Hughes	Nichols
Nolan	Roncalio	Teague
Nowak	Rooney	Thone
O'Brien	Rudd	Traxler
Oakar	Russo	Trible
Oberstar	Santini	Ullman
Obey	Satterfield	Van Deerlin
Ottinger	Schroeder	Vander Jagt
Pease	Shuster	Vento
Pepper	Sikes	Volkmer
Perkins	Simon	Walker
Poage	Skelton	Walsh
Pressler	Skubitz	Wampler
Preyer	Slack	Weaver
Price	Smith, Nebr.	Whalen
Pursell	Snyder	White
Quillen	Spellman	Whitehurst
Rahall	Spence	Whitley
Railsback	St Germain	Wirth
Rangel	Staggers	Wolff
Reguia	Stangeland	Wylie
Reuss	Stanton	Yates
Rhodes	Stockman	Yatron
Richmond	Stokes	Young, Fla.
Rinaldo	Studds	Zablocki
Robinson	Symms	
Rogers	Taylor	

ANSWERED "PRESENT"—1

Bafalis

NOT VOTING—24

Ashbrook	Edwards, Calif.	Patten
Burlison, Mo.	Flynt	Quie
Caputo	Frey	Rodino
Clawson, Del	Gibbons	Rose
Corcoran	Hubbard	Rostenkowski
Crane	Kasten	Shipley
Dent	Kelly	Tsongas
Dornan	Le Fante	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Kelly for, with Mr. Rostenkowski against.

Mr. Shipley for, with Mr. Le Fante against.

Until further notice:

Mr. Burlison of Missouri with Mr. Dent.

Mr. Flynt with Mr. Patten.

Mr. Gibbons with Mr. Quie.

Mr. Rose with Mr. Kasten.

Mr. Tsongas with Mr. Dornan.

Mr. Ashbrook with Mr. Caputo.

Mr. Del Clawson with Mr. Corcoran of Illinois.

Mr. Edwards of California with Mr. Frey.

Ms. OAKAR, and Messrs. RINALDO, YATES, and RHODES, and Mrs. HECKLER changed their vote from "yea" to "nay."

Mr. KEMP and Mr. BEILENSON changed their vote from "nay" to "yea."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

ANNUAL REPORT OF THE ST. LAWRENCE SEAWAY DEVELOPMENT CORPORATION FOR 1977—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Public Works and Transportation:

To the Congress of the United States:

I herewith transmit the Annual Report of the St. Lawrence Seaway Development Corporation for 1977. This report has been prepared in accordance with Section 10 of the St. Lawrence Seaway Act of May 13, 1954.

JIMMY CARTER.

THE WHITE HOUSE, *July 19, 1978.*

PROVIDING FOR CONSIDERATION OF H.R. 11983, FEDERAL ELECTION COMMISSION AUTHORIZATION, FISCAL YEAR 1979

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1172 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1172

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11983) to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such Act. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on House Administration now printed in the bill as an original bill for the purpose of amendment under the five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to the final passage without intervening motion except one motion to recommit with or without instructions. After the passage of H.R. 11983, it shall be in order in the House to take from the Speaker's table the bill S. 3025 and to move to strike out all after the enacting clause of the said Senate bill and insert in lieu thereof the provisions contained in H.R. 11983 as passed by the House.

The SPEAKER. The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, before yielding, let this Member state that he will be yielding only for debate, and not for amendments or for any other purpose.

Having made that clear, Mr. Speaker, I yield 30 minutes to the gentleman from Illinois (Mr. ANDERSON), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1172 provides for the consideration of the bill H.R. 11983; the Federal Election Commission authorization for fiscal year 1979.

This is a simple, open rule. It grants no waivers of points of order. General

debate is limited to 1 hour with the time equally divided and controlled by the chairman and ranking minority member of the Committee on House Administration.

The rule makes in order an amendment in the nature of a substitute recommended by the Committee on House Administration and now printed in the bill as an original text for the purposes of amendment under the 5-minute rule.

A motion to recommit with or without instructions shall be in order prior to final passage.

After passage of H.R. 11983, it shall be in order to take the Senate companion bill, S. 3025, from the Speaker's table and to move to strike the enacting clause and insert in lieu thereof the provisions of the bill as passed by the House.

Mr. Speaker, H.R. 11983 authorizes $8.6 million for the operation of the Federal Election Commission in fiscal year 1979. The bill also would prohibit the use of any funds to audit a Member of Congress or the Member's campaign committee unless the FEC has reason to believe that a violation of the Federal Election Campaign Act has occurred.

Mr. Speaker, we are all aware, I am sure, that some attempt may be made to defeat the previous question so that a substitute rule may be offered making in order a campaign finance amendment to the bill. I would point out to my colleagues that when a previous rule making in order such an amendment was considered in the House on March 21, 1978, it was defeated.

To be fair, I would acknowledge that other considerations, perhaps, influenced that vote. I would, however, caution my colleagues from the vantage point of one who will not face the voters in the fall elections that a vote to spend millions to finance congressional campaigns runs counter to the sentiment recently expressed in my home State of California on Proposition 13. I opposed Proposition 13, but I must recognize the frustration expressed by the voters on that issue as a fact of life.

The proponents of congressional campaign financing, apparently, have revised their amendment to make the effective date 1980 since the 1978 elections are only a few months away. I dare say, however, that the distinction may be lost on voters who already view Government spending as too high.

Mr. Speaker, I urge adoption of House Resolution 1172 so that we may proceed to the consideration of H.R. 11983, the Federal Election Commission authorization for fiscal year 1979.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, my friend and colleague from California (Mr. SISK) has clearly indicated that I will ask the Members of the House to vote against the previous question in order that a substitute rule can be presented. Obviously, I have no objection to House Resolution 1172 in so far as it would simply amend the Federal Election Campaign Act of 1971, and extend the authorization of appropriations provided for in that act.

Mr. Speaker, House Resolution 1172 is a 1-hour open rule making in order House consideration of H.R. 11983 which amends the Federal Election Campaign Act of 1971 to extend the authorization of appropriations in that act. The rule further provides that the committee amendment in the nature of a substitute now printed in the bill be considered as an original bill for the purpose of amendment. The resolution provides for one motion to recommit with or without instructions. And finally, the rule provides that after passage of the bill it shall be in order to take the Senate counterpart bill, S. 3025, from the Speaker's table and move to strike all after the enacting clause and insert the language of the House-passed bill.

Mr. Speaker, I support this rule as far as it goes, but in my opinion it does not go far enough and I am therefore urging defeat of the previous question so I can offer a substitute rule. I think my colleagues are well aware by now of the additional amendment we wish to make in order by such a substitute rule—an amendment which will provide for partial public financing of House general election campaigns. That amendment has been around in various forms for many years now and we still have not been able to bring it to a direct vote in this body in this Congress. In its present form it was made in order under the rule providing for the consideration of H.R. 11315, the "Federal Election Campaign Act Amendments of 1978." But, as my colleagues will recall, that rule went down primarily because the bill contained provisions which would have harmed one party more than another. I do not think the public financing proviso was mainly responsible for the defeat of that rule—especially when you consider that the rule lost by only 11 votes, 198 to 209, with Republicans voting unanimously against the rule, even though over 20 Republicans were cosponsors of the public financing bill.

So, I think it is fair to say that the rule would have been adopted if the controversial, partisan provision, had not been in the bill. Today, we have a clear opportunity to decide whether we want to consider a public financing amendment without the intervention of such extraneous and controversial issues.

The bill this rule makes in order is, for the most part, an amendment to the Federal Election Campaign Act of 1971 which extends the authorization of the Federal Election Commission through fiscal year 1979. The only other substantive provision of the bill is a prohibition on FEC audits of a campaign committee without a finding that there is reason to believe a violation of the act has occurred.

House Resolution 1172 makes this FEC authorization bill in order for consideration under 1 hour of general debate and under the 5-minute rule for the purpose of amendment. The substitute rule which I wish to offer and which I published in the May 11 CONGRESSIONAL RECORD, is identical to House Resolution 1172 with one addition. It provides for the consideration of a public financing of House general election campaigns—an amendment printed in the CONGRESSIONAL RECORD of May 10, and waives the germaneness rule and the appropriations on an authorization rule against the amendment. The wording is identical to the wording contained in House Resolution 1093—the resolution which would have made in order the Federal Election Campaign Act Amendments of 1978 (H.R. 11315)—the only difference being that that rule made in order an amendment placed in the March 20 RECORD by Representative FOLEY; this rule makes in order the amendment placed in the RECORD of May 10 by me. But I would hasten to add, both public financing amendments are nearly identical—the only exception being that whereas the Foley amendment would have taken effect with the 1978 elections, mine would take effect with the 1980 elections.

Mr. Speaker, I do not want to spend a great deal of time during the debate on this rule discussing in detail the provisions of our public financing amendment. I think by now most Members are familiar with its general provisions. This does not alter what individuals or political action committees can presently contribute to a House campaign; it simply rewards the small individual contribution of $100 or less with matching funds from the dollar tax checkoff fund, up to $50,000 total per candidate This is not going to be an inflationary budget buster: It is estimated that it will cost approximately $25 million for the 1980 House general election campaigns, and these funds are already available in the existing presidential election campaign fund. As of February of this year there was approximately $67.8 million in that fund, and by the 1980 elections it is estimated there will be $182 million in the fund. The estimated cost of the 1980 presidential election to the fund is $90 million (compared to $74 million in 1976). That would leave $92 million available for House general elections or over $65 million more than what it is estimated it will cost the fund.

But the real issue on the pending rule and the previous question vote I will be demanding is not whether we should have public financing of House races, but rather whether the House should be permitted to at least consider such an amendment. That is all we are talking about here. And everytime it appears that we might bring this issue to a vote in the House, there is always one excuse or another that the time is not right—it is either too late or too early. It always needs more study. Well, I would submit that this proposal has been studied, and testified on, and deliberated on, and marked up and down and around, just about enough. This particular public financing amendment has been shaped on the basis of all that testimony and deliberation and it has been pending in this body since last March—long enough for everyone to give it a thorough going over and make

up their minds. It will no longer do to plead ignorance or surprise. The only reasonable pleas now are support, opposition, or at least a willingness to have the matter thoroughly debated and voted on by the House. That is what we are asking in urging defeat of the previous question: Vote down the previous question so we can offer an amended rule which will make public financing in order.

The time to at least bring this matter to a conclusive vote in the House is here, now. We know that partial public financing of Presidential campaigns has been a success; we are all aware of the growing special interest influence on congressional elections—almost in inverse proportion to the special interests' declining impact on the Presidential races. I strongly urge my colleagues to vote down the previous question, vote for the substitute rule, so we can at least consider this partial public financing amendment which will encourage greater participation in our campaigns by small, individual contributors. That is really what this debate is all about—expanding the political and financial base of support for our representative system. Let our votes today reflect our continuing commitment to pursuing that democratic ideal of widespread popular support for and participation in our political system.

Mr. BAUMAN. Mr. Speaker, will the gentleman yield for a question?

Mr. ANDERSON of Illinois. I will yield briefly to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, the gentleman from Illinois (Mr. ANDERSON) is one of the more astute parliamentarians of the House and he mentioned only briefly in the beginning of his remarks his intention to offer a substitute rule if the previous question was defeated.

It is my understanding that consultations with the Chair and the Parliamentarian have indicated that a point of order would lie against any such amendment since it would not be germane.

The SPEAKER. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would say to the gentleman from Maryland (Mr. BAUMAN) that we are extremely tight on our time because of the commitments I have made to not just the proponents but the opponents of the proposed amendment so that I cannot yield further to the gentleman. If at the end we find that there is a minute or so remaining I shall yield to the gentleman from Maryland.

Mr. BAUMAN. I thank the gentleman for his usual solicitude.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I hope this House will vote yes on the previous question, yes on the rule, and yes on the bill.

As mentioned, there will be an attempt to defeat the previous question in order that a substitute rule can be proposed to make a public financing amendment in order. That procedure will probably be subject to a point of order, and is, in any case, a bad procedure for a bad amendment.

H.R. 11983 was reported by the House Administration Committee on April 13. The committee authorized $8.624 million for fiscal year 1979 which represents the amount of the request made by the FEC. The House has appropriated $8 million and the Senate has appropriated $8,059,520.

In addition, the committee accepted the gentleman from South Carolina's amendment which will prohibit the use of any funds to conduct random audits of House and Senate candidates. While I am not in favor of the restriction, the full House should have the opportunity to debate this provision.

Mr. Speaker, let me take a few moments to recap this session's activity on public financing. The Committee on House Administration held hearings on May 18 and 19; June 21, 23, 28, and July 12, 1977. We heard from 24 witnesses; 13 were Members of this body and only 1 was a person with firsthand experience with the Presidential system.

Last summer, the Senate failed after three attempts to break a filibuster on their public financing bill.

In October, we received a draft proposal late 1 week and started markup the following week. The House Administration Committee spent a morning in markup and then canceled the session in the afternoon after the adoption of an amendment extending the proposal to primary elections. The chairman then declared public financing dead in the House.

In March of this year, the Rules Committee made in order a similar amendment during consideration of H.R. 11315. The full House rejected that rule on March 21 by a vote of 198 to 209. While there existed other reasons for not supporting the consideration of H.R. 11315, one certainly was public financing.

Public financing has been killed three times this session. That's enough lives for any bill in any session. But, again, today we are being asked to end run our rules and procedures, to in effect discharge the House Administration Committee of its jurisdiction, by adding public financing as a nongermane amendment to this relatively innocent bill. And, this public financing bill is not even effective until 1980, so it surely isn't needed now.

To defeat the previous question is bad procedure because if we can make a nongermane amendment in order, we will then be able to make any nongermane amendment in order with a majority. That means we can consider human life amendments, deregulation of natural gas, Kemp and Steiger tax bills, and any other idea that strikes our fancies if we can beat this previous question, or any previous question.

In fact, Mr. Speaker, rumors have been rampant that this point of order will not occur because a proponent will move first to table the bill. This would, of course, send the bill back to the rules committee whereby they would have the opportunity to report back a rule making public financing, H.R. 11315, or a combination of the two in order. Therefore, it is apparent the vote taken today will not result in consideration of a public financing amendment. It is only a complicated parliamentary procedure to end run the House Administration Committee with a proposal that will not take effect until the 1980 elections.

It is also bad procedure to consider a complicated bill that has not had careful committee attention. The issue is not just confined to matching small contributions with taxpayers' money. Rather it always includes limits on spending, restrictions on who qualifies, disqualifications, enforcement, criminal sanctions and carte-blanche grants of authority to the bureaucracy for administration.

The amendment proposed is poorly drafted. It conflicts with existing law and procedures. This amendment would give broad, sweeping authority to the FEC for auditing. It does not fit current enforcement procedures. It leaves the point-of-entry question fuzzy. It does not even attempt to grapple with the minor party issue. It specifically sidesteps the questions of primary elections and both houses of Congress.

Also, after three losing cloture votes in the Senate last year, there would seem to be no chance at all that public financing could withstand a filibuster with the other body's crowded schedule.

Mr. Speaker, it is also bad procedure to discuss this important topic under conditions that prohibit debate and amendments over the most significant aspects. Two of these aspects are whether to include all elections, and whether to include both Houses. Motions to include either will be out of order under the gentleman from Illinois' (Mr. ANDERSON) rule.

But, setting the bad procedures aside, the substitute rule and the concept of public financing ought to be defeated on its own lack of merit.

First. It is widely recognized as an incumbent protection device.

Second. It has no constituency except Members of Congress who see it as a better way to stifle competition. Every time there has a vote on public financing, it has failed miserably. In the nationwide referendum conducted annually in which the taxpayer does not even have to give away his/her own dollar, the vote is 3 to 1 against public financing. In Maryland, where you have to put in your own dollar, only 3 percent used the checkoff. Ninety-seven percent, in effect, voted no. In 1976 Oregon voters rejected, 2–1, a proposed to use public funds for elections communications.

Third. It places control of elections in the hands of an inept bureaucracy—one which has proved it cannot make a decision in a difficult case because of its 3–3 makeup.

Fourth. In return for wasting taxpayers' money against the taxpayer's will, public financing offers no purification. If there are any of you, which I doubt, who can be bought for $1,000—the individual limit, or $5,000, the group limit, that person can probably be bought cheaper, too. All the matching

does is double the advantage of the individual who is a good fund raiser under the present system, and put money into the coffers of the already prosperous mailing houses.

Fifth. It is just another expensive Government program, costing lots of taxpayer's dollars, that the taxpayers do not want. If proposition 13 meant anything, it meant: "Do not waste our money on worthless, expensive, self-serving programs like public financing."

Mr. Speaker, I would urge my colleagues to vote "aye" on the previous question. The House ought to pass this authorization, and we ought to speak out on the audit issue. We should not waste our time on a bill that has little chance of becoming law. We have better ways to spend our time.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, when I prepared these brief remarks, I started them by saying that I find myself in a novel position. It has become even more novel since the remarks of my distinguished friend, the gentleman from Illinois (Mr. ANDERSON), who has figured out that somehow or other if he prevails, and I hope he does, that it is going to help that side of the aisle more than this side of the aisle. Also, oddly enough, despite a number of efforts on my part, I have been attacked by one of the leading organizations, or perhaps the leading organization, in favor of this legislation—for what rational reasons I am unable to understand. But considering the persons who have attacked me, I really do not pay much attention to it.

The rule before the House is a 1-hour open rule. It permits the consideration of H.R. 11983, the noncontroversial authorization for the Federal Election Commission, which was unanimously reported by the committee I have the honor to chair. Nevertheless, I urge my colleagues to defeat the previous question in order that public financing may be presented for House consideration. If the previous question is defeated, a substitute rule will be offered. It makes in order a public financing amendment sponsored by our colleagues, Messrs. BOLLING, MIKVA, CONABLE, and ANDERSON. The logic behind this parliamentary maneuver is simple. The whole House should have an opportunity to work its will on the significant issue of partial public financing for its general elections.

A majority vote against the previous question demonstrates that a majority of the House is for public financing.

The SPEAKER. The time of the gentleman from New Jersey (Mr. THOMPSON) has expired.

Mr. SISK. Mr. Speaker, I yield 30 additional seconds to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Speaker, a vote on this rule is tantamount to your position on public financing. Now, other colleagues are going to present the case for public financing. Suffice it to say, I find that public financing is consonant with my goals of reducing the amount of money and the impact of money on House campaigns and to take House seats off the auction block.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. MEEDS).

Mr. MEEDS. Mr. Speaker, I rise in reluctant opposition to the rule proposed by the committee and in support of a proposed amendment which will be offered by the gentleman from Illinois (Mr. ANDERSON). As a member of the Committee on Rules, I dislike immensely having to be in opposition to a rule of the committee, and particularly a rule which is brought forth by my friend and colleague, the gentleman from California (Mr. SISK).

I point out that I certainly have nothing personal in this; but there is something which I think is of utmost and paramount importance to the House and to the democratic process in this country. If the previous question is defeated, the gentleman from Illinois will offer an amendment which will allow partial public financing of congressional elections. The last opportunity we had to vote on something encompassing that was clouded and it was lost in the rule, which was defeated. It was clouded by party financing and other items.

Today I hope people understand that the amendment of the gentleman from Illinois (Mr. ANDERSON) will be for the sole purpose of getting public financing, or partial public financing before this body. I say to you that partial public financing is more needed in this Congress than ever before, because campaigns are becoming more and more costly. A recent campaign in my own State for a seat in this House costs over $400,000.

It is no secret that I will not seek reelection myself. Financing is not the only reason. There are other reasons; but the single greatest reason that I will not seek reelection is because I would have had to raise $250,000 or thereabouts to run a winning campaign.

Now, I can speak only for myself. I do not impugn any Member of this House; but there is no way that I can raise $250,000 for one campaign without raising it in big chunks. I pride myself that I raised campaign funds from many contributers, but in several instances, I raised $10,000 from one source. Again I say, I speak only for myself; but I was put in a position of either being impliedly obligated or ingracious to those contributors.

I personally could feel no other way about it. I either voted with that contributor or I voted against him. If I voted for him, I felt impliedly that I owed it to him; if I voted against him, I felt ingracious.

I do not think the Members of the House, if any of them feel the way I do, should ever have to be put in that position.

As the cost of campaign financing increases and increases, we are increasingly going to be called upon to put our souls on the line unless we do something to lessen the private interest that is connected with the donation of funds.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield very briefly to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Speaker, I would just like to say to my colleague that he is not alone or just speaking for himself alone; he is speaking for many of us when he addresses the single greatest legal evil that still exists in our whole election process.

Mr. YOUNG of Florida. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield very briefly to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Speaker, I thank the gentleman for yielding.

What the gentleman just said, I think, dilutes the argument made by the gentleman from Illinois (Mr. ANDERSON) a few minutes ago. He talked about this public financing as being something that is going to dilute the effectiveness of the incumbent. The gentleman from Washington as an incumbent is talking about this as something that would help him. There is obviously an inconsistency here and I wonder just what the situation really is

Mr. MEEDS. Mr. Speaker, I refuse to yield further. I will just say to the gentleman from Florida (Mr. YOUNG) that I do not care whether it helps incumbents or whether it helps challengers. I think it is going to help this Nation to have a system under which the public interest is not the captive of the private purse.

Mr. MAZZOLI. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Kentucky.

Mr. MAZZOLI. Mr. Speaker, I just wish to commend the gentleman from Washington (Mr. MEEDS) for his statement.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. MEEDS. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Speaker, I thank the gentleman for yielding.

I think the gentleman has described in this part of the debate this afternoon something that is very, very helpful and honest. I commend the gentleman for his fine statement.

Mr. Speaker, I, too, rise in support of public financing for congressional campaigns. It is clearly the only way through which congressional campaigns can be taken out of the realm of ridiculously high finance, and be brought back down to a more reasonable level.

This excessive level of spending and contribution became apparent during the congressional election of 1976 when a number of candidates spent over $200,000 on their races. Likewise the level of private contributions to congressional campaigns rose from $8.5 million in 1972 to $12.5 million in 1974 to an amazing $22.6 million in 1976—and these figures only represent giving by special interest groups.

We in Congress, along with millions of citizens interested in good and responsive government, have already witnessed the positive effect of public financing of presidential campaigns. In 1976 we saw none of the excessive contributing which marked the 1972 election. I might remind

the House that during that year some $20 million was given to President Nixon's reelection campaign by fewer than 100 individuals. No one can seriously argue that this level of giving was good for the country. The people thought not—as was demonstrated in poll after poll—and Congress agreed. However, there is still much to be done, and it must be done here in Congress.

Here again the arguments are well known. The Supreme Court ruled in its decision in Buckley against Valeo that the only way a candidate could be limited in the amount spent in a campaign was through the acceptance of public funds. This public financial support was properly and intelligently seen as an incentive for the candidates to realize that once elected they hold a public trust, and cannot, in good conscience feel especially beholden to one or another large contributor at the expense of the public in general.

This brings us to another point: the concern which the public has shown in recent years over what they feel has been top-heavy influence in Washington by those interests and individuals for whom money is no object. A recent survey conducted by Louis Harris showed that 74 percent of the people believe that these special interests get better treatment in Washington than do average citizens. There is no doubt that the public has grown tired of thinking that good lawmaking is a marketable item. The legal curtailments on private contributions to Presidential campaigns have brought about this tremendous increase in giving to congressional campaigns, and unless some step is taken to institute spending level the public will surely continue to feel it has little to say in Congress, and special interest groups will continue to exercise the muscle.

We know that in actuality the case of a "bought election," like that of the Congressman who sells his vote to the highest bidder, is a rare thing. But we must also realize that without public financing of congressional campaigns there is little guarantee that the possibility of the public's trust being sold down the drain will not periodically become a reality.

Finally, Mr. Speaker, let me add that, contrary to what some have suggested, public financing will not give an undue advantage to incumbents. Nothing could be farther from the truth. The facts show that it is just this which has been the case in the past. In 1976 incumbents received a total of $13.2 million from interest groups while their challengers claimed only $4.1 million—a ratio of over 3 to 1. The tried but true maxim that the "smart money" contributors bet on the person already in office has been all too much in evidence. Here individual accountings can be most illustrative.

For instance, during 1976 political action committees associated with the securities industry gave $177,000 to incumbents and only $7,600 to their challengers. The contribution figures for the American Dental Association followed with $288,000 compared to $41,000. As we have seen the present system has tended to divert even modest contributions from challengers.

All these sad facts have only increased the distance between the Congressman and the majority of his constituents, and, even more tragically, have helped fuel the impression that the institution of Congress itself is distant and unsympathetic to the needs of the average citizens. Public financing will cure a large part of this problem in helping to put the challenger on a more equal footing with the incumbent. In doing so, it will foster a closer and more beneficial relationship between Congress and the public.

Mr. MEEDS. Mr. Speaker, I thank the gentleman from Colorado (Mr. WIRTH) for his remarks, and I urge my colleagues to give partial public financing the kind of attention and trial test it deserves in this House. It has worked well in the Presidential campaign. In fact, it has worked so well that it has funneled a lot of money into the House races, causing them to cost even more.

The SPEAKER. The time of the gentleman from Washington (Mr. MEEDS) has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. VANDER JAGT).

Mr. VANDER JAGT. Mr. Speaker, the proposal for partial public financing is the wrong solution at the wrong time. For one thing, the American people are overwhelmingly against it.

In a very extensive nationwide poll in March, the American people were 3½-to-1 against public financing. Seventy-eight percent said that they were already paying the salaries of Congressmen, and they did not want to pay the cost of getting us elected, too, and nearly 40 percent indicated they would vote against any Congressman who voted to take their tax dollars and use them to pay the costs of getting elected.

I know those Members who are proposing this legislation are so well-intentioned that they would risk the political consequences to correct the inadequacies they see, and I admire that statesmanship. However, the proposed solution compounds the very problems they would seek to correct. Public financing is pushed as an attempt to equalize the campaigns of challengers and incumbents. It does just exactly the opposite of that. Public financing is a bill to preserve and protect in perpetuity the incumbent.

Our studies show that the average amount that has to be spent by a successful challenger against an incumbent, because of the perks of incumbency, over the last three election periods has been $290,000. This law limits the challenger to $150,000. This law would limit the challenger to half the horsepower he needs to conduct a meaningful campaign.

The argument is made that the bill cuts down on the impact of special interest. It does just exactly the opposite of that. By reducing to pygmy size every participant in the political process, including our two great political parties, it makes a giant of the one special interest that can lope along through the political landscape with no limitation. That, one big special interest group is big labor—this bill magnifies the impact that group will have.

Fortunately, I do not have to defend my position on this with words, because we have a record and we can look at what happened with public financing in the Presidential election. In the last election Carter and Ford were limited each to $21.4 million. But labor reported spending more than $10 million on behalf of Carter in that Presidential election campaign.

That is like giving one football team 16 players and limiting the other team to 11 players.

What was the nature of the expenditures? The nature of the expenditures was education. That is why they can do that. That is why financing limitation laws do not apply to them. Millions of pages of documents like this that I am holding in my hand were mailed out. The Members who are sitting in the back row can probably read this, because it appears in big black letters. It says: "Vote Carter and Mondale."

We have so stacked the deck with our laws at this point that it might interest the Members to know that by definition that is not campaigning, that is not partisan politics, that is not political; it is merely education, and it, therefore, does not count.

We have a test tube that is even better than the Presidental election, and that is the one election that was held for a Senate race under finance limitation laws in New Hampshire before the Supreme Court threw out the spending limitation as unconstitutional. That was a senatorial election, and New Hampshire is small enough to be a test tube for a congressional district. It is roughly comparable.

And they were under this type of legislation with limitations. As a result, you did not have two campaigns for the U.S. Senate; you had three. You had Wyman for the U.S. Senate; you had DURKIN for the U.S. Senate. And you had labor for DURKIN for the U.S. Senate. And while Wyman and DURKIN were limited to $180,000 each by law, labor spent $220,000 to elect DURKIN to the Senate.

What does it mean on the bottom line? What does it translate into on election day? On election day, with limited resources, you have to allocate carefully.

Wyman had 118 manned telephones to make calls to get people to vote for Wyman on election day.

DURKIN had 120 manned telephones to make calls to get people to vote for DURKIN on election day. That is the kind of clean fair contest the proponents of this legislation want. The problem is labor had 220 telephones manned to call people to get people to vote for DURKIN on election day.

If public financing of elections passes, it will be one against two in congressional elections all across the country. It is possible that somebody here is saying to himself, "My land, I am an incum-

bent, and I enjoy the support of big labor. If I get public financing, I can be here forever."

And yet I do not think there is a Member in this House who wants to get reelected and pay the price of being that beholden to one special interest group, a special interest group that can do more for your election than you can do for yourself. That is wrong. The American people do not want it.

We ought to reject this rule on behalf of free and clean elections.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. VANDER JAGT. I yield to the gentleman from Colorado.

Mr. WIRTH. I thank the gentleman for yielding.

Mr. Speaker, I would like to go back to the gentleman's comparison of pygmy-size budgets, mentioned earlier.

I think it is fair to point out that in the legislation proposed by Mr. ANDERSON and company, an individual would be allowed to spend as much as he wants, if he wants to make that choice; everybody would not be limited to the ceiling set in the bill. In other words, a candidate can choose between the partial public financing, or to go without the financing. Therefore, the pygmy reference is not appropriate.

Mr. VANDER JAGT. There is a grave constitutional problem about that, in terms of imposing that on someone who does not want to come under the law. Those constitutional problems and anomalies and ludicrous problems that this bill presents have never been the subject of congressional hearings. That is why this is the wrong time, as well as the wrong solution. We should at least have hearings before we so drastically alter the very fabric of the American political systems.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. MIKVA).

Mr. MIKVA. Mr. Speaker, in the last three elections my opponent and I have each spent over a quarter of a million dollars for the privilege of serving in this worthy body. This forthcoming election will be no different. I have been able to raise that money, as has my opponent, without resort to the partial public financing. But the hardest question I have to explain to my constituents is: Why should it cost that much to run for public office? Why should it be that expensive?

I go through all of the rationale about how it is a closely divided district and the people are articulate and sensitive, and therefore you have to reach out and approach them.

But it is wrong. It is wrong and impossible to explain.

One of the reasons, and the main reason, I am for partial public financing, as suggested by my colleague from Illinois, is that that is the only constitutional way that we can impose any limitations on the amount that is being spent.

The cynicism that the American people have about this body and about many of the other institutions is, in large part, brought about by our incapacity to understand the dynamics of running for public office.

If we do not put some kind of check on how much we spend and, as far as I know, this is the only means for imposing that check, we are never going to restore the confidence that the American people must have if our institutions are to work. It is that simple.

There has been a lot of talk about how this helps incumbents and how it does not help incumbents. Most of us are going to be able to get elected or not elected without regard to whether this bill passes.

However, what does turn on the amendment offered by my colleague is whether or not the people will believe in the body which proposes to legislate for them; and that is too important an issue not to have at least one clear-cut vote on in this 95th Congress.

Mr. Speaker, I urge my colleagues to vote down the previous question so that we can have that vote of which I speak.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 3 minutes to the distinguished minority leader, the gentleman from Arizona (Mr. RHODES).

Mr. RHODES. Mr. Speaker, it is always an experience I do not relish when I take the floor to disagree with some of my best friends. However, that does happen in a body like this. Therefore, let me say that my disagreement is without being disagreeable. I respect their right to differ. I respect their opinions. I just happen to think that in this particular situation they happen to be wrong.

Mr. Speaker, I think they are wrong because I find a very good—and complete—record of action on the part of the Congress in trying to do away with the evils which have been inherent in some of the elections of the past. There is no doubt but what in past years we had instances in which huge sums of money were contributed to candidates; and those huge sums of money undoubtedly were contributed, whether it was by labor or whether it was by business, for the purpose of influencing that candidate's vote. In fact, sometimes the contributions were of such a magnitude that it was pretty obvious that they would have influence over a candidate's vote if he was elected.

Mr. Speaker, that is no longer the situation. We have limited the amounts of money that can be contributed. We have limited the means by which the parties and individual campaign committees can collect sums of money. We have, I think, done everything that we really reasonably need to do to restore the confidence of the American people in the fact that elections are going to be carried out honestly and that if some Member of Congress is influenced by campaign contributions, then his price of morality is very low indeed.

Therefore, Mr. Speaker, it seems to me that that argument is completely moot. We have done that. We have done what we need to do; and I think we ought to wait to see whether it works. I think it will.

As far as public financing is concerned, I just happen to be against that because of the fact that the American taxpayer does not want it. I do not think there is any doubt but what the American taxpayer does not want it. He has had enough things to pay for as it is. He does not need to pay for your campaign or my campaign; and he certainly does not need to pay for my opponent's campaign.

There is no reason to do that, Mr. Speaker; and I cannot help but believe that the system, although it is well-thought-out by the proponents of the bill as far as payments are concerned, will lead to chaos. I think it will lead to a multiplicity of candidates, perhaps even to a multiplicity of parties because, believe me, if one can get $75,000 or something like that to run for the Congress, the temptation to run and perhaps appoint one's brother-in-law as campaign manager could be rather strong.

I would imagine that there would be a lot of people who would do that, and there would be frivolous candidacies and candidacies which actually would have the effect of impeding the means by which the American public can sort out the wheat from the chaff, hopefully, to elect the best candidates.

Mr. Speaker, the reason for this legislation, if there is one, ought to be to get a better Congress instead of a worse one. I do not think that unnecessary, overreactive measures such as public financing of congressional campaigns will do anything to improve the quality of Members elected to the House. We need to do what we can to improve our quality of Members, but public financing is not one of them.

Mr. SISK. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, this is an either/or issue. We are talking about a totally voluntary approach to public financing if enacted by the House.

The question is, Will the Members of this body or will the candidates who are running for this body have a choice between public financing and the present system of financing elections?

There are those Members who feel that there are no problems with the present system. That is fine. That is their choice. They should have it. However, there are also Members here and candidates running for office who feel there should be a different system and who also want to have that choice as well and take the political risks if any involved in that choice.

Mr. Speaker, why should we be considering another alternative? I think some of those issues have already been addressed. Campaign expenditures are out of control. In 1976, $61 million went to House races.

Look at the costs that went into those races; $1 million in one race alone; $829,000 in another race; $804,000 in another race; in 63 districts, a quarter of a million dollars was spent in each election.

There are some Members who feel that we ought to limit the expenditures, and the only way we can do it constitutionally under the Buckley-Valeo decision is to bring in public financing. We ought to have that choice, those of us interested in limiting campaign expenditures.

On special interest influence, there are Members who feel that we ought to have

some control over special interest influence. While the polls may indicate that there is concern over public financing, the polls by a two to one margin clearly indicate that the public is against private special interests having an influence on this institution. To do that, we have to turn to the public and to smaller donations from the people.

Lastly, I think the test of the candidate ought not to be how much money he or she can raise, but how he or she addresses the issues. That is the test of the candidate. The public has already made a decision. The public can freely choose to contribute through the checkoff process to Presidential campaigns. What would be the funding source for public financing. I think the Members and the candidates of the House also should have a choice as to the type of financing they want to have. It is the best interests of the House, the best interests of the public, and the best interests of the Nation.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GREEN).

Mr. GREEN. Mr. Speaker, I rise in opposition to the previous question on the rule for H.R. 11983, the Federal Election Commission authorization for fiscal year 1979, in order to give the full House an opportunity to vote on the issue of public financing of congressional campaigns. If the previous question is defeated, I will vote in favor of the Foley-Conable-Mikva-Anderson amendment to provide for partial public financing of House general election campaigns beginning in 1980.

I believe it is essential that the House be given a chance to consider the merits of a public financing proposal. It is unfortunate that the House effectively was denied this opportunity earlier this year when H.R. 11315, the Federal Election Campaign Act Amendments, was on the House floor.

When H.R. 11315 came before the House on March 21, it did not contain any provisions for public financing of congressional campaigns. It was hoped that during considerations of H.R. 11315 the Foley-Conable public financing amendment would be offered and adopted.

However, by a vote of 209 to 198, the House defeated the rule (H. Res. 1093) on H.R. 11315. The defeat of the rule precluded debate and votes on H.R. 11315.

I was among those who voted against the rule, House Resolution 1093. I did so in order to block consideration of H.R. 11315, which did not at that point contain a public financing provision but did contain partisan provisions to lower the limits on spending by political parties and multicandidate political action committees. Quite frankly, these provisions were intended to prevent the Republican Party from effectively using moneys already raised this year. All House Republicans present on March 21 voted against the rule, and we were joined by 69 Democrats.

The circumstances surrounding H.R. 11315 clouded and confused the public financing issue. Indeed, the partisan maneuvering on that bill made it difficult for constituents to understand their Representatives' positions on this important matter.

I urge my colleagues to vote against the previous question on the rule on H.R. 11983 so that the House will be able to go on record clearly on a public financing amendment. It is time to end the political subterfuge and gamesmanship that have seemed to bedevil consideration of the issue of public funding of congressional elections.

I am a cosponsor of the Foley-Conable bill, H.R. 11720. By adopting the Foley-Conable - Mikva - Anderson amendment version of this bill, the House can take a big step forward in reducing the influence of the special interests in House general elections and in helping to restore public confidence in the integrity of the electoral process.

Under this proposal, candidates in general elections for the House of Representatives could receive up to $50,000 in five payments of $10,000 each, matching contributions of $100 or less. These matching payments would be made with moneys drawn from a voluntary tax checkoff fund.

I believe that this matching of small individual contributions would increase the importance of widespread, grassroots fundraising efforts. Those $5, $10, and $25 contributions would assume added significance and would encourage campaigners to focus more attention on the "person on the street" contributor. At the same time, candidates would be encouraged to broaden their financial contributors base as their need for large, special interest contributions decreased.

In addition, the measure would limit a candidate from spending more than $25,000 in personal funds and $180,000 overall. These spending limits would be most welcome at a time when campaign costs and expenditures are continuing to soar. Spending limits, coupled with matching payments for small contributions, would make it possible for qualified individuals to run for Congress who might otherwise be deterred by the high cost of campaigning.

The Foley-Conable-Mikva-Anderson proposal is long overdue. I hope that my colleagues will not postpone it further.

I urge the defeat of the previous question on the rule on H.R. 11983 so that the public financing amendment can be voted on and adopted. Let us begin now to rebuild public confidence in congressional campaigns and to reduce the importance of large contributions in electing the best men and women to serve in Congress.

Mr. SISK. Mr. Speaker, I yield 5 minutes to the gentleman from South Carolina (Mr. DAVIS).

Mr. DAVIS. Mr. Speaker, I rise today to ask the House to vote up the previous question and adopt this rule, and let us get on with the business of authorizing the funding for the FEC.

Prior to going into the merits of public financing, let me take this opportunity to correct the record. There was an attack by two distinguished lobbyists from Common Cause on Chairman THOMPSON and on majority whip BRADEMAS about their being in opposition to public financing. I would like to make the record clear that I do not believe anything could be further from the truth for I have been opposing these two gentlemen for almost a year now on this matter.

Mr. MIKVA. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Illinois.

Mr. MIKVA. Mr. Speaker, I want to join my colleague in making the record clear. Both Mr. BRADEMAS and Mr. THOMPSON have been worthy advocates of public financing from the beginning.

Mr. BRADEMAS. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to the gentleman from Indiana.

Mr. BRADEMAS. Mr. Speaker, I thank the gentleman for his observation. He is accurate.

Mr. DAVIS. Mr. Speaker, the gentleman from Illinois says that this is not a new idea. Well, I say it is not a new idea either; I say it is a bad idea. We have dealt with this issue before. What has changed the complexion of the House since March? I would say nothing.

We are here today to discuss whether or not we want to deal with public financing. I think the issue ought to go to one basic group of people in discussing it; not those of us who would benefit by it, but to the taxpayer, the man who is going to foot the bill.

In a recent survey conducted by Civil Service Inc., they provided information and requested information on removal of the public's trust in Members of Congress and basic overall confidence in our system of government and elections. There is no great impetus for change, whether it be in public financing, universal election day registration, or expanded federally-employed political participation.

The only change that the public wanted was in the direct election of the President. The public financing concept does not find favor with the public. And this was found out when constituents were asked directly. About two-thirds of America responded: No, we do not favor it.

But yet do we worry about the taxpayer? Here we come today asking for $30 million for congressional elections. And about 3 months ago we refused to give $10 million to protect the consumers of this country and form a Consumer Protection Agency. So whom are we concerned about: The consumer, the taxpayer, or ourselves?

We keep talking about Federal bureaucracy—and to me that is what Proposition 13 said: Let us cut down on bureaucracy. But here we are talking about creating a new system of audits and administration that already, in just auditing the 11 Presidential candidates under public financing, the FEC has said it is going to take 26 man-years of work. Can Members, imagine, if we go to 1,000 campaigns a year, the necessary bureaucracy and administration that will be required to administer it?

The other thing is that we as incumbents talk about the filings. Twenty-four we have. The authorization bill would reduce that and we would do away with

random audits. But yet the Anderson proposal comes back and says we must comply and agree with the audits. So there again we are compounding the paperwork and the bureaucracy.

Then we hear that there is going to be a limitation on spending. That is the only way we can do it, my friend the gentleman from California says. But I would say to the Members, if we do not opt to go into the system of public financing there is no limitation. We have the same rules of the game that apply today. So those who would raise $250,000 or a half million dollars would not be affected at all. They would still be able to participate in the same type situation.

And then we get to the other formula. How do we differentiate on the end result of what is considered public money and private money? So, after the campaign is over and one has got $75,000 left in the till, does he continue to use the taxpayers' money to fix his automobile or to purchase an automobile?

I would say that the time is now to go ahead and say we have discussed it enough and let us vote up the previous question.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. DAVIS. I yield to my friend, the gentleman from California, who always tries to stand with the party chairman.

Mr. JOHN L. BURTON. I would just say one point that has to be made is that this money comes from money that is voluntarily checked off by the taxpayers and is not general fund money.

Mr. DAVIS. That is right.

Mr. JOHN L. BURTON. I would like to thank the gentleman for yielding.

Mr. DAVIS. I would say this is right, but does it not take away from the revenues that amount?

Mr. JOHN L. BURTON. The money is from the money voluntarily checked off by the taxpayers and is not in the general fund once it is checked off by the taxpayers, but I think that point ought to be made.

Mr. DAVIS. We changed that from where it was Republican and Democrat to where it goes into one general till, and I am not sure the people of San Francisco would want it going to the Republican Party.

Mr. JOHN L. BURTON. I just think the point should be made that the money is coming from the voluntary checkoff of dollars.

Mr. DAVIS. Voluntary contributions.

Let us vote on the previous question and get on with the business of the House.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Speaker, I feel inadequate to the task but I would reproach myself if I did not take the well here on a subject about which I feel quite deeply. I urge a vote against the previous question because I support public financing and I shall limit my remarks to that. Having said that, I would like to address first the issue of expense. There is, as of February 1978, $67.8 million in the presidential election campaign fund. It is estimated that the fund's balance by the 1980 elections, when this bill would take effect, were public financing to be voted, would be $182 million.

The estimated cost of the presidential election campaign would be $90 million. That would leave $92 million to cover the House general elections, and it is estimated that the actual cost would be $25 million. That is, I agree, not a piddling sum but it is a small price to pay if it makes a contribution to the integrity of our electoral process.

I acknowledge that the average taxpayer is slightly tipped in balance against the public financing of elections. I do not know how the questions have been asked, but I suspect they think the money is simply going to be taken out of the till and split up among the candidates. That is not the case, and, quite frankly, public opinion may be changed once it is explained to the people that it will be available only for matching contributions up to the $100 level. This is the way in which the influence of the small contributor can be magnified, which is something that the average American would like to see. There is a malaise out there among the people about what is happening in our electoral process, as the base of financial support remains very narrow and the amount of money to be spent on election campaigns goes up and up.

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. CONABLE. I yield to our distinguished colleague, the gentleman from California (Mr. PHILLIP BURTON).

Mr. PHILLIP BURTON. Mr. Speaker, I would like to commend the gentleman now in the well, the gentleman from New York (Mr. CONABLE), and to associate myself with his remarks.

I would point out that on a matter of this obvious national import that the House should have a clear shot and a clear opportunity to deal with the issue. I join in urging that the previous question be voted down so that the House will have an opportunity to work its will on this most important national issue.

Mr. CONABLE. Mr. Speaker, I thank the gentleman for his unusual association with me. I am grateful for his support.

My friends, as we look ahead, I think we should worry some about election processes here in the House. Inevitable disclosures will follow the next election, with widespread public interest in who contributes the large sums of money to incumbents and to successful challengers. This bill will not aid the incumbent but the challenger who has to rely on the small contributions. We all know that incumbents are frequently supported by interests who view their contributions to them as access money—and they are willing to pay heavily for access.

The power of incumbency is something that does attract special interest contributions, while the small contributors represent the base on which the challenger rests his campaign.

Quite frankly, I would much prefer to see our electoral process based on as broad a base of contributions as possible.

I would like to see some effort made to control the expenditures that are made, in our election campaigns. I am not smug about our electoral process as it presently exists. After the next election I want to be in the position to say that I would have preferred a partial public financing approach to elections, since I am worried that we cannot avoid scandal as long as we follow our present disquieting election financing practices. The sort of practice I am referring to is the widely accepted, but deplorable, Washington fundraiser to which lobbyists are invited by the Congressmen with whom they deal in what they take to be a command performance.

Let me say, Mr. Speaker, in closing that I hope a number of people, whether or not they support public financing, will vote against the previous question so that we can have an up or down vote on this issue. Quite frankly, I believe the American people would be reassured if they did not sense in the procedures we have had up to this point some sense of maneuver to avoid a clear-cut vote on public financing. It would be preferable if we could say to them we have dealt with the issue fairly, squarely and directly.

Mr. SISK. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. LATTA).

Mr. LATTA. Mr. Speaker, I think that we ought to call this what it is. It is not really public financing; it is taxpayer financing. I think it is appropriate that we take this bill up now because the next matter we are going to be taking up is an increase of the national debt to $814 billion. How can we vote for taxpayer financing of congressional campaigns and then vote to increase the debt limit to $814 billion, up from $752 billion last year? I do not think that you ought to try to hoodwink the American people because they can see through this checkoff scheme. You cannot convince them they are not going to be paying for these campaigns just because they will be checking off whether they want part of their taxes to be spent for this purpose. Certainly, they would be taxed for congressional campaigns. They are going to pay the bill, whatever it is, $30 million or $40 million. That is a good starter for congressional raises. What will they cost next year and the next year? We have all been around here long enough to know that when they start these things, they start them out at a low figure and then increase them the next year. We have heard a lot about these additional services for Members which have been made in order without my vote in the last several years, like $5,000 for newsletters. The people do not approve of them.

The Members are going to hear more about them if this previous question is voted down so they can bring up this matter of taxpayer financing of congressional elections just before we vote on the question of increasing the national debt to $814 billion.

Mr. FRENZEL. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Minnesota.

Mr. FRENZEL. I thank the gentleman for yielding.

I think it is important to note that

the Federal Election Commission testified before our committee that it would require immediately 200 extra employees and $8 million additional in administrative costs, which is not included in the money that the gentleman suggested.

Mr. LATTA. I am glad to note that addition. I do not know how much it would cost. Apparently they do not know how much it would cost downtown, but the taxpayer is going to have to pay, and the taxpayer says, "I am paying enough."

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

I do not think any sum that has been mentioned here compares to the benefit that the consumers, and the general public of this Nation would receive from public financing when I know what legislation has cost them—and what legislation we have barely, barely squeezed away from, legislation influenced by or in many cases attached to very large contributions, as has been mentioned on the floor of this House. I think it would be the best buy the public would ever make.

Mr. LATTA. The gentlewoman speaks for herself; she does not speak for me, because out my way we do not accept that kind of money.

The SPEAKER. The time of the gentleman has expired.

Mr. ANDERSON of Illinois. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, I promised the gentleman from Maryland (Mr. BAUMAN) earlier if time permitted I would yield to the gentleman.

I now yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I thank the gentleman from Illinois for yielding to me.

The point I was trying to make almost an hour ago was that those of you who are making the vote on the previous question an issue of public campaign financing are not on firm parliamentary grounds. If the gentleman from Illinois offers a substitute rule, including public financing, it is my understanding the precedents of the House would weigh strongly toward ruling it nongermane on a point of order. This is an open rule and you would, in effect, if you offered such a rule, waive the rule of germaneness, which can only be done by the Committee on Rules, and not by a nongermane amendment. The gentleman's amendment would be surely not germane to the bill. I think the gentleman is building a strawman parliamentarily which will be knocked down by a point of order. The vote on the previous question cannot properly be characterized as a vote on public financing and your amendment cannot be offered.

Mr. ANDERSON of Illinois. Mr. Speaker, I thank the gentleman from Maryland; but I am by no means conceding the validity of the nongermaneness the gentleman mentioned. I believe there are precedents contrary that indicate that this is very germane to the fundamental purpose of the legislation that the rule would make in order.

Let me simply say in the 2 minutes I have remaining, a quiet revolution occurred in this country in 1976 in the manner whereby we finance Presidential campaigns. All we are asking this afternoon is a chance to vote on a simple proposition that would permit us to extend that same mechanism, that same principle, to the financing of congressional campaigns.

Does anyone in this Chamber really want to regress and go back to another era when we financed Presidential campaigns in the manner that became so scandalous in 1972 and even in prior years? I think not.

We know, inevitably, and the figures have been cited here this afternoon, that the special interest money is going to be squeezed into those congressional campaigns, as it is forced out of the Presidential campaign, because of the financing we have enacted for the Presidency.

Now, the real message of proposition 13, and we have heard many references to the fact that the taxpayers are in revolt, the real message of proposition 13 is that people are resisting bad programs, inefficient and ineffective government, that all too often has come about because we have listened to the voices of the special pleaders, who by virtue of their special interest contributions have gotten the ears of Members of Congress and the committee chairmen, and as a result we have passed poorly designed legislation. I think that is the message of proposition 13. If we would be responsive to the people of this country, I agree with the gentlewoman from New Jersey, the best bargain that we could give them for their money is the $25 million which it is estimated public financing of congressional campaigns would cost in 1980.

We are not dipping into the taxpayers' pocket. There is now $67.8 million in that fund. The amount available for public financing from the voluntary check-off—the voluntary checkoff—would be $92 million in 1980.

Mr. Speaker, I hope that the Members of this House on both sides of the aisle will join me in voting down the previous question.

Mr. SISK. Mr. Speaker, I yield myself the balance of the time.

Mr. BAUMAN. Mr. Speaker, I wonder if the gentleman from California would yield momentarily?

Mr. SISK. Mr. Speaker, I yield momentarily to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, I just want to correct one misimpression left by the gentleman from Illinois, who I am sure does not speak for the majority on this side of the aisle on this issue; the gentleman laid great stress on the virtue of the present Presidential system of public campaign fund financing. To those who have not studied how that system has worked, I ask you to look closely at a Wall Street Journal article of June 1, 1978, which indicates that President Carter's 1976 campaign spent $270,000 for "miscellaneous office expenses" and $603,000 not described in any way at all, only a small sample of the many discrepancies that have led to a complete audit of the Carter campaign as well as fines levied by the FEC.

Is that the kind of glorious reform the gentleman from Illinois asks us to impose at the congressional level? I hope not.

As part of my remarks I enclose the article:

AUDIT IS STILL AWAITED OF CARTER'S OUTLAYS IN THE 1976 CAMPAIGN—FEDERAL PANEL HASN'T ISSUED REPORT: QUESTIONS RAISED ON DISCLOSURE BY CARTER

(By Jerry Landauer)

WASHINGTON.—Jimmy Carter and Gerald Ford didn't have to knock on the doors of rich people, hat in hand, while jousting for the presidency in 1976. For the first time, taxpayers picked up all the campaign expenses.

In theory, the Carter-Ford contest marked a turning point toward cleaner government: For the victor there are no hefty donors to reward and for the loser no heavy debts to retire. But the returns on taxpayer-financed presidential politics still aren't all in.

More than a year after Mr. Carter moved into the White House, the six-member Federal Election Commission hasn't issued an audit, as required by law, of how he spent the $21.8 million in tax funds to get there. In fact, the commission hasn't even finished auditing Mr. Carter's primary campaigns, which two years ago launched him on his path to the presidency. (The primaries, too, were partly financed by tax dollars for the first time in 1976.)

The delay is noteworthy because the commission's actions will set a precedent for how closely it intends to scrutinize the details of a President's campaign, especially when some of those details may be embarrassing to the White House.

Carter campaign officials say they have met all requirements of the law. Still, a look at spending reports that the Carter campaign filed with the commission raises certain questions.

THE ULTIMATE RECIPIENT

For one thing, the Carter campaign often listed large expenditures to campaign workers—$10,000 to John Billet in New Jersey, for instance—so that the ultimate recipients aren't identified. According to commission regulations, campaign treasurers are supposed to report the "particulars" of all expenditures exceeding $100, giving the public a "sufficiently detailed description as to establish their relationship to the campaign."

Whether Mr. Carter's reports always met this detailed disclosure standard seems questionable. All told, his campaign spent nearly $500,000 for otherwise unspecified "get-out-the-vote" activities to beat Mr. Ford. Another $279,000 went for "miscellaneous office expenses." And $603,000 more isn't described in any way, on the ground that all was spent in sums of less than $100; in contrast, Mr. Ford's campaign reported unitemized expenditures of $90,000.

So far, though, the commission hasn't acted even in what seem to be clear cases of inadequate compliance with the election laws. In October 1976, Mr. Carter's managers placed $338,000 in federal funds in Trust Co. Bank in Atlanta. The sole stated purpose: to "get out the vote." In April the Carter people finally filed an amended report, not in response to demands for proper disclosure by the election commission but after requests for clarification by this newspaper. The bulk of the $338,000 assertedly was spent in sums of less than $100; thus, most recipients haven't been disclosed.

APPARENT ERRORS AND DISCREPANCIES

The Carter reports also contain numerous apparent errors and discrepancies.

One involves a listed expenditure of $10,703.54 to a subsidiary of Ruder & Finn Inc. in New York. Chairman David Finn says his firm billed the Carter campaign $703.54 for designing some brochures. What happened to the other $10,000 remains a mystery. "We have absolutely no record of billing or receiving that ten thousand," Mr. Finn says, after checking twice.

In Cleveland, an officer of Hexter & Associates Inc. sounds similarly mystified by Carter statements showing that the campaign paid the company $1,700 for polling, $2,345 for telephone canvassing and $9,265 for miscellaneous office expenses. President John Hexter says his firm didn't poll anybody, didn't canvass voters and incurred just $60 in expenses in connection with various printing jobs.

John E. Mathews Jr. of Jacksonville, Fla., is listed as the recipient of $2,000 from the Carter campaign; Mr. Mathews says he merely cashed a check, as a favor for the local Carter coordinator.

Besides, should taxpayers pick up the tab for $395.70 paid by the Carter campaign to the Utah State Liquor Commission just before Election Day? Or for the $1,000 paid to the Shrine of the Black Madonna in Detroit to help turn out black votes? Or for $1,000 paid to Gino's Restaurant in Manhattan plus $301.51 to Bird of Paradise Liquors in Albuquerque for "miscellaneous office expenses"? Or for $1,575 sent to Jimenz Food Products Inc. in San Antonio for "vote getting and other"?

Spokesmen for the Carter campaign committee sound confident that violations didn't occur. "Our committee has made every effort to comply fully with all requirements of the federal election laws," says Douglas Huron, now senior associate counsel at the White House. The Carter spending reports on file with the commission may contain some unintentional omissions, Mr. Huron says, "but all our expenditures are fully documented in our internal files."

At the election commission, a spokesman says the $50,000-a-year commissioners (three Republicans and three Democrats, including three former Congressmen) are working hard. The agency has finished auditing 10 of the 15 contenders in the presidential primaries. And in April the agency finally published an audit of Mr. Ford's general election campaign. Except for $700 to pay parking tickets, the former President's government grants were all spent for "qualified"—that is, legitimate—political purposes, the audit found; Mr. Ford's people refunded the $700.

By contrast, a tough-minded audit of the Carter campaign could retrieve many thousands of dollars for the Treasury because Mr. Carter's managers evidently can't produce receipts for all the "walking-around money" sent to ward politicians in certain cities to turn out a big Democratic vote; an outlay that can't be documented, including those for less than $100, must be refunded.

Still another sticky issue is candidate Carter's free use of an airplane owned by National Bank of Georgia in the spring of 1976. This favor could be deemed an illegal corporate contribution because the Carter people didn't pay for four campaign flights on the bank's plane until the summer of 1977; that's when the facts became known during the investigation of the President's friend and the Budget Director, Burt Lance, who had headed the bank. White House aids worry that the press would pounce on an unfavorable finding to belabor the President again.

The election commission also has been slow to act on questionable outlays involving some other candidates. The commission hasn't yet moved to investigate a possible violation more than two years ago in the financing of Democratic Sen. Henry Jackson's 1976 presidential primary campaign.

Under the law, no political committee can give a candidate for federal office more than $5,000; any further spending on his behalf must be "independent"—that is, without the candidate's cooperation and certainly not at his request. In early 1976 the political arm of the Marine Engineers Beneficial Association gave Mr. Jackson's campaign $5,000. Then on the same day in April 1976, the Marine Engineers gave $5,000 to each of five political clubs in Baltimore.

One of the Baltimore clubs, the Fourth District Democratic Organization, reported the income as coming not from the Marine Engineers but from Sen. Jackson himself—a clear indication that this $5,000 and perhaps the $20,000 to the four other clubs weren't spent independently, as the law requires.

At times, however, the election commission moves fast. On Dec. 30, 1977, the Democratic National Committee asked for a waiver of existing legal limits on political contributions so that the Democrats could deploy the fund-raising prowess of the presidency one more time, to wipe out old party debts totaling $2 million.

It took the commission just a couple of days to process the necessary paper work. Then, without taking time to publicize the request in its official publication so that outsiders could object, the commission unanimously yielded to the Democratic desire early in 1978.

Mr. SISK. Mr. Speaker, I yield to the gentleman from Oklahoma (Mr. WATKINS).

Mr. WATKINS. Mr. Speaker, I stand in favor of the previous question and also opposing public financing.

When a group asked me to try to lead the way for public financing, I told them I felt they were wrong, because it actually removed the financing of campaigns from the people.

I truly believe we can be elected by going to the people asking them for help in contributions of small donations with direct, personal involvement instead of the indirect, nonpersonal method of public financing.

Many of us were elected here with several thousand people contributing.

To those people who say this is special interest financing if we do not have public financing, let me say this: We do not have to accept special interest financing. We have to make this decision ourselves, and we do not have to accept special interest financing. If you vote for public financing it will remove special interest financing, but remove the direct involvement of the people in the election process.

Mr. SISK. Mr. Speaker, I thank my colleague, the gentleman from Oklahoma (Mr. WATKINS), for his remarks.

Mr. Speaker, just in conclusion I would urge, of course, that my colleagues support the Committee on Rules and vote for the previous question when it is ordered.

I cannot help but be a bit intrigued with some of the arguments put forth by a couple of my colleagues that seem to indicate this in some way is going to be free money, or that in fact it is just not being taken out of the taxpayers' pockets.

A little later this afternoon I have a rule to call up that deals with a little matter of the debt ceiling. It is terribly important that we increase the debt ceiling if we are going to pay our bills. I am just wondering where this free money is coming from.

Let us not kid ourselves. Whether it is checked off or whatever happens, every dime that goes into these campaigns is going to be taxpayers' money. It is going to be public moneys. It is going to be moneys taken from the American people, and let us not kid ourselves about that.

I do not know if many of the Members have been out to California, but maybe they ought to go out there and make a little visit. There have been all kinds of interpretations about what the people meant when they, by a 2 to 1 vote, passed proposition 13. I kind of have a feeling that they are kind of fed up with taxes and kind of fed up with the way their moneys are being used by those of us who are responsible for the handling of public revenues. Certainly today of all times we ought to think about these things.

I am not up for reelection, so I have no particular problem in connection with what my constituents may feel about the matter, although I respect them for their opinions. It has been my firm conviction that traditionally they oppose this public financing as being basically a phony issue. I mean that. I have respect for those who sincerely have been trying to promote this idea for a long time, as my colleague, the gentleman from Illinois, indicated, but it is still in my opinion substantially a phony issue.

It is one that certainly, of all times and in this day and age, we should be concerned with, at a time when people are terribly concerned about the use of their money, the taxpayers' money.

For example, we are sweating out the issue and we are squeezing the last ounce of blood trying to be sure to get the votes to pass this debt ceiling increase, because if we do not, this Government is going to come to a screeching halt on about the fourth or fifth day of August.

So it is my hope here today that we are not kidded into believing that if in fact we provide for public financing, we are going to solve all the ills, and that in fact that money is free money and nobody is going to feel that their moneys are being used.

I have supported a great many of the reforms that have taken place around here recently, and some I have opposed. We have been moving in the direction of trying to see to it that there is accountability, and that there is openness in the way our campaigns are financed. I think that is what the American people are concerned about. They want to know who is contributing to us and who is footing the bill. They want to know who those people are.

We have gone a long way toward setting up that procedure. As long is that information is made public and the people know who the people are who are contributing to the campaigns and how those campaign funds are being expended, then in fact I think the people will be satisfied.

Mr. GOLDWATER. Mr. Speaker, I rise in opposition to the effort to defeat the rule to the Federal Election Commission authorization in order to bring up an amendment which would provide for public financing of congressional elections. I have heard that political memory is short, but what is being attempted today borders on the ridiculous. Could it have been just over a month ago that the voters in California sent a message to elected officials that they had had enough? I would, frankly, hate to face any taxpayer if this House decides to supplement their campaign chests with public funds.

Aside from the obvious problems of cost—and I would remind my colleagues that we are also going to be voting today on a bill to raise the debt limit. An ironic coincidence?—the concept of public financing of elections has serious philosophical problems, not the least of which is the danger of Government control of a free electorial process.

Additionally, I believe it is pertinent to remember the following drawbacks:

First. The cost would be inordinately expensive and the administration impractical. The estimate for the proposal we are considering today is in the neighborhood of $46,800,000 just for the matching grant portion and this does not include the cost of administration.

Second. A matching system does not eliminate the reliance on private donors, which in effect means a candidate only has to drum up half the support to receive twice as much money.

Third. The natural advantage of incumbency would be enhanced considerably by $50,000 in taxpayers dollars.

Fourth. Public financing seems to assume that private contributions are pernicious, per se. This is not necessarily so, but even if it were true, public financing would merely allow interest groups to channel their resources into other political pursuits, such as lobbying.

Fifth. The greatest problem of all, however, is that the money will be divided by formula between all candidates regardless of the taxpayer's support or opposition to a particular candidate. The current system insures that citizens contribute only to those persons they support for public office.

In closing, and on a personal note, I absolutely repudiate the idea that somehow I have sold my soul to any individual or organization. My basic assumption is that anyone contributing to my reelection efforts does so because he believes in my philosophy of government and in my representation of that philosophy in the Congress.

Again, I urge my colleagues to choose the wiser and more fiscally responsible course and defeat this totally unwarranted raid on the Treasury.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER. The question is on ordering the previous question.

Mr. ANDERSON of Illinois. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 213, nays 196, not voting 23, as follows:

[Roll No. 567]

YEAS—213

Abdnor	Fountain	Nichols
Alexander	Frenzel	O'Brien
Andrews, N.C.	Fuqua	Pepper
Andrews, N. Dak.	Gammage	Perkins
Annunzio	Gaydos	Pettis
Applegate	Ginn	Pickle
Archer	Goldwater	Poage
Armstrong	Gonzalez	Quayle
Badham	Goodling	Quillen
Bafalis	Gradison	Rahall
Barnard	Grassley	Regula
Bauman	Guyer	Rhodes
Beard, Tenn.	Hagedorn	Risenhoover
Benjamin	Hall	Roberts
Bennett	Hammer-schmidt	Robinson
Bevill	Hansen	Rousselot
Biaggi	Harsha	Rudd
Boggs	Hawkins	Runnels
Bowen	Hefner	Sarasin
Breaux	Hightower	Satterfield
Brooks	Holland	Sawyer
Broomfield	Holt	Schulze
Brown, Mich.	Horton	Sebelius
Brown, Ohio	Huckaby	Shuster
Broyhill	Hyde	Sikes
Buchanan	Ichord	Sisk
Burgener	Jenkins	Skelton
Burke, Fla.	Jones, N.C.	Skubitz
Burke, Mass.	Jones, Okla.	Slack
Burleson, Tex.	Jones, Tenn.	Smith, Nebr.
Butler	Kazen	Snyder
Byron	Kemp	Spence
Carney	Kindness	Staggers
Carter	Krueger	Stangeland
Cederberg	Lagomarsino	Stanton
Chappell	Latta	Steed
Clausen, Don H.	Leggett	Steiger
Clay	Lent	Stratton
Coleman	Livingston	Stump
Collins, Ill.	Lloyd, Tenn.	Symms
Collins, Tex.	Long, La.	Taylor
Cotter	Lott	Teague
Coughlin	Lujan	Thone
Cunningham	McClory	Thornton
Daniel, Dan	McDade	Treen
Daniel, R. W.	McDonald	Trible
Davis	McEwen	Tucker
de la Garza	McFall	Ullman
Delaney	McKay	Vander Jagt
Dent	Madigan	Waggonner
Derwinski	Mahon	Walker
Devine	Mann	Walsh
Dickinson	Marlenee	Wampler
Diggs	Marriott	Watkins
Dingell	Martin	White
Dornan	Mathis	Whitehurst
Duncan, Oreg.	Michel	Whitley
Duncan, Tenn.	Milford	Whitten
Early	Miller, Ohio	Wiggins
Edwards, Ala.	Mollohan	Wilson, Bob
Edwards, Okla.	Montgomery	Wilson, C. H.
English	Moore	Wilson, Tex.
Erlenborn	Moorhead, Calif.	Winn
Ertel	Murphy, Ill.	Wydler
Evans, Ga.	Murphy, N.Y.	Wylie
Fary	Murtha	Yatron
Findley	Myers, John	Young, Alaska
Fish	Myers, Michael	Young, Fla.
Flippo	Natcher	Young, Mo.
Flood	Neal	Zablocki
Forsythe	Nedzi	Zeferetti

NAYS—196

Addabbo	Brodhead	Drinan
Akaka	Brown, Calif.	Eckhardt
Ambro	Burke, Calif.	Edgar
Ammerman	Burlison, Mo.	Edwards, Calif.
Anderson, Calif.	Burton, John	Eilberg
Anderson, Ill.	Burton, Phillip	Emery
Ashley	Carr	Evans, Colo.
Aspin	Cavanaugh	Evans, Del.
AuCoin	Chisholm	Evans, Ind.
Baldus	Cleveland	Fascell
Baucus	Cochran	Fenwick
Beard, R.I.	Cohen	Fisher
Bedell	Conable	Fithian
Beilenson	Conte	Florio
Bingham	Conyers	Foley
Blanchard	Corman	Ford, Mich.
Blouin	Cornell	Ford, Tenn.
Boland	Cornwell	Fowler
Bolling	D'Amours	Fraser
Bonior	Danielson	Garcia
Bonker	Dellums	Gephardt
Brademas	Derrick	Giaimo
Breckinridge	Dicks	Gilman
Brinkley	Dodd	Glickman
	Downey	Gore
Green	Markey	Roe
Gudger	Marks	Rogers
Hamilton	Mattox	Roncalio
Hanley	Mazzoli	Rooney
Hannaford	Meeds	Rosenthal
Harkin	Metcalfe	Roybal
Harrington	Meyner	Ruppe
Harris	Mikulski	Russo
Heckler	Mikva	Ryan
Hillis	Miller, Calif.	Santini
Hollenbeck	Mineta	Scheuer
Holtzman	Minish	Schroeder
Howard	Mitchell, Md.	Seiberling
Hubbard	Mitchell, N.Y	Sharp
Hughes	Moakley	Simon
Ireland	Moffett	Smith, Iowa
Jacobs	Moorhead, Pa.	Solarz
Jeffords	Moss	Spellman
Jenrette	Mottl	St Germain
Johnson, Calif.	Murphy, Pa.	Stark
Johnson, Colo.	Myers, Gary	Steers
Jordan	Nolan	Stockman
Kastenmeier	Nowak	Stokes
Keys	Oakar	Studds
Kildee	Oberstar	Thompson
Kostmayer	Obey	Traxler
Krebs	Ottinger	Udall
LaFalce	Panetta	Van Deerlin
Leach	Patterson	Vanik
Lederer	Pattison	Vento
Lehman	Pease	Volkmer
Levitas	Pike	Walgren
Lloyd, Calif.	Preyer	Waxman
Long, Md.	Price	Weaver
Luken	Pritchard	Weiss
Lundine	Pursell	Whalen
McCloskey	Railsback	Wirth
McCormack	Rangel	Wolff
McHugh	Reuss	Wright
McKinney	Richmond	Yates
Maguire	Rinaldo	

NOT VOTING—23

Ashbrook	Gibbons	Quie
Caputo	Heftel	Rodino
Clawson, Del	Kasten	Rose
Corcoran	Kelly	Rostenkowski
Crane	Le Fante	Shipley
Flowers	Nix	Tsongas
Flynt	Patten	Young, Tex.
Frey	Pressler	

The Clerk announced the following pairs:

On this vote:

Mr. Kasten for, with Mr. Rostenkowski against.

Mr. Kelly for, with Mr. Nix against.

Mr. Corcoran of Illinois for, with Mr. Le Fante against.

Mr. Shipley for, with Mr. Patten against.

Until further notice:

Mr. Flowers with Mr. Ashbrook.

Mr. Heftel with Mr. Caputo.

Mr. Gibbons with Mr. Pressler.

Mr. Rose with Mr. Frey.

Mr. Flynt with Mr. Crane.

Mr. Tsongas with Mr. Del Clawson.

Mr. MURPHY of Pennsylvania changed his vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

The SPEAKER. The Chair desires to make the following announcement for the benefit of the Members with respect to the program for the remainder of the day.

The House will follow up with the FEC authorization bill, and then will go to the extension of the public debt limit, and then will consider three conference committee reports.

If the House has concluded those before 9 o'clock, we will go to the housing

and community development amendments bill. If not, the House will adjourn at 9 o'clock.

It is hoped the Members will be very considerate and will be conscious of the fact that we have a very heavy program between now and the August break, and the Chair would appreciate it if on Wednesdays Members would anticipate long days. The House will work this evening but will conclude by 9 o'clock tonight.

Mr. RHODES. Mr. Speaker, if the gentleman will yield, may I ask, because I did not understand the Chair: Is it the intention of the Chair to adjourn the House by 9 o'clock tonight whether or not we have finished the work of the House?

The SPEAKER. The minority leader is correct.

FEDERAL ELECTION COMMISSION AUTHORIZATIONS

Mr. THOMPSON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 11983) to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such act.

The SPEAKER. The question is on the motion offered by the gentleman from New Jersey (Mr. THOMPSON).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 11983, with Mr. EVANS of Colorado in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from New Jersey (Mr. THOMPSON) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. FRENZEL) will be recognized for 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. THOMPSON).

Mr. THOMPSON. Mr. Speaker, I yield myself 5 minutes.

Mr. Chairman, H.R. 11983, a bill to authorize funds for the Federal Election Commission during the fiscal year 1979 was reported by the Committee on House Administration on April 13, 1978, by a unanimous vote. It contains an authorization of $8.624 million, the amount requested by the Commission for fiscal year 1979. This is an increase of $812,500 over the funds authorized for the Commission for fiscal year 1978. The committee has determined that the amount in the request is reasonable and in line with last year's authorization, particularly in light of the fact that the House already approved an appropriation of $8 million on June 7, 1978, a cut of $624,000.

The committee adopted, by a vote of 19 to 2, one restriction on the Federal Election Commission's use of the authorized funds, a prohibition on the use of authorized funds to conduct random audits of House or Senate candidates.

As I am sure all my colleagues are aware, the Commission has selected, on a completely random basis, 10 percent of all the 1976 congressional races, in which those candidates and committees are being subjected to a full field audit.

These candidates were not audited on the basis of any allegation of wrongdoing, they were selected by the luck of the draw, if indeed you can call it luck.

As a result, they have been subjected to the expense which, in some cases, has been considerable, and the adverse publicity resulting from such an audit.

H.R. 11983 does not prohibit the Commission from conducting audits of congressional candidates. If the Commission finds reason to believe that a congressional candidate has violated the act, the Commission may authorize an audit. The audit must, of course, be rationally related to the alleged violations. Certainly, a reason to believe finding of a failure to have the proper disclosure statements in a political ad would not warrant a full field audit.

The Commission views the random audit policy as a means of educating candidates and committees on the requirements of the act and as a means of obtaining voluntary compliance.

I might say, further, the Commission 2 years ago, on a nationwide basis, held regional meetings and instructed all of the candidates as to what the law is. That works extremely well, but this year they have no such plan, notwithstanding that they would have the money and the resources to do so. To fall back on the premise that an audit is an educational experience is, indeed, in my view a strange approach.

Commission experience has shown, however, that the random audit program is not a cost-effective method for obtaining these goals. The FEC authorization request lists $428,000 for public communications—a figure which is less than the amount from random audits. The Public Communications Office, however, provides services and information to all registered candidates and committees while the random audits reach only 106 campaigns.

A review of the 69 audit reports of House candidates reveals that no enforcement actions were completed with regard to these campaigns. Over half of the campaigns had no material problems; the others had primarily technical reporting problems which were corrected by amending their reports.

Using the random audit procedure as an enforcement tool is also a duplication of efforts.

The FEC has a division which is currently responsible for the review and analysis of all reports filed. The authorization request lists over $1 million for this division. Substantive violations can and should be uncovered by its review. If the Commission then determines the evidence is sufficient. it can make a reason to believe finding and order a full field audit.

By requiring the audit to be based on a reason to believe finding, the committee has insured that all determinations of alleged violations will be made by the six Commissioners—not by the Staff Director, not by the General Counsel, or not by other staff persons.

Consider the case of one campaign—a Republican Member from Pennsylvania—which complied with an auditor's direction. The audit staff informed this committee that it had $1,225 of apparent corporate contributions, which, of course, are illegal. The committee promptly returned the contributions to the donors. Subsequently it was determined that only $350 of the total amount represented corporate contributions. Thus the committee was out $875.

Congress intentionally established a bipartisan Commission and specified that the Commissioners may not delegate their authority. They may act upon the recommendation of the staff, but the Commissioners must make all determinations of violations.

The Commission has been entrusted with the enforcement of an exceedingly complex and technical statute and has performed many of its functions in a creditable fashion. The committee's concern is that the FEC establish priorities and use its limited staff and resources to exercise its statutorily mandated functions in a reasonably expeditious fashion. Personnel involved with the random audit program will be free to work toward completion of the Presidential audits—which have dragged on far too long. The Commission will be free to reallocate its resources to concentrate on processing advisory opinions and complaints in a more timely fashion, and on establishing and implementing a comprehensive system for reviewing reports. Only after the statutorily mandated functions are completed should the FEC undertake discretionary activities.

Another example of overreaching by the FEC was the standard practice of sending contributors of more than $100 a letter asking them to verify that they had in fact made the contribution reported by the candidate even though there has been no evidence suggesting anything illegal about the contribution. Such a practice was certain to have a chilling effect on the contributors. Not only was the validity of their contribution being questioned, but they must also question what the candidates did to warrant such a thorough investigation—particularly since the first series of letters did not even state that the audits were being conducted on a random basis.

In fact, in one instance in New York—again, that of a Republican incumbent—the Commission mixed up the verification letters, thus asking Republican contributors if they have given money to the Democratic candidate.

Finally, Mr. Chairman, the random audit program for the 1976 elections was not completed before the beginning of the 1978 election cycle. The audits began in July of 1977. The Head FEC auditor testified before the committee that they planned on completing the entire process by January 1978. Yet, today, we are in the middle of the 1978 primary season, and the FEC has only released 70 of the 106 audits. The effect of the release of an audit at this time can only result in adverse publicity in

an election campaign, even if the audit uncovered no substantive violations.

Mr. Chairman, the committee has no intention of interferring with the enforcement powers of the Commission. It is quite clear, however, that the random audit policy as carried out by the Commission has interfered with the delicate balance between enforcement of the act and the political process itself.

In light of the House's adoption of an $8 million appropriation, this authorization merely sets the outside limit for any supplemental request. And, as I have indicated, the language prohibiting random audits is justified and necessary.

The CHAIRMAN. The time of the gentleman from New Jersey (Mr. THOMPSON) has again expired.

Mr. THOMPSON. Mr. Chairman, I yield myself 3 additional minutes.

Mr. Chairman, I might say further that if I have the good fortune to be here in the next Congress and to have the honor of being the chairman of the committee, that one of the first actions is going to be a comprehensive oversight hearing on the FEC in order to assist them in straightening out some problems which they have, which are, indeed, very severe problems. I think that they need the help. I think that we need this legislation, and certainly we need the amendment which prohibits random audits and permits audits only for cause.

Mr. Chairman, I urge the adoption of H.R. 11983.

Mr. FRENZEL. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, the description of the subject bill given by the distinguished gentleman from New Jersey, the chairman of the Committee on House Administration, is accurate.

It is simply an authorization bill authorizing $8.6 million, with one single other addition, and that is that it repeals the random audit authority of the Federal Election Commission. In fact, this House has already passed an appropriation which is about $600,000 less than the authorization that appears before us.

I do not share the chairman's enthusiasm for the repealer of the audit, but I suspect a majority of the Members of this House do.

Mr. Chairman, I have no requests for time. I yield back the balance of my time.

Mr. THOMPSON. Mr. Chairman, I have no further requests for time. I yield back the balance of my time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on House Administration now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out "and" after "1977," and inserting after "1978" the following:", and $8,624,000 for the fiscal year ending September 30, 1979": *Provided,* That none of the funds appropriated hereunder for fiscal year 1979 shall be used by the Commission to audit a House or Senate candidate or his or her authorized committee, unles such audit is based on a finding by the Commission of reason to believe that a violation of this Act has occurred.

AMENDMENT OFFERED BY MRS. FENWICK

Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mrs. FENWICK: Page 1, line 11, strike all following "1979" and all of page 2.

Mrs. FENWICK. Mr. Chairman, I will be brief.

I feel very strongly that the chance of an audit is a very salutary thing for all of us who have to file campaign reports. I have been given to understand that in one situation one of our colleagues found an error in the report of the Commission, and in a most outrageous way the Commission refused to correct that error. There is no excuse for that kind of bureaucratic clumsiness and unwillingness to accept the truth.

However, that does not in and of itself invalidate a very sound principle. We cannot, of course, have every campaign report carefully audited. That would be too expensive, it would be too time consuming, and the paperwork would in most cases, I am sure, be totally unnecessary. But the chance that a random check might fall on any one of us on any one campaign report is very salutary. It keeps a possibility open, one which I very much hope we will not abandon and one which the substitute as it stands now wipes away from the bill.

Mr. FRENZEL. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to my colleague, the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentlewoman for yielding.

As I said in my remarks earlier, I think the gentlewoman and I may be the only Members in the House who support her amendment. Nevertheless, I think it is important, because the disclosures that we make are always subject to question, unless there is some reliable audit made. The public ought to know that somebody is occasionally taking a look at the figures that we, and other candidates for office, present.

So, Mr. Chairman, I am going to support the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK), and I thank her for her courage in offering it, even though I know that she and I are going to be lonely in our support of this amendment.

Mrs. FENWICK. Mr. Chairman, I thank my colleague, the gentleman from Minnesota (Mr. FRENZEL), for his support.

I cannot accept the suggestion, though, that he and I are the only virtuous people in this House, or that all wisdom reposes in us. I know that many of my colleagues would suport it and in fact, if all of them were here, I am sure a very large number of my colleagues would share our concern and our belief that the chance that we might get a check is a very wholesome element in the political process.

Mr. THOMPSON. Mr. Chairman, if the gentlewoman will yield, I think the gentlewoman doth protest too much.

Mr. YOUNG of Florida. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentlewoman for yielding.

Notwithstanding the comments of my distinguished friend, the gentleman from Minnesota (Mr. FRENZEL), when he made it appear that he was the only other Member supporting this amendment, I would like to inform the gentlewoman that I also support her amendment.

Mrs. FENWICK. Good. Mr. Chairman, I thank the gentleman for his support.

Mr. THOMPSON. Mr. Chairman, I rise in opposition to the amendment.

I wonder if we can get a rollcall sometime later as to who is virtuous and who is not. There are only three "virtuous" Members now, according to my colleague, Mrs. FENWICK.

Mr. Chairman, I strongly oppose this amendment. I will also suggest to my distinguished colleague, the gentlewoman from New Jersey (Mrs. FENWICK), that her argument is inconsistent, in that she first says that it would be too expensive to audit every Member, and with that I agree.

Second, the gentlewoman points out the error of the Commission and says that there is no excuse for it, and I agree.

Then the gentlewoman talks about saving money. In recent days and weeks, in the appropriation process amendments, I note that the gentlewoman has been completely consistent in voting for the cuts in Labor-HEW, for instance, and the cut in legislative appropriations and in other matters. But I might suggest that here, in order to be consistent, she should vote against her own amendment.

The theory expressed by my distinguished friend, the gentlewoman from New Jersey (Mrs. FENWICK), is what I call the Sword of Damocles theory, and it is that it is a healthy thing for each of us to have that sword hanging over our heads. But the theory is rather debatable.

I think that sword is enough, considering the penalties extant in the act, that a violation, a willful violation, brings severe penalties, and if the Commission's attention is called to any irregularity.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. THOMPSON. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is known for his wit, but I think from now on he must be known for his imagination. I do not remember standing on the floor in defense or in support of this amendment and saying anything about money, except that it would be too expensive to audit every single one.

Mr. THOMPSON. Oh, expenses have nothing to do with money, I gather.

Mrs. FENWICK. It is not a question of saving money. I said it would be just too expensive to audit each one.

Mr. THOMPSON. I thank the gentlewoman for referring to my wit, but I will reclaim my time.

Mr. Chairman, the random audit process is unfair, because of the implication of irregularity where none exists. It is

wasteful. There is no correlation between the nearly one-half million dollar expense and the minor irregularities of the 69 of the 106 cases reported to date.

It is not effectively administered. The FEC's chief auditor promised to finish last January, and they have not yet done so.

As I said earlier in debate, I suggest to my distinguished friend, the gentlewoman from New Jersey, I strongly urge enforcement of this act where there are irregularities, where there is cause. There is obviously presumption of innocence given to us, as well as any other citizen involved in any matter which can involve a criminal or civil penalty.

Therefore, I think the random audit should be done away with, that the Commission, on the basis of this legislative history, should understand, as I am sure it does—I simply reiterated—that they are to enforce the law with an even hand, in a bipartisan way, relating to any irregularity that they find. I think there is quite enough in the law to do that now and, therefore, I strongly oppose the amendment offered by the gentlewoman from New Jersey.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. FENWICK).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mrs. FENWICK. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there any other amendments to the bill?

AMENDMENT OFFERED BY MR. MATHIS

Mr. MATHIS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MATHIS: Page 2, after line 5, add the following new section:

SEC. 2. (a) The Secretary of State of each State (or, if there is no such office in a particular State, the equivalent State officer) shall notify the Federal Election Commission after an individual has qualified under the law of the State involved for nomination for election, or election, to Federal office. Such notice shall be submitted within 5 days after such individual has so qualified.

(b) The provisions of this section are repealed, effective October 1, 1979.

Mr. MATHIS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Georgia?

There was no objection.

(Mr. MATHIS asked and was given permission to revise and extend his remarks.)

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the distinguished chairman of the committee.

Mr. THOMPSON. I thank the gentleman for yielding.

Mr. Chairman, I have read the amendment offered by the distinguished former member of the Committee on House Administration, my distinguished friend, the gentleman from Georgia (Mr. MATHIS). I find the amendment only a marginal burden to the Secretaries of State, and certainly helpful to the disclosure scheme of the Campaign Act.

If the gentleman will yield further, the circumstances, as I understand them, are such that in the great State of Georgia as well as in a number of other States one can have a primary opponent running for a long time, for months, in fact, and not be aware of that fact; is that so?

Mr. MATHIS. The gentleman is absolutely correct. Under the present scheme of things, as it were, of the Federal Election Commission, unless there is some notification to the Commission of the candidacy of any individual who is qualified under the laws of the State to seek Federal office, there is no requirement that the FEC has to know about it, and will be able to monitor that candidate's campaign.

Mr. THOMPSON. In the present circumstances, is it not possible in Georgia and elsewhere for a person to be running for Congress, raising money, indeed, buying advertisements and engaging in other activities without the incumbent's being aware of it?

Mr. MATHIS. I would say to the gentleman I am sure that any incumbent would have to be aware of the fact that he had opposition, whether it was in Georgia or in New Jersey. However, the Federal Election Commission has no way of being informed unless the candidate or an incumbent whom a candidate is opposing would notify the FEC of such candidacy.

Mr. Chairman, perhaps I can explain my amendment if I describe what I am trying to do.

Mr. THOMPSON. If the gentleman will yield further, Mr. Chairman, we are willing to accept the gentleman's amendment. He has explained it beautifully.

Mr. MATHIS. I thank the distinguished chairman for his acceptance of my amendment. However, I am sure that the committee would like to know what we are doing here because somebody else might not be willing to accept the amendment. I know the gentleman from California (Mr. JOHN L. BURTON) wants to rise to speak.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. MATHIS. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I was going to say that I was about to rise to oppose the amendment because I feel I understand it now, and if it were explained any further, it would intrude on the time of this body so that we could not get to the important business of the debt limit or do anything further. In that event, I would be constrained to oppose the gentleman's amendment.

Mr. MATHIS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Georgia (Mr. MATHIS).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 2, after line 5, add the following new section:

SEC. 2. (a) title III of the Federal Election Campaign Act of 1971 is amended by adding at the end thereof the following new section:

"PAYMENTS FOR LOSS OF INCOME

"SEC. 330. (a) Any candidate in an election for the Senate or the House of Representatives may receive payments, from contributions which are made to the political committees of such candidate and which are not otherwise needed to defray expenditures incurred in connection with the campaign of such candidate occurring during the period of such campaign.

"(b) The principal campaign committee of any candidate described in subsection (a) may make periodic disbursements to such candidate during the campaign of such candidate in amounts which such candidate may receive in accordance with subsection (a). Any such disbursement shall be considered to be an expenditure for purposes of the reporting requirements of this Act.

"(c)(1) The loss of income of any candidate described in subsection (a) shall be calculated by—

"(A) determining the weekly income of such candidate by dividing the annual income of such candidate during the 1-year period immediately before the beginning of the campaign of such candidate by 52; and

"(B) multiplying the quantity derived under subparagraph (A) by the number of workweeks, or portions of workweeks, for which such candidate does not receive any income during such campaign.

"(2) The principal campaign committee of a candidate described in subsection (a) shall certify to the Commission—

"(A) the annual income of such sandidate during the period described in paragraph (1); and

"(B) that such candidate did not receive any income for any workweek, or portion of a workweek, for which disbursements are made to such candidate by such principal committee under subsection (b). "(d). For purposes of this section—"(1) the term 'weekly income' means income earned during a workweek; and

"(2) the term 'workweek' means the number of days an individual normally works in a consecutive 7-day period.".

(b)(1) The amendment made in subsection (a) shall apply to the first general election for the Senate or the House of Representatives which occurs after the date of the enactment of this Act, and to each election thereafter.

(2) If the campaign of a candidate in the first general election for the Senate or the House of Representatives to which the amendment made in subsection (a) applies begins before the date of the enactment of this Act, then such candidate may receive payments under section 330 of the Federal Election Campaign Act of 1971, as added in subsection (a), for any loss of income occurring during such campaign (whether or not such loss of income occurs before such date of enactment).

Mr. THOMPSON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. THOMPSON. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from New Jersey reserves a point of order on the amendment.

Mr. CRANE. Mr. Chairman, I have an amendment here before us that, having discussed this question with the majority

and minority side, I fear may have some nongermane aspects.

For all of that, I would like to speak briefly to the amendment and, after an exchange with the distinguished chairman of the Committee on House Administration, would consider withdrawing the amendment if the chairman could give me some reassurance that the committee might address this problem.

Mr. Chairman, the problem is this: At the present time the FEC has not provided for a candidate to dip into his campaign fund for personal daily living expenses. Obviously, this would have application to our opposition since we continue to draw our regular salaries during the course of a campaign. But in the case of an opponent, oftentimes it necessitates leaving a job. That problem, I think, is more specifically true of individuals who are working on an hourly basis. It means giving up their source of income during the period when they are campaigning.

Mr. Chairman, what this amendment would permit is for a candidate, based upon his prior year's IRS records, to draw up to 100 percent of what he was earning during that prior year from his campaign fund after he becomes a declared candidate.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Chairman, I am not too familiar with the gentleman's amendment, but right now I think that the term "draw from the campaign account" has a little better connotation than "dipping into."

Mr. Charman, if, in fact, this amendment is found not germane to this bill and if it is offered again, I would just commend to the gentleman the phrase, "drawing remuneration commensurate with" and the elimination of the phrase, "dipping into."

Mr. CRANE. Mr. Chairman, I accept the gentleman's suggestion, and I agree wholeheartedly.

Mr. Chairman, in a memorable speech on the floor of Congress in 1830, Daniel Webster spoke of democracy as "the people's government made for the people, made by the people, and answerable to the people." Made by the people: It is that historic phrase to which I direct your attention in support of an amendment to the bill before us.

Under this amendment, working men and women, both union and nonunion, as well as professional persons could be reimbursed by their authorized election committees for income lost as a result of having taken leave of absence without pay in order to run for Congress. What this amendment would accomplish is to provide opportunity for the average citizen, who may not enjoy the advantage of private means, to participate in the democratic process without incurring financial losses which he or she and their families can ill afford.

There is great need for such persons to have access to public office. Simple justice and the basic health of our democratic system alike require it. We dare not, in effect, restrict service in the Congress to those whose situation in life permits them to run for office without harm to their livelihood.

At an earlier time, it was said of the British Parliament that it had become the preserve of the affluent, a kind of rich man's club. The democratization of representative government has opened doors of opportunity in public service to men and women suitably qualified and motivated.

Now, it is our responsibility to do all that we can to assure fuller representation by all the people. The proposed amendment is a significant step toward that goal. It promotes several principles.

It extends the opportunity of running for office to men and women who might otherwise be dissuaded by the financial sacrifice required. It equalizes the relationship of the incumbent and the challenger. Adoption would proclaim that today's Members of Congress do not want the House and Senate to be restricted in fact only to those whose income permits them to run for office. Indeed, our action or lack of action will be a reflection of our collective character.

Mr. Chairman, when I first drafted this amendment, I originally provided for only 95 percent of the loss of income. The General Motors Corp. has a contract with their employees that, during a layoff, they will obtain 95 percent of their weekly take-home pay based on a 40-hour workweek. I had planned to use this as a model, but felt that full reimbursement for lost time was reasonable and prudent. Moreover, some candidates may work out arrangements where they can work 1, 2, or more days without a total leave of absence.

Those that may have to resign are also protected. The loss of income shall be calculated by determining the weekly income of the candidate from their previous year's income tax statement as certified by the IRS.

This shall apply to the first general election after enactment. It is clear that this could be of service to our opponents who have already made their commitments without begging any promise of this assistance. They would be eligible for reimbursement for loss of income from the date of their official announcement, including the primary and through the general election even if the loss occurred prior to date of enactment.

Mr. Chairman, some of my colleagues have chided me about this proposal, because it could help my opponent or is a big boost for labor candidates—most of whom are Democrats. But I can say that Republicans have some big plans for labor and we will announce, on August 1, some of those plans to get more Republican labor candidates in the field.

Yet aside from that, Mr. Chairman, I sincerely urge all of my colleagues to support this amendment, confident that it strengthens representative democracy in this Nation. It is a prudent and realistic response to a continuing dilemma which ought to concern all who value fair play, equal opportunity, and dedicated public service.

Mr. THOMPSON. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from New Jersey.

Mr. THOMPSON. Mr. Chairman, I stated in general debate, I will say to my friend, the gentleman from Illinois (Mr. CRANE), that if I am fortunate enough to be here and if I have the honor of being the chairman of the committee in the next Congress, all of his efforts and those of his friends to the contrary notwithstanding, that we will go into this matter.

We have a rather unique situation in New Jersey where the winner of the New Jersey senatorial primary reported allegedly, at least to the press, that his total income was less than a thousand dollars last year. I do not know how the poor fellow got along in terms of his expenses, although he did expend some $500,000 in the primary, which he won.

The question of living and travel expenses attendant is one which I do consider deserves consideration. I would assure the gentleman that although I do not believe that this is germane, that it is a matter which will have our attention.

Mr. CRANE. I thank the gentleman.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I am happy to yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, let me say first that "dipping" by any other name smells the same. I just cannot agree with my friend. Perhaps it would sound better.

Mr. Chairman, I just want to thank the gentleman for not offering this amendment while we were discussing public financing, because if we couple this with public financing, we are then drawing a salary from the Federal Government while we are running. It probably would have passed, and I did not want to see it pass. I thank the gentleman for waiting.

Mr. THOMPSON. Mr. Chairman, if the gentleman will yield further, the Crane family has extraordinary expenses this year, there being three of them running for Congress.

Mr. CRANE. Indeed, the chairman is correct. The family does have extraordinary campaign expenditures this year and, in fact, the amendment would apply to my two brothers who are running for office. But, I think it has a more specific application to lower income wage earners. This is the concern I have. We are in the process, it seems to me, of providing a lot of hurdles for people to run for public office, not the least of which is an economic hurdle. I think this really addresses the problems of lower income wage earners more than it does for professional people, but it would, of course, have application to all challengers.

Mr. Chairman, with the assurance of the distinguished chairman that my bill, which goes to this point, will come under serious consideration by the House Administration Committee, I would like to ask unanimous consent that my amendment be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Are there other amendments? If not, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the committee rises.

Accordingly the committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. EVANS of Colorado, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 11983) to amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such act, pursuant to House Resolution 1172, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on the amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JOHN L. BURTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 366, nays 37, not voting 29, as follows:

[Roll No. 568]

YEAS—366

Abdnor	Boland	Chisholm
Addabbo	Bolling	Clausen,
Akaka	Bonior	Don H.
Alexander	Bonker	Clay
Ambro	Bowen	Cleveland
Ammerman	Brademas	Cochran
Anderson,	Breaux	Cohen
Calif.	Breckinridge	Coleman
Anderson, Ill.	Brinkley	Collins, Ill.
Andrews, N.C.	Brodhead	Conable
Andrews,	Brooks	Conte
N. Dak.	Broomfield	Conyers
Annunzio	Brown, Calif.	Corman
Applegate	Brown, Mich.	Cornell
Archer	Brown, Ohio	Cornwell
Ashley	Broyhill	Cotter
Aspin	Buchanan	Coughlin
Bafalis	Burgener	Cunningham
Baldus	Burke, Calif.	D'Amours
Barnard	Burke, Fla.	Daniel, Dan
Baucus	Burke, Mass.	Daniel, R. W.
Beard, R.I.	Burleson, Tex.	Danielson
Beard, Tenn.	Burlison, Mo.	Davis
Bedell	Burton, John	de la Garza
Beilenson	Burton, Phillip	Dellums
Benjamin	Butler	Derrick
Bennett	Byron	Devine
Bevill	Carney	Dickinson
Biaggi	Carr	Dicks
Bingham	Carter	Diggs
Blanchard	Cavanaugh	Dingell
Blouin	Cederberg	Dodd
Boggs	Chappell	Dornan
Downey	LaFalce	Railsback
Drinan	Lagomarsino	Rangel
Duncan, Oreg.	Latta	Regula
Duncan, Tenn.	Leach	Reuss
Early	Lederer	Rhodes
Eckhardt	Leggett	Richmond
Edgar	Lehman	Rinaldo
Edwards, Ala.	Lent	Risenhoover
Edwards, Calif.	Levitas	Roberts
Edwards, Okla.	Livingston	Robinson
Eilberg	Lloyd, Calif.	Roe
Emery	Lloyd, Tenn.	Rogers
English	Long, La.	Roncalio
Erlenborn	Long, Md.	Rooney
Ertel	Lott	Rosenthal
Evans, Colo.	Lujan	Roybal
Evans, Del.	Luken	Rudd
Fary	Lundine	Runnels
Fascell	McClory	Ruppe
Fenwick	McCloskey	Russo
Findley	McCormack	Santini
Fish	McDade	Sarasin
Fisher	McEwen	Satterfield
Fithian	McFall	Sawyer
Flippo	McHugh	Scheuer
Flood	McKay	Schroeder
Florio	McKinney	Schulze
Foley	Madigan	Sebelius
Ford, Mich.	Maguire	Seiberling
Ford, Tenn.	Mahon	Sharp
Forsythe	Mann	Sikes
Fountain	Markey	Simon
Fowler	Marks	Sisk
Fraser	Marlenee	Skelton
Fuqua	Marriott	Slack
Garcia	Mathis	Smith, Iowa
Gaydos	Mattox	Smith, Nebr.
Gephardt	Mazzoli	Snyder
Giaimo	Meeds	Solarz
Gilman	Metcalfe	Spellman
Ginn	Meyner	Spence
Glickman	Michel	St Germain
Goldwater	Mikulski	Staggers
Gonzalez	Milford	Stanton
Goodling	Miller, Calif.	Stark
Gore	Miller, Ohio	Steed
Gradison	Mineta	Steers
Grassley	Minish	Stokes
Green	Mitchell, Md.	Stratton
Gudger	Mitchell, N.Y.	Studds
Guyer	Moakley	Taylor
Hagedorn	Moffett	Thompson
Hall	Mollohan	Thone
Hamilton	Montgomery	Thornton
Hanley	Moore	Traxler
Hannaford	Moorhead, Pa.	Treen
Harkin	Moss	Trible
Harrington	Murphy, Ill.	Tucker
Harris	Murphy, N.Y.	Udall
Harsha	Murphy, Pa.	Van Deerlin
Hawkins	Murtha	Vander Jagt
Heckler	Myers, John	Vanik
Hefner	Myers, Michael	Vento
Heftel	Natcher	Volkmer
Hightower	Neal	Walgren
Hillis	Nedzi	Walker
Hollenbeck	Nichols	Wampler
Holtzman	Nolan	Watkins
Howard	Nowak	Waxman
Hubbard	O'Brien	Weiss
Huckaby	Oakar	Whalen
Hughes	Oberstar	White
Hyde	Obey	Whitehurst
Ichord	Ottinger	Whitley
Ireland	Panetta	Whitten
Jeffords	Patterson	Wiggins
Jenkins	Pattison	Wilson, C. H.
Johnson, Calif.	Pease	Wilson, Tex.
Johnson, Colo.	Pepper	Winn
Jones, N.C.	Perkins	Wirth
Jones, Tenn.	Pettis	Wolff
Jordan	Pickle	Wright
Kastenmeier	Pike	Wydler
Kazen	Preyer	Wylie
Kemp	Price	Yates
Keys	Pritchard	Yatron
Kildee	Pursell	Young, Fla.
Kostmayer	Quayle	Young, Mo.
Krebs	Quillen	Zablocki
Krueger	Rahall	Zeferetti

NAYS—37

Armstrong	Frenzel	Kindness
Badham	Gammage	McDonald
Bauman	Hammer-	Martin
Collins, Tex.	schmidt	Moorhead,
Crane	Hansen	Calif.
Delaney	Holland	Mottl
Dent	Holt	Myers, Gary
Derwinski	Jenrette	Poage
Evans, Ind.	Jones, Okla.	Rousselot
Ryan	Stump	Walsh
Shuster	Symms	Weaver
Stangeland	Teague	Wilson, Bob
Steiger	Waggonner	Young, Alaska

NOT VOTING—29

Ashbrook	Horton	Rodino
AuCoin	Jacobs	Rose
Caputo	Kasten	Rostenkowski
Clawson, Del	Kelly	Shipley
Corcoran	Le Fante	Skubitz
Evans, Ga.	Mikva	Stockman
Flowers	Nix	Tsongas
Flynt	Patten	Ullman
Frey	Pressler	Young, Tex.
Gibbons	Quie	

The Clerk announced the following pairs:

Mr. Tsongas with Mr. Horton.
Mr. Le Fante with Mr. Kelly.
Mr. Shipley with Mr. Skubitz.
Mr. Rostenkowski with Mr. Del Clawson.
Mr. AuCoin with Mr. Pressler.
Mr. Evans of Georgia with Mr. Quie.
Mr. Rose with Mr. Stockman.
Mr. Ullman with Mr. Caputo.
Mr. Flowers with Mr. Corcoran of Illinois.
Mr. Flynt with Mr. Frey.
Mr. Mikva with Mr. Kasten.
Mr. Patten with Mr. Nix.
Mr. Gibbons with Mr. Ashbrook.

Mr. DERWINSKI changed his vote from "yea" to "nay."

Mr. CONABLE and Mr. BARNARD changed their vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. THOMPSON. Mr. Speaker, pursuant to the provisions of House Resolution 1172, I call up the Senate bill (S. 3025) to authorize appropriations for the Federal Election Commission for fiscal year 1979, a bill similar to H.R. 11983, just passed by the House.

The Clerk read the title of the Senate bill.

MOTION OFFERED BY MR. THOMPSON

Mr. THOMPSON. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. THOMPSON moves to strike out all after the enacting clause of the Senate bill, S. 3025, and insert in lieu thereof the provisions of H.R. 11983, as passed, as follows:

That section 319 of the Federal Election Campaign Act of 1971 (2 U.S.C. 439c) is amended by striking out "and" after "1977," and inserting after "1978" the following: ", and $8,624,000 for the fiscal year ending September 30, 1979": *Provided*, That none of the funds appropriated hereunder for fiscal year 1979 shall be used by the Commission to audit a House or Senate candidate or his or her authorized committee, unless such audit is based on a finding by the Commission of reason to believe that a violation of this Act has occurred.

SEC. 2. (a) The Secretary of State of each State (or, if there is no such office in a particular State, the equivalent State officer) shall notify the Federal Election Commission after an individual has qualified under the law of the State involved for nomination for election, or election, to Federal office. Such notice shall be submitted within 5 days after such individual has so qualified.

(b) The provisions of this section are repealed, effective October 1, 1979.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

A similar House bill (H.R. 11983) was laid on the table.

GENERAL LEAVE

Mr. THOMPSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the legislation just passed.

The SPEAKER pro tempore (Mr. WRIGHT). Is there objection to the request of the gentleman from New Jersey?

There was no objection.

PERSONAL EXPLANATION

Mr. HEFTEL. Mr. Speaker, by way of personal explanation, I did not vote July 19, 1978 on rollcall No. 567 during consideration of H.R. 11983, a vote on the previous question concerning public financing of congressional campaigns. I unfortunately arrived too late to cast my vote because I was unavoidably detained in a conference with White House personnel.

Had I been present to vote, I would have cast a "nay" vote, which would have been a vote in favor of the public financing proposal and consistent with my past position on this important matter.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 13007, CONSUMER CREDIT PROTECTION ACT AMENDMENTS

Mr. SISK, from the Committee on Rules, submitted a privileged report (Rept. No. 95–1378) on the resolution (H. Res. 1278) providing for consideration of the bill (H.R. 13007) to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services, which was referred to the House Calendar and ordered to be printed.

DEBT LIMIT EXTENSION

Mr. SISK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 1277 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 1277

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13385) to provide for a temporary increase in the public debt limit, and all points of order against said bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be considered as having been read for amendment under the five-minute rule. No amendments to the bill shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment, and amendments only changing the date on page 1, line 4 or only changing the figure on page 1, line 7, and said amendments shall not be subject to amendment except pro forma amendments for the purpose of debate and germane amendments only changing the date on page 1, line 4 or only changing the figure on page 1, line 7. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore (Mr. MILFORD). The gentleman from California (Mr. SISK) is recognized for 1 hour.

Mr. SISK. Mr. Speaker, I yield 30 minutes to the gentleman from Ohio, (Mr. LATTA), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 1277 provides for the consideration of H.R. 13385, extending the temporary debt limitation.

The rule allows 1 hour of general debate with the time equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means.

The bill is to be considered as having been read for amendment under the 5-minute rule. The resolution allows only amendments recommended by the Committee on Ways and Means except in the case of two specific provisions of the bill. Germane amendments may be offered to change the expiration date of the bill and the ceiling or amount of the limitation.

In other words, Members could offer germane amendments making the extension of the temporary debt ceiling for a period that is either longer or shorter than the expiration of March 31, 1979, which appears in the bill. Likewise, Members could offer amendments either increasing or decreasing the temporary debt ceiling figure of $414 billion which is currently in the bill.

Under the rule, no other amendments would be in order except pro forma amendments for the purposes of debate.

The rule provides for a waiver of points of order against the bill for failure to comply with the provisions of clause 5, rule XXI which prohibits the inclusion of appropriations in a legislative matter. Although the bill does not contain the violation, it amends the Second Liberty Bond Act which contained such a violation. Technically, the bill violates the rule and, thus, must have the waiver.

Mr. Speaker, H.R. 13385 increases the temporary debt limit from the current $352 billion to $414 billion. The authority for the temporary debt limit is extended through March 31, 1979.

In addition, the bill increases from the current $27 billion to $32 billion the amount of long-term securities which the Treasury Department can issue without regard to the 4.25-percent interest rate ceiling.

Mr. Speaker, the House has considered temporary debt ceiling increases on three separate occasions earlier this year. The procedure has become something of a ritual, but one which this Member, at least, hopes will not become a permanent characteristic of this institution. I urge my colleagues to adopt House Resolution 1277 so that we may proceed to the conclusion of H.R. 13385, extending the temporary debt limitation.

Mr. WEAVER. Mr. President, will the gentleman yield?

Mr. SISK. I yield to the gentleman from Oregon.

Mr. WEAVER. I thank the gentleman for yielding.

Why did the Committee on Rules see fit to preclude amendments on the long-term bond provision?

Mr. SISK. The Committee on Rules actually was guided, let me say to the gentleman from Oregon, by the request of the Committee on Ways and Means. The gentleman from Oregon (Mr. ULLMAN), the chairman of the committee, came before us and indicated that his committee had voted to request the specific rule which is here before us. We did not change it.

Let me say that there was a request for some additional modification by the gentleman from Ohio (Mr. VANIK). In view of the opposition of the chairman, the Committee on Rules simply saw fit to preclude that change and go along, basically, with the rule requested. And I suppose there is no other justification. We were simply complying with the request.

Mr. WEAVER. I thank the gentleman for that explanation.

If the gentleman will yield further, how is a Member not on the Committee on Ways and Means to have an opportunity on the floor to vote on the amount of interest paid on the national debt? We can offer amendments on the amount of the debt itself, but we cannot offer an amendment as to the amount of interest paid.

Is there any other bill that the gentleman knows of where a Member not on the Committee on Ways and Means would have an opportunity to offer an amendment concerning the interest to be paid?

Mr. SISK. From time to time over the years there have been many, many occasions where the Committee on Ways and Means has brought to the floor a variety of bills dealing with the various problems of the debt ceiling, the matter dealing with the Bond Act, the Liberty Bond Act. Changes have from time to time, of course, been approved by the House after having been brought to the floor by the Committee on Ways and Means and, of course, in those cases amendments could be in order.

Generally, let me say to my colleague, the gentleman from Oregon, the Committee on Ways and Means traditionally, I know, during most of the 24 years I have been here, has sought generally closed rules. We have begun to raise some real questions about that. As my colleague from Oregon knows, within the last 2 or 3 years we have from time to time opened them up a little bit. I think we are making some progress in this area. I know my colleague, Mr. VANIK, wanted to change the permanent debt limit, and I had some sympathy with

what his desires were there. But if I can just comment briefly, I think this is either the fourth or fifth time that we have actually voted on this issue, and we are now facing a very serious crisis, I am sure my colleague from Oregon knows. If we have not passed this bill, or something similar to it, by the 1st of August, which is already upon us, the debt reverts back to $400 billion, which means this Government is going to come to a screeching halt, and I understand that within 4 or 5 days, at most, everything will stop.

All I am saying is that if this had been a different situation, I would sympathize with the question my colleague raises.

Mr. WEAVER. If the gentleman will yield one more time briefly, because the rule precludes any other Members from offering an amendment dealing with the amount of interest paid on the national debt, I intend to offer an amendment that is allowed by the rule, affecting the date of the advancement of the temporary debt ceiling. But this amendment will say that, upon exceeding $50 billion of cost of service of the national debt, that will also be limited if that occurs sooner than the date set.

Mr. SISK. Let me comment briefly. I appreciate the comments of my colleague, the gentleman from Oregon.

So long as the amendment is germane—and of course, he will have to keep that in mind—to the limitations on the rule, of course, that would be considered on the floor.

Mr. VANIK. If the gentleman will yield further, Mr. Speaker, I would like to point out to the gentleman from Oregon (Mr. WEAVER) that I expect to offer an amendment which will hold the debt ceiling to $798 billion to March 31. The amount can be changed or the date can be changed under the rule, but I want to point out that we cannot reach the issue of interest on the debts of the Government. The debt of the Government is sold at public sale. The interest rate is a contractual matter; and if the gentleman would seek to reduce the amount owed for interest, there is that opportunity in the Treasury appropriation, which sets aside an appropriation for interest. However, I do not know how one could reach the interest issue on this debt ceiling bill because it is a matter of contract, and the estimates of what is required to be paid in interest are based on the free market economy in which we live and are determined by what the Treasury estimates it is going to cost to pay interest on the public debt by offering the debt for purchase on the public markets.

Mr. SISK. Mr. Speaker, I thank the gentleman from Ohio (Mr. VANIK) for his comments. I think he is exactly right.

Mr. Speaker, I reserve the balance of my time.

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as regularly as clockwork the House is asked to extend and increase the temporary public debt ceiling.

Why we bother to call it "temporary" is beyond me.

As the gentleman from Ohio (Mr. VANIK) pointed out before the Committee on Rules, we should really do away with this sham and increase the debt ceiling to where it rightfully belongs, which would now be in the neighborhood of $752 billion rather than $400 billion. We know full well that come next March, if this piece of legislation passes, the House will once again be voting to go into debt even more.

Mr. Speaker, let us look at the results of all these votes we have had on extending and increasing the temporary public debt ceiling.

During the past 26 years Federal spending has grown 555 percent, going from $76 billion to nearly a half trillion dollars. During this period the public debt will have mushroomed from $265 billion to $814 billion, if this bill passes as presented today.

During just the last 8 years, 1970–78, the size of the debt has more than doubled, rising from $377 billion to more than $800 billion if this bill passes as presented today. At that rate of growth, the Nation's debt will exceed $1 trillion in just the next 2 or 3 years.

The interest on the national debt is now the Federal Government's fourth largest expenditure. During the next year it will nearly equal the total budget deficit. That means we will have to borrow almost $50 billion just to pay the interest on money we have borrowed and spent in previous years. For each taxpaying household in America the interest on the national debt represents nearly $750 out of its total income tax payment each year.

Mr. Speaker, we have mortgaged the future of our children, our grandchildren, and generations beyond so that we could seek instant gratification now at their expense in the future.

Mr. Speaker, the price we are paying for this prolonged and utter disregard of our Nation's future was summed up by Federal Reserve Chairman G. William Miller in testimony last week before the Committee on the Budget.

Let me read just an excerpt of what Mr. Miller had to say:

> In the Sixteenth Century Spain was the greatest beneficiary of the discovery of the New World, and massive amounts of gold were introduced into Spain giving unearned purchasing power that drove up prices 1,000 percent and built the most elegant society that Europe had ever seen. But they didn't invest anything; they consumed it. And in the 17th Century, Spain was, economically speaking, barefoot.
>
> The United States in the 20th Century has built the most affluent nation the world has ever known, with the highest standard of living for the most number of people. It has discovered the printing press and the give-away, and if we continue to consume and continue to put nothing back, nothing to build up the productive capacity to sustain ourselves, then we will be barefoot in the 21st Century.

Mr. Speaker, I do not want this country to be economically barefoot tomorrow, in the 21st century, or any time, but that is exactly what is going to happen if we continue our policy of persistently living well beyond our means. Ours is not even a policy of "fly now, pay later"; we try to "fly now and never pay" by meeting our obligations on previously borrowed money with even more borrowed money.

Mr. LATTA. Virtually every thinking man and woman in this country is demanding that Congress change its ways and change them now. The voters of California sent that message loud and clear and the legislatures of 29 States have memorialized Congress to end deficit spending and balance the budget. What has this Congress done in response? Almost nothing other than to vote a few minor, negligible cuts in a handful of appropriations bills. For all the talk about fiscal responsibility, next year's congressional budget will still be $50 billion in deficit and that is a long, long cry from being responsive to the peoples' demands.

But today we can do something which is significant, meaningful and without precedent. I call upon all of you to join with me in defeating this increase in the public debt ceiling. And I do not mean reject it today then vote for it tomorrow after a billion dollars or two have been shaved off it. Reject an increase in the public debt today and reject it tomorrow until the big spenders in this body get the message and rework next year's budget to the point where the deficit is far, far below the $50 billion mark we are being asked to swallow. In my mind this Chamber made a big mistake when it passed the first budget resolution for 1979, and I believe many of my colleagues now wish they had not voted that way. Well, now is your chance to make amends and get on the people's side of this issue. Vote "No" and let the people know you hear their message.

Mr. GIAIMO. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from Connecticut.

Mr. GIAIMO. Mr. Speaker, I thank the gentleman for yielding to me. I am delighted that he has made reference to the testimony of the Chairman of the Federal Reserve Board before the Budget Committee last week, because I happen to think that Chairman Miller made an excellent statement.

Mr. LATTA. I think he did also.

Mr. GIAIMO. The gentleman will recall that in that statement Chairman Miller indicated that it is essential that we get control of inflation: that we bring inflation under control and reduce it drastically, but that is going to be a long-term job to do that. We have got to work toward that goal. We have got to be careful as to how we spend money. We have got to try to control spending and reduce spending.

He also indicated that we have to be very careful on what we do on the revenue side, given the inflationary period today; that a very large tax cut would be unwise given the inflationary situation today, and that if we are concerned about deficits we are going to have to be concerned about the size of the tax cut.

But, I do not think that the chairman of the Federal Reserve Board would say that we should not vote to the U.S. Treasury the ability to pay its debts, debts

which we have incurred here in the Congress and in the Government because of programs which we have adopted. It seems to me that, having voted these programs and having voted for tax cuts and revenue reductions and increased tax expenditures all along the line, but particularly for income security, for social security, for health and defense and agriculture and many other things, that we cannot vote for these programs and put our stamp of approval on them, and then say to the American people, "We are not going to pay the bill for them. We are not going to vote for raising the debt ceiling in order to allow the Treasury to go out and borrow the money to pay for these things which we have mandated the Government to do." I do not think the chairman of the Fed would say that, or suggest that.

Mr. LATTA. I want to thank the gentleman for his statement. To make absolutely certain that the Members all know what the Chairman of the Federal Reserve Board had to say, since he made such a good statement, at this point I will submit his entire statement for the RECORD.

STATEMENT BY G. WILLIAM MILLER

Mr. Chairman and members of the Committee, I appreciate this opportunity to meet with you to convey the views of the Federal Reserve Board on the state of the economy as well as on economic policy issues facing the nation.

The economy is now in its fourth year of expansion and unemployment has been substantially reduced. However, the nation is beset by an unacceptably high and recently accelerating inflation, and budget deficits continue large for this stage of the expansion. It is essential that longer-term policies be structured to confront these problems, while supporting continued growth.

PACE OF GROWTH MAINTAINED RECENTLY

Economic growth, though uneven so far this year, has been on the whole satisfactory. As you know, the severe weather and the coal strike temporarily halted over-all expansion during the winter. However, with the subsequent surge in activity—illustrated in the first chart—growth of real GNP in the first half appears to have averaged about a 4½ per cent annual rate, close to the average pace over the first three years of the present expansion.

The vigor of employment growth is one important measure of the underlying momentum of the economy, and indicates that business has confidence in the sustainability of the expansion. The addition of 2¼ million jobs so far this year has pushed the unemployment rate substantially lower—as illustrated in the lower panels of the chart—and supported brisk growth of personal income. Almost all groups of workers have benefited from improved job opportunities, though the unemployment rate remains unacceptably high for minorities and youth.

AND THE NEAR-TERM OUTLOOK APPEARS FAVORABLE

Not surprisingly, recent data indicate some slowing from the extremely rapid growth of over-all activity during the spring rebound. Even so, the fundamental determinants of final demand suggest that economic expansion will be reasonably well maintained in the near term.

In particular, consumer demand remains strong. Auto sales continue at extremely high rates following the turnaround that began in March. Some of the surge in durable goods purchases appears to have represented buying in anticipation of further price rises. Gains in retail sales outside the automotive area have moderated somewhat recently, but this was to be expected following the extremely rapid sales pace of February and March. With surveys indicating a continued high level of consumer confidence, sustained moderate growth in income should support further expansion of consumer outlays over the near term.

The business sector also should continue to be a source of support to activity. Inventory policies have been conservative over the past several years, and businesses have in general thus avoided the imbalances that interrupted previous expansions. Various investment surveys, as well as data on equipment orders and construction contracts, suggest moderate increases in capital spending over the balance of this year.

In contrast, it appears likely that resident construction will cease to be the source of support that it has been in this expansion. While housing activity currently remains at a high level, mortgage markets have tightened considerably and it is likely that residential construction will begin to slacken in coming months. And growth in State and local government outlays is likely to remain modest. These jurisdictions have pursued relatively conservative spending practices and this reluctance to accelerate spending seems unlikely to change, especially in light of tax relief mandated by Proposition 13 in California and the possibility of similar actions elsewhere. But our net export position, which has deteriorated over the past two years, should improve somewhat over the next year. Imports are likely to rise at a slower pace. At the same time, exports should pickup if activity abroad increases as expected and as the changes in exchange rates which have occurred over recent months improve the competitive position of U.S. goods.

INFLATION CONTINUES AS OUR BASIC PROBLEM

On balance, the evidence suggests further moderate growth of aggregate demand over the near term, sustaining one of the most durable expansions of the postwar period. But the longer term outlook is clouded by the price situation. During the first three years of the expansion inflation rates were very high by historical standards, and there has now been a further acceleration of price increases, as shown in Chart 2. So far this year consumer prices have risen at a 10.2 percent annual rate, as compared to 6.8 per cent in 1977. A key element in the price surge this year has been the adverse developments in the food sector, as meat production has been constrained by an ongoing reduction in the nation's cattle herds. However, prices outside the food area have also moved up sharply recently. Retail prices of nonfood commodities and services rose at an 8 per cent annual rate during the first five months of the year—up appreciably from the 6½ per cent rate in 1977.

We can expect some relief later this year from a slowing of food price increases. But with the economy moving into a period of heavy collective bargaining, the intensified inflation is likely to be reflected in larger wage adjustments, and a more rapid increase in labor costs. These costs also will be boosted early next year by additional mandated increases in social security taxes and in the minimum wage. The continued interplay of wage and price rises, coupled with the legislated cost increases, makes it difficult to anticipate much relief from underlying inflationary pressures over the next year.

RISING INFLATION AND RISING INTEREST RATES ARE TWO SIDES OF THE SAME COIN

In the last year or so, private and governmental credit demands have risen, putting pressure on interest rates. At the same time, the recent and expected inflation also has been an extremely important factor underlying the increase in interest rates, contributing to money and credit demands and conditioning the stance of monetary policy. Obviously, inflation increases the volume of credit necessary to finance any level of economic activity. Individuals have to borrow more to acquire houses, cars and other durables. In the business sector, the rise in the dollar volume of spending on inventories and fixed capital, a significant portion of which represents rising prices, has outstripped internal funds generation, producing a marked increase in borrowing this year.

In addition to the direct effect of rising prices on credit demands, the prevalent expectation that the rate of inflation will remain extremely high—if not accelerate—has also increased the demand for goods requiring financing. As noted earlier, the extremely strong pace of automobile sales recently appears to have reflected consumer attempts to beat expected price rises. Home sales may have been similarly buoyed by the perception that waiting can only result in having to pay higher prices later. Such purchases have contributed to record installment debt financing and to substantial additions to mortgage debt. The volume of borrowing also has been strengthened by existing home owners withdrawing part of their rising equity in the housing stock, partly to finance major expenditures and to otherwise maintain living standards in an inflationary environment.

Borrowers appear to be counting on the general rise in nominal incomes that accompanies most inflations to help service their growing debt burden. This, in fact, has been a major ingredient in the upward pressures on interest rates. Borrowers are willing to pay higher interest rates because they expect that their future debt burdens will be eased by rising nominal incomes; meanwhile lenders seek higher interest rates in order to protect their real position.

CURRENT BORROWING LEVELS IMPLY FUTURE RISKS

Moreover, such borrowing has contributed to worrisome distortions in the financial positions of consumers and businesses. For example, the ratio of consumer and mortgage loan repayments to disposable income is now at a near record level (Chart 3). Thus far, households have apparently been able to service this debt with little problem. Recently, however, delinquency rates have edged higher, although they remain well below previous peaks. Nonetheless, the level of household indebtedness is of concern, since it may constrain future spending, and could give rise to more widespread financial difficulties—especially if the rate of income growth were to slow.

In the business sector, the pattern of financing has similarly begun to cause some concern. An increasing share of business credit requirements recently has been met through short-term borrowing, especially at banks, and businesses have slowed their accumulation of liquid assets. As a result of these changes in the composition of business assets and liabilities, corporate liquidity has deteriorated recently, although balance sheets remain in considerably stronger condition than they were in 1974 (Chart 4).

RESPONSE OF MONETARY POLICY

While one would expect strong credit demands as a normal counterpart of a healthy and growing economy, a significant—and I am afraid expanding—share of recent credit growth is both the direct and indirect result of inflation. Moreover, mounting inflationary expectations raise the specter of possible speculative excesses, leading to a short-run explosion of credit and output, and subsequently to recession. The Federal Reserve's firming of monetary policy has been designed to minimize the possibility of such an outcome.

In the presence of strong credit demands,

the worsening of inflation, and the Federal Reserve's efforts to contain excessive monetary expansion, market interest rates have risen significantly further. Most short-term rates have increased by 1 to 1½ percentage points since the beginning of the year and long term bond yields have followed much the same pattern, as illustrated in Chart 5. The rise of market interest rates has been accompanied by slower growth of savings and small-denomination time accounts at banks and thrift institutions. As a result, growth rates of broader monetary aggregates—M–2 and M–3—have remained within the Federal Reserve's long-run ranges.

The slower rate of growth of savings and small-denomination time deposits has threatened to retard housing activity. Therefore, in an environment of rising interest rates, the Federal regulatory agencies have recently taken action to increase the competitiveness of bank and thrift deposits subject to regulatory ceilings in order to maintain the flow of credit to housing. Two new savings instruments were authorized effective June 1—a variable-ceiling, six-month certificate, with weekly ceiling rates tied to yields on newly issued Treasury bills, and an eight-year certificate carrying ceiling rates of 7¾ and 8 percent for banks and thrifts, respectively. The limited available evidence suggests that these new instruments, especially the defensive six-month certificates, are playing a significant role in helping to sustain net deposit inflows to thrift institutions, even as market interest rates have risen further.

CONTINUED HIGH DEFICITS A MAJOR PROBLEM

The persistence of large Federal budget deficits at this advanced stage of our economic expansion is a disturbing problem. Businesses and households have had to compete for funds in credit markets with the public sector, whose borrowing this year has continued at a high level.

During the last recession, large deficits were both a consequence of and a reasonable policy response to the under-utilization of our productive resources. The Federal government cut taxes and increased the size of public employment and other spending programs. Continued large Federal deficits were justified well into the recovery period, since the expansive impact of Federal fiscal policy was offset in part by sizable budget surpluses by States and localities, together with an increasing foreign sector deficit, both of which drained purchasing power away from the private sector of the economy. Developments this year, however, suggest that the Federal government should be moving with deliberate speed to rein in compensatory policies. The level of private sector activity has risen markedly over the past several years, and there now appears to be much less usable slack in the economy. Moreover, the over-all surplus of States and localities appears likely—in the wake of Proposition 13 in California and related developments—to be swinging back toward balance.

WE MUST REDUCE GROWTH OF FEDERAL EXPENDITURES

Positive steps are thus in order to lessen the government's competition with the private sector for resources. The Federal government has a constructive role to play in moderating the ups and downs in economic activity. In the present circumstances, a damper on further expansion of Federal expenditures would help to assure a continuation of sustained long-term economic growth.

In my view, the task of reducing the Federal share of GNP should begin now. A careful, systematic review must be undertaken to reduce or eliminate those Federal programs that are ineffective or that have outlived their usefulness. We also need to recognize the limits on government resources when considering alternative spending proposals.

I believe that we should strive to reduce the Federal government's share of GNP from more than 22 percent at present to 20 percent or so over a period of five to seven years. As can be seen in Chart 6, such a reduction would not fully return the government proportion to that of the early 1960's.

As spending is brought under tighter control, government will become less prominent as a borrower in credit markets. A lower government profile will facilitate the flow of credit to the housing sector where it is becoming scarce, and to the business sector where it can be put to use in rebuilding our currently inadequate stock of fixed capital.

MEASURES NEEDED TO ENCOURAGE INVESTMENT

Moreover, private capital investment should be encouraged directly by offering incentives to business to expand their stock of plant and equipment. Capital accumulation is the chief engine of long-range growth of labor productivity and rising living standards. Yet for an extended period, the Nation's tax policies have not provided adequate incentives for business investment. In particular, depreciation guidelines and the resulting deductions have not approached actual replacement costs in periods of inflation. Present depreciation-tax laws should be liberalized. For example, businessmen could be permitted to use a shorter write-off period for machinery, equipment and structures. Careful consideration also should be given to present laws that tax corporate profits twice—first at the firm and then at the stockholder level.

Given the neglect of investment which has eroded the nation's capital stock, as well as the need to accommodate to the reality of scarcer and more expensive energy, a larger share of GNP must be devoted to capital investment. It will not be enough simply to reach the investment proportion of 10½ to 11 per cent that has been characteristic of past periods of prosperity and low unemployment. In my opinion, the nation must set an ambitious goal of, say, 12 per cent of GNP for an extended period—a level that would support increased growth and productivity.

STRUCTURAL REFORMS ARE ALSO NECESSARY

Establishment of a high-growth, low-inflation economy would be facilitated by extensive reform of costly governmental regulations. Regulatory activities in the health, safety and environmental protection areas may not always achieve the desired outcome at minimum costs, and they need to be reviewed with that thought in mind. Similarly, market- and price-regulation programs should be carefully reexamined to ensure that their benefits outweigh their costs. In this connection, the President's recent executive order to improve the regulatory process is most encouraging and it deserves the fullest possible support and cooperation.

In the same vein, it is important that we carefully consider alternatives for those programs that tend to limit competition and raise prices. Notable examples are import controls, price supports, and the Davis-Bacon and Walsh-Healy Acts. In addition, it seems appropriate to consider deferring the increase in the minimum wage that is scheduled for January 1, 1979, given its implications for costs and for youth employment opportunities.

To conclude, it is my belief that a reduction of budget deficits and restructuring of taxes to help investment, along with prudent monetary management by the Federal Reserve, should, over time, lead to an economy that enjoys sustained growth, price stability and a sound dollar.

[Charts not printed in RECORD.]

Mr. Speaker, let me continue by saying that I am a little bit disturbed, to use the expression of the gentleman from New Jersey, up before the Rules Committee the other day when they indicated that there really was not anything we could do about this; we just had to raise the debt ceiling. I raised the question that should have been raised a long time ago, "Why don't we try cutting back on spending? Then, we would not be faced with this $814 billion question today."

The gentleman from Ohio (Mr. VANIK) is going to propose an amendment to cut back this $814 billion figure to something in the neighborhood of $790 plus billion, which will mean that we will only spend to that point up until the end of the year. Then, we will have to come before the House in March, if our spending ways continue, and increase it to $814 billion.

I think what we ought to get today is a measure. The only way to stop doing what we have to do is to cut back on spending. That is what the American people want to see. They do not want to see a half trillion dollar budget called a lean budget by the administration, and that is what this budget was sent down here and called by this administration.

That is what this budget which was sent down here was called by the administration.

We do not want to see a continuation of what has been happening with the debt in this country, because by 1986, if the trend continues, we are going to have a trillion dollar budget—not a half trillion dollar budget but a trillion dollar budget. I think the American people are going to speak up before that time comes to say that they do not want to see that happen.

If we look at this report put out by the Ways and Means Committee, we will see that on page 10 it indicates just a couple of years ago there was a request that the national debt in 1970 go up to $377 billion. That was $377 billion in 1970, and we came along several times during that year and several times during the next year, increasing that debt, until we got it up to $752 billion last year. Now here we are back asking for $814 billion just to the end of March next year.

So I think the only way we can stop doing what we will be doing here today, which is increasing the national debt, is to cut back on the spending bills. When the appropriation bills come forward and the second budget resolution comes forward, let us cut some of these. Whether we call it a meat-ax approach or whatever we want to call it, the only way to do it is to cut back. I ask the Members to cut back at the appropriate time, and that is in the appropriation process and the budget process.

Mr. Speaker, while in many ways this debt limit increase is similar to previous debt limit increases, there is one factor which distinguishes this bill from previous bills. This difference is set forth in the minority views signed by 11 Republican members of the Committee on Ways and Means. Some of these members have consistently supported debt limit increases in the past. But this time they have concluded that they must disclaim any responsibility for this bill to raise the public debt to $814 billion.

Let me quote from the minority views, Mr. Speaker, which describe what happened when the House considered the first concurrent resolution on the budget about 2 months ago.

Republicans who comprise one-third of the membership of Congress, proposed an alternative program which would have reduced federal spending and put a balanced budget within reach by fiscal 1983. This alternative was carefully crafted and workable. Over half the House was ready to vote for it, and it would have passed had the leaders of the Majority Party not turned it back by tough, last minute tactics in the well of the House.

After the Majority Party muscled through a budget resolution which was $51 billion out of balance, they prudently brought up for a vote the debt limit necessary to accommodate this deficit. This debt limit was soundly defeated however when 58 Democrats who voted for the Budget Resolution voted against the debt limit only moments later.

The spending plan for fiscal 1979 is clearly the design of the majority party in Congress. Raising the debt limit to cover the borrowing required to pay for that spending is likewise the responsibility of those who adopted this plan.

Republicans offered what we believed was a more sensible plan of lower spending, lower taxes and a lower debt limit. When our plan was defeated, we were discharged of any further responsibility to support a public debt that has been inflated to dangerously high levels.

We cannot in good conscience vote for a public debt "limit" of $814 billion through February 28, 1979, much less the $848 billion figure anticipated by September 30, 1979.

Mr. Speaker, these views state the case in a simple, straightforward manner.

All I can say is "amen."

Mr. SISK. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I realize that everybody is anxious to vote, and so am I. I simply want to say to my friend, the gentleman from Ohio—and I respect his comments and I agree with him when he says that we have to cut and we cannot reduce the debt until we do—that we are talking about the bills we have already accumulated and which we need to pay.

I particularly call to the attention of my friend, because he particularly referred to this administration and I have had my problems with this administration, but on this question of the national debt, it is a bipartisan debt. Just take a look—and my colleague knows I ordinarily do not get too partisan—but in 1969 when a Republican administration took over, the national debt was $356 billion. In 1977 when that administration went out, they left us with a $700 billion debt.

I recognize that we as Democrats have not done a very good job either. But all I am saying is that neither party has done very well in keeping the debt down and therefore we still have an obligation to pay our bills.

Mr. LATTA. Mr. Speaker, if the gentleman will yield, while we are talking about how these things happen downtown, I would point out they never spend a cent, whether it is a Democrat administration or a Republican administration, that is not first appropriated by this Congress.

I can remember during the days my friend indicated, that there were days when Members of the Congress took the administration to court to force them to spend every dime we had appropriated in this Congress.

So the trouble starts here and they cannot spend the money downtown until we appropriate it.

Mr. SISK. I realize that. In the final analysis we here in the Congress in both Houses and both parties are going to have to cut back.

The truth is that we have contracted a lot of debts and we have got to pay those debts, and if we do not pass this debt increase we are simply not going to be able to pay those debts—and that is very important.

Mr. LATTA. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. DEVINE).

Mr. DEVINE. Mr. Speaker, have the Members ever had the feeling they have been here before and heard this same story before? The gentleman from Ohio (Mr. LATTA) and I have been here just about 20 years now, and I think this is probably the 20th time we have heard the same arguments about the same thing. I think we can take the CONGRESSIONAL RECORDS for each year and lay them back to back and hold them up to the light and we would see the same speeches.

When we came to the Congress in 1959 I think the national debt ceiling was about $265 billion, or roughly that. Here we are, 20 years later, and it is about $814 billion that is being asked for the ceiling.

I do not plan to be here 20 years from now, nor does my colleague, the gentleman from Bowling Green, Ohio (Mr. LATTA), but I would suggest in probably 2, 3, or 4 years there will be a request for $1 trillion. We are getting closer.

Mr. Speaker, I think the gentleman from Connecticut (Mr. GIAIMO), the chairman of the Committee on the Budget, is a very able Member of the Congress and he says we have authorized these programs and we have to pay for them. That is the reasonable thing to do. That makes sense. But I would suggest that those Members who vote for these programs and then go home and brag about what they have done for their constituents, that they are the ones that ought to vote yea to increase the debt ceiling to pay for those items and that those of us who have exercised some degree of restraint I do not believe should be saddled with the claim of irresponsibility.

I believe the gentleman from Ohio has amply said it when he acknowledged it does not make any difference whether it is Johnson, Ford, Nixon, Eisenhower, Carter, whoever is downtown, because only the Congress can authorize the money and only the Congress can appropriate the money. It just so happens our colleagues on the other side of the aisle, the Democrats, have been in control of the authorizations and appropriations for a quarter of a century of uninterrupted power, and they can claim the credit and responsibility for running up the debt, and debt ceiling, year after year after year.

Mr. WAGGONNER. Mr. Speaker, will my colleague, the gentleman from Ohio (Mr. DEVINE) yield for an observation?

Mr. DEVINE. I would be very happy to yield to my good friend, the gentleman from Louisiana (Mr. WAGGONNER).

Mr. WAGGONNER. Mr. Speaker, the only thing I would comment on is that if everybody who voted for a bill and who went home and bragged on what he had done for his constituents would vote for this we would have a unanimous voice vote today.

Mr. DEVINE. Mr. Speaker, I thank the gentleman again for yielding.

Mr. WEAVER. Mr. Speaker, will the gentleman yield?

Mr. DEVINE. I yield to the gentleman from Oregon.

Mr. WEAVER. Mr. Speaker, I have been reading the National Taxpayers' Union Box Score of Members of the House. I want to commend the gentleman from Ohio (Mr. DEVINE) and the other gentleman from Ohio (Mr. LATTA) for a very excellent score on preserving the budget. He does what he says. But I would note that the leadership on the other side of the aisle, the minority leader and the minority whip, and the others all score very low, they score 35.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LATTA. Mr. Speaker, I have one more request for time from the gentleman from Ohio (Mr. MILLER). I yield 3 minutes to the gentleman from Ohio (Mr. MILLER).

Mr. MILLER of Ohio. Mr. Speaker and Members of the House, it is good to have all this good, healthy, rhetoric but, Mr. Speaker, we have heard it many times before.

Mr. Speaker, I have offered a 2-percent reduction on practically every appropriation bill that has come before the House and, believe me, if we had the help then that we have now, we would have passed every one of them, but it did not work out that way.

We have some more appropriation bills that will be coming before the House yet this year for fiscal year 1979, and I hope that we have the same people make the same "cut the spending" statements that they have made here today.

We are all concerned. Everybody is concerned about the fact that we will have to increase the national debt. But this is really not the time to show that concern as much as when we have the appropriation bills before us.

The discussion on this bill gives me another opportunity to convey the fact for the record that we have borrowed—and I repeat—that we have borrowed from other nations $108 billion to pay our national debt. That we have sent them interest payments of over $5 billion each year. We have a foreign assistance bill coming up and we have heard, for example, that India needs assistance in feeding its people. Yet, India has

loaned $774.5 million for us to pay our national debt.

I think that we had better take a look at all of this when we have such items as the foreign assistance bill and also the other appropriation bills before the House.

I thank the gentleman from Ohio (Mr. LATTA) for yielding me this time.

Mr. SISK. Mr. Speaker, I have no requests for time.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SYMMS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 303, nays 98, not voting 31, as follows:

[Roll No. 569]

YEAS—303

Abdnor	Conable	Hamilton
Addabbo	Conte	Hanley
Akaka	Corman	Hannaford
Alexander	Cornell	Harkin
Ambro	Cotter	Harris
Ammerman	Coughlin	Hawkins
Anderson, Calif.	D'Amours	Heckler
	Daniel, Dan	Hefner
Anderson, Ill.	Danielson	Heftel
Andrews, N.C.	Delaney	Hightower
Andrews, N. Dak.	Dellums	Holland
	Derrick	Hollenbeck
Annunzio	Derwinski	Holtzman
Applegate	Dickinson	Horton
Ashley	Dicks	Howard
Aspin	Diggs	Hubbard
AuCoin	Dingell	Hughes
Baldus	Dodd	Hyde
Baucus	Downey	Ichord
Beard, R.I.	Drinan	Ireland
Bedell	Duncan, Oreg.	Jacobs
Beilenson	Eckhardt	Jeffords
Benjamin	Edwards, Ala.	Jenkins
Bennett	Edwards, Calif.	Jenrette
Bevill	Eilberg	Johnson, Calif.
Biaggi	Emery	Johnson, Colo.
Bingham	Erlenborn	Jones, N.C.
Blanchard	Ertel	Jones, Okla.
Blouin	Evans, Colo.	Jones, Tenn.
Boggs	Evans, Ga.	Jordan
Boland	Evans, Ind.	Kastenmeier
Bolling	Fary	Kazen
Bonior	Fascell	Keys
Bonker	Findley	Kildee
Bowen	Fish	Kostmayer
Brademas	Fisher	Krebs
Breaux	Fithian	LaFalce
Breckinridge	Flippo	Lederer
Brodhead	Flood	Leggett
Brooks	Florio	Lehman
Brown, Calif.	Foley	Lloyd, Calif.
Brown, Mich.	Ford, Mich.	Lloyd, Tenn.
Broyhill	Ford, Tenn.	Long, La.
Burgener	Fountain	Long, Md.
Burke, Calif.	Fowler	Luken
Burke, Mass.	Fraser	Lundine
Burleson, Tex.	Frenzel	McClory
Burton, John	Fuqua	McCloskey
Burton, Phillip	Garcia	McCormack
Byron	Gephardt	McDade
Carr	Giaimo	McEwen
Carter	Gilman	McFall
Cavanaugh	Ginn	McHugh
Cederberg	Glickman	McKay
Chappell	Gonzalez	McKinney
Chisholm	Gore	Madigan
Clay	Gradison	Maguire
Cleveland	Green	Mahon
Cohen	Gudger	Mann
Collins, Ill.	Hagedorn	Markey
Marks	Pease	Stark
Marriott	Pepper	Steed
Martin	Perkins	Steers
Mathis	Pettis	Steiger
Mattox	Pickle	Stockman
Mazzoli	Pike	Stokes
Meeds	Price	Stratton
Metcalfe	Rahall	Studds
Meyner	Railsback	Thompson
Michel	Rangel	Thornton
Mikulski	Reuss	Traxler
Mikva	Rhodes	Treen
Milford	Richmond	Tucker
Miller, Calif.	Risenhoover	Udall
Mineta	Roberts	Ullman
Minish	Roe	Van Deerlin
Mitchell, Md.	Rogers	Vander Jagt
Mitchell, N.Y.	Roncalio	Vanik
Moakley	Rooney	Vento
Moffett	Rosenthal	Volkmer
Mollohan	Roybal	Waggonner
Moorhead, Pa.	Ruppe	Walgren
Moss	Russo	Walsh
Mottl	Ryan	Watkins
Murphy, Ill.	Santini	Waxman
Murphy, N.Y.	Sarasin	Weiss
Murphy, Pa.	Scheuer	Whalen
Murtha	Schulze	White
Myers, Gary	Seiberling	Whitehurst
Myers, Michael	Sharp	Whitley
Natcher	Sikes	Whitten
Neal	Simon	Wiggins
Nedzi	Sisk	Wilson, Bob
Nichols	Skelton	Wirth
Nolan	Skubitz	Wolff
Nowak	Slack	Wright
Oakar	Smith, Iowa	Yates
Oberstar	Solarz	Young, Mo.
Obey	Spellman	Young, Tex.
Panetta	St Germain	Zablocki
Patterson	Staggers	Zeferetti
Pattison	Stanton	

NAYS—98

Archer	Gammage	Poage
Armstrong	Gaydos	Pritchard
Badham	Goldwater	Pursell
Bafalis	Goodling	Quayle
Barnard	Grassley	Quillen
Bauman	Guyer	Regula
Beard, Tenn.	Hall	Rinaldo
Brinkley	Hammer-schmidt	Robinson
Broomfield		Rousselot
Brown, Ohio	Hansen	Rudd
Buchanan	Harsha	Satterfield
Burke, Fla.	Hillis	Sawyer
Butler	Holt	Schroeder
Clausen, Don H.	Huckaby	Sebelius
	Kemp	Shuster
Cochran	Kindness	Smith, Nebr.
Coleman	Krueger	Snyder
Collins, Tex.	Lagomarsino	Spence
Crane	Latta	Stangeland
Cunningham	Leach	Stump
Daniel, R. W.	Lent	Symms
Davis	Levitas	Taylor
de la Garza	Livingston	Thone
Dent	Lott	Trible
Devine	Lujan	Walker
Dornan	McDonald	Wampler
Duncan, Tenn.	Marlenee	Weaver
Early	Miller, Ohio	Winn
Edgar	Moore	Wydler
Edwards, Okla.	Moorhead, Calif.	Wylie
English		Yatron
Evans, Del.	Myers, John	Young, Alaska
Fenwick	O'Brien	Young, Fla.
Forsythe	Ottinger	

NOT VOTING—31

Ashbrook	Gibbons	Rodino
Burlison, Mo.	Harrington	Rose
Caputo	Kasten	Rostenkowski
Carney	Kelly	Runnels
Clawson, Del	Le Fante	Shipley
Conyers	Montgomery	Teague
Corcoran	Nix	Tsongas
Cornwell	Patten	Wilson, C. H.
Flowers	Pressler	Wilson, Tex.
Flynt	Preyer	
Frey	Quie	

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. ULLMAN. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13385) to provide for a temporary increase in the public debt limit.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oregon (Mr. ULLMAN).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13385, with Mr. DELANEY in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Oregon (Mr. ULLMAN) will be recognized for 30 minutes, and the gentleman from New York (Mr. CONABLE) will be recognized for 30 minutes.

The Chair now recognizes the gentleman from Oregon (Mr. ULLMAN).

Mr. ULLMAN. Mr. Chairman, on July 31, the public debt limit will drop to $400 billion and at that time the Government will totally lose its financing authority. A number of Members have asked about the specific situation that the Government will be in at that time.

Treasury tells me that there will be about $12 billion cash on hand at that time.

Starting on August 1, there are payments which have to be made, and here is a list of outlays which the administration must make:

On August 1, there are five different payments, as follows: Veterans' Administration, $985 million; supplemental security income (SSI), $560 million; civil service retirement, $870 million; Railroad Retirement Board, $350 million; unemployment insurance trust fund, $160 million; and on August 3, social security payments, $7.7 billion, so that by the 3d they have a total expenditure of $10.625 billion.

Also in this time, on the 3d of the month, there is a $5.8 billion series of Treasury bills which will expire and which cannot be rolled over. Therefore, at that time they will be totally out of cash on hand and will be unable to cover any more of the obligations.

There are certain improvising things which they can do. As the payroll taxes come in, they can fail to deposit them in the social security trust fund and use those for a short time, which is legal but is not proper, because it deprives the social security system of interest on its revenues. There are a few other types of things that they can do; but for all practical purposes, on August 3, the Government will be out of business.

Mr. Chairman, let me say in preface that the Committee on Ways and Means has long taken a position that this exercise in extending the debt ceiling should be eliminated and should be made a part of the budget process. We have no jurisdiction over expenditures in our committee; and therefore, there is nothing that we can do about the budget deficit. This has to be taken care of in the budget process. When we vote for a

budget resolution, we ought to be voting to extend the debt ceiling to pay for whatever deficit we have approved in that budget resolution. However, we have run into problems in the Committee on Rules and in the other body, so that we have not been able to get them to move on our recommendations in that regard. Consequently, we are here with another extension of the debt ceiling.

Mr. Chairman, I have told the Members what will happen on August 1, if we fail to enact the extension of the debt limit. The bill that we have does just two things: First, it extends the temporary debt limit and increases the public debt limit to $814 billion through March 31 of next year, 1979.

The committee thinks that it is altogether proper to move to extend the debt limit to next year. We tried in May to move the debt limit consecutively with the first budget resolution to October 1, 1979. That effort failed, but we think it is essential now to extend the debt limit to March 31 to give the Congress time to act responsibly on another extension after the new Congress is convened next January.

The second thing the bill does is increase by $5 billion Treasury Department authority to issue long-term bonds with interest rates above the 4¼ percent limit.

Mr. Chairman, I strongly urge the Members to approve this measure. Our colleague, the gentleman from Ohio (Mr. VANIK), is going to offer a motion that will reduce the $814 billion limit to $798 billion—just below $800 billion. I do not support that amendment because what we have brought from the committee is a responsible figure that will allow the Treasury to operate and the Government to function through March 31, 1979.

If the Members do, however, adopt the Vanik motion and reduce the amount, all that means is that in place of having to face up to this issue on March 31, we will have to move back to a crunch date prior to that time.

The Vanik amendment would probably carry us through the 10th of February. That would mean that we would have to move immediately when the Congress organizes—and remember, this is a new Congress—immediately in a crash program to extend the debt limit. That means that a lot of new Members would have their first important vote on extending the debt limit next year. I do not think that is the right and responsible way to legislate, but I am not going to fight the Vanik motion too hard. If that is what the Congress wants to accept, I think that is the limit Congress will accept.

But, I think that the point should be made that it is not going to save the Government any money. All it does is allow us to vote now for a debt limit that is a little lower, for a higher limit a little sooner next year.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I am glad to yield to the distinguished chairman of the Appropriations Committee, the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I would like to join with the chairman of the Ways and Means Committee in support of this legislation. I realize that Members are often unfairly and inappropriately criticized for voting for increasing the debt limit, not realizing the fact that this is not an economy vote. The opportunity for economy votes come earlier on the bills that provide for the authorizations and the appropriations.

So, the commitments which we have already made as a Congress—and some of us did not vote for some of these things—but those commitments which have already been made necessitate an increase in debt ceiling. That is just the honest truth about the situation.

It is not a matter of additional spending we are concerned about here. It is a matter not of spending, but paying our debts. I feel that our constituents would not want us to bring about a situation in which the Federal Government would have to default on its debts. This would be very devastating. It would be very destructive of the American position at home and abroad if we repudiate our obligations to pay our bills. The American tradition is that people pay their bills, that they take pride in paying their bills. If the individual is supposed to take pride in paying his bills, why do we not then as a House vote willingly to pay the bills which we have brought about as a result of legislation we have passed?

I am completely out of patience with the people who have criticized me through the years, and my colleagues, for voting to increase the debt limit because that is not where the problem lies. The problem lies elsewhere.

I want to congratulate the gentleman from Oregon on his remarks.

Mr. ULLMAN. Mr. Chairman, let me thank my friend from Texas, and tell him that no one has better credentials than he in trying to cut back on Government programs and expenditures through the years, which is the way to do it and the only way to do it. Voting against this bill is not going to save the Government a dime. As a matter of fact, if we get to a crunch it may cost many millions of dollars and the loss of credibility of the American dollar around the world.

Mr. Chairman, let me say that we are going to miss the gentleman from Texas on his retirement. He has been a great force for economy and responsibility around this great body, and we are going to miss him.

Mr. MAHON. I thank the gentleman very much for those extravagant remarks.)

Mr. WEAVER. Mr. Chairman, will the gentleman yield?

Mr. ULLMAN. I yield to my colleague from Oregon.

Mr. WEAVER. Mr. Chairman, I thank the gentleman and my colleague from Oregon for yielding to me.

Mr. Chairman, having read the report of the Committee on Ways and Means on this bill, I find nowhere any information dealing with the costs of servicing the national debt. Of course, my figures are that it is something in the nature of equal to the entire national deficit of $50 billion. Can the chairman tell the committee how much it does cost to service the national debt presently?

Mr. ULLMAN. As the gentleman knows, the interest rate costs have gone up dramatically in recent years, along with the size of the debt, and we have a situation now where the interest costs for 1978 will be $43.8 billion. It is estimated in 1979 those will rise to $49 billion; and, in 1980, to $55.7 billion. Obviously that could change. This is based upon interest rate estimates.

The gentleman, I know, is thinking about offering an amendment that would terminate the debt ceiling when the interest costs get to a certain figure. I think that it is a point that needs to be raised, but I would hope that we do not add another dimension to the debt ceiling by putting limits on the amount of interest. That also would not save any money and it could very unexpectedly bring us to a crunch without any advance notice. So I would hope the gentleman would not offer his amendment.

But I certainly think the point is well taken. We ought to call attention to the tremendous cost of servicing the debt.

Mr. WEAVER. Will the gentleman yield further?

Mr. ULLMAN. I yield to the gentleman.

Mr. WEAVER. My understanding is that the cost of servicing the public debt is appropriated through the appropriation process.

Mr. ULLMAN. That is correct.

Mr. WEAVER. Does the gentleman know how much has been appropriated or at least is in the bill now for 1979?

Mr. ULLMAN. It is a permanent appropriation which means that the funds are available for spending as the need arises.

Mr. WEAVER. That, if the gentleman will yield further, is my exact point. I think we must get and watch the cost of the national debt just as much as we watch the amount of the national debt, as I say, because it is now reaching the point where it is equal to the national deficit. Therefore I have several questions to ask.

Who is benefiting from this staggering increase in the cost of servicing the national debt? How much, if the distinguished chairman of the Ways and Means Committee can say, and who holds what? And who owns the national debt right now? Which entities? For instance, do any foreigners own any part of the national debt, and, if so, how much and who are they?

Mr. ULLMAN. The best estimate that we have is $20 billion of the national debt is owned by foreign governments and their official agencies in securities issued specifically for this purpose.

Mr. WEAVER. Just $20 billion? If the gentleman will yield further, the last Federal Reserve Board figures I saw showed they were holding U.S. Treasury instruments in the amount of $80 billion in accounts for foreign central banks and others. But I do not know the figure.

Mr. CONABLE. Mr. Chairman, will the gentleman yield to me?

Mr. ULLMAN. I yield to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I do not have the exact figures. It is my understanding that last year foreigners picked up $30 billion of the new debt.

Frankly, we were extremely fortunate that they did that and we cannot count on their doing that. There can be, of course, the result of a very sharp increase in capital outflow if they decide our indebtedness is not good because of the depreciation of the value of the dollar. We have been fortunate that they have picked it up or we would have had to pay substantially higher interest rates to finance our national debt. And to say that they have benefited from picking up our national debt would be to overlook the very decided advantage to us that they came in and were willing to pick it up rather than forcing the Treasury to go to the American public and pay what the Treasury had to to get the money picked up by Americans.

Mr. ULLMAN. Mr. Chairman, let me say the records we have, which come from the monthly statement of the Public Debt, an official publication, has listed foreign government series, and the dollar denomination there lists the total figure at $20,559,000,000. If we are talking about the total amount of public and private debt, obviously it far exceeds that figure. But the only official figure that we have is that figure of $20 billion.

Mr. CONABLE. Mr. Chairman, will the chairman of the committee yield to me again?

Mr. ULLMAN. I yield to the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, it is my impression a lot of indebtedness is picked up for short terms by foreign banks as a short-term investment. I suspect we are in and out quite a bit on that.

Mr. ULLMAN. I think that the figure on generally marketable short-term securities fluctuates very widely on a month to month basis, but the figure I gave relates to nonmarketable debt issued to foreign governments that we can keep track of.

Mr. CONABLE. Mr. Chairman, will the gentleman yield

Mr. ULLMAN. I yield to the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I will quote from page 99 of the Special Analysis Budget of the U.S. Government which says, down in the middle of the page:

> However, due to international monetary developments, the foreign and international holdings began to grow much faster in 1970, and by the end of 1977 they had risen to $95 billion. Most of the Treasury debt held abroad is owned by foreign central banks.

Mr. WEAVER. Mr. Chairman, if the gentleman will yield further, this figure would mean that U.S. Treasury bonds that are now paying over 8½ percent interest, and Treasury interest bills paying over 7 percent, that over $7 billion a year is flowing out of our country in payment of our national debt.

How much of our national debt is owned by banks in this Nation? The New York Times shows that the purchases are rising sharply in the second quarter, 20 to 30 percent. How much of these bonds paying 8½ percent interest are owned by banks in this Nation?

Mr. ULLMAN. If the gentleman will permit, we will try to get him the information. But, getting back to the borrowing, the figure that the gentleman from New York, Mr. CONABLE, raised had to include something other than the Federal debt issued to foreign governments.

At the end of May 1978, foreign government official accounts held $117 billion of United States debt. $20.6 billion were in the nonmarketable debt I referred to earlier; a little more than $96 billion of marketable U.S. debt is held in these accounts. The rest, about $3 billion is held by private accounts. But we do have a special analysis in the budget which clearly indicates that the foreign and international holding of nonmarketable debt, as of 1977, was $20.5 billion, as shown on page 99 of the special analysis budget of fiscal year 1979, which indicates that account has been a stable one.

Mr. WEAVER. That is very correct, but if you went to the Federal Reserve figures, you would find that both have some accounts in short term bills.

Mr. ULLMAN. Let me respond to the question asked by the gentleman from Oregon, (Mr. WEAVER) that the answer is that 21 percent is owned by commercial banks.

Mr. WEAVER. 21 percent?

Mr. ULLMAN. That is right.

Mr. WEAVER. That is roughly $150 billion, then, that is owned by U.S. banks?

Mr. ULLMAN. That is $100 billion, which is 21 percent.

Mr. WEAVER. $100 billion is owned by commercial banks?

Mr. ULLMAN. That is right.

Mr. WEAVER. In Government accounts?

Mr. ULLMAN. Those figures are presented on page 63 of the Monthly Treasury Report on the Public Debt for June 30, 1978.

Mr. WEAVER. Mr. Chairman, if the gentleman will yield still further, my figures show that presently the Government accounts, of the $153 billion, the Federal Reserve Board is presently holding $103 billion. This would leave $350 or $450—about $300 billion in the hands of the general public, then, or wealthy individuals?

Mr. ULLMAN. I would assume that is the case.

Mr. WEAVER. I want to thank very much the gentleman and would like to make the point that I have very carefully, in my amendment, that I intend to offer when we read for amendments under the 5-minute rule, given us a 1-month leeway so that the shock of this debt ceiling being terminated will be given a month warning before it would occur under my amendment.

Mr. ULLMAN. Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The gentleman from Oregon (Mr. ULLMAN) has consumed 21 minutes.

The Chair recognizes the gentleman from New York (Mr. CONABLE).

Mr. CONABLE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the temporary public debt limit is due to expire in 11 days. If it does, our Government will be thrown into fiscal chaos and financial confusion. We will revert to the permanent ceiling of $400 billion, even though our indebtedness currently stands at some $750 billion.

By passing this bill today, we could avoid such an emergency, at least until March 31 when we find ourselves once again in the same familiar predicament.

Today we are debating the sixth debt ceiling bill to come before the House in the 95th Congress. Three have failed to pass. One was not signed into law until 4 days after the previous ceiling had expired.

It is this disgraceful record that makes passage of today's bill doubtful. Just a few weeks ago we witnessed a brazen turnabout by 58 Members of the majority who voted for the first concurrent resolution on the budget and then, within the same hour, voted against the debt limit bill based on the budget resolution.

Responsible members of the minority have served notice that they will no longer make the crucial difference between passage and failure of the continuing parade of debt limit bills. To put it bluntly, we have gotten tired of picking up the garbage left behind by our less responsible colleagues.

The minority offered a viable, workable budget alternative involving lower spending, lower taxes and a lower debt limit in fiscal 1979. Had our plan been adopted, we would have felt compelled to vote for a modest debt ceiling increase to accommodate it. However, even though a majority of those present agreed with us on its merits, our plan was voted down—largely due to the efforts of the majority leadership in the well of the House.

Now we are simply saying that the majority that muscled through the high spending option should now vote for the exorbitant debt ceiling required to finance that spending. It is time for those who vote for the spending to stand up and pay the bills. I am reminded of a New York councilman under indictment a couple of years back who was quoted as saying:

> You think it takes guts to stand up for what you think is right? That doesn't take guts. What takes guts is to stand up for what you know is wrong. Day after day, year after year. That takes guts.

Well, I hope the majority finds the guts to vote for this debt limit bill. If they do not, they may find themselves plunged into a crisis of their own making at the end of the month. We do not hope for this result of course. But we must admit that a temporary state of emergency may be a price worth paying if it finally brings Congress to grips with the need to devise a way to approve the public debt limit without submitting to parliamentary blackmail or indulging in repeated farces and charades.

Let me say, Mr. Chairman, despite

what may appear to some as a diatribe, that I do oppose the Vanik amendment which would reduce the debt ceiling by enough money to bring us to a crisis as the first vote in the next Congress. It seems to me that there would be some justification for the Vanik amendment if the result were really to bring about any fiscal restraint. But when we have cut back on the size of the debt ceiling in previous Congresses the effect has not been to reduce spending; the effect has been simply to bring us back to a repeated exercise in futility here at an earlier date which I think would not be a nice present to give a new Congressman at the beginning of the 96th Congress. For that reason and that reason alone I will oppose the Vanik amendment.

Mr. Chairman, I have no further requests for time, and I yield back the remainder of my time.

● Mr. AMBRO. Mr. Chairman, so that my vote against H.R. 13385, public debt limit increase not be misconstrued, I would like to say that I would not hypocritically vote against this bill which, if defeated, would paralyze our Government if the reasons behind my vote were not so important to my constituents.

Certainly, the debt is too high and certainly spending is too high and certainly taxes are too high and certainly inflation is too high. All are good reasons to try to utilize any legislative tool to curb all of these.

But the most significant reason for my negative vote was to send a message to the chairman of the Ways and Means Committee that it is vital, in my view, to consider in his committee a plan to roll back the social security tax either by adopting the Burke proposal or some similar plan. The Democratic caucus voted overwhelmingly to seek such relief and the fact that this clear signal has gone unanswered is a source of great frustration to me and many of my colleagues, and, an even greater source of deep concern to my constituents.

My "no" vote and, I am sure, those of others, was meant to be a clear message which I hope will be received and answered positively to provide an equitable formula that will rectify the oppressive burden this Congress earlier imposed on our taxpayers. The social security fund had to be made solvent. The administration and the Congress had the courage to address the problem and provide a solution. On reflection, however, both the administration and those of us who voted for the Burke resolution in the Democratic caucus believe the solution was hastily conceived and should be revised. I hope the chairman of the Ways and Means Committee relents and acts to relieve our taxpayers of the onerous burden of the social security tax immediately.●

Mr. ULLMAN. Mr. Chairman, I have no further requests for time, and yield back the remainder of my time.

The CHAIRMAN. Pursuant to the rule, the bill shall be considered as having been read for amendment under the 5-minute rule. No amendments shall be in order except amendments recommended by the Committee on Ways and Means, which shall not be subject to amendment, and amendments only changing the date on page 1, line 4, or only changing the figure on page 1, line 7, and said amendments shall not be subject to amendment except pro forma amendments for the purpose of debate and germane amendments only changing the date on page 1, line 4, or only changing the figure on page 1, line 7.

Are there any committee amendments?

AMENDMENT OFFERED BY MR. VANIK

Mr. VANIK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VANIK: On line 7 of page 1, strike "$414,000,000,000" and insert in lieu thereof "$398,000,000,000."

Mr. VANIK. Mr. Chairman, I fear that what we are facing is the possibility of bringing our Government to its knees on August 1 by refusing to adopt a realistic debt ceiling.

When the debt ceiling returns to a permanent $400-billion level on August 1, the business of this country will grind to a standstill, because our Government cannot operate on a deficit ceiling that was established in the 1960's. It is absolutely unreal. It cannot be done.

The thing that is going to happen is that the Government is not going to be able to pay its bills. Those people who rely on Government checks for support are going to find that their checks are not forthcoming. Then there will be great problems in this Congress. I do not know what the total cost will be if this situation occurs. I would estimate that the cost of such an action would compound into hundreds of millions of dollars as an additional burden to our country if there is a delay or a period in which the country has no debt ceiling and we try to make an adjustment until Congress takes to its responsibility and responds with appropriate action.

I am among those who still believe that a debt ceiling serves a useful fiscal purpose. It can be developed and continued to be used as a tool to restrain Government spending. However, it is economic insanity to expect that our Government can operate at a ceiling which will go down to $400 billion, one-half of its approximate debt today. There is no way we can survive in that situation and with that figure.

Therefore, those who play the debt-ceiling game in a desire to bring the affairs of this Government to a standstill are playing a very dangerous game of roulette. At this moment the economy is moving upward in a rather hopeful way. Indicators are moving upward. Unemployment is reducing and the economic scene is brighter than it has been in a long time.

The fiscal collapse of our Government, brought on by a failure to provide a meaningful debt ceiling, could reverse all these favorable trends. The collapse could become contagious, not only bringing down this House, but bringing down the strength of our own economy, bringing down everything. That result would be a burden on the record of every Member of this Congress. There is no explanation for that kind of irresponsibility.

Now, I propose an amendment which will hold the debt ceiling to $798 billion through 1979. This is $22 billion less than the administration requested for this date and $16 billion less than is proposed in the legislation which is before us as having been reported by the Committee on Ways and Means.

Now, I believe that this proposal, which is going to provide the administration a very tight squeeze, because the proposed ceiling on January 31, 1979, is $797 billion, with the $3 billion for margin contingencies. This ceiling can take us, I believe, through March 31. If it does not, this Congress can carefully monitor what is going on, because we are not going to be faced during this period of shortfall with a ceiling which goes to an impossible level of $400 billion—the debt limit of the 1960's.

At least until March 31 this Government will have an opportunity to show if it can trim $16 billion from its projected expenses.

Mr. Chairman, I happen to believe this can be done, and I urge my colleagues to support my amendment.

Mr. CONABLE. Mr. Chairman, I rise in opposition to the amendment.

I will not take all my time, Mr. Chairman, but I would like to ask the gentleman from Ohio (Mr. VANIK) this question:

I understand the gentleman is requesting what he feels to be a more realistic debt ceiling than the one that has been proposed by the committee, and I would like to ask the gentleman if he would be willing to make that a more realistic debt ceiling by voting to reduce expenditures in the second budget resolution.

Mr. VANIK. Mr. Chairman, will the gentleman yield?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I certainly will make every effort to save the expenditures of the country, particularly in the area of tax expendentures.

As the gentleman knows, we have to restrain tax cuts, too. The tax cuts that are funded with borrowing will be added to the deficit, and the gentleman is certainly very mindful of that.

I think we have to operate on two counts. We have to reduce our expenditures, and we have to have a mindful eye and exercise prudent restraints on tax cuts that are going to be paid with borrowed money at 8 or 9 percent interest.

Mr. CONABLE. Mr. Chairman, I am grateful for the gentleman's suggestion.

There are two sides to the coin of fiscal responsibility. I trust the gentleman will not load the entire burden of our fiscal policy on the taxpayer, however, which has been the tendency, at least up to this point, on the part of the administration and many Members of the majority. We must restrain the growth of Government expenditures in the second budget resolution.

Mr. Chairman, I think there will be opportunities for the gentleman to par-

ticipate in this move, and if that is done, I think it may be possible for him to make his amendment a responsible amendment.

Mr. VANIK. Mr. Chairman, will my colleague, the gentleman from New York, yield further?

Mr. CONABLE. I yield to the gentleman from Ohio.

Mr. VANIK. Mr. Chairman, I will match the gentleman's expenditure votes with my own. I will add up all of my expenditure votes alongside his, and I think my expenditures will be considerably less.

Mr. CONABLE. Mr. Chairman, we will follow through on this challenge at a later date with pistols at 30 paces here on the floor of the House.

Mr. VANIK. I have been carefully keeping a record of my expenditure votes, and I can assure the gentleman they are below those of the gentleman from New York.

Mr. CONABLE. Mr. Chairman, I will assure the gentleman that I will check up on that statement.

Mr. ULLMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say that I am not overly concerned about this amendment, but I do not think that we ought to assume its effect too lighlty. The amendment would probably get us by the Christmas season and into the New Year, and if everything goes right, it might carry us up through the 10th of February. What it will surely do is put a crunch on the Congress very early in the new 96th Congress to pass a debt ceiling bill.

I do not like to make that the first major vote for a lot of new Members of Congress. I do not think this is really the focus that we should put on this issue.

However, if the Members of the House think that in some way this would make it easier now to vote for a debt ceiling bill, I am not overly concerned about it, because I think we could do it and I think we could survive. I do not think we should suffer under the delusion, however, that this is going to save any money. It is not going to save any money, as has been indicated time and time again. And the chairman of the Committee on Appropriations put it very well when he said:

> The only way you save money is in the appropriation process and in the budget process.

I am very sympathetic with the effort to cut down the size of Federal expenditures. I will not check my vote against that of the gentleman from New York (Mr. CONABLE), but I have voted my share of times against appropriations when I thought they were wrong, and I voted to cut back on expenditures. We are going to have to do more of that. We are going to have to act responsibly, but let us not delude ourselves into thinking that voting for this amendment or voting against the debt ceiling legislation is going to save any money.

Mr. Chairman, that is not going to save a dime, and indeed if we persist in that notion, it could cost us a lot of money and it could cast a cloud on our national credibility.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. VANIK).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. VANIK. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 363, noes 37, not voting 32, as follows:

[Roll No. 570]

AYES—363

Abdnor	Coughlin	Harsha
Addabbo	Crane	Heckler
Akaka	Cunningham	Hefner
Alexander	D'Amours	Heftel
Ambro	Daniel, Dan	Hightower
Ammerman	Daniel, R. W.	Hillis
Anderson, Calif.	Davis	Holland
	de la Garza	Hollenbeck
Andrews, N.C.	Dellums	Holt
Andrews, N. Dak.	Derrick	Holtzman
	Derwinski	Horton
Annunzio	Devine	Howard
Applegate	Dickinson	Hubbard
Archer	Dicks	Huckaby
Armstrong	Dingell	Hughes
Ashley	Dodd	Hyde
Aspin	Dornan	Ichord
AuCoin	Downey	Ireland
Badham	Drinan	Jacobs
Bafalis	Duncan, Oreg.	Jenkins
Baldus	Duncan, Tenn.	Jenrette
Barnard	Early	Johnson, Calif.
Baucus	Eckhardt	Johnson, Colo.
Bauman	Edgar	Jones, N.C.
Beard, R.I.	Edwards, Ala.	Jones, Okla.
Beard, Tenn.	Edwards, Calif.	Jones, Tenn.
Bedell	Edwards, Okla.	Kastenmeier
Benjamin	Eilberg	Kazen
Bennett	Emery	Kemp
Bevill	English	Keys
Biaggi	Erlenborn	Kildee
Bingham	Ertel	Kindness
Blanchard	Evans, Del.	Kostmayer
Blouin	Evans, Ga.	Krebs
Boland	Evans, Ind.	Krueger
Bonior	Fary	LaFalce
Bonker	Fascell	Lagomarsino
Bowen	Fenwick	Latta
Brademas	Findley	Leach
Breaux	Fish	Lehman
Brinkley	Fisher	Lent
Brodhead	Fithian	Levitas
Brooks	Flippo	Livingston
Broomfield	Flood	Lloyd, Calif.
Brown, Calif.	Florio	Lloyd, Tenn.
Brown, Mich.	Foley	Long, Md.
Brown, Ohio	Ford, Mich.	Lott
Broyhill	Ford, Tenn.	Lujan
Buchanan	Forsythe	Luken
Burgener	Fountain	Lundine
Burke, Calif.	Fowler	McCloskey
Burke, Fla.	Fraser	McCormack
Burlison, Mo.	Fuqua	McDade
Burton, John	Gammage	McDonald
Butler	Garcia	McFall
Byron	Gaydos	McHugh
Carney	Giaimo	McKay
Carr	Gilman	McKinney
Carter	Ginn	Madigan
Cavanaugh	Glickman	Maguire
Cederberg	Goldwater	Mahon
Chappell	Gonzalez	Mann
Chisholm	Goodling	Markey
Clausen, Don H.	Gore	Marks
	Grassley	Marlenee
Clay	Green	Marriott
Cleveland	Gudger	Martin
Cochran	Guyer	Mathis
Cohen	Hagedorn	Mattox
Coleman	Hall	Mazzoli
Collins, Ill.	Hamilton	Meeds
Collins, Tex.	Hanley	Metcalfe
Corcoran	Hannaford	Meyner
Cornell	Hansen	Michel
Cornwell	Harkin	Mikulski
Cotter	Harris	Mikva
Milford	Regula	Stratton
Miller, Calif.	Reuss	Studds
Miller, Ohio	Rhodes	Stump
Minish	Richmond	Symms
Mitchell, N.Y.	Rinaldo	Taylor
Moakley	Risenhoover	Thompson
Moffett	Roberts	Thone
Mollohan	Robinson	Traxler
Moore	Roe	Treen
Moorhead, Calif.	Rogers	Trible
	Rooney	Tucker
Moorhead, Pa.	Rosenthal	Udall
Mottl	Rousselot	Van Deerlin
Murphy, Ill.	Rudd	Vander Jagt
Murphy, N.Y.	Runnels	Vanik
Murphy, Pa.	Ruppe	Vento
Murtha	Russo	Volkmer
Myers, John	Ryan	Walgren
Myers, Michael	Santini	Walker
Natcher	Sarasin	Walsh
Neal	Satterfield	Wampler
Nedzi	Sawyer	Watkins
Nichols	Scheuer	Weaver
Nolan	Schroeder	Weiss
Nowak	Schulze	Whalen
O'Brien	Sebelius	White
Oakar	Seiberling	Whitehurst
Oberstar	Sharp	Whitley
Obey	Shuster	Whitten
Panetta	Sikes	Wilson, Bob
Patterson	Simon	Wilson, Tex.
Pattison	Skelton	Winn
Pease	Skubitz	Wirth
Pepper	Slack	Wolff
Perkins	Smith, Iowa	Wright
Pettis	Smith, Nebr.	Wydler
Pickle	Snyder	Wylie
Pike	Solarz	Yates
Poage	Spellman	Yatron
Price	Spence	Young, Alaska
Pritchard	St Germain	Young, Fla.
Pursell	Staggers	Young, Mo.
Quayle	Stangeland	Young, Tex.
Quillen	Stark	Zablocki
Rahall	Steed	Zeferetti
Railsback	Steers	
Rangel	Stokes	

NOES—37

Anderson, Ill.	Evans, Colo.	McEwen
Bellenson	Frenzel	Mineta
Boggs	Gephardt	Mitchell, Md.
Bolling	Gradison	Moss
Breckinridge	Hammer-schmidt	Myers, Gary
Burke, Mass.		Ottinger
Burleson, Tex.	Harrington	Sisk
Conable	Hawkins	Stanton
Conte	Jeffords	Steiger
Conyers	Jordan	Ullman
Corman	Lederer	Waggonner
Danielson	Long, La.	Waxman
Delaney	McClory	

NOT VOTING—32

Ashbrook	Kelly	Rose
Burton, Phillip	Le Fante	Rostenkowski
Caputo	Leggett	Roybal
Clawson, Del	Montgomery	Shipley
Dent	Nix	Stockman
Diggs	Patten	Teague
Flowers	Pressler	Thornton
Flynt	Preyer	Tsongas
Frey	Quie	Wiggins
Gibbons	Rodino	Wilson, C. H.
Kasten	Roncalio	

Messrs. WAMPLER, RUSSO, MARRIOTT, and BADHAM changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. Are there additional amendments to the bill?

AMENDMENT OFFERED BY MR. WEAVER

Mr. WEAVER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WEAVER: On line 4, page 1, after "1979," insert: "or ending the 15th day of the month following the month upon which the cost of servicing the public debt to the United States Treasury from March 31, 1978 first exceeds $50,000,000-000 whichever date is soonest,".

POINT OF ORDER

Mr. ULLMAN. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ULLMAN. Mr. Chairman, the rule clearly puts limitations on the kind of amendments that can be offered.

On page 2 it reads:

. . . which shall not be subject to amendment, and amendments only changing the date on page 1, line 4 or only changing the figure on page 1, line 7, . . .

Mr. Chairman, the amendment offered by the gentleman from Oregon (Mr. WEAVER) is a condition leading to a day, it is not a day set, it is an uncertain alternative. The reference is not a specific change in the date in the bill and is outside the scope of the rule.

I believe that we must hold amendments to the rule that is before us and this clearly is not within the scope of the rule.

The CHAIRMAN. Does the gentleman from Oregon desire to be heard on the point of order?

Mr. WEAVER. Yes, I do, Mr. Chairman.

The CHAIRMAN. The gentleman from Oregon (Mr. WEAVER) will proceed.

Mr. WEAVER. I thank the Chairman.

Mr. Chairman, the rule clearly states—and I would add that I objected to the rule because it did not allow any amendments on the most important element here, and that is the cost of servicing the national debt which amounts to 10 percent of our entire budget, $50 billion.

The rule does state, however, that there may be amendments on line 4, page 1, affecting the date. My amendment simply says that the date on which the temporary ceiling will terminate will be the point when the cost of servicing the national debt shall have reached $50 billion. And that simply changes the date and nothing but the date. Therefore, Mr. Chairman, the amendment is germane to this bill and according to the rule.

The CHAIRMAN (Mr. DELANEY). The Chair will rule.

House Resolution 1277 provides that no amendments to the pending bill shall be in order except amendments which only change the date on page 1, line 4, or only change the amount on page 1, line 7, of the bill.

While it might be contended that the amendment offered by the gentleman from Oregon (Mr. WEAVER) provides an alternative termination date for the extension of the temporary debt ceiling contained in the bill, in the opinion of the Chair the amendment does more than just change the date on line 4. It conditions the temporary debt ceiling extension on factors other than a mere time duration, and as such is not an amendment which only changes the date contained in the bill.

The Chair, therefore, holds that the amendment is not in order under House Resolution 1277 and sustains the point of order.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, interest rates on U.S. Treasury bonds in the 1930's approached 1 percent. Interest rates in the 1950's were as low as 3 percent. Today the the Treasury is selling-year notes at an interest charge of almost 8.5 percent. Long-term Treasury bonds are going for over 8.65 percent. This is a threefold increase in the rate of the cost of servicing the national debt, and we must get as much control over this cost as we have and must get control over the size of the national debt.

Who gets this money? The same people who pay the taxes? No. Arab-OPEC countries get this money. Large commercial banks who have just reported 20 and 30 percent increases in second quarter profits get this money. The wealthy get this money. It amounts to an enormous transfer from the taxpayers of this country to the wealthy, the powerful, and the foreign nations.

The cost of servicing the national debt will be $50 billion in this next fiscal year, 10 percent of the entire budget that we are all screaming about.

I was pleased to discover that the National Taxpayers Union in their release on the counting of votes by the Members of the House listed me as a fiscal conservative, and well they should have because I vote a very penny-pinching budget. But I say over to this side of the House look at your scores for total spending votes. You will find that the leadership of the minority party, the Republican leader, the whip, and the conference chairman all have very, very low, fiscally unconservative spending habits. So when you vote against the national debt, remember that your leadership voted for large increases in spending, and check your own votes with the National Taxpayers Union.

I might also point out to the distinguished Members on the other side of the aisle that the proposals of tax expenditures effect our spending just as much as anything else, except most of your proposals for tax expenditures are going to the wealthy through capital gains decreases and through straight-line cuts in taxes that benefit mostly the wealthy. Those expenditures going to the wealthy are increasing this national debt just as much as any expenditure for the poor or the needy in this Nation.

Mr. CONABLE. Mr. Chairman, will the gentleman yield?

Mr. WEAVER. I yield to the gentleman from New York.

Mr. CONABLE. I thank the gentleman for yielding.

I have never yet seen a rating that did not measure the extremes of advocacy rather than the exercise of judgment. I would like to reserve for the leaders on my side of the aisle the right to stand on their records rather than someone else's view of their record. I think the gentleman will find the Republicans have behaved responsibly in the area of fiscal policy, and no amount of rhetoric will change that.

Mr. WEAVER. I only conclude by saying that we must value total spending, and included in total spending is tax expenditure.

The CHAIRMAN. The time of the gentleman has expired.

Mr. WAGGONNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, for a moment or two I think there are a few things that need to be said and I may or may not be the right man to say what I am going to say now, but I hope that you will give me your attention and think just a little bit about what I am going to say.

Now, the effect of having passed the Vanik amendment might be that some will vote for the passage of the bill who otherwise would not have. I voted against it because of the reasons the gentleman from New York (Mr. CONABLE) set forth. The only thing you have done if the bill passes with that reduction is to make sure that this will be the first major vote in the new Congress. It passed by a margin of more than 9 to 1; the reduction is meaningless. It does not mean anything. The debt will not be cut one single dollar. I want to agree with everyone on either side of the aisle who has said that the only way you are going to get rid of the demand for increasing the debt ceiling is to control spending. You cannot do it any other way. The time to control spending is when we act on authorizations, on appropriation bills and on budget resolutions.

I would submit that at one time or another most every Member of this House has engaged in something that has led to some form of this deficit spending. I have. I have been voting for debt ceiling increases, although I do not think many here would classify me as a big spender, since 1964. I have been doing it because it seemed to me the responsible thing to do, whether I spent the money or not. And speaking of responsibility, how can anyone justify a vote for the budget resolution and against the debt ceiling increase?

This body is responsible for this Government paying its bills. It is much like eating a meal with your wife in one of the fine restaurants in town tonight. The time to make a determination about what you are going to spend is while you look at that menu and before you order, not argue about the check after you have eaten the meal and gotten the check in your hand and the bill is then due.

Now, having said that I have voted for debt ceiling increases since 1964, it is easy to understand that on some occasions there were Democrats in office down at 1600 Pennsylvania Avenue and on some occasions, at least 8 of those years, Republicans. I am very conscious that in every instance that whoever was in the White House bore the burden for increasing the debt ceiling. I suppose that is as it should be, but I do remember, I say to my friends on the minority side, in one instance the thing that made me start voting for debt ceiling increases was an occasion when Lyndon Johnson was President of the United States and every single member of the minority voted against the increase.

I concluded then that if it were this much of a political football, then there had to be something wrong with that sort of voting and I have voted for every one of them since then.

I helped Mr. Nixon increase it. I have

helped Mr. Ford increase it. I have helped Mr. Carter increase it and I will regretfully do the same thing again, because I think we have to pay our bills; but just remember this, you are not doing anybody a service. We are just shirking our responsibility collectively to pay our debts, to pay our bills. We even increase financing costs.

Remember this as well, the day will come when Jimmy Carter will not be down at 1600 Pennsylvania Avenue. I do not know when it is going to be. I am not going to be here, because this is my last term here, and it is by choice. I do not believe that anybody is going to be beaten who is articulate enough to articulate the issue for voting to pay your debts. I just do not believe that this is the case; and I hope, and this is my plea to you, my Democratic colleagues, I just hope that you who remain here whenever there is, and the time will come, because human nature works this way, there will be a Republican again in the White House. I hope you will face up to your responsibility in instances such as this. Do not be vindictive.

If the two-party system is to work, it is good that there is a turnover; it makes us all more responsible. When that time comes, I just hope my Democratic colleagues will not block or vote against a debt ceiling increase, and my challenge to you today is this: Under the two-party system the responsibility is now yours and mine as Democrats.

Mr. Chairman, as responsible Democrats and public servants we ought to pass this bill today, and I believe there are some responsible Republicans who will vote for the bill as well. If not, the day will probably come when as Republicans the worm will turn and you will regret it.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, earlier in the evening, in colloquy with the chairman of the Committee on Ways and Means, I expressed some views on the subject, but my views on the issue involved have been expressed so much better by the gentleman from Louisiana (Mr. WAGGONNER) that I rise in order to support what he has said as to the necessity for favorable action on the pending measure.

I have this advantage over the gentleman—or maybe it is a disadvantage—I have been voting as a matter of necessity for debt ceiling increases since I came to the Congress in the 1930's. And I have been fortunate enough and my people have been wise enough to know that those who vote against a debt ceiling are not casting an economy vote. The debt ceiling is the final result of all the spending measures which have preceded it. And while I have frequently voted against many of these measures, I feel it a matter of duty to support the debt ceiling bill and fulfill the Nation's fiscal obligations.

We are called upon to pay our obligations. We cannot afford to welsh upon our obligations, and we cannot repudiate our obligations. We owe it to our country, we owe it to the dollar, and we owe it to the economy to make sure that we do pay our debts. As private citizens we take pride in paying our debts, and I think we owe it to the people to make sure the U.S. Government has enough pride to pay the debts which are incurred.

We are not talking about future spending or future programs that might be approved. As I have said, it is the initiating and the expanding of so many programs that brought about the necessity for the debt limit increase.

So, Mr. Chairman, I just hope the words of the gentleman from Louisiana (Mr. WAGGONNER) will be heeded and we will go along with the Committee on Ways and Means and approve this bill which has been offered.

The CHAIRMAN. If there are no further amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker having resumed the chair, Mr. DELANEY, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13385) to provide for a temporary increase in the public debt limit, pursuant to House Resolution 1277, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CONABLE

Mr. CONABLE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CONABLE. Irretrievably, yes, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. CONABLE moves to recommit the bill, H.R. 13385, to the Committee on Ways and Means.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER. The question is on the passage of the bill.

Mr. CONABLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were: yeas 205, nays 202, not voting 25, as follows:

[Roll No. 571]

YEAS—205

Addabbo	Aspin	Bingham
Akaka	Baldus	Blanchard
Alexander	Beard, R.I.	Blouin
Ammerman	Bedell	Boggs
Andrews, N.C.	Bellenson	Boland
Annunzio	Benjamin	Bolling
Applegate	Bennett	Bonior
Ashley	Bevill	Bonker
Brademas	Howard	Perkins
Breckinridge	Hubbard	Pickle
Brodhead	Jenkins	Pike
Brooks	Jenrette	Preyer
Brown, Calif.	Johnson, Calif.	Price
Burke, Calif.	Jones, N.C.	Rahall
Burleson, Tex.	Jones, Okla.	Rangel
Burlison, Mo.	Jordan	Reuss
Burton, Phillip	Kastenmeier	Richmond
Carney	Kazen	Roberts
Chisholm	Keys	Roe
Clay	Kildee	Rogers
Collins, Ill.	Krebs	Rooney
Conte	LaFalce	Rosenthal
Corman	Lederer	Roybal
Cornell	Leggett	Ryan
Cornwell	Lehman	Scheuer
Cotter	Long, La.	Seiberling
Daniel, Dan	Long, Md.	Sharp
Danielson	Lundine	Sikes
de la Garza	McCloskey	Simon
Delaney	McCormack	Sisk
Derrick	McFall	Slack
Derwinski	McHugh	Smith, Iowa
Dicks	McKay	Solarz
Dingell	McKinney	Spellman
Dodd	Mahon	St Germain
Drinan	Mann	Staggers
Duncan, Oreg.	Markey	Steed
Eckhardt	Mathis	Steers
Edgar	Mattox	Stokes
Edwards, Calif.	Mazzoli	Stratton
Eilberg	Meeds	Studds
Evans, Colo.	Metcalfe	Thompson
Fary	Meyner	Thornton
Fascell	Mikva	Traxler
Findley	Milford	Tucker
Fisher	Mineta	Udall
Flood	Minish	Ullman
Foley	Mitchell, Md.	Van Deerlin
Ford, Mich.	Moakley	Vanik
Ford, Tenn.	Mollohan	Vento
Fowler	Moorhead, Pa.	Volkmer
Fraser	Moss	Waggonner
Fuqua	Murphy, Ill.	Walgren
Garcia	Murphy, N.Y.	Watkins
Gephardt	Murphy, Pa.	Waxman
Gialmo	Murtha	Whalen
Ginn	Myers, Michael	Whitehurst
Gonzalez	Natcher	Whitten
Gore	Nedzi	Wiggins
Hamilton	Nowak	Wilson, C. H.
Hannaford	Oakar	Wilson, Tex.
Harrington	Oberstar	Wirth
Harris	Obey	Wright
Hawkins	Ottinger	Yates
Hefner	Panetta	Young, Mo.
Heftel	Patterson	Young, Tex.
Hightower	Pattison	Zablocki
Holland	Pease	
Holtzman	Pepper	

NAYS—202

Abdnor	Cleveland	Gilman
Ambro	Cochran	Glickman
Anderson, Calif.	Cohen	Goldwater
	Coleman	Goodling
Anderson, Ill.	Collins, Tex.	Gradison
Andrews, N. Dak.	Conable	Grassley
	Corcoran	Green
Archer	Coughlin	Gudger
Armstrong	Crane	Guyer
AuCoin	Cunningham	Hagedorn
Badham	D'Amours	Hall
Bafalis	Daniel, R. W.	Hammer-schmidt
Barnard	Davis	
Baucus	Dellums	Hanley
Bauman	Devine	Hansen
Beard, Tenn.	Dickinson	Harkin
Biaggi	Dornan	Harsha
Bowen	Duncan, Tenn.	Heckler
Breaux	Early	Hillis
Brinkley	Edwards, Ala.	Hollenbeck
Broomfield	Edwards, Okla.	Holt
Brown, Mich.	Emery	Horton
Brown, Ohio	English	Huckaby
Broyhill	Erlenborn	Hughes
Buchanan	Ertel	Hyde
Burgener	Evans, Del.	Ichord
Burke, Fla.	Evans, Ga.	Ireland
Burke, Mass.	Evans, Ind.	Jacobs
Burton, John	Fenwick	Jeffords
Butler	Fish	Johnson, Colo.
Byron	Fithian	Jones, Tenn.
Carr	Flippo	Kemp
Carter	Florio	Kindness
Cavanaugh	Forsythe	Kostmayer
Cederberg	Fountain	Krueger
Chappell	Frenzel	Lagomarsino
Clausen, Don H.	Gammage	
	Gaydos	

Latta	Myers, John	Snyder
Leach	Neal	Spence
Lent	Nichols	Stangeland
Levitas	Nolan	Stanton
Livingston	O'Brien	Stark
Lloyd, Calif.	Poage	Steiger
Lloyd, Tenn.	Pritchard	Stockman
Lott	Pursell	Stump
Lujan	Quayle	Symms
Luken	Quillen	Taylor
McClory	Railsback	Thone
Calif.	Regula	Treen
McDade	Rhodes	Trible
McDonald	Rinaldo	Vander Jagt
McEwen	Risenhoover	Walker
Madigan	Robinson	Walsh
Maguire	Rousselot	Wampler
Marks	Rudd	Weaver
Marlenee	Runnels	Weiss
Marriott	Ruppe	White
Martin	Russo	Whitley
Michel	Santini	Wilson, Bob
Mikulski	Sarasin	Winn
Miller, Calif.	Satterfield	Wolff
Miller, Ohio	Sawyer	Wydler
Mitchell, N.Y.	Schroeder	Wylie
Moffett	Schulze	Yatron
Montgomery	Sebelius	Young, Alaska
Moore	Shuster	Young, Fla.
Moorhead,	Skelton	Zeferetti
Mottl	Skubitz	
Myers, Gary	Smith, Nebr.	

NOT VOTING—25

Ashbrook	Gibbons	Rodino
Caputo	Kasten	Roncalio
Clawson, Del	Kelly	Rose
Conyers	Le Fante	Rostenkowski
Dent	Nix	Shipley
Diggs	Patten	Teague
Flowers	Pettis	Tsongas
Flynt	Pressler	
Frey	Quie	

The Clerk announced the following pairs:

On this vote:

Mr. Rostenkowski for, with Mr. Dent against.

Mr. Le Fante for, with Mr. Diggs against.

Mr. Roncalio for, with Mr. Conyers against.

Mr. Patten for, with Mr. Quie against.

Mr. Shipley for, with Mr. Kelly against.

Until further notice:

Mr. Tsongas with Mr. Teague.

Mr. Flowers with Mr. Kasten.

Mr. Flynt with Mr. Caputo.

Mr. Gibbons with Mr. Ashbrook.

Mr. Rose with Mr. Del Clawson.

Mr. Frey with Mr. Pressler.

Mr. Nix with Mrs. Pettis.

Mr. DICKINSON changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ULLMAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill H.R. 13385, just passed.

The SPEAKER. Is there objection to the request of the gentleman from Oregon?

There was no objection.

PERMISSION FOR SUBCOMMITTEE ON LEGISLATION AND NATIONAL SECURITY OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT DURING 5-MINUTE RULE ON TOMORROW, JULY 20, 1978

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Subcommittee on Legislation and National Security of the House Committee on Government Operations be permitted to sit during the 5-minute rule on tomorrow, Thursday, July 20, 1978.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. ROUSSELOT. Mr. Speaker, reserving the right to object, can the gentleman from Texas assure us the meeting is for hearing purposes only?

Mr. BROOKS. That is correct.

Mr. ROUSSELOT. I see.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

BLACK LUNG PROGRAM URGENT SUPPLEMENTAL APPROPRIATIONS

Mr. MAHON. Mr. Speaker, I ask unanimous consent to take from the Speaker's desk the joint resolution (H.J. Res. 945) making an urgent supplemental appropriation for the black lung program of the Department of Labor for the fiscal year 1978, with Senate amendments thereto, concur in the amendments of the Senate numbered 1 and 3, concur in the amendment of the Senate to the title, and concur in the amendment of the Senate numbered 2 with an amendment as follows:

In lieu of the sum named in said amendment, insert: "$25,000,000".

The Clerk read the title of the joint resolution.

The Clerk read the Senate amendments, as follows:

Page 3, after line 6, insert:

RAILROAD RETIREMENT BOARD

REGIONAL RAIL TRANSPORTATION PROTECTIVE ACCOUNT

For an additional amount for payment of benefits under section 509 of the Rail Reorganization Act of 1973, to remain available until expended $43,500,000.

Page 3, after line 6, insert:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

EDUCATION DIVISION

EMERGENCY SCHOOL AID

For an additional amount for carrying out section 708(a) of the Emergency School Aid Act, $50,000,000: *Provided*, That the deadline for application under the program for which appropriation is made under this paragraph shall be extended until August 1, 1978, for any district in which there has been a change in circumstances which precluded such district from making application in conformity with the regular application cycle.

Page 3, after line 6, insert:

DEPARTMENT OF COMMERCE

ECONOMIC DEVELOPMENT ASSISTANCE

ECONOMIC DEVELOPMENT ADMINISTRATION

LOCAL PUBLIC WORKS PROGRAM

For administrative expenses, including expenses for program education by the Secretary of Commerce, necessary to carry out title I of the Public Works Employment Act of 1976 (Public Law 94–369), $3,788,000.

Amend the title so as to read: "Joint resolution making an urgent appropriation for the black lung program of the Department of Labor, and for other purposes, for the fiscal year ending September 30, 1978.".

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I will not object, but I do so for the purpose of asking unanimous consent that I may revise and extend my remarks.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. MICHEL. Mr. Speaker, I am not totally enthused over this piece of legislation we are bringing before you under this procedure, but I urge that we accept it, because it is probably the best we are going to get.

We passed the original black lung supplemental in the House on June 9, and it was limited at that time to providing $181.7 million to implement the new black lung legislation.

By the time the Senate finished with it, however, it had not only the black lung funding, but also $43.5 million for the regional rail transportation protective account, $3.8 million for the Economic Development Administration, and $50 million for the emergency school aid program. The compromise we have here today contains all the Senate items except that the $50 million for emergency school aid has been reduced to $25 million.

The $43.5 million for the railroad protective account will make up for a shortfall in funds available to reimburse Con-Rail and other affected railroads for employee protective benefits made to employees adversely affected by the reorganization of the Northeast and Midwest railroads.

According to the statement presented by the Railroad Retirement Board on behalf of this increase:

The severe winter weather, the effect of the coal strike, and Conrail's announced intention of attriting more than the usual number of employees have driven outlays from the Regional Rail Transportation Protective Account far above the monthly levels expected for this year.

We have not been able to obtain any satisfactory answers as to how the winter weather and the coal strike tie into layoffs resulting from rail reorganization, nor do we have any explanation as to why more employees than normal are being let go through attrition. Conseqently, though we have little choice except to make the funds available, we are going to ask our committee investigations staff to check this situation out and find out what is going on. Frankly, the signs are beginning to point to a ripoff under this account, with the ultimate cost to the taxpayers ranging far above the $250 million annual ceiling, and it is time we look into this a little more closely.

The $3.8 million for the Economic Development Administration was requested by the administration for additional administrative costs associated with the local public works program, primarily increased monitoring and a larger than expected number of projects funded.

The $25 million under the emergency school aid program was not requested by the administration and we held no

hearings on it. The money is ostensibly to be used for school districts under court orders.

Mr. Speaker, I would like to also inquire of the distinguished chairman, the gentleman from Texas (Mr. MAHON) if the gentleman is going to ask the subcommittee chairman, the gentleman from Pennsylvania (Mr. FLOOD) to further explain what we have done here, or is it just the intention to glide over it?

Mr. MAHON. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I am delighted to yield to the gentleman from Texas (Mr. MAHON).

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on House Joint Resolution 945, presently under consideration.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. MAHON. Mr. Speaker, if the gentleman will yield, I notice with respect to the amendment in the bill that is proposed to the Senate amendment numbered 2, there is a reduction of $25 million in the emergency aid to the Emergency School Aid Act.

I wonder if the gentleman from Illinois would yield to the gentleman from Pennsylvania (Mr. FLOOD) for the purpose of receiving his remarks?

Mr. MICHEL. Mr. Speaker, under my reservation of objection, I will be more than happy to yield to the gentleman from Pennsylvania (Mr. FLOOD).

Mr. FLOOD. Mr. Speaker, the House passed an urgent supplemental appropriations bill for the black lung program on June 9. The Senate amended that bill and passed it on June 23.

The Senate added three items to the bill, two of which fall within the jurisdiction of the Labor-HEW Subcommittee. The first of these is $43.5 million, requested in the budget, for protective payments to railroad employees adversely affected by the reorganization of the Northeast and Midwest rail system. The second item is $50 million for special projects under the Emergency School Aid Act.

The amount of $43,500,000 for protective payments is to be appropriated to the Railroad Retirement Board for reimbursement to ConRail. ConRail actually makes the payments, and the Board reimburses them upon proper certification. These funds were requested in the President's budget. The Board has exhausted the funds in this account and is presently unable to reimburse ConRail. ConRail is continuing to make the payments.

It is our belief that this appropriation is mandatory under the Regional Rail Reorganization Act of 1973. Therefore, we propose to agree to the Senate amendment.

However, we do have some questions about this program. We have discussed this with the Board during the hearings, but the answers really have been less than satisfactory. We checked with the GAO on this and found out that they are beginning a study of this program now. That should be completed by the end of the year. We also plan to have the investigative staff of the Appropriations Committee look into this program.

The $50 million added by the Senate for the emergency school aid program is for school districts in the process of implementing voluntary or court ordered desegregation plans. HEW has applications on hand from 15 school districts requesting about $80 million in Federal aid for the school year starting this September. In the HEW appropriation bill for 1978, Congress approved $25 million for these emergency projects. The Senate proposes an additional amount to fund all of the projects in full.

We examined the need for emergency aid to desegregating schools and we believe that $25 million would be sufficient to meet the additional needs in critical areas of the country. We checked with HEW on the list of applications. It is clear to us that it is not necessary to fully fund the amounts requested by school districts, as the Senate proposes to do. We have reason to believe that a split of the Senate increase will be an acceptable compromise.

The Senate also included bill language extending the deadline for applications to August 1. The Secretary of HEW thinks this is a good idea particularly as a way to provide assistance to school districts with very recent court orders. So we are recommending that the House agree to that language.

Mr. MICHEL. Mr. Speaker, I thank the gentleman and I withdraw my reservation of objection.

The SPEAKER. Is there objection to the original request of the gentleman from Texas (Mr. MAHON)?

There was no objection.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 12933, DEPARTMENT OF TRANSPORTATION APPROPRIATIONS

Mr. McFALL. Mr. Speaker, I call up the conference report on the bill (H.R. 12933) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the statement.

(For conference report and statement see proceedings of the House of June 29, 1978.)

Mr. McFALL (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER. The gentleman from California (Mr. McFALL) will be recognized for 30 minutes, and the gentleman from Massachusetts (Mr. CONTE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. McFALL).

Mr. McFALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. LEDERER. Mr. Speaker, will the gentleman yield?

Mr. McFALL. I yield to the gentleman from Pennsylvania.

Mr. LEDERER. I thank the gentleman for yielding.

Mr. Speaker, today I cast my vote for the Department of Transportation appropriations conference report. I do this with reservations, however. The House, in passing the bill, prohibited the Department from using any funds to implement or enforce regulations requiring motor vehicles to be equipped with an occupant restraint system other than seat belts.

This language was very specific and determined. I am distressed that the conferees deleted this language and thereby the specific intent of the House of Representatives.

I vote for the bill in the interests of the programs sponsored by the Department which are needed and essential to our daily lives. However, the Department should not take this action by the conference or the Congress as condoning regulations other than as originally intended.

I am sure the House will act, if necessary, to stop implementation of regulations adverse to our intentions.

Mr. DICKS. Mr. Speaker, will the gentleman yield?

Mr. McFALL. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Speaker, I rise in support of the conference report, and would like to thank my distinguished senior colleague and chairman, Mr. McFALL and the other members of the subcommittee for their continuing diligence in reaching a satisfactory compromise with the Senate; I would also like to thank the equally distinguished Chairman HOWARD, of the authorizing subcommittee, with whose help these compromises were made possible.

I am especially grateful to Chairman McFALL and Chairman HOWARD for their support of the Senate appropriation for the West Seattle Bridge under the emergency bridge repair program.

Last June 11 a 12,000-ton Panamanian freighter fully loaded with gypsum rammed its bow through a wooden retaining wall destroying the concrete pier supporting the West Seattle Bridge, snapping and twisting tons of steel beams into ribbon candy shapes, crashing through the wall of the bridge's powerhouse leaving the north span of the 1922 double drawspan dangling dangerously above the Duwamish waterway

in the Port of Seattle and damaging the bridge beyond repair.

Fortunately no one was injured.

But the port of Seattle south of the bridge came to a standstill, and the second most heavily traveled roadway in the State of Washington, an artery serving one-fifth of Seattle's population, was pinched in half. Ninety thousand cars per day have been rerouted through tortuous detours. Drawbridge openings averaging 100 per day before the accident have been severely restricted. Coast Guard requirements for tug escorts have escalated. The increased danger, inconvenience, and expense of using port facilities have discouraged port activity and have had an undeniable economic impact on the port.

If they had had the funds the city and the port would have replaced the aging structure long ago. But a $200 million price tag kept the city from constructing the higher, wider and longer drawspan needed to eliminate the 4,000 openings each year.

Instead, the city planned to make necessary safety improvements and had set aside $27.5 million, including $15.3 million in urban arterial board funds. The city now stands ready to commit these funds and an additional $5.0 million in contingency funds to construction of a new bridge. These funds are not needed under the emergency bridge repair program which requires no local or State matching funds.

In addition to the $32 million in city funds, $75 million in Federal funds are needed. The total cost will be only $107.5 million, about half the original estimate. Preliminary plans show that 80 to 90 percent of the openings will be eliminated, and the roadbed and waterway will be wider and safer. This is a Chevy that works well, not a Cadillac.

The city will of course continue to press charges against the freighter and its owners. Demonstrating liability is assured and the city attorney is hopeful that damages equal to the cost of replacing the original structure may be awarded. An early trial date has been promised, in part because of the publicity generated by the pending appropriation.

Without funds from the emergency bridge repair program, a new bridge cannot be built. And the existing bridge is beyond repair. This catch-22 situation is precisely the situation anticipated when the program was created. Speedy congressional action will forestall further economic impact on Seattle, a city just recovering from its 1970 recession.

I urge my colleagues to concur with the Appropriations Committee recommendation.

Mr. McFALL. Mr. Speaker, the conference agreement would provide for total new budget authority of $8,747,553,096 for fiscal year 1979. This is $521 million below the President's budget. In several instances we have provided funding in excess of the budget estimates. But these increases are more than offset by reductions which reflect changing congressional attitudes about transportation priorities.

In addition, the conference agreement includes $9,625,500,000 in appropriations to liquidate contract authorizations. This is the same as the House passed bill and is $320 million less than the budget request.

Mr. Speaker, I believe that this conference agreement is a good one and one that the House can support. Of course, we have had and continue to have an amiable relationship with our friends in the other body, particularly the Senator from Indiana (Mr. BAYH).

HIGHLIGHTS OF THE CONFERENCE REPORT

As I indicated, the conference agreement is more than one-half billion dollars below the President's budget. It is also nearly $100 million less than when the bill left the House.

For the Coast Guard, the conferees have provided a number of increases over the budget. These include about $8.8 million for operating expenses and $7.4 million for the procurement of new equipment and the improvement of existing facilities and equipment. In addition, more than 700 new positions have been provided to enable the Coast Guard to meet its expanding workload.

For the Federal Aviation Administration, the conference agreement would provide $2.4 billion in new budget authority and $629.14 million in limitations on airport development grants. The airport grant limitation is approximately $54 million over the President's budget and includes an increase of $20.49 million for discretionary general aviation grants. We have been advised that there is a large backlog of unfunded applications in this particular area.

In the highway area, there are a number of changes from the House passed bill. The major increases include $40 million for certain railroad-highway crossings projects and $15 million for the Alaska Highway. The obligation ceiling on the Federal-aid highway programs would be $7.95 billion, which is an even split between the $7.8 billion included in the Senate bill and the $8.1 billion included in the House passed bill.

In the rail transportation area, the major item in conference was funding for railroad rehabilitation and improvements. For this program the House had approved a total of $250 million, but the Senate had reduced this to $120 million. The conference agreement includes a total of $170 million.

With respect to urban mass transportation, the major item in conference involved funding for operating assistance. The conference agreement in this area restores $150 million of the $250 million Senate reduction.

Mr. Speaker, the most troublesome area for the conferees was the language adopted by the House which prohibits the use of funds for the implementation or enforcement of any standard or regulation which requires any motor vehicle to be equipped with an occupant restraint system other than a belt system. Although I did not support this provision, I felt that because of the substantial vote in favor of the amendment, we should insist on the House position. The conference agreement includes the same language as was in the House passed bill. The conferees also retained the House provision which permits research and development activities relating to occupant restraints systems.

Mr. Speaker, I urge the adoption of the conference report. I insert at this point in the RECORD a table giving the conference figures in detail.

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	New budget authority					Conference compared with—			
	Enacted fiscal year 1978	Estimates fiscal year 1979	House fiscal year 1979	Senate fiscal year 1979	Conference fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
TITLE I									
DEPARTMENT OF TRANSPORTATION									
Office of the Secretary									
Salaries and expenses	33,400,000	33,335,000	33,050,000	33,050,000	33,050,000	−350,000	−285,000		
Transportation planning, research, and development	25,000,000	12,465,000	11,450,000	11,450,000	11,450,000	−13,550,000	−1,015,000		
(Limitation on working capital fund)	(39,847,000)	(45,434,000)	(45,434,000)		(54,069,000)	(+14,222,000)	(+8,635,000)	(+8,635,000)	(+54,069,000)
Total, Office of the Secretary	58,400,000	45,800,000	44,500,000	44,500,000	44,500,000	−13,900,000	−1,300,000		
Coast Guard									
Operating expenses	878,865,000	956,520,000	964,518,000	966,118,000	965,318,000	+86,453,000	+8,798,000	+800,000	−800,000
Appropriation for debt reduction	−205,977	−214,904	−214,904	−214,904	−214,904	−8,927			
Total, operating expenses	878,659,023	956,305,096	964,303,096	965,903,096	965,103,096	+86,444,073	+8,798,000	+800,000	−800,000

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	New budget authority					Conference compared with—			
	Enacted fiscal year 1978	Estimates fiscal year 1979	House fiscal year 1979	Senate fiscal year 1979	Conference fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
Acquisition, construction, and improvements	236,000,000	279,208,000	281,310,000	286,617,000	283,117,000	+47,117,000	+3,909,000	+1,807,000	−3,500,000
(By transfer)			(5,000,000)		(3,500,000)	(+3,500,000)	(+3,500,000)	(−1,500,000)	(+3,500,000)
Alteration of bridges	15,100,000	34,603,000	14,900,000	14,900,000	14,900,000	−200,000	−19,703,000		
Retired pay	155,401,000	173,500,000	173,500,000	173,500,000	173,500,000	+18,099,000			
Reserve training	36,560,000	39,000,000	39,000,000	39,000,000	39,000,000	+2,440,000			
Research, development, test, and evaluation	20,000,000	20,000,000	20,000,000	23,300,000	20,000,000				−3,300,000
State boating safety assistance	5,790,000	3,000,000	4,000,000	6,000,000	5,000,000	−790,000	+2,000,000	+1,000,000	−1,000,000
Total, Coast Guard	1,347,510,023	1,505,616,096	1,497,013,096	1,509,220,096	1,500,620,096	+153,110,073	−4,996,000	+3,607,000	−8,600,000
Federal Aviation Administration									
Operations	1,802,700,000	2,008,953,000	1,981,400,000	1,981,400,000	1,981,400,000	+178,700,000	−27,553,000		
(By transfer)	(5,600,000)					(−5,600,000)			
Facilities, engineering, and development	14,263,000	19,411,000	18,370,000	18,370,000	18,370,000	+4,107,000	−1,041,000		
(By transfer)	(2,350,000)		(145,000)	(145,000)	(145,000)	(−2,205,000)	(+145,000)		
Facilities and equipment (Airport and airway trust fund)	200,000,000	370,947,000	266,975,000	282,297,000	282,297,000	+82,297,000	−88,650,000	+15,322,000	
(By transfer)	(9,000,000)		(54,363,000)	(54,363,000)	(54,363,000)	(+45,363,000)	(+54,363,000)		
Research, engineering and development (Airport and airway trust fund)	80,800,000	75,373,000	75,100,000	75,100,000	75,100,000	−5,700,000	−273,000		
Grants-in-aid for airports (Airport and airway trust fund):									
Planning grants	15,000,000	15,000,000	15,000,000	15,000,000	15,000,000				
Development grants (appropriation to liquidate contract authorization)	(325,000,000)	(550,000,000)	(550,000,000)	(550,000,000)	(550,000,000)	(+225,000,000)			
Operation and maintenance, Metropolitan Washington airports	21,273,000	23,858,000	23,858,000	23,858,000	23,858,000	+2,585,000			
Construction, Metropolitan Washington airports	5,500,000	5,270,000	5,000,000	5,000,000	5,000,000	−500,000	−270,000		
Total, Federal Aviation Administration	2,139,536,000	2,518,812,000	2,385,703,000	2,401,025,000	2,401,025,000	+261,489,000	−117,787,000	+15,322,000	
Federal Highway Administration									
(Limitation on general operating expenses)	(159,725,000)	(172,055,000)	(169,650,000)	(169,650,000)	(169,650,000)	(+9,925,000)	(−2,405,000)		
Motor carrier safety	8,000,000	13,351,000	12,351,000	12,351,000	12,351,000	+4,351,000	−1,000,000		
Highway safety research and development	9,000,000	9,000,000	9,000,000	9,000,000	9,000,000				
Highway beautification:									
Appropriation	19,150,000		13,135,000	13,135,000	13,135,000	−6,015,000	+13,135,000		
(Appropriation to liquidate contract authorization)	(5,000,000)	(18,000,000)	(18,000,000)	(18,000,000)	(18,000,000)	(+13,000,000)			
Darien Gap Highway		20,000,000		20,000,000			−20,000,000		−20,000,000
Highway-related safety grants (trust fund—appropriation to liquidate contract authorization)	(20,000,000)	(23,000,000)	(23,000,000)	(23,000,000)	(23,000,000)	(+3,000,000)			
Railroad-highway crossings demonstration projects	5,100,000			55,000,000	40,000,000	+34,900,000	+40,000,000	+40,000,000	−15,000,000
Highland Scenic Highway study	1,500,000					−1,500,000			
Off-system railway-highway crossings	75,000,000		30,000,000		15,000,000	−60,000,000	+15,000,000	−15,000,000	+15,000,000
Territorial highways:									
Appropriation	5,600,000		6,600,000	6,600,000	6,600,000	+1,000,000	+6,600,000		
Rescission of contract authority	−14,464,000					+14,464,000			
(Appropriation to liquidate contract authorization)	(290,000)	(5,500,000)	(5,500,000)	(5,500,000)	(5,500,000)	(+5,210,000)			
Off-system roads (appropriation to liquidate contract authorization)	(45,000,000)	(34,000,000)	(44,000,000)	(44,000,000)	(44,000,000)	(−1,000,000)	(+10,000,000)		
Safer off-system roads	90,000,000		30,000,000		15,000,000	−75,000,000	+15,000,000	−15,000,000	+15,000,000
National Scenic and Recreational Highway (appropriation to liquidate contract authorization)	(10,000,000)	(19,000,000)	(19,000,000)	(19,000,000)	(19,000,000)	(+9,000,000)			
Access highways to public recreation areas on certain lakes	8,650,000		3,800,000	7,900,000	7,900,000	−750,000	+7,900,000	+4,100,000	
Federal-aid highways (trust fund-appropriation to liquidate contract authorization)	(5,850,000,000)	(7,250,000,000)	(6,950,000,000)	(6,950,000,000)	(6,950,000,000)	(+1,100,000,000)	(−300,000,000)		
Right-of-way revolving fund (trust fund-appropriation to liquidate contract authorization)	(20,000,000)	(30,000,000)				(−20,000,000)	(−30,000,000)		
Highways crossing federal projects	20,000,000	16,000,000	16,000,000	16,000,000	16,000,000	−4,000,000			
Overseas highway	17,000,000	87,100,000	87,100,000	44,000,000	87,100,000	+70,100,000			+43,100,000
(By transfer)	(8,000,000)					(−8,000,000)			
Project acceleration demonstration program	5,000,000		10,000,000	10,000,000	10,000,000	+5,000,000	+10,000,000		
Traffic control signalization demonstration projects	20,000,000					−20,000,000			
Intermodal urban demonstration project	2,250,000					−2,250,000			
Sandhill Crane Wildlife Refuge			4,000,000	4,000,000	4,000,000	+4,000,000	+4,000,000		
Rail crossings, demonstration projects				45,000,000					−45,000,000
Alaska Highway				15,000,000	15,000,000	+15,000,000	+15,000,000	+15,000,000	
Total, Federal Highway Administration	271,786,000	145,451,000	221,986,000	257,986,000	251,086,000	−20,700,000	+105,635,000	+29,100,000	−6,900,000
National Highway Traffic Safety Administration									
Traffic and highway safety	78,388,000	82,745,000	78,495,000	84,745,000	81,620,000	+3,232,000	−1,125,000	+3,125,000	−3,125,000
State and community highway safety:									
Appropriation	1,140,000	1,715,000	1,715,000	1,715,000	1,715,000	+575,000			
(Appropriation to liquidate contract authorization)	(112,000,000)	(166,000,000)	(166,000,000)	(166,000,000)	(166,000,000)	(+54,000,000)			
Total, National Highway Safety Administration	79,528,000	84,460,000	80,210,000	86,460,000	83,335,000	+3,807,000	−1,125,000	+3,125,000	−3,125,000

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	New budget authority					Conference compared with—			
	Enacted fiscal year 1978	Estimates fiscal year 1979	House fiscal year 1979	Senate fiscal year 1979	Conference fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
Federal Railroad Administration									
Office of the Administrator	6,950,000	9,215,000	8,245,000	8,245,000	8,245,000	+1,295,000	−970,000		
Railroad safety	19,100,000	24,155,000	23,655,000	23,655,000	23,655,000	+4,555,000	−500,000		
Railroad research and development	53,600,000	55,670,000	51,980,000	51,980,000	51,980,000	−1,620,000	−3,690,000		
Rail Service Assistant	81,500,000	87,210,000	83,030,000	85,710,000	84,370,000	+2,870,000	−2,840,000	+1,340,000	−1,340,000
Northeast corridor improvement program	400,000,000	455,000,000	455,000,000	455,000,000	455,000,000	+55,000,000			
Grants to National Railroad Passenger Corporation	664,500,000	660,000,000	660,000,000	660,000,000	660,000,000	−4,500,000			
Payment to the Alaska railroad revolving fund	3,000,000	3,000,000	3,000,000	9,300,000	9,300,000	+6,300,000	+6,300,000	+6,300,000	
Railroad Rehabilitation and Improvement Financing Funds	200,000,000	278,920,000	250,000,000	120,000,000	170,000,000	−30,000,000	−108,920,000	−80,000,000	+50,000,000
Federal Railroad Administration (limitation on loan guarantee program)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)				
Total, Federal Railroad Administration	1,428,650,000	1,573,170,000	1,534,910,000	1,413,890,000	1,462,550,000	+33,900,000	−110,620,000	−72,360,000	+48,660,000
Urban Mass Transportataton Administration									
Administrative expenses	20,000,000	21,400,000	18,100,000	18,100,000	18,100,000	−1,900,000	−3,300,000		
Research, development, and demonstrations and university research and training	70,000,000	68,600,000	63,500,000	63,500,000	63,500,000	−6,500,000	−5,100,000		
Technical studies			55,000,000					−55,000,000	
Urban discretionary grants		840,000,000	1,225,000,000	1,250,000,000	1,250,000,000	+1,250,000,000	+410,000,000	+25,000,000	
Rural and small urban grants			75,000,000	76,500,000	76,500,000	+76,500,000	+76,500,000	+1,500,000	
Urban formula grants		1,735,000,000	550,000,000	403,500,000	553,500,000	+553,500,000	−1,181,500,000	+3,500,000	+150,000,000
(Appropriation to liquidate contract authorization)	(1,756,000,000)	(1,850,000,000)	(1,850,000,000)	(1,850,000,000)	(1,850,000,000)	(+94,000,000)			
Rail service operating payments	45,000,000		75,000,000			−45,000,000		−75,000,000	
Projects substituted for interstate system projects	439,000,000	400,000,000	400,000,000	400,000,000	400,000,000	−39,000,000			
Total, Urban Mass Transportation Administration	574,000,000	3,065,000,000	2,461,600,000	2,211,600,000	2,361,600,000	+1,787,600,000	−703,400,000	−100,000,000	+150,000,000
St. Lawrence Seaway Development Corporation									
(Limitation on administrative expenses)	(1,114,000)	(1,280,000)	(1,280,000)	(1,280,000)	(1,280,000)	(+166,000)			
Research and Special Programs Directorate									
Research and special programs	8,100,000	24,420,000	23,100,000	25,420,000	24,760,000	+16,660,000	+340,000	+1,660,000	−660,000
Total, title I, Department of Transportation:									
New budget (obligational) authority	5,907,510,023	8,962,729,096	8,249,022,096	7,950,101,096	8,129,476,096	+2,221,966,073	−833,253,000	−119,546,000	+179,375,000
(By transfer)	(24,950,000)		(59,508,000)	(54,508,000)	(58,008,000)	+33,058,000	(+58,008,000)	(−1,500,000)	(+3,500,000)
(Limitations)	(160,839,000)	(173,335,000)	(170,930,000)	(170,930,000)	(170,930,000)	(+10,091,000)	−2,405,000)		
(Limitations on obligations and commitments)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)	(600,000,000)				
(Limitation on working capital fund)	(39,847,000)	(45,434,000)	(45,434,000)		(54,069,000)	(+14,222,000)	(+8,635,000)	(+8,635,000)	(+54,069,000)
(Appropriations to liquidate contract authorizations)	(8,143,290,000)	(9,945,500,000)	(9,625,500,000)	(9,625,500,000)	(9,625,500,000)	(+1,482,210,000)	(−320,000,000)		
Appropriations for debt reduction)	(205,977)	(214,904)	(214,904)	(214,904)	(214,904)	(+8,927)			
TITLE II									
RELATED AGENCIES									
National Transportation Safety Board									
Salaries and expenses	14,710,000	15,650,000	15,600,000	15,965,000	15,600,000	+890,000	−50,000		−365,000
Civil Aeronautics Board									
Salaries and expenses	23,367,000	27,042,000	27,000,000	27,000,000	27,000,000	+3,633,000	−42,000		
Payments to air carriers	72,510,000	68,900,000	68,900,000	68,900,000	68,900,000	−3,610,000			
Total, Civil Aeronautics Board	95,877,000	95,942,000	95,900,000	95,900,000	95,900,000	+23,000	−42,000		
Interstate Commerce Commission									
Salaries and expenses	59,717,000	70,822,000	70,400,000	70,400,000	70,400,000	+10,683,000	−422,000		
The Panama Canal									
Canal Zone Government:									
Operating expenses	70,500,000	74,621,000	74,000,000	74,000,000	74,000,000	+3,500,000	−621,000		
Capital outlay	2,130,000	2,285,000		1,035,000	1,035,000	−1,095,000	−1,250,000	+1,035,000	
Panama Canal Company:									
(Limitation on general and administrative expenses)	(26,231,000)	(27,580,000)	(27,580,000)	(27,580,000)	(27,580,000)	(+1,349,000)			
Total, the Panama Canal	72,630,000	76,906,000	74,000,000	75,035,000	75,035,000	+2,405,000	−1,871,000	+1,035,000	
Department of the Treasury									
Office of the Secretary:									
(Investment in Fund Anticipation Notes)	(200,000,000)	(278,920,000)	(250,000,000)	(120,000,000)	(170,000,000)	(−30,000,000)	(−108,920,000)	(−80,000,000)	(+50,000,000)
U.S. Railway Association									
Administrative expenses	23,000,000	27,200,000	23,000,000	23,000,000	23,000,000		−4,200,000		
Payments for purchase of ConRail securities			300,000,000	300,000,000	300,000,000	+300,000,000	+300,000,000		
Total, United States Railway Association	23,000,000	27,200,000	323,000,000	323,000,000	323,000,000	+300,000,000	+295,800,000		

COMPARATIVE STATEMENT OF NEW BUDGET AUTHORITY

	New budget authority					Conference compared with—			
	Enacted fiscal year 1978	Estimates fiscal year 1979	House fiscal year 1979	Senate fiscal year 1979	Conference fiscal year 1979	Fiscal year 1978 enacted	Fiscal year 1979 estimate	House bill	Senate bill
Washington Metropolitan Area Transit Authority									
Federal contribution	2,700,000					−2,700,000			
Interest payments	48,657,000	19,374,000	19,374,000	38,142,000	38,142,000	−10,515,000	+18,768,000	+18,768,000	
Total, Washington Metropolitan Area Transit Authority	51,357,000	19,374,000	19,374,000	38,142,000	38,142,000	−13,215,000	+18,768,000	+18,768,000	
National Transportation Policy Study Commission									
Salaries and expenses	2,000,000					−2,000,000			
Total, title II, related agencies:									
New budget (obligational) authority	319,291,000	305,894,000	598,274,000	618,442,000	618,077,000	+298,786,000	+312,183,000	+19,803,000	−365,000
(Limitations)	(26,231,000)	(27,580,000)	(27,580,000)	(27,580,000)	(27,580,000)	(+1,349,000)			
TITLE III									
GENERAL PROVISIONS									
Federal Aviation Administration:									
Discretionary general aviation grants-in-aid for airport development (limitation on obligations)		(15,500,000)	(21,980,000)	(50,000,000)	(35,990,000)	(+35,990,000)	(+20,490,000)	(+14,010,000)	(−14,010,000)
All other grants-in-aid for airport development (limitation on obligations)	(540,000,000)	(559,500,000)	(561,300,000)	(625,000,000)	(593,150,000)	(+53,150,000)	(+33,650,000)	(+31,850,000)	(−31,850,000)
Federal Highway Administration:									
Highway related safety grants (limitation on obligations)	(28,000,000)	(28,000,000)	(28,000,000)	(28,000,000)	(28,000,000)				
Federal-aid highways (limitation on obligations)	(7,445,000,000)	(7,800,000,000)	(8,100,000,000)	(7,800,000,000)	(7,950,000,000)	(+505,000,000)	(+150,000,000)	(−150,000,000)	(+150,000,000)
National Highway Traffic Safety Administration:									
State and community highway safety (limitation on obligations)	(172,000,000)	(172,000,000)	(172,000,000)	(172,000,000)	(172,000,000)				
Urban Mass Transportation Administration:									
Urban Mass transportation fund (limitation on commitments)	(2,365,000,000)		(850,000,000)	(850,000,000)	(850,000,000)	(−1,515,000,000)	(+850,000,000)		
(Interstate transfer)	(350,000,000)					(−350,000,000)			
Total, title III, general provisions	(10,900,000,000)	(8,575,000,000)	(9,733,280,000)	(9,525,000,000)	(9,629,140,000)	(−1,270,860,000)	(+1,054,140,000)	(−104,140,000)	(+104,140,000)
RECAPITULATION									
Grand total, titles I, II, and III:									
New budget (obligational) authority	6,226,801,023	9,268,623,096	8,847,296,096	8,568,543,096	8,747,553,096	+2,520,752,073	−521,070,000	−99,743,000	+179,010,000
(By transfer)	(24,950,000)		(59,508,000)	(54,508,000)	(58,008,000)	(+33,058,000)	(+58,008,000)	(−1,500,000)	(+3,500,000)
(Limitations)	(187,070,000)	(200,915,000)	(198,510,000)	(198,510,000)	(198,510,000)	(+11,440,000)	(−2,405,000)		
(Limitations on obligations and commitments)	(11,500,000,000)	(9,175,000,000)	(10,333,280,000)	(10,125,000,000)	(10,229,140,000)	(−1,270,860,000)	(+1,054,140,000)	(−104,140,000)	(+104,140,000)
(Limitation on working capital fund)	(39,847,000)	(45,434,000)	(45,434,000)		(54,069,000)	(+14,222,000)	(+8,635,000)	(+8,635,000)	(+54,069,000)
Memoranda:									
(Appropriations to liquidate contract authorizations)	($8,143,290,000)	(9,945,500,000)	(9,625,500,000)	(9,625,500,000)	(9,625,500,000)	(+1,482,210,000)	(−320,000,000)		
(Appropriations for debt reduction)	(205,977)	(214,904)	(214,904)	(214,904)	(214,904)	(+8,927)			
Total, appropriations including appropriations to liquidate contract authorization and appropriations for debt reduction	(14,370,297,000)	(19,214,338,000)	(18,473,011,000)	(18,194,258,000)	(18,373,268,000)	(+4,002,971,000)	(−841,070,000)	(−99,743,000)	(+179,010,000)

Mr. BAUMAN. Mr. Speaker, will the gentleman yield?

Mr. McFALL. I yield to the gentleman from Maryland.

Mr. BAUMAN. Mr. Speaker, in this litany of excellent legislative accomplishments, the gentleman has failed to mention the fact that the conferees wisely accepted the Bauman amendment knocking out $20 million for the Darien Gap Highway in Panama.

Mr. McFALL. That is right. There is no money in the bill for that.

Mr. BAUMAN. Mr. Speaker, I want to compliment the distinguished gentleman for that and express my appreciation.

Mr. McFALL. Mr. Speaker, I appreciate the gentleman's high praise.

Mr. CONTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I might go one step further in answer to the gentleman from Maryland and say we even took the opportunity away for offering an amendment to the supplemental. We took out all money for the Darien Gap.

Mr. GREEN. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from New York.

Mr. GREEN. Mr. Speaker, in connection with the reduction of additional mass transit operating subsidies from the House position of $250 million to the $150 million provided in the conference report, I understand that the conferees agreed that, if additional authorizations were enacted for operating subsidies, a supplemental request for appropriations would be considered; am I correct?

Mr. CONTE. Mr. Speaker, the gentleman from New York is absolutely correct. We reached that conclusion at the urging of the gentleman from New York City (Mr. ADDABBO). We inserted language on page 12 of the report that if additional authorizations are enacted for operating assistance, the conferees are in agreement that a supplemental request would be considered at that time.

Mr. GREEN. Mr. Speaker, I thank the gentleman from Massachusetts.

Mr. CONTE. Mr. Speaker, I thank the gentleman from New York for his interest.

Mr. Speaker, I rise in support of this conference report on the transportation bill for fiscal year 1979 (H.R. 12933). I am pleased to note that this bill, which will provide approximately $8.7 billion in new budget authority is more than $521 million below the President's budget for fiscal year 1979 and nearly $1.6 billion under the first concurrent budget resolution.

Because the chairman has already given a thorough review of all the changes in the House version, I should like to take this opportunity to highlight those changes which are of major import.

For the Coast Guard, we agreed to increase operating expenses by $800,000 for 74 pollution response vans and related equipment. The addition was made in light of a GAO report which indicates that the Coast Guard capabilities in this area were not adequate. This action constitutes a compromise, since we did not add the additional 163 positions initially sought by the Senate.

With respect to Coast Guard acquisitions, construction, and improvements, we restored House language which limited the transfer of moneys from the pollution funds to $3.5 million and agreed to an increase in this account of $307,000 which in part covers funds for the rehabilitation of the Quillayute River Station in Washington, which the Senate requested.

For the Federal Aviation Administration, we restored the House provisions which prohibit the use of funds for new applicants for the second career training program. As I indicated in my remarks on H.R. 12933, this 2-year program which was supposed to retrain "burnt out" controllers to establish new careers has clearly become a boondoggle and should be phased out. My resolve in this regard was strengthened upon reading the GAO report on these programs which was released at the end of June. Among other things, the report indicates that—

Only 7 percent of the eligible controllers had or would use the program to begin second careers; and

Program costs average $370,000 for each successful program participant.

I will speak at length about this waste-ridden program at another time soon, but I will say now that I agree with the GAO's conclusion that this program should be terminated. I do not believe that it can be sufficiently improved by the FAA to allow for funding of new applicants in a supplemental as suggested by conference report language offered by the Senate.

Also, with regard to the air traffic controllers, we agreed to delete the House provision prohibiting the use of funds for liaison or familiarization travel because it is our view that the familiarization slowdowns were essentially nonunion actions and that abuses in the generally useful program can be best dealt with by the FAA Administrator. In fact, the FAA will be meeting with Justice Department officials to determine if possible criminal sanctions against controllers should result from the slowdown. Mr. Chairman, you can be assured that we will carefully monitor this program and support a legislative provision later if necessary.

For FAA facilities and equipment funded under the airport and airway trust fund, we included an additional $15 million for the VOR/VORTAC replacement program. This addition was made in light of a recently released GAO study which established that contrary to earlier reports, such replacement would be cost effective at the sums sought.

For the Federal Highway Administration, we agreed to set a $7.9 billion ceiling on obligations for Federal aid highways out of the highway trust fund. This is $150 million below the House bill. The subcommittees will entertain a supplemental, if necessary, after the enactment of authorizing legislation.

Conference actions taken affecting railroad programs include:

A compromise which provides for an additional $350,000 for the Office of Rail Public Consul. This promising new program will be helpful in representing the consumer's interest and encouraging changes in the archaic regulatory framework of the Interstate Commerce commission.

Deletion of the House provision which in effect would have limited ConRail executive compensation to base salary levels in effect as of January 1, accompanied by restoration of the House provision that prohibits funds from becoming valuable until authorization legislation is passed. This action allows the authorizing committee to set ceiling with respect to ConRail and to take action with regard to executive pay if they so desire.

For the railroad rehabilitation and improvement financing, $170 million was appropriated in lieu of the $250 million allowed by the House. The Senate recommended $120 million. As I indicated in my separate views, I felt that $250 million, never mind $170 million, is too low a level for a program which practically speaking is the sole source of rehabilitation funding for financially strapped railroads.

However, in light of the large unobligated balances existing in the program, I felt constrained to support this compromise. The amount appropriated along with this balance can fund all existing applications. The report points out that if the FRA should expend these funds an additional appropriation can be considered. Importantly, the report notes that this action should not be interpreted as sanctioning further delays in processing. This is entirely proper since it was FRA redtape and their tightfisted lending procedures that created the unobligated funds.

For the Urban Mass Transportation Administration, we agreed on an appropriation of $2.4 billion. The urban discretionary grants program was funded at $125 million—including $25 million for technical studies. Report language indicates that UMTA shall have the authority to make capital grants to qualified applicants for intermodal transportation facilities including intermodal transportation facilities such as Union Station, Indianapolis, and South Station, Boston. However, this action is not intended as an endorsement of a large national program for intermodal transportation facilities.

Finally, Mr. Speaker, we were able to restore both House provisions with respect to passive restraints. As a result, the bill contains provisions prohibiting the use of funds for the implementation or enforcement of any standard or regulation which requires any motor vehicle to be equipped with an occupant restraint system—other than a seat belt—and my floor amendment which indicates that the above language does not prohibit the use of funds for any research and development activity, relating to occupant restraint system. The conference report makes it clear that the latter amendment is to be broadly and realistically construed.

This concludes my remarks on the changes which are reflected in the conference report. Mr. Speaker, this is a responsible bill and I urge support for it.

Mr. ADDABBO. Mr. Speaker, I rise in support of the conference agreement on the transportation appropriations bill for fiscal year 1979. The agreement reached is a well reasoned and equitable resolution of the differences that existed between the two versions of the bill. Much credit is due to our chairman, JOHN MCFALL, and the leader of the Senate conferees, BIRCH BAYH.

The total new budget obligational authority recommended by the committee of conference is $8,747,553,096 or approximately $99.7 million below the House bill and $179 million over the Senate bill.

In all, the committee considered some 50 amendments involving funding levels and provisions of H.R. 12933 as enacted by the House. Some of these were minor, or technical in nature, and, in several others, agreement was reached to reconcile the difference between the two versions.

Of particular significance to me, as a representative of New York City, is the retention of strong support for the funding of urban mass transit within the framework of pending authorization. In this context I am pleased to note that this bill includes $150 million of the $250 million approved by the House for such additional operating payments as may be authorized. The Senate version of the bill containd no funding for this category pending authorization. The $75 million approved by the House for rail service operating payments is included in this bill under urban formula grants. If additional authorizations are enacted for operating assistance, the conferees are in agreement that a supplemental request will be considered.

Urban discretionary grants are adjusted to include $200 million for bus procurements, $770 million for rail modernization, system extensions and the purchase of rolling stock, $255 for construction of new systems and $25 million for technical studies. This represents an increase of $10 million over the House allowance for new systems construction in Buffalo, Baltimore, and Miami, with a comparable $10 million reduction for existing systems.

The bill provides for limitations of $35,990,000 for general aviation discretionary grants and $593,150,000 for the other grants-in-aid for airports. These amounts are higher than those approved by the House but commensurately lower than those approved by the Senate.

Concerning air traffic controllers, the House prohibition of funds for certain liaison or familiarization travel has been deleted. I would, however, call your attention to language in the conference report expressing the strong opposition of the conferees to the recent slowdown actions by some controllers. These actions, which are not supported by the controllers' union, resulted in hardship to travelers, unnecessary consumption of fuel and posed potential risks to the public safety. Language prohibiting the use of funds for new applicants to the second career training program has been retained as proposed by the House. The conferees agreed to consider a supplemental request if much-needed modifications are made to this program.

Agreement was reached to allow $150,000 for a 1-year demonstration project involving participation of citizen or public interest groups in CAB proceedings. Similarly, $125,000 is made available for citizen participation in NHTSA's rulemaking process. Detailed reports are expected on the results of these two demonstration projects.

In short, Mr. Speaker, I believe this to be a sound agreement by the conference committee and I strongly recommend its adoption by the House.

Mr. McFALL. Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

The SPEAKER. The question is on the conference report.

The conference report was agreed to.

A motion to reconsider was laid on the table.

AMENDMENTS IN DISAGREEMENT

The SPEAKER. The Clerk will report the first amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 14: Page 12, line 10, insert:

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of railroad-highway crossings demonstration projects, as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, and title III of the National Mass Transportation Assistance Act of 1974, to remain available until expended, $55,000,000, of which $36,666,667 shall be derived from the Highway Trust Fund.

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 14 and concur therein with an amendment, as follows: In lieu of the matter inserted by said amendment, insert the following:

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of railroad-highway crossings demonstration projects, as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, and title III of the National Mass Transportation Assistance Act of 1974, to remain available until expended, $40,000,000 of which $26,666,667 shall be derived from the Highway Trust Fund.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 27: Page 17, line 25, insert: ": *Provided*, That notwithstanding any other provisions of law, the provisions of Public Law 85-804 shall apply to the Northeast Corridor Improvement Program."

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 27 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate Amendment No. 31: Page 22, line 11, strike out "$1,225,000,000," and insert "$1,250,000,000,".

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 31 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$1,250,000,000, of which $25,000,000 shall be available for technical studies."

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 32: Page 22, line 21, strike out "$75,000,000", and insert "$76,500,000.".

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 32 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$76,500,000, of which $1,500,000 shall be available for technical studies".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 33: Page 23, line 1, strike out "$550,000,000", and insert "$403,500,000,".

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 33 and concur therein with an amendment, as follows: In lieu of the sum proposed by said amendment, insert the following: "$553,500,000, of which $28,500,000 shall be available for technical studies and $75,000,000 shall be available for rail service operating payments".

The motion was agreed to.

The SPEAKER. The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 40: Page 27, line 23, insert:

CAPITAL OUTLAY

For acquisition of land and land under water and acquisition, construction, and replacement of improvements, facilities, structures, and equipment, as authorized by law (2 C.Z. Code, sec. 2; 2 C.Z. Code, sec. 371), including the purchase of not to exceed twenty passenger motor vehicles of which eighteen are for replacement only; improving facilities of other Government agencies in the Canal Zone for Canal Zone Government use; and expenses incident to the retirement of such assets; $1,035,000, to remain available until expended.

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 40 and concur therein.

The motion was agreed to.

The SPEAKER. The Clerk will report final amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 49: Page 35, line 12, insert: "*Provided further*, for replacement of the West Seattle bridge in the State of Washington, $50,000,000 to be made available from obligations authorized by 23 U.S.C. 125 on the date of enactment of this proviso: *Provided further*,".

MOTION OFFERED BY MR. M'FALL

Mr. McFALL. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. McFALL moves that the House recede from its disagreement to the amendment of the Senate numbered 49 and concur therein.

The motion was agreed to.

A motion to reconsider the votes by which the action was taken on the several motions was laid on the table.

GENERAL LEAVE

Mr. McFALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include pertinent extraneous matter and tables, on the conference report on the bill, H.R. 12933.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

CONFERENCE REPORT ON H.R. 11504, AGRICULTURAL CREDIT ACT OF 1978

Mr. FOLEY. Mr. Speaker, I call up the conference report on the bill (H.R. 11504) to amend the Consolidated Farm and Rural Development Act, provide an eco-

nomic emergency loan program to farmers and ranchers in the United States, and extend the Emergency Livestock Credit Act, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The Clerk proceeded to read the statement.

(For conference report and statement, see proceedings of the House of July 11, 1978.)

Mr. MADIGAN (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

Mr. FOLEY. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The Clerk continued to read the statement.

Mr. FOLEY (during the reading). Mr. Speaker, I ask unanimous consent that further reading of the statement be dispensed with.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER. The gentleman from Washington (Mr. FOLEY) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. MADIGAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of the conference report on the bill, H.R. 11504, the Agricultural Credit Act of 1978. The conference report revises the credit programs of Farmers Home Administration and makes a number of miscellaneous changes in other agricultural programs of the Department of Agriculture.

At the outset, I wish to express my appreciation to Senator TALMADGE, chairman of the conference committee, for the fair and considerate manner in which he handled the conference. Thanks to his leadership, the conference proceeded with expedition and in a spirit of harmony.

Both the House bill and the Senate amendment were complex and covered many detailed areas involving agricultural credit and other matters of concern to rural America. Title I and title II of the report amend the Consolidated Farm and Rural Development Act to revise the ongoing lending authority of Farmers Home Administration in a number of important respects and provide a new economic emergency loan program to farmers and ranchers in the United States. There were many differences in these titles between the House bill and the Senate amendment—few, however, were of major significance.

Title I of the report largely represents provisions originally included in the House bill while title II generally consists of a balanced compromise between the House and Senate provisions.

Title I would revise the regular credit programs of Farmers Home Administration in the following respects:

First. It extends eligibility for farm ownership and operating loan programs to private domestic corporations, cooperatives and partnerships generally meeting the same requirements as individual borrowers;

Second. It increases limitations on farm ownership loans from $100,000 to $200,000 for direct and insured loans and to $300,000 for guaranteed loans; it increases farm operating loan limitations from $50,000 to $100,000 for insured loans and to $200,000 for guaranteed loans;

Third. It sets interest rates on guaranteed ownership and operating loans at a rate negotiated between the borrower and lender and on direct and insured loans at not more than cost of money to the Government plus a discretionary additional amount of up to 1 percent;

Fourth. It establishes a special direct and insured farm ownership loan program for low income, small or beginning farmers. Interest rates on such loans are set at not more than 5 percent with repayment scheduled so as to provide for reduced installment payments during the initial period of the loan and larger payments later.

Fifth. It increases the maximum grant for rural water and sewer systems from 50 to 75 percent of the project cost and the total annual authorization for such grants from $300 million to $500 million.

Sixth. It adjusts disaster loan interest rates by deleting the provision of existing law requiring that during any period in which the Small Business Administration is making emergency loans under the Small Business Act at an interest rate below the cost of money to the United States, Farmers Home Administration emergency loans are to bear interest at a rate not to exceed the SBA lower interest rate in amounts up to $260,000 to businesses and $40,000 to homeowners. The normal interest rate for emergency loans under existing law which would apply to all future emergency loans is a rate not in excess of 5 percent on loans up to the amount of the actual loss caused by the disaster. The report retains the provision of existing law that an applicant must meet the "test for credit elsewhere" in order to qualify for an emergency loan.

Seventh. It requires Congress to establish loan limits for each of the loan programs under the Consolidated Farm and Rural Development Act. Under this provision, effective October 1, 1979, the aggregate principal amount of loans during each 3-year period thereafter could not exceed the amount authorized by law for that period.

The foregoing provisions as well as a number of other miscellaneous provisions follow substantially the House bill.

There are a few major differences in title I from the bill as passed by the House. First, the conference report does not include a provision in the House bill for a special guaranteed loan program for rural housing.

The House bill provided that any person who would be eligible for a guarantee of a mortgage under section 203(b) of the National Housing Act will be eligible for a loan guarantee under section 517 of the Housing Act of 1949 on a mortgage on a dwelling in a rural area under terms and restrictions no less favorable to the borrower and in amounts at least equal to those provided under section 203(b) of the National Housing Act.

The effect of the House bill upon loans made under section 517 would have been to—

First, establish a mortgage limit of up to $60,000 on single family dwellings;

Second, increase the Federal guarantee to 100 percent from 90 percent now required administratively;

Third, eliminate the "credit elsewhere" test now required by law;

Fourth, change the term of the loan from 33 years now required by law to 35 years if the loan is approved prior to construction; and

Fifth, prevent the Farmers Home Administration from imposing any limitation on eligibility based upon income.

The Department of Agriculture, in a letter to the chairman of the conference committee, dated June 20, 1978, committed itself to implementing administratively an above-average income housing loan guarantee program for rural residents that is very close to the program provided for in the House provision. It was with the understanding that the Department will implement the new rural housing loan guarantee program described in this letter—and to insure flexibility to allow the Department to adjust income limitations and mortgage limits upwards to offset inflation and other changed conditions—that the conferees agreed to delete the House provision.

In particular, the conferees note that the Department's letter to Chairman TALMADGE states that the new rural housing loan guarantee program will serve rural families with incomes between $15,600 and $20,000, but that the Department will continually review the adequacy of these income limits and will make appropriate adjustments, if justified, to these limits at appropriate times. It is intended that, in the event it becomes appropriate to raise the upper income limit above $20,000, the Secretary of Agriculture shall take such action, unless of course, legislation should be enacted prohibiting such action.

The conference substitute included a

Senate provision in title I which did not appear in the House bill. This provision authorizes—but does not require—the Secretary of Agriculture to make, insure, or guarantee loans, not in excess of $1 million per loan, to associations, public and quasi-public agencies, and Indian tribes for the construction, acquisition, and operation of transmission facilities for certain electric systems. These include systems that first, are owned and operated by public bodies located in rural areas, and second, were receiving as of October 1, 1976, bulk power from any of named agencies of the Department of Interior. There will be a "test for credit elsewhere" under which the applicant must show that it cannot obtain sufficient credit from other reliable sources at reasonable rates and terms. Interest or other income from obligations evidencing loans guaranteed under this provision will be subject to Federal income tax. The loan program will be administered by the administrator of the Rural Electrification Administration. The authority to make, insure, or guarantee loans will terminate September 30, 2006. The Rural Development Insurance Fund will be used for financing the loans.

In addition, the conferees accepted a Senate provision which deletes provisions of current law requiring the Secretary of Agriculture to make emergency loans to all eligible persons in first, any area designated by the Secretary as an emergency area on the Secretary's finding that a natural disaster has occurred in the area that substantially affected farming, ranching, or aquaculture operations and second, any area designated as a major disaster or emergency by the President under the Disaster Relief Act. The report requires the Secretary, instead, to make emergency loans to applicants where the Secretary finds that the applicant's farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act.

Title II would establish a new economic emergency loan program ending May 15, 1980, for farmers facing economic stress conditions. Net farm income has fallen from around $33 billion in 1973 to $20 billion in 1977. It is showing improvement thus far in 1978, but there is still a critical need for the program in many areas of the country. The ratio of debt to income has increased from 218 percent in 1973 to 503 percent in 1977. The thousands of farmers who visited each of us earlier this year impressed us with the serious nature of their financial crunch. The economic emergency loan program in title II does not represent the entire answer for farmer needs but it is an important and necessary tool to deal with this issue.

The conference substitute provides that loans may be insured or guaranteed under title II to refinance outstanding indebtedness—including the making of installment payments of principal and interest—on farm or home real estate and other farm and essential home debts. To qualify it is required that such debts cannot be paid unless assistance is provided under title II and that the refinancing is necessary to provide adequate terms within the applicant's repayment ability and assure continuation of the applicant's farm, ranching, or aquaculture operation.

Operating loans for essential needs would also be available, but loans could not be used to purchase or lease additional real estate. The report would give preference to family farms.

The principal amount of loans outstanding to any one borrower under title II would be limited to $400,000, and a title II borrower could not have a total principal amount of loans outstanding under subtitles A and B of the Consolidated Farm and Rural Development Act and title II of the Agricultural Credit Act of 1978 in excess of $650.000. In addition, the total loans outstanding at any one time under the program could not exceed $4 billion.

The maximum period of a title II loan could not exceed the maximum period under the Consolidated Act for similar loans. Thus, loans would be repayable in up to 40 years if secured by realty, and up to 7 years—in special circumstances up to 20 years—if secured by personalty.

Guaranteed loans would be 90 percent guaranteed by Farms Home Administration. Interest for guaranteed loans would be at negotiated rates. The interest rate on insured loans would be at the cost of money plus up to 1 percent.

Title III would extend the Emergency Livestock Credit Act of 1974 until September 30, 1979, as in both the House bill and Senate amendment. It includes a provision of the Senate amendment that with respect to line-of-credit loans guaranteed under the act advances of loan funds within the line of credit made at any time during the original repayment period or authorized renewal period of the loan would be covered by the guarantee, even if made after September 30, 1979.

The report also includes in title III a Senate provision which would make it possible for cattle producers to adopt a beef research and promotion program by a majority rather than a two-thirds vote in a referendum of producers.

The conferees believed there was considerable merit to this provision. The cattle industry is just now recovering from many years of overproduction and depressed prices and entering a period of shortage. The cattle industry is typically cyclical in nature. The beef research and promotion programs should help provide stability to the industry by bringing production and demand more nearly in balance thereby helping both farmer and consumer. It is a self-help program financed solely by assessments from the cattlemen. Any producer who does not wish to participate may obtain a refund of his assessment simply by making a request therefor.

Title IV of the report consists of several conservation provisions adopted from the House bill. It authorizes payments for farmers carrying out emergency conservation measures. It also authorizes the Secretary to make payments to agricultural producers who carry out emergency water conservation and water enhancing measures during periods of severe drought. Finally, it authorizes the Secretary in cooperation with land owners and land users to undertake such emergency measures for runoff retardation and soil erosion prevention as he determines necessary whenever fire, flood or other natural occurrence causes a sudden impairment of a watershed.

Title V adopts a Senate provision which authorizes the Secretary to raise the target price for rice in any year in which an acreage reduction, "set aside" program is in effect. Comparable provisions for wheat, feed grains, and upland cotton were adopted earlier this year in Public Law 95–279.

Mr. Speaker, I urge that the Members join me in support of the conference report to accompany H.R. 11504. It is a balanced bill which helps meet the essential credit needs of rural America and enable farmers to continue to produce and contribute to a sound and healthy national economy.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. FOLEY. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Speaker, as the gentleman knows, I have been quite interested in guaranteed loans for rural housing, and an amendment was adopted on the floor of the House and then the bill went to conference.

At the time the gentleman was in conference, as I understand it, he received, or the chairman of the conference did, from the administration, as set forth in the report on pages 22, 23, and 24, a letter assuring that the administration will put into full force and effect a guaranteed housing program.

It is not everything that we would like to have had, but it is a substantial program, as I understand it.

I just want to make this clear if it is correct: The administration is committed fully to implementing a guaranteed housing program as set forth in this letter; is that the gentleman's understanding?

Mr. FOLEY. That, indeed, is not only my interpretation, but I believe I can speak for all of the conferees in saying that those are the assurances made to the conference committee by the administration, which led to decisions by the conference committee to delete certain provisions of the House bill.

Mr. SMITH of Iowa. In further explanation of that, is it the gentleman's recollection that the opposition of the administration was on the basis that they

would not have the necessary personnel; and now that we are providing personnel in the appropriations bill for fiscal year 1979, that would, therefore, mean, certainly in the spirit of the administration's promise and since they opposed it on that basis, that they will use some of these additional personnel for this purpose; is that correct?

Mr. FOLEY. I believe that was one of the principal objections; and while we had no particular commitment with regard to the use of the personnel, I think the spirit of the undertaking made by the administration was that they would undertake to meet the commitments they have made to the conference committee. Therefore, in lieu of the conference committee insisting on the provisions of the bill, as passed by the House, on the gentleman's amendment, the conference committee took those assurances at face value and modified the provisions of the House bill.

Mr. SMITH of Iowa. And based on that, it can be expected that they will use some of these additional personnel; is that correct?

Mr. FOLEY. I believe they will. That is the impression which the committee of conference got.

Mr. SMITH of Iowa. Mr. Speaker, I thank the gentleman.

Mr. MADIGAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this conference report as explained in some detail by Chairman FOLEY.

I support this conference report with some reservations, which I will explain in more detail later. Nevertheless, the amendments to the Consolidated Farm and Rural Development Act which are incorporated in title I, the extension of the Emergency Livestock Credit Act of 1974 contained in title II, and the authorization for the emergency conservation program set forth in title IV are badly needed legislation which should be enacted promptly to give farmers, ranchers, and cattlemen some credit relief, some beef research and promotional assistance and authority for emergency measures to control wind erosion on farmlands or to rehabilitate farmlands damaged by floods or other natural disasters.

Title I of this conference report retains many of the provisions that appeared in H.R. 6407, which I introduced on April 20, 1977.

In these days of tight credit, increasing costs of production on farms and spiraling double-digit rates of inflation, we cannot act too soon to bring assistance to those farmers, producers, and rural communities who look to the Farmers Home Administration for their credit needs.

While the cattlemen and livestock producers are working their way out of one of the most seriously depressed market periods in recent history, they need this 1-year extension of the Emergency Livestock Credit Act to help them get back on their feet. The fact that beef import quotas recently have been increased and have had a depressing effect on the livestock markets emphasizes this need for credit extension at least for another year.

The amendment to the Beef Research and Information Act was supported by the American Farm Bureau and the National Cattlemen's Association and will permit producers to vote on a program to promote research and information about the use of beef products.

Of course, the emergency conservation program—under which the Secretary is authorized to make payments to agricultural producers who carry out emergency measures to control wind erosion of farmlands or to rehabilitate farmlands damaged by wind erosion, floods, hurricanes, or other natural disasters—has been funded by Congress for many years. However, we have never had a continuing authorization for the program, and title IV of this bill would correct this oversight.

Turning to title II of the bill which establishes a new credit program under the Emergency Agricultural Credit Adjustment Act of 1978, I have some continuing reservations. Upon consideration of this bill in the House, I offered a substitute for title II which I believe would have helped more farmers, especially those who had the greatest need.

In my opinion, title II as written—which is primarily a consolidation loan program, not only for family farmers, but for large farming operations not otherwise eligible under the programs administered by the Farmers Home Administration—is underfunded and employs a shotgun approach to emergency agricultural credit needs.

In the subcommittee markup where the existing language of title II was first adopted, my colleague, Mr. POAGE, who knows these farm credit programs about as well as anyone in this country, observed that with the loan limits and the funding provided in title II, it hardly would be enough to take care of two of the counties in his congressional district.

I had favored the approach of a truly separate emergency program, whereby FmHA could extend credit it farmers who could not meet principal and interest payments on loans as long as the lending institutions, if FmHA credit were extended to cover these payments, would extend operating loans to such farmers for a period to see them over this emergency.

Admittedly, this may have entailed a little more work on the part of the FmHA administration of the program and some additional training of personnel to meet a broader but critical need, but FmHA did not want a program that would just zero in on emergencies.

Under titles I and II of the conference report, a FmHA borrower could receive a total of $650,000 financing under FmHA programs including financing under title II. I think we can safely assume that $400,000 of that amount will be title II funds in most cases, since FmHA is "out of money" for the rest of this year to finance farmers under its conventional programs.

A survey conducted by FmHA estimated that of the total farms in the United States (2,752,000 in 1977), less than 2 percent (49,200 would seek title II financing if a $400,000 loan limit were placed on the "emergency" program. In my own State of Illinois, FmHA estimated that less than 1 percent (800) of the farmers would apply for loans under title II and that in Texas—notwithstanding Mr. POAGE's prediction), the demand would be less than 1 percent (1,800) of the farmers.

Even FmHA estimated it needed $5.5 billion to fund the program with that small a level of participation. I believe they will have to come back for more money. I believe so because we appear to be moving to a policy of low farm prices, high grain reserves on farms to be dumped as market prices rise, and a push for yet another international grain reserve which will depress prices even further.

With little relief in sight for farm prices, it is extremely important that we pass this legislation so that those farmers who are in need of farm credit may apply to FmHA for help. Title II, while imperfect and promising more than it can possibly deliver to farmers, is better than nothing.

It now appears likely that depressed farm income is not going to be much higher in the foreseeable future. Once again, farm exports are becoming a tool of foreign policy. For instance, news reports in today's papers claim that, "the administration's heaviest economic leverage against the Soviet Union is grain trade."

I understand that over $1 billion in grain sales are contemplated to be made to the U.S.S.R. this year. I am in strong support of preserving at least the grain aspect of "détente" with Russia. I happen to believe that depressed grain prices already reflect that farmers bear a disproportionate share of the fight against inflation. I do not want farmers to have to suffer at the hands of policymakers who may want to use grain trade as a lever against Russia.

I agree with Secretary of Commerce Kreps, who is reported as opposing trade reprisals because "the circumstances are rare in which we can affect policy."

But I fear that Secretary Kreps may not be the prevalent voice. Thus, I urge you to support this farm credit bill because of what the immediate future may be for the American farmers.

Mr. FINDLEY. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to my colleague, the gentleman from Illinois (Mr. FINDLEY).

Mr. FINDLEY. Mr. Speaker, I have

been impressed with the vision and diligence the gentleman has applied to this measure since its inception in the Committee on Agriculture. Like him, I voted against it in the form in which it emerged from the committee. I think he has made a persuasive case for voting for it at this time.

I share his concern about the prospect that grain trade abroad may be used as a tool of international politics. That would be sad news not just for the farmers of our Nation but also for our entire economy. I hope many other voices will be raised with this same concern and hopefully to the level that will cause the administration to back away from any such policy.

Mr. MADIGAN. I thank the gentleman from Illinois (Mr. FINDLEY) for his remarks.

Mrs. SMITH of Nebraska. Mr. Speaker, will the gentleman yield?

Mr. MADIGAN. I yield to the gentlewoman from Nebraska.

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in support of the adoption of the conference report on H.R. 11504, the Agricultural Credit Act of 1978. I urge my colleagues to give the conference report the same overwhelming vote H.R. 11504 received when it was before the House of Representatives on April 24. The subsequent Senate action and the adjustments in the conference committee have left the primary thrust of the bill intact—to provide additional financial assistance to hard-pressed producers of food and fiber.

This crisis in the agricultural community did not happen overnight. Those of us from farming districts could see the credit crunch building up over the past few years. It did not take a professional economist to see what was happening in the face of low farm prices and accelerating inflation. We have been sounding the warning but our cries for action were not heeded until this session of Congress. It was just a question of time until many of our producers, especially those just starting out in agriculture, would be driven to the wall.

This legislation is not going to become law soon enough to save some of those operators. They have already been forced into bankruptcy and have had to liquidate their farming operations and give up a way of life they preferred. It is unfortunate that the bill could not have gone to conference soon after the Senate approved its version early in May. The time factor is so critical, that extra 60 days would have made a world of difference.

If the county office of the Farmers Home Administration can process all of the applications expeditiously, the extra assistance provided under this act can enable hundreds and thousands of our producers to hold on until improved commodity and livestock prices can put them over the hump. The State Director for the Farmers Home Administration in Nebraska has said that 1,000 additional emergency loans can be made to Nebraska farmers and ranchers when this bill becomes law.

As several of my colleagues pointed out during the debate on this bill, more credit is not the overriding solution to the farm crisis. Many of the operators are over their heads in credit obligations now. What they really need is higher farm prices. As prices improve, they can retire some of these obligations and get their heads above water. Nevertheless, this assistance, as late as it is, will be gratefully received in the farm community. We should lose no more time in clearing it for the White House. I urge prompt action by the House of Repretatives. We have delayed long enough in making the changes authorized by this bill.

Mr. FOLEY. Mr. Speaker, I yield such time as he may consume to the distinguished chairman of the Subcommittee on Conservation and Credit of the Committee on Agriculture, the gentleman from Tennessee (Mr. JONES).

Mr. JONES of Tennessee. Mr. Speaker, the Agricultural Credit Act of 1978 represents many months of work by the House and the Senate and the administration to revise and reform the Farmers Home Administration credit programs and to establish a new, temporary, economic emergency loan program to help farmers who are facing one of the most critical financial situations in many years.

Title I is similar to legislation submitted to the Congress by Executive Communication and introduced by request as H.R. 8315. The Agricultural Credit Act retains the basic thrust of the Administration's proposal which, incidentally, is similar to legislation introduced by the former chairman of the Conservation and Credit Subcommittee, the Honorable Bob Bergland.

Title II addresses the ongoing economic depression in the agricultural sector which is characterized by a plummeting realized net farm income. In 1973 net income per farm was $10,610 but by 1977 this figure had dropped to $7,540. A decrease of such magnitude cannot be tolerated by any sector of our economy without seriously impairing that industry.

Title III extends another temporary emergency credit program developed for the livestock industry in 1974. It would be extended until September 30, 1979. There are indications that the livestock industry has begun to pull out of its slump and I feel the one-year extension should be sufficient to address his problem as prices improve.

Additionally, title III would provide that cattle producers could vote in a referendum to adopt a beef research and promotion checkoff program by a majority rather than two-thirds margin.

Title IV was adopted as a floor amendment in the House and addresses emergencies brought on by natural disasters and basically authorizes by statute two programs which we have been carrying on through other authorities.

Title V would authorize the Secretary of Agriculture to raise the target price for rice in any year in which an acreage reduction program is in effect. We adopted similar provisions for wheat, feed grains, and cotton this year in the Emergency Agricultural Act. Title V simply brings rice into line with the other commodities.

In agriculture, as in other segments of our economy, there has been a massive increase in the need for capital and financial credit. Production costs have skyrocketed and land prices continue to escalate rapidly. According to the U.S. Department of Agriculture, the average per acre value of farm real estate in March 1971 was $204 per acre. By November 1977, the value had more than doubled to $474 per acre, for an increase of 132 percent. Land in our most productive areas has escalated in price to a much greater degree than even this. At the same time, operating costs and demand for short- and intermediate-term credit have escalated along with land costs. Again, according to USDA, the index of prices paid by farmers increased 66 percent from January 1972 to January 1978. A 90-horsepower tractor which cost $10,000 in 1972 had increased to $19,200 in 1977. A medium sized combine which cost $14,700 in 1972 had escalated by 136 percent to $34,700 in 1977.

In addition to the increase in the overall index of cost to farmers and the increase in cost of specific items, there has been a continuing increase in the size of operations thus requiring more total dollars for all production items and an increased reliance in borrowed capital.

This bill addressed both the long-term agricultural credit needs and the emergency situation farmers are now facing. Farmers have been telling the Agriculture Committee for a long time that adequate credit availability is more important to them than is a subsidized interest rate. Because of this, the limitations on individual loans for both operating and real estate would be increased. In addition, the interest rate on the farm ownership loans would be raised to a rate equal to the cost of money to the Government plus an add-on of up to 1 percent. This would be the same rate as now charged for the farm operating loan.

We especially need a higher program activity level for the farm ownership loan program. Presently the Farmers Home Administration is able to make about one farm ownership loan for every three applications which are filed. By reducing the interest subsidy on the direct and insured loans, and by making adjustments in the guaranteed loan which would carry a commercial rate, Congress and the administration should in future years increase the availability of loan funds for this program.

I want to point out to my colleagues that the reduction in interest subsidy on Farmers Home Administration loans will

result in a net cost savings for the credit programs in titles I, II, and III.

Regardless of the fact that this bill does not cost much money, it will provide essential assistance to many of our farmers who are facing a credit crunch. Farmers and ranchers are currently experiencing severe financial problems caused by economic losses, low prices and high costs of production. There has been an overextension of too much short-term credit and there is a shortage of credit from the normal lenders. One of the provisions of the emergency title will provide a refinancing package so that farmers can get on a more stable and manageable economic basis.

The House Agriculture Committee is contacted daily by farmers, by farm representatives, by State officials. and governors requesting that we expedite the passage of this bill because many farmers are facing foreclosure if we do not move in a hurry. The Farmers Home Administration staff informs me they will have the emergency regulations ready to publish immediately following the President's signature. I must stress that I get calls daily from farmers, lenders and public officials urging us to expedite this measure.

One important provision of H.R. 11504 in which I have been interested in for a long while is the establishment of a low income, small or beginning farmer loan program. This provision sponsored by Representative GEORGE BROWN would allow young or other beginning farmers to get their start.

They would be able to borrow money at a 5 percent interest rate with a special repayment schedule providing for reduced installment payments during the initial period of the loan and larger payments later.

Land prices has so escalated in recent years that it is virtually impossible for young people to become farmowners unless they inherit the land. I have received many complaints about this situation both from my district and from across the Nation. The Brown amendment will have long-term benefits for young farmers and for agriculture in general.

Another change which should go a long way to reducing frustrations of farmers and their Congressmen is natural disaster situations. One of the first actions I took as chairman of the Subcommittee on Conservation and Credit was to hold hearings on our emergency programs especially as they were operating under the drought conditions. This bill makes some changes in the FmHA disaster loan program which will make it operate much more effectively.

The secretarial emergency designation would no longer be required in order to make disaster loans to farmers. Instead emergency loans would be made when the applicant's farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster. I feel this simplified procedure will end a lot of the problems with this program.

Title V of this conference report would put into statute two separate programs currently operated by separate agencies. The programs have operated in the past under other authorities. I want to make clear that title IV which I offered on the floor with the able assistance of our colleague, Representative BERNIE SISK, is not intended to change in any way which agency should carry out the programs.

One, the emergency conservation measures program is ably administered by the Agricultural Stabilization and Conservation Service and the elected county committeemen. Technical assistance is provided by the Soil Conservation Service. The program provides conservation assistance and cleanup assistance to farmers to rehabilitate their farms if it is damaged by natural disasters. This amendment clarifies that assistance would be available to carry out emergency water conservation measures in drought situations.

Section 403 of H.R. 11504 puts into law a program operated by the Soil Conservation Service and commonly referred to as the section 216 program. Under section 403 the Secretary would be authorized to undertake such emergency measures for runoff retardation and soil-erosion prevention as he deems necessary to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire, flood, or any other natural occurrence causes a sudden impairment of that watershed. This program is virtually identical to the section 216 program now carried out by the Soil Conservation Service and I would expect them to continue doing the outstanding job they have done with this program in the past. The main purpose is to clarify the funding of the program whereby it is now limited to $300,000, but we actually spend much more than this every year through supplemental appropriations.

Title IV makes clear that the Secretary may use, but is not required to use the services of the Commodity Credit Corporation in carrying out these programs. I interpret this to facilitate the funding of the assistance and do not intend that it should impact on who actually carries the programs out.

In total, H.R. 11504 represents a package of legislative initiatives which have broad support and which need to be adopted immediately. We have worked very hard on the provisions of the bill and the credit programs in particular, are of the utmost importance to American agriculture. I urge my colleagues to adopt the conference report.

Mr. MADIGAN. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Mr. GRASSLEY).

Mr. GRASSLEY. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of the conference report on H.R. 11504, the Agricultural Credit Act of 1978.

This legislation makes several needed changes, such as increasing the limitation on farm ownership and operating loans to a level which reflects the large increases in recent years in the cost of getting into farming and operating a farm. As a result of the tremendous increase in the cost of buying and operating a farm there has been a growing number of partnerships and family corporations involved in farming.

Conditions necessitated this evolvement. The legislation we are considering today makes these two groups also eligible for Farmers Home Administration programs which I consider a needed and desirable change.

In addition, this measure addresses the credit needs of farmers who are in a financial crunch because of low commodity prices and, in some cases, adverse weather conditions last year. Farmers from all sections of the country came to Washington earlier this year explaining to their elected officials the financial problems. Particularly hard hit were the young farmers who have recently gotten into farming. These groups nave been waiting for Congress to act. These farmers need our show of support, and I urge my colleagues to join me in support of this conference report, and vote in favor of this legislation in order that we can get it to the President for his signature.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the ranking minority member of the full committee, the gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of the conference report on the Agricultural Credit Act of 1978.

This bill which, among other things, would increase limits on farm operating and ownership loans is long overdue. The loan limits differentiate between insured and guaranteed loans—permitting a higher limit on the latter loans.

The loan limit heretofore was $50,000 for an operating loan and $100,000 for an ownership loan. Given the inflation in land prices and the increases in the cost of production for crops produced by farmers, these existing limits are unrealistically low. The changes are overdue.

This bill also increases water and waste disposal facility grants from $300,000 to $500,000 and increases the percentage of Federal grants from 50 to 75 percent, as well as the authorization for total spending. However, the Federal requirements for pollution standards have increased the need for local communities to upgrade their facilities. This will aid these smaller local communities to meet these standards.

While title II may not offer enough funding to farmers who are in a tremendous credit squeeze and overburdened with debt and low farm prices, it will provide help to many farmers. I urge FmHA to implement this emergency program promptly. Perhaps, if title II is implemented promptly. this program, together with the funding for other programs provided in the 1978 Agriculture Appropriations Act will give some needed credit relief to our farmers.

I also commend the conferees for including an amendment to the Beef Research and Information Act so that livestock producers may vote on such a program. The American Farm Bureau

Federation and the National Cattlemen's Association support this as do many livestock producers in my district. I believe its inclusion in this bill improves on this important piece of legislation.

Further, I commend to your support title IV of the conference report which authorizes the emergency conservation program as a permanent program. It has been in effect for many years and has had good results with farmers and conservationists.

Finally, I wish to state that as we take up this important piece of farm credit legislation, it may be appropriate to call to your attention that the Carter administration is considering trade reprisals against Russia. Our farmers are in a bad credit situation mainly because of poor farm prices. The administration's foreign trade promotion record is poor. Now I fear we may face a situation where our grain trade with Russia may be used as a diplomatic reprisal. I urge the President not to get into such an international political thicket that can only bring great harm to our farmers and further depress prices.

In conclusion, I urge you to support this conference report. It will bring tardy though needed help to rural areas.

Mr. FOLEY. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from New York (Mr. RICHMOND).

Mr. RICHMOND. Mr. Speaker, I rise in support of the conference report to the Agricultural Credit Act, legislation designed to meet the immediate and pressing needs of many of this country's family farmers.

But, although I fully support this legislation, I will move to recommit with instructions to delete section 302, a section not germane to credit legislation which adds a revised beef promotion program.

This section, inserted without public hearings without public debate, will try to restore an advertising campaign that will add to the retail cost of beef at a time when consumers know, all too well, the effects of the inflationary food price spiral. This $50 million program is being strongly opposed by the Consumer Federation of America.

This section, however, not only tries to resurrect a promotion scheme detrimental to consumers, but actually changes the rules for the farmers, rules this Congress has established for every previous commodity referendum. When we authorized the first Beef Promotion Board vote—with 170 of us opposing it—it was with the standard two-thirds vote requirement to pass. The plan was then soundly rejected by the farmers with only 7 percent of America's cattlemen supporting it. Now, we are asked to pass an authorization lowering the number of farmers needed to pass this program to only 50 percent of those voting—a dangerous precedent we must not establish. A precedent being strongly opposed by the National Farmers Union.

My motion to recommit with instructions will delay the passage of this much needed Agricultural Credit Act by only a matter of days and will, in the long run, help keep food prices down while supporting the will of the cattlemen, who, by their votes, refused to support the establishment of the board.

Mr. FOLEY. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Speaker, I strongly support this bill. I think it will help the credit problems in rural America. During the House consideration of the bill I offered an amendment dealing with mortgage guarantee programs offered an amendment dealing with mortgage guarantee programs offered by the Farmers Home Administration. Actually this was an amendment which had been spawned and introduced by the gentleman from Iowa (Mr. SMITH). Basically that amendment was done in such a way so as to provide that the mortgage guarantee program of the Farmers Home Administration would be equal to that of HUD's program. Realizing that there continues to be an antirural bias particularly in housing programs in this country, we believe that the effect of the amendment would have been to equalize that. In conference we met and discussed the issue, and upon promises made by Gordon Cavanaugh, the head of the Farmers Home Administration, and a letter signed by Alex P. Mercure, Assistant Secretary of Agriculture, which appears on pages 23 and 24 of the conference report, I agreed to recede to the Senate on the particular amendment on the assumption that the Farmers Home Administration would go ahead and implement a mortgage guarantee program, which they had promised to do through the fiscal years ending 1978 and 1979. Upon that promise, Mr. Speaker, I agreed to recede, and I think they have made a fairly clear statement of their intent to implement this program which will provide significant additional funds to rural America in the form of mortgage guarantee loans. However, I, as well as other people, will be watching the Farmers Home Administration quite closely to see that they do, in fact, implement this program, because in the past I have noticed that on occasions they have blamed the lack of manpower and other reasons for not doing so.

I commend my chairman for his cooperation in this regard, and I urge the Members of the House to approve the conference report.

I yield back the remainder of my time.

Mr. MADIGAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana (Mr. MARLENEE).

Mr. MARLENEE. I thank the gentleman for yielding.

Mr. Speaker, this is critical legislation. It has been carefully drawn, and any move to recommit will unnecessarily delay this legislation. I would urge that the Members pass this as soon as possible so that the farmers can go ahead with their plans so they can obtain the necessary credit. We worked on this, and we met all the criticisms and have ironed this out in the Senate. I think this legislation should be passed as soon as possible.

Mr. Speaker, the last few years in agriculture have been characterized by low market prices and increasing production costs. The intent of this legislation, H.R. 11504, is to assist those farmers and ranchers who find themselves in a severe credit crunch due to the economic conditions of American agriculture. These agricultural producers are among the most efficient and well managed in the world and many are the young people upon which the future of American agriculture depends.

Producers have found they can no longer purchase the necessary land, machinery, or supplies because their creditors can no longer provide that one essential input—capital. These creditors, the local banks, Federal land banks, and Production Credit Associations are unable to provide sufficient credit because of agriculture's current stress-filled economic conditions.

The farmers and ranchers need credit to keep operating in this time of low prices and increasing production costs. The consumers need this legislation so that a bountiful food supply will be maintained. These loans are not designed to support the inefficient producer, but to help those young farmers who are trying to become established, and the mature farmer who has had recent difficulties.

Title I raises the loan limits for both the farm ownership and operating loans. The present limitations just do not offer the farmer enough to remain in business, as the established farmers continue to fall farther and farther behind on mortgage and operating loan repayments. This bill raises the loan limits to a much more realistic level for a modern-day producer.

Today, when a producer folds because there is no money available in the FmHA, which is the lender of last resort, then we are losing experienced, efficient, and well-managed operators. This is a tragic loss for the operator, his family, the community and for the industry.

It should be pointed out that the FmHA loan programs have some of the lowest default rates of any Government lending programs—less than 1 percent default on their ownership and operating loans. I seriously doubt that many other Government-run programs are that successful.

In addition, the conference report contains a provision which allows a majority of cattle producers to vote for a beef promotion program to be payed for out of their own pockets. This program is completely voluntary and any individual wishing not to participate in the program may request and receive a total refund at the end of the year. This is a self-help program which the livestock industry itself must approve through an internal referendum.

It is an excellent program from the standpoint of serving those people for whom it was designed.

This legislation provides a meaningful response to the needs and requests of

America's farmers and ranchers. The very need for such legislation is an indication of the severity of the drastic economic situation which exists in agriculture today. I urge the support of my colleagues for this important piece of farm credit legislation.

Mr. FOLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. HIGHTOWER).

Mr. HIGHTOWER. Mr. Speaker, I rise in support of the conference committee report. Mr. Speaker, on each visit home I met my delegation of farmers who consistently asked, "What are you doing? What has been done?" We had thousands of them come to Washington during the spring months, and they expected an immediate response to their plight. Those of us who were trying to represent them, and in talking to our constituents, tried to convince them that we could not accomplish what they wanted to be done overnight, but they think that we have taken far too long to be responsive to a very serious plight of the economics of agriculture in this country.

Mr. Speaker, this is not all the answer. I am not sure it is even very much of the answer that is needed, but it is a very important piece of legislation that is very much needed in agriculture in America.

Mr. Speaker, cattlemen have been emerging from a severe 4-year economic depression. They are at the turnaround point in the cattle cycle, setting the stage for a buildup phase following severe liquidation. The industry must get away from the "peaks and valleys" caused by the cycle. A Beef Board authorized in the Beef Research and Information Act (BRIA), placing money in marketing research and produced education, could be successful in minimizing these sharp swings in production, which are highly detrimental to cattlemen and consumers.

The amendment to the BRIA contained in section 302 of title III of H.R. 11504 is a simple amendment to change the voting procedures in the referendum to create a Beef Board. It modifies the present two-thirds voting to a simple majority. The two-thirds voting procedure was added to the law when it was enacted 2 years ago at the insistence of the American Farm Bureau Federation. Subsequently, the AFBF has changed its policy and is now in complete accord with the simple majority approach.

There have been allegations that all other commodity referendums require a two-thirds vote. This is not true. Most other commodity referendums require a two-thirds producer vote or a simple majority of producers representing two-thirds of the commodity voting in the referendum.

The simple majority vote being sought in the referendum leaves the decision on the one-man, one-vote basis. For example, a 4-H or FFA member with one animal will have just as much say-so in the referendum as a cattleman with thousands of cattle. Just as important is that any cattleman also can apply for a refund if so desired.

The previous referendum failed because approximately 57 percent voted "yes." The will of the majority was lost because of the 43 percent voting "no."

Mrs. HECKLER. Mr. Speaker, I strongly oppose the beef promotion checkoff program that was tacked onto this Agricultural Credit Act, H.R. 11504.

Mr. Speaker, again, what we have here is still another example of an obscure agricultural program supported by the farm establishment and being rushed with unseemly haste through the Congress without significant consultation with consumer-oriented Members such as myself.

Beef already is the most popular meat in this country. Americans seem ready to pay almost any price for it. The annual increase in beef prices may exceed 12 percent in 1978. But per capita consumption of beef remains at high levels—perhaps it will reach about 120 pounds per person this year, down slightly from 125 pounds last year.

Nevertheless, we are now asked to approve an unusual change in this farm law that would make it easier for farmers to vote to assess themselves $50 million or so for an advertising and promotion program—call it education if you will—aimed at persuading Americans to eat and buy still more beef.

Nearly all other farm promotional programs of this type—for such commodities as eggs, wool, potatoes, cotton, wheat, pears—require approval of a two-thirds majority of those voting. Yet, beef is somehow different. This bill would change the approval requirement to only a 51-percent majority.

Without question the $50 million to be skimmed from cattle producers would—if the promotion program is successful—increase beef consumption and beef prices. With what consumers already pay today for meat—especially beef—they do not need any changes in the law that will directly or indirectly result in higher retail prices. I urge my colleagues to recommit this bill with instructions to delete section 302, the beef promotion provision.

● Mr. ALEXANDER. Mr. Speaker, I rise in enthusiastic support of this conference report, a liberalization of Farmers Home Administration credit policies that has been long awaited by the Nation's family farmers.

The small, family-owned farming operation in this country has been in jeopardy due to rising production costs and unpredictable returns. The adjustments in loan levels and the additional avenues of credit contained in this compromise agreement will help insure that this vital segment of the economy can continue to compete in the international market and produce the food and fiber upon which all Americans, and the world, depend.

The conference report raises the mortgage loan ceilings on both Government-insured and guaranteed loans, as well as the ceilings on both insured and guaranteed farm operating loans. The bill provides for consolidation or refinancing of FMHA debts through an expanded emergency credit program for producers facing bankruptcy or foreclosure; allows, for the first time, family farm corporations, partnerships, and farm cooperatives to be eligible for FMHA credit; and establishes a new credit program to assist the young and beginning farmer.

The conference agreement extends the Emergency Livestock Credit Act through September 30, 1979, and authorizes payments for farmers carrying out emergency conservation measures. And the agreement authorizes USDA to raise the target price for rice in any year in which an acreage set-aside is in effect, thus providing similar treatment as for grains and cotton.

Mr. Speaker, this agreement has been long in the making. It is the second response that this Congress has made to the farmers of the Nation who earlier this year traveled in large numbers to Washington to state their case for assistance from the Federal Government.

This bill, coupled with the previously approved legislation to raise target prices and loan rates and legislation awaiting action by the full House to bolster the development of export markets abroad, are indicative of the broad range of support and understanding that the Congress has for the American farmer—the most productive, yet least appreciated, partner in our economic system today.

As the sponsor of legislation similar to this compromise agreement, I urge its adoption.●

● Mr. BROWN of California. Mr. Speaker, I wish to add a few words on the bill before us, the Agricultural Credit Act of 1978. This legislation truly has been the product of the political process. It was initiated during the height of the American Agriculture Movement as a means of easing the credit crunch faced by many of our farmers. It is now a broad package of credit proposals, some of which I strongly support and others that could cause critical problems in the future. In addition, the conference agreed to an extremely questionable Senate provision which amends the Beef Research and Information Act to allow implementation of beef research and promotion programs agreed to by a simple majority of beef producers rather than the presently required two-thirds of those voting. This establishes a serious, possibly harmful precedent for other such programs in other commodities, while it removes the present assurance that most of the producers must agree before costly programs are initiated.

But even in light of my reservations on this provision and with strong hesitations over this bill's encouragement of the trend toward overcapitalization and large farms through the raising of credit limits and refinancing of debts, I still find myself standing before this august body to recommend passage of the bill. I do so for very selfish reasons.

The legislation includes two very important provisions: First, a new loan program for small and new family farmers which has an eased payment program at 5 percent interest levels by scheduling small payments in the beginning which will be raised slowly as each year passes, amortizing the difference before the debt is finally due, and second,

the inclusion of production cooperatives on the list of legally acceptable recipients for FmHA ownership and operating loans.

These two items are important enough to warrant rapid passage of this legislation. The need to assist small farmers and farm production cooperatives in their diligent struggles to become successful farmers is immediate.

And we may find that we are doing more than simply helping some poor, small farmers. As energy costs rise, transportation costs rise, fertilizers and technology costs rise, land costs rise, and thus food costs jump, the smaller farms and farm cooperatives may provide the progressive, mose efficient style of farm in the near future. Keeping them intact, and helping these farmers to develop their own techniques will assist us all.

So I urge my colleagues to vote for this legislation with reservations.●

Mr. MADIGAN. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. FOLEY. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. Speaker, I move the previous question on the conference report.

The previous question was ordered.

MOTION TO RECOMMIT OFFERED BY MR. SYMMS

Mr. SYMMS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the conference report?

Mr. SYMMS. I am opposed to the conference report, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. SYMMS moves to recommit the conference report on the bill, H.R. 11504, to the Committee of Conference.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

Mr. RICHMOND. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on ordering the previous question on the motion to recommit.

Mr. RICHMOND. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

PARLIAMENTARY INQUIRY

Mr. SYMMS. Mr. Speaker, a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. SYMMS. Mr. Speaker, is the House not voting on the Symms motion to recommit?

The SPEAKER pro tempore. No; the gentleman from New York objected to the vote on ordering the previous question on the motion to recommit. A vote is automatic.

POINT OF ORDER

Mr. BAUMAN. Mr. Speaker, a point of order.

The SPEAKER pro tempore. The gentleman will state it.

Mr. BAUMAN. Mr. Speaker, the gentleman from Maryland distinctly heard the Speaker put the question on the motion to recommit.

The SPEAKER pro tempore. No. The gentleman from Maryland is in error. The Chair put the question on the previous question. The gentleman from New York objected to ordering the previous question.

Mr. BAUMAN. Mr. Speaker, the gentleman from Maryland heard the Speaker say, "Without objection, the previous question is ordered."

The gentleman from New York was not on his feet.

The SPEAKER pro tempore. The gentleman from New York was on his feet and did object.

Mr. BAUMAN. Mr. Speaker, I will accept the Chair's charitable explanation of what the Chair did.

The vote was taken by electronic device, and there were—yeas 282, nays 105, not voting 45, as follows:

[Roll No. 572]

YEAS—282

Abdnor	Daniel, Dan	Hefner
Akaka	Daniel, R. W.	Heftel
Alexander	Danielson	Hightower
Ambro	Davis	Hillis
Anderson, Ill.	de la Garza	Holland
Andrews, N.C.	Derrick	Hollenbeck
Andrews, N. Dak.	Derwinski	Holt
	Devine	Horton
Annunzio	Dickinson	Hubbard
Applegate	Dicks	Huckaby
Archer	Dingell	Hyde
Armstrong	Dornan	Ichord
Ashley	Downey	Ireland
AuCoin	Duncan, Oreg.	Jacobs
Badham	Duncan, Tenn.	Jeffords
Bafalis	Eckhardt	Jenrette
Baucus	Edwards, Ala.	Johnson, Calif.
Bauman	Edwards, Okla.	Johnson, Colo.
Beard, R.I.	English	Jones, N.C.
Beard, Tenn.	Erlenborn	Jones, Okla.
Bedell	Ertel	Jones, Tenn.
Bevill	Evans, Del.	Jordan
Blouin	Evans, Ga.	Kazen
Boggs	Evans, Ind.	Kelly
Bonker	Fary	Kemp
Bowen	Fenwick	Keys
Breaux	Findley	Kildee
Breckinridge	Fish	Krebs
Brinkley	Fisher	Lagomarsino
Brooks	Fithian	Latta
Broomfield	Flippo	Leach
Brown, Mich.	Flood	Lederer
Brown, Ohio	Foley	Lehman
Broyhill	Ford, Tenn.	Lent
Buchanan	Fountain	Levitas
Burgener	Fowler	Livingston
Burke, Fla.	Fuqua	Lloyd, Calif.
Burleson, Tex.	Gammage	Lloyd, Tenn.
Burlison, Mo.	Gaydos	Long, La.
Butler	Gephardt	Lott
Byron	Ginn	Lujan
Carney	Glickman	Luken
Carter	Gonzalez	Lundine
Cavanaugh	Goodling	McClory
Cederberg	Gore	McCloskey
Chappell	Gradison	McCormack
Clausen, Don H.	Grassley	McDade
	Gudger	McEwen
Cochran	Guyer	McFall
Cohen	Hagedorn	McKay
Coleman	Hall	McKinney
Collins, Tex.	Hamilton	Madigan
Conable	Hammer-schmidt	Mahon
Corcoran		Marks
Corman	Hanley	Marlenee
Cornwell	Hansen	Marriott
Cotter	Harkin	Martin
Coughlin	Harsha	Mathis
Cunningham	Hawkins	Mattox
Mazzoli	Quillen	Steiger
Meeds	Rahall	Stockman
Meyner	Railsback	Stump
Michel	Regula	Symms
Mikulski	Rhodes	Taylor
Mineta	Risenhoover	Thone
Mitchell, Md.	Robinson	Thornton
Mitchell, N.Y.	Roe	Traxler
Moakley	Rogers	Treen
Mollohan	Rooney	Trible
Montgomery	Rudd	Tucker
Moore	Runnels	Ullman
Moorhead, Calif.	Ruppe	Vander Jagt
	Ryan	Vento
Moorhead, Pa.	Santini	Volkmer
Murphy, Ill.	Sarasin	Waggonner
Murphy, N.Y.	Satterfield	Walker
Murphy, Pa.	Sawyer	Wampler
Murtha	Schroeder	Watkins
Myers, John	Schulze	White
Myers, Michael	Sebelius	Whitehurst
Natcher	Sharp	Whitley
Neal	Shuster	Whitten
Nedzi	Sikes	Wiggins
O'Brien	Skelton	Wilson, Bob
Panetta	Skubitz	Wilson, Tex.
Patten	Slack	Winn
Pattison	Smith, Iowa	Wirth
Pepper	Smith, Nebr.	Wright
Perkins	Snyder	Wylie
Pettis	Spence	Yatron
Poage	St Germain	Young, Alaska
Preyer	Staggers	Young, Fla.
Price	Stangeland	Young, Mo.
Pritchard	Stanton	Zablocki
Pursell	Steed	
Quayle	Steers	

NAYS—105

Addabbo	Eilberg	Ottinger
Ammerman	Emery	Patterson
Anderson, Calif.	Fascell	Pease
	Florio	Pickle
Aspin	Fraser	Pike
Baldus	Frenzel	Rangel
Beilenson	Garcia	Reuss
Benjamin	Gilman	Richmond
Bennett	Green	Rinaldo
Biaggi	Hannaford	Rosenthal
Bingham	Harris	Roybal
Blanchard	Heckler	Russo
Boland	Holtzman	Scheuer
Bonior	Howard	Seiberling
Brademas	Hughes	Simon
Brodhead	Kastenmeier	Solarz
Burke, Calif.	Kostmayer	Spellman
Burke, Mass.	LaFalce	Stark
Burton, John	Long, Md.	Stokes
Burton, Phillip	McDonald	Stratton
Carr	McHugh	Studds
Chisholm	Maguire	Thompson
Clay	Markey	Van Deerlin
Cleveland	Metcalfe	Vanik
Collins, Ill.	Mikva	Walgren
Conte	Miller, Calif.	Walsh
Cornell	Miller, Ohio	Waxman
Crane	Minish	Weaver
D'Amours	Moffett	Weiss
Delaney	Mottl	Whalen
Dellums	Myers, Gary	Wolff
Dodd	Nolan	Wydler
Drinan	Nowak	Yates
Early	Oakar	Zeferetti
Edgar	Oberstar	
Edwards, Calif.	Obey	

NOT VOTING—45

Ashbrook	Glaimo	Pressler
Barnard	Gibbons	Quie
Bolling	Goldwater	Roberts
Brown, Calif.	Harrington	Rodino
Caputo	Jenkins	Roncalio
Clawson, Del	Kasten	Rose
Conyers	Kindness	Rostenkowski
Dent	Krueger	Rousselot
Diggs	Le Fante	Shipley
Evans, Colo.	Leggett	Sisk
Flowers	Mann	Teague
Flynt	Milford	Tsongas
Ford, Mich.	Moss	Udall
Forsythe	Nichols	Wilson, C. H.
Frey	Nix	Young, Tex.

Messrs. WALSH, KASTENMEIER, HUGHES, and FRASER changed their vote from "yea" to "nay."

Mr. BROWN of Michigan and Mr. HAWKINS changed their vote from "nay" to "yea."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the conference report.

Mr. MADIGAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 362, nays 28, not voting 42, as follows:

[Roll No. 573]

YEAS—362

Abdnor	Daniel, R. W.	Howard
Addabbo	Danielson	Hubbard
Akaka	Davis	Huckaby
Alexander	de la Garza	Hughes
Ambro	Delaney	Hyde
Ammerman	Dellums	Ichord
Anderson, Ill.	Derrick	Ireland
Andrews, N.C.	Devine	Jacobs
Andrews, N. Dak.	Dickinson	Jeffords
	Dingell	Jenrette
Annunzio	Dodd	Johnson, Calif.
Applegate	Dornan	Johnson, Colo.
Archer	Downey	Jones, N.C.
Armstrong	Drinan	Jones, Okla.
Ashley	Duncan, Oreg.	Jones, Tenn.
Aspin	Duncan, Tenn.	Jordan
AuCoin	Early	Kastenmeier
Bafalis	Eckhardt	Kazen
Baldus	Edgar	Kemp
Barnard	Edwards, Ala.	Keys
Baucus	Edwards, Calif.	Kildee
Bauman	Edwards, Okla.	Kindness
Beard, R.I.	Eilberg	Krebs
Beard, Tenn.	Emery	LaFalce
Bedell	English	Lagomarsino
Bellenson	Erlenborn	Latta
Benjamin	Ertel	Leach
Bennett	Evans, Del.	Lederer
Bevill	Evans, Ga.	Lehman
Biaggi	Evans, Ind.	Lent
Bingham	Fary	Levitas
Blanchard	Fascell	Livingston
Blouin	Findley	Lloyd, Calif.
Boggs	Fish	Lloyd, Tenn.
Boland	Fisher	Long, La.
Bonior	Fithian	Lott
Bonker	Flippo	Lujan
Bowen	Flood	Luken
Brademas	Florio	Lundine
Breaux	Foley	McClory
Breckinridge	Ford, Tenn.	McCloskey
Brinkley	Fountain	McCormack
Brodhead	Fowler	McDade
Brooks	Fraser	McEwen
Brown, Mich.	Frenzel	McFall
Brown, Ohio	Fuqua	McHugh
Broyhill	Gammage	McKay
Buchanan	Garcia	McKinney
Burgener	Gaydos	Madigan
Burke, Calif.	Gephardt	Maguire
Burke, Fla.	Gilman	Mahon
Burke, Mass.	Ginn	Markey
Burleson, Tex.	Glickman	Marks
Burlison, Mo.	Gonzalez	Marlenee
Burton, John	Goodling	Marriott
Butler	Gore	Martin
Byron	Grassley	Mathis
Carney	Green	Mattox
Carr	Gudger	Mazzoli
Carter	Guyer	Meeds
Cavanaugh	Hagedorn	Metcalfe
Cederberg	Hall	Meyner
Chappell	Hamilton	Michel
Chisholm	Hammer-schmidt	Mikulski
Clausen, Don H.		Mikva
	Hanley	Miller, Calif.
Cleveland	Hannaford	Miller, Ohio
Cochran	Harkin	Mineta
Cohen	Harris	Minish
Coleman	Harsha	Mitchell, Md.
Collins, Ill.	Hawkins	Mitchell, N.Y.
Corcoran	Heckler	Moakley
Corman	Hefner	Moffett
Cornell	Heftel	Mollohan
Cornwell	Hightower	Montgomery
Cotter	Hillis	Moore
Coughlin	Holland	Moorhead, Calif.
Cunningham	Holt	
D'Amours	Holtzman	Moorhead, Pa.
Daniel, Dan	Horton	Murphy, Ill.
Murphy, N.Y.	Roe	Stratton
Murphy, Pa.	Rogers	Studds
Murtha	Rooney	Stump
Myers, John	Rosenthal	Taylor
Myers, Michael	Roybal	Thompson
Natcher	Rudd	Thone
Neal	Runnels	Thornton
Nedzi	Ruppe	Traxler
Nolan	Russo	Treen
Nowak	Ryan	Trible
O'Brien	Santini	Tucker
Oakar	Sarasin	Udall
Oberstar	Satterfield	Ullman
Obey	Sawyer	Van Deerlin
Ottinger	Scheuer	Vander Jagt
Panetta	Schroeder	Vanik
Patten	Schulze	Vento
Patterson	Sebelius	Volkmer
Pattison	Seiberling	Waggonner
Pease	Sharp	Walgren
Pepper	Shuster	Walker
Perkins	Sikes	Walsh
Pettis	Simon	Wampler
Pickle	Skelton	Watkins
Pike	Skubitz	Waxman
Poage	Slack	Weiss
Preyer	Smith, Iowa	White
Price	Smith, Nebr.	Whitehurst
Pritchard	Snyder	Whitley
Pursell	Solarz	Whitten
Quayle	Spellman	Wiggins
Quillen	Spence	Wilson, Bob
Rahall	St Germain	Wilson, Tex.
Railsback	Staggers	Winn
Rangel	Stangeland	Wirth
Regula	Stanton	Wright
Reuss	Stark	Wylie
Rhodes	Steed	Yatron
Richmond	Steers	Young, Fla.
Rinaldo	Steiger	Young, Mo.
Risenhoover	Stockman	Zablocki
Robinson	Stokes	Zeferetti

NAYS—28

Anderson, Calif.	Fenwick	Mottl
	Forsythe	Myers, Gary
Badham	Gradison	Symms
Broomfield	Hansen	Weaver
Collins, Tex.	Hollenbeck	Whalen
Conable	Kelly	Wolff
Conte	Kostmayer	Wydler
Crane	Long, Md.	Yates
Derwinski	McDonald	Young, Alaska
Dicks	Milford	

NOT VOTING—42

Ashbrook	Frey	Pressler
Bolling	Giaimo	Quie
Brown, Calif.	Gibbons	Roberts
Burton, Phillip	Goldwater	Rodino
Caputo	Harrington	Roncalio
Clawson, Del	Jenkins	Rose
Clay	Kasten	Rostenkowski
Conyers	Krueger	Rousselot
Dent	Le Fante	Shipley
Diggs	Leggett	Sisk
Evans, Colo.	Mann	Teague
Flowers	Moss	Tsongas
Flynt	Nichols	Wilson, C. H.
Ford, Mich.	Nix	Young, Tex.

The Clerk announced the following pairs:

Mr. Le Fante with Mr. Quie.
Mr. Rostenkowski with Mr. Goldwater.
Mr. Roncalio with Mr. Kasten.
Mr. Shipley with Mr. Caputo.
Mr. Tsongas with Mr. Ashbrook.
Mr. Flowers with Mr. Del Clawson.
Mr. Flynt with Mr. Pressler.
Mr. Gibbons with Mr. Frey.
Mr. Nix with Mr. Rousselot.
Mr. Dent with Mr. Sisk.
Mr. Teague with Mr. Moss.
Mr. Phillip Burton with Mr. Evans of Colorado.
Mr. Clay with Mr. Ford of Michigan.
Mr. Conyers with Mr. Harrington.
Mr. Giaimo with Mr. Jenkins.
Mr. Mann with Mr. Krueger.
Mr. Nichols with Mr. Leggett.
Mr. Roberts with Mr. Charles H. Wilson of California.
Mr. Rose with Mr. Diggs.

Mr. FORSYTHE changed his vote from "yea" to "nay."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the conference report just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

CYPRUS—4 YEARS LATER

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, 1 year ago I spoke on the third memorial of the Turkish invasion of Cyprus. At that time, I expressed concern over the literally thousands of individual tragedies which have taken place since the Turkish occupation and pointed out that intercommunal animosity could only fester unless a solution was found to the problem.

It is now 1 year later, and it is with sorrow that we remember that July 20, 1978, marks the end of the fourth year of the Turkish occupation. In the interim, the situation has not improved. There are still about 25,000 troops in the northern part of Cyprus. There are over 200,000 Greek Cypriots and 60,000 Turkish Cypriots who are still displaced persons, who are exiled in their own country. Many are without real homes, and many have no jobs. The Greek Cypriot community in the occupied area has been harassed to the point where many felt they had no option but to desert their homes. Today only about 1,500 Greek Cypriots remain in the 38 percent of the island occupied by Turkish troops.

Even the Turkish Cypriot community has suffered in the occupied areas. A number of articles have been printed recently in the Turkish Cypriot press complaining of the treatment they have received from both the Turkish troops and from colonists who have come from the Turkish mainland in violation of the Geneva conventions.

When a previous Congress agreed to partially lift the Turkish arms embargo, assurances were given that the Government of Turkey would be willing to negotiate a settlement on Cyprus. There has been almost no progress since those assurances were given. The proposals which the Government of Turkey recently submitted amount to a perpetuation of the existing situation. Such proposals will have the affect of also perpetuating the afflictions of thousands of individuals.

The administration is now asking that we totally lift the embargo on weapons. In light of the previous assurances, I have closely scrutinized the language which the administration has used. They have said that they think that the lifting of the embargo may encourage the Turkish Government to be

more cooperative. When I directly asked a State Department official if they had any assurances, even informal, from the Turkish Government that they would be less intransigent in negotiations or make significant reductions in the number of occupation troops if the embargo were to be lifted, he responded negatively.

We, in the United States, share moral responsibility for the situation on Cyprus despite our lack of overt action. American weapons were used by Turkey to invade a sovereign nation, and the Turkish occupation troops are still using American weapons. To lift the embargo would give our tacit consent to the violation of our own laws and to the situation which presently prevails. It would also reduce any leverage that we may have on the Turkish Government.

The pathos of Cyrpus is real. At times a great tragedy such as the situation in Cyprus is difficult to comprehend because of its very magnitude. I ask my colleagues to visualize the suffering of one family and realize that that suffering must be multiplied by thousands.

There are only limited actions that we can take to demonstrate our concern. We can continue to support foreign aid to the refugees. We can also demonstrate that we refuse to be accessories to the wrongful use of weapons which we supplied to the Turkish Government.

JOHN BIRCH PUBLICATION QUESTIONS PROPOSITION 13

(Mr. DANIELSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DANIELSON. Mr. Speaker and my dear colleagues, in the Saturday, July 15, issue of the Los Angeles Times, I noted a story to the effect that the John Birch Society now finds itself in political bed with the Communist Party of southern California, with the Trotskyist Socialist Workers Party, and in close proximity to Tom Hayden's California Campaign for Economic Democracy.

In effect, Mr. Speaker, the headline is that the John Birch publication questions proposition 13 in an article by Robert Welch, the founder of that distinguished society.

Mr. Speaker, I want to point out that although it seems that they got into the same bed, they probably got there by going in different directions, one around to the east and one around to the west.

Mr. Speaker, the Los Angeles Times story with respect to the article in the July monthly bulletin of the John Birch Society reads as follows:

JOHN BIRCH PUBLICATION QUESTIONS PROPOSITION 13—RIGHT-WING GROUP FEARS GREATER U.S. INVOLVEMENT AT LOCAL LEVEL

(By Kenneth Reich)

In its July monthly bulletin, the John Birch Society has expressed sharp reservations about California's Jarvis amendment, warning that it may result in concentrating power in the federal government.

A review of the reaction of political organizations on both the left and right to the passage of Proposition 13 showed that only the right-wing Birch Society had adopted what might be considered an unexpected negative position. The Communists and Trotskyists, on the other hand, took predictably adverse positions.

The Birch Society reservations were stated under the byline of society founder Robert Welch, who credited "the Jarvis-Gann team" with an "impressive attempt . . . to excise a considerable amount of poisonous taxation with the scalpel called Proposition 13."

But Welch added, "There is a very serious danger that the Insiders will be cunning enough to use the immediate natural effect of such an operation as an excuse to advance their own aims . . .

"The Insiders will try to use every dirty trick they know for providing the 'necessity' of increasing all kinds of federal taxes—including the hidden tax of printing more bogus money—in order to bail out with federal funds the towns, cities and even states from the supposedly dire position in which they have been placed by some form of Proposition 13," Welch said.

"They will thus try to gain even more strangling controls by the federal octopus over the affairs of all lesser units of government. Which is exactly opposite to a purpose and project that we have long thought to be so important. We want to bring all functions of fedgov (the federal government), except its strictly legitimate Constitutional duties, as rapidly and completely back home where they belong, as we can help the believers in our once great republic to accomplish."

Among the "obvious pitfalls" to Propcsition 13, Welch named what he saw as a tendency of bureaucrats on the local level to cut back municipal police forces. This, he said, could open the way for the kind of national police the Birch Society opposes.

Charles Armour, the society's district governor for the 13 Western states, in a separate statement, said that while he considers the overall impact of Proposition 13 so far to be healthy, he does not regard it as "the panacea to all of our economic ills.

"Our real economic ills are emanating out of the federal government in Washington, D.C.," he said, "principally because of the tremendous increase in the federal deficit, the most insidious tax of all, inflation . . . if we are to have a long-range solution to our economic ills, it must come at the federal level."

In a statement on Proposition 13 provided The Times by the Southern California District of the Communist Party, the proposition was termed a "temporary victory for big business and landlord interest . . .

"Proposition 13 was passed because the big monopoly corporations and real estate interests skillfully manipulated the people's desire for tax reform and lower prices into support for a proposition which actually gave two-thirds of the tax relief to big business and landlord interests," the party statement said.

"Renters will get nothing. Most small homeowners will get next to nothing in tax relief. In fact, they will lose their federal property tax exemption (on the income tax) and the price all will have to pay in terms of cuts in essential services like schools, hospitals, welfare, recreation, etc. will make life unbearable for millions."

The Communists, however, contended "It can be turned into victory for the people," although they did not say precisely how, except to advocate fighting against government cutbacks of services.

The Trotskyist Socialist Workers Party conceded in their statement that "Proposition 13 passed because many Californians were looking for genuine relief from property taxes on their homes, which have been driven sky-high by increasing assessed values over the past few years."

But the party statement said "renters, teachers, public employes, students, disabled persons and the poor will suffer severely from the results" and it went on to urge a strong fight against cutbacks in government services.

A successful strategy to fight cutbacks could include "proposing a new tax initiative to limit the tax cuts to homeowners and increase the tax on the rich and corporations," the Socialist Workers said. They also urged a fight for rent control.

A more moderate left-wing group, Tom Hayden's California Campaign for Economic Democracy, which sent cables to 30 corporations earlier this week asking them to agree to productive use of their Jarvis tax savings to help meet "human needs," meanwhile reported Friday the first positive response from one of the corporations.

A Hayden spokesman reported, and the corporation involved confirmed, that the Atlantic Richfield Oil Co. (ARCO) had agreed to have a senior official meet with Hayden and some of his colleagues in the near future on ARCO's plans for reinvesting its tax savings.

EXPLANATION OF VOTE ON HOUSE JOINT RESOLUTION 738

(Mr. COHEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COHEN. Mr. Speaker, I rise to offer an explanation of my vote yesterday on House Joint Resolution 738, concerning the Federal Government's policies and the religious freedom of American Indians.

No one could disagree with the purpose of this legislation. Guaranteeing to native Americans the first amendment rights they are entitled to as citizens under the Constitution is a goal of the highest order. But I had several questions concerning House Joint Resolution 738. Had my attendance not been required at the Judiciary Committee's historic markup of the resolution to extend the ratification period for the proposed equal rights amendments, I would have voiced these concerns yesterday. These concerns were mentioned, nevertheless, by some of my colleagues who participated in the discussion of House Joint Resolution 738. Unfortunately, yesterday's debate did little to clear the murky legislative intent of this legislation which seeks to address an important problem in our country.

The resolution requires the President to direct the executive departments and agencies to eliminate so-called unwarranted Federal regulatory restrictions on the practice of Indian religions. Like the supporters of House Joint Resolution 738, I believe that prudent exemptions from environmental and other regulations are in order for certain Indians. But the resolution's language provides no guidance as to how such restrictions should be loosened. The resolution suggests that only "traditional" Indian religions will be eligible for special consideration. But if the most skilled anthropologists cannot agree on what is a "traditional" practice among Indians, I doubt seriously whether, without additional congressional instructions, the Federal bureaucracy could carry out the intent of House Joint Resolution 738 with any

degree of consistency or fairness to the Indians.

Moreover, it was unclear whether this legislation would have unforeseen effects on the holdings of private landowners. The supporters of this legislation contend that House Joint Resolution 738 only affects federally owned land. Were this clear from the legislative record, I would have had considerably less reason to vote against the resolution. But the text of the resolution instructs the President to consider any relevant regulation or policy, not just those affecting Federal lands. Indeed, the language of the Senate report indicates that the religious sites to be protected under the resolution may include certain private lands.

There were no hearings held by the House on this resolution. Notwithstanding the hearings held in the other Chamber on House Joint Resolution 733, I thought there were significant gaps in the legislative record of this resolution. Had the resolution more narrowly defined the remedy to the problem of Indian religious freedom, I would easily have supported House Joint Resolution 738.

The complex anthropological and legal issues surrounding House Joint Resolution 738 have been debated in the universities and courts for decades. I did not think it wise of this Chamber to dispense with these important questions in a half hour of limited debate on a vaguely worded resolution.

ACTION TAKEN BY COMMITTEE ON INTERNATIONAL RELATIONS ON HOUSE RESOLUTION 1259

(Mr. ZABLOCKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ZABLOCKI. Mr. Speaker, I rise to apprise the Members of the House of the action taken by the Committee on International Relations regarding House Resolution 1259, on July 18, 1978, and to establish the legislative history of the resolution for the RECORD.

House Resolution 1259, a resolution of inquiry directing the Secretary of State to furnish certain information to the House of Representatives with respect to shipments of military equipment to Chile, was introduced by the Honorable FORTNY H. STARK, for himself and six cosponsors on June 29, 1978, and referred to the Committee on International Relations.

Under the rules of the House, resolutions of inquiry are of a privileged nature and must be acted upon by the committee within 7 legislative days. In accordance with these rules, the Committee on International Relations met to consider the resolution on Tuesday, July 18, 1978.

On July 5, 1978, a copy of the resolution was transmitted by the committee to the Secretary of State requesting executive branch comments on its contents. On July 14, 1978, the Department of State sent the committee a preliminary response in which was supplied most of the information requested in the resolution—a complete reply was received July 17, 1978.

The information furnished by the Department of State was made available to the principal sponsor of the resolution, Mr. STARK, who in turn responded to the committee in a letter of July 18. In that letter, Mr. Stark stated that the Department of State had provided a sufficient response to the questions posed in the resolution.

In view of the reply by the Department of State, and the letter to the Committee by Congressman STARK indicating the adequate submission of the requested information, a motion to table the resolution was offered, and unanimously agreed to by a voice vote.

To complete the legislative history of House Resolution 1259, the Committee on International Relations transmitted a copy of Congressman Stark's letter to the Secretary of State on July 18, 1978, requesting his comments on the letter, for the RECORD.

I insert at this point in the RECORD the text of House Resolution 1259 and certain extraneous material.

H. RES. 1959

Resolved, That not later than thirty days after the date of adoption of this resolution, the Secretary of State shall furnish to the House of Representatives the following information, if such information is known by the Secretary or is within the possession of the Secretary:

(1) A list of all agreements to sell defense articles or defense services to Chile which were entered into under the Foreign Military Sales Act before June 30, 1976, and which were not fully executed as of that date, such list to include with respect to each such agreement—

(A) the date on which the agreement was entered into;

(B) a listing of any defense articles or defense services delivered under the agreement between June 30, 1976, and the date of adoption of this resolution;

(C) a listing of any defense articles or defense services scheduled for delivery under the agreement after the date of adoption of this resolution; and

(D) a listing of any defense articles or defense services which have been ordered under the agreement as of the date of adoption of this resolution but which have not yet been scheduled for delivery.

Each such listing shall identify the defense articles or defense services and shall specify the quantity of defense articles or defense services delivered or to be delivered, their agreement price, the date on which they were ordered, and the date of delivery where known.

(2) A list of all licenses for the export to Chile of commercially sold arms, ammunition, or implements of war, including technical data relating thereto, which were issued under section 414 of the Mutual Security Act of 1954 before June 30, 1976, and which were still in effect on that date, such list to include with respect to each such license—

(A) the date on which the license was issued;

(B) a listing of any arms, ammunition, or implements of war, including technical data relating thereto, delivered under the license between June 30, 1976, and the date of adoption of this resolution;

(C) a listing of any arms, ammunition, or implements of war, including technical data relating thereto, scheduled for delivery under the license after the date of adoption of this resolution; and

(D) a listing of any arms, ammunition, or implements of war, including technical data relating thereto, which have been ordered for delivery under the license as of the date of adoption of this resolution but which have not yet been scheduled for delivery.

Each such listing shall identify the arms, ammunition, or implements of war, including technical data relating thereto, and shall specify the quantity thereof delivered or to be delivered, their contract price, the date on which they were ordered, and the date of delivery where known.

DEPARTMENT OF STATE,
Washington, D.C., July 17, 1978.

Hon. CLEMENT ZABLOCKI,
Chairman, International Relations Committee, House of Representatives.

DEAR MR. CHAIRMAN: The Secretary has asked me to reply to your letter of July 5 on H. Res. 1259, directing the Secretary of State to furnish certain information to the House of Representatives with respect to shipments of military equipment to Chile.

Enclosed is the information requested by the resolution with respect to FMS sales and commercial sales. We will be happy to provide any additional information on this subject which you may need.

With respect to commercial sales, approved licenses are valid for one year only. The enclosed list shows commercial deliveries between June 30, 1976 and June 30, 1977 (total value $1,357,129). There have been no commercial deliveries since the latter date.

In view of the above, the Department sees no reason for H. Res. 1259 to be adopted.

Sincerely,

DOUGLAS J. BENNET, Jr.,
Assistant Secretary for Congressional Relations.

FMS DELIVERIES TO CHILE

Case	Description	Letter of offer acceptance date	Dollar value of deliveries as of— May 30, 1978	Dollar value of deliveries as of— June 30, 1976	Dollar value delivered in period	Undelivered balance as of May 31, 1978
BAC	Support equipment	Feb. 6, 1970	195,917	195,539	378	4,094
BAH	Automotive equipment	June 16, 1971	294,398	293,125	1,273	5,602
BAI	Maintenance equipment	Aug. 23, 1974	140,494	137,462	3,032	0
BAJ	Maintenance repair parts and tools	Jan. 17, 1974	162,927	147,423	15,504	17,478
TAR	Books, maps and publications	June 7, 1974	4,344	4,341	3	431
TBM	do	June 9, 1975	574		574	5,696
TBN	do	Aug. 7, 1975	2,532	34	2,498	7,468
UGC	Armored personnel carrier and equipment	Aug. 10, 1972	144,256	143,766	490	27,799
UGG	Artillery tool sets	Jan. 12, 1973	41,075	16,188	24,887	483
UGN	Automotive supplies and equipment	June 11, 1973	147,843	27,127	120,716	1,987
UHL	105-mm cartridges	Dec. 18, 1974	876,970		876,970	229,437

FMS DELIVERIES TO CHILE—Continued

Case	Description	Letter of offer acceptance date	Dollar value of deliveries as of— May 30, 1978	June 30, 1976	Dollar value delivered in period	Undelivered balance as of May 31, 1978
UID	Fire control equipment	Dec. 18, 1974	95,932	3,797	92,135	307,227
UIZ	106-mm recoiless rifles and parts	do	119,065		119,065	3,459,255
UJA	3.5-in rockets, 66-mm rockets and 106-mm ctgs	do	1,360,360		1,360,360	3,382,950
AAP	Ammo components	July 29, 1974	1,489,253	400,177	1,089,076	84,136
CAC	Aircraft spare parts	Mar. 10, 1974	26,644	22,009	4,635	698
CAG	Ammo components	June 22, 1976	29,735		29,735	479,800
GAC	Tech assistance	do	20,528		20,528	45,262
KAA	Aircraft spare parts	do	62,500		62,500	2,571,586
KBA	do	do	1,311,138		1,311,138	2,524,218
PAU	Training aids and publications	Nov. 7, 1973	734	372	362	1,266
PAY	do	Oct. 11, 1974	19,292	17,787	1,505	20,977
PBA	do	June 22, 1976	1,621		1,621	27,296
PBB	do	do	420		420	28,497
PBC	do	do	112,799		112,799	116,118
PBD	do	do	78		78	28,839
RAH	Aircraft spare parts	July 17, 1973	489,345	234,776	254,569	0
RAJ	do	Nov. 29, 1974	944,993	106,184	838,809	162,757
RAL	do	June 22, 1976	236,926		236,926	192,459
SBC	A-37 aircraft (16), spares, and asst	May 23, 1973	11,895,820	11,676,124	219,696	248,354
SBL	T-37B trainer	do	540,348	426,532	113,816	248,284
SCD	A-37 aircraft (18), spares, and asst	Oct. 31, 1974	16,574,008		16,574,008	4,059,776
SDR	F-5E aircraft (18), spares, and asst	May 15, 1974	63,089,710	9,737,342	53,352,368	3,801,962
TAO	Training	Aug. 14, 1974	2,420	1,320	1,100	166
TAP	do	Aug. 30, 1974	185,838	81,260	104,578	431
VAK	Aircraft mods and AGE	Jan. 28, 1974	2,229	477	1,752	8,321
VAM	do	Nov. 29, 1974	45,344		45,344	113,250
VAP	do	June 22, 1976	3,147		3,147	931,794
ABF	Ammo components	Dec. 31, 1968	252,593	252,593		6,898
ACJ	Torpedoes	Oct. 22, 1971	216,401	186,800	29,601	9,561
ACZ	Ammo components	Dec. 4, 1972	7,095		7,095	0
ADH	Artillery projectiles over 5 in	May 16, 1974	338,198	336,557	1,641	169,217
ADI	Torpedoes	do	791,039	564,405	226,634	116,941
ADJ	Ctgs 105 mm, 15 mm, 37-75 mm and other	Oct. 21, 1974	127,919		127,919	45,254
ADK	Grenades, ammo components	Dec. 2, 1974	1,870		1,870	60,445
BDA	Ship spare parts	Apr. 19, 1974	1,025		1,025	3,284
BDE	Ammo spares	May 10, 1973	57,719		57,719	23,166
BEE	Ship spare parts	Aug. 23, 1973	443,284	408,000	35,284	59,969
BET	Ordnance equipment	Apr. 19, 1974	16,332	12,150	4,182	0
BEY	Ammo components	July 12, 1974	69,892	47,392	22,500	377,954
BFG	Training aids and publications	July 24, 1974	17,970		17,970	18,797
GAJ	Technical assistance	Oct. 17, 1974	12,750	12,500	250	0
JAA	Ship spare parts	July 26, 1974	1,091,977	501,024	590,953	23,524
TAN	Training	May 11, 1976	1,842		1,842	232
UPA	Ship spare parts	June 29, 1973	300,306	296,698	3,608	199,694
USA	do	Oct. 1, 1973	858,261	545,719	312,542	556,739
OAG	Training	Nov. 20, 1974	120,000	112,000	8,000	0
UFL	Miscellaneous ammo—106 mm and below	Dec. 14, 1971	305,785	263,268	43,517	0
UFS	Aircraft spare parts	Dec. 23, 1971	26,950	19,767	7,183	0
UGK	Automotive support equipment	Apr. 12, 1973	422,476	383,332	39,144	0
UHX	General supplies	Aug. 6, 1974	654,925		654,925	0
RAH	Aircraft spare parts	July 17, 1973	489,345	234,776	254,569	0
UUA	do	Mar. 31, 1974	17,610	16,676	934	0
	Total		107,315,121	27,865,819	79,449,302	24,817,829

EXPORTS, JUNE 30, 1976-77—ANNUAL REPORT, U.S. MUNITION ARTICLES EXPORTED

	Total		Commercial		Foreign military		Other	
	Quantity	Value	Quantity	Value	Quantity	Value	Quantity	Value
Chile:								
A/C mods, age and other		566,315				566,315		
Aircraft A-37 spare parts		3,983,400				3,983,466		
Aircraft attack A-37B	18	14,983,066			18	14,983,000		
Aircraft T-37 spare parts		127,209		127,209				
Amplifiers and amplification		15,350		15,350				
Cart up through 20mm	1,000	119	1,000	119				
Electronic CNTRMSR equipment		200,000				200,000		
Electronic test equipment		42,200		42,200				
Electronics spare parts		228,145		228,145				
Engine jet J-85, GE17A	1	107,000			1	107,000		
Military vehicles spares		447,947		444,020		3,927		
Miscellaneous aircraft spare parts		117,220		5,291		111,929		
Other communications equipment		21,124		21,124				
Parachute, cargo	10	35,500	10	35,500				
Pistols, revolvers	2	344	2	344				
Radio receiving equipment		141,838		141,838				
Ship spare parts		75,462		75,462				
Telephone and telegraph term. and transmitting equipment		220,527		220,527				
Country total		21,312,766		1,357,129		19,955,637		

Note: 1 license No. 28055 was issued in error for 1 revolver after June 30, 1976.

WASHINGTON, D.C., *July 18, 1978.*

HON. CLEMENT J. ZABLOCKI,
Chairman, Committee on International Relations, House of Representatives, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN. I would like to thank the Committee for its prompt attention to H. Res. 1259, a Resolution of Inquiry introduced by myself, Mr. John Burton, Mr. Phillip Burton, Mr. Harkin, Mr. Harrington, Mr. Miller and Mr. Moffett regarding the shipment of military equipment to Chile.

I would also like to thank the Department of State for its prompt and substantial compliance with our request to furnish information in this regard. With the exception of delivery schedules for those items still in the pipeline, which I understand are forthcoming, the Department of State has provided information requested in H. Res. 1259 to my satisfaction.

These facts, for the first time compiled in a single and comprehensive document, delineate our policy towards Chile both before and since the Pinochet regime and before and since the arms "embargo." They reveal that of all the arms shipments our government has ever made to Chile, over a period of ten years, 74%—or $79,449,302 worth—have been made in the two years since the arms embargo. Another $24,817,829 worth of military equipment remains in the pipeline to Chile.

Those of us who voted, in 1976, for legislation terminating U.S. arms sales and military assistance to Chile expected that the United States would cease to supply arms to the Pinochet regime—a government which

is notorious for its consistent repression of the most basic human and legal rights of the people of Chile. In fact, as this information makes clear, the United States government has been a major supporter and supplier of that regime, and in some cases has provided equipment which can be directly used to repress the citizens of Chile.

The delays in delivery for many of the military items, while welcome in my view, remain unexplained. I hope the Committee will determine what factors—other than logistics—contribute to these delays. I would strongly hope that the Department will weigh heavily critical factors such as the human rights situation in Chile, the Junta's failure to account for over 1,500 disappeared Chileans, and the Pinochet regime's refusal to cooperate in the Letelier investigation. Failure to weigh such factors, in my opinion, violates the spirit of the arms embargo, and stands in contradiction to clear Congressional intent.

I personally see no reason that our government should continue, in light of these considerations, to supply Chile with yet another $24 million in arms still in the pipeline. I hope the Committee and the Department will consider the wisdom of such shipments in the future.

Sincerely,

FORTNEY H. STARK, Jr.,
Member of Congress.

COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, D.C., July 18, 1978.

Hon. CYRUS R. VANCE,
The Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: The Committee on International Relations today agreed, by a unanimous voice vote, to table H. Res. 1259, the resolution of inquiry directing the Secretary of State to furnish certain information to the House of Representatives with respect to shipments of military equipment to Chile.

Both of the responses furnished by the Department of State—the preliminary one July 14, and the supplementary one July 17—responded adequately to the questions posed by Congressman Fortney H. Stark in H. Res. 1259.

A copy of Congressman Stark's reply to the Committee, indicating his satisfaction with the responses, is enclosed for your information. We would appreciate receiving your comments on the letter in order to establish the complete legislative history for the record.

With best wishes, I am

Sincerely yours,

CLEMENT J. ZABLOCK,
Chairman.

ACTION TAKEN BY COMMITTEE ON INTERNATIONAL RELATIONS ON HOUSE RESOLUTION 1259

(Mr. STARK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STARK. Mr. Speaker, I want to thank the gentleman from Wisconsin (Mr. ZABLOCKI), the distinguished chairman of the House Committee on International Relations, for the prompt way in which his committee addressed the resolution of inquiry regarding U.S. pipeline shipments of arms to Chile. I introduced House Resolution 1259 with Mr. JOHN BURTON, Mr. PHILLIP BURTON, Mr. HARKIN, Mr. HARRINGTON, Mr. MILLER, and Mr. MOFFETT, and through the work of Mr. ZABLOCKI's committee we received detailed information regarding U.S. arms shipments to Chile since June 30, 1976, the effective date of legislation terminating U.S. assistance and weapons sales to the brutal Chilean regime.

The information provided through Mr. ZABLOCKI's efforts is of great concern to me, and I think that many of my colleagues will share this concern. The listings reveal that Chile has received $79,449,302 worth of military equipment from the United States since the embargo became effective on June 30, 1976. That $79 million represents almost half of all the military equipment that Chile has ever purchased from the United States. The information which we received also reveals that an additional $24,817,829 worth of military equipment remains in the pipeline awaiting delivery to Chile.

It is my impression that the U.S. role in the last 2 years as a major supplier and supporter of the Pinochet regime violates the spirit of the arms cutoff to Chile. I hope that the International Relations Committee will look into this matter further to determine whether the will of Congress is being carried out when, while insisting that we do not want to send arms to countries which are violating human rights, the United States has shipped more than $79 million worth of arms to Chile in 2 short years.

Mr. Speaker, the resolution of inquiry system works well and serves us all.

Again, I want to thank the distinguished chairman and his committee for their help in this highly important area. I think it was a service to the country and will enable us to continue to monitor the cause of human rights throughout the world.

Mr. ZABLOCKI. Mr. Speaker, if the gentleman will yield, I appreciate his observations on the activity of the committee and on the concern with which we try to do our work.

JUNE 1978 REPORT BY AMNESTY INTERNATIONAL ON HUMAN RIGHTS VIOLATIONS OCCURRING AT CASTLEREAGH PRISON, EAST BELFAST, NORTHERN IRELAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. BIAGGI) is recognized for 60 minutes.

Mr. BIAGGI. Mr. Speaker, as chairman of the 110 house and 1 Senate members Ad Hoc Congressional Committee on Irish Affairs, I have requested this special order for the sole purpose of presenting to the Congress the June 1978 report by Amnesty International on Human Rights Violations occurring at the Castlereagh prison facility in East Belfast, Northern Ireland.

The Amnesty International inquiry was conducted between November 28 and December 6, 1977. The mission consisted of a Dutch lawyer and Danish doctor, a member of Amnesty International's secretariat. The mission was later joined by a second doctor. Amnesty obtained direct testimony from 52 persons who alleged they were mistreated while in the custody of the Royal Ulster Constabulary, which serves as the main auxiliary force for British forces in Northern Ireland. Amnesty also examined medical records and other corroborative data involving some 26 other cases totaling 78 cases. It is the Ad Hoc Committee's intention to have all 78 cases printed in the CONGRESSIONAL RECORD beginning with the case which I will insert. A number of colleagues have joined me and will also insert other cases.

The background of the Amnesty report was an increasing number of complaints being registered against the RUC since 1975. This was in direct relationship to the increased numbers of suspected terrorists which were being apprehended and interrogated by the RUC. Most of these suspects were brought before nonjury courts known as "Diplock courts" which were established by the Emergency Provisions Act of 1973. A startling statistic provided by the London Sunday Times was that 94 percent of the cases brought before the Diplock courts resulted in conviction. More revealing is the fact that between 70 and 90 percent of the convictions are based on "admissions of guilt"—self-incriminating statements—made to the police during interrogation.

These questionable judicial processes led to an ever-rising number of complaints of maltreatment being filed. Becomplaints, those reporting complaints against the RUC soared from 184 to 515. In addition to an increasing number of complaints, those reporting complaints began to encompass all sides of the dispute from Catholics to Protestants, from the extreme political parties to the moderate SDLP. In March 1977, the BBC featured two cases of prisoners who alleged maltreatment at Castlereagh, the remaining elements of the Amnesty background, I will now insert into the RECORD.

CHAPTER I—BACKGROUND

Political background

Since the outbreak of serious civil unrest in Northern Ireland in 1969, British security forces have been engaged in an attempt to suppress armed insurgency and terrorism carried out by both Republican groups, notably the Provisional Irish Republican Army, and "Loyalist" groups such as the Ulster Volunteer Force. A large number of civilian deaths have resulted from confrontations between the security forces and terrorists or suspected terrorists, and action by terrorists organizations including sectarian murders, sniping, bombing, and fires started by bombs. In 1972, 467 persons died in such incidents in the province, and in each succeeding year until 1977 the totals were between 200 and 300. In 1977 the level dropped, but even in that year 111 violent deaths took place, including 68 civilians and 43 members of the security forces (the British Army, the Royal Ulster Constabulary, and the Ulster Defence Regiment) who were shot or killed in bomb attacks. In addition to the deaths, over 14,000 civilians are believed to have been injured since the present violence began. The majority of the civilian injuries were sustained in bombing or shooting incidents, but deliberate maiming, carried out by both Republican and "Loyalist" paramilitary groups as a punishment or disciplinary measure, is also common. This usually takes the form of shattering one or both of the victim's kneecaps with bullets or an electric drill, or, more recently, the dropping of heavy concrete blocks on the limbs, causing fractures. During the first eleven months of 1977, over

116 such "knee-cappings" occurred, mostly carried out by the Provisional Irish Republican Army.

Amnesty International condemns the use of politcial murder by the para-military groups involved, and their practice of deliberate maiming of persons in their temporary custody as a device of political intimidation and control.

Since the ending of detention without trial in 1975, and the release of the last detainees in December of that year, British government policy in dealing with terrorism has been to bring persons charged with terrorist offences before the special non-jury courts ("Diplock Courts") which were set up by the Emergency Provisions Act, 1973. Power to detain remains but is inoperative. Police detention with regard to scheduled offences has been extended to three days (Emergency Provisions Act, 1973), or a maximum of seven days with the written authorization of the Secretary of State for Northern Ireland (Prevention of Terorrism Act, 1974 and 1976). By securing convictions before the courts, the British authorities hope to remove networks of terrorists and members of para-military organizations from the community, and thus to foster a gradual return to a normal state of law and order. The authorities have also sought to increase the effectiveness of the Royal Ulster Constabulary by enhancing its credibility among members of the Roman Catholic community. In the past this credibility has been difficult to achieve, due largely to the fact that the Royal Ulster Constabulary (RUC) is manned mainly by Protestants. * * *

The force's impartial image in this regard was enhanced by the role it played in breaking the illegal "Loyalist" strike called by Protestant extremists in May 1977. If the RUC can win the confidence of the Roman Catholic community, the British authorities reason, then that community will cease to shelter and be intimidated by Republican para-military groups. Simultaneously, should the RUC achieve its aim of becoming a force acceptable to both sides of the sectarian divide, and able to operate normally even in traditionally "Republican" areas of the province, this would in turn allow the British government to reduce its commitment of regular armed forces to Northern Ireland. At the same time, in the British government's view, the RUC must maintain its success rate against the Provisional IRA, partly because any failure to do so might lead to a revival of vigilante action or large-scale violence by "Loyalist" para-military groups, for instance by sectarian assassination.

In pursuing this policy, the RUC has been, during 1976 and 1977, successful in bringing charges against numerous individuals suspected of terrorist involvement. During 1976, 1,602 persons were charged with scheduled offences, that is, offences set out in the schedule to the Emergency Provisions Act, and related to terrorist acts, such as murder, attempted murder, firearm and explosives offences, armed robbery, etc., and the figure for 1977 was 1,545. A number of the murder and attempted murder charges preferred related to crimes dating back to 1971. In a statement to the British House of Commons on 8 December 1977, Mr. Roy Mason, Secretary of State for Northern Ireland, stated that so far that year 316 people had been sentenced to 10 years' imprisonment or more on conviction for scheduled offences on indictment, compared with 214 in the whole of 1976.

An important aspect of this record of charge and conviction is the high conviction rate of persons charged with terrorist offences. According to a report in the London Sunday Times of 23 October 1977, researches undertaken by the Law Department of Queen's University, Belfast, showed that 94 percent of the cases brought before the Diplock Courts resulted in conviction. Between 70 percent and 90 percent of the convictions are based wholly or mainly on admissions of guilt (self-incriminating statements) made to the police during interrogation. Only in a minority of cases is other evidence—forensic evidence, intelligence evidence, or testimony of witnesses—produced in court to secure a conviction. Forensic evidence is rare, and in the current situation in Northern Ireland the use of witnesses is restricted by the fear of intimidation and reprisal. Intelligence evidence can, by its nature, hardly ever be used in court.

Allegations of maltreatment

Statistics of complaints against the security forces in Northern Ireland have always been high (between August 1971 and November 1974 there were 1,105 complaints of assault and maltreatment lodged against the RUC, and 1,078 agianst the Army). There were signs of an increase in complaints against the RUC in 1975, when detention without trial was phased out. In part, this was a reflection of the increased number of suspected terrorists interviewed by the RUC. In 1975 1,797 suspects were interviewed, of whom 184 made complaints; in 1976 the figures were 3,042 and 322 respectively, and in the first eleven months of 1977 3,444 and 515. Prior to 1977 almost all complaints of assault or maltreatment during interview reportedly came from Republican sympathizers or bodies closely associated with the Republican movement; however, especially since the failure of the "Loyalist" strike in May 1977, an increasing number of complaints have come from Protestant sources.

In September 1976 the Northern Ireland Civil Rights Association (NICRA) claimed a number of men, all Roman Catholics, had been maltreated during interrogation at Cookstown RUC Station and Springfield Road RUC Station, in January and February 1975 and June 1976. In March 1977 the British Broadcasting Corporation (BBC) television program "Tonight" featured two cases of Roman Catholics from the Enniskillen area who alleged maltreatment in January 1977 at Castlereagh Police Holding Centre, East Belfast, which was to become the focus of many later allegations of maltreatment. During the same month the Social Democratic and Labour Party (SDLP) constituency representatives accused the RUC of physically and mentally ill-treating people taken into custody for questioning, and said that there were grounds for believing that illegal police pressure was approved at the highest level. In July 1977 a member of the SDLP claimed that there was "overwhelming evidence" of involvement of plainclothes detectives in brutalities, and in the following month Dr. Thomas Fee, Archbishop of Armagh and Primate of All Ireland, attacked alleged "brutalities and tortures" by members of the security forces.

Allegations of maltreatment during interrogation, especially at Castlereagh Holding Centre, continued to be reported in the Republican press throughout the summer and early autumn of 1977. In October NICRA called for a conference of all interested groups to discuss ways of ending the alleged maltreatment. Simultaneously the Protestant Ulster Defence Association reported that it had established a "thick file of cases of its members who had been maltreated". During the same month the SDLP renewed its call for an inquiry into the allegations, and it was reported that seven committee members representing the 42-member Police Surgeons Association had met to discuss the allegations, and sought a meeting with the Chief Constable of the RUC to express their concern. At the end of the month a television program by the British Thames Television Company, entitled "Inhuman and Degrading Treatment?" featured ten cases—eight Roman Catholics and two Protestants—who alleged maltreatment at the Castlereagh Centre between February and October 1977.

Early in November 1977 a meeting of most of the approximately thirty solicitors handling cases before the Diplock Courts decided to set up a three-man committee to collate evidence of alleged brutality, and wrote to the Secretary of State expressing their concern at the allegations, and stating that in their view:

". . . ill-treatment of suspects by police officers, with the object of obtaining confessions, is now common practice, and that this most often, but not always, takes place at Castlereagh RUC station and other police stations throughout Northern Ireland."

Also in November, it was reported that the "Loyalist"-oriented Ulster Citizens' Civil Liberties Advice Centre (UCCLAC) had produced a forty-minute videotape reconstructing types of brutalities and other abuses allegedly occurring at the Castlereagh Centre. In early December, at the time of the Amnesty International mission to Northern Ireland, the clerical leaders of the four main Christian denominations in the province made a public statement to the effect that they were "disturbed" that "serious" allegations of ill-treatment were being made. Shortly afterwards a representative of the Northern Ireland Police Authority, the independent civilian body which oversees the police, stated that the authority had "recently" had talks with the Chief Constable of the RUC, "about finding new ways of eliminating the cause of justified complaints". Others who have publicly expressed concern at the allegations during the course of 1977 include doctors, lawyers, members of municipal authorities and members of parliament.

The ill-treatment alleged during 1977 included both mental and physical maltreatment. Physical methods alleged included: beatings, attempted strangulation, pressure to sensitive points of the body, bending of limbs, prolonged standing or squatting in awkward positions, prolonged physical exercises, and burning with cigarettes. Mental pressures alleged included: prolonged oppressive questioning by teams, threats of death and of imprisonment, and threats to the family of the suspect, stripping, and verbal abuse and humiliation.

Many of the allegations referred to the Castlereagh Centre, but others concerned Springfield Road RUC Station, Belfast; Cookstown, Coalisland, Dungannon, and Lurgan RUC Stations; and Strand Road RUC Station, Londonderry.

Response by the authorities to the allegations

One aspect of the response by the RUC and the authorities to the allegations mentioned above has been to describe them as part of a propaganda campaign against the RUC, designed to defeat the force's aim of achieving an impartial reputation throughout the community (thus reducing its effectiveness against paramilitary groups) and to justify the assassination of its members by terrorist organizations. In addition, the RUC views the allegations as reflecting attempts by individuals to obtain acquittal before the courts on the grounds that their self-incriminating statements—often the only evidence against them which can be produced in court—were made under duress. The RUC also alleges that some prisoners inflict wounds on themselves, either as part of a general plan to discredit the force by producing medical evidence of "maltreatment", or as an attempt on the part of individual terrorists to exculpate themselves in the eyes of other members of their organizations by claiming that information was forced out of them by intolerable physical pressure. The authorities have also pointed to the provision for medical examination of suspects on arrest and on release, and at other times during their detention in police custody, and the comprehensive system for

investigating complaints against the police which exists in Northern Ireland.

In his report for the year 1976, the Chief Constable of the RUC stated that "terrorist organizations [had] adopted a deliberate policy of manufacturing allegations or contriving incidents, including self-inflicted injury" in order to discredit the police or to cast doubt on statements of confession when cases are tried in court. In June 1977 the Chief Constable asserted that the increase in the number of brutality allegations against the force was an indication of the growing police success in combating terrorism. He stated that there was clear evidence that some of the allegations were manufactured, and that some prisoners were injuring themselves to throw blame on the RUC. In a public statement, he affirmed that "in recent months" he had issued instructions to the force to prevent self-inflicted injuries by prisoners. He mentioned instances of prisoners wounding themselves with "eating utensils, a nail, a tin of lemonade, or by butting their head against a wall or smashing a window." The statement added that complaints had been lodged during the first quarter of the year on behalf of 112 of the 904 suspected terrorists detained. Inquiries were not yet complete in all cases, but at that time scrutiny by the Director of Public Prosecution (DPP) had not produced evidence to justify a prosecution against any police officer for alleged ill-treatment, the statement said. During the same month a Belfast judge claimed that it was the "common, indeed the universal policy of members of the IRA to fabricate allegations" of ill-treatment.

Following renewed allegations in the following months, the Chief Constable replied in October 1977 to the effect that, of 1,559 persons interviewed at the Castlereagh Centre during the first nine months of 1977, complaints were made by or on behalf of 215. Investigation of these cases was not yet completed, but of the complaint cases to that date submitted to the DPP in respect of the whole of the province during 1977, the DPP directed a prosecution for alleged assault against a prisoner in only one case, not relating to Castlereagh. Later in October the Chief Constable replied to the Thames television film (mentioned above) by stating,

"No Chief Constable in charge of thousands of men can say without doubt that no member of the Force will fall below the high standards set. But, let there be no doubt that the policy in this Force is enforcement of the law within the law. Every member of the Force knows of this policy, which is being widely propagated, and every member of the Force knows that he would offend against that principle at his peril."

The Chief Constable did not rule out the possibility that "at times a police officer will be tempted to overstep the mark" but also pointed out that three other possibilities existed: that the suspect might refuse medical examination on arrest, thus taking bruises and other marks into police custody; that the suspect may injure himself—and in documented instances had done so; and that the suspect might deliberately attack the interviewing officer in order to provoke a situation in which he had to be restrained. The Chief Constable concluded that "there is no policy or toleration of ill-treatment in this Force. Quite the contrary."

Following the showing of the television program, the Northern Ireland Office wrote to the Independent Broadcasting Authority to complain about certain aspects of the film, and the London Daily Telegraph reported that Republican sources had stated that IRA members were receiving "prizes" in the form of cigarettes and drink if injuries they inflicted on themselves while in police custody justified complaints against the police. The RUC has since claimed that suspects have injured themselves by cutting themselves with pins concealed in their clothing, rubbing areas of their bodies to produce inflammation, and punching themselves in the eyes. Renewed instructions from the Chief Constable to members of the RUC to guard against such incidents were issued on 10 November 1977.

In the view of the RUC, the system of medical examinations now in force is as effective as can be hoped in protecting both suspects from possible maltreatment and the police from malicious allegations. On arrival in police custody each suspect is offered a medical examination by a police doctor (usually a general practitioner under contract to the Northern Ireland Police Authority), who also offers him an examination on release, or before transfer to court for charging prior to being remanded in custody. The consent of the suspect is necessary before these examinations can take place. The suspect may request to see the police doctor at any time; at the two holding centers at Castlereagh in Belfast and Gough Barracks in Armagh, police doctors are on duty from nine in the morning until five in the evening each day, and may be called in outside those hours at the request of the suspect or if interrogation is taking place. According to instructions issued by the Chief Constable in September 1977, arrested persons should be allowed to see a doctor of their own choice at "a suitable time" during their detention on the request of their solicitors, near relatives, or "genuine representatives." On being charged, accused persons are examined by a member of the Police Surgeons Association, and on being remanded in custody they are examined by a prison doctor. The implication of this system of medical checks in terms of the substantiation or disproving of complaints of assault by RUC personnel are examined later in this report.

The RUC has further made the point that, while the force itself is arguably under strong pressure (for reasons mentioned earlier in this chapter) to obtain statements from terrorist suspects, such suspects as do make statements have a very powerful motive for alleging in court that the statement was induced by torture, inhuman or degrading treatment, and, if possible, producing apparently corroborative medical evidence. Under Section 6 of the Emergency Provisions Act, it is stated that a statement shall be ruled inadmissable if,

". . . *prima facie* evidence is adduced that the accused person was subjected to torture or to inhuman or degrading treatment in order to induce him to make the statement . . ."

Once such a *prima facie* case is made, the statement will be disregarded unless the prosecution is able to rebut such *prima facie* evidence to the satisfaction of the court. The standard of proof required to satisfy the court of the rebuttal is that of criminal cause—i.e., beyond reasonable doubt. The RUC would argue that rebuttal of *prima facie* evidence in these circumstances is extremely difficult, and that this means that when a self-incriminating statement is the only evidence against the accused, the motivation for the accused to claim maltreatment is extremely strong.

These two aspects of the question—medical examinations and the implications of allegations of maltreatment made before the courts—are dealt with in more detail in Chapters III and IV but are mentioned here in order to place in context the material which follows—especially that in Chapter III.

In response to a steady outcry for an investigation, Amnesty commenced theirs on November 28. An overview of their inquiry I will now place into the RECORD. Most of the attention was directed at the Castlereagh Barracks, but other facilities were examined.

CHAPTER II.—THE AMNESTY INTERNATIONAL MISSION

The allegations mentioned in the previous chapter are of concern to Amnesty International under article 1(c) of its statute, which states that one of the objects of Amnesty International shall be to oppose,

". . . by all appropriate means . . . torture or other cruel, inhuman or degrading treatment or punishment of prisoners or other detained or restricted persons whether or not they have used or advocated violence."

During 1976, Amnesty International received a number of allegations of maltreatment by security forces in Northern Ireland, and requested an official investigation into two such allegations, one involving three Belfast Republicans who alleged that they had been brutally maltreated after being wrongfully detained by members of the RUC, the other involving imprisoned members of the Ulster Defense Association who alleged that they were beaten with clubs by warders in Long Kesh Prison. The authorities informed Amnesty International that they were satisfied with the results of internal investigations into the allegations in both cases.

In the light of allegations which continued to reach the organization, the International Executive Committee of Amnesty International decided to send a research mission to Northern Ireland. Due to the fact that the majority of allegations reaching Amnesty International referred to persons in the custody of the RUC, the terms of reference of the mission were restricted to investigating such allegations, rather than more general charges of human rights violations. On 8 November 1977 the Secretary General of Amnesty International, Mr. Martin Ennals, wrote to the Secretary of State for Northern Ireland, Mr. Roy Mason, regarding the proposed mission. The letter requested that the delegation be able to meet with Mr. Mason and other appropriate authorities, particularly with the Chief Constable of the RUC, Mr. Kenneth Newman. Subsequently Amnesty International received a reply, dated 15 November, from Mr. Maston to the effect that his department had been instructed to cooperate with the mission "as far as it reasonably can" and "to help the mission where possible to meet those outside the Royal Ulster Constabulary who are concerned with these matters". The letter indicated that it would not be possible for the authorities in Northern Ireland to discuss details of individual allegations which were under investigation through the normal complaints machinery, or had been determined under the statutory procedures. However, Mr. Mason stressed that he wished the mission to learn as much as possible about the safeguards employed to ensure that suspects were correctly treated, and about procedures used to investigate complaints of ill-treatment. Amnesty International also received notification that the Chief Constable of the RUC would meet the mission.

Prior to the mission Amnesty International also contacted civil rights organizations, lawyers, doctors, and other individuals who would be in a position to present the mission with written and oral evidence and place it in contact with complainants.

The mission, consisting of a Dutch lawyer, a Danish doctor, and a member of Amnesty International's International Secretariat, visited Northern Ireland from 28 November to 6 December 1977. It was joined on 1 December by a second Danish doctor. The team interviewed organizations and individuals in Belfast, Dungannon, and Londonderry. Most of those interviewed were complainants (further details of this category of witnesses is given later in this chapter). In addition to

speaking with the complainants and a number of organizations concerned with civil liberties, the mission met lawyers, doctors, politicians at the local and national level, and, among the authorities, the Deputy Secretary of State, a representatives of the Attorney-Generals office, the Chief Constable and a Deputy Chief Constable of the RUC, the head of the RUC Complaints Branch and members of his staff, members of the Police Federation of Northern Ireland, and the Director and Deputy Director of Public Prosecutions. In addition, it met the Chairman, Secretary, and other members of the Northern Ireland Police Authority, doctors under contract with the Authority, members of the Police Surgeons Association, and the head of the Police Complaints Board. The mission was also offered, and accepted, the opportunity to visit Castlereagh Police Holding Centre in Belfast. Two members of the mission visited the reception, detention, and interrogation blocks of the centre for a period of approximately three quarters of an hour on 6 December 1977. They spoke to uniformed staff, and were shown unoccupied offices, cells, and interrogation rooms, but (as previously stipulated by the authorities) were not able to speak to individual suspects being held at the time of the visit. A similar offer of a visit in regard to Gough Barracks, Armagh, was declined due to lack of time.

During the mission, the Amnesty International delegates obtained direct testimony from 52 persons who alleged that they had been maltreated while in police custody. In all instances the mission undertook that names of individual complainants it interviewed would not be revealed—both because in some cases individuals had actions against the police for alleged maltreatment still before the courts, and in order to protect the individuals concerned. Doctors interviewed by the mission also expressed the wish to remain anonymous. Complete records of all interviews are however in the possession of Amnesty International. The delegates also examined medical reports relating to 13 of the 52 cases, and 5 of the 52 agreed at the request of the delegates to be further examined in greater detail by the medical members of the mission. In addition to obtaining testimony directly from the above-mentioned persons, the delegates also examined medical reports and other apparently corroborative data in relation to a further 26 cases of alleged maltreatment.

Thus, overall, a total of 78 cases were examined in some detail by the mission. Amnesty International's findings with regard to these cases are described in Chapter III of this report. Further cases of alleged maltreatment were reported to the delegates, but the information given in these cases was either insufficient or they fell outside the terms of reference of the mission. These cases are not included in this report.

The 78 cases referred to above concern persons who were arrested, mostly during 1977, on suspicion of involvement in terrorism. It should be emphasized that these cases represent only a small proportion of the total of individuals interviewed by the RUC as terrorist suspects—in 1977, for instance, 3,444 suspects were interviewed, and in 1976 3,042. It should also be noted that the mission was only able to interview directly individuals who were at liberty—that is, either those who were not charged (the large majority of those interviewed) or against whom charges had been dropped, or who had been acquitted, or who were free on bail pending trial. The sample was random in the sense that it was not pre-selected by Amnesty International. On the other hand, most of those interviewed met members of the mission by arrangement with their lawyers or relatives, or with various organizations such as the Association for Legal Justice, the Northern Ireland Civil Rights Association, and the Ulster Citizens' Civil Liberties Advice Centre.

In the large majority of the cases examined the alleged victims were from the Roman Catholic community. This reflects the fact that most persons arrested on suspicion of involvement in terrorism are from that community—a situation which in turn reflects the fact that by far the most active para-military organization in Northern Ireland at present is the Provisional Irish Republican Army, although "Loyalist" paramilitary groups are also active. The mission took steps to ensure that it interviewed complainants from both Protestant and Roman Catholic communities.

In the majority of the cases examined the alleged victims of maltreatment had been arrested under the Emergency Provisions Act, which empowers the police to detain persons for up to three days without charge. A number of persons, however, had been held under the Prevention of Terrorism Act, which allows police to hold suspects for up to seven days without charge. Of the 78 cases examined, 36 persons were detained for three days, 21 for between four and seven days, ten for less than three days, and in the remaining cases the length of police detention is not known to Amnesty International.

41 of the 78 persons whose allegations are described in this report were released without charge after their detention in police custody. One was extradited. 22 persons were brought before a magistrate after their detention in police custody and charged with offences relating to terrorism; of these, two subsequently had all charged dropped. In most of the remaining cases trial is still pending. In the remaining 14 cases it is not known to Amnesty International whether the persons in question were charged.

The cases examined in this report cover a wide geographical area of Northern Ireland and include persons from rural and urban areas. Although in many cases examined by the mission the arrested persons were first taken to local police stations, in the majority of cases examined the persons involved were taken to Castlereagh Police Holding Centre at some stage during their period in police custody. 58 of the 78 cases examined alleged that they were maltreated at Castlereagh by plainclothes detectives. No uniformed staff at Castlereagh were involved in the alleged maltreatment. In the remaining cases it was alleged that maltreatment had occurred in a number of local RUC stations, but not by uniformed police officers. These include Cookstown RUC Station, Strand Road RUC Station (Londonderry), Omagh RUC Station, Lurgan RUC Station, Springfield Road RUC Station, (Belfast) and Newry RUC Station in Armagh. While a number of allegations of brutality by army personnel towards persons not under arrest were reported to the mission, these do not fall within the mandate of this report, which concerns persons arrested and allegedly maltreated by members of the RUC.

The findings of the Amnesty International report are shocking. The report is broken down in the following fashion:

Thirty-nine cases interviewed by Amnesty on whom medical evidence was unavailable.

Anywhere from 6 to 10 different forms of maltreatment were cited.

The most common were 23 of 39 cited beatings to the body and extremities, while 19 out of 39 endured direct beatings to the head.

Twenty-six cases on which medical evidence was available and who were not interviewed by Amnesty.

Seven different forms of maltreatment were cited here. The most common again was beating, in 22 of 26 cases.

Nine cases on which medical evidence was available and who were interviewed by Amnesty.

Here, all nine alleged direct beatings to the head and medical evidence did show signs.

The complete chapter 3 of the Amnesty report entitled "Case Studies of Alleged Maltreatment" I will now place in the Record.

CHAPTER III.—CASE STUDIES OF ALLEGED MALTREATMENT

This chapter deals with the evidence on 78 persons regarding whom there are allegations of maltreatment by Royal Ulster Constabulary personnel, and whose cases were examined by the Amnesty International mission. The degree of evidence available varied throughout this sample of cases. In 39 instances the mission was able to interview individuals on whom no corroborative medical evidence was available. In 26 instances the delegates received documentary medical evidence relating to individuals whom they were not able to interview. In 13 cases the delegates interviewed persons on whom medical evidence was available.

One of the 39 cases on whom medical evidence was not available, and 4 of the 13 cases with medical evidence, were selected by the mission, for more detailed examination by the medical delegates. The results of the examination of these various categories of evidence are given in this chapter of the report.

The evidence presented to the mission in interviews and statements reflected, of course the account given by each complainant. In the absence of access to the reports of police doctors who examined the complainants, and due to the fact that the mission was unable to discuss individual cases with the authorities, this was inevitable. For precisely this reason, and because of the controversy surrounding allegations of maltreatment in Northern Ireland (see Chapter I), this report places great emphasis on medical evidence, and in particular on the reports of doctors who examined the complainants after the alleged maltreatment.

Individual cases illustrative of the evidence received by the mission are given in the annexes of this chapter for all categories save that on which no medical evidence was available.

Thirty-nine persons interviewed by the mission on whom medical evidence was not available to the delegates:

The persons interviewed were between the ages of 13 and 60, the majority being between 18 and 22. Five of them had been detained in 1976, six during the first half of 1977 and 28 during the latter half of 1977. The large majority of allegations of maltreatment concerned plainclothes detectives of the RUC. The army was mentioned in a few cases and the uniformed RUC in one case only. The sample consists of 26 men and 13 women, from both rural and urban areas, and includes both Protestants and Roman Catholics, although the latter predominate. Of the 39, 30 were released without charge.

Types of maltreatment alleged varied only slightly throughout the sample and can be divided into the following subgroups:

a. Psychologically exhausting procedures

Six individuals complained of prolonged interrogation sessions with aggressive questioning.

b. Physically exhausting procedures

Nineteen individuals complained of this, the most common allegations being that they were made to stand at a wall for long periods of time (cases varied from 15 minutes to 4–5 hours continuously); to stand with the arms lifted for prolonged periods; to sit with the back against the wall as if sitting on a chair; running on the spot for lengthy periods.

c. Threats

23 persons alleged threats. Three women said that they had been threatened with rape and in two cases the light in the interview room was allegedly switched off just after the threat was made. Other threats were alleged to have comprised threats of beatings, threats of being killed after release, threats of long prison sentences, threats to their families and threats of being left in a hostile sectarian area. Frequently it was alleged that different types of threats were used during the same interview period.

d. Beatings to the body and extremities

23 persons alleged that this had happened during their interrogation sessions. It was alleged that the beatings had been inflicted with closed fists, as well as by banging the victim against a wall. Allegations included kicking of the body and genitals and squeezing of the genitals.

e. Direct beatings to the head

19 persons alleged that they had been beaten about the head either with the open hand or closed fist, or by having their head banged against a wall.

f. Humiliation

Ten people alleged humiliating treatment, such as being forced to remove their clothes and, in the case of some women, having their skirts lifted. One woman alleged that she had not been allowed to change her sanitary napkin during her menstruation.

g. Other methods

39 persons alleged other types of maltreatment such as wristbending (4 persons), choking (3 persons), sleep deprivation (2 persons), hooding (3 persons), and being burnt with a cigarette (1 person). The three cases of hooding consist of 2 persons who alleged that plastic bags were placed over their heads, and a third who alleged that his coat was pulled over his head. The majority of the others complained of having been shaken and having had their hair pulled.

In all 39 cases maltreatment as described above was alleged to have occurred during interrogation with at least 2 and in some cases as many as 6 police officers at a time being involved. Usually maltreatment was alleged to have been intermittent—interspersed with interview sessions in which no maltreatment occurred.

In the majority of the cases in this group it was alleged that interrogation took place intermittently throughout the day. In a number of cases the interrogation continued into the night. The length of each interview period varied between one or two hours and sometimes longer.

The total period of maltreatment alleged varied—usually according to the length of detention; in some of the cases examined it was alleged to have occurred intermittently throughout the first three days of detention; most of those detained for longer than three days under the Prevention of Terrorism Act alleged that maltreatment occurred intermittently for periods of between three and five days.

Many of the individuals interviewed complained of nervousness, sleep disturbances, and difficulty in concentrating following the detention period. One alleged having contemplated suicide and three stated that they had attempted suicide during the detention. Four were transferred to psychiatric hospitals or were put under the care of a psychiatrist following detention. However, medical documentary evidence to this effect was not available to the mission.

It should be emphasized that the allegations made by individuals dealt with in this section were related to the mission delegates without being elicited by leading questions from the delegates. Considering this, the volume and consistency of the allegations adds weight to the general assertion that maltreatment had occurred, and provides a context for the cases with medical evidence which are examined in the following sections of this chapter.

Nature of the medical evidence

The mission was able to examine medical reports in the cases of 39 of the 78 persons whose allegations of maltreatment are the subject of this chapter. Nearly all these reports were from the arrested persons' own doctors or from other doctors who examined detained persons at the request of lawyers either during or shortly after detention in police custody. In most of these cases, and in many of the remaining 39 cases, police doctors' reports also exist, but were not available to the mission.

Of the 78 persons whose cases are examined in this report, 37 were known to have received a medical examination by a police doctor on arrival at a detention centre and 29 on release from police custody. Some were also examined by police doctors during their detention. In the majority of the cases where medical evidence was studied by the mission an outside doctor did not examine the arrested person until at least the third day of detention (see Chapter IV on access to detaned persons). In a number of cases, however, arrested persons were examined by their own doctors soon after arrest, and at intervals thereafter. In respect of the 39 cases where medical evidence was examined by the mission, the delegates received nearly 50 medical reports from approximately 40 different general practitioners from throughout Northern Ireland and from different sections of the community. The delegates also spoke with 13 doctors who had all examined individuals in police custody.

The doctors' written reports varied considerably in length and in detail. The delegates had in no case reason to disbelieve any of the medical reports presented to them. In many of the cases a police doctor's report was made at the same time as the general practitioner's report, but these were not available to the mission. The delegates believe it would be of great value to have the police doctors' reports, especially those based on examinations made on arrival in detention centres as these could possibly offer an additional check on the validity of the allegations. Police doctors' reports on release or transfer could also be compared with reports of examination on arrival. In cases where detained persons refused a medical examination on arrival in detention the possibility of cross-checking the allegations in this way is eliminated. Police doctors' reports are made available in cases where persons alleging maltreatment are brought to trial, but usually only at a late stage in criminal proceedings; in the majority of cases examined by the mission the complainants were released without charge.

A group of police doctors expressed their willingness in principle to make their reports available to the mission but needed the permission of the Northern Ireland Police Authority to do so.

The mission's request to the Northern Ireland Police Authority for access to police doctors' reports was not granted on the grounds that:

a. It would involve discussion of individual cases with the authorities, contrary to the terms set down by the authorities for their discussions with the AI delegation.

b. It would violate the sub-judice role in cases where trials are pending.

In this report the word "symptom" is used to describe physical and/or mental "after-effects" clamed by complainants. Objective findings as recorded by doctors after examination of the complainants are referred to as "signs". A glossary of medical terms is added to the report.

26 Cases on which Medical Evidence was available to the Mission but who were not interviewed by the Mission

26 persons in this group were males. 23 were arrested and allegedly subjected to maltreatment in 1977, one in 1975 and two in 1974. In some cases no information about the age of the individuals was available to the mission but where this information was known the subjects' ages varied from 17 to 32 years, averaging about 23 years. The persons concerned came from different parts of Northern Ireland, both rural and urban. In 24 cases maltreatment was alleged to have been inflicted by plainsclothes RUC personnel and in two cases by plainclothes RUC personnel together with army personnel.

Maltreatment was most frequently alleged to have taken place in Castlereagh Police Holding Centre (17 cases), but the following other locations were also mentioned: Strand Road RUC Station, Londonderry (1), Omagh RUC Station (2), Cookstown RUC Station (1), Newry RUC Station (2), Bessbrook RUC Station (1), Forkhill Military Barracks (1) and Newcastle RUC Station (1).

Ten of the 26 persons were known to have been medically examined by a police doctor, 6 on arrival at Castlereagh and 4 on arrival at other detention centres. One refused a medical examination, one was not offered an examination and two were not examined for reasons unknown. In 11 cases the mission does not know if the person was medically examined on arrival.

18 of the 26 persons were medically examined by an outside doctor during their detention in police custody. In the remaining 8 cases examination by an outside doctor took place only after their release from police custody; in four of these cases the examination took place shortly after their transfer from police custody to Crumlin Road jail.

As a police doctor is always present when a person has a medical examination in police custody a police doctor's report must exist for each of the 18 cases who had a medical examination during detention. In 15 of these cases specific reference to the existence of such reports was made.

Maltreatment most frequently alleged was beating (22 of the 26 cases). Other common allegations were hair-pulling (14 of the 26 cases), direct trauma to the head (12), physically exhausting procedures (13), beating on the stomach (10), threats (10) and choking (8). Less frequent allegations included physical violence to the genitals (5) and degrading, humiliating and mentally exhausting procedures (4). There were isolated allegations of other types of maltreatment.

In 14 of the cases examined the alleged victims of maltreatment claimed specific physical and/or mental symptoms. In 12 cases there was no information about symptoms. In the other 14 cases in this group pains were the most frequent symptoms (9), followed by exhaustion (3), nausea (3), and headache (3). Twelve persons complained of mental symptoms, most frequently anxiety (6), sleep disturbances (4), and nervousness. Three persons said they were fearful of future maltreatment.

From the medical reports available, there were signs in all cases except one. The most frequent physical signs were bruises, which were found in 17 of the 26 cases; then abrasions (8), tenderness of joints and muscles (7) and swelling of soft joints and tenderness of palpation of abdomen (4). Four persons had a certain traumatic perforation of the eardrum and three of the cases had bone fracture. The signs of mental disturbances were most frequently anxiety (17) and states of nervous agitation (5). In two cases there were signs of severe depression. In a number of cases there was no information regarding the mental state of the patient in the medical report. In one case there were no signs at all, although the person in question alleged he had been mal-

treated by beating for 1½ hours. In the opinion of the mission it is most unlikely that the maltreatment alleged in this latter case would have left no signs at the time of the medical examination, which took place during this person's detention and after the alleged maltreatment.

In 23 of the 26 cases the mission found general consistency between the alleged maltreatment and signs. The mission could make no assessment of consistency in one case where the arrested person himself made no allegations although medical evidence was available. In two cases there was no consistency between alleged maltreatment and signs.

The eleven cases in Annexe 1 to this chapter are representative of this group of 26. These cases have been selected not on the basis of the severity of the allegations, but rather as being representative of the entire sample of 26.

Nine Persons alleging Maltreatment who were interviewed by the Delegates and on whom Medical Evidence was available to the Mission.

One or more of the delegates took part in each of these interviews.

This group consists of 9 males, all of whom were arrested in 1977. Their ages vary from 19 to 32 years, the average being about 26. In three cases there was no information about the age. Four of the persons were interviewed in Belfast, three in Dungannon and two in Londonderry. In eight of the cases it was alleged that maltreatment had been carried out by plain-clothes members of the RUC, and, in one case, by both military personnel and plain-clothes members of the RUC. Maltreatment was alleged most frequently to have taken place in Castlereagh (8 cases), in one case in Omagh RUC Station, and in one case in Fort Monagh Army Barracks, Belfast.

Six of the nine had a medical examination on arrival at the detention centre. Two out of nine had refused the offer of medical examination and in one case, there is no information on this point. All nine persons were medically examined by a general practitioner and in some cases also by a police doctor during their stay in the detention center. Six of the nine had a medical examination when they left the detention center. One of the nine was not offered a medical examination, and in two cases there is no information on this point.

The most frequent allegations of maltreatment concerned methods producing trauma to the head (beating, wall-banging, etc.), which were alleged in all 9 cases. Then followed general beating (8 cases), hair-pulling (8 cases), threats (6 cases), physically exhausting procedures (5 cases), physical violence to the genitals (4 cases) and chokng (3 cases).

The symptoms described after the alleged maltreatment were both mental and physical. Both immediate symptoms and those emerging later are included in the following description of individual cases. In one case, there was no information regarding symptoms. Of the 8 cases where symptoms are recorded, seven had mental symptoms, most frequently sleep disturbances and anxietv. Pains were the most common of the physical symptoms, which also included headaches, loss of consciousness (immediate) and impaired hearing.

In all nine cases there were signs. The most frequent physical sign was bruises, found on eight of the nine persons. This was followed in frequency by tenderness of joints and muscles (4 cases), and abrasions (4 cases). Two of the nine persons had a traumatic perforation of the eardrum. The most common mental signs were nervousness and anxiety. Only in three cases was there a description of the mental state in the medical report.

In all nine cases, there was general consistency between the alleged maltreatment and the signs described in the medical reports.

A summary description of each of the nine cases is given in Annexe II to this chapter.

Five detailed examinations

The medical delegates on the mission carried out detailed examination of five persons alleging maltreatment. In four of these cases medical reports by doctors who examined the persons concerned during their detention in police custody or shortly after their release were also available to the mission.

Method of examination

Each examination was carried out by the two medical delegates. The methods used have been developed on the basis of experience in examination of alleged torture victims from various countries. Each examination took three to five hours and consisted of an interview section with:

(a) Establishment of a detailed personal history

(b) Physical examination, including neurological examination

(c) Psychiatric assessment

(d) Test for cerebral asthenopia. This text can be used in the diagnosis of organic cerebral damage or disease. This was used on only two of the five individuals.

The medical delegates had no "control group" in these examinations as they did not examine any person from Northern Ireland who had not alleged maltreatment and did not examine any person who had not been arrested. To a certain degree, however, the individuals examined acted as their own "control" in that they did not know in advance the types of questions that were to be asked or the significance of other tests made during the examination; nor did they know the significance of symptoms they described as having occurred after their alleged maltreatment, and their accounts of their earlier personal history. (However, in order for the detailed examinations to be placed in the context of a "control group", individuals who had been interviewed by the RUC but who had not alleged maltreatment should also be examined using this detailed method.)

The cases were not selected on the basis of the severity of the maltreatment alleged, but on the basis of sex, geography and section of the community, as being representative of the total sample of cases examined by the mission.

In three of the five cases considered, the medical delegates found that there was consistency between some or all of the allegations of maltreatment, and the signs and symptoms described in reports of medical examinations. In two of the cases the medical delegates found consistency between the maltreatment alleged and signs and symptoms present at the time of their detailed examination of the complainants. In one case, the medical delegates felt that the consistency between the signs and symptoms present at the time of the detailed examination and the maltreatment alleged, while not in itself conclusive, still strongly corroborated the case that maltreatment had taken place, when viewed in connection with the other medical evidence available. In one case, where the patient had developed a psychosis, the medical delegates found that it was unlikely that this psychological state could have developed had the maltreatment alleged not taken place. In one case, the detailed examination was inconclusive. In all, the medical delegates were able to conclude in three of the five cases that all the available evidence, including the results of the detailed examinations, strongly corroborated the case that maltreatment had taken place.

Summary of findings

(1) There is a high degree of consistency among testimonials from numerous individuals belonging to different sections of the community as to methods used in alleged maltreatment.

(2) In the majority of cases, in which medical evidence was available to the mission, there was consistency between the signs and symptoms noted in that evidence, and the allegations of maltreatment which were either mentioned in the medical evidence, or reported to the mission delegates during interview, or both.

(3) In a few cases evidence of self-inflicted injuries was found. In most of such cases interviewed by the mission the person in question volunteered the information that they had inflicted such injuries on themselves as a means of terminating their interrogation—e.g. by being taken to hospital. Doctors to whom the medical delegates spoke confirmed that in their experience the simulation of injuries for the purpose of defaming the police was very rare.

(4) In the detailed interviews the medical delegates asked a number of non-leading questions concerning symptoms. Descriptions by persons interviewed by the mission of their reactions immediately following maltreatment were similar in a large number of cases. Answers were in some cases analagous to accounts given by alleged torture victims to previous AI investigations using the same detailed method, carried out in other countries.

Press interest in the Amnesty report has been unusually high. The Washington Post covered the report the first day it was released. Other major papers and leading Irish-American papers donated articles to the report. I now wish to insert these articles en bloc:

[From the Washington Post]

ULSTER POLICIES ACCUSED OF MALTREATMENT

(By Bernard D. Nossiter)

LONDON.—Detectives in Northern Ireland beat and kick suspected terrorists to extract confessions, according to a report Amnesty International is scheduled to release next week.

The abuse is frequently directed at men and women against whom no charges are lodged, and is so frequent that Britain should conduct a public inquiry into it, the report says.

The 70-page document, a copy of which has been obtained by The Washington Post, says the medical and psychiatric evidence supports the claims of victims that they have been struck in the head, body and genitals, thrown against walls, threatened with rape and subjected to relentless humiliation.

The Amnesty investigating team included two unnamed Danish doctors who examined medical reports of 39 arrested persons and conducted their own examination of five. The Amnesty doctors discovered organic brain damage in two of these cases, both of whom were ultimately released by the police without charge.

The report by the humanitarian organization, winner of the Nobel Peace Prize last year, is likely to rub British sensibilities raw. There is a widespread belief here that police abuse is a problem in dictatorships or the United States and that British police—even in tormented Ulster—play fair.

To rub it in, Amnesty's director, Martin Ennals, is a brother of David Ennals, a Cabinet minister for health in Prime Minister James Callaghan's government.

Officials here declined to comment on the report until it is publicly released. They indicated, however, that they would examine every Amnesty complaint if the organization would release the names of those who made them.

The survey by the London-based organization asserts that plain-clothes officers of the Royal Ulster Constabulary—not the uni-

formed police who patrol the streets—are typically the assailants. The Amnesty team did not look into charges that British soldiers, who also make arrests in Ulster, frequently maltreat their prisoners.

The report is to be released here Tuesday. It is likely to cause discomfort to the British government's minister for Northern Ireland, Roy Mason, who has frequently boasted that he is suppressing bombings and shootings in Ulster by convicting terrorists in the courts.

The Ulster conviction rate is high. About 94 of every 100 persons charged are found guilty by the one-judge, no-jury courts especially set up in Northern Ireland. There is also the fact that 70 to 90 percent of these convictions rest wholly or mainly on the accused's own admission, according to another study.

If Amnesty is correct, Mason appears to be open to the charge that his court structure rests heavily on the maltreatment of suspects. To be sure, witnesses to terrorist crimes are hard to find in Ulster, either because they fear retaliation or because they sympathize with the terrorists. The document asserts that the Mason system has been strengthened by police practices which isolate suspects from lawyers for several days and by little-noticed changes in British law that no longer bar confessions obtained through fear of oppression.

Most of the cases examined by the Amnesty team are Catholic because the Catholic Provisional Irish Republican Army accounts for the bulk of terror in Ulster. Some Protestants are included, however, presumably suspected terrorists from IRA counterparts like the Ulster Defense Association.

The report does not name any of its alleged victims, but describes the complaints and medical history of several in great detail.

Case number three is a male who was released without charge after 4½ days. He said he was subjected to "prolonged oppressive questioning . . . threats (of being killed) . . . beatings (hit in the face and stomach, kicked on the legs and buttocks) . . . humiliation (soiled underpants were placed over his head, humiliating remarks were made about his religious beliefs.)"

The Amnesty doctors who examined him several months after his arrest "found a positive test for cerebral asthenopia which suggests that he is suffering from some degree of organic brain damage."

The report said, "there is consistency between the allegations of maltreatment and the attached medical reports . . . the detailed examinations, which enabled the medical delegates [Amnesty doctors] to assess the symptoms described and detect residual signs, strongly corroborates the case that maltreatment took place."

Case number 12 was a woman held three days and also freed without charge. She said she was threatened with rape and electric shock, that her child would be taken from her. Her skirt was lifted, one for her interrogators "forced her to stand against the wall and then hit the wall next to her head with his fist."

Examining her several weeks later, the Amnesty doctors found her still suffering from symptoms she first complained of when she was freed—irritability, talkativeness, erratic behavior, fatigue, depression and anxiety. They described her as "moderately depressed" and concluded that their examination "strongly corroborates the case that maltreatment took place."

Amnesty could not determine the extent of the practice. It did discover that more than three of every four complaints examined came from one police holding center in East Belfast.

[From the Hibernia Weekly Review, June 8, 1978]

AMNESTY AND CASTLEREAGH

The findings of the Amnesty International investigation into allegations of police brutality at Castlereagh barracks should surprise no one. And unfortunately they are unlikely to have much effect on the procedures by which confessions are secured at the most notorious interrogation centre in the North. So many revelations of the brutal and criminal conduct of plain-clothes officers at Castlereagh have been ignored for so long, that even the impartial Amnesty Report is unlikely to make much difference. Castlereagh is what it is and the interrogators are what they are because Roy Mason wants it that way. He wants the statistics to prove that he is "winning", which means convictions, which means confessions, which means what even Amnesty has now confirmed from the investigation of 78 individual cases.

Nor need the police responsible for what Amnesty describes as "frequent maltreatment" be unduly worried for their job security. Indeed quite the contrary. They can be reassured by how well their colleagues survived the European Commission on Human Rights finding on the brutality at Palace Barracks, Hollywood, in 1971. The Commission, it will be remembered, found unanimously that the detained people were subjected to "inhuman treatment" to such an extent as to be in breach of the Convention on Human Rights. But was a single man of them disciplined much less charged with his criminal assaults on the detainees? Not a bit of it. Some of them were actually promoted and to the best of our knowledge not a single one of them was dismissed from the service. So the dirty tricks department at Castlereagh can carry on regardless. No questions will be asked from above. All they are interested in is the confessions.

It is ironic but not altogether surprising that the self-same man who turns a blind eye to this criminal activity is so keen to criminalise the very subjects of this abuse. It is not enough for Mason to be locking up about ten times more prisoners per head of the population than in any other country in Europe. He is also determined on the pretence that all this relates to "normal" criminal activity. In Mason's sinister makebelieve there is no political struggle: ergo there can be no political prisoners. And the most incredible aspect of this calculated fraud, is that the man is almost getting away with it.

There is however the troublesome little problem of the 300 men in H Blocks, Long Kesh. These "criminals" are so disorientated that they refuse to accept Mr. Mason's categorization. They are confined to cells measuring 10' x 6': they are barefooted and wear only a blanket; they get no exercise and all normal prison privileges are denied them. In fact they endure permanent solitary confinement under what are intensely cruel conditions. But confined, diseased, muted and stinking (because of the slops strike) though they may be, they are still a living witness to the lie that Mason would have the world believe.

The inadmissable reality of course is that Northern Ireland as presently constituted is ungovernable except through repression. It always has been that way and the methods have been remarkably constant. Only the agents of repression have changed. It used to be the wicked Unionists through Stormont. Now it's the British Secretary of State through Westminster.

Amnesty International has a unique reputation for its concern for prisoners all over the world. Its team in the North included two doctors, two lawyers and a researcher, and its 70-page report resulted from detailed investigations over 10 days. Apparently it was given the full co-operation of the N.I. Office during its investigations. Coming so soon after the death while in detention at Castlereagh of Brian Maguire, the report confirms the worst suspicious following allegations from many other sources. But until those responsible for torturing suspects or prisoners are themselves put on trial for their conduct, there can be little faith in the restoration of law—whatever about order—in Northern Ireland.

NEW BRUTALITY CHARGE LEVELED AT NORTHERN IRELAND POLICE

DUBLIN.—Physical and mental maltreatment suspects is still taking place at Castlereagh RUC (Northern Ireland police) Center in Belfast, the human rights organization. Amnesty International has told the British Government in a confidential report—details of which were reported by Dublin newspapers on Monday.

Amnesty concludes in a 70-page report that suspects have been maltreated frequently and calls for the establishment of an impartial public inquiry to investigate the methods used by the RUC.

These findings by Amnesty could cause considerable embarrassment to the British Government internationally, since they show that suspects are still being ill-treated in the North, despite assurances by Britain to the European Court of Human Rights in Strasbourg, France.

The Amnesty report adds to the disquiet in the North about the activities of the RUC at Castlereagh, following the death last month of Brian Maguire, who was found hanged in his cell.

Amnesty's report is the result of an investigation by a team of experts—two doctors, a lawyer and a researcher—who spent 10 days in the North some months ago.

Their comprehensive report details 78 individual cases of alleged maltreatment of suspects by plainclothes RUC detectives.

MEDICAL REPORTS

The authorities in the North claim to have co-operated fully with the investigation but the report says that the records of police doctors who examined suspects were not made available. The Amnesty doctors studied over 30 medical reports on the condition of suspects after RUC interrogation and personally examined some of the suspects. The Amnesty doctors conclude that the medical evidence "strongly corroborated" allegations of maltreatment.

One of the most disturbing observations is that some instances of brain damage were found among the maltreated suspects.

The Amnesty team conclude that the present laws in the North on arrest, detention and the admissibility of statements in court "have combined to reduce safeguards against improper police conduct."

POLICE OBSTRUCTION

The report is particularly critical of the way the police obstruct the suspects' right to legal advice. "Access to solicitors is denied as an apparent matter of policy," it notes, "giving rise to an inference, whether justified or not, that not all statements are made voluntarily."

Amnesty is also very critical of the procedures in the North for dealing with complaints of police brutality. "The procedure for handling complaints alleging a breach of the criminal law by police will not disclose all cases of maltreatment," it says.

"Complaints alleging maltreatment in

police custody may be classified 'unsubstantiated,' though the maltreatment alleged may actually have taken place."

PUBLIC INQUIRY

The following are the overall conclusions and recommendations of the Amnesty report obtained by The Irish Times:

"On the basis of the information available to it, Amnesty International believes that maltreatment of suspected terrorists by the RUC has taken place with sufficient frequency to warrant the establishment of a public inquiry to investigate it.

"The evidence presented to the mission does not suggest that uniformed members of the RUC are involved in the alleged maltreatment.

"The evidence presented to the mission suggests that legal provisions which have eroded the rights of suspects held in connection with terrorist offenses have helped create the circumstances in which maltreatment of suspects has taken place.

"The evidence presented to the mission suggests that the machinery for investigating complaints against the police of assault during interview is not adequate.

"Amnesty International recommends that for reasons relating to the protection of suspects and police officers alike, a public and impartial inquiry be established to investigae the investigations of maltreatment.

"The terms of reference of this inquiry should include consideration of the rules relating to interrogation and detention, admissibility of statements, the effectiveness of machinery for investigating complaints against the police of assault during interview. The inquiry should have access to all relevant data on individual cases of alleged maltreatment.

"Pending the establishment and reporting of such an inquiry, Amnesty International recommends that immediate steps should be taken that suspects, interviewed by the RUC on suspicion of terrorism, are protected against possible maltreatment. Measures to this end should include access to lawyers at an early stage of detention."

[From the New York Post, June 12, 1978]

ULSTER BRUTALITY PROBE URGED BY TED AND BIAGGI

Sen. Kennedy (D-Mass.) and Rep. Mario Biaggi (D-Bronx) have each called for an investigation into charges that Catholic prisoners in Northern Ireland are being brutalized by police.

The charges are contained in a recent report by Amnesty International.

Gov. Carey, who last year created a storm by condemning the Irish Republican Army as "killers," also joined in urging an investigation of the charges.

"Any means of getting at the truth of what is happening in Northern Ireland is certainly worthy of examination," said David Murray, the Governor's press secretary.

Biaggi, chairman of the 105 member Ad Hoc Congressional Committee on Irish Affairs, said the report "will have documented cases involving 78 prisoners, including some held without charges, being brutalized by Northern Irelands Royal Ulster Constabulary."

He said he and the committee would ask House Speaker Thomas (Tip) O'Neill to schedule immediate hearings on the report.

Kennedy yesterday urged the creation of an independent special prosecutor to look into the charges.

He said the British government whose troops are attempting to keep the peace between Catholic and Protestant factions, "should not be placed in the compromising position of investigating itself."

ADDITIONAL AMNESTY INTERNATIONAL STATEMENT ON NORTHERN IRELAND

Amnesty International today (Tuesday 13 June 1978) issued a statement regarding the British government's public response of 8 June to AI's report on allegations of police maltreatment in Northern Ireland of persons detained under emergency legislation. AI published the full text of its report only today. The report has been the subject of considerable comment in the UK and Irish media since the beginning of June, but AI pointed out that until today it has not made the report available to anyone except the government, to whom it sent a copy on 2 May.

AI's statement says:

1. Amnesty International reiterates that the main finding of its on-the-spot investigation was that maltreatment by the Royal Ulster Constabulary of persons detained under emergency legislation had taken place during the period covered by AI's mission (1975–1977). AI notes that this finding is not directly contested by the government in its statement of 8 June. AI continues to receive allegations of a similar nature.

2. AI notes the government's proposal to establish an independent committee of inquiry into present police practice and procedure in Northern Ireland. AI regrets, however, that the terms of reference proposed by the government for such a committee would exclude examination of individual complaints of maltreatment. AI firmly believes that an essential prerequisite for any measure towards long-term improvement is that the facts are established beyond any doubt. AI's proposals regarding a public and impartial inquiry are as follows:

(a) It should be established by the government, be composed of individuals who can command the respect of all parties concerned, and include at least one qualified medical doctor.

(b) It should be accessible to members of the public wishing to submit evidence. Provision should be made for such evidence to be taken in private.

(c) Its full report to the government should be made public.

(d) Its terms of reference should include:

(i) to examine individual complaints of maltreatment; these should not be restricted to the 78 cases referred to by AI in its report.

(ii) on the basis of the findings of this investigation, to review the rules relating to interrogation and detention, admissibility of statements in the courts and the effectiveness of existing machinery for investigating complaints against the police of assault during interrogation.

(e) All information necessary for such an inquiry should be made directly available to it, including relevant data on individual cases of alleged maltreatment to which the AI mission had no access. This applies in particular to the Director of Public Prosecutions' files and reports of police doctors' examinations. The inquiry should not be made to rely on a report from the Director of Public Prosecutions of his general findings and conclusions on relevant cases, as proposed by the government in its statement of 8 June.

(f) The inquiry should not be in a position to stimulate criminal prosecution, nor to be obliged to name complainants or alleged offenders in its report. The option of criminal prosecution should be kept strictly separate from the terms of reference of the inquiry. It is the view of AI that prevention of future abuses should take precedence over recrimination.

3. AI reiterates its strong recommendation that one of the steps to be taken immediately to ensure protection against possible maltreatment is access to lawyers at an early stage of detention, which, although provided for in law, is at present denied apparently as a matter of policy.

4. The government's statement of 8 June cited only one reason out of the three given by AI to the government for the organization's refusal to identify to the prosecuting authority the 78 cases examined in its report, namely the confidentiality pledged to the individuals concerned. The other two reasons are that AI as a matter of policy does not itself seek prosecution, and that the established complaints machinery itself was found to be inadequate in AI's report. Provided that a committee of inquiry meets the requirements considered essential by AI to properly discharge its tasks in the interest of all parties concerned, AI would be willing to approach the 78 individuals with a view to suggesting that they lend their cooperation to the inquiry. The inquiry should in any case not be restricted to these 78 cases.

5. AI expresses its willingness to discuss the report and its recommendations with the government.

[From the Irish Echo, June 17, 1978]

BIAGGI, KENNEDY CALL FOR N.I. PROBE

WASHINGTON.—Calls for an investigation into charges that prisoners in Northern Ireland are being brutalized by the RUC (police) came from both houses of Congress this week.

Representative Mario Biaggi (D-N.Y.), chairman of the 105-member Ad Hoc Congressional Committee on Irish Affairs renewed his call for immediate Congressional hearings on Ireland, especially what he called the "light of the shocking findings by Amnesty International of police brutality against Catholic prisoners in Northern Ireland."

On the other side of Capitol Hill, Senator Edward Kennedy (D-Mass.) urged the British Government to take "all possible steps" to investigate the latest "serious charges of police brutality" in Northern Ireland.

In a long statement Mr. Kennedy said he was deeply concerned about the allegations of police brutality contained in the recent report of Amnesty International.

Governor Hugh Carey of New York, who last year created a storm by condemning the Irish Republican Army as "killers," also joined in urging an investigation of the charges.

"Any means of getting at the truth of what is happening in Northern Ireland is certainly worthy of examination," said David Murray, the Governors press secretary.

Indications that further calls from members of Congress will be forthcoming were reported from a number of sources as Irish American organizations throughout the country demanded hearings into the brutality charges.

Biaggi indicated that he and his committee would make their request for hearings directly to Speaker Thomas O'Neill who has thus far blocked all attempts at hearings. "When the Amnesty International report is formally released next week, it will have documented cases involving 78 prisoners, including some held without charges, being brutalized by Northern Ireland's Royal Ulster Constabulary."

Biaggi observed, "Great Britain was cited earlier for human rights violations of prisoners and pledged that these practices would cease. The findings of Amnesty International show these pledges to be worthless. The fact is Northern Ireland under the direct rule of Great Britain has one of the worst human rights records of any nation in the world. It is time that the Congress and the Admin-

istration donated the same time and attention to eradicating these human rights problems as we lavish on other nations. Congressional hearings have provided a forum in the past and should be utilized again in this instance."

Biaggi indicated that he and other Members of the Ad Hoc Committee, once a copy of the Amnesty International Report is received, will place all of the 78 cases in the Congressional Record and will begin to monitor all these cases until these abuses end.

Kennedy said an investigation into the charges was of the greatest importance, not only to the cause of peace in Northern Ireland but also to the reputation of Britain in the world community that the facts about the allegations be determined and that appropriate steps be taken with any abuses that may be found.

"Above all, the investigation into the truth or falsity of these allegations not only must be fair but must be seen to be fair, especially by the two sections of the community of Northern Ireland," he said.

"It is obvious to me that neither the U.S. Congress nor any other outside tribunal is in a position to answer the important questions that have been raised," he said. "It is therefore especially incumbent upon the British Government to take all necessary steps to put these questions to rest."

"IMPROVED" INQUIRY

Kennedy said that the British Government seemed sincerely to want to be "forthright and forthcoming" in dealing with the serious allegations. But he believed the present planned inquiries could be improved in two significant ways. The British Government's decision to utilize the normal investigatory apparatus in such matters of the Director of Public Prosecutions in Northern Ireland had not in the past been sufficient to dispel the numerous and persistent allegations of police brutality involving a section of the RUC, he said. "In circumstances of this magnitude and sensitivity, the British Government should not be placed in the compromising position of investigating itself."

He therefore urged the Government to consider the appointment of a special, independent prosecutor along the lines used by the United States to investigate the Watergate scandal. "The business-as-usual approach involving the DPP is neither the only nor the best method of pursuing the needed investigation."

PUBLIC SITTINGS

Kennedy said he welcomed the British Government's decision also to appoint an independent committee of inquiry to carry out a general review of police practices and procedures in Northern Ireland. But that committee should sit not just in private, as had been proposed, but in public as well to the greatest possible degree.

"By making the procedures of the inquiry as open as possible, the likelihood will be enhanced that the report and recommendations of the inquiry will achieve the fullest public acceptance," he said. "In the volatile atmosphere of Northern Ireland, actions confined to a private forum cannot clear the air and marshal the public confidence essential to allay the doubts that now exist."

[From the Irish Echo, June 24, 1978]

AI REPORT DETAILS BRUTALITY CHARGES

LONDON.—Amnesty International last week published a report of its mission to Northern Ireland to investigate in detail allegations of police ill-treatment of persons detained on suspicion of involvement in or knowledge of terrorist offences.

The AI mission, consisting of a Dutch lawyer, two doctors from Denmark and a member of the organization's research staff, spent ten days in Northern Ireland in November-December 1977. The delegates met government, police and judicial officials. They examined allegations of ill-treatment of 78 persons, detained for up to seven days under emergency legislation, most of them during 1977. The delegates obtained direct testimony from 52 persons. They obtained medical reports relating to 13 of these cases, and five of the 52 individuals were examined in detail by the medical members of the delegation. The delegates also examined medical reports relating to the cases of a further 26 persons.

Most of the allegations studied by AI's delegates were of beatings to the body and extremities, beatings to the head, psychologically and/or physically exhausting procedures (such as prolonged and oppressive questioning, being made to do physical exercises or wall-standing for prolonged periods), threats and humiliation.

On the basis of the information available to it, Amnesty International concluded that maltreatment of suspected terrorists by the Royal Ulster Constabulary (RUC) had taken place with sufficient frequency to warrant the establishment of a public inquiry to investigate it. The evidence presented to the mission did not suggest that uniformed members of the RUC were involved in the alleged maltreatment. The mission also found that legal provisions under emergency legislation have eroded the rights of suspects held in connection with terrorist offences, and have helped to create the circumstances in which maltreatment of suspects had taken place.

In particular, the report expresses concern about changes in the rules relating to the admissibility of statement in trials of persons charged with terrorist offences, which allow for confessions to be ruled admissible evidence where, under normal law, they would have been excluded. The report notes that a large proportion of persons convicted of terrorist offences in the special ("Diplock") non-jury courts are convicted solely on the basis of self-incriminating statement. The evidence also indicates that the machinery for investigating complaints against the police of assault during interview is not adequate.

The report also condemns in general the use of political murder and maiming by paramilitary groups in Northern Ireland.

On the basis of its conclusions Amnesty International recommends to the United Kingdom Government that a public and impartial inquiry be established to investigate the allegations of maltreatment. It also suggested that the terms of reference of this inquiry should include consideration of the rules relating to interrogation and detention, admissibility of statement, and the effectiveness of machinery for investigating complaints against the police of assault during interview. It further suggested that the inquiry should have access to all relevant data on individual cases of alleged maltreatment. Finally. Amnesty International recommended that, pending the establishment and reporting of such an inquiry immediate steps be taken to ensure that suspects being interviewed by the RUC on suspicion of terrorism are protected against possible maltreatment. Measures to this end should include early access to lawyers.

AI sent the report of its mission to the UK Government on May 2, 1978, informing the government that the organization's International Executive Committee would decide at its meeting on June 2-4 if and when to publish the report.

AI received a preliminary reply from Secretary of State for Northern Ireland Roy Mason on May 26. In his reply Mr. Mason asked AI to identify the individual cases of alleged maltreatment which were dealt with in the AI report so that official action, "including court proceedings if appropriate," could be taken. Mr. Mason also requested AI to delay decision on publication of the report until the government had completed its own study of the report.

On June 2 AI's International Executive Committee decided that the report should be published at once. AI wrote to Mr. Mason on June 5 to inform him of this decision. In this letter AI expressed the view that it would be in the interest of promoting speedly remedial measures in respect of its findings if the report were made available to the public without delay. AI said that another consideration regarding immediate publication of the report was its concern at continuing allegations of maltreatment in Northern Ireland. AI also said that it could not meet the government's request to identify the individual cases dealt with in the report. AI gave as reasons for this that it had promised anonymity to all persons interviewed by its mission, that it is not AI's policy to seek criminal prosecution and that one of the criticism contained in the report is that established criminal procedure is not adequate for dealing with complaints of police brutality of the sort noted by AI.

AI has until today kept the findings of the report confidential, as is its normal practice. The contents of the report were publicized in the UK and Irish press from June 4, and some journalists even came into possession of entire copies of the report. In today's statement AI said that it had not made the contents of the report available to anyone except the government, and that the organization was not the source of earlier press information on the report.

[From the Irish Echo, July 1, 1978]

MASON REPUDIATED BY AMNESTY

LONDON.—The British Government has been confronted with startling new facts by Amnesty International over its investigation into RUC brutality in Northern Ireland. Amnesty has strongly repudiated statements by Roy Mason that their investigation was too narrow and says that 40 doctors looked into the cases that interrogated suspects had been transferred to hospitals, and that police reports were not made available to the Amnesty investigating team.

The new details are contained in a letter which has been sent to Mr. Mason and to the S.D.L.P. leader, Gerry Fitt. On June 30 the House of Commons debated the extension of Emergency Provision and Direct Rule for the North. MPs, armed with the contents of the Amnesty letter, challenged Mr. Mason about the whole issue.

The letter, from Dick Oosting, deputy secretary-general of Amnesty International, is in response to statements made by Mr. Mason in the House of Commons on June 15 on the Amnesty Report.

Mr. Oosting says that several replies by Mr. Mason were misleading: "We did not, as suggested, examine in detail the five of the 78 cases mentioned in the report," he says.

In the case of the 26 persons who were not interviewed personally, Amnesty International examined medical reports and similar cases of examination by more than one doctor and affidavits by the complainants themselves, he added.

"The information in these cases was supplied directly to Amnesty International by doctors and lawyers who had examined the complainants personally, in their professional capacity, and with whom the delegates were able to discuss the allegations of the complaints," Mr. Oosting said.

Similar corroborative information was obtained from doctors and lawyers in the cases of 13 complainants who were interviewed directly by the Amnesty mission who then examined their medical reports.

Mr. Oosting said Mr. Mason was, therefore, incorrect in saying that 26 pieces of evidence were placed before Amnesty International, but that they had no compaints.

He added that the remaining 39 complainants, whose allegations were described in the report, testified personally to the mission, but medical evidence on them was not presented.

DOCTOR'S REPORTS

However, in many of these latter cases, as with the above-mentioned cases, police doctor's reports existed, which were not made available to the mission," the letter recalled.

"The mission discussed individual cases with a total of 40 doctors, all of whom had examined complainants personally, either during, or shortly after, their detention in police custody," Mr. Oosting noted.

The five persons who were selected for "further examination in greater detail by the mission's medical experts" were selected not because the mission delegates felt they were the strongest cases but because they were typical of the overall range of cases examined, he said.

"Amnesty International thus based its findings on detailed documentary information regarding 39 cases of alleged maltreatment, and on a further 39 cases from whom the delegates obtained direct testimony only, but on whom, in many cases, documentary information regarding the allegations also exists," he added.

Mr. Oosting also says it should be emphasized that the authorities, with whom the mission discussed the allegations of maltreatment, were, as a matter of policy, unable to comment on individual cases.

Thus information obtained by Amnesty, on individual cases, came only from representatives of complainants and the complainants themselves.

The letter then recalled that Mr. Mason had said that the 78 cases contained in the report were only a small proportion of the 3,444 persons questioned in the first 11 months of 1977.

I might point out that this was not the first instance of human rights violations being cited in Northern Ireland. On three separate occasions, the European Court and Commission on Human Rights has cited Britain for inhumane treatment of prisoners lodged in jails under their control. Britain admitted their guilt to these charges in February of 1977 and pledged to cease these practices. The Amnesty International investigation and report which was released after this pledge, graphically demonstrated the value of Britain's word.

I wish to make one last observation, Mr. Speaker. I remain gravely disappointed in the fact that the administration, which has established a worldwide reputation based on their advocacy of human rights, has remained silent regarding the situation in Northern Ireland. The simple fact is, Northern Ireland under the direct control of Great Britain has one of the worst human rights record of any nation. Continued human rights violations and deprivations impede the road to peace—the peace which this ad hoc committee and the people of Ireland so desperately seek. To be most effective, our human rights policy must be applied consistently—otherwise, we are guilty of being selectively moral. We cannot preach the gospel of human rights in one nation and remain silent in another. It has been said, "to remain silent in the face of human rights violations is to condone them."

Mr. Speaker, I admit to this being a rather dramatic presentation and the cases which my colleagues will present after me will be graphic. Yet there is a definite reason for this exercise—it is to raise the consciousness of this Congress to the human rights problems of Northern Ireland.

It has been shown that where human rights violations are exposed, Congress and this administration will respond. We hope for a response from the Congress to the Amnesty International report. We want it to result in hearings as Congress has held on some 30 different cases in the past 2 years on human rights. We want to advance the constructive role which the Congress can and should play to bring a lasting and just peace to Ireland. The Ad Hoc Congressional Committee for Irish Affairs is committed to the pursuit of peace and justice in Ireland. Amnesty International won a Nobel Peace Prize for its pursuit of human justice in the world. Their report on Northern Ireland is but a demonstration of their work. We cannot allow it to be ignored. We must work for the cessation of human rights violations in Northern Ireland.

I now wish to read the first case which appears in the Amnesty International report. It is case 56, but appears first in the report.

CASE NO. 56

Male, arrested 1977 and detained at Castlereagh Holding Centre for three days, then transferred to Crumlin Road Jail. Had a medical examination on arrival at Castlereagh by police doctor H1, who also examined him during his detention in Castlereagh and on his release.

Maltreatment alleged: general beating, especially beating on the back of the head and in the stomach, kicking, grabbing around the throat, hairs on the chest pulled out, slapping on the testicles, hard blow in the eye with a fist.

No information about symptoms.

Medical report: by Dr. O1, the patient's own doctor. Examination in Crumlin Road Jail.

Signs: a large bruise on anterior chest wall. A slight blackening of the right eye (fading). Two small bruises on the right forearm. Bruise on the medial aspect of the left knee. No obvious depilation.

Conclusion: There is consistency between the alleged maltreatment and the signs except on one point: there was no observation of depilation. There are three reports on this individual by police doctor H1, and it would be of great value to have these reports in order to compare them with the report made by the patient's own doctor.

Mr. Speaker, at this point I wish to yield to the gentlewoman from Maryland (Ms. MIKULSKI).

Ms. MIKULSKI. Mr. Speaker, I am pleased to be here today to join my colleagues in bringing attention to the tragic issue of human rights violations that are occurring in Northern Ireland. I am deeply concerned about the numerous cases that are detailed in this Amnesty International report. One can only imagine that the cases detailed here are only a fraction of the episodes of human rights violations.

When one thinks of political prisoners, one usually envisages fighting men who are defending their political beliefs—but in this instance, I want to bring to my colleagues' attention the case of a gallant woman who suffered intolerably during her detention at the Castlereagh Holding Centre.

During her detention, case No. 12—as she is referred to in the Amnesty International report—was subjected to threats of rape, threats that her child would be taken away from her, threats of electric shock, sexually degrading treatment, and other psychological torture. Following this mistreatment, the prisoner suffered from nausea, diarrhea, severe headaches, and vaginal bleeding. When this woman was released, she continued to suffer from physical and psychological symptoms—the latter which became more marked as time went on. Irritability, sleep disturbances, depression, anxiety, and suicidal thoughts were only some of the problems that this woman suffered through following her detention. These conditions continue and are aggravated by the fact that this woman's husband is in prison.

All women, and men, who have been prisoners in Northern Ireland need our support.

Surely, a country which has given us the Magna Carta—a document which constitutes a fundamental guarantee of rights and privileges—must be made to see that they cannot continue the repressive actions which have led to the imprisonment of hundreds of Irish men and women. We in Congress must continue to work to see that human rights violations in Northern Ireland are given sufficient public attention.

Mr. BIAGGI. Mr. Speaker, I thank the gentlewoman from Maryland for her contribution and deep concern on this issue.

Mr. Speaker, at this point I yield to the gentleman from Michigan (Mr. BLANCHARD).

Mr. BLANCHARD. Mr. Speaker, I thank my colleague. As a member of the Ad Hoc Congressional Committee on Irish Affairs, I would like to join with the chairman of our committee, Mr. BIAGGI, in participating in this special order to bring to light Amnesty International's report on political prisoners in Northern Ireland.

Amnesty International, the Nobel Peace Prize winning organization, has conducted a full scale investigation into the conditions for political prisoners in Northern Ireland. The report reveals some very disturbing information concerning the treatment of some 73 prisoners who allegedly were denied very basic human rights. I join with Mr. BIAGGI and my other colleagues in vigorously condemning and denouncing such actions. I would like to submit for the RECORD a brief case history of one of the political prisoners, case No. 7. Case No. 7 follows:

CASE No. 7

Male. Arrested in 1977 and brought to Castlereagh Holding Centre, where he was held for five days. He was subsequently released without charge. He had a medical examination by police doctor I on arrival at the detention center. He was also examined during his stay in the detention center and on his release.

Maltreatment alleged: general beating, direct trauma to the head, hairpulling, pulling and stretching and bending of wrists, severe beating on the right ear, threats.

Symptoms (immediate): he stated that during the alleged maltreatment he passed out several times, had pains all over his body and lost hearing in his right ear. (Present): nervousness, nightmares, less appetite than previously, irritability.

Medical report: by Dr. I, examination in detention center.

Signs: some tenderness in right lower quadrant and left upper arm. Signs of bruises on left upper arm. Perforation of right eardrum with signs of fresh blood, seemed "groggy" and confused, and not very coherent.

Conclusion: There is consistency between the alleged maltreatment and the signs. The medical report is very short. It should be added that this case has also been examined by an. ear, nose and throat specialist, but the medical report is not available. It would be of great value to have the report from the police doctor, Dr. I, and the report of the specialist.

Mr. BIAGGI. I thank the gentleman for his contribution and also for his steadfast commitment to the issue of the denial of human rights in Northern Ireland.

Mr. Speaker, I yield now to my colleague from Brooklyn, the gentleman from New York (Mr. ZEFERETTI).

Mr. ZEFERETTI. Mr. Speaker, due to the fact that Great Britain has been a strong ally of the United States during this century, a great number of Americans cling to the belief that British authorities "play fair" in their dealings with the people of Northern Ireland.

The testimony we are hearing today is further documented evidence that such an assumption is greviously wrong.

The report by Amnesty International—a highly reputable humanitarian organization awarded with the Nobel Peace Prize last year—leaves little doubt that British police authorities employ beating, kicking and many other vicious forms of maltreatment in attempting to extract confessions from suspects, many of whom are then released without being charged with any offense.

At this time I present case No. 5 of the Amnesty report:

Male. Arrested in 1977 and brought to Fort Monagh (an Army barracks) and later to Castlereagh Holding Centre. Total length of detention was 4 days, and he was subsequently released without charge. He had a medical examination by a police doctor on arrival at Castlereagh, and he was examined during his detention and also on his release from Castlereagh.

Maltreatment alleged: That he had been maltreated by military personnel after arrest and also by plain-clothes Royal Ulster Constabulary personnel at Castlereagh. General beating, kicking, punching, hairpulling, soldiers sat on him and jumped on him, especially on his back. Sandpaper rubbed on his back, direct trauma to his head by beating and wall-banging. Partial choking. Threats that he would be killed.

Immediate symptoms: For a short time he became unconscious, had dizziness, fever and pains. Nervousness, irritability and sleep disturbances.

Medical report: Examined three times by general practitioner. The first examination was on the day he was arrested, the second was two days later, and the third was three days after he was arrested. He was also examined after his release from detention.

Signs: At the first examination: extremely severe bruises all over his body, ankles swollen to twice the normal size, severe friction burns on left shoulder and lower back. At the second examination: fever and inflammation of the right eardrum, as well as the signs recorded on the first examination. At the third examination there were no new signs, and the previously mentioned signs were fading.

Conclusions: There is consistency between the alleged maltreatment and the signs. It should be added that police doctors were together with the Amnesty International doctor during his examination of this man. A number of colored photographs of this person taken on the day of his release from Castlereagh are in the possession of Amnesty International. They show many severe hematomas and bruises all over the body.

According to this man's own allegations, he was injured by military personnel before he was brought to Castlereagh Detention Centre. It should be noted that his own doctor found signs during the patient's detention at Castlereagh which he had not found on previous examination of the patient shortly after his arrival at Castlereagh, which is consistent with this man's allegations of maltreatment at the detention center.

Mr. Speaker. it is time for the U.S. Government and this Congress to take the necessary actions to bring this brutality to a halt. The Carter administration and this body have made human rights in all nations one of our prime objectives, but this principle must be applied even-handedly. We must no longer turn our backs on these atrocities that are perpetrated with the consent of the British Government.

On more than one occasion Great Britain has admitted before the European Court of Human Rights that its Government has approved the torture of suspects in Northern Ireland.

I implore my colleagues to consider these arguments and to add their support for full and open hearings before the International Relations Committee on the Irish conflict. As a member of the Ad Hoc Committee for Irish Affairs, I can vouch for the fact that this organization does not lend its allegiance to any particular group involved in the conflict. But the true facts of the situation in that troubled land must be uncovered and laid bare before the American public and the world.

Mr. BIAGGI. I thank the gentleman from New York (Mr. ZEFERETTI) for his contribution and the significant fact that he does point out, that the United States has had an age old alliance and beneficial relaionship with the United Kingdom.

It is not the purpose of this undertaking to disturb that relationship one scintilla. It is simply our thinking that the United States through the President can focus attention on the plight that exists in Northern Ireland and ask our friends and allies of many decades to make a special effort to correct it. It is a condition that has existed entirely too long. It is susceptible of correction. In this day of enlightment, with world attention being focused on human rights for all people all over the universe. it is only appropriate that this little, obscure, heretofore ignored portion of a country, be attended to. In the end it will redound to the betterment of the United Kingdom and to ourselves.

● Mr. OTTINGER. Mr. Speaker, I am pleased to join my colleagues, Representative MARIO BIAGGI and the other members of the Ad Hoc Congressional Committee for Irish Affairs, in reading into the CONGRESSIONAL RECORD one of the 78 cases of human rights violations in Northern Ireland which were outlined in a report recently released by Amnesty International.

According to the report prepared by this Nobel Peace Prize winning organization, these cases concern prisoners who were interrogated by detectives of the Royal Ulster Constabulary in Northern Ireland. These reported incidents deeply distress me for they rank among the most brutal affronts against the individual freedoms and human rights on individuals ever documented.

It is incumbent upon all of my colleagues and the American public to be fully aware of these violations of basic human rights and to take strong action to see them brought to halt. For this reason, I would like to bring the following case to the American community's attention:

CASE No. 72

Male, arrested 1977 and brought to Castlereagh Holding Centre. Detained for seven days and then transferred to Crumlin Road Jail. No information about medical examination on arrival at detention center. He was seen by his own doctor several times during his detention in Castlereagh. No information about medical examination by a police doctor when he left Castlereagh.

Maltreatment alleged: physically exhausting procedures. Was thrown against a wall. General beating. Bending of wrists and arms. Hairpulling. Choking, plastic bag placed over his head, threats to kill him, threats of further beatings.

Symptoms: no information.

Medical report: the patient's own doctor, Dr. Zl, examined him three times during his detention in Castlereagh; the day of his arrival, three days later and five days later. He was examined by Dr. Zl for the fourth time after he had been taken from Castlereagh to Town Hall police station to be charged.

Signs: during the first three examinations the patient did not remove his clothes for examination because he made no complaint to Dr. Zl. The medical report noted on these occasions that he looked tired and pale. On the last examination, which took place just after expiration of his detention in Castlereagh, four big bruise marks were found on his chest, in the inner aspect of both elbows, on his back and on the inner aspect of the right arm. It was Dr. Zl's opinion that these bruises were at least three days old.

Conclusion: There is consistency between the alleged maltreatment and the signs.

Special remarks: The mission did not examine the patient, but the medical delegates interviewed his doctor, Dr. Zl, who stated that on the first three examinations the patient had denied having been subjected

to any sort of maltreatment because he was afraid that if he made a complaint he would receive more severe treatment. He allowed the doctor to examine him thoroughly only when his detention in police custody was about to expire after seven days. It would be particularly valuable to see the police doctor's report in this case, since Dr. Z1 told the mission that he examined Case 72 on the fourth occasion at the request of the police doctor.●

● Mr. LENT. Mr. Speaker, as a member of the Ad Hoc Congressional Committee on Irish Affairs, I am deeply disturbed about the recent Amnesty International Report on Northern Ireland. The report details serious incidents of prisoner mistreatment by the Royal Ulster Constabulary (RUC). It is appropriate that we join together today to speak out against the continuing human rights violations in that troubled area, and I want to draw my colleagues' attention to case No. 67 which follows:

CASE No. 67

Male. He was arrested in 1977 and brought to Cookstown RUC station, where he was detained for seven days. He was then released, but later was arrested again and is now in prison awaiting trial. He had medical examinations by a police doctor on arrival at the detention center, during his stay in the detention center, and on release.

Maltreatment alleged: hairpulling, general beating, direct head trauma, kicking, especially in the testicles. Interrogators trod on his fingers while he was lying on the floor and stood on his back. Bending of wrists. Physically exhausting procedures. He alleged that he had been lifted up bodily by his ears, had teeth knocked out, had a cola liquid poured into his ears and that a plastic bag was placed over his head until he passed out.

Symptoms (during detention): he alleged that he became unconscious several times. (Later): anxiety, sleep disturbance, fear of assassination.

Medical report: No. 1 by Dr. VI, examination during his detention. No. 2 by Dr. XI (psychiatrist).

Signs: No. 1: physical and mental distress. Loss of hair over both tempora parietal regions of the head. Different areas of bruising. Limitation of flexing and extending the spine. Enlarged painful right testis. No. 2: severe anxiety traits; the conclusion of the psychiatrist was that the patient was in a state of anxiety.

Conclusion: No. 1: consistency between the alleged maltreatment and the signs, with the exception that there was no note of any observation of dental damage. No. 2: consistency between the history and the signs. It would be of great value to compare the above medical reports with those of the police doctor.●

● Mr. HARRINGTON. Mr. Speaker, as a member of the Ad Hoc Committee on Northern Ireland long concerned by serious human rights violations by the Royal Ulster Constabulary documented by Amnesty International, the Nobel Prize winning organization, I would like to draw the attention of my colleagues and the American public to the following case report:

CASE No. 52

Male. Arrested in 1977 and brought to army barracks in Londonderry and later to Castlereagh Holding Centre. Detention time in Castlereagh was five days, after which he was transferred to Crumlin Road Jail. He was subsequently released on bail awaiting trial. He had a medical examination on arrival at Castlereagh and during his detention there. He told AI delegates that he was not offered a medical examination on leaving the detention center.

Maltreatment alleged (in Castlereagh): general beating, hairpulling, pressing of fingertips behind both ears, kicking, the interrogators pressed their knees into his chest, he had direct trauma to his head. Mentally straining procedures: was shown photographs of mutilated bodies. Physically exhausting procedures. Beating, especially on the genitals. One of the interrogators placed a foot on his back while he was lying on the ground and told him to get up. Painful bending of the left arm.

Symptoms (immediate): sleeplessness. At the time of the interview by AI delegates he was edgy and abrupt, said he drank more, was rarely at home, and was afraid of going alone to the local RUC station (to which he has to report once a week as a condition of bail).

Medical report: by Dr. B1, who examined him during detention.

Signs: bruises in the epigastrium. An erythematous area on his back. Abrasion on his left elbow. On his right ear a bruise mark, swelling and tenderness behind the ear.

Conclusion: There is consistency between the alleged maltreatment and the signs except that there was no observation of signs relating to possible beating on the genitals. It should be added that it would have been of value to have the report of Dr. K1, police doctor, who examined this man on arrival at Castlereagh.●

● Mr. EILBERG. Mr. Speaker, as a charter member of the Ad Hoc Congressional Committee on Irish Affairs, I am deeply troubled about the Amnesty International Report on Northern Ireland.

The report details serious incidents of prisoner mistreatment by the Royal Ulster Constabulary (RUC). It is appropriate that we join together today to speak out against these charges of human rights violations, and I want to draw my colleagues' attention to case No. 68, which follows:

CASE No. 68

Male, arrested in 1977 and brought to Castlereagh Holding Centre. Length of detention three days. Had a medical examination by a police doctor on arrival at Castlereagh and by his own doctor on third (i.e., last) day of detention. No information about other medical examinations during his detention in Castlereagh, and no information about medical examination on or after departure from Castlereagh.

Maltreatment alleged: physically exhausting procedures, intimidation: the light was switched on and off, and while in the dark he was thrown around the room. Beaten on the mouth with fists. One interrogator jumped on his body while he was on the floor. Hairpulling. Beating on the ears, jaw, neck and stomach. Systematic beating on head. Threats to bring his father to Castlereagh for interrogation. Threats to kill him. His head was held under water in a sink three times. Threats of having his fingernails pulled out.

Symptoms: no information.

Medical report: by Dr. G1, his own doctor, (examination the day he was detained).

Signs: erythematous area and abrasions and bleeding localised to the scalp at the hair roots. bruises localised to anterior border of left sterno mastoid muscle at the level of the thyroid cartilage in front of and behind ear. Haematoma over the whole left ear. Traumatic perforation of the left eardrum with fresh blood into auditory canal. Six thumbsized bruises on abdomen.

Conclusion: There is consistency between the alleged maltreatment and the signs, except that there was no note of signs possibly relating to beating on the mouth. It would be of great value to compare the medical report mentioned above with that of the police doctor.●

● Mr. ROSENTHAL. Mr Speaker, Amnesty International, the Nobel Price winning organization whose accuracy and integrity are respected the world over, has recently concluded its investigation into prison conditions at Castlereagh Holding Center in Ulster, Northern Ireland.

I would like to bring to the attention of my colleagues an excerpt from Amnesty International's findings pursuant to its investigation. The cases of persons interviewed by that organization indicate widespread abuse by plainclothes officers at Castlereagh in their attempts to extract confessions and procure convictions. Case No. 2 is a telling example.

CASE No. 2

Male. Arrested in 1977 and brought to Magherafelt RUC Station, where he was held for 5 or 6 hours. He was not interrogated there but was examined by a police doctor on admission and before release. He was then taken to Castlereagh Holding Centre for interrogation, where he was held for three days. He was subsequently released without charge. He was examined by a doctor on arrival at Castlereagh and during this detention. There is no information about medical examination on release.

Maltreatment alleged: beating with hands and with the wooden shaft of a brush, direct beating to the head. Kicking. The interrogator stood on his feet. Physically exhausting procedures. Was forced to sit on a chair with his feet under a radiator pipe and then lean backwards until his head was almost touching the ground. Forced to hold arms over his head. Threatened with choking and with electric shocks. Flicked on the testicles.

Symptoms: no information.

Medical report: by Dr. B1, examination in detention center.

Signs: bruises in the epigastrium and thorax. Abrasion on the side of his forehead. Tenderness on his left shoulder and left upper arm.

Conclusions: There is consistency between the alleged maltreatment and the signs. It would be of great value to compare the medical report of Dr. B1 with the medical report of the police doctor.

Mr Speaker, the defense of human rights is the proper concern of this Congress and of the American people regardless of where those violations occur. Amnesty International has done a commendable job in bringing these charges to our attention.●

● Mr. BRODHEAD. Mr. Speaker, for years we have received reports about the abuses of human and civil rights in troubled Northern Ireland. Until recently, there was very little factual evidence about conditions in this troubled part of the world. However, the Nobel Prize winning organization, Amnesty International, has completed a full-scale investigation of conditions for political prisoners at the Castlereagh Barracks in Northern Ireland, documenting dozens of cases of suspended rights, mistreatment, and brutality. In fact, the Amnesty International report shows that Northern Ireland under the direct rule of Great Britain has one of

the worst human rights records of any nation in the world.

I believe it is essential that Congress take note of these abuses and that this country make clear its position on this issue, and I therefore urge that hearings be held on the matter as soon as possible. For the information of my colleagues, I would like to insert into the RECORD a summary of one of the cases that Amnesty International investigated in Northern Ireland. The name has been omitted for the protection of the prisoner.

Male. Arrested in 1977 and brought to Castlereagh Holding Centre, where he was held for three days, and then released without charge. He refused medical examination on arrival at Castlereagh. He was examined during his detention and on release by a police doctor.

Maltreatment alleged: beating on stomach, ears and directly on his head. Hairpulling. Wrist-bending. Had pressure applied on the veins in the front of his throat for so long that he passed out. Threats to his life and his family.

Symptoms: primarily he complained of pains. He also claimed at a medical examination one day after his release that he had decreased hearing in his left ear with constant tinnitus. The last-mentioned was still a symptom at the interview with AI's medical delegates in December 1977.

Medical report: by Dr. C1, examination one day after release.

Signs: bruises on the right side of his forehead, the 2nd and 3rd left rib the epigastrium, the left renal region, the left elbow. Tenderness of the muscles of the neck.

Otoscopy: the left tympanic membrane was red and congested, and there was blood-clotting present. There was recent central perforation of the membrane.

Conclusion: There is consistency between the alleged maltreament and the signs. It would be of great value to compare the report made by Dr. C1 with those made by the police doctor.●

● Mr. WOLFF. Mr. Speaker, if the U.S. policy in support of human rights means anything, it must mean that this Government opposes violations of human rights no matter where they occur. We cannot be selective in our condemnation of abuses in one nation, while turning our heads in silence when abuses occur in some other nation.

Mr. Speaker, I submit that human rights violations can ultimately take two forms: Either they can be perpetrated by a group of lawless, bloodthirsty, vigilantes, or they can be committed by so-called legitimate authorities acting under the color of law, but in reality serving to undemine law, and order, and decency. Either case is repugnant to the cause of human liberty to which this Nation is dedicated.

We must stand steadfast against oppression wherever it may occur regardless of the agent or instrument of that oppression. For this reason, I have spoken out often and loudly against violations of human rights in the Soviet Union, in the Mideast, in Southeast Asia, and in Latin America. The recent trials of Soviet dissidents dramatically reveal how a government is able to flagrantly violate the basic rights of its citizens. And the case of international terrorism demonstrates how a group of individuals bent on the destruction of life and liberty can act to undermine that which we Americans demand for ourselves and for others: basic human liberties.

My position on terrorism is well known. Words cannot adequately express my revulsion and contempt for those acts of violence committed by cowardly thugs on innocent men, women, and children. I have sponsored legislation designed to strengthen United States and international efforts at combating terrorism. I am glad to see that at the recent European summit conference the leading western nations were able to agree on some preliminary but important measures designed to fight international terrorism.

I am glad to see that this administration has been quick to condemn violations of human rights committed by international bandits.

But, if we are to remain true to our principles, we must also speak out against official violations of human rights—those violations committed under color of law. The recent Amnesty International report has again focused world attention on the serious human rights problems affecting Northern Ireland. The report which we discuss here today details some 78 cases of specific prisoner mistreatment by the Royal Ulster Constabulary.

I am deeply troubled by these allegations of police brutality contained in this report, and I join in the efforts of the Ad Hoc Congressional Committee on Irish Affairs in bringing these to the attention of the American people.

The excerpt from the report follows:

CASE NO. 76

Male, arrested 1977 and brought to Omagh RUC Station. No information about length of detention or charge. No information about medical examination on arrival at the detention center, had medical examination by doctor C2 during his stay in the center. No information about medical examination on release from detention center.

Maltreatment alleged: hairpulling. Beating. Kicking. Choking. Slapping in the face.

Symptoms (immediate): headache and pains all over the body.

Medical report: by Dr. C2, who examined him in the detention center.

Signs: pale, exhausted. Bruise marks on the right upper arm and beneath the left papilla mamma. Tender in the back of his head, in the neck, in the left kidney region and on the calf.

Conclusions: There is consistency between the alleged maltreatment and the signs. The medical report is a rather short one, and there is no information given regarding the mental state of the patient. However, the medical delegates had a personal interview with Dr. C2.

I condemn all violations of human rights in that unfortunate country: Those caused as a result of terrorist activity, and those violations of human rights carried out against the Catholic minority. I take this opportunity to repeat my previous call for full-scale hearings to gather all of the facts concerning the gross violations of human rights in Northern Ireland.

Mr. Speaker, I have personally witnessed the violence in Northern Ireland. I have seen the terror and destruction in the streets, the children that are killed while other people stand watching. I have observed the grief-stricken families and the despair so apparent on their faces. I have even been inside the prison at Long Kesh. Unless some action is taken to deal with these root causes of the violence, there is no hope for peace.

Therefore, I consider it my duty to join with the gentleman from New York (Mr. BIAGGI) and other of my colleagues here today, to continue the fight for justice for Northern Ireland. I hope what we do here today will reinforce action to implement this Nation's commitment to human rights.●

● Mr. LUKEN. Mr. Speaker, as a member of the Ad Hoc Congressional Committee on Irish Affairs, I am extremely concerned over the recent Amnesty International Report on Northern Ireland. The report sites many serious examples of prisoner mistreatment by the Royal Ulster Constabulary. It is with this reason in mind that I join my colleagues in protesting, through this special order, the continuing violation of human rights in Northern Ireland and I want to draw attention to case No. 53 which is as follows:

CASE NO. 53

Male. Arrested in 1976 and brought to Omagh RUC Station. He was detained for three days, released without charge and then transferred to a hospital. He had a medical examination on arrival in police custody and again on release.

Maltreatment alleged: physically exhausting procedures, beating generally, hairpulling, lifting by his moustache, hair pulled out of his beard, direct trauma to the head, threats.

Symptoms: on arrival at the hospital after police detention: headache and abdominal pain. Three months later: thumping in his head when he got up or bent down and dizzy spells lasting about one minute. If he lifted a heavy weight he experienced white floating spots in both eyes. Nightmares. Periods of depression. Feeling of insecurity.

Medical reports: There are two reports from the hospital. The first one was made on the day he arrived from the detention center. The signs were: some amnesia regarding what had happened during police detention, difficulty in maintaining his balance, especially with his eyes closed, various bruise marks and abrasions, many small red areas in his scalp at the hair roots. The next medical report, three months later: pale ophthalmic fundi.

Conclusion: There is consistency between the alleged maltreatment and the signs, although pale ophthalmic fundi may be a physiological abnormality and there is no note of depilation. There is no medical description of his mental state. Dr. Ll examined case No. 53 while he was in the detention center, but AI does not have the report. It would be of great value to compare the hospital reports with those made by the police doctor and by Dr. Ll.●

● Mr. STOKES. Mr. Speaker, I would like to thank the distinguished gentleman from New York, MARIO BIAGGI, for allowing me the opportunity to speak out on human rights violations in Northern Ireland.

As a member of the ad hoc Congressional Committee for Irish Affairs, I deplore the violent, inhumane acts which have been perpetrated against Northern Ireland prisoners. According to Amnesty

International, reports of brutal beatings, tortures, physical humiliation, and psychological abuse are common practices.

Mr. Speaker, at this time I would like to join my distinguished colleague in submitting for the RECORD case No. 3 of the Amnesty International Report on Northern Ireland. Such human rights abuses are reprehensible and intolerable. The U.S. Government has the responsibility of speaking out on human rights violations not only in Northern Ireland but wherever they exist in the world.

CASE NO. 3

Male. Arrested during the first half of 1977. Detained for four and a half days at Castlereagh Holding Centre and then released without charge. *He alleged having been subjected to the following forms of maltreatment:*

Psychologically exhausting procedures (prolonged oppressive questioning).

Physically exhausting procedures (strenuous positions).

Threats (of being killed).

Beatings (hit in the face and stomach, kicked on the legs and buttocks).

Direct beatings on the head.

Humiliation (was made to undress, spoken to in a degrading manner, ridiculed especially regarding his genitals, soiled underpants were placed over his head, humiliating remarks were made about his religious beliefs).

Attempts to suffocate him.

He claimed to have had the following symptoms immediately after the alleged maltreatment:

Tachycardia, chest pain on breathing, coughing with green phlegm

Bleeding gums.

Diarrhea.

Pains all over the body, difficulty lifting his arms, pain in the neck, pain on moving the head, pains in stomach and kidney region.

Bruises on both ears, left medial eye angle, upper part of his left thoracic cage.

Headache, dizziness, felt he had decreased hearing in his left ear, difficulty in concentrating, short loss of consciousness during interrogation.

Shaking hands, attacks of "pins and needles" in his hands.

Visual disturbances: after falling to the floor, he saw a violet colour, obscuring all structures and lasting about 30 seconds.

When being hit on the back of the head, and also when he was asked to stare out of the window into daylight, he saw round coloured rainbowlike shapes which grew larger and smaller and changed shape.

During interrogation, he visualised things that were not there, for instance, he saw a vision of himself working at his job (this point is difficult to interpret, but the possibility of pseudohallucinations cannot be ruled out).

Inability to sleep, fear of being killed, exhaustion, felt indifferent towards the people who maltreated him.

He claimed to have had the following symptoms during the period following his detention:

For the first few days after release from Castlereagh, he had a recurring feeling of walking upside down. This happened for short periods at a time only but resulted into his bumping into things as he walked.

Some sexual problems were disclosed to the medical delegates.

The cardio-pulmonary symptoms disappeared quickly as did the diarrhea. He then developed heartburn and belching. Although he had suffered from this before, it was now more common. He also had a rash on his feet. Two weeks after his release a clicking movement developed in the right temporomandibular joint of his jaw, but this disappeared about six months after detention.

The symptoms relating to the central nervous system continued. He felt a total lack of energy, had difficulty in getting to sleep, his sleep was interrupted and he had frequent nightmares. He was frightened, irritable, labile, violent and aggressive. He sought psychiatric help once shortly after release and was prescribed diazepam and a night sedative.

He told the medical delegates that he still suffered from the following symptoms:

Belching and nausea, for which he is taking a parasympatolytic compound.

Recurrent headaches localised to the temporal region. They are usually of moderate intensity but have on occasion been more severe. He has difficulty concentrating and finds that his learning ability is decreased. He feels that his hands shake, although this is not evident. He also has attacks of "pins and needles" in his hands accompanied by numbness.

He feels that he is mentally changed. He argues with his wife more frequently. He is aggressive, labile, irritable, violent and often hits his children which did not occur previously. He tires easily and has less energy than before, especially for his spare-time functions, although his sleep has now improved. He still has nightmares occasionally. He is not as easygoing as previously. He is often frightened and afraid of being arrested again.

PREVIOUS MEDICAL EXAMINATIONS

During and immediately after interrogation he was medically examined and signs of bruises were found which were interpreted by the doctor who examined him as being consistent with his description of alleged physical maltreatment. One week after his release, he was seen by a psychiatrist, who found him to be suffering from a stress reaction with severe phobital symptoms which might necessitate treatment at a later date.

FINDINGS OF PHYSICAL EXAMINATION BY THE MEDICAL DELEGATES

In the physical examination nothing abnormal was found except the bilateral positive Hoffman reflex, which could be a result of his being tense at time of interview. Investigation for cerebral asthenopia showed that on examination with a colourless object for the right eye the horizontal stick became thinner and longer as it moved toward the left. The same examination with the left eye showed a double vision with the other picture just behind and to the left of the first one. Interpreting this test, the medical delegates felt that the fact that the patient was being treated with parasympatolytic drugs at the time would not influence the results as the signs were different for each eye.

SUMMARY OF EXAMINATION BY MEDICAL DELEGATES

This man was examined some months after a detention of four and a half days during which he alleged that he had been subjected to almost continuous interrogation.

At the time of examination, he complained of heartburn, parietal headache, difficulty concentrating, fatigue, sexual disturbances and vague symptoms from the peripheral nervous system. He said he felt more irritable, emotionally labile, and that he had struck his children on several occasions. He had temporarily stopped taking part in his hobbies. He had nightmares and was often anxious.

CONCLUSIONS

The medical delegates found a positive test for cerebral asthenopia which suggests that he is suffering from some degree of organic brain damage. Considering the length of time between interrogation and interview with the AI mission, it is noteworthy that this person still complained of a number of symptoms which he stated had not been present prior to interrogation. Two medical reports are attached—one is the report made by his doctor immediately after interrogation; the other is a report by a psychiatrist, made shortly after his release.

There is consistency between the allegations of maltreatment and the attached medical reports. There is also consistency between the symptoms described at the interview and the allegations. The detailed examination, which enabled the medical delegates to assess the symptoms described and detect residual signs, strongly corroborates the case that maltreatment took place.

MEDICAL REPORT ON CASE NO. 3*

Dated during the first half of 1977.

At approximately 4:15 p.m. on the evening of (Day 3), I examined the above-named person at Castlereagh police station, Belfast, and the police doctor acting on behalf of the R.U.C., Castlereagh, was present. Before examination (Case No. 3) signed form 38/178 requesting medical examination. His general appearance was untidy. He was unshaven, his body was sweaty and unwashed. He had difficulty in raising his arms to remove his jumper and shirt. This, he stated, was due to his having been made to stand on his tiptoes with knees semiflexed and his arms held out from his chest for a long period, and also to having been punched on the back of his neck while in custody.

Both ears were badly discoloured with blue bruise marks, the left being worse than the right. There was a small bruise at the corner of the left eye, and there was an area of bruising over the left upper anterior chest wall.

He was quite tender on palpation of the cervical spine, and there was definite limitation in his ability to flex and rotate his head.

On auscultation of his chest, he had some scattered rhonchi due to a chest infection which he had prior to detention and for which a police doctor had given him penbritin, 500 mg four times daily following a medical examination on the day he arrived at Castlereagh.

On examination of his abdomen, there was quite definite tenderness and rigidity on palpation. This, he said, had been due to being punched in the upper abdomen. There were no bruise marks. He also was tender in both kidney areas and both legs, the backs of which, he stated, had been kicked. Examination of the genital area and perinem revealed no abnormalities.

I reexamined (Case No. 3) on (Day 6). He stated that he had not been assaulted since I saw him, and the bruise mark noticed on his chest had faded quite substantially. The bruise marks to his ears and eye had also become less prominent.

The clinical findings noted above would in my opinion confirm his statement that he had been assaulted while in police custody.

Yours sincerely,

Dr. [S2].

PSYCHIATRIC REPORT ON (CASE NO. 3), MADE SHORTLY AFTER HIS RELEASE

Re (Case No. 3)

DEAR DR. (S2). I saw the above-named at his home a few days after release, and the situation was as follows:

During the first half of 1977, he was arrested one morning at 5:30 a.m. by some men in police and military uniforms coming to the door. The door apparently was kicked and some soldiers said that they were carrying out a search under the Special Powers Act. Some of the police said he was being arrested. Some sheets and a record were taken, but they were subsequently returned. (Case No. 3) was taken into a car and handcuffed but not actually brought into the local police station. He was so flabbergasted he did not ask for the chief inspector, whom he

*This medical report, along with all others cited in this annex, has been rendered anonymous as to names and dates. All other facts remain unchanged.

knew. He was taken for interrogation, apparently to the Castlereagh police station, and his watch was removed. There were interrogation sessions lasting for several hours at a time, and one of the sessions went on from apparently 10 a.m. to 5 p.m., apart from a 20-minute break for examination by you. He was provided with food while the interrogation went on. Apparently there was one concentrated session of rough handling from 10 p.m. on Day 1 until 3 or 4 a.m. the following morning. This apparently included being stripped naked, kicked, punched, booted and made to do physical exercises. He was made to lick water from the floor and pick up cigarette butts. Apparently there were more unpleasant threats. At an earlier stage in that particular session, he was made to run up and down the room and told to take down his trousers and run for a while. He was then made to take down his underpants and apparently insulting remarks were made in regard to his manhood. He recalled reference being made to the number of children he had and the size of his genitals.

He recalled that as far as he could make out he did not sleep during the entire ordeal. He was up late at night. He recalled signing the relevant forms stating that he had been abused. He felt that in a way the whole thing seemed more like a novel than a real-life experience.

When I saw him, it was comparatively early after the ordeal, but he had not been back to his job and he related some of his fear to threats by the interrogators. He was apprehensive about the possibility of worse incidents and he had been irritated with his own children. He became tired easily and tended to pace around restlessly. He had become frightened of the security forces and very worried about lights—the street lights outside the house were off on the two nights after he was released. He did not sleep at all the first night after coming out of the center. There had been some improvement in his sleep patterns with the help of night sedation, and he had not experienced nightmares. His voice had become softer than it had been previously, and he had been grinding his teeth. Palpitations, shortness of breath and a slight choking sensation had occurred. The frontal headaches were severe and frequent, and there were also pains at the back of his head and in the neck region. There was some distortion of visual image. He could see white and pink bands behind where his eyes were focussing.

His wife described him as having come home a different man. The whole thing occurred in the setting of his wife having had a baby by caesarean section a few weeks before his arrest (she was only out of hospital a few days before his arrest). He had been particularly kind and attentive to her after she had come home from hospital. She remarked on how irritable he had indeed become with the children (something he himself had mentioned). His eyes, to her, appeared different, displaying a peculiar stare. He became rather more upset after he had been home a couple of days, which would be in keeping with a delayed reaction.

He was pale (apparently paler than he had been previously). He sighed occasionally. His expression was strained. He tended to keep his hands clasped. His pulse rate was 84 per minute.

I would certainly say that as of that stage it was difficult to assess what the long-term pattern of the stress reaction would be. I would say, however, that he ought to stay off his job from four to six weeks in the first instance, unless there is a marked early improvement (which is unlikely). There could be an intensification of symptoms of anxiety in the job situation period. He would prefer to cope without tranquilizers or sedatives, and this he should be able to do unless a more intense delayed reaction develops. The passage of time should be one of the factors in his eventual improvement. If a pattern of intense phobic symptoms is maintained, then a program of desensitization or some other form of behavior therapy could be arranged by our behavior therapist.

Yours sincerely,

Dr. [T2].●

● Mr. CAPUTO. Mr. Speaker, as a member of the Ad Hoc Congressional Committee on Irish Affairs, I wish to join my colleagues in protesting the deplorable violations of human rights in Northern Ireland that were revealed in an Amnesty International study.

We cannot do enough to emphasize the reckless brutality which typifies the treatment of prisoners held by the Royal Ulster Constabulary. I hope vehement public protest will generate pressures for improved treatment of prisoners. With this in mind I would like to enter the history of case No. 54 of Amnesty International's report in the CONGRESSIONAL RECORD:

CASE 54

Male: Arrested in 1977 and taken to Strand Road RUC Station, Londonderry, then to Castlereagh Holding Centre, where he was held for seven days. He was then transferred to prison for seven weeks, after which he was released on bail awaiting trial. He was medically examined on the day of arrest at Strand Road RUC Station. On arrival at Castlereagh he refused an offer of a medical examination by a police doctor. He had a medical examination during his detention in Castlereagh and on leaving Castlereagh.

Maltreatment alleged (in Castlereagh): general beating, kicking, squeezing of testicles, hairpulling, direct trauma to the head, hand burnt against a hot radiator pipe, degrading treatment. His sweater was placed over his head and his trousers pulled down, and the interrogators verbally humiliated him. While he was lying on the ground one of the interrogators stepped on his stomach, on his hands, his shoulders and his ankles. His wrists were both bent and stretched.

Symptoms: immediately after release he was afraid of people, had communication difficulties, sleep disturbances and more frequent migraine attacks. Symptoms when interviewed by the AI delegates: none.

Medical reports: No. 1 by Dr. B1, examination in Castlereagh. No. 2 by Dr. M1, examination on his arrival at jail.

Signs: Dr. B1: burning of left hand, first degree, numerous bruise marks on the body and the head, haematoma in the left corner of his mouth, abrasions on thorax and abdomen. Dr. M1: moderate swelling of the left temporo-parietal region. Multiple bruise marks, various abrasions and an area with loss of skin localized to left hand.

Conclusion: There is consistency between the alleged maltreatment and the signs. It has to be added that two police doctors, Drs. N1 and K1, also examined this person, and it would be of great value to compare their reports with those mentioned above.●

● Mr. HOLLENBECK. Mr. Speaker, because of the leadership of my colleague from New York (Mr. BIAGGI) the House of Representatives has been made aware of serious allegations concerning the violation of human rights in Northern Ireland.

In large part, these cases have been drawn from the report of Amnesty International. Case No. 66 of their report on Northern Ireland is inserted here in the RECORD:

CASE No. 66

Male, arrested 1977 and taken to Castlereagh Holding Centre. Held one day in Castlereagh and then transferred to jail. No information about medical examination on arrival at Castlereagh, during his stay there or on release. He had a medical examination two days after arrest.

Maltreatment alleged: Pushed, slapped, punched in the face, abdomen and testicles.

Symptoms: No information.

Medical reports: by Dr. U1, on examination two days after his arrest.

Signs: Abrasions below and anterior to the left ear. Linear abrasion below angle of left eye. Swelling below nasal bone and soft tissue of his nose. Small erythema area over upper end of anterior part of pelvis. Erythema areas above left superficial inguinal injury.

Conclusion: There is consistency between the alleged maltreatment and the signs. If a police doctor's report exists, it would be of great value to compare it with that of Dr. U1.●

Mr. BIAGGI. Mr. Speaker, the following is a list of the members, Ad Hoc Congressional Committee for Irish Affairs, July 18, 1978:

Mario Biaggi, Democrat of New York, chairman.
Peter W. Rodino, Democrat of New Jersey.
James J. Delaney, Democrat of New York.
John M. Murphy, Democrat of New York.
Benjamin S. Rosenthal, Democrat of New York.
Joshua Eilberg, Democrat of Pennsylvania.
James J. Hanley, Democrat of New York.
Robert A. Roe, Democrat of New Jersey.
Lester L. Wolff, Democrat of New York.
Joseph P. Addabbo, Democrat of New York.
William R. Cotter, Democrat of Connecticut.
Edward P. Beard, Democrat of Rhode Island.
Bruce F. Caputo, Republican of New York.
John J. Fary, Democrat of Illinois.
Jerome A. Ambro, Democrat of New York.
Silvio O. Conte, Republican of Massachusetts.
Charles B. Rangel, Democrat of New York.
Antonio Borja Won Pat, Democrat of Guam.
Matthew J. Rinaldo, Republican of New Jersey.
Leo C. Zeferetti, Democrat of New York.
William F. Walsh, Republican of New York.
Gladys Noon Spellman, Democrat of Maryland.
Stephen J. Solarz, Democrat of New York.
Joe Moakley, Democrat of Massachusetts.
Bruce F. Vento, Democrat of Minnesota.
Norman F. Lent, Republican of New York.
Anthony Toby Moffett, Democrat of Connecticut.
David W. Evans, Demorcat of Indiana.
Marty Russo, Democrat of Illinois.
Herbert E. Harris, III Democrat of Virginia.
Lawrence Coughlin, Republican of Pennsylvania.
Raymond F. Lederer, Democrat of Pennsylvania.
Berkley Bedell, Democrat of Iowa.
Richard Nolan, Democrat of Minnesota.
Daniel J. Flood, Democrat of Pennsylvania.
Samuel S. Stratton, Democrat of New York.
John P. Murtha, Democrat of Pennsylvania.
George M. O'Brien, Republican of Illinois.
Andrew McGuire, Democrat of New Jersey.
Clarence D. Long, Democrat of Maryland.
James H. Scheuer, Democrat of New York.
James J. Howard, Democrat of New Jersey.

William Clay, Democrat of Missouri.
Harold C. Hollenbeck, Republican of New Jersey.
Matthew McHugh, Democrat of New York.
John Conyers, Jr., Democrat of Michigan.
Michael O. Myers, Democrat of Pennsylvania.
John Brademas, Democrat of Indiana.
Robert Garcia, Democrat of New York.
Walter E. Fauntroy, Democrat of the District of Columbia.
Augustus F. Hawkins, Democrat of California.
Ralph H. Metcalf, Democrat of Illinois.
Bill Green, Republican of New York.
Sen. Dennis DeConcini, Democrat of Arizona.
Tennyson Guyer, Republican of Ohio.
Melvin Price, Democrat of Illinois.
Michael Harrington, Democrat of Massachusetts.
Austin J. Murphy, Democrat of Pennsylvania.
Phillip Burton, Democrat of California.
J. Herbert Burke, Republican of Florida.
Christopher J. Dodd, Democrat of Connecticut.
Edward Pattison, Democrat of New York.
Thomas J. Downey, Democrat of New York.
Mary Rose Oakar, Democrat of Ohio.
Doug Walgren, Democrat of Pennsylvania.
Edward P. Boland, Democrat of Massachusetts.
Henry J. Hyde, Republican of Illinois.
Joseph A. Le Fante, Democrat of New Jersey.
Benjamin A. Gilman, Republican of New York.
James Collins, Republican of Texas.
Margaret M. Heckler, Republican of Massachusetts.
Ronald M. Mottl, Democrat of Ohio.
Charles J. Carney, Democrat of Ohio.
Robert A. Young, Democrat of Missouri.
Joseph M. Gaydos, Democrat of Pennsylvania.
Ronald V. Dellums, Democrat of California.
Ted Weiss, Democrat of New York.
John L. Burton, Democrat of California.
Joseph G. Minish, Democrat of New Jersey.
John H. Dent, Democrat of Pennsylvania.
Richard L. Ottinger, Democrat of New York.
Billy Lee Evans, Democrat of Georgia.
Robert N. C. Nix, Democrat of Pennsylvania.
Stewart B. McKinney, Republican of Connecticut.
Paul E. Tsongas, Democrat of Massachusetts.
Morgan F. Murphy, Democrat of Illinois.
Norman Y. Mineta, Democrat of California.
Robert W. Edgar, Democrat of Pennsylvania.
William J. Hughes, Democrat of New Jersey.
Fred B. Rooney, Democrat of Pennsylvania.
Gus Yatron, Democrat of Pennsylvania.
Newton I. Steers, Jr., Republican of Maryland.
Thomas A. Luken, Democrat of Ohio.
Ronald A. Sarasin, Republican of Connecticut.
John J. Cavanaugh, Democrat of Nebraska.
Elliott H. Levitas, Democrat of Georgia.
William M. Brodhead, Democrat of Michigan.
James J. Blanchard, Democrat of Michigan.
Paul Findley, Republican of Illinois.
David E. Bonior, Democrat of Michigan.
Harold S. Sawyer, Republican of Michigan.
Frederick W. Richmond, Democrat of New York.
Charles C. Diggs, Jr., Democrat of Michigan.
Louis Stokes, Democrat of Ohio.
Parren J. Mitchell, Democrat of Maryland.
John E. Cunningham, Republican of Washington.
William Moorhead, Democrat of Pennsylvania.
Cardiss Collins, Democrat of Illinois.
John Krebs, Democrat of California.
Doug Applegate, Democrat of Ohio.

GENERAL LEAVE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order today.

The SPEAKER pro tempore (Mr. ROSTENKOWSKI). Is there objection to the request of the gentleman from New York?

There was no objection.

THE TURKISH ARMS EMBARGO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maine (Mr. EMERY) is recognized for 10 minutes.

● Mr. EMERY. Mr. Speaker, shortly the House will consider the international security assistance bill, H.R. 12514. Perhaps the most controversial section of that bill will be the proposal to lift the arms embargo on Turkey. I would like to offer some thoughts on this issue and propose a compromise solution to the impasse.

While I do not share the President's view that the arms embargo issue is our preeminent foreign policy problem, I would agree that given the importance of NATO's southern flank, the embargo issue is extremely important to the United States and her allies.

In formulating a final decision on the embargo, I believe the following five questions must be answered.

First. Are Greece and Turkey really that important to the NATO Alliance?

No one who has attempted any serious study of NATO strategy on the southern flank can deny the importance of a strong Greece and Turkey. Both nations, sitting astride the land routes through Thrace and the sea routes through the Bosporus and Dardanelles, play a crucial role in keeping the eastern Mediterranean safe for allied shipping and free from massive attacks from the Warsaw Pact.

Turkey, with its approximately 450,000-man army, the second largest in NATO, contributes a great deal to the defense of the land area in both Turkey and Greece, and is available to defend against any Soviet intrusion into Iran. The Turkish and Greek forces are considered a viable threat to the Warsaw Pact and at least 26 Pact divisions are assigned to the Greek/Turkish border.

Turkey also provides important facilities for the United States and NATO requirements for training, forward basing of aircraft, support of the 6th Fleet and intelligence collection. It is true that satellites have assumed much of the responsibilities of those facilities in Turkey, but their importance to our defenses is still great.

Greece, with its control of the Aegean Sea, will play an important role in blocking the Soviet fleet from sealing off the eastern Mediterranean from U.S. naval vessels thus posing a threat to the Middle East.

But, the contributions of these two nations, while singularly important, must complement each other in order to achieve 100 percent effectiveness. At the present time, Greek military forces are not a part of the NATO command structure, and the effectiveness of the Turkish military in a NATO role is questionable. From this perspective, continuation of the arms embargo on Turkey and the absence of the Greek military forces from the NATO command, do not serve the best interests of NATO, and ultimately, U.S. security.

The lifting of the embargo will greatly increase the capabilities of the allied military forces. It will also bolster morale within the Turkish military and throughout NATO as well. It will not, as some have suggested, hasten the fall of the present government in Greece.

Mr. Karamanlis is perhaps the finest leader to emerge from Greek politics in some time. He is truly a great leader who enjoys the respect and support of the Greek people. An anti-Western government in Athens would not be in the best interest of the citizens of Greece and they would not allow the Karamanlis Government to fall because the arms embargo on Turkey was lifted.

I believe the lifting of the embargo will result in the placement of a NATO command in Greece, the gradual return of the Greek military to the NATO command structure, a rise in Greek stature within NATO and will foster a renewed sense of cooperation between Athens and Ankara.

Second. Has the current arms embargo on Turkey accomplished the goals it was intended to accomplish?

The question which arises here is, What were the goals to be accomplished by the embargo?

As far as I can determine, the embargo was enacted to censure Turkey, not for its original action in defense of Turkish-Cypriot rights and in accordance with its treaty responsibilities, but for its second invasion of Cyprus in 1974 which added an additional 30 percent of Cyprus to Turk control.

Perhaps a second, but less likely, reason for the embargo could have been to place the United States on record as saying to all of the recipients of our arms that misuse of U.S.-supplied weapons would not be tolerated.

I know from my own perspective that these were the two reasons which led me to support the embargo at that time.

Has Turkey been punished? I believe so. Four years without a substantial resupply of American weapons is ample proof of our intentions not to overlook misuse of NATO-designated equipment—especially when it is used against

our equally important ally, Greece. But to extend this punishment indefinitely will—and is—placing our own national security in jeopardy.

Many of our colleagues who oppose lifting the ban argue that U.S. laws were broken and Turkey should pay the price.

I agree with that logic. But even in our own society, a person convicted of a crime is sentenced to prison, serves his time, and is then released. He is not necessarily locked away until the original wrong has been righted. In fact, under our laws, an offender may even be released early, or pardoned, if his behavior warrants. This is not to say, however, that Turkey has acted positively over the past 4 years. And, the very presence of Turkish troops in Cyprus is a reminder that "exceptional" behavior has not been forthcoming. However, recent initiatives by the Turks, whether acceptable to the Greeks or not, indicates a willingness to begin the process of negotiating over Cyprus. And, just because the Greek-Cypriots reject these offers out of hand does not mean they were not constructive.

Extending the U.S. law analogy to the embargo question, should Turkey remain "jailed" until conditions on Cyprus are restored to some unattainable pre-1974 status?

Third, will the lifting of the embargo contribute to a peaceful solution to the Cyprus problem?

Just as no one could guarantee that Saudi Arabia would act to hold the line on any attempt by OPEC to increase oil prices if the F–15 jet sale was approved, and just as no guarantee could be given that Egypt would continue to push for peace in the Middle East after receiving U.S. F–5 aircraft, no one can guarantee that the lifting of the embargo will help achieve a breakthrough in the negotiations on Cyprus. But, a major psychological block will have been removed.

Many of our colleagues admit that since the arms ban was partially lifted a while back, the embargo itself has become largely symbolic.

I agree with that thinking and feel that the symbol is doing more harm than good. Our current foreign policy is being characterized as indecisive. Our policymakers are accused of being inept in trying to formulate policy. The embargo, or as some may say, the half-embargo is a symbol of indecisiveness. The United States should either enforce the embargo 100 percent or do away with it. Any nation receiving U.S. military or economic aid can look at the embargo and feel a little "bending of the laws" will result in only partial punishment. The Soviets continue to violate the spirit of détente, the Helsinki accords and everything else, yet they continue to receive credits, trade and whatever from the United States.

Lifting the embargo will place more pressure on the Turks to respond than the present situation. In the same manner, the Greeks and Greek Cypriots, no longer able to hide behind the arms embargo, will have a new incentive to search for a settlement.

Maintaining the status quo will simply reinforce the current stalemate between the four parties involved.

Fourth. Should Congress continue to perpetuate a "no solution" policy toward Cyprus?

The answer must be a resounding "No." The embargo, with its initial good intentions, has not worked. Over the past 4 years all we have seen has been the steady deterioration of the NATO alliance. What we have also seen is a Congress treating this vital foreign policy issue as a mere extension of domestic politics, with very little concern for the good health of NATO as a "total" alliance with the participation of a strong Greece and a strong Turkey as well.

Fifth. Can there be a middle ground or compromise position in this issue?

The answer is yes. This issue is much too complex to be considered in simple black and white terms. Too much emphasis has been placed on an either/or decision, and not enough debate has been heard on any possible compromise position designed to resolve the congressional impasse.

I, for one, believe that an acceptable compromise can be reached which would allow the arms ban to be lifted. I plan to offer this compromise during the debate on the security assistance bill.

Specifically, my compromise would be in the form of amendments to the bill which would address three matters. First, my amendments would prohibit the Turks from deploying any new weapons from the United States on Cyprus. Second, they would require a pledge from all of the parties involved in the Cyprus problem that Cyprus would remain a free and independent nation with human and civil rights for all. And finally, my amendments would require the Turks to present a proposed timetable for the withdrawal of the remaining Turkish military units on Cyprus.

During the debate on the arms embargo issue. I intend to offer two amendments which I feel will help allay some of the fears I have heard when speaking with my constituents and which should help in setting the Cyprus peace negotiations back on track.

The first of my amendments would simply state that:

The President will request from the Government of Turkey a pledge that no new weapons or equipment delivered to the Turkish armed forces, as a result of the lifting of the embargo, will be transferred to the Turkish garrison on Cyprus; nor will any new weapons or equipment be deployed along the Greek/Turkish border in any way other than that which is consistent with NATO defensive requirements.

Many of those I have spoken with have expressed the concern that the Turks would use the new weapons from the United States as a means of strengthening their hold on the parts of Cyprus they now occupy. In like manner, many fear that deeply rooted animosities between Greece and Turkey would be aggravated if Turkey were to begin receiving and developing large shipments of weapons and equipment in ways threatening to Greece.

My amendment clearly requires that the Turks assign the new weapons to units not connected with the Cyprus occupation and insures that the use of these weapons will be used strictly for NATO purposes only.

The intentions of this amendment parallel the intentions of the language in H.R. 12514. The difference is that not only must the President certify that the new weaponry be used only for NATO or defensive purposes, but the Government of Turkey must also certify the same.

I believe this language is clear and should leave no doubt with the Turks of our intentions. Also, I do not feel that this type of language is an infringement on either the ability of the executive to make foreign policy or on the sovereignty of Turkey.

The second of my amendments would establish three important conditions.

The first would require the President to:

Report to the Congress, within 120 days after the effective lifting of the embargo, that all of the parties involved in the Cyprus question pledge that Cyprus will remain a free and independent state with human rights guaranteed to all of the people of Cyprus.

The second requirement would require the President to:

Report to the Congress, within the same 120 day time period a proposed timetable developed by the Government of Turkey which outlines that government's plan for the withdrawal of its remaining military forces from Cyprus.

Again, this language, while expressing the same intentions as the language in the bill requires two very specific reports from the parties involved which are only alluded to in H.R. 12514.

The final provision of my second amendment would state that:

If the conditions of the above outlined requirements are not met within the prescribed time period, the Congress shall reserve the right, in consultation with the Executive, to review the security assistance programs to all parties concerned and take whatever action is necessary to achieve compliance.

The opponents of the proposal to lift the embargo on Turkey have indicated that the embargo should not be lifted until there is a solution to the Cyprus issue. As I pointed out previously, that could take a very long time and in the meantime, we may have jeopardized our NATO partnership with Turkey, and Greece, beyond repair. As we have seen over the past 4 years, the embargo has not been an effective measure in coercing either side to negotiate. Clearly, that tactic has failed.

However, the administration, in spite of past congressional intent, and previous promises, has called on the Congress to lift the embargo outright. While I want to support the lifting of the embargo because of its detrimental effects on our NATO forces on the southern flank, I do sympathize with those skeptics who do not feel the lifting of the embargo will change the attitudes of the Turkish Government toward a settlement on Cyprus.

When Turkish Prime Minister Ecevet visited Washington recently, I was very impressed with his sincerity and his desire to move toward a resolution of the Cyprus issue which would be acceptable

to all parties. I was equally impressed by the Greek Cypriot Minister in Washington, Mr. Angeledes, who while expressing a similar deep feeling for a peaceful settlement on his Cyprus, pointed out the psychological impact Turkish forces on Cyprus were having on both the Greek and Turkish Cypriots and on the possibilities of an acceptable peace settlement.

I accept the argument that the Turks should withdraw most, if not all, of their troops from Cyprus as a "first step" in the peace process. In fact, the entire island should probably be demilitarized and U.N.-administered until a settlement is reached and a new government established.

My amendments go directly to the heart of the matter. If all parties to the negotiations are sincere in seeking a just settlement, they will not hesitate to pledge a free and independent future for Cyprus. And, if the Turks really want a just settlement, as I feel they do, they must be ready to announce a total withdrawal of their remaining forces and leave the final decisions to the negotiators without a shadow of a Turkish military presence on Cyprus.

Lifting the embargo will not mean that Turkey will be inundated with military equipment the very next day. Some of the equipment requested by the Turks may take a long time to be delivered. In the meantime, the President can regulate the amounts of military weaponry being sent to Turkey in an effort to insure that Turkey complies with the directives of my amendments. The Congress will have enough time to determine if Turkey intends to fulfill its obligations to begin the withdrawal of its troops and negotiate the future of Cyprus.

Neither of my amendments poses any harsh restrictions on any of the parties concerned, including the executive branch in its search for a peaceful settlement, nor do they present any impossible tasks. They are simply an alternative to an otherwise unrealistic approach to U.S. foreign policy.

The time has come for Congress to face up to the issue. The Congress must accept the responsibility it so often demands when setting foreign policy.

Do we jeopardize an extremely vital segment of our worldwide defense planning? Do we sacrifice one of the key elements in our alliance system? Do we exile one of our close allies and friends to a state of neutrality, or worse yet, to Moscow? Or do we act responsibly and demand responsible action in return?

Lifting the embargo is a responsible decision. But in return, we must demand responsible action from those parties involved. I believe my amendments are constructive initiatives in that process and I urge your support of them.●

HATS OFF TO BOB STRAUSS FOR POSTURE ON FARM EXPORTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, warmest congratulations and thanks for a job well done are due Ambassador Robert Strauss in light of recent developments with respect to the multilateral trade negotiations.

As indicated in Ambassador Strauss' report to the Ways and Means Subcommittee on Trade on Tuesday, July 18, significant breakthroughs have been accomplished by our negotiating team during the past several months. While much remains to be done, it is clear that the critical goal of fair rules for freer trade is finally in reach.

The agricultural sector notes with particular appreciation Ambassador Strauss' statement that international recognition has been achieved that the multilateral trade negotiations cannot be concluded without provisions including freer market access for American agricultural products, improved rules on subsidies and a general development of tighter rules for fairness in agricultural trade. Citrus growers in my district have been particularly prejudiced by a series of unlawful and inequitable quotas and preferential tariff treatment imposed by our two most important trading partners, the European Economic Community and Japan. Increased market access and general rules of fairness can only benefit American agriculture, one-third of whose output is directly or indirectly dependent upon exports.

Mr. Strauss' report to the subcommittee is buttressed by the "Statement of Several Delegations on Status of Negotiations," issued in Geneva by representatives of the major developed countries on July 13, 1978. Representatives of these countries, including Japan and the European Community, agreed that finalization of the multilateral trade negotiation package is subject to completion of satisfactory settlements in the area of agriculture.

For the first time, our American negotiators under the leadership of Ambassador Strauss have set the stage for an equitable and fair trade package including agriculture. This has been accomplished under the most difficult conditions and is a task that deserves the thanks of all people interested in an open and free world trade market. At a time when protectionism in the United States, and in fact throughout the world, is receiving increasing support, a significant breakthrough for free trade is at the threshold. Once again, Ambassador Strauss is to be congratulated and applauded for this fine effort.●

LT. CMDR. WILLIAM CHARLES MATTHEWS AND LT. PATRICK JOSEPH KILCLINE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. BOB WILSON) is recognized for 5 minutes.

● Mr. BOB WILSON. Mr. Speaker, the weather was not particularly good last Sunday in the Navy operating area southwest of San Diego. It was not weather for the sunshine sailor, but business as usual for the Navy fighter squadrons flying from the deck of the carrier *Constellation*. A press report late in the day revealed that one of the F–14 Tomcat aircraft from Fighter Squadron 211 had not returned and was presumed lost at sea. Lost with that aircraft were two fine young men, who like many who have gone before them were keeping the peace by insuring and demonstrating our Nation's strength at sea.

Lt. Comdr. William Charles Matthews of San Diego, a 1968 graduate of the U.S. Naval Academy, was a naval flight officer and the mission commander of the exercise in which the aircraft was participating. Bill Matthews, with a bright and promising Navy career before him, left a wife, Gayle, and two sons, Taylor and Jonathan.

Lt. (jg.) Patrick Kilcline was the pilot of that aircraft. He was one of three naval aviators in his family, his father, Rear Adm. Tom Kilcline, Chief of Navy Legislative Affairs, and his brother Tom, of Fighter Squadron 51, are the other two. His sister Kathleen was just last month commissioned in the Medical Corps of the Naval Reserve. Pat Kilcline was the product of our American society, and one of whom all who knew him can be justly proud. He was a man taught by deep family ties and strong moral and religious upbringing to think and act for himself, and he did. During the early 1970's, when the military and naval professions ranked lowest with most of our youth and when criticism of our military and our participation in Vietnam prevailed, Patrick Kilcline applied for and gained entrance to the U.S. Naval Academy.

He graduated in 1975, having made his mark academically, athletically, and in the field of leadership as a company commander in his first class year. No seeker of the soft life and the easy road, Pat Kilcline picked instead the challenge, adventure, and known danger of being a naval aviator and a fighter pilot. He had been in the company of naval aviators since the early days of his youth and sought to be one of them. He persevered, studied, trained and flew until he, too, earned the wings of gold last year. Pensacola had given him more than the basic skills of a Navy flier. He had also managed to persuade a lady named Georgene Gibbs of that city to share his life and his profession with him. He flew the F–14 day and night as his father and brother had flown the A–3, RA–5C, F–4, and other aircraft before him, until last Sunday.

How do we assess lives seemingly cut so short in their measure of achievement? What lessons do men like these leave for us and for those who follow them in our Navy? This is certainly a time for sadness for many. For wives and families, for their many shipmates, for all who wear the wings of gold and mourn the loss of one of their own, for friends civilian and military around the country and the world.

At the same time, the scripture tells us that there is a time for all things; to live and die, to sow and reap and to love. Bill Matthews and Pat Kilcline have, in their relatively few years, done all of these things. Their true measure is in how well they have done them and not how long. Men like these are a symbol of the finest ideals of our society and its hopes and aspirations for the future. Years ago, too many for any of us to remember, men who were willing to face danger,

discomfort and the unknown, banded together with courage and resolve to form the Nation in which we live. Since that time, other men have seen the continuing challenge to our way of life and taken up a new generation of hardships and uncertainty to preserve our fragile dream. We can only hope that our country and its families will never cease to produce such men, for without their willingness to give of themselves in our country's behalf, we cannot hope to have a strong and free America.

It is easy in peacetime to forget those who guard our freedom, and especially to forget the daily sacrifices which they must make for all of us. Few outside the military family can understand the demands of military life and its constant hazards. Let us remember those who protect us, day and night; who take to the skies in our defense in weather fair and foul, and who, sometimes, do not return. Let us remember, too, the loved ones they leave behind. Let us be grateful that we have such men, and ever mindful of the part that they have in insuring freedom for us all.●

RUSSIAN TREATMENT OF VISITORS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, another instance of the inhumane and offensive treatment which the Russian Government gives to many of those who visit the country was revealed to me in a statement by Allan B. Margolis, president of WWWL/FM 94, Community Service Broadcasters, Inc., of Miami Beach, Fla., who in May visited Moscow. Mr. Margolis is a very prominent business and civic leader of Miami Beach and Florida. His wife is a very distinguished member of the Florida Legislature. Mr. Margolis was subjected, while in no way committing any offense or doing anything which under the rules of the enlightened nations of the world would be considered wrong, to a very harsh and offensive treatment by the police authorities of the Soviet Union. Mr. Margolis' letter to me and report details the treatment he received in Moscow on May 15 and 16 of this year when he was there upon a peaceful visit. It is shocking that a country which has made so many strides forward in technological matters and is such a strong power in the world would treat any human being the way Mr. Margolis was treated. It is hard to understand the phobia, the psychological insecurity of a great country which would treat a visiting citizen of any country, especially ours with who they still claim to have the spirit of détente, so harshly.

I have written a letter of protest to the Soviet Ambassador in Washington against this treatment extended to Mr. Margolis and have called for a copy of the "confession" he was required to sign, as he points out. We understand that the Russian people have had a far different background from our people. They have not had our long history of respect for law and the rights of individuals. They have not had our long experience in self-government and a Democratic system. But it does seem that the Soviet Union, with the knowledge it has of its great strength and power and the just pride it has in many of its accomplishments, would have outgrown the barbaric treatment which it so often inflicts upon its own people and upon visitors and would live up to its own constitution which professes to respect human life and its international agreements like the Helsinki accords. Such action would enhance the prestige of the Soviet Union all over the world and would reflect some of the refinements of a civilization and some of the moral and spiritual values which the developed nations of the world cherish and respect. I ask, Mr. Speaker, that my letter to the Soviet Ambassador appear in the RECORD following these remarks. I should also like my colleagues to see the report done by Dean Goodman and Allan Margolis of their experiences during their 8-day general tours visit in Russia, relating primarily to the Jewish situation in Russia. This account tells in all the horrible details of the denial of human rights to Russian citizens as well as to visiting Americans, the brutality of the police, and the lack of respect for the dignity of people which the Russian conduct discloses.

This is a shocking account of conditions in what should be one of the great countries of the world, so advanced in certain aspects of technology and so regressive in consideration of and respect for human rights and human values. I ask, Mr. Speaker, that this report appear in the body of the RECORD, along with my letter to the Soviet Ambassador in Washington, following these remarks:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 19, 1978.

Hon. ANATOLY F. DOBRYNIN,
Ambassador Extraordinary and Plenipotentiary, Union of Soviet Socialist Republics Embassy, Washington, D.C.

DEAR MR. AMBASSADOR: I enclose herewith copy of a letter that is dated the 7th of June 1978 by Mr. Allan B. Margolis, President of Community Service Broadcasters, Inc., an important radio station in Miami Beach, Florida in my home area. This letter of Mr. Margolis' points out the inhumane and inconsiderate treatment which he experienced in Moscow on May 15th and 16th of this year.

Mr. Margolis is a prominent business and civic leader in Miami Beach, Florida, whose wife is a distinguished member of the Florida Legislature, was visiting in Moscow as a tourist on a friendly visit to your country. He was subjected, as his letter advises, to offensive and abusive treatment by police authorities on both days in the many instances that he points out. His person was violated, his legitimate rights were denied, his peaceful pursuits were prevented and Mr. Margolis was treated as if he were a criminal—a wrongdoer— rather than a visiting American citizen upon a friendly visit, conducting himself in no way as to justify such violent action as that to which he was subjected. I must join Mr. Margolis in protest against the treatment he received and respectfully request you to communicate my earnest protest to your government.

At the request of Mr. Margolis, may I respectfully ask you to procure from the police authorities in Moscow a copy of the paper which the police required Mr. Margolis to sign at the airport upon his departure from Moscow.

Respectfully yours,

CLAUDE PEPPER,
Member of Congress.

JUNE 7, 1978.

Congressman CLAUDE PEPPER,
Southwest First Avenue,
Miami, Fla.

DEAR CLAUDE: As your office requested, I am writing this letter hoping you will file an official protest with the Russian Embassy in Washington and also via our embassy to the government in Moscow concerning my treatment in Moscow Monday, May 15 and Tuesday, May 16. I would also appreciate your entering this protest in the congressional record and if possible procure a copy of the "confession" I was intimidated into signing.

Approximately 9:00 P.M. Monday, May 15, I was taping an interview with Vladimir Slepak in a small park immediately across from his apartment. Within a few minutes of the start of the taping a local Moscow Chief of Police began walking in the immediate area. After observing us for a few minutes he approached us and informed Vladimir in Russian that I was to accompany him to the police station. At the station I was asked for the tape. I refused, asked why I was being held, what I had done wrong, informed them I was an American citizen, and asked to call the American Embassy. I was not allowed to place this call even after repeated requests until the very moment I was allowed to leave, approximately 12:30 A.M. Eventually around midnight I gave them a tape (which was blank). They then asked for me to submit to a body search to which I refused, and I was released a half-hour later without being body searched.

Tuesday, May 16 at the airport my luggage was very thoroughly searched and ten cassette tapes were removed with six rolls of undeveloped film. I was then escorted to a room, the door was locked, and I found myself with a uniformed gentleman who later identified himself as the Chief of Security of Moscow Airport; two uniformed men (possibly KGB) with yellow identification cards with a red border; an interpreter; and an older gentleman (who left the room many times during the 45 minutes to one hour and a quarter I was there possibly getting information of the playing of my tapes). I was told that I must submit to a body search. Over and over I repeated "I have done nothing wrong. I had broken no laws. What are you looking for? I'm an American citizen, and I want to call my embassy." I was given no answer and was never allowed to call the American Embassy. I was threatened that my plane would leave in a few minutes and if I did not cooperate they would keep me until I did, that they would get what they wanted from me with or without my consent.

Within a half hour to 45 minutes I yielded to the body search and everything in my pockets and wallet were thoroughly scrutinized. I was frisked including my shoes but nothing unusual was found. I was then told I could leave only after I signed a handwritten document (confession?) which was not translated for me. I refused for a short time and finally submitted and signed "WITHOUT KNOWLEDGE ALLAN MARGOLIS". I was then released and boarded the plane to New York.

Identical requests are being made to President Carter, Senators Chiles and Stone, Congressmen Fascell and Lehman.

Thanking you in advance for your attention to this matter, and with kindest personal regards,

ALLAN B. MARGOLIS, *President.*

JUNE 5, 1978.

The following is a report done by Dean Goodman and Allan Margolis of their expe-

riences, relating to the Jewish situation, in Russia.

The trip was an eight day General Tours package from New York departing on May 8, 1978 for Leningrad; four days spent in Leningrad, one day in Kalinin and three days in Moscow.

We found our decision to take Aeroflot Airlines a poor one, not only because of the poor accommodations, but also because of the lack of free speech and personal freedom en route.

Customs in Leningrad: We had with us various Hebrew and Israeli books. We also carried jeans and pens to use as tips and gifts. Customs was spot checking baggage, concentrating on younger males (less than fifty years old). Both our luggage was searched. From one of us they confiscated five pairs of jeans and sixty pens, as well as three or four Hebrew books. From the other they took all the Hebrew and Israeli books, approximately ten, but left the jeans. We felt they would have confiscated everything we carried of that nature if their search had been more complete. In regard to the jeans and the pens, the reason they stated for confiscation was "It was too much". As for the books, Customs stated that they couldn't tell if they were anti-Soviet, even though some were written in Russian, and that they would have to read them to know. There was no body search for any tourist on our tour.

Customs gave us receipts, after much argument, and stated that the aforementioned articles would be available to us on our departure from Moscow.

We stayed at the Hotel Leningrad, and the first night we were there we attempted to contact Aba Taratuga by telephone. We later found his number was disconnected five days prior. We, as were many tourists, were approached by Russians speaking good English to either buy jeans (value to be at least one hundred rubles per pair) or trade currency.

The second night we were there we took a cab to Aba Taratuga's apartment and found him at home with his wife and son. We talked with them for several hours and the following is a synopsis of the conversation.

A. The Taratugas' situation has not improved. His son will be drafted next year and this procedure generally delays Exit Visa for a minimum of five years. They feel utilization of the draft to be an effective means of the government preventing Jews to leave according to their "Secrets Act".

B. The Taratugas greatly appreciate all assistance they have been receiving from their friends in the United States.

C. The Taratugas would like to emphasize that their position is not that of dissidence. They just want to leave Russia to be with their people and to live in Israel—to have a home and the freedom to be Jews.

D. We gave him books and jeans which were greatly appreciated, and he said he would distribute them wherever they were most needed.

E. Taratuga invited us to a seminar being held the following night at a friends house who was also a refusenik, i.e., one who has been refused an Exit Visa.

Wednesday Night Seminar:

We took a cab to the apartment of Taratuga's friend. (We always took cabs from stands other than those at the hotels in order to avoid being followed, as we had been followed at various times.) It was a very small three room apartment, living room, bedroom and kitchen, where there were approximately fifty people assembled—men, women and children. The purpose of the seminar was to hold a discussion and show a slide presentation on Israel. The moderation was in Russian, therefore we did not partake. However, after the presentation we had discussions with many of the individuals present. The following is some of the views and questions expressed.

A. Why does the United States offer more than Israel to Russian immigrants?

B. Should not all Russian immigrants go to Israel only?

C. Many questions were asked about the quality of life in both the United States and in Israel.

D. What is the United States Government doing to help the plight of the Russian Jews?

The meeting ended with the singing of the Israeli National Anthem, decidedly the high point of our Russian experience as it was so beautifully moving. By the way, the food served by these people was the best we had in Russia.

The visiting of Kalinin in route was a waste of time. We felt it was to keep us away from the Moscow Synagogue on Saturday, although this could not be verified.

Moscow:

We stayed at the Hotel Intourist which was conveniently located next to Red Square. It reminded us of a Howard Johnson from 1956 but with good ice cream.

The first night we walked to Vladimir Slepak's apartment which is approximately four blocks from the hotel on the same street, Gorky Prospect. The entrance to Slepak's apartment is in an alley that parallels Gorky Prospect. On the ground floor by the elevator sits an old man wearing a red arm band. The old man, we were told, observes the comings and goings from the building however he never bothered us. We entered Slepak's apartment which he shares with another family who are not Jewish. This is a common practice in Russia. Slepak was not in and we later learned that he was at the trial of Orloff. We spoke with his wife whose English was minimal, and left her with jeans and other gifts from the States along with certain special messages. We were unsuccessful in making contact with Slepak the next day also.

On our third day in Moscow, in the afternoon, we attended a round table discussion with three middle level communist leaders. The most understandable was Vladimir Posner, a journalist and a Party member. He was born in Paris and educated in New York City. The relatable issues discussed were as follows.

1. One's home region is stamped on all Russian passports, however, the only religious origin stamped on any passport is "Jew". No plausible explanation was given for this, but the reaction to the question was one of extreme agitation.

2. As far as the issue of refuseniks illegally being held up by Russian bureaucracy, and also the question of "states secrets" being used as unjustifiable excuses was raised. Posner claimed that no refuseniks lost jobs except in security fields. However, Posner admitted that some prejudice was involved by some employers and officials because of "unbearable nudging by Jews". He claimed this was unfortunate and unfair and that he would attempt to rectify any individual cases brought to his attention.

As broadcasters (WMBM and WWWL-LOVE/94 FM, Miami Beach, Florida) we taped this entire discussion.

That evening Allan Margolis made another visit to Slepak's apartment, while Dean Goodman remained at the hotel awaiting a visit from Posner (who never showed, but called the next morning). Allan Margolis found Slepak home and was then informed that the Orloff trial had made previous contact between the two of them impossible.

After discussions with Slepak about the street scenes in front of the courthouse where Orloff was being tried, as well as his conditions in Russia and his wish to go to Israel, Margolis requested a taping session for broadcast on U.S. radio. Slepak informed him that the house was bugged and suggested that they take his dog for a walk in the park.

During the taping Slepak discussed, in answer to questions, his family's reasons for wanting to live in Israel—his homeland—rather than being a second class persecuted citizen in the U.S.S.R. where within three or four generations there will be no Jews. Within the first five minutes of taping the local uniformed Chief of Police began walking around Margolis and Slepak. Shortly thereafter an officer interrupted the taping and asked Allan Margolis to go with him to the local jail, without Slepak. Slepak insisted he join Margolis and did so after much argument.

On the way to jail, which was only five blocks away, Allan Margolis switched the tape in the machine with a blank tape and placed the Slepak interview tape in his left pants pocket. At the station the police demanded the tape and refused Allan Margolis' request to call the American Embassy, they also ordered Slepak not to speak to Margolis in English. One hour later two young uniformed men, who both Margolis and Slepak believed to be from the KGB, arrived and at this time there was no interpreter so Slepak was asked by the officer in charge to interpret. Slepak refused, stating he had been ordered by the Chief of Police not to talk to Allan Margolis. He further stated "I do not want to work for you anyway". About an hour later, at midnight, an interpreter arrived and Margolis offered to give up the tape in the recorder if he could call the American Embassy. They agreed and Margolis gave them the tape (the blank one). They told Margolis that they wished to body search him. Allan Margolis asked to speak to the American Embassy as promised, to which they replied "later". Margolis refused the body search and was surprisingly released with Slepak about a half hour later.

On the fourth day we departed Moscow. Allan Margolis and Dean Goodman decided to transfer the tapes, which were in cassette form, to another tourist so that there would be a better chance of getting them out of Russia. As things turned out, it was a wise decision.

Upon leaving Moscow Dean Goodman was not searched, however Allan Margolis was. A complete search was made of every item within Margolis' suitcase. All cassettes and film were confiscated. His clothes were cut into in order to look for hiding places. Allan Margolis was then taken to a back room and was requested, once again, to submit to a body search. He was accompanied by the Chief of Moscow Airport Security, what appeared to be two KGB agents in plain clothes carrying yellow identification cards with red leather borders, one uniformed interpreter and one executive-type man who kept going in and out of the locked room, who Margolis felt was possibly checking on reports from people auditioning the aforementioned confiscated cassettes.

Allan Margolis was refused the call to the American Embassy. After one hour of much psychological, but not physical, intimidation Margolis yielded to the body search. They found nothing and Margolis was told to sign a hand written, one page document. Margolis refused to do so and was told he therefore would not be allowed to leave the country. Allan Margolis signed the document shortly thereafter as follows: "Without knowledge—Allan Margolis." Margolis received no copy of the document.

Allan Margolis was released from the back room and upon boarding the plane they returned his film requiring him to sign a receipt, and again no copy was given. It was later confirmed, as suspected, that the film had been destroyed.

Any further questions or request for tapes involved—contact Allan B. Margolis or Dean M. Goodman at: WWWL—LOVE/94FM, 843 First Street, Miami Beach, Fla., U.S.A. 33139, Telephone: (305) 672-2500.●

TESTIMONY OF CHARLES L. SCHULTZE BEFORE THE HOUSE BUDGET COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. GIAIMO) is recognized for 15 minutes.

● Mr. GIAIMO. Mr. Speaker, the Budget Committee has just completed a week of hearings in preparation for consideration of the second budget resolution for fiscal year 1979. The committee and the Congress face a difficult and trying task: We must design an economic policy that is responsive to the growing dangers of inflation while insuring that the economy continues to grow at steady rates.

In my opinion, the testimony we have just heard contributed substantially to our understanding of the Nation's economic problems and the policies which can lead us to continued growth and stable prices. In particular, the comments of the witnesses on the various tax proposals pending before the Congress was illuminating and instructive.

On Thursday, July 13, 1978, Congressman REGULA placed the excellent testimony of Chairman Miller of the Federal Reserve Board in the RECORD. So that Members of the House may have the benefit of the remainder of the testimony as soon as possible, I will place portions of statements submitted to the Budget Committee in the RECORD. I am inserting the first part of the testimony of Chairman Charles Schultze of the Council of Economic Advisers in the RECORD at this point:

TESTIMONY OF CHARLES L. SCHULTZE

Good morning. I am pleased to appear before this committee today to discuss the economic outlook for the rest of 1978 and for 1979, and to outline for you the Administration's recommendations on budgetary and fiscal policies.

More than three years have elasped since the American economy touched the bottom of the worst recession of the postwar period. During the past three years, our economy has staged a notable recovery.

The Nation's real output of goods and services has increased by 16 percent. We have made major progress against unemployment. In May 1975, 9.1 percent of the civilian labor force was out of work. In December 1976, the rate was still 7.8 percent. By last month, the rate of unemployment had fallen to 5.7 percent.

The utilization of our Nation's industrial plant has also improved—rising from 70 percent in early 1975 to 84 percent recently. Per capita disposable income, after adjustment for inflation, has risen by 13 percent, and business profits have increased substantially.

We are now in the fourth year of economic recovery. While the pace of recovery will, and indeed should moderate, there is no fundamental reason it cannot continue—if we pursue the appropriate budgetary and economic policies in the months and years ahead.

Unfortunately, in the battle with inflation, the record of the past three years is not good. During the first half of 1975, the rate of inflation came down quickly from the double-digit pace of 1974 to a range of 6 to 6½ percent. Since then, however, there has been no fundamental improvement in the inflation situation. And since late last year, prices have been moving up at a disconcertingly rapid pace.

Inflation is the most serious economic problem we face today. It creates major inequities, since some people and groups have far less protection against it than others. As inflation has remained high in the United States—indeed increased in recent months—while continuing to fall in many other industrial countries, downward pressure is exerted on the exchange value of the dollar. Most importantly, we must make better progress against inflation as a prerequisite to continuation of strong economic recovery.

The challenge that confronts us is to deal with inflation in ways that do not undo our progress in promoting economic growth and reducing unemployment. Specifically with respect to the overall fiscal policies that concern this committee, we must act with prudence and caution, pursuing a budgetary course that promotes a moderate pace of economic growth. To seek a rate of economic growth substantially greater than the growth of the nation's potential would, under current conditions, seriously court the danger of heating up inflation. But to adopt policies that severely depress the rate of economic growth would be equally unwise.

The record of the last decade demonstrates that an overheated economy will indeed accelerate inflation but that a sluggish economy will not cure it except very, very slowly and at a very great cost. Unemployment is still very high among the young, the poor, and minorities. Trying to "wring-out" inflation with economic slack would set back for years progress in bringing those individuals into the mainstream of the economy. It would also reduce profits and sales, and discourage business firms from investing—worsening the outlook for productivity growth and so contributing to inflationary problems in the longer-term future.

By exerting a drag on the growth of world trade, a weak U.S. economy would also undermine prospects for sustaining the fragile and incomplete recovery abroad. Slow growth in foreign economies, in turn, would dim the outlook for our export markets, and heighten still further the pressures for protectionism that are building across the globe.

Economic policies in the period ahead, therefore, must aim to keep us on a course that is consistent over the long run with steady and sustainable improvement in the health of the overall economy. Let me turn now to the goals and policies the Administration recommends to achieve that objective.

GOALS FOR 1978 AND 1979

In the January Budget, the Administration set as its objective real growth in GNP of 4.5 to 5.0 percent in 1978 and in 1979. In the intervening months, unemployment has declined far more rapidly than we had anticipated, while inflation has worsened. Under these circumstances, economic growth at the pace projected early in 1978 would probably cause the rate of unemployment to drop substantially below our current estimates, and put strong upward pressure on wage rates. Inflationary pressures in the economy might be aggravated significantly.

We have therefore set more modest growth objectives for the period ahead. We are aiming for an overall growth rate of about 4 percent per year in 1978 and 1979. That is slightly above the long-run growth rate of the nation's productive potential, which is about 3½ percent a year. We still can and should make gradual further progress against unemployment, but we must design our economic policies to maintain rates of economic growth that do not add an element of excess demand to the inflation problem.

In cooperation with the Congress and the Budget Committees, the Administration has adjusted its fiscal policy recommendations to reflect recent changes in the economic situation. We have reduced the size of the recommended tax cut by $5 billion and postponed the effective date to January 1, 1979. This has trimmed $10 billion from the magnitude of tax reduction in fiscal year 1979. Outlays, and budget deficit, in the current fiscal year are expected to be about $11 billion lower than projected in the January Budget. Outlay projections for fiscal 1979 have been lowered by $4½ billion, and together with the smaller tax cut, this will reduce the projected deficit in fiscal 1979 by $12 billion. In order to achieve this result, we urge the Congress in its authorization and appropriation actions to stay within the limits proposed by the President. On its part, the Administration will continue to seek economies and efficiencies in the operation of Federal programs, so as to carry out the programs enacted by the Congress at the lowest possible cost to the American taxpayer.

Final decisions on the President's recommendations for the fiscal 1980 budget will not of course be made until the end of the year, and will take into account economic developments over the intervening period. The prospect today indicates quite clearly that keeping economic growth along the desired path will require that the budget deficit in 1980 be significantly below that for 1979. To that end, the President has instructed Federal agencies, in planning their 1980 budget submissions, to reduce outlays substantially below those currently projected in the Mid-Session Budget Review.

THE ECONOMIC OUTLOOK FOR 1978 AND 1979

The course of fiscal policy that we now are recommending to the Congress is, in our view, consistent with an economic growth rate of about 4 percent in 1978 and again in 1979. Since January, several developments besides the change in budgetary policy have been working to reduce the outlook for economic growth. The rate of inflation increased in the first half of this year. That increase was due in substantial measure to sharply rising food prices and the effects on prices of imports of the depreciation of the dollar. These sources of higher inflation absorb purchasing power of the majority of consumers, who must spend more of their incomes to buy food and imported goods, and who therefore have less to spend on other goods and services. As a result, the outlook for real personal consumption expenditures has dimmed.

The sharp rise in interest rates has also had a direct dampening effect on economic expansion by raising the cost of buying a home or making a business investment. Rates have risen in response to the increased credit demands that have accompanied continued growth and more rapidly rising prices, combined with actions by the Federal Reserve to tighten credit in an effort to hold down the growth in the monetary aggregates.

Our forecast for the rest of 1978 and for 1979 takes account of these developments. It is based on three key assumptions about economic policy:

First, that the Congress, in its actions on tax and expenditures legislation, pursues the overflow fiscal policies recommended in the Mid-Session Budget Review.

Second, that conditions in the money and credit markets do not lead to a significant rise in interest rates.

Third, that the high rate of inflation in the first half of the year—which was fed by a number of special factors—eases during the second half, and that the underlying rate of inflation does not accelerate in 1979.

Due to the cold winter weather, the effects of the coal strike, and other special factors, the economy did not grow at all in the first quarter of 1978. But all the indicators suggest a strong rebound in the second quarter, with real GNP growing at an annual rate of 8 to 9 percent. Much of the second quarter's strong performance represents a make-up of first quarter losses, and recent data suggest that much of the bulge in growth associated with this make-up process is already behind us.

We expect the rate of growth in the second half of this year to be in the 3½ to 4 percent

range, or somewhat slower than the average of the first two quarters. Growth would weaken further in 1979 in the absence of the $20 billion tax cut proposed by the Administration, and incorporated in the First Concurrent Budget Resolution. With it, however, growth in personal consumption and investment should be strengthened enough to maintain a growth rate of close to 4 percent again in 1979.

By early next year, the recovery from the 1975 recession will be four years old. Some analysts have questioned whether it is realistic to suppose that recovery can be stretched into a fifth year. Past experience does suggest that recoveries tend to lose momentum as they age. In this recovery, as in earlier ones, consumers have added to their stocks of durable goods, and in the process have increased their installment debts. Backlogs of housing demand have been reduced, and mortgage debt has risen. With less thrust from these two critical sectors, growth in the recovery is slowing. But that process does not imply that a recession is just around the corner, or even that growth must slow unduly.

During the current upswing we have generally avoided the kinds of major imbalances that, in the past, often have brought recoveries to an end. Inventories today are lean. The ratio of inventories to final sales of businesses at the end of 1977 was the lowest in over a decade.

The overhang of apartments and offices that glutted the market four or five years ago has largely been eliminated, and vacancy rates for apartments today are unusually low. Nonfinancial corporations are less liquid today than a year or two ago, but distortions in balance sheets that undermined corporate health in the early 1970s have not been a significant problem in this recovery.

Finally—aside from some residential building materials—there are no major signs of bottlenecks or shortages that could lead to hoarding of raw materials and skyrocketing prices for materials and finished goods. The rise in unfilled orders for durable goods has been moderate; in fact, the ratio of such orders to shipments of durable goods is about as low now as at any time since mid-1964.

Thus, the prospects remain good that economic growth can continue at a moderate but satisfactory pace. Business investment should be an important source of thrust to the economy. The most recent survey by the Commerce Department of business intentions to invest implies an investment increase in 1978 of about 5 to 5½ percent, after adjustment for inflation. Other indicators suggest a somewhat larger rise. New orders and contracts for new plant and equipment have been strong in the early months of 1978—some 11 percent above a year ago, adjusted for inflation. Capital appropriations of manufacturing firms have also remained strong. The substantial cut in business taxes proposed by the Administration should strengthen business profits and investment plans in 1979.

Personal consumption expenditures also should continue to rise at a healthy 4 percent rate next year, about in line with growth in the overall economy. The individual tax reductions proposed for 1979 will strengthen consumers' purchasing power. And the impact of rising food prices and of the depreciation of the dollar on consumer buying should be lessened as those sources of inflation moderate in the period ahead. The personal saving rate has returned to about a normal level by historical standards. A modest increase in the saving rate could occur next year, but we see no reason to expect a major shift in consumers' savings patterns. Consumer confidence, although it has declined somewhat, is still quite high. While consumer spending will not be a major source of new thrust to growth, the evidence does not suggest a significant weakening in consumer spending is on the horizon.

Some decline in housing starts and in residential construction is likely later this year and in 1979, given current levels of mortgage interest rates. Mortgage lending institutions are in a stronger financial position now, however, than they were in previous periods of cyclical expansion when rising market interest rates dried up the inflow of savings. Moreover, the demand for housing remains strong. Therefore, given the maintenance of roughly current monetary conditions a sharp decline in housing starts is unlikely, and the strength of business investment and personal consumption should provide for a relatively healthy economy late this year and in 1979.

Growth of about 4 percent per year in 1978 and 1979 probably will mean a gradual further decline in the rate of unemployment. Forecasting the future course of unemployment, however, is more difficult than usual. During the past year—even before taking into account the dramatic fall in unemployment in June—unemployment declined much further, given the growth of economic activity, than past relationships would have suggested. We do not yet know the extent to which this is a temporary phenomenon that may be reversed, or symptomatic of a more persistent new relationship. The very sharp additional decline in June simply adds to the puzzle. The unemployment data are based on a household survey of employment and unemployment. Independent data on the June employment increase, based on a survey of business firms showed a much smaller rise in employment than that shown in the household survey. It is possible—although there is no hard evidence—that part of the very large decline in unemployment in June reflects a statistical aberration. Given these uncertainties, our best estimate is that the rate of unemployment will stay close to its current level for the remainder of 1978, and then drift slowly downward next year.

The marked improvement in the unemployment picture over the past year is a welcome contribution to achieving our most important economic and social objectives. But it has occurred in large measure because of disappointingly small increases in productivity—a development that, if it continues, would add to costs and complicate an already serious inflation problem.●

CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 5 minutes.

● Mr. STRATTON. Mr. Speaker, once again this year I rise to join in the official ceremonies commemorating Captive Nations Week—the period set aside for us to recall those nations around the world which in days past have tasted a sweet period of freedom and self-determination, but which today are controlled by a Communist totalitarianism that makes a mockery of self-government procedures and of the basic human rights associated with any free society.

There are many evils associated with control by a totalitarian government, but none is perhaps more intolerable than the denial of basic human rights. In recent months we have heard a very great deal about human rights, especially as they are treated in the Soviet Union. The recent Scharansky case points up this deplorable situation.

But what has perhaps been overlooked is the denial of basic human rights for those citizens of the captive nations. It is a crime for them to espouse the eventual liberation of their country. Mikola Rudenko, for example, a Ukranian patriot, was sentenced by a Soviet court to 5 years of prison and 7 years of exile in Siberia, simply for advocating freedom for the people of the Ukraine.

Surely the hope of eventual freedom comes naturally to any human being and to any people, especially one, like the Ukrainian people, who have known freedom in the past. Why then deny them this privilege?

Consider—in contrast—what happens in a free, democratic society, for example, the Dominion of Canada. People in the Province of Quebec, especially, the Prime Minister of that province, M. Levesque, have long been advocating, very shrilly, the freedom and independence of Quebec from the Dominion of Canada. I am sure that the Canadian Prime Minister, Mr. Trudeau, is not happy with these calls for a separate Quebec. But he does not put M. Levesque in jail, he does not sentence him to Siberia for 7 harsh and bitter years.

That is the difference between a free society and a totalitarian one. So, on this meaningful 20th anniversary of Captive Nations Week, I hope we will remember the need for us to continue to insist on the protection of basic human rights for all the people of the captive nations.●

OIL STILL THE MAIN CAUSE OF U.S. TRADE PROBLEMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. VANIK) is recognized for 5 minutes.

● Mr. VANIK. Mr. Speaker, during the past 2 weeks, a rumor has been spreading that imports of manufactured goods have overtaken oil as the prime cause of U.S. trade deficits.

That report is wrong, wrong, wrong.

Oil is still the main cause of the U.S. trade deficit, and until we in the Congress enact an energy program, there will be no hope for stemming the trade deficit or preventing the further decline in the value of the dollar.

First, let me mention some of the erroneous reports that are ricochetting around the media and in public statements:

This morning's Washington Post in an article on imports and exports, notes, "imports of machinery, transportation equipment and manufactured goods rose dramatically, suddenly overtaking oil as the biggest component of the country's trade deficit during the first 5 months of this year."

Senator DOLE stated in the CONGRESSIONAL RECORD of July 11 (page 20252), "In the first part of this year, oil has dropped behind machinery and manufactured goods as our leading import."

The New York Times of July 13 reported: "Mr. Carter said that the United States was running up a large trade deficit because of its purchases of foreign manufactured goods, not oil. 'Of course,

nations like Japan and Germany who sell a lot of manufactured goods to us like to talk about our oil imports, but they do not deplore the fact that we also buy large quantities of manufactured goods from Japan and others,' he said."

The problem with these statements is that they are wrong. Not only do such statements divert us from the urgent task of reducing imports, but, because they ignore our enormous exports in the manufactured goods sectors, they contribute to American fears about trade and thus to protectionist sentiment.

The figures for January-May on U.S. Export and Import Merchandise Trade (released by the Department of Commerce on June 27) reveal the following:

(FAS value basis, in millions of dollars)

Number	Category	Jan. to May 1978 Exports	Imports	Balance
0	Food and live animals	7,148	5,808	+1,340
1	Beverages and tobacco	858	884	−26
2	Crude materials, inedible, except fuels	5,876	3,771	+2,105
3	Mineral fuels, lubricants and related materials	1,185	16,813	−15,628
4	Oils and fats—animal and vegetable	585	218	+367
5	Chemical and related products	4,692	2,636	+2,056
6	Manufactured goods classified chiefly by material	4,758	11,627	−6,869
7	Machinery and transport equipment	22,290	18,910	+3,380
8	Miscellaneous manufactured articles	3,928	7,482	−3,554
9	Commodities and transactions not classified elsewhere	1,893	1,677	+216

It is true that the dollar value of our imports of machinery and transportation equipment exceed our imports of oil—but our exports of these items exceed our imports and this category can hardly be said to contribute to our trade deficit. If one lumps categories No. 6 and No. 8 together, the value of their imports exceeds both the level of oil imports and the level of our manufactured goods exports. But the imbalance of our imports and exports in manufactured goods is considerably less than our imbalance in oil.

Obviously, once we balance our exports with our imports, oil stands out as by far the area of greatest imbalance. Until the oil imbalance is dealt with, there will be little faith in the dollar or in the political will of the American Nation.

The origin of our trade deficit can also be seen by comparing the geography of our trade during 1977:

	Exports	Imports	Balance
Canada	$25.7	$29.4	−$3.7
Japan	10.5	18.6	−8.1
European Community	26.5	22.1	+4.4
Other developing countries	11.1	8.1	+3.0
Oil-exporting developing countries	$16.5	$38.3	−$21.8
Other developing countries	26.8	29.1	−2.3
Communist countries	2.7	1.1	+1.6

Our imbalance with the OPEC countries stands out like a red flag—a warning signal of economic disaster.

Having said all this, I will agree that our export performance in manufactured goods is inadequate. While exports of manufactured goods are up slightly over the January–May period of 1977, imports have increased dramatically, and may indicate some serious long-range problems with U.S. competitiveness. Our exports of manufactured goods and farm produce must increase if we are to more easily pay for our energy import needs.

The situation in oil and manufactured goods is serious. Our imports in manufactured goods, however, should be adjusting downward as a result of the depreciation of the dollar and our exports should be increasing as other economies recover from the recession and purchase more of our goods. The oil situation, on the other hand, is a steady hemorrhage, which will only be worsened by diverting our attention away from solutions to the energy crisis.●

ANATOLY SCHARANSKY AND ALEXANDR GINZBURG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. McDADE) is recognized for 5 minutes.

● Mr. McDADE. Mr. Speaker, the past week's trials of Soviet dissidents, Anatoly Scharansky and Alexandr Ginzburg, have awakened thoughtful peoples throughout the entire world to the systematic and willful repression of human freedom and individual rights that the Soviet Union is perpetrating upon its citizens. To that end it is incumbent upon all Americans and especially their representatives in Congress to rise in one voice of protest and to consider sanctions against the Soviet Union.

The entire affair is a world tragedy. Perhaps from our standpoint an even greater tragedy are the voices of discord within our Nation who would sit idly by or who would fail to condemn the judicial mockery that passes for a trial in the Soviet Union. The Carter administration, with the regrettable exception of its U.N. Ambassador, has responded with the proper expression of concern and with the promise to review our existing cultural, scientific, and other cooperative exchanges with the Russians.

I believe that such a review is long overdue. It is difficult, if not impossible, for our Nation to bargain and barter in good faith with a government whose contempt for signed agreements is as great as that shown by the Russians for the 1975 Helsinki Accord on Human Rights. Ours is not just a nation of laws, it is a nation of justice. Such is clearly not the case in Russia. We can no longer assure their commitments to be based on the good faith we assumed existed when we signed the documents governing our mutual conduct at Helsinki.

As our Nation condemns with one voice the apparent flagrant disregard for human rights in Russia, I believe we need a clearer statement from our own U.N. Ambassador Andrew Young. Mr. Young's libelous statements regarding political prisoners in this country go far beyond misquotes and misunderstandings. They are slander and they are untrue. They are part of a pattern of selective human rights judgments that ignore the worst cases of racism and oppression known to mankind. Mr. Young need not wait for one more verbal gaff for an invitation from the President to resign. He owes it to our entire Nation to step aside now as U.N. Ambassador, a post which requires the sensitivity, the loyalty, and the objectivity which he clearly does not possess.

Several years ago I had the opportunity to visit Moscow, to talk with its people, to worship in the synagogue. I would urge Mr. Young to do likewise, if only to broaden his understanding about the attitudes of the Soviets toward all races and all creeds. It would sober him and broaden his perspective.

But to cry out against such repression of human rights is no longer enough. Our words must match our deeds. We need to demonstrate to the Russians that their actions at home are firmly linked to their relations with us abroad. Such a demonstration needs to be swift and sure before the memory of last week's trials fades from our conscience.

We must applaud and encourage the administration to block all pending technology transfers and technological exchanges between both countries. Our Nation benefits very minimally from these arrangements and the Soviets need them desperately.

We should call upon the Carter administration to suspend the pending SALT talks as a protest of their recent actions. Such a suspension need not be permanent, but it should be long enough

to demonstrate that we mean business in these crucial discussions.

Upon resumption, our SALT negotiators should demand that the Soviets include the Backfire bomber as a negotiable item for inclusion in any treaty. We should also reconsider the production of the B–1 bomber unless the Soviets express a willingness to negotiate over the future of the Backfire bomber.

The recent attitudes of the Soviet Union should also prompt the President to reconsider production of the neutron bomb. We have evidence that the Russian tanks that make up the Warsaw Pact arsenal are hardened to our existing antitank weaponry. Yet they have no capacity to withstand the effects of the neutron bomb.

I plan to introduce a resolution calling for the establishment of a select congressional committee to review all existing treaty obligations and cultural exchanges with the Soviet Union. Congress desperately needs to review the linkages that exist between both countries. We need to know how many other accords besides Helsinki are being violated, overtly or covertly. And we need to do this, because we are unable to penetrate the veil of Executive privilege that keeps such information locked away in the confines of the administration. Such a committee would be charged with the review of our economic, environmental, cultural, technological, scientific, and military cooperative agreements.

The United States need not enter into a new cold war with the Russians. No one in the administration or in the Congress would willingly take such risks. But if our Nation is to stand for anything it must support freedom of expression, or the freedom to move about, or to live where one wants to live, or worship in peace. These values transcend political systems. They are universal. They should light a path for all men and women regardless of race or religious belief.

Yet their pursuit has led two men to the harsh confines of Soviet prisons within 10 days where they will join hundreds of thousands of their associates whose only crime is their exercise of a God-given right. If the lives of Anatoly Scharansky and Alexandr Ginzburg are to mean anything, then their sacrifice must compel us to stand united before the world community in support of their cause.●

HARRIS POLL REAFFIRMS AMERICAN PEOPLE'S SUPPORT FOR ALASKA NATIONAL INTEREST LANDS CONSERVATION ACT

(Mr. SEIBERLING asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SEIBERLING. Mr. Speaker, last year, the House Interior Committee's Subcommittee on General Oversight and Alaska Lands, under my chairmanship, devoted much of the year to hearings on H.R. 39, the Alaska National Interest Lands Conservation Act. We held hearings in every major region of the country, including Alaska. Over 2,000 people testified in person at our hearings. The overwhelming majority of witnesses strongly supported both the concept of the bill and the original form of the bill, even before it had been refined and balanced by the legislative processes of the House. Since the bill finally adopted by the House reflects many of the suggestions made by those who objected to certain features or omissions in the original bill, it is probably safe to assume that similar hearings on the bill, as passed by the House, would produce an even greater outpouring of support.

In short, if our hearings demonstrated anything, it was the tremendous interest and support by the American people for strong legislation to protect their heritage in Alaska's wilderness and wildlife and its outdoor recreation potential. This support was undoubtedly a factor in the overwhelming vote of 277 to 31 by which the House, on May 19, passed H.R. 39.

Since then, and despite that unmistakable evidence of the opinions of the people's representatives, suggestions have been made that a majority of the American people do not favor legislative action to protect the irreplaceable treasures which are their legacy in Alaska's Federal lands. Some of those who allege a lack of popular support for the House's farsighted action have cited an analysis of a recent poll of popular opinion, entitled "A Study of National Opinions of Alaska Parklands," dated June 1978, conducted for the Alaska Legislature's D–2 Steering Council by the National Center for Telephone Research, which is associated with Lou Harris. In fact, however, the poll indicates that the American people strongly support Alaska land legislation along the lines of the bill approved by the House.

Mr. Speaker, I would like to make an item-by-item recapitulation of the study, as released and distributed by the National Center for Telephone Research. The last sentence of the study's summary, which erroneously says, "A reading of what the U.S. House of Representatives passed, however, suggests that the American people and the U.S. House disagree on each of the seven major issues, and disagree strongly"—is based on a faulty analysis of the House bill and is the exact opposite of the facts. Because of its defects, the Harris organization withdrew the analysis after it had been initially released. The summary not only misread the House bill, but actually distorted the language of the poll itself. The study itself demonstrates that the poll results support H.R. 39.

1. WILDERNESS

Fifty-nine percent of the people polled supported the statement, "only those portions of the national parks and refuges which reflect the highest scenic and wildlife values should be also classified as wilderness, with the remainder subject to the existing laws governing national parks, wildlife refuges, and forests." That is the very approach adopted in the House's version of H.R. 39. Interestingly enough, another 15 percent of those polled supported the statement, "all or most of the parks, refuges and national forest lands should be classified as wilderness." This means that a total of 74 percent supported the House position or would go even farther than the House in making wilderness designations.

Doubtless, there is room for differences of opinion as to what are the "highest scenic and wildlife values." But I do not believe that anyone can seriously doubt that these include the majestic massifs of Mount McKinley and associated peaks; the grandeur of the peaks, glaciers, and canyons of the Wrangells; the untouched perfection of the Noatak valley; the emerald lakes and rugged crags of the Lake Clark area; or the brooding solemnity of the Gates of the Arctic. Certainly the towering virgin forest of Admiralty Island, with its wildlife—including hundreds of bears and more bald eagles than in the entire 48 contiguous States—reflects the highest scenic and wildlife values. Certainly the rugged Pacific coast, with the bays, rainforests, and towering peaks of West Chichagof and Yakozi Islands are of the highest scenic value, as are the forests and glaciers of majestic Russell Fjord. Nobody who has been up the Stikine River, which John Muir called a Yosemite 100 miles long, doubts that this is an area of the highest scenic value. The Canadian Government and the administration are in complete agreement that the Arctic coast and inland areas which are the range of the last great caribou herd in Alaska are of highest wildlife value and deserve the fullest protection. I will not go through the entire list—but I believe the point is made. H.R. 39, to use Secretary Andrus' phrase, would preserve "America's crown jewels" in Alaska.

2. MINERALS

The poll shows that 71 percent answered "yes" to the question, Do you think Congress should make a survey of mineral deposits such as copper, uranium or coal, before it decides to classify Federal lands in Alaska so as to prohibit mining? The question clearly implies that boundaries of conservation units should be based on a survey, so that areas of mineral potential can be left open for development. That is precisely what the House has done in adopting H.R. 39. In considering this legislation the subcommittee and full committee were at pains to acquire and to take into account the very latest and best information developed by the U.S. Geological Survey concerning the mineral potential of Alaska, and we carefully drew the boundaries of the conservation areas to minimize potential conflicts.

As a result, two-thirds of all the lands in Alaska which the U.S. Geological Survey—the top Government experts in this field—identify as having metallic mineral potential are outside the boundaries of areas which would be closed for further mineral prospecting by the House bill. Of the areas identified by the U.S. Geological Survey as having either high or favorable oil and gas potential, 95 percent are outside the areas that H.R. 39 would close to exploration. Thus, huge areas have been left open for mineral exploration and development. In addition, the House bill provides for a continuing mineral assessment of all the public lands in Alaska, even in areas

which would otherwise be off limits to such activities. Thus, the House bill is fully in line with what the American people desire, as indicated by the Harris poll results.

3. OIL AND GAS PRODUCTION

The poll shows that 43 percent believe that oil and gas should be produced in a national park or wildlife refuge in Alaska "only if the development does not interfere with the main purpose for which the park or refuge was created." Another 30 percent prefer that oil and gas "should not be produced unless a national emergency arises." Thus 73 percent would limit oil and gas production in national parks and wildlife refuges, to some degree. The House bill is clearly in line with these viewpoints. It gives the Secretary of the Interior discretion to allow oil and gas exploration and development in the national wildlife refuges, if he finds that this is compatible with the refuge character of the area—except in wilderness areas. As has already been mentioned the wilderness areas and the national parks are precisely the areas of "highest scenic and wildlife values" and are, therefore, areas where such exploration and development would indeed be incompatible. On the other hand, a future Congress can always authorize oil and gas production in wilderness areas and the national parks if a national emergency arises.

4. UTILITY ACCESS

The poll shows that 47 percent of those polled agreed that if the only cost-effective way of delivering oil or gas is by pipeline across a national park or wildlife refuge in Alaska, such pipeline should be built "only if it does not interfere with the purposes for which the park or refuge were created." Another 23 percent think that such a pipeline "should not be built unless a national emergency arises." This indicates a total of 70 percent favor the granting of pipeline rights-of-way across national parks or wildlife refuges in Alaska, if there is no practical alternative, and subject to certain restrictions. The House bill has an entire title (title IX) which deals with transportation and utility systems, such as pipelines. That title provides that the Secretary shall have all the authority to approve rights-of-way across conservation system units in Alaska that he presently has for conservation system units; in cases where there is no existing authority to provide such rights-of-way, it further provides for an expedited means of bringing a proposed right-of-way before the Congress for its consideration.

5. COOPERATIVE MANAGEMENT

Fifty-nine percent of the people polled answered "Yes" to the question as to whether the Federal and the State Governments should manage their adjoining lands in Alaska "cooperatively" rather than "separately." The question did not explain what was meant by "cooperatively." The survey question should have explained the alternative approaches to cooperative management in the State's proposal and in H.R. 39 and asked which one the respondent favored. Can anyone disagree with the principle that Federal land management agencies should cooperate with the State and with each other?

The House bill includes numerous provisions for cooperation between the Federal Government and the State of Alaska, as well as other landowners, including authority to enter into agreements for cooperative management of Federal, State, and private lands. But the State's proposal would delegate to a Commission, dominated by the State, the basic decisions on the use of millions of acres of Federal lands, including the classification of them. This unprecedented approach to "cooperation" was rejected by the House, as it should have been, as being an unwarranted and unnecessary intrusion into the responsibilities of the Congress and the executive branch to set standards and administer the public lands belonging to all American citizens. Unfortunately, neither the question nor the analysis brought out these important distinctions.

6. DEVELOPMENT

Of those responding to the poll, 41 percent supported a statement that "land can be developed while natural, scenic, wildlife, and environmental values are also protected." Another 32 percent chose the harder line that "there is very little undeveloped land remaining in America, and we should save all we can from further development." The House bill would allow the overwhelming majority of the acreage in Alaska to be developed while protecting key natural values. It would place in the conservation systems in Alaska a total acreage smaller than that granted to the State and Natives, who will receive a total equal to California and New York States combined, for such development as the owners may decide. The bill would leave another California-size area of Federal lands open for multiple uses, including exploration and development of minerals. It also provides for oil and gas development in wildlife refuges at Secretarial discretion. Altogether, two-thirds of Alaska will be open to mineral development and over three-fourths to oil and gas development. The remainder would be closed, as it must be if we are to save the "crown jewels" of the American people's legacy in Alaska. That is clearly in keeping with what the poll shows people prefer.

7. PARKLANDS ACCESS

The poll analysis states that 78 percent of the American public feels that its new national parks in Alaska ought to be accessible to the American public. The poll also showed that 44 percent of the people think that the National Park Service should "provide trails, way stations, rough vehicle roads and such to the new national parks created in Alaska," while 42 percent thought that "very little" of this access should be provided for.

Several of the largest proposed new national park units such as Wrangell-St. Elias, Yukon-Charley, and Kenai Fjords are already accessible via the existing highway and railroad systems in Alaska (as Mount McKinley National Park is also) and when the North Slope haul road to Prudhoe Bay is opened to public use, Gates of the Arctic will be similarly accessible. Areas such as Glacier Bay National Park are now accessible by boat and receive thousands of visitors annually. Others, such as Katmai and Lake Clark, will almost certainly be accessible by road as the Alaska highway system expands. All areas are, and will remain, accessible by small airplanes, presently the principal form of long-distance travel in a State that has few highways. The bill specifically provides for a feasibiity study of improving the existing road connections between Mount McKinley National Park (renamed "Denali") and the Wrangell-St. Elias area, with the idea of creating a scenic highway through an area of exceptional natural beauty. And the bill mandates the preparation of a management plan for each national park in Alaska which must include a "plan for access to, and circulation within" the park, "indicating the type and location of transportation routes and facilities."

In short, Mr. Speaker, the recent Harris poll, commissioned by the State of Alaska itself, demonstrates that the Alaska National Interest Lands Conservation Act (H.R. 39) as passed overwhelmingly in this House, is in line with the desires of a clear majority of the American people and warrants favorable and early action by our colleagues in the other body.●

NATIONAL INTEREST LANDS LEGISLATION

(Mr. RONCALIO asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. RONCALIO. Mr. Speaker, I recently received a letter from James R. Craine, executive vice president of the Federal Timber Purchasers Association, which is a classic in a philosophic objection to the process we have of classifying land into various preservation status in carrying out the congressional mandates under the National Wilderness Act.

I have found myself at odds on several occasions with the timber industry as we have tried to do a fair job of designating wilderness in the various Rocky Mountain States, but of all critics of the work I have done, I have found none have been fairer or more articulate and generally reflecting a high degree of competence and professional excellence as has Jim Craine.

I happen to believe that notwithstanding the very solid objections raised herein, the overriding fact is that the Indian Peaks of Colorado should be and will be placed into the wilderness classification. It seems to me that the criticisms are generic and philosophic against conceptual positions, rather than against the particular Indian Peaks in detail. But the letter is of importance and of significance to anyone interested in land classifications, and I think it should be of interest to readers of the CONGRESSIONAL RECORD. The letter follows:

FEDERAL TIMBER
PURCHASERS ASSOCIATION,
July 11, 1978.

Hon. TENO RONCALIO,
U.S. House of Representatives, Longworth House Office Building, Washington, D.C.

DEAR TENO: Thank you for your kind recognition of timber industry representation during the Granby field hearings on H.R. 12026, the Indian Peaks Wilderness bill.

As long ago as 1971, if memory serves me correctly, the timber industry supported Wilderness designation for Indian Peaks. We still support the dedication of the area to dispersed recreation and Wilderness. Even within the last five years, though, recreation pressures on Federal lands have changed, and the burgeoning growth along the Front Range is reason enough to consider ways of providing for the increasing demand for that type of recreation. We wholeheartedly support the Forest Service proposal for the area.

From a timber supply standpoint, it makes little difference whether the area becomes Wilderness in its entirely or becomes partly Wilderness and partly dedicated to other dispersed recreation. Thus, we cannot quarrel much with what Messrs. Wirth and Johnson are trying to do through H.R. 12026 (if the recreationists are willing to give up that kind of opportunity for high quality dispersed recreation, the timber industry has no reason to object), but we have serious reservations about the procedures.

You are probably aware of the unique and intensive effort made by the Forest Service to inform and involve a large representative citizens' committee on Indian Peaks and the Front Range Planning Unit. For nearly two years, I believe, that committee, consisting of resource developers, business people, conservationists, ranchers, and just plain citizens, met frequently. It reviewed the history and current status of Indian Peaks in detail. It looked at the resource opportunities and studied the socioeconomic development and predictions for the Front Range. It discussed suitability, availability, and need in objective shirt-sleeve sessions. It verified much of its work by field trip. It studied and produced maps of many kinds. It worked in a number of subgroups which developed consensus reports. It was one of the most exhaustive efforts I have ever seen to bring all viewpoints and opinions together. Out of its recommendations grew the Forest Service report.

No amount of congressional field hearings can duplicate the thought and effort represented by that committee's work, but this bill ignores it.

Congress has mandated the land management process in the RPA and the National Forest Management Act and has mandated public involvement in that process through NEPA requirements. But it seems that whenever someone does not like the results of land management planning, including public input, the rules change. One way to change the rules is to introduce legislation which contravenes the process. The Montana Wilderness Act, the Endangered American Wilderness Act, the Alaskan lands legislation, the DuNoir addition, and now the Indian Peaks bill are examples of recent legislation which make a mockery of that very process Congress has decreed. Incredible! In the case of Indian Peaks, the final EIS has not even been filed yet! Each time one of these bills comes along, another nail is pounded in the coffin of professional land management planning.

What is the probable eventual outcome of this procedure? Our professional land management planners will become discouraged. Many already are. They will tend to throw up their hands and say, "Aw, what the hell!" and that attitude will reflect in their work. They will work knowing that whatever they do, someone may come along and toss their efforts aside with the stroke of a legislative pen. The better ones will get out and do something else. For the rest, their work will become a pro forma exercise. The American public will suffer.

For these reasons, Teno, I urge you not to report the bill out.

As you said in Granby, everyone is in basic agreement on the use of the area. Failure to legislate will have little effect on land management practices. You have a chance to return some dignity and credence to the land management planning process and some confidence to the planners.

As for the bill itself, we strongly oppose the concept of a National Park Service study of national forest lands. We do not believe the study will be objective. We have heard that the Park Service is better financed to do the job than is the Forest Service. The answer to that is to provide the Forest Service with equivalent funds for equivalent jobs. The Park Service record of reducing the usefulness of parks for people is dismal at best.

Now a comment on one of your statements at the Granby hearing. The reason snowmobilers do not see elk is not because they are on snowmobiles; it is because most of them snowmobile on elk summer range. Elk cannot waltz around in five feet of snow, either, so they winter where there is less snow and fewer attractions for the snowmobiler. Because my snowmobiling is not done for pleasure, I have often snowmobiled where others would not bother. I have seen many elk from the seat of a snowmobile. In fact, in twenty-three years in this business, most of it in the woods, I have seen more elk from a vehicle than while on foot, and I have walked thousands of miles in the woods. My observations agree with research reports which conclude:

1. Man on foot is more disturbing to elk than a moving vehicle.

2. Elk are more tolerant of human activity than we credit them for.

Teno, this has gotten too long. If you are still reading, thanks for your time.

Please include this letter in the hearing record on H.R. 12026, the Indian Peaks Wilderness bill.

Sincerely,

JAMES R. CRAINE,
Executive Vice President.

JOINT RESOLUTION PROHIBITING TRADE AND EXCHANGES WITH THE U.S.S.R. UNTIL IT COMPLIES WITH THE HELSINKI FINAL ACT

(Mr. OTTINGER asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. OTTINGER. Mr. Speaker, I have introduced a joint resolution which would prohibit trade and cultural and educational exchanges between the United States and the Soviet Union until such time as Anatoly Scharansky and Aleksandr Ginsburg are set free and the Soviet Union otherwise meets its commitments under the Helsinki Final Act.

Since we first learned that Anatoly Scharansky and Aleksandr Ginsburg were to be tried in a court which we knew had predetermined the outcome of the trial, we have all expressed our outrage over this blatant affront against the individual and human rights of these two young men. For the past 2 days, Mrs. Scharansky, a most courageous and strong women, has touched all of our hearts with her personal account of the abuse her husband and their colleagues and friends have suffered at the hands of the Soviet authorities. The leaders of the Soviet Jewry movement have been persecuted and harassed beyond comprehension. Those of the dissident movement who monitor the Soviet Union's compliance with the Helsinki Final Act have found themselves in jail and denied their basic universally recognized fundamental rights to justice. Yet, we continue to trade with the Soviet Union. We continue to have cultural and educational exchanges which greatly benefit the Soviet Union.

We have told Mrs. Shcharansky and the rest of the world that we will not tolerate the Soviet Union's continued breeches of the Helsinki Final Act and the Universal Declaration of Human Rights. Last week, my colleagues and I in the House of Representatives and the Senate passed a resolution deploring the treatment these two dissidents have received and stating that these trials will affect future relations between our two nations. Words are not enough, however, if Russia is to take our protestations seriously, we must match action to our words of protest.

The resolution that I have introduced states unequivocally that the United States will take specific action to stop advantageous trade and exchange relations with the Soviet Union as long as these two dissident leaders remain in prison and the U.S.S.R. continues to flout the provisions of the Helsinki Final Act.

The President has made it patently clear that human rights are of the highest priority in his administration and his policies. This resolution will make it clear that the Congress intends to effectuate with action these pronouncements of the President and that we will no longer tolerate such heinous acts and denial of justice against the Jews and the dissidents of the Soviet Union.

I urge my colleagues to consider the following resolution:

H.J. RES. —

Joint resolution prohibiting trade and cultural and educational exchanges between the United States and the Soviet Union until such time as Anatoly Scharansky and Aleksandr Ginsburg are set free and the Soviet Union otherwise meets its commitments under the Helsinki Final Act

Whereas the indictment, trial, and conviction of Anatoly Scharansky and Aleksandr Ginsburg on false charges, at a closed trial with their guilt announced before the trial began, is an outrage against humanity and universally accepted principles of justice;

Whereas the Soviet Union signed the Helsinki Final Act in 1975, thereby committing itself to the Covenant on Civil and Political Rights and to the Universal Declaration of Human Rights which, in Article XIII, declares that "everyone has the right to leave any country including his own, and to return to his country";

Whereas, as a signatory to the Helsinki Final Act, the Soviet Union is committed to "respect human rights and fundamental freedoms including the freedom of thought, conscience, religion or belief for all without distinction as to race, sex, language or religion:

Whereas by its prosecution of Anatoly Scharansky and Aleksandr Ginsburg merely for promoting emigration of Soviet Jews and by its interference with emigration of these and other Soviet Jews and by its systematic harassment of Jews seeking to practice their religion in the Soviet Union, the Soviet Union has blatantly violated the Helsinki Final Act; and

Whereas the President has declared the protection of human rights to be principal among foreign policy objectives of the United States; and

Whereas it is of utmost importance that our Government's actions match its words in this declaration, lest it be construed by the world as merely an empty gesture: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That until such time as Anatoly Scharansky and Aleksandr Ginsburg are set free and the Soviet Union otherwise meets its commitment under the Helsinki Final Act—

(1) there shall be no trade (either in the form of goods, services, or technology) between the United States and the Soviet Union; and

(2) there shall be no Government-sponsored cultural or educational exchanges between the United States and the Soviet Union.

SEC. 2. The President shall have discretion and report to the Congress on the extent to which existing contracts and commitments have been suspended in implementing this joint resolution.

SEC. 3. The prohibitions contained in the first section of this joint resolution shall remain in effect until such time as the President certifies to the Congress that the conditions specified in that section have been satisfied.●

LEAVE OF ABSENCE

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BADHAM) to revise and extend their remarks and include extraneous material:)

Mr. EMERY, for 10 minutes, today.
Mr. GOLDWATER, for 5 minutes, today.
Mr. BOB WILSON, for 5 minutes, today.
Mr. KEMP, for 10 minutes, today.

The following Members (at the request of Mr. GARCIA) to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. GIAIMO, for 15 minutes, today.
Mr. STRATTON, for 5 minutes, today.
Mr. STOKES, for 5 minutes, today.
Mr. VANIK, for 5 minutes, today.
Mr. LEGGETT, for 30 minutes, on July 20.

EXTENSION OF REMARKS

By unanimous consent, permission to extend remarks in the RECORD.

Mr. SIKES, and to include extraneous matter.

Mr. BIAGGI, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $3,778.

Mr. GOLDWATER, to revise and extend his remarks prior to the vote on House Resolution 1172.

Mrs. HECKLER, to revise and extend her remarks just prior to the vote on the motion to recommit on H.R. 11504, Agricultural Credit Act of 1978.

(The following Members (at the request of Mr. BADHAM) and to include extraneous material:)

Mr. STEIGER.
Mr. GILMAN.
Mr. YOUNG of Florida.
Mr. ARCHER in two instances.
Mr. DORNAN in three instances.
Mr. MICHEL.
Mr. EMERY.
Mr. BOB WILSON.
Mr. MARTIN.

(The following Members (at the request of Mr. GARCIA) and to include extraneous matter:)

Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Ms. MIKULSKI in two instances.
Mr. FORD of Michigan.
Mr. MAZZOLI in two instances.
Mr. WOLFF in two instances.
Mr. HAMILTON.
Mr. MOAKLEY.
Ms. KEYS.
Mr. AUCOIN.
Mr. MCDONALD in four instances.
Mr. CONYERS in two instances.
Mr. HANNAFORD.
Mr. MURPHY of Illinois.
Mr. DODD.
Mr. TEAGUE.
Mr. KOSTMAYER.
Mr. MOTTL.
Mr. LAFALCE.
Mr. DINGELL in two instances.
Mr. ECKHARDT.
Mr. ROSENTHAL in two instances.
Mr. ROYBAL.
Mr. MILLER of California.
Mr. HEFTEL.
Mr. BRECKINRIDGE.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1291. An act to declare that certain lands of the United States situated in the State of Oklahoma are held by the United States in trust for the Cheyenne-Arapaho Tribes of Oklahoma, and to authorize the Secretary of the Interior to accept conveyance from the Cheyenne-Arapaho Tribes of Oklahoma of certain other lands in Oklahoma to be held in trust by the United States for such tribes.

ADJOURNMENT

Mr. GARCIA. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 7 minutes p.m.), the House adjourned until Thursday, July 20, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4599. A letter from the Secretary of Defense, transmitting a report on the financial condition and operating results of Working Capital Funds of the Department of Defense for the fiscal year ending September 30, 1977, pursuant to 10 U.S.C. 2208; to the Committee on Armed Services.

4600. A letter from the Comptroller General of the United States, transmitting a report on methods of preparing data for computers (FGMSD, July 18, 1978); to the Committee on Government Operations.

4601. A letter from the Administrator of General Services, transmitting a prospectus proposing a succeeding lease for space presently occupied at 1320 Wilson Boulevard, Arlington, Va., pursuant to section 7(a) of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SMITH of Iowa: Committee on Small Business.

H.R. 13418. A bill to amend the Small Business Act by transferring thereto those provisions of the Domestic Volunteer Service Act of 1973 affecting the operation of volunteer programs to assist small business, to increase the maximum allowable compensation and travel expenses for experts and consultants, and for other purposes; (Rept. No. 95-1375). Referred to the Committee of the Whole House on the State of the Union.

Mr LEHMAN: Committee on Post Office and Civil Service. House Joint Resolution 685. Joint resolution to designate May 21, 1978, as "Firefighters' Memorial Sunday"; with amendment (Rept. No. 95-1376). Referred to the House Calendar.

Mr. LEHMAN: Committee on Post Office and Civil Service. House Joint Resolution 963. Joint resolution designating July 18, 1979, as "National P.O.W.-M.I.A. Recognition Day"; with amendment (Rept. No. 95-1377). Referred to the House Calendar.

Mr. MURPHY of Illinois: Committee on Rules. House Resolution 1278. Resolution providing for the consideration of H.R. 13007. A bill to amend the Consumer Credit Protection Act to establish rights, remedies, and responsibilities for all participants in the utilization of electronic fund transfer services (Rept. No. 95-1378). Referred to the House Calendar.

Mr. STRATTON: Committee on Armed Services. H.R. 3532. A bill to amend chapter 639 of title 10, United States Code, to enable the Secretary of the Navy to change the name of a publication of the Naval Observatory providing data for navigators and astronomers (Rept. No. 95-1379). Referred to the House Calendar.

Mr. STRATTON: Committee on Armed Services. H.R. 8471. A bill to provide for the transfer and conveyance of the silver service of the U.S.S. *Wyoming* to the Wyoming State Museum, and for other purposes; with amendment (Rept. No. 95-1380). Referred to the Committee of the Whole House on the State of the Union.

Mr. MURPHY of New York: Committee on Merchant Marine and Fisheries. H.R. 9998. A bill to provide for the regulation of rates or charges by certain state-owned carriers in the foreign commerce of the United States, and for other purposes; with amendment (Rept. No. 95-1381). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X,

[*Omitted from the Record of July 18, 1978*]

The bill to extend for 1 year the child care food program of the National School Lunch Act and the women, infants, and children program of the Child Nutrition Act of 1966 (H.R. 12511, as reported on May 15, 1978) was referred by the Speaker, as follows:

The Committee of the Whole House on the State of the Union discharged, and referred to the Commttee on Appropriations for a period not to exceed 15 legislative days with instructions to report back to the House as provided in section 401(b) of Public Law 93-344.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GILMAN (for himself, Mrs. COLLINS of Illinois, Mr. DERWINSKI, Mr. ENGLISH, Mr. EVANS of Georgia, Mr. FISH, Mr. FREY, Mr. HILLIS, Mr. LEACH, Mr. MARKS, Mr. MITCHELL of New York, Mr. RYAN, Mr. STARK, and Mr. WALSH):

H.R. 13529. A bill to place phencyclidine in schedule I of the Controlled Substances Act, to amend the Controlled Substances Act to increase the criminal penalties under that act for the unlawful manufacture, distribution, or dispensing of, or the possession with intent to distribute or dispense, phencyclidine and to increase the penalties under that act for illegal distribution of phencyclidine to persons under 21 years of age, and for other purposes; to the Committee on Interstate and Foreign Commerce.

By Mr. GRADISON (for himself, Mr. COLLINS of Texas, Mr. DEVINE, Mr. MATHIS, Mr. MARKS, Mr. MURPHY of Illinois, Mr. ROBINSON, Mr. RUPPE, Mr. THONE, and Mr. WALKER):

H.R. 13530. A bill to amend the Internal Revenue Code of 1954 to provide for automatic cost-of-living adjustments in the income tax and withholding rates; to the Committee on Ways and Means.

By Mr. LUKEN (for himself and Mr. BENJAMIN):

H.R. 13531. A bill to establish a reasonable and fair preference for domestic products and materials in Government procurement and in procurement with Federal funds, and to promote free and fair trade in Government procurement of foreign products and materials; to the Committee on Government Operations.

By Mr. LUKEN (for himself, Mr. GILMAN, and Mr. GREEN):

H.R. 13532. A bill to amend the Internal Revenue Code of 1954 to provide a refundable income tax credit for insulation and other energy-saving property installed on an individual's principal residence; to the Committee on Ways and Means.

By Mr. MOAKLEY:

H.R. 13533. A bill to require that the Secretary of Energy notify any State of any investigation of any site in such State for the construction of any radioactive waste storage facility and allow such State to prevent the construction of such facility on such site by an action of the State legislature or a statewide referendum; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

By Mr. MOTTL (for himself, Mr. ANDREWS of North Dakota, Mr. JOHN L. BURTON, Mr. DERWINSKI, Mr. FISH, Mr. HUGHES, Mr. LLOYD of California, Mrs. LLOYD of Tennessee, Mr. LONG of Maryland, Mr. MCCLORY, Mr. RAHALL, Mr. STANGELAND, and Mr. WHITEHURST):

H.R. 13534. A bill to reduce the amount of paperwork required by Federal agencies and to increase congressional awareness of the increase in paperwork required by bills and joint resolutions under consideration by Congress; jointly, to the Committees on Government Operations, and Rules.

By Mr. THOMPSON:

H.R. 13535. A bill to amend the National Labor Relations Act to provide that the duty to bargain collectively includes bargaining with respect to retirement benefits for retired employees; to the Committee on Education and Labor.

By Mr. PRESSLER:

H.R. 13536. A bill to increase alternatives to institutionalization for senior citizens; jointly, to the Committees on Interstate and Foreign Commerce and Ways and Means.

By Mr. WHITEHURST (for himself, Mr. BALDUS, Mr. BURGENER, Mr. DUNCAN of Tennessee, Mr. FRASER, Mr. HANNAFORD, Mr. KREBS, Mrs. LLOYD of Tennessee, Mr. MAZZOLI, Mr. NOLAN, Mr. OTTINGER, Mr. PANETTA, Mr. ROBINSON, Mr. ROE, Mr. SAWYER, Mr. STUMP, Mr. WAMPLER, Mr. BOB WILSON, and Mr. YOUNG of Alaska):

H.R. 13537. A bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 60 shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

By Mr. WHITEHURST (for himself and Mr. GUYER):

H.R. 13538. A bill to amend title 38, United States Code, to provide that remarriage of the surviving spouse of a veteran after age 60 shall not result in termination of dependency and indemnity compensation; to the Committee on Veterans' Affairs.

By Mr. CRANE:

H.R. 13539. A bill to amend the Federal Election Campaign Act of 1971 to provide that candidates for the Senate and the House of Representatives may receive payments from contributions received by them for loss of income occurring during their campaigns for office; to the Committee on House Administration.

By Mr. RINALDO:

H.R. 13540. A bill to amend the Omnibus Crime Control and Safe Streets Act of 1968 to provide that rescue squad members are entitled to death benefits made available under such act; to the Committee on the Judiciary.

By Mr. SISK:

H.R. 13541. A bill to provide more effective means for protecting the public interest in labor disputes affecting the marketing of agricultural products for processing, and for other purposes; to the Committee on Education and Labor.

By Mr. VANIK (for himself, Mr. PICKLE, Mr. ENGLISH, Mr. FLOOD, Mr. JACOBS, Ms. KEYS, Mr. LLOYD of California, Mr. MAZZOLI, Mr. MURPHY of Pennsylvania, Mr. PRICE, Mr. RYAN, Mr. SIMON, Mr. VOLKMER, Mr. WHITTEN, and Mr. WOLFF):

H.R. 13542. A bill to amend the Internal Revenue Code of 1954 to extend for 2 years certain tax cuts and the new jobs credit; to the Committee on Ways and Means.

By Mr. WAMPLER (for himself, Mr. DE LA GARZA, Mr. YATRON, Mr. WHITEHURST, Mr. IRELAND, Mr. LAGOMARSINO, Mr. MARTIN, Mr. STOCKMAN, Mr. KEMP, Mr. HUGHES, Mr. ERLENBORN, Mr. O'BRIEN, Mr. ROBINSON, Mr. MCCORMACK, Mr. BEDELL, Mr. ROBERT W. DANIEL, Jr., Mr. WHITLEY, Mr. SEBELIUS, Mr. THONE, Mr. SYMMS, Mr. JOHNSON of Colorado, Mr. MADIGAN, Mr. JEFFORDS, Mr. GRASSLEY, and Mr. HAGEDORN):

H.R. 13543. A bill to direct the Administrator of the Environmental Protection Agency to request the National Academy of Science to conduct a study concerning standardizing certain tests for determining potential carcinogenicity, and for other purposes; jointly, to the Committees on Agriculture, and Interstate and Foreign Commerce.

By Mr. KEMP:

H.R. 13544. A bill to provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. PRESSLER:

H. Con. Res. 668. Concurrent resolution expressing the sense of Congress that the authorization for the Oahe unit, James division, Missouri River Basin project, South Dakota should remain in effect; to the Committee on Interior and Insular Affairs.

By Mr. MCKINNEY:

H. Res. 1279. Resolution commemorating Thomas Alva Edison, American inventor; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. REUSS introduced a bill (H.R. 13545) for the relief of Margaret Dollinger Baloun, which was referred to the Committee on the Judiciary.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 7308

By Mr. MURPHY of Illinois:

—Page 40, line 14, strike out "in such a manner as will protect its secrecy" and insert in lieu thereof "unobtrusively".

—Page 50, lines 8 and 9, strike out "in such manner as will protect its secrecy" and insert in lieu thereof "unobtrusively"'

H.R. 8729

By Mr. VANIK:

(Amendments to the amendment containing the text of H.R. 11986.)

—Amend section 6454(b) of the Internal Revenue Code of 1954 as proposed to be inserted by the amendment containing the text of H.R. 11986 by adding at the end thereof the following new paragraph:

"(3) DENIAL OF INVESTMENT TAX CREDIT.—Replacement property taken into account in determining the credit under this subchapter shall not be treated as section 38 property (as defined by section 48(a)).

—In lieu of the matter proposed to be inserted by the amendment containing the text of H.R. 11986, insert the following:

TITLE III—2-PERCENTAGE POINT REDUCTION IN EXCISE TAXES ON TRANSPORTATION BY AIR

SEC. 301. 2-PERCENTAGE POINT REDUCTION IN EXCISE TAXES ON TRANSPORTATION BY AIR.

(a) TRANSPORTATION OF PERSONS.—Subsections (a) and (b) of section 4261 of the Internal Revenue Code of 1954 (relating to transportation of persons by air) are each amended by striking out "8 percent" and inserting in lieu thereof "6 percent".

(b) TRANSPORTATION OF PROPERTY.—Subsection (a) of section 4271 of such Code (relating to transportation of property by air) is amended by striking out "5 percent" and inserting in lieu thereof "3 percent".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to transportation beginning on or after October 1, 1978.

H.R. 13385

By Mr. WEAVER:

—On line 4, page 1, after "1979," insert "or ending the 15th day of the month following the month upon which the cost of servicing the public debt to the United States Treasury from March 31, 1978, first exceeds $50,000,000,000, whichever date is soonest,".

EXTENSIONS OF REMARKS

CHINA GIVES ITS RESERVES

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. AuCOIN. Mr. Speaker, I would like to share with my colleagues two articles, one which appeared in the July 14, 1978, Washington Post and the other in the Wall Street Journal on July 5, 1978.

As you know, I have strongly supported increased trade with the People's Republic of China, a country that is now undergoing rapid industrial expansion, and thus could be a vital trading partner for the United States which has a massive trade deficit.

The articles reprinted below are further evidence of China's need for credits and their interest in such financing. Meeting that need was the purpose of my amendment to the Export-Import Bank Reauthorization Act:

[From the Washington Post]

CHINA GIVES ITS RESERVES

China has more than $2 billion in foreign currency reserves but will need extensive additional foreign funds in two years to finance its modernization program, Kyodo News Service reported yesterday.

In a dispatch from Peking, Kyodo quoted Chinese Vice Premier Li Hsien-Nien as telling a visiting delegation from Japan's Mitsui Industrial Group that China will ask for such funds in two year's time.

"We can do without foreign funds this year, because our foreign currency reserves at the moment total well over $2 billion," Li was quoted as saying.

Kyodo said it was the first time a senior Chinese government official disclosed the specific amount of the country's foreign exchange reserves."

[From the Wall Street Journal]

CHINA APPEARS POISED TO TAKE PLUNGE INTO WORLD MARKETS TO SEEK DIRECT LOANS

HONG KONG.—China's new leaders appear to have decided to abandon one of their most cherished principles—the rejection of direct loans—in a reversal that has far-reaching implications for the country's economic development.

Reports reaching Hong Kong in recent days, while a major conference on finance and trade was in session in Peking, indicate that fundamental policy changes are under discussion. Direct borrowing had been ruled out in the past on the ground that China wanted to be self-reliant. One of China's boasts in the 1960s was that it was a country with "neither internal nor external debts."

Last week, however, vice Premier Li Hsien-Nien, the country's top financial planner, is understood to have told visiting members of Britain's Parliament that China intends to start borrowing money from British banks.

On Saturday, a high Communist source in Hong Kong said privately that "it is only a matter of time" before China would accept loans openly. The source acknowledged that, after all, deferred payments on foreign plant purchases, which run into billions of dollars, are merely a thinly disguised form of loan.

And on Sunday, an American businessman who had just arrived from Peking said that a senior China trade official had confirmed to him that the possibility of accepting loans was "under consideration".

China's willingness to accept loans would add powerful impetus to its efforts to achieve rapid economic modernization. Although it has set itself ambitious targets to be achieved by the turn of the century, its ability to import costly but essential foreign technology and plants is limited by the amount of foreign exchange it can earn through exports.

VIEWED AS GOOD RISK

Bankers and financial analysts generally consider China a good risk, and there probably won't be any shortage of willing lenders. One Western economist estimated that China, which earned about $7 billion in foreign exchange through exports last year and which is estimated to have $4 billion to $5 billion in reserves, could borrow $7 billion without difficulty.

Another analyst, however, felt less sanguine and said that once China's borrowings got up to $5 billion or so, "Bankers would start to think about how China would repay its debts."

In view of the country's good credit standing, he estimated that China would probably be charged interest rates lower than those for other less developed countries—perhaps one percentage point, or even less, above the London interbank rate for dollars. Even lower interest rates are available from aid-giving agencies, such as International Development Agency, but China isn't a member of the World Bank, the IDA's parent body, and also may decline loans given in the form of aid.

An economist at a U.S. bank in Hong Kong said that many countries maintain a debt-service ratio of 20 percent, that is, their payments wouldn't be any more than one-fifth of their annual foreign-exchange earnings. Using this ratio, he said, China's borrowings could rise to as much as $12 billion for long term loans, and if, as expected, Chinese exports increase sharply, the country's borrowing capacity also would rise proportionately.

EARLIER DEBTS

The economist observed that China's debt-service ratio in recent years has ranged between 4 percent and 23 percent, and he estimated the 1977 level at 11 percent. These debts were incurred in earlier years when China went on a buying spree and imported several billion dollars of complete plants on a deferred-payment basis.

The importance of foreign credits was underlined in a major speech delivered at the finance and trade conference by Yu Chiu-li, a vice premier and head of the state planning commission. The speech, delivered Sunday, openly discussed offsetting deposits that the Bank of China maintains with foreign banks, a practice that is an indirect form of borrowing as foreign banks deposit hard currencies with the Bank of China, which in turn deposits equivalent amounts of non-convertible renminbi, Chinese currency, with those banks.

Mr. Yu, in his speech, implied that such forms of borrowing may increase. "Along with the growth of foreign trade and expanded relations with other countries, the role of the bank will be expanded and financial activities with foreign countries will increase," he said. "We must receive and use foreign deposits in a planned way, handle well the deposits of overseas Chinese, international settlements and insurance operations . . . and develop friendly international exchanges through the bank's relations with foreign countries."

SEEKS ECONOMIC GROWTH

Mr. Yu said that the basic principle of China's financial work was "to increase state revenue and credits through the growth of the economy."

If China does go into direct borrowing, it is likely to begin on a relatively small scale. Mr. Yu, in his talk, said China intends to finance imports of new technology primarily through increasing its export earnings.

He said China would adopt "common international practices" and apply these "flexibly" in its attempt to "achieve modernization rapidly and correctly."

As an example of new flexibility, Mr. Yu said that foreign equipment could be imported and paid for with the products produced. Presumably, this means that China could, for example, import coal-mining equipment and pay for the equipment with the coal produced.●

EULOGY TO M. L. "RANDY" RANDOLPH

HON. SPARK M. MATSUNAGA

OF HAWAII

IN THE SENATE OF THE UNITED STATES

Wednesday, July 19, 1978

● Mr. MATSUNAGA. Mr. President, with the untimely and unexpected sudden passing of M. L. "Randy" Randolph on Sunday, July 9, the people of Hawaii lost one of its most public-spirited and community-minded citizens. As one of his many friends and one who learned to love and respect "Randy" as the perfect gentleman that he was, I mourn his departure and rise to pay tribute to his memory.

Mr. Randolph, a native of Bayou Goula, La., had, since his arrival in Hawaii during World War II, devoted himself to making the Island State a better place in which to live. A trustee of the James Campbell estate for the last 21 years, he was also a past president of the Chamber of Commerce of Honolulu and served as president of the board of the Downtown Improvement Association of Honolulu for many years. His vigorous efforts in behalf of downtown Honolulu earned him the title "Mr. Downtown."

A progressive, people-oriented businessman, "Randy" Randolph also gave generously of his time to the Honolulu Symphony Society, the Honolulu Academy of the Arts, and the Bishop Museum Association, believing that the arts and humanities play an important role in shaping the quality of life in a city like Honolulu.

"Randy" Randolph, in the years since statehood, helped to make Hawaii a Pacific center of trade, culture, and education. He will be very much missed and I know that all Hawaii joins me in extending heartfelt sympathy to his widow, Hildegard, and the other members of his family. The Aloha State is a much better

place in which to live because "Randy" Randolph lived there.●

SHCHARANSKY TRIAL—A TRAVESTY OF JUSTICE

HON. LEO C. ZEFERETTI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. ZEFERETTI. Mr. Speaker, last week the world heard the sentencing of Anatoly Scharansky and Alexandr Ginzburg and mourned along with their wives, relatives, and friends. We, in free societies, are shocked at the extreme harsh punishment given to these two "dissidents." Yet, at the same time, we are disgusted with the officials of the Soviet Union who have, once again, shown the world their determination to silence those individuals who speak out against their government, and speak out for freedom.

Because of their candor, they have been given harsh jail sentences. Mr. Ginzburg was convicted of anti-Soviet agitation and sentenced to 8 years in a strict labor camp to be followed by 3 years of internal exile. Mr. Scharansky, on the other hand, was found guilty of treason, anti-Soviet agitation and propaganda. He received a 13-year sentence—the first 3 years to be served in prison and the remainder in a strict-regime labor camp, an extremely harsh sentence which could most certainly kill him.

Both men were members of a group monitoring the Soviet observance of the 1975 Helinski Agreement. As a signatory of the United Nations Universal Declaration on Human Rights and as a party to the Helinski Final Act, the Soviet Union had indicated its commitment to internationally recognized human rights. The world's regard for the Soviet Government's observance of human rights declined sharply as a result of the harsh and discriminatory treatment of these two men. In addition, at least 2 dozen members of this group are already imprisoned and, quite inevitably, all other members involved in this organization will be silenced—whether it be by imprisonment or by other means that the Soviet aggressors will eventually decide.

Mr. Ginzburg and Mr. Scharansky are no more guilty than the rest of the citizens of the world who speak out against prejudice, aggression, and injustice. Mr. Scharansky's "real crime" appeared to be an expression of freedom of speech, the desire to emigrate to Israel, and a history of helping other Soviet Jews who have been the victims of Soviet aggression. Acting as a "go-between" with Western correspondents who wrote on Russians attempting to emigrate to Israel as well as to condemn the repressive tactics of his countrymen, Mr. Scharansky was alleged to have been a member of the Central Intelligence Agency. Nothing could be further from the truth. Russian officials have attempted to discredit him and will stop at nothing to separate this man from other individuals in this class-conscious society. We, in the United States, are most fortunate that we have the protection of the Constitution. We are afforded the freedom to challenge those individuals with whose opinions we differ without fear of reprisal.

The "trial" dramatized the difference between the American and Soviet system of justice. By prohibiting members of Scharansky's family and members of the Western press, and only allowing those individuals with "passes" to attend, a mockery of a trial existed.

We, as Members of Congress, must actively fight for the freedom of Anatoly Scharansky, Alexandr Ginzburg, and those individuals who are presently being persecuted in their homeland. Mrs. Scharansky's impassioned plea to Congress stressed that "the Soviet Union does not react to words." We must decisively show the Russians that we will not sit idly by and watch the Jewish citizens, scientists, and those who continue to fight for freedom of all individuals be silenced. It is our turn to act.●

THE NATURAL GAS COMPROMISE PROPOSAL—OR—HOW TO TURN DISASTER INTO CATASTROPHE

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. ARCHER. Mr. Speaker, I have received the attached letter from a constituent in Houston and find his comments to be of great interest. I hope that my colleagues in the Congress will take the time to read his perceptive remarks:

I have just read a 21 page summary of a compromise proposal to be considered by the conference committee on energy.

My review of the proposal indicates (1) that for wellhead pricing purpose there is a variety of at least 15 types of gas; (2) that there are at least three different price escalation schedules; and (3) that the sales price in the market place can only be determined after the time of sale, if ever.

If the proposal were to become law, the following would occur:

1. Producers would seldom know with certainty the price they can expect to receive for their gas.

2. Consumers of all priorities of service would never know in advance the price to be paid for gas.

3. Pipeline companies and distribution companies would never be able to predict with reasonable certainty future gas costs or revenues and would face the difficult, if not impossible, task of properly billing for and paying for gas.

The result of passage of a bill incorporating the terms of the compromise proposal would be as follows:

1. Drilling activity would be curtailed because of price uncertainty.

2. Pipeline companies and distribution companies, because of rate uncertainty, would be unable to obtain the financing required for capital expenditures needed for maintenance of service.

3. The price of fuels which are alternatives to natural gas would remain in a state of unpredictable change.

4. Household and small commercial gas customers pay substantially higher prices because of the underutilization of existing long distance and distribution pipeline systems.

5. The burden on all taxpayers would be increased because of the necessity to hire a new colossal army of government bureaucrats to *attempt* to administer compliance with, what history indicates, would be an ever increasing list of regulations.

The United States is already up to its belt buckle in federal regulations and government bureaucrats. [For perspective it is interesting to note that the amount of the annual budget for the Department of Energy exceeds the total amount received by producers at the wellhead for all gas produced in the United States last year; such budgeted amount also exceeds the total cost of all (oil and gas) wells drilled in the United States last year.]

Regulation of natural gas field prices has been a disaster. In my opinion, a vote for the compromise proposal would be a vote for turning disaster into catastrophy. I urge you to favor the consumer and taxpayer by passing energy legislation which will immediately remove price controls on crude oil and natural gas, which will remove unrealistic environmental restraints on mining and use of coal and which will provide tax incentives for conservation of energy.

Sincerely,

DAN B. KELLY.●

CAPTIVE NATIONS WEEK

HON. JAMES M. HANLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. HANLEY. Mr. Speaker, I am proud to join my colleagues and fellow Americans in recognizing this, the 20th commemoration of Captive Nations Week. This recognition is not a celebration, but a remembrance of the intolerable state of world affairs which makes this week necessary. Having just celebrated the anniversary of liberty in our own land, it is now appropriate to pause and consider the people in many lands who are denied the personal freedoms which we in the United States take for granted.

Our Nation, which serves as an example to so many others, must not fail in this role by the hypocrisy of letting our demand for basic human rights worldwide go undeclared. The meaning of détente is currently in question. Peaceful coexistence does not mean that we must compromise our support of human rights advocates such as Anatoly Scharansky and Alexandr Ginzburg. Détente does not mean turning our backs on nations held captive under Soviet tyranny.

Furthermore, détente cannot mean that the Soviet Union may freely choose which of their international agreements to which they will remain faithful and to which they will not. The U.S.S.R. and 33 other nations signed the final act of the Helsinki accords on August 1, 1975.

The signers of this final act, including Moscow, pledged to uphold human rights and fundamental freedoms. We have recently witnessed a total disregard on the part of the Soviet Union of this promise. Their mockery of the agreement is all too apparent when a letter from the United States cannot even reach individuals who monitor the U.S.S.R.'s compliance as a cosigner, or who simply seek their rights as guaranteed under the Helsinki accords. Détente cannot be unilateral. The agreement, like a contract, must be held in good faith by both parties.

In closing, Mr. Speaker, may our recognition of this week give hope and encouragement to those oppressed in captive nations, and serve as a clear message to the Soviet Union of our position on their violations as epitomized in Anatoly Scharansky's conviction. May we as a nation state, "I remember, I remember, and I shall not forget."●

POLITICAL DOUBLE THINK ON ERA EXTENSION

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. McDONALD. Mr. Speaker, the subject of the equal rights amendment seems to be hanging about the neck of the Congress like an albatross. We again have the rabid supporters of the ERA amendment in town grabbing at everyone's sleeve like the Ancient Mariner of old to tell their arguments in favor of ERA. Many a weary State legislator is wondering why he or she has to keep voting and voting again on the same constitutional amendment. Now that the pro-ERA forces have not succeeded they are before the Congress with their extension proposal to change the rules of the ball game. Mr. M. Stanton Evans, in a recent column appearing in Human Events for July 22, 1978, describes why this extension should not be granted and I commend his arguments to the attention of my colleagues.

The column follows:

POLITICAL DOUBLE THINK ON ERA EXTENSION

(By M. Stanton Evans)

The campaign to extend the time limit for ratification of the Equal Rights Amendment is as good a specimen of political double think as one is likely to encounter.

So argues Phyllis Schlafly, chairman of Stop ERA and the individual who has almost singlehandedly derailed the drive for ratification and reduced proponents of ERA to the extension stratagem. Mrs. Schlafly recently appeared before the House Judiciary Subcommittee on Civil and Constitutional Rights to deliver a withering critique of the extension proposal. Her testimony made the following points:

1. To alter the time frame at this late date is to change the rules at the end of the game—rather like a football team that is trailing demanding to play a fifth quarter. It is also to tamper with the approval of the amendment. Recissions have been voted in Nebraska, Tennessee, Idaho and Kentucky. It cannot be very plausibly argued that their previous ratifications would be contemporaneous with ratifications in the 1980s when these four states have explicitly disowned their former action.

4. Proponents of the extension are trying to stack the deck even further by denying that a state can rescind its previous ratification. In this view, once a state has voted to ratify it is locked into that position forever. But states that have refused to ratify can be continuously pressured to approve the ERA—for a period up to 14 years! Mrs. Schlafly notes that the 15 states that haven't ratified have been compelled to vote again and again on ERA—24 times in committee, 59 times on the floor of the legislature.

5. To add an extra fillup of unfairness, proponents of the extension are contending that the time frame can be expanded by simple majority vote, even though the original amendment required a two-thirds vote in both houses of Congress. After passage of a motion that requires a two-thirds vote, Mrs. Schlafly observes, a body cannot amend or change that motion by majority vote.

6. Not content with rigging things in this respect, ERA proponents have also managed to rig the hearings on the proposed extension. In hearings held last fall, Mrs. Schlafly notes, seven lawyers were heard on the question of the extension. Six of these were pro-ERA, and only one came out clearly in opposition to the extension.

7. The unfairness of the proposal is so manifest that several liberal spokesmen who favor ERA have come out against the extension. Even such liberal voices as the New York Times and the Washington Post have criticized the proposal. They understand that the essence of the democratic process is to abide by the rules, and that the suggested ERA extension is a proposal to do exactly the reverse.

P.S.—Suggesting that Mrs. Schlafly has correctly gauged the outlook of her adversaries was the mentality displayed by ERA proponents as they marched in Washington on July 9 to demand extension of the time limit.

Indicative of the above-the-law posture adopted by the extension forces was Gloria Steinem, editor of Ms. magazine and longtime feminist leader. "The lawful and peaceful stage of our revolution may be over," she said. "It's up to the legislators. We can become radical if they force us. If they continue to interfere with the ratification of the ERA, they will find every form of disobedience possible in every state of the country."

In an indirect tribute to the effectiveness of Mrs. Schlafly's criticisms, several speakers at the pro-ERA rally attacked her by name. She came under particular fire for contending that the marchers represented the same combination of "Federal employes and radicals and lesbians" who took part in last year's International Women's Year conference. This time around, however, the lesbian part of the charge could hardly be denied, since the participation of lesbian groups in the extension march was obvious and widely reported.●

JAPANESE PLEDGE

HON. C. W. BILL YOUNG

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. YOUNG of Florida. Mr. Speaker, the President has just returned from lengthy discussions with the leaders of the leading industrial nations and one of the results was a pledge by the Japanese to help cut the rising volume of Japanese imports into America.

One of my constituents, Capt. W. C. Morrill of St. Petersburg, has requested that I share with my colleagues part of a recent newspaper article dealing with one of Japan's major exports—automobiles. Mr. William Safire, the author of the article, began his comments by stating that "for every automobile America's free economy sells in Japan, that nation's government-monopoly economy—Japan Inc."—sells 100 automobiles in the United States." This can be verified by the most recent official figures furnished by the Office of Trade Policy of the Department of the Treasury which show that in 1977 the United States imported 1,341,530 passenger cars from Japan while exporting 13,592 to that nation. The ratio is 98.7 to 1.●

ROBERT W. ROBINSON RETIRES

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. FORD of Michigan. Mr. Speaker, too often we are inclined to overlook the vital role played by local officials, both elected and appointed, in making a reality of the Federal programs that we initiate here in Congress.

These hard-working citizens at the local level are the people who put into practical use the ideas which we incorporate here in legislation.

I would like to bring to the attention of our colleagues the example of one outstanding local official in my congressional district, who is retiring this month after many years of service to my hometown of Taylor, Mich.

This man is Robert W. Robinson, who is retiring as director of the Taylor Housing Commission and operator of the community's senior citizen housing apartments. Prior to that assignment, he served on the city council, and even earlier in several appointive positions.

Mr. Robinson has lived in Taylor for nearly a quarter century. An active civic leader for many years, he served as the first chairman of Taylor's Civil Service Commission, when the community was still a township.

When Taylor was incorporated as a city in 1968, he was elected to the first city council, and served as an alternative delegate to the Southeastern Michigan Council of Governments (SEMCOG). Mr. Robinson was one of the first community leaders to recognize the importance of the local-Federal partnership in using Federal programs and Federal dollars to help solve local problems.

In his role as a councilman, he worked hard in Taylor's successful efforts to obtain Federal funding for the senior citizen apartments. In 1976, when the position of housing director and operator of the apartments became vacant, Mr. Robinson was a unanimous choice for the position. He resigned from the city council to take over the dual housing assignment, and has done an outstanding job since that time. The Taylor senior citizen apartments have been a model for many others in the area.

I am pleased to bring Mr. Robinson's accomplishments to the attention of our

colleagues here today, Mr. Speaker, and I know you all join me in sending Mr. Robinson our thanks and congratulations on a job well done, and our best wishes for continued success and happiness in all his future endeavors. ●

CAPTIVE NATIONS WEEK—20TH ANNIVERSARY

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. HORTON. Mr. Speaker, it is indeed a distinct honor and privilege for me to participate in this year's observance of Captive Nations Week. This is an especially important anniversary because it was 20 years ago that President Eisenhower signed into law national observance of Captive Nations Week.

That we again reaffirm our opposition to the oppression of the peoples of the Captive Nations comes at a critical point in world events. Last week, two Soviet courts, one in Moscow, the other in Kaluga, found guilty two Soviet citizens accused of treason and espionage, in one instance, and anti-Soviet agitation in the other. These verdicts, in defiance of world public opinion, the Helsinki Accord and justice, intensify the need to continue directing world attention to the plight of millions of people behind the Iron Curtain. The institutionalized miscarriage of justice that was played out in those two Soviet courts should remind us that to the Soviets, and Communists everywhere, human rights do not exist.

In the year that has passed since our last observance of Captive Nations Week, there has been little to celebrate and much to mourn. Last November 4, President Carter announced his decision to return to Hungary the Holy Crown of St. Stephen. This tragic decision caused many in the Hungarian-American community to question the basis on which the United States officially speaks out on human rights violations. Why? Because the decision to return the crown was announced on the anniversary of the Hungarian Uprising of 1956, crushed so brutally by the Soviet Union and its puppet, Janos Kadar. There is no reason today to judge Janos Kadar, then, as now, the prime minister, worthy of the honor the return of the crown necessarily implies.

That same source of power which maintains Janos Kadar at the head of the Hungarian Government, continues to act as a barrier between the peoples of Eastern Europe and their right to self-determination and freedom. We must not forget that 60 years ago the Ukraine declared its independence as did Lithuania, Estonia, and Latvia. We must also remember that it was the treachery of the Soviet Army that shattered the short-lived independence of these countries. In the case of all three countries, inclusion in the Soviet Union has come at an extremely high price in terms of cultural heritage, religious and political freedom. These rights no longer exist.

The Soviets, however, do not have an exclusive hold on human rights violations. Recent reports in both American and world newspapers have provided alarming accounts of Romanian repression of the 2-million-strong H ngarian minority within Romania. Regrettably, our State Department does not recognize this situation within the context of the Helsinki Accord.

Although we tend to think only of Eastern Europe when we think of captive nations we must now extend our observance to such nations as Cambodia, Vietnam, Laos, and other nations around the world where dictatorial regimes have institutionalized degradation and oppression. Many of us are well informed on the extent to which the Cambodian Government has gone to reshape that country. Reports have reached the West charging the Cambodian regime with the systematic slaughter of more than a million Cambodians. Similar horror stories have come out of other Southeast Asian countries.

Our voices denouncing repression which has become a tragic way of life wherever communism is a form of government, give hope to those around the world who may not live in freedom. While our observance conveys hope, it also serves notice to the Soviets and all other violators of human rights that we will continue to denounce their inhumanity and instead call for freedom for the more than 100 million citizens of the captive nations. ●

JOSEPH R. RAYMOND

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Ms. MIKULSKI. Mr. Speaker, today I want to pay tribute to Mr. Joseph R. Raymond, an old friend and esteemed citizen of Maryland. Joe Raymond, deputy auditor general of the Agency for International Development and a former member of the Maryland House of Delegates, died of cancer on July 3 at the untimely age of 38. His wife Betsy, his family, his friends, his colleagues, and I will miss him very much.

As a deputy auditor general for AID, Joe was the second in command of the division which oversees spending in foreign aid programs. He was involved in the investigation of foreign research centers and contracts with other nations. It is widely recognized that Joe was outstanding in his position at AID.

A native of New York, Joe moved to Baltimore when he was 7 and soon adopted the city as his home. His love for his community only grew as the years went by and as he dedicated his life to the citizens of Baltimore. Joe attended Georgetown University and graduated from the Georgetown University Law Center in 1964.

As an attorney, Joe served both Baltimore City and the State of Maryland in various posts. As a reward for his exemplary service, Joe was appointed to fill a vacancy in the House of Delegates. During his 2 years in the Maryland House, Joe was a member of the Economic Matters Committee and was the sponsor of precedent shattering conflict-of-interest legislation.

In 1975, Joe became responsible for drafting, implementing, and monitoring all Baltimore City affirmative action and equal opportunity programs, a post he held until his appointment to AID in August 1977.

Joe was active in liberal political causes most of his adult life. He served as president of the Maryland Young Democrats and the New Democratic Coalition of Maryland. He was the chairman of the 1972 McGovern campaign in the Maryland primary. Joe was a delegate to the Democratic National Convention in 1972 and an alternate to the Democratic Midterm Convention in 1974.

Four years ago, I was a candidate for the U.S. Senate. Many of the old Democratic pols would not give me the time of day, let alone any help or encouragement. But not Joe and Betsy. They immediately stepped forward. They had me come to their home to meet with a brilliant political advertising man. What meant most to me was not the creative advice but the gesture of friendship extended to me by Betsy and Joe at a very vulnerable and critical point in my own life.

Although Joe had achieved much in his few years, he never forgot the underdog and the outsider. Joe Raymond was a success in many ways. Most importantly, he was a success at helping others.

It is hard to say goodbye to an old friend. I will miss his humor, his loyalty to old friends, his energy, his pizzazz. My only regret is that I will not be able to tell him personally, "Joe, thanks for everything." ●

EQUAL EMPLOYMENT RIGHTS FOR WOMEN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. MAZZOLI. Mr. Speaker, as one who cosponsored legislation to prohibit discrimination on the basis of pregnancy soon after the Supreme Court decision in Gilbert against G.E., I rise in strong support of H.R. 6075.

The net effect of that Supreme Court decision was to subject 40 percent of those holding jobs in this country—women—to the risk of total loss of income because of temporary medical disability.

What we are talking about in considering H.R. 6075 is insuring equal employment opportunity for women, pure and simple.

The legislation attacks discrimination on the basis of sex by insuring that preg-

nancy—like other non-job-related disabilities—is included in employee benefit plans adopted voluntarily or by private agreement.

I urge expeditious passage of this anti-discrimination legislation. It embodies the principle of equal-employment opportunity written into the Civil Rights Act of 1964. Its time has come.●

CARTER SHOULD THROW THE BUM OUT

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. McDONALD. Mr. Speaker, President Carter has delivered a verbal slap on the wrist to Andrew Young for his recent outrageous statement on political prisoners in the United States. How many more times will Andrew Young be allowed to torpedo U.S. policy? General Singlaub had to leave the U.S. Army for failure to get in line on policy. Is this a case of some people in the executive branch being more equal than others? Columnist James Kilpatrick raised this point in an excellent column that appeared in the Atlanta Constitution of July 18, 1978. I commend the column to the attention of my colleagues:

CARTER SHOULD THROW THE BUM OUT

(By James Kilpatrick)

WASHINGTON.—There comes a point, even in the most long-suffering relationship, when enough is too much. That point was reached last week with Andrew Young. President Carter, a baseball fan knows what he ought to do: Throw the bum out.

If Young were merely Citizen Andrew Young, or even Congressman Andrew Young, his outrageous conduct could be ignored. But he is Ambassador Andrew Young. He is publicly identified as the president's close friend and confidant. Mr. Carter has praised him without reservation as "the best" in his administration. But the ambassador doesn't want to play on the team. He wants to put on a grandstand performance, solo, popping off whenever it pleases him.

Let us keep the circumstances in mind. In Moscow, the trial had begun of Anatoly Scharansky on charges of treason. Mr. Carter himself had flatly denied that Scharansky ever had spied for the CIA. The president had protested and deplored the trial in every way open to a president. Secretary Vance, in Europe, had pointedly announced his intention to meet with Mrs. Scharansky to express American sympathy and support.

At precisely this point, Mr. Young came lumbering into print, flapping his irresponsible jaw. He gave an interview to a French newspaper, Le Matin, in which he pooh-poohed the Scharansky affair. The trial, he thought, was merely a gesture of defiance and independence on the part of the Soviet Union.

"After all," he added grandly, "in our prisons there are also hundreds, maybe even thousands of people I would call political prisoners."

When reporters caught up with Mr. Young in Geneva, and asked him to verify the quotation attributed to him, he willingly confirmed the remark. While nobody is in jail in America merely for criticizing the government, "there are all varieties of political prisoners." People are sent to prison in America "much more because they are poor than because they are bad."

This reckless performance on Mr. Young's part is quite simply indefensible. To say that there may be "thousands" of "political prisoners" in American jails is a lie. No semantic explanation can soften or excuse the bizarre accusation.

When will Mr. Carter agree that enough is too much? From the very beginning of his service in the Carter administration, Mr. Young has been a large embarrassment. As ambassador to the United Nations, he is supposed to function as a diplomat, but diplomacy has no appeal for Andrew Young. He has insulted the British. He has insulted the Swedes. He could not find the sense of restraint that might have prevented him from saying publicly that South Africa's Prime Minister Vorster is "very much over the hill intellectually and in every other kind of way."

The chronicle of Mr. Young's offenses against taste, truth and diplomacy runs on and on. In an interview in Playboy, he got in a slur at former Presidents Nixon and Ford. They were "racists," with "no understanding of the problems of colored people anywhere." In a second installment of his interview with Le Matin, he hurled a fantastic charge against Rhodesia's Prime Minister Ian Smith. Without one shred of evidence, Mr. Young said Mr. Smith was responsible for the massacre of white missionaries.

Mr. Young's record is not wholly disastrous, of course. He deserves much credit for improving American relations with such important African nations as Nigeria. He has established good working credentials with representatives of the Third World at the U.N., perhaps because many of them are as irresponsible as he is. But his few successful efforts pale before the damage he has wrought in this latest fiasco.

As a general principle, of course, it is admirable to be loyal to one's friends. Mr. Carter has been loyal to a fault to the Georgians around him. But if the president now fails to fire his loudmouthed ambassador, in the same way that he recently fired General John Singlaub for failure to play on the team, the president will have demonstrated a personal weakness that cannot easily be condoned.●

AN AFFIRMATION OF CONGRESSIONAL SUPPORT FOR BILINGUAL EDUCATION

HON. MARTHA KEYS

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Ms. KEYS. Mr. Speaker, extended congressional support for bilingual education in American schools, as affirmed by the House of Representatives July 13 with the passage of H.R. 15, is a concept that has my wholehearted support.

It is essential that we keep our sights set on the multiple purposes of such education: To help language minorities acquire the skills they need to function in American society, to reinforce cultural enrichment and to underline the mission of education to bring each student to his or her own fullest potential.

H.R. 15 broadens the scope of previous bilingual education programs by reaching out not only to those children who speak little or no English, but whose skills are inadequate in reading, writing and understanding English. It mandates the hiring of teachers with true bilingual competency and provides, by virtue of an amendment by Mr. Simon, for schools to introduce students whose primary language is English to the classroom to facilitate the learning by the minority students. I think such inclusion is wise, both for the exposure it offers the native speakers of English as well as for the cohesion it will bring to the school unit.

My own district contains students whose schooling can be assisted by the offering of Spanish as well as native American languages, but I think we need to look as well to the rainbow of other languages our pluralistic culture nurtures—as many as 41 in one school district in this country and 68 in the national program. Such color should not be lost from our awareness, but neither should it be allowed to bar a child from his or her just opportunity for instruction. By using the children's native languages as media of instruction, we can begin to overcome the disadvantages public schools impose upon minority children.

H.R. 15 will require each district receiving assistance under this act to evaluate its bilingual education students after 2 years to determine his or her need to remain in the program. I hope the districts will read that provision as an interest by Congress in keeping children in the programs until they are capable of functioning adequately in monolingual classrooms and that the needs of each student should be met. Contrary to the misgivings of some, I think the provision will not provide needless paperwork, but will offer an opportunity for close scrutiny of each student's progress.

Finally, I would like to point out the clause in the bill that calls for an advisory council, comprising a majority of parents whose children are in the programs, to assist the project directors and comment upon applications for funds. With language diversity in this country ranging from Spanish to Chaldean, neither Congress nor the Office of Education is equipped to tailor each program to its district. With the help of the community and skilled educators, however, this bill will provide the vehicle for each district to help its own students overcome the difficulties inherent in language minority. Far from accomplishing its ends, bilingual education has just begun to equalize educational offerings for some students and I am pleased that the House of Representatives is prepared to stride forward.●

HONOR LATE SENATOR PAUL H. DOUGLAS

HON. MARTY RUSSO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. RUSSO. Mr. Chairman, recently the House passed legislation which will serve to honor a distinguished gentleman, a man who in the course of his life

and his work in the U.S. Senate brought honor to himself, his State, and his Nation. I applaud the passage of the amendment to the National Parks Act, introduced by my colleague, Hon. SIDNEY YATES. It renames the Indiana Dunes in honor of the late Senator Paul H. Douglas.

He was a great man, a good man, and he fought tirelessly the battle for human rights. Not only was he an effective legislator, he was a compassionate person, and a thoughtful one.

The late Senator Douglas thought a great deal about the Indiana Dunes in particular. He thought about the irreplaceable loss to the environment if this national treasure were not preserved; he thought about the future generations who would never experience the splendor of the dunes, and he fought a battle for them—and won. It became his consuming goal to save this beautiful piece of land, and it is fitting that we recognize his contribution by naming the Indiana Dunes National Lakeshore the Paul H. Douglas Indiana Dunes National Lakeshore. It is a magnificent park, and now it will stand as a memorial to a magnificent human being.●

RADIOACTIVE WASTE MANAGEMENT ACT OF 1978

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. MOAKLEY. Mr. Speaker, today I am introducing legislation which seeks to provide States the right to prohibit Federal radioactive waste storage sites from being built within their boundaries.

We may never face a more pressing environmental problem than the storage of radioactive nuclear waste. It is my hope, through opening up the decisionmaking process by including States as full partners with the Federal Government, that a workable solution can be found.

This act, entitled "The Radioactive Waste Management Act of 1978," provides States with the option of vetoing any Federal radioactive waste storage site selection within its boundaries, either through the State legislature or by calling a Statewide referendum within 120 days of the Secretary of Energy's announcement of site selection.

This act does not seek to prevent a waste repository from ever being built, but it does seek to insure that the State selected will have a full role in the decisionmaking process by mandating a legal obligation for State consultation.

It is important for us to find a workable solution to this problem. Unlike other environmental pollutants, radioactive wastes remain hazardous for thousands of years; meaning they will have to be isolated for a time period longer than any manmade structure has survived.

Presently, there are about 74 million gallons of high-level radioactive wastes from the Nation's military weapons program being stored at three federally owned sites, with an estimated 41 million gallons more expected by the year 2000.

Civilian nuclear powerplant waste presently totals approximately 3,000 metric tonnes of spent fuel. On top of this, an additional 17,000 metric tonnes will be accumulated in the next decade.

The time to act is now. No site has been selected or licensed for a Federal waste repository and by passing this legislation in the 95th Congress, we can work to guarantee that all interested parties have a role.●

THE OUTLOOK FOR AGRICULTURAL EXPORTS

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for July 19, 1978, into the CONGRESSIONAL RECORD:

THE OUTLOOK FOR AGRICULTURAL EXPORTS

As the trade talks now underway in Geneva reach the critical stage, the experts are saying that there can be no general agreement unless the American farmer gets satisfactory concessions. Few people who work in agriculture would dispute the experts' claim. The uncertainty of the export market is one of the greatest problems facing the farmer today.

Since farm exports began to surge upward in 1972, the farmer has come to rely on the export market to absorb an ever increasing portion of his production. In 1976 over 337 million acres were harvested—the most in two decades—and about 100 million of those acres produced for export. All in all, the farmer receives about one-fifth of his income from sales overseas.

The farmer is very aware that exports provide a critical stimulus to the farm economy. Farm exports of $22 billion in 1975 created nearly $50 billion in farm business activity during that year—$30 billion in the farm sector itself and another $20 billion in the support sectors that depend on farm exports. As concerns employment, about one-half million farm workers are required to produce for export. Another half-million people have export-related jobs in the support sectors.

The export situation seems to be stable in the short run. The value of farm exports was up 5 percent in 1977 to $24 billion, though volume was down 4 percent to 102 million tons. There was serious slippage in foreign demand for wheat and feed grains. However, many farm economists have forecast good exports in 1978. Value this year will probably range from $25 to $26 billion and volume should increase by a full 11 percent to 113 million tons.

These figures indicate that the farmer is more preoccupied with events a few years down the road. Will farm exports continue to rise or will they drop down to the pre-1972 levels? As I see it, there are several factors that may keep farm exports high in the future.

TRADE NEGOTIATIONS

A major factor, of course, is the current round of the Multilateral Trade Negotiations in Geneva. These negotiations are intended to free up world trade by reducing trade barriers. The farmer has a large stake in the outcome of the talks. It is essential that his export interests not be sacrificed to gain trade advantages for less efficient American industries. It is also essential that the protectionism of foreign agricultural markets be lessened.

WEATHER

Most meteorologists believe that the relatively good weather of the past few years cannot go on. Some of them have even predicted long-term changes in climate that could make American argiculture the permanent mainstay of the world food economy and the only hedge against starvation on a global scale.

WORLD POPULATION

Many demographers anticipate that by the year 2000 the world's population will approach 6.5 billion, possibly even 7 billion—as many as 2 billion more than were expected just a decade ago. World food needs will probably double by the year 2010.

ECONOMIC RECOVERY

The recovery of the world economy from the 1974–1975 recession is, despite its slow and painful character, another sign that our farm exports may pick up in the coming years. The pressures of inflation and unemployment are easing and solid economic growth targets are being set in many nations. Higher personal income abroad should boost farm exports as foreign consumers choose to improve their diets.

MARKETING POLICY AND EXPORT PROGRAMS

Observers have noted that the farm export surge of 1972 was prompted in part by careful market development and new export programs in the 1950s and 1960s. We may be able to increase farm exports even further with an aggressive marketing policy and forward-looking export programs.

TRADE WITH STATE-MARKET NATIONS

A final factor in the future of farm exports is our relationship with the state-market nations—especially the Soviet Union, the People's Republic of China and the countries of Eastern Europe. They represent the largest untapped market for our farm goods even though they bought about 12% of our exports in 1977. However, expanded trade with them awaits improvements in diplomatic relations and removal of legal barriers to trade.

Some of these factors are beyond our reach, but others we can control. Consequently, we should identify the things we can do to increase farm exports and then move as quickly as possible to see that those things get done. Many members of Congress—myself included—are sponsoring legislation to upgrade our export programs and to open the state-market nations to American farm products. The decisions we make today may not benefit the farmer immediately, but they will help him in the long run.●

THE VOICES OF PROTEST: WHERE HAVE THEY BEEN?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. MICHEL. Mr. Speaker, there have been and will be many words spoken and written about Captive Nations Week. I realize that nothing that I add to these thousands of words can dramatically alter events or convince the President to speak eloquently and frankly about the captive nations. For the second year in a row, the President has issued a bland,

vague, insensitive Captive Nations Proclamation. It reads as if it were the printout of a well-mannered computer rather than an outpouring of the human heart in a protest against slavery. The words "communism" or "Soviet Union" do not appear, evidently in deference to the sensibilities of Mr. Brezhnev.

But that, as I said, is beyond my power to change. I simply want to say this: For weeks the attention of the Nation and indeed of the world, has been drawn to the trials of two Soviet dissidents. Television and front page news told of their plight. Many who had never said an unkind word about the Soviet Union denounced the trials.

I am glad to see such a denunciation of Soviet trampling of human rights. But as I listened to the speeches calling for the freedom of the two dissidents, I could not help but wonder where some of these voices have been all these years. It is as if we awoke one morning and saw headlines: "Sun Rises in East." Why should that come as a surprise?

I suppose part of the silence can be explained by the fact that the trial of the dissidents received media attention while the fate of the captive nations has taken place beyond the glare of television lights.

There was no public trial for Poland. There was no public trial for Latvia, Lithuania or Estonia. Hungary was occupied and dominated. It lifted its head in 1956 and it was chopped off. After the first brutal blow of the ax American media did not pay attention. Czechoslovakia had its brief spring and saw it end in conquest and betrayal. There was media attention, but it ended and the Soviet tanks remained.

All of the people of Eastern Europe have seen their human rights trampled. But where have the voices of protest been? Once a year Captive Nations Week is ritualistically proclaimed—and then forgotten.

Denial of human rights? Every day, every single day, for 40 years in some cases, millions of Eastern Europeans have had their human rights denied and none of the fashionable American newspapers or television network news shows care enough to record any of that agony undergone day by day in ancient and honorable and once free nations.

I am glad that the conscience of the West was finally activated by the trial of these two unfortunate men whose only crime is wanting freedom. It shows at least that we still can recognize what communism means.

But I wonder how much of the protest we heard was the reaction of those who are ready to exploit a media event? I wonder how many of those whose vocabularies were stretched to the limits to find words tough enough to denounce the Soviets on the issue of the dissidents, would have the fortitude and the courage and, yes, the compassion, to say the same words once the television lights are off and the reporters go back to doing stories on how a "thaw" is taking place in Eastern Europe?

I wonder how many times during the next year we will hear the questions: What about Poland? What about the Hungarian people? What about Romania? What about all the nations now under Communist totalitarian domination?

Mr. Speaker, the Congress will not be remembered by history for the times its Members spoke eloquent words about freedom when the television lights were on. No, it will be remembered for those who spoke up during those long silences when it is not favorable to criticize communism.

To those who have expressed shock over the Soviet mockery of justice in the case of the two dissidents I say: Just what do you think has been going on for 40 years in Eastern Europe and since 1917 in the Soviet Union? Where were your protests all that time?

Where have all of these prestigious journalists and television commentators been all these years? To listen to them recently you would think that the trial and conviction of the two dissidents was something out of the ordinary.

Let me end by praising those, in the media and in politics, who have had the integrity and the courage and the compassion, all these years, to tell the truth about the Soviet Union when it was not fashionable to do so. They have been sneered at. They have been ignored. They have been ridiculed. They were looked down upon by the opinionmakers who were so busy creating fantasies about détente that they could not or would not believe the hard cold evidence of terror and oppression. When the winds of fashion change—and they will—those who care more about fashion than they do about justice will lapse, once more, into disgraceful silence. But there will always be a few to tell the truth. Perhaps, after all, that is all we can ever expect.●

THE ROAD TO PROSPERITY—PART XIII—THE JAPANESE ARE DOING BETTER WITH LESS

HON. WILLIAM A. STEIGER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. STEIGER. Mr. Speaker, my decision to propose a reduction in the capital gains tax rate was prompted, in part, by a concern over our trade posture. As ranking Republican on the Trade Subcommittee of the Ways and Means Committee, I have participated quite closely in trade negotiations. It has become evident that the United States faces increased competition from our trading partners. Unfortunately, the Carter administration does not have a trade policy.

The administration is relying on a devalued dollar to create demand abroad for U.S. exports. To regulate imports into the United States, the President is using orderly marketing agreements. Neither amounts to much of a trade policy.

What we have to do is increase the ability of American firms to be competitive both domestically and internationally. This requires lower taxes and more investment. One way to encourage investment is to lower the tax on capital gains. The United States has one of the highest tax rates on capital gains in the world. We do not encourage investment. Japan and Germany, our two strongest trade competitors, have negligible taxes on capital gains. There is a direct relationship between the tax on capital, the ability to invest, and the ability to compete in world markets. By lowering the tax on capital gains, Congress will help American firms attract the domestic investment necessary to compete.

I would like to insert in the RECORD a brief description of capital gains taxation in major countries. I have also included a letter explaining certain aspects of the Japanese and German tax systems. Secretary Blumenthal stated in his testimony to the Senate Finance Committee that Japan and Germany do tax capital. The letter clarifies the situation.

PART FOUR: TAX PROVISIONS AFFECTING INDIVIDUAL INVESTORS IN OTHER COUNTRIES

SUMMARY OF INDIVIDUAL TAXATION OF LONG-TERM CAPITAL GAINS ON PORTFOLIO INVESTMENTS IN TEN INDUSTRIALIZED COUNTRIES

This part of our study briefly describes the taxation of capital gains realized by individuals on the sale of portfolio stock investments in ten industrialized countries. It discusses gains from the sale of shares, as opposed to bonds, which is some countries are subject to different rules. Only portfolio holdings are covered, as opposed to closely held companies, the sale of whose shares in some countries is subject to higher taxation.

United States

One half of long-term capital gains are taxed (one-year holding period) at the ordinary rate. In addition, long-term capital gains are subject to a minimum tax and reduce the income available for the 50 percent maximum tax on earned income. These provisions produce a maximum effective tax of just over 49 percent. There is a 25 percent alternative tax on long-term capital gains not exceeding $50,000. Short-term capital gains are taxed at ordinary rates. Capital gains are also subject to state and local income taxes, which may increase the effective rate of taxation.

Australia

Long-term capital gains (one-year holding period) on portfolio stock investments are exempt from taxation. A 1974 proposal to tax long-term capital gains on securities was deferred indefinitely by the government. Short-term capital gains are taxed at ordinary rates.

Belgium

Capital gains on portfolio investments are exempt from taxation without regard to holding period.

Canada

One half of capital gains are taxed at ordinary rates (maximum 43 percent) without regard to holding period. Capital gains are also subject to Provincial taxes at rates ranging up to 14 percent.

Germany

Long-term capital gains (six-month holding period) on portfolio stock investments are exempt from taxation. Short-term capital gains are taxed at ordinary rates.

Italy

Capital gains on portfolio investments are exempt from tax without regard to holding period. If the investment is purchased with "speculative" intent, the gain is taxed at ordinary rates.

Japan

Capital gains on portfolio investments are generally exempt from tax, with the following principal exception. If an individual makes more than 50 trades during the year com-

prising a total of more than 200,000 shares of stock, the individual will be taxed at ordinary rates on short-term capital gains (5-year holding period) and on one half of the long-term capital gains. The individual is also permitted a statutory deduction of about $1,700 in computing the capital gain which is taxed.

Netherlands

Capital gains on portfolio investments are exempt from tax without regard to holding period.

Sweden

Forty percent of long-term capital gains (2-year holding period) are taxed at ordinary rates (maximum 58 percent). Short-term gains are taxed in full. In addition, a maximum deduction of SKr 1,000 (approximately $200) is permitted in computing the tax base. The taxpayer can treat one half of the net sales price as acquisition cost when calculating gains on quoted shares held for more than 2 years. Capital gains are also subject to local income taxes, with an average maximum effective rate of 11 percent.

United Kingdom

Capital gains are generally taxed at a flat 30-percent rate without regard to holding period. There is an alternative tax whereby one half of the gain is taxed at the ordinary tax rate and gains in excess of £5,000 are taxed at ordinary rates. If the alternative method is used, there is in addition a surcharge on the gain, which is treated as investment income. The maximum rate of the surcharge is 15 percent of investment income in excess of £2,000.

TABLE 4.—*Summary of individual taxation of long-term capital gains on portfolio investments in 10 industrialized countries—Maximum long-term capital gains tax rate and holding period required for long-term treatment*

United States, just over 49 percent*, 1 year.
Australia, exempt, 1 year.
Belgium, exempt, none.
Canada, 22 percent*, none.
Germany, exempt, 6 months.
Italy, exempt, none.
Japan, exempt, none.
Netherlands, exempt, none.
Sweden, 23 percent*, 2 years.
United Kingdom, 30 percent, none.

*Excluding State and local taxes.

DIVIDEND PAYMENTS AND CORPORATE INTEGRATION

The United States maintains a system of taxation whereby profits generated by a corporation are subjected to corporate income tax and distributions to individuals are subjected to full shareholder tax. This system, referred to as the "classical" system, gives rise to economic double taxation (as opposed to legal or juridical double taxation). No relief is granted at the shareholder level to take into account corporate taxes paid. Other countries maintaining a classical system include Australia, the Netherlands and Sweden.

A number of countries have adopted integrated tax systems. The term "integration" with respect to the taxation of a corporation and its shareholders is meant to encompass a system whereby the incidence of full economic double taxation is mitigated, in whole or part. Countries recently implementing such rules have provided for relief coming either directly at the corporation level, through either a split-rate or dividend-deduction system, or at the shareholder level, through an imputation credit mechanism.

Under the split-rate system, the corporate income tax rate for profits retained in the corporation is higher than on profits distributed to shareholders. Japan has adopted this system. Under the credit mechanism, the corporate income tax paid or accrued by the corporation with respect to distributed profits is partly credited against the shareholder's personal income tax. Countries using this system include Belgium, Canada, Italy and the United Kingdom. Germany has adopted a combination of split-rate and credit systems.

FINAL COMMENTS

We would like to add a few concluding comments of our own to this Part. The differences between other countries and ours in the tax provisions affecting individual investors are astounding. Every other major industrialized country appears to understand that capital gains should be treated quite differently from earned income and should be taxed at much lower rates than earned income—if at all. Most major countries have understood the need to eliminate or alleviate taxation of dividends at both the corporate and individual levels. The United States has not yet taken a serious step in this direction.

Finally, the taxation of investors should also be viewed in the perspective of national economic priorities, not just abstract considerations of equity. What is fairest to everyone is a national economy that is working well.

If a Government in a highly industrialized country such as ours imposes significant taxes on savings and investment earnings (interest, dividends, and capital gains) in addition to imposing taxes on earned income, a bias is created in favor of consumption. This is because income for consumer outlays for consumption is taxed only as it is earned.[1] On the other hand, funds that are saved and invested are taxed when originally earned and then the interest, dividends, and capital gains produced by their investment are taxed.[2]

As we have seen, most major industrialized countries create incentives to save and invest. Such policies stimulate individual capital formation; they help in the creation of new business; and they aid companies in building capacity and productivity. For these reasons, other countries generally tax capital gains at much lower rates than earned income—if at all.

Our present F.I.T. tax system creates a tremendous bias in favor of consumption and that is one reason why we have the lowest savings rate among the larger industrialized countries. We have a progressive income tax structure and due to changes in the tax laws that we have outlined, a progressive tax structure is applied to capital gains, dividends, and interest. Short-term capital gains, dividends, and interest income can be taxed at higher rates than earned income (i.e., up to 70 percent).

We believe the facts of our economic situation—and particularly our inflation problem—call for a change in emphasis towards encouraging capital formation by individuals, risk investments that help the growth and development of smaller companies, and greater capital spending to improve productivity.

INGALLS & SNYDER,
New York, N.Y., July 10, 1978.

Hon. CLIFFORD P. HANSEN,
U.S. Senate,
Hon. WILLIAM A. STEIGER,
U.S. House of Representatives,
Washington, D.C.

GENTLEMEN: This letter is in reply to the following testimony of Secretary of the Treasury W. Michael Blumenthal, before the Byrd subcommittee of the Senate Finance Committee, on June 28, 1978:

"Finally, I wish to say a word about the very loose international comparisons that have been made in the debate on this measure. Some proponents of S. 3065 have suggested that our economic performance—in areas of inflation, in employment, and growth—has fallen short of that of Germany and Japan because we tax capital gains while they, assertedly, do not. This line of argument ignores certain important facts. First, the United States has over the past few years outperformed most other industrialized countries, including Germany and Japan, in terms of real growth and increases in employment. Our inflation record is less satisfactory, but is nonetheless superior to several countries (e.g. Italy) having no capital gains tax. Second, Japan does in fact tax capital gains. As for Germany, it instead uses an even more comprehensive tax on annual increases in wealth, whether or not realized; I doubt that the proponents of S. 3065 would prefer the German system to ours. What all this shows is that making simplistic international comparisons on a tax-by-tax basis is a very treacherous business."

While Secretary Blumenthal did not specify to which international comparisons he was referring, the Ingalls & Snyder study entitled "The Diminishing Incentives to Invest", dated May 9, 1978, did contain a part, prepared by Price Waterhouse & Co., that outlined the main capital gains tax provisions for individual investors in ten major industrialized countries. Therefore, we should answer some of the points raised by the Treasury Secretary.

Our study does not indicate that Japan has no capital gains tax. Japan does have capital gains tax provisions, but very few individual investors are affected by them. This should be clear when one considers the following excerpt from page 34 of our study:

"Capital gains on portfolio investments (of individuals in Japan) are generally exempt from tax, with the following principal exception. If an individual makes more than 50 trades during the year comprising a total of more than 200,000 shares of stock, the individual will be taxed at ordinary rates on short-term capital gains (five year holding period) and on one-half of the long-term capital gains. The individual is also permitted a statutory deduction of about $1,700 in computing the capital gain which is taxed."

Unless a Japanese individual investor is extremely active in buying and selling securities (i.e. almost a professional trader) he is not subject to either long-term or short-term capital gains taxes.

In Germany, "long-term capital gains (six months holding period) on portfolio stock investments are exempt from taxation. Short-term capital gains are taxed at ordinary rates" (ibid, page 34). There is a net assets tax, however, which is imposed on individuals as well as companies and other institutions.

The net assets tax is an annual tax. Individuals are allowed liberal exemptions from it. There is an allowance of DM 70,000 for the taxpayer himself, an equal allowance of DM 70,000 for his spouse and one of DM 70,000 for each child under 18 years of age (and for each child between 18 and 27 years of age, if he is being educated and maintained mainly at the taxpayer's expense). A single taxpayer is also allowed a deduction of DM 10,000 from the value of investments, bank balances, etc. and a married couple is allowed a deduction of DM 20,000. Thus a family of four with an investment portfolio would have allowances totaling DM 300,000 (almost $150,000) that can be deducted before computing the net assets tax.

The annual rate of the net assets tax for

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[1] Sales taxes can be an additional factor, but they are generally small in relation to income taxes.

[2] See "The Tax Bias Against Savings," a chapter from *The Effects of Tax Policy on Capital Formation* by Norman B. Ture and B. Kenneth Sanden, published by Financial Executives Research Foundation, 1977.

individuals amounts to 0.7 percent of the assessable net assets. Because of the allowances the net assets tax is not applicable to the average German family. For the wealthy investor it is a factor but not a very significant one. When one considers that there are no taxes on long-term capital gains in Germany and that there are special credits for individuals aimed at alleviating the double taxation of dividends, we believe that very few German investors would be willing to exchange their investor tax provisions, plus the net assets tax, for ours.

The Price Waterhouse & Co. booklet "Doing Business in Germany" contains further information on the net assets tax which is somewhat complex in its application.

Making "international comparisons on a tax-by-tax basis" is not a simplistic approach to the problem of predicting the future impact of changes in tax laws. In effect, it is one of the few ways of making an educated guess about how U.S. taxpayers will behave, based on how people in industrial societies such as ours have responded to similar economic stimuli in the past. The outline we presented in our May 9th study was based on a considerable body of research and experience which all points to the same conclusion: our tax provisions for individual investors, particularly for larger investors, are confiscatory compared to those of other major industrialized countries. For example, much more extensive comparison of individual tax provisions in various countries, including tax provisions for investors, can be found in "The Effects of Tax Policy on Capital Formation" by Norman B. Ture and B. Kenneth Sanden, published by Financial Executives Research Foundation, in 1977, which was referred to in our text.

What has been the impact of the substantial increases in our capital gains tax rates since 1969 on our economic performance vis-a-vis other large countries, particularly those with no capital gains taxes? Obviously this is a complicated question. But the U.S. has the lowest saving rate among the major industrialized countries and our onerous tax provisions for individual investors must contribute to that unfavorable comparison. In turn, our capital investment in relation to Gross National Product is lower than for other major countries. Lagging capital investment aggravates a range of problems including our poor growth in productivity, our serious inflation and the difficulties experienced by many of our industries and companies when they compete in world markets.

Yours very truly,

OSCAR S. POLLOCK.●

HAROLD NORRIS' "THE LIBERTY BELL"

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

Mr. CONYERS. Mr. Speaker, a year ago during the celebration of Michigan Week the State senate invited Harold Norris to read his poetry that had been published in the Bicentennial year by the Harlo Press of Detroit and titled, "You Are This Nation." A professor of law at the Detroit College of Law, delegate to Michigan's Constitutional Convention, a principal architect of its bill of rights provisions, and author of several books including "Law, Lawyers, and the Constitution," Harold Norris has also been a significant poet.

In the introduction to his volume of poetry he writes:

I wrote, no, evolved these poems to project America not only as promise but responsibility, personal responsibility, that this nation is what each American does, that "you are this nation." Yes, I share, I hope deeply, as well as critically, the Whitman and MacLeish view of our nation as a land of unfolding vistas, and promise, and that poetry should express The American Proposition.

Harold Norris' poem, "The Liberty Bell," which follows is about that proposition, that the Bill of Rights is America's public morality and the Liberty Bell (its inscription reads, "Proclaim Liberty onto all the inhabitants thereof") is the symbol of the Bill of Rights.

Rejecting the notion that poetry is an instrument of elites and an esoteric art, Mr. Norris regards it as the truly public art that expresses foremost a people's ideals and a Nation's purposes. His own poetry has happily contributed to the revival of poetry as a public art. The great American poet Archibald MacLeish has called his poetry, not only authentically American but authentically human and the eminent political chronicler Theodore White was moved to remark, "it is poetry infused with an almost forgotten sense of love—love of country and people, love of America's monuments and places, love of its future and heroes. This is a Whitmanesque voice, whose sound has been too long absent from our hearts and our culture."

Harold Norris' poem, "The Liberty Bell," follows:

THE LIBERTY BELL

(by Harold Norris)

[From *"You Are This Nation,"* Harlo Press, Detroit, 1976]

Does the Liberty Bell lie in state
Silent as moments to the great
With symbolism out of date
And sound as hollow as its fate.

Or can you in your inner ear
The proclamation hear
When your newspaper is near
When your conscience is clear
When you vote without fear
When children sing and cheer.

Is there a sound effect
You can detect in
Your right to speak,
Your right to seek,
Your right to read,
Your right to lead,
Your right to choose,
Your right to prove,
Your right to fight,
Your right to strike,
Your right to pray,
Your right to play,
Your right to doubt, shout, know, grow, propose, oppose, elect, reject, expect, protect;
Your right to in your own way find
Your own inscrutable mind.

Listen in the night
Listen with all your might
With all your common sense
Now and in the future tense
Listen in the light
To your singing Bill of Rights
In the ring
Of the swing
And the swell
Of the cracked and silent
Liberty Bell.●

COMBATING PCP ("ANGEL DUST") ABUSE AND THE ILLICIT MANUFACTURE OR SALE OF THIS PERNICIOUS HALLUCINATORY DRUG

HON. BENJAMIN S. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. GILMAN. Mr. Speaker, last March I introduced H.R. 11727, a measure that was cosponsored by 13 of my colleagues on the Select Committee on Narcotics Abuse and Control, of which I am a member, and a measure that would place Phencyclidine (PCP) into schedule I of the Controlled Substances Act (Public Law 91–513, 84 Stat. 1242) and that would impose mandatory prison sentences for those who illicitly manufacture or sell PCP or any of its derivatives. Thirty-seven additional colleagues joined in this proposal on May 1, 1978 (CONGRESSIONAL RECORD, page 12020), and today, Mr. Speaker, I am pleased to announce that the following 12 colleagues have joined us in supporting this legislation: the gentlewoman from Illinois (Mrs. COLLINS), the gentleman from Illinois (Mr. DERWINSKI), the gentleman from Oklahoma (Mr. ENGLISH), the gentleman from Georgia (Mr. EVANS), the gentleman from New York (Mr. FISH), the gentleman from Iowa (Mr. LEACH), the gentleman from Pennsylvania (Mr. MARKS), the gentleman from New York (Mr. MITCHELL), the gentlemen from California (Messrs. RYAN and STARK), and the gentleman from New York (Mr. WALSH).

To date, the following 63 Members have cosponsored this proposal, including 20 Members of the Select Committee on Narcotics Abuse and Control:

Mr. Akaka of Hawaii.
Mr. Badham of California.
Mr. Beard of Tennessee.
Mr. Biaggi of New York.
Mr. Buchanan of Alabama.
Mr. Burke of Florida.
Mr. Carter of Kentucky.
Mr. Cederberg of Michigan.
Mrs. Collins of Illinois.
Mr. Cornwell of Indiana.
Mr. Corrada of Puerto Rico.
Mr. Coughlin of Pennsylvania.
Mr. de la Garza of Texas.
Mr. Derwinski of Illinois.
Mr. Dornan of California.
Mr. Downey of New York.
Mr. Drinan of Massachusetts.
Mr. Duncan of Tennessee.
Mr. Edwards of California.
Mr. Eilberg of Pennsylvania.
Mr. English of Oklahoma.
Mr. Ertel of Pennsylvania.
Mr. Evans of Georgia.
Mr. Fary of Illinois.
Mr. Fish of New York.
Mr. Florio of New Jersey.
Mr. Frey of Florida.
Mr. Guyer of Ohio.
Mr. Hillis of Indiana.
Mrs. Holt of Maryland.
Mr. Howard of New Jersey.
Mr. Hughes of New Jersey.
Mr. Kemp of New York.
Mr. Ketchum of California.
Mr. Krueger of Texas.
Mr. Lagomarsino of California.
Mr. Leach of Iowa.
Mr. McClory of Illinois.

Mr. Marks of Pennsylvania.
Mr. Mitchell of New York.
Mr. Mitchell of Maryland.
Mr. Murphy of Pennsylvania.
Mr. Murphy of Illinois.
Mr. Neal of North Carolina.
Mr. Ottinger of New York.
Mr. Patten of New Jersey.
Mr. Pickle of Texas.
Mr. Railsback of Illinois.
Mr. Rangel of New York.
Mr. Rodino of New Jersey.
Mr. Roe of New Jersey.
Mr. Roncalio of Wyoming.
Mr. Ryan of California.
Mr. Simon of Illinois.
Mr. Skubitz of Kansas.
Mr. Stark of California.
Mr. Treen of Louisiana.
Mr. Vento of Minnesota.
Mr. Walgren of Pennsylvania.
Mr. Walsh of New York.
Mr. Whitehurst of Virginia.
Mr. Wolff of New York.
Mr. Zeferetti of New York.

A complete text of this measure, along with my remarks, can be found in the CONGRESSIONAL RECORD of March 22, 1978, on pages 8160–8162. I wholeheartedly welcome the support of all my colleagues on this legislation that would impose mandatory prison sentences for the illicit manufacturer or sale of PCP, to date the most pernicious hallucinatory drug on the market that is being consumed by an estimated 7 million of this Nation's youth.

Mr. Speaker, under the leadership of the distinguished Senator from Maine, Senator HATHAWAY, and the distinguished Senator from Iowa, Senator CULVER, respectively the chairmen of the Senate Subcommittee on Alcoholism and Drug Abuse and the Senate Subcommittee on Juvenile Delinquency, these two subcommittees held joint hearings last month on PCP. Although pressing legislative matters in our Chamber prevented me from testifying before the joint hearing, I did, however, submit to that distinguished panel a statement regarding PCP intoxification, together with my legislative proposal (H.R. 11727) as to how I believe this Nation should attack that psychoses-schizophrenia inducing drug.

Mr. Speaker, in an effort to share these views with my colleagues, I am today inserting at this point in the RECORD the complete text of my statement and I welcome the thoughts and comments of my colleagues on my legislative proposal to combat PCP abuse and its unlawful manufacturing or sale.

STATEMENT BY REPRESENTATIVE BENJAMIN A. GILMAN (BEFORE THE SENATE SUBCOMMITTEE ON ALCOHOLISM AND DRUG ABUSE AND THE SENATE SUBCOMMITTEE ON JUVENILE DELINQUENCY ON PHENCYCLIDINE (PCP) JULY 14, 1978)

Mr. Chairman, I commend you and the distinguished members of the Senate Subcommittee on Alcoholism and Drug Abuse and the Senate Subcommittee on Juvenile Delinquency for holding these joint hearings on Phencyclidine (PCP), to date the most dangerous hallucinatory drug on the market and one that has supplanted the mind-crippling LSD that was so popular among our teenagers during the mid-1960s and early 1970s.

The devasting and debilitating effects produced by PCP intoxification—delusions of grandeur and persecution, superhuman strength, irrational, violent and unpredictable psychotic behavior capable of masking symtoms of schizophrenia—are well documented; the extensive usage of this horror drug by an estimated 7 million individuals, mostly between ages 12 and 25, are well-known; and the ease by which this drug and its more than 30 derivatives can be manufactured by anyone with an elementary knowledge of chemistry from readily available, inexpensive, over-the-counter chemicals is well-established. Law enforcement authorities have attributed hundreds of murders, suicides, accidential deaths and bizzare self-inflicted injuries to PCP intoxification. Profits from the sale of this pernicious drug are enormous. An investment of $100 can produce PCP worth a street value of about $100,000.

The salient question is: what are we as legislators going to do to try to stem this drug crisis that has reached epidemic proportions among teenagers who are the primary users of PCP?

As a member of the House Select Committee on Narcotics Abuse and Control, I have given considerable thought about how to attack the PCP problem. I do not claim, that my proposal is a panacea that will dry up the demand for this hallucinatory drug, but I do believe that it is a starting point. . . a step in the right direction, which I would like to share with this distinguished panel and hope that you would favorably consider this proposal when you consider S. 2778, the PCP Criminal Laws and Procedures Act of 1978, a measure that I would support.

On March 22nd, 1978, I introduced H.R. 11727, which, to date, has been cosponsored by 5" of my colleagues. My proposal is two-fold: it (1) would place Phencyclidine into Schedule I of the Controlled Substances Act and (2) would establish within section 401 (b) (1) (B) of that Act, which governs penalties for nonnarcotic Schedule I and Schedule II drugs, certain mandatory minimum prison sentences for those who unlawfully manufacture, despense or distribute PCP or any of its analogues, derivatives or variants.

As you know, Mr. Chairman, PCP is a nonnarcotic. synthetic drug. The criteria for placing a drug into Schedule I of the Controlled Substances Act are threefold: first, the drug must have "a high potential for abuse"; second, the drug must not have "a currently accepted medical use in treatment in the United States"; and third, "there is a lack of accepted safety for use of the drug or other substance under medical supervision."

PCP meets all three criteria for being classified as a Schedule I drug. The record is clear with regard to the abuse and danger that this hallucinatory, psychoses-schizophrenia inducing drug presents to the user and to those around him, and because of these dangers, PCP has not been medically approved for treatment in humans with assurances that the patient, under medical supervision, would be safe from the post-operative effects of this dangerous drug. The drug continues to be medically approved only for veterinarian use as an animal tranquilizer.

Unlike heroin, a narcotic, addictive-causing pain killer, some thought has been given as to whether this drug should be used for terminally inoperative cancer patients, thereby minimizing pain and suffering for these patients. But PCP does not possess this redeeming quality. It is a dreadful drug and accordingly, should receive the most stringent warning and control available under the Controlled Substances Act.

Under the leadership of the distinguished Senator from Illinois (Senator PERCY), the Senate unanimously adopted his amendment to place PCP as a Schedule I drug in S. 1437, the Federal Criminal Code, which passed the Senate on January 30, 1978, and to increase the criminal penalties for trafficking and manufacturing this pernicious drug. Rather than increase discretionary criminal penalties for manufacturing and trafficking of PCP, my preference is to provide stiff mandatory prison sentences for manufacturing and trafficking of this drug, thereby minimizing certain aspects of judicial sentencing discretion to require, upon conviction of violating my proposal, a specified mandatory prison sentence.

With regard to the second aspect of my measure—the unlawful manufacture, distribution or dispensing of PCP—anyone convicted of violating this proposed legislation would be subject to a mandatory minimum sentence of three years in prison with no parole eligibility. A convicted felon, regardless of whether the first conviction was drug-related, who subsequently is convicted of violating this measure, as a two-time offender, would be subject to a mandatory minimum sentence of not less than seven years in prison with parole eligibility after serving a prison sentence of five years.

With regard to an individual who unlawfully distributes or dispenses PCP or any of its derivatives to a person under 21 years of age, the convicted violator would be subject to a mandatory minimum sentence of eight years in prison with no eligibility for parole. An individual convicted of a felony, regardless of whether the prior conviction is drug-related, would be subject, as a two-time offender, to an imprisonment of not less than 11 years with parole eligibility after serving a prison sentence of nine years.

Any sentence imposed under my proposal would not be suspended and probation would not be granted. A sentence of imprisonment and a term of parole ineligibility imposed on the convicted violator would run consecutively to any other sentence imposed on the individual.

A court of competent jurisdiction would, however, have discretion and flexibility to reduce the term of parole ineligibility or imprisonment, to provide a term of imprisonment with no parole ineligibility, to place the violator on probation, or to suspend the sentence if the court found that (1) the individual's mental capacity was significantly impaired, (2) the individual was under unusual duress, (3) the individual was an accomplice whose participation in the prohibited offense was relatively minor, or (4) if the court found that after the arrest, the individual supplied law enforcement officials with information useful in the apprehension of anyone who violated this proposed measure.

Mr. Chairman, transferring PCP from Schedule II, where it is currently located, to Schedule I without providing stiff, mandatory minimum prison sentences for its unlawful manufacture or distribution would amount to cosmetic legislation, since the penalty for violating section 401(b)(1)(B) of the Controlled Substances Act includes, among other penalties, a sentence of not more than five years in prison, which, in my view, is not sufficiently stringent, considering the devastating mind-crippling effects that PCP can cause to its user. Commenting on the relatively lenient Federal and State penalties for the unlawful manufacture and distribution of PCP and several Maryland proposals to increase its penalties, The Washington Post in an editorial entitled, "PCP: Infernal 'Angel Dust'" (Feb. 27, 1978) stated:

"We suspect that as the terrifying effects of PCP become better known, more states will want to consider the thinking behind the Maryland proposals: That is, that given the ease with which PCP can be illegally produced and the profits that can be realized from its sale, it's important now to up the stakes for those who are either now in or considering this illegal line of work."

Mr. Chairman, PCP is a deadly drug. It is an hallucenogenic king cobra. Considering the inherent dangers associated with this

substance, it puzzles me why so many of our teenagers escape into this pernicious drug. In my view, one way to attack the PCP problem would be to provide maximum warnings to the public regarding the dangers of PCP intoxication and to provide stiff, mandatory prison sentences to those who manufacture or traffic in this substance.

Although a companion bill to H.R. 11727 has not been introduced in the Senate, I would welcome the thoughts and support of the members of the distinguished Senate Subcommittees on Alcoholism and Drug Abuse and on Juvenile Delinquency. It is not too late to introduce in this session of the Congress a Senate version of H.R. 11727 or to amend a germane Senate legislative proposal that would include provisions of H.R. 11727.

Again, Mr. Chairman, I commend you and your colleagues for holding these joint hearings on this vitally important subject and I thank you for affording me this opportunity to present my views to this distinguished panel.●

SIGMUND STROCHLITZ REMEMBERS

HON. CHRISTOPHER J. DODD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. DODD. Mr. Speaker, on June 25, a Nazi march was scheduled to occur in Skokie, Ill., a town that is home to 7,000 survivors of Nazi concentration camps. Along with several other Congressmen, I organized a counterprotest to be held at the time of the Nazi demonstration. An editorial that appeared in the June 20 issue of the New London Day expressed an opinion that I should "stay home" and not add fuel to the fire.

The Nazi rally was, fortunately, never staged in Skokie, and the congressional demonstration was never held as a result. Men with swastika armbands never had the chance to walk the streets in a town where those who lived through the Nazi death camps would be forced to relive a nightmare. However, the intent of the Nazi march is a fact that cannot be ignored and cannot be forgotten.

The laws of our country guarantee first amendment rights to the Nazis, but not to the exclusion of the protests of those who remember the blind indifference that caused the extermination of 10 million Jews and gentiles. Sigmund Strochlitz is one man who cannot forget.

In response to the New London Day editorial, Mr. Strochlitz, a survivor of Auchwitz, wrote a letter that appeared in the July 1 edition of the paper. In that letter, he called attention to the need for protest instead of silence, involvement instead of ignorance, and an attention to past history that all too often repeats itself.

I would like to share with my colleagues the insights and eloquence of this man who has survived an evil that few of us can comprehend. Mr. Strochlitz has a great deal to say to us all:

IN THE AFTERMATH OF SKOKIE

The Nazis, after all, did not march in Skokie and the four thousand survivors of German Concentration Camps did not have to suffer the sight of swastikas on their streets or be forced to revive painful buried memories of their past.

The people in Skokie that I spoke to, even though still apprehensive, are relieved and so are probably all those well-meaning supporters and members of the American Civil Liberties Union, an organization established to uphold our right to free speech and assembly.

The sigh of relief, however, is only temporary. Nothing really has changed. The confrontation has only been postponed and the issues that have been raised in spite of Skokie have not been resolved and still defy clear cut answers.

Issues that first and foremost are dealing with fundamental principles on which our society has been built: the right of the individual and the role of the authorities. And what is even more important, how every one of us should react faced with matters of conscience in an age when most of us prefer to be just onlookers.

How these controversies will be resolved will determine not only if we can survive as free men just obeying the law of the land but also if our life will be meaningful by nurturing feelings of compassion and the willingness to take risks to defend our beliefs.

The American Civil Liberties Union, in what must have been an agonizing decision, elected to defend the rights of the Nazis to assembly and free speech. I was not surprised that many were outraged by that decision, arguing that you don't defend the rights of those who would deny those same rights to others after achieving power and further claiming that the First Amendment does not grant the right to everyone to say whatever he pleases, whenever he pleases, wherever he pleases.

But I would like to draw your attention to an interesting conversation that is taking place between Mr. More and Mr. Roper in "A Man for All Seasons":

More: What would you do? Cut a great road through the law to get after the devil?

Roper: I would cut down every law in England to do that.

More: Oh? And when the last law was down and the devil turned round you, where would you hide, Roper, the laws all being flat? Do you really think you could stand upright in the winds that would blow then? Yes, I would give the devil the benefit of law, for my own safety's sake.

Past History bears witness that More's arguments are more valid. And, even though I despise the Nazis and everything they stand for, the decision to defend them was probably right. There was no other choice. To argue differently is to weaken the restraint imposed on the majority by the First Amendment which is contrary to the interest of all those that value the benefits of living in a free society as a minority.

And yet, having said all that, I am personally baffled by the decision of the American Civil Liberties Union to assign Jewish lawyers to defend an organization whose proclaimed aim is to murder Jewish people. But what is to me even more disturbing and perhaps borders on lack of self respect is why those Jewish lawyers accepted the decision to defend the murderers of their people. Weren't they ashamed and overwhelmed by a feeling of betrayal—a betrayal of the victims—and didn't it occur to them that they are completing the killers' work?

Our faith proclaims, "Love your neighbor as yourself," but does not instruct to defend your enemy. Lawyers representing different faiths could have been chosen to defend the Nazis. For them the First Amendment would have been the main issue and not past history of their people, their right to life not being denied by the Nazis.

I have been told that the Nazis Party in the States is not a large one and I would like to believe it but the fact that thirty-two years after the Holocaust there are people that are proud to be called Nazis is by itself frightening. The fact that there is a Nazi propaganda movement that publishes hundreds of brochures with the most vicious lies, with the most vicious distortions of our past, should reawaken people of good will and prompt them to react. Books claiming that the Holocaust was a hoax are being sold and what hurts is that there is no outcry. Why are professors of History all over America not speaking out in one voice of outrage? And what about the American soldiers who liberated the camps? I saw them, their faces hardened by the horrors of war but unable to hold back their emotions. I remember them reassuring us, "It is all over," but we on the other hand unable to comprehend and believe that it is all over. Isn't it time for them to speak up? Nothing is more offensive than when the victim is being deprived of his memory. Nothing is more indecent than the attempt to kill the victim again. I find this all disgusting and ugly.

Dismissing the Nazis as a relatively small band of fanatics that should be ignored will not solve the problem. Asking our representative to stay home because the Nazi rally in Skokie will draw the politically bewildered and psychotics and that a confrontation could end up in violence is not paying attention to past history. Evil can only prevail if people of good will remain indifferent and are unwilling to stand up for what they believe in. All those that prefer silence and are unwilling to be involved, in the final analysis, consent.●

ELECTRONIC SURVEILLANCE

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. MAZZOLI. Mr. Speaker, in the next 2 to 3 weeks the House will be debating H.R. 7308, the Foreign Intelligence Surveillance Act of 1978.

The bill, with two narrowly defined exceptions that do not involve the communications of Americans, requires a judicial warrant for all electronic surveillance conducted in the United States for foreign intelligence purposes.

This complex and much-needed piece of legislation was reported by the House Permanent Select Committee on Intelligence on June 8, 1978, after 7 months of detailed study of the important issues involved.

During its own deliberations on the bill, the Intelligence Committee was able to benefit from the equally detailed studies into foreign intelligence electronic surveillance conducted over the past few years by the House Judiciary Committee and the Senate Judiciary and Intelligence Committees.

The result is a bill carefully and deliberately crafted to protect both civil liberties and national security.

Since it is so carefully crafted, it has drawn the support of both the intelligence community and groups such as the

ACLU. Of course, any piece of legislation that can command such support must of necessity be a product of a spirit of compromise. Thus, there are some provisions of H.R. 7308 that are not supported by all of its proponents.

As I noted in my supplemental views to the committee report, I would have preferred an across-the-board warrant requirement with no exceptions. But as I also stated in the committee report, I believe H.R. 7308 is a good bill, worthy of the support of my colleagues.

Its passage will assure the American people, for the first time, that their Government cannot intrude by electronic means into their personal conversations and activities unless a neutral and detached magistrate has first determined that there is just cause to do so.

Mr. Speaker, at this time I ask unanimous consent to insert in the RECORD an outline of H.R. 7308 that has been prepared by the staff of the House Permanent Select Committee on Intelligence.

FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978—H.R. 7308.

(As Reported by the House Permanent Select Committee on Intelligence)

I.—WHAT ACTIVITIES ARE COVERED

Generally, all domestic electronic surveillance for foreign intelligence purposes, where warrant would be required for law enforcement purposes, plus NSA "watchlist" activity.

(1) Intentional targeting by any means of electronic surveillance of international communications of U.S. persons in the U.S.

(2) All wiretapping conducted within the U.S.

(3) Intentional acquisition of wholly domestic radio communications where a warrant would be required for law enforcement purposes.

(4) Installation or use of a monitoring device in the U.S. to acquire information not transmitted by wire of radio, where warrant would be required for law enforcement purposes (beepers, transponders, pen registers, T.V. surveillance).

II.—WHO MAY BE SURVEILLED

"Foreign Powers"

(1) Foreign government.

(2) Faction of a foreign government not substantially composed of U.S. persons.

(3) Entity openly acknowledged to be controlled by a foreign government.

(4) Group engaged in international terrorism.

(5) Foreign-based political organization not substantially composed of U.S. persons.

(6) Entity directed and controlled by a foreign government.

"Agents of Foreign Powers"

(1) Non-U.S. person standard.

A. Acts in the U.S. as an officer, member, or employee of a foreign power.

B. Acts for a country that engages in clandestine intelligence activities in the U.S. contrary to the interest of the U.S.

(2) U.S. person criminal standard.

A. Clandestine intelligence gathering activities which *may* violate law.

B. Other clandestine intelligence activities which do violate law.

C. Sabotage or terrorism.

D. Aiding, abetting, conspiracy.

A "U.S. person" is:

(1) A U.S. citizen or permanent resident alien.

(2) An unincorporated association composed substantially of U.S. citizens or PRAs unless it is a foreign power under (1), (2), or (3) above.

(3) A corporation incorporated in the U.S., unless it is a foreign power under (1), (2), or (3) above.

III.—FOR WHAT PURPOSE

Only to acquire *foreign intelligence information*, which is:

(A) Information *necessary* to certain defined security or foreign policy needs if information concerns U.S. persons;

(B) Information *relating* to such needs where the information concerns anyone else.

IV.—SURVEILLANCE AUTHORIZATION

(a) President, through Attorney General, approves surveillance, where Attorney General certifies surveillance is solely directed at:

(1) communications between or among (1), (2), or (3) foreign powers; or

(2) technical intelligence from property under control of (1), (2), or (3) foreign powers; and Attorney General approves and reports minimization procedures to Senate and House Intelligence Committees.

No U.S. person communications may be retained, used, or disseminated, if acquired under this approval mechanism.

(b) All other cases: approval by court order. Application to Special Court with appeal to Special Court of Appeals if application denied.

Special court

Sits continually in Washington, D.C.

At least one federal judge from each circuit.

Nominated by Chief Judges and designated by the Chief Justice.

Six-year terms (maximum of 2 full terms.)

Chief Judge of Special Court consults with the AG and the DCI on security procedures.

Special Court of Appeals

Six federal judges from the Washington, D.C., area.

Three of whom would constitute panel.

Nominated by Chief Judges and designated by the Chief Justice.

V.—CONTENTS OF APPLICATION

A. In all cases:

(1) Identity of Applicant, copy of Presidential authorization, and AG approval of application;

(2) Identity of target, basis for belief that it is a foreign power or agent of foreign power, and basis for belief that facilities targeted are used by foreign power or agent of a foreign power;

(3) Proposed minimization procedures;

(4) Proposed period of time for surveillance;

(5) Information concerning previous applications involving same persons, facilities or places;

(6) Executive certification that purpose of surveillance is to obtain "foreign intelligence information" and such information cannot reasonably be obtained by normal investigative techniques, with designation by the defined types of foreign intelligence sought.

B. Where (1), (2), or (3) foreign powers are the target:

(1) Such information about the surveillance techniques and communications of U.S. persons likely to be obtained as may be necessary to assess the minimization procedures.

C. Where individuals or (4), (5), or (6) foreign powers are the target:

(1) A detailed description of the information sought and the communications or activities subjected to the surveillance;

(2) The means by which the surveillance will be effected;

(3) Where more than one device is involved, their coverage and which minimization procedures apply to which device;

(4) A statement of the basis for the Executive certification in (A)(6) above.

VI.—WHAT FINDINGS MAY THE JUDGE MAKE

(A) Probable cause that:

(1) Target is a foreign power or agent of a foreign power.

(2) Facilities targeted are used by foreign power or agent of a foreign power.

(B) Proposed minimization procedures meet statutory definition.

(c) If target is a U.S. person, executive certification that information sought is "foreign intelligence information" and could not reasonably be acquired by normal investigative procedures is not clearly erroneous.

(D) If target is not (1), (2), or (3) foreign power, the period of time necessary to effectuate the surveillance, not to exceed 90 days.*

VII.—CONTENTS OF JUDGE'S ORDER

A. In all cases

Specifies:

(1) Identity of target and nature and location of facilities; and

(2) Period of time for surveillance (one year for (1), (2), or (3) foreign powers).

Directs:

(1) That minimization procedures be followed; and

(2) That common carriers or others provide assistance.

B. Where target is (1), (2), or (3) foreign power:

Generally describes the information sought, the communications subject to the surveillance, the type of surveillance involved, and whether physical entry is required.

C. Where target is individual or (4), (5), or (6) foreign power:

Specifies type of information sought and type of communications subject to surveillance, the means by which the surveillance will be effected, and when more than one device is used, their authorized coverage and what minimization procedures apply to which.

VIII.—MINIMIZATION PROCEDURES

Procedures particularized for each type of surveillance designed to minimize the acquisition, retention and dissemination of information concerning U.S. persons, consistent with the need of the U.S. to obtain, produce and disseminate foreign intelligence information.

Must be submitted with application.

Judge must approve, unless surveillance is type not requiring a court order.

Must be included in judge's order.

Only where judge approves surveillance, judge may assess compliance with them by reviewing circumstances under which information concerning U.S. persons was acquired, retained, or disseminated.

IX.—PROCEDURES FOR AGGRIEVED PERSON TO CHALLENGE LEGALITY OF SURVEILLANCE OR OBTAIN DISCOVERY

Upon government request all such actions will be removed from regular trial court to one of the Special Courts.

(1) Special Court of Appeals (3 judge panel) will decide matter if government states that it does *not* intend to use information obtained or derived from electronic surveillance.

In camera.

Ex parte.

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* Where the target is a (4), (5), or (6) foreign power, if the Judge finds probable cause that no individual U.S. person's communication will be acquired, extensions of an order may be for as long as one year.

Disclosure to defendant only where due process so requires.

(2) Special Court (one judge) will decide matter if government concedes that it *does* intend to use such information.

In camera.

Disclosure to the defendant only where there is a reasonable question as to the legality of the surveillance and disclosure would likely promote a more accurate determination of such legality, or where such disclosure would not harm the national security.

If surveillance determined to be unlawful, judge must suppress evidence or otherwise grant motion in accordance with existing law.

If surveillance determined to be lawful, judge must deny all motions.

X.—MISCELLANEOUS PROVISIONS

(a) Common carriers:

Must provide assistance if furnished with copy of warrant or attorney general certification that no warrant is required.

Cannot disclose existence of surveillance.

Relieved from civil liability for all actions in conformity with warrant or certification.

(b) Emergency surveillance:

24 hours without warrant.

Warrant must be sought as soon as possible even if surveillance is terminated before end of 24 hour period.

If warrant denied, no information derived from surveillance can be used or disclosed unless it indicates a threat of death or serious bodily harm.

(c) Civil and Criminal Liability for violations of bill or order issued under it.

(d) Authorizes testing, training, and countermeasures without a warrant.

(e) Congressional oversight:

Semiannual report to intelligence committees by AG.

Fully informing them of all electronic surveillance under the bill.●

AIRBUS AND THE AMERICAN AEROSPACE INDUSTRY, PART 3

HON. MARK W. HANNAFORD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. HANNAFORD. Mr. Speaker, the competition in the world aircraft marketplace is not restricted to the airframe manufacturers. It also includes the jet engine manufacturers. The sale of Lockheed Tristars to Pan American Airlines exemplifies this issue, because it was the engine manufacturer, Rolls Royce, that obtained British Government financing sufficient to sew up this sale.

Mr. Speaker, today I insert the last of three articles on this important issue from the July 2 edition of the Los Angeles Times. It illustrates the wide spectrum of industry that is affected by this foreign competition and how this competition is not technological, but financial, in character.

AIRLINES' CHOICE: DEALS, NOT DESIGNS, WIN ENGINE BATTLES

While the aviation world is captivated by the struggle to bring forth a new generation of jetliners, there's an equally fascinating sideshow going on: The Great Engine Battle.

For decades aircraft makers offered new planes with only one choice of engine, and for decades that engine was manufactured by Pratt & Whitney, a division of Hartford-based United Technologies. Pratt's total dominance of the industry—it claimed 90% of the market by the late 1960s—bestowed a great calm on the business.

But that calm was shattered in the late 1960s when two innovative and capable competitors—General Electric of Fairfield, Conn., and Rolls-Royce of Great Britain—captured substantial orders on new commercial-airplane programs. GE's CF-6 engine was selected by McDonnell Douglas to kick off the DC-10 program. And Rolls' RB 211 engine was chosen by Lockheed to launch the L-1011. To date GE has captured 43 percent of the market for widebody engines and Rolls 22 percent. The result: competition for engine sales now is just as heated as the competition for airframes.

For engine manufacturers stakes in the upcoming airline reequipment cycle are gigantic about $16 billion of the $75 billion estimated to be spent on new aircraft in the next decade will flow to engine manufacturers. That amount will more than double when replacement engines and spare parts are thrown in.

The airlines are looking to more fuel-efficient engines for much of the saving they hope new-generation planes will bring. Since 1973 the price of fuel has tripled; today it is second only to labor in airline costs. In addition, carriers need quieter engines that will meet new federal noise regulations that take effect in 1981.

With these specifications in mind the airlines, just as they have been sending airframe manufacturers back to their drawing boards have repeatedly sent engine manufacturers back to theirs.

For example, Pratt & Whitney has been involved in protracted and painful negotiations with American Airlines. Pratt is developing a new family of engines called the JT10D, at a cost of $500 million. It originally designed the engines to fit two of Boeing's proposed new planes, the 757 and 777. But American now is insisting that these engines also fit a third Boeing entry, the 767.

To meet American's demand, Pratt would have to increase the engine's thrust. That, however, would bring it perilously close to the size of other Pratt engines. For a manufacturer to recoup the big investment of developing a new engine generally requires that the engine be significantly different from those the company already has on the market. Thus, the parties have been unable to freeze a design for the JT10D.

Curiously, technology is a relatively small factor in winning a big order, because all three engine makers offer reliable power plants. As a General Electric executive says, "You reach parity or die. A technological breakthrough can only last about one year before the others catch up."

Among people who run airlines, Pratt engines are regarded as tough and rugged, G.E.'s machines are admired for their modular design that allows for easy maintenance, and Rolls are noted for incorporating new materials quickly. But aside from that, there is relatively little to distinguish any one engine from its competition.

Moreover, there is little prospect of a major technological advance in engine design, such as occurred with the engines developed for the wide-bodied jets.

GE and Rolls Royce are using essentially the same engine core as they employ in existing engines, but are reducing the size of the fan to produce the intermediate-sized power plant desired for the new jetliners. Pratt & Whitney is going the more expensive route of developing a new engine core. Its engineers expect it to yield as much as a 10% gain in fuel economy over existing engines, but airline officials so far are skeptical that this can be achieved.

So the battle has shifted to the marketing field, where engine makers are sparring to see who can offer the best performance guarantees and financing terms.

The intensity of that struggle was dramatically highlighted last April when a major escalation in the engine battle took place.

Pan American set off the fireworks when it acquired 12 Lockheed L-1011s with Rolls engines. To insure the deal, Rolls won guarantees from the United Kingdom covering the financing of not just the engine sale, but the entire $500 million transaction. Rolls offered terms so generous (no down payment, 15-year loans) that they violated an international gentlemen's agreement among Western nations and set off alarms from California to Washington.

Fallout from the deal was clear. First, Rolls, if it offers such enticing terms to other airlines, could share a substantial portion of the new engine business in the 1980s.

"It showed the lengths Rolls was willing to go to in order to break back into this market," says an airline vice president. Warned another executive, "Rolls is the most aggressive engine maker now. Do not count out the possibility of a Boeing family offered with Rolls engines, with guarantees part of the package."

Second, while that scenario may not seem entirely plausible—after all, even the British treasury may be hard pressed to deliver tens of billions' of dollars worth of guarantees—all three manufacturers now may be forced to cough up fancy financing packages.

The outcome of all this skirmishing is far from clear. But one thing seems certain: there will be no return to the relatively tranquil days of a decade ago.●

PROPERTY TAX REFORM

HON. BILL ARCHER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. ARCHER. Mr. Speaker, I have received the attached article written by a constituent in Houston and I believe my colleagues will gain further insight into the so-called Taxpayer's Revolt by taking the time to read Mr. Ratliff's article.

PROPERTY TAX REFORM, AN IDEA WHOSE TIME HAS COME

An accurate description of the property tax or ad valorum property tax would be the "selective property tax." In many taxing jurisdictions, the net results of its application is that much property is not taxed at all.

Historically, the property tax is one of the oldest levies currently used by modern governments. As various governments have come to rely on this tax as a source of revenue, a system developed in which inequities arose in the administration of equal and uniform assessments of the tax. It is these inequities that have continually perplexed both students and scholars of the property tax system, giving birth to strong arguments for abolishing the property tax system.

In 1968 the taxpayers of the State of Texas passed a constitutional amendment for the gradual fading out of the property tax as a source of revenue for the state government. However, the property tax was never an important source of revenue for the state gov-

ernment. For example, ad valorum taxes in 1968 contributed only about 2.55 percent to the total revenue sources for the state government, compared to a 5.5 percent revenue source from the sale of automobile licenses and a 5.8 percent revenue source from the cigarette and tobacco limited sales tax.

However, on a local level, the property tax contributes a significant portion to both cities and school districts. It is the problem of financing for state public school systems that has given the major impetus to the more recent reform in the property tax system.

The United States Supreme Court decision of March 21, 1973, on the case of *Rodriguez* v. *San Antonio Independent School District* surprised many but seemed to continue a philosophy stated when the California Supreme Court ruled that California's school finance system was unconstitutional if the quality of a child's education depends on the wealth of the parents and neighbors.

But this decision did not come out of a void. In 1969 an Illinois Federal Court rejected an appeal for statewide apportionment of school funds based on "educational needs." This decision was upheld by a summary ruling in the U.S. Supreme Court in 1970.

Subsequent lawsuits carefully avoided the educational need test but dealt specifically with discrimination on the basis of wealth.

Various studies by governmental agencies and professional educators have failed to establish any connection between provisions for school facilities and quality of education and that a child's family background and pre-school environment have a far greater effect on his educational achievements than other factors. That is, such variation in school expenditures whether for teachers, teacher training, books, etc. have such slight educational significance. They are not a measure of success of an educational system. It is felt by many that this ignoring of the obvious is the result of the deteriorating educational achievements of students through not only the state, but the nation. For this reason, any method of raising revenue to replace the public school financing responsibility of the property tax revenues must be done with care.

The property tax by nature is a local tax. The citizen taxpayer is in a position to see and know of abuses of the taxing system and the use of funds and to induce local officials to change.

If the schools and municipalities turn to the federal government and ask them to supply these revenues, we will succeed in surrendering whatever local control we have over our existence. Already the threat of withdrawing certain federal aids to public education unless the schools comply with federal guidelines is being made. Caution must be exercised also so as not to surrender local control to a state bureaucracy which could become equally insensitive.

In the Rodriguez decision, the Court held that while Texas school finance laws fostered serious inequities in educational opportunities made available to public school students, they did not violate provisions of the Constitution. While not requiring immediate changes in the Texas law, the Court stressed the responsibility of the Texas Legislature to address existing flaws. Since Texas public school finance relies heavily on property taxes as a revenue source, the Texas Legislature in turn took this as a mandate to revise the property tax laws.

In the 64th Legislature, five comprehensive school finance bills were introduced. Section 10 of H.B. 1126 authorized a more thorough review of the methods used to determine value of taxable property in each of the state's school districts.

Following the 64th Legislature, the Governor's Office of Educational Research and Planning (GOER) which had been created to conduct a comprehensive study of school finances and develop legislative proposals, found that the method of property taxation called for and limited by the State Constitution ignored some of the realities that tax assessors-collectors face. Under the Constitution, taxable property includes household goods and intangibles. But the tax assessor includes household goods and intangibles. But the tax assessor lacks legal authority and/or practical ability to locate and assess such properties. So they are generally omitted from the property tax rolls, except when a taxpayer makes a voluntary rendition.

GOER's attempt to codify Texas property tax laws led to political infighting, and the Lt. Governor set up a special committee to deal with the codification issue.

In the minds of some state officials was what action or supervision the Federal government may undertake in the revision of property tax laws. Federal law provides that the U.S. District Court shall not enjoin, suspend, or restrain the assessment, levy, or collection of any tax under state law where a plain, speedy, and efficient remedy may be had in the courts of the state.

The purpose of the property tax, like all taxes, is to raise revenues for the operation of the government body. In a municipality, school district, or other taxing jurisdiction, the chief executive officer, usually the mayor, or superintendent, prepares a budget listing the required financing expenditures and revenues for the next year. The assessor presents the list of properties and present market value of such properties to the chief executive officer and notes which are exempt. Simple arithmetic involving the total tax rolls, the budget requirements, the assessment ratio, and the tax rate are then set to provide the needed revenues.

The assessment ratio, although recognized by the courts as legal when the same ratio is applied to all property in a taxing authority, has no basis for existence under the State Constitution. The only consistent admitted reason for its existence is to hoodwink the taxpayer. A taxpayer, protesting a tax he thinks is too high, is frequently mollified to find that the tax is based on some value that is less than the existing market price.

The popularity of the use of the assessment ratio among politicians only indicates the success that this simple device has achieved. Such a departure from true assessment level means that the taxpayer can only guess if he is being treated equally and uniformly under the taxing laws.

On the assessment of any property, there are three items that must be considered; the tax rate, or dollars per $100 rate; the assessment ratio, a percentage figure equal to or less than true market value; and the date of the assessment. Date is the most abused of the three items.

Section VIII of the Texas Constitution says that taxation shall be equal and uniform. The courts have held that to be equal and uniform, the valuation for the property in a taxing jurisdiction must be done on the same day. Usually this day is January 1 but can and may vary.

In many taxing jurisdictions, the tax assessor-collector lacks sufficient staff to do the job properly. The procedure is to revalue properties that he knows have increased the most in value to generate the most tax revenues. Or he revalues those properties which are easiest to find such as real estate. Informed taxpayers have protested in the courts which led to a scheme where only a portion of the taxing district would be revalued every year. Under this cycle plan all properties would be revalued, and placed on the tax rolls in the year they were revalued.

This plan has inherent abuses. In exchange for political favors or bribery, properties have been left off the revaluation schedule. When confronted with this evidence, the tax assessor can point out that this was not the year to revalue that piece of property. This results in a great savings to the property owner when the property is on the tax rolls for years at the lesser value.

Lack of funds to hire the necessary manpower for annual reassessments, rather than political chicanery forced Corpus Christi to adopt a four-year cycle plan. In 1975 a taxpayer filed and won a lawsuit which forced the city to revalue the city within 120 days of a tax year. The city did the revaluation rather than appeal the lawsuit.

During the next year, Corpus Christi gained about $1,080,000 net, more than projected because of the annual revaluation process. In the second year of annual revaluation, about 85 percent of the taxpayers had their taxes lowered.

By applying the equal and uniform concept of the State Constitution, in a year of inflation and soaring property values these taxpayers paid lower taxes than during the previous year.

The main argument against annual revaluation is that the taxing jurisdiction is too large to be physically possible.

Of the several tax reform bills considered by the 66th Legislature, the Peveto Bill (H.B. 846) is the best known perhaps because its authors held hearings in various cities to gather input for their plan. At every location of the hearings, Realtors and others involved in real estate appeared to testify against inequities of this bill. The Austin politicians have credited Realtor opposition to this bill as the reason for its defeat.

ALPHA CHI PI OMEGA TO HOLD STATE CONVENTION

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. ANDERSON of California. Mr. Speaker, from July 29 through August 1, 1978, the Alpha Chi Pi Omega Sorority and Fraternity will hold its annual California State convention at the Queensway Hilton Hotel in Long Beach, Calif. It is indeed an honor to host the members of this outstanding organization in our district, for it not only has a long and distinguished background, but has become a major source of community leadership in the 44 States with active chapters.

Organized on October 27, 1945, in Washington, D.C., the organization was founded by Dr. Mary Mcleod Bethune—founder and then president of Bethune

Cookman College of Daytona Beach, Fla.—the late Representative William L. Dawson (D-Ill.), and Dr. Marjorie Stewart Joyner. The Alpha Chi Pi Omega Sorority and Fraternity was the first national black Greek letter organization of its kind in the United States.

The original purpose of the founders of the society was to raise the educational and cultural standards of the men and women in the beauty culture professions. At the time, cosmeticians and beauticians were not considered professional people, and many States did not require licenses for those trades. Through membership in Alpha Chi Pi Omega, men and women in these professions have been encouraged not only to develop and improve their professional skills, but also to continue their educations. In addition, travel has been an important tool for improvement, with members traveling throughout the world, meeting with world leaders and broadening their own backgrounds and knowledge.

In many respects, the organization drew its inspiration from one of its cofounders, Dr. Mary Mcleod Bethune. Born a slave in North Carolina, this black woman became a pioneer in our Nation's struggle for equal opportunity for minority groups and for women. She originally founded Bethune Cookman College with a total endowment of $1.50. Today, with the grateful help of Alpha Chi Pi Omega, it is a fully accredited institution of higher learning with graduates in many important walks of life.

Alpha Chi Pi Omega has also grown tremendously since it was founded in 1945. And the impact it has had, not only on the beauty trades, but on our society as a whole, has been highly important in a number of ways.

As one of the first primarily minority associations to recognize the importance of education and the vote, it helped pave the way in our struggle for civil rights. Today, its concern for human welfare continues as the primary thrust of its activities.

In my own congressional district in southern California, the Pi Rho Sigma Chapter of Alpha Chi Pi Omega is based in San Pedro. This chapter provides an outstanding example of the community involvement in which the association takes pride.

The Pi Rho Sigma Chapter is active throughout the Los Angeles Harbor area on a number of fronts. They run the area's summer program for economically disadvantaged youth (SPEDY), which helps to provide summer employment for young people between the ages of 14 and 21. The chapter also provides the monitors for the program.

In addition, the Pi Rho Sigma Chapter sponsors a program for preteenagers on behalf of the Los Angeles City Department of Recreation and Parks, and sponsors Teen Post 916 in the harbor area. Under the Older Americans Act of 1965, this chapter runs an outreach program for senior citizens, helping them in obtaining the services available to them in the harbor community.

Mr. Speaker, the outstanding work being performed by San Pedro's Pi Rho Sigma Chapter of Alpha Chi Pi Omega is representative of the active role this organization plays in communities throughout our State. Thus, it will indeed be a pleasure to welcome the California members of this fine organization when they arrive in Long Beach for their annual State convention.●

RATIFICATION OF EQUAL RIGHTS AMENDMENT

HON. DAVID F. EMERY

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. EMERY. Mr. Speaker, yesterday the House Committee on the Judiciary considered the House Joint Resolution 638, a measure designed to extend the ratification period during which States may ratify the Equal Rights Amendment.

House Joint Resolution 638 in its original form would have doubled the original ratification period of 7 years. It was clear that such a lengthy extension would not be approved in committee. My colleague from Maine, BILL COHEN, engineered an effective compromise amendment which provided an extension until June 30, 1982. This compromise amendment was accepted by the House Judiciary Committee yesterday afternooon, and early last night House Joint Resolution 638, as amended, was favorably reported to the full House by a vote of 19 to 15.

In light of the fact that the extension issue continues to be a controversial subject and will shortly be considered by the full House, I request that BILL COHEN'S excellent statement in support of the compromise resolution be inserted in the RECORD at this point. BILL'S thoughtful and persuasive comments, in my judgment, are worthy of the attention of all Members and citizens who are committed to the important goal of realizing equal rights for all of our citizens.

The Cohen statement follows:

STATEMENT OF HON. WILLIAM S. COHEN

It is clear from the debate today that we are negotiating our way up a path that is not fully cut, and one that is only partially lighted. The lack of clarity in the law is compounded by the intensity of emotion generated by advocates and opponents of the matter before this committee.

There are essentially two questions before us—one of power, one of policy.

According to the Justice Department, Congress has the power to determine a reasonable period of time for the ratification of a constitutional amendment when initially passed by Congress, and the power to determine what is reasonable when no time limit is specified—and according to the Justice Department, it has the power to extend a time period when it is not a substantive part of the amendment itself, but in the resolving clause as is the case of the equal rights amendment.

I believe Congress has the power to extend and the critical question, the one that I and the other members of the committee have been struggling with, is the one of policy—of fairness, of equity—what is the appropriate course of action to follow taking into account the importance of the question, the viability of the debate, the contemporaneity of the issue, and whether events and circumstances have so changed that the amendment is no longer relevant to current events or to the conception that inspired its original passage?

Since this is a congressional question rather than a judicial one, I think we should place this issue in a larger time frame of our history as a Nation.

In one of Abigail Adams' letters to her husband, John, she encouraged him to modify the British laws and customs that dictated the near total subordination of a woman's status and identity to that of the man. She asked him to "remember the ladies."

Well, something happened on the way to the convention—neither Adams, nor Jefferson, nor Madison, nor Hamilton seemed to remember the ladies—they were not included in the Constitution, and women have been struggling for nearly 200 years to secure the basic rights that are guaranteed to men, ones that we accept as self-evident truths.

One of the principal arguments against the equal rights amendment and any extension is that the amendment is unnecessary—that many, if not most of the rights have been granted or are being granted by statute or judicial decision or could be achieved through an expanded interpretation of the 14th amendment. In other words, this amendment will simply clutter up the Constitution.

It is written in the Declaration of Independence that we hold these truths to be self-evident—that all men are created equal. Well, we have learned through the painful experiences of history, including a bloody Civil War, that not all men were created equal in the eyes of the law and it took the 13th and 14th amendments to clutter up the Constitution and declare that the color of one's skin was not a rational or fair determination of one's rights.

Today, we have many laws that seek to eliminate an irrational or prejudicial bias against women. There are many more that remain. I submit that the 27th amendment to the Constitution will be no more redundant for women than the 13th and 14th amendments were for ethnic or racial minorities. I maintain this is much more than a symbolic gesture, but if it were only symbolic it would be no less important. Our lives, our values, our social conscience are strongly influenced by symbols. "The flag is a bit of bunting that men have opened their veins for" because it is a symbol of those virtues and those values without which life is not worth living.

The thrust of the amendment is to allow each person to achieve the highest level of his or her potential. Nothing could be more fundamental than allowing each individual the opportunity to reach as high as his or her talent will allow.

Opportunity for achievement should not be based upon quotas or upon race or religious beliefs or upon gender—but upon merit and qualification—upon ability.

Justice Holmes once noted: "The hell of the old world's literature was when people were taxed beyond their powers; but there is a deeper abyss of intellectual asphyxia—when powers conscious of themselves are denied their chance."

This is at the heart of the matter. That not just for years, not just for generations, but for centuries, women have been regarded as being less than deserving of full and equal rights and responsibilities in our societies. That powers conscious of themselves have been denied their chance.

By sheer accident of birth, by an uncalculated fusion of chromosomes, a majority of the citizens in our society, regardless of physical ability, regardless of intellectual capacity, regardless of their potential for social contribution, are granted different rights,

enjoy greater preferences, and suffer greater prejudices.

Let me just say a word about responsibilities, for that is the corollary to rights. I not only want to remember the ladies, I want to remember the men. When I was practicing law, I handled my share of domestic cases. Nothing was more frustrating to me or struck me as being unfair than the rule that the mother was automatically entitled to an award of custody—irrespective of the facts, as to the love, the care or the devotion of the father, the closeness of his relationship to his children. He was presumed by law to be inferior in his capacity to care for his children.

That is not fair or equal treatment to the men in our society, but it is the inevitable result when we insist upon following a rule of thumb instead of a rule of reason, when we insist upon the mechanical application of rules that are rooted in the past, or sunk in the mire of prejudice.

The issue, we are told, is not the substance of the equal rights amendment, not the merits, but the process and the procedure.

I mentioned at the outset that it is my belief that Congress has the power to consider whether or not to extend the time frame of a proposed constitutional amendment, and that the critical issue is one of policy.

And so in weighing the equity of a policy that we are given the choice of pursuing or foreclosing, I believe we must consider the centuries of discriminatory policies which over the years have denied women a separate legal existence if they were married, denied their right to own or sell property, denied them the right to vote and to the present day has denied them the right to equal participation and responsibility in our society.

I conclude that in fairness, as a matter of equity, a period of extension should be granted—to allow a continuation of the debate in a rational and informed fashion.

And for these reasons I urge the adoption of the amendment.●

SCHARANSKY-GINZBURG TRIALS

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. WOLFF. Mr. Speaker, today I wish to join with my colleagues, and with the millions of people throughout the world, in expressing my outrage and deep dismay over the trial and sentencing of Anatoly Scharansky and Aleksandr Ginzburg. These tragic events unfolded while I was out of the country, in the People's Republic of China, exploring the many issues involved in normalizing relations with that country. Thus, this is my first opportunity to officially comment on the outcome of these trials.

I am deeply saddened by the brutal sentences given Scharansky and Ginzburg. On the personal, humane, level this is a calamity for Ginzburg, who, because of his ill health, is unlikely to live through the rigors of his sentence; and Scharansky is also likely to develop a serious health problem, as the Soviet prisons are known for their inhumane conditions. Soviet hard labor camps do not even meet standards established by the United Nations for the minimum amount of food necessary to survive. On the level of United States-Soviet relations, the harsh sentences are having disastrous consequences. The Soviets could have played down the trials or avoided them altogether. Relations between our nations are being strained severely.

Scharansky and Ginzburg, though charged with "espionage and anti-Soviet activities" were obviously on trial for the "crimes" of wanting to emigrate to Israel, and monitoring Soviet human rights abuses. The Soviets tried to construct a facade of legitimacy by the formality of a civil trial. The spurious nature of these trials was clearly demonstrated by the transparent evidence. The Soviets fabricated a Scharansky "connection" to the CIA, because his apartment mate, Sanya Lipavsky, was a "walkon" volunteer for the CIA for a short time. It is tragic that the CIA did not realize the intent of this ploy until it was too late, and the Soviets could use this tenuous device to implicate Scharansky.

In a hearing yesterday I asked Mrs. Scharansky whether she or her husband had any connection at all with the CIA. Even in her soft voice, her answering "nyet" was a thunderous indictment of this sham of a trial, which labelled "treasonous" Scharansky's courageous acts to stand up for the truth. What profound wells Scharansky must draw his courage from, to spend 13 years in prison and exile to defend the human rights of his countrymen and himself.

The campaign of repression against dissidents did not begin with Scharansky and Ginzburg. These trials are just part of the continuing efforts by the Soviets to wipe out all dissent in the U.S.S.R. The so-called crimes of Ginzburg and Scharansky are the same as those which Uri Orlov and Ida Nudel were convicted: of monitoring Soviet compliance with the Helsinki Accords on human rights. What kind of society is it that jails and exiles its citizens, not to mention its leading scientists, for monitoring compliance with an agreement which it signed? It is chilling to imagine trying to live in a society that does not allow any criticism whatsoever. In Western nations criticism and dissent are the lifeblood of growth and change. Disagreement and discussion are what renew and refresh nations, the process that leads to consensus and wise decisionmaking. The Soviet campaign of supression evidences an amazing lack of confidence in the ability of their political system to survive criticism. It is evident the totalitarian Soviet system cannot stand the light of day nor the sight of truth.

I endorse and applaud all efforts by the administration to secure the release of Scharansky and Ginzburg. Other strong measures must be taken as well. I support and acclaim President Carter's decision to cancel the computer sale to the Soviet news agency, Tass. This is a singularly appropriate protest. since Scharansky is a computer specialist. All other commercial transactions with the Soviet Union should be reviewed as well. In addition, it is essential that we in the West continue to speak out, continue to attempt to influence the Soviets to eliminate the repression of dissenters. Only by persisting in bringing Soviet oppression to world attention can we hope there will ever be any change.●

ANDREW YOUNG'S CONTRIBUTION TO DIPLOMACY: EMBARRASSMENT TO OUR FRIENDS, AID TO OUR ENEMIES

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. McDONALD. Mr. Speaker, last week I offered a resolution (H. Res. 1267) calling for the impeachment of Andrew Young, U.S. Ambassador to the United Nations. Although the House chose to cut off debate on whether Ambassador Young's actions have constituted impeachable offenses, a gravely mistaken decision in my opinion, the Soviet Union's propagandists have continued to feature Ambassador Young's untrue allegations to give new and spurious letigimacy to their attacks on the United States and on the brave dissidents in the U.S.S.R. who have courageously demanded their freedom.

On the evening of July 12, the publication date in Paris of Ambassador Young's remarks, Moscow TASS in English said:

"In our prisons there are hundreds, maybe even thousands of people whom I call political prisoners. I was a political prisoner ten years ago, when I was arrested on a civil rights demonstration in Atlanta, Georgia," said U.S. Permanent Representative to the United Nations Andrew Young. These words are noteworthy, since they come from a member of the Cabinet, and therefore signify an official admission that political persecution is widespread in the United States.

In a Russian language broadcast for internal U.S.S.R. consumption on July 13, TASS noted with satisfaction:

The admission by A. Young, U.S. Permanent Representative at the United Nations, that thousands of political prisoners are being held in U.S. prisons has caused embarrassment in the White House. * * *

* * * Senator D. Bartlett is incensed that Young has "totally wrecked" U.S. attempts to influence world public opinion to participate in the hostile campaign against the U.S.S.R. unleashed by imperialist propaganda under the hypocritical pretext of "concern" for human rights.

Resorting to the customary "Big Lie" technique perfected by the Communists and the Nazis, the Soviet propaganda broadcast went on to claim that "not one of the outraged critics of A. Young has been able to refute his statement." According to TASS, that lie was true because of another lie, "suppression of the civil rights of Americans and political repressions are a daily occurrence in modern America."

TASS went on to quote Ambassador Young's supplementary statement to the press in Geneva:

A. Young, himself, who is now in Geneva on U.N. business, reaffirmed his statement. He repeated once again that "there are all categories of political prisoners" in U.S. prisons.

And on July 14, the Moscow International Service in an English language international broadcast chose to interpret the Ambassador's statement that, if asked, he would resign "as a sign of his critical attitude toward the attempt of

the American administration to interfere in other countries' affairs under the pretext of defending human rights."

Predictably the Soviet Union's repressive satellites immediately picked up the Andrew Young allegations to justify their own harsh abuse of dissidents seeking elementary freedoms. According to the Czech Communist Party newspaper, Rude Pravo, on July 14:

The high ranking official of the Carter Administration has thus confirmed that political trials take place in the U.S. and that many Americans are jailed for their conviction.

Ambassador Young, those who have supported his false allegations, and those who remain silent and do not challenge him are lending themselves to an all-out Soviet orchestrated propaganda drive designed to undermine the only legitimate aspect of this administration's foreign policy innovations—its concern with the massive violations of basic human rights that are a matter of state policy in the Communist dictatorships.

The Ambassador's allegations, and those who support them, are made even more deplorable by the fact that they were made on the eve of two major kangaroo-type show trials of the leaders of the Soviet dissident movement who had demanded that the Government of the U.S.S.R. adhere to the provisions of the Helsinki agreements which the Soviet Union had signed only 4 years ago and grant such rights as all Americans, whatever their race, religion or national origin, exercise daily. With the assistance of Ambassador Young, the KGB-supervised propoganda mills have sought to trivialize the cruel sentences handed out to Anatoly Scharansky and Alekandr Ginzburg for desiring the right to worship as they wish, to marry as they choose, and to emigrate to another country.

Andrew Young's "political prisoner" allegation was used at least four times in the Moscow radio Russian language domestic service, and at least six times in the international foreign language broadcasts on July 12 and 13 alone. These broadcasts also rewarmed the human rights violations smear attacks of the past several years. The following TASS excerpt from July 12 is typical:

The American authorities, using a wide choice of antidemocratic laws, put into prison fighters for civil rights, against racism, dissidents. The Wilmington Ten, sentenced to a total of 282 years in prison, are languishing in jail with accusations against them having been fabricated by policemen. The leader of the Ten, Ben Chavis, in a letter to President James Carter has said, "We remain, as before, political prisoners, languishing in jail for our convictions."

The Charlotte trio, John Harris and others are persecuted for similar "crimes."

The policy of the present administration is the mockery of the rights of the Americans, said public leader A. Boy at a meeting in New York, outside the building of the federal court. Where are the rights of Ben Chavis and the Wilmington Ten? Where are the rights of Assata Shakur? Where are the rights of thousands of political prisoners put in jail for their protests against racism and political repressions which are now rife in the United States?

The persons mentioned in the above TASS story are not political prisoners, but common felons, convicted in our courts after due process. With regard to the case of the Wilmington Ten, our distinguished colleague from North Carolina (Mr. MARTIN) again pointed out some of the facts in the case to us on July 13, 1978, when he said:

They (the Wilmington 10) were not tried and convicted for political activity or for their political beliefs. They were tried and convicted of conspiracy to fire bomb an ethnic store. They have become since then a political group, but their conviction arose out of their action in inciting a riot against the people of Wilmington, N.C., which culminated in the fire-bombing of a Greek-American. I would insist that there is no civil right or political right to fire bomb.

The so-called "Charlotte Three" were also properly convicted in North Carolina for the crime of arson, specifically of burning down a riding stable in which a large number of saddle horses were burned to death. There is no civil right to burn down a man's property.

John Harris, alias "Imani," was one of three convicted prisoners known as the Atmore-Holman brothers, charged with murdering a prison guard and riot, who received wide publicity and support among U.S. revolutionary groups. Following his conviction for the murder of the prison guard. Harris was sentenced to death. Like the others named above, Harris continues to have the protection of full due process.

Assata Shakur is the alias of Joanne Deborah Chesimard, a leader of the terrorist Black Liberation Army (BLA) and of the Eldridge Cleaver faction of the Black Panther Party. She is serving a life term in New Jersey not for "civil rights activities" but for a first degree murder conviction of a New Jersey State police officer in a shootout on the New Jersey Turnpike on May 2, 1973.

It is noted that the campaigns to free these so-called U.S. political prisoners were conducted first by the Moscow-controlled Communist Party, U.S.A. (CPUSA), and its prison-organizing front organization, the National Alliance Against Racism and Political Repression (NAARPR). It is also noted that nearly all of the 17 persons named as "political prisoners" by Amnesty International were first supported and backed by the CPUSA, its NAARPR, and the World Peace Council (WPC), Moscow's chief propaganda apparatus aimed at influencing public opinion in the free world.

The question to ask Ambassador Young is whether he still equates convicted murderers like Gary Tyler, Assata Shakur, John Harris, and arsonists like the Wilmington Ten and Charlotte Three with the nonviolent bravery of Scharansky and Ginzburg?

The official Soviet newspaper, Izvestia, on July 14, not only supported Ambassador Young's charge that there were "hundreds, maybe thousands of political prisoners" in this country, but also attacked his critics as "evidence of a Ku Klux Klan mentality."

It appears that Izvestia's propagandists have taken as their own some misconceptions of our colleague, the gentleman from Maryland (Mr. MITCHELL).

Our Maryland colleague should be aware from his personal experience over the past 7 months that the real "Ku Klux Klan mentality" rejects reasoned debate of controversial issues and indeed, apparently the whole electoral process in favor of intimidation by violence.

Our Maryland colleague knows, and the rest of the Congress should know, that the gentleman's life and property were saved only a few days ago because the Maryland State Police had, at very considerable personal risk to the officers involved, penetrated a small subgroup formed by members of the Imperial Knights of the Ku Klux Klan in Maryland who planned to bomb his house, the B'nai Jacob Congregation in suburban Baltimore, and other targets.

As we all know, most police agencies are now prevented from conducting covert operations involving the penetration by undercover officers and informants of violence-prone organizations by pressure from the same forces that engineered the abolition of the House Committee on Internal Security. Indeed, in the State of Maryland, our colleague has been prominent among the critics of police intelligence activities.

I would like to remind my colleagues that it was a 2-year series of investigations and public hearings on the KKK in 1965 and 1966, conducted by this body's investigating arm, the former House Committee on Un-American Activities, which according to the Anti-Defamation League of B'nai Brith resulted in the immediate and severe loss of membership by KKK groups.

My colleagues will also remember that in 1974 and 1975, the gentleman from Maryland was an active participant in the group that successfully maneuvered the abolition of the successor of the successor of the House Committee on Un-American Activities—the House Committee on Internal Security.

I am proud to say that my first act as a Member of Congress and of the Democratic caucus was to fight to continue the invaluable work of the Internal Security Committee.

Mr. Speaker, I would respectfully suggest that if the gentleman from Maryland would seriously like to fight the "KKK mentality"—the mentality of terrorism—he would join with me as a cosponsor of House Resolution 48 to reestablish the Internal Security Committee and ask the Rules Committee to take immediate action on this measure.●

SPREADING OIL SCANDALS

HON. RONALD M. MOTTL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. MOTTL. Mr. Speaker, I urge my colleagues to join me and Chairman DINGELL and Chairman Moss in registering their protest over the rip-off of American consumers by some oil companies.

The companies are passing off "old" oil as "new" oil and reaping an extra and illegal profit of more than $6.50 a barrel.

What is even more disturbing is the charge that the Government may have

dragged its feet in investigating this fraud.

A copy of a letter I have sent to Energy Secretary James Schlesinger and a copy of the oil rip-off story which appeared in the July 24, 1978 edition of Time magazine follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 19, 1978.

Hon. JAMES SCHLESINGER,
Secretary, Department of Energy,
Washington, D.C.

DEAR SECRETARY SCHLESINGER: I was appalled to read in the current issue of Time Magazine the enclosed article, "Spreading Oil Scandals." It outlines a unique scheme by some oil companies and some fuel brokers, which has cost the American consumer millions and possibly even billions of dollars.

The article alleges that many oil companies in Texas are profiteering by selling "old" oil now priced at $5.34 a barrel at the "new" oil price of $11.87 a barrel, making an additional and illegal profit of more than $6.50 a barrel.

It is estimated that those profiteers are selling between 100,000 and 500,000 barrels of oil a day at the illegal rate. The whopping profit they are reaping—at the expense of the American public—is astronomical.

The article also cites the operation of "daisy chains," a shady yet highly profitable relationship between fuel brokers and oil companies. These brokers and oil interests are engaged in massive price swindling by selling and reselling refined oil back and forth each time at a higher price, before eventually selling it to an electric power company. The article said Florida Power was ripped off to the tune of $8.5 million by one of these "daisy chains." This was passsed on to the consumer via a fuel adjustment clause.

(Earlier this year I introduced H.R. 11228 to prevent these kinds of abuses relating to fuel adjustment clauses.)

But the most shocking revelation was the fact that the Department of Energy and the Justice Department engaged in foot-dragging in their investigation of this practice and that there may have been outright collusion between some of the probers and probed.

Incidents like these are a major reason why the American public refuses to take the energy crisis seriously and is losing faith in the federal government. It is particularly disgusting to me that these profiteers are making their quick bucks and playing their unscrupulous games with our precious energy supplies.

Assuming these rip-offs did occur and are occurring, they should be stopped forthwith and the perpetrators of the fraud and possible collusion should be prosecuted to the full extent of the law. This would deter any oil companies or private or government officials from participation in such scandalous and reprehensible behavior.

I would appreciate this matter receiving your prompt attention and I am herewith requesting an immediate investigation and report from you about allegations in this article. I would like to hear from you as soon as possible as to what is being done by your Department to eliminate this unconscionable fraud to the American consumer.

Thank you in advance for your cooperation in this matter.

Sincerely,

RONALD M. MOTTL,
Member of Congress.

[From Time Magazine, July 24, 1978]

SPREADING OIL SCANDALS—THEY COULD INVOLVE BILLIONS OF DOLLARS

Over lunch in Houston, a prominent lawyer voiced a highly unusual complaint. Business was so good, he said, that his firm was turning away many potential clients, sending them as far away as Washington and New York for counsel. The reason: so many oilmen are involved in the fast-widening scandal of illegally selling low-priced "old" oil as expensive "new" oil that Houston's attorneys cannot take on new clients without becoming involved in conflicts of interest. Says one Houston oil consultant: "It's such an interwoven web that I doubt there is anybody in town who is not going to be touched by it."

The oilmen have reason to worry. After months of slow, top-secret investigations by the Justice Department, the Department of Energy, a congressional subcommittee and several grand juries, a long list of allegations is about to be aired. So far, most of the charges are believed to center not on the big oil majors but on relatively smaller independents. Criminal indictments are expected to be handed down for prosecution in coming months against both companies and individuals.

Investigators are considering pressing charges under the racketeering statutes that until now have been used largely against organized crime; they provide for a longer statute of limitations, stiff penalties and the recovery of profits illegally gained. These sums, estimates one federal official who has been kept informed of the investigations, could amount to billions of dollars.

There are three broad, often overlapping categories of investigation:

OLD OIL AS NEW

In mid-1973, the Government set up a two-tier price structure that established a low rate (now $5.34 per bbl.) for old oil already in production and, as an incentive for exploration, a higher price (now $11.87) for new finds. Under near wartime security in Houston, the Justice Department and six FBI agents are looking into charges that oil companies camouflaged the origins of old oil and sold it as new crude.

The Department of Energy has already audited about a dozen companies for violations and has turned over its dossiers on at least three companies to the Justice Department for possible criminal prosecution. The records of 73 more companies in the Houston area are yet to be audited by the Government. In addition, the Justice Department is conducting an investigation, code-named Project X, into possible price manipulations by a major U.S. oil company.

Estimates of the total odd-to-new switch range from 100,000 to 500,000 bbl. a day, with illegal profits running at around $6.50 per bbl. The mechanics of the switch are easy: all oil looks the same, and it is just a matter of falsifying paper work to hide its origins. The risks of being caught have been small—up to now. As one federal investigator told Time Correspondent Rudolph Rauch: "All an oil guy had to do was look at the enforcement procedures and laugh."

DAISY CHAINS

Justice Department and FBI oil-fraud strike forces, working with at least one grand jury in Tampa, Fla., are also looking into pricing swindles carried out by fuel brokers and oil companies. Some oilmen and brokers conspired to sell and resell refined oil several times among themselves, each time at a higher price with large kickbacks, before finally passing it on to an end user, who was either part of the conspiracy or especially gullible.

The sales involved only a piece of paper being shuffled between desks; the actual oil never changed location. The most celebrated case to date involved the ripoff of Florida Power for as much as $8.5 million. Since that fraud was made public last August by the St. Petersburg Times, FBI agents have uncovered but not yet publicly identified other daisy chains, some apparently centering in Houston. Grand juries are said to be probing into these operations.

COVER-UPS AND LONG DELAYS

Congress has become increasingly uphappy with the glacial pace with which first the DOE and now the Justice Department have pursued their parallel investigations into the new-for-old and the daisy-chain swindles. Investigators for the House Subcommittee on Energy and Power are looking into the possibility that there might have been outright collusion between some of the probers and the probed, even though oilmen argue that the delays were probably caused by DOE understaffing and inefficiency. Says Michael Barrett, a subcommittee counsel: "Some of these cases were ready to go two years ago, and we certainly intend to look at the practices of the Houston DOE office."

The subcommittee is also concerned that two federal energy officials became so frustrated by foot-dragging and the lack of support from their superiors that they complained publicly. A former auditor of the old Federal Energy Administration, Dale Kuehn, went public to describe how his memos suggesting that cases should be "prosecuted with dispatch" were habitually ignored. A DOE investigator, Joe McNeff, went to the subcommittee in June; he said he found in Houston "$1 billion worth of fraud, four auditors, no secretary and no support."

Other federal investigators insist that there has been no foot-dragging and no cover-up. "The investigation is just complicated," says J. A. ("Tony") Canales, the U.S. Attorney for Houston. "You're damn right it is being done in unusual secrecy. I don't want to hurt anybody who is innocent. We are conducting an investigation with the FBI into certain business entities involved in the reselling of oil. I am informed that there were some 60 or 70 such businesses created almost overnight. Not all are under investigation, of course, but the investigation is mushrooming." ●

AD HOC CONGRESSIONAL COMMITTEE ON IRISH AFFAIRS PURSUES ADMINISTRATION TO PUSH FOR HUMAN RIGHTS IN NORTHERN IRELAND

HON. MORGAN F. MURPHY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. MURPHY of Illinois. Mr. Speaker, yesterday a most salient letter to the editor appeared in the Washington Star dealing with the administration's "policy" on human rights. The author astutely observes that it is a policy which is at best selectively enforced. While great consternation was registered by the administration about the verdict in the Shcharansky case, consternation which was justified, this same administration has remained almost totally silent about documented human rights violations past and ongoing in Northern Ireland.

The Ad Hoc Congressional Committee on Irish Affairs under the leadership of my colleague MARIO BIAGGI has been seeking to have the administration address this vital concern. I am proud to serve as a member of this committee and join with Mr. BIAGGI in the belief that peace can never come to Northern Ireland while human rights deprivations are occurring.

The President undertook an admirable initiative when he made human rights a fundamental aspect of his ad-

ministration's foreign policy. Where he has applied pressure, we have seen some results. The European Commission and Court of Human Rights and most recently Amnesty International have documented human rights violations in Northern Ireland. It is the intention of the Ad Hoc Committee to place all 78 of the Amnesty International cases into the CONGRESSIONAL RECORD. It is our further hope that this attention will prompt the administration to speak out on these human rights problems.

I now wish to place into the RECORD the letter entitled "Things Are Bad All Over?"

LETTERS TO THE EDITOR.—THINGS ARE BAD ALL OVER?

I must congratulate you on your editorial, "'Human Rights' on trial" (July 11). You have expressed what many concerned Americans have feared to be the ugly truth, which is that our government is not about to "rock the boat" seriously in favor of human rights for those so sorely oppressed in foreign countries. Many words have spewed forth on behalf of those under political, mental or physical harassment, yet it is now very clear that no other actions will be taken.

Those individuals referred to as "dissidents" in the Soviet Union receive the widest possible notoriety because of their residence. The Soviet Union, regardless of what anyone may hope for in the future, is indeed our most formidable enemy. Other countries also unfriendly toward us have made headlines of their national policies. In all of these cases, a partial defense of the Carter administration's inaction might possibly be made on the basis of an inability to deal easily with the feisty leaders of the nations concerned.

But what defense, if any, can be made when the guilty party is one of the our staunchest allies? I am referring to England's relationship with the Irish-Catholics in Northern Ireland. Here, as in all other situations involving the infringement of human rights, the Carter administration has taken no significant actions whatsoever. This, in my opinion, has no satisfactory explanation.

The facts are shocking and unknown to the majority of Americans. England has actually been found guilty of numerous human rights violations by an international court. More unsettling than that, alone, is the fact that she openly admitted her crimes without lifting a hand in defense. The evidence presented against her was so overwhelming that no defense was possible!

English leaders subsequently promised to "try harder" to curtail the acts of torture and internment inflicted upon Irish-Catholics in the North of Ireland. Did anything change? Absolutely not! A recent report by Amnesty International, recipient of the 1977 Nobel Peace Prize, actually stated that conditions were now worse than before. English troops and interrogators in Northern Ireland were found to be waging a full-scale campaign of terror, torture and mental abuse against anyone suspected of sympathizing with the plight of the Irish-Catholics. Once again, the White House did nothing for fear of alienating our longtime British friends.

Rep. Mario Biaggi of New York, who has within the last year formed the Ad-Hoc Committee on Irish Affairs, now 110 strong, has continually urged the president to intervene. Yet the administration remains silent while the English, who themselves were besieged by the scourge of Hitler not long ago, deal so cruelly with the Irish.

I can see no reason for such blatant inaction. This is why I join with The Star in urging President Carter to rethink his stance on the question of human rights. His policy should be one of action, not just words, and it should apply to friend and foe alike.

JOHN F. MCGRATH.●

HERNDON, VA.

THE PRICE OF FREEDOM FOR US ALL

HON. ROBERT L. F. SIKES

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. SIKES. Mr. Speaker, just a few days ago, my distinguished colleague from Florida, Mr. BENNETT, entered a tribute before the House to a young naval aviator who had lost his life in the service of our country. That I should have the same task today about two other such fine young men is a sobering reminder of the great cost of our freedom even during periods which most of us think of as peacetime. It is also a reminder of how much our Nation expects from those who accept the heavy responsibility and associated dangers of being an operational Navy flier.

Lt. Comdr. William Charles Matthews, the mission commander of the exercise in progress, was a naval flight officer who received much of his training at Pensacola. He was a 1968 graduate of the U.S Naval Academy with a bright future, a lovely wife Gayle and two sons Taylor and Jonathan.

The pilot of that aircraft, Lt. (jg.) Patrick Joseph Kilcline, like his father, Adm. Tom Kilcline, and his brother Tom before him, wore his Navy wings of gold with the great and honest pride properly associated with them. He had been close to naval aviation and Navy aircraft all his life. He was a small boy when his father flew from *Randolph*, *Saratoga*, and *Ranger* with Heavy Attack Squadron 9. He was 13 years old when his father took command of Heavy Attack Squadron 11. Pat Kilcline followed his father's footsteps to the U.S. Naval Academy, from which he graduated in 1975 a rounded man, conversant in political science as well as the naval arts, and an accomplished athlete and rugby player. He put all the physical and mental resources at his command into the demanding and entirely voluntary challenge of becoming a naval aviator and a fighter pilot.

He faced the supremely lonely task which all naval aviators face of looking down that final approach in an aircraft carrier flight pattern and bringing his aircraft aboard solo despite the pitching deck and the ever-present butterflies. It was a danger and a challenge which he would face many times again, day and night, in good weather and bad, in shaping and sharpening the fighting edge which makes Navy combat pilots some of the finest in the world. He demonstrated himself capable and was entrusted with flying the most sophisticated and capable combat aircraft in the world, the F–14 Tomcat. The state-of-the-art in the aviation world was his everyday work. He met and courted the girl he was to marry only a few months ago, Georgene Gibbs of Pensacola, and went on to San Diego and duty with Fighter Squadron 211. It was during flight operations last Sunday in the operating area southwest of San Diego that Lieutenant Kilcline and Lieutenant Commander Matthews were lost at sea.

Patrick Kilcline excelled when other men were satisfied with less, he acted decisively when decision meant responsibility, he saw commitment as necessary and embraced it. Patrick Kilcline did not wait to see the realization of his potential—he tried every day to realize it to the fullest extent that he could.

Pat Kilcline and Bill Matthews leave behind many friends, memories for their loved ones and lives as filled with achievement and daring in their short years as many men fit into three score and ten. They took to themselves the greatest of life's challenges, always striving to improve and to take in full measure the responsibilities inherent in their sworn oath to defend the Constitution of our country against all enemies. That they well and faithfully discharged that oath in the spirit which 200 years of Navy tradition intended is abundantly clear.

There have been many Patrick Kilclines and Bill Matthewses in the long history of our Navy and its aviation arm. Their names are legion and their contributions to making our country the free and peaceful land it is today are beyond price. It is a poignant and real reminder to all of us as Americans just what we are asking of the men in our Armed Forces, and especially those who choose to enter the hazardous and demanding field of naval aviation. We are asking not only those men themselves, but their families and loved ones, to make sacrifices of enormous scope and breadth in what is to most of our countrymen a "peacetime" environment. We should be mindful that in the military profession hazard plays no favorities and courage has no substitute. The men involved take both oath and hazard voluntarily. They have a destiny and a high purpose. They face not only danger, but the loneliness of long deployments away from loved ones, the uncertainties of contingency operations, and must constantly prepare themselves to be ready for the even greater hazards of war. It is only because our Nation produces such men that the rest of us are able to enjoy in such great measure as we do the blessings of peace, prosperity and freedom. Let us not forget that, for we do so at our peril.●

CAPTIVE NATIONS WEEK

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. KOSTMAYER. Mr. Speaker, today I join my colleagues upon the 20th annual observance of Captive Nations Week. During this week, Americans re-

affirm their support for those of the captive nations who are denied the most basic and fundamental rights and freedoms we take for granted each day.

Today, our attention naturally turns to the denial of human freedom in the Soviet Union. This is a time to express our anger and sadness at the treatment of Anatoly Shcharansky, Alexander Ginzburg, and others living behind the Iron Curtain who are being denied basic human rights—rights guaranteed in the Helsinki agreement, signed by the Soviet Union, Canada, the United States, and 34 other nations. Once again, we call upon the Soviet Union to honor the terms of that agreement.

Captive Nations Week focuses on the plight of the oppressed in the Soviet Union and behind the Iron Curtain, yet it is important to recognize that human rights violations persist in nations throughout the world. In many countries, not only are the basic rights of speech, press, religion, assembly, and travel denied, but torture, arbitrary detention without charge or trial, and summary executions have become common, even institutionalized forms of repression perpetrated by tyrants from the left and right alike.

The United States and all nations which believe in human freedom have an obligation to speak out against these outrages. As long as such abuses continue to exist, we in America have a responsibility to condemn them. For oppression anywhere threatens the rights and freedoms of people everywhere. There is no greater danger to our own freedom than for us to stand by silently while human rights are denied to others.

One of the sad lessons of the holocaust during World War II was not only Nazism itself but the silence of the bystanders. Though aware of the intensifying persecution of the Jews, many chose not to speak out. There are other tragic examples throughout history of such silence. Early in this century, the Turks exterminated 1½ million Armenians. Years later, Hitler said "who still remembers the Armenians" as he put into effect the extermination of European Jews. Even today, Idi Amin of Uganda is responsible, according to modest estimates, for the death of 150,000 of his countrymen. And in Cambodia perhaps as many as 1 million have been murdered by the bloody rule of Pol Pot. It is important, then, during this week that we recall what has been allowed to happen. For we must never lose sight of our responsibility to speak out for human rights at home and abroad.

But, we must also look inward and examine our own society. For the measure of an open society is its ability to examine itself critically—to recognize strengths but also weaknesses. This we must do if we are to serve as an example to the rest of the world of what a truly free society can be.

America has always been a symbol of hope and freedom. We must demonstrate in our own lives that our commitment to democracy and decency is not one which applies only to other people in other lands. As we commemorate Captive Nations Week, let us remember the founding principles of America and continue to remind ourselves that these basic rights and freedoms are not just American, but universal.●

CAPTIVE NATIONS WEEK

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. GOODLING. Mr. Speaker, in his statement proclaiming this to be Captive Nations Week President Carter said, "For more than 200 years our Nation has sustained the belief that national independence, liberty, and justice are fundamental rights of all people." The President acknowleges the universal application of our Declaration of Independence and the obligation implied by that document. I applaud his statement and am pleased to make a few remarks of my own in observation of Captive Nations Week.

According to my dictionary (O.E.D.) the word "captive" means "kept in confinement or bondage." Today we call attention to those nations and individuals in bondage or enslaved. We could easily call this "Enslaved Nations Week" or "Nations in Bondage Week." This makes the point a bit clearer, I think.

Our world is divided between two conflicting understandings of human nature. It is a split which cannot be overcome by diplomacy, or kind words, or trade, or more missiles, or dance companies, but descends deep into the spirit of each regime, animating their words, while giving meaning to their actions. "The deep manifold split bears the danger of manifold disaster for all of us, in accordance with the ancient truth that a kingdom—in this case our Earth—divided against itself cannot stand."* To face this grim truth of our age is to begin to appreciate the delicacy of our liberty and to view the future with the terrifying knowledge of what we or our children may have to face.

Senator Moynihan has said that liberal democracy as a form of government is on the decline. It is indeed remarkable that when the choice between freedom and tyranny is so clear even those grown up in a liberal democracy cannot grasp the distinction. Some of our leading scholars and political men confuse stability and quiet with free choice and justice. They believe, in the case of Africa for instance, that even if the Soviets and Cubans control Angola or Ethiopia, trade with the West will bring these countries over to our way of thinking. Tell this to the Czechoslovakians. Ambassador Young, referring to the United States and the Soviet Union, says, "I don't agree that the systems can be put in opposition." Tell this to Anatoli Shcharansky. Many believe that because we can talk with the Soviets our relations are good. "After all," says Mr. Young, "Vance and Gromyko meet practically every month." Well so did Chamberlain and Hitler and so did Ribbentrop and Molotov.

If liberal democracy as a regime is on the course to ultimate extinction, it is at least in part due to our own self doubt and our own lack of will to stand against the regimes of tyranny. What do the peoples of Eastern Europe say when they view the regime of liberty and see that it doubts its own goodness. Utopian considerations on the best way of life show the West to be deficient, but we are not here today to be compared with the best of all possible worlds, but to see our own world plainly. Plainly then, we face each day a regime in Russia responsible for the death of 66 million of its own people, that to this day maintains a system of prison camps and "mental hospitals" the function of which is to turn men's minds and souls to mush.

This process of dehumanization goes on in the Soviet Union unfettered by doubts of good and evil and in defiance of every decent human passion. Sometimes we need this fact "thrown in our face," as Robert Conquest does in his new book "Kolyma." As a complement to Solzhenitsyn's "Gulag," Conquest tells of the death camps in the Kolyma region of the Soviet Union. Initially organized to mine gold, the camps become staging areas for an unspeakable barbarism. Perhaps even Eichmann could have found increase for the depravity of his own soul by studying the inhumanity at Kolyma. I recommend this book to everyone in need of a perspective on the kind of men who occupy the seat of government in Russia.

Our obligation as the regime of liberty is courageously and unrelenting to follow our conscience and the best that is within us. If this means we interfere with Soviet internal affairs—so be it. "On our crowded planet there are no longer internal affairs," Solzhenitsyn says. "The Communists leaders say, 'Do not interfere in our internal affairs. Let us strangle our citizens in peace and quiet.' But I tell you: Interfere as much as you can. We beg you to come and interfere."

This is the message of the dissidents who are so much on our minds today. They teach us of the courage we lack, of the freedom we so blithely accept and of our obligation to the preservation of the possibility of complete human souls. To forget them when there are no show trails or headlines is to forget the torture they will suffer at the hands of our enemies, the total dehumanization of soul.

If the idea of liberty is to survive the unrelenting onslaught of the regimes of tyranny it will be that idea's best home—America—that saves it. But we may have to learn from the towering example of the dissidents what liberty really means.●

*Alexander Solzhenitsyn, Speech at Harvard University, June 1978.

PHILIP R. McGRATH, M.D.

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. MICHEL. Mr. Speaker, there are few subjects that have received more na-

tional attention in recent years than our health system. Volumes have been written and countless speeches have been made about the problems and the progress of health services in the United States. Yet all too often we forget that at the heart of our health system is the doctor, the person to whom we turn when personal health problems arise.

Today, I would like to pay tribute to a doctor who represents in so many ways all that is best in American medicine. I refer to Dr. Philip R. McGrath of Peoria who, on July 31, 1978, will close the medical office he has maintained for 49 years. All of those years were spent in Peoria with the exception of time spent in additional medical training and several years in service to his country as a lieutenant commander in the U.S. Navy. At age 77 with 49 years of dedicated service to the people of Peoria behind him, Dr. McGrath can look back in well-deserved pride at his accomplishments.

Dr. McGrath became a member of Peoria's St. Francis Hospital's active staff in 1931 and was certified by the American Board of Ophthalmologists in 1939. He is a member of the Illinois State Medical Society, the American Medical Association and the American Academy of Ophthalmologists, the Peoria County Medical Society and the Central Illinois Association of Ophthalmologists.

Dr. McGrath was president of the active staff of St. Francis Hospital from 1948 to 1949 and has served on all of the major medical staff committees of the hospital. He has constantly participated in the educational training programs offered for residents and interns at St. Francis Hospital-Medical Center during his 46 years of active staff membership. He was elected to the honorary staff in December 1974.

When the history of our time is written, the scientific and medical advances we have witnessed will certainly be recognized as among the wonders of the world. But I believe that history will also record that it was doctors like Philip McGrath who made the major contribution to American medicine. He has contributed not only his skills but his dedication, not only his knowledge but his concern, not only his willingness to help those in need but his belief in the system of medicine we have in this country.

My best wishes go to Dr. McGrath and his family as he leaves the practice of medicine his presence has graced for all these years.●

CAUSE FOR ALARM

HON. BOB WILSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. BOB WILSON. Mr. Speaker, I include the following in the RECORD:

[From Sea Power, July 1978]

CAUSE FOR ALARM

Except for one or two paragraphs, President Jimmy Carter ignored both the U.S. Navy and his own defense budget in that well-publicized "confrontation or cooperation" speech on 7 June to the graduating class at the Naval Academy.

The President was smart. He had, to paraphrase Mr. Churchill, much to be quiet about.

He might have been one or two paragraphs smarter, however. Because what he said was this: "False or excessive estimates of Soviet strength or of American weakness contributes to the effectiveness of Soviet propaganda efforts. For example, recent alarming news reports of military budget proposals for the U.S. Navy ignored the fact that we have the highest defense budget in history and that the largest portion of this will go to the Navy."

The Commander-in-Chief needs either a new speechwriter or a new clipping service. Let's take a look at some of those "recent alarming news reports" and see who ignored what:

Time, in its 8 May cover story ("The Navy Under Attack"), stressed the "vast increase in naval power" which now gives the Soviet Union a numerical advantage over the United States in: cruisers (37 Soviet to 27 U.S.); nuclear attack submarines (88 to 68); and destroyers and frigates (195 to 129). Only in aircraft carriers is the United States ahead (13 to 1). Time also accurately reported "the Navy's slice of next year's proposed $126 billion defense budget request is the largest allocated any individual military service."

Earlier, U.S. News & World Report, in a 6 March special report ("U.S. Navy in Distress"), also said the Navy "still gets the biggest slice of the defense budget—$36.6 billion." But USN&WR used a similar table of USN-vs.-Soviet Navy statistics to demonstrate that the Russians now have "a true blue-ocean navy," and quoted "American naval officials" as saying that "the Soviet Union now has a formidable capacity to disrupt shipping between this country and its allies—and to threaten the flow of supplies, including oil, to the U.S. from overseas."

The March issue of the Armed Forces Journal also spelled out the individual budget allocations by service and conceded that the overall fiscal year 1979 Defense Department budget request is "the highest ever proposed to Congress." But AFJ emphasized that, "Even using extremely conservative CIA estimates, the USSR has spent at least $500 billion more than the U.S. on usable military capability since 1968."

Finally, SEA POWER said in the second paragraph of its February analysis of the FY 1979 defense budget request that, "as has been the case for the past several years, the Navy once more has the largest individual service budget"—then added, much later in the story, that over the past 10 years, while the U.S. Navy has been reduced from 976 to 464 ships, "the Soviet naval threat has steadily worsened, U.S. dependence on overseas imports of raw materials (particularly Persian Gulf oil) has substantially increased, and the number of U.S. land bases overseas has been reduced in number, with most of those that remain significantly more vulnerable either politically or militarily."

So who's ignoring the facts, or failing to put them into proper perspective? Not those recent alarming news reports, but the President himself—because he also said the following in his Annapolis speech: "The U.S. Navy has no peer on the seas today . . . We need not be overly concerned about our ability to compete and to compete successfully. There is certainly no cause for alarm."

But if the President is not "overly concerned," a lot of other Americans are. Consider the following:

(1) A research paper by the CIA's National Foreign Assessment Center which was released in January concludes that Soviet "military investment" expenditures (for weapons procurement and force modernization) "were about 20% greater than U.S. outlays" during the 1967–77 time frame "and since 1975 have been about 75% greater than the U.S. level."

(2) A "secret study prepared for NATO leaders," according to the Baltimore Sun (29 May), warns that Soviet military power will continue to build alarmingly over the next decade . . . [during which] Soviet military spending may be expected to increase by 5% a year."

(3) Meanwhile, Lawrence J. Korb demonstrated, in the AEI Defense Review (Volume Two, Number Two, released on 17 May), that the administration's much vaunted defense budget request, although the largest in history in current dollars, is in constant dollars actually 2.2% below what the Ford Administration had requested for defense purposes for FY 1977. Korb concluded that, "Although the growth in the proposed Carter defense program (FY 1979–83) is substantial . . . the Carter projections are $41.4 billion (4.6%) below those of the previous administration" and that President Carter now plans to cut back the previously announced five-year shipbuilding program "by $29.6 billion (almost 47%) in the FY 1979–83 period."

A rather consistent picture emerges, which can be summarized as follows: At a time when the USSR is outspending the United States on defense by anywhere from 10 to 40 percent (the estimates vary widely), the Carter administration is content to increase U.S. defense spending by only about 2.4% per year (Korb's estimate). Moreover, at a time when the U.S. Navy is facing a major challenge at sea—perhaps the greatest naval challenge in the nation's history—this administration is actually reducing U.S. naval strength.

We suggest that there is indeed cause for alarm: over the continuing high level of Soviet naval/military spending; over the relative decline of U.S. naval strength; and over spending projections which indicate the present adverse trends will probably worsen during the foreseeable future.

But most of all over an administration which is not overly concerned—an administration which either cannot or will not face facts which by now have become alarmingly apparent to everyone else.●

NUCLEAR POLICY: A DISQUIETING SYMPTOM

HON. OLIN E. TEAGUE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. TEAGUE. Mr. Speaker, Llewellyn King, who is an acknowledged expert on the world energy perspective, recently addressed the third annual meeting of the Uranium Institute in London.

I believe that his comments on nuclear policy, particularly in the present administration, and its relationship to what seems to be an increasing sense of suspicion toward big institutions, growth and high technology in general are important for all of my colleagues to consider.

The text of the address appeared in the July 14, 1978 issue of The Energy Daily and is reprinted below.

[From the Energy Daily, July 14, 1978]

NUCLEAR POWER IN CRISIS: THE NEW CLASS ASSAULT

(By Llewellyn King)

In the 1950s and 60s, the best young legal and technical minds in the United States sought employment in the nuclear industry. It was, as former congressman Craig Hosmer once described it, "the new frontier." Suc-

cessive presidents had endorsed civilian nuclear power as holding the key to an energy-rich future for the United States and for the world. It was, of course, over-sold, and in hindsight some of the expectations were plainly excessive. Such projects as the nuclear airplane, the stimulation of natural gas with nuclear devises and the irradiation of food and lumber for indefinite preservation now seem to have been the products of wild imagination.

But the basic yeoman function, the generation of electricity, has been surprisingly successful, low in environmental costs and without human fatalities. There have been technical problems, but they have been no more insoluble and no worse than those affecting other industries. On the face of it, nuclear power has been a boon to those utilities which committed themselves early and which rely heavily on it, such as Northeast Utilities in New England and Commonwealth Edison, which serves the Chicago area.

Yet nuclear power is the source of a bitter national controversy which extends from picket lines at nuclear power plants all the way to the President of the United States. In many families it divides fathers from children; and so deep is the emotional feeling, and so widespread the opposition, that, on the basis of today's climate, nuclear power cannot be considered a serious contender among the United States' future energy options.

In theory, the Department of Energy and the Administration support a vigorous light-water program; but ambivalence on the part of President Carter and open hostility from many of those whom he has brought into the Administration make the theoretical support of light-water reactors an empty promise. The nuclear industry is surviving on a backlog of orders, but it has retrenched it sales staffs, and few utilities are expected to order new units in the near future.

The industry is beleaguered and despondent, unable to comprehend what it perceives to be the injustice of its situation.

The opposition to nuclear power did not appear overnight, but has grown steadily for a decade, picking up converts and developing its own expertise in opposition as it goes. The greatest coup for the opposition, though, was not really of its making; it was the election of Mr. Carter, who is sympathetic to those who oppose nuclear and who has given key decision-making jobs to some undisguised opponents of nuclear power. These individuals and their allies have worked hard to frustrate the Department of Energy and its declared policy, particularly in the area of licensing reform.

I have been watching the nuclear controversy for more than eight years and was, if anything, initially sympathetic to the opponents of the atom, because at first reading their arguments are simple and appealing. They trade on a host of idealistic yearnings, particularly among young people, and they are clothed in staunch moral legitimacy. However, the opposition is a movable feast, and it has ranged over the years to all kinds of subjects, from the health effects of low-level radioactive emissions, to pressure-vessel integrity, to emergency core cooling, to terrorism and nuclear weapons proliferation. Obviously, to those opposed to nuclear power, the hatred of the technology is pervasive and the resolution which will satisfy it is nothing short of a prohibition on nuclear development.

A favored argument of the anti-nuclear forces is that of waste disposal. But 97 percent of the waste in the United States today is derived from the weapons program; and a permanent repository for this waste has to be found no matter what the civilian future for the atom. Nonetheless, the waste argument succeeds in inculcating public fear as nothing else has done. At parties, on radio programs and in debates, I am questioned more often about waste than any other aspect of nuclear power. However, those who fan the fear of waste disposal are also, in their blind hatred of the technology, those who may make it impossible for a permanent repository to be located in an ideal geographic area. They have already indicated that they will incite local communities to oppose harboring the repository. This means that the Nation will probably have to settle for a less complete solution in the form of engineered storage on government reservations where the wastes are already housed.

Likewise, the same self-fulfilling prophetic approach has been used in proving that nuclear power is uneconomic. In the United States it takes as long as 14 years to license a plant, thus vastly adding to its costs through the expense of carrying charges, an expense that has been contributed to enormously by the delaying tactics of the opponents and their protracted litigation of every possible issue. The opponents profess environmentalism as their cause, but increasingly the evidence is that they are motivated by some other deep-seated hostility to high technology that is only marginally associated with the environment. The only logical substitute for nuclear power in the United States is coal, and its price and environmental damage in human life is infinitely higher than that for a nuclear-based electric supply system. The United States is the world's largest oil importer and is endangered economically and strategically by that fact. And, while nuclear power cannot alleviate dependence on oil, it could, in time, bring considerable relief and provide a domestic and therefore stable basis for electrical generation.

The apparent wisdom of going to nuclear power has not been wasted on most of the world but neither has the opposition to it gone unnoticed. The United States represents a great *de facto* propaganda machine. Its ideas, fads, music, movies, television programs and prevailing ethics flow around the world in a continuous stream that no foreign national identity nor government policy can dam. Consequently, in the great nuclear struggle, ideas germinated in the United States have been reported to Western Europe and even to Japan. Today opposition to civilian nuclear power is entrenched in many nations, but nowhere is it as sweeping nor as effective as it has been in the U.S.

Opponents of nuclear energy have found in the United States hundreds of opportunities to frustrate its development. They are greatly aided in this by the openness of the licensing system—originally designed to further public understanding—and by the wide provision for court review of adminstrative decisions. The United States is the most litigious nation in the world, and every nuclear power plant is subject to a variety of court proceedings.

Another aspect that has aided the legal and political warfare directed at nuclear power is the very presidential system which distinguishes the U.S. from, say, the United Kingdom. Continuity in parliamentary democracies is assured to some extent by the permanent civil service and by the fact that cabinet ministers and members of the shadow cabinet become acquainted with complex issues of national policy as they proceed up their respective career ladders. In the United States, high office can be thrust on a man or a woman who is not familiar with the intricacies of a program, simply because he or she is appointed or elected. Hence, the first two years of any American government often embody a period of intense familiarization with long-standing programs. It is my belief that the Carter Administration came into office committed to dramatic reforms but with little knowledge of the precedents established for it by previous administrations. They took over the ship of state without regard to its previous course or present location.

Nowhere was this more clear than in the new Administration's policy on proliferation, where brilliant but uninformed men set out to change the long-established free-world policy, without regard to how that policy had been established nor why it was regarded as vital by those who had been party to its creation. Observers watching the State Department under Carter have been able to see the President's team modify its stance in direct relationship to its increasing knowledge of nuclear technology and political realities.

Unfortunately, there is no evidence that such enlightenment has been universal in the Carter Administration. Outside the State Department, prejudice and bigotry over nuclear technology continue to thrive.

It is why there is this bigotry against the technology that fascinates me, and I have spent some years trying to analyze and explain it.

My conclusion is that it is a symptom of a much wider sociological phenomenon in the U.S. national character and that it is intimately involved in the history of the post-war period.

Those who oppose nuclear power are nominally known as environmentalists; sometimes they are joined by so-called consumerists. They are dedicated, articulate, well-educated, middle-class and upper-middle class Americans, many of who learned the art of public protest during the Vietnam war, who believe that the industrial-political axis which has nurtured the development of peaceful atomic energy is cynically foisting a dangerous and unnecessary technology on a gullible American public. In their fight against the technology, they have used the tools which come easily to them as a result of their education and social position: litigation, media manipulation and quasi-scientific propaganda. Additionally, they are now penetrating the political structure, as they have done at the California Energy Commission, and are waging a relentless and committed fight at a grass-roots level against which the nuclear industry is almost powerless.

Why?

It is not easy to measure and understand popular movements, but some major factors are now becoming apparent. In the past fifteen years, the United States has been rent by four traumatic events that have produced a stratum of society with a different set of priorities and a different expectation for the future of the United States than anyone has previously contemplated. First, the civil rights movement awakened the nation to its accumulated sins of racial discrimination and set off in the American psyche a flow of guilt that has not yet been assuaged. Second, the Vietnam war presented thoughtful Americans—particularly those of college age—with a moral dilemma at odds with the nation's previous experience of war, when decisions were made as a simple choice between good and evil. Third, the environmental movement, born of necessity, raised the American consciousness as to the cause and effect of industrial and commercial life and the survival of the ecology. And, finally, the Watergate scandal cemented in some Americans a fundamental distrust of established institutions and the machinations of their own government.

The distrust of institutions, many of which could be blamed for the perceived betrayals that I have just mentioned, extended to a distrust of those things which are peculiarly in the purview of big institutions. These are: high technology; the manipulation of society through the goods and services sold to it; and capitalism itself, which, it may be argued, was the engine driving the assault on the environment. It was, too, the benign accomplice of racial discrimination and the enthusiastic ally of Lyndon Johnson's war in Asia.

Simply, everything that went wrong had been either perpetrated or encouraged by big

business or big government or by those elected with the support of the commercial sector of American society. But there is no mechanism for an attack directly on the offending institutions, only mechanisms for oblique assault on their facilities. Nuclear power in particular has borne this antagonism. It represents the planning of a discredited generation of American leadership, the ultimate toy of the environmentally insensitive electric utilities. In the minds of those opposed to it, it is the triumph of ruthless technology against human values and, as important, against doing things on a human scale. Its dangers can be awesome, the longevity of its waste boggles the mind, the threat from proliferation offers the ultimate doom of *homo sapiens*.

In this frame of mind, the opponents of nuclear power have escalated their disaffection from specific aspects of safety, environment, etc. to a much grander disaffection: a conclusion that the technology itself is immoral and that it should be expunged. To support this thesis, they have concluded that Americans can live a better life, with a lower standard of living, but what is called a higher quality of life. This line of thinking has developed such momentum that it is now presented as representing a serious political and philosophical choice for the future of U.S. society, and, by extrapolation, for the world.

The phenomenon of the attack on nuclear power is not confined to that industry although it is at its most coordinated, most emotional and most sophisticated in opposing nuclear power plants. A similar assault has been in progress for some years against the American food industry, although *prima facie*, the American food industry has done a superb job; the abundance of food in an American life is something to be marveled at. And, Americans live longer, grow taller and are healthier than they have ever been. But the food industry, though vilified, hardly has to fight for its life.

The nuclear industry, in contrast, *is* fighting for its life; and, as I stand before you today, I can tell you that it is not winning.

Those of us who have tried to codify and understand the nature of the nuclear opposition have gradually come to the conclusion that we are dealing with what amounts to a new class in American society, one that is unfettered by fear of shortage, privation or disaster. It is a class whose traumas have been external and national and not personal. It is a class of men and women who, paradoxically, are seeking to hobble the American economic machine when they themselves are the products of its bounty: well-fed, well-housed, and well-educated—a class that has been brought up in a cocoon of personal well-being in the comfort of a good home, the security of good schools and the luxury of university education. Their class perception of American society is of a good thing gone wrong; of venal capitalism astride the stallion of technology violating the wholesomeness of America.

But unlike those in Europe and the rest of the world, the intellectuals of this new class do not seek to reform the United States with drastic political change such as communism or socialism. They are, in my opinion, too informed to believe in the simplistic protestations that are appealing on the factory floors of Europe. The new class in America sees the enemy as all that is big and finds the concept of big, centralized government abhorrent.

The danger is that in the future we will have neither the utopian world of Mr. Lovins nor enough energy for the industrialized world that we know today and anticipate for tomorrow.

Its political solution, therefore, is the decentralized society; its weapon for capitalistic excess is regulation, not nationalization; its means for decentralization are technological and not political. The cutting-edge of this agenda—turning the United States from an industrialized, centralized society into a decentralized, semi-agrarian nation—is to put a tourniquet around centralized energy development, in particular nuclear power, and to bring about, through the dispersal of energy sources, a dispersal of decision-making and to return power to the people in small, local units. This agenda, though not new, has been given considerable intellectual legitimacy and rhetorical cohesian by Amory Lovins, an engaging renegade technocrat and techno-social philospher.

The present limitations are that this great assault on growth and the traditional goals of the industrialized world will not work. However, the assault on nuclear power has been highly successful. The danger is that in the future we will have neither the utopian world of Mr. Lovins nor enough energy for the industrialized world that we know today and anticipate for tomorrow.

As the assault on nuclear power has increased in velocity, it has spread beyond the specific new class advocates of a modified society to most of the left wing of the Democratic party.

When Jimmy Carter was seeking the highest office in American public life, he not only identified with the new class, but was persuaded by many of its arguments. As President, he has succeeded in massively damaging the prospects for a nuclear-based electric economy. A President with a combination of new class values and old-fashioned political ambivalence has tainted nuclear power more than its most devout opponents could have hoped. He has furthered the public impression that it is dangerous by saying that it is. Worse than that psychological damage, he has closed down the breeder demonstration project at Clinch River; and he has refused to allow the back end of the fuel cycle to be closed. He has antagonized United States allies and set off, in my view, a new imperative for nations, once prepared to rely on the United States for their nuclear expertise, now to acquire their own. And, in so doing, he has set up the possibility of many nations eventually being equipped to produce weapons.

The crisis for nuclear power in the United States is replete with a number of ironies. For example, although opposition to nuclear power has produced a climate in which its expansion is almost impossible, most nuclear plants have been cancelled or postponed because of other factors, principally the poor economic health of many of the utilities, as well as the chaotic load forecasting situation which has resulted since the Arab oil embargo of 1973–74 because of changed growth patterns and energy conservation.

Despite the current gloom which I have expressed about nuclear power in the U.S., it is wrong to conclude that the industry will disappear. There now are 71 reactors producing 12 percent of the nation's electrical power, and according to the Atomic Industrial Forum, a further 105 reactors will come on line between now and 1986. But projections for the year 2000 for installed nuclear generating capacity are down from a high of 1,200 gigawatts to 380 gigawatts. The question is how long the four reactor vending companies—General Electric, Westinghouse, Babcock & Wilcox, and Combustion Engineering—can survive, particularly as the new export law casts a major shadow over the ability of these organizations to compete internationally. Mercifully, in the United States the will of the government is not absolute, and the concerted opposition to nuclear power from many elements of the current Administration will be crippling but not fatal. Nuclear is not alone as the victim of the new class assault on energy and technology. It appears today that the 1977 amendments to the Clean Air Act may ultimately prove more lethal to the direct combustion of coal than anything that has befallen nuclear. The problems for nuclear power are social and political.

It is my expectation that, as the limits of coal and the greatly oversold expectations for solar power are realized, nuclear power will enjoy a resurgence. Many leaders of the nuclear industry subscribe to a view that, sometime after the next presidential election, a national reevaluation of the energy future will take place, and in that evaluation nuclear will discard the rags of Cinderella for the mantle of a princess.

If the United States has a national weakness, it is to seek simple solutions to complex problems. This zealous morality has led the nation into some aberrant actions that have often left scars but which have ultimately been overcome. These aberrations extend from slavery to prohibition to the Vietnam war, and I believe that the current attitude toward high technolcgy in general and nuclear power in particular reflects that kind of aberration.

The great danger for nuclear power is that it has been institutionalized as a crusade of the American left against the technology. Opposing nuclear power has become, for some more radical members of the Democratic Party, an act of faith based on political creed rather than on technical judgment.

In today's political climate in the United States, if you're in favor of organized labor, redistribution of income, a more egalitarian society and other noble goals, then you are axiomatically, as part of that political creed, likely to be opposed to nuclear power. Likewise, if you subscribe to a conservative political philosophy, you are likely to believe in high technology, in continued ownership of the Panama Canal and in maintaining national defense at a high level—and in nuclear power as the cornerstone of the future energy development of the United States.

I deplore this polarization because it presents technology in political and ideological terms, where I believe it does not belong. I think hanging moral labels around technology, as has happened with nuclear power, is a piece of intellectual mischief for which the United States and possibly the world will pay. That the alternative technologies to nuclear are known as "appropriate technologies" and the Department of Energy has institutionalized this piece of semantic legerdemain by using that phrase, shows the extent to which the mischief has taken hold.

To explain why nuclear development is in a hiatus is to explain the existential nature of the new class philosophies in opposing growth and protecting the environment at all odds. It is also to deny the empirical evidence that America's well-being is symbiotic to its technological success. Energy and technology are the bulwarks of American civilization, and I hope that my adopted land will regain confidence in this destiny.●

INTRODUCTION OF LEGISLATION IN SUPPORT OF WATER RIGHTS AGREEMENT BETWEEN THE CITY OF LOS ANGELES AND MONO COUNTY

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. ROYBAL. Mr. Speaker, H.R. 13521 which I introduced yesterday, will lift the restrictions on the management of Fed-

eral lands while protecting major investments by Los Angeles for the construction of water and power facilities in Mono County. The bill represents over 12 years of cooperation efforts between the city of Los Angeles and Mono County and enjoys the support of both the Los Angeles City Council and the Mono County Board of Supervisors.

The city of Los Angeles, which I represent, depends on long aqueducts to supply over 85 percent of its water supply. This is necessary because of the desert-like climate of southern California, and without these long aqueducts, the existing development in southern California would not have been possible. Both the original Owens Valley Aqueduct and the Mono Basin Aqueduct Extension were constructed exclusively with city funds with no Federal financial assistance. The operation of water and power supply facilities are closely coordinated with State and Federal agencies to maximize fish, wildlife, and recreational opportunities in connection with water facility operations.

Because much of the rural land in California is in Federal ownership, Congress in 1906 passed legislation to aid the city in gaining the necessary rights-of-way over Federal lands intersected by the first great aqueduct from the Owens Valley. In 1932, Congress passed legislation to aid the metropolitan water district gain rights-of-way for its Colorado River Aqueduct. A few years later, in June 1936, Congress passed additional legislation which permited Los Angeles to construct the Mono Basin extension of the Los Angeles Owens River Aqueduct. It is this 1936 act which is being amended by the legislation which I have introduced.●

DEBT LIMIT BILL; THE REAL ISSUE

HON. JAMES R. JONES

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. JONES of Oklahoma. Mr. Speaker, the issue of this debt limit legislation is a phony issue as virtually every Member of this House of Representatives knows and as many of my colleagues have privately confided to me. It is an attractive political gimmick for those who want to try to fool the public in order to gain short-term advantage.

But everyone of us knows that not one cent of new public debt is created by the debt limit legislation. This bill merely provides a mechanism for the U.S. Government to pay its debts which have been previously and legally created by our Government. One of the most conservative Members of this House, Mr. WAGGONNER, of Lousiana, accurately summarized the situation earlier in his analogy of taking your wife to the restaurant for dinner. The time to be conservative is when you look at the menu and order your meal. It does not do much good to become conservative after you have eaten and been presented with your check. This debt limit legislation is merely the check which our Government owes for the profligate spending of the past. I for one am not going to welch on our legal obligations.

My votes did not create the debt which we are asked to pay today. That same statement applies to most of the newer Members, both Democrat and Republican. But the issue is are we going to pay the legal and just debts of the United States as they become due?

Failure to pass this debt limit bill would be playing games when more important business awaits us on the agenda. A total of 239 Democrats and 124 Republicans voted for the Vanik amendment to cut down the size of the debt limit by $16 billion. Now some of those very ones who voted for this amendment switched votes on precisely the same issue because they want some Members on the majority side to sweat a little bit more. That is irresponsible.

It is true that I have voted against the debt limit legislation at times in the past. My reason was to protect profligate spending which created the debt. It was a protest against what appeared to be a futile exercise to cut spending. But that exercise is no longer futile and that protest is no longer as justified. This year this House has already reduced the President's original budget request by more than $10 billion. If the tax bill which I have proposed is passed, we will reduce that by nearly another $10 billion. So I am encouraged that we can and will reduce that debt before the debt is created. That is the way to be responsibly conservative. It is just as responsibly conservative to pay our just debts by what we do today in passing this legislation.●

VARIATIONS ON WHOLE-LIFE INSURANCE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. LaFALCE. Mr. Speaker, life insurance can take essentially one of two forms, whole-life coverage or term coverage. Whole life policies combine insurance with what, in effect, constitutes savings accounts. Term policies constitute pure insurance and must be renewed every year or so. As the following article, which appeared in Business Week (July 3, 1978) notes, most insurance sales people recommend whole-life coverage. "The agent thinks of sales dollars, and he'd rather sell whole-life for a $250 premium than term for a $30 premium." However, as the article also notes, there may be very little advantage to whole-life insurance, since after age 65 most people have no real need for insurance coverage. As for savings, "better vehicles can be found."

As might be expected, with an increasing trend away from whole-life insurance, insurers have responded with variations on the whole-life policy, including minimum-deposit insurance and adjustable life insurance. These "gimmicks" may be frought with adverse income tax consequences or extra costs

In considering a purchase of life insurance, careful consideration of your needs and relative alternatives is appropriate. The article follows:

VARIATIONS ON THE THEME OF WHOLE-LIFE INSURANCE

Despite a trend toward more readable life insurance contracts, you may find choosing a policy harder than ever. Today's high interest rates have added weight to the arguments against whole-life insurance, and partly as a result, insurers have been putting greater emphasis on variations of whole-life.

Your fundamental decision in buying life insurance remains whether to choose whole-life coverage or term coverage.

Whole-life policies combine insurance with what amounts to a savings account, and they generally stay in effect until death. Term policies are pure insurance that are renewable every few years to age 65 or 70. Most insurance salespeople recommend whole-life coverage. Among a panoply of arguments for whole-life, three have greatest substance: It covers you for life it forces you to save; and it can provide some tax-sheltered income.

THE BEST OF BOTH WORLDS

Insurance commissions are considerably higher on whole-life than on term, and during the early years of coverage, whole-life premium are far higher than term premiums. "The agent thinks of sales dollars," says Michael H. Levy, former chairman of Standard Security Life Insurance of New York, "and he'd rather sell whole-life for a $250 permium than term for a $30 premium."

Levy, who built his company by selling term insurance, is solidly in the camp that sees little advantage in whole-life coverage. This side maintains that few people need life insurance after age 65, because by then their children are grown.

As for savings and tax shelters, better vehicles can be found. Most whole-life policies pay an effective rate of interest on your cash buildup of 3½% to 4½%. By comparison, AA-rated tax-exempted bonds are now yielding around 6%.

Confronted with increasing resistance to whole-life insurance, companies are now making headway with minimum-deposit insurance, which some agents say combines the best in whole-life and in term.

In fact, minimum-deposit is not a type of policy, but a way to finance a whole-life policy. You pay annual premiums for any four of the first seven years (to satisfy Internal Revenue Service requirements). All your other annual premiums are paid with money borrowed against the policy.

You also pay interest on the loan, but it's tax-deductible. The higher your tax bracket, the less your life insurance costs under this arrangement.

BE AWARE OF THE BOOBY TRAPS

Any loans due to the insurance company are subtracted from the proceeds of the policy on death of the insured. But you get dividends on the policy, and with these you buy more insurance to offset your reduced coverage.

"If you have earned income guaranteed in the 50% tax bracket, and if the insurance company has an increasing-dividend policy," says Levy, "then minimum-deposit financing can provide you with cheap life insurance."

Joseph M. Belth, professor of insurance at Indiana University and a crusader for full disclosure in the insurance industry, warns that "the salesman may leave out the booby traps" when you buy minimum-deposit insurance. For example, Belth cites the case of a man who dropped a $100,000 policy after 22 years. The cash value, $42,000, equaled the outstanding loan, $40,000, plus interest due for the year, $2,000. But the IRS claimed the

policy had generated $6,000 of ordinary income from the insurance dividends, which meant $2,500 in additional taxes due, plus interest and penalties.

Adjustable life policies are now getting a big push from one major insurer, Bankers Life Co. in Des Moines, Iowa. Not the same as variable life (which invests cash values in stocks), adjustable life lets you vary the amount of your coverage, your term of protection, and your premiums at any time. You can even switch this coverage back and forth between whole-life and term.

But the adjustable feature costs extra, so its value depends on whether you will need to alter your coverage and whether the changes might as easily be made by increasing or decreasing conventional term-insurance coverage.●

ENERGY SAVINGS THROUGH SOFT TECHNOLOGY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. EDWARDS of California. Mr. Speaker, today I am placing an article in the RECORD from the Christian Science Monitor entitled, "Amory Lovins: Energy Planner." Amory has been a champion of a national energy policy which provides Americans with "soft" types of energy like geothermal, solar, wind, and biomass converters. The "soft" path to future energy development emphasizes a reliance on clean and reusable energy sources which are small and dispersed throughout the community as opposed to massive nuclear or coal plants. I want to associate myself with the philosophy of E. F. Schumacher who believes that "Small is Beautiful." This philosophy rooted in the idea that in choosing an energy program, the job which uses the least energy, for the lowest price, should be utilized. I think the only responsible approach toward energy use is one which is rooted in "soft" types of energy and the continued conservation of nonrenewable resources.

The President has recently returned from the economic summit meeting with the leaders of six other major industrial nations. He has promised these leaders that the United States will reduce its importation of oil. The need to begin a diligent program of developing soft energy types could not be more apparent.

The time has come for Americans to be frank with themselves and admit that we simply use and waste too much energy. I will continue to support measures which provide for the speedy development of "soft" types of energy-producing technologies and urge my colleagues to do the same.

I believe that we cannot go wrong by choosing the soft energy path. This philosophy embraces the idea of using the most appropriate energy source for a particular region. A path which emphasizes saving our energy resources while at the same time maintaining our present standard of living cannot be bypassed.

I hope my colleagues enjoy reading this article on Amory Lovins.

[From the Christian Science Monitor, July 19, 1978]

AMORY LOVINS: ENERGY PLANNER

(By Clayton Jones)

Amory B. Lovins, known as "Mr. Soft-Is-Beautiful" to some admirers, walked from the shade of a tree into the glare of the sun. His dark-blue suit soaked up just enough rays to warm him on a cool spring day. He took a sip of orange juice, checked the pocket calculator on his leather hip holster, placed his briefcase down next to his earth-brown hiking boots, and stepped up to the podium in front of 25,000 sun-worshippers.

It was May 3, the first celebration of "Sun Day," and the young crowd on the Washington Mall was speculating about this new apostle of the solar age.

Amory Lovins is a roaming energy think tank, an American living in London, schooled at Harvard and degreed at Oxford, an adviser to nations but with a message for the common man.

He is consultant to several government on energy matters, cross-pollinating ideas between nuclear scientists and conservationists, politicians and technicians, academics and bureaucrats, and explaining the two worlds he straddles—worlds that have become labeled in the Lovins lexicon as the "hard path" (large-scale energy systems) and the "soft path" (a diversity of need-tailored, small-scale energy systems).

He is based in London with Friends of the Earth, an environmental group, but spends his summers hiking in the White Mountains of New Hampshire. This spring he lectured at the University of California, Berkeley. He was raised in a scientific family living near Washington, D.C. He is also a pianist and has published two books of photographs on the Welsh headlands.

His influence lies in the fact that he has jumped ship, leaving the traditional, even-keel energy thinking, but still using all the technological and economic ropes. And he shows how the energy problem can be the means of transforming society. His statistics cut across ideological disputes.

In two years, his ideas have shaken the public confidence in the U.S. energy establishment down to its very uranium rods.

On Sun Day morning Lovins, the young physicist with calculator in hand, had battled with Wall Street investors over the wisdom of big electric power plants.

But by high noon, Lovins, the young conservationist, had flown to the nation's capital. Before the crowd of pro-solar, antinuclear youth, he spelled out his vision of an era of "natural" energy, speaking with the elegant frugality that has made him a David against the Goliaths of big power interests.

"Our tendency at times to focus the energy debate more and more on less and less [fossil fuels] reminds me of a woman living in India who called a carpenter to fix a window frame," said the new-age sage.

"He followed her sketch too literally and botched the job. When she asked why he had not simply used his common sense, he drew himself up and replied with great dignity, 'But common sense, madam, is a gift of God. I have technical knowledge only.' "

During the 1976 campaign, Jimmy Carter had consulted Mr. Lovins about an energy plan for the nation. They met again last October. The President, a former nuclear engineer, had asked to see Mr. Lovins, a 30-year-old "former high-technologist."

At their meeting, Mr. Carter showed himself well grounded, in Mr. Lovins' analysis, even to the point of correcting a slip over a figure made by the U.S. energy chief, James Schlesinger, who sat in.

In fact, in a speech the next day, the President cited some Lovins calculations on world nuclear hazards. And within the U.S. Department of Energy, top officials are beginning to shift federal policy to a soft-path strategy—and have taken on Mr. Lovins as a consultant.

The ideas he offered Mr. Carter—and to the Sun Day crowd—first came to public notice in October, 1976, when Mr. Lovins wrote a now-famous article for Foreign Affairs entitled "Energy Strategy: The Road Not Taken?"

The highbrow journal received a near-record number of requests for reprints. The nuclear and electric power industry quickly launched a counterattack, even publishing an entire book of critiques ("Soft vs. Hard Energy Paths," from Charles Yulish Associates, Inc.). The Lovins strategy, which he so far has been able to defend in his calculations, was called "flaccid and flatulent," "wistful neo-fantasy," and a "cuddly road to nowhere."

"I suppose that some people in the electric-nuclear industry are particularly hurt that I am writing with their numbers in what they might have throught of as their journal," Mr. Lovins said in an interview. "I am penetrating the periphery of their system and beliefs and sort of running around the inside of their perimeter, using their numbers and criteria while rejecting their values."

In the article, and in a book that followed in 1977 called "Soft Energy Paths," Mr. Lovins suggests that the United States, like many other nations, has a choice between two highly different types of energy systems for the 21st century—and the choice will affect what kind of society, and earth, humankind will have.

In brief, a "hard path" would require the use of "hard technologies," such as electric power stations, which would be centrally run and powered by depletable and potentially dangerous fuels (oil, gas, coal, uranium) and costly to replace.

A "soft path" would rely on "clean" and renewable energy, such as sunlight, wind, and plants, all found and used locally. The type and amount of energy would be matched to the job needed to be done, and thus keep the "energy economy" within its means.

"This economy-of-means argument—of doing the job with the least energy—is really a restatement of E. F. Schumacher's classic essay on Buddhist economics ["Small Is Beautiful"], Mr. Lovins said. "These ideas keep chasing each other around. They are in the air. I'm bound to be influenced by them.

"But I must say that I was awfully surprised when it turned out that soft technologies are cheaper than hard ones to do the same jobs. I had always assumed, as a former high-technologist, that although soft technologies are nice, they would cost more. I was doing some numbers in late '75 or early '76, and was quite surprised when it proved otherwise. Indeed, since then, people are sending me, or I am stumbling across, a great deal more evidence to the same effect.

"Fritz [Schumacher] argued largely from ethical and social grounds, but I am taking a more technocratic approach, befitting my background at a high-technologist. I am in the enemy's camp and he wasn't. It's a tactical difference.

"Of course, I'm not saying everything has to be small. It should be matched to the job. And if you read Fritz carefully, he said that, too. He said quite explicitly that there was a danger of developing a dogma of smallness . . . that would have to be fought just as vigorously as the dogma of large-scale."

Put into energy terms: "It is just as silly to run high-heat smelters with large wind machines as it is to heat houses with a fast breeder reactor," he maintains.

More than half of America's energy needs are in the form of heat, with liquid fuels running second and electricity as a distant third. Thus, Mr. Lovins says, it is cheaper, quicker, simpler, and less harmful to use solar technology in the future than to build new, heavily subsidized atomic and coal-fired electric generating plants.

"Electricity is very expensive stuff—a new barrel's worth costs you over a hundred bucks in oil," he said. "You could freeze in the dark

because you couldn't pay your utility bill." Giant electric stations also tie up more capital, he believes, produce less jobs, increase inflationary pressures, create a vulnerable and centralized power system run by a larger and larger technocratic bureaucracy, and hide the long-term environmental side effects in Wyoming, Appalachia, and the atmosphere.

"Hard technologies are a sophisticated way of stealing from our children," he said simply. "Energy is the most useful integrating principle we have so far to catalyze change and look at a wide range of problems. It is not just a resource problem but a matter of how our society is going to evolve.

"Soft path takes for granted that this a a diverse, pluralistic country in which we do not agree amongst ourselves about what the energy problem is, what our society should look like, what the role of government should be, what the price and regulation of energy should be. If we say we can't have an energy policy until people agreed about them, hell will freeze over first, literally," he said.

"A soft path approach works within that pluralism. If you are an economic traditionalist, then you put up your solar collector, because it's cheaper than not doing it. If you are a conservationist, then you build a solar collector because it is benign. If you are a social transformationist, then you build a solar collector, because it is autonomous. But it's still the same collector. You don't have to agree on why you are doing it.

"Or to put it another way, we have a strong consensus in this country that solar energy and energy husbandry are good things, and we have a pretty good consensus on the limited, clean use of coal [until A.D. 2025], and no consensus on anything else in energy.

"So I am saying, let's add up all the bits people agree about, because they are enough, and forget the rest because they are superfluous. We've never tried before to design an energy policy around consensus, but it seems time we started."

In fact, Mr. Lovins has found in his travels that the action in energy policy is not in Washington but at the local and state level—solar assistance, bicycle paths, insulation credits, recycling centers, utility reform. In Vermont for instance, 40 percent of the homes have installed wood-burning stoves since 1974.

Eventually, a soft-path society would have cars running on alcohol derived from farm and forestry wastes. Electricity, generated from new and old hydro dams and wind machines, would be transmitted through the present grid of wires. Petrochemicals, for such things as plastics, would come from coal and agricultural products.

A real test of Mr. Lovins' thesis was studied by the U.S. Department of Energy: Could California survive on its own native energy, given present technologies?

Researchers calculated that yes, the state could, just by using thousands of windmills, electric cars and railroads, strict conservation, and large tracts of "energy farms." Less than 10 percent of energy needs would have to be imported, such as coal-derived oil. The study has persuaded other regions to look into soft-path futures.

Beyond energy, Mr. Lovins believes the next crisis for America will come from its water policy.

"You can go right down the line and see that we are making all the mistakes in water policy that we had been making in energy policy: We're being supply- rather than demand-oriented. We call for more dam projects to divide up the water that isn't there. We're concentrating on total demand of water in gallons and not on the quality of water required for each job.

'If we don't start to adapt now we'll conceivably be in a much worse mess than we are with energy."●

CAPTIVE NATIONS WEEK—THE BALTIC STATES AND THE UKRAINE

HON. LESTER L. WOLFF

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. WOLFF. Mr. Speaker, I would like to bring to the attention of my colleagues the state of affairs in the Baltic nations and in the Ukraine. On this 20th anniversary of Captive Nations Week, I think it appropriate to recognize the repressed countries of Latvia, Estonia, Lithuania, and the Ukraine.

In this post-Helsinki period, these small Baltic States are still engulfed and repressed by the Soviet Union. Latvian, Lithuanian, and Estonian people have been subjected to an imposing Russification of their culture ever since the imposition of the Soviets over their lands. The physical colonization of these republics is still going on. In conjunction with the 5-year plans—the imposition of incredibly high economic goals, upon the Baltic States especially, has caused an influx of Russian workers into the republics. This importation is so great, that the ethnic Latvians and Estonians will become a minority in their own countries by the early eighties. In turn, the Russian language is a mandatory subject in the schools, and has replaced the native languages in many institutions. This constant influx of Russians, and the effect this has on the culture of the Baltic States is very threatening to the identity of each distinct nation.

To this day, Helsinki has not changed the situation in the Baltics. The Soviet Government is a signatory to the U.N. Charter yet it has not recognized its obligations, or lived up to its commitments. This insult to Baltic ethnic identity is constant. There are numerous examples of repression. One particularly galling one is the incident of seven Lithuanian schoolboys who were expelled from school, threatened, harassed, and barred from careers and higher education because they were accused of church attendance, and associating with a Catholic activist. This is an evident violation of human rights—particularly upsetting because it involves children.

The situation is, unfortunately, as iniquitous in the Ukraine, if not more so. The Ukraine fell under the domination of the Soviet Republic in 1920, and has remained repressed ever since—regardless of Helsinki. According to Nikita Khrushchev, Stalin once even contemplated the "wholesale deportation" of the Ukrainians to Siberia. This would have involved about 40 million people. Thankfully logistics stopped him. Nevertheless, thousands of Ukrainians were deported at the end of the war. In addition, the Ukrainian Autocephalous Orthodox Church and the Ukrainian Catholic Church were liquified, this striking "at the spiritual core of a people and nation."

The denial of Ukrainian national identity has taken subtler forms since then. As in the Baltic States, Russian is slowly overpowering the native language. The Russification of the Ukraine has overwhelmed the people to such an extent, that more than one-third of them have lost the incentive to study their own language, and now attend Russian schools. For some 5 million elsewhere—there are no Ukrainian schools. Nationalism in the Ukraine, a spokesman told the Commission on Security and Cooperation in Europe, "is not someone who wants his political system to be superior to others * * * but rather * * * wants what has been his for over a thousand years to be continued with his children and his family and with his religion."

The Soviet Government has repeatedly violated almost every one of the Helsinki provisions. In August of 1977, I authored a bill to express the sense of the Congress that the United States encourage the self-determination of the captive nations of the Baltic Republic of Lithuania, Latvia, and Estonia. An excerpt from this resolution explains the state of affairs of these nations:

Whereas the United States, since its inception, has been committed to the principle of self-determination;

Whereas this essential moral principle is also affirmed in the Charter of the United Nations;

Whereas the Union of Soviet Socialist Republics is, according to its constitution, a voluntary federation of autonomous republics;

Whereas the three Baltic Republics (the Republic of Lithuania, the Republic of Latvia, and the Republic of Estonia) did not become member republics of the Union of Soviet Socialist Republics voluntarily, but rather were occupied militarily by Russian Armed Forces in the early days of World War II and subsequently incorporated by force into the Union of Soviet Socialist Republics;

Where the ethnic markup of the Baltic peoples (the Lithuanians, Latvians, and Estonians) is distinctly foreign in language, culture, common traditions, and religion from that of the Russian people;

Whereas, by deportation and dispersion of the native populations of the Baltic states to Siberia and by a massive colonization effort in which Russian colonists replace the displaced native peoples, the Soviet Union threatens complete elimination of the Baltic peoples as a culturally, geographically, and politically distinct and ethnically homogeneous population;

Whereas, despite such treatment, the spirit of the citizens of the Baltic states is not broken and the desire of the citizens of the Baltic states for national independence remains unabated;

The repression continues in these states. The Helsinki Accords do not exist for the Lithuanians. Latvians, Estonians, and Ukrainians. With regard to these peoples—Helsinki has become a mockery of the principles it suggests.●

Rx FOR SAVINGS: GENERIC DRUGS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. ROSENTHAL. Mr. Speaker, the dispensing of prescription drugs by their generic name in place of their overpromoted and overpriced brand names could save American consumers hundreds of millions of dollars each year and at no cost to their health.

Study after study shows that this potential savings goes unrealized because

doctors do not prescribe generically and because pharmacists are unable or unwilling to substitute generic drugs.

One of these studies was conducted by my own staff in Queens and in the Washington, D.C. area. The findings of that investigation revealed that prices can and do vary widely between brand-name drugs and their identical generic equivalents. Prices also differed greatly on the same drug from pharmacy to pharmacy and even from purchase to purchase—of the identical prescription—in the same pharmacy.

Part of the answer to this problem is better information for consumers through mandatory drug price posting and mandatory use of generic drug names. Another is requiring generic substitution.

These are the subjects of my testimony before the House Commerce Subcommittee on Consumer Protection on June 30. I introduced legislation to improve retail drug price competition more than 5 years ago. I am hopeful these hearings will produce the progress and results that are so badly needed and so long overdue.

I am inserting in the RECORD at this point my testimony on behalf of H.R. 44, the Prescription Drug Labeling Act, which I introduced with the support of 34 of our colleagues.

TESTIMONY OF HON. BENJAMIN S. ROSENTHAL

Mr. Chairman, members of the subcommittee, I appreciate this opportunity to present my views to you and to urge adoption of a comprehensive generic drug substitution law. I have long been a strong advocate of such legislation. The retail pharmaceutical industry has been shielded from the competitive pressure of a free enterprise system for too long now, and this costs the American consumer several hundred million dollars annually.

In order to lower the cost of prescription drugs, legislation must be approved to encourage the use of lower-priced generic drugs, to facilitate comparison shopping on the part of consumers, and to foster price competition on the part of retail pharmacists. We must at the same time insure the safety and effectiveness of the medicine we use.

To accomplish this, several steps must be taken:

First, retail pharmasists must be required to dispense the lowest cost equivalent drug in their inventory whenever a doctor's prescription is presented. The only exception should be if the doctor states in his own handwriting, "no substitutions".

Second, the Food and Drug Administration must develop a positive formulary of prescription drugs for which there are no demonstrated bioequivalence problems and for which substitutions will be required.

Third, a drug's established or generic name must be used whenever and wherever its brand-name appears—from advertising to labeling.

Fourth, all pharmacies must be required to post in a prominent place the prices of the 100 or so top selling drugs.

Finally, the Federal Trade Commission, the Food and Drug Administration, and the Secretary of Health, Education, and Welfare must work together to encourage the retail advertising of prescription drug prices.

The dispensing of generic drugs in place of their brand-name equivalents would save Americans millions of dollars each year. Repeated surveys by government agencies at all levels, by public interest organizations, by academicians and others, and by my own office both in New York and Washington, have consistently demonstrated that a wide disparity exists between prices of generic and branded drugs. This disparity exists not because brand-name drugs are any safer or more effective but because doctors have been continually subjected to the promotional efforts of the large pharmaceutical firms.

It has been estimated that the pharmaceutical industry annually spends $5,000 per physician in this country, or 25 percent of revenues from sales using detail men, free samples, direct mailings, advertising in medical journals, and free gifts for medical students in order to persuade doctors to prescribe brand-name drugs. This billion-dollar expenditure has nothing to do with the patient's health, but is used to beguile him and his doctor and to combat his attempts to get a better drug buy. It tends to monopolize doctors' sources of information and keep many from adopting critical and scientific attitudes toward drugs.

This influence on doctors begins early—in fact, even before they become doctors. It starts in medical school with a free black bag, a stethoscope and some textbooks. It continues with visits from salesmen, invitations to industry-financed conferences, gifts, and a massive effort at post-graduate indoctrination by those who profit from brand-name prescribing, over-prescribing and misprescribing.

The doctor's primary source of information about available drugs is the Physicians Desk Reference (PDR), a catalogue which illustrates prescription drugs and explains their usage. It is filled with advertising by major drug manufacturers, distributed free of charge to most doctors, and is found in every hospital. Contrary to its implied universality, the PDR is incomplete—it mentions only a few generic names for widely-prescribed, basic drugs. The widespread use of this volume actually serves to conceal from doctors the existance of other manufacturers who can often supply the same drugs at lower cost. The high price of these medicines is passed on to the patient, who is caught unaware in this web of economic gain. It is scandalous, in my opinion, Mr. Chairman, that in the United States this type of compendium is produced by private industry; in nearly all other nations the importance of such a listing and its need for universality is recognized, and the responsible governmental authority publishes this document.

The efforts of the major pharmaceutical firms to influence doctors have been successful. Physicians, unaware or unconcerned that a majority of the prescriptions they write are for multiple-source drugs, continue to prescribe medication by brand-name. If pharmacists were required to substitute generic equivalents for such multiple-source drugs, as is the case in only a handful of states, the distorting effects of the industry's protrademark promotional campaign could be sidestepped to a certain extent and consumers saved a considerable amount of money.

Opponents of generic dispensing—primarily the brand-name manufacturers whose philosophy is "big makes best"—argue that distinct manufacturing processes may produce therapeutic differences in equivalent drugs made by different companies.

The assertion that repeal of anti-substitution laws will result in a deluge of inferior, foreign-made drugs into the U.S. market is typical of the hysterical, misleading and inaccurate scare tactics employed by opponents. Obviously, the high U.S. standards will remain in effect. According to the FDA:

"All drugs, whether they are sold under their brand names or their generic names, must meet the same FDA standards for safety, strength, purity, and effectiveness. And all drug manufacturers, big or small, are subject to FDA inspection and must follow the Agency's Current Good Manufacturing Practice Regulations. That is why FDA believes there is no significant difference in quality between generic and brand name drugs."

In fact, some of the big brand-name products may actually have been produced by one of the small drug firms. It is not unusual for big and small drug companies alike to buy bulk from the same manufacturer and package the product under their own separate names, some generic and some trademarked.

Even the American Pharmaceutical Association admits it is unlikely that a drug "meeting established standards under federal drug laws will not perform clinically as expected," according to the testimony of its executive director, William Apple, before the Senate Finance Committee.

Furthermore, it is unfair of manufacturers to imply that pharmacists are not professional or responsible enough to stock and dispense only those drugs in which they have faith.

The National Academy of Sciences' Drug Research Board, in 1975, unanimously called for repeal of anti-substitution laws. It concluded that "in the absence of data to the contrary, there is no inherent reason for choosing the more expensive drug product simply because of the familiarity of the physician or pharmacist with the brand-name."

It is ridiculous to prohibit the general public from taking advantage of low-cost generic drugs when they have been used successfully for many years by the Veterans Administration, teaching institutions, hospitals in general, and even the Defense Department at a substantial cost savings. In addition, the Department of Health, Education and Welfare encourages pharmacists to dispense generically in the Medicare and Medicaid programs by using a maximum allowable cost (MAC) schedule, stipulating maximum reimbursements for multiple-source drugs. If generic drugs are good enough for these groups, why should everyone else be forced to pay for over-priced and over-promoted brand-name products?

Resistance to drug substitution comes not only from brand-name manufacturers who stand to lose money as a result of increased competition, but also from many doctors. Their concern is more a matter of professional pride than of economics, although their professional organizations have pocketbook motivation.

I want to stress that my proposals would in no way permit a pharmacist or anyone else to overrule a physician's decision. The basic diagnosis and the judgment for treatment remain with the physician, as they must. If he wishes a particular drug to be dispensed, his decision must and will be followed. All he need do is mark the prescription in his own hand writing, "no substitution" or "dispense this brand only."

The bill before us today, H.R. 1963 is a step in the right direction. It does not, however, go far enough. Pharmacists must be required, not just allowed, to substitute the lowest cost generic equivalent. If substitution is merely allowed, there would be too much temptation for the pharmacist to stock only the more profitable brand-name drug. The cozy relationship that has developed over the years between the pharmacists of this country and the brand-name drug companies is too strong to be broken by a law that only allows substitution to take place. A loophole like this could deprive consumers of most of the benefits a generic drug substitution bill could offer.

Furthermore, any legislation should state clearly that if the pharmacist does not stock or has run out of a generic equivalent drug, he should be required to dispense the brand-name drug at the lower generic price or refer the customer to another pharmacy.

The drug industry will not change overnight if we require substitution. Many drugs on the market today still are single-source and patent-protected. But, as patents expire, the number of multiple-source drugs increases, and even the name-brand manufacturers are marketing some so-called "generic lines" to capitalize on growing public awareness.

I also propose that the pharmacist be required to pass along to the consumer any savings that result from the substitution of a generic drug. I realize that a free market is the most effective means of accomplishing this, but given the lack of competition and consumer awareness in the market for prescription drugs, such a provision is needed, at least temporarily.

In order to insure the safety and health of Americans and to allay any fears about the quality of generic drugs, I propose that the FDA assemble a list of drugs for which there have been no demonstrated problems with bioequivalence and for which substitutions will be required. One potential use for such a formulary of drugs would be as an information resource by consumers to help them persuade their local pharmacists to stock a particular generic drug. In any case, it is about time that we have an official government-assembled compendium of prescription drugs clearly identifying therapeutic equivalents. The formularly should be continually revised and expanded by the FDA.

Besides the overuse of brand-names, one of the main reasons for high drug prices and high corporate profits is the lack of competition. I propose that H R. 1963 be amended to require the posting of the prices of the 100 or so top selling drugs, as determined by the FDA. The list should be arranged alphabetically by generic name and should contain the lowest price charged for each generic and brand-name drug in its most commonly dispensed dosage, form and quantity. This measure would facilitate comparison shopping on the part of consumerss and encourage them to be more price-conscious. Pharmacists have always seemed to treat the prices they charge as if they were top Defense Department secrets. The mandatory posting of drug prices would help change this as well as encourage some sorely needed competition at the neighborhood pharmacy counter.

I strongly suggest that H.R. 1963 be further amended to require the use of a drug's generic name whenever its brand-name appears. This would mean the use of generic names on prescription labels, in all retail advertising and on price posters. The use of different brand-names for the same drug is often very confusing to the consumer as well as to his doctor. The mandatory use of generic names will make it much easier for the consumer to shop intelligently for the lowest price. By introducing an element of consistency, generic labeling also will make drug-price posting and advertising, now permitted under a recent Supreme Court decision, more meaningful. Competition, a crucial element in our economy but one too long absent from retail pharmacy, will be enhanced as consumers become able to shop for the best buy.

Although the Supreme Court has allowed retail pharmacists to advertise, many have been reluctant to do so. I urge the subcommittee to consider a provision to authorize the FTC, FDA, and the Secretary of HEW to cooperate in encouraging pharmacists to advertise drug prices. All restrictions or impediments to price advertising on the part of states or their boards of pharmacy should be strictly prohibited. In addition, guidelines on the use of advertising should be issued so as to prevent any abuse in this area.

Over the years, pharmacists, doctors and drug companies together have effectively insured that the consumer purchases the most expensive drug on the market. We must change this. We must introduce an element of the free enterprise system into the retail drug industry. The amendments I have proposed today, if adopted, would mark a major advance in combating inflationary health costs, while contributing to the health and safety of consumers. Mandating the substitution of generic drugs will encourage the use of the lowest cost drugs available. A formulary developed by the FDA will assure the American consumer that he is getting a safe and effective drug. The mandatory use of generic names, the posting of drug prices and the promotion of retail advertising will help consumers shop wisely, while trimming the fat off the prices we now pay for prescription drugs.

The proposals I have set forth today would mean significant savings for millions of Americans at absolutely no risk to personal health. They pose a threat only to the bloated profits of a number of large corporations who would rather keep the American consumer paying in the dark.●

PANAMA CANAL TREATIES ATTACKED BY FORMER PANAMANIAN PRESIDENT ARNULFO ARIAS AT TREMENDOUS OVATION UPON HIS RETURN FROM EXILE, JUNE 10, 1978

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. DORNAN. Mr. Speaker, on June 16, 1978, the eyes of the world were focused on a carefully staged diplomatic extravaganza in Panama City. In the midst of enormous press and TV coverage, the President of the United States cordially embraced Panamanian Chief of Government Omar Torrijos and ceremoniously signed two new Panama Canal treaties. (CONGRESSIONAL RECORD, June 19, 1978, pp. 18121–25.)

On June 10, 1978, 6 days prior to that event, former President of Panama, Dr. Arnulfo Arias, returned to his native land after almost 10 years of exile in the United States. His return received a tremendously stirring welcome in Panama City by Panamanians of all classes. A crowd estimated at between 200,000 and 300,000 portrayed their enormous support for the former leader. Despite the magnitude of probably the greatest demonstration in Isthmian history, the event was virtually ignored by the U.S. news media. Because of that cavalier treatment, I shall mention some of the crucial highlights of Dr. Arias' address.

Because of the Government's strict control of the news media, the people of Panama were anxious to learn of the true state of their country, Dr. Arias told them of the debt that the ruling tyranny had accumulated of "almost $3 billion in irresponsible loans with exhorbitant interest." He charged that "excessive taxes of every kind had served to increase the cost of living and promote the administrative corruption, increasing the hunger of the people."

Dr. Arias deplored subjecting Panamanians to unconstitutional sentences of exile and imprisonment without any due process other than a police order. The crowd rallied behind his call for the return of Panama to "constitutionality rather than obedience to a psychopath who should be in an insane asylum."

Dr. Arias urged the removal of the "cancer" which is destroying the country. He described the present situation as one in which the Panamanian people despise and repudiate "electioneering politicians and the supreme traitor, who clings to his ill-gotten power."

In reference to the new Panama Canal treaties, Dr. Arias charged that they "undermine our sovereignty and dignity as a free country in complete control of its destiny and even serve to generate new sources of friction." He urged the Panamanian people to "work and develop our own country rather than depending on the rivers of gold flowing from the Canal Zone."

Dr. Arias informed the Panamanian populace of the resolution introduced in the U.S. House of Representatives by Congressmen GEORGE HANSEN, JOHN M. MURPHY, and 239 other House Members (House Con. Res. 347) to establish that no U.S. territory or property within the Canal Zone may be transferred until authorized by both the Houses of Congress. (CONGRESSIONAL RECORD, April 24, 1978, pp. 11282–11284). This announcement received the crowd's applause and joyous shouting.

His address emphasizes the fundamental principles of true statemanship: that permanent interests of countries should never be abandoned or prejudiced for the sake of momentary advantages that, in the long run, could prove disadvantageous.

No wonder his moving address, interrupted some 64 times by applause, shouting, whistling, chantings, and callings for Arias to be President of Panama, created fear among high officials of the Revolutionary Government who deposed him in 1968.

Former President Arias clearly demonstrated his understanding of the Isthmus' situation, and he truly displayed his power of leadership. The crowd's response exhibited the public support behind him. After such a disclosure, how the President of the United States could have gone to Panama, embraced its pro-Soviet dictator Torrijos, and signed the instruments of ratification on June 16, is beyond comprehension.

Mr. Speaker, although there have been obvious efforts to create the impression that the ratification process is complete and the giveaway is final, I wish to stress to this Congress that it is not. This crucial issue is one that transcends all partisan considerations and must be resolved on the highest plane of statesmanship if our course is to be sound and our future security protected.

The true interests of the United States are the maintenance, operation, protection, and modernization of the existing Panama Canal, and to provide the best conditions for the free and uninterrupted transit of vessels, with tolls that are just and equitable. The above would assure an optimum state for interoceanic commerce and hemispheric defense.

The real interests of Panama are its maintained independence and the con-

tinued earnings to its people from the U.S. Canal Zone sources. Estimated now at $250,000,000 annually, these interests are guaranteed only so long as the United States remains on the Isthmus, a fact which most thoughtful Panamanians realize.

In connection with the vital interests involved, the crucial question is not a mere local one between the United States and Panama but a matter of global significance for the control of strategic waterways. Realistically, it is a struggle between the United States and the Soviet Union for the domination of the Caribbean Gulf of Mexico basins.

It is evident from Dr. Arias' address that he understands the seriousness of the situation. For he warned of the "great battle that began in the Middle East, is underway in Africa, and now menaces Nicaragua, El Salvador, and Panama." And the use of force and threats is increasing on the Isthmian coasts.

The harsh reality and enthusiastic reception of Dr. Arias' address carries a strong message to us as Members of Congress. Although I have mentioned only a portion of Dr. Arias' comments, the message is clear: We must realize the true situation in Panama and act without unnecessary hesitation.

Tomorrow I will quote the first half of his speech as part of my remarks and I urge that it be read by every Member of Congress, committee staffs concerned with Isthmian policy questions, editors, historians, scholars, and others interested in the security of the United States and the entire Western Hemisphere, including Panama. Please read Señor Arias' June 10, 1978, speech as printed in tomorrow's RECORD.●

HOSIERY INDUSTRY INFORMATION

HON. JAMES G. MARTIN

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. MARTIN. Mr. Speaker, it is indeed my pleasure to share with my colleagues information about the hosiery industry in the United States. The National Association of Hosiery Manufacturers have selected September 10–16, 1978, for their eighth annual celebration of National Hosiery Week, and in anticipation of this event I would like to offer some little known facts which I believe merit our attention.

During 1977, the U.S. hosiery industry produced more than 3 billion pairs of hosiery, or more than 14 pairs for every man, woman and child in the country. Hosiery mills are located in over half of the 50 States and in Puerto Rico. I'm especially proud to say that 55.1 percent of the total production of hosiery takes place in North Carolina, the largest of the hosiery producing States.

This total hosiery production has been undertaken by some 74,500 workers in 330 companies, operating 444 plants. Many of these individual manufacturers are small businessmen, working hard to earn a profit while providing jobs for others and helping the economy of numerous small towns and cities.

Thousands of retailers around the country—including department stores, supermarkets, mass merchandisers, drug stores, shoe stores, and specialty shops—will join in celebration of National Hosiery Week. The National Association of Hosiery Manufacturers has provided these retailers with National Hosiery Week idea kits, lapel badges for employees and hosiery fashion information to assist them in preparing their displays and promotions highlighting hosiery products and the industry's contribution to the Nation's economy.●

FEDERAL RECLAMATION LAW

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. MILLER of California. Mr. Speaker, on July 17, I testified before the Subcommittee on Water and Power Resources, of the House Interior Committee, on the issue of Federal Reclamation law. I would like to share my views with my colleagues by inserting into the RECORD the text of my testimony:

TESTIMONY OF CONGRESSMAN GEORGE MILLER

Mr. Chairman, I appreciate having the opportunity to testify before this Subcommittee this morning on the very important, and very complicated, issue of federal Reclamation law. Over the past year and a half, this Subcommittee has taken the first steps in recent memory towards reviewing and mandating overdue reform in certain aspects of federal Reclamation policy. This hearing continues that process, one which will require great study by a wide range of concerned individuals throughout this country before we actually begin the process of considering legislation.

Almost all of the public discussion concerning the need to reform Reclamation law has focused on a small number of issues such as the acreage limitation, the residency requirement, procedures for the disposition of excess lands, and the possibility of providing for a "buy-out" from these provisions for projects in which landowners repay the cost of the project. These modifications in the 1902 and 1926 Acts are necessary, it has been alleged, because the fiscal, economic and farming realities of 1978 and the future necessitate the modernization of an archaic law.

Contrary to the occasional allegations of some, I think the record in almost all cases is very clear: irrigators knew the terms and conditions associated with Reclamation projects before their irrigation systems were authorized, and they accepted those conditions. Now, when the time is coming due to follow-up on their portions of the bargain—after the multi-billion dollar projects have produced enormous wealth for a select group of farmers for many years—they seek to modify the law for their further benefit, at great cost to the general taxpayer, and to the fundamental principles of Reclamation law.

Despite my role as a strong advocate for the enforcement of the Reclamation law, I do not doubt that there are certain areas which might well require modification. Foremost among these, it seems to me, are the questions of acreage limitations, disposition of excess lands, and the residency requirement, which are allegedly antiquated and ill-suited to the 21st century.

But, the central, and most fundamental, concept of my testimony here today, and my views on Reclamation policy overall, is this: if these aspects of Reclamation law are inappropirate to our present day, then most certainly there are many other areas of that law which similarly are outdated and out of touch with modern economic policy. The overall interests of the taxpayers and citizens of the United States must be as fully protected by this Congress as any sections of the law which anger or discomfort individual irrigators.

Let me state at the outset, and fundamentally, that the Reclamation program was never intended as purely an economic one. The federal investment was to be repaid not merely through the payment of taxes by farmers (based upon their personal profit from federal subsidies), but was predicated upon a social goal. As F.H. Newhall, the first director of the Reclamation Service, stated:

"The object of the Reclamation Act is not so much to irrigate the land as to make homes . . . It is to bring about a condition whereby that land shall be put in the hands of the small owner, whereby a man with a family can get enough land to support that family."

Basic to Newhall's view is the viability of the farms to be created out of the large land masses irrigated by federal reclamation policy. Surely, no one in 1902, or today for that matter, would advocate the fragmentation of the land into uneconomic units. I am fully aware of the massive, and costly, publicity which has maintained recently that it is entirely impossible to farm economically the amounts of land permitted under the Reclamation Act. Expensive advertisements have been taken out in major publications throughout the country implying that farms would be restricted to 160 acres, and that such a farm could not possibly subsist in today's climate of "agribusiness efficiency."

Now, the people who paid for those ads attempted to perpetrate a hoax on this Congress and the general public, and they committed a grave insult to the integrity of the Reclamation program. Nowhere was it ever suggested that farms be limited to 160 acres—not in the past, and not even in the rules and regulations proposed by Secretary Andrus. And the people who produced the propaganda opposing the law surely must have been fully aware of that fact.

Let us look briefly at this issue of farm size. I am from California, and I know we have very large farms there. But the fact is that the average size irrigated farm in the 17 western states involved in the Reclamation program is not 2,000 acres, not 640 acres, nor even 320 acres: it is 184 acres (1974 figures). The highest average farm acreage is in Nevada, with 408 acres; Utah has the lowest, 92 acres. The average size irrigated farm in California is not even 160 acres—it is just 157 acres! Nationally, the average irrigated farm is 169 acres!

From listening to the outbursts from certain Reclamation interests, one might assume that enforcement of the Reclamation Act would affect every farmer in America, and revolutionize agricultural patterns. In fact, just 5,288 farms in the country are affected (three quarters of them in California), constituting just two-tenths of one percent of all U.S. farms, and just one percent of all U.S. farmland! Among those farmers, most are in compliance even with the acreage limitation provision of the Act as it currently stands. Of the 1.3 million acres of excess land, over 82% of it is located within the State of California.

Available data indicates that small farms do exist in very large numbers, and that these farms are economically viable. A review of farm economics in Fortune maga-

zine in 1972 ("A Tough Road to Hoe," August, 1972) concluded that, "[I]ndependent farmers agricultural economists and many corporate managers agree that the most efficient producing unit is the farm that can be run by its owner." [Emphasis added] A Department of Agriculture finding the following year closely paralleled this conclusion, noting that the one to two person farm operation is the most efficient unit, and that the concentration of farming will not lower prices of food to consumers. ("One Man Farm," USDA–ERS–519, August, 1973).

These figures have been supported by studies of the Department of Agriculture, which reported in 1975 that the average per acre value of crops grown on lands served by federal projects in the 17 western states is $475 per acre, at 75 percent parity. This means that a 160-acre farm would produce a gross income of $76,000 annually; a 320-acre farm would produce $152,000, and a 640-acre farm $304,000. Naturally, these acreages would be modified by a Class I equivalency factor in certain areas of the West.

Even presuming that these figures are overly optimistic by a factor of 50 percent or even 75 percent, the resulting incomes are substantially higher than the average farm or urban income of the American worker. Certainly, these figures dwarf the incomes of farmers in non-reclamation areas of the country who do not benefit from the subsidies of this federal program.

Thus, we reach another major question to be decided by this Congress: should the federal government use taxpayers' money to build subsidized projects for a small group of farmers, thereby guaranteeing those farmers an income which is substantially higher than the average citizen or farmer? I continue to believe in the fundamental concept of Reclamation law: the benefits derived from the federal investment in the construction and operation of these projects must be distributed to the widest number of people, and must not accrue to a select group of individuals.

Having described my personal philosophy, let me move onto specific recommendations concerning legislation. These concepts will be reflected in the "Family Farm Preservation and Reclamation Reform Act" which I will introduce in the near future.

ACREAGE LIMITATION AND LEASING

My earlier discussion illustrates the significant doubts which I hold concerning the setting of a firm acreage limitation at this time. Without doubt, more information is required before a final determination can reasonably be made by Congress. Although it appears that 160 acres is a reasonable farm size economically in some cases, practical reality and the history of enforcement establishes that it is not considered today to be a reasonable ceiling on ownership or operatorship.

For the present, I believe that no reasonable case has been made for a ceiling in excess of 320 acres owned or leased in areas of Class I land per individual. Joint ownership up to 640 acres should be permissible. Not only would such a formula assure economic viability, but it would cause a minimum of dislocation in almost every state, since most farms are well below this figure already.

I believe that it is critical that we avoid introducing complex bureaucratic provisions in any new law. I do not see the wisdom of requiring family relationship between joint operators, so long as the operation itself is not in excess of the 640-acre limitation and each owner meets the residency test.

To assure the widest distribution of benefits from federal taxpayer investment in Reclamation lands, ownership by an individual of lands in more than one district, in excess of the 320-acre figure, should be strictly prohibited. Land currently in excess of this proviso should be treated as excess lands, presuming the constitutionality of such a provision.

RESIDENCY

Inclusion of a residency provision is essential. Failure to include such a requirement would encourage the ownership of land by non-farmers, which is directly contrary to the 76-year-old philosophy of the Reclamation Act, and which is unjustified on economic or policy grounds.

Residency should consist of two tests: the farmer should be required to live within 50 miles of his land, and he should additionally be required to be actively engaged in the operations of the farm on a daily basis.

It should be noted that, according to Bureau figures, many districts are substantially in compliance with the proposed 50-mile residency test already. Of the figures cited, only districts in the San Luis Unit—Westlands (35 percent), Panoche (46 percent) and San Luis (30 percent)—have fewer than 75 percent compliance, and many have 90 percent or better.

Exceptions from this rule should be provided, on a short-term basis, for medical reasons or because of economic setbacks. Under neither condition would it be fair to require a farmer to dispose of his lands. Similarly, a retired farmer should be able to retain ownership after working the land for a minimum 15-year period, even though he moves out of the area.

DISPOSITION OF EXCESS LANDS

Currently, the law requires the disposition of excess land within 10 years after the owner begins to receive federal water. This provision should be maintained. Much of the debate has revolved around how the disposition should occur.

I believe that a great deal of the concern has stemmed from the questionable sale-and-lease-back schemes which have made a sham of the small farm concept in certain areas. Strict enforcement of the acreage limitation, residency requirement and leasing provisions I outline today will, I believe, eliminate much of the circumvention of the intent of the law in the disposition of excess lands. I do not think, therefore, that it would be wise to develop a broad new framework for that process.

Rather, I believe that the Interior Department's suggestion in Secretary Andrus' May 3, 1978, letter deserves strong support. Owners of excess lands should be able to sell that land, under approved prices, to family members, employees (or former employees), or adjoining neighbors. If a sale has not been made to one of these groups at the end of the disposition period, the Secretary of Interior should conduct a lottery to dispose of it. Provisions should be made in the conduct of the lottery to assure that joint operators would be able to purchase adjacent tracts.

Controls on the resale of such land should continue for a period of 15 years after the original sale, to prevent turn-around resale and speculation. I think that the bill authored by our colleague on the subcommittee, Mr. Krebs, can serve as the basis for this provision of any new Act.

Lastly, I believe that the law should authorize the Secretary of Interior to purchase a portion of this excess land for resale or lease to potential farmers who would not otherwise be able to acquire the land, and then permit these new landowners to repay the federal government from their profits. We have long allowed current landowners to profit from government support. It seems to me wholly consistent with the original intent of Reclamation law, and with contemporary conditions in the West, that the government aid the large mass of landless who seek to acquire a parcel of land for their own.

BUY OUT PROVISION

Several bills have been discussed during the present Congress which would have the effect of repealing the acreage limitation and other aspects of Reclamation law after a water district has totally repaid the federal government for its cost of a project. I believe that this issue may well constitute one of the fundamental issues in the present debate.

The buy out concept is based upon several basic misconceptions. First, it presumes that the Reclamation program is entirely a fiscal one, and that payment of certain costs also buys one's way out of compliance with the primary social import of the law. This is obviously false.

Secondly, it remains unclear precisely what landowners would be required to repay: Their share of construction? Interest charges? Continuing operation, maintenance and replacement costs? How could one group of landowners be able to contractually obligate subsequent landowners to repay the otherwise forgiven interest costs, a factor which could inhibit the resale, and dispersal of this land?

There are very few cases in which there is any serious question but that the Congress fully intended that, along with the benefits of the Reclamation program, would come long-term responsibilities and obligations by the beneficiaries. The existence of those obligations should come as no surprise to these irrigators, although the intention of the Department of Interior to enforce the law may be unpopular.

In certain cases, after careful scrutiny, Congress has provided for buy-outs, or has waived facets of the law, by means of authorizing legislation. A broad exemption or buy-out provisions, formulated without thorough study, is indisputably not in the public interest, and should not be included in any revision of the law.

The legislation which I will soon introduce will require the Secretary of the Interior to evaluate and report to the Congress on the workability of a proposal to permit the waiver of certain costs or obligations by districts which have been determined to be in substantial compliance with the intent of the Reclamation Act by virtue of having established and maintained a stable pattern of family farming.

However, it would be thoroughly unfair to the broad public interest to permit landowners to simply buy their way out of compliance with the law, to thereby abandon their half of a bargain freely entered into, to obligate future landowners with hundreds of millions of dollars in additional debt, and to pay off a public debt (at original cost levels) with their highly inflated dollars earned through federal subsidies. These catastrophes would be the net result of a general buy-out provision.

* * * * *

These issues have been widely discussed in the debate over Reclamation reform. But there are other serious issues which also must be addressed, and treated, in reform legislation. Last year, this Subcommittee enacted legislation which I co-authored which established the San Luis Task Force. The Report of the Task Force, which was delivered to Congress last January and reviewed by this Subcommittee in recent oversight hearings, exposed a number of very serious problems in the operations within that Unit, which includes the largest Reclamation district in the United States.

Many of these problems, however, are not unique to San Luis, but are translatable to the Reclamation program in general. Remedies should be included in any reform law which Congress approves, and will be

included in the legislation I will soon introduce.

FORMAL NOTIFICATION OF DESIGN CHANGES, REFORM OF REPAYMENT AND INDEXING; DEAUTHORIZATION

These reforms would eliminate very serious and costly problems which have plagued Reclamation projects over the years. I believe that the recent work of this Subcommittee clearly demonstrates the value of additional oversight of the Reclamation program.

The law should require Congress to approve any design change which would result in the substantial alteration of any project, especially the addition or deletion of any facility not specifically included in the original authorizing legislation. No construction should be permitted without specific congressional approval through authorizing legislation. The Congress should be notified whenever Bureau officials determine that a project is likely to exceed its approved authorization ceiling.

Indexing of project authorizations should be limited to a five year period. Long term indexing has the effect of reducing the opportunity for oversight.

Reclamation projects should be automatically deauthorized if funds are not appropriated within eight years after enactment of authorizing legislation. There is currently a backup of projects with a total cost of billions of dollars, and some of the Acts authorizing these projects are many years old.

Repayment of the costs of the construction of project features, which are the obligation of project beneficiaries under sections (9)(d) and (9)(e) of the Act, should begin upon the completion of each contract. Current law requires the initiation of repayment when the project is determined to be "substantially complete." The San Luis Task Force clearly demonstrated that in the case of the Westlands Water District, repayment has been delayed for years although the Unit is receiving far more than its existing firm water requirement, and virtually all approved lands within the District have been in production for years. Delaying repayment costs consumers a great deal of money, because costs ultimately will be paid off with inflated dollars.

WATER CONSERVATION

Last year, I introduced H.R. 8468. This legislation would establish water conservation as a primary goal of the Reclamation program. In his recent water policy, President Carter enunciated a similar goal.

Especially in areas determined by the Secretary of Interior to be drought prone, irrigators should be required to install devices to achieve the more efficient use of water. A federal loan program should be established to aid them in the purchase and installation of the best available technology for conservation.

The General Accounting Office has estimated that as much as one half of our water resources are being wasted agriculturally. ("Better Federal Coordination Needed to Promote More Efficient Farm Irrigation," June 22, 1976.) This totals more than 4 billion gallons annually of a valuable, and increasingly scarce, natural resource. By means of a program to line canals, replace them with pipe, utilize drip irrigation, and other techniques, tens of millions of gallons of water annually could be saved, together with the millions of barrels of oil it takes to transport that water.

As an added sidelight, the emphasis on agricultural and residential conservation will stimulate the economy. In California, 30,000 jobs have been created in the last two years because of that State's water conservation program.

WATER PRICING

I also introduced H.R. 9592 last year. This bill would establish more sound pricing policies for federal water. The unreasonably low price of many federal contracts encourages the waste of water. Despite the legal requirement that prices reflect, at a minimum, the cost of delivery, this mandate is circumvented through the signing of long term contracts, for periods of up to 40 years, in which the price is locked in at original levels with no inflation escalator. Thus, some federal customers are paying less than one half the true cost of water delivery, and could continue to do so for thirty years. The cost of this subsidy is recovered by adding onto the bills of utility customers, or from general tax revenues, both of which are unsound and unfair.

The Interior Department has recently decided to require all new contracts to include renegotiation provisions. This is a sound step towards improved protection of the public interest. A mandatory review of prices should occur every two years, and the price altered to reflect any additional increases, or decreases, in the cost of delivery. In addition, where existing long term contracts preclude renegotiation, all interim sales not covered by the existing long term contracts should, at a minimum, reflect the current cost of delivery, and should also attempt to recover some or all of the costs of the firm supply which are otherwise lost, up to the irrigator's "ability to pay." For example, in the case of Westlands, the current long term price (set in 1954) is $7.50. The current cost of delivery is $13.50; the ability to pay is in excess of $40 an acre foot.

Surcharges should also be established for water users who grow crops unsuited to the climatic regions in which their farms are located. A table of surcharges, similar to that contained in H.R. 9592, should be established to discourage the planting of water intensive crops in arid regions. The same cropping pattern assumptions which have been used to establish ability to pay could be used in determining such pricing arrangements.

ABILITY TO PAY

The GAO has also made recommendations concerning modifications in the ability to pay process. ("Appraisal Procedures and Solutions to Problems Involving the 160 Acre Limitation Provision of Reclamation Law" June 3, 1976) GAO has concluded that current evaluations of repayment ability, and appraisal techniques, result in substantial losses for the public. For example, ability to pay has often been based upon a 160-acre farm size, to the great financial benefit of the irrigators who oppose that concept. Modifications in these procedures, which are critical to the recovery of billions of dollars in federal investment, should be made along the lines recommended by GAO.

PUBLIC PARTICIPATION

I have also introduced legislation requiring that Reclamation contracts be publicly disclosed, and that there be an opportunity for a hearing before their signing so that potentially affected parties have the opportunity to know of their provisions and comment on them. The Department issued draft rules and regulations along the lines of H.R. 6335 last month.

Such procedures are required by the virtual cloud of secrecy in which some Bureau negotiations have occurred. The terms of these contracts not only involve many millions of federal dollars, but the availability of water to other users who should know of the commitment in advance. For example, the Bureau has contracted in recent years for hundreds of thousands of acre feet of "surplus" water for some Central Valley customers without ever informing other potential customers that the water was being sold. Moreover, the water was sold at extremely low rates, which constitute a further public subsidy, even though the Bureau unquestionably had the authority to require repayment at the current cost of delivery, as required by law.

It is particularly important that all contracts be subject to this review. I have informed Secretary Andrus that the proposed regulations appear to exclude temporary contracts. This is profoundly unwise, because these contracts total many millions of acre feet annually, and clearly must be subject to review. Adequate public notice of the signing of temporary contracts in 1976 by the Bureau in California could have led to the disapproval of some, with the effect of having carried over some additional yield in our reservoirs for what was already threatening to be a severe drought in 1977. Instead, virtually all the available water was sold on a "surplus" basis in 1976.

COOPERATIVE EXCLUSION

Earlier I mentioned that no more than 640 acres should be able to be farmed together under the Reclamation Act. I believe it would be wise to provide an exclusion from this restriction in the case of land which is owned or farmed jointly as a cooperative venture. Clearly, this section would have to be very carefully drawn so as to exclude specious "coops". But the workability of some of the farmworker coops in the Salinas Valley in California have established a model which I think should be encouraged in the Reclamation program.

PROHIBITION ON OWNERSHIP OF MORE THAN 320 ACRES IN MORE THAN ONE DISTRICT

Currently, there are a number of major farm interests which circumvent the Reclamation Act by owning large amounts of land in more than one district, often in other states. This allows them to accumulate many times the permissible amounts of acreage. I believe that any new law should restrict ownership to 320 acres on all lands served by federal water.

FEDERAL PURCHASE OF EXCESS LAND

My legislation will authorize the Secretary of Interior to purchase each year up to 33⅓ percent of the excess lands which are available for sale that year. These lands would then be available for resale or for lease to family farmers who could not afford to purchase them under normal market conditions under special conditions. This procedure would assure the dispersal of land to many who otherwise could never hope to acquire farms.

In the Westlands District, the current approved price for an acre of land, I believe, is about $750. If we assume that excess lands will be sold in parcels of 320 acres, the cost of acquiring the tract would be in excess of a quarter of a million dollars, not including additional costs which could be added on for improvements and equipment. I suggest that very few potential family farmers could even begin to compete for that land at such prices. I would further note that the legislative proposals which would up the acreage limitation to the area of 1000 acres, or more, would necessarily have the effect of pricing excess land out of the economic reach of all but a very select few.

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Mr. Chairman, these proposals constitute the outline of a substantive reform of the Reclamation law. I have little doubt that some of them could be perfected. Neither have I any doubt whatever that both we in the Congress, and those in the Department of Interior, lack today the thorough data base upon which we must rely before formulating this new law. It is going to take us some time, and great effort, to assemble that information, but the resulting reforms will be far better for our effort.

In conclusion, I would strongly re-emphasize my opening comment that the problems which confront us in amending the Reclamation Act go far beyond acreage limits or residency tests. If those portions of the 1902 Act are to be "modernized", then all other facets of the program must similarly be opened to congressional scrutiny and amendment. Failure to address these is-

sues will overlook years of investigation and study which points to the need to reform the Reclamation program comprehensively for the benefit of the farmer, and the protection of the public trust.

ONE OF THE PRINCIPAL ARCHITECTS OF THE KENNEDY-JOHNSON TAX RATE CUTS TESTIFIES FOR ENACTMENT OF THE KEMP-ROTH TAX RATE REDUCTION ACT

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. KEMP. Mr. Speaker, one of the principal congressional staff architects of the Kennedy-Johnson tax cuts testified last week before the Senate Finance Committee in support of enacting the Tax Rate Reduction Act, the Kemp-Roth bill.

Dr. Norman B. Ture, who helped devise the dollar revenue feedback justifications for that cut for the then-chairman of the Committee on Ways and Means, Wilbur Mills, testified that the Kemp-Roth bills, H.R. 8333 and S. 1860:

. . . constitute one of the most constructive and exciting tax policy developments in the past decade and a half. Enactment of these bills, by reducing marginal income tax rates on individuals and corporations, would materially reduce the existing tax biases against market-oriented personal effort and private saving. The consequences thereof would be substantial increases in employment, production capacity, output and real wages, and total income.

The question has been asked in recent weeks: What economists, what noted authorities on tax policy and the consequences of tax amendments support the Kemp-Roth bill. Well, here is one, and one not alone. He joins the ranks of those many others reflected in last week's testimony before the Senate committee and detailed in the materials I have added to the debate through putting them in this record of our proceedings in recent weeks.

The Ture testimony follows:

STATEMENT BY NORMAN B. TURE

The Roth-Kemp bills, S. 1860 and H.R. 8333, respectively, constitute one of the most constructive and exciting tax policy developments in the past decade and a half. Enactment of these bills, by reducing marginal income tax rates on individuals and corporations, would materially reduce the existing tax biases against market-oriented personal effort and private saving. The consequences thereof would be substantial increases in employment, production capacity, output, and real wages, and total real income. Assuming the monetary authorities could curb their penchant for accelerating expansion of the money stock, the strong increases in output would significantly dampen both expected and realized inflation. The substantial increases in private-sector employment which would result would afford a solid basis for decelerating the growth in Federal spending

The design of the proposed tax reductions is refreshingly simple—just reduce marginal tax rates. Roth-Kemp, moreover, is blessedly free of the usual tax "reform" encumbrances which, once the rhetoric is peeled off, are revealed merely as increases in the tax burdens on middle- and upper-income-level individuals and on companies; Roth-Kemp provides the truest and most basic reform—reduction in marginal tax rates. And Roth-Kemp makes no spurious pretenses about simplification; the bills truly provide greater simplicity—they simply reduce tax rates.

It is clear, surely, that there is no damning with faint praise in my endorsement of the Roth-Kemp proposal. On the other hand, excessive claims on its behalf should be avoided. It is not the ultimate tax legislation. It would leave a substantial bias against private saving in the tax system. While it would reduce their severity, it does not directly address a large number of structural tax problems. For example, the problem of double taxation of returns to capital going through the corporate conduit would remain, urging that more significant corporate rate reductions than those proposed in the bills are very much in order.

Certainly the most excessive and troublesome claim made on behalf of Roth-Kemp is that this massive income tax reduction, larger by far than anything we've ever experienced, would result in increases in Federal tax revenues. Permit me to examine this question before turning to a brief quantitative analysis of the bill's economic effects.

The enactment of the Roth-Kemp tax cuts would not increase Federal tax revenues compared with amounts which would be realized under present law. On the contrary, Roth-Kemp would result in substantial revenue losses.

I know of no analytical or empirical basis for asserting that individual tax rate reductions, averaging about 30 percent, would increase rather than decrease tax revenues. In the last few months, considerable attention has been given by the media to a popular and hyperbolized version of a well-established principle in public finance theory that households and businesses will change the composition and volume of their activities in response to tax changes. These changes in economic activities mean that the net effect on tax revenues will differ from the so-called first-level or initial-impact revenue estimates which are customarily provided. It follows from this principle that a tax may be imposed at a rate so high that changes in revenues will be in an opposite direction to changes in the rate. For example, one can conceive of an income tax imposed at so high a rate that a modest reduction in the rate would result in an increase in the revenues it produces. This would result if the rate reduction were to impel a significant increase in the supply of labor and capital services. This, in turn, would partly depend on the elasticity of the labor supply with respect to the after-tax real wage rate and on the elasticity of saving with respect to the after-tax real return to capital.

Some rough arithmetic suggests how improbable is the notion that the proposed tax reduction would entail no revenue loss. The proposed individual rate cuts average about 30 percent. To avoid any loss in individual income tax revenues, taxable individual income would have to increase by a little more than 40 percent. Even allowing for substantial increases in wage rates, this would require enormous increases in employment and in the amount of capital inputs—on the order of 40 percent in each case. Such increases imply elasticities of the supply of labor and of saving which are multiples of the actual estimated elasticities.

There should be no mistake on this score: Roth-Kemp would result in significant revenue losses. As shown in Table I, when fully effective in 1981, and taking account of the expansion of economic activity resulting from Roth-Kemp, the net-of-feedback revenue effect would be a loss of about $40 billion (in constant 1977 dollars). Ten years after enactment, Federal tax revenues would be $53 billion less than the projected amount under present law.

The very magnitude of this net-of-feedback revenue loss is, in fact, one of the principal advantages which should be claimed for the proposal. Roth-Kemp should be seen as a kind of Federal Jarvis-Gann. Just as Proposition 13 imposes on government officials in California the necessity for reassessment of priorities, for economizing in government's preemption of privately owned resources, so too would Roth-Kemp impel some serious, real effort to slow the growth in spending by the Federal government. Moreover, the very substantial increases in employment, output, and income which would result from Roth-Kemp would surely undercut the specious notion that ever larger annual additions to Federal spending are necessary to provide an adequate number of jobs.

Even if the enactment of Roth-Kemp failed to push the Executive branch and the Congress to some constructive economizing, that is, even if the Federal policy makers accept huge deficits as the appropriate fiscal way of life, the proposed tax reductions would have a strongly expansionary effect on the economy. As shown in Table 1, employment (measured on a full-time equivalent basis) would increase over projected present-law levels by about 2.1 million jobs in the first year; 10 years later, in 1988, there would be more than 5.6 million additional jobs. These employment gains would be associated with major increases in labor's productivity and real wage rates: in 1979, the overall average real wage rate would be $930 more than its projected level under present law, and by 1988, the gain would be $1,670. Complementing the increase in labor inputs would be substantial additions to the stock of private business sector capital. Compared with amounts projected under present law, gross private domestic investment would increase by about $90 billion in 1978 and by about $166 billion in 1988.

The expanded levels of employment and real wage rates and the increase in the stock of capital and the total returns thereto add up to significant increases in real GNP. Real GNP under Roth-Kemp would be $175 billion greater in 1979 and $450 billion more in 1988 than under present law.[1]

This Committee is aware, I am sure, of the criticism that has been directed against the Roth-Kemp tax reduction proposal. This criticism, for the most part, derives from antique, obsolete notions about how fiscal changes affect the economy. They are the same Keynesian notions which disregard the effects of tax changes on the conditions of

[1] These estimates are obtained from use of the Analysis of Tax Impacts model developed by Norman B. Ture, Inc., to analyze and measure the economic and tax revenue effects of changes in the tax system. The Analysis of Tax Impacts model is a price-theoretic, dynamic general-equilibrium model, designed to identify and measure the effects of tax changes on the economy and on Federal tax revenues. The model's equations are specified in terms of neoclassical formulations of the determinants of the economic behavior of businesses and households. Tax changes are identified principally in terms of their impact on the relative prices of personal, market-directed effort vs. leisure, of saving and capital formation vs. Consumption; these impacts alter the conditions of supply of labor and capital inputs, hence aggregate real output and income. The effects of the latter changes on Federal tax revenues are measured to derive the net revenue consequences of any specified tax change. A technical report providing a detailed description of the model is available to the Committee upon request.

supply of factors of production, which look only to effects on disposable incomes and on aggregate demand, and which in practice have proved to be so consistently, harmfully wrong.

For the long run (the appropriate time frame for tax policy), the basic determinants of the economy's progress are the supplies of labor and capital services and advances in the state of the industrial arts. Insofar as tax policy is to be addressed to supporting and accelerating that progress, it must focus on reducing the adverse price effects of taxes, viz., their raising the cost of market-directed effort relative to "leisure" uses of time and of saving relative to consumption uses of income.

It is in this supply-side context, I believe, that one should evaluate the estimates of the Roth-Kemp tax reductions.

The proposed tax reductions would materially reduce the cost of market-directed effort relative to leisure. Our estimates of the resulting increases in full-time equivalent employment, shown in Table 1, are based on statistical estimations of the so-called substitutions and income effects on both the participation rate and the average hours per worker. Certainly the labor force data of the last few years argue strongly for the plausibility of the employment increases we have projected.

Similarly, Roth-Kemp would dramatically reduce the cost of saving and investing relative to the cost of consumption. To assert a capital formation response significantly less than shown in the table is, in effect, to argue that people's savings and investing behaviour is irrational, that people are indifferent to the after-tax return they may obtain in deciding how much of their income to save and how much to consume.

The estimated increases in the supplies of labor and capital services, shown in the Table, argue forcefully against the criticism that Roth-Kemp would accentuate inflation. The contention that enactment of these tax reductions would sharply boost inflation derives from the mistaken Keynesian views which ignore conditions of supply and look only at alleged effects of tax changes on demand, principally consumption spending.

Some critics have argued the enormous additional deficits resulting from the huge tax revenue losses would crowd out capital formation. In fact, however, the increase in private saving out of the very substantial increase in real income would be great enough to finance, in real terms, both the additional deficits and the very large increases in investment shown in Table 1.

Finally, there is the contention that Roth-Kemp would principally benefit businesses and the affluent. Table 2 presents estimates of the distribution of the increases in real income as between labor compensation and returns to capital. Just as one would expect, labor would be by far the principal beneficiary of Roth-Kemp; about two-thirds of the increase in aggregate real income would be in the form of the increase in total labor compensation.

The real significance of Roth-Kemp, I respectfully submit, is that it offers the Nation a choice. Just about 15 years ago, the character of this choice was delineated by the then chairman of the Committee on Ways and Means in connection with the deliberation in the House of Representatives over the Kennedy tax cuts. Chairman Mills said: ". . . there are two roads . . . toward a larger, more prosperous economy—the tax reduction road or the Government expenditure increase road. There is a difference—a vitally important difference—between them. The increase in Government expenditure road gets us to a higher level of economic activity with larger and larger shares of that activity initiating in Government—with more labor and capital being used directly by the Government in its activities and with more labor and capital in the private sector of the economy being used to produce goods and services on Government orders. The tax reduction road, on the other hand, gets us to a higher level of economic activity—to a bigger, more prosperous, more efficient economy—with a larger and larger share of that enlarged activity initiating in the private sector of the economy—in the decision of individuals to increase and diversify their private consumption and in the decisions of business concerns to increase their productive capacity—to acquire more plant and machines, to hire more labor, to expand their inventories—and to diversify and increase the efficiency of their production." [2]

It is with respect to this public policy choice, I believe, that we can and should most meaningfully compare today's situation with that of 15 years ago. The Congress made the right choice then. Roth-Kemp provides the opportunity for the right choice today.

[2] Statement by Wilbur D. Mills, Chairman, Committee on Ways and Means, Sept. 16, 1963.

TABLE 1.—ECONOMIC AND TAX REVENUE EFFECTS OF S. 1860 AND H.R. 8333—THE ROTH-KEMP TAX REDUCTIONS

[Dollar amounts in constant 1977 dollars]

	1979	1981	1983	1988
Increase or decrease (—) in:				
Employment (thousands of full-time equivalent employees)	2,120	4,500	4,790	5,610
Annual wage rate	$930	1,200	1,310	1,670
Gross national product (billions):				
Total	175	289	337	451
Business sector	143	241	272	358
Gross private domestic investment (billions)	90	207	258	166
Consumption (billions)	85	81	79	285
Federal tax revenues (billions):				
Initial impact	(29)	(85)	(94)	(113)
Net of feedback	10	(40)	(51)	(53)

NOTES

The figures are the differences between the estimated amount of the respective economic magnitudes under the tax change and under present law in each year.

Amounts shown in parentheses are decreases from present law in that year, not from the preceding year under the tax change.

Estimates of employment effects are rounded to the nearest 10,000; estimates of annual wage effects are rounded to the nearest $10; estimates of effects on GNP, capital outlays, consumption, and Federal revenues are rounded to the nearest $1,000,000,000.

The estimates in this and the following tables assume (1) an annual inflation rate of 6 percent throughout the 10-yr period, both under present law and under the proposed tax reductions and (2) no change in the projected trend amounts of Government spending as a result of the tax reductions.

TABLE 2.—ECONOMIC AND TAX REVENUE EFFECTS OF S. 1860 AND H. R. 8333—THE ROTH-KEMP REDUCTIONS: INCREASES IN REAL WAGES AND IN RETURNS TO CAPITAL [1]

[Dollar amounts in billions of 1977 dollars]

	Additional wages and salaries		Additional gross capital income	
Year	Amount	As percent of increase in total income	Amount	As percent of increase in total income
1979	$124	71	$51	29
1981	197	68	92	32
1982	224	66	113	34
1988	298	66	153	34

[1] Returns to capital include income imputed to owner-occupied residences and income from abroad.

TABLE 3.—ECONOMIC AND TAX REVENUE EFFECTS OF S. 1860 AND H.R. 8333—THE ROTH-KEMP TAX REDUCTIONS: INDIVIDUAL TAX RATE REDUCTIONS ONLY

[Dollar amounts in constant 1977 dollars]

	1979	1981	1983	1988
Increase or decrease (—) in:				
Employment (thousands of full-time equivalent employees)	1,910	4,260	4,550	5,350
Annual wage rate	$740	$980	$1,080	$1,400
Gross national product (billions):				
Total	144	251	292	394
Business sector	119	212	240	319
Gross private domestic investment (billions)	70	178	221	141
Consumption (billions)	74	73	71	253
Federal tax revenues (billions):				
Initial impact	(26)	(79)	(88)	(107)
Net of feedback	8	(36)	(46)	(49)

TABLE 4.—ECONOMIC AND TAX REVENUE EFFECTS OF S. 1860 AND H.R. 8333—THE ROTH-KEMP TAX REDUCTIONS: CORPORATION TAX RATE REDUCTIONS ONLY

[Dollar amounts in constant 1977 dollars]

	1979	1981	1983	1988
Increase or decrease (—) in:				
Employment (thousands of full-time equivalent employees)	200	200	220	250
Annual wage rate	$180	$190	$210	$260
Gross national product (billions):				
Total	29	32	38	49
Business sector	23	24	27	34
Gross private domestic investment (billions)	17	25	33	20
Consumption (billions)	12	7	5	29
Federal tax revenues (billions):				
Initial impact	(1)	(4)	(4)	(4)
Net of feedback	3	(1)	(1)	0

TABLE 5.—ECONOMIC AND TAX REVENUE EFFECTS OF S. 1860 AND H.R. 8333—THE ROTH-KEMP TAX REDUCTIONS: CORPORATION SURTAX EXEMPTION INCREASE ONLY

[Dollar amounts in constant 1977 dollars]

	1979	1981	1983	1988
Increase or decrease (—) in:				
Employment (thousands of full-time equivalent employees)	50	50	50	70
Annual wage rate	$40	50	50	70
Gross national product (billions):				
Total	7	7	8	12
Business sector	5	6	7	9
Gross private domestic investment (billions)	3	4	6	3
Consumption (billions)	4	3	2	9
Federal tax revenues (billions):				
Initial impact	(1)	(1)	(2)	(2)
Net of feedback	0	0	1	1

NOTES

The figures are the differences between the estimated amount of the respective economic magnitudes under the tax change and under present law in each year.

Amounts shown in parentheses are decreases from present law in that year, not from the preceding year under the tax change.

Estimates of employment effects are rounded to the nearest 10,000; estimates of annual wage effects are rounded to the nearest $10; estimates of effects on GNP, capital outlays, consumptions and Federal revenues are rounded to the nearest $1,000,000,000. ●

$15 MILLION FLU VACCINE PLAN BY HEW

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. DINGELL. Mr. Speaker, I wish to direct the attention of our colleagues to page 41 of House Report 95–1350, to accompany the supplemental appropriations bill for fiscal year 1978, H.R. 13467, where it is noted that the Department of Health, Education, and Welfare is attempting to move Congress to enact another flu immunization program. This one will cost the Government $15 million and is a program for which there is no authorization. The Health Services amendments of 1978, H.R. 12370, has not been acted upon by the House.

There are questions as to whether or not we may be heading for "another flu fiasco." I insert in the CONGRESSIONAL RECORD at this point the excellent article by Jean Carper in the Outlook section of the Washington Post, Sunday, July 16, 1978, which discusses a previous flu program disaster, swine flu, and asks if the $15 million program in the new supplemental appropriations bill may take us in the same direction.

I urge Members to be alert to this on the House floor, Thursday, July 20.

ARE WE HEADED FOR ANOTHER FLU FIASCO?

(By Jean Carper)

The same people who brought you the swine flu vaccine two years ago are now planning another installment in the continuing saga of flu vaccines. Clinical trials are just being completed on a new vaccine to combat three types of flu expected this winter: A-Russian, A-Texas and B-Hong Kong.

As with swine flu vaccine, a special government committee recommended the new vaccine and the Center for Disease Control in Atlanta is overseeing its distribution. Washington will buy the vaccine and give the states money to carry out the immunizations. The CDC is asking for a special appropriation of $15 million for the vaccine for the 1978–'79 program.

And again, as with swine flu, the difficult questions involved are not receiving the scrutiny they deserve. Is the vaccine really necessary? Will there be a flu epidemic? How many people this time might die from the vaccine or be unnecessarily injured? In effect, is this another swine flu fiasco in the making?

If the public hasn't heard much about the program it's because the government this time is advancing it without much fanfare. Government officials do not want to alarm the public or the four pharmaceutical companies that will produce the vaccine. In 1978, vaccine makers refused to provide swine flu vacine until the government agreed to insure them against damage suits from side effects. The CDC says it won't do that this time, but that manufacturers have agreed to supply the flu vaccine anyway because the current program is more limited.

Instead of trying to vaccinate the entire population, which was the goal of the swine flu program, the government will attempt to reach only those who have a "high risk" of contracting and dying from flu: the elderly and children and adults with underlying chronic problems such as heart, lung and kidney disease. This is about 42 million people.

However, during the '78–'79 flu season, the government plans to reach only 40 percent of those at high risk, or 17 million people, including 2.5 million children. (Washington hopes half of those at high risk will be immunized by private physicians.) That is one-third as many as were vaccinated against swine flu before the mass-immunization was abruptly cancelled at the end of 1976.

Nearly everyone admits the swine flu program was a disaster. Only one person died of swine flu, but 120 died of reactions associated with the flu shots. Also, the vaccine induced a side-effect the government said it never anticipated: Guillain-Barré disease, a neurological disorder that can cause temporary or permanent paralysis or death. Recently, Joseph A. Califano, Jr., secretary of Health, Education and Welfare, called Guillian-Barré "a tragic consequence of the swine flu program" and said the government would compensate victims regardless of negligence questions. So far 439 Guillian-Barré victims have filed damage claims for $365 million, and an additional 961 persons have filed claims for other damage from the flu vaccine, for total claims of $775 million.

Ironically, on the day Califano announced this partial clean-up of the swine flu mess, he and his staff were personally lobbying members of Congress to approve the $15 million appropriation for the new flu vaccine.

Questions about the new vaccine project are all the more important because it is potentially more radical in public health terms than swine flu vaccine was.

The government does not intend the new vaccine as a one-time, hit-and-run enterprise. For the first time, the government is proposing to institutionalize flu shots as part of a permanent federal program that includes routine child immunizations conducted every fall by the states. Ordinarily, children are immunized only against polio, rubella, diptheria, tetanus, pertussis, measles and mumps. Now a certain number would also get flu shots. Further, they would get them as needed every year or two, since unlike other vaccines, flu vaccine does not confer a long-term or lifetime immunity.

This is a significant departure from the past, as the committee of experts stressed in its January report that recommended the vaccine. They noted it would be the first "organized federal support for influenza immunization" except for the swine flu program. The committee also made clear that such a limited program is only a first step, predicting that once the program is initiated successfully for high-risk individuals, it could "reasonably" be expanded to include healthy Americans.

So far the $15 million request has whizzed through the House health appropriations subcommittee with hardly a murmur of dissent. Only Republican Rep. Robert Michel of Illinois asked about compensation for victims. Reportedly, Democratic Rep. Daniel Flood of Pennsylvania, the subcommittee chairman, dampened discussion by noting that Secretary Califano had made a "personal request" for approval of the money. Sources in Congress also say Califano's staff "worked the halls," lobbying exceptionally hard for the appropriation.

The measure still has to survive other House votes and the Senate, but there is only scant indication of resistance. Ripples of concern have come from Republican Sens. Richard Schweiker of Pennsylvania, Jacob Javits of New York and John H. Chaffee of Rhode Island, who asked the health and scientific research subcommittee headed by Democratic Sen. Edward M. Kennedy of Massachusetts to hold hearings on the flu program's advisability. Democratic Sen. Warren G. Magnuson of Washington, chairman of the Senate Appropriations Committee—who could stop or delay the appropriation until it's too late for effective distribution of the vaccine—has not yet made up his mind about the issue, according to an aide.

Outside the federal government, though, there is opposition. Anthony Morris, a former virologist with the Food and Drug Administration's Bureau of Biologics, calls the program "foolish, nonsensical and dangerous." He claims: "There's no major difference between the swine flu program and the Russian flu program" except that the latter will be integrated into childhood immunizations.

Morris, who spent 25 years working on respiratory diseases and vaccines, was fired in 1976 by Alexander Schmidt, then head of FDA. Morris, who is seeking reinstatement, contends he was fired because he tried to warn superiors and the public about the dangers of the swine flu vaccine before it was distributed. Morris' bosses say he was dismissed because he was incompetent.

Additionally, some states are resisting. New Jersey has refused to participate. Only 32 states have definitely agreed to include flu shots in their fall immunization programs, despite HEW's offer of grants to pay for them.

WILL THERE BE AN EPIDEMIC?

The major issues which need to be examined are:

Will there be a flu epidemic of the type the vaccine is designed to combat? As history illustrates, nobody can say for sure.

Flu viruses are tricky because they change or mutate from one year to the next. But the CDC's director, William H. Foege, says a virus that's around one year is likely to reappear the next. Thus the rationale for this year's vaccine is that last year Russian flu showed up in every state, and A-Texas also cropped up. There were no reported cases of B-Hong Kong, but the government still thinks there could be outbreaks this year and has included it as a precaution.

How serious the outbreaks might be is questionable. Critics note that Russian flu last year was a "mild disease" that primarily struck youngsters who quickly recovered. For example, a pediatrician in Denver reported that of eight patients who were infected, only five even developed a fever. Last year there were no "excess" deaths from Russian flu either in this country or in Russia.

Nevertheless, Dr. Foege calls the chances for an epidemic this winter "very great" and predicts that the federal vaccine project could save 1,200 lives. He agrees, though, that the epidemic may not occur. "It's impossible to predict with certainty in any year either extent of influenza activity or which virus may become prevalent," he told Flood's subcommittee. "Therefore, any decision to vaccinate carries with it an inherent element of uncertainty regarding the effectiveness of the vaccine in protecting against the next year's prevalent influenza virus."

How effective will the vaccine be?

According to government scientists, the effectiveness of the vaccine depends on how closely the antibodies from the vaccine match the antigens of the prevailing viruses. If the virus' makeup changes significantly, the vaccine is virtually useless. Thus, a vaccine is usually considered a perfect foil only for the flu virus that was around the previous year.

Even the most optimistic predict that a flu vaccine generally protects only 80 percent of those vaccinated, and that is if the antigen-antibody "match" is good. If the "match" is poor, according to the government's advisory committee, the vaccine could protect as few as 10 to 30 percent of those vaccinated.

As proof that a flu vaccine works, the CDC cites a study done last year at a Dade County, Fla., nursing home. Of those vaccinated, only 7 percent came down with A-Victoria flu. Of those not vaccinated, 41 percent got the flu. Therefore, the government concludes that the vaccine was "83 percent effective" because it reduced the number of cases by that portion.

Morris says that study has never been published and that its conclusions have been disputed. Further, he says there are numerous published studies showing that flu vaccines don't work. From 1960 to his firing, Morris' job with the government was to evaluate the effectiveness of vaccines, and he flatly states he has never seen a flu vaccine that worked. As evidence, he cites a report in the Journal of the American Medical Association, noting that in a 1969 influenza epidemic in Alaska, 78 percent of those vaccinated got sick, about the same percentage as those not vaccinated. Another JAMA-published study of vaccinations of residents of a home for the aged concluded: "Disease incidence had no discernible relationship to vaccination." A 1969 international conference on the Hong Kong flu reported that the effectiveness of some vaccines was nil.

Government scientists argue that if a flu vaccine doesn't work well, it's because the antigen has shifted or the dosage was incorrect.

In Morris' view, the flu vaccines in this country—unlike other vaccines—are inherently defective. His reason: the mechanism by which a flu vaccine tries to protect is not suitable for combatting flu viruses. He notes that viruses causing such diseases as polio and measles are invasive; they must enter the blood stream to cause illness. "But influenza," he contends, "is a localized disease. You breathe in the virus, it attacks the surface of the lung and infects more and more cells. It does not need to get in the bloodstream to cause disease." Therefore, Morris maintains, putting antibodies in the bloodstream—as flu vaccines do—is futile because they don't reach the proper targets.

The U.S.S.R., says Morris, does use a highly effective live flu vaccine that's inhaled and deposits antibodies on the surface cells of the lungs. But Morris says it's too dangerous for use here. For one thing, it often causes influenza, especially in children, at rates that would be unacceptable in this country.

Dr. Alan Hinman, director of the CDC's immunization division, agrees that local antibodies in the respiratory tract would be an advantage, as Morris suggests, and says, "When we develop better virus vaccines we may be able to do that." (The National Institute of Allergy and Infectious Diseases is working on a live flu vaccine.) In the meantime, Hinman insists that existing injection vaccines do offer protection either because of circulating antibodies or another unknown factor. "There's a lot about the dynamics of influenza that we really just don't know," he adds.

As for the new vaccine specifically, Dr. Hinman claims the vaccine has proved effective in clinical tests by stimulating the production of adequate antibodies in 70 to 90 percent of those tested.

Morris charges that in some instances, according to data presented to scientists at a recent meeting in Atlanta, the antibody production met standards in only 50 percent of youngsters tested, even after a second shot, and that much data on safety and effectiveness are still not available. Further, there's a question whether the government's trials provided an adequate sample. The government's protocol stated that 4,605 persons were "required" for the tests, but only 2,066 participated. Also, the vaccine was tested in only 316 children under age 13, 40 percent of the "required" number. Morris says that the new vaccine has been improperly tested by the government's own standards, and that there are less scientific data available on it than there were on swine flue vaccine.

A government spokesman, however, declared the vaccine "safe and effective."

What are the dangers in the vaccine?

Vaccines routinely used on children virtually never have serious side effects; the exception is polio, which is induced in about one of every 5 million vaccinations. The story is not the same with flu vaccines. CDC officials, testifying before congressional committees, have acknowledged that the chance of getting Guillain-Barré from flu vaccine, including the new one, is about 1 in 100,000 immunizations. Five percent of the stricken will die, while an estimated 80 percent will recover completely.

That means that 17 million vaccinations would produce about 170 cases of Guillain-Barré. Morris says that, compared with the nonvaccinated population, the elderly who take the vaccine are nine times more apt to contract Guillain-Barré. The risk in children with chronic disease is 5 times more, and in adults with chronic disease from 8 to 16 times more. Additionally, Morris considers Guillain-Barré only one possible adverse effect. He predicts that 100 out of every 100,000 vaccinated—or 170,000 out of 17 million—would suffer such other neurological disturbance as transient or persistent headaches and vision dysfunction.

On the other hand, Dr. Foege maintains that the increased risk from vaccine is worth it. "The risk of death in the general population from flu is 400 times greater than the risk of dying from any complication from a flu vaccine," he says, adding that the threat to the "high-risk" group to be vaccinated is even greater.

Who will assume liability for harm?

The lack of resolution on that question has caused some state health officials to oppose the program. The Association of State and Territorial Health Officials, comprised of chief public health officials in 50 states, estimates there will be 455 damage claims amounting to $228 million. They are afraid that Washington is trying to wriggle out of any responsibility, leaving them with the law suits and settlements.

Richard I. Beattie, HEW's deputy general counsel, has assured Congress that the federal government will not write a blank check for damages, as it did for Guillain-Barré in the case of swine flu and that it will not assume any legal responsibility at all. HEW will require vaccine recipients or their legal guardians to sign an "informed consent" document, stating that they understand the risks. The risks, including the possibility of Guillain-Barré, will be clearly spelled out, according to the government. Having fulfilled its "duty to warn," as it does with other childhood vaccines, the government, according to Beattie, is off the hook.

Both Joanne E. Finley, health commissioner of New Jersey, and Ronald Altman, a spokesman for the association, told Flood's subcommittee they thought that unfair. They asserted that victims will have to be compensated for injury and that the "extremely large burden" for doing that would probably fall on the states. They urged the government to set up a compensation fund as a national policy and said, until that happens, they will continue to oppose the flu vaccine program. Morris thinks it's immoral for the federal government to use its considerable power to encourage people to get vaccinated and then desert them if they are harmed.

Another fear Morris and Finley share is that the highly successful childhood immunization programs might be hurt, both by diverting personnel from them to flu shots and by engendering a fear of dangerous reactions that is absent in other immunizations. Morris thinks it would be tragic if children were deprived of worthwhile vaccines because parents develop a fear of all vaccines.

The CDC says that is unlikely, citing a public opinion poll showing that, despite the swine flu disaster, the public developed no distrust of childhood shots and only a slight distrust of flu shots. According to that poll, before swine flu, 55 percent of Americans said they would take the flu shot. This year, 53 percent said they would take a flu shot if it were recommended.

The ultimate question is whether the risk is worth the benefit.

In Morris' view there is all risk and no benefit. According to the government's figures, the benefits could range from very great to very small. Assuming the government's best case—that 17 million get the vaccine that is protective in 80 percent of them, and that the vaccine "match" is a high 80 percent—11 million Americans would be immune to flu, or 65 percent of the target group. If the vaccine is a poor "match," as few as 1.5 million might be protected. Thus, anywhere from 6 million to 15.5 million might unknowingly take a risk with no benefit at all.

Also, New Jersey's Finley complains that the program will immunize so few people that "it could in no way impede the spread of influenza." If the right kind of flu doesn't materialize, the whole program is a bust, and several hundred people end up the victims of a government miscalculation. The government argues that the same could be true if its program is scuttled.

Once a permanent influenza program is

instituted, it would be difficult to rescind. If Congress is going to ask questions, they should do it now as they did not do two years ago when HEW started beating the drums for a swine flu pandemic that never came.●

FOOD LABELING: NO PLACE FOR SECRETS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. ROSENTHAL. Mr. Speaker, the inadequate, inconsistent and uninformative state of food labeling today is scandalous. Approximately one in four Americans must know what is in the food he or she eats, yet all too often there is no way of finding out. Food manufacturers treat their lists of ingredients as classified secrets in many cases, even to the point of ignoring the pleas of parents of children with food allergies.

As a long-time proponent of full disclosure ingredient labeling, I am pleased that the House Commerce Subcommittee on Health and the Environment has taken an important step toward solving that problem. It is holding hearings this week on food labeling legislation, including a bill introduced by the subcommittee, H.R. 10358, and my own bill, H.R. 42, the Consumer Food Labeling Act.

I am inserting in the RECORD, at this point, my testimony before the subcommittee today.

TESTIMONY OF HON. BENJAMIN S. ROSENTHAL

Mr. Chairman, I appreciate this opportunity to appear before you today to urge adoption of comprehensive food labeling legislation. Americans have a right to know what is in the food they eat. In fact, according to a General Accounting Office report, millions of Americans, for health or religious reasons, must know what is in their food. Indeed, given the growing awareness of a link between our diet and the high rates of cancer and other diseases in this country, it is a disgrace that we continue to allow gaping loopholes in federal food labeling laws. We must not allow corporate convenience to take precedence over the health and safety of millions of Americans.

There are today at least 284 food categories that are exempt from listing some of their ingredients. The Food and Drug Administration has established "standards of identity for such foods. There are certain ingredients which these foods must contain but need not label. There are other ingredients which they may contain and need not label and there are still more ingredients which they may contain and must label. This maze of outmoded regulation leaves consumers ignorant and often misled—to say nothing of possibly very ill. When ingredients are listed at all, the consumer is often led to believe that it is a complete list but, to borrow a phrase, "it ain't necessarily so."

As a result, tens of millions of people—at least one in four Americans—who, for various reasons, must know what is in the food they eat, are left in the dark. Allergy specialists estimate that over 7 million Americans suffer from allergy reactions to food ingredients such as milk, eggs, nuts and monsodium glutamate. Another 23 million people have heart conditions and must avoid saturated fats, sodium and caffeine. There are over 4 million diabetics and kidney patients who must restrict their intake of sugar and/or salt, and 25 million people with high blood pressure must also monitor their intake of salt. Others, for religious reasons must watch their diets. Yet, according to the GAO study, 45 percent of standardized foods are allowed to contain unlabeled at least one ingedient that must be avoided by one of these groups of Americans.

What makes the situation even more unbearable is that some food processors and manufacturers have in the past refused to disclose ingredients to parents of allergic children.

Very often, the only way for consumers to know what is in the foods they buy is to carry with them, while shopping, a copy of Title 21 of the U.S. Code of Federal Regulations, which lists the mandatory ingredients for standardized foods. This volume, however, consists of 2,426 pages and may prove somewhat inconvenient.

But even this method won't tell consumers what optional ingredients have been used. The results can be devastating. A 10-year-old Boston boy, Michael Gryzbinski, was in the habit of reading food labels because of his allergies. But the ice cream he ate at a friend's house one afternoon in 1973 was exempt from FDA labeling regulations. It contained peanuts (unlabeled), a forbidden food for him. The youth immediately went into anaphylactic shock and died within a few minutes.

I applaud the provision in your bill, H.R. 10358, Mr. Chairman, which would require the listing of ingredients of all foods, including those subject to a standard of identity. I am pleased that it would also require the specific labeling of artificial colorings. These chemicals are among the most suspect of all food additives. Many have led to cancer when fed to test animals and have now been banned from the market. The most recent were Violet No. 1, banned in 1973 and Red No. 2, banned in 1976. There are several questionable ones still on the market today such as Red No. 40, Orange B and Yellow No. 5 (tartrazene). Under current FDA regulations, manufacturers must indicate the presence of artificial coloring in their labeling but they are under no obligation to specify which one. These of us who want to avoid specific additives under suspicion have no means of doing it short of performing a chemical analysis on the food we buy.

H.R. 10358 does not, however, go far enough, Mr. Chairman. Why exempt individual spices and flavorings from labeling requirements? Why put the burden on the Secretary of Health, Education and Welfare to specifically ask for such labeling on a case-by-case basis? Why not make life easier for those people who are allergic to specific flavoring or spices by requiring such additives to be explicitly labeled?

We consumers have a right to know what is in the food we eat. This is especially important today when our foods are inundated with chemical colorings, flavorings and preservatives. The food industry loads the foods we eat with hundreds of millions of pounds of food additives each year but it largely refuses to tell us what they are. If these chemicals are as safe as the food processors claim, then why treat them as classified information? Full disclosure labeling would discourage manufacturers from using questionable food additives and then hiding that fact behind their labels.

Not only should all ingredients on all foods be clearly labeled, but the percentage of each and every ingredient should also be set forth:

It would greatly facilitate comparison shopping if consumers could tell at a glance what brand of ice cream contained the most cream.

It would greatly increase the incentive for food processors to sell more nutritious foods if consumers could determine what brand of chicken soup had the most chicken.

It would greatly assist parents of cavity-prone children if ready-to-eat cereal manufacturers were required to disclose the percentage of sugar in their products.

I, therefore, urge an amendment to H.R. 10358 to require that all ingredients be listed by percentage on the label. Every ingredient, no matter how small, is potentially of great importance. The burden of exemption, if any, should not be on the HEW Secretary but on the manufacturer to prove that a specific application would be against public policy.

I also recommend eliminating the provision in the Federal Food, Drug and Cosmetic Act which states that exemptions be established if compliance with the regulations is "impractical" or results in "unfair competition." This has traditionally been the loophole clause allowing food producers to claim that listing all ingredients is not practical or would divulge trade secrets. Such claims are usually groundless. Full ingredient disclosure, including percentage labeling, would not constitute revealing recipes or manufacturing processes, nor would it divulge information that a competitor's labs could not easily obtain. Such loopholes, including one that exempts the dairy industry from revealing the presence of artificial coloring, must be eliminated if food labeling regulations are to have any value.

Even listing all ingredients and their percentages is not enough. Changes in a product's composition must also be revealed. Many persons become ill each year because ingredient changes are made in familiar products but consumers are not informed. People who are allergic to certain foods or additives usually read labels very carefully, but after using a product for a period of time, they tend to assume it is the same. A potentially harmful change, however, could and frequently has been quietly made by the manufacturer. The president of the Metropolitan Washington chapter of the Allergy Foundation of America has cited several cases of capital-area children who suffered adverse reactions after eating or drinking products whose ingredients had been changed. All had used the product for long periods of time and their parents no longer bothered to check the label. To remedy this situation, notice of any change in ingredients must be set forth conspicuously on a product's label for at least six months after such a change.

To those who would argue that this notification of ingredient change would mean costly relabeling, I would only point out that there is no such complaint when packers change coupons, special offers and other useless information on their labels. Too often when we see the notice "new and improved" on a label, all it means is new prices and improved profits. It's time some of that wasted space on food labels was put to good use by sharing with consumers the information they need to have when making the economic, nutritional, health and even religious decisions that go into a food purchase.

Section 9 of H.R. 10358 authorizes the HEW Secretary to require nutritional labeling on packaged foods. Again, this is a step in the right direction. But why put the burden on the HEW Secretary? All packaged foods should contain nutritional information. According to the GAO study, "Many Americans suffer dietary and health problems due, in part, to the lack of good nutrition." The report goes on to say, "Deficient diets are caused frequently by poor food choices resulting, to some extent, from lack of nutritional information on food labels." Currently, detailed nutritional information is required only on fortified foods and foods for which nutritional claims are made. Requiring nutritional data (calories, protein, vitamins, carbohydrates, saturated and unsaturated fats, sodium, etc.) on all food labels would

encourage food processors to manufacture more nutritious foods as well as encourage consumers to be more nutrition-conscious. If we want a free and competitive market to operate when it comes to food, why allow manufacturers to withhold information as important as nutritional content?

Section 3 of H.R. 10358 requires food processors to establish food coding systems identifying the name of the manufacturer and packer, the batch number, and the date packed. This is a laudable provision as it would facilitate recalls in the case of adulterated, contaminated or misbranded foods. But why allow manufacturers to use secret codes? The consumer is entitled to know this information, if only to be better able to participate in recalls should they occur. The need for this is illustrated by the Bon Vivant vichyssoise botulism case. This product was packed under more than 30 different private labels, without Bon Vivant's name appearing on one of them—a fact which hindered that extensive recall because consumers and even most small retailers did not have access to the information they needed. The name and address of the manufacturer, packer and distributor must be set forth clearly on all food labels.

I am in full accord with the provision in section 9 of the bill which requires "sell-date" labeling for perishable foods. Such a provision would help consumers avoid stale or spoiled products, and it would encourage competition among supermarkets in their attempt to provide consumers with the freshest products available. Furthermore, an amendment to the Food, Drug and Cosmetic Act requiring open-dating of perishable and semi-perishable foods would help eliminate the confusion among existing federal regulations, the various state laws and voluntarily established dating systems. According to the GAO report, consumers frequently misunderstand the meaning of dates used on food labels today. Therefore, the law should require the phrase "sell by" to precede the last date the food package may be sold at retail (adequate product freshness would remain for home storage and consumption).

One important food labeling provision I would like to see included in legislation reported by this subcommittee would require disclosure by retailers of the unit price of packaged food commodities. The myriad of package sizes makes it extremely difficult for consumers to compare the cost of competing products or to compare the price of two or more package sizes of the identical product to determine the real cost and the best buy. Recent studies cited by the GAO report indicate that unit pricing provides valuable objective data which can save consumers more than the cost of providing such information. This would be especially helpful during periods of rapid inflation. Some stores currently provide unit price information but uniformity and comprehensiveness are lacking. Consumers are often left unaware or mistaken about what unit pricing is.

Furthermore, it is imperative that retailers mark the actual selling price on the product itself, regardless of the possible presence of computer pricing codes and automated check-out facilities. This practice, known as item pricing, would maintain the consumer's ability to double-check the grocery clerk when in the store and to check prices previously paid on items already in the home.

I disagree with the section in H.R. 10358 requiring federal pre-emption of state food labeling laws. We should not prevent state governments from adopting more progressive laws. Federal legislation should establish minimum, not maximum standards.

I do commend the inclusion in the bill of a provision which would subject alcoholic beverages to food labeling laws.

In sum, Mr. Chairman, I believe that H.R. 10358 contains many useful provisions and is a big and important step in the right direction. I would like to see it go a bit farther. Most of the amendments and changes I have set forth here today are contained in a bill also before this subcommittee, H.R. 42, which I introduced. I urge the subcommittee to examine in detail the provisions of that bill.

Our present loophole-ridden food labeling laws are an abomination. It is unbelievable that pet food labels are more comprehensive than those on foods supposedly fit for human consumption. Public health specialists observe more and more a relationship between our diet and our high levels of certain types of cancers, between sugar-laden foods and tooth decay, and between chemical additives and hyperactivity in children. The least we can do is require that food processors reveal what they are putting in our food. Indeed, consumers have a right and a need to know. The nation's leading allergists, nutritionists, and health professionals have long called for full disclosure food labeling. For the food industry to claim that this is unnecessary government interference with a free market is ludicrous. How can a free market function if information so vital to consumer decision-making is withheld from view? It is time that food labels serve the health interests of American consumers rather than the economic interests of a few major corporations.●

BALANCE(S) OF POWER SERIES, BOOK IIIA(ii)—NATO'S CENTER CORE

HON. JOHN BRECKINRIDGE

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. BRECKINRIDGE. Mr. Speaker, yesterday I placed in the CONGRESSIONAL RECORD the first part of an article entitled "NATO's Lost Decade," appearing in the June 1978 Armed Forces Journal International, and today I finish this selection. The article follows:

NATO CENTER'S CORE (CONT.)

LACK OF STANDARDIZATION OF FORCE MIX AND TACTICAL TECHNOLOGY

NATO nations also failed to improve the standardization of their force mix and tactical technology. Vast sums were spent on force improvements and new weapons during 1968–1974, but these were often wasted because nations spent money on the wrong capability, or spent money on capabilities that were only useful if adopted on a theater-wide basis.

The NATO Allies thus had the resources for full-scale modernization, but the collapse of U.S. leadership left NATO without the planning and direction to use these resources to a common end. NATO failed to develop a common answer to how its members should develop their armor and anti-armor capability, artillery, mobility, air defenses, attack airpower, airborne early warning and C^3 systems, or naval and anti-submarine forces.

The "standard" NATO squadrons and division organization that had been developed during the period when the U.S. equipped its Allies through MAP aid collapsed into technological chaos, an internal arms sales race, and a rapidly changing facade of high technology quick fixes. In the process, NATO failed to use or maintain its past lead in tactical technology. It not only wasted its resources, it wasted what had once been a commanding advantage in tactical technology.

NATO'S LACK OF COMMON STANDARDS OF READINESS AND COMBAT EFFECTIVENESS

For the same reasons, each NATO nation adopted its own approach to readiness and training. In most cases, each country made a series of cuts or compromises that left it dependent on weeks of warning and build-up, even when its readiness reports to NATO showed it could achieve readiness in days. No common approach was developed as to what kind of unit readiness and training was needed in the Center Region, or how reserve forces should be structured.

NATO thus became increasingly vulnerable to an unreinforced Warsaw Pact attack without doing anything substantive to cope with the contingency of a reinforced attack, or to develop an effective set of integrated contingency capabilities.

NATO'S LACK OF A COMMON APPROACH TO LOGISTICS AND WAR RESERVES

The U.S. made NATO logistics and support a "national responsibility" in the 1950's to avoid funding such Allied capabilities during a period when most Allied equipment was furnished through U.S. military assistance aid. Unfortunately, the eventual result was a total lack of coordination and very poor ability to provide mutual support.

The U.S. attempted to change this situation during the mid-1960's, but it had to reduce its support for improved NATO logistics to occasional lip service when it became clear that any integrated approach NATO planning would expose the weakness in U.S. capabilities that had resulted from equipment and munitions transfers to Vietnam.

SHAPE and the Military Committee did set new NATO requirements or "standards" for stocks and war reserves during 1968–1974, but each member nation largely went its own way in isolation.

Some nations in the Center Region bought six "days" of others. Most nations failed to buy adequate stocks of high cost items like air-to-air and air-to-surface missiles, tank rounds, and anti-tank guided munitions for even ten days of intense combat.

Most Center Region nations also failed to create effective national logistic and LOC capabilities to replace the ones lost as a result of NATO's expulsion from France.

NATO'S LACK OF FOCUS ON TNW AND CBR CAPABILITIES

The U.S. replaced NATO's nuclear "trip wire" with "flexible response" in name only. No real planning for theater nuclear warfare (TNW) or chemical-biological warfare (CBW) took place between 1967 and 1975, and no real improvement has taken place in NATOs capability to wage theater nuclear, chemical, and biological warfare for a decade.

While NATO has talked and talked about nuclear war at the political level, it has lost its past lead in theater weapons, and had drifted into growing inferiority and vulnerability.

NATO'S FAILURE TO COME TO GRIPS WITH THE PROBLEM OF FRENCH WITHDRAWAL

NATO did little to come to grips with the impact of French withdrawal. NATO neither reacted to French withdrawal with realistic changes in its force structure, nor tried to create an infrastructure for full contingency cooperation. This has left NATO uncertain about the nature of French commitment in war, and vulnerable to any attack that occurs before such NATO-French cooperation can be improved.

In spite of the run-down in France's general purpose forces, they can still increase Allied strength by nearly 30 percent.

NATO'S FAILURE TO RESPOND TO CHANGES IN WARSAW PACT FORCE STRUCTURE

NATO never moved forward after rejecting the SHAPE assessment of the balance which could be used to tie NATO force planning to the best intelligence available on the

strengths and vulnerabilities in Warsaw Pact tactics, strategy, and force structures.

The U.S. was largely responsible for this failure. Because of the pressures of Vietnam and other political needs, it revealed SHAPE's lack of realism with a rigid, consensus-oriented approach to NATO.

The U.S. also killed NATO's fledgling effort at measuring the relative capability of NATO and the Warsaw Pact in 1970, when one such study threatened to expose the nature of the U.S. run-down of NATO forces to support Vietnam. The U.S. attempts to justify its view of MBFR then effectively stifled serious further analysis of the balance.

It became impossible to honestly discuss the balance when each discussion concentrated on each member nation's political view of what force cut would be most desirable or least harmful.

Equally important, NATO's intelligence community never evolved the collective security or counter-intelligence capability it needed. Every major NATO war plan, every major study, every sensitive intelligence document, every assessment of NATO readiness was compromised during 1968–1974.

NATO gave the Warsaw Pact an almost perfect view of its own capabilities at the same time it failed to develop the capability to look at its enemy's strength and weaknesses. This was a gift worth billions of dollars in terms of Warsaw Pact planning and attack capabilities. It means that the Pact knows precisely NATO's peacetime and wartime vulnerabilities to both surprise and reinforced attacks.

VIETNAM AND THE OCTOBER WAR: THE LOST DECADE

As George Ball predicted all too accurately in the mid-1960's, Vietnam paralyzed U.S. military policy making at the highest levels, and left NATO without leadership or direction. The dedicated efforts of NATO officials and allied and U.S. staffs placeable decade that the Helsinki Conference and Henry Kissinger's fleeting "year of Europe" did nothing to redress.

And, then when the U.S. finally emerged from its slow defeat, it had to re-supply Israel using much of the remaining war reserves and unit equipment the U.S. had prepositioned for "Reforger" or which was critical to a U.S. build-up in Europe. This re-supply effort and the Arab oil embargo again divided the U.S. from its Allies. It made it even more difficult, if not impossible for the U.S. to stress Allied force improvements when U.S. weaknesses were so conspicuously exposed.

Not until 1975 did the U.S. and NATO begin to fully emerge from these pressures. The Ford Administration then promptly took the option of returning to a serious effort at force planning and a new look at the balance. The lost years had also had a critical effect on NATO's ability to think and plan.

The image of NATO unity that its supporters had fought so hard to preserve gradually turned NATO and member country planning into ritual war dances around a series of limited force improvement priorities.

It was bureaucratically impossible in 1975 to suddenly look honestly at the balance after five years of political and analytic wrangling over the effect of MBFR: even to the most dedicated advocates of doing anything to maintain NATO's deterrent facade, rather than advocates of real military capability.

Fortunately, the last three years have seen major changes in these attitudes. James R. Schlesinger began a reassessment of the Warsaw Pact threat and U.S. priorities for NATO force improvements which was inhibited by the October War, but which formed the ground work for major progress under Secretary of Defense Donald Rumsfeld. Secretary Brown has sustained this progress, and has given NATO a new priority and emphasis. The FY 78 and FY 79 posture statements mark a major revitalization of both U.S. leadership and realism in assessing the threat.

THE WARSAW PACT BUILD-UP

The Soviet Union and Warsaw Pact faced no such problems and uncertainties during 1968–1974. During this period, the Soviet Union and Warsaw Pact steadily improved their strategic and theater forces. While NATO stood paralyzed, the USSR and its East European Allies slowly eliminated the basic weaknesses in Soviet and Warsaw Pact forces which had been the fundamental rationale for McNamara's rejection of unreinforced attack in the early 1960's:

THE SHIFT TO STRATEGIC PARITY

The growth and improvement of Soviet strategic forces has eliminated U.S. superiority in strategic forces. The exact nature of the current balance, and of the future trends in the balance, may be controversial; but there can be no doubt that the Soviets have reached "parity" in terms of the impact of strategic forces on the defense of NATO.

To paraphrase Henry Kissinger, the United States now can only use its strategic forces to reduce the threat of the Warsaw Pact "murdering" its NATO Allies by risking strategic nuclear "suicide," and the threat of committing suicide is indeed a poor deterrent to being murdered.

While the Limited Nuclear Options initially developed by Defense Secretary James Schlesinger may make some use of U.S. strategic forces to support NATO credibility, a strategy of U.S. self-immolation does not seem a significant counter to Warsaw Pact attack.

EXPANDING THE WARSAW PACT'S NUMERICAL LEAD OVER NATO

Similar improvements took place in Warsaw theater forces. The balance of major weapons numbers shifted steadily in favor of the Warsaw Pact:

The Warsaw Pact overtook NATO in combat personnel.

The Warsaw Pact increased its lead in number of divisions.

The Warsaw Pact increased its already massive lead in tanks.

The Warsaw Pact took the lead in anti-tank guided missile launchers, and anti-tank guns.

The Warsaw Pact reached more than twice NATO's artillery strength.

The Warsaw Pact kept its lead in APCs and AFVs.

The Warsaw Pact overtook NATO in SAM launchers and air defense guns.

The Warsaw Pact increased its lead in fighters based in the NATO guidelines area.

ENDING THE QUALITATIVE WEAKNESSES IN WARSAW PACT LAND FORCES

More importantly, the Warsaw Pact eliminated the critical qualitative weaknesses in its theater forces. The USSR and Eastern European nations made major improvements in their Tank and Motorized Rifle Division structures, Army and Front organization, and combined arms balance. As the Secretary of Defense reports in his FY 79 Posture Statement.

"The Soviets have been expanding the structure of their tank and motorized rifle divisions, adding to their non-divisional combat capability (at Army and Front levels) and modernizing their equipment, most notably in the 20 divisions of the Group of Soviet Forces Germany (GSFG).

Since the 1960's, about 1,000 men have been added to each of the tank divisions, and approximately 1,500 each of the motorized rifle divisions.

At least in the GSFG, modern tanks, self-propelled artillery, new anti-tank guided missile, armored personnel carriers, attack helicopters (including the heavily armed MI–24 HIND and MI–8 HIP) and organic air defenses have been provided in quantity.

About half of the tanks in the GSFG are the T–62; and the T–64 is now being deployed in significant numbers. . . .

"Approximately half of the armored personnel carriers in the GSFG are BMPs, more properly characterized as armored fighting vehicles than as APCs. The new artillery consists of a heavy, mobile, multiple rocket launcher and the self-propelled, armored versions of the 122mm and 152mm guns. Organic air defenses are now made up of the S–60/57mm anti-aircraft gun, the ZSU–23/4 fully tracked, radar assisted anti-aircraft gun and five types of mobile or man-portable surface-to-air missiles."

The qualitative problems and inferiorities in Warsaw Pact tanks, AFVs, APCs, and artillery disappeared. The Warsaw Pact reached overall parity in tank quality. Warsaw Pact armored fighting vehicles (AFVs) became superior to U.S. armored fighting vehicles in both numbers and quality. The Warsaw Pact acquired armored personnel and cargo lift capability which was superior to most NATO Center Region armies at both the unit and Army/Corps levels.

Warsaw Pact artillery forces began to acquire self-propelled weapons in large numbers, and new Warsaw Pact artillery tractors were deployed which eliminated the past mobility and endurance problems in moving forward artillery.

Individual Warsaw Pact artillery weapons became superior in range, rate of fire, and barrel life to their NATO counterparts. The past Warsaw Pact inferiority in artillery munitions lethality was largely corrected, and conventional Warsaw Pact artillery rounds acquired lethality against armored vehicles equal to that currently deployed "improved" NATO artillery.

Warsaw Pact land forces also acquired mobile air defenses equal or superior to those at any NATO division or Corps. Soviet combat and support helicopter forces came to equal those of NATO, and now offer greater infantry mobility, although they seem to have inferior anti-tank armament and maneuver performance.

Warsaw Pact combat support forces improved to the point where most armies cannot approach the surge or sustained throw-weight capability of Warsaw Pact artillery forces at the Division, Corps, or Front level. Only West Germany has a weapon equivalent to the modern Warsaw Pact's multiple rocket launcher, and the United States' new general support rocket system will not be fielded for at least 5 years.

Other Warsaw Pact combat and service support forces also improved sharply in readiness and capability, and Soviet divisions now have logistic lift per man and weapon equal to that of NATO units.

APPROACHING QUALITATIVE PARITY IN TACTICAL AIR FORCE

The Warsaw Pact also developed new fighter types and air force capabilities. Non-Soviet Warsaw Pact and Soviet Tactical Aviation forces have improved sharply in aircraft performance and avionics, and are likely to acquire rough parity with NATO in air defense and attack capability at some point between 1979 and 1982.

The Warsaw Pact also acquired significant superiority in air base numbers, dispersal, and passive and active defenses NATO's technical "superiority" is now limited to a comparatively few high performance fighters, a fading superiority in avionics, and an increasingly uncertain superiority in air-to-air and air-to-ground munitions.

ACHIEVING SUPERIORITY IN NUCLEAR AND CBW CAPACITY

The Secretary of Defense's FY '79 Posture Statement notes the shifts issue in theater

nuclear capability and their effect on the surprise attack.

"The Soviets have nuclear launchers at divisional and higher levels."

"While these are powerful forces, the Soviets have deployed even longer-range systems with a theater or peripheral attack capability in the U.S.S.R. itself. These systems include light and medium bombers, the large MRBM and IRBM force which is being modernized with the mobile SS–20 MIRVed missile, and submarines and surface ships armed with ballistic and cruise missiles. NATO and the United States have hardly any forces with characteristics substantially comparable to this capability on the continent of Europe. . .

"The largest part of the Soviet theater nuclear capability is concentrated against Western Europe. This concentration, and the emphasis in Soviet military doctrine on nuclear preemption, mean that we must plan for the possibility that the Warsaw Pact rather than NATO would be the first to use nuclear weapons. Such a use might occur at the outset of a conflict or after a preliminary conventional campaign. It might be confined initially to a narrow sector of the front, or it could be initiated on a theater-wide basis. In either event, we probably could not count on significant tactical warning of such use."

Both NATO's inferiority in long-range nuclear strike systems, and its inferiority in all aspects of chemical warfare, increase NATO's vulnerability to a sudden attack before NATO forces are warned or dispersed.

CHANGES IN WARSAW PACT TRAINING, DOCTRINE, AND C³

The Warsaw Pact also steadily improved its other force capabilities:

Soviet and Warsaw Pact. C³ targeting, and battlefield management systems evolved to the point where they seem to have a capability which would be equivalent to NATO systems in large scale combat.

Soviet and Warsaw Pact land and air training changed from a rigid and slow emphasis on theater-wide mass and numerical superiority to a highly sophisticated emphasis on mobility, rapid concentration of firepower, deep penetration, and tactical flexibility. A rigid emphasis on the lessons of past wars was replaced with a steadily evolving emphasis on operations research and practical tactical experimentation in the field.

Warsaw Pact training still has many weaknesses, and Warsaw Pact armies still have grave problems in manpower quality. However, the Pact has improved to the point where NATO probably suffers from at least equivalent problems, and there is no clear reason to believe such problems in force quality favor the defense. Most significantly, there is no longer any significant evidence that either Soviet or Eastern European exercises, plans, strategy, or doctrine rely on reinforcement from the rear before an attack. Quite the contrary. Virtually all available data indicate that the Warsaw Pact now concentrates its planning and training on fighting without prior reinforcement.

The Secretary's FY 79 Posture Statement takes a conservative view of the success of these improvements, but it also notes the freedom the Warsaw Pact might have to quietly correct them before launching an attack:

"These are impressive augmentations and improvements, though the exact levels of GSFG readiness and sustainability are uncertain Around 20 percent of the enlisted personnel are new recruits rotated into the division every six months. Most of their training takes place within the divisions. Maintenance and logistic support organic to the division have been made secondary to combat capability, and rear-area logistic support for the divisions is quite skeletal, at least in peace-time. The Soviets appear confident, it should be added, that they need not be prepared for a surprise attack on Eastern Europe by NATO. Having the tactical initiative and being able to choose their own time, make these difficiencies less serious."

THE CURRENT BALANCE AND SOVIET INTENTIONS

Given the history that has led to the current NATO and Warsaw Pact balance, the build-up in Warsaw Pact capabilities does not appear to be particularly intense or disproportionate. The change in the balance of NATO and Warsaw Pact capabilities is the result of a steady and well-managed effort at force improvement by the USSR and its clients, but it is also the result of a decade-long failure of U.S. leadership. The balance is now as much the result of that failure as it is of Soviet actions. Vietnam transformed an initially sound new NATO strategy and reevaluation of the threat into force cuts and an uncoordinated waste of defense expenditures.

Yet, if history reduces the probability that the current NATO balance is the result of an immediate Soviet intention to conquer Europe, there is no question that the Warsaw Pact now has dangerous new opportunities. The U.S. and NATO must now cope with a Warsaw Pact which has virtually eliminated the previous weaknesses in its capability to launch unreinforced attacks, and the Soviet Union has eliminated NATO's shield of strategic superiority.

Further, the Soviet Union and the Warsaw Pact have simultaneously improved their capabilities in virtually every other contingency. They have strengthened their reinforced capabilities, and their theater nuclear war fighting capabilities. The USSR has also provided Far Eastern forces capable of dealing independently with China, and may be acquiring a lead in strategic nuclear forces.

NATO's problems are not, therefore, simply the problems of dealing with the present improvements in Warsaw Pact "surprise attack" capabilities. In fact, "surprise" is an overworked and ambiguous word. While such "bolt from the blue" or "Pearl Harbor" attacks are possible, they also create the highest risk of strategic nuclear war.

The real problem that NATO faces is that it is now vulnerable to attacks without warning and cannot count on the time it would take the Soviets to mobilize and reinforce; but at the same time, faces a steadily worsening balance with each day of Soviet build-up. NATO cannot compensate for this even if it begins its own all-out build-up simultaneously. Moreover, its forces will still have critical weaknesses and vulnerabilities that the Warsaw Pact can exploit to achieve "surprise" for at least several months after a NATO M–Day. The problem is not one contingency, it is every contingency. There is also little reason to assume that the Warsaw Pact build-up will not continue. The Soviet Union is steadily increasing the efficiency of its military production and technology, and has clearly demonstrated it can use its economic growth to expand its military forces without significant "consumer" protest or resistence. The USSR has no apparent incentive to develop the "goal structure" of the Western democracies, or to match NATO's military weakness with a cost-effective calculation of the exact reductions it can make in its own forces or the "counter-weakness" it can safely afford. All that is currently known about Soviet society indicates that the Soviets will continue to seek added superiority of NATO if they can do so at a reasonable cost and that Warsaw Pact forces will continue to improve forces at their past rate.

General Alexander Haig put this very well in a recent speech:

"What we are facing, is the fulfilling of the Soviet military-industrial complex. It's not because of some change in the mood of Moscow, or some mindless thing on the part of the Soviet bureaucracy. It's quite rational, and has been constant over the past decade.

"The Soviet Union has modernized its defense forces, increased its manpower 40 percent, and its fire power 130 percent. This has given them a large residue to answer calls from the Third World, especially in Africa. In the past year alone, they have shipped more arms to Ethiopia than we did in 20." ●

LET THESE PEOPLE GO

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 19, 1978

● Mr. DORNAN. Mr. Speaker, the tension mounts. The kangaroo court session is ended, and Ginzburg and Scharansky have been sentenced. What does it mean? Is it an isolated instance of political repression? Or is it a portent of something yet more terrifying, perhaps, unspeakable? No, the mind cannot bear to ponder the possibility. We are revolted by the thought. But the dark possibility still haunts us.

Is Soviet Russia in the preliminary stages of a new terror? Is Stalin "The Terrible," long thought dead and buried, being resurrected—if only in spirit? In the 1930's, it was the murder of Kirov that set the stage for the mass killings that the regime was to initiate. It was the preliminary trials, with charges of treason and conspiracy against the innocent, that paved the way for the great purges of that era. In our best spirits, in our optimism, in our desire to believe that such a thing could not happen again, we may be blinding ourselves to reality. The Stalinist regime was arrogant, primitive, an extension of the demonical bloodlust of one man. We hope, it cannot happen again. Soviet society has changed. The conditions have changed. The chemistry of the Soviet social and political order is somehow different. But then, again, we are brought up short by the realization that the massive structure of institutional repression is still there. It is available. It is tightly disciplined, manned by veterans of the Stalinist bureaucracy. They could turn on that awful machine once more. They could set in motion the apparatus of terror, imprisonment and death.

There are ominous signs, if only for one segment of the Soviet population: Soviet Jews. There is yet the possibility that the full scale machinery of terror may be turned on—just for them—a concentrated, surgical persecution. The pattern terrifies: the threats, the daily harassments, the persecution of Slepak, Orlov, Nudel, Ginzburg, and Scharansky.

We, who have known of the holocaust of World War II, who are familiar with the murderous work of Hitler, Himmler, Eichmann, cannot rule out the possibility that it could happen again. Why? Because the totalitarian state is always given to excess. It is itself an excess. And there is no crime of which it is incapable. Belsen, Auschwitz, and Dachau are proof of this. And we must not forget one fundamental characteristic of the Soviet regime: it is totalitarian and its

history is a long record of crimes against humanity.

The Pharoes of the 20th century mock justice. They parade their arrogance and contempt for the United States. They are drunk with power and the lust for conquest and repression. And, like the Pharoes of old, they have begun in earnest their persecution of the children of Abraham. They are unrestrained by anything but fear of economic and diplomatic retaliation. That is where the matter now stands.

Mr. Speaker, in Latvia, Lithuania, Estonia, and the Ukraine, there have lived and died millions of unsung Christian martyrs. Countless men and women, especially in religious orders, have payed the most severe penalties for their confession of faith. And now the persecution intensifies. The Christian nations of the West cannot standby silently. We must never forget that the children of Abraham, the Jewish people, are nothing less than our spiritual predecessors. Our obligations in this matter are clear.

Mr. Speaker, if there is one thing the Soviet leadership respects—if not adores—in its own peculiar and idolatrous fashion, it is power. We must deny them the instruments of power in the form of technological transfers and trade benefits. Our sanctions must be firm and decisive. It is not enough to talk. Talk is cheap.

Mr. Speaker, on July 18 I was privileged to join four of my colleagues on the House Committee on Science and Technology to sponsor an ad hoc forum for Mrs. Avital Scharansky and U.S. scientists to speak out against this repression. She was brilliant, moving, and inspirational. What an absolutely glorious and heroic lady. Also of all the recent information on the character of the current repression, one of the best descriptions is that of Dina Beilina in the July 1, 1978 New York Times. I commend her stirring observation to the attention of my colleagues. Like Mrs. Scharansky her observations are of the same exceptional and inspirational quality.

SOVIET JEWRY: "THE PERSECUTIONS ARE WORSE THAN EVER"

To the Editor:

"In a frightening, pogrom-like atmosphere, the secret police smashed down their door, vandalized their apartment, attacked, beat and dragged my parents through an angry, jeering, anti-Semitic crowd to a waiting police car." This is from a letter by Alexander Slepak in Jerusalem. His parents are still in Russia; the scene he described occurred just recently.

I can visualize it only too well. The six years my family and I had been awaiting our exit visa were full of such scenes. Sometimes it all seems a nightmare, while our present freedom appears a dream.

Why then did we take the risk? Open and covert anti-Semitism, lack of Jewish life, fear that Stalin's mass terror could return—these were the reasons.

What I would like most now is just to forget it all, wake up from the nightmare and live an ordinary life in Israel. It is impossible. All my friends who shared the tribulations and dangers of these years are still there, and the persecutions are worse than ever before. I came to this country at the invitation of the National Conference of Soviet Jewry to meet as many Americans as I could, and to explain to them what is happening.

Vladimir Slepak, a symbol for Soviet Jews, has been waiting for permission to leave for eight years. Now he is sentenced to five years of internal exile for "malicious hooliganism." He is guilty of nothing.

Scharansky's case is well known in the United States. President Carter is in effect a witness for the defense, having said that Scharansky had nothing to do with the C.I.A. This has not yet stopped a trial. Scharansky has been held incommunicado for more than 15 months and been refused legal help. The sentence could range from 10 years imprisonment to the death penalty.

Ida Nudel, a Moscow economist, was arrested, charged with "mailcious hooliganism" and sentenced to four years in internal exile. She has been waiting for an exit visa for seven years to rejoin her family in Israel.

These last months, the Soviet authorities have somewhat increased the number of exit permissions granted: They do it because they are trying to get American credits.

How then does this agree with this recent campaign of arrests? The Soviets are arresting those people who can tell the world the truth; the Soviet authorities are successfully operating under a quiet, well-thought-out and very effective system they have created, which consists of a series of preventive measures calculated to apply the brakes and eventually to stop Jewish emigration from the U.S.S.R.

President Carter promised during his electoral campaign to help the Slepak family leave Russia; and he confirmed this in a telegram he sent to the Slepaks.

He has interceded for Scharansky. Only one thing can add weight to the words of your government leaders—the active backing of the American people. You have this wonderful democratic mechanism which you can use to save these people. You can appeal to your representatives on behalf Slepak, Nudel, Scharansky and others. This will help if it is done in time. American help has always been our source of hope.

Soviet authorities have rushed the Slepak and Nudel trials to circumvent foreign public opinion. They will back out if they see that Americans are aware of this. It is not too late to save these brave men and women from imprisonment.

(The writer is now a resident of Israel.) ●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of all meetings when scheduled, and any cancellations or changes in meetings as they occur.

As an interim procedure until the computerization of this information becomes operational the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committees scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 20, 1978, may be found in Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 21

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on H.R. 12536, Omnibus National Parks Amendments.
3110 Dirksen Building

9:30 a.m.
Judiciary
Immigration Subcommittee
To hold hearings on S. 3093, to provide for the seizure of vehicles used to illegally transport persons into the U.S.
2228 Dirksen Building

10:00 a.m.
Appropriations
State, Justice, Commerce, the Judiciary Subcommittee
To hold closed hearings on proposed supplemental appropriations for the National Telecommunications Information Agency.
S-407, Capitol

Environment and Public Works
Environmental Pollution Subcommittee
To continue oversight hearings on the implementation of P.L. 94-472, the Toxic Substances Control Act.
4200 Dirksen Building

Finance
To resume markup of S. 1470, proposing reform of the administrative and reimbursement procedures currently employed under the medicare and medicaid programs.
2221 Dirksen Building

Human Resources
Health and Scientific Research Subcommittee
To continue markup of S. 2755, the Drug Regulation Reform Act, and S. 3115, to establish a comprehensive disease prevention and health promotion program in the U.S.
4232 Dirksen Building

11:00 a.m.
*Commerce, Science, and Transportation
To hold hearings on the nomination of Thomas F. Moakley, of Massachusetts, to be a Federal Maritime Commissioner.
235 Russell Building

JULY 24

9:00 a.m.
Joint Economic
Economic Growth and Stabilization Subcommittee
To hold hearings on alleged mismanagement of Conrail's personnel and financial resources.
5110 Dirksen Building

9:30 a.m.
Finance
Taxation and Debt Management Generally Subcommittee
To hold hearings on proposed tax legislation of general application (S. 869, 1674, 2128, 2393, 2462, 2628, 2825, 3007, 3037, 3080, 3125 and 3301).
2221 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Energy Production and Supply Subcommittee
To hold hearings on S. 3078, providing financial assistance to certain States to aid in the stabilization or disposal of radioactive materials.
3110 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

JULY 25

9:30 a.m.
Judiciary
To hold hearings on the nominations of Jose A. Gonzalez, Jr., to be U.S. district judge for the southern district of Florida, and Edward S. Smith, of Maryland, to be an Associate Judge of the U.S. Court of Claims.
2228 Dirksen Building

Joint Economic
To hold joint hearings with the House Banking, Finance and Urban Affairs Subcommittee on the City to review economic conditions, and to discuss the future outlook.
2128 Rayburn Building

10:00 a.m.
Budget
To hold hearings on the second concurrent resolution on the Congressional Budget for FY 1979.
6202 Dirksen Building

Commerce, Science, and Transportation
Business meeting on pending calendar business.
235 Russell Building

Energy and Natural Resources
Energy Production and Supply Subcommittee
To continue hearings on S. 3078, providing financial assistance to certain States to aid in the stabilization or disposal of radioactive materials.
3110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To hold hearings on S. 2189, proposed Nuclear Waste Management Act.
1114 Dirksen Building

Select on Indian Affairs
To hold hearings on H.R. 11092 and S. 3043, to authorize additional funds for expenses of the Navajo and Hopi Indian Relocation Commission.
2228 Dirksen Building

Special on Aging
To hold oversight hearings on Medicare-Medicaid Anti-Fraud and Abuse Amendments (P.L. 95–142), and the role of State control units.
1202 Dirksen Building

JULY 26

9:00 a.m.
*Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on S. 2189, proposed Nuclear Waste Management Act.
1114 Dirksen Building

Joint Economic
Economic Growth and Stabilization Subcommittee
To resume hearings on alleged mismanagement of Conrail's personnel and financial resources.
5110 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
Consumer Subcommittee
To hold oversight hearings on auto odometer requirements.
235 Russell Building

Finance
Administration of the Internal Revenue Code Subcommittee
To resume joint oversight hearings with the Select Small Business Committee on operation of the Tax Reduction and Simplification Act (P.L. 95–30), and on Administration proposals for a new jobs tax credit.
2221 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
To mark up H.R. 10899, proposed International Banking Act.
5302 Dirksen Building

Budget
To continue hearings on the second concurrent resolution on the Congressional Budget for FY 1979.
6202 Dirksen Building

Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

Environment and Public Works
Water Resources Subcommittee
To hold hearings on S. 1592, to terminate further construction of the Cross-Florida Barge Canal project.
4200 Dirksen Building

Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

Rules and Administration
To receive testimony on S.J. Res. 142, authorizing the Franklin Delano Roosevelt Memorial Commission to proceed with construction of the FDR Memorial, and other legislative and administrative business.
301 Russell Building

JULY 27

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To resume hearings on conglomerate mergers and their effect on the economy, on a community, and on employees.
2228 Dirksen Building

Veterans' Affairs
To mark up S. 2828, the Veterans Disability Compensation and Survivor Benefits Act; S. 1643 and H.R. 4341, to eliminate the requirement that the VA inspect the mobile home manufacturing process; and H.R. 12257, to furnish memorial headstones to honor certain deceased veterans.
412 Russell Building

10:00 a.m.
Banking, Housing and Urban Affairs
To continue markup of H.R. 10899, proposed International Banking Act.
5302 Dirksen Building

Budget
To continue hearings on the second concurrent resolution on the Congressional budget for FY 1979.
6202 Dirksen Building

Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

Governmental Affairs
Energy, Nuclear Proliferation, and Federal Services Subcommittee
To continue hearings on S. 2189, proposed Nuclear Waste Management Act.
3302 Dirksen Building

Select Intelligence
To resume hearings to receive testimony from former Secretary of State Kissinger on S. 2525, to improve the intelligence system of the U.S. by establishing a statutory basis for U.S. intelligence gathering activities.
5110 Dirksen Building

JULY 28

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

9:30 a.m.
Judiciary
Antitrust and Monopoly Subcommittee
To continue hearings on conglomerate mergers and their effect on the economy, on a community, and on employees.
2228 Dirksen Building

JULY 31

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

AUGUST 1

9:00 a.m.
Judiciary
Improvements in Judicial Machinery Subcommittee
To hold hearings on arbitration in U.S. district courts.
2253 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 2590, to amend P.L. 91–505, relating to land claims by the U.S. in Riverside, California, and S. 2774, to extend the boundaries of the Toiyabe National Forest in Nevada.
3110 Dirksen Building

AUGUST 2

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To hold hearings on the quality of patient care in nursing homes.
3302 Dirksen Building

AUGUST 3

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

10:00 a.m.
Governmental Affairs
Federal Spending Practices and Open Government Subcommittee
To continue hearings on the quality of patient care in nursing homes.
3302 Dirksen Building

AUGUST 4

9:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

AUGUST 7

10:00 a.m.
Energy and Natural Resources
Public Lands and Resources Subcommittee
To hold hearings on S. 2475 and H.R. 10587, to improve conditions of the public grazing lands.
3110 Dirksen Building

AUGUST 8

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2533, proposed Gasohol Motor Fuel Act.
3110 Dirksen Building

AUGUST 9

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To hold hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building

10:00 a.m.
Budget
To mark up second concurrent resolution on the Congressional Budget for FY 1979.
6202 Dirksen Building
Energy and Natural Resources
Energy Research and Development Subcommittee
To continue hearings on S. 2533 proposed Gasohol Motor Fuel Act.
3110 Dirksen Building
Environment and Public Works
Water Resources Subcommittee
To hold hearings on proposed initiatives designed to improve Federal water resource programs transmitted by the President in his message of June 7, 1978.
4200 Dirksen Building

AUGUST 10

8:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To hold hearings on S. 2560, to expand the Indiana Dunes National Lakeshore.
3110 Dirksen Building
9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To continue hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building

AUGUST 14

10:00 a.m.
Energy and Natural Resources
Energy Research and Development Subcommittee
To hold hearings on S. 2860, proposed Solar Power Satellite Research, Development, and Demonstration Program Act.
3110 Dirksen Building

AUGUST 15

9:00 a.m.
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

AUGUST 16

9:00 a.m.
Commerce, Science, and Transportation
Science, Technology, and Space Subcommittee
To resume hearings to receive testimony from officials of the Department of Energy on nuclear waste disposal.
235 Russell Building
Energy and Natural Resources
Business meeting on pending calendar business.
3110 Dirksen Building

AUGUST 17

10:00 a.m.
Foreign Relations
Arms Control, Oceans, and International Environment Subcommittee
To hold hearings on S. 2053, the Deep Seabed Mineral Resources Act, now pending in the Commerce, Science, and Transportation Committee.
4221 Dirksen Building
Judiciary
Administrative Practice and Procedure Subcommittee
To hold hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 18

10:00 a.m.
Energy and Natural Resources
Parks and Recreation Subcommittee
To resume hearings on H.R. 12536, the Omnibus National Parks Amendments.
3110 Dirksen Building

AUGUST 22

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on S. 1449, proposed Grand Jury Reform Act.
2228 Dirksen Building

AUGUST 28

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To resume hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

AUGUST 29

10:00 a.m.
Judiciary
Administrative Practice and Procedure Subcommittee
To continue hearings on the FBI Charter as it concerns undercover operations.
2228 Dirksen Building

CANCELLATIONS

JULY 20

10:00 a.m.
Commerce, Science, and Transportation
Business meeting on pending calendar business.
235 Russell Building

HOUSE OF REPRESENTATIVES—*Thursday, July 20, 1978*

The House met at 10 o'clock a.m.

Rev. Peter J. Marshall, Evergreen Farm, Lincoln, Va., offered the following prayer:

Father, in these crisis years of our Republic, we praise You that You called this Nation into being through our Pilgrim and Puritan forefathers' faith in Jesus Christ. And you gave our Founding Fathers the divine wisdom and guidance to institute the most sacred form of government yet known to man.

We bless You for the privilege of living in this land, and for the sacred trust placed in the hands of those who work in this House. Father, make us worthy of that trust, we pray You. Grant us the courage, through faith in Christ, to stand for the truth revealed in Your Word, lest we fall for the temptation to save ourselves and do the politically easy or expedient thing. We pray, Father, that You would raise up true national leadership out of this Chamber, will call this Nation back to being a republic under Your laws, that we may be a people of individual integrity and corporate responsibility—that government of the people, by the people, and for the people may not perish from the face of this Earth.

In Jesus' name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Arrington, one of its clerks, announced that Mr. GARN be a conferee, on the part of the Senate, to the bill (H.R. 10929) entitled "An act to authorize appropriations for fiscal year 1979 for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, and other weapons and for research, development, test and evaluation for the Armed Forces, to prescribe the authorized personnel strength for each active duty component and the Selected Reserve of each Reserve component of the Armed Forces and for civilian personnel of the Department of Defense, to authorize the military training student loads, to authorize appropriations for civil defense, and for other purposes," vice Mr. SCOTT, excused.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 3083. An act to extend the authorizations for the Noise Control Act of 1972, to expand the quiet communities program, and for other purposes; and

S. 3107. An act to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy.

THE REVEREND PETER JOHN MARSHALL

(Mr. BONKER asked and was given permission to address the House for 1 minute.)

Mr. BONKER. Mr. Speaker, it is a personal privilege for me to formally introduce Rev. Peter John Marshall who is the son of the former Chaplain of the Senate, Dr. Peter Marshall, who was Chaplain from 1947 to 1949.

Peter Marshall was born and raised in Washington, D.C.

He graduated from Yale University in 1961 and from Princeton Theological Seminary in 1964.

He was ordained as a Presbyterian pastor in 1965; served as assistant pastor in West Hartford, Conn., and was most recently pastor of the East Dennis Community Church on Cape Cod for 10 years. In November 1977 he resigned that pastorate and is currently conducting a teaching and preaching mission which takes him throughout the country.

He is coauthor of a book entitled "The Light and the Glory," which concerns America's spiritual roots and heritage.

Mr. Speaker, I join with my colleagues in welcoming Reverend Marshall.

PERMISSION FOR SUBCOMMITTEE ON COMMERCE, CONSUMER, AND MONETARY AFFAIRS OF COMMITTEE ON GOVERNMENT OPERATIONS TO SIT TODAY AND TOMORROW WHILE HOUSE IS IN SESSION

Mr. ROSENTHAL. Mr. Speaker, I ask unanimous consent that the Subcommittee on Commerce, Consumer, and Monetary Affairs of the Committee on Government Operations may be permitted to sit this morning and tomorrow morning while the House is in session, for the purposes of taking testimony only.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

LEGISLATION TO REDUCE THE FEDERAL BUDGET DEFICIT

(Mrs. HOLT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HOLT. Mr. Speaker, I am today introducing legislation which, when enacted and implemented, would result in a reduction of the Federal budget deficit.

It is not necessary that Federal spending continue to grow at a rate of 10 to 11 percent a year. Many of us have worked persistently to reduce the growth rate of Federal spending, and this goal is irrevocably linked to our commitment to cut taxes.

We believe that the growth rate of Government spending can be reduced as the Kemp-Roth tax reductions are phased in over a 3-year period. We also believe that the economic growth generated by those tax reductions would rapidly recover any initial revenue losses.

I am today introducing the Spending Limitation and Tax Reduction Act of 1978, which provides for step-by-step reductions in the growth rate of Federal spending and wholly embraces the Kemp-Roth tax reductions. This legislation embodies the amendment which I offered to the first concurrent budget resolution, and which a majority of you supported.

Under the provisions of my legislation, new budget authority could not increase more than 8 percent in the first year, 7 percent in the second year, and 6 percent in the third year. Budget authority refers to any type of commitment on the part of the Federal Government.

I hope that many of my colleagues will join me to cosponsor this legislation.

IS THE HANDWRITING ON THE WALL FOR JIMMY CARTER?

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I rise to defend the Carter administration against charges that it is staffed with top-level officials who are less than competent. Any one of the President's closest advisers could leave Government right now and command high salaries at their specialties.

Who would not pay exorbitant fees to take lessons in fault-free oratory from Andy Young? Is there anyone who personally knows more about the intracacies of election financing than Midge Costanza? And which of us would not like to have that financial wizard, Bert Lance, handling our money?

And now I see the Dr. Peter Bourne, the President's very close friend, longtime adviser, and chief drug expert has all this time been modestly hiding a superb talent for making up names and creative handwriting.

I would think the handwriting Mr. Carter really has to worry about now is the handwriting on the wall.

GENERAL LEAVE

Mr. MAHON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 13467, the second supplemental appropriations bill, 1978, and that I may include extraneous matter.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

SECOND SUPPLEMENTAL APPROPRIATIONS ACT, 1978

Mr. MAHON. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 13467) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, and pending that motion, Mr. Speaker, I ask unanimous consent that general debate be limited to not to exceed 2 hours and that the time be equally divided and controlled by the gentleman from Michigan (Mr. CEDERBERG) and myself.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CHARLES H. WILSON of California. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 357, nays 3, answered "present" 1, not voting 71, as follows:

[Roll No. 574]

YEAS—357

Abdnor	Anderson, Ill.	Armstrong
Addabbo	Andrews, N.C.	Ashley
Akaka	Andrews, N. Dak.	Aspin
Alexander	Annunzio	AuCoin
Ammerman	Applegate	Badham
Anderson, Calif.	Archer	Bafalis
Barnard	Frenzel	Moffett
Baucus	Fuqua	Mollohan
Bauman	Gammage	Montgomery
Beard, R.I.	Gaydos	Moore
Beard, Tenn.	Gephardt	Moorhead, Calif.
Bedell	Giaimo	Moorhead, Pa.
Bellenson	Gilman	Moss
Benjamin	Ginn	Mottl
Bennett	Glickman	Murphy, Ill.
Bevill	Goldwater	Murphy, N.Y.
Biaggi	Gonzalez	Murphy, Pa.
Bingham	Goodling	Murtha
Blanchard	Gore	Myers, Gary
Blouin	Gradison	Myers, John
Boggs	Grassley	Myers, Michael
Boland	Green	Natcher
Bonker	Gudger	Neal
Bowen	Guyer	Nedzi
Brademas	Hagedorn	Nix
Breckinridge	Hall	Nolan
Brinkley	Hamilton	Nowak
Brodhead	Hammer-schmidt	O'Brien
Brooks	Hanley	Oakar
Broomfield	Hannaford	Oberstar
Brown, Calif.	Hansen	Obey
Brown, Mich.	Harkin	Ottinger
Brown, Ohio	Harsha	Panetta
Broyhill	Hawkins	Patten
Buchanan	Hefner	Patterson
Burgener	Heftel	Pease
Burke, Calif.	Hightower	Pepper
Burke, Fla.	Hillis	Perkins
Burke, Mass.	Holland	Pettis
Burleson, Tex.	Hollenbeck	Pickle
Burlison, Mo.	Holt	Pike
Burton, John	Holtzman	Poage
Burton, Phillip	Horton	Preyer
Carney	Howard	Price
Carr	Hubbard	Pritchard
Carter	Huckaby	Pursell
Cederberg	Hughes	Quillen
Chappell	Hyde	Rahall
Clausen, Don H.	Ichord	Railsback
Clay	Jeffords	Rangel
Cleveland	Johnson, Calif	Regula
Cochran	Johnson, Colo.	Reuss
Cohen	Jones, N.C.	Rhodes
Coleman	Jones, Okla.	Richmond
Collins, Ill.	Jones, Tenn.	Rinaldo
Conable	Jordan	Risenhoover
Conte	Kastenmeier	Roberts
Corcoran	Kazen	Robinson
Corman	Kelly	Roe
Cornell	Kildee	Rogers
Cotter	Kindness	Rooney
Coughlin	Krebs	Rose
Cunningham	Lagomarsino	Rosenthal
D'Amours	Latta	Rudd
Daniel, Dan	Leach	Runnels
Daniel, R. W.	Lederer	Ruppe
Danielson	Leggett	Russo
de la Garza	Lehman	Ryan
Delaney	Lent	Satterfield
Dellums	Levitas	Sawyer
Derwinski	Livingston	Scheuer
Devine	Lloyd, Tenn.	Schroeder
Dickinson	Long, La.	Schulze
Dicks	Long, Md.	Sebelius
Dodd	Lott	Seiberling
Downey	Lujan	Sharp
Drinan	McClory	Shuster
Duncan, Oreg.	McCloskey	Sikes
Duncan, Tenn.	McCormack	Simon
Early	McDade	Sisk
Eckhardt	McDonald	Skelton
Edgar	McEwen	Skubitz
Edwards, Ala.	McFall	Slack
Edwards, Calif.	McKinney	Smith, Iowa
Eilberg	Madigan	Smith, Nebr.
Emery	Maguire	Snyder
English	Mahon	Spellman
Erlenborn	Markey	Spence
Ertel	Marks	St Germain
Evans, Del.	Marlenee	Staggers
Evans, Ga.	Marriott	Stangeland
Evans, Ind.	Martin	Stanton
Fary	Mattox	Stark
Fascell	Mazzoli	Steed
Fenwick	Meeds	Steers
Findley	Metcalfe	Steiger
Fish	Meyner	Stockman
Fisher	Michel	Stokes
Fithian	Mikulski	Stratton
Flippo	Mikva	Studds
Flood	Milford	Stump
Florio	Miller, Calif.	Symms
Foley	Miller, Ohio	Taylor
Ford, Tenn.	Mineta	Thompson
Forsythe	Minish	Thone
Fountain	Mitchell, N.Y.	Thornton
Fowler	Moakley	Traxler

Treen	Walsh	Wirth
Trible	Wampler	Wolff
Tucker	Watkins	Wright
Udall	Weaver	Wydler
Ullman	Weiss	Wylie
Vander Jagt	Whalen	Yates
Vanik	White	Yatron
Vento	Whitehurst	Young, Fla.
Volkmer	Whitley	Young, Mo.
Waggonner	Whitten	Zablocki
Walgren	Wilson, C. H.	Zeferetti
Walker	Winn	

NAYS—3

Lloyd, Calif.	Quayle	Wilson, Bob

ANSWERED "PRESENT"—1

Mitchell, Md.

NOT VOTING—71

Ambro	Flynt	Mann
Ashbrook	Ford, Mich.	Mathis
Boiling	Fraser	Nichols
Bonior	Frey	Pattison
Breaux	Garcia	Pressler
Butler	Gibbons	Quie
Byron	Harrington	Rodino
Caputo	Harris	Roncalio
Cavanaugh	Heckler	Rostenkowski
Chisholm	Ireland	Rousselot
Clawson, Del	Jacobs	Roybal
Collins, Tex.	Jenkins	Santini
Conyers	Jenrette	Sarasin
Cornwell	Kasten	Shipley
Crane	Kemp	Solarz
Davis	Keys	Teague
Dent	Kostmayer	Tsongas
Derrick	Krueger	Van Deerlin
Diggs	LaFalce	Waxman
Dingell	Le Fante	Wiggins
Dornan	Luken	Wilson, Tex.
Edwards, Okla.	Lundine	Young, Alaska
Evans, Colo.	McHugh	Young, Tex.
Flowers	McKay	

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. 13467, with Mr. MINETA in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the unanimous consent agreement the gentleman from Texas (Mr. MAHON) will be recognized for 1 hour, and the gentleman from Michigan (Mr. CEDERBERG) will be recognized for 1 hour.

The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Committee on Appropriations today brings before the House the Second Supplemental Appropriation bill, 1978. It is actually the 10th supplemental measure for fiscal year 1978 but it is the second general supplemental. The other measures were special purpose joint resolutions handled on an urgent basis. It is our plan for this to be the last general purpose supplemental for the current fiscal year.

BILL SUMMARY

The bill as reported by the committee a week ago today totals some $6.4 billion and is about $300 million net under the budget estimates.

Generally speaking, there is nothing especially surprising in the bill. Most of the budget requests considered in developing this bill were transmitted to the Congress in the January budget. From the standpoint of dollars, about half the bill, $3.2 billion of the $6.4 billion total, is for pay costs associated with the across-the-board comparability increase of October 1977.

Of the total recommended in the bill, some $4.6 billion, roughly 70 percent is for items over which the Congress has little or no discretion at this point in time. The largest single item is the $3.2 billion for pay costs.

Other relatively uncontrollable items at this point in time include: $489 million for veterans pensions; $428 million—Civil Service retirement; $109 million—retired pay. Defense; $69 million—postal service deficit, and $215 million in the defense chapter for currency reevaluation.

That is the general flavor of this bill as reported by the committee. Of course it could be argued that nothing is uncontrollable—that existing laws can always be changed—but that argument would only apply to the future. The bulk of the items in this bill are subject to very little discretion at this point in time.

Mr. Chairman, I would point out that this supplemental has been handled in the usual fashion in committee. The subcommittees of jurisdiction held the hearings and presented their recommendations to the full committee. The full committee adopted only two minor amendments and the bill was reported by voice vote on Thursday of last week.

There are over 500 accounts contained in the bill. There are 340 pay-cost accounts in title II and 170 so-called program accounts in title I. Title III is comprised of routine general provisions customarily carried in such bills—nothing unusual.

COMPARISON TO 1978 BUDGET RESOLUTION

Mr. Chairman, one significant aspect of this bill is that it absorbs most of the remaining ceiling on budget authority in the existing concurrent resolution on the budget for the fiscal year 1978 which was agreed to by the Congress last year. The estimate is that if this bill were enacted today in its present form there would be only about $1.3 billion of head space left in budget authority in present concurrent resolution on the budget. That is not much room in a half a trillion dollar budget.

Further, Mr. Chairman, I wish to note that the Congressional Budget Office is presently engaged in an exercise of reestimating the budget authority which accrues automatically in certain accounts without further congressional action. I mention this matter because, while this bill at this time appears to be comfortably within the fiscal 1978 budget resolution, there is a possibility that it will not be, by say the time the conference report is ready for consideration. It could be in jeopardy by virtue of the product of the Congressional Budget Office reestimating exercise, any additional budget requests submitted by the President to the Senate, items added over the budget by the other body, amendments adding funds to the bill here today, or some combination of these factors.

I mention this subject, Mr. Chairman, simply for the information of Members and others who are interested in operations under the Budget Act. We should all be aware of the mechanics of the act and where we stand.

STATUS OF FISCAL YEAR 1979 BILLS

I also wish to take a moment to note where we stand on the fiscal year 1979 appropriation bills. I believe the House has again done a good job of handling the appropriation bills in a timely fashion. The committee reported 11 of the 13 regular annual appropriation bills in June. Ten of these bills were passed by the House in June. The three bills remaining to be considered by the House are Foreign Assistance, District of Columbia, and Defense. Foreign Assistance was reported by the committee on June 1. It has been scheduled for the floor several times and postponed. It is now rescheduled for the first week of August. District of Columbia is set for tomorrow. We intend to have the big Defense bill before the full committee a week from today and the present plan is to bring it before the House the following week after consideration of the Foreign Aid bill.

Progress in the other body on the appropriation bills, on the other hand, has not paralleled that of the last 2 years.

As of this date last year the Senate had passed 11 of the 13 appropriation bills. So far this year the other body has passed only two.

As of the end of July last year seven bills had cleared final conference action. It appears that only one will be finalized by the end of July this year.

I am encouraged, however, Mr. Chairman, by the fact that the Senate Committee reported two bills yesterday and intends to consider more bills next week. But we are not in as good shape this year in operating under the Budget Act as we have been heretofore. I shall not take further time on this subject now, but it is becoming increasingly apparent that certain provisions of the Budget Act must be refined—especially those with respect to the timely availability of authorizing legislation.

Turning to the Defense Department chapter, the Department of Defense requested a total of $2.9 billion in supplemental appropriations in both title I and title II.

The committee recommends the appropriation of $2.6 billion and has made net reductions totaling $274 million.

The $2.9 billion request includes $1.4 billion for military pay raises, $1.1 billion for civilian pay raises, $307 million for currency revaluation, $59 million for the fleet satellite communications program, and $32 million for military subsistence.

The committee recommends the addition of $16 million for military subsistence. The price of food has increased more than was reflected in the estimate.

A reduction of $60 million in retired military pay costs has been identified and agreed to by departmental witnesses.

The currency revaluation request is reduced by $92 million. This sum has already been provided through reprogramming.

A reduction of $138 million is recommended in the amount provided for pay raises. Available funds have been identi-

fied which can be used instead of new appropriations.

The committee recommends the funds requested for additional fleet communications satellites.

I know of no controversy over these recommendations.

So, Mr. Chairman, returning to the pending supplemental, I would say that 11 of the 13 subcommittees are involved. As I indicated the subcommittees, as is the practice, have done the work on this bill. Representatives of the subcommittees on both sides of the aisle are here and I suggest that we proceed.

Mr. Chairman, I shall not use further time at this moment.

The CHAIRMAN. The gentleman from Texas (Mr. MAHON) has consumed 7 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CEDERBERG).

Mr. CEDERBERG. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, the amount in the Labor-HEW chapter is $391 million, which represents, believe it or not, an actual reduction in the budget request of some $96.7 million.

Most of the reduction is due to the substantial lag between the time when the supplemental requests were originally developed and the expected enactment date of the supplemental. As an example, $76 million to pay the increased minimum wage for CETA enrollees was not included, because the fiscal year is nearly over and the department has thus far been able to absorb the cost. There have been smaller but similar reductions applied to new positions requested and the recruitment schedules required for the hiring thereof.

PINPOINT DISASTERS

One other reduction, of $26 million, was made by not providing funds to initiate the so-called pinpoint disaster program, which would pay claims going back to 1968 for local school damage, such as that resulting from fires, vandalism, windstorms, et cetera.

We did not include the funds:

Because the program has not been funded before;

Because it is a low priority program which could mushroom once localities get wind of it;

Because it would have the Federal Government finance what the States and localities have always managed to fund themselves up to now;

Because in many cases such funding would simply represent bailout money for school systems which have not insured their facilities;

Because most of the applications for assistance are only for small amounts of under $10,000;

Because no "real emergencies" are involved in the program;

And because approximately 175 of the current 639 claims on hand are from 1968 to 1976, most of which are for repairs already completed.

The administration had requested funds because it apparently felt some obligation to do so, but in reality it opposes the program and would be quite happy if the funds were not appropriated. For instance, Dr. Ernest Boyer, the Commissioner of Education, stated during our hearings:

"I think it is, in my view, a low priority program. It engages us in a series of very minor involvements in financing in which, in my judgment, the administration and the intervention is far excessive in terms of which I think public policy and our own resources can justify. We have proposed legislative appeals on this.

FLU VACCINATIONS

The bill contains $15 million to initiate an influenza vaccination program, an allocation about which I have very great reservations.

Many of you perhaps saw the article in the editorial section of the Washington Post on Sunday, entitled "Are we Headed For Another Flu Fiasco?"

Let me quote to you two key paragraphs from that article,

And again, as with swine flu, the difficult questions involved are not receiving the the scrutiny they deserve. Is the vaccine really necessary? Will there be a flu epidemic? How many poeple this time might die from the vaccine, or be unnecessarily injured? In effect, is this another swine flu fiasco in the making?

Once a permanent influenza program is instituted, it would be difficult to rescind. If Congress is going to ask questions, they should do it now as they did not do two years ago when HEW started beating the drums for a swine flu epidemic that never came.

The fact is that we did seek to get at some of these questions, both during our hearings and through subsequent letters Chairman FLOOD wrote Secretary Califano. But the fact is also that in my opinion, the answers were far from satisfactory and have left too many unanswered loose ends.

There will be an amendment offered later cutting back on this funding and I will have more to say about the shortcomings and contradictions at that time.

GUARANTEED STUDENT LOANS

The largest item in this chapter, and well over half the total, is $223 million for the guaranteed student loan program. The amount would pay increased interest subsides due to both a higher loan volume and higher interest rates, and increased default claims.

Particularly distressing in the default area is the decrease in the amount of collections of defaulted loans. Total receipts from collections are estimated to be $11.7 million less than originally projected, and collections by Federal collectors (as contrasted with State collectors) are projected as even being $2.4 million less than in fiscal year 1977. This despite all the rhetoric we have heard about a stepped up campaign against defaulters.

We have language in the report which is critical of the Department in this regard and calling for a better effort.

OTHER THINGS

Running down some of the other items in the Labor-HEW chapter, we have $21.3 million to pay the increased minimum wage from the enactment date of this bill forward for the community service employment for older Americans program.

The sum of $1.8 million is allocated from the unemployment benefits and allowances account to provide layoff payments for Redwood Forest industry workers adversely affected by the expansion of the Redwood National Park.

One hundred new positions are provided for the Labor Department to administer the new minimum wage law, and 475 new positions for the implementation of the new Mine Safety law.

The bill contains $52.2 million for renovation and construction at St. Elizabeth's Hospital, and allows the use of $40 million in formula grant funds for hospital construction projects designed to eliminate safety hazards and to enable compliance with licensure and accreditation standards.

One hundred and twenty-five positions are included for the medicaid quality control program. Here is another instance of our providing the tools to enable the Department to get at the waste, fraud, and abuse problem.

Five million dollars is included for major disaster assistance to assist schools in areas where the President has declared a disaster.

Thirty-seven million eight hundred thousand dollars is provided for the Education for the Handicapped State Grant Program, to bring the total Federal payment to a full 10 percent of excess costs. This will bring the total amount for school year 1978–79 to $564.9 million. I really do not think it is wise for us to get locked in to these specific percentages, but I know what the pressures are.

The bill contains 449 new positions for HEW's Office of Civil Rights, ostensibly to help reduce the complaint backlog. I am afraid, though that this will just give them more resources to engage in mischiefmaking.

One hundred new positions are included for the Office of Investigations under the Inspector General. This will double their staff.

We have approved $217,000 to increase the monthly stipend for VISTA volunteers under ACTION, but we have denied the request of $727,000 to cover an increase in the VISTA food and lodging allowance. We did so because Sam Brown acted unilaterally to increase this allowance, and then simply sent us the bill. If he thinks Congress is merely going to be his stalking horse, he has another thing coming. We tell him in the committee report that he should take the money out of his own budget.

Finally, the bill contains $12 million for the Corporation for Public Broadcasting to match increased private funds that were raised. The request is based on the supposition that the Federal Government is obligated to match every public broadcasting dollar raised from non-Federal sources. If we accept this supposition, this would become simply an entitlement program, so we have report language stating this is not our intention. We have included funds this year because the message perhaps was not clear but from here on in, the word should go out that the amount we appropriate in the regular bill is the amount we intend to provide, not additional amounts every year in a supplemental.

Mr. MAHON. Mr. Chairman, I yield such time as he may require to the

chairman of the Subcommittee on Agriculture and Related Agencies, the gentleman from Mississippi (Mr. WHITTEN).

Mr. WHITTEN. Mr. Chairman, in the chapter that our subcommittee handles we have a number of items which are very essential at the present time.

DISEASE AND PEST CONTROL

We have included $3,675,000 for the Animal and Plant Health Inspection Service; $1,255,000 of this amount was requested for aircraft inspection and quarantine activities as mandated by the Airport and Airways Development Act Amendments of 1976. That act requires the Government to pay these costs of inspecting airplanes that land in this country at irregular hours, on Sundays, and certain other times. We have to provide inspection for them because of the pests and insects that come in from other countries. The damages could run into millions of dollars if this were not done, and we have spent hundreds of millions of dollars in times past because we let these pests get through.

We have also provided $2,420,000 to combat infestations of pests and diseases.

In the State of Michigan, there is a gypsy moth infestation, and we are trying to prevent it from spreading there as it has in the New England States.

Not only that, for the San Joaquin Valley in California we have provided $800,000 for immediate expansion of production of sterile pink bollworm moths in an event to control the bollworm.

The bill also includes $450,000 to combat infestations of cattle fever ticks.

SURVEY OF FOREIGN INVESTMENT IN THE UNITED STATES

We directed some years ago a survey of foreign investments in the United States. Recently, in the Committee on Appropriations we asked the staff to bring together information on foreign purchases of land in the rural as well as in the city areas of this country. In 1976, Congress directed the President to bring together a listing of foreign investments in the United States and to compile a report. The committee provides $450,000 for this effort.

FARMER-TO-CONSUMER DIRECT MARKETING

We are all familiar with the wide spread which exists between the relatively low price that producers of agricultural commodities get and the high price the consumer pays. Consequently, the Congress in 1976, in the Farmer-to-Consumer Direct Marketing Act, provided for bringing together information on this price spread: and the committee provides $500,000 to bring this marketing information together and make it available to us.

RURAL WATER AND WATER DISPOSAL SYSTEMS

In addition to that, we have provided rural water and waste disposal grants.

Under existing law, some may wonder why we make grants to borrowers in what might be termed a good financial area. In rural areas, if one builds a new road or a new street in some of the smaller towns, if water is not provided, you have no houses, thus no prospective customers and thus a request for a loan for water and sewer lines, fails to qualify. If a grant is made to get started—houses follow and the local system is in business. We have $250 million available now for rural water and waste disposal loans which has not been used. We have provided an additional $50 million for grants, which is necessary in order to use the $150,000,000 in loan authority.

EMERGENCY ASSISTANCE TO REPAIR DAMAGE TO WATERSHEDS

As I said before, we have made provision for damage to watersheds.

Mr. Chairman, all of these things are very familiar to any number of our colleagues. This bill will provide $75,966,000 to the Soil Conservation Service for emergency assistance to repair damages to watersheds as a result of major storms and forest fires which occurred during late 1977 and early 1978.

Most of us are thoroughly familiar with the problems that arose in California, where the damages are such as to require immediate consideration. The States we have listed here, are Arizona, California, Georgia, New York, North Carolina, Oregon, Tennessee, Virgin Islands, and Washington. In addition, I expect to offer an amendment at the proper time to add my own State of Mississippi and the State of Kentucky. May I say that the States of Wisconsin and Minnesota where damages have also occurred have not at this time compiled the estimate of damages which occurred there.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, I understand that this bill contains $20 million for emergency conservation measures for the Department of Agriculture. It is my understanding that $250,000 of that is designated in House Report 95–1350 for the State of Minnesota, and that these funds were indicated by the department for emergency measures necessitated by the 1978 spring flooding which did a tremendous amount of damage to farmland in northwest Minnesota. Is that not so?

Mr. WHITTEN. That is the justification we have before us, and is the basis of the amount that is included here. In my remarks, I point out that studies are continuing not only in Minnesota and Wisconsin, but also in other States, to bring together a compilation of the damages since these figures were first brought together. I am offering an amendment to add additional funds. The gentleman is correct, it is based on the needs that have been sent in form that area, from which the figures here are noted.

EMERGENCY CONSERVATION MEASURES

Mr. Chairman, turning to the item which is described as emergency conservation measures. I might add that some States have suffered both types of damage. We have reports of damage from Alabama, Arizona, California, Florida, Iowa, Kentucky, Minnesota, Mississippi, Montana, Nebraska, North Dakota, Ohio, Texas, Wisconsin, and Wyoming, and with some cushion for those which have not yet reached us.

I would like to point out briefly to the Members that the reason for the urgency for this money is that this repair work needs to be done before this fall, when the damages will become many times worse without the necessary repairs.

THESE ARE NECESSARY EXPENDITURES

Mr. Chairman, these are all necessary expenditures. It causes me to say that now, as perhaps never before, we need to differentiate between necessary and productive expenditures for projects which develop our own country and those programs that merely spend money. We need to differentiate between productive jobs and jobs that do not produce anything of value.

Recently a motion was made to cut the appropriations for agriculture, rural development, Food and Drug Administration, and related agencies appropriation bill by an additional 2 to 5 percent. This amendment was offered after the Appropriations Committee, following months of hearings, had determined the necessary amount. An amount which was below the budget request.

A study of the effect the additional cut would have showed that two-thirds of the amount in the bill would not have been affected because the law said there was an "entitlement" to the money. The result was that the cut would have actually been a 5-percent cut in programs such as rural water and sewer, rural housing, agricultural research, meat and poultry inspection, control of pests and plant diseases, and soil and water conservation, leaving other programs of less value, and in some cases, of questionable value untouched.

COMMITTEE RESOLUTION

This led me to get the Appropriations Committee, where I am next to the chairman, to adopt a resolution to have the committee's surveys and investigations staff immediately undertake a study of certain existing characteristics of the Federal budget including legislative provisions which impact thereon. The study is to include, but not be limited to:

First. A listing of all Federal expenditures which are "mandatory" in nature either by contract or entitlement, and thus for practical purposes outside of the general control of the appropriation process.

Second. Federal spending programs which have built-in provisions under basic law which automatically provide for cost-of-living increases or have other escalation clauses.

Third. The extent to which spending by the States may be based on escalation provisions.

Fourth. The extent to which such escalation provisions, which are outside the control of the appropriation process, result in increasing inflation, or the rate of inflation.

The results of this study should help the Congress to get under control our most pressing problems.

INFLATION

Mr. Chairman, there are many things we need to do today, but perhaps the first and foremost is to restore stability

to the economy, and stability in the value of the dollar. To do that and not set in motion the seeds of depression will call for all the experience and ability we have.

It is my view that above all we must, perhaps by steps, quit providing extra funds both in public and private spending "to keep up with inflation." With such a policy all have to be included. So far as inflation is concerned our current policy is like trying to put out a fire by pouring gasoline upon it—for under present national practices we add more inflation in an attempt to meet inflation.

Since I have discussed some of our problems in connection with essential versus nonessential or inflationary expenditures you may be interested in other views I expressed along this line recently which appeared in the daily press. I quote:

VIEWS OF JAMIE WHITTEN

The veteran Congressman said, "We need conventional weapons, the kind of weapons that prevent war.

"We have all this power and we are afraid to use it and rightfully so," he explains. "We had better stick with something we can use. That's why I support the B-1 bomber."

"You can put an aircraft carrier with some hot planes on it in the Mediterranean, and you are going to see some straightening up."

Whitten declared that the all-volunteer army is not working. He said there was a need for a revival of patriotic spirits in the nation. He said there was not a lack of a desire to serve, although it is not prevalent in the South.

He said military pay was raised because there was a need for highly technical people, but when the quotas were not being filled qualifications were dropped and finally the military quotas themselves were lowered.

"What we need is a mobile active force on the order of the Marines and a strong reserve and national guard," he advocated.

INFLATION

Calling inflation a dangerous cycle, Whitten criticized federal spending that is not subject to the appropriations process.

The ranking member on the House Appropriation Committee, Whitten said as much as two-thirds of the bills coming through the committee were already tied down by law and not subject to rejection by the committee.

Whitten said he had asked for a study of appropriation measures in an effort to find out how much is being obligated by law. He said he believed that there would be very little left in the federal budget that is subject to appropriation cuts.

Whitten also said that the passage of "Proposition 13" in California reflected public opinion. "Mississippi learned in 1932," he recalled, "that you cannot finance government through real estate taxes."

In the wake of a tax revolt, he said a tax cut was probably on the way, but it's got to be offset by increased production.

"The biggest problem we have today is that folks don't distinguish between productive jobs, and just jobs." He said that they must be productive.

"We've got to find out how to get rid of this acceleration of inflation," Whitten said.

FOREIGN AID

Criticizing foreign aid, he said the money was going to foreign governments, and not necessarily the people. He said foreign aid had now made competitors out of customers. Other counties are using U.S. notes to pay this country back with, he said, and it's undermining the economy and fueling inflation.

Whitten said one of the most fearful things happening was that foreign governments were using our own money to pay for land in this nation.

"They have been holding our notes for years and are now trying to buy our land with the notes. It is almost like giving it to them when you are taking your own IOU," he said.

Whitten also said he was supporting a proposal to study foreign ownership of land in the United States. "It should be perfectly clear who owns the land, whether it's a foreign government or a corporation," he said.

CONCLUSION

This year I have had a part in protecting and restoring our national resources. In my own area we have provided many worthwhile projects in flood control, highways, navigation, rural water and sewer—cities 10,000 and below—soil conservation, reforestation, recreation facilities, airports, education, and many other projects, which represent a case of protecting the plant, the factory if you please, on which all the rest depends.

Mr. Chairman, I repeat, the present expenditures are necessary to restore and protect our country and its resources and would help toward restoring stability to the economy. I trust we shall have the support of my colleagues.

Mr. MAHON. Mr. Chairman, I yield such time as he may require to the gentleman from Pennsylvania (Mr. FLOOD), chairman of the Labor-HEW Subcommittee.

Mr. FLOOD. Mr. Chairman, the Labor-HEW chapter of this bill totals $391.7 million, a reduction of $96.1 million from the President's budget. The reduction is a net reduction, consisting of increases of $39 million over the budget offset by reductions from the budget totaling $135.1 million.

The largest single item in this chapter is $223.9 million in HEW for the student loan insurance fund. These funds will be used to pay interest subsidies, special allowances, and default claims under the guaranteed student loan program. These costs are mandatory expense, and the Federal Government is required by law to pay all claims from eligible lenders. This item is explained in more detail on page 44 of the report.

The next largest item is $52.2 million for renovation and construction at St. Elizabeths Hospital. This will allow the hospital to design and renovate patient care buildings to assure adequate living space for patients and also to improve patient safety. This appropriation should enable the hospital to regain its accreditation.

The committee added $37.8 million in advance appropriations for school year 1978–79 for the State grant program under the Education of the Handicapped Act. No supplemental funds were requested in the budget for this program. The amount in the bill, together with $465 million appropriated earlier and $62 million carried forward from the previous year, will provide about $565 million for this program in school year 1978–79. Based on the latest information from the Secretary of HEW, this is the amount required to fully fund the authorization for State grants.

The bill includes the budget request of $15 million for a new influenza vaccination program designed to assist States and localities in establishing regular immunization programs. This will be directed at high-risk groups, such as the chronically ill and the elderly.

The committee has approved the budget request of $12 million for the Corporation for Public Broadcasting. That amount, together with $107.2 million appropriated earlier, provides a total of $119.2 million for the corporation for fiscal year 1978. That is an increase of $16.2 million over last year.

The bill includes $21.3 million for community service employment for older Americans. These funds will be used to cover the cost of minimum wage increases that must be paid to enrollees in this program. We reduced the budget by $8.7 million because the program has already absorbed part of the cost of the minimum wage increase that took effect last January 1. The program is primarily forward-funded and has already been funded through June 30, 1979. These funds will cover the cost of the higher minimum wage through next June 30.

The committee, with one minor exception, has approved the new positions requested for various purposes in labor and HEW. However, we have made reductions totaling over $18 million in the amount requested to support the positions in order to reflect a more realistic hiring schedule. The budget made some very optimistic assumptions concerning the enactment date of this bill.

The committee did not approve the budget request of $76.5 million for minimum wage increases under the Comprehensive Employment and Training Act (CETA). The minimum wage was increased last January 1. In view of the fact that most of the time period covered by this supplemental request will have elapsed by the enactment date of this bill, the committee did not believe it was necessary to appropriate these additional funds. The cost has already been absorbed by the prime sponsors.

The committee made one other reduction in an item that we have heard about before from time to time—impact aid. The budget request was for $31 million, and we reduced that to $5 million. The $5 million in the bill is for major disaster assistance under section 7 of the impact aid law. Major disaster assistance has been provided to local school districts since 1965. The committee turned down the request of $26 million to initiate so-called pinpoint disaster assistance. This kind of assistance was first authorized in 1968 but has never been funded. We think there are more pressing demands on the Federal budget right now than this.

That about covers the highlights of chapter V. Mr. Chairman. All in all, the Labor-HEW chapter seems to be fairly noncontroversial this time.

Mr. CEDERBERG. Mr. Chairman, I yield 5 minutes to the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman from Michigan for yielding to me.

Mr. Chairman, it seems that we passed over the foreign operations sec-

tion of this bill, and I thought perhaps we ought to call a few points on that chapter to the attention of the Members. This bill, under the foreign operations chapter, starts with international organizations and programs. Our UNRWA contribution for refugee relief is listed. I thought the Members might like to know that when I think of refugee relief—and I think all of us perhaps have the same thought—I think of providing food and clothing and shelter and health care for refugees. I am for that and support those kinds of programs. I thought the Members might like to know that through UNRWA that is not exactly what we are doing here.

As a matter of fact, most of the program—more than half of it—is for education. I have nothing against education either, but we are actually providing college educations for some 326 students under the refugee program. I just think that if we are going to provide college education, it ought not to be hidden under the banner of refugee relief, because that really, in my opinion, is not refugee relief.

The next section of the foreign operations program is $5 million for foreign military credit sales to Lebanon. That would allow the Lebanese to get $50 million worth of military supplies from the United States. In the justification that was presented to the subcommittee for this particular appropriation, we were told that the possibility cannot be ruled out that a major breakdown of security in Lebanon could see the falling of some of the U.S. military equipment into the wrong hands.

In fact, they told us that much of the equipment of the Lebanese army has in fact fallen into the hands of the armed factions.

The next item is the Peace Corps. The Peace Corps needs some of this money for salary increases, but another part is to extend their training programs. It used to be the policy of the Peace Corps that they would get as volunteers specialists who could do certain things well. They did away with that theory and they started getting generalists. Now the training programs are to turn these generalists into the specialists that they would not hire in the first place.

Talking about generalists and specialists, when the Peace Corps representatives appear before the subcommittee, one of the things they tell us the Peace Corps does is to help poor people around the world learn about family planning and about birth control measures. It might interest the Members to know that last year it cost the American taxpayers more than $45,000 to provide abortions for the very Peace Corps volunteers who are in the field supposedly helping to teach poor women how not to get pregnant.

The one last item I want to mention is the migration and refugee assistance program. I am not opposed to this. A lot of this money will go for Indochinese refugees who are leaving Vietnam. A lot of these refugees are ethnic Chinese. I do not know whether Members saw it in the newspapers or not, but the Chinese themselves have closed their borders to the ethnic Chinese who are coming from Vietnam into China. Yet we are appropriating this money on top of what we appropriated in fiscal year 1978 and what we will appropriate in 1979, to take care of these Indochinese refugees. I am not against taking care of refugees. I want Members to understand that. But I want Members to know how little other countries are doing for the refugees, even for refugees of their own ethnic origin.

For instance, the wealthy OPEC countries are contributing less than 4 percent to UNRWA for the Palestinian refugee program.

Mr. LONG of Maryland. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Florida. I yield to the gentleman from Maryland.

Mr. LONG of Maryland. Mr. Chairman, I certainly appreciate what the gentleman has said. I certainly would not undertake to refute him on all these points but let me point out that we have reduced the overall supplemental requests for foreign aid by some $16 million in this bill.

Mr. Chairman, the committee considered program supplemental requests of $38,394,000 and recommends appropriations of $28,515,000, a reduction of $9,879,000 below the requests. In addition, the committee considered pay supplemental requests of $7,456,000 and recommends appropriations of $1,104,000, a reduction of $6,352,000 below the requests. In total, the committee recommends reductions of $16,231,000 in all the supplemental requests.

Specifically, the committee recommends the appropriation of $8,500,000 to the U.N. Relief and Works Agency for Palestine Refugees for refugee assistance, $2,770,000 for a mandatory payment to the Foreign Service Retirement and Disability Fund, $5,000,000 for foreign military credit sales to Lebanon, $2,265,000 to the Peace Corps for additional training, $7,480,000 for African and Indochinese refugee assistance, and $2,500,000 for the emergency refugee fund.

Mr. YOUNG of Florida. I would respond that the gentleman has done an excellent job, there is no doubt about this, but I think the gentleman would agree with me that our colleagues have the right to know some of the things that are being paid for under these programs that really do not relate to the title of the program.

Mr. MAHON. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois (Mr. YATES), chairman of the Subcommittee on the Interior.

Mr. YATES. Mr. Chairman, the Interior chapter provides a total of $571,235,000 in new budget authority. Two items make up approximately 83 percent of the total amount recommended. The first item is $266,750,000 for fire suppression costs for the Bureau of Land Management, the Forest Service, the National Park Service, and the Bureau of Indian Affairs. This amount is to cover fiscal year 1977 emergency firefighting costs in excess of appropriations—for which funds have been borrowed under existing authority—and provides for actual and estimated fiscal year 1978 emergency firefighting costs. The 1977 fire season is considered one of the worst in history. Nineteen States suffered severe fire losses. To date there have been 7,815 fires damaging a total of 2,444,408 acres.

The second item is $205 million in the land and water conservation fund for costs arising from the legislative taking of additional lands for the Redwood National Park. Title to the Redwood's lands was vested in the United States on the date the bill expanding the park was signed into law—March 27, 1978. The committee believes that the funds should be appropriated as soon as possible to demonstrate good faith on the part of the United States with the owners involved. The Park Service estimate of the land and timber value is $359 million, other estimates range as high as $600 million. The district court will determine the actual cost which must be paid to the landowners.

In addition, $1.6 million is recommended for the Fish and Wildlife Service to assist the State of Washington in fulfilling management requirements resulting from the Boldt decision (United States against Washington).

For the Bureau of Indian Affairs, $10.6 million is provided for contract support and tribal pay costs. Unless these costs are met, the tribes' ability to contract will be severely impaired; $3.7 million is also provided for general and child welfare grants to meet unanticipated cost increases.

The supplemental contains $61,809,000 for the Territories, which is $42,260,000 over the budget request. The bulk of the recommendation is for grants to the financially depressed territories of the Virgin Islands and Guam. Fourteen million dollars is recommended for the Virgin Island to replace revenue lost because of tax reduction legislation the Congress enacted in 1975 and 1976. The territories retain their Federal tax revenues locally, and these tax reductions caused the Government of the Virgin Islands to lose almost $25 million in revenue. The fiscal year 1977 supplemental contained $8.5 million to partially offset this loss, and this recommendation is the balance of the amount authorized.

The Government of Guam continues to struggle financially also, but the administration turned down the Department of Interior's request for assistance to the territory in the name of fiscal restraint. Because of operating deficits and continuing capital rehabilitation needs, particularly for schools and the water system, we are recommending $15 million in general grants for Guam. We also recommend $25 million for the purchase of medical facilities now leased by the Government of Guam. Purchase of these facilities is the most economical way to provide for the health care needs of the people of Guam since existing government facilities are inadequate and new construction would be more costly than purchase of existing facilities. Although the $40 million for Guam is above the budget, we believe it represents expenses necessary for the well-being of the people.

In the Trust Territory of the Pacific Islands, $2,549,000 is recommended for the Government of the Northern Marianas to satisfy the requirements of the covenant between the United States and the Northern Marianas; $4,360,000 is recommended for completion of an aerial radiological survey of the Northern Marshalls Islands initially funded in the 1977 supplemental and $900,000 is recommended for compensation to the individuals and communities of Rongelap, Utirik, and Bikini arising out of our nuclear testing program in the Trust Territory.

For the Department of Energy, two items are recommended, both above the budget totaling $18 million. Twelve million dollars is to begin the design of two potential demonstration plants for Solvent Refined Coal: One producing a clean solid fuel and the other producing a clean liquid fuel from coal. The 1979 appropriation contains funds for continuation of these projects. Six million dollars is recommended for the Economic Regulatory Administration to accelerate their audit of major refiners as recommended by a task force which reviewed the Department's regulatory programs. In both of these cases, the administration recommended reprograming funds from unobligated balances which the committee already recommended be used to offset fiscal year 1979 budget requirements.

For the Indian Health Service, $2.2 million is recommended for startup funding for the recently federally recognized Passamaquoddy and Penobscot Tribes and to enable the IHS to meet increased salary costs resulting from upgraded GS classification of public health nurses.

For the Indian Claims Commission, $200,000 is provided for extraordinary expenses associated with termination of the Commission at the end of fiscal year 1978.

A supplemental of $123,000 is provided for the Navajo/Hopi Indian Relocation Commission to accommodate the massive influx of Indian families requesting voluntary relocation assistance.

A total of $1,080,000 is provided to the Smithsonian Institution and the National Gallery of Art for increased utility costs.

For the Joint Federal State Land Use Planning Commission for Alaska, $139,000 is provided for unanticipated increases in salaries as well as continuation of several urgently needed Commission programs.

Bill language was included to allow for the correction of underpayments in previous fiscal years in the payments in lieu of taxes account and to appropriate $10 million to the IHS from medicaid and medicare collections to improve IHS hospital facilities.

The amount recommended is $63,688, on above the budget request. The increases over the budget are as follows:

Increases over the budget:	
BIA contract support costs	+$7,654,000
Guam health care grants (purchase hospital)	+25,000,000
Guam school and water system rehabilitation	+15,000,000
Bikini Atoll aerial radiological survey	+1,960,000
Rongelap, Utirik, and Bikini community compensation	+300,000
Energy:	
Solvent revined coal demonstration program	+12,000,000
Economic Regulatory Administration—major refiner compliance (audits)	+6,000,000
Total, increases	+67,914,000
Budget reductions:	
BIA social service grants	−2,457,000
Health grants to Passamaquoddy and Penobscot Tribes	−647,000
Indian Claims Commission termination costs	−100,000
Navajo/Hopi relocation	−282,000
Smithsonian and National Gallery utility costs	−740,000
Total, program reductions	−4,226,000
Total, program change from budget	+63,688,000

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. YATES. Of course, I yield to my colleague, the distinguished gentleman from Pennsylvania (Mr. McDADE).

Mr. McDADE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I thank the gentleman from Illinois (Mr. YATES) for yielding to me and for his lucid explanation of the bill.

Mr. Chairman, I rise in support of H.R. 13467, making supplemental appropriations for fiscal 1978 and to urge its approval by the House of Representatives. I would particularly commend the attention of my colleagues to chapter 4 of title I, the section dealing with the Department of the Interior and Related Agencies.

Mr. Chairman, $5 out of every $6 we provided in this chapter deal with two very important items: Forest fire suppression and the need to implement the directive of Congress to acquire additional acreage in the Redwood National Park in California.

Through the Bureau of Land Management, the Forest Service, the National Park Service, and the Bureau of Indian Affairs, we are providing $266.75 million to cope with the emergency costs resulting from the rather severe fires that plagued the western lands and Alaska last year.

As the Members know, last year was a particularly severe fire season and to cope with the tremendous financial demands of controlling these fires, all four agencies had to borrow funds from other accounts to meet their obligations. These funds will repay that money and allow the agencies to perform their assigned missions smoothly.

The $205 million we provided to the Heritage Conservation and Recreation Service will facilitate the acquisition of lands in the Redwood National Park. Two hundred and one million dollars will be used to acquire property with an estimated value from $359 to $600 million.

The other significant account funded here is the Department of Energy, where we provided $18 million to design studies for the construction of two clean burning coal plants known as SRC I and SRC II, which, upon their completion, will produce a clean burning solid and a clean burning liquid for use as fuel in utility and industrial boilers. The demonstration phase is the final step in the long process that will ultimately lead to commercialization. Both of these projects are high priority items on our coal conversion program and their addition to this bill has the support of the administration.

Mr. Chairman, the Members will see some increases in our title for items in the trust territories along with the Energy Department. The bulk of this increase will be directed to acquire health care facility on Guam and to help that island recover from the devastating effects of Typhoon Pamela. Both items are crucial to the residents of Guam and are deserving of our concurrence.

I hope the Members will join with me in supporting these actions and indeed the entire supplemental appropriations bill.

Mr. MAHON. Mr. Chairman, I yield such time as he may consume to the distinguished gentleman from Massachusetts (Mr. BOLAND), the chairman of the Subcommittee on Housing and Urban Development and Independent Agencies.

Mr. BOLAND. Mr. Chairman, I thank the chairman, the gentleman from Texas (Mr. MAHON), for yielding to me at this time.

Mr. Chairman, chapter III deals with the matters covered by the Subcommittee on Housing and Urban Development and Independent Agencies. The total budget request, as considered by the subcommittee, came to $559,777,000. The committee recommended $538,553,000, a reduction of $21,224,000, which is approximately 4 percent below the budget request.

For HUD, the committee recommends the requested $24,300,000 for the rent supplement program. These funds are being made available for one year only and will help stabilize the financial condition of housing projects receiving rent supplement assistance. This appropriation should avoid potential mortgage assignments and project acquisitions. The Troubled Projects Operating Subsidy, a new program funded in the 1979 HUD-independent agencies appropriation bill at a $14,000,000 level, will continue support designed to prevent mortgage defaults and insure that current tenants can continue to reside in the projects at affordable rent.

Under the Environmental Protection Agency, we have included the budget estimates of $1,400,000 for research and development and $8,000,000 for abatement and control. The research and development funds will be used to study the effects of carbon fibers. These fibers are submicron particles that can be embedded in a binding resin to produce a lightweight composite material having great strength. A number of industrial and commercial uses have been developed for materials using carbon fibers including sporting goods equipment and aircraft components.

Research is needed on the environmental effects of particles that may be released in the atmosphere during manufacture or incineration of materials containing carbon fibers. EPA's endeavor will be primarily devoted to measuring carbon fibers in the environment and recommending methods for their safe disposal.

The abatement and control funds are for grants to support State and local air pollution control programs. The additional $8,000,000 is needed because of the increased responsibilities placed on control agencies by the Clean Air Act Amendments of 1977.

For the National Commission on Air Quality, the committee recommends an initial appropriation of $500,000. This is a new Commission established by the Clean Air Act Amendments of 1977 to study and report to the Congress on a number of issues related to the achievement of air quality goals. The Commission is scheduled to submit its final report and go out of business by 1980. The reduction of $1,500,000 below the budget request results from the delay in organizing the Commission. It is very doubtful that all of the funds requested could be used effectively in this fiscal year.

Under the Veterans' Administration, the bill includes $504,353,000 for several programs. The budget estimate of $489,600,000 is recommended to cover increased compensation and pension payments authorized by the Veterans Disability Compensation and Survivor Benefits Act of 1977 and the Veterans and Survivors Pension Adjustment Act of 1977.

The committee recommends $3,953,000 for assistance for health manpower training institutions to cover increased costs of education facilities currently under construction at the new University of South Carolina Medical School in Columbia. The bill also includes $4,000,000 for medical care and $6,800,000 for general operating expenses.

The Federal Home Loan Bank Board requested a $250,000 increase in the limitation on nonadministrative expenses for travel costs in fiscal year 1978. The committee has not approved the increase because it does not appear it is needed at this time.

Finally, the committee has included language in the bill which increases the travel limitation of the Office of Science and Technology Policy by $27,000, from $173,000 to $200,000.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. BOLAND. I am happy to yield to the gentleman from Pennsylvania (Mr. COUGHLIN).

Mr. COUGHLIN. Mr. Chairman, I thank the gentleman for yielding. The chairman of the subcommittee, the gentleman from Massachusetts (Mr. BOLAND), has very ably explained this chapter and we certainly support it.

Mr. MAHON. Mr. Chairman, I yield such time as he may consume to the gentleman from West Virginia (Mr. SLACK), the chairman of the Subcommittee on State, Justice, Commerce, and the Judiciary.

Mr. SLACK. Mr. Chairman, I thank the chairman of the full committee, the gentleman from Texas (Mr. MAHON) for yielding me this time.

Mr. Chairman, chapter VIII of the pending bill contains a total of $256,772,000 in appropriations for the Departments of State, Justice, and Commerce, the judicial branch, and related agencies. That amount represents a reduction of $27,772,000 from budget requests presented to the Congress. I do not wish to take the time to discuss all of the items in this chapter, but there are several which should be brought to the attention of the Members.

In the Department of State portion of the bill, $64,127,000 is included for "Contributions to International Organizations" to cover shortfalls in funds for several organizations and to pay arrearages owed to UNESCO. The State Department portion of the bill also includes $20,400,000 for maintaining a UN peacekeeping force in Lebanon.

The largest single item in this chapter is for the Economic Development Administration, for which we are recommending $106,000,000. This is primarily for trade adjustment assistance to firms and economic adjustment assistance to communities.

In the Judiciary portion of the bill the sum of $2,000,000 is recommended for the special court established by the Rail Reorganization Act of 1973, as amended.

We are recommending $7,500,000 for the Equal Employment Opportunity Commission. This amount is for grants, personnel, and other costs associated with implementing the internal reorganization of EEOC.

The sum of $275,000 is included for salaries and expenses of the U.S. Metric Board. This Board was established to coordinate the voluntary conversion of the United States to the metric system.

There are several items in this chapter which provide additional funds for programs operating overseas, in order to offset, in part, the effect of the decline of the dollar in foreign exchange.

In addition, Mr. Chairman, the subcommittee considered requests totaling $166,839,800 for meeting increased pay costs. The new budget authority recommended for this purpose is $156,117,000, which is included in title II of the pending bill.

Mr. MAHON. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida (Mr. SIKES).

Mr. SIKES. Mr. Chairman, I thank the distinguished gentleman from Texas (Mr. MAHON) for yielding me this time.

Mr. Chairman, my remarks will primarily be devoted to the chapter dealing with the Department of Defense.

Mr. SIKES. Mr. Chairman, supplemental appropriations have become so commonplace that we seldom question the necessity for them. It would be natural to assume that, when an annnual appropriation is made for the needs of a department of government for the coming fiscal year, there would be no further requirement for funding. It does not work that way in practice. A first, second, and even third supplemental appropriation is now the order of the day. Admittedly, there are changes in programs and requirements. Under today's dual problems of inflation and expanding government, the change nearly always is upward. The demand is for more money, not less. There has been no proposition 13 to stem the mounting costs of the Federal Government.

I propose to discuss the broader context of budgetmaking, with particular reference to the monetary requirements of the Department of Defense. During each markup on the subject of appropriations for the defense of the United States, I have been forcefully reminded and, to an extent, appalled by the pattern of the manner in which major budget decisions are made in our democracy. Particularly is this true of the process of allocating our fiscal resources among the various agencies of government.

It is not at all surprising to find that in times of relative well-being, particularly after engaging in conflict, we move drastically to draw down our military forces, to reduce support and weapons procurement. We seldom compensate these cuts with significant increases in research, development and testing to insure the capability to achieve readiness in future emergencies.

There are always the same several reasons for the draw-down. One is that we no longer need to maintain military strength at the levels of periods of conflict. This is obvious and accepted. Another, incredibly, is that maintenance of levels consistent with a relative wartime footing is antagonistic to our potential adversaries. A third is that we can no longer continue spending for the national defense sector at higher levels when there are so many pressing social budget requirements confronting us. And always, always, is the logic of the "fat" in the military budget; as if all the other programs were as lean and hungry as a tiger on the prowl. The fact is the military budget is probably most closely screened of all the Federal agency funding programs; first in the department which operates within tightly prescribed budget limits; then, through a second screening at the Office of Management and Budget; and finally, the sharpest scrutiny of all in the House and Senate.

There is room in our democratic process for proponents of each of these viewpoints. Just as certainly, there must be room for the viewpoints of those who stand for a strong and viable defense. For without the security obtained through defense expenditures to insure our existence as a nation, we can lose some or all of the social programs which are considered essential to the citizenry of a democratic, free enterprise society.

Although this year's defense budget showed a modest increase in dollars, the budget was, in essence, a repetition of last year's downturn in defense spending. All the tough talk, diatribe, and litany from current officials about our defense capability do not change that fact. Their positions require that they put the best face on a weak case. In fact, we are cutting the percentage of total Government spending which is allocated to defense,

while other agencies are receiving higher percentages.

But even more importantly, we are reducing our commitment of resources for the defense sector at a time when the Soviet Union continues obvious and positive growth with increasing superiority in every area of its military might. No one seriously disputes this.

This is not a judgment from my own perspective. It is an assessment echoed by, almost without exception, every military leader who is in position to know. Here are the words of the then chairman of the Joint Chiefs of Staff, Gen. George Brown, in his fiscal year 1979 posture statement:

. . . In light of the extensive growth in military capabilities of the Soviet Union, it is questionable whether what has been done is enough to assure the security and well-being of our country in the coming years.

There was absolutely no substantive refutation of the general's statement throughout this year's hearings. Witnesses were quick to point out that the United States does not need to match the Soviet's buildup stride for stride, system for system. On that score, I would agree; yet, we need to stay in the same race, at least to stay on the track. I simply must question that our present appropriations do that, or that they even come close.

Neither the problem nor the threat receives full consideration when defense funding is allocated. The projected overall annual budget is simply a pie to be split in a way that will bring the least outcry from those affected. Despite their numbers, those in uniform have few vocal spokesmen in comparison with those dependent on other agencies.

Defense planning cannot properly be conducted on a 1-year basis. Procurement of ships, aircraft and major weapons extends over a number of years. Changes in military tactics and developments in technology require funding plans far into the future. Yet the fact is that much of the defense budget is allocated on a year-by-year basis and constant changes in anticipated future requirements are costly and sometimes wasteful. Spending programs in other departments can more readily be based on year-by-year requirements. When DOD is allocated its slice of the pie, the department must determine which of all its necessary programs can be fitted into an unrealistic, austere resource commitment. This makes it more difficult for the Defense Department to evaluate the Soviet and Warsaw Pact threat to the United States and NATO, or any other military threat, and then develop a viable response. In time of peace, defense appropriations are decided after consideration of the needs for domestic requirements rather than on the basis of national security requirements. The result is a constant slimming of that portion of the pie left for the military.

This process then necessitates public statements to soothe our concern that we aren't meeting the military threat at hand. We are told why we do not need a manned penetrating bomber; and then money is requested to do a study on what a new manned penetrating bomber might involve. This is true even though a detailed study on the subject has been completed and the product is in being. We are told why a larger, clearly more capable nuclear carrier is not needed; yet, all contemporary studies from within the defense establishment point to the overriding fact that the larger carrier is clearly the more capable, is needed and, in time, is more economical.

There is no public consideration of a new potential for the large nuclear carrier in the field of laser warfare. We are told why building a nuclear carrier will only be at the expense of vital numbers of other ships, when, in fact, the number of vessels requested has already been cut in half by the present administration. If we have an edge on the Soviets at this time, it is because we have so confused them with rhetoric that they have no idea what we plan. Apparently, neither does the Defense Department because of constant changes in administration policy toward defense. Currently, in an effort to economize and possibly to confuse the enemy, we have discarded or delayed the neutron bomb and the B–1 and the mobile missile system known as MX and the Minuteman III, the only advanced missile under development in the Western Hemisphere. This contrasts with many new intercontinental ballistic missile systems which have been developed by the Soviets.

Now it is proposed as an alternative to dig more holes for the Minuteman II system, but not to install missiles in them. Theoretically, the Russians, not knowing which holes would contain armed missiles, would have to zero in on all of them—this, as though the Russians would not know exactly which holes were empty. Only the American people and our allies would be confused by this tactic. The zeal of the American media and some public officials for revealing every possible secret about our armaments would insure printed maps detailing which sites were loaded and which were empty.

There is something firmly inconsistent with a defense plan about which so many of our top military leaders express serious concern. Commonsense tells us that, when the Chairman of the Joint Chiefs of Staff expresses reservations over the weakness of our response to the Soviet threat, there must be a problem. Hopefully we will find the answer before we find ourselves in a situation from which there is no return to the peace and freedom we so fervently desire.

Mr. MAHON. Mr. Chairman, I yield such time as he may consume to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. Mr. Chairman, I thank the chairman of the full Committee on Appropriations, the gentleman from Texas (Mr. MAHON) for yielding me this time and I would just like to ask the chairman a couple of questions.

In looking through the committee report, and in looking at those items that are part of the supplemental bill, let me say that I realize that there are, of course, some items that cannot be anticipated when we pass the initial bills, and that also we may have to pass some items with no authorizations, but it also looks to me as though there may be some items in the bill that may be, in fact, appropriated programs that were authorized before the earlier appropriation bill, that were not emergency things, such as for instance public broadcasting, community service programs, the nuclear regulatory commission, and so forth.

My only question to the gentleman from Texas would be that it does seem to this Member that this is not appropriate, it would seem to be a better management process to appropriate for the items all at one time.

Perhaps the original appropriation bills are completed as they should be and then a supplemental comes along with an increase down the line. I realize that there are some things that cannot of course be anticipated. But basically for the benefit of this Member, as a freshman Member, I would like to know why this occurs. Does the administration come up after the appropriations are passed with all their nitty-gritty requests, or what happens?

Mr. MAHON. I appreciate the gentleman's concern. He has put his finger on a real problem area and one that has troubled the committee for years. I do not know that there is a good answer.

First let me say that the major category in the bill, more than $3 billion, is pay increases, requested in the President's budget in January 1978. We did not know in January of 1977 when the budget for fiscal 1978 was submitted just what the requirements would be. The decision had not been made at the time we drew up the regular fiscal year 1978 bills. The extent of the general pay raise was not determined until later in the year and was not effective until October 1, 1977.

Therefore, we did not appropriate money for the pay increases for the various employees of the Government in the regular bills for fiscal year 1978 that were handled in the House in June and July of last year.

We find we save many tens of millions of dollars as a result of not making a guess early in the season when we really do not know what the situation might be. The situation is subject to constant change.

Another problem we have with supplementals, of course, is that we lack authorization in many instances when the regular bills are considered and items are deferred for ongoing programs. Then they are funded in supplementals.

Sometimes items are provided for on a temporary basis in continuing resolutions and must be funded at a later date for that particular fiscal year. A supplemental bill would be the logical vehicle in these cases.

So this is not a matter of coming in late with a lot of supplemental requests in order to disguise the real fiscal picture. Of course, there are legitimate instances where program requirements change between the time the budget is

submitted by the Executive, acted on by the Congress, and the fiscal year actually expires. Sometimes there is additional legislation and sometimes economic factors cause additional requirements. It is a mixed picture.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman.

I realize the administration is going to wait until as late as possible to get the most current information available on programing. Does the administration or any administration frequently hold back on their appropriation requests until after the first appropriations bill is filed, for whatever reason?

Mr. MAHON. Generally speaking, I would say not.

Mr. GLICKMAN. Mr. Chairman, I thank the gentleman from Texas for this clarification of the process.

● Mr. ROBINSON. Mr. Chairman, while it is not invariably the case, we become obliged too often, it seems to me, to provide through this supplemental appropriation process for clearly necessary purposes which should have been taken into account in the original budget submissions of the President.

For example, the backlog of loan and grant applications has continued to build in many offices of the Farmers Home Administration, and arbitrary personnel ceilings have prevented efficient processing, and protection of the taxpayers' interests in a loan portfolio approaching $25 billion. Numerous applicants for sound and necessary loan assistance have encountered severe financial difficulties because of paperwork delays.

This bill provides some additional staffing to help deal with the backlog.

The Subcommittee on Agriculture, Rural Development and Related Agencies, on which I serve, also included an additional $50 million for 50–50 grants for water supply and waste disposal projects in rural communities to help meet the very costly requirements imposed on such areas by the Environmental Protection Agency, pursuant to existing water quality and antipollution laws.

Our subcommittee likewise provided supplemental funding for technical assistance to rural landowners in their efforts to control nonpoint source pollution and improve and maintain water quality, as well as for the continuing appraisal of the Nation's soil, water, and related natural resources as mandated by the Soil and Water Resource Conservation Act.

The subcommittee also recognized the need for supplemental funds to repair damage to disaster-stricken watersheds and farm and rangelands in a number of States. And money was provided to accelerate a report on monitoring of foreign land purchases in the United States.

The Subcommittee on the Department of Defense, of which I also am a member, was obliged to recommend very substantial supplementary funding for personnel costs—pay, retirement benefits, and subsistence—to cover cost-of-living increases built into law, and to recognize food price increases affecting the purchasing power of subsistence-in-kind dollars previously appropriated.

The subcommittee also recognized a serious potential gap in the worldwide communications system of the Navy—something which could be very risky in a crisis situation. Accordingly, $58.7 million was included in the bill for procurement of two additional units in the highly sophisticated fleet satellite communications system. This is an expensive system, but I regard it as a solid national security investment. essential to rapid, reliable, and secure communications with fleet units in an emergency.●

● Mr. PANETTA. Mr. Chairman, I want to congratulate the chairman of the committee for the bill he has presented us with today, and in particular, I want to commend the gentleman from Mississippi for the careful and expeditious action he has taken in providing supplemental funds for two agriculture programs which are of enormous importance to my State.

As you may know, the severe storms and heavy rains which hit the State of California this last winter caused destruction on a major scale. In my district alone, the devastating floods, mud slides, and erosion resulted in millions of dollars in damages to homes, farmland, and the area's protective watershed.

Last winter's destruction prompted the President to declare two counties in my district. and several more statewide, as major disaster areas. The emergency assistance that became available under this declaration was invaluable in helping many private property owners and businesses rebuild from the damages they had suffered. However, there is still a great deal of work which must still be completed if we are to adequately prepare for next winter's rains.

The Soil Conservation Service and the Agricultural Stabilization and Conservation Service have authorized millions of dollars in emergency work for watershed protection, debris clearance and farmland restoration in our area. However, these programs are not covered by a Presidential disaster declaration, and the emergency funds available to the Department of Agriculture have been exhausted.

While I believe there is something inherently wrong with emergency and disaster programs which cannot go into effect immediately but must wait for legislative appropriations before the necessary measures can be taken. However, this is an issue which must be addressed in the legislative process, when I feel that a full review of this Nation's ability to respond to such natural disasters must be undertaken.

The business before us today is to provide the funds necessary to insure that all the necessary emergency work is completed in time to prevent a reoccurrence of last winter's destruction. I believe the committee has responded to this crisis, and I urge my colleagues to support this important measure.●

Mr. MAHON. Mr. Chairman, all Members are authorized, if they wish, to revise and extend their remarks on this bill in the general debate. That has already been agreed to.

Mr. Chairman, I have no further requests for time.

Mr. CEDERBERG. Mr. Chairman, I have no requests for time.

The CHAIRMAN. If there are no further requests for time, the Clerk will read.

The Clerk read as follows:

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For an additional amount for "Conservation Operations", $7,700,000, to remain available until expended.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For an additional amount for emergency measures for runoff retardation and soil-erosion prevention, as provided by section 216 of the Flood Control Act of 1950 (33 U.S.C. 701b–1) in addition to funds provided elsewhere, $75,966,000, to remain available until expended.

AMENDMENT OFFERED BY MR. WHITTEN

Mr. WHITTEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITTEN: Page 3, lines 9 and 10 strike out "$75,966,000" and insert "$80,000,000".

Mr. WHITTEN. Mr. Chairman, I have discussed this with members of the subcommittee. What we have here, these items were in connection with restoration of damages comes from a survey that has been made by the Department. The committee marked up this bill when 20 or more States had submitted information. Subsequent to that, our subcommittee found the State of Mississippi and the State of Kentucky had not submitted figures, obtained by a survey but have since submitted the required information. The States of Minnesota and Wisconsin are now obtaining the necessary information.

My amendment would merely add funds so that those States could be included in the relief we have provided for these other States.

May I say, it provides for repairs for damage done to watersheds and for conservation measures for similar damages. The reason for urgency is that the work needs to be done in the summer before the fall rains set in.

Mr. MAHON. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the distinguished gentleman from Texas.

Mr. MAHON. Mr. Chairman, I think this amendment is fully justified in view of the more recent developments with respect to the floods which have occurred. As the chairman, I am willing to accept the amendment.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. WHITTEN. I yield to the gentleman from Michigan.

Mr. CEDERBERG. I thank the gentleman for yielding.

I assume the gentleman has discussed this with the gentleman from North Dakota.

Mr. WHITTEN. I have.

Mr. CEDERBERG. We have no objection.

The CHAIRMAN. The question is on

the amendment offered by the gentleman from Mississippi (Mr. WHITTEN).

The amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

FOREIGN MILITARY CREDIT SALES

For expenses not otherwise provided for, necessary to enable the President to carry out the provisions of the Arms Export Control Act, $5,000,000.

POINT OF ORDER

Mr. YOUNG of Florida. Mr. Chairman, I make a point of order against lines 12 through 15 on page 4 of H.R. 13467. The $5 million for the foreign military credit sales is not authorized and, therefore, the paragraph is in violation of rule XXI, clause 2.

Mr. MAHON. Mr. Chairman, the point of order is conceded.

The CHAIRMAN. The point of order is conceded and sustained.

The Clerk will read.

The Clerk read as follows:

INDEPENDENT AGENCY

ACTION—INTERNATIONAL PROGRAMS

PEACE CORPS

For an additional amount for "Operating expenses, international programs", $2,265,000.

POINT OF ORDER

Mr. YOUNG of Florida. Mr. Chairman, I make a point of order against lines 16 through 20 on page 4 of H.R. 13467. The $2,265,000 for the Peace Corps is not authorized and, therefore, the paragraph is in violation of rule XXI, clause 2.

The CHAIRMAN. The Chair recognizes the gentleman from Texas (Mr. MAHON).

Mr. MAHON. Mr. Chairman, these funds have not yet been authorized, and the point of order is conceded.

The CHAIRMAN. The point of order is conceded and the Chair sustains the point of order.

The Clerk will read.

The Clerk read as follows:

CENTER FOR DISEASE CONTROL

PREVENTIVE HEALTH SERVICES

For an additional amount for "Preventive health services", $15,000,000.

AMENDMENT OFFERED BY MR. MOSS

Mr. MOSS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Moss: Page 13, strike lines 10 through 13 and insert in lieu thereof:

"NATIONAL INSTITUTES OF HEALTH

"NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

"For an additional amount for research and clinical activities related to the influenza vaccination program by the 'National Institute of Allergy and Infectious Diseases', $3,000,000."

Mr. MOSS. Mr. Chairman, I rise to ask consideration for an amendment to the appropriation in the second supplemental appropriation bill which provides $15 million for the flu immunization program. I, along with my colleagues Mr. BROOKS and Mr. DINGELL, am proposing that the program be amended to allow $3 million to be spent by the National Institute of Allergy and Infectious Diseases (NIAID) to carry on further research and clinical trials to give us more information and research data on the efficacy and quality of immunization programs altogether. This will enable the Department of Health, Education, and Welfare to be prepared for the 1979 program.

There are several reasons why it is inappropriate to move $15 million into a program for fiscal year 1978. First of all, this is a reaction by the Department of Health, Education, and Welfare—similar to that we were presented with when they panicked over the infamous swine flu. Thinking that only a $135 million program was enacted, we now see ancillary Federal claims and expenditures exceeding $1 billion. Who on this floor can tell me what evidence there is that $15 million is needed for this program, and who on this floor can guarantee me that this time next year, today's $15 million will not be one-half billion. Suffice to say reason dictates that we expend $3 million to answer these questions.

There are other substantial questions that remain unanswered as a follow-through to the abortive swine flu program. For example, there are currently several hundred million dollars in damage claims and liability questions still outstanding. This has led some States to feel that they are not ready, willing, or able to participate in a new immunization program without these questions of liability being resolved. There also seem to be questions raised by States that this program would force them to divert resources from the childhood immunization program and that this proposed allocation would merely serve to replace private sector immunization efforts with a public program. There would seem to be no logical reason to rush pellmell into such an undertaking without some clear evidence that a public program is indeed necessary, especially for the months of August and September of 1978.

Further, there is a question of appropriate authorization by the Interstate and Foreign Commerce Committee. There is clear authorization for a vaccination and immunization program to begin in fiscal year 1979. However, in order to move such a program under this current fiscal year as the proposed supplemental appropriation would do, the money would have to be expended under the section primarily devoted to venereal disease control. Although one could make the case that this program could be done under this authorization—section 317 of the Public Health Service Act—this would appear to be a charade to circumvent the fact that the Interstate and Foreign Commerce Committee has never really discussed this program as part of the venereal disease legislation.

I think that it is clear that because of the questions that I have raised on the lack of clear authorization, the unresolved liability questions, the diversion of resources on the part of States, and the unclear affect and need for substituting public funds for a private endeavor, the program should be stricken from this second supplemental appropriations bill. Instead I think the $3 million to be spent on further research and clinical trials to be undertaken within the National Institutes of Health is a much more orderly and logical way to proceed in preparation for the program proposed for fiscal year 1979.

Even Secretary Califano, who has been working hard for this appropriation, has stated in a press statement released yesterday:

I strongly believe that the government's recommendations on flu policy should be made only after the information on which they are based is fully disclosed to the public and only after it has been fully debated by all concerned.

Yet the entire section of the Appropriations Committee report dealing with this appropriation is three sentences long, and I quote—

For the influenza vaccination program, the bill contains $15,000,000, the same amount as the budget request. This is a new program which is designed to assist States and localities in establishing regular flu immunization programs. The funds in this bill will be used by participating States to increase the number of high-risk individuals who are immunized against various forms of influenza.

I strongly urge adoption of this amendment.

Mr. FLOOD. Mr. Chairman, I rise, of course, in opposition to the amendment.

Mr. Chairman, as everyone very well knows, this is a program which the administration considers to be of very, very great importance. This is an effort to establish a long-range preventive health program.

Let me point something out. Let us not get this particular immunization program confused with that swine flu program of the past. This is not a massive immunization program like that swine flu program was—not at all. This is a limited program and it represents the first step—and I want the Members to mark this—in building an annual influenza immunization activity in every State of the United States.

Mark this: It is for those individuals only who are chronically ill or elderly, only the chronically ill and only the elderly, and nobody else.

This is what is known in the medical profession as the so-called high-risk population. Let us get that clear—we are not proposing to immunize the entire population.

During the hearing on this budget request, we were informed by HEW that in a typical year—mark that: in a typical year—influenza is responsible for 2,000 to 5,000 excess deaths.

This program is, at a minimum, an attempt to immunize individuals who are most likely to die or suffer serious complications if they become sick with the flu. You all know that.

I hear the concerns being expressed here today. These are valid concerns. I had the same concerns, and you have heard me on this before. Now I raised the very same issues, just like you would, with the Secretary, in personal discussions with him, at the hearings, and in correspondence with him, and with the

HEW staff. We are not amateurs in this business.

I believe the Secretary has presented to the committee sufficient data to allay these concerns and, believe me, Mr. Chairman, if for 1 second I thought otherwise I would not be standing here saying what I am saying about the bill.

In general, it appears to me that HEW has made every possible effort to satisfy itself and to satisfy this very tough committee that this can be a safe and effective immunization program. You can be sure about that.

The committee recommended approval of this flu immunization program because, first, it is a very limited program. And I repeat, for the purpose of emphasis, it is targeted only at a very high-risk population.

Second, it is the beginning—I ask the Members to realize how important this is—it is the beginning of a systematic approach to protect high-risk individuals from complications of flu and, further, it is an important component of the administration's preventive health initiative. Every Member in this House made a point to the HEW people about the question of prevention. All right. Here is a preventive health program. This is what you have been asking for—so let us take the first step toward establishing sound preventive health programs in the States.

Mr. Chairman, that is what this situation is. There is nothing to be afraid of here. This is not that swine flu program. It is the kind of program everybody in this House should ask the Secretary to initiate. And that is why this committee acted.

For these reasons, Mr. Chairman, I oppose the amendment.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from California.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. FLOOD) has expired.

(On request of Mr. WAXMAN and by unanimous consent, Mr. FLOOD was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I am on the Subcommittee on Health and the Environment of the Committee on Interstate and Foreign Commerce, and we authorized under the health resources bill a 1-year program for immunizations for influenza for high-risk individuals.

I must admit that I had a great doubt about the program, but we agreed that after 1 year we could come back and we would look at it and see if it was doing what it should be doing and to see if we were handling all of the related problems, particularly the liability problem.

My question to the gentleman is: Why are we dealing with this in an additional supplemental appropriation when the authorizing committee only provided for $15 million authorization for 1 year only? Now we have HEW coming in for an additional $15 million.

Mr. FLOOD. HEW is asking for this money in the 1978 supplemental because it has been advised by the Immunization Practices Advisory Board to initiate a flu immunization activity in the fall of 1978 in order to protect high-risk individuals.

I am aware of the work of your committee and I am aware that you have provided specific authorization for such a program in fiscal year 1979. However, as the gentleman knows—the 1979 authorization is not law as of this date—and it appears that it will be sometime before that legislation is enacted.

We included money in this bill for fiscal year 1978 under the existing authority of title III of the Public Health Service Act. We are recommending this money at this time because we want to launch an immunization program this fall to protect high-risk people from various forms of influenza.

Let me point out that we did not provide for immunization programs in the 1979 bill because we are awaiting the enactment of renewal legislation. So we are not talking about giving HEW two separate appropriations for the same flu program.

Mr. CONTE. Mr. Chairman, will the gentleman yield on that point?

Mr. FLOOD. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, if I recall correctly—and I may be wrong—we did not have any money in the regular bill for this particular vaccine.

The CHAIRMAN. The time of the gentleman from Pennsylvania (Mr. FLOOD) has expired.

Mr. CONTE. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN. The gentleman from Massachusetts (Mr. CONTE) is recognized for 5 minutes.

Mr. CONTE. Mr. Chairman, I would like to have a colloquy with the chairman.

At that time, if I remember correctly, we did not include funds in the regular 1979 bill because the authorizing legislation had not as yet been adopted. We do have existing authorization for the current fiscal year, so we were able to add funds for this fall's vaccination program in this supplemental.

Mr. FLOOD. That is exactly the answer. I thought I said that, but the gentleman has said it better.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, as I understand what the gentleman is saying, rather than put the $15 million authorized by the Committee on Interstate and Foreign Commerce for this program for 1 year into the regular appropriation bill, it was agreed in the Committee on Appropriations that only $15 million would be put in the supplemental appropriation bill; is that correct?

Mr. CONTE. It was a matter of a lack of authorizing legislation for fiscal year 1979. The administration requested $15 million for fiscal year 1978 as a supplemental, and that is why the money is in this bill. The administration submitted a late budget request of $20 million for fiscal year 1979, but it is not authorized, so we did not include it in the regular 1979 bill.

Mr. WAXMAN. If the gentleman will yield further, Mr. Chairman, is it clear in the gentleman's mind that we are only talking about one $15 million appropriation, or are we talking about a 1979 $15 million appropriation and this supplemental appropriation for another $15 million?

Mr. CONTE. It is possible that another amount will be appropriated as part of a supplemental next year to cover the 1979 flu season. The amount in this bill is designed to cover the vaccination program to be undertaken this fall.

Mr. FLOOD. If the gentleman will yield, Mr. Chairman, that is correct, yes.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a tough one to call. I raised objections to the amount, and I asked a number of questions which were not answered.

It is very difficult for us to decide here, on this question when we are not professional medical people as are those upon whom we have to rely.

I feel in my own case rather burned as a result of the swine flu fiasco because last year we were down here asking each Member to rely on the word we were getting secondhand from the pros to the effect that we just had to have the money.

Now we are facing possible liability suits in the amount of $400 million or more.

Mr. DINGELL. If the gentleman will yield, Mr. Chairman, it is $1.2 billion.

Mr. MICHEL. Mr. Chairman, $1.2 billion the gentleman says. He might have updated information.

In any event, Mr. Chairman, there are a lot of unanswered questions. I think we ought to lay them out here for open discussion.

Mr. Chairman, let me run down a list of the uncertainties and contradictions that trouble me.

In the key age groups (children and the elderly which will receive the vaccine), the Center for Disease Control says that a sample of 2,625 people is needed for a reliable test of the safety of the vaccine, but in the clinical study that was undertaken, and on which the Center bases its claim that the vaccine is safe, only 834 people participated. In other words, the Center is basing its safety claims on a sample of less than one-third of the minimum required for a valid result.

In the sample that was studied, it was found that an average of only 15 percent received the necessary antibodies from the first shot of the vaccine to be administered, and only 34 percent from the second shot. In other words, CDC's test shows that only one-third of the population receiving at least two flu shots would receive the necessary protection against the flu. For the other two-thirds of the population, the vaccine would provide virtually no protection.

Absolutely no information is available on the impact of two doses of the vac-

cine on children in the 3 to 12 age group.

No satisfactory method has been developed to insure that the vaccine produced by the three or four drug manufacturers will be similar and will have equal potency.

Little progress has been made in ameliorating the side effects resulting from the vaccine, and even HEW admits that part of the population will suffer side effects. Our experience with the swine flu program tells us that there will be one case of the paralytic disease, Guillain-Barre, resulting from every 100,000 vaccinations, and that in 5 percent of these cases, the person will die. For those over 65, the odds of contracting Guillain-Barre increase tenfold.

Furthermore, in approximately 100 cases out of 100,000 vaccinations, the recipients will suffer some form of neurologic damage, and an additional percentage will suffer from hypersensitivity which could accentuate the severity of the flu, rather than preventing it.

The National Institutes of Health called a meeting in 1973 of experts in the influenza field, and the recommendation of that meeting was that no large-scale influenza vaccination program should be undertaken until the problem of side effects has been resolved. NIH has not, to date, withdrawn that recommendation.

Secretary Califano recently announced HEW's contention not to contest some $400 million worth of claims resulting from the swine flu program. HEW itself estimates that claims worth some $125 million may result from the new flu program, over eight times the amount we are appropriating. The Association of State and Territorial Health Officials estimates that the claims could go as high as $288 million.

HEW is seeking to downplay the liability problem by stating it will warn recipients of the risks and have them sign informed consent documents. However, that may just pass the liability onto the States, which would be unfair, since the Federal Government is promoting the program. Besides, it is quite possible that the courts will rule that the Federal Government is liable anyway, because the safety claims were based on an inadequate testing procedure.

HEW claims that some 1,200 deaths will be prevented by the vaccine should an epidemic break out. In the first place, there is no evidence that any such epidemic is in prospect, and second, no substantiation has been provided for this figure of 1,200. As far as we can determine, it was just pulled out of thin air.

There is little solid evidence that the vaccine will be effective. In fact, Dr. Robert Chanock, who gave this year's Dyer Lecture at NIH, said that inactive vaccine (which is the type that will be administered) is not effective, and that the live vaccine which they are currently working on, is the only way to go. The cadets at the Naval and Air Force Academies were all vaccinated last year, and about 75 percent of them ended up contracting the Russian flu anyway. HEW itself admits that there can be antigenic shifts between flu seasons, and that a vaccine based on the previous year may thus not have the proper mix for the upcoming season. We thus have no guarantee that the vaccine being developed will be properly suited to this year's flu strain.

The Center for Disease Control said in May that if grant awards to the States are not made by mid-July, "we will have to reassess the advisability of proceeding this year." It is now mid-July, and it appears that this bill may not receive final enactment for another month or so. Consequently, it really seems unlikely that an effective program can be launched in time to have maximum impact on this year's flu season, not withstanding all the other shortcomings I have cited.

In summary, the testing program has been inadequate, the problem of side effects has not been overcome, the liability problem has not been effectively resolved, there is no evidence of any epidemic in prospect, there is considerable doubt as to the effectiveness of the vaccine, and it is probably too late anyway to launch a program that would effectively cover this year's flu season.

Consequently, what we should do is provide further clinical testing by NIH, and call on HEW as a whole to resolve the many uncertainties and shortcomings. If this is accomplished, only then should we go ahead with a large-scale flu vaccination program, not before. That is what this amendment would do, and I urge it be adopted.

I might also point out that in a press release issued yesterday by HEW, Secretary Califano announced a conference for July 26 of leading experts on immunization, public officials, et cetera, to conduct a final review of the Government's recommendations for the vaccination program.

Let me quote some key lines from the Secretary's statement:

> The details of the program recommended for the coming season were formulated early this year before we had final information on the incidence of the Russian flu, on the formulation and potency of the vaccine based on extensive clinical trials, and on the timing of Congressional action.
>
> The conference's review will allow us to fine-tune our recommendations for the coming flu season.
>
> I strongly believe that the government's recommendations on flu policy should be made only after the information on which they are based is fully disclosed to the public and only after it has been fully debated by all concerned.

This indicates to me that the Secretary is having second thoughts about his precipitous recommendation for immediate action, and is now scrambling to cover himself. I suggest that the proper procedure is not to ask for funds and then have conferences, but to have conferences and then ask for funds. Let the Secretary have his conferences now, but let us not appropriate funds until all the answers are in and the uncertainties and doubts resolved.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, do not the statistics the gentleman quoted indicate that at least a third of those who receive the shots develop an immunity, that there is nothing else that will create even this kind of immunity? Is that not the conclusion to be drawn?

Mr. MICHEL. I think the point is that if there is really that much of a risk of not becoming immunized, then there ought to be further testing to make sure that we can do a better job.

Mr. YATES. Is the conclusion to be drawn from the tests that were given that a third of the people who were given the shots develop an immunity and two-thirds do not? But, there is no other immunity to flu that can be derived from vaccine. Is that not correct?

Mr. MICHEL. That is true, but then we run into how much risk do we want to take unto ourselves if we are not absolutely sure.

Mr. YATES. What is the risk that a third undergo? Will they develop the Guillame-Barre syndrome with this kind of flu shot?

Mr. MICHEL. So far, little progress has been made in analyzing side effects resulting from the vaccine. HEW admits that part of the population will always suffer from side effects. Our experience with the swine flu program was that there will be one case of paralytic disease resulting from 100,000 vaccinations.

Mr. YATES. Will that one case result from innoculations other than the swine flu innoculation?

Mr. MICHEL. Available evidence would indicate that is correct.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

(At the request of Mr. YATES and by unanimous consent, Mr. MICHEL was allowed to proceed for 3 additional minutes.)

Mr. YATES. Mr. Chairman, if the gentleman will yield further, the question I am asking is whether in previous tests in which flu shots were given—I do not remember ever having heard that Guillain-Barré syndrome was a factor from the non-swine flu shots that were given My knowledge comes only from the statistics on the swine flu shots that were given. Is it possible that this particular syndrome was an after effect only of the swine flu vaccine?

Mr. MICHEL. I will be happy to yield to my friend from Michigan to respond to that.

Mr. DINGELL. Mr. Chairman, in point of fact, the paralysis syndromes that afflicted the swine flu program are found in connection with other flu shots. I would commend to my colleagues the reading of the insertion I made in the CONGRESSIONAL RECORD of the excellent article from the Washington Post on Sunday last. It is on page E3919, and it sets out all the circumstances with regard to this most curious program, including the liability to the United States, the peril to the States, the opposition by the States, and the peril to those vaccinated.

Mr. MICHEL. NIH professors have told me that approximately 100 recipi-

ents out of 100,000 vaccinations will suffer some form of neurological damage, and an additional percentage will suffer some form of hypersensitivity which could accentuate the severity of the flu rather than preventing it.

Mr. YATES. Mr. Chairman, if the gentleman will yield further, as I understand this program, what is proposed to be done is for the Federal Government to pay for the vaccine and make it available to the States. The people may take it or not. It is not compulsory. The risks will be made known to them and then they themselves will decide whether to take it or not.

Mr. MICHEL. But I am not sure that the Federal Government, in promoting this program, ought to in any way be legally liable for side effects which we know will occur.

Mr. YATES. But there is no liability if the person who wants the flu shot asks for it voluntarily and he knows the risks involved.

Mr. MICHEL. Yes. They intend to administer the program differently than they did for the swine flu, but I think it is appropriate, rather than simply going on blindly, that we ask these questions.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

(On request of Mr. CARTER, and by unanimous consent, Mr. MICHEL was allowed to proceed for 2 additional minutes.)

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, in reference to the injuries from immunization, actually there is 1 death per 2 million from vaccines. Only 1 in 2 million. For those who are not vaccinated, there are 200 deaths per million from influenza. Actually this shows that immunizations are extremely effective. The ratio is 400 to 1 in favor of immunization.

Mr. MICHEL. Of course the gentleman, having just made the comment as a very distinguished doctor, we cannot contest those figures that he has cited. But I think we have to be talking in terms not so much of deaths but of the disabilities that have resulted, and that is where we come into the unconscionable sums for claims.

Mr. YATES. Mr. Chairman, if the gentleman will yield further, what is the gentleman citing those figures from? Where are his statistics taken from?

Mr. CARTER. Mr. Chairman, if the gentleman will yield further, these statistics I have here I have gathered from various and sundry places, from HEW and all over.

I will be glad to yield them to the gentleman.

Mr. YATES. No. I think the RECORD should show them.

Mr. CARTER. Yes.

Mr. MICHEL. And particularly if it is a Federal agency that is giving out the information, we have a right to expect that they are correct.

Mr. CARTER. I am sure that they are correct. Certainly I think the immunization program has been good. If we fail to maintain one we will lose hundreds of people by influenza, and I do not think we can afford this risk.

Mr. DINGELL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in strong support of the amendment. The bill as constituted might be called the son of swine flu or it might be called swine flu 2. Or I might mention to the Members, to continue the analogy, that swine flu 2 here is brought to us by the same friendly people that brought us the original swine flu fiasco and it is funded by the same people who funded that.

With all due respect to my friend, the gentleman from Kentucky, I remember the enthusiasm with which he supported the swine flu program and I remember Secretary Califano has been walking the halls supporting this proposal.

If I were Secretary Califano and I would be given advice by the same bad advisers his predecessor had, I might be taken in, but not if I knew about the swine flu fiasco, which has cost the taxpayers of this country $1.2 billion in liability. That proposal was so poorly drawn that it set up under a set of circumstances a program whereby Secretary Califano just had to say: "Go ahead and pay the $465 million."

Now, what are the real facts? First of all we do not know whether this Russian flu influenza vaccine is going to be of any effectiveness at all as regards the disease that it is supposed to attack.

Second of all, there have been no legislative hearings and I would doubt whether the Committee on Appropriations had hearings on it or the expertise enough to find out what took place.

If the Members want to read the best information that is available on this outrage which now lies before us, I would recommend that my colleagues read page 21821 of the CONGRESSIONAL RECORD, wherein I insert a rather careful analysis of the potential liability which we are facing. The Committee on Appropriations is supposed to appropriate, and I support their endeavors in that undertaking but what they are in fact doing is suggesting something that goes well beyond that responsibility.

First of all, they are appropriating money without any adequate hearings, or findings of new facts or conclusions. Secondly, they are imposing on the State agencies something which the State agencies vigorously resist, and that is the idea that the State agencies should undertake this, under Federal financing, and assume the potential liability for litigation which might occur therefrom. But, in light of the swine flu action and in light of the action of the courts over the years, there is every probability that when litigation comes it will join not only the State agencies and the manufacturers, but also the Federal Government.

The Committee on Appropriations cannot tell us what liability we are assuming. They can only say we are going to fund the program. They cannot tell us how many lives they will save because the worth of the particular flu vaccine involved has not yet fully and adequately been tested.

Mr. CARTER. Mr. Chairman, will the distinguished gentleman yield?

Mr. DINGELL. This is a continuing program.

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I prefer not to yield at this moment, but since I do want to save the gentleman from Kentucky (Mr. CARTER), from his mistakes if I absolutely can, I will yield, but the hard fact of the matter is that what we are doing is opening ourselves up to a continuing program of increased liability without the slightest evidence at all or enough analysis or the slightest appreciation of the worth of the programs, or the liabilities which we are assuming. The number of lives which will be saved by this are highly doubtful, but the liability which may occur to us has an enormous potential.

Now I will yield to the distinguished gentleman from Kentucky (Mr. CARTER).

Mr. CARTER. Mr. Chairman, the gentleman from Michigan (Mr. DINGELL) mentioned the possibility that there was more possibility of loss of life this year from the Russian flu.

Mr. DINGELL. The gentleman can make any speculation on this subject that he wants to make but I do not think the gentleman has any better statistics along that line than I have.

Mr. CARTER. I want to refer the gentleman to the report from the Communicable Disease Control Authority in Atlanta on how many lives could be expected to be saved with this immunization program.

Mr. DINGELL. Those are the same folks that brought about the swine flu fiasco.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. DINGELL. I can only yield to one Member at a time.

Mr. CARTER. May I make my statement?

Mr. DINGELL. The gentleman from Kentucky is trying to tell us something.

Mr. CARTER. Will the gentleman let me complete my statement? Approximately 1,200 lives are expected to be saved by this program, based on the same assumption.

Mr. DINGELL. If the gentleman will permit me to interrupt. But that estimate comes from the very same folks who gave us the swine flu fiasco and made the same assumptions.

Mr. CARTER. Let me say that if I were to take either side, I would be on the side of safety. I regret the swine flu problems, too. However, the risk of death from influenza is 200 per 1 million. The deaths which result from immunization are 1 in 1 million. One can see the lifesaving effect of the vaccine.

Mr. DINGELL. Well, then, do not come onto the floor of the House and suggest that we repeat that same fiasco.

Let me point out that the estimates the gentleman has given us come from the same good folks who made the estimates about a monstrous death rate flowing therefrom.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

That is the third time the gentleman has made that misstatement on this subject, and it is not correct.

Mr. DINGELL. May I have order, Mr. Chairman.

The point I am making is that the same good folks who made that same estimate about the monstrous death rate and about the lack of liability to the Federal Government are now presenting us with the basis of another disaster.

Mr. OBEY. Not true. Not true.

Mr. DINGELL. They are presenting us with the basis of an ongoing continuing program which has never had any legislative hearings.

Mr. OBEY. Also not true.

Mr. DINGELL. It has not had legislative hearings.

Now I will yield to the gentleman from Wisconsin (Mr. OBEY) if he wants to make some more misstatements.

Let me read to the Members what Mr. Califano had to say—and occasionally we can believe him. He says here:

"I strongly believe that the Government's recommendations on flu policy should be made only after information on which they are based is fully disclosed to the public, and only after it has been fully debated by all concerned. For this reason I asked Dr. Julius Richmond, Assistant Secretary of Health, to begin preparations for the July 26 conference immediately after the Health, Education, and Welfare Advisory Committee made its recommendations in its meeting at Atlanta on July 6 and 7."

That is the body which triggered the swine flu fiasco, and I would beg the Members to keep in mind their competence and their history of accomplishment.

"Our objective is to establish a permanent ongoing ability of the States to give swine flu immunizations to those who need them. If we build this system carefully, we can finally begin to develop a flu policy systematically, and not start fresh every year, always acting on an ad hoc basis." I would add—with proper hearings, with proper analysis.

That is probably a good goal, but in point of fact it has not been done here. In point of fact there has been no analysis. He just says he needs $15 million, and that $15 million is not going to buy much health, but it is going to buy astronomic liability and probably some deaths and paralysis from the Guillain-Barre syndrome and from other side effects of a flu vaccine which has not yet been proven as being effective against the kinds of flu that it is supposed to reach during the forthcoming year. This is the kind of thing that is done down in HEW to waste the public's money. They come up here and get some of our colleagues who have good hearts and the best of intentions to buy what they propose to inflict on the American people. Then they get a lot of money to conduct programs. They gave folks down at NIH and the Communicable Disease Bureau bigger budgets, gave them larger staffs, more money to travel around and do things, but they give the public an ill-proven program which is going to cost us untold money, either for the States or for the Federal Government, in terms of liability.

The amendment should be adopted. These people down in HEW should learn how the cow chews the cabbage and should cease committing us to programs that do not work, do not accomplish anything, and give us monstrous liability. If this Congress has not learned anything else about HEW and some of the well-meaning bunglers they have down there, then we have never studied the swine flu experience.

I would just say to the Committee on Appropriations, for the sweet love of God, learn from the swine flu experience; adopt this amendment; and let us get good legislation after careful hearings.

Mr. OBEY. Mr. Chairman, I rise to oppose the amendment.

Mr. Chairman, I am very fond of the gentleman from Michigan, and I admire his flair. I also admire his tenacity in refusing to let facts get in the way of making a point. But the fact is that the gentleman has misspoken now on at least three occasions. No. 1, he has suggested that the Appropriations Committee has not held hearings on the subject. The fact is, if you will check the hearings volume for the second supplemental appropriation bill for 1978, part 1, from page 274 to page 345, I think you will find every single one devoted to this subject. We did have hearings on it, 71 pages of hearings.

Second, I hope that this Congress does not make the mistake that we so frequently make in learning the wrong lessons from past history. This program is not being brought to you, as the gentleman from Michigan suggests, by the same old people who brought the swine flu. Dr. Foege had nothing whatsoever to do with the swine flu program last year. He was in Africa at the time working on the eradication of smallpox. How you can suggest that the man who has brought this program to our committee is "the same old people who did it the last time" under those circumstances, I just do not know.

Dr. Foege is one of the most eminent people in the world in the area of immunology, and I will take his word, with all due respect to the gentleman from Michigan, over that of the gentleman from Michigan on a scientific subject any time.

Third, I would like to make the point, as has already been made by the gentleman from Kentucky (Mr. CARTER) that we are not dealing here with a program which is identical to swine flu.

Swine flu was promulgated after a very few people were consulted. It was brought to the Congress in a rush with very little consultation in the private area. That is not true under this contract. There has been a great deal of consultation with people, not only in Government, but outside of Government, to make sure we are doing the right thing.

No. 4, the liability question, I do not know what is going to happen on liability, neither do you, because the forms are not yet drafted down at HEW, but they are drafting a consent form which is going to be very different from the consent form used in swine flu the last time.

Another difference is that this time around we are not aiming to vaccinate the entire population, as was the goal under swine flu. We are aiming at very specific targeted groups.

In response to one point raised about the adequacy of the sample, I would like to read a paragraph from a letter from Secretary Califano to the chairman of our subcommittee, the gentleman from Pennsylvania (Mr. FLOOD):

> Clinical field trials of the vaccine intended for use this fall have been more extensive than those of any other influenza vaccine in the U.S. with the exception of 1976. In the past, field testing of the safety and effectiveness of influenza vaccines has involved 200 to 300 subjects. This year vaccine has been administered to more than 2000 research volunteers and will be given to many more before the trials conclude.

I do not know what the facts are here. None of us are scientists, none of us are doctors, except the gentleman from Kentucky. All we can do is base our decision on the information we have at a time which we are told is critical if we want it in for this year. All we can do now is pass judgment on that which is provided to us at this time.

I would make one additional point. If we do not do anything, we won't have any liability. Terrific.

But the fact is that there will be at least 1,200 people who we know, based on on the analyses of the last 30 years, who will die, who would not die if they were given this vaccine. If we compare the relative ratio of death, the 200 deaths per million people from flu in an average year, with the one death per million that was cited from the Guillain-Barre disease syndrome, I think the numbers are quite dramatic. I think those lives are much more important than an obscure question of liability, which can be handled much more efficiently this time around than it was by HEW the last time.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I want to point out something with my experience in the Health Subcommittee on this issue.

The CHAIRMAN. The time of the gentleman from Wisconsin (Mr. OBEY) has expired.

(At the request of Mr. WAXMAN, and by unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Mr. Chairman, if the gentleman will yield further, I have the highest regard for Dr. Foege. I think he is an excellent health professional. I think he is doing an admirable job as head of the CDC. I believe he is quite sincere in his evaluation of the need for this immunization program.

I must admit, I share some of the doubts that have been expressed by the proponents of this amendment about the program itself.

I was an opponent of the swine flu program, particularly with regard to the liability provision. I thought that once we had made the original commitment, there was never a reevaluation of that commitment; there was only a full going forth with a program that did not seem to have justification for it. In addition, it had a great deal of unanswered questions, particularly liability questions.

I think a lot of those unanswered questions on liability remain with this program, and I am very concerned that we may very well be undertaking a liability on behalf of the taxpayers of an unknown sum, far beyond the $15 million we have been asked to authorize and appropriate for this program.

Mr. OBEY. Mr. Chairman, I would like to reclaim my time if the gentleman does not have a question. I thought he had a question.

Mr. Chairman, if the gentleman does not have a question, I would just like to say that this is also different from the swine flu program for this reason: We have already had this virus circulating in this country last year. People have become sensitized to it, and the pattern has been that people were exposed to the virus one year and the second year, whammo, it clobbers you.

We are going to lose 1,200 people, assuming it is an average year; if it is an epidemic year, we could lose up to 70,000 people.

Mr. Chairman, admittedly there are tough equities to determine, and this could be a very close question. But I think on balance, based on the best information made available to the committee, we ought not to approve this amendment.

Mr. YATES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have listened to this debate, and this one is so reminiscent of that one. I listened to the swine flu debate last year. Of course, all of us know the effects of the swine flu program.

My good friend, the gentleman from Michigan (Mr. DINGELL), who rose in support of Mr. Moss amendment asked us to read the article that he put in the CONGRESSIONAL RECORD which appears on page E3919 of yesterday's RECORD. During the course of the debate I read it. It seems to me that the article sustains the committee rather than those who proposed the amendment.

Apparently the gentleman's argument is based on the testimony or the arguments of a Public Health doctor whose name is Morris. For some reason he was let go from PHS. He said that he was let go because he was critical of the swine flu program.

I would like to read a few paragraphs from the article and then I will be glad to yield to the gentleman. In reading from the article, admittedly I am reading from the center of the article; I am not reading the whole article. Perhaps the gentleman will say I am distorting the article, but I do not think so. I am trying to be fair about it.

This is what it says:

In Morris' view—and that is the name of the gentleman who sustains the view of the gentleman from Michigan (Mr. DINGELL) and the gentleman from California (Mr. Moss)—in his view, the flu vaccines in this country—unlike other vaccines—are inherently defective. His reason—and this is Morris' reason—

the mechanism by which a flu vaccine tries to protect is not suitable for combatting flu viruses. He notes that viruses causing such diseases as polio and measles are invasive; they must enter the blood stream to cause illness. "But influenza," he contends, "is a localized disease. You breathe in the virus, it attacks the surface of the lung and infects more and more cells. It does not need to get in the bloodstream to cause disease." Therefore, Morris maintains, putting antibodies in the bloodstream—as flu vaccines do—is futile because they don't reach the proper targets.

The U.S.S.R., says Morris, does use a highly effective live flu vaccine that's inhaled and deposits antibodies on the surface cells of the lungs. But Morris says it's too dangerous for use here. For one thing, it often causes influenza, especially in children, at rates that would be unacceptable in this country.

Dr. Alan Hinman, director of the CDC's immunization division, agrees that local antibodies in the respiratory tract would be an advantage, as Morris suggests, and says, "When we develop better virus vaccines we may be able to do that." (The National Institute of Allergy and Infectious Diseases is working on a live flu vaccine.) In the meantime, Hinman insists that existing injection vaccines do offer protection either because of circulating antibodies or another unknown factor.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I will yield in a moment.

Mr. MOSS. I would like to correct the gentleman.

Mr. YATES. I will yield in just a moment. Let me finish this first.

Mr. Chairman, to continue with the article, it is as follows:

"There's a lot about the dynamics of influenza that we really just don't know," he adds.

As for the new vaccine specifically, Dr. Hinman claims the vaccine has proved effective in clinical tests by stimulating the production of adequate antibodies in 70 to 90 percent of those tested.

I am not on this subcommittee, I am not as conversant with the subject matter. I recognize, with a great deal of affection and a great deal of admiration, the outstanding contributions of my good friend, the gentleman from California, ant my good friend, the gentleman from Michigan, in debates on other controversial issues over the years. I have a great respect for their arguments.

Mr. MOSS. Mr. Chairman, in response to that respect, would the gentleman yield?

Mr. YATES. I would be glad to yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, let me just say to the gentleman, with the utmost respect, that the gentleman is so terribly wrong. I was not predicating my opposition to this item on the statement contained in the Washington Post on the opinions of the good doctor quoted. I was basing it solely on the fact that a move to the appropriation at this time is premature.

The gentleman will note that the amendment provides $3 million for the research, the determinations that ought to be made in a responsibly administered program. I was not moving to strike.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. YATES) has expired.

(On request of Mr. Moss and by unanimous consent, Mr. YATES was allowed to proceed for 3 additional minutes.)

Mr. MOSS. If the gentleman will yield further, I think we need the answers. I am not telling the gentleman whether the virus enters through the air or through the blood. I do not know. And I am not relying upon the judgment of any researcher to give me that answer. I am not going to make that determination, nor should I. But I think there is a need to have answers.

I do not have the answers to the charge we gave the Department to give us a report on liability, and it was supposed to be within the year. That has not come forward.

I think that the statement made by Secretary Califano on yesterday regarding the conference being called later this month was an excellent statement if he had followed through with a policy recommendation to implement it. That he did not do.

I am only saying: Let us go ahead and provide the $3 million. We certainly do not need the additional $12 million for the months of August and September. It goes into the regular appropriation which starts the new fiscal year in October. There is no need to put this into the 1978 program and cause it to create problems for the childhood immunization program. Actually, the gentleman tied this in, I might add, for an authorization for venereal disease vaccine.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding.

Mr. Chairman, I would simply point out that Dr. Hinman, cited by my good friend——

Mr. YATES. In the article that the gentleman from Michigan recommended.

Mr. DINGELL (continuing). Is one of those who presented us and strongly urged the adoption of the swine flu vaccine program.

I would point out, also, that the program we now have before us is opposed by the State and territorial health officers on the grounds of doubtful effectiveness and on the grounds that it will probably impose upon the State agencies which will participate a vary large liability and cast doubt on the child immunization program that those agencies are engaged in.

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would like to observe that, while the gentleman from California says the action in this bill is premature, it is not, in fact, correct that if the action is not taken in this

bill at this time we can have no effective vaccine program for the upcoming flu season? It is now or never for this year.

Mr. YATES. May I ask my good friend, the gentleman from Wisconsin, this question: I usually get a flu shot in late fall as a protection. I am one of the so-called high-risk patients. May I ask my friend, the gentleman from Wisconsin, whether the vaccine will be available to me if I go to a doctor this fall to get the shot if the committee's funding is not approved?

Mr. OBEY. We are told that the vaccine will be available in October if this appropriation is approved now.

Mr. YATES. Suppose the appropriation is not approved. Will the vaccine be available for the general public?

Mr. OBEY. Very little.

Mr. YATES. I am sorry. I did not hear the answer.

Mr. OBEY. Very little.

Mr. YATES. Very little; it will be available only to a limited degree, then?

Mr. OBEY. Yes.

Mr. MOSS. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. MOSS. Mr. Chairman, the gentleman knows that I chair the Oversight Investigation Subcommittee. We have jurisdiction in this field on the oversight angle.

My staff has checked very carefully and has informed me that the vaccine is now available. We are not talking of a need to suddenly make it. It is available, and it is available to the gentleman as a high-risk patient if he wants to take it. I am also high risk, and no one could give it to me.

Mr. OBEY. Mr. Chairman, if the gentleman will yield further, the whole purpose of the HEW program is to double the availability of the vaccine, and we are not going to double it without this appropriation.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding.

The answer to the question that was posed as represented to us by HEW is that the vaccine is available. It is being manufactured by the drug manufacturers. It is available to the general public.

What they want to do is to try to give it to high-risk individuals.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. YATES) has expired.

(On the request of Mr. WAXMAN and by unanimous consent, Mr. YATES was allowed to proceed for 2 additional minutes.)

Mr. WAXMAN. Mr. Chairman, will the gentleman yield further?

Mr. YATES. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, what HEW wants to do is to start an ongoing, continuous program of immunization for influenza, varying the vaccine only based on what influenza might be striking that season. The one now facing us in this season is the Russian flu, so they are preparing a program to immunize against Russian flu.

They will have $15 million in 1979, which was authorized by the authorizing committee. Now they are coming in and asking for an additional $15 million.

Mr. Chairman, they can go ahead with this program without this appropriation, based on appropriations they will get next year.

To answer the question, they will have the money for the program for this season; and the vaccine will be available for whoever wishes to take it, without this appropriation.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, in answer to the gentleman's question, on page 293 of the report on the second supplemental appropriation bill of 1978, in answer to a question I posed to Dr. Foege, he said the following:

> Dr. FOEGE. There are two parts to that answer.
>
> No. 1, in order to have the influenza program actually operating by this fall, it will require fiscal year 1978 money in order to order vaccine now and have it produced, have the States geared up to hire people and make plans before the first of October. So that if this is not done, they will not be able to meet the next flu season.
>
> The other part is that the increase of immunization money for the childhood program is going to be totally absorbed in trying to reach the goal of taking care of the backlog of children who have not been immunized in the past in order to meet the goal of an ongoing system of childhood immunization by October of 1979.

Mr. YATES. Mr. Chairman, I thank the gentleman.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I might say further that the Center for Disease Control said in May:

> If grant awards to the States are not made by mid-July, we will have to reassess the advisability of proceeding this year."

The CHAIRMAN. The time of the gentleman from Illinois (Mr. YATES) has expired.

(By unanimous consent, Mr. YATES was allowed to proceed for 1 additional minute.)

Mr. YATES. Mr. Chairman, may I say to my good friend, the gentleman from Illinois (Mr. MICHEL), that obviously they will not be made available by mid-July.

Mr. MICHEL. No, because I doubt whether this bill will be enacted into law for another month.

Mr. YATES. At least.

Mr. MICHEL. I think there is justification for simply addressing ourselves to the thrust of the gentleman's amendment and go ahead with the clinical testing. We have to complete this clinical testing before we really have it produced in large batches for distribution.

Mr. YATES. Is the gentleman in favor of the amendment or opposed to it?

Mr. MICHEL. I am going to support the amendment because I was one of the few raising questions earlier about the very things we are addressing ourselves to now, the fact that we did not have a spirited debate in committee. That spirited debate has been forthcoming here. I think it is a good, healthy thing; and everybody ought to be apprised of the direction in which we are going.

They are talking 1,200 deaths if there is to be an epidemic. However, there is nothing to suggest that we are going to have an epidemic.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. YATES) has expired.

(On request of Mr. OBEY and by unanimous consent, Mr. YATES was allowed to proceed for 2 additional minutes.)

Mr. OBEY. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Wisconsin.

Mr. OBEY. Mr. Chairman, I would just like to point out to the gentleman from Illinois (Mr. MICHEL) that the 1,200-death figure is a figure in a low-death year, in a nonepidemic year. That number can be many times higher. In an epidemic year it could approach 70,000 deaths.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Michigan.

Mr. DINGELL. Mr. Chairman, I thank the gentleman for yielding.

I just observe that what we really have here is a proposal to market a whole lot of vaccine, unproven as to its effectiveness, against a disease that we do not know will exist. Further, we do not know whether it will respond to the vaccine as a curative or an immunizing agent. Last of all, the real beneficiaries of this program, and the only people we can point out as the real, genuine beneficiaries of this program are the vaccine manufacturers.

There have been no hearings before a legislative committee. The Appropriations Committee has given a cursory hearing. They have heard from witnesses who have said, "Yes, we are going to have this come up," and they are the same good folks who brought us swine flu last year, and have not even done the report to lay before Congress regarding the consequences of that program, as to what we are going to do, how it is being conducted.

I warn my colleagues, watch out. They are trying now to use this mechanism to give us what is essentially a permanent immunization program without having hearings, by running over to the Appropriations Committee and getting a $15 million appropriation.

Mr. YATES. Mr. Chairman, may I ask some member of the committee whether there is enough money in the 1979 budget or in the 1978 budget to make available enough vaccine for those people who want to have immunization shots? The gentleman from Wisconsin says "No." If that is true, then I think a certain portion of the money is needed.

Mr. DINGELL. The States do not want the program.

Mr. CARTER. Mr. Chairman, I move to strike the requisite number of words,

and I rise in opposition to the amendment.

Mr. Chairman, over the years we go over different appropriations such as this, and it has been my good fortune to observe the effects of immunizations almost since their inception. When I became a physician years ago, typhoid was rampant throughout the country. Almost 10 percent of the people for many years would have typhoid fever, and the death rate was approximately 40 percent. Now, very rarely do we see typhoid anywhere in the United States or anywhere in the world.

Diphtheria was another disease that affected many of our youngsters, and was death-dealing. Many of us have seen them choke to death. Now, we do not see that because they are immunized.

Many of our youngsters had lockjaw, tetanus, and a condition called ophisthatonas. But, because of immunization tetanus has almost been obliterated.

Back when I was a young physician, we saw smallpox throughout the United States. Now, it is our understanding that nowhere in the world does smallpox exist today—nowhere—because of vaccination.

Now, my friends, there is a problem. We have problems with immunizations each year. There is a certain amount of money appropriated for influenza immunizations. It is true that we had a sad occurrence, perhaps, last year with the swine flu immunization program, and this I regret. But, with every immunization program, no matter what it is, we do rarely have the Guillain-Barre syndrome. It does not matter whether it is influenza or anything else. But the benefits and lives saved, my friends, far outweigh the illnesses that result from it. Now, as for the possible deaths from influenza, according to Dr. Foege's April 1978 testimony before our subcommittee, 12,000 to 18,000 excess deaths directly related to influenza are expected to occur during a year in which an influenza epidemic is experienced. That estimate is for excess deaths among the entire U.S. population—12,000 to 18,000 deaths. Also, according to Dr. Foege, based on our surveillance in the Southern Hemisphere we probably will suffer an outbreak. Our people there indicate that outbreaks have shown an occurrence of Russian and A-Victorian flu. So, we can expect outbreaks during the coming flu season here. And, HEW estimates that by immunizing an additional 20 percent of high-risk individuals 1,200 excess deaths can be averted during a "typical" influenza epidemic.

This appropriation amounts to only $15 million. That is not enough to provide a fin on a submarine. Do the Members mean to tell me that for $15 million they are going to risk the lives of 1,200 or more people in this country?

I say no. Let us provide this $15 million. Let us vote down this iniquitous amendment and save at least 1,200 lives in our country.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, the distinguished doctor mentioned what are proven vaccines in years past in his ministering to the people but those were proven vaccines. Last year we immunized all the cadets at the Naval and Air Force academies, and 75 percent of them got the flu. So unlike other vaccines, the flu vaccine is not a proven vaccine.

What I am saying is we ought to go through the clinical testing to make sure of the validity of the vaccine, rather than rushing into it.

Mr. CARTER. I would assure my good friend, the gentleman from Illinois, that this vaccine is effective and will be a good vaccine. I have been in touch with Dr. Frederickson of the NIH and also Dr. Foege of the Communicable Disease Center. They assure me it is the wise thing to do. It will be given to those of our people who are considered high risk except for those under 5 years of age.

Mr. MICHEL. I think there is one other point. The gentleman, or one of the gentlemen, did raise earlier the question about who is getting the vaccine today. What we are talking about with this Federal money is frankly 20 percent more people in the high-risk category, and 20 percent are getting it now in the private sector.

The CHAIRMAN. The time of the gentleman from Kentucky has expired.

(By unanimous consent, Mr. CARTER was allowed to proceed for 1 additional minute.)

Mr. CARTER. Mr. Chairman, I would ask the members of this committee to think deeply. Will we risk $15 million? Are we willing to spend that to save 1,200 lives? I say it is a risk we should take. We should not endanger the lives of these people.

Mr. MAZZOLI. Mr. Chairman, will my good friend, the gentleman from Kentucky (Mr. CARTER), yield?

Mr. CARTER. I yield to the gentleman from Kentucky (Mr. MAZZOLI).

Mr. MAZZOLI. I thank my friend, the gentleman from Kentucky, our distinguished Dr. CARTER for yielding.

I remember the gentleman was talking about the Guillain-Barre syndrome.

Mr. CARTER. Yes.

Mr. MAZZOLI. Last year, without any question, I supported the swine flu vaccine program. However, a very close friend of mine, an intern in my office, a graduate of Harvard Law School, did contact the Guillain-Barre syndrome after taking the swine flu shots. That young man has great difficulty in walking and has great difficulty using his legs. There is no assurance he will ever recover fully.

How does one get Guillain-Barre syndrome? Is it from the vaccine or from the intrusion of the needle? I would like to know because it will help me make up my mind on this.

The CHAIRMAN. The time of the gentleman from Kentucky (Mr. CARTER) has expired.

(On request of Mr. MAZZOLI, and by unanimous consent, Mr. CARTER was allowed to proceed for 2 additional minutes.)

Mr. CARTER. The exact cause of the Guillain-Barre syndrome is not known except that it is associated with immunizations. We have also a good friend in the city of Louisville, Judge William Walden, who comes from my hometown, who suffered the Guillain-Barre syndrome, but it was not associated with influenza but with another injection before he went to Spain. The gentleman from Kentucky (Mr. MAZZOLI) knows the judge.

Mr. MAZZOLI. I know him.

Mr. CARTER. The judge has recovered. The friend of the gentleman from Kentucky (Mr. MAZZOLI) may also recover and it may take more time and a lot of work in rehabilitation.

Mr. MAZZOLI. But is it from the shot or from some unhealthy ingredient contamination associated with the needle breaking the skin?

Mr. CARTER. No. To the best of our knowledge it is associated in some way with the injection. We do not know the cause.

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. CARTER. I yield to the gentleman from Washington.

Mr. McCORMACK. There are several questions I would like to ask. Perhaps the answers will help the understanding of those of us who walked into this debate without warning or preparation.

The gentleman from Illinois (Mr. MICHEL) said we need clinical testing on this immunization program, but the gentleman from California (Mr. WAXMAN) says we have an ongoing program of immunization for high-risk groups. If we have an ongoing program for high-risk groups, one would believe then that the clinical testing is complete. I would like to ask the gentleman from Kentucky (Mr. CARTER) if he can tell us whether the clinical testing for this program is indeed complete, and if not, how we can have an ongoing program of immunization for high-risk groups?

Mr. CARTER. Mr. Chairman, for most of the age groups it is complete. Based on data that was available from the clinical trials early this month, the HEW Advisory Committee on Immunization Practices felt that it could draw sound conclusions that the vaccine was safe and effective for individuals 13 years of age and over. For those under 13, the committee expects to make recommendations around the end of July.

Mr. McCORMACK. Are you speaking of a specific strain, against which we are presuming to immunize?

Mr. CARTER. Yes.

Mr. McCORMACK. That is the "Russian flu"?

The CHAIRMAN. The time of the gentleman has again expired.

(On request of Mr. McCORMACK, and by unanimous consent, Mr. CARTER was allowed to proceed for 2 additional minutes.)

Mr. McCORMACK. Mr. Chairman, if the gentleman will yield still further, I understand that we are discussing what is referred to informally as the Russian flu. Is this correct? Is the immunization program for that particular strain?

Mr. CARTER. As I understand it, it is for three strains. I will name them.

Russian–A, Texas–A, and Hong Kong–B. I have heard from the Communicable Disease Control Center, Dr. Frederickson, and he says that the vaccine will be available if the funds are appropriated and they will give this to all high-risk individuals except those under 5 years of age.

Mr. McCORMACK. The gentleman from California (Mr. WAXMAN) says we have an on-going immunization program. Does this program involve these three strains you have just identified?

Mr. CARTER. No, sir, we have had an on-going program over the years but that has not been for these three strains because we have different strains come up almost every year.

Mr. McCORMACK. I understand that. You see, the point is, the gentleman from California has said that we have an ongoing immunization program. The question is, Does it employ the strain under discussion? Are we, or are we not carrying on an immunization program for Russian flu?

Mr. CARTER. It has been for the strains which have been identified. For these three strains I have mentioned, I am reliably informed, we will have an effective vaccine available this year if the money is appropriated to help save the 1,200 high-risk people who would die in case of an epidemic if they are not given this immediately.

Mr. McCORMACK. I am trying to help the gentleman from Kentucky (Mr. CARTER) make his point.

Mr. CARTER. I thank the gentleman.

Mr. McCORMACK. And the question is, if we have an ongoing program for these strains, Do we need clinical testing for the same strains?

Mr. CARTER. It depends on the strains.

Mr. McCORMACK. Is that the case?

Mr. CARTER. For some of the strains we have had clinical testing. For the three strains, Russian–A, Texas–A, and Hong Kong–B the testing will be complete and ready for high-risk individuals over the age of five.

Mr. McCORMACK. What is the purpose of the program? Is it to protect against the strains you have just identified, or is it for some other type of influenza?

Mr. CARTER. The three I have identified, Russian–A, Texas–A, and Hong Kong–B.

Mr. McCORMACK. I thank the gentleman.

The CHAIRMAN. The time of the gentleman has expired.

Mr. MITCHELL of Maryland. Mr. Chairman, I ask unanimous consent that the gentleman from Kentucky (Mr. CARTER) may proceed for 4 additional minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Maryland?

Mr. CONTE. I object.

The CHAIRMAN. Objection is heard.

Mr. PATTEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I guess most of the Members understand that we have a lot of pharmaceutical companies, the best in the world, in my district, and I will not tolerate any disparaging remarks because the industry has been good civically and socially.

So I repeat, I do not want any one of the Members here feeling that that industry is selfish.

But, Mr. Chairman, the real reason I have risen is that I want to yield to my friend from Pittsfield, Mass. (Mr. CONTE).

Mr. CONTE. I thank the gentleman for yielding.

Mr. Chairman, I join my good friend, the gentleman from New Jersey (Mr. PATTEN), and I support the $15 million appropriation the administration has requested to initiate an ongoing annual influenza immunization program. This proposal resulted from the findings of a January 30 conference, composed of the leading experts and scientists in the area of public health, influenza, and immunization practices. Their recommendation, which has been subject to careful public review, was that high-risk individuals be immunized on an annual basis against influenza with Federal financial support.

The program which the Center for Disease Control has developed would assist States and localities in carrying out local immunization programs against influenza for those persons who are particularly vulnerable to the serious complications of influenza because of advancing age or the presence of chronic illnesses. There will be a project grant program, vaccine will be centrally purchased by the Federal Government, and increased coverage of high-risk persons is expected to rise from 20 to 40 percent in the first year and increase further in future years after each State has established an influenza immunization capability. The high risk target groups which will receive first attention are:

Persons 6 months to 24 years with underlying chronic health problems with little immunity;

Persons 25 through 64 who have underlying chronic health problems with some immunity but are still at significant risk; and

Persons age 65 and over who are statistically more likely to die from influenza.

What this program is not in comparison to the swine flu program, is a one-shot, total population immunization program. It is directed toward 20 percent of the high risk population or about 8 million people. It is expected that approximately 1,200 excess deaths could be averted during a tyical influenza epidemic. The vaccine will be composed of three components—A/Texas, B/Hong Kong, and Russian flu. The risk of death from influenza is 400 times the risk from complications of the vaccination, and liability issues will be addressed as they are in the childhood immunization programs, since it is a complicated problem which will not be solved in a short period.

The Center for Disease Control has already begun preparation for implementation of this program when the Congress acts on the supplemental request. In order to have this program available for the next flu season we must act now.

I hope that this amendment is soundly defeated.

Mr. ROGERS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think before a vote is taken on this amendment it would be well to review the recommendations of the scientific community concerning the proposed high-risk influenza immunization initiative. This matter was brought before the Subcommittee on Health and Environment, the legislative committee, and we did hold hearings on April 20 of this year. The proposal was to begin a program, and the money was asked for, not for this year but for the beginning of the next fiscal year. Now, however, in order to make grants available to States in time to begin the program, it is essential to begin the program through the 1978 supplemental appropriation, which is before us today.

The legislative subcommittee, after hearing witnesses, scientific witnesses from the Department, recommended that this program be carried out. This is a reasonable and responsible approach.

Everyone wants to relate this initiative to the swine flu program. Such a comparison is not appropriate. The swine flu program difficulty arose from the complications of Guillain-Barre syndrome. The reason there was no warning provided to vaccine recipients about Guillain-Barre is that Guillain-Barre had not been recognized as a potential complication of influenza immunization.

Surveillance for Guillain-Barre was initiated during the swine flu program as soon as it was recognized as a potential complication. Warning about the potential for Guillain-Barre will be given to the public in this new program, which I must emphasize is entirely voluntary. The rise of death from influenza in the population as a whole during a typical epidemic is more than 400 times the risk of dying from any known or suspected complication of immunization. That danger is even greater for high-risk populations. This program is to help those in the high-risk group. They may make the judgment. The States themselves do not have to enter the program. It is totally voluntary, and 30 States have already indicated they want to participate; so all indication from the scientific community, from the Department, from the States themselves is that certainly we ought to proceed with this program.

It is better to be prepared before we have an epidemic. It may not come, but it may; so this is simply a step in preparation.

You know, even the vaccine against polio is not 100 percent safe. People take that oral vaccine and you know what happens? Some of them die from the polio vaccine. Some of them are crippled, but the benefits far outweigh the risks. When people know that, it is their judgment whether they desire to participate.

So the Committee on Appropriations is to be commended. I think they have gotten the necessary scientific information. I think it is a reasonable program

and I would urge the defeat of the amendment.

● Mr. BROOKS. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California as I, too, question the wisdom of the Congress appropriating $15 million for an influenza vaccination program prior to proper testing.

I am concerned with the health of the American public and like everyone else in this body would not want to see a widespread influenza outbreak. However, I believe we should have learned a lesson from the swine flu vaccination program that proper testing needs to be conducted before the U.S. Government gives its seal of approval.

Two years ago, the Congress enacted legislation providing that the United States would accept legal responsibility for injury or death resulting from the swine flu immunization program. I have grave reservations and opposed this action.

Last month, the Government agreed to compensate more than 400 Americans who claim they were paralyzed in 1976 after taking swine flu shots. It is expected that 10 percent of the value of the claims will be paid and these funds will ultimately come from the American taxpayer.

Mr. Chairman, I feel that it is a very worthy cause for the Federal Government to encourage States and localities in establishing regular flu immunization programs. But it should only be done after proper testing. Therefore, I hope the other Members will join me in supporting the amendment to appropriate at this time $3 million for the National Institute of Allergies and Infectious Diseases to continue their research on the Russian flu.●

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. MITCHELL of Maryland. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto close in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

Mr. DINGELL. Mr. Chairman, I object.

The CHAIRMAN. Objection is heard.

Mr. MAHON. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 15 minutes.

The CHAIRMAN. The question is on the motion offered by the gentleman from Texas (Mr. MAHON).

The motion was agreed to.

(By unanimous consent, Mr. MAHON yielded his time to Mr. MITCHELL of Maryland.)

The CHAIRMAN. The gentleman from Maryland (Mr. MITCHELL) is recognized for 5 minutes.

Mr. MITCHELL of Maryland. Mr. Chairman, I sought this time in an effort to try to help me determine how I should vote on this amendment.

My problem lies in the unanswered questions, not in terms of the medical aspect but, rather, in terms of the procedural aspects of this program. Though it may not be related to swine flu in terms of the medical aspects, we do have procedural problems, and we should address the Members of the House on those.

We heard statements this morning that the clinical testing is not yet complete in all three of these areas. Going back to swine flu, what I found out in my district was that the clinical testing for certain age groups was not completed when the program went into effect. In the furtherance of the clinical testing, it was determined that a number of children would be used to test the effectiveness of the dosage to be given them.

That was all right with me. But the problem arose because a determination was made that the children to be tested were to be drawn from the population in public housing and the population that went to public health clinics. I do not care how we slice it, that meant that the children of the poor and the blacks would be the ones to be used because they are primarily the users of public housing and primarily the users of public health clinics. So they became the guinea pigs for testing swine flu in certain age groups.

The testing was to be done at the University of Maryland Hospital, and when I found out about that, I put a picket line around that hospital. We kept that picket line around the hospital and nobody went in, because on its face it was unfair and unjust to use the children of the poor to test for the proper dosage to be administered.

Mr. Chairman, I have not made up my mind as to how I should vote on the amendment, but unless I get some clear-cut answers that we will not have this unjust procedure, using the poor and the helpless as guinea pigs in this program, unless that is guaranteed to me, I am determined that I will vote for the amendment offered by the gentleman from California (Mr. Moss).

Mr. CARTER. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Kentucky.

Mr. CARTER. Mr. Chairman, I deplore the fact that the gentleman from Maryland has found it necessary to bring this out. Certainly I would not want to use the sons and daughters of the poor as guinea pigs. It is against my moral convictions, just as it is against the gentleman's.

However, I would say that I was assured this morning by Dr. Frederickson that this vaccine would be ready for all, except for those under the age of 5.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the gentleman for his information. I understand what he is saying, but the point is that he himself indicated that there is further clinical testing required.

I came before the subcommittee chaired by the gentleman from Florida (Mr. ROGERS) and attended a hearing to point out what was happening in my district. I wanted it ended, but nobody listened to me and I had to resort to activist tactics.

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Pennsylvania.

Mr. FLOOD. Mr. Chairman, I have known the gentleman from Maryland (Mr. MITCHELL) long and well. Let me assure him that if I thought for 1 minute—and I am in a position to know and could do something about it if it happens—that this would happen, I would not support the program. In no circumstances will that performance take place; that will not happen in this case—at no time, any place, anywhere. It will be across the board or not at all.

Mr. MITCHELL of Maryland. Mr. Chairman, I thank the subcommittee chairman.

May I ask the gentleman, does he have it in writing that there is that kind of guarantee in the implementation of this program?

Mr. FLOOD. We do not have it in writing, but if the gentleman wants it in writing, I will get it for him.

Mr. MITCHELL of Maryland. I am so upset I would like to see it in writing.

Mr. FLOOD. I can assure the gentleman that I will get him that guarantee in writing directly from the Secretary.

Mr. PATTEN. Mr. Chairman, if the gentleman will yield, I took the test. Almost every Member of Congress took the test. I hope the delivery system will avoid his objection.

Mr. MITCHELL of Maryland. Mr. Chairman, I will not yield further at this moment.

Mr. Chairman, I thank the gentleman for his comments. Let me just say that when they play around with the lives of little children who are 5 years old and who happen to be poor, I do not see anything funny about it.

Mr. FLOOD. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Pennsylvania.

Mr. FLOOD. Mr. Chairman, I repeat for the purpose of emphasis that under no circumstances would I be a party to that kind of thing, and I would do exactly what should be done. I think as the gentleman thinks, and I want to make sure that this would not happen at any time or any place.

The CHAIRMAN. The time of the gentleman from Maryland (Mr. MITCHELL) has expired.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I will not take all my time.

I simply want to state again, despite the remarks of the gentleman from Michigan (Mr. DINGELL), that this program is not being brought to us by the same people who brought us the swine flu program. Dr. Foege was not involved in any way in the swine flue program.

Second, the groups consulted in that program were very narrow. That was my main objection to the swine flu program the last time these questions were raised. The groups consulted were few, a close-

knit circle, but that is not the case at this time. A great number of people have been involved in this program all over the country.

Third, I do have some questions about the delivery systems suggested here, but that does not go to the main question of the amendment, as to the provision of the additional funds to make available more vaccine than is presently available.

Fourth, this is a program that is aimed at a very targeted group, and we know what the risks and benefits are based on historical experience with most of these strains under question.

The problem we have to decide is very simple—whether we think the benefits outweigh the risks, given the fact that we are talking, probably—on an average year, not an epidemic year, but an average year—of about 200 deaths per million from flu, versus 1 death per million from the syndrome which was discussed at great length this morning.

I think, on balance, while any rational human being has to have questions on either side of this question, on balance, the arguments weigh against the amendment offered by the gentleman from California, and I would urge the Members to stick with the committee and those at HEW and CDC, who have the best available information on a scientific basis on this subject.

The CHAIRMAN. The Chair recognizes the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Chairman, this debate points up the evil of allowing the Appropriations Committee to put in place programs by legislation in defiance of the rules of the House prior to the time that the legislative committees have acted.

What are the hard facts? The Appropriations Committee—I have a copy of the hearings here—heard from the same good folks who gave us last year, or the year before last, the swine flu program. And, obviously, the Appropriations Committee got testimony which was sympathetic to the conduct of a program of this kind. It heard nothing from anyone else, and we all know how HEW cooked its figures earlier and hurried a frightened Congress forward on unwise legislation.

The Department did not even have the decency to submit to the Congress the statutorily required report as regards the conduct and the failures of the swine flu program. They anticipated that the total liability was less than about $10 million. They have achieved a $1.2 billion in liability. They tell us there is no flu vaccine to be used in the program on hand at this particular minute. That is not true. There have been no hearings on the consequences of the swine flu program. There have been no hearings on the consequences of this program, whether, in fact, the vaccine does work, or what are the perils and legal implications of the program being set forward here.

The proponents who have been to the well to tell the committee how urgently needed this program happens to be are the same good folks who were down here in the well telling us we had to have a swine flu program. I remind the House of the consequences of that leadership.

In point of fact, there is peril from these shots. There has been no legislative action by the Congress. There have been no legislative hearings, no cross-examination of witnesses, no staff analysis. The GAO's analysis, which is the only thing that we have, says that the swine flu program, which is the predecessor of "swine flu 2" on which we now labor, is one of the worst conducted and worst analyzed and panicked programs which has ever been handled in the Congress of the United States. If the Members do not believe it, just look at the $1.2 billion that we have achieved in liability while not saving any lives. In fact, the people who have died of swine flu or the program are those who have gotten the Guillain-Barre syndrome, some 120 of them, and not those who have incurred swine flu.

All I say is, let us conduct the consideration of this in an orderly fashion, adopt the Moss amendment, allow the $3 million for the proper analysis of the program, and let us not have a program which the State agencies say they do not want and of which cannot meet the potential liability.

(By unanimous consent, Mr. VOLKMER yielded his time to Mr. Moss.)

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. Moss).

Mr. MOSS. Mr. Chairman, there are just a few points I would like to make.

First, the $3 million which my amendment would provide would complete the clinical testing on the age group under 14 years, a type of clinical testing that is vitally needed. Then there should be further clinical testing of the strength of the dosage of the vaccines, and that has not been completed.

These are two areas in which there should be careful completion of clinical testing before we move into the expenditure of an additional $12 million and commit ourselves to a program which could cost a great many millions more.

Mr. Chairman, the statement has been made by the gentleman from Wisconsin (Mr. OBEY) that there are inadequate supplies available. My staff has checked with Dr. Foege, who now tells us that there are adequate amounts of vaccine available.

I recognize that Dr. Foege had testified before the Committee on Appropriations that there were not adequate supplies available; but the information secured by my staff, developed in conversation with Dr. Foege, was that there are adequate supplies available now.

Mr. Chairman, I strongly urge that we take the prudent course here and appropriate the $3 million and wait until the clinical testing is completed before we take the additional step that is not now supported by the evidence available here to the House or to the scientific community.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. Moss).

The question was taken; and on a division (demanded by Mr. OBEY) there were—ayes 19, noes 15.

RECORDED VOTE

Mr. OBEY. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 268, noes 127, not voting 37, as follows:

[Roll No. 575]

AYES—268

Abdnor	Fascell	Mollohan
Alexander	Fenwick	Montgomery
Ambro	Findley	Moore
Ammerman	Fish	Moorhead, Calif.
Anderson, Calif.	Fithian	Moss
Anderson, Ill.	Florio	Mottl
Andrews, N. Dak.	Foley	Murphy, Ill.
Annunzio	Ford, Mich.	Murphy, N.Y.
Archer	Ford, Tenn.	Murphy, Pa.
Armstrong	Forsythe	Murtha
AuCoin	Fountain	Myers, John
Badham	Fuqua	Neal
Barnard	Gammage	Nedzi
Baucus	Garcia	Nolan
Bauman	Gaydos	Oberstar
Beard, Tenn.	Gephardt	Ottinger
Bedell	Glickman	Panetta
Bennett	Goldwater	Patterson
Biaggi	Gonzalez	Pease
Bingham	Gore	Pike
Blanchard	Gradison	Poage
Blouin	Grassley	Price
Boland	Hall	Quayle
Bonior	Hamilton	Rahall
Bonker	Hanley	Rangel
Bowen	Hannaford	Regula
Breaux	Hansen	Reuss
Brodhead	Harkin	Rhodes
Brooks	Harris	Richmond
Broomfield	Hawkins	Rinaldo
Brown, Calif.	Heckler	Risenhoover
Brown, Mich.	Hightower	Roberts
Broyhill	Hillis	Robinson
Burke, Calif.	Holland	Roe
Burke, Fla.	Hollenbeck	Rose
Burleson, Tex.	Holt	Rosenthal
Burton, John	Holtzman	Rudd
Burton, Phillip	Horton	Runnels
Butler	Hubbard	Ruppe
Byron	Huckaby	Russo
Carney	Hughes	Ryan
Chappell	Hyde	Santini
Chisholm	Ichord	Satterfield
Clausen, Don H.	Ireland	Scheuer
Clay	Jacobs	Schroeder
Cochran	Jeffords	Sebelius
Cohen	Johnson, Calif.	Seiberling
Coleman	Jones, N.C.	Sharp
Collins, Ill.	Jones, Okla.	Shuster
Conable	Jones, Tenn.	Sikes
Conyers	Jordan	Sisk
Corcoran	Kazen	Skelton
Corman	Kelly	Slack
Cornwell	Kemp	Smith, Nebr.
Cotter	Kostmayer	Solarz
Crane	Krebs	Spellman
Cunningham	Lagomarsino	Spence
D'Amours	Latta	St Germain
Daniel, Dan	Lehman	Steed
Daniel, R. W.	Levitas	Steiger
Danielson	Livingston	Stockman
Davis	Lloyd, Calif.	Stokes
Delaney	Lloyd, Tenn.	Stratton
Dellums	Long, La.	Stump
Devine	Long, Md.	Symms
Dickinson	Lott	Taylor
Dicks	Lujan	Thone
Dingell	McDonald	Thornton
Dodd	McKay	Treen
Dornan	Markey	Trible
Downey	Marlenee	Tucker
Drinan	Marriott	Udall
Eckhardt	Martin	Ullman
Edgar	Mathis	Van Deerlin
Edwards, Calif.	Mazzoli	Vanik
Edwards, Okla.	Meeds	Vento
Emery	Metcalfe	Volkmer
English	Michel	Waggonner
Erlenborn	Mikulski	Walker
Ertel	Mikva	Wampler
Evans, Del.	Miller, Calif.	Watkins
Evans, Ga.	Miller, Ohio	Waxman
Evans, Ind.	Mineta	Weaver
Fary	Mitchell, Md.	Weiss
	Mitchell, N.Y.	Whalen
	Moffett	White

Whitehurst	Wirth	Young, Alaska
Whitley	Wydler	Young, Mo.
Wilson, Tex.	Wylie	Zeferetti
Winn	Yatron	

NOES—127

Addabbo	Fraser	Moakley
Akaka	Frenzel	Moorhead, Pa.
Andrews, N.C.	Giaimo	Myers, Gary
Applegate	Gilman	Myers, Michael
Ashley	Ginn	Natcher
Aspin	Goodling	Nix
Bafalis	Green	Nowak
Baldus	Gudger	O'Brien
Beard, R.I.	Guyer	Oakar
Bellenson	Hagedorn	Obey
Benjamin	Hammer-schmidt	Patten
Bevill		Pepper
Boggs	Harsha	Perkins
Brademas	Hefner	Pettis
Breckinridge	Heftel	Pickle
Brinkley	Howard	Preyer
Brown, Ohio	Jenrette	Pritchard
Buchanan	Johnson, Colo.	Quillen
Burgener	Kastenmeier	Rogers
Burke, Mass.	Keys	Rooney
Burlison, Mo.	Kildee	Sarasin
Caputo	Kindness	Schulze
Carr	LaFalce	Simon
Carter	Leach	Smith, Iowa
Cavanaugh	Lederer	Snyder
Cederberg	Lent	Staggers
Cleveland	Lundine	Stangeland
Conte	McClory	Stanton
Cornell	McCloskey	Steers
Coughlin	McCormack	Studds
de la Garza	McDade	Thompson
Derwinski	McEwen	Traxler
Diggs	McFall	Vander Jagt
Duncan, Oreg.	McHugh	Walgren
Duncan, Tenn.	McKinney	Walsh
Early	Madigan	Whitten
Edwards, Ala.	Maguire	Wilson, Bob
Eilberg	Mahon	Wilson, C. H.
Evans, Colo.	Marks	Wolff
Fisher	Mattox	Yates
Flippo	Meyner	Young, Fla.
Flood	Milford	Zablocki
Fowler	Minish	

NOT VOTING—37

Ashbrook	Krueger	Rousselot
Bolling	Le Fante	Roybal
Clawson, Del	Luken	Sawyer
Collins, Tex.	Mann	Shipley
Dent	Nichols	Skubitz
Derrick	Pattison	Stark
Flowers	Pressler	Teague
Flynt	Pursell	Tsongas
Frey	Quie	Wiggins
Gibbons	Railsback	Wright
Harrington	Rodino	Young, Tex.
Jenkins	Roncalio	
Kasten	Rostenkowski	

The Clerk announced the following pairs:

On this vote:

Mr. Dent for, with Mr. Shipley against.

Mr. Nichols for, with Mr. Le Fante against.

Mr. ASPIN and Mr. FRASER changed their vote from "aye" to "no."

Mr. BREAUX changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

OFFICE OF EDUCATION

SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

For an additional amount for "School assistance in federally affected areas" to carry out section 7 of the Act of September 30, 1950, $5,000,000.

AMENDMENT OFFERED BY MR. GORE

Mr. GORE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. GORE: On page 15, line 5, strike "$5,000,000." and insert "$31,000,000".

Mr. GORE. Mr. Chairman, the purpose of this amendment is to restore funds which were deleted by the committee to fund the pinpoint disaster assistance section.

I have the greatest respect for the distinguished members of the committee and the subcommittee. But I have also had personal experience with this program and I know it is a good one. I have seen where the money goes. It does not go off into the void somewhere for some kind of counseling or for the bureaucracy or for large payrolls. It goes for textbooks. It goes for children's desks in school. It goes for portable classrooms in areas where children do not have a school because their school has been destroyed by a natural disaster and they have been temporarily housed in a gymnasium or outside when it was not raining, or in whatever other facility may be available.

I had experience in my district, in two counties that lost their schools and one which lost part of its school, where modern portable classrooms have been provided so that the children can continue their education while the local school district attempts to rebuild that school. No money under his program is available for constructing the school, for rebuilding the school. That is clearly a local responsibility. And after the school is rebuilt, the portable classrooms must be sold for whatever value remains in them and the proceeds given over to the Federal Government.

Mr. Chairman, this program has a long history. I will not belabor it, but briefly it was first authorized in 1968. In 1974, as a result of an exchange of letters between the Comptroller General and the Office of Education and the distinguished former Speaker of this House, Mr. Carl Albert, the program was ordered to be activated.

In 1977 applications were solicited around the United States. The grants were assigned a priority. School districts were visited by a staff member of the Office of Education and the projects were ranked in order of greatest need, compared to the ability of school districts to pay.

This year the committee struck the funds in this provision.

I believe these grants to be solid expenditures, based on my personal experience with this program. There have been criticisms that were leveled against this program in the subcommittee. I believe that there are responses for all those criticisms and I want to briefly outline them. First, it has been said that this might be looked upon as a substitute for insurance. When the regulations were printed to put this program into effect, that criticism was mooted, because if a school district has insurance this program does not fund any losses covered by that insurance. If it does not have insurance, the school district is assumed to have self-insurance and a value equal to the book value of the losses is deducted from any compensation made possible under this program. The common practice is to insure on the basis of book value. Therefore the difference between the book value and replacement cost of essential critical equipment is all we are talking about under this program, in addition to the portable classroom aspect of it.

There were two other objections cited in the report which accompanied the bill we have before us today. The first objection of the subcommittee was in that in most instances damage caused by local disasters has already been repaired.

Mr. Chairman, since the regulations were promulgated in late 1976, virtually none of these projects have been completed. Virtually none of the repairs have been enacted.

So we are talking about work that needs to be done that will be made possible by this program.

Now, the second objection raised in the report is:

A high percentage of the applications for assistance are for relatively small amounts of less than $10,000.

I do not know the hearing record on which this was based, but I carefully reviewed the applications under this program. I have sent around to the office of every Member a listing of those States where applications are approved and those which are pending.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. GORE) has expired.

(By unanimous consent, Mr. GORE was allowed to proceed for 2 additional minutes.)

Mr. McCORMACK. Mr. Chairman, will the gentleman yield?

Mr. GORE. Mr. Chairman, if I may complete this one point, then I will be happy to yield to my friend the gentleman from Washington (Mr. McCORMACK).

As a result of my intensive review of the applications in this program, I can say to the Members that a relatively small percentage, less than 30 percent of the applications we are talking about, is for amounts under the figure cited in the committee report.

Further, I would add that the set of priorities established in the regulations promulgated more than a year ago establish a formula that assures that those districts that have the greatest need relative to their ability to pay will be given the highest priority, so that the smaller projects tend to be weeded out by the system of priorities that has been established.

Mr. Chairman, in summation, my personal experience with this program is that this money goes for solid, needed purposes: Textbooks, desks for children, and portable classrooms so that education may continue in areas where it has been disrupted. I believe this is a needed program, and I ask for an "aye" vote on this amendment.

Now, Mr. Chairman, I will be happy to yield to my friend, the gentleman from Washington (Mr. McCORMACK).

Mr. McCORMACK. Mr. Chairman, I thank the gentleman for yielding.

I want to congratulate him on his amendment, and associate myself with his remarks. I believe he is advancing an excellent concept. The disaster relief his amendment would bring is obviously needed in certain areas, because disaster strikes suddenly and viciously in various parts of the country.

Mr. Chairman, this amendment can assist various school districts when they suffer from this sort of disaster, and I hope the committee will support the gentleman from Tennessee (Mr. GORE) in his efforts.

Mr. WATKINS. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Oklahoma.

Mr. WATKINS. Mr. Chairman, I thank the gentleman for yielding.

I wish to state that I stand in support of the gentleman's amendment.

I would state that at the time of a disaster, when many times schools are destroyed in some of the low-income areas of the country, many of the people have a tremendous problem in trying to house facilities for education and trying to provide even the textbooks and desks for these children.

Mr. Chairman, I think this is a wonderful amendment, and I stand in solid support of it.

The CHAIRMAN. The time of the gentleman from Tennessee (Mr. GORE) has again expired.

(On request of Ms. KEYS, and by unanimous consent, Mr. GORE was allowed to proceed for 2 additional minutes.)

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield?

Ms. KEYS. Mr. Chairman, will the gentleman yield?

Mr. GORE. I will be glad to yield to the gentlewoman from Kansas, but first let me yield to the gentleman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Chairman, I appreciate very much the gentleman's yielding.

I want to commend the gentleman for offering this amendment and state that I am in strong support of the amendment.

I had the same type of experience that the gentleman has talked about, not once but twice. It is pretty hard to tell a local school board:

> Yes; there is a program to help you, but, no; there is no money in the program.

That is a type of frustration that is needless, and I feel it leads to lack of credibility in Government.

My support of the Gore amendment to fund the pinpoint disaster assistance program administered by the Office of Education is based on experience. This program, which was authorized in 1968, has never been funded, and in fact, it was not until November 17, 1976, that the Office of Education published regulations for its implementation. This year, for the first time, the administration has requested funds for the program but the committee did not see fit to approve the request even though it represents the only source of Federal assistance to many school districts which suffer physical disasters.

The pinpoint disaster program was designed for the purpose of providing Federal assistance to local elementary and secondary school educational agencies for disasters which are not so wide spread over an area and of such a magnitude as to warrant a major declaration of disaster by the President. The damage can occur from physical catastrophes such as floods, fires, hurricanes, storms, et cetera.

There are two applications pending for such assistance in my district. Alvirne High School, in Hudson, N.H., has an application pending for $247,692 following a fire which totally destroyed the school on September 8, 1974. Obviously, costs of this magnitude represent quite a burden for the people of a small town such as Hudson.

Wentworth Elementary School in Plymouth, N.H., also suffered a fire on January 18, 1971, and has an application pending for $12,000 in disaster assistance.

Following the fire at Alvirne High School, I undertook an exhaustive search of Federal programs which might be of assistance to the town of Hudson and found that the only source of significant help appeared to be the pinpoint disaster program which, unfortunately, was not implemented.

In 1976, the Office of Education finally published regulations to implement the program but arbitrarily selected a July 1, 1975, implementation date although the program had been authorized since 1968. In protest, I introduced legislation early in 1977 to implement the program from its inception. There were two GAO investigations concerning the program also and the Office of Education subsequently reversed its position.

This amendment would now finally after 10 years fund a program which is the only source of assistance to many school districts who face emergency payments following disasters and I urge my colleagues to support it.

Mr. GORE. Mr. Chairman, I yield to the distinguished gentlewoman from Kansas (Ms. KEYS).

Ms. KEYS. Mr. Chairman, I thank the gentleman for yielding, and I want to commend him on this amendment.

I had a similar experience recently in my own district in Mayetta, Kans., where in the middle of a school year a disastrous fire occurred. Fortunately, there were no serious injuries in the fire, but the school building was completed destroyed.

It is a very small community, and the school board and the local officials found themselves completely at a loss, with a great time gap involved, trying to determine insurance coverage and finding out what the State and local community would do.

I think it is absolutely essential that we serve the priority purpose of seeing that our children in any communities in which there is a disaster do not lose time from their education.

This particular community of which I speak did not even have another building large enough to hold any kind of temporary classes.

Mr. Chairman, I think this is a very essential amendment. I commend the gentleman for offering it, and I support it. I hope my colleagues will vote for it.

Mr. GORE. Mr. Chairman, I thank the gentlewoman from Kansas (Mrs. KEYS) for her eloquent statement.

Mr. MARKS. Mr. Chairman, will the gentleman yield?

Mr. GORE. I yield to the gentleman from Pennsylvania.

Mr. MARKS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I join with the gentleman from Tennessee (Mr. GORE), and I thank him for bringing forth this amendment. My district, as many other districts in the country, has suffered from severe tornadoes and disasters of other types. Those school districts involved have been under very great pressures, and I believe this amendment is a very good one.

Mr. Chairman, I join the gentleman in support of the amendment.

Mr. MICHEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, we put this $5 million in here for major disasters. What we did was to reduce the budget request by $26 million for the pinpoint disasters, because, frankly, the budget request came up because they were pressured. So actually this was included in the budget, but in fact those who were testifying in support of it were less than enthusiastic because most of these pinpoint disasters are in small localized things, usually affecting one school only.

I asked Mr. Stormer about the size of the applications and he said:

> Historically, Mr. Michel, disaster applications have run less than $6,000. Half of the applications that we received under major disasters run less than $6,000 per application. I would suspect that the same trend might be true with respect to pinpoint.

What we are saying here is, while we have a program that is authorized, it has not been funded up to this point, because we do not feel it is a Federal obligation to step in every time a small disaster happens to some local school district. If the local school district itself is not able to fund it, why, then, would not the State step in and help that communiy?

Thirty-three of our States have surpluses, while the Federal Government here is running an unconscionable deficit. If we embark on another new program such as this, there is no telling how it will end.

HEW told us last year that this could ultimately become a $100 million-plus program. And the question is again: Where are we going to get the money?

It is particularly serious, in view of the fact that we recently adopted an elementary and secondary education authorization bill which liberalizes the law and allows for even more grants.

In many cases, these pinpoint disaster funds would simply represent bailout money for school systems which have not insured their facilities.

The administration opposes the program but feels its hands are tied.

Dr. Boyer, Commissioner of Education, said in our hearings:

I think it is, in my view, a very low priority program. It engages us in a series of very minor involvements in financing, which, in my judgment, the administration and expense is very excessive, in terms of which I think public policy and our resources justify. We have opposed legislative appeals on this.

The administration requested funds only for major disasters in fiscal year 1979, and that is what we provided in our bill.

The administration stated during our hearings last year that no real emergencies are involved in the pinpoint program, and about 175 of the current claims on hand go back to the years 1968 through 1976. Most of these repairs have already taken place and have been paid for, and the communities now coming in under this program are simply requesting Federal reimbursement.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. I thank the gentleman for yielding.

This is retroactive for 10 years.

Mr. MICHEL. We have had the program on the books here since 1968 but we have never funded it.

Mr. BEARD of Tennessee. There are approximately 175 claims. These claims are made without there being any money to pay the claims?

Mr. MICHEL. We have had a program authorized but have not funded it. There have not been any claims actually on it. What I am saying is that, for all practical purposes, it starts us on a new program.

Mr. BEARD of Tennessee. Is there any projection as to whether there would be additional claims and if so how many?

Mr. MICHEL. If we are going to honor them now, undoubtedly it will open the floodgates for every community to file applications for Federal assistance. If the local school board is deficient, or the system, in not providing adequate insurance for their own structures, I do not know that that is a Federal responsibility. There is a delinquency on the part of those responsible for the conduct of that local school district.

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Tennessee.

The CHAIRMAN. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

(On request of Mr. GORE and by unanimous consent, Mr. MICHEL was allowed to proceed for 2 additional minutes.)

Mr. GORE. Mr. Chairman, I noted the wording of the gentleman's statement when he was citing the evidence upon which he based his belief that a large percentage of these grant applications are for very small amounts.

Mr. MICHEL. Yes.

Mr. GORE. The witness the gentleman cited said that in some other programs the percentage of small applications is very high, and he said, "I would suspect the same thing to be true in this program.

Well I have reviewed the actual applications in this program, and I say to the gentleman that that is not the case. What the gentleman's witness would "suspect" to be true is in fact not true.

One other point. There is a natural limit on the growth of this program. No project will qualify unless a natural disaster, such as a fire, flood, tornado, has taken place and has been certified as such by the Governor of the State.

The third point, the gentleman talked again about the concern about insurance. I would simply reiterate that the book value is deducted, whether there is insurance or not. As a result, there is no encouragement to local school districts to drop any insurance that they might have, because they are assumed to have self-insurance, even if they do not.

The final point the gentleman made that I would like to disagree with, respectfully, is that most of the repairs under this program have already taken place.

The fact is that the vast majority of them have come in since November of 1976. Virtually none of them have been started, much less completed.

The administration supports this amendment. They requested the funding. I spoke with the office once again this morning, and I would say to my colleague, the gentleman from Tennessee, that the city of Savannah, Tenn., is a perfect example of the kind of project we are talking about. Less than 18 months ago the school was destroyed. They are in this program, $240,000 has been approved. If we support the classrooms during the rebuilding of their school, we can help those children continue their education.

Mr. PERKINS. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I support the Gore amendment.

To my way of thinking, this amendment is absolutely necessary. It is true enough that this program aimed at so-called pinpoint disasters has never been funded before. However, there is a provision presently in the law which allows, in the case of major disasters, impacted area funds to be utilized for the purpose of taking care of those disasters.

In my area I had a major flood caused by the Big Sandy River in 1977, in April. It was suggested that perhaps the Governor could help these counties bail out.

In my State moneys allocated from the State level to the school systems are allocated according to formula, and I have never known of any emergency assistance being given to any local school district. Yet, in major disasters, the Office of Education has come to the assistance of the local school districts by using impact money in the past; and the Committee on Appropriations has placed this impact money back where it belongs. In these pinpoint disasters, however, they do not have the money down there now in the Office of Education.

Mr. Chairman, this program is absolutely essential if we want to do something in the local communities which have had disasters, like earthquakes and fires. As I pointed out, many times these school districts cannot obtain aid from the State and must look to the Federal Government.

Here, Mr. Chairman, we have an amendment which will provide that kind of assistance. We are not spending much Federal money for construction in this country at this time, and this amendment should be adopted, because it will expand that aid to a degree. It will not grow like Topsy. These claims are already on file. Therefore, if the gentleman from Illinois wants to offer an amendment to make the Gore amendment applicable to only those claims on file, the gentleman from Tennessee (Mr. GORE) will certainly consider that, I am sure.

However, Mr. Chairman, this amendment, in my judgment, will do something for schoolchildren where the local communities do not have the resources and do not carry sufficient insurance, as has been pointed out in this debate.

I would hate to think, Mr. Chairman, that in the face of these disasters in this Nation, we cannot appropriate $26 million for the school buildings in which, in many instances, the foundations have been destroyed and the classrooms have been destroyed, as well as the equipment damaged, especially where the local communities do not have the resources to make the repairs.

Mr. Chairman, I think that in such an emergency that it is time for this Congress to act; and it would be my hope that we would support the Gore amendment.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Tennessee.

Mr. BEARD of Tennessee. Mr. Chairman, I would like to ask the author of the amendment a question, if I may.

In his dear colleague letter it was stated, giving a typical example, of how the pinpoint disaster program will come to the aid of local school systems which have suffered massive losses, often uninsured. What type of losses would these be? Do we have that many school systems where they do not carry any insurance at all?

Mr. GORE. Mr. Chairman, will the gentleman yield?

Mr. PERKINS. I yield to the gentleman from Tennessee.

Mr. GORE. The common practice among school districts is to carry insurance based upon the depreciated book value of their assets. In other words, they participate in a de facto program of self-insurance on the difference between the book value and the replacement value. Often, an old school building's book value will be relatively low, especially compared to the replacement cost which, in light of new construction, will be quite high.

Mr. MITCHELL of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, there is a community in my congressional district which I think will shed some light on this situation. It is the city of Little Falls, N.Y., with about

8,000 people. They experienced a severe fire in their high school which all but destroyed it. It resulted in damage of more than $3 million. They were insured, so they thought, fully. They received only $2 million for the damage experienced. The community has been forced to float bonds to take care of the remaining $1 million.

This would be a severe burden under any circumstances, but in this particular situation Little Falls, N.Y., has been a depressed community for many, many years. Key factories moved out more than 25 years ago. They experience high unemployment. The community enjoys strong leadership and is doing its very best to make a comeback. It has been doing quite a good job, but this fire has put them in a bad situation and slowed down the process considerably.

If these already overburdened taxpayers, who in New York have the highest per capita tax rate in the Nation, are forced to pay the amount the Federal Government could pay under this program, it would also significantly curtail educational programs. All Members know that in depressed economies educational programs are not all that rich under the best of circumstances. So, this amendment if passed, would provide financial relief to an economically depressed area, but what it would do perhaps in an even more important way would be to provide a huge boost in morale to these people who are trying to pull themselves up by their bootstraps, and who sorely need help.

Mr. Chairman, I urge my colleagues to support the amendment. It is not a large amount of money, and it will do a great deal of good.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Tennessee (Mr. GORE). I feel very strongly that it is our responsibility to fund the pinpoint disaster assistance program that Congress created in 1968. The program has been authorized and the regulations have been written to implement this program.

We created this program 10 years ago specifically to assist school districts that have suffered disasters caused by an "Act of God." The eligibility is contingent, in part, upon the basis of the insurance the school is carrying. The Governor of the State must certify that there is a need for the pinpoint disaster aid and that the damage was caused by nature with no evidence of negligence or malicious action. The Governor then requests the Commissioner of Education to declare it a disaster and an onsite visit must be made by the Office of Education before any funds can be released.

By creating this program by law and establishing the regulations for the program, we have held this out as hope to hundreds of school districts that have been hit by diasters. So far, about 750 applications for aid have been filed since 1975. Seven hundred and fifty school districts have gone through all of the paperwork, the letterwriting, the inspections, disaster designations, and compliance with all of the regulations—all with the desperate hope of assistance under this program that we created specifically to deal with such disasters.

But while they went through this entire process, we have not appropriated a single penny to assist them under this program.

Two school districts in my area of central Texas have applied for assistance under this program. The Bastrop Independent School District has completed the entire application and inspection process under the program for assistance to rebuild the Bastrop Junior High School which was totally destroyed by fire on September 9, 1976.

Also, the Hays Consolidated School District is in the process of applying for assistance for two fires, one in March 1977, and another which completely destroyed the main building of the Kyle Elementary School in June 1975.

The only program designed to provide assistance for such disasters is the pinpoint disaster assistance program. They have nowhere else to turn for this help.

Mr. Chairman, how much longer are we going to hold out this false hope to our constituents? How much longer are we going to continue to play this cruel joke on desperate people seeking disaster assistance?

I hope that the House will vote today to put an end to this cruel hoax and vote for the $25 million addition to the supplemental appropriations bill so that we can begin to fund the 750 pending applications for assistance.

Mr. FLOOD. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Here is the classic example of what the Appropriations Committee should do and is supposed to do under its existence as such.

I wonder how many of the enthusiasts today voted to extend the national debt ceiling? I just wonder when this gets back home. Oh, yes, I know how many did not. But when it gets back home, forget about the national debt ceiling: Gimme, gimme, gimme, gimme, gimme, gimme.

That is why I oppose the amendment for the Appropriations Committee. The subcommittee, believe me, discussed this pinpoint disaster program at some length during the markup sessions—and that is an understatement. We decided not to recommend these funds to start this program in the supplemental appropriation bill. This program has not been funded for 10 years. And why not? We can imagine why not.

From the beginning this program contained a lot of complicated provisions concerning eligibility and payments. Some of these problems involve the Federal Government, the State government, and the local government. All right, for one the Federal Government will be supplanting private insurance of school property—make no mistake about that.

The difficulty of determining whether the property losses were covered under the grant or the loan provision of the very law we are talking about. The school districts in 29 States are prohibited by the State law from accepting such loans. That is in 29 States.

By the way, most of the applications for assistance are for amounts under $10,000, which certainly should not pose a fiscal burden on a school district.

Do not forget: A disaster declared by the President is a major disaster, and these things are all taken care of across the country, just like that. Uncle Sam acts immediately on declaration of a major disaster by the President. But most of the damage from the pinpoint disasters have already been repaired, they have already been replaced, and there is absolutely as of today, no urgency for Federal assistance.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to my friend.

Mr. PERKINS. Mr. Chairman, let me say that when the gentleman refers to an emergency declared by the President, or a disaster declared by the President, that is a major disaster.

Mr. FLOOD. That is right, a major disaster.

Mr. PERKINS. That is only true in the event the Congress appropriates the money specifically, unless there is available impacted area money that can be switched for this purpose.

Mr. FLOOD. There is no doubt about that. But when you get down under $10,000 we do not see any big problem for the school board.

Mr. PERKINS. But this will fill that void where no money was appropriated for major disasters.

Mr. FLOOD. We are not talking about major disasters. In the case of a major disaster—God forbid—if there is any place that needs it this afternoon there is no problem of any kind, they will get it.

The CHAIRMAN. The time of the gentleman has expired.

(On request of Mr. BEARD of Tennessee, and by unanimous consent, Mr. FLOOD was allowed to proceed for 4 additional minutes.)

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I will be glad to yield to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Chairman, I thank the chairman for yielding. The gentleman has made the case so well that I cannot improve upon it, but I do have to comment on the gentleman from Kentucky (Mr. PERKINS) remarks to the effect that if we open the front door on this program there is no danger that it will grow like Topsy.

Strangely enough this program is authorized in the impact aid section of the ESEA Act. I do not need to remind the Members what has happened to the impact aid program, one expansion after another. Do you realize that just since our hearings over 100 applications have been filed with the Department for assistance under this program? We have got to close the door now. Furthermore, we ought to try to help the administration save this $26 million.

Mr. FLOOD. We are trying to help the administration, and that is what we hope to do and yet time and time again we get into a controversy in our own backyard.

Mr. BEARD of Tennessee. Mr. Chairman, will the gentleman yield?

Mr. FLOOD. I yield to the gentleman from Tennessee (Mr. BEARD).

Mr. BEARD of Tennessee. Mr. Chairman, the statement was made by the gentleman from Pennsylvania (Mr. FLOOD) that already 29 States would be ineligible or prohibited by law from receiving these funds.

Mr. FLOOD. By their own laws.

Mr. BEARD of Tennessee. I would like to ask the author of the amendment, the gentleman from Tennessee (Mr. GORE) to respond to that matter if the gentleman from Pennsylvania will yield to him for that purpose.

Mr. FLOOD. I yield to the gentleman from Tennessee (Mr. GORE).

Mr. GORE. I thank the gentleman for yielding.

The section the gentleman was referring to is in another section under the program.

Mr. FLOOD. I know that it is.

Mr. GORE. That is the construction loan section.

Mr. FLOOD. I know that it is.

Mr. GORE. There are no applications that have been made under that program, partially because of the State laws in those 29 States, and there is no advantage to their applying, therefore, that does not go to the first part of the program.

Mr. FLOOD. Except this, once you open the door, once you get your foot in on the eligibility for this program, it will be like the Moon itself on these loans, and away we will go. That is what we are trying to prevent in the Committee on Appropriations. You cannot vote both ways.

Mr. GORE. I want to emphasize that it does not apply to both sides of the program, because the rates are so high, so that they do not apply.

Mr. FLOOD. Let me say: But they will. Sooner or later they will.

Mr. GORE. I thank the gentleman from Pennsylvania (Mr. FLOOD) for yielding.

Mr. MAHON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I have observed in the debate the arguments that have been made by the gentleman from Illinois (Mr. MICHEL) and the gentleman from Pennsylvania (Mr. FLOOD) in opposition to the proposed amendment and, in my opinion, they have completely demolished the validity of the amendment which has been presented. The amendment certainly ought to be voted down. We ought not to start another of these programs.

A lot has been said about the severe burden on the local communities. Let me point out that the local communities in the aggregate are in far better position than the Federal Government. Very little, if any, has been said here today about the severe burden on the Federal Government. The fact is that this program, if it gets launched, it will grow and grow and grow. We have had many such lessons.

The reason that we had to raise the debt limit yesterday was because Congress has permitted itself to agree to the type of amendment such as this, and we have spent and spent and spent. We have placed ourselves in these intolerable positions.

I do hope and believe that the House will be willing to vote down this proposal and make some gesture to substantiate the concern that was expressed yesterday about the growing national debt. I just think that it is very important that the Federal Government pull itself together and quit implementing programs of this type which bring additional burdens to the Federal Government.

I urge defeat of the amendment.

Mr. SKUBITZ. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Kansas.

Mr. SKUBITZ. I thank the gentleman for yielding.

Mr. Chairman, I support the amendment of the gentleman from Tennessee and I hope that my colleagues on both sides of the aisle will do likewise.

His amendment to provide $26 million to begin the funding of the Pinpoint Disaster Assistance program is not frivolous. On the contrary, it is the fulfillment of a long overdue commitment. Many of my colleagues are not as familiar with the Pinpoint Disaster Assistance program as I am. I want to take just a few moments to explain why you should support the gentleman's amendment.

The Pinpoint Disaster Assistance program became law in 1968. However, it was not until 9½ years after the actual enactment of the program by Congress, and two General Accounting Office investigations that the executive branch got off its backside and finally decided to implement the law—as Congress had intended in 1968.

The first GAO investigation calling for the implementation of this program was requested by our former speaker Carl Albert. The GAO investigation requested by Speaker Albert resulted in the program being implemented from July 1, 1975 to the present time. The second GAO investigation, requested by myself, resulted in the implementation of the program from the date of enactment January 2, 1968—to today.

I got involved in the Pinpoint Disaster Assistance program because of a problem in my own congressional district.

On June 16, 1975 a tornado struck Cedar Vale, Kans. and severely damaged its high school. After examining all the possible means of Federal assistance available, I discovered the only source of assistance for Cedar Vale was the Pinpoint Disaster program. After further investigation, I learned that the Office of Education decided that this program should not be implemented—regardless of congressional action. Of course, all that now is past history—because of Speaker Albert's GAO investigation and because of my own. The Office of Education has gotten off its backside. They have published regulations for the program. They have published regulations twice for that matter—once when Speaker Albert put pressure on them and then when they reversed themselves because of my GAO inquiry.

The monkey is now on the back of the Congress. The Office of Education has come forward with a budget request. 1968. We need to provide the assistance for this program simply because it was a promise unfulfilled back in 1968. Congress said we are going to provide the money and the program is going to be there—but it never was.

The gentleman from Tennessee is offering us the opportunity to fulfill the promise made in 1968 to school districts throughout the United States. I urge you to support the gentleman's amendment.

Mr. MAHON. Mr. Chairman, I ask unanimous consent that all debate on the pending amendment do now close.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Tennessee (Mr. GORE).

The question was taken; and on a division (demanded by Mr. GORE), there were—ayes 23, noes 35.

RECORDED VOTE

Mr. GORE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 166, noes 233, not voting 33, as follows:

[Roll No. 576]

AYES—166

Addabbo	Fraser	Myers, Michael
Akaka	Fuqua	Nix
Anderson, Calif.	Garcia	Nolan
	Gaydos	Oberstar
Ashley	Gephardt	Ottinger
Beard, R.I.	Gilman	Patten
Beard, Tenn.	Goldwater	Patterson
Bevill	Gonzalez	Pease
Biaggi	Gore	Pepper
Bingham	Green	Perkins
Blanchard	Hamilton	Pickle
Boggs	Hammer-schmidt	Preyer
Bonior		Quayle
Bonker	Harsha	Quillen
Bowen	Hawkins	Rahall
Breaux	Hefner	Rangel
Brodhead	Heftel	Richmond
Brooks	Hightower	Rinaldo
Brown, Calif.	Hollenbeck	Risenhoover
Brown, Mich.	Holtzman	Roe
Brown, Ohio	Howard	Rogers
Buchanan	Hubbard	Rose
Burke, Calif.	Huckaby	Rosenthal
Burke, Mass.	Hughes	Ryan
Burton, John	Jacobs	Scheuer
Burton, Phillip	Jones, N.C.	Sharp
Caputo	Jones, Okla.	Sisk
Carr	Jones, Tenn.	Skubitz
Carter	Jordan	Smith, Iowa
Chisholm	Kastenmeier	Snyder
Clausen, Don H.	Kazen	Solarz
	Keys	Spence
Clay	Kildee	Staggers
Cleveland	Lederer	Stark
Collins, Ill.	Leggett	Steers
Corman	Livingston	Steiger
Cornwell	Lloyd, Tenn.	Stockman
D'Amours	Lott	Stokes
Davis	Lundine	Studds
de la Garza	McCloskey	Thornton
Dellums	McCormack	Tucker
Dicks	McDade	Van Deerlin
Diggs	McHugh	Vento
Downey	McKinney	Walgren
Duncan, Tenn.	Maguire	Walsh
Eckhardt	Markey	Wampler
Edwards, Calif.	Marks	Watkins
Edwards, Okla.	Marlenee	Weiss
Eilberg	Mattox	Whalen
English	Mazzoli	Whitley
Ertel	Meyner	Wolff
Evans, Ind.	Miller, Calif.	Wright
Fithian	Minish	Young, Alaska
Flippo	Mitchell, Md.	Young, Fla.
Florio	Mitchell, N.Y.	Zeferetti
Ford, Tenn.	Murphy, N.Y.	
Fowler	Murphy, Pa.	

NOES—233

Abdnor	Foley	Myers, Gary
Alexander	Ford, Mich.	Myers, John
Ambro	Forsythe	Natcher
Ammerman	Fountain	Neal
Anderson, Ill.	Frenzel	Nedzi
Andrews, N.C.	Gammage	Nowak
Andrews, N. Dak.	Giaimo	O'Brien
	Ginn	Oakar
Annunzio	Glickman	Obey
Applegate	Goodling	Panetta
Archer	Gradison	Pattison
Armstrong	Grassley	Pettis
Aspin	Gudger	Pike
AuCoin	Guyer	Poage
Badham	Hagedorn	Price
Bafalis	Hall	Pritchard
Baldus	Hanley	Railsback
Barnard	Hannaford	Regula
Baucus	Hansen	Reuss
Bauman	Harkin	Rhodes
Bedell	Harrington	Roberts
Beilenson	Harris	Robinson
Benjamin	Heckler	Rooney
Bennett	Holland	Rudd
Blouin	Holt	Runnels
Boland	Horton	Ruppe
Brademas	Hyde	Russo
Breckinridge	Ichord	Santini
Brinkley	Ireland	Sarasin
Broomfield	Jeffords	Satterfield
Broyhill	Jenrette	Sawyer
Burgener	Johnson, Calif.	Schroeder
Burke, Fla.	Johnson, Colo.	Schulze
Burleson, Tex.	Kelly	Sebelius
Burlison, Mo.	Kemp	Seiberling
Butler	Kindness	Shuster
Byron	Kostmayer	Sikes
Carney	Krebs	Simon
Cavanaugh	LaFalce	Skelton
Cederberg	Lagomarsino	Slack
Chappell	Latta	Smith, Nebr.
Cochran	Leach	Spellman
Cohen	Lehman	St Germain
Coleman	Lent	Stangeland
Conable	Levitas	Stanton
Conte	Lloyd, Calif.	Steed
Conyers	Long, La.	Stratton
Corcoran	Long, Md.	Stump
Cornell	Lujan	Symms
Cotter	McClory	Taylor
Coughlin	McDonald	Thompson
Crane	McEwen	Thone
Cunningham	McFall	Traxler
Daniel, Dan	McKay	Treen
Daniel, R. W.	Madigan	Trible
Danielson	Mahon	Udall
Delaney	Marriott	Ullman
Derwinski	Martin	Vander Jagt
Devine	Mathis	Vanik
Dickinson	Meeds	Volkmer
Dodd	Metcalfe	Waggonner
Dornan	Michel	Walker
Drinan	Mikulski	Weaver
Duncan, Oreg.	Mikva	White
Early	Milford	Whitehurst
Edgar	Miller, Ohio	Whitten
Edwards, Ala.	Mineta	Wiggins
Emery	Moakley	Wilson, Bob
Erlenborn	Moffett	Wilson, C. H.
Evans, Colo.	Mollohan	Winn
Evans, Del.	Montgomery	Wirth
Evans, Ga.	Moore	Wydler
Fary	Moorhead, Calif.	Wylie
Fascell		Yates
Fenwick	Moorhead, Pa.	Yatron
Findley	Moss	Young, Mo.
Fish	Mottl	Zablocki
Fisher	Murphy, Ill.	
Flood	Murtha	

NOT VOTING—33

Ashbrook	Hillis	Rodino
Bolling	Jenkins	Roncalio
Clawson, Del	Kasten	Rostenkowski
Collins, Tex.	Krueger	Rousselot
Dent	Le Fante	Roybal
Derrick	Luken	Shipley
Dingell	Mann	Teague
Flowers	Nichols	Tsongas
Flynt	Pressler	Waxman
Frey	Pursell	Wilson, Tex.
Gibbons	Quie	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Le Fante for, with Mr. Nichols against.
Mr. Dingell for, with Mr. Shipley against.
Mr. Roncalio for, with Mr. Dent against.
Mr. Waxman for, with Mr. Teague against.

Messrs. KOSTMAYER, GLICKMAN, and McKAY changed their vote from "aye" to "no."

Messrs. SHARP, JONES of Oklahoma, and BUCHANAN changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. M'HUGH

Mr. McHUGH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McHUGH: On page 15, line 1, strike lines 1–5 and insert the following new paragraph:

"OFFICE OF EDUCATION

"SCHOOL ASSISTANCE IN FEDERALLY AFFECTED AREAS

"For an additional amount for 'School assistance in federally affected areas', $14,925,000: *Provided*, That none of the funds appropriated by this paragraph shall be available to fund pinpoint disaster applications approved by the Office of Education in an amount less than $200,000."

POINT OF ORDER

Mr. MICHEL. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. MICHEL. Mr. Chairman, I make a point of order against the amendment on the ground that it is legislation on an appropriation bill in violation of rule XXI, clause 2.

The effect of the amendment, as I understand it, would be to set a minimum amount on claims, which is not provided for in the authorizing legislation.

The CHAIRMAN. Does the gentleman from New York (Mr. McHUGH) wish to be heard on the point of order?

Mr. McHUGH. Mr. Chairman, I will concede the point of order. I have another amendment at the desk.

The CHAIRMAN. The gentleman from New York (Mr. McHUGH) concedes the point of order.

Therefore, the Chair sustains the point of order.

AMENDMENT OFFERED BY MR. M'HUGH

Mr. McHUGH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McHUGH: On page 15, line 5, strike "$5,000,000" and insert "$14,925,000".

Mr. McHUGH. Mr. Chairman, this amendment goes to the very same section which the Gore amendment, previously rejected by the committee, dealt with. The Gore amendment, however, was for an appropriation of $31 million. I supported that amendment because I think its basic purpose was sound. However, a number of objections were raised to the Gore amendment both by Mr. FLOOD and by Mr. MICHEL, relating to what they referred to as small claims which could be met by the local school districts.

I think to some extent their concerns were legitimate and, therefore, the amendment which I am now proposing would first of all reduce the appropriation from $31 million, as proposed by Mr. GORE, to $14,925,000. My intent in offering this amendment—and I think the legislative history here will be important for the agency—is that the agency use this reduced appropriation to aid those school districts which have sustained damages in excess of $200,000 as the result of a disaster. Under the Gore amendment, all of the applications which have been submitted could be funded if they meet the eligibility criteria. However, as Mr. FLOOD pointed out, some of those applications were for damage considerably less than $200,000.

I believe that this amendment recognizes a very serious problem, which is that a school district can sustain a major disaster without it occurring in the context of a general disaster. The committee has appropriated in this bill $5 million for major disasters, but the appropriation can be applied only where the President has declared a major disaster. The President does that only when a region, a city, a neighborhood, or some general area has been impacted by a disaster.

The problem is that there are many schools which have been victims of a hurricane, a flood, or a fire, and they have sustained substantial damage, but that damage has been pinpointed—and that is where the name of the program comes from—pinpointed on the school only. Therefore, there has been no major declaration by the President of a major disaster.

For example, I have a school in my own district which sustained $500,000 in damage from a very serious flood, but that flood was limited to the area of the school and did not cause substantial money damages to the area around the school. Clearly, that school sustained a major disaster without any hope of relief under this bill in its present form, and there is no other Federal program which can provide the relief which that local school district, and apparently the State, are unable to provide. Accordingly, this amendment is offered with the intent that the agency limit the expenditure of the appropriation of $14,925,000 to those school districts which have sustained damages in excess of $200,000.

Mr. COLEMAN. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from Missouri.

Mr. COLEMAN. Mr. Chairman, I would like to ask the gentleman, how many applications does he know of that are pending now which would qualify under this $200,000 limitation, and can he tell me the total dollar figure?

Mr. McHUGH. Yes; there are 750 pending applications in total. Of those, 42 applications have damages in excess of $200,000. I arrived at the $14,925,000 by adding up those 42 applications and taking 75 percent of that total figure. I took 75 percent because the experience of the Agency in estimating damage is that on the average 75 percent of the damage reported is valid.

Mr. COLEMAN. The gentleman's amendment makes a lot more sense than the previous one did, and I would like to see it pass.

Mr. McHUGH. I appreciate the gentleman's comment.

Mr. LEDERER. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from Pennsylvania.

Mr. LEDERER. Mr. Chairman, today I cast my vote in favor of the supplemental appropriation which includes funds for programs in the Economic Development Administration.

As my colleagues know, eastern Pennsylvania has been hard hit in recent years by economic recession. Military base closings and transfers of thousands of Federal Government jobs has made the situation worse. As a major east coast port, Philadelphia has suffered severely from the Nation's poor trade position in recent years.

I understand that these are the economic circumstances the EDA programs were enacted to treat. The EDA has channeled some funds into eastern Pennsylvania in recent months in loans and grants. However, this has not been enough to significantly help our economy nor anywhere near the commitment which should be made to one of the most populated States with the fourth largest city, Philadelphia.

I vote for this appropriation to fund needed programs. However, I urge the Economic Development Administration to review the situation in eastern Pennsylvania and program applications already submitted. With all of us working together we will be able to get back on our feet.

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from Kentucky.

Mr. PERKINS. Mr. Chairman, I wish to compliment the gentleman from New York for offering this amendment. As I understand it, it is your intent that the Office of Education only consider the disasters where the damage to the school buildings is in excess of $200,000.

Mr. McHUGH. That is right.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. McHUGH was allowed to proceed for 2 additional minutes.)

Mr. PERKINS. Mr. Chairman, will the gentleman yield?

Mr. McHUGH. I yield to the gentleman from Kentucky.

Mr. PERKINS. There are many disasters in this country where there has not been a Presidential declaration and many where there have been Presidential declarations. In those instances will this amendment cover the Presidential declaration and the non-Presidential declaration?

Mr. McHUGH. Yes, it would. It will cover those situations where the President has declared a major disaster and those situations where the Office of Education determines and approves reimbursement for damage of $200,000 or more even though there has been no general declaration of disaster.

Mr. PERKINS. Mr. Chairman, if the gentleman will further yield, I think the chairman of the Subcommittee on Appropriations (Mr. FLOOD) indicated a few moments ago that in major disasters declared by the President of the United States, all of those disasters were taken care of, all the damage, if the school qualified by the criteria that are set forth, would be taken care of.

I want to assure the gentleman from Pennsylvania that is not the case. In my own congressional district under the disaster damage, there were many schools as a result of a major flood where there was a Presidential declaration but we were able to get only about $360,000 for six or eight schools, and that was because that was all the money available under the impact program at that time. The money was later replaced, but no further money was appropriated for those disasters.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(On request of Mr. PERKINS, and by unanimous consent, Mr. McHUGH was allowed to proceed for 2 additional minutes.)

Mr. PERKINS. Mr. Chairman, if the gentleman will yield further, I do not think the Members in this Chamber want to be more confused by a statement that in the case of major disaster declarations by the President, all that money comes through the appropriations at that time. It does not.

Mr. McHUGH. I thank the gentleman from Kentucky.

In conclusion, Mr. Chairman, let me simply reiterate that this amendment is designed to meet substantial damage situations, disasters certainly from the standpoint of the local school district, but not covered by any other Federal program and beyond the reach of the local system. I, therefore, believe that it is a fair and appropriate amendment and hope that it will receive your support.

Mr. MITCHELL of New York. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, although I supported the last amendment, the Gore amendment, I can understand how people could vote against that and for the amendment that the gentleman from New York (Mr. McHUGH) has offered. I can understand how with the Gore amendment some people felt the amount was excessive, $31 million, and others felt there would be too many applicants, almost 800, and many were for very small amounts of money, responsibility for which the communities should assume.

But the present amendment overcomes these objections. The $200,000 minimum eliminates the nondeserving, and the appropriation, as the gentleman from New York (Mr. McHUGH) has pointed out, is cut in half.

In the last debate I gave an example of a community in my congressional district, an economically depressed community of 8,000 people which had a $3 million fire loss, and they were reimbursed only $2 million through their insurance.

It created a great economic burden and of course a curtailment in the curriculum.

I would like to make one additional observation, Mr. Chairman, and that is that I believe most of us would agree that one of our most critical problems is the increasing lack of credibility with Government. The average citizen in our country does not understand the differencce between authorization and appropriation. The average citizen in our country finds it difficult to understand how our Government holds out hope with one hand, creates a beautiful program to help with disasters in this Nation, and then denies that hope totally by never funding the program, never providing one dollar to put that program in motion.

I think it is one more example of overpromising and underdelivery by the Government. It is one more example we do not need.

I urge my colleagues to support the amendment.

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of New York. I yield to the gentelman from New Hampshire (Mr. CLEVELAND).

Mr. CLEVELAND. Mr. Chairman, I rise in support of the amendment and I want to particularly associate myself with the remarks made by the gentleman from New York (Mr. MITCHELL).

No matter what is said about either one of these amendments—and I was in favor of the previous amendment—it is still a fact that we have a program that was put in place in 1968. This program was authorized. It was put into place. The regulations were drawn and hope was held out to the school districts. It is incredible to me that we leave that program on the books and do not fund it. Either we should repeal the program, or if that program stays on the books then it should be funded.

The proposed funding level in the present amendment is perhaps more reasonable than that of the previous amendment, although I supported that, as I do this amendment.

But, Mr. Chairman, the point the gentleman from New York (Mr. MITCHELL) has made is that basically we are holding out hope in one hand and destroying it with the other. That is the type of thing that leads to lack of credibility in our Government.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of New York. I yield to the gentleman from Missouri.

Mr. VOLKMER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, what bothers me a little bit is in hearing these remarks from that side of the aisle by people who voted yesterday against the debt limit and now we have a program that according to them we just have to have and we have to fund money for it. But here I am hearing it from some of the same people who said yesterday, no, we have got to hold down on spending. I wonder how many of them are doing that today? I would like an answer if the gentleman can yield for that purpose.

Mr. MITCHELL of New York. Mr. Chairman, in response to the inquiry of the gentleman from Missouri, let me say that I think we have to take a look at each program and evaluate it. I have voted against spending on occasion and for other programs that I thought were worthy programs and I believe that this $14 million is for a worthy program.

Mr. VOLKMER. Mr. Chairman, if the gentlemen will yield still further, perhaps the gentleman can offer an amendment cutting the same percentage out or cutting the same amount of money out of a different program that the gentleman does not think is a worthy one.

I will wait to hear of that amendment.

Mr. MITCHELL of New York. Hold your breath. I will be voting to cut far more than that.

Mr. MICHEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, a few moments ago the House rejected a similar amendment and in so doing we rejected the pinpoint principle, and here we are in this amendment saying well, maybe we can be just a little bit pregnant and not have the consequences.

If the principle is bad, and the majority of our Members felt likewise in rejecting it, then I think we must do the same on this amendment.

The language of the amendment makes no reference whatsoever to specific figures or qualifications. Perhaps the initial amendment was intended to do that but it was subject to a point of order, because we all know that it was legislation on an appropriation bill.

I think it is interesting that the chairman of the Committee on Education, the gentleman from Kentucky (Mr. PERKINS) would attempt to establish a little legislative history, but I doubt very much if in the deliberations of his authorizing committee they were talking about a limitation of that kind. This is not to say they ought not to have thought of it and possibly moved in that direction. The point is they did not do it in the authorizing committee and we cannot do it now by simply saying so among ourselves, without it being written into the law. If we want to change the law to make some of these pinpoint disasters qualify as major disasters then let us rewrite the law. We ought not attempt to do it through this flim-flam method in an appropriation bill. It is not the proper route.

I urge rejection of the amendment.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from New York.

Mr. McHUGH. I appreciate the gentleman's yielding.

Of course, as the gentleman pointed out, I did intend to make clear in my initial amendment what the purpose of this money was for, but the gentleman raised a point of order, and he was technically able to do that. I do think the legislative history is relevant, and I am sure the Office of Education will take it into account simply because there are many more applications pending than they can fund. They are going to have to make some judgments on priorities on how to spend the money if this amendment passes, and the legislative history we are establishing here is a clear guidance. So as a practical matter I think it is clear the money will be spent in the way we have been discussing.

Mr. MICHEL. I do not want to give any messages to any more school districts that all they have to do is send in an application and we will automatically honor their request.

It is my understanding that our counterpart in the other body did not include this item in their bill, and we ought to reject it now to give a clear message that we do not regard this as an acceptable program in these times when the Federal Government is running such a gigantic deficit and most of our States have surpluses and are much better fixed to take care of these kinds of emergency situations.

Mr. FLOOD. Mr. Chairman, I move to strike the requisite number of words.

I do not want to take much time now because it is pretty hard to improve on the eloquence of my friend, the gentleman from Illinois (Mr. MICHEL). I will say to my friend, the gentleman from Kentucky, in this bill there is $5 million for major disasters, in the very bill we are talking about. So do not say this whole thing is being ignored.

What is the difference between this amendment and the previous one? This is a numbers game we are playing now. The important thing, Mr. Chairman, is for the House to do exactly on this amendment what it did on the last one that was defeated 233 to 166. If you have a project of $199,000, you are no good; if you are $201.000, you are wide open, even though you are not a major disaster.

Again we have the question, what about private insurance? There is no thought about that at all, about what the extent or coverage of insurance on the damaged property might be. Incidentally, the uncertainty about the total cost of the program is exactly the same as we debated in the previous amendment which the House defeated. The school districts have been able to deal with the local disasters for many years, without this Federal aid. Between the States and the localities, the committee feels they can take care of their disasters on their own. The Federal Government simply cannot be responsible for all the problems facing every local school district.

The amendment offered by the gentleman from New York (Mr. McHUGH) might be an improvement, but it is an improvement in dollars only.

Mr. PICKLE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not take the full time, but I do think certain points ought to be made in summation here. No. 1, this amendment cuts in half at least the amount of money that was involved in the previous amendment. It also sets out intentionally, the level of the maximum of $200,000, and this would eliminate at least 75 percent of the objections that the committee members had indicated in the previous discussion. It would seem to me, then, that this is a good-faith amendment that the committee ought to accept it, but they probably will not because they say we ought to leave this up to the school districts.

Mr. Chairman, I want to remind the House that the Congress put this law on the books, and for the gentleman from Illinois to say that we are trying to legislate by appropriation is really an indirect effort to keep us from doing what we are trying to accomplish in good faith.

The gentleman from New York (Mr. McHUGH) offered an amendment with a minimum of $200,000 loss, but that was knocked out by the gentleman from Illinois himself. That is understood. But the minimum was implied. I think everybody in this House knows it. Second, it has been indicated that we ought not to let every school district in the United States come in and make small claims. That is a good point, and it is a viewpoint we ought to take into consideration when this bill may be reviewed next year. I have no objection to that. The fact is that the law is on the books, and we ought not to be cutting it out of the appropriation and not fund it.

Now, I am a bit surprised at the gentleman from Pennsylvania. We are asking for $14 million or $15 million in this measure, in this bill, and the gentleman says, "Well, you have $5 million in the bill now."

I was in Wilkes-Barre, Pa. a few years ago after that great flood devastation hit that city. I saw that the gentleman from Pennsylvania (Mr. FLOOD) got there before the crest of the flood even hit. The gentleman got, not $5 million for that city, the gentleman got $5 million for almost every square inch of that city. The gentleman got so much money that even us Texans were envious of the gentleman.

Mr. FLOOD. Mr. Chairman, if the gentleman will yield, since the gentleman mentioned my name, that was a declared major disaster by the President of the United States.

Mr. PICKLE. And this program is a pinpoint disaster program, and that is, in effect, the same thing.

The gentleman from Pennsylvania is normally a very kind, compassionate man. All we are asking for is $15 million and to keep the good faith of the United States.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I do not understand the attitude of the gentleman from Texas. Apparently Texas does not want Federal regulation but it does want Federal handouts.

Mr. PICKLE. I did not make that point at all for this bill. The Office of Education has issued rules and regulations. My schools have complied.

I will say to the Members of the House, if you think the responsibility should be left solely up to the local school districts, and it is a good point, fine; but when you consider impact aid, all you people who are voting no on this amendment should also be pure and holy when that measure comes up and vote against impact aid. I do not think that is going to happen.

I think this is a very reasonable, minimum amendment, and we ought to approve this McHugh amendment.

Mr. McHUGH. Mr. Chairman, will the gentleman yield?

Mr. PICKLE. I yield to the gentleman from New York.

Mr. McHUGH. Mr. Chairman, I think the basic point here is that you can have in a particular school district a major disaster, similar to what happened to a school in Wilkes-Barre some years ago, without having the President declare it a major disaster because the damage only occurred to the school; but I cannot tell my constituents in Ithaca, N.Y., that they cannot have a disaster in their school when there is $5,000 worth of damage.

It is important to recognize that the committee took care of those schools only where there has been a declaration of a major disaster, which means an area-wide declaration of a major disaster.

Mr. PICKLE. Mr. Chairman, I do not think we want to just help Wikes-Barre, although that aid was appropriate, but we also want to help these areas which are pinpoint areas.

● Mr. BAUCUS. Mr. Chairman, on June 24, the Lincoln Elementary School in Lincoln, Mont., burned to the ground.

The school served over 100 students. The nearest elementary school is nearly 30 miles away over roads that most often provide poor driving conditions. To make matters even worse, $4,000 worth of new textbooks just purchased by the Lincoln School District were delivered to the school just before it burned.

The loss of this school is certainly a disaster to the community of Lincoln, and at present the prospects of having even temporary, adequate facilities ready for the beginning of the school year this fall seem bleak.

As the two outstanding Senators from the State of Montana, Lee Metcalf and Mike Mansfield wrote when they authored the legislation creating the Office of Education's pinpoint disaster relief program: "With the great mobility of population in the United States, we can no longer refer to problems of this sort as being a local problem. Apart from the humanitarian reasons that we simply must do all possible to educate all our children, it must be noted that the youngster who is deprived of education because of disaster, will undoubtedly become a worker and citizen of another locale. In short, it is the mutual interest of the entire Nation to support this type of assistance."

Mr. Chairman, in closing I would like to include in the RECORD the statement by the late Senator Lee Metcalf, a great friend and champion of public education, when he introduced the pinpoint disaster relief program which serves as the authorizing legislation for the extra spending proposed by the amendment before us today.

The 10 years since those words were spoken have not lessened the need for this kind of assistance. I urge my colleagues to support the amendment offered by Mr. McHUGH.

The statement of late Senator Lee Metcalf follows:

Mr. METCALF. Mr. President, H.R. 7819 includes the proposals of the distinguished senior Senator from Montana (Mr. Mansfield) and me to help local school districts rebuild, repair, and operate schools destroyed by fire, flood, or other disaster not sufficiently large to qualify for the aid which would come with the presidential disaster area proclamation under present law.

Our proposals took the form of two bills. They are S. 1253, introduced on March 13, 1967, and the subject of discussion beginning in volume 113, part 1, page 6384 of the Congressional Record of that date, and S. 1374, introduced on March 23, 1967, when the senior Senator from Montana spoke, beginning in volume 113, part 1, page 7882 of the Record.

S. 1253 would amend Public Law 815, under which taxes collected at the Federal level go directly to local districts to help build schools in areas affected by Federal activities. Public Law 815 now includes a section under which schools can be replaced in major disaster areas. We propose to extend that provision to authorize loans to help replace or repair individual schools, damaged or destroyed by natural disaster or malicious action.

S. 1374 would amend Public Law 874, under which Federal aid goes directly to local districts for the operation of schools in the so-called Federal impact areas. We would amend it to provide Federal grants to districts operating individual schools destroyed or badly damaged.

The construction loans would be repaid. The grants, diminishing over a period of 5 years following the "pinpoint disaster," would not.

At all levels of government—local, State and Federal—we share a responsibility for the education upon which democracy rests. We meet that responsibility in many ways. We have State equalization programs, which spread the costs of education among local school districts, some of which have larger tax bases than others. And we have Federal programs aimed at guaranteeing to all American youngsters an equal opportunity for educational excellence.

One of these programs—Public Law 815, 81st Congress—helps local school districts replace and rebuild schools in areas proclaimed by the President to be disaster areas at the request of the Governor of the State. Another—Public Law 874, 81st Congress—helps operate schools in presidentially proclaimed disaster areas. In this way, we meet our responsibility for education in broad areas hit by a flood, a tornado, a hurricane or other major disaster.

But there is no comparable program available for the loss of or damage to an individual school, "pinpoint disaster" to the students and the school district. That is the purpose of this section.

To a student, the loss of his school is a disaster—whether or not that loss can be so classified under existing legislation. He must go to class in makeshift classrooms, with little or no equipment, sometimes without even textbooks. This situation may go on for months, even years, while insurance is collected, plans and specifications are prepared, bids called for, contracts let, and a new school is built or the old one is repaired. During this period, students at that school are being educationally shortchanged.

With the great mobility of population in the United States, we can no longer refer to this as a local problem. Completely apart from the humanitarian reasons that we simply must do everything we can to educate our children, it must be noted that the youngster, educationally shortchanged in one area, will become a worker and citizen of another area.

The effect on the youngster is one problem. Another is that facing the district which operates the school. The insurance carried on most of the schools with which I am familiar is a percentage of the average valuation of the plant. Seldom, if ever, is it enough to replace the structure. And frequently the district is at or near statutory or constitutional bonded debt ceilings which prevent residents of the local district from bonding themselves for enough money to replace their school.

The problem was pinpointed early this spring in Wolf Point, Mont. There fire completely destroyed the high school operated by School District 45 of Roosevelt County. Some 470 youngsters were going to the school, built in 1952 at a cost of $1 million.

The most recent estimate is that it will cost $2 million to replace the structure. Bids have been called for and will be opened next month. The district collected $890,000 on its insurance. Not long before the fire, the residents of the district had voted a $530,000 bond issue to add 10 classrooms to the existing school. That money also is available for rebuilding. In addition, residents of the district recently voted to bond themselves an additional $320,000, which would bring them up to their constitutional debt ceiling. So the district has $1,740,000, or an estimated $260,000 less than it would need to replace the structure which burned—with no provision for the needed enlargement.

This is neither an isolated nor an unusual case. When my office called the Office of Education early in March to discuss the situation, we were told that this was the third such case in a week. Fire, tornadoes, and other storms, and malicious actions regularly damage or destroy school buildings across the Nation.●

Mr. MAHON. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I urge the Members of the House to do again what they did a few minutes ago, that is, vote down this amendment and forbid starting a program which could mushroom into hundreds of millions of dollars.

Someone has talked about the lack of credibility in our Government. There is a growing discouragement among the people with the Federal Government and Federal Government programs, which are growing and growing. They just keep expanding and expanding. This program has not got off the ground. Until we get nearer to stabilizing our national debt, until we come nearer to balancing the budget, this is not the time to start such programs.

There is a matter of principle involved here. I honestly hope that the words of the gentleman from Illinois (Mr. MICHEL) and the words of the chairman of the subcommittee will be heeded and we do what we did a short time ago and vote down this amendment.

Mr. MICHEL. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Chairman, I am troubled when a Member makes a charge, for example, that the credibility of the House is at stake because, on the one hand, we authorize, and then we do not follow up with an appropriation.

When we have a bill like this, as big as it is, a multibillion-dollar bill, it is important that we highlight it for Members to see this is open and above board. It is easier to give in than to debate and discuss.

We had an education bill a week or two ago. I do not remember exactly, but it was either 276 or 376 pages, and only the committee members take time to read

it; perhaps even those members cannot read the bill in its entirety. It is just too much to digest at one time and at one sitting. It is no wonder these items get through the committees in the authorizing legislation.

It is only with the oversight we are able to give these matters on the Committee on Appropriations that we can look at these things and see how they are going to work and then see whether they are worthy of our support.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from New York.

Mr. MITCHELL of New York. Mr. Chairman, I did not mean to impugn just the credibility of the House. Others have preceded me. I think we are down to 18 percent in credibility, the pollsters have beaten me to it.

What I am talking about is the credibility of government generally. I think that is a far more serious problem than inflation or unemployment or anything else. If we do not soon restore some credibility to government, nobody is going to believe anyone anymore.

Mr. Chairman, I thank the gentleman for yielding.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. McHUGH).

The question was taken; and on a division (demanded by Mr. McHUGH) there were—ayes 31, noes 52.

RECORDED VOTE

Mr. McHUGH. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 156, noes 237, not voting 39, as follows:

[Roll No. 577]

AYES—156

Addabbo	Edwards, Calif.	LaFalce
Akaka	Eilberg	Lederer
Ambro	English	Leggett
Anderson, Calif.	Ertel	Livingston
	Evans, Ind.	Lloyd, Tenn.
Ashley	Fithian	Lott
Baucus	Florio	Lundine
Beard, Tenn.	Ford, Tenn.	McCloskey
Biaggi	Fraser	McCormack
Bingham	Fuqua	McDade
Blanchard	Garcia	McHugh
Bowen	Gaydos	McKinney
Breaux	Gephardt	Madigan
Brodhead	Gilman	Maguire
Brooks	Goldwater	Markey
Brown, Calif.	Gonzalez	Marks
Brown, Mich.	Gore	Marlenee
Brown, Ohio	Green	Mattox
Buchanan	Hamilton	Metcalfe
Burke, Calif.	Hammer-schmidt	Meyner
Burke, Fla.		Miller, Calif.
Burke, Mass.	Hanley	Minish
Burton, John	Harrington	Mitchell, Md.
Burton, Phillip	Harsha	Mitchell, N.Y.
Caputo	Hawkins	Moffett
Carr	Heftel	Murphy, N.Y.
Carter	Hightower	Murphy, Pa.
Chisholm	Holland	Myers, Michael
Clausen, Don H.	Hollenbeck	Nolan
	Holtzman	Oberstar
Clay	Howard	Ottinger
Cleveland	Hubbard	Patten
Coleman	Huckaby	Patterson
Corman	Hughes	Pepper
Cornwell	Jacobs	Perkins
D'Amours	Jenrette	Pickle
Davis	Jones, Okla.	Quillen
de la Garza	Jordan	Rahall
Diggs	Kastenmeier	Rangel
Downey	Kazen	Richmond
Duncan, Tenn.	Keys	Rinaldo
Eckhardt	Kildee	Risenhoover
Roe	Steers	Wampler
Rogers	Steiger	Watkins
Roncalio	Stockman	Waxman
Rose	Stokes	Weiss
Rosenthal	Studds	Whalen
Scheuer	Thornton	Whitten
Sharp	Tucker	Wolff
Skubitz	Van Deerlin	Wright
Solarz	Vento	Young, Fla.
Spence	Walgren	Young, Mo.
Stark	Walsh	Zeferetti

NOES—237

Abdnor	Flood	Nowak
Alexander	Foley	O'Brien
Ammerman	Ford, Mich.	Oakar
Anderson, Ill.	Forsythe	Obey
Andrews, N.C.	Fountain	Panetta
Andrews, N. Dak.	Fowler	Pattison
	Frenzel	Pease
Annunzio	Gammage	Pettis
Applegate	Ginn	Pike
Archer	Glickman	Poage
Armstrong	Goodling	Preyer
Aspin	Gradison	Price
AuCoin	Grassley	Pritchard
Badham	Gudger	Quayle
Bafalis	Guyer	Railsback
Baldus	Hagedorn	Regula
Bauman	Hannaford	Reuss
Beard, R.I.	Hansen	Rhodes
Bedell	Harkin	Roberts
Beilenson	Harris	Robinson
Benjamin	Heckler	Rooney
Bennett	Hefner	Rudd
Bevill	Holt	Runnels
Blouin	Horton	Ruppe
Boggs	Hyde	Russo
Boland	Ichord	Ryan
Bonker	Ireland	Santini
Brademas	Jeffords	Sarasin
Breckinridge	Johnson, Calif.	Satterfield
Brinkley	Jones, N.C.	Sawyer
Broomfield	Jones, Tenn.	Schroeder
Broyhill	Kelly	Schulze
Burgener	Kemp	Sebelius
Burleson, Tex.	Kindness	Seiberling
Burlison, Mo.	Kostmayer	Shuster
Butler	Krebs	Sikes
Byron	Lagomarsino	Simon
Carney	Latta	Sisk
Cavanaugh	Leach	Skelton
Cederberg	Lehman	Slack
Chappell	Lent	Smith, Nebr.
Cohen	Levitas	Snyder
Collins, Ill.	Lloyd, Calif.	Spellman
Conable	Long, La.	St Germain
Conte	Long, Md.	Staggers
Corcoran	Lujan	Stangeland
Cornell	McClory	Stanton
Cotter	McDonald	Steed
Coughlin	McEwen	Stratton
Crane	McFall	Stump
Cunningham	McKay	Symms
Daniel, Dan	Mahon	Taylor
Daniel, R. W.	Marriott	Thompson
Danielson	Martin	Thone
Delaney	Mathis	Traxler
Derwinski	Mazzoli	Treen
Devine	Meeds	Trible
Dickinson	Michel	Udall
Dicks	Mikulski	Ullman
Dingell	Mikva	Vander Jagt
Dodd	Milford	Vanik
Dornan	Miller, Ohio	Volkmer
Drinan	Mineta	Waggonner
Duncan, Oreg.	Moakley	Walker
Early	Mollohan	Weaver
Edgar	Montgomery	White
Edwards, Ala.	Moore	Whitehurst
Edwards, Okla.	Moorhead, Calif.	Whitley
Emery		Wiggins
Erlenborn	Moorhead, Pa.	Wilson, Bob
Evans, Colo.	Moss	Wilson, C. H.
Evans, Del.	Mottl	Winn
Evans, Ga.	Murphy, Ill.	Wirth
Fary	Murtha	Wydler
Fascell	Myers, Gary	Wylie
Fenwick	Myers, John	Yates
Findley	Natcher	Yatron
Fish	Neal	Young, Alaska
Fisher	Nedzi	Zablocki
Flippo	Nix	

NOT VOTING—39

Ashbrook	Cochran	Derrick
Barnard	Collins, Tex.	Flowers
Bolling	Conyers	Flynt
Bonior	Dellums	Frey
Clawson, Del	Dent	Giaimo
Gibbons	Luken	Rousselot
Hall	Mann	Roybal
Hillis	Nichols	Shipley
Jenkins	Pressler	Smith, Iowa
Johnson, Colo.	Pursell	Teague
Kasten	Quie	Tsongas
Krueger	Rodino	Wilson, Tex.
Le Fante	Rostenkowski	Young, Tex.

The Clerk announced the following pairs:

On this vote:

Mr. Le Fante for, with Mr. Nichols against.
Mr. Dellums for, with Mr. Shipley against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. DON H. CLAUSEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the supplemental appropriations bill now being considered contains two very important provisions for the residents of the north coast of California who were adversely affected by the expansion of the Redwood National Park. These provisions are among a series of steps we will be taking to ease the economic damage done to the area due to the expansion.

First, the bill appropriates $205 million for partial payment for land acquisition as a result of the expansion. As my colleagues will remember, when we passed the Redwood National Park expansion legislation we provided for the legislative taking of the additional lands similar to the procedure followed in 1968 when the park was originally established. This type of immediate transfer of title to the Federal Government requires that interest starts running on the money owed to the companies on payment for the lands acquired from them. The appropriation will permit the Federal Government to deposit funds with the district court to stop the interest from running and could save the Government a substantial amount of unnecessary costs. As you will recall, interest payments added greatly to the final cost of the lands acquired in 1968.

Deposit of the funds will also permit the companies to withdraw the money and reinvest it in our north coast area. This reinvestment is a key element in our efforts to maintain private sector employment and to strengthen the economies of Humboldt and Del Norte Counties. While there are many factors which will determine whether or not the overall climate of our area is conducive to this type of reinvestment, I genuinely believe that the people in the area will be working with their local elected officials to accommodate the development of new job opportunities.

The second provision which I want to draw the Members' attention to and urge their support for is the $1.9 million which will be used to implement the "jobs package" which was also a part of the Redwood National Park expansion bill. Nearly 1,000 employees working in the mills and in timber related jobs have been laid off since enactment of the legislation.

Under the act these employees, when they have been determined to be eligible for benefits, will receive compensation to cover their lost wages, health and welfare benefits as well as their pension pro-

grams. The U.S. Department of Labor, or more specifically, the Employees Protection Division of the Labor Management Service Agency is charged with the responsibility of making payments to workers eligible for the program. However, none of these checks can begin to go out without the appropriation of the necessary funds. This bill provides us with the necessary dollars to finally fulfill a promise made when the park was expanded.

The residents of the "Redwood Empire" have waited long enough for the wheels of Government to finally grind out some of the funds promised to help mitigate the economic damage done by a specific act of that same Government.

I urge my colleagues to support these provisions and to move this legislation through the House as quickly as possible.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

MISSIONS TO INTERNATIONAL ORGANIZATIONS

For an additional amount for "Missions to international organizations", $900,000.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 22, line 7, strike out the period and insert a comma and add the following: ", provided that none of the funds appropriated in this paragraph shall be used to promote, express or disseminate the personal views of any official, member or employee of the United States mission to the United Nations."

Mr. BAUMAN. Mr. Chairman, this amendment simply is a limitation on the funding for the U.S. mission to the United Nations, which would express the view on the part of the Congress of the United States that all activities and the expression of views of any official or member or employee of that mission are to reflect the official policies of the United States. I certainly do not wish in any way to limit the right of any individual to express his own personal views as our Constitution permits, but I do not think it is incumbent upon the taxpayers of the United States to, in any way, finance the expression of views which are contrary to our foreign policy interests and best interests generally of our country.

It is for these reasons that I offer this amendment.

Mr. SLACK. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from West Virginia (Mr. SLACK).

Mr. SLACK. Mr. Chairman, as the chairman of the subcommittee on the Department of State, I have looked the amendment over and I am willing to accept the amendment.

Mr. BAUMAN. I thank the gentleman.

Mr. CEDERBERG. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Michigan (Mr. CEDERBERG).

Mr. CEDERBERG. Mr. Chairman, we have no problem with the amendment.

Mr. BAUMAN. I thank the gentleman.

Mr. EVANS of Colorado. Mr. Chairman, will the gentleman yield?

Mr. BAUMAN. I yield to the gentleman from Colorado.

Mr. EVANS of Colorado. Mr. Chairman, the thought came to me that it might be an interesting circumstance where our representative was expressing his opinion, and he is saying, "On the one hand, I feel that this is such and such and yet, on the other hand, our national policy is thus and such," under those circumstances would the salary be prorated, or just what would be the result under those circumstances?

Mr. BAUMAN. I would have to leave that up to the accounting officers who serve as the State Department paymasters and the financial officers who handle the accounts of the U.S. Mission to the United Nations. But I would suggest that a proper solution to the problem might be to remove from office anyone, who consistently uses his official position as a forum for his personal views which are at variance with both the facts and the policies of our Government.

Let me add further that I believe that this amendment is even more necessary in view of the attitude displayed by Ambassador Young after his most recent tirade against the United States in which he made the absurd claim that there are thousands of political prisoners in American jails. Even though he was reprimanded by the President of the United States he remains unrepentant. In an interview which was buried on page A22 of the Washington Post, Ambassador Young defiantly refused to withdraw his remarks about his country and promised that he would continue to speak out for the things, as he put it, "that I believe in." He went on to say that if the President felt that "my presence is no longer an asset, it wouldn't bother me in the least." Not satisfied with that statement he added:

Whether I'm a diplomat or not, I am going to continue to fight in any way I know short of violence for the things I believe in. And I really don't care what people think.

Now Mr. Chairman, I believe that the proper remedy for this situation is for the President to dismiss Mr. Young immediately in the best interests of America. But if the President lacks the courage to take that necessary step then we in the Congress should at least attempt to limit the use of taxpayer funds to prevent Mr. Young from using that money to advance his personal views.

I insert in the RECORD at this point an editorial from the Wall Street Journal which summarizes the problem which prompted me to offer this amendment today as well as the Washington Post article to which I referred:

[From the Wall Street Journal, July 14, 1978]

MR. YOUNG AND MR. SOLZHENITSYN

UN Ambassador Andrew Young has finally generated more embarrassment than even the Carter administration can stomach. His remarks equating Anatoly Shcharansky and Alexander Ginzburg to mythical "political prisoners" here in the U.S. forced the White House to issue a statement that only the President and Secretary of State Vance speak for the administration on foreign policy.

Despite this disavowal and Mr. Young's limp and belated explanations, his remarks gutted the administration's latest foreign policy initiative. His interview came just as Secretary Vance was protesting the trials to Soviet Foreign Minister Gromyko. It is impossible to imagine such sabotage being tolerated by any other President from any other ambassador. A President who wants to run his own ship would fire the ambassador; yet we will be astonished if Mr. Carter finds the courage to dismiss Mr. Young.

The whole episode is a telling counterpoint to the indignant chorus that greeted Alexandr Solzhentisyn's Harvard charge that the West has lost its moral courage. No one less than Rosalyn Carter gave the administration's own response in a National Press Club speech: "The people of this country are NOT weak, NOT cowardly and NOT spiritually exhausted." Yet how does one explain the administration's response, let alone to Mr. Young, to the trials themselves?

To anyone with eyes to see, the Soviets have dragged Mr. Shcharansky and Mr. Ginzburg into court now, more than a year after their arrests, precisely to test President Carter's moral resolve. Mr. Ginzburg was sentenced to eight years of hard labor yesterday for "anti-Soviet agitation and propaganda." Because of his bad health, friends think he may not survive. Mr. Shcharansky faces a sentence of up to 15 years today. The Kremlin is saying to the President: "You have involved yourself in the fate of these men, now what are you going to do about it?" As a dare—known as linkage—they time the trials to coincide with the Vance-Gromyko meeting on strategic arms.

The administration does not take the obvious step of canceling the meetings. The President declares the trials are not a personal affront, and says "of course we have no mechanism by which we can interfere in the internal affairs of the Soviet Union, nor determine the outcome of the trial, nor determine the punishment, if any." A National Security Council proposal to cancel some export technology licenses bogs down before the Departments of State, Treasury and Commerce. The strongest administration gesture is to have Mr. Vance meet with Mrs. Shcharansky—after finishing his business with Mr. Gromyko.

Compare what we are seeing now with this passage from Mr. Solzhenitsyn's Harvard speech:

"The Western world has lost its civic courage, both as a whole and separately, in each country, each government, each political party, and of course in the United Nations. . . . Political and intellectual bureaucrats show depression, passivity, and perplexity in their actions, in their statements, and most of all in their theoretical reflections intended to explain how realistic and reasonable as well as intellectually and even morally warranted it is to base state policies on weakness and cowardice.

"The decline in courage is ironically emphasized by occasional explosions of anger and inflexibility on the part of those same bureaucrats when dealing with weak governments and weak countries that are not supported by anyone, or with currents which cannot offer any resistance. But they get tongue-tied and paralyzed when they deal with powerful governments and threatening forces, with aggressors and international terrorists."

The Nobel laureate may exaggerate in applying his indictment to the whole of the Western people; we think there are reservoirs of resolve and courage in this country that he does not recognize. But barring a reversal of direction that would start with Mr. Young's resignation, it seems that Mr. Solzhenitsyn certainly does understand the kind of people that man this administration.

[From the Washington Post, July 19, 1978]

YOUNG DEFENDS HIMSELF, VOWS TO SPEAK OUT IN FUTURE

U.N. Ambassador Andrew Young, rebuked by President Carter last week for saying that there were "hundreds, maybe even thousands" of political prisoners in the United States, has asserted that he intends to con-

tinue to speak out for the things "that I believe in."

Young said in an interview that his remarks were taken out of context by the press. But he said that if the Carter administration felt that "my presence is no longer an asset, it wouldn't bother me in the least."

"I'm certainly not, you know, what people's traditional notion of a diplomat happens to be," Young said.

"But I don't represent a country like that. I became a diplomat and was appointed to this position because I was politically active in a human rights movement, and in an anti-war movement, and because I fought for the things that I believe in, and I did not fight to be a diplomat.

"Whether I'm a diplomat or not, I am going to continue to fight in any way I know short of violence for the things that I believe in. And I really don't care what people think about it. The only thing that's important is that they think.

"And if I am a wrong kind of diplomat, maybe diplomats for the last 50 years should have been making people think a little more and we might not have had some of the trouble that we've had for the last half century."

Young made remarks in an interview with the Canadian Broadcasting Corp. The transcript was made available here yesterday.

Although he acknowledged that he had accepted the President's rebuke over what Young called his overstatement on U.S. political prisoners, he said his basic point has not been challenged:

"One of the interesting things about everything that's happened so far is that I get very little argument, or challenge, on the validity of what I really say. I get questions about whether a diplomat should say it, or I get questions about, you know, other people getting mad and the political impact of my making certain statements, but usually I have taken into consideration most of those things before I say something."

Young blamed reporters for his bad press recently. He said his remark about U.S. political prisoners "came out on the 12th page of a 28-page interview and in the context of that 28-page interview it made sense. Lifted out of context in a wire service story, it was ridiculous."

He said the next day he was asked to comment on it while on his way to an appointment. "I was asked about being impeached, and I said, 'I'm sorry, I'm busy, you know, I just have to go on.'"

The reporter, Young said, asked, "What will I say? I said, 'Well, I don't know, say what you please.' The headline ended up, 'Young dares Congress to impeach him.' Now with the problems of young inexperienced reporters, the problems of language translation back and forth, the problem of publication and selling newspapers, those have to be somebody else's problems."

He said he tried "not to worry the president". Perhaps, he said, "I should talk to him more, but I think there's some advantage in my preserving my freedom. It gives him also the freedom to repudiate me, not to be responsible for what I say, or to agree with me. But it's, well, it's something I talked with him about before I accepted the job, and I hope it works."

He has learned, he said, "to roll with the punches and I know, I think, how our press system works. I remember the first statements that Martin Luther King made about recognition of the People's Republic of China.

"There was a greater storm than anything I've ever experienced. But nobody ever said he was wrong. They just said a civil rights leader shouldn't talk that way. He is a minister, what does he know about foreign policy. But history has proven that he was right."

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The question was taken; and on a division (demanded by Mr. BAUMAN) there were—ayes 42, noes 13.

So the amendment was agreed to.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

UNITED STATES METRIC BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Metric Conversion Act of 1975 (15 U.S.C. 205), $275,000.

AMENDMENT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CRANE: Page 27, strike out lines 15 through 19.

Mr. CRANE. Mr. Chairman, on July 13 I proposed an amendment to the elementary and secondary school authorizations to strike funds for metric education. I emphasized that it was prudent to do so until we all had a chance to evaluate the GAO study which is due for release in the fall.

The committee chairman rose in opposition to my amendment saying that the metric education program "has an appropriation of only $2 million" and "that is all that has ever been appropriated, and this amendment would just delete it altogether."

I checked with the House Appropriations Committee and found the original authorization was in 1974, Public Law 93-380 and since that time $2,090,000 has been or is being spent in fiscal years, 1976, 1977, and 1978. With the new authorization, it will be well over $8 million. We found nothing in any reports as to what the funds are being used for or how it is being used to train our children for the real world.

Mr. Chairman, one of the sad things about this program is that even our key Members do not know what has or is going on with regard to metrication. In the aforementioned debate, a lot was said about the impact on trade, our relationship to NATO, and other claims concerning the value of the metric board. I now address those points.

In 1971, the Congress passed legislation which became Public Law 90-472. This authorized a $1.3 million study by the Secretary of Commerce (National Bureau of Standards) to determine whether the United States should or should not convert to the metric system. The study ignored that basic question and devoted its attention to whether we should have a planned or unplanned conversion. I was appalled to read in the introduction of the study:

It is not the purpose of this Study to recommend whether the United States should or should not convert to the metric system.

And in view of this predisposition, their findings take on greater significance in the debate today. In their report International Trade, NBS SP 345-8, we note the following in the summary of findings:

8. The notion that the U.S. is losing exports to metric countries because its products are not designed and manufactured in metric units and standards appears to be ill-founded. U.S. exports of MSS (measurement-sensitive) products to metric countries are more than double the exports to nonmetric countries. Furthermore, some of the fastest growing markets for U.S. MSS products are the metric countries.

9. U.S. exporters and importers rank the measurement factor very low, indicating it affects US. trade only slightly.

10. Importers of MSS products also consider measurement as having little effect on trade. Price, reputation and reliability, and high quality of foreign product were the most important factors promoting imports.

11. The only instance where the measurement factor was cited as having an important effect on trade was in the importation of wood and lumber products and primary metal products. Importers in these product categories stated that because these products are generally designed and manufactured in U.S. customary units and engineering standards, their sales in the domestic market were greatly enhanced.

Mr. Chairman, I also noted the following in the section, importance of the measurement system:

As part of the BDC survey (nine major market countries), U.S. exporters and importers were asked to rank the five most important factors currently promoting and deterring their trade. Insofar as the measurement factor—whether metric or U.S. customary—is concerned, the survey shows that U.S. exporters and importers consider it to have only slight effects on their trade. Invariably, the measurement system used to design and manufacture products ranked near the bottom of all factors affecting foreign trade.

So, the argument that we need the metric system to promote foreign trade is full of hot air. There is no evidence that conversion will help trade. Moreover, when some exporters talk about conversion, they mean a soft conversion—a change in language to describe the same product.

Therefore, in the future we can expect that some articles to be traded will have metric terms, but will not be made to metric standard or design. So why spend a lot of money to change this? I understand this has been going on since 1880. In some areas, such as the cement block industry, if there was an attempt to change the design, it would result in a significant cost increase in the construction industry and eventually to the consumer.

In England they have had a consumer revolt. For 13 years they have been struggling with metrication and recently orders were issued telling the public what size articles they had to buy. This met with adverse reaction and strong resistance as the program had been promulgated as a voluntary conversion. The orders have been withdrawn.

One of the alarming aspects, as I pointed out earlier, is that one-half of our States have set dates to be predominantly metric in their school curriculums and there is no evidence that the educators are using Federal funds to discuss the pros and cons of this trend. As a Ph. D. and a former college professor, I know that some educators believe it is easier to learn metric—but it is not a better system. If that is true, it would be easier to teach any student whether he is deaf or otherwise. But Mr. Chairman,

we have always had some metric taught in our schools. Why all the extra funding from the Federal Government? What is the plan?

With respect to the bill before us, the Department of Commerce already has a metric committee and I see no need to spend money on a new metric board. In H.R. 13451 I have proposed a constructive alternative. This bill abolishes the metric board. It provides that the Secretary of Commerce will carry out a broad program of coordination and public education with respect to the metric system. This broad plan of the Secretary must be submitted to the Congress and will not become effective unless approved by a joint resolution within 60 legislative days. The General Accounting Office will analyze the cost and benefits of metric usage.

Mr. Chairman, one of the alarming comments during the debate on H.R. 15 (school authorizations) came from one of the key members of the Committee on Science and Technology—the chairman of the Subcommittee on Advanced Energy Technologies and Conservation Research, Development and Demonstration, Mr. McCORMACK. He said:

> We have quite recently implemented a new law creating a metric board to assist this country in conversion to the metric system.

There could not be a better argument against the metric board. The Metric Conversion Act is not intended to assist this country in conversion. There is no national commitment. It is voluntary. It is to help those who want assistance. And in this regard, we have a major paradox.

Our major industry, the automobile industry has gone metric without any Federal involvement and without any problems as far as I know. On the other hand, the wine and distilled spirits industry has gone metric with considerable Federal involvement from the Bureau of Alcohol, Tobacco, and Firearms, because of the Government standards of fill. The GAO report in the fall will show that the latter industry had the greatest number of consumer ripoffs and the greatest Federal involvement.

The aforementioned subcommittee chairman talked about the lack of metric activity in the United States as an "anachronism." First he mentioned the change in the British monetary system and then referred to the U.S. system of weights and measures. Where is the "anachronism"?

Mr. Chairman, we are talking about a system of weights and measures. The gentleman from Illinois (Mr. McCLORY) in the earlier debate referred to an article in the American Airlines magazine that metric was here to stay. In checking with the executive offices of American Airlines we found they have never had a policy in support of the metric system. The articles that appear in their magazine do not reflect company policy.

Moreover, we found that the aerospace industry generally is opposed to metrication. I was told that British manufacturers are not going to convert, because the airlines did not want metric products. The customary flying measurements—elevation, feet; speed, knots; distance, miles—would not be accepted in the international metric system. The aerospace industry is opposed to changing altimeter readings and other engineering standards, not only because of the tremendous cost, but for safety reasons. For a long period of time there would be increased dangers caused by the pilot's inability to react to the metric system.

Mr. Chairman, in the debate of July 13, we heard the argument that we should go metric, because "our NATO allies use the metric system." Apparently they will not be using it on their aircraft. Also, let us return to the study of the National Bureau of Standards—U.S. Metric Study, Department of Defense, NBS SP 345–9— which states:

> Based on the assumptions of the study, the total additional funds for computed costs that will have to be made available for transit to the use of the metric system are estimated to be approximately $18 billion, and are such that they cannot be absorbed with the Department of Defense budget without deterioration of the military posture.

Mr. Chairman, I am not going to ask my constituents to come up with another $18 billion in taxes so we can convert to metric and make our NATO allies happy.

Not counting military aircraft, we have over 2,000 commercial planes and about 180,000 in general aviation. The cost to change the instrumentation would be staggering.

Let us return from the air to the ground. I can just see an Illinois farmer, when buying fertilizer, asking for so many kilograms per hectare. It would not happen and even the Canadian farmers refused to accept this even though Canada is supposedly going metric.

Mr. Chairman, if we can keep the price of gas under $1 per gallon we will not have to change the gas pumps—unless, of course—those who say we are in "the metric age" force us to go to liters. Furthermore, I am opposed to the Government using its purchasing power to force the country to convert to metric—"you make it and I'll buy it". I urge you to support my amendment to abolish funding for the metric board.

Mr. SLACK. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the U.S. Metric Board was authorized by the Metric Conversion Act of 1975. The House approved that legislation by a vote of 300 to 63 and the Senate approved it without objection on a voice vote.

The Metric Act states that—

> The policy of the United States shall be to coordinate and plan the increasing use of the metric system in the United States and to establish a United States Metric Board to coordinate the voluntary conversion to the metric system.

The act provides for a 17-member Board comprised of representatives of industry, labor, business (including small business), commerce, the consumer, education, State and local government, science and engineering, the construction industry, and other affected groups. The act requires the Board to devise and carry out a broad program of planning, coordination, and public education with the objective of implementing this policy. In carrying out this program the act requires the Board to consult with various affected groups and provide them with opportunities to make recommendations to the Board; consult and cooperate with intergovernmental organizations and foreign governments; assist the public through information and education programs; collect, analyze, and publish information about the extent of usage of metric measurements and evaluate costs and benefits; conduct research and make recommendations to the Congress concerning problems associated with metric conversion or usage; report annually to the Congress and the President on its activities; and submit a report to the Congress and the President not later than 1 year after the first appropriation is provided on the need for a mechanism for converting customary units to metric units in statutes and regulations in response to voluntary conversion.

It is clear that the Metric Board has important responsibilities. However, I would like to emphasize that it has no power to force a business, an industry, or an individual to adopt and use the metric system. Section 5(c) of the act provides specifically that the Board shall have no compulsory powers.

Mr. Chairman, the Board was constituted in April 1978. Shortly thereafter a supplemental budget request for fiscal year 1978 of $365,000 to fund the Board's activities for the remainder of the current fiscal year was submitted to the Congress. The committee held hearings on this estimate and reduced the request by $90,000 or by about 24 percent, because the Board's activities for the remainder of the fiscal year will be somewhat less than originally anticipated.

Mr. Chairman, the Congress approved the Metric Conversion Act by a very significant margin. The act requires the Board to carry out certain responsibilities which I have outlined. In order to carry out those responsibilities mandated by the Congress, the Board must have an appropriation to hire staff and meet its other expenses. The committee reviewed the supplemental budget request critically and eliminated funds requested for the Board that it felt were not necessary. I believe that the amount recommended by the committee in the bill will enable the Board to carry out its responsibilities under the act. Therefore, Mr. Chairman, I ask that the gentlemen's amendment, which would eliminate all funding for the Board but would not terminate the Board or its functions under the act, be voted down.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. SLACK. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, the gentleman has stated the case concretely, very accurately. This appropriation has nothing to do with any educational program which we considered last week, nor any of the other diversionary subjects which were commented upon by the author of this amendment.

It seems to me that this is a very modest appropriation for a very impor-

tant purpose which the Congress has already authorized funds for the recently established Metric Conversion Board. I hope the amendment will be defeated.

Mr. Chairman, I rise in firm opposition to the amendment offered by my colleague from Illinois (Mr. CRANE). I will not review the well-known benefits that the simple, yet scientific system of metric measurement provides. However, at issue today is not the obvious theoretical benefits of the metric system. The issue centers on the practical problems involved in converting our country, on a voluntary basis, to a metric system, in order that we may reap its full advantages.

I fail to understand how there could be any economy in abolishing the U.S. Metric Board when this Board will serve to avoid the types of problems of conversion he has cited in a recent letter circulated to all Members. The Metric Board is not forcing an unwanted system of measurement on our society. The Metric Conversion Act of 1975 provides that the adoption of the metric system shall be entirely voluntary. No compulsory powers are granted to the Board under the authorizing legislation.

The principal concept underlying the Metric Board is that it is to act to coordinate and plan a voluntary shift to the metric system. Through the educational and informational functions of the Board, the potential confusion and misunderstanding of conversion by the public, business, and labor can be minimized. And this role of the Metric Board has been overwhelmingly affirmed by the Congress. The Metric Conversion Act was reported out unanimously by the Committee on Science and Technology in 1975, and passed the House by a vote of 300 to 63. In the Senate, the bill was approved by unanimous vote.

This coordinating function of the Metric Board is of vital necessity. I have a list compiled by the National Bureau of Standards, Office of Weights and Measures, which includes 36 major business entities which have recently announced plans to convert to the metric system. Certainly, metrification is not being pushed on unwilling companies. Many corporations are adopting metric measurements to improve the marketability of their products in international markets and we all realize there is plenty of room for improvement when considering our present balance-of-trade deficit.

The U.S. Metric Board functions to aid and assist a broad base of industry, labor, business—including small business, agriculture, commerce, educational institutions, State and local governments, and the American public on a voluntary course toward the metric system and the advantages it offers. I urge my colleagues to defeat this unsound amendment.

Mr. CEDERBERG. Mr. Chairman, I rise in opposition to the amendment.

The gentleman from West Virginia, the chairman of the committee, has explained in detail the situation as it pertains to the law and the responsibility of the Appropriations Committee in carrying out the wishes of the Congress.

As the gentleman from West Virginia said, this Board stays in existence unless the Congress does not want it to stay in existence.

So I think the gentleman from Illinois is attacking this from the wrong angle.

We also had this Metric Conversion Board in the 1979 appropriation bill which was on the floor, and I do not think the gentleman had an amendment on that. I never saw him come before the subcommittee to discuss it, either at the supplemental hearings, or for the regular 1979 appropriation. I can see no reason at all why we should go along with the amendment. We have substantially reduced the amount already.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, to be sure, I did not introduce such an amendment earlier before the Appropriations Committee, nor did I testify, and in large measure because some of the evidence about the whole metric conversion program in this country was not brought to my attention until very recently in connection with a GAO study which I referred to, which will not be before late this fall.

All that I have basically asked is that we do nothing until we have had a chance to see that study, evaluate it in depth, and then make a redetermination. Just because the Board is in existence is not necessarily a reason to fund it. We have done a lot of things down here that have been authorized and yet we have not funded them. Some of that has come up during the course of the debate earlier this afternoon.

It seems to me that prudence would dictate at least doing nothing until we have had more evidence at our disposal, and then we could make a better judgment as to the desirability of this whole metric conversion question.

Mr. CEDERBERG. The Congress has made a judgment already, our committee has made a judgment already, and we have funded it at a level that we think it ought to be. This does not prejudice the GAO report at all.

Mr. CRANE. If the gentleman will yield further, I think at the time the Congress made the decision on metrication it sounded like a good idea. But on the other hand, the Congress certainly did not have the advantage of the availability of polls which indicate overwhelming public opposition to metric conversion. This is particularly true on the part of the elderly. The elderly are the ones who are going to suffer most with this kind of conversion. There are questions which this Congress already addressed when we debated this about putting metric conversion on the highways. We backed off on that, under constituent pressure.

Under the circumstances, I think we should hold it in abeyance, wait until we have further information on the subject. Further study, clearly, I think, will indicate that we made a mistake in our earlier decision to try to convert to the metric system.

Mr. McCLORY. Mr. Chairman, will the gentleman yield?

Mr. CEDERBERG. I yield to the gentleman from Illinois.

Mr. McCLORY. I thank the gentleman for yielding.

Mr. Chairman, experience in other countries has demonstrated that where there is no coordinated program, the expense is the greatest.

All of the estimates as to the cost of metric conversion programs have been grossly exaggerated.

I might say that every industrial country in the world now, except the United States, either has converted to the metric system or is well on the way toward metric conversion. I hope the amendment will be voted down, and that we continue to give our full support to the newly created Metric Conversion Board.

For us not to be undertaking at least the creation and funding of this Board would seem to me to be completely unrealistic considering that we are living in today's world and considering the position of prominence that we have in the industrial world.

Mr. McCORMACK. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Crane amendment.

Last week the House defeated a similar amendment offered by the gentleman from Illinois (Mr. CRANE).

What the gentleman is trying to do is to destroy the effectiveness of the Metric Board, which was appointed recently by the President under the law that we recently passed. The Board has been confirmed by the Senate and has just now begun its work. The gentleman is attempting to destroy the effectiveness of that Board. He is trying to stop the orderly conversion of this country to the metric system, and I emphasize the word "orderly."

Mr. Chairman, the orderly conversion is what the Board is established to do. I consider the position of the gentleman from Illinois to be unfortunate, and I think his effort should be rejected and repudiated by this body. The fact is that we are, in this country, converting to the metric system at this time, and that we cannot avoid converting. The question before us is, Will conversion be orderly and smooth and programed to get us into an era of understanding and casual, everyday use of the metric system, or will the conversion be erratic, confused, strung out, unending and disruptive, as would happen if the gentleman's position were adopted?

I remind the Members again that we are in the midst of conversion to the metric system. As individuals in this country, we use the metric system when we buy 35mm film, or 16 or 8mm film, or buy two-liter bottles of Coca-Cola or Pepsi-Cola; or smoke 100mm cigarettes or 101mm cigarettes. I also remind the Members that our physical and medical sciences, our chemistry and physics, and most of our other sciences use the metric system.

There are millions of students in this country who casually use the metric system.

Our military system uses the metric system. Distances are measured in meters or kilometers. In its ordnance it uses the 75mm and 155mm guns. We

do not have any trouble in discussing such caliber guns.

Our industries are converting to the metric system. The following industries have all announced conversion: IBM, General Motors, Rockwell International, Caterpillar Tractor, Honeywell, J.C. Penney, Xerox, General Foods, and Otis Elevator. They are all converting to the metric system.

Many cars are being built on the metric system.

The Congress itself is converting to the metric system. For instance, we passed the Clean Air Act last year, using metric measurements. I think it was a mistake to have passed the Clean Air Act, and I voted against it, but we used the terminology "micrograms per cubic meter for particulate water or sulfur dioxide for clean air. No one objected to this terminology, or said we should use ounces or cubic feet of air instead. We used micrograms per cubic meter because it is a scientific term, and easiest to use for such purposes.

The gentleman from Illinois criticized me for stating that the purpose of the Board is to assist in conversion of this Nation to the metric system. I repeat that that is the purpose of the Board, under the law which we established. I quote from the report.

> The Board shall perform three major functions to (1) execute a broad program of planning and coordinating the conversion to the metric system; (2) conduct research and submit recommendations to the President and to the Congress; and (3) conduct a program of public education in the metric system at all levels from elementary to adult education in order that the American people may become familiar with the meaning and use of metric terms and measures in their daily lives.

Mr. Chairman, I think it is important for us to remember that the U.S. Department of Commerce has estimated the loss to U.S. industries at $600 million a year if we do not convert to the metric system.

I repeat that we are converting at this time. It is folly for us to pretend that this situation does not exist, or to try to stop it.

I am told of the story of the farmer many years ago, who went to a traveling circus. He saw a zebra, and said, "there ain't no such animal."

I recall an apocryphal story of a State legislature—I do not know whether it was in Indiana or Illinois, which, in the last century, changed the value of pi to three.

I suggest that the gentleman from Illinois is taking such an approach. However, we cannot go backward, and we cannot live in a world of make-believe.

We must reject this amendment.

Mr. BROWN of Ohio. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Ohio.

Mr. BROWN of Ohio. Mr. Chairman, I would like to commend the gentleman in the well for a sound statement. It makes good economic sense to convert, and it makes good technological sense to convert. It just makes good sense to convert.

I want to say to the gentleman in the well that I know some of the gentlemen who have been appointed to the Metric Board. They are distinguished leaders, not only of science, but of industry and technology. Some of them had distinguished careers in helping us win World War II, and some were responsible for some of our best industrial development. They will see us safely through this conversion process, in my opinion.

The CHAIRMAN. The time of the gentleman from Washington has expired.

(At the request of Mr. DOWNEY and by unanimous consent, Mr. McCORMACK was allowed to proceed for 1 additional minute.)

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding to me. I would like to associate myself with his remarks. I personally do not like the metric system very much, preferring yards to meters and miles to kilometers. But, I realize that I am of an older generation, and I hope for a future generation that we will be able to have a metric system.

Mr. McCORMACK. Mr. Chairman, I congratulate the gentleman in recognizing that he is a member of the older generation.

Mr. CRANE. Mr. Chairman, will the gentleman yield?

Mr. McCORMACK. I yield to the gentleman from Illinois.

Mr. CRANE. Mr. Chairman, the gentleman is absolutely correct on the point about this Nation undergoing a conversion. It has been going on for decades and for scores of years. In fact, all the examples the gentleman cited took place before we made a decision here a few years ago to try to promote and speed up the orderly conversion process. That is precisely the point; we have had a dual system for many years.

There is only one other thing I would like to comment upon, which is the question about the composition on the Metric Board. I know none of those gentlemen. I in no way intend to question their integrity, motivation, or competence. The question is the desirability of trying to outrageously promote this system.

Mr. McCORMACK. I thank the gentleman, but I insist that the United States cannot withdraw from the world. We are moving into the metric system, and should do so in an orderly manner.

We should reject this proposed amendment.

Mr. MAHON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise not to comment specifically on the amendment, but to suggest that we have heard ample debate. It is time to vote.

Mr. BROWN of California. Mr. Chairman, will the gentleman yield?

Mr. MAHON. I yield to the gentleman from California.

Mr. BROWN of California. Mr. Chairman, I do not think it is necessary to prolong this debate. I was going to add a few remarks to those of the gentlemen from Washington (Mr. McCORMACK) in opposition to this amendment. I think it is very ill-chosen. The Board provides the minimum amount of leadership to a voluntary system of conversion to the metric system that this country should have, and I just express my hope that the House will vote down the amendment.

Mr. MAHON. Mr. Chairman, I ask for a vote on the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. CRANE).

The question was taken, and on a division (demanded by Mr. CRANE) there were—ayes 9; noes 40.

RECORDED VOTE

Mr. CRANE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 75, noes 302, not voting 55, as follows:

[Roll No. 578]

AYES—75

Abdnor	Florio	Mottl
Archer	Gammage	Myers, John
Ashley	Goodling	O'Brien
Badham	Hall	Oakar
Bafalis	Hammer-schmidt	Panetta
Bauman	Hansen	Pettis
Breaux	Harsha	Quayle
Burgener	Heckler	Risenhoover
Burleson, Tex.	Hightower	Roberts
Caputo	Holt	Robinson
Clausen, Don H.	Hubbard	Rudd
Cleveland	Ireland	Runnels
Corcoran	Jones, Okla.	Shuster
Crane	Kazen	Smith, Nebr.
Cunningham	Kindness	Snyder
D'Amours	Lagomarsino	Spence
Daniel, R. W.	Livingston	Stangeland
Derwinski	Lott	Stump
Devine	McDonald	Symms
Edwards, Okla.	McKay	Taylor
English	Marlenee	Trible
Evans, Del.	Mathis	Waggonner
Evans, Ga.	Mattox	Walker
Evans, Ind.	Moorhead, Calif.	Watkins
Fithian		Wydler
		Young, Fla.

NOES—302

Akaka	Butler	Flippo
Alexander	Byron	Flood
Ambro	Carney	Foley
Ammerman	Carr	Ford, Mich
Anderson, Calif.	Carter	Ford, Tenn
Armstrong	Cavanaugh	Forsythe
Anderson, Ill.	Cederberg	Fountain
Andrews, N.C.	Chappell	Fraser
Andrews, N. Dak.	Chisholm	Frenzel
Annunzio	Clay	Fuqua
Applegate	Cohen	Garcia
Aspin	Coleman	Gaydos
AuCoin	Conable	Gephardt
Baldus	Conte	Giaimo
Baucus	Corman	Gilman
Beard, R.I.	Cornell	Ginn
Beard, Tenn.	Cornwell	Glickman
Bedell	Cotter	Goldwater
Beilenson	Coughlin	Gonzalez
Benjamin	Daniel, Dan	Gore
Bennett	Danielson	Gradison
Bevill	Davis	Grassley
Biaggi	de la Garza	Green
Bingham	Delaney	Gudger
Blanchard	Dellums	Guyer
Blouin	Dickinson	Hagedorn
Boggs	Dicks	Hamilton
Boland	Dodd	Hanley
Bonker	Dornan	Hannaford
Bowen	Downey	Harkin
Brademas	Drinan	Harris
Breckinridge	Duncan, Oreg.	Hawkins
Brinkley	Duncan, Tenn.	Hefner
Brodhead	Early	Heftel
Brooks	Eckhardt	Holland
Broomfield	Edgar	Hollenbeck
Brown, Calif.	Edwards, Ala.	Holtzman
Brown, Mich.	Ellberg	Horton
Brown, Ohio	Emery	Howard
Broyhill	Erlenborn	Hughes
Buchanan	Ertel	Hyde
Burke, Calif.	Evans, Colo.	Ichord
Burke, Fla.	Fary	Jacobs
Burke, Mass.	Fascell	Jeffords
Burlison, Mo.	Fenwick	Johnson, Calif.
Burton, John	Findley	Jones, N.C.
	Fish	Jones, Tenn.
	Fisher	Jordan

Kastenmeier	Murphy, N.Y.	Sisk
Kelly	Murphy, Pa.	Slack
Kemp	Murtha	Solarz
Keys	Myers, Gary	Spellman
Kildee	Myers, Michael	St Germain
Kostmayer	Natcher	Staggers
Krebs	Neal	Stanton
LaFalce	Nedzi	Stark
Latta	Nix	Steed
Leach	Nolan	Steers
Lederer	Nowak	Steiger
Leggett	Oberstar	Stockman
Lehman	Ottinger	Stokes
Lent	Patten	Stratton
Levitas	Patterson	Studds
Lloyd, Calif.	Pattison	Thompson
Lloyd, Tenn.	Pepper	Thornton
Long, La.	Perkins	Traxler
Long, Md.	Pickle	Treen
Lundine	Pike	Tucker
McClory	Poage	Udall
McCloskey	Preyer	Ullman
McCormack	Price	Van Deerlin
McDade	Pritchard	Vander Jagt
McEwen	Quillen	Vanik
McFall	Rahall	Vento
McHugh	Railsback	Volkmer
McKinney	Rangel	Walgren
Madigan	Regula	Walsh
Maguire	Reuss	Wampler
Mahon	Rhodes	Weaver
Markey	Richmond	Weiss
Marks	Rinaldo	Whalen
Marriott	Roe	White
Martin	Rogers	Whitehurst
Mazzoli	Roncalio	Whitley
Meeds	Rooney	Whitten
Metcalfe	Rose	Wiggins
Meyner	Rosenthal	Wilson, Bob
Michel	Ruppe	Wilson, C. H.
Mikulski	Russo	Wilson, Tex.
Mikva	Ryan	Winn
Miller, Calif.	Santini	Wirth
Miller, Ohio	Sarasin	Wolff
Mineta	Satterfield	Wright
Minish	Sawyer	Wylie
Mitchell, Md.	Scheuer	Yates
Mitchell, N.Y.	Schroeder	Yatron
Moffett	Schulze	Young, Alaska
Montgomery	Sebelius	Young, Mo.
Moore	Seiberling	Zablocki
Moorhead, Pa.	Sharp	Zeferetti
Moss	Sikes	
Murphy, Ill.	Simon	

NOT VOTING—55

Addabbo	Frey	Pease
Ashbrook	Gibbons	Pressler
Barnard	Harrington	Pursell
Bolling	Hillis	Quie
Bonior	Huckaby	Rodino
Burton, Phillip	Jenkins	Rostenkowski
Clawson, Del	Jenrette	Rousselot
Cochran	Johnson, Colo.	Roybal
Collins, Ill.	Kasten	Shipley
Collins, Tex.	Krueger	Skelton
Conyers	Le Fante	Skubitz
Dent	Lujan	Smith, Iowa
Derrick	Luken	Teague
Diggs	Mann	Thone
Dingell	Milford	Tsongas
Edwards, Calif.	Moakley	Waxman
Flowers	Mollohan	Young, Tex.
Flynt	Nichols	
Fowler	Obey	

Messrs. RUNNELS, STANGELAND, and D'AMOURS changed their vote from "no" to "aye."

Mr. VOLKMER changed his vote from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The Clerk will read.

The Clerk continued to read.

Mr. MAHON (during the reading). Mr. Chairman, I ask unanimous consent that title II of the bill which begins on page 35 be considered as read and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Are there any points of order on this title?

The Chair hears none.

Mr. HANSEN. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to inquire of the chairman of the committee or the subcommittee regarding page 46, which includes the matter of the Panama Canal: "Canal Zone Government, 'Operating expenses,' $567; Panama Canal Company, 'Limitation on general administrative expenses,' (increase of $500,000 in the limitation on general administrative expenses);".

I inquire as to whether any of these funds are earmarked for use or can be used for the implementation of the Panama Canal treaties as approved by the U.S. Senate recently.

Mr. McFALL. Mr. Chairman, will the gentleman yield?

Mr. HANSEN. Yes, I yield to the gentleman from California.

Mr. McFALL. Mr. Chairman, both of these items are for increased pay costs for the people who are operating the canal at the present time, and they have nothing to do with the treaties. This is just for the ordinary operation of the canal.

Mr. HANSEN. Mr. Chairman, I would like to inform the gentleman from California (Mr. McFALL) that this may be true on the surface, but we find it is not always true in fact.

I contacted the Army recently and requested a meeting with the Secretary. During the conference I learned the shocking fact from the Army liaison that they not only were using funds appropriated by Congress but not for that purpose to implement certain conditions in preparation for the treaties. I also found that the Navy Public Works and the Panama Canal Company were also deeply involved in using last-quarter funds for this fiscal year in this type of preparation work.

So I felt it was important that we clarify here today what the intent of the Congress is as regards such funds as stipulated here in this appropriation bill.

Mr. McFALL. Mr. Chairman, if the gentleman will yield further, our information is that this is for the increased costs of the ordinary operation of the canal. This is to cover the ordinary pay costs for the people who are working there, both for the Panama Canal Company and for the Canal Zone Government. Whatever their ordinary operations are, that is what this money is for. They get the regular pay increases that everybody else gets.

Mr. HANSEN. Mr. Chairman, I appreciate the clarification of the gentleman from California (Mr. McFALL), and I yield back the balance of my time.

The CHAIRMAN. Are there further amendments to title II?

If not, the Clerk will read title III.

The Clerk concluded the reading of the bill.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MILLER of Ohio: On page 64 after line 23, insert the following new section:

Of the total budget authority provided in this Act, for payments not required by law, two per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appriation account, activity, and project, for payments not required by law, the amount withheld shall not exceed five per centum.

Mr. MILLER of Ohio. Mr. Chairman, this is the standard 2-percent reduction of an appropriation bill. In this particular supplemental, we have a total of $6.35 billion. The amendment that I have offered would only reduce the nonmandatory items. The mandatory items amount to $4.6 billion. The nonmandatory items amount to $1.75 billion, and 2-percent of that equals $35 million, out of a $6.35 billion bill. That is a $35 million reduction.

We have in this bill something for everyone, it seems. But it is a bill that will furnish funds that will be spent between now and October 1. Very likely it could be only for 1 month. The Members know the legislative process and how long it may take to process this bill completely. So that means that we would be spending $6.35 billion, possibly even in the last 30 days, which would be through the month of September.

I understood in the beginning, when I first came to this House, that supplementals were for emergencies.

In the bill we have money for the Panama Canal, on page 46.

We have money to replace the roof on the Supreme Court Building, with the work to be done over a 4-year period. Does that sound like an emergency?

We have in the bill funds, for the National Gallery of Art, for an increase in utility cost of $500,000. That is supposed to be money that would be needed in the last part of fiscal year 1978 and possibly the last 30 days. Does that sound like an emergency?

We also have in the bill—and this came through one of the subcommittees on which I sit—$3 million. This is for the Equal Employment Opportunity Commission and its payments to the States and the local governments for fair employment practice agencies. That is to be divided up between now and October 1, as grants to the States.

Is that an emergency? No, it is definitely not an emergency.

Mr. Chairman, we will find funds on page 51 of the bill for the John F. Kennedy Center for the Performing Arts in the amount of $105,000.

Yesterday we had before us a bill to increase the temporary public debt limit. Then we heard people in the well make the statements one after another that this bill to increase the debt limit is not the vehicle to use in order to hold down spending. They said where one does that is in the appropriation bills.

Mr. Chairman, that is what I heard, and I saw the tears running. We still have marks on the carpet. The tears ran.

We have before us an appropriation bill, but also a supplemental. Once the supplementals are approved, they are counted in as part of the total spending

for fiscal year 1978. That situation only gives the agencies an opportunity to come back in 1979 with additional supplementals. That is the pattern we have followed in the last several years.

I am very discouraged about the amount in the bill. I am sure we can do better, and I would hope that the Members would support the 2-percent reduction.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, I thank the gentleman for yielding.

I was merely going to comment on two items in the bill.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. MILLER) has expired.

(On request of Mr. YATES and by unanimous consent, Mr. MILLER of Ohio was allowed to proceed for 1 additional minute.)

Mr. YATES. Mr. Chairman, will the gentleman yield further?

Mr. MILLER of Ohio. I yield to the gentleman from Illinois.

Mr. YATES. Mr. Chairman, there is $400 million in this bill, $200 million of which is for firefighting expenses, and another $200 million of which is for the purchase of the Redwood Park, both of which will have to be paid eventually.

A 2-percent cut, it seems to me, will result in probably paying more at a later time for at least those two items in the bill.

Would the gentleman agree with me on that?

Mr. MILLER of Ohio. No. I am sorry, but I cannot agree with the gentleman because if the present landowners found out just what money was available, they would want all of it. There would still be not less than 95 percent and possibly 98 percent of the amount remaining in each line item, because the amendment allows that flexibility. That certainly would amount to a few dollars, and very likely we could get a better deal for the taxpayers.

Mr. MAHON. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Ohio is well experienced in offering across-the-board-cut amendments, and I think it is good to be reminded of the necessity for holding the line as best we can.

I think there are better times than others to undertake to make an across-the-board cut. However, this is not just an ordinary across-the-board cut of an annual appropriation bill as we have had before us in the last several weeks. The cross-the-board cuts we have voted on thus far have been for the year which begins on October 1. If we make a 2-percent cut for the year which begins on October 1, we have 12 months in order to adjust to the cut; but this is not the situation on this bill.

Mr. Chairman, the Committee on Appropriations has very recently conducted hearings on this bill. The committee has made reductions in an amount approaching 5 percent and this is all based on recent information that has been provided to the Committee on Appropriations. The bill will pass the House, pass the other body, and probably be enacted into law by about early Sepember. At that point we will have only 1 month in which to make the 2-percent cut instead of the 12 months that we would have otherwise.

Therefore, Mr. Chairman, in view of the fact that we have already made a cut in the neighborhood of 5 percent and in view of the fact that there would be so little time to adjust to the 2-percent cut, only a 1-month period, it would be desirable to accept the cut totaling more than $300 million which has already agreed to and defeat the amendment offered with the best intentions, no doubt, by my good friend, the gentleman from Ohio (Mr. MILLER).

Therefore, Mr. Chairman, I urge that the amendment be voted down.

Mr. CONTE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I concur with the chairman of the Committee on Appropriations.

I have served on that committee for 20 years now along with the gentleman from Texas. I do not think anybody in this House could point the finger at the gentleman from Texas, Mr. GEORGE MAHON, and say that he is a big spender.

Actually, Mr. Chairman, he has been very tight with the public purse, and he has been very responsible with respect to the expenditure of public money.

Mr. Chairman, for the gentleman from Texas (Mr. MAHON) to get on the floor and say that this is the wrong place and the wrong time to make this 2-percent cut is absolutely right.

The administration asked for $6,675,886,486. This committee, almost in anticipation of what the gentleman from Ohio was going to do, went out and cut it 4 plus percent—not 2 percent, but 4 plus percent. We recommended a budget of $6,383,818,186. That is $292,068,300 below the budget. Already here today this House saw fit to cut the immunization for influenza some $12 million—$12 million—and we hit into an area which I think is a very sensitive area.

As the gentleman from Ohio says, the greater portion of this whole bill is for mandatory salary increases, which he cannot touch at all and which he is not touching with his amendment. Therefore, his amendment only directs that 2-percent cut to a very small fraction of this supplemental appropriation bill.

He points out that maybe the roof on the Supreme Court, which is going to take 4 years to fix, should wait until the regular appropriation bill, which will not begin until October 1, as the chairman of the full committee pointed out. What if the roof on one's house is leaking? One does not wait to get it done, because it has to be done. This work is necessary, not because the Chief Justice and the other Justices want a new roof on the Supreme Court, but because the existing roof is deteriorated and because there is a need for a new roof. We cannot wait. The longer we wait, if inflation keeps going the way it is, the more it is going to cost. So, it is a lot better, a lot wiser, and a lot cheaper to get that job done now, along with the repairs to the Kennedy Center.

Therefore, Mr. Chairman, I say that the responsible vote is to vote no on this 2-percent cut, and let us get on with the business of the day.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. MILLER).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. MILLER of Ohio. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 256, noes 114, not voting 62, as follows:

[Roll No. 579]

AYES—256

Abdnor	Evans, Del.	McClory
Ambro	Evans, Ga.	McCloskey
Ammerman	Evans, Ind.	McCormack
Anderson, Calif.	Fary	McDade
Andrews, N.C.	Fenwick	McDonald
Annunzio	Findley	McKinney
Applegate	Fish	Madigan
Archer	Fisher	Marks
Armstrong	Fithian	Marlenee
Aspin	Flippo	Marriott
AuCoin	Florio	Martin
Bafalis	Foley	Mathis
Baucus	Forsythe	Mattox
Bauman	Fountain	Mazzoli
Beard, Tenn.	Frenzel	Michel
Bedell	Gammage	Mikva
Bennett	Gaydos	Milford
Bevill	Gephardt	Miller, Ohio
Blouin	Giaimo	Minish
Boggs	Gilman	Mitchell, N.Y.
Bonker	Ginn	Moffett
Bowen	Glickman	Montgomery
Breaux	Goldwater	Moore
Brinkley	Goodling	Moorhead, Calif.
Brodhead	Gore	Mottl
Brooks	Gradison	Murphy, Ill.
Broomfield	Grassley	Murphy, Pa.
Brown, Mich.	Gudger	Murtha
Brown, Ohio	Guyer	Myers, Gary
Broyhill	Hagedorn	Myers, John
Buchanan	Hall	Natcher
Burgener	Hamilton	Neal
Burke, Fla.	Hammer-schmidt	Nowak
Burleson, Tex.	Hanley	O'Brien
Butler	Hansen	Panetta
Byron	Harkin	Patterson
Cavanaugh	Harsha	Pease
Cederberg	Heckler	Pettis
Chappell	Hefner	Pickle
Clausen, Don H.	Heftel	Pike
Cleveland	Hightower	Poage
Cohen	Holland	Preyer
Coleman	Hollenbeck	Pritchard
Conable	Holt	Quayle
Corcoran	Hubbard	Railsback
Cornwell	Hughes	Regula
Cotter	Hyde	Rinaldo
Coughlin	Ichord	Risenhoover
Cunningham	Ireland	Roberts
D'Amours	Jacobs	Robinson
Daniel, Dan	Jenrette	Roe
Daniel, R. W.	Jones, N.C.	Rogers
Davis	Jones, Okla.	Rose
de la Garza	Jones, Tenn.	Rosenthal
Delaney	Kazen	Runnels
Derwinski	Kelly	Ruppe
Devine	Kemp	Russo
Dickinson	Keys	Ryan
Dicks	Kindness	Santini
Dornan	Kostmayer	Satterfield
Downey	Krebs	Sawyer
Drinan	LaFalce	Schroeder
Duncan, Tenn.	Lagomarsino	Schulze
Edgar	Latta	Sharp
Edwards, Ala.	Leach	Shuster
Edwards, Okla.	Lent	Sikes
Emery	Levitas	Sisk
English	Livingston	Skubitz
Erlenborn	Lloyd, Tenn.	Smith, Nebr.
Ertel	Long, La.	Snyder
	Lott	Spellman

Spence	Tucker	Whitley
Staggers	Udall	Wiggins
Stangeland	Vander Jagt	Wilson, Bob
Stanton	Vanik	Wilson, Tex.
Steers	Vento	Winn
Steiger	Volkmer	Wirth
Stockman	Waggonner	Wolff
Stratton	Walgren	Wydler
Stump	Walker	Wylie
Symms	Walsh	Yatron
Taylor	Wampler	Young, Alaska
Thornton	Watkins	Young, Fla.
Traxler	Weaver	Young, Mo.
Treen	White	Zeferetti
Trible	Whitehurst	

NOES—114

Akaka	Fraser	Nix
Alexander	Garcia	Nolan
Andrews, N. Dak.	Gonzalez	Oakar
	Green	Oberstar
Ashley	Hannaford	Obey
Baldus	Harris	Ottinger
Beard, R.I.	Hawkins	Patten
Beilenson	Holtzman	Pattison
Benjamin	Horton	Pepper
Bingham	Howard	Perkins
Blanchard	Jeffords	Price
Boland	Johnson, Calif.	Quillen
Bonior	Jordan	Rahall
Brademas	Kastenmeier	Rangel
Breckinridge	Kildee	Reuss
Brown, Calif.	Lederer	Rhodes
Burke, Calif.	Leggett	Richmond
Burke, Mass.	Lehman	Roncalio
Burlison, Mo.	Lloyd, Calif.	Rooney
Burton, John	Long, Md.	Scheuer
Caputo	Lundine	Seiberling
Carr	McEwen	Simon
Carter	McFall	Slack
Chisholm	McHugh	Solarz
Clay	McKay	Stark
Conte	Mahon	Steed
Corman	Markey	Stokes
Cornell	Meeds	Studds
Danielson	Metcalfe	Thompson
Dellums	Meyner	Ullman
Dodd	Mikulski	Van Deerlin
Duncan, Oreg.	Miller, Calif.	Weiss
Early	Mineta	Whalen
Eckhardt	Mitchell, Md.	Whitten
Eilberg	Moorhead, Pa.	Wright
Evans, Colo.	Moss	Yates
Fascell	Murphy, N.Y.	Zablocki
Flood	Myers, Michael	
Ford, Mich.	Nedzi	

NOT VOTING—62

Addabbo	Flynt	Pressler
Anderson, Ill.	Ford, Tenn.	Pursell
Ashbrook	Fowler	Quie
Badham	Frey	Rodino
Barnard	Fuqua	Rostenkowski
Biaggi	Gibbons	Rousselot
Bolling	Harrington	Roybal
Burton, Phillip	Hillis	Rudd
Carney	Huckaby	Sarasin
Clawson, Del	Jenkins	Sebelius
Cochran	Johnson, Colo.	Shipley
Collins, Ill.	Kasten	Skelton
Collins, Tex.	Krueger	Smith, Iowa
Conyers	Le Fante	St Germain
Crane	Lujan	Teague
Dent	Luken	Thone
Derrick	Maguire	Tsongas
Diggs	Mann	Waxman
Dingell	Moakley	Wilson, C. H.
Edwards, Calif.	Mollohan	Young, Tex.
Flowers	Nichols	

Messrs. UDALL, DUNCAN of Tennessee, and THORNTON changed their vote from "no" to "aye."

Mr. RANGEL and Mr. LONG of Maryland changed their vote from "aye" to "no."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. MAHON. Mr. Chairman, I move that the Committee do now rise and report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. MINETA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 13467) making supplemental appropriations for the fiscal year ending September 30, 1978, and for other purposes, had directed him to report the bill back to the House with sundry amendments, with the recommendation that the amendments be agreed to and that the bill, as amended, do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. BAUMAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 311, nays 60, not voting 61, as follows:

[Roll No. 580]

YEAS—311

Abdnor	Cederberg	Gaydos
Akaka	Chappell	Gephardt
Alexander	Chisholm	Giaimo
Ambro	Clausen, Don H.	Gilman
Ammerman		Ginn
Anderson, Calif.	Clay	Goldwater
	Cleveland	Gonzalez
Andrews, N.C.	Cohen	Gore
Andrews, N. Dak.	Conte	Gradison
	Corman	Green
Annunzio	Cornell	Gudger
Applegate	Cotter	Hall
Ashley	Coughlin	Hamilton
Aspin	Cunningham	Hammer-schmidt
Bafalis	Daniel, Dan	
Baldus	Daniel, R. W.	Hanley
Baucus	Danielson	Hannaford
Beard, R.I.	Davis	Harris
Beard, Tenn.	de la Garza	Harsha
Bedell	Delaney	Hawkins
Beilenson	Dellums	Heckler
Benjamin	Dickinson	Hefner
Bennett	Dicks	Heftel
Bevill	Dodd	Hightower
Biaggi	Downey	Holland
Bingham	Drinan	Hollenbeck
Blanchard	Duncan, Oreg.	Holtzman
Blouin	Duncan, Tenn.	Horton
Boggs	Early	Howard
Boland	Eckhardt	Hyde
Bonior	Edgar	Ireland
Bonker	Edwards, Ala.	Jeffords
Bowen	Eilberg	Jenrette
Brademas	Emery	Johnson, Calif.
Breckinridge	English	Jones, N.C.
Brinkley	Erlenborn	Jones, Okla.
Brooks	Ertel	Jones, Tenn.
Broomfield	Evans, Colo.	Jordan
Brown, Mich.	Evans, Del.	Kastenmeier
Brown, Ohio	Fary	Kazen
Broyhill	Fascell	Kemp
Buchanan	Fenwick	Keys
Burgener	Fish	Kildee
Burke, Calif.	Fisher	Kindness
Burke, Fla.	Fithian	Krebs
Burke, Mass.	Flippo	LaFalce
Burleson, Tex.	Flood	Lagomarsino
Burlison, Mo.	Florio	Leach
Butler	Foley	Lederer
Byron	Ford, Mich.	Leggett
Caputo	Forsythe	Lehman
Carney	Fountain	Lent
Carr	Fraser	Livingston
Carter	Garcia	Lloyd, Calif.
Lloyd, Tenn.	Oakar	Spellman
Long, La.	Oberstar	Spence
Long, Md.	Obey	Staggers
Lott	Ottinger	Stangeland
Lundine	Panetta	Stanton
McClory	Patten	Stark
McCloskey	Patterson	Steed
McCormack	Pattison	Steers
McDade	Pease	Steiger
McEwen	Pepper	Stokes
McFall	Perkins	Stratton
McHugh	Pettis	Studds
McKay	Pickle	Thompson
McKinney	Pike	Thornton
Madigan	Poage	Traxler
Mahon	Preyer	Treen
Markey	Price	Trible
Marks	Pritchard	Tucker
Marlenee	Quayle	Udall
Martin	Quillen	Ullman
Mathis	Rahall	Van Deerlin
Mazzoli	Railsback	Vander Jagt
Meeds	Rangel	Vanik
Metcalfe	Regula	Vento
Meyner	Reuss	Volkmer
Michel	Rhodes	Walgren
Mikulski	Richmond	Walsh
Mikva	Rinaldo	Wampler
Milford	Risenhoover	Watkins
Miller, Calif.	Roberts	Weiss
Mineta	Robinson	Whalen
Minish	Roe	White
Mitchell, Md.	Rogers	Whitehurst
Mitchell, N.Y.	Roncalio	Whitley
Moffett	Rooney	Whitten
Moore	Rose	Wiggins
Moorhead, Pa.	Rosenthal	Wilson, Bob
Moss	Runnels	Wilson, C. H.
Murphy, Ill.	Ruppe	Wilson, Tex.
Murphy, N.Y.	Ryan	Winn
Murphy, Pa.	Santini	Wolff
Murtha	Sawyer	Wright
Myers, Gary	Scheuer	Wydler
Myers, Michael	Schroeder	Wylie
Natcher	Seiberling	Yates
Neal	Sikes	Yatron
Nedzi	Simon	Young, Alaska
Nix	Sisk	Young, Fla.
Nolan	Skubitz	Young, Mo.
Nowak	Slack	Zablocki
O'Brien	Solarz	Zeferetti

NAYS—60

Archer	Gammage	Montgomery
Armstrong	Glickman	Moorhead, Calif.
AuCoin	Goodling	
Bauman	Grassley	Mottl
Breaux	Guyer	Myers, John
Brodhead	Hagedorn	Russo
Burton, John	Hansen	Satterfield
Cavanaugh	Harkin	Schulze
Coleman	Holt	Sharp
Conable	Hubbard	Shuster
Corcoran	Hughes	Smith, Nebr.
Cornwell	Ichord	Snyder
D'Amours	Jacobs	Stockman
Derwinski	Kelly	Stump
Devine	Kostmayer	Symms
Dornan	Latta	Taylor
Edwards, Okla.	Levitas	Waggonner
Evans, Ga.	McDonald	Walker
Evans, Ind.	Marriott	Wirth
Findley	Mattox	
Frenzel	Miller, Ohio	

NOT VOTING—61

Addabbo	Ford, Tenn.	Pursell
Anderson, Ill.	Fowler	Quie
Ashbrook	Frey	Rodino
Badham	Fuqua	Rostenkowski
Barnard	Gibbons	Rousselot
Bolling	Harrington	Roybal
Brown, Calif.	Hillis	Rudd
Burton, Phillip	Huckaby	Sarasin
Clawson, Del	Jenkins	Sebelius
Cochran	Johnson, Colo.	Shipley
Collins, Ill.	Kasten	Skelton
Collins, Tex.	Krueger	Smith, Iowa
Conyers	Le Fante	St Germain
Crane	Lujan	Teague
Dent	Luken	Thone
Derrick	Maguire	Tsongas
Diggs	Mann	Waxman
Dingell	Moakley	Weaver
Edwards, Calif.	Mollohan	Young, Tex.
Flowers	Nichols	
Flynt	Pressler	

The Clerk announced the following pairs:

Mr. Addabbo with Mr. Del Clawson.
Mr. Le Fante with Mr. Frey.
Mr. Shipley with Mr. Rousselot.
Mr. Nichols with Mr. Pressler.
Mr. Rostenkowski with Mr. Sebelius.
Mr. Waxman with Mr. Quie.
Mr. Tsongas with Mr. Thone.
Mr. Mollohan with Mr. Diggs.
Mr. Phillip Burton with Mr. Conyers.
Mr. Moakley with Mr. Anderson of Illinois.
Mr. Dent with Mr. Cochran of Mississippi.
Mr. Flowers with Mr. Ford of Tennessee.
Mr. Flynt with Mr. Sarasin.
Mr. Luken with Mr. Rudd.
Mr. Mann with Mr. Ashbrook.
Mr. Edwards of California with Mr. Fowler.
Mr. Roybal with Mr. Pursell.
Mr. Gibbons with Mr. Badham.
Mr. Teague with Mr. Hillis.
Mr. Barnard with Mr. Kasten.
Mr. Derrick with Mr. Lujan.
Mr. Fuqua with Mr. Crane.
Mr. Jenkins with Mrs. Collins of Illinois.
Mr. Maguire with Mr. Collins of Texas.
Mr. Dingell with Mr. Harrington.
Mr. Brown of California with Mr. Krueger.
Mr. Huckaby with Mr. Skelton.
Mr. St Germain with Mr. Johnson of Colorado.
Mr. Smith of Iowa with Mr. Weaver.

Mr. GLICKMAN changed his vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

FOURTH ANNIVERSARY OF TURKISH INVASION OF CYPRUS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, 4 years ago today a black mark was etched into the annals of world history when Turkey invaded the sovereign state of Cyprus.

Since then, Turkey has occupied 40 percent of Cyprus. The invasion and occupations were achieved by an illegal use of arms supplied by the United States. Congress responded by imposing an arms embargo on Turkey in 1975.

The administration wants to lift the embargo. This same administration professes its respect for human rights. Yet both the European Commission on Human Rights and Amnesty International cited Turkey for human rights violations against Greek Cypriot prisoners of war. A vote to lift the embargo gives sanction to the illegality and immorality of Turkey's position on Cyprus.

Over 4 years, thousands of Greek Cypriots have been made refugees on their own home land. Entire families have been separated. Some 2,000 Greek Cypriots are missing and remain unaccounted for.

Four years is enough. Let us recommit ourselves to the rule of law in Cyprus and work so that in the fifth year peace will come.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

Mr. ASHLEY. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 12433) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes.

The SPEAKER pro tempore Mr. EVANS of Colorado). The question is on the motion offered by the gentleman from Ohio (Mr. ASHLEY).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill H.R. 12433, with Mr. BENNETT in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Thursday, June 29, 1978, title III had been considered as having been read and open to amendment at any point.

Pending was the amendment offered by the gentleman from South Dakota (Mr. ABDNOR).

The Chair recognizes the gentleman from South Dakota (Mr. ABDNOR).

Mr. ABDNOR. Mr. Chairman, this amendment would prohibit the Department of Housing and Urban Development from carrying out the reorganization of its field office structure which shifts multifamily functions from local area offices to centralized locations. Also, it directs the Secretary to restore the Department to the organizational structure that existed as of last October.

Contrary to the claims made by the Department, the reorganization has not been completed. In fact, it is less than 25 percent completed.

In addition, the Department has been claiming that to return the Department to its original status would require a $40 million supplemental. This figure is grossly inaccurate. The Department originally estimated it would cost approximately $10.6 million to reorganize. How could it cost four times that much to change it back? More importantly, of the $10.6 million, fully $9.5 million would be for personnel relocations costs. Remember, less than 25 percent of the employees have been replaced.

I hope this has cleared up any misconceptions that could have arisen as a result of calls made by the Department.

I am pleased by the broad encouragement and support I have received from my colleagues on both sides of the aisle.

Their support indicates this is not a partisan issue nor is it a regional issue. We share the view that the Department is embarking on a shortsighted venture that may well result in increased costs and decreased service for many sections of the country.

This is not the first time the Department has tried to reorganize itself. Since 1969 HUD has had 20 reorganizations. The funding for these reorganizations has been provided through funds means for programing. The Department must not be given a blank check to continue this policy.

As most of you know, Congress repeatedly has called for congressional hearings on the Department's latest reorganization plans. The Department has opposed them consistently.

When you read the most recent report by the GAO, you can understand why. That report indicates that with a reorganization, the quality of services will probably deteriorate and that any alleged cost savings could not be substantiated.

Specifically, the report pointed out that as a result of the multifamily consolidation, distances between HUD multifamily offices will be increased significantly—more than 500 miles in many jurisdictions. This would have an adverse impact on developers and others involved in HUD multifamily projects and on HUD's management capability.

As a result of these longer distances and the related travel and overhead costs, half of the developers interviewed by GAO said they would either not do business with HUD or were doubtful they would continue to do business with HUD.

Mr. Chairman, the truly unfortunate part of this statistic is that the developers who will not continue are the smaller and minority developers who normally are involved with smaller projects. Larger industries will be able to absorb the loss, but the small businessman can't.

This is important to rural areas because we rely on smaller projects. We do not need 200- or 300-unit projects, but we do need smaller ones to help house our people.

Now, I realize it is the Department of Housing and Urban Development, but that Department is supposed to serve the entire country. The rural areas of this country are getting tired of receiving the short end of the stick from HUD.

This distance factor also will have an effect on the Department's ability to fulfill their management responsibilities. This takes on added importance because inadequate on-site project management already has been identified as one of the major reasons multifamily projects encounter difficulty—difficulties, I might add, that prompted the Department to request in this bill $74 million for troubled multifamily projects. In spite of this, HUD persists in reducing its on-site inspection capability.

The Department's response to this is increased employee travel. But, the report says that HUD's estimate of the annual increase in travel costs probably is underestimated.

HUD estimated that providing the same level of service from Denver to South Dakota alone would cost about $33,000 more per year in travel costs than from Sioux Falls.

In Helena, Mont., HUD housing officials said required annual management reviews on 67 projects will cost as much as 10 times more for transportation and per diem after the consolidation than at present.

Mr. Chairman, that brings us to the question of cost savings. Are there any cost savings? We do not know. GAO

questions whether there will be, but they have not been any more successful in obtaining information from the Department than Members of Congress. In their report they said, "We requested but were not provided documentation supporting the estimated time savings."

The reason the GAO investigators were skeptical about the alleged savings stemmed from the fact that $113 million of the claimed $142 million would be savings experienced by industry. However, industry spokesmen almost unanimously said this is not true.

In addition, any savings that could occur by a speedup in processing would, in the opinion of the chairman of the HUD Task Force on Housing Costs, be attributable to management improvements and not from consolidation.

Finally, HUD claimed the Department would experience a savings of $28.7 million. Investigation shows, however, that $21 million of this is not even attributable to the multifamily consolidation feature of the reorganization.

About $12.6 million of this savings was estimated as a result of better project monitoring and fewer defaults. As has already been pointed out, this is not dependent upon reorganization. In fact, the reorganization could lead to reduced, not increased monitoring.

Mr. Chairman, there is still time to rectify this matter. In fact, the reorganization has been stalled in many areas as a result of court orders. The Department should be ordered to restore the organization that existed last October.

Congress then will have an opportunity to review the Department's plans to determine whether or not services will deteriorate and whether or not there will be any true cost savings.

I urge the adoption of the amendment.

Mr. ASHLEY. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from South Dakota (Mr. ABDNOR).

Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from South Dakota (Mr. ABNOR), which I think we have got to understand, would effectively negate the Secretary of HUD's reorganization in its field office operations.

The amendment is no less than a flagrant attempt on the part of Congress to interfere with the clear authority of the Secretary of HUD to manage and administer the Department's field offices.

This reorganization and the consolidation of the field offices was considered, planned, scheduled and undertaken in an orderly manner after months of study and consultation with public and private elements and with adequate briefing and notification of congressional Members in advance of such announcement.

This new HUD structure, Mr. Chairman, is the result of a number of studies including an investigation by the General Accounting Office which largely reached the same conclusion.

The HUD reorganization of its field office operations has the specific objective of reducing the operating overhead costs of the large number of offices and removing unnecessary layers of supervision—certainly a laudable aim.

If the Abdnor amendment is adopted, Mr. Chairman, it will have the result of some 1,100 HUD employees, already affected by the reorganization, having their working assignments severely disrupted because the Secretary would have to make immediate changes in their employment assignments.

Some 400 of these employees have already accepted reassignments to new area offices. One hundred and ninety-six employees have made legally binding commitments to buy and sell homes. The Department is contractually obligated to honor these commitments. One hundred and twenty-eight employees have elected to retire and 156 have resigned.

It should also be noted that if this amendment is agreed to the Secretary would be compelled to rehire employees who have now resigned or retired, she would have to countermand reassignments, to absorb the costs of moving and real estate transactions and, in short, the Secretary would be obliged to take on a monstrous and costly process, all because some Members do not like the political fallout that is bound to occur when organizational changes are made.

So, Mr. Chairman, on this basis I would urge the defeat of the Abdnor amendment.

Let me point out, just in closing, Mr. Chairman, that I am not new to this proposition. The district that I represent has had the field office of the Internal Revenue Service closed out and their operations shifted from Toledo to Cleveland. We lost some 4,500 jobs just a few years ago when the Rossford Ordnance Depot was phased out—phased out in about 3 weeks time. These, and other agencies, such as the Small Business Administration, across the board have all, at one time or another, been subject to reorganization.

And, yes, Mr. Chairman, I screamed. It is a natural political tendency to go through the accustomed blandishments when these changes take place. But they did not take place just at the whim of a bureaucrat here in Washington. Reorganizations are an effort to conserve money and to derive efficiency in organization and staff. That is why these changes take place. That is why I am opposing this amendment, Mr. Chairman.

If we accept this amendment, then under every such amendment that comes along whenever any of us are hurt, whenever any of our districts are affected by a change, presumably the same remedy would be available.

What about efficiency of Government? Is it not a fact, Mr. Chairman, that this is the one thing aside from proposition 13 that more and more of our constituents are looking to, looking at, insisting upon? Yet when steps are taken to improve the caliber, the efficiency, the quality of governmental services, this is the kind of amendment that we seriously entertain. It is not a proper response, Mr. Chairman.

The gentleman from South Dakota, I daresay, has been affected. Some of his constituents have. That would be true of others as well. It is not a sufficient reason, I submit, Mr. Chairman, for entertaining seriously this amendment, which must be defeated.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. ABDNOR, and by unanimous consent, Mr. ASHLEY was allowed to proceed for 3 additional minutes.)

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman from South Dakota.

Mr. ABDNOR. I thank the gentleman for yielding.

The gentleman seems to have quite a discrepancy in the amount of bodies that have actually been moved around. It was interesting to note that last Tuesday morning in trying to find the actual figures, in the morning we found out it was about 14 percent. By late afternoon or the next morning we discovered 24 percent of the personnel had been moved. The figures I have as of today say that 427 have agreed to transfer. Of those, 259 have actually been moved. Three hundred sixty-three have decided to stay in downgraded offices. Two hundred ten have retired because they are not even going to move, and 216 have just plain resigned because of their husbands and different reasons.

They are taking qualified people, Mr. Chairman, who are quitting and finding new greenhorns.

Mr. ASHLEY. Let me take my time back. Let me try to suggest to the gentleman we have a so-called delivery system. That system seeks to deliver housing services and related services to people for whom the HUD programs were developed. We have got to understand that the principal purpose of the program is not to provide employment and places to live and promises of employment opportunity to people who make up the delivery system. That is not entirely the purpose of the program or the HUD operation. Again, the purpose of the HUD operation is to provide continuity and delivery of program services to the people for whom those services were meant. So I guess there have been people who will be affected by the reorganization of the HUD offices in question.

I submit the HUD employees were never told in writing and signed in blood that they would never be transferred, and when they took the employment on the jobs that they now have, they fully understood that they were not necessarily going to be able to live out their lives in that particular community.

Mr. ABDNOR. Will the gentleman yield?

Mr. ASHLEY. I yield to the gentleman.

Mr. ABDNOR. I just want to say this, I agree with the gentleman. I am thinking of services.

Mr. ASHLEY. Well, why do you not withdraw the amendment then?

Mr. ABDNOR. On the local level when you are 500 and 700 miles away, and you are trying to carry on a business, are you providing any kind of service by making these people go that far to get their answers? It is just difficult.

Mr. ASHLEY. Mr. Chairman, I just again renew my plea that the amendment be defeated and defeated soundly.

Mr. CLEVELAND. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I rise in strong support

of the amendment cosponsored with my colleague, the gentleman from South Dakota (Mr. ABDNOR). I certainly hope the House will adopt this amendment to permit congressional review of major changes in the structure of a Federal agency which controls billions of dollars for programs of paramount importance to the cities and towns. The distinguished gentleman from Ohio, the chairman of the subcommittee, Mr. ASHLEY, spoke about this amendment as coming from somebody whose district has perhaps seen a loss of a few jobs.

I just want to strongly protest that particular point. First of all, the office involved is not even in my district.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, was Manchester, N.H., affected by the move?

Mr. CLEVELAND. It was; I was just about to say, Manchester, N.H., does not happen to be in my district. I will let my colleague, the gentleman from New Hampshire (Mr. D'AMOURS) answer for the first district; but I want the House to know the history of how we got that office in Manchester. We used to do our dealings with HUD through the office in New York City and for years and years the cities in my district attempted to do business with a far-away office in New York City and found it incredibly difficult and, in fact, impossible to deal with those far-away offices.

In fact, there was a builder in Keene, N.H., who was so grateful for the help I gave him in getting some of these housing projects through the redtape jungle that he named a building for me, the JAMES CLEVELAND Building, housing for the elderly. That is very nice. Although that is flattering to me, I ask why should we have a delivery system so far away and difficult to cope with that you have to get a full-time attorney, an accountant, and a Congressman to do business with them?

That is why I am concerned with this reorganization. The gentleman said there was consultation. There was no consultation with anybody whatsoever about that move in Manchester, N.H., until after the fact. We read it in the paper. What kind of consultation is that?

Mr. ASHLEY. Mr. Chairman, if the gentleman will yield further, can they make it from New Hampshire to Boston? That is only an hour and 20 minutes.

Mr. CLEVELAND. There is a great difference between New Hampshire and Boston, thank goodness.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to the gentleman from South Dakota.

Mr. ABDNOR. Mr. Chairman, I would like to point out just for the record, that Sioux Falls, S. Dak., is not in my district, either.

It is not a parochial thing. I am thinking of what is good for the people in the housing projects.

Mr. CLEVELAND. Mr. Chairman, to return to my prepared remarks, or formal remarks, this amendment stipulates that none of the funds available to the Department of Housing and Urban Development may be obligated or expended during the fiscal years 1978 and 1979 to carry out reorganization plans which involve the transfer of any function of any area, field, or insuring office which relates to multifamily housing or community planning or development.

Now, again, the gentleman from Ohio (Mr. ASHLEY) has said this may not be the right way to do it. Perhaps it is not the right way to do it, but it is the only way to do it.

I wrote the Secretary of Housing and Urban Development, not once, not twice, but three times before I even got an answer. I wrote to the White House and I waited 2 months until I got an answer from them. Some of these were my letters. Some were cosigned by other Members of the northern New England delegation and some were signed by my friend, the gentleman from New Hampshire (Mr. D'AMOURS).

There was no consultation. There was no discussion of the plans, even after they were announced in the newspapers. That is one of the things we have to consider in this amendment.

Mr. D'AMOURS. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I yield to my colleague, the gentleman from New Hampshire.

Mr. D'AMOURS. Mr. Chairman, I would like to associate myself with the gentleman's remarks.

Mr. Chairman, I rise to support adoption of the amendment offered by Congressman ABDNOR. Without this amendment to prohibit reorganization of the HUD offices, HUD will continue to have authority to assign smaller communities to the same offices as more powerful urban centers and will continue to force small communities to compete with large cities for services. Although I am sure that the move was designed to increase efficiency, it does so by cutting services to small towns and cities, effectually ignoring the needs of rural citizens.

Small towns will lose HUD's attention because their problems look artifically insubstantial beside those of the metropolitan areas where the offices will be located. The employees of large metropolitan offices rarely understand the problems of districts several hundred miles away.

I am not imagining improbable occurrences or describing what might be an isolated case. HUD's proposed reorganization would downgrade many of its smaller offices and remove their decisionmaking responsibilities. Let me use the situation in my own district as an example. The Manchester, N.H., office, charged with administering HUD programs in Maine, New Hampshire and Vermont, is one designated for downgrading. It is staffed by personnel who live in the area and who know many of the communities they serve.

Prior to the opening of the Manchester HUD office 9 years ago, our region was serviced by an office in New York City. I would not like to see a return to those days, when the staff—remote from New England—consistently demonstrated a lack of understanding of New England's unique needs and a lack of responsiveness to our very real problems, which no doubt appeared insignificant when compared to those of New York City.

The proposed reorganization would dismantle much of the Manchester office and assign its duties to Boston just at the time when it would have been able to administer the new small town and cities programs designed for the region. Boston already serves southern New England, an area primarily urban and vitally different from the north. Solving the problems Boston may have with administering HUD programs in northern New England is not as simple as increasing staff efficiency. There will always be enough requests to keep an office busy for more hours than are included in the working day.

What the office must do is assign priorities, and I charge that the needs of Allagash, Maine, more than 350 miles away, would not mean as much as they ought to Bostonians. We are talking about reforming an entire psychological perspective before the office can even expect to operate adequately, and that is no small task. Moreover, the distance between Boston and places such as Allagash makes it as prohibitively expensive for a small town official to present an application in person as it is impractical for a HUD caseworker to make 8-hour field trips.

Even the economic advantages of the reorganization are slight. HUD is not sure if the plan will save them any money at all. They have promised to retain all present employees, and they will have the additional costs of moving offices and expanding those which outgrow their present locations.

I think that we will pay a heavy price if we allow HUD to reorganize its offices as it desires. We will pay the price of withdrawing Government services to an arbitrarily chosen portion of our population. I do not think that that was HUD's goal, and I think we should prevent them from making a grave mistake. I urge my colleagues to vote for this amendment, and postpone reorganization until a plan has been designed from which we will indeed reap benefits.

Mr. CLEVELAND. Mr. Chairman, I thank my colleague.

Mr. Chairman, as I said, we have been treating this very much as a joint project.

I can put the rest of my remarks in the RECORD, but there is one more point I want to make and urge on this committee. Basically, the thing that makes us so uptight about this type of sudden reorganization done without consultation is that it is part and parcel of the centralization of the Government. Centralization of decisionmaking toward Washington and away from the people.

The CHAIRMAN. The time of the gentleman from New Hampshire (Mr. CLEVELAND) has expired.

(By unanimous consent, Mr. CLEVELAND was allowed to proceed for 2 additional minutes.)

Mr. CLEVELAND. Mr. Chairman, the thing that is of great concern to many of us is that this administration was elected on an anti-Washington platform.

They said there was a mess in Washington, and as I understood the campaign, part of the policy of the Carter campaign was that "we are going to get government back closer to the people." Yet here is a move that is taking government away from the people.

It is not those jobs that we are so concerned about. This is taking services and decisionmaking farther away, and that is what we are concerned about. We are concerned about the fact that they are taking the delivery of services farther and farther away from the point of need. It is a type of centralization.

The gentleman also mentioned the fact that they closed an IRS office in his district. There was an article by Evans and Novak that I put in the RECORD earlier this year which outlined some of this drift back toward the center.

The gentleman from Ohio (Mr. ASHLEY) mentioned proposition 13 in support of the reorganization. But, if there is any lesson we have learned from proposition 13, it is that Government in far away Washington is of necessity unresponsive to the needs of people. The people are not only upset by the cost of government, but also the quality of government.

That office was established in New Hampshire after a great deal of effort by a lot of people to get some of these programs and the people delivering these programs closer and closer to the point of need. But now that we have come closer to that point where the people who have to implement those programs can go and talk over their problems, suddenly and without consultation HUD takes on a deliberate policy of centralization, a reverse and for the worse.

Mr. Chairman, pulling back these points of contact is wrong—wrong—wrong. I am sorry that the subcommittee chairman feels compelled to defend the position of HUD. HUD is wrong.

In northern New England, HUD's reorganization plans include the transfer of the community development block grant program from its present location in Manchester, N.H., to Boston, Mass. Such a move is strongly opposed by virtually all the municipal officials in my district. In addition to the inconvenience of having a far more distant office to answer their questions and process their applications, they fear that the change will result in the needs of northern New England being treated as less important than those of their more urbanized neighbors to the south. Frankly, I do not blame them. Numerous letters from these officials convinced me moreover that the present system is functioning effectively and efficiently all of which prompts one to wonder what purpose this centralization will serve.

The problem of an unresponsive, big government is receiving increasingly more attention. I find it particularly ironic that President Carter campaigned on a promise of bringing government closer to the people yet in his first year of office, his administration headed in an opposite direction. This inconsistency led columnists Rowland Evans and Robert Novak to comment in an article published in the Washington Post of November 30, 1977, that "* * * ensnarled in the details of office, Carter simply has not come to grips with what his administration should stand for." That article, which I inserted in the CONGRESSIONAL RECORD on the same date is worth rereading and I shall insert it again at the end of my remarks.

At the same time, I also published an exchange of correspondence between myself and Congressman D'AMOURS and Secretary of HUD Patricia Harris and President Carter. That correspondence, which is also repeated here is quite illustrative of the theme of the Evans and Novak article, namely, that the bureaucracy is indeed out of control of even the President.

As my colleague, the gentleman from South Dakota and I pointed out in a letter to our colleagues, the General Accounting Office has refuted the administration's contention that the goals of this reorganization effort were to be cost savings and better services. The GAO further reported predictions by HUD field officials, project management officials, and State housing officials of a deterioration of HUD's project management capabilities because of increased distances and reduced project monitoring.

To those of my colleagues who feel that the Federal bureaucracy is in need of reform and reorganization, then, I would like to express my wholehearted concurrence. However, let us not revise the delivery of services which is clearly working well under the present system. Countless examples of mismanagement, inefficiency, and waste, et cetera, should be corrected and I hope they will be. But I also hope my colleagues will assert our congressional responsibility to monitor the activities of Federal agencies by adopting this amendment to prevent chaotic and unresponsive centralization efforts.

As a final point, I would like to insert for the benefit of my colleagues a letter from the Home Builders Association of New Hampshire taking issue with the position adopted by the National Association of Home Builders on this amendment and also my remarks in the RECORD for Nov. 30, 1977 on this subject.

HOME BUILDERS ASSOCIATION
OF NEW HAMPSHIRE,
Concord, N.H., June 27, 1978.

Hon. JAMES C. CLEVELAND,
U.S. House of Representatives, Longworth Office Building, Washington, D.C.

DEAR CONGRESSMAN CLEVELAND: Thank you for calling the National Association of Home Builders' position on the HUD reorganization to our attention. This is a recent decision and caught us by somewhat of a surprise. This statement by NAHB does not reflect the position of the Home Builders Association of New Hampshire.

In President Becker's letter he states "However, the membership of NAHB has concerns about some of the detailed aspects of this reorganization particularly those relating to (i) sufficient direct line authority between local offices and the Washington, D.C. office, and (ii) the possible disruption of multi-family processing through making these multi-family offices more remote to many of the centers of the multi-family developers. These issues deserve further study by HUD". We agree with this portion of the letter except that we do not consider our concern as being a "detail". We feel that (ii) in the above quotation is a very strong factor, and of course would be our reason for supporting your amendment.

We congratulate you on your stand in this matter and your consideration of its effect in New Hampshire.

Yours very truly,

WARREN H. DAVIS,
Executive Director.

[From the CONGRESSIONAL RECORD, Nov. 30, 1977, pages 38168–38170]

JCC REMARKS ON RECENTRALIZING POWER, ROWLAND EVANS AND ROBERT NOVAK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire (Mr. CLEVELAND) is recognized for 10 minutes.

Mr. CLEVELAND. Mr. Speaker, this morning's Washington Post carried an article by Rowland Evans and Robert Novak which is one of the most telling commentaries on our out-of-control big government seen in a long time. Evans and Novak point out that although President Carter's campaign pivoted around his promise to bring government back to the people, his Cabinet appointees are already moving in exactly the opposite direction, less than 1 year after he assumed the office of the Presidency.

Cases in point include reorganization plans presently underway at the Departments of Housing and Urban Development, Labor and Health, Education, and Welfare. I happen to be personally familiar with the disastrous bungling at HUD in particular because this reorganization effort includes plans to downgrade the only service office in northern New England. The important community development grant function will be transferred to Boston where northern New England communities' needs will compete with their urban neighbors to the south and perhaps get lost in the shuffle. This is an incredible turn of events from an administration whose chief led a majority of the country to believe that he would accomplish what the public clearly had wanted for some time: a more responsive, closer-to-the-people decisionmaking structure in Federal agencies.

In fairness to President Carter, however, I simply do not believe he knows about the situation. An illustration of that assumption is contained in the exchange of correspondence which I am inserting along with these remarks and Evans and Novak's excellent column. After writing two strongly worded letters to President Carter protesting the HUD reorganization plan and pointing out its implications, I received a nonresponsive communication from the Assistant to the Director of the Office of Management and Budget which indicates that the author clearly did not know what he was talking about. Also attached is an exchange of correspondence with HUD Secretary Patricia Harris which was also unsuccessful. A further point is that the Buffalo situation referred to in my second letter to the President evidently was reversed for reasons similar to those which I stressed.

I have two reasons therefore for bringing this matter to the attention of my colleagues via the CONGRESSIONAL RECORD: First, in the hope that someone at the White House reads the RECORD regardless of how they handle their mail; and second, to warmly commend Rowland Evans and Robert Novak for a very perceptive description of just how out of control our Federal Government is.

[From the Washington Post, Nov. 30, 1977]

RE-CENTRALIZING POWER

(By Rowland Evans and Robert Novak)

While the public is not fully aware of it, federal bureaucrats are confounding President Carter's campaign promise of close-to-the-people government by transferring authority from the field back to Washington.

That unannounced process is far advanced in the departments of Housing and Urban Development; Health, Education and Welfare; and, less clearly, Labor. Judging from his campaign emphasizing his non-Washington base and extolling government closer to the people, voters expected that one distinctive Carter label on the federal leviathan would be less, not more, centralization.

This represents neither broken promises nor changed principles by the President. Rather, ensnarled in the details of office, Carter simply has not come to grips with what his administration should stand for. While nobody doubted, for better or for worse, the direction of Richard Nixon's presidency after 10 months, the Carter presidency has neither set nor sought a theme.

The Washington bureaucrats have leaped to fill this void with a vengeance, tightening federal regulation and devising plans for federal direction of the nation's affairs. But their successful drive to concentrate all power in Washington is most significant, considering the lingering belief of long-time Carterites that regionalizing power still ought to be a dominant Carter theme. A glance at what is happening at Labor, HUD and HEW follows:

Labor. All regional directors have been eliminated, a move that brings field offices directly under Washington's supervision. Department officials say the regional directors never had much power, so the change does not mean much, but White House staffers say centralization is undeniable.

HUD. There is no argument about more centralization. Not only have the number of field offices been reduced but their authority has been sharply cut back as well. "The feeling is we had to return the full decision-making to Washington," one HUD official told us.

HEW. A reorganization in July removed program responsibilities from regional directors, returning them to Washington. Like Labor, HEW's field offices will be directly supervised by Washington instead of regional offices. Office of Education employees in the field are being brought back to Washington. HEW spokesmen say Secretary Joseph Califano wants "central responsibility."

Califano leads the vanguard of bureaucrats triumphant in the first year of the Carter administration. Reluctantly selected for his post by Carter at the urging of Washington insiders (headed by Vice President Mondale), Washington insider Califano has emerged as a Cabinet star in the President's opinion (but not in the opinion of his White House staff).

That is remarkable in view of Califano's personification of more spending, more regulation and more centralization. It is explained by other administration officials not as a conversion in Carter's philosophy but as his turning in relief to one member of a generally undistinguished Cabinet who has his work completed on time and his department under control.

Califano's triumph as a master bureaucrat is not isolated. Officials who believe in more, not less, government dominate the administration. Many are graduates of the Ralph Nader school of consumer protection, but more reflect the archetypal bureaucrat predating Ralph Nader by centuries. In the words of one relatively conservative Cabinet member: "This administration is filled with people who like to regulate other people."

For example, HUD is proposing a plan (devised largely by Assistant Secretary Robert Embry, former Baltimore City housing commissioner) that would require suburbs to put in public-housing cluster programs or lose federal money. Such social engineering can stir up political dogs that Carter might prefer to keep sleeping.

That is why friends of the President, motivated only by his political welfare, wish Carter would consider at greater length whether he should not fulfill his promises, explicit and implicit, of decentralization, deregulation and a less intrusive role for government.

But most of the bureaucrats are pushing for still more government in 1978, to satisfy the left as well as themselves. Moreover, even if Carter belatedly puts his mind to it, it is too late in the day to unscramble the eggs of greater centralization and regulation. The cost may be not only the loss of a distinctive Carter theme but also a big-government thrust that is beginning to run strongly against mass opinion.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C., November 29, 1977.

Hon. JAMES C. CLEVELAND,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN CLEVELAND: The President has asked me to respond to your October 11 letter concerning the Department of Housing and Urban Development's (HUD) area office in Manchester.

As you may know, the President has given Cabinet Secretaries primary responsibility for internal Department reorganizations. The Office of Management and Budget (OMB) responsibility is to review these plans to ensure their consistency with other reorganization initiatives.

In the case of the HUD plan, it is our understanding that Secretary Harris gave close attention to the impact of the proposed changes on HUD local operations and approved only those changes that would streamline the Department's operation without impairing its ability to effectively accomplish its mission. While most HUD area office responsibilities were broadened as a result of the reorganization, a few offices were downgraded where HUD judged that such was warranted because of the level of demand for its services in those areas. I understand that HUD officials are already directly in touch with you to explain their decision in the case of the Manchester area office.

Thank you for bringing your concerns to our attention.

Sincerely,

HUBERT L. HARRIS, Jr.,
Assistant to the Director.

NOVEMBER 9, 1977.

Hon. JIMMY CARTER,
President of the United States,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: On October 7, I wrote you about the downgrading of the HUD office in Manchester, New Hampshire, which serves the northern New England, New England States; namely, Vermont, New Hampshire and Maine. On October 21, Mr. Frank Moore informed me that the letter had been received and that the matter was under consideration.

It has now come to my attention that the Buffalo HUD office was also slated to be downgraded. As a result of Congressional inquiry, however, that proposal was canceled. It was canceled for almost identical reasons as those advanced in favor of not downgrading the Manchester office. The problems in northern New York are different than those in urban New York. The problems in northern New England are different than the problems in the Boston area of New England.

I repeat my strong request that this matter be reviewed, and the HUD decision changed.

Sincerely,

JAMES C. CLEVELAND,
Member of Congress.

THE WHITE HOUSE,
Washington, D.C., October 21, 1977.

Hon. JAMES C. CLEVELAND,
U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN: The President has asked me to acknowledge his receipt of your October 7 letter regarding the downgrading by HUD of the Manchester regional office, and to let you know that your comments are under consideration.

Sincerely,

FRANK MOORE,
Assistant to the President for Congressional Liaison.

OCTOBER 7, 1977.

Hon. JIMMY CARTER,
President of the United States, The White House, Washington, D.C.

DEAR PRESIDENT CARTER: On October 6 my office received official notification from the Department of Housing and Urban Development that the Manchester, New Hampshire, area HUD office will be downgraded as part of your Administration's reorganization plan.

As one who certainly applauds and supports your expressed intention to make the federal government more responsive to the people, I cannot believe you would condone an action which is directly contrary to that goal. Downgrading of the Manchester area HUD office will mean that New Hampshire, Vermont, and Maine citizens will have to deal with an increasingly centralized and bureaucratic structure in Boston rather than in their own northern New England region in order to obtain assistance from an active federal agency.

Prior to the establishment of the Manchester area office, I found the experience of trying to solve constituent problems with HUD at the regional level to be completely unsatisfactory and frustrating. A return to this type of centralization would, in my opinion, amount to a great disservice to the people of New Hampshire and northern New England.

I strongly urge you therefore to take appropriate action to reverse this unfortunate and misguided decision and fulfill your pledge of a more responsive government to the people of New Hampshire.

Sincerely,

JAMES C. CLEVELAND,
Member of Congress.

THE SECRETARY OF HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., October 13, 1977.

Hon. JAMES C. CLEVELAND,
House of Representatives,
Washington, D.C.

DEAR MR. CLEVELAND: Thank you for your letter of October 5, 1977, urging the retention of the Manchester Area Office.

I know you are aware that our decision to convert the Manchester facility into a Service Office was not lightly or frivolously taken. On the contrary, the unique concerns and requirements of Northern New England were painstakingly evaluated in the course of our decision making process.

As you know, the new arrangement will leave untouched the housing functions currently performed in Manchester. What we will accomplish, however, is a concentration of Community Development expertise at a single facility—Boston—from which all of the Northern tier states will be served more effectively than before.

This is a relatively small department with scarce personnel resources, and even scarcer resources in personnel qualified to administer and monitor the Community Development Block Grant program in the manner mandated by the Congress. We have no choice but to deploy these resources in the most cost effective way, to reduce overhead, to pare back overstaffed offices and to do all that is reasonably possible to accelerate decision making and make Federal processes simpler, more flexible and more responsive.

We believe that the altered arrangement we have provided for Manchester, enhanced by the other reforms contained in our field reorganization, will contribute to all of these objectives.

Sincerely,

PATRICIA ROBERTS HARRIS.

HOUSE OF REPRESENTATIVES,
Washington, D.C., October 5, 1977.

Hon. PATRICIA ROBERTS HARRIS,
Department of Housing and Urban Development, Washington, D.C.

DEAR SECRETARY HARRIS: We urge you to reverse your decision to downgrade the administration functions of the Department of Housing and Urban Development's Manchester, New Hampshire Area Office.

Your concern for a more effective and responsive agency to cater to the needs of the nation and your reorganization efforts toward this end are commendable. However, in the case of the Manchester Area Office, we feel your efforts are misdirected and will in fact result in less effective and less responsive delivery of HUD services to the States of New Hamoshire, Maine, and Vermont.

We applaud the recent Housing and Community Development Act which addresses the very real problems facing the Northeast. We are convinced that the needs of rural northern New England will not be served should the administration of this Act for our region be shifted to the Boston HUD Office. Although northern New England faces the same myriad of problems presently facing the entire Northeast, we urge you recognize the very real distinction between our states and the far more urban states of Massachusetts, Connecticut, and Rhode Island.

We believe your decision demonstrates an insensitivity toward our states' unique needs and undermines, rather than enhances, President Carter's pledge to bring government closer to the people it serves. As far as many rural communities in our states are concerned, HUD programs might as well be administered in Los Angeles as in Boston.

We protest in the strongest terms the downgrading of the Manchester HUD Area Office and urge you to reverse your unfortunate decision. The housing and community development needs of Maine, New Hampshire and Vermont are far more important than the bureaucratic considerations on which your decision was based.

Sincerely,

JAMES C. CLEVELAND,
WILLIAM S. COHEN,
NORMAN E. D'AMOURS,
DAVID F. EMERY,
JAMES M. JEFFORDS,
Members of Congress.

THE SECRETARY OF
HOUSING AND URBAN DEVELOPMENT,
Washington, D.C., September 13, 1977.

Hon. JAMES C. CLEVELAND,
House of Representatives,
Washington, D.C.

DEAR MR. CLEVELAND: I have received your letter dated August 18, 1977 regarding the status of our Manchester Area Office.

As Assistant Secretary Medina stated in his letter to you, we must balance the requirement for services to the public with the cost of our field operations. Also, as Mr. Medina mentioned, final decisions have not been made. Therefore, at this time I must defer the answers to your questions. When we have made the final decisions about Manchester, we will contact you.

Sincerely,

PATRICIA ROBERTS HARRIS.

DEPARTMENT OF HOUSING
AND URBAN DEVELOPMENT,
Washington, D.C., August 10, 1977.

Hon. JAMES C. CLEVELAND,
House of Representatives,
Washington, D.C.

DEAR MR. CLEVELAND: Secretary Harris has asked me to respond to the letter dated July 29, 1977 signed by you and Congressman Norman E. D'Amours.

As part of our organizational assessment we are considering changes in the assignment of programs and functions among our various field offices including Manchester, to provide for greater effectiveness and efficiency and reduce the cost of our field organization structure. However, final decisions have not been made. While there may be some functional reassignments, certainly I can assure you that the Department will continue to maintain an office in Manchester.

Please be assured of our concern for the level and quality of services which we provide in all field offices. We are determined that, regardless of the changes that might be made, the problems you previously experienced with respect to HUD's responsiveness will not be repeated.

When final decisions have been made concerning Manchester, we will be in contact with you again. An identical letter is being forwarded to Congressman D'Amours.

Sincerely,

WILLIAM A. MEDINA,
Assistant Secretary.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 29, 1977.

Hon. PATRICIA ROBERTS HARRIS,
Department of Housing and Urban Development, Washington, D.C.

DEAR SECRETARY HARRIS: This correspondence is in regard to the Department of Housing and Urban Development's Manchester, New Hampshire Area Office.

It has recently been brought to our attention that the Department of Housing and Urban Development plans to close the Manchester Area Office. We are writing at this time to express our concern of the effect that such action will have upon the delivery of services to Northern New England.

The HUD Area Office in Manchester presently serves the states of New Hamoshire, Maine and Vermont. Although rural in nature, these states are burdened with the same myriad of problems presently facing the entire Northeast. However, these states in Northern New England are often overshadowed by their larger and more urban neighbors to the south. It is an administrative structure, such as the Manchester Area Office, which allows for the consideration of problems faced by this region of New England.

The HUD Manchester Area Office presently serves over sixty (60) municipal housing authorities. Twenty (20) local jurisdictions are served by the Community Development Block Grant Program. In addition, approximately thirty (30) municipalities receive the benefits of the Community Development Discretionary Program. We are convinced that the quality of services provided these municipalities will not be maintained should the Boston HUD Office assume the responsibilities now held by the Manchester Area Office. This conviction is strengthened by the experience of dealing with HUD on constituent problems prior to the establishment of the Manchester Area Office. We are sorry to say that the regional and national offices were not satisfactorily responsive to Congressional needs and we do not look forward to such difficulties again.

It is our hope that the recognized quality services provided northern New England by the Manchester Area Office will far outweigh any need for administrative reorganization.

We thank you in advance for your consideration and attention to this matter.

Sincerely,

NORMAN E. D'AMOURS,
JAMES C. CLEVELAND,
Members of Congress.

Mr. ASHLEY. Mr. Chairman, will the gentleman yield?

Mr. CLEVELAND. I certainly will yield to the gentleman from Ohio.

Mr. ASHLEY. Mr. Chairman, let me ask the gentleman, does any constituent of his have to drive more than 130 or 140 miles?

I come from Toledo, and we do not have any HUD office in Toledo. We have to drive to Cleveland. Cleveland is about 150 miles from Toledo and Columbus is about 130 miles away.

Mr. Chairman, if every Member squealed and believed they were representing their constituents by objecting to the fact that they had to drive for an hour and 20 minutes, an hour and a half, or even 2 hours to do business with the HUD office, then I will admit we would have a circus here. I do not understand what the gentleman is talking about. All he or his constituent has to do is to get in his car and drive to Boston.

Mr. BLANCHARD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think we are hearing a very interesting debate here on how we can go about having an accountable, sensitive Government.

I have no doubt that while it is true that everyone affected by this HUD reorganization is offered a job, the fact is that some perhaps do not want to take them and some have decided to take other jobs or retire.

I do not know how any department or any program can be reorganized if we do not shake and ruffle a few feathers. I just do not know how it can be done otherwise. The fact is that this HUD reorganization program, regardless of how we read the statistics, is virtually complete.

The gentleman mentioned some court orders. They are on the National Environmental Policy Act, and the first one has already been thrown out. It was thrown out yesterday in Kansas City.

The fact is the reorganization plan is designed to reduce processing of the usual applications. I think all of us at one time or another in dealing with HUD have been frustrated by the enormous time delays in getting anything decided. What HUD is trying to do is to consolidate its multi-family operations so we can get quicker decisions. That is accountability.

I am not so sure that just because we

have an office on every street corner, that gives us accountability, especially if they have to pass everything up two or three rungs in the bureaucracy to get a decision.

The fact is that the GAO had previously recommended the changes HUD has adopted. In fact, if they criticized HUD, it was only because HUD did not go far enough, that HUD did not go farther.

The fact is that 427 HUD employees have already agreed to relocate their families, and they are in the process of moving. Three hundred families have already made binding commitments to buy or sell homes; 259 have already moved. If this amendment is adopted, files and equipment would have to be shipped back to original locations. I do not know the exact figures on how much it would cost to reverse this plan. I do know the gentleman's amendment requires HUD to reimburse all the affected employees for their moving expenses and, for all we know, their housing commitments and mortgage payments, and move them back in place. But it would appear, all best in attentions aside, that reversing this plan would cost about $5 million.

Moreover, I have probably more differences with HUD over some of their policies than just about anybody in this room at this particular moment, and Members on both sides of the aisle who are on the Housing Subcommittee and Banking Committee know that. But I do not know how we can get HUD to be accountable unless they have some managerial accountability. And if we pass this amendment and tell HUD they cannot streamline their operations, they have got their people back in place, and pay the freight, I think we are essentially telling the career bureaucrats that they are running this Government, that the nonelected, nonappointed people are running our Government.

I think a vote against this amendment, frankly, is a vote for greater accountability on HUD, which I think we ought to get, and greater accountability to the Congress and to the people.

Mr. LUNDINE. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from New York.

Mr. LUNDINE. Mr. Chairman, I would like to associate myself with the gentleman's remarks and compliment him for incisively pointing to the fact that this is really a uniquely administrative decision and that we have no business here in the Congress trying to legislate and trying to substitute our judgment for the judgment of the people we hold responsible for the delivery of housing and community development programs.

Mr. Chairman, I rise in opposition to the amendment. I believe that the amendment offered by my colleague from South Dakota represents a costly and inappropriate attempt to reprimand the Department of Housing and Urban Development for reorganization decisions that arguably have a negative impact on some communities.

I doubt that there is a Member in this Chamber who has not alleged to his or her constituents a strong concern over the irrational Federal bureaucracy. I believe that HUD's reorganization plans address that concern with an honest and professional attempt to coordinate housing and community development programs in a rational manner. It simply makes no sense for us to legislatively dictate an administrative decision which would force HUD to undertake a costly reversal of reorganization plans already implemented.

I would like to remind you that this reorganization was based on extensive analysis of the previous structure by the GAO and the reorganization assessment group which included representation not only from HUD, but from a variety of associations representing HUD clients. The result is a carefully designed plan that will work to reduce processing time for applications, reduce operating and overhead costs in marginal offices and remove unnecessary layers of supervision and processing. It is a plan which will enable HUD to achieve increased housing production goals without a massive increase in personnel and resources.

We have charged HUD with the responsibility to meet the Nation's housing and community development needs. In order to accomplish that enormous task, they must be assured of adequate authority to administer these programs as effectively and efficiently as possible. The Department has developed a reorganization plan with a strong view toward improving their administrative capability. To order a reversal of those efforts at this late date would result in tremendous and far-reaching costs to the Department, its employees, and the people it serves.

Nearly all of the 1,100 HUD employees affected by the reorganization have been offered job assignments in the new structure. Many are in the process of relocating and have made legally binding commitments to buy or sell homes. Some have elected to retire or to accept jobs elsewhere. Equipment has been moved and office leases renegotiated. This amendment seems even more irresponsible when one considers the major commitment of staff time that would be required to reverse a reorganization that took many months to implement.

Mr. Chairman, what we are talking about is an amendment that could cost as much as $40 million and that would result in considerable disruption in the administration of HUD programs, further hardship for affected employees and a loss of production of assisted housing units. We have not even allowed the slightest opportunity to evaluate the effectiveness of this reorganization and already we are talking about reversing completely the new operation.

I urge my colleagues to defeat the amendment.

Mr. ABDNOR. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from South Dakota.

Mr. ABDNOR. I thank the gentleman for yielding.

Mr. Chairman, I would like to point out one thing, if I may, to the gentleman. The gentleman is talking about costs for relocation. These are HUD's own figures of last October. I do not think they have changed that much. Relocation costs, $9.5 million. That is, if you move everybody. You have only moved 24 percent of the people. What about the other 76 percent,

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BLANCHARD) has expired.

(On request of Mr. ABDNOR and by unanimous consent, Mr. BLANCHARD was allowed to proceed for 2 additional minutes.

Mr. ABDNOR. If the gentleman will yield further, the thing I would like to point out—and I think this is what they lose all track of over in the Secretary's office, and apparently some of our own committee members lose track of it—they say. "It is only 150 miles. Is that so far to go to an office?"

Let me point out something in the GAO report. The distance from Helena to Denver is 780 miles; from Fargo to Denver, 857 miles.

Is that exactly right next door? And does that make it so simple for people to carry on?

Mr. BLANCHARD. The gentleman raises some good points. The setup, no matter what HUD does, is not going to please everyone. But I would rather drive 700 miles and get an answer, especially when we are talking about multifamily builders. We are not talking about Aunt Joan and semiretired workers. We are talking about multifamily builders.

Mr. ABDNOR. Right.

Mr. BLANCHARD. And you want to get answers when you are in that business and not wait for two or three rungs of Government to make a decision.

But I am not arguing that HUD's organization is perfect, nor that we ought not be concerned about people. But let me say that it is better right now to leave this new system in place. I think to move them back is ludicrous.

Mr. ABDNOR. If the gentleman will yield further, the thing the gentleman is losing track of, he is losing track of the fact that 750 employees are not even going to have a part of it. They are quitting. They are quitting the office.

Mr. BLANCHARD. I question your figures, but it is true that some of the employees have retired and some have taken other jobs or were offered positions. Frankly, I do not worry too much if we lose a few Federal employees. I have always thought there were too many.

Mr. ABDNOR. But 60 percent of them, 65 percent?

Mr. BLANCHARD. That is not an accurate figure.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BLANCHARD) has expired.

(On request of Mr. BROWN of Michigan and by unanimous consent, Mr. BLANCHARD was allowed to proceed for 1 additional minute.)

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

The gentleman knows that HUD has asked for 1400 more employees, and it is provided for in their budget.

Mr. BLANCHARD. I did not say I was going to support that.

Mr. BROWN of Michigan. The gentleman also knows that the multifamily insuring office has the final word on multifamily insured projects. So they do not have to go someplace else.

The gentleman, being close to Detroit, must know the unusual record Detroit has had in multifamily projects. So must we transfer the good records from Grand Rapids, which has an unblemished record, one failure in some 200 projects, transfer that to Detroit because, damn, it is going too good, we cannot afford to have that kind of success, let us get it down in Detroit and screw it up all over again?

Mr. BLANCHARD. The gentleman knows that I have as many problems with HUD as he does.

All I would like to see is that when we call the people here in charge they, for one, be accountable, and I do not want to get the answer that some bureaucrats somewhere in Dubuque decided what their policies are.

I think this amendment would hurt us in getting managerial accountability.

The CHAIRMAN. The time of the gentleman from Michigan (Mr. BLANCHARD) has expired.

(On request of Mr. WINN and by unanimous consent, Mr. BLANCHARD was allowed to proceed for 2 additional minutes.)

Mr. BLANCHARD. First, Mr. Chairman, I do not understand why the other side of the aisle is coming down on the side of runaway bureaucracy. I cannot understand it.

Mr. WINN. Mr. Chairman, will the gentleman yield?

Mr. BLANCHARD. I yield to the gentleman from Kansas.

Mr. WINN. Mr. Chairman, I appreciate the gentleman's yielding.

The gentleman mentioned a decision by the Kansas City District Court regarding the Kansas City, Kans., area office, which is in my district.

I think that has little bearing on the other court decisions now pending. The shift in functions would only be from Kansas City, Kans., to Kansas City, Mo., right across the river, a distance of about 3 miles.

The other cases involve offices that would be downgraded, and the multifamily function would be transferred hundreds of miles away to another office in Albuquerque. For instance, the multifamily functions would be performed by the Dallas office, 630 miles from the Albuquerque office.

I think what this whole argument boils down to is what my good friend, the gentleman from Ohio, says, that sometimes we are just not happy with political fallout.

Mr. BLANCHARD. Mr. Chairman, I would say the gentleman raises a couple of good points.

The problem with these court cases—and that is why the Kansas City decree is relevant—is that HUD's reorganization is challenged under the National Environmental Policy Act, and two or three restraining orders have been granted. When I looked at these documents, I could not believe that anybody would make such a case.

Fortunately, in Kansas City, the court said that the National Environmental Policy Act "was never intended for purposes of promoting full employment or preventing the discharge or transfer of Federal personnel * * * nor was it ever envisioned to be a 'substitute community planning device'."

Let us be thankful that for once the court did, perhaps, what many of us think is sensible.

I urge defeat of the Abdnor amendment.

Mr. WYLIE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to talk about a subject which is ancillary to the Abdnor amendment and pertinent to the Abdnor amendment, I think.

I submit to the gentleman from Michigan (Mr. BLANCHARD) that the Abdnor amendment is not coming down on the side of the bureaucracy. Rather, the bureaucracy is being shifted from the very area HUD offices mentioned here to Washington.

During the week when this bill was held over, I was told about a rather dramatic increase in supergrade positions in the Department of Housing and Urban Development here in Washington, so I took the time to check the material developed by the appropriations subcommittee which has jurisdiction over HUD.

One item which struck me was the increase in political appointments in the Department of Housing and Urban Development here in Washington. These are the so-called schedule "C" positions. The appropriations subcommittee hearing record indicates that HUD has gone forward and increased 62 schedule "C" positions under the Ford amendment to 126 under President Carter and Secretary Harris.

Mr. Chairman, the gentleman from Michigan (Mr. BLANCHARD) mentioned accountability. There ought to be plenty of accountability with these new schedule "C" positions.

I was curious as to why and how the number of political appointees doubled in a little over a year, so I requested a further breakdown of these positions. The facts are very revealing, and I suggest that my colleague from Michigan listen as I indicate that the Department has become top-heavy with chiefs.

For example, as I mentioned, the last administration had a total of 62 schedule "C" positions. This administration has 63 in the top three grade levels alone. There are six level V's who are paid $47,500 a year; 29 GS–15's, who are paid up to $47,025 a year; and 28 GS–14's paid up to $39,975 a year.

The presence of all these chiefs has a trickle-down effect because each chief is entitled to and generally gets a secretary of at least a particular grade. Therefore, it is not surprising to me to see a total of 37 new positions have been listed in the GS–9 to GS–11 category. This compares with 18 such positions under Secretary Hills.

It is also interesting to see where these people are located. As I say, most of them, all but 18, are right here in Washington. It was not until just recently that the Department was authorized to put schedule "C" employees in the field.

So, the fact that there are 18 located in the field, is not surprising. Aside from this, where do the Members think most of these new people are sitting? They are sitting in the office of the Secretary and the Under Secretary, naturally. We might as well start at the top. The last administration managed to get along with 12 such positions in the two offices. Mrs. Harris and Mr. Janis have 21 schedule C's reporting directly to them.

Mr. Chairman, I do not want to mislead my colleagues and leave them with the impression that the 126 schedule C's represent all the political appointees in the Department. That total does not include supergrades. Supergrades are GS–16, 17, and 18. They are called NEA, noncareer executive assignment.

The last administration had 26 of these slots. This administration has managed to struggle by with only increasing that to 32. That brings the grand total of political appointees to 158, and it is still growing. This is in contrast to the last administration's 88 appointees. At this rate, we will not need Civil Service reform; we will not have any Civil Service.

Based on this information, I feel constrained to support the Abdnor amendment.

Mr. SISK. Mr. Chairman, would my colleague yield?

Mr. WYLIE. I would be glad to yield to the gentleman from California.

Mr. SISK. I thank the gentleman for yielding to me.

Mr. Chairman, I rise in support of the Abdnor amendment. I would like to say to my colleague that I appreciate very much his yielding to me momentarily, realizing that I am not a member of the committee and it is a little difficult to get in here.

I am concerned about service to people using the housing. I have heard some discussion by my good friend from Ohio about the people involved and people shifted. I recognize that many of us who work for public service and work for the government at any level may be subject to moves from time to time. I am concerned about the kind of service these multifamily people, as well as other types of housing projects, are getting when they are removed from area offices that are terribly important.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

(At the request of Mr. SISK and by unanimous consent, Mr. WYLIE was allowed to proceed for 3 additional minutes.)

Mr. SISK. Mr. Chairman, the point I am trying to get at is that I am concerned about, in fact, what is amounting

now in many areas to a lack of service by HUD in connection with housing responsibilities that may be a HUD responsibility. I very strongly support the amendment offered by the gentleman from South Dakota. I think it is unfortunate that this particular administration of HUD from time to time has made about every mistake I can find in the book. Certainly, I think this has been a real boner that they have pulled in an attempt to reorganize.

The facts are that reorganization is nowhere near half finished. In fact, I understand it is probably no more than a fourth completed. Therefore, I think now is the time for Congress to stop and take pause.

Mr. WYLIE. Mr. Chairman, I think the gentleman from California has made a significant contribution to the colloquy and to the support of the amendment.

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. WYLIE. I will be glad to yield to the gentleman from Michigan.

Mr. BROWN of Michigan. Mr. Chairman, I know the administration's political fortunes are sagging, but that hardly justifies the politicizing of the Department that we are now witnessing. As if the doubling of schedule C political appointees at HUD, as documented by the gentleman from Ohio, was not bad enough, I now see, in a memo from HUD headquarters to all area office directors, that the political appointees at HUD are threatening to revoke the "decisionmaking authority" of any field office which prematurely discloses possible housing or community development awards.

This form of threat to field offices is intolerable. What is next—handcuffs and leg irons—just to assure that HUD headquarters can dispense the award notifications to congressional offices?

It is common courtesy to notify congressional offices of awards in their districts, but to threaten employees with revocation of their authortiy to make decisions because someone found out about a possible award is a gross abuse of authority.

If this abuse of authority was not so serious, it would be amusing to read from a June 9, 1978, memo from the Assistant Secretaries for Legislation, Housing, and Community Planning and Development.

JUNE 9, 1978.

Memorandum To: Area Office Managers.

From: Harry K. Schwartz, Assistant Secretary for Legislation; Larry B. Simons, Assistant Secretary for Housing; and Robert C. Embry, Assistant Secretary for CPD.

Subject: Procedures for Notifications Grant Awards.

This memorandum transmits the procedures by which Members of Congress are to be notified of HUD awards in their districts or States. These procedures will become effective immediately.

For the most part this memo reiterates procedures presently in effect. You will note, however, that CD discretionary grants will now be announced when communities are invited to submit full applications. There are also some changes in the manner in which these announcements are to be forwarded to the central office. Section 8 new construction and rehab awards will be announced at the preliminary, rather than the final application stage. Section 8 allocations will also be announced when fair shared by the area offices to the suballocation market areas. PFS awards will also be announced.

It is very important that the notifications to congressional offices come from the central office rather than the field or the cities or individuals involved. Accordingly, effective with this memo, any premature disclosures of awards may result in the revocation of the decision making authority of the office involved for such awards.

As you can see from the memo, the Department is also trying to telescope activities and show action where none exists prior to the November elections. HUD will now be able to make congressional notifications when housing projects receive preliminary approval rather than at the time of final approval; community development discretionary grants can now be "announced" when communities are invited to submit a full application rather than when they are actually approved.

This change in procedures is very interesting. It will give the impression of action where little exists, but it will be dangerous for those who announce projects when only preliminary approval has been received. In those cases where projects drop out before final approval—someone will have egg on their face. However, since that is unlikely to happen until after November 7, the risks really are not that great.

The CHAIRMAN. The time of the gentleman from Ohio (Mr. WYLIE) has expired.

(On request of Mr. BROWN of Michigan, and by unanimous consent, Mr. WYLIE was allowed to proceed for 2 additional minutes.)

Mr. WYLIE. Mr. Chairman, I thank the gentleman from Michigan for his contribution. I think he has made a significant and valid point.

I would just close by saying I think perhaps if this amendment is adopted it will provide some congressional accountability and ought to be supported.

Ms. KEYS. Mr. Chairman, I rise in support of the Abdnor amendment. I have consistently supported reorganization for effectiveness and economy. However, after spending weeks of personal and congressional staff time since the issuance of the October 13 HUD reorganization plan, trying to determine its effect on the state of Kansas, I can unequivocally state that it achieves neither efficiency nor economy.

In fact, reorganization in Kansas as proposed would be a giant step backward. It would depersonalize HUD operations in Kansas and leave an entire State without a significant HUD presence. It would render impossible the job of effective response to the unique housing problems of smaller sized towns and cities all across the large State of Kansas. At the same time, the move would require an extravagant expenditure of tax dollars hard on the heels of recent large expenditures to locate the present insuring and area offices in Federal office space. In Topeka, the State's capital, the plan calls for closing the HUD insuring office employing 57 people and moving them approximately 65 miles to a Kansas City, Mo., office. Only a seven-person evaluating office would remain.

In spite of the fact that $195,000 was spent just last year to prepare space for one of the largest offices in the new Topeka Federal Building for HUD, and $7,000 to move them into the building, the plan proposes spending close to a half million dollars this year to relocate the Topeka personnel in Kansas City, Mo. That does not include the additional expense of $360,000 for new office space in the new office in Kansas City, Mo., or the moneys involved in the loss of rental in the Federal Building and moving another Federal office and its employees in to the empty space. Even more ridiculous is the moving of all of the 145 permanent employees in the Kansas City, Kans., area office 3 miles to the east into new space in a new office building in Kansas City, Mo. I would not bother to repeat the statistics, but they are at least triple the amount of expenditures cited in the Topeka case just to relocate them 3 miles to the east in offices with higher rental and utility costs. Economy is clearly not served by such a ridiculous exercise. There is no indication from the endless meetings held with communities and office holders in Kansas and HUD officials that there will be any magic efficiency and responsiveness gained by the move a few miles to the east. Indeed, there is every indication that effectiveness will be lost.

Thus, though I applaud the administrations stated objectives of streamlining governmental agencies and operations, I believe the HUD reorganization plan is ill-conceived. Computers spitting out statistics cannot form the entire base of consideration for decisions on reorganization. An entire State with 2¼ million citizens without representation by one of the most important departments of the Government whose programs affect all Americans is not a reasonable result from a reorganization plan. I cannot believe that Congress would agree to such a plan after thorough study.

Therefore, I urge adoption of this amendment to stop the precipitous implementation of a poorly thought out reorganization plan. It will allow reorganization to be carefully evaluated by the appropriate House and Senate committees. Such a course of action will help to insure that the aims of reorganization are really in the best interests of American people, not computers.

Mr. AuCOIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman and my colleagues, I rise in strong opposition to the amendment offered by the gentleman from South Dakota (Mr. ABDNOR).

I must say, Mr. Chairman, in listening to the debate on the floor today, that I am simply amazed at the number of my

colleagues who are content with the organizational structure of HUD as it existed prior to the time that the Secretary decided to do something about what was well known as one of the biggest basket cases, administratively, in the entire Federal bureaucracy.

This is the kind of situation we had: You could go to an area office, you could go to a sprinkling of offices around the country—and we are talking about this on a national basis—and wait for weeks or months to get a consistent, concise, and precise answer to a question that you might have for your constituents or that a builder might have who might want to get into the program. The organizational structure of this agency, prior to the attempts of this Secretary to streamline the agency, was absolutely nothing less than a shambles.

I recall Secretary Harris coming before the House subcommittee in one of her first appearances and talking about why it was that HUD was not working as well as it should be. And she pointed out, and I think our subcommittee, based on its experience with that agency, concurred, that one of the reasons was that things fall apart out in the field.

To listen to the debate today I have got to say that I am amazed that some people are trying to say that distance, somehow, is more important than performance. Or, to put it another way, the presence of an office is more important than service.

Let me give you an example of what we are trying to talk about under this organizational program. We are not talking about regional offices gobbling up a lot of little field offices around the country. We are talking about, also in some cases, where functions are transferred out of the regional office into area offices, and other smaller area offices having their functions consolidated so that a package of functions can be put together to better serve the clientele, the builder, the constituent, and the contractor.

Let me give the Members an example. In the Northwest there is a community, an isolated community that had two community development specialists assigned to that area office. They had almost no technical backup staff, no housing rehabilitation specialists, no relocation specialists, no financial assistance to give the technical capacity to do the job they were assigned to do in the area of community development. So what we had were people out there functioning without their proper tools. To be able to consolidate these functions into a package so that people are better served and communities are better served I think makes a great deal of sense.

The gentleman from New Hampshire (Mr. CLEVELAND) said that the message of proposition 13—and I am sure we are setting a record today on the number of times proposition 13 is being cited as an example for one's particular point of view——

Mr. CLEVELAND. Mr. Chairman, will the gentleman yield? I just want to correct the record on this point.

Mr. AUCOIN. Just as soon as I am done with my time, I will be pleased to yield to the gentleman from New Hampshire.

Mr. CLEVELAND. The gentleman misquoted me.

Mr. AUCOIN. I am going to reclaim my time right now, and when I am through I will yield to the gentleman if he wants to correct me at that time.

I thought I understood the gentleman from New Hampshire to say that the message of proposition 13 was one that said that the public was tired of overcentralization of government. I suggest that the message of proposition 13, a major ingredient of it, is that the public feels it is not getting enough bang for its buck, and if we sprinkle functions in HUD or any Federal agency over such a wide area as not to be able to deliver what is meant to be delivered in a timely, consistent, and effective way, I suggest to the Members that we defeat the program's purpose and we play into the hands of those who are rightly concerned that the Government is not delivering services effectively. I say proposition 13 is one of the arguments for reorganization of HUD, and I compliment the Secretary for it.

We have heard talk about cost savings versus distance, and I would simply say that the real question is one of performance. It is not one of presence in any one of our congressional districts. It is a question of performance. It is a question of service, and I am absolutely convinced that even though this reorganization will not be perfect—and I dare say our subcommittee will have to come back and lean on the agency again because it will not be totally reformed—it will be vastly superior to the agency and the organizational structure that this committee had to deal with for the years that I remember prior to this reorganization.

Now I will yield to the gentleman from New Hampshire.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. CLEVELAND, and by unanimous consent, Mr. AUCOIN was allowed to proceed for 1 additional minute.)

Mr. CLEVELAND. I thank the gentleman for yielding.

The gentleman is slightly in error when he says that I cited proposition 13 in favor of the Abdnor amendment for financial reasons. I alluded to the fact that the chairman of the subcommittee, the gentleman from Ohio (Mr. ASHLEY) had cited proposition 13, as the gentleman has, in favor of the reorganization. Apparently the gentleman thinks it is going to save some money. I countered with the argument that this was another step in the centralization process. It was typical of the administration not only in HUD but in other areas, and I suggested the thought that this type of centralization, in which you take decisionmaking closer to Washington and farther away from the people affected, is leading to a great deal of discontent in the country today and distrust of government. Part of the proposition 13 message is not only the cost of government but also the quality of government.

Mr. AUCOIN. To reclaim my time, I would simply say to the gentleman from New Hampshire that to sprinkle offices across the land to the point of rendering them almost helpless in terms of delivering timely services is not the message of proposition 13.

The CHAIRMAN. The time of the gentleman has expired.

(At the request of Mr. BROWN of Michigan, and by unanimous consent, Mr. AUCOIN was allowed to proceed for 1 additional minute.)

Mr. BROWN of Michigan. Mr. Chairman, will the gentleman yield?

Mr. AUCOIN. I yield to the gentleman from Michigan.

Mr. BROWN of Michigan. I thank the gentleman for yielding.

I think the gentleman has made a marvelous speech. It is too bad it was not more relevant.

Mr. AUCOIN. The gentleman wounds me deeply when he says that.

Mr. BROWN of Michigan. The gentleman knows that the Abdnor amendment does not relate to the reorganization of regional offices. The Abdnor amendment is limited to "the reorganization or transfer of any function of any area, field, or insuring office which relates to multifamily housing or community planning or development"—only those two functions. That is all that is under discussion.

By the way, is Oregon affected by the reorganization?

Mr. AUCOIN. Yes, it is.

Mr. BROWN of Michigan. How is it affected?

Mr. AUCOIN. What does the gentleman mean? I think it is going to be enhanced.

Mr. BROWN of Michigan. Are the functions of the Portland office taken away or are any insuring offices phased out?

Mr. AUCOIN. There are transfers.

Mr. BROWN of Michigan. No, there are not. The gentleman knows there are not. To the extent that the gentleman thinks he had a basket case before, that is the problem. What they are doing is continuing the basket cases, and the good offices are being closed.

The CHAIRMAN. The time of the gentleman from Oregon (Mr. AUCOIN) has expired.

(By unanimous consent, Mr. AUCOIN was allowed to proceed for 1 additional minute.)

Mr. AUCOIN. Mr. Chairman, I want to say one thing to my dear friend, the gentleman from Michigan. If the gentleman were only as zealous in his remarks to make HUD work effectively under the previous administration and under the previous Secretary as the gentleman seems to be now, I think we would be further ahead than we are today.

Mr. BROWN of Michigan. Mr. Chairman, if the gentleman will yield further, I do not think the gentleman wants to discredit the efforts of the gentleman from Ohio (Mr. ASHLEY) and I when we were basically credited with the authorship of the 1974 act and our efforts in trying to make the programs work. I notice the administration has endorsed 90 percent of the affirmative, positive good work the gentleman from Ohio has done.

Mr. AUCOIN. Mr. Chairman, give the Secretary a chance to deliver right now and we will see a better effort.

Mr. BOB WILSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment to eliminate funding for the proposed reorganization of the Department of Housing and Urban Development. Since the idea was first proposed last year, I have viewed it as unwise, assurances from the Department that there would be no interruption or reduction in services notwithstanding.

I was particularly concerned with the reorganization's effect on San Diego by downgrading that office from the status of an area office, and moving numerous functions north to Los Angeles.

There are 32 cities smaller than San Diego in the United States that have area offices that provide full HUD services, and many of the offices that had been scheduled to close were given reprieves because of the problems that have developed in the area of housing.

The reorganization disturbed me most, as San Diego is soon to become the eighth largest city in the Nation. It is also one of the fastest growing, which creates acute shortages of housing on a regular basis.

Many of our citizens who need housing the most are the underprivileged and elderly disadvantaged residents of our urban area. They are the ones that would be hit hardest by any proposed reorganization of HUD offices and potential reduction in services.

It is because I feel that any proposed reorganization of local HUD offices would result in such a reduction of services that I support the amendment and urge its approval.

Mr. ASHLEY. Mr. Chairman, I would like to get an agreement on time, without voting. I understand there are no more amendments. It seems to me if we are going to try to expedite consideration of the remainder of the bill today and tomorrow, if we get an agreement on time this evening and then the Committee would rise, we would be in a position to vote on this tomorrow morning.

Is there any problem with that?

Mr. Chairman, I ask unanimous consent that all debate on this amendment be concluded in 3 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Ohio?

Mr. BROWN of Michigan. Mr. Chairman, reserving the right to object, how many Members wish to speak? I would like about 3 minutes.

Mr. BAUMAN. Mr. Chairman, I object and I make the point of order that a quorum is not present.

The CHAIRMAN. Objection is heard.

Mr. ASHLEY. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. MURTHA) having assumed the chair, Mr. BENNETT, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 12433) to amend and extend certain Federal laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, had come to no resolution thereon.

PROPOSED RESCISSION IN UNNEEDED BUDGET AUTHORITY MADE AVAILABLE TO DEPARTMENT OF LABOR—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 95–370)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $500 million in unneeded budget authority that was made available to the Department of Labor for advances to the unemployment trust fund and other funds.

The details of the proposed rescission are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *July 20, 1978.*

"NATIONAL LUPUS WEEK, 1978"—THE BUTTERFLY-MASK DISEASE

(Mr. ANDERSON of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ANDERSON of California. Mr. Speaker, the House is scheduled to consider House Joint Resolution 682 on Monday, June 24.

Since January 19, 1978—the day this resolution was introduced authorizing the President to proclaim the week of September 17–23 as "National Lupus Week"—229 Members of this House have joined me in cosponsorship.

I would like to take a few minutes to explain lupus erythematosus.

WHAT IS LUPUS ERYTHEMATOSUS?

Lupus erythematosus—lupus—usually appears in one of two forms: discoid lupus erythematosus—the skin form; or systemic lupus erythematosus—the internal form. Neither type is contagious.

Discoid lupus has a particular type of skin rash with raised, red, scaly areas—most commonly on the face. Usually discoid lupus patients have normal internal organs, although nearly 1 of 20 discoid lupus patients develop internal changes.

Systemic lupus is classified as a rheumatic disease—like rheumatoid arthritis—and is usually considered a chronic, systemic, inflammatory disease of connective tissue. Chronic means that the condition lasts a long time. The term "systemic" literally means all through the body. Inflammatory describes the body's reaction to irritation with pain and swelling.

Lupus involves changes in the blood vessels and the connective tissue, which supports the cells of the body in much the same way that mortar connects and supports bricks of a house.

Mr. Speaker, systemic lupus can be a mild condition, but, because it can involve the heart and lungs, the kidneys and blood, and joints and skin, it may appear in different forms and with different intensities at different times in the same person. It is very unlikely that all of the symptoms would occur in one person.

Some patients with epilepsy or recurrent pneumonia and some false positive serologic tests for syphilis may actually have pre or early lupus erythematosus.

WHAT CAUSES LUPUS ERYTHEMATOSUS?

The cause of discoid lupus is unknown, and in most cases, the cause of systemic lupus is also unknown.

Regarding systemic lupus, however, some believe that certain medicines such as procainmide—pronesty—a drug often used to treat heart irregularities—may be a factor in the cause of systemic lupus. In addition to certain medicines, excessive Sun exposure may well be a factor contributing to the occurrence of lupus.

Current theories place a great deal of emphasis on a special type of allergic reaction causing the disease. Some scientists believe that a patient develops antibodies against his own tissues, as if being vaccinated against oneself. The antibodies are known as autoantibodies, and the type of allergy is called auto immunity—or an allergy against oneself.

It is essential that we tell our physicians of all medicines we take—including vitamins, headache remedies, birth control pills, and laxatives. I am advised that at least two medications which can be bought in the drug store for treatment of constipation have been involved in drug-caused lupus.

SYMPTOMS AND COURSE OF LUPUS ERYTHEMATOSUS

Lupus symptoms are quite varied and no two patients have exactly the same ones. Symptoms may include: joint and muscular pain, fever, skin rashes, chest pain, swelling of hands and feet, hair loss, and combinations of these symptoms.

In the majority of lupus patients, most

of these symptoms disappear. This clearing of symptoms is called a "remission." Though medications are usually necessary to induce a remission, sometimes they occur spontaneously, that is, without treatment.

The systemic lupus patient may have periods of severe illness with extreme symptoms, intermingled with periods of no illness and complete freedom from symptoms—remission. The illness comes and goes so unpredictably that no two cases are alike. Some preventable causes of flare-ups are excessive sun exposure, injuries, over-work, insufficient rest, stopping the medications with which the doctor has been controlling the disorder, irregular living habits, and emotional crises. Abruptly stopping medication, particularly large doses of cortisone (prednisone) derivatives, can lead to a severe flare of the disease or fatal outcome.

DIAGNOSIS OF LUPUS ERYTHEMATOSUS

Discoid lupus' skin rash may be so typical that an experienced physician can make the diagnosis by the history and appearance of the rash. If there is any question, a skin biopsy helps. It is essential that each patient with discoid lupus has a thorough physical examination, including laboratory tests, to check the possibility of systemic lupus being present.

The diagnosis of systemic lupus is difficult—many times taking months of observation, many laboratory tests, and sometimes a trial of drugs.

Frequently systemic lupus starts like the more commonly recognized rheumatic disease, rheumatoid arthritis—with swelling of a few or many joints of the hands, feet, ankles, or wrists. However, if typical skin lesions are present, they are helpful in making the diagnosis. Other findings such as arthritus, fever, pleurisy or kidney disease, also help to confirm the diagnosis of systemic lupus.

Routine tests—such as a blood count to see if there are too few red cells, white cells, or platelets—are used to determine the extent of internal involvement. A chest X-ray and electrocardiogram are important to determine whether there is any lung or heart involvement.

Systemic lupus often imitates other diseases—causing a problem in diagnosis.

INCIDENCE OF LUPUS ERYTHEMATOSUS

Lupus is increasing. It has been learned that certain medications and drugs may cause lupus. Seven out of ten patients with discoid lupus are women, usually in their late twenties or beyond; 9 of 10 patients with systemic lupus are women, half of them developing their first symptoms between ages 15 and 25. Lupus is rare in children under the age of 5.

Lupus is found throughout the world and affects all races and ethnic groups. Systemic lupus is far more common than rheumatic fever, leukemia, cystic fibrosis, multiple sclerosis, muscular dystrophy, hemophilia, and other well-known diseases.

The total number of patients in the United States with lupus is unknown. However, current estimates place this number in excess of 500,000 with 50,000 new cases and 5,000 deaths attributable to the disease annually.

THE AMERICAN LUPUS SOCIETY

Mr. Speaker, I appreciate this opportunity to bring this dread disease to the attention of the Congress. I would like to compliment the American Lupus Society, located in my district in Torrance, Calif., for its efforts to bring lupus to the attention of the Nation through its chapters and affiliates.

The first chapter was founded in memory of Bonnie Bernard Denn who was a victim of the disease in 1970. Bonnie's father, Martin M. (Mike) Denn, serves as president of the American Lupus Society. Other chapters have been established and are now chartered in Arizona, Illinois, New York, Tennessee, and in Sacramento and San Diego, Calif. American lupus clubs are forming nationwide.

During its nearly 8 years of operation, the society has mainly concerned itself with patient-oriented programs and the distribution of lupus informational materials. I urge anyone interested in starting new chapters or getting material on the disease to contact: Martin M. Denn, President, the American Lupus Society, 23751 Madison Street, Torrance, Calif. 90505. (213) 373–1335.

Mr. Speaker, I now ask unanimous consent to print in the RECORD at this point an alphabetical listing of the Members of Congress cosponsoring our House Joint Resolution 682, the "National Lupus Week, 1978" resolution.

COSPONSORS OF "NATIONAL LUPUS WEEK, 1978" RESOLUTION

Mr. Abdnor, Mr. Addabbo, Mr. Akaka, Mr. Ambro, Mr. Anderson of California, Mr. Annunzio, Mr. Archer, Mr. AuCoin, Mr. Baldus, Mr. Barnard, Mr. Beard of Tennessee, Mr. Bellenson, Mr. Bennett, Mr. Bevill, Mr. Biaggi, Mr. Blanchard, Mr. Boland, Mr. Bonior, Mr. Bowen, Mr. Brademas, Mr. Breckinridge, Mr. Brodhead, Mr. Brown of Ohio, Mr. Brown of Michigan, Mr. Brown of California, Mr. Burgener, Mr. Burke of Florida, Mrs. Burke of California, Mr. Phillip Burton, Mr. Carney, Mr. Carter, Mr. Cederberg, Mr. Chappell, Ms. Chisholm, Mr. Don Clausen, Mr. Del Clawson, Mr. Cleveland, Mr. Cohen, Mr. Coleman, Ms. Collins of Illinois, Mr. Conte, Mr. Corman, Mr. Cornell, Mr. Cornwell, Mr. Corrada, Mr. Cotter, Mr. Coughlin, Mr. D'Amours, Mr. Danielson, Mr. Davis, Mr. de la Garza, Mr. Dellums, Mr. de Lugo, and Mr. Devine.

Mr. Downey, Mr. Duncan, Mr. Edwards of Oklahoma, Mr. Eilberg, Mr. English, Mr. Ertel, Mr. Evans of Georgia, Mr. Evans of Colorado, Mr. Evans of Delaware, Mr. Fary, Mr. Fauntroy, Mrs. Fenwick, Mr. Findley, Mr. Fish, Mr. Flood, Mr. Florio, Mr. Flynt, Mr. Ford of Michigan, Mr. Forsythe, Mr. Frenzel, Mr. Frey, Mr. Fuqua, Mr. Gammage, Mr. Gaydos, Mr. Gephardt, Mr. Gilman, Mr. Glickman, Mr. Goldwater, Mr. Goodling, Mr. Gore, Mr. Gradison, Mr. Green, Mr. Guyer, Mr. Hammerschmidt, Mr. Hanley, Mr. Hannaford, Mr. Harris, Mr. Harsha, Mr. Hawkins, Mrs. Heckler, Mr. Hefner, Mr. Heftel, Mr. Hillis, Mr. Hollenbeck, Mr. Horton, Mr. Howard, Mr. Huckaby, Mr. Hughes, Mr. Hyde, Mr. Ireland, Mr. Jacobs, Mr. Jenkins, and Mr. Jenrette.

Mr. Johnson of California, Mr. Jones of Tennessee, Mr. Jones of Oklahoma, Mr. Kazen, Mr. Kemp, Mr. Ketchum, Ms. Keys, Mr. Kildee, Mr. Krebs, Mr. LaFalce, Mr. Lagomarsino, Mr. Leach, Mr. Lederer, Mr. Le Fante, Mr. Leggett, Mr. Levitas, Mr. Lloyd of California, Mrs. Lloyd of Tennessee, Mr. Long of Louisiana, Mr. Lott, Mr McDade, Mr. McFall, Mr. McHugh, Mr. McKinney, Mr. Maguire, Mr. Marks, Mr. Martin, Mr. Mazzoli, Mr. Metcalfe, Mr. Michel, Ms. Mikulski, Mr. Mikva, Mr. Miller of Ohio, Mr. Minish, Mr. Mitchell of Maryland, Mr. Moakley, Mr. Moffett, Mr. Mollohan, Mr. Montgomery, Mr. Moore, Mr. Moorhead of California, Mr. Moorehead of Pennsylvania, Mr. Mottl, Mr. Murphy of Pennsylvania, Mr. Murphy of Illinois, Mr. Michael Myers, Mr. Nichols, Mr. Nix, Mr. Nolan, Ms. Oakar, Mr. Oberstar, Mr. O'Brien, and Mr. Ottinger.

Mr. Panetta, Mr. Patten, Mr. Patterson, Mr. Pattison, Mr. Pepper, Mrs. Pettis, Mr. Poage, Mr. Preyer, Mr. Price, Mr. Quie, Mr. Quillen, Mr. Rahall, Mr. Railsback, Mr. Rangel, Mr. Reuss, Mr. Richmond, Mr. Rinaldo, Mr. Roberts, Mr. Robinson, Mr. Rodino, Mr. Roe, Mr. Rose, Mr. Roybal, Mr. Russo, Mr. Ryan, Mr. St Germain, Mr. Santini, Mr. Sarasin, Mr. Scheuer, Mr. Sebelius, Mr. Sikes, Mr. Simon, Mr. Sisk, Mr. Skelton, Mr. Solarz, Ms. Spellman, Mr. Stanton, Mr. Stark, Mr. Steed, Mr. Steiger, Mr. Stokes, Mr. Stump, Mr. Symms, Mr. Taylor, Mr. Traxler, Mr. Treen, Mr. Udall, Mr. Van Deerlin, Mr. Vander Jagt, Mr. Vento, Mr. Volkmer, Mr. Waggonner, Mr. Walgren, and Mr. Walsh.

Mr. Wampler, Mr. Watkins, Mr. Waxman, Mr. Weiss, Mr. Wiggins, Mr. Bob Wilson, Mr. Charles Wilson, Mr. Charles H. Wilson, Mr. Larry Winn, Mr. Wolff, Mr. Won Pat, Mr. Wright, Mr. Yates, Mr. Yatron, Mr. Don Young, Mr. Robert Young, and Mr. Zeferetti.

Also, I ask permission to reprint a June 18, 1978, letter from President Jimmy Carter, who has very kind words to say about the American Lupus Society.

THE WHITE HOUSE,
Washington, June 18, 1978.

Hon. GLENN ANDERSON,
U.S. House of Reresentatives,
Washington, D.C.

To Congressman Glenn Anderson:

I am writing to express my support for the efforts of the American Lupus Society, located in your Congressional District, in combating the disease, lupus erythematosus.

Lupus presents the physicians and medical researchers of this country with a major challenge. Although lupus can strike at any age, it usually affects young adults in the prime cf their lives. Research advances have provided clues to immunological abnormalities that seem to underlie lupus, but the cause, or causes, must still be discovered.

The Federal Government is supporting an active program of basic research in immunology, genetics and cell biology, which is essential to new approaches, as well as clinical research important for diagnosis and treatment. Such a commitment to the control of lupus is necessary if we are to provide relief to the 500,000 people affected by the disease in this country currently and for the generations yet to come.

Sincerely,

JIMMY CARTER.

Mr. Speaker, I join with the President in his support for "a commitment to the control of lupus * * * if we are to provide relief to the 500,000 people affected by the disease in this country currently and for the generations yet to come."

On Monday, July 24, 1978, I urge the Members to join with me in voting for House Joint Resolution 682 and demonstrating our concern for lupus patients and support for the efforts of those committed to finding a cure for lupus.

Congratulations to: Mike Denn, president of the American Lupus Society; Milt Abram, president, American Airlines Chapter; Robert Bacon, president, Greater San Gabriel Valley; Clayton Shepherd, president, South Bay—Los Angeles; Jan Hornback, president, Central Illinois; James Mondelli, president, Middle Tennessee; Andy Arlotto, president, Sacramento; Linda Frame, president, San Diego; and Steve Steffen, president, Orange County.

Special thanks also go to the volunteers in the Torrance headquarters office. They are: Pauline Ellis, Voyo Sugich, Donnie Sugich, Lucille Hedge, Sandy Salcon, Wilbur Kinsey, Steve Steffen, Rothwell Swane, Fred Clark, and Betty Summerford.

A NEW BEGINNING TO AN OLD TRADITION

(Mr. LEDERER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEDERER. Mr. Speaker, it is with the greatest pride that I share with my colleagues in the House a new beginning to an old tradition which will take place on July 29, 1978, when John Cardinal Krol, Archbishop of Philadelphia, dedicates the new Patient Tower erected by St. Mary's Hospital at Frankford Avenue and Eyre Street in Philadelphia.

St. Mary's Hospital was established in 1860 at 4th Street and Girard Avenue by the Sisters of St. Francis of Philadelphia. The Sisters now own and operate 11 hospitals throughout the Nation, including St. Agnes in Philadelphia and St. Mary's in Langhorne.

For the past 118 years many babies have been born, thousands of lives have been saved, and countless people have been cured behind the proud walls of St. Mary's. The communities and neighbors of Fishtown, Kensington, Frankford, Harrowgate, and Northern Liberties have depended on St. Mary's Hospital for medical care before the age of public health clinics came into being. And while these new facilities will enable St. Mary's to improve the quality of its medical care, one thing will always remain the same as when the hospital was erected in 1860. That is the care and concern which the Sisters and staff of St. Mary's give to each individual who enters its doors for help.

St. Mary's—we salute and thank you for 118 years of service to the people and for the countless number of those in need which the "new" St. Mary's will serve in the future.

STATUS OF PUERTO RICO — A MAGNIFICENT COMMONWEALTH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. LEGGETT) is recognized for 30 minutes.

● Mr. LEGGETT. Mr. Speaker, recent developments in United States-Puerto Rican affairs make it critically important that we reexamine our relationship with Puerto Rico. All too frequently, arguments appear calling for either independence or statehood for Puerto Rico. It is, however, not a simple "either-or" question. There is a third alternative, the alternative of a continued and improved Commonwealth status. It is my opinion that this moderate position is most acceptable at this time.

The relationship between the United States and Puerto Rico is clearly less than ideal. Any vestige of colonial imperialism throughout the world should not be tolerated. Our relationship with Puerto Rico, however, is not based on the enslavement or degradation of that smaller country. The goal of our affairs cannot be the dependence of one country on another, but rather a program of interdependence. When small and powerful nations have to deal with each other in a constant and continuous fashion, interdependence is the only reasonable position.

A review of the unique history of our countries' relationship is valuable. Twenty-eight years ago, on July 3, 1950, Congress passed Public Law 600 which embodied the present compact agreement with Puerto Rico. The constitution it sanctions bears the title "The Constitution of the Commonwealth of Puerto Rico."

This congressional action was ratified by the citizens of Puerto Rico on June 4, 1951 by a vote of 387,016 to 119,159; 88 of the 92 Puerto Rican delegates to their own constitutional convention approved the constitution that instituted the commonwealth concept. The constitution of the Commonwealth of Puerto Rico was then submitted to the citizens of Puerto Rico for a popular referendum, and was overwhelmingly passed by a vote of 374,649 to 82,923.

Mr. Speaker, it is important to remember that the Commonwealth status for Puerto Rico was not unilaterally imposed on that country by the United States. Its constitution has been openly debated and approved by the citizens in a democratic manner.

From 1948 to 1965, Gov. Munoz Marin, the first popularly elected Governor of Puerto Rico, worked tirelessly to perfect the commonwealth status. Significant changes occurred during this time. These changes signified a continuous trend toward greater self-government, with all island officials either locally elected or appointed by the Governor. The Department of the Interior no longer supervises island affairs, but now serves as a liaison between Puerto Rico and the United States.

Most Federal programs are extended to the island. The defense of Puerto Rico, as well as all foreign relations, are handled by the United States. The citizens of Puerto Rico are represented in the U.S. Congress by a Resident Commissioner, who is elected locally every 4 years. The Resident Commissioner has the right to speak on the floor of the House, but does not vote.

Mr. Speaker, Congress has not been blind to the need to constantly evaluate and alter the special relationship with Puerto Rico. In 1959, 1964, 1973, and 1976, Congress took needed steps to analyze, and, in some cases, restructure United States-Puerto Rican affairs. In 1964, the United States-Puerto Rican Commission on the Status of Puerto Rico suggested that a plebiscite be held on the status question. This plebiscite was held on July 3, 1967.

The results of that plebiscite are most illuminating, 60.4 percent of those voting favored the retention of the Commonwealth status, 38.9 percent favored statehood, and 0.6 percent favored independence. This vote marked a clear statement by the Puerto Rican people that a continued interrelationship with the United States was desirable.

Other important steps in the development of Puerto Rico's status have also recently occurred. On December 17, 1975, a compact of permanent union between Puerto Rico and the United States was introduced in the Congress by Resident Commissioner Jaime Benitez. The compact attempted to achieve, through democratic means, a series of compromises by which Puerto Rico would attain maximum local autonomy within the framework of a Federal system. The proposed compact had 24 cosponsors, and would have provided for smooth democratic change in the status of Puerto Rico. In some areas, such as Puerto Rico's proposed right to set immigration policies, the compact would have given the island more power than any of the States.

The compact was generally supported by the leadership of Puerto Rico, and hearings were held in both the House and the Senate. This compact, however, despite some broad support, was not accepted by the White House. Momentum towards its passage completely died when President Ford dropped his New Year's eve bombshell call for statehood.

The status question is by no means the only key issue demanding attention in Puerto Rico. An overriding concern is the state of the Puerto Rican economy. Since 1965, the Commonwealth has faced severe economic problems, that make our own economic troubles pale in comparison.

According to the Congressional Research Service, inflation and recession have seriously damaged the Puerto Rican economy. Puerto Rico imports 98 percent of its oil, a resource that has tripled in cost. Agricultural production has declined to the point that more than one-half of all arable land is now stag-

nant. Seven out of every 10 households receive food stamps. Unemployment, estimated at greater than 40 percent, continues to grow. And, Mr. Speaker, the cost-of-living in San Juan is approximately 13 percent higher than in our own high-priced Washington, D.C.

Any discussion of the status question of Puerto Rico must take into account the economic situation in the Commonwealth. We in America have tended to focus on the "independence-statehood" debate without examining the underlying economic crisis. Our interpretation of the recent election of the pro-statehood New Progressive Party illustrates our misperceptions. The NPP, which gained 48.3 percent of the vote, campaigned most heavily on the issue of economic and administrative reform, not on the status question. The debate was over economics, not statehood.

Mr. Speaker, we must continuously strive to formulate an equitable, strong United States-Puerto Rico relationship. This cannot be done through rhetoric or slogans that offer simple solutions to complex problems. Instead, a more positive partnership can only be achieved through an open and honest recognition and attack on the serious problems that do indeed exist. In my opinion, Mr. Speaker, a continued and improved Commonwealth status is the mechanism that can best meet the mutual needs of our two countries.

Mr. Speaker, the ideas presented above are further articulated in two speeches by former Resident Commissioner Mr. Jaime Benitez which were published in the San Juan Star. These speeches, along with a congressional research service research paper on the Commonwealth question, greatly clarify the entire Puerto Rican question. I urge my colleagues to join me in support of the Commonwealth position.

IN DEFENSE OF COMMONWEALTH

(By Jaime Benitez)

The vehemence with which 100 percent Americans like Maurice Ferre and Gary Hoyt have joined and even out-distanced the 100 percent anti-Americans in their vituperation of commonwealth status is a typical case of the extreme right ganging up with the extreme left in a common charge against the vital center.

Gary Hoyt, Maurice Ferre, Fidel Castro and Carlos Gallisa make strange bedfellows. But they deserve each other. The intensity of their repudiation for what Puerto Rico and United States have wrought is equally virulent.

All four are, or pretend to be, morally outraged by Puerto Rico's political, economic, cultural, psychological realities. To Castro and to Gallisa the United States is the perpetrator of evil, the aggressor, the imperialistic master while Puerto Rico is the victim. To Hoyt and Ferre we are the exploiters and the American taxpayer is the victim.

Each side twists facts to suit its purpose. The Castro-Gallisa argument appeals to the outside world where the United States is distrusted and Puerto Rico unknown. The Hoyt-Ferre claim suits such taxpayers as distrust the outside world, Puerto Rico included. Both arguments are false. Both have failed repeatedly in Puerto Rico.

But that does not faze our present government. During the 1976 campaign Carlos Romero and followers withheld their statehood-or-independence ultimatum from the electorate. According to their campaign pledges, if elected, they would forget the status issue, eliminate unemployment, protect government employees, sell the telephone company, improve the industrial climate.

The people of Puerto Rico have never endorsed statehood at the polls. No request has ever been made for independence. Would the NPP be in power today if its leaders had disclosed that independence was their second choice?

Puerto Rico's overall need calls for a concentration of effort on economic reconstruction. Any well informed knows that there is no likelihood of incorporation as the "51st State" as long as our unemployment rate is over three times more than that on the mainland and while only 22 percent of our population is on the working force as contrasted to 46 percent in the U.S. Instead of mobilizing all the potentials of public and private initiative to strengthen our economic and social growth "the government is leading Puerto Rico into a fruitless tug-of-war on status. Speaker Viera Martinez feels at liberty to use the 4th of July eulogy to proclaim the demise of status he and all other public servants had sworn to support.

Are Gov. Romero, Speaker Viera Martinez and Mayor Maurice Ferre ready, willing and able to go for independence when and if their statehood request goes unheeded? What about their avowed love for U.S. citizenship, for permanent union and for what they are wont to call "our nation"? Switching from incorporation to separation involves such about-face that only people with deep, hidden hostilities or such as don't care much one way or another are likely to make. Or it may be that the spokesmen for the NPP are living in a dream world—like Alice in Wonderland—untouched by the grim realities of Puerto Rico's plight or of congressional power politics.

Ferre, Hoyt and Romero claim that under present commonwealth arrangement Puerto Rico exploits U.S. to the tune of $3 billion a year. This false innuendo is intended to demigrate commonwealth. It will win no votes for statehood in Congress particularly when the pitch is made further that statehood is for the poor and would facilitate additional dips into federal funds.

The seven congressional seats accruing to Puerto Rico may be a plus argument locally. But the seven congressional districts likely to be eliminated on the mainland if Puerto Rico were to become a state would be up in arms against such eventuality. The same double-edge argument goes for the two million decisive votes from Puerto Rico to elect the president of the United States.

It would take many, many significant changes within the United States and within Puerto Rico before such incorporation may be deemed as a mutually workable and acceptable proposition at both ends. There is much to be lost by Puerto Rico and by the United States in the event of such a mismatch.

I take no pleasure or solace in such prospects. I favor commonwealth—preferably improved commonwealth—because I regard it as best suited to encompass Puerto Rico's needs, personality, potentials. I believe the world of the future needs new forms of interdependence and autonomy rather than more independent or more incorporated communities. I am a member of this community, have cast my lot with Puerto Rico for better or for worse and will remain here in any case. The demeaning, distorted and offensive arguments that are being bandied around against commonwealth, statehood or dependence are degrading our political interchanges and turning us into political tribes.

I refer now to "the $3 billion grant" which the United States presumably donates to Puerto Rico every year out of its $600 billion budget. That sum includes all federal outlays in Puerto Rico. Sixty percent of those outlays are neither grants nor aids. They cover military expenses, veteran pensions and services, social security refunds based upon Puerto Rico's contribution which presently is larger than receipts. Also included in the overall figure are loans and mortgages, postal services, federal agencies and installations, etc. It is a sad confirmation of the Nazi dictum that the bigger the lie the greater its acceptability that this inflated figure should continue to circulate as true in spite of frequent rectifications. A Goebbles truth indeed.

The above is not intended to deny or minimize the importance and magnitude of present federal assistance, close to $1.5 billion. Such assistance covers food stamps, unemployment funds, health and educational grants, appropriations for environment protection, for roads, for families with dependent children. The best use of these funds in our social, economic and educational programs is often hampered by red tape and by internal contradictions attached to exasperating by-laws. Many unnecessary restrictions preclude federal programs from being mutually supportive within Puerto Rico as they should be.

Regardless of difficulties these programs are welcomed and are deeply appreciated. But they must be understood, requested and used for what they are; part and parcel of the broader strategy for social improvement of the greater American society committed to freedom. The Commonwealth of Puerto Rico is, in spite of present adversities, a proud and distince member of that greater American society.

Puerto Rico's current situation is bad enough. It does not behoove Romero to try and make it worse.

ANOTHER REHEARSAL AT THE UNITED NATIONS

(By Jaime Benitez)

As has happened during the past six years a libretto on "Puerto Rico's Colonialism" will be rehearsed before one of the minor Committees of the United Nations with an eye to its possible presentation upon the larger stage of the General Assembly either this year or next. The review audience officially known as the Committee of Twenty-Four as well as the Decolonization Committee—is made up as follows: The seven principal Communist dictatorships, the U.S.S.R., Czechoslovakia, Yugoslavia, Irak, Bulgaria, China and Cuba. Thirteen dictatorships all of which are in power without benefit of elections. They are Afghanistan, Chile, Congo, Fiji, Iran, Indonesia, the Ivory Coast, Ethiopia, Sierra Leone, Syria and Nigeria. There are four democracies, three of them as remote from Puerto Rico as they can possibly be: Norway, India, Australia. The fourth one is Trinidad.

For the last six years the Committee of Twenty-Four has refused to go beyond noting its interest in the possibility of referring the scenario to the General Assembly and has kept the play under advisement. Will the Committee opt to advance the show this time?

As far as the Committee members are concerned, Puerto Rico is neither the issue nor the target. The merits or demerits of Puerto Rico's Commonwealth status may be discussed in passing. The issue and the target

for each member will be its own foreign policy vis-a-vis the United States. What will matter to them will be the impact of their vote or abstention on their own interdependencies within the broader chess board of Real Politik. That game is being played simultaneously at different levels at the First, Second, Third, Fourth and even Fifth World's into which the present day international semi-anarchy is structured. Puerto Rican participants must understand that they will be used as pawns by players intended upon advancing their own game regardless of consequences to Puerto Rico.

There are many rumors, some wilder than others, concerning possible readjustments of the position of the State Department relative to Puerto Rico's political status. One of the indexes cited is the Case Study by C. Arthur Borg submitted to the Senior Seminar in Foreign Policy of the State Department entitled The Problem of Puerto Rico's Political Status. This career officer ended his 18 page single-spaced paper by holding that the United States must decide "whether we are really prepared to support commonwealth status in perpetuity, or whether we must prepare now for an eventual move to either statehood or independence". (1975)

Other more recent explorations pertain to last year's and this year's reports by the Library of Congress Research Service on Statehood or Independence. Also, the May 25 article in the New York Times entitled Freeing Puerto Rico by Robert Wesson, curator of the Russian-East European Collection of the Hoover Institution on War, Revolution and Peace. Maurice Ferre, Mayor of Miami, claims now that the forthcoming economic report on Puerto Rico proves that we are an excessive drain on the federal treasury of little military or economic value. Therefore, (since these are the only two important factors to consider) independence is the best possible alternative from the standpoint of many Congressmen. These speculations deal with the possibility of moving from what in the fifties and sixties was a pro-Commonwealth pasture to a handsoff policy in the seventies, to a pre-Independence trend in the eighties. The word is going around that forces within the State Department may not resent but might even welcome being pushed by the United Nations or Latin American or by Puerto Ricans themselves into a "generous Independence settlement", like in the case of the Philippines.

In my judgment at the hour of truth all these speculations will come to naught. There is more sense and integrity in the United States than it is dreamt of in the efforts of these would be Machiavellians. But this is not the hour of truth but of banderillas.

Nationalists, Independentists and Socialists in Puerto Rico who year after year have failed to receive final support at the Committee are taking heart from these speculations and from three additional factors.

A. N.P.P. leaders are willing to join forces with Independentistas against Commonwealth. They seem to be more eager to destroy than to build. They fail to realize that any such wreckage would inter Statehood also. For Statehood cannot arise out of the repudiation of eighty years of association. Statehood, or for that matter Independence, may come to Puerto Rico, if at all, as an outgrowth of Commonwealth, not as its wrecker or as its assailant.

B. Pro-Commonwealth Populares, embittered by insufficient progress towards Commonwealth improvement, exasperated by President Ford's somersault to Statehood and bewildered by President Carter's aids identification with Puerto Rican Republicans are contemplating getting into the act to plead their case against "colonial vestiges" before the Committee of Twenty-Four.

C. The recent coup de'etat at Afghanistan, U.S. conflicts with Chile and perplexities concerning U.S. foreign policies, may incline the balance of votes against the United States.

This montage may vanish or may turn into a serious episode. Aside from the Independentistas and the professional anti-Americans no one stands to profit from Puerto Rico's participation in this poor imitation of the theater of the absurd. Carrying the case for Statehood or for improved Commonwealth before an anti-American Tribunal is certainly a novel way to win friends in U.S. and to secure congressional support.

One must admit that to a large extent politics today are theatrical and that the make-believe world of television, of ghost-writers and even of inconsequential bombings and kidnappings fulfill the role of "propaganda of the act" . . . which modern image makers substitute for reality. It is a game, but a dangerous game and one not very different from Russian roulette.

Individuals may be at liberty to gamble with their own lives or fortunes. But such as purport to speak for communities or for their governments carry with them a responsibility that goes beyond their personal whims or hostilities. Their task is to be faithful to their trust. No popular election has authorized the present government to endeavor to wreck or to demean the Commonwealth of Puerto Rico.

JUNE 11, 1978.

PUERTO RICO: INDEPENDENCE OR STATEHOOD?

(By Peter B. Sheridan)

In any discussion of the political status of Puerto Rico it should be recognized at the outset that the Commcnwealth of Puerto Rico is a unique political development in the Caribbean. As such, and because of its long ties with the United States, Puerto Rico, according to the argument of the Commonwealth supporters, deserves special treatment and should be treated differently from other territories of the United States.

An important—if inconclusive—step in the development of Puerto Rico's status occurred on December 17, 1975, when a Compact of Permanent Union Between Puerto Rico and the United States was introduced in the Congress by Resident Commissicner Jaime Benitez. The proposed Compact had twenty-four co-sponsors, including Phillip Burton (D-Calif.), Chairman of the House Subcommittee on Territories and Insular Affairs. It should be noted that the measure, H.R. 11200, was to approve a Compact by an Ad Hoc Advisory Group on Puerto Rico established in 1973. The bill, indeed, was a carbon copy of the Compact. Proponents of the measure conceded, reluctantly but realistically, that implementation of the proposal could not be attained without some modifications of certain provisions.

The proposed Compact contained some powers (the power to control immigration, for example) that would have made Puerto Rico more autonomous than any State. These provisions have seemed overly generous to some and downright unconstitutional to others. Commonwealth supporters are not impressed with these arguments and hasten to explain that Puerto Rico is not like any of the States, that Puerto Rico occupies a unique status in the American polity, and that Puerto Rico should, therefore, be treated differently.

One view of the Compact was given by Frank Ramos, the managing editor of the San Juan Star, who wrote that the "Congress must accept the idea that Puerto Rico can be an autonomous, self-governing entity that has political and economic ties with the U.S. withcut necessarily being an integral part of that nation." At the same time, cognizant of some of the controversial features of the Compact, Ramos stated that "the only way to achieve this is to give commonwealth status constitutional stature through an amendment to the U.S. Constitution." [1]

The Compact was considered by many as an attempt to clarify, enhance, and improve Commonwealth. The Compact was also considered to be an evolutionary process, accomplished by democratic means. As one author described it, "the draft pact provides a remarkable set of compromises between the competing goals of maximum local autonomy and the need for some centralized authority in a Federal system. . . . The new Compact . . . offers the prospect of a fresh start toward evolutionary development without the dislocation of revolution." [2]

Similar statements were made by several local leaders in Puerto Rico regarding the Free Associated State of Puerto Rico as proposed by the Compact, rather than the existing Commonwealth framework. Governor Rafael Hernandez Colon, for example, was quoted as saying that the Compact would allow Puerto Rico "more elbow room and flexibility to cope with its own very special problems." [3]

Governor Hernandez Colon also thought that the Compact "should be seen as a part of a continuing process by which Puerto Rico can regain its formerly impressive economic momentum, renew its equally impressive social advances, and insure its political vitality and stability." [4]

Despite the many likely advantages under the Compact of an improved political and economic condition in Puerto Rico, the Compact was not approved by the White House, even though it was subjected to many months of study by Executive Departments. President Ford, instead, suddenly and unexpectedly proposed a dramatically different status for Puerto Rico on December 31, 1976. It is believed by some that if the Compact had been presented at a different time (1976 was an election year and thus almost guaranteed that any discussion of Puerto Rico would be pushed to the back pages), if the personnel on the commission had been different, and if the President of the United States had been a little more sympathetic, the thing might have been approved. This is, of course, speculation with more than a little truth in it.

Interestingly enough, there is some ground for believing that the Compact's provisions, or something similar, would find a more receptive Congress today. Sen. Henry Jackson, for example, has been quoted as saying "that the unique nature of commonwealth status carries with it the continuing obligation to examine, and where necessary, redefine the legal, political and economic characteristics of the relationship." [5] Perhaps more pointed was a statement of Senator Edward Kennedy to the effect that Puerto Rico's future was based on the development of greater autonomy for the island. Kennedy was quoted as stating that Puerto Rican powers "can and should be increased in order to best fulfill the interests of the island, permitting greater autonomy in many areas while retaining its essential ties with the United States." [6]

In the meantime, the victory of the pro-statehood New Progressive Party in the election of 1976 has led some to conclude that a more drastic change is forthcoming. This would, in the opinion of some, be a serious mistake, since 48 percent of the vote

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Footnotes at end of article.

is not really a mandate for any kind of change in status, especially when the only serious issue in the campaign was the economic situation. As the former Resident Commissioner, Jaime Benitez, saw it, the vote was "a protest vote against hard times . . . the unhappy combination of trebled energy costs, inflation and unemployment was blamed on the liberal government responsible for austerity measure." [7]

In any event, the attempt to combine economic conditions with Commonwealth status is not altogether successful. The current economic malaise transcends political status although it is obvious that a political resolution of Commonwealth ambiguities is necessary before a viable economic resolution can be accomplished. Even then, according to one study, "Most of Puerto Rico's problems run deep and would hardly be eliminated by a formal change of political or economic systems." [8]

Economic problems are, to some degree, relative, and Puerto Rico is, according to one authority, "weak only in contrast to that of the mainland United States." The island has, moreover, the highest per capita GNP ($2,300) "of any independent country in the Caribbean or Latin America." [9] Finally, there are signs that the depression has bottomed out and that the economy is now on the upturn. On May 29, 1978, for example, the San Juan Star reported that industry jobs had increased 4,300 over April 1977 despite an increase, Federally mandated, in the minimum wage.[10] Other sharp economic gains in manufacturing, tourism, and construction were registered by the Banco Popular Economic Index in June 1978.[11]

Inflation, unemployment, and other economic dislocations in Puerto Rico manifestly cannot be attributed solely to differences in political philosophy. Indeed, they would have occurred regardless of status, a fact at least tacitly recognized by the pro-statehood party in 1976 when they did not make the status question an issue in the campaign and concentrated instead on economic reform. This hands-off condition on status may change in the near future but for the present it is recognized by many that "commonwealth continues to afford the basic flexibilities necessary for recovery as well as for improvement." [12]

Advocates of the Commonwealth status, most notably PRO–ELA (Pro-Estado Libre Asociado), a non-partisan organization which has as one of its goals the dissemination of eductaional materials regarding the benefits of Commonwealth, consider such status "a pioneer achievement" yet believe that it is "imperfect and misunderstood." According to PRO–ELA, Commonwealth is "a dynamic creation" but needs to be "fully detained." Since Commonwealth is a developing process, this improvement can be accomplished by a revised compact containing new political, economic, and cultural provisions. As PRO-ELA claims, Commonwealth is not a final solution but rather "is the capability and opportunity to develop, transform and surpass our activity. It permits the changes necessary for contending with new conditions, it doesn't shut any door, it doesn't break off any relationship." Indeed, according to one PRO–ELA spokesman, Commonwealth is "a worthy formula of social and political interdependence." [13] In this respect, Commonwealth supporters echo a similar statement made in 1949 by Luis Munoz Marin. At that time, in discussing what ultimately became Commonwealth, Munoz "concluded that it was 'possible, and perhaps probable, that maintaining this new political mutation in Puerto Rico would serve great mutual interests' and might be 'a model for a world federating more and more dissimilar cultures into less and less [sic] great fraternal units.'" [14]

Despite the intrinsic merits and values of Commonwealth status, there does seem to exist a problem of communicating these attributes to many Puerto Ricans. In short, part of the problem of Commonwealth status is that no one, since Luis Munoz Marin retired in 1964, has been able "to project the subtlety and complexity of the Commonwealth idea to the urban middle class. Nor has the party [Popular Democratic Party] been able to generate widespread support for Commonwealth in Congress or among the American people." [15] On an island where so much depends on personal leadership, charisma, and eloquence, this lack may be one of Commonwealth's greatest handicaps.

In the final analysis, perhaps the greatest advantage of Commonwealth is that it is a "flexible political structure" within which the Puerto Rican "may continue to advance in civilized, livable, worthwhile, and meaningful ways. The great majority holds that these objectives can be achieved best in Puerto Rico and for Puerto Ricans with an autonomous society united in free, voluntary, fruitful. and permanent association with the United States." [16]

Other students of the Puerto Rican status question have also emphasized the transitory, yet flexible, nature of Commonwealth. To some of these, Commonwealth needs to be perfected, or culminated, within the existing framework of U.S.-Puerto Rican relations. Probably one of the best examples of this point of view is contained in Henry Wells The Modernization of Puerto Rico. As Wells saw it in 1969, and there is little reason to suppose that it is not equally valid today.

The plain truth is that there can be no end to the debate about political status so long as commonwealth lasts. But this is one of the best features of commonwealth status, an advantage seldom noticed by Puerto Ricans themselves. The Puerto Rican political community is deeply split on the status question, almost the only divisive issue in Puerto Rican politics. If either one of the truly final solutions (statehood or independence) was to be accepted, the new entity would have to contend with thousands of citizens intransigently opposed to its existence. The upshot would almost certainly be political instability and turbulence, or possibly even civil war. Under the commonwealth formula, by contrast, the very lack of a permanent solution to the status problem enables even the extremists at both ends of the political spectrum to live together with a minimum of discord and violence; for, as long as commonwealth lasts, the future of the status they desire is not in danger of being permanently foreclosed.[17]

FOOTNOTES

[1] Ramos, Frank. The Case for Commonwealth. San Juan Star, March 25, 1976, p. 19. Ramos also believed that this action would "put Puerto Rico's relationship with the U.S. on a more solid basis" and would "give it the 'dignity' that it now lacks." Ibid.

[2] Clemens, Walter C. The Fight over Status: New Decision on Puerto Rico. Worldview, v. 19, November 1976, p. 26.

[3] Ibid., p. 23.

[4] Hernandez Colon, Rafael. Address by Honorable Rafael Hernandez Colon, Governor of the Commonwealth of Puerto Rico. In Remarks of Jaime Benitez. Congressional Record (daily ed.) v. 122, May 24. 1976: H4841.

[5] San Juan Star, August 3, 1977, p. 13.

[6] Ibid., August 1, 1977, p. 15.

[7] Ibid., May 29, 1978, p. 13.

[8] Clemens, Walter C. The Fight over Status, p. 25.

[9] Schroeder, Richard C. Puerto Rico Status Debate, Editorial Research Reports, vol. II, July 8, 1977, p. 533. In September 1977, the per capita reached $2,422. See Puerto Rico Sketches a New Economic Policy. Business Week, September 26, 1977, p. 154.

[10] San Juan Star, May 29, 1978, p. 6.

[11] Ibid., June 22, 1978, p. 24.

[12] Washington Post, January 10, 1977, p. A24, Letter to the Editor from Jaime Benitez.

[13] Letter of Efren Ramirez, M.D., President, PRO-ELA of New York, to Special Committee, United Nations General Assembly, August 16, 1977, p. 1–2. Ramirez also claims that "statehood is cultural suicide and . . . independence is economic suicide for Puerto Rico." Ibid., p. 1.

[14] Borg, C. Arthur. The Problem of Puerto Rico's Political Status. Revista del Colegio de Abogados de Puerto Rico, v. 37, August 1976, p. 492.

[15] Schroeder, Richard C. Puerto Rico Status Debate, p. 533.

[16] Benitez, Jaime. Self-determination in Puerto Rico. Proceedings of the American Society of International Law, v. 67, November 1973, p. 10.

[17] Wells, Henry. The Modernization of Puerto Rico: A Political Study of Changing Values and Institutions. Cambridge, Massachusetts, Harvard University Press (1969) pp. 262–263.●

CIVIL SERVICE REFORM

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

● Mr. DERWINSKI. Mr. Speaker, in assessing major battle damage to his high-priority civil service reform legislation, President Carter today should be grateful the bill no longer is in the clutches of a band of hypocritical Democrats on the House Post Office and Civil Service Committee. The deliberate damage in committee to this much-needed legislation can be repaired when it moves onto the House floor, but it is going to require some positive action by the President.

He must make it clear that the mischievous and crippling amendments to his legislation are completely unacceptable. Then, he must rally the House leadership to help him repair the damage done by members of his own party. Then, conscientious Democrats, who place good government ahead of petty politics, working with Republicans can produce meaningful and responsible civil service reform.

What happened in committee was a brazen display of political hypocrisy by a group of Democrats who ignored their President and the public. Instead, they responded with Pavlovian precision to the demands of greedy union bosses who see gold and more power in the maintenance and perpetuation of a bloated and inefficient bureaucracy.

In adding legislation which emasculates the Hatch Act, committee Democrats made it clear they want a civil service system which would be subject and subservient to politics. The section of the President's bill dealing with the senior executive service has been made meaningless, and the labor-management title has been expanded to benefit labor unions at the expense of sound managerial flexibility. The final insult to the President

was the committee action to include in the reform bill the costly firefighter legislation which he already has vetoed.

It is obvious the irresponsible band of shortsighted committee members have transformed what should be a nonpartisan issue into highly partisan and unworkable legislation.

The committee's one proper act came when it released the President's bill from bondage.●

FOREIGN ASSISTANCE AND RELATED PROGRAMS APPROPRIATION BILL OF 1979

The SPEAKER pro tempore. Under a previous order of the House the gentleman from Ohio (Mr. WHALEN) is recognized for 5 minutes.

● Mr. WHALEN. Mr. Speaker, I would like to express my support for H.R. 12931, the foreign assistance and related programs appropriation bill of 1979, which provides funds for international development activities. This appropriation is a key element in the U.S. policy on North-South relations, which is in turn an ever more important factor in all of U.S. international policy. Once rather slightingly referred to as "foreign aid", these programs, however imperfect, have become the foundation for U.S. participation in the international development process. And it is increasingly clear that the development process—in Latin America, Asia, and Africa—is the most important social and economic phenomenon of our time.

Today the world faces a dramatic imbalance in which more than two-thirds of the world's population—in the developing countries—live on a pitifully low per capita income averaging about $500—while one-third lives at a level of more than $5,000, that is, over 10 times greater. This great gulf between rich and poor, like a global San Andreas fault, threatens the peace and stability of the world and even now underlies many of the local conflicts and hostilities that erupt among the developing countries.

There are no quick and easy answers to the problem of poverty in two-thirds of the world but this appropriation provides at least the basic resource support which the United States contributes to development. This bill is one of the smallest appropriations that will come before the Congress, but it has suffered the largest proportional reduction of any. There has been a cut of over $1 billion from the administration request, which is the second largest cut in any appropriation bill. I urge my colleagues to oppose any further cuts in this measure and to regard it as a vital long-term investment in the process of socio-economic development, a process that in the long run is just as important to our own future peace and prosperity as it is to the developing countries.

I would like to single out three areas for special comment.

The first is multilateral programs, through the United Nations development program, the World Bank, and other lending institutions which now amount to about one-third of the bill. These programs already have been cut to the bone—about 80 percent of the committee cuts are in these multilateral programs. Yet it is essential to U.S. interests that the international banks and UNDP function well and effectively. They are a major mechanism for stimulating contributions from other developed countries and for encouraging the governments of developing countries to undertake comprehensive national planning for more equitable and effective policies. Frankly, banks are never very popular institutions, even in our own free enterprise system. Nevertheless they provide the capital, and in this case also much of the technical know-how, that is essential to create jobs and meet the world's growing needs. Any further cuts in these line items would provide ammunition to our detractors to argue that the United States is indifferent or hostile to the basic human needs of two-thirds of the world.

Second, I would like to call particular attention to the special programs in this bill that relate to Africa. The amounts are small—less than $100 million altogether—but they reflect our growing recognition that unless we can help meet some of the crushing economic problems of this still undeveloped continent, we will be unable to help facilitate peaceful solutions for its massive political and racial problems. Our economic aid provides some leverage to ease the way toward peaceful change.

Third, I would like to cite the support in this bill for voluntary population planning activities—including Government programs, UN initiatives, and the very valuable efforts of the pioneering private agencies. Population programs typify the new directions emphasis of our bilateral program: They require direct person-to-person contact at the grassroots level, ranging from education and training to voluntary sterilization, and they mean reaching people and educating and motivating them to change traditional ways. They also require long-term commitment and planning, close links with health and other social services, and strong national leadership. After 10 years of U.S. assistance, many of these programs are beginning to show results and birth rates are declining. But less than $200 million is provided in this bill to help reach more than 400 million couples. And unless these couples are reached, there is great danger that the populations of many developing countries could double by the year 2000, which would surely more than double the social, economic, and political problems of development.

Like the problem of population growth, the other challenges of development, to which this bill addresses itself, are not hopeless or intractable. But they are difficult and they require substantial, long-term and intelligent assistance from all developed countries. Today the United States contributes a smaller per capita share of assistance than nearly all the other developed countries. I hope the Congress will oppose any further cuts in this important measure.●

MONETARY POLICY DATA IMPROVEMENT ACT OF 1978

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. GREEN) is recognized for 5 minutes.

● Mr. GREEN. Mr. Speaker, today I am introducing the Monetary Policy Data Improvement Act of 1978. The bill would authorize the Federal Deposit Insurance Corporation to conduct a weekly sampling of the deposits of at least 1,000 State banks having deposits exceeding $100 million which are not members of the Federal Reserve System. This information then would be sent to the Federal Reserve Board for use in the conduct of monetary policy.

The purpose of this legislation is to improve the money supply data upon which the Federal Reserve bases its monetary calculations. As the Wall Street Journal reported on July 10:

> Inaccuracies in gathering and compiling information on the nation's money supply may be leading the Federal Reserve System astray in carrying out monetary policy and could result in an economic tailspin.

The money supply represents the total of checking account deposits plus cash in circulation. As a measure of economic activity and growth, it is analyzed by the Federal Reserve to determine whether more money-creating reserves should be pumped into the system. The efficacy of the Fed's monetary policy decisions is highly dependent upon the accuracy of the information it receives on the money supply.

Banks which are members of the Federal Reserve System supply information on their deposits to the Federal Reserve on a weekly basis. However, approximately 30 percent of the Nation's deposits are held by banks which are not members of the Federal Reserve System. To complete its money supply analysis, the Fed must estimate the amount of deposits at these nonmember institutions.

While nonmember banks do not file weekly reports with the Fed, they do file information on their deposits with the Federal Deposit Insurance Corporation on a quarterly basis. The Federal Reserve uses this quarterly nonmember deposit information in conjunction with weekly reports from small member banks to devise a ratio which is used to estimate nonmember deposits. Each quarter, as new nonmember deposit information is filed with the FDIC, the Federal Reserve recalculates the ratio and revises its money supply figures.

Five of the last six quarterly revisions have resulted in money supply figures that were higher than the original estimates. The most recent revision indicated that the money supply had risen at a rate of 8.1 percent, compared to the

original estimate of 7.5 percent. Since a rapid growth in the money supply can tend to fuel the flames of inflation, Federal Reserve monetary decisions based upon such inaccurate assessments of actual money supply growth could have a serious impact on the health of the economy. Indeed, Lawrence A. Kudlow, vice president and money market economist for Paine, Webber, Jackson and Curtis, Inc. warned in the Wall Street Journal:

With the (upward) revisions of the money supply, the outlook for inflation and interest rates has worsened so much that the likelihood of a recession during the next 12 months has become substantially greater.

I believe it is essential that the Federal Reserve receive more accurate information about the money supply. The bill I am introducing, the Monetary Policy Data Improvement Act, is intended to improve the quality of the information the Federal Reserve has with respect to nonmember bank deposits. While the Fed has been working with the FDIC to collect a relatively small weekly sampling of deposit information from nonmember banks, my bill would firmly establish a sampling procedure on a weekly basis that would encompass at least 1,000 nonmember banks.

The Fed presently is trying to fight the war against inflation on the monetary front with one hand tied behind its back. It is time to untie that hand by improving the data the Fed receives on nonmember bank deposits. With a more complete picture of the money supply situation, the Federal Reserve will be in a better position to conduct a monetary policy to combat inflation.●

THE BUCKLEY AMENDMENT AND "DIRECTORY INFORMATION"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. FOUNTAIN) is recognized for 5 minutes.

● Mr. FOUNTAIN. Mr. Speaker, because of my participation in the recent International Relations Committee mission to the People's Republic of China, I was not present during the floor consideration of H.R. 15, the education bill.

Consequently, I was unable to offer in person an amendment which I caused to be printed in the RECORD on June 5, 1978. The amendment incorporated the text of H.R. 12795 which I introduced on May 19, 1978.

Before my departure, my good friend and colleague from North Carolina (Mr. ANDREWS) had agreed to offer the amendment on my behalf. However, on the final day of floor debate on H.R. 15, IKE was unfortunately called to North Carolina on account of a funeral and was not able to be here when the time came for my amendment to be called up.

Chairman PERKINS of the Education and Labor Committee had notified me that he would accept my amendment when it was offered.

Mr. Speaker, the amendment which I proposed to H.R. 15 would make a simple change in the so-called Buckley amendment enacted in 1974 to provide statutory privacy rights for students in most educational institutions, and strict limitations on the public disclosure of personally identifiable information concerning those students.

In many respects, the Buckley amendment has worked well. It has reduced or eliminated several abuses which existed in the past, and has meant greater protection for school records from unwarranted intrusions by persons without a legitimate need-to-know.

However, as a result of some problems which have arisen with the administration of the Buckley amendment, the provision governing the disclosure of "directory information" ought to be amended so as to allow local school officials freer discretion as to releasing names only of students without having to go through the burdensome process of giving advance notice to parents (or to students in some cases) and allowing a time to object to the release of this limited information.

I might point out that the Buckley amendment did not go through the usual steps in the legislative process—public hearings and full committee consideration, for example. At the time of its enactment, some Members pointed out on the floor that refining amendments would probably be needed.

Under current law, there are no less than a dozen categories of "directory information" which must, in effect, receive prior approval before release. Some of these categories—addresses and telephone numbers, for instance—should probably remain so restricted. However, H.R. 12795 would simply remove names of students from the coverage of this particular paragraph of the Buckley amendment, and allow schools to release names of students, if they choose to do so, upon request. Importantly, school officials would not be required to honor the requests in blanket fashion, but could do so on an entirely discretionary basis.

Requests for names would designate whole class membership rolls of students at the same level of chronological progression through the school—the eighth grade or senior classes, for example—or for graduates of a particular year.

Mr. Speaker, many Members of Congress, and other government officials at the State and local levels, as well as private individuals and local civic organizations, for instance have in the past made it a practice to present commemorative certificates, informative material, or awards to graduating high school seniors, or to other deserving students, in recognition of their accomplishments. At other times, individuals or community groups have wanted to obtain names of students for use in connection with events of local interest.

Since the promulgation of regulations implementing the Buckley amendment, however, many responsible requests have been unreasonably frustrated. There has often been unnecessary confusion among school administrators, teachers, parents, and students as to the disclosure requirements of the Buckley amendment, and many school officials have chosen not to go through the disclosure procedures because of the additional costs, administrative burdens, and paperwork necessary.

Moreover, the current provision regarding names of students does not serve to protect adequately the privacy rights of students since names can often be easily obtained through unofficial, informal sources—newspaper articles, for example—or simply by word of mouth.

Mr. Speaker, it is highly unlikely that local school officials—the overwhelming majority of them highly competent, responsible professionals—would release names of students in cases where the person requesting the information might use the names in a harmful or harassing manner. This legislation would relieve school officials of an unnecessary administrative requirement, while still permitting them to exercise their discretion and judgment in favor of the overall welfare of their students. And it would in no way jeopardize legitimate privacy rights which our students rightfully enjoy.●

FLORIDA HORSEMAN DAN CHAPPELL HONORED

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, thoroughbred horseracing has meant much to the State of Florida. It has not only been a source of delight and recreation to many, many thousands of Florida people and visitors, vastly stimulating our important tourist industry, but it has been a fruitful source of revenue to the State of Florida and to the counties thereof.

We are very proud that Florida has now become one of the principal places for the breeding of outstanding thoroughbred horses. We are very proud of the fact that the last triple crown winner was bred in the Ocala, Fla., area from which many other great horses have come.

The man, who on May 31 was inducted into the Florida Thoroughbred Breeders Association Hall of Fame as the only living member to receive that honor to date was Dan Chappell, a distinguished lawyer and a long time and dear friend of mine of Miami, Fla. I first came to know Dan Chappell when he and I were both Members of the Florida House of Representatives in 1929. In that period he began to work for legislation to authorize thoroughbred racing in Florida with parimutuel betting. The sentiment in Florida at that time, and particularly the sentiment of a very strong Baptist Governor, was adamantly against such legislation. In 1931, due to the political genius of Dan Chappell's untiring work and the support of many others, especially with the distinguished leadership of Peter A. B. Widener, Dan Chappell got his legislation enacted and managed to override a Governor's veto.

Dan Chappell loves horses, having owned some very successful horses, and he loves racing. He has always tried to

maintain the racing industry to the highest level of character and excellence for he is justly proud of being the father of racing in Florida.

Since this industry means so much to the State of Florida and to many people, I incorporate, following my remarks, in the body of the RECORD the article from the Florida Horse, as follows:

PROFILE: DAN CHAPPELL

(By Jeffrey Denberg)

"There is no man living who has done more for Florida racing than Dan Chappell. He is 82 years old and it's high time somebody did something for this man who has done so much for all of us. He wrote and passed the bill that brought parimutuel wagering to this state. He 'moved' it as they say. He is one of the original members of the Florida Breeders Association."

A friend said that about attorney Dan Chappell.

Another man said it more succinctly: "Dan Chappell is Mr. Racing in this state. Period."

Another friend says: "Dan is one of the finest legal minds in the South. If I were in trouble I would call Dan Chappell." He adds: "He is also one of the most thoughtful and delightful people I know."

Chappell, then a member of the Florida House of Representatives representing Dade County, introduced enabling legislation for parimutuel wagering in 1929 and was defeated. "I didn't know much then," he says. "I was a Georgia cracker come to town. So I studied . . . In 1931 I got my bill in good shape and I worked like hell." And he got it passed, with dog track owners riding along with thoroughbred racing advocates on a shirttail amendment.

Five years later the Jockey Club registered the first Florida-bred thoroughbred and the industry was on its way. But it wasn't quite so easy, Chappell remembers.

"We on the east coast knew we had to do something back in the late 20s. The real estate boom was over and the hurricane of 1926 had destroyed the area. We had to find some way to bring the people back. The tourists were coming down here, staying a day or two and then heading out for Cuba or New Orleans for racing.

"So we worked. I was the floor leader for a Baptist governor (Doyle E. Carlton, Sr.) and I got him to promise me he wouldn't veto a parimutuel bill if I could get it to him. I had the sense to hold up his own bills until I got mine passed and when I found out he had promised some preachers he would veto my bill, I told him to get another floor leader he and I were finished. So was his tax program."

Chappell recalls it took three extra sessions that year to get the governor's budget through the legislature. And by the time it was all over Florida had its parimutuel wagering law because Chappell was able to organize enough support to override the governor in the final hectic moments.

The key factor in selling the bill to rural legislators was Chappell's plan to divide the state's share of the tax revenue on an equal county-by-county basis. Lawmakers with vision could see the bill as the means by which to finance county governments, schools and hospitals without taxing the folks at home.

At the height of the battle in the Senate, a visiting clergyman from Daytona Beach delivered a prayer which said: "Taint right to taint education by using gambling money to educate our children."

Sen. Hayes Lewis of West Florida responded: "The only thing wrong with this gambling bill is that it taint enough."

That was the high point of Chappell's political career. He went back for one more session of the legislature in 1935, finished sixth among 14 candidates for governor in 1936, lost a congressional race in 1944 to an incumbent and lost in a bid for the Dade County Commission in 1962.

But he became deeply involved with racing and with breeding alongside the great pioneer James H. Bright.

He was president of the Horsemen's Benevolent and Protective Association and later its counsel. He was president of the Florida Breeders until 1957 when he resigned because "I have been president longer than I think any one man should hold the job." For a time he operated a Havana racetrack.

Thrown in with racing people, Chappell decided to join them by forming the Sunshine Stable. He bought good horses cheap and made some money. He recalled that Buz Fuz and Lets Dance, both stakes winners, cost him $2,000 and $1,500 respectively. He acquired them for such small prices just as World War II broke out and panicky horsemen were selling what they could for fear that racetracks in the United States would be closed.

But he never bred horses himself after learning a lesson in 1949. "I bought a filly by Pensive and liked her enough to name her after my daughter, Danna. I bought Danna's Dancer for $1,300. Why, the stud fee alone to Pensive was $1,000 and by that summer, after Ponder won the Kentucky Derby, the stud fee had gone up to $5,000. I got her for $300 more than the stud fee and she was a real nice filly.

"Some breeder lost an awful lot of money on that filly. I decided right then against the breeding business."

But he has remained interested in the business and feels very strongly that Florida tracks do not do nearly enough for the state's breeders. "They don't provide you with any incentive. The breeders' awards are not nearly enough. It's no wonder that a man like Fred Hooper races so many good horses outside the state. Florida doesn't give him any incentive to keep his horses here."

He says that increased breeders awards would be a tremendous boon to the entire thoroughbred industry in the state. "We're number three right now, but we aren't going to stay number three if we don't do something."

He is also very interested in having the parimutuel "take" lowered from nearly 18 per cent. "They are thinking about doing it in New York and I'm telling you whoever does lower the takeout is going to reap dividends."

He still goes to his law office in the Ainsely Building in downtown Miami every day and he makes an occasional appearance in court, defending a client as well at age 82 as just about any one else who goes before the bench.

In his space time he relaxes at his ranch and plays with his two granddaughters.

Dan Chappell may deserve a testimonial, but they had best leave a little room at the end. He isn't quite finished, you see.●

HELSINKI'S UNFULFILLED PROMISES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. HARRIS) is recognized for 5 minutes.

● Mr. HARRIS. Mr. Speaker for the fourth year in a row, I stand before you to relate a tragic story. Although the names have changed, the plot is identical. International human rights guarantees agreed to in 1975 by the Soviet Government are still not being adhered to and many Jews and non-Jews alike are unable to leave the Soviet Union as they wish.

It is depressing and terribly sad to learn about so many families who are separated by political boundaries. Although their only desire is to be reunited with their families in Israel or the United States, many are being kept against their will without true justification.

One such situation involves Victor and Batsheva Yelistratov. Victor's sister, niece and stepson live in my congressional district and have verified that Victor, in no way, possesses any information which is still "vital to the State." Nor does Batsheva. Yet, both of these individuals have had their emigration applications denied time and time again. They have been refused twice a year since 1972 and they are under constant harassment by KGB and other Soviet authorities. Victor is an electronics engineer, but after being fired from his job because he applied to leave the Soviet Union, he has only been able to find jobs as a maintenance worker.

Victor and Batsheva's spirits are still strong and they will not give up the fight. Nor will I. My letters to appropriate Soviet authorities will continue and I will speak about this case as many times as possible until they are allowed to leave the Soviet Union.●

AMBASSADOR ANDREW YOUNG

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. DIGGS) is recognized for 10 minutes.

● Mr. DIGGS. Mr. Speaker, amid the sometimes hysterical rhetoric that followed U.N. Ambassador Andrew Young's remarks on political prisoners, it is refreshing to note exceptions to the condemnation campaign. In the material I submit today for the RECORD, from noted columnists Mary McGrory, Bill Raspberry, and June Brown, and letters from the readers of the Washington Post, the comments made by Ambassador Young are seen for what they are: a candid, revealing insight into the reality of our own society.

By focusing our attention on the fact that political prisoners are still captives in our country, even while we decry the existence of political prisoners in the Soviet Union and elsewhere, Ambassador Young was serving the best interests of his country. His honesty and candor have won the respect and trust of many people around the world, and have increased U.S. credibility in areas where it has traditionally been lacking.

Mr. Young's comments have sometimes been termed "rash," including those he made about some European nations having racist histories, and those regarding the "stabilizing" influence of Cuban troops in Africa.

But, on examination, Mr. Young's remarks, on those occasions and others, contain the truth—a truth that may be unpleasant for some to hear, but none-

theless the truth. And Andrew Young has the courage and the strength to say it.

Some have called for his resignation, or presume to give him "one more chance," or seek to muzzle his voice within the Carter administration. Such calls are most shrill from those who seek to somehow blame Ambassador Young because the Soviet Union failed to "find religion" and amend its "errant ways" of political persecution. These critics contend that, if Ambassador Young had not spoken out at the time he did, the Soviets might have been more amendable to U.S. overtures that it cease the prosecution of political dissidents. Such beliefs are born of naivete, seeking to blame Ambassador Young for Soviet intransigence. Others who condemn Ambassador Young for exposing the truth seem to embrace the philosophy that, if the news is bad, the messenger must be at fault.

When Ambassador Young was first proposed for his United Nations position, I was one who counseled against his taking it. Having served as a member of the U.S. delegation to the United Nations for one session, I know from the precedents that influence from that vantage point was not only limited, but the experience would be frustrating for one who wanted to play an activist role.

I wanted to see Andrew Young as a senior advisor within the White House, where his maximum influence on both domestic and international policy could be exerted on a daily basis. But, having watched his work for more than a year, with leaders of the world community as well as within the administration, I have seen the usefulness of his input on policy while at the same time he has become a symbol to the world of a new style and power in the office of Ambassador to the United Nations. Andrew Young is, without question, the most effective ambassador we have sent to the United Nations since it was begun in 1945. Previous ambassadorss have had impressive credentials, and have enjoyed the esteem of their colleagues. But none has gained the attention and respect that Ambassador Young enjoys from around the world.

Ambassador Young is not simply a purveyor of orders from Washington, D.C. He has become, instead, an integral part of the decisionmaking apparatus of the Carter administration. President Carter, sensing that something new was needed to give the United States credibility to our Third-World and other neighbors, who constitute a majority of the U.N. membership, has entrusted Ambassador Young with unique freedom to participate in formulating and interpreting U. S. policies.

It is ironic, although not unexpected, that on the same day the uproar occurred over Ambassador Young's political prisoners remarks, it was announced that at last a permanent settlement was in sight for Namibia. The State Department, in making that announcement, acknowledged that it was largely through the influence of Ambassador Young that the settlement was made possible. Yet, despite the importance of this accomplishment, coverage in the major media was limited to back-page stories and minor mention. The furor over his rhetoric was page one news, while his deeds in furthering world peace were "unworthy" of such coverrage. Thus the positive attributes of our Ambassador to the United Nations were shortchanged for the sake of a popular headline.

Those who would diminish Andrew Young's power have frequently exhibited blatant hypocrisy on the question of human rights. While rightfully decrying the conditions in the Soviet Union and other Communist-bloc countries, they either openly support or are silent regarding the racist regime in the Republic of South Africa, where political represions for the four-fifths of the population who are non-white are even worse. Political dissent in South Africa leads to consequences of terrorism, physical isolation, and even death. Yet, because the South African Government wears the mask of anticommunism, some critics of Ambassador Young fail to see the relationship between South Africa and the Soviet Union on the question of human rights.

Similarly, some of the Ambassador's critics disbelieve the reality of political persecution in America. As a member of Nixon's "enemies" list, and a minority citizen who has seen the internment of Japanese-Americans during World War II, the harassment of civil rights protestors, the jailing of Vietnam war critics and others, I challenge the Ambassador's detractors to prove the charges false.

No responsible or knowledgeable person claims that the U.S. record on human rights violations compares unfavorably with that of the Soviet Union. But Ambassador Young's comments simply and truthfully admit that there are cases of selective persecution within our democratic system of government.

We must not only acknowledge these remaining flaws in our own system, but take vigorous actions against them. Silence or indifference in the face of hypocrisy compounds the guilt and begins the regression of human rights, liberty, and dignity for all.

Mr. Speaker, for the RECORD, I submit the following materials:

[From the Washington Star, July 14, 1978]

YOUNG'S LATEST REMARK ACTUALLY PROVES A SERVICE TO CARTER

(By Mary McGrory)

Our ambassador to the United Nations, Andrew Young, has once again proved himself the most valuable member of the Carter team.

Young has no doubts about his role. He is the point man of the administration. What is a point man for except to deflect fire from the commander? He has done for Jimmy Carter the greatest service one politician can do another—he has changed the subject.

Carter's standing as the leader of the Western World is as depressed as his ratings in the polls. He went to an economic meeting in Bonn empty-handed on energy. His human rights policy is being mocked in two Soviet courtrooms. To accuse Andrew Young of having harmed Carter's prestige is like saying that someone ruined a totaled car by dropping ashes on the upholstery.

Capitol Hill fulminators know perfectly well that there is nothing that Jimmy Carter can do about or for Shcharansky and Ginzburg. But they have been momentarily diverted in their denunciations of Soviet justice and their calls for the suspension of SALT talks to howl for Andrew Young's head. It's a respite of sorts.

Rep. Larry McDonald, D-Ga., a member of the John Birch Society, introduced a resolution of impeachment of Young in the House. It was tabled. One of his enthusiastic backers in the enterprise was Sen. Barry Goldwater, R-Ariz. Neither of them was heard from back in the days when U.S. dissenters were being hustled through our system of justice.

The flag-wavers are always outraged at any comparison between the U.S. and the U.S.S.R. Young's comment to a French Socialist newspaper, Le Matin, that "in our prisons . . . there are hundreds, perhaps even thousands of people I would call political prisoners," caused near apoplexy.

What Young may have been attempting to do was to discourage the orgy of self-righteousness and breastbeating being staged by the enemies of SALT, who have used the trials as a means of sinking any chance of a nuclear accord. He was merely saying—in the exaggerated terms he customarily employs to slap the hysterical—that our own system of justice is not perfect, and that the quest for nuclear sanity should not be abandoned because the Soviets are disgusting to their dissidents.

Young may have been reacting to the high hypocrisy and opportunism content of the statements issuing from Capitol Hill, where one senator presented himself as a profile in courage for having "agonized" over a demagogic blast at the Russian bureaucracy, combined with newborn doubts about SALT. Sen. Don Riegle, D-Mich., was expecting a backlash from his Jewish constituency.

Young hardly needed to tell us in "clarifying" remarks he made in Geneva, after a presidentially directed rebuke from Secretary of State Vance, that he condemns the persecution of dissenters. He is one himself. He has also been a "political prisoner."

As a civil rights activist by the side of Martin Luther King he spent many a night in the jails of the Old South. Maybe he picked an inconvenient moment to recall his past; but it is that past which gives him his entree in Africa. Andrew Young *is* our African policy.

The president himself must bear part of the blame for the tangle of SALT and the fate of the Soviet dissidents. He can only groan when his severest critics on SALT, heaping coals of fire, rage that the trials are "a personal affront" to him because he vouched for Anatoly Shcharansky.

Young conceded in his interview that the Soviets may well have intended to insult Carter in the course of setting another grisly lesson to their dissidents. He didn't say, either, that we should not raise a great clamor over the fate of valiant men. Russia, like other large nations, bristles at foreign criticism and sometimes even relents in the face of it. Young just said it had to stop somewhere.

Carter is suffering as it is from the fallout of his repeated suggestions that the ratification of SALT may be impossible because of aroused U.S. opinion. He has managed to convey the impression that the decrease of nuclear tensions is more important to the Soviets than it is to him. For a president who once voiced a dream of eliminating all nuclear weapons, it is another self-inflicted wound.

He cannot now indicate that it is intoler-

able for Young to take aim at our flaws, having suffered his previous provocations toward the British and Swedes for "racism".

Young considers stepping on corns important and necessary. He never pretended to be a diplomat. He is a politician.

One of the most finished politicians on the scene, Sen. Edward M. Kennedy, D-Mass., also suggested, in less jarring terms, that a change of subject is often salutary for a beleaguered president.

Speaking at the Town Meeting with historian Barbara Tuchman, Kennedy suggested, only half jokingly, that Carter should recognize the People's Republic of China right now, because "the right wing would ventilate, and might use up a little of their steam on SALT.

In other words, one good flap deserves another. Young was operating on a sound principle.

[From the Washington Post, July 17, 1978]

WAS YOUNG REALLY SO FAR OFF BASE?

(By William Raspberry)

When Carter-administration officials are through chastising Andrew Young for talking out of school about America's "political prisoners," perhaps they'll find the time to explain to the rest of us precisely where Young went wrong.

Did the U.N. ambassador lie when he told a French newspaper that there are "hundreds, maybe even thousands of people I would call political prisoners" in U.S. jails? Did he grossly exaggerate the numbers? Or was his sin merely that he told an embarrassing truth at a particularly awkward time?

The explanation is needed if we are to make sense of the president's posturing on "human rights."

For weeks now, administration officials have been long-faced and grim over the fact that Anatoly Scharansky, Alexandr Ginzburg and other Soviet dissidents are facing trial—Ginzburg for anti-Soviet propaganda, Scharansky for high treason.

An American environment delegation scheduled to visit the Soviet Union was told to stay home in protest of the trials. White House and State Department officials have been talking in ominous terms of "reexamining relations" between the Soviets and the United States. The strategic arms limitation talks are threatened and the air of diplomatic crisis hangs heavy.

All this because two Russians are being tried on charges of having violated Soviet law.

Ginzburg has been convicted on the propaganda charge; Scharansky, on charges of spying for the CIA. U.S. officials say the real offense of both men was their human-rights activism.

Meanwhile, the Rev. Ben Chavis (of Wilmington 10 fame) sits in a North Carolina prison, convicted of charges that grow out of his civil-rights activism. Chavis and the others were convicted as conspirators in a wave of violence following a week of racial disturbances in Wilmington, N.C. Specifically, they were charged with arson in the firebombing of an empty store.

But Americans in the millions are convinced that their real crime was their civil-rights activism.

One of the leading witnesses against Scharansky was Sonya Lipavsky, a physician who turns out to have been both an informer for the KGB and a "volunteer" for the CIA.

The principal witness against the Wilmington 10 was a slow-witted teenager named Allen Ray Hall, now 23, who subsequently recanted his testimony, as did two other key witnesses.

But while the Carter administration is outraged at the prospective injustice against Scharansky, it has been sweetly discreet about the palpable injustice to Chavis and others.

President Carter, queried about this celebrated case, which Amnesty International cites as a human-rights violation, said he was not familiar with the details and, besides, it is a state matter. "I am against unjust imprisonment," he said.

Well, who would go on the record as *favoring* unjust imprisonment? And as for ignorance of the details, the view here is that Carter could have found out at least as much about Ben Chavis as he found out about Anatoly Scharansky—if he had cared as much.

His silence on Chavis and the Wilmington 10 has been ascribed to the fact that, as president, he cannot interfere in a North Carolina trial. But one would suppose that an American president would have at least as much influence on the North Carolina system as on the Soviet system.

I'd like a clearer explanation.

It's a long way from the Wilmington 10 (all of whom but Chavis will be released by October) to Andy Young's "hundreds, maybe even thousands" of U.S. political prisoners.

I would not argue too strongly in defense of the higher number—unless you take the term "political prisoner" to include those persons whose political beliefs have led them to commit ordinary crimes, as may have happened with at least some of the Soviet dissidents.

In that case, you'd have to include anti-war activists, demonstrators, tax protestors, civil-rights activists, busing opponents and heaven knows who else. You'd certainly have to include Ronald L. Humphrey and David Truong, recently convicted in *federal* court on charges quite similar to those levied against Scharansky.

Maybe it's not for the U.N. ambassador to do it, but somebody has to demand that President Carter make some useful distinctions between our political prisoners and Russia's political prisoners. If he can't, and if he insists on keeping quiet about our own, then perhaps he ought to shut up about the whole matter of "human rights."

[From the Detroit News, July 16, 1978]

MANY BLACKS THINK YOUNG WAS RIGHT

(By June Brown)

Once again, UN Ambassador Andrew Young has shocked Washington diplomats with his honest but undiplomatic statements.

As shocking as they may be to diplomats, Young's comments generally reflect the true feelings of many blacks.

The recent incident in Geneva, in which Young chided the U.S. for showing great concern for Russia's political prisoners while ignoring its own, was an honest statement that could only be made by a person who isn't afraid of being fired.

Blacks strongly agree with Young that the U.S. has political prisoners. Many people feel it is more dangerous to attack the government's policies than it is to attack its citizens.

This country holds many blacks in a state of semi-slavery called welfare, in which adults are given just enough to discourage them from entering the job market. At the same time, the misfortunes of their children create thousands of jobs for middle-class persons who are paid to service their needs. In a way, the despairing families on welfare could be called political prisoners.

However, very little searching is needed to turn up better examples of political prisoners.

The southern states especially have been unfair to blacks by handing out long terms for insignificant crimes.

Blacks are not the only victims. The nation's most famous political prisoner is neither black nor male. She is Patricia Hearst, who is imprisoned because she either willingly or unwillingly betrayed her upper-class breeding by mingling with the peasants and attacking government policies.

Other well known political prisoners include the Wilmington Ten, Richard Henry, also known as Brother Imari, and Joan Little. At one time, Martin Luther King Jr. was held in a Birmingham jail as a political prisoner.

But other masses of political victims are in exile, rather than in jail. They are the young people who left their native land in protest against the Vietnam war but cannot return home because the government doesn't want them back.

A broad segment of Americans strongly believes that the most prominent American political dissidents end up dead, victims of assassins. They cite as examples President John Kennedy, Robert Kennedy, Martin Luther King Jr. and to a lesser extent, George Wallace.

Some persons also believe that Jimmy Hoffa was a victim of political oppression.

Further examples of political oppression are the Mississippi attack on the NAACP, along with federal regulations which are dooming some black colleges.

Even though many persons will not admit it, the bussing of school children bordered on political oppression. It abused civil rights because which school a child could attend was determined solely by the child's color.

Coming on the heels of the Bakke decision, President Carter's strong attack on Russian injustice stuck in the throats of many blacks.

Still, there is no doubt that Russia is an oppressive country guilty of many injustices.

Also, there is no doubt that, for all its faults, this country is the best place in the world for a poor person to live.

But, as far as racial matters go, the white gloves of this country need a strong spot remover.

President Carter is acting properly in defending Anatoly Shcharansky and Alexander Ginzburg.

However, when defending them, America should not pretend that only Russia is guilty of human rights violations.

If a conscientious black diplomat kept silent during these negotiations, blacks would then view American attempts at justice for Russian dissidents as merely a political charade.

[From the Washington Post, July 18, 1978]

ANDREW YOUNG'S REMARKS ON U.S. POLITICAL PRISONERS

It is apparent, with the recent Supreme Court decision in the *Bakke* case and the attempt by right-wing extremists in the House of Representatives to impeach U.N. Ambassador Andrew Young, that we have made a 180-degree turn in race relations in this country.

Sen. Barry Goldwater has called for the ambassador to be fired for telling the truth, while he supported former President Nixon, who lied to the country and the world for more than two years.

Members of the Black Panther Party, who were hounded, arrested and murdered, certainly were and are victims of political repression.

We have police forces in this country where a minority person accused of committing a crime stands as much chance of being shot to death as he does of ever going through the chaotic judicial system.

Ambassador Young, I support you for telling the truth. You and I live in the *real* America, not the mythical one. I love America, too. But much like a wayward child. She's not yet what she must become.

DALE ANDERSON.

WASHINGTON.

Perhaps Mr. Young's statement can be criticized as poorly timed, but not on the ground of truth.

Mr. Young was speaking of political prisoners in a broad context. What can the Wilmington 10 be called if not political prisoners? Perhaps Mr. Young's comments *are* timely. He is, in effect, saying that Mr. Carter and the people of the United States are concerned about human rights—so long as the violations do not occur in their own back yard. How convenient it is to criticize the Soviets for their human-rights policies, for they do not share our country.

We must work to correct abuses here. What of our own back yard?

LYDIA J. COX.

WASHINGTON.

Hurrah for Andrew Young! He is the most refreshing person to come into politics in a long time. That is because he is honest, a trait that does not mix with politics.

While I sympathize with the dissidents in the Soviet Union, I believe the Carter administration should clean its own house before trying to clean others.

CAROL O. WEST.

UPPER MARLBORO.

Ambassador Andrew Young is absolutely correct in stating that there are hundreds and perhaps thousands of political prisoners in the United States. Specifically, over 90 percent of them are Afro-Americans, native Indians and other minorities of color. That is perhaps why his Euro-American detractors are not aware of them. Every black or Indian leader for the last 20 years has either gone to jail for his or her political stance, or is presently in jail. If Ambassador Young is impeached, then the self-righteous "white fathers" of Washington who publicly deny the existence of all those miserable people of color who are prisoners of American racism should be impeached also, or worse.

Truth and righteousness are on your side, brother Young, so keep telling it like it is.

America before Russia!

S. ALLEN COUNTER.

CAMBRIDGE, MASS.

Andrew Young has spoken out truthfully and without regard for simpleminded political expediency.

Our history has not been unblemished by unjust political imprisonment. The native Americans were shut away on reservations following the settling of the West. During World War II, many thousands of people of Japanese ancestry, most of whom were American citizens, were imprisoned in interment camps. The most blatant present examples of unjust political imprisonment are those men who opposed the Vietnam War and refused conscription.

Mr. Young has helped to stimulate debate on the limits of political protest. Rather than weakening our human rights policy vis-a-vis the Soviets, such a debate may, by delineation of the limits of just protest, strengthen our position.

Don't fire Andrew Young; thank him for his courage and insight.

CHARLES D. DAY.

FALLS CHURCH.●

TESTIMONY OF CHARLES SCHULTZE BEFORE THE HOUSE BUDGET COMMITTEE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Connecticut (Mr. GIAIMO) is recognized for 15 minutes.

● Mr. GIAIMO. Mr. Speaker, yesterday I included in the RECORD the first portion of the statement of Chairman Charles Schultze of the Council of Economic Advisers before the House Budget Committee.

Today I insert the second portion of his statement in the RECORD at this point:

THE OUTLOOK FOR PRICES

The rate of inflation began to move up late in 1977 and has accelerated sharply further this year. From December to May, consumer prices rose at an annual rate of 10 percent, and prices of producer finished goods rose at a 10 percent annual rate in the first six months of this year.

The acceleration in inflation early this year is reminiscent of the experience in 1977, when rapidly rising food prices pushed up the CPI at a 9 percent annual rate in the first six months of the year. The increase in food prices moderated during the second half of 1977, and the overall rate of inflation therefore declined substantially. Although the sources of the latest inflationary surge are somewhat different, there is good reason to expect a repeat of last year's pattern. While any slowdown in inflation later this year would, of course, be welcome, the longer-term rate of inflation will remain too high, and the risks that it will accelerate are too great to ignore. Inflation is our most serious economic problem, and dealing with it must receive top priority.

The worsening of inflation early this year stemmed to an important degree from a very rapid increase in food prices. From December to May, food prices at the consumer level rose at an 18½ percent annual rate. Meat prices rose substantially, in part because the long period of reducing our beef cattle herds was coming to an end and some increase in price was necessary to encourage cattle ranchers to rebuild herds. Other meat prices rose as consumers switched from beef to less expensive meats. The price of pork was driven up further when unexpectedly cold winter weather reduced prospective pork supplies for 1978. Cold and rainy weather in California during the winter and spring also adversely affected prices and supplies of fruits and vegetables.

Other special factors made modest contributions to the higher inflation rate, such as the increase in the minimum wage in January and the effect on prices of imported items of the 7½ percent devaluation of the dollar which occurred in the past year.

As in 1977, the outlook for the second half of 1978 is for considerable improvement in the rate of inflation. The rise of food prices should slow substantially. Cattle prices are below their earlier peak levels. Moreover, strong production of poultry and increased output of pork in the second half are expected to moderate the rate of meat price increase for the remainder of 1978. Vegetable supplies should increase significantly as the summer crops are harvested, and prices of some of them should decline. Major grain and feed crops—such as wheat, corn and soybeans—are in relatively good supply this year, and prices for those crops should be increasing less rapidly as the year proceeds.

The contribution to inflation from other special factors should also be less in the second half of this year and in 1979. A more stable dollar in foreign exchange markets should contribute less to inflation. Moreover, the increase in government-mandated payroll costs will be less in 1979 than in 1978.

In stressing the role of special factors that have aggravated the rate of inflation this year, I do not mean to minimize the seriousness of the inflation problem. Even after all of these special factors are allowed for, some worsening in the course of inflation remains. The chief problem lies in the fact that pressures on costs of production are mounting.

A year ago, unit costs of production were rising at an annual rate of around 6 to 6½ percent. Since then, the average rate of wage increase appears to have risen by one half a percentage point. Productivity growth, meanwhile, has been very disappointing.

The longer-term trend rate of growth in unit production costs is a fundamental determinant of the underlying rate of inflation. How much the underlying rate has increased over the past year is difficult to judge, but it may have crept up from the 6 to 6½ percent range to the neighborhood of 7 percent. Moreover, this upcreep could continue if wages and fringe benefits received by small unions and by nonunion workers rose still more rapidly in an effort to close the gap which opened up earlier between settlements won by large unions and the wages and benefits earned by others. If an acceleration of inflation is to be avoided, it is essential that the remaining gap be closed by a significant deceleration in the rate of increase in major union contracts in the new round of collective bargaining that begins in 1979.

ECONOMIC POLICY AND THE INFLATION PROBLEM

Let me now turn specifically to the kinds of policies we must pursue to combat the serious inflation problem that confronts us. Monetary and fiscal restraint have an important role to play in this endeavor. Past experience indicates that an overheated economy leads to an acceleration of inflation then tends to become built into the economic system. We must therefore follow a course of policy that avoids the emergence of excess demand, which would cause prices to rise even faster than they have recently. As I indicated earlier, the degree of fiscal stimulus has been cut back for just that reason. At the present time, we are aiming for a rate of economic expansion near the growth of our long-run potential so that economic overheating will be avoided.

You may ask why, in light of the seriousness of our inflation problem, we should not slam on the fiscal and monetary brakes in an effort to make greater progress in reducing inflation. Experience clearly demonstrates that this would be an ineffective route to follow.

Slowing economic growth still more, to a pace well below the economy's potential, would have some effect on the rate of wage and price increase, but only a small one. Over the past two decades, the rate of wage and price increase has become increasingly insensitive to slack demand in the economy. During the course of the 1948–49 recession, rising unemployment led to a very sharp reduction in the rate of wage increase in manufacturing. Consumer prices stopped rising altogether and actually fell somewhat. In the years since 1949, the responsiveness of wages and prices to economic slack has gradually weakened. In the 1969–70 recession, rising economic slack had no effect on the rate of inflation. What little moderation did occur in the rise of consumer prices in 1970 reflected developments affecting food prices. Moreover, the increase in average

hourly earnings in the private nonfarm sector of the economy did not decelerate at all.

In the recession of 1974–75, the improvement on the price front appears to have been due much less to economic slack than to the termination of special factors affecting prices in 1974. Food supplies became more ample, the OPEC oil price increase worked its way through the economic system, and the one-time adjustment of wages and prices after the removal of controls finally ended. From the middle of 1975 until very recently, the underlying rate of inflation, despite several years of very high unemployment, remained in the 6 to 6½ percent range.

Significant reductions in the inflation rate could be accomplished today if we were willing to tolerate massive unemployment for very long periods of time. Such a policy would not only be unacceptable from the perspective of social policy, but also complicate our efforts to curb inflation over the longer run. As economic growth slows below potential, the unemployment rate begins to rise. As high unemployment continues, pressures mount to inaugurate major new Federal programs to provide employment. And as capacity utilization rates fall, business profits are reduced even more than other forms of income. Sluggish growth of sales, low utilization rates, and depressed profits discourage businesses from investments that are needed to increase productivity and to keep the nation's capital stock growing in line with a rising labor force. We have been through a period like this only recently, and the resulting slowdown in business investment has clearly affected our rate of productivity growth. We do not need another such period. We are far better off to seek policies that avoid a roller coaster of boom and bust.

For these reasons, the Administration has recommended an economic policy posture that will enable us to maintain growth of output near the economy's long-term potential. Accomplishing this objective, however, will require a significant tax cut next year. Otherwise, increases in social security taxes scheduled under law and the automatic increase in tax burdens that results from inflation will drag heavily on consumer spending and imperil that critical source of strength in the economy. We also need a substantial business tax cut to stimulate investment, both to keep the current rate of economic growth at a satisfactory level and to provide the growth and modernization of capacity required over the long run to deal with the inflation problem.

The Federal deficit for fiscal 1979 still is very large, even though it has been reduced by $12 billion in the most recent budgetary projections. We must work to bring the deficit down over time as the economy strengthens. The speed with which this can be accomplished, while maintaining satisfactory economic growth, will depend heavily on developments in other sectors. Last year, State and local governments reported an aggregate budget surplus of $30 billion. Moreover, our current account deficit of international payments was $15 billion. In total, the flow of income to State and local governments and abroad was $50 billion greater than the return flow of spending from these sectors back into the income stream. The unprecedented size of these withdrawals put a large burden on the Federal budget to help maintain economic growth. As these huge withdrawals from the spending stream gradually decline, as they are expected to do, it will be possible, and indeed necessary, to move toward a balanced Federal budget in order to meet our desired growth objectives. We expect to make substantial progress in that direction in fiscal 1980.

I stated earlier that a significant reduction in business taxes is essential both to continued economic growth and to our anti-inflation effort. I would like to make clear, however, that a large reduction in capital gains taxes, as has been proposed by some Members of Congress, is not an effective substitute for the reductions in business taxes proposed by the President.

Reductions in capital gains taxes are not likely to be an efficient method of stimulating investment. Of all capital gains realized each year, about 60 percent or less can be attributed to the sale of assets that are closely related to productive enterprise. The bulk of capital gains stem from sales of private homes, timber, land, jewelry, art, and similar items. Relative to reductions in the corporate income tax, increases in the investment tax credit, or liberalization of depreciation, capital gains tax reductions are, therefore, a far less effective means of allocating scarce revenue resources toward the stimulation of investment.

It has been asserted that the cut in capital gains along the lines proposed by Congressman Steiger would lead to increases in stock prices as great as 20 to 40 percent, and thus provide a major spur to investment. No one can predict with any confidence the impact of tax reductions of stock prices. But estimates of this magnitude border on sheer fantasy. The total reduction in taxes under Congressman Steiger's proposal, for example, would be about $2.1 billion per year, at current income levels, of which only about $500 million would accrue to holders of common stocks. Five hundred million dollars is roughly one-half of 1 percent of the $1 trillion total value of common stock in this country. How an increase in the after-tax income equal to one-half of 1 perecnt of asset values is supposed to increase those values by 20 to 40 percent escapes me.

Moreover, the argument that capital gains taxes are a particularly onerous disincentive to investment is difficult to accept. Only 10 percent of all Federal income taxes on returns to capital stems from the capital gains tax. Other taxes—including corporate profits taxes and individual income taxes on property income, dividends, and interest—account for the other 90 percent. And while theoretically the *maximum* capital gains tax rate could be almost 50 percent, the *average* rate actually paid in in 1976 was only about 16 percent. Even for taxapayers with more than $200,000 in adjusted gross income, the average tax paid on capital gains was only about 27½ percent. Fewer than five-hundredths of 1 percent of taxpayers reporting capital gains paid a tax as high as 40 percent on that income.

Reductions in capital gains taxes of the kind that have been proposed would be of major benefit to a few wealthy individuals. Under the plan proposed by Congressman Steiger, four-fifths of the tax reduction would go to taxpayers with expanded incomes (i.e., adjusted gross plus items of tax preference) greater than $100,000. Some 3,000 beneficiaries of this proposal, with $1 million or more of income, would receive an average tax reduction of $214,000 each. That is an exorbitant price to pay for a tax incentive that would do little to stimulate investment, or to relieve a tax that, when examined carefully, is not all that burdensome.

The issue is not whether the economy needs tax reduction designed to stimulate business investment. Such a stimulus is indeed vitally necessary. Rather, the issue revolves around the fairest and most efficient means of doing so. The Administration has proposed net business tax reductions of over $5½ billion and total tax reductions on capital income of $7 billion. Analysis of both fairness and effectiveness in investment stimulation indicates that the approach is far superior to the kind of tax cuts incorporated in the Steiger amendment.

OTHER POLICY CONCERNS

My testimony today has focused principally on the macroeconomic policies needed to reach our economic objectives. Macroeconomic policies alone, however, are not enough. Unless they are supplemented with other programs targeted at specific problems, inflation will continue at much too high a rate, and structural unemployment will not be reduced appreciably.

Solutions to these problems do not generally fall under the purview of this committee, so I will keep my comments on them brief. But a few words on the other components of the Administration's approach to combating inflation and reducing unemployment are in order.

I have already stated that getting control of inflation is the most critical problem that our nation faces today. Prudent fiscal and monetary policies are essential to avoid economic overheating, but they are not an effective means of reducing the underlying inflation rate we have inherited from the past. The President's deceleration program is the best vehicle to do this. In the early months of this program, we have received considerable support from the business community. As the year progresses, of course, more and more businesses will face the difficult decisions they must take to meet the deceleration standard, and we will be monitoring price developments very closely.

The growth of wage costs must also be decelerated. In particular, we cannot realistically hope to achieve our goals for the economy unless the gap that has opened between the earnings of workers in large unions and workers in the rest of the economy is closed through greater wage restraint on the part of large unions, rather than through faster increases in the wages of other workers in the economy.

We also must press forward with programs to address the problem of structural unemployment. In the President's Budget in January, we proposed a series of initiatives to address the needs of the young and the unskilled workers who must be assisted in gaining the skills they need to join permanently the ranks of the employed. Since January, the Labor Intensive Public Works program and the new employment tax credit proposed as part of the President's Urban Initiative offer additional ways to address this debilitating problem. We will have to move gradually if we are not to put too much pressure on the overall economy, but we must not, and will not, turn our backs on those whose chances for employment are still discouragingly low.●

SUPPORT FOR ELECTRONIC SURVEILLANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. MURPHY) is recognized for 5 minutes.

● Mr. MURPHY of Illinois. Mr. Speaker, within the next 2 weeks the House will consider H.R. 7308, the Foreign Intelligence Surveillance Act of 1978.

This important piece of legislation was reported favorably by the House Permanent Select Committee on Intelligence, on June 8, 1978. A companion measure—S. 1566—passed the Senate April 20, by a vote of 95 to 1.

Both bills establish the general principle that a judicial warrant must be ob-

tained before the Government can engage in electronic surveillance in the United States for foreign intelligence purposes.

At the present time, these national security surveillances are performed pursuant to internal executive branch guidelines promulgated under what is purported to be the inherent power of the President in the national defense and foreign relations area.

H.R. 7308 would put aside the divisive constitutional debate over the source and extent of the President's inherent powers and—with administration backing—would set up clearly defined statutory standards that must be met before a judge could issue an order authorizing the electronic surveillance of a foreign power or an agent of a foreign power.

In considering this legislation, I would caution my colleagues to be on guard against the facile argument that passage of H.R. 7308 would threaten the national security.

Mr. Speaker, it has been the considered judgment of two administrations, two Senate committees, the U.S. Senate, and the House Intelligence Committee that this legislation will pose no such threat and will, rather, further legitimate and necessitate foreign intelligence activities.

Furthermore, this judgment is concurred in by those who bear the responsibility for insuring that this country's intelligence and counterintelligence capabilities remain second to none—the directors of our intelligence agencies.

Mr. Speaker, at this time, I insert in the RECORD copies of letters written in support of H.R. 7308 by Adm. Daniel J. Murphy, Deputy Under Secretary of Defense for Policy, Adm. B. R. Inman, Director of the National Security Agency, and William H. Webster, Director of the Federal Bureau of Investigation:

THE UNDER SECRETARY
OF DEFENSE,
Washington, D.C., June 28, 1978.

Hon. EDWARD P. BOLAND,
Chairman, Permanent Select Committee on Intelligence, House of Representatives, Washington, D.C.

DEAR CHAIRMAN BOLAND: When I appeared before the Legislation Subcommittee of your Committee, I testified that the Department of Defense supported H.R. 7308, as introduced. I also expressed our reservations about particular provisions which, in my view, posed risks to security which were not outweighed by the potential benefits to civil liberties that might be provided by those provisions.

In the course of your Committee's consideration of H.R. 7308 changes were made not only to the provisions I mentioned in my testimony but also to others. These changes minimize risks to security and effect important improvements in the system under which the Department of Defense would be required to operate. I have reviewed the bill reported by your Committee and wholeheartedly support its passage. The bill would directly facilitate certain intelligence activities of the Department of Defense while at the same time protecting the privacy rights of United States citizens.

Sincerely,

DANIEL J. MURPHY,
Admiral, USN (Ret.) Deputy.

NATIONAL SECURITY AGENCY,
CENTRAL SECURITY SERVICE,
Fort George G. Meade, Md., June 19, 1978.

Hon. EDWARD P. BOLAND,
Chairman, Permanent Select Committee on Intelligence, U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to my attention that the House Judiciary Committee is proposing to hold hearings on H.R. 7308, the Foreign Intelligence Surveillance Act. Since my most recent testimony before your Committee on this matter was in closed session, I am concerned lest there be any misunderstanding in the Congress of my position on the legislation.

I would like to confirm that I support passage of the bill as reported by your Committee wholeheartedly and without any reservation whatsover. In particular, the bill fully meets the security concerns of the National Security Agency while at the same time significantly improving the legal framework for the conduct of the intelligence activities covered by the bill. I would be happy to see the legislation promptly adopted by the Congress in the form reported by your Committee.

I have set forth my views on this matter in a letter to Congressman McClory, a copy of which is enclosed for your information.

Sincerely,

B. R. INMAN,
Vice Admiral, U.S. Navy,
Director, NSA/Chief, CSS.

NATIONAL SECURITY AGENCY,
CENTRAL SECURITY SERVICE,
Fort George G. Meade, Md., June 19, 1978.

Hon. ROBERT MCCLORY,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN MCCLORY: I am writing with regard to H.R. 7308, the Foreign Intelligence Surveillance Act, as reported by the House Permanent Select Committee on Intelligence. I am concerned that some misunderstanding may have arisen regarding my views on this bill as a result of my testimony in closed session before the Committee.

I want to emphasize, as I have previously communicated to you, my support for the bill in the form reported by the Committee. The adoption of the amendment you sponsored eliminated any concerns the National Security Agency might have had about the impact of the legislation on the security of the Agency's operations. I believe, without any reservations whatsoever, that the bill as reported by the Committee is a sound and beneficial piece of legislation and should be adopted.

I very much appreciate the courtesy you have shown me and the great comprehension of the problems of the National Security Agency which you have manifested throughout the Committee's deliberations on this bill.

Sincerely,

B. R. INMAN,
Vice Admiral, U.S. Navy,
Director, NSA/Chief, CSS.

JUNE 22, 1973.

Hon. ROBERT W. KASTENMEIER,
Chairman, Subcommittee on Courts, Civil Liberties, and the Administration of Justice, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It has come to my attention that the House Judiciary Committee has scheduled hearings on H.R. 7308, the Foreign Intelligence Surveillance Act. Since I will not present testimony before your Subcommittee on this matter, I want to state my position for the record on this important piece of legislation.

I would like you to know that I support the bill as reported by the Permanent Select Committee on Intelligence. I so testified in closed session before that Committee after having personally studied the bill in-depth. The Agents of this Bureau involved in foreign intelligence activities deserve and need this legislation in order that they can be assured that both Congress and the courts have sanctioned the legality and propriety of their actions. I believe this bill represents a careful and workable balance between the vital interests of protecting the national security and civil liberties.

Should you or members of your Subcommittee have any questions about the bill as it affects the FBI, I or a member of my staff would welcome the opportunity to discuss the matter further.

Sincerely yours,

WILLIAM H. WEBSTER,
Director.●

REINTRODUCING THE SBA COIN ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. OAKAR) is recognized for 5 minutes.

● Ms. OAKAR. Mr. Speaker, I am reintroducing my bill to place the portrait of Susan B. Anthony on the proposed dollar coin. This bill now has more than 60 cosponsors here in the House, including the distinguished chairman of the House Banking, Finance, and Urban Affairs Committee, Mr. HENRY REUSS. I am very pleased that he has consented to cosponsor this bill. We now have the two chairmen of the Senate and House Banking Committees supporting the proposal to place Ms. Anthony's portrait on the new coin, as Senator PROXMIRE has introduced similar legislation in the Senate, and has held hearings on the matter.

I am also delighted that most of my colleagues who serve on the House Banking Committee have agreed to cosponsor this bill. Their support is important because the coinage legislation is within the jurisdiction of the Banking Committee.

This is the first time in the history of our circulating coinage that consideration has been given to placing the portrait of a woman who actually lived memorialized an American coin. My colleagues on the Banking Committee in cosponsoring this bill to place Susan B. Anthony's portrait on the coin have indicated their belief in the importance of this and what it means to the women of this country. We owe this honor to the woman who was principally responsible for American women gaining access to the ballot box, and thus being able to enter the mainstream of America's democratic process.

The text of the bill follows:

H.R. 13558

A Bill to amend the Coinage Act of 1965 to change the size, weight, and design of the one-dollar coin, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Susan B. Anthony Dollar Coin Act of 1978".

SEC. 2. Section 101(c)(1) of the Coinage Act of 1965, as amended (31 U.S.C. 391(c)(1)), is amended by striking out "1.500" and inserting in lieu thereof "1.043" and by striking out "22.68" and inserting in lieu thereof "8.5".

SEC. 3. (a) The one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, shall bear on the obverse side the likeness of Susan B. Anthony.

(d) Subject to subsection (a) and the limitations contained in section 3517 of the Revised Statutes, as amended (31 U.S.C. 324), the Secretary of the Treasury may prescribe such design for the one-dollar coin authorized by section 101(c) of the Coinage Act of 1965, as amended by section 2, as he deems appropriate.

SEC. 4. Section 203 of the Act of December 31, 1970 (31 U.S.C. 324b), is amended by striking out "initially" and by inserting "(d)" after "section 101".

SEC. 5. Until January 1, 1979, the Secretary of the Treasury may continue to mint and issue one-dollar coins authorized under section 101(c)(1) of the Coinage Act of 1965, as such section was in effect immediately prior to the date of enactment of this Act.●

UPDATED REPORT ON ILLICIT DRUG TRAFFIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WOLFF) is recognized for 30 minutes.

Mr. WOLFF. Mr. Speaker, I wish to read from a news item just off the UPI newsticker, which states as follows:

Two Coast Guard cutters brought four marijuana ships loaded with an estimated 40 tons of marijuana into south Florida ports today.

The latest seizures came late last night when cutter *Cape York* discovered 10 tons of marijuana aboard each of two fishing vessels 25 miles northwest of Key West.

A spokesman said a party from the *Cape York* boarded the 68-foot vessel *Captain Otis II*, based in Key West, for a "routine fisheries patrol" inspection to check its catch and safety procedures.

They found 10 tons of marijuana aboard and arrested Abraham Leroy Baker, 34, Key West, and James Osborne, Jr., 25, Midway, Ga.

When the Coast Guard seized the vessel, the spokesman said, the 80-foot *Geechee Boy II* of Galveston, Texas, weighed anchor and went into a group of shrimp boats nearby.

Coast Guardsmen boarded the vessel and found another 10 tons of marijuana, the spokesman said.

I will read to my colleagues another article that appeared just yesterday:

MIAMI.—Coast Guardsmen, customs agents and Fort Lauderdale police today were still adding up land and sea drug hauls yesterday, bagging nearly $24 million in narcotics, $1.1 million in cash and 33 arrests.

'I've never seen so much money before and I probably never will again," said Fort Lauderdale Police Capt. Art Glover of the $1,149,436 seized in a raid on an oceanfront motel.

That raid also netted seven pounds of uncut cocaine from Colombia, worth about $600,000, and led to the arrest of 10 men, six of them from the midwest.

Meanwhile, 85 miles to the south, customs agents found 17 tons of marijuana aboard two 50-foot lobster boats—the *Gabriela* and *Tortuga 1, Inc.*—at Key Largo, in the Florida keys. They arrested six Miami men and another man from Clewiston.

The Coast Guard cutter *Steadfast* saying there were 20 tons of marijuana aboard the 65-foot stateless motor vessel *Alvaro*, intercepted Monday and under escort to Miami. Nine of the vessel's 11 crewmen claimed to be Colombians and two said they were from the Dominican Republic.

Mr. Speaker, these two press clippings point up the success, the very marked success, that we are having as a result of about a year's activity on behalf of the Select Committee on Narcotics Abuse and Control, which I chair, that started an investigation in the Florida area about a year ago and within the last month, our committee conducted a set of hearings in Florida, at which time we discovered that Florida has become inundated with heroin, cocaine, marihuana, and other illicit drugs.

This in-depth type of investigation that we have conducted is mandated within the oversight activities of the committee, and it evidences the fact that when you point the spotlight of attention on a particular area that is being used as a port of entry for narcotics coming into this country, that something constructive can be accomplished.

These two stories I have just quoted illustrate what has happened in the last few days. Tomorrow the Select Committee will hear from the administration and from the White House as to the answers to a request made by the committee for treating this emergency situation. No longer can we expect to treat, the crisis in Florida as a situation-as-usual. The situation is critical. Florida has become the narcotics capital of the Nation. And an exporter of U.S. dollars, adding to our balance-of-payments problem, of about $6 billion a year in outflow of U.S. dollars.

Mr. BURKE of Florida. Mr. Speaker, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from Florida, the ranking minority member of the Select Committee on Narcotics Abuse and Control.

Mr. BURKE of Florida. Mr. Speaker, I thank my distinguished chairman for yielding and commend him for taking out this special order that focuses attention on the narcotics trafficking problem in the south Florida region, a problem whose mammoth dimensions was revealed when I, along with other members of the Select Committee, first investigated and held hearings in Hollywood, Fla., last month which is in my congressional district.

I commend our Federal and local law enforcement authorities for their outstanding cooperation and coordination that resulted over the past weekend of seizing nearly $24 million in narcotics, together with the arrest of 33 narcotics traffickers. I also want to commend the brave and dedicated Fort Lauderdale police officers, which, under the leadership of Chief Leo Callahan, Capt. Art Glover, and Sgt. Bob Dietrich, contributed to part of the seizures with the arrest of 10 traffickers in possession of 7 pounds of uncut Colombian cocaine worth approximately $600,000 and $1.1 million in cash. Also seized in this arrest was one Cessna turbo-jet valued at $900,000. Of the 10 defendants, two were money couriers from Colombia to the United States. All defendants were held at a minimum bond of $100,000 each. The bonds were paid before the Fort Lauderdale police counted the seized moneys. This narcotics trafficking organization has connections in the following eight States: Rhode Island, Illinois, New York, Massachusetts, Ohio, California, Wisconsin, and Washington.

Mr. Speaker, narcotics smuggling and trafficking operations constitute a multi-billion-dollar illegal operation. The problem of interdicting this trafficking and arresting these criminal operators is herculean and is the President's business, the Congress business, and everyone's business. It is a mistake to regard the illicit drug trafficking operations as unique to Florida, merely because of the Fort Lauderdale police arrests last weekend. To the contrary, this is a national problem that requires a comprehensive, coordinated national drug strategy to combat drug abuse and the local and international criminal syndicates that control this illicit market.

A brief examination of some statistical data indicate just the surface of the drug trafficking problem in the United States. During the first quarter of this year, the Drug Enforcement Administration (DEA) seized 203,065 pounds of marihuana (or nearly two-thirds of the total of 335,452 pounds seized by DEA in 1977), 158 pounds of heroin (or nearly one-third of the total amount of DEA seizures in 1977), and 193 pounds of cocaine (or nearly one-half of the total amount of the 399 pounds seized last year). And these figures do not represent the seizures by other Federal law enforcement agencies—the Customs Service, the Coast Guard, the Immigration and Naturalization Service—or by State and local law enforcement agencies; nor does this represent the total picture with regard to the seizure of hallucinogens, stimulants, barbiturates, and other dangerous drugs.

But one thing is clear and that is that the drug problem in this Nation has reached an epidemic crisis that can no longer be tolerated. Our Federal, State, and local law enforcement agencies must coordinate and cooperate in their efforts to interdict narcotics trafficking—an accomplishment that I am pleased to see occurred this past weekend by our Federal and local law enforcement agencies in south Florida. These dedicated men and women must also be provided the personnel, equipment, and funds to perform their dangerous tasks.

Mr. Speaker, I look forward to the report by the administration's top drug law enforcement officials which has been promised tomorrow—a report that was prompted by the select committee's investigation into the drug trafficking problem in Florida last month. Again, I

commend our Federal and local law enforcement agents for their cooperative efforts this past weekend, for it dramatically illustrates what can be accomplished when a coordinated, cooperative effort between drug law enforcement agencies exists.

Mr. GILMAN. Mr. Speaker, will the gentleman yield?

Mr. WOLFF. I yield to the gentleman from New York, a most valuable member of our select committee.

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I thank the distinguished chairman of the Select Committee on Narcotics Abuse and Control (Mr. WOLFF), on whose committee I am a member, for yielding and wish to associate myself with his remarks and those of my colleague, the gentleman from Florida (Mr. BURKE).

As a member of the Narcotics Select Committee that participated in the recent hearings into narcotics trafficking in Florida, I observed first hand the boatloads of marihuana and large quantities of heroin, cocaine, and other dangerous drugs that have been seized by this Nation's drug law enforcement agencies in the Florida region. I commend the Coast Guard, the U.S. Customs Service, and the Fort Lauderdale Police Department for their coordination and cooperation that led to the recent seizures of nearly $24 million in narcotics, $1.1 million in cash, and the arrest of 33 drug traffickers. And these seizures are only the tip of the iceberg.

Mr. Speaker, the drug trafficking problem in south Florida is a tidal wave—it has reached epidemic proportions. The problem of interdicting the massive quantities of illicit drugs from polluting our shores is herculean.

Just last Sunday, the combined efforts of the Coast Guard and the U.S. Customs Service resulted in the seizure of 35,000 pounds of marihuana, including the seizure of 2 vessels and the arrest of 10 Cuban, 1 Colombian, and 1 Puerto Rican drug trafficker. On July 16, 1978, the U.S. Coast Guard cutter *Durable* made three interdictions off the coast of Florida, resulting in the seizure of 82,000 pounds of marihuana, whose estimated street value is worth nearly $33 million, and the arrest of 14 drug traffickers. Our congratulations go out to the captain and crew of the *Durable* and to all the other law enforcement agents that participated in this combined operation as well as the operation over this past weekend that resulted in the seizure of $24 million worth of marihuana. On July 18, 1978, customs agents at the Miami International Airport seized 6 pounds of cocaine, which is worth approximately $180,000, in a false bottom suitcase. During the entire month of June, customs agents in Florida seized 35 pounds of cocaine worth approximately $105,000 and 367,655 pounds of marihuana worth approximately $183,827,500.

Mr. Speaker, these successful drug interdicting operations are examples of what can be accomplished when our drug law enforcement agencies cooperate and coordinate their operations. Coordinating and cooperating, rather than resorting to interagency rivalries, is what is needed if this Nation is to win the war on drug abuse. Most important, our brave, dedicated law enforcement agents and personnel from DEA, the Coast Guard, the Customs Service, the Immigration and Naturalization Service, need additional personnel, better equipment, and additional funding in order to combat the sophisticated and highly organized international narcotics syndicates whose Lear jets and swift 70 knot corsa boats outmaneuver the antiquated World War II aircraft, obsolete boats, and other equipment currently being used by our law enforcement agencies. This Nation is in dire need of a comprehensive, coordinated national drug strategy and hopefully, Mr. Speaker, the select committee will shortly learn the details of the White House proposal to assist our dedicated law enforcement agents in Florida as well as throughout the Nation.

Mr. WOLFF. I thank the gentleman from Florida (Mr. BURKE) and the gentleman from New York (Mr. GILMAN) for their remarks and for their leadership in the select committee's hearing in Florida and in calling upon the administration to take immediate steps to assist our beleaguered law enforcement agents in stemming the narcotics tidal wave in Florida and throughout the Nation.

I thank the gentleman. I must say that there has been some comment upon the fact that we are discussing the question of marihuana and the large seizures of marihuana. With the situation being what it is throughout the country, people are talking about marihuana decriminalization. People want to know why we are focusing so much attention on marihuana.

It is not a question of focusing on marihuana. Marihuana trafficking is used to finance other illicit drug operations. Large quantities of marihuana are seized because narcotics traffickers cast the cocaine and other illicit drugs overboard, before being apprehended. They cannot hide or submerge tons of marihuana. The more important element is that we are seizing ton-load quantities of this stuff, and if tons of marihuana can be brought into this country, perhaps boatloads of guns and other items of terrorism can pass through our borders as well. It is for this reason that people should be alert to the very serious problem we face, not only from ignorance but the flouting of the law and the complete destruction of an order by society based upon respect for the law.

Mr. DORNAN. Mr. Speaker, will the gentleman yield?

Mr. WOLFF. Mr. Speaker, I yield to the gentleman from California.

Mr. DORNAN. Mr. Speaker, I thank the gentleman for yielding to me. I wanted to congratulate my distinguished colleague from New York for that tremendous effort he has put forth here in travel, in mental energy, and in time out of his life away from his family to do battle in what is really a war in every sense of the word.

I remember how this country was torn during the fortnight of the Tet offensive in Vietnam, when a very easy figure to remember tragically, 1,111 young Americans, were killed. We see that number die easily every month in the streets of this country from every type of economic level up to the largest homes in this country, and certainly every middle-class level of home is hit by this drug tragedy.

I believe most Americans still are not aware of the sheer death toll in numbers that is involved in the struggle the gentleman from New York is so completely involved in around the world. I think that if we do not have a reordering of our own priorities, from the White House down; if we do not see every Congressman—because it covers every district involved—himself somehow or other involved in the efforts to put forth, we are really not serving effectively in this House.

This killer, like the fifth horseman of the Apocalypse, has become a curse to the Western countries, and is used quite effectively by the totalitarian powers around the world, particularly the Soviet Union, to point to our society as being in advanced stages of decadence because we allow our young people to be so affected by every type of chemical.

I tell my own five children and every other person I come in contact with that I am not interested in the debate about martini versus chemicals, quaalude, librium, serax, valium, and darvon.

I do not care what the pill-popping, shooting, snorting, cocaine-sniffing problem is; it all comes under one heading—chemical addiction to hurt this brain, this God given chemical computer we have been given.

I just think, from the White House down to the newest Congressman here, we have got to effectively declare a solid war against every person who trafficks in this death we see across the free world.

I cannot tell the gentleman from New York (Mr. WOLFF) how much I appreciate his efforts to stop, across this country, this death toll.

Mr. WOLFF. I thank the gentleman from California (Mr. DORNAN) for his kind remarks.

I know his deep dedication to this fight and, even though he is not a member of our Select Committee on Narcotics Abuse and Control, the help we are getting from him. The very deep dedication he has in assisting us in this fight is greatly appreciated by the full committee as well as the Congress, and we owe him a deep debt of gratitude for his efforts.

I think I cannot add to the eloquent statement that has been made by our distinguished Member, the gentleman from California (Mr. DORNAN), and therefore I yield back the balance of my time.

WHAT POSTAL STRIKE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. GOLDWATER) is recognized for 5 minutes.

● Mr. GOLDWATER. Mr. Speaker, with all signs pointing to an imminent postal strike, I take this time to put the fears of the public at rest. Yesterday I came across an Associated Press item in the Los Angeles Times which told of a letter mailed from one house to another in the same California town. It took 42 years to deliver. At that rate, Mr. Speaker, why is there so much panic over a postal strike? Predictions that we will be paralyzed by a strike does not startle me. When it takes 42 years to deliver a letter across town, who is going to notice a strike by postal workers?

For the RECORD, Mr. Speaker, I would like to share the Times article with my colleagues:

LETTER IS ONLY 42 YEARS LATE—1936 MAIL FINALLY REACHES DESTINATION

EUREKA.—It might take a day for a piece of mail to travel from one house in Eureka to another. Two or three days at the most.

But 42 years?

That is the question Naomi Nelson asked herself after opening the mail at the city's Department of Public Works.

"I opened it up and I tried to figure out, 'Now who does this go to,' because it didn't look familiar," she said.

Then she looked at the date. It was postmarked April 30, 1936.

And the person it was addressed to was Ed Gardner, who hadn't been city engineer for 40 years.

The envelope contained a form sent to Gardner by the National Reemployment Service, which doesn't exist anymore, it was stationed in the federal building in Eureka during the Depression.

The form lists three people referred to the city's Engineering Department for jobs on Public Works Administration Project Number 1234R. None of the people could be traced.

"There's no logical explanation for something like that," said Earl Hotelling, director of mail processing at Eureka's main post office.

"Our standard procedure when a piece of mail is resubmitted is to backstamp it," he said. This one wasn't.

The main post office moved in 1962 from the federal building where the letter was originally mailed.

LEAVE OF ABSENCE

(By unanimous consent, leave of absence was granted as follows to:)

Mr. RODINO (at the request of Mr. WRIGHT), for today, on account of illness in the family.

Mr. ADDABBO (at the request of Mr. WRIGHT), after 3 p.m. today through July 24, on account of illness in the family.

Mrs. COLLINS of Illinois, for the period of July 21 through August 4, 1978, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GARY A. MYERS), to revise and extend their remarks, and to include extraneous matter:)

Mr. GOLDWATER, for 5 minutes, today.

(The following Members (at the request of Mr. GOODLING) and to revise and extend their remarks and include extraneous matter:)

Mr. DERWINSKI, for 5 minutes, today.
Mr. KEMP, for 15 minutes, today.
Mr. WHALEN, for 5 minutes, today.
Mr. GREEN, for 5 minutes, today.

(The following Members (at the request of Mr. LEDERER) and to revise and extend their remarks and include extraneous matter:)

Mr. ANNUNZIO, for 5 minutes, today.
Mr. GONZALEZ, for 5 minutes, today.
Mr. FOUNTAIN, for 5 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. HARRIS, for 5 minutes, today.
Mr. DIGGS, for 10 minutes, today.
Mr. GIAIMO, for 15 minutes, today.
Mr. MURPHY of Illinois, for 5 minutes, today.
Mr. WOLFF, for 30 minutes, today.
Ms. OAKAR, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BAUMAN, and to include extraneous matter, in his remarks in the Committee of the Whole today.

(The following Members (at the request of Mr. GOODLING) and to include extraneous matter:)

Mr. COUGHLIN.
Mr. ABDNOR.
Mr. GILMAN.
Mr. RUDD.
Mr. DORNAN in two instances.
Mr. SAWYER.
Mr. DERWINSKI in two instances.
Mr. MCCLORY.
Mr. LAGOMARSINO in two instances.
Mr. BUCHANAN.
Mr. BROOMFIELD.
Mr. BURKE of Florida.
Mr. JEFFORDS.
Mr. STANGELAND.
Mr. GRASSLEY.
Mr. GOLDWATER.

(The following Members (at the request of Mr. LEDERER) and to include extraneous material:)

Mr. WAXMAN in two instances.
Ms. MIKULSKI.
Mr. ANDERSON of California in three instances.
Mr. GONZALEZ in three instances.
Mr. CARNEY in two instances.
Mr. ROE.
Mr. MAZZOLI in two instances.
Mr. SIMON.
Mr. STUDDS.
Mr. RAHALL in two instances.
Mr. RONCALIO in two instances.
Mr. MAGUIRE.
Mr. RANGEL.
Mr. METCALFE.
Mr. GAMMAGE.
Mr. FORD of Michigan.
Mr. DANIELSON.
Mr. ROSENTHAL.
Mr. MCDONALD.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 3107. An act to amend the Bankruptcy Act to provide for uniform supervision and control of employees of referees in bankruptcy; to the Committee on the Judiciary.

ADJOURNMENT

Mr. WOLFF. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 11 minutes p.m.), the House adjourned until tomorrow, Friday, July 21, 1978, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4602. A letter from the U.S. Commissioner of Education, transmitting notice of interpretation for absorption provisions in impact aid added by the Education Amendments of 1974, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4603. A letter from the Deputy Assistant Secretary of Defense (Comptroller), transmitting notice of a Department of the Army proposed new system of records (AFAI–1), pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4604. A letter from the Secretary of the Interior, transmitting notice of a proposed refund for excess payments on leases by the Superior Oil Co., pursuant to section 10(b) of the Outer Continental Shelf Lands Act; to the Committee on Interior and Insular Affairs.

4605. A letter from the Secretary of Commerce, transmitting a report on the simplification of export regulations and lists, pursuant to section 7(e) of Public Law 91–184, as amended (91 Stat. 241); to the Committee on International Relations.

4606. A letter from the Assistant Secretary of the Treasury (Legislative Affairs), transmitting additional project performance audit reports prepared by the International Bank for Reconstruction and Development, pursuant to section 301(e)(3) of the Foreign Assistance Act of 1961, as amended (87 Stat. 718); to the Committee on International Relations.

4607. A letter from the Director, International Communication Agency, transmitting a report on the special domestic assignment program for foreign service officers, pursuant to section 576(e) of the Foreign Service Act of 1946, as amended; to the Committee on International Relations.

4608. A letter from the Assistant Secretary of State for Congressional Relations, transmitting a report on political contributions made by Talcott W. Seelye, (Syria), and by members of his family, pursuant to section 6 of Public Law 93–126; to the Committee on International Relations.

4609. A letter from the Secretary of Health, Education, and Welfare, transmitting the annual report of the National Center for the Prevention and Control of Rape for fiscal year 1976, pursuant to 89 Stat. 328 [42 U.S.C.

2689 q(b)(1)(B)]; to the Committee on Interstate and Foreign Commerce.

4610. A letter from the Chairman, Council on Environmental Quality, Executive Office of the President, transmitting a report on the feasibility of establishing a standard classification system for chemical substances and a standard means for storing and obtaining rapid access to information on such substances, pursuant to section 25(b) of the Toxic Substances Control Act of 1976 (Public Law 94-469); to the Committee on Interstate and Foreign Commerce.

4611. A letter from the Administrator, Energy Information Administration, Department of Energy, transmitting a report covering the month of February, 1978, on gasoline service station market shares, pursuant to section 4(c)(2)(A) of the Emergency Petroleum Allocation Act of 1973; to the Committee on Interstate and Foreign Commerce.

4612. A letter from the Executive Director, Federal Communications Commission, transmitting a report on the backlog of pending applications and hearing cases in the Commission as of February 28, 1978, pursuant to section 5(e) of the Communications Act, as amended; to the Committee on Interstate and Foreign Commerce.

4613. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting copies of orders suspending deportation under the authority of section 244(a)(1) of the Immigration and Nationality Act, together with a list of the persons involved, pursuant to section 244(c) of the Act; to the Committee on the Judiciary.

4614. A letter from the Chairman, U.S. International Trade Commission, transmitting the 14th quarterly report on trade between the United States and nonmarket economy countries, pursuant to section 410 of the Trade Act of 1974; to the Committee on Ways and Means.

4615. A letter from the Comptroller General of the United States, transmitting a report on the effectiveness of the Department of Housing and Urban Development's evaluation system in meeting the information needs of decisionmakers within both the Congress and the Department (PAD-78-44, July 20, 1978); jointly, to the Committees on Government Operations, and Banking, Finance and Urban Affairs.

4616. A letter from the Comptroller General of the United States, transmitting a report on the consumer rights of airline passengers (CED-78-143, July 20, 1978); jointly to the Committees on Government Operations, and Public Works and Transportation.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BROOKS: Committee on Government Operations. Report on Freedom. Report on Freedom of Information Act requests for business data and reverse—FOIA lawsuits (Rept. No. 95-1382). Referred to the Committee of the Whole House on the State of the Union.

Mr. REUSS: Committee on Banking, Finance and Urban Affairs. H.R. 13471. A bill to strengthen the supervisory authority of Federal agencies which regulate depository institutions, to prohibit interlocking management and director relationships between financial institutions, to amend the Federal Deposit Insurance Act, to restrict conflicts of interest involving officials of financial supervisory agencies, to control the sale of insured financial institutions, to regulate the use of correspondent accounts, to establish a Federal Bank Examination Council, and for other purposes (Rept. No. 95-1383). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. CARNEY (for himself, Mr. STAGGERS, Mr. HALL, Mr. CUNNINGHAM, Mr. PURSELL, Mr. NICHOLS, Mr. GILMAN, Mr. EILBERG, Mr. MARRIOTT, Mr. COUGHLIN, Mr. FLOOD, Mr. MURPHY of Illinois, Mr. MOTTL, Mr. HARSHA, Mr. GARY A. MYERS, Mr. MOLLOHAN, Mr. MILLER of Ohio, Mr. ZEFERETTI, Mr. PATTERSON of California, Ms. OAKAR, Mr. BYRON, Mr. STRATTON, Mr. EDGAR, Mr. CHARLES H. WILSON of California, and Mr. SHUSTER):

H.R. 13546. A bill to promote steel trade negotiations under the Trade Act of 1974; to the Committee on Ways and Means.

By Mr. CORRADA:

H.R. 13547. A bill to authorize an allowance based on living costs and conditions of environment for judicial employees employed outside the continental United States or in Alaska; to the Committee on Post Office and Civil Service.

By Mr. DIGGS:

H.R. 13548. A bill to enhance the flexibility of contractual authority of the Temporary Commission on Financial Oversight of the District of Columbia; to the Committee on the District of Columbia.

By Mr. GREEN:

H.R. 13549. A bill to authorize the Federal Deposit Insurance Corporation to conduct a weekly sampling of State nonmember bank deposits which shall be transmitted to the Federal Reserve Board for usage in the conduct of monetary policy; to the Committee on Banking, Finance and Urban Affairs.

By Mrs. HOLT:

H.R. 13550. A bill to limit the growth rate of Federal spending and provide for permanent tax rate reductions for individuals and businesses; to the Committee on Ways and Means.

By Mr. MAGUIRE (for himself, Mr. GREEN, Mr. HARRINGTON, Mr. HUGHES, Mr. MARKEY, Mr. RAHALL, Mr. VENTO, Mr. WALGREN, and Mr. WAXMAN):

H.R. 13551. A bill to establish a Commission on National Primary Health Care Needs and to amend the Public Health Service Act to establish hospital-affiliated primary care centers and to provide for research and demonstration projects in primary health care; to the Committee on Interstate and Foreign Commerce.

By Mr. RAILSBACK (for himself, Mr. KRUEGER, Mr. FARY, Mr. PRICE, Mr. BONIOR, and Mr. VENTO):

H.R. 13552. A bill to amend title 28, United States Code, to authorize the Attorney General of the United States to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals; to the Committee on the Judiciary.

By Mr. RONCALIO (for himself and Mr. BAUCUS):

H.R. 13553. A bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. SIMON:

H.R. 13554. A bill to amend the Clayton Act to prohibit any person from serving as a director or officer of more than one major corporation at the same time; to the Committee on the Judiciary.

By Mr. STEIGER (for himself, Mr. ARMSTRONG, Mr. BAUCUS, Mr. CORNWELL, Mr. EMERY, Mrs. FENWICK, Mr. FISH, Mr. GILMAN, Mr. GOLDWATER, Mr. HAGEDORN, Mr. HANLEY, Mr. JEFFORDS, Mr. JENRETTE, Mr. KASTEN, Mr. LENT, Mr. MCDONALD, Mr. MARKS, Mr. MILLER of Ohio, Mr. ROGERS, Mr. SNYDER, Mr. STANTON, Mr. STUMP, Mr. TAYLOR, and Mr. WALSH):

H.R. 13555. A bill to amend the Internal Revenue Code of 1954 to provide pre-1969 tax treatment for capital gains; to the Committee on Ways and Means.

By Mr. WAMPLER (for himself, Mr. COLLINS of Texas, Mr. QUILLEN, Mr. WHITEHURST, Mr. DUNCAN of Tennessee, Mr. GUYER, Mr. COHEN, Mr. ARMSTRONG, Mr. ROBINSON, Mr. SPENCE, Mr. BROWN of Ohio, and Mr. FISH):

H.R. 13556. A bill to amend the Occupational Safety and Health Act of 1970 to provide that the requirements of such act with respect to employers shall apply to the Occupational Safety and Health Administration; to the Committee on Education and Labor.

By Mr. NOLAN:

H.R. 13557. A bill to provide grants to renovate existing structures for use as youth hostels and to construct four new structures for use as youth hostels in order to further the development of a national system of youth hostels and increase the opportunity for outdoor recreation and educational travel and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs and Interior and Insular Affairs.

By Ms. OAKAR (for herself and Mr. REUSS):

H.R. 13558. A bill to amend the Coinage Act of 1965 to change the size, weight, and design of the $1 coin, and for other purposes; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RONCALIO (for himself, Mr. BAUCUS, Mr. EVANS of Colorado, and Mr. RAHALL):

H.R. 13559. A bill to amend the Public Works and Economic Development Act to establish a comprehensive program to provide financial and technical assistance to States, local governments, and Indian tribes to manage impacts caused by energy development, and for other purposes; jointly, to the Committees on Banking, Finance and Urban Affairs, Interior and Insular Affairs, and Public Works and Transportation.

By Mr. CRANE (for himself, Mr. BAFALIS, Mr. BURGENER, Mr. CORCORAN of Illinois, Mr. DEVINE, Mr. FLOOD, Mr. GOLDWATER, Mr. HYDE, Mr. KASTEN, Mr. LAGOMARSINO, Mr. MADIGAN, Mr. MATHIS, Mr. MCDONALD, Mr. ROBINSON, Mr. STUMP, Mr. SYMMS, and Mr. WINN):

H.J. Res. 1069. Joint resolution to amend the Constitution of the United States to provide that appropriations made by the United States shall not exceed 33⅓ percent of the average national income of the prior 3 calendar years, except as specified during war or national emergency; to the Committee on the Judiciary.

By Mr. MINETA (for himself, Mr. JOHNSON of California, and Mr. WALSH):

H.J. Res. 1070. Joint resolution to initiate preliminary studies for the restoration and renovation of the Pension Building in Washington, District of Columbia, to house a Museum of the Building Arts, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. RAILSBACK (for himself and Mr. HILLIS):

H.J. Res. 1071. Joint resolution providing

that residential subscriber interests, especially those of citizens in rural areas, be protected as competition is permitted in the telecommunications industry; to the Committee on Interstate and Foreign Commerce.

By Mr. RAILSBACK (for himself, Mr. UDALL, Mr. QUAYLE, and Mr. VANDER JAGT):

H.J. Res. 1072. Joint resolution designating the composition known as "The Stars and Stripes Forever" as the national march of the United States; to the Committee on Post Office and Civil Service.

By Mr. JEFFORDS (for himself, Mr. AMBRO, and Mr. DODD):

H. Con. Res. 669. Concurrent resolution to urge Presidential action to obtain Soviet compliance in conformity with the Helsinki Final Act; to the Committee on International Relations.

By Mr. ANNUNZIO:

H. Res. 1280. Resolution to create an additional position of assistant chief telephone operator and to abolish five telephone operator positions, and for other purposes; to the Committee on House Administration.

By Mr. BEARD of Tennessee (for himself, Mr. WHITEHURST, Mr. MARTIN, Mr. SYMMS, Mr. TEAGUE, Mr. ROBERTS, Mr. SISK, Mr. MONTGOMERY, Mr. HYDE, Mr. KELLY, Mr. WHITE, Mr. YOUNG of Florida, Mr. BURGENER, Mr. CHARLES WILSON of Texas, Mr. EVANS of Georgia, Mr. MATHIS, Mr. GINN, Mr. COUGHLIN, Mr. RINALDO, Mr. STUMP, Mr. KINDNESS, Mr. SEBELIUS, Mr. LIVINGSTON, Mr. STANGELAND, and Mr. SKELTON):

H. Res. 1281. Resolution requesting that the Secretary of Defense should rescind that portion of the Department of Defense directive which permits deserters from military service to receive in absentia discharges; to the Committee on Armed Services.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

458. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to agricultural lands within the United States owned by foreign nationals; to the Committee on Agriculture.

459. Also, memorial of the Legislature of the State of Arizona, relative to Soviet emigration policies; to the Committee on International Relations.

460. Also, memorial of the Legislature of the State of Louisiana, relative to the importation of shrimp from foreign countries; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. D'AMOURS:

H.R. 13560. A bill for the relief of Samy Ennabe; to the Committee on the Judiciary.

H.R. 13561. A bill for the relief of Tin Foo Chan (also known as Michael Chan); to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

509. By the SPEAKER: Petition of the Western Governors' Conference, San Francisco, Calif., relative to the development of an effective method for controlling predators; to the Committee on Agriculture.

510. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to Federal land and water policies; to the Committee on Interior and Insular Affairs.

511. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to national telecommunications services; to the Committee on Interstate and Foreign Commerce.

512. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to fish and wildlife management; to the Committee on Merchant Marine and Fisheries.

513. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to regional development commissions; to the Committee on Public Works and Transportation.

514. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to increases of beef imports; to the Committee on Ways and Means.

515. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to the Sugar Stabilization Act of 1978; jointly, to the Committees on Agriculture, and Ways and Means.

516. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to uranium mill tailings; jointly, to the Committees on Interior and Insular Affairs, and Interstate and Foreign Commerce.

517. Also, petition of the Western Governors' Conference, San Francisco, Calif., relative to dam safety; jointly, to the Committees on Agriculture, Interior and Insular Affairs, and Public Works and Transportation.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 12433

By Mr. GAMMAGE:

—Page 42, after line 18, insert the following:

LAND-USE REQUIREMENTS UNDER THE NATIONAL FLOOD INSURANCE ACT OF 1968

SEC. 324. Section 1361 of the National Flood Insurance Act of 1968 is amended by adding the following new subsection at the end thereof:

"(d) In carrying out the provisions of this section or any other section of this Act, the Secretary may not require that any State, local, or other measures referred to in subsection (c) apply to any repair, reconstruction, or improvement to an existing structure which has been damaged or destroyed as a result of a fire or natural disaster other than a flood."

H.R. 13467

By Mr. MOSS:

—Page 13, strike lines 10 through 13 and insert in lieu thereof:

"NATIONAL INSTITUTES OF HEALTH

"NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

"For an additional amount for research and clinical activities related to the influenza vaccination program by the 'National Institute of Allergy and Infectious Diseases', $3,000,000."

SENATE—*Thursday, July 20, 1978*

(Legislative day of Wednesday, May 17, 1978)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by Hon. DONALD W. RIEGLE, JR., a Senator from the State of Michigan.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"Holy, Holy, Holy!
Only Thou art holy,
There is none beside Thee,
Perfect in power, in love, and purity."

The crowded hours allow so little time to think of Thee; but in the silence of this moment we may be sure that though we may forget Thee, Thou dost not forget us. As we withdraw from pressures without may we find Thee anew within, until thought grows reverent, all work is hallowed and faith consecrates all things as sacraments of love. Help us to fill the swift moving hours with noble deeds, to pray as we work, and to lengthen life by intensity of living.

We pray in Thy holy name. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., July 20, 1978.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DONALD W. RIEGLE, JR., a Senator from the State of Michigan, to perform the duties of the Chair.

JAMES O. EASTLAND,
President pro tempore.

Mr. RIEGLE thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF LEADERSHIP

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Journal of the Proceedings be approved to date.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MISSION TO EUROPE

Mr. ROBERT C. BYRD. Mr. President, I am reporting today on my recent trip to Europe, during which I visited Spain, Belgium, the Federal Republic of Germany, and the United Kingdom, plus the headquarters of the North Atlantic Treaty Organization.

The trip provided an opportunity to discuss matters of mutual importance with key European leaders—including the heads of government of each of these four European countries and the leadership of NATO—and to exchange views on major international issues.

A number of significant topics were discussed, centering around economic and military cooperation between the United States and our European allies. I will comment in some detail on these subjects and the major points which emerged from the meetings.

Because of the importance of these issues for U.S. foreign policy, particularly our economic and defense policy, I am taking this opportunity to make this public report.

INTRODUCTION

During the recent nonlegislative period, June 30 to July 9, I traveled to Europe as emissary and personal representative of President Carter. The trip took me to four European countries—Spain, Belgium, the Federal Republic of Germany, and the United Kingdom—and to the headquarters of the North Atlantic Treaty Organization.

Although I was in Europe as the representative of President Carter, it was evident that European leaders had a strong interest in hearing from an official of the legislative branch of the U.S. Government.

A confidential report has already been submitted to President Carter. I want now to report to the Senate and the public on the results of the trip.

THREE MAJOR THEMES

Three major themes emerged during my discussions in the three NATO countries—Belgium, Germany, and the United Kingdom—and at NATO headquarters.

The first was strong support for NATO and the long-term defense program (LTDP), and an enthusiastic reception for the renewed U.S. emphasis on European security. There are some problems, which I will elaborate on in a later section, but the overall picture is very encouraging. The LTDP, agreed to at the recent NATO summit meeting here, will, of course, require considerable effort on the part of the NATO member countries, and progress in implementing the program should be closely monitored.

The other two consistent themes related to concern about U.S. policy, and I received strong urging for Congress to act quickly in each of these areas.

Energy.—European leaders stressed the importance of early and decisive action on U.S. energy policy. Chancellor Helmut Schmidt of West Germany and Prime Minister James Callaghan of the United Kingdom were especially emphatic on this point.

At every stop in the NATO countries, the point was made that U.S. action on energy is a major factor affecting the international economy. The failure of the United States to take strong steps soon, particularly in reducing oil imports, will have serious negative consequences for Western economic stability and security, according to these leaders.

In each discussion, I pointed out that energy policy involved highly complex matters, subject of longstanding controversy; but that Congress is moving ahead with the energy program and in some respects will improve upon the proposals submitted by the President. The European leaders welcomed my report that in the near future—prior to congressional adjournment—favorable action will have been taken on most of the energy package.

Lifting the Turkish embargo.—There was unanimity from everyone I met within the NATO countries that the U.S. embargo on arms to Turkey should be lifted as soon as possible. The European leaders left no doubt about the overriding importance they attach to this matter.

As Prime Minister Callaghan said, a weakened Turkey means a weakened NATO. Secretary-General Luns of NATO was also strong in his urging that the embargo be removed, stating that all NATO countries, other than Greece, favored lifting the embargo.

There was also concern that continued efforts be made to strengthen relations with Greece as well as Turkey and to work for a solution to the Cyprus problem.

With the trip coming on the heels of the NATO-Washington summit and just prior to the seven-nation economic summit in Bonn, considerable attention in my discussions was given to the results of the NATO meeting and the prospects for the Bonn summit.

Overall, there was a very positive feeling about the direction of NATO with the impetus provided by the Washington summit. This optimism was tempered somewhat by concern about the continuing U.S. embargo on arms to Turkey.

The European leaders were somewhat less sanguine about the economic summit in Bonn, to which they all attach considerable importance, particularly the host country, Germany. Energy and economic matters are viewed as matters of great significance in the interrelationship between the United States and its European partners.

SITUATION IN SPAIN

The subjects of discussion during my visit to Spain were somewhat different. Spain, of course, is not a member of NATO and to a large extent the attention of the Spanish leaders is focused on internal matters and consolidation of the transition to democracy. The country has made remarkable progress, since General Franco's death in 1975, in establishing a viable, even vigorous, democracy. The country is not without difficult problems, particularly in the economic sphere, but its leadership has shown courage and wisdom in moving to meet those problems.

I had very valuable exchanges with President Adolfo Suarez and with Defense Minister and Vice President Manuel Gutierrez Mellado. The Spanish leaders made clear the importance they place on continued close relations with the United States.

The first priorities for Spain at this time are approval of a constitution, with a national referendum probably to take place in October, and the establishment of a government which is not burdened with the public impression that it is of an "interim" nature.

On the international front, the Spanish leaders see their country as closely linked with the United States and as part of the Western defense system. I did not specifically raise the subject of possible Spanish membership in NATO, lest there be any suggestion that the United States was pressuring Spain. But the President and the Vice President both indicated that they see Spain becoming a more active member of the Western community in the years ahead. Subsequent discussions I had in other European visits reconfirmed my view that this would be strongly welcomed.

I will comment in more detail on the situation in Spain, as well as in the other countries I visited. However, before doing that there are several important topics which should be highlighted.

Strategic arms limitations.—Despite concern about Soviet activities, there was accordance on the importance of achieving a good SALT II agreement and hope that such an agreement between the United States and Soviet Union can be concluded. The European leaders welcomed my statement that I believed any agreement made by the United States would take European security interests fully into account and would not foreclose the option of sharing cruise missile technology with our European allies. European concern was directed more at a possible SALT III agenda and the so-called gray areas, including regional or medium range or theater weapons systems.

Enhanced radiation weapons (neutron warhead).—There was acknowledgement that European leaders might have been more supportive of the production of the warhead. But there has been considerable controversy in Europe about the weapon, fed by an intensive and sophisticated Soviet propaganda campaign. None of our allies were eager

to assume a leadership role in support of the ER weapon.

The European leaders expressed general support for President Carter's decision to defer production, pending significant Soviet concessions. As one official pointed out, by the actions they now take, the Soviets have an opportunity to participate in the decision on whether to proceed with the weapon. If the Soviets do make a significant concession, then they can influence a decision not to proceed with deployment.

European currency.—Concern about the international monetary situation and the state of the dollar surfaced in almost every discussion. As Prime Minister Tindemans of Belgium said, U.S. friends in Europe are "very worried" about U.S. monetary problems. Much of this discussion was in the context of the need for a U.S. energy policy, referred to earlier. However, this also led Tindemans to raise the subject of a possible European currency plan, strongly supported by Germany and France.

Subsequently this subject was the major topic of discussion at the Bremen meeting of the heads on nine European Economic Community governments, a meeting preliminary to the Bonn summit. Unquestionably there is a strong push for action, designed to stabilize currencies in Europe, and to promote closer economic and monetary integration in the EEC. Although a decision was taken to proceed with a study of the subject, the United Kingdom and other governments made known their reservations about the proposal. The leading proponents of the scheme, such as German Chancellor Schmidt, have emphasized that it is not intended as a move hostile to the dollar. Nonetheless, it could have profound implications.

PART II

I would now like to comment in more detail on my visits to each of the four countries and NATO.

SPAIN

In my discussions in Madrid I expressed strong support for the evolution of democracy in Spain, and for the courage and statesmanship being shown by the Spanish leaders in making difficult decisions. An example of this approach is the adoption of the Moncloa Pacts. Signed by all of Spain's major parties, they set forth a much-needed program of economic and social reform, which include some austerity measures and structural reforms.

As indicated earlier, the attention of Spanish leaders is focused on involving all political elements in support of the referendum on the Constitution this fall. Assuming that the Constitution will be approved, Spanish leaders will then concentrate on implementing the Constitution and further strengthening the economy. The referendum could also be followed by national and/or municipal elections.

Despite this emphasis on domestic affairs, Prime Minister Suarez foresees a more active role for Spain in world affairs. During my meetings with the Prime Minister and the Defense Minister as well as informal discussions with other Spanish officials, it was apparent that Spain sees itself a part of the Western defense system and a close and committed ally of the United States.

Although the matter of Spanish membership in NATO did not come up directly in the discussions, I was questioned on this point by the press. In response to questions, I said that the United States would welcome the entry of Spain into NATO and as a full partner in the Western alliance. However, we would not presume to tell the Spanish people what to do. That is a decision for Spain to make through its own democratic processes.

Spain has applied for membership in the European Economic Community, but full membership must await the lengthy and complex process required for entry. An important development in support of Spanish membership in the Common Market was the backing of French President Valery Giscard D'Estaing. The French President was visting Spain at the time I was there and announced his support for Spanish entry into the EEC, although the matter remains a controversial one in France.

The 1976 United States-Spanish Treaty of Friendship and Cooperation establishes the framework for cooperation in several areas: defense, education and culture, science and technology, and economic cooperation. The treaty authorizes U.S. use of certain military facilities in Spain, while the United States provides military assistance to Spain's Armed Forces, as well as economic support. Guiterrez Mellado is scheduled to visit the United States later this summer to discuss military cooperation, including issues related to the treaty. He said that Spain and the United States must find the right, fair path for cooperation and in pursuing common objectives.

Spanish leaders cited U.S. investment in Spain—to help economic growth and to provide jobs—and assistance in modernizing Spanish military forces as the areas in which the United States could best support Spanish democracy.

An issue not directly raised by the Spanish leaders, but which was implicit in their remarks, was whether Spain should receive some form of special treatment under U.S. arms transfer policy. Some Spanish officials believe they should be placed in a category more akin to that of our NATO allies.

In many respects, Spain is a "new" country, despite its long and proud history. Certainly it is entering a new era. As Prime Minister Suarez pointed out, it is a young country, 78 percent of its people being under 40. It has vigorous leadership and a lively political climate. Important problems remain, but its rapid political evolution will enable Spain to take its place among the Western democracies, and as one of the more important European countries. President Suarez said Spain will no longer be passive in world affairs.

I strongly believe that U.S. policy should recognize the increasingly active and significant international role that Spain will play. Not only will our bilateral relations remain highly important, but we should also cooperate with and encourage Spain as it moves toward integration into the Western community.

NATO

During my visit to NATO, I had briefings and discussions with a number of persons, including the Secretary-General, Mr. Joseph Luns, and other NATO officials; the Supreme Allied Commander in Europe, Gen. Alexander M. Haig, Jr., and his aides; and officials of the U.S. Mission to NATO, headed by Ambassador W. Tapley Bennett, Jr. I visited both the NATO headquarters near Brussels and the Supreme Headquarters of the Allied Powers in Europe (SHAPE) near Mons, Belgium. I also had the opportunity for informal discussions with a group of representatives from various NATO member countries.

In a lengthy meeting with Secretary-General Luns, I emphasized the strong commitment of the United States to the alliance and our interest in, and support of, the long-term defense program.

Secretary-General Luns is one of Europe's most experienced and distinguished diplomats and has been in his present position since 1971. He offered the assessment that the Washington summit had been highly successful—a view I was to hear repeated a number of times during the course of my stay in Europe.

He provided a review of the NATO member countries and their probable response to the proposed 3 percent annual growth in real terms in defense spending and the long-term defense program. Luns pointed out that as Secretary-General he is the servant of the 15-member nations and that implementation of the LTDP will be up to the respective countries. He said the countries would move at differing paces, with some getting parliamentary support in short order, while others might have to move slower. Certain countries have serious economic problems and we should be mindful of their difficulties, he said. There is also the problem of the U.S. arms embargo on Turkey, noted earlier.

Secretary-General Luns spoke very strongly of the need to remove the embargo. He said he was speaking not so much in military terms, but in regard to the overall impact on Turkey, domestically and internationally. General Haig was equally emphatic in stressing the importance of lifting the embargo, basing his comments on a military assessment.

NATO officials made clear their concern about the continuing Soviet-Warsaw Pact buildup and thus the importance of the long-term defense programs as a means of strengthening NATO forces in the face of this challenge.

Although NATO's security must be assured by the strengthening of the alliance's deterrent and defense posture, it is also committed to the continued pursuit of détente and, as a part of that process, equitable and meaningful arms control agreements. However, trends in the military balance, which in the conventional area are moving strongly to NATO's disadvantage, could, if left unchecked, undermine deterrence and stability.

The long-term defense program provides for force improvements in selected areas and for a greater degree of alliance cooperation and planning. I was briefed on the package of detailed actions designed to improve NATO capabilities in 10 priority areas. These include:

First. Greater force readiness;

Second. More rapid reinforcement;

Third. Enhanced reserve mobilization;

Fourth. Improved maritime posture;

Fifth. Integrated air defense;

Sixth. Alliance command, control, and communications;

Seventh. Common electronic warfare programs;

Eighth. Improved consumer logistics;

Ninth. Rationalization of armaments production (standardization and interoperability); and

Tenth. Theater nuclear force modernization.

The success of the LTDP depends, of course, on the active support of all the member countries. As Secretary-General Luns pointed out, several countries have economic or political difficulties which makes their full-scale participation uncertain. However, he believes that most of the countries will make a strong effort to meet their commitments. He noted several examples of countries where the support for NATO is much stronger than in recent years.

Commenting on actions by the Soviet Union, Luns said he felt that it was necessary to speak bluntly to the Soviets. It was his view that Moscow has not decided to bury détente. The Soviets make judgments based on what they see as in their best interests, and they respond to straightforward language. He said this viewpoint has been confirmed by several persons who have recently spoken with Soviet officials.

As was the case with all the European leaders, Secretary-General Luns expressed concern about the position of the dollar and the status of the U.S. energy program. He said action was important to strengthen the Western economy—citing the link between energy, the economy, and security.

BELGIUM

Both the Belgian leaders with whom I met, Prime Minister Leo Tindemans and Defense Minister Paul Vanden Boeynants, expressed hope that Belgium will be able to meet its commitments to NATO's common defense efforts, including the 3-percent real growth in defense spending; its share of procurement costs for the airborne warning and control system (AWACS); and modernization of the Hawk antiaircraft missile system.

However, the Belgian leaders pointed to Belgium's economic difficulties, budget constraints, and political problems as barriers to realizing those goals. Both indicated their strong and continuing support for NATO. But the political situation in Belgium, which is ruled by a six-party coalition, makes it difficult for the government to take decisive action.

The internal political problems facing the government were evident from the all-night session of the Cabinet prior to my meetings with the Belgian officials. Another lengthy session, devoted to the complex domestic issue of regionalization, was scheduled on the evening following our meetings.

Belgium's problems are exacerbated by economic troubles. The Prime Minister and Defense Minister both spoke at some length about what Vanden Boeynants referred to as the "economic crisis." Unemployment has been rising since mid-1976 and constitutes a major problem. The national budget debts for the current and past year greatly exceeded projections, and have forced restraint in government spending.

Tindemans and Vanden Boeynants both cited the economic difficulties and resulting budgetary restraints as limiting Belgium's prospects for increasing defense spending. Vanden Boeynants noted that Belgium has been increasing its military efforts by 3 percent or more in recent years and Tindemans pointed to the decision to purchase additional F-16 aircraft. But there is some doubt about meeting the 3-percent goal. Tindemans said Belgium will do what it can under the LTDP, but looked upon the agreement reached in Washington as one of principle but, in my impression, not one of concrete figures.

In discussing the international economic situation, Tindemans said he was very worried about U.S. attitudes toward monetary problems and said the great mass of dollars currently circulating constitutes a permanent danger for European economies. He said that the U.S. balance-of-payments deficit and oil consumption are basic factors contributing to the monetary problem. In this context he raised the subject of the proposed European currency plan and the prospect that the Europeans would seek their own solution to the monetary problem.

Tindemans, who has headed the Belgian Government since 1974, expressed his concern about the Soviet military build-up but also noted the importance of achieving meaningful agreements on strategic arms limitations and mutual balanced force reduction.

Both Tindemans and Vanden Boeynants stated their appreciation for the strong U.S. backing of NATO. Vanden Boeynants, who is a former prime minister and has served as defense minister since 1972, recalled that if it had not been for the Americans during World War II, Belgians would not be a free people today.

UNITED KINGDOM

Much of my meeting with Prime Minister James Callaghan was devoted to discussion of congressional action on the energy program and to various economic issues.

The Prime Minister was especially concerned about the economic summit meeting in Bonn. He stressed the fact that psychology and impressions would be extremely important and hoped that President Carter would be in a position to make some definite commitments. He said the fate of the summit and much more would be at stake. Callaghan was very encouraged to hear that Congress would be approving much of the energy program in the near future.

He emphasized the importance of improving the position of the dollar and cited the need for U.S. action to cut oil imports and move on other aspects of energy policy. He also expressed his strong concern about the problem of growing unemployment in Western nations.

Prime Minister Callaghan said he recognized the important role that the legislative branch has to play in the United States, and, as a parliamentarian himself, is particularly sensitive to this. Nonetheless, he said, because of its leadership responsibilities it is important for the United States to speak with one voice on certain critical issues. Europeans are sometimes left uncertain about U.S. policies and positions. The Prime Minister stated that he made his comments as an observer and well-wisher.

Callaghan said he believes that a SALT II Treaty, in the terms generally discussed, would be of benefit to the West and to the Soviets. He said it was his belief that a sound SALT II Treaty should be ratified and lead on to SALT III. He expressed great concern about the spread of nuclear weapons to additional countries.

The Prime Minister said he did not foresee any sharp changes in Soviet policy in the near future, and said that despite the rhetoric and reality of Soviet arms, he believes that the Soviet leaders are realistic.

In regard to NATO and the long-term defense program, the Prime Minister welcomed my statements of support and said he was pleased at the renewed commitment of the United States to European security. He stated that his government was committed to the 3-percent increase in defense spending, at least for the next 2 years.

Callaghan agreed on the need to reach an agreement in the multilateral trade negotiations in Geneva. He expressed concern about the threat of growing protectionist sentiment. He believes that protectionist sentiment thrives when there is no economic growth and he firmly believes that there must be strong commitments to growth among the Western nations. The only way to overcome protectionist sentiment, he said, is to get the world back on a pattern of growth.

The Prime Minister raised the subject of the United States-United Kingdom Tax Convention, recently approved by the Senate, as amended by the Church reservation. That reservation makes inapplicable to any political subdivision or local authority of the U.S. provisions of the treaty limiting the States' ability to tax foreign corporations investing in the United States.

Callaghan said the matter would be studied by the British Board of Inland Revenues in consultation with U.S. officials.

I stated that the Senate had initially rejected the treaty and that it would not have been approved without the reservation. I hoped that it could be accepted without negotiation. The Prime Minister responded that his government would consider the alternatives, but views it as a serious problem.

Our discussion also covered recent developments in efforts to achieve a settlement in the Middle East. Prime Minister Callaghan said he fully supported the efforts by the United States to bring the Israeli and Egyptian foreign ministers together for a meeting in London later this month.

Finally, on the matter of the Turkish embargo, the Prime Minister concurred with other European leaders that it should be lifted. A weakened Turkey weakens NATO, he said. He also pointed to the need to move quickly toward a resolution of the difficult Cyprus issue.

In addition to my meeting with Prime Minister Callaghan at 10 Downing ing Street, I also had the opportunity for informal discussions in London with a number of other British leaders from government, business, and the trade unions. A luncheon for me was hosted by Michael Foot, M.P., Lord President of the Council, and this was followed by a visit to the House of Commons and House of Lords.

FEDERAL REPUBLIC OF GERMANY

A series of meetings with top German leaders culminated with a lengthy and wide-ranging discussion with Chancellor Helmut Schmidt. Prior to meeting with Chancellor Schmidt I met with Minister of Defense Hans Apel; Minister of Foreign Affairs and Vice-Chancellor Hans-Dietrich Genscher; and Klaus von Dohnanyi, Minister of State in the Foreign Office.

Chancellor Schmidt, as noted previously, was especially concerned about prompt congressional action on the energy package. He was particularly interested in what commitments President Carter could make at the Bonn Summit. I assured the Chancellor that I believed that Congress would complete action on the bulk of the energy package in the near future.

The German officials concurred with my position that an agreement in the multilateral trade negotiations was imperative in order to prevent the spiraling of protectionism. It was felt, however, that the situation should not be overdramatized, because it might prove to be counterproductive.

In the past, Chancellor Schmidt has been critical of U.S. suggestions that Germany further stimulate its economic growth. However, I told him that I believe this was a necessary step in order to help reduce the imbalances in international payments and to help stabilize the international economy.

In response, the Chancellor began by referring to FRG constitutional limits against borrowing in excess of income. He told me that he cannot take a risk in this area unless an overall package is worked out, involving steps to strengthen the international economy. The U.S. participation in such a package is essential, he said. Unless Germany has confidence in the U.S. participation in such an agreement, Schmidt said it will not be possible for Germany to take action to step up its growth.

A factor which must be considered here is that Chancellor Schmidt and his Social Democratic Party have a slim parliamentary majority. Although Schmidt continues as a commanding and forceful leader, his flexibility is somewhat limited by the political divisions within the country.

Schmidt and his colleagues were very emphatic in stressing the view that if the United States does not take immediate steps to show a reversal of the trend toward an increasing consumption of energy, it would be held responsible for deepening economic difficulties in the world. They pointed to the U.S. trade deficit as a major contributor to currency instability and the unpredictability of the world economy.

Chancellor Schmidt and other German leaders expressed no doubt about the steadfastness of the U.S. commitment to NATO. In response to my comments about this country's strong support for the Alliance, including our commitment to the defense of Berlin, Chancellor Schmidt said he appreciated my remarks and that there was no question in his mind or on the part of Germans generally about the firmness of U.S. support.

Likewise, I was assured by all the German leaders with whom I met that the FRG is fully committed to strengthening NATO and to implementing the LTDP.

However, all of the German officials were strong in their belief that the Turkish embargo should be lifted. While they could understand the original motivation of the Congress in imposing the embargo, they wondered if Congress comprehended the full political effect the embargo has had in the Eastern Mediterranean. It is not just a matter of Greek-Turkish relations, the Germans said, but of broader—and profound strategic considerations. Chancellor Schmidt said that the effectiveness of the Turkish military has been reduced due to a lack of spare parts and that there is a growing bitterness in Turkey toward the United States and NATO. The FRG has continued to aid both Greece and Turkey, and has urged leaders of both countries to compromise their disputes. German officials said there is blame on both sides, but that there is no reason why Turkey should be seen as the villain and Greece as the innocent party.

The discussion with Chancellor Schmidt also covered recent developments in the Middle East and Africa. Schmidt has just returned from a trip to Nigeria and Zambia, the first such visit by a West German chief of government. Schmidt expressed concern about Soviet involvement in Africa, but offered a view consistent with other European leaders: Although the concern about the Soviet activities in Africa is well founded, and the Soviets appear to be engaging in selective détente, this should not stand in the way of U.S. acceptance of a good SALT agreement, if such an agreement can be achieved.

Foreign Minister Hans-Dietrich Genscher expressed satisfaction that the United States was staying in contact with its allies on SALT II and said he had the fullest confidence that European interests are being protected by the United States. The Germans, however, are particularly interested in the "gray areas" which may be the subject of SALT III, and this, not SALT II, is uppermost in their minds. He is focusing on the cruise missile and Backfire bomber and the outcome with regard to those issues in SALT III discussions. Genscher emphasized the importance of the Soviet SS–20 missile as a German concern. The SS–20 is a MIRVed, intermediate range mobile missile. Genscher said the United States may not see it as a strategic weapon, but for Germany it has to be treated as a strategic weapon.

The discussions with Defense Minister Apel and Foreign Minister Genscher covered a number of topics, including international political and economic developments as well as such specific points as the enhanced radiation warhead, referred to earlier; the AWACS program; and mutual and balanced force reduction (MBFR). The recent Soviet proposals in the Vienna MBFR talks were described by the Germans as an intelligent move, to which NATO would need to give a response soon. The Germans believe, as I had suggested, that collectivity in any common ceiling on troop levels was essential and that national subceilings were not satisfactory for NATO. They agreed on the importance of obtaining accurate data on troop levels, since the figures being used by the Soviets on the number of Warsaw Pact troops differ from NATO estimates of Warsaw forces by roughly 150,000.

The subject of Africa arose repeatedly in my discussions with German leaders. The FRG has played an increasingly active role in Africa. In addition to Chancellor Schmidt's discussion of his African trip, both Foreign Minister Genscher and Klaus von Dohnanyi commented at some length on African affairs. Genscher said Africa is a matter for common concern and emphasized the importance of finding solutions to conflicts in Southern Africa. Both believed that the Soviets had gained an impor-

tant advantage in the area by their support of liberation movements. Genscher said it is extremely important that the West be a credible advocate of African independence. Von Dohnanyi's view is that the West should emphasize development assistance and not become obsessed with the idea of an ideological conflict in Africa.

Von Dohnanyi noted that détente is a vital element in German strategy in Europe and the world. His position was that Soviet actions must be taken seriously, but the West should not overreact.

Another subject raised by Chancellor Schmidt, and one to which he attaches great importance, is the matter of nuclear energy and U.S. nuclear nonproliferation policy. He emphasized that development of nuclear energy is a matter of enormous importance to Europe and that he felt the general thrust of U.S. policy was against the development of nuclear energy in Europe.

CONCLUSION

It was a great privilege for me to serve as Presidential emissary and personal representative in Europe.

The trip provided me with the opportunity for serious discussions with a number of key European leaders and produced valuable insights in such important areas as energy, international economic issues, European security, and the Turkish embargo.

I believe that my discussions with the European leaders demonstrated the strong commitment within our country to NATO and European countries and for the strengthening of the Alliance.

In my opinion, it was also of benefit to European leaders to hear the congressional viewpoint. On matters such as energy, these discussions lead to a better undertanding of our system of government and, in fact, strengthen our position abroad.

Finally, I want to state that I was favorably impressed with the quality of our diplomatic corps in Western Europe. These ladies and gentlemen are fine representatives of our country.

I might say, incidentally, that I gave a more classified report to the President of the United States at 8:30 a.m. on the morning after I returned. It was more comprehensive, but I think this is a good report, and one that has been refined and may be valuable.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. ROBERT C. BYRD. Yes.

Mr. BAKER. I have read the distinguished majority leader's report. He was kind enough to supply me with a copy of it, and I must say it is thorough, meaningful, and an important document. I commend him on the quality of the report, and I commend to those who read this record that they should study the contents of the report carefully. It is thoroughly worthwhile, and I am sure we and the White House will both profit from it.

Mr. ROBERT C. BYRD. I thank my friend the distinguished minority leader.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from Montana (Mr. MELCHER) is recognized for not to exceed 15 minutes.

THE NORTHWEST AIRLINES STRIKE—S.J. RES. 149

Mr. MELCHER. Mr. President, as of today, Northwest Airlines has been on strike for over 80 days. Fifteen hundred pilots are negotiating a new contract and are striking until it is settled. Both sides accuse the other of taking tough bargaining positions, partially because of financial support during the strike. Northwest receives by far the most dollars of strike sustenance—millions of dollars—from other airlines and the pilots draw money from the union's strike fund contributed by the union's membership.

Meanwhile, the rest of the airline's employees—9,500 people who are not striking but laid off during the strike—are on unemployment checks (a fraction of their wages) or have found other jobs. They are clearly innocent victims of the strike.

The public—millions of us and thousands of businesses—are also innocent victims of the strike, losing out on airline travel, air freight and other benefits of regular airline service. This loss of service is a severe and painful handicap in the Northwestern States of Washington, Montana, North Dakota, Minnesota, and Alaska. What makes the situation worse is that Northwest is an airline that provides most of the east-west service in this region, practically leaving Montana and North Dakota barren for east-west air travel. North-south air travel is burdened on other airlines with people traveling south to Denver or other points to get an opportunity for east-west flights on nonstriking airlines. There are far from enough available seats on these north-south airlines attested to by the number of waiting travelers left at the gate in a futile effort to board as the aircrafts leave, completely full.

In addition, the air terminals and businesses associated with air terminals dependent upon Northwest lose significant business and face a year of disastrous loss of income.

Northwest has been shut down by strikes for 342 days out of the past 8 years. The current pilots' strike is the fifth labor dispute at Northwest in the past 8 years.

Why is this situation so bad? Why does this airline have more and longer strikes than other carriers, and why are these airline strikes usually longer than strikes in other industries? One particular agreement entered into by Northwest with other airlines keeps them from having to suffer too much of an economic drain, even in a prolonged strike. It is called the Mutual Aid Pact. It seems to me that, because of the money they receive from it, Northwest management is a tough bargainer.

The Air Line Pilots Association estimates that Northwest is entitled to over $83 million from its competitors since the strike started. That is an average of more than $1 million a day for not flying! Can you imagine Ford and Chrysler paying General Motors $1 million a day for not making cars?

Members of the Mutual Aid Pact offer as a theory that it helps cushion financially weak carriers from the effects of a strike. In this instance, reality flies in the face of theory. Northwest, one of the two biggest beneficiaries of the mutual aid agreement, is one of only two U.S. airlines that has shown a profit each year since 1968. National Airlines, the other large beneficiary of the pact, has been profitable since 1971.

On the other hand, financially weak airlines such as Pan American and Eastern have paid far more into the Mutual Air Pact than they have received from it. Pan Am realized what a bad deal it was getting and pulled out of MAP in 1976. Delta Airlines (the other airline besides Northwest to have shown a profit each year since 1968) never joined the pact and has avoided paying into the pact's coffers.

That is one of the reasons Eastern withdrew from the pact in the last few days because over the years they have been drained financially by contributions benefiting Northwest's strikes.

From 1969 to 1974, when Pan Am's annual losses ranged from $25 million to $48 million, the carrier paid out $33 million in mutual aid payments. In the same period, Northwest and National together collected $162 million or 57 percent of all mutual aid payments while paying out only $10 million or 2.5 percent of the total. Clearly, the weaker airlines of the pact have been supporting the strongest airlines. That strikes me as a shocking way of doing business. It is like getting donated blood from anemic patients to give transfusions to healthy doctors while they are on vacation.

During the current strike, Northwest has stated that the striking pilots have their own version of mutual aid. I understand that the pilots are now getting from $450 to $750 a month in strike benefits which is about 3 percent of the payment that flows to Northwest from the pact members.

But the real financial loss is suffered by the other 9,500 Northwest employees who are not on strike and the public and businesses who depend on Northwest for travel or freight.

Furthermore, the Mutual Aid Pact dips into the pockets of passengers on the other airlines who are members of the pact.

The mutual aid payments to Northwest, necessarily, finally come from passengers on other airlines. Thus, a passenger forced by an airline strike to switch to another airline is indirectly

paying the airline that inconvenienced him.

Indeed, all taxpayers are indirectly contributing to Northwest while it is on strike. Several competitors of Northwest, including Frontier Airlines, receive Federal subsidies for providing service to smaller cities where there are too few passengers to cover the airline's costs. These subsidies properly contribute to the revenues of the local service carrier. Along with other revenues, they go into the funds which the carrier uses to make its mutual aid payments to striking airlines.

The mutual aid pact is anticompetitive. It takes away much of the incentive for an airline to have good labor relations and, in practice, has proven to aid financially healthy airlines at the expense of weak ones.

If both sides are to be considered guilty of prolonging the strike, then on the question of financial help during the strike each side's benefits should be considered in the proper proportion. The pilot's strike pay is 3 percent and Northwest's mutual aid pact receipts are 97 percent of the combination financial strike support. That is a substantial difference weighted heavily to Northwest.

What can be done? The answer is clear. The mutual aid pact agreement expired in February of this year and, although the Civil Aeronautics Board is now considering whether it should be renewed, Congress should abolish the pact and end the argument, allowing the Northwest, from the Twin Cities of Minnesota to the Pacific Ocean and on to Alaska, to contribute to national growth rather than retard it.

Mr. President, I yield back the remainder of my time.

SPECIAL ORDER

The ACTING PRESIDENT pro tempore. Under the previous order the Senator from Illinois (Mr. PERCY) is recognized for not to exceed 15 minutes.

ARMS EMBARGO ON TURKEY

Mr. PERCY. Mr. President, the question of whether the arms embargo on Turkey should be lifted is for many of us a difficult question because we desire nothing more than good and constructive relations with both Greece and Turkey and a fair settlement of the Cyprus problem.

The question is basically which course of action will facilitate these objectives.

We are told by the administration that our relations with Turkey, and Turkey's relationship with NATO, are at stake. We are told that a refusal to lift the arms embargo will so alienate Turkey that serious damage will be done both to Turkish-American and Turkish-NATO relations.

There is a rationale for the Carter administration to take this stand, because Turkey has indicated that negative consequences may follow a refusal to lift the embargo. Such consequences could include the shutdown of U.S. bases in Turkey, expulsion of U.S. military personnel from Turkey, Turkish withdrawal from the military wing of NATO, and closer Turkish-Soviet relations. These steps clearly would harm NATO and further weaken its southeastern flank.

The administration also maintains that a refusal to lift the embargo would not contribute to a settlement of the Cyprus problem because it would stiffen Turkish intransigence there.

I submit that the Carter administration's position is a result either of Turkish blackmail or a blackmail self imposed by the Carter administration. It sends a message to Ankara that the United States is prepared to put aside the effects of lifting the embargo on the democratic government of Prime Minister Caramanlis in Greece. It indicates that the United States is prepared to put aside our own law prohibiting the aggressive and unauthorized use of American-supplied military equipment. It indicates that the United States is prepared to tolerate the continued military occupation of nearly 40 percent of Cyprus with American military equipment.

Despite my own strong feeling that we should have good relations with every member country of NATO, and my desire that Turkish-American relations be improved, I cannot accept this rationale for lifting the embargo.

The administration, in taking its position, puts the burden of improving Turkish-American relations on the United States, not on Turkey where it belongs. It is Turkey, not the United States, which invaded Cyprus. It is Turkey, not the United States, which continues the military occupation of Cyprus after 4 years. It is Turkey, not the United States, which violated the U.S. arms transfer law. It is Turkey, not the United States, which contemplates weakening the NATO alliance.

To accept Turkish terms by lifting the embargo would be interpreted as American weakness in the face of Turkish threats. It would solve an immediate problem in Turkish-American relations, but it would not engender the mutual respect which must be at the foundation of Turkish-American relations in the future. It would signal the Turkish Government that we will give them what they want regardless of their actions on Cyprus.

The New York Times has said that "It would not strengthen the alliance to appease Turkey at the expense of turmoil in Greece." The St. Louis Post-Dispatch has characterized the effort to lift the embargo as "misguided." The Financial Times of London, referring to the weak Turkish proposals for a Cyprus settlement, said "The responsibility for rebuilding trust has to be with the stronger party—in this case the Turkish side. And it is up to them to show that they can do better and offer more than they have so far."

The arms embargo is often blamed by the Carter administration for the friction in Turkish-American relations. After all, it was imposed by the American Congress. But it was imposed because Turkey had violated American law. As a practical matter, however, the United States has not deprived Turkey of American military equipment.

During the period prior to the embargo, 1969–74, the United States transferred to Turkey an average of $125 million in arms annually. Then, despite the embargo, in 1975 through 1977, U.S. arms transfers to Turkey averaged $120 million annually, almost the same as before. For 1978 and 1979, the foreign military sales ceiling for Turkey is $175 million annually. Turkey is the third largest recipient in the world of such U.S. military credits.

In addition, Turkey will receive $50 million in security supporting assistance, which frees up other Turkish funds to purchase additional military equipment from European sources. Everyone should realize that these amounts "just ain't peanuts." A question that should be asked of the administration is how much more military equipment would be envisioned for Turkey if the embargo were lifted, how that would affect U.S. relations with Greece and how that would loosen Turkey's iron grip on northern Cyprus.

At a time when Turkey maintains its occupation of Cyprus with more than 22.000 troops armed with American weapons, at a time when Turkish proposals for a Cyprus settlement are inadequate and unjust, at a time when Turkey threatens the expulsion of American forces, I must and will oppose the lifting of the arms embargo.

Mr. President, I yield back the remainder of my time and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MELCHER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

COMMITTEE MEETINGS

Mr. MELCHER. Mr. President, I ask unanimous consent that the subcommittee on Health and Scientific Research of the Committee on Human Resources be authorized to meet during the sessions of the Senate on Thursday, July 20, and Friday, July 21, to consider S. 2755, Drug Regulation Reform Act.

The ACTING PRESIDENT pro tempore. Is there objection? The Chair hears none. It is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that the permanent Subcommittee on Investigations of the Governmental Affairs Committee be authorized to meet during the session of the Senate today, from 9 a.m. until noon, to hold a hearing on fraud, abuse,

and waste in federally supported health programs.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that the Environmental Pollution Subcommittee of the Committee on Environment and Public Works be authorized to meet during the sessions of the Senate on Thursday, July 20, and Friday, July 21, 1978, to hold hearings on the Toxic Substances Act.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet during the session of the Senate on today, Thursday, July 20, beginning at 2 p.m., to hold a markup session on S. 3077, the Export-Import Bank Act, and to consider an Executive nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume consideration of S. 3084, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 3084) to amend and extend certain Federal laws relating to housing, community, and neighborhood development and preservation, and related programs, and for other purposes.

The Senate resumed the consideration of the bill.

The ACTING PRESIDENT pro tempore. The Chair now recognizes the Senator from Ohio.

UP AMENDMENT NO. 1438

(Purpose: To delete provisions relating to property taxation of multi-family projects)

Mr. METZENBAUM. Mr. President, I call up the amendment that I have at the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes unprinted amendment numbered 1438.

On page 38, beginning with line 18, strike out all through line 3 on page 39.

Mr. METZENBAUM. Mr. President, the intent of this amendment is to delete section 212 of the bill, a provision designed to prevent state and local governments from including the value of interest reduction payments or subsidy assistance in assessing the value of multifamily housing projects for property tax purposes.

I can appreciate the concerns that led to inclusion of this prohibition in the bill—my understanding is that this provision was originally intended to preclude a proposed California move in this area that did not, in fact, materialize—but I believe that section 212 can be construed in ways not intended by its sponsors. The National League of Cities, the U.S. Conference of Mayors, and the National Association of Counties join me in my belief that the Senate language is overly broad and that it could set a precedent for Federal restrictions on future state and local assessments.

In addition, Mr. President, I am concerned about the possibility that section 212 could be used by apartment building owners to evade taxes properly due to local jurisdictions. It might be possible, for example, for an unscrupulous operator to receive a very low assessment for property rehabilitated with subsidy assistance. Once that is accomplished, the owner might then withdraw from the subsidy program, change the character of his renters or her renters, and pocket the money that he or she would otherwise have paid in property taxes until such time as the property is reassessed by the local jurisdiction. Needless to say, such activities would defeat the entire purpose of our housing policy.

In addition, according to the multistate tax commission, some local governments assess apartments and multifamily housing projects according to the income produced and not on the basis of assessed market value.

Section 212 could, I believe, have the effect of lowering or eliminating the tax owed to the taxing authority. Local governments would then be partially subsidizing Federal housing programs. I see no justification for forcing local governments to shoulder this burden.

Mr. President, I offer this amendment as a strong supporter of the public housing concept and public housing programs. I had the privilege of being a member of the Metropolitan Housing Authority in Cleveland some years ago.

But I am certain that we are all in agreement there is no desire to provide a loophole for private developers by reason of this amendment.

I think there was an understandable concern at the time the California amendment was pending. That is no longer pending. If a problem should develop in the future where there is an effort made to increase the valuation of the property by reason of the Federal subsidy, then I think we could come in with appropriate legislation. But in view of the fact it does not seem to be needed at the present time I hope the sponsors will see fit to accept the amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. As I understand, what this amendment does is delete a section of the bill which forbids States and localities from counting the value of interest deduction payments and operating subsidies in assessing for tax purposes the value of multifamily housing projects. So when we have a Federal program it will provide assistance to a low-income homeowner, for example. That assistance obviously will benefit the homeowner and the property. And it was the intention expressed, as I understand it, by some California taxing authorities, to increase their taxes on such property.

In doing that, of course, the effect is to vitiate in part what the Federal Government is trying to provide in assisting these people. In other words, they will take away some of what the Federal Government is providing. So this section of the bill, when it was put in, did seem to be a proper response to a genuine problem.

What the Senator is saying, however, is it is his understanding, and it is my understanding, also, that these taxing authorities in California have now indicated that they will not persist in increasing their taxes in response to Federal housing assistance, and in view of that, this section is unnecessary, and the distinguished Senator from Ohio is proposing to delete that section.

However, as I understand it he is saying that in the event that this should develop in the future, in other words, that other taxing authorities would try to take advantage of the Federal Government's benefits, then he would support legislation which would prohibit such action. Is that correct?

Mr. METZENBAUM. The Senator from Wisconsin states my position 100 percent accurately. I do not mean to imply by deleting this section that any of us who support the program or who support this legislation have any intent of giving a message to the local governmental agencies that they have a right or that there would be any propriety in assessing property at a higher value by reason of the Federal subsidy. That would only be counterproductive. Should such a development occur, which has not occurred as yet, except for the threat that some had made in California, then I would, indeed, be pleased to join with the Senator from Wisconsin and the Senator from Massachusetts in seeing to it that we put into effect legislation that would make the Federal objective unequivocally clear.

Mr. PROXMIRE. Mr. President, I particularly welcome the last response of the Senator from Ohio because I think it makes it clear. As he says, we do not want to send a message that this is the way they can increase their taxes and make the Federal taxpayers the victim.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. METZENBAUM. I yield to the Senator from Massachusetts.

Mr. BROOKE. Mr. President, the section of the bill which the distinguished Senator from Ohio would delete is a provision which I introduced together with my distinguished colleague from California (Mr. CRANSTON).

As I understand it, this amendment would strike section 212 of the act, which provides that States could not include the value of the section 236 interest reduction payments or operating assistance under the "troubled projects" subsidy in the assessed value of housing projects for property tax purposes.

The purpose of the amendment was to assure that California, which was considering the inclusion of subsidy payments in assessed value of property, could not do so, as the Senator from Ohio has well pointed out. If States included the value in determining property taxation, they would get the benefit of the increased value of the property due to a Federal subsidy, and the committee believed that States should not get that windfall benefit. I think the Senator from Ohio would agree with our belief.

Mr. METZENBAUM. I totally agree with the Senator from Massachusetts.

Mr. BROOKE. I was concerned that the amendment of the distinguished Senator from Ohio would indicate that the Senate supports the inclusion of Federal subsidies in local property tax calculations. But if the Senator from Ohio is so concerned about this provision, as he obviously is, I would not object to its being removed from the bill if it is made clear, and I think he has made it clear, that we are not intending to support the position that States can include the value of Federal subsidies for interest reduction or operating subsidies in assessing value for property tax purposes.

Mr. METZENBAUM. I am in total accord with the statement just made by the Senator from Massachusetts.

Mr. BROOKE. Since California has decided not to include subsidy payments in assessed value, then it is the position of the Senator from Ohio—and I say rightfully so—that the amendment is unnecessary at this time.

Mr. METZENBAUM. The Senator from Massachusetts states my position accurately. Should there be need to have such an amendment at a future date I would be prepared to join with him and the Senator from Wisconsin in supporting legislation to that effect because I want to make it clear that by my removing this part of the legislation, there is no legislative intent, there is no message to the local governmental agencies, that they have any right or that Congress would expect or tolerate or be the least bit receptive to their taxing or adding to the assessed value of a property by reason of the Federal subsidy either for interest or Federal subsidy for operating expenses or any other kind of Federal subsidy with respect to public housing because all that would do is it would provide an indirect Federal subsidy to the local governmental agencies rather than to achieve the objective that we all have in mind with respect to public housing.

It would not benefit the States; it would not benefit the local communities, although there may be a time to help the local communities, but this is not intended to do that in this bill.

Mr. BROOKE. Mr. President, if the Senator would yield further, I think the colloquy the distinguished Senator from Ohio has had with our distinguished chairman and with me on the subject makes the legislative history quite clear as to the intent of the Senator's amendment. I certainly agree with the intent and purpose of his amendment.

I think it is useful that he has offered this amendment even though, as I said, I introduced it in committee because of the situation that existed principally in California at that time. We now have assurances concerning the California situation and this is a very sound amendment. I think the legislative history is very protective of anything that might arise in the future.

I am very pleased to have had the personal assurance of the Senator from Ohio that he would join with the chairman and with me if that became a necessity to correct this through additional legislation in the future.

So I commend the Senator for his amendment and I support it.

Mr. PROXMIRE. Mr. President, I yield back my time on the amendment.

Mr. METZENBAUM. I yield back my time.

The PRESIDING OFFICER (Mr. DECONCINI). The question is on agreeing to the amendment of the Senator from Ohio.

The amendment was agreed to.

Mr. METZENBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. METZENBAUM. I thank the sponsors of the bill, both the distinguished Senator from Wisconsin and the distinguished Senator from Massachusetts.

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

Mr. PROXMIRE. I ask unanimous consent that the time be taken from neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

UP AMENDMENT NO. 1439

Mr. BENTSEN. Mr. President, I have an amendment at the desk which I ask the clerk to report.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself, Mr. MORGAN, Mr. CHILES, and Mr. HANSEN proposes an unprinted amendment numbered 1439:

At the end of the bill, add the following new section:

HOUSING PROGRAM PAPERWORK REDUCTION

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new sections:

HOUSING PROGRAM PAPERWORK REDUCTION

SEC. 715. (a) The Congress finds and declares—

(1) that various departments, agencies and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs require, approve, use or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments), as notes secured by those mortgages, and for applications, appraisals and other purposes, and that such duplication of forms constitutes a paperwork burden that adds to the costs imposed on the nation's homeowners and home buyers.

(2) that unnecessary paperwork impairs the effectiveness of federal housing and housing finance programs and that Federal agencies with responsibilities involving housing and housing finance programs have made inadequate attempts to reduce unnecessary paperwork and the costs imposed by unnecessary paperwork on participants in those programs;

(3) that both single-family and multi-family programs are affected;

(4) that the Commission on Federal Paperwork has recommended that the agencies reduce the paperwork by adopting the same or substantially similar forms for the same or substantially similar purposes and that the Commission's recommendations will contribute to lower housing costs; and

(5) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the nation's housing goals by reducing housing costs.

(b) (1) Insofar as it is practicable and to the extent permitted by law and to the extent that such action would result in a reduction in paperwork and regulatory burden, the Department of Housing and Urban Development and the Veterans Administration shall employ in their respective programs—

(i) uniform single family and multi-family note and mortgage forms;

(ii) a uniform application form for mortgage approval and commitment for mortgage insurance;

(iii) a uniform form for computation of the monthly net effective income of applicants;

(iv) a uniform property appraisal form;

(v) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act; and

(vi) such other consolidated or simplified forms, the consolidation or simplification of which the Secretary of Housing and Urban Development and the Administrator of Veterans Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agencies.

(2) Each agency may employ riders, addenda or similar forms of modification agreements to adopt forms of modification respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and of maximizing the suitability of such forms for the use of all participants, public and private.

(3) To the extend permitted by law, the President may require the Farmers Home Administration and the Administrator of the Farmers Home Administration to comply with the requirements of this section if such compliance will contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agency.

TASK FORCE ON HOUSING PROGRAM PAPERWORK REDUCTION

SEC. 716. (a) Within 60 days after the enactment of this Act, the President shall establish an Interagency Task Force on Housing Program Paperwork Reduction (hereinafter referred to as the "Task Force"), which shall be composed of the Director of the Office of Management and Budget, the Commissioner of the Federal Housing Administration, the Administrator of Veterans' Affairs, the Administrator of the Farmers Home Administration, the President of the Government National Mortgage Association, or their designees, and any additional person or persons designated by the President, if such additional person or persons are serving in offices or positions to which appointment is made by and with the advice and consent of the Senate. The Director of the Office of Management and Budget shall be Chairman of the Task Force.

(b) Withing 180 days after enactment of this Act, the Task Force shall transmit to the Congress a plan and timetable for implementing those recommendations of the Commission on Federal Paperwork which have the purpose of reducing the regulatory and paperwork burden of Federal housing and housing finance programs. The Task Force shall in its plan include recommendations for such legislation as may be necessary to remove barriers to full implementation of the Commission's recommendations. If the Task Force finds that any recommendation of the Commission should not be fully implemented, it shall include a full explanation of its fundings and a description of the alternative that will be employed to achieve the goal of the rejected recommendation.

(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the plan presented pursuant to subsection (b) and shall report to the Congress on such development and implementation as part of each report required under Public Law 93–556.

(d) The Director of the Office of Management and Budget shall assign such professional and clerical staff full time to the Task Force as may be necessary, until the Task Force completes its duties. The Director of the Office of Management and Budget may, in addition, require any or all of the agencies on the Task Force to assign one person full time to the Task Force, until the Task Force completes its duties. Such personnel assignments should take into account experience in paperwork, records and reports management and regulation design and implementation.

(e) The Task Force shall to the maximum extent possible consult with the private sector, including but not limited to homebuilders, realtors, financial institutions, mortgage companies, public interest groups, mortgage insurance companies, homeowners, the general public and any other group or groups that will be affected directly or indirectly by the provisions of this section, and obtain their ideas and views in carrying out its duties under this section.

Mr. BENTSEN. Mr. President, proposition 13 telegraphed a clear message to Washington—the American people are fed up with the rising costs of homeownership. For too many of our people, the American dream of homeownership has become a nightmare.

The people are angry about rising property taxes. But they are also fed up with uncontrolled government bureaucrats who devote their time to devising an endless string of new regulations—at the taxpayers' expense—that push up the price of new housing.

The people of California took the matter of rising property taxes into their own hands. It is time for the Congress to follow their example before bureaucratic paperwork and regulatory requirements price new decent housing out of the reach of millions of deserving American families.

I am introducing today an amendment to S. 3084, the Housing and Community Development Amendments of 1978, that will help to solve the problem of excessive government paperwork and regulation in the housing industry.

My amendment would do two things. First, it would reduce the burden facing homebuilders, home buyers, and home sellers by requiring the Federal Housing Administration and the Veterans' Administration—as well as other Federal agencies with responsibilities in the housing area—to eliminate paperwork duplication by adopting the same forms for the same purposes in their various programs.

Second, it would require the various housing and housing finance agencies to form an interagency task force, under the direction of OMB to implement the paperwork and regulatory cost reduction recommendations made by the Commission on Federal Paperwork.

This amendment is based largely on the findings of the Commission on Federal Paperwork. The June 10, 1977, report on paperwork in Federal housing and housing finance programs contained 58 recommendations for reducing the paperwork burden imposed by these programs.

In that June 1977 report, the Commission on Federal Paperwork found that "redtape in the form of excessive paperwork imposed on program participants" was a major reason why "builders, developers, mortgage bankers, and other clients of the major Federal housing agencies—the Department of Housing and Urban Development (HUD), the Veterans' Administration (VA), and the Farmers Home Administration (FmHA)—are turning away from the housing programs of these agencies."

Today, as a result, fewer than 5 percent of all the members of the National Association of Home Builders participate in Federal housing programs. The percentage of housing starts that are federally assisted has fallen during the last 20 years from more than 50 percent to less than 10 percent.

The Commission concluded that—

Unless steps are taken to alleviate this paperwork, thus rekindling the private sector's participation in Federal housing programs, a "decent home and suitable living environment" for all Americans will be unachievable.

One of the main problems discovered by the Paperwork Commission is that HUD and VA each—

Maintain separate paperwork systems with duplicative requirements for their respective single family mortgage programs. Although the purpose of each agency is essentially the same (i.e., to help qualified applicants buy their own homes), maintenance of separate paperwork requirements means extra staff time and costs to program participants.

This is an outrageous example of bureaucratic indifference to the plight of the small homebuilder who struggles to hold down costs and to the struggling young family which tries to come up with the money to meet its monthly mortgage payment.

The information needed by FHA and VA to process a loan application is virtually identical. But mortgage bankers, who originate more than 75 percent of FHA and a large percentage of VA loans must keep two sets of forms on file and must have staff trained to process two different sets of forms designed to accomplish basically the same purpose.

Since many of the same lending institutions that processed the 380,000 applications for VA loans also processed the 450,000 applications for FHA loans in 1976, this dual form problem is not a minor one. Yet, the agencies have done little to reduce this unnecessary source of costly paperwork.

Late last month, the Office of Management and Budget issued its first report regarding agency implementation of the Paperwork Commission's recommendations. Despite the fact that FHA and VA have had more than a year to carry out the Paperwork Commission's recommendations, OMB found that HUD had implemented only 6 of the 40 recommendations concerning its programs, while VA had implemented only 2 of 27 recommendations. HUD had rejected only 4 recommendations and VA had rejected only 2, leaving 30 recommendations still to be acted on by HUD and 23 to be acted on by VA.

This indicates to me that HUD and VA are dragging their feet on the Paperwork Commission's recommendations. I cannot say why this ridiculous dilly-dallying has occurred. But I strongly suspect that the bureaucrats who run these Federal loan guarantee programs simply do not want to share their powers with any other agency no matter what the cost to the Nation's home buyers.

The American people will no longer tolerate this kind of callous and arrogant bureaucratic attitude. And they will no longer put up with a Congress that refuses to do anything about it.

According to a recent General Accounting Office study, the number of American families that can afford to buy the average price new home is falling dramatically. Between 1970 and 1976, the proportion of families headed by an individual under the age of 35 that could afford the median-priced new home fell from 29.3 percent to 15.3 percent. Among families headed by a person in the 45 to 54 age group, the proportion fell from 52.1 percent to 38.7 percent.

One reason for this tragic decline in the ability of thousands of average American families to afford an average priced new home is the cost imposed on the small homebuilder by Federal regulation and redtape. Recently, the Economic Growth Subcommittee which I chair issued a report which indicates that Federal regulation adds between $1,500 and $2,500 to the price of the average new home. That increase is often enough to put a new home out of the reach of thousands of young breadwinners who want to provide a decent environment for their growing children.

Mr. President, on June 29 of this year, I introduced a legislative package designed to reduce the cost imposed upon the American people by excessive Federal regulation. On that day, I announced my intention to offer the amendment I am introducing today. My legislative initiatives are based on the premise that Federal regulatory policy has created too heavy a burden for our people to bear and the time has come to lift some of that burden from the shoulders of America's consumers, businessmen, and taxpayers. Enactment of my amendment would lift some of that burden from the shoulders of those American consumers who want to fulfill an important part of the American dream—the ownership of a decent home.

I frankly do not know of anyone opposed to this proposal other than HUD. And HUD has sent one memorandum around saying this would be redundant, because the Paperwork Commission would be doing it anyway.

I wish they were better informed. The Paperwork Commission has been out of existence now for sometime. My amendment provides an opportunity to really accomplish something in cutting back on redtape. Part of the cost of housing results from the additional cost of the redtape we have put on home builders which in turn, is passed on to the customer.

I have checked this proposal with the manager of the bill and with the ranking minority Member on the floor, and I hope they will find it satisfactory and be able to accept it.

Mr. PROXMIRE. Let me say to my good friends from Texas that I think his amendment is excellent. There is no area where I think all of us, as Members of Congress, receive more criticism and complaint, and proper criticism and complaint, from business than with respect to the burden of paperwork they suffer under. It is very costly, very time consuming, and extremely frustrating.

What the Senator proposes is that HUD and the VA use standard forms in various respects, which they unfortunately do not do now.

In doing so, it seems to me he would save millions of dollars for business, endless hours, and great frustration, and provide a greater degree of efficiency at a lower cost.

I think this is a fine amendment. I am happy and proud to accept it. I have discussed it with the distinguished Senator from Massachusetts (Mr. BROOKE). He agrees it is an excellent amendment. He has also discussed it with the Senator from Texas, as the Senator stated.

So we are happy to accept the amendment.

Mr. BENTSEN. I thank the Senator. Mr. President, with that in mind I move the adoption of the amendment.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Texas.

The amendment was agreed to.

Mr. BENTSEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3248

(Purpose: To modify the urban development action grant program)

Mr. TOWER. Mr. President, I call up my amendment No. 3248 to the Housing and Community Development Amendments of 1978, and ask that it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. TOWER), for himself, Mr. BAKER, Mr. BELLMON, Mr. BENTSEN, Mr. CHILES, Mr. CRANSTON, Mr. GARN, Mr. HATCH, Mr. SASSER, and Mr. SCHMITT proposes an amendment numbered 3248:

At the bottom of page 12, insert the following:

(c) Section 119(b) of such act is amended by adding at the end thereof the following: "For the purpose of the preceding sentence, a city or urban county is severely distressed and eligible for assistance under this section if it contains one or more areas which have the levels of physical and economic distress——

Mr. TOWER. Mr. President, I ask unanimous consent that the further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the bottom of page 12, insert the following:

(c) Section 119(b) of such Act is amended by adding at the end thereof the following: "For the purpose of the preceding sentence, a city or urban county is severely distressed and eligible for assistance under this section if it contains one or more areas which have the levels of physical and economic distress set forth in the minimum standards referred to in the preceding sentence. As used in the preceding sentence, the term 'areas' means one or more contiguous census tracts having a population of at least ten thousand persons.".

Mr. TOWER. Mr. President, this amendment would allow cities and urban counties with areas of severe economic and physical distress to participate in HUD's urban development action grant (UDAG) program.

The UDAG program is designed to provide Federal grants to alleviate severe economic and physical distress in our Nation's cities and urban counties. However, there are many cities and urban counties throughout the Nation that cannot participate in this program because the Department of Housing and Urban Development must use overall statistical information for an entire city or urban county to determine eligibility. A city or urban county that does not meet certain criteria on the basis of these overall statistical measures cannot participate in the UDAG program even though it may contain an area that is severely distressed both economically and physically. The amendment I am offering would allow a city or urban county containing such an area to be eligible for funding under the UDAG program, providing that area meets certain criteria set by HUD.

Mr. President, this is not a regional problem. There are many cities throughout the country that are not eligible to obtain UDAG funding, cities that have problems in various geographical areas. Those cities are in the North, the South, the East, and the West; so no one should get the notion that this is some kind of sun belt-frost belt controversy. It is certainly not, because there are certain cities in the Northeast that are equally discriminated against with cities in the Southwest. They include some of the Nation's largest cities and some of the Nation's smaller cities. They include Phoenix, Indianapolis, Jacksonville, San Jose, Ann Arbor, Memphis, Oklahoma City, Baton Rouge, Little Rock, and Austin.

This failure to recognize the problems of these cities and certain areas within them is one of the major flaws of the UDAG program. There are other problems, of course, dealing with the funding formula that is used to determine eligibility. But, this amendment deals only with the problem of excluding from the UDAG program cities and urban counties that contain areas of severe economic and physical distress.

Many of the excluded cities and urban counties are some of the fastest growing in the Nation, and opponents of this amendment will argue that those cities should be able to solve their own problems. But growth has its problems also, and these cities face the problem of coping with growth and inner city decay at the same time. They are faced with the dilemma of meeting the expanding demands for municipal services while also meeting the needs of their inner city. The problems of people living in these inner cities are just as real and just as

frustrating as they are to people living under similar conditions elsewhere.

I see my distinguished colleague from Texas (Mr. BENTSEN) on the floor, and I will take the liberty of quoting something he said some time ago in connection with legislation devising formulas.

He said that a man who has suffered economically, disadvantaged and unemployed in a prosperous city, is just as miserable as one similarly situated in a city that is somewhat less prosperous.

So I think we ought to address this bill to people, and people's needs, without reference to the locality in which they happen to be living.

I often use the city of Houston as an example because it is typical of many other cities presently excluded from obtaining UDAG funding. Here is one of the largest cities in the United States. Admittedly, Houston is one of the most rapidly growing cities in the Nation. Outwardly at least, it appears to be one of the healthiest. But within Houston there is an area of over 73 square miles, containing nearly 400,000 people, that shows abundant evidence of physical deterioration, economic distress, economic deterioration and decline. Many neighborhoods within this area are plagued by inadequate streets, insufficient water and sewer capacity, nonexistent street lighting and decaying telephone and electrical lines. A large number of persons in this area are living in conditions of economic deprivation. More than 8 percent of the work force is unemployed and over half of the work force is underemployed. Nearly two-thirds of the population in this area is black and another 20 percent Hispanic. This area meets five of the six factors that HUD has set as eligibility criteria under the UDAG program. But that area is hidden from view when one looks at overall data for the city of Houston. This is the area that would benefit if Houston were eligible for UDAG funding.

The purpose of my amendment is to offer the people living in this area the same opportunity as people elsewhere to find gainful employment and improved living conditions through funding under the UDAG program.

For those reasons, I urge the adoption of this amendment.

Mr. PROXMIRE. Mr. President, I must oppose this amendment by the Senator from Texas, and oppose it strongly. I do so for a number of reasons but principally because if this amendment is adopted it seems to me there is just no end to the cost of following this sort of philosophy, and there is no end to the lengths that the Federal Government is going to have to go in assisting our cities.

I opposed this amendment last year when Senator TOWER proposed it in a similar form, and the Senate rejected it then. I opposed it in markup this year. I am opposing it again today because it is legislation that undermines the basic policy we adopted in enacting the urban development action grant program.

That basic policy is to target our Federal assistance on the communities that most need it, the most distressed communities of the Nation—for this particular program, as I will point out in a minute, not other programs. Other programs are more broadly based and go to bigger cities. They are bigger programs. This is a relatively modest, limited program, with far less money, but it is to help those cities in most distress.

Our housing and community development dollars are small in relation to needs. We cannot afford to continue to spread Federal aid far and wide. We cannot provide money for every community or every neighborhood. While the targeting of funds is the primary issue at stake in this amendment, a larger issue is involved. That larger issue is the budget. I submit that if this amendment passes, we will see a demand for a much larger budget for urban development action grants next year just because more cities will be eligible. The passage of this amendment will be first to loosen the effort and then a necessary expansion of the effort. The amendment should be opposed for both of these reasons.

The urban development action grant program should not, in its first year of operation, become a vehicle for spending Federal money far and wide and then increasing the HUD budget in order to satisfy all communities whether distressed or not distressed.

The distinguished senior Senator from Texas has agreed that many cities which do not have distress indicators for the city as a whole do have areas within them that are distressed. He finds that these distressed areas pose problems for healthy cities. They are just as troublesome and intractable as those in cities eligible for urban development action grants. He concludes that cities with areas of severe economic and physical distress are entitled to participate in the urban development action program on an equitable basis. He says that their need for funding is just as meritorious as cities that are distressed on the overall.

I say they are not. I say no, they are not. Therefore, I oppose the amendment. I say that while all cities have problems, not all have problems that merit this particular Federal aid. I say that a city that is growing in population, bustling with business, and building and increasing its income, should look to its own resources to remove its pockets of poverty instead of looking to Uncle Sam's pockets.

Mr. President, the UDAG program is some $400 million. It is a small program, comparatively. It is part of a community development program which is $3.6 billion, nine times as big. That community development program is for all cities, no limit. All cities get community development. Revenue sharing, a $6 billion program, is for everybody. Rich or poor, everybody gets revenue sharing money.

So we add those programs up and it adds up to almost $10 billion. We are providing that a small 4 percent, $400 million, be targeted for those cities that are truly in distress.

I have been to Houston and it is a remarkable city. They are doing a fine job and deserve a lot of credit. I know they have very severe problems. They have a very large minority population, a Spanish-speaking population, in Houston. But I think anybody who has been to Houston, who has been to Newark, who has been to Camden, who has been to some of the other cities in this country which are overwhelmingly distressed throughout, can see the difference and see how urgent it is that we provide at least some modest, small program. As I say, only 4 percent of the three programs I am talking about here provides some assistance.

Mr. President, if we do not target money in this way, either we are not really going to do anything about correcting the problem of our cities, the very severe and heartbreaking and painful problem of our slums, or it is going to cost such an enormous amount that we are going to have truly runaway inflation.

For those reasons, I do hope that the amendment by the distinguished senior Senator from Texas will not be accepted. I reserve the remainder of my time.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. TOWER. Mr. President, I yield such time as my colleague may require.

Mr. BENTSEN. Mr. President, the nationally recognized urban expert, Marshall Kaplan, has said:

> There is more substandard housing in Houston than in Detroit. The Sunbelt has gone a long way toward redressing regional disparities, but they still exist and some of the cities are in very tough shape.

The purpose of the urban development action grant program is to assist cities to alleviate severe physical and economic distress. However, under present guidelines a "part of the city" cannot be eligible for UDAG grants. This clearly discriminates against cities which cannot qualify on a citywide basis but nevertheless have substantial problems of physical and economic distress within their jurisdictions.

The present UDAG guidelines penalize dynamic, growing cities like Houston which employ creative devices such as annexation to enlarge its tax base and thus avoid the spectacle of a city like New York which has to petition the Federal Government to keep it afloat. This annexation process while adding high income and highly employable people to the city's population base also statistically masks the problems of distressed areas within the city.

Mr. President, the Federal Government is now saying to growing cities that "we cannot help you until your conditions citywide deteriorate to the levels of nongrowing cities or until you can no longer annex bedroom communities."

This is an outrageous message for the Federal Government to be communicating to the people of the growing urban areas of this Nation. Many of these people are in deep trouble and they desperately need help.

There is a 73-square-mile area of Houston which has a population of 400,000 people and is as distressed as many large cities which can qualify for UDAG grants.

In this area of Houston—31 percent of the households are below the poverty level, almost 10 percent of all families are 50 percent below the poverty level and unemployment was well over the

national average according to the latest figures.

Yet, these deeply, desperately, distressed people of Houston are deprived of assistance under one of the best urban self-help programs devised by the Federal Government. The amendment which my colleagues and I offer today would eliminate this gross inequity. Our amendment would require the Department of Urban Development to consider a city or urban county to be severely distressed and eligible for assistance under the UDAG program, if it contains one or more areas meeting the criteria of physical and economic distress set by the Secretary of Housing and Urban Development. Under this amendment, the term "area" would mean 1 or more contiguous census tracts with a population of 10,000 persons or more.

The amendment would not in any way require the Department of Housing and Urban Development to provide funds to cities containing areas of severe physical and economic distress. It merely provides those cities with an opportunity to apply for funds under the UDAG program on the same basis as any other city or urban county that is presently eligible under that program.

The concept of "pockets of poverty" within a growing and otherwise prosperous city is one which I initiated with an amendment to the emergency public works bill several years ago. It is a sound concept and one which should be included within the urban development action grant program.

Mr. President, the UDAG program is an excellent one because it seeks to build a creative partnership between the private enterprise system and the great metropolitan governments of our urban centers. This program has already funded a number of exciting projects—several in Texas—which demonstrate that the private enterprise system, when given the proper incentive, is a powerful ally of urban revitalization.

While the UDAG program is a good one, it has some defects. One of those deficiencies is the failure to address the needs of distressed areas within cities. That is a defect however which can be corrected by passage of the amendment my colleagues and I offer today.

Mr. President, we passed last year a community development formula that says you have to give a high priority to those areas that have the oldest housing. What kind of criterion is that? I will tell you what kind of criterion that is: It is one aimed against those areas that are newer and growing. You have some houses down here in Georgetown selling for $200,000, $300,000 and $400,000 because they are old houses, and supposedly quality houses, as compared to some of the new construction and very modest construction and minimal construction that is taking place in some of the growing areas of our Nation.

Mr. President, we are asking for equity. I read the "Dear Colleague" letter our opponents sent around which talks about the amount of money that Houston will receive this year under the community development program. It said Houston would receive $242.2 million. Well, there is just a minor error there. They are just off about a digit, that is all. The amount of money that Houston will receive this year is $23.5 million.

Their figures carry just about the same kind of authority as their arguments for denying this kind of assistance to major pockets of poverty within some of our very large cities.

They argue that it is OK to cut off Nashville, Memphis, San Diego, and San Jose because these cities receive funds under the community development program. All we are asking for is equity in all of these programs so that our people have the same fair, equal treatment as other parts of the United States. I strongly urge the adoption of the amendment proposed by the distinguished senior Senator from Texas, which I am delighted to cosponsor.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BENTSEN. Yes, I yield.

NOTICE OF WAIVER TO ENABLE COMMITTEE ON ENERGY AND NATURAL RESOURCES TO MEET

Mr. ROBERT C. BYRD. Mr. President, on behalf of the minority leader (Mr. BAKER) and myself, and under the provisions of rule 25, paragraph 7(a), I hereby file notice that we are granting a waiver to enable the Committee on Energy and Natural Resources to meet until 12 noon today in room 3110 of the Dirksen Office Building.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

The Senate continued with the consideration of S. 3084.

Mr. TOWER. Mr. President, I thank my colleague for his very moving and eloquent argument. I might note that, according to consultant Marshall Kaplan, there is more substandard housing in Houston than in Detroit, and that the sun belt has gone a long way toward redressing regional disparities, but they exist and some of the cities are in very tough shape.

Again, we are talking about people; we are not talking about statistical areas. These programs should be addressed to people, wherever they are located. This amendment does not add any money to the bill; it adds none at all. It just allows cities to be eligible for application for some of this assistance that are not now eligible for it.

It seems only fair to me that Appleton, Au Clair, Green Bay, Madison, Wauwatosa, and West Allis should be equitably treated with New York City. Those are splendid cities in the great State of Wisconsin—they are all, coincidentally, in Wisconsin. I do not know why they should be discriminated against. I am sure the people that are disadvantaged in those areas feel just as disadvantaged as those in other areas or other cities that, by some quirk of statistics, are eligible for UDAG applications. I hope that this amendment will be adopted.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. TOWER. I yield to my distinguished colleague from Tennessee.

Mr. BAKER. Mr. President, I take this opportunity to commend the distinguished Senators from Texas for their support of this measure and to express my pleasure at being able to cosponsor it. It has been said that this is an effort to extend and further some sort of imaginary or mythical conflict between areas and sections of the country. That is simply not true, in my view. As the distinguished Senator from Texas (Mr. TOWER) pointed out, it does not make any difference where you live in the country. Discrimination is still discrimination, opportunity is still opportunity, and equality is still equality. It seems to me the burden and purpose of this amendment is to do simple equality.

I congratulate the prime sponsors of this measure for their initiative and I express my pleasure at being able to support them on it.

Mr. PROXMIRE. Mr. President, let me take just a minute or two to respond.

The main problem with this amendment is that it really is a budget buster. It is astonishing to me——

Mr. TOWER. Will the Senator yield?

Mr. PROXMIRE. I shall yield in just a minute.

Mr. TOWER. This does not add any money to the bill.

Mr. PROXMIRE. The distinguished Senator from Tennessee and both distinguished Senators from Texas are very conscious of excessive spending. I think they should recognize that if we are going to have no discrimination at all as to who gets this UDAG money, then we are not going to solve our problems of distressed cities, truly distressed cities. If we are going to do something about the real blight that is a part of our cities that cannot help themselves, we cannot do that by giving aid to cities like Wauwatosa, Wis. Wauwatosa has an average per capita income of around $35,000. I have been in every block in Wauwatosa, Wis. If you could find a distressed area in Wauwatosa, I would be astonished.

The people in Wauwatosa, the people in Appleton, the people in the other cities the Senator mentioned in Wisconsin, overwhelmingly feel they are oppressed because their tax burden is too high. If we are going to follow a policy of helping everybody, everywhere, without any discrimination, pouring it out whether they can do the job themselves or not, we are going to have taxes that are so heavy, we are going to have such an inflationary situation that it seems to me we simply will not be able to cope with the situation at all.

It is astonishing to me that the Republican Party, that is so concerned about high taxes, and rightly so, that has won such a reputation over the years of being opposed to waste—that the great, great leaders, and they are great leaders, of the Republican Party, would come before the Senate and introduce this amendment and warmly support this amendment, which would spread largess around, not only to those who truly need it—I am sure Republicans feel strongly that they should get it—but everybody, whether they need it or not.

Let me point out eligible UDAG cities: Texas 189, Wisconsin 37—37. As a matter of fact, Texas has about 8 percent of all the cities eligible for UDAG in the country. In relation to population, that is better than its proportion should be. I do not know why the Senators from Texas are so anxious to change a program which is doing their State so much good right now.

Mr. BAKER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAKER. Who has control of the time?

The PRESIDING OFFICER. The Senator from Texas (Mr. TOWER) and the floor manager, the Senator from Wisconsin (Mr. PROXMIRE).

Mr. TOWER. I yield to the Senator from Tennessee.

Mr. BAKER. I thank the Senator for yielding.

Mr. President, I have an enormous respect for the distinguished Senator from Wisconsin. I watch with great interest as he awards the golden fleece award from time to time. I even have nominees for that award. One of the nominees for that award is the performance of the Democratic majority in this Congress for 34 years in bringing us to the present state of affairs, where we have almost a trillion dollar deficit and will have no money at all in 3 years at the rate we are going.

There is a vast distinction between removing the tax burden from the back of the people of this country, which has become Republican doctrine, and which has to be an issue in the campaign this fall, on the one hand, and doing simple equity and justice between the sections and regions of this country on the other. I think we have to do both.

I shall continue to support the Senator from Wisconsin in his efforts from time to time to eliminate waste and to identify absurd situations that develop in this Government with respect to the custody of the Public Treasury.

But at the same time I feel that should in no way impede us in our efforts to rectify this formula, its systems and programs, that do an injustice to one region of the country over another.

I urge my colleagues to support this amendment. I think it is a good one.

Mr. TOWER. I thank my colleague from Tennessee for his remarks.

I might note that, in fact, all regions of the country are discriminated against by this current system of determining eligibility for UDAG.

As a matter of fact, let us look, for example, at the State of Connecticut: Bristol, Danbury, East Hartford, Greenwich, West Hartford.

The discrimination is not just against cities in a particular area of the country. It is against cities all over the country.

Mr. PROXMIRE. Greenwich, Conn.? Does the Senator think it ought to get a grant?

Mr. TOWER. I did not say they should.

Mr. PROXMIRE. That was the implication.

Mr. TOWER. I said they are one not eligible, but if they have poverty——

Mr. PROXMIRE. How about Grosse Point or Lake Forest?

Mr. TOWER. Wait a minute. Wait a minute.

The fact is that cities will have to make application and have to demonstrate need. This could be done on a competitive basis.

I would assume the department administrator would consider need on the applications and cities clearly not to qualify would not be in the running.

I am simply saying that there are cities that are discriminated against in various parts of the country.

Mr. PROXMIRE. If the Senator will yield——

Mr. TOWER. I do not know any other equitable way to do this but than to allow pockets of poverty, wherever they exist, to come under eligibility for UDAG funds.

Let me again say that we are not adding one dime. Not one dime to the amount.

Next year, I will oppose any effort to increase the amount over what the committee determines is proper, simply because this might produce more in the way of applications.

It, in fact, makes it more competitive and makes cities that have pockets of poverty that may be even worse than pockets of poverty in less properous towns able to compete with them for some of these funds.

So this is an eminently fair amendment. It is not a partisan amendment. It is not a regional amendment.

Mr. BENTSEN. Will the Senator from Texas yield?

Mr. TOWER. Yes.

Mr. BENTSEN. The point has been made about some of these very wealthy communities and what they have or have not received.

I think we ought to take a look at that and see what has been done under the Community Development Act.

Comparison shows that Newton, Mass., with 2.8 percent of its families living below the poverty line, 1 percent with inadequate plumbing, 2.4 percent in overcrowded housing, will receive $1,688,000 more under the new community development formula in 1980 than it received in 1977.

Remember those numbers.

Now, Brownsville, Tex., with 41 percent of its families below poverty—41 percent—as compared to the 2.8 percent for Newton, Mass., 20 percent lacking adequate plumbing, 31.7 percent living in overcrowded housing, will receive less than one-third as much.

What we are talking about here are substantial areas in our part of the country with inadequate housing. We are talking about the fifth largest city in the United States with a vast geographical area and a high population area that has this kind of problem.

The Senator said the Senators from Texas are adding more competition for their own cities in Texas, and that is true. We understand that. We are adding more competition for all the cities around the Nation as we try to get to those communities that are suffering the most, communities within a large city. The point has been made that inadequate housing in Texas is just as big a problem as it is in any other part of the country. So, what we are asking for is equity.

Mr. President, my colleagues and I are not talking about spending more money. We are talking about a distribution of needs within the amount of money that is already prescribed.

So it is not a budget-busting amendment. It is an amendment designed to get the money to those people who are in the most need.

Mr. BROOKE. Mr. President, I rise in opposition to this amendment. I recall the debate on a similar amendment offered last year by the distinguished Senator from Texas. At that time, we did not know which cities would be determined to be sufficiently "distressed" to be eligible for the new urban development action grant program.

This year, we know that by HUD's calculation there are more than 300 "distressed" metropolitan cities and over 1,900 "distressed" small cities. These cities are all eligible to receive UDAG grants if they meet other qualitative standards of providing housing for low- and moderate-income persons and providing equal opportunity in housing and job opportunities. These cities are located in all regions of the country and, in fact, there are more eligible small cities located in the South than in any other region of the country. In Texas, there are 25 large cities and 164 small cities eligible for UDAG grants. In California, there are 31 large cities (more than any other State) and 45 small cities eligible for the program.

This amendment would further extend the eligibility for the program to cities and urban counties which have distressed areas. As I understand it, a distressed area is defined as one or more census tracts with a population of at least 10,000 which meet the UDAG distress criteria now applied to entire cities or urban counties.

Mr. President, this program was initially presented by the administration as a major new program specifically targeted at the serious community development needs of our most severely distressed communities. I told HUD Secretary Patricia Harris earlier this year that I thought the distress criteria used by HUD resulted in the eligibility of many cities which could not by any means be considered "severely distressed."

Now this amendment would further dilute the program to allow virtually all larger cities—because most cities have some neighborhoods which are "distressed"—to be eligible for this targeted program.

Those large cities which are not now eligible are receiving substantial amounts of community development block grant funds—and those funds should be used to assist the low- and moderate-income residents and neighborhoods in those cities.

Mr. President, the funds for this pro-

gram are limited—$400 million a year—with a potential of 2,200 cities, counties, and towns competing for them. I see no reason to further expand this program to economically healthy cities which have "pockets of poverty." Those cities have their own large "pockets" of dollars—both Federal and local—to assist their needy residents and neighborhoods.

I urge my colleagues to reject this amendment as was done by the Senate on a similar amendment last year.

Mr. PROXMIRE. Is the Senator ready to yield back his time? Does the Senator want a rollcall vote?

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent the time be equally charged.

Mr. PROXMIRE. Mr. President, I would appreciate it if we could have the time taken out of the bill on both sides.

Mr. TOWER. That suits me.

Mr. PROXMIRE. Because the leader wants us to do that, I ask unanimous consent that the time be taken out of the bill on both sides equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I yield such time as he may require to the Senator from Oklahoma.

Mr. PROXMIRE. Will the Senator yield for 1 minute to me?

Mr. BELLMON. Yes.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that Robert Turner of Senator JACKSON's staff be granted privileges of the floor during the debate on S. 3084.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma.

Mr. BELLMON. Mr. President, I ask unanimous consent that Missie Mager, of my staff, have the privilege of the floor during the consideration of and votes on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BELLMON. Mr. President, the criteria under which HUD determines which cities will be eligible for the urban development action grants are of major concern to Oklahoma. Congress set aside $400 million in fiscal year 1978 to assist severely distressed cities in order to revitalize local economies and reclaim deteriorated neighborhoods. These funds are to be used to create public and private investments in projects benefiting members of minority groups and low- and moderate-income persons. However, under the present standards for eligibility, 17 of the Nation's 50 most populous cities are not eligible. While an entire city may not qualify under the criteria, many cities can easily identify areas within their limits which, considered under the same UDAG criteria, meet the conditions for UDAG distribution.

These areas of severe poverty and economic distress should be as eligible in light of their statistics of unemployment, poverty, age of housing, population outmigration, job lag, and per capita income as the cities presently making application for urban development action grants. Mr. President, it requires a bureaucratic twist of mind to ignore need simply because an area of this type is located in a city which fails as a whole to meet the criteria. It is unfair and shortsighted to penalize distressed areas by making them ineligible to even apply for a portion of the $400 million.

The Tower amendment would open the present competition for urban development action grants under the current eligibility criteria, to areas of one or more contiguous census tracts with a population of at least 10,000 persons. The areas considered under this amendment are certainly as deserving as the cities now eligible. They would have the opportunity to develop proposals for urban development action grants, and HUD could view the merits of the proposals in the same light as those from cities now eligible.

Mr. President, this amendment has no budgetary impact, it does not add additional money to the present authorization level. The Tower amendment has my full support, as I believe it will effectively remedy an inequity existing in the UDAG program as it is administered now.

Mr. CRANSTON. Mr. President, I support and have cosponsored amendment No. 3248, offered by Senator TOWER. This amendment expands the number of cities and counties eligible to apply for UDAG funds by allowing cities and counties which have distressed areas that meet the UDAG criteria to apply for funding.

The Federal dollars provided by the urban development action grant are used to leverage private capital bringing new impetus to distressed areas. I applaud the program and believe Secretary Harris has accomplished an excellent job in administering the first rounds of funding. However, the basic premise, which the formula was passed on last year, was the need to target these UDAG moneys to the most distressed cities and counties of our Nation. Therefore, I believe it is important to review where the UDAG funds are being targeted, and perhaps, even more important, where these funds are not being targeted.

That year, I voted in favor of an amendment similar to the one offered by Senator TOWER today. Then, we did not know which cities and counties would be eligible under the UDAG formula, but my belief was strong that the targeting should be done by distressed areas in cities and counties as well as by distressed cities and counties. Today, we do know the eligible cities and counties, and I still believe that targeting to distressed areas is vitally needed as distressed areas are presently ineligible to apply for these funds.

Currently, an entire city or county must meet the UDAG criteria to apply for funds. Eligibility for these funds is based on jurisdiction wide measurements—the collective figures of an entire county or city. This can be a misleading calculation. While a particular county may on the whole, demonstrate a "healthly" growth in population, jobs, or per capita income, the county's central neighborhoods may have actually lost population, jobs, and income. These individual pockets of distress are statistically masked or diluted by the growth or development in other parts of the county. Persons living in these distressed pockets of poverty face the same hardships as other persons living under similar conditions in eligible cities. The residents of these distressed areas deserve the right to compete for and benefit from the Federal funds in the UDAG program.

Los Angeles County is one place which demonstrates this phenomena quite well. While this large metropolitan county as a whole just misses qualifying for UDAG, it has within its jurisdiction nine separate areas which by the UDAG formula qualify as distressed. East Los Angeles, for example, is one area of the county which has experienced a sustained high unemployment rate (10.5 percent in 1976) and where 60 percent of its families are low or moderate income and over 30 percent of its housing is substandard. The Westmont area of the county where over 50 percent of its families are low and moderate income has an 11-percent unemployment rate. Florence-Graham area of the county had over 13 percent unemployment in 1976 with over 70 percent of its families being low- or moderate-income families. All of these areas certainly qualify as being very distressed. Individually, they could qualify for UDAG funding if this amendment is accepted, but taken collectively, as part of the county, under the present formula they are not eligible. Even with the county's untiring efforts to assist these communities, it cannot do the job alone.

The urban development action grant was specifically designed to assist the neediest areas. Yet these areas—truly some of the neediest—are denied access to compete for the funds, because the present formula used to determine eligibility does not effectively reveal some of the most distressed areas.

This amendment, if passed, would allow these areas to apply for assistance. I believe it is only fair to make sure that when a Federal program is created to assist distressed areas with Federal dollars that all distressed areas are given the right to apply for this assistance. The intentions of the amendment are not to dilute or expand the program to give Federal dollars to "healthy" cities or counties. Its purpose is to make sure that all distressed areas can participate in a program specifically created to help such distressed areas. It is important to remember that UDAG is a competitive program, not an entitlement. Selection is based on need and distress of a community. I support the amendment to in-

sure that all distressed areas have the opportunity to compete.

Mr. WILLIAMS. Mr. President, I strenuously oppose the amendment to expand eligibility for the urban development action grant program to include sections of communities rather than just whole communities. The sponsors of the amendment say that it will improve the program. I submit, Mr. President, that the amendment will cripple this new program by effectively destroying its ability to target special assistance to the most severely troubled cities and counties. The Senate Banking Committee as well as the full Senate have both rejected similar proposals in the past, and should do so again.

The UDAG program was enacted last year in order to assist the most distressed communities in their effort to revitalize their local economies and reclaim their deteriorating neighborhoods. These grants are not meant to do the job themselves. Rather, they are designed to advance a working partnership between Government and the private sector by attracting substantial commitments of private resources to specific urban development projects. These projects are meant to benefit primarily low- and moderate-income people.

The Congress never intended the UDAG program to be a form of revenue sharing. Its purpose was to enable communities with the greatest need to undertake, in concert with the private sector, essential revitalization projects that would otherwise be impossible for them to initiate on their own. The proposed amendment would abandon that concept. Hundreds more communities large and small would crowd into the program as its doors are flung wide open.

The UDAG program is already experiencing heavy demand for very limited funds. Only $400 million is available annually for fiscal years 1978–80. For the first round of applications, which involved only large cities, HUD received 115 applications from 82 cities. The requests totaled over $700 million, although only $150 million was available for this round. For the small city round, 177 small cities are competing for $100 million in grants. Broadening the eligibility pool to include sections of communities would dramatically increase the demand for these limited funds, and would place enormous burdens on HUD's ability to process grant applications.

Most unfortunately, the amendment would permit cities with strong, healthy economies to become eligible for a program that is inappropriate for them. Such economically advantaged communities can already attract private investment and engage in large-scale economic development activities to help their depressed sections without the need for the special assistance offered by UDAG.

The increased eligibility resulting from the amendment would put HUD under great pressure to increase the number of cities funded, thereby shrinking the amount of money available to any one community. The amendment would thus fragment the program, sending less money to those communities which need it the most. This dilution of the program can only undermine its potential; special assistance to everyone is special assistance to no one.

There is another problem with this amendment, Mr. President, and that concerns the way we measure comparative degrees of distress in urban areas. There is no way, presently, that we could measure the degree of distress within a certain community in a certain city. Economic and fiscal data to measure comparative distress generally exist only on a citywide basis. The amendment before us would impose impossible administrative requirements on HUD to come up with acceptable data for sections of communities.

Mr. President, at a time when we all are concerned about the most efficient allocation of taxpayer dollars it strikes me as terribly inconsistent to extend more precious Federal aid to any one city than it rightfully deserves. Yet this is precisely what the amendment before us would do. Supporters of the amendment suggest that because some communities with large pockets of poverty are ineligible for UDAG grants, they have been shortchanged when it comes to Federal aid. This is totally inaccurate. In fact, every city receives an entitlement from the community development block grant program. Just consider the following list, Mr. President. These are all cities that are ineligible for the UDAG program, but just look at the size of their block grant entitlement:

	Million
Houston	$22.9
Dallas	14.9
Nashville	8.4
Memphis	15.3
San Diego	10.7
San Jose	6.3

The point, Mr. President, is that these cities are relatively healthy, economically. The resources we provide them for their community development needs, through the block grant program, are sufficient. Let us leave UDAG for those cities in desperate need of assistance.

Now, Mr. President, some might argue that the reason I oppose this change in eligibility requirements for UDAG is because it would take money away from my own State of New Jersey and the Northeast in general. In fact, we have heard it argued that the entire UDAG program is biased in favor of some regions, like the Northeast and Midwest, over others. Mr. President, the evidence just does not support this theory. A regional breakdown of the communities, both large and small, shows how UDAG has managed to reach into all regions of the country. Mr. President, the one region of the country with the greatest number of small cities eligible for UDAG funds is the South. The South has over twice as many small cities eligible as does my own region, the Northeast. Mr. President, I will include in the RECORD here, if there is no objection, a chart showing the geographical breakdown of eligibility in the UDAG program:

Region (according to Bureau of the Census)

	Eligible large cities	Eligible small cities
Northeast	100	421
North Central	79	497
South	92	859
West	43	136

And the impact of the UDAG program reaches from coast to coast. Mr. President, California has more large cities eligible for UDAG funds than any other State, a total of 31. Moving east, 56 percent of the large cities in Texas are eligible and so are half of the large cities in Tennessee. Mr. President, the sunbelt does pretty well here and none of us from the frostbelt would want to put a chill on the way UDAG has served our neighbors to the south and west. Yet that is what this amendment would do. It would stiffen the competition within each and every State for limited UDAG funds and as a result many cities now being served by the program could lose out on funding. And this would mean that those communities which need these funds the most would see their hopes for assistance dim.

In summary, Mr. President, we feel this amendment serves no useful purpose. It promises to spread the benefits of a good program so thin that no one would really gain, and some might suffer. In doing that, I think it would jeopardize a very important component of our national urban effort. Mr. President, this amendment should and must be defeated.

Mr. TOWER. Mr. President, I am prepared to yield back my time. I wonder whether we could have a quorum call, so that we could obtain the yeas and nays.

Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time be charged to the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I am prepared to yield back my time.

Mr. PROXMIRE. I yield back my time, Mr. President.

Mr. TOWER. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana

(Mr. BAYH), the Senator from Florida (Mr. CHILES), the Senator from Montana (Mr. HATFIELD), the Senator from Hawaii (Mr. MATSUNAGA), the Senator from South Dakota (Mr. MCGOVERN), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from New Jersey (Mr. WILLIAMS) are absent on official business.

I further announce that if present and voting, the Senator from New Jersey (Mr. WILLIAMS) would vote "nay."

Mr. STEVENS. I announce that the Senator from New Jersey (Mr. CASE), the Senator from Utah (Mr. HATCH), the Senator from Oregon (Mr. HATFIELD), and the Senator from Virginia (Mr. SCOTT) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 47, nays 38, as follows:

[Rollcall Vote No. 228 Leg.]

YEAS—47

Allen	Ford	McClure
Baker	Garn	Melcher
Bartlett	Goldwater	Morgan
Bellmon	Gravel	Nunn
Bentsen	Hansen	Packwood
Bumpers	Hart	Pearson
Byrd, Harry F., Jr.	Haskell	Sasser
	Hayakawa	Schmitt
Byrd, Robert C.	Helms	Sparkman
Church	Hodges	Stennis
Cranston	Hollings	Stevens
Curtis	Huddleston	Stone
DeConcini	Johnston	Thurmond
Dole	Laxalt	Tower
Domenici	Long	Young
Eastland	Magnuson	Zorinsky

NAYS—38

Biden	Heinz	Proxmire
Brooke	Humphrey	Randolph
Burdick	Jackson	Ribicoff
Cannon	Javits	Riegle
Chafee	Kennedy	Roth
Clark	Leahy	Sarbanes
Culver	Lugar	Schweiker
Danforth	McIntyre	Stafford
Durkin	Metzenbaum	Stevenson
Eagleton	Moynihan	Talmadge
Glenn	Muskie	Wallop
Griffin	Nelson	Weicker
Hathaway	Percy	

NOT VOTING—15

Abourezk	Hatfield, Mark O.	Matsunaga
Anderson		McGovern
Bayh	Hatfield, Paul G.	Pell
Case		Scott
Chiles	Inouye	Williams
Hatch	Mathias	

So Mr. TOWER's amendment (No. 3248) was agreed to.

Mr. TOWER. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Several Senators addressed the Chair.

Mr. PROXMIRE. Madam President, a motion to reconsider is a debatable motion, and we have a right to speak on reconsideration, and I ask for the floor.

The PRESIDING OFFICER (Mrs. HUMPHREY). The Senator is correct.

I recognize the Senator from Texas.

Mr. PROXMIRE. On this issue unfortunately there are——

The PRESIDING OFFICER. I recognize the Senator from Texas.

Mr. BENTSEN. I move to reconsider——

Mr. TOWER. That is my motion.

Mr. PROXMIRE. I asked for the floor after Senator BENTSEN moved to reconsider. I ask unanimous consent to discuss and debate the Bentsen motion to reconsider.

Mr. BUMPERS. Madam President, will the Senator yield for a parliamentary inquiry?

The PRESIDING OFFICER. The Senator from Texas has the floor. What is his motion?

Mr. BENTSEN. What is pending?

Mr. TOWER. The motion——

The PRESIDING OFFICER. The motion to reconsider is pending.

Mr. BENTSEN. I move to table, Madam President.

Mr. PROXMIRE. Madam President, he moved to reconsider, that was his motion, as I understand it.

Mr. BENTSEN. The motion is to table.

The PRESIDING OFFICER. The Senator from Texas has moved to reconsider and the Senator from Texas is recognized.

Mr. TOWER. I move to table.

Mr. BROOKE. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider the vote by which the amendment was agreed to. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), the Senator from Montana (Mr. PAUL G. HATFIELD), the Senator from Louisiana (Mr. LONG), and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Utah (Mr. HATCH) and the Senator from Oregon (Mr. MARK O. HATFIELD) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. MARK O. HATFIELD) would vote "yea."

The result was announced—yeas 52, nays 38, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—52

Allen	Cranston	Hart
Baker	Curtis	Haskell
Bartlett	DeConcini	Hayakawa
Bellmon	Dole	Heinz
Bentsen	Domenici	Helms
Bumpers	Eastland	Hodges
Byrd, Harry F., Jr.	Ford	Hollings
	Garn	Huddleston
Byrd, Robert C.	Goldwater	Johnston
Chiles	Gravel	Laxalt
Church	Hansen	Lugar
Magnuson	Roth	Talmadge
McClure	Sasser	Thurmond
Melcher	Schmitt	Tower
Morgan	Scott	Wallop
Nunn	Stennis	Young
Packwood	Stevens	Zorinsky
Pearson	Stone	

NAYS—38

Biden	Hathaway	Percy
Brooke	Humphrey	Proxmire
Burdick	Jackson	Randolph
Cannon	Javits	Ribicoff
Case	Kennedy	Riegle
Chafee	Leahy	Sarbanes
Clark	McGovern	Schweiker
Culver	McIntyre	Sparkman
Danforth	Metzenbaum	Stafford
Durkin	Moynihan	Stevenson
Eagleton	Muskie	Weicker
Glenn	Nelson	Williams
Griffin	Pell	

NOT VOTING—10

Abourezk	Hatfield, Mark O.	Inouye
Anderson		Long
Bayh	Hatfield, Paul G.	Mathias
Hatch		Matsunaga

So the motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Chair recognizes the Senator from Utah.

Mr. BUMPERS. Madam President, will the Senator yield for a unanimous-consent request?

Mr. GARN. I yield.

Mr. BUMPERS. Madam President, I ask unanimous consent that Richard Arnold, of my staff, be granted the privileges of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BROOKE. Madam President, will the Senator yield for another unanimous-consent request?

Mr. GARN. I yield.

Mr. BROOKE. Madam President, I ask unanimous consent that Doug Silver, of Senator DURKIN's staff; Dale Wheeler, of Senator WALLOP's staff; and Dick Friedman, of Senator DOLE's staff, be granted the privileges of the floor during the consideration and votes on the pending bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3262

(Purpose: To eliminate obstacles to rehabilitation activities conducted by neighborhood-based nonprofit organizations)

Mr. GARN. Madam President, I call up my amendment No. 3262 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. GARN) proposes an amendment numbered 3262.

Mr. GARN. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

LABOR STANDARDS AND REHABILITATION ACTIVITIES CONDUCTED BY NEIGHBORHOOD-BASED NONPROFIT ORGANIZATIONS

SEC. 716. (a) Section 110 of the Housing and Community Development Act of 1974 is amended by inserting the following before the period at the end of the first sentence

thereof: ": *Provided further*, That the provisions of this section which impose rules relating to the ratio of journeymen to apprentices shall not apply to any rehabilitation of residential property which is carried out, directly or by contract, by a neighborhood-based nonprofit organization".

(b) Section 12 of the United States Housing Act of 1937 is amended by inserting after "construction or rehabilitation is commenced" the following: ", except that the provisions of this section which impose rules relating to the ratio of journeymen to apprentices shall not apply to a substantially rehabilitated project assisted under such section 8 if such rehabilitation is carried out, directly or by contract, by a neighborhood-based nonprofit organization".

(c) Section 212(a) of the National Housing Act is amended by adding the following new sentence at the end thereof: "Notwithstanding any other provision of law, the provisions of this section which impose rules relating to the ratio of journeymen to apprentices shall not apply with respect to rehabilitation activities financed by a mortgage insured under this Act and carried out, directly or by contract, by any neighborhood-based nonprofit organization.".

Mr. GARN. Madam President, as the distinguished chairman and ranking member of the Banking Committee know, all of the time that I have been on the Banking Committee I have been concerned with the fact that we did not do enough with rehabilitation of existing housing stocks but have placed too much emphasis on new construction. There are so many examples of being able to put low-income people into good housing where it is rehabilitated. In my own city when I was mayor, the expenditure of only $117,000 let us rehabilitate 76 homes, to bring them up to code standards as far as plumbing and electrical wiring were concerned.

One of the programs which we emphasized in this bill and which has worked well in a lot of cities has been the self-help program, but there are some obstacles to people fixing up their homes with Federal money and materials.

The amendment is designed to permit the continuation of projects which are transforming neighborhoods and the lives of those in them. In New York, Kansas City, all across the country people in economically impacted areas are getting tired of living in degrading conditions and are picking themselves up by their bootstraps and doing something about their conditions.

In this bill we recognize the importance of self-help development and rehabilitation. For too long, Madam President, it has seemed that the Federal Government could only think in terms of new construction when it came to urban renewal. Now these neighborhood-based nonprofit, self-help organizations are showing that there is great value in renovating existing structures. Great value economically, and great value in pride and self-satisfaction. These projects are being undertaken by urban poor and unemployed who are giving themselves employment by renovating their own dwellings. They are building up "sweat equity" by giving of their labor for private ownership in their own homes. These people are getting homes, jobs, and skills. If these were Federal programs, they would be exemplary.

Unfortunately, Madam President—very unfortunately—these projects are being stopped. Last year nearly 5,000 rehabilitation projects were dropped in cities such as Boston, Cleveland, Kansas City, Cincinnati, and St. Louis. They are being stopped—I am sure, contrary to the intentions of the drafters of the act—by work rules regulations issued pursuant to the Davis-Bacon Act.

Madam President, let me be clear from the beginning: This is not an assault upon the Davis-Bacon Act. It is an attempt to exempt such self-help projects from one provision of the regulations issued under that act.

In New York City, for example, the requirements for the ratio of journeymen to apprentices is five to one. Five professionals per each unskilled worker. Madam President, these are primarily unskilled, unemployed persons who are trying to rehabilitate their neighborhoods. They cannot possibly meet the requirements of the work rules. As a result, the projects are closing down.

Madam President, some people would like these projects to wait another year while we hold committee hearings. These are projects that are ready to go now. The people are there and ready to do the work. What we are asking is that the obstacles be lifted and they be allowed to go ahead. These people just want to fix up places in which they can live. I cannot understand why Senators are not willing to give them the chance and vote for this narrowly defined amendment.

It does not strike at union powers. No union jobs are being lost. These are self-help projects. They would not be done otherwise. No jobs are being taken away from anyone. These are largely unemployed persons who are seeking to be self-employed at improving their own living conditions. We talk about unemployment, we talk about Humphrey-Hawkins, and here we have an opportunity to directly help people obtain a form of work, and learn a skill at the same time. These programs cut right into the chronically unemployed that CETA programs, and other Federal programs, ostensibly were designed to help.

Madam President, allow me to refer to a typical example. Victor Merced graduated from Theodore Roosevelt High School in New York City with a diploma but no skill that he could turn into wages. He participated in a residential rehabilitation program and earned much more than ownership of his one-bedroom apartment. The 2 years of labor he invested in the project—the first 9 months of them at no wages—have given him a greater feeling of purpose for his life, more than what CETA programs are providing.

This is what Mr. Merced said:

First I did demolition work here. Then I learned carpentry, plumbing, how to read blueprints. Now I am a construction supervisor, and that's the work I want to do in rehabilitating buildings around here and in other parts of the Bronx.

No union member is going to work for what these people receive. We are not asking them to. Most of these people work for nothing except to earn, as I said, the "sweat equity" in their own homes and the pride they receive from improving their own homes. These projects are being stopped because the sponsors cannot afford to pay professional wages. They have not got the money. These are people in economically impacted areas trying to create their own housing and who desire to employ themselves at it. If they cannot do it, then it is not going to be done. We are not talking about union workers in either case.

Madam President, I reemphasize, this is a very narrowly defined amendment. It does not even talk about prevailing wage, which is a major problem. I am informed that for some reason some of my colleagues would have difficulty with a prevailing-wage waiver. I have no difficulty with it. But it has been left out of the amendment. I have been told that the neighborhood rehab people can live with that. Fine. They cannot live with the work rules being applied to them.

The amendment is not aimed at the basic provisions of Davis-Bacon. It is designed to exempt these narrowly defined projects from one provision of regulations issued under the act. One provision. Without spending any more funds, we have the opportunity to take a step that can go a long way toward accomplishing the goals that we have spent years of legislation and billions of dollars to achieve. If we are not willing to support this step, then just what are we doing.

I hear again and again that people are trying to help the poor and unemployed, especially the urban poor. Well, here we have an opportunity. The poor themselves are asking for this. My colleague in the House, the gentleman from Washington (Mr. PRITCHARD) as a member of the Neighborhood Commission has been traveling with the Commission and hearing testimony from these groups from all across the country.

This is what he said in the House:

I have been in Baltimore, Cleveland, St. Louis, Los Angeles, and Washington, D.C. . . . out there in these neighborhood groups they feel that the self-help programs. I heard this in Baltimore. I heard this in Cleveland. I heard this in every one of those neighborhoods. I can tell you when we get into neighborhood groups across this country, and it is a very large movement, they consistently complain about Davis-Bacon in the inner city projects.

This is the cry, Madam President. This amendment seeks to address part of that problem and—I cannot stress it enough—in a manner that does not affect the intent of Davis-Bacon in any substance.

Madam President, President Carter recently visited one of these self-help housing rehabilitation projects in the Bronx. He was overflowing with praise for it. He heartily applauded the same kind of self-help pioneer spirit that created my State, that transformed it from a desert. I applaud these urban pioneers, who are striving to solve their own problems, to transform their urban deserts into something productive, useful, and beautiful.

These projects are being stopped. If they stay halted, then the buildings will continue to deteriorate. They will be abandoned. The empty will stay empty.

The chronically unemployed will remain unemployable, CETA notwithstanding.

Madam President, we can solve this problem in a way that leaves Davis-Bacon untouched. It was never intended to prevent self-help rehabilitation projects. We can solve this problem by simply removing the obstacles to self-improvement. This is what the amendment will do.

Mr. PROXMIRE. Madam President, may I say to my good friend from Utah that there is a lot of merit in his amendment and it meets a very definite problem. There is no question about that. The difficulty with the amendment, however, is that it seems to some that it puts new pressure to erode work rules and labor standards.

Nevertheless, I must say that neighborhood groups have told me just what the Senator from Utah so eloquently told the Senate, that this has resulted in a problem in getting housing accomplished. I point out, however, that it is a problem that, to some extent—and I think we can encourage more of this, thanks to the efforts of the Senator from Utah—to some extent, is being worked on.

Under Davis-Bacon determinations, the unions make certain adjustments that are beneficial to both project sponsors and contractors. For example, instead of insisting on the usual practice of one apprentice to four or five journeymen, the building trades unions change that ratio to four apprentices for each journeyman. In this situation the journeyman actually becomes a teacher or trainer for the apprentice whose wage rate, of course, is lower than that of the journeyman.

I think the Senator would agree that to the extent that this can be done voluntarily by unions taking this kind of action and recognizing their responsibility and recognizing that they want to achieve the same result of better housing for low-income people, it is much better to do it this way, if we can.

I should propose to the Senator from Utah that we ask HUD to report to the committee on progress of self-help projects and problems the projects face, particularly problems relating to unproductive work rules. In order to make sure that they do that, we shall have hearings on it and follow up on it. Adequate progress is not being made, I think many of us would join the Senator from Utah in making a proposal of this kind.

I think he would agree that, to the extent it can be done voluntarily with this kind of recognition on the part of Congress that the problem must be solved, it would be better than if we have to mandate it.

Mr. GARN. I would prefer to mandate it, Mr. Chairman. My experience with both organized labor and HUD has not been the best. Neither organization always keeps its promise. So it is not sufficient for HUD to give us a report. I do want to have hearings and call in some of the neighborhood groups, those who live and work with these projects each day. I would much more trust their testimony than that of the bureaucrats down at HUD; they are the ones who are actually out on the street in these urban poor areas and having difficulty with helping themselves.

With the promise by the distinguished chairman that we shall hold hearings, I do intend to withdraw my amendment. Before I do, I should like to make one more comment.

I think it is a little bit sad that here, when we have a very narrowly defined amendment that would exclude only nonprofit neighborhood-based urban poor organizations—self-help—organized labor is so unbelievably shortsighted that they say "No." The old self-protection society. I put the AFL–CIO with the American Medical Association and the American Bar Association: their primary purpose in life is to defend their own members. I think it is sad that we cannot get this kind of change to allow urban poor unemployed to fix up their own houses.

Organized labor is worried about their image and they are losing membership. They came in here with the Labor Law Reform Act to help them get members. Maybe if they would show a little more compassion, maybe a little more concern for people who do not happen to be members of their organization, their image might go up rather considerably. They might be able to attract vast numbers of new members.

This is an example of selfishness and greed by special interest groups. It is not just organized labor. I mentioned a couple of other self-protection societies that will not give 1 inch to help poverty-stricken people, that have to have Federal work rules, so that the poor cannot even fix up their own homes; they cannot even earn the equity in it. As I have said, 5,000 of these rehabilitation projects have been closed down.

I appreciate the chairman's willingness to hold hearings on this problem. I shall continue to fight for rehab because that is the fastest and cheapest way to get poor people into adequate housing. It was proved in my city and has been proved all over the country. We have to do a better job of rehab, because we have spent billions and billions of dollars. In the 4 years I have been on the Banking Committee, we have had a big housing bill every year, but the housing problem does not go away. One of the ways we can help it is by more emphasis on the existing housing stock, making it adequate in terms of electricity and plumbing and bringing it up to code standards and allowing people to help themselves. We might find that we are putting poor people into good, solid housing much more rapidly than we are by pushing so hard on new starts.

I thank the chairman for his interest and his willingness to hold hearings.

Mr. PROXMIRE. May I say to my good friend from Utah, before he finishes—as I say, I think he has made a constructive contribution here. I do think that some unions, many unions, have been sympathetic and understanding and have done some work. I should like to read from the debate in the House that is in the CONGRESSIONAL RECORD to demonstrate how they have done it and how they have done it in a way that I think the Senator from Utah would approve.

Mr. GARN. The House amendment they are arguing against is much broader than the narrowly defined amendment I submitted today.

Mr. PROXMIRE. That is right, and I am not talking about the House amendment. I am talking about how Parren Mitchell described what was done. He said:

> Under our self-help programs in my city we have worked out all kinds of arrangements under which organized labor does not make excessive demands on self-help groups. Workers in self-help programs are employed sometimes at wages less than the minimum wage. We have not had any problems with it; so it has not been a problem in my city.

I admit that he was talking about Baltimore might be quite different from many other cities. But it is an indication of how constructively it can be done by some unions, although some unions act the way the Senator from Utah has described.

Mr. GARN. Maybe there is some hope for self-help.

I yield to the Senator from New Mexico.

Mr. SCHMITT. I merely want to take a minute to say I appreciate the Senator's remarks. They have been very direct and to the point and clearly illustrate, I think, to any reasonable person what the problem is: those that need the self-help most are least able to get to it. I commend him on his statement.

I hope to participate with him and the chairman in those hearings when we get to them.

Mr. GARN. I thank my distinguished colleague from New Mexico.

Madam President, at this time, I withdraw my amendment.

The amendment was withdrawn.

UP AMENDMENT NO. 1440

(Purpose: to require the Secretary of Housing and Urban Development to analyze new and revised regulations)

Mr. CHILES. Madam President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

> The Senator from Florida (Mr. CHILES) proposes unprinted amendment No. 1440.

Mr. CHILES. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

PAPERWORK CONTROL AND MANAGEMENT

SEC. 716. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall, not later than January 1, 1979, and not later than such date in each year thereafter, publish in the Federal Register an agenda of regulations expected to be considered during the fiscal year in which the agenda is published. The agenda shall describe, to the greatest extent possible, any significant rulemaking activity for that fiscal year, including the creation of new regulations and the revision or repeal of existing regulations.

(b) The Secretary shall, prior to the pub-

lication of any proposed regulation for public comment, conduct a thorough regulatory analysis of the regulation under consideration. Such analysis shall include, but shall not be limited to, the following:

(1) A reasonable estimate of the benefits expected to be derived as well as the costs or other inflationary impact which could be expected to result from the rulemaking. In making the estimate required by this paragraph, the Secretary shall (A) consider recommendations which may be made by the Council of Economic Advisers, the Council on Wage and Price Stability, the Office of Management and Budget, or any other Executive agency, and (B) give special consideration to the extent to which delays caused by government review, processing, and general paperwork contribute to the cost of housing, and shall, wherever feasible, modify the proposed regulation to minimize or eliminate such delays.

(2) An assessment of the extent to which the proposed regulation may result in contradiction, unnecessary overlapping, or duplication of other regulations of the Department or of another Executive agency.

(3) An assessment of the extent to which the proposed regulation increases the burden of recordkeeping and report filing requirements on individuals, businesses, and State and local governments. In making the assessment required by this paragraph, the Secretary shall use as a basis the "reporting hours burden", as estimated by the Office of Management and Budget.

(c) A summary of the findings of the regulatory analysis conducted under subsection (b) shall be published adjacent to the regulation being proposed in the Federal Register. In emergency situations or cases in which the Secretary must meet immediate statutory or judicial deadlines, there shall be published in the Federal Register a statement explaining why preparation of a regulatory analysis would be unpracticable or inappropriate.

Mr. CHILES. Madam President, the amendment I submit today is an important step in overcoming the crippling and complex problems caused by unnecessary paperwork in Federal regulations. By now, this problem is familiar to every Member of this body. Hardly a day passes that Members of Congress are not called on from all sides to find some way to lessen the burden of Government. Business, small and large, private citizens, and State and local governments constantly cry out for relief. Recognizing the problem is out there takes no great imagination, but doing something constructive to alleviate excessive, duplicative, unnecessary rules, and regulations calls for the persistent attention of all players in the governmental process.

It is not enough to say that the bureaucracy is the cause of all paperwork burdens. Congress must shoulder some of the blame, not only for ineffective oversight of Agency management procedures, but for failing to be sensitive to the paperwork impact of new legislation. Meaningful reduction of paperwork excesses requires that we proceed with a two-pronged attack: First, working with the administration to improve Agency rulemaking procedures, and second, starting on a conscientious effort to review new legislation to see that we do not contribute unnecessarily to the reams of existing regulations already on the books.

Madam President, my amendment addresses the first of these approaches by requiring the Secretary of HUD to publish an annual agenda of expected department regulations by January 1 of each fiscal year. The Secretary is also required to analyze proposed regulations to insure that imposed costs are minimized and effectiveness is maximized to the greatest degree possible.

Requiring the Department to prepare a list outlining its tentative regulatory plans early in the fiscal year has several clear advantages. First, such a requirement imposes internal management discipline on HUD and would necessitate a broad, comprehensive assessment of the Department's rulemaking goals for the coming year. Second, members of the public with an interest in HUD regulations are given the chance to plan in advance for changes in program rules and are better prepared to take part in rulemaking proceedings. Too often citizens and businessmen affected by an agency's actions learn of significant rule changes after the period for public comment has expired and the new regulation has taken effect.

It should be made clear that this agenda of regulations anticipated by the Department is in no way binding on the Secretary and is subject to alteration later in the year. The agenda should serve as the Department's initial blueprint of rulemaking activity and as a helpful guideline for Congress, other agencies, and the public.

Madam President, this provision is entirely consistent with the objectives and principles outlined in President Carter's March 23 Executive order. That message to the head of each executive department and agency dealing with improved Government regulations calls for the publication of semiannual agendas of significant regulations under development or review so that public information and participation is improved.

The study on Federal regulation prepared last year by the Senate Committee on Governmental Affairs has also endorsed the early notice of agency plans. The report notes:

This approach would give Congress and the public an opportunity to influence the course of agency activity. Agencies should be required, as part of the general process of reviewing and redesigning the internal process by which regulations are developed, to publish a semi-annual regulations agenda. This agenda should describe in general terms the subject areas in which significant regulatory action is being considered by the agency and the status of pending regulatory proposals. It should also designate an agency official to serve as a point of contact for the public and Congress. This is a valuable technique which we recommend because it will give those affected by regulation greater opportunities to plan to participate in agency activities.

Further support for this concept of advance notification comes from the Commission on Federal Paperwork. Several of its recommendations for improving the rulemaking process included a greater public comment period, involvement with the public during the drafting of regulations, and the periodic and systematic review of all regulations.

So, we have the President, the Federal Paperwork Commission, and a Senate committee concluding a 2-year study on Federal regulation all agreeing that the publication of an agenda of regulations on a regular basis is an improvement over the present arrangement of disarray and confusion. That is exactly what the first section of this amendment mandates of the Department of HUD.

The second provision of my amendment requires the Secretary to undertake a thorough regulatory analysis of proposed rules as a guard against costly, duplicative, contradictory, or burdensome regulations. The Office of Management and Budget described the problem precisely in its June 1978 report to Congress on paperwork:

Paperwork and red tape are not caused by the "government" in aggregate. They are the result of actions and needs of the individual agencies. To deal with the problems of paperwork, and measure progress in resolving these problems. it is necessary to describe and assess individual agency performance. It is largely through increased attention to the progress of the individual agencies that lasting impact on the paperwork problem will occur.

Madam President, I suggest that Congress would do well to pay increased attention to the progress, or lack of progress, of individual agencies in meeting the paperwork reduction demands we have placed on them. That is the aim of the second section of my amendment.

The criteria specified for inclusion in the regulatory analysis are a reasonable cost-benefit estimate, assessments of any overlapping or duplication of HUD requirements or reports, and a paperwork review based on the number of reporting hours imposed by the proposed rulemaking. In making her cost-benefit determination, the Secretary is urged to rely on the advice and recommendations of Executive advisers and departments.

The President's executive order recognizes the need for analysis of regulations by the department secretary prior to final rulemaking. The agency is required to review alternatives and determine costs for regulations having an annual effect on the economy of $100 million or where major cost/price increases can be expected in individual industries or regions.

But experience shows the President's approach will not be completely effective in dealing with the paperwork burden. All department regulations should have to pass muster on the cost-benefit test. The paperwork problem is with us now, because of the overwhelming accumulation of thousands of modest rules and regulations. One report required by a HUD program is not burdensome; it is the aggregate of all forms and reports, taken together, that produces the problems which overburden citizens and State and local governments. Therefore, regulatory control must be mandated for all department rules, regardless of their individual burden, so that the full costs and benefits of a rulemaking decision may be taken into consideration.

Madam President, a recent Senate Budget Committee hearing on inflation and housing costs contained some startling testimony from private businessmen and HUD spokesmen on one of the sel-

dom recognized costs connected with housing. The committee learned that one of the main factors contributing to the enormous spiral in the cost of housing is governmental delay in handling and approving various forms and reports. A 1977 Rutgers University study found that Government regulations—at the Federal, State, and community level—add nearly 20 percent to the cost of an average single-family house.

Some of the lag time is attributable to State or local environmental, zoning, sewer, and building code requirements. Other significant problems involve the Federal Government. For example, HUD's FHA loan-processing methods, EPA guidelines and permits, the regulations of the Office of Interstate Land Sales Registration, requirements of the Real Estate Settlement Procedures Act, dual HUD-Farmers Home Administration construction standards—all of these useful and beneficial Federal programs contain regulatory demands that add up to a mountain of redtape for the private businessman.

Dramatic evidence of these delays can be seen in the national average for a single-family home. In 1970, it took 5 months from the date of application to completion of a new house. By 1975, the average length of time had stretched to 13 months. The Undersecretary of HUD, who was in the homebuilding business before joining the administration, told the committee that he used to be able to construct a multiunit development within 9 weeks. That was in the late 1950's. By the early 1970's, new demands and delays had nearly tripled the time it took to build from start to finish.

When you triple or double the time, you add tremendously to the cost, because the money you have to borrow in construction loan funds, the payroll you have to meet, all the overhead requirements of the contractors—those are running all the time this is going on.

Some of those regulations are necessary, and we would not want to say that we should not have them to protect the environment, to protect the consumer. But to try to see what that burden is going to be, to try to arrange so that they are not duplicative, to try to determine that they are going to run in an orderly fashion, certainly is a requirement of Congress.

Mr. President, what this tells us is that the demands of Government regulation are a major contributor to inflation and the alarming cost of housing today. Redtape spells delay. Delay translates into higher borrowing and overhead costs, which means the cost to build is higher, which in the end adds to the price of the home for the buyer.

Given the severity of this problem and its impact on housing affordability, my amendment assures that the Secretary review any proposed HUD regulations, with consideration given to their impact on housing cost. This review should entail analysis of delays caused by all governmental units, not just HUD or just the Federal Government; because, Mr. President, we have noted already the fact that a single rulemaking, in and of itself may not be burdensome. It is only when surveying the effect of that rule, combined with the constraints of hundreds of other rules—some of them with contradictory requirements—that we will be able to comprehend the problems of paperwork compliance.

It is hoped that by recognizing these costly lags existing in the housing field, the Secretary will be moved to improve the administrative infrastructure and to minimize delays in governmental regulations.

Mr. President, the amendment I have offered today is designed to improve congressional oversight of a major Cabinet department, to instill a greater awareness in HUD officials of the problems caused by reckless and uncoordinated rulemaking, and finally, to send a clear signal that Congress is dead serious about chipping away at the "multibillion dollar wall of paperwork" that has been erected between Government and the American people.

I urge the adoption of this amendment.

Mr. PROXMIRE. Mr. President, I want to discuss this amendment informally, if I may, with the distinguished Senator from Florida. In order to accommodate us—if the senior Senator from Alabama would permit—I wonder whether we could have a short quorum call, with the time taken out of the time on the bill, not on the amendment.

The PRESIDING OFFICER (Mr. FORD). Is there objection?

Mr. SCHMITT. Mr. President, reserving the right to object, will the Senator withhold that?

Since this Senator has a similar amendment, somewhat broader in scope, would it be appropriate for us to join in that discussion?

Mr. PROXMIRE. That will be fine.

In the meantime, the Senator from Massachusetts has suggested that we might proceed, if the Senator from Florida would agree to set his amendment aside temporarily, and permit the Senator from Alabama to call up some amendments he has. Meanwhile, the Senator from Massachusetts could handle those amendments for the committee, and that would give an opportunity for the Senator from New Mexico and the Senator from Florida to discuss this.

Mr. President, I yield the floor.

Mr. CHILES. Mr. President, I ask unanimous consent that my amendment be set aside temporarily.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alabama is recognized.

UP AMENDMENT NO. 1441

(Purpose: To amend section 715, relating to the Interstate Land Sales Full Disclosure Act)

Mr. SPARKMAN. Mr. President, I have at the desk four amendments. They relate to land sales. I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The amendments will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN), on behalf of himself and Mr. TOWER, proposes unprinted amendments numbered 1441.

The amendments are as follows:

On page 95, line 25, strike all after "Sec. 715(a)" through page 96, line 7, and redesignate subsections (b) and (c) as subsection (a) and (b).

On page 99, line 5, strike "or".

On page 101, line 11, strike out the two periods and the quotation marks and insert "; or".

On page 101, between lines 11 and 12, insert the following:

"(3) the sale or lease of real estate which is located within a municipality or county whose governing body specifies minimum standards for the development of subdivision lots taking place within its boundaries, when—

"(A) the subdivision meets all local codes and standards and is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;

"(B) the real estate is situated on a paved, public street or highway which has been built to a standard acceptable to the municipality or county or a bond or other surety acceptable to the municipality or county in the full amount of the cost of the improvements has been posted to assure completion to such standards, and that authority has accepted or has agreed to accept the responsibility of maintaining the public street or highway;

"(C) at the time of closing, potable water, sanitary sewage disposal and electricity have been extended to the real estate or the municipality or county has agreed to install such facilities within 180 days. For subdivisions which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round or that the land is approved for the installation of septic tanks;

"(D) the contract of sale requires delivery of a warranty deed to the purchaser within 180 days of the signing of the sales contract;

"(E) a policy of title insurance or title opinion is issued in connection with the transaction showing that at the time of closing, title to the real estate purchased or leased is vested in the seller or lessor, but nothing herein shall be construed as requiring the recordation of a lease;

"(F) each and every purchaser or his or her spouse has made a personal on the lot inspection of the real estate which he purchased or leased, prior to the signing of a contract to purchase or lease;

"(G) there are no direct mail or telephone solicitations or offers of gifts, trips, dinners, or other such promotional techniques to induce perspective purchasers or lessees to visit the subdivision or to purchase or lease a lot.

"(6) Section 1412 of such Act is amended by striking the last sentence and inserting in lieu thereof 'In no event shall any action be brought by a purchaser more than three years after the signing of a contract or lease, not withstanding delivery of a deed to a purchaser on the sale or assignment of the purchaser's contract or agreement to a third party.'".

On page 96, line 12, strike "United States land patents and similar Federal grants or reservations," and insert in lieu thereof "United States land patents or Federal grants and reservations similar to United States land patents,".

On page 97, line 6, strike "the provisions of this title, except section 1404(a)(2)," and insert in lieu thereof "the requirements of sections 1405 to 1408 inclusive".

Mr. SPARKMAN. Mr. President, the purpose of the first amendment is to exempt from the filing and disclosure requirements of the Interstate Land Sales Full Disclosure Act, the sale of fully improved lots developed in compliance with the subdivision regulations of the municipality or county in which the subdivision is located.

Under the amendment, several requirements must be satisfied before subdivisions qualify for the exemption. All local codes and standards must be satisfied. Roads complying with local standards either must have been built or security posted to assure their completion. Water, sewer, and electrical service must be extended to the property or the municipal or county government must have agreed to install these services. For those subdivisions which do not have a central water or sewage disposal system, there must be assurances that an adequate water supply is available year round or that the land is approved for the installation of septic tanks. The subdivider must provide the purchaser a warranty deed within 180 days of the signing of the sales contract. And a policy of title insurance or title opinion must be provided at the time of closing showing that title to the real estate is vested in the seller.

The amendment eliminates unnecessary Government redtape and reduces the cost of developing land for housing without sacrificing the interests of the consuming public.

In addition, there are three amendments which clarify the committee's intent with respect to other areas in the land sales section. These amendments make no substantive change in the committee provisions.

Mr. BROOKE. Mr. President, will the Senator yield?

Mr. SPARKMAN. I yield.

Mr. BROOKE. Mr. President, this amendment would exempt from the filing and disclosure requirements of the act improved lots with water, sewer, and electricity already installed which are located on a public street or highway within a political jurisdiction which has specific standards for the development of subdivisions within its boundaries.

This "municipal lot" exemption is supported by the National Association of Homebuilders and the National Association of Realtors.

The distinguished Senator from Alabama (Mr. SPARKMAN) has performed a service in proposing this amendment. I have discussed it with the distinguished chairman of the committee. It would exempt many small homebuilders from the costly and time-consuming requirements of the act.

We are prepared to accept the amendment. If the Senator will yield back his time on the amendment, we are prepared to yield back our time, for a vote on the amendment.

Mr. SPARKMAN. I yield back my time.

Mr. BROOKE. I yield back my time.

The PRESIDING OFFICER (Mr. BURDICK). All time on the amendment having been yielded back, the question is on agreeing to the amendments en bloc.

The amendments were agreed to en bloc.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendments were agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1442

Mr. SPARKMAN. Mr. President, I have another amendment. It is for the purpose of authorizing FHA-insured mortgage refinancing of hospitals as now permitted for multifamily housing projects. I send the amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time, and the amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN) proposes an unprinted amendment numbered 1442.

The amendment is as follows:

S. 3084 is amended by inserting the following new paragraph after line 13, page 46.

"FHA-INSURED MORTGAGE REFINANCING OF HOSPITALS

"SEC. . Section 223(f) of the National Housing Act is amended by—

"(a) striking the period at the end of the first sentence and inserting the following: 'or the refinancing of existing debt of an existing hospital which the Secretary has determined is economically viable and which has received such certifications from a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act for the State in which the hospital is located as the Secretary deems necessary and appropriate and comparable to the certifications required for hospitals insured under section 242 of this Act.'; and

"(b) striking from the second sentence the word 'property' and substituting, in lieu thereof, 'multifamily housing project'."

Mr. SPARKMAN. Mr. President, 4 years ago we authorized FHA to insure mortgages for the purchase or refinancing of multifamily housing projects which have already been built. I understand that this has reduced interest rates on many housing projects and, because of the reduced costs, the benefits are passed on to the people living in the projects.

I want to extend this program to existing hospitals. Some of them have been financed with high short-term loans and when they go to refinance, the rates in the conventional market are pretty high. If we would allow the use of FHA-insured mortgages for the refinancing of these existing hospitals, interest rates would be much lower and HEW, which administers the hospital programs, could see to it that these costs are passed on to the patients.

Benefits would definitely not be available for new construction and HEW and HUD would have strict control.

There would not be any cost to the Government. In fact, there could even be a savings to the Government through lower medicare and medicaid payments.

I believe this is a good proposal, and I move its adoption.

Mr. BROOKE. Mr. President, this amendment, as the distinguished Senator from Alabama has said, would make available for hospitals the existing FHA insured mortgage program for refinancing multifamily rental projects. That is in section 223(f) of the National Housing Act. It is expected that extending this program to hospital financing could have an impact on reducing hospital costs.

The program would only be available for financially sound hospitals with certificates of need approved by appropriate State or Federal agencies.

I have discussed this matter with the distinguished chairman of the committee, Senator PROXMIRE, and we both support this amendment and commend the Senator from Alabama (Mr. SPARKMAN) for having proposed it. We are ready to accept that amendment.

I yield back all time.

Mr. SPARKMAN. Mr. President, I yield back my time.

I am grateful to the minority floor manager of the bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1443

(Purpose: To expand the conversion demonstration)

Mr. SPARKMAN. Mr. President, I send to the desk one additional amendment and ask that it be stated.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN) proposes an unprinted amendment numbered 1443:

On page 42, line 24, strike out "through" and insert in lieu thereof "by utilizing techniques including, but not limited to,".

Mr. SPARKMAN. Mr. President, this amendment would permit HUD, in carrying out its demonstration housing program, to investigate the feasibility of renewing older housing by converting it to cooperatives and condominiums, and other ownership forms which are designed to facilitate the restoration of multifamily housing in our older urban areas.

I think it would be most helpful to our general housing program.

Mr. BROOKE. Mr. President, this amendment would allow HUD to conduct demonstrations of multifamily homesteading with various forms of resident-control nonprofit ownership. It would give HUD the opportunity to explore innovative forms of multifamily home ownership in addition to the condominium and the cooperative.

The amendment is supported by HUD. It is not intended to change the purpose of the multifamily homesteading program. It would have no budgetary impact at all.

I have discussed it with our chairman, Senator PROXMIRE, and we both support it. Again we commend the Senator from Alabama, Senator SPARKMAN, for introducing the amendment. We are prepared to accept it.

I yield back all time.

Mr. SPARKMAN. Mr. President, I yield back my time and move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1444

Mr. SPARKMAN. Mr. President, I have one further amendment. It is really an amendment that the Senator from Minnesota (Mr. ANDERSON) wanted to present. He will not be here today. I am proposing it in his behalf.

Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alabama (Mr. SPARKMAN) for the Senator from Minnesota (Mr. ANDERSON) proposes unprinted amendment numbered 1444:

On page 101, after line 26, insert the following:

"SEC. 716. Section 415(c) of the Housing and Urban Development Act of 1968 is amended to read as follows:

"(c) The term 'New Community Assistance Projects' has the same meaning as the term 'New Community Assistance Project' in section 718(c) of the Housing and Urban Development Act of 1970."

Mr. SPARKMAN. Mr. President, this is a brief explanation of this amendment.

This amendment will make the "new town" of Jonathan, Minn., eligible for the same Federal assistance for "new community assistance projects" as are all other new communities. Under present law, Federal assistance is only available to Jonathan for sewer and water facilities. Other new communities are eligible for supplementary grants from HUD for a wide variety of projects, including airports, mass transit projects, highways, libraries and educational facilities.

The present discrepancy exists because Jonathan is the only "new town" which remains under title IV, the 1968 new communities legislation, while all other new communities are eligible for the broader assistance under title VII, the 1970 new communities law. The amendment will redefine the definition of eligible "new community assistance projects" in title IV to parallel the definition of that term in the 1970 new communities legislation. This clarification, which HUD supports, is necessary to put the "new town" of Jonathan, Minn., in the same position as all other new communities.

I think it is a very fair and very fine statement and the amendment should be accepted.

Mr. TOWER. Mr. President, I want to express my support for the amendment offered by Senator SPARKMAN, which I cosponsored, to exempt from the filing and disclosure requirements of the Interstate Land Sales Full Disclosure Act land sales that comply with the regulations of a municipality or county.

This amendment will eliminate the regulation and review of land sales that are not only unnecessary but duplicative. Many local municipalities and counties throughout the country require extensive controls over the development and sales of land within their jurisdiction. Plans for land development and sales are reviewed by boards and commissions within many cities and counties in order to determine compliance with local ordinances and regulations. These local ordinances assure that the consumer will obtain an improved, buildable lot. There is little need for another layer or review and regulation at the Federal level. The amendment is designed to eliminate unnecessary government redtape. It will help to reduce the cost of land development, while at the same time protecting the interest of the consumer.

This amendment provides an additional exemption from the Interstate Land Sales Full Disclosure Act to those already contained in the bill. The exemptions that are already in the bill are designed to exempt land sales that were never intended to be covered under the act. The exemptions in the bill were introduced in the Banking Committee as an amendment to the Housing bill. It was sponsored by Senator NELSON. I was a cosponsor of those amendments, and I am delighted that the Banking Committee accepted those amendments. I now urge the adoption of the amendment offered by Senator SPARKMAN. Together, the amendment will go a long way toward making the act much more reasonable by eliminating unnecessary and duplicative regulation of land sales, while at the same time protecting the interest of land purchasers. Furthermore, they will result in a reduction in the high cost of land development and sales which the consumer now pays.

Mr. BROOKE. Mr. President, this amendment would provide additional benefits under the new communities program for Jonathan, Minn., as Senator SPARKMAN has said.

It is my understanding that HUD has no problem whatsoever with this amendment.

Again I have discussed this with the chairman of the committee, Senator PROXMIRE. We both agree it is a good amendment. We commend the Senator from Minnesota (Mr. ANDERSON) and Senator SPARKMAN for having introduced it. We are prepared to accept it.

Mr. President, I yield back all remaining time.

Mr. SPARKMAN. Mr. President, I am willing to yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BROOKE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BROOKE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. BROOKE. Mr. President, I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. FORD). Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I ask unanimous consent that James Lochamie of Senator THURMOND's staff be given floor privileges during the debate and vote on this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1440

Mr. CHILES. Mr. President, I call up the amendment temporarily laid aside.

The PRESIDING OFFICER. The question automatically recurs on the Senator's amendment, which the clerk will report.

The legislative clerk read as follows:

The Senator from Florida (Mr. CHILES) proposes an unprinted amendment numbered 1440.

Mr. CHILES. Mr. President, I had discussed the amendment at length in my opening remarks prior to the time that the amendment was laid aside. I would be interested in knowing what the chairman of the committee thinks about the paperwork amendment I have proposed.

I would say, Mr. President, that my Subcommittee on Governmental Affairs now has jurisdiction over the subject of paperwork and a report of the Paperwork Commission that Congress set up, and it is in connection with that jurisdiction, that subcommittee jurisdiction, and the Paperwork Commission report that we proposed this amendment.

Mr. PROXMIRE. Let me ask, in going over quickly several provisions of the Chiles HUD agenda amendment, to make sure I understand the provisions, first, am I correct that it would require HUD before January 1 of each year beginning in 1979 to publish in the Federal Register an agenda of regulations expected to be considered in that fiscal year?

Mr. CHILES. That is right. That is not necessarily binding on them. That is not to say that if something important comes up during the year they cannot add to it. But it is to have them make a good-faith effort to alert the community that would be involved with their regulations that as of January these are the proposals they are going to be considering this year.

The President has put his agencies

on notice for a semiannual agenda, and this just says in this important agency, where we have so many people concerned about those regulations, that they ought to get some notice and they would come up with this agenda on the first of the year.

Mr. PROXMIRE. Then, in the second place, it would require that prior to publishing any proposed regulation, the Secretary shall analyze the following: First, the relative cost and benefits, including those resulting from delays in increased paperwork expected to arise from the implementation of such regulation?

Also, the extent to which the proposed regulations are contradictory are duplicative of other regulations of HUD or any other executive agency; and also the extent to which the proposed regulations increase recordkeeping and report-filing burdens on affected parties?

In addition to that, the final provision would require that the foregoing analysis be published with the proposed regulations, or a statement be published giving the reasons why such an analysis was impractical or inappropriate?

That seems to me to be a workable, limited area of requirements. It is one on which, I understand, the Budget Committee has had hearings; is that correct?

Mr. CHILES. Well, our hearing was on housing and the task force report done by HUD on housing, and it was in connection with that hearing, and at this time it was disclosed, the 1977 Rutgers University study that was showing, that 20 percent of housing costs now of a family home is based on regulations. So it was trying to make sure—it was from that hearing and the information developed there that we felt that having HUD go through a sort of self-discipline process which on every regulation before it is adopted—we know the President is requiring through the Wage and Price Council a review of the inflation impact on major pieces of legislation. But again in connection with reading the Paperwork Commission report and listening to the people who were involved in this and the other oversight we have done in my committee, we find it is never one single piece of regulation that does this, it is the multitudinous thousands of little pieces of regulations that add to the paperwork and the great burden.

So if you just check the big ones that is good. But you have got to have some kind of discipline on all of the regulations. If you do not, you will find the adding on of this multitudinous number will continue to grow. So this is what this was trying to do, impose this self-discipline.

If you will note, they have to say with the regulation what their findings are. Certainly that is going to help Congress in its oversight role in being able to have that information when we look at the oversight of whether a regulation is proper, does meet a cost-benefit ratio, is unnecessarily burdensome, and we will be able to have that process.

Mr. PROXMIRE. As I understand, it would be limited to the effect of the paperwork. It would not go to an economic analysis or a judicial analysis or other areas.

Mr. CHILES. Not a judicial analysis, but one of the provisions in there, of course, in the cost-benefit ratio has an economic thing. Is it, is the benefit of this, going to be worth the cost that you are putting the people through who are going to have to comply?

Mr. PROXMIRE. All right.

Then the relative costs and benefits would go to the regulations themselves, the substance of the regulations, not simply the time and effort required in complying with the paperwork?

Mr. CHILES. That is right.

Mr. PROXMIRE. They would go that far.

Does the Senator indicate that at these hearings, which were on housing, HUD had any opportunity to discuss this kind of proposal?

Mr. CHILES. Well, HUD itself discussed in part of the discussion—it was there, we had a panel, we had the head of the National Homebuilders or the vice president, and we had the Assistant Secretary—we did not say this particular regulation was the regulation we had in mind, but it was talked about, in detail, that this had to be sort of a self-discipline, that it was necessary that you do this kind of thing, and that oversight was very necessary, too, for that process to work, and that agencies should know how many man-hours are going to be entailed out in the private sector by virtue of a single regulation they impose.

Those items were certainly discussed, and they were part of this 20-percent cost that goes now to an individual home, based on regulations that we could trim, if we could see that those regulations were not duplicative, they were not overlapping, they were reasonable, and that they only covered those essential areas that they should cover.

Mr. PROXMIRE. I might say to my good friend from Florida, that as the Senator may know, we have already accepted the amendment by the Senator from Texas (Mr. BENTSEN) on paperwork.

Mr. CHILES. I am a cosponsor and I think it is a good amendment.

Mr. PROXMIRE. That amendment would provide, to the extent practicable, legal, and desirable as a way to reduce paperwork, that uniform forms would be used in a variety of areas. We have taken that amendment.

If we also accept the amendment of the Senator from Florida—and I hope the Senate would do so—we would move considerably farther with respect to the paperwork problem.

The reason I raise that point is because I understand the Senator from New Mexico (Mr. SCHMITT) has a more far-reaching amendment which he intends to offer as a substitute for the Chiles amendment. While that has a great deal of merit, it is my view it would be desirable for the committee to have an opportunity to have hearings, to hear HUD thoroughly on this, to hear other viewpoints, and to be able to refine and improve this far-reaching legislation the Senator from New Mexico has.

I want to make it clear that this is not based on any prejudice against his amendment as such. It is simply a recognition that the Chiles amendment is limited, it is one on which some inquiry has been made by his committee.

It is an amendment, therefore, that I think we can accept responsibility; but I am afraid if we go, in addition to that, into a judicial impact analysis and a further economic impact analysis, we might be going too far.

Mr. SCHMITT. Mr. President, will the Senator yield?

Mr. CHILES. I yield.

Mr. SCHMITT. I would say to the Senator from Florida that I am fully supportive of his amendment. I think the first section of that amendment is a particularly good addition to the amendment I intend to call up as a substitute when the Senator's time has expired.

I would just say to the Senator from Wisconsin that I think all of the arguments in support of considering the Senator from Florida's amendment at this time apply, in different particulars, to the consideration of the amendment of the Senator from New Mexico.

In particular, the effect of economic impact statements has been considered by the previous administration. As a matter of fact, Executive Order 11821 of that administration went directly to the heart of this issue, and the language contained in the amendment to be offered by the Senator from New Mexico is derived in part from the language of that Executive order.

So this has been something roughly in force in the administration for some time. President Carter has reaffirmed the intent of that Executive order.

I would also say that the judicial impact statement has been supported by the Chief Justice of the United States and by other individuals, writing publicly and privately, as something that is clearly necessary for major regulations promulgated by various agencies and departments.

I would also remind the Senate that last year the Senate passed six bills calling for recodification of various regulatory agencies and commissions, which included essentially identical language to the amendment to be proposed by the Senator from New Mexico.

So the Senate has considered and acted on this. The Commerce Committee and the Budget Committee have looked into this issue. The Senate consented to this kind of language last year. I think all the same particulars apply to the matter before us now. This is an appropriate thing for the Congress to require the Department to do; to require not only a paperwork impact study, but an economic impact statement and a judicial impact statement before regulations are promulgated.

As I say, I applaud the Senator from Florida. I simply think the time has come to go two steps further, to study the economic impact and the judicial impact before regulations are ever promulgated. I think the logic is very clear.

Mr. CHILES. I thank the Senator from New Mexico for his support of my

amendment. At this time, to accommodate the situation, I am willing to yield back the remainder of my time on my amendment.

Mr. PROXMIRE. I yield back the remainder of my time on the Chiles amendment.

The PRESIDING OFFICER. All remaining time has been yielded back.

AMENDMENT NO. 3254 (AS MODIFIED)

(Purpose: To require the Secretary of Housing and Urban Development to analyze the impact of rules issued by the Secretary)

Mr. SCHMITT. Mr. President, I propose an amendment in the second degree to the amendment of the Senator from Florida (Mr. CHILES). In lieu of the language proposed to be inserted by the Senator from Florida, I would insert the language contained in amendment No. 3254, which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an amendment numbered 3254. In lieu of the language proposed to be inserted by the unprinted amendment (No. 1440) of the Senator from Florida (Mr. CHILES) insert the language of this amendment.

The amendment is as follows:

ECONOMIC IMPACT ANALYSIS; PAPERWORK IMPACT ANALYSIS; JUDICIAL IMPACT ANALYSIS

SEC. 716. (a) Simultaneously with promulgation of any rule or regulation, including an emergency rule or regulation, the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall to the extent practicable prepare and publish in the Federal Register with such rule or regulation—

(1) a comprehensive cross-referenced index of all other rules or regulations pertaining to the same subject matter as the proposed rule or regulation, including a list of all such rules and regulations by title and subject matter and a printed text of the rules and regulations in their entirety;

(2) an economic impact analysis for each proposed rule or regulation (including any alternatives considered) which takes into account—

(A) the cost impact on and benefits to consumers, wage earners, businesses, markets, and Federal, State, and local governments;

(B) the effects on productivity, competition, supplies of important manufactured products or services, employment, the quantity of energy resource supply and demand, and the environment;

(C) additional criteria that may be developed for executive agencies by the Office of Management and Budget and for independent regulatory agencies by the General Accounting Office; and

(D) where impacts cannot be assessed, a statement of the nature and extent of nonquantifiable costs and benefits;

(3) a paperwork impact analysis for each proposed rule or regulation (including any alternatives considered) which shows for each occurrence of compliance therewith or fulfillment thereof an estimate of—

(A) the numbers of, and a description of the classes of, persons that would be required to file reports, maintain records, and fulfill any of the information-gathering requirements under the rule or regulation;

(B) the nature and amount of the information that would be required to be filed in such reports and the frequency of such reports under the rule;

(C) the nature and number of records that would have to be kept by such persons under the rule or regulation;

(D) the man-hours and costs that would be required to keep such records and make such reports under the rule or regulation; and

(E) steps that are, will, or should be taken by the agency to insure that there would be no unnecessary duplication in record-keeping and report filing requirements under the rule or regulation;

(4) a judicial impact analysis which shows the probable consequences of adoption of the proposed rule or regulation (including any alternatives considered) on the operation, workload, and efficiency of the Federal courts, including an estimate of the cost impact on and benefits to court administration, changes in judicial procedure, effects on jurisdiction, and demands on court personnel; and

(5) such other explanatory and supportive statements and materials as the Secretary deems necessary and appropriate for congressional consideration of each such rule or regulation.

Where quantifiable data for support of impact analyses required under paragraphs (2), (3), and (4) of this subsection cannot be practicably obtained by the Secretary by any means, including direct inquiries to businesses, consumers, and other persons or inquiries subject to the provisions of chapter 35 of title 44, United States Code, the Secretary shall substitute therefor the most reasoned estimate based upon the experience of the Department of Housing and Urban Development and other external information sources.

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. WILLIAMS). The Senator will state it.

Mr. FORD. How much time is there on the amendment of the Senator from New Mexico?

The PRESIDING OFFICER. Thirty minutes, to be equally divided.

Mr. FORD. I thank the Chair.

Mr. SCHMITT. Mr. President, I would also ask that my amendment be modified by adding the language contained in section (a) of the amendment of the Senator from Florida on pages 1 and 2 of his amendment, down through line 8 on page 2, as a subsection (6) between lines 7 and 8 on page 4 of my amendment 3254. This would include the very excellent section of the amendment of the Senator from Florida which would require that the anticipation of rulemaking activity is very properly something that the agencies need to do.

I request that my amendment be modified to that extent.

The PRESIDING OFFICER. The Senator has a right to modify his amendment. Will the Senator send the details of his modification to the desk, so that we may know exactly what the modification is?

The modification is as follows:

On page 4, after line 7 of amendment No. 3254, insert the following:

PAPERWORK CONTROL AND MANAGEMENT

(6) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall, not later than January 1, 1979, and not later than such date in each year thereafter, publish in the Federal Register an agenda of regulations expected to be considered during the fiscal year in which the agenda is published. The agenda shall describe, to the greatest extent possible, any significant rulemaking activity for that fiscal year, including the creation of new regulations and the revision or repeal of existing regulations.

Mr. SCHMITT. Mr. President, I think the issue is fairly clear. I would again remind my colleagues that the Senate has acted before on this issue with respect to S. 1532. S. 1533, S. 1534, S. 1535, S. 1536, and S. 1537. Although this language was dropped in conference with the House of Representatives, I think it has become clear that the Senate is willing to require what agencies should be doing, and I think very logically should be doing, and that is evaluating the impact of their regulatory activity on the economy, on the court system, and on individuals before those regulations take on the force of law.

The Senate, as I say, has voted favorably on similar provisions on many occasions. The Senate passed the following bills, all of which contain provisions requiring economic, judicial, and paperwork impact statements:

S. 1532, a bill to authorize appropriations for the Federal Maritime Commission to recodify its rules;

S. 1533, a bill reauthorizing appropriations for the recodification of the Federal Trade Commission and Consumer Product Safety Commission rules;

S. 1534, a bill for the recodification of the Interstate Commerce Commission rules;

S. 1535, a bill for the recodification of the Federal Power Commission rules;

S. 1536, a bill for the recodification of Federal Communications Commission rules; and

S. 1537, a bill for the recodification of Civil Aeronautics Board rules.

The need for this amendment is clear. The American citizen, the small businessman, business in general, and Government are staggering under an increasingly heavy load of regulations. There is a general perception among the people that the regulatory bureaucracy is running out of control. There is a mandate to the Congress to do something about reestablishing control of the regulatory process and to reform existing regulations.

The size of this massive burden can be appreciated by recognizing that there are 44 independent regulatory agencies at the Federal level, plus 1,240 boards, commissions, et cetera. These organizations employ over 100,000 individuals who are in part responsible for controlling the lives of our citizens. The cost to the taxpayers to finance these bureaucracies is equally large, growing from just over $2 billion in 1974 to an estimated $3,500,000,000 in 1977.

All too frequently the costs of this regulatory burden are overlooked. This amendment would simply require the department to estimate the effects of their regulations in terms of its economic, judicial and paperwork impact on the people of our Nation. This is something the department ought to be doing already under Executive Order 11321. If the department is not evaluating the effects of regulations now, then Congress must insist that they do so.

This amendment would require the agency to publish in the Federal Register an economic impact analysis of each proposed rule—and any alternative approaches considered by the agency to handle the particular problem addressed.

Each economic impact analysis would estimate costs versus benefits to consumers, businesses, markets and levels of Government. It is only common sense that the costs of a regulation should be evaluated by an agency. Congress must constantly keep in mind the cost of legislation, and with so many regulations having the force of law, this important requirement must be extended to the executive departments. In fact, economic impact statements for regulations were first required under President Ford. Many thought that President Carter would terminate the program. Instead, he has given it his strong support. Specifically, he asked that full consideration be given to "the economic cost of major Government regulations, through a more effective analysis of their economic impact."

Since 1975, the economic impact statement has been in wide use in the executice departments and agencies. Among the agencies which have used them are the Departments of Commerce, Agriculture, Labor, Transportation, Defense, and Health, Education, and Welfare. The Department of Housing and Urban Development itself has used these impact statements in developing construction standards for mobile home safety and in regulation of mortgage insurance and assistance. I ask unanimous consent that a list of economic impact statements completed by Federal agencies appear at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SCHMITT. The amendment would also require the agency to publish in the Federal Register a paperwork impact analysis of proposed rules. Each paperwork impact analysis should estimate the amount, frequency, costs, and man-hours that would be required under the rule for fulfilling information, report filing and recordkeeping requirements.

With regard to the paperwork impact statement, I would like to quote from the final summary report of the Commission on Federal Paperwork of which the Senator from New Hampshire, Mr. McINTYRE, was cochairman and the Senator from Oregon, Mr. HATFIELD, was a member. The report states that:

> Rulemaking is, in essence, legislation by executive departments and agencies. Agency rules and regulations have the full force and effect of law, and translate broad congressional mandates into operational programs and practices.
>
> Most of the specific reporting and recordkeeping requirements imposed on the public stem from such rules and regulations.

One of the report's specific recommendations is that "estimates of expected paperwork should be published for comment." This amendment, therefore, carries out one of the recommendations of the National Commission on Paperwork.

The amendment would also require the agency to publish in the Federal Register a judicial impact analysis of each proposed rule and any alternative approaches considered by the agency. Each judicial impact analysis would estimate the effects that adoption of the proposed rule would have.

In 1972, Chief Justice Burger suggested that Congress should be more cognizant of the burdens that Government may impose on the judicial system. This is not to suggest that HUD would reject regulations simply because they may increase litigation in the Federal courts, but only to suggest that the department analyze and report the judicial impact of its actions.

I ask unanimous consent that an article on the subject from the journal Judicature be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. SCHMITT. Mr. President, it is clear that in requiring the judicial impact statement, Congress is simply following the recommendation of many distinguished jurists, including the Chief Justice of the Supreme Court.

There is nothing burdensome or onerous in the requirements laid down by this amendment. The text of the amendment clearly states that "where practicable" the Secretary shall develop these statements. In the final paragraph of the amendment it states that the Secretary make estimates of the effects of a regulatiou if the necessary information cannot be gained through appropriate sources. Clearly this gives a great deal of direction to the Secretary. On some occasions I would imagine that the economic impact statement may read in its entirety "There is no economic impact for this regulation." Of course, when a regulation has a considerable economic effect, effort should be made to accurately estimate the effect. This will be a very valuable procedure for the department and will help to alert the staff to the broad effects of their activity in the regulatory field.

EXHIBIT 1

ECONOMIC IMPACT STATEMENTS COMPLETED BY FEDERAL AGENCIES

Date EIS completed, agency, subject, and nature of proposal:

March 1975, DOC, proposed Patent Modernization and Reform Act, legislation.

March 1975, USDA, standards for beef grading, regulation.

April 1975, FEA, proposed Energy Conservation and Production Act, legislation.

May 1975, USDA, support for U.S. agricultural exports, regulation.

May 1975, USDA, tobacco price supports, regulation.

June 1975, USDA, peanut price supports, regulation.

June 1975, HUD, construction standards for mobile-home safety, regulation.

July 1975, FEA, proposed Electric Power Construction Act of 1975, legislation.

July 1975, USDA, U.S. agricultural export program of Commodity Credit Corporation, regulation.

July 1975, DOL, proposed Unemployment Compensation Amendments Act, legislation.

July 1975, EPA, registration of pesticides, regulation.

August 1975, DOL, proposed Work Incentives Program Amendments Act, legislation.

September 1975, EPA, drinking water standards, regulation.

October 1975, EPA, motorcycle emissions, regulation.

October 1975, EPA, effluents from offshore gas and oil production, regulation.

October 1975, USDA, milk price supports, regulation.

October 1975, USDA, labeling of meat and poultry products, regulation.

October 1975, USDA, support and regulation of cotton crop program, regulation.

October 1975, DOT, proposed Aviation Act of 1975 (regulatory reform), legislation.

November 1975, EPA, maintenance of ambient air quality standards, regulation.

November 1975, EPA, coal mining effluents, regulation.

November 1975, HUD, mortgage insurance and assistance, regulation.

November 1975, DOT, proposed Northeast Regional Railroads Additional Service Act, legislation.

January 1976, USDA, support for U.S. agricultural exports, regulation.

January 1976, EPA, effluent guidelines for paper industry, regulation.

January 1976, HEW/FDA, ban of diethylstilbestrol (DES) in cattle feed, regulation.

February 1976, HEW, descrimination against handicapped persons, regulation.

February 1976, DOL/OSHA, worker exposure to coke-oven emissions, regulation.

February 1976, FEA, exemption of residual fuel oil from mandatory petroleum allocation and price regulations, regulation.

February 1976, EPA, standards for measuring evaporative hydrocarbon emissions from automobiles, regulation.

February 1976, EPA, limitations on organic-chemical effluents, regulation.

March 1976, USDA, milk price supports, regulation.

March 1976 USDA, modifications in food stamp program, regulation.

March 1976, DOD/CE, permits for dredge-and-fill operations, regulation.

March 1976, EPA, emissions from light-duty trucks, regulation.

April 1976, HEW, Medicaid reimbursements to nursing homes, regulation.

April 1976, HEW/FDA, banning of nitrofurans in chicken feed, regulation.

April 1976, DOL/OSHA, worker exposure to industrial noise, regulation.

April 1976, DOL/OSHA, worker exposure to inorganic arsenic, regulation.

May 1976, FEA, proposed Energy Independence Authority Act, legislation.

May 1976, USDA, tobacco price supports, regulation.

May 1976, DOT, financing of rehabilitation of railroad facilities, regulation.

June 1976, EPA, guidelines for iron and steel effluents, regulation.

June 1976, EPA, effluents from photographic processing, regulation.

June 1976, FEA, guidelines for federal support of state energy conservation plans, regulation.

July 1976, DOT/NHTSA, occupant crash protection (air bags), regulation.

July 1976, FEA, definition and allocation of nonproduct cost increases, regulation.

August 1976, USDA, support for U.S. agricultural exports, regulation.

September 1976, EPA effluents from pesticides, regulation.

September 1976, FEA, contingency plan for gasoline and diesel-fuel rationing, regulation.

November 1976, EPA, limits on polychlorinated biphenyl (PCB) effluents, regulation.

November 1976, FEA, exemption of motor gasoline from mandatory allocation and price controls, regulation.

December 1976, EPA, guidelines for effluents from onshore oil production, regulation.

December 1976, EPA, noise emissions for wheel and crawler tractors, regulation.

January 1977, EPA, dust emissions from grain elevators, regulation.

January 1977, DOC, guidelines for federal support of coastal energy import programs, regulation.

January 1977, DOL/OSHA, occupational exposure to sulfur dioxide, regulation.

January 1977, DOT/FAA, abatement of airport noise, regulation.

February 1977, FEA, allocation of increased costs to gasoline, regulation.

February 1977, FEA, entitlements program for strategc petroleum reserve, regulation.

February 1977, DOL/OSHA, occupational exposure to lead, regulation.

March 1977, FEA, incentives for industry to switch from oil and gas to coal, regulation.

April 1977, USDA, milk marketing order in the New York-New Jersey area, regulation.

April 1977, HEW/FDA, banning of saccharin and its salts, regulation.

April 1977, FEA, consistent control treatment for Californian and Alaskan crude oil, regulation.

Source: Council on Wage and Price Stability and Office of Management and Budget.

EXHIBIT 2

JUSTICE IMPACT STATEMENTS: DETERMINING HOW NEW LAWS WILL AFFECT THE COURTS

In his 1972 State of the Federal Judiciary message, Chief Justice Warren Burger proposed that every piece of legislation creating new cases for the federal courts be accompanied by a court impact statement that would estimate the additional judges and support personnel that would be required to handle the new cases.[1] The chief justice set his proposal in the context of the need for informed consideration of all the aspects of proposed legislation:

This is not to suggest that Congress reject legislation simply because it would increase litigation in the federal courts, but only to suggest that Congress consider the needs of the courts along with the need for new legislation. What we sadly lack at the present time is the ability to plan rationally for the future with regard to the burdens of the courts. It is essential that we do this if our courts are ever to function as they should.[2]

Other people concerned with improving the delivery of justice have also emphasized to the Congress the importance of rational planning.[3] For example, one leading civil liberties lawyer, testifying before a panel of the House Judiciary Committee, called upon Congress to consider reform of the federal courts as a problem of "proper allocation of scarce national resources."[4] For the most part, however, Congress has continued to pass new legislation without regard to the burdens that it puts upon the courts.

But a promising development last summer may lead Congress toward a better means of legislating change for the justice system. The Senate Committee on Veterans' Affairs was considering a bill, S. 364, that would, for the first time, subject final administrative rulings of the Veterans' Administration to review in the federal courts. The committee requested and received from the Department of Justice a justice impact statement—estimates of the increases the bill would cause on the workload of the federal courts and the Justice Department.[5] It was the first formal impact assessment that the department has ever undertaken.

Before we discuss the formulation of that statement and the problems of assessing the impact of S. 364 on the justice system, it will help to review some earlier developments in analyzing the operation of the courts and in assessing the impact of legislation on entities other than the courts.

ORIGINS OF THE IMPACT IDEA

One of the most prominent origins of justice impact assessment lay in the first empirical studies of the federal courts. In 1928, Professors Felix Frankfurter and James Landis published their classic study, *The Business of the Supreme Court*,[6] on the Judiciary Act of 1925, which had transformed the bulk of the Supreme Court's mandatory appellate jurisdiction into discretionary certiorari review.[7]

By studying changes in the Supreme Court's caseload, Frankfurter and Landis were able to document both the quantitative and qualitative impact of the 1925 act upon the workload of the Court. And they were able to predict the significant evolution of the role of the Supreme Court, caused in part by the 1925 act, in deciding legal questions of pervasive national interest and effects. Of course, the Frankfurter and Landis study analyzed the effects of legislation already enacted; thus, it should be distinguished from the predictive efforts with which we are primarily concerned.

The assembly of a data base on the workload of the federal courts also began during this period. In 1934 the American Law Institute published an unprecedented collection and analysis of the civil and criminal workload data of the federal courts.[8] This pioneering effort was revived in the first Annual Report of the Director of the Administrative Office of the U.S. Courts, which appeared in 1940.[9] But even with the Administrative Office reports, a general lack of data on many aspects of justice system functioning significantly impairs justice impact assessment, as we will discuss later.

RELATED IMPACT EFFORTS

Environmental impact: In making his impact statement proposal in 1972, Chief Justice Burger made a comparative reference to environmental impact statements (EIS).[10] The National Environmental Protection Act of 1969 (NEPA) requires that an EIS be included "in every recommendation or report on proposals for legislation . . . significantly affecting the quality of the human environment."[11] While EIS's have attracted considerable attention in the administrative process, much less has been done in the preparation of EIS's on legislative proposals.

For example, in 1972 the General Accounting Office found that EIS's had been prepared on only a very small number of the hundreds of environment-oriented bills then pending.[12] More recently, the federal courts in the District of Columbia have reached differing results in several suits brought by private parties seeking to enforce the EIS requirement for legislation.[13] One district court judge has held that the NEPA requirement of an EIS for legislative proposals is enforceable by a private right of action seeking a declaratory judgment on the adequacy of the impact statement.[14] While a definitive ruling is still lacking in this area, the requirement of EIS's for legislation apparently has been little followed or enforced.

Economic impact: Another recent example of impact assessment is the Economic Impact Statement program, initiated by Executive Order in 1974.[15] The objective of the program is to improve administrative decisionmaking by requiring agencies to consider the economic impact of their regulatory and legislative proposals. It should be noted that the program is concerned solely with executive branch decisions on legislative proposals. Of the 25 agencies covered by the Economic Impact Statement program, nine have produced a total of 49 formal analyses; only eight of these analyses concerned legislative proposals.[16] The Executive Order chartering the program expired at the end of 1977, and no decision has been made about continuing the program.

Budgetary impact: One area of impact assessment in which significant progress has been made is analysis of the budgetary consequences of proposed legislation. Under the provisions of the Congressional Budget and Impoundment Control Act of 1974, the Director of the Congressional Budget Office is directed to prepare five-year cost estimates of bills reported by Congressional committees.[17] As the conference report on the act explains, the cost analysis should be submitted to the reporting committees so they can examine it before its publication.[18] These analyses have accompanied reports of a number of justice related bills, such as the recent legislation to increase the number of federal judgeships.[19] A number of states also have statutory provisions requiring "fiscal notes" on legislation, which could include court-related bills.[20]

In overview, these impact assessment efforts reveal some of the problems of measuring impact in the analogous areas of justice-related legislation. Of course, few court-related bills would have fiscal impacts of the magnitude of statutory changes in such areas as social welfare programs. And the experience with environmental impact statements has been one of delay and expense in impact statement formulation as well as controversy over the sufficiency of the impact statements actually produced. Yet impact assessment in these fields does demonstrate the potential benefits of legislative action on a more informed basis.

STATE IMPACT ASSESSMENT

States have done some of the most substantial work in developing means of assessing the impact of proposed legislation on the courts. In 1974 Ralph Andersen and Associates submitted a report to the Judicial Council of the State of California, *Guidelines for Determining the Impact of Legislation on the Courts*.[21] The Andersen report recommended that three variables be assessed: caseload, case disposition, and fiscal impacts. The first variable (caseload) is the most innovative, in that the Andersen report recommended study of legislative impact on such factors as access to courts, probability of appeals, and the scope of matters to be heard by the courts.[22]

In recent legislative sessions, the Judicial Council of California, through the Administrative Office of the Courts, has prepared an average of 40 bill reports in each session. The Administrative Office uses the status of a bill and the magnitude of its potential impact on court operations as the basis for undertaking an impact report.

The California program may soon be followed with comparable efforts throughout the states. At the recent conference sponsored by the National Center for State Courts, "State Courts: A Blueprint for the Future," the participants discussed a monograph on "The Implementation of Court Improvements."[23] One of their major recommendations endorsed the concept of judicial impact statements that would include broad assessments of the consequences of legislative, executive and administrative policies in the state.[24]

PILOT STATEMENT

It was against this backdrop that Senator Strom Thurmond last August requested that the Department of Justice offer testimony before the Senate Veterans' Affairs Committee on S. 364: "The members of the committee are interested in having the views of the Department on the impact of the enactment of this proposal on the workload of the federal court system."[25]

Under present law, most final decisions of the Veterans Administration (V.A.) are not subject to judicial review.[26] Section 2 of S. 364 would repeal this exemption by making V.A. administrative determinations subject to the judicial review provisions contained in the Administrative Procedure Act.[27] Section 3 of the bill makes the Administrative Procedure Act applicable to the promulgation of rules, regulations, and orders of the Administrator of Veterans Affairs. Section 4 of the bill repeals a long-standing statutory limit of $10 for counsel fees in V.A. claims matters.[28]

Footnotes at end of article.

A general lack of data or experience with comparable legislation or statutes made it difficult to assess the impact of sections 3 (rule-making) and 4 (attorney fees). For example, section 3 might encourage an undetermined number of challenges to V.A. actions which do not involve a denial of individual claims. By removing the current $10 limitation on attorney's fees, section 4 would provide attorneys a greater incentive to represent V.A. claimants; claimants represented by counsel would probably raise more issues, thus taking more time to resolve, and claimants with counsel would be more likely to challenge V.A. rulings in the district courts. These factors would increase the number and complexity of V.A. cases filed in the district courts under S. 364.[29]

CASELOAD

Section 2 of the bill, making V.A. rulings subject to district court review, was more susceptible to impact measurement. The Veterans Administration handles millions of administrative actions every year, ranging from the operation of veterans hospitals across the country to decisions on individual claims and entitlements under scores of separate benefit programs.[30] The Board of Veterans Appeals provides final appellate review of most of these decisions.[31]

In fiscal year 1976 the Board acted on 28,482 cases; 3,628 cases were allowed (13 per cent of the total); 19,927 cases were denied (70 per cent); and the balance were remanded or withdrawn.[32] Preliminary data for FY 1977 are comparable to the 1976 data, with 22,900 cases denied by the Board (71 per cent) of the 32,191 cases decided.[33]

Under section 2 of S. 364, any claimant whose case was denied by the Board of Veterans Appeals could appeal the action to the district courts. Now if we assume that the statute of limitations on claims against the United States will apply to S. 364, then claimants from up to six previous years could challenge V.A. rulings in court.[34]

The experience with claimant appeals from analogous Social Security Act and Black Lung Program cases, however, suggests that only a fraction of these V.A. cases would be appealed. In social security and black lung cases, the final administrative appellate authority is the Bureau of Hearings and Appeals, and its decisions can be appealed to the district courts.[35] In fiscal year 1976 the Bureau's Appeals Council received 48,759 cases and denied 46,875 of these cases.[36] Social security disability cases and black lung cases account for more than 70 per cent of the cases decided by the Appeals Council.[37]

In 1976, 10,355 cases were filed in the federal district courts under the social security laws, which includes both Social Security Act cases and Black Lung Program cases.[38] Thus, about 22 per cent of the cases denied by the Bureau of Hearings and Appeals were appealed to the district courts. The challenge rate appeared to have dropped somewhat since 1976, so 20 per cent was chosen as an approximation of the social security challenge rate for comparative purposes.

Before following the application of the social security challenge rate to V.A. cases, some other observations about social security litigation should be noted.

First, the growth of the social security caseload in the district courts has been substantial in recent years. For example, social security filings in the district courts have increased over 72 per cent since 1975, and 481 per cent since 1970.[39] Much of this increase, however, can be attributed to Black Lung Program claims, and may represent the peak of a pent-up "bulge" of claims.

Second, in 1977 there were 12,166 social security cases pending in the district courts, compared to 3,397 social security cases pending as recently as 1974.[40]

Footnotes at end of article.

Finally, social security cases probably require less judicial time per case than other classes of cases. For example, of the 8,051 social security cases terminated in the district courts during 1977, only 21 cases (0.38 per cent) actually went to trial; almost all the cases were terminated before pretrial.[41]

The lesser demands on "judge time" of social security cases were confirmed in the 1969–1970 district court time study by the Federal Judicial Center.[42] The Center found that social security cases took about 77 per cent of the judge time required to dispose of an "average" civil case, such as those under the Labor Management Relations Act or cases involving trademark issues under federal law.[43] Judge time for these cases also is reduced today by the frequent use of magistrates to hear motions.

Since the Board of Veterans Appeals denied 22,900 claims in 1977, we could expect that about 20 per cent of these denials (4,600) would be appealed to the district courts if S. 364 were enacted. These 4,600 new civil cases would increase the total number of civil filings in the district courts by 3.5 per cent based upon 1977 data.[44]

JUDGESHIPS

In 1977 the United States district courts had 398 authorized judgeships.[45] During the same period a total of 172,031 cases were filed—an average of 432 filings per authorized judgeship.[46] If 4,600 new V.A. cases were added, the courts would need 11 new judges to maintain the 1977 level of filings per judge. This estimate was reduced somewhat by considering assistance by magistrates, and by multiplying the estimated number of new V.A. cases (4,600) by the Federal Judicial Center Time Study Weight for social security cases (.77) to arrive at an adjusted total of 3,542 cases, which would require an adjusted total of about eight new federal district court judgeships.

Of course, judgeships represent only the most visible part of the judicial machinery, which includes clerks, administrative assistance, office and court facilities, and other support services. At the appellate level, the relatively low incidence of appeals in social security cases would suggest that perhaps only one more circuit court judgeship would be necessary.

The Administrative Office of the U.S. Courts estimated that a new circuit court judgeship would require three staff positions, eight new district court judgeships would require 40 staff positions, and the projected caseload would require 46 deputy clerks. Personnel costs for these positions would be $2,054,000, and supporting costs would be $978,000, for a first year annual total of $3,032,000.

A further impact on the federal justice system would be an increase in the number of government attorneys and supporting staff required to litigate these 4,600 new V.A. cases. In response to a request by the Veterans' Affairs Committee, the Department of Justice estimated that these cases would require 21 assistant U.S. attorneys and 24 other positions (not counting attorneys and support personnel for the Veterans Administration). Personnel costs for these positions would be $885,000, and supporting costs would be $535,000, for a first year annual total of $1,420,000.

STATEMENT SUMMARY

In overview, the provisions of S. 364 would change several aspects of the workload of the federal district courts. First, the estimate of 4,600 cases represents a 3.5 per cent increase in the number of civil cases, filed during 1977, and includes only the expected appeals from compensation cases. Under the provisions of section 3 of S. 364, administrative rulemaking also would be subject to judicial review under the Administrative Procedure Act; no attempt was made to estimate the number of these cases.

Second, the increase would initially consist of relatively new case types, involving construction of unfamiliar statutes and regulations. Until the case law developed sufficiently to resolve the many issues that would arise for the first time, the demands on judge time would accentuate the accompanying bulge in caseload. A corresponding effect might be a lesser use of magistrates during this initial period, as well as higher attorneys fees for the first cases.

Third, the number of cases potentially reviewable would be even larger, since it would include all administrative denials in the six year period within the statute of limitations. Conceivably, the true addition in the first years could represent as many as six times the 4,600 cases upon which the impact estimates were based.

Finally, and perhaps most difficult to estimate, the true impact of judicial review of V.A. actions will depend upon the frequency of challenges brought about by sections 2 and 3 of S. 364. The Veterans Administration makes nearly 11 million decisions each year relating to benefits, with almost eight million decisions involving compensation. The 22,900 denials by the Board of Veterans Appeals last year represent only a very small fraction of this total, and they are remarkable evidence of the apparent success of V.A. efforts to provide an effective administrative appellate process.

FUTURE WORK

Since completing its pilot project on S. 364, the Office for Improvements in the Administration of Justice has undertaken several other impact studies. One of the most promising is a recently begun, one-year contractual research study that will develop new methodologies for assessing impact and apply them to a number of legislative proposals. Another impact assessment project now underway will assess the impact on the courts and the justice system of the Speedy Trial Act of 1974, as well as the impact of possible amendments to the act.[47]

Recently, Arthur Young & Company completed a study for the Department of Justice on the impact on the staff resources of the Offices of the United States attorneys of draft legislation under consideration in the Department to amend Rule 23(b)(3) of the Federal Rules of Civil Procedure.[48] (This rule governs class actions in federal courts.) The study estimated the number of Rule 23(b)(3) cases that would be litigated annually by the United States attorneys under the draft statute, in the areas of antitrust, securities, and truth-in-lending.

The cost of litigating these cases was estimated by gathering survey data on average attorney hours per case from private law firms currently litigating class actions and by using information from recent district court decisions concerning class action fee awards to law firms. The hour averages then were converted into salary and supporting costs for senior and junior assistant U.S. attorneys, support staff, and corresponding support requirements.

Another project formed the basis of recent Department of Justice testimony before a Senate Judiciary subcommittee on the estimated costs of S. 2354, a bill providing for more liberal awards of attorneys fees for people involved in civil actions with the government.[49] The Department first estimated the number of cases that the government loses annually which would be covered by the bill. Then, based upon average fee awards paid by the government in a sample of cases in the District Court for the District of Columbia during 1977, the Department estimated all the possible fee awards in the district courts for the cases that the government loses annually.

An extensive study has also been completed of estimated claims under a proposed federal program that would compensate vic-

tims of assaultive crimes case under federal jurisdiction; the proposed program is part of the revised Federal Criminal Code being considered by the current Congress.[50]

Outside the Department of Justice, the National Academy of Sciences has established a Panel on Legislative Impact on the Courts, under the auspices of the Committee on Research on Law Enforcement and Criminal Justice. The panel, which will report in 1979, is studying three aspects of justice impact assessment: analysis of federal court loads, current and potential caseload projection methods, and analysis of the potential for litigation in new legislation. The project has been funded by the National Science Foundation with the goal of applying experience in the development of methodologies for justice system analysis to the problem of justice impact assessment. The Department of Justice is working closely with the panel on its study.

RESEARCH ISSUES

The impact statement on S. 364 may be particularly significant for, unlike the Senate Committee on the Judiciary, the Senate Veterans' Affairs Committee does not have jurisdiction over traditional "court-related" legislation. Thus, the justice impact statement should serve to inform the Congress of the consequences of the bill that would not usually be considered by the Veterans' Affairs Committee. The committee's request for this statement indicates the potential interest and value to all committees of information about the impact of bills on the justice system.

Further research regarding the development and use of justice impact statements must include full consideration of three major factors: methodology, preparation and use of impact statements, and adequate measures of justice impact.

Methodology: First, the development of the impact statement on S. 364 shows that the methodology of these assessments, and the necessary data bases, must be refined. For example, since we know little about attorneys' fees as an incentive to litigation in claims for government benefits, we could not assess the impact of section 4 of S. 364. The analogous comparisons of challenges to social security administrative determinations was not fully explored to determine whether these cases truly are comparable with potential VA cases.

Converting projected district court caseloads into requirements for new judgeships is particularly troublesome. For example, social security cases are reviewed in the district courts on the basis of the administrative record, but S. 364 would entail *de novo* review of VA claims, requiring greater judicial time. The Justice Department's impact statement, therefore, was based upon a key assumption that the bill would be amended to provide for review on the record, as in social security cases. Also, the choice of a conversion factor using total civil and criminal filings presents an implicit assumption that the federal judiciary currently is working at full capacity, so that new judgeships should be added to hold total filings at the current level.

Finally, the impact statement relied upon straight-line caseload forecasting used for only one year. This approach does not reflect more sophisticated analyses that could be done by estimating possible changes in the multitude of variables that affect caseload growth over time.[51] Of course, one of the most dramatic examples of such change has been the drastic downturn in Selective Service Act cases since the early 1970's. As we said before, the increase in Black Lung Program filings is also slowing, which perhaps reflects the availability of more effective remedies for claimants.

Implementation: The second major factor in the use of justice impact statements includes such issues as who should prepare them and at what phases in the legislative process they should be considered. In the case of S. 364, the Senate committee requested that the Department of Justice comment specifically on the impact of the bill upon the federal courts. In the future, the Administrative Office of the United States Courts may be asked routinely to assess the impact of proposed legislation upon the courts.

Similarly, the Department of Justice may be better suited to assessing the impact of legislation on other aspects of the federal justice system, such as investigations, criminal prosecutions, civil litigation in which the government is involved, and corrections. In the case of legislation affecting the state and local justice systems, organizations like the National Center for State Courts may be the most appropriate source of impact assessment. Finally, the Congress may wish to develop a special analytic capability for justice impact assessment similar to the role of the Congressional Budget Office discussed earlier.[52]

Justice impact statements can be used at various points in the legislative process. Congressional committees, for example, might routinely request that witnesses at hearings on bills that would affect the justice system include some assessment of the justice impact. This approach would give the committees a range of views on the impact of legislation, and it would remove some of the problems of institutional bias that are inherent in having a single agency responsible for impact assessment.

Further, the Congress could amend its rules to require that a justice impact statement accompany every bill reported from committee that would affect the justice system, though such a routine requirement might be burdensome, when applied to all reported bills. In addition, such a requirement would require additional staff resources to complete justice impact findings for each committee.

THE QUALITY OF JUSTICE

The final issue that we must study is probably the most important one: how can a justice impact assessment measure the effects of proposed legislation on the *quality* of justice delivered, not simply the effects on requirements for new judges and increased budgets? Proposed legislation that would affect the justice system should be reviewed to assure that its passage will not impair the quality of justice to which all citizens are entitled.

Such a goal raises difficult definitional and methodological problems. For example, the increase in judgeships estimated in S. 364 was derived by estimating the number of new judgeships that would be required to hold civil and criminal filings per judgeship at their current levels. This approach assumed that the workload of the federal judicial has reached a ceiling at which the quality of justice would decline if the workload for each judge increased.

But it may be necessary to consider other possibilities in the future. New legislation generally affects more than the district courts alone; it often affects alternative forums, too. Thus, impact statements will have to consider the assignment of new business to appeals courts and to magistrates. And as we begin to make use of alternative means of dispute resolution, legislators may want to consider mechanisms such as arbitration or improved administrative proceedings in lieu of a district court trial.

In all these cases, the key question will clearly be the quality of justice that the nation is providing its citizens. Analyzing that aspect of new legislation is far more difficult than making the comparatively simple computations about additional resources. But the question of the quality of justice is plainly the most important question that Congress must answer before adequate reform of the justice system can be legislated.

FOOTNOTES

[1] Warren Burger, *State of the Federal Judiciary—1972*, 58 A.B.A.J. 1049, 1050 (1952).

[2] *Id.*

[3] *See general Hearings on the State of the Judiciary and Access to Justice Before the Subcomm. on Courts, Civil Liberties, and the Administration of Justice of the House Comm. on the Judiciary*, 95th Cong., 1st Sess. (1970).

[4] *Id.* at 112 (statement of Professor Burt Neuborne on behalf of the American Civil Liberties Union).

[5] Statement of Deputy Assistant Attorney General Paul Nejelski on S. 364, 95th Cong., 1st Sess., before the Senate Comm. on Veterans' Affairs (August 31, 1977).

[6] Act of Feb. 13, 1925, ch. 229, 43 Stat. 936.

[7] Felix Frankfurter and James Landis, THE BUSINESS OF THE SUPREME COURT (1928).

[8] American Law Institute, A STUDY OF THE BUSINESS OF THE FEDERAL COURTS (1934).

[9] ANNUAL REPORT OF THE DIRECTOR, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS (1940).

[10] Burger, *supra* n. 2, at 1050.

[11] National Environmental Policy Act of 1969, § 102(2)(C), 42 U.S.C. § 4332(2)(C) (1970).

[12] Comptroller General of the United States, REPORT TO THE SUBCOM. ON FISHERIES AND WILDLIFE CONSERVATION, IMPROVEMENTS NEEDED IN FEDERAL EFFORTS TO IMPLEMENT THE NATIONAL ENVIRONMENTAL POLICY ACT OF 1969, at 51–55 (May 18, 1972).

[13] *See* Chamber of Commerce of United States v. Dept. of Interior, 439, F. Supp. 762 (D.D.C. 1977), and cases cited therein; *see generally Impact Statements on Legislative Proposals: Enforcing the Neglected Half of NEPA*, 7 ENVIR. L. REP. 10145 (1977).

[14] Atchison, Topeka & Santa Fe R.R. Co. v. Callaway, 431 F. Supp. 722 (D.D.C. 1977); *cf.* Chamber of Commerce of United States v. Dept. of Interior, 439 F. Supp. 762, 765–68 (D.D.C. 1977) (plaintiff sustained no "injury in fact" sufficient to confer standing to sue).

[15] Exec. Order No. 11821, 3 C.F.R. 926 (1971–1975 Comp.), *as amended* Exec. Order No. 11949, 3 C.F.R. 161 (1976).

[16] Council on Wage and Price Stability & Office of Management and Budget, An Evaluation of the Inflation Impact Statement Program (December 7, 1976).

[17] Congressional Budget and Impoundment Control Act of 1974, § 403, 31 U.S.C. § 1353 (Supp. V 1975).

[18] S. REP. No. 93–924, 93d Cong., 2d Sess. 67 (1974), *reprinted in* [1974] U.S. CODE CONG. & AD. NEWS 3591, 3609.

[19] H.R. REP. No. 95–858, 95th Cong., 2d Sess. 8 (1978) (cost estimates for new federal judgeships, fiscal years 1978–1982).

[20] *See, e.g.*, ILL. ANN. STAT. ch. 63, §§ 42.31–42.39 (Smith-Hurd); N.J. STAT. ANN. §§ 52:13–B–1—52:13–B–5 (West).

[21] Ralph Andersen and Associates, Guidelines for Determining the Impact of Legislation on the Courts (submitted to the Judicial Council, State of California, June 30, 1974).

[22] *Id.* at 116–35.

[23] David Adamany, *The Implementation of Court Improvements*, STATE COURTS: A BLUE PRINT FOR THE FUTURE (1978) (conference monograph, National Center for State Courts).

[24] *Id.* at 19.

[25] Letter from Senator Strom Thurmond to Attorney General Griffin B. Bell (August 5, 1977).

[26] 38 U.S.C. § 211(a) (1970).

[27] 5 U.S.C. § 552 (1976).

[28] 38 U.S.C. § 3404(c) (1970).

[29] *See* statement of Harvey R. Levin on S. 364, 95th Cong., 1st Sess., before the Senate Comm. on Veterans' Affairs (September 21, 1977) (views of the American Bar Associa-

tion Special Committee on Federal Limitations on Attorney's Fees on the Attorney fees limitation in V. A. cases).

[30] For an overview of V.A. programs, *see* ADMINISTRATOR OF VETERANS AFFAIRS, ANNUAL REPORT (1976) [hereinafter cited as V.A. REP.].

[31] 38 U.S.C. §§ 4001–4008 (1970).

[32] V.A. REP., *supra* n. 30, at 195.

[33] S. 364 statement, *supra* n. 5, at 11–12.

[34] 28 U.S.C. § 2401(a) (1970).

[35] For an overview of the work of the Bureau of Hearings and Appeals, *see* Dept. of Health, Education, and Welfare, OPERATIONAL ANALYSIS OF THE BUREAU OF HEARINGS AND APPEALS (June 30, 1976) [hereinafter cited as BHA REP.]. The claims heard by the Bureau arise under the Social Security Act, ch. 531, 49 Stat. 620, *as amended* (codified in scattered sections of 42 U.S.C.) (1970 & Supp. V 1975), and the Federal Coal Mine Health and Safety Act of 1969, Pub. L. No. 91-173, Title IV, *as amended* by Black Lung Benefits Act of 1972, Pub. L. No. 92-303, 30 U.S.C. § § 901–960 (1970 & Supp. V 1975).

[36] BHA REP., *supra* n. 35, at 30.

[37] *Id.*

[38] ANNUAL REPORT OF THE DIRECTOR, ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS 114–16, A–14–15 (1977) [hereinafter cited as 1977 A.O. REP.]. *Compare* the Bureau of Hearings and Appeals report of 9,158 district court filings for the same period, BHA REP., *supra* n. 35, at 32.

[39] 1977 A.O. REP., *supra* n. 38, at 114.

[40] *Id.* at 89.

[41] *Id.* at A–24.

[42] Federal Judicial Center, 1969–1970 FEDERAL DISTRICT COURT TIME STUDY (June 1971). The Center currently is planning to update this study.

[43] *Id.* at Table XVII.

[44] 1977 A.O. REP., *supra* n. 38, at 5.

[45] *Id.* at 3.

[46] *Id.*

[47] Speedy Trial Act of 1974, Pub. L. No. 93-619, 18 U.S.C. §§ 3152–3156, 3161–3174, 28 U.S.C. § 604 (Supp. V 1975).

[48] Arthur Young & Co., Evaluation of Certain Impacts of Draft Legislation Amending Rule 23(b)(3) Procedures (submitted to the Office for Improvements in the Administration of Justice, February, 1978). The study was based upon *Effective Procedural Remedies for Unlawful Conduct Causing Mass Economic Injury, Draft Statute with Comments,* Office for Improvements in the Administration of Justice, U.S. Department of Justice (1977).

[49] Statement of Deputy Assistant Attorney General Paul Nejelski on S. 2354, 95th Cong., 2d Sess., before the Subcomm. on Improvements in Judicial Machinery, Senate Comm. on the Judiciary (March 13, 1978).

[50] Jones *A Cost Analysis of Federal Victim Compensation, in* SAMPLE SURVEYS OF THE VICTIMS OF CRIME 189 (Wesley Skogen, ed. 1976).

[51] For an overview of case load forecasting, *see generally* Federal Judicial Center, DISTRICT COURT CASELOAD FORECASTING (1975); Goldman, Hooper and Mahaffey, *Caseload Forecasting Models for Federal District Courts,* 5 J. LEGAL STUD. 201 (1976).

[52] *See* discussion of the Congressional Budget Office reports, *supra* n. 17–18, and accompanying text.

Mr. PROXMIRE. Mr. President, I reluctantly oppose the amendment of the distinguished Senator from New Mexico. He is a very diligent member of the committee, and has done a lot of fine work; and his amendment does have very considerable merit.

The difficulty with this amendment, however, is that we have not had the kind of record we ought to have. We have not studied it carefully, and in view of the fact that it goes so much farther than the Chiles amendment and the Bentsen amendment, both of which we have taken, it seems to me we would not be acting responsibly if we did not get the judgment of the agency involved as to the effect of the amendment, the cost of the amendment, and the full effect on such agencies of requiring, as to such rules and regulations, an economic impact analysis, including any alternative proposals they may wish to have considered. An economic impact analysis as far-reaching and detailed as the Schmitt proposal contains could have a tremendous impact, require great resources of time and manpower, be very costly, and not be very effective. It could very easily create a great deal more paperwork than it would correct.

Also, the paperwork impact analysis, which the Chiles amendment provides anyway, and the Bentsen amendment provides in a different way, is also something completely new, as is the judicial impact analysis.

The Senator from New Mexico says the Chief Justice has called for that kind of thing. Maybe he has, but it seems to me the Senate would be well served if we had judicial experts come in, perhaps from the Justice Department and the Judiciary, and testify as to how this would work out.

Ironically, this is the kind of legislation, it seems to me, which could result in the kind of regulations, in turn, which Congress would deplore, because we have not had a chance to know what we are doing.

The Senator from New Mexico is a very conservative person. He deserves a lot of credit for proposing to us that we have a judicial impact analysis.

Frankly, in the 20 years I have been here, this is the first time I have heard that discussed on the floor of the Senate, though maybe it has been discussed before. I am told that some other committees have adopted similar legislation, such as the Commerce Committee. But I understand that in every case, that was done after hearings, after a markup, after deliberations on the part of the committee. In this case, we have not had any of that. In the Chiles amendment there were at least hearings in the Budget Committee. As I say, it is a much more limited amendment. It pertains to paperwork.

Mr. President, let me also point out, if I may just have a minute or two more, that the Schmitt amendment provides that the Secretary shall prepare and publish in the Federal Register with any rule or regulation, a comprehensive reference index of all other rules or regulations pertaining to the same subject matter as the proposed rule or regulation, including all such rules and regulations by title and subject matter, and so on.

That could solve our unemployment problem, because it could put hundreds of thousands of people to work if it is as comprehensive as it seems to be on the basis of a first reading. I may be very unfair to this amendment, but I think it is the kind of thing that should require hearings, a record, cross-examination, debate and discussion in a markup session, and not just having it brought to the floor and acted upon without adequate consideration.

For that reason, I would be, reluctantly, opposed to the amendment of my good friend from New Mexico. I would hope he would agree that the committee should be permitted to have hearings on this. I assure him we will have them promptly. After we go into it, we would report it as soon as we could, hopefully this year and, if not, early next year. That would move it along. As I say, I think it has great potential merit.

Mr. BROOKE. Will the Senator yield?

Mr. PROXMIRE. I am happy to yield to my friend from Massachusetts.

Mr. BROOKE. I understand what the distinguished chairman is saying, but the Senator from New Mexico at least introduced this amendment and we have had the opportunity to review the amendment, and we know what it does. The Senator from Florida introduced an amendment today which we were not aware of.

The Senator makes the point that we did not have hearings on the Schmitt amendment; but we also did not have hearings on the Chiles amendment either. We have not had hearings on either amendment.

Mr. PROXMIRE. If the Senator will yield, the Chiles amendment, No. 1, is much less far reaching. It does not have judicial review or impact review. It has a very limited economic impact, very carefully defined, so it is not as far reaching as the Schmitt amendment.

Furthermore, the Senator from Florida argued that there were hearings to a considerable extent in the Budget Committee relating to this amendment, perhaps not as comprehensive as I would like to see them, of course, but much more than we have had on this one. It is true that the Senator from New Mexico introduced his amendment, but we have not had committee action on it.

Mr. BROOKE. We have not had committee action on the Schmitt amendment. But the requirement for such impact statements were included in the Regulatory Reform Acts approved by Congress last year which cover the major independent regulatory agencies. So it is not that new. That is the point I am trying to make. I think the Senator from New Mexico would agree.

Mr. SCHMITT. The Senator from Massachusetts is absolutely correct. I think all of the arguments of the chairman in support of the Chiles amendment apply to the amendment of the Senator from New Mexico. The same information has been discussed by a committee of the Senate. It has precedence in Executive orders, and so forth.

I would remind my colleagues that the bill is worded with the understanding that it could be a burden if it was exceptionally rigid. So we used the term "to the extent practicable the Secretary shall" do such-and-such.

In the last paragraph of the amendment, on page 4. I would draw attention again to "Where it is necessary the Secretary shall substitute most reasoned

estimate based upon the experience of the department."

So we are not in any way mandating the broad-scale employment of new people. As a matter of fact, all we are requiring is what the Secretary hopefully is already doing with respect to regulations that will be promulgated, and that it become a slightly more formal process, and that it be published along with the regulation in the Federal Register. It is as simple as that.

Mr. BROOKE. Will the Senator yield?

Mr. SCHMITT. I am happy to yield.

Mr. BROOKE. I quite agree the Senator is not mandating any major new responsibility here at all and is not putting an undue burden upon the Secretary.

In addition to that, I believe that the requirement for these impact statements would help the committee in its oversight responsibilities.

Mr. PROXMIRE. Will the Senator yield?

Mr. BROOKE. I yield.

Mr. PROXMIRE. I think it could be a very fine amendment, but I think if the committee process means anything we ought to hear from the Secretary, who is so drastically affected by this, to have her come in and give us her view; give us her reasons for objecting, if she does; tell us how we can improve it, how we can make it more practical; to give her her day in court.

I think it is unfair to impose upon an agency what could be an enormously heavy burden, without giving the agency the opportunity to comment on it.

Mr. BROOKE. If the Senator will yield, I cannot understand how the Senator feels so strongly about giving the agency an opportunity to comment with regard to the Schmitt amendment but does not feel as strongly about it with regard to the Chiles amendment, though I admit it goes a little further than the Chiles amendment. We still have not had hearings so far as our committee is concerned. And we still have not heard the Secretary of HUD on the ramifications or the impact of the Chiles amendment.

As the Senator from New Mexico has said, he certainly has circulated his amendment. I think every Member of the Senate has had it for—how long?

Mr. SCHMITT. Several weeks.

Mr. PROXMIRE. May I say the Chiles amendment goes no further than the executive order. The Schmitt amendment provides for an economic impact analysis. It provides for a judicial impact analysis. It goes a great deal further, and I think there is a great difference. I think there is a recognition that we have had a great deal of discussion and experience under the President's executive order, and that it is a limited requirement.

On the other hand, what Senator SCHMITT is proposing has great potential merit and may be right. But I think if the Senate is going to act responsibly, if it is going to rely on the committee system, if it is going to have something that is going to work and be practical, we ought to have a chance to have a hearing on it. We would then come to the Senate with a report and with a hearing record so that people would know what they were doing.

Mr. BROOKE. If the Senator will yield for a question, I was not able to attend the conference between the chairman and the Senator from New Mexico and the Senator from Florida because I was in the Chamber at the time. Would the Senator from Florida accept the amendment of the Senator from New Mexico?

Mr. PROXMIRE. The Senator from Florida distinctly told me that he was opposed to that. He thinks his amendment is adequate. He thinks that we should not go further. He would resist and oppose the amendment of the Senator from New Mexico.

Mr. BROOKE. If I might ask a further question. If the Senator from New Mexico and the Senator from Florida would agree, would the chairman then agree to have hearings on both of these amendments expeditiously?

Mr. PROXMIRE. I would be delighted to hold hearings, yes, indeed, on both amendments, but the Senator from Florida has moved his amendment. He has a right to do it, as the Senator knows. The Senator from New Mexico is calling up his amendment as a substitute, and it is before us now. I would be happy to hold hearings on both, and I would be very happy if both Senators would withdraw their amendments. I understand that both Senator SCHMITT and Senator CHILES want to press for a vote. There is nothing this Senator can do.

Mr. BROOKE. The Senator from Florida has said he wanted to press for a vote and would not agree to hearings on his amendment. Is that his position?

Mr. PROXMIRE. That is his position.

Mr. BROOKE. Then I would assume that is the position of the Senator from New Mexico.

Mr. SCHMITT. If the Senator will yield, yes, it is. I agree completely with the Senator from Florida. I think the record is clear. The economic impact analysis has a record of Executive orders just like the paperwork analysis does. The record may be even stronger for the amendment of the Senator from New Mexico because of the action of the Senate last year on bills that I mentioned previously. Those bills, by the way, went to some very important commissions among the independent agencies: The Federal Maritime Commission, the Federal Trade Commission, the Consumer Product Safety Commission, the Interstate Commerce Commission, the Federal Power Commission, the Federal Communications Commission, and the Civil Aeronautics Board.

These are agencies that have as much if not more regulatory power than even the Department of Housing and Urban Development. I think it is important to realize that the Senate has considered this. It has been considered in a variety of committee actions within the Committee on Commerce. It is something that clearly is needed and logical at this time.

Mr. FORD. Mr. President, will the Senator yield to me?

Mr. PROXMIRE. I yield to the Senator such time as he may require.

Mr. FORD. I want to take but a minute or two, because the Senator from New Mexico has referred to at least two pieces of legislation which I carried.

It is true that basically, what the Senator is attempting to substitute here for the Chiles amendment was placed on at least two of those pieces of legislation. It is also evident that those on the Commerce Committee who approved it went to conference and withdrew and took them off both of our pieces of legislation. So, even with the hearings and the approval by the committee and carrying on to conference with the House, those Members who were there and heard and cross-examined were willing to withdraw their support for this type of amendment to these pieces of legislation.

I say to the Senator from New Mexico that he should, I believe, accept the offer of the chairman to hold hearings on this legislation, because he is going much farther at a much larger business. I do not know how we could ever judge judicial impact, but I am perfectly willing to leave that to those who are lawyers. I am perfectly willing to say, on economic impact, let them choose. But the Senator is so loose with his amendment that they can take the best facts available from whatever source and he knows they can get any kind of information they want. So they will never have a study. They will never dig into it, because he has loosened it up so at the end of his amendment that it really is meaningless.

I am very hopeful that, since he cited two pieces of legislation that I carried, he will yield to the chairman of the Banking, Housing, and Urban Affairs Committee and let the agencies come in and pin it down a little tighter. I think with the two amendments—the amendment of the Senator from Texas, which they have already accepted, and if they now accept the amendment of the Senator from Florida, he has made two giant steps today. I think then, if the Senator from New Mexico would take his and have the hearings with the word of the chairman—which I have found to be perfect—he will give a fair and impartial hearing and the Senator can bring people in and let them look at the vast agency.

He might come off somewhat better than attempting to put it on a piece of legislation today. If he did, in all probability it will be taken off in conference, because that is the history of it. I think the Senator from New Mexico would fare much better, and I encourage him to listen to the chairman and then take his case to the committee and then come back to the floor, if it should fly through that committee.

Yes, the Commerce committee has put it on, but we have given it up every time I am on that committee, as the Senator is.

I hope very much that the Senator from New Mexico will withdraw his amendment and let the Chiles amendment go on in addition to the Bentsen amendment and then, in the near future, accomplish his purpose.

Mr. SCHMITT. Mr. President, how much time does the Senator from New Mexico have?

The PRESIDING OFFICER. Ten min-

utes remain to the Senator from New Mexico.

Mr. SCHMITT. Mr. President, I appreciate very much the advice of the Senator from Kentucky. I also appreciate the offer of the chairman to hold hearings and I know that that is sincere and that will be done. But I think it is also clear, from my reading of the mood of the Senate and the mood, certainly, of our constituents, that now is the time for us, as elected representatives, to take specific action in this area to try at least to better understand the regulations that are being promulgated, if not to try to exercise more legislative control over them.

I understand what the Senator from Kentucky is saying about what happens in conference and I think that is another area that should be of great concern by the Senate in that, too often, the will of the Senate has been thwarted in conference. There are many reasons that this happens. I do not think that should be cited as a reason not to proceed to attempt, once again, to do something that the majority of the Senate would want to do. I think it just becomes more and more imperative every year on our conferees to begin to stick more closely to the position of the Senate.

I realize that a conference is necessary to have give and take, but, unfortunately, in my very limited experience, in the last 18 months, the Senate has tended to give. I think we are going to have to be much stronger in our conference activities.

I also say to the Senator—both Senators—that, first, the argument is that this is too much of a burden; then there is the argument that we have given too much of a loophole. That sounds to me like we are somewhere in between, which is about where I should like to be.

I also think that the intent is very clear and that the Secretary would need, to the best of her ability—or his ability at some time in the future—to adhere to that intent. If it is reasonable to do so, then a study, as they should be doing anyway, should be undertaken to determine economic, paperwork, and judicial impact. If it is a new area where there is no precedent, the Secretary may make estimates based on available information and on commonsense.

I do feel that it is important to realize that, with the history of regulation that is now with us from the last several decades, in most new regulation, there is sufficient background that we or the Secretary can well predict what the economic or judicial or paperwork impact is going to be just by looking at history.

I think the time has come, Mr. President, for the Senate to be recorded on this matter. I am confident that in the present climate, the Senate knows exactly what the people want us to do. They want us to exercise greater legislative authority over the regulatory agencies and not to depend on that long, drawn-out process called oversight. Oversight is extremely important so we can understand the agency, what it is doing, what the problems are. But I think we shall find it very ineffective in terms of keeping legislative control over regulations which are going to have the force of law on the people of this country, and it is law that is being created by unelected bureaucrats, not by their elected representatives.

I reserve the remainder of my time.

Mr. PROXMIRE. Mr. President, will the Senator consider yielding back his time and have a vote so we can move along?

Mr. SCHMITT. If there are no other statements, I shall be happy to yield back my time.

Mr. PROXMIRE. Mr. President, I yield back my time and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. PROXMIRE. I suggest the absence of a quorum and ask unanimous consent that it be taken out of the time on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BROOKE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. HODGES). Without objection, it is so ordered.

Mr. BROOKE. Mr. President, I ask for the yeas and nays on the Schmitt amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico (No. 3254, as modified). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), and the Senator from Montana (Mr. HATFIELD) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

I further announce that, if present and voting the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 36, nays 57, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—36

Allen	Goldwater	Packwood
Baker	Griffin	Pell
Bartlett	Hansen	Roth
Bayh	Hatch	Schmitt
Brooke	Hayakawa	Schweiker
Byrd, Harry F., Jr.	Heinz	Scott
	Helms	Stafford
Chafee	Laxalt	Stevens
Curtis	Leahy	Thurmond
Danforth	Lugar	Tower
Dole	McClure	Wallop
Domenici	Morgan	
Garn	Nunn	

NAYS—57

Bellmon	Gravel	Moynihan
Bentsen	Hart	Muskie
Biden	Haskell	Nelson
Bumpers	Hathaway	Pearson
Burdick	Hodges	Proxmire
Byrd, Robert C.	Hollings	Randolph
Cannon	Huddleston	Ribicoff
Case	Humphrey	Riegle
Chiles	Jackson	Sarbanes
Church	Javits	Sasser
Clark	Johnston	Sparkman
Cranston	Kennedy	Stennis
Culver	Long	Stevenson
DeConcini	Magnuson	Stone
Durkin	Matsunaga	Talmadge
Eagleton	McGovern	Weicker
Eastland	McIntyre	Williams
Ford	Melcher	Young
Glenn	Metzenbaum	Zorinsky

NOT VOTING—7

Abourezk	Hatfield, Paul G.	Percy
Anderson	Inouye	
Hatfield, Mark O.	Mathias	

So the amendment (No. 3254, as modified) was rejected.

The PRESIDING OFFICER. The question recurs on the Chiles amendment.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida (Mr. CHILES). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Montana (Mr. ANDERSON), the Senator from Indiana (Mr. BAYH), and the Senator from Montana (Mr. HATFIELD) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD) is necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 93, nays 0, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—93

Allen	Danforth	Hodges
Baker	DeConcini	Hollings
Bartlett	Dole	Huddleston
Bellmon	Domenici	Humphrey
Bentsen	Durkin	Jackson
Biden	Eagleton	Javits
Brooke	Eastland	Johnston
Bumpers	Ford	Kennedy
Burdick	Garn	Laxalt
Byrd, Harry F., Jr.	Glenn	Leahy
	Goldwater	Long
Byrd, Robert C.	Gravel	Lugar
Cannon	Griffin	Magnuson
Case	Hansen	Matsunaga
Chafee	Hart	McClure
Chiles	Haskell	McGovern
Church	Hatch	McIntyre
Clark	Hathaway	Melcher
Cranston	Hayakawa	Metzenbaum
Culver	Heinz	Morgan
Curtis	Helms	Moynihan

Muskie	Roth	Stone
Nelson	Sarbanes	Talmadge
Nunn	Sasser	Thurmond
Packwood	Schmitt	Tower
Pearson	Schweiker	Wallop
Pell	Scott	Weicker
Percy	Sparkman	Williams
Proxmire	Stafford	Young
Rando.ph	Stennis	Zorinsky
Ribicoff	Stevens	
Riegle	Stevenson	

NAYS—0

NOT VOTING—7

Abourezk	Hatfield,	Inouye
Anderson	Paul G.	Mathias
Bayh		
Hatfield,		
Mark O.		

So Mr. CHILE's amendment (No. UP 1440) was agreed to.

Mr. JAVITS. Mr. President, I would like the Senator from New Mexico recognized, and he is going to yield to me.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. SCHMITT. Mr. President, I would yield to the Senator from New York such time as he requires.

Mr. JAVITS. I thank my colleague. I ask unanimous consent that these amendments which I will call up may appear at an appropriate place in the RECORD without interferring with the recognition of the Senator from New Mexico.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1445

(Purpose: To provide operating assistance to Section 236 assisted troubled projects)

Mr. JAVITS. Mr. President, I send to the desk an amendment for myself, Senators BROOKE, MOYNIHAN, WILLIAMS, and HEINZ.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) for himself and others proposed an unprinted amendment numbered 1445.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment may be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 25, lines 2 and 3, strike out "covered or formerly covered by mortgages insured under the National Housing Act" and insert in lieu thereof the following: "assisted or approved for assistance under the National Housing Act or under the Housing and Urban Development Act of 1965";

On page 25, strike out lines 13 through 18 and insert in lieu thereof the following: "(1)(A) is assisted or approved for assistance under section 236 of the National Housing Act or is covered by a mortgage (including a mortgage assigned to the Secretary) insured under such Act and assisted or approved for assistance under the proviso of section 221(d)(5) of such Act or under section 101 of the Housing and Urban Development Act of 1965, except that, in the case of any such project which is not insured under the National Housing Act, such assistance may not be provided before October 1, 1979, or (B)"; and

On page 26, at line 11, strike out "and" immediately before "(2)", and insert, at line 13, immediately before the period at the end thereof a comma and the following: "and (3) the owner of the project, together with the mortgagee in the case of a project not insured under the National Housing Act, has provided or has agreed to provide assistance to the project in such manner as the Secretary may determine."

Mr. JAVITS. Mr. President, there is a provision in this bill which would give operating assistance, limited to $74 million in 1979, to troubled projects insured by section 236.

The PRESIDING OFFICER. Will the Senator desist for a moment? The Senate will be in order.

The Senator from New York.

Mr. JAVITS. This amendment extends that assistance also to section 236-assisted projects which are insured by State agencies rather than the Federal Government.

As you know, the section 236 program, the old interest subsidy program to provide housing for low- and moderate-income citizens, is composed of two primary parts, the section 236(j) program with projects insured by the Federal Government and the section 236(b) program with projects financed by State agencies and not insured by the Federal Government. As many of you will remember, in proposing the section 236(b) part we were inviting the State agencies to fill a gap the Federal Government could not completely fill and providing them with a mechanism to do so. As a result, we have always attempted to treat the programs and tenants housed under the programs equally.

The new troubled projects operating subsidy program, designed by HUD and included within this bill as reported by the committee, does not do so at the present time, although both the committee debate and report language clearly recognized the need for assistance of the projects built under both parts of the section 236 program. With this amendment we are trying to follow the intent of the committee report since the owners of section 236(b) projects face the same inflationary forces as do their counterparts owning section 236(j) projects. There is no justification for 20 percent of the tenants under this program being treated differently from the other 80 percent.

However, we do recognize, as did the committee, HUD's need to collect reliable data and determine the extent of need in the section 236(b) projects, and therefore, going along with the intent of the committee, have under our amendment delayed funding under this program for State-financed projects until October 1, 1979, while maintaining the principle of equality for all federally subsidized section 236 projects and tenants.

The amendment is conditioned upon the fact that within the discretion of HUD the owner or mortgagee of such State-backed projects should show their good faith by a contribution satisfactory to HUD. This assistance could take the form of the provision of various services, forbearance on delinquencies, tax considerations, rental subsidies, or capital contributions.

I hope very much the committee may look favorably on this amendment.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. PROXMIRE. I understand that this amendment has been discussed with the Housing and Urban Development Department?

Mr. JAVITS. I beg pardon?

Mr. PROXMIRE. This amendment has been discussed with HUD?

Mr. JAVITS. We discussed it with them.

Mr. PROXMIRE. I understand what it would do would be to make State-insured projects eligible; is that correct?

Mr. JAVITS. Exactly, provided that there was a contribution satisfactory to HUD from the mortgagees or owners of that State-guaranteed project.

Mr. PROXMIRE. The one area the staff has cautioned me to be careful about is the impact on the fiscal year 1980 budget.

Mr. JAVITS. This does not take effect until fiscal year 1980.

Mr. PROXMIRE. That is right. It will not be effective in the coming fiscal year, but in fiscal year 1980 it could have some effect, and I wonder if the Senator could give us an estimate of what the range of impact might be on the budget?

Mr. JAVITS. I think there will be control by HUD, for two reasons. One is the fact that HUD has discretion over which projects to help, and two, the fact that HUD will decide what the mortgagee or owner at the State level is contributing. So HUD would have a double control over what it did and over what contribution was due from the State. I would not conceive of its being more than that portion which State projects bear to Federal projects, which would be in excess of 20 percent.

Mr. PROXMIRE. I take it HUD, in turn, would be constrained by their own budget?

Mr. JAVITS. That is correct.

Mr. PROXMIRE. So they would be limited as to how far they would go.

Mr. JAVITS. Exactly; the money would only stretch so far. But in view of the fact that it was we ourselves who invited these programs of State guarantees, we should, at least, treat them equally, and that has been our policy; a State which had 236 projects was treated without discrimination.

Mr. PROXMIRE. Mr. President, I have no objection to this amendment. I congratulate the Senator on it.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. JAVITS. I yield.

Mr. HEINZ. I commend my good friend from New York on this amendment. This question of a State 236 project versus a federally funded one is a very serious problem. As I pointed out during the markup of this bill we have many instances, some of them in my own town of Pittsburgh and my home county of Allegheny, where there is a federally sponsored 236 project with a State sponsored 236 project literally across the street, with tremendous differences in rent, yet with virtually the same construction and the same tenant source.

That was why I suggested that HUD study this question and report back to us by January 1, 1979. I commend Senator JAVITS for a very responsible amendment, which would not implement any strategy until after we received the report from HUD.

I know of no objection on this side of the aisle. I think it is a good amendment. Indeed, I would be pleased to cosponsor it.

Mr. JAVITS. I thank the Senator. Mr. President, I am pleased the Senator from Pennsylvania (Mr. HEINZ) is a cosponsor of the amendment.

I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New York.

The amendment was agreed to.

Mr. JAVITS. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1446

(Purpose: To provide prototype cost limits for multifamily housing)

Mr. JAVITS. Mr. President, on behalf of Senator MOYNIHAN and myself, I send another amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS), for himself and Mr. MOYNIHAN, proposes an unprinted amendment numbered 1446.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 46, between lines 13 and 14, insert the following:

FLEXIBLE MORTGAGE CEILINGS FOR MULTIFAMILY MORTGAGE INSURANCE PROGRAMS

SEC. 314. (a) The provisions of sections 207(c)(3), 213(b)(2), 220(d)(3)(B)(iii), 221(d)(3)(ii), 221(d)(4)(ii), 231(c)(2), and 234(e)(3) of the National Housing Act, establishing maximum mortgage amounts per family units with various bedroom sizes, are repealed.

(b) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall not insure a multifamily mortgage covering property in any area which exceeds, for that part of the property attributable to dwelling use, the appropriate prototype cost for the area by more than 20 per centum.

(c) The Secretary shall determine prototype costs at least annually on the basis of (1) the Secretary's estimate of the construction costs of modest new dwelling units (including units designed for elderly and handicapped families) of various types and sizes in the area, and (2) the Secretary's estimate of reasonable allowances for the cost of land and site improvements. In making such determination, the Secretary shall take into account (A) the extra durability required for economical maintenance of such housing, (B) the provision of amenities designed to guarantee a safe and healthy family life and neighborhood environment, (C) the application of good design as an essential component of such housing maintenance of quality in architecture to reflect the standards of the neighborhood and community (D) the need for maximizing the conservation of energy for heating, lighting, and other purposes, (E) the effectiveness of existing mortgage limits in the area, and (F) the advice and recommendations of local housing producers, housing sponsors, local agencies, and consumers. The prototype costs for any area shall become effective upon the date of publication in the Federal Register.

(d) As used in this section the term "construction costs" means all cost items which are normally reflected in the amount of a multifamily mortgage insured under section 207, 213, 220, 221(d)(3), 221(d)(4), 231, and 234 of the National Housing Act, except the costs of land and site improvements.

(e) This section, other than subsections (f) and (g), takes effect upon the expiration of 6 months after the date of enactment of this Act.

(f)(1) Section 207(c)(3) of the National Housing Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000", in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,100", and "$43,158", respectively.

(2) Section 213(b)(2) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800" and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,100", and "$43,158", respectively.

(3) Section 220(d)(3)(B)(iii) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", $30,300", "$38,100", and "$43,158".

(4) Section 221(d)(3)(ii) of such Act is amended—

(A) by striking out "$16,860", "$18,648", "$22,356", "$28,152", and "$31,884" and inserting in lieu thereof "$22,601", "$26,007", "$31,768", "$41,292", and "$45,392", respectively; and

(B) by striking out "$19,680", "$22,356", "$26,496", "$33,120", and "$38,400" and inserting in lieu thereof "$23,268", "$26,673", "$32,434", "$41,958", and "$46,058", respectively.

(5) Section 221(d)(4)(ii) of such Act is amended by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846" in the matter preceding the first semicolon and serting in lieu thereof "$20.362", "$23,430", "$28,620", "$37,200", and "$40,894", respectively.

(6) Section 231(c)(2) of such Act is amended by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846" in the matter preceding the first semicolon and inserting in lieu thereof "$20,362"; "$23,430", "$28,620", "$37,200", and "$40,894", respectively.

(7) Section 234(e)(3) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,600", and "$43,158", respectively.

Mr. MUSKIE. Mr. President, will the Senator yield for a unanimous consent request?

Mr. JAVITS. I yield.

Mr. MUSKIE. Mr. President, I ask unanimous consent that Jim Case of my staff have the privilege of the floor during the consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JAVITS. Mr. President, this amendment is in two parts. First, it seeks to establish prototype mortgage limits for multifamily housing insured by FHA. The second part of it is to raise the mortgage limits on 221(d)(3) housing and on nonelevator buildings to limits more in keeping with the rising costs of construction.

We have consulted upon these limits with the staff of the committee, so I believe they are within the committee's compass.

I know the first part of this amendment is very controversial. But the concept of prototype limits is not new to the Senate. Prototype cost limits for public housing have been in operation for years. The Congress last year directed HUD to establish such limits for single family dwellings under FHA. And the Senate passed in 1974 a prototype program for multifamily housing similar to the one I am offering today. This provision, however, was not accepted by the conferees.

We find that the adjustment to higher housing costs tends to lag very much behind the market and what is the actual cost of construction, and hence inhibits construction in high cost areas like my own State of New York.

There are many other cities which have the same problem. The prototype per unit costs for public housing recently published by HUD show that eight States contain cities with higher per unit costs than New York City for one bedroom apartments in elevator buildings. Although some are in the Northeast—Massachusetts and Maine—this is not a northeastern phenomenon. Virginia, Pennsylvania, and Ohio east of the Mississippi, and New Mexico, California, Alaska, and Hawaii west of the Mississippi all have cities with higher per unit costs than New York.

Mr. President, the prototype method, of course, is automatic, because then the mortgage limits are based on the cost of the prototype. We need a system of setting mortgage limits that reflects building cost differentials and that is able to respond more promptly to rising construction costs. I feel the prototype system does this effectively.

I realize that the prototype problem is a serious one for the committee, but I felt it is my duty to submit it, because I deeply believe that it is necessary to facilitate construction in the cities. But I would like to hear from the chairman and the ranking Republican member of the committee who are handling the bill as to whether they feel they could do anything about the prototype costs in considering this bill. If they cannot, I hope they might have a suggestion as to how we might deal with our problems, which, as they know, are very real on higher costs.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, let me say in the first place that I understand the problems inflation provides for builders and developers. As the Senator from New York has said, he did work this out with both HUD and the staff of

our committee. They are thoroughly aware of it.

I would like to ask the Senator from New York how much the increase in mortgage limits is for 221(d)(3)?

Mr. JAVITS. For nonelevator units, it is about $6,000 per unit for a one-bedroom apartment, and more for larger units. The figures, as I say, we tried to work out so they would be technically satisfactory.

My amendment would set 221(d)(3) limits at 111 percent of 221(d)(4) to equalize the difference between the 90-percent mortgages and the 100-percent mortgages. The present law contains an anomaly, to wit: Section 221(d)(3) sets lower mortgage limits for 100-percent mortgages for nonprofits than 221(d)(4) with 90-percent mortgages for limited dividend corporations. Since nonprofit sponsors face the same building costs as profit-oriented sponsors, the limits should be comparable.

My amendment would also raise the mortgage limits on FHA insured nonelevator buildings. In 1969 and 1976 multifamily mortgage limits for FHA programs were increased by percentages. Because the absolute amounts were lower for nonelevator buildings than for elevator buildings, the increases were much lower. These percentage increases coupled with increased costs generally have resulted in limits that make it almost impossible economically to build or do substantial rehabilitation of nonelevator structures in New York.

For example, one group I know of in New York City is planning to build a four-story structure with an elevator, because the nonelevator limits are so low. Assuming a 200-unit structure, half two-bedroom and half three-bedroom, the maximum mortgage for section 220 is $1,800,000 less for a nonelevator building than for an elevator building. The cost of an elevator in a four-story building is only $50,000. The other construction costs are virtually the same, for the savings in elevator costs are offset by extra space devoted to foundations in low-rise buildings. HUD allows one elevator for every 84 apartments, or a cost of approximately $600 per apartment.

It is important that these limits be raised at this time, because HUD in New York is advocating only low-rise buildings for multifamily housing. If these limits are not raised, HUD will be supporting facilities that are not feasible.

Mr. PROXMIRE. As I understand it, what these limits do is, as much as possible, parallel the inflation; is that right?

Mr. JAVITS. That is right, but also reflect the difference between 90 and 100 percent mortgages in sections 221(d)(3) and 221(d)(4).

Mr. PROXMIRE. I think the Senator is right; I think there is nothing we can do except accept this kind of modification. We do want to be sure we do not encourage escalation of development costs.

There is a tendency to do that. Whatever the coverage is, there is a tendency for costs to rise to meet that limit. That is why we are concerned, and want to express that concern at the moment.

Mr. JAVITS. Let me point out that public housing limits are much higher than these. I believe these limits meet the criteria.

Mr. PROXMIRE. The Senator is offering three amendments: One to increase the mortgage limits on 221(d)(3), the second is to increase the mortgage limits on nonelevator buildings, and the third would provide a prototype cost for multifamily dwellings.

Mr. JAVITS. That is correct.

Mr. PROXMIRE. We would like, if the Senator will agree to this, for him to permit us to make a study of this prototype problem, because all three matters are related together, and I think that we might be able to make a more constructive and intelligent determination on this matter if we had such a study.

Mr. HEINZ. Mr. President, will the Senator yield?

Mr. JAVITS. Yes.

Mr. HEINZ. I would like to join in Senator PROXMIRE's request. I think the first two amendments, the 221(d)(3) mortgage limits and the mortgage limits on nonelevator buildings, make a good deal of sense. As I understand, HUD does not oppose either amendment. But I think the question of prototype costs on multifamily housing represents a very substantial change in mortgage limits for all the multifamily mortgage insurance programs, and I think it is only proper that HUD and the Banking Committee have a chance to study those changes very carefully.

So I would like to join Senator PROXMIRE in his request to Senator JAVITS that we defer action on the third amendment at this time.

Mr. JAVITS. Mr. President, I send to the desk the amendment as revised, omitting that part of it which is on page 1 under the heading "Flexible Mortgage Ceilings for Multi-Family Mortgage Insurance Programs" striking all on page 2, and striking page 3 down to line 14, the new heading to read, "Increased Mortgage Ceilings for Multi-Family Mortgage Insurance Programs." I submit the amendment in that way.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 46, between lines 13 and 14, insert the following:

INCREASED MORTGAGE CEILINGS FOR MULTIFAMILY INSURANCE PROGRAMS

SEC. 314. (a) Section 207(c)(3) of the National Housing Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000", in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,100", and "$43,158", respectively.

(6) Section 213(b)(2) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,100", and "$43,158", respectively.

(c) Section 220(d)(3)(B)(iii) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,100", and "$43,158".

(d) Section 221(d)(3)(ii) of such Act is amended—

(1) by striking out "$16,860", "$18,648", "$22,356", "$28,152", and "$31,884" and inserting in lieu thereof "$22,601", "$26,007", "$31,768", "$41,292", and "$45,392", respectively; and

(2) by striking out "$19,680", "$22,356", "$26,496", "$33,120", and "$38,400" and inserting in lieu thereof "$23,268"', "$26,673", "$32,434", "$41,958", and "$46,058", respectively.

(e) Section 221(d)(4)(ii) of such Act is amended by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846" in the matter preceding the first semicolon and inserting in lieu thereof "$20,362", "$23,430", "$28,620", "$37,200", and "$40,894"', respectively.

(f) Section "231(c)(2) of such Act is amended by striking out "$18,450", "$20,625", $24,630", "$29,640", and "$34,846" in the matter preceding the first semicolon and inserting in lieu thereof "$20,362", "$23,430", "$28,620", "$37,200", and "$40,894", respectively.

(9) Section 234(e)(3) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,600", and "$43,158"', respectively.

Mr. JAVITS. Mr. President, I hope under those circumstances the committee will feel it can accept the amendment.

Mr. PROXMIRE. Mr. President, we will accept the first two, the mortgage limits for 221(d)(3) and for nonelevator buildings. This amendment would not provide for the prototype.

Mr. JAVITS. That is correct.

Mr. PROXMIRE. Mr. President, I am happy to accept the amendment, and I yield back the remainder of my time.

Mr. HEINZ. Mr. President, we are very happy to accept the amendment.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1447

(Purpose: To increase the percentage of single non-elderly permitted in public housing and Section 8 programs)

Mr. JAVITS. Mr. President, I call up my next amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. JAVITS) proposes an unprinted amendment numbered 1447.

Mr. JAVITS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of page 14 of the bill add a new subsection:

(f) Section 3(2)(D) of such Act is amended by striking out "10" where it appears and inserting in lieu thereof "20".

Mr. JAVITS. Mr. President, this amendment increases from 10 to 20 percent the number of occupants of units who may occupy public housing and section 8 housing who are single nonelderly people.

Mr. President, I offered such an amendment in 1976. It has worked out very well. The facts and figures seem to accommodate the fact that it should now be increased from the 10 percent to 20 percent as a limit.

In New York a quarter of the households are now single persons, and many of them are not elderly or handicapped. The single nonelderly are frequently among the working poor. They are salespeople, kitchen help, clerks, and stenographers. Yet they do not earn sufficient income to find satisfactory housing. Their options for housing are bleak—substandard housing, rundown hotels, or deteriorated apartments.

Subsidized housing is available that is appropriate for these singles. New York has many efficiency and one-bedroom units that are not suitable for families. And they are often not suitable by design or location for occupancy by the elderly. So as a result, New York has housing stock that is difficult to market while the demands for adequate housing remain unmet.

My amendment to increase the limit to 20 percent will provide sufficient flexibility to HUD and to local housing authorities to meet the needs of the single nonelderly while at the same time insuring that the needs of the elderly, handicapped, and displaced are addressed as the law requires.

I think it has been very carefully limited. I hope the committee will accept the amendment.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, as I understand it, the priorities that are established in the law are maintained under the Senator's amendment. Is that correct?

Mr. JAVITS. That is correct.

Mr. PROXMIRE. Maintaining the elderly, the displaced persons, the handicapped, and so forth. And at least 20 percent instead of 10 percent can be nonelderly.

Mr. JAVITS. Twenty percent.

Mr. PROXMIRE. Mr. President, I am happy to accept the amendment.

Mr. HEINZ. Mr. President, I know of no objection to the Senator's amendment. I yield back the remainder of our time.

Mr. JAVITS. Mr. President, I yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JAVITS. Mr. President, I thank the Senator from New Mexico (Mr. SCHMITT) very much for allowing me to proceed.

Mr. SCHMITT. Mr. President, I was happy to assist the distinguished Senator from New York. I am sure I will be in need of some time in the future myself.

Mr. President, I ask that the full 1 hour on my amendment, which will be called up shortly, be made available.

The PRESIDING OFFICER. The time on the Senator's amendment will not start until it is called up.

Mr. SCHMITT. Mr. President, I ask unanimous consent that Marc Steinberg, of Senator GRIFFIN's staff, be granted the privileges of the floor during the consideration of the pending legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3253

(Purpose: To provide for congressional disapproval of HUD regulations)

Mr. SCHMITT. Mr. President, I call up my amendment No. 3253 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. SCHMITT) proposes an amendment numbered 3253.

Mr. SCHMITT. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following:

CONGRESSIONAL VETOES

SEC. 716. (a) Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following new subsection:

"(o)(1) Notwithstanding any other provision of the law, simultaneously with prescribing any rule or regulation, under this Act or any other Act, excluding section 3 of Public Law 90-301, the Secretary shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. Except as provided in paragraph (2), the rule or regulation shall not become effective, if within ninety calendar days of continuous session of Congress after the date the rule or regulation is prescribed either House of Congress adopts a resolution, the matter after the resolving clause of which is as follows: 'That the disapproves the rule or regulation prescribed by the Department dealing with the matter of

which rule or regulation was transmitted to Congress on .', the blank spaces therein being appropriately filled.

"(2) If, at the end of sixty calendar days of continuous session of Congress after the date on which a rule or regulation is prescribed, no committee of either House of Congress has reported or been discharged from further consideration of a resolution disapproving the rule or regulation and neither House has adopted such a resolution, the rule or regulation may go into effect immediately.

"(3) Congressional inaction on, or rejection of, a resolution of disapproval under this subsection shall not be deemed an expression of approval of the rule or regulation involved.

"(4) For purposes of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of sixty and ninety calendar days of continuous session of Congress.".

(b) The amendment made in this section shall apply to any rule or regulation of the Department of Housing and Urban Development which has not been published for comment in the Federal Register prior to June 30, 1978. If any such rule or regulation becomes final before the date of enactment of this section, such rule shall cease to be in effect and shall be subject to the provision of section 7(o) of the Department of Housing and Urban Development Act, as added by this section.

Mr. SCHMITT. Mr. President, I ask unanimous consent that Senators HUDDLESTON and GRIFFIN be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SCHMITT. Mr. President, the amendment which is before us provides that no rule or regulation of the Department can become effective if within 90 legislative days either the House or the Senate adopts a resolution of disapproval. It is, of course, commonly referred to as a legislative veto. An exception to this procedure is allowed if after 60 days no committee of the House or of the Senate has reported a resolution of disapproval or has been discharged from further consideration. In that case, the rule or regulation would become effective immediately.

Congress must begin, Mr. President, to reassert its authority as the lawmaking branch of the Federal Government. Nothing in this amendment or in the concept of the legislative veto, generally, is perceived by this Senator and by, I believe, most experts, to be unconstitutional.

A quick review of the precedents makes it quite clear that Congress is merely exercising its proper authority. The executive branch is only supposed to carry out the law, and should not use the regulation writing process or promulgation process to enter the legislative field. That authority is expressly provided to the Congress. Laws which have been written by Congress are being "interpreted" by bureaucrats in the executive branch, and these interpretations, which take the form of regulation and have the force of law, have been contrary in many instances to the clear intent of Congress.

The process, when not abused, of course, has been efficient. It has, however, been abused, and that is the concern of this Senator and many of my colleagues.

The executive branch has used its regulation-writing authority not to flesh out the law, but, in some cases, to change the law. It has used its authority to thwart, in other instances, the will of Congress.

The regulators have substituted their judgment for the judgment of Congress.

Of all the executive branch departments, I believe the Department of Housing and Urban Development is, unfortunately, one of the worst offenders of this usurpation of legislative power. This is true to a large extent, Mr. President, because the Department simply disagrees with the intent of laws that have been passed by the Congress. I will give just two examples.

In 1968 Congress passed the Interstate Land Sales Full Disclosure Act to protect consumers from fraudulent and deceptive interstate land sales transactions, especially interstate sales where purchasers had no opportunity to inspect or examine the land prior to purchasing, and no way of knowing whether the developer was financially responsible for fulfilling commitments proposed with respect to developing the land.

I support the purpose for which this act was initially enacted. However, during the 10 years since the enactment there has been little, if any, congressional review or oversight of the act or the administration of the act by the Office of Interstate Land Sales Registration, commonly known as OILSR.

During this period, OILSR has ignored congressional intent. It has reinterpreted the act to mandate Federal licensing of all land developments, being interstate or intrastate developments. The hearings, committee reports, congressional debate, a statement of the sponsors of the legislation, and the act itself make it very clear that the act is to apply only to interstate land sales, not intrastate land sales.

The act specifically exempts subdivisions consisting of 50 lots or less from the jurisdiction of OILSR. Yet under the rules which have been promulgated, subdivisions containing less than 50 lots marketed solely within the borders of the State in which the subdivision is located have been brought under the act without the authority of the Congress.

Under what authority is OILSR acting? How is this office within the Department of Housing and Urban Development permitted to make its own interpretation of the act and ignore congressional intent? The only recourse for Congress is to redraft the law to try to preclude agency misinterpretation under our present legislative conditions. Congress should not be forced to reenact the same legislation every year simply because the executive branch does not agree with the law as it is written. Our job should be to fashion new legislation whenever it is necessary, not to fight and retain what we have already passed.

This repetitious task is forced on us because HUD, among others, has perfected the technique of legislating through regulation. It is a very simple technique. It starts with the premise that, if Congress has not specifically mentioned something or has not specifically prohibited something, then the Department is free to do whatever it wants under the act.

Next, the Department seems to determine what it wants and promulgates regulations to achieve that end. It then administers the program in light of the regulations and in spite of what the original legislation intended.

I must admit that the Department's method of changing the law is much faster at times and less cumbersome than the traditional method outlined in the Constitution. They do not have to have hearings, they do not have to have subcommittee and committee markups, they do not have to get it passed through two Houses of Congress, and, maybe most importantly, Mr. President, they do not have to get elected after they have promulgated the regulation.

FEDERAL FLOOD INSURANCE

Finally, yet another area where HUD has exceeded its legislative mandate is in regard to Federal flood insurance. What was originally intended as program that would provide flood insurance for American towns and communities has been turned into a land use control program of unimagined dimensions. There have been many reports that regulatory controls for flood proofing are making commercial and industrial development too costly in various communities. The result of these land use controls could create economic hardship for communities with large areas identified as being flood prone. Reluctance to purchase existing homes and business in these communities would further erode their economic base. This trend could run counter to objectives for urban development and revitalization. I think that, in many areas, it has run counter to those objectives.

The city of Carlsbad, N. Mex., has recently received infusions of Federal, State, and local money to revitalize its inner city. However, recent HUD flood plain determinations and the subsequent restrictions on development within the city threaten the revitalization efforts in Carlsbad. The HUD 100-year flood plain determinations will cost the city in excess of $100 million in tangible and quantifiable costs. Consulting engineers report that HUD's flood plain determination is, in many cases, inaccurate, and the city is appealing the HUD determinations.

At the very least, Mr. President, the determinations are based on 100-year floods nobody has ever seen. To make matters worse, an ongoing large dam project that would have eliminated many of the flood hazards in the downtown area was not considered by HUD in making its findings.

In the State of Missouri, local governments are hamstrung by State law, which mandates that a county must hold a referendum in order to effectuate any land use controls. Historically, referendums on land use planning and controls have been largely unsuccessful.

It is, however, within the Federal system to have a county exert those kinds of rules. Therefore, many communities in this area having difficulty in complying with the Federal flood insurance program due to the land use control requirements, which is within their right. In addition, Missouri lacks the appropriate State flood legislation to enable unincorporated areas of the State to participate in the Federal flood programs.

Last year, many of my colleagues may recall that Senator EAGLETON, with my cosponsorship and the cosponsorship of numerous other Senators, successfully added an amendment to the Housing and Community Development Act to allow local communities to decide for themselves whether or not they want to participate in the flood insurance program. But the Department, in obvious disregard of Congress, overrode an act of Congress through misuse of an Executive order. By loosely interpreting Executive Order No. 11988, the Housing and Urban Development Administration blocked enforcement of a Federal law offering communities the option to participate in the Federal flood insurance program. Though warned by the Justice Department of the impropriety of this action, Secretary Harris refused to implement the provisions of this amendment to the Housing and Community Development Act of 1977, signed into law by President Carter in October of 1977.

In a letter dated January 31, 1978, Secretary Harris threatened the city of Gallup, N. Mex., with a complete cutoff of any form of Federal "loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct Federal assistance" if the city of Gallup does not comply with HUD's Federal flood insurance program—again, directly counter to the intent and to the fact of an act of Congress.

It must be added in fairness that later on, the Secretary, in hearings before the Banking Committee, did, in fact, back down on this particular interpretation of an Executive order. However, until that time, the Department was proceeding in direct contradiction to the law.

Mr. President, this is in blatant disregard to the amendment introduced by Senator EAGLETON and passed by the Senate and the House, which was introduced specifically in order to permit localities to reject land use controls and develop flood plains with mortgage loans from private lenders. The Justice Department disclosed that—

> The legislative history is unequivocal. Both the sponsor and opponents of (the legislation) . . . understood the effect of section 703(a).

Mr. President, we have all had similar experiences with agencies like HUD ignoring congressional intent. It is high time for Congress to act and to reassert its role as the lawmaking branch of the Federal Government.

At the heart of this issue of congressional veto of administrative rules and regulations is the question: Who makes the laws in this country—the elected representatives of the people or the unelected administrators in the executive branch?

As Members of Congress viewing this subject, we must remember that administrative rules and regulations are, in effect, laws. They have the same force and effect on our constituents as laws. If a person violates an act of Congress

which is criminal in nature, he is arrested by a Federal official, brought before a Federal court for trial and, if convicted, sentenced by a Federal judge to serve time in prison or to pay a fine. The same is true if a citizen violates an administrative rule, written by a bureaucrat who is elected by no one and is responsible only to the agency head. We must not forget this fact. The question becomes then: Are we going to continue to let unelected bureaucrats continue to pass laws without effective congressional control?

Our Founding Fathers would be shocked to see us struggling so with laws passed by the executive branch and independent agencies. The principle for which they fought was control over executive and bureaucratic power by the people through their elected representatives. One of the many grievances enumerated against King George in the Declaration of Independence was—

He has erected a Multitude of new Offices, and sent hither Swarms of Officers to harrass our People, and eat out their Substance.

One has only to glance at the daily Federal Register to realize that the executive and independent agencies have evolved into a fourth branch of Government with hosts of regulations which carry the force of law without legislative consideration. While it may be true that Congress has previously given—or abandoned—to the bureaucracy the power to enact these administrative laws, that does not justify an unmitigated continuation of this practice.

How many times must we be confronted with this kind of behavior before the Senate will act? We are faced with a runaway bureaucracy and need new tools to handle it. This amendment will provide one such tool.

Mr. President, I am not going to continue the litany of HUD's record of defiance of congressional intent. The record is clear for those who will look at it.

The choice before this body today is equally clear. We can either continue to allow HUD to range freely through the law, picking and choosing which to execute as they were written and which to reinterpret with regulations, according to the personal aims of those who administer the Department, or we can return to representative government.

The choice is between representative government, where laws are written by elected representatives of the people, and government by bureaucracy whose nonelected officials remain faceless, nameless, and unresponsive to the American public.

(Mr. ZORINSKY assumed the chair).

Mr. PROXMIRE. Mr. President, I rise in opposition to this amendment. I think it is unfortunate that the distinguished Senator from New Mexico, who is a very, very diligent and a fine member of our committee, has proposed that Congress do even more than we have been doing with respect to legislation, as if we do not have enough to do or as if wnat we are doing now we are doing too well, so well that we can afford to do even more.

The New York Times had an editorial, the title of which I think should be sufficient warning: It says "Let Legislators Legislate, Not Regulate."

If we try to move in on the executive branch and second-guess them on their regulations, we are usurping and assuming an executive function, beyond any question in my mind. It seems to me if we did this, there should be and would be a constitutional test as to whether we have the authority to do so.

I might point out, as was pointed out in the House, that this has never been done. Congress has never done this in the past, has never moved in to take over and assume the authority to veto regulations.

I should like to read in part from this editorial, because it also strikes at something that I think has been missed in all the discussion I have heard about it.

The purpose, behind a banner of principle, was to deter Secretary Harris from again trying to require localities to spend most of their community development money in poor neighborhoods—a rule that many legislators feel violates the spirit of the law. But the House action, with its overtones of hindering aid to the poor, points toward further interference with a program that is already too sensitive to political pressures.

The struggle over community development block grants dates to their inception in 1974. Although the Housing and Community Development Act stated clearly that its principal aim was to benefit low- and moderate-income people, mayors have, unsurprisingly, fought for the power to decide how and where to spend the money.

Indeed, a study by the National Association of Housing and Redevelopment officials has shown that more community development money was spent in 1975 and 1976 in high-income census tracts—where the people in the highest quartile income live—than in low-income tracts, completely contradicting the purpose of the bill.

Again, quoting from the New York Times:

Disturbed by the diversion of funds to affluent neighborhoods, Secretary Harris moved to impose stricter controls by requiring that at least 75 percent be allocated to poor areas. That provoked the effort to restrain her and the demand for advance review of community development regulations.

Federal officials undoubtedly take some regulatory license with the statutes they administer; insistence by HUD on a 75-percent rule, however appealing in principle, was arbitrary and may have been a case in point. But corrective legislation would be sounder than a Congressional regulatory review. Some members, spoiling for a fight with the President over their right to cast "legislative vetoes," contend that prior review is the only effective check against misuse of regulations.

But Secretary Harris is the one hewing to the original intent of Congress, to help the poor. She is resisted by big-city mayors, who are under pressure to use more of the money for sewers and parks in well-to-do neighborhoods, and by suburban officials, who are reluctant to use the funds for low-income housing. Once Congress takes a hand in writing HUD rules, the unorganized poor are bound to fare even worse.

And once Congress oversees individual regulations, will it not soon be horsetrading individual grants? The underlying contest over "legislative vetoes" between the President and Congress may be healthy, but in the HUD case, at least, it risks drawing innocent bystanders—the poor—into the crossfire. We hope that the Senate, usually more faithful to the original purpose of the community development program, will persist in its opposition to a veto over regulations here. Members of Congress have enough other ways to restrain bureaucratic excess without themselves becoming rule-making bureaucrats.

Mr. President, a major trouble with this amendment is that it would create great uncertainty. What happens after we pass a law? Are those regulations going to be approved or disapproved? How long is it going to be before the law is going to take effect? If we have a congressional veto, and we know that Congress very often acts with considerable deliberation—and should—it is going to mean that the Mayors will not know, the business community will not know, and that uncertainty effect will be very damaging.

Furthermore, we have ways of handling this kind of thing. We have ways, in the first place, through oversight. We can require and we can get a response from the executive branch in coming in and reporting to us.

Certainly, Mrs. Harris and the other heads of HUD reported to our committee frequently when we demanded it, as they have to various subcommittees of the Appropriations Committee.

We can act with new legislation. For example, the Real Estate Settlement Procedures Act, in the judgment of many, was very bad.

Frankly, the reason for that was because the law was bad.

At any rate, that was corrected by simply repealing the parts of the Real Estate Settlement Procedures Act that were wrong. We did that. It was an effective overruling by legislation, in a responsible way, regulations that were wrong.

Further, let me point out, Mr. President, that there have been no hearings, no markup, no opportunity for the committee to deliberate and act on what is a very far reaching kind of action.

As pointed out, it has constitutional implications and it is the kind of significant action that should be very carefully considered by a congressional committee and debated thoroughly with a record of hearings and of recommendations and coming to the floor.

Furthermore, the Senator's amendment would be in effect, an "antisunshine" amendment since it would undermine the open process we now have under the administrative procedures Act, the one House veto of any regulations would tend to put rulemaking in the hands of Members of Congress and their staffs, and possibly very special interest groups, rather than the present open regulatory process.

Now, Mr. President, before I yield to my good friend from Connecticut, let me say that this is an especially unfortunate amendment because it seems to me that it imposes on the authority and rights of the Governmental Affairs Committee.

Certainly, if we are going to have a congressional veto of regulations, we ought to consider that on a broad basis. We should not single out one agency for a punitive action, and have one policy toward HUD and another policy toward HEW, or Transportation, or some other agencies.

It ought to be one that should be considered carefully by the Ribicoff com-

mittee and not one that one other committee that happens to have jurisdiction over HUD would move in on.

I yield 5 minutes to the Senator from Connecticut.

Mr. RIBICOFF. I thank the distinguished chairman of the committee.

Mr. President, I am opposed to the amendment by the Senator from New Mexico. That amendment would require each and every regulation proposed by the Department of Housing and Urban Development to be delayed 90 days before going into effect. During that 90-day period, either House of Congress could veto that regulation.

No one is more concerned with the performance and impact of the Federal administrative agencies than I am. In 1975, the Senate passed Senate Resolution 71, which authorized the Governmental Affairs Committee to conduct a study of Federal regulation. As part of the study, the committee examined congressional oversight of regulatory agencies and concluded that the legislative veto of individual agency regulations is an unwise and an inappropriate oversight device. The committee's conclusion is supported by a study done for the Administrative Conference of the United States, conducted by Prof. Harold Bruff and Dean Ernest Gellhorn, which was published in the May 1977 issue of the Harvard Law Review.

Federal agencies do not always perform as the Congress would like them to and as the public has a right to expect. The agencies need careful congressional oversight. Although the legislative veto mechanism is supposed to assure a more responsive bureaucracy, it creates more problems than it solves. Let me briefly list a few of the many reasons why a legislative veto provision such as the one proposed is bad policy.

First. As the Governmental Affairs Committee found, agencies can often make policy more efficiently through rulemaking procedures than through case-by-case adjudication. The legislative veto, however, can only be applied to rules and not to adjudication of individual cases. A legislative veto provision would therefore provide an incentive for an agency to increase reliance on adjudication, thus having the reverse effect intended; it would encourage the agencies to act in ways that are less amenable to congressional oversight than rulemaking is now.

Second. The veto creates unnecessary delay because of the need for all regulations to be held in abeyance during a period of congressional consideration. Delay is one of the biggest problems with the regulatory agencies. If it is true, as proponents of the legislative veto claim, that only a handful of regulations would even be the subject of a resolution of disapproval, it makes little sense to delay implementing each and every rule.

Third. The 90-day delay required by the amendment is still not enough time for Congress to thoughtfully review rules that they may have taken a long time to formulate. The Administrative Conference empirical study of existing veto provisions found that "the resulting time pressures on Congress significantly affected the quality and thoroughness of congressional review."

Fourth. With the legislative veto lever, Congress does not form policy as a whole in a politically accountable way. The Administrative Conference study found that much of settlement of policy occurred behind the scenes between a few staff members and the agencies.

Fifth. Public participation in the regulatory process could suffer as a result of the Schmitt amendment. Agency speculation as to the effects of pressure on Congress and the actual pressure on Congress during negotiations with the agency—which result from the presence of a veto provision—contravene the purposes of public comment.

Sixth. The secrecy of the negotiations violates two of the fundamental standards for informal rulemaking: they are reasoned decisionmaking based exclusively on the record; and the opportunity for public participants to contest opposing presentations. Also, those practices violate the ideal of equal access to the rulemaking process. Not all interested parties have the resources to lobby the committee effectively in the review process, as well as to participate in the public comment proceedings.

Mr. President, there are many other reasons to oppose adoption of a legislative veto provision for agency regulations which I will not go into at this time. Rather than make the bureaucracy more accountable, the legislative veto threatens less accountability. It is a cure worse than the disease. I urge that the amendment of the Senator from New Mexico be defeated.

The Senator from Maine (Mr. MUSKIE) feels very strongly about this amendment and opposes it. I quote from Senator MUSKIE's statement:

> I am, however, deeply troubled by the solution which the Senator proposes, for I firmly believe that a general legislative veto, which would permit either House of Congress to reject regulations developed by an executive department, is a mechanism which is unconstitutional and which will, in practice, lead to a result that is likely to be the opposite of the intent of its proponents.

Mr. President, I yield back the remainder of my time.

THE LEGISLATIVE VETO—AN UNCONSTITUTIONAL CHECK ON AGENCY REGULATIONS

● Mr. MUSKIE. Mr. President, the amendment offered today by the distinguished Senator from New Mexico, raises an issue of increasing concern to the Congress—that is how can we perform our constitutional responsibilities in a manner which assures that the laws of this country are carried out in an effective and efficient manner and in a way which is consistent with the intent of the Congress.

I am, however, deeply troubled by the solution which the Senator proposes, for I firmly believe that a general legislative veto, which would permit either House of Congress to reject regulations developed by an executive department, is a mechanism which is unconstitutional and which will, in practice, lead to a result that is likely to be the opposite of the intent of its proponents.

The House of Representatives, in considering the Housing and Community Development Amendments of 1978, adopted a similar amendment which would have provided that no rule or regulation of the Department of Housing and Urban Development would become effective if, within 90 congressional days, either the House or Senate adopted a resolution of disapproval.

The supporters of the amendment expressed concern that laws which have been written by the Congress are being "interpreted" by "bureaucrats in the executive branch," and that these interpretations, which take the form of regulations and have the force of law, have been contrary to the clear intent of Congress in too many instances.

This concern by Members of Congress grows larger with the frustration we hear from our constituents—frustration not from Government having tried to solve problems—but from not having solved them well enough.

This frustration stems in large part from observing a Government grown so large and ineffective that it is suffocating the very goals it seeks to achieve.

Finding a remedy for this frustration is the most important—and difficult—challenge to Government today. For we have little hope of solving the truly serious problems we face—from inflation to energy to jobs—as long as Government bears this burden of no trust.

And I am convinced that we cannot meet that challenge unless Government is prepared to change its ways.

In my view, the task of meeting this challenge must fall first of all to the Congress.

While I understand the concern of those Members of Congress who feel that the intent of our laws is often frustrated in their execution, we must address those concerns in a manner which is consistent with the respective roles and responsibilities assigned to the Congress and the executive branch under the Constitution, and in a manner which will enhance and not diminish the role of the Congress.

I believe it is far more important for us to focus our efforts on strengthening the authorization process and not attempt the impossible task of reviewing each and every regulation that HUD or other Federal agencies issue.

The use of the legislative veto developed slowly. The first provision appeared in 1932 in legislation granting the President authority to reorganize the executive branch. Since that time the use of this mechanism has accelerated.

The Congressional Research Service has advised that of the 192 bills inviting legislative vetoes enacted between 1932 and 1975, more than half have been enacted since 1970. A total of 351 resolutions have been introduced between 1960 and 1975 which proposed to veto executive actions covered by these laws. Of those, 244 were introduced in 1974 or 1975.

In the 1st session of the 95th Congress alone, seven measures became public law with the inclusion of a legislative veto mechanism. Several other bills have

passed the House of Representatives and at least two have passed the Senate which would incorporate similar procedures.

Before many more laws are constructed which delegate authority to the executive branch agencies and which rely on this reservation of authority in the Congress, it is important to have a definitive resolution of the constitutionality of this procedure. The Supreme Court last year declined to grant certiorari in the case of Atkins against United States. That case involving the exercise of the one House veto provision of salary recommendations issued pursuant to executive and judicial salary leigslation, could have presented us with an opportunity for the Supreme Court to resolve this important question. That opportunity has passed and it may be some time before another case is properly framed around this question.

Until this issue is resolved by the Supreme Court, we should refrain from attaching veto provisions to even more legislative proposals.

In my judgment the Constitution does not give the Congress the right of review and veto over each and every regulation which the executive branch puts forward to implement a law.

Congress unquestionably has the power to legislate and to delegate to the Executive the authority to supplement and to give effect to statutes passed by the Congress, but the actual execution of such laws can be accomplished only by officers of the executive branch.

Article I, section 7, clause 2 of the Constitution provides that every bill passed by the House of Representatives and the Senate must be presented to the President for his approval or disapproval and that if it is disapproved, it cannot become law unless repassed by two-thirds vote in each House.

The primary purpose of that procedure is to give the President a defensive weapon against congressional encroachment upon his constitutional powers.

Clause 3 of that same section makes it clear that the purpose of the framers was to prevent congressional invasion of the Presidential veto power by labeling as something other than a bill any congressional action which establishes public policy.

Furthermore, I do not believe we can call upon the "necessary and proper" clause as justification for a general legislative veto provision. That clause gives Congress the power to make all laws which shall be necessary and proper to execute its other powers.

As early as 1819, Chief Justice Marshall read a restriction into the execution of this power in McCulloch against Maryland. The Chief Justice said that this power must be used in a manner in which the end is legitimate and which is consistent with the letter and the spirit of the Constitution.

Certainly Congress could not, because it concluded a measure was necessary and proper to the discharge of its legislative authority, pass a bill attainder or an ex post facto law. Nor could it vest in itself the authority to appoint officers of the United States when the appointments clause prohibits it from doing so.

A general legislative veto provision is constitutionally suspect on three different grounds—it violates the constitutional separation of powers, it derogates the Presidential veto power, and it abrogates the safeguards of our bicameral legislative system.

Putting aside for the moment the constitutional objections to the legislative veto, I cannot believe that it will achieve the results which are hoped for by its sponsors.

Federal agencies issue thousands of complex regulations each year. Many are adopted after months or even years of hearings and are based on many volumes of evidence. In his message to the Congress on the legislative veto, the President pointed out that Congress would have to examine all of this evidence, hold its own hearings, and decide whether to overrule the agencies—all in a few weeks.

Such a provision would introduce yet another element of redtape and delay into an already tedious rulemaking process. Let us take the example of the regulations concerning President Nixon's papers. Three versions of those regulations were vetoed, and it took nearly 3 years to reach agreement on them.

The regulatory process has been criticized for being slow and for creating an uncertainty which cripples planning by business, by State and local governments and by many others who must depend upon that process. I agree with President Carter when he says the legislative veto would greatly compound those problems.

It will prolong the period of uncertainty for each regulation by several months and it could mean years of delay. Furthermore, it creates considerable uncertainty when the actions of the executive branch are subject to the judicial review.

Even when the Congress chooses to allow a regulation to go into effect, that regulation has been issued after the agency has published it on the record and provided an opportunity for notice and comments by interested observers. If the details of those regulations have been worked out behind closed doors with congressional committees, under the potential threat of a legislative veto, how is a court expected to know the basis for the agency decisionmaking?

Mr. President, I strongly oppose the pending amendment. I firmly believe if Congress is to gain stronger control over the programs of the Federal Government, it must use the authorization and appropriations processes which are clearly within its constitutional powers.

As most Senators in this body know, we have worked for the past 3 years to develop sunset legislation which would extend the authorization process to many programs of the Government which are permanently authorized and over which Congress exercises limited oversight.

The procedures embodied in S. 2, The Program Reauthorization and Evaluation Act of 1978, as reported by the Committee on Rules and Administration, presents the Senate and House of Representatives with an opportunity to improve the authorization process in a manner consistent with the traditional powers and responsibility of the Congress and in a way which will insure more consistent and thorough policy review by the legislative branch of the Government.

Mr. President, only through an improved reauthorization process, by which Congress periodically reconsiders its past actions and enacts new laws in response to the lessons which we learn from such increased oversight, can we most effectively assure that the intent of Congress will be carried out by the executive branch.●

Mr. PROXMIRE. How much time does the Senator from Kentucky want?

Mr. FORD. I think 5 minutes.

Mr. PROXMIRE. I yield 5 minutes to the Senator from Kentucky.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, you can count me among those who are opposed to the amendment which would provide for a one-house veto of all Housing and Urban Development regulations, and I would like to take just a few moments to elaborate on why I feel so strongly about this issue.

Those who advocate adoption of this amendment argue that it will serve to increase congressional oversight of the agencies within the executive branch. As one who believes that congressional oversight is a fundamental and necessary responsibility. I certainly support that objective. This is one area where I have tried to direct a considerable amount of energy, and I have developed some degree of experience in it. Through the oversight process we have been able to identify areas where congressional intent is not being met—and in those instances we have been able to recommend whatever corrective steps are necessary to correct the situation.

Looking back on those oversight activities, I can think of no instance where a legislative veto provision would have been of any benefit. The fact of the matter is that the legislative veto device—which far transcends the boundaries of conventional oversight—would have been counterproductive.

Instead of allowing Congress, through oversight, to sit back and make judgements as an impartial jury—it would inject the legislative branch into the day-to-day administrative and regulatory activities of those agencies which we created to administer the laws we wrote.

The Department of Housing and Urban Development, for example, was created to deal with matters which require the development of specialized expertise. This one agency—one out of many—promulgates literally hundreds of regulations each year, many of which are extremely technical in nature. Clearly—under the broad shield of legislative veto—the Congress will be besieged to become involved with rules and regulations, issues and decisions with which we have no business to become involved.

If there is a problem with a rule or regulation—if it has not been drawn in accord with congressional intent—we already have the necessary authority to call the appropriate officials before one

of our committees and make them explain if congressional intent is being followed. And if it is not, under the Constitution we have the ability to do something about it without encroaching or usurping those responsibilities, granted under our system of government, to the executive branch.

If we do accept this amendment, then Congress will become the main arena for the hundreds of daily decisions which come out of HUD. If that happens, then interest groups will redirect their focus on the Congress—not HUD—in presenting their views, and if that day ever comes, not one of us will have enough time in the day to deal with all the requests for assistance we will receive.

If this amendment is accepted, let me warn my colleagues that we had better complete the Hart Building immediately because the extra space will be necessary to house the additional staff we will need to review and comment on these regulations.

Do Senators want to turn the Congress of the United States into a fiscal court—where specifications for the dog pound are reviewed?

Are we trying to model ourselves after a school board that approves dress codes and band trips?

The function of Congress is to legislate and leave the administration of legislation to the executive branch. It is not the function of Congress to make the daily decisions of running the Government.

Remember, that under a legislative veto procedure, every bad regulation that would slip through would then, in effect, have the stamp of approval of the Congress. If you think the bureaucrats are now making irresponsible and sometimes stupid decisions, just wait until there is a procedure for the Congress to do the same.

Senators will recall that immediately after the Civil War, Congress did take over the daily workings of the Government, and history has shown that this period was certainly not one of the high points of the history of the Congress.

The adoption of this amendment would establish a dangerous precedent—a precedent that will affect every other agency of this Government responsible for carrying out rulemaking or regulatory proceedings.

If Senators think we have problems now keeping on a legislative timetable, think of what will happen if we get into the business of legislative veto. I assure Senators that there will not be enough hours in the day or days in the year to act the proliferation of legislative veto proposals which no doubt will result.

Too often, Mr. President, hindsight has shown that we have acted without foresight in some of the decisions reached on this floor. I think a little foresight needs to be injected into the debate over this amendment—and I think a little foresight will prevent us from a grave mistake. Looking down the road, all I can foresee are problems ahead if we approve this amendment—problems which we neither need nor have the necessary resources to handle. We are opening up a Pandora's box if we enact this amendment, and I strongly urge its rejection.

Mr. President, I ask unanimous consent to have printed in the RECORD a June 24, 1978, editorial from the Louisville Courier-Journal entitled "Legislative Veto is Poor Way of Curbing Regulatory Abuses."

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

LEGISLATIVE VETO IS POOR WAY OF CURBING REGULATORY ABUSES

Although both houses of Congress are controlled by his political party, Jimmy Carter has the unenviable luck of being president at a time when the legislative branch has rediscovered its independence. It would be an exaggeration to say that the imperial presidency has given way to an imperial Congress. But not much of an exaggeration.

For an activist like Mr. Carter it must be frustrating to have to deal with lawmakers who have become accustomed, after the abuses of the Nixon years, to viewing the executive branch with suspicion, or even outright hostility. Even worse is to be second-guessed by legislators who make political hay by denouncing regulatory excesses that flow inevitably from well-intentioned but ill-drafted laws Congress itself has passed.

NOT LEGALLY BOUND BY VETOES?

These frustrations are at the heart of Mr. Carter's special message to Capitol Hill this week, warning that he believes "legislative vetoes" are unconstitutional. This veto power is provided in about 200 laws dating back to 1932 and is embedded in 40 or 50 pending bills. It allows Congress (in some cases, even a single house of Congress) to veto executive action.

The constitutional validity of legislative vetoes has yet to be determined in court. But Mr. Carter and Attorney General Bell argue that a president is not legally bound by such vetoes, whether in the field of foreign affairs—such as the recent Mideast arms sales—or in domestic areas.

The President has agreed, for courtesy's sake, to abide by congressional vetoes exercised under the War Powers Act and under laws governing military sales. But he draws the line at vetoes affecting domestic programs.

He seemed justified in doing so, on practical if not constitutional grounds. The Constitution specifically gives the President power to veto bills. It doesn't mention legislative vetoes, though Congress obviously has the power, through the normal legislative process, to enact laws a president opposes and to override his veto if he exercises it.

The issue is of considerable importance at the moment because several bills have been introduced that would give either house of Congress authority to veto regulations proposed by various executive-branch agencies. The bills quite clearly are intended to capitalize on the growing public resentment of Big Government, especially the accumulated resentments of the business community.

Thus, for instance, Mr. Carter's fellow Georgian, Representative Elliott Levitas, is pushing legislation that would make all new Federal Trade Commission regulations subject to veto by either house within 60 days after they're issued. Mr. Levitas says Congress, on behalf of the American people, should "send a message" to Washington's "unelected bureaucrats." Attacking the FTC is sure to please many businessmen who are nervous about that agency's investigations of the automobile, pharmaceutical and funeral industries and of TV advertising directed at children.

CONGRESS CREATED THE AGENCIES

There are those on Capitol Hill who claim that the congressional backlash against federal regulation is a proper reflection of the public backlash against high taxes and governmental intrusiveness. Perhaps it is. But all those regulations that fill the Federal Register didn't just materialize out of thin air. They are prepared by agencies created by Congress and operating under congressional mandates to protect consumers, to reduce accidents that maim and kill workers, or to assure rail, air and truck service to countless small towns in almost every congressional district.

Some agencies may well be useless, or worse. Many critics claim, for instance, that the Interstate Commerce Commission and the Civil Aeronautics Board could be abolished tomorrow with few ill effects. And we are not alone in finding the FTC's proposed restrictions on advertising directed at children a questionable restriction on First Amendment rights.

But the answer, if government is not to grind to a halt, is for Congress to tackle these problems head-on. If an agency isn't doing its job, Congress can and should use its power over the federal purse-strings to insist on better performance. If its interpretation of congressional intent is wrong, Congress can write a new law. If an agency's assigned job turns out to be unnecessary or unacceptable to the public, the agency can be abolished.

But legislative vetoes of agency regulations are both impractical and subject to possible abuse. They are impractical because Congress simply hasn't the time to second-guess all the rules issued by agencies. And the veto power could be abused because business lobbyists would have an opportunity, as they do when tax revisions are under consideration, to sabotage regulations opposed by special interests.

These are the practical objections. The courts, of course, might decide that legislative vetoes are legally valid, at least in certain circumstances. But until the constitutional question has been resolved, Mr. Carter is right to proceed under the assumption that execution of the laws is the exclusive job of the executive branch.

Mr. FORD. Mr. President, I remind the Senator from New Mexico that in his statement earlier today, he said that too often the will of the Senate is thwarted. Let me cite an example.

A one-House legislative veto can create a significant congressional imbalance. Legislation is often passed in which the Senate may have a strong position which the House opposes, but in conference, the Senate may prevail. Where there is a one-House veto, the House could then later abrogate the will of the Senate by merely interposing its own views when regulations are written in regard to such issues. This I do not believe is a healthy situation for the country.

I urge my colleagues to defeat this amendment.

Mr. PROXMIRE. Mr. President, I yield 5 minutes to the Senator from California.

Mr. CRANSTON. Mr. President, I oppose the Schmitt amendment that authorizes a one-House legislative veto over any Department of Housing and Urban Development regulations.

The legislative veto is a device that is most often used to transfer power to the Congress to do things that ordinarily the executive department would do. The veto can be structured in several different ways. The most strict form bars an agency from enforcing regulations until Congress approves the rule by majority vote. A more lenient version simply requires an agency to submit proposed regulations to Congress for review and possible action through legislative chan-

nels. The most frequently used version of the veto requires that, before taking effect, a proposed regulation must lie before Congress for a specified period—in this case 90 days—during which time either House may, by adoption of a simple resolution, veto the regulation. It is this latter approach that my colleague urges upon us today.

I recognized that the desire for expanded use of the legislative veto stems in part from the growing mood of distrust of the executive and the growing complexity of the Government along with the need to insure that laws are carried out according to congressional intent. However, I am opposed to this approach as a means to accomplish this purpose for the following reasons.

From a practical perspective, this veto proposal would add unnecessary delay and confusion to the agency process. It has the potential of greatly increasing congressional expenditures and the cost to persons who deal with Federal agencies. Regulators operating under the legislative veto would tend to give more consideration to the political power of affected groups and committees of Congress rather than the need to promulgate unbiased regulation.

Congress now has broad oversight and review powers over executive activities, and perhaps this approach needs to be expanded and more specifically exercised by Congress to deal with the criticisms of an executive branch out of control. Certainly these points need to be studied before Congress proceeds with such a shotgun approach—an approach with the potential for great conflict and widespread confusion.

I must note that I have supported forms of one-House legislative veto—specifically in the Humphrey-Hawkins bill and the Reorganization Act of 1977—but in those cases Congress was delegating a function to the executive that was basically a legislative function, and the veto option is there being used to permit either House to supervise the exercise of this delegated legislative function. The delegated legislative authority in these two situations involves an action that is not normally in the power of the executive to perform—that is, changing a statutory goal or a statutory scheme regarding the organization of governmental functions. Whereas, here, this proposed amendment usurps a function—the writing of regulations—that specifically is within the purview of the executive. This legislative veto will inject Congress into the details of administering substantive programs and laws and raises fundamental questions of whether it offends the constitutional doctrine of separation of powers.

I have not seen any such gross abuses by the Secretary of HUD as to justify such a harsh measure as proposed in this amendment. I implore my colleagues not to act in haste on a measure of this kind until all other avenues have been explored and further study is made of the costs and all the implications.

Mr. SCHMITT. Mr. President, I remind my colleagues of a number of things.

First, there are no less than 295 separate provisions adopted in 196 acts of Congress in the last 44 years that have some type of congressional review or veto, if you will, over the executive branch. I ask unanimous consent that a list of provisions requiring congressional review of executive actions be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. SCHMITT. In the case before us, the regulations which would be considered by Congress would be submitted, and in 60 days, without any action by Congress, they would go into effect automatically. No Senator need ever review a single regulation to see if it carries out the intention of Congress, if that is the desire.

Our constituents will let us know, more than likely, if a regulation is particularly objectionable, as they do today.

This gives us some form for action, rather than just writing a letter back saying, "I am sorry. That is the purview of HUD, and there is nothing I can do."

The aim of the amendment is simply to require the Department to write regulations which are an accurate representation of congressional intent, and I think the mere existence of legislative veto will insure that that happens in almost every case and that the regulations will be better written, better thought out, and will be obviously more appropriate to the functions for which they are designed.

As long as the regulations are consistent with the law there need be and I believe will be no action.

Congress now deals with the lobbies from every conceivable organization, and I believe that we are generally able to make up our minds for ourselves and I do not see why that should change under the circumstances of the legislative veto relative to HUD regulation.

As it now stands, regulations often take months, if not years, of proceedings. The addition of a 60- to 90-day period which will allow Congress an opportunity to act as elected representatives of the people in order to determine that a regulation is an accurate representation of congressional intent is to this Senator most reasonable.

Regulations which have a vast economic or other impact on the people of our Nation should be reviewed by Congress. I do not see how we have any other choice but to say that. To say that we do not have time is close to being irresponsible.

We are confronted with a fourth branch of Government which is growing rapidly in size and influence. Approval of the congressional veto is an unusual step to take, but I believe we are confronted with an unusual situation in this part of the 20th century. It is not a situation that was faced by our Founding Fathers.

A vast Federal bureaucracy which is not responsive to the public in any direct way, which frequently is not responsive to Congress, which no President, it seems, can effective manage—and we have been trying for a couple of decades now—this bureaucracy has become the dominant force in American life.

We cannot allow this situation to continue. This amendment will restore, I believe, to Congress the legislative authority that has been delegated away over the years to the executive departments.

The question has been raised whether or not this all cannot be done through oversight by congressional committees.

It is true that oversight is best conducted through hearings on a particular issue, followed by consideration of legislation to correct any particular problem.

Unfortunately, hearings with regard to the consistency of regulations with congressional intent must take place after the regulation has been promulgated and after the damage has been done. By the time the agency abuse of the law has been discovered and reported to Congress and then discussed with the agency, many, many months may and usually do go by.

Mr. President, I should add at this point the distinguished Senator from Kentucky has been without a doubt one of the most diligent of subcommittee chairmen in the exercise of oversight responsibility. I in no way want to indicate that I feel that he has not done that job as well or better than most anyone else in the Senate.

But if a Member of the Senate cannot resolve the issue with the agency and is sufficiently concerned to draft legislation to remedy the problem, then how long will it take before Congress enacts a bill addressed to this single instance of agency abuse of delegated authority? It is generally a long, long time or never.

Mr. President, I find it a little bit incongruous that some of the individuals who have come out publicly opposed to the legislative veto would have done so. The distinguished Senator from Wisconsin has supported the one-house veto with respect to legislation dealing with New York City. I quote:

> I also think that the one-house veto of the guarantees authorized for fiscal years 1980 and 1981 is absolutely essential since it provides the only remaining basis for direct congressional monitoring of the city's progress under the guarantee program, however limited this power may prove to be.

I realize that that is not exactly the same context as what we are talking about today, but it represents a certain interest at least in the legislative veto.

The distinguished Vice President, writing as a Senator, has come out in favor of the legislative veto in many respects in his book "The Accountability of Power." He says:

> We simply must use this device more frequently.

The President of the United States, no less, has at one time at least in the past indicated that he is of two minds with respect to legislative veto. He seems to be in favor of it when it is useful and enhances the position of the President and the executive branch vis-a-vis Congress and opposed to the legislative veto when it would in his opinion favor the role of Congress in the administrative process.

In a question that the President posed to the Attorney General, the Attorney General responded, and I shall ask that his response be included in the RECORD,

but the bottom line of that response relative to the reorganization statute that was under question in January 1977, is as follows:

I am of the opinion that the procedure provided in section 906(a) of the reorganization statute are constitutionally valid.

That, Mr. President, was the section containing the legislative veto.

The Attorney General goes on to say:

I am of the opinion that the procedure provided in the reorganization statute for congressional disapproval of a reorganization plan submitted by the President . . . is constitutional.

Mr. President, I ask unanimous consent that the entire letter of the Attorney General be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF JUSTICE,
Washington, D.C., January 31, 1977.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I have the honor of responding to your request for my opinion on the constitutionality of section 906(a) of the executive reorganization statute, 5 U.S.C. § 901, *et seq.*, which provides that an executive reorganization plan shall become effective 60 days after its transmittal to Congress by the President unless during that 60-day period either House passes a resolution disapproving the reorganization plan.

For the reasons set forth below, I am of the opinion that the procedures provided in section 906(a) of the reorganization statute are constitutionally valid. I should emphasize at the outset that my opinion is limited to this particular statute, as explained below, and is to be taken in no manner as approving the constitutionality of the procedure of congressional disapproval of executive action by resolution in other statutes.

Article I, § 7, clause 3 of the Constitution provides that "every Order, Resolution, or Vote" to which concurrence of both Houses is necessary shall be presented to the President for his approval or veto. Section 906 of the reorganization statute authorizes Congress to take action by simple resolution of either House, a form of congressional action which is outside the legislative procedures set out in Article I. That statute authorizes Congress to exercise procedural power not explicitly granted to it by the Constitution. However, the statement in Article I, § 7, of the procedural steps to be followed in the enactment of legislation does not exclude other forms of action by Congress.

The first Congress contemplated congressional action outside the normal Article I legislative process when it provided in the Act creating the office of Secretary of the Treasury that either House could require the Secretary to make reports and furnish it certain information. Act of September 2, 1789, ch. XII, § 2, 1 Stat. 65–66 (1789). In 1789 the House of Representatives acting by simple resolution directed Secretary Alexander Hamilton to conduct certain studies and report the findings to the House. 2 Annals of Congress 904 (1789).

In 1897 the Senate Judiciary Committee specifically addressed the question whether Article I, § 7 required that congressional resolutions be submitted to the President for his approval or veto. Citing past practices of the Congress, the committee took the position that the requirement of submission to the President of every vote for "which the concurrence of the Senate and the House of Representatives may be necessary" applied only where there was constitutional necessity. The committee further determined that such constitutional necessity existed only in the case of the enactment of legislation. S. Rep. No. 1335, 54th Cong., 2d Sess. 8 (1897). The procedures prescribed in Article I, § 7, for congressional action are not exclusive. That has been the consistent interpretation of Article I by Congress since 1789.

The constitutional question, therefore, is not whether the congressional action contemplated by section 906 of the reorganization statute literally conforms with the procedural steps specified in Article I, § 7, cl. 3. Rather, the question is whether the provision in the reorganization statute authorizing single House disapproval of an executive reorganization plan respects the constitutional checks on legislative power provided by the Framers of the Constitution in the presidential veto and the principle of bicameralism.

Congressional action outside the check of the presidential veto should be constitutionally suspect as it carries the potential for shifting the balance of power to Congress and thus permitting the legislative branch to dominate the executive. If a statute authorizing control by Congress over executive action by later resolution has the effect of evading the constitutional safeguards of concurrence of both Houses and the presidential veto, then it violates Article I, § 7 of the Constitution.

However, if the procedures provided in a given statute have no effect on the constitutional distribution of power between the legislative and the executive—that is, the power of presidential veto is effectively preserved and the principle of bicameralism is respected—the fact that the procedure is not explicitly authorized by the language of Article I is not enough to render the statute unconstitutional. I am of the opinion that the procedure provided in the reorganization statute for congressional disapproval of a reorganization plan submitted by the President satisfies this test and, therefore, is constitutional.

Under the reorganization statute procedure the two Houses of Congress and the President possess the same relative power as under the normal Article I legislative process. First, the President has ultimate veto power in his formulation of the reorganization plan. The President will submit to Congress only plans which he approves and rather than be forced to accommodate the demands of Congress as to the shape of the plan, he can decide to submit no plan at all.

This power to take no action with respect to reorganization plans should be carefully distinguished from the situation created by statutes which provide for subsequent resolutions disapproving presidential actions in the administration of continuing programs. The pressures of an ongoing program with prior commitments force the President to act. And he must take action acceptable to Congress if that action is to stand. This urgency for action which pervades the administration of continuing substantive programs subjects presidential decisions to increased congressional influence and effectively compromises the President's control over his actions. Such statutes frustrate the constitutional check of the presidential veto in violation of Article I and infringe on the doctrine of separation of powers.

Second, the principle of bicameralism, that each House of Congress has the right that there be no change in the law without its consent, is respected by the reorganization statute as no reorganization plan can take effect if opposed by either House. Both Houses have equal power with respect to the congressional decision to accept or reject the reorganization plan.

Third, in contrast to statutes which authorize subsequent congressional resolutions disapproving executive action in continuing programs, under the reorganization statute there is no assumption by Congress of discretionary control over administration of the law, and consequently, no invasion of the traditional role of the executive branch. The reorganization statute does not involve creation of a new substantive program or congressional interference with authorized administrative discretion in an ongoing program. The doctrine of separation of powers is not violated.

In conclusion, I reiterate that my opinion as to the constitutionality of the legislative veto device is limited to the narrow context of the reorganization statute. This procedure is uniquely appropriate to executive reorganization. The reorganization statute does not affect the rights of citizens or subject them to any greater governmental authority than before. It deals only with the internal organization of the executive branch, a matter in which the President has a peculiar interest and special responsibility.

For the above reasons it is my conclusion that the procedure provided for in section 906(a) of the reorganization statute does not violate the Constitution.

Respectfully,

GRIFFIN B. BELL,
Attorney General.

Mr. SCHMITT. Finally, I wish to talk to the point of constitutionality in a little more detail.

I, first of all, remind my colleagues that the Senate and the House of Representatives filed an amicus curiae brief supporting the one-House veto in the case of Atkins, et al., versus the United States. In that brief the statement is made:

The basic reason why the "one-House veto" is consistent with the Constitution has been well summarized in the following terms:

And this is followed by a quote from Cooper and Cooper, The Legislative Veto and the Constitution, in the George Washington Law Review of 1962. I quote again:

The veto well accords with the intent and meaning of the separation of powers principle, if this principle is understood as a piece of political wisdom rather than as a technical rule of law. When properly used and structured, the device serves that aspect of the separation of powers principle which seeks to prevent the total vesting of the power of one branch in another and that aspect of the principle which enjoins the branches to act as checks and balances on each other. In both these regards it functions to preserve and strengthen that equilibrium of power between the branches which lies at the heart of the separation of powers principle. Moreover, the veto can be used to accomplish this goal while at the same time providing for the kind of division of tasks between the branches which adds to rather than detracts from the contribution each can and must make to the success of governmental decision-making in a modern democratic state.

Mr. President, I think that another major spokesman for the veto is Justice White when he said relative to the case of Buckley versus Valeo which dealt with the Federal Election Campaign Act.

I am also of the view that the otherwise valid regulatory power of a properly created independent agency is not rendered constitutionally infirm, as violative of the President's veto power, by a statutory provision subjecting agency regulations to disapproval

by either House of Congress. For a bill to become law it must have passed both Houses and be signed by the President or passed over his veto. Also, "every order, resolution or vote to which the concurrence of the Senate and House of Representatives may be necessary . . ." is likewise subject to the veto power. Under § 438(c) the FEC's regulations are subject to disapproval; but for a regulation to become effective, neither House need approve it, pass it, or take any action at all with respect to it. The regulation becomes effective by nonaction. This no more invades the President's powers than does a regulation not required to be laid before Congress. Congressional influence over the substantive content of agency regulation may be enhanced, but I would not view the power of either House to disapprove as equivalent to legislation or to an order, resolution or vote requiring the concurrence of both Houses.

So, Mr. President, I think that the weight of judicial opinion, including some Members of this body who have written on the subject, is clearly on the side of the constitutionality of the legislative veto and that our basic question today should be, is it appropriate to apply it to the Department of Housing and Urban Development?

It is this Senator's opinion and I know many others in this body that it is appropriate to do so, that the Department like many other agencies and department has been acting out of control in terms of regulation and it is time for them to be put on notice to do a better job or Congress is going to disapprove their particular activities.

I reserve the remainder of my time.

Exhibit 1 follows:

EXHIBIT 1

A SUMMARY OF PROVISIONS REQUIRING CONGRESSIONAL REVIEW, DEFERRAL, AND DISAPPROVAL OF EXECUTIVE ACTIONS: A SUMMARY AND AN INVENTORY OF STATUTORY AUTHORITY

SUMMARY OF CONGRESSIONAL REVIEW AUTHORITY DATA

An important element in the growth during recent decades of Congressional oversight authority has been the increasing practice of incorporating in statutes various features requiring advance consultation or agreement on certain administrative determinations or reserving the power to direct, review, approve or disapprove proposed executive actions. No less than 295 separate provisions adopted in 196 different acts of Congress during the last forty-four years (since June 30, 1932) have provided some type of Congressional review over or consent for contemplated or pending executive implementations of those laws. Even more significant, perhaps, is the steady increase during the last fifteen years or so, and especially since 1970, in both the number and complexity of such legislative review and consent requirements.

The expanding resort to this oversight device is clearly evident from an examination of relevant statutes adopted in the last four and a half decades (see Table I). Following the historic passage in 1932 of the pioneer act (P.L. 72-212) authorizing disapproval of an executive order by either the Senate or the House of Representatives, only four other laws (with four separate provisions) requiring legislative review or consent apparently were enacted in that decade. During the forties nineteen such acts (four of them in 1949) were passed, a number that was nearly doubled in the decade of the fifties when thirty-four legislative review or consent laws were adopted. Nearly two-thirds (nineteen) of the latter were passed during the four years from 1956 through 1959.

SOURCE—Congressional Research Service, Congressional Review, Deferral and Disapproval of Executive Actions: A Summary and an Inventory of Statutory Authority. April 30, 1976.

CONGRESSIONAL REVIEW ACT DIGESTS LISTED CHRONOLOGICALLY

PUBLIC LAWS

1. Legislative appropriations for Fiscal Year 1933 (P.L. 72-212).
2. Appropriations for Treasury and Post Office for Fiscal Year 1934 (P.L. 72-428).
3. Charges for Irrigation on Indian Reservation Projects, 1936 (P.L. 74-742).
4. Reorganization Act of 1939 (P.L. 76-19).
5. Neutrality Act of 1939 (54 Stat. Ch. 2, P. Res. 54).
6. Alien Registration Act of 1940 (P.L. 76-670).
7. Act to Promote Defense of the United States (P.L. 77-11).
8. Emergency Price Control Act (P.L. 77-421).
9. Emergency Price Control Act Amendment (P.L. 77-729).
10. War Labor Disputes Act (P.L. 78-89).
11. Navy Public Works Construction Authorization, 1944 (P.L. 78-289).
12. Naval Petroleum Reserve Amendment (P.L. 78-343).
13. Federal-Aid Highway Act of 1944 (P.L. 78-520).
14. Reorganization Act of 1945 (P.L. 79-263).
15. Federal Airport Act of 1964 (P.L. 79-377).
16. Strategic Materials Stockpiling Act Amendments, 1946 (P.L. 79-520).
17. Disposal of Surplus Vessels and other Naval Property, 1946 (P.L. 79-649).
18. Assistance to Greece and Turkey, 1947 (P.L. 80-75).
19. Displaced Persons Act of 1948 (P.L. 81-774).
20. Immigration Act Amendment of 1948 (P.L. 81-864).
21. Long-Range Proving Ground for Guided Missiles, 1949 (P.L. 81-60).
22. Reorganization Act of 1949 (P.L. 81-109).
23. Government Printing and Binding Amendment, 1949 (P.L. 81-156).
24. Return of Rehabilitation Costs of Reclamation Projects, 1949 (P.L. 81-335).
25. Federal Civil Defense Act of 1950 (P.L. 81-920).
26. Universal Military Training and Service Act (P.L. 82-51).
27. Military and Naval Construction Authorization, 1951 (P.L. 82-155).
28. Immigration and Nationality Act of 1952 (P.L. 82-414).
29. Military and Naval Construction Authorization Act of 1952 (P.L. 82-534).
30. Supplementary Appropriations Act for Fiscal Year 1953 (P.L. 82-547).
31. Reorganization Act Amendment, 1953 (P.L. 83-3).
32. Interior Department Appropriations for Fiscal Year 1954 (P.L. 83-172).
33. Disposal of Government-Owned Rubber-Producing Facilities 1953 (P.L. 83-205).
34. Public Building Purchase Contract Act of 1954 (P.L. 83-519).
35. Watershed Protection and Flood Prevention Act, 1954 (P.L. 83-566).
36. Atomic Energy Act of 1954 (P.L. 83-703).
37. Internal Revenue Code of 1954 (P.L. 83-591).
38. Reorganization Act Amendment, 1955 (P.L. 84-16).
39. Department of Defense Appropriation Act for Fiscal Year 1956 (P.L. 84-157).
40. Federal-Aid Highway Act of 1956 (P.L. 84-627).
41. Authorizing Interchange of Agriculture and Defense Lands, 1956 (P.L. 84-804).
42. Small Reclamation Projects Act, 1956 (P.L. 84-984).
43. Watershed Protection and Flood Prevention Act Amendment, 1956 (P.L. 84-1018).
44. Contracts for Plans Affecting Exploration, Development and Use of Naval Petroleum Reserves (P.L. 84-1028).
45. Disposition of Naval Petroleum Reserves, 1956 (P.L. 84-1028).
46. Small Reclamation Projects Act Amendment, 1957 (P.L. 85-47).
47. Atomic Energy Act Amendment, 1957 (P.L. 85-79).
48. Reorganization Act Amendment, 1957 (P.L. 85-286).
49. Immigration and Nationality Act Amendments (P.L. 85-316).
50. Atomic Energy Act Amendment, 1958 (P.L. 85-479).
51. National Aeronautics and Space Act of 1958 (P.L. 85-568).
52. Defense Reorganization Act of 1958 (P.L. 85-599).
53. Atomic Energy Act Amendment, 1958 (P.L. 85-681).
54. Trade Agreements Extension Act of 1958 (P.L. 85-686).
55. Military Code Amendments, 1958 (P.L. 85-861).
56. National Aeronautics and Space Administration Authorizations for Fiscal Year 1959 (P.L. 86-12).
57. National Aeronautics and Space Administration Authorization for Fiscal Year 1960 (P.L. 86-45).
58. Public Buildings Act of 1959 (P.L. 86-249).
59. National Aeronautics and Space Administration Authorization for Fiscal Year 1961 (P.L. 86-481).
60. Military Construction Authorization Act, 1960 (P.L. 86-500).
61. Reorganization Act Amendment, 1961 (P. L. 87-18).
62. National Aeronautics and Space Administration Authorization for Fiscal Year 1962 (P. L. 87-98).
63. Foreign Assistance Act of 1961 (P. L. 87-195).
64. Mutual Educational and Cultural Exchange Act of 1961 (P. L. 87-256).
65. Government-Owned Utilities Used for Bureau of Indian Affairs, 1961 (P. L. 87-279).
66. Restoration to Indian Tribes of Unclaimed Payments, 1961 (P. L. 87-283).
67. Arms Control and Disarmament Act, 1961 (P. L. 87-297).
68. Department of Interior Appropriations for Fiscal Year 1963 (P. L. 87-578).
69. National Aeronautics and Space Administration Authorization for Fiscal Year 1963 (P. L. 87-584).
70. Surveys of Watershed Areas for Flood Prevention, 1962 (P. L. 87-639).
71. Independent Agencies Appropriations for Fiscal Year 1963 (P. L. 87-741).
72. Trade Expansion Act of 1962 (P. L. 87-794).
73. Naval Petroleum and Oil Shale Reserves, 1962 (P. L. 87-796).
74. Foreign Aid Appropriations for Fiscal Year 1963 (P. L. 87-872).
75. National Aeronautics and Space Administration Authorization for Fiscal Year 1964 (P. L. 88-113).
76. Independent Agencies Appropriations for Fiscal Year 1964 (P. L. 88-215).
77. Civil Rights Act of 1964 (P. L. 88-352).
78. Reorganization Act Amendment, 1964 (P. L. 88-351).
79. National Aeronautics and Space Administration Authorization for Fiscal Year 1965 (P. L. 88-369).
80. Water Resources Research Act of 1964 (P. L. 88-379).

81. Atomic Energy Amendments, 1964 (P. L. 88-489).
82. Independent Agencies Appropriations for Fiscal Year 1965 (P. L. 88-507).
83. Agricultural Trade Development and Assistance Act Amendments, 1964 (P. L. 88-638).
84. Reorganization Act Amendment, 1965 (P. L. 89-43).
85. National Aeronautics and Space Administration Authorization for Fiscal Year 1966 (P. L. 89-53).
86. Independent Agencies Appropriations for Fiscal Year 1966 (P. L. 89-128).
87. Authorizing Construction, Repair and Preservation of Certain Public Works, 1965 (P. L. 89-298).
88. Watershed Protection and Flood Prevention Act Amendment, 1965 (P. L. 89-337).
89. Water Resources Research Act Amendments, 1966 (P. L. 89-404).
90. National Aeronautics and Space Administration Authorization for Fiscal Year 1967 (P. L. 89-528).
91. Title 5, United States Code, "Government Organization and Employees" (P. L. 89-554).
92. Independent Agencies Appropriations for Fiscal Year 1967 (P. L. 89-555).
93. Interior Department Research Contracts, 1966 (P. L. 89-672).
94. Postmaster General Extension of Leasing Authority, 1967 (P. L. 90-15).
95. National Aeronautics and Space Administration Authorization for Fiscal Year 1968 (P. L. 90-67).
96. Independent Agencies Appropriations for Fiscal Year 1968 (P. L. 90-121).
97. Postal Revenue and Federal Salary Act of 1967 (P. L. 90-206).
98. Treasury and Post Office Appropriations for Fiscal Year 1969 (P. L. 90-350).
99. National Aeronautics and Space Administration Authorization for Fiscal Year 1969 (P.L. 90-373).
100. The Wild and Scenic Rivers Act, 1968 (P.L. 90-542).
101. Independent Agencies Appropriations for Fiscal Year 1969 (P.L. 90-550).
102. Reorganization Act Extension Amendment (P.L. 91-5).
103. Treasury and Post Office Appropriations for Fiscal Year 1970 (P.L. 91-74).
104. National Aeronautics and Space Administration Authorization for Fiscal Year 1970 (P.L. 91-119).
105. Authorization of Appropriations for Armed Forces, 1970 (P.L. 91-121).
106. Independent Agencies Appropriations for Fiscal Year 1970 (P.L. 91-126).
107. Military Construction Authorization, 1970 (P.L. 91-142).
108. Foreign Assistance Appropriations Act, 1970 (P.L. 91-194).
109. Public Health Cigarette Smoking Act, 1970 (P.L. 91-222).
110. Elementary and Secondary Education Assistance Program Extension (P.L. 91-230).
111. National Traffic and Motor Vehicle Safety Act Amendments (P.L. 91-265).
112. National Aeronautics and Space Administration Authorization for Fiscal Year 1971 (P.L. 91-303).
113. Defense Production Act of 1950 Amendment (P.L. 91-379).
114. Treasury and Post Office Appropriations for Fiscal Year 1971 (P.L. 91-442).
115. Armed Forces Authorization, 1971 (P.L. 91-441).
116. Military Construction Authorization, 1971 (P.L. 91-511).
117. Independent Offices and Department of Housing and Urban Development Appropriations for Fiscal Year 1971 (P.L. 91-556).
118. River and Harbor and Flood Control Acts, 1970 (P.L. 91-611).
119. Federal Pay Comparability Act of 1970 (P.L. 91-656).
120. Treasury Postal Service, Executive, and Independent Office Appropriations for Fiscal Year 1972 (P.L. 92-49).
121. National Aeronautics and Space Administration Authorization for Fiscal Year 1972 (P.L. 92-68).
122. National Science Foundation Authorization, 1972 (P.L. 92-86).
123. Military Construction Authorization, 1972 (P.L. 92-145).
124. Armed Forces Authorization, 1972 (P.L. 92-156).
125. Executive Reorganization Plans Extension, 1971 (P.L. 92-179).
126. Foreign Assistance Act of 1972 (P.L. 92-226).
127. National Aeronautics and Space Administration Authorization for Fiscal Year 1973 (P.L. 92-304).
128. Second Supplemental Appropriations Act for Fiscal Year 1972 (P.L. 92-306).
129. Public Buildings Amendments of 1972 (P.L. 92-213).
130. Education Amendments of 1972 (P.L. 92-318).
131. Treasury, Postal Service, Executive, and Independent Offices Appropriations for Fiscal Year 1973 (P.L. 92-351).
132. National Science Foundation Authorization, 1973 (P.L. 92-372).
133. Rural Development Act of 1972 (P.L. 92-419).
134. Dwight D. Eisenhower Memorial Bicentennial Civic Center Act, 1972 (P.L. 92-520).
135. Military Construction Authorization, 1973 (P.L. 92-545).
136. Pennsylvania Avenue Development Corporation Act of 1972 (P.L. 92-578).
137. National Aeronautics and Space Administration Authorization for Fiscal Year 1974 (P.L. 93-74).
138. National Science Foundation Authorization for Fiscal Year 1974 (P.L. 93-96).
139. Department of Interior Appropriations for Fiscal Year 1974 (P.L. 93-120).
140. Indian Claims Judgments Funds, 1973 (P.L. 93-134).
141. Treasury, Postal Service and General Government Appropriations for Fiscal Year 1974 (P.L. 93-143).
142. War Powers Resolution (P.L. 93-148).
143. Amendments to the Mineral Leasing Act of 1920 (P.L. 93-153).
144. Department of Defense Authorizations, 1974 (P.L. 93-155).
145. Emergency Petroleum Allocation Act of 1973 (P.L. 93-159).
146. Military Construction Authorization, 1974 (P.L. 93-166).
147. Foreign Assistance Act of 1973 (P.L. 93-189).
148. Menominee Restoration Act (P.L. 93-197).
149. District of Columbia Self-Government Act, 1973 (P.L. 93-198).
150. Comprehensive Employment and Training Act of 1973 (P.L. 93-203).
151. Regional Rail Reorganization Act of 1973 (P.L. 93-236).
152. Foreign Assistance Appropriations for Fiscal Year 1974 (P.L. 93-240).
153. Supplemental Appropriations Act, 1974 (P.L. 93-245).
154. Public Works, Rivers and Harbors and Flood Control Authorizations, 1974 (P.L. 93-251).
155. Wild and Scenic Rivers Act Amendments, 1974 (P.L. 93-279).
156. National Aeronautics and Space Administration Authorization for Fiscal Year 1975 (P.L. 93-316).
157. Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344).
158. Department of Defense Authorizations for 1975 (P.L. 93-365).
159. Air Transportation Security Act of 1974 (P.L. 93-366).
160. Atomic Energy Act Amendments, 1974 (P.L. 93-377).
161. Forest and Rangeland Renewable Resources Planning Act of 1974 (P.L. 93-378).
162. Education Amendments of 1974 (P.L. 93-380).
163. Department of Interior and Related Agencies Appropriations for Fiscal Year 1975 (P.L. 93-404).
164. Employees Retirement Income Security Act of 1974 (P.L. 93-406).
165. National Science Foundation Authorization for Fiscal Year 1975 (P.L. 93-413).
166. Conveyance of Submerged Lands to Guam, Virgin Islands and American Samoa (P.L. 93-435).
167. Big Thicket National Preserve (P.L. 93-439).
168. Atomic Energy Act Amendments, 1974 (P.L. 93-485).
169. Motor Vehicle and School bus Safety Amendments of 1974 (P.L. 93-492).
170. Presidential Recordings and Materials Preservation Act, 1974 (P.L. 93-526).
171. Hopi and Navajo Tribe Act (P.L. 93-531).
172. Military Construction Authorizaton, 1975 (P.L. 93-552).
173. Foreign Assistance Act of 1974 (P.L. 93-559).
174. Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93-577).
175. Trade Act of 1974 (P.L. 93-618).
176. Grand Canyon National Park Enlargement Act (P.L. 93-620).
177. Hearstart, Economic Opportunity and Community Partnership Act of 1974 (P.L. 93-644).
178. Export-Import Bank Amendments of 1974 (P.L. 93-646).
179. Foreign Assistant Appropriations for Fiscal Year 1975 (P.L. 94-11).
180. Amtrak Improvement Act of 1975 (P. L. 94-25).
181. Trust Territory of the Pacific Islands Amendments Act (P. L. 94-27).
182. National Aeronautics and Space Administration Authorization for Fiscal Year 1976 (P. L. 94-39).
183. National Science Foundation Authorization for Fiscal Year 1976 (P. L. 94-86).
184. Amendment to Social Security Act Child Support Provisions (P. L. 94-88).
185. Board for International Broadcasting Authorization for Fiscal Year 1976 (P. L. 94-104).
186. Department of Defense Authorization for Fiscal Year 1976 (P. L. 94-106).
187. Military Construction Authorization for Fiscal Year 1976 (P. L. 94-107).
188. Sinai Early Warning System Agreement (P. L. 94-110).
189. Older American Amendments of 1975 (P. L. 94-135).
190. Foreign Relations Authorization for Fiscal Year 1976 (P. L. 94-141).
191. Education for All Handicapped Children Act of 1975 (P. L. 94-142).
192. International Development and Food Assistance Act of 1975 (P. L. 94-161).
193. Energy Policy and Conservation Act (P. L. 94-163).
194. Department of Interior and Related Agencies Appropriations for Fiscal Year 1976 (P. L. 94-165).
195. Energy Research and Development Administration Authorization Act (P. L. 94-187).
196. Home Mortgage Disclosure Act of 1975 (P. L. 94-200).

CONGRESSIONAL REVIEW ACT DIGESTS LISTED BY PRIMARY SUBJECT MATTER

PUBLIC LAWS

Military services and national defense

7. Act to Promote Defense of the United States (P. L. 77-11).

11. Navy Public Works Construction Authorization, 1944 (P. L. 78-289).

12. Naval Petroleum Reserve Amendment (P. L. 78-343).

21. Long-Range Proving Ground for Guided Missiles (P. L. 81-60).

26. Universal Military Training and Service Act (P. L. 82-51).

27. Military and Naval Construction Authorization, 1951 (P. L. 82–155).
29. Military and Naval Construction Authorization, 1952 (P. L. 82–534).
39. Department of Defense Appropriation, 1956 (P. L. 84–157).
44. Contracts for Naval Petroleum Reserves Plans (P. L. 84–1028).
45. Disposition of Naval Petroleum Reserves (P. L. 84–1028).
52. Defense Reorganization Act of 1958 (P. L. 85–599).
55. Military Code Amendments of 1958 (P. L. 85–861).
60. Military Construction Authorization Act, 1960 (P. L. 86–500).
67. Arms Control and Disarmament Act of 1961 (P. L. 87–297).
73. Naval Petroleum and Oil Shale Reserves (P. L. 87–796).
105. Authorization of Appropriations for Armed Forces, 1970 (P. L. 91–121).
107. Military Construction Authorization, 1970 (P. L. 91–142).
113. Defense Production Act Amendment of 1950 (P. L. 91–379).
115. Armed Forces Authorization (P. L. 91–441).
116. Military Construction Authorization, 1971 (P. L. 91–511).
123. Military Construction Authorization, 1972 (P. L. 92–145).
124. Armed Forces Authorization, 1972 (P. L. 92–156).
135. Military Construction Authorization, 1973 (P.L. 92–545).
144. Department of Defense Authorization, 1973 (P. L. 93–155).
146. Military Construction Authorization, 1974 (P. L. 93–166).
172. Military Construction Authorization, 1975 (P. L. 93–552).
186. Department of Defense Authorization, 1976.
187. Military Construction Authorization, 1976.

Public works and buildings

13. Federal-Aid Highway Act of 1944 (P.L. 78–520).
15. Federal Airport Act of 1946 (P.L. 79–377).
34. Public Building Purchase Contract Act of 1954 (P. L. 83–519).
40. Federal-Aid Highway Act of 1956 (P.L. 84–627).
58. Public Buildings Act of 1959 (P.L. 86–249).
70. Surveys of Watershed Areas for Flood Prevention, 1962 (P.L. 87–639).
71. Independent Agencies Appropriations, 1963 (P. L. 87–741).
76. Independent Agencies Appropriations, 1964 (P. L. 88–215).
82. Independent Agencies Appropriations, 1965 (P. L. 88–507).
86. Independent Agencies Appropriations, 1966 (P. L. 89–128).
87. Public Works Authorization, 1965 (P. L. 89–298).
92. Independent Agencies Appropriations, 1967 (P. L. 89–555).
96. Independent Agencies Appropriations, 1968 (P. L. 90–121).
98. Treasury and Post Office Appropriations, 1969 (P. L. 90–350).
101. Independent Agencies Appropriations, 1969 (P. L. 90–550).
103. Treasury and Post Office Appropriations, 1970 (P. L. 91–174).
106. Independent Agencies Appropriations, 1970 (P. L. 91–126).
111. National Traffic and Motor Vehicle Safety Act Amendment (P. L. 91–265).
114. Treasury and Post Office Appropriations, 1971 (P. L. 91–442).
117. Independent Office Appropriations, 1971 (P. L. 91–556).
118. River and Harbor and Flood Control Acts, 1970 (P. L. 91–611).
120. Treasury and Independent Office Appropriations, 1971 (P.L. 92–49).
128. Second Supplemental Appropriations, 1972 (P.L. 92–306).
129. Public Buildings Amendments of 1972 (P. L. 92–313).
131. Treasury and Independent Office Appropriations, 1973 (P. L. 92–351).
141. Treasury and Independent Office Appropriations, 1974 (P. L. 93–143).
154. Public Works Authorization, 1974 (P. L. 93–251).

Interior affairs

3. Indian Reservation Irrigation Charges (P. L. 74–742).
24. Reclamation Projects Rehabilitation Costs (P. L. 81–335).
32. Interior Department Appropriations, 1954 (P. L. 83–172).
42. Small Reclamation Projects Act, 1956 (P. L. 84–984).
46. Small Reclamation Projects Act Amendment, 1957 (P. L. 85–47).
65. Utilities Used for Bureau of Indian Affairs, 1961 (P. L. 87–279).
66. Restoration to Indian Tribes of Unclaimed Payments, 1961 (P. L. 87–283).
68. Department of Interior Appropriations, 1963 (P.L. 87–578).
80. Water Resources Research Act of 1964 (P.L. 88–379).
89. Water Resources Research Act Amendments of 1966 (P.L. 89–404).
93. Interior Department Research Contracts (P.L. 89–672).
100. Wild and Scenic Rivers Act of 1968 (P.L. 90–542).
140. Indian Claims Judgments Funds (P.L. 93–134).
145. Emergency Petroleum Allocation Act of 1973 (P.L. 93–159).
148. Menominee Restoration Act (P.L. 93–197).
155. Wild and Scenic Rivers Act Amendments of 1974 (P.L. 93–279).
166. Land Conveyance to Guam, Virgin Islands and American Samoa (P.L. 93–435).
167. Big Thicket National Preserve (P.L. 93–439).
171. Hopi and Navajo Tribe Act (P.L. 93–531).
174. Federal Nonnuclear Energy Research and Development Act of 1974 (P.L. 93–577).
176. Grand Canyon National Park Enlargement Act (P.L. 93–620).
181. Trust Territory of the Pacific Islands Amendment Act (P.L. 94–27).
193. Energy Policy and Conservation Act (P.L. 94–163).
195. Energy Research and Development Administration Authorization Act (P.L. 94–187).

Foreign affairs

5. Neutrality Act of 1951 (54 Stat. Ch. 2; P. Res. 54).
18. Assistance to Greece and Turkey, 1947 (P.L. 80–75).
54. Trade Agreements Extension Act of 1958 (P.L. 85–686).
63. Foreign Assistance Act of 1961 (P.L. 87–195).
64. Mutual Educational and Cultural Exchange Act of 1961 (P.L. 87–256).
72. Trade Expansion Act of 1962 (P.L. 87–794).
74. Foreign Aid Appropriations, 1963 (P.L. 87–872).
108. Foreign Assistance Appropriations, 1970 (P.L. 91–194).
126. Foreign Assistance Act of 1972 (P.L. 92–226).
142. War Powers Resolution (P.L. 93–148).
143. Amendments to the Mineral Leasing Act of 1920 (P.L. 93–153).
147. Foreign Assistance Act of 1973 (P.L. 93–189).
152. Foreign Assistance Appropriations, 1974 (P.L. 93–240).
158. Department of Defense Authorizations, 1975 (P.L. 93–365).
173. Foreign Assistance Act of 1974 (P.L. 93–559).
175. Trade Act of 1974 (P.L. 93–618).
178. Export-Import Bank Amendments of 1974 (P.L. 93–646).
179. Foreign Assistance Appropriations, 1975 (P.L. 94–11).
185. International Broadcasting Board Authorization, 1976 (P.L. 94–104).
188. Sinai Early Warning Agreement (P.L. 94–110).
190. Foreign Relations Authorization, 1976 (P.L. 94–141).
192. International Development and Food Assistance Act of 1975 (P.L. 94–161).

National Aeronautics and Space Administration

51. National Aeronautics and Space Act of 1958 (P.L. 85–568).
56. National Aeronautics and Space Administration Authorization, 1959 (P.L. 86–12).
57. National Aeronautics and Space Administration Authorization, 1960 (P.L. 86–45).
59. National Aeronautics and Space Administration Authorization, 1961 (P.L. 86–481).
62. National Aeronautics and Space Administration Authorization, 1962 (P.L. 87–384).
69. National Aeronautics and Space Administration Authorization, 1963 (P.L. 87–384).
75. National Aeronautics and Space Administration Authorization, 1964 (P.L. 88–113).
79. National Aeronautics and Space Administration Authorization, 1965 (P.L. 88–369).
85. National Aeronautics and Space Administration Authorization, 1966 (P.L. 89–53).
90. National Aeronautics and Space Administration Authorization, 1967 (P.L. 89–528).
95. National Aeronautics and Space Administration Authorization, 1968 (P.L. 90–67).
99. National Aeronautics and Space Administration Authorization, 1969 (P.L. 90–373).
104. National Aeronautics and Space Administration Authorization, 1970 (P.L. 91–119).
112. National Aeronautics and Space Administration Authorization, 1971 (P.L. 91–303).
121. National Aeronautics and Space Administration Authorization, 1972 (P.L. 92–68).
127. National Aeronautics and Space Administration Authorization, 1973 (P.L. 92–304).
137. National Aeronautics and Space Administration Authorization, 1974 (P.L. 83–74).
156. National Aeronautics and Space Administration Authorization, 1975 (P.L. 93–316).
182. National Aeronautics and Space Administration Authorization, 1976 (P.L. 94–39).

Executive reorganization

1. Legislative Appropriations, 1933 (P.L. 72–212).
2. Treasury and Post Office Appropriations, 1934 (P.L. 72–428).
4. Reorganization Act of 1939 (P.L. 76–19).
14. Reorganization Act of 1945 (P.L. 79–263).
22. Reorganization Act of 1949 (P.L. 81–109).
31. Reorganization Act Amendment, 1953 (P.L. 83–3).
38. Reorganization Act Amendment, 1955 (P.L. 84–16).
48. Reorganization Act Amendment, 1957 (P.L. 85–286).
61. Reorganization Act Amendment, 1961 (P.L. 87–18).

78. Reorganization Act Amendment, 1964 (P.L. 88-351).
84. Reorganization Act Amendment, 1965 (P.L. 89-43).
91. Title V, U.S. Code, Government Organization and Employees (P.L. 89-554).
02. Reorganization Act Extension Amendment, 1969 (P.L. 91-5).
25. Executive Reorganization Plans Extension, 1971 (P.L. 92-179).
77. Headstart, Economic Opportunity and Community Partnership Act of 1974 (P.L. 93-644).

Agricultural matters

35. Watershed Protection and Flood Prevention Act, 1954 (P.L. 83-566).
41. Authorizing Interchange of Agriculture and Defense Lands, 1956 (P.L. 84-804).
43. Watershed Protection and Flood Prevention Act Amendment, 1956 (P.L. 84-1018).
83. Agricultural Trade Development and Assistance Amendment, 1964 (P.L. 88-638).
88. Watershed Protection and Flood Prevention Act Amendment, 1965 (P.L. 89-337).
133. Rural Development Act of 1972 (P.L. 92-419).
139. Department of Interior Appropriations, 1974 (P.L. 93-120).
153. Supplemental Appropriations Act, 1974 (P.L. 93-245).
161. Forest and Rangeland Renewable Resources Planning Act of 1974 (P.L. 93-378).
163. Department of Interior Appropriations, 1975 (P.L. 93-404).
194. Department of Interior Appropriations, 1976 (P.L. 94-165).

Atomic energy

36. Atomic Energy Act of 1954 (P.L. 85-703).
47. Atomic Energy Act Amendment, 1957 (P.L. 85-79)
50. Atomic Energy Act Amendment, 1958 (P.L. 85-479).
53. Atomic Energy Act Amendment, 1958 (P.L. 85-681).
81. Atomic Energy Act Amendment, 1964 (P.L. 88-489).
160. Atomic Energy Act Amendment, 1974 (P.L. 93-377).
168. Atomic Energy Act Amendment, 1974 (P.L. 93-485)

Immigration

6. Alien Registration Act of 1940 (P.L. 76-670).
19. Displaced Persons Act of 1948 (P.L. 81-774).
20. Immigration Act Amendment of 1948 (P.L. 81-864).
28. Immigration and Nationality Act of 1952 (P.L. 82-414).
49. Immigration and Nationality Act Amendments of 1957 (P.L. 85-316).

National Science Foundation

122. National Science Foundation Authorization, 1972 (P.L. 92-86).
132. National Science Foundation Authorization, 1973 (P.L. 92-372).
138. National Science Foundation Authorization, 1974 (P.L. 93-96).
165. National Science Foundation Authorization, 1975 (P.L. 93-413).
183. National Science Foundation Authorization, 1976 (P.L. 94-86).

Education

110. Elementary and Secondary Education Assistance Program Extension of 1970 (P.L. 91-230).
130. Education Amendments of 1972 (P.L. 92-318).
162. Education Amendments of 1974 (P.L. 93-380).
191. Education for All Handicapped Children Act of 1975 (P.L 94-142)

Transportation

151. Regional Rail Reorganization Act of 1973 (P.L. 93-236).
159. Air Transportation Security Act of 1974 (P.L. 93-366).
169. Motor Vehicle and School Bus Safety Amendments of 1974 (P.L. 93-492).
180. Amtrak Improvement Act of 1975 (P.L. 94-25).

Stockpile and surplus disposal

16. Strategic Materials Stockpiling Act Amendments of 1946 (P.L. 79-520).
17. Disposal of Surplus Vessels and Other Naval Property, 1946 (P.L. 79-649).
33. Disposal of Government-Owner Rubber-Producing Facilities, 1953 (P.L. 83-205).

District of Columbia

134. Eisenhower Memorial Bicentennial Civic Center Act of 1972 (P.L. 92-520).
136. Pennsylvania Avenue Development Corporation Act of 1972 (P.L. 92-578).
149. District of Columbia Self-Government Act of 1973 (P.L. 93-198).

Budget and taxation

30. Supplementary Appropriations Act, 1953 (P.L. 82-547).
37. Internal Revenue Code of 1954 (P.L. 83-591).
157. Congressional Budget and Impoundment Control Act of 1974 (P.L. 93-344).

Labor relations and private pensions

10. War Labor Disputes Act of 1943 (P.L. 78-89).
150. Comprehensive Employment and Training Act of 1973 (P.L. 93-203).
164. Employees Retirement Income Security Act of 1974 (P.L. 93-406).

Economic regulation

8. Emergency Price Control Act of 1942 (P.L. 77-421).
9. Emergency Price Control Act Amendment of 1942 (P.L. 77-729).

General government and miscellaneous

23. Government Printing and Binding Amendment of 1949 (P.L. 81-156).
25. Federal Civil Defense Act of 1950 (P.L. 81-920).
77. Civil Rights Act of 1964 (P.L. 88-352).
94. Postmaster General Extension of Leasing Authority, 1967 (P.L. 90-15).
97. Postal Revenue and Federal Salary Act of 1967 (P.L. 90-206).
109. Public Health Cigarette Smoking Act of 1970 (P.L. 91-222).
119. Federal Pay Comparability Act of 1970 (P.L. 91-656).
170. Presidential Recordings and Materials Preservation Act of 1974 (P.L. 93-526).
184. Social Security Child Support Act Provisions Amendment (P.L. 94-88).
189. Older Americans Act of 1975 (P.L. 94-135).
196. Home Mortgage Disclosure Act of 1975 (P.L. 94-200).

Mr. PROXMIRE. Mr. President, two of the biggest users of HUD services are the Mortgage Bankers Association of America and the National Association of Housing and Redevelopment Officials. Both of them come down very, very hard against this amendment, so hard that I have to quote to precisely what they say to give the Senate the flavor of it.

The mortgage bankers say:

The prospect of amending the 1979 HUD authorization bill, S. 3408 to provide a one-house veto procedure whereby any proposed HUD regulation could not go into effect for a period for up to three months, during which time a record vote by either House of Congress could invalidate the regulation, threatens real chaos to the housing and mortgage finance industries. The real loser in the end will be the American family seeking shelter.

Such an amendment could have the effect of putting Congress in the position of administering Federal housing programs with a possible disastrous disrupting effect on housing and housing finance. It could also increase housing costs. It could affect the implementation of the establishment of maximum mortgage amounts, downpayment requirements and other orderly and routine program administration. In short, the amendment threatens hamstringing the Department's orderly function.

When proposing a new regulation, the present administration at HUD has made it a consistent practice actively to seek the input of a wide range of affected groups. In some instances, while this has delayed implementation of regulations, it has generally resulted in more workable regulations. Final regulations reflect the many compromises necessary to reconcile the competing needs and interests of HUD's extremely diverse constituency. To impose yet an additional layer of review could seriously undercut the input of affected groups. Individual Members of Congress will be faced with increasing constituent pressure to amend regulations to respond to individual as opposed to consumer and industry concerns.

They also call this an intolerable burden on congressional committee staffs.

Also, Mr. President, the National Association of Housing and Redevelopment Officials is equally emphatic in saying they are "vehemently opposed to legislation providing either House of Congress with authority to veto regulations of the Department of Housing and Urban Development."

From another source, "Congress Watch," "Public Citizen," expresses their emphatic views as being strongly against this amendment.

I might also point out, Mr. President, that the distinguished Senator from New Mexico indicated that I favored the Lugar one-house veto with respect to New York's fiscal policy or fiscal programs, and I did. I thought that was a good proposal.

That, however, did not go to the executive function. Here we are talking about a one-house veto of regulations, and that is entirely different not only in degree but in kind. We are talking about our interfering with what we have always recognized as a proper Executive function. There, it seems to me, a one-house veto oversteps its bound. Indeed, the distinguished Senator from California made exactly the same distinction when he said he favored a one-house veto under some circumstances, but would not when we are moving in and taking over what we always recognize is a necessary Executive function.

I ask unanimous consent that the wire from the Mortgage Bankers Association, the NAHRO statement, and the Public Citizen Alert on "Legislative Veto" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WIRE

MBA strongly opposes adoption of one-House veto amendment to housing bill S-3084. Would seriously disrupt housing programs.

JOHN C. OPPERMAN,
President.

NAHRO STATEMENT IN OPPOSITION TO ONE-HOUSE VETO AMENDMENT

The National Association of Housing and Redevelopment Officials is vehemently opposed to legislation providing either House of Congress with the authority to veto regulations of the Department of Housing and Urban Development. In addition to raising certain serious constitutional questions, such

authority would overburden and detract from crucial congressional legislative responsibilities and seriously delay HUD's own program implementation, resulting in continuing chaos and uncertainty at the local level. As the local professional administrators of HUD programs, NAHRO's membership strongly believes that HUD has implemented its program authorities consistent with both the letter and spirit of the law. In the very few instances where it may be felt that HUD has overstepped its legislative mandate, we believe that both Houses of Congress should take action to clarify the specific issue in question.

The prospect of amending the 1979 HUD authorization bill, S. 3408 to provide a one-house veto procedure whereby any proposed HUD regulation could not go into effect for a period for up to three months, during which time a record vote by either House of Congress could invalidate the regulation, threatens real chaos to the housing and mortgage finance industries. The real loser in the end will be the American family seeking shelter.

Such an amendment could have the effect of putting Congress in the position of administering Federal housing programs with a possible disastrous disrupting effect on housing and housing finance. It could also increase housing costs. It could affect the implementation of the establishment of maximum mortgage amounts, downpayment requirements and other orderly and routine program administration. In short, the amendment threatens hamstringing the Department's orderly function.

When proposing a new regulation, the present administration at HUD has made it a consistent practice actively to seek the input of a wide range of affected groups. In some instances, while this has delayed implementation of regulations, it has generally resulted in more workable regulations. Final regulations reflect the many compromises necessary to reconcile the competing needs and interests of HUD's extremely diverse constituency. To impose yet an additional layer of review could seriously undercut the input of affected groups. Individual Members of Congress will be faced with increasing constituent pressure to amend regulations to respond to individual as opposed to consumer and industry concerns.

A further concern is that such an amendment would put an intolerable burden on Congressional Committee staffs of having to overview and in effect administer the various HUD programs.

ALERT ON "LEGISLATIVE VETO"

DEAR DEMOCRATIC REPRESENTATIVE: The House Democratic Caucus is about to consider a resolution urging the Judiciary and Rules Committees to hold hearings on legislation which would empower Congress to veto regulations written by administrative or regulatory agencies. Proponents of the Congressional veto legislation are rightfully concerned about the need for regulatory reform and more effective Congressional oversight of the "Fourth Branch," but they have proposed an approach with more potholes than the Whitehurst Freeway.

We thought it important to present a fuller exposition of the problems affecting the legislative veto before the Caucus considers the issue.

The Congressional veto would create another layer of bureaucracy. To be true to the characterization given the veto proposal by proponents—to block "bad" regulations—each Representative and each committee would require staff to review potentially every regulation. New staff would have to be hired to perform the time consuming and arduous review of proceedings that can be as long as 30,000 pages. In a multi-layered process, this congressional review would follow the agency review, but precede any court review. Proponents of the legislative veto may next propose to review systematically not only agency decisions but judicial decisions as well—since the principle of review and the rhetoric about "unelected bureaucrats affecting our lives" is surely the same. As someone who has previously expressed anxiety over too much government and "another layer of bureaucracy," Mr. Levitas must surely understand how his proposal would only exacerbate trends he already deplores.

It would politicize the agency process and be a boon to big business. Given the large volume of regulations, over 250 printed in the Federal Register in ten working days, only a few will receive Congressional attention. Representatives will find themselves under increased pressure from private groups with the self-interest and the resources to pour over the regulations and to lobby members. What the oil industry, banks, National Association of Manufacturers and the U.S. Chamber of Commerce lose at the administrative rule-making level, the will seek to recoup in Congress. What they lose on the merits in the agencies, they will seek to salvage as a matter of politics in Congress—which is why big business wants this second bite-of-the-apple.

But this development would pervert the *raison d'etre* of agency proceedings—where regulatory judges are supposed to decide complex economic issues according to the merits of the case and not the muscle of the interested industry. The legislative veto concept would politicize this process in two ways: not only would there be enormous political pressure on Congress by affected companies, but regulatory staff and judges would always be politically second-guessing themselves as to what Congress might subsequently do. An analysis of the histories of five federal programs subject to the legislative veto prepared for the Administrative Conference of the United States by two noted scholars of administrative law, Harold Bruff and Ernest Gellhorn, document the fact of this politicization. They observed that the opportunity for regulated interests to change or block a rule after rulemaking "would exacerbate current problems of the 'capture' of the independent commissions by their regulated constituencies." (Bruff and Gellhorn, "Congressional Control of Administrative Regulation: A Study of Legislative Vetoes," 90 Harvard Law Review, 1369, 1426 (1977).)

The legislative veto is unconstitutional. A May 1977 letter from the U.S. Department of Justice to House Judiciary Committee Chairman Peter Rodino pointed out that the legislation has no "provision for any presidential veto or check on Congress' action"—thus violating the constitutionally required separation of powers (see Buckley v. Valeo, 424 U.S. 1, 120, (1976)). In addition, if a single house may veto regulations, which would be the case should one house pass a disapproval resolution within 60 calendar days and the other house did not reject the resolution within 30 days, the fundamental principle of bicameralism may be violated. Several district and circuit court cases now pending raise these issues. The 1977 U.S. Court of Claims case which involved a one-house veto (Atkins v. United States, 566 F.2d 1028 (Ct. Claims, (1977)) was denied certiorari; the Supreme Court has yet to, but may shortly, deal with the issue.

The legislative veto will pose enormous practical problems of delay and uncertainty. Congress lacks the expertise to evaluate proposed regulations, which are usually the result of months, if not years of detailed proceedings. The effective date and substance of final, approved rules will remain uncertain for months after it has been promulgated, adding yet more delay to the already creaky regulatory process. Rather than formulate rules which would be subject to Congressional veto, agencies might then shift to case by case adjudication, a time-consuming, duplicative and burdensome approach for regulators and regulatees alike. Those opposed to the rule may not even participate at the agency level; they might choose instead to concentrate their resources on Congress, thus undermining any rule-making effort by the agencies. Because of the time limits found in most statutes authorizing judicial review, aggrieved parties may have to file for judicial review before Congress goes through the veto process, which may well waste the time of litigants and courts. Obviously, the delay, uncertainty and confusion will cost businesses money.

Congress has better ways to review and control the policies of federal agencies. Congress can amend, rewrite or revoke legislation which is unworkable—not demean the process by piecemeal attention to individual regulations. (Imagine you and your staff actually pouring over 99,000 pages of technical data from the FDA in order to determine in a "peanut butter-food standard" proceeding, whether there should be a 3 percent limitation on hydrogenated oil in peanut butter: this example is real, not hypothetical.) Instead, Congress can, and should, engage in more effective oversight activities on a regular basis, as the Derrick "legislative Oversight Act of 1978" (H.R. 10421) attempts to do. Stricter standards for the appointment process must be developed. The opportunities for public participation in the process can be expanded by reimbursement of attorney and expert witness fees and by providing greater access to the courts for citizens to challenge illegal agency actions. Congress can better use the authorization process to ensure that agency actions coincide with the will of Congress. Finally, Congress can place greater reliance on the appropriations process.

We join with you in your push for regulatory reform, but we urge you not to rush pell mell to embrace a so-called wonder drug that has not been tested and causes more problems than it cures.

Sincerely yours,

FRANCIS ZWENIG,
Staff Attorney.
MARK GREEN,
Director.

Mr. PROXMIRE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 7 minutes remaining.

Mr. PROXMIRE. How much time does the Senator want? I yield 3 minutes to the Senator from New Hampshire.

Mr. McINTYRE. I thank my chairman.

Mr. President, I am opposed to the amendment offered by the Senator from New Mexico. I am opposed to this amendment, because it does not effectively address the overall problem of Federal regulation, but attempts to apply one standard for one Department, but not for all Federal agencies. If a one-House veto of proposed regulations is good for the Department of Housing and Urban Development, then the same rationale should apply throughout the Federal Government.

I believe that the proper approach to Federal regulation would be to adopt a uniform standard applicable to all agencies and departments and it is my understanding that the sponsor of this amendment has introduced legislation which would do this. If, in fact, Congress desires to place greater control of the Federal regulatory process, which I believe has considerable merit, then we must make the procedure apply across the board. I

do not believe the amendment before the Senate represents the best approach to ill-conceived and unauthorized regulatory proposals .

Congress presently possesses the unquestioned power to amend existing law and overturn bureaucratic attempts to extend or distort legislative intent. This Congress is constitutionally established as a bicameral body which requires ultimate identical action by both the House and the Senate. Without debating the one-House veto concept at length I do believe that constitutional concern is obviously present. The point here, however, in this Senator's opinion, does not rest on constitutional issues but on the appropriateness of this amendment on its own merits. I do not believe regulatory abuse should be addressed piecemeal. I believe the problem is not limited to HUD or HEW or the SEC or any other agency. I believe we should address the entire regulatory process in a comprehensive piece of legislation. In this particular case I do not believe that this amendment is comprehensive and, therefore, I must oppose it. I urge my colleagues to defeat it. I thank my chairman for yielding to me at this time.

Mr. PROXMIRE. Mr. President, I am ready to yield back my time if the Senator from New Mexico is ready to yield back his.

Mr. SCHMITT. In a moment.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Five minutes.

Mr. SCHMITT. I just want to thank the distinguished Senator from New Hampshire for his endorsement of a consideration of the provisions of S. 2011, the Regulatory Reduction and Congressional Control Act comparable legislative veto over agencywide or Government-wide regulations.

I think it is very important that we do consider that. Unfortunately, there has been some difficulty in getting hearings on that measure, and it is now, I think, appropriate to consider the merits of that approach to each agency where it seems to be possible to get such consideration. Today the issue before us is the Department of Housing and Urban Development.

I would also like to remind the Senator from Connecticut, who is not on the floor at this time, but nevertheless to remind his colleagues that in the report of the Committee on Government Operations of February 1977, "A Study on Federal Regulation," they did not come down unequivocally on the side of no legislative veto. As a matter of fact, I might quote from that report on page 117:

> The legislative veto does provide some benefits. First, Congress would have an additional oversight mechanism. The veto would allow Congress to directly and quickly work its will when it disagrees with the proposed rule. Even if the veto is used infrequently, an agency's realization that Congress possessed an efficient device to nullify a proposed rule might make it more carefully draft proposals. It may also mean that agencies would be more responsive to Congress before promulgating rules.

That is exactly the point. That is my answer to those Senators who said that somehow this amendment will cause a loss of congressional authority over the agencies. I just do not see how that is possible. The agencies—and having been part of such an agency in the past—I think I can guarantee that they will respond to this kind of amendment with much more carefully thought-out regulations and rules, knowing if they are not carefully thought out and not well-justified and do not have the general support of their constituency in the country, then Congress will probably take action to nullify that regulation.

That, I think, is the most important point we can make here today, that by this mechanism we are not mandating the Congress to take action. We are mandating that the executive branch, and in this case the Department of Housing and Urban Development, do the right thing in the first place and think about what they are doing to the citizens with a particular regulation.

Mr. PROXMIRE. Mr. President, let me just make one more very brief observation. The Senator from New Mexico may want to address himself to it, and he certainly ought to have the last word.

Assuming again Congress disapproved a regulation, would that veto be subject to a Presidential veto, since it constitutes a legislative action, and would Congress be able to override the veto of its veto? Would a pocket veto of a congressional veto allow an agency to implement its proposed regulation? If so, until when, since a pocket veto is made after Congress adjourns sine die?

This is the kind of complication you get into when we are vetoing or we veto and they can veto maybe. It is another indication of why this kind of legislation leads us into a quandary, which we certainly ought to try to reconcile at least by hearings, by a record, and by a markup session so that we can come to the floor with full knowledge of the implications of a very far-reaching proposal.

Mr. SCHMITT. Mr. President, the distinguished Senator from Wisconsin knows that that quandary does not exist in the amendment. The amendment is for a resolution of disapproval which would not be subject to Presidential veto, and I think if we care to look at some of the constitutional discussions and some of the briefs on this subject there is really no constitutional need for Congress to provide for that Presidential veto in the case of a regulation.

I agree there ought to be hearings on this concept in terms of an agency, in terms of a Government-wide activity. However, we are again not talking about that. We are talking about whether or not the record of HUD is such that it requires this kind of a measure, and I think it does. I think the House obviously concurred since this is part of the legislation they have sent over, and I think we ought to agree today to go to conference in agreement with the House and see just what happens with respect to HUD.

I think it is going to be a very positive thing. I think the logic is very clear. The legislative veto in other areas has worked generally well. It certainly puts the executive branch on notice that Congress is going to be watching a particular act. So I would strongly recommend that my colleagues support this amendment and that we see if it does not, in fact, do the job that has been proposed for it.

● Mr. BROOKE. Mr. President, I must oppose this amendment. As I understand it, the amendment of the distinguished Senator from New Mexico (Mr. SCHMITT) would restrict the Department of Housing and Urban Development from putting any proposed rules or regulations into effect until Congress has an opportunity to review the rule or regulation and decides whether to adopt a resolution disapproving it. A proposed regulation would not go into effect if either the House or the Senate adopts such a resolution within 90 days of the promulgation of the proposed regulation.

I recognize the problem which the distinguished Senator from New Mexico is attempting to resolve by this amendment. Many of us could cite examples of regulatory actions by the Department of Housing and Urban Development and other departments which we believe have exceeded or are inconsistent with congressional statutory intent.

But this amendment seems to me to be a case of legislative overkill. It would require the Banking, Housing, and Urban Affairs Committee to review every rule and regulation promulgated by the Department, then review extensive comments and material submitted to HUD by interested parties, hold our own hearings if needed, and decide whether to disapprove the regulation—all in a matter of weeks. It is clear that this process would impose a substantial burden on committee members and staff and would likely further delay the already cumbersome HUD process for promulgating regulations.

Our committee already has substantial powers of oversight which we have regularly used. HUD Secretary Patricia Harris has appeared before the committee numerous times this year and members of the committee have raised questions about actions of the Department. And, if we are not satisfied with the Department's action, we have the power to legislate changes in HUD programs when we believe that the Department has ignored or exceeded congressional intent or when Congress sees the need to clarify its intent.

I am concerned that this approach would give one body of Congress a veto when legislative authority is delegated to both Houses of Congress. In many areas, including the community development block grant program which was discussed by the distinguished Senator from New Mexico, contested legislative issues have been resolved by the joint conference committee. I see no reason to give one House of Congress a further opportunity to reopen issues already resolved in conference by means of a one-House legislative veto.

Mr. President, this issue is worthy of careful and serious consideration. It raises major constitutional issues which many experts believe will eventually be determined by the Supreme Court. In

any event, both the practical and constitutional issues were not considered in the committee markup on this bill.

On its merits, I believe that this amendment is unnecessary and, if we are to do our job well, burdensome.●

Mr. SCHMITT. Mr. President, I would be happy to yield back the remainder of my time.

Mr. PROXMIRE. I yield back my time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Minnesota (Mr. ANDERSON), the Senator from Montana (Mr. PAUL G. HATFIELD), and the Senator from Kentucky (Mr. HUDDLESTON) are necessarily absent.

Mr. STEVENS. I announce that the Senator from Massachusetts (Mr. BROOKE) and the Senator from Oregon (Mr. MARK O. HATFIELD) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. MARK O. HATFIELD) would vote "nay."

The result was announced—yeas 29, nays 65, as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—29

Allen	Hansen	Roth
Baker	Haskell	Schmitt
Byrd, Harry F., Jr.	Hatch	Schweiker
Curtis	Havakawa	Scott
Dole	Helms	Stevens
Domenici	Laxalt	Thurmond
Garn	Lugar	Tower
Goldwater	McClure	Wallop
Griffin	Nunn	Young
	Packwood	Zorinsky

NAYS—65

Abourezk	Ford	Morgan
Bartlett	Glenn	Moynihan
Bayh	Gravel	Muskie
Bellmon	Hart	Nelson
Bentsen	Hathaway	Pearson
Biden	Heinz	Pell
Bumpers	Hodges	Percy
Burdick	Hollings	Proxmire
Byrd, Robert C.	Humphrey	Randolph
Cannon	Inouye	Ribicoff
Case	Jackson	Riegle
Chafee	Javits	Sarbanes
Chiles	Johnston	Sasser
Church	Kennedy	Sparkman
Clark	Leahy	Stafford
Cranston	Long	Stennis
Culver	Magnuson	Stevenson
Danforth	Matsunaga	Stone
DeConcini	McGovern	Talmadge
Durkin	McIntyre	Weicker
Eagleton	Melcher	Williams
Eastland	Metzenbaum	

NOT VOTING—6

Anderson	Hatfield, Paul G.	Huddleston
Brooke		Mathias
Hatfield, Mark O.		

So Mr. SCHMITT's amendment (No. 3253) was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. STONE). The Senator from New Mexico is recognized.

AMENDMENT NO. 3032

Mr. DOMENICI. Mr. President, I call up my amendment No. 3032 and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Mexico, for himself and Mr. WILLIAMS, Mr. BROOKE, Mr. PERCY, Mr. DOLE, Mr. CHILES, Mr. CHURCH, Mr. DECONCINI, and Mr. HEINZ, proposes amendment No. 3032:

On page 48, line 11, insert "and nonprofit corporations" before the comma.

On page 48, line 16, insert "or nonprofit corporations" after "agencies".

On page 48, line 21, insert "or nonprofit corporation" after "agency".

On page 48, line 23, insert "or nonprofit corporation" after "agency".

On page 49, line 3, insert "and nonprofit corporations" after "agencies".

On page 49, line 12, insert "or nonprofit corporation" after "agency".

On page 49, line 16, insert "or nonprofit corporation" after agency".

On page 50, line 24, insert "or project assisted under section 202 of the Housing Act of 1959" after "project".

On page 51, line 10, insert "or nonprofit corporation" after "agency".

On page 51, line 19, strike out "and".

On page 52, strike out the period at the end of line 5, and insert in lieu thereof "; and".

On page 52, between lines 5 and 6, insert the following new paragraph:

"(8) the term 'nonprofit corporation' means any corporation responsible for a housing project assisted under section 202 of the Housing Act of 1959.".

On page 52, line 7, insert "or nonprofit corporation" after "agency".

On page 52, line 12, insert "or nonprofit corporation" after "agency".

On page 52, line 21, insert "or nonprofit corporation" after "agency".

On page 52, line 25, insert "or nonprofit corporation" after "agency".

On page 53, line 3, insert "or nonprofit corporation" after "agency".

On page 53, line 7, insert "or nonprofit corporation" after "agency" where it first appears.

On page 53, line 13, insert "or nonprofit corporation" after "agency".

On page 53, line 17, insert "or nonprofit corporation" after "agency".

On page 54, line 7, insert "or nonprofit corporation" after "agency".

On page 54, line 24, insert "or nonprofit corporation" after "agency".

On page 56, lines 9 and 10, strike out "submitted by a public housing agency".

On page 56, lines 13 and 14, strike out "submitted by a public housing agency".

On page 56, line 18, insert "and nonprofit corporation" after "agency".

On page 57, line 1, insert "or nonprofit corporation" after "agency".

On page 58, line 11, insert "and nonprofit corporation" after "agency".

On page 59, line 2, strike out "public housing agency applying" and insert in lieu thereof "applicant".

On page 59, line 6, strike out "public".

On page 59, line 11, strike out "public".

On page 59, line 18, insert "and nonprofit corporations" after "agencies".

On page 60, line 6, insert "and nonprofit corporations" after "agencies".

On page 60, line 22, insert "and nonprofit corporations" after "agencies".

On page 61, line 6, insert "or nonprofit corporation" after "agency".

On page 61, line 7, strike out "authority" and insert in lieu thereof "agency or nonprofit corporation".

On page 61, line 13, insert "and nonprofit corporation" after "agency".

On page 61, line 23, insert "or nonprofit corporation" after "agency".

On page 62, line 2, insert "or nonprofit corporation" after "agency".

On page 62, line 5, insert "and nonprofit corporation" after "agency".

On page 63, lines 2 and 3, strike out "public housing resident" and insert in lieu thereof "resident of a project assisted".

On page 63, line 15, strike out "$20,000,000" and insert "$25,000,000" after "exceed".

On page 63, line 17, strike out "$25,000,000" and insert "$30,000,000" after "exceed".

On page 63, line 19, strike out "$35,000,000" and insert "$45,00,000" after "exceed".

On page 63, line 21, strike out "$40,000,000" and insert "$50,000,000" after "exceed".

On page 63, line 22, strike out "$45,000,000" and insert "$60,000,000" after "exceed".

Mr. DOMENICI. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOMENICI. What does the unanimous-consent agreement provide for time on the amendment?

The PRESIDING OFFICER. Thirty minutes to a side.

Mr. DOMENICI. Mr. President, I ask unanimous consent that Senators THURMOND and METZENBAUM be added as cosponsors.

I ask unanimous consent that Philip Corwin of the Aging Committee staff and Barry Berkoff, of Senator CHURCH's staff, be granted the privilege of the floor during discussion of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, on June 15, 1978, I introduced an amendment (No. 3032) to Senate bill 3084, the Housing and Community Development Amendments of 1978. Simply stated, the amendment will extend eligibility for congregate services under title IV to section 202 housing projects for the elderly and handicapped.

I was joined by my colleague, Senator WILLIAMS, who introduced the Congregate Services Act (S. 2691) which was incorporated into the committee bill as title IV, and by Senators BROOKE, PERCY, DOLE, CHURCH, DECONCINI, and HEINZ. Additionally, Senators REIGLE, HATHAWAY, BELLMON, SPARKMAN, BIDEN, HUMPHREY, CRANSTON, TOWER, JAVITS, THURMOND, and STONE have joined in cosponsoring this amendment.

A number of organizations have endorsed this amendment, including the American Association of Homes for the Aging, the National Council on Aging, the Urban Elderly Coalition, the American Association of Retired Persons, and the National Council of Senior Citizens.

This amendment would authorize HUD to enter into 3 to 5 year contracts with any nonprofit corporation responsible for project housing assisted under section 202 of the Housing Act of 1959, as amended, to provide funds for supportive social services, either directly or through arrangements with local service

providers, for their frail elderly and non-elderly handicapped residents.

I am proposing a modest increase in the authorization levels for the expanded program by adding an additional $5 million in fiscal years 1979 and 1980, $10 million in fiscal years 1981 and 1982, and $15 million in 1983. Such funding would be provided only when the section 202 sponsor cannot obtain necessary services through other means.

The House of Representatives included a provision similar to this amendment in House bill 12433, the companion bill to S. 3084, which was approved by the House Banking Committee and now awaits House floor action.

Mr. President, I am convinced that we must focus on the needs of all residents in congregate housing and also consider the elderly and handicapped persons residing in section 202 housing. Today, thousands of our Nation's elderly live in nursing homes. According to GAO estimates, between 14 and 25 percent do not need institutional care, but find themselves institutionalized because of the lack of supportive social services.

A carefully constructed comparison between congregate housing and nursing homes, in the 1976 HUD-financed Urban Institute study, indicates that congregate sites with medium to high levels of service are less costly than most nursing home alternatives. The analysis shows that the cost in 1974–75 of congregate housing with a medium-service level was 53 percent below the national nursing home care costs in 1974. Comparative cost estimates from the Social Security Administration and the International Center for Social Gerontology indicate that the annual Federal medicaid cost of maintaining one person in a nursing home is 5.5 times greater than the cost of providing supportive services within congregate housing.

Mr. President, I believe that by extending the eligibility to section 202 elderly and handicapped housing residents, we will be staving off unnecessary and premature institutionalization and save this country, its elderly and handicapped, the high, unaffordable costs of institutional care. I urge its expeditious consideration by the Senate.

Mr. CHURCH. Will the Senator be kind enough to yield to me for just a moment?

Mr. DOMENICI. I am delighted to yield to the Senator from Idaho.

Mr. CHURCH. Mr. President, I am well acquainted with the amendment being offered by the distinguished Senator from New Mexico. He is the ranking member of the Senate Committee on Aging. We have discussed this amendment and I am one of those who has joined in its cosponsorship.

Mr. President, I rise in support of title IV of the Housing and Community Development Amendments of 1978—the Congregate Housing Services Act.

First, I wish to express my deep appreciation to Senator HARRISON WILLIAMS, with whom I introduced this legislation on March 8, for his distinguished leadership in bettering the housing conditions of older Americans. My heartfelt thanks also goes out to the members of the Committee on Banking, Housing and Urban Affairs, for their thorough and expeditious consideration of the bill, and their favorable inclusion in this year's housing authorization bill. And, finally, I wish to acknowledge the widespread support which this bill has gathered among my 34 colleagues who have joined to cosponsor the original bill, as well as the amendment which is being offered today by the esteemed ranking minority member of the Special Committee on Aging, Senator PETE DOMENICI.

Congregate housing for the elderly and handicapped is neither a new idea or a complex one. It is, quite simply, housing with services. It recognizes that the frailty which often accompanies the aging process is not an illness, and need not result in a loss of independence and dignity and premature placement in a nursing home or hospital. The legislation which we address today establishes that housing for the elderly must incorporate more than four walls and a roof. It is one embodiment of the "independent living" goal sought by all Americans, including those with one or more disabilities.

The Congress first provided for the availability of congregate housing in 1970, but did not establish a separate funding mechanism for it in the hope that cooperation between HUD and HEW could establish the necessary merger of shelter and services. Unfortunately, that hope has not been rewarded, and the reason goes deeper than lack of willingness or ability. Existing social service programs are governed by a maze of regulations, confronted with a wide-range of competing demands, and usually funded on an annual basis. All of these factors make them unwieldy for the guaranteed provision of nutrition, housekeeping, personal care, and other services, which, on a long-term basis, are essential for growing numbers of older persons.

Hearings held by the Senate Committee on Aging in October 1975, chaired by Senator WILLIAMS, established the fact that only a handful of congregate housing projects had been established anywhere in the Nation.

As my colleagues well know, inflation in the health care sector is far higher than for the economy as a whole. Yet we continue to place frail elderly in health care institutions, where their meager resources are quickly exhausted and medicaid must pick up the tab. But congregate housing could preserve their independence for as little as one-fourth of medicaid costs.

Shortly after the Committee on Aging's 1975 hearings, we issued a report which further documented the growing need for congregate housing. Since that time, similar reports have been issued by both HEW and HUD. Hearings held in April of this year by the Subcommittee on Housing, again chaired by Senator WILLIAMS, provided expert and unanimous support for the legislation. While those endorsements are too numerous to quote individually, I will refer to one. Mr. Robert Notte, testifying on behalf of the National Association of Housing and Redevelopment Officials, stated:

> NAHRO views the passage of this bill, S. 2691, as equal in importance to the pioneering legislative provisions of 1956 which first authorized the admission of single elderly persons into public housing.

Support has grown since that April hearing. On June 1, 1978, the Wisconsin Board on Aging released its report entitled "Congregate Housing: Shelter With Services." That document adds more evidence of the need, feasibility, and cost-effectiveness of congregate housing, and strongly endorses the passage of the legislation we address today. Also, the June 1978 progress report of the National Commission on Neighborhoods cites the Congregate Housing Services Act of 1978 as the model on which it is basing its search for neighborhood-based alternatives to institutionalization for America's elderly.

Mr. President, the case for congregate housing is overwhelmingly convincing. I therefore support the amendment of Senator DOMENICI to include section 202 elderly housing projects as eligible for funding under the act. This program was not included in S. 2691 because we wished to build slowly upon the 1970 congressional mandate, which referred only to traditional public housing. However, the April Housing Subcommittee hearings provided compelling arguments for 202 inclusion. This loan program is one of our most successful Federal housing efforts, is now geared toward lower-income elderly, and is managed by sponsors with a high degree of competence for understanding and meeting the needs of older persons. The additional authorizations required for inclusion are minimal; they are sufficient to accommodate all those persons who we estimate will require congregate services within 202 housing at the end of the authorization period; and they will ultimately cut medicaid outlays. This amendment is supported by the Ad Hoc Coalition for Housing for the Elderly, a coalition comprising organizations which represent a majority of elderly Americans. I fully support the amendment, and again commend Senator DOMENICI for introducing it.

Mr. CRANSTON. Mr. President, I have cosponsored amendment No. 3032 introduced by Senator DOMENICI that would expand the congregate housing services program presently contained in title IV to make 202 nonprofit housing.

Presently, the housing authorization bill contains a provision introduced by Senator WILLIAMS which I cosponsored that provides congregate services to elderly and disabled individuals residing in public housing. The pending amendment of my colleague Senator DOMENICI provides increased funds to extend congregate services to elderly residents in 202-sponsored housing.

The Housing Act of 1970 defines congregate housing as low-income housing in which some or all of the units do not have kitchens and connected with a central dining facility capable of preparing at least two meals a day for residents. It is housing that contains supportive services so that the functionally impaired, but not ill, persons can maintain generally independent life styles and

thus avoid unnecessary, premature and costly institutionalization.

Every day elderly and handicapped persons are being removed from their public housing units because their frailties no longer permit them to live totally independent and no services are available to maintain them in their present housing. Most of these persons are put into nursing homes or other institutions at an enormous cost to the American taxpayer.

Most of these persons do not need around-the-clock care. Neither existing State and local nor Federal programs have been able to guarantee continuous meals or other kinds of services for these persons, so very little congregate housing has been built since mandated by Congress 8 years ago.

By adding a few services at much less cost to the taxpayer than medicare, we can prevent the premature evictions of the elderly and handicapped from public housing and 202 elderly housing. These two measures taken together will provide a strong stimulus for the building of congregate housing.

Mr. DOMENICI. Mr. President, I know we have been on this bill for quite a long time. I am not going to take a long time to discuss the matter other than to express my appreciation to the many Senators who have joined as cosponsors. Certainly, I am most appreciative to have the chairman of the Committee on Aging join me, because this amendment principally is directed at our elders in this country and I am grateful to many others, including Senator WILLIAMS, who have helped with it.

I say to the Senate that Senator WILLIAMS, in an amendment which I cosponsored, actually made the breakthrough in the basic field that is before us in providing some congregate-type services, in particular nutrition, to those who live in public housing. I commend him for that, and I commend the committee for including that in the bill.

However, what I am doing in this amendment is taking that amendment just a little bit farther and including the housing in this country which is commonly called section 202 housing, which is basically for senior citizens and handicapped people. I am taking that congregate provision that is in the bill, in other words, to treat them with reference to certain services as if they were living in a nursing home or a boardinghouse, even though they are living in individual units. I think the United States, for a number of years, has been proceeding on a path of institutionalizing our senior citizens as soon as they really need help, rather than starting policies that will keep them in their environment—homes, apartments, individual kinds of facilities—as long as possible.

This amendment, very simply, says this: Section 202 housing, which, again, I say is only for handicapped and senior citizens, shall treat them for purposes of certain of their communal needs as if they lived in a congregation. The basic one is nutrition.

This amendment will permit these kinds of housing projects to contract for this kind of service.

The most significant one is meals. Each year these projects will be able to apply, under my amendment, for 3-year contracts to provide several meals a day, even though the people are living in units that are more their own home. The reason for it is that they can live there a little while longer because of this service being provided in lieu of the approach, that as soon as they are not getting along, we move them into a nursing home or into a facility that is far more costly. More importantly, the facility is far less decent in terms of what we ought to be doing.

I want to tell the Senate a fact that we have just discovered recently about medicaid, speaking of institutionalization as a policy. Forty percent of America's medicaid dollar goes to nursing homes, which applies to only 5 percent of the senior citizens that are the beneficiaries of medicaid. That means that, for 5 percent, $40 out of every $100 goes to institutionalizing them. I think my amendment is just a small step toward getting away from institutionalization by providing congregate services such as meals in section 202 housing facilities. We are able to make their lives a little better, prolong their lives a little longer, deemphasize just a little bit the rather compelling attitude to move our senior citizens into facilities where they are totally taken care of where they lose their individuality. In many cases, it is by far the worst thing to do.

This is not a terribly expensive measure. I was here yesterday, trying to keep this bill (S. 3084) as moderate as possible in terms of costs. In the first 2 years, it would cost $10 million; in the next 2, it would cost $20 million. Then, if it were really implemented to a maximum extent, in its final year it would cost $15 million.

Mr. President, I ask unanimous consent that Senator STONE be made a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. I reserve the remainder of my time.

Mr. MAGNUSON, Mr. WILLIAMS, and Mr. PERCY addressed the Chair.

Mr. DOMENICI. I had told the Senator from Illinois that I would yield to him. I am delighted to yield to the Senator from Washington.

Mr. MAGNUSON. Is the Senator familiar with the fact that these services are now provided, or they can be under many authorities of HEW? It is a very laudable thing that the Senator is suggesting, and I should even like to be one of the cosponsors. But in HEW, we have provisions in three or four sections, in the welfare sections, for these services. I think the Appropriations Committee will have to determine whether there is going to be some duplication or not. We are getting into a field here in the housing bill that can be provided by HEW—and there is money available for these very same services—under HEW.

Mr. DOMENICI. Let me respond to the distinguished chairman of the Committee on Appropriations by saying, first, I do not believe they are presently provided. The language of this amendment clearly indicates that only if they are not will this be operative. From what we can find out, either by interpretation of the existing law or by regulation, this kind of activity is, at the least, not encouraged and, at the worst, prohibited. We are filling the gap to make sure that what we have found to be a glaring need is covered by authorization.

Mr. MAGNUSON. The point I am making is that if we are going to do this under HEW—I should say if we are going to do it under section 202 of HUD, then I think the Appropriations Committee ought to take what funds are available for this purpose out of HEW; otherwise, there is going to be some duplication.

I do not want two separate Departments plowing the same field and providing the same services to the same people.

Now, I agree with the Senator from New Mexico that we may not be doing enough of this. But there are funds and there is ample authority under HEW for many services for the elderly and disabled: Children, medicaid patients, medicare patients. The whole gamut of HEW services can be provided.

As I recall, we put in some money last year for this. Even for outpatient services they can do this. They can go to a home. I am on the board of directors of a couple of these homes, the Lutheran Church, for instance.

I am just trying to clear up for the RECORD that I think there should be a great deal more of this done, but that we may have some trouble in appropriations over duplication. And, I hope that will not be true.

I applaud the Senator from New Mexico for having done this. But I want to point that out, if we are going to put money in HEW for this, we are not going to also put money in section 202 of HUD, too.

Mr. PROXMIRE. Will the Senator yield?

Mr. DOMENICI. I thank the Senator for calling the matter to our attention.

We clearly do not intend to duplicate. We do not think it is presently taking place and, as I indicated, we think it is very doubtful whether it is provided in the manner we provide for it in this amendment.

Mr. MAGNUSON. I am worried about getting HUD into this service field, as laudable as it is.

As I say, I happen to be a member of two institutions, such as this nonprofit one, run by the Lutheran Church at home. I have been on them for some years.

But HEW does have authority to provide these kinds of services and I am a little worried about HUD getting into this particular activity, this duplication, and the waste of dollars that could result.

Mr. PROXMIRE. Will the Senator yield on this?

Mr. DOMENICI. Let me first respond this way, and then I will be delighted to yield.

I did in my brief opening remarks compliment the Senator from New Jersey (Mr. WILLIAMS) for taking the lead

in the area of the need for this type of assistance in public housing areas.

As I understand it, the Senator from New Jersey can correct me, in the housing provided for their bill, as distinguished from 202 housing , which I am talking about, the bill itself, through action of the committee as it comes to the floor, provides congregate services for certain kinds of housing users.

Is that not correct?

Mr. WILLIAMS. That is accurate.

If I can go further and revert to the colloquy developed by the Senator from Washington, I believe that what the Senator from Washington has raised is worthy of comment.

Within many programs, there are opportunities to do part of what the congregate housing program does. The fact of the matter is that notwithstanding some of the provisions of law, such as with the meals program of title VII, and title XX of the Social Security Act, these services are not reaching the people that we are addressing ourselves to, the frail elderly, in public housing which is covered in the bill, and those that live in 202 housing, which is covered by the amendment.

I know that an enterprising director of housing for the elderly can go to the area Agency on Aging, he can go to the other social service areas and he gets in line. But they do not often get resources, and, when they do, it is in a very limited way.

Some of the provisions of existing meals programs provide for five meals a week. We are talking about people where they need assistance, and need it 7 days a week.

Mr. MAGNUSON. Will the Senator yield?

Mr. WILLIAMS. Yes.

Mr. MAGNUSON. If they are on welfare, and many of these people are, if they are on welfare these services can be provided, and they are being provided, because, as we know, the welfare rules and eligibility for these types of services are mandated by the States. We pay 50 percent, or whatever it is, and the States can provide these services.

The only thing that bothers me is getting HUD into this kind of work, as laudable as the objectives.

Maybe we are not putting in enough money, or at least the wherewithal under HEW to do these sort of things the Senator from New Mexico and the Senator from New Jersey are trying to correct.

But I just wanted to warn Senators that when we get down to appropriations we will have to sort this out, because this is duplication.

Mr. WILLIAMS. In fact, it is not, because both the measure in the bill, and the amendment offered by the Senator——

Mr. MAGNUSON. Wait a minute, it is not duplication as to the end result. It is duplication that we have two agencies trying to achieve the same thing.

Mr. WILLIAMS. And if it is true that the HEW programs are beginning to be improved to the point where they reach in people in public housing and 202 housing, these housing projects will not be able to receive anything under this program for those services.

Mr. MAGNUSON. That depends on what money we put into it.

Mr. WILLIAMS. And the mechanism.

Mr. MAGNUSON. The Senator from New Jersey knows, once we get an agency into a program, suppose under HEW, and in my State or the Senator's State they are doing these things, and they want money, and HUD comes along. They are not going to say, "Well, we won't do it any more because you are doing it adequately."

I do not think they are doing it adequately, I agree with the Senator, but they are not going to get out of this business. We would be getting them into the field of HEW. If HEW is not doing the job, my golly, we should see that they should be doing it, rather than have HUD come along and double up with them in the same field.

I may vote for the amendment because I think it is a good thing to bring this to the attention of everybody. But I just want to warn Senators that we will closely review these programs in the Appropriations Committee.

Mr. PROXMIRE. If the Senator will yield along the same lines, would the Senator yield briefly?

Mr. DOMENICI. Yes.

Mr. PROXMIRE. The difficulty with the amendment from my standpoint is this. I recognize the meritorious purpose served by the amendment, but the budgetary impact is something that I think is hard to justify.

This would increase the amount by several million dollars and, as the Senator knows, the congregate housing service program is a new program. It is not included in the President's budget.

The committee bill already contains $20 million for the first year and an additional $145 million for additional years, and all of this is over the present administration's request.

Now, the Senator, as I take it, is concerned about providing adequate money, but he is primarily concerned about seeing that 202 residents are not left out.

Mr. DOMENICI. That is correct.

Mr. PROXMIRE. I wonder if the Senator could agree to delete the additional authorization. That would help to meet concerns of the Senator from Washington, the chairman of the Appropriations Committee.

I think maybe we could accept it. After all, this program will only be beginning. It seems to me the authorization he proposes would be excessive for bringing in a new program, in view of the fact that we already provide $20 million for this year and $145 million over the budget.

If we go even higher, it seems to me it is pretty vulnerable.

Mr. DOMENICI. Let me respond in this way:

I would not want to do that unless my good friend from New Jersey thinks it is the right thing to do.

With the addition of my amendment to this bill, we will have two congregate programs going. The one that I cosponsored with the Senator from New Jersey, of which he is the principal author, and of which the Senator from Wisconsin has just spoken in terms of funding, is $20 million, and ultimately $145 million. With my amendment, I do not want to be part of cutting the funding approach of Senator WILLIAMS there.

I just found that there is another group of Americans, the frail elderly and the handicapped, who are not in that congregate service part of the bill, and they are not going to be taken care of by the $20 million or the $145 million. They are another group of people. I think they need it more than anyone else, and the dollars will be more justified than any others.

However, I do not want to merge it into the amendment of Senator WILLIAMS, which he got through committee and about which he feels strongly, unless he thinks there is sufficient money within his amendment to take care of both. If he does not, then we will have an up and down vote and let the Senate decide if it wants to increase the congregate part of this bill by adding the elderly and the handicapped.

Mr. PROXMIRE. The difficulty, as I understand it and as I understood the Senator from Washington, is that title XX of social security provides up to $2.7 billion in Federal funds for the States to develop and support services most likely to assist individuals in obtaining the greatest possible degree of independent functioning—that is, so that they can operate outside of a nursing home. That would include the kind of services covered by the congregate housing proposal. Then they can put a substantial amount of that $2.7 billion into those services.

It seems to me that if we move too aggressively here and provide substantial funds, we are preempting the States from making the decision with respect to this program.

I understand that is why the administration did not provide for this, did not put the money in. It seems to me that if we are going to go ahead with the program—and the Senator from New Mexico makes an appealing case—it would be sensible for us to limit it to the amount the committee provided originally, and not provide even more funds on top of that.

Mr. DOMENICI. I will make one observation and then yield to the Senator from Illinois.

I say to the Senator from Wisconsin that we have many programs that we think are doing things, that we hope are doing things, and the Senator is talking about title XX and saying it would do this. The fact that not only does it not, but also, wherever they get the authority to draw regulations, they have drawn one to prohibit it. Their regulation prohibits the use of title XX funds for any kind of full nutritional program for anyone—elderly, feeble. It cannot provide more than three meals a week, under their own regulation. They may have good reason to do that, but nonetheless that is what we are living with.

I want to focus right in and say, "Here is the need. It is not all that expensive, and it is apt to do a tremendous amount of good."

I yield to the Senator from Illinois.

Mr. PERCY. I thank the Senator for yielding.

I would like to hear from the Senator from New Jersey, also. The Senator from Illinois had the privilege of working for a number of years in the Banking, Housing, and Urban Development Committee with the Senator from Wisconsin, the Senator from Alabama, and the Senator from New Jersey, who are on the floor, and the history of providing these services is a long history.

The Senator from Illinois has perceived for years, in the Select Committee on the Aging, in holding hearings together with the Senator from New Mexico and the Senator from Idaho, that we simply know that these services, for some reason or other, are not being provided. People do not know about them, and they are being forced to go into nursing homes many times, at 5½ times the cost, because somehow the services have not reached them. It is like having services available but the delivery service is not there, and that is not consistent with the intent of Congress.

Mr. President, I am pleased to join Senator DOMENICI in offering this amendment to S. 3084, the Housing and Community Development Amendments of 1978, to extend eligibility for congregate services to section 202 housing projects for the elderly and the handicapped. This amendment would authorize the Department of Housing and Urban Development (HUD) to enter into 3- to 5-year contracts with nonprofit corporations responsible for section 202 housing. The funds would be used to provide supportive social services, either directly or through arrangements with local service providers, for elderly and handicapped residents.

This amendment is necessary for the well-being of elderly and handicapped persons who reside in congregate housing. Congress has recognized this need on a number of occasions. When the section 202 housing program was established in 1959, Congress specified that it was intended:

> To provide housing and related facilities for elderly or handicapped families . . . (like) cafeterias or dining halls, community rooms or buildings, workshops, infirmaries or other inpatient or outpatient health facilities, or other essential service facilities . . .

This mandate was repeated when Congress passed the Housing and Community Development Act of 1974. At that time, Congress stated that the Secretary of HUD:

> Shall seek to assure . . . that housing and related facilities assisted under this section will be in appropriate support of, and supported by . . . an assured range of necessary services for individuals occupying such housing . . .

In numerous hearings before the Senate Special Committee on Aging, we have heard testimony concerning the benefits of keeping the elderly in their own homes. We have heard that many elderly persons who are presently in nursing homes could remain in their homes if a few basic services were provided for them.

This amendment is also desired because of its cost-effectiveness. According to a HUD-financed study by the Urban Institute in 1976, congregate housing with medium- to high-levels of social services is less costly than nursing homes. In addition, comparative cost estimates from the Social Security Administration indicate that the annual Federal cost of maintaining one person in a nursing home is 5½ times greater than the cost of providing supportive services within congregate housing. At a time when all of us are trying to find more efficient and effective ways to spend the taxpayers' money, I can think of no better way to provide for the needs of the elderly and the handicapped.

Considering the tremendous potential of this amendment, both in terms of benefits to the residents of section 202 housing and cost-effectiveness, the increased authorization requested in this amendment is very modest. It calls for an additional $5 million in fiscal years 1979 and 1980, $10 million in fiscal years 1981 and 1982, and $15 million in fiscal year 1983.

For these reasons, I strongly urge my colleagues to vote for this amendment.

Mr. President, the Senator from Illinois became a cosponsor of the amendment of the Senator from New Mexico because of observing through the years that the services are not getting there.

So far as a budget item is concerned, this is the most cost-effective item and is helpful in the budget; because the services being provided—if you do not provide these low-cost services—are very high and run for a long time.

So I hope we will find a way to resolve this problem once and for all. Whatever the advice and counsel of the Senator from New Jersey, I commend the distinguished Senator from New Mexico for focusing attention on a long-time problem that it is now time to solve. It is the cost-effective way to do it, and it is the humane way to do it.

Mr. WILLIAMS. Mr. President, the benefits that will flow if we can include these provisions in this bill have been stated completely.

After all of the very humane reasons for this, if we get to the costing-out, the cost-effective argument for congregate housing should have and does have appeal to many here; and that is demonstrated when we consider the cosponsors of the bill that I had introduced. Together with the cosponsors of the Domenici amendment, we have just about a majority of the Senate who have indicated that they feel the need for this program.

With respect to the question of having what is in the bill, which is directed to the residents of public housing, the frail and the elderly in public housing, in adding to that the same people in similar situations who live in 202 housing, I say to the Senator from New Mexico that I strongly support his amendment.

We started out developing this approach to assisting people so that they could stay in their own dwellings. The elderly people, naturally, were in public housing, and in 202. Then, in long discussions with the Secretary of HUD, it was thought, as a beginning, that we had better not reach too far, that we should limit our program to public housing. Then this whole idea became better known here, and we obtained many sponsors. The House took action, including 202, and it could be seen that many Members of Congress understand the lives of older people in public housing and 202, and recognize that those people want to stay there and have no need to go to nursing homes if they can have just a little assistance.

The amendment that has been offered involves a modest amount of money. For the first year, it is a $5 million authorization. It would mean a million dollars of outlay the first year, because very wisely, I think, we have authorized the program to provide for 3- to 5-year contracts for these services. Therefore, it became a modest amount of additional authorization.

I have supported it, even though the original had been worked out with the Secretary of HUD in a more limited way.

For all these reasons, I hope we can take this modest extra step, because the $5 million in authorization actually means that in the first year it is an outlay of $1 million. When we think of what that million dollars can do in keeping people in their homes and not forcing them into the vastly more expensive and far less satisfying situation in a nursing home or other institution, I hope we would not have to take the expanded program out of the authorization for the original program of public housing.

Is there any way, Mr. President?

Mr. PROXMIRE. May I say to my good friend from New Jersey that the difficulty is, as I point out, that we are already over the budget in the entire program. Everything in this program is over the budget, as the Senator knows; that is, the full $145 million is over the budget. Now he is saying can we not go a little higher? I think that the fundamental change, as the Senator from New Mexico seemed to indicate, is to include section 202 people in this program. I think that is right. But it would seem to me that with $20 million the first year in the legislation now and with $145 million over a period of the following 5 years we have a program which I think can proceed on an efficient and reasonable basis to make sure that it can accomplish its end. I think we can watch this program because it is new at least under these circumstances with these eligibilities. We can watch this program. We can certainly provide more money next year. We can provide more money in the following year. But it seems as a beginning, I hope, that the Senator will permit us to accept the amendment without the additional funds. Otherwise, as I say, we are not only going over the budget, we are going over the budget in a double way.

True, the amounts are relatively modest. But since it is a new program I hope that the Senator will agree to that kind of accommodation.

Mr. WILLIAMS. Even though it states an authorization of $5 million, the economic impact of the first year will be a maximum of $1 million.

Mr. DOMENICI. In outlays.

Mr. WILLIAMS. So it is really modest, I think. It is not of that dimension that should shake our prudence to its very foundations.

Mr. PROXMIRE. The Senator is asking for $45 million really. It is true that the outlay might be less the first year. It takes time to crank up the program. But it is $45 million over what is in the bill and the bill is already well over the administration's request. So I hope the Senator will consider under those circumstances permitting section 202 to be included, and this is what the House of Representatives did, as the Senator recalls. The House did include section 202. They did not add extra money for it.

Mr. WILLIAMS. All right.

I suggest that we do go this route. In view of this cutting down to a minimum, there should be a feeling of adamancy when we get to conference on this business.

Mr. PROXMIRE. Sure.

Mr. WILLIAMS. What they did in the other body was to expand the program and reduce the money. Now here we will be expanding the money and retaining authorization in the bill. In other words we are not giving it a double reduction, which they did in the House of Representatives, really, by expanding and even reducing the original amount.

Mr. PROXMIRE. I think the Senator is correct. I think from everything I have heard in the Chamber, everyone who has spoken, Republicans and Democrats agree that we should stand fast on this, as I understand it. It would simply be my intention in conference, and the Senator will be a conferee, as I understand it, and I think our conferees would be very strongly in favor of maintaining the Senate position if we do not add over the amount that is already in the bill.

Mr. WILLIAMS. I would think the record that we are making here would give us the strongest kind of position to argue from in the conference committee.

Mr. PROXMIRE. Yes.

Mr. WILLIAMS. I am just wondering if this does develop within the next year to meet the need in a way that demonstrates to us its success as an effort to reach people, to keep them from institutional living and to keep them in their homes, is there a way to come back after that kind of oversight should reveal this if it does?

Mr. PROXMIRE. By all means. I see no reason why we cannot do that, and give it consideration next year.

Mr. WILLIAMS. We would not have to wait for the regular cycle here of housing legislation, would we?

Mr. PROXMIRE. No; we certainly would not have to wait for the five-year period that the bill specifies. We could certainly act next year.

Mr. DOMENICI. May I ask the Senator from Wisconsin a question?

Mr. LUGAR. Mr. President, will the Senator yield?

Mr. DOMENICI. I am pleased to yield. I want to clarify something before I agree to the changes. But the Senator from Indiana wants me to yield to him.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. PROXMIRE. Mr. President, let me yield from my time so the time of the Senator from New Mexico will not be used up.

I yield whatever time necessary to the Senator from Indiana.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. I thank the Senator.

● Mr BROOKE. Mr. President, I support the amendment offered by the distinguished Senator from New Mexico (Mr. DOMENICI). I believe that it represents a significant improvement to the provisions for congregate services in the committee bill. This amendment would extend the eligibility for congregate housing services to frail elderly and handicapped residents living in housing built under section 202 of the Housing Act of 1959, as amended. The committee bill restricted eligibility to elderly and handicapped residents of public housing.

Congregate housing provides a viable living environment for those elderly and handicapped persons who can live independently but who do need some assistance in housekeeping, homemaking, personal care, nutrition, or other social services.

This amendment reflects an important principle—that institutionalization for our elderly and handicapped citizens should be considered only as a last resort. You are all aware of the studies which have shown that up to 25 percent of the people living in a nursing home do not need institutional care. They are there because there is nowhere else for them to go. Many of these elderly people would rather remain in the comfort and dignity of their own homes but are unable to because of the unavailability and inaccessibility of supportive services. And with the rapidly increasing costs of hospitalization and institutionalization, the availability of congregate services in housing should actually result in a cost saving to the Federal Government by avoiding unnecessary hospital visits and nursing home placements.

Mr. President, I believe that with the approval of this amendment, S. 3084 would adequately consider the needs of frail elderly and handicapped persons living in section 202 housing as well as public housing. I urge my colleagues to support this amendment.●

Mr. LUGAR. Mr. President, Senator BROOKE, if he were here would have spoken strongly in favor of the amendment, and I concur with his sentiments and the statement that has been printed in the RECORD has indicated that section 202 had been overlooked. Obviously, it appears to be the unanimous consent now in this colloquy that section 202 be considered vigorously. I concur with what appears to be the consensus being worked out on the amendment by the distinguished Senator from New Mexico in colloquy with the distinguished Senator from New Jersey and with the concurrence of our chairman, Senator PROXMIRE, that at least in this Chamber the sentiment as it proceeds to conference be one of unanimity, if possible, that we are very much concerned about the elderly and the frail, and the coverage on the congregate idea in section 202 situations, but that, likewise, in faithfulness to our budgetary obligations, no new money precisely is going to be authorized in this situation.

It would appear to me that the Senator from New Jersey has characterized the potential conference situation very well as one in which advocacy of our position may be very important in making this extension to section 202. At the same time, I concur with the thought that has been expressed that oversight by the Banking Committee should develop clear data as to the validity of this general concept in obviously not only its economy but its humanity. Therefore, on this side of the aisle, I concur with what I believe is shaping up as an amendment to which we might all express assent.

I thank the Senator for yielding.

Mr. HEINZ addressed the Chair.

Mr. DOMENICI. Mr. President, I am pleased to yield to the Senator from Pennsylvania.

How much time do I have remaining, Mr. President?

The PRESIDING OFFICER. The Senator from New Mexico has 3 minutes remaining.

Mr. PROXMIRE. Mr. President, let me yield time, because I have much more time, to the Senator from Pennsylvania.

Mr. DOMENICI. I thank the Senator.

Mr. PROXMIRE. I yield whatever time he requires.

Mr. HEINZ. Four minutes.

The PRESIDING OFFICER. The Senator from Pennsylvania is recognized for 4 minutes.

Mr. HEINZ. Mr. President, I am pleased to be a cosponsor of this amendment to broaden the eligibility for congregate housing services to include section 202 elderly housing projects. This action would serve to provide social services for temporarily disabled or frail elderly and nonelderly handicapped residents.

For more than 40 years, the Congress has recognized the need for congregate housing and the positive benefits from such a program to both the Government and the citizens who would be served. Yet, despite the apparent will of the Congress, the number of congregate housing projects in existence today is miniscule.

As originally defined, congregate housing was referred to as low-income housing with central dining facilities, because individual units lacked kitchens. Today, under the leadership of the Senator from New Jersey (Mr. WILLIAMS), we have broadened that definition to include comprehensive social services. By providing these services, it is possible for many handicapped and senior citizens to live in a residential shelter. Without nutritional and social services, these same persons would have no alternative, but institutionalization. In the Banking Committee, we unanimously endorse the wisdom of the congregate housing approach. It is only consistent and fair to include senior

citizens residing in section 202 elderly projects as well.

There are two measures which are most convincing in behalf of this amendment. Much of our time today will be spent discussing the first—the impact of the Federal deficit on various housing programs. In this instance, it would appear that our request is still another attack on the budget.

On close consideration, however, it becomes apparent that from a cost-benefit perspective, this amendment is an excellent idea. For, if we were not to enact this amendment, many persons would no longer be able to remain in public housing or section 202 units. These individuals would have to be placed in institutions. It is approximately 550 percent more expensive to institutionalize a person than to assist that same individual through congregate services. In fact, some studies show that 40 percent or more of nursing home residents would be better off in congregate facilities. But, in my State, as in every State of the union, there are insufficient resources to construct or renovate 202 projects to add communal dining facilities. Without a more comprehensive approach by the Federal Government, we will continue to warehouse the weak and frail, at great expense, long before such institutionalization is necessary or even beneficial. Prudence would dictate a more concerned approach as would any Member truly concerned about our budget.

Secondly, I would hope that I need not tell anyone of the devastating costs of displacement of frail, elderly persons from their homes or apartments. If, for no other reason, I would be asked to support this amendment, I would to preserve the dignity and independence of the elderly. To me, the concept of tearing an individual away from his or her home, community, friends, and privacy is deplorable and has no place in our society. It is a concept akin to imprisoning our elders simply because they have greater human needs than we. I believe compassion, justice, and respect command our determined efforts to maintain these citizens, just as we would wish it for ourselves.

I very much hope you will give this matter your most thoughtful consideration. Nearly one in every six senior citizens living in section 202 or elderly public housing needs support services to remain there. This number will grow at a much faster rate than ever before in the decade to come. The very meaning of life for thousands of persons depends upon our willingness to provide them with the essence of a meaningful life.

What Senator DOMENICI is trying to do, I think, is very clear and very laudable. He is trying to provide to the frail elderly the same kind of congregate housing services that the bill extends to public housing residences for section 202. Of course, we serve the same kind of population in both instances, so there is no reason we should not do it. Indeed, there are all kinds of reasons why we should.

Monday of this week, thanks to Senator CHILES and the Federal Spending Practices Subcommittee of the Governmental Affairs Committee, I was privileged to chair a hearing in Philadelphia, Pa., on the subject of nursing homes and our regulation of those homes. While the focus of those hearings was directed at trying to improve the quality of care that our regulatory system is aimed at, rather than the amount of paper that it produces, nonetheless, one thing was clear. All the witnesses that we had, whether they were State surveyors, nursing home operators, advocate groups, or State or Federal regulators, made clear that we have hundreds of thousands of Americans who are placed in nursing homes right now who should not be in those nursing homes, and the cost to us as a society is staggering.

The cost to the Federal Government of nursing home care, both intermediate and skilled, is over $5 billion. It is close to $6 billion. It costs 550 percent more, according to the estimates I have seen, to have someone in a nursing home than to have him in the kind of assisted congregate facilities that the Senator from New Mexico seeks to have us establish for section 202 housing.

Mr. President, I think the wisdom of the amendment of the Senator from New Mexico, Senator DOMENICI's amendment, speaks for itself. I commend him not only for offering his amendment, but for the considerable work that he has done so effectively on the Select Committee on Aging where I know he has been a great leader.

Mr. President, I urge the adoption of the Domenici amendment as the Senator from New Mexico modifies it. If he does modify his amendment, I will support it; nonetheless, although I think it is fine the way it is.

Mr. President, I thank the Senator from Wisconsin for yielding time to me.

Mr. DOMENICI. I thank the Senator from Pennsylvania.

Might I ask the Senator from Wisconsin just a couple of questions then I believe I can modify my amendment quickly.

Do I understand, Senator PROXMIRE, that you would be supportive of the congregate services section of the bill before us if we take my provision for 202 and include it within the scope of coverage of the Williams proposal that is in the bill for congregate services, so long as we leave the dollar figures the same for the composite of his and mine; is that correct?

Mr. PROXMIRE. That is correct. That is my understanding. Let me make sure it is on the part of the minority manager of the bill, Senator LUGAR. I have accepted it that way and I enthusiastically do so.

Mr. LUGAR. Certainly on the minority side we enthusiastically accept that concept.

Mr. DOMENICI. Mr. President, might I ask both of the floor managers, I know both of them are trying diligently to keep this bill within dollar limits that seem reasonable to them and to the Senate. If we do it this way are the Sentaors saying that they will enthusiastically support this notion of the contents of the amended congregate services portion of the bill in conference?

Mr. PROXMIRE. I cannot only assure the Senator I will personally do that. But knowing who the conferees are, so far as I know every single conferee, with possibly one exception, and certainly six out of the seven, are enthusiastically in favor, and possibly the seventh, but I know six are. They have the strongest possible position in conference in support of the Domenici amendment.

Mr. LUGAR. I would simply affirm on behalf of Senator BROOKE, the ranking Republican, that he will enthusiastically support that position as a conferee.

Mr. PROXMIRE. I yield whatever time the Senator from New Jersey desires.

Mr. WILLIAMS. Mr. President, as the author of the congregate housing provisions of S. 3084, housing authorization bill, I am pleased to join with the distinguished ranking member of the Senate Special Committee on Aging (Mr. DOMENICI) in offering an amendment to broaden this new program of assistance so as to cover residents of section 202 housing projects for the elderly and handicapped.

This is truly a most worthy amendment.

The congregate housing provisions of S. 3084 originate with legislation which I introduced earlier this year, and which, I am pleased to note, is cosponsored by 34 of my distinguished colleagues.

Congregate housing combines residential housing with basic social services, such as meals, and assistance with housekeeping and personal care.

Under my legislation, which this amendment seeks to expand, the Department of Housing and Urban Development would be charged with administering a program that assures the development of congregate-type housing by guaranteeing the continuous availability of social services for low-income persons who need them.

This new program is designed to meet one of the most critical and, indeed, one of the most tragic problems facing a great many of our elderly and handicapped people today—that is, their premature and unnecessary placement in nursing homes because they suffer some form of disability that limits their ability to perform normal daily tasks.

Let me emphasize that I am not speaking of people who are helpless.

Although these individuals may not be able to do everything for themselves, they can continue to remain independent within their own residences if certain basic social services are made available to them.

They have no need for 'round-the-clock, custodial care.

Yet their range of housing options is limited.

Specially designed residential housing integrated with social services—is unobtainable for all but a handful.

As a result, thousands of low-income elderly and younger disabled persons face a grim choice.

Unable to afford the social services they need, they must either enter institutions where they do not belong, or else they must find places with friends or relatives, who are usually unable to cope, either financially or emotionally, with this added responsibility.

The International Center for Social Gerontology recently completed a 2-year

study which concluded that as many as a million and a half elderly, low-income persons cannot obtain the services they need to stay in their own residences.

We can expect this number to expand rapidly, because the proportion of our population aged 65 or over is growing so fast.

From 1969 to 1976, the total U.S. population increased 6.9 percent, while the number of people aged 65 and over jumped by 14.2 percent.

The post-75 age group is growing most rapidly.

Between 1976 and the year 2000, the general population is projected to increase by 23.3 percent, but the group aged 75 and over will grow by a whopping 50 percent.

Naturally, as the population grows proportionately older, more and more individuals will find themselves in a housing limbo—too functionally impaired to get along without some support services, but too healthy to benefit from placement in a nursing home.

Across the country today, congregate housing for low-income people in particular is virtually nonexistent.

The few estimates which exist tell us that the number of congregate housing projects for low-income people can be counted on two hands.

It is true that many public housing authorities and section 202 projects, for example, do provide some services.

But these services are almost always incomplete, reaching only a portion of those needing assistance.

Project managers must scrounge to obtain any services at all, and the ones they do obtain usually carry little or no assurances that they will remain available from one month to the next.

The crisis in suitable housing facing the broad segment of our population becomes starkly apparent when we look at the Nation's nursing homes and find that they hold thousands condemned to live out their lives in a custodial, dependent environment for which they have no need.

The International Center for Social Gerontology estimates that nationwide 30 to 40 percent of the patients in nursing homes do not belong there.

Other studies in particular areas of the country reveal even higher percentages of needlessly institutional institutionalized persons.

For example, a General Accounting Office study conducted a couple of years ago found that in Michigan, 80 percent of the nursing home patients sampled did not need skilled nursing care.

A 1971 study of medicaid patients in New York nursing homes estimated that upward of 61 percent of these patients did not require a full-care environment.

Such figures are incredible and alarming.

Behind them lies the deep personal tragedy of people who have been robbed of a most precious human right—the right to direct one's own life.

The social and human costs of our failure to make congregate housing alternative are, of course, incalculable.

We can put no price tag on the anguish suffered by those who face the frightening prospect of unnecessary institutionalization, but what about the economic costs?

Let us look at them.

For fiscal year 1979, the cost of medicaid will top $4 billion.

Approximately 40 percent of the medicaid dollar goes toward nursing home care.

It is certainly an imprudent expenditure of the public dollar to support nursing home care for people who do not need it, and definitely do not want it, especially when the cost of providing a congregate housing services package is so much less expensive.

While exact cost comparisons are difficult to make, those studies that have been done find a significant difference between the cost of maintaining a person in a nursing home and the cost of providing that individual with a congregate housing environment instead.

In October 1976, HUD issued a report entitled "Evaluation of the Effectiveness of Congregate Housing for the Elderly."

The study compared a number of congregate housing projects offering varying levels of services, with the low-income projects offering the fewest services.

The study concluded that—

A comparison of congregate housing operating costs and institutional nursing facility costs showed that the congregate mode was on the whole the most cost-effective alternative.

Congregate housing sites providing a medium or high level of services, had lower operating costs than the national average for all nursing facilities and significantly lower costs than skilled nursing facilities.

Included in the record of hearings held last April on S. 2691, my congregate housing bill, is a statement from the International Center for Social Gerontology comparing the cost of congregate housing to intermediate nursing home care.

Mr. President, I ask unanimous consent that this comparison be printed at this point in the RECORD.

There being no objection, the comparison was ordered to be printed in the RECORD, as follows:

Comparison of costs of congregate housing with services and intermediate nursing home care

A. CONGREGATE HOUSING COSTS

Monthly expenses:		
Rent	$129.00	
Meals and services	202.50	
Other expenses	75.00	
Total cost	406.50	
Monthly inncome	250.00	$250.00
Deficit	156.50	
Subsidies employed:		
Federal (rent and title VII)	111.50	
State (other meals and services)	45.00	
Total subsidy	156.50	156.50
		406.50

B. INTERMEDIATE NURSING HOME COST

Monthly cost:		
Care	600.00	
Other expenses (personal)	75.00	
Total cost	675.00	
Monthly income	250.00	250.00
Deficit	425.00	
Subsidies from other sources	425.00	425.00
		675.00

Housing this tenant in a residential setting as opposed to a nursing home setting results in a saving of $268.50 per month or $3,222.00 annually. That is, congregate housing is 58 percent less expensive than institutional level care providing essentially the same level of service needs.

Mr. WILLIAMS. The comparison concludes that "depending on the individual tenant, congregate housing can be 58 percent less expensive than institutional level care providing essentially the same level of service needs."

In a letter accompanying the comparison, Dr. Wilma Donahue, a recognized expert on housing for the elderly and the director of International Center stated:

While the 58 percent may vary from situation to situation, there is little doubt, I believe, when adequate data from a statistically significant sample can be collected, that the results will be firmly in favor of congregate housing.

During those same hearings, the director of the San Antonio Housing Authority expressed puzzlement that anyone could oppose congregate housing on grounds of cost.

He noted that nursing home costs in his area ran between $25 and $50 a day per person.

He also mentioned that the San Antonio State Hospital cares for many elderly who cannot gnd housing with basic support services, and that this care costs $59 per person per day.

By contrast, the director stated that he could provide an elderly person with a good basic package of support services for $2 to $5 a day.

Clearly, congregate services can offer dramatic savings over the cost of existing care facilities for the aged.

I, too, must express deep puzzlement at those who would oppose congregate housing on grounds of cost.

From all available evidence—from HUD, from experts on aging, and from housing managers in the field, it is clear that the dollars spent on congregate housing represent a sound investment, economically as well as socially.

The need for congregate housing and the benefits such housing can provide have been recognized for a long time.

In 1970, Congress passed legislation requiring the Secretary of Housing and Urban Development to encourage the development of congregate housing.

Unfortuantely, the promise of that legislation has not been matched by performance.

Congregate housing for low-income people is still a program waiting to be implemented.

The root of the problem lies in the general unavailability of adequate social services to go along with the basic shelter.

Essential social services are often not available from one area to another.

Nor are the services always accessible.

Most importantly, social service pro-

grams are seldom funded for more than a year at a time.

As a result, managers of existing housing for low-income elderly and handicapped are continuously forced to remove people from their units.

In the absence of the social services these individuals need to remain where they are.

Those who wish to develop new congregate housing facilities run into a double roadblock.

The current law requires congregate housing projects to contain units without kitchens and common dining facilities where meals can be served.

Such housing demands absolute guarantees of on-going social services.

Without these guarantees the specially designed housing continues to go unbuilt.

The congregate housing program contained in S. 3084 is designed to remove these barriers to congregate housing development.

The legislation for the first time forges the essential link between residential housing and basic support services that has eluded us for so many years.

It does so by authorizing HUD to enter into 3- to 5-year contracts with public housing agencies to fund services that those agencies would provide to their needy residents.

The agencies could furnish the services directly, or could contract with local service providers to do so.

Also, structural requirements for congregate housing contained in present law would be revised so that those living in existing buildings could take part in a congregate housing services program, and so that new congregate facilities could be successfully developed.

For example, the "no-kitchen" requirement would be eliminated.

I think it is important to point out that the congregate housing provisions of S. 3084 take great pains to hold down the direct authorization for the program, while preserving our ability to accomplish the purpose intended.

First of all, duplication of services is prohibited.

HUD may not fund any service that is already sufficiently available from any other source within the community.

A comprehensive procedure for public housing agencies to follow in developing their social service packages would insure that the prohibition is strictly observed.

The measure also requires tenants to pay what they can afford toward their services.

Furthermore, public housing agencies must continue to pay for whatever services they were themselves providing to their tenants before they concluded any contract with HUD for service funding.

This would prevent public housing agencies from throwing a cost burden to HUD that they have previously been able and willing to assume on their own.

To encourage an economy of scale in meal services, the legislation permits those who live in the housing project but do not need congregate housing services to participate in the meal service for a fee not to exceed the per capita cost of the meals.

The program contained in the bill is limited in scope, reaching only public housing residents.

A total of $165 million is authorized over a period of 5 years, from fiscal year 1979–83.

The authorization for fiscal year 1979 is only $20 million rising in fiscal year 1983 to $45 million.

The outlay for fiscal year 1979 is only $45, because 5 years of service funding is reserved out of the fiscal year 1979 authorization.

The outlay in fiscal year 1983 is only $33 million.

Thus, the direct budgetary impact of the program is negligible and because of the program's ability to reduce Federal nursing home costs, expenditures for congregate housing will actually have a positive impact on the budget.

The legislation was deliberately limited in its reach, despite pressures to expand it, because we wanted to make sure that HUD would be able to administer the program effectively and would not be overwhelmed as it performs a new function.

The amendment to include the section 202 residents would not be inconsistent with our original intent.

It applies to a maximum of only 15,000 people nationwide, at a cost of only $45 million over 5 years.

The authorization for fiscal year 1979 is $5 million and the actual outlay is only a million.

It is a responsible and necessary amendment, and I am delighted to join in offering it.

Mr. President, personal independence and dignity are what congregate housing legislation is all about.

Human needs are too varied to be satisfied by the narrow range of housing choices available today.

Whether we expand these choices to allow functionally impaired people with modest incomes the full and free enjoyment of their lives, or continue to force them into nursing homes, prematurely, unnecessarily, and at great cost, is the essential question this legislation seeks to answer.

I urge my colleagues to adopt this amendment and to approve the congregate housing title to the housing authorization bill.

Mr. MAGNUSON. Mr. President, will the Senator yield?

Mr. PROXMIRE. I would be happy to yield.

Mr. MAGNUSON. I would just like the RECORD to show that I, too, favor the amendment as modified, as long as I raised the question about it.

Mr. DOMENICI. I thank the Senator.

Mr. President, I send to the desk a modified Domenici amendment.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI) proposes a printed amendment numbered 3032, as modified:

On page 48, line 11, insert "and nonprofit corporations" before the comma.

On page 48, line 16, insert "or nonprofit corporations" after "agencies".

On page 48, line 21, insert "or nonprofit corporation" after "agency".

On page 48, line 23, insert "or nonprofit corporation" after "agency".

On page 49, line 3, insert "and nonprofit corporations" after "agencies".

On page 49, line 12, insert "or nonprofit corporation" after "agency".

On page 49, line 16, insert "or nonprofit corporation" after "agency".

On page 50, line 24, insert "or project assisted under section 202 of the Housing Act of 1959" after "project".

On page 51, line 10, insert "or nonprofit corporation" after "agency".

On page 51, line 19, strike out "and'.

On page 52, strike out the period at the end of line 5, and insert in lieu thereof "; and".

On page 52, between lines 5 and 6, insert the following new paragraph:

"(8) the term 'nonprofit corporation' means any corporation responsible for a housing project assisted under section 202 of the Housing Act of 1959.".

On page 52, line 7, insert "or nonprofit corporation" after "agency".

On page 52, line 12, insert "or nonprofit corporation" after "agency".

On page 52, line 21, insert "or nonprofit corporation" after "agency".

On page 52, line 25, insert "or nonprofit corporation" after "agency".

On page 53, line 3, insert "or nonprofit corporation" after "agency".

On page 53, line 7, insert "or nonprofit corporation" after "agency" where it first appears.

On page 53, line 13, insert "or nonprofit corporation" after "agency".

On page 53, line 17, insert "or nonprofit corporation" after "agency".

On page 54, line 7, insert "or nonprofit corporation" after "agency".

On page 54, line 24, insert "or nonprofit corporation" after "agency".

On page 56, lines 9 and 10, strike out "submitted by a public housing agency".

On page 56, lines 13 and 14, strike out "submitted by a public housing agency".

On page 56, line 18, insert "and nonprofit corporation" after "agency".

On page 57, line 1, insert "or nonprofit corporation" after "agency".

On page 58, line 11, insert "and nonprofit corporation" after "agency".

On page 59, line 2, strike out "public housing agency applying" and insert in lieu thereof "applicant".

On page 59, line 6, strike out "public".

On page 59, line 11, strike out "public".

On page 59, line 18, insert "and nonprofit corporations" after "agencies".

On page 60, line 6, insert "and nonprofit corporations" after "agencies".

On page 60, line 22, insert "and nonprofit corporations" after "agencies".

On page 61, line 6, insert "or nonprofit corporation" after "agency".

On page 61, line 7, strike out "authority" and insert in lieu thereof "agency or nonprofit corporation".

On page 61, line 13, insert "and nonprofit corporation" after "agency".

On page 61, line 23, insert "or nonprofit corporation" after "agency".

On page 62, line 2, insert "or nonprofit corporation" after "agency".

On page 62, line 5, insert "and nonprofit corporation" after "agency".

On page 63, lines 2 and 3, strike out "public housing resident" and insert in lieu thereof "resident of a project assisted".

The PRESIDING OFFICER. Is all time yielded back?

Mr. PROXMIRE. I yield back my time.

Mr. DOMENICI. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment, as modified, of the Senator from New Mexico.

The amendment, as modified, was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1448

Mr. MORGAN. Mr. President, I desire to send an amendment to the desk and ask that it be reported.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Carolina (Mr. MORGAN) proposes an unprinted amendment numbered 1448.

Mr. MORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 72, lines 22 and 23, strike the words "one year after the date of the enactment of this Act" and insert in lieu thereof "March 1, 1979."

Mr. MORGAN. Mr. President, I am submitting an amendment to section 509(b) of S. 3084 to require that the Secretary of Agriculture complete a study of the problems associated with remote title claims in rural areas by no later than March 1, 1979.

In hearings before the Rural Housing Subcommittee, which I chair, testimony was given by witnesses which revealed the very serious problem of remote title claims on property owned by low- and moderate-income families. This problem is particularly serious in the South, but exists in the Far West and in parts of New England. As a result of "clouded" titles, landowners are unable to build because no financial institution will lend to them. The Farmers Home Administration, traditionally a lender of last resort in rural areas, also will not make loans for residential construction or for farming purposes.

An amendment to authorize Farmers Home Administration to make loans on land with remote title claims was considered by the full Senate Banking Committee. However, we decided that there were too many complex, unanswered questions about implementation of such a program, to responsibly adopt such an amendment at this time. Instead, the committee directed FmHA to undertake a study of the problem and to report back to Congress on the department's recommendations for remedial action.

By making the change, the committee did not intend to postpone unduly a resolution of this very serious problem. Indeed it was expected that the committee would be in a position to take definitive action in time for the 1980 fiscal year authorizations. However, retention of the present time limit of 1 year after enactment of S. 3084 by which to complete the remote title claims could effectively postpone action until the 1981 fiscal year authorization bill.

For that reason, I am proposing that the Department complete its study by March 1, 1979. This would permit the committee to take this issue up in time for our hearings next spring on next year's authorization. I might add that much of the research into the extent and nature of this matter has already been completed. In addition, we believe that the shortening of the time period would impose no great burden on Farmers Home, which has a research capacity which is being substantially increased this year. What remains to be done is to think through alternative solutions and to consider the ramifications of each. I believe that March 1, 1979 is a reasonable deadline and hope that this amendment will be adopted.

Mr. PROXMIRE. Mr. President, will the Senator yield?

Mr. MORGAN. Yes.

Mr. PROXMIRE. I think this is a good amendment. I understand what it would do is move the study up by 6 months, so the report would have to be made by March 1, 1979. It that right?

Mr. MORGAN. That is right, so we can consider it in next year's budget.

Mr. PROXMIRE. So we can have prompt legislation and prompt action.

Mr. MORGAN. Yes.

Mr. PROXMIRE. I think it is most helpful, and I support the amendment.

Mr. MORGAN. I yield back my time.

Mr. LUGAR. Mr. President, I rise to support the amendment from this side of the aisle. We see great merit in the acceleration of that time pattern in view of the lack of knowledge of ownership in many Western and Southern situations, and we commend the Senator from North Carolina for a very constructive amendment.

Mr. PROXMIRE. I yield back my time.

The PRESIDING OFFICER. Is all time yielded back?

Mr. MORGAN. All time is yielded back.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina.

The amendment was agreed to.

Mr. MORGAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3252, AS MODIFIED

(Purpose: To authorize neighborhood development assistance, and to provide Federal assistance to encourage community and neighborhood artistic and cultural activities, to promote sound urban design, and to contribute to neighborhood conservation and revitalization)

Mr. RIEGLE. Mr. President, I have an amendment at the desk I would like to have reported at this time.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) (for himself, Mr. HEINZ, Mr. SPARKMAN, Mr. WILLIAMS, and Mr. SARBANES proposes an amendment numbered 3252.

The PRESIDING OFFICER. Does the Senator from Michigan offer the amendment, the same amendment as the printed amendment?

Mr. RIEGLE. It is slightly different, so I would ask the title of the one I sent to the desk be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) (for himself, Mr. HEINZ, Mr. SPARKMAN, Mr. WILLIAMS, and Mr. SARBANES) proposes an amendment numbered 3252, as modified.

Mr. RIEGLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

At the end of the bill, add the following:

TITLE VIII—NEIGHBORHOOD SELF-HELP DEVELOPMENT

SEC. 801. This title may be cited as the "Neighborhood Self-Help Development Act of 1978".

FINDINGS AND PURPOSE

SEC. 802. (a) The Congress finds and declares that—

(1) existing urban neighborhoods are a national resource to be conserved and revitalized wherever possible. and that public policy should promote governmental and private programs and activities that further that objective;

(2) to be effective, neighborhood conservation and revitalization efforts must involve the fullest possible support and participation of those most directly affected at the neighborhood level; and

(3) an effective way to obtain such support and participation at the neighborhood level is through neighborhood organizations accountable to residents of a particular neighborhood with a demonstrable capacity for developing. assessing, and carrying out projects for neighborhood conservation and revitalization.

(b) It is, therefore, the purpose of this title (1) to provide grants and other forms of assistance to qualified neighborhood organizations to undertake specific housing, economic or community development, and other appropriate neighborhood conservation and revitalization projects in low and moderate income neighborhoods, or for the benefit of low and moderate income residents of other neighborhoods which are in need of preservation and revitalization, and (2) in the process of providing such assistance, to increase the capacity of neighborhood organizations, individually and collectively, to utilize and coordinate resources available from the public and private sectors, and from neighborhoods themselves, for conserving and revitalizing existing neighborhoods.

DEFINITIONS

SEC. 803. As used in this title—

(1) the term "neighborhood organization" means a voluntary, nonprofit organization which (A) is broadly representative of the neighborhood in which the project will be located, (B) is accountable to neighborhood residents with respect to the project being proposed, (C) has as an objective the preservation and revitalization of such neighborhood, and (D) is found by the Secretary to have a proved record or demonstrable capacity for developing resources for, and effectively implementing neighborhood conservation and revitalization programs and projects;

(2) the term "neighborhood conservation and revitalization projects" includes but it not limited to (A) locally conceived programs for housing rehabilitation and the creative reuse and improvement of existing

housing; (B) revitalization of neighborhood retail business areas and the recycling of vacant industrial sites and public and privately owned businesses for the purpose of creating employment opportunities and promoting neighborhood economic development; and (C) energy conservation and weatherization projects; and

(3) the term "Secretary" means the Secretary of Housing and Urban Development.

AUTHORITY TO PROVIDE ASSISTANCE

SEC. 804. (a) The Secretary of Housing and Urban Development is authorized, in accordance with such regulations as the Secretary may prescribe, to make grants and to provide other forms of assistance to neighborhood organizations for effectively planning and carrying out specific housing, economic and community development, and other appropriate neighborhood conservation and revitalization projects within a particular neighborhood, and to assist such organizations to conduct such projects in partnership with local government and the public and private sector.

(b) Grants and other forms of assistance may be made available under this section only if—

(1) the assistance will be used for a specific project which is related to and supportive of a revitalization strategy for the neighborhood in which the project will be located;

(2) the project will include a self-help component which involves a contribution of time or resources by neighborhood residents;

(3) the project will directly benefit the residents of a low or moderate income neighborhood or will primarily benefit low and moderate income residents of a neighborhood with an average income above the moderate level;

(4) the project will, to the extent feasible, involve leveraging of resources available from the private sector;

(5) the project will, to the extent feasible, involve the coordination of resources available from the local, State, or federal government; and

(6) the applicant demonstrates that the residents of the neighborhood where the project will be carried out, and particularly residents who will be directly affected by the project, have been actively involved in and supportive of the section of the project, and will continue to be involved in project development, implementation, and evaluation through an effective, on-going neighborhood participation mechanism.

(c) Grants and other forms of assistance made available under this section shall be used primarily for the implementation of specific neighborhood housing, economic, and community development projects. No grant or other assistance shall be made available under this section for (1) planning functions which are not combined with project implementation, (2) a public works project usch as street repair which is not associated with the specific project being funded under this section, (3) operation of a social service program which is not associated with the specific project being funded under this section, (4) an economic development project which will not primarily benefit the residents of the neighborhood in which it will be located, (5) operating costs of a community group which are not associated with the specific project being funded under this section, or (6) other purposes which the Secretary may determine are not consistent with the purposes of this title.

(d) With respect to any particular application, grants and other forms of assistance may be made available under this section only after the unit of general local government within which the neighborhood to be assisted is located certifies that such assistance is consistent with, and supportive of, objectives of that unit of government including housing and community development, economic development, and neighborhood conservation or revitalization activities being carried out by such unit.

(e) The Secretary shall consult with the heads of other Federal departments and agencies having responsibilities related to the purposes of this title, including the Community Services Administration, with respect to (1) general standards, policies, and procedures to be followed in the administration of this title, and (2) particular assistance actions or approvals which the Secretary believes to be of special interest or concern to one or more of such departments and agencies. The Secretary shall ensure the close coordination of activities assisted under this title with other related Federal, State and local assistance programs, including the programs of the Community Services Administration, and, with respect to particular assistance actions or approvals, ensure a maximum commitment by the neighborhood organization of its own financial and other resources toward the assisted project.

APPROPRIATIONS

SEC. 805. There are authorized to be appropriated for the purpose of carrying out this title not to exceed $15,000,000 for each of the fiscal years 1979 and 1980. Any amount appropriated pursuant to this section shall remain available until expended.

TITLE IX—LIVABLE CITIES

SHORT TITLE

SEC. 901. This title may be cited as the "Livable Cities Act of 1978."

FINDINGS

SEC. 902. The Congress finds and declares—

(1) that artistic, cultural and historic resources, including urban design, constitute an integral part of a suitable living environment for the residents of the Nation's urban areas, and should be available to all residents of such areas, regardless of income;

(2) that the development or preservation of such resources is a significant and necessary factor in restoring and maintaining the vitality of the urban environment, and can serve as a catalyst for improving decaying or deteriorated urban communities and expanding economic opportunities, and for creating a sense of community identity, spirit and pride; and

(3) that the encouragement and support of local initiatives to develop or preserve such resources, particularly in connection with Federally assisted housing or community development activities or in communities with a high proportion of low-income residents, is an appropriate function of the Federal Government.

PURPOSE

SEC. 903. The primary purpose of this title is to further the efforts of States, urban communities, neighborhoods and organizations to initiate undertakings to revitalize such communities and neighborhoods, and to provide a more suitable living environment, expand cultural opportunities, and indirectly stimulate economic opportunities, for the residents, and particularly residents of low and moderate income, of such communities and neighborhoods through the utilization, design or development of artistic, cultural, or historic resources.

DEFINITIONS

SEC. 904. For the purpose of this title—

(1) the terms "art" and "arts" include, but are not limited to, architecture (including preservation, restoration or adaptive use of existing structures), landscape architecture, urban design, interior design, graphic arts, fine arts (including painting and sculpture), performing arts (including music, drama and dance), literature, crafts, photograph, communications media and film, as well as other similar activities which reflect the cultural heritage of the Nation's communities and their citizens;

(2) the term "non-profit organization" includes States and units of local governments (including public agencies or special authorities thereof), regional organizations of local governments, and nonprofit societies, neighborhood groups, institutions, organizations, associations or museums;

(3) the term "project" means a program or activity organized to carry out the purposes of this title, including programs for neighborhood and community-based arts programs, urban design, user needs design, and the encouragement of the preservation of historic or other structures which have neighborhood or community significance;

(4) the term "Secretary" means the Secretary of Housing and Urban Development;

(5) the term "Chairman" means the Chairman of the National Endowment for the Arts;

(6) the term "Department" means the Department of Housing and Urban Development; and

(7) the term "Endowment" means the National Endowment for the Arts.

GRANTS TO OR CONTRACT WITH ORGANIZATIONS

SEC. 905. (a) The Secretary is authorized to make grants to, or contract or make other arrangements with, nonprofit organizations (or, in appropriate cases, as determined by the Secretary, to enter into contracts with profitmaking organizations), for the purpose of enabling such organizations to undertake or support in cities, urban communities, or neighborhoods projects which the Secretary, in consultation with the Chairman, determines will carry out the purposes of this title and which—

(1) have substantial artistic, cultural, or urban design merit,

(2) represent community or neighborhood initiatives which have a significant potential for revitalizing communities or neighborhoods, for enhancing community or neighborhood identity and pride, and for contributing to a more suitable living environment and expanded cultural opportunity for the residents, and particularly low- and moderate-income residents, of the National urban areas, and

(3) meet the criteria established jointly by the Secretary and the Chairman pursuant to this section.

(b) The Secretary and the Chairman shall establish jointly criteria and procedures for evaluating and selecting projects to be assisted under subsection (a) of this section. Such criteria shall address, but need not be limited to, the following factors:

(1) artistic, cultural, historical, or urban design quality;

(2) the degree of broadly based, active involvement of neighborhood residents, community groups, local officials, and persons with expertise in the arts, with the proposed project;

(3) the degree of utilization or stimulation of assistance or cooperation from other Federal, State, and local sources, including private sources and other public or private arts organizations, or the potential for generating such assistance or cooperation;

(4) the feasibility of project implementation, including the capability of the sponsor organization;

(5) the potential contribution to neighborhood revitalization and the creation of a sense of community identity and pride through fostering such activities as preservation of neighborhoods and existing structures;

(6) the potential for stimulating neighborhood economic and community development, particularly for the benefit of persons of low and moderate income; and

(7) the encouragement of utilization of artistic, cultural and historic resources by neighborhood residents, particularly resi-

dents of low and moderate income, senior citizens and handicapped persons.

(c) No financial assistance shall be made to any organization under this section except upon application therefor which is submitted to the Secretary in accordance with regulations and procedures established jointly by the Secretary and the Chairman.

(d) Prior to the approval of any application for financial assistance under this title, the Secretary shall consult with the Chairman and, in accordance with regulations and procedures issued jointly by the Secretary and the Chairman, shall seek the recommendations of state and local officials and private citizens who have broad knowledge of, or experience or expertise in, community and economic development and revitalization, and of such officials and citizens who have broad knowledge of, or expertise in, the arts.

(e) The Secretary, in cooperation with the Chairman, shall prescribe regulations to require that a specific portion of the cost of any project assisted under this title shall be provided from sources other than funds made available under this title. The Secretary may reduce or waive such requirement in order to take account of the financial capacity of the applicant.

(f)(1) An organization shall be eligible for a grant under this section only if (A) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (B) such organization is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1954 by reason of attempting to influence legislation, and does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office.

(2) The Secretary, in cooperation with the Chairman, shall establish, pursuant to regulations, procedures for eliciting the cooperation of local officials and, where appropriate, state officials in assuring that no application will be approved under this title with respect to a project which would be inconsistent with the objectives of the unit of local government within which such project will be carried out, including the cultural or community development and neighborhood preservation and revitalization plans and activities of such unit.

(3) Funds made available under this title shall not be used to supplant non-Federal funds.

(4) No more than 10 per centum of the funds appropriated for any fiscal year under section 907 shall be available for administrative expenses.

COORDINATION AND DEVELOPMENT OF PROGRAM WITH OTHER FEDERAL AND NON-FEDERAL PROGRAMS

SEC. 906. The Secretary shall insofar as practicable, coordinate the administration of the provisions of this title, and encourage the coordination of activities assisted under this title, with existing Federal, State, and local programs and with those undertaken by other public agencies or private groups, including other public or private acts organizations, and with due regard to the contribution to the objectives of this title which can be made by Federal agencies under other existing programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 907. There are authorized to be appropriated for carrying out the purposes of this title not to exceed $5,000,000 for fiscal year 1979, and not to exceed $10,000,000 for fiscal year 1980. Any amounts appropriated under this section shall remain available until expended.

Mr. RIEGLE. Mr. President, I am offering this amendment for myself and Senators HEINZ, SPARKMAN, WILLIAMS, and SARBANES. It is substantially the same as the amendment that I had earlier submitted, which was printed in the RECORD. It has three very minor technical changes to it—which I would be happy to describe, if that information is desired by anyone here—but they do not in any way affect the content of the amendment originally put forward.

The amendment I offer would add S. 3211, the Neighborhood Self-Help Development Act of 1978, and S. 3210, the Livable Cities Act of 1978, as new title to S. 3084. The amendment is printed as No. 3252, with, as I say, a few minor technical changes.

Let me say at the outset that this amendment would not represent an increase over President Carter's budget requests. These programs have been endorsed by the President as part of the neighborhood component of his national urban policy. In fact, the proposed amendment cuts back on President Carter's budget request for these two neighborhood initiatives by 40 percent, or $30 million.

The Banking Committee held hearings on these two bills on July 11 and 12. Both bills received overwhelming support at the hearings, from neighborhood organizations, local and State officials, and national advocacy organizations such as the National Commission on Neighborhoods. In view of this response, I, along with Senators HEINZ, SPARKMAN, WILLIAMS, SARBANES, and other colleagues on the committee, have decided to sponsor the addition of these modest initiatives to the pending housing bill, so that this legislation will have an opportunity to be enacted this year.

These two new titles are companion proposals to implement the neighborhood component of President Carter's urban policy. As described by the President's urban and regional policy group, that policy is to "encourage and support the efforts of neighborhood and voluntary groups and citizens in revitalizing their communities." I believe this is an essential orientation for an urban policy—to begin the renewal of communities from the grassroots up, with community involvement from the start, instead of wasting billions of dollars on grandiose "top-down" urban renewal-type programs that are not in accord with what people want. The distrust of Government that pervades our country today reflects our past sorry record with Government programs run from the top down. These two proposed neighborhood programs would help bring about the citizen involvement and self-help efforts that are essential to the effectiveness of any attempt to revitalize our cities, these programs would give local people a continuing stake in the neighborhood renewal programs that are undertaken.

The proposed title VIII, the Neighborhood Self-Help Development Act, would provide $15 million in each of the next 2 years to enable neighborhood organizations to carry out specific housing, community, and economic development projects. Eligible neighborhood organizations would have to have a proven track record in neighborhood revitalization projects, or be able to clearly demonstrate their ability to successfully carry out the proposed project. Each grant awarded under this program would have two purposes: To provide funds for a specific neighborhood revitalization project, and to build the capacity of the recipient group, and neighborhood groups in general, to deal with community problems. This capacity building is an essential purpose of the program, since neighborhoods cannot be revitalized unless local self-help efforts are effectively energized and organized. The program will, in the process, give us successful models and techniques for neighborhood involvement which can be transferred to other programs, with a significant potential for improving the effectiveness and cost efficiency of much of our Federal spending.

In view of the potential significant impact of these revitalization projects, and in order to insure the constructive cooperation of all parties, no grant could be made unless the mayor certifies that the project is consistent with and supportive of the local government's development activities. As a result, this proposed program is strongly supported by both the U.S. Conference of Mayors and the National League of Cities. At the same time, the bill prevents a mayor from arbitrarily vetoing a project because, for instance, the applicant group does not give him political support. This is a key provision, because many effective community groups sometimes work in tension with city hall. The burden will be clearly placed on the mayor to show that there is a good reason for opposing a project.

The proposed title IX, the Livable Cities Act of 1978, looks at neighborhood development from another perspective: as a process that can be sparked by the use of a park, an historic site, abandoned buildings, or other features of a community, as cultural resources that can both humanize and give new pride to a neighborhood. Under this title, small grants would be provided for neighborhood or community initiatives that use cultural resources, and creative urban design, to promote community development.

In his testimony before the Banking Committee on July 12, Peter Ujvagi, of the National Commission on Neighborhoods, emphasized the key importance of these small cultural community development projects in bringing pride to a neighborhood and organizing neighborhood residents for revitalization. In his own neighborhood of East Toledo, the River East Economic Revitalization Corp. began its revitalization efforts by the creative restoration of historic landmarks, and other features of the neighborhood, in order, to quote Mr. Ujvagi "to give the area an identity." Mr. Ujvagi felt this program of small improvements "brought us the notice both within our community and throughout the city that has enabled us to carry out our revitalization program." Eventually, the River East group's small initial efforts helped convince local merchants to work with the group in upgrading their properties—an example of the private sector leveraging that we

seek but seldom get with most community development programs.

To reflect budgetary concerns, the proposed amendment would provide only $5 million for the livable cities program in fiscal year 1979, and $10 million in fiscal year 1980—almost a two-thirds reduction from the $40 million 2-year total requested by the President. Although the primary purpose of the program would be to assist neighborhood development and neighborhood organizations, the amendment would promote the creative cooperation of local officials, and State officials in States like North Carolina with active State departments of cultural resources, in assuring that approved projects are not inconsistent with other local objectives.

Mr. President, I believe the neighborhood programs proposed by this amendment are modest proposals that can do a great deal of good in many types of communities across the country. In fiscal year 1978, the Federal Government will provide over $82 billion in assistance to State and local governments. In comparison, the few millions requested for neighborhoods in this amendment, are miniscule. But I think it is important for the Senate to establish clearly a new policy in community development of working from the bottom up, by enhancing those self-help capacities that exist at the local level.

So I hope my colleagues will support me and the other Senators who have come forward with this amendment, because although it is small, it offers great promise.

Mr. PROXMIRE. Mr. President, this amendment puts this Senator in a real dilemma. I introduced these bills originally at the request of the administration. I think they are both good bills, and they have real potential, but we are in a difficult situation.

If Congress is going to function effectively, it seems to me it must rely on its committees. The heart and soul of the legislative process is the action of the committees, not only our hearings but our markups, where we debate, discuss, amend, modify, and consider various viewpoints, and decide how to proceed, how much money to put in, and whether or not the program should be modified or amended in any way, how long the program should last, and so forth.

In this case, consider the timetable on these bills, livable cities and neighborhood self-help. They were sent to us and then introduced on June 19, almost precisely a month ago. We held prompt hearings, on July 12; as a matter of fact, the first hearings on the President's urban policy program held anywhere were in our Senate Banking Committee. The hearings were concluded only 8 days ago.

Now we are being rushed into a brand-new program—true, it is a good program, one I think I would like to support—but we are acting before the committee has had an opportunity to consider, debate, and discuss it. The result is that there is no real congressional recommendation here. We do not have the Senate report, which would create a legislative history. We do not have a House report, so when we go to conference, the House will not have any basis for this. They did not even have hearings. They had no markup.

So we are going to move, then, with this program, which is going to operate with very little congressional guidance.

We just had a big dicussion today—we have had several, as a matter of fact—about control, with one amendment proposing a one-House veto, which I think the Senate very wisely turned down. Here we are giving HUD no guidance at all, except a few remarks on the floor by the distinguished Senator from Michigan, and any other Senators who may speak on it.

Reluctantly, although I favor the program in substance, because I think the procedure is exactly wrong, I am going to have to vote against it. I might point out, as I pointed out to the Senator from Michigan and others, that we are going to have a markup on another part of the President's urban package within a week or two. We could easily bring this bill to the floor after that and act upon it.

They say, "Well, maybe it would not get through the House and, therefore, it might be delayed a little while."

What is the hurry? There is no emergency here. There is no disaster we are trying to relieve. It seems to me that the sensible, prudent, responsible way to act would be not to accept the amendment, but to give the opportunity to the committee to come out with a recommendation on which the Senate can act.

Nevertheless, I can count votes. I have been importuned by distinguished Members of the minority as well as distinguished Members of the majority. It is an amendment which I am sure is going to be adopted anyway. I am not going to ask for a rollcall, but I want to be quietly considered as voting no.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I rise to take this opportunity to urge my colleagues, including the manager of the legislation, to vote for this amendment.

The PRESIDING OFFICER. First, who yields time?

Mr. PROXMIRE. Mr. President, I yield time from the opposition to the Senator from Pennsylvania.

Mr. HEINZ. I thank my good friend, the Senator from Wisconsin.

This is an amendment to authorize both a neighborhood self-help program and a livable cities program.

Mr. President, I am not going to give all my remarks at this time in the interest of the capitulation so generously made by the chairman of the committee. I think that the hearings that we held on this legislation, which the chairman was good enough and kind enough to schedule at an early date, found that this legislation was, indeed, sound. One of the reasons I think Senator RIEGLE and I feel this is the appropriate time to consider the legislation is that there were not witnesses who spoke in opposition or urged any modification this Senator can recall to the bills.

The second reason that I would urge adoption at this time is that it is simply unrealistic to expect that anything that we might report between now and the time of adjournment, is going to include separate action on new legislation. Indeed, I am told, and I do not know whether it is accurate, that any committee that has not filed its report within just a few weeks from now is going to be frozen out. It may not be accurate, but I did hear that was the leadership decision. As a result, if we do not act on this legislation now, we will be slamming the doors both on livable cities and on neighborhood self-help, and I do not think any Member of the Senate wants to do that.

Mr. President, I believe this is important legislation. It is very modest legislation.

I so want to take this opportunity to urge my colleagues to support this amendment which Senator RIEGLE and I offer together with our other cosponsors. The amendment would authorize a neighborhood self-help program and a livable cities program. More specifically, our proposals would authorize Federal assistance to encourage community and neighborhood artistic and cultural activities, promote sound urban design, and contribute to neighborhood conservation and revitalization.

Although these programs were introduced after completion of the markup of the housing bills, they are necessary and positive components of our housing program. In each case, we are attempting to provide direct assistance to neighborhoods to carry out their own revitalization.

I would like to emphasize that the Banking Committee has held hearings on both elements of the proposed legislation. From the evidence brought before us, there is little question but that this modest investment could have major rewards. I have been deeply concerned from my own visits to neighborhoods in my State about the sad and all-too-familiar process of business disinvestment and neighborhood decay. The high unemployment left behind soon becomes an incentive to crime. A deteriorating community becomes a vacant community—a terrible waste of real property and human values. Government holdings alone are vast—and nearly worthless.

We have seen the results of previous strategies: Urban renewal was a total failure. As Mayor Maynard Jackson, of Atlanta, testified:

> It is important for us to recognize that neighborhoods are not saved by federal agencies or by City Hall. Neighborhoods are saved by neighbors. In the absence of community identity and community pride, no amount of dollars spent on steel or concrete will effect a positive change.

The Congress has previously recognized the inherent values of neighborhoods, but we have never embraced the concept of a strategy of redevelopment bubbling up from the neighbors themselves. Rather, we have always tried to buy or impose a solution from some outside direction.

I must tell you that I have been profoundly impressed by neighborhood concepts and strategies, both from a personal standpoint in my home State of Pennsylvania and from the testimony be-

fore the Senate Housing Committee this month. Recognition of neighborhood development has brought remarkable returns.

In my home city of Pittsburgh alone, there are currently 14 neighborhood preservation projects underway. Almost without exception, these projects directly benefit low- and moderate-income residents, not only economically, but in the very enhancement and unique restoration of the old concept of neighborhood. These projects were conceived, not at the local, State, or Federal level, but within the communities, and as a part of the communities, in which they are found. We were fortunate enough to receive testimony from one of the finest and most experienced leaders of that city, Mr. Arthur Zeigler. I would gladly volunteer to personally guide any of my colleagues through the marvelous restoration work he has accomplished. Thousands have visited the Station Square project, which just a few years ago was as abandoned and deserted an area of the city as anyone would find in major, metropolitan areas.

In Philadelphia, a young Hispanic lawyer organized 400 citizens to resurrect a declining neighborhood. Through his own community resources, he was successful in securing $3 million in 3 years through nongovernmental, nonprofit sources to develop small stores, a restaurant, an auto dealership, and neighborhood social center and arts cultural program. To make the neighborhood truly livable, this remarkable individual, Mr. Nelson Diaz, worked with the community to provide homes for the residents above the stores. For Mr. Diaz, a small amount of concern and assistance from the Federal level would demonstrate how much we care, and, as he said, would enable many, many other neighborhoods to have a rebirth, as his did.

Perhaps one of the most exciting examples to come to our attention was from Mrs. Elma Lewis, of Roxbury, in Boston. Roxbury, formerly a well-to-do Jewish community in Boston suffered the usual deterioration and displacement—leaving a poor neighborhood, yet potentially rich with the fine, old buildings left standing vacant. With almost no money from the city of Boston, and with but a very small grant from the Federal Government, Mrs. Lewis gathered her neighbors to purchase and rehabilitate a park in her neighborhood. The effort generated enough success to lead to the development of an arts center. This community effort stimulated a neighborhood spirit, it produced jobs, it created an arts center at an estimated savings of $250,000 to the city of Boston.

But the story does not end there. Mrs. Lewis began a dance school. As she said, music and dance are the food and soul of any poor neighborhood. Of some 7,000 children who went to Mrs. Lewis' school, she estimates that less than one-half of 1 percent are now dependents of the Federal Government. Equally exciting, many have brought joy and laughter, not only to Roxbury, Mass., but to all of us. One of Mrs. Lewis' former students is the Wiz in the remarkable performance at the Kennedy Center.

For all the joy created, for the many returns on a very small investment, this amendment deserves special attention. One small boost can provide untold benefits to neighborhoods all across our Nation. It is time we spoke of urban revitalization instead of urban renewal, and it is appropriate that we recognize that that the neighborhood is the logical place to begin.

Mr. RIEGLE. Does the Senator from North Carolina seek recognition?

Mr. MORGAN. Yes. I ask for 5 minutes.

Mr. RIEGLE. I yield 5 minutes to the Senator.

Mr. MORGAN. Mr. President, I am delighted to rise in support of the Livable Cities Act of 1978 provisions of this amendment, a modified version of S. 3210. I believe that this innovative legislation should be adopted because I believe that arts programs are and should be integral to the civic life of our communities. Moreover, I believe that such encouragement has been shown to have significant benefits in improving the quality of life in many of our smaller communities and in low-income neighborhoods in our larger cities.

The livable cities bill would be particularly attractive to communities in my State of North Carolina. North Carolina has the only State Department of Cultural Resources in the Nation. Its head, Sara Hodgkins, testified before the Banking Committee just last week. She noted that support for arts programs has given rise to a sense of community spirit and pride that has yielded dividends in the way of making such communities more attractive to industries that are considering relocating. The North Carolina State Department of Cultural Resources has been extremely active in coordinating and supporting those programs, particularly where local citizens lack the administrative support facilities and resources to carry out these programs themselves.

Frankly, I believe that many of our community revitalization efforts have failed. I believe that they have failed because they have often failed to take account of the need to regenerate community pride in itself and its residents. I have seen that support for a neighborhood cultural center, or a neighborhood park, or a project to adapt and reuse historic properties for commercial and retail establishments or for a small factory have induced the residents to invest far more time, effort, and their own limited financial resources in upgrading their community than simply undertaking massive physical development projects.

In short, I believe that activating people involvement is the key to successful revitalization and that this ingredient is absent in many of our current housing and community development efforts. I believe that we must begin to cultivate and nurture these local neighborhood or community initiatives—initiatives which can set off a chain of events leading to the creation of a more livable environment.

Finally, I would like to point out that the Riegle bill would significantly reduce the level of funding for the program recommended by the President. While I regret that such cuts are thought to be necessary or expedient, I do express my hope that funding in future years will be substantially increased once Congress has seen how the experience of my own State and cities in other States can be replicated across the country in any number of different types of cities and in any number of different projects.

Mr. President, I urge support of the amendment.

Mr. RIEGLE. I appreciate the statement of the Senator very much. Does the Senator from Alabama also seek recognition?

Mr. SPARKMAN. Yes.

Mr. RIEGLE. I yield to the Senator from Alabama.

Mr. SPARKMAN. I heartily endorse this amendment by the Senator from Michigan. I think it would be putting into effect the program that President Carter himself promoted some time back. In fact, I believe the real promoter was the lady of the White House, Mrs. Carter. Senators may remember there was a large housing meeting here in Washington, and Mrs. Carter was a participant in the program on 2 different days. I think this implements the program that was proposed by the President and worked out by Mrs. Carter. It is a very fine program. As a matter of fact, there have been activities along this line in my own home State. It has worked wonderfully well. I congratulate the Senator for proposing this.

Mr. President, I specifically support the amendment by my colleague from Michigan to add the President's neighborhood self-help development bill to this legislation.

One of the good things about housing policy is that we keep learning over the years how to do a better job. One of the most heartening new trends is the growing realization that our programs should work in harmony with the activities of neighborhood groups. After all, the goal of these programs is not just to provide people with housing. It is also to provide them with "a suitable living environment." And that means a decent neighborhood, where the other houses or apartment buildings on the street are well kept up, and where the children can play safely and where people have a decent and safe place to shop nearby and where they do not have to be constantly in fear of crime.

One of the ways to create neighborhoods like that is to give some help to the volunteer groups that you usually find in them, so that the residents can help themselves.

That is the name of the President's bill—the Neighborhood Self-Help Development Act. I think it is a good name, because it shows that this bill will help people stand on their own feet and help themselves and their neighbors. I think the bill has a wonderful potential for making our communities better places to live, and I strongly urge my colleagues to vote for its adoption.

I also urge the Senate to adopt the livable cities bill, cosponsored by Senators RIEGLE and HEINZ. I have seen what attention to neighborhood-based arts

projects can generate in the way of increased pride on the part of residents in their neighborhood and increased investment by the private sector in activities which have spun off from such arts projects. In addition, neighborhood groups have attempted to integrate arts activities into their own housing and economic development activities, as a means of enhancing community life. For example, in Birmingham, Ala., the Jefferson County Committee for Economic Opportunity is the sponsoring agency for the Black Fire Company, a theatre-dance-music group involving nonprofessional community residents. The livable cities bill would also make it possible for professional cultural organizations to provide services to low-income people. In my own city of Huntsville, the Huntsville Ballet offers classical training to any and all high school students in the Huntsville area, with partial transportation costs for students covered by their respective high schools. Even isolated communities can benefit from livable cities. In Greenville, Ala., the "Xpress Yourself Zone" provided 100 economically disadvantaged children the opportunity to express freely their ideas and talents in the visual and performing arts. The program developed a greater feeling of self-worth and helped to bridge the gap between the participants and their economically advantaged counterparts.

I think it is important to recognize that livable cities grants can be used in a wide variety of contexts. Moreover, I believe that the program, which has attracted wide support, deserves to be adopted so that we can see how it can be used in places and in ways that it has not been used before.

(Mr. KENNEDY assumed the chair.)

Mr. RIEGLE. I thank the Senator. I yield to the Senator from Rhode Island.

Mr. PELL. I thank my colleague and I congratulate the Senator from Michigan on his initiative in bringing up this amendment. I believe the inclusion of these two neighborhood initiatives as part of the urban package is an important step in involving citizens at the grassroots level in decisions that affect their communities. They are not expensive programs. The livable cities proposal calls for $5 million the first year and $10 million the second, and the self-help program is $15 million the first year and $15 million the second year. But out of these amendments more good can come to the inhabitants of cities than a great deal of money spent on bricks and mortar.

It was a Russian writer who wrote, "But Not By Bread Alone." Vladimir Dudintsev was his name. I think this applies in programs of this sort as well. It is not by bread alone or bricks alone that communities are made livable.

I would like to address for a moment one of the titles of the Riegle amendment, the "livable cities" provision. Under this provision, HUD would provide grants to neighborhood groups that use artistic, cultural, or historical resources as a catalyst to neighborhood revitalization. In this new program, HUD would cooperate with the National Endowment for the Arts and jointly both agencies would draft guidelines and choose panels for the selection of grantees.

As you know, I sponsored the original legislation that created the Arts Endowment in 1965 and have continued to have oversight responsibility in my capacity as chairman of the Subcommittee on Education, Arts, and Humanities. The endowment's main purpose is the development of standards of professional excellence in the arts and providing accessibility as widely as possible to arts of the highest quality.

Nevertheless, I have felt that the arts can be very useful in other contexts, and I know that Arts Endowment Chairman Livingston Biddle shares my view on this. The arts can be a means for improved education, can enhance the life of older and handicapped citizens, can serve as a bridge across economic and racial barriers.

It also seems to me that the development of the artistic and cultural resources of a neighborhood can mean the difference between people feeling pride in their communities or feeling they personally have no stake in their own neighborhoods. And it seems to me that the attitude in neighborhoods and communities can have a great deal to do with whether buildings are maintained and businesses thrive.

This program is not essentially an arts program. The arts, however, provide a significant dimension. The standard for judging applications will, as I understand it, have to do with whether the project can have an important impact on neighborhood revitalization. It seems appropriate to me, therefore, that the administering agency should be the Department of Housing and Urban Development.

What is critical is that the Arts Endowment provide its expertise in judging artistic merit.

The program is to be a very modest one, and HUD will be adopting other of the Endowment's administrative procedures which have served the endowment so well. Application procedures and forms will be simple ones, encouraging a wide participation by neighborhood groups. Applicants will be judged by panelists with firsthand experience in community development and in the arts. The emphasis will be on building the capacity of the local groups so that the projects initiated under this program can continue beyond the term of funding. The time between applying and funding will be short.

I do not see this effort as duplicative. This is a new program seeking to address needs that are left unmet by the Endowment and by HUD. The modest level of funding, $5 million the first year and $10 million the second, makes this a program in which truly exemplary projects can be developed for model use. The prospect of this effort is exciting. It breaks new ground in involving citizens in decisions about their own neighborhoods and in using the arts to make our city's neighborhoods more livable, more enriching, more vital.

I commend the Housing Subcommittee for so quickly holding hearings on these programs and I join with Senator RIEGLE in urging the adoption of the amendment.

This program, bringing in art, bringing in design, bringing in imagination, I think is an altogether desirable one. Speaking from the viewpoint of my chairmanship on the Subcommittee on Education, Arts, and the Humanities, I believe it is altogether excellent. I wish we had thought of it. It is a genius of an idea and we wish it success.

Mr. RIEGLE. Mr. President, I thank the Senator from Rhode Island for his excellent statement.

Does anybody else wish to be heard on this? If not, let me address the chairman of the committee. I am not sure if anybody else is seeking recognition at this point.

Mr. PROXMIRE. I am about to yield back the remainder of my time.

First, I might point out that on the livable cities program, the President requested $20 million the first year, $20 million the second year. The Senator from Michigan is providing $5 million in the first year, $10 million in the second. On the neighborhood self-help, he is requesting the full amount the administration requested, $15 million in the first year, and $15 million in the second.

This, again, is why I think a markup session of the committee would be useful. The Senator is a fine Senator but he puts out arbitrarily a whale of a lot of money, $45 million—at least from most perspectives, that is a lot of money; maybe not in Washington.

He says, OK, go ahead, it is only $45 million, I think it is a fine program.

Again, I think it would be better if the committee had the opportunity to consider it, discuss this, debate it, and come to the Senate with a more thoughtful, carefully thought out and discussed amount.

With that remark, I am ready to yield back the remainder of my time.

Mr. RIEGLE. It is important to know that the amounts the Senator mentioned extend over a 2-year peirod, not a single year. They are in the budget. They represent a substantial reduction from what was asked. NARHO is sponsoring it and I think that is the kind of broad support it has.

I yield back the remainder of my time.

● Mr. JAVITS. Mr. President, I support the amendment offered by Senator RIEGLE) and Senator HEINZ for the livable cities program. I believe this "neighborhood initiatives" approach is an important and helpful addition to our HUD programs. By involving citizens at the grass roots level with the arts, I believe the citizens of my State and throughout the Nation can obtain unique benefits.

I endorse the cooperative arrangement between HUD and the National Endowment for the Arts included in this amendment which will join together to draft guidelines and to choose panels for the selection of grantees. The expertise and existing capability of the National Endowment will be blended into the awards process so that high artistic quality will be maintained in the program.

This new approach will expand the

Federal arts activities into an area which the National Endowment does not presently reach. While this is not essentially an arts program, it will capitalize on the tremendous vitality of the arts in helping communities help themselves. I have seen many examples in my own State and across the Nation where the CETA program has supplied employment for artists. A recent National Endowment for the Arts publication estimated that in 1977 approximately $100 million in CETA funds were dispensed through prime sponsors to create roughly 10,000 arts related jobs. I am pleased to see that like the Department of Labor, HUD will be increasing the participation of artists and public participation in the arts in its programs.

Mr. President, I am very hopeful that this small investment can create signal improvements in our many communities and neighborhoods through the inspiration of the arts.●

● Mr. WILLIAMS. Mr. President, I am pleased to join my colleagues in offering the Livable Cities Act as an amendment to S. 3084.

This measure will assure that Federal assistance in urban development includes attention to architectural, artistic and cultural aspects of neighborhood preservation and redevelopment. It will introduce for the first time the opportunity for citizens to express their criteria for making urban environments livable. It will offer an administratively and financially responsible program for coordinating urban development and urban environment concerns from the perspective of the citizens who live and work in the neighborhoods of our cities.

This amendment constitutes a modest but pivotal element of Congress' attempt to preserve and rehabilitate our cities. It is an important component as well of the administration's urban policy. And it authorizes sufficient funds to permit this imaginative approach to begin to take hold over the next 2 years.

Mr. President, the United States has a wealth and diversity of artists and talented citizens unequaled anywhere else in the world. In recognition of this fact, the role of the arts in urban development, in education and in Government activities has been growing in recent years. Earlier in this Congress, I introduced a bill, S. 2645, which would establish a National Art Bank. Legislation such as this expresses the national desire to improve our environment by deliberate integration of art into our daily lives. The amendment which I am pleased to support today carries this intent an important step further.

This measure as originally introduced was referred to the Committee on Banking, Housing, and Urban Affairs with a sequential referral to the Committee on Human Resources. As chairman of the Committee on Human Resources, I have consulted with the chairman of our Subcommittee on Education, Arts and Humanities, Senator CLAIBORNE PELL and it is our judgment that this measure can be offered as an amendment to the Housing and Community Development Act and that its referral to the Committee on Human Resources is not at this time required. The Committee on Human Resources will in the future continue to exercise its jurisdiction both by means of our oversight procedures and through the continuing legislative process.

I urge favorable consideration of this important amendment. ●

Mr. PROXMIRE. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan.

The amendment was agreed to.

Mr. HEINZ. I move to reconsider the vote by which the amendment was agreed to.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1449

(Purpose: This is an amendment to expand the eligibility under Section 108 of the Housing and Community Development Act)

Mr. HEINZ. Mr. President, I call up my amendment.

Mr. RIEGLE. Will the Senator from Pennsylvania yield just briefly?

Mr. HEINZ. I yield to my good friend from Michigan without losing my right to the floor.

Mr. RIEGLE. I thank the Senator for yielding.

The PRESIDING OFFICER. Will the Senator send his amendment to the desk?

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) proposes unprinted amendment numbered 1449:

At the end of the bill add the following: SEC. 716

Amend the first sentence of section 108(a) to read as follows:

"The Secretary is authorized, upon such terms and conditions as the Secretary may prescribe, to guarantee and make commitments to guarantee the notes or other obligations issued by units of general local government, or by public agencies designated by such units of general local government, for the purpose of financing the acquisition of real property or the rehabilitation of real property owned by the unit of general local government, and additionally, in the case of units of general local government eligible for assistance under section 119, activities eligible for assistance under section 105(a)(14) (A) and (B) or the equipping of commercial or industrial real property improvements eligible for assistance under section 105(a)(14) (A) and (B). Activities specified in the preceeding sentence may include such related expenses as the Secretary may permit by regulations."

Mr. HEINZ. Mr. President, the amendment I have sent to the desk is an amendment to section 108 of the Housing and Community Development Act to broaden the eligibility for the section 108 loan guarantees. My amendment would, and I emphasize this, not authorize any increase in the authorization levels of this bill or the act that it amends. It would simply expand the scope of eligibility under the 108 loan guarantee program to include activities now eligible under section 105(a)(14), (A) and (B), as well as the equipping of commercial and industrial buildings. These activities, eligible under this section, are carried out by public or private nonprofit entities when such activities are necessary or appropriate to meet the needs and objectives of the community development plan, including acquisition, construction, reconstruction, rehabilitation, or installation of first public facilities, site improvements, and utilities; and second, commercial or industrial real property improvements.

As presently standing, the section 108 program permits loan guarantees to metropolitan cities and urban counties, or public agencies designated by such units of local government for the purpose of site acquisition of real property or for the rehabilitation of property owned by a unit of local government. This language, enacted last year, has not attracted many applicants. Presently, there are a few applications pending at HUD, but those local governments which have applied have requested that the program be expanded into more useful categories. Because this loan guarantee is restricted to 6 years, it has not been a very appropriate activities under the proposed or housing rehabilitation. As a rule, these types of activities require longer term commitments, and would be more appropriate activities under the proposed Urban Development Bank.

However, the 6-year restriction is attractive and appropriate to economic development activities. In order to attract economic development activities, these applicants would prefer to be able to equip or improve industrial sites under terms of this section, thereby benefitting urban revitalization efforts. As I say this is a more reasonable loan period for these types of improvements.

For instance, the city of Detroit would like to use the 108 program to equip a building for lease to an auto plant. A typical loan for equipping would be on a 6-year term basis. Through the use of a loan guarantee, which would be possible under my amendment, the city of Detroit would be able to lease a facility which would not only employ many to prepare the facility, but would also eventually lead to the employment of 1,500 to 2,000 neighborhood residents at the newly opened auto plant.

It strikes me that as part of our determined effort to revitalize our urban neighborhoods, we should revitalize urban economic opportunities. My amendment would do this at no cost, and yet would act as a leveraging tool to bring private investment where it is most needed.

I think we have moved wisely in working in the Congress to bring new life to low- and moderate-income urban neighborhoods, but I think it would be only logical to provide job opportunities in these same neighborhoods. Our cities have become empty, and jobs are increasingly moving out of inner cities, leaving neighborhood residents with little alternative but to follow.

So if our neighborhood strategy for cities is to have meaning, we had best follow it up with economic opportunities that truly do have meaning.

The loan guarantees provided under the existing language, and under my amendment involve no cost and no subsidy.

I emphasize that to my good friend from Wisconsin, the chairman of the committee, because I know he is properly concerned about costs and about subsidies.

Indeed, under the existing regulations, the applicant's current and future entitlement block grants are considered as the primary source of loan repayment, thereby reducing any risk to the Federal Government to nothing.

I say, again, that these loan guarantees are, in fact, secured by the community development block grant money.

The loans themselves would be limited to three times the amount of any 1 year's entitlement grant approval. We are not attempting to jeopardize the Federal Treasury, but rather we are trying to help local governments to help themselves.

Perhaps another example of the usefulness of this amendment would be helpful. Suppose a plant was interested in locating in an urban area. Because the plant would require railroad transport to distribute and move its products and to receive its raw supplies, the plant might well feel constricted to selecting a suburban location. If the local government, however, could obtain a loan guarantee under my amendment, it would be able not only to refurbish an abandoned site in the inner city, and, unfortunately, we have all too many of them, thanks to the urban renewal program, but also to construct railroad spurs. By demonstrating to the business entity the employment bank from the surrounding low- and moderate-income neighborhood the local government would, probably, be able to attract the plant and the many employment opportunities which would surely follow.

I very strongly believe that any action we can take to breathe new life into the shells which our inner cities have become should be taken. In this instance, we can, at little or no risk, help to create new jobs in forgotten parts of our cities. That so many of our metropolitan low-income neighborhoods are wastelands is a shame, but it is a needless shame. That we could, through this minor amendment, bring a promise of hope is worthy of your consideration and support.

I would like to point out, Mr. President, that the Department of Housing and Urban Development supports this amendment. It is an amendment on which I know the chairman of the committee is only lukewarm. He may change his mind and support it. But in the event he does not see his way clear to do that because of his very understandable, traditional concern, involving fiscal responsibility, I want to emphasize one particular point to my good friend, the chairman.

I understand that the chairman is always concerned about loan guarantees. I know the chairman understands that this does not create any new loan guarantee program. It merely makes the one the chairman and the committee wrote last year a workable program. This is section 108 of last year's act.

I mentioned a moment ago that these loan guarantees are backed up by existing Federal obligations, the block grants, and I would emphasize they only provide an alternate vehicle, an alternate to UDAG grants, which are grants and not loans, to help urban areas.

It seems to me that if we want to be fiscally conservative, it makes a great deal of sense to have available a loan guarantee approach as opposed to a grant approach. A grant is a very good thing when you need it, but there is one characteristic of the grant—that is—we may never see the money again.

Here, we are going to get the money back within a minimum period of 6 years, and it is a loan which is secured by the community development block grant program funds.

So I would hope, on very careful consideration, the chairman of the committee, who I know is a man of great integrity and ability, as well as sensitivity——

Mr. PROXMIRE. Keep it up.

Mr. HEINZ. And so forth, will carefully consider this very modest and thoughtful amendment.

Mr. PROXMIRE. Obviously, the amendment of the Senator from Pennsylvania has a real merit. It does have support, I understand, from some of the people at HUD.

The position of the administration is a little obscure on it. We do not have the position of the OMB.

I understand people, as I say, in HUD, think it could be an effective program. It is a big program. It would provide for guarantees covering three times the community development funds of the cities with a maximum, as I understand it, of $3.5 billion.

That is twice as much as we provided for New York City after very thorough debate, discussion in committee, on the floor, and in the House.

It also, as I understand it, expands the scope of eligibility to commercial and industrial buildings.

What concerns this Senator is that we have had an explosion of guarantees. As the Senator knows, we now have $300 billion of guarantees. As the Senator knows, also, as a distinguished graduate of the Harvard Graduate School of Business Administration, and as an outstanding student of economics, he knows that when we expand guarantees of this kind it increases borrowing, that the effect, obviously, is to drive up interest rates.

Maybe it is justified in this case and maybe not. But it does have that effect.

Also, if the Federal Government provides guarantees, sometimes the Federal Government will have to make those guarantees good. The Federal Government may be out several million dollars, or maybe even several hundred million dollars, depending on economic conditions and the best judgment of people at HUD. So it is not a riskless kind of operation.

For all these reasons, I would plead with the Senator from Pennsylvania to withdraw his amendment and to offer it before the committee so we can have some hearings on it.

We have had none on this at all and have had no opportunity to have the administration come up and formally testify and be cross-examined on it. We have had no opportunity to have the mayors and the others who would benefit from it, and private business, which would have to be aggressive, to make this good, and have them testify, or, indeed, the people in the cities now, whom the guarantees cover, and would have it, maybe diluted.

Maybe they do not oppose it and maybe they would. But they ought to have an opportunity to testify on it.

No chance has been given for the committee to decide what to do with this very far-reaching multibillion dollar program.

So I think for the Senate to bring it up and pass it and send it over to conference would be a mistake.

I would hope the distinguished Senator from Pennsylvania would agree to withdraw his amendment with the understanding that the committee hold a hearing in the near future and give this proposal consideration.

Mr. HEINZ. Mr. President, the chairman of the committee is an immensely thoughtful, energetic and persuasive individual. I have listened very carefully to what he has had to say. I am really tempted to take the chairman's advice except for one, two or three points which occur to me.

The first point is that I could totally agree with the chairman if section 108 was a new section, but it is not. It was written into the law last year after hearings and markup in committee.

The authority is in the act now. All we are trying to do is make the authority operational.

Second, the Senator from Wisconsin is entirely correct, HUD does support the legislation, and at the highest levels of HUD.

Secretary Embry feels very strongly about the proposal, perhaps because it may be one of the few parts of the administration's urban package which really stands a chance of passage this year.

Second, I certainly would not want to embark on a program, even the expansion of an existing one, let alone the modification of an existing one, if I thought for a moment there was any risk to the Federal Government.

I am glad the Senator brought up the example of New York City's loan guarantee, because that is inappropriate comparison. These are loan guarantees that are to be repaid, not in 14 years, not in 17 years, but in 6 years.

Third, they are measured against the city's ability to repay; namely, the community development block grant.

As the chairman points out, they are limited to three times the amount of the municipality's block grant, so that they could be repaid—in theory, at least—in 3 years by just using that source of money.

Another difference is that this is not money that is going to go to even such worthy public services as public safety,

policy, and fire. This is money to build for the future. These are loan guarantees that produce an improvement in the tax base of our urban neighborhoods, and that is what we seek to accomplish.

So this is building for the future, not subsidizing in any way, shape, or form, as some have said the New York City legislation does, the operating costs out of the capital budget.

Finally, the program is going to be administered very carefully by HUD. The only cities that are eligible for this—the only jurisdictions, I should say—are going to be those that also are eligible for UDAG grants. We all know that the administration's UDAG program can be accomplished in one of two ways. It can be accomplished through the $400 million of grant money that has been set aside each year; or, alternatively, and much more cheaply for the taxpayers, the same goals could be met through loan guarantees instead of grants.

So I say to the Senator from Wisconsin that there is an excellent opportunity here not to have to lock up a grant program, which is money on a one-way street, but to go to a loan guarantee program, which is truly money on a two-way street—first from Pennsylvania out to the jurisdiction, and then back to the taxpayers and the Treasury. That, I think, is really what an effective program should be all about.

Mr. President, I reserve the remainder of my time.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that we may have a quorum call, with the time to be charged equally to both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is ordered.

Mr. PROXMIRE. Mr. President, I think the Senator from Pennsylvania has made a very strong case for this amendment. It does have great merit. It has merit for a number of reasons.

In the first place, as he has pointed out, here is a program which already is in existence; $3.5 billion is there; it has not been used. The purpose of the program is to help the cities, and the Senator from Pennsylvania is proposing a way they could be helped.

Furthermore, it is not something that would enable private people to rip off the Government in some way. It is confined to nonprofit entities. It has great merit, and it is supported by one of the brightest and most responsible people in the administration, including HUD Assistant Secretary Embry.

I have great enthusiasm for this proposal, if we could only have an opportunity for the committee to consider it in an orderly way. I hope the Senator from Pennsylvania will permit us to do that.

Mr. HEINZ. Mr. President, the chairman certainly has made a good suggestion in this instance. Although in our previous colloquy, we did have an argument, I do think that the chairman has been very kind in his characterization of the proposal.

Second, I think he does have a point in saying that there may be some additions or changes that the committee might want to make and that the hearing process and the legislative process would give the committee a chance to improve even what we are doing here.

In any event, we know that if and when the committee reports the measure, it is not going to cost anybody anything. As the chairman points out, it is a loan guarantee program that already is on the books. So I would be willing to withdraw my amendment. I do appreciate the chairman's willingness to hold hearings and to take the necessary legislative steps to move ahead with this proposal.

Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

UP AMENDMENT 1450

Mr. RIEGLE. Mr. President, as the managers of the bill know, I have one technical amendment that relates to the original Riegle-Heinz housing rehab bill. It is strictly a technical amendment. The Riegle amendment that passed the committee included this sentence, but it was left out of the print by error. This amendment would restore that accidentally deleted sentence. I am wondering if, at this time—I am sure there is no objection from the chairman—this technical amendment could be agreed to.

Mr. HEINZ. Mr. President, I understand there is no objection on this side of the aisle to this amendment.

The PRESIDING OFFICER. Without objection, the amendment will be in order.

The clerk will state the amendment.

The second assistant legislative clerk read as follows:

The Senator from Michigan (Mr. RIEGLE) proposes unprinted amendment No. 1450:

On page 6, after line (4), add the following: The Secretary may enter into agreements with investor-owners receiving such loans, and receiving assistance under section 8 of the United States Housing Act of 1937 in connection with such a loan, as provided for in the previous sentence, to ensure that units for which such assistance payments under section 8 are initially received continue to be available for low and moderate income housing for as long a time period as is feasible.

Mr. PROXMIRE. I understand it restores language which was originally proposed, but it was changed by the legislative counsel to make it conform. This is a technical amendment. I am happy to yield back the remainder of my time on the amendment.

Mr. RIEGLE. I thank the Senator. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill is opened to further amendment.

UP AMENDMENT NO 1451

(Purpose: To require cost-benefit analysis of field reorganizations of HUD)

Mr. DOLE. Mr. President, I send an unprinted amendment to the desk for myself and the distinguished Senator from New Hampshire (Mr. DURKIN) and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) for himself and Mr. Durkin proposed an unprinted amendment numbered 1451.

Mr. DOLE. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. 716. Section 7 of the Department of Housing an Urban Development Act is amended by adding at the end thereof the following:

"(o) A plan for the reorganization of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of 90 days after publication in the Federal Register of a cost-benefit analysis of the effect of the plan on each office involved. Such cost-benefit analysis shall include, but not be limited to—

"(1) an estimate of cost savings supported by background information detailing the source and substantiating the amount of the savings;

"(2) an estimate of the additional cost which will result from the reorganization, including, but not limited to, the cost of remodeling and moving into new office quarters, the loss of experienced personnel where such personnel shall be replaced by other personnel, the cost of training new personnel, the cost of moving personnel to new homes, any increase in rental costs (or an estimate of the likely increase in rental costs), and any adverse effects on any existing Federal office buildings;

"(3) a study of the impact on the local economy, including effects on the job market, local redevelopment efforts, the health of the local tax base, and local commercial activity; and

"(4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

Where any of the above factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.".

Mr. DOLE. Mr. President, I yield to the distinguished Senator from New Mexico, Senator SCHMITT.

Mr. SCHMITT. Mr. President, in an issue related to this amendment of the distinguished Senator from Kansas, I wish to reiterate for the RECORD how seriously the committee views the issue of departmental reorganization within HUD.

There are some indications, rumors, and otherwise, that the department does not view this nearly as seriously as does the committee which by a 9 to 6 vote approved the amendment in committee that is now embodied in section 712.

I shall quote and emphasize from the committee report relative to section 712.

Section 712 of the bill would provide that none of the funds available to the

Department of Housing and Urban Development may be obligated or expended during the fiscal year ending October 1, 1978 or October 1, 1979 for the reorganization of any area, field, or insuring office which relates to multifamily housing or community planning and development or related technical services.

Mr. President, I think it is important to emphasize this because of indications that the Department does not view this nearly as seriously as do many Senators and in fact as do the courts, which are active in this area.

I thank the Senator from Kansas for yielding.

Mr. DOLE. As I understand the Senator, section 712 becomes effective when we pass this legislation; it that correct?

Mr. SCHMITT. Obviously, the effective date would be then and it would be retroactive with respect to the current fiscal year funds.

Mr. DOLE. In the State of Kansas, and I assume in other States, HUD is already in the process of reorganization, but they have not yet made the move. They have not yet transferred personnel or functions. At least that is true in the Topeka insuring office and the Kansas City, Kans. area office. I hope that the language the distinguished Senator from New Mexico referred to, which was adopted in committee by a 9 to 6 vote and will be passed by the Senate, will keep HUD bureaucrats from transferring personnel or functions out of existing HUD field offices.

Mr. SCHMITT. The Senator is absolutely correct, and I hope it alerts also the Washington administrators that this is in fact a very serious issue with the committee.

I might affirm what the Senator said, that the reorganization, although it unfortunately has been proceeding, has been stopped in various areas including my own home State of New Mexico by court action, by injunction, at least temporarily, and that the claims that the reorganization is 95 percent complete are just not true. We have verified information that indicates that that is not true, that the transfers have not proceeded nearly to that degree, and I think it is important that HUD now pause, wait for Congress to work its will, wait for the courts to work their will before any further action is taken.

Mr. DOLE. If the Senator will yield, he makes the point which I wish to stress. It seems to me that there may be a big rush now by some in HUD to try to make all these moves before this bill is finally signed by the President. It is my understanding and it is clearly the intent of the committee and is going to be the intent of the Senate when it passes this legislation, that that is not to happen. They are not to rush around now during the last couple of weeks and try to make moves that have not been made. Do I interpret that correctly?

Mr. SCHMITT. That is absolutely correct.

I shall ask unanimous consent that the committee comments on section 712 be printed in the RECORD.

I shall simply quote the last line which says exactly what the Senator has said:

It is the intention of the committee that the multi-family housing and community planning and development functions of the Department should be restored to the organizational structure which existed prior to the development of the current HUD reorganization.

I do not see how we could be any more explicit or clear than that.

Mr. DOLE. I thank the distinguished Senator, and I assume that will be made a part of the proceeding today.

Mr. SCHMITT. Mr. President, I ask unanimous consent that the paragraph on page 51 of the committee report be printed in the RECORD.

There being no objection, the paragraph was ordered to be printed in the RECORD, as follows:

DEPARTMENTAL REORGANIZATION

Section 712 of the bill would provide that none of the funds available to the Department of Housing and Urban Development may be expended for the purpose of reorganizing the multifamily housing, or community planning and development functions of the Department. This amendment is the result of the controversy generated by the proposed reorganization of HUD offices, particularly in the western States, and by the unwillingness of the Department to provide the necessary information for an evaluation of this action. At sometime in the future, when Congress has had an opportunity to study this matter to insure that the housing needs of Americans are not being jeopardized, and when the appropriate congressional oversight responsibilities have been fulfilled, this matter can be reconsidered. It is the intention of the committee that the multifamily housing and community planning and development functions of the Department should be restored to the organizational structure which existed prior to the development of the current HUD reorganization.

Mr. DOLE. Mr. President, I would now like to turn the attention of the Senate to my amendment. My amendment deals indirectly with what the distinguished Senator from New Mexico has been referring to and would simply require that before we have any more "reorganization," HUD must prepare a cost-benefit analysis. The analysis should include: First, an estimate of cost savings supported by background information; second, an estimate of the additional cost which would result from the reorganization, including but not limited to the cost of remodeling and moving to new office quarters, the loss of experienced personnel where such personnel will be replaced by other personnel, the cost of training new personnel, the cost of moving personnel to new homes, any increase in rental costs or an estimate of the likely increase in rental costs, and any adverse effects on any existing Federal office buildings; third, a study of the impact on the local economy, including effects on the job market, local redevelopment efforts, the health of the local tax base, and the local commercial activity; and finally, an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

Mr. President, this seems to be to be a very simple amendment, one that I think will be helpful to those planning HUD reorganization efforts. The amendment simply outlines what Congress expects in the way of background information.

The Senator from Kansas was concerned about the HUD reorganization in Kansas, at least until section 712 was approved. Virtually all HUD personnel located in the Kansas City, Kans. office, the Topeka, Kans. office, would have been transferred to Kansas City, Mo. under their reorganization plan.

We did not know what the savings would be, what the costs would be or whether it is would be a net increase or a net savings.

We do not know what, frankly, may have generated the transfer because we are unable to find out from HUD.

We did get information. We doubt that it is totally accurate. We were finally told that across the country they would save $566.4 million; $2.3 million was coming from administrative support service savings, $5.6 million from personnel savings, and $548.5 million from increased program efficiencies.

The Senator from Kansas would doubt that on the face of it this reorganization would save $548 million by transferring around some offices. It seems to me the information was poorly substantiated, and it strikes me as rather unlikely since over four-fifths of the alleged savings were to be realized by industry and consumer groups, which are overwhelmingly opposing this reorganization.

I only say, finally, that I certainly believe we should streamline Government, make it more responsive, and make it less expensive. But I am not certain that that would have happened under this reorganization effort.

So I hope, in the spirit that prompted section 712, that this amendment can be made acceptable to the floor manager of the bill. It is not a major amendment in any sense of the word, but I think to some of us in small States it is a very important amendment.

I reserve the remainder of my time.

Mr. PROXMIRE. Mr. President, the distinguished Senator from Kansas offers an amendment that I know has a great deal of appeal in this body, and in general terms I think that one could almost say it was noncontroversial, but then when we get to the specifics, the possible costs, difficulty and burden might be very great.

For instance, on page 2, line 7 of the amendment, the Senator calls for an estimate of the additional cost which will result from the reorganization, including, but not limited to, the cost of remodeling and removing into new office quarters and the loss of experienced personnel where such personnel shall be replaced by other personnel. How do you estimate that? If I lose my AA or I lose one of my legislative assistants, how do I determine what that is going to cost me? It seems to me I could make a guess, but the guess would not be worth very much, and I challenge any person with a staff, and the kind of staff that HUD has, to make an estimate of how much it would cost if they lost experienced personnel.

The cost of training new personnel: again I suppose you could make an es-

timate on that, but how useful, accurate and reliable the estimate would be is a question.

The cost of moving personnel to new homes, again is very, very hard to estimate how many you would have to move to new homes. With the colossal increase in cost in some areas, in the Washington area, for example, it is very difficult to estimate.

Any increase in rental costs, any adverse effects on any existing Federal office building: well, that is hard to estimate.

Then it gets really difficult. The Senator from Kansas suggests a study of the impact on the local economy, and I am not sure which local economy he might be referring to, including effects upon the job market, local redevelopment efforts, the health of the local tax base—there is a toughie. It would be very, very hard to estimate the effect of a move of a headquarters on the local tax base. It might be negligible. You do not know what is going to happen with that property. It might be very serious. Again very hard to say.

Local commercial activity: Again that is very difficult to estimate.

Furthermore, an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services. Well, that is logical and appropriate.

I would say to my good friend from Kansas if the Senator could simplify the language so that it would be possible to have something of this kind: An estimate of cost savings, supported by background information detailing the source and substantiation of the amount of the savings; an estimate of the additional cost which will result from the reorganization on the availability, accessibility and quality of services provided, and then with the saving grace he has in his amendment on line 25, where any of the above factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis; and it seems to me that would be a reasonable amendment that we could make a good strong fight for in conference.

Mr. DOLE. Mr. President, if the Senator will yield, I appreciate that suggestion, and I am willing to so modify the amendment.

I would say that the local economy referred to is the one in which the HUD office is located.

I think the chairman's suggestions are good. Since we have made a legislative record, by bringing up some of the areas of concern to us, those concerns will be part of the legislative history, and could be conceded without being a part of the amendment itself.

I have a modification which I send to the desk, which does what the distinguished Senator suggests.

The PRESIDING OFFICER (Mr. METZENBAUM). The clerk will report the modification.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes a modification to unprinted amendment numbered 1451.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment, as modified, is as follows:

At the end of the bill, add the following:

SEC. 716. Section 7 of the Department of Housing and Uban Development Act is amended by adding at the end thereof the following:

"(o) A plan for the reorganization of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of 90 days after publication in the Federal Register of a cost-benefit analysis of the effect of the plan on each office involved. Such cost-benefit analysis shall include, but not be limited to—

"(1) An estimate of cost savings supported by background information detailing the source and substantiating the amount of the savings;

"(2) an estimate of the additional cost which will result from the reorganization;

"(3) a study of the impact on the local economy; and

"(4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

where any of the above factors cannot be quantified, the secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.".

Mr. PROXMIRE. Mr. President, I think it is a good amendment and I am happy to support it. To the best of my knowledge, I have discussed this with some of my staff and they have given me the opinion that there is no opposition to the amendment in its present form and that it be accepted.

Mr. DOLE. Mr. President, my amendment requires HUD to prepare a cost-benefit analysis when they reorganize their field offices.

Currently, the Department of Housing and Urban Development is reorganizing their field structure—a move which is causing much turmoil in many of our States. Their plan was based on the general idea that HUD authority needed to be centralized. However, the Department seemed to ignore local factors entirely. Likewise, they were unable to provide timely cost-benefit information, even on a general basis. Personally, the Senator from Kansas found the inability of HUD to justify their reorganization to be the most frustrating aspect of this entire affair.

My State was adversely affected by the plan. Virtually all HUD personnel located in two offices in my State will be removed to Kansas City, Mo., to a newly centralized office. Had the Department of Housing and Urban Development been able to provide specific data justifying these moves, I still would not have liked it, but I might have been able to accept it.

Basically, I feel that our Government needs to be streamlined and the Senator from Kansas supports efforts to save the taxpayers money. The problem with this reorganization is that it may cost more than it saves. Unfortunately, the Department of Housing and Urban Development did not bother to find out in advance what it would do. After accepting the general theory that HUD authority needed to be centralized, they did not bother to weigh the anticipated costs and benefits. My amendment would require HUD to weigh them—or at least prepare the cost-benefit analysis in advance.

INADEQUATE INFORMATION

Of course, we cannot really be certain what information HUD had before them when they decided to reorganize. But extensive inquiries from the Senator from Kansas, from the Senator from New Mexico, from other Senators, and from the General Accounting Office failed to uncover any of the cost-benefit information that HUD should have prepared. They were unable to provide the General Accounting Office with specific details documenting their decision to remove the Kansas City area office to Missouri. GAO was told that no detailed cost-benefit analysis had been performed on the decision to remove most of the personnel from the Topeka insuring office. Another GAO study requested by Senators MAGNUSON and JACKSON concluded that "HUD's projected cost savings resulting from the reorganization are not well supported."

REORGANIZATION PROBLEMS

Mr. President, this reorganization is disrupting the lives of countless HUD employees, lowering the level of service to our constituents, and damaging the redevelopment efforts of communities in need of Federal tenants. I find it inconceivable that HUD did not do a comprehensive cost-benefit analysis before implementing it. If my amendment is adopted, they will have to do it in the future.

Mr. President, I am pleased that my own feelings about this reorganization are echoed in the committee's report which notes the "unwillingness of the Department to provide the necessary information for evaluation of this action." Section 712 of the bill contains a provision, which I strongly support, prohibiting the reorganization of the HUD field structure.

The same concern that prompted section 712, prompted this amendment. In the future, HUD will have to provide the following information before their reorganizations can go into effect: An estimate of cost savings and additional costs, a study of the impact on the local economy, and an estimate of the effect of the reorganization on the quality and availability of HUD services.

Frankly, I wish it were not necessary to force HUD to use commonsense management techniques like cost-benefit analysis. But since it is necessary, I urge adoption of this amendment.

I yield back the remainder of my time.

Mr. PROXMIRE. I yield back the remainder of my time.

Mr. DOMENICI. Mr. President, will the Senator yield 3 minutes?

Mr. DOLE. I yield 3 minutes.

Mr. DOMENICI. Mr. President, I rise to comment on the section of the bill that Senator SCHMITT, my junior colleague,

and Senator DOLE were discussing. It is section 712 of the departmental reorganization and page 51 of the report where it discusses that section.

I first commend and congratulate my junior colleague, Senator SCHMITT, for his diligence with reference to this proposed reorganization in attempting to get HUD to reverse themselves. They would not do it and, therefore, he had no alternative other than to do what he did, and I am most grateful to the committee for reporting a bill with that section in it.

Mr. President, there have been so many attempts to reorganize HUD that the most recent consultant study of HUD, prior to this last reorganization, mentioned that they ought not reorganize any more because they have reorganized so much that that very episode and eventually was causing terrible morale problems and confusion. That was basically one of the findings in a consultant report some few months before the announcement of this endeavor.

There has not been any activity on the part of the Department of Housing and Urban Development that has brought more concern in the State of New Mexico, and I assume in other States, than the effort to move from the city of Albuquerque, a metropolitan area of well over 300,000 people, the multifamily housing office clear over to the regional headquarters in the State of Texas.

That is a distance which, when compared with other parts of the United States, would take you across three or four States, all in the name of saving time and effort and in getting better response to the people.

It appears to me on its face that it is calculated to do the opposite. I have tried my best to understand their reasoning, and questioned them, and I am perfectly convinced the end product will be nothing more than a paper reorganization, and the people in our State will not benefit one bit, but will rather suffer the inconvenience of having to travel long distances, working out of offices in a different city which is apt not to understand our problems, all from an administration which said it was going to bring Government closer to the people.

So I think this was a mistake from the beginning. I only hope the Senate conferees, when they go to conference with the House, will insist that before this reorganization occurs that the facts be given to the Senate, to the appropriate committee.

I commend the Senator from Kansas for his amendment which makes it even more specific, as I understand it, as to what they have to furnish by way of information in justifying this reorganization made in the name of the people and in the name of thrift and in the name of doing a better job, which no one other than HUD itself has indicated to this Senator and, I am sure, to my junior colleague, who has worked very hard at it, that it will do any of those things.

In our State, as Senator SCHMITT well knows, and thus he fought for this, we are very, very far away from Dallas, or Fort Worth, Tex., I mean literally hundreds and hundreds of miles away. We had a splendid housing office in Albuquerque, and I do not think they are going to save one penny when they are finished. I believe multiple units in New Mexico are going to suffer, as they are elsewhere, with more bureaucracy not less, more airplane tickets not less, more appointments that cannot be met, and housing is already too costly, and I think this will just punish the wrong people because of someone's wanting to put down a reorganization on a piece of paper to justify having done something.

I thank the Senator from Kansas.

Mr. DOLE. I thank the distinguished Senator from New Mexico.

I certainly share the views we discussed earlier with the junior Senator from New Mexico. It seems to me that with section 712 in place, and with the legislative history that has been made on the floor to protect existing HUD offices—that our offices should be safe. Hopefully my amendment can be retained in conference because it is reasonable, it is not aimed at criticizing anybody in the bureaucracy, but just tries to spell out some reasonable approach to protect HUD employees and recipients of HUD services.

I yield back the remainder of my time.

Mr. PROXMIRE. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on the amendment, as modified, of the Senator from Kansas.

The amendment, as modified, was agreed to.

Mr. DOLE. Mr. President, on the previous amendment, I move to reconsider the action of the Senate thereon.

Mr. PROXMIRE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1452

Mr. GRIFFIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. GRIFFIN) proposes an unprinted amendment numbered 1452:

On page 12, between lines 8–9, insert the following:

(c) Section 104 of such Act is amended by adding a new subsection (b) to read as follows:

"(b) In determining whether the applicant has complied with the requirements of subsection (a) of this Section, the Secretary shall interpret the term 'expected to reside' as meaning those persons expected by the community to reside in that community regardless of whether the applicant is or is not awarded funding under this Act.

Mr. GRIFFIN. Mr. President, at the outset, let me say it is very unfortunate that the Senate earlier rejected the amendment by the distinguished Senator from New Mexico (Mr. SCHMITT), which would have provided for a one-house veto of regulations promulgated by HUD.

I am very disturbed by the heavy-handed way that HUD has been amending the community development block grant program.

It seems to me, in reviewing the act and the attitude of HUD that there is great potential for mischief and abuse which ought to be noticed by the Senate.

As I understand the community development program, it was designed to make available to communities block grants for the purpose of achieving objectives such as eliminating slums and blight, providing improved community facilities and public improvements, and improving conditions for low- and moderate-income persons residing in or "expected to reside" in the community.

One of the questions that arises from the language "expected to reside in the community" is this: Expected by whom? Expected by the community, or expected by HUD bureaucrats? A further question is this: Is a community to be required to set up a subsidized housing program for those low-income people already in the community—or for those people that HUD believes ought to be moved in—in order to qualify for community development funds?

I do not think Congress intended that HUD should use this community development for some of the purposes that now are apparent.

I am concerned that the purposes and objectives of Congress are not necessarily the purposes and objectives of the HUD agency.

The amendment I offered is designed to clarify the meaning of the term "expected to reside in the community" as contained in the Housing and Community Development Act of 1974. In determining whether an applicant qualifies for funds, HUD is supposed to consider whether the community has adequately assessed the housing needs of individuals residing in or "expected to reside" in the community.

The meaning of the term "expected to reside" needs to be clarified. One possible definition, which has plenty of potential for bureaucratic abuse and mischief would interpret that term to include persons from other cities and areas who might move to the affected community if that community were to build subsidized housing. A second more logical definition would interpret this term to limit its scope to those persons who would move into the community regardless of whether subsidized housing is or is not provided.

I believe Congress intended the second meaning. The 1974 act was designed to help a community eliminate its own urban slums and blight. It authorizes funding for a community to develop programs with the objective of establishing viable urban centers, decent housing, and suitable living environments for its residents and those expected to live there. For HUD to burden a community with the obligation to provide low-income housing for persons who do not live in the community but who might move into the community if such subsidized housing were available would be unreasonable.

The cities that are eligible for such funding grants already under this act, in these times of inflation and unemployment, have their hands full. Under the circumstances, I think it is important

to make it clear that a community receiving funding under the 1974 act, need only assess and consider the housing needs of its own residents and those who would reside in the community whether or not a grant is awarded.

This amendment is important for yet another reason. An important principle in Federal-local relations is that the people who live in a community ought to have the right to run their own affairs to the greatest extent possible, consistent with the Constitution, of course. Unfortunately, the Federal bureaucracy often has hounded these communities with nonsensical and overbearing regulations. This amendment is a small step toward recognition that a community still has some responsibility for its own affairs. It is my view that the local governing body—not bureaucrats in Washington—should bear the basic responsibility for assessing the needs and shaping the character of the community.

Adoption of this amendment would underscore that one community cannot be required by Washington bureaucrats to turn itself into a welfare agent for the problems of other cities.

I believe the amendment I have offered merely makes clear in the statute what I feel confident Congress really intended. I hope very much that the manager of the bill would see fit to accept the amendment.

Mr. PROXMIRE. Mr. President, I have great respect, admiration, and affection for the distinguished Senator from Michigan, but I simply must oppose, and strongly oppose, this amendment. It is also my understanding, and I have spoken with the staff of Senator BROOKE, that he would be very deeply opposed to the amendment if he were here and had an opportunity to speak on it, for several reasons.

First, the committee did not consider the amendment, nor has anyone ever asked us to hold hearings on the amendment.

Second, the administration has had no opportunity to comment on the amendment.

This is an amendment which is very far-reaching and highly controversial. It is an amendment which I am sure the Senator from Michigan would object to this characterization of it, but I think it could be called a "keep the poor out" amendment, to keep the poor out of the suburbs, the poor and the black out of the areas that are on the fringe of the big cities.

The classic case is the case of Livonia, Mich., where the city had a situation where there were some 15,000 people who came every day from Detroit to work, at least 5,000 of whom were black. Livonia had a population at that time of about 100,000, of whom about 100, possibly 200 at the outside, were black.

Livonia refused to provide housing for the poor on the grounds that it was not needed. There was no question in that case, in my judgment, that they were resisting, because they wanted to keep the poor and the black out of their city. It might have been another matter, if they were not taking advantage of Federal money, but of course they were—and they wanted to continue to take advantage of the Federal legislation which is providing them with funding.

Mr. President, under the community development block grant program, the primary objective of its title—and I am reading from the law—is:

> The development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income.

Consistent with this objective, the Federal assistance provided in the title is for the support of community development activities directed toward the following specific objectives:

The first one is the elimination of slums and blight, and the prevention of blighting influences and deterioration of community and neighborhood facilities important to the development of the community, principally to persons of low and moderate income.

The sixth is the reduction of the isolation of income groups within communities and geographical areas and the promotion of an increase in the diversity and vitality of neighborhoods through the special deconcentration of housing opportunities for persons of lower income and the revitalization of deteriorating or deteriorated neighborhoods to attract persons of higher income.

Mr. President, none of us can go into any of our big cities, including Cleveland, Ohio, Milwaukee, Wis., Chicago, Ill., without seeing enormous, unhealthy concentrations of poor people and of minorities. We recognize this concentration in a ghetto is one of the most serious and tragic social problems we face. It seems to me it is a perfectly proper and desirable social objective to encourage people who live under these circumstances to have an opportunity to live elsewhere, to have an opportunity to live in areas that are integrated. That is what the law now provides.

The distinguished Senator from Michigan would change the community development program law in the section which states that the community must describe how the grant would be to "improve conditions for low- and moderate-income persons residing in or expected to reside in the community." He would add a new subsection to interpret the meaning of "expected to reside" and say, "In determining whether the applicant has complied with the requirements of section 101(c)(1) or 101(c)(6)," and I have just referred to those, "the Secretary shall interpret the term 'expected to reside' as meaning only those persons expected by the community to reside in that community, regardless of whether the applicant is or is not awarded funding under this act."

Now, that is an opportunity for the mayors of these cities and the other officials in the cities to decide whether to allow poor people to come in and live closer to their jobs, low-income people whose jobs pay very little, and minorities and so forth, who work in cities like Livonia, and other cities. It seems to me this would have no other purpose except that. This is the reason why it seems to me that this is an unfortunate amendment.

Also, the amendment is very unclear. I do not understand the meaning of the last sentence. It appears vague and too loose. It could, I fear, mean a number of other things than the interpretation which has been given.

Fourth and most important, the amendment appears to reverse every important policy adopted in 1974. I refer to section 104 of the 1974 act to show how clear the language seems to be in trying to overcome the social problem of ghetto concentration, and to encourage the opportunity for people who live under these circumstances to live in integrated communities under more wholesome and attractive circumstances.

For that reason, I regretfully oppose the amendment of the distinguished Senator from Michigan.

Mr. GRIFFIN. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 22 minutes remaining.

Mr. GRIFFIN. I thank the Chair. I regret very much that the chairman of the committee has taken the attitude he has toward this amendment.

The basic question here is, are the elected officials of a local community going to determine the character of their community—or are HUD bureaucrats in Washington going to do it?

Apparently, this statute and the way it is being interpreted would put that power and control in the hands of HUD bureaucrats. That will not happen without at least a strong effort by this Senator to do something about it.

The chairman points to language in the act, particularly paragraph 1 of subsection (c) which refers to specific objectives, such as the elimination of slums and blight.

No one is arguing that the act should not be used to eliminate slums and blight already within a community. But should bureaucrats require subsidized housing to be built for people who do not live in the community—but who would come in if it is built?

The chairman talks about reduction of the isolation of income groups within the community. Of course, to the extent that there is a problem of isolation of income groups within a community, the development block grant program can be used to deal with it. But should it be used to bring people into a community?

The issue, it seems to me, is very fundamental: Is HUD to be allowed to force subsidized housing on a community for the purpose of bringing low income people into the community who otherwise would not wish to live there?

That seems to be the intention of HUD bureaucrats.

I am opposed to discrimination of any kind. But this concept is basically wrong. People should be free to move into a community if they wish—whether they be poor, black, or any other color.

But should the Government force a community in this way to put up subsidized housing for people who otherwise would not live there? I believe this

goes beyond the line of reason and commonsense.

Mr. PROXMIRE. Will the Senator yield?

Mr. GRIFFIN. Yes.

Mr. PROXMIRE. I think the Senator has a very strong point, and I think almost everybody would say that the Federal Government should not mandate that people must be required to move into a community. We are only saying that if the community accepts Federal housing money, then they must provide an opportunity for the poor and the minorities to live in the community under those circumstances. We are not saying that they cannot refuse to provide that opportunity.

We have an example, for instance, in Fairfax, Virginia, where they have accepted, as I understand it, subsidized housing and also accepted the conditions. There is a situation where I believe there is a healthier situation in metropolitan Washington. I think all of us recognize the concentration of minority groups or poor people in an area is not healthy, is not a good thing, is not part of what we would like to achieve in this country.

With the statement in the law, the reduction of the isolation of income groups within communities and geographical areas, the promotion of an increase in diversity and vitality of neighborhoods through greater housing opportunities for persons of low income, and so forth, how do you achieve that if you do not require that when you spend Federal money that they may not, under those circumstances, keep the poor out and refuse to accept those people who are commuting, for example, who have low incomes, low paid jobs, and would like to reside in the community near where they work?

Mr. GRIFFIN. If I could make one point, would the chairman agree there are no funds for housing assistance in the community development block grant program? Is that correct?

Mr. PROXMIRE. It is my understanding that the community development program links housing with community development assistance.

Mr. GRIFFIN. What it does, in effect, is to say, "If you want community block grant program funds, you have to go to another department of HUD and apply for subsidized housing, and put that in your community; otherwise, your community development funds are cut off." This is a rather strange and novel approach. It extends the carrot and stick of Federal grant control beyond what we have normally known in the past.

Ordinarily, as in the case of an aid to education program, in order to get those funds, a local unit of government may be required to conform to certain criteria set forth, or the funds are not provided. Here, we have a community development block grant program, supposed to be something on the order of revenue sharing. But HUD says, "If you want to get this, you have to go and apply under another program for subsidized low-income housing." Is that not essentially what it is?

Mr. PROXMIRE. No, the 1974 HUD Act puts together community development program money and housing for the first time. I call the Senator's attention to page 956 of the law. I think the Senator has it before him. Section 104(a) says:

> No grant may be made pursuant to section 106 or section 119—

That refers to the community development program—

> unless an application shall have been submitted to the Secretary in which the applicant sets forth the summary of a 3-year community development plan.

And so forth.

Further down, it says the program must be designed to eliminate or prevent slums and it must improve conditions for low- and moderate-income persons residing or expected to reside, and so forth.

That is the basic law. As I say, the Senator is making a very, very strong argument and a very interesting argument. He may be right. He may have a majority with him. But I plead with the Senator that the orderly way to do this is to permit the committee to consider it.

As I say, we have not had hearings on this, we have not had a request to have hearings on it, we have not had an opportunity for the committee to deliberate on this, to discuss it, or to make a recommendation on it.

The Senator now comes to the floor with this kind of recommendation. It is my understanding that the administration has had no opportunity to comment on this. As I say, the distinguished manager of the bill on the minority side is very strongly opposed to this amendment.

Under these circumstances, I hope the distinguished Senator from Michigan will permit us to consider this in committee so we can make a record and have some recommendation from the committee on a proposal which goes very, very far in reversing legislation that Congress has adopted.

Mr. GRIFFIN. I might just say that the regulations which have been promulgated at one point say "construction of new permanent residential structures or any program to subsidize or finance such construction is not a permissible use of funds provided under this part except as provided under the 'last resort' housing provisions of 24(c)" and so on.

Accordingly, as I understand it, as far as funds available under the community development block grant program are concerned, they cannot be used for housing programs. But, obviously, two different programs have been tied together by the bureaucrats.

Now, it is one thing to say they have to do that——

Mr. PROXMIRE. If the Senator will yield, the bureaucrats do not say that; the law says that. The law provides this as one of the conditions that are necessary if applicants are going to get a community development block grant. If the Senator wants to change the law—and that is what he is proposing to do, and he has every right to make that proposal—he can do it. But it seems to me unfair to criticize HUD which, under bill administrations, Republican and Democratic, has proceeded in that way.

Mr. GRIFFIN. The law says it is supposed to provide housing for low-income people who live there or who are "expected to reside" there. The question is, Who expects them to reside there? Are we talking about people who would be expected to reside there whether or not the funds were made available?

Mr. PROXMIRE. Of course, the reasons they could be expected to reside could be many, including employment, proximity to jobs, and so forth.

But once again, I call the attention of the Senator to the fact that the law states previous to that that the purpose of it is the reduction of the isolation of income groups within the community and the dispersion and promotion of an increase in diversity.

Mr. GRIFFIN. I wonder how a HUD bureaucrat will decide which community is going to be blessed with the requirement that subsidized housing units must be built so people can move into that particular community?

Mr. PROXMIRE. By the community asking for the money. If it asks for the money, it has to comply with the Federal law.

Mr. GRIFFIN. But another community may not be imposed upon by HUD in the same way.

Mr. PROXMIRE. As long as they ask for the money, they all have to comply equally.

Mr. GRIFFIN. I believe it is whatever the HUD bureaucracy says.

Mr. PROXMIRE. No, the law applies to all communities.

Mr. GRIFFIN. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

Mr. GRIFFIN. I suggest the absence of a quorum, Mr. President.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the time be taken out of the bill instead of out of the amendment.

The PRESIDING OFFICER. Without objection, it is so odered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on the Griffin amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I am happy to yield back my time.

Mr. GRIFFIN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question

is on agreeing to the amendment of the Senator from Michigan. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. PAUL G. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), and the Senator from Oregon (Mr. MARK O. HATFIELD) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. MARK O. HATFIELD) would vote "yea."

The result was announced—yeas 34, nays 50, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—34

Allen	Hansen	Packwood
Bartlett	Hatch	Pearson
Byrd, Harry F., Jr.	Hayakawa	Randolph
	Helms	Roth
Byrd, Robert C.	Hodges	Schmitt
Curtis	Hollings	Schweiker
Dole	Johnston	Scott
Domenici	Laxalt	Tower
Eastland	Long	Wallop
Garn	Lugar	Young
Goldwater	McClure	Zorinsky
Griffin	Melcher	

NAYS—50

Bayh	Haskell	Pell
Bentsen	Hathaway	Percy
Bumpers	Heinz	Proxmire
Cannon	Humphrey	Ribicoff
Case	Jackson	Riegle
Chafee	Javits	Sarbanes
Chiles	Kennedy	Sasser
Church	Leahy	Sparkman
Clark	Magnuson	Stafford
Cranston	Matsunaga	Stevens
Culver	McGovern	Stevenson
Danforth	Metzenbaum	Stone
DeConcini	Morgan	Talmadge
Durkin	Moynihan	Thurmond
Ford	Muskie	Weicker
Glenn	Nelson	Williams
Hart	Nunn	

NOT VOTING—16

Abourezk	Eagleton	Inouye
Anderson	Gravel	Mathias
Baker	Hatfield, Mark O.	McIntyre
Bellmon		Stennis
Biden	Hatfield, Paul G.	
Brooke		
Burdick	Huddleston	

So the amendment (UP No. 1452) was rejected.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JAVITS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1453

(Purpose: To provide for annual housing production reports)

Mr. PROXMIRE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Wisconsin (Mr. PROXMIRE) proposes an unprinted amendment numbered 1453.

The amendment is as follows:

At the end of the bill, add the following:

HOUSING PRODUCTION REPORT

SEC. . Section 1603 of the Housing and Urban Development Act of 1968 is amended to read as follows:

"REPORT ON GOALS

"SEC. 1603. Not later than January 20 of each year, the President shall transmit to the Congress a report which—

"(1) reviews the progress made in achieving housing production objectives during the preceding year, and in the event that proposed objectives are not achieved, identifies the reasons for the failure;

"(2) projects the level, composition, and general location of production and rehabilitation activity during the current year, and reassesses the availability of required resources;

"(3) specifies Federal programs and policies to be implemented or recommended in order to achieve the objective;

"(4) updates estimates of the housing needs of lower income families, analyzing these needs, in so far as possible, by type of household, housing need, including households with specialized needs, and general location, and in addition, reassesses the capacity of each Federal housing program to serve the needs identified;

"(5) reviews the progress made in achieving goals of conserving and upgrading older housing and neighborhoods, expanding homeownership and equal housing opportunities, and assuring reasonable shelter costs;

"(6) reports on progress made toward developing new methods for measuring and monitoring progress in achieving these goals; and

"(7) identifies legislative and administrative actions which will or should be adopted or implemented during the current year to support achievement of the goals.".

Mr. PROXMIRE. Mr. President, I will not take more than 2 minutes on this amendment, and I think it will be accepted by the Senate. It should not be controversial.

This amendment would continue the existing requirement that the President report to Congress each year on the progress that is being made to achieve our goal of providing every American with decent housing in neighborhoods and cities that are viable and healthful places to live.

I have a particular interest in this annual reporting requirement. I authored the original bill which was enacted in the 1968 Housing Act.

I believe the President's annual report on housing is essential. It is needed to assure that we have some accountability of Federal effort to provide adequate housing for all. It is needed to provide Congress and the Committee on Banking, Housing and Urban Affairs with information for the planning of our housing programs and housing budget.

My amendment would continue the requirement for reporting to Congress and improve the content of the report by specifying more clearly the items of information that should be included.

I do not know of anybody who opposes the amendment. I yield back my time on the amendment.

The PRESIDING OFFICER. Does the minority yield back its time?

Mr. CURTIS. Mr. President, I yield back the time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

LEGISLATIVE PROGRAM

Mr. PROXMIRE. Mr. President, the leader suggested to me that I caution Senators that there may well be other votes after the vote on final passage on this bill.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished Senator yield to me?

Mr. PROXMIRE. Is that correct?

Mr. ROBERT C. BYRD. Yes. And I thank the distinguished Senator.

I wonder if I could have the attention of Senators at this time so that we might ascertain whether or not there are going to be any rollcall votes, and if there are going to be, then we might be able to schedule those early so that Senators may vote and go home, and then we can proceed with the rest of the schedule.

There will be a message from the House of Representatives on House Joint Resolution 945. That is the black lung conference report. Mr. MAGNUSON will handle that. It will only take about 5 minutes. I do not anticipate a rollcall vote on that.

There will be a conference report on the DOT bill, the Department of Transportation appropriations bill. That should take about 5 minutes.

Is there any Senator here who wishes to have a yea-and-nay vote on that conference report?

I see no indication.

Mr. TALMADGE and Mr. DOLE wish to bring up the Consolidated Farm and Rural Development Act this evening, which is a House bill, and I understand it will take about a half hour.

Does anyone want to ask for a rollcall vote on that measure?

I see no indication of such.

The intelligence community authorization bill will be brought up later and I understand that there is general agreement all around.

Is there any indication by any Senator who wishes to ask for the yeas and nays on that vote?

Mr. JAVITS. Which bill?

Mr. ROBERT C. BYRD. The intelligence community authorization. I see no indication. So, Mr. President, I take it——

Mr. JAVITS. Mr. President, before the Senator speaks, is he going to bring up the ACTION bill tonight?

Mr. ROBERT C. BYRD. No. The ACTION bill will be tomorrow.

Mr. JAVITS. Tomorrow.

Mr. ROBERT C. BYRD. So, Mr. President, I take the liberty——

Mr. CHAFEE. Mr. President, may I ask one question?

Mr. ROBERT C. BYRD. Yes.

Mr. CHAFEE. What is the black lung conference report?

Mr. ROBERT C. BYRD. That will take only 5 minutes. That is a supplemental appropriations bill, I believe, and I do not think there is any controversy.

The PRESIDING OFFICER (Mr. MATSUNAGA). The Senator is correct.

Mr. ROBERT C. BYRD. That is an appropriations conference report. There is no controversy over it.

Mr. NUNN. Mr. President, will the majority leader yield for a brief question?

Mr. ROBERT C. BYRD. Yes.

Mr. NUNN. Does the majority leader have any idea what time the HMO bill might come up tomorrow?

Mr. ROBERT C. BYRD. On tomorrow the following measures will be taken up: The domestic volunteer authorization bill and following that the HMO bill will come up. Following that the child nutrition bill, and following that the Chattahoochee parks bill.

The Senate comes in at 10 a.m. It should come up rather early, by 11, hopefully, or 11:30.

Mr. NUNN. I thank the majority leader.

Mr. ROBERT C. BYRD. Mr. President, based on the questions I have asked and the fact there have been no responses I take the liberty then of informing the Members on my honor that there will be no rollcall votes.

Mr. JAVITS. On our honor.

Mr. ROBERT C. BYRD. On our honor, that there will be no rollcall votes today after final passage of the pending measure.

AMTRAK IMPROVEMENT ACT OF 1978

Mr. LONG. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 3040.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 3040) entitled "An Act to amend the Rail Passenger Service Act to extend the authorizations of appropriations for an additional fiscal year, to provide for public consideration and implementation of a rail passenger service study, and for other purposes", do pass with the following amendment:

Strike out all after the enacting clause, and insert:

SHORT TITLE

SECTION 1. This Act may be cited as the "Amtrak Improvement Act of 1978".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 601(a)(1) of the Rail Passenger Service Act (45 U.S.C. 601(a)(1)) is amended—

(1) in clause (1) thereof (A) by striking out "except for" and all that follows through "sentence" and inserting in lieu thereof "including the payment of the additional operating expenses of the Corporation which result from the operation and maintenance of the Northeast corridor pursuant to title VII of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 851 et seq.)", (B) by striking out "and" immediately after "1977,", and (C) by inserting ", and not to exceed $600,000,000 for the fiscal year ending September 30, 1979" immediately after "1978";

(2) in clause (2) thereof (A) by striking out "and" immediately after "1977,", and (B) by striking out "1978;" and inserting in lieu thereof "1978, and not to exceed $130,000,000 for the fiscal year ending September 30, 1979, which shall include funds for expenditures for compatible equipment under section 703(5) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853(5)); and";

(3) by striking out clause (3) and redesignating clause (4), and all references thereto, as clause (3); and

(4) in clause (3) thereof, as so redesignated, by inserting ", and not to exceed $25,000,000 for the fiscal year ending September 30, 1979" immediately after "1978".

(b)(1) Section 601(a)(2) of such Act (45 U.S.C. 601(a)(2)) is amended by striking out "subsection (a)(4)" and inserting in lieu thereof "subsection (a)(3)".

(2) Section 602(d) of such Act (45 U.S.C. 602(d)) is amended by striking out "clause (4)" and inserting in lieu thereof "clause (3)".

BUDGET ESTIMATES

SEC. 3. Subsection (b) of section 601 of the Rail Passenger Service Act (45 U.S.C. 601(b)) is repealed.

ROUTE REEXAMINATION

SEC. 4. (a) The Secretary of Transportation (hereinafter in this section referred to as the "Secretary"), in cooperation with the National Railroad Passenger Corporation (hereinafter in this section referred to as the "Corporation"), shall immediately develop preliminary recommendations for a route structure for the Corporation which will provide an optimal intercity railroad passenger system, based upon current and future market and population requirements, including where appropriate portions of the Corporation's existing route structure. In developing such recommendations, the Secretary shall consider—

(1) any unique characteristics and advantages of rail service as compared to other modes of transportation;

(2) the role that rail passenger service can play in helping meet the Nation's transportation needs while furthering national energy conservation efforts;

(3) the relationship of benefits of given services to the costs of providing such services, computing the costs in loss or profit per pasenger mile rather than total loss or profit per route;

(4) the transportation needs or areas lacking adequate alternative forms of transportation; and

(5) frequency alternatives and the impact of such alternatives on ridership, revenues, and expenses of rail passenger service.

(b) The Secretary shall, no later than May 1, 1978, develop and publish the preliminary recommendations described in subsection (a) of this section and submit a copy of such recommendations to the Rail Services Planning Office and to both Houses of the Congress. The Secretary shall at least time also provide copies of the preliminary recommendations to the Corporation, the Office of Rail Public Counsel, the Interstate Commerce Commission, the Secretary of Energy, the Governors, Departments of Transportation, and Public Utilities Commissions of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act to represent railroad employees, and the United States Postal Service. In addition, copies of the preliminary recommendations shall be made available by the Secretary to interested persons at a reasonable cost. Such recommendations shall include—

(1) a recommended route system by end points and principal intermediate points to be served;

(2) quality and type of service recommended for each route, including frequency, speed, and classes of services offered;

(3) ranges of projected operating expenses, ridership, and revenues, by route, including a measure calculated by loss or profit per passenger mile and separated for non-State-supported routes and State-supported routes;

(4) an estimate of the equipment and facilities necessary to support the recommended system;

(5) a recommendation for coordinating passenger rail service at points on the system with other modes of transportation serving such points; and

(6) based upon the route level projections, an estimate of operating and capital appropriations required to operate the system for fiscal years 1980 through 1984.

(c) During the period beginning May 1, 1978, and ending August 31, 1978, the Rail Services Planning Office shall conduct public hearings on the preliminary recommendations developed by the Secretary under this section. Such public hearings shall be held in such places and at such times as the Office determines will afford the affected States and communities the greatest opportunity to participate. During such period, in addition to holding public hearings, the Office shall invite comment on such recommendations from the Corporation, the Interstate Commerce Commission, the Secretary of Energy, the Governors, Departments of Transportation, and Public Utilities of each State in which rail passenger service is proposed to be modified, the railroads affected by such recommendations, the labor organizations authorized under the Railway Labor Act to represent railroad employees, interested citizens groups, and the United States Postal Service.

(d) The Rail Service Planning Office shall, no later than September 30, 1978, submit to the Secretary a summary and analysis of the evidence received in the course of its proceedings conducted under subsection (c) of this section, together with its critique and evaluation of the preliminary recommendations of the Secretary. The Secretary shall thoroughly consider the material submitted by the Office with respect to such recommendations and, based on such consideration (and further evaluations of the Secretary), develop final recommendations for a route structure for the Corporation as he deems appropriate. In developing such final recommendations, the Secretary shall also consider the impact of such recommendations upon existing tourism markets and the peotential for future tourism in areas to be served by the recommended route system. Such final recommendations shall include a summary of the significant recommendations received, together with the reasons for adopting or not adopting any such recommendation.

(e)(1) The Secretary shall, no later than December 31, 1978, submit the final recommendations designating the basic route system, together with supporting and explana-

tory material, to both Houses of the Congress and to the Committee on Appropriations and the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Appropriations and the Committee on Commerce, Science, and Transportation of the Senate. The final recommendations shall be deemed approved and shall take effect only upon the adoption by both the House of Representatives and the Senate of a resolution approving such final recommendations. If, following submission of the final recommendations by the Secretary, either House of the Congress passes a resolution disapproving such recommendations, the Secretary shall prepare revised final recommendations. All such revised final recommendations shall be submitted to both Houses of the Congress and the committees referred to in this paragraph for approval in accordance with this subsection.

(2) Pending approval of the final recommendations developed by the Secretary under this section and notwithstanding any other provision of law, the route system of the Corporation in effect on January 1, 1978, shall not be modified or restructured prior to October 1, 1979, except with respect to those routes initiated by the Corporation subsequent to January 1, 1978, pursuant to section 404(a) of the Rail Passenger Service Act (45 U.S.C. 564(a)). Nothing in this paragraph shall be construed by the Corporation as precluding the rerouting of existing rail passenger service, or construed as requiring the Corporation to maintain service provided under an agreement with a State pursuant to section 403(b) of the Rail Passenger Service Act if such State fails to meet its share of the costs of such service or requests discontinuance of such service.

(3) Immediately upon approval of the final recommendations of the Secretary, the Corporation shall implement the basic route system designated in such recommendations and shall complete such implementation as soon thereafter as possible.

(f) The provisions of section 404(c)(1) of the Rail Passenger Service Act (45 U.S.C. 564(c)(1)), including the criteria and procedures developed under such section, shall not apply to the preliminary or final recommendations developed by the Secretary under this section. After the effective date of the basic system designated in the final recommendations of the Secretary, any additions, deletions, or modifications in such basic system may be made by the Corporation in accordance with the criteria and procedures developed under such section 404(c)(1). The basic system designated in the final recommendations of the Secretary shall supersede any other system or route previously in effect.

(g) The Rail Services Planing Office shall, in the course of the hearings conducted under subsection (c) of this section, conduct an evaluation of alternatives to the existing organizational structure of the Corporation and of the relationship of the Corporation to the Federal Government, including its relationship to the Office of Management and Budget, the Secretary of Transportation, and the Congress.

RAIL PASSENGER SERVICE REPORT

SEC. 5. Section 703(2) of the Railroad Revitalization and Regulatory Reform Act of 1978 (45 U.S.C. 853(2)) is amended—

(1) by inserting "(A)" immediately after "Transportation.—"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) The submission by the Secretary to the Congress of the following report on the conflict between the needs of commuter rail passenger service in the Northeast Corridor:

"(i) Within one year after the date of enactment of this subparagraph, a report on the allocation of access rights to the key Northeast Corridor terminals, especially Pennsylvania Station in New York, New York.".

STUDY OF RELATIONSHIP OF AMTRAK FARE STRUCTURE

SEC. 6. The Comptroller General shall, in consultation with the Secretary of Transportation and the Interstate Commerce Commission, conduct a study of the economic relationship of the fare structure of the National Railroad Passenger Corporation to the intercity bus industry. The Comptroller General shall, no later than December 31, 1978, submit a report to the Congress setting forth the results of such study.

HEARINGS ON UNFAIR OR PREDATORY PRACTICES

SEC. 7. Notwithstanding the provisions of section 306 of the Rail Passenger Service Act, the Interstate Commerce Commission shall have, upon the application of any aggrieved motor carrier, jurisdiction under any applicable provision of part 1 of the Interstate Commerce Act over any rate, fare, charge, or marketing practice of the National Railroad Passenger Corporation with respect to any route or service which operates at a loss for the purpose of hearing the complaint over an unfair or predatory practice.

NORTHEAST CORRIDOR

SEC. 8. Section 703 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 853) is amended—

(1) in paragraph (1)(A)(i) thereof, by inserting "at most" immediately before "a 3-hour-40-minute" and "a 2-hour-and-40-minute", respectively;

(2) in paragraph (1)(B) thereof, by inserting "or other responsible parties" immediately after "(or local or regional transportation authorities)"; and

(3) by adding at the end thereof the following new paragraph:

"(5) COMPATIBLE EQUIPMENT.—The Secretary shall develop economical and reliable rolling stock and related equipment designed to be compatible with the track, operating, and marketing characteristics of the Northeast Corridor at and after the completion of the Northeast Corridor improvement project, including the capability to reliably meet the trip times set forth in paragraph (1)(E) of this section in regularly scheduled revenue service in the Northeast Corridor. The Secretary shall consult with the Corporation in the development of such equipment. The Corporation shall submit requests for authorization of appropriations for the production of such equipment and shall, together with the Secretary, include equipment planning in the reports required by paragraph (1)(E) of this section.".

EXPENSES OF ELECTRIFICATION CONVERSION

SEC. 9. Section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(1)) is amended by inserting immediately before the semicolon at the end thereof the following: ", of which not less than $27,000,000 shall be available to finance the cost of the equipment modification and replacement which States (or local or regional transportation authorities) will be required to bear as a result of the electrification conversion system of the Northeast corridor pursuant to this title".

PURCHASES OF DOMESTIC ARTICLES, MATERIALS, AND SUPPLIES

SEC. 10. Section 305 of the Rail Passenger Service Act (45 U.S.C. 545) is amended by adding at the end thereof the following new subsection:

"(j)(1) Except as provided in paragraph (2) or (3) of this subsection, the Corporation, in carrying out its activities under this Act, shall purchase only—

"(A) unmanufactured articles, materials, and supplies which have been mined or produced in the United States; and

"(B) manufactured articles, materials, and supplies which have been manufactured in the United States substantially from articles, materials, and supplies mined, produced, or manufactured, as the case may be, in the United States.

"(2) The Secretary may, upon application of the Corporation, exempt the Corporation from the requirements of paragraph (1) of this subsection with respect to the purchase of particular articles, materials, or supplies, if the Secretary determines that—

"(A) imposing such requirements with respect to such articles, materials, or supplies is inconsistent with the public interest;

"(B) the cost of imposing such requirements with respect to such articles, materials, or supplies is unreasonable; or

"(C) such articles, materials, or supplies or the articles, materials, or supplies from which they are manufactured are not mined, produced, or manufactured, as the case may be, in the United States in sufficient and reasonably available commercial quantities and of a satisfactory quality.

"(3) The provisions of this subsection shall not apply—

"(A) in any case in which the cost of the articles, materials, or supplies purchased is less than $100,000; or

"(B) in the case of articles, materials, or supplies purchased pursuant to a contract entered into before the date of enactment of this subsection.

"(4) For purposes of this subsection, the term 'United States' means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.".

FOR-PROFIT STATUS OF AMTRAK

SEC. 11. The second sentence of section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by inserting "operated and managed as" immediately before "a for profit corporation"

COMMON STOCK OWNERSHIP

SEC. 12. The Secretary of Transportation shall evaluate the common stock ownership of the National Railroad Passenger Corporation and shall, no later than December 31, 1978, submit a report to the Congress setting forth his recommendations with respect to retention, retirement, or conversion of such common stock. In making such recommendations, the Secretary shall consider the best interests of the United States.

RAILROAD SAFETY SYSTEM PROGRAM

SEC. 13. Title VIII of the Rail Passenger Service Act (45 U.S.C. 641 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 807. RAILROAD SAFETY SYSTEM PROGRAM

"(a) No later than January 1, 1979, the Corporation shall, in consultation with railroad labor organizations, develop and implement a Rail Safety System Program for employees working on propery owned by the Corporation. Such program shall be designed to serve as a model for other railroads to use in developing safety programs.

"(b) The Railroad Safety System Program required under this section shall include but not be limited to—

"(1) a periodic analysis of accident data, including primary and secondary causes, if known;

"(2) a periodic evaluation of the activities undertaken under the program, particularly the specific steps taken in response to accident causes;

"(3) a periodic identification of the expenditures for occupational health and safety activities included in the program;

"(4) a periodic identification of the reduction of costs, fatalities, and casualties resulting from accident prevention under the program;

"(5) a periodic identification of direct accident costs, including claims arising out of such accidents; and

"(6) an identification and evaluation of such other information or data as the Corporation considers necessary or appropriate.

"(c) There is authorized to be appropriated to carry out the provisions of this section not to exceed $250,000.".

CONVERSION OF RAILROAD TERMINALS

SEC. 14. Paragraphs (2), (3), and (4) of section 4(i) of the Department of Transportation Act (49 U.S.C. 1653(i) (2), (3), and (4)) are amended by striking out "60 per centum" each place it appears and inserting in lieu thereof "80 per centum".

REIMBURSEMENT FOR STAFF SERVICES

SEC. 15. Section 403(b)(1) of the Rail Passenger Service Act (45 U.S.C. 563(b)(1)) is amended by adding at the end thereof the following new sentence: "The State or agency shall be entitled to reimbursement for staff services in an amount equal to 3 per centum of the Corporation's share of operating losses and associated capital costs.".

PETITIONS TO THE INTERSTATE COMMERCE COMMISSION

SEC. 16. Section 403(b) of the Rail Passenger Service Act (45 U.S.C. 563(b)) is amended—

(1) by redesignating paragraphs (2) and (3), and all references thereto, as paragraphs (3) and (4), respectively; and

(2) by inserting immediately after paragraph (1) the following new paragraph:

"(2) Whenever a State, regional, or local agency requests the Corporation to institute service pursuant to this subsection, or to enter into a contract or other agreement or modify an existing contract or agreement relating to rates, fares, charges, scheduling, marketing, or operations of service provided pursuant to this subsection, and the Corporation fails to institute such service or to enter into or modify such contract or agreement, as the case may be, such State, regional, or local agency may petition the Commission for an order directing the Corporation to comply with its request. If the Commission determines, upon receipt of such a petition and after notice and an opportunity for a hearing, that the request which is the subject of such petition is consistent with the public interest and the purposes of this subsection, the Commission may enter an order directing the Corporation to comply with such request or to take such other action as the Commission considers appropriate.".

ADDITIONAL SERVICE

SEC. 17. Section 403 of the Rail Passenger Service Act (45 U.S.C. 563) is amended by adding at the end thereof the following new subsection:

"(d) The Corporation is authorized to operate commuter rail passenger service under an agreement with a State (or local or regional transportation agency) if such State or agency agrees to reimburse the Corporation for the avoidable cost of operating such commuter rail passenger service. For purposes of this subsection, the term 'commuter rail passenger service' means rail passenger service operated in metropolitan and suburban areas, usually characterized by reduced fare, multiple-ride, and commutation tickets, and by morning and evening peak period operations.".

EFFECTIVE DATE

SEC. 18. (a) Except as provided in subsection (b) of this section, the provisions of this Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) The amendments made by section 9 and section 15 of this Act shall take effect on October 1, 1978.

SEC. 19. The National Rail Passenger Service Corporation shall utilize all feasible means—including taking into account the needs of the Postal Service in establishing schedules—to attract and service the bulk mail needs of the United States Postal Service.

Mr. LONG. Mr. President, I move that the Senate disagree to the amendments of the House to S. 3040, the National Railroad Passenger Corporation Authorization Act of 1978, and that the Senate request a conference on the disagreeing votes of the two Houses and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer (Mr. STONE) appointed Mr. CANNON, Mr. LONG, Mr. RIEGLE, Mr. DANFORTH, and Mr. SCHMITT conferees on the part of the Senate.

HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

The Senate continued with the consideration of S. 3084.

Mr. PROXMIRE. Mr. President, I have the great honor and privilege of announcing that in view of the fact that Senator SPARKMAN is retiring this year and in view of the fact he has been the principal sponsor of most of the housing bills we have passed since 1949, and he is Mr. Housing, I take great pleasure in paying tribute to Senator SPARKMAN and the remarkable contribution he has made to the Senate and to the country in our housing programs.

I think on this occasion of his last housing bill he should be given that recognition.

[Applause, Senators rising.]

Mr. SPARKMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama, Mr. SPARKMAN, also know as "SPARKY," is recognized.

Mr. SPARKMAN. Mr. President, I hardly know what to say. Of course, I am deeply grateful to my chairman for the very gracious remarks that he made.

I have enjoyed working in the housing field. When I was placed on the Banking Committee when I first entered here I was named chairman of the Housing Subcommittee, and except for a couple of occasions when the country went Republican, I have served in that capacity ever since.

I have enjoyed the work. I have enjoyed all of my work in Congress.

I do not want to sing you a farewell song at this time, but I suppose most of you know that I am retiring voluntarily this year.

Sometimes I have some little tinges of regret, but I have been in Congress 42 years and I decided that is as long as anyone should stay here.

So I will be leaving at the end of this year, but I thank all of my colleagues for the honor that you do me. Thank you very much.

[Applause, Senators rising.]

Mr. MORGAN. Mr. President, I am pleased to rise in support of the basic thrust of S. 3084, the Housing and Community Development Amendments of 1978.

Before I begin my remarks, I would like to commend our very able chairman, Senator PROXMIRE, and the ranking minority member, Senator BROOKE, for their diligence in shaping this important legislation. The Banking, Housing and Urban Affairs Committee has held numerous hearings, both here and in the field, in gathering input from the citizens of this Nation in formulating a more effective housing and community development program.

I will speak today from my perspective as chairman of the Rural Housing Subcommittee. This subcommittee, which was created only at the beginning of this Congress, has contributed to the rural oriented section of this bill, title V. The ranking member of my subcommittee, Senator GARN, has played a central role in the formulation of title V and I would like to compliment my able colleague from Utah for his efforts.

This legislation contains many bold steps forward for rural America. I am especially pleased with section 507 of this bill, a new homeownership assistance provision. This provision will make possible, for the first time, the opportunity for many rural Americans to own their own homes.

Current law regarding housing opportunities simply is inadequate from the standpoint of many of our rural people. In establishing this new, innovative program, it is important that we remember that rural people simply do not have housing alternatives. In fact, it has been the lack of housing opportunities that has driven many rural Americans into our crowded cities. Unless Congress acts to enhance the quality of life for these people, rural people will continue to leave for cities.

Assistance payments under this new program will represent the difference between the cost of homeownership—principal and interest, taxes, insurance, utilities, and maintenance—and 25 percent of adjusted family income. Most importantly section 507 would provide for a recapture of a share of any profits that might occur upon resale of the home. This approach is innovative from the standpoint that our other housing programs do not provide for such a recapture. As a Senator with great concern for the fiscal state of our Nation, I believe such an approach offers great promise.

Another important provision of this bill relates to a change in our domestic farm labor housing program. Section 505 of the bill would authorize the Secretary of Agriculture to waive the "credit elsewhere" provision of the farm labor housing loan program authorized by section 514 of the Housing Act of 1949. This new provision has been criticized by some groups who favor strict farm labor ownership of housing. On this point, I would simply say that section 514 has been underutilized and that a strict approach will and has not worked in areas where farm labor is seasonal. In areas of the country where farm labor home

ownership is possible, it should be encouraged.

Another portion of this bill, section 502, also relates to farm labor housing. This section requires the Secretary of Agriculture to conduct a study of migrant farm labor housing and report the results of such a study within 1 year. I expect that this study will provide my subcommittee and the Senate with a comprehensive review of the needs for migrant and farm labor housing, including recommendations for new legislation authority if that should be the case. I assure my colleagues that I await this report eagerly, and that my subcommittee will deal with its recommendations at the earliest possible time.

Another significant provision of the bill is section 504 which requires the Secretary of Agriculture to promulgate new rules and regulations setting up a new appeals procedure for the Farmers Home Administration. Current procedure stipulates that the only appeal can be to the county supervisor, the individual who has made the original decision to deny, reduce, or terminate assistance. This provision would permit an individual to appeal directly to an impartial official who has the authority to overturn the decision. I note that Farmers Home Administrator Gordon Cavanaugh has begun to take action which will meet the intent of this bill and I commend him and Secretary Bob Berland for their efforts in this area.

Other segments of title V contain a 1-year extension of Farmers Home Administration authorities, an action which will provide for continued, systematic oversight by my subcommittee and the Senate. Still other provisions modify the foreclosure provisions of section 510 of the Housing Act of 1949, and modernize other procedures that desperately need to be updated to make our rural housing programs more responsive to the needs of our citizens.

I intend to offer an amendment to section 509 which concerns a requirement that the Secretary complete a study of remote title claims. The bill requires the USDA to complete this study within 1 year. My amendment will require that this study be completed by March 1, 1979, in time for oversight hearings early next year. This date should be changed in that the Farmers Home Administration, which has the necessary study underway, can complete this requirement by the March date.

Section 508 of this bill would redefine the term "rural area" to permit the Farmers Home Administration to make loans to small communities throughout the country that are within standard metropolitan statistical areas that continue to have serious shortages of mortgage credit. Finally, this bill will provide for a more adequate research capacity by Farmers Home—a provision that will produce the information that Congress and the administration need to make more informed decisions concerning our housing programs.

There will be a number of amendments offered during the course of this legislation. I choose not to comment on these amendments at this time, other than to say that we must view all actions within the context of housing needs and fiscal realities. I intend to review these amendments with an open mind and to work to assure that the final Senate bill meets both demands in the most reasonable way possible. I thank the floor manager and minority floor manager for allowing me this opportunity to comment on this very important legislation.

● Mr. GLENN. Mr. President, I am pleased to support S. 3084 as amended. This is a vital and important measure that represents a clear national commitment to attempt to come to grips with many of our severe community development problems in urban and rural areas.

There are several vital subject areas that S. 3084 encompasses that I have been quite active in and I would like to take a few moments to establish a bit of legislative history with respect to them.

ARSON-FOR-PROFIT AND "FAIR" PLANS

Title III, section 307 extends crime insurance and riot reinsurance programs through 1981. These programs are designed to assure availability of adequate property and crime insurance coverage that might be unavailable to some inner city property owners. Many of our State-operated FAIR plans are directly linked to these programs which are administered by HUD's Federal Insurance Administration. The FIA has review and underwriting authority over FAIR plans.

Last December, I chaired 2 days of hearings of the Governmental Affairs Committee's subcommittee on the impact that arson-for-profit has had on States and localities. One of the findings of those hearings was that arson-for-profit, the practice of landlords "torching" their own properties for the purpose of collecting insurance proceeds, is a serious problem in FAIR plans.

Some of our witnesses even suggested that many FAIR plans actually encourage arson for profit by being overly permissive in providing coverage to any property at any amount the owner seeks irrespective of the actual value of the property and without regard to the owner's history with respect to previous fires, his tax status, and other relevant background. It has been further suggested that the FIA should take several specific steps to reduce arson-for-profit incentives involved in FAIR plan coverage. A May 31, 1978, GAO report recommends several measures that address the problems of overinsuring, owner background and permissible cancellation notice. The GAO report also pointed out, rightfully, that FAIR plans often operate in a vacuum without communication to, and information from, other FAIR plans that have adopted effective arson-for-profit deterrents.

GAO recommends that the Secretary of HUD direct the FIA to revise FIA regulations to:

Require that all FAIR plans establish property value at the time of underwriting and eliminate the practice of giving property owners any amount of insurance desired.

Require all FAIR plans to obtain and consider information concerning the character of the property owner in its determination of insurability as the insurance industry does.

Permit FAIR plans to use a 5-day cancellation notice with State insurance department approval in each instance.

Mr. President, I strongly urge the Secretary to follow the GAO's recommendations. Arson has increased over 400 percent over the past 10 years. Estimated insurance losses exceed $3 billion annually. Arson costs us an estimated 1,000 lives annually including 45 firefighters. Only 9 persons are arrested, 2 convicted, and 0.7 incarcerated per every 100 fires classified as incendiary or suspicious. This vicious crime is increasingly viewed as a "respectable," "white-collar" crime and as a "cost of doing business" in the inner city. In fact, this is one of our most reprehensible crimes. It is undermining our urban development policies and devastating our older urban housing. There is no way that we can stand on this floor and speak of "community development" and "urban revitalization," "neighborhood preservation," and so on without dealing with the arson-for-profit menace. The fact that many of these crime practitioners wear suits and have professional careers is no excuse for ignoring it or for maintaining well-intentioned programs without considering potential adverse effects.

So I expect action from the Secretary along the lines suggested. We must assure adequate insurance coverage without unintentionally encouraging exploitation of this law and of inner city residents at the hands of professional criminals. I am confident that this can be done.

CONGREGATE HOUSING SERVICES

Title V of the Housing and Community Development Amendments of 1978 contains the language of S. 2691, the Congregate Housing Services Act of 1978, which I cosponsored when it was introduced in the Senate earlier this year. This act authorizes the Secretary of HUD to make 3- to 5-year grants to local public housing authorities to provide social services in congregate public housing for the elderly and handicapped. These services, such as full nutrition programs, housekeeping assistance, and personal care aid, will enable many older and handicapped people to remain independent and avoid unnecessary institutionalization. Local housing authorities would coordinate with area agencies on aging in formulating local service plans, and would provide services directly or through local agencies.

The 1970 Housing Act mandated the Secretary of HUD to encourage service-supported congregate public housing. Eight years later there are only a few such programs in the country because no money is available for service packages. I am hopeful that this situation will be quickly reversed with passage of the housing bill.

PUBLIC HOUSING SECURITY DEMONSTRATION

Section 203(a) of title II is a good initial response to the enormous increase in crime in public housing. This crime epidemic has an enormous impact on low-income, elderly, and minority citizens. In recent weeks, the city of Cleveland provided a clear illustration of the scope and

severity of this problem. Section 203 directs the Secretary to promptly initiate a program for the development, demonstration, and evaluation of improved anticrime methods in public housing projects. HUD is directed to coordinate with LEAA, HEW, CSA, ACTION, Commerce, and Labor in this effort which should help assure that considerations of tenant employment and involvement in these efforts are fully taken into account. This is an excellent provision, it is badly needed and I support it as separate legislation and as part of S. 3084.

URBAN HOMESTEADING

Section 102 of title I of S. 3084 broadens the scope of the urban homesteading program. The State of Ohio has had more participating cities and "interested" cities and communities than most States. Five Ohio cities currently participate in the urban homestead demonstration program. They are Cincinnati, Cleveland, Columbus, Dayton, and Toledo. Other Ohio communities that have expressed interest are Lorain, Youngstown, Euclid, Cuyahoga County, Brown County, and Ironton County. Earlier this year, I cosponsored S. 2931 which is embodied in S. 3084. Section 102 encourages community development by enabling HUD to sell structurally sound properties which HUD has acquired through foreclosure by transferring them to a local community with an approved homesteading plan. In turn the community sells the home to a family at nominal cost with the requirement that the family improve the property and live in it for at least 3 years. This program has been enormously successful throughout the country. It has proven itself as a device to revitalize neighborhoods at low cost and to provide homeownership opportunity to lower-income individuals. Older cities such as the Ohio cities that I mentioned should be particularly targeted for homesteading assistance.

HOLDING THE LINE ON FEDERAL SPENDING LEVELS

Mr. President, I support President Carter and HUD Secretary Harris' efforts to maintain housing assistance spending levels at the level of the President's budget request. The President had budgeted $2.6 billion for HUD programs for fiscal year 1979. His budget provides for continued substantial assistance to low-income and elderly individuals who are particularly feeling the pressures and ravages of inflation. I felt that the President's commitment to a steady growth policy in new housing assistance makes sense.

The bill as reported would have exceeded the President's budget and the first concurrent resolution by $8 billion. If we are to approach our goals of reducing inflation, balancing our budget and reducing our deficits, we must make intelligent and difficult decisions with respect to Federal spending. The Congress has a responsibility to take our disciplined budget process seriously.

We agreed earlier this year on our budget goals, we supported the President in his budget request. If we are to gain control of this economy, we must maintain discipline. I yield to no one in my concern about the elderly and low-income individuals. I supported an effort to reduce the committee's spending in more equitable ways. I am pleased that the President has made a commitment to allow 375,000 additional households to receive assistance above the 2.8 million that receive assistance at present. We must have a stable, long-term policy that meets our commitment to solve this Nation's pressing housing problems. It is unwise, however, to attempt to solve one problem by excessive, inefficient spending while simultaneously fueling the fires of the all-encompassing problem of inflation. I support the Muskie-Morgan efforts to reduce S. 3084's spending to more reasonable levels. A sound stable economy is vital to a genuinely successful effort to solve our housing problems.

PAPERWORK AND REGULATORY BURDENS

Mr. President, S. 3084 has several important provisions that offer great promise of reducing burdensome paperwork requirements that are estimated to represent 20 percent of housing costs. We have adopted Senator BENTSEN'S proposal which mandates that FHA, VA, FmHA, GNMA, FHLMC, and FNMA to develop uniform forms. We also adopted Senator CHILES proposal to require HUD to conduct a regulatory review of any proposed regulation, taking into consideration costs and benefits, overlapping, duplicative or contradictory requirements, and the effect on the paperwork burden. The Chiles proposal is similar to the President's Executive order. HUD is also required to publish regular agendas of anticipated rulemaking.

These are sound, constructive steps that should help us get a handle on inflationary, excessive regulatory, and paperwork requirements. I oppose the idea and concept of using the "legislative veto" as a means of accomplishing that vital goal. The idea of creating a legislative bureaucracy to "police" the executive bureaucracy of HUD or any other agency borders on the ridiculous. The congressional function is to legislate and to conduct aggressive, responsible oversight and review of executive actions. Our function is not to serve as a regulatory appeals court that rules on rules. We must have regulatory reform but creating a legislative bureaucracy to police the executive bureaucracy is not the answer.

SUMMARY

Mr. President, S. 3084, as amended, is a good bill. It contains several features that should bring real benefits. The very successful section 312 rehabilitation loan program has been strengthened significantly. This is a program that has been uniformly praised by local officials, community groups, and others. Rural housing programs are also extended by S. 3084. Other provisions encourage efforts to revitalize neighborhood housing. I also applaud Senator DOMENICI'S amendment that provides congregate services such as meals to elderly and handicapped citizens living in section 202 housing. This is an excellent amendment by my colleague on the Senate Aging Committee.

I urge final passage of S. 3084.●

● Mr. DOLE. Mr. President, the Senator from Kansas supports this legislation. This bill contains many needed changes in our public housing and rental assistance programs, and includes a number of innovative programs which hold great promise for the future.

CONGREGATE SERVICES

There are some particular sections of this bill that interest the Senator from Kansas—and I would like to comment on those sections briefly. As a cosponsor of amendment 3032, the congregate services amendment, I am pleased that the committee added section 202 Housing to title IV, the congregate services portion of the bill.

Our system of providing certain housing, and medical and social services will be improved by title IV of this bill. Up to now, there has been a failure to provide congregate housing to those who can benefit from it. Obviously, there are large numbers of Americans who cannot stay by themselves in their own home, but who need not be in a nursing home either.

The Federal Government has provided assistance to citizens in nursing homes. Likewise, we have helped those who could stay in their own homes. But for those who could not stay in their own homes, but did not need the services of a nursing home, there has been too little help and assistance.

Obviously, by keeping people out of nursing homes we can save both taxpayers and would-be patients a great deal of money—even as we improve their quality of living.

The bill authorizes the Secretary to enter into long-term contracts for providing social services to people in a congregate housing environment. This fills a gap which has cost too much money and has placed too many Americans in nursing homes, and other full-care institutions.

SECTION 202—HANDICAPPED HOUSING

The bill also amends the section 202 program to set aside funds for the development of rental housing and related facilities for the handicapped. As my colleagues know, the Senator from Kansas has long been interested in the problems of the handicapped. Likewise, I have been concerned that they have not been able to benefit from section 202 as fully as they should. By setting money aside in this manner, more assistance will be assured for them. Unfortunately, the needs of the handicapped have not been adequately met in most existing section 202 projects. This legislation would support various innovative approaches to providing the unique kinds of services required by many handicapped—and will provide a wider range of services and opportunities to those occupying these units.

HUD REORGANIZATION

Another portion of this bill which has my strong support is section 712 of the bill which prohibits the use of funds authorized for fiscal years 1978 and 1979 from being used for the current HUD reorganization. As I have already stated during discussion of an amendment to this bill, I strongly oppose this reorga-

nization and the damage it would do in my State.

I would like to thank the full committee and the Subcommittee on Housing for their work on this bill and particularly for including those sections which I have mentioned. I am pleased to support the bill.●

INTERSTATE LAND SALES FULL DISCLOSURE ACT AMENDMENTS CONTAINED IN S. 3084, HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS OF 1978

● Mr. NELSON. Mr. President, I rise in support of the Banking Committee's action incorporating S. 2716, the Interstate Land Sales Full Disclosure Amendments of 1978, into the fiscal year 1979 Housing authorization legislation. The bill, as amended by committee, appears as section 715. The committee approved the inclusion of this proposal into the legislation by a vote of 10 to 3. The committee shares my view, and that of the 12 additional cosponsors, that OILSR's current interpretations of the Interstate Land Sales Full Disclosure Act does not square exactly with what we in Congress had in mind when we enacted the original act in 1967. I believe we have now legislatively set the record straight. The committee's action in approving these amendments was proper and timely.

The goal of S. 2716, was to take OILSR out of the business of regulating the tens of thousands of developers across this country who run "entirely intrastate or almost entirely intrastate" sales operations. They are not, nor have they ever been, a part of the problems the Congress sought to cure when it enacted the ILSFD Act. As the law is now administered these businessmen are subjected to the cost and aggravation of an unnecessary, substantial paperwork burden; tax dollars are unnecessarily consumed to support a bureaucracy; and inevitably the cost of land is increased for the consuming public.

OILSR has consistently ignored the fact that the Congress was addressing itself to an "interstate" problem. It did not seek to control "intrastate" situations, which we agree, the States have the responsibility and, because of their local presence, the ability to control.

The legislation as reported by the committee addresses a problem under the existing law. It does not seek to provide a comprehensive review of the Interstate Land Sales Act, the industry, or OILSR enforcement of its provisions. The hearings this past January 5 and 17, before the Senate Select Committee on Small Business, provided the initial forum from which the original legislation was developed and addressed only the overregulation problem within the context of existing law. If the Banking Committee believes that certain provisions of existing law which have been carried over into the current provisions no longer have any continued viability, that might necessitate a further amendment to the bill as reported.

The legislation currently pending provides for two important changes from current law. One is the exclusion of "the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate or almost entirely intrastate in nature." This is by far the most important change offered. It is designed to take OILSR out of the business of regulating intrastate developers who, on occasion and in the normal course of operating their intrastate sales operations, incidentally sell to an out-of-state buyer.

The second new feature is the allowance for the sale of five lots per year to out-of-State purchasers before there is any consideration of bringing the developer under the registration of provisions of the act. The 5-percent limitation is in present OILSR regulations, but, as written, has proved to be unworkable for the small developer.

To illustrate how this provision might work, if a developer sold only two lots in a single year and one was to a resident of another State, the 5-percent rule does him no good, since 50 percent of his sales were to out-of-State residents. If a developer sold nine lots in 1 year, one of which was to a newly hired employee of the developer who was moving into the State where the lot was located, the developer would be in violation of the current OILSR 5-percent limit, since the one lot constituted 11 percent of his sales that year. The five-lot alternative makes this exemption realistic and workable.

Under the legislation approved by the committee, a developer who sells no more than five lots or 5 percent of the lots sold during a calendar year (whichever is greater) to out-of-State purchasers would be exempt if, first, he provided those purchasers with assurances that the land is free and clear of liens and encumbrances; second, the purchasers make an onsite inspection of the lot; and third, the seller agreed to submit himself to the jurisdiction of the home State of the purchasers.

Also exempted would be sales to purchasers residing within 100 miles of the seller, provided, first the lot was free and clear of liens and encumbrances; second, the purchaser made an onsite inspection; third, the seller agreed to submit himself to the jurisdiction of the home State of the purchaser; and fourth, the developer executes a written affirmation on a form furnished by the HUD Secretary that he has complied with these three provisions.

This legislation also makes several technical changes in the ILSFD Act:

First. Language has been added to make clear that the terms "liens" "encumbrances," and "adverse claims" do not refer to U.S. land patents and similar grants or reservations. OILSR's interpretation of the law on this has been used to bring virtually every acre of land sold west of the Mississippi under their jurisdiction.

Second. Language has been added which would require OILSR to publish any regulation in accordance with the Administrative Procedures Act.

Third. The term "sale or lease" has been defined as occurring at the time when a contractual relationship is created between the developer and purchaser, thus clearing up an area where OILSR has been free to use whatever interpretation it has found most favorable to its continuing regulation of land sales.

A 3-year study by my staff and hearings before the Select Committee on Small Business dealing with the problems of small business land sales operations as they are affected by the operation of the HUD Office of Interstate Land Sales Registration, have convinced me that corrective legislative action is imperative.

The amendments are designed to narrow OILSR's jurisdiction so that its resources can be committed to effectively protecting the land buying consumer by controlling fradulent "interstate" land sales operations, the intent of Congress when the ILSFD Act was enacted.

The paperwork burden imposed by Government regulations is a matter of growing concern for businessmen of this country. The President has made the lessening of this burden one of the primary concerns of his administration. There is a consensus among the Members of Congress to assist the administration in reaching a reasonable level of regulation, which will carry out the mandates of Congress with the least amount of expense and aggravation for both the public and the Government.

The operation of HUD's Office of Interstate Land Sales Registration has worked at cross purposes with this goal since its creation. It has systematically expanded its mission from the important but limited role which the Congress mandate; that is, the control of "interstate" land sales, to a point where every land developer, no matter how small or geographically confined his operation is, comes under its jurisdiction.

In effect, Mr. President, this is remedial legislation. It reaffirms the Congress position that HUD has no business regulating the sale of land intrastate. It is as simple as that.●

● Mr. BELLMON. Mr. President, I would like to congratulate the Banking, Housing and Urban Affairs Committee on the wisdom of including the provisions of the Congregate Housing Services Act of 1978 in this authorization bill.

Although Congress attempted to establish in the 1970 Housing Act a program for the development of congregate housing, for several reasons this program has not been utilized to its fullest potential. Title IV of this bill remedies earlier congressional oversight and lays the groundwork for what can be a viable option to nursing homes for the elderly, as well as a low-cost alternative to taxpayer-funded nursing home care. To illustrate my point, during the Special Committee on Aging's consideration of this bill, it was estimated that 40,000 to 50,000 people now residing in public housing projects would be eligible for the congregate service program at a cost of no more than $1,000 per person per year.

According to the Social Security Administration, the Federal share alone of maintaining an individual in an institution is about $5,500 per year. It is clear that a great savings of tax money as well as improvement in the well being of in-

dividuals involved will result from the passage of this bill.

Mr. President, Senator DOMENICI has introduced an amendment to this bill which would extend the eligibility for congregate services to section 202 projects for the elderly and handicapped. I am happy to support him in this effort. Section 202 is widely recognized as one of HUD's most successful housing programs. By extending eligibility for congregate services to these existing projects, a larger number of elderly people will be able to benefit initially from congregate services, and the implementation period will be cut because these housing projects are presently functional.

Adequate care for the elderly should be of great concern to all of my colleagues. It is essential that we pave the way now for full implementation of congregate services, and I believe that including section 202 projects in title IV of this bill is the quickest and most effective way of getting this program off the ground.●

AID TO NONELDERLY HANDICAPPED

● Mr. LUGAR. Mr. President, I would like to engage the chairman of the Banking, Housing, and Urban Affairs Committee, the distinguished Senator from Wisconsin, Mr. PROXMIRE, in a colloquy on the subject of congregate housing.

Mr. Chairman, as a cosponsor of S. 2691, the Congregate Housing Services Act of 1978, I am pleased to see this legislation incorporated as title IV in the Housing and Community Development Amendments of 1978. I firmly believe that this section will be helpful in preventing unnecessary institutionalization of functionally impaired persons.

My specific reason for this colloquy stems from a situation in Indianapolis, where both elderly and handicapped nonelderly are housed in the same public housing project, Lugar Towers. There is a lunch service provided to the elderly under the title VII nutrition program of the Older Americans Act. Although this program provides a great service to the elderly residents, the handicapped tenants currently are excluded. This situation creates dissatisfaction among the elderly as well as the nonelderly residents, because they wish to share the benefits of the hot lunch program with their friends.

Section 404(5) of title IV states,

The term "congregate services programs" means programs to be undertaken by a public housing agency to provide assistance to handicapped elderly households or nonelderly handicapped households or temporarily disabled households who, with such assistance, can remain independent and avoid unnecessary institutionalization."

Lugar Towers is part of a public housing project; it contains a central dining facility, and also contains individual kitchens in its units. Under previous law, a project such as Lugar Towers was excluded from employing congregate services as part of its program because of a provision which specified that the only eligible projects would be those which contained a central dining facility, as well as possessing all or some individual units without kitchens. Quoting language from the Banking Committee report on S. 3084,

The primary reason for the failure to develop congregate housing for low-income persons has been the lack of available support services that are compatible with the requirements of congregate housing. Despite the existing array of social service programs on the Federal and State level, social services are often unavailable from one area to another, or are inaccessible to many functionally impaired people. Furthermore, congregate housing projects depend on long-term guarantees of service availability because these projects must contain certain special features such as common dining facilities and units without kitchens. Any interruption of service would make congregate housing units unliveable and impossible to amortize. Since existing social service programs cannot guarantee continuing service availability, virtually no investors, including the Federal Government, have been willing to build congregate housing projects for low-income people. Local housing authorities themselves are too financially hard-pressed to fill the gaps in social service programs using only their own limited resources, even though many are struggling to do so.

The legislation would address these problems by authorizing the Secretary of HUD to enter into 3 to 5 year renewable contracts with local public housing agencies to fund otherwise unavailable social services that these agencies would provide to their frail elderly and younger handicapped tenants who would face institutionalization without such assistance.

I believe that the provision concerning individual kitchens has been cut, as amended by this legislation. Would Lugar Towers, then, in view of this fact and intent of this legislation, be eligible to receive assistance?●

● Mr. PROXMIRE. This project would qualify, as one eligible to receive funding for congregate services programs. It is included under section 403(c) which, in part, states, "* * * the term 'congregate housing' means (A) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served * * *." Lugar Towers meets those criteria.

Mr. LUGAR. Thank you. It is also my understanding, Mr. Chairman, that there may be those who are housed in Lugar Towers who do not meet the definition of handicapped as specified in section 404 (2) of title IV:

The term "handicapped" means an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes an individual's ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. Such impairment may include a functional disability or frailty which is a normal consequence of the human aging process, and may also include a developmental disability, as defined in section 102(7) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963;.

These individuals would be permitted to join in the meal program, and be required to pay no more than the per person cost of each meal.

I am quoting now from section 410(b) (1):

Other resident elderly and permanently disabled adult households may participate in a congregate meal service program assisted under this title if the local public housing agency determines that the participation of these individuals will not adversely affect the cost-effectiveness or operation of the program.

If such individuals who did not qualify for inclusion under existing qualifications in S. 3084 desired to share in the meal program, for social or other reasons, those persons would be eligible to participate for a cost not more than the per person cost of each meal, would they not? ●

● Mr. PROXMIRE. That is correct, Senator LUGAR. As it states in section 410 (b) (2);

Where such service is provided, the local public housing agency shall establish fees which are reasonable and which do not exceed the cost of providing the meal service.

● Mr. LUGAR. I thank my distinguished colleague from Wisconsin for his assistance in clarifying the questions which I had concerning Lugar Towers.●

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. SPARKMAN. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield back his time?

Mr. HEINZ. I yield back the remainder of our time.

The PRESIDING OFFICER. All time has been yielded back.

The bill, having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from South Dakota (Mr. ABOUREZK), the Senator from Minnesota (Mr. ANDERSON), the Senator from Delaware (Mr. BIDEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Missouri (Mr. EAGLETON), the Senator from Alaska (Mr. GRAVEL), the Senator from Montana (Mr. HATFIELD), the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from New Hampshire (Mr. MCINTYRE) are necessarily absent.

I further announce that the Senator from Hawaii (Mr. INOUYE) is absent on official business.

I further announce that, if present and voting, the Senator from Minnesota (Mr. ANDERSON) and the Senator from North Dakota (Mr. BURDICK) would each vote "yea."

Mr. STEVENS. I announce that the Senator from Tennessee (Mr. BAKER), the Senator from Oklahoma (Mr. BELLMON), the Senator from Massachusetts (Mr. BROOKE), the Senator from Oregon (Mr. HATFIELD), and the Senator from California (Mr. HAYAKAWA) are necessarily absent.

I also announce that the Senator from Maryland (Mr. MATHIAS) is absent on official business.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "yea."

The result was announced—yeas 81, nays 3, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—81

Allen	Hansen	Pearson
Bartlett	Hart	Pell
Bayh	Haskell	Percy
Bentsen	Hatch	Proxmire
Bumpers	Hathaway	Randolph
Byrd, Harry F., Jr.	Heinz	Ribicoff
	Hodges	Riegle
Byrd, Robert C.	Hollings	Roth
Cannon	Humphrey	Sarbanes
Case	Jackson	Sasser
Chafee	Javits	Schmitt
Chiles	Johnston	Schweiker
Church	Kennedy	Sparkman
Clark	Leahy	Stafford
Cranston	Long	Stennis
Culver	Lugar	Stevens
Curtis	Magnuson	Stevenson
Danforth	Matsunaga	Stone
DeConcini	McClure	Talmadge
Dole	McGovern	Thurmond
Domenici	Melcher	Tower
Durkin	Metzenbaum	Wallop
Eastland	Morgan	Weicker
Ford	Moynihan	Williams
Garn	Muskie	Young
Glenn	Nelson	Zorinsky
Goldwater	Nunn	
Griffin	Packwood	

NAYS—3

Helms	Laxalt	Scott

NOT VOTING—16

Abourezk	Eagleton	Huddleston
Anderson	Gravel	Inouye
Baker	Hatfield, Mark O.	Mathias
Bellmon		McIntyre
Biden	Hatfield, Paul G.	
Brooke		
Burdick	Hayakawa	

So the bill (S. 3084), as amended, was passed:

S. 3084

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Housing and Community Development Amendments of 1978".

TITLE I—COMMUNITY AND NEIGHBORHOOD DEVELOPMENT AND CONSERVATION

REHABILITATION LOANS

SEC. 101. (a) Section 312 of the Housing Act of 1964 is amended—

(1) by striking out all that follows "projects" in subsection (a) and inserting in lieu thereof the following: "assisted under section 8 of the United States Housing Act of 1937.";

(2) by striking out subsection (c)(3) and inserting in lieu thereof the following:

"(3) The loan shall bear interest at such rate as the Secretary determines to be appropriate, but not to exceed 3 per centum per annum, for loans to families with adjusted incomes of not more than 80 per centum of the median income for the area, or for loans for multifamily properties. For loans to families with adjusted incomes above 80 per centum of the median income for the area, as determined by the Secretary, the Secretary may establish interest rates based on adjusted family income, ranging from above 3 per centum to a rate determined by the Secretary, but in no case may any such rate exceed the current average market yield on outstanding marketable securities of the United States with remaining periods to maturity comparable to the terms of loans made pursuant to this section, adjusted to the nearest one-eighth of 1 per centum. The Secretary may prescribe such other charges adequate in the judgment of the Secretary to cover administrative costs and possible losses under the program.";

(3) by inserting before the semicolon at the end of subsection (c)(4)(A) a comma and "or if such refinancing is deemed necessary by the Secretary to minimize displacement of existing tenants of a multifamily property"; and

(4) by striking out "$50,000" in subsection (c)(4)(B) and inserting in lieu thereof "$100,000".

(b) Section 312(d) of such Act is amended—

(1) by striking out "and not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977" in the first sentence thereof and inserting in lieu thereof the following: "not to exceed $60,000,000 for the fiscal year beginning on October 1, 1977, not to exceed $370,000,000 for the fiscal year beginning on October 1, 1978, and not to exceed $370,000,000 for the fiscal year beginning on October 1, 1979"; and

(2) by adding at the end thereof the following: "Of the amounts appropriated under this section for the fiscal year beginning on October 1, 1978, $175,000,000 shall be available only for rehabilitation loans for multifamily properties, and $70,000,000 shall be available only for rehabilitation loans in connection with urban homesteading programs. Of the amounts appropriated under this section for the fiscal year beginning on October 1, 1979, $175,000,000 shall be available only for rehabilitation loans for multifamily properties, and $70,000,000 shall be available only for rehabilitation loans in connection with urban homesteading programs. The Secretary may administratively increase or reduce the amounts set aside under the preceding sentences for rehabilitation loans for multifamily properties or for urban homesteading, if such increase or reduction is necessary, giving due consideration both to the relative demand and need for different types of rehabilitation loan programs, and to the rate at which the Secretary and State and local governments and agencies can expand, and still effectively administer, the rehabilitation loan programs for multifamily properties and urban homesteading.".

(c) Section 312 of such Act is amended by adding at the end thereof the following:

"(i) Rehabilitation loans under this section for multifamily properties shall be subject to the following additional limitations and conditions:

"(1) The property must—

"(A) be located in a low- or moderate-income neighborhood designated by the unit of local government for concentrated community development activities; or

"(B) have a majority of tenants of low and moderate income, and be located in a neighborhood characterized by substantial private investment and rising property values resulting in the displacement of low- or moderate-income persons, and the loan must be for the purpose of minimizing such displacement.

All such loans must be consistent with an overall community development strategy that principally benefits low- and moderate-income persons.

"(2) The property must have fewer than one hundred units except where the Secretary determines that a loan under this section is essential to meet the community development needs of a neighborhood, and alternative sources of financing are not available.

"(3) The Secretary shall insure that the preponderance of multifamily property loans under this section are made with respect to properties of thirty or fewer units, but the Secretary shall provide localities the maximum flexibility in meeting housing needs identified in their housing assistance plans.

"(4) When assistance payments under section 8 of the United States Housing Act of 1937 are necessary to minimize displacement of existing tenants of the property, the Secretary shall insure that an application for such assistance payments is made in conjunction with the application for a rehabilitation loan and shall make available, to the maximum extent possible and for as long a time as is feasible, such assistance payments for such tenants. The Secretary may enter into agreements with investor-owners receiving such loans, and receiving assistance under section 8 of the United States Housing Act of 1937 in connection with such a loan, as provided for in the previous sentence, to ensure that units for which such assistance payments under section 8 are initially received continue to be available for low and moderate income housing for as long a time period as is feasible.

"(5) The Secretary shall enter into an agreement with the investor-owner of a multifamily property which is to be rehabilitated with a loan under this section to limit, for a period of at least five years, the increased rent caused by the rehabilitation.

"(6) Prior to the approval of an application for such a loan, the Secretary shall consider, from evidence of the prior management history of the investor-owner, whether the investor-owner is likely to provide continuing sound management and maintenance of the project, and the Secretary shall require an adequate plan for the future management of the project for which such a loan is made.

"(7) Prior to the approval of an application for such a loan, the Secretary shall insure that there is a program for informing the tenants of the terms of the loan, the possible effects of the loan on rents, and the possible sources of rental assistance for eligible tenants.

"(8) The Secretary shall give maximum possible assistance to investor-owners, particularly smaller investor-owners, of multifamily projects in meeting the application and other requirements of this section.

"(9) The Secretary shall adopt administrative measures to limit the use of a rehabilitation loan for a multifamily property in conjunction with tax syndication financing under the Internal Revenue Code of 1954 except where the Secretary determines the combination is needed to assure the feasibility of the project.

"(10) The Secretary shall make a maximum possible effort to minimize displacement and hardships due to temporary displacement which are caused by rehabilitation loans with respect to multifamily properties.

"(11) The Secretary shall encourage the use of private funds in conjunction with such loans when such private involvement is feasible and does not increase displacement.

"(12) The Secretary may impose additional limitations and conditions on the use and availability of rehabilitation loans for multifamily properties.

"(j) In carrying out the provisions of this section in connection with an urban homesteading program approved under section 810 of the Housing and Community Development Act of 1974, the Secretary shall—

"(1) be authorized to use, and shall use, a portion of the funds set aside under subsection (d) for urban homesteading programs for a demonstration program to explore the feasibility of carrying out, on a national basis, an urban homesteading program involving multifamily properties; and

"(2) provide rehabilitation loan funds for use in a locally developed homesteading program only if that program meets the requirements of section 810(b) of the Housing and Community Development Act of 1974.

"(k) In conjunction with the annual report required under section 113(a) of the Housing and Community Development Act of 1974, the Secretary shall submit to the Congress a report on the rehabilitation loan program. Such report shall include a summary of the use of funds under this section,

particularly with regard to the types of neighborhoods and persons aided under this section, and an evaluation of progress made toward community development goals under this section. As soon as feasible, but not later than December 1, 1979, the Secretary shall submit to Congress an interim report evaluating the use of funds under this section for multifamily properties, with legislative recommendations for improving the overall effectiveness of Federal assistance for the rehabilitation of multifamily properties.".

(d) Section 312(h) of such Act is amended by striking out "1979" each place it appears and inserting in lieu thereof "1980".

URBAN HOMESTEADING

SEC. 102. (a) Section 810(b) of the Housing and Community Development Act of 1974 is amended by inserting before the last sentence thereof the following: "The Secretary may provide for the homesteading of properties in areas other than those where community services and facilities are being upgraded in any case where the Secretary determines such action to be appropriate and such action was requested by the unit of local government, State, or agency involved.".

(b) Subsection (f) of such section is amended—

(1) by inserting "and the Administrator of Veterans' Affairs" after "Secretary" the first place it appears; and

(2) by inserting "or the Administrator" after "Secretary" the second place it appears.

(c) The first sentence of subsection (g) of such section is amended—

(1) by striking out "and" after "fiscal year 1977,"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "and not to exceed $26,000,000 for the fiscal year 1979".

(d) Section 810 of such Act is amended—

(1) by redesignating subsection (g) as subsection (j); and

(2) by inserting after subsection (f) the following:

"(g) The Secretary is authorized to make a grant to reimburse any unit of general local government, State, or designated agency participating in the urban homesteading program under this section for administrative costs incurred by that unit of general local government, State, or designated agency in carrying out its urban homesteading program. The amount of any such grant may not exceed $60,000.

"(h) The Secretary is authorized to make grants to units of general local government, States, and designated agencies to facilitate the homesteading of properties acquired as result of abandonment, tax foreclosure, or otherwise by paying any mechanic's liens or tax liens against such properties. The amount of any grant under this subsection to any unit of general local government, State, or designated agency for any fiscal year shall not exceed for each property made available to the urban homesteading program during that year the lesser of $5,000 or the amount of any lien against the property. The aggregate amount of grants under this subsection shall not exceed $36,000,000.

"(i) The Secretary is authorized to acquire from the Administrator of Veterans' Affairs any property held by the Administrator which is suitable for inclusion in an urban homesteading program, and to reimburse the Administrator in an amount to be agreed upon by the Administrator and the Secretary for each such property.".

(e) Subsection (j) of such section, as redesignated, is amended by adding at the end thereof the following: "In addition, to carry out subsections (g) and (h), there are authorized to be appropriated not to exceed $45,000,000 for fiscal year 1979.".

(f) Section 312(d) of the Housing Act of 1964, as amended by section 101 of this Act, is amended by adding at the end thereof the following: "Of the amount available for urban homesteading programs, the Secretary shall make available $8,000 for each property conveyed in connection with an urban homesteading program under section 810 of the Housing and Community Development Act of 1974. Any amount available to a unit of general local government, State, or designated agency under the preceding sentence but not used for such purpose shall remain available to that unit, State, or agency for not to exceed one year for the rehabilitation of other properties in accordance with this section.".

COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM AMENDMENTS

SEC. 103. (a) Section 104(a)(4) of the Housing and Community Development Act of 1974 is amended—

(1) by inserting "owners of homes requiring rehabilitation assistance," after "large families," in clause (A); and

(2) by inserting "including existing rental and owner occupied dwelling units to be upgraded and thereby preserved," after "existing dwelling units," in clause (B)(i).

(b) Section 105(a)(11) of such Act is amended to read as follows:

"(11) relocation payments and assistance for displaced individuals, families, businesses, organizations, and farm operations, when determined by the grantee to be appropriate to the community development program;".

URBAN DEVELOPMENT ACTION GRANTS

SEC. 104. (a) Section 119(c) of the Housing and Community Development Act of 1974 is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and "; and

(3) by adding at the end thereof the following:

"(6) include a statement analyzing the impact of the proposed urban development action program on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood, in which the program is to be located.".

(b) Section 119(e) of such Act is amended by inserting before "and feasibility" the following: "impact of the proposed urban development action program on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood, in which the program is to be located;".

(c) Title I of such act is amended by adding the following new section at the end thereof:

"FAIR PARTICIPATION FOR SMALL COMMUNITIES

"SEC. 120. No community shall be barred from participating in any program authorized under this title solely on the basis of population, except as expressly authorized by statute.".

(c) Section 119(b) of such Act is amended by adding at the end thereof the following: "For the purpose of the preceding sentence, a city or urban county is severely distressed and eligible for assistance under this section if it contains one or more areas which have the levels of physical and economic distress set forth in the minimum standards referred to in the preceding sentence. As used in the preceding sentence, the term 'areas' means one or more contiguous census tracts having a population of at least ten thousand persons.".

TITLE II—HOUSING ASSISTANCE PROGRAMS

LOW-INCOME HOUSING

SEC. 201. (a) The first sentence of section 5(c) of the United States Housing Act of 1937 is amended—

(1) by striking out "and" immediately following "October 1, 1976,"; and

(2) by inserting immediately after "on October 1, 1977," the following: "and by $1,195,043,000 on October 1, 1978".

(b) Section 5(c) of such Act is amended by inserting after the fourth sentence the following: "Of the additional authority to enter into contracts for annual contributions provided on October 1, 1978, and approved in appropriation Acts, the Secretary shall make available not less than $50,000,000 for modernization of low-income housing projects.".

(c) Effective on October 1, 1978, section 5(c) of such Act is amended by striking out the second and fourth sentences thereof.

(d) Section 8(e) of such Act is amended by adding at the end thereof the following:

"(5) For the purpose of upgrading and thereby preserving the Nation's housing stock, the Secretary is authorized, notwithstanding any other provision of this section, to make assistance payments under this section directly or through public housing agencies pursuant to contracts with owners or prospective owners who agree to upgrade housing so as to make and keep such housing decent, safe, and sanitary through upgrading which involves less than substantial rehabilitation, as such upgrading and rehabilitation are defined by the Secretary. The Secretary is authorized to prescribe such terms and conditions for contracts entered into under this section pursuant to this paragraph as the Secretary determines to be necessary and appropriate, except that such terms and conditions, to the maximum extent feasible, shall be consistent with terms and conditions otherwise applicable with respect to other dwelling units assisted under this section. The Secretary is also authorized to make assistance available under this section pursuant to this paragraph to any unit in a housing project which, on an overall basis, reflects the need for such upgrading.".

(e) Section 9(c) of such Act is amended—

(1) by striking out "and" immediately following "on or after October 1, 1976,"; and

(2) by inserting immediately before the period at the end thereof a comma and the following: "and not to exceed $729,000,000 on or after October 1, 1978".

(f) Section 3(2)(D) of such Act is amended by striking out "10" where it appears and inserting in lieu thereof "20".

HOUSING FOR THE HANDICAPPED

SEC. 202. (a) Section 202 of the Housing Act of 1959 is amended by adding at the end thereof the following new subsection:

"(h) Of the amounts made available in appropriation Acts for loans pursuant to subsection (a)(4)(C) for the fiscal year commencing on October 1, 1978, not less than $50,000,000 shall be available for loans for the development of rental housing and related facilities specifically designed to meet the needs of the handicapped (primarily nonelderly) persons. The Secretary shall take such steps as may be necessary to assure that—

"(1) funds made available pursuant to this subsection will be used to support innovative methods of meeting the needs of handicapped persons by providing a variety of housing options, ranging from small group homes to independent living complexities; and

"(2) housing and related facilities assisted under this subsection will provide handicapped persons occupying units within such housing with an assured range of services specified under subsection (f) and the opportunity for optimal independent living and participation in normal daily activities, and will facilitate access by such persons to the community at large and to suitable employment opportunities within such community.".

(b) The second sentence of section 202(a)(4)(C) of such Act is amended—

(1) by striking out "in any fiscal year" immediately after "under this section"; and

(2) by striking out "for such year" immediately after "authority established".

(c) Section 202(d)(3) of such Act is amended by inserting "the cost of moveables necessary to the basic operation of the project as determined by the Secretary," immediately after "related facilities,".

PUBLIC HOUSING SECURITY DEMONSTRATION

SEC. 203. (a) This section may be cited as the "Public Housing Security Demonstration Act of 1978".

(b)(1) The Congress finds that—

(A) low-income and elderly public housing residents of the Nation, who are already subject to difficult living conditions and have suffered substantially from rising crime and violence, are being threatened as a result of inadequate security arrangements for the prevention of physical violence, theft, burglary, and other crimes;

(B) such residents, living in an insecure housing environment, have restricted their lives and use of the environment because of their concern about crime, and are abandoning public housing projects at a time when there is an increasing demand for public housing units;

(C) higher vacancy rates and heavy financial losses of management in some cases have led to complete abandonment of public housing projects;

(D) an integral part of successfully providing decent, safe, and sanitary dwellings for low-income persons is to insure that the housing is secure;

(E) local public housing authorities have inadequate security arrangements for the prevention of crime and vandalism, and lack specific operating funds to provide security measures; and

(F) action is needed to provide for the security of public housing residents and to preserve the Nation's investment in its public housing stock.

(2) It is therefore declared to be the policy of the United States to provide for the demonstration and evaluation of more effective means of mitigating crime and vandalism in public housing projects and for the development of a comprehensive program for reducing crime and vandalism in all the Nation's public housing projects.

(c)(1) The Secretary of Housing and Urban Development shall promptly initiate and carry out a program for the development, demonstration, and evaluation of improved, innovative community anticrime and security methods, concepts, and techniques which will mitigate the level of crime in public housing projects and their surrounding neighborhoods.

(2) In selecting public housing projects to receive assistance under this section, the Secretary shall consider the extent of crime and vandalism currently existing, the nature and quality of community anticrime efforts in the projects and surrounding areas, the nature and quality of police and other protective services to the projects and their tenants, the vacancy rate and demand for public housing in the locality, and the extent of abandonment of public housing units. Priority shall be given to comprehensive community anticrime and security plans submitted by public housing authorities which provide for the restoration of abandoned dwelling units, coordination between public housing management and local government in providing increased security and social services to the projects and tenants, and maximum opportunity for tenant involvement and employment in the community anticrime and security programs.

(3) In carrying out the provisions of this section, the Secretary shall coordinate and jointly target resources with other agencies, particularly the Law Enforcement Assistance Administration, the Department of Health, Education, and Welfare, the Department of Labor, the Community Services Administration, and ACTION.

(d) The community anticrime and security methods, concepts, and techniques utilized in this demonstration and evaluation may include improved physical security equipment for dwelling units in these projects, new concepts for social and environmental design, tenant awareness and volunteer programs, tenant participation and employment in providing security services, and such other measures as deemed necessary or appropriate by the Secretary.

(e) The Secretary shall initiate and carry out a survey of crime currently existing in the Nation's public housing projects, and transmit a report on such survey to the Congress not later than eighteen months after the date of enactment of this Act. This report shall include the level of crime and the extent of vandalism existing in public housing projects, findings from the demonstration and evaluation of various methods of reducing the level of crime, and recommendations, if appropriate, for a comprehensive public housing program to provide increased community anticrime and security concepts and techniques to all public housing projects, and the estimated costs of such program.

(f) Section 9(c) of the United States Housing Act of 1937 is amended by adding at the end thereof the following: "Of the additional authority to make annual contributions under this section provided for the fiscal year beginning on October 1, 1978, not to exceed $10,000,000 shall be available to carry out the Public Housing Security Demonstration Act of 1978.".

HOMEOWNERS REHABILITATION ASSISTANCE

SEC. 204. (a) Section 5(e) of the United States Housing Act of 1937, as amended by section 201 of this Act, is amended by adding after the fifth sentence the following: "Of the additional authority to enter into contracts for annual contributions provided on October 1, 1978, and approved in appropriation Acts, the Secretary shall make available not less than $30,000,000 for contracts for annual contributions for assistance payments under section 8(i).".

(b) Section 8(d)(2) of such Act is amended by inserting after "under this section" the following: ", including under subsection (i),".

(c) Section 8 of such Act is amended by adding at the end thereof the following new subsection:

"(i)(1) The Secretary is authorized to enter into contracts under this section with public housing agencies pursuant to which such agencies may make assistance payments with respect to loans made to finance the rehabilitation of one- to four-family dwelling units owned and occupied by lower income families where the rehabilitation is carried out in accordance with a locally developed plan for rehabilitation in designated neighborhoods which meets the requirements of or is contained in an applicable housing assistance plan. In extending such assistance, the public housing agency, or an agency of local government or other nonprofit entity participating in neighborhood rehabilitation and designated by the local government or the Secretary shall provide homeowner counseling and monitoring concerning the extent of repair, renovation, or rehabilitation activities and the eligibility of contractors to conduct such activities.

"(2) The amount of assistance payments under such contracts shall be—

"(A) the lesser of (i) the monthly costs of principal, interest, and other amounts for repayment of the loan made in accordance with paragraph (3) of this subsection, or (ii) an amount determined under subsection (c)(3), except that the term 'maximum monthly rent' as used in such subsection shall be deemed to mean the total monthly housing cost of the owner; and

"(B) shall be periodically paid to the lender, in accordance with such regulations as the Secretary may prescribe.

"(3) Contracts under this subsection may be entered into only with respect to loans—

"(A) made by federally chartered or federally insured financial institutions or by other entities approved by the Secretary or by the unit of local government in accord with regulations of the Secretary;

"(B) which finance activities which have been approved by the applicable unit of local government, directly or through the entity designated under paragraph (1), or which could be financed with home improvement loans under title I of the National Housing Act;

"(C) which finance the performance of home improvement and rehabilitation activities by the owner of the unit involved, or by contractors approved by the applicable unit of local government, directly or through the entity designated under paragraph (1); and

"(D) which have maturities, maximum amounts, and interest rates not in excess of those applicable to loans under title I of the National Housing Act.

"(4) The Secretary is authorized to prescribe such regulations as may be necessary to assure that the costs of eligible repair, renovation, or rehabilitation activities assisted under this section do not exceed the costs necessary to bring the housing unit into conformity with local housing codes or other appropriate standards.".

ASSISTANCE FOR MOBILE HOME OWNERS

SEC. 205. Section 8 of the United States Housing Act of 1937, as amended by section 204 of this Act, is amended by adding at the end thereof the following new subsection:

"(j)(1) The Secretary may enter into annual contributions contracts under this subsection for the purpose of assisting lower income families by making rental assistance payments with respect to real property on which is located a mobile home which is owned by any such family and utilized by such family as its principal residence. In carrying out this subsection, the Secretary (A) may enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property, or (B) enter into such contracts directly with the owners of such real property.

"(2) Contracts entered into pursuant to this subsection shall establish the maximum monthly rent (including maintenance and management charges) which the owner is entitled to receive for each space on which a mobile home is located and with respect to which assistance payments are to be made. The maximum monthly rent shall not exceed by more than 10 per centum the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subsection. The provisions of subsection (c)(2) of this section shall apply to the adjustments of maximum monthly rents under this subsection.

"(3) The amount of any monthly assistance payment with respect to any family assisted under this subsection shall be the difference between 25 per centum of one-twelfth of the annual income of such family and the sum of—

"(A) the monthly payment made by such family to amortize the cost of purchasing the mobile home;

"(B) monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(C) the maximum monthly rent permitted with respect to the real property which is rented by such family for the purpose of locating its mobile home;

except that in no case may such assistance exceed the total amount of such maximum monthly rent.

"(4) Each contract entered into under this subsection shall be for a term of not less than one month and not more than one hundred and eighty months.

"(5) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this subsection and which are consistent with the purposes of this subsection.".

OPERATING ASSISTANCE FOR TROUBLED MULTIFAMILY HOUSING PROJECTS

SEC. 206. (a) The purpose of this section is to provide assistance to restore or maintain the financial soundness, and to maintain the low- to moderate-income character, of certain projects assisted or approved for assistance under the National Housing Act or under the Housing and Urban Development Act of 1965.

(b) The Secretary of Housing and Urban Development (hereafter in this title referred to as the "Secretary") is authorized to make and to contract to make, in accordance with the provisions of this section, assistance payments to owners of rental or cooperative housing projects meeting the requirements of this section.

(c) A rental or cooperative housing project shall be initially eligible for assistance under this section only if such project—

(1)(A) is assisted or approved for assistance under section 236 of the National Housing Act or is covered by a mortgage (including a mortgage assigned to the Secretary) insured under such Act and assisted or approved for assistance under the proviso of section 221(d)(5) of such Act or under section 101 of the Housing and Urban Development Act of 1965, except that, in the case of any such project which is not insured under the National Housing Act, such assistance may not be provided before October 1, 1979, or (B)" ; and meet the criteria specified in clause (A) of this sentence and has been acquired and sold by the Secretary, subject to a mortgage insured or held by the Secretary, to a purchaser with whom, at the time of sale, there is an agreement to maintain the low- to moderate-income character of the project, and

(2) meets such other requirements as the Secretary, in the Secretary's discretion, may prescribe.

Assistance payments may be made available under this section with respect to projects meeting the criteria specified in clause (1)(B) of the first sentence of this subsection, which are sold on or after the effective date of this section, only if the Secretary provides at the time of sale that such assistance payments will or may be made available for the project.

(d) No assistance payments shall be made under this section unless the Secretary has determined that (1) such payments are necessary to restore or maintain the economic soundness of the project and to maintain its low- to moderate-income character, (2) the project is being operated and managed in accordance with a management improvement and operating plan approved by the Secretary, and (3) the owner of the project, together with the mortgagee in the case of a project not insured under the National Housing Act, has provided or has agreed to provide assistance to the project in such manner as the Secretary may determine.

(e) Any assistance payments made pursuant to this section with respect to any project shall be made on an annual basis, payable at such intervals as the Secretary may determine, and may be in any amount which the Secretary, in the Secretary's discretion, determines to be consistent with the purpose of this section, but shall not exceed the differential, as determined by the Secretary, between the projected income to be received for the project, and the estimated expense and costs of operating the project, during the period for which such payments are made. For purposes of this section, such projected income shall include all anticipated rental and other income, and all housing subsidies, as defined by the Secretary, to or on behalf of the project or residents thereof, taking into account the income level of such residents, and shall include interest differentials or any other payments to a mortgagee. Such estimated expense shall reflect such necessary operating costs as, but not limited to, taxes, utilities, maintenance, management, insurance, debt service and repairs, and such other allowances related to the costs of operating the project as the Secretary may approve, and shall be based on an annual operating budget for the project submitted by the owner and approved by the Secretary, taking into account such standards for operating costs in the area as may be determined by the Secretary.

(f) In order to carry out the purposes of this section, the Secretary is authorized, notwithstanding the provisions of section 236(f)(1) of the National Housing Act, to provide, in the Secretary's discretion, that, for purposes of establishing a rental charge under section 236(f)(1) of such Act, there may be excluded from the computation of the cost of operating a project an amount equivalent to the amount of assistance payments available for the project pursuant to this section.

(g) The Secretary may, at any time, approve adjustments in such annual operating budget and in the amount of such assistance payments to the extent that the Secretary determines that such adjustments are necessary and appropriate to reflect increases or decreases in the amount of income to the project or in the actual and necessary expenses of operating the project. Any continuation of such payments beyond the first annual period for which the payments are made shall be in the Secretary's discretion, and shall be subject to the provisions of the second sentence of subsection (c) and such other criteria as the Secretary may prescribe.

(h) The Secretary is authorized to issue such rules and regulations as may be necessary to carry out the provisions and purposes of this section, including regulations requiring the establishment of a project reserve or such other safeguards as the Secretary determines to be necessary for the financial soundness of any project for which assistance payments are provided.

(i) There are authorized to be appropriated for the purpose of making payments under this section not to exceed $74,000,000 for the fiscal year 1979, and not to exceed $96,000,000 for the fiscal year 1980. Any amounts appropriated under this section shall remain available until expended. Notwithstanding any provision of section 236(g) of the National Housing Act, all rental charges in excess of the basic rental charges which are credited to the reserve fund established pursuant to section 236(g) of such Act after September 30, 1977, shall be merged with and be in addition to any appropriation under this subsection, and all such excess rental charges collected and paid to the Secretary after September 30, 1978, shall be credited to and be in addition to any appropriation under this subsection.

TENANT PARTICIPATION IN MULTIFAMILY HOUSING PROJECTS

SEC. 207. (a) The purpose of this section is to recognize the importance and benefits of cooperation and participation of tenants in creating a suitable living environment in multifamily housing projects and in contributing to the successful operation of such projects, including their good physical condition, proper maintenance, security, energy efficiency, and control of operating costs. For the purpose of this section, the term "multifamily housing project" means a project which (1) is covered by a mortgage (including a mortgage assigned to the Secretary) insured under the National Housing Act and assisted or approved for assistance under section 236 or the provisions of section 221(d)(5) of such Act or under section 101 of the Housing and Urban Development Act of 1965, or (2) meet the criteria specified in clause (1) of this sentence and has been acquired and sold by the Secretary, subject to a mortgage insured or held by the Secretary, to a purchaser with whom, at the time of sale, there is an agreement to maintain the low- to moderate-income character of the project, or (3) is owned by the Secretary or covered by a mortgage insured under the National Housing Act or held by the Secretary and is determined by the Secretary to be serving predominantly low- and moderate-income tenants.

(b) To achieve the purpose of this section, the Secretary shall adopt such measures as the Secretary deems appropriate to assure that—

(1) tenants have adequate notice of, reasonable access to relevant information about, and an opportunity to comment on, major actions determined by the Secretary to affect rents, physical condition, or management of multifamily housing projects, and, in the case of a project owned by the Secretary, proposed disposition of the project;

(2) project owners cooperate in reasonable efforts to assist tenants in obtaining rent subsidies or other public assistance;

(3) tenants are not evicted without good cause or without adequate notice of proposed eviction and the reasons therefor; and

(4) project owners cooperate with resident tenant organizations, and do not interfere with the right of tenants to organize such organizations.

In carrying out the provisions of this section the Secretary is authorized to take such actions, and to prescribe such standards for compliance, as the Secretary deems appropriate to achieve the purposes thereof, including approval of reasonable expenditures from project income to support activities of resident tenants' organizations.

MANAGEMENT AND PRESERVATION OF HUD-OWNED MULTIFAMILY HOUSING PROJECTS

SEC. 208. (a) It is the policy of the United States that the Secretary shall manage and dispose of multifamily housing projects which are owned by the Secretary in a manner consistent with the purposes of the National Housing Act. Toward that end, the goals of the property management and disposition program of the Department of Housing and Urban Development shall be—

(1) to dispose of projects in a manner which will be less costly to the Federal Government than other reasonable alternatives by which the Secretary could further the goals set forth in clauses (2) through (6), protect the financial interests of the Government, and produce a satisfactory return to the mortgage insurance funds;

(2) to preserve housing units which are available to and affordable by low- and moderate-income families;

(3) to preserve and revitalize residential neighborhoods;

(4) to maintain existing housing stock in a decent, safe and sanitary condition;

(5) to minimize the displacement of tenants; and

(6) to demolish projects only as a last resort.

In pursuit of those goals, the Secretary is

authorized to balance competing considerations relating to individual projects in a manner which the Secretary deems will further the achievement of the overall purpose of this section.

(b)(1) Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949 or any other provision of law, the Secretary is authorized, in carrying out the goals set forth in subsection (a) of this section and in addition to any other power or authority vested in the Secretary—

(A) to dispose of a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis, to a purchaser determined by the Secretary to be qualified to satisfy conditions of the disposition, and on such terms as the Secretary deems appropriate considering the low- and moderate-income character of the project and the goals set forth in subsection (a); and

(B) to contract for management services for a multifamily housing project owned by the Secretary on a negotiated, competitive bid, or other basis at a price determined by the Secretary to be reasonable.

(2) In evaluating the qualifications of potential managers for, and purchasers of, multifamily housing projects which are owned by the Secretary, the Secretary shall consider, but not be limited to considering, the following factors:

(A) ability to implement sound financial management;

(B) ability to provide sound physical management;

(C) ability to respond to the economic and social needs of lower income tenants and to work cooperatively with resident organizations;

(D) responsiveness of the proposed management plan to the needs of the property and residents thereof;

(E) adequacy of organizational, staff, and financial resources to implement the proposed management program; and

(F) the cost of services.

(c) The Secretary shall maintain all occupied multifamily housing projects owned by the Secretary in a decent, safe, and sanitary condition.

(d) The Secretary shall, to the greatest extent possible, maintain full occupancy in all multifamily housing projects which are owned by the Secretary.

(e) The Secretary shall make reasonable efforts to encourage the employment and training of tenants of multifamily housing projects owned by the Secretary and lower income residents of the neighborhoods in which such projects are located in the repair and maintenance of such projects.

(f) The Secretary is authorized to consult with, and to furnish technical assistance to, tenants and organizations for the purpose of developing, where appropriate, nonprofit cooperatives which will purchase multifamily housing projects owned by the Secretary, and to develop tenant management capabilities prior to any such sale.

(g)(1) Whenever tenants will be displaced as a result of the disposition of, or repairs to, a multifamily housing project owned by the Secretary, the Secretary shall identify tenants who will be displaced, shall notify all such tenants of their pending displacement and relocation assistance to be provided.

(2) The Secretary shall seek to assure maximum opportunity for any such tenant (A) to return, whenever possible, to a repaired unit, (B) to occupy a unit in another multifamily housing project owned by the Secretary, (C) to obtain housing assistance under the United States Housing Act of 1937, or (D) to receive such other relocation assistance as the Secretary determines to be appropriate.

(h) Notwithstanding any other provision of law, whenever the Secretary is requested to accept assignment of a mortgage insured by the Secretary which covers a multifamily housing project, and the Secretary determines that partial payment would be less costly to the Federal Government than other reasonable alternatives for maintaining the low- and moderate-income character of the project, the Secretary may request the mortgagee in lieu of assignment, to accept partial payment of the claim under the mortgage insurance contract and to recast the mortgage, under such terms and conditions as the Secretary may determine. As a condition to a partial claim payment under this section, the mortgagor shall agree to repay to the Secretary the amount of such payment and such obligation shall be secured by a second mortgage on the property on such terms and conditions as the Secretary may determine.

(i) For purposes of this section, the term "multifamily housing project" means a multifamily project which is determined by the Secretary to be serving predominantly low- and moderate-income tenants.

SALES TO COOPERATIVES

SEC. 209. Section 246 of the National Housing Act is amended to read as follows:

"SALES TO COOPERATIVES

"SEC. 246. In any case in which the Secretary sells a multifamily housing project acquired as the result of a default on a mortgage which was insured under this Act to a cooperative which will operate it on a nonprofit basis and restrict permanent occupancy of its dwellings to members, or to a nonprofit corporation which operates as a consumer cooperative as defined by the Secretary, the Secretary may accept a purchase money mortgage, or upon application of the mortgagee, insure a mortgage under this section upon such terms and conditions as the Secretary determines are reasonable and appropriate, in a principal amount equal to the value of the property at the time of purchase, which value shall be based upon a mortgage amount on which the debt service can be met from the income of the property when operated on a nonprofit basis after payment of all operating expenses, taxes and required reserves, except that the Secretary may, at the Secretary's discretion, add to the mortgage amount an amount not greater than the amount of prepaid expenses and costs involved in achieving cooperative ownership, or make such other provision for payment of such expenses and costs as the Secretary deems reasonable and appropriate. Prior to such disposition of a project, funds may be expended by the Secretary for necessary repairs and improvements.".

HOUSING ACCESS

SEC. 210. The Secretary shall require any purchaser of a multifamily housing project owned by the Secretary to agree not to refuse unreasonably to lease a vacant dwelling unit in the project which rents for an amount not greater than the fair market rent for a comparable unit in the area as determined by the Secretary under section 8 of the United States Housing Act of 1937 to a holder of a certificate of eligibility under that section solely because of such prospective tenant's status as a certificate holder.

SOLAR UNITS

SEC. 211. (a) It is the purpose of this section to promote and extend the application of viable solar energy installations as the most dependable, pollution-free and desirable source of energy for residential single-family and multifamily housing units.

(b)(1) The Secretary, in carrying out programs and activities under section 312 of the Housing Act of 1964, section 202 of the Housing Act of 1959, and section 8 of the United States Housing Act of 1937, shall permit the installation of solar units which are economically feasible.

(2) For the purposes of this section, the term "solar units" means—

(A) solar thermal energy equipment which is either of the active type based upon mechanically forced energy transfer or of the passive type based on convective, conducive, or radiant energy transfer or some combination of these types,

(B) photovoltaic cells and related equipment,

(C) a product or purpose the primary purpose of which is conservation of energy through devices or techniques which increase the energy efficiency of existing equipment, methods of operation, or systems which use fossil fuels, and which is on the Energy Conservation Measures List of the Secretary of Energy or which the Secretary determines to be consistent with the intent of this subsection,

(D) equipment the primary purpose of which is production of energy from wood, biological waste, grain, or other biomass source of energy,

(E) equipment the primary purpose of which is district heating,

(F) hydroelectric power equipment,

(G) wind energy conversion equipment, or

(H) engineering, architectural, consulting, or other professional services which are necessary or appropriate to aid citizens in using any of the measures described in subparagraphs (A) through (G).

(c) The Secretary shall develop, within twelve months after the date of enactment of this section, guidelines to determine the long-term economic feasibility of solar units, as compared to convention energy sources. These guidelines shall take into account factors which shall include but are not limited to the following—

(1) capital requirements, interest charges, projected operating and maintenance costs for solar units, and

(2) projected increases in the cost of other energy source in the city, town, or region for comparable housing which generally meets applicable model building codes, insulation and other standards recommended by the American Society of Heating, Refrigerating and Air Conditioning Engineers, the National Electric Manufacturers Association, or other standards or codes acceptable to the Secretary.

(d) The Secretary shall take such steps as may be necessary to promote the installation of economically feasible solar units in residential single-family and multifamily housing, taking into account the interests of low-income homeowners and renters. These actions shall include the implementation of a plan of action to publicize the availability and feasibility of solar units to current or potential recipients of assistance under the programs and projects of the Department of Housing and Urban Development.

(e) The Secretary shall, in conjunction with the Secretary of Energy, transmit to the Congress, within eighteen months after the date of enactment of this Act, a report setting forth—

(1) the number of solar units which were contracted for or installed or which are on order under the provisions of subsection (b)(1) of this section during the first twelve full calendar months after the date of enactment of this Act;

(2) the number of solar units within each region of the Department of Housing and Urban Development which are projected to be contracted for, installed, or under order by the end of calendar year 1985, under all programs and projects within the Department of Housing and Urban Development;

(3) recommendations to increase the number of units referred to in clause (2) of this section to the maximum feasible number of solar units which could be contracted for, installed or placed under order by the end of calendar year 1985 given a reasonable range of economic assumptions and specify-

ing alternative Federal incentives which might be used and the costs of each;

(4) recommendations as to the most effective Federal incentives and actions to increase the affordability of solar units in single-family or multi-family housing units during the first five years after the installation of the applicable solar units; and

(5) an analysis of the feasibility of using community-scale solar energy and other alternative energy approaches and their applicability to activities carried out under title I of the Housing and Community Development Act of 1974.

TITLE III—PROGRAM EXTENSIONS

EXTENSION OF FEDERAL HOUSING ADMINISTRATION MORTGAGE INSURANCE PROGRAMS

SEC. 301. (a) Section 2(a) of the National Housing Act is amended by striking out "October 1, 1978" in the first sentence and inserting in lieu thereof "October 1, 1979".

(b) Section 217 of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(c) Section 221(f) of such Act is amended by striking out "September 30, 1978" in the fifth sentence and inserting in lieu thereof "September 30, 1979".

(d) Section 235(m) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(e) Section 236(n) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(f) Section 244(d) of such Act is amended—

(1) by striking out "September 30, 1978" in the first sentence and inserting in lieu thereof "September 30, 1979"; and

(2) by striking out "October 1, 1978" in the second sentence and inserting in lieu thereof "October 1, 1979".

(g) Section 245 of such Act is amended by striking out "September 30, 1978" where it appears and inserting in lieu thereof "September 30, 1979".

(h) Section 809(f) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

(i) Section 810(k) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

(j) Section 1002(a) of such Act is amended by striking out "September 30, 1978" in the second sentence and inserting in lieu thereof "September 30, 1979".

EXTENSION OF FLEXIBLE RATE AUTHORITY

SEC. 302. Section 3(a) of the Act entitled "An Act to amend chapter 37 of title 38 of the United States Code with respect to the veterans' home loan program, to amend the National Housing Act with respect to interest rates on insured mortgages, and for other purposes", approved May 7, 1968, as amended (12 U.S.C. 1709-1), is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

EXTENSION OF EMERGENCY HOME PURCHASE ASSISTANCE ACT OF 1974

SEC. 303. Section 3(b) of the Emergency Home Purchase Assistance Act of 1974 is amended by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979".

COMPREHENSIVE PLANNING

SEC. 304. (a) The second sentence of section 701(e) of the Housing Act of 1954 is amended by striking out "and not to exceed $75,000,000 for the fiscal year 1978" and inserting in lieu thereof "not to exceed $75,000,000 for the fiscal year 1978, and not to exceed $57,000,000 for the fiscal year 1979".

(b) The second sentence of section 701(c) of such Act is amended by striking out "biennially" and inserting in lieu thereof "triennially".

(c) Section 701(d)(2) of such Act is amended by striking out "biennially" and inserting in lieu thereof "at least triennially" and by striking out "two" and inserting in lieu thereof "three".

(d) Section 701(n) of such Act is amended by adding immediately after clause (4) a new clause to read as follows:

"(5) The term 'Indian tribal group or body' means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaskan Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (Public Law 93-638) or under the State and Local Fiscal Assistance Act of 1972 (Public Law 92-512).".

RESEARCH AUTHORIZATIONS

SEC. 305. (a) Title V of the Housing and Urban Development Act of 1970 is amended by striking out in the second sentence of section 501 "and not to exceed $60,000,000 for the fiscal year 1978" and inserting in lieu thereof "not to exceed $60,000,000 for the fiscal year 1978, and not to exceed $62,000,000 for the fiscal year 1979".

(b) Such title is further amended by adding at the end thereof the following new section:

"CONVERSIONS

"SEC. 509. In carrying out activities under section 501, the Secretary is authorized to conduct demonstrations to determine the feasibility of expanding homeownership opportunities in urban areas and encouraging the creation and maintenance of decent, safe, and sanitary housing in such areas by utilizing techniques including, but not limited to, the conversion of multifamily housing properties to condominium or cooperative ownership by individuals and families.".

NEW COMMUNITIES

SEC. 306. Section 720(a) of the Housing and Urban Development Act of 1970 is amended by striking out "October 1, 1978" and by inserting in lieu thereof "October 1, 1979."

EXTENSION OF CRIME INSURANCE AND RIOT REINSURANCE PROGRAMS

SEC. 307. (a) Section 1201 of the National Housing Act is amended—

(1) by striking out, in subsection (b)(1), "September 30, 1978" and inserting in lieu thereof "September 30, 1981";

(2) by striking out, in subsection (b)(1)(A), "September 30, 1981" and inserting in lieu thereof "September 30, 1984"; and

(3) by striking out, in subsection (b)(2), "September 30, 1978" and inserting in lieu thereof "September 30, 1982".

(b) Section 1211 of such Act is amended by adding the following new subsection at the end thereof:

"(c) At least one-third of the voting members of every board of directors, board of governors, advisory committee, and other governing or advisory board or committee for each plan described in subsection (b) shall be individuals who are not employed by, or otherwise affiliated with, insurers, insurance agents, brokers, producers, or other entities of the insurance industry.".

EXTENSION OF NATIONAL FOOD INSURANCE PROGRAM

SEC. 308. (a) Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

(b) Section 1336(a) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1980".

FLOOD INSURANCE STUDIES

SEC. 309. Section 1376(c) of the National Flood Insurance Act of 1968 is amended by striking out "and not to exceed $108,000,000 for the fiscal year 1978" and inserting in lieu thereof a comma and the following: "not to exceed $108,000,000 for the fiscal year 1978, and not to exceed $114,000,000 for the fiscal year 1979".

FEDERAL HOUSING ADMINISTRATION INSURANCE FUNDS

SEC. 310. Section 519(f) of the National Housing Act is amended by inserting before the period at the end thereof a comma and the following: "which amounts shall be increased by not to exceed $165,000,000 on and after October 1, 1978".

NATIONAL NEIGHBORHOOD POLICY ACT

SEC. 311. The National Neighborhood Policy Act is amended—

(1) by striking out "one year" in section 204(c) and inserting in lieu thereof "fifteen months"; and

(2) by striking out "$1,000,000" in section 207 and inserting in lieu thereof "$1,500,000".

NATIONAL INSTITUTE OF BUILDING SCIENCES

SEC. 312. Section 809(h) of the Housing and Community Development Act of 1974 is amended by inserting after "1978" the following: ", and any amounts not appropriated in fiscal years 1977 and 1978 may be appropriated in any fiscal year through 1982".

INCREASE IN GOVERNMENT NATIONAL MORTGAGE ASSOCIATION MORTGAGE PURCHASE AUTHORITY AND LIMITS

SEC. 313. (a) The third clause of the proviso in section 302(b)(1) of the National Housing Act is amended by striking "if the original principal obligation thereof exceeds or exceeded $33,000 (or such higher amount not in excess of $38,000 as the Secretary may by regulation specify in any geographical area where he finds that cost levels so require), for each family residence or dwelling unit covered by the mortgage (plus an additional $2,500 for each such family residence or dwelling unit which has four or more bedrooms)" and inserting in lieu thereof "if the original principal obligation thereof exceeds or exceeded $60,000 in the case of property upon which is located a dwelling designed principally for a one-family residence; or $65,000 in the case of a two or three-family residence; or $75,000 in the case of a four-family residence; or, in the case of a property containing more than four dwelling units, $38,000 per dwelling unit (or such higher amount not in excess of $45,000 per dwelling unit as the Secretary may by regulation specify in any geographical area where the Secretary finds that cost levels so require) for that part of the property attributable to dwelling use".

(b) Section 305(c) of such Act is amended by striking out "and by $2,000,000,000 on July 1, 1969" and inserting in lieu thereof "by $2,000,000,000 on July 1, 1969, and subject to approval in an appropriation Act, by $500,000,000 on October 1, 1978".

FHA-INSURED MORTGAGE REFINANCING OF HOSPITALS

SEC. 314. Section 223(f) of the National Housing Act is amended by—

(a) striking the period at the end of the first sentence and inserting the following: "or the refinancing of existing debt of an existing hospital which the Secretary has determined is economically viable and which has received such certifications from a State agency designated in accordance with section 604(a)(1) or section 1521 of the Public Health Service Act for the State in which the hospital is located as the Secretary deems necessary and appropriate and comparable to the certifications required for hospitals insured under section 242 of this Act."; and

(b) striking from the second sentence the word "property" and substituting, in lieu thereof, "multifamily housing project".

INCREASED MORTGAGE CEILINGS FOR MORTGAGE INSURANCE PROGRAMS

SEC. 315. (a) Section 207(c)(3) of the National Housing Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000", in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,100", and "$43,158", respectively.

(b) Section 213(b)(2) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800" and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,100", and "$43,158", respectively.

(c) Section 220(d)(3)(B)(iii) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,100", and "$43,158".

(d) Section 221(d)(3)(ii) of such Act is amended—

(A) by striking out "$16,860", "$18,648", "$22,356", "$28,152", and "$31,884" and inserting in lieu thereof "$22,601", "$26,007", "$31,768", "$41,292", and "$45,392", respectively; and

(B) by striking out "$19,680", "$22,356", "$26,496", "$33,120", and "$38,400" and inserting in lieu thereof "$23,268", "$26,673", "$32,434", "$41,958", and "$46,058", respectively.

(e) Section 221(d)(4)(ii) of such Act is amended by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846", in the matter preceding the first semicolon and inserting in lieu thereof "$20,362", "$23,430", "$28,620", "$37,200", and "$40,894", respectively.

(f) Section 231(c)(2) of such Act is amended by striking out "$18,450", "$20,625", "$24,630", "$29,640", and "$34,846" in the matter preceding the first semicolon and inserting in lieu thereof "$20,362", "$23,430", "$28,620", "$37,200", and "$40,894", respectively.

(g) Section 234(e)(3) of such Act is amended by striking out "$19,500", "$21,600", "$25,800", "$31,800", and "$36,000" in the matter preceding the first semicolon and inserting in lieu thereof "$21,900", "$24,600", "$30,300", "$38,600", and "$43,158", respectively.

TITLE IV—CONGREGATE SERVICES

SHORT TITLE

SEC. 401. This title may be cited as the "Congregate Housing Services Act of 1978".

DECLARATION OF FINDINGS

SEC. 402. The Congress finds and declares that—

(1) in keeping with the traditional American principle of individual dignity and independence, innovative and comprehensive means are required to permit frail and handicapped elderly individuals the full and free enjoyment of their lives within their own households;

(2) congregate housing, supplemented by supportive services, offers a proven and cost-effective means of enabling such individuals to maintain their dignity and independence through the avoidance of costly and unnecessary institutionalization;

(3) such supportive services can also provide significant assistance to nonelderly handicapped individuals in their efforts to live independently within their own households;

(4) although existing law requires the Secretary of Housing and Urban Development to encourage public housing agencies to provide congregate housing which meets the special needs of elderly and handicapped individuals, a large and growing number of such residents of public housing face premature and unnecessary institutionalization because of a gap in the spectrum of housing choices due to critical deficiencies in the availability, adequacy, coordination, or delivery of the supportive services required for the successful development of adequate numbers of congregate public housing units; and

(5)(A) within the context of public housing management, there exists an inseparable bond between congregate housing and supplementary supportive services, and

(B) security and continuity of funding for a coordinated service package addressing the full range of the needs of frail and handicapped elderly individuals are required to respond successfully to the requirements of this expanding segment of the Nation's population.

AUTHORIZATION OF CONTRACT AUTHORITY

SEC. 403. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") is authorized to enter into contracts with local public housing agencies (hereinafter referred to as "public housing agencies") under the United States Housing Act of 1937 and nonprofit corporations, utilizing sums appropriated under this title, to provide congregate services programs for handicapped elderly households, nonelderly handicapped households, or temporarily disabled households, who are residents of congregate housing projects of those agencies or nonprofit corporations (hereinafter referred to as "eligible project residents") in order to promote and encourage maximum independence within a home environment for such households capable of self-care with appropriate supportive services. Each contract between the Secretary and a public housing agency or nonprofit corporation shall be for a term of not less than three years nor more than five years and shall be renewable at the expiration of such term. Each public housing agency or nonprofit corporation entering into such a contract shall be reserved a sum equal to its total approved contract authority from the moneys authorized and appropriated for the fiscal year in which the notification date of funding approved falls.

(b) Public housing agencies and nonprofit corporations receiving assistance for congregate services programs under this title shall be required to maintain the same dollar amount of annual contribution which they were making, if any, in support of the provision of services eligible for assistance under this title prior to their initial notification date of funding approval, unless the Secretary determines that the waiver of this requirement is necessary for the maintenance of adequate levels of services to eligible project residents. If any contract or lease entered into by a public housing agency or nonprofit corporation pursuant to section 405(a)(1) provides for adjustments in payments for services to reflect changes in the cost of living, then the amount of annual contribution required to be maintained by such public housing agency or nonprofit corporation under the preceding sentence shall be readjusted in the same manner.

(c) The second sentence of section 7 of the United States Housing Act of 1937 is amended to read as follows: "As used in this section, the term 'congregate housing' means (A) low-rent housing which, as of January 1, 1979, was built or under construction, with which there is connected a central dining facility where wholesome and economical meals can be served to such occupants; or (B) low-rent housing constructed after, but not under construction prior to, January 1, 1979, connected with which there is a central dining facility to provide wholesome and economical meals for such occupants. Such occupants of congregate housing may also be provided with other supportive services appropriate to their needs under the Congregate Housing Services Act of 1978.".

DEFINITIONS

SEC. 404. For the purpose of this title—

(1) the term "elderly" means sixty-two years of age or over;

(2) the term "handicapped" means an impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes an individual's ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. Such impairment may include a functional disability or frailty which is a normal consequence of the human aging process, and may also include a developmental disability, as defined in section 102(7) of the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963;

(3) the term "household" means one or more persons residing in a public housing project or project assisted under section 202 of the Housing Act of 1959;

(4) the term "temporarily disabled" means an impairment which (A) is expected to be of no more than six months' duration, (B) substantially impedes an individual's ability to live independently, (C) may result in displacement from a congregate housing project, and (D) is of such a nature that such ability could be improved by more suitable housing conditions;

(5) the term "congregate services programs" means programs to be undertaken by a public housing agency or nonprofit corporation to provide assistance to handicapped elderly households or nonelderly handicapped households or temporarily disabled households who, with such assistance, can remain independent and avoid unnecessary institutionalization;

(6) the term "personal assistance" means service provided under this title which may include, but is not limited to, aid given to eligible project residents in grooming, dressing, and other activities which maintain personal appearance and hygiene;

(7) the term "professional assessment committee" means a group of at least three persons and shall include qualified medical professionals and other persons professionally competent to appraise the functional abilities of elderly or permanently disabled adult persons in relation to the performance of the normal tasks of daily living. Such appraisal should determine whether project residents require assistance in one or more of at least the following activities of daily living: (i) eating, (ii) bathing, (iii) grooming, (iv) dressing, (v) toileting, and (vi) ambulation; and

(8) the term "nonprofit corporation" means any corporation responsible for a housing project assisted under section 202 of the Housing Act of 1959.

SERVICES

SEC. 405. (a)(1) Any public housing agency or nonprofit corporation receiving assistance under this title may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(2) In any case, any such public housing agency or nonprofit corporation shall consult with the Area Agency on Aging (or, where no Area Agency on Aging exists, with the appropriate State agency under the Older Americans Act of 1965) in determining the means of providing services under the preceding sentence, and in identifying available sources of funding for such services other than assistance under this title.

(3) Prior to the submission of an application for either new or renewed funding under this title a public housing agency or nonprofit corporation shall present a draft application to the Area Agency on Aging (or, where no Area Agency on Aging exists, to the appropriate State agency under the Older Americans Act of 1965) for review and com-

ment. A public housing agency or nonprofit corporation shall consider such review and comment in the development of its final application for either new or renewed funding under this title.

(4)(A) In any case where a public housing agency or nonprofit corporation determines that nonelderly handicapped individuals are included among the eligible project residents to be served by the congregate services program, the public housing agency or nonprofit corporation shall consult with the appropriate local agency, if any, as designated by applicable State law with having responsibility for the development, provision, or identification of social services to permanently disabled adult individuals. Such consultation shall be for the purpose of determining the means of providing services under paragraph (1).

(B) Such public housing agency or nonprofit corporation shall also, prior to the submission of an application for either new or renewed funding under this title, present a draft application to such appropriate local agency for review and comment. The public housing agency or nonprofit corporation shall consider such review and comment in the development of its final application for either new or renewed funding under this title.

(5) No services funded under this title may duplicate services which are already affordable, accessible, and sufficiently available on a long-term basis to eligible project residents under programs administered by or receiving appropriations through any department, agency, or instrumentality of the Government of the United States, or any other public or private department, agency, or organization.

(b) Congregate services programs assisted under this title must include full meal service adequate to meet nutritional needs, and may also include housekeeping aid, personal assistance, and other services essential for maintaining independent living.

APPLICATION PROCEDURES

SEC. 406. (a) Whenever a public housing agency or nonprofit corporation applies for assistance under this title, the agency shall include a plan specifying the types and priorities of the basic services it proposes to provide during the term of contract authority. Such plan, including fee schedules established pursuant to section 410 of this title, shall be related to the needs and characteristics of the eligible residents of the projects where the services are to be provided; shall, to the maximum extent practicable, make provision for the changing needs and characteristics of project residents during the term of contract authority; and shall be determined after consultation with eligible project residents and with the professional assessment committee. If a project where such services are to be provided is a new, unoccupied project, then such consultation shall be carried out as a part of the occupancy interview process.

(b) Each application submitted by a public housing agency or nonprofit corporation for assistance under this title shall contain a statement affirming that—

(1) the services provided will not duplicate any services which are already affordable, accessible, and sufficiently available on a long-term basis to eligible project residents under programs administered by or receiving appropriations through any department, agency, or instrumentality of the Government of the United States, or any other public or private department, agency, or organization;

(2) the Area Agency on Aging (or, where no Area Agency on Aging exists, the appropriate State agency under the Older Americans Act of 1965) has been presented with a draft application, has been given a reasonable amount of time for the review of and comment upon such draft application, and that such review and comment has been considered in the development of the submitted application for assistance.

(3) if nonelderly handicapped individuals are included among the eligible project residents, the appropriate local agency, if any, as designated by applicable State law with having responsibility for the development, provision, or identification of social services to permanently disabled adult individuals, has been presented with a draft application, has been given a reasonable time for the review of and comment upon such draft application, and that such review and comment has been considered in the development of the submitted application assistance; and

(4) fees established for services provided under this title are reasonable and have been set in accord with the requirements of subsection (a) and section 407 with respect to consultation with eligible project residents, and with the requirements of section 410 of this title.

(c) Each application for assistance under this title shall have attached to it any comments received upon draft applications pursuant to sections 405(a)(3) and 405(a)(4)(B).

(d) Each application agency for assistance under this title shall list the names and professional qualifications of the members of the professional assessment committee.

PROGRAM REVIEW

SEC. 407. Each public housing agency and nonprofit corporation receiving assistance for congregate services programs under this title shall review the performance, appropriateness, and fee schedules of such services with eligible project residents, and with the professional assessment committee, within twelve months prior to the submission of an application for renewed funding under this title. The results of such review shall be included in such application, and shall be considered in the development of the application by the public housing agency or nonprofit corporation, and in its evaluation by the Secretary.

EVALUATION BY THE SECRETARY

SEC. 408. In evaluating applications for assistance under this title, the Secretary shall consider at least the following:

(1) the types and priorities of the basic services proposed to be provided, and the relationship of such proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(2) how quickly services will be established following approval of the application;

(3) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(4) the professional qualifications of the members of the professional assessment committee established pursuant to section 410(a)(1) of this title; and

(5) the reasonableness of fee schedules established for each congregate service pursuant to section 410 of this title.

REGULATIONS

SEC. 409. (a) The Secretary is authorized to promulgate regulations to carry out the provisions of this title. Such regulations shall provide for at least the following:

(1) Standards shall be established for the provision of services under this title. The Secretary shall consult with the Secretary for the Department of Health, Education, and Welfare, and with appropriate organizations representing the elderly and the disabled, in the development of such service standards.

(2)(A) Procedures for the review and evaluation of the performance of grantees under this title shall be established.

(B) Each public housing agency and nonprofit corporation assisted under this title shall submit to the Secretary an annual evaluation of the impact and effectiveness of its congregate services programs.

(C) The Secretary shall annually publish, and make available to Congress and the public, a report on and evaluation of the impact and effectiveness of congregate services programs assisted under this title. Such report and evaluation shall be based, in part, on the annual evaluations required to be submitted pursuant to subparagraph (B).

(3) Sound principles of accounting and other standards shall be prescribed in order to prevent any fraudulent or inappropriate use of funds under this title.

(4)(A) Appropriate deadlines for each fiscal year shall be established for the submission of applications for funding under this title. The Secretary shall notify any applicant for assistance under this title of acceptance or rejection of its application within ninety days of such submission deadline.

(B) Where such funding has been approved for the establishment of congregate services in existing housing projects, the Secretary may reallocate these funds if the services are not established within six months of the notification date of funding approval.

(C) Where such funding has been approved for the establishment of congregate services for housing projects under construction or approved for construction, the Secretary shall establish rules to assure that these services shall be in place at the start of the project's occupancy by tenants requiring such services for maintaining independent living.

(5) Procedures to assure timely payments to public housing agencies and nonprofit corporations for assisted congregate services programs shall be established, with provision made for advance funding sufficient to meet necessary start-up costs.

(6) Procedures shall be established for the recapture of unused contract authority, the utilization of unused reserve fund moneys from the prior fiscal year, and the reallocation of such unexpended funds to other feasible and effective applications for assistance under this title.

(7) A reserve fund, not to exceed 10 percentum of the funds appropriated in each fiscal year for the provision of services under this title, shall be established by the Secretary; and expenditures from such fund shall be made for the purpose of supplementing grants awarded to public housing agencies and nonprofit corporations under this title when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services of eligible project residents.

(8) Procedures shall be established to insure that the process of determining eligibility of individuals for services under this title shall accord such individuals fair treatment and due process and a right of appeal of such determination of eligibility, and shall also assure the confidentiality of personal and medical records.

(9) Procedures shall be established to insure that changes in the membership of the professional assessment committee are consistent with the requirements of section 404(7) of this title.

(b) No more than 1 per centum of the funds appropriated under this Act for any fiscal year may be used by public housing agencies and nonprofit corporations for evaluative purposes as required by this title.

ELIGIBILITY FOR SERVICES; FEE SCHEDULES

SEC. 410. (a)(1)(A) The identification of project residents eligible to participate in a congregate services program assisted under this title, and the designation of the services appropriate to their individual func-

tional abilities and needs, shall be made by a professional assessment committee whose members shall be selected by the local public housing agency or nonprofit corporation.

(B) Any public housing agency or nonprofit corporation receiving assistance under this title shall notify the Secretary of any change in the membership of the professional assessment committee within thirty days of such change. Such notification shall list the names and professional qualifications of new members of the committee.

(2) Each public housing agency and nonprofit corporation shall establish fees for meal service and other appropriate services provided to eligible project residents. These fees shall be reasonable, may not exceed the cost of providing the service, and shall be calculated on a sliding scale related to income which permits the provision of services to such residents who cannot afford meal and service fees.

(b)(1) Other resident elderly and permamently disabled adult households may participate in a congregate meal service program assisted under this title if the local public housing agency or nonprofit corporation determines that the participation of these individuals will not adversely affect the cost-effectiveness or operation of the program.

(2) Where such service is provided, the local public housing agency or nonprofit corporation shall establish fees which are reasonable and which do not exceed the cost of providing the meal service.

EMPLOYMENT OPPORTUNITIES FOR RESIDENTS

SEC. 411. Each public housing agency and nonprofit corporation shall, to the maximum extent practicable, utilize elderly and permanently disabled adult persons who are residents of local housing projects, but who are not eligible project residents, to participate in providing the services assisted hereunder. Such persons shall be paid wages which shall not be lower than whichever is the highest of—

(1) the minimum wage wihch would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if he were not exempt under section 13 thereof;

(2) the State or local minimum wage for the most nearly comparable covered employment; or

(3) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

Employment provided under this section shall be limited to a maximum of five hours per day and twenty hours per week for each participating resident.

RELATIONSHIP TO OTHER LAWS

SEC. 412. (a) No service provided to a resident of a project assisted under this title, except for wages paid under section 411, may be treated as income for the purpose of any other program or provision of State or Federal law.

(b) Individuals receiving services assisted under this title shall be deemed to be residents of their own households, and not to be residents of a public institution, for the purpose of any other program or provision of State or Federal law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 413. To carry out the provisions of this title there are authorized to be appropriated—

(1) for fiscal year 1979, not to exceed $20,000,000;

(2) for fiscal year 1980, not to exceed $25,000,000;

(3) for fiscal year 1981, not to exceed $35,000,000;

(4) for fiscal year 1982, not to exceed $40,000,000; and

(5) for fiscal year 1983, not to exceed $45,000,000.

TITLE V—RURAL HOUSING

AUTHORIZATIONS

SEC. 501. (a) Section 513(b) of the Housing Act of 1949 is amended by inserting before the semicolon at the end thereof a comma and the following: "and not to exceed $48,000,000 for the fiscal year ending September 30, 1979".

(b) Section 513(c) of such Act is amended by inserting before the semicolon at the end thereof a comma and the following: "and not to exceed $38,000,000 for the fiscal year ending September 30, 1979".

(c) Section 513(d) of such Act is amended by inserting before the semicolon at the end thereof a comma and the following: "and not to exceed $5,000,000 for the fiscal year ending September 30, 1979".

(d) Section 514(d) of such Act is amended by striking out "$25,000,000" and inserting in lieu thereof "$38,000,000".

(e) Section 515(b)(5) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(f) Section 517(a)(1) of such Act is amended by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979".

(g) Section 523(f) of such Act is amended—

(1) by striking out "October 1, 1978" and inserting in lieu thereof "October 1, 1979";

(2) by striking out "September 30, 1978" and inserting in lieu thereof "September 30, 1979"; and

(3) by striking out "$10,000,000" and inserting in lieu thereof "$16,500,000".

(h) Section 523(g) of such Act is amended by inserting before the period at the end of the first sentence a comma and the following: "and not to exceed $3,000,000 for the fiscal year ending September 30, 1979".

STUDY OF MIGRANT HOUSING CONDITIONS

SEC. 502. Section 506 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(f) The Secretary shall conduct a study of the location, numbers, quality, condition, and cost to occupants, of migrant farm labor housing units, and report the results of such study to the Congress within one year after the date of enactment of this subsection, together with recommendations for correcting any deficiencies discovered in location, numbers, or condition of the housing available for migrant farm laborers, and the extent to which existing authority has been utilized and the need for any new authority.".

FORECLOSURE

SEC. 503. Section 510(d) of the Housing Act of 1949 is amended by inserting before the semicolon at the end thereof a period and the following: "In no event may foreclosure or transfer action be initiated against any borrower unless such borrower has been given prior notice and consideration of the provisions of section 505 on the availability of the moratorium on payments under such section".

APPEALS PROCEDURES

SEC. 504. Section 510 of the Housing Act of 1949 is amended by redesignating paragraphs (g), (h), and (i) as paragraphs (h), (i), and (j), respectively, and by inserting after paragraph (f) a new paragraph (g) as follows:

"(g) issue rules and regulations protecting the rights of all persons and organizations applying for or receiving assistance under any of the sections of this title over which the Secretary has authority. Such rules and regulations shall provide that, whenever any person or organization has applied for assistance under this title and such assistance is denied for reasons other than the availability of funds, or whenever a decision has been made to terminate or reduce assistance under this title to any person or organization which is already receiving such assistance, such person or organization will be given—

"(1) adequate written notice of the reasons why assistance was denied, reduced, or terminated,

"(2) adequate written notice that such person or organization has a right to appeal the decision to a higher authority,

"(3) an opportunity to appeal any decision denying, reducing, or terminating such assistance to an impartial official who has the authority to reverse such a decision.

"(4) an opportunity to inspect records and data in the possession of the Secretary which pertain to the appeal, and to have the appeals official make his decision in writing, stating the reasons for the decision, and

"(5) an opportunity to have the decision of the appeals officer reviewed by the Secretary.

Such rules and regulations shall also provide that, whenever any person or organization has had assistance reduced or terminated and, as a result of an appeal or otherwise, it is subsequently determined that such assistance was erroneously or improperly withheld, such person or organization shall be entitled to receive all benefits and assistance that have been withheld as a result of the original decision to reduce or terminate such assistance;".

DOMESTIC FARM LABOR HOUSING

SEC. 505. Section 514 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(g) The Secretary may waive the interest rate limitation contained in subsection (a) (2) and the requirement of section 501(c) (3) in any case in which the Secretary determines such action is necessary or appropriate to carry out the purpose of this section, except that in no case may the interest rate on a loan insured under this section exceed the average interest rate on notes or other obligations issued under section 511 and having maturities comparable to such a loan.".

SPONSORS PRIORITY

SEC. 506. Section 516(e) of the Housing Act of 1949 is amended by adding at the end thereof the following: "The Secretary shall not give priority for funding under this section to any one of the groups listed in subsection (a) over any of the others so listed.".

HOMEOWNERSHIP ASSISTANCE

SEC. 507. (a) Section 517(j)(4) of the Housing Act of 1949 is amended by striking out "(2)" following "section 521(a)".

(b) Section 521(a) of such Act is amended—

(1) by redesignating paragraph "(1)" as paragraph "(1)(A)" and by striking out all that follows "one-eighth of 1 per centum" and inserting in lieu thereof a period; and

(2) by adding at the end thereof the following new subparagraphs:

"(B) From the interest rate so determined the Secretary may provide the borrower with assistance in the form of credits so as to reduce the effective interest rate charged the borrower to a rate not less than 1 per centum per annum for such periods of time as the Secretary may determine for applicants described in subparagraph (A) if without such assistance such applicants could not afford the dwelling or make payments on the indebtedness of the rental or cooperative housing.

"(C) For persons of low income under section 502 or 517(a) who the Secretary determines are unable to afford a dwelling under subparagraph (B), the Secretary may provide additional assistance, for such periods of time as the Secretary may determine, which may be in an amount not to exceed the difference between the amount determined by the Secretary to be necessary to pay the principal indebtedness, interest,

taxes, insurance, utilities, and maintenance, and 25 per centum of the income of such applicant, pursuant to amounts set forth in appropriation Acts.

"(D) For borrowers under section 502 or 517(a) who have received assistance under subparagraph (B) or (C) the Secretary may provide for the recapture of all or a portion of the assistance rendered upon the disposition or nonoccupancy of the property by the borrower. In providing for such recapture, the Secretary may make provisions to provide incentives for the borrower to maintain the property in a marketable condition, and the Secretary in appropriate cases may make provision for the borrower to receive from the sales proceeds a relocation allowance. Notwithstanding any provision of law to the contrary, any assistance whenever rendered shall constitute a debt secured by the security instruments given by the borrower to the Secretary to the extent that the Secretary may provide for recapture of such assistance.

"(E) Except for Federal or State laws relating to taxation, the assistance rendered to any borrower under subparagraphs (B) and (C) shall not be considered to be income or resources for any purpose under any Federal or State laws including, but not limited to, laws relating to welfare and public-assistance programs.

"(F) A loan subject to the interest rates and assistance provided under this paragraph (1) may be made only when the Secretary determines the needs of the applicant for necessary housing cannot be met with financial assistance from other sources, including assistance under sections 235 and 236 of the National Housing Act.

"(G) The interest rate on any loan under section 502 or 517(a) to a victim of a natural disaster shall not exceed the rate which would be applicable to such loans under section 502 without regard to this section.".

RURAL AREA

SEC. 508. (a) Section 520 of the Housing Act of 1949 is amended by striking out all that follows "in excess of 20,000" through "area, and (B)" and by inserting in lieu thereof "and".

(b) The amendment made by subsection (a) of this section shall apply to any application filed with the Secretary of Agriculture on or after January 1, 1978, for any assistance under title V of the Housing Act of 1949 or for technical services under such title.

REMOTE TITLE CLAIMS

SEC. 509. (a) The Secretary of Agriculture (hereinafter referred to in this section as "Secretary") shall make a detailed study of the problems associated with obtaining title insurance by persons in rural areas with respect to real property encumbered by remote claims or other remote encumbrances which prevent such persons from receiving the full benefit of the use of such property, including the benefit of assistance provided under this title. The Secretary shall, in making such study, consider and develop findings and conclusions with respect to—

(1) the extent of such problems as they pertain to the lawful rights of such persons;

(2) the location and amount of land affected by such problems;

(3) the nature, extent, and effectiveness of remedies to such problems presently available, or proposed, under State law;

(4) the potential impact (with respect to existing Federal, State, and local laws) of such remote claims and encumbrances and of any reasonable remedies determined necessary for resolving the problems created for persons by such remote claims or encumbrances;

(5) the liability and losses which might accrue to the Federal Government as a result of each of the remedies considered in the study conducted under this section; and

(6) other issues which the Secretary determines shall be considered, after consulting with the Secretary of Housing and Urban Development.

(b) The Secretary shall, not later than March 1, 1979, transmit to the Congress a report containing the findings and conclusions of the Secretary with respect to the study made under this section. Such report shall include—

(1) recommendations for Federal legislative actions necessary to implement reasonable remedies to the problems studied under this section; and

(2) recommendations for legislative actions which may be undertaken by State and local governments for the purposes of providing such remedies.

STUDY OF EMERGENCY POTABLE WATER AND SEWAGE PROGRAM

SEC. 510. (a) The Secretary of Agriculture shall—

(1) carry out a study to determine the approximate number of rural housing units without access to sanitary toilet facilities, potable water, or access to both sanitary toilet facilities and potable water, as defined under regulations established by the Secretary; and

(2) prepare a projection of the cost of implementing an emergency program to provide sanitary toilet facilities and potable water supplies for all such housing units over a two-year period.

(b) Not later than six months after the date of enactment of this Act, the Secretary of Agriculture shall report to the Congress the results of the study and projection under subsection (a).

TITLE VI—NEIGHBORHOOD REINVESTMENT CORPORATION

SHORT TITLE

SEC. 601. This title may be cited as the "Neighborhood Reinvestment Corporation Act".

FINDINGS AND PURPOSE

SEC. 602. (a) The Congress finds and declares that—

(1) the neighborhood housing services demonstration of the urban reinvestment task force has proven its worth as a successful program to revitalize older urban neighorhoods by mobilizing public, private, and community resources at the neighborhood level; and

(2) the demand for neighborhood housing services programs in cities throughout the United States warrants the creation of a public corporation to institutionalize and expand the neighborhood housing services program and other programs of the present urban reinvestment task force.

(b) The purpose of this title is to establish a public corporation on which will continue the joint efforts of the Federal financial supervisory agencies and the Department of Housing and Urban Development to promote reinvestment in older neighborhoods by local financial institutions working cooperatively with community people and local government, and which will continue the nonbureaucratic approach of the Urban Reinvestment Task Force, relying largely on local initiative for the specific design of local programs.

ESTABLISHMENT OF CORPORATION

SEC. 603. (a) There is established a National Neighborhood Reinvestment Corporation (hereinafter referred to as the "corporation") which shall be a body corporate and shall possess the powers, and shall be subject to the direction and limitations specified herein.

(b) The corporation shall implement and expand the demonstration activities carried out by the urban reinvestment task force.

(c) The corporation shall maintain its principal office in the District of Columbia or at such other place the corporation may from time to time prescribe.

(d) The corporation, including its franchise, activities, assets, and income, shall be exempt from all taxation now or hereafter imposed by the United States by any territory, dependency, or possession thereof, or by any State, county, municipality, or local taxing authority; except that any real property of the corporation shall be subject to State territorial, county, municipal, or local taxation to the same extent according to its value as other real property is taxed.

BOARD OF DIRECTORS; ESTABLISHMENT

SEC. 604. (a) The corporation shall be under the direction of a board of directors made up of the following members:

(1) the Chairman of the Federal Home Loan Bank Board who shall be the chairman of the board of directors;

(2) the Secretary of Housing and Urban Development;

(3) a member of the Board of Governors of the Federal Reserve System, to be designated by the Chairman of the Board of Governors of the Federal Reserve System;

(4) the Chairman of the Federal Deposit Insurance Corporation;

(5) the Comptroller of the Currency; and

(6) the Administrator of the National Credit Union Administration.

(b) Each director of the corporation shall serve ex officio during the period he holds the office to which he is appointed by the President.

(c) The directors of the corporation, as full-time officers of the United States, shall serve without additional compensation but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of their duties as directors of the corporation.

(d) The directors of the corporation shall adopt such bylaws, policies, and administrative provisions as are necessary to the functioning of the corporation.

(e) The presence of a majority of the board members shall constitute a quorum.

(f) The corporation shall be subject to the provisions of section 552 of title 5, United States Code.

(g) All meetings of the board of directors will be open to public observation unless a majority of the board of directors votes to close a specific meeting.

OFFICERS AND EMPLOYEES

SEC. 605. (a) The board shall have power to select, employ, and fix the compensation and benefits of such officers, employees, attorneys, and agents as shall be necessary for the performance of its duties under this title, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, classification, and General Schedule pay rates, except that no officer, employee, attorney, or agent of the corporation may be paid compensation at a rate in excess of the highest rate provided for GS-18 of the General Schedule under section 5332 of title 5, United States Code.

(b) The directors of the corporation shall appoint an executive director, who shall serve as chief executive officer of the corporation.

(c) The executive director of the corporation, subject to general policies established by the board, may appoint and remove such employees of the corporation as he determines necessary to carry out the purposes of the corporation.

(d) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the corporation or of any recipi-

ent, or in selecting or monitoring any grantee, contractor, or person or entity receiving financial assistance under this title.

(e) Officers and employees of the corporation shall not be considered officers or employees of the United States, and the corporation shall not be considered a department, agency, or instrumentality of the Federal Government.

POWERS AND DUTIES

SEC. 606. (a)(1) The corporation shall continue the work of the urban reinvestment task force in establishing neighborhood housing services programs in neighborhoods throughout the United States, supervising their progress, and providing them with grants and technical assistance. For the purpose of this paragraph, a neighborhood housing services program may involve a partnership of neighborhood residents and representatives of local governmental and financial institutions, organized as a State-chartered non-profit corporation, working to bring about reinvestment in one or more neighborhoods through a program of systematic housing inspections, increased public investment, increased private lending, increased resident investment, and a revolving loan fund to make loans available at flexible rates and terms to homeowners not meeting private lending criteria.

(2) The corporation shall continue the work of the urban reinvestment task force in identifying, monitoring, evaluating, and providing grants and technical assistance to selected neighborhood preservation projects which show promise as mechanisms for reversing neighborhood decline and improving the quality of neighborhood life.

(3) The corporation shall experimentally replicate neighborhood preservation projects which have demonstrated success, and after creating reliable developmental processes, bring the new programs to neighborhoods throughout the United States which in the judgment of the corporation can benefit therefrom, by providing assistance in organizing programs, providing grants in partial support of program costs, and providing technical assistance to ongoing programs.

(4) The corporation shall continue the work of the urban reinvestment task force in supporting Neighborhood Housing Services of America, a nonprofit corporation established to provide services to local neighborhood housing services programs, with grants to expand its national loan purchase pool and may contract with it for services which it can perform more efficiently or effectively than the corporation.

(5) Notwithstanding any other provision of law, the corporation shall, in making and providing the foregoing grants and technical and other assistance, determine the reporting and management restrictions or requirements with which the recipients of such grants or other assistance must comply. In making such determinations, the corporation shall assure that recipients of grants and other assistance make available to the corporation such information as may be necessary to determine compliance with applicable Federal laws. Nothing in this subsection exempts the corporation from compliance with applicable Federal laws.

(b) To carry out the foregoing purposes and engage in the foregoing activities, the corporation is authorized—

(1) to adopt, alter, and use a corporate seal;

(2) to have succession until dissolved by Act of Congress;

(3) to make and perform contracts, agreements, and commitments;

(4) to sue and be sued, complain and defend, in any State, Federal, or other court;

(5) to determine its necessary expenditures and the manner in which the same shall be incurred, allowed, and paid, and appoint, employ, and fix and provide for the compensation of consultants, without regard to any other law, except as provided in section 608(d);

(6) to settle, adjust, and compromise, and with or without compensation or benefit to the corporation to release or waive in whole or in part, in advance or otherwise, any claim, demand, or right of, by, or against the corporation;

(7) to invest such funds of the corporation in such investments as the board of directors may prescribe;

(8) to acquire, take, hold, and own, and to deal with and dispose of any property; and

(9) to exercise all other powers that are necessary and proper to carry out the purposes of this title.

(c)(1) The corporation may contract with the Office of Neighborhood Reinvestment of the Federal home loan banks for all staff, services, facilities, and equipment now or in the future furnished by the Office of Neighborhood Reinvestment to the urban reinvestment task force, including receiving the services of the Director of the Office of Neighborhood Reinvestment as the corporation's executive director.

(2) The corporation shall have the power to award contracts and grants to—

(A) neighborhood housing services corporations and other nonprofit corporations engaged in neighborhood preservation activities; and

(B) local governmental bodies.

(3) The Secretary of Housing and Urban Development, the Federal Home Loan Bank Board and the Federal home loan banks, the Board of Governors of the Federal Reserve System and the Federal Reserve banks, the Federal Deposit Insurance Corporation, and the Comptroller of the Currency, the National Credit Union Administration or any other department, agency, or other instrumentality of the Federal Government are authorized to provide services and facilities, with or without reimbursement, necessary to achieve the objectives and to carry out the purposes of this title.

(d)(1) The corporation shall have no power to issue any shares of stocks, or to declare or pay any dividends.

(2) No part of the income or assets of the corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) The corporation may not contribute to or otherwise support any political party or candidate for elective public office.

REPORTS AND AUDITS

SEC. 607. (a) The corporation shall publish an annual report which shall be transmitted by the corporation to the President and the Congress.

(b) The accounts of the corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(c) In addition to the annual audit, the financial transactions of the corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(d) For any fiscal year during which Federal funds are available to finance any portion of the corporation's grants or contracts, the General Accounting Office, in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States, may audit the grantees or contractors of the corporation.

(e) The corporation shall conduct or require each grantee or contractor to provide for an annual financial audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the corporation.

AUTHORIZATION

SEC. 608. (a) There are authorized to be appropriated to the corporation to carry out this title not to exceed $15,000,000 for fiscal year 1979, $20,000,000 for fiscal year 1980, and $30,000,000 for fiscal year 1981.

(b) Funds appropriated pursuant to this section shall remain available until expended.

(c) Non-Federal funds received by the corporation, and funds received by any recipient from a source other than the corporation, shall be accounted for and reported as receipts and disbursements separate and distinct from Federal funds.

(d) The corporation shall prepare annually a business-type budget which shall be submitted to the Office of Management and Budget, under such rules and regulations as the President may establish as to the date of submission, the form and content, the classifications of data, and the manner in which such budget program shall be prepared and presented. The budget of the corporation as modified, amended, or revised by the President shall be transmitted to the Congress as a part of the annual budget required by the Budget and Accounting Act, 1921. Amendments to the annual budget program may be submitted from time to time.

TITLE VII—MISCELLANEOUS

TITLE I MULTIFAMILY LOAN LIMITS

SEC. 701. Section 2(b) of the National Housing Act is amended by striking out "$25,000", "$5,000", and "twelve years" in the third proviso in clause (3), and inserting in lieu thereof "$37,500", "$7,500", and "fifteen years", respectively.

MULTIFAMILY MORTGAGE INSURANCE

SEC. 702. (a) The last sentence of section 207(c) of the National Housing Act is amended by striking out "eight" and inserting in lieu thereof "five".

(b) Section 241(d) of such Act is amended by adding at the end thereof the following: "At any sale under foreclosure of a mortgage on a project or facility which is not insured under this Act but which is senior to a loan assigned to the Secretary pursuant to subsection (c), the Secretary is authorized to bid, in addition to amounts authorized under section 207(k), any sum up to but not in excess of the total unpaid indebtedness secured by such senior mortgage, plus taxes, insurance, foreclosure costs, fees, and other expenses. In the event that, pursuant to subsection (c), the Secretary acquires title to, or is assigned, a loan covering a project or facility which is subject to a mortgage which is not insured under this Act, the Secretary is authorized to make payments from the General Insurance Fund on the debt secured by such mortgage, and to take such other steps as the Secretary may deem appropriate to preserve or protect the Secretary's interest in the project or facility.".

MORTGAGE INSURANCE FOR NONRESIDENT CARE FACILITIES

SEC. 703. (a) Section 232(a) of the National Housing Act is amended—

(1) by inserting immediately before the period at the end of paragraph (1) a comma and the following: "including additional facilities for the nonresident care of senior citizens and others who are able to live independently but who require care during the day"; and

(2) by inserting immediately before the period at the end of paragraph (2) a comma and the following: "including additional facilities for the nonresident care of senior citizens and others who are able to live independently but who require care during the day".

(b) Section 232(b)(2) of such Act is amended by inserting immediately after

"nursing services;" in the first sentence the following: "(3) a 'nursing home' or intermediate care facility' may include such additional facilities as may be authorized by the Secretary for the nonresident care of senior citizens and others who are able to live independently but who require care during the day;".

CONDOMINIUM MORTGAGE INSURANCE

SEC. 704. (a) The first sentence of section 234(c) of the National Housing Act is amended by inserting immediately after "less units" in the proviso of clause (2) a comma and the following: "or twelve or more units in the case of a multifamily project the construction of which was completed more than a year prior to the application for mortgage insurance,".

(b) The third sentence of section 234(c) of such Act is amended by inserting "(100 per centum if the mortgagor is a veteran as defined under section 203(b)(2) of this Act)" after "centum" in clause (A)(i).

PURCHASE OF FEE SIMPLE TITLE

SEC. 705. Section 240 of the National Housing Act is amended by adding "($30,000 if the property is located in Hawaii)" immediately after "$10,000" in subsection (c)(2).

HOUSING AND URBAN DEVELOPMENT DAY CARE CENTER FACILITIES

SEC. 706. Section 7(n) of the Department of Housing and Urban Development Act is amended to read as follows:

"(n) Notwithstanding any other provision of law, the Secretary is authorized by contract or otherwise to establish, equip, and operate a day care center facility or facilities, or to assist in establishing, equipping and operating interagency day care facilities for the purpose of serving children who are members of households of employees of the Department. The Secretary is authorized to establish or provide for the establishment of appropriate fees and charges to be chargeable against the Department of Housing and Urban Development employees or others who are beneficiaries of services provided by any such day care center. In addition, limited start-up costs may be provided by the Secretary in an amount limited to three percent of the first year's operating budget, but not to exceed $3,500.".

SALE OF SURPLUS FEDERAL LAND FOR HOUSING

SEC. 707. (a) The first and second sentences of section 414(a) of the Housing and Urban Development Act of 1969 are amended to read as follows: "Notwithstanding the provisions of the Federal Property and Administrative Services Act of 1949, any Federal surplus real property within the meaning of such Act may, in the discretion of the Administrator of General Services, be transferred to the Secretary of Housing and Urban Development at the Secretary's request for sale or lease by the Secretary at its fair value for use in the provision of housing to be occupied predominately by families or individuals of low and moderate income, assisted under a Federal housing assistance program administered by the Secretary or under a State or local program found by the Secretary to have the same general purpose, and for related public commercial or industrial facilities approved by the Secretary. Prior to any disposition of Federal surplus real property to an entity other than a public body, the Secretary shall notify the governing body of the locality where such property is located of the proposed disposition and no such disposition shall be made if the local governing body, within ninety days of such notification, formally advises the Secretary that it objects to the proposed disposition, unless the Secretary determines (1) that the proposed disposition would be consistent with any approved housing assistance and community development plans developed by such body pursuant to the Housing and Community Development Act of 1974, or (2) in cases where such plans are not available, that there is a need for low- and moderate-income housing, taking into consideration any applicable State housing plans, and that there is or will be available in the area public facilities and services adequate to serve any housing proposed in conjunction with the proposed disposition.".

(b) Subsection (b) of section 414 of such Act is amended to read as follows:

"(b) As a condition of any disposition by the Secretary of Federal surplus real property under this section to an entity other than a public body, the Secretary shall obtain such undertakings as the Secretary may consider appropriate to assure that the property will be used, to the maximum practicable extent, in the provision of housing and related facilities to be occupied by families or individuals of low and moderate income for a period of not less than thirty years. If during such period the property is used for any purpose other than the purpose for which it was disposed of, it shall revert to the United States (or, in the case of leased property, the lease shall terminate) unless the Secretary and the Administrator, after the expiration of the first twenty years of such period, have approved the use of the property for such other purposes.".

REPORT ON MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

SEC. 708. (a) The first sentence of section 626(a) of the National Mobile Home Construction and Safety Standards Act of 1974 is amended—

(1) by striking out "March 1 of each year" and inserting in lieu thereof "July 1 of every other year beginning with calendar year 1978"; and

(2) by striking out "preceding calendar year" and inserting in lieu thereof "two preceding calendar years".

(b) The second sentence of section 626(a) of such Act is amended by striking out "such year" in clauses (1), (2), and (5) and "the year" in clause (6) and inserting in lieu thereof "such years" in each such clause.

AMENDMENT OF THE HOME OWNERS LOAN ACT OF 1933

SEC. 709. The eighth undesignated paragraph of section 5(c) of the Home Owners' Loan Act of 1933 is amended by striking "real property located within urban renewal areas as defined in subsection (a) of section 110 of the Housing Act of 1949", and inserting in lieu thereof "real property located in areas in which physical development activities assisted under title I of the Housing and Community Development Act of 1974 are being carried out in a concentrated manner".

STATEMENT OF POLICY AND STUDY ON HOUSING DISPLACEMENT

SEC. 710. The Congress declares that in the administration of Federal housing and community development programs, the utmost care should be taken to minimize the displacement of persons from their homes and neighborhoods. In furtherance of the objectives stated in the preceding sentence, the Secretary of Housing and Urban Development shall conduct a study on the nature and extent of such displacement, and, not later than January 31, 1979, shall report to the Congress on recommendations for the formulation of a national policy to minimize displacement caused by the implementation of the Department's programs, and to alleviate the problems caused by displacement of residents of the Nation's cities due to residential and commercial development and housing rehabilitation, both publicly and privately financed. In carrying out such a study, the Secretary shall (1) consult with representatives of affected public interest groups, government, and the development and lending industries; (2) provide data on the nature and scope of the displacement problem, both past and projected, and identify steps needed to improve the availability of such data; and (3) report fully on the current legal and regulatory powers and policies of the Department to prevent or compensate for displacement caused by its own programs.

REHABILITATION GUIDELINES

SEC. 711. Title V of the Housing and Urban Development Act of 1970, as amended by section 305(b) of this Act, is amended by adding at the end thereof the following:

"REHABILITATION GUIDELINES

"SEC. 510. (a)(1) The Secretary shall develop model rehabilitation guidelines for the voluntary adoption by States and communities to be used in conjunction with existing building codes by State and local officials in the inspection and approval of rehabilitated properties.

"(2) Such guidelines shall be developed in consultation with the National Institute of Building Sciences, appropriate national organizations of agencies and officials of State and local governments, representatives of the building industry, and consumer groups, and other interested parties.

"(3) The Secretary shall publish such guidelines for public comment not later than one year after the date of enactment of this section, and promulgate them no later than eighteen months after such date of enactment.

"(4) The Secretary shall furnish technical assistance to State and local governments to facilitate the use and implementation of such guidelines.

"(b) The Secretary shall report to Congress not later than thirty-six months after the date of enactment of this section regarding (1) actions taken by State and local governments to adopt guidelines or their equivalents, and (2) recommendations for further action.".

DEPARTMENTAL REORGANIZATION

SEC. 712. None of the funds available to the Department of Housing and Urban Development may be obligated or expended during the fiscal year ending October 1, 1978, or October 1, 1979, for the reorganization or transfer of any function of any area, field, or insuring office which relates to multifamily housing or community planning or development and related technical services.

ALASKA HOUSING PROGRAM

SEC. 713. (a) Subsection (a) of section 1004 of the Demonstration Cities and Metropolitan Development Act of 1966 is amended to read as follows:

"(a) The Secretary of Housing and Urban Development (hereinafter referred to as the 'Secretary') shall make loans and grants on the basis of need to the regional native housing authorities duly constituted under the laws of the State of Alaska for the purpose of providing planning assistance, housing rehabilitation, and maintaining an adequate administrative structure in conjunction with the provision of housing and related facilities for Alaska residents.".

(b) Section 1004(b) of such Act is repealed.

AMENDMENTS TO THE FEDERAL HOME LOAN MORTGAGE CORPORATION ACT

SEC. 714. (a) Section 305(a)(1) of the Federal Home Loan Mortgage Corporation Act is amended—

(1) by inserting before the period at the end of the first sentence thereof "or from any mortgagee approved by the Secretary of Housing and Urban Development for participation and any mortgage insurance program under the National Housing Act"; and

(2) by adding at the end thereof the following new sentences: "The Corporation may establish requirements, and impose charges or fees, which may be regarded as elements of pricing, for different classes of sellers or services, and for such purposes the Corpora-

tion is authorized to classify sellers or services according to type, size, location, assets, or, without limitation on the generality of the foregoing, on such other basic or bases of differentiation as the Corporation may consider necessary or appropriate to effectuate the purposes or provisions of this Act. The Corporation may specify requirements concerning, among other things, (A) minimum net worth; (B) supervisory mechanisms; (C) warranty compensation mechanisms; (D) prior approval of facilities; (E) prior origination and servicing experience with respect to different types of mortgages; (F) capital contributions and substitutes; (G) mortgage purchase volume limits; and (H) reduction of mortgage purchases during periods of borrowing. With respect to any particular type of seller, the Corporation shall not be required to make available programs involving prior approval of mortgages, optional delivery of mortgages, and purchase of other than conventional mortgages to an extent greater than the Corporation elects to make such programs available to other types of eligible sellers. Any requirements specified by the Corporation pursuant to the preceding three sentences must bear a rational relationship to the purposes or provisions of this Act, but will not be considered discriminatory solely on the grounds of differential effects on types of eligible sellers. Insofar as is practicable, the Corporation shall make reasonable efforts to encourage participation in its program by each type of eligible seller.".

(b) The provisions of this section shall take effect upon the expiration of two hundred and ten days after enactment of this Act, but not before January 31, 1979, or on such earlier date as the Corporation may prescribe.

AMENDMENTS TO INTERSTATE LAND SALES FULL DISCLOSURE ACT

SEC. 715. (a) Section 1403(a) of such Act is amended—

(1) by inserting "condominium," after "commercial," in clause (3);

(2) by inserting after "adverse claims do not refer to" in clause (10) the following: "United States land patents or Federal grants and reservations similar to United States land patents, nor to"; and

(3) by striking out the matter which precedes "when—" in clause (11) and inserting in lieu thereof the following:

"(11) the sale or lease of real estate which is zoned by the appropriate governmental authority for industrial or commercial development or which is restricted to such use by a declaration of covenants, conditions and restrictions which has been recorded in the official records of the city or county in which such real estate is located,".

(b) Section 1403 of such Act is amended—

(1) by redesignating subsection (b) thereof as subsection (c); and

(2) by inserting after subsection (a) thereof the following:

"(b) Unless the method of disposition is adopted for the purpose of evasion of this title, the requirements of sections 1405 to 1408 inclusive, shall not apply to—

"(1) the sale or lease of real estate by a developer who is engaged in a sales operation which is intrastate or almost entirely intrastate in nature. A sales operation shall be considered 'intrastate or almost entirely intrastate in nature' for the calendar year if not more than 5 per centum of the lots sold in such year were sold to residents of another State, or if not more than five lots sold in such year were sold to residents of another State, whichever is greater, exclusive of sales made under the provisions of clause (2) of this subsection. For the purpose of the exemption contained in the preceding sentence, a lot may be sold to a resident of another State only if—

"(A) the lot is free and clear of all liens, encumbrances, and adverse claims;

"(B) the purchaser or his or her spouse has made a personal on-the-lot inspection of the lot purchased; and

"(C) the developer executes and supplies to the purchaser a written instrument designating a person within the State of residence of the purchaser as his agent for service of process and acknowledging that the developer submits to the legal jurisdiction of the resident State of the purchaser.

As used in this clause (1), the terms 'liens', 'encumbrances', and 'adverse claims' do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable, or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, if—

"(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such reservations, taxes, assessments, which are applicable to the lot to be purchased or leased; and

"(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee;

"(2) the sale or lease of real estate by a developer to the resident of another State when the principal residence of the purchaser is within a radius of one hundred miles from the property purchased if—

"(A) the lot is free and clear of all liens, encumbrances, and adverse claims;

"(B) each purchaser or his or her spouse has made a personal on-the-lot inspection of the lot purchased; and

"(C) the developer executes and supplies to the purchaser a written instrument designating a person within the State of residence of the purchaser as his agent for service of process; and acknowledges that the developer submits to the legal jurisdiction of the resident State of the purchasers; and

"(D) the developer executes a written affirmation to the effect that he has complied with the provisions of clauses (A), (B), and (C) of this clause (2), such affirmation to be given on a form provided by the Secretary, where such form shall include only the name and address of the developer, the name and address of the purchaser, a legal description of the lot, an affirmation that clauses (A), (B), and (C) have been complied with, a statement that the developer submits to the jurisdiction of the Act in regard to the sale, and the signature of the developer. The affirmation is to be kept on file by the Secretary.".

Sales made under this clause shall not be subject to the limitation contained in clause (1) but the number of sales made under this clause will be added to sales made under clause (1) to arrive at the total number of sales made in one year by a developer for purposes of calculation of the 5 per centum out-of-State sales limitation factor contained in clause (1). As used in this clause (2), the terms 'liens', 'encumbrances', and 'adverse claims' do not include United States land patents and similar Federal grants or reservations, property reservations which land developers commonly convey or dedicate to local bodies or public utilities for the purpose of bringing public services to the land being developed, taxes and assessments imposed by a State, by any other public body having authority to assess and tax property, or by a property owners' association, which, under applicable State or local law, constitute liens on the property before they are due and payable, or beneficial property restrictions which would be enforceable by other lot owners or lessees in the subdivision, if—

"(i) the developer, prior to the time the contract of sale or lease is entered into, has furnished each purchaser or lessee with a statement setting forth in descriptive and concise terms all such reservations, taxes, assessments, which are applicable to the lot to be purchased or leased; and

"(ii) receipt of such statement has been acknowledged in writing by the purchaser or lessee; or

"(3) the sale or lease of real estate which is located within a municipality or county whose governing body specifies minimum standards for the development of subdivision lots taking place within its boundaries, when—

"(A) the subdivision meets all local codes and standards and is either zoned for single family residences or, in the absence of a zoning ordinance, is limited exclusively to single family residences;

"(B) the real estate is situated on a paved, public street or highway which has been built to a standard acceptable to the municipality or county or a bond or other surety acceptable to the municipality or county in the full amount of the cost of the improvements has been posted to assure completion to such standards, and that authority has accepted or has agreed to accept the responsibility of maintaining the public street or highway;

"(C) at the time of closing, potable water, sanitary sewage disposal and electricity have been extended to the real estate or the municipality or county has agreed to install such facilities within 180 days. For subdivisions which do not have a central water or sewage disposal system, rather than installation of water or sewer facilities, there must be assurances that an adequate potable water supply is available year-round or that the land is approved for the installation of septic tanks;

"(D) the contract of sale requires delivery of a warranty deed to the purchaser within 180 days of the signing of the sales contract;

"(E) a policy of title insurance or title opinion is issued in connection with the transaction showing that at the time of closing, title to the real estate purchased or leased is vested in the seller or lessor, but nothing herein shall be construed as requiring the recordation of a lease;

"(F) each and every purchaser or his or her spouse has made a personal on the lot inspection of the real estate which he purchased or leased, prior to the signing of a contract to purchase or lease;

"(G) there are no direct mail or telephone solicitations or offers of gifts, trips, dinners, or other such promotional techniques to induce perspective purchasers or lessees to visit the subdivision or to purchase or lease a lot.

"(c) Section 1412 of such Act is amended by striking the last sentence and inserting in lieu thereof 'In no event shall any action be brought by a purchaser more than three years after the signing of a contract or lease, not withstanding delivery of a deed to a purchaser on the sale or assignment of the purchaser's contract or agreement to a third party.' ".

(c) Section 1416 of such Act is amended by adding at the end thereof the following:

"(c)(1) In discharging his responsibilities under this title, the Secretary shall conduct all actions with respect to rulemaking or adjudication in accordance with the provisions of chapter 5 of title 5, United States Code.

"(2) The Secretary, by rule, shall prescribe the procedure applicable to every case pursuant to this title of adjudication (as defined in section 551 of title 5, United States Code) not required to be determined on the record after notice and opportunity for hearing. Such rule shall, as a minimum, provide that prompt notice shall be given of any adverse action or final disposition and that such notice and the entry of any order shall be accompanied by a statement of legal authority and other written reasons.".

HOUSING PROGRAM PAPERWORK REDUCTION

SEC. 716. (a) The Congress finds and declares—

(1) that various departments, agencies, and instrumentalities of the Federal Government with responsibilities involving housing and housing finance programs require, approve, use, or otherwise employ a variety of different forms as residential mortgages (or deeds of trust or similar security instruments), as notes secured by those mortgages, and for applications, appraisals, and other purposes, and that such duplication of forms constitutes a paperwork burden that adds to the costs imposed on the Nation's homeowners and home buyers;

(2) that unnecessary paperwork impairs the effectiveness of Federal housing and housing finance programs and the Federal agencies with responsibilities involving housing and housing finance programs have made inadequate attempts to reduce unnecessary paperwork and the costs imposed by unnecessary paperwork on participants in those programs;

(3) that both single-family and multifamily programs are affected;

(4) that the Commission on Federal Paperwork has recommended that the agencies reduce the paperwork by adopting the same or substantially similar forms for the same or substantially similar purposes and that the Commission's recommendations will contribute to lower housing costs; and

(5) that simplification of paperwork imposed by Federal housing and housing finance programs would contribute to achieving the Nation's housing goals by reducing housing costs.

(b)(1) Insofar as it is practicable and to the extent permitted by law and to the extent that such action would result in a reduction in paperwork and regulatory burden, the Department of Housing and Urban Development and the Veterans' Administration shall employ in their respective programs—

(i) uniform single family and multifamily note and mortgage forms;

(ii) a uniform application form for mortgage approval and committment for mortgage insurance;

(iii) a uniform form for computation of the monthly net effective income of applicants;

(iv) a uniform property appraisal form;

(v) a uniform settlement statement which shall satisfy the requirements of the Real Estate Settlement Procedures Act; and

(vi) such other consolidated or simplified forms, the consolidation or simplification of which the Secretary of Housing and Urban Development and the Administrator of Veterans' Affairs mutually agree would contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agencies.

(2) Each agency may employ riders, addenda, or similar forms of modification agreements to adapt such uniform forms to its respective programs and policies, consistent with the goals of minimizing the use and extent of such modification agreements and of maximizing the suitability of such forms for the use of all participants, public and private.

(3) To the extend permitted by law, the President may require the Farmers Home Administration and the Administrator of the Farmers Home Administration to comply with the requirements of this section if such compliance will contribute to a reduction in the paperwork and regulatory burden of housing and housing finance programs administered by the agency.

TASK FORCE ON HOUSING PROGRAM PAPERWORK REDUCTION

SEC. 717. (a) Within sixty days after the enactment of this Act, the President shall establish an Interagency Task Force on Housing Program Paperwork Reduction (hereinafter referred to as the "Task Force"), which shall be composed of the Director of the Office of Management and Budget, the Commissioner of the Federal Housing Administration, the Administrator of Veterans' Affairs, the Administrator of the Farmers Home Administration, the President of the Government National Mortgage Association, or their designees, and any additional person or persons designated by the President, if such additional person or persons are serving in offices or positions to which appointment is made and with the advice and consent of the Senate. The Director of the Office of Management and Budget shall be Chairman of the Task Force.

(b) Within one hundred and eighty days after enactment of this Act, the Task Force shall transmit to the Congress a plan and timetable for implementing those recommendations of the Commission on Federal Paperwork which have the purpose of reducing the regulatory and paperwork burden of Federal housing and housing finance programs. The Task Force shall in its plan include recommendations for such legislation as may be necessary to remove barriers to full implementation of the Commission's recommendations. If the Task Force finds that any recommendation of the Commission should not be fully implemented, it shall include a full explanation of its fundings and a description of the alternative that will be employed to achieve the goal of the rejected recommendation.

(c) The Director of the Office of Management and Budget shall coordinate and monitor the development and implementation by Federal departments and agencies of the plan presented pursuant to subsection (b) and shall report to the Congress on such development and implementation as part of each report required under Public Law 93–556.

(d) The Director of the Office of Management and Budget shall assign such professional and clerical staff full time to the Task Force as may be necessary, until the Task Force completes its duties. The Director of the Office of Management and Budget may, in addition, require any or all of the agencies on the Task Force to assign one person full time to the Task Force, until the Task Force completes its duties. Such personnel assignments should take into account experience in paperwork, records, and reports management and regulation design and implementation.

(e) The Task Force shall to the maximum extent possible consult with the private sector, including but not limited to homebuilders, realtors, financial institutions, mortgage companies, public interest groups, mortgage insurance companies, homeowners, the general public, and any other group or groups that will be affected directly or indirectly by the provisions of this section, and obtain their ideas and views in carrying out its duties under this section.

PAPERWORK CONTROL AND MANAGEMENT

SEC. 718. (a) The Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") shall, not later than January 1, 1979, and not later than such date in each year thereafter, publish in the Federal Register an agenda of regulations expected to be considered during the fiscal year in which the agenda is published. The agenda shall describe, to the greatest extent possible, any significant rulemaking activity for that fiscal year, including the creation of new regulations and the revision or repeal of existing regulations.

(b) The Secretary shall, prior to the publication of any proposed regulation for public comment, conduct a thorough regulatory analysis of the regulation under consideration. Such analysis shall include, but shall not be limited to, the following:

(1) A reasonable estimate of the benefits expected to be derived as well as the costs or other inflationary impact which could be expected to result from the rulemaking. In making the estimate required by this paragraph, the Secretary shall (A) consider recommendations which may be made by the Council of Economic Advisers, the Council on Wage and Price Stability, the Office of Management and Budget, or any other executive agency, and (B) give special consideration to the extent to which delays caused by Government review, processing, and general paperwork contribute to the cost of housing, and shall, wherever feasible, modify the proposed regulation to minimize or eliminate such delays.

(2) An assessment of the extent to which the proposed regulation may result in contradiction, unnecessary overlapping, or duplication of other regulations of the Department or of another executive agency.

(3) An assessment of the extent to which the proposed regulation increases the burden of recordkeeping and report filing requirements on individuals, businesses, and State and local governments. In making the assessment required by this paragraph, the Secretary shall use as a basis the "reporting hours burden", as estimated by the Office of Management and Budget.

(c) A summary of the findings of the regulatory analysis conducted under subsection (b) shall be published adjacent to the regulation being proposed in the Federal Register. In emergency situations or cases in which the Secretary must meet immediate statutory or judicial deadlines, there shall be published in the Federal Register a statement explaining why preparation of a regulatory analysis would be impracticable or inappropriate.

NEW COMMUNITY ASSISTANCE PROJECTS

SEC. 719. Section 415(c) of the Housing and Urban Development Act of 1968 is amended to read as follows:

"(c) The term 'new community assistance projects' has the same meaning as the term 'new community assistance project' in section 718(c) of the Housing and Urban Development Act of 1970.".

COST-BENEFIT ANALYSIS OF FIELD REORGANIZATIONS

SEC. 720. Section 7 of the Department of Housing and Urban Development Act is amended by adding at the end thereof the following:

"(o) A plan for the reorganization of any regional, area, insuring, or other field office of the Department of Housing and Urban Development may take effect only upon the expiration of ninety days after publication in the Federal Register of a cost-benefit analysis of the effect of the plan on each office involved. Such cost-benefit analysis shall include, but not be limited to—

"(1) an estimate of cost savings supported by background information detailing the source and substantiating the amount of the savings;

"(2) an estimate of the additional cost which will result from the reorganization; including, but not limited to, the cost of remodeling and moving into new office quarters, the loss of experienced personnel where such personnel shall be replaced by other personnel, the cost of training new personnel, the cost of moving personnel to new homes, any increase in rental costs (or an estimate of the likely increase in rental costs), and any adverse effects on any existing Federal office buildings;

"(3) a study of the impact on the local economy; and

"(4) an estimate of the effect of the reorganization on the availability, accessibility, and quality of services provided for recipients of those services.

Where any of the above factors cannot be quantified, the Secretary shall provide a statement on the nature and extent of those factors in the cost-benefit analysis.".

HOUSING PRODUCTION REPORT

SEC. 721. Section 1603 of the Housing and Urban Development Act of 1968 is amended to read as follows:

"REPORT ON GOALS

"SEC. 1603. Not later than January 20, of each year, the President shall transmit to the Congress a report which—

"(1) reviews the progress made in achieving housing production objectives during the preceding year, and in the event that proposed objectives are not achieved, identifies the reasons for the failure;

"(2) projects the level, composition, and general location of production and rehabilitation activity during the current year, and reassesses the availability of required resources;

"(3) specifies Federal programs and policies to be implemented or recommended in order to achieve the objective;

"(4) updates estimates of the housing needs of lower income families, analyzing these needs, insofar as possible, by type of household, housing need, including households with specialized needs, and general location, and in addition, reassesses the capacity of each Federal housing program to serve the needs identified;

"(5) reviews the progress made in achieving goals of conserving and upgrading older housing and neighborhoods, expanding homeownership and equal housing opportunities, and assuring reasonable shelter costs;

"(6) reports on progress made toward developing new methods for measuring and monitoring progress in achieving these goals; and

"(7) identifies legislative and administrative actions which will or should be adopted or implemented during the current year to support achievement of the goals.".

TITLE VIII—NEIGHBORHOOD SELF-HELP DEVELOPMENT

SHORT TITLE

SEC. 801. This title may be cited as the "Neighborhood Self-Help Development Act of 1978".

FINDINGS AND PURPOSE

SEC. 802. (a) The Congress finds and declares that—

(1) existing urban neighborhoods are a national resource to be conserved and revitalized wherever possible, and that public policy should promote governmental and private programs and activities that further that objective;

(2) to be effective, neighborhood conservation and revitalization efforts must involve the fullest possible support and participation of those most directly affected at the neighborhood level; and

(3) an effective way to obtain such support and participation at the neighborhood level is through neighborhood organizations accountable to residents of a particular neighborhood with a demonstrable capacity for developing, assessing, and carrying out projects for neighborhood conservation and revitalization.

(b) It is, therefore, the purpose of this title (1) to provide grants and other forms of assistance to qualified neighborhood organizations to undertake specific housing, economic or community development, and other appropriate neighborhood conservation and revitalization projects in low- and moderate-income neighborhoods, or for the benefit of low- and moderate-income residents of other neighborhoods which are in need of preservation and revitalization, and (2) in the process of providing such assistance, to increase the capacity of neighborhood organizations, individually and collectively, to utilize and coordinate resources available from the public and private sectors, and from neighborhoods themselves, for conserving and revitalizing existing neighborhoods.

DEFINITIONS

SEC. 803. As used in this title—

(1) the term "neighborhood organization" means a voluntary, nonprofit organization which (A) is broadly representative of the neighborhood in which the project will be located, (B) is accountable to neighborhood residents with respect to the project being proposed, (C) has as an objective the preservation and revitalization of such neighborhood, and (D) is found by the Secretary to have a proven record on demonstrable capacity for developing resources for, and effectively implementing neighborhood conservation and revitalization programs and projects;

(2) the term "neighborhood conservation and revitalization projects" includes but is not limited to (A) locally conceived programs for housing rehabilitation and the creative reuse and improvement of existing housing; (B) revitalization of neighborhood retail business areas and the recycling of vacant industrial sites and public and privately owned businesses for the purpose of creating employment opportunities and promoting neighborhood economic development; and (C) energy conservation and weatherization projects; and

(3) the term "Secretary" means the Secretary of Housing and Urban Development.

AUTHORITY TO PROVIDE ASSISTANCE

SEC. 834. (a) The Secretary of Housing and Urban Development is authorized, in accordance with such regulations as the Secretary may prescribe, to make grants and to provide other forms of assistance to neighborhood organizations for effectively planning and carrying out specific housing, economic and community development, and other appropriate neighborhood conservation and revitalization projects within a particular neighborhood, and to assist such organizations to conduct such projects in partnership with local government and the public and private sector.

(b) Grants and other forms of assistance may be made available under this section only if—

(1) the assistance will be used for a specific project which is related to and supportive of a revitalization strategy for the neighborhood in which the project will be located;

(2) the project will include a self-help component which involves a contribution of time or resources by neighborhood residents;

(3) the project will directly benefit the residents of a low- or moderate-income neighborhood or will primarily benefit low- and moderate-income residents of a neighborhood with an average income above the moderate level;

(4) the project will, to the extent feasible, involve leveraging of resources available from the private sector;

(5) the project will, to the extent feasible, involve the coordination of resources available from the local, State, or Federal Government; and

(6) the applicant demonstrates that the residents of the neighborhood where the project will be carried out, and particularly residents who will be directly affected by the project, have been actively involved in and supportive of the selection of the project, and will continue to be involved in project development, implementation, and evaluation through an effective, on-going neighborhood participation mechanism.

(c) Grants and other forms of assistance made available under this section shall be used primarily for the implementation of specific neighborhood housing, economic, and community development projects. No grant or other assistance shall be made available under this section for—

(1) planning functions which are not combined with project implementation, (2) a public works project such as street repair which is not associated with the specific project being funded under this section, (3) operation of a social service program which is not associated with the specific project being funded under this section, (4) an economic development project which will not primarily benefit the residents of the neighborhood in which it will be located, (5) operating costs of a community group which are not associated with the specific project being funded under this section, or (6) other purposes which the Secretary may determine are not consistent with the purposes of this title.

(d) With respect to any particular application, grants and other forms of assistance may be made available under this section only after the unit of general local government within which the neighborhood to be assisted is located certifies that such assistance is consistent with, and supportive of, objectives of that unit of government including housing and community development, economic development, and neighborhood conservation or revitalization activities being carried out by such unit.

(e) The Secretary shall consult with the heads of other Federal departments and agencies having responsibilities related to the purposes of this title, including the Community Services Administration, with respect to (1) general standards, policies, and procedures to be followed in the administration of this title, and (2) particular assistance actions or approvals which the Secretary believes to be of special interest or concern to one or more of such departments and agencies. The Secretary shall ensure the close coordination of activities assisted under this title with other related Federal, State, and local assistance programs, including the programs of the Community Services Administration, and, with respect to particular assistance actions or approvals, ensure a maximum commitment by the neighborhood organization of its own financial and other resources toward the assisted project.

APPROPRIATIONS

SEC. 805. There are authorized to be appropriated for the purpose of carrying out this title not to exceed $15,000,000 for each of the fiscal years 1979 and 1980. Any amount appropriated pursuant to this section shall remain available until expended.

TITLE IX—LIVABLE CITIES

SHORT TITLE

SEC. 901. This title may be cited as the "Livable Cities Act of 1978".

FINDINGS

SEC. 902. The Congress finds and declares—

(1) that artistic, cultural, and historic resources, including urban design, constitute an integral part of a suitable living environment for the residents of the Nation's urban

areas, and should be available to all residents of such areas, regardless of income;

(2) that the development or preservation of such resources is a significant and necessary factor in restoring and maintaining the vitality of the urban environment, and can serve as a catalyst for improving decaying or deteriorated urban communities and expanding economic opportunities, and for creating a sense of community identity, spirit, and pride; and

(3) that the encouragement and support of local initiatives to develop or preserve such resources, particularly in connection with federally assisted housing or community development activities or in communities with a high proportion of low-income residents, is an appropriate function of the Federal Government.

PURPOSE

SEC. 903. The primary purpose of this title is to further the efforts of States, urban communities, neighborhoods, and organizations to initiate undertakings to revitalize such communities and neighborhoods, and to provide a more suitable living environment, expand cultural opportunities, and indirectly stimulate economic opportunities, for the residents, and particularly residents of low and moderate income, of such communities and neighborhoods, through the utilization, design, or development of artistic, cultural, or historic resources.

DEFINITIONS

SEC. 904. For the purpose of this title—

(1) The terms "art" and "arts" include, but are not limited to, architecture (including preservation, restoration, or adaptive use of existing structures), landscape architecture, urban design, interior design, graphic arts, fine arts (including painting and sculpture), performing arts (including music, drama, and dance), literature, crafts, photography, communications media and film, as well as other similar activities which reflect the cultural heritage of the Nation's communities and their citizens;

(2) the term "nonprofit organization" includes States and units of local governments (including public agencies or special authorities thereof), regional organizations of local governments, and nonprofit societies, neighborhood groups, institutions, organizations, associations, or museums;

(3) the term "project" means a program or activity organized to carry out the purposes of this title, including programs for neighborhood and community-based arts programs, urban design, user needs design, and the encouragement of the preservation of historic or other structures which have neighborhood or community significance;

(4) the term "Secretary" means the Secretary of Housing and Urban Development;

(5) the term "Chairman" means the Chairman of the National Endowment for the Arts;

(6) the term "Department" means the Department of Housing and Urban Development; and

(7) the term "Endowment" means the National Endowment for the Arts.

GRANTS TO OR CONTRACT WITH ORGANIZATIONS

SEC. 905. (a) The Secretary is authorized to make grants to, or contract or make other arrangements with, nonprofit organizations (or, in appropriate cases, as determined by the Secretary, to enter into contracts with profitmaking organizations) for the purpose of enabling such organizations to undertake or support in cities, urban communities, or neighborhoods, projects which the Secretary, in consultation with the Chairman, determines will carry out the purposes of this title and which—

(1) have substantial artistic, cultural, or urban design merit,

(2) represent community or neighborhood initiatives which have a significant potential for revitalizing communities or neighborhoods, for enhancing community or neighborhood identity and pride, and for contributing to a more suitable living environment and expanded cultural opportunity for the residents, and particularly low- and moderate-income residents, of the Nation's urban areas, and

(3) meet the criteria established jointly by the Secretary and the Chairman pursuant to this section.

(b) The Secretary and the Chairman shall establish jointly criteria and procedures for evaluating and selecting projects to be assisted under subsection (a) of this section. Such criteria shall address, but need not be limited to, the following factors:

(1) artistic, cultural, historical, or urban design quality;

(2) the degree of broadly based, active involvement of neighborhood residents, community groups, local officials, and persons with expertise in the arts, with the proposed project;

(3) the degree of utilization or stimulation of assistance or cooperation from other Federal, State, and local sources, including private sources and other public or private arts organizations, or the potential for generating such assistance or cooperation;

(4) the feasibility of project implementation, including the capability of the sponsor organization;

(5) the potential contribution to neighborhood revitalization and the creation of a sense of community identity and pride through fostering such activities as preservation of neighborhoods and existing structures;

(6) the potential for stimulating neighborhood economic and community development, particularly for the benefit of persons of low and moderate income; and

(7) the encouragement of utilization of artistic, cultural and historic resources by neighborhood residents, particularly residents of low and moderate income, senior citizens, and handicapped persons.

(c) No financial assistance shall be made to any organization under this section except upon application therefor which is submitted to the Secretary in accordance with regulations and procedures established jointly by the Secretary and the Chairman.

(d) Prior to the approval of any application for financial assistance under this title, the Secretary shall consult with the Chairman and, in accordance with regulations and procedures issued jointly by the Secretary and the Chairman, shall seek the recommendations of State and local officials and private citizens who have broad knowledge of, or experience or expertise in, community and economic development and revitalization, and of such officials and citizens who have broad knowledge of, or expertise in, the arts.

(e) The Secretary, in cooperation with the chairman, shall prescribe regulations to require that a specific portion of the cost of any project assisted under this title shall be provided from sources other than funds made available under this title. The Secretary may reduce or waive such requirement in order to take account of the financial capacity of the applicant.

(f)(1) An organization shall be eligible for a grant under this section only if (A) no part of its net earnings inures to the benefit of any private stockholder or stockholders, or individual or individuals, and (B) such organization is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code of 1954 by reason of attempting to influence legislation, and does not participate in, or intervene in (including the publishing cr distributing of statements), any political campaign on behalf of any candidate for public office.

(2) The Secretary, in cooperation with the Chairman, shall establish, pursuant to regulations, procedures for eliciting the cooperation of local officials and, where appropriate, State officials in assuring that no application will be approved under this title with respect to a project which would be inconsistent with the objectives of the unit of local government within which such project will be carried out, including the cultural or community development and neighborhood preservation and revitalization plans and activities of such unit.

(3) Funds made available under this title shall not be used to supplant non-Federal funds.

(4) No more than 10 per centum of the funds appropriated for any fiscal year under section 907 shall be available for administrative expenses.

COORDINATION AND DEVELOPMENT OF PROGRAM WITH OTHER FEDERAL AND NON-FEDERAL PROGRAMS

SEC. 906. The Secretary shall insofar as practicable, coordinate the administration of the provisions of this title, and encourage the coordination of activities assisted under this title, with existing Federal, State, and local programs and with those undertaken by other public agencies or private groups, including other public or private organizations, and with due regard to the contribution to the objectives of this title which can be made by Federal agencies under other existing programs.

AUTHORIZATION OF APPROPRIATIONS

SEC. 907. There are authorized to be appropriated for carrying out the puposes of this title not to exceed $5,000,000 for fiscal year 1979, and not to exceed $10,000,0000 for fiscal year 1980. Any amounts appropriated under this section shall remain available until expended.

Mr. PROXMIRE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MAGNUSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PROXMIRE. Mr. President, Senator BIDEN was necessarily called away just before the last vote, and he asked me to announce that if he were here he would have voted "yea" on passage.

Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 3084.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, today the Senate completed action on the Housing and Community Development Amendments of 1978. This measure is one of the most important pieces of domestic legislation that has been passed by the Senate this year.

In the Housing Act of 1949 the Congress stated its goal of "a decent home and a suitable living environment for all American families." One of the architects of that law was Senator SPARKMAN who, during his 43 years in the Congress, has contributed so much to the shaping of a national housing policy. As chairman of the Housing and Urban Affairs Subcommittee of the Banking, Housing, and Urban Affairs Committee, the distinguished Senator from Alabama played a central role in writing the 1978 amendments.

In addition to taking this opportunity to thank my colleague from Alabama for the special contribution he has made over the years to housing legislation,

several words of congratulations are in order. Senator PROXMIRE, chairman of the full committee, and Senator BROOKE, its ranking minority member, together with all members of the committee labored long and hard to send to the Senate a bill which represents significant and wise changes in our national housing policy. This measure as passed by the Senate, will, in my opinion, take us another step closer to the goal of "a decent home" for every American.

The bill, which was reported in time to meet the May 15 deadline of the Congressional Budget Act, was the result of 11 days of hearings and 3 days of markup. Painstaking analysis was the basis for each recommendation contained in the bill. More than one innovative amendment was carefully considered; some were accepted and others await further study. Thus, not only do we have a good bill to send to the conference committee, the groundwork has been laid for further improvements in our housing laws.

The bill, which extends the housing and community development programs conducted by HUD and by the Farmers Home Administration, places increased emphasis on rehabilitation and conservation of the exsiting housing stock. I strongly support this approach as being a sound, cost-effective method of revitalizing deteriorating neighborhoods.

The bill which the Senate has passed represents a lower level of authorization than the bill as reported. This change brings the legislation within the targets of the first concurrent resolution on the budget. The chairman of the committee, Mr. PROXMIRE, and the ranking minority member, Mr. BROOKE, were of different minds as to the optimum level of funding. The quality of debate which occurred on this point could not have been higher: Relevant and timely information was presented to the full Senate—where the buck must stop. We owe a word of thanks to Senators PROXMIRE and BROOKE who so ably presented their arguments so that a decision could be reached on how best to balance the potentially inflationary pressures against the critical need for housing assistance.

During these 2 days of debate on the housing bill, quite a few amendments have been offered, debated, agreed to by the committee, voted up or down. A good bill was sent to the floor, and a good bill has been passed.

URGENT BLACK LUNG PROGRAM SUPPLEMENTAL APPROPRIATION

Mr. MAGNUSON. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on House Joint Resolution 945.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the House agree to the amendments of the Senate numbered 1 and 3 to the resolution (H.J. Res. 945) entitled "Joint resolution making an urgent supplemental appropriation for the black lung program of the Department of Labor for the fiscal year ending September 30, 1978."

Resolved, That the House agree to the amendment of the Senate numbered 2 to the aforesaid resolution with the following amendment:

In lieu of the sum named in said amendment, insert: $25,000,000

Resolved, That the House agree to the amendment of the Senate to the title of the resolution.

Mr. MAGNUSON. Mr. President, this urgent supplemental contains four items. It includes $25 million in emergency school aid funds. These funds will be used to assist school districts that are implementing voluntary and court-ordered desegregation plans. These funds are needed now so that they will be available for the start of the 1978–79 school year.

Other items in the bill include $181.7 million for mandatory black lung benefits. This is due to the fact that this item was not in the regular appropriation bill because amendments to the Black Lung Act were not passed by Congress, and the authorization was not available.

There is also provided $43.5 million in mandatory railroad retirement benefits, and $3.7 million to continue the Commerce Department's local public works employment programs. This is to pay the people involved in processing EDA applications, of which there is a great backlog.

That is the substance of the measure. The House agreed unanimously to the bill. We held hearings on all these items, and they are available to any Members of the Senate who wish. If there are any questions, I will be glad to answer them at this time.

Mr. CASE. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield to the Senator from New Jersey.

Mr. CASE. I thank my colleague.

Mr. President, I want to join with our chairman, Senator MAGNUSON, in urging the Senate to approve the pending fiscal 1978 Urgent Black Lung Supplemental Appropriation bill (H.J. Res. 945).

This bill provides $181.7 million for mandatory payments to the black lung disability trust fund. In addition, the House has agreed to a Senate recommendation to include $43.5 million for mandatory payments to the regional rail transportation protective account under the Railroad Retirement Board.

The Senate bill also provided $50 million to assist in implementing voluntary and court-ordered desegregation plans beginning in September in a number of cities. The House bill did not contain funds for emergency school aid (ESA), as it is known, but the other body now has agreed to a $25 million supplemental level for this program.

I also point out that $25 million already is available for this purpose in fiscal 1978 through the regular Labor-HEW bill. This amount, together with the $25 million provided in this supplemental bill, will provide assistance to the school districts with the most pressing needs.

Further, our Labor-HEW Subcommittee has recommended $75 million for the ESA program in the fiscal 1979 Labor-HEW Appropriations bill to help meet the needs of other cities that will begin implementing desegregation plans during the coming fiscal year.

Thus, while I would have preferred the higher figure in the Senate's version of the pending supplemental, I believe that sufficient funds will be available in fiscal years 1978 and 1979 for the desegregation assistance needs that we can see at this time. We will keep the matter under review to determine if additional assistance is needed.

I urge the passage of this supplemental appropriation.

Mr. MAGNUSON. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Washington.

The motion was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MAGNUSON. Mr. President, we have another conference report on an appropriation bill, on which I yield to the Senator from Indiana, who handled that appropriation for fiscal year 1979, the regular appropriation for the Department of Transportation and other agencies.

DEPARTMENT OF TRANSPORTATION APPROPRIATIONS, 1979—CONFERENCE REPORT

Mr. BAYH. I thank the chairman. Mr. President, I submit a report of the committee of conference on H.R. 12933, and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 12933) making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 19, 1978.)

Mr. BAYH. I yield to our colleague from New Jersey.

Mr. CASE. Mr. President, I ask unanimous consent that during the consideration of this measure, my assistant, Miss Nancy Talmont, and Mike Kraft of my staff be accorded the privilege of the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MAGNUSON. Mr. President. will the Senator yield to me?

Mr. BAYH. I yield.

Mr. MAGNUSON. I take this opportunity to thank the Senator from In-

diana and the other members of the subcommittee for promptly taking care of a real emergency situation in my State, involving the wreckage of the West Seattle Bridge and the necessity of moving quickly on the matter. All of us out there appreciate the Senator's consideration.

Mr. BAYH. I thank my colleague and my chairman. I would say, for the benefit of the people of Seattle, that they got more than their money's worth as far as the efforts of the Senator from Washington were concerned, because he has been a veritable tiger in pursuing the needs of his people and expressing in minute detail the critical nature of that bridge problem. It was our privilege to be able to put this money in the bill for him and for his folks at home.

Mr. President, the pending conference report recommends $8,747,553,096 in new budget authority for fiscal year 1979 for the Department of Transportation and related agencies. This is an increase of $179 million over the Senate passed bill, but is still $99.7 million below the House bill and $521 million below the President's budget requests.

I am pleased to present this conference agreement to the Senate and to recommend its adoption. While we were not able to retain all of the Senate provisions, I feel that we were able to work out the differences between the two bills in a way that keeps substantially all of the major Senate amendments intact. Again this year, it has been a pleasure to work on this bill with the very able and experienced House conferees — led by Mr. JOHN MCFALL and ranking minority member SILVIO CONTE. They and the other House conferees did a fine job in representing the House position, with the able assistance of their staff, Tom Kingfield, Larry Johnson, and Jim Morrill.

Mr. President, I have had a chance to serve on a number of conference committees, but never had I found a greater spirit of cooperation existing between the House conferees and the Senate conferees than has been the case under the able leadership of Mr. MCFALL and Mr. CONTE; and of course our able colleague the Senator from New Jersey (Mr. CASE) fits into that category as well.

Mr. President, the conference report and the statement of the managers appears in the CONGRESSIONAL RECORD of June 29, 1978 on pages 19560–19563. I will not ask that the report be reprinted here—so we can save some printing costs—and will not go into detail concerning final conference action on the bill. However, I would like to highlight some of the matters that I feel are of particular importance to my colleagues.

First, for the FAA, the statement of the managers contains specific reference to the issue of familiarization flights by air traffic control personnel.

That was a source of controversy. I think we dealt with that very satisfactorily.

Pages 3 and 4 set forth the view of the conferees that the slowdowns are a potential threat to public safety and result in unnecessary wasting of fuel. Additionally, the language states that familiarization flights, properly administered by FAA, are beneficial, but that in the future all parties involved in such programs should be consulted prior to agreements being reached. The conferees state their intent to closely monitor the familiarization program and to recommend legislative provisions later, if such provisions should become necessary to modify the program. Second, in the FAA portion of the budget, the House receded to the Senate amendment appropriating the full amount for VOR/VORTAC replacements. The House bill had cut that program in half, but the Senate restored the cut of $15 million to this program. We felt that the solid stating of the older tube-type equipment would result in cost savings and would also improve safety. I am therefore happy to report that the House has agreed with us on that program.

In the Federal Highway Administration's portion of the bill, I would point out to those Senators who opposed the appropriation contained in the Senate bill for the Daried Gap Highway in Panama that the Senate conferees receded from that item in conference.

I know there are a number of our colleagues who were very concerned about that, but in the spirit of camaraderie and compromise the Senate conferees felt that the best we could do was to pass that over for now.

So, there is no money in the bill to fund that highway. We were told by the House conferees that they had met in subcommittee markup of the fiscal year 1978 supplemental budget requests a week or so ago and had deleted the full $20 million request for fiscal year 1978. So, that would mean that the House has had three recent votes in their Appropriations Committee and on the House floor on this highway with the net result being to delete both the fiscal year 1978 budget request and the fiscal year 1979 request, which were for $20 million each. In light of that action, the Senate conferees receded. Also in the highway portions of the bill, we included $15 million each for off-system rail crossings and safer off-system roads which were not included in the Senate bill. Both programs have remaining authorization in existing highway legislation to cover those amounts. Finally, for the obligation ceiling on Federal-aid highways, we split the difference between House and Senate bills and will now allow up to $7.95 billion for Federal-aid highway obligations during fiscal year 1979. That amount is slightly below the Senate highway bill, S. 3073.

This is a critical matter in highway safety and we feel giving this discretion to the Department of Transportation and the Administrator of NHTSA is as critical and important as the dollar amount.

Also, specific authority is contained in the statement of the managers for NHTSA to carry out a 1-year program to reimburse public participants in their rulemaking process. Up to $125,000 is provided for that purpose. We will receive a report on the benefits of that program at the end of the fiscal year. Finally, the Senate receded on the House provision stating that NHTSA shall not use any funds appropriated in the bill for the purpose of implementing or enforcing any standard or regulation which would require any manufacturer of motor vehicles to equip such vehicles with an occupant restraint system other than a belt system. I hasten to add, however, that the statement of the managers contains, in connection with amendment No. 51, from which amendment the Senate also receded, language making it clear that NHTSA shall have the authority, notwithstanding the above prohibition, to expend such funds as are necessary under its research and development activities, to properly carry out the agency's responsibilities in connection with occupant restraint standard No. 208.

Such studies would include, but not be limited to, development of technical and conforming adjustments of the standard, communications with the affected industry and the public, response to congressional and public inquiries with regard to the standard, legal research and participation in legal actions, review of the manufacturers preparations for mass production (as specified in the House report), monitoring of passive restraint equipped vehicles already in production, continued effectiveness testing, public information and educational activities, cost and economic analyses, reliability and quality control studies, and consumer acceptance studies.

For the programs of the Urban Mass Transportation Administration, the conference bill includes $150 million of the $250 million included in the House bill for such operating subsidy programs as are authorized into law. This amount is above the Senate bill, but will not be spent until an authorizing bill is signed into law.

Finally, for the programs of the Federal Railroad Administration, the conference bill includes an addition of $50 million above the Senate bill for rail rehabilitation assistance for ailing railroads. This still leaves that program $100 million below the budget request. We are convinced this will fully fund all qualified applicants for those funds, but will consider a supplemental next spring, if a shortage occurs.

Mr. President, if there are questions, I will be glad to yield.

Of course, I want my colleague from New Jersey (Mr. CASE) to have a chance to be heard. He is indeed a full cooperating partner and without his able assistance we would not be here tonight leading the way on this conference report. I think he would want me also to emphasize the important roles played by Wally Berger and Gar Kaganowich, his staff assistants on the minority side, and I would like to emphasize Jim English, chief counsel, and his able assistant, Tim Leeth, have given us the kind of support that we need, the expertise rivaling that of any other committee, and we are in their debt.

I must say I am going to miss my friend from New Jersey next year when he has

a chance to enjoy a well earned rest. I hope we can still call on him to come and let us share his expertise as well as his personality and friendship. It has been an outstanding opportunity for me to have a chance to get to know him and to work with him. It just will not be quite the same without him.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. CASE. Mr. President, it is difficult, in fact it is impossible, for me to express adequately my appreciation for the kind remarks my colleague, the Senator from Indiana, has made. I would like to say this to him: "Birch, do not call me unless you want to see me because I shall come running."

The associations we have enjoyed on this committee have been very satisfying and pleasant to me. I shall miss his leadership and his companionship. I shall always hold him in great affection, and that will not diminish with the years. Perhaps absence will even make the heart grow stronger.

Mr. BAYH. If my friend will yield, it will be impossible for my heart to grow fonder but the temporary absence of the Senator from New Jersey will be a cause for the Senator from Indiana to pursue with diligence the effort he has been involved with as far as driving forward with our northeast corridor rehabilitation program. Then he will not have any excuses such as the trains that will not run on time for not coming down here and seeing us once in a while.

Mr. CASE. I thank my colleague. I shall take advantage of any such opportunity and any other that may present itself, believe me.

I wish to thank my distinguished colleague from Indiana, Mr. BAYH, for his able leadership on this bill throughout the hearings, on the floor and in conference.

I join in asking that the conference report which I believe to be a fair resolution of differences, be approved.

Instead of reviewing that report, I would like at this time to mention a few of the transportation issues which emerged during our 1978 hearings, in the hope that they will be further explored and examined in the 96th Congress.

There is no backing off from the fact that our Nation must concentrate on energy conservation. No small piece of the responsibility rests with the policymakers who deal in transit issues. The U.S. transportation system; that is, the cars, buses, trucks that travel the highways, the trains, light rail, planes, and water transportation use 26 percent of all of the energy consumed yearly in this country.

What that says is that we must get the best possible use out of every gallon of petroleum that we expend on transit. For example, trains and buses should not run empty or close to it—which happens on both short and long hauls. And it also means that we must make our freight carriers as efficient as possible. To accomplish both of these ends, we will have to make some hard management decisions.

Along these lines, I believe that—if we are serious about boosting the use of mass transit and, at the same time, protecting and improving urban life—we must seriously consider restricting the use of automobiles in central business districts.

I would like to see the Department of Transportation conduct innovative demonstration programs aimed at reducing the use of the automobile in our cities.

Another of my major concerns, and one which testimony during the 1978 hearings underscored, has to do with safe movement of hazardous materials.

During the past years, several New Jersey towns have been victimized by rail accidents in which hazardous materials have spilled and menaced both people and property. Besides rail problems there are also the ever-present threats of oilspills off the coast and in the harbors—a major concern for seaboard States.

We must continue to insist that the Department of Transportation monitor and coordinate preventive and protective efforts at averting spills and ensuing tragedies.

During the years which I have been in the Senate we have seen many changes in transportation and in our perception of transportation and its place in daily, public life.

No efforts illustrate this more than our transit policy which resulted in the establishment of the National Railroad Passenger Corp., Amtrak, and the freight carrier ConRail.

Despite our best legislative intentions, both Amtrak and ConRail seem to me to be approaching similar crossroads.

Congress heard this spring that ConRail may not be able to meet the timetable on becoming self sufficient. Since this will mean that ConRail must come back to Congress for additional funds, I think there will be a renewed effort to evaluate ConRail. The recommendations probably will be to reduce, once again, both branch line and main line service. We will want to evaluate these recommendations in light of our energy policies, remembering that rails are a valuable resource.

Amtrak also is at a point in its growth at which it may face a considerable service cut. One problem of real concern for the commuter corridors—such as New Jersey—is the possibility that this service may be reduced.

This has been a brief summary of some of the issues which I believe will come before the 96th Congress. I appreciate this opportunity to place them on the record for future consideration by my colleagues.

I would like to add my statement of appreciation to our staff, those members whom our subcommittee chairman has mentioned.

I want to mention also the warm support and effective support of my own staff member, Nancy Talmont, who has been specializing in these matters for me.

It has been a very pleasant experience working on this subcommittee. I shall remember it with great satisfaction.

Mr. President, I join in asking that this conference report, which I believe to be a fair resolution of differences, be adopted.

I yield the floor.

Mr. BAYH. Mr. President, I am prepared to put this matter to a vote. I move the adoption of the conference report.

The PRESIDING OFFICER. The question is on the adoption of the conference report.

The conference report was agreed to.

Mr. MAGNUSON. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BAYH. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will state the first amendment in disagreement.

Mr. BAYH. Mr. President, I ask unanimous consent that the amendments in disagreement be considered en bloc.

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

The legislative clerk read as follows:

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 14 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the matter inserted by said amendment, insert:

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of railroad-highway crossings demonstration projects, as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, and title III of the National Mass Transportation Assistance Act of 1974, to remain available until expended, $40,000,000 of which $26,668,667 shall be derived from the Highway Trust Fund.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 31 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $1,250,000,000, of which $25,000,000 shall be available for technical studies.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 32 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $76,500,000, of which $1,500,000 shall be available for technical studies.

Resolved, That the House recede from its disagreement to the amendment of the Senate numbered 33 to the aforesaid bill, and concur therein with an amendment as follows:

In lieu of the sum proposed by said amendment, insert: $553,500,000, of which $28,500,000 shall be available for technical studies and $75,000,000 shall be available for rail service operating payments.

Mr. BAYH. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Indiana.

The motion was agreed to.

Mr. BAYH. Mr. President, I move to reconsider the vote by which the amendments in disagreement were agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TIME-LIMITATION AGREEMENT—H.R. 11504

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the conference report on H.R. 11504, the Agricultural Credit Act of 1978, there be a 30-minute time limitation with Mr. TALMADGE in control of the time.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR—H.R. 11504 CONFERENCE REPORT

Mr. TALMADGE. Mr. President, I ask unanimous consent that the following staff members of the Committee on Agriculture, Nutrition, and Forestry be granted the privilege of the floor during consideration of the conference report on H.R. 11504: Henry Casso, Carl Rose, William Bates, Philip Fraas, William Lesher, Reider Bennett-White, William Taggart, and Morgan Williams.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TALMADGE. I yield to my distinguished friend from Wisconsin.

Mr. PROXMIRE. I thank the Senator from Georgia. I shall take only a few minutes.

THE ARMENIAN LESSON: WHY WE MUST RATIFY THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, 63 years ago the world witnessed one of the most horrible tragedies in history—the almost total destruction of the Armenian people at the hands of the Turks. More than half of the nearly 3 million Armenians in Turkey were brutally slaughtered. Survivors fled to other parts of Europe and Asia, and some to the United States.

The reason I remind you of this outrageous crime against humanity is because I believe that there are both a lesson to learn and an action which we can take to prevent genocide in the future.

Mr. President, what have we learned?

We have learned, first of all, that genocide is an international problem. Mass murder in one section of the globe affects each and every one of us—even thousands of miles away.

National Geographic Magazine devoted a story to the Armenians last month which attests to their characteristic hard work, their long history, and unique culture. An attack on these people deprives us all of the contributions which they could have made to mankind.

The flight of a people in the face of annihilation means more than destruction of a culture. There are other implications which reach beyond national borders. The absorption of refugees is an international burden which every nation must contend with.

Second, genocide is a recurrent problem. Although some 200,000 Armenians were massacred in the late 1800's, there was no cry from other nations to protect the Armenians against further genocide or to punish the perpetrators of these acts. Without foreign interference, there was no warning to prevent the repeat of the slaughter which recurred on a larger scale years later.

The Armenian case is not an isolated example. Nazi genocide of the Jews was also an international problem. The Nazi massacres were the most extensive attacks on the Jewish people. Yet, unhalted attempts to exterminate Jews throughout history foreshadowed the Nazi atrocities.

In short, the Armenian example teaches us two things. First, since genocide is an international problem, it must be dealt with through an international solution. Second, the only way to prevent genocidal acts from recurring is to condemn them wherever they occur and to take action against the murderers.

Sanctions delivered against one country by another cannot alone prevent genocide. Genocide must be outlawed and actively punished by a community of nations. The most direct solution is to condemn, punish, and prevent genocide through an international treaty.

Mr. President, the fact is that a Genocide Treaty already exists. It is already in force.

The fact is that 82 nations have signed this document. Eighty-two nations have expressed their outrage at genocide and have taken action to stop it. But we have not.

Must we wait longer to approve this treaty?

Let us learn from the unfortunate example of the Armenians and ratify this important agreement.

AGRICULTURAL CREDIT ACT OF 1978—CONFERENCE REPORT

Mr. TALMADGE. Mr. President, I submit a report of the committee of conference on H.R. 11504 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 11504) to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program to farmers and ranchers in the United States, and extend the Emergency Livestock Credit Act, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of July 11, 1978.)

Mr. TALMADGE. Mr. President, this bill had its origins in a major oversight study into the management of the Farmers Home Administration begun by the Committee on Agriculture, Nutrition, and Forestry in 1973.

As a result of that work, many administrative improvements have been made in the agency. This bill represents the legislative adjustments that the committee feels should accompany the administrative improvements.

But the legislation is far more than a mechanical repair of old laws to improve their usefulness. It also includes a best effort of the House, the Senate, and the Carter administration to make the many programs of the Farmers Home Administration more responsive to the needs of American agriculture.

It improves established programs and creates new ones to help farmers survive the economic squeeze that has gripped many segments of the Nation's agriculture in recent years.

In short, this is the most significant and far-reaching farm credit legislation to come before Congress during my 21 years in the Senate.

The past few years have been the most difficult period for American farmers since the Great Depression. In addition to depressed farm prices and sharply rising production costs, many sections of the country—including my own State of Georgia—have suffered severe drought over the last several years. In fact, many sections of Georgia continue to be plagued with drought this year.

The bill contains many provisions to help farmers cope with disasters—whether of an economic or natural origin—that so many have experienced over the past year or so.

It also will make it possible for Federal farm emergency relief to be made available when needed and as needed much more rapidly and with less Government redtape.

In the past, the emergency loan program could not be put into effect without going through the process of having an entire county declared a disaster, under this bill, the emergency program administered by the Farmers Home Administration can be made available to individual farmers on a case-by-case basis. This is a significant improvement over the existing law.

This bill is not a cure-all for the problems faced by our farmers and ranchers. Nonetheless, this bill is a major step in providing farmers with a more realistic and more flexible credit program that is in touch with the times.

Before turning to a discussion of the bill in detail, I would be remiss if I did not pay tribute to the leadership and dedicated work of the late Senator from Alabama (Mr. ALLEN) in bringing this legislation into being.

As chairman of the Subcommittee on Agricultural Credit and Rural Electrification, Senator Allen did the vital spade work in development of the bill through long hearings and drafting sessions. The Agricultural Credit Act of 1978 is a fitting memorial to Jim Allen's contribution to American agriculture and to the welfare and security of the entire Nation.

I also wish to compliment Chairman FOLEY of the House Agriculture Committee for his leadership in the other body in behalf of this major piece of farm legislation. His wise leadership and counsel were also instrumental in guiding

the bill through conference deliberations. He, too, has left a permanent imprint on this important legislation.

THE EMERGENCY AGRICULTURE CREDIT ADJUSTMENT ACT OF 1978

The bill includes a new emergency credit program that was proposed by President Carter. It is designed to aid farmers and ranchers who currently face bankruptcy or foreclosure as a result of economic disaster caused by the tightening of agricultural credit or an unfavorable relationship between production costs and commodity prices. This program will complement existing Federal loan programs available to farmers following physical disasters.

The new program will allow the Farmers Home Administration to guarantee or insure loans for the complete refinancing of farm or home real estate and other farm and essential home debts.

Additional loans could be made to cover farm operating expenses, but not for buying more land.

The maximum amount of loans that may be outstanding under the program at any time is set at $4 billion, and the loan program will be open to farmers until May 15, 1980.

Even though Farmers Home will be acquiring as clients more farmers under the economic disaster loan program, the agency will not lose its position as the farm lender of last resort, since borrowers under this program must show that they have been refused credit from other sources.

This disaster loan program is a temporary measure that will remain in operation for a little more than a year and a half. Its purpose is to provide fast help to farmers caught in a cost-price squeeze that was not of their making.

The new emergency credit program and the adjustments that will be made by this bill to the physical disaster credit program do not represent the final word on emergency assistance for the Nation's farmers.

The administration has submitted a crop insurance bill that will serve as a starting point for taking a new look at crop insurance and other emergency help. I hope that by early next year we will be in a position to enact major legislation to deal with these matters.

AMENDMENTS TO THE CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT

The bill overhauls existing Farmers Home Administration credit programs under the Consolidated Farm and Rural Development Act, raising the real estate loan ceiling from the current $100,000 to $200,000 on Government insured loans, and $300,000 on guaranteed loans. The ceiling on loans for farm operations would be increased from $50,000 to $100,000 for insured loans and to $200,000 on guaranteed loans.

For the first time, family farm corporations, partnerships, and cooperatives will be eligible for Farmers Home credit under the act if they cannot get credit elsewhere.

The bill also establishes a special low-income farm ownership loan plan. Under this program, new farmers and other low-income borrowers who are unable to obtain sufficient credit under the normal Farmers Home ownership loan program could get ownership loans at interest rates of 5 percent or less.

A reduced payment schedule would be established for the early years of the loan so that the farmer could get on his feet.

The Secretary of Agriculture would also be given the authority to consolidate and reschedule payments on farm operating loans under the act.

This lending flexibility should insure that more new farmers are able to get into agriculture, and should also keep low-income farmers from going out of business if a succession of bad crop years make it impossible for them to repay their loans on schedule.

Indeed, flexibility is the key characteristic of the Agriculture Credit Act of 1978. We have given the Farmers Home Administration flexibility to deal with virtually every eventuality that may confront farmers. FmHA will have the flexibility to make sure that producers can get into business and then stay there.

We have endeavored to insure that FmHA lending programs dovetail with, and complement, the lending programs of the farm credit system, so that no farmer should fail because he falls between the cracks of the two credit systems.

Finally, we have made country banks partners with the Government in agricultural lending through improved guaranteed loan programs provided by the bill. Rural banks will now have an opportunity to make loans that will be guaranteed by the Government, and will be provided a secondary market system through which they can discount the loan instruments in order to avoid pledging too many of their own assets.

The bill increases interest rates on most Farmers Home Administration loans to the level of the cost of money to the Government. This will eliminate a drain of millions of dollars annually on the Federal Treasury resulting from subsidized interest.

At the same time, lower interest rates will be retained for several programs to assure that low-cost credit is available for those who need it, when they need it.

I anticipate that the increase in interest rates for the farm ownership loans will make it possible to expand considerably the amount of money available for such loans. This should end the annual problem of not enough money to go around. (This increase will become effective on the date of enactment of the bill, and farmers whose loan applications are approved prior to that date will receive the 5-percent interest rate provided under current law.)

RURAL DEVELOPMENT IMPROVEMENTS

In addition to improving the farm lending programs of the Farmers Home Administration, the bill also makes some major changes in the rural development programs handled by that agency. These programs, which were created or improved by the Rural Development Act of 1972, are key components of the Farmers Home effort. They work in tandem with the farm loan programs to improve the quality of life in rural America.

My good friends, former Senator George Aiken of Vermont and Congressman BOB POAGE of Texas, teamed up some years ago to create a special loan and grant program for the construction of water and waste disposal systems in rural communities.

That program was improved in the Rural Development Act, and is further improved by this bill. This is among one of the most popular FmHA programs.

At the present time, the program authorizes outright grants of up to 50 percent of project cost and 5 percent loans on the balance to communities with limited fiscal resources to build water and waste disposal systems. This bill increases the maximum grant amount to 75 percent, and increases the annual program authorization from $300 million to $500 million. This will make it possible for many more communities to participate in the program.

Under the business and industrial loan and grant programs all applications now must be submitted to the Labor Department for a determination of whether a particular project would cause jobs or business activity to be transferred from one area to another, or cause overproduction.

Under this bill, loans and grants of $1 million or less—or those involving fewer than 50 jobs—would be exempt from this requirement. Further, the 60-day review period would be reduced to 30 days.

The House version of the bill provided for a Farmers Home Administration guaranteed housing program for rural residents similar to the program administered by the Department of Housing and Urban Development for urban residents. The conference with some reluctance struck this provision after the Department of Agriculture informed the conferees that it intends to implement such a program. This year under existing statutory authorizations. The Department initiative will make up to $500 million in housing loans available to families with incomes of up to $20,000 a year. Further, the Department indicated that it would consider adjusting this income level upward if studies show such action is warranted.

GUARANTEED LOANS

Upon enactment of this bill, well over $2 billion in guaranteed lending authority will be availabe to rural America for business, farm, and housing projects. These loans will be made by private commercial lenders and guaranteed by the Federal Government.

The purpose of these guarantees is to make developmental lending more attractive to commercial lenders. Clearly it is the private sector that is going to make rural development work.

It is the hope of Congress that these loans will allow local banks and other lending institutions to become the economic hub around which rural development can occur. The guarantee of secondary markets, where this loan paper can be discounted, should assure that

banks will form partnerships with Farmers Home to protect the Government's investment and their own.

Often in the past we have heard complaints that guaranteed lending is too complicated and requires too much paperwork for banks to get involved. Such complaints are justified. It is too complicated. One reason for the complication is that some banks have not taken these obligations as seriously as they should.

I think it is incumbent on rural bankers and their associations to maintain a constant liaison with the Farmers Home Administration, both at the national and State levels. Routine communication will undoubtedly lead to an improvement in relations between banks and the Government. This should eliminate much of the paperwork and confusion that now surrounds guaranteed lending.

I pledge the resources of the Committee on Agriculture, Nutrition, and Forestry to assist in this process in every way possible.

Mr. President, I am proud of this legislation. It is constructive. It will go a long way toward improving the credit position of our farmers and the quality of life in rural America. I urge the Senate to adopt the conference report.

Mr. President, I ask unanimous consent that there be printed in the RECORD a staff summary of the conference substitute.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SENATE COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

H.R. 11504—The Agriculture Credit Act of 1978.

SHORT EXPLANATION

H.R. 11504, as approved by the conference committee, makes a number of improvements in the Federal credit assistance programs for farmers, ranchers, and rural communities and businesses. Title I amends the Consolidated Farm and Rural Development Act, title II establishes a new economic emergency loan program for farmers and ranchers, and title III amends and extends the Emergency Livestock Credit Act of 1974.

Also, title III of the bill amends the Beef Research and Information Act, title IV authorizes the Secretary of Agriculture to implement an emergency conservation program, and title V authorizes additional price supports to rice producers during cropland set-asides.

SUMMARY OF MAJOR PROVISIONS

Amendments to the Consolidated Farm and Rural Development Act:

Title I of the bill would—

(1) Extend eligibility for farm real estate and operating loans under the Consolidated Farm and Rural Development Act ("the Act") to family farm corporations, cooperatives, and partnerships (loans may now be made only to individual farmers and ranchers);

(2) Authorize the Secretary of Agriculture to make, insure, or guarantee loans to farm owners or tenants for the purpose of meeting Federal, State, or local requirements for agricultural, animal, or poultry waste pollution abatement and control facilities;

(3) Increase the lending limits for farm real estate and operating loans under the Act (from $100,000 in the case of farm real estate loans to $200,000 for loans insured by the Secretary, and to $300,000 for loans guaranteed by the Secretary; and from $50,000 in the case of operating loans to $100,000 for loans insured by the Secretary, and to $200,000 for loans guaranteed by the Secretary);

(4) Eliminate the requirement that bond counsel be appointed to review the validity of water and waste disposal facility loans under the Act if (a) the loan is less than $500,000 and evidenced by notes and mortgages rather than bond issues, and (b) the Secretary has available legal counsel to perform such review;

(5) Increase the amount available annually for water and waste disposal facility project grants under the Act from $300 million to $500 million and increase the maximum allowable Federal share on such projects from 50 percent to 75 percent;

(6) Authorize the Secretary to make, insure, or guarantee loans—of up to $1 million—to rural communities that are cut off from access to electric energy sources for the construction, acquisition, and operation of power transmission facilities;

(7) Establish interest rates for loans under the Act as follows:

(a) Guaranteed loans.—The rate agreed on by the borrower and lender, but not in excess of a rate as may be determined by the Secretary.

(b) Insured farm real estate loans.—Not in excess of the cost of money to the Government plus up to 1 percent added at the discretion of the Secretary, with the exception that low income farmers who cannot meet the regular credit terms under the Act will receive an interest rate not in excess of 5 percent.

(c) Insured community facilities loans.—Not in excess of 5 percent (as under existing law),

(d) Insured business and industrial loans under sections 304(b), 306(a)(1), and 310B of the Act.—Not less than the cost of money to the Government, adjusted to provide a rate comparable to the private market rate for similar loans, plus a service charge set by the Secretary (as under existing law),

(e) All other insured loans under subtitle A of the Act.—Not in excess of the cost of money to the Government plus up to 1 percent added on at the discretion of the Secretary,

(f) Insured farm operating loans.—Not in excess of the cost of money to the Government plus up to 1 percent added on at the discretion of the Secretary.

(g) Emergency loans.—Effective October 1, 1978, the provision of existing law that requires that (during any period in which the Small Business Administration is making loans under sections 7(b)(1) and 7(b)(2) of the Small Business Act at an interest rate below the rate for interest bearing obligations of the United States) emergency loans under the Act are to bear interest at a rate not to exceed such lower interest rate in amounts up to $250,000 to businesses and $40,000 to homeowners, would be repealed. The normal interest rate for emergency loans under existing law—not in excess of 5 percent on loans up to the amount of the actual loss caused by the disaster, and the rate prevailing in the private market for similar loans on portions of loans in excess of actual loss—would again become effective;

(8) Repeal the $500 million loan ceiling for the Agricultural Credit Insurance Fund;

(9) Authorize the use of the Agricultural Credit Insurance Fund to pay costs of administering programs under the Act;

(10) Authorize the Secretary to purchase the guaranteed portion of loans guaranteed under the Act, as necessary to assure an adequate secondary market for such loans;

(11) Exempt small businesses from the requirements of existing law that business and industrial loans and grants under the Act may not be made if the project being financed would cause a shift in employment or business activity from one area to another or cause overproduction, with the exemption applying if the financial assistance involved did not exceed $1 million or employment was not increased by more than 50 employees, and reduce from 60 to 30 days the time within which the Secretary of Labor must act to certify that a proposed loan or grant would cause a shift in employment or business activity, or overproduction;

(12) Establish a special low income farm ownership loan program under the Act for owners or operators of small family farms (including new owners and operators) who are unable to obtain sufficient credit under the Act's regular credit programs to finance their actual needs, and who have a low income and demonstrate a need to maximize their farm income. (Corporations, partnerships, and cooperatives would be eligible for the program if they were engaged in farming or ranching and if the entity and all stockholders, partners, or members met the same requirements that apply to individual applicants.) Under the program, the interest rate for farm ownership loans would be established by the Secretary of Agriculture but could not exceed 5 percent. All borrowers under this program would be eligible for a reduced payment schedule during the initial years of the loan repayment period;

(13) Authorize the Secretary to consolidate or reschedule farm operating loans under the Act for payment over a period of up to 7 years from the date of consolidation or rescheduling;

(14) Delete provisions of existing law requiring the Secretary to make emergency loans under the Act to all eligible persons in any area (a) designated by the Secretary as an emergency area on the Secretary's finding that a natural disaster has occurred in the area that substantially affected farming, ranching, or aquaculture operations or (b) designated as a major disaster or emergency by the President under the Disaster Relief Act. The bill would require the Secretary, instead, to make emergency loans, on a case-by-case basis, to applicants where the Secretary finds that the applicant's farming, ranching, or aquaculture operations have been substantially affected by a natural disaster in the United States or by a major disaster or emergency designated by the President under the Disaster Relief Act;

(15) Authorize the Secretary to continue operations under the Act with respect to property securing a loan under the Act in an area that has changed from rural to urban;

(16) Specifically authorize the Secretary to grant moratoriums on the payment of principal and interest, and forego foreclosures, on loans under the Act and any other law administered by the Farmers Home Administration;

(17) Authorize the Secretary to provide procedures for the appeal, review, and possible reversal or modification of determinations made by county committees under the Act;

(18) Exempt borrowers of guaranteed loans under the Act from the requirement that they refinance their debt if they become able to obtain credit from other sources at reasonable rates and terms;

(19) Effective October 1, 1979, require Congress every 3 years to authorize lending limits for each of the Farmers Home Administration programs under the Act. Such limits would be established separately for direct and insured loans and guaranteed loans. The bill would also require that appropriations Acts setting budget levels for programs authorized by the Act state two amounts for each program—one amount for direct and insured loans and a separate amount for guaranteed loans;

(20) Authorize other Federal departments and agencies to participate with the Farmers Home Administration in its programs of financial and technical assistance; and

(21) Express the sense of Congress that, in carrying out the Act, the Secretary should ensure that (a) only Department personnel who are adequately prepared to understand the particular needs and problems of farmers in an area be assigned to such area, and (b) a high priority be placed on keeping existing farm operations operating.

Emergency Agricultural Credit Adjustment Act of 1978:

Title II of the bill would authorize the Secretary of Agriculture to insure or guarantee loans to individual farmers and ranchers, and domestic corporations and partnerships and farm cooperatives, directly and primarily engaged in agricultural production, if the loan applicant—

(1) has adequate experience or training and resources,

(2) needs such credit to maintain a viable agricultural production operation, and

(3) is unable to obtain sufficient credit from normal credit sources at reasonable rates and terms due to national or areawide economic stress, such as a general tightening of agricultural credit or an unfavorable relationship between production costs and prices received for agricultural commodities.

Preference for these loans is to be given to owners and operators of not larger than family farms.

Use of loan proceeds.—The proceeds of these loans could be used for refinancing outstanding indebtedness on farm or home real estate and other farm and essential home debts that cannot be paid unless assistance is provided under title II; reorganization of the farming, ranching, or aquaculture operation; financing essential farm, ranch, and aquaculture needs, including water rights and supplies, irrigation facilities, livestock, poultry equipment, feed, seed, operating supplies and expenses, cash rent, and family subsistence; financing essential land and water development, use, and conservation; and loan closing costs. No loan could be used to purchase or lease additional land.

Guaranteed loan limit.—The Secretary could guarantee up to 90 percent of a loan under title II.

Interest rates.—The interest rate for insured loans would be the cost of money to the Government plus up to 1 percent added at the discretion of the Secretary. The interest rate for guaranteed loans would be the rate agreed on by the borrower and lender.

Repayment period.—These loans would be payable within the same time period prescribed for loans for similar purposes under the Consolidated Farm and Rural Development Act, except that the repayment period for operating loans could extend to 20 years if justified.

Fees and charges..—The Secretary could not assess fees or charges for any loans insured or guaranteed under title II.

Conditions.—Applicants must be unable to obtain credit in the absence of assistance under title II, and borrowers would be required to refinance their debt ("graduate" from title II lending) when they become able to obtain credit from other sources at reasonable rates and terms.

Security.—The borrower would be required to secure the loan with such available collateral that, together with the confidence of the Secretary, and (for guaranteed loans) the lender, in the borrower's repayment ability, is deemed adequate by the Secretary to protect the Government's interest.

Funding.—The Secretary would use the Agricultural Credit Insurance Fund to operate this loan program. The Fund would be reimbursed for program expenses by annual appropriations. There would be a $4 billion ceiling on the amount of loans outstanding at any time.

Loan limit.—Borrowers would be limited to $400,000 in loans under title I, except that in no event could the combined total principal balances outstanding for the borrower on loans under (a) subtitles A and B of the Consolidated Farm and Rural Development Act and (b) title II exceed $650,000 at any time.

Regulations and loan processing.—The Secretary would be required to issue final regulations to implement title II within 30 days after its enactment and, insofar as practicable, complete action on each loan application within 30 days after it is received.

Effective period.—The Secretary could insure or guarantee loans under title II from the date of enactment of the bill through May 15, 1980.

Extension and amendment of the Emergency Livestock Credit Act of 1974 and amendment of the Beef Research and Information Act.

Title III of the bill would—

(1) With respect to Emergency Livestock Credit Act of 1974—

(a) Extend the authority of the Secretary of Agriculture to make new loan guarantees under that Act for 1 year to September 30, 1979,

(b) Permit guaranteed lenders to continue to make advances on line-of-credit loans under that Act during the part of the loan period falling after the cutoff date for the making of new loan guarantees (which would be Septmber 30, 1979), and

(c) Expand the category of "bona fide farmers and ranchers" eligible for assistance under that Act to include "bona fide farmers or ranchers owning livestock that are fed in custom feedyards"; and

(2) With respect to the Beef Research and Information Act, reduce from "not less than two-thirds" to a "majority"" the reigstered cattle producers, voting in a referendum, who must favor the issuance of any order under that Act before the order can become effective.

Emergency conservation program:

Title IV of the bill would—

(1) Authorize the Secretary of Agriculture to make payments to agricultural producers who carry out emergency measures to control wind erosion on farmlands, or to rehabilitate farmlands damaged by wind erosion, floods, hurricanes, or other natural disasters when—as a result of the wind erosion or natural disasters—new conservation problems are created that (1) if not treated, will impair or endanger the land, (2) materially affect the productive capacity of the land, (3) represent damage that is unusual in character and, except for wind erosion, is not the type that would recur frequently in the same area, and (4) will be so costly to rehabilitate that Federal assistance is or will be required to return the land to productive agricultural use (Since 1957, an identical emergency conservation measures program has been implemented by the Department under authority contained in appropriations Acts and the Soil Conservation and Domestic Allotment Act);

(2) Authorize the Secretary of Agriculture to make payments to agricultural producers who implement emergency water conservation or water enhancing measures during periods of severe drought;

(3) Authorize the Secretary of Agriculture—in cooperation with landowners and land users—to undertake such emergency measures for runoff retardation and soil-erosion prevention as he deems necessary to safeguard lives and property from floods, drought, and the products of erosion on any watershed whenever fire, flood, or any other natural occurrence causes a sudden impairment of that watershed;

(4) Authorize the appropriation of funds to implement the emergency conservation programs under title IV, which funds would remain available until expended, and authorize the Secretary of Agriculture to use the facilities, services, and authorities of the Commodity Credit Corporation in implementing these programs (The Corporation could not make any expenditures to implement the programs unless funds specifically appropriated for such purpose had been transferred to it.); and

(5) Become effective October 1, 1978.

Price support for producers of rice:

Title V would authorize the Secretary of Agriculture—whenever a set-aside is in effect for any of the 1978 through 1981 crops of rice—to increase the target price for rice by such amount as the Secretary determined appropriate to compensate producers for participation in the set-aside. In determining any increase, the Secretary would be required to take into account changes in the cost of production resulting from participation in that set-aside. If the target price was increased for any crop of rice for which a set-aside is in effect, the Secretary could also increase the target price for any other commodity in such amount as the Secretary determines necessary. The Secretary must adjust any increase in the target price to reflect, in whole or in part, any land diversion payments for the crop for which an increase is determined. [Similar authority to make adjustments in the target prices for wheat, feed grains, and upland cotton is contained in the Emergency Agricultural Act of 1978.]

Producers who, prior to October 1, 1978, receive payments on the 1978 crop of rice as computed under the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, could elect, after September 30, 1978, to receive payments as computed under title V.

● Mr. DOLE. Mr. President, H.R. 11504, as approved by the conference committee, makes a number of improvements in the Federal credit assistance programs for farmers, ranchers, and rural communities and businesses.

Title I amends the Consolidated Farm and Rural Development Act, title II establishes a new economic emergency loan program for farmers and ranchers, and title III amends and extends the Emergency Livestock Credit Act of 1974.

Also, title III of the bill amends the Beef Research and Information Act, title IV authorizes the Secretary of Agriculture to implement an emergency conservation program, and title V authorizes additional price supports to rice producers during cropland set-asides.

I am pleased to work on this major piece of farm credit legislation which has now been finished. The bill is the result of several years work. During that time I introduced several bills in the Senate which contained the essential features that have been combined into this farm credit bill.

SENATOR JIM ALLEN

I want to point out that the late Senator Jim Allen of Alabama was the chairman of the Agriculture Committee Subcommittee on Agricultural Credit and Rural Electrification during the markup and passage of this bill.

I believe the FmHA is now equipped with the necessary tools to adequately finance family farmers in Kansas.

EMERGENCY CREDIT LEGISLATION

Farmers and ranchers need the benefits of this legislation now. They have been waiting for several months for Con-

gress to complete work on the bill, especially the economic emergency credit provision.

My office is getting many calls each week from farmers, bankers, and others wanting to know when the bill will be passed. Emergency credit is needed now.

This bill sets up an economic emergency credit program that will help farmers survive the present economic crunch. This program will be used by many farmers in Kansas.

BEEF REFERENDUM

Title III of this bill amends the Beef Research and Information Act. In 1976, we were successful in passing the Beef Research and Information Act, which provides for a referendum to be conducted by the cattlemen. If the referendum was approved, a nationwide check-off program would be established to create a Beef Board financed with the funds collected.

The Beef Board would develop research and carry out programs of market development at home and abroad. Any cattlemen not wishing to participate would be able to freely request a refund of deducted check-off funds.

Such a referendum was conducted in the summer of 1977. The referendum was approved by 56.7 percent of the cattlemen voting, but the law required approval by two-thirds of those voting.

An amendment I proposed to this legislation, was adopted by the Senate and accepted by the House conferees. The amendment lowered the required approval to a majority of those cattlemen voting.

We are hopeful that now another referendum can be conducted and be readily approved. Approval of this referendum and the resulting research and market development could provide a tremendous stimulus to beef and corn farmers.

It is well to remember that this program was proposed by farmers, will be approved or disapproved by farmers, will be run by farmers using farmer's money, and will benefit farmers.

The only Government responsibility is to conduct the referendum and to monitor the actions of the Beef Board to make sure it does not act outside the authorities of the referendum.

It will not be another Government Agency as has been indicated by some. It will not cost the taxpayers of the Nation any tax dollars.

It is patterned after comparable programs that have existed for years for wool, cotton, potatoes and eggs.

IMPLEMENTATION OF THE BILL

I am now concerned about the implementation of the bill. I am hopeful the Congress will adequately fund these loan programs and also provide increased funding to FmHA for additional employees and computer hardware.

The Congress and the Office of Management and Budget have just not allocated enough funds or employee ceilings to properly implement and carry out all the loan programs given to FmHA by the Congress.

FMHA PROGRAMS EXPANDED

The Congress has expanded the responsibilities of the FmHA to deliver millions of dollars of credit to farmers and rural communities. The time has come when FmHA cannot continue to absorb all the new programs unless the OMB increases their employee numbers substantially.

My concern is that we have once again expanded the authorities and responsibilities of the FmHA without really making provisions to give them the manpower and technical resources they need to properly carry out the new programs.

The new programs in this bill will not benefit farmers, ranchers and rural communities unless the regulations can be issued promptly and the loans made and serviced in a timely manner.

I hope the Congress, the OMB, and the Secretary of Agriculture will take this into account when they review the manpower needs of the FmHA. The loan delivery and servicing capacity of the FmHA has reached a maximum and is almost to the breaking point.

Without proper personnel, equipment, computer capacity and other advancement and improvement the fine loan record of the FmHA will be marred.

I am constantly receiving calls and letters from my constituents saying it takes too long to obtain a loan, saying FmHA is understaffed, and saying FmHA is a fine agency, but they are just overloaded with applicants and programs and cannot get the work finished in a timely manner.

GUARANTEED LOANS

The guaranteed loan authorities of the FmHA are expanded in this bill. The loan limits on guaranteed loans have been raised to $300,000 for real estate loans and to $200,000 for operating loans.

This portion of the bill will not be successful unless the FmHA, the commercial banks, the Federal land banks and production credit associations and other lenders all get together and agree on regulations that everyone can live with.

Without the support and cooperation of private lenders the guaranteed loan program will not achieve the expectations of the Congress.

We believe it is important for the FmHA to remain a supplemental lender, supplementing and complementing the private lending institutions, not competing with them.

The best way for FmHA to remain a supplemental lender, the best way for FmHA to graduate borrowers to private credit, and the best way to implement the test for credit, is for FmHA to have an aggressive guaranteed loan program.

In the past, especially in the emergency livestock loan program, the FmHA and the commercial banks in Kansas and other States have had repeated misunderstandings over rules and regulations. Loss claims totaling thousands of dollars have been denied in Kansas.

Some Kansas bankers say they just will not participate in any more FmHA guaranteed loans. There is just too much redtape and regulations.

Two of the problems have been: First, the regulations did not allow banks to make loans in the manner practiced by most commercial banks when making livestock loans and, second, the rules and regulations are constantly being changed.

The fine working relationship between the commercial banks and the FmHA has been strained in some areas as the banks come face to face with manuals full of very detailed, confusing, government regulations.

The Congress wants to the FmHA to substantially increase the guaranteed loans and reduce direct loans. This will not happen unless the FmHA can reduce the number of forms that have to be filled out and reduce the tremendous number of regulations that have to be totally complied with before any loss claims will be honored.

I urge the FmHA and all interested lenders to work together to see that this problem can be solved. Guaranteed loans are important to farmers, are important to the future of our private lenders, and are important to helping FmHA adequately serve the Nation's farmers and ranchers.

Satisfactory operating agreements and regulations have to be written that can be lived with by both parties to the loans. I am confident that this can be done if all parties will cooperate.

PRINCIPLES OF SOUND GOVERNMENT LENDING

The Congress has, through the years, set up some sound principles of Government lending for the FmHA to follow. The new legislation in this bill supports and builds on those principles.

The Congress, I believe, has had three major principles or guidelines for the FmHA to follow in their delivery of loan programs to rural America. If these basic principles had been followed by other Government lenders, many loan losses and mistakes would have been avoided.

The three basic principles are:

First. The FmHA program is to be a loan program and not a welfare or giveaway program. Loans are made to those who need them and the loans are expected to be repaid with interest. Mortgages are taken on property and chattels to back the loans.

I do not believe an agency can loan money out of one pocket and give money away out of the other pocket and ever expect the loans to be repaid. FmHA should never become a welfare or giveaway program. It should always maintain its reputation for being a loan program, making loans that have to be repaid.

The losses on FmHA loans have been low and the repayment record has been fantastic for the type of loans that are made. This record can only be maintained if Congress resists the temptation to make FmHA into a welfare program by giving it too many grant programs and by deeply subsidizing the interest rates on the loans.

This bill raises the interest rate on most FmHA real estate loans to the Government cost of money. Congress has raised the FmHA interest rates to the cost of money on several programs in the last several bills that have been passed amending the FmHA laws.

Second. The FmHA loan delivery sys-

tem is close to the people. Congress has funded and created a great delivery system composed of more than 1,800 local county offices. The offices are staffed by employees who live in the local community and understand farming and local community problems.

A rural family in Kansas does not have to contact Denver, Oklahoma City, Kansas City, Wichita, Chicago, or St. Louis to obtain a loan like they do in other Federal programs. In Kansas the FmHA has 40 local offices serving the 105 counties.

This loan delivery system helps FmHA to be accountable to local communities for the type of loan program they implement in that area and helps hold local families accountable for the repayment of the loans they receive.

The local FmHA employees are known in the area they serve and have names and faces. They are not a part of the nameless, faceless, bureaucracy we hear so much about these days.

Third. The FmHA loan programs do not compete with private lenders. The Congress has never wanted the FmHA to be in competition with private lenders. They are not to compete with the free enterprise system.

The Congress has maintained a test for credit in most all of the FmHA programs. They have also maintained the graduation feature where a borrower graduates to private credit when he is financially able to do so.

The FmHA is to assist those persons and communities who for some legitimate reason are not able to obtain private credit for what they want to do. The Agency helps spin persons into the free enterprise system by helping them finance a farm, a home, a business, a water district, or whatever. They help people become income producing and tax paying citizens.

There are too many Government programs that compete with private business. I hope Congress will maintain the integrity of the FmHA loan program.

Mr. President, the bill, H.R. 11504, makes some very necessary changes in the FmHA laws and creates some new loan programs while maintaining the principles of sound Government lending set up by Congress for the FmHA. I urge the adoption of the conference report.●

Mr. TALMADGE. Mr. President, I yield 10 minutes to the distinguished Senator from Alabama (Mrs. ALLEN), whose husband was instrumental in developing this legislation.

The PRESIDING OFFICER. The distinguished Senator from Alabama is recognized.

Mrs. ALLEN. Mr. President, I am pleased to support the adoption of the conference report on H.R. 11504, the Agricultural Credit Act of 1978. It is altogether fitting and appropriate that I do so.

This landmark legislation breathed its initial legislative life on the way to full maturity as a public law in the Subcommittee on Agricultural Credit and Rural Electrification of the Senate Committee on Agriculture of which it was my late husband's privilege to serve as chairman during this 95th Congress until his death. He would have been so proud and so pleased to have been here today to speak in favor of this report.

When the subcommittee met on October 11, 1977, to consider a revision of farm credit programs, the hearings were begun with Jim's opening statement, a copy of which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

OPENING STATEMENT OF SENATOR JAMES B. ALLEN BEFORE THE SUBCOMMITTEE ON AGRICULTURAL CREDIT AND RURAL ELECTRIFICATION, TUESDAY, OCTOBER 11, 1977

The purpose of these hearings, as previously announced, is to consider three bills pending before this Subcommitte providing for changes in the farmer-loan programs of the Farmers Home Administration.

Senators Bellmon and Dole introduced S. 312 in January of this year. S. 2126 was introduced by Senator Church on September 22, and S. 2146 was introduced by Senator Talmadge at the request of the Secretary of Agriculture on September 27. All three bills are similar in the changes they propose in the Consolidated Farm and Rural Development Act.

These three bills basically address themselves to changes in the farm ownership and farm operating loan programs of the Farmers Home Administration. Since the FmHA was first instituted the ownership and operating loans have served American farmers and American agriculture well. In the last two years, however, the cost of land has escalated and farm operating expenses have virtually doubled.

With the decrease in value of the dollar, and with the increased cost of land and operating expenses, the present limits prescribed by law for farm ownership loans, farmer operating loans, and total permissible indebtedness allowed the Farmers Home borrowers may well be unrealistic. Our purpose is to examine the situation as it presently exists and make a determination as to the advisability of such proposed changes.

These bills propose to make it possible for the Farmers Home Administration to work more closely with private bankers, improve the quality and expand credit services to rural borrowers, and restore fiscal restraint and reponsibility to the administration of these programs.

The present $100,000 limit on farm ownership loans was established in 1970 and the present loan limit on operating loans was set at $50,000 in 1972. These limits were set long before the double digit inflation which descended upon our economy in 1973 and 1974. Consequently, there has been no flexibility within the FmHA to compensate for the pressures exerted by this inflation in the last several years.

In extended hearings held jointly by the Senate Subcommittee on Rural Development and the House Subcommittee on Conservation and Credit during the 94th Congress, January 27 through 29 and February 4 and 5, 1976, these problems were addressed by the various witnesses who appeared before the Subcommittees. The then Congressmen from Minnesota, the Honorable Bob Bergland, who was serving as the Chairman of the House Subcommittee on Conservation and Credit at the time, introduced legislation to bring about the changes we are addressing ourselves to during these hearings. In fact, the Administration's bill to be considered today is USDA's version of the original Bergland Bill.

According to USDA's Economic Research Service, land prices have increased more than 220% since 1970 and according to ERS, the index of prices paid by farmers for operating expenses has increased by more than 160% since 1972. When you consider the cost of fertilizer, fuel, machinery, feed, and seed, such statistics are quite understandable. These facts make it evident that the cost of doing business has risen sharply since the last increase in the Farmers Home Administration's real estate and operating loan limits.

United States agriculture is second to none in the world. The basis of our success has been the family farmer. The family farmer has been able to make it in the past because of the assistance and responsiveness of the government through the Farmers Home Administration. It is imperative, therefore, that the programs of the Farmers Home Administration keep pace with the times and provide our farm families with the support they need.

We must not lose sight that there are basically three types of farm families with whom FmHA does business. There are those who are fairly well established but need some supervision through the guaranteed loan provisions. There are others who are not so financially secure who need some help through the insured loan route at a reasonable rate of interest, and, thirdly, there are the young farm families who need every assistance available to get their stake. One of the main purposes of the FmHA has been to help young and beginning farmers get established. It is imperative that young farmers be brought into agricultural production to insure the provision of food and fiber for the United States and the world in the future.

These bills we are considering today are aimed at providing access to credit which new farmers must have to get started and which established farmers must have to carry them through when faced with periods when cost exceeds prices.

At this point I am submitting for the record copies of S. 312, S. 2126, and S. 2146, along with the request from the Department of Agriculture that such legislation be introduced, and the legislative report concerning the legislation as introduced by Senator Talmadge in S. 2146.

Our first witness today is one who understands the farmer and farming because he has been one. We are happy to have you here today, Secretary Bergland. Please proceed with your statement.

Mrs. ALLEN. At this hearing on October 11, 1977, Mr. President, it was agreed that the subcommittee would consider the three bills before it, but further agreed that S. 2146, the administration's request-bill, would be used as the vehicle in markup and for the reporting purposes. Two weeks later, on October 25, the subcommittee met in executive session, to markup the bill and, after the adoption of several amendments, S. 2146 was ordered reported to the full committee. Finally, on March 15, 1978, the full Senate Committee on Agriculture met in executive session to consider S. 2146, as amended by the Subcommittee on Agricultural Credit and Rural Electrification, and after adoption of several amendments voted unanimously to report the bill, as amended, to the Senate.

On May 1, the Senate began its consideration of S. 2146 with Senator Jim Allen as floor manager of the most comprehensive and inclusive farm credit legislation to come before the Congress in recent years. On May 2, the Senate passed the bill by a vote of 92 to 0. Though he never said so, I know he was delighted with that one-sided vote on a bill which was of such importance to our Nation's farmers. Who knew at that time that it was to be the last time he was to act as floor manager for any

piece of legislation? Before the conference committee could meet to resolve the differences and produce the report we have before us today, he was taken from us. It is as though, Mr. President, we consider today the final version of a farm credit vehicle Jim Allen helped to create and mold and that he, through his efforts on behalf of this legislation, leaves a legacy to that part of his constituency he enjoyed representing so much—the family farmers in Alabama and across America.

That there has been an agricultural credit crunch cannot be denied. I remember hearing my late husband say upon his return from a trip to Alabama last December when he had completed a tour of all 67 of our counties, that the agricultural economy of our State was on the verge of economic collapse.

It was his intention then to support and work for passage of an emergency farm support bill along with the passage of this new credit bill which had already been reported out of his subcommittee to assist hard-pressed farmers to get back on their feet. The emergency farm support bill which finally became law in May, was a disappointment to many of our Alabama farmers, because it did not provide the relief and assistance many of them thought necessary. I must admit, Mr. President, that farm credit is no substitute for prices above the cost of production or for adequate farm income. No one can borrow his way out of debt.

The cost-price squeeze in which our farmers are caught is a result of the combination of the devastating drought of 1977, the inflationary spiral which increased the cost of agricultural inputs and machinery, and a surplus of commodities depressing the market. As a result, farm debt has nearly doubled since 1974 to the unprecedented level of $119 billion outstanding, at the beginning of this year. Not taking into account the regular loan programs available to agricultural producers, 5,946 farmers of Alabama were forced to borrow through the emergency drought disaster assistance program of SBA and Farmers Home a total of $232,752,250 in this fiscal year alone. Farmers Home in Alabama has also made 1,149 operating loans for a total of $15,491,000 and 309 ownership loans for a total of $12,055,000 since October 1. According to USDA, total farm debt outstanding in the United States increased by 17 percent last year alone.

In fact, Mr. President, the financial situation became so critical in the agricultural sector that the Secretary of Agriculture was prompted to announce on Sunday, January 15, 1977, that he was directing USDA officials to foreclose on farm loans only when loan owners "flagrantly disregarded" loan payments or failure of the farming operation was deemed to be "inevitable." Secretary Bergland's "no foreclosure policy" was based on an earlier study completed in late 1977 which revealed that farmers were behind on payments of 21 percent of their FmHA farm operating loans, 7 percent of their farm ownership loans, and 10 percent of their disaster emergency loans. At the time of the aforementioned announcement, USDA had outstanding 140,000 farm ownership loans totaling $3.5 billion; 150,000 farm operating loans totaling $1.4 billion and 90,000 disaster emergency loans totaling $2.2 billion.

Consequently, the crucial and immediate problem is how our farmers will meet debt obligations and continue in operation until those cures for the crisis can take effect. This legislation addresses this problem by establishing an economic emergency loan program and making a number of improvements in current loan programs.

As this bill was being hammered out on the legislative anvil, it had become apparent that the current debt load had become unmanageable for many farmers. Obviously, many farmers needed special credit assistance this year to ease the pressures of unmanageable payments due on existing debt, thus providing them with working capital to enable them to earn their way back to solvency. Faced with the circumstances in which many commercial lenders were loaned up to their limits and were reluctant to overextend themselves to already overextended farmers and that FmHA did not have a program specifically designed for economic disasters, the Congress had no other alternative but to resurrect the economic loan program which had been in effect from 1953 until 1961, as established by Public Law 85–113, which authorized the Secretary of Agriculture to make economic emergency loans to farmers in instances where the Secretary found that an economic disaster had caused a need for agricultural credit that could not be met by the commercial banks or by FmHA under its regular loan programs.

Title II of the bill is designed especially for that purpose, Mr. President. It guarantees relief to the farmers and ranchers who are facing bankruptcy or foreclosure. Under these provisions FMHA can guarantee or insure loans for either complete refinancing of farmers' debts or for making principal and interest payments on those debts. Individual farmers would be able to attain loans of up to $400,000 under this program, provided that total loans by any one borrower from all FMHA programs do not exceed $650,000. USDA is authorized to make loans under this program not to exceed $4 billion over the period ending May 15, 1980. These funds, under guarantee and insurance provisions, are designed to come from the private market rather than the taxpayer at interest rates to be negotiated between private lenders and borrowers for guaranteed loans and at the cost of money to the Government, plus up to 1 percent, for insured loans. The conference committee was wise in its judgment to specify that preference would be given, in making these loans, to owners and operators of family-size or smaller farms. Applicants under the emergency program must show they cannot get credit elsewhere, and borrowers who get insured loans will be required to "graduate" to non-Government credit as their financial condition improves.

Title I of this conference report seeks to bring the existing major credit programs of the Farmers Home Administration into line with current conditions by raising loan ceilings and allowing interest rates on some loans to rise. The present ceilings of $50,000 for farm operating loans and $100,000 for farm real estate loans are unrealistic in light of the increased cost of production and inflated land values. This legislation, provided it becomes law, would raise the FmHA real estate loan ceiling to $200,000 on Government-insured loans and $300,000 on federally guaranteed loans. The ceiling on FmHA farm operating loans would be increased to $100,000 for insured loans and $200,000 on Government-guaranteed credit.

In another significant provision under this section, family-farm corporations, partnerships, and cooperatives would be made eligible for FmHA credit for the first time. In this day of sophisticated family farming, many family corporations and partnerships have been created for tax puposes, and up until now these family-held and family-formed corporations and partnerships have been excluded from eligibility for FmHA loans.

Title I also creates a special small farmer real estate loan plan. Under the small farm program, beginning and low-income borrowers, unable to qualify for normal FmHA real estate loans, could get special real estate loans with interest rates set at 5 percent or less. A reduced principal payment schedule would apply during the early years of each loan to allow the new farm family to get on its economic feet, with the repayment period to cover 40 years.

I am especially gratified to see that the conference committee expanded the community facilities program by providing authority for FmHA to increase grants for water and waste disposal facility grants to $500 million annually from the present $300 million ceiling. As a complement to the increase in the ceiling, this legislation will also permit Federal participation in individual grants to be increased to 75 percent from the current 50 percent. One of the still unconquered frontiers in rural America is that vast area of inadequate water and sewer facilities. Some 50 percent of all rural America is now equipped with adequate provisions in this area. The final 50 percent is the most difficult to reach. With the increase in the grant ceiling and the increase in the Federal share allowable, it is my hope that we shall soon see the day when every section of rural America is supplied with adequate water and waste disposal facilities. We cannot be content until the last community is supplied. This is appropriate legislation to make a step in that direction.

After receiving a commitment from USDA to implement a rural housing program under authority of existing law akin to that offered to urban dwellers by the Federal Housing Administration of the Department of Housing and Urban Development, the conferees agreed to drop from this report a House amendment mandating such a program. The Department of Agriculture through its FmHA spokesmen has committed its good offices to implement a rural hous-

ing loan guarantee program this fiscal year for "above-moderate income" families with incomes in the $15,600 to $20,000 range For fiscal year 1979, the Department has promised to propose a $500 million level for the program and will consider raising the income ceiling if necessary. For too long rural America has been discriminated against in Federal housing programs, and it is my hope that this commitment from USDA will facilitate the correction of that situation.

In recent years the Farmers Home Administration has assisted in the revitalization of the rural areas through the business and industrial loan program. Many business ventures would have failed and others would have never seen the light of day had it not been for this program which was especially designed to give diversification to rural areas. Previously, these loans to small businesses were prohibited if the project being financed would, in the judgment of the Department of Labor, cause a shift in employment or business activity from one area to another or cause overproduction. This legislation before us exempts small businesses from this restriction if the financial assistance involved does not exceed $1 million, or if the direct employment is not increased by more than 50 employees. The bill would also reduce from 60 to 30 days the time within which the Secretary of Labor must act to certify that a proposed loan or grant would cause a shift in employment, or overproduction, after the matter has been submitted to him by the Secretary of Agriculture. The previous restrictions have in the past proved unwieldy and have delayed unnecessarily the making of some needed loans. This new legislation will permit FmHA to be more readily responsive than ever before.

The conference committee has also in its report, accepted an amendment offered to the Senate version of this legislation which would make it possible for cattle producers to adopt a beef promotion checkoff program by a majority vote in a referendum. This provision amends the 1976 Beef Research and Information Act under which cattlemen were authorized to vote on whether they wanted to adopt a producer-financed research and production program, but a two-thirds majority was required for approval of a checkoff program rather than a majority as provided for in this bill.

The conference report contains two other items of significance, Mr. President. At long last we have provided legislative authorization for payments to farmers who carry out approved emergency measures to control wind erosion or to rehabilitate farmland damaged by wind erosion, flooding, hurricanes, or other natural disasters. These emergency conjunction measures are of vital importance to the preservation of our precious farmland which has provided this Nation and the world with a food supply which is the envy of the rest of the world. Payments for these ECM practices as provided for in this bill are now being made by USDA under authority contained in appropriation acts.

Our hard-pressed cattlemen will appreciate the action by the conference committee in extending until September 30, 1979, the 1974 Livestock Credit Act, currently due to expire at the end of this fiscal year. Banks making guaranteed loans under the program would be allowed to make advances after September 30, 1979, based on lines of credit approved for Government guarantees before the cutoff date.

The 1974 Livestock Credit Act was adopted in a period of high feed grain prices and low cattle prices due to an oversupply of cattle on feed—in other words, a similar period of economic emergency akin that of today, but one only involving livestock producers. The objective of the 1974 act was to make more credit available in the form of loans guaranteed by FmHA to bona fide farmers and ranchers primarily and directly engaged in agricultural production who had substantial livestock operations, to enable them to continue their normal operations during the temporarily adverse economic period.

Recovery of the industry has been slow and the almost $1 billion in emergency livestock loans has kept thousands of stockmen in business during the last 4 years. Even though the livestock picture is brighter, and profitability is rebounding in 1978, it will take a while longer before creditors will be willing to carry the industry's debt burden.

Just at the time the cattle industry was beginning to show an upturn and the producers were for the first time in 4 years beginning to make a profit, the administration dampened the spirit of the producers and sent shudders through the cattle market by adjusting the import quotas to permit 200 million additional pounds of imported meat into the United States. Approval of this provision to extend the Emergency Livestock Credit Act will signal our cattlemen that the Congress of the United States has not forgotten them and that we are dedicated to the preservation of the cattle industry in the United States.

Mr. President, it has been my privilege to serve in the U.S. Senate for only a short time—since June 12 in fact—but because of the importance of the agricultural economy in Alabama, I felt compelled to speak out in favor of this conference report today. Agriculture is of the utmost importance to the overall economic health of Alabama and the survival, growth, and resurgence of rural Alabama is imperative if the State itself is to reach its full potential.

Senator Jim Allen was devoted to the farmer and sought to assist him at every turn. I want to do no less, and I am delighted to have been appointed to the Committee on Agriculture, Nutrition, and Forestry, that I might continue to work for and legislate in the interest of the farmers of Alabama and this Nation.

Consequently, Mr. President, I urge my colleagues to approve this conference report on H.R. 11504, by no less a vote than the original legislation, S. 2146, received when it passed the Senate without a single negative vote of 92 to 0 on May 2. If one of my constituents wants to farm or to continue farming, I want to help make it possible for him to do so. I want to help him keep that farm he worked so hard to get, rather than stand idly by and be a party to his bankruptcy. That, Mr. President, is why I am proud today to vote for the approval of this conference report presently before us.

Mr. TALMADGE. Mr. President, I congratulate the distinguished Senator from Alabama for the eloquent speech she has made. What she has said was largely a tribute to the handiwork of her husband, as chairman of the Subcommittee on Agricultural Credit and Rural Electrification, because the conference report we are about to adopt is largely his handiwork.

We are delighted, indeed, to have Mrs. ALLEN as the newest member of the Agriculture Committee. She has a profound, deep, and keen interest in agriculture. I am sure that she will do the same dedicated job that her late, distinguished husband, Senator Jim Allen, did as one of the most outstanding, one of the most dedicated, and one of the most hard-working members of that committee. I congratulate her.

I move the adoption of the conference report.

Mr. STEVENS. Mr. President, I join Senator TALMADGE in welcoming the remarks of our new Senator from Alabama, on behalf if those of us on this side of the aisle. We are delighted to see her speak on a subject that was of such great concern to her husband, a subject on which those of us who are interested in the agricultural area will welcome her assistance and guidance in the future.

If I am not mistaken, this is her first major speech in the Senate, and I am delighted that she has chosen this occasion and this subject to express her views, on the floor of the Senate, as the new Senator ALLEN.

Mr. BAYH. Mr. President, I should like to add my voice to those of my colleagues who have expressed their appreciation for the very perceptive remarks of our distinguished, new colleague from Alabama.

As a boy who grew up on a farm in western Indiana, and still has that family farm under his management, if not at his disposal as readily as it used to be and as I wish it could be now, because it is so far away and because we are so busy here—but with that degree of familiarity, I say to our distinguished and delightful colleague from Alabama that farming has changed a great deal since the Senator from Indiana milked seven cows before breakfast.

I hope and pray that the concept of maintaining the ability of the family farm to be a vital building block in American agriculture has not changed and will not change.

The ingredients of the legislation to which she adds her voice, her heart, and her support are vital in maintaining the financial capability of the family farmer to be solvent and to continue to produce the way no other institution of production can produce any place else in the world.

I welcome her officially, as she has made her maiden speech, and I look forward to working with her in this area and in many other areas in the days ahead.

Mr. ROBERT C. BYRD. Mr. President, I wish to add my commendations to those that have been expressed and extended to the very gracious and charming lady from Alabama, Senator ALLEN, on the eloquent presentation she has made. I know that it does the Senate proud; it makes us all proud. It would make Jim Allen proud to have heard MARYON speak as she has spoken. She is carrying on in his tradition, rendering effective service.

I am very honored at this moment to stand and say that he was my friend and that she is my friend. I am very grateful for the privilege of having served with him, and I am grateful for the privilege of serving with her. I again compliment her on the eloquent speech she has made.

Mr. HARRY F. BYRD, JR. Mr. President, I congratulate and commend the splendid Senator from Alabama on her first address in the Senate. She chose a very important subject, one which is of great importance to the State of Alabama, to the State of Virginia, and to our entire Nation.

I look forward to serving with the distinguished Senator from Alabama (Mrs. ALLEN). In the short time she has been here, she has made a great impression on the Senate of the United States and has rendered conspicuous service to her constituents.

Mr. TALMADGE. Mr. President, I move the adoption of the conference report.

The PRESIDING OFFICER (Mr. MATSUNAGA). Before putting the motion, the Chair wishes to join his colleagues in congratulating and applauding the distinguished junior Senator from Alabama for her eloquent and most persuasive maiden speech on the Senate floor.

Mr. ROBERT C. BYRD. Mr. President, if the Chair will allow me one postscript, one of the things that we all observed about Jim Allen was that he was in almost constant attendance on this floor, and I have observed the same thing about MARYON ALLEN. Since she has been a Member of the Senate she has been in the chair almost all the time listening to the debate on every bill, reading every bill, reading the amendments, and showing the same kind of diligence and attention that was so constantly shown and which was a trademark of her distinguished husband and our late friend, Jim Allen.

I thank the Chair.

● Mr. McGOVERN. Mr. President, the Agricultural Credit Act of 1978 is a piece of legislation that is long overdue. Credit limitations on Farmers Home Administration farmers programs, as well as housing programs and rural development programs, have failed to keep abreast with the shrinking dollar. Farmers costs have gone up in both operating expenses and farm ownership, resulting in a sharply inhibiting feature of farm credit.

As a former chairman of the agricultural Credit Subcommittee and now its ranking majority member, I was a conferee with other members of the Senate Agriculture Committee in negotiations with the House. I did not sign the conference report for two substantial reasons: First, I do not agree with those provisions of the bill which set interest rates on farm ownership loans at cost of money to the Government. I think these rates are too high—I would have preferred the traditional interest rate of 5 percent on these loans under a committee amendment I sponsored during the bill's committee markup. The committee of conference adopted the higher rate. Additionally, I had duties at the United Nations as a U.S. delegate to the Special Session on Disarmament during much of the time the conference committee met, and I was thus unable to participate in the major portions of the negotiations.

Nevertheless, on balance I want to indicate my support for the bill. It is needed and welcomed by farmers. South Dakota farmers have been calling me for the last 3 weeks to inquire of the status of the legislation. It is my hope that it will receive speedy implementation at the Department.

Mr. President, I urge the adoption of the conference report.●

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. TALMADGE. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that there be a brief period for the transaction of routine morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED RESCISSION OF DEPARTMENT OF LABOR BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 201

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report, which was referred to the Committee on Appropriations, the Committee on the Budget, and the Committee on Finance, jointly, pursuant to the order of January 30, 1975:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith propose rescission of $500 million in unneeded budget authority that was made available to the Department of Labor for advances to the unemployment trust fund and other funds.

The details of the proposed rescission are contained in the attached report.

JIMMY CARTER.

THE WHITE HOUSE, *July 20, 1978.*

MESSAGES FROM THE HOUSE

At 10:38 a.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 12933, an act making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1979, and for other purposes; that the House recedes from its disagreement to the amendments of the Senate numbered 27, 40, and 49 to the bill, and concurs therein; that the House recedes from its disagreement to the amendment of the Senate numbered 14 to the bill, and concurs therein with an amendment; that the House recedes from its disagreement to the amendment of the Senate numbered 31 to the bill, and concurs therein with an amendment; that the House recedes from its disagreement to the amendment of the Senate numbered 32 to the bill, and concurs therein with an amendment; and that the House recedes from its disagreement to the amendment of the Senate numbered 33 to the bill, and concurs therein with an amendment.

At 12:13 p.m., a message from the House of Representatives delivered by Mr. Hackney, one of its reading clerks, announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to H.R. 11504, an act to amend the Consolidated Farm and Rural Development Act, provide an economic emergency loan program to farmers and ranchers in the United States, and extend the Emergency Livestock Credit Act.

The message also announced that the House agrees to the amendments of the Senate numbered 1 and 3 to House Joint Resolution 945, making an urgent supplemental appropriation for the black lung program of the Department of Labor for the fiscal year ending September 30, 1978; that the House agrees to the amendment of the Senate numbered 2 to the joint resolution with an amendment; and that the House agrees to the amendment of the Senate to the title of the joint resolution.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 13385. An Act to provide for a temporary increase in the public debt limit.

At 4:43 p.m., a message from the House of Representatives delivered by Mr. Hackney, announced that the House has passed the following bill and joint resolution, each with an amendment in which it requests the concurrence of the Senate:

S. 3025. An Act to authorize appropriations for the Federal Election Commission for fiscal year 1979; and

S.J. Res. 102. A joint resolution entitled "American Indian Religious Freedom."

HOUSE BILL REFERRED

The following bill was read twice by its title and referred as indicated:

H.R. 13385. An Act to provide for a temporary increase in the public debt limit; to the Committee on Finance.

COMMUNICATIONS

The PRESIDING OFFICER laid before the Senate the following communications, together with accompanying reports, documents, and papers, which were referred as indicated:

EC-3990. A communication from the Acting Secretary of the Interior, reporting, pursuant to law, on an adequate soil survey and land classification of the lands in the North Loup Division, Pick-Sloan Missouri Basin Program; to the Committee on Appropriations.

EC-3991. A communication from the Director, Selective Service System, transmitting, pursuant to law, the semi-annual report of the Director of Selective Service for the period October 1, 1977 to March 31, 1978; to the Committee on Armed Services.

EC-3992. A communication from the Secretary of the Army, transmitting a draft of proposed legislation to amend title 10, United States Code, to abolish the Women's Army Corps, and for other purposes; to the Committee on Armed Services.

EC-3993. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on the financial condition and operating results of Working Capital Funds of the Department of Defense for the fiscal year ending September 30, 1977; to the Committee on Armed Services.

EC-3994. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report entitled "Simplification of the Export Administration Regulations"; to the Committee on Banking, Housing, and Urban Affairs.

EC-3995. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the evaluation of diagnostic analysis and test equipment for small automotive repair establishments; to the Committee on Commerce, Science, and Transportation.

EC-3996. A communication from the Deputy Under Secretary of the Army, transmitting a draft of proposed legislation to provide a technical perfecting amendment to the Act to provide for increases in appropriation ceilings and boundary changes in certain units of the National Park System and for other purposes, of October 21, 1976; to the Committee on Energy and Natural Resources.

EC-3997. A communication from the Secretary of the Interior, reporting, pursuant to law, that the Superior Oil Company has submitted an application to the Department for repayment of royalties totaling $39,224.35 for lease OCS 0797; to the Committee on Energy and Natural Resources.

EC-3998. A communication from the Administrator, General Services Administration, transmitting, pursuant to law, a prospectus which proposes a succeeding lease for space presently occupied at 1320 Wilson Boulevard, Arlington, Virginia; to the Committee on Environment and Public Works.

EC-3999. A communication from the Administrator, General Services Administration, reporting, pursuant to law, on a prospectus proposing a succeeding lease for space presently occupied at 60 Hudson Street, New York, New York; to the Committee on Environment and Public Works.

EC-4000. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Research Oulook for 1978"; to the Committee on Environment and Public Works.

EC-4001. A communication from the Administrator, United States Environmental Protection Agency, transmitting, pursuant to law, a report on the administration of the ocean dumping permit program; to the Committee on Environment and Public Works.

EC-4002. A communication from the Assistant Secretary (Legislative Affairs), Department of the Treasury, transmitting, pursuant to law, project performance audit reports prepared by the International Bank for Reconstruction and Development (IBRD), Group of Controllers' evaluation reports by the Inter-American Development Bank (IDB), and post-evaluation reports by the Asian Development Bank (ADB); to the Committee on Foreign Relations.

EC-4003. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties entered into by the United States within sixty days after the execution thereof; to the Committee on Foreign Relations.

EC-4004. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Department of the Interior's Computerized Resources Information Bank," July 17, 1978; to the Committee on Governmental Affairs.

EC-4005. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "The Department of the Interior's Minerals Availability System," July 17, 1978; to the Committee on Governmental Affairs.

EC-4006. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Army Commissary Accounting for Gains and Losses Needs Improvement," July 17, 1978; to the Committee on Governmental Affairs.

EC-4007. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Airline Passengers: Are Their Consumer Rights Protected?" July 20, 1978; to the Committee on Governmental Affairs.

EC-4008. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "HUD's Evaluation System—An Assessment," July 20, 1978; to the Committee on Governmental Affairs.

EC-4009. A communication from the Deputy Assistant Secretary of Defense, transmitting, pursuant to law, a Department of the Army proposed new system of records identified as AFAI-1, entitled "Federal Acquisition Personnel Information System"; to the Committee on Governmental Affairs.

EC-4010. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Management of Federal Materials Research Should be Improved," July 14, 1978; to the Committee on Governmental Affairs.

EC-4011. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on June 13, 1978; which would render payment to Robert J. Pierce for injuries which he received during the March 9, 1977, terrorist takeover of the District Building (Act 2-218); to the Committee on Governmental Affairs.

EC-4012. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on June 13, 1978, which would amend the penalty provisions for violations during excavation in public space (Act 2-217); to the Committee on Governmental Affairs.

EC-4013. A communication from the Chairman, Council of the District of Columbia, transmitting, pursuant to law, an act adopted by the Council on June 13, 1978, which would establish a criminal justice state planning agency for administering federal grant funds pursuant to the Omnibus Crime Control and Safe Streets Act of 1968, and for other purposes (Act 2-222); to the Committee on Governmental Affairs.

EC-4014. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "New Ways of Preparing Data for Computers Could Save Money and Time and Reduce Errors," July 18, 1978; to the Committee on Governmental Affairs.

EC-4015. A communication from the Secretary of Health, Education, and Welfare, reporting, pursuant to law, that the "Shared-Schedule Residency Training Positions Report" (sec. 709 of the Public Health Service Act), and the Administration of the National Health Service Corps Scholarship Program Report (sec. 715(1) of the Public Health Service Act) cannot be finished by the due dates; to the Committee on Human Resources.

EC-4016. A communication from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, the fiscal year 1976 annual report of the National Center for the Prevention and Control of Rape; to the Committee on Human Resources.

PETITIONS

The PRESIDING OFFICER laid before the Senate the following petitions and memorials, which were referred as indicated:

POM-741. A joint resolution adopted by the Legislature of the State of California; to the Committee on Energy and Natural Resources:

"SENATE JOINT RESOLUTION NO. 39

"Whereas, The Imperial Valley of California is recognized throughout the world as one of the greatest achievements in the history of reclamation, a place where the barren desert has been transformed into one of the richest and most productive farming areas of the world; and

"Whereas, Private enterprise was responsible for bringing water from the Colorado River to the Imperial Valley, with the first delivery of water commencing in 1901 through the Alamo Canal, a facility built by the California Development Company, which ran for most of its distance through Mexico; and

"Whereas, In 1928, Congress approved the Boulder Canyon Project authorizing construction of Hoover Dam and the All-American Canal, which replaced the Alamo Canal as the source of water for the Imperial Valley in 1942; and

"Whereas, The Boulder Canyon Project Act prohibits the making of any charge for the delivery of water to the Imperial Valley, and the federal government is being repaid for the cost of the All-American Canal by

the Imperial Irrigation District in interest-free annual installments; and

"Whereas, No provision of the Boulder Canyon Project Act provides that the 160 acre limitation provision of federal reclamation law is to be applicable to private lands served by the All-American Canal, and no provision relating to such limitation is contained in the contract between the federal government and the Imperial Irrigation District for delivery of water through the canal; and

"Whereas, In order to remove any possible doubt as to the applicability of the 160 acre limitation provision to the Imperial Valley, Secretary of the Interior Ray Lyman Wilbur, in a letter dated February 23, 1933, expressly ruled that the acreage limitation provisions of the Reclamation Act of 1902 would not apply to the Imperial Valley, stating "these lands, already having a vested right, are entitled to have such vested right recognized without acreage limitation"; and

"Whereas, Although Secretary Wilbur's ruling was reaffirmed in subsequent departmental reviews in 1937, 1941, 1946, 1950, and 1952, the solicitor of the Department of the Interior ruled, in December 1964, that acreage limitation provisions should apply to privately owned lands in Imperial Valley; and

"Whereas, Litigation was commenced in 1967, and has been continuing since that time, on the question of the applicability of the acreage limitation provisions to the Imperial Valley; and

"Whereas, Farmers in the Imperial Valley agreed to the construction of the All-American Canal to replace the existing Alamo Canal with the understanding that acreage limitation provisions would not be applicable and for decades thereafter relied on the express assurances of the Department of the Interior that such provisions were not applicable; and

"Whereas, The vast majority of farms in the valley are family owned and family run, and it is agreed by growers and economists that a 160-acre farm is not a viable economic unit in the valley; and

"Whereas, The application of acreage limitation provisions to the Imperial Valley at this time would not only be grossly unfair to the farmers of the Imperial Valley who have struggled over the years under the most difficult conditions to make farming in the valley more productive and efficient and have relied on the assurances of the federal government, but would have a disastrous effect on the entire economy of the valley, as well as an adverse effect on all Americans who have benefitted from the progressive agriculture of the valley; and

"Whereas, The Department of the Interior has proposed the issuance of rules and regulations establishing policies and procedures to be used by the Bureau of Reclamation in administering the acreage limitation and other provisions of federal reclamation law; and

"Whereas, Such regulations, among other things, establish radically new criteria and procedures to be used by the Bureau of Reclamation in approving the sale of excess lands, vest new powers in the bureau to continue the supervision of excess lands following their sale, and require the purchaser of excess lands to live on or in the neighborhood of such lands; and

"Whereas, Such regulations would require the sale of all excess land through a government-supervised lottery, which would be expensive, if not impossible to enforce, and would at the very least constitute an unwarranted and unnecessary intrusion of government into private affairs; and

"Whereas, The divestment of large blocks of land, particularly in California, at lower market values would have a devastating effect on the tax base of state and local government, thus seriously impairing the delivery of basic government services; and

"Whereas, Such regulations would permit a father and a son to own land jointly up to the allotted acreage limits, but would prohibit such ownership by two brothers or a nephew or cousin, an absurd and unjust result; and

"Whereas, Such proposed regulations have already had a devastating effect on the agricultural economy, in that banks have reduced lending and farmers are afraid and uncertain about new investment; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to expressly exclude the application of the Reclamation Act of 1902 to the Imperial Valley; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–742. A joint resolution adopted by the Legislature of the State of California; to the Committee on Human Resources and the Committee on Finance, jointly, by unanimous consent:

"SENATE JOINT RESOLUTION No. 43

"Whereas, As many as 1,500,000 Californians may have health care service plan coverage under contracts issued and self-funded by employee welfare benefit plans as defined in and subject to the Employee Retirement Income Security Act of 1974 (ERISA); and

"Whereas, The Federal courts have held that the State of California's Knox-Keene Health Care Service Plan Act of 1975 is totally preempted by ERISA as to the self-funded Employee Welfare Benefit Plans which would otherwise be subject to that act; and

"Whereas, ERISA is silent (except for generally applicable requirements regarding holding assets in trust, filing with the U.S. Department of Labor, and observing fiduciary duties) with respect to financial soundness of self-funded health plans; and

"Whereas, ERISA is silent (except for disclosure requirements) with respect to the manner in which potential enrollees are enrolled in self-funded health plans; and

"Whereas ERISA is completely silent with respect to quality of care or any other aspect of the delivery of health care services to plan enrollees, and is silent with respect to the liability of an enrollee to pay a contracting provider sums owed by, but not paid by, the plan; and

"Whereas, ERISA is completely silent with respect to the benefits to be provided by health plan contracts and the fairness of such contracts, so that benefits can be illusory, the handicapped can be discriminated against, newly-born or newly-adopted children need not be covered, complications of pregnancy can be excluded, discrimination against spouses can be practiced, and totally disabled employees whose employment is terminated need not receive 'grace periods' coverage; and

"Whereas, These concerns have been addressed in California by the Knox-Keene Health Care Service Plan Act, but California residents who rely on self-funded employee welfare benefit plans for their health coverage are deprived of the benefits and protections of that act because of total preemption under Section 514 of ERISA, notwithstanding ERISA's substantial silence in the area of state regulation of health care service plans; and

"Whereas, As many as 130,000 Californians may have disability insurance coverage under contracts issued by multiple employer trusts purporting to be employee benefit plans as defined in ERISA and subject to the exclusive jurisdiction of the U.S. Department of Labor; and

"Whereas, Several purported ERISA multiple employer trusts have become insolvent within the past 18 months leaving thousands of California residents without disability insurance coverage and with millions of dollars in unpaid claims; and

"Whereas, These multiple employer trusts claim to be exempt from the financial solvency, market contract and other regulations of the California Insurance Code by virtue of total preemption under Section 514 of ERISA; and

"Whereas, The multiple employer trusts which have to date been challenged in court have all uniformly been found to be unlicensed insurance companies not subject to the provisions of ERISA; and

"Whereas, ERISA, provides no standards for determining administratively which multiple employer trusts are subject to its provisions and no standards have been set by the U.S. Department of Labor; and

"Whereas, The State of California and other states have expended great sums of money to resolve judicially issues relating to preemption and multiple employers trusts; and

"Whereas, Court actions can only affect the named individual multiple employer trust and have no universal application; now, therefore, be it

"Resolved by the Senate and Assembly of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact an amendment to Section 514 of ERISA to provide for the preemption of state laws which relate to employee welfare benefit plans only insofar as such laws conflict with ERISA, and either to enact an amendment to ERISA to clarify the definition of multiple employer trusts which are employee benefit plans subject to the provisions of ERISA or to direct to the U.S. Department of Labor to immediately review filings made with it by multiple employer trusts operating in the State of California to determine which, if any, are employees benefit plans as defined in and subject to the provisions of ERISA and immediately promulgate regulations implementing standards for determining which multiple employer trusts are subject to ERISA and which are not; and be it further

"Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Senate Joint Resolution No. 43, adopted by the California legislature, relative to amending the Employee Retirement Income Security Act of 1974, be referred jointly to the Committee on Human Resources and the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

POM–743. A resolution adopted by the Legislature of the State of Massachusetts; to the Committee on the Judiciary:

"RESOLUTIONS

"Whereas, The United States Supreme Court ruled that an abortion during the first three months of pregnancy is to be governed by the medical judgment of a physician; and

"Whereas, The United States Supreme

Court ruled that an abortion after the third month of pregnancy is to be determined by the woman and her physician; therefore be it

"Resolved, That the Massachusetts General Court respectfully urges the Congress of the United States to enact legislation presenting to the states a proposed constitutional Human Life Amendment proposing:

"All men are conceived and born free and equal, and have certain natural, essential, and unalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties from the moment of conception; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

"The United States shall not make or enforce any law which shall abridge the privileges or immunities of its citizens; nor shall it deprive any persons, including the unborn, of life, liberty, or property without due process of law, nor deny to any person, including the unborn, within its jurisdiction, the equal protection of the laws; and be it further

"Resolved, That copies of these resolutions be sent forthwith by the Clerk of the Senate to the President of the United States, the presiding officer of each branch of Congress and to the members thereof from this Commonwealth."

POM–744. A resolution adopted by the City Council of Wilkes-Barre, Pennsylvania, relating to ratification of the Equal Rights Amendment; to the Committee on the Judiciary.

POM–745. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Select Committee on Indian Affairs:

"RESOLUTION

"Whereas, the Legislature is informed that an identifiable Choctaw Indian community has existed in the vicinity of Baton Rouge, Louisiana, since prior to the acquisition of Louisiana by the United States, as evidenced by the fact that this area was known as the "Choctaw District" in colonial times; and

"Whereas, the Choctaws of Louisiana were traditionally thought to be a contingent of the Choctaw nation; and

"Whereas, this Legislature has been informed by representatives of the Choctaw Indian Community of Louisiana that the Congress of the United States has heretofore appropriated federal funds which were earmarked for the education of the Choctaws at Baton Rouge, Louisiana, thus recognizing the Louisiana Band of Choctaws as Indians eligible for special federal social services for Indians; and

"Whereas, it is the policy of the State of Louisiana to support persons of Indian descent and heritage within the borders of the State in the preservation of their cultural heritage and the improvement of their economic condition; however, it is not the intent of the Louisiana Legislative to grant or bestow any greater rights of privileges upon these persons than is granted or bestowed upon any other citizen of the State.

"Therefore, be it resolved by the Senate of the Legislature of Louisiana, the House of Representatives thereof concurring, that the State of Louisiana, having been advised that an identifiable Choctaw Indian Community has existed in the vicinity of Baton Rouge, Louisiana, does at the request of said community, identify the presence of said community as being the "Louisiana Band of Choctaws.".

"Be it further resolved, that the Government of the United States of America and particularly the Bureau of Indian Affairs, is hereby memoralized, requested and urged to make the Louisiana Band of Choctaws eligible for any available federal social services and funds to which the said Community may be eligible under law.

"Be it further resolved, that the Government of the United States of America and particularly the Bureau of Indian Affairs is hereby further memorialized, requested and urged, as follows:

"1. No provision of this Concurrent Resolution shall be construed as attempting to make any finding of historic fact in respect to identification and recognition of Indian tribes within the State of Louisiana as defined by any federal or state law or regulation?

"2. Every Concurrent Resolution adopted in the current or any prior Session of the Louisiana Legislature which purports to make a finding of historic fact in respect to peoples of Indian descent or heritage, specifically House Concurrent Resolutions No. 2 and No. 13 of 1976 and Senate Concurrent Resolution No. 60 of 1974, as respects the findings of historic fact declared therein are hereby conformed in accordance with the findings of historic facts herein declared.

"3. Nothing contained in this Concurrent Resolution and in any other Concurrent Resolution adopted by the Legislature in the current or past sessions, including House Concurrent Resolutions No. 2 and 13 and Senate Concurrent Resolution No. 60 of 1974, is intended to declare the policy of the State of Louisiana as recognizing persons of Indian descent or heritage and constituting as "Indian Tribe" within the meaning of any state or federal law or regulation, in that the Legislature has caused no investigation to be made of the historic facts and conclusions referred to in House Concurrent Resolutions No. 2 and 13 and Senate Concurrent Resolution No. 60 of 1974.

"Be it further resolved that copies of this Resolution shall be transmitted to the President of the United States, the presiding officers of the Senate and the House of Representatives of the Congress of the United States, and the Director of the Bureau of Indian Affairs, United States Department of the Interior."

POM–746. A resolution adopted by the Legislature of the State of New York; to the Committee on Governmental Affairs:

"RESOLUTION

"Whereas, From its beginning the business of insurance has been regarded as a local rather than federal matter to be subject to and regulated by the laws of the several states; and

"Whereas, This view has been fostered and augmented by decisions of the United States Supreme Court for a period of more than one hundred years leading to the generally accepted doctrine that, except for regulation of commerce under the Sherman, Clayton and related federal anti-trust acts, the business of insurance is not subject to federal laws; and

"Whereas, Continued local control of the insurance business, especially as it pertains to policies of automobile liability insurance, is critical at this time since state government, through its elected officers and appointed administrative officials, is best acquainted with the variety and peculiarity of local problems and best able to react immediately toward their solution; now, therefore, be it.

"Resolved, That the Congress of the United States be and hereby is respectfully memorialized to refrain from enacting legislation removing the business of insurance from regulation and taxation by the several states thereby reaffirming the declaration of policy enumerated in the McCarran-Ferguson Act (P.L. 15, 1945), to wit:

" 'Congress declares that the continued regulation and taxation by the several states of the business of insurance is in the public interest, and that silence on the part of the Congress shall not be construed to impose any barrier to the regulation or taxation of such business by the several states'; and be it further

"Resolved, That copies of this resolution, suitably engrossed, be transmitted to the President of the Senate of the United States, the Speaker of the House of Representatives, and to each member of the Congress of the United States from the State of New York."

POM–747. A concurrent memorial adopted by the State of Arizona; to the Committee on Foreign Relations:

"HOUSE CONCURRENT MEMORIAL 2005

"Whereas, in 1975 many Soviet citizens, including Amner Zavurov of Uzbekistan, Union of Soviet Socialist Republics were granted permission to emigate to Israel, which permission was subsequently revoked; and

"Whereas, in revoking permission to emigrate, government authorities confiscated the internal passport of Amner Zavurov; and

"Whereas, without an internal passport Amner Zavurov could not obtain employment; and

"Whereas, Amner Zavurov has been arrested, convicted and incarcerated for not possessing an internal passport and not having employment; and

"Whereas, attempts to obtain the release and emigration of Amner Zavurov and his family and others have been unsuccessful; and

"Whereas, the desire of Amner Zavurov and others is to live in Israel with their families; and

"Whereas, the Soviet refusal to release Amner Zavurov and others and to permit them to emigrate with their families is in violation of numerous international agreements and basic humanity. Wherefore, your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the Congress and Secretary of State of the United States exert all possible efforts to effectuate the release of Amner Zavurov and others similarly affected and the granting of exist visas to them and their families.

"2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives, each Member of the Congress of the United States, the Secretary of State of the United States, the United States Ambassador to the Union of Soviet Socialist Republics and to Amner Zavurov.

"Furthermore, your memorialist respectfully represents:

"Whereas, a seven-and-one-half-month-old baby, Jessica Katz, is suffering in Moscow from a rare inability to absorb the nourishment of normal foods; and

"Whereas, Soviet doctors are bewildered by the case and unequipped to handle it; and

"Whereas, a formula of pregestimil is needed to keep the baby alive and such formula is readily available in the United States; and

"Whereas, Jessica Katz and her parents, Boris and Natalya Katz, have been refused permission to emigrate; and

"Whereas, if brought to the United States, Jessica Katz could receive proper medical treatment and have an increased chance to live a normal, healthy life.

Wherefore, your memorialist, the House of Representatives of the State of Arizona, the Senate concurring, prays:

"1. That the Congress and Secretary of State of the United States exert all possible efforts to effectuate the granting of exit visas to Jessica Katz and her parents, Boris and Natalya Katz.

"2. That the Secretary of State of the State of Arizona transmit copies of this Memorial to the President of the United States Senate, the Speaker of the United States House of Representatives, each Member of the Congress of the United States, the Secre-

tary of State of the United States, the United States Ambassador to the Union of Soviet Socialist Republics and to Boris and Natalya Katz."

POM–748. A resolution adopted by the Baltic Nations Committee of Detroit, Inc., Wayne County, Michigan, relating to freedom of Estonia, Latvia and Lithuania; to the Committee on Foreign Relations.

POM–749. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT REOSLUTION No. 91

"Whereas, The California Legislature fully recognizes the importance of international trade, and resulting benefits accruing to the state from tax revenues, job creation and general economic stimulation through bilateral foreign trade; and

"Whereas, Both foreign and domestic producers of goods and services are vital to the state's continued stability and general economic development, and these producers should be encouraged to ensure viable economic progress, and fair and equitable competition; and

"Whereas, The California Legislature has received communications from employees, employers, and labor leaders of the California steel producing and steel fabricated products industry requesting presidential and congressional action to control the alarming increase of low priced foreign steel imports into the western marketing area; and

"Whereas, Steel imported into the western states in 1977 accounted for a record 38 percent (3,311,000 net tons) of the market, as compared to 18 percent nationwide; and

"Whereas, There is strong evidence that foreign steel producers are 'dumping' their product into the U.S. steel market with the support, subsidy and encouragement of their governments toward the end of sustaining their employment levels; and

"Whereas, The impact of this increase in foreign steel imports has caused the permanent closing of steel producing and fabricating facilities in California with resulting permanent loss of jobs; and

"Whereas, Two thousand four hundred members of the United Steelworkers of America Union at Kaiser Steel's Fontana California steel mill have collected more than $5,600,000 in federal cash awards after the U.S. Department of Labor found that 'increased imports . . . contributed importantly to the unemployment of a significant number of workers' at the Fontana mill; and

"Whereas, The loss of long-term job security and resulting payroll, and loss in generation of taxes to support local and state government, could continue unabated without strong affirmative intercession at the federal government level; and

"Whereas, There are serious doubts that 'the trigger price' mechanism set by federal authorities as a means of imports control, truly serves the needs of western steel producers; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to pursue vigorously the prompt and full enforcement of the Trade Act of 1974 and especially the antidumping laws; and be it further

"Resolved, That the recommendation of the Solomon Task Force be promptly and thoroughly reevaluated as to its potential to inadvertently, but disastrously, fail to cope with the foreign steel dumping problem in the western states; and be it further

"Resolved, That legislation now pending in Congress be enacted promptly to enable states, under a uniform federal procedure, to establish a system of preferential bidding upon all state let contracts requiring the purchase of steel which preference would allow for the purchase of domestic manufactured and produced steel, and fabricated steel products; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, Chairmen of the House and Senate 'Steel Caucus,' Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM–750. A joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry:

"ASSEMBLY JOINT RESOLUTION No. 89

"Whereas, The San Joaquin Valley is one of the world's most important cotton producing areas, with approximately one million acres of land ideally suited to cotton production; and

"Whereas, Twenty percent of the world's cotton supply is produced in the valley with an annual value in excess of five hundred million dollars; and

"Whereas, California's one-variety cotton district law, adopted in 1925, requires San Joaquin Valley cotton-growers to plant only Acala variety cotton which insures that a large amount of uniformly high-quality cotton is available to buyers; and

"Whereas, Acala variety cotton is a high yielding, strong fiber, long staple cotton of consistently high quality that brings a premium price for growers; and

"Whereas, The United States Department of Agriculture's cotton research station at Shafter, California, conducts a cotton breeding program intended to continually improve the Acala variety cotton; and

"Whereas, The United States Department of Agriculture will, on October 1, 1978, discontinue a portion of the Shafter research station funding in the amount of $130,000 and will redirect an additional $113,000 from the Acala variety breeding program to a basic breeding program emphasizing host plant resistance; and

"Whereas, This federal action jeopardizes California's one-variety cotton law which is dependent upon continuing varietal research at the Shafter station; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States and the Secretary of Agriculture to maintain funding for the United States Department of Agriculture Shafter Research Station at its present level; and be it further

"Resolved, That funding for the Acala variety breeding program be reestablished and maintained at its present level; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Agriculture, and to each Senator and Representative from California in the Congress of the United States."

POM–751. A resolution adopted by the Southern Environmental Resources Conference, Jackson, Mississippi, relating to congressional relations; to the Committee on Governmental Affairs.

POM–752. A resolution adopted by the Southern Environmental Resources Conference, Jackson, Mississippi, relating to solid waste and hazardous waste (Resource Conservation and Recovery Act of 1976); to the Committee on Environment and Public Works.

POM–753. A resolution adopted by the Southern Environmental Resources Conferference, Jackson, Mississippi, relating to amendments to the Water Resources Planning Act (P.L. 89–80); to the Committee on Environment and Public Works.

POM–754. A resolution adopted by the Southern Environmental Resources Conference, Jackson, Mississippi, relating to the 160-acre limitation; to the Committee on Energy and Natural Resources.

POM–755. A resolution adopted by the Southern Environmental Resources Conference, Jackson, Mississippi, relating to "Fundamental Principles for a National Water Policy"; to the Committee on Environment and Public Works.

POM–756. A resolution adopted by the Southern Environmental Resources Conference, Jackson, Mississippi, relating to the Clean Water Act of 1977; to the Committee on Environment and Public Works.

POM–757. A resolution adopted by the Southern Environmental Resources Conference, Jackson, Mississippi, relating to the National Commission on Air Quality; to the Committee on Environment and Public Works.

POM–758. A resolution adopted by the Southern Environmental Resources Conference, Jackson, Mississippi, relating to safe drinking water; to the Committee on Environment and Public Works.

POM–759. A resolution adopted by the Southern Environmental Resources Conference, Jackson, Mississippi, relating to the rare and endangered species program; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. EAGLETON, from the Committee on Governmental Affairs, without amendment:

H.R. 6536. An Act to establish an actuarially sound basis for financing retirement benefits for policemen, firemen, teachers, and judges of the District of Columbia and to make certain changes in such benefits (Rept. No. 95–1025).

By Mr. MUSKIE, from the Committee on the Budget, without amendment:

S. Res. 522. A resolution waiving section 303(a)(4) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3085, a bill to extend and amend the special supplemental food program and the child care food program, and for other purposes (Rept. No. 95–1026).

S. Res. 508. A resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3153, a bill to settle Indian land claims within the State of Rhode Island, and Providence Plantations, and for other purposes (Rept. No. 95–1027).

By Mr. HARRY F. BYRD, JR. (for Mr. STENNIS), from the Committee on Armed Services, with amendments:

S. 2939. A bill to authorize appropriations for fiscal year 1979 for intelligence activities of the United States Government, the intelligence community staff, the Central Intelligence Agency retirement and disability system, and for other purposes (Rept. No. 95–1028).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

John Francis Ahearne, of Virginia, to be a member of the Nuclear Regulatory Commission, for the remainder of the term expiring June 30, 1978.

John Francis Ahearne, of Virginia, to be a member of the Nuclear Regulatory Commission, for the term of 5 years expiring June 30, 1983.

(The above nominations from the Committee on Environment and Public Works were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. RANDOLPH, from the Committee on Environment and Public Works:

Roy T. Sessums, of Louisiana, to be a Member of the Mississippi River Commission for a term of nine years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. BROOKE:

S. 3325. A bill to amend title 38, United States Code, to establish within the Department of Medicine and Surgery of the Veterans Administration an Office of Assistant Chief Medical Director for Geriatrics, Gerontology, and Extended Care, to establish demonstration centers of geriatric and gerontological research, education and clinical operations; to the Committee on Veterans' Affairs.

By Mr. BENTSEN (for himself, Mr. DOLE, and Mr. CURTIS):

S. 3326. A bill to suspend the duty on freight cars unil the close of June 30, 1982; to the Committee on Finance.

By Mr. DURKIN:

S. 3327. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to small businesses for filing forms required by Federal law; to the Committee on Finance.

By Mr. BAYH (for himself, Mr. ABOUREZK, Mr. CRANSTON, Mr. HOLLINGS, Mr. MELCHER, and Mr. METZENBAUM):

S. 3328. A bill to amend the Fair Credit Reporting Act to provide procedures relating to the disclosure of consumer information maintained by creditors, insurance institutions, insurance-support organizations, and depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. MELCHER (for himself, Mrs. HUMPHREY, Mr. RANDOLPH, Mr. ANDERSON, Mr. DURKIN, Mr. MCGOVERN, Mr. PAUL G. HATFIELD, Mr. CLARK, Mr. METZENBAUM, Mr. RIEGLE and Mr. DECONCINI):

S.J. Res. 149. A joint resolution to direct the Civil Aeronautics Board to disapprove any renewal and terminate any effect of the Airlines Mutual Aid Pact and to provide for a study and report on alleviating airline strikes; to the Committee on Commerce, Science, and Transportation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BROOKE:

S. 3325. A bill to amend title 38, United States Code, to establish within the Department of Medicine and Surgery of the Veterans' Administration an Office of Assistant Chief Medical Director for Geriatrics, Gerontology, and Extended Care, to establish demonstration centers of geriatric and gerontological research, education, and clinical operations; to the Committee on Veteran's Affairs.

VETERANS GERIATRIC AND GERONTOLOGICAL HEALTH SERVICES EXPANSION ACT

● Mr. BROOKE. Mr. President, I am pleased today to introduce the Veterans Geriatric and Gerontological Health Services Expansion Act. This bill is a companion measure to H.R. 13469 which was introduced recently by Congresswoman MARGARET HECKLER, my distinguished Republican friend and colleague from the Commonwealth of Massachusetts.

Emerging demographic changes amply illustrate the need for an improved and expanded geriatrics program for veterans. Today, there are 2.3 million veterans over the age of 65. By 1990, there will be nearly 6 million veterans in that category and, by the turn of the century, there will be 7 million. Furthermore, according to the Veterans' Administration, in the year 2010 there will be more than 1 million veterans over the age of 80, as compared to only 130,000 at the present time.

In response to the growing gap between the needs of older veterans and the existing capability to meet those needs, the Veterans' Administration (VA) in 1973 established geriatric research, education, and clinical centers—the GRECC program. Since that time, eight geriatric centers have been created throughout the Nation, including one in the Boston metropolitan area. Together, these centers have undertaken projects which concentrate on the geriatric aspects of general medicine, cardiology, diabetes, stroke rehabitation, dentistry, and organic brain disease.

I am particularly proud of the work accomplished by the Boston-Bedford GRECC. The dedicated and distinguished doctors and staff have contributed immensely to the success of the GRECC program and to the health and well-being of a great many Boston-area veterans.

But such worthwhile efforts in Massachusetts are not new. Prior to the establishment of the GRECC program, the Boston Outpatient Clinic had already started the normative aging study. Under this important study, over 2,000 persons are being examined over an extended period of time to determine age-related changes in a number of specific medical areas.

However, even with the worthwhile accomplishments of the GRECC program, there has never been sufficient emphasis placed on geriatric care. Indeed, presently, the GRECC program is budgeted at slightly over $3 million per year, only .15 percent of the VA's current $20 billion appropriations.

In addition to expanding the present GRECC program, we must make certain that an infusion of additional Federal dollars will focus more attention on research and educational efforts in the area of geriatrics. It is both interesting and sad to note that, while the medical care of the aged through medicare and medicaid comprises the largest portion of the federally funded health care budget, there have been no funds specifically designated for the training of physicians in geriatrics. And, as we all know, such training is especially complex because it involves the development of clinical management skills and a sensitivity toward the psychological and social effects of growing old, as well as an overall comprehension of basic medical science.

Mr. President, to millions of veterans, the Veterans' Administration is a comprehensive health service resource which is provided as a prepaid benefit when the need arises. Most of these veterans, still in their middle years, have not yet had to turn to the VA for medical assistance. But, once they are afflicted with the illnesses of older age, they will naturally turn to the VA, anticipating proper medical care. Unless we act now, we will not have the resources necessary to give these veterans the kind of aid they legally deserve.

The programs available to veterans for geriatric care must be accelerated within the framework of the existing programs offered by the Veterans' Administration. The Veterans' Geriatric and Gerontological Health Services Expansion Act would accomplish this goal in a number of ways. Specifically, the bill would:

Establish the Office of Assistant Chief Medical Director (ACMD) for geriatric, gerontology, and extended care services within the Office of the Chief Medical Director in the Veterans' Administration;

Establish a geriatrics, gerontology, and extended care task force within the VA's special medical advisory group to assess the existing capability of and the anticipated need for high quality geriatric, gerontological, and clinical health services on a sustained basis;

Establish an additional 12 demonstration centers to advance research and education programs in the areas of geriatrics and gerontology;

Mandate the administrator to submit an interim report to the Senate and to the House Veterans' Affairs Committees not more than 19 months after the implementation of the act on the success and operation of the programs;

Mandate the administrator to submit a final report after 4 years on the success of the program, with specific recommendations on how to best incorporate the beneficial aspects of the demonstration programs into the VA's hospital system; and

Authorize funds totaling $140 million over a 4-year period, with funds authorized during fiscal years as follows: $20 million in fiscal year 1980, $30 million in fiscal year 1981, $40 million in fiscal year 1982, and $50 million in fiscal year 1983.

Mr. President, the plan envisioned under the Veterans' Geriatric and Gerontological Health Services Expansion Act would build upon the existing GRECC program within the Veterans' Administration. It would not duplicate existing efforts, but it would expand upon them.

The success of the overall program is enhanced because the framework has already been created within the Veterans' Administration.

For example, the proposed establishment of the Office of Assistant Chief Medical Director (ACMD) for geriatrics, gerontology and extended care would expand the existing Office of ACMD for extended care within the Department of Medicine and Surgery. The basic structure would remain the same, but the emphasis upon specific medical care for the aging veteran would be vastly increased.

Similarly, the proposed creation of 12 new demonstration programs dealing with geriatric research and education would augment the existing GRECC program. The success of the GRECC program has already been demonstrated, and these new programs would only be an addition to the current effort. The GRECC program would be expanded, not jeopardized.

The level of funding for geriatrics would be greatly increased under this proposal. As I have already stated, the entire current geriatrics program is funded at a level of only slightly more than $3 million per year. Under my proposal, funding would be increased to $140 million over a 4-year period.

And, finally, the task force to be created within the Special Medical Advisory Group (SMAG) would play an instrumental role in compiling information for the report to be prepared by the administrator. The task force would be directed under this bill to determine and assess the existing capability and need of geriatric care for veterans and to determine the continuing and sustained need for geriatric care on a short-term and on a long-term basis.

Mr. President, the program I have outlined here would enable the Veterans' Administration to more rapidly conduct research, undertake clinical operations and establish training programs for physicians in the areas of geriatrics and gerontological care. This bill would establish the Veterans' Administration's hospital system as the undisputed leader in a comprehensive health care program for aging veterans.

But, just as important, by serving as the vehicle through which we will acquire more knowledge about geriatric care and through which we will establish a comprehensive training program for physicians in geriatrics and gerontology, we would be advancing the science of gerontology for the benefit of the entire Nation.

I urge my colleagues to support this important legislation and to pass it as expeditiously as possible.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3325

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Geriatric and Gerontological Health Services Act."

SEC. 2. (a) The Congress makes the following findings:

(1) The Nation's World War I veteran population is in immediate and compelling need of geriatric, gerontological, and extended health services and medical care.

(2) The Nation's large World War II veteran population is aging in increasing numbers and is in immediate need of a sufficient level and geriatric, gerontological, and extended health services and medical care.

(3) Because of the increasing proportion of the Nation's population that is elderly, greater attention must be given to understanding and meeting the health care needs of the elderly of the veteran population.

(4) Except for health and medical programs of the Veterans Administration, the health and medical programs presently operated by the Federal Government are neither oriented toward, nor readily capable of providing for, the immediate delivery of geriatric, gerontological, and extended health care and medical services for those segments of the Nation's population that are aged or aging.

(5) The Veterans Administration has the capability to provide health maintenance for such veterans and to conduct the research, training of medical and paramedical personnel, clinical operations required or occurring in connection with the state and condition of aging.

(b) The purposes of this Act are—

(1) to provide for the rapidly increasing demand for geriatric, gerontological and extended health care and medical services being placed upon the Veterans Administration hospital system by the Nation's veterans; and

(2) to make the Veterans Administration hospital system the leader in geriatric research, the training of medical and paramedical personnel in care of the elderly and the delivery of health care to the aged and to make such system the repository of medical knowledge of the emotional and psychological aspects of aging, known as the science of gerontology.

SEC. 3. Section 4103 of title 38, United States Code, relating to the Office of the Chief Medical Director, is amended by adding at the end thereof the following new subsection:

"(d) Within the Office of the Chief Medical Director there shall be an Office of the Assistant Chief Medical Director for Geriatrics, Gerontology, and Extended Care which shall be headed by one of the Assistant Chief Medical Directors appointed under subsection (a)(4) of this section. All geriatric and gerontological research, education, and clinical health care and service operations of the Administration shall be carried out through such office.".

SEC. 4. Section 4101 of title 38, United States Code, relating to the functions of the Department of Medicine and Surgery, is amended by adding at the end thereof the the following new subsection:

"(e)(1)(A) The Administrator shall designate twenty Veterans Administration hospitals as the locations for demonstration centers of geriatric and gerontological research, education, and clinical operations.

"(B) In designating hospitals under subparagraph (A) of this paragraph, the Administrator shall provide that—

"(i) each hospital that on the date of the enactment of this subsection is operating as a Geriatric Research, Education, and Clinical Center shall be designated as the location for a demonstration center under such subparagraph;

"(ii) each hospital designated under such subparagraph shall be affiliated with an accredited medical school; and

"(iii) such hospitals shall be designated so as to provide that demonstration centers are dispersed geographically throughout the United States.

"(2) The demonstration centers of geriatric and gerontological research, education, and clinical operations shall operate until September 30, 1983.

"(3)(A) Not later than 90 days after the effective date of this subsection, the Administrator shall establish a Geriatrics, Gerontology, and Extended Care Task Force (hereinafter in this paragraph referred to as the "task force") within the Veterans Administration Special Medical Advisory Group. The task force shall act in an advisory capacity to the Assistant Chief Medical Director for Geriatrics, Gerontology, and Extended Care and shall perform such functions as the Administrator or Chief Medical Director may direct.

"(B) The task force shall assess—

"(i) the capability of the Administration to provide high quality geriatric, gerontological, and clinical health services on a sustained, continuing and growing basis to eligible veterans; and

"(ii) the current and projected needs for geriatric, gerontological, and extended health services and medical care among eligible veterans.

"(C)(i) Not later than 18 months after the effective date of this subsection, the task force shall submit a report to the Administrator and the Special Medical Advisory Group with respect to its findings and conclusions under subparagraph (B) of this paragraph. Such report shall include an assessment of the quality of the operations of the demonstration centers of geriatric and gerontological research, education, and clinical operations established under paragraph (1) of this subsection, an assessment of the extend to which the Administration, through the operation of such centers, is meeting the needs of eligible veterans for geriatric, gerontological, and extended care medical services, and an assessment of any deficiencies in the operation of such centers.

"(ii) Not later than 30 days after receipt of the report under clause (i) of this subparagraph, the Administrator shall transmit such report, together with the Administrator's comments and recommendations, to the Committees on Veterans' Affairs of the Senate and House of Representatives. The Administrator shall include with such report a statement of any plans for improvements to the operation of the demonstration centers.

"(4) Not later than four years after the effective date of this subsection, the task force shall submit a report to the Administrator, and the Administrator shall submit to such committees, a final report assessing the quality of operation of such centers. Such report shall include recommendations and plans for extending such programs of operation as may have been developed at such centers throughout the Veterans Administration hospital system in such a way as to assure the provision of high quality geriatric, gerontological, and related extended care medical services through each hospital in the system.

"(5) There is authorized to be appropriated for the purpose of operating the demonstration centers of geriatric and gerontological research, education, and clinical operations established under paragraph (1) of this subsection the amount of $20,000,000 for fiscal year 1980, the amount of $30,000,00 for fiscal year 1981, the amount of $40,000,000 for fiscal year 1982, and the amount of $50,000,000 for fiscal year 1983.

SEC. 5. The amendments made by this Act shall take effect on October 1, 1979.

By Mr. BENTSEN (for himself, Mr. DOLE, and Mr. CURTIS):

S. 3326. A bill to suspend the duty on freight cars until the close of June 30, 1982; to the Committee on Finance.

FREIGHT CAR DUTY SUSPENSION

● Mr. BENTSEN. Mr. President, together with Senators DOLE and CURTIS, I am introducing legislation today that would exempt from duty railroad cars imported into this country. This legislation is intended to apply to Mexico, the only country from which we currently import railroad cars.

There is obvious and pressing shortage of freight car capacity in this country, Mr. President, and it is crimping our ability to move important agricultural and energy commodities. U.S. producers of freight carrs are unable to keep up with demand.

In recent years we have imported cars from both Mexico and Canada, with the Mexican cars coming in duty free under our GSP provision. Canada, experiencing its own freight car shortage, ceased exporting to us, and Mexico therefore became our sole source of foreign supply.

This development, however, caused Mexico to surpass the 50 percent of all imports limitation in the GSP law. As a result, cars which we urgently need and Mexico urgently needs to produce, became dutiable at 18 percent on March 1 of this year. Imposition of this duty has caused a special hardship for Mexican producers since they have contracted to supply some $30 million worth of cars for our market on the assumption that they would enter duty free.

The legislation we are introducing today would exempt Mexican freight cars from this duty for a period of 4 years, with the effective date of such suspension retroactive to March 1 of this year.

Let me emphasize, Mr. President, that prior to March 1, the Mexican cars had been accorded GSP treatment; this is not a new departure. In the context of the MTN, we have also offered to gradually lower Mexican freight car duties to the level of 7.5 percent by the year 1982. When the provisions of this legislation expire, Mexican cars will be dutiable at that rate.

I think it is also important to understand that nearly half the value of the Mexican cars consists of components manufactured in this country.

The question of the Mexican railroad cars was first called to my attention when I Chaired the United States-Mexico Interparliamentary Conference here in Washington last month. Our Mexican guests pointed to the issue as one significant area in which we could work together to solve a problem detrimental to the Mexican economy and, at the same time, serve our own best interests. I know that our neighbor to the South attaches great importance to this legislation, and I personally feel it makes eminent good sense for both our countries and our economies. It will ease our severe freight car shortage; it will help the American farmer move his produce; it will assist Mexico in obtaining delivery of substantial agricultural purchases contracted for in this country; and it will help preserve important and much-needed employment opportunities in Mexico. In addition, it will help to hold down the price of freight cars and generate continued employment for American suppliers of components for Mexican cars.●

RAIL CARS

● Mr. DOLE. Mr. President, the Senator from Kansas is pleased to join with the Senator from Texas, Mr. BENTSEN, in sponsoring the legislation introduced today.

We must take some steps to provide more rail cars to the shippers of agricultural commodities so that the flow of commodities will not inhibit increases in the prices farmers may receive for their commodities.

RAIL CAR SHORTAGE

Presently, farmers are not receiving the full benefit of higher prices that current demand could cause due to the lack of rail cars in which to ship grain and cotton.

The subcommittee on Agricultural Production, Marketing, and Stabilization of Prices of the Committee on Agriculture, Nutrition, and Forestry completed 4 days of hearings on Tuesday, May 16, on rural transportation. During those hearings the majority of witnesses testified on the current critical shortage of rail cars for agricultural commodities, chiefly wheat and cotton.

To summarize the testimony of those hearings which provides background on why the committee reported a resolution calling for support of several pending proposals before the Interstate Commerce Commission, I submit the following:

Both grain and cotton are critically affected by the current shortage.

The normal heavy export season is in the last 6 months of the year. That has shifted to the first 6 months of this year, when railroads traditionally provide their equipment to other industries.

The coal strike has caused a need for locomotive power to move large trains from the west to the east. A 100-car train of coal was reported to need four to six power units.

Railroads have reported that their normal down factor for locomotive power units has increased from 2 to 8 to 10 percent this year. They indicate this is because of: First, winter storms damage, and second, increase in maintenance time from 30 to 45 days.

During the hearings there was good substantiation that railroads are using their available locomotive for unit trains and high-revenue long-distance shipments. From figures submitted by the American Association of Railroads, the number of new locomotives purchased in the past 3 years is down drastically compared to the prior 10 years.

There seems to be a greater number of bad order cars:

[In Percent]

	Bad order boxcars	Bad order hopper cars covered
1968	6.7	3.0
1973	8.9	3.9
1978	15.6	6.5

In addition to the sales of grain being unseasonal, we have the normal demand for rail cars to shift stocks at local elevators to terminal position.

Mr. President, this rail car shortage is far worse than the critical shortage experienced in 1972–73 when that shortage was attributable to the large exports of grain and the necessary movement to ports. As indicated in the summary, it is a very complex problem.

BENTSEN-DOLE PROPOSAL

I understand that several railroads have contracted or are negotiating with Mexican car manufacturers for rail cars. Reduced prices are certainly a factor, however, U.S. rail car manufacturers currently are committed for their production far into 1979, so prospects for delivery of cars in the future are not good. This exemption from the 18 percent import duty would be temporary until June 1, 1982, or until such imports from Mexico should return to a quantity less than 50 percent, when their GSP status would automatically remove the duty. I understand that there are other countries, including our neighbor Canada, which favor this proposal.

This legislation, therefore, certainly seems worthwhile and logical. I especially value our relationship with our neighbors in Mexico and we should work with them in all areas of mutual benefit.

FINANCE COMMITTEE

I hope that the Finance Committee will consider this proposal and the treatment of investment tax credits for these purchases and continue the investigation with regard to the availability of locomotive power.

As I indicated earlier in my statement, power shortage, or the preferential use of existing power for other nonagricultural shipments may be a real contribution to the rail car shortage. The Senate Agriculture, Nutrition, and Forestry Committee originated a Senate resolution which calls on the ICC to further investigate the power shortage and other factors contributing to the shortage of rail cars.

I am anxious to hear from our domestic rail industry on this legislation. In particular, I would like to know of any impact on our rail car manufacturers.

Mr. President, I hope my colleagues will join us in supporting his legislation which can assist in alleviating one of the factors contributing to the ongoing shortages of rail cars.●

By Mr. DURKIN:

S. 3327. A bill to amend the Internal Revenue Code of 1954 to provide a tax credit to small businesses for filing forms required by Federal law; to the Committee on Finance.

● Mr. DURKIN. Mr. President, today I am introducing legislation which will address a national problem long burdening the business community—the rising tide of paperwork and reports demanded of small businesses by the Federal Government.

My legislation will help ease the financial burden this involves by granting small businesses a Federal income tax credit of $5 for each form or document

the business is required by Federal law to file. A small business is a business as defined by the Internal Revenue Service Code or as determined by the Small Business Administration.

The purpose of my amendment is twofold. First, it will provide long-needed relief to small businessmen by compensating them in part for the time and money required to comply with Federal paperwork requirements. Second, it will send the clear message to every bureau and agency in the Federal Government that requiring small businesses to file needless or burdensome forms is going to cost the Government money.

I am introducing this legislation because I believe that the business community is fast approaching a crisis in its ability and willingness to cope with increasing Federal regulation. Today, many in the small business community perceive the Federal Government as an enemy, and this perception is often justified. Federal regulation of business is at an alltime high, with alphabet agencies from the CAB to the EPA to OSHA issuing administrative regulations with the force of law. Each year the Federal Government issues more than 7,000 regulations. The publication containing just these regulations averages a startling 250 pages a working day, or 60,000 pages a year. Not only do these regulations have the force of law, but everyone from the President on down candidly admits that many are unnecessary, or needlessly burdensome, or overbroad reactions to narrow problems. The inevitable result is that the business community, which is 97 percent small business enterprises, is resentful that they must spend time and money meeting requirements they know to be misguided or unnecessary.

Nowhere is this resentment more acute than when focused on the rising burden of paperwork which Federal agencies inflict on small businesses. Today it is estimated that 3 million small businesses spend between $15 and $20 billion complying with Federal paperwork each year. This averages $3,000 per business, and for many this could make the difference between solvency and bankruptcy. And often the cost is higher.

For example, a small Pennsylvania machine and tool company with 30 employees was forced to hire a clerk solely to keep records and fill out forms. The clerk spends almost half of each and every working day filling out forms at an overall additional labor cost of $7,500 a year.

Another firm, this one with only 18 employees, must wade through a maze of 60 complex forms each year, at an annual cost to the company of $10,000.

Most small businesses in New Hampshire could tell a similar story.

Also, I need not stress that employee time spent filling out forms is nonproductive time. It contributes nothing to the gross national product; it contributes nothing to the sales or profits of the firm. It gives the businessman nothing, but it takes his time and money. Indeed, the National Federation of Independent Business estimates that its member businesses spend as much a 38 percent of their time in meeting nonproductive regulation and paperwork requirement.

Mr. President, small businesses, many of which are classic "Mom and Pop" operations, are least able to bear this ever increasing burden. This burden, combined with an inequitable tax structure, high interest rates for small borrowers, and skyrocketing product liability insurance premiums explains why approximately 30 percent of all new businesses fail within 1 year, and why 50 percent fail with 2 years. Clearly, small business is in big trouble. Relief is needed, and the legislation I introduce today will help ease the burden of doing business in this country.

Mr. President, I ask unanimous consent that my legislation amending the Internal Revenue Code be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 3327

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable) is amended by inserting immediately after section 44B the following new section:

"SEC. 44C. EXPENSE OF FILING FEDERAL FORMS.

"(a) GENERAL RULE.—There is allowed as a credit against the tax imposed by this chapter for the taxable year a credit of $5 for each form or document which a small business is required by Federal law to file with the United States Government or any agency or establishment thereof during such taxable year.

"(b) APPLICATION WITH OTHER CREDITS.—The credit allowable by section (a) shall not exceed the tax imposed by this chapter for the taxable year, reduced by the sum of the credits allowable under a section of this part having a lower number or letter designation than this section, other than the credits allowable by sections 31 and 39.

"(c) DEFINITION OF SMALL BUSINESS.—For purposes of this section, the term 'small business' means an electing small business corporation (as defined in section 1371(b)), or a small business concern as determined by the Administrator of the Small Business Administration under section 3 of the Small Business Act (15 U.S.C. 632).".

(b) The table of sections for such subpart is amended by inserting immediately after the item relating to section 44B the following:

"SEC. 44C. EXPENSE OF FILING FEDERAL FORMS.".

SEC. 2. The amendments made by the first section of this Act apply to taxable years ending after December 31, 1978, with respect to forms required by law to be filed after such date.●

By MR. BAYH (for himself, Mr. ABOUREZK, Mr. CRANSTON, Mr. HEINZ, Mr. MELCHER, and Mr. METZENBAUM):

S. 3328. A bill to amend the Fair Credit Reporting Act to provide procedures relating to the disclosure of consumer information maintained by creditors, insurance institutions, insurance-support organizations, and depository institutions; to the Committee on Banking, Housing, and Urban Affairs.

CONSUMER PRIVACY PROTECTION ACT

● Mr. BAYH. Mr. President, today, I am introducing along with Senators ABOUREZK, CRANSTON, HOLLINGS, MELCHER, and METZENBAUM, the Consumer Privacy Protection Act of 1978. This legislation will establish a duty of confidentiality for customer records kept by credit grantors, insurance organizations and depository institutions and would enforce that duty through a civil action for damages brought by any person whose records were distributed in violation of the statute. It would require credit, insurance and banking institutions to inform their customers what they plan to do with the personalized information they collect and to receive authorization from the consumer for any disclosures inconsistent with the original understanding. I should point out that this legislation is not directed primarily at government access to these records, but at establishing the right of individuals to be informed of how these recordkeepers intend to treat personal information which they have gathered in the course of their business. I believe this would be an important step in preserving an individual's privacy for the information he or she provides to credit, insurance, and banking institutions.

Mr. President, a citizen's right to privacy is the one concept more than any other which separates our society from those authoritarian systems which do not recognize the supremacy of the individual. Alexander Solzhenitsyn observed that one of the most chilling practices of the police state is its never-ending collection of personal information on its citizens. The resulting lack of privacy is the essence of control.

There can be no question that the functioning of a modern society requires institutions to seek certain information about individuals. We are not, after all, a Nation of hermits. But we are a free independent people and the proper balance must be struck between the never-ending demand for additional and more personal information, and our right to privacy. If we are to maintain this balance, we must vigorously defend the right of Americans to assert this right, and we must become more aware of the potential dangers to it.

In years passed, efforts to protect our privacy have been concentrated on uncovering and controlling governmental abuses in this area. I firmly believe this effort must continue. Just recently, the Senate approved—by a vote of 95 to 1—the Foreign Intelligence Surveillance Act. This act establishes, for the first time, the requirement of a court order prior to electronic surveillance conducted for national security purposes. Traditionally, this type of surveillance has taken place without warrants, court orders or any judicial oversight at all. The final enactment of this legislation will end the obvious abuses of privacy which have occurred in the past.

Although we have an ongoing duty to continue our efforts in the governmental area, we should also be aware of the significant privacy concerns which exist in the private sector. The 2-year study of the Privacy Protection Study Commission has pointed out that enormous amounts of personal information are kept by credit companies, insurance institutions and depository institutions. The rapid growth of these services in modern America has generated filing systems jammed with intimate details

of people's lifestyles, health and spending habits. Most of us have been included in these systems. Two out of three Americans have life insurance, 90 percent have health insurance and 90 percent of our automobiles are insured. Currently there is more than $180 billion in outstanding consumer credit and as Justice Douglas once observed, an individual's banking record can give a fairly accurate account of his or her religion, ideology, opinions and interests.

For the most part the information collected to service these functions is necessary for the proper conduct of these businesses. On the other hand, there can be little doubt that these practices may pose some chilling prospects to our preceptions of privacy. Persons who avail themselves of credit, insurance and banking services must, of course, provide information to the institutions, but I believe they also should be assured that these private details will not be used for purposes beyond the ones for which they originally decided to divulge it. Americans should not have to reveal personal information to the world at large simply to open a charge account. The final report of the Privacy Protection Study Commission provides one example involving the credit industry:

The credit relationship demands cooperation, both among institutions and between institutions and individuals. Credit grantors regularly share information about their individual customers because it is to their mutual advantage to do so, and because, in many instances, it is to the advantage of the individual. Given this inherent need for information exchange, can an individual legitimately expect the records generated about him in the context of the credit relationship to be treated as confidential?

Industry spokesmen consistently maintain that the individual who applies for credit implicitly consents to the exchange of information about him among credit grantors. Because credit application forms almost invariably request the names of a few credit grantors with whom the applicant already has a relationship, it is argued that the individual must know third-party sources will be contacted to verify and supplement the information he himself provides. The industry relies mainly on this implied consent to justify the free flow of information within it.

Although the Commission accepts the view that an individual should not expect absolute control over disclosures of the information about himself that credit grantors need if they are to establish or service a credit relationship, it believes that the individual should have an explicit, enforceable expectation of confidentiality. Achievement of this balanced objective is, however, undermined by the following practices.

First, while credit grantors themselves do not routinely disclose information about their customers to inquirers whose interests do not involve credit granting, their arrangements with credit bureaus allow for a substantial amount of disclosure for purposes unrelated to the granting of credit. Even assuming that an individual understands that information about his credit relationship will be shared among credit grantors, can it be assumed that he also knows it may be disclosed to employers, insurers, and government agencies? The Commission thinks not. Nor did any of the credit-bureau and credit-grantor witnesses who appeared before the Commission offer any evidence that individuals recognize a nexus between the reporting of credit information to a credit bureau for credit-related purposes and its subsequent uses for other purposes.

Second, the widespread acceptance of credit cards has created vast amounts of recorded information that is extremely useful to marketers. The data bases of both credit grantors and credit bureaus, particularly those who have automated their records, have emerged as an important institutional asset. Commercial banks and consumer-finance companies use their records on individuals to screen prospective customers for other commercial enterprises. Credit bureaus refine marketers' mailing lists by weeding out individuals with unsatisfactory credit records. A consequence of these practices is that information derived from confidential relationships may be disclosed without the individual's knowledge, let alone authorization. The Commission's views on these practices and other marketing activities dependent on the compilation and use of mailing lists are discussed in Chapter 4.

Third, credit grantors disclose information to collection agencies without restrictions on subsequent use of disclosure by these agencies. As noted in the earlier discussion of credit grantor record-keeping practices, the implied threat that one's financial difficulties will be disclosed to neighbors and one's employer by a collection agency conflicts with the credit grantor's obligation to keep an individual's affairs confidential. Often the individual's expectation of confidentiality is outweighed by the desire of the credit grantor or its agent to protect itself against economic losses.

Fourth, although the Fair Credit Reporting Act regulates the disclosure of credit-bureau records to government agencies, disclosures by credit grantors are not now controlled. The individual simply has no legally recognized interest to be balanced against a governmental need for information about him held by a credit grantor, even when there are procedures for informing him of a pending disclosure that might be inimical to him. The Commission finds that the growing attractiveness of credit-card records to government investigators makes it more urgent than ever to strengthen the legal basis for an individual's expectation of confidentiality in his credit relationships. The broad issue of controlling governmental access to records held by various private-sector institutions is addressed in Chapter 9.

We face the danger that information based service systems coupled with the tremendous technological advances in computer science and informational storage and retrieval will present us with the potential for a dossier society in which files are collected, stored, and distributed without our knowledge or consent.

Mr. President, significant and rapidly growing numbers of Americans are concerned over the use and extent of the information stored in these nongovernmental files. Last year a Harris survey found that 67 percent of the public agreed that Americans begin surrendering their privacy "the day they opened their first charge account, take out a loan, buy something on the installment plan or apply for a credit card." That figure had increased by 20 percent over the previous years survey. A 54 percent majority feel that personal information is being stored in files for purposes unknown to them. In 1974 that figure was 44 percent. Moreover, 75 percent of Americans feel that legislation should be enacted to place basic controls on the way large businesses and other private organizations treat the information they collect about their customers. I also conducted a somewhat less scientific mail survey of constituents in my own State of Indiana and found that 85 percent of those responding favored legislation to protect the privacy of their bank, credit and insurance records.

Obviously, Mr. President significant numbers of us are worried about what happens to the personal information large corporations gather on us.

I believe this concern should be responded to. I believe the American consumer should be given some degree of control over this information. We should not be forced to surrender our privacy in order to obtain needed services. The personal information we divulge in order to obtain credit insurance or banking services should not be used for another purpose without our consent.

The Consumer Privacy Protection Act will provide Americans with that assurance. The bill would require credit, insurance and banking institutions to inform their customers what they plan to do with the information collected and to receive authorization from them for any disclosures inconsistent with the original understnading. Under current law an individual has no legally recognized interest in the records maintained about him or her by these institutions. Although many recordkeepers have self imposed guidelines of confidentiality, there is simply nothing an individual can do to stop these institutions from disclosing personal information in ways contrary to these self imposed standards.

The Consumer Privacy Protection Act would create a right of confidentiality in these records which will clearly deleniate the circumstances under which these recordkeepers will disclose information about an individual without his or her authorization. At the same time it recognizes the need for routine disclosures and allows for such disclosures without authorization if the individual is aware that they may occur. As the Privacy Protection Study Commission points out, the advantage of this approach is that it leaves the basic decision on disclosure policy to these institutions and their customers and simply requires that individuals must be informed of institutional practices. To the extent that these institutions inform their clients of their information practices the information flow will not be impeded. Authorizations are necessary only for those disclosures which are the exception to the individual's expectations of confidentiality as established by the original notification.

I should point out that this approach does not mandate that the individual has complete and unfedered control over the informaion he or she supplies to credit, insurance and banking institutions. In each case the institutions may disclose information to protect themselves from improper actions of the individual and the institutions may use the information gathered in its regular course of business. The essence of this bill is to enable consumers, who are concerned over the use of this information, to make privacy issues a consideration in their decision to participate in the services offered by

large corporations. For the first time these institutions will have to disclose to consumers what they intend to do with the private information they collect and to secure authorization for any use not covered by the original understanding.

Mr. President, I noted previously that the collection of personal information is a necessary function of modern society and the mere fact that such practices exist should not cause us undue alarm. At the same time, we should recognize that while there may be nothing sinister in the collection of this information, there is nothing contradictory in granting to individuals the right to be informed of the uses to which it will be put.

Mr. President, the issues presented by the desire for privacy are wideranging and complex. In addition to the bill I am introducing today, one of the areas of particular interest for me has been the right of privacy of employees. Last year I introduced the Polygraph Control and Civil Liberties Protection Act which is designed to put an end to the offensive and degrading practice some employers have instituted which requires their workers and job applicants to submit themselves to periodic lie detector tests. These truth-testing sessions are not necessarily the result of a specific theft or loss, or even a suspicion of such crimes. Rather they represent the indiscriminate and random intrusion of lie detectors into the lives of ordinary Americans. Failure to submit to these tests can mean not getting a job for which you applied or losing the one you have.

The Subcommittee on the Constitution, which I have the honor to chair, has held 2 days of hearings on this bill and we plan to continue our inquiry into other aspects of employe privacy later on in this session.

I should emphasize Mr. President that I do not believe that the threat to our privacy in modern America is based on some sinister plot to undermine our freedoms. On the contrary, I believe the motivation behind these efforts are oftentimes premised on some social good. There are always good reasons put forward for surrendering another position of our right to privacy—it will save money, increase efficiency, identify morale problems or catch the dishonest employee. But as Justice Brandice wrote more than 50 years ago, "we should be most on guard to protect our liberties when the purposes for which we are asked to surrender them are beneficial ones."

There can be little doubt that privacy carries with it a measure of inefficiency. But our Bill of Rights was not adopted by those who founded this country because it would make things more efficient. On the contrary, the values embodied in that document were adopted to preserve the individual dignity, security and privacy inherent in a society of free people. Hopefully, we will be able to maintain those values as we enter Americas' third century, and I believe the Consumer Privacy Protection Act will assist in this effort.

Mr. President, I ask unanimous consent that the Consumer Privacy Protection Act and a summary be printed in the RECORD at this point.

There being no objection, the bill and summary were ordered to be printed in the RECORD, as follows:

S. 3328

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 2. Section 602 of the Fair Credit Reporting Act is amended—

(1) by inserting at the end of subsection (a) the following:

"(5) Personal information about consumers is collected and maintained by various business organizations in order to establish relationships and provide services to consumers.

"(6) Consumers should have the right to be informed as to the disclosure policies such organizations have established for the personal information they have collected."; and

(2) in subsection (b), by inserting "(1)" before "to require", and by striking the period at the end of the subsection and inserting in lieu thereof a semicolon and the following: "and (2) to provide procedures relating to the disclosure of consumer information maintained by creditors, insurance institutions, insurance-support organizations, and depository institutions.".

SEC. 3. Section 603 of the Fair Credit Reporting Act is amended by adding at the end thereof the following:

"(j) The term 'creditor' has the same meaning as in section 103(f) of this Act.

"(k) The term 'depository institution' means any bank, trust company, savings and loan association, building and loan association, homestead association, or credit union which is organized under the laws of any State or of the United States.

"(l) The term 'insurance institution' means any person who is in the business of providing insurance.

"(m) The term 'insurance-support organization' means an organization which regularly engages in whole or in part in the practice of assembling or evaluating information on persons for the purposes of providing such information or evaluation to insurance institutions for insurance purposes.".

SEC. 4. The Fair Credit Reporting Act is amended by adding at the end thereof the following new sections:

"SEC. 623. PROCEDURES RELATING TO DISCLOSURES BY CREDITORS, INSURANCE INSTITUTIONS, INSURANCE-SUPPORT ORGANIZATIONS, AND DEPOSITORY INSTITUTIONS

"(a) Each creditor, insurance institution, insurance-support organization, and depository institution shall notify each consumer with whom it has or proposes to have a credit, insurance, or depository relationship of the disclosures which are expected to be made of any information it collects or maintains about that consumer. The notification shall include the specific types of information to be disclosed routinely to third parties, and the types of recipients, as necessary for servicing that relationship.

"(b)(1) Except as provided in section 624 and subject to paragraph (2), a creditor, insurance institution, insurance-support organization, or depository institution may not disclose information concerning a consumer, which it has collected to establish or service a credit, insurance, or depository relationship with that consumer that would not be consistent with the original notification described in subsection (a) or without the authorization of that consumer.

"(2) Paragraph (1) does not apply to any disclosure of information—

"(A) in order to prevent or protest against the possible occurrence of fraud; or

"(B) where necessary to service the credit, insurance, or depository relationship; or

"(C) in response to a lawfully issued administrative summons or judicial order, including a search warrant or subpoena.

"(c) A creditor, insurance institution, insurance-support organization, or depository institution shall notify the consumer, in writing, or any change in its policies or procedures relating to the use or disclosure of information concerning consumers.

"SEC. 624. AUTHORIZED DISCLOSURES BY INSURANCE INSTITUTIONS AND INSURANCE-SUPPORTED ORGANIZATIONS

"An insurance institution or insurance-support organization may disclose, in individually identifiable form, any information about a consumer without that consumer's authorization only—

"(1) to a physician for the purpose of informing the consumer of a medical problem of which the consumer may not be aware;

"(2) to the insurance regulator of a State or an agent or contractor for an insurance regulatory purpose authorized by State statute;

"(3) under a Federal, State, or local compulsory reporting statute or regulation;

"(4) in response to a lawfully issued administrative summons or judicial order, including a search warrant or subpena;

"(5) from an insurance institution to a reinsurer or coinsurer, or to an agent or contractor of the insurance institution, including a sales person, independent claims adjuster, or insurance investigator, or to an insurance-support organization whose sole source of information is insurance institutions, or to any other party-in-interest to the insurance transaction, if—

"(A) only such information is disclosed as is necessary for the reinsurer, coinsurer, agent, contractor, insurance-support organization, or other party-in-interest to perform its function with regard to the consumer or the insurance transaction;

"(B) the reinsurer, coinsurer, agent, contractor, insurance-support organization, or other party-in-interest is prohibited from redisclosing the information without the authorization of the consumer or as provided in paragraphs (1), (4), (6), and (7) of this subsection;

"(C) the consumer is notified when an application for such information is received, that disclosure of the information may be made, and the consumer is able to find out whether, in fact, the disclosure is made;

"(D) information pertaining to a consumer's medical history, diagnosis, condition, treatment, or evaluation is disclosed only if the information was obtained directly from a medical care provider, the consumer himself, or his parent, spouse, or guardian;

"(6) from an insurance-support organization whose sole sources of information are insurance institutions or self-insurers to an insurance institution or self-insurer, if—

"(A) the sole function of the insurance-support organization is the detection or prevention of insurance fraud in connection with claim settlements;

"(B) when disclosed to a self-insurer, the self-insurer assumes the same duty of confidentiality with regard to that information which is required herein of insurance institutions and insurance-support organizations; and

"(C) any insurance institution or self-insurer which receives information from any such insurance-support organization is prohibited from using such information for other than claim purposes; or

"(7) to a law enforcement authority to protect the legal interest of the insurer, reinsurer, coinsurer, agent, contractor, or other party-in-interest to prevent and to prosecute the perpetration of fraud upon them, or when the insurance institution or institution-

support organization has a reasonable belief of illegal activities on the part of the consumer.".

SEC. 5. (a) Sections 616 and 617 of the Fair Credit Reporting Act are each amended by inserting after "consumer reporting agency" the following: ", creditor, insurance institution, insurance-support organization, depository institution,".

SECTION BY SECTION ANALYSIS OF CONSUMER PRIVACY PROTECTION ACT

SEC. 1. This section amends section 602 of the Fair Credit Reporting Act to establish as a new purpose of the Act the right of consumers to be informed as to the information disclosure policies of credit grantors, insurance institutions, insurance support organizations, and depository institutions. It also establishes as a new purpose of the Fair Credit Reporting Act the procedures whereby consumers can enforce the new expectation of confidentiality created by the Consumer Privacy Protection Act.

SEC. 2. This section amends section 603 of the Fair Credit Reporting Act to reflect the definitions of "creditor", "depository institutions", "insurance institutions" and "insurance support organizations" as used in the Consumer Privacy Protection Act.

SEC. 3. This section adds a new section 623 to the Fair Credit Reporting Act requiring that each credit, insurance of depository institutions shall inform its customers as to the disclosures to third parties it intends to make of the personal information gathered from or about the consumer. Subsection (b) of this section establishes that before the institutions may disclose personal information in a manner inconsistent with the original notification the specific authorization of the consumer must be obtained. Paragraph 2 of this section sets out the situations in which a specific authorization would not be necessary such as to prevent fraud, or in response to a judicial order. Subsection (c) requires the institutions to notify its consumers in writing of any change in disclosure policies.

This section also adds a new section 624 which specifies the types of disclosures which may be made by insurance institutions without the consumer's authorization. Such disclosures may be made, for example, to a physician in order to inform the consumer of a medical problem, or to a State insurance regulatory agency or under certain conditions to a reinsurer or coinsurer.

SEC. 4. This section amends the existing sections 616 and 617 of the Fair Credit Reporting Act concerning civil liability for willful and negligent violations of the Act The Consumer Privacy Protection Act would provide actual and punitive damages for willful noncompliance of the Act and actual damages for negligent noncompliance.●

By Mr. MELCHER (for himself, Mrs. HUMPHREY, Mr. RANDOLPH, Mr. ANDERSON, Mr. DURKIN, Mr. MCGOVERN, Mr. PAUL G. HATFIELD, Mr. CLARK, Mr. METZENBAUM, Mr. RIEGLE, and Mr. DECONCINI):

S.J. Res. 149. A joint resolution to direct the Civil Aeronautics Board to disapprove any renewal and terminate any effect of the Airlines Mutual Aid Pact and to provide for a study and report on alleviating airline strikes; to the Committee on Commerce, Science, and Transportation.

(The remarks of Mr. MELCHER when he introduced the joint resolution appear elsewhere in today's proceedings.)

ADDITIONAL COSPONSORS

S. 2400

At the request of Mr. BAYH, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2400, to establish a National Alcohol Fuels Commission.

S. 2843

At the request of Mr. HELMS, the Senator from Texas (Mr. TOWER), and the Senator from Nevada (Mr. LAXALT) were added as cosponsors of S. 2843, the Gold Medallion Act.

S. 2856

At the request of Mr. MORGAN, the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of S. 2856, the Uniformed Services Survivor Benefit Plan Amendments Act.

S. 3044

At the request of Mr. DURKIN, the Senator from South Dakota (Mr. MCGOVERN) was added as a cosponsor of S. 3044, a bill to amend title IV of the Higher Education Act of 1965 to establish a system of student tuition advances to be repaid as an income tax imposed by the Internal Revenue Code of 1954, and for other purposes.

S. 3265

At the request of Mr. ROTH, the Senator from Utah (Mr. GARN) and the Senator from Texas (Mr. TOWER) were added as cosponsors of S. 3265, a bill to amend the Internal Revenue Code of 1954 to allow an individual to exclude from gross income the gain from the sale or exchange of the individual's principal residence.

S. RES. 516

At the request of Mr. DOLE, the Senator from Michigan (Mr. GRIFFIN) was added as a cosponsor of Senate Resolution 516, expressing the sense of the United States to observe Captive Nations Week.

S. RES. 519

At the request of Mr. ROBERT C. BYRD, on behalf of Mr. ANDERSON, the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of Senate Resolution 519, expressing the sense of the Senate that the 1980 Olympic games ought to be held outside the Soviet Union.

AMENDMENT NO. 2176

At the request of Mr. DURKIN, the Senator from Massachusetts (Mr. BROOKE) was added as a cosponsor of amendment No. 2176 intended to be proposed to S. 1500, a bill to designate certain lands in the State of Alaska as units of the National Park, National Wildlife Refuge, National Wild and Scenic Rivers, and National Wilderness Preservation Systems, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

FOREIGN SECURITY ASSISTANCE AUTHORIZATIONS—S. 3075

AMENDMENT NO. 3264

(Ordered to be printed and to lie on the table.)

Mr. DOLE (for himself, Mr. STONE, Mr. JAVITS, Mr. GOLDWATER, Mr. MORGAN, Mr. CURTIS, Mr. TALMADGE, Mr. HAYAKAWA, Mr. HATCH, Mr. SCHMITT, Mr. HUDDLESTON, Mr. BELLMON, Mr. LUGAR, Mr. STEVENS, Mr. HELMS, and Mr. LAXALT) submitted an amendment intended to be proposed by them, jointly, to S. 3075, a bill to amend the Foreign Assistance Act of 1961 and the Arms Export Control Act, and for other purposes.

CHINA AMENDMENT

● Mr. DOLE. Mr. President, I am today submitting a proposed amendment to the foreign security assistance authorization, S. 3075, so that it may be printed in advance. This amendment is being offered jointly by myself and my colleagues from Florida, Senator RICHARD STONE, and is cosponsored by Senators JAVITS, GOLDWATER, MORGAN, CURTIS, HAYAKAWA, HATCH, SCHMITT, HUDDLESTON, BELLMON, TALMADGE, LUGAR, STEVENS, HELMS, and LAXALT.

The amendment relates to our mutual defense treaty with the Republic of China, and attempts to establish certain "ground rules" for any future efforts by the executive branch to abrogate that treaty. We suggest that it is the sense of the Senate that "any proposed policy changes affecting the continuation in force" of the treaty should be "a matter for prior consultation with the Senate." It is designed specifically to correct any misconception that the treaty would automatically "lapse" if the administration recognizes Peking's government, and to insure that the Senate will be given an advisory role if the President should decide to abrogate the treaty by a unilateral initiative. By so doing, we can be sure that the security considerations affecting American and Japanese interests in the Western Pacific area—which motivated the 1954 defense treaty and which remain important today—are fully taken into account before any policy changes are undertaken.

Mr. President, I ask unanimous consent that the text of the amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3264

At the end of the bill insert the following new section:

UNITED STATES-REPUBLIC OF CHINA MUTUAL DEFENSE TREATY

SEC. 27. (a) the Senate finds that—

(1) the continued security and stability of East Asia is a matter of major strategic interest to the United States;

(2) the United States and the Republic of China have for a period of twenty-four years been linked together by the Mutual Defense Treaty of 1954;

(3) the Republic of China has during that twenty-four year period faithfully and continually carried out its duties and obligations under that treaty;

(4) the United States-Republic of China Mutual Defense Treaty is integral to the broader North Asian security arrangements between the United States, the Republic of Korea, and Japan; and

(5) it is the responsibility of the Senate

to give its advice and consent to treaties entered into by the United States.

(b) It is the sense of the Senate that any proposed policy changes affecting the continuation in force of the United States-Republic of China Mutual Defense Treaty shall be a matter for prior consultation with the Senate.

● Mr. STONE. Mr. President, I am submitting this amendment with my colleagues for two reasons: First, I think it is absolutely necessary and entirely appropriate that the U.S. Senate be fully consulted in the event that our Government contemplates any change in the relationship between the United States and the Republic of China. The formulation of American foreign policy is rightfully a matter of great concern to the Senate. This amendment insures the Senate's participation in the formulation of U.S. policy toward the Republic of China. Second, the Republic of China remains one of the strongest and most reliable allies of the United States. United States-Republic of China trade is currently about $8 billion annually. Any fundamental change in our relations with such an important ally and constant friend should be considered not only by the administration but also by the Senate.●

HUMANE METHODS OF SLAUGHTER ACT OF 1978—S. 3092

AMENDMENT NO. 3265

(Ordered to be printed and referred to the Committee on Agriculture, Nutrition, and Forestry.)

Mr. DOLE submitted an amendment intended to be proposed by him to S. 3092, a bill to amend the Federal Meat Inspection Act to require that meat inspected and approved under such act be produced only from livestock slaughtered in accordance with humane methods.

● Mr. DOLE. Mr. President, I submit an amendment which I intend to propose to S. 3092, Humane Methods of Slaughter Act of 1978.

S. 3092 amends the Federal Meat Inspection Act, which is administered by the Food Safety and Quality Service (FSQS) of the Department of Agriculture.

I have become concerned by recent actions by that agency to provide financial support for increasing public participation in agency decisionmaking.

More public input is a desirable goal. But when there is public money to be parcelled out, opportunities for abuse can crop up.

Congress has never given FSQS guidelines for criteria for dispensing appropriated funds to pay the expenses of groups and individuals seeking to influence regulatory decisions.

In fact, the agency has been unable so far to cite specific statutory authority for these expenditures at all. As Senators well know, we have had a law since 1809 prohibiting the use of public funds for activities that are not specifically authorized by law.

Yesterday the Senate Agriculture Appropriations Subcommittee struck from the House-passed bill a provision which would prohibit these expenditures by the Department of Agriculture, the Food and Drug Administration, and the Commodity Futures Trading Commission.

The House amendment was adopted unanimously by voice vote on June 22. Its proponents argued, and I agree, that public money should not be used to finance the participation of any group or person because, to be fair, all would have to be included. There just is not enough money in the American taxpayer's pocket to cover the cost.

In view of the Senate Appropriations Committee action, and since we have an opportunity to partially remedy this situation in S. 3092, which amends the Federal Meat Inspection Act, I will propose that my amendment be added during floor action on the bill.

Mr. President, I ask unanimous consent to have the amendment printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 3265

Add a new section 8, as follows:

The provisions of the Act of June 30, 1906, as amended (34 Stat. 679, 48 Stat. 1225; 21 U.S.C. 694) relating to appropriations for enforcement of the meat inspection laws, are further amended by changing the period at the end thereof to a comma, and adding the following: "except that none of the funds appropriated for enforcement of the meat inspection laws shall be available to pay the expenses of parties intervening in any regulatory proceeding or of any person acting as a witness, an expert, or an advisor for or on behalf of any organization appearing before the United States Department of Agriculture.".●

NOTICES OF HEARINGS

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. CHILES. Mr. President, the Subcommittee on Federal Spending Practices and Open Government will be continuing oversight hearings on the Government in the Sunshine Act (Public Law 94-409) on Friday, August 4, 1978, at 9:30 a.m., in 3302 Dirksen Senate Office Building.

For further information regarding this hearing, please contact Mr. Ronald A. Chiodo, subcommittee chief counsel and staff director (224-0211).●

SUBCOMMITTEE ON RURAL DEVELOPMENT

● Mr. CLARK. Mr. President, the Subcommittee on Rural Development of the Committee on Agriculture, Nutrition, and Forestry, will hold hearings next week on energy policy and strategy for rural development. The hearings will be July 25 and 26, beginning at 9 a.m. in room 324 of the Russell Senate Office Building.

The 2 days of hearings will focus on USDA and DOE strategies for conserving energy and developing new sources. We will discuss some of the technologies that are currently in development or operation, including those technologies that will have significant impact in bringing about energy conservation or self-sufficiency in rural America. In addition, we will be examining the administration's proposed gas rationing program to determine if it adequately provides for needs of farmers and rural people.●

SUBCOMMITTEE ON FEDERAL SPENDING PRACTICES AND OPEN GOVERNMENT

● Mr. HEINZ. Mr. President, the Subcommittee on Federal Spending Practices will be holding hearings on assuring quality of care in nursing homes in participating in medicare and medicaid on August 2 and 3, 1978, at 9:30 a.m., in 3302 Dirksen Building, both days.

For further information regarding these hearings, I hope my colleagues or the public will contact Mr. Robert Walkington of the subcommittee staff (224-3332).●

ADDITIONAL STATEMENTS

SENATOR ROBERT C. BYRD "FACES THE NATION"

● Mr. HARRY F. BYRD, JR. This past Sunday, July 16, the majority leader of the U.S. Senate (Mr. ROBERT C. BYRD) appeared on the CBS television network program "Face the Nation."

As one who viewed that program from my home in Winchester, Va., I was much impressed with the ability and commonsense way the Senator from West Virginia handled the multitude of questions which were put to him by an outstanding panel of reporters.

Each of us in the Senate knows what an outstanding leader is Senator ROBERT C. BYRD.

I am glad the American public had the opportunity to see him on "Face the Nation."

I ask that a transcript of the Sunday broadcast be printed in the RECORD.

The transcript follows:

FACE THE NATION

HERMAN. Senator Byrd, there have been an awful lot of headlines about Andrew Young in the newspapers in the last couple of days, some pro and some con, some talking about his interview. What is your evaluation of how you would balance the pros and cons of Andrew Young as Ambassador to the UN?

Senator BYRD. I don't think there's any question but that Andrew Young has contributed a great service to this country, especially in bringing credibility for the United States to Africa. But his recent statement was inopportune; it was inaccurate; and it was incompatible with his position as Ambassador to the UN. The trouble is, that this is nothing new for Andrew Young. He's made several irresponsible statements, and I think that this last one was of sufficient gravity that resignation should have been considered. And if he makes another irresponsible statement that fits into this pattern of bad judgment, I think he should go.

ANNOUNCER. From CBS News, Washington, a spontaneous and unrehearsed news interview on Face the Nation, with the Senate Majority Leader, Robert Byrd. Senator Byrd will be questioned by CBS News Congressional Correspondent Phil Jones; by Syndicated Columnist Martha Angle; and by CBS News Correspondent George Herman.

HERMAN. Senator Byrd, in your opening answer, you talked about the gravity of this recent statement by Ambassador Andrew Young, and I presume you were referring to the remark about American prisoners—political prisoners in American jails. Let me ask you how you estimate the gravity, what

actual damage you think it may have done our cause in the world.

Senator BYRD. It came at a time when the President and the Secretary of State were trying to bring to bear all the pressure that they could bring upon the system of government cruelty that is practiced in the Soviet Union, and it came at the time of the trial of the Soviet dissidents; it came at the time when the Congress—the United States Senate, at least—was passing a resolution, or had just passed a resolution, condemning the Soviet Union for its treatment of political prisoners, and I think Mr. Young's statement at that moment, in particular, gave succor and comfort to the Soviet Union, and in so doing, it undermined, undercut and underserved the administration.

ANGLE. Senator, apart from the passage of resolutions by the Senate and other expressions of outrage by American public officials, what practical means do we have of exerting leverage upon the Soviet Union to improve its treatment of its own dissidents, or in other ways enhance human rights there?

Senator BYRD. Let me say one other thing. I have stated to the President, and I've stated to Ambassador Young himself, that I was disturbed by his statements. Now, to your question——

HERMAN. Let me—may I ask you, did you express to Ambassador Young and to the President your feeling that this is the last time and one more such and he should go?

Senator BYRD. I said to the President that I was disturbed, and that the statements undercut and undermined the administration's position, and that it was a matter of serious concern to me and to those of my colleagues. I said to Mr. Young that I was very disturbed at the statement; it was a matter of concern, and a matter of concern to my colleagues, and that it had brought forth a great deal of criticism, that up to this point I had said nothing, but that after I read the sentence in full context, I would express myself, if asked.

ANGLE. Leaving aside Andrew Young for a moment, could you give us some suggestions of how this country, either Congress or the administration, can have any practical impact on the Soviet Union?

Senator BYRD. Well, the United States doesn't have a great deal of leverage that it can apply to the Soviet Union, but it can help to bring pressure in the most important international court of all, the court of public—of world opinion. The Soviets will continue to be embarrassed by these trials and—that stem from a policy of government cruelty, and I think we just have to use whatever clout we can bring to bear in the court of world opinion. And the trials of Mr. Scharansky and Mr. Ginzburg have brought almost universal condemnation from the world community. So I think we just have to keep on the pressure.

JONES. Senator Byrd, if I might go back to Andrew Young, you said in your opening statement that resignation should have been considered. I assume that you meant that Mr. Young should have voluntarily offered to resign. Do you feel that Mr. Young was not fair with the President, that he indeed should have resigned, before he eventually has to be fired?

Senator BYRD. Well, this is a question, of course, that rests on the shoulders of Mr. Young and the President, not on mine. As I indicated, this is the most serious in a series of irresponsible and rash statements, and I thought—and I think that it was of sufficient gravity that resignation should be considered. At the same time, I think we should remember that Andrew Young has performed a considerable service to the administration and to the United States; but there comes a time when one's usefulness can be so eroded by such irresponsible statements as to reach the line and the point that he's no longer useful.

JONES. Well, may I pursue this bit of usefulness? How can a man, a public official, in the position that Mr. Young is in, continue to serve effectively when he now has a high official like yourself, the Majority Leader of the Senate, standing up and saying, one more time and you're going to get fired? How can he be effective any more?

Senator BYRD. He has been effective in a good many ways, but the administration should not have to steer its course through a foreign policy field that is landmined with verbal obstacles that disserve the country. So I think I've said enough; I've made my comments on Mr. Young. I don't know of anything that I can add.

HERMAN. Well, let me pursue this question of the administration foreign policy and the minefield that you see ahead of it. You've just returned from a trip to some of our allies in Europe. What did you find the perception in Bonn, in London, in Brussels, perhaps, of American foreign policy, including our nation's Ambassador to the United Nations? Do they find us to have a coherent, understandable foreign policy?

Senator BYRD. No, they do not. They're confused by the many voices that often speak on foreign policy, and this is one of the additional reasons why Mr. Young's statement at this time was so unfortunate.

HERMAN. Do they find—do they seem to be confused by other voices of the administration—for example, Mr. Blumenthal, Mr. Schultze, and so forth, speaking about American international economic policy?

Senator BYRD. They didn't give any examples. They simply don't seem to know what our foreign policy is at times.

HERMAN. Are they worried?

Senator BYRD. And they're confused—yes, they are, and of course, their greatest concerns, that they expressed to me, in Bonn, and in Brussels, and in London, were with respect to our seeming inability to come to grips with our energy problem, and the necessity for the United States to reduce its oil imports. An equally serious problem, in the minds of Chancellor Schmidt and Prime Minister Callaghan and other leaders in those countries, was the Turkish embargo.

ANGLE. Senator——

HERMAN. Well, if I may, that puts the monkey a little bit on the Senate's back, does it not? Some of these are problems that are stuck in Congress rather than the administration.

Senator BYRD. Well, yes, we will be voting on the repeal of the Turkish arms embargo, perhaps week after next, or at least debating it.

JONES. Have there been any developments in that? Can you now get what the President wants?

Senator BYRD. I don't know. Of course, I will support the repeal of the arms embargo to Turkey. During my visits to the European countries, as I've indicated, this was a matter that was very much on their minds; they're concerned about the deterioration of the southern flank of NATO, and General Haig says that the Turkish air force is perhaps down to less than 50 percent of serviceability. This is because the Turks have been forced to cannibalize their equipment—their aircraft and their armor. They're disastrously low on spare parts; and with an army of 500,000 ground forces, which ties down approximately 25 Warsaw Pact divisions on the Turkish border, the Turks can be in a very strategic position to protect Greece and the other NATO countries. And our military experts and our intelligence experts in those countries, and here, have told me that it's vitally important for the United States to be able to reopen its five intelligence bases in Turkey, which allowed it to monitor Soviet efforts to build and to deploy new weapons systems. So, in the interest of Greece, in the interest of NATO, and in our own interest, I think that the Turkish embargo should be lifted.

However, I think I should say this, too—that we must continue in our efforts to bring about a solution to the problem on Cyprus, and we must continue to try to help Greece, because neither Greece nor Turkey can modernize its armed forces and live up to its NATO commitments without our help.

HERMAN. Senator, your reasons are persuasive. Are you going to win?

Senator BYRD. I think that the votes are essentially there to lift the embargo in the Senate. I——

ANGLE. What about in the House, Senator?

Senator BYRD. I can't speak for the House.

ANGLE. Senator, on the energy issue, what did you tell the European leaders about the prospect for adoption of an energy bill that will have some teeth in it? Isn't the President's crude oil tax proposal all but dead at this stage?

Senator BYRD. I wouldn't say that, no. I told the——

JONES. Just sleeping, huh?

Senator BYRD. I told the leaders in Bonn and London and other places that the Congress is not stopping an energy program. They were under the impression that the Congress was not going to act, that it had not acted. Of course, I explained our legislative process and told about the work that the conferees had been doing, and I changed their perspective, the perspective of the European leaders with respect to this, and gave them encouragement that the Congress is going to act.

ANGLE. How strong a bill will it be?

Senator BYRD. On the energy—on the energy bill, the conferees have reached, I think, virtual agreement on several aspects of that bill; for example, tax credits on conservation measures, insulation, weatherization, and also on solar energy systems. So they're making progress.

JONES. Senator, apparently, the Europeans aren't the only ones who have trouble understanding how the U.S. Congress works, because in going over some old clippings I came upon a quote, back in February, from House Speaker Thomas O'Neill, who said that Carter energy package will be on the President's desk by mid-February. What happened?

Senator BYRD. I'll tell you what happened. Many people forgot that this is a problem that has been around for a quarter of a century, that President Eisenhower and President Truman vetoed bills dealing with deregulation of natural gas. And it should not have been expected that such a comprehensive and controversial bill as this would be acted upon quickly and sent to the President's desk. The President is to be given credit for having sent, for the first time to the Congress, a comprehensive national energy policy bill. But I think it was probably constructed in too great haste, kept under wraps, unveiled to meet a deadline, and thus got off to a bad start. But it's a very difficult, controversial subject, and I think the Congress has done well to deal with it as it did, as it improved on the President's package, and I'm confident that before Congress adjourns sine die we'll have on the President's desk an energy bill.

JONES. Could it be, as some of the congressional critics have said, that it just wasn't a very good package when it was sent to Congress?

Senator BYRD. Well, it—it could stand improvement, and I think the Senate improved it. And I hope that out of the conference will come a better bill than either version

that was passed by the House or Senate, and a better bill than that which was sent up by the administration.

ANGLE. Senator, the energy bill is the not the only proposal that the Carter administration has sent forth over this last 18 months which has found itself in considerable difficulty up there on Capitol Hill. What's the problem? Are his programs ill-conceived? Is his promotion of those programs falsely executed, or is it the Congress that's the stumbling block?

Senator BYRD. Let's look at it from a different perspective. Let's look at the bills that have been passed, and I think the scorecard is good. Congress passed the President's economic stimulus package. It passed his 34 billion tax cut which helped to put people to work.

ANGLE. Both of which would have passed without President Carter. They would have passed under Gerald Ford.

Senator BYRD. Well, that's hypothetical. Gerald Ford didn't send them up.

ANGLE. Similar ones had been passed by the Congress.

Senator BYRD. And it passed the President's request immediately for a new Department of Energy, so there are many—there are many pieces of legislation on which the Congress has supported the President, so I think that looking at it from the positive side he has done very well.

HERMAN. Well, let's look at it from the schedule side. You—you're proposing to adjourn, as I under stand it, a month before election day, first week in October, or something like that.

Senator BYRD. I haven't proposed to adjourn a month before election day, but I've said—

HERMAN. I hear it talked about.

Senator BYRD. I've said that October 7 is one month before election day on November 7, and that we ought to try to get our work done by then, but if we don't complete our work then we'll have to come back—

HERMAN. Now, what do you consider our work that you want to—

Senator BYRD. Well, I think the most important ingredient of the job remains to be done is the energy package.

HERMAN. All right. You have the energy package. How about a tax cut bill?

Senator BYRD. A tax cut is important and I think it should be enacted.

HERMAN. Will it be enacted this year?

Senator BYRD. I think it will be.

HERMAN. How about welfare reform this year?

Senator BYRD. Welfare reform—not comprehensive because we don't have that kind of time, but some—some welfare measure, I think, stands a good chance of passage in the Senate.

HERMAN. Anything else that we should have on this list?

Senator BYRD. The 11 appropriations bills, the second concurrent budget resolution, of course, has to be passed.

HERMAN. Yes.

Senator BYRD. I would hope that a hospital contain—cost containment bill would be passed. We've already passed the airline deregulation bill in the Senate. I hope the House will pass that. I would hope that—

HERMAN. Civil service reform?

Senator BYRD. I would hope so. That's very high on the President's list. It will have some problems, but this is one of the important measures that we ought to—

HERMAN. While I'm pulling out threads let me ask you about labor law revision. That's been sent back to committee. Is it—for all practical purposes, is it dead?

Senator BYRD. I wouldn't say that. Negotiations and discussions have been conducted by Senator Williams, Senator Javits, in an effort to bring to the Senate a bill that will pass.

ANGLE. But Senator, can you afford another filibuster on that bill that would tie the Senate up for weeks on end while you have these other important measures backing up?

Senator BYRD. You're laying down a premise that I think I have avoided by saying that Senator Williams and Senator Javits have promised a hard, lean bill. And they're—

ANGLE. That won't satisfy the opponents, will it?

Senator BYRD. And they're making every effort to bring a bill back that will pass. The problems, the basic problems that the bill was calculated to address have not gone away, and, of course, they're trying to bring out a bill that will address those basic problems, and at the same time not engender a filibuster, and if it does engender a filibuster, a bill that will get the 60 votes necessary for cloture.

JONES. Senator, I detect a little change in your mood when that bill was finally pulled from the floor after six attempts to break cloture. You said—

Senator BYRD. I'm a moody individual.

JONES. Alive and well, and that it will, absolutely, be back to the Senate floor.

Senator BYRD. No, I didn't say it would, absolutely, be back. You—

JONES. Well, are you saying now—

Senator BYRD. I said, if and when it comes back. That was the order of the Senate. If and when. I didn't say it would, absolutely, be back. But I said that the committee had promised a hard, lean bill, and I have talked with the members of the committee, especially the ranking member, and the chairman, urging that they try to bring a bill back that will pass the Senate.

JONES. You're not optimistic. You're not optimistic, though, that it will come back this session, are you?

Senator BYRD. Well, as long as negotiations continue, there's hope.

ANGLE. Letting that bill rest quietly, for the moment, where it is, can you give us a little explanation of what sort of tax cut you expect to emerge from the congress when all is said and done? How big, who will benefit? Will the capital gains tax reduction that the President opposes be included?

Senator BYRD. I should think that the tax cut proposal that was embodied in the first concurrent budget resolution is in the right ball park. In other words, about a 15 billion dollar tax cut, beginning in 1979.

ANGLE. That won't even cover the cost of inflation and the impact of new social security taxes.

Senator BYRD. Let me continue to answer your first three questions. That bill—that would be a moderate tax cut, and the Chairman of the Federal Reserve Board of Governors has stated that there should be a moderate tax cut, one that will not increase the deficit, one that will not fuel inflation, but one that will enhance the economy by helping us to move forward with continued economic growth and reduced unemployment. As to the capital gains tax, I think that the sentiment has grown in the Senate for it. I think that as long as it is a moderate capital gains cut, as long as it is so structured—and we must remember that capital gains tax reductions can be designed in many ways—as long as it is so structured as to encourage investment and re-investment in high risk and in new business enterprises, and as long as the middle-income groups benefit, then I would favor it, and I think it would—I think it stands a good chance.

JONES. What's moderate? Some want it cut from 49 percent rate to 25 percent. What's moderate?

Senator BYRD. Well, I think that's—I hesitate to say that's a Republican position, but that's my impression. I think our position would be that maybe it should be reduced from 49 to 35.

HERMAN. Senator, there's been a little talk among a certain group of economists in the Capitol here, that what the country needs to help ease the inflation is to postpone the minimum wage adjustment, which is coming next January, to put off the rise in the minimum wage. Is that likely to happen in Congress?

Senator BYRD. I see no indications at this point.

HERMAN. Would you favor it?

Senator BYRD. I'm in no position to say at this point. I don't see any need for that at this point. I certainly would study it if the matter became serious enough to consider.

JONES. Senator, changing the subject for a moment, the President is having some trouble with David Gardner, who was appointed to the Commodity Futures Trading Commission, and now he's being criticized for accepting some stock shares from a big grain company. The President wants him to resign. He's refusing. He was confirmed by the Senate. Do you think Mr. Gardner should resign?

Senator BYRD. I do.

JONES. And why?

Senator BYRD. The President is asking for him to resign, number one, and number two, I think that what has been done casts a shadow on his future credibility.

JONES. If he refuses to resign, should he be impeached?

Senator BYRD. Well, when one talks about impeachment one has to go back and reread the Constitution, which speaks of—in terms of impeachment—speaks of treason, bribery, and high crimes and misdemeanors, so one has to be very careful, not so loose in his talk about impeachment, either with respect to Andrew Young or with respect to Mr. Gardner.

ANGLE. Mr. Gardner had told the Senate committee about his holdings in the stock in question, and yet the Senate committee and the full Senate confirmed him in a breeze. Is there something wrong with the confirmation proceedings on the Hill? Why—why is not a closer look taken at nominees? We went through Bert Lance last year, Mr. Gardner this year, where there was certainly every notice given

Senator BYRD. A closer look should be given. I think that the Senate is giving a closer look in the light of recent experience, but there's always a possibility that that closer look is not going to be close enough.

May I say one other thing on the Turkish embargo?

HERMAN. I was going to take you back to foreign policy, but go ahead. (Laughter)

Senator BYRD. Well, I think that the Turks have shown flexibility, but I think they ought to do more. For example, the city of Varosha was a Greek city, and it is now empty and under Turkish military control. I'm told that 35,000 Greeks could return to that city within a few weeks, or months, and I would like to see the Turks turn the city over to U.N. administration now. And——

HERMAN. Be more flexible in Cyprus.

Senator BYRD. Yes, indeed, and allow the Greeks inhabitants to begin to return to their homes and businesses.

HERMAN. I wanted to take you back to your—your own tour. Were you touring strictly as a representative of the Senate or did you have some connection with the President?

Senator BYRD. The President asked me to go as his emissary.

HERMAN. Right.

Senator BYRD. To express support—our support for NATO in the long term defense plan, and as a follow-through on the summit long-term defense plan.

HERMAN. I concede it's the job of emissary to be a two-way street. Now, you said that you found the—some of our allies overseas puzzled, confused, alarmed. What did you tell the President?

Senator BYRD. I gave him a complete report.

HERMAN. You told him that they were confused, puzzled and alarmed?

Senator BYRD. I didn't say it in those words, but I gave him a complete report, a thorough report, and gave it to him the next morning after I returned, at 8:30 in the morning, from my visit. I also spoke as the majority leader of the Senate. This was of very much interest to Chancellor Schmidt and Prime Minister Callaghan and the leaders in Belgium, and also in Spain, because they saw here from the legislative perspective, for example, that the energy problem is being dealt with in Congress.

HERMAN. I don't want to invade your privacy with the President, but was he surprised?

Senator BYRD. He was pleased. He was pleased by the report, and he felt that it was a service to him.

HERMAN. Thank you very much, Senator Byrd, for being our guest on FACE THE NATION today

Senator BYRD. Thank you.

ANNOUNCER. Today on FACE THE NATION the Senate Majority Leader, Robert Byrd, was interviewed by CBS News Congressional Correspondent, Phil Jones; by Syndicated Columnist Martha Angle; and by CBS News Correspondent George Herman. Next week another prominent figure in the news will FACE THE NATION.●

INDIANA DUNES NATIONAL LAKESHORE

● Mr. LUGAR. Mr. President, I wish to call to the attention of my colleagues two pertinent newspaper editorials regarding the proposed renaming of the Indiana Dunes National Lakeshore Park after the late Senator Paul H. Douglas of Illinois.

These editorials accurately reflect my opinion that this park, one of Indiana's great landmarks, should not be renamed after an Illinois Senator. I think it is particularly relevant that editorial opinion in opposition to the name change has appeared not only in Indiana newspapers, but also in a major Illinois publication, indicating this viewpoint is not confined to our side of the State line.

A move to rename the park after Senator Douglas was rushed through at the last minute in the House of Representatives as part of its omnibus parks bill. This action was opposed by the Indiana delegation, the Governor of Indiana, the Save the Dunes Advisory Commission, other leading environmental and citizen groups in our State, Senator BAYH and myself. Should such a measure come before the Senate, I will oppose it strenuously. My colleagues from Indiana and I would gladly accept any compromise measure designating one or more major facilities or park areas in honor of this distinguished public servant.

I commend the Chicago Tribune and the Gary Post Tribune for these thoughtful articles and ask that they be printed in the RECORD for the benefit of my colleagues.

The editorial follows:

[From the Chicago Tribune, July 18, 1978]

DOUGLAS AND THE DUNES

The Indiana Dunes National Lakeshore is in the current news on two counts—a perennial effort to name it in honor of the late Sen. Paul H. Douglas [D., Ill.] is active again; and proposals are pending to add to the park's acreage—areas [the Beverly Shores "island" and the NIPSCO Greenbelt] earlier assigned to further study. Sen. Douglas would not be pleased that the former subject is receiving more attention than the latter.

Sen. Adlai Stevenson [D., Ill.] and Sen. Charles Percy [R., Ill.] have sponsored legislation to name the park the Paul H. Douglas National Lakeshore. Rep. Sidney P. Yates [D., Ill.] is sponsoring a longer, compound name, the Paul H. Douglas Indiana Dunes National Lakeshore. Neither name is acceptable to Indiana members of Congress. Sen. Richard G. Lugar [R., Ind.] and Sen. Birch Bayh [D., Ind.] are opposed, and Rep. Floyd Fithian [D., Ind.] says any name other than "Indiana Dunes" would be "a slap in the face" to Hoosiers. Sen. Lugar has said, truculently, "The day when northwest Indiana could be treated as an adjunct of Illinois is over."

As we said on this page back in 1973, naming the Indiana Dunes National Lakeshore for Sen. Douglas would make more sense than most such memorials to individuals. Sen. Douglas worked hard and long to conserve the area, and often without much support from colleagues in Congress. As we also said, whatever the official name, most people will call the place "the Indiana Dunes." The honor, if it is enacted, would be well deserved and appropriate, and work little real change.

But we are sure that Sen. Douglas would be the first to prefer a lesser personal honor, such as putting his name on a major facility in the national lakeshore, to diverting energy from action to add suitable acreage to the park. [The study areas have been reported on favorably.]

Sen. Douglas objective was to conserve a unique and beautiful natural area from destruction through exploitation and development, not to erect a personal monument to himself. Those who would truly honor Sen. Douglas will fight harder for additional acreage than for changing the official name of the place over the heated objections of Hoosiers.

[From the Gary Post Tribune, July 17, 1978]

MORE VITAL THAN ITS NAME

Whatever you call it, that segment of the southern shore of Lake Michigan preserved for recreation in its natural state remains one of Northwest Indiana's primary assets.

Paul Douglas, who for years and often with envious real represented Illinois in the United States Senate, had probably as much respect for the dunes which are the hallmark of that tempting expanse as any man.

So on that basis, we can see some justification in naming what is still the Indiana Dunes National Lakeshore for Douglas, as the House of Representatives has now voted to do in a voice vote, unrecorded by roll call.

Yet there are reasons why we object to that name, the same sort of reasons stressed by Second District Rep. Floyd Fithian in whose district most of the park lies.

In the first place, we believe that since the preserved area is part of the Hossier heritage it should retain the name of Indiana as it does now and as it will unless the Senate decides to go along with the name change voted by the House through the maneuverings of Illinois Rep. Sydney Yates with almost no advance notice.

In the second place, while the late Senator Douglas battled actively for dedication of the park, there was another part to that fight a decade or more ago.

The park was brought into being and under federal protection as part of a compromise package realized through the efforts of the Indiana congressional delegation. The other part of that package was the creation of the Port of Indiana. The idea was that the lakeshore could play two vital roles for the citizens living around it. One was that through creation of a port it could provide further industrial development and the jobs that go along with it. The other was that by reserving a certain portion of the land and the shoreline for recreation, the growing number of residents could use it to improve their lifestyle.

Douglas fought the port part of that package. Just what motivated him may be debated. It was in part, we are sure, his sincere love of the dunes that led him to oppose their development for anything—even necessary jobs—that would change their virgin wonder. Yet at the time we could never escape the feeling that he was also catering to the efforts of some Illinois business and industrial interests jealous of Indiana business growth—as in today's nuclear power plant fight—to hamstring Hoosier economic expansion.

So for that reason, we still believe the park name should remain what it is—the Indiana Dunes National Lakeshore. We are pleased, therefore, that both Senators Richard Lugar and Birch Bayh indicate they will fight the renaming in the Senate—as Fithian unsuccessfully tried to fight it in the House.

Yet, whatever name eventually is chosen, we will go no appreciating the park, and even thanking Douglas for his part in winning its designation, thankful at the same time that he was thwarted in his fight against the port.●

DISSENT IN LITHUANIA

● Mr. MOYNIHAN. Mr. President, these past days we have seen ertraordinary courage and sacrifice in behalf of the rights of man. The Soviet Government, in attempting to snuff out the human rights movement inside the Soviet Union has, in fact, contributed to its continuing candescence. Indeed, the movement glows brighter as it receives the invaluable support of civilized people throughout the world.

One is struck by the remarkable diversity that movement has assumed. In the past weeks, much attention has been paid to the trials in Moscow, less perhaps to trials in other parts of the country. Viktoras Petkus, one of five initiators of a Helsinki monitoring group in Lithuania, was on July 12 sentenced to 10 years in a penal labor camp and another 5 years in internal exile. Mr. Petkus had worked for Soviet compliance with the 1975 Helsinki accords as had his comrades in Moscow.

But the commitment of Viktoras Petkus far antedates the Helsinki agreements. His involvement in the struggle for religious freedom for Lithuania's Catholics began shortly after World War II. His is a 30-year struggle, one that has not received the attention and support it merits from Western observers but, therefore, all the more remarkable for that.

There is a sense in which the various segments of the human rights movement in the Soviet Union must serve to rein-

force each other. So too must the efforts of Western supporters. It is the Soviets who will attempt to split the movement by playing upon historic antagonisms and suspicions. It is a tribute to all the human rights activists—no matter their religious or national backgrounds—that they have resisted the tactic of divide and conquer.

I stress this today, Mr. President, because it is important for the public to recognize the extraordinary range of Soviet persecution and the corresponding range of the heroic response to it. We are fortunate to have the invaluable reports of Radio Free Europe and Radio Liberty to keep us informed of these important developments. I ask that relevant material from the radios be printed in the RECORD. These reports summarize the heroism of Petkus and his fellows in Lithuania. It is a remarkable story. It deserves the widest support.

The material follows:

LITHUANIAN HUMAN RIGHTS ACTIVIST SENTENCED

Dispatches from Moscow have reported that the Lithuanian human rights activist Balys Gajauskas was sentenced to ten years of "the most severe prison regime" and an additional five years of internal exile by a court in Vilnius on April 14.[1] The reports do not conclusively state what charges were brought against Gajauskas, but it seems almost certain that he was tried and convicted under Article 68, Part 2, of the Lithuanian Criminal Code. This article deals with anti-Soviet agitation and propaganda and Part 2 of it concerns penalties for persons who have already been convicted of acts considered dangerous to the state, especially in time of war.

Gajauskas is thought to have been accused of collecting materials about the post-war resistance in Lithuania, with the intention of writing a book, and of helping present and former political prisoners and their families through the fund set up for this purpose by Aleksandr Solzhenitsyn. Whatever the specifics of the bill of indictment, the sentence pronounced on Gajauskas is reported to be three years more than that requested by the prosecution.[2] The outcome of the trial has been deplored by a number of Soviet dissidents, who have described the arrest and conviction of Gajauskas as "an act of extreme cruelty and barbarity." [3] A few days after the trial the well-known Soviet physicist and winner of the Nobel Prize for peace, Andrei Sakharov, called upon the public in the West to try to win the release of the Lithuanian.[4]

Born in 1926 or 1927, Gajauskas had his first difficulties with the authorities in 1944, under the German occupation of Lithuania. For unknown reasons, he was put in a detention camp at the age of seventeen but managed to escape one and a half months later and return to his home in Kaunas. After the USSR retook Lithuania, he studied physics and mathematics. He also became involved in the anti-Soviet resistance, which led to his arrest in 1948. At the time of his arrest, Gajauskus tried to avoid being taken into custody, and there was a confused struggle as a result of which one of the arresting agents died under unexplained circumstances. Because of this, Gajauskas was—in addition to being accused of anti-Soviet agitation and propaganda for distributing handbills and of treason for taking part in the Lithuanian anti-Soviet resistance—arraigned on charges of terrorism.

The court found Gajauskas guilty on all counts, and he was sentenced to twenty-five years' deprivation of freedom. During the first seven years of his term, Gajauskas was interned in various camps in Kazakstan. He served the rest of his sentence in camps in the Mordovian ASSR, with the exception of a period in 1961–62 when he was in Vladimir prison. Gajauskas was especially concerned that the time he had to spend in confinement would not be wasted. In prison, he pursued his study of physics and mathematics; he also learned eighteen languages, eleven of which he can read without the help of a dictionary. He even organized a course in the history of Lithuania for young Lithuanians in the camps.[5]

Gajauskas is reported to have been highly regarded by other inmates in the camps, the more so because of his conviction that the struggle for human rights is everyone's concern, regardless of nationality. In May and June, 1969, he was one of nine political prisoners to address appeals to the Procurator General of the Soviet Union and the Presidium of the USSR Supreme Soviet about the mistreatment of Aleksandr Ginzburg, who had gone on a hunger strike to protest the camp administration's refusal to permit his wife to visit him. In July, 1970, Gajauskas, along with three Latvian and four Armenian political prisoners, sent a letter to Bernadette Devlin expressing solidarity with her struggle for national, religious, political, and social justice in Northern Ireland.[6]

After his release on May 3, 1973, Gajauskas traveled via Moscow to the city of Chernyakhovsk in the Kalinigrad Oblast, having been instructed to take up residence there. Shortly after obtaining an internal passport, he went to Kaunas to see his mother, who is ailing. He was given a residence permit for Kaunas by the local authorities, but several days later had to surrender his documents to the police. When he got them back, the residence permit had been canceled. Nevertheless, Gajauskas remained with his mother; on several occasions, she was fined ten rubles—her pension was only thirty-three rubles a month—for illegally sheltering her son. Gajauskas made numerous requests for another residence permit. These requests were turned down on the grounds that a special regulation, adopted on January 21, 1957, prohibits "former members of the Lithuanian bourgeois regime, nationalist underground leaders, and prison camp activists" from residing in Lithuania.[7]

Lacking a residence permit, Gajauskas was repeatedly subjected to harassment and threats by the police and the KGB and had difficulties in securing employment. Eventually, he was able to find a job as an electrician on a construction site. On several occasions, the apartment where he was living with his mother was searched, and he was taken into custody for interrogation. On December 23, 1974, agents of the KGB searched his mother's apartment and confiscated, among other things, a list of 135 Lithuanian prisoners and some money, which the agents presumed to be part of a fund to aid political prisoners and their families. Afterwards, Gajauskas was taken to Vilnius for three days of questioning. He was asked about the items found in his apartment and about a number of persons thought to be associated with dissident circles in Moscow or with The Chronicle of the Lithuanian Catholic Church. Others were also summoned for questioning along the same lines about this time.[8]

The next wave of interrogations, focusing generally on the same topics, took place about three months later. On March 4, 1975, while again being questioned in Vilnius, Gajauskas was asked once more about the list of prisoners. He replied:

"I know many Lithuanian prisoners, since not long ago I myself was interned for twenty-five years. I know well their suffering, and I intend to help them . . . So that nobody is forgotten, I compiled this list.[9]

On March 14 Gajauskas was confronted with Petras Cidzikas, who had earlier told the KGB that he had received thirty rubles from Gajauskas; that he had needed this money to visit his brother, who was being held in a psychiatric ward; and that the money was given in the name of some kind of committee. During the confrontation, Gajauskas said that the money that he had given Cidzikas was his own. Cidzikas later admitted that he could have been mistaken about the committee.[9]

A week later, Gajauskas was questioned together with Antanas Zilinskas about how they met and about their connections with Sergei Kovalev and other Russian dissidents. The two men were again subjected to questioning on March 28; this time they were asked about two texts, one attributed to Kovalev, the other allegedly written in Lithuania, and both supposedly typewritten on the same machine.[10] With the benefit of hindsight, it is plain that in late 1974 and early 1975 the authorities in Lithuania were not simply keeping a close watch on Gajauskas but trying to gather evidence for the trial of Kovalev, who was subsequently convicted and sentenced in Vilnius in December, 1975, and for the still unfinished Case No. 345 on The Chronicle of the Lithuanian Catholic Church. Little is known about the activities of Gajauskas in the following two years. He signed a petition circulated in the spring of 1976 requesting that the case against Andrei Tverdokhlebov be reconsidered.[11] He was also a signatory of an appeal dated February 4, 1977, calling for the release of Aleksandr Ginzburg.[12]

On February 7, 1977, the homes of five Lithuanians, including those of Gajauskas and Leonardas Stavskis, were searched. Among the items confiscated from Gajauskas were lists of present and former political prisoners; [13] taken from the apartment of Stavskis were "valuable historic and archival materials relating to Lithuania's partisan movement in 1944–52." [14] During subsequent interrogations, Stavskis admitted that the documents confiscated from his apartment had been brought there by Gajauskas. Then on April 20, 1977, Gajauskas was told to appear at the KGB headquarters in Vilnius for questioning in connection with the case of The Chronicle of the Lithuanian Church; there he was arrested and accused of violating Article 68, Part 2, of the Lithuanian SSR Criminal Code.[15] Following the arrest of Gajauskas many Lithuanians in different parts of the country were interrogated and their homes searched in an effort to gather evidence to support the charges against him. The case of Gajauskas was named in warrants dated August 23, 1977, for the search of the homes of Viktoras Petkus, Anatanas Terleckas, and Julius Sasnauskas in Vilnius and for the search of the apartment of Ints Calitis in Riga, Latvia.[16] On August 24, 1977, both Petkus and Terleckas were detained, and they are still awaiting trial.[17]

The arrest of Gajauskas was widely reported in various samizdat publications and documents. Developments in his case were regularly covered in the Lithuanian unofficial journals Ausra and The Chronicle of the Lithuanian Catholic Church. In the thirty-first issue of the Chronicle, dated February 2, 1978, it is stated that the Gajauskas case, the investigation of which was conducted by KGB Major Pilelis, has been handed over to the court and that the trial would start at the end of February or in March. Reportedly, Gajauskas would be charged with having dealings with the Solzhenitsyn fund and with possessing an archive on the Lithuanian resistance movement. According to the Chronicle, KGB Lieutenant Colonel Kezys said that the arrested dissident could expect to receive a ten-year sentence. This prognosis has turned out to have been remarkably accurate. (AZ)

Footnotes at end of article.

FOOTNOTES

[1] See *Reuter*, Moscow, April 15, 1978; *Le Monde*, April 17, 1978; *AFP*, Moscow, April 18, 1978; and (for a comprehensive report) *UPI*, Moscow, April 18, 1978.

[2] *UPI*, Moscow, April 18, 1978.

[3] *Ibid.*

[4] *AFP*, Moscow, April 18, 1978.

[5] *Khronika tekushchikh sobytii* (hereafter referred to as Kh), No. 24, and *La Derniere Heure*, March 16, 1978.

[6] The hunger strike by Ginzburg is reported in Kh 8 and *Possev*, No. 5, 1972, pp. 9–12. A detailed account is provided in *Istoriya odnoi golodovki*, Frankfurt am Main, Possev, 1971; the book also contains a short biography and a charcoal sketch of Gajauskas (pp. 118–119). For the text of the letter to Bernadette Devlin, see AS 412.

[7] The quotation comes from one of the letters that Gajauskas wrote to protest the revocation of his residence permit in Kaunas (see *ELTA Information Service*, September, 1976, pp. 9–12). Gajauskas' difficulties in establishing residence in Lithuania are also discussed in Kh 37, where it is stated that at least twenty other Lithuanians who are former political prisoners have been having the same trouble.

[8] According to Kh 34 and Kh 36, Galina Salova, Birute Pasiliene, Algirdas Petrusevicius, Leonas Laurinskas, and Kazys Katkus were also questioned.

[9] Kh 35.

[10] Kh 35 and Kh 36.

[11] AS 2633.

[12] AS 3051.

[13] Kh 44 and *Ausra*, No. 9 (1978–I).

[14] *Ausra*, No. 9.

[15] Document No. 10 of the Lithuanian Public Group for Furthering the Implementation of the Helsinki Agreements, dated June 16, 1977, in Vilnius; the document is discussed in RL 19/78," Additional Documents from the Lithuanian Monitoring Group," January 21, 1978, and the full text in English translation can be found in *ELTA Information Service*, January, 1978, p. 10 and in the original Lithuanian in *Ausra*, No. 8.

[16] Kh 45 and Kh 47; *Ausra*, No. 9. Some of the other persons interrogated about Gajauskas are: Birute Pasiliene of Klaipeda, Jadviga Petkeviciene of Siauliai, Jonas Pratusevicius, and Vytautas Bastys of Vilnius.

[17] *UPI*, Moscow, August 24, 1977 and RL 201/77, "Arrests of Human Rights Activists Resume," August 25, 1977. According to *Ausra*, No. 9, Ona Lukauskaite-Poskiene, a member of the Lithuanian Public Group, addressed a protest to the Lithuanian SSR procurator about the arrest of Petkus and Gajauskas. She claims that no law has been broken by collecting and storing historic-archival materials and, in conclusion, asks for the release of both men. Attached to the letter is a list of eighty-two signatures of persons who wish to associate themselves with the protest.

THE 31ST ISSUE OF THE LITHUANIAN CHRONICLE

Summary. The new issue of the oldest Lithuanian samizdat periodical, the Chronicle of the Lithuantian Catholic Church, presents data on Lithuanian political prisoners, exposes what are thought to be counterfeit samizdat publications, and describes conditions in the Kaunas Theological seminary. Various protest activities of Lithuanian Roman Catholics are surveyed in the issue.

The thirty-first issue of The Chronicle of the Lithuanian Catholic Church consists of twenty-four type written pages and is dated February 2, 1978.[1] It provides information on Lithuanian political prisoners and focuses attention on the case of the dissident Balys Gajauskas, charging that the KGB wants to do away with him and that a new term in the camps would be equivalent to a death sentence.[2] Povilas Petronis, sentenced in 1974 for reproducing unofficial literature, was released on November 19, 1977, following a month-long interrogation in the Vilnius KGB headquarters. Ona Pranskunaite is serving her sentence in Kozlovka (Chuvash ASSR); despite her poor health she must work overtime to meet excessive output norms. Nijole Sadunaite writes from Boguchany, Krasnoyarsk Krai, that she is receiving many letter of support from Lithuania, the United States, England, Norway, West Germany, Poland, Italy, and elsewhere. Petras Plumpa is quoted as writing that in his camp only the Russian language is allowed to be used in prisoners' letters and conversations with visitors. He asserts that his notes on religious subjects and his prayerbook were taken away from him and that in protest against national discrimination he would be talking to the camp officials in Lithuanian only.[3]

The Chronicle reports that the Reverend Karolis Garuckas, a member of the Lithuanian Public Group for Furthering the Implementation of the Helsinki Agreements in the USSR, was interrogated on October 10 1977, at KGB headquarters in Vilnius. He was told that two other members of the group, Ona Lukauskaite-Poskiene and Eitanas Finkelsteinas, had already been interrogated. The interrogator was especially interested in how Garuckas had become a member of the group and how he had come to know Tomas Venclova and Viktoras Petkus, also members of the group.[4]

The Chronicle charges that the KGB is sponsoring fake samizdat publications as a way of undermining the authority of the unofficial Lithuanian periodicals and the religious and nationalist movements in the republic. One such publication, The Church and the Chronicle of the Lithuanian Catholic Church, accuses the Chronicle of destroying the unity of the Church, weakening people's trust in priests and bishops, and insulting the prestige of a mighty state—i.e., the USSR.[5] These accusations are rebutted by the Chronicle, which states that it has no private accounts to settle and that it would be doing a disservice to the Church if it were to keep silent about the crimes of priests who collaborate with the KGB. As for broadcasts from abroad, or what the Chronicle calls "the voice of brethren in the free world," instead of harming the Church in Lithuania, they actually help it. The Chronicle concludes that any silence in the face of efforts to compromise the Lithuanian Catholic Church amounts to a crime.

The critics of the Chronicle are chastised by a reader who argues that to take an ostrich-like attitude towards clergymen who are malfeasant would be wrong. The same reader says that the ecclesiastical hierarchy does not always serve the interests of the Church and that the Church does not need bishops who blindly execute the instructions of atheist politicians. Coexistence with the government cannot be purchased at the price of betraying the principles of the Gospels, he asserts.

The Chronicle reports that the pamphlet and similar materials were disseminated among seminarians at the Theological Seminary in Kaunas at the end of last year. A number of leaflets accused the Chronicle and religious activists of blackening the reputation of the Theological Seminary and of blackmailing and terrorizing the seminarians. These accusations are called obvious lies by the Reverend J. Kauneckas, who graduated from the seminary in 1977. In an open letter he writes that the seminary lacks the most basic religious literature and, contrary to the assertions contained in the leaflets, does not receive "all the religious literature published in Poland." When the Reverend Kaskevic went to Poland in the summer of 1977 and tried to enter a subscription for religious literature for the seminary, he found out that it was not allowed. Kauneckas points to the paradox of having books on religious subjects that were published by Lithuanians abroad made available to the atheist establishment, while theologians in Lithuania "must remain satisfied with Soviet periodicals." The seminary itself is described in the Chronicle as infiltrated by KGB agents. The samizdat periodical urges the seminarians not to give in to fear and pledges to publish the names of those who seek to undermine the seminary by executing KGB-assigned tasks.

According to the Chronicle, a rash of protests was provoked by the arbitrary behavior of the authorities in pressuring religious communities to renew their contracts with raion and city executive committees. These contracts were first signed under compulsion in 1948. Letters of protest over signing new contracts were sent to K. Tumenas, commissioner of the Council for Religious Affairs, by committees of religious communities in the parishes of Didvyzial, Vistytis, Kybartai, and others. The seventeen signatories of the committee of the Kybartai parish complained of persecution and described the actions of the authorities as criminal violations of the new USSR constitution. They were eventually received by Commissioner Tumenas, who assured them that their church would not be closed and that new contracts were unnecessary. The Chronicle brands the commissioner's tactics as hypocritical, explaining that it is he who issues orders but that it is lesser officials who have to bear the blame for them if they cause difficulties. The Chronicle comments:

"Why does the Soviet government need new contracts? . . . Each renewal allows it to introduce corrections and amendments. . . . The authorities seek to isolate the parish priest from parish affairs, to convince the parish executive committees that they are the main masters . . . and thus, gradually, to infiltrate 'Soviet Catholics,' who would blindly obey and execute all the wishes of the government, into the parish executive organs."

The Chronicle suggests that parish priests should refuse to fill out the extensive annual questionnaires that are used by the authorities to determine in which parishes atheistic activity needs strengthening. At present, the Chronicle reports, many priests provide false information for such questionnaires. It is also reported that religious believers in Lithuania continue to demand that churches and chapels closed by the authorities be reopened. The religious community of Zvirgzdaicial won a victory when the local chapel was returned to them after nineteen years. In a reverse kind of situation, P. Griskevicius, first secretary of the Central Committee of the Lithuanian Communist Party, rejected the appeal of the believers of Zalioji to have their church reopened and told them that the local authorities had complete powers in this matter. This led 126 believers of Zalioji to address an appeal to Leonid Brezhnev. Dated November 20, 1977, the appeal concludes:

"This year we heard many beautiful things about the new constitution . . . that it guarantees all citizens the right to freedom of conscience and religion. Yet in our raion the rights of believers are respected as little as those of blacks in South Africa. . . . We have nobody else to turn to, unless we appeal to international organizations for the defense of human rights."

The methodical destruction of crosses by the authorities continues to be a constant source of concern for believers, the Chronicle reports. In October, 1977, Alvydas Seduikis, an organist at the Cathedral of Telsial, erected a traditional Lithuanian chapel-cross with a figure of Christ in front of his house. When he ignored orders to remove it and pledged to defend it, formal indict-

Footnotes at end of article.

ments were drawn up against him as well as against Danute Darguzaite of Telsiai, who had a similar cross built at the local cemetery. It turned out that the authorities would allow the building of traditional chapel-crosses but only without any religious symbols. In protest against these measures, Seduikis wrote two lengthy statements to Commissioner Tumenas. In the first, which is dated December 13, 1977, he affirms the importance for Lithuanians or ornamented crosses, small chapels, and room ornaments as symbols of the creative power of the Lithuanian people and cites distinguished Lithuanian writers and art experts in support of this contention. Seduikis recalls that historically crosses and the miniature chapels contributed to the awakening of a national consciousness in Lithuania. Finally, he makes the point that Article 52 of the Soviet constitution guarantees freedom of religious conviction.

In his second letter, which is dated January 15, 1978, Seduikis again asks Commissioner Tumenas to stop the destruction of valuable religious art objects. He also complains about discrimination against his wife, a conservatory graduate, who is denied employment in her profession because her husband plays the organ in a church. Taking up a third problem, he objects to the persecution of children who attend church. He says that an atmosphere of criminality is created, with children being led to think they might be committing a crime by going to church. "Incitement of hatred in connection with religious convictions is forbidden by Article 52 of the USSR constitution," he adds.

The Chronicle goes on to provide examples of discrimination against religious believers in the Lithuanian school system. It reports that on October 27, 1977, four high school students in Vilnius submitted a statement to the procurator of the Lithuanian SSR protesting their expulsion from the A. Vienuolis High School because of their religious beliefs. The letter, a copy of which was also transmitted to the Lithuanian Helsinki Group, is published in full in the Chronicle. It charges that the four youths were exposed to persecution for their national and religious views and for having connections with former political prisoners. They were expelled from school despite the fact that their teachers did not support such a move, and later forty-three of their classmates signed a petition demanding their reinstatement. The four youths are Vytautas Bogusis, Julius Sasnauskas, Kestutis Subacius, and Andrius Tuckus.

The Chronicle also cites examples of students whose grades were lowered because of their religious beliefs. As before, students are forbidden to participate in religious funerals. At the beginning of the 1977–78 school year, high-school principals in Lithuania were ordered to undertake a detailed analysis of the religious relationships between parents and children by means of questionnaires about the religious beliefs and activities of the students. The Chronicle sees this as part of the general intensification of atheistic propaganda in Lithuania.

FOOTNOTES

[1] For a discussion of the contents of the contents of the previous issue, see RL 78/78, "The Thirtieth Issue of the Lithuanian Chronicle," April 12, 1978.

[2] Gajauskas was convicted of anti-Soviet agitation and propaganda on April 14, 1978, and sentenced to fifteen years in prison and exile. See RL 87/78, "Lithuanian Human Rights Activist Sentenced," April 23, 1978. Tiesa and Sovetskaya Litva, the central newspapers of the Lithuanian Communist Party, published a lengthy article (in Lithuanian and Russian, respectively) on the case of Gajauskas on April 16, 1978. The article is extremely vague about the actual trial proceedings and consists mainly of unsavory epithets. Gajauskas is referred to as "a chameleon," "a maniac," etc. Nevertheless, the article makes two important points. The first is that Gajauskas' main "crime" was collecting historical-archival materials about the Lithuanian anti-Soviet resistance movement (1944–52). Thus, Gajauskas is described as an "indefatigable would-be historiographer," recording the deeds of his accomplices and some of the operations of what it calls the bourgeois-nationalist bands. The second point is that the trial of Gajauskas was clearly intended as a warning to the widespread national and religious movements in Lithuania: "It is one more warning to those who sometimes want to raise their dirty and most often bloodstained hands against us."

[3] For more on Pranskūnaitē, see RL 50/78, "The Twenty-Ninth Issues of the Lithuanian Chronicle," March 1, 1978; on Sadūnaitē and Plumpa, RL 429/75, "Two New Issues of the Lithuanian Chronicle," October 8, 1975.

[4] Venclova's citizenship was revoked in 1977 while he was visiting the United States; Petkus is awaiting trial.

[5] The pamphlet The Church and the Chronicle of the Lithuanian Catholic Church consists of fifteen typewritten pages and is dated 1977. It suggests that the Chronicle is published with the knowledge of the Soviet authorities and exploited for their own interests. The KGB could have liquidated the Chronicle long ago, the pamphlet asserts, but only some individuals of secondary importance have been punished "for show." Three characteristics of the pamphlet tend to support the Chronicle's charges that the KGB is sponsoring the publication. Unlike other Lithuanian samizdat publications, the pamphlet looks upon Communist governments as reasonable and mild and maintains that religious activity is quite possible in Lithuania. In contrast with samizdat publications, moreover, the pamphlet is extremely critical of Lithuanian-language radio broadcasts from abroad, which are said to focus on the negative aspects of life in the USSR and to disorient believers. Finally, the text of the pamphlet is double-spaced—a luxury that the hard-pressed authentic samizdat publications cannot afford.

Trial of the Spokesman for the Lithuanian Helsinki Group Seems Imminent

The trial of Viktoras Petkus, one of the five initiators of the Lithuanian Helsinki monitoring group, which was formed on November 25, 1976, to operate in conjunction with the original Moscow group, appears imminent. At present, he is the only member of the quintet under arrest. His status as the spokesman for the Lithuanian group and his record of imprisonment—some fourteen years for political reasons—make him perhaps the most likely candidate in the group for public repression. The three other founders still resident in Lithuania seem, for a variety of reasons, less suitable for use in an opening public salvo against Helsinki-inspired human rights activism in Lithuania. The Rev. Karolis Garuckas and Ona Lukauskaite-Poskiene are both elderly, and their advanced age might of itself impart an undesirable negative aura to any open official action against them. Both are, moreover, resident outside of Vilnius, Garuckas in a village not far from Ignaline in northwest Lithuania and Poskiene in Siauliai. A trial in the capital would seem desirable to the authorities if for no other reason than convenience in setting up the proper *mise-scène* for proceedings of this nature. Both Garuckas and Poskiene have, however, been interrogated by the Lithuanian KGB—Garuckas in October, 1977, and Poskiene earlier the same year and a second time the past spring.

Eitan Finkelshtein is a resident of Vilnius, but his Jewish background may be a complicating factor that the authorities want, at least for the present, to avoid. While an appeal to anti-semitism could provide a cheap way of discrediting the Helsinki group among some Lithuanians, giving the group an implicit Jewish label might serve to counter any effort at establishing a connection with the Catholic activists; might detract from any intended deterrent effect among the ethnic Lithuanian majority; and might, finally, heighten—needlessly from the point of view of the authorities—interest in the case among Jewish lobby groups abroad. Finkelshtein nevertheless did not escape interrogation. On April 27, 1977, Major Rimkus of the Lithuanian KGB accused him, in the presence of an official from the central KGB, of transmitting slanderous fabrications and information to foreign intelligence centers and officially warned him that legal action would be taken against him if he did not desist from such activity. Should the official line that posits dissident connections with foreign agents need further public elaboration in the future, Finkelshtein could become a target for prosecution.

The most prominent member of the group, the poet Tomas Venclova, was issued an exit visa in early 1977 to take up a visiting professorship at the University of California at Berkeley and has since been resident in the United States. In the summer of 1977, he was stripped of his Soviet citizenship for activities unbecoming a Soviet citizen. Presumably, his series of public statements abroad on human rights violations in Lithuania, including testimony on February 24, 1977, before the U.S. Congressional Commission on Security and Cooperation in Europe, only added to the case that had already been built against him in Lithuania for his human rights activities. It remains unclear why, after considerable travail, he was allowed to leave the USSR. One intended effect could have been the implication of abandonment of one's country. Another might have been to dissociate the name Venclova from any future actions against the Helsinki group, since Tomas Venclova is the son of a noted Lithuanian cultural figure, Atanas Venclova.

One of the earliest statements of the Lithuanian Helsinki group indicates that the authorities were building a case against Petkus even prior to the formation of the group. This effort may have been connected with the campaign against The Chronicle of the Luthuanian Catholic Church. At the beginning of the academic year 1976–77, seven senior high school students were expelled from the Vienuolis High School in Vilnius for vague reasons of misconduct. According to information supplied by Venclova, then still in Lithuania, all had been summoned for questioning during the preceding academic year. They had been asked identical questions: why did they attend church services, did they listen to Vatican Radio broadcasts, and why did they visit Petkus. The interrogators, said to be a crude captain of the militia and a rather polite agent of the KGB, got the boys to admit that Petkus had served them wine, treated them to cigarettes, and given them money as well as typewritten literature. The boys were informed that Petkus was a homosexual and were abused and threatened when they refused to corroborate this. They were then expelled from high school.[1]

These interrogations may adumbrate one possible direction that the case against Petku could take. If he does not publicly recant, he could be labelled as a depraved individual who masked so-called perversions by his human rights activities, which would

[1] Reports of Helsinki-Accord Monitors in the Soviet Union: Volume Two of Documents of the Public Groups to Promote Observance of the Helsinki Agreements in the USSR, Washington, Commission on Security and Cooperation in Europe, June 3, 1977.

be identified as anti-Soviet agitation and propaganda. This would provide a continuation, though in a slightly different vein, of the theme of personal worthlessness and low moral character attributed to the recently tried Balys Gajauskas by Tiesa on April 16.

The growing attention paid by the Lithuanian press to the issue of human rights may be a signal for the approach of the trial of Petkus. Some of the articles plainly reflect the all-Union political line. One example is that of the secretary of the Supreme Soviet of the Lithuanian SSR, A. Barkauskas, in Tiesa on May 31, in which the interrelationship between the new constitution and civil rights is emphasized and in which the current Soviet push for disarmament is associated with the primary human right—that to life. Other articles seem, however, to show a closer affinity with the specific issue of Lithuanian dissent.[2] Any judgment of a specific relationship between the increased attention of the Lithuanian press to the general question of human rights and the case being constructed against Petkus must, however, await the trial itself.—Romuald Misiunas.

VIKTORAS PETKUS BROUGHT TO TRIAL IN LITHUANIA

Dissident sources in Moscow report that the trial of Viktoras Petkus, the spokesman for the Lithuanian Group for Furthering the Implementation of the Helsinki Agreements in the USSR, started today in Vilnius.[1] This means that three leading members of Helsinki monitoring groups in the Soviet Union are currently standing trial—Aleksandr Ginzburg, Viktoras Petkus, and Anatolii Shcharansky—in a continuation of the Soviet Union's most recent and wide-ranging crackdown on human rights activists, which has included the conviction and sentencing of Yurii Orlov in Moscow and Zviad Gamsakhurdia and Merab Kostava in Tbilisi in May.

Already as a high school student Petkus found himself at odds with the Soviet authorities in Lithuania. He was first arrested in 1945 or 1947, and tried on charges stemming from his activities in Ateitis, a Lithuanian Catholic youth organization that objected to Lithuania's annexation to the USSR. The specifics of the bill of indictment or the sentence that he received at the time are not known: some sources indicate that Petkus was charged with treason and sentenced to twenty-five years; others state that initially the young Lithuanian was given a ten-year sentence, which was extended by ten years after he made an unsuccessful attempt to escape incarceration. Petkus was amnestied in the mid-1950s, perhaps as early as 1953. After his release, he started to study Lithuanian language and literature at the University of Vilnius. He was particularly interested in the work of Jurgis Baltrusaitis a poet who wrote both in Russian and Lithuanian, and who, like Petkus, was born in the small town of Raseiniai in Lithuania. Although it is not certain, there are indications that Petkus graduated from the University of Vilnius before his next arrest.[2]

According to Lithuanian *samizdat* sources, the dissident was detained during Christmas 1957, and implicated in the "Case of the Eleven Intellectuals," which led to his being sentenced to eight years.[3] According to the forty-second issue of *The Chronicle of Current Events*, however, Petkus was arrested in 1958, tried for anti-Soviet agitation and propaganda, and given a sentence of seven years, which he served in full. Reportedly, he was found guilty in this instance of possessing and distributing books written before the Soviet takeover of Lithuania by Lithuanian writers who had left their homeland during World War II.[4] Because records of court proceedings are not available, it is impossible to reconcile the obvious discrepancies in the information about the previous arrests and convictions of the Lithuanian dissident.

In the period of freedom he had since 1965, Petkus was an energetic supporter of human and religious rights. To illustrate: he served as a sacristan in various Catholic churches; assisted the mother of Simas Kudirka; helped compose a rebuttal to a favorable evaluation of conditions in the USSR for practicing religion given by the chairman of the Council for Religious Affairs of the USSR Council of Ministers, Vladimir Kuroedov; tried to attend the trial of Sergei Kovalev in Vilnius in December, 1975, but was detained by the KGB; and helped found the Lithuanian Helsinki group on November 25, 1976.[5] At a press conference in Moscow on December 1, 1976, announcing the group's existence, Petkus served as the spokesman for the five-member organization. Since its formation, the members of the group—Ona Lukauskaite-Poskiene, a poetess in her seventies; the Rev. Karolis Garuckas, a Roman Catholic priest born in 1908; Tomas Venclova, a poet and literary critic in his early forties; Eitan Finkelshtein (Eitanas Finkelsteinas), a Jewish physicist born in 1942; and Viktoras Petkus, born in 1929—have been harassed by the authorities in Lithuania. To date, the most decisive steps have been taken against Venclova, who was notified abroad on August 23, 1977, that his citizenship had been revoked on June 14, 1977, and against Petkus, who was arrested on August 23 or 24, 1977, and reportedly charged with anti-Soviet agitation and propaganda.[6] In spite of systematic efforts by the Soviet authorities to silence the Lithuanian Helsinki monitoring group, the group's reports on the violation of human and national rights in the Baltic republics continue to find their way to the West.—*Aina Zarius.*●

[2] For recent articles in the Lithuanian press on various aspects of the question of human rights, see those by A. Zokas, an old Lithuanian reémigré from Brazil, in Tiesa of May 1, 1978; by Valentin Zorin, a well-known Soviet political commentator, in Tiesa of June 8; and by Philip Bonoski, Moscow correspondent of The Daily Worker, in Tiesa of June 20.

[1] *Reuter, UPI, AFP,* Moscow, July 10, 1978.

[2] Compare the information provided in *Khronika tekushchikh sobytii,* No. 42; *Ausra,* No. 4; and *Profiles: The Helsinki Monitors* (hereafter referred to as *Profiles*), compiled by the staff of the Commission on Security and Cooperation in Europe, Washington, D.C., June 6, 1978.

[3] The details of this case are not available, but it is mentioned in *Ausra,* No. 4; and *Tiesa,* February 6, 1972.

[4] *Profiles.*

[5] *ELTA Press,* Rome, 1974, No. 7; AS 2575; *Khronika tekushchikh sobytii,* No. 38; AS 2841. In addition, Petkus signed appeals on behalf of Sergei Kovalev (AS 2422), and Aleksandr Ginzburg (AS 3051).

[6] On Venclova, see *ELTA Information Service,* New York, 1977, No. 10; for a detailed description of Petkus' arrest, see *Ausra,* No. 8; see also *UPI,* Moscow, August 24, 1977; and RL 201/77, "Arrests of Human Rights Activists Resume," August 25, 1977.

DR. KARL MENNINGER

Mr. PEARSON. Mr. President, Kansas can and does list many citizens of worldwide importance and instant recognition to most readers. And of course the name of "Dr. Karl" can only refer to the dedicated man who numbers among his many contributions to mankind the development and operation of the Menninger Clinic in Topeka. The vision of Dr. Karl as to the future of psychiatric study rightfully placed the Menninger Clinic among the few top institutions of its kind in the world. He is the author of many scholarly and popularly accepted books—is a recognized conservationist—a teacher and activist in the area of prison reform, and has continuously been honored throughout his career by colleagues in many countries.

Since Saturday, July 22, will mark his 85th birthday, I consider it a privilege to extend my personal congratulations and ask that a recent editorial of appreciation for him in the Topeka State Journal be printed in the RECORD.

The editorial follows:

A LOVELY GARDEN, DR. KARL

To generations of Topekans, he is just "Dr. Karl." The name is enough, like "Ike."

To the rest of the world he is Dr. Karl Menninger, perhaps the most respected, most widely known name in psychiatry since Sigmund Freud established himself as a household word.

Once again Dr. Karl is to be honored by prestigious organizations this month—twice again, actually—as he receives recognition for his work in penal reform and in the education of psychiatrists.

Sunday he was awarded an honorary Doctor of Laws degree by the John Jay College of Criminal Justice of the City University of New York. The conferral was at Carnegie Hall. Dr. Karl is universally recognized for his book "The Crime of Punishment," which has become almost a manual for prison reform in America.

Then on June 18, he will receive the Dr. Rodman E. Sheen and Thomas G. Sheen Award for 1978. The award, which recognizes a physician for outstanding scientific accomplishment, is given by the American Medical Association, and is accompanied by a $10,000 stipend.

The Sheen Award will be presented to Dr. Karl for what perhaps is his greatest accomplishment, and one that will have a profound effect on society for generations to come. As founder and motivating force behind the Menninger Foundation in Topeka, Dr. Karl and his late brother, Dr. Will Menninger can take personal responsibility for training and sending throughout the world thousands of practicing psychiatrists and psychologists.

The significance of this feat is that Dr. Karl launched his quest when the science of mental health was still on infirm footing and seen by many, even in the medical profession, as some kind of occultism. Dr. Karl helped bring it to the level of science on an equal footing with all other branches of medicine.

That work continues today, not only here in Topeka, but around the world where former students and colleagues have planted the seeds of that knowledge.

It's a lovely garden you've grown, Dr. Karl.●

ENERGY

● Mr. METZENBAUM. Mr. President, the House Science and Technology Committee held 3 days of hearings last week on the potential of alcohol fuels—liquid fuels from renewable and abundant natural resources—to help meet our energy needs. Senator BAYH, a leading Senate proponent of producing energy from our forests and farmlands, testified before the committee on alcohol fuels and S. 2400, legislation he has introduced to establish a National Alcohol Fuels Commission. The Senate Energy and Natural Reources Committee has adopted S. 2400 as an amendment to the DOE authoriza-

tion bill, and I am very much pleased to see our colleagues from the Science and Technology Committee sharing equal interest in this legislation. I will work to see that it is included in the bill we send to the President for his signature.

Mr. President, Senator BAYH's interest in alcohol fuels has been longstanding and persistent. Last fall, he hosted a caravan of farmers and concerned citizens from our major agricultural States in the Midwest, South, and West, which rallied on the Capitol steps, to call the Government's attention to the potential of using alcohol fuels as a supplement to gasoline, in 10-percent blends. In addition to the adoption of the National Alcohol Fuels Commission Act, Senator BAYH's Alcohol Fuel Incentive Act—which would permit farmers to plant crops for energy production on their set-aside acreage—was adopted as part of the Senate's energy tax bill, pending in conference, and incorporated into H.R. 6782, the Emergency Agricultural Act of 1978.

In January, Senator BAYH held the first congressional hearings on alcohol fuels in the Senate Appropriations Committee, taking testimony from the Departments of Agriculture and Energy, as well as representatives of oil companies, automobile manufacturers, plant geneticists and scientists. These hearings, more than anything else, caught the attention of key policymakers in Washington and began to build the public support necessary to bring any new idea to fruition.

Senator BAYH has acted as the Senate's watchdog in this area throughout this session, Mr. President, forcing DOE and USDA to make good on their commitments and get on with the job. When BIRCH BAYH started talking last year, no one was listening. But he kept on talking. It is clear to most of us now that alcohol fuels can become an important source of future energy for this country, reducing oil imports and aiding depressed economies all across the land. I commend Senator BAYH for his efforts and believe that we in the Congress, and citizens around the country, owe him a debt of gratitude for his responsible and tenacious efforts in this area.

Mr. President, as Senator BAYH notes in his testimony, the Ohio Farm Bureau has been very interested in the potential of producing energy from crops grown in our State and region, and I appreciate their efforts and will support them enthusiastically. I ask that Senator BAYH's testimony be printed in the RECORD so my colleagues and others around the country can benefit from it.

The testimony follows:

TESTIMONY OF SENATOR BIRCH BAYH

Mr. Chairman, I appreciate very much the opportunity to appear before the Science and Technology Committee today and am most encouraged by the Committee's interest in the potential contribution alcohol fuels can make to supplement our nation's diminishing supplies of fossil fuels. I am well aware of the contribution of Congressman Glickman, who is presiding today, in this area, as well as the efforts of other members of the Committee. I salute you for your efforts.

I know that none of you would be here today if you did not share my concern about the need to reduce America's dependence on foreign oil and to avert a liquid fuels shortage sometime in the 1980's. Administration estimates of future world petroleum production and demand suggest there will be a gap between worldwide demand and supply of petroleum products of 3 to 8 million barrels of oil a day by 1985.

Forecasts such as these and recollections of the Arab oil embargo of 1973 and the natural gas shortages of 1977 make us all painfully aware that energy is a limited and precious commodity which is the lifeblood of our society—that it heats our homes, fuels our cars and trucks, grows our crops, and runs our factories. America must come to grips with the fact that adequate energy supplies cannot be taken for granted. We must reduce our dependence on foreign supplies, become more energy efficient, make greater use of our vast coal reserves and accelerate the development of alternative energy sources.

As we look to the future, I think it is clear to most of us that there is not going to be one answer to our energy problems, but that future supplies will come from a number of diverse sources. Those of us with responsibility for developing government policy owe it to the nation to explore every option available to us as thoroughly as possible. I am convinced, Mr. Chairman, that alcohol fuels are one option that have not received the attention they merit. Although alcohol fuels were used in this country during World War II, as part of our synthetic rubber production efforts, interest in their development as a source of future energy supplies has only been revived in the last year. Neither federal dollars nor private sector capital has been committed to their development as has been the case with some of the more capital intensive and large-scale, centralized technologies for oil shale production, coal liquefaction and coal gasification. The oil companies are not interested in developing alcohol fuels. DOE has meagre expertise in this area and currently employs only a handful of people in its alcohol fuels program. Last year the federal government spent less than $7 million on its alcohol fuel efforts, and this represented a dramatic increase over prior funding levels.

The Administration's budget request for FY '79 would bring the federal effort up to only $18.6 million out of a total budget request of $202 million for research and development of new liquid fuels. Mr. Chairman, I believe that DOE has passed by an important opportunity by neglecting alcohol fuels. I am confident that a relatively small federal investment and application of our best technology to this effort will yield payoffs that can be potentially momentous.

I freely acknowledge that barriers currently exist that have prevented the widespread introduction of alcohol fuels into our energy mix. No doubt you have heard about these from other witnesses. Economics is a problem. Alcohol fuels are not currently competitive with petroleum based fuels. In some cases, energy balance has been a problem. That is, some existing biomass conversion processes are sufficiently energy intensive so that they use more energy than they produce. Some have claimed that not all the environmental impacts of alcohol fuels are known, despite indications that alcohol fuels are environmentally advantageous in many respects. Some have raised the question of supply potential, claiming that America's resources are not plentiful enough to support a national effort.

While I would be glad to discuss some of these considerations at greater length if members of the Committee have questions on them, I would only point out, Mr. Chairman, that none of these so-called barriers present major problems and I am confident they can be overcome relatively quickly if we just clarify our goals and get on with the job. This country did not grow and prosper by approaching problems timidly. As a nation, and as individual citizens, Americans have always set our goals and then looked at eixsting obstacles as challenges rather than insurmountable barriers. This is the kind of effort we must make today as we move to harness our abundant and renewable resources.

Technical and economic barriers exist for every synthetic fuel being seriously considered today. And it is ironic that equally, if not more, complex problems than those faced by alcohol fuels existed when the petroleum industry was in its infancy. The idea of drilling holes thousands of feet in the ground and transporting oil all around the globe struck some people as absurd. But Washington was more than generous in the supports provided the oil companies. The industry enjoyed import quotas, depletion allowances, intangible drilling deductions, and foreign tax credits. In fact, oil companies still derive some of their profits from these hidden subsidies.

Having set this context, I would like to focus this Committee's attention on the advantages offered by alcohol fuels and discuss some legislation I have authored which is pending in the Senate.

Alcohol fuels work. There is no question about that. DOE, the Ford Motor Company, General Motors and VW all submitted testimony to the Senate Appropriations Committee, at hearings I chaired in January, indicating that alcohol is a versatile fuel suitable for use in automobiles, gas turbine peaking units, utility boilers, industrial heating units and fuel cells.

Alcohol fuels are a domestic energy source, made from diverse renewable resources available in meaningful quantities in every region of this country. Ethanol can be produced from such diverse sources as corn, wheat, milo, sweet sorghum, sugarbeets, sugarcane, potatoes, algae, distressed crops and crop residues, as well as numerous other "energy crops" that our plant geneticists could develop if given the go-ahead. Methanol can be produced from newsprint, forestry products, crop residues, wood and municipal wastes and coal. Using them as an energy supplement can help solve our energy supply problems while giving a boost to depressed economies and bankrupt farmers all over this nation and relieving the drain on urban budgets caused by waste disposal problems.

Alcohol fuels can reduce our dependence on imported oil, relieving our trade deficit and pressure on the dollar while removing oil supplies as a consideration in our foreign policy decisions.

Alcohol fuels facilities are comparatively inexpensive, without serious environmental problems, and can be built quickly.

Alcohol fuels can be available in the near future, when we need them, because production technology is available and the lead time for construction of facilities is relatively short.

Alcohol production costs can be brought down in the near term. DOE currently cites a $13–17 per million Btu figure for ethanol production, which translates into $1.20 to $1.60 per gallon. This estimate is based on production of alcohol from $2.50 to $3 per bushel of corn using traditional technologies developed to compete in non-energy markets. A process developed at Purdue University by Professor George Tsao, uses diverse inexpensive cellulosic wastes as feedstocks—such as cornstalks, pulp and bagasse from sugar mills, sawmill wastes and small limbs and tree branches, industrial wastes and trash—and treats them with a solvent that gives a 100% yield of glucose from available cellulose at a very low cost. Estimates of the cost of ethanol produced by this process range from 40¢ per gallon to 75¢ per gallon, depending on the feedstock

used and the value of the by-products. This is ⅓ to ½ the cost that DOE and the major oil companies typically cite for ethanol at the refinery gate. Similarly, research by Battelle Labs in Ohio for the Ohio Farm Bureau indicates that ethanol from sweet sorghum costs half the amount of ethanol from corn.

Alcohol fuels can reduce the cost of farm subsidies, an irritant to city people and farmers alike, and put idle land to good use by growing energy crops on setaside acreage and marginal lands.

Mr. Chairman, I submit to this Committee that development of fuels from our farmlands and forests is too exciting a possibility to put off any longer. It is time for this Congress and this nation to get off the dime and develop a comprehensive national alcohol fuels policy.

To this end, last January I introduced S. 2400, the National Alcohol Fuels Commission Act. A companion measure, H.R. 10895, was introduced in the House by your Committee colleague, Congressman Roe of New Jersey. This legislation, which has since been adopted by the Senate Committee on Energy and Natural Resources as an amendment to the DOE authorization bill, is meant to provide the Congress with the solid analysis we need to move quickly but responsibly ahead to make good use of America's resources.

The legislation will establish a National Alcohol Fuels Commission by this January, at the latest, which will report back to Congress in one year, recommending a definite, near-term policy with respect to alcohol fuels. The Commission will be composed of 12 members of Congress and 7 public members appointed by the President from a broad spectrum of industrial, labor, agricultural and consumer groups. The Congressional delegation will be split evenly between the House and the Senate, with members drawn from the Agriculture and Appropriations Committees as well as the House Science and Technology Committee and the Senate Energy and Natural Resources Committee. The bill authorizes up to $1.5 million for the Commission, which will automatically go out of existence after it reports to Congress.

This Commission will bring elected representatives together, for the first time, with experts from industry, agriculture, labor and consumer groups and give them the resources to undertake a concentrated, coordinated analytic effort. By bringing together members from the relevant committees of the Congress, with interested parties in the private sector and a professional staff, the Commission should be able to fashion a comprehensive and internally consistent policy that can gain widespread acceptance. In addition, by holding public hearings and drawing on the talents of citizens around the country, the Commission can coordinate efforts in this area, focus national attention on alcohol fuels, and foster public understanding and support for an alcohol fuels program.

If S. 2400 is passed in this session of Congress, the Commission can start its work at the beginning of the new year, and report back to us, laying the foundation for decisive action by the 96th Congress. I urge this Committee to give this legislation its most serious consideration during the remainder of this session.

Mr. Chairman, there is no question but that we are on the verge of a new era in this country, during which we must make the transition from dependence on previously cheap and plentiful fossil fuels—particularly oil and natural gas—to alternative energy sources derived from more abundant natural and renewable resources. Few of us have lived through such a transition and it is difficult to anticipate in their full complexity all the changes which will result from the new paths we will be taking. But it seems to me that we are entering this new era with a degree of self-consciousness and technological know-how that our forebears did not enjoy. We should take full advantage of that fact. Responsible planning over the next few years can avert disaster in the decades that follow them. Failure to anticipate and provide for our future needs will squander a priceless opportunity to provide a robust and healthy society for countless generations of Americans.●

FARMERS REAP LOSS ON INFLATION

● Mr. CURTIS. Mr. President, this morning's Washington Post carried a feature article by Bradley Graham who is traveling the United States reporting how inflation is affecting the lives of Americans.

This particular story brings out a very important point in that farmers do not gain from inflation. They lose. The story shows that when someone from the eastern metropolitan complex sets down at the kitchen table for a cup of coffee with the farmer and his wife, he can begin to understand what the cost-price squeeze is all about.

Mr. President, I ask that the article be printed in the RECORD.

The article follows:

FARMERS REAP LOSS ON INFLATION

(By Bradley Graham)

NORTH PLATTE, NEB.—Alice Phelps has the patient, tolerant look that comes from a lifetime of farming. She is generally slow to anger and quite diplomatic about most things. Which is why her friends continue to elect her to head the local Farm Bureau chapter, her protestations to the contrary.

But the other day she was obviously disturbed. Her visitor from the East simply did not understand the facts of farming. He had suggested that current high food prices meant farmers were getting rich.

"Don't blame us for inflation," she said in her most admonishing way, which is very effective. Whereupon she rose from her kitchen chair, walked to a cupboard and reached for a box of Post Grape Nut flakes.

"This box of cereal costs $1.04. It weighs 18 ounces. Know what's in it?" She glanced at the side of the box. "Basically, wheat and barley. Know what a bushel of barley is selling for today? About $1.75. A bushel of wheat goes for about $2.50. Each bushel weighs 50 or 60 pounds. That's a lot of cereal." She paused.

"No, inflation doesn't make us richer," Alice Phelps said, "only poorer."

After several days in this central Nebraska town, it is readily apparent that the current round of inflation has been more bane than boon to crop farmers. In fact, inflation has struck here with a vengeance. For while the prices of consumer goods have been accelerating upwards, the wholesale prices of grains have slid to hardship lows.

It was only a short while ago that this agricultural community knew very good times. In 1974, thanks to a surge in world demand for American grain, crops here were selling at record highs of $4 per bushel and more. Now, a bushel of dried corn can't fetch above $2.

In the meantime, the prices of farm machinery and farmland, sparked by the bumper farm profits and splurge in farm spending of several years ago, have anything but reversed themselves. A 125-horsepower tractor which sold for $14,000 in 1973 is on the market today for $31,293. An acre of prime farmland has soared in price from $800 to more than $2,000.

It is this disparity between the prices farmers can get for what they sell and the prices they are having to pay for what they need that irks them the most about inflation. It doesn't seem fair to them that some prices should rise while others slip back and they get caught in the squeeze. "If everything fluctuated as grain prices do, we'd do all right," said Glen Phelps who, with Alice, grows corn on several hundred acres north of town. "But they don't. They go up and up and then just stay there."

Farming used to be a lot simpler, and farm life more sheltered from fluctuations in national and world markets. Now, everything seems affected by everything else. The tone and tempo of life on the Plains has changed, and inflation is part of the change.

Glen Phelps recalled that his parents 30 years ago had a dairy farm and would trade milk and cheese with neighbors in return for meat and vegetables. "We didn't deal with money then. We bartered for things. Today, everything is money and inflation. I wouldn't mind going back to trading with the neighbors."

The Phelps are still largely independent of the stores in town. Alice grows just about everything imaginable in the garden, and the family draws its meat from the cattle they raise. But Alice still must shop for staples such as coffee, sugar and flour. Many of her friends, she said, have abandoned their gardens altogether. "We've all become somewhat spoiled, I guess," she noted.

Farmers here stress how little influence they have over the price of food. They say they themselves are at the mercy of uncontrollable forces, including the weather, the demand for grain exports and—something that's currently on everyone's mind in Nebraska—grasshopper plagues. The ones really responsible for inflation, they say, are the groups that can control prices, and do.

A favorite target is labor unions, represented in North Platte by the Union Pacific Railroad. The railroad operates a large roundhouse just west of town and employs about 15 percent of the county's eligible work force. Every farmer interviewed sooner or later mentioned the Union Pacific, claimed its workers were overpaid, and blamed inflation on it—at least in part.

Big business, too, comes in for a scolding in these parts, charged with manipulating supplies to raise prices artifically and fatten profits. "Lots of folks remember how the price of fertilizer nearly doubled in 1974 because of a reported shortage of natural gas," said Ron Sobotka, manager of a local grocery store. "The next year you could get all the fertilizer you wanted. The same thing happened with the supply of baling wire here a short time ago."

As much as farmers talk about the advantage in pricing that comes from being organized, they have stubbornly resisted attempts to create a national coalition. Part of the reason may be found in that traditional sense of righteousness, of rural piety, which still prevails here. Part of the reason may be found in the fierce independence farming seems to breed.

In any case, the American Agricultural Movement, which stirred many to drive their tractors to Washington last fall, fizzled here and elsewhere in the spring when planting time came. "They all went back to their own farms," said Harlon Luttrell, this area's farm extension agent. "No one really believed they would strike like they threatened to, not when it came right down to giving up a year's crops."

The cry of hard times on the farm seems to ring inconsistent with the looks of the expensive rigs standing in the fields here. The tractors and combines are large and powerful and come equipped with air conditioning, stereo speakers and even telephones. But these, farmers say, have simply become the tools of the trade. "It's not a question of how we can afford them," said Luttrell, "but whether we could do without

them. Farming isn't a small scale operation anymore. The capital investment necessary in a farm today is enormous. The mowers, the mixers, the sprayers, the loaders planters, rakes, balers, tractors—the average investment per farmer is somewhere around $120,000."

This figure, Luttrell said, has increased with inflation, not only because machinery costs more today, but also because the average size a farm must be in order to be economical has increased—and larger farms require larger machinery.

On the other hand—and here is the only benefit higher prices have had on farming—the tremendous appreciation in land values has meant an increase in personal equity for the many farmers who own their own land, allowing them to borrow more to finance more expensive machinery.

"Land is the best thing you have going for you in the credit market," said Lee Harris, a 41-year-old corn farmer from nearby Cozad who bought his 2,500-acre spread in 1971 for about $800 an acre. Harris estimates his land is now worth at least $2,000 an acre, and last year he found it easy to borrow the necessary $50,000 for a new irrigation system and storage bin.

Though on paper inflation has turned some here into millionaires, farmers say they have had to work harder than before to get their farms to pay. They say they have no fat left to cut. Their only choice is to become more efficient.

Ernie Mehl, a beef farmer, called in a consultant from International Harvester to tell him how to improve his operation. The result: he now grows beets in 30-inch rows instead of in 22-inch ones and uses bigger equipment to harvest them. Gerald Beattie, a grain farmer, also hired a consultant when the cost of pumping water went from $15 to $50 an acre.

With farmers investing what money they have back in their farms, towns like North Platte have been seriously affected by a slump in retail sales. Sales here grew only 2 percent last year—"Hardly enough to keep up with inflation," said Gary Toebbin, director of North Platte's Chamber of Commerce. William Dietemeyer, president of the First National Bank of North Platte, spoke of a "new conservative attitude" he has seen among farmers.

Over 80 percent of the farmers in this area participate in some kind of federal agricultural support program, receiving payments from the government either for storing their grain or letting some fields lie fallow. While these programs help pay farm bills, they are hardly enough to keep up with the inflation rate, farmers say.

Alice Phelps said the most she can hope for is that grain prices will not stay at their current depressed level long, but will rise as beef prices have recently. It is all a matter of supply and demand she knows, and all out of her control.

But she won't leave farming. She likes life in the country, she said, and the independence of farming. "I also like to watch things grow," she added with a smile. "It gives me satisfaction."●

POSITION ON VOTE ON AMENDMENT NO. 3251

● Mr. CLARK. Mr. President, I was unable to be on the Senate floor last night to vote on the Chiles amendment, No. 3251, to the housing authorization bill. If I had been present, I would have voted in favor of the amendment.●

ALCOHOL FUELS

● Mr. BUMPERS. Mr. President, my distinguished colleague from Indiana, Mr. BAYH, recently testified before the Subcommittee on Advanced Energy Technologies and Energy Conservation Research of the House Committee on Science and Technology regarding the use of gasohol, which could make a significant contribution to the solving of this country's energy problems. Senator BAYH's testimony is one of the most cogent reasons I have seen for developing a crash program for the use of this already available fuel.

I am attaching a copy of his testimony and ask unanimous consent that it be printed in the RECORD.

TESTIMONY OF SENATOR BIRCH BAYH

Mr. Chairman, I appreciate very much the opportunity to appear before the Science and Technology Committee today and am most encouraged by the Committees interest in the potential contribution alcohol fuels can make to supplement our nation's diminishing supplies of fossil fuels. I am well aware of the contribution of Congressman Glickman, who is presiding today, in this area, as well as the efforts of other members of the Committee. I salute you for your efforts.

I know that none of you would be here today if you did not share my concern about the need to reduce America's dependence on foreign oil and to avert a liquid fuels shortage sometime in the 1980's. Administration estimates of future world petroleum production and demand suggest there will be a gap between worldwide demand and supply of petroleum products of 3 to 8 million barrels of oil a day by 1985.

Forecasts such as these and recollections of the Arab oil embargo of 1973 and the natural gas shortages of 1977 make us all painfully aware that energy is a limited and precious commodity which is the lifeblood of our society—that it heats our homes, fuels our cars and trucks, grows our crops, and runs our factories. America must come to grips with the fact that adequate energy supplies cannot be taken for granted. We must reduce our dependence on foreign supplies, become more energy efficient, make greater use of our vast coal reserves and accelerate the development of alternative energy sources.

As we look to the future, I think it is clear to most of us that there is not going to be one answer to our energy problems, but that future supplies will come from a number of diverse sources. Those of us with responsibility for developing government policy owe it to the nation to explore every option available to us as thoroughly as possible. I am convinced, Mr. Chairman, that alcohol fuels are one option that have not received the attention they merit. Although alcohol fuels were used in this country during World War II, as part of our synthetic rubber production efforts, interest in their development as a source of future energy supplies has only been revived in the last year. Neither federal dollars nor private sector capital has been committed to their development as has been the case with some of the more capital intensive and large-scale, centralized technologies for oil share production, coal liquefaction and coal gasification. The oil companies are not interested in developing alcohol fuels. DOE has meager expertise in this area and currently employs only a handful of people in its alcohol fuels program. Last year the federal government spent less than $7 million on its alcohol fuel efforts, and this represented a dramatic increase over prior funding levels.

The Administration's budget request for FY '79 would bring the federal effort up to only $18.6 million out of a total budget request of $202 million for research and development of new liquid fuels. Mr. Chairman, I believe that DOE has passed by an important opportunity by neglecting alcohol fuels. I am confident that a relatively small federal investment and application of our best technology to this effort will yield payoffs that can be potentially momentous.

I freely acknowledge that barriers currently exist that have prevented the widespread introduction of alcohol fuels into our energy mix. No doubt you have heard about these from other witnesses. Economics is a problem. Alcohol fuels are not currently competitive with petroleum based fuels. In some cases, energy balance has been a problem. That is, some existing biomass conversion processes are sufficiently energy intensive so that they use more energy than they produce. Some have claimed that not all the environmental impacts of alcohol fuels are known, despite indications that alcohol fuels are environmentally advantageous in many respects. Some have raised the question of supply potential, claiming that America's resources are not plentiful enough to support a national effort.

While I would be glad to discuss some of these considerations at greater length if members of the Committee have questions on them, I would only point out, Mr. Chairman, that none of these so-called barriers present major problems and I am confident they can be overcome relatively quickly if we just clarify our goals and get on with the job. This country did not grow and prosper by approaching problems timidly. As a nation, and as individual citizens, Americans have always set our goals and then looked at existing obstacles as challenges rather than insurmountable barriers. This is the kind of effort we must make today as we move to harness our abundant and renewable resources.

Technical and economic barriers exist for every synthetic fuel being seriously considered today. And it is ironic that equally, if not more, complex problems than those faced by alcohol fuels existed when the petroleum industry was in its infancy. The idea of drilling holes thousands of feet in the ground and transporting oil all around the globe struck some people as absurd. But Washington was more than generous in the supports provided the oil companies. The industry enjoyed import quotas, depletion allowances, intangible drilling deductions, and foreign tax credits. In fact, oil companies still derive some of their profits from these hidden subsidies.

Having set this context, I would like to focus this Committee's attention on the advantages offered by alcohol fuels and discuss some legislation I have authored which is pending in the Senate.

Alcohol fuels work. There is no question about that. DOE, the Ford Motor Company, General Motors and VW all submitted testimony to the Senate Appropriations Committee, at hearings I chaired in January, indicating that alcohol is a versatile fuel suitable for use in automobiles, gas turbine peaking units, utility boilers, industrial heating units and fuel cells.

Alcohol fuels are a domestic energy source, made from diverse renewable resources available in meaningful quantities in every region of this country. Ethanol can be produced from such diverse sources as corn, wheat, milo, sweet sorghum, sugarbeets, sugarcane, potatoes, algae, distressed crops and crop residues, as well as numerous other "energy crops" that our plant geneticists could develop if given the go-ahead. Methanol can be produced from newsprint, forestry products, crop residues, wood and municipal wastes and coal. Using them as an energy supplement can help solve our energy supply problems while giving a boost to depressed economies and bankrupt farmers all over this nation and relieving the drain on urban budgets caused by waste disposal problems.

Alcohol fuels can reduce our dependence

on imported oil, relieving our trade deficit and pressure on the dollar while removing oil supplies as a consideration in our foreign policy decisions.

Alcohol fuels facilities are comparatively inexpensive, without serious environmental problems, and can be built quickly.

Alcohol fuels can be available in the near future, when we need them, because production technology is available and the lead time for construction of facilities is relatively short.

Alcohol production costs can be brought down in the near term. DOE currently cites a $13–$17 per million Btu figure for ethanol production, which translates into $1.20 to $1.60 per gallon. This estimate is based on production of alcohol from $2.50 to $3 per bushel of corn using traditional technologies developed to compete in non-energy markets. A process developed at Purdue University by Professor George Tsao, uses diverse inexpensive cellulosic wastes as feedstocks—such as cornstalks, pulp and bagasse from sugar mills, sawmill wastes and small limbs and tree branches, industrial wastes and trash—and treats them with a solvent that gives a 100 percent yield of glucose from available cellulose at a very low cost. Estimates of the cost of ethanol produced by this process range from 40 cents per gallon to 75 cents per gallon, depending on the feedstock used and the value of the by-products. This is ⅓ to ½ the cost that DOE and the major oil companies typically cite for ethanol at the refinery gate. Similarly, research by Battelle Labs in Ohio for the Ohio Farm Bureau indicates that ethanol from sweet sorghum costs half the amount of ethanol from corn.

Alcohol fuels can reduce the cost of farm subsidies, an irritant to city people and farmers alike, and put idle land to good use by growing energy crops on setaside acreage and marginal lands.

Mr. Chairman, I submit to this Committee that development of fuels from our farmlands and forests is too exciting a possibility to put off any longer. It is time for this Congress and this nation to get off the dime and develop a comprehensive national alcohol fuels policy.

To this end, last January I introduced S. 2400, the National Alcohol Fuels Commission Act. A companion measure, H.R. 10895, was introduced in the House by your Committee colleague, Congressman Roe of New Jersey. This legislation, which has since been adopted by the Senate Committee on Energy and Natural Resources as an amendment to the DOE authorization bill, is meant to provide the Congress with the solid analysis we need to move quickly but responsibly ahead to make good use of America's resources.

The legislation will establish a National Alcohol Fuels Commission by this January, at the latest, which will report back to Congress in one year, recommending a definite, near-term policy with respect to alcohol fuels. The Commission will be composed of 12 members of Congress and 7 public members appointed by the President from a broad spectrum of industrial, labor, agricultural and consumer groups. The Congressional delegation will be split evenly between the House and the Senate, with members drawn from the Agriculture and Appropriations Committees as well as the House Science and Technology Committee and the Senate Energy and Natural Resources Committee. The bill authorizes up to $1.5 million for the Commission, which will automatically go out of existence after it reports to Congress.

This Commission will bring elected representatives together, for the first time, with experts from industry, agriculture, labor and consumer groups and give them the resources to undertake a concentrated coordinated analytic effort. By bringing together members from the relevant committees of the Congress, with interested parties in the private sector and a professional staff, the Commission should be able to fashion a comprehensive and internally consistent policy that can gain widespread acceptance. In addition, by holding public hearings and drawing on the talents of citizens around the country, the Commission can coordinate efforts in this area, focus national attention on alcohol fuels, and foster public understanding and support for an alcohol fuels program.

If S. 2400 is passed in this session of Congress, the Commission can start its work at the beginning of the new year, and report back to us, laying the foundation for decisive action by the 96th Congress. I urge this Committee to give this legislation its most serious consideration during the remainder of this session.

Mr. Chairman, there is no question but that we are on the verge of a new era in this country, during which we must make the transition from dependence on previously cheap and plentiful fossil fuels—particularly oil and natural gas—to alternative energy sources derived from more abundant natural and renewable resources. Few of us have lived through such a transition and it is difficult to anticipate in their full complexity all the changes which will result from the new paths we will be taking. But it seems to me that we are entering this new era with a degree of self-consciousness and technological know-how that our forebears did not enjoy. We should take full advantage of that fact. Responsible planning over the next few years can avert disaster in the decades that follow them. Failure to anticipate and provide for our future needs will squander a priceless opportunity to provide a robust and healthy society for countless generations of Americans.●

OPERATION DRIVER EXCELLENCE

● Mr. BAKER. Mr. President, on May 6–7–8 the city of Nashville hosted the 12th Annual Driver Excellence National Finals sponsorsd by AMVETS, the American Veterans of World War II, Korea and Vietnam, and the Dodge Division of Chrysler Corp. The competition took place at the Grand Ole Opry and had the support of all city, county, and State officials. A proclamation was issed by Gov. Ray Blanton setting the week of May 1 as National Driver Excellence Week in the State of Tennessee. The program was supervised by the AMVETS National Traffic Safety Commission, chaired by Joseph Viola, N.J. Other members of the National Traffic Safety Commission are: Donald H. Fournier, Illinois; Harry McKinley, Michigan; Leon Gubala, New York; Robert Medairos, Massachusetts; William Staudte, Missouri, and Fentress Bryant host State representative from Clarksville, Tenn.

Mr. President, I was impressed when I first heard of the AMVETS Driver Excellence program, but when I learned of the caliber of the participants and their objectives, I felt it deserved the attention of Congress because here is concrete evidence of our citizens working on their own to overcome one of our most serious National problems, that of traffic safety.

AMVETS, the American Veterans of World War II, Korea and Vietnam, and the Dodge Division of Chrysler Corp. are partners in this most worthwhile project, Driver Excellence. Many years ago they recognized a need to foster good driving and to promote traffic safety; thus, the annual teenage driver excellence competition was born, which has been most successful and is now in its 12th year.

State "Driver Excellence" champions from across the Nation competed in the National Finals at Nashville for more than $5,000 in scholarships, a new Dodge Aspen and other prizes. In order to compete for the national prizes, the competitor must go through a series of competitions and become the No. 1 safe driver of his State. He or she must be anxious to be a good driver, and must have taken driver education sponsored in their school. Their automobile handling abilities, traffic driving expertise, emergency vehicle control, and motoring law and driving theory are truly tested in the National Finals.

AMVETS and Dodge have created a program which emphasizes the need for skillful drivers and recognizes the most skillful. From high schools throughout the country, students in driver education are selected to participate in State finals. Each State winner, accompanied by a chaperon of his or her choice, is awarded a 3-day trip to the national finals. A three-phase program: Written test, driving skills, and highway safety, is conducted under strict supervision. The winner who emerges from the stiff competition receives a new Dodge car, accompanied with a scholarship and a trophy. No participant is neglected; they all receive a handsome DE jacket, wristwatch, plaque, and other gifts.

I was pleased with the news that Kenneth Troyer, 17, a student from Karns High School in Knoxville won the top prize in the safe driving competition. He already has plans to use the scholarship to help him become an aviator after completing high school next year. Young Troyer is the second student from Karns High School to win first place in this contest, as Darrell Turner won in 1975. Finishing second was Keith Schuman, 16, of Columbia City, Ind. He won a $1,500 scholarship. Other winners and their awards were: Corwin R. Brundrett, Jr., 15, of Apache Junction, Ariz., third and a $1,000 scholarship; David McDonald, 17, of Murrysville, Pa., fourth and a $750 scholarship; David Schroeder, 17, of Evanston, Ill., fifth and a $500 scholarship. Evan Balash of Bay City, Mich., won the scholastic magazine plaque for the best performance on the emergency stop test.

The 4 young women and 30 young men who participated in the finals, in alphabetical order by State were Corwin R. Brundrett, Jr., Arizona; Margaret L. Quignon, California; Terry Riley, Connecticut; Calvin W. Thomas, District of Columbia; Alan W. Shelton, Florida; Barbara Paige, Georgia; David Schroeder, Illinois; Keith Schuman, Indiana; Donald E. Rice, Iowa, Wesley A. Beal, Kansas; Stephen W. Bertram, Kentucky; Gary L. Martin, Louisiana; Thomas P. Ahern, Maine; Christine Helliesen, Maryland; Walter Tomczykowski, Massachusetts; Evan Balash, Michigan; Michael Foster, Minnesota; Kelly Lyons, Mis-

souri; Keven Little, Montana; Ronald Brodwater, New Jersey; Thomas Silmser, New York; Terri Ward, North Carolina; Eddie Hintz, North Dakota; Timothy M. Whitely, Ohio; David McDonald, Pennsylvania; John Knight, Rhode Island; Dennis Waldrep, South Carolina; Marty Roy Haivala, South Dakota; Kenneth Troyer, Tennessee; Clyde Reed, Jr., Texas; Jim Livengood, Virginia; Jon Kehn, Washington; James L. Dean, Jr., West Virginia; and Paul Williams, Wisconsin.

The colors were posted at Opryland and at the victory banquet by the AMVETS Department of Tennessee honor guard under the direction of Charles Paxton and included Edward Lawson, Jack Gladson, Calvin Mason, Cecil Howard, and Bobbie Loftin.

Judging was conducted by the Tennessee State Police under the supervision of Capt. Fred Schott, Jr., with Lt. Hubert Wolivar, Lt. Jack Williamson, Lt. John Collins, Lt. Bill Henry, Lt. Jerry Simmons, Sgt. Clifton McNally, and Troopers Marvin Odam and John Eldridge.

The various phases of the contest were conducted by Henry Wantoch and Frank LaConte, Wisconsin; Thomas J. McDonough, Edward Gams, Donald H. Fournier, and Donald R. Russell, Illinois; Paul C. Welsh, Ohio; Ernest F. Pitochelli, Rhode Island; Joseph Duclos, Maine; Earl MacKenzie, Connecticut; Robert Medairos, Stephen D. Pappageorge, William O'Connell, John Macek, Harold Jensen, and Chester D. Ovesen all of Massachusetts; Leon Gubala and Hugh Quinlan, New York; Joseph Viola and Arnold Caslin, New Jersey; Harry McKinley and Ted Leskiewicz, of Michigan; Kenneth Martin, Pennsylvania; Jack Kaus, Iowa; Capt. Fred W. Schotts, Jr., Jimmy T. Smith, Fentress L. Bryant, Sam Long, Carl Brewster, and Edward Lawson, all of Tennessee; Earl Mahane, Washington; William Staudte and William Thompson, Missouri.

The Dodge Division was represented at the national finals by Mr. Glenn Campbell, Mr. John McCandless, and Mr. William W. Bivens.

The finalists and their chaperons were guests of honor at a reception and victory banquet with Leon Sanchez, AMVETS national executive director, as toastmaster. The Honorable Ray Blanton, Governor of Tennessee brought greetings on behalf of the people of Tennessee. Jay W. Smith, director of K–12 highway safety education, Mesa Public Schools, Mesa, Ariz., was the principal speaker. National Comdr. Frank D. Ruggiero, an educator from Lyndhurst, N.J., also addressed the gathering. Others at the head table included: Joseph Viola, West New York, N.J., chairman of AMVETS National Traffic Safety Commission; Jimmie Johnson, commander of AMVETS, Department of Tennessee; Jimmy T. Smith, national executive committeeman, Tennessee; Past National Comdr. Essley Burdine represented the AMVETS National Service Foundation; Lou Ragghianti, commissioner of the Tennessee Department of Veterans Affairs; Capt. Fred W. Schoots, Jr., director, of the Tennessee Safety Education Division; William W. Bivens, president, automotive Sales, Chrysler Corp., and Dana L. LeVan, New Jersey, winner of the 1977 DE finals. Past National Auxiliary Pres. Doris L. Burdine, Decatur, Ga., represented National Auxiliary Pres. Pearl V. Barnett, Riverside, Calif., who was ill. James R. Ramsburg, AMVETS national program director, coordinated all phases of the program.

In recognition of the outstanding value of the AMVETS-Dodge "Operation DE," the National Association of Secondary School Principals has placed this program on the advisory list of national contests and activities for 1978–79.

AMVETS and Dodge, "Partners in Traffic Safety," deserve our recognition for fostering such a constructive program. The driver excellence program emphasizes the need for skillful and safe drivers; and, through the driver education courses sponsored in schools, young drivers receive valuable knowledge and learn safe driving habits. Everyone who came in contact with the 4 girls and 30 young men in the competition were most favorably impressed. They represented their States in an admirable manner, and their respective States certainly can be proud of them.

All those in attendance greatly appreciated the hospitality shown them during their stay in Tennessee. The 1979 DE finals will be held in Hershey, Pa.●

SENATOR PELL AND THE ARMS EMBARGO AGAINST TURKEY

● Mr. CRANSTON. Mr. President, the Senate will soon take up S. 3075, the International Security Assistance Act of 1978, and each Member of the Senate will have to consider the question of whether to lift or maintain the arms embargo against Turkey.

On Tuesday, July 18, a thoughtful article by Senator CLAIBORNE PELL appeared on the op-ed page of the Washington Post. Senator PELL argues that the arms embargo against Turkey, imposed by Congress in 1974, should not be lifted at this time. In his judgment, repealing the embargo now "would undermine the rule of law, would call into question our commitment to human rights, would make a Cyprus settlement more difficult, and would strengthen the anti-United States and anti-NATO forces in Greece."

I agree with Senator PELL's assessment and commend his article to the attention of my colleagues.

Mr. President, I ask unanimous consent that the full text of the article entitled "The Case Against Lifting the Turkish Arms Embargo" be printed in the RECORD.

The article follows:

[From the Washington Post, July 18, 1978]

THE CASE AGAINST LIFTING THE TURKISH ARMS EMBARGO

(By CLAIBORNE PELL)

Now is not the time to lift the arms embargo against Turkey. To do so would undermine the rule of law, would call into question our commitment to human rights, would make a Cyprus settlement more difficult, and would strengthen the anti-U.S. and anti-NATO forces in Greece.

Rule of law. The Arms Export Control Act limits military aid to "internal security" and "legitimate self-defense" purposes and provides that aid cannot be resumed until the president determines that a "violation has ceased." Congress imposed the embargo only after President Ford refused to enforce this law in response to the Turkish invasion of Cyprus in 1974. To lift the embargo while the violation of American law continues and the requirements for restoring military aid have not been met would be a repudiation of our law and would communicate to the world that we are not serious about controlling the use of U.S. arms.

The argument that the law has been upheld by our having imposed the embargo for 3½ years does not wash. The embargo has never been rigorously applied or used by any administration as leverage with Turkey. The Ford administration opposed the embargo from the beginning, tried to overturn it after it was enacted and, when all else failed, got congressional approval for sizable exemptions from the embargo based on assurances that they would promote Turkish flexibility on Cyprus.

The Carter administration has also sought exemptions, bringing the total to a whopping $600 million since the embargo was imposed, and is asking for more in combined military and economic aid for Turkey in 1979 than was provided just prior to the embargo. Even before President Carter decided to oppose the embargo, his ambassador in Turkey, Donald Spiers, undercut the embargo by stating in an interview in Ankara on January 24, 1978, that "the embargo doesn't serve any American interest." It is not the embargo that has failed, but rather the policy of increasingly relaxing it and thereby rewarding Turkish intransigence on Cyprus.

The charge that the embargo has been selectively applied to Turkey rings hollow. Even Secretary of State Cyrus Vance would not support such a charge when he testified before the Senate Armed Services Committee on June 28. Congress did nothing when Turkey initially invaded Cyprus in July 1974, but acted only after the "second invasion" of Cyprus in August 1974 when Turkey expanded its area of control from less than 10 percent to almost 40 percent of Cyprus. Furthermore, Congress did not make the embargo effective for another six months, by which time it was clear that Turkey would not withdraw even after it achieved what purports to be its objective of protecting Turkish Cypriots. No other case of an actual or suspected misuse of American arms has been as flagrant as Turkey's.

Human rights. The prestigious European Commission on Human Rights last year found Turkey guilty of systematic killings of civilians, rape, torture, extensive looting and refusal to allow refugees to return to their homes. Amnesty International and ASME Humanitas of West Germany documented similar violations. While it may be difficult to obtain an ironclad indictment of Turkey, the evidence so far is at least sufficient to warrant the continuation of what has turned out to be a very limited embargo. Also, how could we retain our credibility regarding the sanctions we have imposed in in Latin America on human-rights grounds, or the Soviet Union through the Jackson-Vanik amendment, if we did not uphold the law with respect to Turkey?

Cyprus settlement. Since Turkey has not responded to the annual relaxation of the embargo, there is no incentive to change if the final vestige of America's tangible expression of interest in a Cyprus settlement is removed. Much is made of Turkey's April settlement proposal, but it is so unresponsive to Greek Cypriot concerns and so damaging in its effort to create, in effect, two separate Cypriot states, that it can only be characterized as a crude propaganda ploy. The offer to reduce from 40 percent to 39 percent the

amount of territory for the Turkish Cypriots, who constitute only 18 percent of the island's population, is particularly outrageous.

Turkey has already succeeded in ensuring that a Cyprus settlement will involve some kind of bizonal arrangement, but the continued presence of its troops can only cause the Greek Cypriots to resist negotiating the terms of this new reality. In this connection, why is it wrong for the United States to apply pressure on Turkey through the embargo, but all right for Turkey, through its occupation, to apply much greater pressure on the Greek Cypriots? As long as the Turkish troops remain, the embargo is necessary to ensure that Cyprus is not bargaining from weakness.

Effect on Greece. Lifting the embargo would be perceived in Greece as giving Turkey carte blanche for the use of American arms in the eastern Mediterranean. Tensions between Greece and Turkey are high because of their dispute over the division of the continental shelf in the Aegean. Greece would, therefore, be understandably disturbed if we lifted the embargo now. Anti-U.S. and anti-NATO sentiment is already strong in Greece, and lifting the embargo would increase the prospect that the Karamanis government will be succeeded by an anti-Western one.

In the rush to mollify Turkey and prevent it from breaking with NATO—a possibility that Turkish Premier Bulent Ecevit flatly ruled out during his recent visit to the United States—it should be borne in mind that Greece has already severed its military ties with NATO because of the Cyprus invasion. Lifting the embargo would derail the effort to restore those ties.

Both Greece and Turkey are essential to NATO, but what might be gained with Turkey by lifting the embargo is likely to be more than offset by the deterioration of relations with Greece. In this connection, the recovery of the use of our four intelligence-collection bases in Turkey is no longer so important as it once was thought to be, as we have been able to develop alternative sources for most of the information previously collected in Turkey. Former defense secretary Melvin Laird put it bluntly when he said as long ago as August 1975 that "we don't need Turkey to verify a SALT agreement."

Since the embargo has not significantly slowed the flow of arms to Turkey, it has become largely symbolic; but that symbolism is important as a sign of America's disapproval of Turkey's actions in Cyprus. As a presidential candidate, Jimmy Carter said that "we would be negligent of the moral issues and courting disaster if we fail to couple the improvement in relations with Turkey with improved progress on the Cyprus issue." That statement was valid in 1976 and continues to be today.●

THE ENERGY PROGRAM

● Mr. BAKER. Mr. President, yesterday, the Congress embarked upon the final leg of passage for a comprehensive energy program for the United States of America. This is a task that has been long delayed and is sorely needed.

But, I am disturbed over the failure of the Department of Energy and the President's energy plan to address a source of domestic energy production that I think holds enormous potential, the burning of wood products to produce energy.

I am troubled by the low priority that has been given to wood fuel, or as it is more scientifically known, solar biomass energy. Considering the vast amounts of this potential energy source within the United States, and the fact that perhaps as much as 80 percent of our commercial forest yields go to waste, I am hard pressed to understand the Department of Energy's reluctance to devote more time and investigation to this energy source.

A number of companies have already committed themselves to increase utilization of this vital fuel source. In Michigan a number of companies have joined together in a firm commitment to developing wood fuel as a viable alternative for this country. The Michigan legislature and that State's public service commission have investigated this subject and have found wood fuel to be a credible source for future fuel production. In my own State of Tennessee, the Tennessee Valley Authority has committed itself to the study and development of wood-burning energy as a source of power generation.

This recognition by other segments of our society of the need to increase utilization of our domestic biomass potential, when compared with the efforts being made by the Department of Energy, leave me greatly concerned. I am therefore calling upon the Department to commit itself to greater utilization of this vital domestic fuel source.

I know that it is the desire of the American people to be free of our present dependence on foreign fuel sources. The only way this can be achieved is for us to make maximum use of all of our domestic productive capacity.

To underemphasize or ignore this vital and abundant domestic fuel source, is to ignore the wishes of the American public. That is something I do not wish to see happen.

Mr. President, I ask that the remainder of my remarks be printed in the RECORD following this statement.

The remarks follow:

REMARKS BY SENATOR BAKER

RATIONALE FOR WOOD ENERGY

The arguments that can be made for the increased commercial use of wood energy outside the forest products industry are indeed powerful. Most of these reasons have been around for a long time, and the positive characteristics can be summarized briefly as follows:

a. Inexpensive price.—Wood fuel in the form of whole tree chips cost less than $1.30 per million BTU's. Industrial wood wastes are even less expensive in the $.60 to $.80 per million BTU's.

b. Fuel availability.—The wood resources within the country are known to be significantly more than the U.S. Forest Service's commercial inventories. They have estimated over a billion tons of *unused* wood per year (1.3 billion barrels of oil equivalance), and even this estimate may also be conservative.

c. Established technology.—Commercial wood harvesting and combustion technologies have both been adequately demonstrated by the forest products industry for system technical feasibility.

d. Renewable and expandable.—Wood energy is one of the few renewable resources besides solar, ocean, wind, and other biomass. Moreover, it is here today while the other technologies require significantly more research. Good forest management has already demonstrated 50% increases in annual growth over the past 20 years.

e. Nonpolluting.—Wood contains less than 0.1% sulfur, far less than the lowest sulfur coal. Combustion temperatures are low enough that nitrogen oxides are not a problem. The stack particulates are easily captured by low cost, mechanical pollution control equipment; and the ash even has excellent soil nutrient value.

f. Land value improvement.—Harvesting by thinning or clear cutting increases the residual land value. Reforestation incentives have recently been dramatically improved. Whole tree harvesting also eliminates forest residues upon which forest fires thrive.

g. Jobs creation.—New jobs are created in the rural economy with a direct three person per 15,000 pounds of steam/hour new capability. The fuel supply is also not sensitive to labor disputes.

In addition to these stated benefits, there are also dynamic conditions which have evolved over the past few years which have helped to create the current potential for significantly increased wood fuel usage.

a. Conventional fuel concerns.—The costs of other combustible fuels is currently high ($1.40 per million BTU's for coal, $2.50 for oil, and $3.25 for natural gas), and they are all going higher. There is the ever present danger of fuel supply interruption due to strikes, shortages, and embargoes for coal, natural gas, and oil respectively while wood is not nearly so susceptible. There are also "balance of payment" implications for the given state, region, or nation. Moreover, wood fuel is available just about everywhere in the United States.

b. Maturation of wood harvesting techniques.—The whole tree chipping technology has matured over the past five years and is currently recognized by loggers as a dependable and economical harvesting technique for most forests.

c. Energy independence by wood industry.—There is an increasing move toward energy self sufficiency in the wood industry, particularly in the pulp and paper industry. Most of the wood energy system parameters have been proven within the wood industry and are available for commercial applications outside the wood industry.

d. Forestry endorsement of environmental/conservation benefits.—The U.S. Forest Service, State Forestry Officials, Forestry Schools, and Wood Industry Foresters are all pushing the value of good forest management through selective harvesting. There is also a growing recognition of the need for a comprehensive forest inventory for total biomass.

e. Continuing unemployment.—There is a recognized need for new jobs creation in rural areas as well as urban; and wood energy allows the creation of healthy, productive jobs in the forests or rural areas.

POTENTIAL DOE ROLE

Wood energy as an identifiable subject has existed in the Department of Energy (and its predecessors) in only two areas to date: Combustion Research and Biomass Fuels groups from the previous ERDA Conservation organization. Very little combustion research was done in the former, and emphasis was placed on synthetic fuels and biomass production in the latter. Wood has had a "secondary alternate" fuel status within DOE.

It is also generally agreed that wood energy on these bases is ready for commercialization outside the forest products industry, and yet it is not happening at a rapid rate. The question then is what should the Department of Energy do at this time to help increase the application of wood energy as a fuel alternative.

The DOE can confidently take three immediate steps:

1. Issue a policy statement on wood energy that clearly delineates those portions ready for commercialization and those portions still in the research/development stage.

2. Perform an immediate program definition for the commercialization program by either a DOE task force or a subcontracted

study or both. This unsolicited proposal addresses itself to this task.

3. Implement a follow-on DOE Wood Energy Commercialization Program which could contain the following features:

a. Sponsorship of a national wood energy data base for the country, i.e., how much wood is available for "energy uses," where is it available, and who is currently using it.

b. Study of the economic parameters that are involved in wood becoming a fuel "commodity" i.e., land ownership, harvesting, reforestation, transportation, supply contracts.

c. Provide broad publicity on advantages and disadvantages of wood energy to include endorsements from U.S. Forest Service as well as extolling environmental (less pollution, better forests) and economic (lower fuel costs, new jobs creation) benefits.

d. Highlight the elements in the National Energy Act that are already built in to help the commercialization/demonstration of wood energy (i.e. Investment Tax Credit, removal of cogeneration barriers, primary fuels tax, etc.).

e. Identify other incentives that are currently available (Forest Improvement Program) or needed (Harvesting Equipment Purchase Incentives) to further encourage wood energy conversions.

f. Implementation of commercial demonstration programs under the name of wood as a commercial biomass fuel. The program would mate wood supply and demand for industry, institutions, and utilities outside the forest products industry. The program baseline could be whole tree chipping for fuel supply and direct combustion for steam energy production. Other program variables could include wood wastes and pelletized wood as supply variables and electrical cogeneration as a demand variable.●

UNDERMINING THE TURKISH ARMS EMBARGO

● Mr. SARBANES. Mr. President, it is asserted by some that the partial embargo on military aid to Turkey has not worked and should therefore be lifted. Unfortunately, the history of the present limited arms embargo on Turkey is a history of two administrations unwilling and unable to make the embargo work. It is a history of repeated efforts by two administrations to bypass the arms limitations enacted by Congress, thereby frustrating both congressional intent and the rule of law.

Early this year, I joined three colleagues in writing to President Carter about a series of steps taken by his subordinates which ran counter to the purpose of the arms embargo and which, cumulatively, had the effect of encouraging Turkey to think that the embargo would be lifted without any substantial steps by Turkey to remedy its aggression on Cyprus. Now the administration has exactly such an effort to repeal the embargo underway. The letter to the President, which underscores the necessity of Turkish action to redress the Cyprus aggression if the embargo is to be removed and a normal military relationship resumed, read as follows:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., February 8, 1978.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The recent trip by Secretary Vance to Turkey and Greece, following a visit to those two countries and to Cyprus by United Nations Secretary-General Waldheim, underscores the importance of achieving a just solution to the question of Cyprus. Such a solution is important for Cyprus itself; for American relations with Cyprus, Greece, and Turkey; and for the relationships of those countries with one another.

As you know, we have supported your approach to this matter which, in contrast to the Ford-Kissinger view, recognizes that the re-establishment of the military arms supply relationship between the United States and Turkey requires a just settlement of the Cyprus question. That relationship was upset because of Turkey's use of American arms for aggressive purposes on Cyprus, in contravention of our law.

We believe the linkage you have established between the supply of arms to Turkey and a solution on Cyprus is basic to the principled conduct of American foreign policy which you have urged both before and since assuming office. We understand that for tactical reasons you have chosen not to stress this linkage publicly, but we recall, and have reposed confidence in, your assurance at our White House meeting with you that a linkage does indeed exist.

In light of our shared objectives, we feel we must bring to your attention our deep concern over what seems to be a pattern of action on the part of members of your Administration in the handling of the Cyprus question. These actions threaten to undermine the principles to which you have committed your Administration. Furthermore, as a practical matter, these actions make it far more difficult to achieve a just settlement on Cyprus.

We trust that the brief summary that follows of some of those actions will enable you to understand better the basis for our apprehension.

The Administration's first arms request for Turkey, submitted by the State Department last March, sought a level of military assistance many times the level supplied by the previous Administration. This request, you will recall, engendered strong opposition and was ultimately reduced substantially. Nevertheless, Turkey received a 40 percent increase in military sales (from $125 to $175 million) although it had taken no positive action on Cyprus. The hope that this significant increase would serve as an independent to such positive action on the part of Turkey proved empty.

The Department of Defense has used the NATO Maintenance and Supply Agency (NAMSA), located in Luxembourg, to supply Turkey with weapons beyond the restrictions in American law limiting the amount of military sales. Such circumvention of the military sales limitation makes a mockery of joint Executive-Congressional actions and undermines pressure on Turkey for a Cyprus settlement.

The United States Ambassador to Turkey recently declared in a news interview in Ankara that "the embargo doesn't serve any American interest," that "without changing the law (which prohibits United States arms to aggressor countries) I would like to find some way around it," and that "my only hope is that sanity will prevail and it (the embargo) will be removed." High-ranking U.S. military officers have made similar statements in the past year and have thereby encouraged Turkish intransigence with regard to a just settlement on Cyprus. Obviously, the arms limitation cannot be effective when the Turkish government hears high American officials publicly contradict your own position on this matter.

In an effort to avoid offending Turkey, the United States Mission to the United Nations voted with a very small minority last fall to weaken a General Assembly resolution which called for action on Cyprus. Moreover, the State Department recently submitted a report on human rights in Cyprus which was an unfair and inaccurate report of the tragic events on that island.

The State Department's proposed military aid request for the next fiscal year reduces aid to Greece while maintaining the aid level for Turkey and thereby suggests a basic shift in Administration policy. Repeated press reports that Administration officials are preparing to urge Congress to approve the four year, $1 billion Turkish defense agreement without regard to a resolution of the Cyprus question only heighten our concern.

Our restrained comment in the face of each of these developments has largely been due to the assurances we have received, from you and your representatives, that this Administration is committed to pursuing the policy of linkage. We have, therefore, publicly affirmed the Administration's good faith and urged that you and the Secretary of State be given the time to implement this policy.

Today, we are deeply concerned that actions like those set out above may be placing the Administration on a different path whereby Congress will be asked to approve the Turkish DCA without a just settlement on Cyprus or whereby other approaches will be employed to break the linkage you have expressed to us. Such a changed course would have the most grave consequences for the integrity and principled conduct of our foreign policy and the achievement of a just solution on Cyprus. To reestablish the arms relationship with Turkey without a redress of the aggression on Cypress would demean the rule of law, contradict your strong commitment to human rights and weaken your call for proper controls on U.S. arms exports. Such action would also erode support for democratic, pro-Western governments in Greece and Cyprus and make virtually impossible the achievement of normal relationships in the eastern Mediterranean.

In this crucial period, citizens in this country and throughout the world look to you, Mr. President, for principled leadership to bring justice and peace to Cyprus and to the eastern Mediterranean.

We stand ready to assist in this endeavor and would welcome the opportunity to discuss this matter with you at a time convenient to you.

Respectfully,
THOMAS F. EAGLETON, U.S.S.
PAUL S. SARBANES, U.S.S.
JOHN BRADEMAS, M.C.
BENJAMIN S. ROSENTHAL, M.C.

Mr. President, in addition to this letter, I would like to share with Members of the Senate further information regarding the administration's failure to enforce and implement the limited arms embargo. In proposing the embargo on American military aid to Turkey after that country's second invasion and occupation of Cyprus in August 1974 Congress acted for two basic reasons:

The first was the obligation to enforce American law, which required that further military assistance to Turkey be terminated after Turkey used American-supplied weapons for offensive purposes on Cyprus.

The second reason, and the focus of this analysis, was the expectation that our administration would use the embargo as leverage to encourage Turkey to take substantive actions to promote a just settlement on Cyprus.

Regrettably, two successive administrations have failed to do so. Instead this administration, like its predecessor, has acted in a manner that undermined the effectiveness of the embargo and sig-

naled to Turkey that it need not respond to the embargo.

REVIEW OF ACTIONS

The following review of Carter administration actions and statements concerning Cyprus makes clear that the administration's request that the embargo be lifted "because it has not worked" stands logic on its head: The embargo has not worked because the administration has been unwilling or unable to make it work.

This review shows:

That the Carter administration, despite its statements in support of controlling U.S. arms sales abroad, attempted in its first months in office to provide a sharp increase in American military aid to Turkey;

That the Carter administration, despite its statements in support of the rule of law, utilized a little-known NATO agency to funnel additional military equipment to Turkey—in contravention of the arms ceiling established by the embargo;

That the Carter administration, despite its statements in support of human rights, turned a blind eye to massive, ongoing violations of human rights stemming from the continued Turkish occupation of forty percent of Cyprus;

That the Carter administration, despite its statements in support of United Nations resolutions encouraging settlement of the Cyprus question, worked to defeat further U.N. actions intended to promote such a settlement;

That the Carter administration, despite its campaign statements in support of the embargo, tolerated the continued public criticism of that embargo by top-level administration officials; and

That the Carter administration, despite its unequivocal private assurances that a linkage existed between arms for Turkey and a settlement on Cyprus, asked for the embargo to be lifted without requiring from Turkey substantive concrete actions remedying its aggression on Cyprus.

ARMS REQUESTS FOR TURKEY

The Carter administration intended, as part of its military aid request for fiscal 1978, the first full fiscal year under its control, to seek a level of military assistance several times the level supplied to Turkey during the final year of the Ford-Kissinger administration. The Carter administration's proposal as formulated by the State Department early in 1977 consisted of three elements:

First. An increase in the annual ceiling on all U.S. Government cash sales, credits, and other officially arranged arms transfers to Turkey from $125 million per year, in effect for fiscal 1976 and fiscal 1977, to $175 million for fiscal 1978—a 40 percent increase.

Second. A further increase in cash sales authority to complete the financing of 40 F–4 planes for which Turkey had already contracted. Although Congress had been notified of the sale of the planes, as required by law, it was not told that Turkey's payment schedule was impossible under the existing $125 million annual limit for all military transfers to Turkey. The State Department's own official history of the sale, however, reveals that both Turkey and the executive branch were aware of that impossibility and proceeded nonetheless.

This aspect of the proposal called for whatever cash sales authority was necessary to complete the F–4 deal within the contract timetable; and would have required an additional $50 million in authority for the fiscal 1977 payments and $225 million more for the completion of the contract in fiscal 1978—a $275 million loophole. Combined with the proposed $175 million ceiling for other aid to Turkey, the total level of military authorization in the fiscal 1978 bill would have amounted to nearly one-half billion dollars, an increase of almost 300 percent from the level of military aid to Turkey in effect during the last year of the Ford administration.

Third. Administration "endorsement in principle" of the Defense Cooperation Agreement (DCA). The DCA, involving a multiyear authorization of $1 billion to permit continued operation of bases in Turkey, was negotiated by Henry Kissinger in 1976 in an effort to bypass the statutory limitations on military aid to Turkey imposed by Congress.

Because this proposal, in its detail and its underlying thrust, contradicted the Turkish arms policy enunciated by Jimmy Carter and WALTER MONDALE during their election campaign, it caused great concern among interested Members of Congress.

This concern was spelled out in a series of meetings held with high administration officials—including the Secretary of State, the Vice President and the President—during March and April of 1977. At these meetings, the administration was urged to adhere to its promised policy of linking resumption of a full military relationship with Turkey to a settlement on Cyprus—a policy consistent with the actions and intentions of Congress.

As a result of this protest, the administration reduced its request substantially, eliminating the additional cash authority of $275 million. Nonetheless, Turkey did receive a 40-percent increase in military sales—from $125 million to $175 million—although it had taken no positive action on Cyprus. The hope that this significant increase would serve as an inducement to such positive action on the part of Turkey proved empty. Rather, Turkey apparently saw the increase—and the even larger request that preceded it—as evidence that the administration had no intention of acting to enforce the provisions of the embargo and that, therefore, Turkey need not be forthcoming with respect to Cyprus.

MISUSE OF NAMSA

The Department of Defense used a little-known agency—the NATO Maintenance and Supply Agency (NAMSA)—to supply Turkey with over $30 million in military supplies beyond the embargo's restrictions limiting the amount of military sales to that country.

NAMSA, located in Luxembourg, was established some 20 years ago to provide logistic support for certain major weapons and equipment systems—for example, jet aircraft—which were then becoming joint procurement items for several NATO countries. Over two decades, NAMSA's operations expanded to include major new items such as missiles. The ostensible goal of NAMSA was to provide economy of scale in inventory, procurement, and maintenance.

The United States supplied most of NATO's original equipment for joint use and also supplied NAMSA with much of its additional inventory.

MISUSE DISCOVERED

In the spring of 1977, it was learned that NAMSA was being used to funnel American arms to Turkey as a means of circumventing the arms embargo imposed by Congress.

Inquiries to the Department of Defense Office of Logistics in March 1977 revealed that Turkey had asked NAMSA whether it could be used to bypass the arms embargo.

This inquiry had been forwarded to DOD, and the Office of Logistics said it believed the request had been rejected. Written confirmation that NAMSA had not supplied U.S. arms to Turkey in contravention of the embargo was then sought from the Office of Logistics.

More than 2½ months later—on May 25, 1977—the Department of Defense provided a detailed list of transactions set up by NAMSA for Turkey during the embargo period; the Office of Logistics was unable to explain how this misuse of NAMSA had occurred.

The DOD list showed that NAMSA transactions involving Turkey increased from $12.2 million in fiscal 1975, the year before the embargo took effect, to $68.5 million in fiscal 1976, the first year of the embargo.

Of this $68.5 million total, $28 million involved arms transactions as to which Turkey was the only customer, and another $4 million involved transactions as to which Turkish participation was characterized by DOD as "one-half share."

Thus, in the first full year of the embargo, the Ford administration resorted to the NAMSA procurement program to funnel at least $30 million worth of American military supplies to Turkey—an obvious evasion of clear statutory limits on U.S. military aid to that country.

MISUSE CONTINUES

Moreover, the data suggested that this use of NAMSA was continuing under the Carter administration.

Asked about this practice at a June 30, 1977, meeting, DOD representatives said that there was the possibility that "unintentional violation of the text" of the embargo provision, though not its "spirit and intent," had occurred. These representatives claimed that DOD merely sold military equipment to NAMSA and had no control over the ultimate disposition of that equipment.

Asked for additional details about NAMSA procedures and whether it could be assumed that DOD-NAMSA-Turkey transfers taking place without regard for the embargo's limits would now end, DOD representatives were unable to reply.

Additional data supplied by DOD over the next month failed to clarify the situation, and another meeting was held in

early August. At that meeting, DOD representatives for the first time claimed there was a distinction between NAMSA transactions involving the purchase by member nations of items already in NAMSA's stock and those transactions involving items which NAMSA had to acquire specifically to fill a particular nation's order. DOD said that purchases of "stockage" items would not be counted against the arms limitation imposed on Turkey, but that the special purchases—so-called brokerage items—henceforth would be. The legal basis for this "stockage/brokerage" distinction was not explained, and seemed designed to permit "laundering" of transfers in order to evade the clear language of the arms embargo.

The DOD representatives were asked to provide ar immediate written report of all NAMSA data then avialable, and a fuller report as soon as NAMSA responded to earlier DOD inquiries initiated by these members.

One week later—on August 12, 1977, James V. Siena, Deputy Assistant Secretary-Designate for European and NATO Affairs, replied, stating that he still had insufficient data to provide a full response to the members' inquiries, but that DOD intended henceforth to have NAMSA identify the intended recipients of future arms requests. However, as indicated in the August 5 meeting, Siena stated that the embargo limits would not apply to any stock items sold to Turkey, nor to any brokerage items already ordered by Turkey, whether or not they had yet been delivered.

Told on August 19, 1977, that its proposed policy was "clearly inadequate" DOD then promised a further response.

DISTINCTIONS WITHOUT DIFFERENCES

On September 8, 1977, Siena wrote once again, and admitted that Turkey had used NAMSA to obtain quantities of arms otherwise unavailable to it under the limits of the embargo. This letter also abandoned the "stockage/brokerage" distinction, and substituted a distinction between orders made as part of NATO partnership programs in which Turkey participated, and other purchases by Turkey. Under this substitute approach, only purchases not related to partnership programs, and as to which purchases Turkey was the only customer, would be continued against the embargo; all other purchases would be exempt. As was true of the "stockage/brokerage" distinction, the legal basis for this "partnership/non-partnership" distinction was not explained. Moreover, this new policy, like the one that preceded it, would not be applied to orders of either type already placed by Turkey, regardless of whether or not the order had yet been filled.

Although the members were given to understand that details of the policy were still subject to revision, they soon discovered that cables had already been sent to NAMSA and to Turkey implementing the policy set forth in the September 8, 1977, Siena letter.

While this inquiry was proceeding, the continuing misuse of NAMSA attracted the attention of the chairman of the Subcommittee on Europe and the Middle East of the House International Relations Committee, Congressman LEE HAMILTON. In a September 21, 1977 letter to Secretary of Defense Brown, HAMILTON asked for detailed information about NAMSA's operation and for "an explanation of what appropriate actions are being undertaken to insure full compliance with legislative ceilings in the future and why such actions were not taken in the past to insure full compliance."

In inserting in the CONGRESSIONAL RECORD this letter and a response from Siena dated November 19, 1977, 2 months later, HAMILTON said:

> While the Defense Department argues that technically the purchases through NAMSA are not a violation of the embargo provisions, there can be no doubt that they violate the spirit of the law and tend to reinforce impressions by some here that efforts to comply with the embargo provisions may not have been rigorous enough.

After months of discussion, therefore, in which DOD officials claimed to have been unaware of the use to which NAMSA had been put during the previous administration, DOD proposed continuing much the same circumvention of the law under the Carter administration.

The members then attempted to obtain review of this policy at higher levels within DOD, but an exchange of letters on this matter with David McGiffert, Assistant Secretary for International Security Affairs, was unavailing. McGiffert indicated no willingness either to consider an end to this use of NAMSA, or to set forth a legal basis for pursuing such a policy.

Consequently the Members sought assistance from top-level officials of the State Department, raising by letter to Secretary Vance on December 29, 1977, the same questions which had been pursued at length with DOD. Once again, however, the response was unhelpful, as 6 weeks later—February 16, 1978—Douglas J. Bennet, Jr., Assistant Secretary for Congressional Relations, set forth various "policy" justifications for permitting U.S. arms transfers to Turkey to proceed through NAMSA, without dealing with the underlying legal question involved.

Representative BRADEMAS replied on February 24, 1978, citing his "growing impatience" with the administration's handling of the NAMSA matter, terming the State Department's letter "a boilerplate response which is an insult to the intelligence of all concerned," and asking, once again, for a written opinion from the State Department's legal staff setting forth the legal basis for its position respecting NAMSA.

Bennet's response of March 3, 1978, claimed that the embargo did not specifically bar transfers of equipment from international organizations; that the possibility of Turkish use of NAMSA to acquire U.S. military equipment was "in all candor, overlooked" until the increase in Turkish procurement through NAMSA began in 1976; and that while the embargo provision had not been violated, it would be "inconsistent with the intent" of the embargo to permit U.S. sales to Turkey through NAMSA which exceeded the scope of such sales before the embargo was enacted. Bennet deemed the policy outlined in earlier letters to be a sufficient response to these concerns.

Still a further response was received from Bennet on March 29, 1978. This letter restated his view that 620(x) did not apply specifically to third party transfers. He stated that, while sales to third parties for the express purpose of evading the embargo "would, of course, be impermissible," the U.S. Government was "unaware" of the extent of Turkish participation in NAMSA transactions. Bennet justified the "partnership nonpartnership" distinction as an attempt to avoid imposition of "special limitations and procedures in respect of NAMSA procurement on behalf of a partnership of which Turkey happened to be a member." He said that the administration, learning of Turkey's increased use of NAMSA, had modified its procedures "to close that 'loophole' in a way that would not disrupt functioning of NAMSA in support of NATO partnerships." He maintained that the limited amount of items "expected" to be involved each year under this modified policy did not warrant the "cost, administrative burden, and irritation to our allies that would result from the imposition of special accounting procedures."

QUESTIONS REMAIN

There has been no further conversation on this matter with State or Defense Department officials; attention has turned instead, to the broader question of the administration's request that the arms embargo be completely lifted.

Still, the administration has never adequately explained why it failed to notice the vast increase in purchases of American military supplies by NAMSA after the embargo took effect, nor how the administrative "burdens" and the lack of an adequate accounting system made adherence to the law unnecessary.

The administration has never adequately explained how Turkey obtained the impression that FMS purchases through NAMSA would not count against the legislative ceiling, nor, once that "misimpression" was corrected, why future deliveries of U.S. military supplies to Turkey should not be counted against the ceiling.

These matters remain to be pursued.

HUMAN RIGHTS

The State Department submitted on February 3, 1978, reports on human rights in Turkey and on Cyprus which avoided a factual accounting of Turkish practices in both those countries. A State Department spokesman was quoted in a wire service report as saying that the Department did not want to report anything which might make it more difficult to get Congress to approve restoration of a full arms relationship with Turkey. In fact, the opening sentence of the Department's report on Cyprus said:

> Perhaps more so than elsewhere, human rights questions in Cyprus cannot be treated in isolation from political considerations.

The State Department's report on Cyprus, in its concession to "political considerations" at the expense of facts,

was clearly at odds with the conclusions reached by the prestigious European Commission on Human Rights of the Council of Europe. The Commission report, which has never been publicly circulated in this country, found Turkey guilty of violating six articles of the European Convention on Human Rights during its continuing occupation of Cyprus.

The report cited these violations:

Systematic killings of innocent civilians committed on a substantial scale;

Rape of women of all ages from 12–71;

Torture of prisoners and persons detained;

Looting and robbing on an extensive scale; and

The refusal to allow the return of refugees to their homes.

In addition, the fact of the Turkish occupation itself, and the continuing presence on Cyprus of large numbers of military personnel, armed with American weapons, constitute a massive, ongoing violation of basic human rights. This is a record the administration has chosen to ignore.

UNITED NATIONS RESOLUTIONS

Although Jimmy Carter publicly announced during his campaign for the Presidency his support of the United Nation General Assembly Resolution 3212, adopted November 1, 1974, which called for the removal of all foreign military forces from Cyprus, his administration's actions in the U.N. have failed to adhere consistently to this position.

In fact, the U.S. mission to the United Nations, in an effort to avoid offending Turkey, voted with a very small minority last fall to weaken a further general assembly resolution which simply called for action toward a settlement on Cyprus.

ADMINISTRATION FAILURE TO ENCOURAGE TURKISH ACTION ON CYPRUS

On April 22, 1977 in a meeting held in the cabinet room of the White House, President Carter spoke with Member of Congress who had been concerned about the direction of emerging administration policy toward Turkey. The President said that, in light of the then-upcoming elections in Turkey, he could not declare publicly that there was a linkage between a settlement on Cyprus and arms for Turkey, but he assured them that such a linkage did exist.

Despite this unequivocal statement by the President, the Carter administration reversed its field and—before Turkey had taken any action on Cyprus, and before Turkish proposals had even been submitted, let alone examined—asked for the lifting of the embargo.

Not surprisingly, with all incentive to take action on a Cyprus settlement having been eliminated, Turkey has as yet taken no action at all. Moreover, its proposals respecting Cyprus were so poor as to be generally regarded in the diplomatic community as virtually meaningless.

ADMINISTRATION SPOKESMEN UNDERCUTTING THE EMBARGO

The U.S. Ambassador to Turkey, Ronald Spiers, declared in a January 24, 1978, interview in Ankara, during the period when the administration still claimed to support the embargo, that "the embargo does not serve any American interest," that "without changing the law—which prohibits U.S. arms to aggressor countries—I would like to find some way around it," and that "my only hope is that * * * it—the embargo—will be removed." High ranking U.S. military officers—including Alexander Haig—made similar statements in the past 16 months and thereby encouraged Turkish intransigence with regard to a just settlement on Cyprus. Obviously, the arms limitation could not be effective when the Turkish Government heard high American officials publicly contradict the administration's own policy on this issue.

CONCLUSION

This sorry record shows clearly why the embargo "has not worked:" these—and other—actions of the Carter administration have undermined it. The administration has failed to convince Turkey that greater flexibility on Cyprus is essential to the resumption of a full military relationship with the United States. As a remedy for its own failure, the administration now asks Congress to abandon principle and to ignore the clear requirements of American law.

Let me summarize the consequences of such a policy:

If the limited embargo is repealed—

Turkey will lose every incentive to negotiate on Cyprus;

The most effective tool the United States has to induce a Cyprus solution will be lost;

Anti-Western and anti-American forces in both Greece and Cyprus will be handed a ready-made occasion to attack the governments of Prime Minister Karamanlis and President Kiprianou;

We will insure that Cyprus will remain indefinitely as an issue to poison both Greek-Turkish relations as well as the relations of each with both the United States and their Western European neighbors;

The United States will be subject to blame for rearming Turkey at a time when an important part of its army is occupying Cyprus, an independent country; and

The Congress will bear the responsibility with the President for ignoring long-standing provisions of our law forbidding further aid to aggressor countries. This example may not be lost on the rest of the world to whom we sold $12 billion in arms last year.

If the limited embargo is retained—

Turkey will get $175 million in arms credits, unlimited commercial military sales but no grant military aid until Cyprus is solved;

The important symbol of denying normal arms relations to an aggressor is maintained;

Turkey will have to reconsider its policy of stonewalling on Cyprus and, instead, make some forthcoming offer toward a fair settlement; and

Other nations will recognize that the United States takes seriously the conditions under which its arms are exported.●

HISTORIC DENVER, INC., AND URBAN ENVIRONMENT

● Mr. HASKELL. Mr. President, about 80 percent of the Nation's population lives in its large cities and what goes on there is important not only to material living conditions, but to the quality of American life. Therefore, I would like to call attention to the achievements of Historic Denver, Inc., a voluntary citizen's group, in the quality of life in my State of Colorado.

Historic Denver, Inc. was founded in 1970 to save a specific landmark, the Molly Brown House, which has continued to be one of the most popular tourist attractions in Colorado. Since then it has grown to a membership of over 5,000, which makes it the largest local preservation organization in the country. It is utilizing business-like financial and management techniques, and has undertaken projects across a broad range of urban preservation and conservation matters.

The face of Denver has already been changed through the efforts of this organization which transformed 13 Victorian townhouses in the city's oldest residential neighborhood into the Ninth Street Historic Park. Dedicated on August 1, 1976, the buildings are currently in full use as a headquarters for three college campuses and a restaurant, and the park area is one of the largest green spaces in downtown Denver. Several other projects are now underway.

In 1966, the Ford Foundation sponsored a study entitled "With Heritage So Rich," which found that in the previous two decades, one-half of the 12,000 buildings in the Historic America Buildings Survey were destroyed in the course of highway or urban building construction. The study concluded that urbanization was tearing up the ties and memories that bind one generation to another.

A memorable passage in the study written by author Sidney Hyman reads as follows:

> What we want to conserve . . . is the evidence . . . of where we came from and how we got to where we are, the thoughts we had along the way and what we did to express the thoughts in action. We want to know the trails that were walked, the battles that were fought, the tools that were made . . . the grace-notes to life that were sounded. We want to know the experiments in community living that were tried and the lessons that were taught by a brave failure as well as by a brave success. It is all these things and more like them that we want to keep before our eyes as part of our lived life as a people, and as connecting links between a past which millions of Americans helped make and a future which we must continue to make.

It is gratifying to me that the achievements of Historic Denver, Inc., demonstrate that our citizens can do something to preserve the ties that the best of architecture of our cities provides. Accordingly, I feel that the record of Historic Denver, Inc., entitles this organization to the thanks of the city and my State, as well as the notice of this body and the Nation as a model for other cities which are struggling with the same problems.

I therefore ask unanimous consent that the excerpt from the organization's 1977 annual report be printed in the RECORD at this point for the information of all concerned.

The report follows:

HISTORIC DENVER, INC.—ANNUAL REPORT, SEPTEMBER 1977

(Historic Denver, Inc., was founded in 1970 to save the Milly Brown House. Today it is America's largest local preservation organization and is dedicated to a broad range of urban conservation projects)

REPORT OF THE PRESIDENT

The year and a half since the last Annual Meeting has been a period of remarkable growth for Historic Denver. We have built on the achievements of the prior two years under the leadership of Ann Love and Jean Catherwood and we hope that we have created a sound base for Jim Bull who will become the 8th President of Historic Denver at the end of this month.

It is difficult to submit a balanced and complete, yet brief report covering the past year and a half. My own list of accomplishments have been and where we have fallen short will undoubtedly differ somewhat from each of yours. In any event, I'd like to start with a few of our accomplishments:

1. An Urban Choice: We are no longer just historic preservationists. We are firmly committed to an urban conservation program founded on the belief that urban living can and should be an attractive and economically sound alternative both to urban blight and urban flight, and on the belief that the maintenance of our urban neighbohoods is one key to the survival of Denver as a viable urban center. As a part of this program, we have initiated a Revolving Fund designed to assist in the preservation and rehabilitation of older urban housing stock. Two demonstration projects, involving seven housing units in the Curtis Park neighborhood, are now in process. These projects will be completed in cooperation with the Curtis Park community and without displacement of any existing residents. Initial funding for this part of our program, consisting of over $175,000, includes grants from the Colorado Division of Housing and the National Park Service, a loan from the National Trust for Historic Preservation and the application of substantial Denver Community Development monies. We have also continued the research and documentation necessary for extension of the Denver landmark inventory and preparation of Denver nominations to the National Register of Historic Places.

2. The Molly Brown House: Under the careful guidance of the Molly Brown Advisory Committee, we have developed and approved a $100,000 program to complete the restoration of the House. The House, which is one of the most popular tourist attractions in Colorado, continues to be staffed by volunteer docents who are supervised by a professional curator. Revenue from the House, and related activities, contributes substantially to the work of Historic Denver. We are committed to the House not only because of its capacity to generate revenue, but more importantly because it is a significant symbol of the beginnings of the historic preservation movement in Denver and because, if we adhere to our established standards of quality and management, the House has the potential to be a Victorian museum of national significance.

3. Management Systems: Most management consultants would tell you that it is difficult to manage an organization which, like Historic Denver, depends both on volunteers and a professional, paid staff. Over the last year and a half we have developed a line command management system with appropriate liaison links between staff and volunteer lines. This system, which depends on close cooperation between our hardworking Executive Committee and our capable Executive Administrator, has produced accountability without being cumbersome. As we grow (our 1977–78 budget calls for the expenditure of nearly $600,000), sound fiscal management becomes even more important. Thus, we have improved our budgetary planning, streamlined our financial controls, developed more meaningful financial reporting techniques, and have created a staff position to direct our major fund raising event, Night In Old Denver.

4. 9th Street Historic Park: The 9th Street Historic Park was dedicated on August 1, 1976. In the year since, it has become clear that the promise of the project is being fulfilled. It provides over 30,000 square feet of attractive office space for the Auraria Higher Education Center; it is a delightful park which campus and community alike enjoy; and it is a nationally recognized demonstration project. Since the dedication, we have continued to coordinate completion of the landscaping, installed Victorian street lighting, established a system for future architectural and site control, and commenced planning for a permanent endowment. The 9th Street Historic Park is the result of the contribution of over $1,000,000 by citizens, the business community, charitable foundations and governmental agencies; it is the result of the devotion and efforts of volunteers, staff and the 9th Street work crew; and it is a tribute to the ability of Historic Denver to orchestrate the result.

5. Community Stature: Over the past few years, Historic Denver has gained the respect of the community we serve. We have, and I think deserve, a reputation of being responsible, creative, stable, financially sound, effective and sensitive. So long as we continue to deserve that reputation, it will serve us in the continuing to accomplish our objectives.

Some of the items which can be listed as achievements are really just beginnings. We must continue to build on these beginnings. In addition, we have an unfinished agenda and some of the major items from that agenda should at least be mentioned:

1. Membership: Historic Denver is America's largest local preservation organization. However, we need to encourage an increased membership roll, not only to maintain a strong political and financial base, but also to assure wider community understanding of the importance of our objectives. In addition, we need to increase the opportunities for our members to participate in our work and to share the knowledge and experience we have gained.

2. Education: To the extent that we can act as a catalyst, we can multiply our efforts; if we have to do it all, it won't all get done. An expanded educational program is the most effective way to reach out into the community. Through pamphlets, books, slide shows, films, reference materials, speakers, information exchanges, and our very fine newspaper, we can increase the awareness of our objectives and encourage action to promote those objectives.

3. Fund raising: Historic Denver's fund raising record and its reputation for financial stability are considerable. Our fund raising efforts have to date been centered either on annual events (such as our Spring House Tour and Night In Old Denver) or on the immediate needs of a particular project (such as the Molly Brown House, the 9th Street Historic Park and the Revolving Fund). We need now to evaluate all of our financial needs, present and projected, and then coordinate our fund raising efforts so as to fulfill those needs in the most effective way possible.

4. Management by Objectives: Historic preservation, and even urban conservation, have traditionally been crisis oriented and thus largely responsive to events. We are beginning to give more attention to long range planning. But we need to expand our reliance on management by objectives whereby we greater if we get there first. We can get there first, as well as enhance all phases of our objectives in a forward looking manner. It is exciting to stop the wrecker's ball in the backswing, but the opportunities, the alternatives and the chances for success are greater if we get there first. We can get there first, as well as enhance all phases of our operations, through management by objectives.

We have a vision of Denver for today and for tomorrow. It is a vision of a city for people, a city built on the quality and diversity of its neighborhoods, a city which can continue to bloom on the edge of the desert, a city united by a common concern for individuals and the quality of their life, a city which draws strength from its heritage. Denver is a community where individual action still counts and where visions do come true. Through Historic Denver, each of you is part of the important work of making this vision of Denver come true.

Sincerely,

DON D. ETTER, *President.*

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HISTORIC DENVER, INC. ANNUAL AWARDS

1972—The Boettcher Foundation; Mrs. Louisa Ward Arps; and Skyline National Bank.

1973—Special Citation to: Don D. Etter and Charter Members, Volunteers and Contributors; Robert McQuarie—Littleton Museum; Oliver Wasson, Rocky Mountain Herald; and Edward Berger—Cherry Creek High School.

1974—Mrs. Karl Arndt; Caroline Bancroft;

Robert Carper; Mary Rae; and Robert Bidick—Wheatridge Sod House.

1975—Mrs. Alys Freeze and Miss Ina Aulls; Molly Brown, the Denver Public Library and The Park People; The Junior League of Denver; Larimer Square Associates; Art Leisenring; Sisters of the Poor, Order of St. Francis; Gloria and Garry Jones; Greenbriar Associates.

1976—Alan Fisher; Richard Gibson; Kay and Bill James; The Montclair Civic Association.

1977—Ruth Wiberg; Thomas Hornsby Ferril; The late Ira Boyd Humphreys; Stephen H. Hart; 1410 High Street.

HISTORIC DENVER, INC. PAST PRESIDENTS

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Harold L. Haney, August 1971–January 1972.

Mrs. John W. R. Crawford, January 1972–February 1972.

E. James Judd, February 1972–May 1974.

Mrs. John A. Love, May 1974–May 1975.

Mrs. Hugh R. Catherwood, May 1975–May 1976.

Don D. Etter, May 1976–September 1977.

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Administrative Assistant, Christine Lacy.

Secretary, Barbara Norris.

Bookkeeper, Leah Rottman.

Membership Secretary, Elaine Griffin.

Historic Denver News Editor, Susan Poynter.

Chair, A Night In Old Denver, Carole Harrison.

Co-chair, A Night In Old Denver, Charlene Sullivan.

Architectural Consultant, Revolving Fund, Charles Schulze.●

MOST FAVORED NATION TREATMENT FOR HUNGARY AND ROMANIA

● Mr. WILLIAMS. Mr. President, I recently had the opportunity to present testimony to the Senate Subcommittee on International Trade on the extension of most favored nation (MFN) trade treatment with Romania and Hungary. The importance of granting MFN treatment is heightened by the benefits which can accrue to the United States after reciprocal action by the other countries. It is an issue which merits a comprehensive congressional evaluation since it affects a broad spectrum of domestic and foreign policy considerations.

We have had some unique experiences with the consequences of MFN in New Jersey which I believe are very pertinent to our deliberations on this issue. I, therefore, request that the text of my statement before the International Trade Subcommittee hearings be printed at this point in the RECORD for those who may be involved in this important decision.

REMARKS BY SENATOR HARRISON A. WILLIAMS, JR.

Mr. Chairman, I wish to express my gratitude for this opportunity to discuss the issue of most favored nation treatment (MFN) with Romania.

On June 2, President Carter sent to Congress a recommendation for an extension of waiver authority for Romania under section 402(c) of the 1974 Trade Act. The President's message also dealt with Hungary, and I have concluded that MFN is vital to our relationships with these two countries and to American national interests in general.

In 1977 the United States suffered a record trade deficit of $27 billion. Although increased imports account for a large portion of this imbalance, an equally serious problem is the difficulty many American firms have in marketing their products overseas. Exports make up less than seven percent of our gross national product, and Department of Commerce figures show that only 25,000 out of 300,000 American manufacturing firms export their goods. Clearly, our record in this area must improve if we are to reverse the current trend towards ever larger trade deficits.

One encouraging aspect of our trade picture is America's record in East-West trade. Between 1965 and 1975, annual two-way trade with eastern European nations has increased from $277 million to $3.5 billion, and since 1975 this trade has contributed a surplus of $6.3 billion to the United States' balance of payments. Because these nations comprise a sizable portion of the world's population, the potential expansion of trade with eastern Europe could play a vital role in efforts to improve the U.S. trade position.

Our growing economic relationship with Romania demonstrates the promise of these nations as markets for American goods. Trade between the U.S. and Romania has multiplied ten times over the last decade, reaching $493 million in 1977. Much of the increase has occurred since the granting of MFN status to Romania in 1975, for MFN made possible the implementation of the U.S.-Romanian trade agreement which was signed in that year. Moreover, our trade with Romania has been favorable to the United States. The first four months of this year have already yielded a surplus with Romania of $26 million, which equals the surplus for the entire year of 1977.

Increased economic activity between these two countries has contributed to an overall improvement in relations between the U.S. and Romania, as demonstrated by Romanian President Nicolae Ceausescu's state visit to Washington last April. Although basic differences in outlook still exist between our two countries, the improved cooperation between our two peoples can make an important contribution to Romania's demonstrated economic and political independence within COMECON and the Warsaw Pact. This independence has often enabled Romania to serve as a discrete yet vital intermediary for diplomatic contacts between East and West.

Because of the link established by the Jackson-Vanik amendment between MFN and emigration, it is important that we examine Romania's policy in this area. 1977 saw a marked increase in overall emigration from Romania, especially to the Federal Republic of Germany. Migration to Israel fell off somewhat, but President Carter reports that a close dialogue with Romanian officials has led to the favorable resolution of many emigration and humanitarian problems. While we must continue to fulfill our obligation to monitor Romanian emigration trends I have noticed a great willingness to cooperate in achieving the aims of the Jackson-Vanik amendment on the part of the Romanian Government. Past performance and future promise fully warrant Romania's continued MFN status.

Although not the subject of today's hearings, the President's message of June 2 regarding MFN also deals with Hungary, another nation with whom the United States is experiencing improved relations. Both the U.S. and Hungary are benefiting from this increased cooperation and understanding. For example, Hungary has had a very responsive record in emigration matters.

Early in my congressional career I worked on reunification cases with several Hungarian families. I recall that even then the Hungarians emphasized the need for normalized trade arrangements to facilitate better relations between our two countries in other areas. I was greatly pleased when, on June 27, the Senate unanimously agreed to the concurrent resolution which granted MFN to Hungary. This action, along with the full implementation of the bilateral U.S.-Hungary trade agreement, will improve relationships in the economic sphere.

An excellent example of the kind of cooperation made possible by the granting of MFN is the case of action Tungsram, Inc. of East Brunswick, New Jersey. This company is a joint undertaking between Action Industries, Inc. of Cheswick, Pennsylvania and United Incandescent Lamp and Electric Company, Ltd. of Budapest. Both the U.S. and Hungary will benefit from this venture, which will lead to the establishment of a manufacturing facility in New Jersey using productive equipment supplied by the Hungarians. The Senate's action of June 27 will greatly assist this enterprise to fulfill its enormous potential.

Mr. President, I am confident that our decision to grant MFN to Hungary is justified by our improved relations with that nation. As has been the case with Romania, MFN will widen the areas of mutual interest which tie our two countries together, thereby leading to even further cooperation.

While the need for an annual review of MFN for Hungary and Romania does create certain difficulties in establishing long-term economic ties, this provisional MFN situation is better than none at all. Still, I am hopeful that Congress and the administration will carefully consider the desirability of placing MFN status for non-market nations on a more stable basis. Although the granting of MFN does not by itself ensure the removal of points of disagreement, the increased economic relationships made possible by MFN do help to reduce the tensions which have been generated by competing economic systems.●

NEED TO COMBAT WIDE SCALE MISMANAGEMENT, CORRUPTION, AND WASTE IN HEW PROGRAMS

● Mr. PERCY. Mr. President, over the past several years Congress has closely examined many of the programs within the Department of Health, Education, and Welfare. The Governmental Affairs Committee has had recent occasion to review the Head Start program of HEW to determine whether it should become a part of the Department of Education. My own examination of that program brings it high marks.

But too many programs, when we look closely at them, are riddled with fraud, waste, mismanagement, or incompetence. If anyone ever tried to run a business like HEW runs some of its affairs, he would not only go bankrupt but he would probably be lynched by the stockholders. The Government, on the other hand, would probably hire him as a consultant.

Three years ago the Permanent Subcommittee on Investigations, on which I am ranking minority member, heard testimony exposing fraud and abuse in Federal student loan programs. In 1976 we uncovered serious mismanagement and cheating in the medicaid management information systems—a project that was intended to show States how to run their medicaid programs more effectively. At that time, with a budget of $130 billion, HEW had fewer internal inspectors than the Department of Agriculture which had a budget about one-tenth the size of HEW's.

With that figure in mind, it was particularly rewarding to have Thomas Morris, the Inspector General of HEW, testifying before the subcommittee today. The subcommittee discovered back in 1975 that, in the entire Department of HEW, only seven investigators were assigned to uncover fraud, waste, and abuse. At that time, Senator NUNN, Senator CHILES, and I decided that immediate and direct intervention by Congress was imperative. We sponsored legislation creating the Office of Inspector General, and urged that specific areas of fraud, waste, and abuse be identified within the Agency. I highly commend HEW Secretary Joseph Califano for the personal interest and support he has shown for this new investigative arm of the Department. I also applaud his appointments of Thomas D. Morris, Inspector General, and Charles F. C. Ruff, Deputy Inspector General. Mr. Morris and Mr. Ruff have done a truly outstanding job in their first year of office, and I know we can count on their continuing superior performance.

Thanks to the legislation that Senator NUNN, Senator CHILES, and I introduced 2 years ago, and thanks to the support of Secretary Califano, the number of investigators in HEW has gone up from 7 in 1976 to nearly 80 this year. And the taxpayers return on this investment will prove to be extraordinarily high. In its first annual report, the new Office of Inspector General estimated that over 7 billion hard-earned taxpayer dollars have been parceled out to crooks or channeled into wasteful, inefficient programs. That amounts to $55,000 every minute of every working day.

The tragic story behind these amounts is that well-intentioned programs which are vital to the health and welfare of millions of Americans are being subverted, often by those who are hired to administer the programs.

I have visited nursing homes and health facilities throughout the Nation where corruption, waste, and mismanagement involving Federal moneys, have been uncovered. The Better Government Association of Chicago and WLS-TV investigators just this week came up with startling new revelations of nursing home abuse. It is tragic to see how self-serving, inhumane opportunists exploit the infirmities of the elderly, emotionally-troubled patients, orphans, and physically-handicapped persons—people in desperate need of human warmth and attention—who are incapable of caring for themselves.

We have come across examples where elderly and physically-infirm patients are used as human guinea pigs for various forms of drug and shock therapy. Loneliness, apathy, and despair are fostered by institutions designed, built, and supported by Federal funds, because unscrupulous or incompetent administrators will not provide patients with the therapy they need most—kindness, understanding, and simple human dignity. Yet our Federal programs allow a small group of unprincipled doctors and technicans to overdiagnose, overhospitalize, overoperate, and overmedicate, and in so doing reap enormous profits from the national treasury.

The citizens of this Nation are compassionate and have shown that they care about the poor and elderly, the blind and the disabled. But no American taxpayer should be asked to subsidize wasteful or inefficient government programs. The national taxpayer revolt, heralded by California's proposition 13, is not a revolt against all government spending. The attack is against Federal programs gone sour, against well-intentioned services that have been abused, against needless and inexcusable waste and mismanagement and corruption. And the revolt will not subside until we in government respond.

The American taxpayers should not be asked to pay for excessive medical procedures and drug prescriptions. They should not have to tolerate student loan ripoffs, medicaid and medicare overcharges, mismanaged and too-cozy government contract procedures, and incompetent or unethical program administrators. They deserve honest and fair use of their tax dollars.

The Inspector General, in his first year of office, has identified numerous instances of waste, fraud, and abuse within the sprawling HEW bureaucracy. He was very helpful today in expanding on those findings and in suggesting where we in Congress might further aid in tightening up that agency. I trust that in the coming year we in Congress can work in a close partnership with the Inspector General. We will move beyond simply identifying areas of weakness and begin recovering some of those taxpayer dollars while handing down indictments against those who subvert vital social programs of the Federal Government.

Mr. President, I ask that the testimony of HEW's Inspector General be printed in the RECORD, so that my colleagues and the public may be made fully cognizant of the important efforts being undertaken in this regard.

The testimony follows:

STATEMENT BY THOMAS D. MORRIS

Mr. Chairman and Members of the Committee:

We appreciate this opportunity to discuss with you our efforts to meet the objectives of P.L. 94-505—the legislation which created the Office of Inspector General (OIG) in the Department of Health, Education, and Welfare. We believe this is particularly appropriate because of this Committee's contribution to the legislation.

We are today approximately 15 months old. Each quarter of our existence thus far has witnessed new developments in our work and priorities. Ours is a dynamic workload, and it is too early to predict what our normal pattern of effort will be.

We would like briefly to address five groups of questions, and then respond to your questions. These areas are:

A. The findings reported in our First Annual Report.

B. The status of our special projects.

C. Workloads versus staffing of our two major operating activities—the Audit Agency (AA) and the Office of Investigations (OI).

D. Selected special issues.

E. Overall conclusions.

A. Our first year and our first annual report:

This report dated March 31, 1978, endeavored to review performance and represent recommendations based on the 12 months beginning April 1, 1977. It is still a current document but I will update various portions of it in this statement. Some of the highlights are as follows:

v. *Best Estimates of Fraud, Abuse and Waste.*

One of the innovative efforts undertaken in our first year was an attempt to inventory major areas of opportunity for the Department as a whole to achieve greater economy and efficiency, as well as to detect and prevent fraud and abuse. The inventory found the following:

Based on Congressional hearings, GAO studies, as well as HEW's own past studies, it appears that, over time, the Department should seek to reduce its costs by several billion dollars. The inventory showed estimates of possible "losses" in the range of $5.5 to $6.5 billion—about 5 percent of the expenditures concerned. The auditors who prepared this inventory stressed, however, that in no sense are these so-called losses fully recoverable. There is no such thing as a zero error rate in programs which involve millions of beneficiaries receiving payments from hundreds of different agencies.

In fact, the report was later modified in my memorandum to the Secretary dated May 18, 1978, a copy of which I am furnishing for the record, in which the estimated losses were reduced by $838 million and placed in the following four categories:

Estimated losses FY 1977

(In Millions)

Extent to which HEW can make savings:	
A. Now, under present authority and resources	$2,741
B. In 1980 and beyond, using existing authority, but requiring more resources	491
C. When Congress passes new legislation	1,217
D. Uncertain until further studies are completed	1,072-2,083
Total	5,521-6,532

We will be glad to discuss this matter further in this hearing, but I would like to offer the highest commendation to Secretary Califano and to the key officials of the Department for their vigorous plans to seek greater economy and efficiency. Cost reduction targets were officially approved by the Secretary in his directive dated June 6, 1978, which expressed the recognized findings of the Inspector General's Annual Report. I also would like to submit this directive for the record.

In our next Annual Report we will review in retrospect the value and uses of this type of inventory and the progress made by the Department. As we wrote the Committee staff on May 11, 1978, we expect continuing Congressional, GAO and Departmental studies to reveal other areas of potential savings. A prime illustration is the current plan to apply quality control (error rate) measures to Social Security payments, starting this fall.

2. The Audit Agency's biggest challenge is how to cope with a huge workload of over 50,000 auditable entities—and how to follow up on actions taken on past audits. Over 6,700 audits were processed last year. The number will grow in the future. I will discuss the audit workload later.

3. The Office of Investigations has experienced continued workload growth and increased results have ensued from its efforts. Nothing less than a 100 percent increase in its professional staff will be adequate to cope with a workload which, with special projects, now equals almost 1,000 cases. The report describes 113 convictions resulting from HEW

investigative efforts (by OI and HCFA) in CY 1977—the majority in the health field.

4. Special Initiatives, which we will discuss later, have been aimed in the past year at the largest areas of opportunity as we perceive them. These are (1) health care, particularly in the Medicaid claims payment area; (2) public asistance payments under AFDC; (3) student financial asistance; and (4) contracts, grants and code of conduct matters. We expect these areas to continue to consume the major part of our new initiatives in the current calendar year.

5. Finally, the Annual Report makes 18 recommendations, 6 of which suggest that additional statutory authority would be beneficial. These are enumerated in Attachment 1 to this statement. Two others are discussed later in this statement (page 16).

B. Projects integrity and match—are such initiatives cost-effective?

We believe that a primary value of the OIG lies in its ability to "pioneer" new efforts, working in partnership with the responsible HEW officials, as well as with other Federal and State agencies. Some of these new initiatives will be more successful than others since most are experimental and are being done for the first time. The real test of their value is whether we and the States learn new ways of detecting and preventing fraud and abuse—and apply these findings to obtaining the resources expended.

I would like to discuss, briefly, our two major initiatives—Project Integrity and Project Match.

1. Project Integrity.

This project, which began one year ago, is in midstream. It is an effort to spotlight abuses by physicians and pharmacists in every Medicaid State, plus the District of Columbia. Of 2,458 cases selected for intensive review, the scorecard as of July 14, 1978, was as follows:

517 cases have been selected for full field investigations—i.e., they represent potential criminal violations. To date there have been 12 indictments and 4 convictions. Our best judgment is that at least another 160 will prove to have prosecutive merit.

605 cases were chosen for recoveries or administrative sanctions. Thus far, claims for restitution in excess of $2 million have been initiated by the States.

519 cases are still under preliminary review to ascertain in which category they shall fall.

817 cases have been closed, since they warrant no action.

The problems being encountered are very familiar to this Committee. They consist of false claims for services not rendered, inflated billings, substitution of generic for brand name drugs, overbillings for laboratory services, as well as simply erroneous billings.

The cost of this effort, at the Federal level, is estimated to be $8.2 million when fully completed. We believe that if we break even on our direct costs for this type of effort—obtain a sizable number of indictments and convictions and in addition, have a profitable learning experience in most of the States—the project will be highly cost-effective.

However, we have also concluded that such nationwide efforts are very difficult to manage effectively when the work stretches out over a period of one to two years. We are depending on a work force nationwide of between 350–500 Federal and State personnel. This level of effort becomes extremely difficult to sustain over a long period. Hence we are planning the next series of Project Integrity initiatives (dentists and laboratories) around an intensive effort in a few States having a high degree of interest or expertise in the specific subject. We are now discussing this approach with selected States and are encouraged by the response. If this approach succeeds, we now plan to continue such initiatives over the next two to three years and to cover, systematically, each of the major segments of the Health Care field. This will enable us to test the most effective techniques of detecting fraud, abuse, and waste, including, where applicable, computer screening techniques. Research is being conducted on outpatient hospital services, medical supplies and equipment, transportation, other practitioners, nursing homes and hospitals.

2. Project Match.

This project is designed to check the Federal payroll (both military and civilian) for those who may be abusing Federally-financed Welfare and Student Aid programs. Two major efforts have been initiated and others are in the research stage.

a. The first is a computer match of the civilian and military rolls (4.8 million names)—against the AFDC rolls in 26 jurisdictions having 78 percent of welfare recipients. This has resulted in identifying 30,675 cases of potential abuse.

We expect that about 4 of 5 will be found to be eligible or not a problem. Those found to be ineligible or overpaid will be adjusted and funds recovered where applicable. Those which have high criminal potential will be turned over to U.S. Attorneys for possible prosecution.

This is a tremendously time-consuming effort since it involves participation by numerous Federal agencies, by the State Welfare agencies, and by the U.S. Attorneys and the FBI. It is a great tribute to these organizations that it is possible for them to work together in an effort of this magnitude. Estimated HEW costs to complete this phase of Project Match are about $1 million. This amount has already been saved in actions to date, we believe. We are projecting total Federal savings of $5 million to $6 million based on deleting ineligibles from the rolls and reducing overpayments.

We have recently invited all other States to join this project. Of the remaining 26, 20 have thus far submitted their data.

One of the interesting by-products of this experiment is the ability to match each State against each other State in search of double-dippers. In 26 jurisdictions checked, over 9,000 cases of potential duplication were identified. We are still in an early phase of testing this technique but believe that this match can be made efficiently and at a low cost at the Federal level, perhaps once each year.

b. Another match of the Federal Payrolls has been made against the default file of the Guaranteed Student Loan Program. 6,783 Federal matches were identified and are being actively followed up for collection. It is expected that a high percentage will be returned to repayment status. This is part of a nationwide effort by the Office of Education to attack the large backlog of defaulted loans

We are continuing to work on a variety of match-type projects. One will be a match of Federal employment rolls (both civilian and military) against the Supplemental Security Income files. Another is the service being rendered by Social Security to interested States in matching wages data versus AFDC rolls, as authorized by Congress in Section 411 of last year's Social Security Amendments.

A third will be an effort to match death tapes versus various payment files.

On the whole, we believe these initiatives have demonstrated their value and should be continued. Among the suggested legislative initiatives which appear in Attachment 1 are three which bear upon this matter.

C. Impact of initiatives on workloads and backlogs of the audit agency and the Office of Investigations:

As reported in our Third Quarterly report, the Office of Inspector General has been unable to achieve its authorized strength of 1,064 positions during this fiscal year because of insufficient funding. Hence, we have been unable to fill 90 vacancies which have been approved by Congress. At the same time we have applied substantial AA and OI resources to the new initiatives described above—well over 150 staff-years—which had not been contemplated in the original budget. Thus, we now have excessive backlogs which we cannot continue to tolerate. If our FY 1979 budget request is approved, it will enable us to manage this workload more adequately and to continue the special initiatives.

1. Office of Investigations Workload.

As of June 30, 1978, 957 cases were on hand which will require 120 staff-years to complete. (See Attachment 2.) Under today's authorization we will have 77 field staff available to work these cases, including those assigned to Project Integrity and Project Match. Hence, there is approximately a two-year backlog of case work.

The FY 1979 budget would enable us to increase the total professional field staff to 160. If 120 spaces are devoted to reducing the present backlog to a 12-month basis, 40 staff could be allocated to new work. We are planning to devote this staff to assuming the large criminal caseload which up to the present has been performed by the Health Care Financing Administration (HCFA).

2. Audit Agency Workload.

For the past several years the Audit Agency has projected its total annual requirements to cover some 50,000 auditable entities, and found the following status:

Total staff-years required to perform adequate audit coverage—4,554.

Total staff-years financed by program funds using outside audit staff (but under OIG supervision)—2,272.

Total staff-years performed in-house by Audit Agency staff—900.

Unmet Audit needs—1,382 staff-years.

The above analysis illustrated that Audit Agency staffing has long been in deficit position. The new demands to support investigations and to provide leadership for Project Integrity and Project Match have placed a further drain on its resources of over 120 staff-years—which must be added to the basic deficit of 1,382. To compensate for the additional drain we have requested in the FY 1979 budget, funds to contract for an additional 60 staff-years of support from State Audit Agencies and CPA's; plus internal growth of 60 staff-years.

If we are unable to obtain that support, it will become necessary to reduce the time devoted to special initiatives and criminal investigation activities. We believe this would be unfortunate. Financial analysis expertise is essential to many white-collar crime investigations. Furthermore, this expanded role for the Audit Agency as a part of the Office of Inspector General is one that the auditors have responded to with creativity and innovation; and it is increasing the Audit Agency's capacity to identify fraud and abuse in HEW programs as part of its regular audit effort.

D. Some special questions and issues:

In our conversation with the Committee staff several matters were mentioned on which we would like to comment. They include the following:

Examples of cases where conduct is wrong but not prosecutable.

The teaching hospital problem.

Effectiveness of HEW components in recovering funds improperly applied as revealed by audits.

FOIA and Privacy Act experience.

Experience with subpoenas.

Our role in establishing Medicaid Anti-Fraud Units (Section 17, P.L. 95–142)

Each of these is described briefly below:

1. Examples of cases where conduct is wrong but not prosecutable.

On the whole, it is fair to say that existing statutes provide an adequate basis for

prosecution of fraud on HEW programs. Difficulties in developing cases and securing convictions more often involve problems of proof, particularly of the intent to defraud, or of credibility, than the code's failure to make wrongful conduct criminal. Nor can the special difficulty involved in the prosecution of physicians, school officials, and similar defendants be ignored—the difficulty of convincing jurors that seemingly upstanding members of the community have, in fact, violated the law.

One characteristic of fraud prosecutions involving HEW and similar programs is the important role played by the regulations governing the administration of the program and the interpretation of those regulations by the agencies charged with implementing them. This is an issue of continuing concern to our office and one on which we regularly work with the U.S. Attorneys and the program agencies.

In two areas we have encountered substantial difficulty which can only be remedied by legislative action:

Because both the Medicare and Medicaid programs rely heavily on non-Federal administrators—carriers and intermediaries in Medicare and State agencies and fiscal agents in Medicaid—they risk subversion by those who seek to exercise improper influence over crucial claims-payment and other funding decisions. Under present law one who gives something of value to a Medicare carrier employee or a State Medicaid official, neither of whom is a Federal "public official," has not violated the Federal bribery statute. Indeed, although most States have their own bribery laws that would cover the latter cases, the former might not violate any criminal statute. It may be possible to charge the briber of the carrier employee with fraud against the Government if he uses the mails, but prosecution need not rest on so uncertain a base. It would seem wholly appropriate for the Congress to enact legislation making it a Federal offense to pay something of value to a carrier, intermediary, State or fiscal agent employee with the intent to influence his action in connection with either the Medicare of Medicaid Programs.

A similar problem is encountered in efforts to deal with the theft or embezzlement of Federal grant and contract funds. Once the proceeds of an HEW grant are in the possession of the grantee, it is not a Federal offense to steal them. Yet substantial sums are at risk, and it is the Federal Government that has the primary interest in their protection. We should not have to rely on the vagaries of local law enforcement and State statutes when the basis for Federal jurisdiction seems clearly to be present. We would suggest that the Congress give consideration, therefore, to enacting legislation which would make it a Federal crime to embezzle or otherwise criminally convert Federal grant, contract, or other assistance funds. In this regard it is noteworthy that similar provisions already cover certain Federal grants and are continued or expanded in proposed Section 1731 of the Criminal Code Reform Act.

We would be glad to work with the Committee in any effort to deal with these problems.

2. The teaching hospital problem.

In the nature of the Medicare and Medicaid programs, the line between abusive and fraudulent conduct may sometimes be a thin one. An area that has become a matter of concern to our Office in recent months is the practice of billing by teaching hospital staffs for patient services. Under Part B of Medicare, attending physicians submit bills for surgery or medical care provided patients whose care is the primary responsibility of salaried residents and interns—salaries which already are paid for under Part A as part of the hospital's cost base. Under certain circumstances, this kind of billing is perfectly proper, but there has been an increasing tendency for the teaching physician to charge for patient care when he, in fact, has performed no service at all.

Although the legislative and regulatory picture over the last several years has been uncertain in some respects, existing rules make it clear that a physician who has general supervisory responsibility over a resident may not, for example, bill Medicare for surgery that the resident performs when the physician is not present in the operating room. Nor may a physician charge for medical care (visits to the patient, etc.) when the resident or intern actually sees the patient and the teaching physician.

We have, at the present time, a number of matters of this type under inquiry, through both the Office of Investigations and the Audit Agency. There is some indication that hospitals may be using Part B funds to provide money for research and other institutional purposes that cannot be supported by normal revenues or by research grants and contracts. There is also some indication that post-residency fellows are being retained for additional training, with their salaries paid out of money received through Medicare and Medicaid claims for their services, and the excess funneled into either institutional or private coffers. We cannot begin to predict whether any of these matters will result in criminal action, but we do intend to explore carefully the manner in which Medicare and Medicaid claims processes operate in this area, and to make recommendations to the appropriate program agencies concerning both the recovery of improperly paid claims and the improvement of systems management.

3. Dollar Collections Under Audit Findings

During the past three fiscal years, our audit reports have questioned between $156 million to $194 million per year. Experience has shown that in most cases these amounts were questioned because there was a lack of documentation to support a finding that they were disbursed for the purpose authorized or were incorrectly determined based on rates or terms authorized by the covering instrument. During this same time period, the Principal Operating Components (POC's) concurred in questioned costs of $69 million to $107 million. Details by fiscal year are as follows:

[Millions]

	1975	1976	1977
Questioned costs	$165	$194 [1]	$180
POC's concurred	83	107	69

[1] Includes three-month transition quarter. For FY 1978, we estimate that questioned costs will amount to about $200 million and POC's will concur in about $78 million. I might point out that POC concurrences in any one fiscal year do not necessarily relate to questioned costs for that year, for many of the reports resolved may be carried over from a previous fiscal year.

When a POC concurs in a questioned costs, it means that they have agreed to initiate collection action for the amount involved (actual cash recovery, correction of expenditure reports, off-set against future funding or other cash adjustment mechanism).

Our previous reviews in this area disclosed that the POC's, although they concurred with the recommended audit disallowances, did not always take aggressive recovery action. To remedy this situation, we worked with the Deputy Assistant Secretary, Finance, to develop a system to "Control and Account for Audit Disallowances." The key ingredient of this system is to establish accounts receivable when the POC's have stated their intent to obtain appropriate financial adjustments. The system, which went into operation around June 1977, has been through the shakedown period. We are now evaluating the procedures for each POC to determine (1) if they are effective, and (2) the actual amount of financial adjustments. Our first review began May 1978. The results of our reviews of all POC's will be available around January 1979. We will be glad to advise the Committee of the facts as soon as they are available.

4. Freedom of Information Act Matters.

Historically, final reports of the Audit Agency have been available to the press or the public on request, except for portions that may contain confidential or trade-secret information, and we have continued that practice. Similarly, we have released all or portions of various studies conducted for the Secretary where release would not jeopardize a criminal action and would not infringe the privacy interests of those involved.

Of particular concern, however, has been the increasing number of FOIA requests for information in our criminal investigative files. In 1977, the Office of Investigations handled 13 FOIA requests at an estimated cost of $25,000. In the first six months of 1978, alone, that office has processed 24 requests at an estimated cost of over $40,000.

Expanded access to criminal investigative files, even after an investigation is closed, if required, could create a serious risk of invasion of privacy, not only for the subjects of the investigation, but for those who give information to investigators. Any effective investigative effort must rely heavily on the cooperation of persons who do not wish to have their roles disclosed, and it is crucial that our investigators be able to give meaningful assurances of confidentiality. This is especially true in the investigation of internal integrity matters, where we must rely on the assistance of employees who may fear that their superiors and colleagues will learn of their cooperation. Disclosure under the FOIA would risk impinging on the willingness of such persons to speak with representatives of our Office.

I must emphasize that the fear of disclosure of information that would be harmful to our operations is a concern for the future. Those within the Department with responsibility for administration of the Freedom of Information Act believe the exemptions covering investigative activities will prove adequate to prevent any injury to our office and its function.

Of course, we will always be appropriately responsive to legitimate public concerns. Thus we have pursued in the past, and will continue to pursue in the future, a policy of disclosing as much information about our activities as we can without violating the rights of those whose names appear in our files, and without seriously undermining our ability to combat fraud in HEW program.

5. Use of Subpoenas

One of the unique features of our enabling legislation is the provision granting authority for the issuance of subpoenas. We have used the subpoena power only sparingly in our first year—initially, in connection with a nursing home audit (the recipient complied) and, recently, in connection with an ongoing criminal investigation, where we have sought records from two corporations and from the banks where those corporations had their accounts (enforcement action may be required in some or all cases). Although the statute is not entirely clear on the point, we have interpreted it to mean that the subpoena extended only to books, records, and other documentary evidence but we have found this limitation of no great concern.

Although we plan to exercise our subpoena power selectively and to scrutinize carefully requests from our field offices for its use, we do view the authority as an important adjunct to our investigative and audit functions. In many criminal investiga-

tions, we will have available the vehicle of the grand jury subpoena to obtain documentary evidence, but the administrative subpoena has the advantage of being returnable at times when the grand jury is not sitting, and the advantage of avoiding the severe restriction of the grand jury secrecy rules. Further, there will be occasions, as we have already discovered, when access to records in non-criminal inquiries is necessary and for this purpose, the administrative subpoena will prove an invaluable tool.

6. *Section 17 Anti-Fraud Units.*

Among the many innovative provisions of P.L. 95-142, which was passed in October, 1977, one of the most important was the authorization for 90 percent Federal matching of State expenditures to create and operate Medicaid fraud control units. We have worked closely with the Office of Program Integrity of the Health Care Financing Administration, both in the preparation of the implementing regulations and in the subsequent processing of the State applications for certification. To date, 5 State units have actually been certified, and 17 more are in one stage or another of departmental review.

The legislation was modeled, in large part, on the office of the Special Prosecutor for Nursing Homes in New York, and in drafting the regulations we demonstrated a strong preference for placing the unit in the State Attorney General's office or in some comparable central location. It was our belief that the purposes of the Act could best be met by developing a central body of investigative, auditing, and prosecutorial expertise which would continue to function even after the end of the Federal 90% matching period (September 30, 1980). Most States which have so far made application have structured their units along these lines, even where some considerable realignment of jurisdiction was required, and we are optimistic that we will have, before the end of 1978, as many as 25 or 30 units in place.

We anticipate that the presence of these units in the major Medicaid States will substantially enhance the national effort against fraud by health care providers. Many units have taken, or will take, responsibility for the pursuit of cases developed under Project Integrity I, and we expect that they will assume a large part of the responsibility for prosecution of cases arising out of our ongoing efforts to implement other computerized fraud detection programs.

Of course, the Federal Government will continue to play a major enforcement role; we expect that the United States Attorneys will become actively involved in those Medicaid fraud cases of special complexity or significance, particularly those having multi-State or national implications. Our Office has principal responsibility for liaison with the State units and for assuring that there is an appropriate sharing of information and resources among the State and Federal agencies. We also have the lead responsibility for developing training programs for the unit staffs, and have begun planning for the first national seminar in the fall.

E. Overall conclusions based on our first year of operation:

We recently testified before the Subcommittee on Governmental Efficiency at a hearing chaired by Senator Eagleton, on the Inspector General legislation known as H.R. 8858. We expressed the view that the bill as it has passed the House would not impair our operations even though it makes several changes in the authorities and requirements placed upon our Office. In fact, we feel that the semi-annual reporting provision is an improvement over our statute which requires four quarterly reports plus an annual report. We also believe that granting the Secretary 30 days to review and comment on such reports is desirable.

As we testified before Senator Eagleton, the mixing of three kinds of skills in one office—audit, investigative, and systems improvement—enhances the effectiveness of all three. We are also very sensitive to the view of the Comptroller General that the integrity and independence of the audit staff must be preserved and must not be subordinated to the investigative activity. We think our current budget for audit time to be devoted to fraud and abuse—approximately 15 to 20 percent—is an acceptable and beneficial mix. We would strongly oppose, however, any greater diversion of audit effort.

Similarly, we believe the creation of a highly-professional Office of Investigations—including the use of both skilled investigators and attorneys with experience in the development and prosecution of white collar crime cases—is essential to the performance of this function.

Thirdly, we believe that the inclusion of a staff team with program expertise, and with knowledge of computer and other management systems techniques, is a very important element in our Office of Inspector General. We have staffed this unit with 15 handpicked senior specialists, but expect to double its size in the coming year.●

FREE AND FAIR TRADE IN PROCUREMENT ACT OF 1978—S. 3284

● Mr. BAYH. Mr. President, I joined with Senator HEINZ on July 13 in sponsoring the Free and Fair Trade in Procurement Act of 1978 S. 3284. This is an important step in a broad legislative effort to assure that the Federal Government does not use public funds to purchase or support the purchase of products from foreign sources sold at an unfair or illegal price. I am hopeful that the Senate Governmental Affairs Committee will proceed quickly to schedule a mark-up session on this bill.

At this time, I ask that a statement which I prepared when Senator HEINZ and I announced the introduction of S. 3284 be printed in the RECORD.

The statement follows:

FREE AND FAIR TRADE IN PROCUREMENT ACT

Last November, I introduced in the Senate S. 2318, the "Buy American Act Amedments" in an effort to respond to a key aspect of the devastating problems threatening the steel industry at that time. That aspect involved the procurement with federal funds of steel and steel products used in the construction of highways, bridges, buildings, rail cars and other projects fully or substantially funded by the American taxpayer. This effort was aimed at bringing the considerable weight of the federal procurement dollar to bear to improve demand for steel. It was also an attempt to upgrade a 45 year old law and make our present "Buy American" statutes relevant to the realities of the international marketplace.

The world and its commerce are very different now than in 1933 when the "Materials Acquisition for Public Use Act" was approved. Nearly one trillion dollars worth of goods were traded in 1976 according to the Overseas Development Council. Of this total, 65.1 percent were exchanged among the developed market economies. Yet despite the fact that the U.S. exported $114.8 billion in 1976, it is fair to say that substantially greater exports could have been realized had not those efforts been stymied by virtual exclusion of U.S. products from foreign markets by the governments of our trading partners. These "Buy National" policies were particularly damaging to U.S. export marketing efforts in the steel-intensive rail car industry.

I was, therefore, pleased when Senator Chiles who is the Chairman of the Senate Governmental Affairs Subcommittee on Federal Expenditures agreed to hearings on S. 2318. We are here today because of the tireless efforts of Senator Heinz who conducted those three days of hearings on this important matter and with whom I have worker closely in formulating the bill we are presenting today.

The key sections of the "Free and Fair Trade in Procurement Act of 1978" are fully consistent with and further refine the objectives and reforms sought by the legislation introduced last November.

The bill today sets in statute a minimum (10%) preference in Government procurement for domestic goods and an additional preference (30%-40%) in favor of domestic goods over foreign ones not freely and fairly traded. It defines a domestic article as one which 75 percent or more of the cost is derived domestically. It extends coverage to procurement substantially supported by federal tax dollars. Subcontracts are also covered and sanctions provided against those suppliers found to be in violation of national and international fair trade statutes and agreements.

These provisions are not "protectionist" since the bill makes a distinction in federal procurement practice between goods which are fairly and freely traded and those which are not.

Right now, we cannot say for sure that federal, state and local government have *not* used pubic funds to buy foreign products which were sold at predatory prices.

This situation of uncertainty is certainly intolerable. It is intolerable because the U.S. Government should not aid and abet "dumping" or any other unfair trade practice. It is intolerable because American industry and labor must be sure that their government supports them and, quite frankly, under the present circumstances they are just not sure.

Our present procurement policies are outdated and must be updated and upgraded if our insistence to access to the markets of our trading partners on a reciprocal basis is to be taken seriously. On June 30, the inequity of this circumstance was once again underlined when I was advised that Gordian Associates had found further data buttressing the contention of a previous report that certain foreign rail car markets ". . . are essentially closed to foreign competitors." That means U.S. firms. This conclusion involved France and Italy, but Gordian also noted that Japan had not imported complete foreign cars since 1967. Contrast this situation with the fact that four of the last five Urban Mass Transportation Administration (UMTA) grants went to overseas firms for the purchase of mass transit items produced in France and Italy totaling $86.9 million and I don't think its hard to understand our concern about retaining a rail transportation industry in this country. Unless we reverse this trend toward shipping U.S. dollars abroad at the expense of domestic industries, American manufacturers of transit vehicles stand to lose more than $800 million in the next 18 months alone. I have passed this most recent information concerning foreign rail car markets along to the General Accounting Office now preparing a report on the accuracy of reports that a majority of federal grants awarded for the purchase of new transit rail cars by the U.S. within the last two years have gone abroad.

Very simply, the federal government must provide fair support in its procurement policies in the form of a reasonable preference on behalf of home industries if our businesses are going to be able to compete with "Japan, Inc." or "France, Inc."

I certainly hope that this message is not lost on the President when he confers with representatives of our major trading partners during the economic summit in Bonn. I also hope that this message is received by our trade negotiators in their present efforts to hammer out an International Government Procurement Code.

The examples cited by Senator Heinz's Committee hearings have confirmed what we previously suspected—that purchases of foreign products in the absence of free and fair trade have contributed to unemployment, declining profits, a worsening balance of payments situation and overall economic ill for our country and its people.

If it is "protectionist" for us to try to reshape present federal procurement policies so we do not aid and abet unfair trade, I stand so accused.

As Chairman of the Senate Appropriations Subcommittee on Transportation and Related Agencies, I have been successful in adding language to the FY 1979 DOT Appropriations Act Report which urged all transportation agencies to comply with the spirit as well as the strict letter of the current "Buy American" legislation. Further, Senator Heinz joined me when I offered a "Buy American" amendment to the AMTRAK Authorization for this fiscal year which the Senate accepted in May.

Our joint effort here today represents further progress in making sure that our federal procurement policies are an essential ingredient of our economic well-being. The Fair and Free Trade in Procurement Act" is a vital and necessary step to assure that well-being now and in the future.●

CARTER'S STATEMENTS ON CYPRUS

● Mr. DURKIN. Mr. President, following the Turkish occupation in 1974 of 40 percent of Cyprus, an act of aggression carried out with U.S.-supplied arms in clear violation of American law, Congress voted to impose an embargo on U.S. arms shipments to Turkey. The congressional action was made necessary by the refusal of the then administration to carry out already existing provisions of law. Lifting of the embargo was made contingent on an end to the violation of law by redressing the aggression committed on Cyprus.

In the course of the 1976 campaign, Presidential candidate Jimmy Carter vigorously condemned the antiembargo policy pursued by Mr. Kissinger. On several occasions he set forth his positions on the arms embargo and the Cyprus issue, criticizing the failure of the Ford administration "to uphold either principle or the rule of law in the conduct of our foreign policy" and declaring that "we would be negligent of the moral issues and courting longer range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issue."

These policy statements have recently been printed in a compendium of 1976 campaign documents prepared by the House of Representatives Committee on House Administration. In addition, a major Carter-Mondale news release of September 16, 1976, on this important subject is also set out in full following this statement.

I ask that his statements and the news release be printed in the RECORD.

The material follows:

[From the Presidential Campaign, 1976]

THE CYPRUS CONFLICT

(Page 689)

For more than twenty years, Greece and Turkey together have held the southern flank of NATO and helped maintain the security of the Mediteranean. Both, as part of our joint alliance, have given base rights and other invaluable support to the United States. It is very much in our own national interest that our close relationship with both countries continue.

Unfortunately, their relations with each other have for many years been troubled by conflicts over Cyprus. Since the coup against Archbishop Makarios and the Turkish invasion of Cyprus over two years ago, these differences have become so serious as to threaten the security of NATO and the good relations of both countries with us.

It is a major U.S. interest that harmony in the alliance be restored. The Republican Administration has failed to deal with the situation in three respects: it has failed to exert its influence effectively to bring about a settlemen in Cyprus during the five years before the Cyprus crisis; it failed, despite repeated warnings, to prevent the 1974 coup against Makarios engineered by the former military dictatorship in Athens; it failed to prevent or even to limit the Turkish invasion of Cyprus that followed. This administration therefore bears a large share of the responsibility for the dangerous deterioration in our relations with Greece and with Turkey.

We should now exert our influence in every feasible and constructive way to help Greece, Turkey and the Cypriots resolve their differences. Only if we are able to maintain the confidence of all three, however, can we hope to be listened to.

Any solution that is to endure must be a just one. It must protect the rights of both the Greek majority and the Turkish minority on the island, including the rights of those displaced from their homes by the Turkish invasion.

The United States cannot impose a solution. It can and must help; but only agreement among the three governments directly concerned can restore harmony and cooperation.

Secret and personal agreements are no substitute for a clear commitment to an early settlement which gives Cyprus its independence.

I feel most distressed that Mr. Kissinger's recent agreement with the Turkish government was not coupled with an agreement which promised more rapid progress toward a just solution for the Cyprus tragedy. In my judgment, we would be negligent of the moral issues and courting longer-range disaster if we fail to couple the improvement in relations with Turkey with increased fair progress on the Cyprus issue along the lines I have outlined above.

GREECE AND TURKEY

(Page 690)

The continuing tensions between Greece and Turkey damage the NATO alliance and endanger stability in the eastern Mediterranean. If these two allies of the United States are to play a vigorous role in the alliance, there must be a just and rapid settlement of the tragic situation in Cyprus.

The policy of the Ford Administration of tilting away from Greece and Cyprus has proved a disaster for NATO and for American security interests in the eastern Mediterranean.

Despite repeated warnings, the administration failed to prevent the 1974 coup against President Makarios engineered by the former military dictatorship in Athens. The administration failed to prevent or even limit the Turkish invasion that followed The administration failed to uphold either principle or the rule of law in the conduct of our foreign policy. American law requires that arms supplied by the United States be used solely for defensive purposes.

Today, more than two years later, no progress toward a negotiated solution of Cyprus has been made.

The lack of progress is disappointing and dangerous. Peace must be based upon the United Nations General Assembly Resolution 3212 of November 1, 1974, endorsed by Cyprus, Greece and Turkey, calling for, among other things, the removal of all foreign military forces from Cyprus. The widely reported increase in colonization of Cyprus by Turkish military should cease. Greek-Cypriot refugees should be allowed to return to their homes. Both Greek and Turkish-Cypriots should be assured of their rights, both during and after the withdrawal of all foreign troops from Cyprus.

The impasse on Cyprus must be broken. The United States must be prepared to work with others, including the United Nations, to insure the independence, territorial integrity and sovereignty of Cyprus.

In addition, the dispute over rights in the Aegean must be resolved peacefully, under international law. Provocations must be avoided.

Greece and Turkey are and must remain our allies within NATO and neighbors at peace with each other within the community of nations.

The United States must pursue a foreign policy based on principle and in accord with the rule of law.

CARTER ATTACKS FORD TILT AWAY FROM GREECE

WASHINGTON.—The Nixon-Ford Administration policy of "tilting away from Greece and Cyprus has proved a disaster for NATO and for American security interests in the Eastern Mediterranean," Jimmy Carter said tonight.

"The impasse on Cyprus must be broken," Carter said. "The United States must be prepared to work with others, including the United Nations, to insure the independence, territorial integrity and sovereignty of Cyprus."

At the meeting, Carter presented the following statement:

"The continuing tensions between Greece and Turkey damage the NATO alliance and endanger stability in the Eastern Mediterranean. If these two allies of the United States are to play a vigorous role in the alliance, there must be a just and rapid settlement of the tragic situation in Cyprus.

"The policy of the Ford Administration of tilting away from Greece and Cyprus has proved a disaster for NATO and for American security interests in the Eastern Mediterranean.

"Despite repeated warnings, the Administration failed to prevent the 1974 coup against President Makarios engineered by the former military dictatorship in Athens. The Administration failed to prevent or even limit the Turkish invasion that followed. The Administration failed to uphold either principle or the rule of law in the conduct of our foreign policy. American law requires that arms supplied by the United States be used solely for defensive purposes.

"Today, more than two years later, no progress toward a negotiated solution on Cyprus has been made.

"The lack of progress is disappointing and dangerous. Peace must be based upon the United Nations General Assembly Resolution 3212 of 1 November 1974 endorsed by Cyprus, Greece and Turkey, calling among other things for the removal of all foreign military forces from Cyprus. The widely reported increase in colonization of Cyprus by Turkish

military and civilian forces should cease. Greek-Cypriot refugees should be allowed to return to their homes. Both Greek and Turkish Cypriots should be assured of their rights, both during and after the withdrawal of all foreign troops from Cyprus.

"The impasse on Cyprus must be broken. The United States must be prepared to work with others, including the United Nations, to insure the independence, territorial integrity and sovereignty of Cyprus.

"In addition, the dispute over rights in the Aegean must be resolved peacefully, under international law. Provocations must be avoided.

"Greece and Turkey are and must remain our allies within NATO and neighbors at peace with each other within the community of nations.

"The United States must pursue a foreign policy based on principle and in accord with the rule of law.

"If and when I am elected President I intend to enforce and carry out the provisions of the statement."

(At the beginning of his remarks, Governor Carter referred to *New York Times* story of September 15, 1976, re State Department survey re foreign affairs and findings re American distrust of Kissinger and desire for principle and morality in foreign affairs.)

NO SERIOUS IMPACT ON ECOSYSTEM SEEN IN FIRST DEEP-OCEAN MINING TESTS MONITORED BY NOAA

● Mr. MATSUNAGA. Mr. President, a new industry which promises an abundance of useful minerals from the deep ocean floor is about to be launched, following passage of deep ocean mining legislation by the Congress. The mining of ocean minerals can eliminate our vulnerability to interruptions in our supply of nickel, cobalt, copper, and manganese.

Because the precise nature of the environmental impacts of mining the ocean bottom has not been fully established, it is only sensible that this industry proceed with caution in order to minimize any adverse effect. In this respect, it is encouraging to note a recent article in the National Oceanic and Atmospheric Administration's (NOAA) News which described NOAA's monitoring of the industry's first efforts to harvest manganese nodules from the Pacific Ocean floor. I believe my colleagues will find the following article from the NOAA News dated June 2, 1978, of great interest in considering legislation to permit the orderly development of this new industry.

I ask that the attached article be printed in the RECORD.

The article follows:

PRELIMINARY DOMES ANALYSES—NO ILL-EFFECTS FROM OCEAN MINING

Industry's first efforts to harvest manganese nodules from the Pacific Ocean floor thus far have had no serious impact on the ecosystem, preliminary analyses by NOAA observers show.

NOAA oceanographers report that they found little persistent effect from mining operations conducted over the past two months by the Ocean Management, Inc., vessell SEDCO 445. (See story in NOAA News, May 5, 1978.) They emphasize, however, that there could be chronic long-term, low-level effects which have not yet been identified or studied.

Scientists with NOAA's Deep Ocean Mining Environmental Study (DOMES) monitored the Sedco 445's mining activities from the agency's research ship Oceanographer, in an area some 865 nautical miles (1,600 kilometers) southeast of Hawaii, in water about 15,000 feet (5,000 meters) deep.

The monitoring included samples and measurements taken along the sea floor—from which the mining collector lifts manganese nodules along with some sediments and small bottom-dwellers in vacuum cleaner fashion—and around the plume of sediments discharged by the mining ship at the surface, as well as in the water columns between the sea floor and the surface.

Comparisons were made between light and nutrient levels, and other factors in the discharge plumes and corresponding measurements of the undisturbed ecosystem outside the plume.

The effect of the mining ship's collector on the sea floor was also observed with deep-sea cameras, and box cores were taken of the disturbed sediments to determine changes in the kind of life forms found there. These samples of life forms in and out of the plumes were collected for subsequent comparison at NOAA's Pacific Marine Environmental Laboratory in Seattle.

Preliminary analysis of benthic (sea-floor) plume data, the scientists report, indicates that this plume did not propagate far upward into the water column, tending to rise no more than a few tens of meters above the bottom. However, the plume may increase in thickness with time and distance from the collector.

They found no evidence of significant lateral spreading in the benthic plume, although there were tentative indications that the plume moved horizontally, carried on slowly moving, deep-water currents. Considerable current-meter data remains to be analyzed, however, before firm conclusions can be drawn regarding the movement of the benthic plume.

The NOAA investigators found evidence of a rather rapid resettling of disturbed material near the mining collector. This "re-ailing" of the disturbed material near its point of origin suggested that the benthic plume did not migrate over a broad area.

Surface plume data suggests that much of the particulate sediments discharged by the mining vessel at the surface settled out of the surface plume, and returned to the sea floor. Dissolved constituents in the surface plume could be detected for periods of a few hours; but neither particles nor chemical differences could be detected in plume water more than about 24 hours old. This may mean, the NOAA scientists report, that surface plume effects are transient, with no detectable difference between plume water and undisturbed water a day or two after mining.

One of the crucial questions that still must be answered, the Commerce Department researchers note, is whether discharged material accumulates at the pycnocline, a marked change in water density at about 180 feet (60 meters), which separates the well-mixed surface waters from the denser waters of the deeper sea.

Another vital question is how this remote but important corner of the global ecosystem will be affected by not one, but fleets, of mining ships. Preliminary answers to this may come from further analysis of data obtained during this year's DOMES voyages.

While NOAA reported its preliminary findings, DOMES scientists aboard the Oceanographer were back in the mined area of the Pacific, to study any residual effects of mining on the deep-ocean ecosystem. The scientists plan to revisit the area periodically to assess the rate at which the deep ocean ecosystem recovers from nodule mining disturbances. Results from this initial operation of Phase II, and a more detailed analysis of monitoring activities this spring, will be published later in the year.●

THE PROUD ARMENIANS

● Mr. KENNEDY. Mr. President, at too many points in the history of mankind, one group of people have suffered at the hands of another. In this century few have suffered greater than the Armenian people, yet rebounded so strongly to contribute so much to the societies in which they live.

Armenians all over the world have made significant contributions to the arts, science, literature, government, and countless other fields. These people, victims of the first genocide of the 20th century, have come to flourish in all corners of the Earth, thanks to their fierce determination to survive and succeed against great odds. The Armenians have also been able to retain their identity through these tests and all periods of persecution.

Mr. President, an article recently published in National Geographic magazine by Robert Paul Jordan captures the spirit of "The Proud Armenians" and the contributions they have made to societies all over the world. I commend the National Geographic for publishing a thoughtful, detailed, and objective article on these spirited people. This article describes an aspect of history that is known by few and it brings to the attention of people all over the world little-known events in the history of the Armenian people.

Mr. President, I commend to the attention of readers of the RECORD this excellent article, and I ask that the text be printed in the RECORD.

The article follows:

[From the National Geographic, June 1978]

Most Armenians fled Turkey long ago, but some of the villages they abandoned still stand on the lonely reaches of the Anatolian highland. This one was typical—a cluster of flat-roofed stone huts stepping up a mountainside, dominated by the forlorn shell of a Christian church. Muslim families were tilling the steep plots and praying to Allah at the appointed hour.

I had come here on a spring afternoon in the company of an Armenian priest from Istanbul, a quiet man of middle age. For him it was an act of faith, and a sadness. His people had been gone six decades.

We watched Kurdish children playing in the dirt road. Other people, he said, had taken over many Armenian villages—Kurds here, Turks elsewhere. His face was impassive: Land is to be used, people must live.

Leaving the stricken church, he touched hand to heart. Such churches were common in Turkey, he murmured, prey to the elements and vandals, ruins of a civilization. There were two in the nearby city of Malatya. We would soon be going to Malatya.

Another sorrow lay deep. I felt it though I am an *odar*—foreigner, in the Armenian language. The priest gripped my arm.

"Armenians are still being driven from remote villages," he said grimly. "It is the old hatred. Sometimes a young girl is abducted, or a husband killed. They cannot bear to stay on their land after that. They make their way to the patriarchate in Istanbul. We give them shelter and find them homes."

I looked out to the distant Euphrates, not wanting to hear of such agony. The river was a glinting ribbon on its timeless run to Mesopotamina. The priest spoke again.

"Once Armenians were heavily concentrated in eastern Turkey. Only a few remain. In all the interior, only three churches are

working. Malatya has none. But some of my flock are there, and much time has passed since my last visit. Tonight we will meet in a house." He smiled for the first time. "You shall see the joy of Armenians renewing their faith."

A few hours later, after darkness fell, the city's few Armenian families filled a small living room to overflowing. The priest and his deacon, richly robed, led them in prayer and song in the dim glow of a ceiling light, while incense smoldered.

It was, I thought, as if a band of early Christians had gathered furtively in a cave to worship. Children were baptized, Communion given. One aged, failing woman, scarf on head, knelt with tears of happiness falling. Earlier she had despaired.

I sat with her afterward. "We are sheep without the shepherd," she said. "At last the shepherd came—and he forgave me."

Forgave?

She had broken the pre-Communion fast. Faint with hunger, she had eaten a handful of raisins. In torment she had approached the priest, confessed, and been absolved. I saw no greater joy that night.

The old fear was present too. As we left, a girl stopped me. "Do not forget us," she pleaded softly. "We are alone here. We are always afraid that something will happen to cause trouble."

Many times as I traced the journey of Armenia, I was to wonder if worse trouble had ever afflicted any other people, or whether any other people persecuted down the centuries had persevered more nobly. Armenians have gone forth into the world and multiplied. Peaceful, hardworking, intelligent, religious, family oriented, they have become a great, though little-known, success story.

But not in the land of their origin. Archbishop Shnorhk Kaloustian, Armenian Patriarch of Istanbul, struggles daily with the realities of survival in Turkey. I called on him at his island home in the Sea of Marmara. A white-bearded, Biblical figure, he seemed frail and weary, but resolute.

In the early 1900's, he began, more than two million Armenians were living in the Ottoman Empire, mostly in the east where their ancestors had dwelt for nearly three millennia. Then came a series of massacres and deportations—his own father, brothers, and uncles were killed, his sister taken—by government forces.

By 1920 or so, he went on, only about 150,000 remained. Today they have dwindled to perhaps 45,000 in Istanbul, 15,000 in the interior. The exodus continues.

"If I were to tell you that we do not have problems," the Patriarch said, "I would be lying. We are free to practice our religion. And Armenians do well in their businesses. They are diligent and clever. But there are bureaucratic discriminations. I have presented these difficulties to our government."

I asked him to explain. "We cannot build new churches or repair old ones," he replied. "But Turks can build new mosques." His eyes swept the horizon, where minarets of Islam pierced the city's skyline. "Our church properties are unfairly taxed. Our schools have Turkish co-directors, whose power grows. Even to enroll our children meets with bureaucratic obstacles. We are second-class citizens."

The Patriarch sipped a cup of tea. "So far we have managed, somehow, to take care of our churches, schools, and orphanages. We receive help from Armenians overseas, especially in America. But we do not have the means to resettle our refugees from the interior. They are real heroes."

I could suggest others. Only hours before Armenian Christmas services were to be held last January 6, bombs heavily damaged the patriarchate and cathedral. The services went on as scheduled, communicants picking their way through the debris.

The bombing was believed to be in retaliation for similar incidents in Europe against Turkish property. Tragically, since 1973 six Turkish diplomats have been assassinated by terrorists claiming to be Armenians.

One asks the why of it all. At base, I have concluded, rest three historical factors: geographic situation, racial characteristics, and religious differences. To oversimplify: Turkey is for the Turks, and Armenians persist in their right to be Armenians.

Ancient Armenia spread over eastern Turkey into Iran, Iraq, and the Soviet Union (map, following page). Armenians were occupying this land bridge between Europe and Asia—their Armen ancestors were Indo-Europeans—in the days of the Assyrians, Medes, and Parthians. The blood of the Hittites is one of their strains.

The Armenian people have always clung to their culture, traditions, language, and ideals—sustained by the religion that they embraced around 300 as the first Christian state. In the fifth century, when the Holy Scriptures were translated into their language, a historian wrote that God became an Armenian-speaking God.

They looked on their rugged and beautiful land as an earthly paradise. The Garden of Eden had graced their soil, so they believed. To this day they salute, and mourn, the great mountain called Ararat, on which, it is said, Noah's Ark came to rest.

I know firsthand that it pains Soviet Armenians to view, with each sunrise, Ararat's snowy peak looming just across the forbidden border with Turkey (pages 848–9).*

Once I stood with a local journalist, Loris Gukasyan, before a great monument that salutes the martyred Armenians. Loris held out his fist and clenched it. "That is my heart," he said. The sacred mountain rose majestically beyond us.

The land so loved by the Armenians had a fatal flaw. The ancient invasion routes from east and west traversed it. As a result, five different Armenian kingdoms have existed, for a thousand of the last 2,500 years.

Centuries before Christ, the Persians came as conquerors; a little later, Alexander the Great and the Seleucids. Parthians and Romans used the Armenians as a buffer. Persia and the Byzantine Empire divided the land. Arabs conquered it.

As the 11th century ended, the Seljuk Turks swept through from central Asia. Another triumphant invader, the Ottoman Turks, followed. From 1375 until World War I the land of the Armenians was carved up among Turkey, Persia, and Russia.

Most of the old Armenia came under the rule of the expanding Ottoman Empire in 1514. Its religion was Muslim. Centuries of intermittent persecution ensued, exacerbated by the imbued Armenian longing for nationhood. In the late 1800's some 200,000 Armenians were massacred, a portent.

In World War I, when the empire sided with the Central Powers, it decided to settle the Armenian question. The Armenians, seen as a dangerous element fighting beside the enemy, Russia, and cooperating with the other Allies, would be eliminated.

The result: Massacres and deportations—forced marches into the Syrian Desert—took place beginning in 1915. In all an estimated million and a half men, women, and children died.

And a tragic phrase echoed around the world: "The starving Armenians. . . ." You hear it even in this day, a remonstrance to children who pick at their food.

I discussed all this with many Turks. Younger ones generally knew nothing of the Armenian holocaust; it is not taught in their schools. In eastern Turkey old men recalled to me how Armenian forces had overrun their villages. "The Armenians were seeking to establish their own nation," one said.

To the Turks, Armenians had betrayed their country in wartime, causing civil conflict (in which Turks, too, were massacred), thus justifying countermeasures. Also, they dispute the number of Armenians killed.

What of more recent events? I made it a point to talk with informed Turks. One deplored the terrorist assassinations and bombings of the past few years. "The world is full of hatred," he said.

"There could be some bureaucratic problems for Armenians, like everyone else, today in Turkey," he continued. "You have problems with your own bureaucracy in the United States. But Armenians as Turkish citizens have the same rights and protection under the constitution as all others. The courts are there."

The exodus led to Russia, Iran, Iraq, Syria, Lebanon, Europe, and more distant lands. (A classic account of conditions in the refugee towns of what is now Soviet Armenia appeared in the November 1919 GEOGRAPHIC—"The Land of the Stalking Death," by Melville Chater.) The United States opened its gates wide; Armenians are still arriving, most from Soviet Armenia and war-devastated Beirut.

Upwards of half a million live in the U.S., concentrated in Greater Boston, New York and northern New Jersey, Philadelphia, Detroit, Chicago, and California, home to as many as 150,000. They are successful merchants and businessmen, educators and engineers. Increasingly they go into medicine, law, and journalism. Politics attracts them.

I traveled extensively in California and found that its Armenian-Americans stand as good exemplars. One of the first I talked with was the late George M. Mardikian.

As a boy of 15 he had fought in Turkey and was imprisoned; he escaped and at 18 sailed in steerage to America. He took a job washing dishes in a San Francisco speakeasy. Eventually he bought it and built it into the famed restaurant called Omar Khayyam's. He became the friend of Presidents and won the Medal of Freedom, the country's highest civilian award.

As Mr. Mardikian said, he heard "the song America sings." I spent an evening with him last year at Omar Khayyam's, not long before he died. "I was born on November 7," he told me. "But I celebrate my birthday on July 24. That's the day I began to live, the day I saw the Statue of Liberty."

"I have never met an Armenian-American who did not look on the U.S. with gratitude. Like George Mardikian, many have grown wealthy. One day a quiet-spoken multimillionaire named Haig Berberian philosophized about money.

"Armenians," he mused, "indeed know the value of money. Some poeple think we're on the tight side. We call it conservative.

"You can't buy happiness with money. Pleasure, yes. Happiness is: You enjoy your work, you enjoy your family. When you start something and build it on your own, that is happiness. All this and one thing more: the Church. The Armenian Church and Armenians cannot be separated. In the old country, my father and brother were killed. My father could have been saved if he had said, 'Yes, I will become a Muslim.' "

Haig Berberian began processing walnuts in Modesto, California, in 1947. Ten years later he was the "Walnut King," the world's largest individual walnut handler. Now retired, a philanthropist, he invests in land, plants orchards, develops shopping centers. He does not know how to quit.

* See "Turkey, Cross Fire at an Ancient Crossroads," by the author, in the July 1977 Geographic.

The simple fact is that Armenians like to work, preferably for themselves. For many it is their play. In Beverly Hills I visited grocer Archie Dickranian. For forty years he has been operating his Premier Market there—"a village store," in his words. He keeps the front open, even in winter: "I say to the boys, if you're cold, work a little faster. You'll stay warmer that way." His son-in-law and nephew work with him, fast.

In an upstairs room, six telephone stations take orders from Hollywood's stars. Movie and television actors on location abroad cable him for delicacies. Ordinary folk receive equal welcome.

Archie Dickranian stocks only highest-quality items, and his customers have made him rich. "I came to this country with nothing but faith and hope," he told me. "I had been hungry as a child. I went into the food business so I could eat all I wanted. America has been a feast to me."

Mr. Dickranian, a leader in community affairs as well as national Armenian matters, speaks proudly of his heritage. And he is gravely concerned for its future. Many Armenian-Americans believe as he does that assimilation is inevitable.

I put in a pleasant hour with Mike Connors (born Krikor Ohanian), the television and movie actor (preceding page). "I grew up in Fresno," he said, "as an Armenian. But my children—they're half American—are almost unaware except for what I tell them. I'm afraid it's only a matter of time before Armenians will be just like everybody else."

I hope not, for one obvious reason: This country needs its creative minorities. And indeed you can find many young people who may well retain their Armenian-ness all their days.

I think especially of hundreds of them happily yelling and milling about outside the Rose and Alex Pilibos Armenian School in Los Angeles, waiting for 8:30 and the opening bell. They were dark haired and dark eyed, wore blue sweaters, and ranged from kindergartners through ninth graders.

After the bell, they recited the Lord's Prayer in Armenian, gave the Pledge of Allegiance in English, and filed into school.

In the U.S. and abroad the Armenian General Benevolent Union has 6,000 children in its own schools. Life president of the AGBU is the distinguished Detroit industrialist Alex Manoogian, the leading patron and benefactor of Armenian causes and an international Armenian leader (page 856).

"For many years," he told me, "our chief concern was to aid refugees. We still help the needy, but education and cultural activities are our focus now. I love my people. We want to preserve our traditions."

One sunny day I headed into California's San Joaquin Valley, which has lured Armenians down the years. The strong mountains that rim it, the bountiful earth, the sweet dry air remind them of their lost homeland. Many have become farmers, processors, and packers. They ship fruit and vegetables throughout the United States and overseas.

I drove along the valley, bound for Fresno. En route, a town called Yettem—Garden of Eden—intrigued me. There I discovered a grape grower named Robert Setrakian operating a flourishing winery. That was Eden enough for me; I forgot to inquire about apple trees.

Fresno has long been a kind of capital for Armenians, though they have moved from the old downtown core, erecting beautiful churches farther out. But the old Holy Trinity Church is still well attended. Nearby, the Valley Bakery, built in 1924, is still owned by Saghatelians and busier than ever.

Janet Saghatelian and her brother, Sam, master baker, make endless round slabs of *lahvosh*, a large, thin cracker bread, and loaves of plump *peda* bread. Both are tasty old-country legacies. Mail and phone orders for lahvosh come in from all over the United States. Peda bread, being perishable, can't travel as far.

Sam began learning to bake at age 6 from his father, more than half a century ago. Janet started in the bakery when she was 10. "My 9-year-old daughter will be joining me here soon," she said, smiling, as we halted before the glowing oven. The parade of lahvosh mesmerized me—row after row of crackers blistering and bubbling as they advanced, browning on top.

"Our breads hark back to Biblical times," Janet said, "part of our tradition. Wherever we got, we produce and prosper. Armenians are individualistic—we don't always work well together. But put us anywhere in the world and we'll do good. You can never drown the fire in the Armenian spirit."

I agreed wholeheartedly with her a bit later, caught in a whirlwind of words swirling from William Saroyan. I had presumed on the Pulitzer Prize-winning playwright at his modest home in Fresno, and he hadn't wanted to talk—too busy writing (page 865). But the subject snagged him: What did this Armenian think about Armenians? He fixed me with piercing eyes. The torrent began:

"I am biased. I do like my family. I have great respect for them. . . . The human experience is basically tragic. We have suffered. We shall never forfeit the feeling of suffering, remembering our martyrs. . . . The Turk has been named villain. I don't believe in villains. What we hated was the government that deceived and betrayed us and behaved in an inhuman way with us. . . .

"In the end"—he summoned even greater force—"there must be a diminution of hatred in favor of understanding. And so, what the Armenians ask, and rightly, is an acknowledgment by the present Turkish Government of a crime against humanity, and appropriate behavior to supplement that acknowledgment."

William Saroyan walked me to my car "Ertak parov," he boomed—"Go in peace." I told him that I soon would make my sixth trip to the Soviet Union for NATIONAL GEOGRAPHIC, my first to Soviet Armenia. He had recently visited there. "You will often be surprised at what you find. Astonished."

As I probed deeper into the Armenian story, I was increasingly astonished that these people had even survived the ordeal of sixty years ago. Who had ordered it? And why?

One of the leading instigators was Talaat Pasha, Turkish Minister of the Interior. Once, while the Armenians were being eliminated from Turkey, Talaat outlined his government's position to Henry Morgenthau, then the U. S. Ambassador.

"In the first place," Mr. Morgenthau quotes Talaat, "they have enriched themselves at the expense of the Turks. In the second place, they are determined to domineer over us and to establish a separate state. In the third place . . . they have assisted the Russians in the Caucasus. . . ."

The American envoy tried to argue with Talaat. "Suppose a few Armenians did betray you," the ambassador said at one point. "Is that a reason for destroying a whole race? Is that an excuse for making innocent women and children suffer?"

"Those things are inevitable," he replied.

After World War I the victorious Allies dictated a peace treaty in which Armenia was recognized as a free and independent state The treaty condemned the massacres; Ottoman Turkey would deliver to the Allies those held responsible. Then the empire collapsed, and the new government rejected the treaty.

The infant Armenian Republic fell under Turkish attack and Soviet pressure soon after it was born. Today the only remaining part of the republic lies in the Soviet Union. Armenians have long demanded that Turkey accept the blame, and some call for restitution of land and for reparations. The Turks feel that the history of what occurred has been grossly misrepresented, and that the Armenian claims are invalid.

Talaat Pasha was listed as a war criminal and condemned to death. He had already fled Turkey, taking refuge in Berlin under an assumed name. In 1921 an Armenian walked up to him in the street and put a bullet through his head.

Armenians do not forget. I know one in particular, a gentle and graying piano teacher, for whom this deed is starkly poignant. I met him in Belgrade, Yugoslavia, aware only that he was one of the few Armenians there. We talked in the small, drab room where he instructs his pupils. He was 52 he told me, a native of the city.

"There used to be a large number of us, a community," he said. "Our fathers all were friends. But most people left after World War II Those who stayed on—we don't associate. We're all married to local girls. Our wives and children don't speak Armenian.

"But I speak it!" he declared, thumping the piano bench. "It is unexplainable about us Armenians. It is something deep inside." He looked at me, and spoke urgently: "Now I will tell you something. My father killed Talaat Pasha. He was arrested, and freed, and he is buried in your country."

I did not know what to say. Finally I asked what he thought about it.

"I am proud," he answered.

I flew on to Moscow The Novosti Press Agency, which handles Western correspondents, assigned a journalist as my guide and intermediary—it is the system. An Aeroflot jet carried us to Yerevan, capital of Soviet Armenia. In the following weeks I would be astonished many times, as William Saroyan had predicted.

Exploring Yerevan, I discovered a handsome and stylish city, its new high rises living nicely with traditional architecture. Many buildings were gaily dressed in varicolored facades of stone, lending a soft replendence to the place—predominantly pink, so I decided. Broad avenues and tree-vaulted parks graced the city: along one promenade exactly 2,760 slender fountains were splashing. I was told—a fountain for each year of Yerevan's existence.

Little of the rawness here, then, and little of the monotony of some new Soviet cities I had seen. Tumult, yes.

In a country where perhaps one person in a hundred owns a car, traffic was thick and aggressive; now and then drivers argued with policemen, who eventually—themselves temperamental Armenians—lost patience. Strollers munching ice-cream cones thronged sidewalks. Lines waited at movie houses. Cafés were crowded. In my hotel a band propelled earsplitting rock music far beyond the bounding dancers. How they danced!

Half a century ago Yerevan had been a large town. These people had come from Turkey, other parts of the U.S.S.R., and the outside world, and multiplied. Now close to a million Armenians were overcrowding it. And Soviet Armenia itself had altered vastly—from a mountainous, boulder-strewn desert into a modern industrial state with nearly three million citizens.

Government officials boasted that in material well-being, and in educational, technological, and scientific achievement, Armenia ranked high among the U.S.S.R.'s 15 republics, of which it is the smallest.

"You must devote two-thirds of your article to Soviet Armenia," one declared. "What

other Armenia is there? And look what we have accomplished."

One of the greatest accomplishments is—stone. Armenia is the mother lode of rocks, almost all kinds known on the globe. The story goes that God had nothing left but rocks when the Armenians applied to Him for land. The storyteller smiles slyly. All is well. He puts his hand on your arm. "Stone is our bread."

It is. The enterprising Armenians have found hundreds of uses for their limitless endowment of rocks, especially with volcanic tufa and perlite.

I spent an afternoon at the Research Institute of Stone and Silicates. Director Geber M. Kaniezian, a man of seriousness, led me around the exhibit room. I stared at bottles, boards, industrial cloth, filter powder, insulation, soil conditioner, crystal ware, many other items—rock, every last one of them. Yerevan's distinctive appearance, said my guide, the glowing pinks, yellows, browns, came from tufa quarried in the Caucasus.

"We've replaced brick with building blocks of perlite," Mr. Kaniezian continued. "We'll replace steel with an even stronger construction material made of tufa and perlite." He fingered the lapel of his gray wool suit. "Someday the cloth on our backs will be spun from stone." As I left, he said firmly, "There are six hundred of us here. We're working on it."

I moved on to the hydroponics institute and walked among plots of vegetables, grapevines, and herbs prospering in slag and gravel. "All plants can be grown without soil," said Professor Gagik S. Davtyan, head of the institute, "faster, and with a much greater yield—in Armenia, from two to ten times more. By the year 2000 we may be growing 20 percent of our plants hydroponically. You know, stone is our bread."

Armenians earn their bread in the same fashion as other Soviet citizens. I talked with them in cradle-to-grave factories—mothers drudging on the production line, their toddlers in the nursery. Six hundred families toiled at a collective farm I visited, hoeing weeds in vineyards and orchards, cultivating vegetables. It was a career.

Half of the republic's income derives from industry, I was informed by Fadei T. Sarkisyan, Armenia's premier and himself a computer expert. He spoke familiarly of electrotechnology, machine tools, metallurgy, and chemicals. Seven or eight telephones occupied his desk; sometimes a couple rang simultaneously. The majority of young people, he said, were satisfied with their jobs.

It was something I pondered often—whether the individualistic Armenian soul shriveled in this communal way of life. It depends on the individual, I have come to believe. I know ranking Armenian Communists who profess to have absolute faith in the system, and in themselves. I know non-Communist Armenians who intensely dislike the system and the card carriers. There was the man I sat with at a small clubroom in Los Angeles. He had arrived days earlier from Armenia, where he had worked as a mechanic for many years. He absently told his string of beads, watching other elderly men play cards. "I waited ten years to get out," he said.

It is difficult for a Western journalist in the U.S.S.R. to achieve a balance. Interviews are always arranged, eliminating options; you get what you are given, and what you get invariably uplifts Communism. In Yerevan, when I asked to meet an American repatriate, my escorts complied.

Martik M. Martentz, his attractive wife, Rebecca, and their daughter, Martha, welcomed me to their flat. It could have been a comfortable middle-class apartment in the United States: upright piano, overstuffed chairs, rugs, a wall of books. Mrs. Martentz graciously offered coffee, her voice carrying the accent of her native Massachusetts. Martha, 23, slim and lovely, served it; she was newly an M.D., doing her internship.

Martik Martentz related their story. They had left the United States when Martha was 10, he said. "It was my lifelong dream to come here. I wanted to work for this new society, this Armenia delivered from the massacres. I didn't want to make money in my life. I'm not the consumer-society man."

Born in Constantinople (now Istanbul), he had sailed to the U.S. at 17 or 18, worked his way through a private school in Massachusetts, become a translator, cook, laborer-seaman, printer, journalist.

"I edited the Armenian Herald in New York for 22 years," Mr. Martentz recalled, "and other Armenian papers in California." He was 75, but looked 65. He talked continuously.

"I told my wife and daughter, 'It's a new country. It's going forward.' And so we moved to Armenia." He opened his hands, palms up.

"It's a country that is building a new life, whether the outside world likes it or not. The American and the Soviet people can be very good friends. The Soviet Union always emphasizes friendship, peace, mutual understanding, trade, cultural relations. . . ."

The Soviet Union, officially atheist, does not emphasize religion. Quite the contrary. But God finds a better reception in Armenia, from my experience, than anywhere else in that vast land. The symbols of faith do not here lie beaten in the dust. The reason seems plain. Armenians and their Church are inseparable.

On a Sunday morning when Mount Ararat's white glory shone against a distant and alien sky, I walked from my hotel in Yerevan to nearby St. Sarkis. At this church the Supreme Patriarch of all Armenians—the Catholicos—today would come to sing the Lord's song. Outside, clergy were blessing lambs destined for sacrifice. A woman penitent approached the church on her knees.

I entered St. Sarkis, to be engulfed in humanity. The faithful were hushed, expectant. Hundreds of tapers were flickering. Then His Holiness Vazken I appeared, central in his retinue, and the multitude parted before him. A triumphant hosanna rent the basilica, and all the days of Christendom were as one.

There are numerous working churches in Armenia. The government maintains many others as historic monuments. One working church is preeminent, the oldest Christian church in use on earth. Built in 303 by St. Gregory the Illuminator, who brought the faith to Armenia, it stands in the small town of Echmiadzin, not far from Yerevan. It is an austere and commanding work of man.

The cathedral presides over a walled enclave that also contains the palace of the Catholicos and a seminary. Whatever their religious differences, the world's Armenians look to this citadel as their spiritual center.

His Holiness Vazken I granted me an audience. He spoke of Armenia's cultural renaissance, and of Echmiadzin's international ties. The Catholicos was hopeful for his immediate flock. "In a year," he said, "Armenia gives birth to 60,000 children. We baptize two out of three."

Before leaving Echmiadzin, I lingered in the venerable cathedral. One of my government escorts, a party member, bought a couple of candles. He lighted both, handed the first to me, kept the other.

I was puzzled. "You do not believe in God," I said, "but you light a candle."

"No," he whispered, "I am not a believer." He thrust the candle's base into a sandbox glowing with other tapers. "I light it in the feeling of respect for the Church."

My work was complete in the U.S.S.R. but I had a last stop to make on the trail of the wandering Americans. I went to Beirut, Lebanon, to see how they fared in that devastated city. Once more they had been caught up in strife not of their making.

The Lebanese war had ended a few months earlier. Now, an Armenian member of the country's parliament told me, the waiting game was on. Before the billions needed to rebuild the stricken city would flow in, there must be political settlements for both the Middle East and Lebanon. Some 220,000 Armenians, a little less than a tenth of Lebanon's population, were marking time with the rest. Thousands had fled, many to the United States.

Beirut: financial capital and playground of the Middle East, until the war. Armed soldiers of the Arab peacekeeping force were manning roadblocks at key points. They scrutinized everyone's passport, sometimes searched for weapons. You ventured forth at night at your own risk in the ruined downtown section.

By day, with the brilliant Mediterranean sun flooding this ghastly urban sarcophagus, you could stumble through rubble-strewn streets, past the blackened sockets that once were shops—Armenian shops, a lot of them. Perhaps a fourth of the business district had been Armenian.

Bulldozers had begun clearing away the debris at last, reconstruction of the port was under way, and a few merchants were starting over. I talked with them. "There is no business so far," said Berge Aprahamian, a 31-year-old optimist. "I still have my $200,000 loss."

It might be a while before business picked up for him, it struck me. He was displaying evening bags, chic gloves, and the like. But he was there. The stand where his father, Aram, had served the public for forty years was open again.

On the evening before I left Beirut, I rode in the bullet-riddled taxi of Vartan Naitchayan, a young husband who was soon to be a parent. His doctor, he said, had just removed the last of 17 shell fragments from his body.

We drove past the cathedral of the Armenian Catholicosate of Cilicia and zigzagged high into the hills above the city. There we parked, and walked to the heroic statue of a woman at prayer, Mother Armenia. Twilight stole across the valley, turning Beirut into a diadem of glittering gems. At its center lay darkness, the darkness of man's destruction.

Vartan spoke. "We were neutral through it all. We carried the wounded—Christian, Muslim, Palestinian—to the hospitals. Why does trouble always follow us? Why"—he spaced his words—"is it dark out there?"

"God knows," I said.●

ANALYSIS OF ALASKA LANDS LEGISLATION

● Mr. DURKIN. Mr. President, the joint Federal-State Land Use Planning Commission for Alaska has devoted considerable effort over a period of years to assessing the economic consequences of placing Alaska lands into national parks, national wildlife refuges, wild and scenic rivers, and national forest additions.

Recently I asked the Commission to draw up a concise analysis of the economic implications of H.R. 39, the Alaska lands bill which passed the House, and S. 1500 as amended, my Alaska lands bill which is pending before the Senate Committee on Energy and Natural Resources.

I also requested that the commission's professional staff, in addition to analyzing the economic issues, review previous studies which assert that this legislation would unfavorably affect the economy of Alaska and the Nation as a whole.

The completed analysis of the commission staff is clear: H.R. 39 and S. 1500 as amended would not have a significant adverse impact on future resource needs of the United States.

Referring specifically to H.R. 39 and S. 1500 as amended, the Commission concludes:

. . . we do not feel that the legislation would have a significant impact on the availability of timber, oil and gas and mineral resources to the Nation.

The Commission analysis should allay any fears that strong Alaska lands legislation such as S. 1500, as amended or H.R. 39, passed by the Congress this year will adversely affect the State and National economies, threaten critical supplies of energy and other resources, put people out of work, or cripple national security.

The Commission, which probably knows more about Alaska than any other Federal agency, has proven by this study that there is no negative economic impact resulting from Alaska lands legislation as set forth in S. 1500, as amended, or H.R. 39.

It shows that the Congress can move forward this year and protect the priceless natural heritage in Alaska for generations of future Americans.

I ask unanimous consent that the Commission analysis be printed in the RECORD.

The analysis follows:

JULY 7, 1978.

Sen. JOHN A. DURKIN,
U.S. Senate, Committee on Energy and Natural Resources, Washington, D.C.

DEAR SENATOR DURKIN: The Joint Federal-State Land Use Planning Commission, both through staff analysis and contractual research, has devoted considerable effort to the assessment of economic consequences of proposed (d) (2) classifications. Overall findings of this research are summarized below.

While the analyses used the original (d) (2) withdrawals as the basic framework of reference, the conclusions remain generally valid when applied to H.R. 39, as passed by the House, and S. 1500. However, it should be noted that neither the Arctic National Wildlife Range nor the major changes proposed in the Tongass National Forest were part of our analyses. These exceptions will be considered separately.

GENERAL CONCLUSIONS

The national interest with respect to energy, other minerals, and forest resources is not jeopardized by proposed (d) (2) classifications. More importantly, (d) (2) classification represents a reversible decision, whereas some kinds of utilization or development of the (d) (2) lands might well have irreversible consequences. Furthermore, neither the State's fiscal base, nor, more generally, the State's broad economic well-being is dependent upon availability of resources on the (d) (2) lands. Both State and Native land selection strategies have clearly aimed at avoiding a need to depend on Federally controlled resources for economic development, if past State selections are honored and new ones are considered in the legislation.

SPECIFIC CONCLUSIONS REGARDING RESOURCES

A. Energy resources:

1. Oil and Gas: Existing public available geological information indicates that oil and gas resource potential within the (d) (2) withdrawals constitutes a relatively minor fraction of total anticipated oil and gas resources in Alaska. Approximately 8 percent of the total onshore acreage in Alaska with possible petroleum resources is contained in the (d) (2) withdrawals. The bulk of this acreage lies in the interior region of the State and the potential petroleum provinces involved are considered to be of low potential. Furthermore, (d) (2) units involved are proposed for refuge status. Hence, oil and gas exploration and development could be permitted under Secretarial authority unless designated as wilderness areas. (The Arctic National Wildlife Range is considered below.) Generally speaking, conflict between oil and gas resources and the (d) (2) lands appears to be minimal.

2. Coal and Uranium: Coal is one of the most abundant resources in the United States, with roughly 70 percent of the resource located in the western states and Alaska. About 43 percent of Alaska's coal resources are on Federal lands, with a significant proportion in National Petroleum Reserve-Alaska. Limited production in the State is presently occurring where output is used for electric power generation.

Major production, while possible, appears highly improbable for some time to come. Economic considerations, as well as emerging ownership patterns, suggest that either State or Native coal resources will come into production well before coal on Federal lands. Conflicts between coal and (d) (2) lands are negligible.

Uranium resources in Alaska are largely unknown. A variety of factors, however, including general economic costs of mining in Alaska, indicate that mining for uranium in Alaska must be considered to be far in the future.

B. Hardrock Mining: Alaska's hardrock mineral resources, for the most part, are presently noncompetitive in world markets. With the exception of sand and gravel, barite, and perhaps some gold, there is virtually no intrastate demand for Alaska mineral production. Hence, Alaska minerals must compete in national and international markets—something they are presently unable to do. Alaska's costs of exploration, development, and production are among the highest in the world. Even ores of exceptionally high grade by national standards may not presently be mined economically in Alaska if real economic costs, including a normal rate of return on capital, are to be covered. These high costs are a result of a combination of factors, and they include both higher real and monetary costs than occur elsewhere in the United States.

Two minerals that may be subject to possible cartelization in world markets are present in Alaska; chromium and platinum group metals. It is apparent that Alaska minerals, particularly under current economic conditions, are not determinative in meeting strategic mineral requirements. Even under the best of situations, Alaska production could meet only a small fraction of total national demand for these two minerals. Strategic mineral stockpiles, international commodity agreements, technological substitution, etc., appear to offer better alternatives than attempts to produce these metals domestically in Alaska.

While some conflicts between (d) (2) lands and areas of potential hardrock mineral development do exist, many conflicts have been avoided by boundary adjustments of the original (d) (2) units. In those instances where conflict remains, it should be noted that the economic consequences for the State and the Nation appear to be minimal over the next twenty to thirty year period. It is more difficult to predict what will occur over the longer run since many conditions affecting development of the metallic mineral industry in Alaska can change. The factors increasing the demand for Alaska minerals might include increasing world scarcity, which would be reflected in increased world prices for minerals. Factors that might adversely affect future demands for Alaska minerals include commodity substitution, technological change, and increased production elsewhere in the United States and the rest of the world in response to increasing mineral prices. The Nation is not presently dependent on Alaska hardrock minerals, and important areas for mineral development remain outside of the (d) (2) lands.

C. Timber: The timber resources of Interior Alaska involved in the (d) (2) lands withdrawals appear to be subeconomic or of marginal economic value at the present time. Furthermore, it would appear that this will remain the case for some time to come. Economic conflict between timber development and (d) (2) withdrawals in Interior Alaska must be considered negligible.

It should again be noted that the above conclusions regarding resources do not encompass Congressional actions regarding the Tongass National Forest and the Arctic National Wildlife Range.

Because of the limited size and number of (d) (2) withdrawals in Southeast Alaska, the Commission has not looked at the land use planning problems of Southeast Alaska in any aggregate sense. Rather, the Commission has viewed these problems as coming under the review of existing Federal withdrawals, a future step in the land use planning process for Alaska. At the same time, we would point out that there are certain issues that should be addressed in the evaluation of H.R. 39 and its impact on Southeast Alaska.

The timber industry is one of the mainstays of the Southeast economy, and in particular, the Ketchikan area. This is the general region that would appear to be potentially most impacted by H.R. 39. Whether or not H.R. 39 has an adverse impact on the Southeast Alaska timber industry depends primarily upon long run supply and demand conditions facing the industry. If timber supplies available under H.R. 39 would be adequate to meet market demands, then it would be difficult to argue that H.R. 39 had a negative impact. In this regard, it is necessary to consider the timber resources of the Native corporations. Would these timber resources be necessary to support aggregate Southeast timber supplies, and if so, would the present mills be able to compete, pricewise, for these supplies?

Since demand for Southeast timber is dependent upon market demand for forest products, it is also necessary to consider long run market conditions confronting the Southeast timber industry. In recent years, it would appear that basic market weaknesses, rather than availability of timber supplies, has been the principal difficulty facing the industry. Whether or not this condition will continue to be the case is unclear, but it is accurate to say that market conditions, rather than the impact of H.R. 39 may be the major difficulty confronting the industry. It should also be noted that since the principal market for Southeast

timber products is Japan, a reduction in the level of activity in the Southeast timber industry would probably not have an adverse impact on the supply of domestic forest products.

The impact of H.R. 39 on the mining industry in Southeast Alaska does appear to be minor with the exception of the American Borax Molybdenum Development which is incorporated in the Misty Fiord wilderness area. The general economic conditions that confront mining throughout the State also apply in Southeast Alaska, although Southeast does enjoy some advantage over the rest of the State by virtue of the proximity of most potential resources to tidewater. Thus, while Southeast may enjoy a comparative economic advantage relative to the rest of the State, it would appear that it is still at a competitive disadvantage with regard to the United States as a whole.

The economic consequences of designating the Arctic National Wildlife Range as a wilderness area center on the possibility that potential oil and gas production may be foregone. Whether or not this should be considered an adverse impact depends, to a large degree, to whether the range would have been eventually opened to exploration and development in the future; the probability that commercial quantities of oil and gas are actually present in the range; and the timing and environmental and technical restraints or conditions imposed upon the exploration and development program.

In summary, the general research findings of the Commission suggest that the overall impact of H.R. 39 and S. 1500 on the State and national economies would be at most relatively minor. The two principal qualifications to this conclusion relate to the Arctic National Wildlife Range and the Tongass National Forest, as discussed above.

With regard to your specific questions, we would offer the following comments.

1. "Would H.R. 39, or my bill S. 1500 as amended, have a significant effect on the economy of the United States, and especially the economy of the Northeast?

Our analysis, as generally described above, indicates that the bills would not have a significant effect on the economy of the United States, or the economy of the Northeast, with the exception of possible impacts that might be related to the Arctic National Wildlife Range and the Tongass National Forest.

Although the impact of the bills on the Tongass National Forest may be noticeable under certain assumptions, it is unlikely that the impact on the U.S. economy or the Northeast economy would be perceptible. While continued closure of the Arctic National Wildlife Range might preclude development and production of some oil and gas resources, it is not clear that this would have a significant impact on the general level of economic activity or economic well being in the U.S. as a whole. Further comments regarding this issue are contained in the attached staff analysis of the U.S. Chamber of Commerce study which you asked us to review.

2. "Would the legislation cost jobs or reduce personal income in the Nation, and especially in the Northeast?"

Again, with the exceptions noted with regard to the Tongass National Forest and the Arctic National Wildlife Range, the impact of the legislation would be imperceptible on the national economy or the economy of the Northeast over the foreseeable future.

3. "Would the legislation contribute significantly to material shortages, such as timber, oil and gas, and minerals?"

For reasons set forth above, we do not feel that the legislation would have a significant impact on the availability of timber, oil and gas, and mineral resources to the Nation.

4. "What would be the impact of the legislation on national energy supplies?"

Since the principal impact of the legislation appears to relate to the Arctic National Wildlife Range, the impact on national energy supplies appears to be minimal. The bulk of potential Alaska and national oil and gas, and other energy resources, will continue to be available for exploration and development purposes. The impact of continued closure of the Arctic National Wildlife Range simply means that energy resource development will proceed in other areas favorable for exploration, development and production.

5. "What would be the impact of the legislation on strategic mineral supplies and on the national balance of payments?"

It is generally agreed upon that Alaska minerals are not necessary to meet strategic mineral demands of the United States. Those metals that are potentially subject to cartelization worldwide are found in Alaska in only limited amounts. Alaska production could account for only a small fraction of national demand, even under greatly increased exploration and production efforts. It would appear that alternative means for meeting strategic demand requirements will have to be pursued in any event and, hence, are not dependent upon minerals in the (d)(2) lands.

Since natural resource development in Alaska is largely independent of the legislation under consideration, the impact on the balance of payments is not a significant factor.

We hope that our comments will be of help to you in the debate over this very important legislation.

Sincerely.

WALTER B. PARKER,
State Cochairman.
ESTHER C. WUNNICKE,
Federal Cochairman.●

AN APPEAL FOR A RESPONSIBLE FOOD POLICY

● Mr. SASSER. Mr. President, during the week of June 18, 1978, the General Assembly of the Presbyterian Church of the United States gathered in my native State. At that time, the General Assembly of the Presbyterian Church adopted an appeal to the President and the Congress for a morally responsible U.S. food policy.

The elimination of hunger and malnutrition has been a consistent theme of various religious denominations across the country. This struggle is universally recognized by the church as a whole, which has provided the basic leadership for this effort by bringing about a sense of awareness in our people. Through world outreach programs, donations to charitable organizations, and the teachings of the Bible, progress has been made.

But the task before us is monumental. According to the United Nations Food and Agriculture Organization, 15,000 people die of malnutrition daily. Of these 10,000 are children.

In 1974, the United Nations published figures which showed that 460 million people are malnourished. If this figure is expanded to include those who are also suffering from real hunger, the figure may surpass 1 billion.

We in the United States must work to develop an international policy for combating hunger. We must make a national commitment toward this goal. The United States has always been the recognized leader in providing food and nutrition assistance. America's responsibility for managing global food supplies is inescapable.

Food assistance is a sharing process, not a giveaway program. United States policy and international policy should encourage self-sufficiency in underdeveloped nations. These countries need the technology to develop the resources which are available to them in such a way that self-reliance and self-sufficiency are encouraged.

The United States must continue to lead the world in developing policy to deal with the perils of hunger and malnutrition. There is no possible way to avoid the dangers inherent in the demise of our fellow human beings. Hunger affects us all, whether or not we ourselves are actually hungry.

The Presbyterian Church has indicated its commitment to the elimination of this problem which plagues much of the world, including our own country. I find the increasing interest in world hunger encouraging. I am hopeful that in our lifetimes, we may see a better world—a world void of hunger, starvation, and malnutrition.

I request that the text of the statement adopted by the General Assembly of the Presbyterian Church of the United States as adopted in Nashville be printed in the RECORD.

The statement follows:

AN APPEAL TO THE PRESIDENT AND THE CONGRESS OF THE UNITED STATES FOR A MORALLY RESPONSIBLE U.S. FOOD POLICY

We speak as a body of American citizens who because of our Christian faith bear a compelling obligation to seek food for all people as an essential component of justice for all.

We are deeply concerned that almost half a billion people throughout the world are chronically malnourished; that the death rate has increased in recent years in certain areas of the world as a direct result of a lack of food; and that for thirty million Americans hunger is a fact of life.

We believe that our nation, because of its great wealth, remarkable food-producing capacity, and unparalleled influence in the world, has a unique moral obligation to provide leadership in an international effort to eliminate the scourge of hunger from the face of the earth.

We further believe that thus far our nation has failed to respond adequately to the moral claim on it.

Therefore, we publicly appeal to you, our national elected leaders and representatives, to develop, enact, and implement a comprehensive United States food policy through which we as a people can more faithfully fulfill our human obligation in a world of widespread hunger, poverty, and human misery.

We pledge to you our active support for such a policy.

THE MARKS OF A MORALLY RESPONSIBLE POLICY

We believe that United States policy will be morally responsible to the degree that it is marked by these characteristics:

The policy is just: it acknowledges and seeks to fulfill fundamental human rights

and societal duties: it recognizes, for example, that people, by their very existence as people, have an elemental human right to sufficient food to enable them to lead productive lives and that the community (national or global) has a corresponding duty, within the range of its capacity, to fulfill that right.

The policy is humane: its primary objective is the elimination of human misery.

The policy is comprehensive: it is based on an adequate analysis of the causes of hunger and deals responsibly not just with hunger, but with the structural disorders, such as inequitable trade agreements, of which hunger is a symptom.

The policy is global: it acknowledges the interdependence and solidarity of the human community throughout the world and fosters an international common good.

The policy is equitable: it directs its benefits to those most in need and provides for a fair sharing of its own costs.

The policy is conscientious: it is developed and implemented in the awareness that United States policy decisions are literally a matter of life or death for many.

AN OVERVIEW OF A MORALLY RESPONSIBLE U.S. FOOD POLICY

A comprehensive United States food policy will embrace (A) policies fostering an increased production and supply of food; (B) policies providing for more equitable access to available food; and (C) interim policies providing food assistance to those in need.

We recommend the following as first steps toward the development of a comprehensive and morally responsible U.S. food policy.

A. Policies to measure the world's supply of food

Despite the fact that world food production has increased faster than production in recent decades,[1] an increasing demand for food in the decade ahead, due to both population growth and growing affluence, will require a significant increase in food production, particularly in the developing nations of the world. According to projections of the United Nations Food and Agriculture Organization (FAO), accepted by the international community at the World Food Conference at Rome in 1974, if current supply and demand increase trends continue, the cereal deficit of the developing market economy countries will rise by 1985 to around 85 million tons per year, compared with 16 million tons of net imports in 1969/72.

The United States should adopt policies that will result in increased food production and rural development in the developing nations. In its international development assistance programs, the United States should:

Focus assistance on the neediest nations of the world and those with the greatest potential to increase dramatically the production of locally grown food.

Give higher priority to and expand its support of development projects which benefit the poorest majority, most of whom are rural. Special attention should be given to small-scale and labor-intensive agriculture, the role of women in development, and the design and use of intermediate technology.

Incorporate incentives for land and tax reform and the development of national policies that will transform agrarian structures in the interest of more justice for small farmers and landless farm laborers.

Assist developing countries to construct storage and transportation systems which will minimize loss and facilitate distribution of food.

Encourage increased fertilized production, better distribution of fertilizers to poor nations, and indigenous fertilizer production in developing nations.

Substantially increase support for international organizations that give attention to food production in developing countries, such as the International Fund For Agricultural Development and the International Development Association of the World Bank.

The United States should adopt policies that will encourage a high level of food production by American farmers. In its domestic agriculture policy, the United States should:

Design and implement a coordinated and equitable system of price supports on food products to assure farmers a fair return on their investments.

Provide a natural disaster assistance program by which the public at large will share the risks of the farmer due to natural disasters over which the farmer has no control.

Provide for an increase in agricultural research appropriate to small and moderate-size family farms and to conditions in developing countries, especially in relation to tropical and arid-land agriculture.

Insure that a flexible and accessible credit system is available to family farmers and small farmers.

Assure a variety of marketing alternatives for farm products and maintain an effective public market information system.

Encourage land use planning measures that will preserve prime farm land for agricultural purposes.

The United States should adopt policies that will help provide food security through an international system of national grain reserves. In a grain reserves policy, the United States should:

Create a publicly-owned reserve of sufficient size that, when combined with privately-held stocks and reserves held by other nations, it is adequate to provide reasonable supply and price stability and to cover major emergency contingencies.

Set aside a portion of the publicly-held reserves for emergency.

So manage the reserves as to protect farmers from financial loss due to temporary overproduction or arbitrary price-depressing dumping and to protect consumers, both domestic and foreign, from wildly fluctuating prices.

Use its considerable influence to encourage other nations to participate with it in an international system of grain reserves.

B. Policies to provide more equitable access to available food

The mere increase in the world's supply of food will not guarantee that the hungry will obtain food. People are hungry today not only because there is a scarcity of food but because many of them are poor: in a competitive market food goes to the highest bidder, not the neediest person. Any constructive approach to the problem of hunger at home and abroad must deal with the problem of poverty at home and abroad.

The United States should adopt policies that provide poor nations more equitable opportunity to execute their own development. To help build a more just international economic order, the United States should:

Lower import barriers to developing-country products, processed raw materials, and manufactured goods. The developing countries today are dependent on export earnings for almost 80 per cent of their foreign exchange (as compared to 10 per cent from official flows of aid and 10 per cent from private capital and investment); yet terms of trade are very unfavorable to them.[2]

Work toward stabilizing world commodity prices at just levels.

Support appropriate mechanisms that will automatically transfer some resources from the rich to the poor nations, so that such transfers will not remain as totally voluntary acts of periodic generosity.

Ease the debt burden of the poorest developing countries. Developing countries now have a total financial debt of over $150 billion, with annual debt servicing consuming about half the value of new assistance that they receive.

Support appropriate international efforts to monitor, develop a code of conduct for, and regulate the activities of multinational corporations, many of which have negotiated with developing countries contracts, leases, and concessions that result in an inequitable distribution of the benefits of the use of natural resources.[3]

Support the efforts of developing nations to secure greater representation in international forums such as the International Monetary Fund and the International Bank for Reconstruction and Development in which key decisions that affect the global economy are made.

The United States should adopt policies that will significantly increase the income and development of the poorest billion people on earth and thereby provide them more equitable access to food and nutritional improvement. In its international development assistance policy, the United States should:

Commit itself to provide at least 0.70 percent of its Gross National Product (GNP) for official development assistance by 1980 and 1.00 percent by 1983, and begin immediately a systematic process for attaining these goals.[4]

Give clear-cut priority to the least developed and most resource-poor nations of the world and provide assistance according to the degree of a nation's need and its commitment to national reforms needed for the sake of justice, not its political orientation or perceived value to U.S. political and security interests.

Focus on the basic human needs of the poor majority, with particular attention to employment, justice for women, food production and nutrition, education, health, and family planning.

Support responsible efforts toward population stabilization within the context of economic development and social justice.

Provide more assistance in the form of grants rather than loans, especially to the poorest nations.

Channel an increasing proportion of its development assistance through multilateral organizations such as the United Nations, its specialized agencies, and various development banks.

Firmly declare that no U.S. development assistance shall be provided to a government that engages in a consistent pattern of gross violations of internationally recognized human rights unless it can be demonstrated that such aid will go directly to and benefit needy people in that country.

Separate development assistance from security-supporting and military assistance programs in both authorization and appropriations legislation so that each type of assistance can be considered on its own merits.

The United States should adopt policies that will provide an adequate minimum income or opportunity to earn such for all persons in the United States. In a domestic income maintenance policy, the United States should:

Treat the basic necessities of life as essential human rights, without reference to judgments as to who does or does not deserve them.

Stimulate full employment with just wages by providing job training, incentives for increased employment in the private sector, and public employment as needed.

Reform and simplify the welfare system, incorporating strong incentives to work, but not requiring acceptance of employment as a condition for receiving public assistance for one parent family with preschool or elementary school-age children.

Footnotes at end of article.

Grant an income large enough to provide for basic needs and to sustain every person's participation, with dignity, in society.

Provide income primarily in money so that a social stigma will not be attached to the form of one's subsistence, though this does not exclude additional public provisions of social services and facilities.

Provide for grants in such a way that objective eligibility standards are established and maintained, and arbitrary judgments by public officials are minimized.

Provide income assistance to both one- and two-parent families.

C. Interim policies to provide food or food assistance to those unable to purchase sufficient food for adequate nutrition

Until there is a more equitable distribution of income or the opportunity to earn it and thus a more equitable access to available food, millions of poor people at home and abroad will need food grants. Policies which allocate food to the needy at no cost or low cost to them should be regarded as interim policies but nevertheless absolutely essential ones.

The United States should adopt policies that will provide American leadership in an international effort to see that poor people in the developing world receive adequate nutrition. In its food aid policy the United States should:

Give clear and unmistakable priority to combating hunger and malnutrition and promoting agricultural and economic development in its "Food for Peace" Program (Public Law 480).

Serve the human needs of hungry people and not be dependent on the military, strategic, or political objectives of the United States.

Guarantee a minimum tonnage of U.S. food aid each year for the next five years, so that recipient nations can plan ahead.

Encourage the use of food aid to stock developing countries' national reserves.

Provide for a more fruitful integration of P.L. 480 food and funds into the development objectives of developing countries themselves.

Effectively integrate its food aid into the international community's response to the needs of developing nations.

The United States should adopt policies that will assure Americans of an opportunity with dignity to obtain a nutritionally adequate diet. In its domestic nutrition policy the United States should:

Reform the food stamp program by modifying the cash purchase requirement; providing an adequate standard deduction with additional deductions for special needs; determining eligibility on the basis of current income and need, and expanding the outreach program.

Continue and expand other domestic nutrition programs such as School Lunch; School Breakfast; Women, Infants, and Children (WIC); Child Care; Summer Food Service; and Nutrition for the Elderly, which have been successful in meeting real needs.

Adapt programs as needed to meet the special needs of special low-income groups such as migrant farm workers and Indians. Too often, program regulations designed for other parts of the country have created serious difficulties both for low-income persons and for administrators in migrant camps and on Indian reservations.

Significantly increase its efforts to increase public understanding of nutrition and its relation to good health.

CONCLUSION

The basic moral issue before our nation is not whether we shall be charitable but whether we shall be just, not whether we shall be generous but whether we shall take those steps required for common human decency.

Given, on the one hand, our nation's great wealth and power, and, on the other, the pressing essential needs of those with whom we share a common humanity, we must as a people do much more. Justice demands much more.

We recognize that new public policies must be matched by new private efforts, that what you do in our name must be complemented by what we do as private citizens and organizations. Yet you alone, as our elected leaders and lawmakers, can develop, enact, and implement policies for our nation as a whole. You alone can determine how our nation as a nation responds to the moral claim laid on it.

We call on you to adopt and implement a comprehensive and morally responsible United States food policy of which the American people can be proud.

FOOTNOTES

[1] The so-called "food crisis" facing the world today is due not only to a scarcity of food but also to the maldistribution of food. According to the U.S. Department of Agriculture:

"In the two decades between 1954 and 1973, world food production increased faster than population: the trend rate of increase was 2.8 percent for production and 2.0 percent for population, resulting in an annual increase in world per capita food production of 0.8 percent. . . . *On the average*, the 3.8 billion people in the world in 1973 had about one-fifth more food to eat per person than did the 2.7 billion people in 1954." U.S. Department of Agriculture Economic Research Service, *The World Food Situation and Prospects to 1985* (Washington: Department of Agriculture, 1974), p. 12.

[2] In the last two decades the volume of developing countries' exports has increased by more than 30 percent, but their export earnings (excluding oil) have risen by only 4 percent. Final consumers pay over $200 billion (excluding taxes) for the major primary exports (excluding oil) of the developing countries (in a more processed, packaged, and advertised form), but these countries receive only $30 billion of that amount. The effect of developed-country trade barriers on exports is suggested by the estimate that if the barriers to nine selected primary commodity exports were removed immediately, the annual export earnings of developing countries would increase by some $7 billion by the end of the decade. Through their import barriers, the United States and other developed nations impede the diversification of low-income economies. These barriers should be removed: such trade liberalization would benefit both Americans and people in the developing world. At the same time, the government should provide sufficient funds for the retraining and relocation of American workers who would lose their jobs because of the increased flow of cheaper goods, so that a small portion of American society would not be forced to pay the price for the gains the rest of us would enjoy.

[3] Mauritania, for example, gets about 15 percent of the profits that multinational corporations make from extracting and exporting the iron ore deposits in the country. Similarly, in Liberia, foreign investors export an amount equivalent to nearly one-fourth of the total GNP of the country in profit remittances.

[4] In 1949 the United States made available 2.79 percent of its GNP to start the Marshall Plan. In 1970 when the U.N. General Assembly adopted the goal of 0.70 percent of GNP from the rich nations by 1975 at the latest, the U.S. contributed 0.31 percent of its GNP as official development assistance. In 1975 it contributed only 0.27 percent, and World Bank projections for 1976 and 1977 are 0.26 percent and 0.24 percent, respectively. In terms of developing country purchase power, the $3.4 billion the U.S. provided in 1974 represented an erosion of 43 percent from the $3.3 billion provided in 1971. In 1975 the United States ranked 14th among the 18 developing nations in terms of the percentage of its GNP it provided for official development assistance.●

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there morning business? If not, morning business is closed.

APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, appoints the Senator from Ohio (Mr. GLENN) as a congressional adviser to the official delegation to the second session of the United States-ASEAN Dialog, to be held in Washington, D.C., August 2–4, 1978.

EXECUTIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nominations on the executive calendar, all of which have been cleared.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Glen E. Robinson, of California, to be U.S. marshal for the northern district of California.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Robert E. Hauberg, of Mississippi, to be U.S. attorney for the southern district of Mississippi.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Anthony Bertoni, of Michigan, to be U.S. marshal for the eastern district of Michigan.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The legislative clerk read the nomination of Clinton T. Peoples, of Texas, to be U.S. marshal for the northern district of Texas.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the votes by which the nominees were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I move that the votes by which the nominees were confirmed be reconsidered en bloc.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of two Budget Act waiver resolutions, Senate Resolution 522 and Senate Resolution 508.

The PRESIDING OFFICER. Without objection it is so ordered.

BUDGET ACT WAIVER

The resolution (S. Res. 522) waiving section 303(a)(4) of the Congressional Budget Act of 1974 with respect to the consideration of S. 3085. a bill to extend and amend the special supplemental food program and the child care food program, and for other purposes, was considered and agreed to, as follows:

Resolved, That pursuant to section 303(c) of the Congressional Budget Act of 1974, the provisions of section 303(a)(4) of such Act are waived with respect to the consideration of S. 3085, a bill to extend and amend the special supplemental food program and the child care food program, and for other purposes.

Such waiver is necessary to permit consideration of new spending authority to become effective in fiscal years for which the first concurrent resolution on the budget has not been agreed to. Specifically, S. 3085 provides new spending authority under section 401(c)(2)(C) for the special supplemental food program to become effective in fiscal years 1980, 1981, and 1982, prior to the adoption of the first concurrent resolutions on the budget for such years.

The history of the special supplemental program is one of uncertainty brought about through the impoundment of program funds and the resulting administration of the program by court order. It is essential that sponsors of the special supplemental food program know in advance what funds they will have available in order to plan effective program operations.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUDGET ACT WAIVER

The resolution (S. Res. 508) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to consideration of S. 3153, a bill to settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes, was considered and agreed to, as follows:

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to consideration of S. 3153, a bill to settle Indian land claims within the State of Rhode Island and Providence Plantations, and for other purposes. This waiver is necessary because of the urgency of the legislation, which will provide an out-of-court settlement to a pending Indian claims case in Federal court. The Federal contribution to this settlement and the timeliness of that contribution are essential if the litigation to be settled according to the agreement negotiated between the parties and further economic hardship on the part of residents of the town is to be avoided. The select committee was precluded from reporting on the legislation by May 15 because the bill was not introduced until May 25, 1978 and the amount of the authorization was not finalized until after the hearing on the bill on June 20, 1978.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZING SENATOR WILLIAMS TO PROVIDE CERTAIN MATERIALS

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. WILLIAMS, I send to the desk a resolution and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

The legislative clerk read as follows:

The Senator from West Virgina (Mr. ROBERT C. BYRD) for Mr. WILLIAMS proposes a resolution to authorize Senator HARRISON A. WILLIAMS, JR., as chairman of the Committee on Human Resources to provide certain materials of the committee with respect to an investigation of health maintenance organizations in the State of California.

Without objection, the Senate proceeded to the consideration of the resolution.

Mr. STEVENS. It is my understanding it has been cleared on both sides, and we do not have any objection to its immediate consideration.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 523) was agreed to as follows:

Resolved, That by the privilege of the Senate and by rule XXX thereof, no Member or Senate employee is authorized to produce Senate documents but by order of the Senate.

SEC. 2. Senator Harrison A. Williams, Jr. as Chairman of the Committee on Human Resources, is authorized, as a result of a request made by the Attorney General of the United States in connection with an investigation of health maintenance organizations in the State of California, to furnish to the Attorney General documents, work papers, financial records, and other similar papers in the possession of the Committee on Human Resources relating to the investigation of health maintenance organizations in the State of California collected during the period from 1971 through 1975.

SEC. 3. A copy of this resolution shall be transmitted to the Attorney General as an answer to this request.

Mr. ROBERT C. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER HOLDING H.R. 12443 AND H.R. 12508 AT THE DESK

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that H.R. 12443 and H.R. 12508 be held at the desk pending further disposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar orders numbered 920 through 943, with the exception of 937 and 938.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

DR. KOK LIONG TAN AND GLORIA SIAO TAN

The bill (S. 140) for the relief of Dr. Kok Liong Tan, and his wife, Gloria Siao Tan, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Doctor Kok Liong Tan, and his wife, Gloria Siao Tan, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-991), explaining the purposes of the measure.

There being no objection, the excerpt

was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Dr. Kok Liong Tan, and his wife, Gloria Siao Tan. The bill provides for the payment of the required visa fees and for appropriate visa number deductions.

STATEMENT OF FACTS

The beneficiaries of the bill are natives of the Philippines and citizens of Taiwan, ages 36 and 29, respectively. Dr. Tan entered the United States on June 9, 1972, as an exchange visitor. His wife entered June 10, 1973, as a visitor for business. They were married in the United States on November 24, 1973. Tan has a third preference priority date of June 10, 1975. The Tans are the parents of one U.S. citizen child.

DR. BELINDA A. AQUINO

The bill (S. 340) for the relief of Dr. Belinda A. Aquino, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Dr. Belinda A. Aquino shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act, upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of imigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–992), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Dr. Belinda A. Aquino. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 41-year-old native and citizen of the Philippines who last entered the United States on August 24, 1968, as a student. She is single and resides in Honolulu, Hawaii, where she has been employed since February 1974 by the University of Hawaii. Dr. Aquino presently holds the position of assistant professor and chairperson of the Philippine Studies program.

MICHAEL BRUCE HOLLAND

The bill (S. 1484) for the relief of Michael Bruce Holland, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of section 212 (a)(23) of the Immigration and Nationality Act, Michael Bruce Holland may be issued a visa and be admitted to the United States for permanent residence if he is found to be otherwise admissible under the provisions of that Act: *Provided,* That this exemption shall apply only to a ground for exclusion of which the Department of State or the Department of Justice had knowledge prior to the enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–993), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provision of existing law relating to one who has been convicted of a violation relating to the illicit possession of a narcotic in behalf of the spouse of a U.S. citizen.

STATEMENT OF FACTS

The beneficiary of the bill is a 30-year-old native and citizen of England. He currently resides in that country where on October 5, 1973, he was convicted of unlawful possession of 1 gram of cannabis resin and fined 15 pounds. He entered the United States in September 1974 and married Jeanne Estelle Pape in August 1975. The beneficiary returned to England in September 1975. Mrs. Holland accompanied him but returned to the United States in September 1977.

TOMIKO FUKUDA EURE

The bill (S. 1564) for the relief of Tomiko Fukuda Eure, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of paragraphs (9), (12), and (23) of section 212(a) of the Immigration and Nationality Act, Tomiko Fukuda Eure may be admitted to the United States for permanent residence upon approval of a petition filed on her behalf by William Eure, a citizen of the United States, pursuant to section 204 of such Act, if she is found to be otherwise admissible under the provisions of such Act. This section shall apply only to the grounds for exclusion under such paragraphs known to the Secretary of State or the Attorney General prior to the date of enactment of this Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–994), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to waive the excluding provisions of existing law relating to one who has been convicted of a crime involving moral turpitude; one who is a prostitute or who has engaged in prostitution; and one who has been convicted of a violation of any law or regulation relating to the illicit possession of, or traffic in, narcotic drugs or marihuana in behalf of the spouse of a U.S. citizen.

STATEMENT OF FACTS

The beneficiary of the bill is a 53-year-old native and citizen of Japan who currently resides in that country with her U.S. citizen husband, William Milton Eure, whom she married in 1960. She was arrested in 1950 for possession of narcotics. Unsuccessful surgery years earlier had left the beneficiary in poor health and severe pain; medication prescribed by her physician was insufficient and she turned to narcotics to relieve her pain. Since the conviction, she has abstained from narcotics other than sedatives prescribed by her doctor. In 1951 the beneficiary was convicted of soliciting for prostitution.

ROHINI

The bill (S. 2243) for the relief of Rohini, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Rohini may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Gregory and Pamela Woolcott, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–995), explaining the purpose of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status as an immediate relative of the alien child to be adopted by U.S. citizens.

STATEMENT OF FACTS

The beneficiary of the bill is a native and citizen of India who was abandoned at about age 3. She has been given the birth date of January 6, 1973. The prospective adoptive parents, Mr. and Mrs. Gregory Woolcott, were appointed as the beneficiary's guardians by the Bombay High Court on November 16, 1977. The beneficiary was paroled into the U.S. on February 5, 1978, destined to the Woolcott home. Gregory Woolcott is employed as a teacher and athletic coach in a local public school district in Michigan. His wife is employed as a part-time therapist. They have adopted two foreign orphans, and plan to adopt the beneficiary in the United States.

ANUPAMA ALIS CHANDRAKALA

The bill (S. 2326) for the relief of Anupama Alis Chandrakala, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Anupama Alis Chandrakala may be classified as a child within the meaning of section 101(b)(1)(F) of the Act, upon approval of a petition filed in her behalf by Mr. and Mrs. Lloyd Lewis, citizens of the United States, pursuant to section 204 of this

Act: *Provided*, That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable in this case.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–996), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the adjustment of status as an immediate relative of the prospective adopted child of U.S. citizens.

STATEMENT OF FACTS

The beneficiary of the bill is a 7-year-old native and citizen of India who was abandoned by her mother at the age of 3 years. She was paroled into the United States on December 15, 1977 for the purpose of allowing the prospective adoptive parents, Mr. and Mrs. Lloyd Lewis, to complete an application for adoption. Mr. and Mrs. Lewis reside in Fridley, Minnesota. Mr. Lewis is employed as a sheetmetal worker; his wife is self-employed as a beautician. The couple has one natural born child and two adopted children who were born in Bogota, Colombia. Adoption proceedings in behalf of the beneficiary will become final in June 1978.

MURADALI P. GILLANI

The bill (S. 2377) for the relief of Muradali P. Gillani, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Muradali P. Gillani shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under section 203(a) of the Immigration and Nationally Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–997), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Muradali P. Gillani. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 28-year-old native and citizen of Pakistan who first entered the United States in May, 1972 as a nonimmigrant student. He currently resides in Franklin, N.C., where he operates a laundromat.

RODOLFO N. ARRIOLA

The bill (S. 2509) for the relief of Rodolfo N. Arriola, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Rodolfo N. Arriola shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–998), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Rodolfo N. Arriola. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of the bill is a 37-year-old native and citizen of the Philippines who was admitted to the United States as an exchange visitor on June 25, 1968. He resides with his wife and three U.S. citizen children in Fulton, Miss., where he is engaged in the practice of medicine. On May 28, 1971, a third-preference visa petition was approved in Dr. Arriola's behalf. A visa is not currently available to him. Dr. Arriola is not subject to the two-year foreign residence requirement.

LUCY DAVAO JARA GRAHAM

The bill (H.R. 1751) for the relief of Lucy Davao Jara Graham, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–999), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant status of permanent residence in the United States to Lucy Davao Jara Graham. The bill provides for the payment of the required fee and for an appropriate visa number deduction.

STATEMENT OF FACTS

The beneficiary of this bill is a 24-year-old native and citizen of the Philippines who was married to a citizen of the United States in that country on December 27, 1972, while he was serving in the U.S. Air Force. He was transferred to the United States for medical reasons and was adjudged mentally incompetent and was permanently retired from the Air Force on March 11, 1974. The beneficiary was issued a visitor's visa to accompany him to the United States. She receives $268 per month from the Veterans' Administration for herself and her two U.S. citizen children.

MICHELLE LAGROSA SESE

The bill (H.R. 2555) for the relief of Michelle Lagrosa Sese, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1000) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States as an immediate relative of the adopted child of U.S. citizens.

STATEMENT OF FACTS

The beneficiary of this bill is a 5-year-old native and citizen of the Philippines who has been adopted by citizens of the United States who have no natural children. Her adoptive mother is also the beneficiary's aunt. The beneficiary's natural parents and four siblings reside in the Philippines.

MRS. AMELIA DORIA NICHOLSON

The bill (H.R. 2945) for the relief of Mrs. Amelia Doria Nicholson was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1001) explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of an immediate relative to Mrs. Amelia Doria Nicholson, to which status she would have been entitled were it not for the death of her husband, a citizen of the United States.

STATEMENT OF FACTS

The beneficiary of this bill is a 24-year-old native and citizen of the Philippines who married a United States citizen in that country while he was stationed there with the United States Navy. He was killed in a motorcycle accident on February 17, 1975. She resides in Indiana with her infant daughter, a citizen of the United States.

HABIB HADDAD

The bill (H.R. 3995) for the relief of Habib Haddad, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1002), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to file a petition for naturalization.

STATEMENT OF FACTS

The beneficiary of this bill is a 46-year-old native and citizen of Lebanon who was admitted to the United States as a special immigrant on the basis of more than 15 years of faithful service to the United States in the employ of the U.S. Government abroad. He is presently employed by the Department of Labor on a contract basis which cannot be extended for more than 1 year. That Department desires to utilize the beneficiary's services in connection with the Saudi Arabian Joint Commission because of his outstanding qualifications as an interpreter and his knowledge of Middle Eastern labor affairs.

WILLIAM MOK

The bill (H.R. 4607) for the relief of William Mok, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1003), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to facilitate the admission into the United States of the adopted child of U.S. citizens.

STATEMENT OF FACTS

The beneficiary of this bill is a 3-year-old native and citizen of Taiwan who was released for adoption by U.S. citizens prior to his birth. He resides in Taiwan with his adoptive mother's sister and is supported by his adoptive parents.

MISS CORALIA RAPOSO

The bill (H.R. 5928) for the relief of Miss Coralia Raposo, was considered, ordered to a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1004), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill is to enable the beneficiary to qualify for first preference status as the unmarried daughter of U.S. citizens.

STATEMENT OF FACTS

The beneficiary of this bill is a 25-year-old native and citizen of Portugal who presently resides in Spain. She is coming to the United States for adoption by her aunt and uncle, citizens of the United States, who have no natural children. The beneficiary resided with her prospective adoptive parents in Spain from 1968 until 1974. She accompanied them to the United States as a visitor and returned to Spain in 1975.

RAUL ARRIAZA, MARIA MARQUART SCHUBERT ARRIAZA, ANDRES ARRIAZA, AND DANIEL AIVOUICH ARRIAZA

The Senate proceeded to consider the bill (S. 85) for the relief of Raul Arriaza, his wife, Maria Marquart Schubert Arriaza, and their children, Andres Arriaza, and Daniel Aivouich Arriaza, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert the following:

That, for the purposes of the Immigration and Nationality Act, Raul Arriaza, his wife, Maria Marquart Schubert Arriaza, and their children, Andres Arriaza and Daniel Aivouich Arriaza, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1005), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Raul Arriaza, his wife, Maria Marquart Schubert Arriaza, and their children, Andres Arriaza and Daniel Aivouich Arriaza. The bill provides for the payment of the required visa fees and for appropriate visa number deductions. The bill has been amended to reflect recent changes in the Immigration and Nationality Act.

STATEMENT OF FACTS

The beneficiaries of the bill are natives and citizens of Chile, ages 57, 49, 12, and 10, respectively. They were admitted as visitors on January 8, 1972. Mr. and Mrs. Arriaza operate R & M Contractors, Inc., a construction and contracting enterprise in Springdale, Ark. In 1975, Mr. Arriaza submitted documentation to the American Embassy in Chile to establish investor status based on an investment of $10,000. In 1976 the Department of State determined that he had not met the then-existing requirements for investor status. Despite his considerable investment in the corporation, Mr. Arriaza has been unable to meet the present $40,000 requirement.

KWOK HUNG POON AND SANDRA SHAU MAN LAI POON

The Senate proceeded to consider the bill (S. 613) for the relief of Kwok Hung Poon and his wife, Sandra Shau Man Lai Poon, which had been reported from the Committee on the Judiciary, with an amendment on page 2, line 4, strike "sections 202(c) and" and insert "section", so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Kwok Hung Poon and his wife, Sandra Shau Man Lai Poon, shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by the required numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1006), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to the beneficiaries. The bill provides for the payment of the required visa fees and for appropriate visa number deductions. The bill has been amended to conform with established precedents.

STATEMENT OF FACTS

The beneficiaries of the bill are husband and wife, natives of Hong Kong and citizens of the United Kingdom, born July 19, 1948, and October 30, 1946, respectively. They last entered the U.S. on August 13, 1975; Mr. Poon as a non-immigrant student, Mrs. Poon as his dependent. They currently reside in Honolulu where Mr. Poon is the sole owner of a combined trading company and travel service, in which he has an investment equity of $44,000 and from which he derives a monthly income of $750. Because a non-preference visa number is unavailable to Mr. Poon, he is precluded from filing for investor classification in the United States.

DR. ANGELITO DELA CRUZ

The Senate proceeded to consider the bill (S. 2061) for the relief of Dr. Angelito Dela Cruz, which had been reported from the Committee on the Judiciary, with an amendment on page 1, line 4, after "Doctor" insert "Angelito" so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of the Immigration and Nationality Act, Doctor Angelito Dela Cruz shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fee. Upon the granting of permanent residence to such alien as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by one number, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the alien's birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Doctor Angelito Dela Cruz.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1007), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Dr. Angelito Dela Cruz. The bill provides for the payment of the required visa fee and for an appropriate visa number deduction. The bill has been amended to refer to the beneficiary by his complete name.

STATEMENT OF FACTS

The beneficiary of the bill is a 32-year-old native and citizen of the Philippines who entered the United States as an exchange visitor on August 4, 1973. He resides with his spouse and U.S. citizen daughter in Friend, Nebr., where he is employed as a physician. Dr. Dela Cruz has established a third preference priority date of October 21, 1974; however a visa is not currently available to him. The beneficiary is subject to the 2-year foreign residence requirement, but has obtained no objection statement from the Philippine Government.

MUNNIE SURFACE

The Senate proceeded to consider the bill (S. 2209) for the relief of Munnie Surface, which had been reported from the Committee on the Judiciary, with amendments:

On page 1, line 8, strike "Act, except that" and insert "Act:";

On page 1, line 9, strike "Munnie Surface" and insert "the beneficiary";

On page 1, line 12, strike "such" and insert "the Immigration and Nationality";

On page 2, line 3, strike "with respect to any petition filed pursuant to the first section of this Act" and insert "in this case";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Munnie Surface may be classified as a child within the meaning of section 101(b)(1)(F) of such Act, upon approval of a petition filed in her behalf by Reverend Byron Surface and Evelyn Surface, citizens of the United States, pursuant to section 204 of such Act: *Provided,* That the natural parents, brothers, or sisters of the beneficiary shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

SEC. 2. Section 204(c) of the Immigration and Nationality Act, relating to the number of petitions which may be approved, shall be inapplicable

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1010), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the adjustment of status as an immediate relative of the adopted child of U.S. citizens, notwithstanding the fact that the adoptive parents have previously had the maximum number of petitions approved. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a 6-year-old native and citizen of India who is an orphan and has no known relatives. She was adopted by proxy by the interested parties, Reverend and Mrs. Byron Surface, on July 27, 1977, and was paroled into the United States on December 16, 1977 to reside with her adoptive parents. Rev. Surface serves the United Methodist Church in Denison, Iowa. Mrs. Surface is a licensed minister and homemaker. The couple has previously adopted three children of Korean nationality. In addition, the Surfaces have three natural children, two of whom no longer live at home and are not dependent upon their parents.

SUSANNA SHU-HUI JEAN

The Senate proceeded to consider the bill (S. 2248) for the relief of Susanna Shu-hui Jean, which had been reported from the Committee on the Judiciary, with amendments:

On page 1, line 3, strike "Administration" and insert "administration";

On page 1, line 7, after "by" insert "Jong Ho Jean and";

On page 1, line 7, strike "a citizen" and insert "citizens";

On page 2, beginning with line 1, strike through and including line 7;

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Susanna Shu-hui Jean may be classified as a child within the meaning of section 101(b)(1)(E) of the Act, upon approval of a petition filed in her behalf by Jong Ho Jean and Fu-mei Freda Jean, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiary shall not, by virtue of such a relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1011), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States as an immediate relative of the adopted child of U.S. citizens. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiary of the bill is a native and citizen of the Republic of China, born September 24, 1976 in Taiwan. Shortly after her birth she was placed in the care of Fu-Mei Freda Jean, with whom she presently resides. Mr. and Mrs. Jean adopted the beneficiary under the law of Taiwan on November 16, 1976. The adoption was completed by proxy. Mr. Jean is employed as a research scientist at Children's Hospital of Philadelphia; his wife is currently unemployed.

JOSELYN BUCCAT LALLEY AND JODELYN BUCCAT LALLEY

The Senate proceeded to consider the bill (S. 2294) for the relief of Joselyn Buccat Lalley and Jodelyn Buccat Lalley, which had been reported from the Committee on the Judiciary, with amendments: On page 1, line 7, after "by" insert "Mr. and Mrs.";

On page 1, line 7, strike "a citizen" and insert "citizens".

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in the administration of the Immigration and Nationality Act, Joselyn Buccat Lalley and Jodelyn Buccat Lalley may be classified as children within the meaning of section 101(b)(1)(F) of the Act, upon approval of petitions filed in their behalf by Mr. and Mrs. John Anthony Lalley, citizens of the United States, pursuant to section 204 of the Act: *Provided,* That the natural parents or brothers or sisters of the beneficiaries shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95–1012), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the admission into the United States as immediate relatives of the adopted children of U.S. citizens. The bill has been amended in accordance with established precedents.

STATEMENT OF FACTS

The beneficiaries of the bill are 18-year-old twin girls, natives and citizens of the Philippines. Their natural mother died during childbirth and they have been cared for since birth by their aunt and adoptive mother, Encarnacion Lally. Mr. and Mrs. Lalley reside at Clark Air Force Base where Mr. Lalley is stationed with the U.S. Air Force. The beneficiaries were adopted by Mr. and Mrs. Lalley in the Philippines on October 7, 1976.

MRS. KERRY ANN WILSON AND JASON JOHN BARBA

The Senate proceeded to consider the bill (S. 2639) for the relief of Mrs. Kerry Ann Wilson and her son, Jason John Wilson, which had been reported from the Committee on the Judiciary, with amendments. On page 1, line 4, strike "her son";

On page 1, line 5, strike "Wilson" and insert "Barba";

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of

America in Congress assembled, That, for the purposes of the Immigration and Nationality Act, Mrs. Kerry Ann Wilson and Jason John Barba shall be held and considered to have been lawfully admitted to the United States for permanent residence as of the date of the enactment of this Act upon payment of the required visa fees. Upon the granting of permanent residence to such aliens as provided for in this Act, the Secretary of State shall instruct the proper officer to reduce by two numbers, during the current fiscal year or the fiscal year next following, the total number of immigrant visas and conditional entries which are made available to natives of the country of the aliens' birth under paragraphs (1) through (8) of section 203(a) of the Immigration and Nationality Act.

The amendments were agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read:

A bill for the relief of Mrs. Kerry Ann Wilson and Jason John Barba.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1013), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to grant the status of permanent residence in the United States to Mrs. Kerry Ann Wilson and Jason John Barba. The bill provides for the payment of the required visa fees and for appropriate visa number deductions. The bill has been amended to reflect the fact that the beneficiary Jason John has been adopted by his grandparents.

STATEMENT OF FACTS

The beneficiaries of the bill are natives and citizens of Australia, ages 23 and two years, respectively. Mrs. Kerry Ann Wilson is the natural mother of Jason John Barba. She is divorced from the child's father and she currently resides with Jason John in Port Gibson, Miss., in the home of her former mother-in-law, Colleen Barba, and Mrs. Barba's husband, Merton Eugene Barba. Mrs. Wilson is not currently employed. Jason was formally adopted by Mr. and Mrs. Barba on March 9, 1978.

LOURDES MARIE HUDSON

The Senate proceeded to consider the bill (H.R. 8449) for the relief of Lourdes Marie Hudson, which has been reported from the Committee on the Judiciary, with an amendment on page 1, line 7, insert a comma after "Hudson".

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to have printed in the RECORD an excerpt from the report (No. 95-1014), explaining the purposes of the measure.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

PURPOSE OF THE BILL

The purpose of the bill, as amended, is to facilitate the adjustment of status as an immediate relative of the adopted child of U.S. citizens.

STATEMENT OF FACTS

The beneficiary of this bill is a 16-year-old native and citizen of Mexico who was admitted to the United States as a student in 1974 and has resided with her adoptive parents since that time. She was formally adopted in Texas on April 28, 1977, by U.S. citizens who have no natural children.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it be in order to move en bloc to reconsider the votes by which the various measures were passed.

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. I make that motion.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE TO CONVENE AT 10 A.M. TOMORROW

Mr. ROBERT C. BYRD. There is already an order in for the Senate to convene at 10 o'clock tomorrow morning, is there not?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. STEVENS. May I inquire of the majority leader, Mr. President, has there been an order entered for Monday to convene? Does that carry over until next week?

Mr. ROBERT C. BYRD. I believe the order has not been entered for Monday as yet.

Mr. STEVENS. There is no such order yet.

Mr. ROBERT C. BYRD. I thank all Senators, and I yield the floor.

THE INTELLIGENCE AUTHORIZATION ACT—1979

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. 2939.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 2939), to authorize appropriations for fiscal year 1979 for intelligence activities of the U.S. Government, the Intelligence Community Staff, the Central Intelligence Agency's Retirement and Disability System, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Armed Services, with amendments, as follows:

On page 2, after the period in line 23, insert a new sentence as follows: "The Committee on Armed Services of the Senate shall prepare a separate classified report containing its funding and program recommendations on specific Department of Defense and Department of Energy intelligence programs considered by the Committee on Armed Services pursuant to a referral made to such committee under section 3(b) of Senate Resolution 400 of the Ninety Fourth Congress.".

On page 2, line 23, strike out "report" and insert in lieu thereof "reports".

The PRESIDING OFFICER. Without objection, the Senate will proceed to the immediate consideration of the bill.

Without objection, the amendments of the Armed Services Committee are agreed to.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the following staff members of the Select Committee on Intelligence be granted the privilege of the floor during consideration of this measure and during all votes, if any, on the bill: William G. Miller, Earl D. Eisenhower, George Pickett, Daniel Childs, Michael Epstein, Ted Ralston, Ed Levine, and John Elliff.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1454

(Purpose: To authorize the reorganization and expansion of the Intelligence Community Staff)

Mr. HATHAWAY. Mr. President, I offer an unprinted amendment, which is at the desk, on behalf of the Select Committee on Intelligence, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. I ask unanimous consent that the reading of the amendment be waived, and that the amendment be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, line 11, strike out "$8,593,000" and insert in lieu thereof $14,593,000";

On page 3, line 17, strike out "One Hundred and Seventy" and insert in lieu thereof "Two Hundred and Ninety Eight";

On page 3, line 21, strike out the period and insert a semi-colon and the following: "Provided that, any employee detailed to the Intelligence Community Staff from another entity shall be detailed on a reimbursable basis."

Mr. HATHAWAY. I move the adoption of the amendment.

The amendment was agreed to.

Mr. HATHAWAY. Mr. President, this is only the second time that a separate budget authorization bill has been introduced for U.S. intelligence activities. During this past year, our knowledge of the scope and intricacies of intelligence activities has grown considerably; the benefits of this knowledge are reflected in this bill.

The intelligence authorization act for fiscal year 1979 authorizes appropriations for those intelligence activities of the U.S. Government which serve the intelligence needs of our national policymakers, as well as certain intelligence

activities of the military service whose primary purpose is to support the military commander, but which can also contribute to national intelligence needs.

This bill represents the culmination of a detailed review by the Budget Authorization Subcommittee of both the substantive contributions and the funding requirements for each of the major intelligence programs. During the course of our review, the subcommittee:

Examined 11 volumes of budget justification material as well as a number of special studies requested by the committee last year;

Conducted some 30 hours of hearings which included testimony from the Director of Central Intelligence, high-ranking Defense Department officers, and each of the principal program managers; and

Requested and reviewed written responses for the record to several hundred questions for supplemental information on specific issues.

The committee regards the budget authorization process as a key aspect of effective congressional oversight of the intelligence community. In this context, it views its principal role as providing strong legislative guidance and direction, for the primary goal of strengthening the U.S. intelligence effort.

In certain respects, intelligence is our first line of defense. In other respects, it can be considered to be our best chance for maintaining world peace. It is largely our intelligence capabilities, for example, that have enabled the United States to enter into a variety of international agreements, which would in all likelihood not have been possible otherwise. Moreover, with the growing interdependence of world nations and the emergence of new and complex foreign policy concerns, our intelligence system is being tasked to respond to a much broader range of policy issues. Today, many of these issues pose just as formidable a threat to our national security as does the threat of military attack.

The committee believes that, in general, intelligence continues to be well managed and responsive to U.S. policymakers' priority needs. It also believes that with the strengthened management role accorded the Director of Central Intelligence by the President's recent Executive order, the intelligence community's performance should improve.

As with any large, complex organization, however, the committee has identified a number of areas that require continued management attention. The community has been provided guidance in these areas, and in certain instances, special studies have been requested to begin to develop plans for improvement.

The committee's recommendations on the fiscal year 1979 budget provide for a number of major and highly significant new initiatives. These initiatives will have a significant impact on the amount of resources devoted to intelligence over the next 5 years, but are considered absolutely essential if intelligence is to be able to respond adequately to the needs of U.S. policymakers in the 1980's.

Because of the sensitivity of our intelligence operations and the risk of compromise by our adversaries, I cannot discuss in open session the details of the committee's recommendations. Our recommendations have been set forth in a classified committee report which has been made available for review by any Member subject to the provisions of Senate Resolution 400. Copies are currently available in the Vice President's Ceremonial Room for Senators who might still like to review them before we vote on final passage of this measure.

In summary, Mr. President, I would like to say that the committee has conducted a thorough examination of the intelligence community's fiscal year 1979 budget request, and I am convinced that the budget authority recommended in this bill represents a reasonable balance between needed intelligence capabilities and prudent cost.

Mr. HATHAWAY. Mr. President, I have nothing further to say, and I will be happy to yield to any of my colleagues who wish to make any comments at this time.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I commend the Senator from Maine for the work he has done on this legislation. As the Senator knows, the intelligence bill was considered first by the Intelligence Committee. It was sequentially referred to the Armed Services Committee.

This is one of the very difficult pieces of legislation where there is some overlapping of jurisdiction. There are some gray areas as between the jurisdiction of the Armed Services Committee and that of the Intelligence Committee.

I want to say, however, that I have never worked with anyone more cooperative than the chairman of the Intelligence Committee, the Senator from Indiana (Mr. BAYH), and the vice chairman of the Intelligence Committee, the Senator from Arizona (Mr. GOLDWATER).

I also wish to say for the RECORD that I and the Armed Services Committee have found the staff of the Intelligence Committee to be extremely cooperative and extremely helpful.

I think it is interesting and significant to point out that although this bill was considered by both committees, and although there is some disagreement as to jurisdiction in certain areas, in the bill as reported back today to the Senate there is no difference whatsoever among the two committees as to the funding proposals or any other aspect of the bill. The only differences of viewpoint deal with some jurisdictional matters.

So I wish to say, as a member of the Armed Services Committee and chairman of the Intelligence Subcommittee of that committee, that I have found the members and staff of the Intelligence Committee to be extremely cooperative in an area that has been very difficult to handle by both committees.

At this point, I ask unanimcus consent that an excerpt from the report of the Armed Services Committee be printed in the RECORD, explaining the purposes of the measure.

There being no objection, the excerpt from the report ordered to be printed in the RECORD, as follows:

COMMITTEE CONSIDERATION

Senate Resolution 400 of the Ninety Fourth Congress, which created the Senate Select Committee on Intelligence, conferred on that new committee exclusive legislative and authorizing jurisdiction over the Central Intelligence Agency and the Director of Central Intelligence. The resolution further provided that the new select committee was to have concurrent legislative and authorizing jurisdiction over the intelligence activities of certain other departments and agencies of the Government. Thus, Section 3(b) of S. Res. 400 provided a parliamentary mechanism to permit a committee under whose jurisdiction such activities would otherwise fall to obtain sequential referral of the Select Committee's bill for further consideration. The committee feels that this sequential referral process is an essential one, since the knowledge and oversight experience of the standing committee which deals with a particular department is essential in assuring that the best possible legislation is reported to the Senate.

Since S. 2939 authorizes funds for the intelligence activities of the Department of Defense, including the Defense Agencies and the military services, the committee requested sequential referral of the bill for the purpose of reviewing the recommendations of the Select Committee with respect to Department of Defense intelligence programs. The committee has considered only the parts of Title I dealing with the Department of Defense or the Department of Energy, and has not considered Titles II and III of the bill dealing with the Intelligence Community staff and the CIA retirement system.

Drawing on its long experience in overseeing all activities of the Defense Department, including intelligence, the committee carefully considered both the budget request and the actions of the Select Committee as reflected in its classified report. Major individual programs for which funds are authorized in S. 2939 had been covered in hearings held by the Tactical Air or Research and Development Subcommittees of the Armed Services Committee in connection with the Department of Defense authorization bill for fiscal year 1979. For this year, the Armed Services Committee and the Intelligence Committee are in agreement on recommendations for all funds to be authorized. The Armed Services Committee report recommendations differ in only three areas from those of the Intelligence Committee. These are described in the classified annex to this report.

COMMITTEE JURISDICTION

In addition to defining the areas in which the new Select Committee on Intelligence exercises legislative and authorizing jurisdiction, S. Res. 400 sets clear limits on that jurisdiction as regards intelligence functions and programs which serve the military commanders. This limitation reflects the main concerns of the Senate in creating the Select Committee—to establish closer expert oversight over broad national intelligence activities. Consequently, Section 14(a) of the Resolution states explicitly that "intelligence

activities", the term used throughout to describe those activities within the Select Committee's jurisdiction, "does not include tactical foreign military intelligence serving no national policymaking function." The purpose of this provision was to preserve jurisdiction in the Armed Services Committee over those programs and systems that are a part of the tactical intelligence system. Senator Ribicoff, the floor manager of S. Res. 400, made it clear, during floor consideration of the Resolution, what was intended with regard to tactical intelligence:

"The substitute does not give the new committee any legislative, authorization, or oversight responsibility for tactical intelligence. Responsibility for this type of intelligence will remain solely within the jurisdiction of the Armed Services Committee.

The new committee will only have jurisdiction over that portion of DOD's intelligence activities which provides national intelligence that DOD, the State Department, the President, and others in the executive branch need to make broad national policy decisions. The definition of intelligence in section 14(a) of the substitute to Senate Resolution 400 specifically excludes from the committee's jurisdiction tactical foreign military intelligence. The new committee will not have jurisdiction over tactical intelligence which seeks to meet the more specific technical interests of the weapons developers and field commanders."

In order to make more visible those programs which relate to tactical or battlefield intelligence, a loose collection of military programs called "intelligence related activities" (IRA) was created in the defense budget. These programs include the funds for research, procurement and operation of military equipment for military field commanders and are primarily tactical in orientation. Nonetheless, some confusion has arisen over the respective roles of the two committees in authorizing funds for these programs and providing program guidance to the department involved. The committee feels strongly that it has exclusive jurisdiction to authorize appropriations for intelligence related activities. It welcomes the recommendations of the Select Committee, and will consider, as it has for the last two years, including in its report on the Department of Defense authorization bill recommended funding changes and related report language that the Select Committee may adopt as part of its continuing oversight of the nation's intelligence community. The two committees worked closely together during the current authorization cycle, arriving at common recommendations for funding of IRA items. However, in order to avoid innumerable specific disagreements in the future about the nature of each program, the committee feels that the IRA category provides a useful, albeit imperfect, rule-of-thumb method of defining those "tactical" programs for which exclusive jurisdiction remains with the Armed Services Committee. While the unclassified bill (S. 2939) itself does not purport to authorize programs in the intelligence related activities category, the classified report of the Select Committee on Intelligence indicates that the Select Committee may intend to authorize a single IRA program that it considers to have implications for national intelligence—TENCAP. This authorization is unnecessary, since the committees agree on the funding for this program and such amounts are included in the regular Department of Defense authorization bill already passed by the Senate.

A further problem regarding the division of jurisdiction between the two committees concerns authorization of intelligence activities of the Department of Energy. Senate Resolution 400 gives oversight jurisdiction to the Select Committee on Intelligence over intelligence activities of all departments of government. However, Senate Resolution 400 specifies a different and narrower authorizing jurisdiction for the Intelligence Committee, and lists the intelligence activities of certain specific departments, not including the predecessor agencies of the Department of Energy. The intelligence activities of the Department of Energy are included in the Department of Energy Military Programs bill previously reported by the Armed Services Committee.

In order to simplify and clarify procedures for annual authorization of appropriations for intelligence items of interest to both committees, the Armed Services Committee summarizes the relationship between the two committees as follows:

Under S. Res. 400 the authorizing jurisdiction for the Central Intelligence Agency (CIA) and the Director of Central Intelligence (DCI) resides solely with the Intelligence Committee. The Intelligence Committee and the Armed Services Committee each have concurrent authorizing jurisdiction over intelligence activities of the Department of Defense which serve a national policymaking function. Authorizing jurisdiction for tactical military intelligence resides solely with the Armed Services Committee.

Any Defense Department intelligence activity whose principal purpose is to serve the national policymaking function should be considered and authorized as part of the so-called national foreign intelligence program and thus is in the area of concurrent committee jurisdiction. Any other intelligence activity or program of the Department of Defense whose principal purpose is to serve a tactical military function should be considered and authorized as part of the regular Department of Defense military program. For purposes of defining the authorizing jurisdiction between the two committees, the budget category called "intelligence related activities" should be considered to be "tactical intelligence" as defined by S. Res. 400.

The Armed Services Committee should incorporate without change the recommendations of the Intelligence Committee on those CIA/DCI items that may be included in the regular military authorization bill. If, as a result of its oversight activities or program review, the Armed Services Committee has suggestions regarding the authorization of CIA/DCI items it should make such suggestions and recommendations to the Intelligence Committee not later than April 15. The Intelligence Committee should give full and careful consideration to such recommendations, including reference in the committee report, in making authorization recommendations to the Senate as part of the annual intelligence authorization process.

If, as a result of its oversight activities or program review, the Intelligence Committee has suggestions regarding the authorization of Department of Defense intelligence related activities or Department of Energy intelligence activities, it should make such suggestions and recommendations to the Armed Services Committee not later than April 15. The Armed Services Committee should give full and careful consideration to such recommendations, including reference in the committee report, in making authorization recommendations to the Senate as part of the annual Department of Defense and Department of Energy military authorization processes.

AMENDMENTS

The committee amendments relate to Section 101(B), and provides the Armed Services Committee report with the same status as the report of the Intelligence Committee. It is intended to make it clear that the two committees will make available separate reports covering such program guidance as may be within their respective or shared jurisdictions. The committee recommends that a similar system be followed whenever two or more committees consider the bill sequentially in the future.

PROGRAM RECOMMENDATIONS

The committee has also prepared a classified annex to this report, which contains comments on the substance of intelligence activities of the Department of Defense and intelligence related activities. The Armed Services Committee concurs with all funding recommendations of the Intelligence Committee in general with the careful and comprehensive comments on intelligence programs contained in the Select Committee's classified report, which reflects their excellent oversight program. The Armed Services Committee's recommendations, insofar as they relate to intelligence activities as defined by S. Res. 400, shall be followed by the agency concerned along with the recommendations of the Select Committee. Where the programs involved fall into the category of intelligence related activities, however, it is recommended that the Department of Defense follow the guidance language of the Armed Services Committee, since these programs are within the exclusive authorizing jurisdiction of the committee. The committee finds the program recommendations made to it by the Select Committee in this area most helpful.

Mr. HATHAWAY. I am happy to yield to the chairman of the Intelligence Committee, the Senator from Indiana (Mr. BAYH).

Mr. BAYH. Mr. President, S. 2939, the Intelligence Authorization Act for fiscal year 1979, marks the second time that the Senate has voted specifically on moneys for intelligence activities of the United States. Last year, because the House of Representatives had not yet established its counterpart to the Senate Select Committee on Intelligence, the intelligence authorization bill did not have an opportunity to become law. Creation of the House Permanent Select Committee on Intelligence makes it possible this year to enact the intelligence authorization into law.

During the past year, the Select Committee on Intelligence has continued to devote substantial attention to all aspects of the intelligence activities of the United States. The first major piece of intelligence reform legislation, S. 1566, the Foreign Intelligence Surveillance Act of 1978, was passed by the Senate in April, and we hope the House of Representatives will be able to act on the comparable bill before it in the very near future. We have introduced and held extensive hearings on S. 2525, the National Intelligence Reorganization and Reform Act, which would provide legislative charters for the U.S. intelligence community and its major components. We are in the midst of a detailed study of the issues raised by S. 2525, in close cooperation with the administration and the intelligence community as well as many outside authorities and citizens groups. That bill will be revised to take account of the constructive suggestions we are receiving, and we hope to bring the charter legislation to the floor early next year.

Enactment of intelligence charter leg-

islation will, we believe, resolve many of the questions the American people may have about the nature and scope of the intelligence activities of the United States. Without charters, for example, the Intelligence Authorization Act before the Senate today must use very general language to describe the activities it covers. It authorizes the conduct of "intelligence activities" by the CIA, the Defense Intelligence Agency, the National Security Agency, the Federal Bureau of Investigation, the Drug Enforcement Administration, the military services, and the Departments of State, Treasury, and Energy. However, this Authorization Act cannot spell out what those "intelligence activities" are intended to achieve. For that, we need charter legislation.

During the past year the administration carried us another step toward such legislation by its development of an executive order on U.S. Intelligence Activities, issued by the President in January, 1978. Executive Order 12036 is an interim measure to serve until charters are enacted. There was close consultation, almost unique in our history, between the executive branch and the Select Committee in the process of drafting this executive order. It provides the basic framework within which the intelligence activities authorized in the bill before us today will be carried out. Those who wish to understand more about the standards and safeguards that now exist should look at the executive order, because it spells out the responsibilities of the agencies of the intelligence community and the restrictions upon their activities. The next step, of course, is to spell out those responsibilities and the appropriate restrictions in the bedrock law of the land.

The duty of reviewing with great care the intelligence community's resource needs for fiscal year 1979 has been performed once again this year by the Budget Authorization Subcommittee, chaired by Senator WILLIAM D. HATHAWAY, the distinguished Senator from Maine. His subcommittee has spent many months examining the operations of the intelligence community in detail, building upon the experience gained in the previous year. The full Select Committee on Intelligence included in its consideration of the intelligence authorization an item-by-item review of all covert action activities—their cost, risk, and relevance to U.S. policy.

As was done last year, the Select Committee has sent a letter to each Senator informing him or her that consistent with the provisions of Senate Resolution 400, the committee's classified report detailing the items contained in the authorization bill would be available for any Senator's examination in the committee offices, G–308, Dirksen Senate Office Building. Therefore, every Senator has had an opportunity to review in detail the provisions contained in the authorization for intelligence activities.

I want to thank the Senate Committees on Armed Services and Judiciary for their cooperation with the Select Committee in the authorization process. This year for the first time the Judiciary Committee prepared and submitted authorization legislation for the Department of Justice, including the FBI. The recommendations of the Judiciary Committee, which were passed by the Senate on July 10, are fully consistent with the recommendations of the Select Committee.

Finally, I want to express my deep appreciation, and that of all my colleagues on the Select Committee, to Senator HATHAWAY and the members of the Subcommittee on Budget Authorization. I believe that their efforts have led to significant improvements in the ability of the United States to have an efficient and effective intelligence system. During their first year the task was to make an authorization process for intelligence activities a practical reality. In this second year, they have built upon that experience so that the committee has been even better able to make independent judgments on highly complex matters. I strongly believe that the ability of the Select Committees of each House to make these independent determinations is vital, not only to apply our constitutional checks and balances in this field, but also to strengthen the quality of our Nation's intelligence effort.

I would also like to say, before concluding that it has been a rewarding experience to have a chance to discuss this matter with our distinguished colleague from Virginia. As he pointed out there are some jurisdictional differences of opinion about what is contained in this bill, but no substantive differences of opinion. Tremendous credit for this accomplishment must go to my friend from Virginia, without whose warmth and spirit of compromise, we would not have been able to resolve the substantive differences in the way we have. It is a tribute, I believe, to the way in which the Senate works. I salute him and thank him for it.

Mr. HATHAWAY. Mr. President, before asking for the third reading, I thank the distinguished chairman of the committee for his very kind remarks and praise him also for the leadership he has given to the committee and the cooperation which he has afforded me and the other members of the Budget Subcommittee.

I also praise the distinguished Vice Chairman, Senator GOLDWATER, for his leadership and cooperation in a very arduous task.

I, too, compliment the distinguished Senator from Virginia, who has been most cooperative. This is a difficult area, where we have different points of view as to which committee actually has jurisdiction over certain matters. Hopefully, in the future we will resolve these differences. I am sure from the cooperative attitude that the Senator from Virginia has shown we will be able to do this in an amicable way.

I also take this opportunity to commend the many staff members who worked so diligently on these matters, as well as all the members of the full committee and the subcommittee. The staff members worked night and day to present us with a detailed accounting of all the budgetary matters concerned. Without their help we could not have accomplished what we did.

ORDER FOR STAR PRINT

Mr. HATHAWAY. Mr. President, I ask unanimous consent to have a star print of the committee report, and that an excerpt therefrom be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The excerpt is as follows:

STAR PRINT EXCERPT

The Senate Armed Services Committee amendment to the Select Committee bill correctly identifies that the two Committees have been unable to resolve the issue of jurisdiction over so-called "intelligence related activities". The Armed Services Committee maintains that intelligence related activities is a category which was created in the Defense Budget in order to make more visible those programs in tactical or battlefield intelligence and therefore is not within the Committee's jurisdiction as defined in S. Res. 400, which states that "intelligence activities does not include tactical, foreign, military intelligence serving no national policymaking function."

While the Select Committee is in full agreement with the Armed Services Committee that tactical intelligence programs do compose part of intelligence related activities—intelligence related activities is a broader category than just tactical intelligence.

Intelligence related activities was established as a budget authorization category by the House Appropriations Committee during consideration of the FY 1975 and FY 1976 Defense Appropriations request as a method to pull together all those intelligence activities in the Defense Department which DOD had not traditionally identified as Program III intelligence. The House Appropriations was concerned with both tactical intelligence activities and other intelligence activities of the DOD (such as training) which serve both tactical and national needs and therefore fall in the grey area.

The DOD definition of intelligence related activities identifies it as including both national and tactical intelligence activities. This definition as established in DOD Budget Guidance Manual 7110–1–M states that IRA includes activities which fall under any one of five criteria:

(1) "Respond to operational commanders tasking for time sensitive information on foreign entities."

(2) "Respond to national intelligence community tasking of systems whose primary mission is to support operating forces."

(3) "Train personnel for intelligence duties."

(4) "Provide an intelligence reserve."

(5) "Are devoted to research and development intelligence or related activities."

These criteria clearly recognize that national intelligence interests are involved in intelligence related activities, not only in specific aspects of tasking but implicitly in the training of personnel and in activities which affect research and development.

While the Committee recognizes that intelligence related activities contain many programs which serve no national policymaking role, certain specific programs clearly are of major import to the national policymakers. For example, intelligence related ac-

tivities includes the entire array of missile and bomber warning systems which monitor Soviet missile firings and warn of strategic attack, the systems which monitor the activities of all nations in space, and programs which enable the President to determine the nature of the threat presented by Soviet ballistic missile submarines to the United States.

The Select Committee is therefore of the view that while it respects the Armed Services Committee's sole jurisdiction over purely tactical intelligence activities, the equation of the category of "intelligence related activities" with the category of tactical activities does not recognize the clearly national importance of some of the programs contained therein.

The authors of Senate Resolution 400 intended that so-called "intelligence related activities" would be the *joint* responsibility of the Senate Select Committee on Intelligence and the Senate Armed Services Committee. In fact, in carrying out this duty, the members and staff of the Senate Select Committee on Intelligence have worked very closely with the members and staff of the Armed Services Committee which has resulted in a far more rigorous scrutiny of this category of activities than has ever been the case. There is no question that "intelligence related activities" remains a grey area as a category. The Select Committee on Intelligence has been scrupulous, however, to confine its primary interests to national intelligence activities. On the basis of experience we have had to this point, it is the Committee's view that the shared jurisdiction in this area has worked to the benefit of the Senate as a whole.

Finally, Senate Resolution 400 provides for the membership on the Senate Select Committee on Intelligence of Senators who are also members of other committees whose jurisdiction might be affected by intelligence activities. The present Select Committee on Intelligence has four members who also serve on the Senate Armed Services Committee: Senators Hart, Morgan, Goldwater and Garn. These Senators, because of their membership on both Committees, have given added depth, experience and perspective to the work of both Committees. The purpose of the Senate in creating the Select Committee on Intelligence was to meet the need for providing effective Congressional oversight for intelligence activities of the United States. By means of the authorization process, scrutiny of all programs and continuing study and reviews of all areas of intelligence, this need has been successfully met. The success that the Committee has enjoyed thus far is in large measure due to the understanding and cooperation of all committees and all Senators who have striven to resolve such jurisdictional questions that have arisen so that the important work of oversight can succeed.

Mr. BAYH. Will the Senator yield for one more thought?

Mr. HATHAWAY. I yield.

Mr. BAYH. I would like to join the distinguished Senator from Maine in recognizing the significant contribution that our ranking minority member, the vice chairman of the committee, Senator GOLDWATER has made in the deliberations of this bill as well as in the deliberations in the committee as a whole.

I must say to those who are not members of the committee that as a new chairman it has been a source of real strength and comfort to have the distinguished Senator from Arizona there, to take advantage of the experience he has had as vice chairman of this committee over the first couple of years, as well as to share the long-term experience he has had in so many fields, legislative and otherwise.

I just want to say to him that I and the committee continue to be in his debt.

The PRESIDING OFFICER. The Senator from Maine.

Mr. HATHAWAY. Third reading of the bill.

The PRESIDING OFFICER. Will the Senator send the modification to the desk which he wants to appear as a star print?

Mr. HATHAWAY. Yes, Mr. President.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 12240.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 12240) to authorize appropriations for fiscal year 1979 for intelligence and intelligence-related activities, and so forth, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. HATHAWAY. Mr. President, I move to strike everything after the enacting clause of H.R. 12240 and to substitute therefor the text of S. 2939, as amended.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Maine.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 12240) was passed.

Mr. HARRY F. BYRD, JR. I move to reconsider the vote by which the bill was passed.

Mr. HATHAWAY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATHAWAY. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives thereon; and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to.

Mr. HATHAWAY. Mr. President, I ask unanimous consent that consideration of the Senate bill be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator from Maine send to the desk a list of conferees?

Mr. HATHAWAY. Mr. President, the list of conferees will be submitted to the desk sometime early next week.

The PRESIDING OFFICER. Very well; will the Senator then ask unanimous consent that the bill be held at the desk until further disposition?

Mr. HATHAWAY. Mr. President, I ask unanimous consent that the bill be held at the desk for further disposition until the conferees are named.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT— S. 2410

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 776, S. 2410, the Public Health Service Act, is called up and made the pending business before the Senate, there be a time agreement thereon of 1 hour to be aqually divided between Mr. KENNEDY and Mr. SCHWEIKER, 30 minutes on any amendment, 15 minutes on any debatable motion, appeal, or point of order if such be submitted to the Senate for its consideration, and that the agreement be in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 2410 (Order No. 776), a bill to amend titles XV and XVI of the Public Health Service Act to revise and extend the authorities and requirements under those titles for health planning and health resources development, debate on any amendment shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill; and debate on debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 15 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage on the bill, debate shall be limited to 1 hour, to be equally divided and controlled, respectively, by the Senator from Massachusetts (Mr. Kennedy) and the Senator from Pennsylvania (Mr. Schweiker): *Provided,* That the Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

TIME-LIMITATION AGREEMENT— S. 2850

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at such time as Calendar Order No. 786, S. 2850, the Older Americans bill, is called up and made the pending business before the Senate there be a time limitation thereon as follows: Two hours on the bill to be equally divided between Mr. EAGLETON

and Mr. JAVITS, 1 hour on any amendment in the first degree, 30 minutes on any amendment in the second degree, debatable motion, appeal, or point of order, if such be submitted to the Senate for its consideration, and that the agreement be in the usual form.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Alaska reserves the right to object.

Mr. STEVENS. It is my understanding there is a specific time limit on two amendments to that bill. Have they all been taken care of?

Mr. ROBERT C. BYRD. I believe they have all been taken care of.

Mr. STEVENS. I do not object.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 2850 (Order No. 786), a bill to amend the Older Americans Act to provide for improved programs for the elderly, and for other purposes, debate on any amendment in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of such and the manager of the bill; debate on any amendment in the second degree, debatable motion, appeal, or point of order which is submitted or on which the Chair entertains debate shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided*, That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further*, That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of final passage on the bill, debate shall be limited to 2 hours, to be equally divided and controlled, respectively, by the Senator from Missouri (Mr. Eagleton) and the Senator from New York (Mr. JAVITS): *Provided*, That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, debatable motion, appeal, or point of order.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished acting Republican leader.

THE ECONOMIC SUMMIT

Mr. ROBERT C. BYRD. Mr. President, a strengthening of efforts to deal with the major international economic problems confronting the industrial democratic nations was agreed to this week at the seven-nation summit at Bonn.

The fact that leaders of these seven nations could and did reach broad agreement on the steps that need to be taken on a wide range of international economic problems is indicative of both the importance they attach to these issues as well as they recognition of the need to work together to resolve them.

A large amount of credit should go to President Carter for the role he played at the summit and his success in working to obtain agreement on a coordinated economic effort.

Having traveled in Europe just prior to the summit and having discussed the issues with European leaders, I was particularly aware of and concerned about the need for achieving agreement at Bonn.

A key element in the international economic package announced in Bonn is firm action on U.S. energy policy. As I reported to the Senate earlier this week, European leaders repeatedly emphasized to me the necessity of additional U.S. action in this area.

The failure thus far of the United States to deal comprehensively with our energy problems is a major concern of the Europeans and Japanese. I pointed out to the European leaders with whom I spoke that we are taking a series of steps to help reduce our foreign oil imports. However, they continue to see us as profligate in our use of energy, not only reducing the supply of oil available to them, but, also, contributing to our balance-of-payments problems and thus weakening the dollar and fueling inflation. All of this, the Europeans stressed, has serious negative consequences for Western economic stability and security.

With the passage of the conference report on coal conversion on Tuesday, the Senate took an important step toward the establishment of a comprehensive energy policy framework. This measure will eventually result in a substantial reduction in imported oil.

I told the European leaders, as the President did during the summit, that the United States would have a comprehensive energy policy in effect by the end of the year.

Of course, much more remains to be done. Energy legislation has proven to be difficult and complex, but the Bonn summit has underscored once again the importance to the international economy of congressional action on these measures.

As national economies have grown more interrelated, consultation and cooperation among the industrial democracies have become all the more necessary. The Bonn summit represents a part of the overall process of coordination, one of a series of meetings where this group of nations has considered what steps can be taken, individually and collectively, to contribute to a stronger world economy.

While on the one hand attention at the Bonn meeting was focused on the need for action on U.S. energy policy, on the other hand it was recognized by our trading partners—especially Germany and Japan—that they need to further stimulate their economic growth if the overall problem of imbalance in international accounts is to be corrected. Such growth will create more demand in those countries for imported goods and help bring order to the monetary exchange markets.

I discussed the matter of German economic expansion in some detail with Chancellor Helmut Schmidt when I was in Bonn prior to the summit. The German Government is understandably concerned about any moves that might jeopardize that nation's low inflation rate and wanted sound assurances that the United States would be doing its part to contribute to international economic equilibrium.

I was very pleased to see Mr. Schmidt's statement that his government will endeavor to make a "substantial contribution" to world recovery by stimulating the West German economy. This will be an important step toward insuring continued world economic growth and is a vital aspect of the comprehensive approach to dealing with our international economic problems.

We will be looking to the Germans and the Japanese to follow through on these important commitments. At the same time, we must take the action necessary to fulfill U.S. responsibility. The strategy agreed to at Bonn acknowledges our interdependence; it is based on cooperative efforts of all the industrialized democracies.

Other action remains necessary, a prime example being in the field of international trade.

The growth of protectionist sentiment constitutes a serious threat and the spiraling of protectionism could have profound repercussions. The commitment made at Bonn to work toward a reduction of trade barriers will help to reduce the protectionist pressures. This is an essential part of the process of stemming a protectionist wave. However, there also must be agreement at the Tokyo round of the multilateral trade negotiations. The participants at the Bonn summit acknowledged that some difficult and important issues remain unresolved in the trade negotiations. During my visit to Europe I emphasized to our European allies the critical nature of these negotiations and the importance of reaching a successful conclusion this year. I want to reemphasize today the fundamental significance of such an agreement—particularly in regard to agricultural commodities—and to express hope that the spirit of cooperation which prevailed at Bonn will carry over to the Geneva talks.

President Carter and the leaders of the other nations represented at Bonn have laid the foundation for orderly progress toward resolving our economic difficulties. The agreements reached at the summit and the cooperation there far exceeded the expectations which many had for the meeting.

Implementation of the policies agreed to at Bonn will, of course, depend in part on action by the respective parliamentary bodies, including this Congress. It is my strong hope that the Congress will recognize that it is imperative to make these proposals a reality, particularly in the area of energy.

ORDER FOR RECOGNITION OF SENATOR MORGAN AND SENATOR HODGES TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that after the prayer on tomorrow Mr. MORGAN be

recognized for not to exceed 15 minutes and that Mr. HODGES then be recognized for not to exceed 15 minutes. This would mean that the two leaders would give up their time on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO CONSIDERATION OF THE DOMESTIC VOLUNTEER AUTHORIZATION BILL, S. 2617, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of the order for the recognition of Senators tomorrow the Senate then proceed to the consideration of Calendar Order No. 754, S. 2617, the domestic volunteer authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO CONSIDERATION OF THE HEALTH MAINTENANCE ORGANIZATION BILL, S. 2534, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of that bill under the order previously entered the Senate then proceed to the consideration of the health maintenance organization bill, Calendar Order No. 768.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO PROCEED TO CONSIDERATION OF S. 3085, THE CHILD NUTRITION BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, then, that upon the disposition of that bill, the Senate proceed to the consideration of Calendar Order No. 950, S. 3085, the child nutrition bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, may I inquire of the majority leader's consent about the Chattahoochee Park bill? Has that been made an order of business following the child nutrition bill?

Mr. ROBERT C. BYRD. It has not.

Mr. STEVENS I have no objection to that bill being taken up. I wish to be assured that there be no consent agreement to be entered that would leave that open for amendments on the type that might include something like the Alaska lands bill. That is my only concern about parks bills this year. So I am sure my friend knows my concern.

ORDER TO PROCEED TO THE CHATTAHOOCHEE PARKS BILL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon the disposition of the child nutrition bill the Senate proceed to the consideration of the Chattahoochee Parks bill on the condition that was just expressed by the distinguished acting Republican leader.

Mr. STEVENS. I thank the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS TO 10 A.M. TOMORROW

Mr. HARRY F. BYRD, JR. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in recess until 10 a.m. tomorrow.

The motion was agreed to and, at 7:37 p.m., the Senate recessed until 10 a.m. on Friday, July 21, 1978.

NOMINATIONS

Executive nominations received by the Senate July 20, 1978:

DEPARTMENT OF STATE

Harold E. Horan, of Texas, a Foreign Service officer of class 1, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Malawi.

THE JUDICIARY

James Dickson Phillips, Jr., of North Carolina, to be U.S. circuit judge for the fourth circuit, vice James Braxton Craven, Jr., deceased.

DEPARTMENT OF JUSTICE

Edward R. Korman, of New York, to be U.S. attorney for the eastern district of New York for a term of 4 years, vice David G. Trager, term expired.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 20, 1978:

DEPARTMENT OF JUSTICE

Glen E. Robinson, of California, to be U.S. marshal for the northern district of California for the term of 4 years.

Robert E. Hauberg, of Mississippi, to be U.S. attorney for the southern district of Mississippi for the term of 4 years.

Anthony Bertoni, of Michigan, to be U.S. marshal for the eastern district of Michigan for the term of 4 years.

Clinton T. Peoples, of Texas, to be U.S. marshal for the northern district of Texas for the term of 4 years.

The above nominations were approved subject to the nominees' commitments to respond to requests to appear and testify before any duly constituted committee of the Senate.

EXTENSIONS OF REMARKS

COAL SLURRY PIPELINE

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Ms. MIKULSKI. Mr. Speaker, I would like to add a few points to those of my colleagues in opposing the construction of the coal slurry pipeline. I outlined these in my additional views in the Commerce Committee report on coal slurry pipeline, and I feel that they bear repeating here:

First, I feel that we must look at coal pipelines from a national security point of view. We are growing more and more dependent on coal as our principal source of energy. At the same time, the Justice Department reports that the presence of terrorist and extremist elements in the country is increasing at an alarming rate. By moving our coal, which is vital to the economy, in such a vulnerable modality, we are asking for sabotage. We are already seeing the Alaska oil pipeline being bombed and sabotaged. Let us remember that the coal pipeline, in the vast desert of Arizona and New Mexico, is much more inviting to terrorists than remote Alaska pipelines.

Instead, we should continue to move our coal by rail, which offers flexibility of routes in the case of sabotage or emergency.

Furthermore, we must work to keep our rails healthy so that we can depend on them in the time of national crisis. The Department of Defense states that we could not have won World War II without our strong rail network. This need still applies in national defense. By continuing to move coal over the national rail system, we can continue to maintain the healthy, viable railroads that we need in the time of national crisis.

My other concern, Mr. Speaker, is one I share with many of my colleagues, that of the environmental impact of the coal slurry pipeline. I feel that we have not adequately addressed the problems of water acquisition and water disposal with the pipelines. This could conceivably drain the West dry, while at the same time flooding the Midwest and East with water that is contaminated by coal residue, and unfit for any use.

Also, I feel that any massive construction project such as this should undergo the strictest scrutiny to see what impact they will have on the wildlife of the West. The construction of the pipeline will cause massive disruption of many natural habitats. There is the potential that this disruption will be as massive as that of the construction of the railroads in the West 100 years ago, which speeded the destruction of the herd of bison and other wild animals. Congress has been very conscious in the past to assess the impact of such construction on our Nation's wildlife. While I am not suggesting another "snail darter" episode, I do feel that we may be making a large mistake in the opposite direction.

Mr. Speaker, I am very troubled by the national security and environmental implications of this coal slurry legislation, and I urge my colleagues to oppose it. Thank you.●

CAPTIVE NATIONS WEEK

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. BUCHANAN. Mr. Speaker, in 1776, Thomas Paine spoke of times that try men's souls. Two hundred and two years later, these words are particularly relevant to the millions of individuals under Soviet domination in the captive nations of Eastern Europe who yearn for freedom.

Today, they are being subjected to vicious assaults on their rights, liberties and cultures to an extent even greater than had been the case in recent years.

And so, it is particularly appropriate that we in the United States pay tribute during this annual Captive Nations Week to the millions behind the Iron Curtain who continue to strive for freedom.

During the negotiations in Geneva on the Helsinki Final Act, many individuals and groups expressed fears that the signing of the Helsinki accords would put the stamp of approval on the Soviet domination of the peoples of Eastern Europe.

The opposite has been the case. Since the signing of the Helsinki Final Act, greater attention is being focused on the violations of human rights within the captive nations by Western signatories to the accords.

Helsinki watch groups are active within the Eastern bloc countries. Their efforts are apparently proving embarassing to the Soviet Union and other Warsaw Pact nations who so blatantly violate these accords.

Those who are the most outspoken in defense of these basic human rights are perpetually harassed. Many are in jail. Others face serious criminal charges. One died following intensive interrogation.

I cannot agree with those sages of the press who predict that the arrest or exile of members of these watch groups will mean the end to the movement by those within the Communist bloc nations who are working to obtain their basic human rights and preserve their cultural heritages.

Those who are raising the banner of human rights are not summer soldiers or sunshine patriots, but individuals seeking to protect heritages and cultures which in some instances predate the Soviet Government by thousands of years.

Given our own experiences with the civil rights movement in the United States, I believe we will see strength born of adversity. In the civil rights movement, there were arrests, there were deaths. But, in the end, there was change, dramatic change.

The history and courage of the peoples of the captive nations belies predictions of the total suppression of the human rights movement.

They have faced repression, attempts at cultural genocide, religious discrimination—violations of virtually every human right which we in the United States hold so dear, but often take for granted.

Yet they have persevered. They have continued to press for freedom and for sovereignty. It is incumbent upon us to encourage that drive.

No, Mr. Speaker, the heavy paw of the Soviet bear will not stifle the voices of freedom. If past history is any indication, repressive tactics and efforts to silence these voices will serve to strengthen the cause of those who seek freedom.

Basket I of the Helsinki Final Act provides that "all peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development."

Yet another section of the final act pledges that the participating countries "will promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms, all of which derive from the inherent dignity of the human person and are essential for his free and full development."

In direct contravention to this principle, we have within the Soviet bloc nations the virtual cultural genocide and intensive Russifications of many peoples—Estonians, Latvians, Lithuanians to name but a few. In the Ukraine, the Soviet Government has succeeded in abolishing the Ukrainian Catholic Churches and is now turning its might on the culture itself. This is a practice repeated with virtually every minority group.

Mr. Speaker, 202 years ago, this Nation committed itself to the inherent dignity of the human person.

By signing the Helsinki Final Act, the Soviet Union and its Iron Curtain neighbors made a similar commitment.

I appreciate the opportunity to join with our colleagues today in expressing our prayers and support for those courageous individuals behind the Iron Curtain who cry out in the hope that one day the repressive governments which now dominate them will put into practice the pledges they have made.●

CAPTIVE NATIONS WEEK

HON. ROBERT P. GRIFFIN

OF MICHIGAN

IN THE SENATE OF THE UNITED STATES

Thursday, July 20, 1978

● Mr. GRIFFIN. Mr. President, as we honor freedom-loving peoples throughout the world during this 20th Captive Nations Week, recent trials in the Soviet Union serve as a grim reminder of the tyranny we abhor and that we must continue to combat.

Perhaps we should not be surprised about these latest convictions in the Soviet Union, based on that country's long history of trampling the basic human rights of individuals.

But the trials, timed as they were, do emphasize to us that the struggle for liberty must not be relegated to a 1-week-a-year ritual. For the realities of Communist aggression have shown us that freedom really is not free—but is contingent upon the continued vigilance of all who enjoy its benefits.

It is appropriate that each year we in the United States devote the third week in July—the month of our own independence—to commemorate the tragic plight of those living in the captive nations, and to reaffirm our commitment to the right of all people to self-determination, independence, and liberty.

Over the years, we have watched the rollcall of captured nations continue to grow. In 1920, eight countries made up that list. Thirty years ago—when Czechoslovakia and North Korea fell to the Communists—the list totaled 21. Today, after the fall of Indochina, no fewer than 30 countries must be counted as captive nations. And recent maneuvers by the Soviets and Cubans in Afghanistan. South Yemen, and Africa give little assurance that the list will not continue to grow.

This week, as we rededicate ourselves to the struggle for freedom for the victims of Communist aggression, let us remind ourselves that the fight for freedom is not waged just once a year, but every day, in every part of the globe, by countless millions who yearn to breathe free.

To that noble purpose, I lend my continued support and dedication.

Mr. President, I am pleased to be a cosponsor of the resolution offered by Senator DOLE expressing the sense of the Senate in support of Captive Nations Week.●

FINANCING COLLEGE EDUCATION: THE TAF PLAN

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. STUDDS. Mr. Speaker, Jimmy Carter, when running for President, put out a book entitled "Why Not the Best?" It was a good question. I raise it today with regard to the question of how our country is going to finance the increasing cost of college education.

John R. Silber, president of Boston University, has developed such a plan, the tuition advance fund (TAF) proposal. The Chicago Tribune, on May 29, ran an impressive first page story on the TAF plan. The Tribune story answers virtually all of the questions that have been raised regarding the TAF proposal.

The TAF proposal is the best of the three proposals that are before the Congress. So, I urge the House to keep the TAF proposal in mind for the 96th Congress which will have to act in 1979 to extend the Higher Education Act. The Higher Education Act should be amended to include the TAF proposal. Our colleague, MICHAEL HARRINGTON, has performed a very real service by introducing the Tuition Advance Fund Act, H.R. 12268. I hope that it will be reintroduced next year and enacted into law. TAF will, for the first time in our history, remove all financial barriers to higher education. TAF will fulfill a fundamental American commitment to give real educational opportunity to all

individuals without regard to their family's financial circumstances. TAF will do this while at the same time providing relief to the overburdened American taxpayer. For it is abundantly clear that TAF is by far the least expensive—in the long run—of all the proposals for financing higher education. The article from the Chicago Tribune follows:

[From the Chicago Tribune, May 29, 1978]

A PROPOSAL FOR PAYING COLLEGE COSTS

(By Casey Banas)

College students and their parents may be struggling with the high costs of education, but the president of Boston University believes there is a painless way to relieve the burden—for both students and parents.

John R. Silber is proposing that the federal government give students up to $5,000 a year for tuition and other college expenses. After graduation, the money would be paid back through 2-per-cent payroll deductions from salaries.

In an interview with the Tribune, Silber explained his proposal, which was introduced as a bill in Congress by Rep. Michael J. Harrington (D., Mass.). Following is an edited transcript of that interview:

Q. You have a proposal for students to finance their college costs. How would it work?

A. It is called the Tuition Advance Fund. After the successful completion of the freshman year in an accredited college or university, a student could apply to the federal government for the full amount of tuition plus up to $1,000 for other educational costs such as room and board. Up to $5,000 would be advanced by the federal government for each of the remaining three years of college education.

After graduation, the student would be obligated to repay that advance at the rate of 2 per cent of gross annual income through a payroll deduction system, or if self-employed, through a deduction under the estimated income tax. Payment would be for the rest of his working life or until he had paid off 150 per cent of what had been advanced. That 50-per-cent surcharge is to insure the Tuition Advance Fund against death, disability, or unemployment. The obligation to repay would be absolved by death or disability and be reduced by unemployment.

Q. How would the money be collected?

A. By the Internal Revenue Service. When he started to work, the W–2 form would be altered to ask, "Do you have an unfilled obligation under the Tuition Advance Fund?" If the answer is yes, then the employer would automatically deduct 2 per cent of the gross income.

If the person earns $20,000 a year, it would be a payroll deduction of $400 a year. At retirement, the obligation would be satisfied even if not fully paid off.

Q. You are familiar with defaults on student loans. Couldn't somebody duck payment?

A. There would be no way to do this because this is not a loan. It's an advance by the federal government repaid as a form of taxes. If a person filed for bankruptcy to avoid other debts and didn't work for a year, he would not be obligated to pay during that time. He would start paying again when he had another job. There would be no form of default covered by bankruptcy law.

Q. What would be the equivalent of an annual interest rate?

A. If you take the 50 per cent surcharge and assume the person had to pay 30 years, it would be the equivalent of 2 per cent.

Q. This would get parents off the hook saving money for their children's college expenses?

A. It suddenly would lift from their backs this tremendous burden and makes good sense in terms of American values. It satisfies a conservative value of Americans, namely that a person who receives a benefit ought to pay for it. Secondly, it answers to a fundamental liberal value that there should be equal opportunity.

No individual should be denied access or choice of any higher education institution because of inability to pay. Every qualified student would be able to finance a higher education. Parents would no longer suffer that full burden. That burden would be transferred in an unburdensome manner to the children.

Q. But it saddles people with a 2-per-cent payroll deduction for years.

A. A 2-per-cent payroll deduction, say, on $20,000 a year is $400. That's less than the average person spends on cigarettes. If we took the total cost of this program, we spend seven times as much on alcohol, three times as much on tobacco, and about twice as much on candy and ice cream.

Q. How much more does a college graduate expect to earn over a lifetime than someone who doesn't graduate from college?

A. The Department of Labor reports that an average college graduate earns over a lifetime $232,000 more than a person who has only graduated from high school.

Q. How much is a person likely to have to pay back after going to college?

A. If he went to an independent college he would pay back, on the average, $12,000 to $15,000. If he went to a public institution, he would pay back, on the average, $2,500 to $3,000.

Q. Why would you start with the sophomore year?

A. It is very important that the freshman year be used for self-discovery. The youngster, upon graduation from high school, doesn't know if he is cut out for college. If he can't make it, he ought to be able to leave without owing a lot of money.

Q. What about those who earn college degrees and never work, such as women who marry?

A. The woman who marries should pay when she works or her husband would assume part of her obligation. If both work, they would pay on their own salaries. If the man works and the woman never works, then the man would pay 2 per cent of his income and the wife would pay 2 per cent on one-half of his income. If a man earned $20,000 a year, he would pay $400, and on their joint income tax return she would pay $200. Their total contribution would be $600.

Q. What's to prevent colleges from increasing their tuition?

A. They could have a one-time upward adjustment of 10 per cent. Thereafter, no university or college that participated under this plan could raise tuition beyond the level justified by an increase in inflation.

Q. Would that be a federal restriction on tuition?

A. It would be a restraint for a university that wants to participate. Any university that doesn't want to participate can do whatever it pleases. Anyway, market forces would hold down tuition.

Q. What are the advantages of your plan over the federal student loan program and the tuition tax credit proposal pending before Congress?

A. The loan program suffers from a 13-per cent default rate. There's an enormous advantage over the loan program in the Tuition Advance Fund because there is no default.

Q. And the advantage over tuition tax credits?

A. Under the proposal in Congress, the maximum benefit would be from $250 to $500 a year. That's a small part of what has to be paid. Average tuition goes up $250 a year. Within two years, any advantage would have been exhausted by inflation.

The tuition tax credit plan will cost the federal government between $3.5 billion and $4.5 billion in lost revenues. The Tuition Advance Fund would cost about the same, depending on how extensively it is used. But it would be a tremendous stimulation of the economy without having any tax deductions. It would free up a large amount of money saved now by parents to finance college education.

The Tuition Advance Fund is a self-sustaining program. After one generation the fund will generate sufficient revenue under the payback to pay for itself—somewhere between 17 and 25 years.

Q. That's how Social Security was supposed to work.

A. This has a substantial advantage over Social Security. The number of people borrowing from the fund will be at a peak in the beginning. The number of people who will need it will decrease. We graduated our largest high school class in 1978. We anticipate a decline for the next 15 years in the number of students reaching 18 years of age.

That decline will be so severe that there will be 1.1 million fewer persons reaching 18 by 1990 than in 1978. That's a 30-per-cent decline. In Social Security, the number retiring is increasing.●

ANOTHER NATIONAL EMBARRASSMENT

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. RUDD. Mr. Speaker, the unethical conduct of the President's adviser on drug abuse, who has abused his own professional medical status in order to secure a powerful legally controlled drug for an associate under false pretenses is just the latest in a series of shocking embarrassments involving high-level Presidential appointees.

This misconduct was preceded only last week by the international humiliation to the President and the people of the United States, caused by the outrageous utterances of our United Nations Ambassador.

Before that, we had the financial improprieties leading to the resignation under fire of the President's Budget Director.

There have been several other instances of personal and public indiscretions and misconduct by close Presidential associates that suggest it is long overdue for the President to put his house in order.

The people of the United States should no longer have to suffer the indignity and humiliation caused by such injudicious behavior and abuse of position among the President's high-level associates.

The many instances of professional and personal misconduct within the White House inner-circle over the past 18 months have reflected badly on the moral and ethical character of this entire administration.

The President needs to take strong corrective action to rectify this sorry state of affairs.●

CAPITAL GAINS TAX CUT MEANS MORE JOBS, LESS INFLATION

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. LAGOMARSINO. Mr. Speaker, there has been a lot of misinformation given out on the effect of the proposed reduction in the capital gains tax rate. For the benefit of my colleagues, I do like to insert in the RECORD a column by economist Sylvia Porter which reports the findings of Merrill Lynch Economics, Inc. on this issue:

CAPITAL GAINS TAX CUT MEANS GAIN FOR ALL

(By Sylvia Porter)

Despite President Carter's startlingly misinformed, even reckless, attack on the mounting numbers of congressmen and senators who favor a cut in today's destructively tough capital gains tax in any law enacted in 1978, the odds continued to favor a moderate reduction.

What might this mean to you?

Not you, the millionaire American whom Carter has blasted as due for "huge tax windfalls" if the capital gains tax is lowered, rather than made still tougher, as he urges.

But you—the average jobseeker, jobholder, middle-income family, modest owner of stocks, a small business seeking to raise new capital to compete or expand, a would-be homebuyer who needs a mortgage, an elderly couple selling your home.

In sum, it could mean an improved chance of getting and keeping a job, ceiling on the cost of borrowing money for your business or home, a lower tax when you sell your home, even an easing of pressures on your cost of living because reducing the capital gains could cut the inflationary federal budget deficit not raise it.

All this is spelled out in a private report prepared by Merrill Lynch Economics, Inc., a division of the nation's largest financial services company—a copy of which I have just obtained.

The reasonable assumptions made by the Merrill Lynch Econometric Model of the U.S. economy from 1978's third quarter through 1980 are:

Any capital gains tax reduction approved by Congress would be close to the modest compromise plan sponsored by Al Ullman, the powerful Oregon Democrat who heads the House Ways and Means Committee. Ullman's proposal would cut back the capital gains tax from today's punitive 49 percent and 1979's proposed "reform" top of 52.5 percent to 35 percent.

This would be achieved merely by removing the complicated "tax preference" label from capital gains and eliminating all the complex alternative tax methods—both major tax simplifications.

A ceiling of 35 percent would be acceptable to an impressive number of liberal Democrats as well as Republicans—and would help average families as much as (if not more than) the millionaires singled out for Carter's wrath.

Specifically, by including a top 35 percent capital gains tax along with other tax changes in its Econometric Model of the U.S. for the end of 1978 through 1980, Merrill Lynch's forecast is improved to this degree:

The "real" growth in our economy (gross national product with the impact of price hikes on the dollar totals wipe out) would be accelerated from a 3.3 percent average annual growth to 3.4 percent.

Tiny as that 0.1 percent seems, it would create 100,000 additional jobs by 1980 and lower the jobless rate from 5.7 percent to 5.6 percent (near a realistic bottom in our economy).

Business investments in new plants and equipment would rise $1.5 billion—an increase in spending which is vital to enhancing our productivity (efficiency), control of inflation and competitiveness in the world's trading markets.

Reduce our federal budget by $1.4 billion in 1980—on the premise that a lower capital gains tax would spur sales of securities now "locked in" because the owners balk at paying so punishing a tax on gains. This is a fundamental point because it explains how a lower tax of this type can actually raise the Treasury tax take by encouraging sales and payment of taxes on gains.

Raise stock prices an average of 2 to 3 percent (an extremely conservative estimate), making it easier for small as well as larger businesses to raise new capital through sales of stock.

Reduce long-term interest rates by a moderate fraction of a percent—at the very least putting a ceiling on home mortgage rates and other borrowing costs.

This coming week (to start July 17), House Ways and Means will resume writing a tax bill which a majority of the committee will approve and which will have support of leaders in both houses. Assuming it contains the Ullman compromise, it will be far more than what Carter denounces as "two bits for the average American."

And if the White House vetoes tax legislation both Houses favor, the President will risk a humiliating (and to our economy, violently upsetting) overriding of his veto.●

BLACK LUNG FIELD OFFICE LOCATIONS

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. RAHALL. Mr. Speaker, I would like to take this opportunity to inform my colleagues on the recent decision by the Department of Labor to locate field offices to inform black lung victims and their families of the provisions of the Black Lung Reform of 1978, which this Congress has passed.

I have written Secretary of Labor Marshall, expressing my concern with the locations of the offices in southern West Virginia, and many of my colleagues who are concerned with the well-being of black lung victims and their families may also want to check on the location of field offices in their States.

The text of my letter follows:

DEAR SECRETARY MARSHALL: It has come to my attention that in a recent decision by your Department, the sites for two field offices that will serve as information centers for the Black Lung program, have been selected for southern West Virginia. Beckley and Princeton are the two locations, with a District Office to be located in Charleston.

Although I am pleased that black lung victims and their families will now have an opportunity to discuss their individual claims with Department of Labor representatives in the State, I believe a severe void exists in the location of these two offices.

Beckley, which is my home, is an excellent location for a field office. The Beckley area is one of the fastest growing in the State, and is the home of the United Mine Worker's largest single local union with almost 2,000 members.

The Princeton Field Office will also be of a great benefit to black lung victims and their families, however I believe the lack of a Black Lung Field Office in either Logan or Welch is not only a mistake on the part of those who made the selection, but also a disservice to those who live in the largest coal producing region of West Virginia.

The residents of both Logan and Welch are isolated to an extent from either of the present field office locations. Due to the condition primary and secondary roads in this part of the State, it could take from 2½ to 5 hours for a miner and his family to reach one of the present office locations.

My own Congressional Office in Logan almost solely handles black lung cases, and Welch is the center of the largest subdistrict of UMWA District 29. Without a doubt, both of these towns are located in the heart of coal country.

I urge a reconsideration of field office locations in southern West Virginia. To me, an additional field office in either Logan or Welch is greatly needed, and would keep more in line with the intent of the legislation which not only seeks to improve the Black Lung program but also allows black lung victims and their families greater accessibility to DOL representatives in the coal fields.●

HALLIE TENNER

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. WAXMAN. Mr. Speaker, the Los Angeles community has lost a dear friend and a champion of human rights—Hallie Tenner. Although Los Angeles claims her, Hallie's lifelong efforts have made her known and loved everywhere in our country where her work has helped people. Paid or volunteer work—it made no difference to Hallie.

What mattered were the end results she worked so hard for. It is difficult to remember any time these past years when Hallie was not involved. Starting with a research project in a Chicago law firm, she worked with "Head Start," organized "People Care," was parent coordinator for a high school experimental program, and a yearly organizer for annual ACLU bill of rights dinners. She was involved in many political campaigns, served as co-chairperson of the Mayor's advisory committee on the status of women, and was appointed president of the Los Angeles city commission on the status of women. Hallie also served as the California coordinator for congressional hearings on the displaced homemaker. She was a member of the Democratic National Committee and a member of the compliance committee of the 1978 mini-conference. In 1975 the American Civil Liberties Union honored her with its woman of the year award. This is, however, only a listing of some of the activities Hallie Tenner engaged in.

It does not give us the picture I would like to share with the Members, of the warm, loving, giving, understanding, sharing person which was Hallie Tenner.

Her husband, Jack and her children Monica and Scott will try to keep the ripples moving outward which made Hallie only the center of a philosophy of service to her fellow human beings; her dedication inspired so many others to go and do likewise that it is impossible to judge her ultimate influence.

I do not want to memorialize Hallie Tenner's passing. I would prefer instead to celebrate the life she spent amongst us and the many gifts we received at Hallie's hands. Her deeds will live, and in them Hallie lives.●

HATCH ACT REPEAL TO CIVIL SERVICE REFORM ACT

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. DERWINSKI. Mr. Speaker, the two influential Washington newspapers, The Star and The Post, have wisely reached the same conclusion in two separate editorials on the diabolical insertion of the politically motivated Hatch Act Repeal into the Civil Service Reform Act.

That is, Hatch Act Repeal seriously imperils the prospects for enactment of meaningful Civil Service Reform legislation.

I commend the following editorials to my colleagues' attention:

[From the Washington Post, July 19, 1978]

HATCH + CIVIL SERVICE = 0

President Carter's proposed revision of the laws governing civil service was—when he sent it up to Congress last winter—a pretty ambitious thing. As might have been expected, it has been revised downward and made more modest in some respects by the legislators. In the Senate, provisions that would have eliminated extravagant preferential treatment of veterans have been removed. A House committee has been altering the measure with a view to making it more agreeable to labor groups, mainly by tightening up its various protections of employees.

This, of course, has been done pretty much at the expense of the president's effort to give administrators in government a stronger hand in managing civil-service employees. But no one supposed the legislators in either the Senate or the House would merely rubber-stamp the administration's proposal, and the changes made thus far have seemed to be well within the range of the kind of final negotiation between Senate, House and administration that could lead to a genuinely good and useful reform bill.

We say "thus far," because now, in the House, the affair has taken a turn that may prove fatal to civil-service reform of any kind this year. A group of Democrats in the House Post Office and Civil Service Committee has appended to the bill the even more sensitive and controversial legislation aimed at overhauling the Hatch Act. This legislation, which would reduce the prohibitions against federal workers' becoming involved in political activity, is greatly favored by the unions and passionately opposed by large numbers of Republicans—and the upshot is that with the Hatch Act legislation stuck onto the civil-service reform, the Republican support for civil-service reform largely vanishes.

Although we ourselves do favor a liberalization of the Hatch Act's restrictions on federal workers' political rights, the joining of these two measures—to the ultimate defeat of both—strikes us as a pointless and damaging act. It's not as though the civil-service reform minus the Hatch Act provisions were an incomplete change, one that required the Hatch revisions for purposes of fairness or equity. The civil-service reform can stand on its own. With the freight of the Hatch Act liberalization it almost certainly will collapse. There is not much time to undo the unfortunate handiwork of the Post Office and Civil Service Committee in this respect—at least not if there is to be legislation this year. It will be a grimly ironic outcome to a large Democratic promise, if members of Mr. Carter's party in Congress contrive to sabotage his sound (and politically popular) effort to make the bureaucracy work better—especially when that effort, unencumbered by Hatch legislation, stands a good chance of enactment.

[From the Washington Star, July 17, 1978]

HATCH ACT REVISIONIST NEVER QUIT

The House Post Office and Civil Service Committee is insistent on forcing partisan political activity on federal workers, whether they want it or not.

Having passed a bill to remove the Hatch Act's prohibition against such activity and having seen the bill stymied in a Senate committee, the House committee hit upon another tactic the other day: attach the Hatch Act revision to President Carter's civil service reform bill.

As everyone ought to know by now, the main push for revision of the Hatch Act does not come from government employees but from leaders of government employee unions who see the change as an opportunity to increase their political muscle and gain additional union members. So it was not unusual to find Rep. William Clay, D-Mo., a firm ally of organized labor, as the sponsor of the amendment approved Friday by the House committee.

We gather from the Star's news account that the House committee action was something of a face for Mr. Clay whose yeoman efforts the past several years on behalf of Hatch Act revision have not so far resulted in a change in the law. After first rejecting Mr. Clay's amendment by an 11–10 vote, the committee turned around the next day and approved it 13–10. The favorable vote no doubt had a favorable influence on the purchasers of tickets to a hometown fund-raising testimonial scheduled over the weekend for Mr. Clay.

An important factor in the committee's switch from rejection to approval was the vote of Chairman Robert Nix, D-Pa. Mr. Nix first voted against the Clay amendment but voted for it the next day. When a reporter asked why he switched, Mr. Nix replied, "I have very good reasons," but declined to elaborate. It might be interesting to find out what the reasons were.

Although President Carter supports the proposed Hatch Act revision, the House committee didn't do him a favor by attaching it to his civil service reform bill. If the amendment stays attached it might seriously damage chances of getting the Carter bill through Congress.

Those who oppose revision of the Hatch Act argue, correctly in our opinion, that removing the ban on partisan political activity could lead to politicization of the federal work force. And the Carter civil service reform bill would somewhat loosen job protection of federal workers. Sen. Charles Mathias, R-Md., recently warned that enactment of both could make the federal service "the most partisan it's been since U.S. Grant."

The civil service reform bill should not be cluttered up with a pet project of Mr. Clay and the federal worker unions. Hatch Act revision ought to stand or fall on its own—preferably fall.●

PRIMARY HEALTH CARE ACT OF 1978

HON. ANDREW MAGUIRE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. MAGUIRE. Mr. Speaker, today I am pleased to introduce with Representatives GREEN, HARRINGTON, HUGHES, MARKEY, RAHALL, VENTO, WALGREN, and WAXMAN the Primary Health Care Act of 1978. This bill was introduced in the Senate by Senators JAVITS, WILLIAMS, SCHWEIKER, RANDOLPH, CHAFEE, DOLE, and DECONCINI on April 11, 1978, as S. 2879 and has subsequently been incorporated as title II of S. 2474, the Health Services Extension Act of 1978. This provision of the Senate bill has now been approved by the Human Resources Committee and referred to the Senate floor for action.

The Primary Health Care Act of 1978 is concerned with the delivery of primary health care to medically underserved populations in the United States. By "primary care" I mean continuous and comprehensive patient management, including treatment for acute illnesses, by a responsible provider who enjoys a personal relationship with the patient. By medically underserved population, I am using the criteria established by the Department of Health, Education, and Welfare, which currently take into account percentage of population over 65, percentage of population living in poverty, infant mortality rate, and physician-population distribution.

Traditionally, primary health care has been provided by "family doctors." In an earlier era, it was not uncommon for Americans to have personal physicians who managed the health care of all family members. Today, in a medically specialized and mobile society, such a pattern of care is the exception rather than the rule. Medical care delivery tends to be discontinuous, incomplete and impersonal.

This situation is particularly acute in urban inner-city and isolated rural areas. These settings tend not to command their fair share of medical resources, often being classed as "medically undeserved." Either no medical care is offered and patients must travel long distances to receive assistance, or the care which is offered is inadequate and undesirable for the reasons already mentioned. In sparsely populated rural areas, this can relate to absent or inadequately trained practitioners. In urban inner-city areas the situation may be similar, or care may be provided in large institutional settings with little regard to patient need and comfort.

Too often in rural areas we find inadequately used hospitals—often built with Hill-Burton funds—coexisting with private practitioners who work out of private offices, utilizing the hospital only for inpatient or emergency care. Despite financial difficulties in maintaining the hospital, little thought is given to its potential for use as a primary care facility, bringing together the local community physicians and the little used hospital building. My bill would make

this possible through grants in aid to rural hospitals whose physician community wishes to join them in the community-based delivery of primary care.

In the cities there is another, perhaps even more difficult problem. That is, the inappropriate delivery of primary care through hospital emergency rooms and outpatient clinics, the latter often established for the delivery of specialty care. In such settings, patients, normally recipients of public assistance, tend to receive inadequate care with little or no management by personal, primary care physicians.

My bill would correct this situation. In participating hospitals it would require that primary care be delivered in a hospital-affiliated primary care center, in or adjacent to the sponsoring hospital. It would require that this care be delivered by a group of primary care physicians, devoting all or most of their time to care for that patient population. It would further mandate the hospital in question to discontinue the delivery of primary care through currently utilized, but inappropriate settings, such as the emergency room and specialty clinics.

My bill also protects the hospital-affiliated primary care center patient by assuring that sponsoring hospitals operate these programs as independent cost centers, which are not to be assessed charges for unrelated in-hospital services. Further, provision is made for a consumer dominated hospital-affiliated primary care center advisory board, which shall have veto authority over any primary care grants received as a result of this bill. Finally, there are a number of provisions in the bill which assure that any participating hospital reorients its services toward primary care and for the benefit of participating patients.

My bill, then, concerns itself with primary care and the relationship of hospitals to the delivery of this care. While accepting most of the provisions and principles underlying the community health center movement, this bill takes into account special problems and needs of hospitals in the delivery of comprehensive primary care to underserved populations. The hospital-affiliated primary care center concept is offered in response to the recognition that, while some hospitals have demonstrated an extraordinary capacity to deliver care in this manner, most hospitals have not done so. Under my bill, they both would and could make the kinds of changes about which I have been speaking.

Mr. Speaker, the Primary Health Care Act of 1978 has a second function. That is to promote the development of innovative primary care delivery systems in both urban and rural areas. It would do so under a research and demonstration authority which instructs the Secretary to fund research and demonstration applications in 10 specified areas.

This section is a derivative and proposed expansion of the existing HURA (health underserved rural areas) program, funded by the Social Security Administration and operated by the Department of Health, Education, and Welfare for the past several years. Traditionally, this program has been used to fund projects which could not be supported out of community health center funds, either because of the nature of the sponsoring organization or the kind of service proposed to be delivered. For example, HURA funds can and have been awarded to private practice groups without community boards, and have been used for demonstration programs such as the installation of medical communications equipment. Meanwhile, funding concentration for rural and urban health initiative projects has been primarily focused on direct patient care services under the supervision of a controlling community board.

In considering the HURA program this year, the House Interstate and Foreign Commerce Committee recommended a simple 1-year extension with a $13.5 million authorization. No new project starts would be authorized in fiscal year 1979, with the exception of those whose applications had been received before the end of the current fiscal year.

My bill would significantly broaden and extend the HURA program by bringing it into the research and demonstration authority of the Primary Health Care Act of 1978. By clearly specifying 10 areas where the Congress expects the Secretary to provide funding assistance, accountability problems that have bothered Congress in the past with respect to open-ended developmental programs are avoided. Here we not only specify what programs the Secretary shall fund, but stipulate that he shall make an effort to support project applications from each of the 10 areas identified by the Congress.

So as to safeguard further the integrity of this program, and to insure that congressional intent is met, my bill provides that the Secretary shall submit an annual report to the Congress including a description of actions taken, services provided, and funds expended under this section. In other words, every effort is made to assure accountability by the Secretary for administration of this primary care research and demonstration authority. At the same time, such a provision provides for experimentation and innovation in a field that has too often remained static and unchanging.

Mr. Speaker, the third and final major provision of the Primary Health Care Act of 1978 is to establish a Commission on National Primary Health Care Needs, to be composed of 17 members appointed by the Secretary of Health, Education, and Welfare. This Commission will contain representation from urban and rural areas, as well as input from a number of representative fields in the primary care sector.

Specifically limited to a 2-year lifespan, the Commission shall be charged with development of a national strategy to assure equal access to primary health care for all individuals; an evaluation of Federal efforts to correct maldistribution of health resources; an assessment of numbers and locations of medically underserved people; an assessment of the resources necessary to provide equal access to primary care for all individuals; and an assessment of primary care needs for immigrants, including access to health care services. In addition, the Commission may conduct such other studies as it considers appropriate.

The advantages of such a Commission, as I see them, are to focus national attention on primary care needs. The Commission will address a number of problem areas and recommend solutions, and will terminate its activities after completing assigned congressional objectives.

Mr. Speaker, I realize we are in a period of national concern over excess spending, be it at the local, State or Federal level. I am among those who are deeply concerned about high taxes and the inequitable hardships which they bring upon our citizens. I join with those of my colleagues who would analyze critically every additional spending proposal brought before the Congress, and weigh its spending levels carefully against national needs.

In the present instance I feel this bill will contribute to better control of costs by more carefully specifying how funds authorized in legislation and already approved by the Interstate and Foreign Commerce are to be spent. In this regard, the committee has already recommended to the full House a Health Centers Extension Act (H.R. 12460) which contains authorization levels sufficient to cover most of the programs called for in the Primary Health Care Act of 1978. The difference lies primarily between the specificity of my bill, and the less restrictive provisions in the current committee bill. In other words, I specify in my bill that $35 million shall be used during fiscal year 1979 for the establishment of hospital affiliated primary care centers. H.R. 12460 simply added some $50 million to the overall community health center authorization, with the understanding that one of the purposes to which it would be put by the administration would be development of hospital related community health centers. My bill identifies how this would be done.

The current committee bill also contains funds to extend the existing HURA program at a level of $13.5 million for 1 year. My bill would provide $20 million each for research and demonstration programs in urban and rural areas. Once again, considering the extra moneys included in the more general authorization level for community health centers, with report language indicating that the administration will use this money for such experimental programs as prepaid health care, my bill would specify how this should be done.

Finally, my bill provides a one-time authorization level of $5 million for the Commission on National Primary Health Care Needs. Considering the cost of other major studies of this type and the massive, annual, Federal expenditures for health care which this study could help target more effectively, this would appear to be a reasonable sum for so extensive and important an undertaking as is called for in the charge to the Commission.

It should be noted that in the case of the hospital affiliated primary care centers and the primary care research and demonstration projects, a 3-year au-

thorization level is provided for. In the former case, second and third year funding is $60 million and $75 million respectively; in the latter case it is $25 and $30 million each for urban and rural research and demonstration projects.

A significant addition to my bill is the requirement that the Comptroller General shall evaluate the operations not only of hospital affiliated primary care centers called for in this bill, but of community health centers and migrant health centers as well. A report shall be delivered to the Congress no later than 30 months after enactment of this section on the performance of each of these programs. Finally, my bill makes provision for utilization of Federal funds to initiate prepaid health care in each of the three programs just mentioned, without drawing upon funds provided for in the Health Maintenance Organization Act.

Mr. Speaker, I would like to summarize this presentation by saying that the Primary Health Care Act of 1978 would take us as a people and as a Nation one step further toward our goal of providing continuous, comprehensive and personal health care for every American. It would do so by reorganizing health care delivery in a select group of our Nation's hospitals, stressing the development of patterns of primary care. It would further promote innovation and experimentation, with careful monitoring by the Congress, of programs in primary care delivery for both urban and rural areas. Finally, it would focus national attention on the issue of primary care for a 2-year period through activities of the Commission on National Primary Health Care Needs.

No one piece of legislation will take us to the goal of quality care equally accessible to all our citizens. This legislation will not do that. It will, however, take us somewhat closer than we are today. In that spirit, and with that intent, I enthusiastically endorse and present to the House for consideration the Primary Health Care Act of 1978.●

THE PROUD ARMENIANS

HON. GEORGE E. DANIELSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. DANIELSON. Mr. Speaker, I wish to call the attention of my colleagues to an outstanding article entitled "The Proud Armenians" in the June 1978 issue of National Geographic magazine.

It is a well-written, searching analysis by assistant editor Robert Paul Jordan, with outstanding photographs by my good friend, Harry N. Naltchayan. Included are a recounting of the persecutions, the exodus to other lands, the exemplary citizens of Armenian heritage in the United States, and a great deal more.

What emerges from the article is the profound perseverance of the Armenian spirit, and the greatness and goodness of the Armenian people. Someone once said that there are two kinds of people on this Earth—those who are Armenian and those who wish they were. For the uninitiated, this article helps to explain why.●

COMMEMORATIVE SALUTE TO THE PEOPLE OF CAPTIVE NATIONS OF THE WORLD ON THE 20TH OBSERVANCE OF CAPTIVE NATIONS WEEK JULY 16–22, 1978

HON. ROBERT A. ROE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. ROE. Mr. Speaker, I join with our colleagues Congressmen DANIEL FLOOD of Pennsylvania and EDWARD DERWINSKI of Illinois in the commemorative salute to the people of captive nations throughout the world on the 20th anniversary observance of Captive Nations Week, July 16–22, 1978.

During Captive Nations Week it is appropriate that we here in America join with all freedom-loving peoples in reasserting our dedication to achieving universal understanding and sympathy from the worldwide international community of nations to halt the usurpation of the States and fundamental rights of the oppressed people of captive nations whose religious and cultural freedoms as well as their right to emigrate are being rejected by an unjust and cruel exercise of authority.

The 86th Congress adopted Public Law 86–90 in condemnation of the imperialistic policies of Communist Russia which subjugated the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Rumania, East Germany, Bulgaria, Armenia, Azerbaijain, Georgia, North Korea, Albania, Udel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, Cuba, and others. The President was also authorized and requested by this congressional resolution to issue a proclamation each year designating the third week of July as "Captive Nations Week" until such time as freedom and independence is achieved for all of the captive nations of the world.

In subsequent sessions, Members of Congress have consistently recorded our denunciation of the Soviet annexation of the Baltic area in resolutions which I had joined with many of our colleagues in sponsoring expressing the sense of the House of Representatives in the nonrecognition of the Soviet Union's annexation of the Baltic nations. We have voted unanimously, with no one dissenting, strongly affirming our agreement for the adoption of this tenet on behalf of the just cause of the Lithuanians, Estonians, and Latvians in the U.S.S.R.

The enactment into Public Law 94–304 on June 3, 1976 of the legislative measure which I also sponsored establishing a Commission on Security and Cooperation in Europe to monitor international compliance with the Helsinki Accord also reaffirms our fullest dedication to seeking international communion and international understanding of the plight of these oppressed people to help restore their basic human rights to freedom of thought, conscience, and religion.

Mr. Speaker, with your permission I would like to insert at this point in our historic journal of Congress the full text of the resolution I joined with Congressman ROBERT K. DORNAN of California and others in sponsoring during the current 95th Congress which reaffirms our commitment to this essential moral principle of self-determination for the Baltic States. House Concurrent Resolution 319 reads, as follows:

H. CON. RES. 319

Whereas the United States, since its inception, has been committed to the principle of self-determination;

Whereas this essential moral principle is also affirmed in the Charter of the United Nations;

Whereas the Union of Soviet Socialist Republics is, according to its constitution, a voluntary federation of autonomous republics;

Whereas the three Baltic Republics (the Republic of Lithuania, the Republic of Latvia, and the Republic of Estonia) did not become member republics of the Union of Soviet Socialist Republics voluntarily, but rather were occupied militarily by the Russian Armed Forces in the early days of World War II and subsequently incorporated by force into the Union of Soviet Socialist Republics and have since been governed by the governments approved by, and subservient to, the government of the Union of Soviet Socialist Republics;

Whereas the ethnic makeup of the Baltic peoples (the Lithuanians, Latvians, and Estonians) is distinctly foreign in language, culture, common traditions, and religion from that of the Russian people;

Whereas, by deportation and dispersion of the native populations of the Baltic States to Siberia and by a massive colonization effort in which Russian colonists replace the displaced native peoples, the Soviet Union threatens complete elimination of the Baltic peoples as a culturally, geographically, and politically distinct and ethnically homogeneous population;

Whereas, despite such treatment, the spirit of the citizens of the Baltic States is not broken and the desire of the citizens of the Baltic States for national independence remains unabated;

Whereas the United States has consistently refused to recognize the unlawful Soviet occupation of the Baltic States and has continued to maintain diplomatic relations with representatives of the independent Republics of Lithuania, Latvia, and Estonia; and

Whereas the United Nations and the United States delegation to the United Nations have consistently upheld the right of self-determination of the people of those countries in Asia and Africa that are, or have been, under foreign imperialist rule: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the President and the Secretary of State should take all necessary steps to bring the Baltic States question before the United Nations and to urge that the United Nations request the Soviet Union—

(A) to withdraw all Russian and other non-native troops, agents, colonists, and controls from the Republics of Lithuania, Latvia, and Estonia, and

(B) to return all Baltic exiles from Siberia and from prisons and labor camps in the Soviet Union;

(2) until the Baltic States become independent, the Secretary of State should, through such channels as the United States Information Agency and other information agencies of the United States Government, do his utmost to bring the matter of the Baltic States to the attention of all nations by means of special radio programs and publications;

(3) the United States should not agree to the recognition, by an international conference, of the Soviet Union's unlawful annexation of Lithuania, Latvia, and Estonia, and it should remain the policy of the United States not to recognize in any way the annexation of the Baltic States by the Soviet Union;

(4) the President should require that all government map publishers, and should request that all private map publishers, show, on all maps of Europe, the Republics of Lithuania, Latvia, and Estonia as independent states, with a footnote explaining that the military occupation and forced incorporation into the Soviet Union of Lithuania, Latvia, and Estonia has never been recognized by the United States;

(5) the right of self-determination should be returned to the peoples of Lithuania, Latvia, and Estonia through free elections conducted under the auspices of the United Nations after Soviet withdrawal from the Baltic States; and

(6) the right of self-determination should be made a prime political objective of the United Nations and should be accorded through free elections under the auspices of the United Nations to all peoples now involuntarily subjugated to Soviet communism.

Mr. Speaker, I trust that our congressional recognition of the seriousness of the plight of the people of the Captive Nations of the World will help hasten the solution that will remove Soviet domination, unjust treatment, discrimination and oppression of the human rights of the individual and achieve national sovereignty for the states of these courageous people, insuring their rightful place in international communion with all nations and all peoples throughout the world.

THE STATE BAR OF SOUTH DAKOTA RESOLUTION FOR REPEAL OF THE CARRYOVER BASIS PROVISIONS OF THE TAX REFORM ACT OF 1976

HON. JAMES ABDNOR

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. ABDNOR. Mr. Speaker, with the adoption of the 1976 Tax Reform Act of 1976 came a provision known as the "carryover basis." This provision has become a nightmare for anyone involved in probate administration and an additional source of grief for those heirs who are many times forced into selling a farm or business for which the deceased member has worked a lifetime, just to pay the additional estate taxes.

In emphasizing my continued opposition to this unworkable measure, and in continuing to seek its ultimate repeal, I would like to commend to the attention of my colleagues, a resolution passed recently by the State Bar Association of South Dakota, which also calls for the repeal of the carryover provision of estate tax law.

The resolution is as follows:

Whereas, the members of the South Dakota Bar have had an opportunity to analyze the provisions of the Internal Revenue Service Code dealing with the carryover basis of certain property acquired from a decedent dying after December 31, 1976, and the members of the bar being of the opinion that these particular provisions of the tax reform act of 1976 would not benefit the residents of the State of South Dakota and particularly the agricultural industry.

Now therefore, be it resolved by the State Bar of South Dakota that this organization is for the complete repeal of carryover basis and in support of H.R. 6715–3 (c) and S. 2227 which provide for the delay in the effective date of carryover basis until December 31, 1978 or 1979 and S. 1954 introduced by Senator Curtis for the complete repeal of carryover basis.

Be it further resolved, that the secretary of this body be directed to send a copy of this resolution to the South Dakota Legislative Delegation in Washington, D.C. and to all members of the House of Representatives and U.S. Senate.●

CAPTIVE NATIONS' WEEK; OUR VIGILANCE MUST CONTINUE

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. COUGHLIN. Mr. Speaker, as we enter the 3d week of July, we mark the 20th anniversary of Captive Nations' Week, a time dedicated to the plight of those living in the Baltic States of Lithuania, Latvia and Estonia.

Recent events serve as a reminder to us all that the rights of individuals throughout the world today are often trampled upon by authoritarian governments. The Soviet Union, despite its position as a voluntary signatory country of the Helsinki Agreement, continues to ignore the guarantees spelled out in the accord. With conscious contempt, the Governments of Cambodia, Vietnam, the Soviet Union and the Baltic States among others impose their will upon the unfortunate millions who live within their borders. Walls have been built to separate families, labor camp systems have been established in some of the world's most inhospitable regions, and mock trials have been staged with alarming regularity. An individual who practices his religion, speaks his mind publically or privately, or wants to start a new life in a new land often risks his job and his personal safety as well as that of his family.

These conditions force those of us in the "Free World" to use our freedom constructively. Time and again the power of world opinion has been successfully wielded in showing authoritarian governments that the American human rights campaign is a serious one. This annual commemoration for the Captive Nations takes on added meaning in 1978 as the Soviet authorities step up their campaign to silence the dissidents seeking the basic human rights guaranteed to them by Soviet internal law as well as through the Helsinki accord. The proceedings and results of the Shcharansky, Ginzburg and Orlov trials insult the sense of justice nurtured and preserved in America over the last 200 years. Lithuanian dissident Viktoras Petkus, whose only crime was to monitor his nation's compliance with the Helsinki Agreement, received a 15-year sentence of imprisonment and internal exile in another trial that had little to do with justice.

With inflation, unemployment, energy problems and the SALT talks, Americans are distracted from the systematic stifling of free minds that is life in many parts of the world. However, it is imperative that we take whatever actions are necessary to assure the rest of the world that our country still stands by the founding ideals that guarantee all people their basic human rights.●

ARTS IN AMERICAN LIFE

HON. JAMES M. JEFFORDS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. JEFFORDS. Mr. Speaker, in recent testimony before the House Appropriations Subcommittee on Interior, Michael Newton, president of the American Council for the Arts, raised the issue of the ever-increasing significance of the arts within our society. Indeed the desire for a greater role for the arts within American life has been called for by society itself. The number of community art agencies—organizations concerned with the development of arts at a local level—has grown from 100 10 years ago to our most recent figure of 1,800. Local political leadership has also realized the importance of the arts, as exemplified by the National League of Cities at its annual meeting last December. What was especially significant was the correlation the officials made between the arts and other objectives, such as economic development, employment, and education. These local community art agencies have a definite role to play in breathing new life into communities, both urban and rural. What is sorely needed, however, is funding to support these art agencies.

A case in point is the Arts Council of Windham County (ACWC), based in Brattleboro, Vt. The ACWC is made up of 12 art organizations with a wide representation from various art fields: Music, drama, dance, film, and the visual arts. It has provided a valuable service to the southern Vermont arts community through its task of coordination, communication, services, and education programs. The past year however has been a struggle for the ACWC. It has been torn between providing a valuable community service and maintaining its own existence. A fine account of the struggles and frustrations of the ACWC is provided in a recent article by Karen Meyer Rappaport, the executive direc-

tor of the ACWC. The text of that article now follows:

[From the April newsletter of the University of Massachusetts Arts Extension Service]

A PIONEER COMMUNITY ARTS COUNCIL IN VERMONT: WAITING FOR THE WAVE OF THE FUTURE

(By Karen Meyer Rappaport)

We are told, these days, that the cultural wave of the immediate future is community arts. Joan Mondale believes in it. The National Endowment for the Arts gives indications of future support for the concept. And state arts councils including Minnesota, Massachusetts and New York have backed their belief with millions of dollars, to create or strengthen a network of professionally directed community arts agencies.

Has all this national activity affected the work of the Arts Council of Windham County, in Brattleboro, Vermont? Not yet.

The Arts Council of Windham County (ACWC) is in many ways an anomaly in the state of Vermont. So, for that matter, is Windham County. Traditionally, the pulse of the state beats strongest at least 100 miles to the northwest. In fact, Brattleboro is nearly equidistant, by car, between Burlington, Vermont, and New York City.

URBAN IMMIGRANTS

In the past two decades, Windham County has been the jumping-off point for countless urban immigrants, who have, for better or worse, changed the complexion of the region. Along with the fresh coffee bean, the bagel, the French lettuce drier and the Cuisinart, have come practitioners of the fine and performing arts, and expanded audiences for their talents.

The twelve arts organizations that currently comprise the governing body of the Arts Council of Windham County represent most artistic disciplines, including music (both traditional and classical), drama, dance, film, and the visual arts; with standards that range from highest professional to highest amateur. In addition, the current ACWC Directory of the country's artists indicates that a probable 20 percent of the population are active artists or craftspersons. (This burgeoning activity contrasts with other Vermont regions that have to look elsewhere for talent. An arts administrator in Rutland said of the 100-page ACWC Directory: "It's wonderful—but a Rutland directory would be much easier to write: it would fit on a 3×5 card.")

In spite of this cultural climate, many southern Vermonters still take little interest in the arts. There is virtually no arts education in the county's schools, and only now, under the direction of the ACWC, is the concept of aesthetic education being introduced to schools via an ESEA Title IV program. The most recent census tells us that a shocking 42.9 percent of Vermonters over 25 have not completed high school, and in 1976 that average per capita income of Vermonters was $5,400, placing Vermont 37th in the United States in income.

The ACWC was created in 1974 to respond to the needs of the Southern Vermont arts community for coordination, communication, services, and education programs. Its structure, that of a professionally directed "umbrella" agency, makes it unique among Vermont's tiny group of community arts councils (most of which are volunteer organizations that function more as concert brokers than as diversified community councils).

Its limitations, too, make it unique. The ACWC does not compete for funds with its member organizations. It depends on voluntary contributions and on grants for its ongoing programs. This funding structure, while perfectly reasonable on paper, means that the Arts Council must devote valuable administrative time to a non-stop struggle for existence. (In Windham County, the possibility of municipal funds to support the arts lies far in the future. While the Arts Council enjoys a cooperative and even close working relationship with the town of Brattleboro, tax dollars are never allocated to organizations not controlled by the town administration. And state fiscal support for the arts is limited to a $80,000 grant to the Vermont Council on the Arts, the state arts agency, for its own annual operating expenses.)

HALF A MILLION DOLLARS

A glance at the 1978 budgets of the Arts Council member organizations shows expenditures that total nearly half a million dollars. This figure would balloon if any of the groups were to own the facilities they now rent or borrow. Since the Brattleboro population is approximately 15,000, and the county's 33,000 residents are spread over 49 small towns and villages, who is picking up the tab for all this activity?

The answer is not simple. CETA salaries, which are by nature temporary, keep some of the organizations alive, and provide clerical or special projects staff to others. Grants from the VCA, from private foundations, from benefactors, and the occasional plum from the National Endowment for the Arts, are crucial. It is safe to say that only the smallest of the groups would be able to support their present activities using only ticket sales, advertising, and local contributions—even though individual donor support, given the small population, is virtually heroic. For example, the most frequently used performing facilities do not nearly approach a break-even size: the popular West Village Meeting House, in Brattleboro, seats a crowded 300. The intimate Elliot Street Theatre holds only 150.

The obvious result is that the Windham County arts community is constantly scavenging for money in a ceaseless round of fund-raising events, annual appeals, membership solicitations, that promise to escalate rather than decline, as programs expand.

CATCH 22

The role of the Arts Council of Windham County in this funding struggle is ironic. The creation of the Council has removed the feeling of competition for audience, since its coordination services insure that scheduling conflicts are virtually a thing of the past. However, when it comes to money, the basic fact remains that the larger arts organizations area actively competing for a finite and crucial number of community dollars. And, competitive or not, ACWC has become one more mouth to feed, in an already overcrowded family. How is the Arts Council to cope with this problem?

An important factor is the VCA. The state arts agency is currently trying to define a new spirit of partnership between itself and the community arts council in Vermont. Perhaps in the future this new relationship will lead to some form of regional block funding; but such changes are at this time theoretical. The present fact is that the VCA passes on to community arts organizations the funds it receives from the National Endownment for the Arts Federal/State Partnership Program.

As more Vermont institutions compete annually for a slice of the Federal-State pie, the cuts are felt everywhere. For the ACWC, the declining support has been dramatic: a special enabling grant of $10,500 from the NEA, through the VCA, gave the Arts Council its start four years ago. This was followed by a $5,000 VCA grant for general support. By 1978 this sum has shrunk to $2,500 less than 5% of the ACWC's annual budget. A bigger pie is clearly needed, and the ACWC stands ready to take a leadership role in an attempt to find more support for regional councils.

The VCA, unlike every other state council in the U.S., is a private, membership organization. While this broad base of support has its rewards, they are not currently financial. At the present time, its only source of grant monies is the NEA; the VCA raises no additional dollars from business and industry. Because the ACWC has financial needs that cannot be met by the VCA, the VCA has recommended that the Arts Council turn to the NEA to compete nationally for support under an Expansion Arts program called "Neighborhood Arts Services." In theory this is a practical suggestion, since Neighborhood Arts Services seems by definition designed to help organizations such as the ACWC.

However, in spite of the NEA's early support of the ACWC, Expansion Arts grants (which in the past have emphasized urban programs) have not been forthcoming.

Expansion Arts has a history, shared by the NEA as a whole, of refunding its existing grantees. In the Neighborhood Arts Services grants last year, only three of the twenty-three new program applications were funded: in New York City, Buffalo, and Philadelphia. This year, the ACWC has already been told that for the $300,000 available, former grantees have submitted requests for $500,000, and new applicants make up another $500,000.

Furthermore, since there are no representatives from New England on the Expansion Arts panel, it seems realistic to assume that ACWC's chances for NEA funding are bleak. This, in spite of a strong application, with exemplary community support. Already the Expansion Arts staff has suggested that the Arts Council look to the VCA for support—Catch 22!

THE FUTURE

It is clear that the immediate future will reveal new aspects of community arts growth in Windham County. First, under the auspices of the ACWC the arts community plans to undertake a study that might lead to a united arts fund campaign within upcoming years. There are indications that for the first time the business and professional community might support a well-organized annual appeal. Secondly, while the Arts Council itself is not a CETA-dependent, the true strength of the various organizations will be tried to the utmost as CETA contracts run out.

Finally, the birth of a partnership between the VCA and community arts organizations, if it occurs, may make the crucial difference between success and failure for the Arts Council of Windham County.

In the meantime, the ACWC is in the difficult position of trying to blossom (and indeed, succeeding) in a location than has been called "the most rural state in the U.S." without the adequate federal, state, or municipal support given to similar councils throughout the country.

A recent editorial in a local newspaper stated: "The arts scene in Windham County certainly is coming of age, both artistically and financially. It is now one of the area's biggest growth industries, with potentially large economic impact on Brattleboro and surrounding towns. . . . this growing reputation for year-round artistic excellence attracts not only music, art and drama lovers, but tourist dollars, and is something all concerned tax payers should bear happily in mind."

The question, for the Arts Council of Windham County at least, is whether the wave of the future will arrive in time to counteract the present spell of financial drought.

Karen Meyer Rappaport is the executive director of the Arts Council of Windham County. ACWC program information and publications can be obtained by calling (802) 254–5511, or writing to the ACWC, 67 Main Street, Brattleboro, VT 05301.

The Arts Council of Windham County's member organizations are: Brattleboro Music Center, Chelsea House Folklore Center, Friends of Music at Guilford, Marlboto Guild

Theater, Monteverdi Artists Collaborative, River Gallery Cooperative, Saxtons River Art Guild, Windham County Orchestra, Windham Summer Repertory Theatre and Yellow Barn Music Festival.●

THANK YOU, RUSSELL O. PETTIBONE

HON. RALPH H. METCALFE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. METCALFE. Mr. Speaker, on June 30, 1978, after more than 30 years of service with the Federal Government, 16 years of which were spent with the Architect of the Capitol, Russell O. Pettibone retired from his duties as the chief litigation attorney for the Architect of the Capitol.

Graduating from Cornell University with a law degree more than 43 years ago, Russell O. Pettibone served his country as a young captain in World War II, with the 1st Infantry Division, and the 36th Infantry Division in North Africa and Italy.

For 5 years after World War II, he remained in Europe as the civilian Chief of the War Crimes Branch in Austria in the Office of the U.S. High Commissioner. For this service, recognition was given him by the Distinguished Civilian Service Award.

Continuing his service with the Federal Government overseas, he was legal adviser to the Corps of Engineers during the construction of U.S. air bases in French Morocco in 1951.

Upon his return to the United States, Russell Pettibone entered the private practice of law until 1956, when he became a trial attorney in the Civil Division of the U.S. Department of Justice. As trial attorney, he defended the United States in litigation arising out of major disasters which involved the United States, including the explosion of an ammunition ship in South Amboy, Hurricane Audrey, and the midair collision of an Air National Guard plane with one operated by Capitol Airlines.

In 1962, at the beginning of construction of the Sam Rayburn House Office Building, Russell O. Pettibone began his long service with the Architect of the Capitol.

Without even considering the millions of dollars saved by the American taxpayer prior to 1962, I want to mention the millions of dollars Russell Pettibone has saved us during his 16 years of service as the litigation attorney here at the Capitol for the Architect.

With dedication and unswerving honesty, he successfully represented the United States in hearings and in settling numerous claims brought against the United States arising from the construction of the Rayburn House Office Building, the subway system serving the Members of the House of Representatives, and the underground garages. His talents and experience subsequently were directed toward the planning and rendering of legal advice in the construction of the James Madison Memorial Library which is planned to be completed sometime in 1979.

Leisure is like a good suit, but it cannot be worn constantly. I hope that Russell Pettibone will be able to occasionally come out of retirement to contribute and share all the expertise and knowledge he has gained through the years when we invite him back to do so.

Mr. Speaker, Russell O. Pettibone has time and again proven to be a man of high principles, standards, and integrity. His skill, his professionalism, personal conduct, diligence, initiative, dedication, and convictions of fair play and sincerity have led to amicable settlements or hard-fought but successful defenses of claims against the Government. His unyielding and courageous stand against all pressures during litigation earned him the respect of his peers and adversaries.

Further Mr. Speaker, I would like to go on record, on behalf of the American taxpayer, to congratulate him on the occasion of his retirement on June 30, 1978, after more than 30 years of Federal service culminating a highly successful career.

Thank you, Russell O. Pettibone, for a job well done.●

JERRY H. BROWN

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. PURSELL. Mr. Speaker, it gives me great pleasure to rise today in honor of a man whom I have come to know over the past few years, and for whom I have a tremendous amount of respect and admiration—Jerry H. Brown.

For the past 8 years Mr. Brown has served the city of Livonia, Mich., as councilman, which included 2 years as vice president of that body.

On August 8, 1978, he brings to an end his elected governmental career, whereupon he will embark upon a new career in the community affairs department of the Ford Motor Co., Dearborn, Mich.

Mr. Brown's involvement in his community began in 1962 when he, his wife Sharron, his son Sheldon and daughter Kelly, moved to Livonia. In 1970, Mr. Brown was elected to the Livonia City Council after an illustrious community career involving many civic activities.

Mr. Speaker, over the past 8 years Mr. Brown has compiled an unparalleled record of public service which includes the establishment of the Livonia Office of Volunteer Energies, vast improvement of the city's roads, construction of senior citizen housing, the establishment of a public service building, and the launching of the construction of the new Livonia City Hall.

It is particularly significant that Mr. Brown has long advocated openness in government and the involvement of its people long before it became popular.

I, along with the citizens of Livonia, Mr. Brown's many loyal and dedicated supporters and his colleagues on the Livonia City Council will miss Jerry H. Brown's innovative thinking, creative ideas and his complete dedication to making his city, Livonia, Mich., a better place to live.

We look forward to working with Jerry in his new assignment with Ford Motor Co., and extend to him our very best wishes for his new career.●

COAL LEASING AMENDMENTS

HON. TENO RONCALIO

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. RONCALIO. Mr. Speaker, in recent months I have introduced three separate bills intended to correct several problems with coal leasing and mining regulatory authority. Today, I am introducing a bill which incorporates my three earlier bills, H.R. 11490, H.R. 12759, and H.R. 12831, into one, amending only the Mineral Leasing Act of 1920 as amended (30 U.S.C. 201(a)(1)).

The bill would amend the Mineral Leasing Act, to first, authorize the Secretary of Interior to exchange existing coal leases or rights covering lands which, in his judgment should not be developed for environmental reasons or because of conflicts with other land uses, for new leases on which development would not involve such risks; second, authorize the Secretary to negotiate the noncompetitive sale of small amounts of coal which would be removed as an incident to the granting of a right-of-way pursuant to the Federal Land Policy and Management Act of 1976 (FLPMA); third, provide that noncompetitive modifications of leases of up to 160 acres would not subject the original leasehold to the requirement of a 12.5-percent royalty; and fourth, direct the Secretary of Interior to exchange Federal coal lands or leases or interests in Federal coal lands for fee title to private lands, or Federal coal leases; and in so doing, the Secretary shall grant priority consideration to a review or exchange of lands which possess scenic, historic, cultural, wildlife, or recreational values which should be preserved and managed for public use and enjoyment.

Section 1 of the bill will help correct a problem which has been encountered by Wyodak Resources Development Corp., a subsidiary of Black Hills Power and Light Co.; and I am sure it will help others in similar circumstances.

The Wyodak Mine, operated by Wyodak Resources Development Corp., is located east of Gillette, Wyo.; and coal leases held by that corporation have been separated by Interstate 90, an East-West highway. Wyodak presently mines the leases south of the interstate, and in order to mine those beneath and north of the interstate, I–90 would be rerouted. Rerouting could possibly be avoided by simply amending Public Law 94–377 to allow an exchange of Federal leases in situations where exchanges would be in the public interest. Presently, because

coal must be leased competitively, noncompetitive exchanges are prohibited.

Through discussions between BLM, Wyodak, and the State Highway Department, BLM has indicated a willingness to exchange their leases contiguous to the present mining activity for those leases now held by Wyodak beneath and north of the highway, but the law must be changed in order to accommodate this. By amending the Coal Leasing Amendments Act to authorize the Secretary to bring about Federal coal lease exchanges (as specified in the bill) when the public interest would be better served, this option would be made available to BLM, Wyodak, and the State Highway Department—and would perhaps be instrumental in ending the suit against the State by Wyodak for the surface loss.

Section 3 of this bill allows the Secretary flexibility in application of royalty rates pursuant to new terms under a lease modification, and also allows modifications of acreage cornering existing leases, as well as acreage contiguous to existing leases. By specifically stating that nothing in section 3 of the Mineral Leasing Act as amended, requires the Secretary to apply the minimum royalty provisions in section 7(a) of the act to any lands covered by the modified lease prior to such modification, the language will reflect what Congress intended in the 1975 act.

Section 4 specifically addresses another situation in Wyoming in which I have been very interested for a long time, and I believe there are at least half a dozen other situations in the West where this amendment will have direct application and will be in the best interest.

For better than 4 years, I have been asking Texas Co. to engage in a lease exchange in northern Wyoming. The Texas Co. owns the water, all of the lake of Lake DeSmet, the coal fields immediately in the environs of Lake DeSmet, and the surface on top of the private fee coal in that area. The entire area sits on the very foothills of Cloud Peak primitive area, which is one of the loveliest areas in Wyoming, and one of the few remaining areas qualifying for wilderness designation. To permit strip mining in the very foothills is, in my opinion, a degradation of the very purposes of the Surface Mining Control and Reclamation Act we passed last year.

Giving priority consideration for lease exchanges to areas of this type will surely be in the public interest, and I hope my colleagues will notice this legislation with interest, and will measure it for its long-range public advantages.

The text of the bill follows:

H.R. —

A bill to further amend the Mineral Leasing Act of 1920 (30 U.S.C. 201(a)), to authorize the Secretary of the Interior to exchange Federal coal leases and to encourage recovery of certain coal deposits, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 2(a)(1) of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 201(a)(1)) is further amended by adding the following paragraph at the end thereof:

"Notwithstanding the requirement in this section that leases be awarded by competitive bidding or any other provision of this or any other Act to the contrary, the Secretary is authorized to acquire Federal coal leases or rights to Federal coal leases by purchase at fair market value as determined by him, by exchange for another coal lease, or by condemnation, subject to the provisions of subparagraphs (i) through (iv) of this subsection. The authority granted by this paragraph is in addition to and does not restrict the existing authority of the Secretary to acquire coal and other mineral leases and rights to leases by exchange for another Federal mineral lease, or for bidding rights to Federal mineral leases.

"(i) The acquisition authority granted in this subsection may be exercised by the Secretary only upon a determination by him that (a) development of that lease would result in unacceptable damage to other resource values including archeological values or significant adverse environmental, social, and economic impacts in the vicinity of the lands covered by the lease or proposed lease, and the public interest would be better served by acquisition of the lease or right to lease in question than by development of the existing lease or proposed lease, or (b) development of the lease would conflict with a specific proposal for use of the land for a public purpose and such use was not considered by the Secretary prior to issuance of the prospecting permit or lease.

"(ii) This subjection does not require or obligate the Secretary to take any action or to make any commitment to a lessee or lease applicant with respect to issuance, administration, or development of any lease.

"(iii) If the Secretary decides to acquire an outstanding coal lease or right thereto by exchange, he is, authorized to accept relinquishment of a lease issued under this Act, the Mineral Leasing Act for Acquired Lands (30 U.S.C. 271–276), or the Railroad and Other Right-of-Way Leasing Act of May 31, 1930 (30 U.S.C. 301–306) or a right to issuance of such a lease, in whole or in part, and to issue to the lessee or lease applicant, in exchange therefor, a coal lease which the Secretary determines to be a lease of comparable value. Leases issued pursuant to the exchange provisions of this subsection are subject to the provisions of this Act except as otherwise provided expressly in this subsection. A new lease issued in accordance with this subsection shall become effective only upon relinquishment of the outstanding lease or right to a lease.

"(iv) The Secretary shall issue such rules and regulations and establish such procedures as he deems necessary to carry out the provisions of this section. Such rules and regulations shall include but need not be limited to requirements concerning information which must be submitted by a leesee or lease applicant and requirements for public participation with respect to any proposed exchange including public meetings or hearings where the Secretary deems them necessary."

SEC. 2. Section 2(a)(1) of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 201(a)(1)) is further amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: ": *Provided,* That notwithstanding the competitive bidding requirement of this section, access may be granted for tunnels or surface rights-of-way through coal deposits subject to obtaining the fair market value through negotiated sale and subject to the conditions which the Secretary may deem appropriate.".

SEC. 3. Section 3 of the Mineral Leasing Act of 1920 as amended (30 U.S.C. 203) is further amended by adding after the word "contiguous", the words "or cornering" and by deleting the period at the end of the second sentence thereof and adding the following clause: "except that nothing in this section shall require the Secretary to apply the minimum royalty provisions in section 7(a) of this Act (30 U.S.C. 207(a)) to any lands covered by the modified lease prior to such modification."

SEC. 4. Section 2 of the Mineral Leasing Act as amended (30 U.S.C. 201), is further amended by adding a new subsection (c) as follows:

(c)(1) Wherever pursuant to Federal law, the Secretary is authorized or required to exchange Federal coal lands or leases or interests in Federal coal lands for fee title to private lands, interests in private lands, or Federal coal leases, the Secretary shall have the authority to grant priority consideration to the review and to the exchange of those private lands or interests in private lands or Federal leases which (A) possess scenic, historic, cultural, wildlife or recreational values of importance to the public; or (B)(i) would result in unacceptable damage to other resource values including archeological values or significant adverse environmental, social, and economic impacts in the vicinity of the lands covered by the lease or proposed lease, and the public interest would be better served by acquisition of the lease or right to lease in question than by development of the existing lease or proposed lease, or (ii) development of the lease would conflict with a specific proposal for use of the land for a public purpose and such use was not considered by the Secretary prior to issuance of the prospecting permit or lease.

(2) The Secretary shall identify the boundaries of such private lands or interests in private lands or Federal leases which are necessary to effectuate the purposes of paragraph 1 of this subsection. The Secretary shall have the authority necessary to exchange the private interests located within the boundaries established pursuant to this subsection for interests of this kind and equivalent value in Federal lands.

(3) In determining the value of the fee title to private lands, interests in private lands, the Federal coal leases to be exchanged for interest of like kind and equivalent value in Federal lands, the Secretary shall include the value of the substantial financial and legal commitments made by the owner of the private lands, interests in private lands or Federal coal leases in acquiring and developing such interests prior to January 1, 1977. There are authorized to be appropriated to the Secretary such sums as are necessary to evaluate the Federal interests and the private interests which are being considered for such exchanges and to administer such exchanges.●

FEDERAL WAGES SHOULD REFLECT LOCAL LIVING COSTS

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. ROSENTHAL. Mr. Speaker, I have today written to President Carter urging him to support the efforts of those among us who feel Federal wages should reflect the cost of living in the community where the worker is employed.

This would require scrapping the present system of a single national pay scale and adopting a system of area wage differentials.

Private industry and many State governments already pay higher salaries and wages to employees in large cities than they do for the same kind of work

in other areas where living costs are not as high. Every major national employer has resolved this issue, except the Federal Government, which is the Nation's largest employer.

The Carter administration is currently preparing a comprehensive overhaul of the compensation system for white-collar Federal employees. The new pay plan, which is not expected to be ready before early next year, follows the general civil service reform proposal now before Congress.

Mr. Speaker, in some instances Federal workers may be earning less by working for the Government than if they were on welfare. For example, a GS-1 Federal employee starts at $6,219, while a family of four receiving full welfare benefits in New York City gets the equivalent of $6,228.

Improved and more equitable salaries would not only aid Federal employees, but would also help the Government as well. If the Federal Government paid its classified workers salaries which are competitive with private industry in their community, it would be able to recruit and retain more qualified and better trained employees, instead of losing them to private industry.

This is the concept of H.R. 73, legislation which I introduced with the support of 17 of our colleagues, to provide for special cost-of-living pay schedules for Federal employees in major metropolitan areas to offset their higher expenses there.

I am inserting in the RECORD at this point my letter to the President:

WASHINGTON, D.C.,
July 20, 1978.

HON. JIMMY CARTER,
The President,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I understand your administration has under study a comprehensive overhaul of the compensation system for white-collar federal workers as a follow-on to your general civil service reform proposal now before the Congress. I would like to take this opportunity to bring to your attention an important problem that should not be overlooked in the preparation of your pay proposal.

The present national-rate compensation system unfairly discriminates against federal employees in high cost-of-living areas of the contiguous forty-eight states. These workers, in my opinion, are entitled to appropriate wage differential benefits. Private industry and many state governments already pay higher salaries and wages to employees in large cities than they do for the same kind of work in other areas where living costs are not as high.

In contrast, the federal government pays many of its own employees in the New York City area salaries which are actually lower than they could receive if they collected public assistance. For example, under current federal pay scales, a GS-1 appointment starts at $6,219 while a family of four receiving full benefits in New York City gets the equivalent of $6,228.

Every major national employer has resolved this issue—everyone that is except the federal government, which is the nation's largest employer. Improved and more equitable salaries would not only aid federal employees, but would also help the government as well. If the federal government paid its classified workers salaries which are competitive with private industry in their community, it would be able to recruit and retain more qualified and better trained employees, instead of losing them to private industry.

This is the concept of H.R. 73, legislation which I introduced to provide for the establishment of a special cost-of-living pay schedule for federal employees in major metropolitan areas to offset the increased cost of living there. A copy is enclosed. I hope you will give this proposal full consideration in preparing your compensation reform proposals. If I may be of any assistance, please feel free to call on me.

With best personal wishes.

Sincerely,

BENJAMIN S. ROSENTHAL,
Member of Congress.●

THE RESIGNATION OF UAW PRESIDENT DOUGLAS A. FRASER

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. FORD of Michigan. Mr. Speaker, the resignation of UAW President Douglas A. Fraser from the labor-management group has resulted in a flood of newspaper articles trying to measure its impact, interpret its meaning, and analyze its long-range implications.

The comments I have heard indicate to me that newspaper reporters and columnists have not really studied the full text of Mr. Fraser's letter of resignation.

To help my colleagues understand the real message of Mr. Fraser, who is a truly great observer of the American scene, I am asking that the full text of his letter be reprinted in the RECORD. Careful reading of his letter will make it clear, I think, what he is trying to say to us and to the Nation.

The letter follows:

LETTER OF RESIGNATION SENT TO MEMBERS OF LABOR-MANAGEMENT GROUP BY DOUGLAS FRASER, PRESIDENT OF UNITED AUTO WORKERS

JULY 17, 1978.

DEAR LABOR-MANAGEMENT GROUP MEMBER: I deeply regret that it was necessary to cancel the meeting of the Labor-Management Group scheduled for July 19. It was my intention to tell you personally at that meeting what I must now convey in this letter, because the Group is not planning to meet again until late September.

I have come to the reluctant conclusion that my participation in the Labor-Management Group cannot continue. I am therefore resigning from the Group as of July 19. You are entitled to know why I take this action and you should understand that I have the highest regard for John Dunlop, my colleagues on the labor side and, as individuals those who represent the corporate elite in the Group.

Attractive as the personalities may be, we all sit in a representative capacity. I have concluded that participation in these meetings is no longer useful to me or to the 1.5 million workers I represent as president of the UAW.

I believe leaders of the business community, with few exceptions, have chosen to wage a one-sided class war today in this country—a war against working people, the unemployed, the poor, the minorities, the very young and the very old, and even many in the middle class of our society. The leaders of industry, commerce and finance in the United States have broken and discarded the fragile, unwritten compact previously existing during a past period of growth and progress.

For a considerable time, the leaders of business and labor have sat at the Labor-Management Group's table—recognizing differences, but seeking concensus where it existed. That worked because the business community in the U.S. succeeded in advocating a general loyalty to an allegedly benign capitalism that emphasized private property, independence and self-regulation along with an allegiance to free, democratic politics.

That system has worked best, of course, for the "haves" in our society rather than the "have-nots." Yet it survived in part because of an unspoken foundation: that when things got bad enough for a segment of society, the business elite "gave" a little bit enabling government or interest groups to better conditions somewhat for that segment. That give usually came only after sustained struggle, such as that waged by the labor movement in the 1930's and the civil rights movement in the 1960's.

The acceptance of the labor movement, such as it has been, came because business feared the alternatives. Corporate America didn't join the fight to pass the Civil Rights Act of 1964 or the Voting Rights Act, but it eventually accepted the inevitability of that legislation. Other similar pieces of legislation aimed at the human needs of the disadvantaged have become national policy only after real struggle.

This system is not as it should be, yet progress has been made under it. But today, I am convinced there has been a shift on the part of the business community toward confrontation, rather than cooperation. Now, business groups are tightening their control over American society. As that grip tightens, it is the "have-nots" who are squeezed.

The latest breakdown in our relationship is also perhaps the most serious. The fight waged by the business community against the Labor Law Reform bill stands as the most vicious, unfair attack upon the labor movement in more than 30 years. Corporate leaders knew it was not the "power grab by Big Labor" that they portrayed it to be. Instead, it became an extremely moderate fair piece of legislation that only corporate outlaws would have had need to fear. Labor law reform itself would not have organized a single worker. Rather, it would have begun to limit the ability of certain rogue employers to keep workers from choosing democratically to be represented by unions through employer delay and outright violation of existing labor law.

I know that some of the business representatives in the Group argued inside the Business Roundtable for neutrality. But having lost, they helped to bankroll (through the Roundtable and other organizations) the dishonest and ugly multimillion dollar campaign against labor law reform. In that effort, the business representatives in the Group were allied with groups such as the Committee to Defeat the Union Bosses, the Committee for a Union Free Environment, the Right-To-Work Committee, the Americans Against Union Control of Government and such individuals as R. Heath Larry, Richard Lesher and Orrin Hatch.

The new flexing of business muscle can be seen in many other areas. The rise of multinational corporations that know neither patriotism nor morality but only self-interest, has made accountability almost nonexistent. At virtually every level, I discern a demand by business for docile government and unrestrained corporate individualism. Where industry once yearned for subservient unions, it now wants no unions at all.

General Motors Corp. is a specific case in point. GM, the largest manufacturing cor-

poration in the world, has received responsibility, productivity and cooperation from the UAW and its members. In return, GM has given us a Southern strategy designed to set-up a non-union network that threatens the hard-fought gains won by the UAW. We have given stability and have been rewarded with hostility. Overseas, it is the same. General Motors not only invests heavily in South Africa, it refuses to recognize the black unions there.

My message should be very clear: if corporations like General Motors want confrontation, they cannot expect cooperation in return from Labor.

There are many other examples of the new class war being waged by business. Everyone in the Group knows there is no chance the business elite will join the fight for national health insurance or even remain neutral, despite the fact that the U.S. is the only industrial country in the world, except for South Africa, without it. We are presently locked in battle with corporate interests on the Humphrey-Hawkins full employment bill. We were at odds on improvements in the minimum wage, on Social Security financing, and virtually every other piece of legislation presented to the Congress recently.

Business blames inflation on workers, the poor, the consumer and uses it as a club against them. Price hikes and profit increases are ignored while corporate representatives tell us we can't afford to stop killing and maiming workers in unsafe factories. They tell us we must postpone moderate increases in the minimum wage for those whose labor earns so little they can barely survive.

Our tax laws are a scandal, yet corporate America wants even wider inequities. If people truly understood, they would choose not Proposition 13's, but rather an overhaul of the tax system to make business and the rich pay their fair share. The wealthy seek not to close loopholes, but to widen them by advocating the capital gains tax rollback that will bring them a huge bonanza.

Even the very foundations of America's democratic process * * * business elite. No democratic country in the world has lower rates of voter participation than the U.S., except Botswana. Moreover, our voting participation is class-skewed—about 50 percent more of the affluent vote than workers and 90 percent to 300 percent more of the rich vote than the poor, the black, the young and the hispanic. Yet business groups regularly finance politicians, referenda and legislative battles to continue barriers to citizen participation in elections. In Ohio, for example, many corporations in the Fortune 500 furnished the money to repeal fair and democratic voter registration.

Even if all the barriers to such participation were removed, there would be no rush to the polls by so many in our society who feel the sense of helplessness and inability to affect the system in any way. The Republican Party remains controlled by and the Democratic Party heavily influenced by business interests. The reality is that both are weak and ineffective as parties, with no visible, clear-cut ideological differences between them, because of business domination. Corporate America has more to lose by the turn off of citizens from the system than organized labor. But it is always the latter that fights to encourage participation and the former that works to stifle it.

For all these reasons, I have concluded there is no point to continue sitting down at Labor-Management Group meetings and philosophizing about the future of the country and the world when we on the labor side have so little in common with those across the table. I cannot sit there seeking unity with the leaders of American industry, while they try to destroy us and ruin the lives of the people I represent.

I would rather sit with the rural poor, the desperate children of urban blight, the victims of racism, and working people seeking a better life than with those whose religion is the status quo, whose goal is profit and whose hearts are cold. We in the UAW intend to reforge the links wtih those who believe in struggle: the kind of people who sat-down in the factories in the 1930's and who marched in Selma in the 1960's.

I cannot assure you that we will be successful in making new alliances and forming new coalitions to help our nation find its way. But I can assure you that we will try.

Sincerely,

DOUGLAS A. FRASER,
President.●

THEY DO THEIR JOB—CONGRESS SHOULD DO ITS

HON. J. HERBERT BURKE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. BURKE of Florida. Mr. Speaker, it is with great pride that I am able to call to the attention of my colleagues of the outstanding work in the never-ending fight of our law enforcement officers against the illicit trafficking in drugs.

Today, I wish to commend for the reading of my colleagues of an article that appeared in the Broward section of the Miami Herald under date of July 19, 1978.

My personal compliments go to Chief Callahan and to the officers of the Fort Lauderdale Police Department, as well as to the many other narcotics and law enforcement officers throughout Florida and our country. Chief Callahan and his men did outstanding work and the country should be proud of them.

Mr. Speaker, I sincerely hope that all of my colleagues in the Congress will take the time to read this article. I am sure it will help them to more fully understand the enormity of the drug problem and the money involved in the illegal traffic in drugs. It is time we wake up to what is happening.

The article reads as follows:

$1 MILLION CASH, $600,000 IN COCAINE SEIZED DURING RAID; 10 ARE ARRESTED

(By Michael Capuzzo)

A painter, a carpenter and eight other men from Florida and the Midwest checked into Fort Lauderdale's Ireland Inn Monday night, in a flurry of $100 bills and long distance phone calls.

Some five hours later, shortly after midnight, the Fort Lauderdale police joined the party—and arrested seven men with $1,149,436 in cash and more than $800,000 worth of cocaine.

Police arrested two more men at Fort Lauderdale Executive Airport with the groups' transportation: a 500-mile-per-hour, $880,000 Cessna Conquest twin-engine turbojet.

The tenth man was arrested as he sat in his Cadillac on South Federal Highway.

The drugs picked up in the arrests included seven pounds of uncut cocaine and two pounds of "Colombian gold" marihuana.

The arrests started with a tip from a suspicious employee at an unnamed Fort Lauderdale hotel, who called the Ireland Inn, 2220 N. Atlantic Blvd., and told employees there to keep an eye on the group, according to the hotel's owner-manager, Joe Ireland.

"Yes, another hotel contacted us," Ireland said. "I'd rather not discuss it. We have an association of probably a couple hundred Fort Lauderdale Hotels (Fort Lauderdale Hotel Association). When someone suspicious checks out or skips, we call each other. It's a chain."

In this case, police sources said, an employee at the unnamed hotel decided that the men were using false names and were simply throwing around too much cash, so he called the Ireland Inn.

None of the ten arrested men has claimed ownership of the $1 million and they have expressed amazement that it exists. Fort Lauderdale Police Chief Callahan said Monday.

If none claims the cash, it will go to the city's general fund, Callahan said.

Police said that they were in the process of checking the long-distance calls made by the man, looking for links in what they said could be a national or international drug ring.

The phone calls "were made to everywhere," Callahan said. "With all those phone calls, it could take us three weeks to investigate. It was a pretty fair-sized conspiracy."

Callahan said that police began monitoring the group's activities about 8 p.m. Monday in response to a tip.

"We heard a report from a concerned citizen that suspicious activity was going on, that some men were making an awful lot of long-distance phone calls and some came in with no luggage," Callahan said. "We sent people down there to monitor the activity and followed some to the airport."

Police watched the group until midnight then began moving in.

"Some were in their rooms, some in the halls," Callahan said. "Some had possession of suitcases when we stopped them. Everyone we arrested carried cash or drugs," Callahan said.

None resisted the arrests, Callahan said.

By Tuesday afternoon, five of the men had checked out of the Broward County Jail on $100,000 bond each.

Arrested by Fort Lauderdale police on a variety of drug related charges were:

Rene Bryan Larsen, 26, 1400 NE Fourth St., Fort Lauderdale: Hernando Gutierrez Depinekes, 54, 7928 NW Alhambra Blvd., Miramar; Joaquin Osualdo Gallo, 28, 13455 NE. 10th Ave., North Miami;

Charles Edward Froschauer, 31, Sarasota; Michael Allen Taylor, 28, Flint, Mich.; John Joseph Bell, 51, Lake Worth, Fla.; James Thomas Bell, 25, Chicago; Jeffrey Clause Trager, 27, Crystal Lake, Ill.; George Joseph Jenich, 29, Waukesha, Ill.; Gary Charles Starnes, 26, Mendota, Ill.●

FRANK HORNY

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. WAXMAN. Mr. Speaker, Mr. Frank Horny, a distinguished citizen of Los Angeles, will be awarded the highly coveted Sword of Haganah Award of the State of Israel at a special dinner of state on Sunday, September 17, 1978. I am gratified to be able to bring to the attention of the Members the many accomplishments of this exemplary American that have earned this award for him. His life of purpose and dedication, spurred by the need to make his survival of the holocaust meaningful is proved by his concern for his fellow men and women.

Frank Horny, who was born in Czechoslovakia, aided in the rescue of 25,000 Slovakian Jews during World War II. He came to America in 1947. Frank is a member of the World Zionist Council (Jewish agency), national vice president and member of the executive committee of the Zionist Organization of America and honorary president of its Southern Pacific Region, national vice president of the American Jewish Congress, vice president of the Jewish National Fund and honorary president of the World Hebrew Bible Society. He is, in addition, honorary president of Shaarei Tefila Congregation, a member of the executive board of State of Israel bonds, a member of the community relations committee of the Jewish Federation Council, and a former member of the board of the JFC.

A scholar, a student at the rabbinical seminary at Galanta, Czechoslovakia in his youth, and president of the Hebrew Cultural Society of Czechoslovakia at the age of 20. Frank Horny has devoted his life to the cause of Jewish education both here and in Israel. He is a founder of Yavneh Hebrew Academy, a fellow of Bar Ilan University, a trustee of Yeshiva University and the Simon Wiesenthal Holocaust Center, and an active member of the boards of directors of Bardin-Brandeis Institute, American Friends of Bar Ilan University, American Friends of Hebrew University and the University of Judaism, of which he is also a patron.

Frank has shared so much with so many that it is impossible to enumerate all of his generous gifts and contributions in time, energy, and money. Because his example and quiet leadership have resulted in the enhancement of the spiritual following of Jewish life, and because of the quality of his achievements in the service of his people and of all people, I invite the Members to join me in paying tribute to this most valued citizen, Frank Horny.●

ERA PROTESTS—ECHOES FROM THE PAST

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. SIMON. Mr. Speaker, I recently became interested in comparing the arguments offered by opponents of the equal rights amendment and arguments made in the early part of this century against the passage of the women's suffrage amendment. The concerns voiced by critics of the 19th amendment over 50 years ago sound remarkably similar to the polemics of the anti-ERA movement in 1978. In reflecting on the analogies, I am more convinced than ever of what I have been telling my constituents about the ERA. There have been so many misleading and simply untrue "facts" put out on the ERA by both opponents and supporters that it is difficult to find anyone who will look at the issue calmly and objectively. When that objective look is taken, however, it is clear that the ERA would not bring about all the changes its supporters hope for, nor would it bring the dire consequences its opponents fear. The voices from the 1920's support the latter conclusion.

The anti-suffrage movement's predictions of doom and gloom have not come to pass. They predicted that to "help toward the ratification of the suffrage amendment in any State is therefore to assume responsibility for turning loose in the political arena a large group of unscrupulous, radical women who boast of unlimited power, gained by sinister methods, over the men who govern our country, and who have shown that they will stop at nothing to gain their ends."

If the suffragettes advocated as their goal the acquisition of such power, the movement was obviously a failure. Despite the gradual gains made by women in assuming important roles in our country in politics, education, business, et cetera, this emergence could hardly be described as radical. Over 50 years after women gained the right to vote, they are disadvantaged in many respects and subject to both overt and subtle discrimination.

In evidence of the remarkable parallels between the campaign against the ERA and the campaign to prevent the enfranchisement of women, I have set forth below several of the arguments of ERA opponents juxtaposed with excerpts from "The Woman Patriot," a journal opposed to the 19th amendment which was published in Washington from 1919 through the 1920's.

The article follows:

THE WOMAN PATRIOT

I

If passed, the ERA will have far reaching detrimental effects on the family and the status of women.

"The woman who spends the whole day at a desk, in the law courts, or in a house of assembly, may be a most honorable and most useful individual, but she is no longer a woman, she cannot be a wife, she cannot be a mother. In the conditions of our society the emancipation of women is in its very nature the negation of marriage."

"[There are] women who still believe in our American form of government, which is a republic, not a mobocracy; who believe in American ideals, the first of which is the American home, with the husband and father as protector and provider, the wife and mother as homemaker; the women who believe that a child has the right to two parents; the women who have helped to make America the greatest country in the world because it is founded on the American home; . . ."

"A woman must either be a part time politician or a part time wife and mother. She cannot devote her life to gaining experience in public affairs, and continue to mother the race. A man may become the father of a large family and never lose a day from the hardest manual toil or the responsibilities of statecraft—but the mother is in another kingdom. She must have rest, quiet, protection. Her holy ministry, like that of the Church, demands cultivation of those qualities in which men are weak."

II

Equal rights for women is wrong because the Scripture is clear that there are distinct sex roles, that men are to give honor unto the wife as a weaker vessel, to be leaders in their homes, and women are to have the responsibility of the keeping of the home and as teacher of younger women and children, and that even though circumstances may dictate that some women enter the job market, these distinctive roles still apply.

"As I understand, the argument of the suffragist is that God created all persons equal and that no human being can have any rights unless all have the same. . . . It is clear that those who make such statements are either ignorant of the teaching of the word of God or they do not have the respect for it that they should have. . . . As the modern woman is demanding not only suffrage but also political equality, it is clear that she cannot hold office and perform the duties of politics and remain at home at the same time. Whenever woman abandons home, where God placed her as queen and ruler over her children and where she has more influence than any other person, she at once rejects the will of God and loses her influence and power. . . . The experience of the human race has demonstrated the wisdom of God in ordaining that man should be the head of the woman, as Christ is the head of the Church."

"The feminist is out to eliminate sex wherever it exists, in nature, church or state. She cannot amend nature—although she does not even admit that—but she can do infinite harm to church and state. She represents nothing but hysteria and atavism, certainly not women, because practically every woman who has attempted the career of a clergyman has failed, the most conspicuous example being the late honorary President of the National Suffrage Association, who was able to make a splendid living preaching votes for women but could not find a church in the country that would have her as pastor.

"The professional woman rebel is just as eagerly concerned in overturning the rule established by Christ when he chose his Apostles among men as in overturning the rules established by men in making government a man's job. She is astute enough to keep the one campaign obscured until she wins the other, but she is frankly determined to win both ends by any means she may be able to manipulate for the purpose."

"The dominance of the male sex as ordained by the Creator is not autocracy because it is not self-ordained. It is a burden that cannot be shared and from which there is no escape without paying bitter penalties. But to grant to the female sex the special privilege of taxing to death the property of the male sex and to compel by conscription that male sex to defend them and their property with treasure limb and life, would be sex autocracy because it is self-ordained and not Divinely ordained. Male leadership in human affairs is Divinely ordained and not self-ordained and is therefore not autocratic."

III

The United States Constitution already guarantees the equal protection of the law to every person, and the various laws already provide equal pay for equal work, equal opportunities for credit, employment and education, and therefore the ERA is unnecessary.

"No State or country in the world where women vote can show a single good law for the protection of women or children that is not matched by a better law passed without woman suffrage . . . In no suffrage State are the salaries of women, paid for the same work, higher in proportion to that of men than the average woman's salary in male suffrage States; and in several of such States where women may vote, the proportion is below the average for women where they do not."

IV

The majority of women are not interested in an equal rights amendment; it is only a radical fringe that are pushing for its passage.

"We believe that the poll of women of Ohio, revealing nine to one against suffrage

throughout the State, in Maryland, showing twenty to one, and in Wilmington, Del., with eighteen to one in the city itself, are far better indications of the sentiment of the average woman [than the poll in New York], especially since New York contains an enormous proportion of single women from other States. The national association opposed to woman suffrage."

"Do women want the vote? We have one certain means of ascertaining whether the women want or do not want the ballot. That means is the way they paid their poll tax. Two percent of the women of this State paid their poll tax, 98 percent paid no attention to it. This shows how many want the vote.—Ferguson Form (Temple, Texas).

V

If passed, the ERA would abolish many of the laws which protect women, and which are needed because women are not as strong as men.

"Woman must have special protection in industry, shorter hours, lighter work, more rest than men. Even the standing position, in which men do most of the hard work of the world, the building, the mining, the manufacturing, etc., and where men are physically, benefited by working in an upright position—as illustrated by the usual comparison between blacksmiths and bookkeepers—is a menace to the health of women, as recognized by the many State laws requiring seats in stores for women.

"The only way to get the special consideration for women in industry that she must have as the potential mother of the race is to recognize rather than attempt to deny the limitations of sex—and the whole feminist movement is built upon the idea that a woman can do anything a man can do if you give her a chance. Even if she could, the anti-feminist argument that man cannot do her work and she cannot do both would still be invincible.

"Until the trade union women recognize that industrial sex equality is impossible and cannot be obtained either by legislation or agitation, they will be fighting a natural barrier with mere verbal demonstrations of their own lack of thought."

VI

Since the ERA provides that enforcement of the sex equality language would be entirely in the hands of Congress, every aspect of male-female relations, including family law, marriage, divorce, child custody, and criminal laws relating to sex offenses would be taken away from the State legislatures and transferred to Congress.

"Shall the States surrender their sovereignty?

"Is the Governor of a sovereign State, elected by the people to represent their sovereign will, to become the flunkey of the 'Women's Democratic Committee' at Washington, an outfit neither elected by the men nor chosen by the women of any State in the Union?

"Is the legislator of a sovereign State, who has taken an oath to support his State constitution, who has sworn before God and man that he will allow the people alone to amend his State Constitution, going to turn over his conscience to a little group of female dictators who openly announce their contempt for the Constitution?

"Nobody has held that the Constitution of the United States should not be amended or changed; the contention is simply that it should not be juggled and prostituted to circumvent and destroy the constitutions of the States and the rights reserved to the people in both State and Federal Constitutions.

"This measure attacks the foundation of our Government, undermining the Federal principle itself and striking at the most sacred right of the sovereignty of States—the right to control their own electorates."

VII

The Equal Rights movement will destroy the essence of what it is to be a woman, including the basic differences between men and women.

"The simple right to vote carries with it no immediate danger, the danger comes afterward; probably many years after the establishment of female suffrage, when woman, owing to her increased degeneration, gives free rein to her atavistic tendencies, and hurries ever backward toward the savage state of her barbarian ancestors. I see, in the establishment of equal rights, the first step toward that abyss of immoral horrors so repugnant to our cultivated ethical tastes—the matriarchate. Sunk as low as this, civilized man will sink still lower—to the communal *kachims* of the Aleutian Islanders."

"It recklessly hurls womanhood into the warfare of politics to contest with men for the control of parties, laws and governments; robs woman not only of her status as a political non-combatant, but of her *ideals*—for no woman can serve two masters. To win in politics, woman must become aggressive, combative, masculine—or unscrupulous, cunning and unfair.

"Here is a fundamental criterion of the 'third sex.' The woman of the 'third sex' not only glorifies her own position as superior to that of her mother, but she wants all women to imitate men or to imitate her! With maternal instincts entirely atrophied, she seeks to recruit numbers of young girls to her ranks. She advocates 'birth control,' and the 'limitation of families.' She preaches that 'children are no more connected with women than with men,' that 'even a cat can be a mother,' that 'the home is no more holy than the post office,' that 'motherhood is an animal function,' that women should contribute to civilization 'directly, rather than through the doubtful channels of husband and children.' These are the distinguishing marks of 'the third sex,' The title of Miss or Mrs. has nothing to do with it, and occupation little more."

VIII

Equal Rights means that men and women will be performing the same jobs, and women are not capable of performing many jobs that men engage in.

"That women's physical structure and the performance of maternal functions place her at a disadvantage in the struggle for existence is obvious. This is especially true when the burdens of motherhood are upon her. Even when they are not, by abundant testimony of the medical fraternity, continuance for a long time on her feet at work, repeating this from day to day, tends to have an injurious effect on the body; and as healthy mothers are essential to vigorous offspring, the physical well-being of women becomes an object of public interest and care in order to preserve the strength and vigor of the race. . . . The two sexes differ in structure of body, in the functions to be performed by each, in the amount of physical strength, in the capacity for long-continued labor, particularly when done standing, the influence of vigorous health upon the future well-being of the race, the self-reliance which enables one to assert full rights, and in the capacity to maintain the struggle for subsistence. This difference justifies a difference in legislation and upholds that which is designed to compensate for some of the burdens which rest upon her."

". . . women can compete with men only in the easier and least dangerous work. Three out of four men are today employed in engineering, coal mining, iron working, shipbuilding, shipping, loading of vessels, railway and general transport trades, plowing the land, felling the trees, slaughtering and preparing animals for food, etc. Women have entered some of these professions during the war, but it is not work that women can do as well as men and in the interests of society, the future welfare of the race and woman herself, it should not only be discouraged but prohibited when the necessity no longer exists. It is no injustice to keep women in general from entering the fields of work not suited to them even if in a pinch or exceptionally they can achieve it for a time."

IX

The ERA would require American women and mothers to be drafted into the military and to be assigned to combat duty on an equal basis as men.

"Today, however, alike in England and in the United States, suffrage may be regarded as resting, in principle, on the historic basis of armed service that may be exacted; not alone upon the duty of service in foreign or civil war, but also on the duty to maintain the peace and to aid in the enforcement of the law. Under our national and state laws every male citizen within certain age limits duty is a more defensible basis of suffrage. . . . ●

PRISONER EXCHANGE TREATY

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. SAWYER. Mr. Speaker, I am pleased to be able to inform my colleagues of significant progress in the ongoing efforts to secure a prisoner exchange treaty with the Government of Turkey. On Monday, July 17, draft proposals for a treaty were presented to officials of the Turkish Government in both Washington and Ankara. Furthermore, the first in a series of discussions between the U.S. Government and the Government of Turkey will take place in Ankara tomorrow, Friday, July 21.

This news surpasses in importance the State Department's press release of July 10, stating that "negotiations would begin very soon." It now seems that the prisoner exchange treaty, which was once only a "possibility," will become a reality.

On June 29, 1978, a letter to the President left my office with the signatures of 53 of my fellow colleagues. It detailed the plight of our five American citizens now incarcerated in Turkish prisons and recommended that the President take whatever actions he deemed necessary to secure the immediate establishment of a reciprocal prisoner exchange treaty. The treaty would not be a novel concept for either the United States or Turkey, as both nations have similar treaties with other countries. I am determined to see these negotiations completed in the fastest time possible to secure the return of our American citizens into the custody of the U.S. Government. I will not be deceptively led into complacency on this matter, however, and I am committed to the goal of seeing a prisoner exchange treaty in force before the House considers the repeal of the Turkish arms embargo.

Just this morning I received a response to the letter to the President and I enclose it in the RECORD for your information. It is a very significant piece of correspondence and I commend the Depart-

ment of State and the Turkish Government for beginning to move this important prisoner exchange treaty toward completion:

WASHINGTON, D.C.,
July 19, 1978.

HON. HAROLD S. SAWYER,
House of Representatives.

DEAR MR. SAWYER: This is in reply to your letter to the President of June 29, and other recent correspondence, regarding the status of Joann McDaniel and Kathryn Zenz, two American women imprisoned in Turkey.

As you know, the United States and Turkey have agreed to commence negotiations at an early date on a prisoner transfer treaty. The treaty will provide a mechanism for Americans imprisoned in Turkey, including Ms. Zenz and Ms. McDaniel to return to the U.S. in order to serve out the remainder of the sentences imposed by the Turkish courts, subject to U.S. laws governing eligibility for parole.

As I mentioned to you during our meeting on June 29, the transfer treaty will be based on the European Convention on the International Validity of Criminal Judgments, with necessary modifications to reflect U.S. constitutional and legal requirements. We gave a draft text to the Turkish government on July 17 and proposed sending a team to Ankara with instructions to carry out the negotiations as expeditiously as possible.

The Turks seem equally anxious to reach rapidly a mutually beneficial agreement. Nonetheless, our experience in negotiating similar prisoner transfer treaties with other countries suggests that, even with the best intentions on both sides, such negotiations are not usually concluded in a few days, given the technical and legal nature of the agreement under negotiation.

We share your interest in successfully concluding negotiations at the earliest possible date, and will do everything we can to move forward rapidly. The President's efforts to lift the Turkish arms embargo have improved the tone of our relationship with Turkey in recent months. This improvement will facilitate progress on a prisoner transfer treaty and other issues.

For your information, I have enclosed a copy of the Department's July 10 press release announcing the negotiations, as well as a status report on the case of Ms. Zenz and Ms. McDaniel. I have taken the liberty of distributing copies of this letter and its attachments to your colleagues who also signed the letter to President Carter.

I hope this information will be helpful to you.

Sincerely,

MATTHEW NIMETZ.●

TUITION TAX CREDITS—BAPTIST OPPOSITION

HON. JOHN BUCHANAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. BUCHANAN. Mr. Speaker, this Nation was founded on the principle that government would not interfere with the religious freedoms of its citizens. This doctrine of separation of church and State is in marked contrast to what was then and is now occurring in other countries of the world.

On June 1, 1978, the House approved H.R. 12050, the Tuition Tax Credit Act of 1978. The bill, as passed by the House, extended tax credits to nonpublic elementary and secondary education tuition. This action was taken in spite of an advisory opinion by the Justice Department that tuition tax credits for nonpublic elementary and secondary education violate the first amendment guarantee against the establishment of religion.

The Southern Baptist Convention, the largest Protestant denomination in the United States, passed a resolution at their annual convention on June 15, 1978 opposing tuition tax credit legislation. I respectfully urge my colleagues to read and consider the issues it raises against such legislation as H.R. 12050.

The resolution follows.

RESOLUTION NO. 18—ON TUITION TAX CREDITS

Whereas, The Congress of the United States is considering legislation to give taxpayers a tax credit (that is, a direct subtraction from one's tax bill) for tuition payments,

Whereas, The effect of such legislation would be of most benefit to those who can afford to finance their children's attendance at private schools, including elite schools,

Whereas, Most private elementary and secondary schools are related to churches and exist to serve the religious mission of sponsoring churches,

Whereas, Tuition tax credit legislation carries the potential of financing private education at the expense of public education,

Whereas, The attorney general of the United States has issued an advisory opinion that such legislation is of doubtful constitutionality under the First Amendment, especially with regard to tuition paid to elementary and secondary schools,

Whereas, The Baptist Joint Committee on Public Affairs has opposed such legislation because of its threat to the principle of separation of church and state.

Be it therefore Resolved, that we call upon President Jimmy Carter to veto any tax credit legislation now under consideration by Congress, and

Be it further Resolved, that we, messengers to the Southern Baptist Convention, meeting in Atlanta, Georgia, on June 15, 1978, register our opposition to all tuition tax credit legislation pending in Congress; urge the Baptist Joint Committee on Public Affairs to continue to oppose such legislation; and express our concern over such legislation's threat to the First Amendment guarantees of non-establishment of religion and the free exercise of religion.●

SOLAR POWER—A CAUSE TO REPLACE VIETNAM RANTING

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. DORNAN. Mr. Speaker, I am not regularly on my feet in the House to defend a member of the Carter administration. But justice compels me to speak out against an ignorant attack leveled against the distinguished Secretary of the Department of Energy, Dr. James R. Schlesinger. In a July 7, 1978 guest column in the Los Angeles Times, Tom Hayden, infamous for his consorting with and fronting for the North Vietnamese while American POW's were being tortured in Communist prisons, leveled a series of cheap shots in a broadside against the distinguished Secretary that cannot be left unanswered. Much as Hayden's appointment to a special Solar Power Commission, Western Sun, was an indication of the taste and judgment of California Gov. Jerry Brown, Hayden's remarks are themselves a solid indication of the quality of his mind.

Consider Hayden's very first paragraph:

Can a former director of the Atomic Energy Commission, who is also a Republican and a former Pentagon Hawk, be trusted with our national solar energy policy.

Notice the gall. Can we, the American people, "trust" Dr. Schlesinger? The primary question is one of trust. A shadow falls, like the dark of night, over Dr. Schlesinger's character. Who casts that shadow? One who was busily supporting the aggression of Communist dictators in Vietnam while American soldiers were bleeding and dying on the fields of battle or rotting in POW camps. Hayden calls into question Secretary Schlesinger's character?

The world is turned upside down. "Don't say things," Ralph Waldo Emerson warned,

What you are stands over you the while, and thunders so that I cannot hear what you say to the contrary.

But let us listen, anyway.

Why should not we trust Dr. Schlesinger? Hayden's answer:

Our present Secretary of energy (Hayden uses the lower case—some symbolism here?) served as head of the Central Intelligence Agency, the Defense Department and the Atomic Energy Commission—all during the Nixon Administration.

Mr. Speaker, I call attention to the fact that we have here a classic logical fallacy—an inductive fallacy. The conclusion that Secretary Schlesinger is not to be trusted with the management of the national energy policy is not merited by the fact that he served in other governmental agencies—even during, we shudder to think of it—the Milhous administration. Does the fact that a person served in the Nixon administration morally disqualify him from public service? Is the fact that a man is a Republican morally disqualify him? Or rather, would Dr. Schlesinger be more qualified to oversee the national energy policy if he had served the interests of the Communist warlords of Southeast Asia?

From the inductive fallacy, Hayden moves into ad hominem attacks, totally irrelevant to the issues of national energy policy. Dr. Schlesinger is described as a "former Pentagon hawk," an "energy czar," a "bureaucratic gypsy," an "energy hawk" (whatever that is). Let us concede a worst case scenario. Let us suppose that Secretary Schlesinger were, indeed, all of these unpleasant things.

Let us concede that he is a "bad man." That would still be irrelevant. The ad hominem tone of the Hayden stripe establishes nothing. An attack on the personality of the man is not an attack on the validity of his ideas. In any case, the emotional appeal of such an attack in itself does not logically constitute an intellectual victory.

From an overindulgence of logical fallacies, Hayden moves onward to plain old, ordinary misstatements of fact:

Now this bureaucratic gypsy is Carter's closest advisor on energy, though no administration official is more scornful of than

he of solar power advocates. California's solar programs have been a favorite of Schlesinger target.

What solar power advocates?

The vagueness of Hayden's terminology is representative of the vacuousness of his charges. And the vacuousness of his charges is no doubt representative of something else. But there are many solar power advocates. And like independent minded, often bold and innovative people everywhere, they do not always agree. They are not always in lockstep, regimented like a Cambodian firing squad. I have never received anything but the kindest courtesy from the Secretary and his Department of Energy, and I, too, am a solar power advocate. Here in the House I have pushed two of the most aggressive solar power bills passed in this House, the Solar Photovoltaic Research and Development Act and the solar power satellite bill. I agree that the House Committee on Science and Technology has proven to be far more aggressive on this matter than President Carter. And I am proud that I am a member of a committee which has done so much to advance the cause of solar power in this Congress. Because of this, however, we have not been on the brunt end of any scorn either from the Secretary or any member of his Department. Though we have disagreed with the Secretary on occasion, we have almost always found him and the ladies and gentlemen who serve under him to be kind, courteous, professionals, who are dedicated to their work and their conception of the public interest.

Hayden goes on in his Los Angeles Times attack to chide the Schlesinger view that solar energy and conservation is not going to resolve the problem of our energy supplies, and that we, as a nation, are going to have to rely upon coal production and nuclear energy. Hayden calls this realistic assessment a "glib put down" of California's "innovative solar effort." Honest assessments are not possible from Schlesinger, Hayden is telling us, because deep down in his heart of hearts he wants lots of pollution, nuclear holocausts, and other unpleasantries.

How do we know that this is not an honest assessment? Listen to Jerry Brown's boy wonder:

The President's own environmental policy board, the Council on Environmental Quality, differed in an April report with Schlesinger's solar estimates.

Schlesinger's office estimates that solar power could supply only about 8 percent of our energy needs by the turn of the century. But the council's report, "Solar Energy, Progress and Promises," pointedly concludes that 'the prospects for solar energy are brighter than most imagine. Solar energy can meet one-quarter of America's needs by the year 2000, according to this study," and it is now possible to speak realistically of the United States becoming a solar society.

So there are "differences" in the Carter administration? Mr. Speaker, so what?

There have been differences in the Carter administration on national defense, foreign policy, human rights, and of course, Andy Young? So there are differences between Secretary Schlesinger and the Council on Environmental Quality on solar energy projections? None of this proves anything—except the obvious—that there are differences within the Carter administration—as there are within the scientific community in general. The statements of the CEQ do not in and of themselves prove Schlesinger's estimates to be wrong. Hayden is simply resorting to an old debaters trick: begging the question. He is merely assuming here what is to be proved.

Naturally, scientific estimates vary on projections into the future. Science is an empirical undertaking, and the future is not subject to our sensible experience. But as a member of the Science and Technology Committee of the House, I am inclined to think that Secretary Schlesinger's optimistic assumption of 8 percent is far closer to the mark. A 25-percent supply of energy from solar power by the year 2000 A.D. would be an absolutely fantastic technological coup. It is a wildly optimistic projection even under the very best circumstances. One must be willing to assume what one can assume only precariously: That we will achieve tremendous cuts in solar costs; that we will quickly remove the introduction of revolutionary new solar technologies into the marketplace; that we already have enough leadtime to insure wide-scale solar energy applications; that we will be able to come to terms with any unforeseen social and economic obstacles; that we can afford to dispense with other alternative sources of energy in a creation of a "solar society." Funds, after all, are limited. Even Governor Brown, Tom Hayden's political patron, knows that well. Particularly after the smashing victory of California's proposition 13.

But that is not the reason we should express skepticism about extremely optimistic projects for solar energy or any other technology. The reason has to do with human relations. We can do no greater disservice to a good cause—and solar energy is such a cause—than to raise expectations among the public that cannot be fulfilled. It is callous to raise hopes that will only be dashed against the hard rocks of reality. And that is what Hayden and all of his ill-informed cohorts are in the business of doing.

To the inductive fallacy, the ad hominem attack, misstatements of fact, and irrelevance, Hayden adds "guilt by association." A good number of DOE officials once worked for the Atomic Energy Commission, the CIA, NASA, the Department of Defense, and even private companies. Here he resorts to the muckraker's innuendo, and speaks of "incestuous patterns" and "mutual admiration" and past associations, and hints darkly of some kind of conspiracy afoot under the aegis of the nefarious Dr. Schlesinger, or should we call him "Dr. No."

When the late Joe McCarthy called attention to past associations it was vicious, a taboo in a civilized society. It was worse than bad manners. It was nothing less than an attack on our "American way of life," justice, and fair play. How should Governor Brown, who appointed Hayden, react to this attack on Schlesinger?

If a citizen felt he could have best served our Nation on the AEC, what of it? The ladies and gentleman at DOE, are professionals. Those who deal with solar power have achieved a splendid level of knowledge concerning public policy and energy technology. In appointing an admitted political radical, Hayden, to the special solar commission, Governor Brown has appointed a man who has never demonstrated even the slightest professional or scientific qualifications in this complex field of study. The people of California and the Nation should ponder this Brown appointment and ponder it well.

As always Hayden is very clever at selective presentation of statistical evidence:

Of the total $12.6 billion Department of Energy budget request for 1979, nuclear energy receives 10 times more than does solar energy. Less than $500 million is to go to solar energy.

One would think that DOE had some kind of nuclear fixation from this statement. I have not been able to find $5 billion for nuclear power as an R. &. D. authorization. The nuclear category is, rather, roughly 4 times as much. But that is not the whole story. The truth is that something unprecedented has happened to the nonmilitary nuclear technology budget. It has actually declined: from $1,028 million in fiscal year 1978 to $893.3 million in fiscal year 1979. Out of a budget total of $12.6 billion, research and development items originally requested by DOE add up to $3 billion, and nonnuclear R. & D. leads nuclear R. & D. by a margin of 57 percent to 32 percent. Moreover, according to current projections, nonnuclear categories in the DOE budget are expected to reach an all-time high of 69 percent in 1980. This is a massive reorientation of research and development spending.

There are some other important facts that should be mentioned to put the entire question of solar power in proper perspective. Out of 16 major items approved by the House Committee on Science and Technology before the final floor debate and passage, the funding for solar power ranked fourth. Though there is much to be said for extracting oil from shale in the Western States, with our U.S. shale oil reserves surpassing those of Saudi Arabia, shale oil development, for example, received zero funding for construction facilities and only $30 million for research and development. Solar power received greater funding than geothermal power, hydroelectric power, or "energy from biomass processing," or high energy physics. But most men recognize that this is an imperfect world, and there is a limit to funding—even by the U.S. Government.

But let us turn to Hayden's major point: that Secretary Schlesinger is somehow an enemy of solar power. That, Mr. Speaker, is simply false. Quite to the contrary he has been a realistic, leading advocate of solar power. The Secretary initiated a number of town hall meetings all around the Nation in order to solicit the views of our citizens on the subject. And he waxes enthusiastic on the advance of solar technology.

Hayden goes on to call for an "immediate commercialization of solar power," apparently ignorant of the fact that thousands of homes throughout the United States are already installing or using solar heating or cooling systems. Solar technologies on heating and cooling are already the most advanced form of solar energy technologies, and promise the greatest variety of market applications. The use of solar power for heavy industrial use will require further efforts. One cannot expect immediate commercialization where it is simply not feasible.

But, Mr. Speaker, the real key to Hayden's thinking is evident in his major proposal: the creation of yet another layer of bureaucracy. He wants a "new energy undersecretary" to oversee solar energy commercialization, assisted by yet another Presidential Commission. If there is anything that retards rapid commercialization of anything, it is the mass of rules and regulations of another bureaucracy—big, bumbling, meddlesome, and economically and technically ignorant.

Hayden wants a new layer of bureaucracy to assure a "more democratic control of our energy future." In light of his past camaraderie with North Vietnamese Communists, one wonders what Hayden really means by "democratic control."

Mr. Speaker, I rise in defense of Dr. Schlesinger. But he really needs none. It has been well said that the character of a man is exalted not simply by the friends that he keeps, but the enemies he has made.

Dr. Schlesinger, congratulations.●

PENTAGON CONTINUES TO EXPORT AMERICAN JOBS

HON. CHARLES J. CARNEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. CARNEY. Mr. Speaker, today I received a letter from Mr. James E. Devlin, Jr., of Warren, Ohio, about a problem which has long been of concern to me. The letter expresses my constituent's outrage at the fact that the Department of Defense—our own Government—is contributing to the unemployment problem in this country.

Mr. Devlin enclosed a recent article written by columnist Victor Riesel which indicates that the U.S. Department of Defense is purchasing 10,820 vehicles—trucks, buses, and forklifts—at an estimated cost of $120 million, from West Germany over a 7-year period. This contract is a severe blow to the American automobile industry, American autoworkers, and the entire domestic economy. It is particularly reprehensible in view of the fact that the West German economy is stronger than our own, and the West German unemployment rate is much lower than our own.

Just a few months ago, I strenuously objected to the U.S. Navy's construction of submarine tenders in Seattle, Wash., using foreign-made steel. Right next door to the shipyard, there is an American steel mill laying off steelworkers.

Federal procurement practices should reflect a much greater concern for the American economy and our chronic, high unemployment rate. The Congressional Steel Caucus, of which I am chairman, will continue to work for the passage of legislation to insure that American workers do not lose their jobs because of the procurement practices of their Government.

Mr. Speaker, I am inserting Mr. Devlin's letter and the newspaper article written by Victor Riesel in the RECORD at this time for the information and consideration of my colleagues in the Congress, as well as officials in the executive branch of the Government. The letter and article follow:

JULY 17, 1978.

Mr. JAMES E. DEVLIN, Jr.,
Warren, Ohio

DEAR SIR: I cannot help but believe the U.S. government has given up on the American worker as I read the July 17, 1978 Victor Riesel story in the Warren Tribune Chronicle, Pentagon having 10,820 vehicles made in Germany. I would not question this purchase if the American workers were not losing their jobs everyday. I feel like I am being made a jackass. I am good enough to pay Federal taxes but not good enough to have my own government purchase orders for goods made in the good United States. If our own U.S. Department of Defense don't have faith in our workforce, how can any other country? Thank you for your time. I hope maybe you will bring this to the attention of the proper people.

[From the Warren (Ohio) Tribune-Chronicle, July 17, 1978]

PENTAGON HAVING 10,820 VEHICLES MADE IN GERMANY

(By Victor Riesel)

WASHINGTON.—With sturdy American workers pounding the pavement searching for jobs anywhere now that some steel plants have been forced to shut, why is the U.S. Department of Defense placing orders for exactly 10,820 vehicles in the Federal Republic of Germany?

This past May the first contracts for the first 225 vehicles were signed by the Pentagon with five German firms—Daimler-Benz, Volkswagen, M.A.N. Company, Margirus Deutz and the Still Co.

The entire U.S. purchasing program calls for the expenditure of over $120 million in Germany for these vehicles, all noncombatant, and spare parts.

These American orders, for dump trucks, tanker trucks, delivery trucks, fork lifts and 28-passenger buses, have been programmed for the next seven years. Thus America will be bolstering the prosperous German economy until mid-1985. All of which has a sort of Orwellian 1984 touch.

Germany today has a currency as strong as the Japanese yen and the Swiss franc. It has some unemployed but that's only because the working citizenry of the Federal Republic just won't touch certain "menial" jobs—such as construction, road work and service employment in many areas. So the Republic has imported some two million "visiting" foreign laborers. Most of them from Turkey.

German auto factory production employees are members of a strong, probably the most powerful, union in Europe—the Socialist controlled Metal Trade Workers Union (I.G. Metal).

Their pay rates are high. Their employment is steady. Why then is the U.S. Department of Defense placing orders there instead of providing jobs in America?

Actually the Pentagon will save about three to five million dollars over the seven years depending on dollar Deutsche mark exchange rates.

Aren't job-seeking American workers worth that handful of pennies? Twice that amount is misused or ripped off from welfare funds by "clients" and vendors in just a few square blocks in just a few weeks in New York, Philadelphia or Chicago.

Pentagon officials make the point that this motorized equipment is being ordered in Germany because the life cycle of the vehicles costs less there than it does here. But what of the life cycles of American job seekers?

The trucks', buses', tanks', and fork lifts' life cycle, I'm told, starts with the taking of ownership of a vehicle and runs until it's finally discarded—including the economy of fuel, maintenance, transportation, procurement, down time (meaning the hours or days a vehicle isn't in use while awaiting mechanical adjustments), operational expenses and even paying for disposal.

And the Pentagon says that a 1976 study concluded that the life cycle cost from time of purchase to disposal is lower if the trucks, etc., are produced in Germany rather than in the U.S. for use by U.S. forces in Germany. So the Pentagon decided on the massive purchase in Germany because it would cost a few dollars less to operate there what with foreign maintenance and spare parts immediately available.

At the same time "an effort is being made to standardize the automotive equipment so it could be used by all U.S. military personnel throughout Europe," according to a Defense Department spokesman.

Thus, it doesn't take a crystal cannonball to realize that thousands of other vehicles will be ordered in the future by the Pentagon in other NATO nations. But why?

Our troops are stationed in Germany, for example, to protect the Federal Republic from the Soviets' Warsaw pact powers. And Germany, much like other NATO members, deals commercially, politically, socially, culturally and financially with the Communist bloc against which our soldiers are supposed to shield them when Armageddon comes.

The cost to the U.S. of maintaining American forces in Europe is already enormous. Yet the Defense Department places heavy orders there for a period during which no less an authority on car production employment than Doug Fraser, president of the United Auto Workers, predicts "massive layoffs in the auto industry" unless his union wins a four-day week at five days' pay.

That portends industrial strife and a Detroit showdown in the fall of 1979.

So those orders for almost 11,000 vehicles placed by Defense Secretary Harold Brown's men in German factories certainly will have an impact on America's own life cycles. And work styles. And employment.●

AIR FORCE ASSOCIATION MAGAZINE QUESTIONS JUDICIAL INTRUSION INTO FOREIGN INTELLIGENCE

HON. ROBERT McCLORY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. McCLORY. Mr. Speaker, the inherent danger of the foreign intelligence electronic surveillance bill (H.R. 7308), which may be scheduled soon for debate in the House, is highlighted by a forth-

right and illuminating article in the current (August 1978) issue of The Air Force Association Magazine.

Entitled by the editor, "Tighter Senate Shackles for Intelligence," the article rejects the concept of an unprecedented "special court," which would have virtual blanket authority to decide whether or not foreign powers or foreign agents might be subjected to electronic surveillance. As the article indicates, this is a constitutional responsibility of the President and the executive branch of government and should not be delegated to the judiciary.

The article, which is far more persuasive than these introductory remarks, follows:

TIGHTER SENATE SHACKLES FOR INTELLIGENCE

Apparently to make up for a previous lack of congressional oversight over US intelligence operations, the Senate recently passed legislation that could have disastrous consequences for national security. Known as the Foreign Intelligence Surveillance Act of 1978, it is a revolutionary approach to foreign intelligence-gathering that would transfer responsibility for authorizing such actions from the Executive Branch to a "Special Court." The wisdom and constitutionality of the new bill—now before relevant House committees—seem to be flawed on at least two counts: The expertise of federal judges in controlling foreign intelligence is lacking—and has never been sought; also the power to authorize—or refuse to authorize—foreign intelligence-gathering activities traditionally has been exercised by the President and seems granted him under the Constitution, which makes him responsible for all decisions regarding national security. To treat decisions on foreign intelligence as anything other than integral issues of national defense seems illogical.

As Congressman Robert McClory (R-Ill.), a member of both the House Judiciary Committee and the Permanent Select Committee on Intelligence, told this column: "To pass the buck on such decision-making to a special court might give an appearance of safeguarding individual rights or justifying Executive decision-making. However, it is inherently dangerous to our national security because of the delays and frustrations which might result, and it is an unjustified attempt to excuse the President from a Constitutional responsibility and accountability which he should be required to assume."

The stringent guidelines of Executive Order 11905, issued by President Ford in the wake of Watergate to preclude abuses by the intelligence community, and supplemental instructions by President Carter, according to comprehensive congressional testimony, have proved fully effective in controlling foreign intelligence collection. On the strength of this evidence, Representative McClory has introduced a new bill, H.R. 9745, that translates these guidelines into statutory form and makes the Executive Branch responsible for all intelligence activities involving foreign powers and foreign agents. Appropriate safeguards are incorporated in the proposed legislation, such as the requirement "for minimization or elimination and destruction of information regarding American citizens which might incidentally or accidentally be included in an electronic information-gathering operation," according to Mr. McClory.

It would seem absurd to deny the US the right to timely, secure surveillance of foreign agents at a time when the number and audacity of Soviet operatives in the US are at an all-time high.●

ARIAS RETURN—I

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. DORNAN. Mr. Speaker, yesterday, July 19, I took note of the stirring return of Panama's former President Arnulfo Arias. The return from 10 years of exile in the United States was a great event in the lives of the Panamanian people. For years they have suffered under the repression of the Dictator Torrijos, who falsely claims to represent their best interests. The stunning outpouring of popular appreciation for the former President, who boldly denounced the dictatorship, is testimony to the truth of his stirring oration on June 10, 1978. I should like to introduce the first half of Señor Arias' speech to his beloved Panamanian people into the RECORD. I ask the Members of this House to give it every consideration when they vote on forthcoming implementing legislation.

ARIAS ATTACKS GOVERNMENT ON RETURN FROM EXILE

[Speech by former Panamanian President Arnulfo Arias at Panamenist Party rally in Santa Ana Park on his return from exile—live]

[Text] Panamanian people, (applause, shouting) this marvelous welcome which has just been given by the people [words indistinct] is convinced there is no country in the world (passage indistinct) Indians, Spanish, Chinese, Hindus and all the races of the world (words indistinct). (shouts.)

I would like you to do me the favor of observing 20 seconds of silence in honor of the exiles, the dead, and those who have had their throats cut and have been hurled from airplanes by the tyrant. (shouts.)

A few hours ago, we said farewell to the generous people of the United States, which through its government offered its hospitality to the exiles. To those people, as to other peoples of America and the peoples of Europe, we are profoundly grateful.

We have shed tears (for our separation) from those whom we love so much, but here I am. (shouting) Today, on 10 June 1978, after almost 10 years of exile, our souls are flooded with great emotion as we share the telluric (telurico) demonstration which emanates from our tropical land, as we are caressed by the breezes of our seas and our mountains and as we breath the warmth of our tropical land. At the same time, we feel that we can remain optimistic and proud, as we move in harmony with the powerful waves of companionship, affection and patriotism which emanate from this crowd of compatriots: women and men, children and the elderly, who have given us this warm welcome which reflects a national aspiration for a better Panama.

On this memorable date, with this unforgettable sight of this warm welcome from the Panamanian people, we return to the fatherland with a new historic mission—with which you are already familiar—at the exact moment when the people are demanding an explanation from the person who is guilty of usurping power and looting the public wealth.

The despoiled Panamanian people, whose legitimate aspirations have been mocked and who have been vilely humiliated when they expressed their desire for improvement, have a great recourse against oppression and the misery vilely imposed by the tyrant. Be calm, people, be calm.

On 11 October 1968, a fatal day on which satanic treason, inspired by lasciviousness, avarice, covetousness and envy, swept our beloved land . . . (incomplete sentence as heard; Arias repeats himself) On 11 October 1968, a fatal day on which satanic treason, inspired by lasciviousness, avarice, covetousness and envy, swept our privileged land, covering it with groans, pain and blood, and its aftermath of imprisonment, torture, homicide, prostitution, narcotics and armed robbery, a political era of communist sympathizers was begun, the consequences of which have already been observed in other unhappy lands, where people suffer from that unnatural and anti-Christian doctrine.

Since then, gentlemen, disorder and national deterioration planned by the forces of evil at the point of bayonets, machineguns and tanks have sought to produce in weak and frightened souls a mental and physical paralysis.

Fortunately, there exist in our military corps, that is, the police, which is made up of people like you, as in all the armies of the world, worthy units which for the sake of their own honor and respect for their uniforms and for society have never and will never offend defenseless citizens and certainly not defenseless women and children. Nor have they ever betrayed their comrades, their government or their fatherland, since they know that those who practice bloody oppression in the short or the long run are left alone with their tormented consciences in the end.

For almost 10 years, we have been in exile, looking from our humble patio in Florida toward the south, toward our beloved Panama, reflecting and meditating, with a single hope and a single prayer—that the Panamanian people might again become a symbol of justice and liberty, that there might again prevail in our land the four basic freedoms: freedom of expression, freedom of religion, freedom of opportunity and freedom from fear, and that Panama will become the symbol of opportunity, honor and respect for individual initiative and free trade and serve as an example to the entire world.

In this very same backyard in Florida we have heard of and felt in our flesh the slanderous accusations and attacks on peaceful citizens in their own homes, and what is worse, the disappearance of youths and adults—both men and women—kidnapped without leaving a trace and later buried in silence in the dark of the night or thrown into the sea from airplanes. (applause, shouting)

From our exile we have heard the weeping of the souls of our brothers who died in the mountains in Chiriqui, in the mountains in Veraguas, or who disappeared in the mountains of Cocle or disappeared and died on the island of Coiba. (applause, shouting)

These voices are to us a divine mandate. They all clamor and say that this is the hour to enter the final battle for our Panama.

The example and sacrifice of these Panamanians who have fallen in combat against the tyranny, the irreproachable conduct of those who have been implacably persecuted in our country, as well as the persistent work of the Association of Patriotic Women and the gestures of rebellion on the part of the exiles are joined by the legions of Panamanians who in the silence of their unspoken hostility have taken note of each and every one of the abuses and sins of those who mistakenly believe they are absolute masters of this country. (applause, shouting)

The whole world is aware of the material, emotional, mental and spiritual crisis affecting our country—hunger, poverty, unemployment, misery, drug trafficking, gambling,

(applause, shouting) the drain of capital, the bankruptcy of businesses and obstacles to honest investors. We also have a debt of almost $3 billion and our semiautonomous institutions are disorganized. What do native economists say about the government mismanagement by this despotic tyrant? When can we pay the $3 billion owed in irresponsible loans with exorbitant interest? The truth is that the country must sacrifice itself to meet these international commitments and salvage its reputation.

The International Monetary Fund informs us that Panama's economic growth index is at zero. We do not have an economy of our own. (applause, shouting)

In the 9 years and 8 months of dictatorship, the Panamanians have watched as we slid from a flourishing and expanding economy into a state of emergency. Never in the history of Panama had the state used such a quaint solution as the emergency plan, which makes evident the dictatorship's (applause, shouting) inability to find positive solutions. (shouting, applause)

The Panamanians ask for work, not alms; they want permanent jobs, not gifts of temporary measures. (Applause shouting.)

As long as we have the same government structures we have now and the same team of weak, indolent men at the head of government (applause, shouting) we shall have problems such as the labor code with its whimsical interpretations. Another example of incompetence is the famous housing law, the improvisations of which have caused distrust and unrest, killing the important construction industry and related activities. (Applause, shouting.)

In this capital, which they have tried to turn into a modern Sodom, we see the destructive neglect of luxurious buildings and luxurious condominiums in the downtown sector, while on the outskirts we see miserable and costly little houses which are permanent monuments to the squanderings of the years when our economic bonanza was vilely wasted. (Shouting, applause.)

The ruinous state investments, such as the sugar mills and the farce of the peasant settlements, together with the class hatred promoted by official circles, have caused the division and disintegration of the Panamanian family. (Applause, shouting.)

The disproportionate increase in the cost of gasoline, water, lighting and gas (shouting, applause) has increased the cost of living, while the people are assaulted and robbed in broad daylight. (Shouting, applause.) The excessive taxes of every kind, and especially the famous 5 percent tax (shouting, applause) serve only to increase the cost of living and promote administrative corruption, increasing the hunger of the Panamanian people. (Shouting, applause.)

Nonetheless, the strict control of the press and other public communications media conceals the total cataclysm consuming and destroying us little by little.

Unemployment in the rural areas, villages, towns and cities keeps growing and growing while the plundered coffers of the state, the social security system, the casinos and the race track lie empty. (Shouts.) The only thing left to the citizens is the infamous drug traffic, which was officially attacked by the U.S. Senate and which is directly connected with the principal traitor's family and paid assassins. (Shouts, whistles, applause.)

Medicines are needed in our health centers (shouts continue) and beds are needed. (Shouts—Arias repeats himself.) Dear people, medicines are needed in our health centers and beds are needed in the hospitals for the poor—the rich have them. (Shouts.) Frightened and ashamed, beggars go from house to house asking for a piece of bread. Meanwhile the rich pass by in planes, in luxury cars (words indistinct). (Shouts, applause.)

The people of Colon cannot find honest jobs to feed their families and the city has been turned into a brothel. (Shouts—Arias repeats himself.) The people of Colon cannot find honest jobs to feed their families and the rulers have turned the city into a brothel. (Shouts, applause, whistles.)

Remember the mutinies that took place in Colon a few days ago, while the cynical rulers distributed the Panamanian people's money—20, 50 and 100 dollar bills (shouts)—to buy votes and appease their perverted consciences.

Furthermore, the administration of justice has become a sham to the extent that even the most sensitive judicial cases are not decided in court but in the barracks. (Shouts.) That is why a large number of Panamanians have been subjected to an unconstitutional sentence of exile or have been imprisoned without any due process other than a mere police order. (Shouts.)

The return to constitutionality is the goal of all good Panamanians. There must be a change of ideas, principles and structures. Men must be employed who will obey the fatherland's call rather than that of a psychopath who should be in an insane asylum. (shouts, applause) How else can public faith be restored to the investor, work to the worker, incentives to the producer and trust to the farmer and businessman?

And as if the wickedness and infamy of the principal traitor were not enough, he has sold the fatherland for a few coins (shouts, applause) just as Judas sold Our Lord Jesus Christ (shouts, applause) and, like Judas, he tries in his ignorance to flee his own conscience, putting himself to sleep with alcoholic beverages and narcotics. Do not be surprised to discover some day that he was found in his own backyard hanging from some tree. (shouts)

If the economic situation existing in the country is difficult, if the public debt is a cause of desperation and alarm, if unemployment and the high cost of living fill Panamanian homes with anguish, if the lack of public freedoms and the violations of human rights cause pain in the soul of Panama, then no less alarming is the conduct of our international relations, especially our relations with the United States. (applause)

After 13 years of negotiations during which basic positions were defined and the basic rights of the Panamanians, which we consider unrenounceable, were defended, the final outcome has been the negotiation of agreements opposed to our national interests. The loss of gains already made through the obstinate struggle waged in defense of our sovereignty over many long years by the most distinguished minds of our country—who were backed in the streets and in the public places by the Panamanian people's outcry—represents a retrogression which will turn out to be damaging to our international image and extremely harmful to our sovereignty and national independence. (shouts, applause)

Unfortunately, after so many years of negotiations, a new era of dissatisfaction and protest—similar to that elicited by the 1903 isthmian convention—has begun. We ask you. Does this benefit the relations between Panama and the United States? (shouts of "no") Of course not. (more shouts of "no")

This is the question that those responsible for the results we are now deploring should have asked themselves. It was not enough to guarantee economic advantages. The negotiations was not aimed merely at material benefits. The idea should have been to eliminate the causes of conflict between the two countries, as is stated in the well-known joint declaration issued on 3 April 1964. While we thought that the recriminations and constant confrontations arising from the existence of the 1903 treaty and the complementary treaties would be brought to an end, we find that new sources of friction, serious friction, have arisen from the recently signed pacts. These will affect future generations, that is to say you, the young people present here and even the present generation, because it will not be long before conflicts will arise as a result of unilateral interpretations of what has not been clearly established, and as a result of certain provisions which obviously undermine our sovereignty and dignity as a free country in complete control of its own destiny. (shouts, applause)

AMERICAN AGRICULTURE MOVEMENT

HON. CHARLES E. GRASSLEY

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. GRASSLEY. Mr. Speaker, we all have memories of returning from the Christmas break for the beginning of the 2d session of the 95th Congress to find farmers from throughout the country here in Washington. Many of these farmers were, in some way, associated with the American Agriculture Movement and whether we agreed with them or not we all grew to appreciate their conviction and perseverance. As many of my colleagues probably know, this movement is still very much alive. It has its own newspaper which is published in Iredell, Tex., and is titled "American Agriculture News." In the recent summer edition of this newspaper appeared an interesting article, with photographs, dealing with the U.S. Department of Agriculture inspection of foreign slaughter houses. The title of the article is "Import Inspection Not Equal as USDA Says."

The first photograph showed the dock of a USDA-approved foreign slaughterhouse. Freshly killed beef could be seen lying directly on the dock and being loaded into semiopen trucks for transport to a boning plant. The men loading the beef were wearing street clothing and not the traditional smocks. Buzzards were perched on the roof of the loading dock.

The other photograph showed cattle being held in a preslaughter pen. The caption under the picture stated that one of the animals in the picture was infected with grubs (worms).

In my opinion, the article asks very appropriately—are sanitation conditions equal to domestic plants, as USDA says? This concern is extremely important and appropriate, because of the recent decision by the administration to renegotiate import quotas and allow more meat to be imported into the United States, particularly meat that can be processed in plants that do not meet the same standards of cleanliness as American plants. The American consumer is not protected from dirty foreign meat.

For the benefit of my colleagues who have not had an opportunity to see the recent edition of American Agriculture News, the text of the article follows:

IMPORT INSPECTION NOT EQUAL AS USDA SAYS

"Under current laws and regulations, meat may be imported into the US only from

countries that are recognized as having meat inspection systems EQUAL to domestic plants. USDA veterinary inspectors visit these plants regularly to see that they meet US requirements . . . Meat entering the United States is reinspected by USDA at the port of entry," said Howard Hjort of USDA when he was advocating that Carter increase beef imports.

The pictures accompanying this story were taken from an "approved" slaughter house which ships meat to the United States.

Before a plant in a foreign country can ship meat to the US, the country's meat inspection system must be officially recognized as equal to the US system. This is based on an evaluation of the country's laws and regulations governing its inspection system, and an on-site survey of the system in operation.

Additionally, the plant itself must be certified as meeting US standards.

FOREIGN PLANTS INSPECTED FOUR TIMES A YEAR

US veterinarians are supposed to visit each foreign plant certified for export as often as necessary to insure compliance with the law.

Plants reporting large volumes and other plants of special concern are to be visited at least four times annually. All other plants certified are to be visited twice a year.

This is in sharp contrast to US inspection requirements. A USDA inspector is required to be on premises at all times while slaughter and processing is taking place.

TWENTY MEN INSPECT 1,100 PACKING HOUSES

Says Tom Redford, Chairman of the Hamilton County, Texas, Independent Cattlemen's Association, "When we take into consideration that there are 1100 packing plants in the 20 foreign countries exporting meat to the US and only 20 foreign beef inspectors with no more than 12 of these on duty at a time, we cannot believe their sanitation system is equal to that of the US."

Labeling of imported beef is required only if it is packaged for retail sales in the foreign country. Meat that will be further processed, chopped, ground, sliced, comes into this country labeled with the country of origin, but when the processor slices or grinds it, he is under no requirement to label it as foreign beef.

Many food processors put a statement on their products "contains domestic beef." Yes, it does contain domestic beef—that means it contains a little domestic fat mixed with imported beef to give it flavor. You notice the label does not say "contains ONLY domestic beef."

The pictures here show beef being loaded into semi-open trucks, unprotected from flies. The picture of the cattle about to be slaughtered shows that they are only old cows. Hamburger is about the only thing they can make out of them. (30 to 40 percent of the hamburger you buy in the grocery store is imported beef.)

Also note the picture of the outside of the plant—those black birds perched on the roof are buzzards.

Imported beef inspection is equal to domestic beef inspection? Who is kidding who? ●

MANDATORY CONTROLS NO WAY TO DEAL WITH HOSPITAL COSTS

HON. BARRY M. GOLDWATER, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. GOLDWATER. Mr. Speaker, Tuesday's action by the House Commerce Committee of removing the mandatory controls provision of the hospital cost containment bill reflected the sound judgment of the committee. I have been particularly concerned with this issue because of the threat mandatory controls present to a hospital in my congressional district.

The Henry Mayo Memorial Hospital in Valencia, Calif., is located in one of the fastest growing areas of the State. Mandatory controls would severely affect the hospital's ability to provide health services in the face of a rapidly increasing demand. HEW Secretary Califano has called the voluntary approach "a sham." But he should consider the case of Mayo Memorial before leveling such criticism.

Mandatory hospital controls fail to address the localized concerns of hospital administrators. From a broader perspective, this legislation is an ineffective way to solve the problem of rising health care costs. While it is true that hospital costs are rising, they are doing so at a slower rate. The latest figures show a rate of decline from 16.8 percent to 13.5 percent. This was achieved despite a 13.7 percent increase in social security taxes, and other Government-imposed costs—minimum wage laws, for example.

Consider also that advances in biomedical research will be inhibited by mandatory controls. Hospital administrators will only be concerned with maintaining their existing level of services. Administrators will be too bogged down with the exacting demands of accounting and fiscal management. The actual delivery of health services will be neglected.

In their vote on Tuesday, I believe the Commerce Committee took note of the fact that our experiences with price controls have been unsuccessful. Furthermore, is it fair for the hospital industry to be subject to controls, when the goods and services a hospital consumes are not subject to price restraints?

I applaud the Commerce Committee for its vote, Mr. Speaker. There are more effective ways to approach the problem of rising health care costs. ●

CAPTIVE NATIONS WEEK—20TH OBSERVANCE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 18, 1978

● Mr. ANDERSON of California. Mr. Speaker, this week marks the 20th annual observance of Captive Nations Week, commemorating the millions of men and women around the world who are forced to live under the burden of foreign domination.

In 1978, the observance follows closely upon the recent events in the Soviet Union in which the human rights of two brave individuals were crushed by a government which cannot tolerate free speech by its own citizens. It is fitting in many ways that Captive Nations Week follow the Soviet "show trials" so closely. For not only does it illustrate the violence with which expressions of freedom are crushed in some nations, it demonstrates that the desire of men and women to be free will exist and find expression in even the most oppressive of political systems.

Captive Nations Week has for 20 years years served as a reaffirmation of the belief of the United States and her people that every nation should be free to pursue its own destiny in a world governed by peace and cooperation. And further, that the statment of human liberty so eloquently expressed in our own Declaration of Independence was not only meant for us, but for men and women throughout the world.

Equally as important, it serves as a reminder of the human rights and liberties which we in this Nation should hold dear, but so often take for granted. Our Nation's record in safeguarding our own individual rights and freedoms is not perfect, but it stands alone in the diligence and effort of a political system and a people in protecting those rights among all the nations of the world. We should always recognize that those rights and liberties did not come cheaply, and stand prepared to protect them again whenever necessary. ●

CUBA'S CAPTIVE TRADE UNIONS

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. McDONALD. Mr. Speaker, it is no secret that the Carter administration would undoubtedly have recognized the Communist dictatorship in Cuba and have promoted full diplomatic and trade relations with Havana had not the Soviet Union used its satellite's troops to conquer Angola. The strong opposition to Castro's African military intervention by the American people has made a full rapprochement with Cuba politically "unwise" for the Carter administration. Nevertheless, the administration has gone out of its way to remove impediments to those promoting U.S. relations with the Cuban dictatorship.

In this country and in other free world countries, there have always been enemies of the free enterprise system of economic competition who have tried to establish monopolies. The leaders of the monopolist tendencies see great advantages in making deals with the Communist regimes. First, in many instances, this Government uses its taxpayers' money to underwrite investments in financially shakey Communist countries. Second, there are large profits to be made by businessmen immoral enough to make use of the Communist slave labor system. The Communists control their economy by bureaucratic fiat backed up by an apparatus of secret police, kangaroo courts, and slave labor camps to insure obedience on the part of the working people.

In a Communist country, the men and women who work for a living are little more than slaves of the state. They are all enrolled in phony unions which do

not have the right to strike. Wages, hours, working conditions, and safety provisions are set by a state organ.

As the AFL–CIO bureaucracy is well aware, I am strongly opposed to their drive to end right-to-work State laws so that working men and women would be required to join a union, and pay union dues, in order to be able to hold a job. I am also strongly opposed to a union bureaucracy which takes money from American working men and women and spends it to support political causes like the Panama Canal giveaway, gun control, the so-called "equal rights amendment" and forced school busing which are strongly opposed by the overwhelmingly majority of union members.

Therefore it is with particular pleasure that I find the AFL–CIO spending their money on something which really does benefit union members. The July edition of the AFL–CIO Free Trade Union News published the following article by Edward Tonat who recently visited Cuba. Mr. Tonat, as you know, is an aide to our colleague from Minnesota (Mr. VENTO), and is the first non-Communist to be able to inquire directly into the state of working people in Cuba. The article demonstrates that the Cuban Communist regime has not moderated its repressive stance, and I recommend it highly to my colleagues:

CASTRO'S CAPTIVE UNIONS

(By Edward Tonat)

It's possible that what I may remember longest about my recent visit to Castro's Cuba was a tiny, isolated and seemingly unimportant incident that occurred just outside downtown Havana. During a casual stroll I wandered by a low stone wall on which sat a couple of bright-eyed, leg-dangling kids. One of the youngsters, dressed in her school uniform of red jumper and white blouse, looked up and a big smile spread across her face. Looking at me she asked laughingly, "Tovarisch?"

The tyke's asking whether I was a "comrade" sticks with me because it symbolizes the sovietization of so much of Cuban life over the past 19 years.

As a former international representative of the United Auto Workers and a long-time union member, I came to Cuba (along with a group of Washington press people and lawyers) curious about the conditions of Cuban labor and the state of trade union freedoms.

There's no way of preparing yourself for such an inquiry. Castro has not allowed visas to union leaders or union journalists from the free world. Nothing has been written in English on Cuban unions; obviously Castro is not over-anxious to have even foreign Communist publications study the Cuban "labor movement." Thus, you can search in vain through the bound volumes of the Communist Daily World, published in New York, and never find any report in depth on labor in Cuba, although the DW never spares panegyrics where other Cuban subjects are concerned, including the arts, politics, and armed forces.

Not even in Cuba itself can you obtain any printed or even mimeographed information on Cuban unions. Visitors' questions sometimes are answered by the ever-present "experts" or guides assigned to foreigners, but it becomes clear very early that Castro and/or his Russian "advisers" are not proud of their labor movement, at least not proud enough of it to want to have it written about.

Piercing together the union picture must be accomplished, therefore, from many fragmentary sources in and out of Cuba, admittedly an unsatisfactory method, but no alternative exists.

Certain basic conclusions, however, are inevitable. These include:

Under Castro there is no free labor movement;

There is no collective bargaining;

There is no right to strike;

There is no independence or internal democracy either in the national or local unions;

After 19 years of Castro-Communist rule the Cuban labor movement today is quite as badly off, in terms of democratic freedoms, as it was under the Batista dictatorship.

Accurate wage rate statistics are impossible to come by, as are other terms of whatever union-management agreements may exist. Castro has announced no general pay increase during the past year as have the Communist governments of Russia and China.

About 98 percent of Cuba's workforce—2,633,300 workers—belongs to the Confederation of Cuban Workers, a figure unmatched among the free labor movements of the world and far more suggestive of unionism behind the Iron Curtain than the voluntary unionism of nontotalitarian countries.

No pretense is made that Cuban unions bargain or negotiate on wages, hours, working conditions or fringe benefits. All are imposed from above by a ministry for the particular industry and apparently not even industry and apparently not even involving pro forma consultation with workers. All labor-management relations are "administered" by the federal Ministry of Labor under an umbrella National Code adopted in 1961.

Rank-and-file unionists can vote annually for their local section's (i.e., local union's) general secretary, secretary of treasury, organizer, secretary of health, and secretary of education. But they are allowed no direct voice in the selection of municipal, provincial, or national officers who are chosen to represent their union within the ministry which regulates their particular industry, whether it's Agriculture and Livestock Development, the Sugar Industry, the Food Industry, Basic Industry, Communications, Education or whatever.

Thus, neither the workers nor their "unions" have any voice in the determination of earnings, hours, health and accident safeguards on the job, or their top union officials.

The Castro government's monopoly of all labor-management functions is complete because all enterprise has been nationalized and therefore everyone works for the government. Only very small farms remain in private hands, and even here the government is engaged in a long-range program to absorb the small farms into the large agricultural collectives, reminiscent of Stalin's forced collectivization.

Inevitably the CTC is affiliated internationally with the Communist-controlled World Federation of Trade Unions, an organization dominated by the Kremlin. There is no record of any convention action or any vote taken on the CTC's affiliation with the WFTU.

A major reason for the impotent role assigned to Cuban unions is undoubtedly the desire of Castro and his Soviet advisers to keep labor subordinate to the political infrastructure. Throughout Cuba every factory, apartment building, shop and large farm has its Committee for the Defense of the Revolution. Once a civil defense force, the CDR is now a national movement that functions in a dozen ways as a government appendage. The CDR serves as an auxiliary police force and mobilizes "volunteer" brigades to work on farms and in factories. The CDR spies on workers for tardiness, absenteeism, or what it may decide is laziness. The CDR conducts classes and seminars on Marxism-Leninism and international Communism. It leads campaigns for scrap collection and recycling, and for immunization drives. Numerically the CDR is twice as powerful as the CTC, with 5,000,000 Cubans over 14 years of age enlisted in more than 30,000 CDR local organizations.

The free press has disappeared from Cuba as completely as free trade unionism. At one time more than a dozen dailies published in Havana alone. Castro today allows only two newspapers to publish and both are controlled by the Communist Party, which incidentally is not a mass party but an elite group of perhaps 200,000 members.

Paralleling the content of the Soviet press, the national news in Cuban newspapers consists chiefly of speeches by Castro and his top bureaucrats, plus reports on the opening of new industrial enterprises and on workers who have surpassed their work quotas.

That a free labor movement and a free press should be completely banned both for the present and as a future potential can hardly be considered surprising when it is realized what a relentlessly tight stranglehold the Soviet Union holds on the Cuban economy. The USSR supports Cuba to the tune of $1,000,000-a-day—actually at the rate of $375,000,000-a-year—plus huge amounts of military hardware which Cuban troops are now using to kill the people of various African countries.

In addition, the USSR reinforces its grip on the island's economy by building sugar factories, iron, steel and nickel processing plants and other facilities, and then requiring the Cubans to pay the construction cost by shipping half of the plant's production to the Soviet Union for a specified number of years.

Russian industrial experts and advisers today set all the major production goals, determine factory quotas and workers production "norms" and even decide pay differentials. The latter can range from a monthly minimum wage of 75 pesos to 1,000 for skilled and professional workers. With Russian ukases determining wages and production quotas, additional reasons can be seen why no collective bargaining could be tolerated in Cuba.

Only 90 miles from American soil Fidel Castro is operating "Cuba's tropical Gulag Archipelago," according to the highly-respected International Rescue Committee.

Among the Archipelago's victims are uncounted numbers of union officials and members.

"Estimates of the number of prisoners vary from 5,000 to more than 50,000," says the IRC. "The 5,000 figure has been given by Castro himself and by other Cuban officials. It is obviously understated. No dictatorial government has even given a correct count of its opponents in prison. Yet even this figure in proportion to Cuba's population is higher than the number of political convicts in the Soviet Union in relation to Russia's population."

The IRC's indictment continues, "What is most appalling in the case of Cuba's prisoners is the unconscionable length of incarceration those opposed to the government have to suffer. Lack of food, lack of water, lack of medical attention, lack of space, lack of exercise and other brutalities have been a constant method of dealing with those who have refused reeducation.

"In Cuba, sentences run up to 30 years. . . ."

Fidel Castro's contempt for—and probably his fear of—democratic labor opinion in the free world is demonstrated in the repeated refusals of his Communist government to respond to (or even acknowledge) inquiries concerning his imprisonment of Cuban union leaders.

On April 28, 1976, a group of Latin American union leaders met with the Cuban ambassador in Venezuela to inquire about the fate of 27 Cuban union officials who were (and still are) prisoners of Castro and held *incommunicado*. The Latin-American union representatives also presented to the am-

bassador a petition on the imprisonments signed by 100 labor leaders from all over Latin America. The visitors had a list of the 27 Cuban union prisoners, but the ambassador arrogantly refused to accept either the list or the petition and in fact even refused to discuss the question at all.

The rejected petition said that the jailed Cuban unionists not only had received long prison terms on unspecified charges but also had "been prevented from leaving the country during the last 15 years." The petition asked for freedom for the imprisoned Cubans who had, the petition said, "made undeniable historical contributions to the cause of the liberation of the Cuban people from tyranny."

These then are the fruits of 19 years of Castro's rule on behalf of the Kremlin. Cuba did have a tradition of free trade unionism that started with the organization of the Tobacco Workers Union in 1892. When Spanish repression in the 1890s forced many Cuban labor leaders to flee to Florida they continued as strong unionists in the United States. Some played prominent roles in the early growth of the AFL at the turn of the century. But the spirit of Cuban democratic unionism was never stifled despite a succession of oppressive regimes.

The kids, like the ones I encountered sitting on the wall, are the brightest part of the Cuban scene. Perhaps their generation will produce a second struggle for freedom and independence from a foreign occupier . . . and spark the restoration of free democratic unionism.●

PUNITIVE DAMAGES HELP KEEP INSURANCE INDUSTRY IN LINE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. LaFALCE. Mr. Speaker, insurance companies are encountering a trend wherein unsuccessful claimants under health, accident, fire, property or life policies are seeking punitive damages. Invariably, these cases charge insurers with blatant disregard of the insureds rights and claim deceptive or bad faith refusals to pay.

As a recent article appearing in the Courier Express—July 10, 1978—by Ralph Nader notes, the insurance lobby is trying to persuade State legislatures to prohibit these awards. However, as Mr. Nader notes, the insurance companies themselves are "proving every day what a salutary effect punitive damage awards are having on their internal operations." Moreover, "the best defense against punitive damage suits is to avoid them by thoughtful, careful, equitable administration of * * * [insurance] contracts * * *." It is noteworthy that this last statement was made by the chairman of the board of the Occidental Life Insurance Co.

The article follows:

INSURANCE INDUSTRY FIGHTING TO BEAT PUNITIVE DAMAGE LAWS

(By Ralph Nader)

Trinidad Perez was working as a janitor at a General Dynamics plant in California when an accident on the job left him totally and permanently disabled. His company was covered under a disability policy issued by Aetna Life Insurance.

Despite a statement by his physician and a verification by Aetna's claims adjuster that Perez was physically disabled, the insurance company concluded the opposite and denied the claim.

After a lawsuit was filed against Aetna by Perez, it was learned that Aetna did not obtain all his medical reports and that the company's medical department never reviewed the case. The injured worker charged Aetna with a "bad faith" handling of his claim and asked the court for punitive damages.

Although the disability benefits under the policy came to about $15,000, Aetna chose to settle the case just before it reached trial for $150,000.

This is but one example of many cases won, settled or pending in the California courts charging insurance companies with deceptive or bad faith refusals to indemnify insured people. Whether under health, accident, fire, property or life policies, the pattern is similar in these cases: blatant disregard of the insured's rights are leading to punitive damage awards that are sending shock waves throughout the insurance industry.

Lawyers such as William Shernoff of San Diego, who specialize in these insurance fraud cases, believe that only the punitive damage spectre will lead to reforms within insurance companies to improve their claims handling practices. Certainly, Shernoff says, most of the state insurance commissioners are not going to do the job nor have they in the past.

By the force of their reasoning, the California cases are prodding other state courts to act. Insurance company executives are beginning to get the message and are responding into two disparate ways.

First, as is typical, the insurance lobby is trying to persuade state legislatures to prohibit the punitive damage award in personal injury and bad faith cases. Punitive damages, in contrast to compensatory damages, are not a proper function of civil litigation, the lobby says over and over again.

Decades of legal commentary and court decisions provide a deep refutation of this assertion. For out of the anguished crucibles of thousands of cases has come the admonition from jury or judge to those seriously culpable corporations:

"You must pay punitive damages to make more likely that you not do to others what you did to this unfortunate plaintiff."

Having failed to persuade the courts, the insurance lobby is prepared to continue spending millions of the policyholders' dollars next year to get the politicians to stop the courts.

Second, insurance companies are proving every day what a salutary effect punitive damage awards are having on their internal operations. One company dismissed the managers who were responsible for fraudulent activities that cost the firm $750,000 instead of the $90,000 that a good faith settlement would have incurred.

The chairman of the board of Occidental Life Insurance Company, Earl Clark, indirectly gave the best tribute to the punitive damgae award when he told his industry colleagues:

"Every judgment on a suit of this type impairs the industry's character in the eyes of the public. The best defense against punitive damages suits is to avoid them by thoughtful, careful, equitable, administration of our contracts—from the first contract with a prospective purchaser to the handling of every claim under the contract.

"These lawsuits are not based solely on claims action, they also involve advertising, sales literature, the conduct of the agent, group policyholders and administrative conduct, underwriting and preservation of confidential personnel information."

Mr. Clark went on to propose an upgrading of claims standards in the form of an industry-written code for enactment as state regulations.

There are 50 state legislatures and thousands of courts. Our country achieves some of its finest hours when it keeps the doors to the courtroom open and flexible. Where else is the legal safeguard to come from after legislatures and agencies are found in industry's back pockets?●

CONGRESS MUST END DISCRIMINATION AGAINST THE SELF-EMPLOYED

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. KEMP. Mr. Speaker, Congress must begin now to end the discrimination against the self-employed. It is a discrimination which has grown gradually, often as a result of laws originated here. It is a discrimination which will grow even worse if new proposals of the administration are adopted.

The self-employed are the backbone of this country's economy. These are the people who own and operate the millions of small businesses which employ a large percentage of our workforce and constitute a large percentage of our total economy, small businesses which often are just themselves and their families. These are the people who take risks, who take their own hard-earned savings and their own labor and create job opportunities for others, goods and services for consumers, and growth potentials for the economy.

Yet, what does the Federal Government do in return? It taxes them so heavily that it reduces the reward for risk taking and thereby their incentive for risk taking. It layers on costly regulations and paperwork, reducing their reward and adding to the costs to consumers. It structures the estate tax portions of the tax code in such a way as to make it very difficult to pass these businesses to their sons and daughters, in many cases forcing sales which lead ultimately to less competition and to economic concentration. And much more.

The American Bar Association Journal had an enlightening article in a recent issue on exactly this point. In its introduction, it put the issue to Congress and to the administration directly:

The self-employed are treated worse than poor country cousins by tax law, especially when they conduct businesses or professions in noncorporate form. It's time to end this discrimination.

It is time we take up that challenge, Mr. Speaker, and enact laws to end this discrimination.

The article follows:

[From the American Bar Association Journal, May 1978]

DISCRIMINATION AGAINST THE SELF-EMPLOYED

(By John S. Nolan [1])

The Carter administration has proposed that the existing federal income tax benefits of employer-provided medical, disability, and group term life insurance plans (generally referred to as welfare plans) be allowed only if the plans cover a broad group of the work force and do not discriminate in favor of highly paid employees. Self-employed persons cannot obtain the benefits of these welfare plans, however, even though they provide the benefits to all of their employees. These benefits are denied to the self-employed as employers. The result is discrimination against the self-employed who conduct businesses or professions in noncorporate form as compared to corporate employees.

It is the position of the American Bar Association that this discrimination against the self-employed should end. Congress in recent years has eliminated certain other specific discriminations against the self-employed in the treatment of qualified retirement plans. For the same reasons the benefits of these medical, disability, and group life insurance plans should be made available to self-employed persons as employers if they meet the standards adopted by Congress in response to the administration's proposals for coverage of employees and nondiscrimination.

The administration's proposals are based on securing the protection provided by employer-provided welfare plans for a wide group of employees. The administration seeks to continue the tax incentives for the adoption of these plans but to require coverage of a broader group and prevent discrimination in favor of shareholder-employees and highly paid employees.

These same reasons equally suggest that the benefits of these provisions be extended to self-employed persons if they provide the benefits to the same broad group of their employees and do not discriminate in favor of themselves or their highly paid employees. Extension of the opportunity to secure these benefits to self-employed persons will result in widespread adoption of nondiscriminatory welfare plans by unincorporated businesses and will extend plans to many lower-income employees not now protected.

The availability of these benefits should not depend on the type of business organization. The distinction between self-employed persons and employees under existing law has caused many self-employed persons to incorporate their businesses so that they become employees and can share in these benefits. In many cases, however, professional persons are unwilling or unable to incorporate their professional practices. In any event, the incentive to adopt these welfare plans to benefit a broad class of the employer's work force should not depend on whether the employer is or is not able or willing to incorporate his business.

In acting on the Carter administration's proposal, Congress should provide the same tax treatment for self-employed persons as is provided to employees, subject to the same conditions and limitations.

The tax treatment of benefits under these welfare plans is only one instance of discrimination in existing law against the self-employed. They also are subject to much more severe discrimination under the provisions of the Internal Revenue Code governing "qualified" retirement plans. While Congress has taken some steps in recent years to eliminate it, the basic discrimination still exists. This discrimination is no longer necessary or appropriate in view of the comprehensive regulatory tax provisions adopted with respect to these plans in the Employee Retirement Income Security Act of 1974.

In general, an employee covered by an employer-sponsored retirement plan qualified under the Internal Revenue Code receives highly favorable tax treatment. The employee is not taxed on amounts contributed by the employer on the employee's behalf to a trust under the retirement plan at the time of the contribution, although the employee's right to the contribution may be completely vested (nonforfeitable). In addition, the investment earnings of contributions are also exempt from tax. The employee is taxed only on the receipt of the amounts, which is generally after retirement.

These are major tax benefits and have prompted the widespread adoption of qualified plans by employers.

Until 1962, however, self-employed persons were not entitled to any of the tax benefits of qualified retirement plans. Since 1962 they have been entitled to benefits, but to a much lesser extent than employees and subject to much more severe conditions than those imposed upon corporate plans. The result has been and continues to be discrimination against the self-employed. The history of this development is important to an understanding of the discrimination that exists.

HISTORY OF H.R. 10 PROVISIONS

Responding to widespread criticism of discrimination, Congress in the Self-Employed Individuals Tax Retirement Act of 1962 (generally known as H.R. 10) for the first time permited self-employed persons to participate in qualified pension or profit-sharing plans. A self-employed person could contribute amounts up to 10 per cent of earned income, not to exceed $2,500 per year, to a qualified plan. Only one half of the contributions were deductible for federal income tax purposes, however.

In the Foreign Investors Tax Act of 1966, Congress removed this latter limitation so that the full amount of the contribution was deductible. In addition, self-employed persons could contribute, but not deduct, additional amounts, limited in most cases to $2,500.

These provisions, permitting what popularly became known as H.R. 10 plans, included a complex structure of special requirements and restrictions in addition to those regularly imposed by the Internal Revenue Code on all qualified plans.

The H.R. 10 provisions were enacted to give self-employed individuals access to retirement plans, but on a much more limited basis than employees. Congress acted to correct in part the discriminatory effect of the Internal Revenue Code at that time, and the H.R. 10 provisions were considered to be in the public interest because they made self-employment somewhat more attractive, relative to employment with a corporation, and therefore would help to keep small business strong and independent professional practice thriving. Noting the emergence of the professional corporation, Congress thought it desirable to provide that a self-employed person might participate in employee retirement plans without having to become an employee of his own corporation.

The complex structure of special limitations and restrictions for H.R. 10 plans was enacted in 1962 because the Internal Revenue Code at that time contained inadequate provisions to govern vesting, participation, distribution of benefits, and other matters. There was no E.R.I.S.A. then to provide a comprehensive statutory framework for all qualified retirement plans.

Criticism continued, however, as to the discriminatory effects of the severe limitations on amounts that could be set aside by self-employed persons for their retirement and the special requirements and restrictions applicable to H.R. 10 plans. Comparisons continued to be made to the far more liberal provisions for plans covering employees. The American Bar Association and other organizations adopted positions calling for complete elimination of the special treatment of self-employed persons.

Congress responded in part in 1974 in E.R.I.S.A. by increasing the amount that could be contributed and deducted to 15 per cent of earned income, not to exceed $7,500 per year, and by making other liberalizing changes. At the same time Congress imposed limitations on the benefits participants in any qualified plan could enjoy, although these limitations were far more liberal than those applicable to self-employed persons. A small but important action also was taken in the Tax Reform Act of 1976 in extending the estate tax exclusion available with respect to an interest in a qualified plan to the interest of a self-employed person. Previously this exclusion had not been available to the self-employed.

E.R.I.S.A. imposed a massive regulatory structure on all qualified plans. This included extensive provisions dealing with all of the areas that were the subject of the special limitations, requirements, and restrictions originally adopted in the Revenue Act of 1962 for self-employed plans.

The special provisions for self-employed plans are no longer necessary or desirable in light of this new regulatory structure. Major simplification of E.R.I.S.A. would be achieved by elimination of all or most of these special provisions. This becomes apparent from an analysis and comparison of the qualified plan provisions as they affect employees and self-employed persons following the enactment of E.R.I.S.A.

THE EFFECT OF E.R.I.S.A.

Treatment of corporate employees

In E.R.I.S.A. Congress provided new, specific limitations on contributions or benefits employers may provide to their employees under a qualified retirement plan. These limitations depend on the type of qualified retirement plan. The Internal Revenue Code now provides that an employee may enjoy an annual contribution by his employer to a trust for the employee's benefit pursuant to a qualified "defined contribution plan" in an amount not exceeding $25,000 per year (adjusted for cost-of-living increases). A defined contribution plan is a plan such as a money purchase pension plan, profit-sharing plan, or stock bonus plan under which a specific amount is set aside in trust in an individual account for the particular employee. The employee subsequently receives (generally on retirement) an annuity for himself, or himself and his spouse, or a lump-sum payment, based on whatever his individual account, including the investment earnings of the account, will provide at that time.

Similarly, the code now provides a limitation on the benefits an employee may receive under a qualified "defined benefit plan." The employee may enjoy the benefit of an annual contribution by his employer to a trust for the employee's benefit that will provide the employee an annuity of up to $75,000 per year (adjusted for cost-of-living increases). A defined benefit plan is an aggregate-funded pension plan providing annuities to the employees in fixed amounts,

[1] This article is based on testimony of the American Bar Association to the House Ways and Means Committee on March 7 in the tax reform hearings. The testimony was prepared by the Committee on Retirement Benefits Legislation and presented by John S. Nolan, chairman of the commitee.

or determinable by a fixed formula based on such factors as age and length of service. The employer must contribute to these plans whatever amounts are required from time to time, determined actuarially, to meet these fixed benefit obligations (that is, to "fund" the benefits).

Although E.R.I.S.A. initially set a $25,000 limit for defined contribution plans and a $75,000 limit for defined benefit plans, Congress also recognized the need to adjust these amounts for inflation, and these limitations are indexed to reflect increases in the cost of living. The changes in the cost of living have increased these limitations from $25,000 to $30,050 and from $75,000 to $90,150, respectively.

E.R.I.S.A. also provides that an employee may enjoy the benefits of both a defined contribution plan and a defined benefit plan (or several of each in any combination), provided that the combined effect of plans adopted by any controlled group of employees does not exceed 140 per cent of the statutory limits. If the employer contributes $30,050 to a defined contribution plan for the employee, 100 per cent of that limitation has been utilized, and only 40 per cent of the defined benefit plan limitation could then be used. The annual benefit payable under the defined benefit plan of the same employer then could not exceed $36,060 (40 per cent of $90,150). This is commonly known as the rule of 1.4.

Treatment of self-employed persons

In addition to establishing limitations on contributions or benefits for employees under E.R.I.S.A., Congress also improved the benefits available to self-employed persons. They may now contribute an amount up to 15 per cent of earned income, not to exceed $7,500 in any year, to a trust pursuant to a qualified defined contribution plan. The self-employed person may deduct this amount for federal income tax purposes, thereby achieving to this extent the same treatment afforded employees who are not taxed on employer contributions for their accounts although their rights are fully vested.

In addition, a self-employed person may make additional nondeductible contributions. If, however, he is an "owner-employee," these additional contributions are limited to 10 per cent of earned income, not to exceed $2,500 per year. An owner-employee is a person with a 10 per cent or greater interest in capital or profits of the business.

Unlike the limitations applicable to corporate employees under E.R.I.S.A., neither the $7,500 limit nor the $2,500 limit is indexed for cost-of-living increases. These limitations should be contrasted with the present limitation for employees of $30,050.

In addition, E.R.I.S.A. made possible, as a practical matter, for the first time, defined benefit plans for self-employed persons. Benefits under these plans are subject, however, to a special set of limitations, which are applicable in addition to the $75,000 annual limit on benefits applicable to all qualified plans (including all H.R. 10 plans). Under these special limitations, a self-employed person may receive a maximum "basic benefit" based on that person's age when he is first covered by the plan. To determine this, the code provides a table of percentages to be multiplied by the self-employed person's earned income, disregarding earned income over $50,000 in any year. This measures the benefit amount in the form of a straight life annuity based on that year's earnings which may be paid to the self-employed person beginning at age 65. The table is:

Age when participation began	*Applicable percentage*
30 or less	6.5
35	5.4
40	4.4
45	3.6
50	3.0
55	2.5
60 or over	2.0

Regulations are to be issued to provide amounts for ages not specified in the table.

An illustration of how this maximum basic benefit limitation restricts the amount of benefit for a self-employed person may be seen from this example. Assume a self-employed person was 45 at the time of adoption of a plan and that person made in excess of $50,000 for that year and each succeeding year. The maximum annual benefit that could be provided that person would be an annuity of $36,000 per year (3.6 per cent × $50,000 × 20 years of earnings). This figure should be contrasted with the current E.R.I.S.A. limit for employees of $90,150.

It also should be noted that if this self-employed person decided to begin his annuity earlier (for example, at 59½), or desired to take a joint and survivor annuity at 65 in order to protect his spouse, the basic benefit amount would be less, reflecting in both instances an actuarial reduction of the amount computed under the table. This special limitation on benefits under a self-employed defined benefit plan, moreover, effectively prevents the plan's taking into account past service for benefit accrual purposes. Other plans, however, may give full recognition to past service.

Another example of the discrimination against the self-employed occurs by reason of special restrictions on integrating self-employed plans with social security benefits. Generally, under retirement plans covering corporate employees, the relative proportion of contributions or benefits for higher-income employees may be increased by "integrating" the plan with social security benefits. This process permits the plan, in effect, to take into account part of the social security benefits an employee will receive as if they were provided under the plan, recognizing that the employer has paid the employer portion of social security taxes to provide them.

NO INTEGRATION WITH SOCIAL SECURITY

On the other hand, a defined benefit plan that covers a self-employed person who is an owner-employee may not be integrated to any extent with social security benefits. A defined contribution plan covering self-employed persons may be integrated, but if the plan covers one or more owner-employees, the integration may be provided only under such additional stringent conditions that this option is, as a practical matter, unavailable in most cases. For example, a plan covering an owner-employee may be integrated with social security only if no more than one third of the amount of total deductible contributions are made on behalf of owner-employees.

As we saw, E.R.I.S.A. allows employees to enjoy benefits under both a defined contribution and a defined benefit plan (including more than one of each type of plan), provided that the relative coverage under all defined contribution plans when added to the relative coverage under all defined benefit plans does not exceed 140 per cent of the E.R.I.S.A. limitations for defined contribution and defined benefit plans. A self-employed person, however, may not enjoy the benefits of any increase in the H.R. 10 limitations by being covered by both defined contribution and defined benefit plans. The use of the rule of 1.4 is not permitted.

This means that if a contribution of $3,750 were made to a defined contribution plan on behalf of a self-employed person having earned income in excess of $50,000, 50 percent of the applicable limitation would have been used (50 percent of $7,500). As a result, the benefit available to this individual under a defined benefit plan would be reduced by, in effect, lowering the applicable percentages in the table for "basic benefits" by 50 percent.

Self-employed individuals who participate in a plan are also subject to discriminatory treatment of distributions of benefits. When they separate from service, they are not entitled to avail themselves of lump-sum distribution treatment but must defer all distributions until they have attained 59½ to enjoy that treatment. Employees, on the other hand, may use the benefits of the lump-sum distribution provisions on their seperation from service. This enables them to enjoy either the very favorable averaging treatment or to avoid immediate taxation by rolling over the distribution to another qualified plan or an individual retirement account (I.R.A.).

A retirement plan for self-employed individual who is an "owner-employee" must contain still further restrictions and limitations. For example, all employees participating in a retirement plan covering an owner-employee plan must be entitled to immediate, 100 percent vesting. This should be contrasted with the E.R.I.S.A. vesting requirements that permit other plans to defer vesting for substantial periods of time and to delay 100 percent vesting for as long as fifteen years.

Retirement plans covering owner-employees also must provide that all employees will participate if they have three or more years of service, regardless of their age. The participation requirements of E.R.I.S.A., on the other hand, permit employees to be excluded until they reach 25.

One special effect of the participation and vesting requirements applicable to plans covering owner-employees is that employees who have three or more years of service must participate and vest immediately on the adoption of the plan. In the case of other retirement plans, years of service prior to adoption of the plan may be disregarded.

If a profit-sharing plan covers an owner-employee, the plan must provide a definite formula for contributions. In other plans, the employer may reserve the right to make discretionary contributions and to decide what, if any, to contribute after the close of the plan year.

An owner-employee may not withdraw any benefits from a plan until he has reached 59½, except for any nondeductible contributions he has made, and must begin to draw benefits by 70½. The benefit must be payable over a period not longer than the lives of the owner-employee and his spouse, or their life expectancies. Other plans do not have these restrictions. Employer benefits need only begin by 65, or on termination of service, or after ten years following entry into the plan, whichever is latest.

In addition, special penalty taxes apply with respect to contributions by self-employed persons in excess of the statutory limits and are imposed on premature distributions to owner-employees. Plans including owner-employees are subject to much more severe prohibited transaction rules, and they do not enjoy various exemptions applicable to other plans. Investment and operational flexibility is restricted much more than with other plans.

Various other special limitations apply to plans benefiting self-employed persons or owner-employees. In recent years there has been a gradual congressional program of eliminating some of the differences in treatment of employees and the self-employed, but major discriminations still exist.

THE PROFESSIONAL CORPORATION DEVELOPMENT

One consequence of this discrimination has been widespread incorporation of professional activities. By incorporating, self-employed persons become employees of their corporation, receiving their income as salaries and bonuses, and adopting a qualified retirement plan and welfare plans

to cover themselves as employees. The emergence and growth of professional corporations reflect the strong incentive self-employed persons have to avoid the restrictions and limitations on H.R. 10 plans.

Every state has enacted special statutory provisions permitting professionals to incorporate their practices. Under the pressure of court decisions, the Internal Revenue Service has given full recognition to professional corporations. Self-employed persons may avoid the restrictions and limitations on their participation in qualified plans if they are willing to incorporate. A large number of physicians and lawyers practicing alone or in small partnerships have followed this course, but larger law firms and accounting firms for the most part have not.

The decision to incorporate is a difficult one for many professionals. It poses legal, tax, and other problems that are wholly unrelated to the qualified retirement plan provisions of the code. The result is that a majority of professional persons have not incorporated. For them the discrimination that exists has only been compounded.

Given the ability of self-employed persons to avoid the H.R. 10 restrictions through incorporation, it is apparent that the special restrictions and limitations that apply only to self-employed plans are no longer necessary or desirable. This is particularly so in view of the comprehensive regulatory structure E.R.I.S.A. has made applicable to all retirement plans.

Why should the self-employed person be able to contribute and deduct a lesser amount to a defined contribution plan than a corporation may for one of its shareholder-employees? Why should the self-employed persons be entitled to a signficantly smaller annuity after retirement under a defined benefit plan than a corporate employee whether or not he is an owner of the business? E.R.I.S.A. set a definite limitation on the total amount of annual contributions under a defined contribution plan and the annual benefit under a defined benefit plan. These limitations should be uniformly applicable to all plans. The particular limit on contributions or benefits should not depend on whether an individual has chosen to conduct his business through the legal structure of a corporation.

AMERICAN BAR ASSOCIATION RECOMMENDATIONS

It is the position of the American Bar Association that Congress should eliminate all the discriminatory limitations and conditions now applicable to self-employed plans. E.R.I.S.A. has imposed on all qualified retirement plans comprehensive and complete requirements with respect to coverage, vesting, fiduciary responsibility, prohibited transactions, commencement of benefits, and other matters. There is no need for the additional superstructure of complex special H.R. 10 limitations, some applying to all self-employed persons and some only to owner-employees, without any clear rationale for the distinctions. The elimination of the special limitations and restrictions would promote the goal of equal tax treatment of similarly situated individuals. A major simplification of our tax laws would be achieved by elimination of the special structure in the code for H.R. 10 plans, either in whole or in large part.

Equally important, removal of this discrimination will provide a powerful incentive for adoption of new qualified retirement plans by unincorporated businesses. This will extend the coverage of the private pension system to many low-income persons not now protected.

At the least, the $7,500 limit on deductible contributions by self-employed persons should be indexed to the cost of living. Under E.R.I.S.A., the annual limitation on contributions to a defined contribution plan has risen by $5,050. This is almost as much as the total limit on contributions by self-employed persons.

Beyond this, if the specific contributions and benefit limitations of H.R. 10 are not removed, self-employed persons should at the very least be permitted to contribute amounts to a defined contribution or defined benefit plan in excess of these levels if necessary under accepted actuarial assumptions to provide a single life annuity at age 65 equal to at least 50 percent of their earned income for the five years preceding the year of contribution. Of course, the contribution or benefit for the self-employed person could not exceed the respective E.R.I.S.A. limitations on contributions and benefits. This latter proposal, while not doing away with all aspects of discrimination, would at least permit self-employed persons to provide a retirement benefit for themselves consistent with the low side of an average level of benefits now generally provided by qualified retirement plans in the United States.●

A CHANGING CONGRESS

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. STANGELAND. Mr. Speaker, a number of articles have appeared assessing the work of this Congress. One of the best observations to date was done by my colleague from the Second District of Minnesota (Mr. HAGEDORN). For the benefit of the other Members of Congress and the public I submit my colleague's address before the National Limestone Institute's 33d annual convention:

REFLECTIONS ON A CHANGING CONGRESS

(Address by Congressman TOM HAGEDORN)

(Introduction by NLI Director Donald F. Brielmaier)

It's often difficult in a rural community I think to feel that you may not be adequately represented by your Congressman. The second district of Minnesota is a rural community. Farming is the backbone of its economy. We therefore feel very fortuante in our district to have as our representative a man who is not only a successful State and Federal Legislator, but a successful farmer. He tells me that he goes home on three or four weekends a year in the early spring to plant the 160-acre farm that he still owns in Southern Minnesota in an area to which we have the privilege of supplying him lime occasionally, though I'm not sure we have supplied him any—I've got to talk to him about that. He does still work the land, as it were.

There aren't too many Congrsesmen left like that. He would also be, I think, one of the first to tell you that to survive on a 160-acre farm today would be quite a battle. But he's well aware of what's involved in a farmer's problems. I think another interesting side note that Bob and his staff weren't aware of was that he began his career in Federal politics at least by beating the odds in a glorious manner. He took on Fritz Mondale's college debate partner—a man from Mankato—which is where I am from—which is the largest community I believe in his district, at least one of the larger ones, and he whopped him good. It was to the total astonishment of everybody in the knowhow, all of the political experts felt that Tom was never going to be able to handle this guy. His opponent was also associated with the Limestone Business and he was a cutstone fabricator, and maybe if he'd known that, Tom, he wouldn't have felt too worried about it.

The National Federation of Independent Business, to which many of us belong, has rated Congressman Hagedorn as one of only seven in Congress who by their standards carries a 100% voting record as it applies to the small businessman. And to most of us in this room, that's pretty significant. From a seat on the House Agricultural Committee, today's speaker is rapidly gaining recognition as a very conservative and stalwart defender of the American farmer. A successful Congressman, however, cannot limit himself to one issue. For example, our guest has taken leadership roles in such diverse topics as the food stamp provisions of the farm bill and the controversy over the building or the rebuilding of lock and dam 26 on the Mississippi.

And then a Congressional move to rewrite Health, Education and Welfare Hospital Planning Guidelines, which would have denied speedy access to a hospital for many rural Americans. Of special interest to many in NLI is that from his seat on the House Public Works and Transportation Committee his is the voice opposing the diversion of money from a much-needed highway program. The topic of his presentation today is "Reflections On A Changing Congress." Ladies and gentlemen, one of the Republican Party's future leaders, Congressman Tom Hagedorn of Minnesota.

Thank you very much Don. It's a pleasure to have an opportunity to address this luncheon here today of the National Limestone Institute. No, Don, you haven't sold me any Limestone—I have a pH of between 6.9 and 7.1, which is pretty good shape there for that part of Southern Minnesota. Anyway, I am pleased, as I said earlier, to have a chance to visit with you a little bit about some of the changing times in Congress, especially since I came to Washington in the very early months of 1975. I thought I'd make a few preliminary comments, before I get into some of the current issues, to point out to you that perhaps the biggest change in the last few years, and I think it started to change right during the Watergate era, is that the Members have become much more individualistic.

We used to have a very powerful system in Congress. The Speaker of the House could literally pull strings and dictate the votes and the actions of many members of Congress, but we've seen the predictability of Congress diminished considerably in recent months.

I think we can also say to some extent that special interests have lost some of their traditional support. Common Situs, if I might point to an issue that I'm sure many of you are concerned about, is one which had been debated for over two decades, and yet when everything fits right—we had a President who wanted it, and we had an overwhelmingly labor dominated Congress that said they were for Common Situs—when push really came to shove, and they really had to stand up and be responsible to the American people, there remained a majority that said, "Look, we've played this issue to the hilt, and we've raised all the money we can from the contractors and from the labor unions, and we really can't let this become law," and we defeated it by a five vote margin.

Another issue that came up in this session of Congress which surprised many people by its defeat was Cargo Preference legislation. You remember in the last campaign that the American Seafarers Unions and some of those organizations were very involved in getting commitments from Presidential candidates and a lot of key members of Congress. They would support a massive amount of Federal subsidy and mandate that a certain percentage of oil be shipped in American bottoms rather than rely on foreign made bottoms. That was going to increase the cost of our petroleum

products that we consume in this country by anywhere from one to three cents per gallon, depending on whose figures you use. Because these estimates range from a cost of $80 million to $600 million dollars a year. Congress defeated this decisively.

Much of that I think is to the credit of a group that I don't align myself with too often. In this particular instance, Common Cause led the battle and they started sorting through the contributor's list to members of Congress and found literally thousands and thousands of dollars going to individual members who promoted that legislation. They traced that information and publicized that information widely, persuading many members that they really couldn't account to their voters for a vote in favor of cargo preference, and it went down in flames.

One issue that I can't say I'm quite as positive about is the Office of Consumer Representation. This is the legislation that is probably under debate right now on the House floor. You've heard about the Consumer Protection Agency and the Agency for Consumer Representation and the Agency for Consumer Advocacy, and they keep coming up with new titles, but the thrust of the legislation is the same.

This is an issue that started out with a tremendous amount of support. Years ago, it passed the Congress with a vote of approximately 300 to 44, and each time as it was reconsidered and we looked at the growth of government bureaucracy we started to really analyze "consumerism".

What are consumer interests? Take, for example, natural gas deregulation. If you are a consumer and you have a gas line to your home, you probably favor holding the price down. But, if you built the new home next door and they won't connect you to natural gas because of dwindling supplies, or because of not knowing what the future prices are going to be, you may be willing to pay a higher price. So which consumer interest should be represented by a consumer advocacy agency? This is something that has to be decided in the market place and not by a bunch of high-paid lawyers, supposedly representing the consumer. I think this is an area we've got some real problems with. I'm hopeful today that we will defeat that and get it behind us once and for all. Even the *Washington Post* this morning editorialized in opposition to it, and I'm glad to see that they're learning something with time.

Another issue that I see, and this is, I think, a change for the worse, is the Rules Committee in the House of Representatives. One of the most frequent questions I get asked when I go back to my District is "Tom, why don't you propose a certain amendment to do this?" Often it deals with tax legislation or a number of other controversial subjects. The problem is the Closed Rule.

The House Rules Committee acts as a traffic cop, and it regulates the flow of legislation, and the amendments that can be offered to legislation. If you don't serve on a particular committee in this great democracy, often times you're prohibited entirely from offering an alternative idea even though it's germane to the legislation under consideration.

One thought that quickly comes to mind was back in 1976 when we had under consideration in the Ways and Means Committee a proposal which was known as the 'carry over basis' on estate tax evaluation. The 'carry over basis' reform would have lowered the basis on which inheritors of property pay taxes on that property, and resulted in substantially greater transfer of property from the private sector to the public sector. Many of us in Congress were strongly opposed to this and we voted down the rule which said that there would be no opportunity to vote on whether or not that provision would be part of a law. The Chairman of the Ways and Means Committee quickly picked up his books and walked off the House Floor.

Never to be considered in the House of Representatives was estate tax reform, but instead our tax bill went to the Senate. The Senate and the House had a conference committee, and what we finally voted on in regards to estate tax reform was what the Senate had decided. In the House of Representatives, 435 duly elected members never had an opportunity to give some input on what kind of tax policy we wanted to establish.

Now I think it's a pertinent point to make with you people today, because just the day before yesterday the Senate voted to delay implementation of the carryover basis until 1979 so that we could have further study on the full impact. The impact is devastating. And you who are small business people ought to be aware of this in lobbying your Congressman. You ought to be aware that there are some onerous provisions in there that are going to come home to haunt the heirs to your estates.

Structurally, and procedurally, there have been some major reforms that have taken place in Congress. You've heard about the ethics changes. We're all more ethical today than we used to be. While we're all trying to provide some degrees of financial disclosure, it is important that we not intimidate people from becoming involved in politics because they just don't want to nakedly reveal their personal assets and holdings. They don't think it's the public's business. We have restricted our outside income and done a number of things to appeal to the general public.

We've made some significant changes in committee structures. There is much more that needs to be done, but the Bolling Commission of 1974 made some real improvements. You have to recognize that there are many power barons in Congress. They get reelected by appealing to the special interest groups that they regulate, and therefore they're difficult to remove—to do away with their subcommittee chairmanships.

An area that I think needs continued reform, for example is an area that I think you people are interested in, and that is in transportation. On the House Public Works Committee we have surface transportation, we have aviation, we have waterways, but the railroads are over in the Interstate and Foreign Commerce Committee. In my opinion, we ought to establish one comprehensive committee on transportation so that we can truly work for a uniform, coordinated system, a system of modes that complement one another—so that we can have the most efficient transportation network in this country possible. I believe that the current breakup in jurisdiction impedes that objective.

Another area of reform is budgeting. You've heard about the great Budget and Impoundment Act and how Congress finally stopped spending money mindlessly, and is now evaluating how much they're going to spend and predicting how big the deficit will be. I mention deficit since we've never had a surplus since I've been in Congress. In fact, we haven't had a surplus since I was old enough to vote. So we don't even think about surpluses. This is a new tool so that we can try to better predict what the impact of government action will be on the economy, on the funds that are available to the private market, how much money will be available for small business to operate, and all sorts of other economic decisions. It is clear that an increasing proportion of the available investment capital is being consumed by the government rather than by the private, job-creating sector.

And I think that's the bottom line. Are the American people happier with the legislation they've been getting the last two or three years, or not? Looking at the public opinion polls, I think it's clear and evident that the American people have come to the point where they realize that government cannot be everyone's keeper. While people are demanding more of their "rights", people today are also willing to assume more of their individual responsibilities. I think that bodes well for the future.

There is some good news. President Carter is going to support a $25 Billion Dollar tax cut, and I think that's good news. But, there are a number of increases, about $9 Billion Dollars worth, and so it actually works out to a tax package of about $34.5 Billion Dollars. The bad news, however, is that in the last year the government has increased its take from the American working people by $31 Billion Dollars simply due to inflation. Your income was ratcheted up, due to inflation and cost of living increases, and the government increased its percentage of the take, leaving you less to spend on your own basic needs.

For that reason I think that the President's tax cut is inadequate. We have to recognize that we are stifling initiative and incentive, and we're not inducing that entrepreneurial spirit that we need if we're going to make this country the great country it is. And, most importantly, we have to reflect on the impact that government tax policies are having upon the middle class of the American people who seem not to have spokesmen in government today. It's either the wealthy or the poor, nonproductive sector of our society that reaps the rewards of Washington with the burdens continually falling on the middle class taxpayers. For this reason, I think that we have to index our tax code so that the Congress is forced to state that it is going to increase the taxes and this is where it's going to come from, or we're going to increase the deficit, or we're going to cut spending.

Talking about spending, we had a $500 Billion Dollar budget that was presented to Congress recently. It was labeled "austere", "tough", "lean"—all sorts of adjectives to suggest that we're really holding down on spending. Well, we had an increase of 7 percent to account for inflation. We had another 2 percent for real growth in the budget, and how many small businessmen would like to see some real growth in their business that they haven't gotten. But we've gotten real growth in the federal budget. We've seen a 15 percent increase in foreign aid. Funds for the international lending institutions are up dramatically—far faster even than the cost of living.

We're going to continue to bail out many of the foreign countries that are competing for American agribusiness markets, like the palm oil market. We're going to continue to develop the steel mills in Brazil that come in and compete with American steel industry. We're going to provide long term low interest loans to Cambodia, Laos, Vietnam, Cuba, Uganda, Mozambique, and Zambia. Taxpayers' dollars are going out to support and prop up communist regimes around the world. We've got a 9 percent increase in welfare payment, and that's not including the President's so-called welfare reform which would increase our total outlay for income support by 50 percent, or at least $12 billion more than we're spending today.

The Warsaw Pact community is providing us a very serious challenge to our NATO alliance, and certainly when that's challenged our own security is challenged as well. The Soviet Union has increased its spending dramatically over the last decade, while the United States has decreased. It was just back in 1955 that 48 percent of our total budget was going for military expenditures. Today it's 22.5 percent or 23 percent, which is rather interesting.

We're going to have a 25 percent increase in the interest on our federal debt. Its going from $44 billion to about $55 billion which I think is ironic, because this is nearly 50 percent of what we spend for total national security costs. Our budget has gone up and

our interest has gone up even faster. Today, we're projecting the second largest budget deficit in history. In Fiscal Year '76 we had $45 billion. The current year, we're going to have $60 billion and next year it's projected to be over $61 billion, which I think is likely to be much higher than that. Today our total national debt stands at $873 billion.

There were some cuts made in the President's budget, primarily in the area of agriculture. The President, with thousands of farmers storming the streets, and parading on Capitol Hill begging for some financial relief, proposed a 40 percent reduction in the agriculture budget.

There are two parts to the agriculture budget. One is for food stamps, which is about $5.7 billion, and then you have the program for women and infant children, and the new lunch programs. Secondly, you've got the farmer's part—agricultural research, income stability payments, and things such as that. It was the farmer's part that was reduced $3.7 Billion Dollars. There are reductions in the Farmers Home Administration loan authority, the Federal Crop Insurance Corporation, and agricultural research.

Another major concern, of course, is the regulation explosion, and we truly have had that in recent years. In 1977, the Federal Register was published, and it contained more than 60,000 pages of fine print rules and regulations that were issued by federal bureaucrats, un-elected, but operating under the authority that Congress had given them. In 1973, there was less than 30,000 pages of fine print rules and regulations. So we've seen a doubling, and it looks like we can virtually predict a 10-12,000 page increase each year in rules and regulations. That is not going in the direction that the American people want.

We ought to adopt some major reforms. Number one, the Congress ought to adopt the legislative veto, so that we can monitor what the bureaucracies are doing and stop these actions before they are final. Secondly, we should adopt a regulatory cost-benefit process so that we are able to compare costs and benefits cost versus the loss. Is there a *net* gain in what is being proposed? Thirdly, I think that one of the quickest ways to get agencies to operate more responsibly would be to require the agency to pay legal fees when a defendant is sued by a government agency unsuccessfully. Perhaps, they ought to pay for it out of their budget so as to discourage their promulgation of some of the most ridiculous rules and regulations.

The highway program is of a great deal of interest to you, and President Carter has proposed about $7.8 billion for fiscal years '79–'83, a four year program. One of the areas that I am concerned about is the proposal to put more "flexibility" into the Highway Trust Fund and allow communities to divert moneys which have been raised by the gas taxes to mass transit. I'm fully supportive of mass transit systems when communities adopt comprehensive programs to show the Congress how they're going to reduce congestion, how they're going to save energy, and how they're going to better serve the people. But in too many areas we have conflicts.

We're building tremendous mass transit systems costing billions of dollars, and yet there's no evidence that this is cutting down on the amount of highway traffic. We're not seeing this. And I think that before we commit massive amounts to mass transit, we've got to have evidence to demonstrate that it's not going to be duplicative.

I don't know how to construct a mass transit trust fund similar to what we've been able to do with the Highway Trust Fund, but I do recognize that it needs some consistent funding so that it can look and plan ahead.

Badly needed also is a bridge replacement program. There's no question that there are something like 105,000 bridges in the United States which are deemed to be structurally unsound. That is truly a national disaster. Don, here, was telling me that back in one of the counties that I represent it is difficult to get a load of lime to a farmer because you have to route it around through all the various township and county roads because you can't get across bridges.

I'm going to conclude on an issue that is of great interest to us all, and that is the energy program. The Congress has been debating this for several months. The House of Representatives quickly approved legislation last year which rubber-stamped President Carter's program. We put it into the Senate ballpark, and they've been batting it around ever since.

There is substantial agreement on many parts. From the conservation point-of-view, it's true that we need to move forward and provide an insulation program to get American homeowners and business people to develop improved means of energy conservation.

However, when you get to the natural gas pricing there really is a hangup as we've watched demand outpace the available supply by 150 percent in recent years. It's time that Congress moved forward in freeing up the price structure of natural gas in order that we can determine its value in the market place.

It's interesting that we import, I believe, about 10 percent of our liquid natural gas from Algeria at a cost of $4.50 per MCF. We're going to build a $10 billion pipeline, all the way to Prudhoe Bay in Alaska to bring natural gas down that costs $3.50. We're going to buy natural gas from Mexico on the south side of the Rio Grande for $2.80. Yet our President says that, in the continental United States, you should be able to charge a maximum price of $1.75. To me this is unsound business policy.

Why do we want to transfer billions of American dollars overseas to add to our balance of payments deficit. Why don't we want to encourage more exploration and development of fossil fuel sources in the United States which may be available at between $2.80 and $1.75, between $3.50 and $1.75, and between $4.50 and $1.75?

From a purely economic standpoint, it only makes sense that we move forward with deregulation. That isn't to suggest that we deregulate gas tomorrow. What is being proposed is to deregulate only *new* natural gas found on land in the United States. Many contracts of gas would still be based at 20c, 22c-23c per MCF. They would not be impacted until that contract expires, and only then could it be recontracted at the higher free market price.

In order to utilize alternative sources of energy, whether it's solar, whether it's using our agricultural products, waste materials, whatever it is, we've got to have competition in the market place. And once we get competition, and determine the true value of our fossil resources, I believe that we can satisfy our country's need for adequate supplies of energy in order that we can retain, and improve, our standard of living.

I want to again thank you for the opportunity to talk to you on several of these issues.●

U.S. ARMS TRADE POLICIES IN THE WESTERN HEMISPHERE: A GLOBAL MODEL OR A DISASTER? (PART 1)

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. LAGOMARSINO. Mr. Speaker, the Subcommittee on Inter-American Affairs of the Committee on International Relations, of which I am a member, has been holding a series of important hearings on the subject of the arms trade in the Western Hemisphere. Since most of the President's announced global arms control policies have been a major part of U.S. policy toward Latin America for more than 10 years, a review of the Latin experience should help to provide an assessment of the possible success or failure of such global approaches. In addition, it will clarify their probable effect on our allies as well as our own foreign policy, economic development, and national security.

Yesterday, the subcommittee heard testimony from Mr. Joseph E. Karth, president and general manager of the American League for International Security Assistance, Inc. (ALISA). ALISA is a labor-management organization currently composed of three national and international unions representing some 3.5 million workers and 31 American corporations employing approximately 750,000 Americans in all 50 States. Mr. Karth, as the head of ALISA and as a distinguished former Member of the House of Representatives, provided an informative and thought provoking analysis of U.S. policies.

So that other Members of the House have the opportunity to read Mr. Karth's statement, I am inserting in the RECORD his entire testimony in two segments. Part 1 follows:

TESTIMONY OF JOSEPH E. KARTH

Mr. Chairman, members of the Subcommittee on Inter-American Affairs. We are happy to have the opportunity to testify before this Subcommittee on the subject of "Arms Trade in the Western Hemisphere", to include U.S. arms transfer policy in the region; extrahemispheric suppliers; intrahemispheric arms export capabilities; efforts to coordinate supplies policies; and the impact of U.S. policy on U.S. security, foreign policy, and the U.S. balance of trade and employment.

Before giving our views on those issues, let me briefly describe the American League for International Security Assistance, Inc. ALISA is a labor-management organization currently composed of three national and international unions, representing about 3.5 million workers and some 31 American corporations engaged in exporting billions of dollars worth of American manufactured goods and services. These companies employ close to 750,000 Americans in all 50 states plus the District of Columbia. A list of our membership is attached.

ALISA's principal goal is to encourage exports of American goods and services, in consonance with the security, foreign policy, and economic goals of our nation.

The members of ALISA are firmly convinced that the United States needs to adopt a national policy that encourages the production and export of American-made goods and services if we are to achieve the goals of assisting in (1) protecting our national security; (2) full employment; (3) greater price stability; and, (4) protecting the integrity of the dollar. We strongly believe that America's greatest long-term strength—our industrial base—depends importantly on the high technology sector where we have maintained our only competitive advantage. This in itself becomes an ever increasingly important factor in our overall long-term national security. The requirement for new, continuous and large infusions of capital into the development of ever higher tech-

nology to maintain our lead, cannot be overemphasized.

In his May 19, 1977, statement establishing his Administration's policy on conventional arms transfers, President Carter contended, as he had during his campaign, that "the virtual unrestrained spread of conventional weaponry threatens stability in every region of the world," and deplored "the threat to world peace embodied in this spiralling arms traffic."

The President announced a six-point policy of unilateral U.S. restraint in the sale of arms as an instrument of foreign policy. Arms sales, the President indicated would "henceforth be viewed as an *exceptional* implement of U.S. policy." The President also stated that actual reductions in the worldwide traffic in arms would require multilateral cooperation.

In the Western Hemisphere, the United States has followed such a policy of unilateral restraint in arms sales for over ten years. Consequently, an examination of the results of this restraint in Latin America might give us some indication as to what might be expected from the President's policy worldwide.

From the end of World War II through 1966, the U.S. supplied slightly more than 70 per cent of the total arms transferred to Latin America. Our influence, political and military, was predominant. Almost 800 U.S. military personnel were assigned to the various Latin American nations to administer the military supply program and to advise on its use. Western Hemisphere defense was maintained by complementary national forces and U.S. influence with an understanding of the Latin American nations, their requirements and aspirations, were enhanced. Outside influence inimical to U.S. and Latin American interests was precluded.

These arms sales, and the supply and advisory relationship which accompanied them, provided the United States with other advantages in this strategic region which is so importnt to us. Among these advantages were the following:

Standardization of materiel, doctrine, and training was enhanced, thus encouraging and assisting mutual cooperation for hemisphere defense;

Cooperation was encouraged with these nations in matters other than military, and close and influential relations were maintained in a region where the military often have important political functions;

By employing a policy of evenhandedness, significant arms imbalances could be avoided, tensions between antagonistic nations could be moderated, and a degree of stability was encouraged; and

Very importantly—by insuring that friendly nations had a dependable source of conventional arms for their security requirements, the urge to divert scarce resources in order to build their own armaments industry was removed.

U.S. policy changed in 1966–1967. The U.S. now no longer was willing to provide so-called "sophisticated" weaponry to the nations of Latin America.

U.S. arms sales policies were based on the premise that top priority in Latin America should be the promotion of rapid economic development. Arms purchases, it was felt, should be limited to those required to equip Latin American military forces for internal security and civic action activities only. Major purchases of sophisticated military equipment were considered by the United States to be unnecessary and, indeed, economically harmful since they might retard development by consuming scarce national resources. Thus, the major objectives of U.S. security assistance and arms sales to Latin America since that time have been to build up this internal security capability as one means of encouraging democratic regimes with progressive human rights policies.

After ten years, what has been the result, the benefit to the U.S. and the nations of Latin America, of this U.S. policy of unilateral restraint in the sale of sophisticated armament to Latin America?

The U.S. policy of restraint, indeed, of prohibition, in the sale of sophisticated armaments has not been effective in curbing major arms purchases by Latin American nations. Those nations saw the U.S. policy as paternalistic and insulting as well as an unwarranted interference in their own internal affairs. With their access to the U.S. armaments industry restricted, and determined to provide for their own defense, these nations looked to European arms suppliers, particularly for jet aircraft.

Apparently not concerned with restraint or other political considerations, France, West Germany, the Soviet Union, Italy, England, and Israel have all stepped in where the U.S. preferred not to tread. Argentina, Brazil, Chile, Colombia, Ecuador, Peru, and Venezuela variously ordered new destroyers, guided-missile frigates, and submarines from Great Britain, Italy, and West Germany. While new U.S. missile systems were classed as being too sophisticated for export to Latin America, South American countries in particular proceeded to place orders for a diverse range of anti-air, anti-ship, and anti-tank missiles from Western Europe, Israel and Australia. Sophisticated jet aircraft and helicopters have been obtained from France, the Soviet Union, Great Britain, and Israel.

Thus, in the period 1967–1976, while arms purchases remained a fairly large percentage of total government spending in many of these nations (14.7 per cent for Argentina and 9.4 per cent for Brazil in 1977, for example), U. S. arms sales accounted for less than 30 per cent of total arms deliveries during that decade, and in recent years, according to Department of Defense witnesses, our share of arms transfers to the region has been reduced to less than 20 per cent of the total.

This diminution of U. S. arms sales to the Latin American region has had serious negative impact on U.S. political, economic, and national security relationships in the area.

In the political area many of the larger and more important nations are turning away from the United States and adopting independent political positions. U. S. political leverage and prestige in the region has been eroded seriously.

Much the same is true in the military influence sphere. These nations no longer look to the United States for military guidance. Over the past decade, our military presence has been reduced to about ten per cent of what it had been, partly at the direction of the Congress. As a Defense Department witness testified before this Subcommittee recently, third country advisors in the region are increasing. There are more Soviet advisors in Peru, for example, than the combined total of all U. S. military personnel currently administering U. S. arms transfer programs in all of Latin America. Standardization and collective defense, considered to be vital to U. S. security interests in NATO, have been sacrificed and no longer exist in Latin America. Foreign influence in the area, some of which is inimical to U. S. interests, has been introduced.

While the U. S. has unilaterally withdrawn, costly and sophisticated weapons systems have been introduced by a number of suppliers. As a result some significant military imbalances have developed outside the sphere of U. S. interests and/or influence. Indeed, U. S. policy has led to some almost ludicrous situations directly opposed to what our policy was intended to achieve. For example, when the U. S. refused to supply jet aircraft and tanks to Peru, the Soviet Union concluded a major sale to that nation in 1976 of SU–22 aircraft and a large number of tanks. This sale added a new dimension to arms supply relationships in Latin America, and created a serious military imbalance which alarmed Peru's neighbor, Ecuador.

Ecuador requested that the U.S. furnish it jet aircraft to redress the military imbalance. When this request was refused in accord with U.S. policy, Israel offered to sell 24 of its domestically produced jet fighter, the Kfir, to Ecuador for $152 million. This proposed sale was disapproved by the United States in February 1977, since the Israeli aircraft are powered with the J79 General Electric engine and any transfer by Israel to a third country requires U.S. permission. Ecuador then turned to France and is negotiating to purchase 24 MIRAGE F–1s at a price of $260 million. The absurd situation has arisen in which the U.S., not wishing to introduce sophisticated jet aircraft like the Kfirs into Latin America, has virtually forced Ecuador into buying a still more sophisticated aircraft at a cost of $100 million more. Ecuador's Minister of Foreign Affairs reportedly accused the United States of criminal action by selling arms to some countries while leaving others defenseless. To add to the comedy, the U.S. has recently approved a major sale of surface-to-air missiles to Ecuador as a counter to the threat of Soviet aircraft in Peru.

Thus, the U.S. policy of restraint—not a policy of arms sales, as the President's May 19, 1977 statement would indicate—has led directly to this mini-arms race in Latin America. A Department of Defense witness before this Subcommittee recently stated the obvious. He said, "Undeniably, it can be stated that there has been some erosion of military relations and influence as the result of our policies." This is a classic example of understatement. In many nations, our military presence and/or our influence or both, has been virtually destroyed.

Administration witnesses have stated before this Subcommittee that the economic costs to the U.S. of this unwillingness to sell defense articles and services to Latin America have been "negligible". Mr. Chairman, we cannot agree. As indicated, the U.S. in the last decade has supplied less than 30 per cent of Latin America's defense imports. The 70 per cent we did not supply—and it is logical to assume that we could have had that business if we had been willing—amounts to over $2.4 billion. Now this may be a negligible sum to the bureaucrats in the Department of State who are used to dealing in large numbers. But it is a large number in terms of many small American companies who have lost orders, and it does represent a significant number of jobs to American industry.

And, of course, this estimate of lost sales is conservative, Mr. Chairman. It does not include those defense sales not even initiated because the requesting nation knew they would not be approved. It does not include non-military commercial sales which were lost because of the deterioration in political relations. U.S. industry representatives were told frankly by officials in Argentina, Brazil and Chile that they would prefer to deal with U.S. suppliers, but U.S. government policies force them to turn to Europe as suppliers of military equipment. The general attitude throughout the military services (and in most cases the military is the Government) in Latin America is one of confusion and dissatisfaction with our foreign military sales policies. As an example, one U.S. representative recently was asked directly by the Brazilian Air Force, "Why are you here when your current policy prohibits FMS credits and probably all sales to our Government?"

Mr. Chairman, in announcing his arms sales policy, the President also indicated that "actual reductions in the worldwide traffic in arms will require *multilateral* cooperation." The U.S. policy was seen as a "first

step," difficult to sustain if other countries did not follow the U.S. example.

More recently, Dr. Brzezinski has stated that ". . . as a practical matter, if we exercise restraint but other nations do not, nothing much has been gained, in terms of world stability and peace."

The Senate Foreign Relations Committee, in approving the International Security Assistance Act of 1978, also stressed that the ultimate success of a policy of arms transfer restraint rests on multilateral efforts among the principal arms suppliers, and called for periodic evaluation of the success or failure of those multilateral efforts.

But if our policy in Latin America over the past ten years is instructive at all, the desire for multilateral restraint is doomed to failure.

In fact and in actual practice in Latin America, American restraint has been an open invitation for the competition to move in—at a cost to the United States in jobs, political leverage, and diminished national security. There has been no evidence of multilateral restraint or even much interest in multilateral restraint on the part of other nations which sell arms, even using the very narrow definition of multilateral restraint which has been adopted by the State Department. In the case of Latin America, the President's desire for multilateral restraint in the sale of arms, however narrowly defined, clearly has not been matched by a similar desire on the part of other supplier nations.

The American arms sales policy toward Latin America has also had other unfortunate results, however, results which were certainly unintended and unforeseen, but which have serious consequences for American foreign policy and national security and for world peace.

The most important—and the most disturbing—consequence has been a proliferation of arms producing and exporting nations. Since World War II, the United States has been seen by its friends and allies—especially some of the smaller nations—as a dependable supplier of the arms which they need to provide for their own security, both internal and external. As has been indicated, this provided advantages to both sides. Very importantly, however, by insuring that friendly nations had a dependable source of conventional arms from the United States, for their security requirements, the urge to divert scarce resources in order to build their own armaments industry was removed.

This is now not the case. The U.S. is no longer seen by our friends and allies as a dependable supplier of their defense needs. Because of our past policies and the President's unilateral annual "deescalating" ceiling on arms sales, many nations have been led, as a matter of necessity, to develop their own indigenous armament industries. Argentina and Brazil, in particular, have begun such development, again in conjunction with European corporations.

West German, French, Belgian, Italian, and British interests are establishing armament producing joint ventures with Brazil—a willing partner—in order to capture the Latin American arms trade which the U.S. has largely abjured. Some items are already being exported and a Brazilian official has stated that "by 1980, arms exports are going to be a billion-dollar-a-year item on our balance of trade." Indeed, as a result of U.S. restrictions recently imposed on arms sales to Chile, the latter turned to Brazil for the purchase of a range of light equipment items for its army.

Thus, the U.S. policy of restraint in the sale of defense articles and services over the past ten years can be judged by any standard to have been a failure. The benefits of this policy, insofar as I am able to judge, have been nil. Sophisticated armaments have not been denied these nations. They have merely found other sources for them, thus costing the U.S. the economic and political benefits that often accompany an arms supply relationship. Our policy, in addition, has introduced foreign influence into our own hemisphere—a region vital to the United States. This has caused mini-arms races on the Continent as well as a proliferation of arms manufacturers.

Mr. Chairman, I must compliment the Department of State. It takes a certain genius to devise and implement—and to continue to implement over a ten-year period—a policy which has few, if any benefits to the U. S. (at least I have not heard any from Administration statements), but which has been demonstrated to be ineffective in achieving its purpose and which has caused serious and perhaps permanent harm to American political and military relations with nations disposed to be friendly and cooperative with this nation, and has caused harm to our economy as well. That, indeed, is an Alice-in-Wonderland policy. If the Latin American example is at all instructive, if similar results can be expected in other parts of the world from a policy of U. S. unilateral restraint in arming our friends, then it would appear that that policy should be quickly reevaluated in terms of U. S. national security interests. But, to the contrary, the President, in his May 19, 1977 statement, extended this policy to the rest of the world.

Mr. Chairman, we do not believe that Latin America should be flooded with U. S. arms. But even if the U. S. had filled all legitimate requests for defense articles from Latin America, such would not be the case! Latin America is still lightly armed. We merely maintain that the U. S. patchwork policy of so-called restraint has resulted in serious—and unnecessary—political, security, and economic costs to the United States without commensurate benefit. The days are gone when the U. S. can dictate to these nations as to their national security needs. If we cannot effectively dictate human rights policies to other nations, how can we expect to dictate their national defense requirements? Perhaps a more important question still, is, do we have the right to so dictate to other nations? The days are gone when the U. S. is the only supplier of high technology military hardware. The sale of arms by the U. S.—particularly in Latin America—has been more important for the impact on political relations than for the contribution to U. S., or even to Latin American, defense. In other words, arms transfers are diplomacy by other means. Why then do we continue to deny ourselves—and allow others free access to—this important diplomatic instrument in a region where close relationships are vital to the U.S? ●

FINANCIAL DISCLOSURE—1977

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. MAZZOLI. Mr. Speaker, as has been my practice each year since my election, I am making today a complete and full disclosure of my financial affairs.

I am pleased to note that in April of this year, all Members of the House had to make financial disclosures in accordance with the new code of ethics adopted in 1977.

I shall continue to release each July a financial disclosure in a form consistent with those I have filed in previous years:

ROMANO L. AND HELEN D. MAZZOLI STATEMENT OF FINANCIAL WORTH AS OF DECEMBER 31, 1977

CASH ON DEPOSIT	
Lincoln Federal S&L Assn. Acct. #37339	$10,472.33
Liberty National Bank & Trust Co., Acct. #09-013390	3,145.16
Liberty National Bank & Trust Co., Acct. #08-33-816-7	221.89
American United Life Insurance Co., Policy #1116312	164.00
American United Life Insurance Co., Policy #1011729	717.28
Northern Virginia S&L Assn., Cert. of Deposit L50021	1,280.74
Northern Virginia S&L Assn., Cert. of Deposit L80507	1,263.95
Northern Virginia S&L Assn., Acct. #6084	1,250.98
Government Services S&L Assn., Acct. #034231-9	3,916.08
SECURITIES, STOCKS AND BONDS	
U.S. Government Bonds, Series E	1,031.35
REAL PROPERTY	
Residential:	
939 Ardmore Drive, Louisville, Ky.	
Assessed value	25,240.00
Less: Mortgage, Portland Federal S&L	10,523.09
	14,716.91
1030 Anderson St., Alexandria, Va.	
Assessed value	64,000.00
Less: Mortgage, Cowger & Miller	51.319.14
	12,680.86
HOUSEHOLD GOODS AND MISCELLANEOUS PERSONALLY	
Estimated	6,000.00
CASH SURRENDER VALUE OF LIFE INSURANCE POLICIES	
American United Life Insurance Co., Policy #1011729	3,267.50
American United Life Insurance Co., Policy #1116312	343.00
FEDERAL EMPLOYEES RETIREMENT SYSTEM	
Contribution to fund	24,635.77
AUTOMOBILES	
1965 Rambler, fair market value	238.00
1973 Chevrolet, fair market value	2,600.00
LAW BOOKS	
Value	545.00
Net assets	88,490.04

RECAPITULATION OF INCOME AND EXPENSES FOR CALENDAR YEAR 1977

(All Numbers Rounded)

INCOME	
Interest and Dividends:	
Lincoln Federal S&L Association	$560.18
Liberty National Bank & Trust Co.	121.84
American United Life Insurance Co	39.74
Government Services S&L Association	240.80
Northern Virginia S&L Association	216.18
Law Practice:	
Income	0
U.S. House of Representatives:	
Salary	54,275.00
Gross income	55,454.00

EXPENSES, DEDUCTIONS, EXEMPTIONS, AND FEDERAL TAXES

Gross income	$55,454.00
Business Expenses	2,738.00
Adjusted gross income	52,716.00
Itemized deductions	10,877.00
Taxable income	41,839.00

FEDERAL INCOME TAX

Tax withheld	$15,576.00
Tax due	10,005.00
Refund due	5,571.00

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NEUTRALIZING ENERGY UNCERTAINTIES

HON. BOB GAMMAGE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 20, 1978

● Mr. GAMMAGE. Mr. Speaker, the following article exemplifies the difficulties major corporations face, when they attempt to comply with an uncertain energy policy. The author, Henry Miller, vice president of Armco Steel, Inc., should be commended for his advice to American industry.

A MANUFACTURER TRIES TO NEUTRALIZE THE ENERGY UNCERTAINTIES

(By Henry E. Miller)

If your responsibility is to solve your company's energy requirements you face one absolute certainty: uncertainties. No matter how the United States and various state governments legislate to solve the energy crisis, your efforts to keep your company supplied with sufficient fuel will have you shooting at moving targets.

Still, it's your job to shoot. Perhaps our experiences at Armco can be useful to you.

No matter what steps you take, you know that you will have to pay more for the energy you use. Furthermore, prices will ultimately be established by supply and demand; government efforts to distort this relationship will be ineffective in the long term. That may be wishful thinking, but I believe that an informed public will demand less government interference.

Coal is now our lowest-cost form of energy, followed by natural gas and then oil. Within the next two years, given present trends, the cost of natural gas will exceed the cost of No. 6 oil in many nonproducing states. Eventually, oil will probably again become the highest-priced fuel, followed by natural gas and coal. With this outlook, industry must remain flexible.

As industrial users shift to coal, they will be obliged to make environmental trade-offs. The pollution control situation is now approaching a zero-sum game. If your company is like Armco, you have installed environmental systems on your various processes and you have trapped at least 95% of your emissions. But when you dig into the last 5%, you spend so much electrical energy that the utility is probably pumping out more pollution than you are able to trap. This cannot go on indefinitely.

STEPS TO TAKE

Some things we have done at Armco typify what industry is doing in energy. Here is a checklist of steps to consider taking:

1. Switch from burning of natural gas to oil, and from No. 2 oil to cheaper, more plentiful No. 6 oil. The company that converts to No. 6 oil, however, should insulate its main working tanks to keep from having to heat the oil again before pumping it to the furnaces. Not all tanks should be insulated, just the working tanks. We recaptured the insulation costs in a single heating season.

2. Put in computerized controls whenever possible. We installed computerized electric demand control in all our major rolling mills and in the steelmaking electric arc furnaces. One plant has computer control of natural gas distribution for use in periods of curtailment. And we have computer-optimized firing cycles for annealing steel.

3. If you have refractories, you may want to modify them. Many of our time-honored concepts about hard, dense refractories for long life have changed because old-style bricks soak up too much heat. For short, up-and-down heat-treating cycles, we have switched to the energy-saving, blanket-type insulation.

A word of caution, however, about refractories; there are some entrepreneurs flying around selling magic formulations to paint on your furnace walls. In many cases, you will expend more energy applying the product than you save in fuel.

4. Evaluate the advisability of owning your own oil and gas supply, even if it is only a well or two. If you do not use the oil and gas yourself you can sell it to hedge against increased energy costs or trade it for products you need. If you are too small to tackle this on your own, consider a consortium with companies in your area.

5. Give your engineering staff a clearly understandable mandate to propose and carry out energy conservation projects. Keep operations managers throughout the company aware of the latest innovations they might use.

At Armco, we formed a standing group called the Combustion Committee. On it are specialists from the corporate engineering staff, plus at least one key engineer from each plant. Initially this committee, to provide itself with complete information on all combustion and heating systems in the company, conducted a survey of all facilities. Then it made plant-by-plant recommendations for improvements. This is a continuing process.

Each plant representative has the responsibility for bringing his problems to the committee and for assessing the adaptability of changes made at other plants to his own use. Through the committee, the entire system keeps aware of every ongoing energy project.

Many of these are small. But all are important. For instance, at one plant an elaborate system of piping was built over the years to deliver steam from the boilers. One long pipe transmitted steam to a remote washroom. The committee discovered that maintaining this system's insulation was terribly expensive, and the pipe was merely a long and unnecessary condenser. Disconnecting it and putting an electric water heater in the washroom actually saved energy as well as cash. Similar investigations were made at all our other plants.

6. Make sure your technicians set up a program of routine inspection, testing, and calibration of the combustion instruments for proper furnace pressure control, fuel-air ratios, and other important items. The largest, most sophisticated industrial process is just like your family car: you have got to tune it from time to time and occasionally change the spark plugs.

7. If you are in a heavy industry, think about coal. An economic truism is that the world demands that you use energy in the simplest, least sophisticated form that satisfies your operational and environmental requirements. Coal can keep your future energy costs down and conserve natural gas and oil.

Right now, of course, fuels are not being priced in terms of their replacement value. Luckily for my industry, almost 70% of its total energy supply already comes from coal. Like many steel companies, Armco owns its own coal mines. Coal ownership is not for everyone, but any large industrial user should at least consider its economics.

HIGHEST, QUICKEST PAYBACK

As you plan your company's efforts to cope with energy problems, you simply cannot escape uncertainty: the unpredictability of government action, prices, taxes, tax credits, availability of supply, and what new technology will move out of the Sunday supplements and into the marketplace. These uncertainties are so overwhelming that I believe you cannot do much short-term planning. You can only cope and try to persuade your board of directors to make money available when you need it.

At Armco, most energy-related expenditures have to pass the same return on investment hurdle rate that any other discretionary project faces.

Recently, for example, we studied the prospect of using cogeneration in a plant. But the facility would have produced an ROI of only 6%, so we dropped the idea. Conversion to fuel oil to replace curtailed natural gas and prevent a plant shutdown is an exception to the hurdle rate rules.

While energy projects are still discretionary, the handwriting is on the wall. Just as environmental expenditures are left less and less to the discretion of management, certain energy expenditures may become mandatory. A company must face the policy decision whether in the long run it will be cheaper to invest immediately in energy projects or wait until the company is forced to do so in a continuing inflationary climate.

One way to protect yourself against all the uncertainties is to select the proposed projects that offer the highest, quickest payback. Also, build into your facilities the flexibility to use more than one type of energy. Small boiler systems can now be quickly retrofitted to permit an easy and cheap switch from gas to light oil or propane and back.

Most of the flexibility of large manufacturers comes from their ability to use their own byproducts. Study your operations to see if you have any waste products that could be burned to provide energy. Could your incinerator produce some of your steam needs?

Many of the heat-recovery devices Armco considered in the past were uneconomical at the then-prevailing fuel prices. They may become more competitive as fuel prices rise. Our own experience, however, has been that a recovery system's cost rises right along with those prices. It's like oil from shale; it always seems to cost just a little more than the price of liquid crude, no matter what crude costs.

Although we are convinced that our program has worked, we have been unable to come up with a figure for total dollars saved because of the variety of operations. In 1977 our energy cost per shipped ton of steel increased 6.6% over 1976. At one plant, the average cost of coal climbed 43%, No. 6 fuel oil 24%, natural gas 50%, and electricity 50%. Without an energy conservation program, those increases would have transferred directly into production costs.

One last point: U.S. industry's share of the nation's total use of primary fuel dropped from 30% in 1970 to just over 25% in 1976. In the last 25 years industry has shown the most improvement in energy use efficiency of any part of our society. As you strive to save your company energy and money, remember that.●